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SENATE—*Wednesday, October 7, 1998*

The Senate met at 9:29 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, without whom we can do nothing of lasting value, but with whom there is no limit to what we can accomplish, we ask You to infuse us with fresh strength and determination as we press toward the goal of finishing the work of this 105th Congress. Help us to do all we can, in every way we can, and as best we can to finish well. Inspire us to follow the cadence of Your drumbeat.

Bless the Senators in these crucial hours. Replace any weariness with the second wind of Your Spirit. Rejuvenate those whose vision is blurred by stress and deliver those who may be discouraged or disappointed. In the quiet of this moment, we return to You, recommit our lives to You, and receive Your revitalizing energy. We accept the psalmist's reorienting admonition, "Wait on the Lord; be of good courage, and He shall strengthen your heart; wait, I say, on the Lord!"—Psalm 27:14. In the Name of our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

SCHEDULE

Mr. ALLARD. Mr. President, this morning there will be a period for morning business until 10 a.m. Following morning business, under a previous order, the Senate will proceed to two stacked rollcall votes. The first vote will be on adoption of the motion to proceed to H.R. 10, the financial services reform bill, followed by a second vote on the motion to invoke cloture on S. 442, which is the Internet tax bill. Assuming cloture is invoked, the Senate will remain on the Internet tax bill with amendments being offered and debated throughout today's session.

In addition to the Internet tax bill, the Senate may consider the VA-HUD appropriations conference report under a 40-minute time agreement reached last night. The Senate may also consider other available conference reports or any legislative or executive items cleared for action.

The leader reminds all Members that there are only a few days left in which to consider remaining appropriations bills and other important legislation. Members are encouraged to plan their schedules accordingly to accommodate a very busy week, with votes beginning early each morning and extending late into the evenings.

I thank my colleagues for their attention, and I yield the floor.

Mr. HUTCHINSON addressed the Chair.

The PRESIDENT pro tempore. The able Senator from Arkansas is recognized.

TRIBUTE TO SENATOR DALE BUMPERS

Mr. HUTCHINSON. Mr. President, I rise today to pay tribute to my retiring colleague from Arkansas, Senator DALE BUMPERS. Arkansas is a State with a small population, and it is a State where politicians of even opposing political parties and philosophies find their lives and careers intersecting and intertwining.

As a high school student, I followed DALE BUMPERS' meteoric rise from an unknown country lawyer from Charleston, AR, to the Governor of the State and a man who became known in Arkansas politics as the giant killer, defeating such luminaries of Arkansas politics as Win Rockefeller and J.W. Fulbright.

I worked for DALE's opponent in 1980, not because I was enamored by his opponent, but because I was upset with some of DALE's votes. That has always been the way with DALE BUMPERS; you either agreed with him passionately or you disagreed vehemently.

While DALE has always been as smooth as honey, he has never tried to varnish his views or dilute his positions to make them more palatable to the general public, whether it was the Panama Canal or the space station.

Mr. President, I mentioned that in Arkansas, political lives and careers intersect frequently. In 1986, my brother ASA, then a U.S. attorney and now serving in the U.S. House of Representatives, ran against Senator BUMPERS in his second reelection campaign.

I worked in ASA's campaign, and I encountered and experienced firsthand the high esteem in which the people of Arkansas hold DALE BUMPERS. After Senator BUMPERS won that race resoundingly, delivering a good old country thumping to the HUTCHINSONS, I returned to my service in the Arkansas legislature and ASA became the State GOP chairman. We continued to follow Senator BUMPERS' career from afar, occasionally bumping into him at events in the State.

In 1990, ASA ran for attorney general of Arkansas. It was a politically tough, mean, even nasty race. It was hard fought and a very close race. I remember one day as I was working in ASA's headquarters in Little Rock, DALE BUMPERS walked in off the street unannounced. He came by, he said, to wish us well and to say that he always respected us and thought well of us. I saw a side of DALE BUMPERS that those who know him well see all the time. He knows well that there is life beyond the political arena and that politicians are, first and foremost, human beings.

I saw this again in 1996 when I was running for the U.S. Senate. It was the closing days of a very close race. DALE and my predecessor, Senator David Pryor, were campaigning for my opponent in a fly-around of the State. I suppose DALE was returning the favor from a decade before when I was campaigning for his opponent.

In the closing days, my son Timothy was involved in a tragic and terrible automobile accident. Timothy was seriously injured, and I was in the hospital room, not sure whether he was going to make it or not. The phone

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

rang, and it was DALE BUMPERS. He called to assure me of his thoughts and his prayers and to tell me that he and David were suspending campaigning until it was clear that my son was going to be OK.

DALE, we will miss you around this place. I won't miss your votes, but I will miss you. I will miss your stories, and I will miss your humor. I will miss your eloquence, and I will miss your passion. I am grateful that our Senate careers overlapped for these 2 years. Thanks for your advice and counsel, and best wishes on this next phase of your life.

Mr. President, I yield the floor.

Mr. ROBERTS addressed the Chair.

The PRESIDING OFFICER (Mr. ALLARD). The Senator from Kansas.

Mr. ROBERTS. I thank the Chair.

(The remarks of Mr. ROBERTS pertaining to the introduction of S. 2563 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. ROBERTS. I thank the Presiding Officer and yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Parliamentary inquiry.

Under the order, how much time does each Senator have in morning business?

The PRESIDING OFFICER. 5 minutes.

Mr. DOMENICI. I ask I be given the 5 minutes.

The PRESIDING OFFICER. The Senator from New Mexico.

KOSOVO AND MILITARY READINESS

Mr. DOMENICI. Mr. President, I have asked for this time today to address two serious and interrelated concerns: One, the President's plans to intervene in Kosovo; and, two, the already evident crisis in readiness of the U.S. military.

There are some who believe that these two concerns should be dealt with separately. Some may argue that linking the two is merely an excuse for U.S. inaction. I wish to be very clear. Developments in Kosovo may compel the United States and our allies to intervene. However, this intervention should not be paid for by further hollowing out of the Armed Forces.

I and many of my colleagues, will not support airstrikes in Kosovo, and especially a ground force presence, unless the President agrees to submit a budget that addresses the related readiness and operational tempo requirements of the U.S. military.

Also, we must be careful not to believe that there is an easy or inexpensive long-term solution to the problems in Kosovo. The administration would have us believe that NATO airstrikes will somehow solve the problem. I, and many colleagues, disagree.

The recent massacre of ethnic Albanians in two small villages in Kosovo has heightened awareness and condemnation of Serbian aggression. Powerful airstrikes and military action could send a strong and unambiguous message to the Serbian leader. As in Bosnia, empty threats of NATO action never does anything to get the job done.

There is good reason to be concerned about 400,000 Albanians forced from their homes as winter approaches. I am concerned. I am deeply concerned about that. But I am more concerned about involving U.S. lives in ill-conceived military campaigns. I am deeply concerned that we will be sending an already weary and overextended military into a situation for which there is no quick and easy solution.

Mr. President, as you know, the U.S. defense budget has declined for the past several years. At the same time, nontraditional deployments have stretched an already extended military force to its limits. This is largely the result of downsizing of our force structure while increasing the number and the frequency of deployments overseas for purposes other than a war.

We have been asking our Armed Forces to do more with less for several years. They are finally admitting that they cannot do more with what the President has given them. Yet, the administration is asking them to still do more.

Now I and many of my colleagues wish to ask the administration one question: Will you do more? Will you ensure that readiness does not suffer further? Will you stop the hollowing out of our military forces?

Some may think that this readiness issue isn't real. I am sure there are those who think that there is no crisis in readiness. Well, I believe that a few examples of the crisis in readiness are absolutely persuasive.

Here are just a few of the symptoms of this crisis:

One, Navy pilot retention has sunk to an all-time low of 10 percent. This is the lowest in recorded history of pilot retention programs.

Air Force pilot retention is at 30 percent, and it is projected to decline further. The Air Force is now 700 pilots short.

The aircraft deployed on primary, peacekeeping deployments—such as Bosnia—are being "cannibalized," meaning, they are being stripped for spare parts to keep at least a few flying. It is not uncommon for this to happen at a low-priority unit in the United States; however, allowing this to happen in the front-line deployments like Bosnia where we might soon go into combat is inexcusable.

Aircraft carriers are being deployed with personnel slots empty. A recent report has one carrier on a peacekeeping mission with a crew that is lacking 1,000 persons to perform the essential tasks. In other words, the United States has aircraft carriers on missions that are lacking about 20 percent of what is considered a full crew. How ready are these carriers to perform their missions?

We have Army units arriving for critical combat training at the Army's National Training Center in California with mechanics and "mounted" infantry simply missing. These units have junior noncommissioned officers filling roles traditionally filled by senior experienced noncommissioned officers.

This is a problem that permeates every branch of the Armed Forces. We simply are not retaining the seasoned, well-trained military personnel and professionals. I and Senator STEVENS are commissioning an important study by GAO to find out exactly why our military persons are leaving the service in unprecedented numbers.

The troops that I personally visited in the Persian Gulf made it clear that morale is low there. They are tired of constantly being separated from their families. I believe this separation would be tolerable if the operational tempo required of them were humane.

I believe the separation would also be eased, if they were assured that their families had adequate housing and food on the table.

I believe the separation would be tolerable and their loyalty to the military secure, if it weren't for the fact that they also question the purpose of the missions.

Mr. President, I believe we are failing own soldiers on all counts.

That brings us to the question of money. There is simply not enough money in the defense budget as it is currently projected to do everything that needs to be done. There is an effort underway to provide emergency supplemental funding for military readiness. I support that effort. However, this will not solve the bigger problems.

The U.S. defense budget has been in a constant decline since 1985. In the case of Bosnia, the administration has relied on Congress to repeatedly supply "emergency supplemental" moneys to provide for a "contingency" operation that started in December, 1995. We are currently supporting over 8,000 troops in Bosnia, and the President persists in asking us to join him in a charade that the U.S. presence in Bosnia is an "unforeseen emergency."

The budget shortfalls are eroding readiness, but, more importantly, they are contributing to a precipitous decline in the moral of the soldiers in uniform.

Mr. President, we believe it would be an unacceptable policy to send our troops into harm's way without addressing the scarcity of spare parts and relevant readiness issues that currently permeate the forces. Of course, I am not prepared to support the half baked, not thought through ideas that I fear are still being contemplated by this administration for what currently serves as our "policy" in Bosnia and Kosovo.

We must send a clear signal to the administration that we will not paint ourselves into another Bosnia, especially without the administration's assurance that our military will not once again be asked to do more with even less.

Before we commit American lives to another dangerous mission overseas, we must clearly define our objectives and be realistic in the commitment required to achieve them. More importantly, we must give our men and women in uniform sufficient assurance that their loyalty is not a one-way street. This can only be achieved by stopping the decline in defense budgets and ensuring a higher quality of life for our soldiers.

I am pleased to be joined by the distinguished Senator from Texas in these remarks this morning.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI. I yield the floor.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I want to really follow on what the distinguished Senator from New Mexico was saying, because I think he laid out very well the problems that we are facing with our military today. No one questions the job our military is doing. They are doing their jobs well. But it is clear that we are losing our experienced people.

As the Senator from New Mexico has just pointed out, we are losing our experienced pilots, we do not have enough parts to keep the airplanes running, and the Army had its worst recruiting year last year since the late 1970s.

At the time that we are looking at mission fatigue, our troops being overdeployed away from their families on missions that are not security threats to the United States, we are now seeing a mixed message from this administration about yet expanding their responsibilities.

We were told in the last few weeks that NATO is contemplating airstrikes in Serbia. This is, of course, a terrible and tragic situation in Kosovo. And, clearly, we want to try to do everything possible to curb atrocities that are happening and may happen in the future in Kosovo. But, Mr. President, a superpower cannot fling around the world without a plan, without a thought, and have credibility.

I ask the question of the administration, Have we done everything we can do at the bargaining table with Mr. Milosevic? Have we put every economic sanction that can be put? Have we isolated this country to the extent that we can—as we have also tried to do with Iraq—to show this leader that he cannot continue to act in an irresponsible manner toward human beings in his own country and get by with it?

Have we done everything we can do first? If we have—and I don't think we have—if the administration makes the case that we have, then, and only then, should we be considering other options.

Mr. President, if we are going to bomb another country because of a civil conflict, a sovereign country that is in a civil conflict, have we thought through what the exit strategy is? Have we thought through what our responsibility is going to be for doing that? I haven't seen a plan. I haven't seen any kind of "after plan" after bombing. Yes, we have talked about bombing. But if we are bombing for the purpose of saying to Milosevic, "You must withdraw your police so that the Albanians who live in Kosovo can come out of the hills and go into their homes," how is that to be enforced?

We have been told by administration officials that there would not be American troops on the ground unless there is a peace agreement, something to enforce. Yet yesterday the Secretary of Defense opened the door on American troops on the ground with NATO forces. Yet we haven't seen a plan. We haven't seen what the American role will be. We have certainly not been consulted to determine if the United States is ready to expand its mission in the Balkans.

We were told we would be out of Bosnia a year ago. We were told a year and a half ago, we were told 2 years ago that our mission in Bosnia would be complete when the parties were separated and the elections had been held. The parties are separated. The elections have been held. Yet American taxpayers have spent $10 billion in Bosnia, and the President is now saying there is an "unending mission" there. He has refused to put a timetable on it. This week the President has asked the U.S. Congress for $2 billion more for Bosnia in a supplemental appropriation, as if this were an emergency. Why didn't the administration put this in the budget? He says it is an unending mission, yet we have an emergency appropriation.

I conclude by saying we cannot fling ourselves around the world without a clear strategy and a clear role for the United States. I am looking to the President for leadership and I haven't seen it.

I yield the floor.

DON'T TAMPER WITH THIS JURY

Mr. BYRD. Mr. President, I have recently read several articles in the press which are cause for concern. One such article appeared in the Sunday, October 4, edition of the Washington Post, titled "Bid to Trump Inquiry Shelved."

The piece discussed White House efforts to produce a letter signed by at least 34 Democratic Senators declaring that they would not vote to convict the President, should the House decide to write articles of impeachment. According to the report, Minority Leader TOM DASCHLE has discouraged such an attempt.

I commend the Democratic leader, Mr. DASCHLE, for his wise and judicious counsel on this matter. He has done the White House, he has done the President, he has done all Senators, and, indeed, the entire nation a great, great service.

I am concerned about the ugly and very partisan tone that has enveloped many discussions of this matter, and about the extreme polarization which has already occurred. The House Judiciary Committee has voted to begin an impeachment inquiry. I have had nothing to say about that. I don't intend to have anything to say about that. This is the House's business. There is a constitutional process in place. That process has begun. The ball is in the field of the House of Representatives at this point. We here in the Senate should await the decision of the House of Representatives as to whether or not articles of impeachment will, indeed, be formulated.

Senators may at some point have to sit as jurors. Let me say that again. Senators may at some point have to sit as jurors in this matter and will be required to take an oath before they do. I read this oath into the RECORD a few days ago. I want to read it again, because the Senate will shortly be going out, not to return at least until after the elections, and perhaps not until the new Congress convenes in January.

To repeat this oath at this point, might be well advised. The Bible says, "a word fitly spoken is like apples of gold in pictures of silver," and so I think it is a good time to repeat this oath, which will be incumbent upon every Senator, should articles of impeachment come to this Chamber. Here it is:

> I solemnly swear that in all things appertaining to the trial of the impeachment now pending, I will do impartial justice according to the Constitution and laws: So help me God.

Note the word "impartial." We all need to remember the solemn responsibility we may be required to shoulder.

I would suggest by way of friendly advice to the White House, don't tamper with this jury. Don't tamper with this jury. I have been in Congress 46 years. I have been in this Senate 40 years. There are some people here who take their constitutional responsibilities very seriously. This will not be politics as usual if articles of impeachment come to this body.

My friendly words of advice to my colleagues are these: We may have to sit as jurors. Don't let it be said that we allowed ourselves to be tampered with, no matter who attempts the tampering, no matter how subtle the attempt. How can we commit ourselves to vote for or against articles of impeachment without having seen them, without having heard the managers on the part of the House prosecute the articles, without having heard the impeached person's lawyers and representatives or even the impeached person himself make the defense? How can we as Senators, who will be prospective jurors, commit ourselves at this point, or at any point, as to how we will vote on such articles? We cannot do it and live up to the oath that we will be required to take. It is a solemn matter, it is not politics as usual, and I personally will resent—and I hope every other Senator will personally resent—any effort on the part of anybody in these United States to tamper with Senators as prospective jurors. I will personally resent it on behalf of the Senate and on behalf of the Constitution. I urge all Senators to be on their guard.

There has been a great deal of gratuitous advice given by people on the outside, and some on the inside, who know very little, probably, about the history of impeachment, about the history of the Senate, about responsibilities of Senators under the Constitution in such an event. We don't know what the House may decide to include in articles of impeachment when and if they ever come to the Senate. There can be an inquiry by the House, yet never be any articles formulated. That is up to the House. But if the House decides to formulate articles of impeachment, we have no choice here in the Senate but to vote up or down. We can't amend such articles. We have no way of knowing what the House may consider to be an impeachable offense. An impeachable offense does not have to be an indictable offense at law.

So I warn Senators, and I warn those at the other end of the avenue, to exercise the utmost care lest somebody be unjustly prejudiced because of tongues that wag too easily and too early.

I also condemn the circus atmosphere which has overtaken this city. There are attack dogs on both sides, on the talk shows and in the press, and their wild and rabid rhetoric is hardly contributing to an atmosphere of reason or respect. I believe that everyone must stop playing for advantage. And by that, I mean Republicans and Democrats alike; I mean people at both ends of the avenue and in between.

If the Senate votes on impeachment articles, that will be the most solemn, the most sobering, and the most far-reaching vote that Senators in this body will ever cast. Voting for a declaration of war does not compete with voting to convict or not to convict a President. We won't be voting to convict a Federal judge and to remove that judge from office. In this case, it would be the ultimate vote on the ultimate question that could ever face this Senate. So I say to my colleagues: Be careful.

Mr. President, just to illustrate how close we are to making a total farce of the situation, I note that Larry Flynt, publisher of a magazine called Hustler, has offered $1 million to anyone who will come forward with evidence of a sexual liaison with a Member of Congress or other high-ranking official. How much lower can we go? Now, that makes a farce of the Constitution.

Such tactics and countertactics only serve to convince the people of this Nation that whatever course we eventually take will amount to nothing more than partisan politics at its very worst. Now, we all play partisan politics, but this is one thing that won't bear touching with partisan politics on either side, Republican or Democrat. This is the Constitution which we have sworn that we will support and defend. One may say, well, there is no impeachable offense. This is something we don't know. If Senators commit themselves prematurely and then find, in reading the articles, that there is one article that is very, very difficult to vote against, it may be your own seat that you are imperiling.

I urge all Senators. many of whom are going home to stand for reelection, to avoid making commitments on this matter and to resist lobbying attempts, no matter how subtle, and no matter who attempts to lobby them. We must resist pressure from all sides.

The people are watching. This should not, this cannot, this must not, become bad, boring, beltway "politics as usual." This is a matter in which partisan politics should play no role. I say this to my Republican friends as well. There is far, far too much at stake for the President, for the Presidency, for the system of separation of powers, for Members of Congress, and for our country as well.

Mr. President, I ask unanimous consent to have printed in the Record the article from the October 4, 1998 Washington Post.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, Oct. 4, 1998]

Bid to Trump Inquiry Shelved—Clinton Lobbying Behind the Scenes to Avoid Impeachment

(By John F. Harris)

Hoping to quash the congressional impeachment process in its nascent stages, President Clinton in recent days discussed with Senate Minority Leader Thomas A. Daschle (D–S.D.) organizing an effort to have Democratic senators sign a letter declaring that none of the allegations or evidence in the Monica S. Lewinsky investigation would merit impeachment, according to Democratic sources.

Daschle discouraged the idea, which Clinton apparently first heard from another Democratic senator about a week ago, and for now it has been shelved.

But the effort illustrates the intensive behind-the-scenes lobbying Clinton is doing to ensure his future in office. The skepticism of Daschle and other Democrats in both the House and Senate also illustrated how even lawmakers who want Clinton to remain in office are placing clear limits on what they will do to short-circuit the constitutional process of reviewing the allegations of impeachable behavior that independent counsel Kenneth W. Starr presented last month.

The hope, as Democrats familiar with the discussions described it, was to get at least 34 Democrats—or more than one-third of the Senate—to declare up front that they would never vote to convict. Since two-thirds of the Senate must vote to evict a president, such a letter would make a House impeachment vote moot, for all practical purposes. Clinton, sources said, apparently hoped that the letter could defeat the gathering momentum for a full impeachment inquiry in the House, which is set to authorize the process later this week.

"This is an idea which was generated on the Hill which is not getting much traction, because it's premature," said a senior White House official.

Also yesterday, sources said U.S. District Judge Norma Holloway Johnson had appointed an outside expert known as a "special master" to help her determine whether Starr's office illegally leaked grand jury material to reporters, as Clinton's lawyers have complained.

Starr's office has denied illegal leaks, but Clinton's lead private attorney, David R. Kendall, contends that the independent counsel's office has been the source of grand jury material whose publication was damaging to Clinton. Late last month, Johnson decided instead to appoint a special master, whose identity was not revealed, to conduct the inquiry and report back to her.

Clinton's advisers have resigned themselves to the virtual certainty that an impeachment inquiry will be approved by the House this week, but they hope perceptions that the vote was a partisan rush to judgment can turn this legal setback into a political gain.

The House Judiciary Committee will begin its formal deliberations on authorizing an impeachment inquiry Monday, and is planning to vote that day or Tuesday. Democratic sources in the administration and Congress said yesterday they are confident a measure authorizing an open-ended impeachment inquiry will pass with only Republican support, over the objections of Democrats backing a more focused inquiry that would be completed by Thanksgiving.

A day after the last major release of documents from Starr, Clinton's legal and political team yesterday had focused its own vote-counting efforts on the full House floor, in anticipation of a vote authorizing an impeachment inquiry by the end of the week.

On the floor, Clinton's hopes for making the case that the effort against him is a partisan affair are more clouded. A significant number of Democrats are prepared to vote in favor of the impeachment inquiry, which many administration and congressional officials say is all but certain to pass. Estimates on the precise number of these Democratic defectors vary widely. One Democratic source who has consulted with lawmakers said lower-end scenarios would have about 20 Democrats voting with the GOP. A House Democratic leadership aide said the number may be as high as 50; many of these lawmakers are planning to vote yes for both the Democratic inquiry resolution and then, if that fails, the Republican version.

What was striking this weekend was the passive public posture of the White House. Although the Clinton administration usually engages in aggressive public advocacy, on the eve of a vote that is critical to Clinton's future the White House was not sending its representatives on the usual Sunday talk show circuit. Lawyers yesterday did nothing to expand the public defense they offered Friday, when Clinton's team claimed the 4,610 pages of new material released were further evidence of what they said was Starr's tendency to suppress exculpatory evidence.

The strategy of staying quiet, aides said, reflected a confidence that public perceptions of the case are already breaking in Clinton's favor, and that Democratic House members were better positioned to make the case that the process Republicans are proposing is unfair.

The latest release of documents "didn't even lead the news last night. There's no reason to look for opportunities to elevate this story," one White House official said of the quiet weekend. "Not that we're uninvolved, but the ball has now shifted to the congressional realm."

"Whatever was there hasn't caused a huge stir. Without any revelations, it hasn't changed the perception of what we have to do with the Hill and the American public. Our focus is still on the resolution and the Democratic alternative and how we can build on it," said another Clinton adviser outside the White House.

Mr. BYRD. Mr. President, I thank all Senators for their patience. I thank the Chair and yield the floor.

Mr. INHOFE addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma has sought recognition earlier.

Mr. INHOFE. Mr. President, first of all, let me associate myself with the remarks of the most distinguished senior Senator from West Virginia.

JUDICIAL NOMINATIONS

Mr. INHOFE. Mr. President, in the midst of all the confusion and anxiety of the last week, we are going to be asked to vote on the confirmation of three judges that I think should be looked at very carefully.

First is the nomination of William Fletcher to the Ninth Circuit Court of Appeals. Groups are in opposition due to a Law Review article in which he stated that judicial discretion trumps legislative discretion when a legislature fails to act.

Presently, Fletcher's mother is sitting on the Ninth Circuit, which is historically the most liberal and activist court in the United States. Over the last 3 years, the Supreme Court overturned the Ninth Circuit more than any other.

In a book review, about which Mr. Fletcher was questioned before the committee, he stated that political circumstances outweigh a literal reading of the Constitution. In short, the Constitution is what Judge Fletcher says it is. Judge Fletcher is an extremist and should not be confirmed.

Nomination of Richard Paez to the Ninth Circuit Court of Appeals: In an outrageous ruling in 1997, Judge Paez ruled that an American company could be liable for human rights abuses committed by their partners in another country.

Paez has shown a bias against religious and conservative groups. In one of the most publicized cases Paez heard as a District Judge was the 1989 trial of Operation Rescue leader Randall Terry. Paez became upset with some of the pro-life language Terry used and "stormed off the bench." Additionally, he angrily warned the defendants that their Bible would be confiscated if they continued to wave or consult it.

While a sitting District Judge, Paez gave a speech at UC-Berkeley's law school in which he called California's Proposition 209 an "anti-civil rights initiative." In that speech, he also said, "legal action is essential" to "achieving the goal of diversifying the bench." He characterizes himself as a "liberal." Judge Paez is an extremist and should not be confirmed.

Lastly, and briefly, the nomination of Timothy Dyk to the Federal Court: While in private practice, Mr. Dyk, successfully fought the FCC's ban on indecent programming to protect children.

He has sat on the board of People for the American Way, and while working as an attorney for People for the American Way, he successfully defended a county school board that forced students to read materials their parents believed violated their deeply held religious beliefs. A member of Mr. Dyk's legal team called the concerned parents "somehow less important" and said "the enemy was really not" the plaintiffs "but [Rev. Jerry] Falwell."

I believe that Mr. Dyk is also an extremist and should not be confirmed in his nomination.

I yield the floor.

THE FINANCIAL SERVICES ACT OF 1998—MOTION TO PROCEED

Ms. MIKULSKI. Mr. President, I will vote against the motion to proceed on H.R. 10, the Financial Services Act of 1998. I oppose this legislation because it is inappropriate to bring down the protective firewalls in U.S. financial services while a firestorm is sweeping global financial institutions. Mr. President, this is the wrong time to be relaxing our protective financial services regulations.

I understand the intellectual argument to reform our financial services. In fact, I do not dispute it. There is no doubt that the U.S. needs to be competitive in the global marketplace. I would suggest to my colleagues, though, that changes in the global economic picture make this bill unwise. The global economic situation is vastly different now than when this bill was being drafted.

There are a number of what I call "yellow flashing lights" or warning signals that now is not the right time to enact this legislation. Let me mention a few. Former Secretary of State Henry Kissinger recently stated in the Washington Post that no government and virtually no economist predicted this global economic crisis, understood its extent or anticipated its staying power.

Now the United States Senate is going to rearrange the National financial landscape? We need to modernize the United States to go global? I think we need to pause and ask what does going global mean and do we want to go there at this time? In this current global environment of National financial collapses, IMF bailouts and hedge funds rescue packages have become daily occurrences. These are the "yellow flashing lights" and I believe we must proceed with caution to avoid rash and irrevocable changes when the savings of hard working families and the viability of our communities could be put in serious jeopardy.

Frankly, I am also concerned that the bill before us is the result of last-minute deal making. The issues here are too important for hasty decision-making. The decisions this bill makes affect the financial security of average Americans who are working and saving to provide for their families, U.S. financial institutions, the American economy and the global financial marketplace.

These are not trivial issues. We are being asked to establish a legislative framework for the financial services industry for decades to come. These are irrevocable decisions.

As changes were made to accommodate this interest or that interest, I am concerned that we have lost sight of the overall impact of the bill before us. I am concerned that we do not know enough about what's in the bill at this juncture, and what it will mean for our economic security. In the haste to get the job done before the Congress adjourns for the year, I have serious and deep reservations that changes have been made that have not been well thought out or thought through. If enacted, we will end up with unintended, but nevertheless, negative consequences because we rushed to the finish line.

Advocates of this legislation always mention the free market. They believe that buyers and sellers acting in their own self-interests will produce winners and losers, and bring about the best and most efficient outcome for banking customers. But look at what the free market has brought us lately—a global financial meltdown and hedge funds that are "too big to fail". As Kissinger suggested, indiscriminate globalism has generated a world-wide assault on the concept of free financial markets. In the United States, where we used to boast about our well functioning capital markets, we now bail out those investors who make foolish decisions.

One need look no further than the Long-Term Capital debacle to see evidence that even the brightest minds on Wall Street, acting in the free market, sometimes make very poor decisions. The collapse of this high-flying hedge fund was a failure of proper supervision. As Kenneth Guenther explains in the Baltimore Sun, this raises serious questions about our regulatory structure: "it doesn't make sense to have too-big-to-fail institutions if the regulatory structure is not up to regulating them. . . . if the regulators have to make a choice between the safety of the financial system and the free market, the financial system will win. There is no free market and there never will be. It's the height of hypocrisy to talk about the free market in one breath and bail out Long-Term Capital . . . in the next breath." Mr. President, I oppose this legislation because in this environment, we need more oversight and enforcement in our financial services, not less.

Beyond these concerns that this is not the right time to enact these sweeping changes buttressed by the follies of the free market, I have other, structural concerns with the proposed changes to our financial services laws.

First, I am concerned that if we relax the laws about who can own and operate financial institutions, an unhealthy concentration of financial resources will be the inevitable result. The savings of the many will be controlled by the few. If we relax banking regulations in this country, Americans will know less about where their deposits are kept and about how they are being used.

Marylanders used to have savings accounts with local banks where the teller knew their name and their family. We have already seen the trend toward mega-mergers, accompanied by higher fees, a decline in service, and the loss of neighborhood financial institutions. This bill accelerates that trend.

With a globalization of financial resources, the local bank could be bought by a holding company based in Thailand. Instead of the friendly teller, consumers will be contacting a computer operator in a country half-way around the globe through an 800 number. Their account will be subject to financial risks that have nothing to do with their job, their community, or even the economy of the United States. I know impersonalized globalization is not what banking customers want when we talk about modernization of the financial services.

Second, I am concerned that complex financial and insurance products will now be sold in a cluttered market by untrained individuals. Investment and insurance planning for families is a very important process, one of the most important decisions a family makes. It should be done with a professional who is certified and who is someone you can trust. By breaking down these firewalls and allowing various companies to offer insurance and complex investment products, we run the risk that consumers will be confused, defrauded, and treated like market segments and not individuals with unique needs and goals.

Finally, I believe that any modernization of our financial services law should not just retain, but expand the important consumer protections and community investment policies currently in place.

Consumers need protections and regulations to guarantee the safety of their deposits and the availability of basic banking services and credit to help their communities grow. If we have a Consumer Product Safety Commission to protect children from flammable sleepware, I believe we should also have a strong regulatory framework to protect consumers, not just investors, in the financial services marketplace.

A strong regulatory framework will not be provided by the Federal Reserve, as is proposed in this legislation. I share the concerns of John Hawke, Undersecretary of the Treasury Department, that shifting the regulatory power from the Office of the Controller of the Currency to the Federal Reserve Board is a highly questionable regulatory protection. This would be like letting the bankers regulate themselves. The decision making of the Federal Reserve is directly linked to the banking industry that it would regulate. Bankers elect two thirds of the Federal Reserves directors. It is true that the Federal Reserve is independent of the administration, but it is not independent of the bankers and finance companies that it would regulate.

Mr. President, I am not opposed to a necessary reform of our financial services laws. But this is not the legislation and this is not the time to do it. The U.S. stock market has had one of the worst quarters since 1990 and world leaders are currently strategizing about how to stanch the global economic crisis.

The Congress will be back in 90 days. Hopefully, the world market will be calmer, it will be after the election, and we will be able to study the lessons learned from the financial events of the past three months. For all the hard work and all the negotiating and compromise, now is not the time to go forward and add more fuel to what is already a very troubling global financial firestorm.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

FINANCIAL SERVICES ACT OF 1998—MOTION TO PROCEED

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to vote on the motion to proceed to the consideration of H.R. 10, which the clerk will report.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 588, H.R. 10, the financial services bill.

Trent Lott, Alfonse D'Amato, Wayne Allard, Tim Hutchinson, Dan Coats, Rick Santorum, Robert F. Bennett, Jon Kyl, Gordon Smith, Craig Thomas, Pat Roberts, John Warner, John McCain, Frank Murkowski, Larry E. Craig, and William V. Roth, Jr.

Mr. DORGAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call under the rule is waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to proceed to Calendar No. 588, H.R. 10, the financial services bill, shall be brought to a close? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Ohio (Mr. GLENN), is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 88, nays 11, as follows:

[Rollcall Vote No. 301 Leg.]

YEAS—88

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett

Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Durbin
Enzi
Faircloth
Feinstein
Ford
Frist
Graham
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Inhofe
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wyden

NAYS—11

Bumpers
Dorgan
Feingold
Gorton
Gramm
Hutchison
Mikulski
Roberts
Sessions
Shelby
Wellstone

NOT VOTING—1

Glenn

The PRESIDING OFFICER. On this vote, the yeas are 88, the nays are 11. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

INTERNET TAX FREEDOM ACT

CLOTURE MOTION

The PRESIDING OFFICER. Under a previous order, the cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Calendar No. 509, S. 442, the Internet tax bill:

> Trent Lott, John McCain, Wayne Allard, Connie Mack, Gordon Smith, Paul Coverdell, Spencer Abraham, Mike DeWine, Conrad Burns, James Inhofe, Judd Gregg, Rod Grams, Craig Thomas, Olympia Snowe, Rick Santorum, and Larry E. Craig.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call under the rule is waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on S. 442, the Internet Tax Freedom Act, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

Mr. BYRD. Mr. President, the Senate is not in order. Will the Chair repeat what the question is upon which the Senators will be voting?

The PRESIDING OFFICER. The Senator is correct. The Senate is not in order.

By unanimous consent, the mandatory quorum call under the rule is waived.

The question is, Is it the sense of the Senate that debate on S. 442, the Internet Tax Freedom Act, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

Mr. BYRD. Thank you.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Vermont (Mr. JEFFORDS) is necessarily absent.

Mr. FORD. I announce that the Senator from Ohio (Mr. GLENN) is necessarily absent.

The result was announced—yeas 94, nays 4, as follows:

[Rollcall Vote No. 302 Leg.]

YEAS—94

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Durbin
Enzi
Faircloth
Feingold
Feinstein
Ford
Frist
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Inouye
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wellstone
Wyden

NAYS—4

Bumpers
Dorgan
Gorton
Hollings

NOT VOTING—2

Glenn
Jeffords

The PRESIDING OFFICER (Mr. HUTCHINSON). On this vote, the yeas are 94, the nays are 4. Three-fifths of the Senators having voted in the affirmative, the motion is agreed to.

IMPEACHMENT INQUIRY

Mr. LEAHY. Mr. President, as we wind down this session, certainly this body and the other body have much on their mind regarding the actions of the House Judiciary Committee and the whole area of an impeachment inquiry. Every Member will have to speak for himself or herself in both bodies in deciding what they believe is or is not an impeachable offense.

Many times we speak about what is an impeachable offense without discussing what it is not. I ask unanimous consent to have printed in the RECORD an excellent article written in Sunday's Washington Post by Professor Sunstein, entitled "Impeachment?" I feel it will be helpful, as his writings usually are, on this issue.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 4, 1998]

IMPEACHMENT? THE FRAMERS

(By Cass Sunstein)

We all now know that, under the Constitution, the president can be impeached for "Treason, Bribery, or other high Crimes and Misdemeanors." But what did the framers intend us to understand with these words? Evidence of the phrase's evolution is extensive—and it strongly suggests that, if we could solicit the views of the Constitution's authors, the current allegations against President Clinton would not be impeachable offenses.

When the framers met in Philadelphia during the stifling summer of 1787, they were seeking not only to design a new form of government, but to outline the responsibilities of the president who would head the new nation. They shared a commitment to disciplining public officials through a system of checks and balances. But they disagreed about the precise extent of presidential power and, in particular, about how, if at all, the president might be removed from office. If we judge by James Madison's characteristically detailed accounts of the debates, this question troubled and divided the members of the Constitutional Convention.

The initial draft of the Constitution took the form of resolutions presented before the 30-odd members on June 13. One read that the president could be impeached for "malpractice, or neglect of duty," and, on July 20, this provision provoked extensive debate. The notes of Madison, who was representing Virginia, show that three distinct positions dominated the day's discussion. One extreme view, represented by Roger Sherman of Connecticut, was that "the National Legislature should have the power to remove the Executive at pleasure." Charles Pinckney of South Carolina, Rufus King of Massachusetts and Gouvernor Morris of Pennsylvania opposed, with Pinckney arguing that the president "ought not to be impeachable whilst in office." The third position, which ultimately carried the day, was that the president should be impeachable, but only for a narrow category of abuses of the public trust.

It was George Mason of Virginia who took a lead role in promoting this more moderate course. He argued that it would be necessary to counter the risk that the president might obtain his office by corrupting his electors. "Shall that man be above" justice, he asked, "who can commit the most extensive injustice?" The possibility of the new president becoming a near-monarch led the key votes—above all, Morris—to agree that impeachment might be permitted for (in Morris's words) "corruption & some few other offences." Madison concurred, and Edmund Randolph of Virginia captured the emerging consensus, favoring impeachment on the grounds that the executive "will have great opportunitys of abusing his power; particularly in time of war when the military force, and in some respects the public money, will be in his hands." The clear trend of the discussion was toward allowing a narrow impeachment power by which the president could be removed only for gross abuses of public authority.

To Pinckney's continued protest that the separation of powers should be paramount, Morris argued that "no one would say that we ought to expose ourselves to the danger of seeing the first-Magistrate in foreign pay without being able to guard against it by displacing him." At the same time, Morris insisted, "we should take care to provide some mode that will not make him dependent on the Legislature." Thus, led by Morris, the framers moved toward a position that would maintain the separation between president and Congress, but permit the president to be removed in extreme situations.

A fresh draft of the Constitution's impeachment clause, which emerged two weeks later on Aug. 6, permitted the president to be impeached, but only for treason, bribery and corruption (exemplified by the president's securing his office by unlawful means). With little additional debate, this provision was narrowed on Sept. 4 to "treason and bribery." But a short time later, the delegates took up the impeachment clause anew. Mason complained that the provision was too narrow, that "maladministration" should be added, so as to include "attempts to subvert the Constitution" that would not count as treason or bribery.

But Madison, the convention's most careful lawyer, insisted that the term "maladministration" was "so vague" that it would "be equivalent to a tenure during pleasure of the Senate," which is exactly what the framers were attempting to avoid. Hence, Mason withdrew "maladministration" and added the new terms "other high Crimes and Misdemeanors against the State"—later unanimously changed to, according to Madison, "against the United States" to "remove ambiguity." The phrase itself was taken from English law, where it referred to a category of distinctly political offenses against the state.

There is a further wrinkle in the clause's history. On Sept. 10, the entire Constitution was referred to the Committee on Style and Arrangement. When that committee's version appeared two days later, the words "against the United States" had been dropped, probably on the theory that they were redundant, although we have no direct evidence. It would be astonishing if this change were intended to have a substantive effect, for the committee had no authority to change the meaning of any provision, let alone the impeachment clause on which the framers had converged. The Constitution as a whole, including the impeachment provision, was signed by the delegates and offered to the nation on Sept. 17.

These debates support a narrow understanding of "high Crimes and Misdemeanors," founded on the central notions of bribery and treason. The early history tends in the same direction. The Virginia and Delaware constitutions, providing a background for the founders' work, generally allowed impeachment for acts "by which the safety of the State may be endangered." And considered the words of the highly respected (and later Supreme Court Justice) James Iredell, speaking in the North Carolina ratifying convention: "I suppose the only instances, in which the President would be liable to impeachment, would be where he had received a bribe, or had acted from some corrupt motive or other." By way of explanation, Iredell referred to a situation in which "the President had received a bribe . . . from a foreign power, and under the influence of that bribe, had address enough with the Senate, by artifices and misrepresentations, to seduce their consent of pernicious treaty."

James Wilson, a convention delegate from Pennsylvania, wrote similarly in his 1791 "Lectures on Law": "In the United States and in Pennsylvania, impeachments are confined to political characters, to political crimes and misdemeanors, and to political punishments." Another early commentator went so far as to say that "the legitimate causes of impeachment . . . can have referenced only to public character, and official duty . . . In general, those offenses, which may be committed equally by a private person, as a public officer, are not the subjects of impeachment."

This history casts new light on the famous 1970 statement by Gerald Ford, then a representative from Michigan, that a high crime and misdemeanor "is whatever a majority of the House of Representatives considers it to be." In a practical sense, of course, Ford was right; no court would review a decision to impeach. But in a constitutional sense, he was quite wrong, the framers were careful to circumscribe the power of the House of Representatives by sharply limiting the category of legitimately impeachable offenses.

The Constitution is not always read to mean what the founders intended it to mean, and Madison's notes hardly answer every question. But under any reasonable theory of constitutional interpretation, the current allegations against Clinton fall far short of the permissible grounds for removing a president from office. Of course, perjury and obstruction of justice could be impeachable offenses if they involved, for example, lies about unlawful manipulation of elections. It might even be possible to count as impeachable "corruption" the extraction of sexual favors in return for public benefits of some kind. But nothing of this kind has been alleged thus far. A decision to impeach President Clinton would not and should not be subject to judicial review. But for those who care about the Constitution's words, and the judgment of its authors, there is a good argument that it would nonetheless be unconstitutional.

Mr. LEAHY. Mr. President, I urge all Members to keep in mind the necessity to have a strong sense of history in whatever position they take on this matter. It is not something that is done for a 30-second spot on an ad, nor is it something that is done to determine the fate of any one of us in an election whether this year or subsequent years. Whatever we do affects the history and the course of the greatest democracy history has ever known.

In that regard, I believe Members will be wise to take the time to read an op-ed piece written by former President Gerald Ford from the New York Times on Sunday, October 4. After reading it, I was impressed enough to pick up the phone and call President Ford and speak to him at some length.

I had the privilege, when I was first a Member of the Senate, of serving with President Ford. I got to know him then. On many occasions in the 20 or so years since, I have been able to be with him or talk with him or seek his advice. I think what he says here is, again, very worthwhile. It may not be something that each Member would agree with. I find a great deal of merit in it. Again, President Ford speaks not only of the history involved, but of the country and of his own long experiences as a Member of the House. I commend every one of us to read President Ford's op-ed piece.

I ask unanimous consent that article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 4, 1998]

THE PATH BACK TO DIGNITY

(By Gerald R. Ford)

GRAND RAPIDS, MICH.—Almost exactly 25 years have passed since Richard Nixon nominated me to replace the disgraced Spiro Agnew as Vice President. In the contentious days of autumn 1973, my confirmation was by no means assured. Indeed, a small group of House Democrats, led by Bella Abzug, risked a constitutional crisis in order to pursue their own agenda. "We can get control and keep control," Ms. Abzug told the Speaker of the House, Carl Albert. The group hoped, eventually, to replace Nixon himself with Mr. Albert.

The Speaker, true to form, refused to have anything to do with the scheme. And so on Dec. 6, 1973, the House voted 387 to 35 to confirm my nomination in accordance with the 25th Amendment to the Constitution.

When I succeeded to the Presidency, in August 1974, my immediate and overriding priority was to draw off the poison that had seeped into the nation's bloodstream during two years of scandal and sometimes ugly partisanship. Some Americans have yet to forgive me for pardoning my predecessor. In the days leading up to the hugely controversial action, I didn't take a poll for guidance, but I did say more than a few prayers. In the end I listened to only one voice, that of my conscience. I didn't issue the pardon for Nixon's sake, but for the country's.

A generation later, Americans once again confront the specter of impeachment. From the day, last January, when the Monica Lewinsky story first came to light, I have refrained publicly from making any substantive comments. I have done so because I haven't known enough of the facts—and because I know all too well that a President's responsibilities are, at the best of times, onerous. In common with the other former Presidents, I have had no wish to increase those burdens. Moreover, I resolved to say nothing unless my words added constructively to the National discussion.

This much now seems clear: whether or not President Clinton has broken any laws, he has broken faith with those who elected him. A leader of rare gifts, one who set out to change history by convincing the electorate that he and his party wore the mantle of individual responsibility and personal accountability, the President has since been forced to take refuge in legalistic evasions, while his defenders resort to the insulting mantra that "everybody does it."

The best evidence that everybody doesn't do it is the genuine outrage occasioned by the President's conduct and by the efforts of some White House surrogates to minimize its significance or savage his critics.

The question confronting us, then, is not whether the President has done wrong, but rather, what is an appropriate form of punishment for his wrongdoing. A simple apology is inadequate, and a fine would trivialize his misconduct by treating it as a more question of monetary restitution.

At the same time, the President is not the only one who stands before the bar of judgment. It has been said that Washington is a town of marble and mud. Often in these past few months it has seemed that we were all in danger of sinking into the mire.

Twenty-five years after leaving it, I still consider myself a man of the House. I never forget that my elevation to the Presidency came about through Congressional as well as constitutional mandate. My years in the White House were devoted to restoring public confidence in institutions of popular governance. Now as then, I care more about preserving respect for those institutions than I do about the fate of any individual temporarily entrusted with office.

This is why I think the time has come to pause and consider the long-term consequences of removing this President from office based on the evidence at hand. The President's harisplitting legialisms, objectionable as they may be, are but the foretaste of a protracted and increasingly divisive debate over those deliberately imprecise words "high crimes and misdemeanors." The Framers, after all, dealt in eternal truths, not glossy, deceit.

Moving with dispatch, the House Judiciary Committee should be able to conclude a preliminary inquiry into possible grounds for impeachment before the end of the year. Once that process is completed, and barring unexpected new revelations, the full House might then consider the following resolution to the crisis.

Each year it is customary for a President to journey down Pennsylvania Avenue and appear before a joint session of Congress to deliver his State of the Union address. One of the binding rituals of our democracy, it takes on added grandeur from its surroundings—there, in that chamber where so much of the American story has been written, and where the ghosts of Woodrow Wilson, Franklin Roosevelt and Dwight Eisenhower call succeeding generations to account.

Imagine a very different kind of Presidential appearance in the closing days of this year, not at the rostrum familiar to viewers from moments of triumph, but in the well of the House. Imagine a President receiving not an ovation from the people's representatives, but a harshly worded rebuke as rendered by members of both parties. I emphasize: this would be a rebuke, not a rebutal by the President.

On the contrary, by his appearance the President would accept full responsibility for his actions, as well as for his subsequent efforts to delay or impede the investigation of them. No spinning, no semantics, no evasiveness or blaming others for his plight.

Let all this be done without partisan exploitation or mean-spiritedness. Let it be dignified, honest and, above all, cleansing. The result, I believe, would be the first moment of majesty in an otherwise squalid year.

Anyone who confuses this scenario with a slap on the wrist, or a censure written in disappearing ink, underestimates the historic impact of such a pronouncement. Nor should anyone forget the power of television to foster indelible images in the National memory—not unlike what happened on the solemn August noontime in 1974 when I stood in the East-Room and declared our long National nightmare to be over.

At 85, I have no personal or political agenda, nor do I have any interest in "rescuing" Bill Clinton. But I do care, passionately, about rescuing the country I love from further turmoil or uncertainty.

More than a way out of the current mess, most. Americans want a way up to something better. In the midst of a far graver National crisis, Lincoln observed, "The occasion is piled high with difficulty, and we must rise with the occasion." We should remember those words in the days ahead. Better yet, we should be guided by them.

Ms. LANDRIEU. Mr. President, I ask unanimous consent to speak in morning business for the next 20 minutes for the purpose of introducing a piece of legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Ms. LANDRIEU and Mr. BREAUX pertaining to the introduction of S. 2566 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

CONCERN ABOUT THE DEVELOPMENTS IN KOSOVO

Mr. MCCAIN. Mr. President, this is a letter I sent to the President this morning concerning Kosovo. It reads as follows:

> DEAR MR. PRESIDENT: I am writing because of my serious concern about developments in Kosovo. With a brutality that would be almost unimaginable were anyone else responsible for it, Slobodan Milosevic has subjected yet another innocent population to the bloody carnage of ethnic cleansing. The stark depravity of his actions gravely offends the basic moral values of Western civilization. Moreover, the conflict in Kosovo threatens the stability of Europe, as the prospects are quite real that it may eventually embroil other countries in the region in a larger war. More than once, the United States has warned Serbia that NATO will not tolerate its continued aggression against Kosovo. Serbia has ignored our warnings, thereby challenging the credibility of the United States, obliging us and our NATO allies to consider using military force to prevent further aggression against our values and interests in Kosovo.
>
> Congress has reservations about such a course of action, however. While I am inclined to support military action, I understand the basis for my colleagues' reservations, and I believe it is imperative that prior to ordering any military strike on Serbia you take all necessary steps to ensure both Congress and the American people that the action is necessary, affordable, and designed to achieve clearly defined goals.
>
> First, you must state clearly the American interest in resolving this terrible conflict; describe in detail the facts on the ground; identify all parties responsible for perpetrating the terrible atrocities committed in Kosovo while making clear that Serbia is indisputably the primary culprit; explain how our own security is threatened by Serbian aggression and justifies risking the lives of American pilots, and how the use of air power can prevent further aggression. You must also define for the public what will constitute the operation's success so that Americans know that air strikes were launched with a realistic end game in mind.
>
> Second, you must convincingly explain to the American people why it is that we should be involved in a conflict that to many people seems to affect our interests indirectly, and that should be resolved exclusively by those countries most directly threatened by it—our European allies. As I am sure you appreciate, Congress and the public's frustration over Europe's lack of willingness to bear a greater share of the burden for maintaining peace in their own backyard is at an all time high, threatening the nation's consensus that our leadership in NATO should remain a priority interest for the United States. You could go a long way toward alleviating that frustration by ensuring that any ground forces that might ultimately be needed to keep the peace in Kosovo will be provided by European countries alone.
>
> Third, should you order air strikes you must ensure the nation that they will be of sufficient magnitude to achieve their objectives. I hope you will view the following criticism in the constructive spirit in which it is offered. In the past, your administration has too often threatened and then backed down from the use of force, or authorized cruise missile strikes that amounted to little more than ineffective gestures intended, I suspect, to send a message to our adversaries, but because of their small scale interpreted by our adversaries as a lack of resolve on the part of the United States to defend our interests vigorously. Your administration's failure to support UNSCOM inspectors in Iraq has also greatly exacerbated our adversaries' lack of respect for America's resolve.
>
> Finally, you should explain how you intend to find additional resources to fund the operation in order to alleviate well-founded Congressional anxiety regarding the over-extension of U.S. military commitments at a time when spending on National defense is woefully inadequate.
>
> Mr. President, should you convincingly address the issues I have raised, which I believe you can do, I am confident you will have the support of Congress and our constituents for operations against Serbia. You will certainly have mine. I believe there exists a clear and compelling case for such an action that Americans will accept if you avoid the mistakes made in the past when your administration has attempted to build public support for the use of force. I urge to give these concerns your most serious consideration.

INTERNET TAX FREEDOM ACT

The Senate continued with the consideration of the bill.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the pending Coats amendment be 20 minutes in length, 10 minutes on either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. I yield the floor.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

AMENDMENT NO. 3695

(Purpose: To exempt from the moratorium on Internet taxation any persons engaged in the business of selling or transferring by means of the World Wide Web material that is harmful to minors who do not restrict access to such material by minors)

Mr. COATS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Indiana (Mr. COATS) proposes an amendment numbered 3695.

Mr. COATS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 17, between lines 15 and 16, insert the following:

(c) EXCEPTION TO MORATORIUM.—

(1) IN GENERAL.—Subsection (a) shall also not apply in the case of any person or entity who in interstate or foreign commerce is knowingly engaged in the business of selling or transferring, by means of the World Wide Web, material that is harmful to minors unless such person or entity requires the use of a verified credit card, debit account, adult access code, or adult personal identification number, or such other procedures as the Federal Communications Commission may prescribe, in order to restrict access to such material by persons under 17 years of age.

(2) SCOPE OF EXCEPTION.—For purposes of paragraph (1), a person shall not be considered to engaged in the business of selling or transferring material by means of the World Wide Web to the extent that the person is—

(A) telecommunications carrier engaged in the provision of a telecommunications service;

(B) a person engaged in the business of providing an Internet access service;

(C) a person engaged in the business of providing an Internet information location tool; or

(D) similarly engaged in the transmission, storage, retrieval, hosting, formatting, or translation (or any combination thereof) of a communication made by another person, without selection or alteration of the communication.

(3) DEFINITIONS.—In this subsection:

(A) BY MEANS OF THE WORLD WIDE WEB.—The term "by means of the World Wide Web" means by placement of material in a computer server-based file archive so that it is publicly accessible, over the Internet, using hypertext transfer protocol, file transfer protocol, or other similar protocols.

(B) ENGAGED IN THE BUSINESS.—The term "engaged in the business" means that the person who sells or transfers or offers to sell or transfer, by means of the World Wide Web, material that is harmful to minors devotes time, attention, or labor to such activities, as a regular course of trade or business, with the objective of earning a profit, although it is not necessary that the person make a profit or that the selling or transferring or offering to sell or transfer such material be the person's sole or principal business or source of income.

(C) INTERNET.—The term "Internet" means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocol, to transmit information.

(D) INTERNET ACCESS SERVICE.—The term "Internet access service" means a service that enables users to access content, information, electronic mail, or other services offered over the Internet and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. Such term does not include telecommunications services.

(E) INTERNET INFORMATION LOCATION TOOL.—The term "Internet information location tool" means a service that refers or links users to an online location on the World Wide Web. Such term includes directories, indices, references, pointers, and hypertext links.

(F) MATERIAL THAT IS HARMFUL TO MINORS.—The term "material that is harmful to minors" means any communication, picture, image, graphic image file, article, recording, writing, or other matter of any kind that—

(i) taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;

(ii) depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and

(iii) taken as a whole, lacks serious literary, artistic, political, or scientific value for minors.

(G) SEXUAL ACT; SEXUAL CONTACT.—The terms "sexual act" and "sexual contact" have the meanings given such terms in section 2246 of title 18, United States Code.

(H) TELECOMMUNICATIONS CARRIER; TELECOMMUNICATIONS SERVICE.—The terms "telecommunications carrier" and "telecommunications service" have the meanings given such terms in section 3 of the Communications Act of 1934 (47 U.S.C. 153).

Mr. McCAIN. Mr. President, I ask unanimous consent to vitiate the unanimous consent agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3695, AS MODIFIED

Mr. COATS. Mr. President, I also send a modification to this amendment to the desk and ask unanimous consent that my amendment No. 3695 be considered as modified.

I might just explain the amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 3695), as modified, is as follows:

On page 17, between lines 15 and 16, insert the following:

(c) EXCEPTION TO MORATORIUM.—

(1) IN GENERAL.—Subsection (a) shall also not apply in the case of any person or entity who in interstate or foreign commerce is knowingly engaged in the business of selling or transferring, by means of the World Wide Web, material that is harmful to minors unless such person or entity requires the use of a verified credit card, debit account, adult access code, or adult personal identification number, or such other procedures as the Federal Communications Commission may prescribe, in order to restrict access to such material by persons under 17 years of age.

(2) SCOPE OF EXCEPTION.—For purposes of paragraph (1), a person shall not be considered to engaged in the business of selling or transferring material by means of the World Wide Web to the extent that the person is—

(A) a telecommunications carrier engaged in the provision of a telecommunications service;

(B) a person engaged in the business of providing an Internet access service;

(C) a person engaged in the business of providing an Internet information location tool; or

(D) similarly engaged in the transmission, storage, retrieval, hosting, formatting, or translation (or any combination thereof) of a communication made by another person, without selection or alteration of the communication.

(3) DEFINITIONS.—In this subsection:

(A) BY MEANS OF THE WORLD WIDE WEB.—The term "by means of the World Wide Web" means by placement of material in a computer server-based file archive so that it is publicly accessible, over the Internet, using hypertext transfer protocol, file transfer protocol, or other similar protocols.

(B) ENGAGED IN THE BUSINESS.—The term "engaged in the business" means that the person who sells or transfers or offers to sell or transfer, by means of the World Wide Web, material that is harmful to minors devotes time, attention, or labor to such activities, as a regular course of trade or business, with the objective of earning a profit, although it is not necessary that the person make a profit or that the selling or transferring or offering to sell or transfer such material be the person's sole or principal business or source of income.

(C) INTERNET.—The term "Internet" means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(D) INTERNET ACCESS SERVICE.—The term "Internet access service" means a service that enables users to access content, information, electronic mail, or other services offered over the Internet and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. Such term does not include telecommunications services.

(E) INTERNET INFORMATION LOCATION TOOL.—The term "Internet information location tool" means a service that refers or links users to an online location on the World Wide Web. Such term includes directories, indices, references, pointers, and hypertext links.

(F) MATERIAL THAT IS HARMFUL TO MINORS.—The term "material that is harmful to minors" means any communication, picture, image, graphic image file, article, recording, writing, or other matter of any kind that—

(i) taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;

(ii) depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and

(iii) taken as a whole, lacks serious literary, artistic, political, or scientific value for minors.

(G) SEXUAL ACT; SEXUAL CONTACT.—The terms "sexual act" and "sexual contact" have the meanings given such terms in section 2246 of title 18, United States Code.

(H) TELECOMMUNICATIONS CARRIER; TELECOMMUNICATIONS CARRIER SERVICE.—The terms "telecommunications carrier" and "telecommunications service" have the meanings given such terms in Section 3 of the Communications Act of 1934 (47 U.S.C. 153).

Mr. COATS. The modification is a technical amendment.

The underlying Finance Committee substitute was previously modified changing the definition of "Internet," and the modification that I am sending to the desk simply brings my definition in my amendment in line with the underlying amendment now as modified by the underlying amendment.

Mr. President, I also ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. COATS. Thank you, Mr. President.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I send an amendment in the second degree to the desk.

The PRESIDING OFFICER. Is there objection to the consideration of the second-degree amendment?

Without objection, it is so ordered.

Mr. McCAIN. Mr. President, did the Senator from Connecticut need unanimous consent in order for this amendment to be considered?

The PRESIDING OFFICER. The Senator may call up a previously filed amendment. He needs consent to modify it.

Mr. McCAIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, I also ask unanimous consent that the amendment be considered as read and, further, that my colleague from Indiana proceed to speak on his amendment. Then when he completes his discussion, I will make some comments on the amendment that I am offering.

AMENDMENT NO. 3780 TO AMENDMENT NO. 3695, AS MODIFIED

(Purpose: To provide an exception to the moratorium with respect to Internet access providers who do not offer customers screening software)

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Connecticut (Mr. DODD) proposes an amendment numbered 3780 to amendment No. 3695, as modified.

Mr. DODD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment, add:

(d) ADDITIONAL EXCEPTION TO MORATORIUM.—

(1) IN GENERAL.—Subsection (a) shall also not apply with respect to an Internet access provider, unless, at the time of entering into an agreement with a customer for the provision of Internet access services, such provider offers such customer (either for a fee or at no charge) screening software that is designed to permit the customer to limit access to material on the Internet that is harmful to minors.

(2) DEFINITIONS.—In this subsection:

(A) INTERNET ACCESS PROVIDER.—The term "Internet access provider" means a person engaged in the business of providing a computer and communications facility through which a customer may obtain access to the Internet, but does not include a common carrier to the extent that it provides only telecommunications services.

(B) INTERNET ACCESS SERVICES.—The term "Internet access services" means the provision of computer and communications services through which a customer using a computer and a modem or other communications device may obtain access to the Internet, but does not include telecommunications services provided by a common carrier.

(C) SCREENING SOFTWARE.—The term "screening software" means software that is designed to permit a person to limit access to material on the Internet that is harmful to minors.

(3) APPLICABILITY.—Paragraph (1) shall apply to agreements for the provision of Internet access services entered into on or after the date that is 6 months after the date of enactment of this Act.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, I don't believe we will need all 20 minutes. There may be other Members who want to speak on this. But I will summarize this in the interest of time, because essentially what we are doing here is something that has already been done in the Senate. It has been passed unanimously by the Senate. But it is not attached to legislation that has as much chance of succeeding, or at least, if that legislation succeeds, we are not sure what the Senate has passed is going to survive the process. It might be dropped from that.

Let me begin by summarizing this just to refresh my colleagues' memory of what we have done before.

This amendment exempts from the moratorium which, if this bill passes—and I believe it will—will be applied to any kind of a taxation on the World Wide Web—my amendment simply exempts from that moratorium any commercial porn site on the World Wide Web that does not comply with the reasonable requirements that are incorporated in this amendment to restrict access by children to sexually explicit material on the site.

The amendment establishes specific measures that porn site operators—commercial porn site operators—must take to restrict access. These restrictions represent standard technology already on the web, and they reflect the technology and the requirements acknowledged by the Court as both technically and economically feasible.

In the Reno v. ACLU case—that is, the Court's decision that struck down the indecency provisions of the Communications Decency Act—the Court said there were two problems with that act.

That act, by the way, is the one that was passed by the Senate in I think a nearly unanimous vote. It was labeled the Exon-Coats amendment, offered in the last Congress by the Senator from Nebraska, the Democrat Senator from Nebraska, Senator Exon, and myself. We included in that amendment—which passed both the House and the Senate and was endorsed wholeheartedly by the President and the administration but did not survive a Court challenge for two reasons:

One, the Court said that the restrictions had to apply only to those engaged in the business; that is, those commercial providers.

Second, it said that our standard of indecency as described in the material not suitable for children was not acceptable, violated first amendment concerns, and they proscribed then a standard as harmful to minors, or suggested that.

We went back and adjusted that Communications Decency Act which was passed by the Congress, signed into law, but rejected by the Court. We revised it to comply with the Court's concerns, so that now it, we believe, will meet the constitutional standard. We have applied it strictly to commercial sites. We have adopted the requirements for establishing the types of technology that the commercial porn providers and the net can require that one will have to comply with and the other require, and we have adopted the definition of "harmful to minors" as outlined in the famous case on this issue, the Ginsberg, New York Ginsberg case. That defined "harmful to minors" in a way that means you have to be under 17, it has to be patently offensive as to what is suitable for minors, taken as a whole lacking serious literary, artistic, political, and scientific value for minors and appealing to prurient interests.

This is a standard that we are all familiar with. It has been the standard applied in obscenity cases now for several decades, and it is the generally accepted standard. That is the standard we have put into this bill.

So to summarize, what we are doing here is attaching to this legislation, which provides a tax moratorium for users of the World Wide Web, we are saying that that moratorium does not exist, will not be available to those who use the World Wide Web for the purpose of providing sexually explicit material to minors and have not put in place in terms of their provision to all other users restrictions which are technically feasible and already used, which are economically feasible, but restrictions which allow them to certify that the person requesting the material is, in fact, an adult; that is, 17 years and older.

This is exactly the language which was adopted unanimously by this Senate in this Congress. And so everyone here has already read it, understood it, voted for it, supported it. We are simply transferring it now over to this particular bill and applying it in a somewhat different way by denying the tax exemption.

It is inconceivable that we would grant a massive tax perk to commercial porn sites that make their smut available to children. We are going to give a golden egg to commercial entities on the Internet, or giving them a tax shelter, at least a moratorium for a tax shelter for a period of time, but to think that we would give that same tax break to those who are providing obscene material to minors without requiring any good-faith effort on their part to make sure that minors do not have free access to this material is unthinkable. That is the bottom line.

S. 442, the underlying bill that we are talking about, holds out a massive tax shelter to on-line businesses. The question is, Is the Senate going to extend this tax shelter to pornographers who are making their material available to every child in America.

People say, well, look, I mean, this is a proactive thing. Why don't the parents take control and control what their child clicks into and orders up.

Mr. President, I will not display this on the Senate floor because I think it is obscene, and whether or not you agree it is obscene for adults, I think it is absolutely not only obscene but totally inappropriate for minors. This is material that is available free. This is before you click in and say I want to purchase your material or send me more. These are the teasers. The teasers are almost beyond description, and it is something we don't want to talk about here.

There is no excuse in saying, well, an 11-year-old, if he clicks in to find out about a school project and uses the wrong word, all it is is a verbal version; he has to take a proactive effort to obtain the material. That is not true. That youngster, that child, whether they are in the library, whether they are in their school classroom, whether they are at home, is immediately given the most graphic of images and the most graphic of language as a teaser for them to go forward and obtain the material. We are saying that there has to be a provision whereby the provider of this material puts in place reasonable restrictions to assure that the person asking for the material is someone who is 17 years old or older.

We have complied with the Court requirements. This is language that has already been adopted by the Senate, and I hope my colleagues will see it in that light and support this vote that is coming up in the next few moments.

Mr. President, I do not see any other Members on our side who are wishing to speak at this particular time. And I am asking how much time is remaining of the Senator's time and I would reserve that time.

The PRESIDING OFFICER. The Senator has 52 minutes left under cloture.

Mr. DODD. Parliamentary inquiry, Mr. President.

There was no unanimous consent time agreement on this amendment?

The PRESIDING OFFICER. That is correct.

Mr. COATS. That is correct. It was asked, agreed to and vitiated.

The PRESIDING OFFICER. The Senator is correct.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. I commend my colleague from Indiana who is in his closing days in this body, having made the decision not to seek reelection. A lot of Members, as they wind down, spend their last few days winding up work and not being actively involved in the legislative process. It is a tribute to Senator COATS that in his remaining days in this body, he is still very active and involved in issues he has cared deeply about. This is one such issue. I commend him for this amendment. I think it is a very creative way to advance this issue and provide some safety for young people who are being exposed today to an alarming amount of pornography on the Internet.

I strongly support his amendment. Now, let me put my amendment in a framework for some people. My amendment is a second degree amendment, and really complements the Coats amendment. My amendment requires that Internet access providers either provide free of charge, or for a fee, screening software at the time they make sales to customers. Internet access providers that don't do this, as with the Coats amendment, would be denied the benefits of the tax breaks in the underlying bill. This amendment also relies on the Ginsberg definition that has been used in the Coats amendment.

How big is this problem, people say? Let me just put it in perspective for you. According to Wired Magazine, there are 28,000 web sites worldwide that have soft- or hard-core pornography on them. And, fifty new web sites with such material are added to the Internet every single day—50 a day.

My colleague from Indiana has some material he wisely decided not to show on the floor, but suffice to say, most Americans would find it highly offensive, to put it mildly. The idea that this material is available to children is something that ought to be a cause of alarm to all of us. Sadly, many of our children are unwittingly and accidentally exposed to such sites while surfing the web. They type in search terms as innocuous as "toys"—pretty innocuous—only to find graphic images and language on their display terminals.

Mr. President, the Internet is profoundly changing the way we learn and communicate with people. Today our children have unprecedented access to educational material through the Internet. It provides children with vast opportunities to learn about art and culture and history. The possibilities are endless. It is an incredibly valuable technology for children all across this country and across the globe.

But as with any technology, Mr. President, this advanced technology also brings with it a dark side for our children. Many of these young people are browsing the net, often unaccompanied by an adult, and come across material that is unsuitable, to put it mildly. It is oftentimes very sexually explicit.

Every parent worries about strangers approaching their children in their neighborhood or on a playground at school.

And they teach their children how to avoid these strangers. But today, these strangers can literally enter our homes via the Internet. They are only a mouse click away from our children. In our libraries and bookstores, we store reading material that is harmful to minors in areas accessible only to adults. Yet, in cyberspace, these same materials are as accessible to a child as his or her favorite bedtime story. Pornographic images and sexual predators are now reaching our children, via the Internet, in the privacy and safety of their own homes and classrooms. This kind of access to our children is alarming, and this invasion of our children's privacy and innocence is unconscionable.

Just a few weeks ago, law enforcement agents in a sting operation apprehended 200 members of an Internet pornography ring that possessed and distributed sexually explicit images of children. Members of this ring traded inappropriate images of children on the Internet. One of the sites raided was in my own State of Connecticut. As I noted a moment ago, there are 50 new sites a day added to the Web that contain pornography, these sites are added to the 28,000 that already exist. Despite this successful operation by law enforcement agents, their raid only represents the elimination of approximately 4 days of new sites.

We, as a Nation, have an obligation to ensure that surfing the web remains a safe and viable option for our children. We have a responsibility to make sure that they are able to learn and grow in an environment free of sexual predators and pornographic images.

Clearly, there is no substitute for parental supervision; yet, I think we can all agree that many parents know less about the Internet than their children do. Parents are convinced of the Internet's educational value, but they also feel anxious about their ability to supervise their children while they use it. In my view, it is important that we encourage parents and children to use the Internet together. But clearly, it is difficult for any adult to monitor children on line all the time.

Therefore, I believe we need to provide our parents with tools that will help them to protect and to guide their children on the Internet. The amendment I have offered here is a modest measure. It is not a cure-all by any stretch of the imagination. It is a modest idea and just requires that Internet access providers make screening software available to customers purchasing Internet access services.

The amendment would allow customers to have the opportunity, as I said, to either buy or obtain free of charge, as determined by the provider, screening software that permits customers to limit access to material on the Internet that is harmful to minors. Like going to a pharmacy and being asked if you want to buy a childproof lid for prescription medication, my bill will require that Internet access providers ask parents whether they would like to obtain screening software to protect them from the very kind of dangers that we see on the 28,000 existing web sites and the 50 new ones that are added each day. This is a serious problem, and providing this kind of tool to parents is one way we can begin to combat the problem.

At any rate, I hope my colleagues will see fit to support this amendment. It has been offered once before on the floor and passed the Senate overwhelmingly and, not unlike the Coats amendment, we need to have it included in this bill today.

Again, I commend my colleague from Indiana for his fine work on many issues, but once again on this particular issue, and hope as well this second-degree amendment will be adopted.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. I am more than happy to accept the amendment offered by the Senator from Connecticut. I thank him for his tireless work on behalf of children. It has been my pleasure to serve with him on both sides, the majority and minority, of the Children and the Families Committee; under his chairmanship as ranking member, and now as chairman, with Senator DODD as ranking member. He has been a tireless advocate of children and addressing the particular concerns that children have to deal with, the problems they have to deal with growing up, and his support for this legislation and the amendment to my amendment, which I think strengthens what we are attempting to do and is very reasonable, earlier offered by Senator MCCAIN, to utilize the advantages of software that allows for blocking.

We see this as, certainly, a useful tool. It is not a totally useful tool because there are a myriad of ways of defeating it. As we speak, there are undoubtedly computer people far more savvy than this Senator, looking for ways to bypass this and looking for ways to defeat it. But it is a helpful tool, and it should be available to parents to help them in their efforts to protect their children from material that they do not deem appropriate and that certainly is not appropriate.

I will be more than happy to accept the amendment. I do not know that we need a rollcall vote on both. We can combine the two and I think we will have a very worthwhile amendment.

The PRESIDING OFFICER. Is there further debate on the Dodd amendment, No. 3780? The Senator from Montana.

Mr. BURNS. Mr. President, if my friend from Indiana and my friend from Connecticut will yield, I am not going to oppose this amendment. I congratulate both of them, as they have been dedicated to raising the awareness of the garbage that we have on the Internet. No technology that we can devise, that stays in place very long, is going to actually protect our young children from the pitfalls of the stuff that we find on there. The only thing that we can do, and I think both of them have done this very well, is to raise the awareness of the need for adult supervision whenever young people go on the Internet. That is the only way. That is the only way we are going to get protection and also a public awareness and a public feeling that we are not going to do business with Internet providers who offer this stuff.

We cannot protect and use this great tool called the glass highway and bring any integrity to it unless, No. 1, we secure it when I send a message to you. Of course, that is the encryption issue, and that is an issue we have to fight another day, as far as law enforcement surveillance and this type of thing is concerned. But we cannot be lulled or rocked into a position of where we are in a basket of comfort, thinking we have done the job and protected our children from the pedophiles and the garbage that we find on the Internet, because the Internet is going to reflect what we have in society. No matter where you go, you will find what you are looking for. It is going to be there, too, just like it is downtown or any place in America.

So, I am not going to oppose this amendment. I do have some reservations about it because, No. 1, I think it is overreaching a little bit into industrial policy, as far as what we should be doing. But I tell Americans, don't get comfortable in this basket of security because we have this amendment or that we have this legislation, that we are still going to be susceptible to the people who prey on the Internet with garbage. We will never solve that problem. The only place it will be solved is through parents and us talking about it and raising the awareness that it is there. Parental supervision, supervision in our schools and our libraries, that is the only way we defeat this. Because basically we are decent people, that is what will defeat it. That is what will finally crowd it off of there, and also secure it, so maybe there will not be any room for it. I hope that would be the case, also.

I congratulate the Senator from Indiana. I will miss him and his service in the next U.S. Senate. But nobody has a more stellar record than Senator COATS on these issues of family and decency in the public place. I appreciate that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, first, before my friend from Montana leaves the floor, I want to tell him how much I appreciate his work as chairman of the telecommunications subcommittee on the Commerce Committee. My friend from Montana and I have had spirited discussions and debates on this overall issue. I understand his deeply held views, and I appreciate them. There is great attraction to his argument. There is a fine line in America between the prevention of material which is offensive being forced on our young people and censorship. So I understand the arguments that the Senator from Montana has made. But let me say that it is a huge problem, and the Senator from Montana knows it as well as I do. It is a huge problem.

Anyone who operates the Internet today sees this proliferation of incredible trash that occurs, which is terribly, terribly disturbing to all of us—all of us on both sides of the aisle—because of the influence that it has on young Americans, not to mention older Americans.

We had a hearing in the Commerce Committee. There was testimony that there is a direct relation between pedophilia and the Internet. There are documented cases where pedophiles have corresponded with young people on the Internet and enticed them into meeting. These stories are so terrible and graphic that I am reluctant to discuss them on the floor of the U.S. Senate.

It is a problem in American society when you look at the growth of the Internet in America. All of us, especially those of us who serve on the Commerce Committee, are aware of the incredible potential of the Internet, the unbelievable effects it is going to have on the Nation and the world. With the wiring of schools and libraries in America, for the first time, every child in America, no matter whether they come from the Navajo Reservation and Chinlee High School or whether they attend Beverly Hills High School, are going to have access to knowledge and information like never before.

When you dial in the word "teen" on the Internet, or when you dial in the word "nurse" and the search engine comes up with a proliferation of pornography and advertisements for it, we have to try to address this problem.

The Senator from North Dakota has discussed this issue in committee hearings, the Senator from Oregon—all of us who are familiar with it. I will tell you right now, Mr. President, one of the problems is that a lot of us don't use the Internet like the now tens of millions of Americans do, so we are not aware of this problem. And, no, none of us would support censorship. No one is in favor of censorship.

I will tell you that when we have actual testimony before our committee by detectives who say that they go out and they find people who entice young children through the Internet to meet with them and then terrible things ensue, then obviously we have a problem. Recently in Phoenix, AZ, a young boy who was on the Internet viewing pornography walked out and molested a 4-year-old child. It is a fact. It is a documented fact. Or parents in the library see pornography as they walk by and their children are in the library and see this.

I am not sure I know the answers. I don't know the answers, but I firmly believe that we at least ought to make an effort to provide parents with the tools and institutions with the tools at least to filter out some of this garbage, which brings me to the Senator from Indiana.

I know of no one who is more involved in the issues of families and morals and decency in America than is Senator COATS. I miss many of my colleagues when they leave; some of them I don't miss. But the fact is, the majority of them I do. I will miss Senator COATS because I view him as a moral compass around here.

When Senator COATS speaks on these issues, we all listen because he is a living example of what we want families in America to be about. Senator COATS has been involved in this particular effort on this piece of legislation for a long, long time.

I believe there may be some question about the bill's constitutionality. Fine, we will let the courts decide that. I have some questions myself. But it is a sad, but inescapable fact that material harmful to children is pervasive on the Internet in America today. It is an indisputable fact. There is no Member of the Senate who is more qualified and has more credibility to address this issue than the Senator from Indiana.

It is my understanding that the Senator from Montana is not going to seek a recorded vote on the second-degree amendment of the Senator from Connecticut. Fairly shortly, if there is no other debate on this amendment, we will move to a vote around noon.

Mr. President, I ask unanimous consent that after adoption of the Dodd second-degree amendment that the Senate vote at 12 noon on the Coats amendment.

Mr. COATS. Reserving the right to object, I would like to reserve 1 minute for summation on the amendment that is being offered before the vote. Hopefully, I can do that before 12 o'clock. In case I can't, I would like that 1 minute.

Mr. MCCAIN. I amend my unanimous consent request that the Senator from Indiana have 2 minutes prior to the vote.

The PRESIDING OFFICER (Mr. BURNS). Without objection, it is so ordered.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I will take 1 minute. I want to use this unique opportunity to add my comments about the Senator from Indiana. I have told people that I am enormously proud to serve in this body. One of the major reasons for that is the men and women with whom I serve, both Republicans and Democrats, liberals and conservatives, I think are the best men and women I have been associated with in my entire life.

One of those is the Senator from Indiana. We became acquainted in 1981 when we both were elected to the House of Representatives in the same election, and although we perhaps have agreed and disagreed many times on many issues throughout the years, I have deep admiration for Senator COATS and his family.

When he leaves the Senate, as is the case with so many of our colleagues, the Senate will have lost a very important contributor on a good many issues, this one most notable. He has been persistent on this issue and, as the Senator from Arizona just described, we have had hearings in the Commerce Committee about this issue. It desperately needs attention, desperately needs a solution, and the Senator from Indiana has been a significant contributor in that effort. I did not want to let this moment pass without sharing my respect for Senator COATS. I yield the floor.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, I appreciate the kind words from my colleagues—the Senator from Connecticut, the Senator from North Dakota and the Senator from Arizona. I am also appreciative of their support for this effort.

I don't know if any of us has a perfect answer to this. We do see the Internet, the World Wide Web, as one of the most extraordinary invasions in the history of mankind. It can provide access to information that can revolutionize our world and provide opportunities for people who heretofore have not had those opportunities for knowledge and for learning that are extraordinary.

At the same time, there is a dark side to the Internet. As with most new technology, it can be used for good; it can be used for evil. Unfortunately, the Internet is no exception. None of us want to put ourselves in the position of being a censor. We decry that material. We don't think it sends the right kind of moral message. We wish we didn't have it.

Yet, as a country dedicated to the freedom of speech, enshrined in its Constitution, we have to accept certain types of material that some of us consider offensive, but doesn't necessarily meet the obscenity test that the Court has laid out, which is a pretty stringent test.

By the same token, surely—surely—we as a society can address the issue of how we protect the innocence of our children and whether we can use reasonable means to give parents tools to protect that innocence. That is what this amendment is about.

Software is an attempt to do that. We know from documented evidence that software is only a partial solution, that it can be defeated, but I think it is helpful and we ought to utilize that and encourage it.

Beyond that, however, we need a sanction, a sanction that imposes some requirements—technologically feasible requirements and economically feasible requirements—on those who seek to bypass the effort to put any kind of restrictions on the availability of this material to children.

We passed legislation earlier, the Communications Decency Act. Even though the Congress and the people of America and the President supported it, the Court did not support it. It struck it down. We have carefully modified and changed this language in this bill that I offered earlier that the Senate passed to comply with those Court restrictions.

We have made sure that it applies to minors; that the requirements put in place meet the Court's standard; that the language harmful to minors meets the Court-ordered test that was given to us years ago in the Ginsberg case. We believe we have something here that not only is acceptable to the American people and to the Congress of the United States and to the administration, but hopefully acceptable to the standards imposed by the Supreme Court. So I thank my colleagues for their generous words. I thank them for their support.

The hour of 12 noon having approached, if there is any time left, I yield it back and hope we can go to a vote and pass this unanimously and send the kind of signal that we need to send, and that is that this country and this Congress is not going to stand for obscene material to be pushed into children's minds through the Internet without reasonable restrictions on that material.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The question now occurs on agreeing to the Dodd amendment No. 3780 to the Coats amendment, as modified.

The amendment (No. 3780) was agreed to.

Mr. DODD. I move to reconsider the vote.

Mr. McCAIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 3695, AS MODIFIED, AS AMENDED

The PRESIDING OFFICER. The question now occurs on agreeing to the Coats amendment No. 3695, as modified and as amended. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Ohio (Mr. GLENN) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 1, as follows:

[Rollcall Vote No. 303 Leg.]

YEAS—98

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Faircloth
Feingold
Feinstein
Ford
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wellstone
Wyden

NAYS—1

Leahy

NOT VOTING—1

Glenn

The amendment (No. 3695), as modified, as amended, was agreed to.

Mr. GRASSLEY. Mr. President, I move to reconsider the vote.

Mrs. HUTCHISON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mrs. HUTCHISON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NUMBERED 3734; 3723, AS MODIFIED, 3717, 3713, 3710, 3712, 3735; AND 3721, AS MODIFIED

Mr. McCAIN. Mr. President, I understand the following amendments which were filed earlier are acceptable to both sides.

Therefore, I ask unanimous consent that the following amendments be considered en bloc, and agreed to:

Amendments numbered 3734, 3723, as modified, 3717, 3713, 3710, 3712, 3735, and 3721, as modified.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. Mr. President, reserving the right to object, I shall not object, the amendments have been cleared on our side. We have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 3734; 3723, as modified, 3717, 3713, 3710, 3712, 3735; and 3721, as modified) were agreed to, as follows:

AMENDMENT NO. 3734

(Purpose: To modify the Commission membership)

Beginning on page 18, line 17, strike all through page 19, line 21, and insert:

(B) Eight representatives from State and local governments (1 of whom shall be from a State or local government that does not impose a sales tax) and 8 representatives of the electronic commerce industry, telecommunications carriers, local retail businesses, and consumer groups, comprised of—

(i) five representatives appointed by the Majority Leader of the Senate;

(ii) three representatives appointed by the Minority Leader of the Senate;

(iii) five representatives appointed by the Speaker of the House of Representatives; and

(iv) three representatives appointed by the Minority Leader of the House of Representatives.

AMENDMENT NO. 3723, AS MODIFIED

(Purpose: To establish the relationship between the bill and certain other provisions of existing law, and to set forth the role of the National Commission on Uniform State Legislation)

On page 25, between lines 6 and 7, insert the following:

(3) EFFECT ON THE COMMUNICATIONS ACT OF 1934.—Nothing in this section shall include an examination of any fees or charges imposed by the Federal Communications Commission or States related to—

(A) obligations under the Communications Act of 1934 (47 U.S.C. 151 et seq.); or

(B) the implementation of the Telecommunications Act of 1996 (or of amendments made by that Act).

(h) NATIONAL TAX ASSOCIATION COMMUNICATIONS AND ELECTRONIC COMMERCE TAX PROJECT.—The Commission shall, to the extent possible, ensure that its work does not undermine the efforts of the National Tax Association Communications and Electronic Commerce Tax Project.

AMENDMENT NO. 3717

(Purpose: To add a severability provision for the entire bill)

At the end of the bill, add the following:

SEC. . SEVERABILITY.

If any provision of this Act, or any amendment made by this Act, or the application of that provision to any person or circumstance, is held by a court of competent jurisdiction to violate any provision of the Constitution of the United States, then the other provisions of that section, and the application of that provision to other persons and circumstances, shall not be affected.

AMENDMENT NO. 3713

(Purpose: To correct a reference to "interstate", rather than "electronic" commerce)

On page 22, line 25, strike "interstate" and insert "electronic".

AMENDMENT NO. 3710

(Purpose: To correct a reference to "consumers" to refer to "users")

On page 28, line 6, strike "consumers." and insert "users.".

AMENDMENT NO. 3712

(Purpose: To define the term "Internet")

On page 27, strike lines 14 through 23, and insert the following:

(4) INTERNET.—The term "Internet" means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

AMENDMENT NO. 3735

(Purpose: To make it clear that the delayed effective date for the Children's Online Privacy Act is keyed to the filing date of the application)

In section 208(2) of title II of the bill, as added by amendment, insert "filed" after "application" the first place it appears.

Mr. BRYAN. Mr. President, this bill was reported out of Committee last week by voice vote. Because of time constraints at the end of the session, we have been unable to file a committee report before offering it as an amendment on the Senate floor. Accordingly, I wish to take this opportunity to explain the purpose and some of the important features of the amendment.

In a matter of only a few months since Chairman McCain and I introduced this bill last summer, we have been able to achieve a remarkable consensus. This is due in large part to the recognition by a wide range of constituencies that the issue is an important one that requires prompt attention by Congress. It is due to revisions to our original bill that were worked out carefully with the participation of the marketing and online industries, the Federal Trade Commission, privacy groups, and first amendment organizations.

The goals of this legislation are: (1) to enhance parental involvement in a child's online activities in order to protect the privacy of children in the online environment; (2) to enhance parental involvement to help protect the safety of children in online fora such as chatrooms, home pages, and pen-pal services in which children may make public postings of identifying information; (3) to maintain the security of personally identifiable information of children collected online; and (4) to protect children's privacy by limiting the collection of personal information from children without parental consent. The legislation accomplishes these goals in a manner that preserves the interactivity of children's experience on the Internet and preserves children's access to information in this rich and valuable medium.

I ask unanimous consent that a section-by-section summary be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

SECTION-BY-SECTION SUMMARY

Section 1. Short title

This Act may be cited as the "Children's Online Privacy Protection Act of 1998."

Section 202. Definitions

(1) Child: The amendment applies to information collected from children under the age of 13.

(2) Operator: The amendment applies to "operators." This term is defined as the person or entity who both operates an Internet website or online service and collects information on that site either directly or through a subcontractor. This definition is intended to hold responsible the entity that collects the information, as well as the entity on whose behalf the information is collected. This definition, however, would not apply to an online service to the extent that it does not collect or use the information.

The amendment exempts nonprofit entities that would not be subject to the FTC Act. The exception for a non-profit entity set forth in Section 202(2)(B) applies only to a true not-for-profit and would not apply to an entity that operates for its own profit or that operates in substantial part to provide profits to or enhance the profitability of its members.

(7) Parent: The term "parent" includes "legal guardian."

(8) Personal Information: This is an online children's privacy bill, and its reach is limited to information collected online from a child.

The amendment applies to individually identifying information collected online from a child. The definition covers the online collection of a first and last name, address including both street and city/town (unless the street address alone is provided in a forum, such as a city-specific site, from which the city or town is obvious), e-mail address or other online contact information, phone number, Social Security number, and other information that the website collects online from a child and combines with one of these identifiers that the website has also collected online. Thus, for example, the information "Andy from Las Vegas" would not fall within the amendment's definition of personal information. In addition, the amendment authorizes the FTC to determine through rulemaking whether this definition should include any other identifier that permits the physical or online contacting of a specific individual.

It is my understanding that "contact" of an individual online is not limited to e-mail, but also includes any other attempts to communicate directly with a specific, identifiable individual. Anonymous, aggregate information—information that cannot be linked by the operator to a specific individual—is not covered by this definition.

(9) Verifiable Parental Consent: The amendment establishes a general rule that "verifiable parental consent" is required before a web site or online service may collect information online from children, or use or disclose information that it has collected online from children. The amendment makes clear that parental consent need not be obtained for each instance of information collection, but may, with proper notice, be obtained by the operator for future information collection, use and disclosure. Where parental consent is required under the amendment, it means any reasonable effort, taking into consideration available technology, to provide the parent of a child with notice of the website's information practices and to ensure that the parent authorizes collection, use and disclosure, as applicable, of the personal information collected from that child.

The FTC will specify through rulemaking what is required for the notice and consent to be considered adequate in light of available technology. The term should be interpreted flexibly, encompassing "reasonable effort" and "taking into consideration available technology." Obtaining written parental consent is only one type of reasonable effort authorized by this legislation. "Available technology" can encompass other online and electronic methods of obtaining parental consent. Reasonable efforts other than obtaining written parental consent can satisfy the standard. For example, digital signatures hold significant promise for securing consent in the future, as does the World Wide Web Consortium's Platform for Privacy Preferences. In addition, I understand that the FTC will consider how schools, libraries and other public institutions that provide Internet access to children may accomplish the goals of this Act.

As the term "reasonable efforts" indicates, this is not a strict liability standard and looks to the reasonableness of the efforts made by the operator to contact the parent.

(10) Website Directed to Children: This definition encompasses a site, or that portion of a site or service, which is targeted to children under age 13. The subject matter, visual content, age of models, language or other characteristics of the site or service, as well as off-line advertising promoting the website, are all relevant to this determination. For example, an online general interest bookstore or compact disc store will not be considered to be directed to children, even though children visit the site. However, if the operator knows that a particular visitor from whom it is collecting information is a child, then it must comply with the provisions of this amendment. In addition, if that site has a special area for children, then that portion of the site will be considered to be directed to children.

The amendment provides that sites or services that are not otherwise directed to children should not be considered directed to children solely because they refer or link users to different sites that are directed to children. Thus a site that is directed to a general audience, but that includes hyperlinks to different sites that are directed to children, would not be included in this definition but the child oriented linked sites would be. By contrast, a site that is a child-oriented director would be considered directed to children under this standard. However, it would be responsible for its own information practices, not those of the sites or services to which it offers hyperlinks or references.

(12) Online Contact Information: This term means an e-mail address and other substantially similar identifiers enabling direct online contact with a person.

Section 203. Regulation of unfair and deceptive acts and practices

This subsection directs the FTC to promulgate regulations within one year of the date of enactment prohibiting website or online service operators or any person acting on their behalf from violating the prohibitions of subsection (b). The regulations shall apply to any operator of a website or online service that collects personal information from children and is directed to children, or to any operator where that operator has actual knowledge that it is collecting personal information from a child.

The regulations shall require that these operators adhere to the statutory requirements set forth in Section 203(b)(1):

1. Notice—Operators must provide notice on their sites of what personal information they are collecting online from children, how they are using that information, and their disclosure practices with regard to that information. Such notice should be clear, prominent and understandable. However, providing notice on the site alone is not sufficient to comply with the other provisions of Section 202 that require the operator to make reasonable efforts to provide notice in obtaining verifiable parental consent, or the provisions of Section 203 that require reasonable efforts to give parents notice and an opportunity to refuse further use or maintenance of the personal information collected from their child. These provisions require that the operator make reasonable efforts to ensure that a parent receives notice, taking into consideration available technology.

2. Prior Parental Consent—As a general rule, operators must obtain verifiable parental consent for the collection, use or disclosure of personal information collected online from a child.

3. Disclosure and Opt Out for a Parent Who Has Provided Consent: Subsection 203(b)(1)(B) creates a mechanism for a parent, upon supplying proper identification, to obtain: (1) disclosure of the specific types of personal information collected from the child by the operator; and (2) disclosure through a "means that is reasonable under

the circumstances" of the actual personal information the operator has collected from that child. It would be inappropriate for operators to be liable under another source of law for disclosures made in a good faith effort to fulfill the disclosure obligation under this subsection. Accordingly, subsection 203(a)(2) provides that operators are immune from liability under either Federal or state law for any disclosure made in good faith and following procedures that are reasonable. If the FTC has not issued regulations, I expect that such procedures would be judged by a court based upon their reasonableness.

Subsection 203(b)(1)(B) also gives that parent the ability to opt out of the operator's further use or maintenance in retrievable form, or future online collection of information from that child. The opt out of future collection operates as a revocation of consent that the parent has previously given. It does not prohibit the child from seeking to provide information to the operator in the future, nor the operator from responding to such a request by seeking (and obtaining) parental consent. In addition, the opt out requirement relates only to the online site or sites for which the information was collected and maintained, and does not apply to different sites which the operator separately maintains.

Subsection 203(b)(3) provides that if a parent opts out of use or maintenance in retrievable form, or future online collection of personal information, the operator of the site or service in question may terminate the service provided to that child.

4. Curbing Inducements to Disclose Personal Information: Subsection 203(b)(1)(C) prohibits operators from inducing a child to disclose more personal information than reasonably necessary in order to participate in a game, win a prize, or engage in another activity.

5. Security Procedures: Subsection 203(b)(1)(D) requires that an operator establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected online from children by that operator.

Exceptions to Parental Consent: Subsection 203(b)(2) is intended to ensure that children can obtain information they specifically request on the Internet but only if the operator follows certain specified steps to protect the child's privacy. This subsection permits an operator to collect online contact information from a child without prior parental consent in the following circumstances: (A) collecting a child's online contact information to respond on a one-time basis to a specific request of the child; (B) collecting a parent's or child's name and online contact information to seek parental consent or to provide parental notice; (C) collecting online contact information to respond directly more than once to a specific request of the child (e.g., subscription to an online magazine), when such information is not used to contact the child beyond the scope of that request; (D) the name and online contact information of the child to the extent reasonably necessary to protect the safety of a child participant in the site; and (E) collection, use, or dissemination of such information as necessary to protect the security or integrity of the site or service, to take precautions against liability, to respond to judicial process, or, to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation related to public safety.

For each of these exceptions the amendment provides additional protections to ensure the privacy of the child. For a one-time contact, the online contact information collected may be used only to respond to the child and then must not be maintained in retrievable form. In cases where the site has collected the parents' online contact information in order to obtain parental consent, it must not maintain that information in retrievable form if the parent does not respond in a reasonable period of time. Finally, if the child's online contact information will be used, at the child's request, to contact the child more than once, the site must use reasonable means to notify parents and give them the opportunity to opt out.

In addition, subsection (C)(ii) also allows the FTC the flexibility to permit the site to recontact the child without notice to the parents, but only after the FTC takes into consideration the benefits to the child of access to online information and services and the risks to the security and privacy of the child associated with such access.

Paragraph (D) clarifies that websites and online services offering interactive services directed to children, such as monitored chatrooms and bulletin boards, that require registration but do not allow the child to post personally identifiable information, may request and retain the names and online contact information of children participating in such activities to the extent necessary to protect the safety of the child. However, the company may not use such information except in circumstances where the company believes that the safety of a child participating on that site is threatened, and the company must provide direct parental notification with the opportunity for the parent to opt out of retention of the information. For example, there have been instances in which children have threatened suicide or discussed family abuse in such fora. Under these circumstances, an operator may use the name and online contact information of the child in order to be able to get help for the child.

Throughout this section, the amendment uses the term "not maintained in retrievable form." It is my intent in using this language that information that is "not maintained in retrievable form" be deleted from the operator's database. This language simply recognizes the technical reality that some information that is "deleted" from a database may linger there in non-retrievable form.

Enforcement.—Subsection 203(c) provides that violations of the FTC's regulations issued under this amendment shall be treated as unfair or deceptive trade practices under the FTC Act. As discussed below, State Attorneys General may enforce violations of the FTC's rules. Under subsection 203(d), state and local governments may not, however, impose liability for activities or actions covered by the amendment if such requirements would be inconsistent with the requirements under this amendment or Commission regulations implementing this amendment.

Section 204. Safe harbors

This section requires the FTC to provide incentives for industry self-regulation to implement the requirements of Section 203(b). Among these incentives is a safe harbor through which operators may satisfy the requirements of Section 203 by complying with self-regulatory guidelines that are approved by the Commission under this section.

This section requires the Commission to make a determination as to whether self-regulatory guidelines submitted to it for approval meet the requirements of Commission regulations issued under Section 203. The Commission will issue, through rulemaking, regulations setting forth procedures for the submission of self-regulatory guidelines for Commission approval. The regulations will require that such guidelines provide the privacy protections set forth in Section 203. The Commission will assess all elements of proposed self-regulatory guidelines, including enforcement mechanisms, in light of the circumstances attendant to the industry or sector that the guidelines are intended to govern.

The amendment provides that, once guidelines are approved by the Commission, compliance with such guidelines shall be deemed compliance with Section 203 and the regulations issued thereunder.

The amendment requires the Commission to act upon requests for approval of guidelines for safe harbor treatment within 180 days of the filing of such requests, including a period for public notice and comment, and to set forth its conclusions in writing. If the Commission denies a request for safe harbor treatment or fails to act on a request within 180 days, the amendment provides that the party that sought Commission approval may appeal to a United States district court as provided for in the Administrative Procedure Act, 5 U.S.C. §706.

Section 205. Actions by States

State Attorneys General may file suit on behalf of the citizens of their state in any U.S. district court of jurisdiction with regard to a practice that violates the FTC's regulations regarding online children's privacy practices. Relief may include enjoining the practice, enforcing compliance, obtaining compensation on behalf of residents of the state, and other relief that the court considers appropriate.

Before filing such an action, an attorney general must provide the FTC with written notice of the action and a copy of the complaint. However, if the attorney general determines that prior notice is not feasible, it shall provide notice and a copy of the complaint simultaneous to filing the action. In these actions, state attorneys general may exercise their power under state law to conduct investigations, take evidence, and compel the production of evidence or the appearance of witnesses.

After receiving notice, the FTC may intervene in the action, in which case it has the right to be heard and to file an appeal. Industry associations whose guidelines are relied upon as a defense by any defendant to the action may file as amicus curiae in proceedings under this section.

If the FTC has filed a pending action for violation of a regulation prescribed under Section 3, no state attorney general may file an action.

Section 206. Administration and applicability

FTC Enforcement: Except as otherwise provided in the amendment, the FTC shall conduct enforcement proceedings. The FTC shall have the same jurisdiction and enforcement authority with respect to its rules under this amendment as in the case of a violation of the Federal Trade Commission Act, and the amendment shall not be construed to limit the authority of the Commission under any other provisions of law.

Enforcement by Other Agencies: In the case of certain categories of banks, enforcement shall be carried out by the Office of the Controller of the Currency; the Federal Reserve Board, the Board of Directors of the Federal Deposit Insurance Corporation, the

National Credit Union Administration Board, and the Farm Credit Administration. The Secretary of Transportation shall have enforcement authority with regard to any domestic or foreign air carrier, and the Secretary of Agriculture where certain aspects of the Packers and Stockyards Act apply.

Section 207. Review

Within 5 years of the effective date for this amendment, the Commission shall conduct a review of the implementation of this amendment, and shall report to Congress.

Section 208. Effective date

The enforcement provisions of this amendment shall take effect 18 months after the date of enactment, or the date on which the FTC rules on the first safe harbor application under section 204 if the FTC does not rule on the first such application filed within one year after the date of enactment, whichever is later. However, in no case shall the effective date be later than 30 months after the date of enactment of this Act.

LIST OF SUPPORTERS OF CHILDREN'S INTERNET PRIVACY LANGUAGE

The Federal Trade Commission.

The Direct Marketing Association (representing 3,500 domestic members).

GeoCities.

Time Warner.

Commercial Internet eXchange Association.

Disney.

AOL.

Highlights for Children.

American Academy of Pediatrics.

American Advertising Federation.

American Association of Advertising Agencies.

Center for Democracy & Technology.

Center for Media Education.

Viacom.

AMENDMENT NO. 3721, AS MODIFIED

(Purpose: To make minor changes in the commission established by the bill)

On page 17, beginning with line 18, strike through line 21 on page 19 and insert the following:

(a) ESTABLISHMENT OF COMMISSION.—There is established a commission to be known as the Advisory Commission on Electronic Commerce (in this title referred to as the "Commission"). The Commission shall—

(1) be composed of 19 members appointed in accordance with subsection (b), including the chairperson who shall be selected by the members of the Commission from among themselves; and

(2) conduct its business in accordance with the provisions of this title.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commissioners shall serve for the life of the Commission. The membership of the Commission shall be as follows:

(A) 3 representatives from the Federal Government, comprised of the Secretary of Commerce, the Secretary of the Treasury, and the United States Trade Representative (or their respective delegates).

(B) 8 representatives from State and local governments (one such representative shall be from a State or local government that does not impose a sales tax * * *) and one representative shall be from a state that does not impose an income tax.

(C) 8 representatives of the electronic commerce industry, telecommunications carriers, local retail businesses, and consumer groups, comprised of—

(i) 5 individuals appointed by the Majority Leader of the Senate;

(ii) 3 individuals appointed by the Minority Leader of the Senate;

(iii) 5 individuals appointed by the Speaker of the House of Representatives; and

(iv) 3 individuals appointed by the Minority Leader of the House of Representatives.

AMENDMENT NO. 3722

(Purpose: To direct the Commission to examine model State legislation)

Mr. McCAIN. Mr. President, I ask unanimous consent that amendment numbered 3722 be the pending business.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. MCCAIN), for himself, Mr. GREGG, and Mr. LIEBERMAN, proposes an amendment numbered 3722.

Mr. McCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 23, beginning with line 14, strike through line 2 on page 25 and insert the following:

"(D) an examination of model State legislation that—

"(i) would provide uniform definitions of categories of property, goods, service, or information subject to or exempt from sales and use taxes; and

"(ii) would ensure that Internet access services, online services, and communications and transactions using the Internet, Internet access service, or online services would be treated in a tax and technologically neutral manner relative to other forms of remote sales; and".

Mr. McCAIN. Mr. President, this amendment is simple. It is offered by myself for Senators GREGG and LIEBERMAN. The amendment instructs the commission created in this bill to examine model state legislation and provide definitions of what should be subject to or exempt from taxation. Additionally, the Commission would be instructed to look specifically at Internet transactions.

Some would like to see the scope of the commission expanded. This is not necessary. The Commission may look at any form of remote sales, but it is not forced to.

This bill is about the Internet, and its potential as a new technology—but more importantly, as a medium for electronic commerce. The Internet is not like the mail. It is not a monopoly. It is unlike anything that we have seen to date. For that reason we believe that it should be protected from discriminatory taxation.

Mr. President, there will be some who seek to defeat this amendment or will offer second degree amendments to it regarding remote sales, specifically mail order sales. We dealt with that subject specifically the other day. My good friend from Arkansas offered an amendment to overturn the Quill decision regarding mail order sales. Senator GRAHAM of Florida spoke in favor of the amendment. And then the Senate voted on the matter. The amendment was defeated handily: 65–30. We don't need to revisit this issue again. If we do, I would hope the vote to table would be the same.

We should let this commission do its work. We should not prejudge what they will decide or attempt to force them to examine certain subjects or come to certain conclusions. That would be wrong and would undermine the mission of the Commission. The bipartisan amendment before the Senate gives the commission free reign to decide what it believes is best and report such findings to the Congress. I urge my colleagues to support the McCain/Gregg/Lieberman amendment and defeat any second degree amendments that may be offered.

Mr. President, I yield the floor.

Mr. HUTCHINSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

AMENDMENT NO. 3760 TO AMENDMENT NO. 3722

(Purpose: Relating to the duties of the Advisory Commission on Electronic Commerce)

Mr. HUTCHINSON. Mr. President, I call up second-degree amendment 3760.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. HUTCHINSON), for himself, Mr. ENZI, and Mr. GRAHAM, proposes an amendment numbered 3760 to amendment No. 3722.

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the McCain amendment, add the following:

(F) an examination of the effects of taxation, including the absence of taxation, on all interstate sales transactions, including transactions using the Internet, on local retail businesses and on State and local governments, which examination may include a review of the efforts of State and local governments to collect sales and use taxes owed on in-State purchases from out-of-State sellers.

Mr. HUTCHINSON. I ask unanimous consent that Senator ENZI be added as cosponsor to my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that the amendment be modified by deleting the word "local" on line 6 of page 1 of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The modification is accepted.

Mr. HUTCHINSON. Mr. President, this amendment amends the McCain first-degree underlying amendment to allow the commission to establish by the Internet Tax Freedom Act a study of the effects of taxation on interstate sales, or the lack thereof on retail businesses and State and local governments.

I can think of nothing more reasonable and nothing more common sense than saying that the commission that we are creating should conduct a study to look at and examine the implications upon retail businesses and the implications upon local and State governments that this moratorium and this bill would have.

The Senate rejected an amendment last week which would have immediately authorized States to require out-of-State sellers to collect sales taxes and remit them to the State in which the purchase was made. My colleague from Arkansas, Senator BUMPERS, offered that amendment. I think that many of my colleagues who joined me in voting against this amendment would agree that this issue warrants further study.

Why not have the commission establish by this bill conduct a study and examine the issue that is so important to State and local governments and which is so important to local businesses that are trying to survive and who are remitting those sales taxes. This issue, which is so critical, ought to be, I believe, examined and studied. For the sake of small mom-and-pop businesses who find themselves in competition with Internet entities and other out-of-State sellers who do not have to collect State sales taxes from out-of-State buyers, we should allow the commission to study the impact that the lack of taxation on these transactions has on small businesses.

For the sake of out-of-State sellers who do collect and remit sales taxes while their competitors do not, let's allow the commission to study this issue. This is, in fact, a commission study.

It should be noted that Congress and Congress alone can either accept or eject the recommendations that the commission might make. The Supreme Court decided in the case of *Quill* v. *North Dakota* that States cannot require out-of-State sellers to collect and remit sales taxes on goods purchased for use in a particular State, unless Congress authorizes them to do so.

My amendment does not overturn Quill. I want to emphasize that. This amendment does not overturn the Quill decision. It simply allows the commission to study the implications, to study the ramifications of Quill on small businesses and State and local governments.

Electronic commerce is estimated to reach $8 billion in 1998. And by the year 2002, electronic commerce is expected to reach $300 billion.

Let me say that the Internet is an incredible tool both for education purposes and business promotion. My amendment in no way is intended to thwart the growth of the Internet. Again, it merely says that in light of the incredible growth in electronic commerce that we have witnessed over the last 5 years and that we anticipate in the next 5 years that this commission that we are about to create should have the right to examine its impact on businesses serving local markets.

We will have an argument that my good friend from Arizona has argued—that this Internet Tax Freedom Act should focus solely on the Internet. But I argue that the Internet is a form of interstate commerce just like mail order, just like catalog sales. And when we talk about the impact of such interstate sales on local businesses, there is no distinction between the three. We should not address this issue in a vacuum.

So the commission that is created ought to have the right to examine all of the implications of what we are doing and its impact upon that small businessman, that small businesswoman, that city, that county, that State government, and the effect upon their revenue stream.

So the amendment I propose is a compromise. It is, I believe, one that is worthy of support.

I ask my colleagues to support this second-degree amendment.

Mr. WYDEN. Mr. President, first, let me say that I strongly support the Gregg amendment. Let me say to the Senator from Arkansas, I think his amendment is in the wrong place. I think it is supposed to go at page 25. But if we could work with him, we want to make sure that there is fair consideration of his amendment.

Mr. President, let me also say that the whole point of the Internet Tax Freedom Act is to focus on electronic commerce. We have had, since the beginning of this discussion, efforts to bring into this debate a variety of other kinds of subjects, but it seems to me at a time when we have 30,000 taxing jurisdictions, many of which have varied and sundry ideas with respect to electronic commerce and the Internet, what we ought to do is stick to the subject at hand, and that is calling a brief time-out to look at these issues, a time-out in which the Internet would be treated like everything else, by the way.

At various points in this debate we have heard about how we are establishing a tax haven for the Internet. That is simply wrong. During the moratorium, sales on the Internet would get treated just like other sales. It is very important now, with the extraordinary growth of the Internet, as our colleagues have noted, that we do this job right, which requires that we go forward with language such as that offered by the Senator from New Hampshire to ensure that we focus on electronic commerce.

By doing that, we also increase the prospects for making sure that at the end of our work we have a policy that guarantees technological neutrality. We don't have that today in America. We have parts of the country, for example, where you get the newspaper through traditional mail, and you pay no tax on it. But if you read that very same newspaper on line, you pay a tax. That is not technologically neutral. That is what our legislation is all about. The Internet should not get a preference, nor should the Internet be discriminated against. It seems to me that by adopting the Gregg amendment we will ensure that the focus is on electronic commerce, No. 1; No. 2, we will have a chance to look at the very complicated and technical questions dealing with what is close to 30,000 taxing jurisdictions, and I urge my colleagues to support the original Gregg amendment.

I yield the floor.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I rise in opposition to the amendment offered by the Senator from Arkansas as a second degree to the amendment offered by myself, Senator McCAIN, and Senator LIEBERMAN, which is the underlying amendment here. I think the Senator from Oregon, who has certainly been a core player in bringing this matter to the Senate, outlined the issue rather well by pointing out that the purpose of this moratorium and the commission that is created under the moratorium should be to review the electronic commerce under the Internet and to pursue a path which will make that commerce more efficient.

This bill, this attempt to protect the Internet from arbitrary taxation across the country with the 30,000 potential municipalities that could assess against the Internet and thus create chaos in what is truly one of the great engines of prosperity and economic entrepreneurship which has occurred within this century, and may be the economic engine for the next century—this bill, which is an attempt to put a hold on that sort of tax policy which might undermine, fundamentally harm, the expansion of the Internet during this formative period is a good bill, but it should not be used to bootstrap other issues onto the question.

What is being attempted here is a backdoor bootstrapping of the whole issue of tax policy as it relates to the question of sales at distant points, whether it happens to be under the Internet, cable, catalogs or by telephone. And another study in this area, which is the proposal that is put forward by the Senator from Arkansas, is simply an attempt to broaden the scope of the underlying effort, which is to protect and address the issues that evolve around the Internet. It is totally inappropriate. There is no reason we should go down that road.

There have been enumerable studies of this issue already. In fact, I have two right here, one done by the League of Cities and the other done by the Center for Budget and Policy Priorities. I also understand there has been one done by the Governors' Association, I believe. The fact is, the issues which are being raised by the Senator from Arkansas have been studied and studied extensively. Putting another study into this bill is not going to in any way change the tenor of the debate. It is simply going to attempt to expand the debate into a whole separate arena, which is inappropriate to this moratorium.

The bottom line of this moratorium—and I will come to that after we have disposed of the amendment of the Senator from Arkansas, but the bottom line issue here is whether or not by voting to expand the moratorium and to get into areas such as the Senator from Arkansas has proposed we wish to dramatically expand the taxing authority of States and local jurisdictions and basically use this bill to become a huge vehicle for expansion in tax policy and expansion of taxes.

I do not think that most Members of this body want to do that, and we already voted on this issue once with the Bumpers amendment. The vote was overwhelming. This body said no, it did not want to use this vehicle for the purposes of creating an explosion in new taxes. And yet there is another attempt being made now to do that, this time through a study. We will hear another attempt, I suspect, from the Senator from Florida who will do that with his amendment to this bill and this underlying amendment.

So I guess what it comes down to is that this body has to make a policy decision: Does it want to use the Internet bill and the protection of the Internet, which has been proposed through the moratorium, which has been energized in large part by the Senator from Oregon, and obviously the Senator from Arizona, and which I have strongly supported, does it want to use that effort to try to protect the Internet to also be an effort to grossly expand the tax laws of this country and the tax policy of this country and the tax activity of municipalities and States, or do we want to stay focused on the subject at hand, which is how to make the Internet an efficient and effective place to do business, how to keep it as a dynamic engine for entrepreneurship and prosperity that it has become through a moratorium on taxes which might be assessed at the local community level?

Although this amendment is couched in the terms of a study, it really gets back to that core issue of whether or not we want to have a moratorium which addresses the Internet or whether we want to use this moratorium as a bootstrapping event for purposes of dramatically increasing taxes and the tax collection capacity of local communities and States across the country.

I oppose this study. I think it is misdirected to be attached to this bill, and I would say that if you really are interested in such a study, here is one you can read. Here is another one you can read. And the Governors' Association has one you can read. You don't have to pay for a new one.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Florida.

Mr. GRAHAM. Mr. President, parliamentary inquiry. Is there a time limit on this amendment?

The PRESIDING OFFICER. No time limit has been agreed to.

Mr. GRAHAM. Mr. President, first let us come back to what we are fundamentally about. What the Internet Tax Freedom Act says is that there shall be a moratorium, a pause, in the State and local governments' exercise of their otherwise legal authority to impose a tax on access to or transactions consummated over the Internet.

That is an unusual action. For the Congress of the United States to preempt State and local governments from their otherwise lawful responsibilities to establish what they feel to be appropriate policy for their citizens is an unusual act for the Congress and one which we should only take after careful consideration.

Why should we exercise such care? Because the consequences of this action, of establishing a moratorium on the taxation of one form of commerce as opposed to all forms of commerce, is to create or to continue a competitive disparity. In this case, it is the comparative disparity between the Main Street retailer, the person who is selling hardware on Main Street and is legally responsible for collecting a sales tax from those who purchase hammers and saws, and those who buy the same hammers and saws over the Internet where they are not subject to the requirement to pay, and the seller to collect, that same sales tax. That is a level of obvious inequity that we would, only under exception circumstances, impose.

Second, at a time when we are underscoring our commitment to fundamental activities such as law enforcement and education, we are about to drive a major hole in the ability to do so of those levels of government which have the primary responsibility for law enforcement and education, which are our colleagues at the State and local level. I will be giving some current examples, as recently as today's newspaper, of the potential that we are about to open up.

So it would only take an extremely persuasive argument to convince the Congress of the United States that it ought to inflict that inequality in the marketplace and the threat to the ability to deliver fundamental police, fire, and educational services at the local level as this legislation does.

What is that rationale? The rationale: This is a new, rapidly evolving technology and we need to have this pause so we can assure that whatever tax policies are developed are developed with uniformity, with nondiscrimination, with predictability, so as not to interfere with the natural growth and evolution of this very important part of our commerce at the end of the 20th century that no doubt will play even a larger role as we go into the 21st. That is the argument for the discrimination and threat to State and local governments for which we are about to be asked to vote.

I will personally support the basic proposition of a pause. But I will only do so if that pause is for a reasonable period of time, that period of time that we would consider necessary to carry out this review and recommendation as to uniform, nondiscriminatory, predictable tax policy, and, second, that we have a commission, which is going to be making this study, which will represent all of the diversity of interests on this matter and will have a charter broad enough to look at all the questions that are relevant to establishing proper policy for the Internet.

The argument here is a direct clash between what the Senate Finance Committee found and what the authors of this amendment support. The language which I support is the language which is in the bill that was reported by the Senate Finance Committee with 19 favorable votes.

If you will look in the bill that appears on our desk, starting on page 22, which is the beginning of the issues to be studied, as stated by the Senate Finance Committee, on page 23, under paragraph (d), the Finance Committee, under the leadership of Senator ROTH, who advocated this language, states that:

> . . . there will be an examination of the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contact sufficient to permit a State or local government to impose such taxes on such interstate commerce.

That is the essence of the language that the McCain-Gregg-Lieberman amendment is going to strike.

Mr. President, I ask my fellow colleagues, is that unreasonable for a commission we are going to set up to study the effects of Internet taxation on State and local governments and on fairness in the marketplace? Is that language unfair? I do not believe it is. The McCain amendment would strike that language.

Senator HUTCHINSON of Arkansas, who has worked very diligently on this issue—and I commend him for his leadership on this matter and his deep understanding of the implications of this issue—has offered a second-degree amendment to the McCain amendment which essentially inserts the same concept of Senator ROTH's language that was in the Finance Committee. His amendment would provide for "an examination of the effects of taxation, including the absence of taxation on all interstate sales transactions, including transactions using the Internet, on local retail businesses and on State and local governments, which examination may include a review of the efforts of State and local governments to collect sales and use taxes owed on in-State purchases from out-of-State sellers."

That is the amendment that Senator HUTCHINSON has offered which I think is as eminently reasonable as the language which was offered by Senator ROTH in the Finance Committee. So I strongly support Senator HUTCHINSON's very thoughtful and significant amendment and would go on to say that current events are underscoring the urgency of this look at all forms of remote sales.

One of the purposes of the underlying bill is to eliminate discrimination. That raises the question, Discrimination in relationship to what? If we end up with a bill that says that the commission cannot even look at the taxation and the effect of that taxation on fairness in the marketplace and on the ability of State and local governments to support their police and fire and schools, we are already guaranteeing that the commission will give us a report that, in order to be nondiscriminatory, the Internet should not be subject to taxation. That would make it the same as catalog sales. That would be a result with very serious long-term implications.

If, on the other hand, we are able to adopt the language that either was in the underlying bill or the language that Senator HUTCHINSON has offered, then the commission is going to look at the taxation of all forms of remote sales and will be able to come back with a set of policy regulations that will in fact meet the test of uniformity, nondiscrimination, and predictability, which is the whole purpose of this exercise.

I said the issue is one that is as topical as today's paper. I refer you to the Washington Post of October 7, on page C–10, which carries a story, "Publisher, Bookseller Join Forces."

I will not read the whole article but let me just give you a flavor of what it says:

> Taking direct aim at Amazon.com, publishing conglomerate Bertelsmann AG said [yesterday] it will spend $200 million to buy half of the online book service of Barnes & Noble.

So, what we have is a major bookseller which already has an on-line service, where they are selling through the Internet as well as through their Barnes & Noble megabookstores; now they have sold half of their on-line service to yet another publisher, the publisher who has well known book houses such as Random House, Doubleday, and Bantam Publishing. They now together own an on-line bookselling firm which is going to try to compete with Amazon.com.

Why are they doing this? While still a tiny segment of the book retailing marketplace, on-line sales are exploding in popularity. I underscore "exploding in popularity."

> Seattle-based Amazon.com, founded three years ago, had revenues of $204 million in the first 6 months of 1998.

The implications of this to the independent bookstores in Helena, MT, or in Concord, NH, are obvious. In addition to the other benefits of convenience of the Internet, we are now going to have a situation where, if you buy a copy of your book at the Main Street independent bookstore, you are going to be paying the State and local sales tax, but if you buy it over the Internet, you will not be paying the sales tax, and, thus, we are institutionalizing a significant competitive disadvantage.

Why we would want to adopt the policy that puts the Main Street seller at a disadvantage to cyberspace is beyond me. It also happens to be beyond a number of important organizations, whose letters I will ask unanimous consent be printed in the RECORD immediately after my remarks, beginning with the National Home Furnishings Association, which states:

> The home furnishing industry has struggled with the issue of whether there is an obligation for remote sellers to collect and remit sales/use taxes to the state in which the purchaser resides on sales of furniture, long before the first sale was made on the Internet.

It goes on to say:

> In addition to the lost revenue to the state, the in-state retailer is placed at a distinct disadvantage. There is, of course, the differential in the customer's total cost reflecting the sales/use tax. . . . Indeed, many times they serve as the unwilling "showroom" and sales adviser for the remote seller, as customers visit their store, discuss a purchase with the sales staff, scribble down model numbers and then call the remote seller.

That is an example of the kind of institutionalization of competitive disadvantage we are about to enact.

I also ask to have printed immediately after my remarks a letter from the Newspaper Association of America representing 1,700 newspaper members. This organization has supported the Internet Tax Freedom Act, but they state:

> . . . I am writing to express support for your efforts to amend the Internet Tax Freedom Act to ensure that the advisory commission examines the tax treatment of all remote sales. . . . The major thrust behind the Internet Tax Freedom Act is to ensure that the Internet is not subjected to unfair, discriminatory and inconsistent taxes at the state and local level. Proponents of the legislation—including NAA—have argued that business transactions and services should be treated similarly regardless of whether they are offered through electronic means or through existing channels of commerce. However, if the commission is not directed in the legislation to examine all remote sales, a discriminatory tax structure could be established that treats one form of remote sales—the Internet—differently from other forms of remote sales. Therefore, we believe a comprehensive approach works best.

Mr. President, I ask unanimous consent that the letter from the National Home Furnishings Association and the Newspaper Association of America be printed in the RECORD immediately after my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. GRAHAM. Mr. President, the second issue which is directly related to the first, the first being the discrimination against the local Main Street sale, is the impact on the ability of local governments and State governments to carry out their fundamental educational, health, and other responsibilities. I will be a Floridian for a moment and cite some of the statistics about the potential impact that an out-of-control moratorium leading to permanent exemption from taxation of the Internet could have on a State such as mine.

In 1996, the State of Florida collected a total of $11.4 billion in general sales tax revenue. This represented 77.3 percent of Florida's tax revenue generated from sales and excise taxes, excise taxes representing $3.8 billion of that total.

Florida is not unique in having a high percentage of its tax revenue generated by sales and excise taxes. For instance, Nevada gets 84.3 percent of its total revenue from these two sources; Texas, 81 percent; South Dakota, 78.4 percent; Tennessee, 76.7 percent; Washington, 74.3 percent; Mississippi, 67.3 percent; Hawaii, 61.7 percent; Arizona, 57 percent; North Dakota, 56.8 percent; and New Mexico, 56.7 percent. They are examples of States which are heavily dependent on sales and excise taxes, the kind of taxes that are generated by Main Street activity.

Currently, mail order nationwide has sales of $100 billion to $120 billion a year. That is the catalog of remote selling. This results in an estimated

$3.5 billion to $4 billion in lost sales tax. It is estimated, for instance, in the State of Florida that that would represent something in excess of $200 million a year in lost sales. That is, if the same sale had taken place at the local shopping mall that took place over the remote sales catalog process, it would have been an additional $200 million of sales tax collected.

Internet sales are expected to grow by the year 2004, not to the $100 billion to $120 billion of current catalog sales, but rather to $400 billion to $500 billion. So Internet sales, by the year 2004, are expected to be 4 to 5 times what current catalog sales are. If $100 billion in sales loses $3.5 billion, then the $500 billion would represent a loss of $17.5 billion. For Florida, this means there could be an estimated loss of $875 million in sales tax per year as a result of this removing of the responsibility of the Internet seller to collect the taxes on those transactions.

Florida's Department of Revenue states that the cost of exempted Internet taxation costs the State $60 million in sales tax revenue and $18 million for the gross receipts tax. This gross receipts tax is what is used to fund our school construction costs.

Mr. President, the impact of this on State and local governments in their ability to put an adequate number of police on the streets and an adequate fire defense, and particularly an adequate number of schools and teachers and the other support personnel necessary for their educational system, will be extremely vulnerable if this legislation gets out of control.

This is the amendment which I believe begins to break the dam of reasonability. It is reasonable to have a brief pause to look at all of the implications of Internet taxation. I support that brief pause. It is also reasonable to look at one that is conducted by people who represent all the interests that will be affected by these decisions and that those persons have a charter broad enough to give us wise, comprehensive policy.

To adopt the McCain-Gregg-Lieberman amendment, which would essentially say we are going to put a blindfold over our eyes and we will not be able to look at those remote sales activities which are the most analogous to what the potential for Internet sales would be, is, in my opinion, to render this legislation ineffective in terms of its purpose and to strengthen the doubts that some of us have that its real purpose is, not to have a thoughtful examination, but rather to have this as the beginning of what will be a permanent bar to State and local governments' ability to manage their fiscal affairs and that the principal loser of this will be the shuttered stores along Main Street of the traditional seller, like the bookstore unable to compete when he or she has to collect the local sales tax but its competitor thousands of miles away does not, and will also be seen in the diminishment of vital public services, especially the education of our children.

So, Mr. President, for those reasons, I strongly support the amendment offered by the Senator from Arkansas as eminently reasonable and consistent with the stated purpose of this legislation, and I urge its adoption.

EXHIBIT 1

NATIONAL HOME
FURNISHINGS ASSOCIATION,
Washington, DC.

NHFA CONCERNS WITH PROPOSED MANAGER'S AMENDMENT TO S. 442, THE INTERNET TAX FREEDOM ACT

The home furnishings industry has struggled with the issue of whether there is an obligation for remote sellers to collect and remit sales/use taxes to the state in which the purchaser resides on sales of furniture, long before the first sale was made on the Internet. Sales are frequently made over the telephone or through the mails.

In addition to the lost revenue to the state, the in-state retailer is placed at a distinct disadvantage. There is, of course, the differential in the customer's total cost reflecting the sales/use tax. However, the in-state retailer also makes a significant investment in the community. Indeed, many times they serve as the unwilling "showroom" and sales adviser for the remote seller, as customers visit their store, discuss a purchase with the sales staff, scribble down model numbers and then call a remote seller.

NHFA has long sought a consistent, realistic definition of what constitutes nexus for the purpose of determining the sales/use tax obligation of a remote seller.

S. 442 imposes a moratorium on so-called telecommunication taxes, and establishes a commission to examine a variety of issues. Both the Senate Finance and Commerce Committees' versions of the bill, as does the House bill, include language authorizing the commission to examine the issue of the obligation of remote sellers to collect and remit a variety of taxes includes sales and use taxes. For example, the Senate Finance Committee bill states: "an examination of the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contracts sufficient to permit a State or local government to impose such taxes on such interstate commerce."

We have learned that a proposed manager's amendment would severely limit the scope of the commission's mission and strike the language allowing an examination of the broader sales/use tax issue.

If a moratorium on telecommunication taxes is enacted, even though it does not technically apply to sales/use taxes on the purchase of the goods themselves, the moratorium will still have a chilling impact on the collection of those taxes. We thought we could live with that moratorium, in the belief we would gain more in the long run, if the commission could resolve once and for all, the broader issue of jurisdiction over remote sellers for all tax purposes including sales and use taxes. It would seem to us, if the manager's amendment strips the commission of the authority to examine the nexus issue, we get the worst of both worlds.

NEWSPAPER ASSOCIATION
OF AMERICA,
Vienna, VA, October 6, 1998.

Hon. ROBERT GRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRAHAM: On behalf of the more than 1,700 newspaper members of the Newspaper Association of America (NAA), I am writing to express support for your efforts to amend the Internet Tax Freedom Act to ensure that the advisory commission examines the tax treatment of all remote sales. As you are aware, we have supported and continue to support enactment of the Internet Tax Freedom Act.

The major thrust behind the Internet Tax Freedom Act is to ensure that the Internet is not subjected to unfair, discriminatory and inconsistent taxes at the state and local level. Proponents of the legislation—including NAA—have argued that business transactions and services should be treated similarly regardless of whether they are offered through electronic means or through existing channels of commerce. However, if the commission is not directed in the legislation to examine all remote sales, a discriminatory tax structure could be established that treats one form of remote sales—the Internet—differently from other forms of remote sales. Therefore, we believe a comprehensive approach works best.

We believe the Internet Tax Freedom Act provides a unique opportunity for a thoughtful and deliberative examination of a uniform tax structure for goods and services. By including all remote sales in the scope of the advisory commission's work, the Congress is encouraging the development of tax policies that present one set of rules that will be applied to all businesses. A uniform approach not only promotes fairness and consistency—it's sound public policy.

Sincerely,

JOHN F. STURM,
President and CEO.

Mr. WYDEN addressed the Chair.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Oregon.

Mr. WYDEN. Thank you, Mr. President.

Mr. President, I urge adoption of the Gregg amendment and the rejection of the Hutchinson amendment. First, it is quite clear that this legislation is going to, in fact, study all of the questions related to the subject this bill deals with thoroughly. Let me just read into the RECORD exactly what it says with respect to what will be studied. It says:

> The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

So it is right there at pages 21 and 22.

Mr. HUTCHINSON. Will the Senator yield?

Mr. WYDEN. In just 1 minute I will be happy to yield.

It is quite clear, at page 21 and page 22, that there will be "a thorough study" of the issues and that the commission will look at "comparable interstate or international sales activities."

The question, Mr. President, and colleagues, is whether or not we are going to focus on yesterday's concerns, which are the mail-order or catalog issues—and they are important ones—or are we going to look at trying to come up with some sensible policies with respect to tomorrow's issues which essentially involve the ground rules for the digital economy.

Somehow, those that want to look at mail-order and catalog sales feel that they can resolve all of their concerns on this legislation. We feel otherwise. The reason that it is so important to have the Gregg language is that it does put the focus on electronic commerce. I and others believe that if we do look at electronic commerce, and look at it thoughtfully, that it may, in fact, come up with some answers to these other issues—mail-order and catalog questions, which are important—but if we change the focus of this bill, which is essentially what the Senator from Arkansas wants to do, I believe what is going to happen is, A, we will not get any sensible ground rules for electronic commerce, nor will we deal with the issues with respect to mail orders.

The fact of the matter is that Main Street America overwhelmingly has endorsed this bill. We have entered into the RECORD the list of the groups that are for it. And the reason that Main Street has endorsed this legislation is that if you are a small business on a main street in rural Arkansas or rural Oregon, or any other part of the country that is essentially rural, right now you are having a lot of difficulty competing against the Wal-Marts and the economic giants in our country.

The Internet is a great equalizer. By having a web page, by having the ability to do business on line, that Main Street business in rural Oregon or rural America, for the first time, has the ability, in an inexpensive way, to market and look at lucrative markets around the world.

Picture, if we will, what will happen to a home-based business in Wyoming or Arkansas or Oregon if we do nothing. There are 100,000 of these home-based businesses in my State alone. They are the fastest growing part of our economy, and if we do not come up with some uniform tax treatment for these home-based businesses, what is going to happen is they will be subject to scores of different taxes all over America.

How is a home-based business in the State of Oregon or the State of Arkansas going to go out and hire a battery of accountants and lawyers and experts to help them sort this out? They are not going to be able to do it. And that is why, when we had the hearings on this legislation in the Senate Commerce Committee, we heard from a small Tennessee business that tried to operate through this thicket of different kinds of State and local rules and ended up going out of business.

These home-based businesses are simply not going to be able to hire the battery of experts and accountants and lawyers that some of those who have opposed this legislation are going to mandate on these small businesses. So I hope that we can stick to the issue in front of us. That would mean going forward with the Gregg amendment and rejecting the amendment of the Senator from Arkansas.

The Senator from Arkansas did ask me to yield, and I am happy to do so.

Mr. HUTCHINSON. I thank the Senator for yielding.

In the early part of your remarks, you emphasized and read from the bill that the commission would be authorized to conduct a thorough study. You emphasized the word "thorough." I think you found a couple places where the term is used. It seems you are implying they will look at all issues affected by this legislation and by Internet sales.

My question is, why, if in fact it is to be a thorough study looking at all issues and all the implications and ramifications of Internet sales on retailers and on government, why then would the Gregg amendment exclude, in effect, say this is off the table, this is one area of issues you cannot look at? When the Finance Committee, by a vote of 19–1, said this should be included, this should be an area that should be examined, this should be the purview of the commission, why then, if it is to be a thorough study, would this amendment, the Gregg amendment, exclude this particular area from study?

Mr. WYDEN. Reclaiming my time, as I said, the debate here is over, Do you want to focus on the subject of this bill, which is electronic commerce—that is what the legislation does; that is what the Gregg amendment seeks to do—or are we going to go back and study in this legislation essentially yesterday's economy?

We believe that if you put the focus on electronic commerce—that is what the Gregg amendment does—we are going to be able to deal with the digital economic issues; and we may well, in fact, come up with some ideas and some innovative approaches that may well resolve the mail-order and catalog question as well.

My concern, and the concern of the Senator from New Hampshire, is that essentially this is going to change the focus of this legislation to put it on the mail-order and catalog issues. There are Members of the U.S. Senate who feel that mail-order and catalog sales are insufficiently taxed. I am not one of them. I am one who believes that we all ought to work together, on a bipartisan basis, to deal with tomorrow's set of economic concerns, which involves the digital economy.

I tell the Senator from Arkansas that as the original sponsor of this legislation, I have made more than 30 separate changes to this legislation in an effort to accommodate what I think are valid concerns which come from States and municipalities and others who are advocating the viewpoint of the Senator from Arkansas.

But what I am not willing to support is essentially changing the focus of this legislation. If we do that, I believe that the 100,000 home-based businesses in my State, and the hundreds of thousands across this country, are not going to see their concerns addressed; I think we will not be taking advantage of the opportunity to look at the Internet issues objectively, and we will lose that focus and take it off into another area which is, in my view, likely to not produce consensus with respect to the mail-order or catalog issue, nor make the progress we need to with respect to the Internet.

Mr. President, I yield back the time.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I rise in strong support of the amendment offered by my friend from Arkansas. This amendment addresses the issue that is being changed by the Senator from New Hampshire. The second-degree amendment would change things back to the way that they were.

We have to take a look at the Internet sales tax issue for people who might be using this piece of legislation to develop huge loopholes in our current system. I am not talking about changing the system. I am talking about preserving for those cities, towns, counties, and States that rely on sales tax the ability to collect the tax they are currently getting.

We are talking about a 2-year moratorium. Do you know how much the Internet will change in a 2-year period? Right now, with the current technology in the Internet, there are ways I could eliminate every single bit of retail sales tax in the United States, every day, if this bill passes. And I don't think that is our intent.

I don't care if we have 30 amendments; if it needs 40 amendments, we will have to have 40 amendments. The number of amendments has nothing to do with the issue that we are addressing. There are some critical issues here that have to be solved to keep the stability of State and local government—just the stability of it—not increase sales tax, just protect what is there right now.

We introduce these amendments because we don't think there is adequate protection now. An increase in catalog sales, I agree, is a topic for another time. It is very important we don't build electronic loopholes on the Internet, an ever-changing Internet, one that is growing by leaps and bounds, one that is finding new technology virtually every day. What we know as the

Internet today is not what we will be using by the time this report comes out. More people are using it every day.

It is fascinating to me that one of the biggest areas of increased use of the Internet is by senior citizens. It probably has something to do with the quality of entertainment. If they do use computers, they are spending an average of 6 hours a day on the Internet. Part of that is purchasing; part of that is learning.

The stated purpose of this bill is:

> To establish a National policy against state and local government interference with interstate commerce on the Internet or interactive computer services, and for other purposes.

Let me repeat that:

> To establish a National policy against State and local government interference. . . .

Mr. President, I recognize this body has a constitutional responsibility to regulate interstate commerce. Furthermore, I understand the desire of the bill's sponsors to protect and promote the growth of Internet commerce. Internet commerce is an exciting field. It has a lot of growth potential. The new business will create millions of new jobs in the coming years.

The exciting thing about that for Wyomingites is that our merchants don't have to go where the people are. For people in my State, that means their products are no longer confined to a local market. They don't have to rely on expensive catalogs to sell merchandise to the big city folks. They don't have to travel all the way to Asia to display their goods. The customer can come to us on the Internet. It is a remarkable development, and it will push more growth for small manufacturers in rural America, especially in my State. We are just beginning to see some of the economic potential in the Internet. It is a valuable resource because it provides access on demand. It brings information to your fingertips when you want it and how you want it.

We should probably take another look at using it on the Senate floor, but we need laptops for that; I will save that issue for another day.

Having said that, I do have concerns about the bill before the Senate today. I come to this debate having been the mayor of a small town, Gillette, WY, for 8 years. I later served in the State house for 5 years and the State senate for 5 years. Throughout my public life I have always worked to reduce taxes, to return more of people's hard-earned wages to them.

I am not here to argue in favor of taxes. There were times in Gillette when we had to make tough decisions. I was mayor during the boom time when the size of our town doubled in just a few years. We had to be very creative to be sure that our revenue sources would cover the necessary public services—important services like sewer, water, curb and gutter, filling in potholes, shoveling snow, collecting garbage, mostly water. It is a tough job because the impact of your decision is felt by all of your neighbors. They can look you in the eye. One of the biggest problems with local government is the "Oh, by the ways." You go to dinner and somebody says, "By the way, I have a little problem. Don't get up and solve it. Tomorrow morning will be fine." And tomorrow morning they know if you solved that problem.

Hardly any of those problems is solved without money. When you are the mayor of a small town, you are on call 24 hours a day. You are in the phone book. People can call you at night and tell you that the city sewer is backing up into their house. I was fascinated how they were always sure that it was the city's sewer that was doing it. When they call to say that the power is out, they don't want a delay before it is fixed. When they call to tell you a neighbor has stolen a D–8 Cat and is tearing up the street and driving over sports cars and mailboxes and ripping up sprinkler systems, you have to go to work. Those are exciting things that happen from time to time in cities.

The point is that the government that is closest to the people is also on the shortest time line to get results. I think it is the hardest work. I am very concerned with any piece of legislation that mandates or restricts local government's ability to meet the needs of its citizens. This has the potential to provide electronic loopholes that will take away all of their revenue. It may not seem like a big restriction, it may not exceed the $50 million limit that Congress set in the Unfunded Mandates Reform Act, but it does establish a National policy against State and local government. It does take an affirmative step to tie the hands of local government.

Congress has to be very careful when we pass a law like this. We have to realize the effect of all of those people living at the local level—not the Federal level. I have not met anybody who lives on the Federal level; they all live at the local level.

I am also concerned about the bill's impact on small businesses. My wife Diana and I owned a shoestore on Main Street, Gillette, for 28 years. My wife did most of the managing on that. She greeted the people, she sold the shoes, ran the cash register, swept the floor, all the things that have to be done by a small business.

We recognize the advantage of the Internet for these small businesses, these home-based businesses that were mentioned earlier. Yes, we understand the complications of trying to keep track of every kind of sales tax that is levied across the whole United States regardless of what kind of jurisdiction it is in. That is current law. That is current collection, to some degree, particularly if you have a presence in the State where the product is being sold.

What is a "presence" in the State? Internet goes into absolutely every State. There is now the easy capability to set up another corporation in another State that does not have sales tax and still make the sale local, with immediate delivery, and avoid all sales tax through the Internet. That is going to be a problem.

The problem with small business is, we talk about whether a business is 500 employees or just 150 employees. That is not the kind of small business I am talking about. I am talking about sweeping the sidewalk, carrying out the trash, filling out the myriad reams of required Federal paperwork. It really doesn't have much application to your business—probably five employees or less. These are the people who sponsor Little League, the basketball camps, the yearbooks, and all of the other things that happen in municipalities. They donate the raffle prizes and uniforms and they support all kinds of community activity. Every kid in town comes to the local small business and asks for help. Fortunately for America, they donate, and they donate gladly. They serve on the parade committees. They serve on the fair committees. They are the volunteers in the church and in the school and in local government. They are not only the neighbors, they are the customers for a small town for any retailer.

We buy mail-order goods often because they are cheaper; there is no sales tax. That is a part of the pitch that is used. That is like a 5- to 7- to 9-percent reduction.

Congress is now going to decide to prohibit local governments from taxing certain businesses—easy businesses to set up, easy businesses to locate in a State that has no sales tax whatever. We haven't seen anything like this before in the history of the United States, but we are about to see the biggest boom in the Internet that we have ever seen. We need a few amendments to this bill to provide some protection for the current system. I am not talking about expanding, I am talking about the current system.

Are we going to be in the business of picking the tax winners and the tax losers? I am talking about the towns where the people of America live. We know who the losers will be. It will be the small retailer in your town, the one that you rely on to run down and pick up the emergency item.

I do support this amendment. The commission should be allowed to study all of the issues with the Internet, all of the issues related to taxation. They definitely ought to be able to look at those that change with the technology so that the current system of collecting revenues for those towns and States can be preserved. I don't think we have all the answers, or we wouldn't be asking for this bill.

I don't think we are going to have all the answers on the technology that is going to transpire in the next 2 years. So whatever we do, we have to have some amendments that will preserve the way that small business and small towns function at the present time. This amendment will help Congress to make a decision in the future. It restores language that would be taken out with the Gregg amendment. It is critical for towns, small businesses, and you and me. I urge my colleagues to support it.

I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, I rise in support of the second-degree amendment for all of the reasons previously stated by the Senator from Wyoming, the Senator from Arkansas and the Senator from Florida. I have, beginning with the origin of this bill in the Senate Commerce Committee, been very concerned about exactly what the language in this legislation will mean to this country, to our Main Streets, to our States and local governments.

The issue here is a relatively simple one, and I don't need to restate all of the reasons that were offered by the Senator from Wyoming for being concerned about it. But the genesis of this bill was to be concerned about State and local governments applying "punitive" tax programs against Internet commerce. They were worried that this growth of the Internet and the expansion of commerce on the Internet would be retarded by local governments or State governments, seeing that as a big, juicy target, and apply some kind of new discriminatory or punitive tax regime upon it. Therefore, they said, let us at least have a timeout until we understand how to impose some sort of tax system that is fair to the Internet sellers and that does not discriminate against the Internet sellers.

Well, the question here, then, is, if in this legislation where you have a timeout, or a moratorium, and you create a commission during that moratorium to investigate or evaluate all of these issues, why then would you say to that commission that you can take a look at all of this, you can take a look at what this means with respect to Internet commerce, but you cannot look at the other issues; you cannot look at how it relates, Internet commerce versus mail-order firms; you cannot look at how it relates to Internet commerce versus Main Street sellers? What kind of logic is that? If you are going to have a commission to try to figure out how this piece fits in the puzzle, then make sure all the pieces are there. That is all this second degree says—make sure all the pieces are there.

The people who are here saying we don't want to solve this puzzle are people who have a vested interest. They are here, frankly, because of mail-order firms and the Internet. They are saying we don't want anybody to look at all of this. We want a moratorium for the Internet over here, and over here we don't want anybody discussing mail-order issues.

The Senator from Wyoming said he and his wife had a shoestore. I didn't know that. I have never been to their shoestore. I have never shopped in Gillette, WY, and I probably never will shop there. But the issue he raises is essential to this point. When he and his wife opened the door in the morning and displayed shoes for sale in that store, they knew a couple of things: They rented the building, they hired the employees, and they bought an inventory. They opened their door and said: We are in business on Main Street in Gillette, WY. They knew that when somebody came through the door and took their shoes off and got fitted up and bought a brand new shiny pair of shoes, when they paid for it, they had to apply the local sales tax. That is what you have to do on Main Street. You are a tax collector for the local consumption tax in the State of Wyoming. I didn't hear him complain about that. That is what they do on Main Streets all across this country. I believe 45 States have a sales tax.

Another thing he and his wife knew, I am sure, and he is not here to answer the question, but I am sure they knew that if someone three blocks away decided they were not going to go to Main Street to buy shoes today, they were going to buy them through a mail-order catalog, in most cases they will buy those through the catalog without paying a local sales tax or a State sales tax, which means that his local business ended up being undersold by someone, perhaps by 4 percent, maybe 6, or maybe even 7 or 8 percent, because the catalog seller, in most cases, didn't charge the State sales tax.

Is that discriminatory vis-a-vis the Main Street businessperson? I think it is. Of course, it is. Does it mean there is not a tax on the transaction? No, there is a tax. When they mail that pair of shoes from the mail-order catalog house to the person in Gillette, WY, or Fargo, or Bismarck, ND, the person who receives that pair of shoes has a responsibility in most every State to pay a use tax. Of course, they don't know that and they won't ever pay that, but that is the responsibility.

The net result of all of this is that the Main Street folks will end up always being at a disadvantage with respect to taxation versus those who are doing business elsewhere, those who have constructed a catalog and haven't hired the employees, haven't rented a place to do business, and they haven't hired local folks; they have just operated through a catalog.

I happen to think catalog sellers are very important to this country. Frankly, they are wonderful marketers. I think it is wonderful for a lot of people in this country to be able to shop that way. There is no question about that. I think when you look at the tax issue here—whether it is buying it through a catalog or going through a computer and getting on the Internet and buying it through a seller on the Internet or buying it on Main Street—there ought to be some symmetry here in the tax treatment to make sure the tax treatment is not going to retard the growth of the business on Main Street, it is not going to retard the business growth of people who have catalogs and the business opportunities of the people on the Internet.

But what is being said in the underlying amendment is, let's take a look at this only with respect to how it relates to the Internet, and you must ignore everything else. My friend, the Senator from Oregon, says, well, we want to explore everything. But, of course, this says you cannot, you must not; in fact, we are going to fight to the end here to see that you are unable to explore everything. That doesn't make any sense to me. That is what the second-degree amendment is about.

The Senate Finance Committee got this right. It passed a bill, came to the floor, created a commission and said, take a look at all of this. We will have a commission that evaluates and studies all of this with respect to the tax neutrality, with respect to the opportunities in growth, and the impact of these taxes on a wide range of commerce—not just Internet commerce, but a wide range of commerce.

The Senate Finance Committee got it right. The underlying amendment now offered by a couple of good legislators, I think for understandable reasons, would say that the Finance Committee is wrong; this commission must not, cannot, and will not be able to study the whole range of circumstances. The second degree says, no, we don't accept that; we want to insert language that is effectively the language coming out of the Senate Finance Committee.

I say again, as I did yesterday when the Senator from Florida was on the floor, and I say it now to the Senator from Arkansas, who along with the Senator from Florida and the Senator from Wyoming were primary sponsors of the second degree, in my judgment, they are dead right. They are absolutely right on target. I hope that the Senate, notwithstanding whatever curves and straightaways we find with this legislation—I assume this legislation will be worked out in the coming hours and days and, perhaps, be passed tomorrow, and I hope it will be passed in a satisfactory form.

But one of the ways that this legislation will be made a better piece of legislation is to pass this second-degree amendment and restore it to the condition it was in when it came out of the Senate Finance Committee. These folks spent a lot of time on tax issues in the Finance Committee. I used to be on the House Ways and Means Committee in the other body for 10 years, and I spent a lot of time on tax issues. I think the Senate Finance Committee got it right. They said, study these issues, evaluate them all, understand the consequences of them all, and then, with that knowledge, let's make some judgments. That is the purpose of the time-out; that is the purpose of the moratorium.

I have, as the Senator from Oregon stated, spent a fair amount of time with him, and I think we have made a lot of progress on these issues.

My expectation is we will pass a piece of legislation that is an acceptable piece of legislation that has a timeout moratorium. But it must, in my judgment, include this in order to really give us the assurance that that moratorium is used effectively by a commission that has divisions to look at all of these issues.

I yield the floor.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair.

Mr. President, I rise to oppose the amendment offered by the Senator from Arkansas and others and to express my support of the underlying amendment offered in the first instance by the Senator from Arizona, the chairman of the committee. I am proud to be a cosponsor of that one.

I was a cosponsor of the initial legislation, one of the pieces of legislation earlier in the session, along with my colleague from New Hampshire, Senator GREGG, which had the intention of trying to create some order and predictability and a little space for this extraordinary new area of economic activity, activity which has benefited so many people around our country, which is to say, e-commerce over the Internet.

The aim was to say to the taxing jurisdictions, of which there are thousands and thousands and thousands—30,000, as a matter of fact—potential taxing jurisdictions which exist in the United States, catch your breath, sit back, and let this new sector of our economy—Internet commerce, e-commerce, which the United States is heading and which has benefited so many people, which has created so many jobs—let it grow out of its infancy before we begin to put the teeth of the taxman into various parts of its anatomy; and let's let this commission begin to grow some ground rules for the consistent and fair handling of this new area of economic activity.

The fact is today that an Internet service provider, or a merchant selling goods or services over the Internet, has no way of knowing in advance whether a State decides to tax them. As an example, in New Mexico, Internet access charges are subject to New Mexico gross receipts taxes. In Ohio, their sales are taxed as an electronic information service; in Tennessee, it is a telecommunications service; in my own State of Connecticut, as a computer and data processing services. Texas officials, I gather, have threatened to tax transactions that go through Internet servers in its State, even if the buyer and seller, in conventional terms, are not located in the State of Texas.

The uncertainty of this tax liability is real and is having what you would expect—a negative, destabilizing effect on this business. Peat Marwick, a respected, recognized firm, just released a survey of industry executives of companies that sell over the Internet. Fifty percent of the executives said that the current State tax ambiguities and conflicting tax treatment of electronic commerce among the States are inhibiting their companies' involvement in electronic commerce. Ninety percent describe the current State sales tax procedures with regard to electronic commerce as "overly burdensome," and 75 percent expressed their concern that State and local tax laws will place their companies at a disadvantage. It is because the industry is in its infancy.

A predictable legal environment is exactly what the President's Report on Electronic Commerce recommended that we promote internationally. In fact, the administration has been sending out emissaries over the last year to persuade international organizations and individual countries to agree to create a predictable legal environment for the spread of electronic commerce. That is not only fair, it is good for American business, which happens to have a lead over business in any other countries in the effective use of the Internet.

What the underlying bill, the underlying amendment, is saying is that it is time that we create the same sense of predictability here in the United States that our Government is urging on countries around the world. That is what this commission would do.

The commission is asked to draft model State legislation that creates uniform definitions and categories of commercial transactions on the Internet so that States will be using the same vocabulary when it comes to categorizing the tax liabilities of an Internet company, or transaction—not unifying a tax rate among States, but creating a legal environment in which companies can do business.

The National Commission on Uniform State Legislation has been working for the past 2 years on updating the treatment of Internet transactions according to various State laws. But it has not looked directly at taxes. This commission that would be created by this legislation would work with the National commission and other groups that have already been active in trying to update laws to be certain that Internet commerce is treated fairly. We would extend their work through this commission in the tax arena.

I want to stress that the measure introduced by the distinguished chairman of committee, the Senator from Arizona—Senator GREGG, I, and others are proud to be cosponsors—does not preclude the commission created by this legislation from considering the question of nexus or taxation of remote sales. The danger in this amendment before us, the second-degree amendment, is that it singles these particular questions out as a requirement and thereby, I think, puts the commission in danger of falling into a very dense thicket.

A battle has been waging for more than three decades, and taken right to the Supreme Court at one point, as to how remote sales by catalog-telephone sales would be taxed by the 30,000 taxing jurisdictions in the States in the country. In so doing, I think the amendment threatens what is and should be the focus of the commission, which is to direct its attention on this extraordinary new sector of commerce, Internet commerce, and it runs the risk really of getting the commission so tied up in the thicket of remote sales that it will never really contribute what we hope it will to creating some order and predictability in e-commerce.

Mr. President, the fact is that this commission that is created by the underlying legislation may well—I think we who are its sponsors hope it will—create some language to reach some judgments that may in fact offer some counsel and help in this ongoing debate about taxation of remote sales, but let that happen naturally—that is my hope and prayer—as opposed to forcing it into the second-degree amendment in a way that would run the risk of destroying the underlying purpose of the proposal, and in that sense doing damage to Internet commerce and all who both benefit from it as consumers and benefit from it because they work in companies that are using it.

I want to mention one other matter before closing. That is this: There are times when we talk about Main Street and the effect of Internet commerce on Main Street as if it were, one wins and one loses.

The reality is that e-commerce has the potential to expand the winner's circle, to make more winners. I want to cite real cases from Connecticut which I learned about in the last 6 months to a year, and I think are typical of what is happening all over the country.

First, let me say that a recent survey in Connecticut found that 38 percent of small- and medium-sized companies have a web page—almost 2 out of 5. A little over half of those are using their web page to sell goods and services—right now. And 21 percent are planning to add a web page next year. I am sure those numbers are going to grow dramatically in coming years.

The fact is, insofar as some folks who are in taxing jurisdictions and the concern of this amendment has to do with treatment of direct mail-order sales or phone sales, if the mail-order catalogs that I get at my house are any indication of what the future is, I am being truly encouraged, aggressively encouraged by those catalogs instead of calling up, to use the Internet. So I think more and more of that kind of commerce will be done by e-commerce.

But let me give you two great examples from home about the effect that the Internet is having on Main Street. A small company in old Broad Brook, CT, beautiful town by the water on Long Island Sound, called Stencil Ease, family-owned, 18 employees, sells stencils for home decorating and crafts. It started a web page in 1996. They have been averaging 100 to 200 hits a day. Their sales increased 10 percent the first year due to the web site and 20 percent the next year.

Here is a startling story in the second one—Coastal Tool & Supply. I have been there. It is a small, family-run hardware store in Hartford, CT, capital city. It was threatened, interestingly, by a location nearby of one of the large chain hardware stores. It was having a hard time. They decided to go on the Internet, in a sense to leap over the big competitor down the street. I think it was Home Depot, but it doesn't matter—a big competitor down the street and in a sense enter the global main street and hired a very able young man, skilled in computer matters, who put their catalog essentially on the Internet. Sales have grown almost 500 percent. They are doing more business over the Internet than they are from people coming into the store.

So this is what the future holds, and it is a situation, if we do it right, where not only the big companies, but a lot of mom-and-pop stores and businesses are going to be able to benefit from Internet sales.

Now, as it grows, it will actually have an effect on taxing jurisdictions, and we will naturally, in the normal order of business, want to create an opportunity for equity and to protect State and local jurisdictions that we represent. But this is not the time to do it, and this amendment is not the place to do it. Let's let this commission deal with the unique problems of e-commerce.

Mr. WYDEN. Will the Senator yield?

Mr. LIEBERMAN. I will be glad to yield to my friend from Oregon.

Mr. WYDEN. I want to say that I think the Senator has made an especially effective approach and tell him that hardware account he gave is essentially what this legislation is all about. There has been discussion about who benefits here, huge corporations and the like. The people who benefit here are the 100,000 home-based businesses in my State, the hardware store that the Senator from Connecticut is talking about.

The reason why that is the case is that the Internet is a great equalizer for those small businesses. The small businesses now that we are seeing in the State of the Senator from Connecticut and rural Oregon are having great difficulty today competing against the Wal-Marts of the world. They do not have huge advertising budgets like Wal-Mart. They don't have batteries of lawyers and accountants. These are small, entrepreneurial operations that now look at the Internet as a tool that can trampoline them into extraordinary economic opportunities they have never had.

Without this legislation and the good work that has been done by the Senator from Connecticut and the Senator from New Hampshire, if you are a small, home-based business in Oregon or Connecticut, you may well face a good chunk of the thousands of taxing jurisdictions in our country looking at your business as a cash cow.

One of our colleagues said the threat here is the World Wide Web would become the "World Wide Wallet" if that kind of approach went forward.

So what the Senator was talking about with respect to that hardware store account is why I introduced this legislation early in 1997. That is the very kind of operation that I think we ought to be looking to grow in the 21st century.

I thank the Senator for yielding me this time. I heard his account of the hardware store from the Cloakroom, and I think some have said—in fact, I heard it again today—that this was about Amazon.com or someone like that. Those people are not going to be in need of this kind of approach. This is going to benefit the small entrepreneurs, the home-based business, the kind of person the Senator from Connecticut is talking about. I thank him for yielding me this time.

Mr. LIEBERMAN. I thank the Senator from Oregon for his comments. I thank him for his leadership. Senator GREGG and I were happy to merge together with the work the Senator from Oregon and the Senator from Arizona have done.

I want to end with one story the Senator from Oregon has stimulated in my memory when I visited that hardware store. It shows how you not only jump over the big store down the block but into the global shopping mall.

One of their favorite stories—and this is not a pure market example because the particular customer I am about to refer to is from a Middle Eastern country—is about a man who happened to work for his country's National airlines, so his trip here was paid for, but he needed some large, heavy tools. He went on the Internet, found his way to the Coastal Tool & Supply web site, competitively priced, figured out the advantage, was on a flight to New York as part of his normal work, got off the plane, rented a truck, drove up to Hartford, bought the tools that he needed, drove back, put them on the plane, and went back to the Middle East, all smart shopping and good for business.

So I hope that our colleagues will resist the allures of this second-degree amendment and will not disrupt the noble and, I think, very necessary intention of the underlying bill. We can come back some other day, hopefully, informed by the work of the commission created herein to deal with the border problems that I know concern the Senator from Arkansas and the other cosponsors of the amendment.

I yield the floor.

Mr. HUTCHINSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. HUTCHINSON. I thank the Chair. I just want to make a few closing observations of my perspective on this second-degree amendment and clarify a few things that I think are not representative at all of what this second-degree amendment does.

May I just say also, being the Senator from the State of Arkansas and being from the hometown in which Wal-Mart stores are nationally headquartered, world wide headquartered, and Wal-Mart has been disparagingly mentioned several times——

Mr. WYDEN. Will the Senator yield?

Mr. HUTCHINSON. Not at this time. In my office in the Dirksen Building I have a hanging portrait of the 5-&-10-cent store where Sam Walton started the Wal-Mart stores. There is nothing in this amendment that is antientrepreneur. The fact is that Wal-Mart, with their huge advertising budget, as it was alluded to, started as a little 5-&-10-cent store, as a mom-and-pop store in Arkansas. That is an American success story which ought to be applauded, not disparaged. Every American ought to have that opportunity, to have that dream. We ought not with legislation undercut that little Main Street store that cannot be replicated, cannot be replaced. No matter how great the Internet is, no matter how great catalogs are, they cannot replace that store on Main Street giving to the little league and supporting the local efforts and local initiatives.

A couple other things. It has been implied that somehow this amendment, this second-degree amendment would mandate that they focus the study, the commission focus their study on interstate sales. Nothing could be further from the truth. If you look at the bill, it says, and I quote, "may include in the study *under subsection," may include a study of. It is, in fact, the Gregg amendment, the McCain-Gregg amendment that excludes even their authorization to study the impact, the obvious impact of remote sales including catalog, including Internet, all of the Internet remote sales, its impact upon small businesses and upon local and State government. It simply says "may." It is simply authorizing, permissive language. It is, in fact, the House bill that mandated that they study this area and its impact, because it is so obvious the impact that it could potentially have, and that any study that should be done, if it is in fact to be a thorough study, must include this area.

It is the proponents of the Gregg amendment who would say what the Finance Committee did by a vote of 19 to 1 should be overturned. The Finance Committee, led by Senator ROTH, included a study of these issues—and they should be included. They should be studied. The language in the bill says "thorough study." How can you have a thorough study and then delete the area of interstate sales? It puzzles me. How can anyone object to having a broader study that would include all of the various issues involved in a very complex subject?

It has been implied that somehow this second-degree amendment, which would say this issue ought to be studied, is protax. My goodness, anybody who has ever looked at TIM HUTCHINSON's record in the statehouse in Arkansas, the U.S. House of Representatives, and the U.S. Senate, would have a hard time believing this amendment I am offering is protax or somehow a roadmap to higher taxes. Nothing could be further from the truth. We are not prejudging any kind of conclusions or any kind of recommendations that this commission might make. And, I remind my colleagues, it requires a two-thirds vote of the members of the commission to make any recommendation, and that is all they can make, is a recommendation. The final say remains with the Congress.

How in the world can you say this somehow is going to lead to higher taxes or somehow thwart the growth of the Internet? And that, may I say, has been another mischaracterization of this amendment—that it is somehow not only protax but anti-Internet.

We have applauded, and I applaud, the growth of the Internet. I quoted the statistics, from $8 billion in 1998 to the estimated $300 billion in sales in the year 2002; that is a good thing. But while it is a good thing, we should not be so blind as to think it is not going to have serious consequences, serious impacts, that ought to be examined in advance.

I support the bill. I support the timeout. I support the pause. I support the moratorium. But I also believe, if we are going to have a study, it ought to truly be a thorough study. It ought not say look at everything but don't look at the impact upon business, don't look at the impact upon the city government or the State government. It ought to truly be a thorough study. You cannot deal with these issues in a vacuum. They are interrelated, all of these, and they need to be, in fact, thoroughly studied.

Let me just conclude by saying I thought Senator ENZI's comments were moving. I, like Senator DORGAN, did not realize that he and his wife operated a little Main Street shoestore for over 20 years in Gillette, WY. I did not know that. I had a great appreciation for Senator ENZI. I have a greater appreciation now. But I think also that, as he paid those sales taxes day in and day out, as he made the struggles that any small business person makes in order to stay in existence, as he contributed to the Little League, as he contributed to the United Way, as he did everything that only a physical entity actually being right there in the community can do—irreplaceable—that we need to consider them, we need to think about them, as we pass this needed legislation.

I believe if they will simply look at the language of the second-degree amendment restoring what the Finance Committee did by a 19-to-1 vote and saying this is an area that ought to be examined, ought to be looked at, then I think my colleagues will realize that in fact it does make good sense and they will support it. I ask for their support.

I yield the floor.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Arizona.

Mr. McCAIN. Mr. President, the amendment does not say anything about what to do or not to do. What we are talking about here is whether the commission should say we should overturn the Quill decision. That is what we get down to, if we want to get through all the rhetoric and language about this. We don't think the Quill decision should be overturned. Obviously, the proponents of the amendment do, and that really is, to a significant degree, what this amendment is all about.

Mr. President, I move to table the amendment and ask for the yeas and nays.

Mr. BUMPERS. Mr. President, will the Senator withhold for about 2 minutes?

Mr. McCAIN. I will be glad to withhold for 2 minutes before I make the motion to table.

Mr. BUMPERS. I thank the distinguished manager very much.

Mr. President, this is really a strange scenario for me. I have fought for years to allow States to do exactly what the Supreme Court, in the Quill decision, said we had the right to do, and that was to allow States to make mail order houses collect sales taxes on merchandise being shipped into our respective States. That is what the Supreme Court said. We would not be overturning the Quill decision. We would simply be taking advantage of what the Supreme Court said we had a right to do: Remove the interstate commerce clause as a burden and allow the States, 45 of whom have sales taxes on merchandise from out of State—allow those States who have passed those laws to implement them. They cannot be implemented. We are saying we do not care what kind of laws you pass at the State level, we are not going to allow you to implement them.

Last week we once again killed my amendment to allow states to mandate that remote sellers collect the taxes they ought to. Yesterday, the Senate decided that we cannot even make Internet sellers alert consumers to the fact that there is a sales tax in the State. We cannot even tell them to alert people to the fact that somebody may knock on their door from their state revenue department and try to collect the unpaid use tax. Think about that. Mr. President, 45 States have a sales tax and we voted yesterday not to even require Internet sellers to tell consumers there may be a tax on their purchases.

Now we come here today saying we cannot even study it. My God, how far are we going to go?

The PRESIDING OFFICER. The 2 minutes has expired.

Mr. McCAIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Arizona. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Ohio (Mr. GLENN) and the Senator from South Carolina (Mr. HOLLINGS) are necessarily absent.

The PRESIDING OFFICER (Mr. GRAMS). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 30, nays 68, as follows:

[Rollcall Vote No. 304 Leg.]

YEAS—30

Boxer
Burns
Campbell
Coats
Collins
Craig
Dodd
Faircloth
Frist
Grams
Gregg
Hagel
Kempthorne
Kerry
Kohl
Kyl
Lautenberg
Lieberman
McCain
McConnell
Moseley-Braun
Murray
Shelby
Smith (NH)
Smith (OR)
Snowe
Stevens
Thompson
Torricelli
Wyden

NAYS—68

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Breaux
Brownback
Bryan
Bumpers
Byrd
Chafee
Cleland
Cochran
Conrad
Coverdell
D'Amato
Daschle
DeWine
Domenici
Dorgan
Durbin
Enzi
Feingold
Feinstein
Ford
Gorton
Graham
Gramm
Grassley
Harkin
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kerrey
Landrieu
Leahy
Levin
Lott
Lugar
Mack
Mikulski
Moynihan
Murkowski
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Sessions
Specter
Thomas
Thurmond
Warner
Wellstone

NOT VOTING—2

Glenn
Hollings

The motion to lay on the table the amendment (No. 3760), as modified, was rejected.

Mr. McCAIN. Mr. President, the Senate has spoken. I move that we adopt the underlying amendment and the pending amendment.

The PRESIDING OFFICER. The question is on the second-degree amendment.

Without objection, the amendment is agreed to.

The amendment (No. 3760), as modified, was agreed to.

Mr. McCAIN. Mr. President, I move to reconsider the vote.

Mr. DORGAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3722, AS AMENDED

The PRESIDING OFFICER. The question is on the first-degree amendment.

The amendment (No. 3722), as amended, was agreed to.

Mr. McCAIN. Mr. President, I move to reconsider the vote.

Mr. DORGAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 3732 AND 3733, EN BLOC

Mr. McCAIN. Mr. President, I send two amendments to the desk, en bloc, and ask for their immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. McCain] proposes amendments numbered 3732 and 3733, en bloc.

Mr. McCAIN. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 3732

(Purpose: To modify the duties of the Commission)

On page 22, line 2, strike "interstate" and insert "instrastate, interstate".

AMENDMENT NO. 3733

(Purpose: To modify the report of the Commission)

On page 25, line 12, insert "Any recommendation agreed to by the Commission shall be tax and technologically neutral and apply to all forms of remote commerce." after "this title.".

Mr. McCAIN. These have been accepted by both sides. I know of no further debate.

The PRESIDING OFFICER. If there is no further debate, without objection, the amendments are agreed to.

The amendments (No. 3732 and No. 3733), en bloc, were agreed to.

Mr. McCAIN. Mr. President, we are now down to basically two issues about which the Senator from Wyoming, the Senator from North Dakota, and the Senator from Oregon are deeply concerned. We are negotiating those. We hope we can get an agreement on those so that we can finish up on this legislation. If not, we will probably have votes on those two issues. But we have resolved the remaining amendments, except for those two. There is more than one amendment associated with those two issues. But if we can get that agreement within the next half hour or so, I think we can move to final passage. I thank the Senator from North Dakota for his cooperation with this difficult issue.

I yield the floor.

Mr. DORGAN. Mr. President, it is also my hope that in a relatively short period of time we will be able to resolve the remaining issues. We have made a lot of progress on the bill. I will say again that the Senator from Arizona has done an excellent job, and the Senator from Oregon and others have pushed very hard to get us to this point. There are other significant issues, but I expect to get them resolved in relatively short order. I hope we will make the final progress necessary on this piece of legislation.

I yield the floor.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. Mr. President, we are working on a unanimous consent agreement now that we hope we can get approved, which would allow us to get to a conclusion and a final vote on the Internet tax freedom bill. I commend all who have been involved, including Senators McCain, Dorgan and Wyden. I believe we can actually get to a conclusion. There has been the possibility that it would be tangled up in other matters, but I think maybe we have an agreement that will allow us to complete that.

UNANIMOUS CONSENT REQUEST—S.J. RES. 40

Mr. LOTT. Mr. President, I ask unanimous consent that the majority leader, after consultation with the Democratic leader, may proceed to the consideration of S.J. Res. 40, proposing an amendment to the Constitution of the United States prohibiting the physical desecration of the flag; further, that there be 2 hours of debate equally divided on the resolution, with no amendments or motions in order, and at the conclusion or yielding back of time, the Senate proceed to vote on passage of the resolution.

The PRESIDING OFFICER. Is there objection?

Mr. KERREY. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

UNANIMOUS CONSENT REQUEST—S. 505

Mr. LOTT. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 505, and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. DODD. Mr. President, reserving the right to object, is this the copyright bill?

Mr. LOTT. Yes.

Mr. DODD. I don't want to object, but I have been asked about clearing this. Maybe a couple of us have questions about this. If the majority leader will withhold for about 15 minutes so we might be able to clear it up, we would appreciate it.

Mr. LOTT. That is a reasonable request. I will withhold on that. I had believed that we cleared it with both sides of the aisle, but some Members may not have had a chance to check on it.

Mr. LEAHY. Mr. President, I take the blame for that. I assumed it had been cleared. The Senator from Connecticut said he had an issue, so if the majority leader will give us a few minutes to see if we can work it out.

Mr. LOTT. I will do that.

Let me just say again that I hope we can get this cleared because it looks like, after a lot of hard and good work by a number of Senators—Senator Hatch worked very hard on this—that we are now in the position of being able to move the music licensing issue, the copyright bill, the international property issue, the international treaty; those are three major achievements that I thought a week ago we probably could not get done. They are all interrelated, actually. I hope we can get clearance to move forward on these issues. This is a reasonable request, and I withhold the unanimous consent request at this time.

Mr. LEAHY. Mr. President, will the Senator from Mississippi yield to me for a moment on this?

Mr. LOTT. I yield to the Senator from Vermont.

Mr. LEAHY. The Senator from Mississippi is right. He has been working very hard with both sides of the aisle to clear the items he has mentioned. As he knows, we have been working very hard, as well. These are extraordinarily complex pieces of legislation. Unfortunately, the more complex they are, the more like a Rubik's Cube they are. I think we are extremely close, and we will continue to work with him. I compliment him on his efforts to help work these out.

Mr. LOTT. Again, I say that I appreciate the help from Senator LEAHY, and I also urge that we do this as soon as we can, because, as you know, at this late stage of the game, sometimes people come in with unrelated issues that start causing problems. Let's do it as quickly as we can.

I yield the floor.

OBJECTION TO 2-HOUR TIME AGREEMENT ON S.J. RES. 40

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I will be very brief on this. There was another unanimous consent request just now to which the distinguished senior Senator from Nebraska objected. I join in that objection. The Senator from Nebraska is a distinguished veteran. In fact, he is the only person I have ever served with in either body that has been awarded the Congressional Medal of Honor. He is a servant of his country in every sense of the word.

Mr. President, the reason we were objecting is not that people would hesitate to vote on this, but a 2-hour proposal is not realistic. We are dealing here with a proposal to amend the Constitution of the United States. That is something that, as Madison put it, should be reserved for "certain great and extraordinary occasions."

This is a serious issue—one deserving of our full attention, our most thoughtful consideration, and our most serious debate. Instead, we are asked to consider this at the most hectic time of the entire legislative calendar—at the end of a session when the attention of Senators quite properly is focused on passing the necessary appropriations bills so that we will not once again shut down the Federal Government. This is inappropriate timing. I might say that it is entirely unnecessary.

This amendment was reported by the Judiciary Committee on June 24, over 3 months ago. The committee report was sent to the Senate on September 1, over a month ago. This amendment could have been brought up at any time.

I ask, why is it being proposed to be brought up now? It would be nothing less than irresponsible for us to consider it in the short, hectic time line that is available. As if this matter could be made worse, we are asked to consider it not only during 2 hours of debate, but also when one of our most distinguished colleagues, also a distinguished veteran of World War II and of the Korean conflict, Senator GLENN, necessarily is absent on a dangerous and important project on behalf of the Nation.

Frankly—I don't want to interrupt the conversation going on to the right of me, Mr. President. So I will withhold for a moment.

The PRESIDING OFFICER. May we please have order on the Senate floor?

The Senator from Vermont.

Mr. LEAHY. I thank the Chair.

No one has fought harder for the flag than JOHN GLENN. No one has fought harder than he to protect the Bill of Rights. It shocks and really offends me that the proponents of this amendment would take advantage of his absence to debate this proposal as he embarks once again in harm's way in the service of the United States.

I am astounded to have something as important as an amendment to the Constitution of the United States called up at this late date in the session. We are less than a week away from adjournment. We have important work to do—work that cannot wait. And to call this up seems even less responsible when you consider the restraint of some of our other Members.

This is not the only constitutional amendment pending before the Congress. The Senator from Arizona, Mr. KYL, and the Senator from California, Mrs. FEINSTEIN, have worked long and hard on an amendment to the Constitution to deal with the rights of victims of crime. While I have not supported that amendment and very much am for a statutory approach to that important issue, I know that it was propounded in a responsible fashion. Both Senator KYL and Senator FEINSTEIN came to the floor just a few days ago, on September 28, to acknowledge that as much as they support the amendment, there simply is not time left in the session to consider it properly.

The Senator from Arizona made this point: "It has been very difficult in the waning days of the session to get floor time to take up even the most mundane of bills, because the Senate is very much concentrated on getting the appropriations bills passed so that we can fund the Government." He went on to note: "We understood that for something as important as amending the Constitution we want to do it right. The last thing Senator FEINSTEIN and I would ever do is hurry an amendment to the U.S. Constitution to try to push this through without an adequate debate without giving everyone an opportunity to have their say."

The last thing we would ever do, as these two distinguished Senators said, is to hurry an amendment to the U.S. Constitution. Frankly, that should be the last thing any U.S. Senator should do—Republican or Democrat. But to ask to consider an amendment to the Constitution that would for the first time in our history cut back on the First Amendment and to propose that the Senate do so under a 2-hour time agreement would be just that. It comes across as just politics.

The sponsor of this amendment, the distinguished senior Senator from Utah, told reporters last Friday that he did not have the votes to win it, that this amendment was not going to pass. If it is not going to pass, why are we even being asked to bring it up as a constitutional amendment in these waning days? It is because it is not a question of passing this amendment that the request is being made. It is to get some material for a campaign commercial. It is for a sound bite, for 30-second attack ads, politics at its worst. It has less to do with passing an amendment than with avoiding things that we should be doing, like HMO reform, or protecting the Social Security system, or protecting veterans' health care.

In the closing days of a session, where Congress has not passed a budget, which was required to be passed by April 15, where both sides flirt with the idea of what might happen with another Government shutdown, we should be completing the matters that must be completed this week.

Obviously, there will be amendments that may come up from all sides for political points. But the one place that should be off limits for such political points is the Constitution of the United States—this short and powerful document that holds the greatest democracy history has ever known together. We should not trivialize it by talking about a 2-hour debate to amend it.

Mr. President, even as we speak here today, this Congress is facing a major test of our Constitution just down the hall in the other body. This is a test that no matter how one looks at it, no matter what position one takes, whether that of special prosecutor Starr, that of the President, or that of anybody else, the American people, no matter how they feel about this, have some sense that the bedrock of our country is our Constitution, and somehow the Constitution, if upheld by 535 people, men and women who are sworn in a most solemn oath to uphold that Constitution, that somehow the Constitution will pull us through.

Mr. President, having said that, I believe that no matter how much politics may or may not get played, that in the end the American people will be justified in relying on us and the Constitution. But we do not give them hopes in that if we in turn trivialize the Constitution.

At one time this year, I am told, there were over 100 amendments filed in the Congress to the Constitution—over 100 amendments. Somehow some feel that Congress should be considering over 100 amendments and asking this great country to consider 100 amendments to its Constitution.

Mr. President, the genius of our Constitution and the reason why this democracy has been able to survive is that we have been very careful about amending it—extremely careful about amending it, because we like the integrity of it, the consistency of it, and in some ways the comfort of a Constitution that we know so well.

So we should never hurry through an amendment to the U.S. Constitution. We should never try to push one through without an adequate debate. We should never try to do it without giving everyone an opportunity to have their say. Especially today, Mr. President, with the crisis the country faces, we of all people—the Members of the U.S. Senate—should make it very clear to the country that we revere the Constitution, and that, whatever else we may get involved in with regard to politics, the Constitution will not be part of that.

There are over a quarter billion Americans—over a quarter of a billion Americans. Only 100 of us get the opportunity to serve in this Chamber at any time. The seat I now hold, in the last 58 years only two Vermonters have held this seat. I am one of the two in 58 years. It is a great privilege. Frankly, it is one that humbles me every day when I come to work. I still feel the same thrill coming up this Hill and coming into this Chamber as I felt when I was a day away from being a 34-year-old prosecutor in Vermont and was the junior-most Member of the U.S. Senate.

Part of that thrill is to know that it is a rare opportunity, a rare privilege, an honor that I have never been absolutely sure I deserve, but one I cherish, given to me by the people of Vermont to represent them and to speak as one of the 100 voices for this country, in full knowledge that there will be somebody else outstanding at this seat who will also represent my State of Vermont and the United States. But I hope that they will carry with them the same reverence for the Constitution that I feel I carry. There will be times to amend the Constitution. We did it after the tragic death of President Kennedy to allow for the succession of a Vice President. Time showed the necessity for it and the American public came together and knew the need for it.

But let us make it very clear how we feel about the Constitution and the Bill of Rights, as the 100 who hold this responsibility, so that the American people know that if we are going to change our Constitution, we will do it with real debate and real consideration, and all 100 of us will be able to stand up on this floor and vote.

Now, the entire Senate has known—in fact, the Nation has known—for weeks that Senator GLENN would be unavailable this week, and certainly that alone would be a reason not to bring this up now. Senator GLENN is one of the most distinguished Americans of all time. He obviously should have a chance to vote on this. So I am glad the Senator from Nebraska has lodged the objection he did. I concur with it. I have voted on this proposed constitutional amendment before. I am not afraid to do so again. But the First Amendment, the Constitution, the Bill of Rights deserve more than cursory attention.

Let us all make it clear to the people of this country that the Constitution stands first and foremost. We serve here only for the time our States allow us to serve. The Constitution predated us and will be here after us.

I see the distinguished majority leader once again in the Chamber, and so I will yield the floor.

UNANIMOUS CONSENT REQUEST—S. 505

The PRESIDING OFFICER (Ms. COLLINS). The majority leader is recognized.

Mr. LOTT. I thank the Chair. I thank Senator LEAHY for completing his remarks so we could proceed with this unanimous consent agreement.

This is with regard to S. 505, the copyright bill. I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 505 and the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection——

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, I am told there is one other Senator who still has a question on this, and I would tell my friend from Mississippi that as a result of that, while I have no objection to this unanimous consent agreement, and I will be supporting the bill and have worked hard on the bill, there is an objection over here and I will have to lodge an objection.

Mr. LOTT. I will withhold the unanimous consent request, but I would once again like to urge my colleagues to agree to this. This is a very important bill that work has been done on for a period of months, and it also is connected to the music licensing issue which has been worked out. It has been extremely tedious, working with all the interested parties, but they have been responsible, they have agreed, and I want to commend and thank all of those who worked with us and helped us reach agreement with music licensing, including the Restaurant Association, the National Federation of Independent Businesses, and the writers who have been involved in this music issue, including BMI and ASCAP and others. They have all given more than they wanted to, but I think we have come to a reasonable agreement. And then also, it is connected to the treaty with regard to intellectual property.

So I will withhold at this time, but I hope Senators will not begin putting a hold on this very important legislation because of unrelated issues that we probably are going to get resolved in the next 2 days anyway.

Mr. LEAHY. Madam President, I say to my friend from Mississippi, I have worked on each one of these pieces of legislation so much. There are times when I have attempted to pull out what little bit of hair I have left, and, frankly, I hope we can move this. I will personally go to anybody who is lodging objection to see what I can do to clear it up, because I absolutely concur with the Senator from Mississippi and the Senator from South Dakota, the Democratic leader, that this is something which should be moved forward; we want to move it forward. I hope I can tell the distinguished majority leader within a few minutes we do have it cleared.

Mr. LOTT. I yield the floor, Madam President.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LOTT. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COPYRIGHT TERM EXTENSION ACT OF 1997

Mr. LOTT. I renew my unanimous consent request that the Judiciary Committee be discharged from further consideration of S. 505, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

A bill (S. 505) to amend the provisions of title 17, United States Code, with respect to the duration of copyright, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3782

Mr. LOTT. Senator HATCH has a substitute amendment at the desk. I ask for its consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Mississippi [Mr. LOTT], for Mr. HATCH, proposes an amendment numbered 3782.

Mr. LOTT. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. LEAHY. Madam President, I am delighted that the Senate is finally considering the Copyright Term Extension Act.

Copyright has been the engine that has traditionally converted the energy of artistic creativity into publicly available art and entertainment. Historically, government's role has been to encourage creativity and innovation by protecting rights that create incentives for such activity through copyright.

On July 1, 1995, the European Union issued a directive to its member countries mandating a copyright term of 20 years longer than the term in the U.S. As a result, the E.U. will not have to guard American works beyond the American term limit, whereas European works will have 20 years more security and revenues in the marketplace.

The songwriter Carlos Santana put it eloquently in his statement submitted to the Senate Judiciary Committee three years ago on this subject, "As an American songwriter whose works are performed throughout the world, I find it unacceptable that I am accorded inferior copyright protection in the world marketplace."

His reasons are as relevant today as the day he made that statement. The 1998 Report on Copyright Industries in the U.S. Economy issued by the International Intellectual Property Alliance indicates just how important the U.S. copyright industries are today to American jobs and the economy and, therefore, how important it is for the U.S. to give its copyright industries at least the level of protection that is enjoyed by European Union industries.

The Report indicates that from the years 1977 through 1996, the U.S. copyright industries' share of the gross national product grew more than twice as fast as the remainder of the economy. During those same 20 years, job growth in core copyright industries was nearly three times the employment growth in the economy as a whole. These statistics underscore why it is so important that we finally pass this legislation today.

I cosponsored the original Senate copyright term legislation, the Copyright Term Extension Act of 1995, S. 483. The Senate Judiciary Committee held a hearing on that bill on September 20, 1995. At that hearing, we heard the testimony of Marybeth Peters, Register of Copyrights, and Bruce Lehman, Assistant Secretary of Commerce and Commissioner of the Patent and Trademark Office. We also heard testimony of Jack Valenti, President and CEO of the Motion Picture Association of America, Alan Menken, a composer and lyricist, Patrick Alger, President of the Nashville Songwriters Association International, and Peter Jaszi, Professor at American University, Washington, College of Law. That bill was favorably reported to the Senate, and the Committee filed its report, Senate Report No. 104-315, on May 23, 1996.

Alert to the possibility that copyright term extension could impose unintended costs, I, along with Senators KENNEDY, DODD, Brown and Simpson, asked Marybeth Peters, Register of Copyrights, and Daniel Mulhollan, Director of Congressional Research Service, to conduct a study and issue a report to Congress on the financial implications of copyright term extension. The Congressional Research Service issued its report on February 17, 1998, and the Copyright Office issued its report February 23, 1998.

This Congress, I introduced the Copyright Term Extension Act, S. 505, on March 20, 1997, along with Senators HATCH, D'AMATO, THOMPSON, ABRAHAM, and FEINSTEIN. Despite the merits of passing copyright term extension legislation, the bill has been held hostage to other matters far too long. In the global world of the next century, competition in the realm of intellectual property will reach a ferocity even more ruthless than it is today. Congress should equip American creators with a full measure of protection for their copyrighted works, else U.S. intellectual property owners are reduced in their reach and their effectiveness. I am therefore pleased that the Senate is finally considering the Copyright Term Extension Act, and I urge its passage.

Mr. KENNEDY. Madam President, I am pleased that the Senate is enacting this legislation to extend the period of copyright protection for an additional twenty years. This extension is needed to coordinate the term of copyright for our creative authors and artists with their European counterparts.

The principles of copyright are established in the Constitution. They reflect our enduring belief that our nation prospers when it advances knowledge, understanding and the arts. As President Kennedy said, "There is a connection, hard to explain logically but easy to feel, between achievement in public life and progress in the arts. The age of Pericles was also the age of Phidias. The age of Lorenzo de Medici was also the age of Leonardo da Vinci. The age of Elizabeth was also the age of Shakespeare."

Effective copyright protection is an important national priority. If the United States is to continue its leadership in world of ideas and creativity, we must continue to provide a climate that encourages America's authors, artists, inventors and composers and the important work that they do.

The pending legislation also includes an important compromise on the music licensing issue that has prevented adoption of copyright term legislation until now. I am pleased that agreement has been reached between the business and the music licensing communities so that musical authors and composers can enjoy an appropriate return from their creative achievements.

Finally, the bill also includes an important reference to the current negotiations between the film industry and its guilds. It is gratifying that negotiations will be taking place on the appropriate division of residuals from the earliest films, and I hope that the negotiations will be resolved to the satisfaction of both sides on this important issue of fairness.

Overall, I commend the bipartisan cooperation that has produced this worthwhile legislation. Our cultural heritage will be strengthened by this measure, and I urge the Senate to approve it.

Mr. THURMOND. Madam President, I wish to express my support for S. 505, the Copyright Term Extension Act, as amended. I wish to thank the Majority Leader, Senator HATCH, and others in the Senate for their commitment to this important issue. I also wish to thank Speaker GINGRICH, Congressman SENSENBRENNER, and others in the House for their hard work in this regard.

This bill will greatly benefit the American copyright community by making our copyright term protections consistent with Europe. At the same time, it provides meaningful relief to small businesses, including restaurants, hair salons, and many other establishments, regarding licensing fees for broadcast music. It exempts eating and drinking establishments to a certain square footage and other establishments to a certain square footage of a lesser degree. It also creates a fairer venue for rate dispute resolution through the circuit court venue.

It is also my understanding that nothing in Section 512(4) of the Copyright Act, as amended by the bill, is intended to change the burden of proof with respect to rates or fees under applicable consent decrees, which places the burden of showing a reasonable rate or fee on the performing rights society.

The agreement is not nearly as extensive as S. 28, the Fairness in Musical Licensing Act, which I introduced at the start of this Congress. However, this legislation represents a fair compromise to this important and complex issue of National significance. I am pleased that we have reached this resolution.

Mr. LOTT. I ask unanimous consent that the amendment be agreed to, the bill be read a third time and passed, as amended, the motion to lay on the table be agreed to, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3782) was agreed to.

The bill (S. 505), as amended, was passed, as follows:

S. 505

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—COPYRIGHT TERM EXTENSION

SEC. 101. SHORT TITLE.

This title may be referred to as the "Sonny Bono Copyright Term Extension Act".

SEC. 102. DURATION OF COPYRIGHT PROVISIONS.

(a) PREEMPTION WITH RESPECT TO OTHER LAWS.—Section 301(c) of title 17, United States Code, is amended by striking "February 15, 2047" each place it appears and inserting "February 15, 2067".

(b) DURATION OF COPYRIGHT: WORKS CREATED ON OR AFTER JANUARY 1, 1978.—Section 302 of title 17, United States Code, is amended—

(1) in subsection (a) by striking "fifty" and inserting "70";

(2) in subsection (b) by striking "fifty" and inserting "70";

(3) in subsection (c) in the first sentence—

(A) by striking "seventy-five" and inserting "95"; and

(B) by striking "one hundred" and inserting "120"; and

(4) in subsection (e) in the first sentence—

(A) by striking "seventy-five" and inserting "95";

(B) by striking "one hundred" and inserting "120"; and

(C) by striking "fifty" each place it appears and inserting "70".

(c) DURATION OF COPYRIGHT: WORKS CREATED BUT NOT PUBLISHED OR COPYRIGHTED BEFORE JANUARY 1, 1978.—Section 303 of title 17, United States Code, is amended in the second sentence by striking "December 31, 2027" and inserting "December 31, 2047".

(d) DURATION OF COPYRIGHT: SUBSISTING COPYRIGHTS.—

(1) IN GENERAL.—Section 304 of title 17, United States Code, is amended—

(A) in subsection (a)—

(i) in paragraph (1)—

(I) in subparagraph (B) by striking "47" and inserting "67"; and

(II) in subparagraph (C) by striking "47" and inserting "67";

(ii) in paragraph (2)—

(I) in subparagraph (A) by striking "47" and inserting "67"; and

(II) in subparagraph (B) by striking "47" and inserting "67"; and

(iii) in paragraph (3)—

(I) in subparagraph (A)(i) by striking "47" and inserting "67"; and

(II) in subparagraph (B) by striking "47" and inserting "67";

(B) by amending subsection (b) to read as follows:

"(b) COPYRIGHTS IN THEIR RENEWAL TERM AT THE TIME OF THE EFFECTIVE DATE OF THE SONNY BONO COPYRIGHT TERM EXTENSION ACT.—Any copyright still in its renewal term at the time that the Sonny Bono Copyright Term Extension Act becomes effective shall have a copyright term of 95 years from the date copyright was originally secured.";

(C) in subsection (c)(4)(A) in the first sentence by inserting "or, in the case of a termination under subsection (d), within the five-year period specified by subsection (d)(2)," after "specified by clause (3) of this subsection,"; and

(D) by adding at the end the following new subsection:

"(d) TERMINATION RIGHTS PROVIDED IN SUBSECTION (c) WHICH HAVE EXPIRED ON OR BEFORE THE EFFECTIVE DATE OF THE SONNY BONO COPYRIGHT TERM EXTENSION ACT.—In the case of any copyright other than a work made for hire, subsisting in its renewal term on the effective date of the Sonny Bono Copyright Term Extension Act for which the termination right provided in subsection (c) has expired by such date, where the author or owner of the termination right has not previously exercised such termination right, the exclusive or nonexclusive grant of a transfer or license of the renewal copyright or any right under it, executed before January 1, 1978, by any of the persons designated in subsection (a)(1)(C) of this section, other than by will, is subject to termination under the following conditions:

"(1) The conditions specified in subsection (c)(1), (2), (4), (5), and (6) of this section apply to terminations of the last 20 years of copyright term as provided by the amendments made by the Sonny Bono Copyright Term Extension Act.

"(2) Termination of the grant may be effected at any time during a period of 5 years beginning at the end of 75 years from the date copyright was originally secured.".

(2) COPYRIGHT AMENDMENTS ACT OF 1992.—Section 102 of the Copyright Amendments Act of 1992 (Public Law 102–307; 106 Stat. 266; 17 U.S.C. 304 note) is amended—

(A) in subsection (c)—

(i) by striking "47" and inserting "67";

(ii) by striking "(as amended by subsection (a) of this section)"; and

(iii) by striking "effective date of this section" each place it appears and inserting "effective date of the Sonny Bono Copyright Term Extension Act"; and

(B) in subsection (g)(2) in the second sentence by inserting before the period the following: ", except each reference to forty-seven years in such provisions shall be deemed to be 67 years".

SEC. 103. TERMINATION OF TRANSFERS AND LICENSES COVERING EXTENDED RENEWAL TERM.

Sections 203(a)(2) and 304(c)(2) of title 17, United States Code, are each amended—

(1) by striking "by his widow or her widower and his or her children or grandchildren"; and

(2) by inserting after subparagraph (C) the following:

"(D) In the event that the author's widow or widower, children, and grandchildren are not living, the author's executor, administrator, personal representative, or trustee shall own the author's entire termination interest.".

SEC. 104. REPRODUCTION BY LIBRARIES AND ARCHIVES.

Section 108 of title 17, United States Code, is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following:

"(h)(1) For purposes of this section, during the last 20 years of any term of copyright of a published work, a library or archives, including a nonprofit educational institution that functions as such, may reproduce, distribute, display, or perform in facsimile or digital form a copy or phonorecord of such work, or portions thereof, for purposes of preservation, scholarship, or research, if such library or archives has first determined, on the basis of a reasonable investigation, that none of the conditions set forth in subparagraphs (A), (B), and (C) of paragraph (2) apply.

"(2) No reproduction, distribution, display, or performance is authorized under this subsection if—

"(A) the work is subject to normal commercial exploitation;

"(B) a copy or phonorecord of the work can be obtained at a reasonable price; or

"(C) the copyright owner or its agent provides notice pursuant to regulations promulgated by the Register of Copyrights that either of the conditions set forth in subparagraphs (A) and (B) applies.

"(3) The exemption provided in this subsection does not apply to any subsequent uses by users other than such library or archives.".

SEC. 105. VOLUNTARY NEGOTIATION REGARDING DIVISION OF ROYALTIES.

It is the sense of the Congress that copyright owners of audiovisual works for which the term of copyright protection is extended by the amendments made by this title, and the screenwriters, directors, and performers of those audiovisual works, should negotiate in good faith in an effort to reach a voluntary agreement or voluntary agreements with respect to the establishment of a fund or other mechanism for the amount of remuneration to be divided among the parties for the exploitation of those audiovisual works.

SEC. 106. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on the date of the enactment of this Act.

TITLE II—MUSIC LICENSING EXEMPTION FOR FOOD SERVICE OR DRINKING ESTABLISHMENTS

SEC. 201. SHORT TITLE.

This title may be cited as the "Fairness In Music Licensing Act of 1998."

SEC. 202. EXEMPTIONS.

(a) EXEMPTIONS FOR CERTAIN ESTABLISHMENTS.—Section 110 of title 17, United States Code is amended—

(1) in paragraph (5)—

(A) by striking "(5)" and inserting "(5)(A) except as provided in subparagraph (B),"; and

(B) by adding at the end the following:

"(B) communication by an establishment of a transmission or retransmission embodying a performance or display of a nondramatic musical work intended to be received by the general public, originated by a radio or television broadcast station licensed as such by the Federal Communications Commission, or, if an audiovisual transmission, by a cable system or satellite carrier, if—

"(i) in the case of an establishment other than a food service or drinking establishment, either the establishment in which the communication occurs has less than 2000 gross square feet of space (excluding space used for customer parking and for no other purpose), or the establishment in which the communication occurs has 2000 or more gross square feet of space (excluding space used for customer parking and for no other purpose) and—

"(I) if the performance is by audio means only, the performance is communicated by means of a total of not more than 6 loudspeakers, of which not more than 4 loudspeakers are located in any 1 room or adjoining outdoor space; or

"(II) if the performance or display is by audiovisual means, any visual portion of the performance or display is communicated by means of a total of not more than 4 audiovisual devices, of which not more than one audiovisual device is located in any 1 room, and no such audiovisual device has a diagonal screen size greater than 55 inches, and any audio portion of the performance or display is communicated by means of a total of not more than 6 loudspeakers, of which not more than 4 loudspeakers are located in any 1 room or adjoining outdoor space;

"(ii) in the case of a food service or drinking establishment, either the establishment in which the communication occurs has less than 3750 gross square feet of space (excluding space used for customer parking and for no other purpose), or the establishment in which the communication occurs has 3750 gross square feet of space or more (excluding space used for customer parking and for no other purpose) and—

"(I) if the performance is by audio means only, the performance is communicated by means of a total of not more than 6 loudspeakers, of which not more than 4 loudspeakers are located in any 1 room or adjoining outdoor space; or

"(II) if the performance or display is by audiovisual means, any visual portion of the performance or display is communicated by means of a total of not more than 4 audiovisual devices, of which not more than one audiovisual device is located in any 1 room, and no such audiovisual device has a diagonal screen size greater than 55 inches, and any audio portion of the performance or display is communicated by means of a total of not more than 6 loudspeakers, of which not more than 4 loudspeakers are located in any 1 room or adjoining outdoor space;

"(iii) no direct charge is made to see or hear the transmission or retransmission;

"(iv) the transmission or retransmission is not further transmitted beyond the establishment where it is received; and

"(v) the transmission or retransmission is licensed by the copyright owner of the work so publicly performed or displayed;"; and

(2) by adding after paragraph (10) the following:

"The exemptions provided under paragraph (5) shall not be taken into account in any administrative, judicial, or other governmental proceeding to set or adjust the royalties payable to copyright owners for the public performance or display of their works. Royalties payable to copyright owners for any public performance or display of their works other than such performances or displays as are exempted under paragraph (5) shall not be diminished in any respect as a result of such exemption".

(b) EXEMPTION RELATING TO PROMOTION.—Section 110(7) of title 17, United States Code, is amended by inserting "or of the audiovisual or other devices utilized in such performance," after "phonorecords of the work,".

SEC. 203. LICENSING BY PERFORMING RIGHTS SOCIETIES.

(a) IN GENERAL.—Chapter 5 of title 17, United States Code, is amended by adding at the end the following:

"§512. Determination of reasonable license fees for individual proprietors

"In the case of any performing rights society subject to a consent decree which provides for the determination of reasonable license rates or fees to be charged by the performing rights society, notwithstanding the provisions of that consent decree, an individual proprietor who owns or operates fewer than 7 non-publicly traded establishments in which nondramatic musical works are performed publicly and who claims that any license agreement offered by that performing rights society is unreasonable in its license rate or fee as to that individual proprietor, shall be entitled to determination of a reasonable license rate or fee as follows:

"(1) The individual proprietor may commence such proceeding for determination of a reasonable license rate or fee by filing an application in the applicable district court under paragraph (2) that a rate disagreement exists and by serving a copy of the application on the performing rights society. Such proceeding shall commence in the applicable district court within 90 days after the service of such copy, except that such 90-day requirement shall be subject to the administrative requirements of the court.

"(2) The proceeding under paragraph (1) shall be held, at the individual proprietor's election, in the judicial district of the district court with jurisdiction over the applicable consent decree or in that place of holding court of a district court that is the seat of the Federal circuit (other than the Court of Appeals for the Federal Circuit) in which the proprietor's establishment is located.

"(3) Such proceeding shall be held before the judge of the court with jurisdiction over the consent decree governing the performing rights society. At the discretion of the court, the proceeding shall be held before a special master or magistrate judge appointed by such judge. Should that consent decree provide for the appointment of an advisor or advisors to the court for any purpose, any such advisor shall be the special master so named by the court.

"(4) In any such proceeding, the industry rate shall be presumed to have been reasonable at the time it was agreed to or determined by the court. Such presumption shall in no way affect a determination of whether the rate is being correctly applied to the individual proprietor.

"(5) Pending the completion of such proceeding, the individual proprietor shall have the right to perform publicly the copyrighted musical compositions in the repertoire of the performing rights society by paying an interim license rate or fee into an interest bearing escrow account with the clerk of the court, subject to retroactive adjustment when a final rate or fee has been determined, in an amount equal to the industry rate, or, in the absence of an industry rate, the amount of the most recent license rate or fee agreed to by the parties.

"(6) Any decision rendered in such proceeding by a special master or magistrate judge named under paragraph (3) shall be reviewed by the judge of the court with jurisdiction over the consent decree governing the performing rights society. Such proceeding, including such review, shall be concluded within 6 months after its commencement.

"(7) Any such final determination shall be binding only as to the individual proprietor commencing the proceeding, and shall not be applicable to any other proprietor or any other performing rights society, and the performing rights society shall be relieved of any obligation of nondiscrimination among similarly situated music users that may be imposed by the consent decree governing its operations.

"(8) An individual proprietor may not bring more than one proceeding provided for in this section for the determination of a reasonable license rate or fee under any license agreement with respect to any one performing rights society.

"(9) For purposes of this section, the term 'industry rate' means the license fee a performing rights society has agreed to with, or which has been determined by the court for, a significant segment of the music user industry to which the individual proprietor belongs.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 17, United States Code, is amended by adding after the item relating to section 511 the following:

"512. Determination of reasonable license fees for individual proprietors.".

SEC. 204. PENALTIES.

Section 504 of title 17, United States Code, is amended by adding at the end the following:

"(d) ADDITIONAL DAMAGES IN CERTAIN CASES.—In any case in which the court finds that a defendant proprietor of an establishment who claims as a defense that its activities were exempt under section 110(5) did not have reasonable grounds to believe that its use of a copyrighted work was exempt under such section, the plaintiff shall be entitled to, in addition to any award of damages under this section, an additional award of two times the amount of the license fee that the proprietor of the establishment concerned should have paid the plaintiff for such use during the preceding period of up to 3 years.".

SEC. 205. DEFINITIONS.

Section 101 of title 17, United States Code, is amended—

(1) by inserting after the definition of "display" the following:

"An 'establishment' is a store, shop, or any similar place of business open to the general public for the primary purpose of selling goods or services in which the majority of the gross square feet of space that is nonresidential is used for that purpose, and in which nondramatic musical works are performed publicly.

"A 'food service or drinking establishment' is a restaurant, inn, bar, tavern, or any other similar place of business in which the public or patrons assemble for the primary purpose of being served food or drink, in which the majority of the gross square feet of space that is nonresidential is used for that purpose, and in which nondramatic musical works are performed publicly.";

(2) by inserting after the definition of "fixed" the following:

"The 'gross square feet of space' of an establishment means the entire interior space of that establishment, and any adjoining outdoor space used to serve patrons, whether on a seasonal basis or otherwise.";

(3) by inserting after the definition of "perform" the following:

"A 'performing rights society' is an association, corporation, or other entity that licenses the public performance of nondramatic musical works on behalf of copyright owners of such works, such as the American Society of Composers, Authors and Publishers (ASCAP), Broadcast Music, Inc. (BMI), and SESAC, Inc."; and

(4) by inserting after the definition of "pictorial, graphic and sculptural works" the following:

"A 'proprietor' is an individual, corporation, partnership, or other entity, as the case may be, that owns an establishment or a food service or drinking establishment, except that no owner or operator of a radio or television station licensed by the Federal Communications Commission, cable system or satellite carrier, cable or satellite carrier service or programmer, provider of online services or network access or the operator of facilities therefor, telecommunications company, or any other such audio or audiovisual service or programmer now known or as may be developed in the future, commercial subscription music service, or owner or operator of any other transmission service, shall under any circumstances be deemed to be a proprietor.".

SEC. 206. CONSTRUCTION OF TITLE.

Except as otherwise provided in this title, nothing in this title shall be construed to relieve any performing rights society of any obligation under any State or local statute, ordinance, or law, or consent decree or other court order governing its operation, as such statute, ordinance, law, decree, or order is in effect on the date of the enactment of this Act, as it may be amended after such date, or as it may be issued or agreed to after such date.

SEC. 207. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 90 days after the date of the enactment of this Act.

Mr. LOTT. Again, Madam President, I thank the Senator from Vermont for his cooperation and his allowing us to go ahead and proceed quickly on this very important matter.

I yield the floor.

Mr. LEAHY. Madam President, I thank the Senator from Mississippi. I think we are clearing a lot of things.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MCCAIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. COLLINS). Without objection, it is so ordered.

INTERNET TAX FREEDOM ACT

The Senate continued with consideration of the bill.

AMENDMENT NO. 3719, AS MODIFIED

AMENDMENT NO. 3779, AS MODIFIED TO AMENDMENT NO. 3719

Mr. MCCAIN. I ask unanimous consent that amendment No. 3719, as modified, be the pending business; that Senator DORGAN be recognized to offer a second-degree amendment, as modified, that will be adopted; and it be in order for me to offer a nonfiled second-degree amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Madam President, let me comment on what is going on here for the benefit of my colleagues. We have agreed on the language concerning the grandfathering of this legislation, which was important.

Now we have resolved all matters with the exception of whether the moratorium should last for 3 or 4 years. My amendment, after we accept the grandfather language from the Senator from North Dakota, will be to have the moratorium expire at the end of 4 years, for which there will probably be a recorded vote, after which it is most likely—although we have to check with both sides about further debate—we will have completed the amending process of the germane amendments that were on the bill and we will be very close to final passage of the legislation.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. McCain], for himself and Mr. WYDEN, proposes an amendment numbered 3719, as modified.

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 3779, as modified, to amendment No. 3719.

The amendments (No. 3719, as modified, and No. 3779, as modified) are as follows:

AMENDMENT NO. 3719, AS MODIFIED

(Purpose: To make minor and technical changes in the moratorium provision)

On page 16, beginning with line 23, strike through line 15 on page 17, and insert the following:

(a) MORATORIUM.—No State or political subdivision thereof shall impose any of the following taxes during the period beginning on October 1, 1998, and ending 3 years after the date of the enactment of this Act:

(1) Taxes on Internet access, unless such tax was generally imposed and actually enforced prior to October 1, 1998; and

(2) Multiple or discriminatory taxes on electronic commerce.

(b) PRESERVATION OF STATE AND LOCAL TAXING AUTHORITY.—Except as provided in this section, nothing in this Act shall be construed to modify, impair, or supersede, or authorize the modification, impairment, or superseding of, any State or local law pertaining to taxation that is otherwise permissible by or under the Constitution of the United States or other Federal law and in effect on the date of enactment of this Act.

(c) LIABILITIES AND PENDING CASES.—Nothing in this Act affects liability for taxes accrued and enforced before the date of enactment of this Act, nor does this Act affect ongoing litigation relating to such taxes.

AMENDMENT NO. 3779, AS MODIFIED

On page 2, after line 14, add the following:

(d) DEFINITION OF GENERALLY IMPOSED AND ACTUALLY ENFORCED.—For purposes of this section, a tax has been generally imposed and actually enforced prior to October 1, 1998, if, before that date, the tax was authorized by statute and either—

(1) a provider of Internet access services had a reasonable opportunity to know by virtue of a rule or other public proclamation made by the appropriate administrative agency of the State or political subdivision thereof, that such agency has interpreted and applied such tax to Internet access services; or

(2) a State or political subdivision thereof generally collected such tax on charges for Internet access.

Mr. MCCAIN. Madam President, I don't know if there is any debate on the Dorgan second-degree amendment.

Mr. DORGAN. Madam President, the second-degree amendment to the first-degree amendment that was offered by the Senator from Arizona is an amendment that has been worked out over a period of several days dealing with the grandfather clause. It is something that I think represents a workable solution which improves the legislation. It would be my hope that the Senate would approve it.

I do want to point out that the amendment that was referred to by Senator MCCAIN would be an amendment dealing with the length of the moratorium. My understanding is that the passage of the first-degree and second-degree amendments would leave in place a 3-year moratorium with respect to this legislation. The Senator from Arizona would then offer an amendment, and I believe there would be a recorded vote after some debate on that amendment, that would propose that the 3-year moratorium be extended to 4 years, and the Senate then would make a judgment on that question.

I offer that by way of explanation of what is happening here. I hope the Senate will approve by voice vote the first- and second-degree amendments.

The PRESIDING OFFICER. The question is on agreeing to the amendments.

The amendments (No. 3779, as modified, and No. 3719, as modified, as amended) were agreed to.

Mr. MCCAIN. I move to reconsider the vote.

Mr. DORGAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3783 TO AMENDMENT NO. 3719, AS MODIFIED, AS AMENDED

Mr. MCCAIN. Madam President, I have a second-degree amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. McCain] proposes an amendment numbered 3763 to amendment No. 3719, as modified and amended.

Mr. McCAIN. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On line 5, strike "3" and insert "4".

Mr. McCAIN. As I explained earlier, this will be a simple vote on whether the moratorium should last for 3 years or 4 years. I am sorry we have to have a recorded vote on it since we were able to reach agreement on far more contentious issues surrounding this legislation. There will be some debate and discussion on this amendment.

In the meantime, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCAIN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3678, AS MODIFIED

Mr. McCAIN. Madam President, the other day the Senate adopted amendment No. 3678, which had technical and drafting errors. I ask unanimous consent that the modification of the amendment be adopted.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment (No. 3678), as modified, is as follows:

At the end of the bill add the following new title:

SEC. ___01. SHORT TITLE.

This title may be cited as the "Government Paperwork Elimination Act".

SEC. ___02. AUTHORITY OF OMB TO PROVIDE FOR ACQUISITION AND USE OF ALTERNATIVE INFORMATION TECHNOLOGIES BY EXECUTIVE AGENCIES.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

"(vi) the acquisition and use of information technology, including alternative information technologies that provide for electronic submission, maintenance, or disclosure of information as a substitute for paper and for the use and acceptance of electronic signatures.".

SEC. ___03. PROCEDURES FOR USE AND ACCEPTANCE OF ELECTRONIC SIGNATURES BY EXECUTIVE AGENCIES.

(a) In General.—In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106) and the amendments made by that Act, and the provisions of this title, the Director of the Office of Management and Budget shall, not later than 18 months after the date of enactment of this Act, develop procedures for the use and acceptance of electronic signatures by Executive agencies.

(b) Requirements for Procedures.—(1) The procedures developed under subsection (a)—

(A) shall be compatible with standards and technology for electronic signatures that are generally used in commerce and industry and by State governments;

(B) may not inappropriately favor one industry or technology;

(C) shall ensure that electronic signatures are as reliable as is appropriate for the purpose in question and keep intact the information submitted;

(D) shall provide for the electronic acknowledgment of electronic forms that are successfully submitted; and

(E) shall, to the extent feasible and appropriate, require an Executive agency that anticipates receipt by electronic means of 50,000 or more submittals of a particular form to take all steps necessary to ensure that multiple methods of electronic signatures are available for the submittal of such form.

(2) The Director shall ensure the compatibility of the procedures under paragraph (1)(A) in consultation with appropriate private bodies and State government entities that set standards for the use and acceptance of electronic signatures.

SEC. ___04. DEADLINE FOR IMPLEMENTATION BY EXECUTIVE AGENCIES OF PROCEDURES FOR USE AND ACCEPTANCE OF ELECTRONIC SIGNATURES.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106) and the amendments made by that Act, and the provisions of this title, the Director of the Office of Management and Budget shall ensure that, commencing not later than five years after the date of enactment of this Act, Executive agencies provide—

(1) for the option of the electronic maintenance, submission, or disclosure of information, when practicable as a substitute for paper; and

(2) for the use and acceptance of electronic signatures, when practicable.

SEC. ___05. ELECTRONIC STORAGE AND FILING OF EMPLOYMENT FORMS.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106) and the amendments made by that Act, and the provisions of this title, the Director of the Office of Management and Budget shall, not later than 18 months after the date of enactment of this Act, develop procedures to permit private employers to store and file electronically with Executive agencies forms containing information pertaining to the employees of such employers.

SEC. ___06. STUDY ON USE OF ELECTRONIC SIGNATURES.

(a) Ongoing Study Required.—In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106) and the amendments made by that Act, and the provisions of this title, the Director of the Office of Management and Budget shall conduct an ongoing study of the use of electronic signatures under this title on—

(1) paperwork reduction and electronic commerce;

(2) individual privacy; and

(3) the security and authenticity of transactions.

(b) Reports.—The Director shall submit to Congress on a periodic basis a report describing the results of the study carried out under subsection (a).

SEC. ___07. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with procedures developed under this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures, shall not be denied legal effect, validity, or enforceability because such records are in electronic form.

SEC. ___08. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an executive agency, as provided by this title, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. ___09. APPLICATION WITH INTERNAL REVENUE LAWS.

No provision of this title shall apply to the Department of the Treasury or the Internal Revenue Service to the extent that such provision—

(1) involves the administration of the internal revenue laws; or

(2) conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. ___10. DEFINITIONS.

For purposes of this title:

(1) Electronic signature.—The term "electronic signature" means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of the electronic message; and

(B) indicates such person's approval of the information contained in the electronic message.

(2) Executive agency.—The term "Executive agency" has the meaning given that term in section 105 of title 5, United States Code.

AMENDMENT NO. 3721, AS MODIFIED

Mr. McCAIN. There was a technical error in amendment No. 3721. Therefore, I send a modification to the desk and ask it be accepted on the proviso we will try to hire more efficient staff so these kinds of things are not required in the future.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment (No. 3721), as modified, is as follows:

On page 17, beginning with line 18, strike through line 21 on page 19 and insert the following:

(a) Establishment of Commission.—There is established a commission to be known as the Advisory Commission on Electronic Commerce (in this title referred to as the "Commission"). The Commission shall—

(1) be composed of 19 members appointed in accordance with subsection (b), including the chairperson who shall be selected by the members of the Commission from among themselves; and

(2) conduct its business in accordance with the provisions of this title.

(b) Membership.—

(1) In general.—The Commissioners shall serve for the life of the Commission. The

membership of the Commission shall be as follows:

(A) 3 representatives from the Federal Government, comprised of the Secretary of Commerce, the Secretary of the Treasury, and the United States Trade Representative (or their respective delegates).

(B) 8 representatives from State and local governments (one such representative shall be from a State or local government that does not impose a sales tax).

(C) 8 representatives of the electronic commerce industry (including small business), telecommunications carriers, local retail businesses, and consumer groups, comprised of—

(i) 5 individuals appointed by the Majority Leader of the Senate;

(ii) 3 individuals appointed by the Minority Leader of the Senate;

(iii) 5 individuals appointed by the Speaker of the House of Representatives; and

(iv) 3 individuals appointed by the Minority Leader of the House of Representatives.

Mr. McCAIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WYDEN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3783

Mr. WYDEN. Madam President, let me try to describe briefly for the Senate where we are with respect to the important issue coming up now on the length of the moratorium. As Chairman McCAIN and my colleague, Senator DORGAN, noted, the two issues we have been trying to deal with, the question of grandfathering in existing States and localities and the length of the moratorium are linked, and we think we have a fair process in place now for resolving the two important issues.

I would like to tell my colleagues why I think it is important that we go with the McCain amendment on the length of the moratorium. The legislation, when I introduced it in March of 1997, did not specify how long the moratorium should last. When we considered it in the Senate Commerce Committee, after a very lengthy debate and, in effect, taking a break for 5 or 6 months after the hearings were held to try to work with Senators on both sides of the aisle, the Senate Commerce Committee voted out legislation that set in place a 6-year moratorium.

As Senators know, the Finance Committee then went forward with its legislation and imposed a 2-year moratorium. In a sense, this moratorium isn't even the most accurate way to describe it because even during this period Internet transactions were treated exactly like any other transaction. We have heard discussion of how, in some way, the legislation would create some sort of special tax haven for the Internet, and that is simply not the case. Internet transactions would be treated just like any other.

The reason the McCain amendment with respect to the length of the moratorium is important is not just because it is a compromise—4 years—between the Commerce Committee bill and the Finance Committee bill, but I think it is going to take that long in order to deal with these issues in a thoughtful way. They are complicated questions. It is very clear that if, for example, someone orders fruit from Harry and David's in Medford, OR, uses America Online in Virginia to make the order, pays for it with a bank card in California, and ships it to a cousin in Boston, this transaction could affect scores and scores of local jurisdictions, as well as a number of States. So we do want sufficient time to sort out these issues.

Under the amendment that will be first offered by Senator McCAIN and myself, there would be a two-step process. First, the commission studies the issues and makes its recommendations to the Congress. Second, the recommendation must be implemented. Our concern is that a number of State legislatures do not meet every year; mine is one. You are going to need the McCain-Wyden amendment with respect to the moratorium in order to make sure that you have sufficient time for both the study of these issues and recommendations to the Congress, as well as an adequate amount of time for legislative bodies to consider them.

So we felt that the amendment we were offering not only was a fair compromise between what was passed in the Senate Commerce Committee overwhelmingly and what was passed in the Senate Finance Committee, but in terms of the actual logistics of State legislative sessions, we believe the amendment that we will be offering with respect to the length of the moratorium is a critical one.

The fact of the matter is, when you have in the vicinity of 30,000 taxing jurisdictions—and that is the number in our country—you have the prospect of different taxing jurisdictions in States and localities that all see the Internet as the golden goose; you have the real prospect that policies could be adopted that would cause great damage to the Internet's development and cause that golden goose to lay far fewer eggs.

What we are trying to do in this legislation is to restore a balance with respect to the moratorium. We think it is a fair compromise between what the two committees dealt with here in the U.S. Senate, and at the same time we think it is an approach that will give adequate time for the States and localities to deal with the recommendations that are made while making sure that businesses aren't confused and, in a number of instances, paralyzed by discriminatory and multiple taxation about which they are already expressing concerns.

I think we have made a considerable amount of headway. As I have said in a couple of instances when I came to the floor, if you look at the legislation that the Presiding Officer heard discussed in the Commerce Committee early in 1997 and the legislation that is before the Senate now, it is clear that there have been many, many changes, over 30. Those are changes that were made specifically to try to deal with the legitimate concerns of States and localities that are concerned about their revenue prospects with respect to the digital economy.

We have tried to be fair. We had a number of votes on the floor of the Senate. There were several which I thought would have done great damage to the philosophy of what we are trying to do in this legislation. There were others raised with respect to ensuring the fair analysis of a variety of issues and participation on the commission where, clearly, Senators have tried very hard to work together.

The issue that is coming up now with respect to the length of the moratorium is critical. When I introduced this legislation last year, there was no end date on the moratorium. The reason there was not is that it was our view that if ever there was something that ought to be treated as interstate commerce, it was the Internet. The Internet is global; it knows no boundaries. It is not something that ought to be balkanized in the 21st century into kind of a toll-riddled freeway where it will be very hard to tap the potential of the Internet.

We should make no mistake about it. The great potential for the Internet is for those individuals, such as those in rural America and inner cities, senior citizens, handicapped individuals, many of them operating home-based businesses, who with sensible governmental policies will be able to, in my view, make a very decent living in the global economy. But the prerequisite of having those kinds of opportunities will be policies that allow the Internet to flourish. Those policies should neither be discriminatory against the Internet nor should they be preferential.

I have heard various Senators say over the last few days that in some way this legislation would ensure preferential treatment for the Internet. It would do nothing of the sort. It would say very specifically that Internet sales ought to be treated just like everything else. If you pay a specific tax by buying the goods in a jurisdiction in the traditional way, by walking into a retail store, under this legislation, even with the moratorium, you pay exactly the same tax if you order those goods over the Internet—exactly the same tax. There is nothing preferential, nothing discriminatory.

In a little bit we will have that first vote on the amendment that Chairman

McCain and I offered together with respect to the length of the moratorium. It will ensure that we have enough time to study the various issues with respect to electronic commerce and make recommendations, and it will give adequate time to have those recommendations implemented by the localities and the States. There are a number of States that do not meet every year, for example, with their legislatures. They would not have adequate time under the shorter version of the moratorium.

Madam President, and colleagues, we will have those votes before too long. I thank the various Senators who have weighed in with myself and Chairman McCain, both today and over the last few days. This has been a good debate. And it is only the beginning of our discussions on the ground rules for the digital economy.

This presents a whole new set of questions for the U.S. Senate. When we look at traditional commerce, even with the Senate Commerce Committee of 40 or 50 years ago, we were talking about moving goods from point A to point B. There was a role for traditional business. There was a role for labor unions and various other key economic sectors such as the transportation sector. That has changed now in many respects, because information—in effect, goods and services—can move on the Internet in a flash of light. So we need sensible policies.

I urge my colleagues to support that first amendment that Chairman McCain and I are offering with respect to the length of the moratorium. It will ensure that States and localities have an adequate amount of time to act after the recommendations of the commission to go forward. It is a true compromise. The Senate Commerce Committee passed legislation that called for a moratorium of 6 years after my original bill with Chairman McCain, which had no end date at all. The Senate Finance Committee bill was 2 years. We are going forward with 4. That would give the States an opportunity to act in a thoughtful way.

I hope on that first vote the Senate will support the McCain-Wyden amendment with respect to the length of the moratorium.

Madam President, I yield the floor.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER (Mr. Gorton). The Senator from Arizona.

Mr. McCAIN. Mr. President, I urge the advocates of the 3-year moratorium to come to the floor and help us explore this very complex issue as to whether we are going to have a 3-year or a 4-year moratorium. I know it is a subject that is complex in detail. However, we would like to complete the debate on this very complicated issue that we were unable to resolve with our friends on the other side of this issue.

Again, I find it remarkable that we were able to work out grandfather language, and about 15 other amendments. But somehow this one is worthy of a vote as to whether a moratorium is 3 or 4 years.

I can't add a lot to what the distinguished Senator from Oregon just said, except to say that I hope we can minimize the debate. But I say to those who are the 3-year advocates to come over and make their case, because as soon as Senator Dorgan comes back we would like to move on that amendment, because I believe that, following Senator Murkowski's motion on the underlying amendment, we can move to final passage on this bill.

I know the Senator from Oregon would like to dispense of this legislation but not nearly so much as I would.

Mr. WYDEN. Will the chairman yield?

Mr. McCAIN. I am glad to yield to my friend from Oregon.

Mr. WYDEN. I thank the chairman for all of his patience.

I think it would be helpful, and perhaps the chairman would lay it out, to know that through this discussion there has been an effort to link the grandfather provision effort to make sure that States and localities that already have laws on the books are protected and to link that to the moratorium so that there would be an effort to be fair to both sides. I think the Senator has been very fair, and perhaps the Senator could elaborate a little bit on some of the challenges with respect to that grandfather debate.

Mr. McCAIN. Will the Senator repeat his question?

Mr. WYDEN. I am sorry. The fact is the grandfathering provision and the moratorium really are linked, and I think that the Senator has been very fair to both sides with respect to this discussion, and to the extent that there are greater protections for grandfathering and more jurisdiction protected that obviously affects the discussion about the length of the moratorium. I think the Senator struck a fair balance, and I think it would be helpful if the Senator could take the Senate through those discussions a bit.

I thank the Senator for yielding me some time.

Mr. McCAIN. I thank the Senator from Oregon.

The reality is that the original legislation as proposed by the Senator from Oregon had no grandfathering. It had no time limit. This legislation received overwhelming support both in the committee and, very frankly, throughout the country, and gradually, interestingly enough, many Governors who would experience, in the view of some, a loss of revenue came on board this legislation—the Governor of California, the Governor of Texas, the Governor of New York, and many other Governors, but practically every Governor of every major State.

Along those lines, Mr. President, I ask unanimous consent that a letter from the distinguished Governor of Virginia, Mr. Gilmore, be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

COMMONWEALTH OF VIRGINIA,
Richmond, VA, September 25, 1998.

Hon. JOHN McCAIN,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

DEAR SENATOR McCAIN: I am very pleased the Senate will soon vote on the Internet Tax Freedom Act (S. 442).

Since its introduction last year, I have been—and continue to be—in strong support of the Internet Tax Freedom Act. Your work on this important legislation goes hand in hand with the compromise agreement reached by the Commerce and Judiciary Committees in the House of Representatives. Both Committees as well as the full House passed the bill unanimously after well reasoned compromise from all those concerned.

As you know, the Internet is one of our most valuable and fastest-growing resources, presenting enormous potential to revolutionize both global and domestic commerce. But this incredible tool currently faces some significant obstacles with respect to state and local taxation. With more than 30,000 state and local taxing jurisdictions in the United States, Internet development is in danger of being stifled by a maze of inconsistent, unfair, and burdensome taxing regimes.

There are currently thousands of Internet companies, which can be found in every state in the nation. They are small but important vehicles of economic development and are unfairly assessed taxes based on interpretations of existing tax law written well before the establishment of the Internet. Because of the importance of these businesses, the substance of the act should do what its title suggests.

The Internet Tax Freedom Act is important to our state economies, to online consumers, and to the future success of electronic commerce. This legislation places a temporary moratorium on certain taxes so that an appropriate, non-discriminatory Internet tax policy can be developed and implemented by policymakers at all levels.

For these reasons, I urge the enactment of the Internet Tax Freedom Act this year and look forward to working with you and the Congress to ensure our nation remains the undisputed leader in cutting edge technology industries.

Very truly yours,
JAMES S. GILMORE III,
Governor of Virginia.

Mr. McCAIN. Mr. Gilmore says:

> I am very pleased the Senate will soon vote on the Internet Tax Reform Act, S. 442.

Not as pleased as I am. He says in his concluding paragraph:

> For these reasons, I urge the enactment of the Internet Tax Freedom Act this year and look forward to working with you and the Congress to ensure our Nation remains the undisputed leader in cutting edge technology industries.

So another Governor and a very important one, the Governor of Virginia, has weighed in in favor of this legislation.

I believe the fact that we were willing to agree to certain grandfathering provisions was very helpful in moving this process forward, but I also think that it made an argument for a 4-year moratorium. Again, when it came out of the committee, it was 6 years originally and now the Finance Committee reduced it to 2. We think that 4 years is obviously a reasonable compromise.

So again I urge the 3-year moratorium advocates to come to the floor so we could have vigorous debate on that issue and a vote sometime around 4:45, with the agreement of the majority leader.

AMENDMENT NO. 3727

(Purpose: To include legislative recommendations in the commission's report)

Mr. McCAIN. Mr. President, I know of no opposition to the amendment 3727 by Senator ENZI, and I therefore call up the amendment and ask that it be adopted.

The PRESIDING OFFICER. Is the Senator asking that the pending amendment be laid aside?

Mr. McCAIN. I ask unanimous consent that the pending amendment be laid aside for the Enzi amendment 3727.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the Enzi amendment.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. McCain], for Mr. ENZI, proposes an amendment numbered 3727.

Mr. McCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 25, beginning on line 10, strike "a report reflecting the results" and insert the following: "for its consideration a report reflecting the results, including such legislative recommendations as required to address the findings".

Mr. McCAIN. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 3727) was agreed to.

Mr. McCAIN. Mr. President, I move to reconsider the vote.

Mr. ENZI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCAIN. I congratulate the Senator from Wyoming for his amendment.

AMENDMENT NO. 3718, AS MODIFIED

(Purpose: To revise the definitions of the terms "tax," "telecommunications service," and "tax on internet access," as used in the bill)

Mr. McCAIN. Mr. President, on behalf of myself, I send an amendment to the desk, No. 3718, as modified, and ask for its immediate consideration.

The PRESIDING OFFICER. The pending amendment is set aside and the clerk will report the amendment of the Senator from Arizona.

The legislative clerk read as follows:

The Senator from Arizona, [Mr. McCAIN], for himself and Mr. WYDEN proposes an amendment numbered 3718, as modified.

Mr. McCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 29, beginning with line 20, strike through line 19 on page 30 and insert the following:

(8) TAX.—

(A) IN GENERAL.—The term "tax" means—

(i) any charge imposed by any governmental entity for the purpose of generating revenues for governmental purposes, and is not a fee imposed for a specific privilege, service, or benefit conferred; or

(ii) the imposition on a seller of an obligation to collect and to remit to a governmental entity any sales or use tax imposed on a buyer by a governmental entity.

(B) EXCEPTION.—Such term does not include any franchise fee or similar fee imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573), or any other fee related to obligations or telecommunications carriers under the Communications Act of 1934 (47 U.S.C. 151 et seq.).

(9) TELECOMMUNICATIONS SERVICE.—The term "telecommunications service" has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(56)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

(10) TAX ON INTERNET ACCESS.—The term "tax on Internet access" means a tax on Internet access, including the enforcement or application of any new or preexisting tax on the sale or use of Internet services.

Mr. McCAIN. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. The Senator has sent up a different version. Did the Senator want to modify it?

Mr. McCAIN. As modified, 3718 as modified. I sent up a modified version.

The PRESIDING OFFICER. Without objection, the amendment is modified.

Is there further debate on the amendment? If not, the amendment is agreed to.

The amendment (No. 3718), as modified, was agreed to.

Mr. McCAIN. Mr. President, while he is on the floor, I thank the Senator from Wyoming for his involvement in this issue. He won a significant victory. I believe that his knowledge of this issue and this technology is very helpful not only on this issue, but we will be addressing numerous other issues regarding these emerging technologies in the future and I appreciate his participation. We look forward to working with him.

Mr. President, I yield the floor.

Mr. ENZI. Mr. President, I also thank the Senator from Arizona and the Senator from Oregon for their cooperation and the careful work they have done on the bill with the acceptance of the amendments that I and a number of other people worked on. I appreciate that. I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I ask unanimous consent that I be able to proceed for 7 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

NEED FOR IMF FUNDING

Mr. BIDEN. Mr. President, I want to talk very briefly about the International Monetary Fund and the meeting that took place in Washington yesterday and today and will be taking place this week.

The eyes of the world are on Washington this week where the major international financial institutions search for answers to the most serious international economic crisis in years. As the world's most successful economy at the moment, the United States bears, in my view, an unavoidable responsibility, and that responsibility is to lead—lead in a search for answers to this crisis.

But as last year's Asian financial turmoil has evolved into a global financial crisis, to my great disappointment, the House of Representatives persists in what I must say—and I realize it is a strong word—in its irresponsible refusal to approve funding for the International Monetary Fund.

Twice this year the U.S. Senate has overwhelmingly supported the so-called U.S. quota, our share of a larger capital reserve for the IMF to pull threatened countries back from the brink of economic collapse. And twice this year, the House of Representatives has refused to provide the resources—at no cost to the American taxpayer—that the IMF needs to contain this widening crisis.

As President Clinton, Secretary Rubin, and our representatives to the international financial institutions in Washington this week urge their counterparts from the rest of the world to join us in controlling the crisis, the response that we are hearing is: "Show us the money."

There was a movie out that won an Academy Award, and in that movie, they said, "Show me the money." We have our Secretary of the Treasury and our President constituting an American plea for the rest of the world to act responsibly, and they are being told, "Show us the money." I want to point out that even if these other countries ante up their share, the IMF cannot take any action, absent us putting in our share, because you need an 85-percent vote.

Try as they might, how can we expect our leadership to lead the rest of the world with the albatross of the House's irresponsibility hung squarely around their necks? By failing to provide full funding of our participation in the IMF, we undercut our credibility and our authority, the credibility and the authority of the world's indispensable economic leader, in the most serious international economic crisis, at least of my generation and the Presiding Officer's.

Go down to these meetings, Mr. President—and I suggest this to all my colleagues—and the first thing you will hear from both our representatives and their counterparts from around the world is the complaint that the U.S. Congress is holding up one of the key elements they need to construct a response to the current crisis: the funds to protect vulnerable economies from financial collapse.

Every State in the Union—from States as far away as Washington and Delaware—every State in the Union has been hit by the decline in our agricultural and manufacturing exports because of the collapse of major markets for American goods around the world.

In my own State of Delaware, exports to Asia are down 20 percent compared to last year. That translates into jobs—Delaware jobs. The crisis that began last year in Asia has spiraled around the planet to Russia, a nuclear power facing economic and political collapse, and on to our closest trading partners in Latin America.

Mr. President, I do not believe it is an exaggeration to say that without the resources to support Brazil and other countries threatened by the wild swings of international capital flows, countries as important to us as Mexico, our third largest trading partner, could be the next to fall. And yet, in my view—and I realize some may disagree, even those who voted with me on funding of IMF in the Senate—in my view, the House continues to play politics with our obligation to the only international institution in the position to attempt to control the spread of economic meltdown.

Once again, I urge my colleagues in the House to come to their senses, to match the Senate in action and provide the U.S. share for the IMF quota increase. Time is running out, Mr. President. I hope what I read in the papers—what we all read in the papers—that the leadership in the House is about to release this money, about to vote for it, is true, because time is running out and there will be a price to pay for inaction.

I thank my colleagues. I yield the floor and suggest the absence of a quorum.

Mr. BUMPERS. Will the Senator withhold?

Mr. BIDEN. I withhold the request suggesting the absence of a quorum.

Mr. BUMPERS. Mr. President, I ask unanimous consent that I be permitted to speak as in morning business for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

OZONE LAYER

Mr. BUMPERS. Mr. President, my time left in the Senate is very brief. I have—I don't know—3, 4, at the most 5 days left of active duty on the Senate floor. I read a story in the paper this morning that gives me some satisfaction at least about some of the things I have done since I came here.

As I have said on the floor many times, there isn't anything as gratifying to a Senator as being able to stand on the floor and say, "I told you so."

When I first came here, I had read a story in some science magazine about two young physicists at the University of California at Irvine who had developed a theory that chlorofluorocarbons—a gas, normally found in aerosols and freon, which we use in our air conditioners and refrigerators—that these chlorofluorocarbons that we sprayed on our hair in the morning were wafting up into the stratosphere over a period of 12 to 15 years and destroying the ozone layer.

Before I came to the Senate, I thought "ozone" was a town in Johnson County, AR, which indeed it is. As a matter of fact I spoke at the high school graduation at Ozone last year. Nevertheless, this theory about something we were doing rather mindlessly that had almost cataclysmic consequences for the future intrigued me.

I had been put on the Space Committee when I came here. I did not ask for the Space Committee—it was a spacey committee. We abolished it a couple years after I came here, but I asked the chairman, Senator Moss of Utah, if I could hold some hearings on this theory and invite some atmospheric scientists to come in and testify. And he said, "I have no objection to that." Just ad hoc hearings. I certainly was not chairman of the subcommittee or anything else. I had just gotten here. He said, "I don't mind you doing that, but you need to get a Republican to sit with you in these hearings." So I recruited my good friend, Senator DOMENICI, from New Mexico.

Senator DOMENICI and I held nine hearings over a period of about 6 months. We had the best atmospheric scientists in the United States coming in and testifying—Dr. Rowland and Dr. Molina.

In those hearings, we probably had an average of 15 people in the audience. We had a television camera show up only once. When we finished, Senator DOMENICI did not feel quite as strongly as I did about abolishing the manufacturing of CFCs immediately, and so Senator Packwood and I took it on and brought it to the floor of the Senate to abolish the manufacturing of CFCs.

The chemical lobbyists in that lobby, through that door, were so thick I could hardly get to the floor to vote. And as I recall, we got a whopping 33 votes. I was arguing that if we were to cut off all manufacturing of CFCs right now, we still had 12 to 15 years of damage coming because that is how long it took from the time you sprayed your hair the morning we voted for it to get there and start destroying ozone.

You know all the arguments: This is untested; unproved; and we need to "study" it. That is the way you kill things around here—study it. And so that is the end of the story in 1975.

In 1985, the National Academy of Sciences, who we had assigned to do the study—10 years later—discovered that there was a developing hole in the ozone layer over Antarctica. And almost every year since then that ozone hole has grown bigger and bigger and bigger. We have phased out the manufacturing of CFCs—we do not use it anymore to spray our hair with; and we have substitutes for air-conditioning and refrigeration. Nevertheless, if you saw the Post this morning, the current estimates are that the ozone hole is deeper and wider than it has ever been, and has been growing almost every year since 1975 when we first discovered it.

The good news is, while scientists were shocked by the size of the ozone hole in their current study, they still believe that it can be stabilized by the year 2050. Well, let's hope so, because if it isn't, we can anticipate 300,000 additional cases of skin cancer.

I ask unanimous consent for 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. The ozone layer protects us from the ultraviolet rays of the Sun. The hole that we have already caused is going to cause thousands and thousands of cases of skin cancer before we even begin to stabilize the ozone layer.

Mr. President, I tell that little story with some satisfaction, because I daresay there are not many Senators who fought as many losing battles in the U.S. Senate as I have. So the only reason I tell that story is to let people know that sometimes when you cast unpopular votes you will be proven right. A lot of Senators get beat before they ever get a chance to be proven right.

I voted against more constitutional amendments than any Senator in the U.S. Senate. I am proud of every one of them. Rest assured, if they bring the flag desecration amendment up again, I will be happy to vote against that, too, for reasons I will not belabor now.

I see my good friend from Nevada wanting to speak. And I want to follow him on the matter pending before the Senate.

I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I say to my friend from Arkansas, the mere fact that you lose the vote on the floor does not mean that you lose the issue. And I say to my friend, I have been on the floor on the Senator's side, joining him on a number of causes which we have won and which we have lost; and I have been his adversary on a number of issues. I only wish that everyone had the Senator's demeanor, his ability and his sense of fairness. We would be a much better Senate, a much better country.

Mr. BUMPERS. I thank the Senator for his comments.

PRESCRIPTION CONTRACEPTION EQUITY AMENDMENT

Mr. REID. Mr. President, one of the distinct honors I have had is joining with the senior Senator from Maine in legislation that passed unanimously in this body and passed by an overwhelming margin in the House. It was an amendment we placed in the Treasury-Postal Service bill. It was a bill that we had introduced on the floor.

On this occasion, we decided to limit it just to Federal employees, which we did. We were elated that we were able to make great strides on this issue about which we felt so strongly. And we were contemplating the day when this bill would be signed and become law, because certainly it should. It passed over here unanimously; passed the House by an overwhelming margin.

I cannot speak for my colleague from Maine, but I am sure she feels just as disappointed as I am that this bill was stripped during the conference of the Treasury-Postal Service bill for really no reason. There was no debate among the conferees. It was just taken from the bill.

It would be easy for me to be partisan here and say this is some cabal by the Republicans. The fact of the matter is, Mr. President, this bill had bipartisan support. It was not a Democratic bill; it was not a Democratic amendment. It was not a Republican bill, a Republican amendment.

So I am here to complain about the process. This should not have happened. I am not going to point fingers as to why it happened, but it happened. I am tremendously disappointed.

What am I talking about? I am talking about a bill that the senior Senator from Maine and I have been working on for over a year, a bill that has 35 cosponsors in the Senate. It is a bill that recognizes that each year in this country there are 3.6 million unintended pregnancies. Forty-four percent of those pregnancies wind up with abortion. We find that insurance companies' health care providers routinely pay for abortions, vasectomies, tubal ligations, but they don't pay for the simple contraceptives that are approved by the Food and Drug Administration. There are only five. They don't pay for them.

We are saying it should be done. Women pay almost 70 percent more for health care than men. It seems unusual that when Viagra came out there was a mad rush to make sure that there was insurance coverage and every other kind of coverage for Viagra. We said at that time, the Senator from Maine and I, shouldn't we recognize the fact that women pay more, that insurance companies and health maintenance agencies do not pay for contraceptives and they should? We would save huge amounts of money. We would have healthier mothers and healthier babies. But it doesn't appear we are going to have it this year.

Our bill, called the Prescription Contraceptive Fairness Act, would apply this to Federal health care plans. There are 374 different health care plans under the Federal system that would cover these pills or the other four devices. It would save money.

It was killed in conference based upon some illusion that it had something to do with abortion. It has nothing to do with abortion. In fact, it would cut down on abortions. We are not forcing anyone to use contraceptives if they don't want to. We think they should be made available.

I was on a talk show. A woman called in and said, "I'm pregnant with our third child. I'm a diabetic. I would prefer I were not pregnant. I'm going to carry the baby to term but it could endanger my health. I hope the baby is healthy. My husband's insurance company does not cover contraceptives, and as a result of that, I'm pregnant because the stuff we used doesn't work very well." There are a multitude of stories just like this. Remember, there are 3.6 million unintended pregnancies in our country every year. Not every 10 years—every year.

I am embarrassed this was stripped from the bill for some reason that is not justifiable. The Federal Government serves as a role model for other employers across the Nation. This would have been a great start. It has received support from the American College of Obstetricians and Gynecologists. We have received little static from the insurance companies. Why? It creates an even playing field. If they all have to do the same thing, it doesn't hurt anyone. In the long run, people in the plans would save money.

Individuals who led the effort to strip this historic amendment from this Treasury-Postal Service bill are ignoring the will of both the House and the Senate. The House voted in favor of this amendment in July; the Senate accepted our amendment in July, also. I don't think it is fair. I think these individuals who feel they have the authority to ignore the decision already made in both Houses should consider why they did this. They had no good reason to do it. It has nothing to do with abortion, which is supposedly the reason it was done.

Politics aside, the real losers in this battle are the 1.2 million women covered under the FEHBP system who will continue to be denied the quality in health care coverage they deserve. People who fought behind closed doors to strip this amendment from the bill are using the anti-abortion statement as a defense. That is wrong. They shouldn't do that. This argument is unfounded.

As I said, this bill would lead to healthier mothers, healthier babies, and lower health care costs for all Americans. This legislation doesn't require any woman to use contraceptives, but it gives them a choice.

I see my colleague on the floor. It has been an honor for me to work with her on this legislation. She has been the driving force in getting this legislation to the point we thought we were.

I will yield the floor.

INTERNET TAX FREEDOM ACT

The Senate continued with consideration of the bill.

The PRESIDING OFFICER. The Senator from Nebraska.

AMENDMENT NO. 3783

Mr. KERREY. Mr. President, what is the order of business?

The PRESIDING OFFICER. The pending business is the McCain amendment No. 3783 to amendment No. 3719.

Mr. KERREY. Mr. President, I rise to speak against the McCain second-degree amendment which would extend the moratorium on States taxing Internet transactions from 3 years to 4. The Finance Committee had knocked it back to 2 years. We thought that was a reasonable length of time, given that we allowed 15 months to restructure the IRS; 18 months in getting the Medicare Commission to do its work. We believed that 2 years was a reasonable period of time. I was willing to go along with an extension of that from 2 years to 3. To go to 4 years is just much too long a time.

This is an issue where the Federal Government is intervening, saying the States can't raise taxes in a certain way. This is, in my judgment, without precedent.

I am willing to support this piece of legislation. I am willing to provide this moratorium so we can reach an understanding of how we will tax these transactions. But to allow 4 years—when we allow approximately 15 months in getting a commission to restructure the IRS, and 18 months in getting Medicare, Mr. President—is an unreasonable length of time.

I hope my colleagues will vote against the McCain amendment. We have been contacted by our Governors who are actually asking us to go along with the Finance Committee, which was 2 years. As I said, I'm willing to support a compromise to 3 years, but 4 years, given the amount of time we have allowed for some things that are more complicated than this, it is unreasonable and too lengthy a period of time.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I agree mostly with what the Senator from Nebraska said. I prefer a 2-year moratorium.

As the Senator from Nebraska stated, earlier this year, we passed a bill to reform the Internal Revenue Service. That legislation arose from the IRS Commission, which had a mere 15 statutory months to take a top to bottom look at, and make recommendations on, how to restructure the IRS. The entire commission process plus the legislating process resulted in a bill the President signed in just a shade over two years.

The point I am trying to make is this: Fair taxation of the Internet is not more complicated than restructuring the IRS. The bill to which the two amendments presently pending are offered, is a bill that provides a 2-year moratorium. Two years is enough. To allow any more time would do nothing but prove that the U.S. Senate is knuckling under to the Internet industry.

I see my good friend from Florida on the floor. He and I were both Governors. The Governors signed off on 2 years and now here is a letter saying they hope we will compromise on 3 years. "Do not adopt," they say, "the 4 year moratorium. Accept the compromise of 3 years."

I can tell you, Senator, if I were still Governor of my State, I would be squealing like a pig under a gate. Here a significant percentage of the State's entire tax base is being eroded, literally destroyed, by remote sellers, and the Internet industry and the Governors say let's compromise at 3 years. We are willing not to tax the Internet for a 3-year period. Think about that. In 3 years' time the estimates are that sales over the Internet will be $300 billion. We know that catalog sales right now are in excess of $100 billion.

The States are saying they are willing to forgo their right to tax the Internet for 3 years. If there were no catalog sales, if there were no Internet, $400 billion worth of goods would be sold by Main Street merchants in America on which they would pay a 4, 5, 6, or 7 percent sales tax to support their community schools, their fire departments, their police departments, their landfills, paving their streets and everything else that cities have to do.

Yes, if I were still Governor, trying to raise teachers' salaries, trying to making better schools, trying to increase the size of the police department and reduce crime in my community, if I were charged with the responsibility as mayor or Governor and had the responsibility of our children, our environment, all of those things, I would never sit still. I would never sit still for allowing these people to escape taxation. It has been a mystery to me for 7 years, as I have fought to try to give the States the right—not the mandate, but the right—to make remote sellers collect sales taxes. There are only 7,500 of them. The bill I offered would only affect 675 of them. We exempted everybody that did less than $3 million in business a year. I have been soundly defeated each time I have tried to correct this problem. And as I leave the U.S. Senate after 24 years, it is a mystery to me. Why do people vote to allow the tax bases in their States to be eroded when their Governors and their mayors and local officials are scrounging for money to improve schools and everything else?

My State has a sales and use tax on all mail-order sales coming into my State. Do you know how much we collect on it? Zero. Do you know why? Because the tax is on the purchaser. I promise you there is not 1 in 10,000 people in the State of Arkansas that even know that the tax exists. Of course, they don't pay it. Literally millions of dollars of goods come into my State every year on which not one cent of tax is collected, even though it is owed. But it is owed by the person who bought the merchandise, and he or she doesn't even know the tax exists.

When we try to say to the States—Senator GRAHAM, Senator DORGAN and myself—that we are going to help you, we want to honor what you are trying to do, they have all championed my bill. They haven't been very effective, but the Governors and mayors have all championed my legislation every year I have offered it. But the U.S. Senators sit up here, with all their arrogance, and say to their legislatures, Governors and mayors: We don't care what you want, we will decide what you get. For 7 years, so far, and much longer than that, we have said you get nothing. We are not going to let you tax mail-order sales. So quit talking about it. You might as well quit talking about it. I think 30 or 35 votes is my high-water mark in trying to address what I consider a terrible problem.

The Presiding Officer heard me talk a while ago about how the first thing I did when I came here was to try to stop the manufacturing of CFCs that are destroying our ozone. We all know the ozone is being systematically destroyed, but back then we had to study it. It was just a theory. As I said, the best way to kill something in the U.S. Senate is to say let's study it. If you want to never hear of something again, get an amendment adopted that says, no, you can't do that anymore, you have to study it.

That is what we are doing here. We are saying to the mayors and Governors and legislatures of our respective States—45 of the 50 States already have a tax, but it is on the consumer and nobody knows it, and they are desperate. The reason I mention that again is because I will be sitting down in Arkansas, or someplace, a few years from now and this thing will crescendo and will reach a level where the Senate won't have any choice but to deal with it and to give the States that right, because if they don't their schools are going to start crumbling, their police departments are going to go to pot, as are their fire departments.

Did you see in the paper this morning where Amazon.com's stock is selling for over $100 a share, and they haven't made a nickel profit yet? It is estimated they are selling two-thirds of all the books sold over the Internet, and their sales are growing exponentially. I have a lot of friends that never buy a book from a local bookstore anymore. They buy it over the Internet. Not only do they get a little discount, they pay no sales tax on it. So this morning's paper says Amazon.com has become so terrific and so powerful that a publishing house is buying Barnes & Noble's on-line system. They have a third and Amazon.com has two-thirds. The publishing house knows that they are going to be put out of business if they don't get with the program, because Amazon.com is going to be selling all the books in the country. So they are buying Barnes & Noble's on-line book service.

That is good for the consumers, but it is terrible for State and local government. Yesterday afternoon, I offered an amendment to say at least make the Internet state that the merchandise you buy may be subject to local taxation. You think about that. Senator

DORGAN voted with me, Senator GRAHAM voted with me, and we got 27 votes. They don't even want the people to know that there is a sales tax on which the purchaser is liable.

Then, this morning, we finally won a little battle. There was an amendment here that I could not believe that said you can't study this issue. Think of that. Normally you use studies to kill things. This morning, we get an amendment saying you can't even study it. I am telling you, I don't know what the Internet and these mail-order catalog houses have on the Senate, but it must be something. Larry Flynt ought to be offering a million dollars to find out the answer to that one. So here we are standing around debating an issue, the merits of which are not even in question. Everybody knows that we ought not to be giving a free ride to the to people who are selling merchandise by the hundreds of billions of dollars over the Internet and eroding the tax base of almost every State in the Nation. I am for computers; I am for technology, but I am not for allowing them to destroy the tax base of the states.

Mr. DORGAN. Will the Senator yield for a question?

Mr. BUMPERS. Yes, I am happy to.

Mr. DORGAN. Mr. President, I have listened to the Senator from Arkansas, and I am reminded again why we are going to miss him when he is gone. He fights hard for the things he feels strongly about, and this has been one of them for many years.

This vote coming up, probably in 20 minutes, is a very simple vote. This issue started with the notion that people said, gee, we must do something here to provide a shield so that nobody would impose punitive taxes on the Internet and retard the growth of the Internet. Lord, have you ever seen anything grow like the Internet and Internet commerce? That is mushrooming so fast you can't get your arms around it. And they are saying we have to be sure that we protect them.

Well, in the matter of protecting them, they have created a moratorium on the ability of State and local governments to impose taxes. The vote that we are going to have in a moment is regarding how long that moratorium is going to last. The committee on which I serve reported a bill out that said let's have a moratorium for 6 years. I didn't vote for that. The House of Representatives said let's have a moratorium for 3 years. The Senate Finance Committee said let's have a moratorium for 2 years. The underlying bill will now say 3 years. The amendment we are going to vote on says no, that is not enough; we need a 4-year moratorium. The Senator from Arkansas will be fishing in Arkansas, and at the end of 4 years we will have folks—I guarantee it—who will stand here on the floor of the Senate, and they will say, "We have got to have an extender. We have to extend this moratorium." How long? Another 4 years. How about permanently? Make it a permanent extender. That is exactly what is going to happen.

We ought to decide as a Senate 3 years—no more. And at the end of 3 years we are done. If we can't figure it out by the end of 3 years, there is something wrong with us.

I ask the Senator from Arkansas. Does he agree that this ought not be a circumstance where we create a tax system that says, "Oh, by the way. We will favor folks doing this over a computer," which means we will penalize the folks that hire the folks on Main Street who rent the building, put the inventory in, open their door early in the morning, and hold themselves open for business. And we say to them that we will penalize them because the other folks don't have to comply with the tax laws when they come in and compete with them.

That is what this fight is about. The amendment here is going to be 4 years or 3 years. There will be a lot of folks who come to the well of the Senate and say, "What is the issue?" The issue is that for every, I assume, 4 years, or for every 3 years. But what does good sense tell us ought to be the case here? Three years maximum, and then no more. Then let's have a tax system that is fair to everybody regardless of how they are selling—off the Internet, catalogs, or Main Street. Let's be fair with respect to this tax system of ours.

Let me conclude by saying I worked on this issue when I was in the House of Representatives on the Ways and Means Committee for 10 years. I know what the problem is. You start talking about this issue, and the first thing you know you have a million friends—not friends. You get a million postcards, because everybody who buys from a catalog seller is told to send a postcard to this person, or that person, and they are told that person is trying to increase your tax. Of course, that is not true. Nobody is talking about any additional taxes. There is no increase in tax. This is a different issue—the moratorium. So you get a million cards out there, or 10 million cards that affects all of the interests that are voting.

Mr. President, again, let me say to the Senator from Arkansas that his dedication to this issue is important, and he will leave a long and lasting impact on the Senate. I think the most immediate impact and the most immediate presentation now is a good vote so we can at least turn back the 10 years. I think that would be a good public service.

Mr. BUMPERS. Mr. President, the distinguished Senator from North Dakota, my good friend, has been a steadfast ally with me in this battle for many, many years, because the State of North Dakota took this case to the Supreme Court. And the Supreme Court said we are reversing ourselves in previous decisions. If the Congress wants to give the right to the States to collect this tax, they can now do it. But Congress has to do it. Congress has steadfastly refused to do what the Supreme Court told them they had the authority to do.

I will be sitting down in Arkansas fishing 3 years from now, and I assume that is probably the number of years we are going to adopt in a few minutes. I am not going to vote for it. I am not going to vote for 4 years. I am not going to vote for the bill either. It has a 2-year moratorium. As far as I am concerned, that is enough.

But having said that, I will be down there fishing. I will be watching C-SPAN. I will smile to myself when somebody gets up as though it is the most original idea that was ever created, and says, "Mr. President, I send an amendment to the desk that would create a commission to study taxation of the Internet. We have had 3 years to study it, but we are really not quite finished and we don't know what havoc this is going to create. We need to get the National Academy of Sciences, the Council of Economic Advisers, or the GAO. We need somebody to study this a while longer." They will buy it again. I can tell you that 3 years from now the makeup of this place will not change that much. They will buy it again, and we will extend it again. But just like the ozone layer, the time will come when everybody knows that you can't do it anymore, because the States and the cities can't afford to let this go any longer. They are barely making ends meet the way it is. That is the way it goes. If you do not learn anything in 24 years here, you will learn the way the game is played.

Mr. President, I am pleased to be able to take a firm stand on an issue that I felt strongly about for so many years. As I say, I don't intend to vote for a second-degree amendment which would take it to 4 years. I don't intend to vote for the second-degree amendment that will take us to 3 years. The bill, as it came out of committee and came to this floor provided for a 2-year study. That is too long. They don't need 2 years. I am going to vote for the bill because 2 years is much too long anyway.

I don't believe there ought to be a tax exemption for anybody who is competing with Main Street merchants.

Let me add one further thing. The Senator from North Dakota piqued my memory on this. Outside of being the entire Charleston South Franklin County Bar Association, I was also a Main Street merchant. I can tell you even then, 40 years ago, my biggest competitor was the catalog. I detested it. I was a Main Street merchant having to organize the Christmas parade, be president of the Chamber of Commerce, and trying to attract industry into town so we could create a few jobs. I paid sales tax on every dime I sold, all of which went for the schools of our State and our city, which went to the police department, which went to the fire department, which went to help us pave our streets, take care of our landfill, dispose of our garbage.

Those are the things that Main Street merchants do in this country. We are saying to them and the National Federation of Independent Businesses—NFIB. I don't want to get started on them. As far as I am concerned, they represent big business, and not small business. But I think they are for this bill. It is the most damaging thing to Main Street merchants I can imagine. I know. I used to be one.

I yield the floor.

Mr. McCAIN. Mr. President, I ask unanimous consent that the time until 5:30 be equally divided for debate on the pending McCain-Wyden amendment, and at the conclusion of the debate the Senate proceed to vote on or in relationship to the amendment.

I further ask that no second-degree amendments be in order prior to the vote.

Mr. GRAHAM. Mr. President, is there currently a limitation on debate on this amendment?

The PRESIDING OFFICER. There is not.

Mr. GRAHAM. I object to the unanimous consent.

The PRESIDING OFFICER. Objection is heard.

The Senator from Arizona controls the floor.

Mr. McCAIN. Mr. President, I ask the Senator from Florida what he wants.

Mr. GRAHAM. I want just—Mr. President, I would also settle——

The PRESIDING OFFICER. The Chair did not hear the Senator from Florida.

Mr. McCAIN. I ask unanimous consent to engage in a colloquy with the Senator from Florida.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. What time agreement will the Senator from Florida agree to?

Mr. GRAHAM. I would like to complete my remarks, and then we will consider what will be an appropriate time limitation.

Mr. McCAIN. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Thank you, Mr. President.

Mr. President, I go back to the same point that I have made on two or three occasions in the debate of this legislation. That is to remind us what we are doing. We are doing quite an exceptional thing. We are telling to 50 States and multiple local jurisdictions that their legal authority to establish what is the appropriate fiscal policy for their citizens is going to be preempted. We are telling them for this purpose that they will be precluded from exercising a judgment that they might otherwise feel is in the interest of their residents and citizens.

We are doing this in order to provide a pause, a time-out, a brief period in which to sort out the application of public policy, particularly as it relates to tax policy, and the new technology of the Internet.

I think that we ought to accept the fact that the presumption should be that that preemption of our brethren at the State and local level should be respectfully as brief as possible. We should not easily or excessively indulge in this kind of behavior, particularly when the consequences of this behavior are so obvious and perverse.

I have used the analogy, and I will use it again, of what we are doing to that Main Street merchant, as if to say that Main Street had a north side and a south side. On the north side, all the people who come to buy their hardware, their clothes, their shoes would be responsible for paying the legislated State and local sales tax, and they would be responsible for collecting it and then remitting it back to the appropriate tax collection authorities. That is not adding a new tax; that is the administration of a tax which the Democratic processes in Little Rock or Tallahassee or Salem or any other State capital have prescribed as a means of funding the essential responsibilities of local and State government. We are saying that on the north side that collection has to take place. But on the south side, which is a virtual south side because it doesn't really exist other than in cyberspace, because it is reached through the Internet, there is not such a responsibility to collect on exactly the same hardware, shoes and clothing that we now ask the north side merchant to collect.

That is a fundamentally unfair proposition. We would be shocked and appalled if someone were to suggest that as a de novo proposition. But that is what we are doing with this Internet Tax Freedom Act.

The second consequence that we are accepting as a result of this legislation is that we are about to drive a major hole into the ability of local governments and States to finance their most basic responsibility—police who secure our neighborhoods, fire officials who protect us in times of emergency, and most specifically our schools. I will talk in a moment about what has happened to education during this 105th Congress, but I suggest that of all the things we have done or we have not done, the most important education bill that we are going to consider in 1998 is the one that is before us today.

Now, the question that I ask, and I hope that we receive a response, is why 4 years? I was reticent to object to the unanimous consent to call for a vote at 5:30, but I felt that we ought to allow enough time for the proponents of the 4 years to make the strongest case they could to overcome what I think should be the very strong presumption against making this moratorium excessive, against lengthening by an unnecessary day, week, month or year the time in which we will allow this unfairness in the marketplace and this threat to the ability of State and local governments to carry out their fundamental functions to remain in existence.

Let's talk about what had been some appropriate times for major tasks. Well, we find in Genesis, chapter 1 and chapter 2, that God created Heaven and Earth in 7 days: "In the beginning, God created the Heaven and the Earth, and the Earth was without form and void and darkness was upon the face of the deep, and the spirit of God moved upon the face of the waters." And 6 days later Earth, the oceans, the mountains, the valleys, the streams, all of the fishes, the animals, and finally man and woman themselves had been created by God—in 7 days, according to Genesis, chapter 1 and 2. And yet it is going to take us 48 months to figure out what the appropriate tax policy should be for bits and bytes and all of the terminology of the Internet.

We have some more recent examples that have already been cited. Senator KERREY said the commission which was responsible for looking at the Internal Revenue Service, clearly one of the most complex agencies administering one of the most complex set of laws that man has ever known, was able to conduct its work in 15 months—3 months less than its original charter, and its work was so good that it formed the basis of the Congress this year enacting the most significant reform of the Internal Revenue Service since it was created. So the fact that they had an 18-month charter to accomplish this very complicated task did not degrade the quality of the ultimate recommendations and the receptivity of Congress to those recommendations.

We have currently at work a commission studying Medicare. That commission, which was created by this Congress in 1997, was given 18 months to do its work. Medicare is one of the largest and most complex programs that this Congress has ever created. It serves to finance the health care of over 35 million Americans. It is a significant part of a health care industry which represents approximately one-seventh of our gross domestic product. We decided that 18 months was the appropriate time to study the complex Medicare system, and yet it is going to take us 4 years, according to this amendment, to decide what should be the appropriate way for the State of North Carolina to levy taxes on Internet activities that affect the citizens of the State of North Carolina.

The almost absurdity of this 4-year period leads one to suspect—and we are not by nature a suspicious, certainly not a cynical people, but to suspect—that there are motivations here other than allowing a sufficient amount of time, the amount of time that we normally anticipate would be required to get a undergraduate degree from one of our great colleges or universities, why it would take 4 years in order to study this issue.

Let me suggest what I think some of the motivations might be. One is that it is going to provide an extended period of freedom from taxation during which there will be new technological applications of the Internet which will have the effect of further widening the gap between Main Street and cyberspace and further exposing local and State government to an erosion of their tax base.

I spoke yesterday about the new technology of Internet telephony, using the Internet as the means of making long distance telephone calls rather than the traditional line system that we use today. The effect of that is going to be that that Internet telephony will now escape both Federal as well as State taxation for the period of this moratorium.

I read a statement yesterday by a research group which estimated that by early in the next century potentially 10 percent or more of long distance telephone calls would be made through Internet telephony.

A second reason for the 4 years might be to develop a political coalition. There are going to be a lot of folks who are going to find it is awfully nice and convenient to not collect this tax. It is awfully nice to have your sales explode, as it was stated that Amazon.com's book sales are exploding. They surely ought to explode. They have a 6- or 7-percent market advantage over that independent bookseller in Fayetteville, AR. They ought to beat the pants off the bookseller. And now we have the situation where the publishers, not going through any intermediary, are going to be selling directly on line. That is great for the American consumer. They are going to have access to a lot of literature and other books at a very attractive price, but the price that society is going to pay is imbalance in the commercial marketplace and a degradation of our police, fire and educational services.

We, also, as a consequence of this, are going to frustrate local choice. I said this morning that the morning newspaper was filled with articles which are relevant to this debate. This is one that might be of particular interest to our good friend from Arkansas, Senator BUMPERS, in which there is, apparently in Arkansas today, an effort being made—and, by the polls, a pretty effective effort—to repeal the property tax in Arkansas and to substitute for the property tax a significant increase in the sales tax. It appears on page A-3 of the Washington Post of October 7 under the headline, "Grass-roots Group Takes Aim At Arkansas Property Tax."

I don't know whether this is a good idea or bad idea, for Arkansas to be suggesting this. Apparently the Governor and a lot of other folks think it is a bad idea. But I think we might agree, whether the idea is good or bad, that it ought to be an Arkansas idea, as to how Arkansas wants to organize its State and local taxation. We are about to say in this bill that we are going to make it more difficult for States to have that range of choice. As we erode the base upon which the sales tax is applied, the opportunity for States to do what Arkansas is considering, substituting sales for property tax, is going to be much more difficult because there will be less to substitute with.

So we are embarked along a path which is not just a temporary one but has the potential of driving a permanent wedge between the Federal Government and States as we rather casually preempt their traditional political choices of how to organize their tax base.

But those consequences, I think, pale in terms of the final one to which I have already alluded. That is that this is the most important education bill of 1998.

Mr. President, 1998 started with a lot of enthusiasm for education. The President in his State of the Union talked about reducing class size, particularly in the primary grades, so that children would not have to go to excessively overcrowded classrooms. That was an issue that struck home directly to me.

My third daughter, Suzanne Gibson, was a wonderful kindergarten teacher. The last year she taught kindergarten at a new elementary school in Miami, Dade County, FL, there were 38 students in her class—38 students in a kindergarten class. My daughter is a wonderful teacher. She now is the mother of triplets, so she is getting to apply what she learned with those 38 students in her class, but I defy anyone to educate thirty-eight 5-year-olds. You may provide custodial services but you do not educate thirty-eight 5-year-olds.

So we started this year in Washington with a hope and some expectation that the Federal Government might reach out in a hand of friendship and partnership to States and school districts and millions of young boys and girls, and help them with their educational needs. We did not pass the bill that would have allocated an additional 100,000 teachers with Federal assistance in order to reduce class size at the primary grades. Although we had a good experience with a similar action with community police, where we are helping to finance 100,000 community police in a very positive contribution to enhance law enforcement, we did not do that as it relates to primary education.

Then the President had another proposal for the Congress to assist in helping school districts be able to build enough schools and maintain the old schools so that we could have the classrooms that would be required to significantly reduce class size, particularly in the primary grades. We did not pass that bill either.

So, now on the 7th of October, with some 2, 3, or 4 days left in this session, we are coming to the most important education bill we are going to pass. What is it going to do? Is it going to help States and local school districts carry out their most important responsibility? No. What it is going to do is to undercut their existing revenue and make it even more difficult to even keep class sizes down to the 38-to-1 level in the kindergarten of Miami, Dade County, FL.

So, I believe there is absolutely no justification for making this moratorium a day longer than is required to carry out what is a fairly straightforward task. This certainly is no reason to argue it is going to take 4 years, but I look forward to the argumentation that maybe will persuade me as to why 4 years are required for this task when God created Heaven and Earth in 7 days and we reformed the IRS in 15 months.

Mr. President, I want to vote for this bill because I believe that there is a persuasive argument that a brief moratorium, with the time used by an intelligent group of people who represent all the interests involved, and against a charter which allows them to look at all the relevant improvements, could play a useful purpose. But I could not support a 4-year moratorium, with all the pernicious effects it would have, without any contribution to a greater understanding of the issues involved in Internet taxation.

So, I urge defeat of this amendment. I urge adoption of the position taken, thoughtfully, by the Senate Finance Committee, which was for a 2-year study. If that is the provision, I will support this legislation. Otherwise, I fear for the consequences.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I ask unanimous consent that there be remaining 10 minutes equally divided between the Senator from Florida and the Senator from Oregon, and that following that there be a vote on the McCain amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oregon.

Mr. WYDEN. Mr. President, the McCain-Wyden amendment is, of course, a compromise. The bill that came out of the Senate Commerce Committee was a 6-year bill. The bill that came out of the Finance Committee was a 2-year bill. So there was an effort to bring the parties together around 4 years. But that is not what is really important. What is really important is the timetable that is going to be essential to do this job right.

Mr. President, 18 months after the date of enactment, the commission is going to make its recommendations—May of 2000. The moratorium under the finance bill ends in October of 2000. That means that there is less than 6 months to act on the recommendation before the timeout would end. Some States, a number, have legislatures that are not meeting in the year 2000. I am sure my friend and colleague, Senator Graham, would be interested in knowing that Arkansas, Maine, Minnesota, Montana, Nevada, North Carolina, Oregon, Texas, North Dakota, and Vermont all have legislatures that do not meet every year. So we are going to have a situation, it seems to me, where there will be essentially no time in order for a legislature to thoughtfully look at these issues.

The Senator from Florida says that Chairman McCain and I are ramming this bill through the U.S. Senate. We have worked on it, now, for 18 months. We have made more than 30 separate changes in an effort to try to address the concerns of the Senator from Florida. There has been discussion about how this would create a tax haven on the Internet. Let us be very clear about what happens during the moratorium. If a person walks into a store and purchases a sweater in a jurisdiction where there is a 5 percent sales tax, if they order that sweater over the Internet, they pay exactly the same tax, exactly the same fee—technological neutrality.

The Senator from Florida says that the apocalypse is at hand because there is going to be a huge reduction in revenue at the State level. When we began this bill with legislation that was much more encompassing than the one we are considering now, the Congressional Budget Office could not even initially score it. It then came back with a projection of less than $30 million.

Nothing is being preempted here. The States and localities are allowed to treat the Internet just as they would treat anything else.

At the end of the day, the kinds of people who will benefit from this are the senior citizens in Florida, for example, the home-based businesses in Oregon, people who are trying to use the Internet as a way to advance the chance to build a small business and particularly see the Internet as a great equalizer.

They are not going to be in a position, those home-based businesses, to compete with the corporate giants. But if we create across this country a crazy quilt of State and local taxes where each jurisdiction goes off and does its own thing, it is going to be very difficult for those entrepreneurs, senior citizens, handicapped and disabled people to go out and hire the accountants and lawyers that would be necessary to carry out the vision of the Senator from Florida of the Internet. What we need to do is come up with some sensible policies, and it is going to take some time.

If somebody from Florida, for example, orders Harry and David's fruit in Medford, OR, using America Online in Virginia, pays for it with a bank card in California, and ships it to their cousin in New York, we are talking about a completely different kind of commerce than we have seen in the past. Let us take the time to do it right. Without the amendment that the Senator from Arizona and I are offering—

Mr. GRAHAM addressed the Chair.

Mr. WYDEN. I believe I have the floor.

The PRESIDING OFFICER (Mr. Abraham). The Senator has the floor and has approximately 35 seconds remaining.

Mr. WYDEN. Thank you, Mr. President.

Without the amendment that the Senator from Arizona and I are offering, all of those legislatures that I mentioned specifically, which we talked about initially more than an hour ago, are going to have to act immediately in order to carry out the spirit of this commission. I can't believe that is what the Senate wants, and I am very hopeful that the Senators will join groups like the National Retail Federation, the Information Industry Association, the Home Business Association, and scores of other small business groups supporting the amendment.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Florida.

Mr. GRAHAM. Will the Senator yield for a question?

Mr. WYDEN. I will be happy to.

Mr. GRAHAM. Mr. President, I ask unanimous consent for 2 minutes for the purpose of a colloquy.

The PRESIDING OFFICER. The Senator from Florida has 5 minutes allotted to him. Does he wish to have the additional 2 minutes allocated to the Senator from Oregon to be used for questions?

Mr. GRAHAM. I do.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. The Senator from Oregon has 2 minutes for the purpose of a question.

Mr. GRAHAM. Mr. President, I say to the Senator from Oregon, in the effort to describe the equality of treatment, he used the example that if a person went into a local bookstore and bought a book, they would pay and the bookstore seller would be responsible for collecting and remitting the appropriate State and local sales tax.

Mr. WYDEN. If the Senator will yield for an answer, if that is current policy in that State. I know that the Senator from Florida is very anxious to resolve mail-order and catalog sales tax questions. The bill does not resolve that.

Mr. GRAHAM. The answer to that question is yes, the merchant would be responsible for collecting and remitting the sales tax.

If the same sale were made on Amazon.com, would Amazon.com be responsible for collecting and remitting the sales tax?

Mr. WYDEN. Certainly that would be the case if it was done instate where you had a current policy with respect to sales tax. But if it applies to other States, if other States have a particular tax policy, if they do business involving the Internet, we apply exactly the same rule.

Mr. GRAHAM. If a person in Florida has a sales and use tax, could it require Amazon.com to collect from a Florida resident, who ordered a book in Seattle, the Florida sales tax?

Mr. WYDEN. I am not up on Florida's policy, but we do not do anything different with respect to the Internet than we do in any other area. The hearing record in the Commerce Committee—I will be glad to share it because I cited many of those examples—and the Finance Committee makes it very clear that the Internet gets no preference, the Internet suffers no discrimination, and that is the point of the bill.

Mr. GRAHAM. The answer is no, that the discrimination is the fact, that currently the local Main Street merchant is required to collect the tax, but the distant remote Internet seller is not, and we are about to make that a 4-year institutionalized—

Mr. WYDEN. Will the Senator yield?

The PRESIDING OFFICER. The 2 minutes have expired.

Mr. WYDEN. I ask unanimous consent that the Senator have 1 additional minute. I want to engage him in a question.

The PRESIDING OFFICER. The Senator from Florida has 5 minutes.

Mr. GRAHAM. I yield another minute for the question.

Mr. WYDEN. I say to my friend from Florida, what you described is your desire—and I know it is sincere—to overturn the Quill decision. What we are saying in this bill is that we are trying to deal with a different set of economic issues, and if we don't deal with these questions of Internet policy now, I and the Senator from Arizona submit that we will be dealing, just as we are now with the mail-order questions, with these issues with respect to the Internet. Let us try to get out in front of these issues facing the digital economy rather than duplicating the mistakes we made with respect to mail-order and catalog sales.

I thank the Senator for the time.

Mr. GRAHAM. In answer to the question, the Quill opinion gave to the Congress the responsibility to authorize the States to require the distant seller to collect and remit the tax. Thus far, as Senator BUMPERS' long, valiant, but thus far unsuccessful attempts illustrate, Congress has been unwilling to do so. I suggest that indicates what is the likely political result of this new issue of how we are going to tax the Internet.

The PRESIDING OFFICER. Under the previous order, the Senator from Florida has an additional 3 minutes 20 seconds if he wishes to use that at this time. Is the Senator prepared to yield back his time?

The Senator from Florida has 2 minutes remaining. Does he wish to yield back his time?

Mr. GRAHAM. Mr. President, I have no extended remarks. I still don't think we have heard the answer to the question of why does it take 4 years to do this study. The fact is that when this report is available, whatever time, the principal recipient of that report will not be the individual 50 State legislatures, it is going to be us, because in order to implement the recommendations that would allow States to hold the distant seller responsible for collection, we know it is going to require action by the U.S. Congress.

We are in session just about all the time. So whatever date we set for this report to be submitted, we will likely be here, or close to being here, to receive it and to commence the process to deal with it.

I still have not heard any rationale as to why we should continue beyond the minimal time necessary for the inequity of the Main Street merchant and the vulnerability of State and local governments' capacity to finance their police, fire, and schools that an extended moratorium implies.

Thank you.

The PRESIDING OFFICER. The Senator from Florida still has 1 minute 30 seconds.

Mr. GRAHAM. I yield back the remainder of my time.

The PRESIDING OFFICER. The remainder of time has been yielded back or used on both sides.

Mr. McCAIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the McCain amendment No. 3783. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Pennsylvania (Mr. SPECTER) is necessarily absent.

Mr. FORD. I announce that the Senator from Ohio (Mr. GLENN) and the Senator from South Carolina (Mr. HOLLINGS) are necessarily absent.

The PRESIDING OFFICER (Mr. FAIRCLOTH). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 45, nays 52, as follows:

[Rollcall Vote No. 305 Leg.]

YEAS—45

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Boxer
Burns
Campbell
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Dodd
Domenici
Faircloth
Grams
Gregg
Hagel
Hatch
Inouye
Kerry
Kyl
Lautenberg
Leahy
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Murray
Nickles
Robb
Santorum
Shelby
Smith (NH)
Smith (OR)
Stevens
Torricelli
Warner
Wyden

NAYS—52

Biden
Bingaman
Bond
Breaux
Brownback
Bryan
Bumpers
Byrd
Chafee
Cleland
Collins
Conrad
Daschle
Dorgan
Durbin
Enzi
Feingold
Feinstein
Ford
Frist
Gorton
Graham
Gramm
Grassley
Harkin
Helms
Hutchinson
Hutchison
Inhofe
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kohl
Landrieu
Levin
Mikulski
Moseley-Braun
Moynihan
Reed
Reid
Roberts
Rockefeller
Roth
Sarbanes
Sessions
Snowe
Thomas
Thompson
Thurmond
Wellstone

NOT VOTING—3

Glenn
Hollings
Specter

The amendment (No. 3783) was rejected.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. DORGAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

AMENDMENT NO. 3678, AS MODIFIED

Mr. McCAIN. Mr. President, I ask unanimous consent that amendment No. 3678, the Abraham amendment, be modified, and I send the modification to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be so modified.

The amendment (No. 3678), as modified, is as follows:

At the end of the bill add the following new title:

SEC. ___01. SHORT TITLE.

This title may be cited as the "Government Paperwork Elimination Act".

SEC. ___02. AUTHORITY OF OMB TO PROVIDE FOR ACQUISITION AND USE OF ALTERNATIVE INFORMATION TECHNOLOGIES BY EXECUTIVE AGENCIES.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

"(vi) the acquisition and use of information technology, including alternative information technologies that provide for electronic submission, maintenance, or disclosure of information as a substitute for paper and for the use and acceptance of electronic signatures.".

SEC. ___03. PROCEDURES FOR USE AND ACCEPTANCE OF ELECTRONIC SIGNATURES BY EXECUTIVE AGENCIES.

(a) IN GENERAL.—In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106) and the amendments made by that Act, and the provisions of this title, the Director of the Office of Management and Budget shall, in consultation with the National Telecommunications and Information Administration and not later than 18 months after the date of enactment of this Act, develop procedures for the use and acceptance of electronic signatures by Executive agencies.

(b) REQUIREMENTS FOR PROCEDURES.—(1) The procedures developed under subsection (a)—

(A) shall be compatible with standards and technology for electronic signatures that are generally used in commerce and industry and by State governments;

(B) may not inappropriately favor one industry or technology;

(C) shall ensure that electronic signatures are as reliable as is appropriate for the purpose in question and keep intact the information submitted;

(D) shall provide for the electronic acknowledgment of electronic forms that are successfully submitted; and

(E) shall, to the extent feasible and appropriate, require an Executive agency that anticipates receipt by electronic means of 50,000 or more submittals of a particular form to take all steps necessary to ensure that multiple methods of electronic signatures are available for the submittal of such form.

(2) The Director shall ensure the compatibility of the procedures under paragraph (1)(A) in consultation with appropriate private bodies and State government entities that set standards for the use and acceptance of electronic signatures.

SEC. ___04. DEADLINE FOR IMPLEMENTATION BY EXECUTIVE AGENCIES OF PROCEDURES FOR USE AND ACCEPTANCE OF ELECTRONIC SIGNATURES.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106) and the amendments made by that Act, and the provisions of this title, the Director of the Office of Management and Budget shall ensure that, commencing not later than five years after the date of enactment of this Act, Executive agencies provide—

(1) for the option of the electronic maintenance, submission, or disclosure of information, when practicable as a substitute for paper; and

(2) for the use and acceptance of electronic signatures, when practicable.

SEC. ___05. ELECTRONIC STORAGE AND FILING OF EMPLOYMENT FORMS.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106) and the amendments made by that Act, and the provisions of this title, the Director of the Office of Management and Budget shall, not later than 18 months after the date of enactment of this Act, develop procedures to permit private employers to store and file electronically with Executive agencies forms containing information pertaining to the employees of such employers.

SEC. ___06. STUDY ON USE OF ELECTRONIC SIGNATURES.

(a) ONGOING STUDY REQUIRED.—In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106) and the amendments made by that Act, and the provisions of this title, the Director of the Office of Management and Budget shall, in cooperation with the National Telecommunications and Information Administration, conduct an ongoing study of the use of electronic signatures under this title on—

(1) paperwork reduction and electronic commerce;

(2) individual privacy; and

(3) the security and authenticity of transactions.

(b) REPORTS.—The Director shall submit to Congress on a periodic basis a report describing the results of the study carried out under subsection (a).

SEC. ___07. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with procedures developed under this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures, shall not be denied legal effect, validity, or enforceability because such records are in electronic form.

SEC. ___08. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an executive agency, as provided by this title, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. ___09. APPLICATION WITH INTERNAL REVENUE LAWS.

No provision of this title shall apply to the Department of the Treasury or the Internal Revenue Service to the extent that such provision—

(1) involves the administration of the internal revenue laws; or

(2) conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. ___10. DEFINITIONS.

For purposes of this title:

(1) ELECTRONIC SIGNATURE.—The term "electronic signature" means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of the electronic message; and

(B) indicates such person's approval of the information contained in the electronic message.

(2) EXECUTIVE AGENCY.—The term "Executive agency" has the meaning given that term in section 105 of title 5, United States Code.

AMENDMENT NO. 3721, AS MODIFIED

Mr. McCAIN. Mr. President, I send to the desk a modification to amendment No. 3721.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment (No. 3721), as modified, is as follows:

On page 17, beginning with line 18, strike through line 21 on page 19 and insert the following:

(a) ESTABLISHMENT OF COMMISSION.—There is established a commission to be known as the Advisory Commission on Electronic Commerce (in this title referred to as the "Commission"). The Commission shall—

(1) be composed of 19 members appointed in accordance with subsection (b), including the chairperson who shall be selected by the members of the Commission from among themselves; and

(2) conduct its business in accordance with the provisions of this title.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commissioners shall serve for the life of the Commission. The membership of the Commission shall be as follows:

(A) 3 representatives from the Federal Government, comprised of the Secretary of Commerce, the Secretary of the Treasury, and the United States Trade Representative (or their respective delegates).

(B) 8 representatives from State and local governments (one such representative shall be from a State or local government that does not impose a sales tax and one representative shall be from a state that does not impose an income tax).

(C) 8 representatives of the electronic commerce industry (including small business), telecommunications carriers, local retail businesses, and consumer groups, comprised of—

(i) 5 individuals appointed by the Majority Leader of the Senate;

(ii) 3 individuals appointed by the Minority Leader of the Senate;

(iii) 5 individuals appointed by the Speaker of the House of Representatives; and

(iv) 3 individuals appointed by the Minority Leader of the House of Representatives.

UNANIMOUS-CONSENT AGREEMENT—H.R. 10

Mr. McCAIN. Mr. President, I ask unanimous consent that the Senate resume consideration of H.R. 10 at 5 p.m., Thursday, October 8.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERNET TAX FREEDOM ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 3719, AS MODIFIED, AS AMENDED

Mr. McCAIN. Mr. President, I ask unanimous consent that there be 15 minutes, with 10 minutes on this side, controlled by the Senator from Alaska, and 5 minutes controlled by the Senator from North Dakota, that no second-degree amendments be in order, and immediately following that, there be a vote on the Murkowski tabling motion.

The PRESIDING OFFICER. The question will first come on the first-degree amendment.

Mr. McCAIN. Mr. President, I believe Senator MURKOWSKI will be seeking to table the underlying amendment.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. McCAIN. Mr. President, I repeat the request.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. Mr. President, I didn't hear the request. Can I hear it again?

Mr. McCAIN. It is that there be 15 minutes on a Murkowski tabling motion, with 10 minutes under the control of the Senator from Alaska, 5 minutes under the control of the Senator from North Dakota, with no intervening second-degree amendments, immediately followed by a vote.

Mr. GRAMM. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. Mr. President I rise in opposition to the amendment being offered to grandfather existing taxes on Internet services.

This amendment undermines the fundamental integrity of the underlying bill because all state and local taxing jurisdictions would not be under the exact same moratorium. It rewards those states and municipalities that raced to set up discriminatory taxes on Internet services and places them in a better position to raise revenue than those states that have chosen not to act.

More importantly, it sets the precedent that some states, but not all states, can levy taxes that harm interstate commerce. This amendment makes the Internet Tax Moratorium a piece-meal moratorium, not a real moratorium.

I ask my colleagues to consider why we are considering this Internet tax moratorium. As all of us recognize, the Internet is a massive global network that spans not only every state in the Union, but international borders. As the Commerce committee found, Internet access services are inherently a matter of interstate and foreign commerce within the jurisdiction of the

United States Congress. In fact, it has been estimated that if the Congress does not make a policy decision regarding taxation of Internet services, more than 30,000 separate taxing jurisdictions within the United States could establish their own taxes on Internet transactions.

Because of the chaos that would ensue, we have decided to place a halt on Internet taxes and allow a commission to study this issue and make recommendations to the Congress. Yet the amendment that the Senator from Oregon proposes would reward those jurisdictions that have already decided to tax Internet services. Why should we grandfather those jurisdictions?

If it is appropriate for states and localities to impose taxes on Internet services than all states should be permitted to adopt such taxes. Alaska should be given that opportunity just as much as North Dakota and South Dakota. But under the Internet Tax Moratorium legislation, my state does not have that option but the Dakotas can continue their taxes because they adopted those taxes prior to this moratorium.

And if it is not appropriate for states and localities to impose taxes on Internet services, than not states nor localities should be permitted to adopt these taxes.

I believe this amendment is not only discriminatory but undermines the fundamental idea underlying this bill. As I noted earlier, the Internet is inherently about Interstate Commerce and we in Congress are about to make a decision that no local taxes should be imposed on Internet services until Congress receives the Commission's recommendations. I believe we should make this moratorium uniform, not piece-meal as the Senator from Oregon proposes.

Otherwise, we are encouraging every state in the union to rush to the state legislature every time a new technology comes along and adopt a taxing scheme on the new technology, secure in the knowledge that should Congress decide to impose a moratorium on such a new tax, that state's taxes will be grandfathered.

Moreover, there is no rational basis to grandfather these state and local taxes on what everyone agrees is interstate commerce. We have asked a Commission of experts to make recommendations regarding Internet taxes. Although I cannot pre-judge what the Commission will recommend, it is probable that the Commission will make three recommendations. It will make a decision that state and local taxation of Internet services are appropriate or inappropriate. It may decide that some taxes, such as taxes on "pipeline" services like Erols or value-added online services like America Online are appropriate but that taxes on interstate product sales on the Internet are inappropriate.

What is certain is that the Commission will not recommend that the only Internet taxes that are appropriate are those that are levied by the states that are proposed to be grandfathered. That would make no sense and would probably be unconstitutional. For that reason alone, we should not permit this grandfather.

Mr. President, one of the most important reasons I believe we should not grandfather any of the Internet taxes is because a decision we make on grandfathering will send a signal to our trading partners that if they adopt taxes on Internet commerce today, those taxes will likely be grandfathered if and when an international agreement on taxation of Internet commerce is reached in the future.

Why shouldn't Brazil or Germany or Canada establish taxes today on Internet commerce and then claim that since these taxes were adopted prior to an international agreement, they should be grandfathered just like the United States grandfathered similar taxes?

Mr. President, there is ample precedent for such a scenario. Many of the tariff and non-tariff barriers that the United States has confronted in the past 50 years have covered practices that were insulated by the original GATT grandfathering rules that were adopted more than 50 years ago. In fact, there have been a number of instances where our foreign trading partners have used the GATT grandfather clause to defend measures that would otherwise violate our GATT rights. A number of those involved foreign tax regimes.

For example, the European Union relied on the GATT grandfather clause to defend their system of territorial taxation and income shifting rules that clearly constituted an illegal export subsidy. Similarly, Brazil used the grandfather clause to defend internal taxes of general application (i.e., sales taxes) that discriminated against goods imported from other GATT members. And Canada relied on the grandfather clause to defend its interprovincial restrictions on the sale of beer and other malt beverages, which included discriminatory charges on imports of competing products from the United States.

Mr. President, the Internet as a means of communication and commerce is in its infancy. Commerce on the Internet is projected to grow by several thousand percent in the next five years. And who stands to benefit the most from that growth? Companies based in the United States will be the largest beneficiaries. I think there can be no doubt about that.

We in the United States invented the Internet. We have been the first country to begin to exploit its benefits. We are leading the world in Internet commerce and the world is watching everything we do and trying to figure out how to prevent American domination of this new medium.

One way to slow American domination of the Internet is for foreign countries to begin to establish taxing regimes on products and information generated from the United States. It is not hard to imagine our foreign trading partners developing taxing schemes designed to protect their domestic manufacturers from competition from more efficient American competitors selling in their country via the Internet. Nor is it difficult to imagine that some of the more repressive regimes in the world might want to come up with punitive access taxes that functionally prevent their citizens from reading American on-line newspapers and magazines. In the name of "cultural sovereignty," I can imagine that some countries will adopt special taxing regimes to restrict access to Internet web pages that are in English.

Mr. President, the precedent we set by grandfathering Internet taxes currently in place will be closely watched by our trading partners. They will follow our model because the United States has established all of the standards and protocols for the Internet.

We should send a message to our trading partners that we will not grandfather any taxes on Internet commerce. Unless we do that, I fear that when our negotiators sit down and attempt to negotiate away discriminatory foreign taxes on Internet services, our foreign trading partners will use the grandfather model in this bill as a reason their taxing regime should be maintained in place. That is surely not the precedent we want to set.

Finally, Mr. President, if we table this amendment we will ultimately not be voting on whether the moratorium should be three years or four years. The Senate has already spoken on this issue and if the grandfathering amendment is tabled, the Chairman of the Committee will certainly offer another amendment that we can accept that will extend the moratorium for four years.

I move to table the amendment on grandfathering state Internet taxes.

Mr. MACK. Mr. President, I oppose this amendment which would allow some states to tax the Internet but not others. The moratorium on Internet taxation must be uniform, applying equally to all states and all local taxing jurisdictions without exception.

Congress is taking an extraordinary, though not unprecedented, step in preempting a taxing power of the states. The people of the United States, through the Constitution, charge Congress with the responsibility of ensuring that states do not interfere with interstate commerce. This power is rarely exercised in the context of taxation, and is a power that we take very seriously.

Use of this extraordinary power is required to prevent the heavy hands of government from stifling the economic growth potential of Internet commerce. We have now just a glimpse of the future of commerce, and a complete revolution in the way people transact business is within sight. We are on the threshold of exciting times, in which information about products will move quicker and farther than ever imagined, in which the elderly, the handicapped, and people living in remote rural areas can participate in world markets without ever leaving their homes. A moratorium is necessary to prevent the taxing authorities of 50 states, over 6,000 localities, and the federal government from taking near-sighted actions that jeopardize this future of commerce.

A threat to interstate commerce so severe as to require a national moratorium cannot be tolerated in any state. If Congress were to grandfather those states that have already imposed Internet taxes, we would be setting a terrible precedent. This "Early Bird Special" exception gives states the incentive to rush to impose new taxes on new technologies. This is not the kind of race we want to encourage.

And if Congress can impose a moratorium on some states but not others, will future Congresses attempt to disadvantage individual states in this manner? The defenders of a grandfather clause cast their argument as one of states' rights. But establishing the principle that a moratorium must apply equally to all states protect states from unwarranted infringements upon their power, by preventing the federal government from isolating a minority of states for adverse treatment. And I should also point out that states do not have the right to interfere with interstate commerce—the power to regulate interstate commerce was delegated to the national government, not retained by the states.

The United States should set a strong example and preempt all Internet taxes until a rational, national approach to Internet taxation is developed. If we fail to do so, we undermine attempts to persuade our trading partners that barriers to global electronic commerce should be removed. We have the opportunity to lead the world in the area of Internet commerce, and we should make our cause the cause of freedom.

Mr. President, I urge my colleagues to reject this amendment.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Dakota.

Mr. DORGAN. Mr. President, I rise in opposition to the efforts by the Senator from Alaska. My understanding is that he is seeking to table the underlying first-degree amendment, the McCain amendment. The McCain amendment includes the grandfather provision which preserves the existing Internet access taxes. In my judgment, this makes the moratorium a forward-looking moratorium, and will not preempt existing taxes.

It also deals with State and local taxing authorities by including a State and local tax savings provision, which makes it clear that no other State or local tax will be affected. In other words, it protects against the unintended consequences that may well occur unless we have that savings clause.

I really think that it is important that we not support the motion offered by the Senator from Alaska.

The third provision I want to mention in the first-degree amendment that he is attempting to table is a provision ensuring that this moratorium will not affect any pending or existing liabilities. Currently there are companies that may have failed to pay some taxes that would have a current liability under current valid existing laws, and we would not want this moratorium to have the unintended consequence of interrupting those liabilities either.

As I understand it, we have a first-degree amendment, and now a motion to table that. I hope that the motion to table will not prevail. I will vote against it. I will be, by that vote, supporting the underlying first-degree McCain amendment.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. McCAIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Has all time expired?

The PRESIDING OFFICER. It has not expired.

Mr. MURKOWSKI. Mr. President, I yield all time back that's remaining on our side. It would be my intention when all time is yielded to ask for the yeas and nays. Excuse me, Mr. President. It would be my intention to move to table the pending amendment when all time is expired.

The PRESIDING OFFICER. Does the Senator from North Dakota yield back his time?

Mr. DORGAN. Mr. President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. DORGAN. I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued with the call of the roll.

Mr. McCAIN. For the convenience of Senators who have plans this evening and were told that we would have a vote, I would ask unanimous consent that further proceedings under the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. I object.

The PRESIDING OFFICER. There is objection.

The legislative clerk continued with the call of the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, I ask to be recognized.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, we obviously have a problem. The Senator from Florida is insisting on a point of order that will basically gut this legislation. I want to go ahead and vote on the Murkowski amendment. If the Senator from Florida wants to destroy this bill, which is supported by literally everyone except him, he is free to do that.

Mr. President, how much time remains?

The PRESIDING OFFICER. All time has expired.

Mr. GRAHAM addressed the Chair.

Mr. McCAIN. All time has expired?

Mr. GRAHAM. Point of personal privilege.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I am sorry, my good friend from Arizona has on several previous occasions made statements that have become, I think, excessively personal and not factually correct.

I am prepared to vote on this bill right now, and I will vote for the bill in its current form. What the issue is, is offering an amendment that I question as to its germanity to this bill and that I might raise a point of order on that germanity. I don't consider that to be an inappropriate or even a particularly hostile act. That is a matter of the rules of the Senate. It either is or is not germane in this postcloture environment.

I do not accept the characterization that I am, in some malicious way, standing in the way of the bill. I am perfectly prepared to vote at this time.

The PRESIDING OFFICER. All time has expired.

Mr. MURKOWSKI. I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 3719, as modified, as amended. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from Pennsylvania (Mr. SPECTER) is necessarily absent.

Mr. FORD. I announce that the Senator from Ohio (Mr. GLENN) and the Senator from South Carolina (Mr. HOLLINGS) are necessarily absent.

The result was announced—yeas 28, nays 69, as follows:

[Rollcall Vote No. 306 Leg.]

YEAS—28

Ashcroft
Campbell
Cochran
Collins
Coverdell
D'Amato
Faircloth
Gramm
Grams
Grassley
Gregg
Hagel
Helms
Hutchinson
Hutchison
Jeffords
Lott
Mack
McConnell
Murkowski
Nickles
Roth
Santorum
Shelby
Smith (NH)
Stevens
Thomas
Torricelli

NAYS—69

Abraham
Akaka
Allard
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bumpers
Burns
Byrd
Chafee
Cleland
Coats
Conrad
Craig
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Feingold
Feinstein
Ford
Frist
Gorton
Graham
Harkin
Hatch
Inhofe
Inouye
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lugar
McCain
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Robb
Roberts
Rockefeller
Sarbanes
Sessions
Smith (OR)
Snowe
Thompson
Thurmond
Warner
Wellstone
Wyden

NOT VOTING—3

Glenn
Hollings
Specter

The motion to lay on the table the amendment (No. 3719), as modified, as amended, was rejected.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from Arizona.

Mr. McCAIN. Mr. President, first of all, let me say for my colleagues where we are on this bill.

We believe that we had an agreement that there would be this vote on the Murkowski amendment to table, and then we would proceed to adopt a previously agreed to amendment that had been agreed to by the Senator from North Dakota who has been managing the bill and others that have been involved in the legislation. Apparently, that was not agreed to by the Senator from Florida who intends to at least at this time challenge on the issue of germaneness the amendment that the Senator from North Dakota, the Senator from Oregon, I, the Senator from Wyoming, and others had agreed to, which has to do with the definition of what are discriminatory taxes.

This, obviously, germane point of order would carry, or there is a likelihood that it would. That would reduce the effectiveness or the impact of this bill to the point where it would be nearly meaningless.

The Senator from Florida has told me that he will work overnight with us and with others to try to craft some agreement or relook at the entire issue. I hope that he will do so.

After the vote at 11 tomorrow on VA-HUD, I will then propose amendment No. 3711. At that time, if the Senator from Florida still wishes to, obviously he can challenge the amendment on point of order concerning whether the amendment is germane or not.

Mr. President, I think everybody realizes how important this legislation is. I would very much hate to see it derailed at this point in time.

But the amendment, 3711, is vital to this legislation. Some may ask why we didn't propose it earlier. That is because it was part of a package of negotiation that we were in with the Senator from North Dakota, and others.

I respect the right of the Senator from Florida to object on germaneness grounds. That is his right as a Senator. I do not challenge that.

Mr. WYDEN. Will the Senator yield?

Mr. McCAIN. I ask unanimous consent to yield to the Senator from Oregon without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WYDEN. I will be very brief, I say to the chairman and colleagues. The hour is late.

All we seek to do is to have technological neutrality. We are not going to tax catalogs. We also don't want to tax web sites. That is all this is about—preventing that kind of discriminatory tax.

I thank the chairman for yielding.

Mr. McCAIN. Mr. President, these things happen as we consider legislation. There are very strongly held views on this issue, especially by the Senator from Florida who, as a former Governor, understands the impact of these issues on his State. I understand that and appreciate that. But I want to be clear that my interpretation and that of the Senator from Oregon and the proponents of this legislation are that if we do not allow the amendment 3711, then the legislation itself would be rendered largely meaningless.

MORNING BUSINESS

Mr. McCAIN. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

GOVERNMENT PAPERWORK ELIMINATION ACT

Mr. ABRAHAM. Mr. President, I rise today to speak about S. 2107, the Government Paperwork Elimination Act, a bill I introduced in April along with Senators WYDEN, MCCAIN and REED. This bill has been added as an amendment to the Internet Tax Freedom Act and I want to thank Senators MCCAIN and HOLLINGS and Senator THOMPSON, for taking the time and effort to work with me in advancing this legislation. Without their active support and participation, this bill would not have progressed as far as it has.

This bill amends the Paperwork Reduction Act of 1980 to allow for the use of electronic submission of Federal forms to the Federal government with the use of an electronic signature within five years from the date of enactment. It is intended to bring the federal government into the electronic age, in the process saving American individuals and companies millions of dollars and hundreds of hours currently wasted on government paperwork.

The bill also includes provisions to protect the private sector and ensure a level playing field for companies competing in the development of electronic signature technologies. It mandates that regulations promulgated by the Office of Management and Budget and the National Telecommunications and Information Administration be compatible with standards and technologies used commercially. This will ensure that no one industry or technology receives favorable consideration.

The bill also requires Federal agencies to accept multiple methods of electronic submission if the agency expects to receive 50,000 or more electronic submittals of a particular form. This requirement will ensure that no single electronic signature technology is permitted to unfairly dominate the market.

This legislation also takes several steps to help the public feel more secure in the use of electronic signatures. If people are going to send money or share private information with the government, they must be secure in the knowledge that their information and finances are adequately protected. For this reason, my bill requires that electronic signatures be as reliable as necessary for any given transaction. If a person is requesting information of a public nature, a secure electronic signature will not be necessary. If, however, an individual is submitting forms which contain personal, medical or financial information, adequate security is imperative and will be available.

This is not the only provision providing for personal security, however. Senator LEAHY joined me to help establish a threshold for privacy protection in this bill. The language developed by Senator LEAHY and I will ensure that information submitted by an individual can only be used to facilitate the electronic transfer of information unless it has the prior consent of the individual.

Also included is a provision establishing legal standing for electronically submitted documents. Such legal authority is necessary to attach the same importance to electronically signed documents as is attached to physically signed documents. Without this provision, electronic submission of sensitive documents would be impossible.

Finally, Mr. President the Government Paperwork Elimination Act requires that Federal agencies send individuals an electronic acknowledgement of their submission when it is received. Such acknowledgements are standard when conducting commerce online. A similar acknowledgement by Federal agencies will provide piece-of-mind for individuals which conduct electronic business with the government.

As much as individuals will benefit from this legislation, so too will American businesses. By providing companies with the option of electronic filing and storage, this bill will reduce the paperwork burden imposed by government on commerce and the American economy. It will allow businesses to move from printed forms they must fill out using typewriters or handwriting to digitally-based forms that can be filled out using a word processor. The savings in time, storage and postage will be enormous. One company, computer maker Hewlett-Packard, estimates that the section of this bill permitting companies to download copies of regulatory forms to be filed and stored digitally rather than physically will, by itself, save that company $1–2 billion per year.

Efficiency in the federal government itself will also be enhanced by this legislation. By forcing Government bureaucracies to enter the digital information age we will force them to streamline their procedures and enhance their ability to maintain accurate, accessible records. This should result in significant cost savings for the federal government as well as increased efficiency and enhanced customer service.

Each and every year, Mr. President, Americans spend 6.6 billion hours simply filling out, documenting and handling government paperwork. This huge loss of time and money constitutes a significant drain on our economy and we must bring it under control. The easier and more convenient we make it for American businesses to comply with paperwork and reporting requirements, the better job they will do of meeting these requirements, and the better job they will do of creating jobs and wealth for our country. That is why we need this legislation.

The information age is no longer new, Mr. President. We are in the midst of a revolution in the way people do business and maintain records. This legislation will force Washington to catch up with these developments, and release our businesses from the drag of an obsolete bureaucracy as they pursue further innovations. The result will be a nation and a people that is more prosperous, more free and more able to spend time on more rewarding pursuits.

I want to thank my colleagues in the Senate for their support and urge the House to support this important legislation.

COMMERCIAL SPACE ACT OF 1998

Mr. KYL. Mr. President, I would like to engage the Chairman in a colloquy regarding a provision of the Commercial Space Act of 1998. It is my understanding that Section 202(b)(6) of the Land Remote Sensing Policy Act of 1992, which requires any company receiving a license to operate a remote sensing system to "notify the Secretary [of Commerce] of any agreement the licensee intends to enter with a foreign nation," is amended by the Commercial Space Act of 1998 by inserting the words "significant or substantial" after "Secretary of any." This is intended to limit the agreements which are reported to the Department of Commerce. As you know, the Congress has acted in the past to limit imagery of Israel. I would like to clarify that any agreement or contract permitting any imaging of Israel using commercially available, satellite-based remote sensing technology would fall under the definition of "significant or substantial." Is this the Chairman's understanding?

Mr. McCAIN. I thank the Senator. It is certainly my intention that any agreement permitting the imaging of Israel using commercially available, satellite-based remote sensing technology will continue to be reported to the United States government for review. The Congress has indicated that it viewed imaging of Israel to be a significant matter, and the intent of this legislation is to make sure that any agreement that could lead to imaging Israel will be reported.

Mr. KYL. I thank the Senator.

ALLEVIATING INTERNATIONAL FAMINE WITH AMERICAN SURPLUS

Mr. BIDEN. Mr. President. Today I address an issue of extreme importance to both citizens of the United States, and people around the globe.

It is not often that we have the opportunity to help those in other countries and Americans at the same time. I believe that one of these occasions presents itself now.

In every area of the world, there are men, women and children in desperate need of food. Some of them are refugees from wars and other forms of political violence. Some of them are displaced because droughts or floods have interfered with their ability to grow food and destroyed their homes. Others are simply too poor to be able to afford the tools and seeds necessary to plant crops.

This year has been particularly difficult in a variety of places. Most recently, hurricane Georges has ravaged the Caribbean. Nations such as Haiti, where the population is barely able to feed itself, and the Dominican Republic have been heavily damaged by the storm's onslaught.

Countries in Eastern Europe are experiencing food shortages. Winter is coming to Kosovo, where the Serbian Special Police and Yugoslavian army continue a terrorist policy that has destroyed more that three hundred villages, and driven more than 300,000 ethnic Albanians from their homes, with an estimated 50,000 forced into forests and mountains. With good reason, these people are afraid to return to the villages which have been destroyed and vandalized by the Serbian army. They have left the only means they have of supporting themselves behind. As a result, if we in the international community do not help them, they will not be able to feed themselves.

Russia faces a sharp decrease in agricultural production, due to drought and other poor weather conditions. Approximately twenty-five percent of farmland was damaged. Consequently, this year's harvest will be Russia's worst in four decades. Collective farms have harvested only a little over half the amount of grain in this year's harvest as they did in 1997. The potato crop, one of Russia's staples, is down significantly due to potato blight.

The Asian economic crisis is having a significant impact on the ability of those states to feed themselves. Indonesia, with its current financial turmoil is in need of food. Asian countries which normally import American commodities are unable to do so this year, exacerbating our farmers' woes.

The situation in North Korea remains grave. Floods, droughts and other natural disasters in the past four years have left many without the ability to feed themselves. Malnutrition and related diseases are common throughout the land. One million people have died in North Korea over the past two years.

Due to climactic conditions and political unrest, there are many in need in Africa. In Sudan alone, experts have indicated that as many as 2.6 million people may go hungry. Mozambique is facing a food crisis which will affect 300,000 people until April of next year. In the northern portions of Sierra Leone, thousands of internally displaced people will face hunger, if not starvation, unless they are provided with aid.

Here in the United States we face a challenge of a different sort. Far from suffering from a lack of food, American farmers are producing an abundance. Unfortunately, U.S. agricultural exports are expected to decline 4.6 percent from projected 1998 levels, mainly because of the collapse of global markets.

One third of the family farmers in this country may go out of business in the next several years, with net farm income projected to decrease by $7.5 billion in 1998. We have the food. All we are lacking is strong markets to buy what we are producing.

Common sense tells us that it is time to bring together our oversupply of domestic agricultural products and the growing international need for food aid. One way to do that is to increase shipments of U.S. agricultural products to countries in need.

In July of this year, the President took steps to do just that, creating the Food Aid Initiative. This initiative directs the Department of Agriculture to purchase 80 million bushels of grain for distribution to poor countries overseas. The Secretary of Agriculture announced the first disbursement of wheat and wheat flour under the Initiative to the World Food Program on September 15th. I applaud the Administration's creation of this Initiative. The potential of this program in combination with other U.S. food assistance programs to provide relief to hungry people is great, and I support the President's efforts.

However, we can and should do more. To begin with, the list of countries that the administration has targeted through the Initiative should be expanded. Last week I wrote to Secretary of State Madeleine Albright, Secretary of Agriculture Dan Glickman and Brian Atwood, the Administrator of the Agency of International Development. In those letters, I indicated among other things, that threatened food shortages in Kosovo and Russia must not go unaddressed.

Not only must we be sure that more countries are being given much needed food, we must be assured that those who are hungry are actually receiving the food. Unfortunately, in some instances, access to food donations is prevented by people in needy nations who either want the food themselves, wish to profit from victims of famine or wish to control the needy population by denying them life's most basic necessities.

In addition to donating to more countries, we should donate more food. According to the United States Department of Agriculture, in the United States today there is a surplus of 6.3 million metric tons or 233 million bushels of wheat. There are several programs through which we can help solve both our domestic and our international problems.

The first is the Agricultural Trade Development and Assistance Act of 1954, commonly referred to as P.L. 480, Food for Peace. This legislation contains three food aid titles. Title One's objective is to make it easier for lesser developed countries to buy American commodities. To this end, commodities are sold to certain countries for US dollars on concessional credit terms.

Title Two is the Emergency and Private Assistance Programs. This is where the bulk of our humanitarian donations in the form of food aid come from. This year Title Two was funded at the level that the president requested. Unfortunately, given the number of humanitarian disasters that we are currently facing, this may not be enough. It is my hope that the President will ask for more money for this program.

Title Three is the Food for Development Program, under which government to government grants are provided to support the long-term development efforts of those countries that are attempting improve their economic outlooks.

The second program through which we can help address the domestic and overseas challenges we are facing is Section 416(b) of the Agricultural Act of 1949. Through Section 416(b), commodities held by the Commodities Credit Corporation can be donated overseas. This is the program through which the President ordered the purchase of $250 million of wheat in July.

The Food for Progress Act of 1985 is the third program the United States can utilize to address both the American farm crises and dire international need. Food for Progress provides commodities either purchased with funds from the Commodity Credit Corporation, or through P.L. 480 or Section 416(b), as donations to countries that are committing to the increase of free enterprise practices in their agricultural sectors.

I strongly support an aggressive funding of these programs, and have urged the administration to be aggressive in its requests to the Congress as it evaluates the increasing needs overseas and the opportunity to assist our farmers here at home. If we diligently pursue all of our options through current law, I believe that we can help alleviate two very significant and pressing problems. The overabundance of agricultural commodities plaguing American farmers, and the lack of food for starving millions abroad.

I urge my colleagues in Congress consider the full range of resources and programs at our disposal to help end the dilemma facing the farmers of our nation. Implementing a solution to this problem will require that we use all of the creativity and energy that we have. Every day brings us closer to real crises not only in our farm economy, but also in countries important to our national interest.

Such aid is not only clearly in our interest. It would reflect our highest values by preventing the widespread hunger and suffering of men, women and children who had no hand in the tragedies that have befallen their countries.

Again, I urge my colleagues to give this issue prompt and serious attention. I thank the chair and yield the floor.

EDWARD PFEIFER

Mr. LEAHY. Mr. President, recently a publication from St. Michael's College in Winooski Park, Colchester, VT, profiled Professor Edward Pfeifer. Dr. Pfeifer is referred to as "Historian Ed Pfeifer, '43." I have always thought of Ed Pfeifer as the special mentor I had in college and the man who did so much to shape my thinking and my life after college.

He was the kind of professor who not only helped you learn, but taught you to want to learn. He would find students he could mentor and introduce them to the joys of learning. Fortunately, I was one of those students and I have benefited from his help every day since.

Ed and his wife, Joan, are now retired in Vermont. One of the great pleasures Marcelle and I have is when we end up in the same place with them, ranging from events at St. Michael's, to meeting in the grocery store near our own home in Vermont.

Mr. President, I ask unanimous consent that the article from St. Michael's Founders Hall, September 1998, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From St. Michael's Founders Hall, September 1998]

HISTORIAN ED PFEIFER '43

(By Buff Lindau)

Nine-year old Eileen Gadue had to write an essay explaining why she needed a new trunk to take her sneakers, swim suit, tennis racket, and other belongings to summer camp. She didn't know it, but she had Ed Pfeifer to thank.

Eileen's parents, Mark and Marjorie Gadue '79, of Colchester, Vt., were both students of SMC Emeritus Professor of History Edward Pfeifer '43 in the 1970's. They have shaped their lives and their children's lives on Pfeifer's patient insistence on developing ideas, supporting those ideas, researching to back them, and working carefully with language to clarify and defend the ideas.

After the fifth draft of her essay and repeated discussions with Dad, Eileen got the new trunk.

"He taught us life skills and we teach our kids as we learned from him," said Marjorie. "He was someone who made a real difference." All his students say that Dr. Pfeifer taught reading, thinking, debating, clear defending of ideas, and taught with a hard to define skill that included quiet patience, kindness, and intellectual rigor.

Mark Gadue graduated as a history major from Saint Michael's in 1979 and almost headed to get his Ph.D., but entered the family dry cleaning business instead.

Pfeifer students Gary Kulik '67, Joseph Constance '76, Francis MacDonnell '81, Gayle Brunelle '81, and Jonathan Bean '84 were inspired to aim for the professorial ranks as a result of their experience in Pfeifer's classroom. "I took a number of years off after college, but he influenced me to go back to graduate school and I am ultimately following in his footsteps," said Bean, who was unanimously voted in May to receive early tenure as a history professor at Southern Illinois University. Bean, who took at least 10 courses with Pfeifer, models his teaching on Pfeifer's style of methodically eliciting student response. Bean is the author of Beyond the Broker State: Federal Policies Toward Small Business, 1936–1961.

Pfeifer says it was his goal to get a response from students about the historical material they were studying, "something that was their own comment that reflected their own evaluation." But the magic of Pfeifer as a teacher resides in the method and manner he brought to the classroom to get the students engaged, to elicit their response.

To Fran MacDonnell, a teacher who earned his master's in history at Marquette and his Ph.D. at Harvard, "Dr. Pfeifer is in the handful of teachers that you admire and like to imitate and that you owe a lot to. "He had three, one-year appointments teaching history at Yale University, and now he and his wife live in Lexington, Va., where she teaches and he finishes his second book—a study of white southerners who fought in the Union Army during the Civil War. (His first book is titled Insidious Foes: The Axis Fifth Column and the American Home Front.) "I can think of no greater legacy than the one Ed Pfeifer gave his students—I mean Professor Pfeifer taught my dad" (Dr. Kenneth MacDonnell '57 a Boston physician), MacDonnell said. He gave his students the drive to think independently, and confidence in expressing their thoughts.

Pfeifer was a master Socratic teacher, which meant using the Q & A method to guide the student, leaving room for different opinions and approaches and calling for conclusions from the student. "That is the hardest kind of teaching, yet the one with the most rewards for the student," MacDonnell said, who aspires to Pfeifer's method.

Joe Constance concurs, "Dr. Pfeifer was probably the finest practitioner of the Socratic method that you'll ever find as a teacher—getting the student to arrive at the answer," and encouraging you as you progressed. Constance says Pfeifer also inspired him to pursue the intellectual life; he earned a master's in history at UVM and a library degree at SUNY Albany. Constance is now library director and political science professor at St. Anselm College, and is pursuing his Ph.D. in political science at Boston University.

"I asked Dr. Pfeifer a question in class one morning about a trade agreement between Peru and Bolivia and he didn't know the answer," Constance related. "That afternoon I found a note in my mailbox from him with the answer to the question—I've never been so impressed with a teacher before or after."

Pfeifer's students all describe him as extremely kind and concerned about them as individuals. They suggest that his influence creeps up on you quietly and takes strong hold, rather than hammering you. He was a model teacher and scholar, one student said; fairness, balance, objectivity characterized him. But there was humor—droll, quiet, dry—but a key element in his make-up that emerged unexpectedly.

In 1986 Edward Pfeifer retired with his wife Joan Sheehey Pfeifer to Cabot, Vt. He says he now has time to keep up with his four children, chase after his grandchildren and mow lots of grass. Because his teaching touched many who have gone on to become teachers, Dr. Pfeifer's legacy multiplies beyond his own classroom into the lives of students in university classrooms from New Hampshire to Illinois to California. Ed's son and daughter are graduates: John '85 and Justine '84 who is married to Frank Landry '82. His brother, Charles '43 is deceased.

EDWARD PFEIFER PROFILE

Pfeifer graduated from Saint Michael's in 1943 with a degree in English, and served in WWII in the U.S. Navy, 1943–46. He earned a master's in American civilization from Brown University in 1948 and then joined the SMC English department. He served in the Navy during the Korean War, 1951–53, and returned to Brown in 1954, where he earned a Ph.D. in American Studies in 1957. Focusing on the history of science he wrote a dissertation titled. The Reception of Darwinism in the U.S.. 1859–1880. He rejoined the SMC history department in 1956, and created the interdisciplinary American studies major.

Pfeifer was vice president for academic affairs and dean of the College from 1969 to 1974, and was awarded the first SMC faculty appreciation award ever given, in 1966. He received the award again in 1967 and 1982. Pfeifer retired in 1986 and the SMC yearbook was dedicated in his name, yearbook editor, Linda Robitaille '86 said, "He was kind to his students, he awed us, he was remarkably concerned with helping us learn."

ROBERT LANCTOT

Mr. LEAHY. Mr. President, my very good friend, Robert Lanctot, died after a courageous bout with cancer. Bob, and his wife Betty, were two very special friends of my wife and I.

When I first ran for the Senate in 1974, Bob helped me in an area of the state where no Democrat could ever expect to get votes. Everybody told him I couldn't win, but he persevered and not only did I win, but went on in subsequent elections to carry the area significantly. I have always felt that a large part of that was do to Bob Lanctot.

Notwithstanding our close friendship, Bob never requested anything for himself or his family from me. He did, however, continuously speak out for those people who did not have a strong voice in Washington. He truly believed in helping working families and those who have always made our state and our country strong. We have lost a special Vermonter, and I ask unanimous consent that the obituary from the Caledonian Record be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Caledonian-Record, Sept. 21, 1998]

LANCTOT: Robert "Bob" L. Sr., 77, formerly of Peacham and St. Johnsbury, died at his daughter and son-in-law's home in Waterford Sunday morning, Sept. 20, 1998.

He was born in St. Johnsbury Feb. 28, 1921, the last surviving child of Archie and Ann (Brunelle) Lanctot. He married Betty L. Farnham; together they raised six children. Betty predeceased him, Sept. 12, 1996, and the oldest son Robert predeceased his mother in January of 1996.

Bob was a great believer in the rights of the common worker. He was president of the Northeast Kingdom Labor Council for a number of years, served as vice president of the state labor council, and was a very active member of local 5518. He was the delegate to the state labor convention for the last 25 years and was recognized by the Vermont State labor council AFL–CIO for his significant contributions to that organization, the labor movement and Vermont working families. Bob was a working Vermonter, retiring from Vermont America in 1982.

Bob was a strong Democrat. He was an active and valuable member of the Caledonia County Democratic committee. He held many positions over the years with the Vermont State Democratic Party, including the platform committee, and most recently served on the state executive board.

He was a veteran of World War II and a member of Sheridan Council 421 Knights of Columbus. He also served on the board of directors of NEKCA and Vermont State Council on Alcoholism.

He is survived by five children, Patricia Ann Salomonson of Manchester, N.H., James Lanctot and wife Kathy of Lyndonville, Judith Syx of Hartland, Richard Lanctot of Burlington, and Elaine Robinson and husband Thomas of Waterford; 14 grandchildren and 10 great-grandchildren; a daughter-in-law, Judy Woods Lanctot of Jamaica Plain, Mass.; several nieces and nephews and a multitude of friends. He was predeceased by brothers Lester, Philip and William, and a sister Agnes.

A funeral Mass will be celebrated Wednesday at 11 a.m. at St. John's Church. Burial will be at the convenience of the family at Peacham Cemetery. Visiting hours will be held at the funeral home Tuesday from 6–8 p.m.

Memorial contributions, marked for hospice, may be directed to Caledonia Home Health & Hospice, P.O. Box 383, St. Johnsbury, VT 05819.

Arrangements are by Sayles Funeral Home, 68 Summer St., St. Johnsbury.

U.S. FOREIGN OIL CONSUMPTION FOR WEEK ENDING OCTOBER 2

Mr. HELMS. Mr. President, the American Petroleum Institute reports that for the week ending October 2 the U.S. imported 7,925,000 barrels of oil each day, 1,567,000 barrels a day less than the 9,492,000 imported during the same week a year ago.

While this is one of the rare weeks when Americans imported slightly less foreign oil than the same week a year ago, Americans still relied on foreign oil for 55.7 percent of their needs last week. There are no signs that the upward spiral will abate. Before the Persian Gulf War, the United States imported about 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970s, foreign oil accounted for only 35 percent of America s oil supply.

All Americans should ponder the economic calamity certain to occur in the U.S. if and when foreign producers shut off our supply—or double the already enormous cost of imported oil flowing into the U.S.: now 7,925,000 barrels a day at a cost of approximately $110,870,750 a day.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, October 6, 1998, the federal debt stood at $5,536,217,307,823.51 (Five trillion, five hundred thirty-six billion, two hundred seventeen million, three hundred seven thousand, eight hundred twenty-three dollars and fifty-one cents).

One year ago, October 6, 1997, the federal debt stood at $5,413,433,000,000 (Five trillion, four hundred thirteen billion, four hundred thirty-three million).

Five years ago, October 6, 1993, the federal debt stood at $4,404,063,000,000 (Four trillion, four hundred four billion, sixty-three million).

Ten years ago, October 6, 1988, the federal debt stood at $2,622,288,000,000 (Two trillion, six hundred twenty-two billion, two hundred eighty-eight million).

Fifteen years ago, October 6, 1983, the federal debt stood at $1,385,380,000,000 (One trillion, three hundred eighty-five billion, three hundred eighty million) which reflects a debt increase of more than $4 trillion—$4,150,837,307,823.51 (Four trillion, one hundred fifty billion, eight hundred thirty-seven million, three hundred seven thousand, eight hundred twenty-three dollars and fifty-one cents) during the past 15 years.

NRA'S "REFUSE TO BE A VICTIM" IS A VALUABLE, SENSIBLE PROGRAM

Mr. HELMS. Mr. President, the Department of Justice confirms that in the United States there was a rape for every 270 women, a robbery for every 240 women and an assault for every 29 women in 1994. (In the three year period from 1992–94, the number of violent crimes committed against our wives, sisters, mothers, and daughters totaled nearly 14 million.)

In response to statistics like these, the women of the National Rifle Association created the "Refuse to be a Victim" program five years ago. The basic premise of the program can be summed up by an old saying—an ounce of prevention is worth a pound of cure. The course teaches women not to live in fear of threats, but rather, to respect likely threats and prepare to avoid or effectively respond to them.

The centerpiece of the "Refuse to be a Victim" program is a three-hour public service safety seminar designed by, taught by, and presented to women in order to help them protect themselves. Since its inception, this common sense safety and self-defense program has been presented in 35 states and the District of Columbia. More than 600 instructors, including 9 in North Carolina, have trained and empowered thousands of women to protect themselves and their families.

Mr. President, the course equips women with the tools they need to design their own personal safety strategy. By increasing awareness of dangerous situations and providing knowledge of self-protection techniques and crime-fighting and personal safety resources, the program maximizes its participants ability to successfully avoid or, in the worst case, survive an attack.

The program features practical but frequently overlooked advice on home security such as the installation of effective lock and security systems, planting "defensive" shrubbery around windows, and keeping a cellular phone by the bedside in case an intruder disables your home phone. It also provides information on how to avoid being a victim of a car-jacker as well as the proper and safe use of personal safety devices such as alarms, sprays, stun guns and firearms.

For those unable to attend a seminar personally, the program has distributed more than 200,000 of the informative "42 Strategies for Personal Safety" brochures nationwide.

Mr. President, the women of the NRA are to be commended for the development of this important program. The contributions of the "Refuse to be a Victim" program are indeed impressive. This program is a fine example of the type of pro-active safety and security training that the National Rifle Association has long provided to our citizens. I hope that women in every part of our great nation will consider participating in this outstanding program and, in so doing, join the more than ten thousand women who have already benefited from it.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 9:48 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 4276) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1999, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. ROGERS, Mr. KOLBE, Mr. TAYLOR of North Carolina, Mr. REGULA, Mr. LATHAM, Mr. LIVINGSTON, Mr. YOUNG of Florida, Mr. MOLLOHAN, Mr. SKAGGS, Mr. DIXON, and Mr. OBEY as the managers of the conference on the part of the House.

At 4:04 p.m., a message from the House of Representatives, delivered by Mr. Hanrahan, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1794. An act for the relief of Mai Hoa "Jasmin" Salehi.

H.R. 1834. An act for the relief of Mercedes Del Carmen Quiroz Martinez Cruz.

H.R. 4259. An act to allow Haskell Indian Nations University and the Southwestern Indian Polytechnic Institute each to conduct a demonstration project to test the feasibility and desirability of new personnel management policies and procedures, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two votes of the two Houses on the amendment of the Senate to the bill (H.R. 3694) to authorize appropriations for fiscal year 1999 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

S. 314. An act to provide a process for identifying the functions of the Federal Government that are not inherently governmental functions, and for other purposes.

H.R. 449. An act to provide for the orderly disposal of certain Federal lands in Clark County, Nevada, and to provide for the acquisition of environmentally sensitive lands in the State of Nevada.

H.R. 930. An act to require Federal employees to use Federal travel charge cards for all payments of expenses of official Government travel, to amend title 31, United States Code, to establish requirements for prepayment audits of Federal agency transportation expenses, to authorize reimbursement of Federal agency employees for taxes incurred on travel or transportation reimbursements, and to authorize test programs for the payment of Federal employee travel expenses and relocation expenses.

H.R. 1481. An act to amend the Great Lakes Fish and Wildlife Restoration Act of 1990 to provide for implementation of recommendations of the United States Fish and Wildlife Service contained in the Great Lakes Fishery Resources Restoration Study.

H.R. 1836. An act to amend chapter 89 of title 5, United States Code, to improve administrative sanctions against unfit health care providers under the Federal Employees Health Benefits Program, and for other purposes.

The enrolled bills were signed subsequently by the President pro tempore (Mr. THURMOND).

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-7297. A communication from the Chairman of the Board of Governors of the Federal Reserve System and the Chairman of the U.S. Securities and Exchange Commission, transmitting, pursuant to law, a report entitled "Markets for Small Business and Commercial Mortgage Related Securities"; to the Committee on Banking, Housing, and Urban Affairs.

EC-7298. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Hospice Wage Index" (RIN0938-AI87) received on October 2, 1998; to the Committee on Finance.

EC-7299. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Classification of Certain Transactions Involving Computer Programs" (RIN1545-AU70) received on October 2, 1998; to the Committee on Finance.

EC-7300. A communication from the Interim District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Statutory Audit of the District's Depository Activities for Fiscal Years 1996 and 1997"; to the Committee on Governmental Affairs.

EC-7301. A communication from the Chairman of the District of Columbia Financial Responsibility and Management Assistance Authority, transmitting, pursuant to law, a report entitled "Fiscal Year 1999 Performance Accountability Plan for the District of Columbia"; to the Committee on Governmental Affairs.

EC-7302. A communication from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled "Federal Acquisition Regulation; Reform of Affirmative Action in Federal Procurement" (RIN9000-AH59) received on October 2, 1998; to the Committee on Governmental Affairs.

EC-7303. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pollock by Trawl Vessels Using Nonpelagic Trawl Gear in the Bering Sea and Aleutian Islands" (I.D. 092898A) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC-7304. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pollock by Trawl Vessels Using Nonpelagic Trawl Gear in Bycatch Limitation Zone 1 of the Bering Sea and Aleutian Islands" (I.D. 092898E) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC-7305. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod in the Western Regulatory Area of the Gulf of Alaska" (I.D. 092298B) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC-7306. A communication from the Acting Deputy Director of the National Institutes of Standards and Technology, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Upgrading of the American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB) Accreditation Manual" (RIN0693-ZA21) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC-7307. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Transportation Equity Act for the 21st Century; Implementation for Participation in the Value Pricing Pilot Program" (Docket 98-4300) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC-7308. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Occupant Protection Incentive Grants" (Docket 98-4496) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC-7309. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Regulated Navigation Area; Strait of Juan de Fuca and Adjacent Coastal Waters of Washington; Makah Whale Hunting" (RIN2115-AE84) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC-7310. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Special Local Regulations; Columbus Day Regatta Sailboat Race, Miami, Florida" (RIN2115-AE46) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC-7311. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone; Gulf of Alaska; Southeast of Narrow Cape, Kodiak Island, Alaska" (RIN2115-AE97) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC-7312. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Lifesaving Equipment" (RIN2115-AB72) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC-7313. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Security for Passenger Vessels and Passenger Terminals" (RIN2115-AD75) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC-7314. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Rolls-Royce Limited, Aero Division—Bristol/S.N.E.C.M.A. Olympus 593 Series Turbojet Engines" (Docket 98-ANE-07-AD) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC-7315. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Rain and Hail Ingestion Standards; Correction" (Docket 28652) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC-7316. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on various Twin Commander Aircraft Corporation model airplanes (Docket 97-CE-57-AD) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC-7317. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Maule Aerospace Technology Corp. M-4, M-5, M-6, M-7, MX-7, and MXT-7 Series Airplanes and Models MT-7-235 and M-8-235 Airplanes; Correction" (Docket 98-CE-01-AD) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC-7318. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Israel Aircraft Industries (IAI), Ltd., Model 1121, 1121A, 1121B, 1123, 1124, and 1124A Series Airplanes" (Docket 98-NM-108-AD) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC-7319. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Raytheon Aircraft Company 200 Series Airplanes" (Docket 98-CE-17-AD) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC-7320. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class

E Airspace; Trenton, MO'' (Docket 98-ACE-38) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC-7321. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Class E Airspace; Wellington, KS'' (Docket 98-ACE-42) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC-7322. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Class E Airspace; Ulysses, KS'' (Docket 98-ACE-41) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC-7323. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Class E Airspace; Pittsburg, KS'' (Docket 98-ACE-40) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC-7324. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Class E Airspace; Great Bend, KS'' (Docket 98-ACE-39) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC-7325. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Class E Airspace; West Plains, MO'' (Docket 98-ACE-37) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC-7326. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Class E Airspace; Wichita Mid-Continent Airport, KS'' (Docket 98-ACE-36) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC-7327. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Villa Rica, GA'' (Docket 98-ASO-9) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC-7328. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments—No. 1892'' (Docket 29344) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC-7329. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments—No. 1891'' (Docket 29343) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC-7330. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 737-100, -200, -300, -400, and -500 Series Airplanes'' (Docket 98-NM-254-AD) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC-7331. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Migratory Bird Hunting; Temporary Approval of Tungsten-polymer Shot as Nontoxic for the 1998-99 Season'' (RIN1018-AE66) received on October 2, 1998; to the Committee on Environment and Public Works.

EC-7332. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Migratory Bird Hunting; Extension of Temporary Approval of Tungsten-Iron Shot as Nontoxic for the 1998-99 Season'' (RIN1018-AE35) received on October 2, 1998; to the Committee on Environment and Public Works.

EC-7333. A communication from the Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Determination of Endangered or Threatened Status for Four Southwestern California Plants from Vernal Wetlands and Clay Soils'' (RIN1018-AL88) received on October 2, 1998; to the Committee on Environment and Public Works.

EC-7334. A communication from the Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Determination of Endangered or Threatened Status for Five Desert Milk-vetch Taxa from California'' (RIN1018-AB75) received on October 2, 1998; to the Committee on Environment and Public Works.

EC-7335. A communication from the Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Endangered or Threatened Status for Three Plants from the Chaparral and Scrub of Southwestern California'' (RIN1018-AD60) received on October 2, 1998; to the Committee on Environment and Public Works.

EC-7336. A communication from the Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Determination of Endangered or Threatened Status for Four Plants from Southwestern California and Baja California, Mexico'' (RIN1018-AD38) received on October 2, 1998; to the Committee on Environment and Public Works.

EC-7337. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a major rule regarding petroleum refining process wastes previously submitted as a minor rule (FRL6172-3) received on October 2, 1998; to the Committee on Environment and Public Works.

EC-7338. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Avermectin; Extension of Tolerance for Emergency Exemptions'' (FRL6033-7) received on October 2, 1998; to the Committee on Environment and Public Works.

EC-7339. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Befenthrin; Extension of Tolerance for Emergency Exemptions'' (FRL6034-9) received on October 2, 1998; to the Committee on Environment and Public Works.

EC-7340. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Cyproconazole; Pesticide Tolerance'' (FRL6036-9) received on October 2, 1998; to the Committee on Environment and Public Works.

EC-7341. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Fludioxonil; Pesticide Tolerances'' (FRL6036-8) received on October 2, 1998; to the Committee on Environment and Public Works.

EC-7342. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Glyphosate; Pesticide Tolerance'' (FRL6036-1) received on October 2, 1998; to the Committee on Environment and Public Works.

EC-7343. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Imidacloprid; Extension of Tolerance for Emergency Exemptions'' (FRL6037-2) received on October 2, 1998; to the Committee on Environment and Public Works.

EC-7344. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Pyridate; Pesticide Tolerance'' (FRL6036-2) received on October 2, 1998; to the Committee on Environment and Public Works.

EC-7345. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Sethoxydim; Pesticide Tolerances'' (FRL6034-1) received on October 2, 1998; to the Committee on Environment and Public Works.

EC-7346. A communication from the Acting Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, a draft of proposed legislation entitled ''The Body Armor Penalty Enhancement Act''; to the Committee on the Judiciary.

EC-7347. A communication from the Chief of the Programs and Legislation Division, Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, notice of a cost comparison of the base operating support functions at Hill Air Force Base, Utah; to the Committee on Armed Services.

EC-7348. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a list of General Accounting Office reports issued or released in August 1998; to the Committee on Governmental Affairs.

EC-7349. A communication from the Chairman of the United States International Trade Commission, transmitting, pursuant to law, the Commission's combined annual reports entitled ''Caribbean Basin Economic Recovery Act (CBERA)—Impact on the United States'' and ''Andean Trade Preference Act (ATPA)—Impact on the United

States" for calendar year 1997; to the Committee on Finance.

EC–7350. A communication from the Deputy Secretary of the Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Investment Adviser Year 2000 Reports" (RIN3235–AH45) received on October 2, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–7351. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the Board's report entitled "The Profitability of Credit Card Operations of Depository Institutions" for calendar year 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–7352. A communication from the Acting Deputy Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; License Limitation Program" (I.D. 060997A3) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7353. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Atlantic Tuna Fisheries; Atlantic Bluefin Tuna" (I.D. 091198C) received on October 5, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7354. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a proposed license for the export of M88A2 Tracked Armor Recovery Vehicles to Thailand (DTC 99–98); to the Committee on Foreign Relations.

EC–7355. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a proposed license for the export of MK 45 gun mounts to Australia (DTC 113–98); to the Committee on Foreign Relations.

EC–7356. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a proposed license for the export of TOW 2A, TOW 2B, and TOW Practice Missiles to Italy (DTC128–98); to the Committee on Foreign Relations.

EC–7357. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a proposed license for the export of defense articles and services relative to the manufacture of military vehicle wiring harnesses in Mexico (DTC 133–98) received on October 5, 1998; to the Committee on Foreign Relations.

EC–7358. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a proposed license for the export of CH–47D helicopters to Australia (DTC 140–98) received on October 5, 1998; to the Committee on Foreign Relations.

EC–7359. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Veterinary Diagnostic Services User Fees" (Docket 94–115–2) received on October 5, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7360. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Importation of Horses" (Docket 95–054–3) received on October 5, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7361. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Brucellosis in Cattle; State and Area Classifications; Mississippi" (Docket 98–097–1) received on October 5, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7362. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Validated Brucellosis-Free States; South Carolina" (Docket 98–101–1) received on October 5, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

REPORTS OF COMMITTEE

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on appropriations:

Special Report entitled "Further Revised Allocation to Subcommittees of Budget Totals for Fiscal Year 1999" (Rept. No. 105–373).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources:

Report to accompany the bill (S. 2041) to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the design, planning, and construction of the Willow Lake Natural Treatment System Project for the reclamation and reuse of water, and for other purposes (Rept. No. 105–374).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources:

Report to accompanying the bill (S. 2140) to amend the Reclamation Projects Authorization and Adjustment Act of 1992 to authorize the Secretary of the Interior to participate in the design planning, and construction of the Denver Water Reuse project (Rept. No. 105–375).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources:

Report to accompany the bill (S. 2142) to authorize the Secretary of the Interior to convey the facilities of the Pine River Project, to allow jurisdictional transfer of lands between the Department of Agriculture, Forest Service, and the Department of the Interior Bureau of Reclamation, and the Bureau of Indian Affairs, and for other purposes (Rept. No. 105–376).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources:

Report to accompany the bill (H.R. 2402) to make technical and clarifying amendments to improve management of water-related facilities in the Western United States (Rept. No. 105–377).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources:

Report to accompany the bill (H.R. 4079) to authorize the construction of temperature control devices at Folsom Dam in California (Rept. No. 105–378).

By Mr. CAMPBELL, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 391: A bill to provide for the disposition of certain funds appropriated to pay judgment in favor of the Mississippi Sioux Indians, and for other purposes (Rept. No. 105–379).

By Mr. JEFFORDS, from the Committee on Labor and Human Resources, without amendment:

H.R. 1023: A bill to provide for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products, and for other purposes.

By Mr. JEFFORDS, from the Committee on Labor and Human Resources, without amendment:

S. 2564: An original bill to provide for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committee was submitted on October 6, 1998:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources:

Eljay B. Bowron, of Michigan, to be Inspector General, Department of the Interior.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ROBERTS (for himself and Mr. MCCAIN):

S. 2563. A bill to amend title 10, United States Code, to restore military retirement benefits that were reduced by the Military Retirement Reform Act of 1986; to the Committee on Armed Services.

By Mr. JEFFORDS:

S. 2564. An original bill to provide for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products, and for other purposes; from the Committee on Labor and Human Resources; placed on the calendar.

By Mr. DURBIN (for himself, Mr. WARNER, Ms. MIKULSKI, Mr. HUTCHINSON, Mr. ROBB, Mr. KENNEDY, and Mr. DEWINE):

S. 2565. A bill to amend the Federal Food, Drug, and Cosmetic Act to clarify the circumstances in which a substance is considered to be a pesticide chemical for purposes of such Act, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Ms. LANDRIEU (for herself, Mr. MURKOWSKI, Mr. LOTT, Mr. BREAUX, Mr. D'AMATO, Mr. CLELAND, Mr. JOHNSON, Mr. COCHRAN, Ms. MIKULSKI, and Mr. SESSIONS):

S. 2566. A bill to provide Coastal Impact Assistance to State and local governments, to amend the Outer Continental Shelf Lands Act Amendments of 1978, the Land and Water Conservation Fund Act of 1965, the Urban Park and Recreation Recovery Act, and the Federal Aid in Wildlife Restoration Act (commonly referred to as the Pittman-Robertson Act) to establish a fund to meet the outdoor conservation and recreation needs of the American people, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. WELLSTONE:

S. 2567. A bill to ensure that any entity owned, operated, or controlled by the people's Liberation Army or the People's Armed Police of the People's Republic of China does not conduct certain business with United States persons, and for other purposes; to the Committee on Finance.

By Mr. JEFFORDS (for himself and Mr. DODD):

S. 2568. A bill to amend the Internal Revenue Code of 1986 to provide that the exclusion from gross income for foster care payments shall also apply to payments by qualifying placement agencies, and for other purposes; to the Committee on Finance.

By Mr. GORTON (for himself, Mr. SMITH of Oregon, and Mr. KEMPTHORNE):

S. 2569. A bill to amend the Pacific Northwest Electric Power Planning and Conservation Act to provide for expanding the scope of the Independent Scientific Review Panel; to the Committee on Energy and Natural Resources.

By Mr. KOHL (for himself, Mr. REID, and Mrs. FEINSTEIN):

S. 2570. A bill entitled the "Long-Term Care Patient Protection Act of 1998"; to the Committee on Finance.

By Mr. LIEBERMAN:

S. 2571. A bill to reduce errors and increase accuracy and efficiency in the administration of Federal benefit programs, and for other purposes; to the Committee on Governmental Affairs.

By Mr. SARBANES:

S. 2572. A bill to amend the International Maritime Satellite Telecommunications Act to ensure the continuing provision of certain global satellite safety services after the privatization of the business operations of the International Mobile Satellite Organization, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LAUTENBERG:

S. 2573. A bill to make spending reductions to save taxpayers money; to the Committee on Armed Services.

By Mr. JOHNSON (for himself and Mr. DASCHLE):

S. 2574. A bill for the relief of Frances Schochenmaier; to the Committee on the Judiciary.

By Mr. CHAFEE (for himself and Mr. MOYNIHAN):

S. 2575. A bill to expand authority for programs to encourage Federal employees to commute by means other than single-occupancy motor vehicles to include an option to pay cash for agency-provided parking spaces, and for other purposes; to the Committee on Governmental Affairs.

By Ms. SNOWE (for herself, Ms. MIKULSKI, Ms. COLLINS, Mrs. HUTCHISON, Ms. MOSELEY-BRAUN, Mrs. MURRAY, Mrs. BOXER, Mr. DODD, Mr. JEFFORDS, Mr. REID, Mr. D'AMATO, Mr. ROCKEFELLER, Mr. KERREY, Mr. LIEBERMAN, Mr. TORRICELLI, Mr. DURBIN, Mr. SARBANES, Mr. KERRY, Mr. LAUTENBERG, Mr. INOUYE, and Mr. LEAHY):

S. 2576. A bill to create a National Museum of Women's History Advisory Committee; to the Committee on Rules and Administration.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MCCONNELL:

S. Res. 289. A resolution authorizing the printing of the "Testimony from the Hearings of the Task Force on Economic Sanctions"; considered and agreed to.

By Mr. LOTT (for himself and Mr. DASCHLE):

S. Res. 290. A resolution to authorize representation by Senate Legal Counsel; considered and agreed to.

S. Res. 291. A resolution to authorize representation by Senate Legal Counsel; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROBERTS (for himself and Mr. MCCAIN):

S. 2563. A bill to amend title 10, United States Code, to restore military retirement benefits that were reduced by the Military Retirement Reform Act of 1986; to the Committee on Armed Services.

MILITARY RETIREMENT READINESS ENHANCEMENT ACT OF 1998

Mr. ROBERTS. Mr. President, a few weeks ago I called the Senate's attention to several issues in the military that are contributing to problems in recruiting and retention of key, midcareer military personnel. Briefly, those issues were as follows:

We are asking the military, significantly smaller than it was during the cold war, to operate and deploy much more frequently.

We are asking the military to deploy on missions that may not be in the vital national interest of this Nation.

We are not paying servicemen and women a salary that is comparable to the pay they could get outside the military for the same skills.

We are not providing quality health care for the families of the military, and we have not provided the promised health care for the retired members of the military.

We are not providing quality housing to all military families.

And we are not providing a retirement program that is adequate to justify a career commitment to the arduous lifestyle and the difficult family separations that are necessary in military life.

Mr. President, I rise today to offer legislation to address military retirement. The bill that I am introducing repeals the Military Reform Retirement Act of 1986, also known as REDUX. This experiment in the military retirement system was introduced in 1986 with the intended purpose—and it was a good one—of encouraging members of the military to stay longer than the popular career of 20 years.

The service chiefs now say that retirement is one of the top reasons that our men and women are leaving the service. The Chairman of the Joint Chiefs of Staff, General Shelton, listed it among the most pressing problems facing the military in retaining key people. The Secretary of Defense has voiced very similar concerns.

Pay is being addressed slowly, including a 3.6 percent pay raise in this defense appropriations bill.

The Department of Defense is working on housing issues that may solve the problems. Problems with the health care programs are very complex and multilayered and requires detailed study to solve. The issue of the high rate of deployments and the quality of missions rests at the feet of the administration and this Congress and are now the subject of policy debate.

Congress must address, however, the issue of retirement. We must show the men and women of our armed services that we are listening to their concerns and that we deeply care about them, their families and the commitment they make to the defense of this Nation.

While the purpose of this bill is to repeal the 1986 retirement program, I want to emphasize it is not the final solution to the military's retirement problem. I urge the Department of Defense to start a comprehensive study—I think they are—and to examine all creative options to solve the recruitment and retention problems that now face the military.

The repeal of REDUX is only but one option. There may be others. I know that private industry has many creative retirement programs that may serve as part of a final solution. The civilian sector of the Federal Government has long experience in retirement programs. Whatever course we end up taking, the bottom line must be a retirement program that is perceived as fair and adequate by our service men and women.

The fundamental job of the Federal Government is to provide for the security of the Nation. That security begins and ends with people. It is clear that they are sending a strong message that we are letting them down. We are not providing adequately for their welfare and their postmilitary life.

So providing better benefits for members of the military will pay dividends for national security. And, Mr. President, it is the right thing to do. We owe it to our military men and women who are making the personal and family sacrifices to do such an important job. They do an outstanding job under the most difficult of circumstances. It is not too much to ask that we provide adequate support for them and their families.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2563

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 10, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Military Retirement Readiness Enhancement Act of 1998".

(b) REFERENCES TO TITLE 10.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 10, United States Code.

SEC. 2. RETIRED PAY MULTIPLIER.

(a) REPEAL OF REDUCTION FOR LESS THAN 30 YEARS OF SERVICE.—Subsection (b) of section 1409 is amended by striking out paragraph (2).

(b) CONFORMING AMENDMENTS.—(1) Paragraph (1) of such subsection is amended by striking out "paragraphs (2) and (3)" and inserting in lieu thereof "paragraph (2)".

(2) Paragraph (3) of such subsection is redesignated as paragraph (2).

SEC. 3. ADJUSTMENTS OF RETIRED AND RETAINER PAY TO REFLECT CHANGES IN THE CONSUMER PRICE INDEX.

(a) REPEAL OF REDUCED COLA RATE.—Subsection (b) of section 1401a is amended—

(1) by striking out paragraphs (1), (2), (3), and (4), and inserting in lieu thereof the following:

"(1) GENERAL RULE.—Effective on December 1 of each year, the Secretary of Defense shall increase the retired pay of each member and former member of an armed force by the percent (adjusted to the nearest one-tenth of 1 percent) by which—

"(A) the price index for the base quarter of that year, exceeds

"(B) the base index."; and

(2) by redesignating paragraph (5) as paragraph (2).

(b) FIRST COLA ADJUSTMENT.—Subsections (c)(3) and (d) of such section are amended by striking out "who first became a member of a uniformed service before August 1, 1986, and".

(c) REPEAL OF SPECIAL RULE ON PRO RATING INITIAL ADJUSTMENT FOR POST-1986 REFORM RETIREES.—Subsection (e) of such section is repealed.

(d) CONFORMING AMENDMENTS.—Subsections (f), (g), and (h) of such section are redesignated as subsections (e), (f), and (g), respectively.

SEC. 4. RESTORAL OF FULL RETIREMENT AMOUNT AT AGE 62.

(a) REPEAL.—Section 1410 is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 71 is amended by striking out the item relating to section 1410.

SEC. 5. CONFORMING AMENDMENTS FOR SURVIVOR BENEFIT PLAN.

(a) UNREDUCED RETIRED PAY AS BASIS FOR ANNUITY.—Section 1447(6)(A) is amended by striking out "(determined without regard to any reduction under section 1409(b)(2) of this title)".

(b) COST-OF-LIVING ADJUSTMENTS AND RECOMPUTATIONS.—Section 1451 is amended by striking out subsections (h) and (i) and inserting in lieu thereof the following:

"(h) ADJUSTMENTS TO BASE AMOUNT FOR COST-OF-LIVING.—

"(1) INCREASES IN BASE AMOUNT WHEN RETIRED PAY INCREASED.—Whenever retired pay is increased under section 1401a of this title (or any other provision of law), the base amount applicable to each participant in the Plan shall be increased at the same time.

"(2) PERCENTAGE OF INCREASE.—The increase shall be by the same percent as the percent by which the retired pay of the participant is so increased.".

(c) REDUCTION IN RETIRED PAY.—(1) Section 1452 is amended—

(A) in subsection (c), by striking out paragraph (4); and

(B) by striking out subsection (i).

(2) Section 1460(d) is amended by striking out "or recomputed under section 1452(i) of this title", or recomputed, as the case may be," and "or recomputation".

SEC. 6. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on October 1, 1999, and shall apply with respect to retired or retainer pay accruing for months beginning on or after that date.

Mr. MCCAIN. Mr. President, I rise to support and cosponsor the legislation that Senator ROBERTS introduced earlier today that reinstates the 50 percent retirement "earned benefit" plan for men and women in the military who retire with 20 years of military service. I also implore the Senate leadership to act quickly on this legislation and move for its swift passage before the 105th Congress adjourns for the year.

Times have changed since 1986. Our economy has prospered, producing historically high levels of employment and resulting in the emergence of a very difficult recruiting and retention environment for the armed services. Maintaining a top-quality force requires a military personnel system that has the flexibility to react quickly to the dynamics of the civilian market, and the leadership and confidence to follow through with critical personnel decisions rather than neglecting them out of fiscal opportunism. Regrettably, this year, first, second, and third-term enlisted retention, pilot and mid-grade officer retention, and recruiting are all short of the goal for each of the services.

Recruiting and retaining quality individuals requires pay scales that adjust to meet prevailing rates rather than fall 14 percent behind comparable civilian pay. It requires adequate funding for recruiting. It requires proper promotion rates—not promotion boards that take five months to process reports of promotion boards, as is the case with the Navy. It requires proper living conditions and morale, welfare and recreation services. It also requires reasonable tours of duty, a higher quality of civilian leadership, and "role models" within the leadership who are seen to take service members' quality-of-life concerns to heart.

Reinstatement of the 50 percent retirement plan for career military men and women would serve as an important signal of resolve to our service members that the United States Congress is aware of the shortfall in benefits for those who wear the uniform of their country and is acting to improve those benefits. Last week, the Senate Armed Services Committee heard directly from the Joint Chiefs that restoring retirement benefits is a requirement for recruiting and retaining the qualified individuals we rely on to defend this nation.

General Hugh Shelton, Chairman of the Joint Chiefs of Staff, stated clearly that fixing the military retirement system is a top recommendation for restoring the readiness of our armed forces. Army Chief of Staff General Reimer has written to me that

> . . . the retirement package we have offered our soldiers entering the Army since 1986 is inadequate. Having lost 25 percent of its lifetime value as a result of the 1980's reforms, military retirement is no longer our number one retention tool. Our soldiers and families deserve better. We need to send them a strong signal that we haven't forgotten them. .

The military medical health care system, particularly the TRICARE program, has been described by Service Chiefs as falling far short of what is warranted and needed. We cannot ignore the erosion of retirement and health care benefits, and the resultant impact on retention and readiness. General Reimer writes,

> "The loss in medical benefits when a retiree turns 65 is particularly bothersome to our soldiers who are making career decisions."

From the Service Chiefs' answers, it is highly questionable whether we are meeting any of these requirements. On the contrary, it is clear that there is much work to be done.

Finally, it is demoralizing to the men and women we send into harm's way, and is incomprehensible to the American people, who expect a well-trained and well-equipped force, to witness as many as 25,000 military personnel and their families on food stamps. One tax provision that I have tried to reverse this year excludes uniformed men and women in the military from beneficial tax treatment on the profits resulting from the sale of their homes. We order servicemembers to move from place to place, but we do not afford them the same tax treatment as other U.S. citizens. Should this issue have been permitted to exist for so many years?

Mr. President, we cannot afford to neglect this array of personnel concerns. Let us begin by acting immediately to restore the higher earned benefit plan for retired service members. Senator ROBERTS has offered critical legislation to help reverse the diminishing retention rates that cripple our Armed Services and ultimately diminish their ability to execute our National Military Strategy. On behalf of all men and women who have honorably dedicated their careers to serving this country in uniform, I urge my colleagues to join me in support of this legislation.

By Ms. LANDRIEU (for herself, Mr. MURKOWSKI, Mr. LOTT, Mr. BREAUX, Mr. D'AMATO, Mr. CLELAND, Mr. JOHNSON, Mr. COCHRAN, Ms. MIKULSKI, and Mr. SESSIONS):

S. 2566. A bill to provide Coastal Impact Assistance to State and local governments, to amend the Outer Continental Shelf Lands Act Amendments of 1978, the Land and Water Conservation Fund Act of 1965, the Urban Park and Recreation Recovery Act, and the Federal Aid in Wildlife Restoration Act (commonly referred to as the Pittman-Robertson Act) to establish a fund to meet the outdoor conservation and recreation needs of the American people, and for other purposes; to the Committee on Energy and Natural Resources.

REINVESTMENT AND ENVIRONMENTAL RESTORATION ACT OF 1998

Ms. LANDRIEU. Mr. President, I begin by thanking my colleague from Louisiana Senator BREAUX, a cosponsor on this measure, as well as Senator MURKOWSKI, Senator LOTT, Senator D'AMATO, Senator CLELAND, Senator JOHNSON, Senator COCHRAN, Senator SESSIONS and Senator MIKULSKI as cosponsors of this measure, and also thank the many leaders on the House side that are today introducing this bill on the House side.

Surely, with the time so short, we will not be considering this bill in this session, but we plan for a very lively debate as the 106th Congress meets in January on this very important piece of environmental legislation for our country.

I will take a few minutes to outline in a highlighted form what this bill will attempt to do, something that we have worked on, a group of us, earnestly and very excitedly for the last year. Then my colleague from Louisiana, Senator BREAUX, will say a few words about the bill.

This is the Reinvestment and Environmental Restoration Act of 1998. It is going to attempt to take 50 percent of the moneys that are now flowing into the Federal Treasury from offshore oil and gas revenues—which have been very significant; $120 billion since 1955—and redistribute those revenues in a smarter way, in a better way, and in a way that our country can be proud of.

We are going to ask that 27 percent of those revenues be distributed to coastal States for coastal conservation impact assistance, 16 percent to fund more fully the Land and Water Conservation Fund, and 7 percent to fund the Wildlife Conservation and Restoration Act. These are the major titles of this bill. Let me very briefly hit on each one.

I am from Louisiana, a State that has supported, proudly supported, oil and gas drilling and exploration. It has created many jobs in our State. We try to do it in a more environmentally sensitive way each and every year, and every decade we make tremendous progress. Other States like Texas, Mississippi, and to a certain degree, Alabama, although not as much, and Alaska, join in that effort.

There are many States that do not have drilling and many States that have a moratorium on drilling. This bill is not a pro-drilling bill or anti-drilling bill. The purpose is to say that the production of those resources off the shores of our States, although they are offshore, have tremendous impact—both positive and negative—on the States that host drilling.

Louisiana has contributed since the 1950s over 90 percent of these revenues that I spoke about, the $120 billion, and we have gotten less than 1 percent back. It is time to correct that inequity. That is what the first title of this bill does. It says to Louisiana, thank you for your commitment to our energy security and for the way that you have contributed to this oil and gas drilling. We believe that some of this money should go back to help your State and the coastal areas to shore up our wetlands and to reinvest in our environment. That is Title I of this bill. It will distribute funds to all coastal States, whether they have drilling or not.

As I said, there are no incentives; there are no disincentives. It is a revenue-sharing bill to all the coastal States. These revenues are collected from a nonrenewable resource. One day these oil and gas wells will be dried up. It might be 10 years from now or 20 years from now, but some day they will be dried up, and we want to make sure that a portion of this money is reinvested back into our States for environmental infrastructure and wetland conservation so that we have something to show for it.

The second part of this bill amends the Land and Water Conservation Act in an attempt to restore this fund, or to more fully fund it. I will ask unanimous consent to have printed in the RECORD an excerpt from an editorial from the New York Times on this subject.

I will read the first short paragraph of this editorial.

> More than 30 years ago, Congress passed a quiet little environmental program that offered great promise to future generations of Americans. Conceived under Dwight Eisenhower, proposed by John F. Kennedy and signed into law by Lyndon Johnson, the Federal Land and Water Conservation Fund was designed to provide a steady revenue stream to preserve "irreplaceable lands of natural beauty and unique recreational value." Royalties from offshore oil and gas leases would provide the money, giving the program an interesting symmetry. Dollars raised from depleting one natural resource would be used to protect another.

The problem is, this promise was never fulfilled. That is what the second title of this bill will do. It seeks to make this promise real for our families, for our children, and for the next generation. It will take, as I said, 16 percent of these revenues to almost fully fund the State side and the Federal side of the Land and Water Conservation Fund. It will provide a reliable and steady stream of revenue to do just that.

Let me share with you that on the Federal side in only 6 out of the last 33 years have we really lived up to the promise that we made to the land and water conservation side. On the State side, the funding record has been even more dismal. Only 1 year out of 33 years since this Land and Water Conservation Fund was enacted did we live up to that promise. So title II happens to fully restore funding so that we can plan and count on these moneys to help expand our parks and our recreation for our children and families in rural and urban areas around this great country.

Finally, title III is a new title, a new chapter, but an attempt to sort of weave together some of the attempts by my colleague, Senator BREAUX, and others to improve the Wildlife Conservation and Restoration Act. I believe it makes little sense to spend all of our money in this area on the back end, after species have become endangered. Then we have problems not only with the species in question but with property rights. We have questions with economies that can be very negatively affected when industries have to move out or can't proceed because of this.

So we believe it is time to start investing some money on the front end. That is what this title does—helping species, helping States to give educational and technical assistance to stop these species from becoming endangered, and therefore saving the taxpayers a lot of money and local economies a lot of anguish, and to give some much-needed revenue to our State wildlife agencies around this country.

So those are generally the titles of the bill.

I just want to say that it is high time that we live up to the promise made 30 years ago, and we can do that by more wisely spending this money. It makes no sense to take 100 percent of these revenues and spend them on Federal operating expenses that have nothing to do with our environment, or with this promise that was made, or with our investments in future generations.

It is time not just for Louisiana, Texas, Alaska, and Mississippi, who have contributed so much to this industry, but also it is high time for all of our States to benefit in a more direct way than they are currently. This is a wiser fiscal policy, it is a much wiser environmental policy, and it most certainly is an idea whose time has come.

To reiterate, the Reinvestment and Environmental Restoration Act of 1998 will go farther than any legislation to date to make good on promises that were made to the people of this country decades ago. In addition, it will begin to right a wrong endured by oil and gas producing States for over 50 years, particularly for the States along the Gulf of Mexico, and my State of Louisiana.

The Reinvestment and Environmental Restoration Act first provides a guaranteed source of funding equal to 27 percent of all Outer Continental Shelf revenues for Coastal Impact Assistance to States to offset the impacts of offshore oil and gas activity, as well as to nonproducing States for environmental purposes. This funding goes directly to States and local governments for improvements in air and water quality, fish and wildlife habitat, wetlands, or other coastal resources, including shoreline protection and coastal restoration. These revenues to coastal States will help offset a range of costs unique to maintaining a coastal zone. The formula is based on population, coastline and proximity to production.

Second, the bill provides a permanent stream of revenue for the State and Federal sides of the Land and Water Conservation Fund, as well as for the Urban Parks and Recreation Recovery Program. Under the bill, funding to the LWCF becomes automatic at 16 percent of annual revenues. Receiving just under half this amount, the State side of LWCF will provide funds to State and local governments for land acquisition, urban conservation and recreation projects, all under the discretion of State and local authorities. Since its enactment in 1965, the LWCF State Grant Program has funded more than 37,000 park and recreation projects throughout the Nation, including in Louisiana the Joe Brown Park Development in New Orleans, the Baton Rouge Animal Exhibit, the Veterans Memorial Park in Point Barre and the Northwestern State University Recreation Complex in Natchitoches. The Urban Parks program would enable cities and towns to focus on the needs of its populations within our more densely inhabited areas with fewer greenspaces, playgrounds and soccer fields for our youth. Stable funding, not subject to appropriations, will provide greater revenue certainty to State and local planning authorities.

A stable baseline will be established for Federal land acquisition through the LWCF at a level higher than the historical average over the past decade. Federal LWCF will receive just under half of the amount in this title of the bill. And, nothing in this bill will preclude additional Federal LWCF funds to be sought through the annual appropriations process. Some very worthy national projects that have received funding in the past include the Atchafalaya National Wildlife Refuge in Louisiana, the Mississippi Sandhill Crane Wildlife Refuge, the Cape Cod National Seashore, Voyageurs National Park in Minnesota and the Sterling Forest in New Jersey. Federal LWCF dollars will be used for land acquisition in areas which have been and will be authorized by Congress. The bill will restore Congressional intent with respect to the LWCF, the goal of which is to share a significant portion of revenues from offshore development with the States to provide for protection and public use of the natural environment.

Finally, the wildlife conservation and restoration provision includes guaranteed funding of 7 percent of annual OCS revenues for wildlife habitat protection, conservation education and delisting of endangered species. Moreover, this funding may be used by States for habitat preservation and land acquisition of wintering habitat for important species, therefore preventing listings under the Endangered Species Act.

While we are proud of the accomplishment represented by the introduction of this bill, I feel compelled to mention other interests that are not included in the legislation, but for which I maintain a strong level of support and commitment. The National Historic Preservation Fund is an important authorized use for Outer Continental Shelf revenues. In fact, I introduced legislation earlier this year to reauthorize the fund for its continued viability and vitality. We see the Reinvestment and Environmental Restoration Act as a starting point for debate and consideration of additional issues. I would like to work with proponents of historic preservation over the course of the year to see their needs addressed in the future. This would include similar consideration for Historic Battlefield Preservation, which is important to other members in this body. I also wish to work with other groups to address their concerns about other provisions in the bill having to do with formulas. Indeed, this is a measure that should enjoy broad support, and I want to continue to work with groups to that end.

Mr. President, all three portions of the bill will effectively free up State resources which in turn may then be used for other pressing local needs. The Reinvestment and Environmental Restoration Act is a perfect opportunity to reinvest in our Nation's renewable resources for the benefit of our children's future and our grandchildren's future. It is an idea whose time has come. I urge my colleagues to carefully consider this proposal.

Mr. President, I thank Chairman MURKOWSKI, and I thank the majority leader, Senator LOTT, for all of their help in making this legislation possible.

I ask unanimous consent that the bill and New York Times editorial be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[The bill was not available for printing. It will appear in a future issue of the RECORD]

[From the New York Times, June 16, 1997]

REVIVE THE CONSERVATION FUND

More than 30 years ago, Congress passed a quiet little environmental program that offered great promise to future generations of Americans. Conceived under Dwight Eisenhower, proposed by John F. Kennedy and signed into law by Lyndon Johnson, the Federal Land and Water Conservation Fund was designed to provide a steady revenue stream to preserve "irreplaceable lands of natural beauty and unique recreational value." Royalties from offshore oil and gas leases would provide the money, giving the program an interesting symmetry. Dollars raised from depleting one natural resource would be used to protect another.

Since its inception, the fund has helped acquire seven million acres of national and State parkland and develop 37,000 recreation projects. Its notable triumphs include the Cape Cod National Seashore, the New Jersey Pinelands National Reserve and Voyageurs National Park in Minnesota. But the program fell apart during the Reagan Administration and has yet to recover. Of the $900 million that has flowed to the fund from oil and gas royalties each year since 1980, Congress has seen fit to appropriate only a third, and in some years far less. The rest has simply disappeared into the Treasury, allocated for deficit reduction.

The biggest losers have been the States. Over time, appropriations have been split about evenly between Federal and State conservation projects. But for 2 years running, not a dime has gone to the States—again for budgetary reasons. This has been hard on New York, which needs Federal help to buy valuable open space threatened by development in the Adirondacks and elsewhere.

Now, quite suddenly, this legislative stepchild has acquired a bunch of new friends. As part of the recent budget deal, Republican leaders agreed to add $700 million to the $166 million that President Clinton has requested for the new fiscal year. The Republicans had been getting heat from governors back home and saw a chance to polish their environmental image. For his part, Mr. Clinton needed about $315 million to complete two important Federal purchases, both strongly supported by this page—$65 million to develop on his pledge to buy the New World Mine on the edge of Yellowstone National Park, the rest to acquire the Headwaters Redwood Grove in California from a private lumber company.

That would still leave several hundred million dollars for other Federal projects and for the States—but only if the House and

Senate appropriations committees honor the outlines of the budget deal and commit to sizable share of the money to State projects. State officials have been descending upon Washington in recent days to plead their cased. Gov. George Pataki has written every member of Congress and, last week, the New York State Parks Commissioner, Bernadette Castro, testified at hearings convened by Senator Frank Murkowski of Alaska.

Mr. BREAUX. Mr. President, I thank the Senator from Louisiana and congratulate her for all the effort she has put forth in bringing this legislation to this point.

I have been in Congress for a long time—something like 26 years now, in the House and in this body—and I have never really seen a first-term Member who has been so dedicated to a major legislative effort as has the Senator from Louisiana, Ms. LANDRIEU, in bringing this legislation to the floor of the U.S. Senate. Many Members, on their first day, have come in and introduced a bill, issued a press release, and then forgotten about it. This has been an effort by the Senator from Louisiana, Senator LANDRIEU, of very carefully prodding and very carefully studying and working with Members on both sides of the aisle to put together a bipartisan coalition to bring this legislation to the floor of the Senate.

While this is brought to the floor of the Senate in the last days of this session, we all know that there will be another day. The groundwork that she has laid in putting this package and this coalition together is going to be here in the next Congress. So in the next Congress we will start not from scratch but from the groundwork that she has laid in bringing this legislation to the point it is today.

I congratulate her for the way she has done it. It is something that I have not seen by a new Member of the Congress in all of the years that I have been here. It is a major accomplishment on her part. I am very pleased to participate in it.

Just a brief word on the legislation. I think it is a fair thing to do. Many noncoastal States have Federal property, owned 100 percent by the Federal Government, within their borders. When minerals are extracted or oil and gas are found on those Federal lands, the State in which those lands are located gets as much as 50 percent of the revenue. Coastal States, however, get nothing. That is clearly not fair. Offshore mineral development operations have a major impact on coastal Louisiana. These operations impact our roads, bridges and other infrastructure, our freshwater supply, our housing and other vital public resources. It is only fair that there be a reasonable sharing of those revenues with States that bear these kinds of burdens. The impact coastal States suffer is a burden borne for the good of the whole country and, without it, the whole country would suffer.

Therefore, to share in a true partnership with the coastal States is certainly something that this Congress should favorably consider, and I think that we will because of what the Senator has been able to do in a bipartisan fashion. So while it is late this year, it is early for next year. The work that she has done this year will pay off next year.

Mr. MURKOWSKI. Mr. President, I rise today, along with Senators LANDRIEU and LOTT, to introduce the Reinvestment and Environmental Restoration Act of 1998.

This important piece of legislation remedies a tremendous inequity in the distribution of revenues generated by offshore oil and gas production by directing that a portion of those moneys be allocated to coastal States and communities who shoulder the responsibility for energy development activity off their coastlines. It also provides a secure funding source for State recreation and wildlife conservation programs.

The OCS Impact Assistance portion of this bill is similar to legislation I have introduced in prior Congresses and is an issue I have worked on for my entire Senate career.

Title 1 of the bill directs that a portion of the revenues generated from oil and natural gas production on the Outer Continental Shelf—or OCS—be returned to coastal States and communities that share the burdens of exploration and production off their coastlines.

Offshore oil and gas production generates $3 to $4 billion in revenues annually for the U.S. Treasury. Yet, unlike mineral receipts from onshore Federal lands, OCS oil and gas revenues are not directly returned to the States in which production occurs.

This legislation remedies this disparity. States and communities that bear the responsibilities for offshore oil and gas production will share in its benefits.

This legislation would, for the first time, share revenues generated by OCS oil and gas activities with counties, parishes and boroughs—the local governmental entities most directly affected—and State governments.

The bill also acknowledges that all coastal States, including those States bordering the Great Lakes, have unique needs and directs that a portion of OCS revenues be shared with these States, even if no OCS production occurs off their coasts.

Coastal States and communities can use OCS Impact Assistance funds on everything from environmental programs, to coastal and marine conservation efforts, to new infrastructure requirements.

In Alaska, local communities could use OCS funds to participate in the environmental planning process required by Federal laws before OCS development occurs.

Other rural coastal communities in Alaska will use the money for sanitation improvements. While still others, like Unalakleet, will use the money to construct sea walls and breakwaters or beach rehabilitation—efforts which will combat the impacts of coastal erosion.

This is money that will be used, day-in and day-out, to improve the quality of life on coastal State residents—money which comes from oil and gas production.

Further, as the Federal OCS program expands in Alaska, this legislation will mean even more revenues to the State, boroughs and local communities.

This is a true investment in the future.

As Chairman of the Energy and Natural Resources Committee, I know all too well that offshore oil and gas production is a lightning rod for environmental groups who will go to great lengths to disparage an activity that is vital to the long-term energy and economic security of this country.

These groups will likely say that this bill creates incentives for offshore oil and gas production because a factor in the distribution formula is a State's proximity to OCS production.

Let us remember, this is an impact assistance bill—revenue sharing, if you will.

States only will have impacts if they have production. The States with production, obviously, have greater needs and are most deserving of a larger share of OCS revenues.

Mr. President, let me also remind everyone, that OCS production only occurs off the coasts of 6 States—yet the bill shares OCS revenues with 34 States.

There are 28 coastal States that will get a share of OCS revenues which have no OCS production. In fact, in all areas except the Gulf of Mexico and Alaska there is a moratorium prohibiting any new OCS production.

It is in the long-term best interest of this country to support responsible and sustainable development of nonrenewable resources.

We now import more than 50 percent of our domestic petroleum requirements and the Department of Energy's Information Administration predicts, in ten years, America will be at least 64 percent dependent on foreign oil.

OCS development will play an important role in offsetting even greater dependence on foreign energy.

The OCS accounts for 24 percent of this Nation's natural gas production and 14 percent of its oil production. We need to ensure that the OCS continues to meet our future domestic energy needs.

I firmly believe that the Federal Government needs to do all it can to pursue and encourage further technological advances in OCS exploration and production.

These technological achievements have and will continue to result in new OCS production having an unparalleled record of excellence on environmental and safety issues.

Additional technological advances with appropriate incentives will further improve new resource recovery and therefore increase revenues to the Treasury for the benefit of all Americans who enjoy programs funded by OCS money.

I will do all I can to ensure a healthy OCS program, including new OCS development in the Arctic.

A number of challenges face new developments in this area—I am confident that we can work through them all.

History has shown us that in the Arctic, and in other OCS areas, development and the environmental protection are compatible.

This bill also takes a portion of the revenues received by the Federal Government from OCS development and invests it in conservation and wildlife programs.

Thus, titles II and III of the bill share OCS revenues with all States for such purposes.

Title II of this bill provides a secure source of funding for the Land and Water Conservation Fund. The LWCF was established over three decades ago to provide Federal money for State and Federal land acquisition and help meet Americans' recreation needs.

Over 30 years ago, Congress had the foresight to recognize the ever growing need of the American public for parks and recreation facilities with the passage of the Land and Water Conservation Fund Act.

That landmark piece of legislation was premised on the belief that revenues earned from the depletion of a nonrenewable resource need to be reinvested in a renewable resource for the benefit of future generations.

This rationale is as valid today as it was in the mid-1960's.

To accomplish this goal, the Land and Water Conservation Fund Act directs that revenues earned from offshore oil and gas production should be spent on the acquisition of Federal recreation lands by the land management agencies.

The act also creates a State-side matching grant program.

The State-side matching grant program provides 50-50 matching grants to States and local communities for the acquisition and construction of park and recreation facilities.

The State-side program has a truly unique legacy in the history of American conservation by providing the States with a leadership role in the provision of recreation opportunities.

Through the 1995 fiscal year, over 3.2 billion in Federal dollars have been leveraged to fund over 37,000 State and local park and recreation projects.

Yet, despite these successes, the President had not requested any money for the State-side program for the last 4 years.

This is a program supported by this Nation's mayors, Governors, and the recreation community.

The State-side matching grant should not have to justify annually its existence with congressional appropriators.

Title II makes this program self-sufficient and provides secure funding from OCS revenues.

Title III of this bill provides funding for State fish and wildlife conservation programs.

In Alaska, with its unparalleled natural beauty, fishing and hunting are two of the most popular forms of outdoor recreation.

The bill directs that a portion of OCS revenues should go to the States for wildlife purposes.

The money would be distributed through the Pittman-Robertson program administered by the United States Fish and Wildlife Services.

With the inclusion of OCS revenues, the amount of money available for State fish and game programs would nearly double.

This is a no-tax alternative to the Teaming with Wildlife proposal.

States will be able to use these monies to increase fish and wildlife populations and improve fish and wildlife habitat.

States also could use the money for wildlife education programs.

I am proud of this proposal which is a win-win for the oil and gas industry, the States, environmental and conservation groups, and all Americans.

This bill will ensure not only that coastal States have money to address the effects of OCS-activities but that all States have funds necessary to provide outdoor recreation and conservation resources for all of us today to enjoy.

As we end the 105th Congress, I can pledge, as Chairman of the Energy and Natural Resources Committee, that the enactment of this bill will be one of my highest priorities next year.

Mr. LOTT. Mr. President, it is with great pleasure that I join my colleagues, Senators LANDRIEU and MURKOWSKI, in introducing the Reinvestment and Environmental Restoration Act.

Mr. President, since the inception of the oil and gas program on the Outer Continental Shelf (OCS), States and coastal communities have sought a greater share of the benefits from development. And why shouldn't they? These communities provide the infrastructure, public services, manpower and support industries necessary to sustain this development.

Currently, the majority of OCS revenues are funneled into the Federal Treasury where they are used to pay for various Federal programs and to reduce the deficit. While funding programs and reducing the deficit are certainly important, I believe that some percentage of the revenues should be reinvested in that which makes them possible.

Our bill does that. The Reinvestment and Environmental Restoration Act diverts one-half of the OCS revenues from the Federal Treasury to coastal States and communities for a multitude of programs: air and water quality monitoring, wetlands protection, coastal restoration and shoreline protection, land acquisition, infrastructure, public service needs, State park and recreation programs and wildlife conservation.

This bill allows States and communities to use these funds in whatever manner they deem appropriate. In Pascagoula, for example, authorities might choose to restore and secure the shoreline where years of sea traffic have taken their toll. Further north in Vancleave, they may choose instead to refurbish the roads and bridges that carry the heavy machinery coming and going from the coast. This bill provides a framework within which these localities can make the right decisions for their citizens and environment.

Mr. President, I have been working on this issue for many, many years. As a coast dweller myself, I know the impact that the oil and gas industry can have on communities and the importance of reinvestment in these areas. This is not to say that the industry mistreats the States; on the contrary, they work very hard to comply with stringent environmental regulations and to take care of the community as best they can. The OCS Policy Committee said in 1993 that, despite the oil industry's best efforts, "OCS development still can affect community infrastructure, social services and the environment in ways that cause concerns among residents of the coastal States and communities."

I know that there is no way to totally eliminate this impact on coastal communities. I also know that, while the benefits of a healthy OCS program are felt nationally, the infrastructure, environmental and social costs are felt locally. Our bill would put money back into the communities that need it most.

It would also put money back into the environmental resources of the area. Exploration for nonrenewable resources and stewardship of coastal resources are not mutually exclusive, but must be carefully balanced for both to be sustained. It is important that our wetlands, fisheries and water resources are taken into consideration and afforded adequate protection.

In addition to propping up the States and coastal communities, our bill also provides funding for the Land and Water Conservation Fund (LWCF). Over 30 years ago, Congress set up this fund to address the American public's desire for more parks and recreational facilities. This bill makes the program self-sufficient, providing secure funding from the OCS revenues. This is an investment in our future—our land, our resources and our recreational enjoyment.

Mr. President, our bill makes yet another investment with these OCS revenues—an investment in fish and wildlife programs. With the inclusion of OCS revenues, the amount of money available for State programs would nearly double. This is money that can be used to increase populations and improve habitat for fish and wildlife. It could even be used for wildlife education programs.

Mr. President, this bill was carefully crafted to strike a balance between the needs and interests of the oil and gas industry, the States, and the environmental and conservation groups. It's a good package that will benefit all Americans, not just those who live and work in coastal areas. It will benefit hunters and anglers. It will benefit bird-watchers and campers. It will benefit all Americans who take solace in the fact that the oil industry is taking care of the communities that support it.

I appreciate the hard work of my colleagues and look forward to advancing this important legislation in the 106th Congress.

By Mr. WELLSTONE:

S. 2567. A bill to ensure that any entity owned, operated, or controlled by the People's Liberation Army or the People's Armed Police of the People's Republic of China does not conduct certain business with United States persons, and for other purposes; to the Committee on Finance.

TRADING WITH THE PEOPLE'S REPUBLIC OF CHINA MILITARY ACT OF 1998

• Mr. WELLSTONE. Mr. President, today I'm introducing a bill that would bar firms owned by China's People's Liberation Army and People's Armed Police from operating in the United States and prohibit the import into the United States of products made by these firms or the export of products to these firms. It would also prohibit extension of credit to or ownership interest in Chinese military companies. The bill contains an exemption for humanitarian aid, waiving these prohibitions if the President determines that a transaction involves items intended to relieve human suffering such as food, medicine or emergency supplies.

My bill is based in part on H.R. 4433 introduced in the House on August 6, 1998 by Representatives GEPHARDT, BONIOR, and PELOSI, who I want to commend for taking this bold and important human rights initiative.

Before I get into the key question of why I'm introducing this bill, I would like to touch on the question of the extent of PLA and People's Armed Police commercial relations with the United States. To begin with, I should stress that there is uncertainty about the extent and nature of activities of companies linked to Chinese military and security forces in the United States. For example, a Rand study last year estimated that there are "between 20–30 PLA-affiliated companies operating in the United States, although there are certainly more that have not yet been identified." It added that one of the major obstacles to identifying these companies is that they "often consciously disguise their military background by using offshore holding companies and unfamiliar names."

Nevertheless, while there is much we don't know, there is some hard data available on PLA and People's Armed Police business dealings with the United States. In June, 1997 the AFL–CIO's Food and Allied Services Trades Department issued a report providing a wealth of detailed information on these business dealings. The report, based on extensive research, found twelve companies incorporated in the United States owned by the People's Armed Police and various elements of the PLA, including the General Staff Department and the Navy. In addition, the report cited seven PLA companies that had been dissolved after their officials had been accused of smuggling AK–47's into the United States in 1996—an episode I will discuss later. For each company, the report provided addresses and dates of incorporation, and for some companies the names of registered agents, officers, and directors.

The AFL–CIO report also provided detailed data on the exports to the United States of twenty-five People's Armed Police and PLA companies during 1996. The companies included not only major PLA components such as the General Staff and General Logistics Departments, but also some owned by various PLA military regions. All told, these companies exported 34 million pounds of products to the United States, including furniture, chemicals, rain gear, toys, sport rifles, aircraft engines, and fish. According to an AFL–CIO official, PLA companies were the largest exporters of fish for U.S. fast-food restaurants. Finally, the report contained a listing of U.S. companies that had purchased these products. In testimony before the Senate Foreign Relations Committee last November, an AFL–CIO official pointed out that several well-known U.S. concerns had purchased products directly from PLA companies.

While it is not illegal for the People's Armed Police and PLA companies to operate in the United States, on at least one occasion a major PLA company participated in a clearly illegal activity. In May, 1996, federal law enforcement agencies carried out a sting operation connected with seizure of 2,000 fully automatic AK–47 weapons from China. Since 1994 Chinese gun exports to the United States have been illegal and this was the largest seizure of fully automatic weapons in U.S. history. One of the two Chinese companies involved, Poly Technologies, is the most successful PLA-controlled company. Poly is run by China's princelings, family members of top Chinese civilian and military leaders. Poly's president is the late Deng Xiaoping's son-in-law and a retired PLA Major General. The Chairman of Poly is the son of the late Wang Zhen, who was China's vice-president and a retired General. While China experts doubt there was high-level collusion in the smuggling of AK–47's, a federal law enforcement officer noted that those involved were "in a position to deliver substantial arms and are not low-level flunkies."

Mr. President, I now want to turn to the key question of why I decided to introduce this bill. Why is there a need for such legislation? Because companies owned by the PLA—the Chinese Government's main and indispensable instrument of repression—are permitted to operate in the United States. Because the American people are unwittingly purchasing products exported to the United States by companies owned by the PLA and the People's Armed Police. Because the American people would be outraged—as deeply outraged as I am—if they knew they were subsidizing those responsible for massacring students, workers, and other demonstrators for democracy in Tiananmen Square on June 4, 1989, those who have occupied Tibet for almost 50 years, brutally oppressing its people and seeking to erase their unique, cultural, linguistic, and religious heritage. And because they would be outraged—as deeply outraged as I am, that their government is not only doing nothing to stop this, but is opposing efforts to end PLA and People's Armed Police profit-making in the United States.

Mr. President, you may well ask what is the People's Armed Police. The People's Armed Police, who are under the operational control of the PLA, are an internal security force of over 1 million troops, one of whose main purposes is to suppress the legitimate protests of the Chinese people. For example, the People's Armed Police is often used to quash the peaceful protests of Chinese workers.

Last year the People's Armed Police was used to brutally break up protests by thousands of laid-off State enterprise workers in Sichuan province. Hundreds of these workers, who took to the streets because company officials embezzled their unemployment compensation, were reportedly beaten by the People's Armed Police and several "instigators" were arrested. Chinese officials were said to have ordered hospitals not to treat wounded demonstrators, comparing them to "counterrevolutionary thugs" who "rioted" at Tiananmen in June 1989. What were the laid-off workers seeking that provoked such a vicious crackdown by the People's Armed Police? Just that the government provide them with the subsistence they are entitled to and that corrupt company officials be punished.

How can we continue to subsidize the thugs who repress Chinese workers?

The People's Armed Police also man the guard towers of the Laogai, China's massive forced labor camp system—the largest in the world. The Laogai is China's version of the Soviet gulag. The Laogai is comprised of more than 1,100 forced labor camps, with an estimated population of 6 to 8 million prisoners. Prisoners are overworked, denied medical treatment and tortured.

How can we continue to subsidize those who guard slave laborers?

The People's Armed Police and the PLA are the key agents of repression in Tibet. The People's Armed Police have been filmed in Lhasa, the capital of Tibet, beating monks and nuns peacefully demonstrating for their rights. This past May, the People's Armed Police and PLA soldiers reportedly fired on 150 Tibetan political prisoners who staged a demonstration in Tibet's main prison and the police later stormed the prison and arrested the demonstrators. Chinese officials were apparently offended when the political prisoners flew a Tibetan national flag during the demonstration.

How can we continue to subsidize those who deny Tibetans fundamental freedoms, beat and torture them, and seek to destroy their unique culture and religion?

Mr. President, this is shameful and it must be stopped. Would we have allowed Stalin's NKVD or Hitler's SS to subsidize their heinous activities by running profit-making entities in the United States and exporting goods to us and buying goods from us? Of course not. Why then do we allow the likes of the PLA and the People's Armed Police to profit from commercial relations with us and why does the Administration oppose efforts to put an end to this?

Mr. President, the Administration in the past has justified the unjustifiable by arguing that imposing sanctions on PLA and People's Armed Police companies would be an "impossible task" for U.S. law enforcement agencies, risk retaliation against major U.S. exporters, and harm our efforts to develop a military-to-military dialog and relationship with China.

While I believe these arguments don't hold water, they have been overtaken by events. In July, President Jiang Zemin ordered the PLA and the People's Armed Police to end the "commercial activities" of their subordinate units. There are some questions about the extent to which Jiang's orders will be carried out and over what timeframe. Tai Ming Cheung, a noted expert on China's military, foresees some shrinkage of the military-business complex, but predicts that it will "remain powerful and more focused." Some China experts estimate that as much as one-third of total defense spending derive from profits from PLA businesses and it would obviously be difficult for the government to compensate the military for loss of this funding stream.

Be this as it may, the fact remains that it is now Chinese government policy to end the commercial activities of the PLA and the People's Armed Police. I believe that the Senate should do all we can to help Beijing by passing my bill, which seeks to cut U.S. commercial ties with the PLA and the People's Armed Police and to end their business activities in the United States. Since we would be cooperating with Jiang's policies, the Administration can no longer point to alleged harmful effects on our military-to-military dialog or Chinese retaliation against U.S. exporters. Moreover, we would have reason to expect that the ability of U.S. law enforcement agencies to implement the sanctions contained in this bill would be enhanced since PLA and People's Armed Police business activities would be illegal both in China and the United States. Jiang Zemin presumably would have incentives to end or at least circumscribe Chinese military and police business dealings with and in the United States and, perhaps, even cooperate with U.S. law enforcement agencies.

While no one can predict how successful Jiang will be in eliminating or even in cutting back China's military-business complex, we must act to end U.S. subsidies to those who beat, torture, and imprison those who bravely fight for freedom and democracy. By contributing to PLA and People's Armed Police coffers we act in complicity with those who repress workers, run slave labor camps, crush religious freedom, quash Tibetans and other minorities seeking to preserve their identity culture and religion. We betray those who laid down their lives at Tiananmen Square, inspired by American principles of democracy and individual rights and we betray those brave dissidents who rot in Chinese jails or toil in forced labor camps, whose only crime was to fight for the ideals all Americans hold dear. It is time to end this complicity, end these betrayals of our friends.

I urge my colleagues to support this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2567

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Trading With the People's Republic of China Military Act of 1998".

SEC. 2. FINDINGS AND POLICY.

(a) FINDINGS.—Congress makes the following findings:

(1) The People's Liberation Army is the principal instrument of repression within the People's Republic of China and is responsible for massacring an unknown number of students, workers, and other demonstrators for democracy in Tiananmen Square on June 4, 1989.

(2) The People's Liberation Army is responsible for occupying Tibet since 1950 and implementing the official policy of the People's Republic of China to eliminate the unique cultural, linguistic, and religious heritage of the Tibetan people.

(3) The People's Liberation Army has operational control of the People's Armed Police, an internal security force of over 1,000,000 troops, whose primary purpose is to suppress the legitimate protests of the Chinese people.

(4) The People's Liberation Army is engaged in a massive effort to modernize its military capabilities.

(5) The People's Liberation Army owns and operates hundreds of companies and thousands of factories the profits from which in some measure are used to support military activities.

(6) Companies owned by the People's Liberation Army and the People's Armed Police export to the United States such products as toys, clothing, frozen fish, lighting fixtures, garlic, glassware, yarn, footwear, chemicals, machinery, metal products, furniture, decorations, gloves, tents, and tools.

(7) Companies owned by the People's Liberation Army and the People's Armed Police regularly solicit investment in joint ventures with United States companies.

(8) The People's Liberation Army and the People's Armed Police have established at least 23 different companies in the United States over the past decade.

(9) The people of the United States are unaware that certain products they purchase in retail stores are produced by companies owned and operated by the People's Liberation Army or the People's Armed Police.

(10) The purchase of these products by United States consumers places them in the position of unwittingly subsidizing the operations of the People's Liberation Army and the People's Armed Police.

(11) The Government of the People's Republic of China, with the assistance of the People's Liberation Army and the People's Armed Police, continues to deny its citizens basic human rights enumerated in the Universal Declaration of Human Rights, persecutes those who seek to freely practice their religion, and denies workers the right to establish free and independent trade unions.

(b) POLICY.—It is the policy of the United States to prohibit any entity owned, operated, or controlled by the People's Liberation Army or the People's Armed Police from operating in the United States or from conducting certain business with persons subject to the jurisdiction of the United States.

SEC. 3. COMPILATION AND PUBLICATION OF LIST OF PEOPLE'S REPUBLIC OF CHINA MILITARY COMPANIES.

(a) COMPILATION AND PUBLICATION.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary of Defense, in consultation with the Secretary of the Treasury, the Attorney General, the Director of Central Intelligence, and the Director of the Federal Bureau of Investigation, shall—

(A) compile a list of persons who are People's Republic of China military companies and who are operating directly or indirectly in the United States or any of its territories and possessions; and

(B) publish the list of such persons in the Federal Register.

(2) PERIODIC UPDATES.—Every 6 months after the date of the publication of the list under paragraph (1), the Secretary of Defense, in consultation with the officials referred to in that paragraph, shall make such additions to or deletions from the list as the Secretary considers appropriate based on the latest information available.

(b) PEOPLE'S REPUBLIC OF CHINA MILITARY COMPANY.—For purposes of making the determination required by subsection (a), the term "People's Republic of China military company"—

(1) means a person that is—

(A) engaged in providing commercial services, manufacturing, producing, or exporting; and

(B) owned, operated, or controlled by the People's Liberation Army or the People's Armed Police; and

(2) includes any person identified in Defense Intelligence Agency publication numbered VP-1920-271-90, dated September 1990, or PC-1921-57-95, dated October 1995, or any updates of such publications under subsection (c).

(c) UPDATING OF PUBLICATIONS.—Not later than 90 days after the date of enactment of this Act, and every 6 months thereafter, the Defense Intelligence Agency shall update the publications referred to in subsection (b)(2) for purposes of determining People's Republic of China military companies under this section.

SEC. 4. PROHIBITIONS.

(a) OFFICERS, DIRECTORS, ETC.—It shall be unlawful for any person to serve as an officer, director, or other manager of any office or business anywhere in the United States or its territories or possessions that is owned, operated, or controlled by a People's Republic of China military company.

(b) DIVESTITURE.—The President shall by regulation require the closing and divestiture of any office or business in the United States or its territories or possessions that is owned, operated, or controlled by a People's Republic of China military company.

(c) IMPORTATION.—No goods or services that are the growth, product, or manufacture of a People's Republic of China military company may enter the customs territory of the United States.

(d) CONTRACTS, LOANS, OWNERSHIP INTERESTS.—It shall be unlawful for any person subject to the jurisdiction of the United States—

(1) to make any loan or other extension of credit to any People's Republic of China military company; or

(2) to acquire an ownership interest in any People's Republic of China military company.

(e) EXPORTS.—It shall be unlawful for any person subject to the jurisdiction of the United States to export goods, technology, or services to, or for any person to export goods, technology, or services that are subject to the jurisdiction of the United States to, a People's Republic of China military company.

(f) EXCEPTION FOR HUMANITARIAN ITEMS.—Subsections (a) through (e) shall not apply with respect to a transaction if the President—

(1) determines that the transaction involves the transfer of food, clothing, medicine, or emergency supplies intended to relieve human suffering; and

(2) transmits notice of that determination to Congress.

SEC. 5. REGULATORY AUTHORITY.

The President shall prescribe such regulations as are necessary to carry out this Act.

SEC. 6. PENALTIES.

Any person who knowingly violates section 4 or any regulation issued thereunder—

(1) in the case of the first offense, shall be fined not more than $100,000, imprisoned not more than 1 year, or both; and

(2) in the case of any subsequent offense, shall be fined not more than $1,000,000, imprisoned not more than 4 years, or both.

SEC. 7. DEFINITIONS.

For purposes of this Act:

(1) PEOPLE'S ARMED POLICE.—The term "People's Armed Police" means the paramilitary service of the People's Republic of China, whether or not such service is subject to the control of the People's Liberation Army, the Public Security Bureau of that government, or any other governmental entity of the People's Republic of China.

(2) PEOPLE'S LIBERATION ARMY.—The term "People's Liberation Army" means the land, naval, and air military services and the military intelligence services of the People's Republic of China, and any member of any such service.●

By Mr. JEFFORDS (for himself and Mr. DODD):

S. 2568. A bill to amend the Internal Revenue Code of 1986 to provide that the exclusion from gross income for foster care payments shall also apply to payments by qualifying placement agencies, and for other purposes; to the Committee on Finance.

EXCLUSION FOR FOSTER CARE PAYMENTS TO APPLY PAYMENTS BY QUALIFYING PLACEMENTS AGENCIES

Mr. JEFFORDS. Mr. President, today I am introducing a bill that will eliminate unnecessary distinctions drawn by the Internal Revenue Code for the tax treatment of payments received by families and individuals who open their homes to care for foster children and adults. Currently, the law allows an exclusion from income for foster care payments received by some providers, while denying eligibility for the exclusion to other foster care providers.

My bill expands the law's exclusion of foster care payments. Under my bill, foster care payments to providers made by placement agencies that contract with, or are licensed by, State or local governments will be eligible for the exclusion, regardless of the age of the individual in foster care. This bill is a companion to H.R. 3991, introduced by Congressman JIM BUNNING of Kentucky. By simplifying the tax treatment of foster care payments, the bill will remove the inequities and uncertainties inherent in the current tax treatment of foster care payments.

Under current law, foster care providers are permitted to deduct expenditures made while caring for foster individuals. Providers must maintain detailed records to substantiate these deductions. In lieu of this detailed record keeping, section 131 of the Internal Revenue Code allows certain foster care providers to exclude from income the payments they receive to care for foster care. Eligibility for this exclusion depends upon a complicated analysis of three factors: the age of the person in foster care; the type of foster care placement agency; and the source of the foster care payments.

For children under age 19 in foster care, section 131 permits providers to exclude payments when a State (or one of its political subdivisions) or a charitable tax-exempt placement agency places the individual in foster care and makes the foster care payments. For persons age 19 and older, section 131 permits providers to exclude foster care payments only when a State (or one of its political subdivisions) places the individual and makes the payments.

This bill will simplify these anachronistic tax rules by expanding the Tax Code's exclusion to include foster care payments for all persons in foster care, regardless of age, even if the foster care placement is made by a foster care placement agency and even if foster care payments are received through a foster care placement agency, rather than directly from a State (or one of its political subdivisions). To ensure appropriate oversight, the bill requires that the placement agency be either licensed by, or under contract with, a State or a political subdivision thereof.

Increasingly, State and local governments are relying on private agencies to arrange for foster care services for children and adults. While foster care for children has been in existence for decades, foster care for adults is a more recent phenomenon. Sometimes referred to as "host homes" or "developmental homes," adult foster care facilities have proven to be an effective alternative to institutional care for adults with disabilities. My home State of Vermont, at the forefront of efforts to develop individualized alternatives to institutional care, authorizes local developmental service providers to act as placement agencies and to contract with families willing to provide foster care in their homes. The tax law's disparate tax treatment of foster care payments, however, impedes alternative arrangements. Persons providing foster care for individuals placed in their homes by the government can exclude foster care payments from income. For providers receiving payments from private agencies, however, the exclusion is not available (unless the individual in foster care is under age 19 and the placement agency is a nonprofit organization). These rules discourage families willing to provide foster care in their homes to persons placed by private placement agencies, thus reducing the availability of care alternatives. Because of the complexity of the current law, providers often receive conflicting advice from tax professionals regarding the proper tax treatment of foster care payments they receive.

Mr. President, this bill will advance the development of family-based foster care services, a highly valued alternative to institutionalization. I urge my colleagues to support it.

Mr. DODD. Mr. President, I am very pleased to rise along with my colleague, Senator JEFFORDS, in introducing a critically important piece of legislation that will ensure fair treatment for individuals and families who provide invaluable care to foster children and adults.

Presently, foster care providers are permitted to deduct expenditures made while caring for foster individuals if detailed expense records are maintained to support such deductions. However, section 131 of the Internal Revenue Code permits certain foster care providers to exclude, from taxable income, payments they receive to care for foster individuals. Who specifically is available for this exclusion depends upon a complicated analysis of three factors: the age of the individual receiving foster care services, the type of foster care placement agency, and the source of the foster care payments.

Section 131 presently permits foster care providers to exclude payments from taxable income only when a State, or one of its political divisions, or a charitable tax exempt placement agency places the individual and makes the foster care payments for children under 19 years of age. However, for adults over the age of 19, section 131 permits foster providers to exclude payments from taxable income only when a State, or one of its divisisions, places the individual and provides the foster care payments.

Mr. President, it is time that we remove the inequities and needless complexities of the current system. States and localities across the country are increasingly relying on private agencies to arrange for foster care services for both children and adults. However, some foster care providers are understandably reluctant to contract with private placement agencies because current law requires such providers to include foster care payments as taxable income. In contrast, current law permits providers who care for foster individuals placed in their homes by government agencies to exclude such payments from taxable income. Current law, therefore, discourages families from providing foster care on behalf of private placement agencies, thereby reducing badly-needed foster care opportunities for individuals requiring assistance.

The bill Senator JEFFORDS and I introduce today will greatly simplify the outdated tax rules applicable to foster care payments. Under our legislation, foster care providers would be able to avoid onerous record keeping by excluding from income any foster care payment received regardless of the age of the individual receiving foster care services, the type of agency that placed the individual, or the source of foster care payments. To ensure appropriate oversight, this bill will require the placement agency to be licensed either by, or under contract with, a State or one or its political divisions.

Mr. President, this legislation accomplishes what current law does not—consistent and fair treatment of families and individuals who open their homes and their hearts to foster children and adults.

By Mr. KOHL (for himself, Mr. REID, and Mrs. FEINSTEIN):

S. 2570. A bill entitled the "Long-Term Care Patient Protection Act of 1998"; to the Committee on Finance.

LONG-TERM CARE PATIENT PROTECTION ACT OF 1998

Mr. KOHL. Mr. President, I rise today to introduce the Long-Term Care Patient Protection Act of 1998, along with Senators REID and FEINSTEIN. I am pleased to introduce this legislation on behalf of the Administration.

Recently, the Department of Health and Human Services Office of Inspector General issued a report describing how easy it is for people with abusive and criminal backgrounds to find work in nursing homes. On September 14th, the Senate Aging Committee held hearings on this disturbing problem, where we heard horrifying stories of elderly patients being abused by the very people who are charged with their care. While the vast majority of nursing home workers are dedicated and professional, even one instance of abuse is inexcusable. This should not be happening in a single nursing home in America.

Senator REID and I have already introduced legislation, the Patient Abuse Prevention Act, to require background checks for health care workers. Those with prior abusive and criminal backgrounds would be prohibited from working in patient care. I am pleased that the Administration has also recognized the importance of addressing this problem, and I have been glad to work with them in this effort. While the bill we introduce today on the Administration's behalf is not perfect, I believe it is another important step in our efforts to pass strong patient protections.

Mr. President, it is estimated that more than 43 percent of Americans over the age of 65 will likely spend time in a nursing home. The number of people needing long-term care services will continue to increase as the Baby Boom generation ages. The vast majority of nursing homes do an excellent job in caring for their patients, but it only takes a few abusive staff to cast a dark shadow over what should be a healing environment.

A disturbing number of cases have been reported where workers with criminal backgrounds have been cleared to work in direct patient care, and have subsequently abused patients in their care. Just last year, the Milwaukee Journal-Sentinel ran a series of articles describing this problem. This past March, The Wall Street Journal published an article describing the difficulties we face in tracking known abusers.

These news stories are only the tip of the iceberg. Unfortunately, it is just far too easy for a worker with a history of abuse to find employment and prey on the most vulnerable patients. The OIG report found that 5 percent of nursing home employees in Maryland and Illinois had prior criminal records. And it also found that between 15-20 percent of those convicted of patient abuse had prior criminal records. It is just too easy for known abusers to find work in health care and continue to prey on patients.

Why is this the case? Because current State and national safeguards are inadequate to screen out abusive workers. All States are required to maintain registries of abusive nurse aides. But nurse aides are not the only workers involved in abuse, and other workers are not tracked at all. Even worse, there is no system to coordinate information about abusive nurse aides between States. A known abuser in Iowa would have little trouble moving to Wisconsin and continuing to work with patients there.

In addition, there is no Federal requirement that nursing homes conduct a criminal background check on prospective employees. People with violent criminal backgrounds—people who have already been found guilty of murder, rape, and assault—could easily get a job in a nursing home or other health care setting without their past ever being discovered.

The Administration's bill that we introduce today builds upon the extensive work that Senator REID and I have done to address this issue, and incorporates some new ideas as well.

First, this legislation will create a National Registry of abusive nursing home employees. States will be required to submit information from their current State registries to the

National Registry. Nursing homes will be required to check the National Registry before hiring a prospective worker. Any worker with a substantiated finding of abuse will be prohibited from working in nursing homes.

Second, the bill provides a second line of defense to prevent people with criminal backgrounds from working in nursing homes. If the National Registry does not include information about the prospective worker, the nursing home is then required to contact the State to initiate an FBI background check. Any conviction for patient abuse or a relevant violent crime would bar that applicant from working in nursing homes.

Let me be clear: I realize that this legislation is not perfect. I have significant concerns about several unresolved issues that I believe must be addressed. We must continue to work on minimizing costs and determine a fair and reasonable way to distribute those costs. We must ensure that the system is efficient and effective, with a quick turnaround time and accurate information for providers. And I believe that we must apply these requirements to other health care settings besides nursing homes. It would do little good to ban these people from working in nursing homes, and still permit them to work in home health care.

Senator REID and I have worked for a long time with patient advocates, the nursing home and home health industries, and law enforcement officials to address these issues. I have been very heartened by their enthusiasm and willingness to work with us in this effort. It is in all of our best interests to pass legislation that is strong, workable, and enforceable.

Despite the unresolved issues I have mentioned, I am introducing the Administration's legislation today because I believe it will provide a strong incentive for everyone to stay at the table and resolve these issues. All of us—the President, Congress, health care professionals and consumer advocates—we all share the common goal of protecting patients from abuse, neglect and maltreatment. We must keep working together to create a viable national system that will prevent abusive workers from working with patients.

Although the remaining days of this Congress are few, we all need to come together once again to reach consensus on the remaining issues and prepare to move this process forward. This legislation gives us an opportunity to act now. I look forward to continuing our work on this issue, and I welcome comments and suggestions for improving the bill.

Mr. President, I want to repeat that I strongly believe that most nursing homes and their staff provide the highest quality care. However, it is imperative that Congress act immediately to get rid of the few that don't. When a patient checks into a nursing home, they should not have to give up their right to be free from abuse, neglect, or mistreatment. They should not have to worry about dying from malnutrition and dehydration.

Our nation's seniors made our country what it is today. Before we cross that bridge to the next century that we have all heard so much about, we must make sure we treat the people that brought us this far with the dignity, care, and respect they deserve. I look forward to working with my colleagues and the administration in this effort to protect patients. Our Nation's seniors and disabled deserve nothing less than our full attention to this matter.

Mr. President, I ask that the text of the bill be printed in the RECORD.

[The bill was not available for printing. It will appear in a future issue of the RECORD.]

Mr. REID. Mr. President, I rise today to join my colleague, Senator KOHL, in introducing the "Long Term Care Patient Protection Act of 1998". This legislation represents our latest step in a series of efforts to institute greater protections for nursing home residents.

Over the past year, Senator KOHL and I, along with our colleagues on the Senate Special Committee on Aging, have worked to ensure that seniors are not placed in the hands of criminals in nursing homes. The disturbing problem of nursing home abuse by workers with a violent or criminal history was brought to our attention just over a year ago. Shortly thereafter, Senator KOHL, GRASSLEY, and I introduced S. 1122, "The Patient Abuse Prevention Act." This measure would require criminal background checks for potential long-term care facility workers and would create a national registry of abusive health care workers.

This past July, Senator KOHL and I sponsored an amendment that would authorize nursing homes and home health agencies to use the FBI criminal background check system. This amendment is an important step towards our goal of mandatory background checks, and I am proud to report that this language was included in the Commerce, Justice, State Appropriations Bill.

Upon our request, the Senate Special Committee and Aging dedicated a hearing to the issue of criminal background checks for long-term care workers. At this time, the Office of the Inspector General (OIG) at the Department of Health and Human Services released a report entitling, "Safeguarding Long Term Care Residents". The year-long investigation by the OIG spanning facilities across the country produced the very recommendations Senator KOHL and I have been advocating for over a year. Specifically, the OIG concurred with our proposal to develop criminal background checks, and to create a national registry for nursing facility employees. Their findings were consistent with our position that a criminal background check system could help weed out potential employees with a history of abuse and prevent them from working with patients.

Recently, President Clinton acknowledged the need for tough legislative and administrative actions to improve the quality of nursing homes. Using our original legislation as a guide, the Administration drafted a proposal to address the crucial issue of criminal background checks for nursing home workers. I am pleased that the Administration has recognized the need for criminal background checks and has modeled its initiative after our legislation. I am introducing the "Long-Term Care Patient Protection Act of 1998" on behalf of the Administration because it builds on our extensive work in this area and represents an important step in the right direction.

The "Long-Term Care Patient Protection Act of 1998" would create a national registry of abusive workers. Further, the bill would expand the existing State nurse aide registries to include substantiated findings of abuse by all nursing facility employees, not just nurse aides. States would be required to submit any existing or newly acquired information contained in the State registries to the national registry of abusive workers. This provision is crucial because it would ensure that once an employee is added to the national registry, the offender will not be able to simply cross State lines and find employment in another nursing home where he may continue to prey on vulnerable seniors.

Another important portion of the bill outlines the process by which nursing homes must screen prospective employees. According to this legislation, all nursing homes must first initiate a search of the national registry of abusive workers. In cases where the prospective employee is not listed on the registry, the nursing home would be required to conduct a State and national criminal background check on the individual through the Federal Bureau of Investigations.

Finally, nursing homes would be required to report to the State any instance in which the facility determines that an employee has committee an act of resident neglect, abuse, or theft of a resident's property during the course of employment. The OIG at the Department of Health and Human Services reported that 46 percent of facilities believe that incidents of abuse are underreported. This provision would ensure that offenders are reported and added to the national registry before they have the opportunity to strike again.

One of the most difficult times for any individual or family is when they must make the decision to rely upon the support and services of a long-term care facility. Families should not have to live with the fear that their loved one is being left in the hands of an individual with a criminal record. No one should have to endure the pain and outrage of learning that their loved one has fallen prey to a nursing home employee with a violent or criminal record. At last month's Aging Committee hearing, we heard the real life nightmare of Richard Meyer, whose 92 year-old mother was sexually assaulted by a male certified nursing assistant who had previously been charged and convicted for sexually assaulting a young girl. We can and we must work to prevent tragedies like this one from occurring again in the future.

Americans over the age of 85 are the fastest growing segment of our elderly population. There are 31.6 million Americans over the age of 65, and as the baby boom generation ages, that number will skyrocket. Over 43 percent of Americans will likely spend time in a nursing home. As our nation seeks ways to care for an aging population, we must establish greater protections to ensure that our seniors will receive the best care possible.

I have visited countless nursing homes in my home State of Nevada. During these visits, I have always been impressed by the compassion and dedication of the staff. Most nurse aides and health care workers are professional, honest, and dedicated. Unfortunately, it only takes one abusive staff member to terrorize the lives of the residents. That is why we must work to wed our the "bad apples" who do not have the best interest of the patient in mind. I urge you join Senator KOHL and me in our efforts to provide greater protections for all nursing home residents.

By Mr. LIEBERMAN:

S. 2571. A bill to reduce errors and increase accuracy and efficiency in the administration of Federal benefit programs, and for other purposes; to the Committee on Governmental Affairs.

FEDERAL BENEFIT VERIFICATION AND INTEGRITY ACT

Mr. LIEBERMAN. Mr. President, today I introduce the Federal Benefit Verification and Integrity Act. This legislation takes a government-wide approach to improving eligibility verification and debt collection in Federal benefit and assistance programs by identifying, testing, evaluating, and, in some cases, implementing "data sharing" information technologies. Federal agencies would be encouraged to make use of Federal, State, and private databases such as the National Directory of New Hires and credit bureau data to help ensure that the government delivers benefits to the right person, at the right time, for the right amount. This bill mirrors Title VI of H.R. 4243, a bill introduced in the House by Representatives STEVE HORN and CAROLYN MALONEY.

The President's Council on Integrity and Efficiency has found that the Federal government loses billions of dollars each year by not adequately verifying information in applications for federal benefit programs. For example, an audit by the Department of Education's Office of Inspector General disclosed that approximately $109 million in Pell grants had been overawarded in 1996 because students failed to report or under-reported their income. The Department of Housing and Urban Development projected that during the same year it had paid out at least $600 million in excess rental subsidies because of tenants' under-reporting of income.

News reports confirm the pervasiveness of this type of fraud against the government. One story in the Wall Street Journal described how "student-aid consultants" charged clients $350 each for phony tax returns, which would under-report the student's family income. Because the government does not compare the tax return accompanying the student loan application with the tax forms that had been submitted to the IRS, the student can fraudulently apply to the government for financial aid and receive thousands of dollars in Pell grants. In another example, the Washington Post reported that an owner of a California trade school was indicted on allegations that he stole $1 million in Federal Pell grants by creating imaginary students. Since the government never compared the names of these students with information it already had, the school was able to hide its crimes for years.

The report of the President's Council on Integrity and Efficiency concluded that Federal agencies need eligibility verification to deter and detect the growing fraud in federal benefit and assistance programs. Several Federal agencies do have procedures to try to verify information submitted by applicants by comparing it with information contained in various Federal and State government databases. Unfortunately the legislative authority for gaining access to this verifying data often does not encompass many of the most useful government sources: there is no comprehensive authority to share data among agencies. Private industry has made great strides in improving eligibility information accuracy, and the federal government could clearly learn from the best business practices of companies like American Express, Visa, Citicorp and Nationsbank. This bill contains provisions to encourage the government to test and incorporate best commercial business practices for eligibility verification.

Similarly, information contained in the National Directory of New Hires and other databases could be a vital aid to the Department of Education's efforts to locate debtors under its student loan programs, and to other agencies trying to locate and collect from debtors. The Department of Education devotes 70% of its debt collection efforts to locating debtors. The National Directory of New Hires, a comprehensive database that lists where virtually all Americans are employed, was recently established as part of the legislation to find and crack down on "deadbeat dads". The Directory is maintained by the Department of Health and Human Services, and the data contained in the database cannot be shared with other agencies without explicit legislative authorization. As with child support collection, the Department of Education could use the New Hires directory as an enormously helpful tool to locate where a debtor lives and works. Once a debtor is found, the Department could then use its existing authority to notify the debtor, and then as a last resort and after meeting all due process requirements, the Department could garnish the debtor's wages.

To improve government-wide data-sharing coordination, this legislation creates a "Federal Benefit Verification and Payment Integrity Board" which would provide oversight and foster agency interest in pursuing data sharing ideas and technologies. Once an agency tests an idea and obtains a positive result, the Board can recommend to the Congress that permanent authorizing legislation be enacted. Federally funded benefit programs that could use data-sharing technologies include: the Pell Grant program, federal student loan programs, Medicaid, the Food Stamp program, USDA and HUD housing programs, veterans compensation programs, Social Security programs, the Railroad Retirement Survivor program, the Civil Service Retirement Program, Small Business Administration programs, and USDA business programs. While this list is not exhaustive, the legislation would promote data-sharing between agencies that have the current statutory authority to do so.

In addition, this legislation balances the need for data in verifying eligibility with the paperwork burden and privacy intrusion that data sharing imposes. In fact, this legislation contains a number of increased privacy protections, including requiring that agency proposals contain administrative, technical, and physical safeguards to ensure the security and confidentiality of records; prohibiting nonessential duplication and re-disclosure of records within or outside an agency receiving information for a test; expanding encryption and electronic signature technology to protect the confidentiality and integrity of information; and doubling the penalty for willfully violating the privacy act to $10,000. Existing computer matching and privacy act laws will not be changed.

The act also expands on the present full due process rights of beneficiaries, including all rights under the Fair Debt Collection Practices Act. The bill ensures that agencies administering federally funded benefit programs adequately inform applicants applying for benefits that their data can be shared to verify their eligibility for those benefits. The agency will be required to maintain a record of each applicant's acknowledgment. In this way, agencies can encourage individuals to provide accurate information when applying for benefits. Moreover, applicants will be given the opportunity to explain inconsistencies.

Finally, the Committee recognizes the importance of keeping the National Directory of New Hires data secure and private. Consequently, this legislation intends that any agency requesting access to the National Directory of New Hires have the statutory authorization to access the same kind of data from other data sources. Also, all data matches with the New Hires database must occur under the Department of Health and Human Services, the agency who owns this information. This way, the government would be able to centralize all data matches at one location—where the data resides.

By using data-sharing technologies, agencies can deter and prevent fraud while becoming more accurate and efficient. This bill promotes data-sharing tools which can save taxpayers substantial resources and at the same time encourage beneficiaries of government programs to deal honestly with their government. Accordingly, I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2571

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Benefit Verification and Integrity Act".

SEC. 2. PURPOSES.

The purposes of this Act are the following:

(1) To reduce errors in Federal benefit programs that lead to waste, fraud, or abuse and encourage agencies to work together to identify common sources of errors.

(2) To identify solutions to common problems that will save money for the taxpayer and demonstrate the Government's ability to deliver Federal benefits to the right person, at the right time, for the right amount.

(3) To focus on increasing accuracy and efficiency for Federal benefit program eligibility, financial and program management, and debt collection.

(4) To improve the coordination of Government information resources across Government agencies to strengthen the delivery of Federal benefits.

(5) To balance the need for data in verifying eligibility with the paperwork burden and privacy intrusion that data sharing imposes.

(6) To emphasize deterring and preventing fraud in the provision of Federal benefits, rather than seeking to detect fraud after Federal benefits have been provided.

(7) To ensure that agencies administering federally funded benefit programs inform applicants applying for benefits under those programs that their data can be shared to verify their eligibility for those benefits.

(8) To encourage individuals to provide accurate information when applying for benefits under federally funded benefit programs.

SEC. 3. DEFINITIONS.

In this Act:

(1) BOARD.—The term "Board" means the Federal Benefit Verification and Payment Integrity Board established under this Act.

(2) FEDERAL BENEFIT PROGRAM.—The term "Federal benefit program" means any program administered or funded by the Federal Government, or by any agent or State on behalf of the Federal Government, providing cash assistance or in-kind assistance in the form of payments, grants, loans, or loan guarantees to or for the benefit of any person.

TITLE I—NOTIFICATION OF FEDERAL BENEFIT RECIPIENTS REGARDING DATA VERIFICATION

SEC. 101. PROGRAM AGENCY RESPONSIBILITY TO PROVIDE CORRECT INFORMATION.

(a) IN GENERAL.—An agency that administers a Federal benefit payment program shall provide notice informing applicants under the program, in information material and instructions accompanying program application forms, that applicants' data may be verified to the extent permitted by law.

(b) AGENCY COMPLIANCE.—An agency may comply with subsection (a) by modifying program materials and applications to include such notice as part of their normal reissuance cycle for reprinting forms, but in no case later than December 31, 2000.

(c) RECORD OF ACKNOWLEDGMENTS.—The head of each agency that administers a Federal benefit program shall maintain a record of each applicant's acknowledgment that the applicant has received notice of the uses and disclosures to be made of the applicant's information, for as long as the applicant receives benefits from or owes a debt to the Government under the program.

TITLE II—FEDERAL BENEFIT PROGRAM MANAGEMENT IMPROVEMENT TESTS

SEC. 201. TESTS OF PRACTICES AND TECHNIQUES FOR IMPROVING FEDERAL BENEFIT PROGRAM MANAGEMENT.

(a) AUTHORITY TO CONDUCT TESTS.—

(1) IN GENERAL.—A Federal agency that administers a Federal benefit program may conduct a test of information technology practices or techniques to improve income verification, debt collection, data privacy and integrity protection, and identification authentication in the administration of the program, in accordance with a proposal approved by the Federal Benefit Verification and Payment Integrity Board established by this title.

(2) WAIVER OF REGULATIONS.—Upon the request of the Board, the head of an agency may waive the enforcement of any regulation of the agency for the purposes of carrying out a test under this section.

(3) IDENTIFICATION OF TEST AREAS.—The Director of the Office of Management and Budget and the Chief Information Officers' Council shall each recommend to the Board, within 120 days after the date of enactment of this Act, various information technology practices and techniques that should be tested under this title.

(b) APPROVAL OF AGENCY PROPOSALS.—

(1) IN GENERAL.—The head of a Federal agency may develop and submit to the Board a proposal for carrying out a test under this section for a specific Federal benefit program administered by the agency. The proposal shall contain specific goals, including a schedule, for improving customer service and error reduction in the program and other information requested by the Board.

(2) CONTENTS.—The proposal shall provide for the testing of information sharing in an integrated manner where feasible of electronic practices and techniques for improving Federal benefit program management, including the following:

(A) Use of encryption and electronic signature technology consistent with techniques acceptable to the National Institute of Standards and Technology, to protect the confidentiality and integrity of information.

(B) Use of other security controls and monitoring tools.

(C) Use of risk profiles and risk alert technologies, including use of Federal, State, and private databases such as the National Directory of New Hires, Federal and State tax data, and credit bureau data.

(D) Establishment of a management framework for exploring and reducing the information security risks associated with Federal agency operations and technologies, including risk assessments and disaster recovery planning.

(3) CONSULTATION.—Any agency whose proposals would require access to another agency's database shall consult with that agency prior to submission of the proposal to the Board, including consultation with the appropriate data integrity board.

(4) PRIVACY SAFEGUARDS.—A proposal submitted to the Board must contain a description of appropriate administrative, technical, and physical safeguards to ensure the security and confidentiality of records and to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual with respect to whom information is maintained. The proposal shall include, in particular, prohibitions on duplication and redisclosure of records provided by the source agency within or outside the recipient entity, except where required by law or essential to the conduct of the test.

(5) AGENCY REIMBURSEMENT.—The proposal shall include an estimate for reimbursement that may be charged by a Federal agency to another agency in conducting tests under the proposal.

(6) REVIEW OF PROPOSALS.—Not later than 60 days after the date of receipt of a proposal under this subsection, the Board shall review and recommend disposition of the proposal to the heads of the data sharing agencies under the proposal. The head of the agency shall respond to the Board within 90 days. Such a response shall include findings as appropriate by the data integrity board.

(c) COOPERATIVE AGREEMENTS AND CONTRACTS.—The head of an agency participating in a test under this section, in consultation with the Board, may enter into a cooperative agreement with a State or contract with a private entity under which the State or private entity, respectively, may provide services on behalf of the Federal agency in carrying out the test.

(d) GENERAL IMPLEMENTATION PLAN.—The Board shall prepare a plan for the implementation of this section, including for the coordination of the conduct of tests under this title and the procedures for submission of proposals for those tests.

(e) REPORTS ON RESULTS OF TESTS.—

(1) ANNUAL REPORT.—Beginning not later than 1 year after the date of enactment of this Act, the Board shall submit annually to the Congress a report on the tests conducted under this section.

(2) CONTENT.—The report shall include—

(A) an estimate of potential cost savings and other impacts demonstrated by the tests;

(B) an analysis of the feasibility of applying the practices and techniques demonstrated in each test within the Federal Government, including analysis of what was the least amount of information that was necessary to verify eligibility of applicants under each Federal benefit program that participated in the tests;

(C) an assessment of the value of State data in those tests. and

(D) such recommendations as the Board considers appropriate.

(f) RECOMMENDATIONS ON IMPLEMENTATION OF ACT.—The Chairperson of the Board shall make recommendations annually to the Director of the Office of Management and Budget regarding how savings resulting from the implementation of the Federal Benefit Verification and Integrity Act may be used to enhance program integrity in high-risk programs such as Medicare and to reduce the potential of waste, fraud, and erroneous payments.

(g) AUTHORITY TO REQUEST TEST.—The Board may request the head of a Federal agency that administers a Federal benefit program to conduct a test under this section, including the preparation and submission of a proposal for such a test in accordance with this section. The head of an agency shall respond within 30 days by approving or disapproving such a request of the Board.

(h) USE OF TEST INFORMATION.—Information on any individual obtained in the course of a test under this section shall not be used as the exclusive basis of a decision concerning the rights, benefits, or privileges of any individual.

SEC. 202. SHARING OF INFORMATION IN NATIONAL DIRECTORY OF NEW HIRES.

(a) AVAILABILITY OF INFORMATION.—Notwithstanding section 453(l) of the Social Security Act (42 U.S.C. 653(l)), the Secretary of Health and Human Services may disclose information to another Federal agency from the National Directory of New Hires established pursuant to section 453(i) of that Act (42 U.S.C. 653(i)) based on matches conducted by the Department of Health and Human Services for purposes of conducting a test under this title. In determining whether to disclose such information to a Federal agency for such a test, the Secretary shall take into consideration the potential negative impact of the disclosure or use of such information on the effective operation of the Federal Parent Locator Service under section 453 of such Act, and of other Federal and State child support enforcement activities under part D of title IV of such Act.

(b) FEE.—The head of an agency to which information is disclosed pursuant to subsection (a) shall reimburse the Secretary of Health and Human Services in accordance with section 453(k)(3) of the Social Security Act.

(c) AUTHORITY TO DISCLOSE INFORMATION.—The head of an agency to whom information is disclosed under this section may disclose the information to another Federal agency for use by the agency only as specified under a test proposal under this title. The head of a Federal agency to whom information is disclosed under this subsection may disclose such information to a State agency administering a federally funded benefit program, a public housing authority, or a guaranty agency (as that term is defined in section 435(j) of the Higher Education Act of 1965) only for the purpose of conducting the test.

(d) REDISCLOSURE LIMITATION.—An entity that receives information for use in a test under this title that it was not otherwise authorized by law to obtain may not redisclose the information or use it for any other purpose.

(e) SHARING OF STATE INFORMATION.—The provision of information pursuant to subsection (a) shall not affect any determination of whether a State meets the requirements of section 303(h)(1)(C) of the Social Security Act.

SEC. 203. INCREASED PENALTIES AND PUNITIVE DAMAGES UNDER PRIVACY ACT.

(a) INCREASED PENALTIES.—Section 552a(i) of title 5, United States Code, is amended in each of paragraphs (1) and (3) by striking "shall be guilty" and all that follows through the period and inserting "shall be fined not more than $10,000, imprisoned for not more than one year, or both.".

(b) PUNITIVE DAMAGES.—Section 552a(g)(4) of title 5, United States Code, is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(2) by inserting "(A)" after "(4)"; and

(3) by adding at the end the following:

"(B) In any such suit in which the court determines that the agency acted in a manner that was willful and intentional, the court may award punitive damages in addition to damages and costs referred to in subparagraph (A).".

SEC. 204. ESTABLISHMENT OF THE FEDERAL BENEFIT VERIFICATION AND PAYMENT INTEGRITY BOARD.

(a) ESTABLISHMENT.—There is established the Federal Benefit Verification and Payment Integrity Board.

(b) MEMBERSHIP.—The Board shall be composed of 10 members appointed from among Federal or State employees, as follows:

(1) 3 members, of whom one shall be appointed by the head of each of 3 Federal agencies designated by the Director of the Office of Management and Budget. The Director shall designate agencies under this paragraph from among the Federal agencies responsible for administering Federal benefit programs.

(2) 2 members appointed by the Director of the Office of Management and Budget, of whom at least one shall be a State employee appointed to represent federally funded State administered benefits programs.

(3) 1 member appointed by the Secretary of Health and Human Services.

(4) 1 member appointed by the Secretary of the Treasury.

(5) 1 member appointed by the Commissioner of Social Security.

(6) 1 member appointed by the Secretary of Labor.

(7) 1 member appointed by the Director of the Office of Management and Budget to address privacy concerns.

(c) CHAIRPERSON.—The Director of the Office of Management and Budget shall designate one of the members of the Board as the chairperson of the Board.

(d) ADMINISTRATIVE SUPPORT.—The heads of Federal agencies having a member on the Board may provide to the Board such administrative and other support services and facilities as the Board may require to perform its functions under this title.

(e) TRAVEL EXPENSES.—Members of the Board shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(f) REPORTS.—The Board shall periodically report to the Director of the Office of Management and Budget regarding its activities.

SEC. 205. RECIPIENT BENEFIT ACCESS; IMPLEMENTATION OF TESTED INFORMATION TECHNOLOGY PRACTICES OR TECHNIQUES.

(a) COMMERCIAL SERVICES FOR ELECTRONIC SUBMISSIONS.—

(1) IN GENERAL.—The Administrator of General Services may acquire on behalf of Federal agencies commercial services for accepting electronic payments for grants or loans and electronic claims submissions from the public. Such services shall be based on accepted commercial practices for electronic identification, authentication, and income verification.

(2) AGENCY REGULATIONS.—The head of each Federal agency shall promulgate regulations providing for the use of the services described in paragraph (1) by program recipients.

(3) FUNDING.—The Administrator may expend such funds as may be required for the design, testing, and pilot of a standard method by which the public may be provided consistent, secure, and convenient electronic access in applying to Federal agencies for loans and grants and in submitting claims. Beginning in fiscal year 2002, the Administrator may finance the acquisition and management of the commercial services described in paragraph (1).

(4) DEFINITION OF ELECTRONIC.—For purposes of this subsection, the term "electronic" means through the Internet or telephonically.

(b) RECOMMENDATIONS.—If the Board determines that any information technology practice, technique, or information sharing initiative tested under this title was successfully demonstrated in the test and should be implemented in the administration of a Federal benefit program, the Board shall—

(1) recommend regulations or legislation to implement that practice, technique, or initiative, if the Board determines that implementation is not otherwise prohibited under another law; or

(2) include in its annual report to the Congress under section 201 recommendations for such legislation as may be necessary to authorize that implementation.

(c) REQUIREMENTS REGARDING DATA PROCESSING SYSTEMS.—The Board shall include in any recommendation of regulations under subsection (a)—

(1) provisions that ensure use of generally accepted data processing system development methodology; and

(2) provisions that will result in system architecture that will facilitate information exchange, increase data sharing, and reduce costs, by elimination of redundancy in development and acquisition of data processing systems.

By Mr. SARBANES:

S. 2572. A bill to amend the International Maritime Satellite Telecommunications Act to ensure the continuing provision of certain global satellite safety services after the privatization of the business operations of

the International Mobile Satellite Organization, and for other purposes; to the Committee on Commerce, Science, and Transportation.

INTERNATIONAL MOBILE SATELLITE ORGANIZATION

• Mr. SARBANES. Mr. President, today I am introducing legislation to authorize continued U.S. participation in the International Mobile Satellite Organization, currently known as "Inmarsat", during and after its restructuring, scheduled to take place April 1. The United States is currently a member of this organization, but its structure and functions are slated for significant reform. Rather than actually owning and operating mobile satellite telecommunications facilities, the intergovernmental institution will retain the much more limited role of overseeing the provision of global maritime distress and safety services, ensuring that this important function is carried out properly and effectively under contract. U.S. participation in the organization—which will keep the same name but change its acronym to "IMSO"—will not require a U.S. financial contribution and will not impose any new legal obligations upon the U.S. government. Privatization of Inmarsat's commercial satellite business is an objective broadly shared by the legislative and executive branches, American businesses, COMSAT, which is the U.S. signatory entity, and the international community.

To give some brief background, Inmarsat was established in 1979 to serve the global maritime industry by developing satellite communications for ship management and distress and safety applications. Over the past 19 years, Inmarsat has expanded both in terms of membership and mission. The intergovernmental organization now counts 84 member countries and has expanded into land-mobile and aeronautical communications.

Inmarsat's governing bodies, the Inmarsat Council and the Assembly of Parties, recently reached an agreement to restructure the organization, a move that has been strongly supported and encouraged by the United States. This restructuring will shift Inmarsat's commercial activities out of the intergovernmental organization and into a broadly-owned public corporation by next spring. The new corporation will acquire all of Inmarsat's operational assets, including its satellites, and will assume all of Inmarsat's operational functions. All that will remain of the intergovernmental institution is a scaled-down secretariat with a small staff to ensure that the new corporation continues to meet certain public service obligations, such as the Global Maritime Distress and Safety System (GMDSS). It is important to U.S. interests that we participate in the oversight of this function, as well as that we be fully represented in the organization throughout the process of privatization.

The legislation I am introducing will enable a smooth transition to the new structure. It contains two major provisions. First, it authorizes the President to maintain U.S. membership in IMSO after restructuring to ensure the continued provision of global maritime distress and safety satellite communications services. Second, it repeals those provisions of the International Maritime Satellite Telecommunications Act that will be rendered obsolete by the restructuring of Inmarsat, including all those relating to COMSAT's role as the United States' signatory. The bill's provisions will take effect on the date that Inmarsat transfers its commercial operations to the new corporation.

Mr. President, I urge my colleagues to join me in support of this measure and ask unanimous consent that a copy of this legislation be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2572

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONTINUING PROVISION OF GLOBAL SATELLITE SAFETY SERVICES AFTER PRIVATIZATION OF BUSINESS OPERATIONS OF INTERNATIONAL MOBILE SATELLITE ORGANIZATION.

(a) AUTHORITY.—The International Maritime Satellite Telecommunications Act (47 U.S.C. 751 et seq.) is amended by adding at the end the following:

"GLOBAL SATELLITE SAFETY SERVICES AFTER PRIVATIZATION OF BUSINESS OPERATIONS OF INMARSAT

"SEC. 506. In order to ensure the continued provision of global maritime distress and safety satellite telecommunications services after the privatization of the business operations of INMARSAT, the President may maintain on behalf of the United States membership in the International Mobile Satellite Organization.".

(b) REPEAL OF SUPERSEDED AUTHORITY.—

(1) REPEAL.—That Act is further amended by striking sections 502, 503, 504, and 505 (47 U.S.C. 751, 752, 753, and 757).

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the date on which the International Mobile Satellite Organization ceases to operate directly a global mobile satellite system.•

By Mr. LAUTENBERG:

S. 2573. A bill to make spending reductions to save taxpayers money; to the Committee on Armed Services.

SAVING TAXPAYERS FROM OBSOLETE PROGRAMS AND SPENDING ACT OF 1998

• Mr. LAUTENBERG. Mr. President, today I introduce the Saving Taxpayers from Obsolete Programs and Spending Act of 1998 also known as the STOP Spending Act of 1998. This legislation cuts or eliminates over 25 unnecessary Federal programs and would save approximately $80 billion over the next 5 years.

This legislation targets programs throughout the Government—from the Pentagon, to the Departments of Agriculture, Interior and Energy, to NASA. If this legislation were to be enacted, we would have a leaner, better, smarter Government. Many of these programs, like the peanut quota program, are outdated relics of a different era. Others, like the cancellation of an unnecessary tactical aircraft program, just represent new thinking that more properly reflects a changing international security environment.

Mr. President, the federal government spends about $1.7 trillion each year. Much of this is for important programs that provide health care to American families, Social Security and Medicare to senior citizens, education for our kids, roads for our cars, security for our Nation, housing for families with modest incomes, protection for the environment, and research to advance our civilization. However, there also is too much waste in government. And we must constantly reassess our spending priorities.

Many of the programs targeted in this legislation represent bad policy and bad economics. The benefits go primarily to a narrow group of beneficiaries, while the costs are borne by consumers, taxpayers, and in some cases, the environment. The U.S. Department of Agriculture's sugar program is one example of a program which interferes with the proper functioning of the marketplace at the expense of consumers and the general public. This program guarantees U.S. sugar growers a price that is well above the world price of sugar and results in American consumers paying over $1 billion extra for sugar products each year. In addition, since the artificially high sugar prices that result from the sugar program encourages cultivation of marginal agricultural lands near the Florida Everglades, much environmental damage has been done as a result of increased pollution and runoff from these lands. Unfortunately, the benefits from this program primarily go to very few large and politically powerful corporations, not small farmers.

This is but one example of the many wasteful and outdated programs cut or eliminated as part of this legislation. There are many more examples which I will not detail at this time. However, the bottom line is that we can make our Government more effective and save money at the same time if we make the commitment to do so.

Mr. President, I understand that with the limited time remaining in the 105th Congress, this legislation is not likely to be approved before the end of this session. And I realize that many of these proposals would face strong opposition. But I hope my colleagues will review this legislation and support my efforts to reduce Government spending in the future by cutting these outdated and wasteful programs.

I ask unanimous consent that a table showing the spending cuts included in this legislation be included in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

THE STOP SPENDING ACT OF 1998

Progran cut	Five-year total savings (In Billions)
Terminate Agricultural subsidies in 2003	$4.00
Eliminate the Market Access Program	0.45
Phase out the sugar program	0.00
Phase out the peanut program	0.00
Elimnate Wildlife Services Predator Control Program	0.05
Extend deficit reduction assessment on tobacco farmers	0.15
Eliminate Rural Utilities Service electricity loan subsidies	0.18
Means-test irrigation subsidies	0.05
Update domestic livestock grazing fees	0.25
Update hardrock mining royalties	1.00
Sell Power Marketing Administrations	6.60
Terminate funding for DOE's Plutonium Pyroprocessing program	0.23
Terminate DOE's Petroleum R&D Program	0.24
Cut funding for construction of new forest roads	0.25
Adjust price of timber sold by Forest Service	1.00
Abolish the Forest Service Salvage Fund	0.18
Cancel tactical aircraft program & procure current generation plan (e.g., F–22)	13.70
Close Uniformed Services University of the Health Services	0.30
Return inflation windfall in DoD funds to the Treasury	23.00
Delay next stage funding of THAAD	1.10
Reform troop transport to deployed ships	7.00
Accelerate Start II implementation	5.10
Discontinue D5 missile	3.00
Reduce excess DoD inventory	0.50
Eliminate Navy's ELF Communications System	0.07
Consolidate pilot training programs	0.60
Terminate Space Station	10.65
Total savings	$79.65•

By Ms. SNOWE (for herself, Ms. MIKULSKI, Ms. COLLINS, Mrs. HUTCHISON, Ms. MOSELEY-BRAUN, Mrs. MURRAY, Mrs. BOXER, Mr. DODD, Mr. JEFFORDS, Mr. REID, Mr. D'AMATO, Mr. ROCKEFELLER, Mr. KERREY, Mr. LIEBERMAN, Mr. TORRICELLI, Mr. DURBIN, Mr. SARBANES, Mr. KERRY, Mr. LAUTENBERG, Mr. INOUYE, and Mr. LEAHY):

S. 2576. A bill to create a National Museum of Women's History Advisory Committee; to the Committee on Rules and Administration.

ADVISORY COMMISSION FOR THE NATIONAL MUSEUM OF WOMEN'S HISTORY

• Ms. SNOWE. Mr. President, today I am introducing legislation to create an Advisory Committee for the National Museum of Women's History. And I am pleased to be joined by 20 of my colleagues: Senators MIKULSKI, COLLINS, DODD, JEFFORDS, ROCKEFELLER, D'AMATO, HUTCHISON, KERREY (NE), LIEBERMAN, MOSELEY-BRAUN, MURRAY, REID, TORRICELLI, DURBIN, SARBANES, KERRY (MA), LAUTENBERG, BOXER, INOUYE, and LEAHY.

For far too long, women have contributed to history, but seem to have largely been forgotten in our history books, as well as our monuments and museums. It is long past time that the roles women have played be removed from the shadows of indifference and given a place where they can shine.

The bill we are introducing today will create a 26 member Advisory Committee will look at the following three issues and report back to Congress on (1) identifying a site for the museum in the District of Columbia; (2) developing a business plan to allow the creation and maintenance of the museum to be done solely with private contributions and (3) assistance with the collection and program of the museum.

It is important to note that this bill does not commit Congress to spending any money for this museum. The Committee's report will tell us the feasibility of funding the museum privately. And I believe that the Museum's Board has shown that they have the ability to do just that.

The concept for the National Museum of Women's History (NMWH) was created back in 1996. Since that time, the Board of Directors, lead by President Karen Staser, has worked tirelessly to build support and interest for this project. And judging by the fact that they have raised close to $10 million for the project, lent their support to the moving of the Suffragette statute from the crypt to the Rotunda, and raised $85,000 for that effort, I'd say they are well on their way to success.

In fact, just this summer they donated a bust of Sojourner Truth that was unveiled during the 150th anniversary of the Suffragette movement. And on September 28 they opened their "cyber museum" to the computer-going public (www.nmwh.org), which will serve as the Museum's "home" until there is a building. To steal a line from a song, these sisters are truly "doing it for themselves"!

They have also spent a lot of time answering the question "why do we need a women's museum when we have the Smithsonian." The first answer to that comes from Edith Mayo, Curator Emeritus of the Smithsonian National Museum of American History, who notes that since 1963 only two exhibits—two—were dedicated to the role of women in history.

Is it any wonder, then, that Congress got in the habit of designating March as National Women's History Month? The fact is, in the story of America's success, the chapter on women's contributions has largely been left on the editing room floor.

Here's what I mean: We all know that JOHN GLENN, the distinguished Senator from the State of Ohio, was the first American to orbit the Earth on board Friendship 7 in 1962—and we wish him godspeed as he embarks on his second journey into space at the end of this month. But how many people know that Margaret Reha Seddon was the first U.S. woman to achieve the full rank of astronaut, and flew her first space mission aboard the Space Shuttle "Discovery" in 1985, 23 years after Senator GLENN's historic flight?

And I can guarantee you more people know the last person to hit over .400 in baseball—Ted Williams—than can name the first woman elected to Congress—Jeannette Rankin of Montana, who was elected in 1916, 4 years before ratification of the 19th amendment gave women the right to vote. And how many people can tell you that, in 1924 Nellie Ross of Wyoming was the first woman elected Governor of a State? Or that it wasn't until 1974—50 years later—that the first woman Governor was elected in her own right: Connecticut's Ella Grasso?

History is filled with such little known but important milestones: like the first woman elected to the United States Senate was Hattie Wyatt Caraway from Louisiana in 1932. That Maine's own Margaret Chase Smith was the first woman elected to the U.S. Senate in her own right in 1948, and in 1962 became the first woman to run for the U.S. Presidency in the primaries of a major political party. Or that the first female Cabinet member was Frances Perkins, who was Secretary of Labor for FDR.

Hardly household names. But they should be. And with a place to showcase their accomplishments, perhaps one day they will take their rightful place beside America's greatest minds, visionary leaders, and groundbreaking figures.

But until then, we have a long way to go. Many of us know that women fought and got the vote in 1920, with the ratification of the 19th Amendment to the Constitution. But how many know that Wyoming gave women the right to vote in 1869, 51 years earlier, and that by 1900 Utah, Colorado and Idaho had granted women the right to vote? Or that the suffragette movement took 72 years to meet its goal? And few know that the women of Utah sewed dresses made from silk for the Suffragettes on their cross country tour.

Rosie the Riverter was the name given to the hundreds of thousands of women who entered the workforce to help the war effort during World War II on the homefront. But our history books don't discuss Jacquline Cochran and Nancy Harkness Love.

Jackie was a pilot who went to Great Britain with 21 other women and ferried planes. In fact, she created quite a stir when she ferried a new bomber from Canada to England on the trip overseas.

Nancy created a ferrying program in Connecticut, known as the Women's Auxiliary Ferrying Squadron, which also ferried planes in the States. They made an important contribution to our war effort, yet both of them have "flown under the radar screen" of history for far too many years.

We now have two women on the Supreme Court; Sandra Day O'Conner appointed in 1981, and Ruth Bader

Ginsberg who joined her in 1993. But what we never learned is that in 1870, Iowa became the first State to admit a woman to the bar: Arabella Mansfield. Or that the first woman was allowed to practice before the U.S. Supreme Court in 1879, and her name was Belva Lockwood.

Whatever period of history you chose—women played a role. Sybil Ludington, a 16-year old, rode through parts of New York and Connecticut in April 1777 to warn that the Redcoats were coming. Sacajawea, the Shoshone Indian Guide, helped escort Lewis and Clark on their 8000 mile expedition. Rosa Parks, Jo Ann Robinson and Myrlie Evers played important roles in the civil rights movement in the 50's and 60's. And as we move into the 21st century, the role of women—who now make up 52 percent of the population—will continue to be integral to the future success of this country.

In fact the real question about the building of a women's museum is not so much where it will be built—although that remains to be explored. And it's not even who will pay for it—as I've said, it will be done entirely with private funds. The real question when it comes to a museum dedicated to women's history is, where will they put it all!

I would argue that we have a solemn responsibility to teach our children, and ourselves, about our rich past—and that includes the myriad contributions of women, in all fields and every endeavor. These women can serve as role models and inspire our youth. They can teach us about our past and guide us into our future. They can even prompt young women to consider a career in public service—as Senator Smith of Maine did for me.

Instead, today in America, more young women probably know the names of the latest super models then the names of the female members of this Administration's Cabinet. That is why we need a National Museum of Women's History, that is why I am proud to sponsor this legislation, and that is why I hope that my colleagues will join us in supporting the creation of this Advisory Committee as a first step toward writing the forgotten chapters of the history of our Nation.●

By Mr. CHAFEE (for himself and Mr. MOYNIHAN):

S. 2575. A bill to expand authority for programs to encourage Federal employees to commute by means other than single-occupancy motor vehicles to include an option to pay cash for agency-provided parking spaces, and for other purposes; to the Committee on Governmental Affairs.

THE "FEDERAL EMPLOYEE FLEXIBILITY ACT OF 1998"

Mr. CHAFEE. Mr. President, I rise today to introduce, with Senator MOYNIHAN, the "Federal Employee Flexibility Act of 1998," a bill that would provide flexibility and choices for Federal employees. This flexibility was provided to private sector employees in the Taxpayer Relief Act of 1997 and the Transportation Equity Act for the 21st century, so-called TEA 21. We believe that these provisions provide to employers and employees important new flexibility which should reduce single occupant vehicle trips from our highways and therefore contribute to reduced congestion, a cleaner environment, and increased energy conservation.

The Taxpayer Relief Act of 1997 and the Transportation Equity Act for the 21st century include significant changes to the way the Internal Revenue Code treats employer-provided transportation fringe benefits. Unfortunately, we have become aware that personnel compensation law for Federal employees restricts implementation of this new flexibility.

Prior to enactment of these two bills, the Federal Tax Code provided that employer-provided parking is not subject to Federal taxation, up to $170 per month. However, this tax exemption was lost for all employees if the parking was offered in lieu of compensation for just one employee. In other words, if an employer gave just one employee a choice between parking and some other benefit (such as a transit pass, or increased salary), the parking of all other employees in the company became taxable. It goes without saying that no employers jeopardized a tax benefit for the overwhelming majority of their employees to provide flexibility to others. In effect, the Tax Code prohibited employers from offering their employees a choice. Parking was a take-it or leave-it benefit.

The changes in these two laws make it possible for employers to offer their employees more choices by eliminating the take-it or leave-it restriction in the Federal Tax Code. Employees whose only transportation benefit is parking can now instead accept a salary enhancement, and find other means to get to work such as car pooling, van pooling, biking, walking, or taking transit.

Unfortunately, Federal employees will not be able to benefit from the increased flexibility available to private sector employees, unless Federal compensation law is modified. Current Federal law provides that a Federal employee may not receive additional pay unless specifically authorized by law. Therefore, a Federal employee could not "cash out" a parking space at work, and instead receive cash or other benefits.

To address this limitation for transit passes and similar benefits, the "Federal Employees Clean Air Incentives Act" allows the Federal Government to provide transit benefits, bicycle services, and nonmonetary incentives to employees. However, when this legislation was enacted, the Federal Tax Code prohibited the so-called "cash out" option discussed above, and therefore was not included in the list of transportation-related exemptions in that statute.

The short and simple bill we introduce today would add "taxable cash reimbursement for the value of an employer-provided parking space" to the list of benefits that can be received by Federal employees.

Let me assure my colleagues and Federal employees that this bill would not require that Federal employees lose their parking spaces, as may be feared when there is discussion of Federal employee parking spaces. The bill simply provides Federal employees the same flexibility that is available to private sector employees. Employees who want to retain their tax-free parking space would be free to do so.

We think it is vital that the Federal Government show leadership on the application of new and innovative ways to solve our transportation and environmental problems. I hope that my colleagues will join me in supporting this bill and that we can act swiftly on it in the next session of Congress.

Mr. President, I ask that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2575

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CASH PAYMENT TO FEDERAL EMPLOYEES FOR PARKING SPACES.

(a) SHORT TITLE.—This Act may be cited as the "Federal Employee Flexibility Act of 1998".

(b) IN GENERAL.—Section 7905(b)(2) of title 5, United States Code, is amended—

(1) in subparagraph (B) by striking "and" after the semicolon;

(2) in subparagraph (C) by striking the period and inserting a semicolon and "and"; and

(3) by adding at the end the following:

"(D) taxable cash payment to an employee in lieu of an agency-provided parking space.".

Mr. MOYNIHAN. Mr. President, I rise today with my friend and colleague Senator CHAFEE to introduce the "Federal Employee Flexibility Act of 1998," a bill to provide Federal employees with the commuting benefits that were created in the Transportation Equity Act for the 21st century, known as TEA–21, and are now available for private sector employees.

This Act is part of an ongoing effort that we started over 7 years ago in the Intermodal Surface Transportation Efficiency Act to introduce pricing and economic incentives into our national transportation policy. Traditionally, U.S. transportation policy has favored new highway construction over repair and maintenance and auto travel over transit and other modes. Our Tax Code also reflected this bias by providing large incentives to employers to offer their employees tax-free parking spaces, while making it less attractive to provide transit or cash benefits in lieu of parking.

The Finance Committee first set out to tackle this problem in the National Energy Policy Act of 1992. That Act capped nontaxable monthly parking benefits at $155, increased monthly transit benefits from $21 to $60, and added an annual COLA adjustment for both. However, because of the "constructive receipt" principle in the Tax Code, under the 1992 Act, an employer could not offer his employees the tax-free commuting benefits in lieu of taxable salary.

In other words, if an employer offered to provide his employees nontaxable $65 monthly transit passes but lower their salaries by $65 a month, and any employee chose to keep the salary—maybe they walk to work—under the "constructive receipt" principle, the transit passes for the other employees would lose their tax-free status. This made the transit benefit program of only limited attractiveness to employers since they could only offer it as part of a negotiated increase in salary, not as a benefit in lieu of existing salary.

Likewise, Federal Tax Code allowed an employer to offer tax-free parking up to a value of $170 per month per employee. However, if an employer gave just one employee a choice between parking and some other taxable benefit—such as increased salary—the parking of all other employees in the company became taxable. The result—employers have had no incentive to offer employees the opportunity to "cash out" their parking, perhaps taking an increase in salary and using mass transit or carpooling. That hidden pro-parking bias in the Tax Code has likely resulted in far too many employees choosing to drive to work over riding transit and other modes.

The tax title of TEA-21 now contains the proper language and offsets in place to eliminate this "constructive receipt" requirement—and increase the transit benefit from its current $65 to $100 in 2002. It means that employers who provide the transit benefit in lieu of salary will pay less in payroll taxes, while employees will receive a benefit worth a full $65, instead of taxable income of $65. Likewise employers can now offer employee cash instead of a tax-free parking parking space, and we hope reduce the number of employees who drive to work. The measure is "paid for," in Budget Act parlance, by a 1-year freeze in the COLA adjustments for parking benefits, currently at $175 per month, and transit benefits.

But, unfortunately, the job is not quite done. Federal employees will not be able to benefit from the increased flexibility available to private sector employees, unless Federal compensation law is modified. Current Federal law provides that a Federal employee may not receive additional pay unless specifically authorized by law. Therefore, a Federal employee could not "cash out" a parking space at work, and instead receive cash or other benefits. This has particularly unfortunate consequences here in Washington, one of the most congested cities in the country, with an enormous Federal workforce, the great majority of whom drive single-occupancy vehicles to work every day.

The simple bill that Senator CHAFEE and I introduce today would add "taxable cash reimbursement for the value of an employer-provided parking space" to the list of benefits Federal employees can receive. I hope my colleagues will join us in supporting this bill and that we can act swiftly on this bill in the next session of Congress.

ADDITIONAL COSPONSORS

S. 1286

At the request of Mr. JEFFORDS, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 1286, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income certain amounts received as scholarships by an individual under the National Health Corps Scholarship Program.

S. 1466

At the request of Mr. ABRAHAM, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 1466, a bill to amend the Public Health Service Act to permit faith-based substance abuse treatment centers to receive Federal assistance, to permit individuals receiving Federal drug treatment assistance to select private and religiously oriented treatment, and to protect the rights of individuals from being required to receive religiously oriented treatment.

S. 1720

At the request of Mr. LEAHY, the name of the Senator from Illinois [Mr. DURBIN] was added as a cosponsor of S. 1720, a bill to amend title 17, United States Code, to reform the copyright law with respect to satellite retransmissions of broadcast signals, and for other purposes.

S. 1970

At the request of Mr. ABRAHAM, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 1970, a bill to require the Secretary of the Interior to establish a program to provide assistance in the conservation of neotropical migratory birds.

S. 2080

At the request of Mr. HELMS, the names of the Senator from Alabama [Mr. SHELBY], the Senator from Kentucky [Mr. FORD], and the Senator from Montana [Mr. BURNS] were added as cosponsors of S. 2080, a bill to provide for the President to increase support to the democratic opposition in Cuba, to authorize support under the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 for the provision and transport of increased humanitarian assistance directly to the oppressed people of Cuba to help them regain their freedom, and for other purposes.

S. 2180

At the request of Mr. LOTT, the names of the Senator from Louisiana [Ms. LANDRIEU], the Senator from Texas [Mrs. HUTCHISON], and the Senator from West Virginia [Mr. ROCKEFELLER] were added as cosponsors of S. 2180, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify liability under that Act for certain recycling transactions.

S. 2263

At the request of Mr. GORTON, the names of the Senator from California [Mrs. FEINSTEIN] and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 2263, a bill to amend the Public Health Service Act to provide for the expansion, intensification, and coordination of the activities of the National Institutes of Health with respect to research on autism.

S. 2268

At the request of Mr. BINGAMAN, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 2268, a bill to amend the Internal Revenue Code of 1986 to improve the research and experimentation tax credit, and for other purposes.

S. 2283

At the request of Mr. DEWINE, the name of the Senator from Illinois [Mr. DURBIN] was added as a cosponsor of S. 2283, a bill to support sustainable and broad-based agricultural and rural development in sub-Saharan Africa, and for other purposes.

S. 2356

At the request of Mr. ROBERTS, the names of the Senator from Arkansas [Mr. HUTCHINSON] and the Senator from Idaho [Mr. KEMPTHORNE] were added as cosponsors of S. 2356, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide for uniform food safety warning notification requirements, and for other purposes.

S. 2358

At the request of Mr. ROCKEFELLER, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 2358, a bill to provide for the establishment of a service-connection for illnesses associated with service in the Persian Gulf War, to extend and enhance certain health care authorities relating to such service, and for other purposes.

S. 2364

At the request of Mr. CHAFEE, the names of the Senator from Wisconsin [Mr. FEINGOLD], the Senator from Louisiana [Mr. BREAUX], and the Senator from Vermont [Mr. LEAHY] were added as cosponsors of S. 2364, a bill to reauthorize and make reforms to programs authorized by the Public Works and Economic Development Act of 1965.

S. 2415

At the request of Mr. SANTORUM, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 2415, a bill to amend the Internal Revenue Code of 1986 to reduce the tax on beer to its pre-1991 level.

S. 2418

At the request of Mr. JEFFORDS, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 2418, a bill to establish rural opportunity communities, and for other purposes.

S. 2514

At the request of Mr. LEAHY, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 2514, a bill to amend the Communications Act of 1934 to clarify State and local authority to regulate the placement, construction, and modification of broadcast transmission and telecommunications facilities, and for other purposes.

S. 2525

At the request of Mr. LOTT, the name of the Senator from Missouri [Mr. ASHCROFT] was added as a cosponsor of S. 2525, a bill to establish a program to support a transition to democracy in Iraq.

SENATE CONCURRENT RESOLUTION 94

At the request of Mr. ABRAHAM, the name of the Senator from Ohio [Mr. DEWINE] was added as a cosponsor of Senate Concurrent Resolution 94, a concurrent resolution supporting the religious tolerance toward Muslims.

SENATE CONCURRENT RESOLUTION 121

At the request of Mr. SPECTER, the names of the Senator from Minnesota [Mr. WELLSTONE], the Senator from Montana [Mr. BAUCUS], and the Senator from Illinois [Ms. MOSELEY-BRAUN] were added as cosponsors of Senate Concurrent Resolution 121, a concurrent resolution expressing the sense of Congress that the President should take all necessary measures to respond to the increase in steel imports resulting from the financial crises in Asia, the independent States of the former Soviet Union, Russia, and other areas of the world, and for other purposes.

SENATE RESOLUTION 56

At the request of Mr. GRASSLEY, the names of the Senator from Indiana [Mr. LUGAR] and the Senator from Colorado [Mr. ALLARD] were added as cosponsors of Senate Resolution 56, a resolution designating March 25, 1997 as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

SENATE RESOLUTION 257

At the request of Mr. MURKOWSKI, the name of the Senator from West Virginia [Mr. BYRD] was added as a cosponsor of Senate Resolution 257, a resolution expressing the sense of the Senate that October 15, 1998, should be designated as "National Inhalant Abuse Awareness Day."

SENATE RESOLUTION 289—AUTHORIZING THE PRINTING OF THE "TESTIMONY FROM THE HEARINGS OF THE TASK FORCE ON ECONOMIC SANCTIONS"

Mr. MCCONNELL submitted the following resolution; which was considered and agreed to:

S. RES. 289

Resolved, That the "Testimony from the Hearings of the Task Force on Economic Sanctions", be printed as a Senate document, and that there be printed 300 additional copies of such document for the use of the Task Force on Economic Sanctions at a cost not to exceed $16,311.

SENATE RESOLUTION 290—TO AUTHORIZE REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 290

Whereas, Senator John F. Kerry has received a subpoena for documents in the case of *Tyree* v. *Central Intelligence Agency, et al.*, Case No. 98–CV–11829, now pending in the United States District Court for the District of Massachusetts;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(a) and 288c(a)(1), the Senate may direct its counsel to represent Members of the Senate with respect to any subpoena, order, or request for documents relating to their official responsibilities; and

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate: Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent Senator Kerry in connection with the subpoena served upon him in the case of *Tyree* v. *Central Intelligence Agency, et al.*

SENATE RESOLUTION 291—TO AUTHORIZE REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 291

Whereas, the Secretary of the Senate, Gary Sisco, and the Sergeant at Arms and Doorkeeper of the Senate, Gregory S. Casey, have been named as defendants in the case of *Clifford Alexander, et al.* v. *William M. Daley, et al.*, Case No. 1:98CV02187, now pending in the United States District Court for the District of Columbia; and

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1987, 2 U.S.C. 288b(a) and 288c(a)(1), the Senate may direct its counsel to represent officers of the Senate in civil actions with respect to their official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent the Secretary of the Senate and the Sergeant at Arms and Doorkeeper of the Senate in the case of *Alexander, et al.* v. *Daley, et al.*

AMENDMENTS SUBMITTED

INTERNET TAX FREEDOM ACT

GRAHAM AMENDMENTS NOS. 3750-3751

(Ordered to lie on the table.)

Mr. GRAHAM submitted two amendments intended to be proposed by him to amendment No. 3722 submitted by Mr. MCCAIN to the bill (S. 442) to establish a national policy against State and local government interference with interstate commerce on the Internet or interactive computer services, and to exercise Congressional jurisdiction over interstate commerce by establishing a moratorium on the imposition of exactions that would interfere with the free flow of commerce via the Internet, and for other purposes; as follows:

AMENDMENT NO. 3750

On page 2, line 4, strike "and" and insert the following:

"(E) an examination of the effects of taxation including the absence of taxation, on all interstate sales transactions, including transactions using the Internet, on local retail businesses and on State and local governments, which examination may include a review of the efforts of State and local governments to collect sales and use taxes owned on in-State purchases from out-of-State sellers; and".

AMENDMENT NO. 3751

On page 2, line 4, strike "and" and insert the following:

"(E) with respect to electronic commerce, an examination of the efforts of State and local governments to collect sales and use taxes owned on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, the likely impact of such collections on local retail sales, and the level of contacts sufficient to permit a State or local government to impose an obligation to collect such taxes on such interstate sellers; and".

GRAHAM AMENDMENT NO. 3752

(Ordered to lie on the table.)

Mr. GRAHAM submitted an amendment intended to be proposed by him to amendment No. 3720 submitted by Mr. MCCAIN to the bill, S. 442, supra; as follows:

On page 1, line 8, strike ", assessed or" and insert "and".

GRAHAM AMENDMENT NO. 3753

(Ordered to lie on the table.)

Mr. GRAHAM submitted an amendment intended to be proposed by him to amendment No. 3716 submitted by Mr. MCCAIN to the bill, S. 442, supra; as follows:

On page 1, line 1, strike "4" and insert "3".

GRAHAM AMENDMENT NO. 3754

(Ordered to lie on the table.)

Mr. GRAHAM submitted an amendment intended to be proposed by him to amendment No. 3715 submitted by Mr. MCCAIN to the bill, S. 442, supra; as follows:

On page 1, line 1, strike "6" and insert "3".

GRHAM AMENDMENT NO. 3755

(Ordered to lie on the table.)

Mr. GRAHAM submitted an amendment intended to be proposed by him to amendment No. 3714 submitted by Mr. MCCAIN to the bill, S. 442, supra; as follows:

On Page 1, line 1, strike "5" and insert "3".

GRAHAM AMENDMENTS NOS. 3756–3758

(Ordered to lie on the table.)

Mr. GRAHAM submitted three amendments intended to be proposed by him to amendment No. 3711 submitted by Mr. MCCAIN to the bill, S. 442, supra; as follows:

AMENDMENT NO. 3756

On page 3, line 4, strike "; or" and all that follows through line 23, and insert a period.

AMENDMENT NO. 3758

On page 2, strike lines 16 through 22.

Amendment No. 3757

On page 2, line 19, insert "billing," after "business,".

BENNETT (AND OTHERS) AMENDMENT NO. 3759

(Ordered to lie on the table.)

Mr. BENNETT (for himself, Mr. KERREY, Ms. LANDRIEU, and Mr. MCCAIN) submitted an amendment intended to be proposed by them to the bill, S. 442, supra; as follows:

Beginning on page ____, line ____, strike all through page ____, line ____, and insert:

SEC. 101. MORATORIUM.

(a) MORATORIUM.—No State or political subdivision thereof shall impose any of the following taxes on transactions occurring during the period beginning on July 29, 1998, and ending 3 years after the date of the enactment of this Act:

(1) Taxes on Internet access.

(2) Bit taxes.

(3) Multiple or discriminatory taxes on electronic commerce.

(b) APPLICATION OF MORATORIUM.—Subsection (a) shall not apply with respect to the provision of Internet access that is offered for sale as part of a package of services that includes services other than Internet access, unless the service provider separately States that portion of the billing that applies to such services on the user's bill.

SEC. 102. ADVISORY COMMISSION ON ELECTRONIC COMMERCE.

(a) ESTABLISHMENT OF COMMISSION.—There is established a commission to be known as the Advisory Commission on Electronic Commerce (in this title referred to as the "Commission"). The Commission shall—

(1) be composed of 16 members appointed in accordance with subsection (b), including the chairperson who shall be selected by the members of the Commission from among themselves; and

(2) conduct its business in accordance with the provisions of this title.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commissioners shall serve for the life of the Commission. The membership of the Commission shall be as follows:

(A) Four representatives from the Federal Government comprised of the Secretary of Commerce, the Secretary of State, the Secretary of the Treasury, and the United States Trade Representative, or their respective representatives.

(B) Six representatives from State and local governments comprised of—

(i) two representatives appointed by the Majority Leader of the Senate;

(ii) one representative appointed by the Minority Leader of the Senate;

(iii) two representatives appointed by the Speaker of the House of Representatives; and

(iv) one representative appointed by the Minority Leader of the House of Representatives.

(C) Six representatives of the electronic industry and consumer groups comprised of—

(i) two representatives appointed by the Majority Leader of the Senate;

(ii) one representative appointed by the Minority Leader of the Senate;

(iii) two representatives appointed by the Speaker of the House of Representatives; and

(iv) one representative appointed by the Minority Leader of the House of Representatives.

(2) APPOINTMENTS.—Appointments to the Commission shall be made not later than 45 days after the date of the enactment of this Act. The chairperson shall be selected not later than 60 days after the date of the enactment of this Act.

(3) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) ACCEPTANCE OF GIFTS AND GRANTS.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) SUNSET.—The Commission shall terminate 2 years after the date of the enactment of this Act.

(f) RULES OF THE COMMISSION.—

(1) QUORUM.—Nine members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) MEETINGS.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) OPPORTUNITIES TO TESTIFY.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) ADDITIONAL RULES.—The Commission may adopt other rules as needed.

(g) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) ISSUES TO BE STUDIED.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 2 years after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

HUTCHINSON (AND OTHERS) AMENDMENT NO. 3760

Mr. HUTCHINSON (for himself, Mr. ENZI, and Mr. GRAHAM) proposed an amendment to the bill, S. 442, supra; as follows:

At the end of the McCain amendment, add the following:

(F) an examination of the effects of taxation, including the absence of taxation, on all interstate sales transactions, including transactions using the Internet, on local retail businesses and on State and local governments, which examination may include a review of the efforts of State and local governments to collect sales and use taxes owed on in-State purchases from out-of-State sellers.

GRAMM AMENDMENTS NOS. 3761–3770

(Ordered to lie on the table.)

Mr. GRAMM submitted 10 amendments intended to be proposed by him to the bill, S. 442, supra; as follows:

AMENDMENT No. 3761

Strike "days after the date of the enactment of this Act.

(3) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) ACCEPTANCE OF GIFTS AND GRANTS.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) SUNSET.—The Commission shall terminate 18 months after the date of the enactment of this Act.

(f) RULES OF THE COMMISSION.—

(1) QUORUM.—Nine members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) MEETINGS.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) OPPORTUNITIES TO TESTIFY.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) ADDITIONAL RULES.—The Commission may adopt other rules as needed.

(g) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) ISSUES TO BE STUDIED.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) BIT TAX.—The term "bit tax" means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) DISCRIMINATORY TAX.—The term "discriminatory tax" means any tax imposed by a State or political subdivision thereof on electronic commerce that—

(A) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means;

(B) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period; or

(C) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving the same or similar property, goods, services, or information accomplished through other means.

(3) ELECTRONIC COMMERCE.—The term "electronic commerce" means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) INTERNET.—The term "Internet" means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocol, to transmit information.

(5) INTERNET ACCESS.—The term "Internet access" means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. Such term does not include telecommunications services.

(6) MULTIPLE TAX.—

(A) IN GENERAL.—The term "multiple tax" means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) EXCEPTION.—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) SALES OR USE TAX.—For purposes of subparagraph (B), the term "sales or use

tax" means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) STATE.—The term "State" means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) TAX.—

(A) IN GENERAL.—The term "tax" means—

(i) any levy, fee, or charge imposed under governmental authority by any governmental entity; or

(ii) the imposition of or obligation to collect and to remit to a governmental entity any such levy, fee, or charge imposed by a governmental entity.

(B) EXCEPTION.—Such term shall not include any franchise fees or similar fees imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573).

(9) TELECOMMUNICATIONS SERVICES.—The term "telecommunications services" has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

TITLE II—OTHER PROVISIONS

SEC. 201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

SEC. 202. NATIONAL TRADE ESTIMATE.

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking "and" at the end of clause (i);

(ii) by inserting "and" at the end of clause (ii); and

(iii) by inserting after clause (ii) the following new clause:

"(iii) United States electronic commerce,"; and

(B) in subparagraph (C)—

(i) by striking "and" at the end of clause (i);

(ii) by inserting "and" at the end of clause (ii);

(iii) by inserting after clause (ii) the following new clause:

"(iii) the value of additional United States electronic commerce,"; and

(iv) by inserting "or transacted with," after "or invested in";

(2) in subsection (a)(2)(E)—

(A) by striking "and" at the end of clause (i);

(B) by inserting "and" at the end of clause (ii); and

(C) by inserting after clause (ii) the following new clause:

"(iii) the value of electronic commerce transacted with,"; and

(3) by adding at the end the following new subsection:

"(d) ELECTRONIC COMMERCE.—For purposes of this section, the term 'electronic commerce' has the meaning given that term in section 104(3) of the Internet Tax Freedom Act.".

SEC. 203. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

(a) IN GENERAL.— It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the America, the North American Free Trade Agreement, and other appropriate venues.

(b) NEGOTIATING OBJECTIVES.—The negotiating objectives of the United States shall be—

(1) to assure that electronic commerce is free from—

(A) tariff and nontariff barriers;

(B) burdensome and discriminatory regulation and standards; and

(C) discriminatory taxation; and

(2) to accelerate the growth of electronic commerce by expanding market access opportunities for—

(A) the development of telecommunications infrastructure;

(B) the procurement of telecommunications equipment;

(C) the provision of Internet access and telecommunications services; and

(D) the exchange of goods, services, and digitalized information.

(c) ELECTRONIC COMMERCE.—For purposes of this section, the term "electronic commerce" has the meaning given that term in section 104(3).

SEC. 204. NO EXPANSION OF TAX AUTHORITY.

Nothing in this Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

SEC. 205. PRESERVATION OF AUTHORITY.

Nothing in this Act shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104-104) or the amendments made by such Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Government Paperwork Elimination Act."

SEC. 2. DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

"(vi) the acquisition and use of information technology, including the use of alternative information technologies (such as the use of electronic submission, maintenance, or disclosure of information) to substitute for paper, and the use and acceptance of electronic signatures.".

SEC. 3. PROCEDURES.

(a) Within 18 months after enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use.

(1) The procedures shall be compatible with standards and technology for electronic signatures as may be generally used in commerce and industry and by State governments, based upon consultation with appropriate private sector and State government standard setting bodies.

(2) Such procedures shall not inappropriately favor one industry or technology.

(3) An electronic signature shall be as reliable as is appropriate for the purpose, and efforts shall be made to keep the information submitted intact.

(4) Successful submission of an electronic form shall be electronically acknowledged.

(5) In accordance with all other sections of the Act, to the extent feasible and appropriate, and described in a written finding, an agency, when it expects to receive electronically 50,000 or more submittals of a particular form, shall take all steps necessary to ensure that multiple formats of electronic signatures are made available for submitting such forms.

SEC. 4. AUTHORITY AND FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, within five years of the date of enactment of this Act, executive agencies provide for the optional use of electronic maintenance, submission, or disclosure of information where practicable, as an alternative information technology to substitute for paper, and the use and acceptance of electronic signatures where practicable.

SEC. 5. ELECTRONIC STORAGE OF FORMS.

Within 18 months of enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use to permit employer electronic storage and filing of forms containing information pertaining to employees.

SEC. 6. STUDY.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget, shall conduct an ongoing study of paperwork reduction and electronic commerce, the impact on individual privacy, and the security and authenticity of transactions due to the use of electronic signatures pursuant to this Act, and shall report the findings to Congress.

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with agency procedures and guidelines established pursuant to this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures and guidelines, shall not be denied legal effect, validity or enforceability because they are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH OTHER LAWS.

Nothing in this title shall apply to the Department of the Treasury or the Internal Revenue Service, to the extent that—

(1) it involves the administration of the internal revenue laws; and

(2) it conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) EXECUTIVE AGENCY.—The term "executive agency" has the meaning given that term in section 105 of title 5, United States Code.

(2) ELECTRONIC SIGNATURE.—The term "electronic signature" means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of such electronic message; and

(B) indicates such person's approval of the information contained in such electronic message.

(3) FORM, QUESTIONNAIRE, OR SURVEY.—The terms "form", "questionnaire", and "survey" include documents produced by an agency to facilitate interaction between an agency and non-government persons.

TITLE II—CHILDREN'S ONLINE PRIVACY PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the "Children's Online Privacy Protection Act of 1999".

SEC. 202. DEFINITIONS.

In this title:

(1) CHILD.—the term "child" means an individual under the age of 13.

(2) OPERATOR.—The term "operator"—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

(i) among the several States or with 1 or more foreign nations;

(ii) in any territory of the United States or in the District of Columbia, or between any such territory and—

(I) another such territory; or

(II) any State or foreign nation; or

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) does not include any non-profit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) COMMISSION.—The term "Commission" means the Federal Trade Commission.

(4) DISCLOSURE.—The term "disclosure" means, with respect to personal information—

(A) the release of personal information collected from a child in identifiable form by an operator for any purpose, except where such information is provided to a person other than the operator who provides support for the internal operations of the website and does not disclose or use that information for any other purpose; and

(B) making personal information collected from a child by a website or online service directed to children or with actual knowledge that such information was collected from a child, publicly available in identifiable form, by any means including by a public posting, through the Internet, or through—

(i) a home page of a website;

(ii) a pen pal service;

(iii) an electronic mail service;

(iv) a message board; or

(v) a chat room.

(5) FEDERAL AGENCY.—The term "Federal agency" means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(6) INTERNET.—The term "Internet" means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(7) PARENT.—The term "parent" includes a legal guardian.

(8) PERSONAL INFORMATION.—The term "personal information" means individually identifiable information about an individual collected online, including—

(A) a first and last name;

(B) a home or other physical address including street name and name of a city or town;

(C) an e-mail address;

(D) a telephone number;

(E) a Social Security number;

(F) any other identifier that the Commission determines permits the physical or online contracting of a specific individual; or

(G) information concerning the child or the parents of that child that the website collects online from the child and combines with an identifier described in this paragraph.

(9) VERIFIABLE PARENTAL CONSENT.—The term "verifiable parental consent" means any reasonable effort (taking into consideration available technology), including a request for authorization for future collection use, and disclosure described in the notice, to ensure that a parent of a child receives notice of the operator's personal information collection, use, and disclosure practices, and authorizes the collection, use, and disclosure, as applicable, of personal information and the subsequent use of that information before that information is collected from that child.

(10) WEBSITE OR ONLINE SERVICE DIRECTED TO CHILDREN.—

(A) IN GENERAL.—The term "website or online service directed to children" means—

(i) A commercial website or online service that is targeted to children; or

(ii) that portion of a commercial website or online service that is targeted to children.

(B) LIMITATION.—A commercial website or online service, or a portion of a commercial website or online service, shall not be deemed directed to children solely for referring or linking to a commercial website or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

(11) PERSON.—The term "person" means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

(12) ONLINE CONTACT INFORMATION.—The term "online contact information" means an e-mail address or another substantially similar identifier that permits direct contact with a person online.

SEC. 203. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE COLLECTION AND USE OF PERSONAL INFORMATION FROM AND ABOUT CHILDREN ON THE INTERNET.

(A) ACTS PROHIBITED.—

(1) IN GENERAL.—It is unlawful for an operator of a website or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under subsection (b).

(2) DISCLOSURE TO PARENT PROTECTED.—Notwithstanding paragraph (1), neither an operator of such a website or online service nor the operator's agent shall be held to be liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under subsection (b)(1)(B)(iii) to the parent of a child.

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Commission shall promulgate under section 553 of title 5, United States Code, regulations that—

(A) require the operator of any website or online service directed to children that collects personal information from children or the operator of a website or online service that has actual knowledge that it is collecting personal information from a child—

(i) to provide notice on the website of what information is collected from children by the operator, how the operator uses such information, and the operator's disclosure practices for such information; and

(ii) to obtain verifiable parental consent for the collection, use, or disclosure of personal information from children;

(B) require the operator to provide, upon request of a parent under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) the opportunity at any time to refuse to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child; and

(iii) notwithstanding any other provision of law, a means that is reasonable under the circumstances for the parent to obtain any personal information collected from that child;

(C) prohibit conditioning a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity; and

(D) require the operator of such a website or online service to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

(2) WHEN CONSENT NOT REQUIRED.—The regulations shall provide that verifiable parental consent under paragraph (1)(A)(ii) is not required in the case of—

(A) online contact information collected from a child that is used only to respond directly on a one-time basis to a specific request from the child and is not used to recontact the child and is not maintained in retrievable form by the operator;

(B) a request for the name or online contact information of a parent or child that is used for the sole purpose of obtaining parental consent or providing notice under this section and where such information is not maintained in retrievable form by the operator if parental consent is not obtained after a reasonable time;

(C) online contact information collected from a child that is used only to respond more than once directly to a specific request from the child and is not used to recontact the child beyond the scope of that request—

(i) if, before any additional response after the initial response to the child, the operator uses reasonable efforts to provide a parent notice of the online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(ii) without notice to the parent in such circumstances as the Commission may determine are appropriate, taking into consideration the benefits to the child of access to information and services, and risks to the security and privacy of the child, in regulations promulgated under this subsection;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on the site)—

(i) used only for the purpose of protecting such safety;

(ii) not used to recontact the child or for any other purpose; and

(iii) not disclosed on the site,

if the operator uses reasonable efforts to provide a parent notice of the name and online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) Termination of Service.—The regulations shall permit the operator of a website or an online service to terminate service provided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) Enforcement.—Subject to sections 204 and 206, a violation of a regulation prescribed under subsection (a) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(d) Inconsistent State Law.—No State or local government may impose any liability for commercial activities or actions by operators in interstate or foreign commerce in connection with an activity or action described in this title that is inconsistent with the treatment of those activities or actions under this section.

SEC. 204. SAFE HARBORS.

(a) Guidelines.—An operator may satisfy the requirements of regulations issued under section 203(b) by following a set of self-regulatory guidelines, issued by representatives of the marketing or online industries, or by other persons, approved under subsection (b).

(b) Incentives.—

(1) Self-regulatory incentives.—In prescribing regulations under section 203, the Commission shall provide incentives for self-regulation by operators to implement the protections afforded children under the regulatory requirements described in subsection (b) of that section.

(2) Deemed compliance.—Such incentives shall include provisions for ensuring that a person will be deemed to be in compliance with the requirements of the regulations under section 203 if that person complies with guidelines that, after notice and comment, are approved by the Commission upon making a determination that the guidelines meet the requirements of the regulations issued under section 203.

(3) Expedited response to requests.—The Commission shall act upon requests for safe harbor treatment within 180 days of the filing of the request, and shall set forth in writing its conclusions with regard to such requests.

(c) Appeals.—Final action by the Commission on a request for approval of guidelines, or the failure to act within 180 days on a request for approval of guidelines, submitted under subsection (b) may be appealed to a district court of the United States of appropriate jurisdiction as provided for in section 706 of title 5, United States Code.

SEC. 205. ACTIONS BY STATES.

(a) In General.—

(1) Civil actions.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates any regulation of the Commission prescribed under section 203(b), the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with the regulation;

(C) obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.

(2) Notice.—

(A) In general.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) Exemption.—

(i) In general.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) Notification.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) Intervention.—

(1) In general.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) Effect of intervention.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(3) Amicus curiae.—Upon application to the court, a person whose self-regulatory guidelines have been approved by the Commission and are relied upon as a defense by any defendant to a proceeding under this section may file amicus curiae in that proceeding.

(c) Construction.—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) Actions by the Commission.—In any case in which an action is instituted by or on behalf of the Commission for violation of any regulation prescribed under section 293, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that regulation.

(e) Venue; Service of Process.—

(1) Venue.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) Service of process.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 206. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) In General.—Except as otherwise provided, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) Provisions.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et. seq.), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union

Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et. seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. (2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) EXERCISE OF CERTAIN POWERS.—For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

(d) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating a rule of the Commission under section 203 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any entity that violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(e) EFFECT ON OTHER LAWS.—Nothing contained in the Act shall be construed to limit the authority of the Commission under any other provisions of law.

SEC. 207. REVIEW.

(a) IN GENERAL.—Not later than 5 years after the effective date of the regulations initially issued under section 203, the Commission shall—

(1) review the implementation of this title, including the effect of the implementation of this title on practices relating to the collection and disclosure of information relating to children, children's ability to obtain access to information of their choice online, and on the availability of websites directed to children; and

(2) prepare and submit to Congress a report on the results of the review under paragraph (1).

SEC. 208. EFFECTIVE DATE.

Sections 203(a), 205, and 206 of this title take effect on the later of—

(1) the date that is 18 months after the date of enactment of this Act; or

(2) the date on which the Commission rules on the first application for safe harbor treatment under section 204 if the Commission does not rule on the first such application within 1 year after the date of enactment of this Act, but in no case later than the date that is 30 months after the date of enactment of this Act.".

AMENDMENT NO. 3762

Strike "days after the date of the enactment of this Act.

(3) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) ACCEPTANCE OF GIFTS AND GRANTS.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) SUNSET.—The Commission shall terminate 18 months after the date of the enactment of this Act.

(f) RULES OF THE COMMISSION.—

(1) QUORUM.—Nine members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) MEETINGS.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) OPPORTUNITIES TO TESTIFY.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) ADDITIONAL RULES.—The Commission may adopt other rules as needed.

(g) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) ISSUES TO BE STUDIED.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) BIT TAX.—The term "bit tax" means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) DISCRIMINATORY TAX.—The term "discriminatory tax" means any tax imposed by a State or political subdivision thereof on electronic commerce that—

(A) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means;

(B) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period; or

(C) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving the same or similar property, goods, services, or information accomplished through other means.

(3) ELECTRONIC COMMERCE.—The term "electronic commerce" means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) INTERNET.—The term "Internet" means the combination of computer facilities and

electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocol, to transmit information.

(5) INTERNET ACCESS.—The term "Internet access" means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. Such term does not include telecommunications services.

(6) MULTIPLE TAX.—

(A) IN GENERAL.—The term "multiple tax" means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) EXCEPTION.—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) SALES OR USE TAX.—For purposes of subparagraph (B), the term "sales or use tax" means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) STATE.—The term "State" means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) TAX.—

(A) IN GENERAL.—The term "tax" means—

(i) any levy, fee, or charge imposed under governmental authority by any governmental entity; or

(ii) the imposition of or obligation to collect and to remit to a governmental entity any such levy, fee, or charge imposed by a governmental entity.

(B) EXCEPTION.—Such term shall not include any franchise fees or similar fees imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573).

(9) TELECOMMUNICATIONS SERVICES.—The term "telecommunications services" has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

TITLE II—OTHER PROVISIONS

SEC. 201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

SEC. 202. NATIONAL TRADE ESTIMATE.

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking "and" at the end of clause (i);

(ii) by inserting "and" at the end of clause (ii); and

(iii) by inserting after clause (ii) the following new clause:

"(iii) United States electronic commerce,"; and

(B) in subparagraph (C)—

(i) by striking "and" at the end of clause (i);

(ii) by inserting "and" at the end of clause (ii);

(iii) by inserting after clause (ii) the following new clause:

"(iii) the value of additional United States electronic commerce,"; and

(iv) by inserting "or transacted with," after "or invested in";

(2) in subsection (a)(2)(E)—

(A) by striking "and" at the end of clause (i);

(B) by inserting "and" at the end of clause (ii); and

(C) by inserting after clause (ii) the following new clause:

"(iii) the value of electronic commerce transacted with,"; and

(3) by adding at the end the following new subsection:

"(d) ELECTRONIC COMMERCE.—For purposes of this section, the term 'electronic commerce' has the meaning given that term in section 104(3) of the Internet Tax Freedom Act.".

SEC. 203. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

(a) IN GENERAL.— It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the America, the North American Free Trade Agreement, and other appropriate venues.

(b) NEGOTIATING OBJECTIVES.—The negotiating objectives of the United States shall be—

(1) to assure that electronic commerce is free from—

(A) tariff and nontariff barriers;

(B) burdensome and discriminatory regulation and standards; and

(C) discriminatory taxation; and

(2) to accelerate the growth of electronic commerce by expanding market access opportunities for—

(A) the development of telecommunications infrastructure;

(B) the procurement of telecommunications equipment;

(C) the provision of Internet access and telecommunications services; and

(D) the exchange of goods, services, and digitalized information.

(c) ELECTRONIC COMMERCE.—For purposes of this section, the term "electronic commerce" has the meaning given that term in section 104(3).

SEC. 204. NO EXPANSION OF TAX AUTHORITY.

Nothing in this Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

SEC. 205. PRESERVATION OF AUTHORITY.

Nothing in this Act shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104–104) or the amendments made by such Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Government Paperwork Elimination Act."

SEC. 2. DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

"(vi) the acquisition and use of information technology, including the use of alternative information technologies (such as the use of electronic submission, maintenance, or disclosure of information) to substitute for paper, and the use and acceptance of electronic signatures.".

SEC. 3. PROCEDURES.

(a) Within 18 months after enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use.

(1) The procedures shall be compatible with standards and technology for electronic signatures as may be generally used in commerce and industry and by State governments, based upon consultation with appropriate private sector and State government standard setting bodies.

(2) Such procedures shall not inappropriately favor one industry or technology.

(3) An eleotronic signature shall be as reliable as is appropriate for the purpose, and efforts shall be made to keep the information submitted intact.

(4) Successful submission of an electronic form shall be electronically acknowledged.

(5) In accordance with all other sections of the Act, to the extent feasible and appropriate, and described in a written finding, an agency, when it expects to receive electronically 50,000 or more submittals of a particular form, shall take all steps necessary to ensure that multiple formats of electronic signatures are made available for submitting such forms.

SEC. 4. AUTHORITY AND FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, within 5 years of the date of enactment of this Act, executive agencies provide for the optional use of electronic maintenance, submission, or disclosure of information where practicable, as an alternative information technology to substitute for paper, and the use and acceptance of electronic signatures where practicable.

SEC. 5. ELECTRONIC STORAGE OF FORMS.

Within 18 months of enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use to permit employer electronic storage and filing of forms containing information pertaining to employees.

SEC. 6. STUDY.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the

Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget, shall conduct an ongoing study of paperwork reduction and electronic commerce, the impact on individual privacy, and the security and authenticity of transactions due to the use of electronic signatures pursuant to this Act, and shall report the findings to Congress.

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with agency procedures and guidelines established pursuant to this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures and guidelines, shall not be denied legal effect, validity or enforceability because they are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH OTHER LAWS.

Nothing in this title shall apply to the Department of the Treasury or the Internal Revenue Service, to the extent that—

(1) it involves the administration of the internal revenue laws; and

(2) it conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) Executive agency.—The term "executive agency" has the meaning given that term in section 105 of title 5, United States Code.

(2) Electronic signature.—The term "electronic signature" means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of such electronic message; and

(B) indicates such person's approval of the information contained in such electronic message.

(3) Form, questionnaire, or survey.—The terms "form", "questionnaire", and "survey" include documents produced by an agency to facilitate interaction between an agency and non-government persons.

TITLE II—CHILDREN'S ONLINE PRIVACY PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the "Children's Online Privacy Protection Act of 1999".

SEC. 202. DEFINITIONS.

In this title:

) Child.—the term "child" means an individual under the age of 13.

(2) Operator.—The term "operator"—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

(i) among the several States or with 1 or more foreign nations;

(ii) in any territory of the United States or in the District of Columbia, or between any such territory and—

(I) another such territory; or

(II) any State or foreign nation; or

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) does not include any non-profit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) Commission.—The term "Commission" means the Federal Trade Commission.

(4) Disclosure.—The term "disclosure" means, with respect to personal information—

(A) the release of personal information collected from a child in identifiable form by an operator for any purpose, except where such information is provided to a person other than the operator who provides support for the internal operations of the website and does not disclose or use that information for any other purpose; and

(B) making personal information collected from a child by a website or online service directed to children or with actual knowledge that such information was collected from a child, publicly available in identifiable form, by any means including by a public posting, through the Internet, or through—

(i) a home page of a website;

(ii) a pen pal service;

(iii) an electronic mail service;

(iv) a message board; or

(v) a chat room.

(5) Federal agency.—The term "Federal agency" means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(6) Internet.—The term "Internet" means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(7) Parent.—The term "parent" includes a legal guardian.

(8) Personal information.—The term "personal information" means individually identifiable information about an individual collected online, including—

(A) a first and last name;

(B) a home or other physical address including street name and name of a city or town;

(C) an e-mail address;

(D) a telephone number;

(E) a Social Security number;

(F) any other identifier that the Commission determines permits the physical or online contracting of a specific individual; or

(G) information concerning the child or the parents of that child that the website collects online from the child and combines with an identifier described in this paragraph.

(9) Verifiable parental consent.—The term "verifiable parental consent" means any reasonable effort (taking into consideration available technology), including a request for authorization for future collection use, and disclosure described in the notice, to ensure that a parent of a child receives notice of the operator's personal information collection, use, and disclosure practices, and authorizes the collection, use, and disclosure, as applicable, of personal information and the subsequent use of that information before that information is collected from that child.

(10) Website or online service directed to children.—

(A) In general.—The term "website or online service directed to children" means—

(i) A commercial website or online service that is targeted to children; or

(ii) that portion of a commercial website or online service that is targeted to children.

(B) Limitation.—A commercial website or online service, or a portion of a commercial website or online service, shall not be deemed directed to children solely for referring or linking to a commercial website or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

(11) Person.—The term "person" means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

(12) Online contact information.—The term "online contact information" means an e-mail address or another substantially similar identifier that permits direct contact with a person online.

SEC. 203. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE COLLECTION AND USE OF PERSONAL INFORMATION FROM AND ABOUT CHILDREN ON THE INTERNET.

(A) Acts Prohibited.—

(1) In general.—It is unlawful for an operator of a website or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under subsection (b).

(2) Disclosure to parent protected.—Notwithstanding paragraph (1), neither an operator of such a website or online service nor the operator's agent shall be held to be liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under subsection (b)(1)(B)(iii) to the parent of a child.

(b) Regulations.—

(1) In general.—Not later than 1 year after the date of the enactment of this Act, the Commission shall promulgate under section 553 of title 5, United States Code, regulations that—

(A) require the operator of any website or online service directed to children that collects personal information from children or the operator of a website or online service that has actual knowledge that it is collecting personal information from a child—

(i) to provide notice on the website of what information is collected from children by the operator, how the operator uses such information, and the operator's disclosure practices for such information; and

(ii) to obtain verifiable parental consent for the collection, use, or disclosure of personal information from children;

(B) require the operator to provide, upon request of a parent under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) the opportunity at any time to refuse to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child; and

(iii) notwithstanding any other provision of law, a means that is reasonable under the circumstances for the parent to obtain any personal information collected from that child;

(C) prohibit conditioning a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity; and

(D) require the operator of such a website or online service to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

(2) WHEN CONSENT NOT REQUIRED.—The regulations shall provide that verifiable parental consent under paragraph (1)(A)(ii) is not required in the case of—

(A) online contact information collected from a child that is used only to respond directly on a one-time basis to a specific request from the child and is not used to recontact the child and is not maintained in retrievable form by the operator;

(B) a request for the name or online contact information of a parent or child that is used for the sole purpose of obtaining parental consent or providing notice under this section and where such information is not maintained in retrievable form by the operator if parental consent is not obtained after a reasonable time;

(C) online contact information collected from a child that is used only to respond more than once directly to a specific request from the child and is not used to recontact the child beyond the scope of that request—

(i) if, before any additional response after the initial response to the child, the operator uses reasonable efforts to provide a parent notice of the online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(ii) without notice to the parent in such circumstances as the Commission may determine are appropriate, taking into consideration the benefits to the child of access to information and services, and risks to the security and privacy of the child, in regulations promulgated under this subsection;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on the site)—

(i) used only for the purpose of protecting such safety;

(ii) not used to recontact the child or for any other purpose; and

(iii) not disclosed on the site,

if the operator uses reasonable efforts to provide a parent notice of the name and online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) TERMINATION OF SERVICE.—The regulations shall permit the operator of a website or an online service to terminate service provided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) ENFORCEMENT.—Subject to sections 204 and 206, a violation of a regulation prescribed under subsection (a) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(d) INCONSISTENT STATE LAW.—No State or local government may impose any liability for commercial activities or actions by operators in interstate or foreign commerce in connection with an activity or action described in this title that is inconsistent with the treatment of those activities or actions under this section.

SEC. 204. SAFE HARBORS.

(a) GUIDELINES.—An operator may satisfy the requirements of regulations issued under section 203(b) by following a set of self-regulatory guidelines, issued by representatives of the marketing or online industries, or by other persons, approved under subsection (b).

(b) INCENTIVES.—

(1) SELF-REGULATORY INCENTIVES.—In prescribing regulations under section 203, the Commission shall provide incentives for self-regulation by operators to implement the protections afforded children under the regulatory requirements described in subsection (b) of that section.

(2) DEEMED COMPLIANCE.—Such incentives shall include provisions for ensuring that a person will be deemed to be in compliance with the requirements of the regulations under section 203 if that person complies with guidelines that, after notice and comment, are approved by the Commission upon making a determination that the guidelines meet the requirements of the regulations issued under section 203.

(3) EXPEDITED RESPONSE TO REQUESTS.—The Commission shall act upon requests for safe harbor treatment within 180 days of the filing of the request, and shall set forth in writing its conclusions with regard to such requests.

(c) APPEALS.—Final action by the Commission on a request for approval of guidelines, or the failure to act within 180 days on a request for approval of guidelines, submitted under subsection (b) may be appealed to a district court of the United States of appropriate jurisdiction as provided for in section 706 of title 5, United States Code.

SEC. 205. ACTIONS BY STATES.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates any regulation of the Commission prescribed under section 203(b), the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with the regulation;

(C) obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) INTERVENTION.—

(1) IN GENERAL.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) EFFECT OF INTERVENTION.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(3) AMICUS CURIAE.—Upon application to the court, a person whose self-regulatory guidelines have been approved by the Commission and are relied upon as a defense by any defendant to a proceeding under this section may file amicus' curiae in that proceeding.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Commission for violation of any regulation prescribed under section 293, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that regulation.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 206. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) IN GENERAL.—Except as otherwise provided, this title shall be enforced by the

Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) Provisions.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et. seq.), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et. seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. (2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) Exercise of Certain Powers.—For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

(d) Actions by the Commission.—The Commission shall prevent any person from violating a rule of the Commission under section 203 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any entity that violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(e) Effect on Other Laws.—Nothing contained in the Act shall be construed to limit the authority of the Commission under any other provisions of law.

SEC. 207. REVIEW.

(a) In General.—Not later than 5 years after the effective date of the regulations initially issued under section 203, the Commission shall—

(1) review the implementation of this title, including the effect of the implementation of this title on practices relating to the collection and disclosure of information relating to children, children's ability to obtain access to information of their choice online, and on the availability of websites directed to children; and

(2) prepare and submit to Congress a report on the results of the review under paragraph (1).

SEC. 208. EFFECTIVE DATE.

Sections 203(a), 205, and 206 of this title take effect on the later of—

(1) the date that is 18 months after the date of enactment of this Act; or

(2) the date on which the Commission rules on the first application for safe harbor treatment under section 204 if the Commission does not rule on the first such application within 1 year after the date of enactment of this Act, but in no case later than the date that is 30 months after the date of enactment of this Act.".

Amendment No. 3763

Strike "days after the date of the enactment of this Act.

(3) Vacancies.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) Acceptance of Gifts and Grants.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) Other Resources.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) Sunset.—The Commission shall terminate 18 months after the date of the enactment of this Act.

(f) Rules of the Commission.—

(1) Quorum.—Nine members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) Meetings.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) Opportunities to testify.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) Additional rules.—The Commission may adopt other rules as needed.

(g) Duties of the Commission.—

(1) In general.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) Issues to be studied.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) Bit tax.—The term "bit tax" means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) Discriminatory tax.—The term "discriminatory tax" means any tax imposed by a State or political subdivision thereof on electronic commerce that—

(A) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means;

(B) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period; or

(C) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving the same or similar property, goods, services, or information accomplished through other means.

(3) Electronic commerce.—The term "electronic commerce" means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) Internet.—The term "Internet" means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocol, to transmit information.

(5) Internet access.—The term "Internet access" means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. Such term does not include telecommunications services.

(6) Multiple tax.—

(A) In general.—The term "multiple tax" means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) Exception.—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) Sales or use tax.—For purposes of subparagraph (B), the term "sales or use tax" means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) State.—The term "State" means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) Tax.—

(A) In general.—The term "tax" means—

(i) any levy, fee, or charge imposed under governmental authority by any governmental entity; or

(ii) the imposition of or obligation to collect and to remit to a governmental entity any such levy, fee, or charge imposed by a governmental entity.

(B) Exception.—Such term shall not include any franchise fees or similar fees imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573).

(9) Telecommunications services.—The term "telecommunications services" has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

TITLE II—OTHER PROVISIONS

SEC. 201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

SEC. 202. NATIONAL TRADE ESTIMATE.

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking "and" at the end of clause (i);

(ii) by inserting "and" at the end of clause (ii); and

(iii) by inserting after clause (ii) the following new clause:

"(iii) United States electronic commerce,"; and

(B) in subparagraph (C)—

(i) by striking "and" at the end of clause (i);

(ii) by inserting "and" at the end of clause (ii);

(iii) by inserting after clause (ii) the following new clause:

"(iii) the value of additional United States electronic commerce,"; and

(iv) by inserting "or transacted with," after "or invested in";

(2) in subsection (a)(2)(E)—

(A) by striking "and" at the end of clause (i);

(B) by inserting "and" at the end of clause (ii); and

(C) by inserting after clause (ii) the following new clause:

"(iii) the value of electronic commerce transacted with,"; and

(3) by adding at the end the following new subsection:

"(d) Electronic Commerce.—For purposes of this section, the term 'electronic commerce' has the meaning given that term in section 104(3) of the Internet Tax Freedom Act.".

SEC. 203. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

(a) In General.— It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the America, the North American Free Trade Agreement, and other appropriate venues.

(b) Negotiating Objectives.—The negotiating objectives of the United States shall be—

(1) to assure that electronic commerce is free from—

(A) tariff and nontariff barriers;

(B) burdensome and discriminatory regulation and standards; and

(C) discriminatory taxation; and

(2) to accelerate the growth of electronic commerce by expanding market access opportunities for—

(A) the development of telecommunications infrastructure;

(B) the procurement of telecommunications equipment;

(C) the provision of Internet access and telecommunications services; and

(D) the exchange of goods, services, and digitalized information.

(c) Electronic Commerce.—For purposes of this section, the term "electronic commerce" has the meaning given that term in section 104(3).

SEC. 204. NO EXPANSION OF TAX AUTHORITY.

Nothing in this Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

SEC. 205. PRESERVATION OF AUTHORITY.

Nothing in this Act shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104–104) or the amendments made by such Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Government Paperwork Elimination Act."

SEC. 2. DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

"(vi) the acquisition and use of information technology, including the use of alternative information technologies (such as the use of electronic submission, maintenance, or disclosure of information) to substitute for paper, and the use and acceptance of electronic signatures.".

SEC. 3. PROCEDURES.

(a) Within 18 months after enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use.

(1) The procedures shall be compatible with standards and technology for electronic signatures as may be generally used in commerce and industry and by State governments, based upon consultation with appropriate private sector and State government standard setting bodies.

(2) Such procedures shall not inappropriately favor one industry or technology.

(3) An electronic signature shall be as reliable as is appropriate for the purpose, and efforts shall be made to keep the information submitted intact.

(4) Successful submission of an electronic form shall be electronically acknowledged.

(5) In accordance with all other sections of the Act, to the extent feasible and appropriate, and described in a written finding, an agency, when it expects to receive electronically 50,000 or more submittals of a particular form, shall take all steps necessary to ensure that multiple formats of electronic signatures are made available for submitting such forms.

SEC. 4. AUTHORITY AND FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, within 5 years of the date of enactment of this Act, executive agencies provide for the optional use of electronic maintenance, submission, or disclosure of information where practicable, as an alternative information technology to substitute for paper, and the use and acceptance of electronic signatures where practicable.

SEC. 5. ELECTRONIC STORAGE OF FORMS.

Within 18 months of enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use to permit employer electronic storage and filing of forms containing information pertaining to employees.

SEC. 6. STUDY.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget, shall conduct an ongoing study of paperwork reduction and electronic commerce, the impact on individual privacy, and the security and authenticity of transactions due to the use of electronic signatures pursuant to this Act, and shall report the findings to Congress.

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with agency procedures and guidelines established pursuant to this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures and guidelines, shall not be denied legal effect, validity or enforceability because they are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH OTHER LAWS.

Nothing in this title shall apply to the Department of the Treasury or the Internal Revenue Service, to the extent that—

(1) it involves the administration of the internal revenue laws; and

(2) it conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) Executive agency.—The term "executive agency" has the meaning given that term in section 105 of title 5, United States Code.

(2) Electronic signature.—The term "electronic signature" means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of such electronic message; and

(B) indicates such person's approval of the information contained in such electronic message.

(3) Form, questionnaire, or survey.—The terms "form", "questionnaire", and "survey" include documents produced by an agency to facilitate interaction between an agency and non-government persons.

TITLE II—CHILDREN'S ONLINE PRIVACY PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the "Children's Online Privacy Protection Act of 1999".

SEC. 202. DEFINITIONS.

In this title:

(1) Child.—the term "child" means an individual under the age of 13.

(2) Operator.—The term "operator"—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

(i) among the several States or with 1 or more foreign nations;

(ii) in any territory of the United States or in the District of Columbia, or between any such territory and—

(I) another such territory; or

(II) any State or foreign nation; or

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) does not include any non-profit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) Commission.—The term "Commission" means the Federal Trade Commission.

(4) Disclosure.—The term "disclosure" means, with respect to personal information—

(A) the release of personal information collected from a child in identifiable form by an operator for any purpose, except where such information is provided to a person other than the operator who provides support for the internal operations of the website and does not disclose or use that information for any other purpose; and

(B) making personal information collected from a child by a website or online service directed to children or with actual knowledge that such information was collected from a child, publicly available in identifiable form, by any means including by a public posting, through the Internet, or through—

(i) a home page of a website;

(ii) a pen pal service;

(iii) an electronic mail service;

(iv) a message board; or

(v) a chat room.

(5) Federal agency.—The term "Federal agency" means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(6) Internet.—The term "Internet" means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(7) Parent.—The term "parent" includes a legal guardian.

(8) Personal information.—The term "personal information" means individually identifiable information about an individual collected online, including—

(A) a first and last name;

(B) a home or other physical address including street name and name of a city or town;

(C) an e-mail address;

(D) a telephone number;

(E) a Social Security number;

(F) any other identifier that the Commission determines permits the physical or online contracting of a specific individual; or

(G) information concerning the child or the parents of that child that the website collects online from the child and combines with an identifier described in this paragraph.

(9) Verifiable parental consent.—The term "verifiable parental consent" means any reasonable effort (taking into consideration available technology), including a request for authorization for future collection use, and disclosure described in the notice, to ensure that a parent of a child receives notice of the operator's personal information collection, use, and disclosure practices, and authorizes the collection, use, and disclosure, as applicable, of personal information and the subsequent use of that information before that information is collected from that child.

(10) Website or online service directed to children.—

(A) In general.—The term "website or online service directed to children" means—

(i) A commercial website or online service that is targeted to children; or

(ii) that portion of a commercial website or online service that is targeted to children.

(B) Limitation.—A commercial website or online service, or a portion of a commercial website or online service, shall not be deemed directed to children solely for referring or linking to a commercial website or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

(11) Person.—The term "person" means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

(12) Online contact information.—The term "online contact information" means an e-mail address or another substantially similar identifier that permits direct contact with a person online.

SEC. 203. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE COLLECTION AND USE OF PERSONAL INFORMATION FROM AND ABOUT CHILDREN ON THE INTERNET.

(A) Acts Prohibited.—

(1) In general.—It is unlawful for an operator of a website or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under subsection (b).

(2) Disclosure to parent protected.—Notwithstanding paragraph (1), neither an

operator of such a website or online service nor the operator's agent shall be held to be liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under subsection (b)(1)(B)(iii) to the parent of a child.

(b) Regulations.—

(1) In general.—Not later than 1 year after the date of the enactment of this Act, the Commission shall promulgate under section 553 of title 5, United States Code, regulations that—

(A) require the operator of any website or online service directed to children that collects personal information from children or the operator of a website or online service that has actual knowledge that it is collecting personal information from a child—

(i) to provide notice on the website of what information is collected from children by the operator, how the operator uses such information, and the operator's disclosure practices for such information; and

(ii) to obtain verifiable parental consent for the collection, use, or disclosure of personal information from children;

(B) require the operator to provide, upon request of a parent under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) the opportunity at any time to refuse to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child; and

(iii) notwithstanding any other provision of law, a means that is reasonable under the circumstances for the parent to obtain any personal information collected from that child;

(C) prohibit conditioning a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity; and

(D) require the operator of such a website or online service to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

(2) When consent not required.—The regulations shall provide that verifiable parental consent under paragraph (1)(A)(ii) is not required in the case of—

(A) online contact information collected from a child that is used only to respond directly on a one-time basis to a specific request from the child and is not used to recontact the child and is not maintained in retrievable form by the operator;

(B) a request for the name or online contact information of a parent or child that is used for the sole purpose of obtaining parental consent or providing notice under this section and where such information is not maintained in retrievable form by the operator if parental consent is not obtained after a reasonable time;

(C) online contact information collected from a child that is used only to respond more than once directly to a specific request from the child and is not used to recontact the child beyond the scope of that request—

(i) if, before any additional response after the initial response to the child, the operator uses reasonable efforts to provide a parent notice of the online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(ii) without notice to the parent in such circumstances as the Commission may determine are appropriate, taking into consideration the benefits to the child of access to information and services, and risks to the security and privacy of the child, in regulations promulgated under this subsection;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on the site)—

(i) used only for the purpose of protecting such safety;

(ii) not used to recontact the child or for any other purpose; and

(iii) not disclosed on the site,

if the operator uses reasonable efforts to provide a parent notice of the name and online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) Termination of service.—The regulations shall permit the operator of a website or an online service to terminate service provided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) Enforcement.—Subject to sections 204 and 206, a violation of a regulation prescribed under subsection (a) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(d) Inconsistent State Law.—No State or local government may impose any liability for commercial activities or actions by operators in interstate or foreign commerce in connection with an activity or action described in this title that is inconsistent with the treatment of those activities or actions under this section.

SEC. 204. SAFE HARBORS.

(a) Guidelines.—An operator may satisfy the requirements of regulations issued under section 203(b) by following a set of self-regulatory guidelines, issued by representatives of the marketing or online industries, or by other persons, approved under subsection (b).

(b) Incentives.—

(1) Self-regulatory incentives.—In prescribing regulations under section 203, the Commission shall provide incentives for self-regulation by operators to implement the protections afforded children under the regulatory requirements described in subsection (b) of that section.

(2) Deemed compliance.—Such incentives shall include provisions for ensuring that a person will be deemed to be in compliance with the requirements of the regulations under section 203 if that person complies with guidelines that, after notice and comment, are approved by the Commission upon making a determination that the guidelines meet the requirements of the regulations issued under section 203.

(3) Expedited response to requests.—The Commission shall act upon requests for safe harbor treatment within 180 days of the filing of the request, and shall set forth in writing its conclusions with regard to such requests.

(c) Appeals.—Final action by the Commission on a request for approval of guidelines, or the failure to act within 180 days on a request for approval of guidelines, submitted under subsection (b) may be appealed to a district court of the United States of appropriate jurisdiction as provided for in section 706 of title 5, United States Code.

SEC. 205. ACTIONS BY STATES.

(a) In General.—

(1) Civil actions.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates any regulation of the Commission prescribed under section 203(b), the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with the regulation;

(C) obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.

(2) Notice.—

(A) In general.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) Exemption.—

(i) In general.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) Notification.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) Intervention.—

(1) In general.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) Effect of intervention.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(3) Amicus curiae.—Upon application to the court, a person whose self-regulatory guidelines have been approved by the Commission and are relied upon as a defense by any defendant to a proceeding under this section may file amicus curiae in that proceeding.

(c) Construction.—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) Actions by the Commission.—In any case in which an action is instituted by or on behalf of the Commission for violation of any regulation prescribed under section 293, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that regulation.

(e) Venue; Service of Process.—

(1) Venue.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) Service of process.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 206. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) In General.—Except as otherwise provided, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) Provisions.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et. seq.), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et. seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. (2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) Exercise of Certain Powers.—For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

(d) Actions by the Commission.—The Commission shall prevent any person from violating a rule of the Commission under section 203 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any entity that violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(e) Effect on Other Laws.—Nothing contained in the Act shall be construed to limit the authority of the Commission under any other provisions of law.

SEC. 207. REVIEW.

(a) In General.—Not later than 5 years after the effective date of the regulations initially issued under section 203, the Commission shall—

(1) review the implementation of this title, including the effect of the implementation of this title on practices relating to the collection and disclosure of information relating to children, children's ability to obtain access to information of their choice online, and on the availability of websites directed to children; and

(2) prepare and submit to Congress a report on the results of the review under paragraph (1).

SEC. 208. EFFECTIVE DATE.

Sections 203(a), 205, and 206 of this title take effect on the later of—

(1) the date that is 18 months after the date of enactment of this Act; or

(2) the date on which the Commission rules on the first application for safe harbor treatment under section 204 if the Commission does not rule on the first such application within 1 year after the date of enactment of this Act, but in no case later than the date that is 30 months after the date of enactment of this Act.", and insert in lieu thereof: "days after the date of the enactment of this Act.

(3) Vacancies.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) Acceptance of Gifts and Grants.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) Other Resources.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) Sunset.—The Commission shall terminate 18 months after the date of the enactment of this Act.

(f) Rules of the Commission.—

(1) Quorum.—Nine members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) Meetings.—Any meetings held by the Commission shall be duly noticed at least 17 days in advance and shall be open to the public.

(3) Opportunities to testify.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) Additional rules.—The Commission may adopt other rules as needed.

(g) Duties of the Commission.—

(1) In general.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) Issues to be studied.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) Bit tax.—The term "bit tax" means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed".

Amendment No. 3764

Strike "days after the date of the enactment of this Act.

(3) Vacancies.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) Acceptance of Gifts and Grants.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) Other Resources.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) Sunset.—The Commission shall terminate 18 months after the date of the enactment of this Act.

(f) Rules of the Commission.—

(1) Quorum.—Nine members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) Meetings.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) Opportunities to testify.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) Additional rules.—The Commission may adopt other rules as needed.

(g) Duties of the Commission.—

(1) In general.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) Issues to be studied.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) Bit tax.—The term "bit tax" means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) Discriminatory tax.—The term "discriminatory tax" means any tax imposed by a State or political subdivision thereof on electronic commerce that—

(A) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means;

(B) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period; or

(C) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving the same or similar property, goods, services, or information accomplished through other means.

(3) Electronic commerce.—The term "electronic commerce" means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) Internet.—The term "Internet" means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocol, to transmit information.

(5) Internet access.—The term "Internet access" means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. Such term does not include telecommunications services.

(6) Multiple tax.—

(A) In general.—The term "multiple tax" means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) Exception.—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) Sales or use tax.—For purposes of subparagraph (B), the term "sales or use tax" means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) State.—The term "State" means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) Tax.—

(A) In general.—The term "tax" means—

(i) any levy, fee, or charge imposed under governmental authority by any governmental entity; or

(ii) the imposition of or obligation to collect and to remit to a governmental entity any such levy, fee, or charge imposed by a governmental entity.

(B) EXCEPTION.—Such term shall not include any franchise fees or similar fees imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573).

(9) TELECOMMUNICATIONS SERVICES.—The term "telecommunications services" has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

TITLE II—OTHER PROVISIONS

SEC. 201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

SEC. 202. NATIONAL TRADE ESTIMATE.

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking "and" at the end of clause (i);

(ii) by inserting "and" at the end of clause (ii); and

(iii) by inserting after clause (ii) the following new clause:

"(iii) United States electronic commerce,"; and

(B) in subparagraph (C)—

(i) by striking "and" at the end of clause (i);

(ii) by inserting "and" at the end of clause (ii);

(iii) by inserting after clause (ii) the following new clause:

"(iii) the value of additional United States electronic commerce,"; and

(iv) by inserting "or transacted with," after "or invested in";

(2) in subsection (a)(2)(E)—

(A) by striking "and" at the end of clause (i);

(B) by inserting "and" at the end of clause (ii); and

(C) by inserting after clause (ii) the following new clause:

"(iii) the value of electronic commerce transacted with,"; and

(3) by adding at the end the following new subsection:

"(d) ELECTRONIC COMMERCE.—For purposes of this section, the term 'electronic commerce' has the meaning given that term in section 104(3) of the Internet Tax Freedom Act.".

SEC. 203. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

(a) IN GENERAL.— It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the America, the North American Free Trade Agreement, and other appropriate venues.

(b) NEGOTIATING OBJECTIVES.—The negotiating objectives of the United States shall be—

(1) to assure that electronic commerce is free from—

(A) tariff and nontariff barriers;

(B) burdensome and discriminatory regulation and standards; and

(C) discriminatory taxation; and

(2) to accelerate the growth of electronic commerce by expanding market access opportunities for—

(A) the development of telecommunications infrastructure;

(B) the procurement of telecommunications equipment;

(C) the provision of Internet access and telecommunications services; and

(D) the exchange of goods, services, and digitalized information.

(c) ELECTRONIC COMMERCE.—For purposes of this section, the term "electronic commerce" has the meaning given that term in section 104(3).

SEC. 204. NO EXPANSION OF TAX AUTHORITY.

Nothing in this Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

SEC. 205. PRESERVATION OF AUTHORITY.

Nothing in this Act shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104-104) or the amendments made by such Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Government Paperwork Elimination Act."

SEC. 2. DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

"(vi) the acquisition and use of information technology, including the use of alternative information technologies (such as the use of electronic submission, maintenance, or disclosure of information) to substitute for paper, and the use and acceptance of electronic signatures.".

SEC. 3. PROCEDURES.

(a) Within 18 months after enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use.

(1) The procedures shall be compatible with standards and technology for electronic signatures as may be generally used in commerce and industry and by State governments, based upon consultation with appropriate private sector and State government standard setting bodies.

(2) Such procedures shall not inappropriately favor one industry or technology.

(3) An electronic signature shall be as reliable as is appropriate for the purpose, and efforts shall be made to keep the information submitted intact.

(4) Successful submission of an electronic form shall be electronically acknowledged.

(5) In accordance with all other sections of the Act, to the extent feasible and appropriate, and described in a written finding, an agency, when it expects to receive electronically 50,000 or more submittals of a particular form, shall take all steps necessary to ensure that multiple formats of electronic signatures are made available for submitting such forms.

SEC. 4. AUTHORITY AND FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, within 5 years of the date of enactment of this Act, executive agencies provide for the optional use of electronic maintenance, submission, or disclosure of information where practicable, as an alternative information technology to substitute for paper, and the use and acceptance of electronic signatures where practicable.

SEC. 5. ELECTRONIC STORAGE OF FORMS.

Within 18 months of enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use to permit employer electronic storage and filing of forms containing information pertaining to employees.

SEC. 6. STUDY.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget, shall conduct an ongoing study of paperwork reduction and electronic commerce, the impact on individual privacy, and the security and authenticity of transactions due to the use of electronic signatures pursuant to this Act, and shall report the findings to Congress.

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with agency procedures and guidelines established pursuant to this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures and guidelines, shall not be denied legal effect, validity or enforceability because they are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH OTHER LAWS.

Nothing in this title shall apply to the Department of the Treasury or the Internal Revenue Service, to the extent that—

(1) it involves the administration of the internal revenue laws; and

(2) it conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) EXECUTIVE AGENCY.—The term "executive agency" has the meaning given that term in section 105 of title 5, United States Code.

(2) ELECTRONIC SIGNATURE.—The term "electronic signature" means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of such electronic message; and

(B) indicates such person's approval of the information contained in such electronic message.

(3) FORM, QUESTIONNAIRE, OR SURVEY.—The terms "form", "questionnaire", and "survey" include documents produced by an agency to facilitate interaction between an agency and non-government persons.

TITLE II—CHILDREN'S ONLINE PRIVACY PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the "Children's Online Privacy Protection Act of 1999".

SEC. 202. DEFINITIONS.

In this title:

(1) CHILD.—the term "child" means an individual under the age of 13.

(2) OPERATOR.—The term "operator"—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

(i) among the several States or with 1 or more foreign nations;

(ii) in any territory of the United States or in the District of Columbia, or between any such territory and—

(I) another such territory; or

(II) any State or foreign nation; or

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) does not include any non-profit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) COMMISSION.—The term "Commission" means the Federal Trade Commission.

(4) DISCLOSURE.—The term "disclosure" means, with respect to personal information—

(A) the release of personal information collected from a child in identifiable form by an operator for any purpose, except where such information is provided to a person other than the operator who provides support for the internal operations of the website and does not disclose or use that information for any other purpose; and

(B) making personal information collected from a child by a website or online service directed to children or with actual knowledge that such information was collected from a child, publicly available in identifiable form, by any means including by a public posting, through the Internet, or through—

(i) a home page of a website;

(ii) a pen pal service;

(iii) an electronic mail service;

(iv) a message board; or

(v) a chat room.

(5) FEDERAL AGENCY.—The term "Federal agency" means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(6) INTERNET.—The term "Internet" means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(7) PARENT.—The term "parent" includes a legal guardian.

(8) PERSONAL INFORMATION.—The term "personal information" means individually identifiable information about an individual collected online, including—

(A) a first and last name;

(B) a home or other physical address including street name and name of a city or town;

(C) an e-mail address;

(D) a telephone number;

(E) a Social Security number;

(F) any other identifier that the Commission determines permits the physical or online contracting of a specific individual; or

(G) information concerning the child or the parents of that child that the website collects online from the child and combines with an identifier described in this paragraph.

(9) VERIFIABLE PARENTAL CONSENT.—The term "verifiable parental consent" means any reasonable effort (taking into consideration available technology), including a request for authorization for future collection use, and disclosure described in the notice, to ensure that a parent of a child receives notice of the operator's personal information collection, use, and disclosure practices, and authorizes the collection, use, and disclosure, as applicable, of personal information and the subsequent use of that information before that information is collected from that child.

(10) WEBSITE OR ONLINE SERVICE DIRECTED TO CHILDREN.—

(A) IN GENERAL.—The term "website or online service directed to children" means—

(i) A commercial website or online service that is targeted to children; or

(ii) that portion of a commercial website or online service that is targeted to children.

(B) LIMITATION.—A commercial website or online service, or a portion of a commercial website or online service, shall not be deemed directed to children solely for referring or linking to a commercial website or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

(11) PERSON.—The term "person" means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

(12) ONLINE CONTACT INFORMATION.—The term "online contact information" means an e-mail address or another substantially similar identifier that permits direct contact with a person online.

SEC. 203. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE COLLECTION AND USE OF PERSONAL INFORMATION FROM AND ABOUT CHILDREN ON THE INTERNET.

(A) ACTS PROHIBITED.—

(1) IN GENERAL.—It is unlawful for an operator of a website or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under subsection (b).

(2) DISCLOSURE TO PARENT PROTECTED.—Notwithstanding paragraph (1), neither an operator of such a website or online service nor the operator's agent shall be held to be liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under subsection (b)(1)(B)(iii) to the parent of a child.

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Commission shall promulgate under section 553 of title 5, United States Code, regulations that—

(A) require the operator of any website or online service directed to children that collects personal information from children or the operator of a website or online service that has actual knowledge that it is collecting personal information from a child—

(i) to provide notice on the website of what information is collected from children by the operator, how the operator uses such information, and the operator's disclosure practices for such information; and

(ii) to obtain verifiable parental consent for the collection, use, or disclosure of personal information from children;

(B) require the operator to provide, upon request of a parent under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) the opportunity at any time to refuse to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child; and

(iii) notwithstanding any other provision of law, a means that is reasonable under the circumstances for the parent to obtain any personal information collected from that child;

(C) prohibit conditioning a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity; and

(D) require the operator of such a website or online service to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

(2) WHEN CONSENT NOT REQUIRED.—The regulations shall provide that verifiable parental consent under paragraph (1)(A)(ii) is not required in the case of—

(A) online contact information collected from a child that is used only to respond directly on a one-time basis to a specific request from the child and is not used to recontact the child and is not maintained in retrievable form by the operator;

(B) a request for the name or online contact information of a parent or child that is used for the sole purpose of obtaining parental consent or providing notice under this section and where such information is not maintained in retrievable form by the operator if parental consent is not obtained after a reasonable time;

(C) online contact information collected from a child that is used only to respond more than once directly to a specific request from the child and is not used to recontact the child beyond the scope of that request—

(i) if, before any additional response after the initial response to the child, the operator uses reasonable efforts to provide a parent notice of the online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(ii) without notice to the parent in such circumstances as the Commission may determine are appropriate, taking into consideration the benefits to the child of access to information and services, and risks to the security and privacy of the child, in regulations promulgated under this subsection;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on the site)—

(i) used only for the purpose of protecting such safety;

(ii) not used to recontact the child or for any other purpose; and

(iii) not disclosed on the site,

if the operator uses reasonable efforts to provide a parent notice of the name and online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) Termination of Service.—The regulations shall permit the operator of a website or an online service to terminate service provided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) Enforcement.—Subject to sections 204 and 206, a violation of a regulation prescribed under subsection (a) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(d) Inconsistent State Law.—No State or local government may impose any liability for commercial activities or actions by operators in interstate or foreign commerce in connection with an activity or action described in this title that is inconsistent with the treatment of those activities or actions under this section.

SEC. 204. SAFE HARBORS.

(a) Guidelines.—An operator may satisfy the requirements of regulations issued under section 203(b) by following a set of self-regulatory guidelines, issued by representatives of the marketing or online industries, or by other persons, approved under subsection (b).

(b) Incentives.—

(1) Self-regulatory incentives.—In prescribing regulations under section 203, the Commission shall provide incentives for self-regulation by operators to implement the protections afforded children under the regulatory requirements described in subsection (b) of that section.

(2) Deemed compliance.—Such incentives shall include provisions for ensuring that a person will be deemed to be in compliance with the requirements of the regulations under section 203 if that person complies with guidelines that, after notice and comment, are approved by the Commission upon making a determination that the guidelines meet the requirements of the regulations issued under section 203.

(3) Expedited response to requests.—The Commission shall act upon requests for safe harbor treatment within 180 days of the filing of the request, and shall set forth in writing its conclusions with regard to such requests.

(c) Appeals.—Final action by the Commission on a request for approval of guidelines, or the failure to act within 180 days on a request for approval of guidelines, submitted under subsection (b) may be appealed to a district court of the United States of appropriate jurisdiction as provided for in section 706 of title 5, United States Code.

SEC. 205. ACTIONS BY STATES.

(a) In General.—

(1) Civil actions.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates any regulation of the Commission prescribed under section 203(b), the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with the regulation;

(C) obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.

(2) Notice.—

(A) In general.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) Exemption.—

(i) In general.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) Notification.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) Intervention.—

(1) In general.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) Effect of intervention.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(3) Amicus curiae.—Upon application to the court, a person whose self-regulatory guidelines have been approved by the Commission and are relied upon as a defense by any defendant to a proceeding under this section may file amicus curiae in that proceeding.

(c) Construction.—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) Actions by the Commission.—In any case in which an action is instituted by or on behalf of the Commission for violation of any regulation prescribed under section 293, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that regulation.

(e) Venue; Service of Process.—

(1) Venue.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) Service of process.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 206. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) In General.—Except as otherwise provided, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) Provisions.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et. seq.), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et. seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank,

Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) Exercise of Certain Powers.—For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

(d) Actions by the Commission.—The Commission shall prevent any person from violating a rule of the Commission under section 203 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any entity that violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(e) Effect on Other Laws.—Nothing contained in the Act shall be construed to limit the authority of the Commission under any other provisions of law.

SEC. 207. REVIEW.

(a) In General.—Not later than 5 years after the effective date of the regulations initially issued under section 203, the Commission shall—

(1) review the implementation of this title, including the effect of the implementation of this title on practices relating to the collection and disclosure of information relating to children, children's ability to obtain access to information of their choice online, and on the availability of websites directed to children; and

(2) prepare and submit to Congress a report on the results of the review under paragraph (1).

SEC. 208. EFFECTIVE DATE.

Sections 203(a), 205, and 206 of this title take effect on the later of—

(1) the date that is 18 months after the date of enactment of this Act; or

(2) the date on which the Commission rules on the first application for safe harbor treatment under section 204 if the Commission does not rule on the first such application within 1 year after the date of enactment of this Act, but in no case later than the date that is 30 months after the date of enactment of this Act.", and insert in lieu thereof: "days after the date of the enactment of this Act.

(3) Vacancies.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) Acceptance of Gifts and Grants.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) Other Resources.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) Sunset.—The Commission shall terminate 18 months after the date of the enactment of this Act.

(f) Rules of the Commission.—

(1) Quorum.—Nine members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) Meetings.—Any meetings held by the Commission shall be duly noticed at least 18 days in advance and shall be open to the public.

(3) Opportunities to testify.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) Additional rules.—The Commission may adopt other rules as needed.

(g) Duties of the Commission.—

(1) In general.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) Issues to be studied.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) Bit tax.—The term "bit tax" means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) Discriminatory tax.—The term "discriminatory tax" means any tax imposed by a State or political subdivision thereof on electronic commerce that—

(A) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means;

(B) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period; or

(C) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving the same or similar property, goods, services, or information accomplished through other means.

(3) Electronic commerce.—The term "electronic commerce" means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) Internet.—The term "Internet" means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocol, to transmit information.

(5) Internet access.—The term "Internet access" means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. Such term does not include telecommunications services.

(6) Multiple tax.—

(A) In general.—The term "multiple tax" means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) Exception.—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) Sales or use tax.—For purposes of subparagraph (B), the term "sales or use tax" means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) State.—The term "State" means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) Tax.—

(A) In general.—The term "tax" means—

(i) any levy, fee, or charge imposed under governmental authority by any governmental entity; or

(ii) the imposition of or obligation to collect and to remit to a governmental entity any such levy, fee, or charge imposed by a governmental entity.

(B) Exception.—Such term shall not include any franchise fees or similar fees imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573).

(9) Telecommunications services.—The term "telecommunications services" has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

TITLE II—OTHER PROVISIONS

SEC. 201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

SEC. 202. NATIONAL TRADE ESTIMATE.

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking "and" at the end of clause (i);

(ii) by inserting "and" at the end of clause (ii); and

(iii) by inserting after clause (ii) the following new clause:

"(iii) United States electronic commerce,"; and

(B) in subparagraph (C)—

(i) by striking "and" at the end of clause (i);

(ii) by inserting "and" at the end of clause (ii);

(iii) by inserting after clause (ii) the following new clause:

"(iii) the value of additional United States electronic commerce,"; and

(iv) by inserting "or transacted with," after "or invested in";

(2) in subsection (a)(2)(E)—

(A) by striking "and" at the end of clause (i);

(B) by inserting "and" at the end of clause (ii); and

(C) by inserting after clause (ii) the following new clause:

"(iii) the value of electronic commerce transacted with,"; and

(3) by adding at the end the following new subsection:

"(d) Electronic Commerce.—For purposes of this section, the term 'electronic commerce' has the meaning given that term in section 104(3) of the Internet Tax Freedom Act.".

SEC. 203. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

(a) In General.— It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the America, the North American Free Trade Agreement, and other appropriate venues.

(b) Negotiating Objectives.—The negotiating objectives of the United States shall be—

(1) to assure that electronic commerce is free from—

(A) tariff and nontariff barriers;

(B) burdensome and discriminatory regulation and standards; and

(C) discriminatory taxation; and

(2) to accelerate the growth of electronic commerce by expanding market access opportunities for—

(A) the development of telecommunications infrastructure;

(B) the procurement of telecommunications equipment;

(C) the provision of Internet access and telecommunications services; and

(D) the exchange of goods, services, and digitalized information.

(c) Electronic Commerce.—For purposes of this section, the term "electronic commerce" has the meaning given that term in section 104(3).

SEC. 204. NO EXPANSION OF TAX AUTHORITY.

Nothing in this Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

SEC. 205. PRESERVATION OF AUTHORITY.

Nothing in this Act shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104–104) or the amendments made by such Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Government Paperwork Elimination Act."

SEC. 2. DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

"(vi) the acquisition and use of information technology, including the use of alternative information technologies (such as the use of electronic submission, maintenance, or disclosure of information) to substitute for paper, and the use and acceptance of electronic signatures.".

SEC. 3. PROCEDURES.

(a) Within 18 months after enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use.

(1) The procedures shall be compatible with standards and technology for electronic signatures as may be generally used in commerce and industry and by State governments, based upon consultation with appropriate private sector and State government standard setting bodies.

(2) Such procedures shall not inappropriately favor one industry or technology.

(3) An electronic signature shall be as reliable as is appropriate for the purpose, and efforts shall be made to keep the information submitted intact.

(4) Successful submission of an electronic form shall be electronically acknowledged.

(5) In accordance with all other sections of the Act, to the extent feasible and appropriate, and described in a written finding, an agency, when it expects to receive electronically 50,000 or more submittals of a particular form, shall take all steps necessary to ensure that multiple formats of electronic signatures are made available for submitting such forms.

SEC. 4. AUTHORITY AND FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, within 5 years of the date of enactment of this Act, executive agencies provide for the optional use of electronic maintenance, submission, or disclosure of information where practicable, as an alternative information technology to substitute for paper, and the use and acceptance of electronic signatures where practicable.

SEC. 5. ELECTRONIC STORAGE OF FORMS.

Within 18 months of enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44; United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use to permit employer electronic storage and filing of forms containing information pertaining to employees.

SEC. 6. STUDY.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget, shall conduct an ongoing study of paperwork reduction and electronic commerce, the impact on individual privacy, and the security and authenticity of transactions due to the use of electronic signatures pursuant to this Act, and shall report the findings to Congress.

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with agency procedures and guidelines established pursuant to this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures and guidelines, shall not be denied legal effect, validity or enforceability because they are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH OTHER LAWS.

Nothing in this title shall apply to the Department of the Treasury or the Internal Revenue Service, to the extent that—

(1) it involves the administration of the internal revenue laws; and

(2) it conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) Executive agency.—The term "executive agency" has the meaning given that term in section 105 of title 5, United States Code.

(2) Electronic signature.—The term "electronic signature" means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of such electronic message; and

(B) indicates such person's approval of the information contained in such electronic message.

(3) Form, questionnaire, or survey.—The terms "form", "questionnaire", and "survey" include documents produced by an agency to facilitate interaction between an agency and non-government persons.

TITLE II—CHILDREN'S ONLINE PRIVACY PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the "Children's Online Privacy Protection Act of 1999".

SEC. 202. DEFINITIONS.

In this title:

(1) Child.—the term "child" means an individual under the age of 13.

(2) Operator.—The term "operator"—

(A) means any, person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

(i) among the several States or with 1 or more foreign nations;

(ii) in any territory of the United States or in the District of Columbia, or between any such territory and—

(I) another such territory; or

(II) any State or foreign nation; or

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) does not include any non-profit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) Commission.—The term "Commission" means the Federal Trade Commission.

(4) Disclosure.—The term "disclosure" means, with respect to personal information—

(A) the release of personal information collected from a child in identifiable form by an operator for any purpose, except where such information is provided to a person other than the operator who provides support for the internal operations of the website and does not disclose or use that information for any other purpose; and

(B) making personal information collected from a child by a website or online service directed to children or with actual knowledge that such information was collected from a child, publicly available in identifiable form, by any means including by a public posting, through the Internet, or through—

(i) a home page of a website;

(ii) a pen pal service;

(iii) an electronic mail service;

(iv) a message board; or

(v) a chat room.

(5) Federal agency.—The term "Federal agency" means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(6) Internet.—The term "Internet" means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(7) Parent.—The term "parent" includes a legal guardian.

(8) Personal information.—The term "personal information" means individually identifiable information about an individual collected online, including—

(A) a first and last name;

(B) a home or other physical address including street name and name of a city or town;

(C) an e-mail address;

(D) a telephone number;

(E) a Social Security number;

(F) any other identifier that the Commission determines permits the physical or online contracting of a specific individual; or

(G) information concerning the child or the parents of that child that the website collects online from the child and combines with an identifier described in this paragraph.

(9) Verifiable parental consent.—The term "verifiable parental consent" means any reasonable effort (taking into consideration available technology), including a request for authorization for future collection use, and disclosure described in the notice, to ensure that a parent of a child receives notice of the operator's personal information collection, use, and disclosure practices, and authorizes the collection, use, and disclosure, as applicable, of personal information and the subsequent use of that information before that information is collected from that child.

(10) Website or online service directed to children.—

(A) In general.—The term "website or online service directed to children" means—

(i) A commercial website or online service that is targeted to children; or

(ii) that portion of a commercial website or online service that is targeted to children.

(B) Limitation.—A commercial website or online service, or a portion of a commercial website or online service, shall not be deemed directed to children solely for referring or linking to a commercial website or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

(11) Person.—The term "person" means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

(12) Online contact information.—The term "online contact information" means an e-mail address or another substantially similar identifier that permits direct contact with a person online.

SEC. 203. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE COLLECTION AND USE OF PERSONAL INFORMATION FROM AND ABOUT CHILDREN ON THE INTERNET.

(A) Acts Prohibited.—

(1) In general.—It is unlawful for an operator of a website or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under subsection (b).

(2) Disclosure to parent protected.—Notwithstanding paragraph (1), neither an operator of such a website or online service nor the operator's agent shall be held to be liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under subsection (b)(1)(B)(iii) to the parent of a child.

(b) Regulations.—

(1) In general.—Not later than 1 year after the date of the enactment of this Act, the Commission shall promulgate under section 553 of title 5, United States Code, regulations that—

(A) require the operator of any website or online service directed to children that collects personal information from children or the operator of a website or online service that has actual knowledge that it is collecting personal information from a child—

(i) to provide notice on the website of what information is collected from children by the operator, how the operator uses such information, and the operator's disclosure practices for such information; and

(ii) to obtain verifiable parental consent for the collection, use, or disclosure of personal information from children;

(B) require the operator to provide, upon request of a parent under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) the opportunity at any time to refuse to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child; and

(iii) notwithstanding any other provision of law, a means that is reasonable under the circumstances for the parent to obtain any personal information collected from that child;

(C) prohibit conditioning a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity; and

(D) require the operator of such a website or online service to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

(2) WHEN CONSENT NOT REQUIRED.—The regulations shall provide that verifiable parental consent under paragraph (1)(A)(ii) is not required in the case of—

(A) online contact information collected from a child that is used only to respond directly on a one-time basis to a specific request from the child and is not used to recontact the child and is not maintained in retrievable form by the operator;

(B) a request for the name or online contact information of a parent or child that is used for the sole purpose of obtaining parental consent or providing notice under this section and where such information is not maintained in retrievable form by the operator if parental consent is not obtained after a reasonable time;

(C) online contact information collected from a child that is used only to respond more than once directly to a specific request from the child and is not used to recontact the child beyond the scope of that request—

(i) if, before any additional response after the initial response to the child, the operator uses reasonable efforts to provide a parent notice of the online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(ii) without notice to the parent in such circumstances as the Commission may determine are appropriate, taking into consideration the benefits to the child of access to information and services, and risks to the security and privacy of the child, in regulations promulgated under this subsection;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on the site)—

(i) used only for the purpose of protecting such safety;

(ii) not used to recontact the child or for any other purpose; and

(iii) not disclosed on the site,

if the operator uses reasonable efforts to provide a parent notice of the name and online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) TERMINATION OF SERVICE.—The regulations shall permit the operator of a website or an online service to terminate service provided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) ENFORCEMENT.—Subject to sections 204 and 206, a violation of a regulation prescribed under subsection (a) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(d) INCONSISTENT STATE LAW.—No State or local government may impose any liability for commercial activities or actions by operators in interstate or foreign commerce in connection with an activity or action described in this title that is inconsistent with the treatment of those activities or actions under this section.

SEC. 204. SAFE HARBORS.

(a) GUIDELINES.—An operator may satisfy the requirements of regulations issued under section 203(b) by following a set of self-regulatory guidelines, issued by representatives of the marketing or online industries, or by other persons, approved under subsection (b).

(b) INCENTIVES.—

(1) SELF-REGULATORY INCENTIVES.—In prescribing regulations under section 203, the Commission shall provide incentives for self-regulation by operators to implement the protections afforded children under the regulatory requirements described in subsection (b) of that section.

(2) DEEMED COMPLIANCE.—Such incentives shall include provisions for ensuring that a person will be deemed to be in compliance with the requirements of the regulations under section 203 if that person complies with guidelines that, after notice and comment, are approved by the Commission upon making a determination that the guidelines meet the requirements of the regulations issued under section 203.

(3) EXPEDITED RESPONSE TO REQUESTS.—The Commission shall act upon requests for safe harbor treatment within 180 days of the filing of the request, and shall set forth in writing its conclusions with regard to such requests.

(c) APPEALS.—Final action by the Commission on a request for approval of guidelines, or the failure to act within 180 days on a request for approval of guidelines, submitted under subsection (b) may be appealed to a district court of the United States of appropriate jurisdiction as provided for in section 706 of title 5, United States Code.

SEC. 205. ACTIONS BY STATES.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates any regulation of the Commission prescribed under section 203(b), the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with the regulation;

(C) obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) INTERVENTION.—

(1) IN GENERAL.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) EFFECT OF INTERVENTION.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(3) AMICUS CURIAE.—Upon application to the court, a person whose self-regulatory guidelines have been approved by the Commission and are relied upon as a defense by any defendant to a proceeding under this section may file amicus curiae in that proceeding.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Commission for violation of any regulation prescribed under section 293, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that regulation.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 206. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) IN GENERAL.—Except as otherwise provided, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) PROVISIONS.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or

25(a) of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et. seq.), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et. seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. (2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) EXERCISE OF CERTAIN POWERS.—For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

(d) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating a rule of the Commission under section 203 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any entity that violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(e) EFFECT ON OTHER LAWS.—Nothing contained in the Act shall be construed to limit the authority of the Commission under any other provisions of law.

SEC. 207. REVIEW.

(a) IN GENERAL.—Not later than 5 years after the effective date of the regulations initially issued under section 203, the Commission shall—

(1) review the implementation of this title, including the effect of the implementation of this title on practices relating to the collection and disclosure of information relating to children, children's ability to obtain access to information of their choice online, and on the availability of websites directed to children; and

(2) prepare and submit to Congress a report on the results of the review under paragraph (1).

SEC. 208. EFFECTIVE DATE.

Sections 203(a), 205, and 206 of this title take effect on the later of—

(1) the date that is 18 months after the date of enactment of this Act; or

(2) the date on which the Commission rules on the first application for safe harbor treatment under section 204 if the Commission does not rule on the first such application within 1 year after the date of enactment of this Act, but in no case later than the date that is 30 months after the date of enactment of this Act."

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Strike "days after the date of the enactment of this Act.

(3) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) ACCEPTANCE OF GIFTS AND GRANTS.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) SUNSET.—The Commission shall terminate 18 months after the date of the enactment of this Act.

(f) RULES OF THE COMMISSION.—

(1) QUORUM.—Nine members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) MEETINGS.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) OPPORTUNITIES TO TESTIFY.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) ADDITIONAL RULES.—The Commission may adopt other rules as needed.

(g) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) ISSUES TO BE STUDIED.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) BIT TAX.—The term "bit tax" means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) DISCRIMINATORY TAX.—The term "discriminatory tax" means any tax imposed by a State or political subdivision thereof on electronic commerce that—

(A) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means;

(B) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period; or

(C) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving the same or similar property, goods, services, or information accomplished through other means.

(3) ELECTRONIC COMMERCE.—The term "electronic commerce" means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) INTERNET.—The term "Internet" means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocol, to transmit information.

(5) INTERNET ACCESS.—The term "Internet access" means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. Such term does not include telecommunications services.

(6) MULTIPLE TAX.—

(A) IN GENERAL.—The term "multiple tax" means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) EXCEPTION.—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) SALES OR USE TAX.—For purposes of subparagraph (B), the term "sales or use tax" means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) STATE.—The term "State" means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) TAX.—

(A) IN GENERAL.—The term "tax" means—

(i) any levy, fee, or charge imposed under governmental authority by any governmental entity; or

(ii) the imposition of or obligation to collect and to remit to a governmental entity any such levy, fee, or charge imposed by a governmental entity.

(B) EXCEPTION.—Such term shall not include any franchise fees or similar fees imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573).

(9) TELECOMMUNICATIONS SERVICES.—The term "telecommunications services" has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

TITLE II—OTHER PROVISIONS

SEC. 201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

SEC. 202. NATIONAL TRADE ESTIMATE.

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking "and" at the end of clause (i);

(ii) by inserting "and" at the end of clause (ii); and

(iii) by inserting after clause (ii) the following new clause:

"(iii) United States electronic commerce,"; and

(B) in subparagraph (C)—

(i) by striking "and" at the end of clause (i);

(ii) by inserting "and" at the end of clause (ii);

(iii) by inserting after clause (ii) the following new clause:

"(iii) the value of additional United States electronic commerce,"; and

(iv) by inserting "or transacted with," after "or invested in";

(2) in subsection (a)(2)(E)—

(A) by striking "and" at the end of clause (i);

(B) by inserting "and" at the end of clause (ii); and

(C) by inserting after clause (ii) the following new clause:

"(iii) the value of electronic commerce transacted with,"; and

(3) by adding at the end the following new subsection:

"(d) ELECTRONIC COMMERCE.—For purposes of this section, the term 'electronic commerce' has the meaning given that term in section 104(3) of the Internet Tax Freedom Act.".

SEC. 203. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

(a) IN GENERAL.— It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the America, the North American Free Trade Agreement, and other appropriate venues.

(b) NEGOTIATING OBJECTIVES.—The negotiating objectives of the United States shall be—

(1) to assure that electronic commerce is free from—

(A) tariff and nontariff barriers;

(B) burdensome and discriminatory regulation and standards; and

(C) discriminatory taxation; and

(2) to accelerate the growth of electronic commerce by expanding market access opportunities for—

(A) the development of telecommunications infrastructure;

(B) the procurement of telecommunications equipment;

(C) the provision of Internet access and telecommunications services; and

(D) the exchange of goods, services, and digitalized information.

(c) ELECTRONIC COMMERCE.—For purposes of this section, the term "electronic commerce" has the meaning given that term in section 104(3).

SEC. 204. NO EXPANSION OF TAX AUTHORITY.

Nothing in this Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

SEC. 205. PRESERVATION OF AUTHORITY.

Nothing in this Act shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104-104) or the amendments made by such Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Government Paperwork Elimination Act."

SEC. 2. DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

"(vi) the acquisition and use of information technology, including the use of alternative information technologies (such as the use of electronic submission, maintenance, or disclosure of information) to substitute for paper, and the use and acceptance of electronic signatures.".

SEC. 3. PROCEDURES.

(a) Within 18 months after enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use.

(1) The procedures shall be compatible with standards and technology for electronic signatures as may be generally used in commerce and industry and by State governments, based upon consultation with appropriate private sector and State government standard setting bodies.

(2) Such procedures shall not inappropriately favor one industry or technology.

(3) An electronic signature shall be as reliable as is appropriate for the purpose, and efforts shall be made to keep the information submitted intact.

(4) Successful submission of an electronic form shall be electronically acknowledged.

(5) In accordance with all other sections of the Act, to the extent feasible and appropriate, and described in a written finding, an agency, when it expects to receive electronically 50,000 or more submittals of a particular form, shall take all steps necessary to ensure that multiple formats of electronic signatures are made available for submitting such forms.

SEC. 4. AUTHORITY AND FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, within 5 years of the date of enactment of this Act, executive agencies provide for the optional use of electronic maintenance, submission, or disclosure of information where practicable, as an alternative information technology to substitute for paper, and the use and acceptance of electronic signatures where practicable.

SEC. 5. ELECTRONIC STORAGE OF FORMS.

Within 18 months of enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use to permit employer electronic storage and filing of forms containing information pertaining to employees.

SEC. 6. STUDY.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget, shall conduct an ongoing study of paperwork reduction and electronic commerce, the impact on individual privacy, and the security and authenticity of transactions due to the use of electronic signatures pursuant to this Act, and shall report the findings to Congress.

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with agency procedures and guidelines established pursuant to this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures and guidelines, shall not be denied legal effect, validity or enforceability because they are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH OTHER LAWS.

Nothing in this title shall apply to the Department of the Treasury or the Internal Revenue Service, to the extent that—

(1) it involves the administration of the internal revenue laws; and

(2) it conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) EXECUTIVE AGENCY.—The term "executive agency" has the meaning given that term in section 105 of title 5, United States Code.

(2) ELECTRONIC SIGNATURE.—The term "electronic signature" means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of such electronic message; and

(B) indicates such person's approval of the information contained in such electronic message.

(3) FORM, QUESTIONNAIRE, OR SURVEY.—The terms "form", "questionnaire", and "survey" include documents produced by an agency to facilitate interaction between an agency and non-government persons.

TITLE II—CHILDREN'S ONLINE PRIVACY PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the "Children's Online Privacy Protection Act of 1999".

SEC. 202. DEFINITIONS.

In this title:

(1) CHILD.—the term "child" means an individual under the age of 13.

(2) OPERATOR.—The term "operator"—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

(i) among the several States or with 1 or more foreign nations;

(ii) in any territory of the United States or in the District of Columbia, or between any such territory and—

(I) another such territory; or

(II) any State or foreign nation; or

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) does not include any non-profit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) COMMISSION.—The term "Commission" means the Federal Trade Commission.

(4) DISCLOSURE.—The term "disclosure" means, with respect to personal information—

(A) the release of personal information collected from a child in identifiable form by an operator for any purpose, except where such information is provided to a person other than the operator who provides support for the internal operations of the website and does not disclose or use that information for any other purpose; and

(B) making personal information collected from a child by a website or online service directed to children or with actual knowledge that such information was collected from a child, publicly available in identifiable form, by any means including by a public posting, through the Internet, or through—

(i) a home page of a website;

(ii) a pen pal service;

(iii) an electronic mail service;

(iv) a message board; or

(v) a chat room.

(5) FEDERAL AGENCY.—The term "Federal agency" means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(6) INTERNET.—The term "Internet" means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(7) PARENT.—The term "parent" includes a legal guardian.

(8) PERSONAL INFORMATION.—The term "personal information" means individually identifiable information about an individual collected online, including—

(A) a first and last name;

(B) a home or other physical address including street name and name of a city or town;

(C) an e-mail address;

(D) a telephone number;

(E) a Social Security number;

(F) any other identifier that the Commission determines permits the physical or online contracting of a specific individual; or

(G) information concerning the child or the parents of that child that the website collects online from the child and combines with an identifier described in this paragraph.

(9) VERIFIABLE PARENTAL CONSENT.—The term "verifiable parental consent" means any reasonable effort (taking into consideration available technology), including a request for authorization for future collection use, and disclosure described in the notice, to ensure that a parent of a child receives notice of the operator's personal information collection, use, and disclosure practices, and authorizes the collection, use, and disclosure, as applicable, of personal information and the subsequent use of that information before that information is collected from that child.

(10) WEBSITE OR ONLINE SERVICE DIRECTED TO CHILDREN.—

(A) IN GENERAL.—The term "website or online service directed to children" means—

(i) A commercial website or online service that is targeted to children; or

(ii) that portion of a commercial website or online service that is targeted to children.

(B) LIMITATION.—A commercial website or online service, or a portion of a commercial website or online service, shall not be deemed directed to children solely for referring or linking to a commercial website or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

(11) PERSON.—The term "person" means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

(12) ONLINE CONTACT INFORMATION.—The term "online contact information" means an e-mail address or another substantially similar identifier that permits direct contact with a person online.

SEC. 203. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE COLLECTION AND USE OF PERSONAL INFORMATION FROM AND ABOUT CHILDREN ON THE INTERNET.

(A) ACTS PROHIBITED.—

(1) IN GENERAL.—It is unlawful for an operator of a website or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under subsection (b).

(2) DISCLOSURE TO PARENT PROTECTED.—Notwithstanding paragraph (1), neither an operator of such a website or online service nor the operator's agent shall be held to be liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under subsection (b)(1)(B)(iii) to the parent of a child.

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Commission shall promulgate under section 553 of title 5, United States Code, regulations that—

(A) require the operator of any website or online service directed to children that collects personal information from children or the operator of a website or online service that has actual knowledge that it is collecting personal information from a child—

(i) to provide notice on the website of what information is collected from children by the operator, how the operator uses such information, and the operator's disclosure practices for such information; and

(ii) to obtain verifiable parental consent for the collection, use, or disclosure of personal information from children;

(B) require the operator to provide, upon request of a parent under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) the opportunity at any time to refuse to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child; and

(iii) notwithstanding any other provision of law, a means that is reasonable under the circumstances for the parent to obtain any personal information collected from that child;

(C) prohibit conditioning a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity; and

(D) require the operator of such a website or online service to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

(2) WHEN CONSENT NOT REQUIRED.—The regulations shall provide that verifiable parental consent under paragraph (1)(A)(ii) is not required in the case of—

(A) online contact information collected from a child that is used only to respond directly on a one-time basis to a specific request from the child and is not used to recontact the child and is not maintained in retrievable form by the operator;

(B) a request for the name or online contact information of a parent or child that is used for the sole purpose of obtaining parental consent or providing notice under this section and where such information is not maintained in retrievable form by the operator if parental consent is not obtained after a reasonable time;

(C) online contact information collected from a child that is used only to respond more than once directly to a specific request from the child and is not used to recontact the child beyond the scope of that request—

(i) if, before any additional response after the initial response to the child, the operator uses reasonable efforts to provide a parent notice of the online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(ii) without notice to the parent in such circumstances as the Commission may determine are appropriate, taking into consideration the benefits to the child of access to information and services, and risks to the security and privacy of the child, in regulations promulgated under this subsection;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on the site)—

(i) used only for the purpose of protecting such safety;

(ii) not used to recontact the child or for any other purpose; and

(iii) not disclosed on the site,

if the operator uses reasonable efforts to provide a parent notice of the name and online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) TERMINATION OF SERVICE.—The regulations shall permit the operator of a website or an online service to terminate service provided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) ENFORCEMENT.—Subject to sections 204 and 206, a violation of a regulation prescribed under subsection (a) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(d) INCONSISTENT STATE LAW.—No State or local government may impose any liability for commercial activities or actions by operators in interstate or foreign commerce in connection with an activity or action described in this title that is inconsistent with the treatment of those activities or actions under this section.

SEC. 204. SAFE HARBORS.

(a) GUIDELINES.—An operator may satisfy the requirements of regulations issued under section 203(b) by following a set of self-regulatory guidelines, issued by representatives of the marketing or online industries, or by other persons, approved under subsection (b).

(b) INCENTIVES.—

(1) SELF-REGULATORY INCENTIVES.—In prescribing regulations under section 203, the Commission shall provide incentives for self-regulation by operators to implement the protections afforded children under the regulatory requirements described in subsection (b) of that section.

(2) DEEMED COMPLIANCE.—Such incentives shall include provisions for ensuring that a person will be deemed to be in compliance with the requirements of the regulations under section 203 if that person complies with guidelines that, after notice and comment, are approved by the Commission upon making a determination that the guidelines meet the requirements of the regulations issued under section 203.

(3) EXPEDITED RESPONSE TO REQUESTS.—The Commission shall act upon requests for safe harbor treatment within 180 days of the filing of the request, and shall set forth in writing its conclusions with regard to such requests.

(c) APPEALS.—Final action by the Commission on a request for approval of guidelines, or the failure to act within 180 days on a request for approval of guidelines, submitted under subsection (b) may be appealed to a district court of the United States of appropriate jurisdiction as provided for in section 706 of title 5, United States Code.

SEC. 205. ACTIONS BY STATES.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates any regulation of the Commission prescribed under section 203(b), the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with the regulation;

(C) obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) INTERVENTION.—

(1) IN GENERAL.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) EFFECT OF INTERVENTION.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(3) AMICUS CURIAE.—Upon application to the court, a person whose self-regulatory guidelines have been approved by the Commission and are relied upon as a defense by any defendant to a proceeding under this section may file amicus curiae in that proceeding.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Commission for violation of any regulation prescribed under section 293, no State may, during the pendency of that action, institute an action under subsection

(a) against any defendant named in the complaint in that action for violation of that regulation.

(e) Venue; Service of Process.—

(1) Venue.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) Service of process.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 206. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) In General.—Except as otherwise provided, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) Provisions.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et. seq.), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et. seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. (2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) Exercise of Certain Powers.—For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

(d) Actions by the Commission.—The Commission shall prevent any person from violating a rule of the Commission under section 203 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any entity that violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(e) Effect on Other Laws.—Nothing contained in the Act shall be construed to limit the authority of the Commission under any other provisions of law.

SEC. 207. REVIEW.

(a) In General.—Not later than 5 years after the effective date of the regulations initially issued under section 203, the Commission shall—

(1) review the implementation of this title, including the effect of the implementation of this title on practices relating to the collection and disclosure of information relating to children, children's ability to obtain access to information of their choice online, and on the availability of websites directed to children; and

(2) prepare and submit to Congress a report on the results of the review under paragraph (1).

SEC. 208. EFFECTIVE DATE.

Sections 203(a), 205, and 206 of this title take effect on the later of—

(1) the date that is 18 months after the date of enactment of this Act; or

(2) the date on which the Commission rules on the first application for safe harbor treatment under section 204 if the Commission does not rule on the first such application within 1 year after the date of enactment of this Act, but in no case later than the date that is 30 months after the date of enactment of this Act.",

and insert in lieu thereof: "days after the date of the enactment of this Act.

(3) Vacancies.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) Acceptance of Gifts and Grants.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) Other Resources.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) Sunset.—The Commission shall terminate 18 months after the date of the enactment of this Act.

(f) Rules of the Commission.—

(1) Quorum.—Ten members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) Meetings.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) Opportunities to testify.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) Additional rules.—The Commission may adopt other rules as needed.

(g) Duties of the Commission.—

(1) In general.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) Issues to be studied.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) BIT TAX.—The term "bit tax" means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) DISCRIMINATORY TAX.—The term "discriminatory tax" means any tax imposed by a State or political subdivision thereof on electronic commerce that—

(A) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means;

(B) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period; or

(C) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving the same or similar property, goods, services, or information accomplished through other means.

(3) ELECTRONIC COMMERCE.—The term "electronic commerce" means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) INTERNET.—The term "Internet" means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocol, to transmit information.

(5) INTERNET ACCESS.—The term "Internet access" means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. Such term does not include telecommunications services.

(6) MULTIPLE TAX.—

(A) IN GENERAL.—The term "multiple tax" means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) EXCEPTION.—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) SALES OR USE TAX.—For purposes of subparagraph (B), the term "sales or use tax" means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) STATE.—The term "State" means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) TAX.—

(A) IN GENERAL.—The term "tax" means—

(i) any levy, fee, or charge imposed under governmental authority by any governmental entity; or

(ii) the imposition of or obligation to collect and to remit to a governmental entity any such levy, fee, or charge imposed by a governmental entity.

(B) EXCEPTION.—Such term shall not include any franchise fees or similar fees imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573).

(9) TELECOMMUNICATIONS SERVICES.—The term "telecommunications services" has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

TITLE II—OTHER PROVISIONS

SEC. 201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

SEC. 202. NATIONAL TRADE ESTIMATE.

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking "and" at the end of clause (i);

(ii) by inserting "and" at the end of clause (ii); and

(iii) by inserting after clause (ii) the following new clause:

"(iii) United States electronic commerce,"; and

(B) in subparagraph (C)—

(i) by striking "and" at the end of clause (i);

(ii) by inserting "and" at the end of clause (ii);

(iii) by inserting after clause (ii) the following new clause:

"(iii) the value of additional United States electronic commerce,"; and

(iv) by inserting "or transacted with," after "or invested in";

(2) in subsection (a)(2)(E)—

(A) by striking "and" at the end of clause (i);

(B) by inserting "and" at the end of clause (ii); and

(C) by inserting after clause (ii) the following new clause:

"(iii) the value of electronic commerce transacted with,"; and

(3) by adding at the end the following new subsection:

"(d) ELECTRONIC COMMERCE.—For purposes of this section, the term 'electronic commerce' has the meaning given that term in section 104(3) of the Internet Tax Freedom Act.".

SEC. 203. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

(a) IN GENERAL.— It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the America, the North American Free Trade Agreement, and other appropriate venues.

(b) NEGOTIATING OBJECTIVES.—The negotiating objectives of the United States shall be—

(1) to assure that electronic commerce is free from—

(A) tariff and nontariff barriers;

(B) burdensome and discriminatory regulation and standards; and

(C) discriminatory taxation; and

(2) to accelerate the growth of electronic commerce by expanding market access opportunities for—

(A) the development of telecommunications infrastructure;

(B) the procurement of telecommunications equipment;

(C) the provision of Internet access and telecommunications services; and

(D) the exchange of goods, services, and digitalized information.

(c) ELECTRONIC COMMERCE.—For purposes of this section, the term "electronic commerce" has the meaning given that term in section 104(3).

SEC. 204. NO EXPANSION OF TAX AUTHORITY.

Nothing in this Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

SEC. 205. PRESERVATION OF AUTHORITY.

Nothing in this Act shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104-104) or the amendments made by such Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Government Paperwork Elimination Act."

SEC. 2. DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

"(vi) the acquisition and use of information technology, including the use of alternative information technologies (such as the use of electronic submission, maintenance, or disclosure of information) to substitute for paper, and the use and acceptance of electronic signatures.".

SEC. 3. PROCEDURES.

(a) Within 18 months after enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use.

(1) The procedures shall be compatible with standards and technology for electronic signatures as may be generally used in commerce and industry and by State governments, based upon consultation with appropriate private sector and State government standard setting bodies.

(2) Such procedures shall not inappropriately favor one industry or technology.

(3) An electronic signature shall be as reliable as is appropriate for the purpose, and efforts shall be made to keep the information submitted intact.

(4) Successful submission of an electronic form shall be electronically acknowledged.

(5) In accordance with all other sections of the Act, to the extent feasible and appropriate, and described in a written finding, an agency, when it expects to receive electronically 50,000 or more submittals of a particular form, shall take all steps necessary to ensure that multiple formats of electronic signatures are made available for submitting such forms.

SEC. 4. AUTHORITY AND FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, within 5 years of the date of enactment of this Act, executive agencies provide for the optional use of electronic maintenance, submission, or disclosure of information where practicable, as an alternative information technology to substitute for paper, and the use and acceptance of electronic signatures where practicable.

SEC. 5. ELECTRONIC STORAGE OF FORMS.

Within 18 months of enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use to permit employer electronic storage and filing of forms containing information pertaining to employees.

SEC. 6. STUDY.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget, shall conduct an ongoing study of paperwork reduction and electronic commerce, the impact on individual privacy, and the security and authenticity of transactions due to the use of electronic signatures pursuant to this Act, and shall report the findings to Congress.

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with agency procedures and guidelines established pursuant to this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures and guidelines, shall not be denied legal effect, validity or enforceability because they are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH OTHER LAWS.

Nothing in this title shall apply to the Department of the Treasury or the Internal Revenue Service, to the extent that—

(1) it involves the administration of the internal revenue laws; and

(2) it conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) EXECUTIVE AGENCY.—The term "executive agency" has the meaning given that term in section 105 of title 5, United States Code.

(2) ELECTRONIC SIGNATURE.—The term "electronic signature" means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of such electronic message; and

(B) indicates such person's approval of the information contained in such electronic message.

(3) FORM, QUESTIONNAIRE, OR SURVEY.—The terms "form", "questionnaire", and "survey" include documents produced by an agency to facilitate interaction between an agency and non-government persons.

TITLE II—CHILDREN'S ONLINE PRIVACY PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the "Children's Online Privacy Protection Act of 1999".

SEC. 202. DEFINITIONS.

In this title:

(1) CHILD.—the term "child" means an individual under the age of 13.

(2) OPERATOR.—The term "operator"—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

(i) among the several States or with 1 or more foreign nations;

(ii) in any territory of the United States or in the District of Columbia, or between any such territory and—

(I) another such territory; or

(II) any State or foreign nation; or

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) does not include any non-profit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) COMMISSION.—The term "Commission" means the Federal Trade Commission.

(4) DISCLOSURE.—The term "disclosure" means, with respect to personal information—

(A) the release of personal information collected from a child in identifiable form by an operator for any purpose, except where such information is provided to a person other than the operator who provides support for the internal operations of the website and does not disclose or use that information for any other purpose; and

(B) making personal information collected from a child by a website or online service directed to children or with actual knowledge that such information was collected from a child, publicly available in identifiable form, by any means including by a public posting, through the Internet, or through—

(i) a home page of a website;

(ii) a pen pal service;

(iii) an electronic mail service;

(iv) a message board; or

(v) a chat room.

(5) FEDERAL AGENCY.—The term "Federal agency" means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(6) INTERNET.—The term "Internet" means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(7) PARENT.—The term "parent" includes a legal guardian.

(8) PERSONAL INFORMATION.—The term "personal information" means individually identifiable information about an individual collected online, including—

(A) a first and last name;

(B) a home or other physical address including street name and name of a city or town;

(C) an e-mail address;

(D) a telephone number;

(E) a Social Security number;

(F) any other identifier that the Commission determines permits the physical or online contracting of a specific individual; or

(G) information concerning the child or the parents of that child that the website collects online from the child and combines with an identifier described in this paragraph.

(9) VERIFIABLE PARENTAL CONSENT.—The term "verifiable parental consent" means any reasonable effort (taking into consideration available technology), including a request for authorization for future collection use, and disclosure described in the notice, to ensure that a parent of a child receives notice of the operator's personal information collection, use, and disclosure practices, and authorizes the collection, use, and disclosure, as applicable, of personal information and the subsequent use of that information before that information is collected from that child.

(10) WEBSITE OR ONLINE SERVICE DIRECTED TO CHILDREN.—

(A) IN GENERAL.—The term "website or online service directed to children" means—

(i) A commercial website or online service that is targeted to children; or

(ii) that portion of a commercial website or online service that is targeted to children.

(B) LIMITATION.—A commercial website or online service, or a portion of a commercial website or online service, shall not be deemed directed to children solely for referring or linking to a commercial website or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

(11) PERSON.—The term "person" means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

(12) ONLINE CONTACT INFORMATION.—The term "online contact information" means an e-mail address or another substantially similar identifier that permits direct contact with a person online.

SEC. 203. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE COLLECTION AND USE OF PERSONAL INFORMATION FROM AND ABOUT CHILDREN ON THE INTERNET.

(A) Acts Prohibited.—

(1) In general.—It is unlawful for an operator of a website or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under subsection (b).

(2) Disclosure to parent protected.—Notwithstanding paragraph (1), neither an operator of such a website or online service nor the operator's agent shall be held to be liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under subsection (b)(1)(B)(iii) to the parent of a child.

(b) Regulations.—

(1) In general.—Not later than 1 year after the date of the enactment of this Act, the Commission shall promulgate under section 553 of title 5, United States Code, regulations that—

(A) require the operator of any website or online service directed to children that collects personal information from children or the operator of a website or online service that has actual knowledge that it is collecting personal information from a child—

(i) to provide notice on the website of what information is collected from children by the operator, how the operator uses such information, and the operator's disclosure practices for such information; and

(ii) to obtain verifiable parental consent for the collection, use, or disclosure of personal information from children;

(B) require the operator to provide, upon request of a parent under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) the opportunity at any time to refuse to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child; and

(iii) notwithstanding any other provision of law, a means that is reasonable under the circumstances for the parent to obtain any personal information collected from that child;

(C) prohibit conditioning a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity; and

(D) require the operator of such a website or online service to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

(2) When consent not required.—The regulations shall provide that verifiable parental consent under paragraph (1)(A)(ii) is not required in the case of—

(A) online contact information collected from a child that is used only to respond directly on a one-time basis to a specific request from the child and is not used to recontact the child and is not maintained in retrievable form by the operator;

(B) a request for the name or online contact information of a parent or child that is used for the sole purpose of obtaining parental consent or providing notice under this section and where such information is not maintained in retrievable form by the operator if parental consent is not obtained after a reasonable time;

(C) online contact information collected from a child that is used only to respond more than once directly to a specific request from the child and is not used to recontact the child beyond the scope of that request—

(i) if, before any additional response after the initial response to the child, the operator uses reasonable efforts to provide a parent notice of the online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(ii) without notice to the parent in such circumstances as the Commission may determine are appropriate, taking into consideration the benefits to the child of access to information and services, and risks to the security and privacy of the child, in regulations promulgated under this subsection;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on the site)—

(i) used only for the purpose of protecting such safety;

(ii) not used to recontact the child or for any other purpose; and

(iii) not disclosed on the site,

if the operator uses reasonable efforts to provide a parent notice of the name and online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) Termination of service.—The regulations shall permit the operator of a website or an online service to terminate service provided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) Enforcement.—Subject to sections 204 and 206, a violation of a regulation prescribed under subsection (a) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(d) Inconsistent State Law.—No State or local government may impose any liability for commercial activities or actions by operators in interstate or foreign commerce in connection with an activity or action described in this title that is inconsistent with the treatment of those activities or actions under this section.

SEC. 204. SAFE HARBORS.

(a) Guidelines.—An operator may satisfy the requirements of regulations issued under section 203(b) by following a set of self-regulatory guidelines, issued by representatives of the marketing or online industries, or by other persons, approved under subsection (b).

(b) Incentives.—

(1) Self-regulatory incentives.—In prescribing regulations under section 203, the Commission shall provide incentives for self-regulation by operators to implement the protections afforded children under the regulatory requirements described in subsection (b) of that section.

(2) Deemed compliance.—Such incentives shall include provisions for ensuring that a person will be deemed to be in compliance with the requirements of the regulations under section 203 if that person complies with guidelines that, after notice and comment, are approved by the Commission upon making a determination that the guidelines meet the requirements of the regulations issued under section 203.

(3) Expedited response to requests.—The Commission shall act upon requests for safe harbor treatment within 180 days of the filing of the request, and shall set forth in writing its conclusions with regard to such requests.

(c) Appeals.—Final action by the Commission on a request for approval of guidelines, or the failure to act within 180 days on a request for approval of guidelines, submitted under subsection (b) may be appealed to a district court of the United States of appropriate jurisdiction as provided for in section 706 of title 5, United States Code.

SEC. 205. ACTIONS BY STATES.

(a) In General.—

(1) Civil actions.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates any regulation of the Commission prescribed under section 203(b), the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with the regulation;

(C) obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.

(2) Notice.—

(A) In general.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) Exemption.—

(i) In general.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

ii) Notification.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) Intervention.—

(1) In general.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) EFFECT OF INTERVENTION.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(3) AMICUS CURIAE.—Upon application to the court, a person whose self-regulatory guidelines have been approved by the Commission and are relied upon as a defense by any defendant to a proceeding under this section may file amicus curiae in that proceeding.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Commission for violation of any regulation prescribed under section 293, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that regulation.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 206. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) IN GENERAL.—Except as otherwise provided, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) PROVISIONS.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et. seq.), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et. seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. (2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) EXERCISE OF CERTAIN POWERS.—For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

(d) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating a rule of the Commission under section 203 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any entity that violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(e) EFFECT ON OTHER LAWS.—Nothing contained in the Act shall be construed to limit the authority of the Commission under any other provisions of law.

SEC. 207. REVIEW.

(a) IN GENERAL.—Not later than 5 years after the effective date of the regulations initially issued under section 203, the Commission shall—

(1) review the implementation of this title, including the effect of the implementation of this title on practices relating to the collection and disclosure of information relating to children, children's ability to obtain access to information of their choice online, and on the availability of websites directed to children; and

(2) prepare and submit to Congress a report on the results of the review under paragraph (1).

SEC. 208. EFFECTIVE DATE.

Sections 203(a), 205, and 206 of this title take effect on the later of—

(1) the date that is 18 months after the date of enactment of this Act; or

(2) the date on which the Commission rules on the first application for safe harbor treatment under section 204 if the Commission does not rule on the first such application within 1 year after the date of enactment of this Act, but in no case later than the date that is 30 months after the date of enactment of this Act."

AMENDMENT NO. 3766

Strike "days after the date of the enactment of this Act.

(3) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) ACCEPTANCE OF GIFTS AND GRANTS.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) SUNSET.—The Commission shall terminate 18 months after the date of the enactment of this Act.

(f) RULES OF THE COMMISSION.—

(1) QUORUM.—Nine members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) MEETINGS.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) OPPORTUNITIES TO TESTIFY.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) ADDITIONAL RULES.—The Commission may adopt other rules as needed.

(g) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) ISSUES TO BE STUDIED.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) Bit tax.—The term "bit tax" means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) Discriminatory tax.—The term "discriminatory tax" means any tax imposed by a State or political subdivision thereof on electronic commerce that—

(A) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means;

(B) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period; or

(C) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving the same or similar property, goods, services, or information accomplished through other means.

(3) Electronic commerce.—The term "electronic commerce" means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) Internet.—The term "Internet" means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocol, to transmit information.

(5) Internet access.—The term "Internet access" means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. Such term does not include telecommunications services.

(6) Multiple tax.—

(A) In general.—The term "multiple tax" means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) Exception.—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) Sales or use tax.—For purposes of subparagraph (B), the term "sales or use tax" means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) State.—The term "State" means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) Tax.—

(A) In general.—The term "tax" means—

(i) any levy, fee, or charge imposed under governmental authority by any governmental entity; or

(ii) the imposition of or obligation to collect and to remit to a governmental entity any such levy, fee, or charge imposed by a governmental entity.

(B) Exception.—Such term shall not include any franchise fees or similar fees imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573).

(9) Telecommunications services.—The term "telecommunications services" has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

TITLE II—OTHER PROVISIONS

SEC. 201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

SEC. 202. NATIONAL TRADE ESTIMATE.

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking "and" at the end of clause (i);

(ii) by inserting "and" at the end of clause (ii); and

(iii) by inserting after clause (ii) the following new clause:

"(iii) United States electronic commerce,"; and

(B) in subparagraph (C)—

(i) by striking "and" at the end of clause (i);

(ii) by inserting "and" at the end of clause (ii);

(iii) by inserting after clause (ii) the following new clause:

"(iii) the value of additional United States electronic commerce,"; and

(iv) by inserting "or transacted with," after "or invested in";

(2) in subsection (a)(2)(E)—

(A) by striking "and" at the end of clause (i);

(B) by inserting "and" at the end of clause (ii); and

(C) by inserting after clause (ii) the following new clause:

"(iii) the value of electronic commerce transacted with,"; and

(3) by adding at the end the following new subsection:

"(d) Electronic Commerce.—For purposes of this section, the term 'electronic commerce' has the meaning given that term in section 104(3) of the Internet Tax Freedom Act.".

SEC. 203. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

(a) In General.— It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the America, the North American Free Trade Agreement, and other appropriate venues.

(b) Negotiating Objectives.—The negotiating objectives of the United States shall be—

(1) to assure that electronic commerce is free from—

(A) tariff and nontariff barriers;

(B) burdensome and discriminatory regulation and standards; and

(C) discriminatory taxation; and

(2) to accelerate the growth of electronic commerce by expanding market access opportunities for—

(A) the development of telecommunications infrastructure;

(B) the procurement of telecommunications equipment;

(C) the provision of Internet access and telecommunications services; and

(D) the exchange of goods, services, and digitalized information.

(c) Electronic Commerce.—For purposes of this section, the term "electronic commerce" has the meaning given that term in section 104(3).

SEC. 204. NO EXPANSION OF TAX AUTHORITY.

Nothing in this Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

SEC. 205. PRESERVATION OF AUTHORITY.

Nothing in this Act shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104–104) or the amendments made by such Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Government Paperwork Elimination Act."

SEC. 2. DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

"(vi) the acquisition and use of information technology, including the use of alternative information technologies (such as the use of electronic submission, maintenance, or disclosure of information) to substitute for paper, and the use and acceptance of electronic signatures.".

SEC. 3. PROCEDURES.

(a) Within 18 months after enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use.

(1) The procedures shall be compatible with standards and technology for electronic signatures as may be generally used in commerce and industry and by State governments, based upon consultation with appropriate private sector and State government standard setting bodies.

(2) Such procedures shall not inappropriately favor one industry or technology.

(3) An electronic signature shall be as reliable as is appropriate for the purpose, and efforts shall be made to keep the information submitted intact.

(4) Successful submission of an electronic form shall be electronically acknowledged.

(5) In accordance with all other sections of the Act, to the extent feasible and appropriate, and described in a written finding, an agency, when it expects to receive electronically 50,000 or more submittals of a particular form, shall take all steps necessary to ensure that multiple formats of electronic signatures are made available for submitting such forms.

SEC. 4. AUTHORITY AND FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, within 5 years of the date of enactment of this Act, executive agencies provide for the optional use of electronic maintenance, submission, or disclosure of information where practicable, as an alternative information technology to substitute for paper, and the use and acceptance of electronic signatures where practicable.

SEC. 5. ELECTRONIC STORAGE OF FORMS.

Within 18 months of enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use to permit employer electronic storage and filing of forms containing information pertaining to employees.

SEC. 6. STUDY.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget, shall conduct an ongoing study of paperwork reduction and electronic commerce, the impact on individual privacy, and the security and authenticity of transactions due to the use of electronic signatures pursuant to this Act, and shall report the findings to Congress.

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with agency procedures and guidelines established pursuant to this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures and guidelines, shall not be denied legal effect, validity or enforceability because they are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH OTHER LAWS.

Nothing in this title shall apply to the Department of the Treasury or the Internal Revenue Service, to the extent that—

(1) it involves the administration of the internal revenue laws; and

(2) it conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) EXECUTIVE AGENCY.—The term "executive agency" has the meaning given that term in section 105 of title 5, United States Code.

(2) ELECTRONIC SIGNATURE.—The term "electronic signature" means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of such electronic message; and

(B) indicates such person's approval of the information contained in such electronic message.

(3) FORM, QUESTIONNAIRE, OR SURVEY.—The terms "form", "questionnaire", and "survey" include documents produced by an agency to facilitate interaction between an agency and non-government persons.

TITLE II—CHILDREN'S ONLINE PRIVACY PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the "Children's Online Privacy Protection Act of 1999".

SEC. 202. DEFINITIONS.

In this title:

(1) CHILD.—the term "child" means an individual under the age of 13.

(2) OPERATOR.—The term "operator"—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

(i) among the several States or with 1 or more foreign nations;

(ii) in any territory of the United States or in the District of Columbia, or between any such territory and—

(I) another such territory; or

(II) any State or foreign nation; or

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) does not include any non-profit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) COMMISSION.—The term "Commission" means the Federal Trade Commission.

(4) DISCLOSURE.—The term "disclosure" means, with respect to personal information—

(A) the release of personal information collected from a child in identifiable form by an operator for any purpose, except where such information is provided to a person other than the operator who provides support for the internal operations of the website and does not disclose or use that information for any other purpose; and

(B) making personal information collected from a child by a website or online service directed to children or with actual knowledge that such information was collected from a child, publicly available in identifiable form, by any means including by a public posting, through the Internet, or through—

(i) a home page of a website;

(ii) a pen pal service;

(iii) an electronic mail service;

(iv) a message board; or

(v) a chat room.

(5) FEDERAL AGENCY.—The term "Federal agency" means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(6) INTERNET.—The term "Internet" means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(7) PARENT.—The term "parent" includes a legal guardian.

(8) PERSONAL INFORMATION.—The term "personal information" means individually identifiable information about an individual collected online, including—

(A) a first and last name;

(B) a home or other physical address including street name and name of a city or town;

(C) an e-mail address;

(D) a telephone number;

(E) a Social Security number;

(F) any other identifier that the Commission determines permits the physical or online contracting of a specific individual; or

(G) information concerning the child or the parents of that child that the website collects online from the child and combines with an identifier described in this paragraph.

(9) VERIFIABLE PARENTAL CONSENT.—The term "verifiable parental consent" means any reasonable effort (taking into consideration available technology), including a request for authorization for future collection

use, and disclosure described in the notice, to ensure that a parent of a child receives notice of the operator's personal information collection, use, and disclosure practices, and authorizes the collection, use, and disclosure, as applicable, of personal information and the subsequent use of that information before that information is collected from that child.

(10) WEBSITE OR ONLINE SERVICE DIRECTED TO CHILDREN.—

(A) IN GENERAL.—The term "website or online service directed to children" means—

(i) A commercial website or online service that is targeted to children; or

(ii) that portion of a commercial website or online service that is targeted to children.

(B) LIMITATION.—A commercial website or online service, or a portion of a commercial website or online service, shall not be deemed directed to children solely for referring or linking to a commercial website or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

(11) PERSON.—The term "person" means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

(12) ONLINE CONTACT INFORMATION.—The term "online contact information" means an e-mail address or another substantially similar identifier that permits direct contact with a person online.

SEC. 203. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE COLLECTION AND USE OF PERSONAL INFORMATION FROM AND ABOUT CHILDREN ON THE INTERNET.

(a) ACTS PROHIBITED.—

(1) IN GENERAL.—It is unlawful for an operator of a website or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under subsection (b).

(2) DISCLOSURE TO PARENT PROTECTED.—Notwithstanding paragraph (1), neither an operator of such a website or online service nor the operator's agent shall be held to be liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under subsection (b)(1)(B)(iii) to the parent of a child.

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Commission shall promulgate under section 553 of title 5, United States Code, regulations that—

(A) require the operator of any website or online service directed to children that collects personal information from children or the operator of a website or online service that has actual knowledge that it is collecting personal information from a child—

(i) to provide notice on the website of what information is collected from children by the operator, how the operator uses such information, and the operator's disclosure practices for such information; and

(ii) to obtain verifiable parental consent for the collection, use, or disclosure of personal information from children;

(B) require the operator to provide, upon request of a parent under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) the opportunity at any time to refuse to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child; and

(iii) notwithstanding any other provision of law, a means that is reasonable under the circumstances for the parent to obtain any personal information collected from that child;

(C) prohibit conditioning a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity; and

(D) require the operator of such a website or online service to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

(2) WHEN CONSENT NOT REQUIRED.—The regulations shall provide that verifiable parental consent under paragraph (1)(A)(ii) is not required in the case of—

(A) online contact information collected from a child that is used only to respond directly on a one-time basis to a specific request from the child and is not used to recontact the child and is not maintained in retrievable form by the operator;

21(B) a request for the name or online contact information of a parent or child that is used for the sole purpose of obtaining parental consent or providing notice under this section and where such information is not maintained in retrievable form by the operator if parental consent is not obtained after a reasonable time;

(C) online contact information collected from a child that is used only to respond more than once directly to a specific request from the child and is not used to recontact the child beyond the scope of that request—

(i) if, before any additional response after the initial response to the child, the operator uses reasonable efforts to provide a parent notice of the online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(ii) without notice to the parent in such circumstances as the Commission may determine are appropriate, taking into consideration the benefits to the child of access to information and services, and risks to the security and privacy of the child, in regulations promulgated under this subsection;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on the site)—

(i) used only for the purpose of protecting such safety;

(ii) not used to recontact the child or for any other purpose; and

(iii) not disclosed on the site,

if the operator uses reasonable efforts to provide a parent notice of the name and online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) TERMINATION OF SERVICE.—The regulations shall permit the operator of a website or an online service to terminate service provided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) ENFORCEMENT.—Subject to sections 204 and 206, a violation of a regulation prescribed under subsection (a) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(d) INCONSISTENT STATE LAW.—No State or local government may impose any liability for commercial activities or actions by operators in interstate or foreign commerce in connection with an activity or action described in this title that is inconsistent with the treatment of those activities or actions under this section.

SEC. 204. SAFE HARBORS.

(a) GUIDELINES.—An operator may satisfy the requirements of regulations issued under section 203(b) by following a set of self-regulatory guidelines, issued by representatives of the marketing or online industries, or by other persons, approved under subsection (b).

(b) INCENTIVES.—

(1) SELF-REGULATORY INCENTIVES.—In prescribing regulations under section 203, the Commission shall provide incentives for self-regulation by operators to implement the protections afforded children under the regulatory requirements described in subsection (b) of that section.

(2) DEEMED COMPLIANCE.—Such incentives shall include provisions for ensuring that a person will be deemed to be in compliance with the requirements of the regulations under section 203 if that person complies with guidelines that, after notice and comment, are approved by the Commission upon making a determination that the guidelines meet the requirements of the regulations issued under section 203.

(3) EXPEDITED RESPONSE TO REQUESTS.—The Commission shall act upon requests for safe harbor treatment within 180 days of the filing of the request, and shall set forth in writing its conclusions with regard to such requests.

(c) APPEALS.—Final action by the Commission on a request for approval of guidelines, or the failure to act within 180 days on a request for approval of guidelines, submitted under subsection (b) may be appealed to a district court of the United States of appropriate jurisdiction as provided for in section 706 of title 5, United States Code.

SEC. 205. ACTIONS BY STATES.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates any regulation of the Commission prescribed under section 203(b), the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with the regulation;

(C) obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.

(2) Notice.—

(A) In general.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) Exemption.—

(i) In general.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) Notification.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) Intervention.—

(1) In general.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) Effect of intervention.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(3) Amicus curiae.—Upon application to the court, a person whose self-regulatory guidelines have been approved by the Commission and are relied upon as a defense by any defendant to a proceeding under this section may file amicus curiae in that proceeding.

(c) Construction.—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) Actions by the Commission.—In any case in which an action is instituted by or on behalf of the Commission for violation of any regulation prescribed under section 293, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that regulation.

(e) Venue; Service of Process.—

(1) Venue.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) Service of process.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 206. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) In General.—Except as otherwise provided, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) Provisions.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et. seq.), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et. seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. (2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) Exercise of Certain Powers.—For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

(d) Actions by the Commission.—The Commission shall prevent any person from violating a rule of the Commission under section 203 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any entity that violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(e) Effect on Other Laws.—Nothing contained in the Act shall be construed to limit the authority of the Commission under any other provisions of law.

SEC. 207. REVIEW.

(a) In General.—Not later than 5 years after the effective date of the regulations initially issued under section 203, the Commission shall—

(1) review the implementation of this title, including the effect of the implementation of this title on practices relating to the collection and disclosure of information relating to children, children's ability to obtain access to information of their choice online, and on the availability of websites directed to children; and

(2) prepare and submit to Congress a report on the results of the review under paragraph (1).

SEC. 208. EFFECTIVE DATE.

Sections 203(a), 205, and 206 of this title take effect on the later of—

(1) the date that is 18 months after the date of enactment of this Act; or

(2) the date on which the Commission rules on the first application for safe harbor treatment under section 204 if the Commission does not rule on the first such application within 1 year after the date of enactment of this Act, but in no case later than the date that is 30 months after the date of enactment of this Act.", and insert in lieu thereof: "days after the date of the enactment of this Act.

(3) Vacancies.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) Acceptance of Gifts and Grants.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) Other Resources.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) Sunset.—The Commission shall terminate 21 months after the date of the enactment of this Act.

(f) Rules of the Commission.—

(1) Quorum.—Nine members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) Meetings.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) Opportunities to testify.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) Additional rules.—The Commission may adopt other rules as needed.

(g) Duties of the Commission.—

(1) In general.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) ISSUES TO BE STUDIED.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) BIT TAX.—The term "bit tax" means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) DISCRIMINATORY TAX.—The term "discriminatory tax" means any tax imposed by a State or political subdivision thereof on electronic commerce that—

(A) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means;

(B) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period; or

(C) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving the same or similar property, goods, services, or information accomplished through other means.

(3) ELECTRONIC COMMERCE.—The term "electronic commerce" means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) INTERNET.—The term "Internet" means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocol, to transmit information.

(5) INTERNET ACCESS.—The term "Internet access" means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. Such term does not include telecommunications services.

(6) MULTIPLE TAX.—

(A) IN GENERAL.—The term "multiple tax" means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) EXCEPTION.—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) SALES OR USE TAX.—For purposes of subparagraph (B), the term "sales or use tax" means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) STATE.—The term "State" means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) TAX.—

(A) IN GENERAL.—The term "tax" means—

(i) any levy, fee, or charge imposed under governmental authority by any governmental entity; or

(ii) the imposition of or obligation to collect and to remit to a governmental entity any such levy, fee, or charge imposed by a governmental entity.

(B) EXCEPTION.—Such term shall not include any franchise fees or similar fees imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573).

(9) TELECOMMUNICATIONS SERVICES.—The term "telecommunications services" has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

TITLE II—OTHER PROVISIONS

SEC. 201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

SEC. 202. NATIONAL TRADE ESTIMATE.

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking "and" at the end of clause (i);

(ii) by inserting "and" at the end of clause (ii); and

(iii) by inserting after clause (ii) the following new clause:

"(iii) United States electronic commerce,"; and

(B) in subparagraph (C)—

(i) by striking "and" at the end of clause (i);

(ii) by inserting "and" at the end of clause (ii);

(iii) by inserting after clause (ii) the following new clause:

"(iii) the value of additional United States electronic commerce,"; and

(iv) by inserting "or transacted with," after "or invested in";

(2) in subsection (a)(2)(E)—

(A) by striking "and" at the end of clause (i);

(B) by inserting "and" at the end of clause (ii); and

(C) by inserting after clause (ii) the following new clause:

"(iii) the value of electronic commerce transacted with,"; and

(3) by adding at the end the following new subsection:

"(d) ELECTRONIC COMMERCE.—For purposes of this section, the term 'electronic commerce' has the meaning given that term in section 104(3) of the Internet Tax Freedom Act.".

SEC. 203. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

(a) IN GENERAL.—It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the America, the North American Free Trade Agreement, and other appropriate venues.

(b) NEGOTIATING OBJECTIVES.—The negotiating objectives of the United States shall be—

(1) to assure that electronic commerce is free from—

(A) tariff and nontariff barriers;

(B) burdensome and discriminatory regulation and standards; and

(C) discriminatory taxation; and

(2) to accelerate the growth of electronic commerce by expanding market access opportunities for—

(A) the development of telecommunications infrastructure;

(B) the procurement of telecommunications equipment;

(C) the provision of Internet access and telecommunications services; and

(D) the exchange of goods, services, and digitalized information.

(c) ELECTRONIC COMMERCE.—For purposes of this section, the term "electronic commerce" has the meaning given that term in section 104(3).

SEC. 204. NO EXPANSION OF TAX AUTHORITY.

Nothing in this Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

SEC. 205. PRESERVATION OF AUTHORITY.

Nothing in this Act shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104–104) or the amendments made by such Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Government Paperwork Elimination Act."

SEC. 2. DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

"(vi) the acquisition and use of information technology, including the use of alternative information technologies (such as the use of electronic submission, maintenance, or disclosure of information) to substitute for paper, and the use and acceptance of electronic signatures.".

SEC. 3. PROCEDURES.

(a) Within 18 months after enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use.

(1) The procedures shall be compatible with standards and technology for electronic signatures as may be generally used in commerce and industry and by State governments, based upon consultation with appropriate private sector and State government standard setting bodies.

(2) Such procedures shall not inappropriately favor one industry or technology.

(3) An electronic signature shall be as reliable as is appropriate for the purpose, and efforts shall be made to keep the information submitted intact.

(4) Successful submission of an electronic form shall be electronically acknowledged.

(5) In accordance with all other sections of the Act, to the extent feasible and appropriate, and described in a written finding, an agency, when it expects to receive electronically 50,000 or more submittals of a particular form, shall take all steps necessary to ensure that multiple formats of electronic signatures are made available for submitting such forms.

SEC. 4. AUTHORITY AND FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, within 5 years of the date of enactment of this Act, executive agencies provide for the optional use of electronic maintenance, submission, or disclosure of information where practicable, as an alternative information technology to substitute for paper, and the use and acceptance of electronic signatures where practicable.

SEC. 5. ELECTRONIC STORAGE OF FORMS.

Within 18 months of enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use to permit employer electronic storage and filing of forms containing information pertaining to employees.

SEC. 6. STUDY.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget, shall conduct an ongoing study of paperwork reduction and electronic commerce, the impact on individual privacy, and the security and authenticity of transactions due to the use of electronic signatures pursuant to this Act, and shall report the findings to Congress.

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with agency procedures and guidelines established pursuant to this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures and guidelines, shall not be denied legal effect, validity or enforceability because they are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH OTHER LAWS.

Nothing in this title shall apply to the Department of the Treasury or the Internal Revenue Service, to the extent that—

(1) it involves the administration of the internal revenue laws; and

(2) it conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) EXECUTIVE AGENCY.—The term "executive agency" has the meaning given that term in section 105 of title 5, United States Code.

(2) ELECTRONIC SIGNATURE.—The term "electronic signature" means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of such electronic message; and

(B) indicates such person's approval of the information contained in such electronic message.

(3) FORM, QUESTIONNAIRE, OR SURVEY.—The terms "form", "questionnaire", and "survey" include documents produced by an agency to facilitate interaction between an agency and non-government persons.

TITLE II—CHILDREN'S ONLINE PRIVACY PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the "Children's Online Privacy Protection Act of 1999".

SEC. 202. DEFINITIONS.

In this title:

(1) CHILD.—The term "child" means an individual under the age of 13.

(2) OPERATOR.—The term "operator"—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

(i) among the several States or with 1 or more foreign nations;

(ii) in any territory of the United States or in the District of Columbia, or between any such territory and—

(I) another such territory; or

(II) any State or foreign nation; or

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) does not include any non-profit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) COMMISSION.—The term "Commission" means the Federal Trade Commission.

(4) DISCLOSURE.—The term "disclosure" means, with respect to personal information—

(A) the release of personal information collected from a child in identifiable form by an operator for any purpose, except where such information is provided to a person other than the operator who provides support for the internal operations of the website and does not disclose or use that information for any other purpose; and

(B) making personal information collected from a child by a website or online service directed to children or with actual knowledge that such information was collected from a child, publicly available in identifiable form, by any means including by a public posting, through the Internet, or through—

(i) a home page of a website;

(ii) a pen pal service;

(iii) an electronic mail service;

(iv) a message board; or

(v) a chat room.

(5) FEDERAL AGENCY.—The term "Federal agency" means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(6) INTERNET.—The term "Internet" means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol,

or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(7) PARENT.—The term "parent" includes a legal guardian.

(8) PERSONAL INFORMATION.—The term "personal information" means individually identifiable information about an individual collected online, including—

(A) a first and last name;

(B) a home or other physical address including street name and name of a city or town;

(C) an e-mail address;

(D) a telephone number;

(E) a Social Security number;

(F) any other identifier that the Commission determines permits the physical or online contracting of a specific individual; or

(G) information concerning the child or the parents of that child that the website collects online from the child and combines with an identifier described in this paragraph.

(9) VERIFIABLE PARENTAL CONSENT.—The term "verifiable parental consent" means any reasonable effort (taking into consideration available technology), including a request for authorization for future collection use, and disclosure described in the notice, to ensure that a parent of a child receives notice of the operator's personal information collection, use, and disclosure practices, and authorizes the collection, use, and disclosure, as applicable, of personal information and the subsequent use of that information before that information is collected from that child.

(10) WEBSITE OR ONLINE SERVICE DIRECTED TO CHILDREN.—

(A) IN GENERAL.—The term "website or online service directed to children" means—

(i) a commercial website or online service that is targeted to children; or

(ii) that portion of a commercial website or online service that is targeted to children.

(B) LIMITATION.—A commercial website or online service, or a portion of a commercial website or online service, shall not be deemed directed to children solely for referring or linking to a commercial website or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

(11) PERSON.—The term "person" means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

(12) ONLINE CONTACT INFORMATION.—The term "online contact information" means an e-mail address or another substantially similar identifier that permits direct contact with a person online.

SEC. 203. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE COLLECTION AND USE OF PERSONAL INFORMATION FROM AND ABOUT CHILDREN ON THE INTERNET.

(a) ACTS PROHIBITED.—

(1) IN GENERAL.—It is unlawful for an operator of a website or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under subsection (b).

(2) DISCLOSURE TO PARENT PROTECTED.—Notwithstanding paragraph (1), neither an operator of such a website or online service nor the operator's agent shall be held to be liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under subsection (b)(1)(B)(iii) to the parent of a child.

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Commission shall promulgate under section 553 of title 5, United States Code, regulations that—

(A) require the operator of any website or online service directed to children that collects personal information from children or the operator of a website or online service that has actual knowledge that it is collecting personal information from a child—

(i) to provide notice on the website of what information is collected from children by the operator, how the operator uses such information, and the operator's disclosure practices for such information; and

(ii) to obtain verifiable parental consent for the collection, use, or disclosure of personal information from children;

(B) require the operator to provide, upon request of a parent under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) the opportunity at any time to refuse to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child; and

(iii) notwithstanding any other provision of law, a means that is reasonable under the circumstances for the parent to obtain any personal information collected from that child;

(C) prohibit conditioning a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity; and

(D) require the operator of such a website or online service to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

(2) WHEN CONSENT NOT REQUIRED.—The regulations shall provide that verifiable parental consent under paragraph (1)(A)(ii) is not required in the case of—

(A) online contact information collected from a child that is used only to respond directly on a one-time basis to a specific request from the child and is not used to recontact the child and is not maintained in retrievable form by the operator;

(B) a request for the name or online contact information of a parent or child that is used for the sole purpose of obtaining parental consent or providing notice under this section and where such information is not maintained in retrievable form by the operator if parental consent is not obtained after a reasonable time;

(C) online contact information collected from a child that is used only to respond more than once directly to a specific request from the child and is not used to recontact the child beyond the scope of that request—

(i) if, before any additional response after the initial response to the child, the operator uses reasonable efforts to provide a parent notice of the online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(ii) without notice to the parent in such circumstances as the Commission may determine are appropriate, taking into consideration the benefits to the child of access to information and services, and risks to the security and privacy of the child, in regulations promulgated under this subsection;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on the site)—

(i) used only for the purpose of protecting such safety;

(ii) not used to recontact the child or for any other purpose; and

(iii) not disclosed on the site,

if the operator uses reasonable efforts to provide a parent notice of the name and online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) TERMINATION OF SERVICE.—The regulations shall permit the operator of a website or an online service to terminate service provided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) ENFORCEMENT.—Subject to sections 204 and 206, a violation of a regulation prescribed under subsection (a) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(d) INCONSISTENT STATE LAW.—No State or local government may impose any liability for commercial activities or actions by operators in interstate or foreign commerce in connection with an activity or action described in this title that is inconsistent with the treatment of those activities or actions under this section.

SEC. 204. SAFE HARBORS.

(a) GUIDELINES.—An operator may satisfy the requirements of regulations issued under section 203(b) by following a set of self-regulatory guidelines, issued by representatives of the marketing or online industries, or by other persons, approved under subsection (b).

(b) INCENTIVES.—

(1) SELF-REGULATORY INCENTIVES.—In prescribing regulations under section 203, the Commission shall provide incentives for self-regulation by operators to implement the protections afforded children under the regulatory requirements described in subsection (b) of that section.

(2) DEEMED COMPLIANCE.—Such incentives shall include provisions for ensuring that a

person will be deemed to be in compliance with the requirements of the regulations under section 203 if that person complies with guidelines that, after notice and comment, are approved by the Commission upon making a determination that the guidelines meet the requirements of the regulations issued under section 203.

(3) EXPEDITED RESPONSE TO REQUESTS.—The Commission shall act upon requests for safe harbor treatment within 180 days of the filing of the request, and shall set forth in writing its conclusions with regard to such requests.

(c) APPEALS.—Final action by the Commission on a request for approval of guidelines, or the failure to act within 180 days on a request for approval of guidelines, submitted under subsection (b) may be appealed to a district court of the United States of appropriate jurisdiction as provided for in section 706 of title 5, United States Code.

SEC. 205. ACTIONS BY STATES.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates any regulation of the Commission prescribed under section 203(b), the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with the regulation;

(C) obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) INTERVENTION.—

(1) IN GENERAL.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) EFFECT OF INTERVENTION.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(3) AMICUS CURIAE.—Upon application to the court, a person whose self-regulatory guidelines have been approved by the Commission and are relied upon as a defense by any defendant to a proceeding under this section may file amicus curiae in that proceeding.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Commission for violation of any regulation prescribed under section 293, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that regulation.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 206. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) IN GENERAL.—Except as otherwise provided, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) PROVISIONS.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et. seq.), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et. seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) EXERCISE OF CERTAIN POWERS.—For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

(d) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating a rule of the Commission under section 203 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any entity that violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(e) EFFECT ON OTHER LAWS.—Nothing contained in the Act shall be construed to limit the authority of the Commission under any other provisions of law.

SEC. 207. REVIEW.

(a) IN GENERAL.—Not later than 5 years after the effective date of the regulations initially issued under section 203, the Commission shall—

(1) review the implementation of this title, including the effect of the implementation of this title on practices relating to the collection and disclosure of information relating to children, children's ability to obtain access to information of their choice online, and on the availability of websites directed to children; and

(2) prepare and submit to Congress a report on the results of the review under paragraph (1).

SEC. 208. EFFECTIVE DATE.

Sections 203(a), 205, and 206 of this title take effect on the later of—

(1) the date that is 18 months after the date of enactment of this Act; or

(2) the date on which the Commission rules on the first application for safe harbor treatment under section 204 if the Commission does not rule on the first such application within 1 year after the date of enactment of this Act, but in no case later than the date that is 30 months after the date of enactment of this Act."

AMENDMENT NO. 3767

Strike "days after the date of the enactment of this Act.

(3) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) ACCEPTANCE OF GIFTS AND GRANTS.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) Other Resources.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) Sunset.—The Commission shall terminate 18 months after the date of the enactment of this Act.

(f) Rules of the Commission.—

(1) Quorum.—Nine members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) Meetings.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) Opportunities to testify.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) Additional rules.—The Commission may adopt other rules as needed.

(g) Duties of the Commission.—

(1) In general.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) Issues to be studied.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) Bit tax.—The term "bit tax" means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) Discriminatory tax.—The term "discriminatory tax" means any tax imposed by a State or political subdivision thereof on electronic commerce that—

(A) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means;

(B) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period; or

(C) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving the same or similar property, goods, services, or information accomplished through other means.

(3) Electronic commerce.—The term "electronic commerce" means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) Internet.—The term "Internet" means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocol, to transmit information.

(5) Internet access.—The term "Internet access" means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. Such term does not include telecommunications services.

(6) Multiple tax.—

(A) In general.—The term "multiple tax" means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) Exception.—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) Sales or use tax.—For purposes of subparagraph (B), the term "sales or use tax" means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) State.—The term "State" means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) Tax.—

(A) In general.—The term "tax" means—

(i) any levy, fee, or charge imposed under governmental authority by any governmental entity; or

(ii) the imposition of or obligation to collect and to remit to a governmental entity any such levy, fee, or charge imposed by a governmental entity.

(B) Exception.—Such term shall not include any franchise fees or similar fees imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573).

(9) Telecommunications services.—The term "telecommunications services" has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

TITLE II—OTHER PROVISIONS

SEC. 201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

SEC. 202. NATIONAL TRADE ESTIMATE.

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking "and" at the end of clause (i);

(ii) by inserting "and" at the end of clause (ii); and

(iii) by inserting after clause (ii) the following new clause:

"(iii) United States electronic commerce,"; and

(B) in subparagraph (C)—

(i) by striking "and" at the end of clause (i);

(ii) by inserting "and" at the end of clause (ii);

(iii) by inserting after clause (ii) the following new clause:

"(iii) the value of additional United States electronic commerce,"; and

(iv) by inserting "or transacted with," after "or invested in";

(2) in subsection (a)(2)(E)—

(A) by striking "and" at the end of clause (i);

(B) by inserting "and" at the end of clause (ii); and

(C) by inserting after clause (ii) the following new clause:

"(iii) the value of electronic commerce transacted with,"; and

(3) by adding at the end the following new subsection:

"(d) ELECTRONIC COMMERCE.—For purposes of this section, the term 'electronic commerce' has the meaning given that term in section 104(3) of the Internet Tax Freedom Act.".

SEC. 203. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

(a) IN GENERAL.— It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the America, the North American Free Trade Agreement, and other appropriate venues.

(b) NEGOTIATING OBJECTIVES.—The negotiating objectives of the United States shall be—

(1) to assure that electronic commerce is free from—

(A) tariff and nontariff barriers;

(B) burdensome and discriminatory regulation and standards; and

(C) discriminatory taxation; and

(2) to accelerate the growth of electronic commerce by expanding market access opportunities for—

(A) the development of telecommunications infrastructure;

(B) the procurement of telecommunications equipment;

(C) the provision of Internet access and telecommunications services; and

(D) the exchange of goods, services, and digitalized information.

(c) ELECTRONIC COMMERCE.—For purposes of this section, the term "electronic commerce" has the meaning given that term in section 104(3).

SEC. 204. NO EXPANSION OF TAX AUTHORITY.

Nothing in this Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

SEC. 205. PRESERVATION OF AUTHORITY.

Nothing in this Act shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104–104) or the amendments made by such Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Government Paperwork Elimination Act."

SEC. 2. DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

"(vi) the acquisition and use of information technology, including the use of alternative information technologies (such as the use of electronic submission, maintenance, or disclosure of information) to substitute for paper, and the use and acceptance of electronic signatures.".

SEC. 3. PROCEDURES.

(a) Within 18 months after enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use.

(1) The procedures shall be compatible with standards and technology for electronic signatures as may be generally used in commerce and industry and by State governments, based upon consultation with appropriate private sector and State government standard setting bodies.

(2) Such procedures shall not inappropriately favor one industry or technology.

(3) An electronic signature shall be as reliable as is appropriate for the purpose, and efforts shall be made to keep the information submitted intact.

(4) Successful submission of an electronic form shall be electronically acknowledged.

(5) In accordance with all other sections of the Act, to the extent feasible and appropriate, and described in a written finding, an agency, when it expects to receive electronically 50,000 or more submittals of a particular form, shall take all steps necessary to ensure that multiple formats of electronic signatures are made available for submitting such forms.

SEC. 4. AUTHORITY AND FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, within 5 years of the date of enactment of this Act, executive agencies provide for the optional use of electronic maintenance, submission, or disclosure of information where practicable, as an alternative information technology to substitute for paper, and the use and acceptance of electronic signatures where practicable.

SEC. 5. ELECTRONIC STORAGE OF FORMS.

Within 18 months of enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use to permit employer electronic storage and filing of forms containing information pertaining to employees.

SEC. 6. STUDY.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget, shall conduct an ongoing study of paperwork reduction and electronic commerce, the impact on individual privacy, and the security and authenticity of transactions due to the use of electronic signatures pursuant to this Act, and shall report the findings to Congress.

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with agency procedures and guidelines established pursuant to this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures and guidelines, shall not be denied legal effect, validity or enforceability because they are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH OTHER LAWS.

Nothing in this title shall apply to the Department of the Treasury or the Internal Revenue Service, to the extent that—

(1) it involves the administration of the internal revenue laws; and

(2) it conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) EXECUTIVE AGENCY.—The term "executive agency" has the meaning given that term in section 105 of title 5, United States Code.

(2) ELECTRONIC SIGNATURE.—The term "electronic signature" means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of such electronic message; and

(B) indicates such person's approval of the information contained in such electronic message.

(3) FORM, QUESTIONNAIRE, OR SURVEY.—The terms "form", "questionnaire", and "survey" include documents produced by an agency to facilitate interaction between an agency and non-government persons.

TITLE II—CHILDREN'S ONLINE PRIVACY PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the "Children's Online Privacy Protection Act of 1999".

SEC. 202. DEFINITIONS.

In this title:

(1) CHILD.—the term "child" means an individual under the age of 13.

(2) OPERATOR.—The term "operator"—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

(i) among the several States or with 1 or more foreign nations;

(ii) in any territory of the United States or in the District of Columbia, or between any such territory and—

(I) another such territory; or

(II) any State or foreign nation; or

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) does not include any non-profit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) COMMISSION.—The term "Commission" means the Federal Trade Commission.

(4) DISCLOSURE.—The term "disclosure" means, with respect to personal information—

(A) the release of personal information collected from a child in identifiable form by an operator for any purpose, except where such information is provided to a person other than the operator who provides support for the internal operations of the website and does not disclose or use that information for any other purpose; and

(B) making personal information collected from a child by a website or online service directed to children or with actual knowledge that such information was collected from a child, publicly available in identifiable form, by any means including by a public posting, through the Internet, or through—

(i) a home page of a website;

(ii) a pen pal service;

(iii) an electronic mail service;

(iv) a message board; or

(v) a chat room.

(5) FEDERAL AGENCY.—The term "Federal agency" means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(6) INTERNET.—The term "Internet" means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(7) PARENT.—The term "parent" includes a legal guardian.

(8) PERSONAL INFORMATION.—The term "personal information" means individually identifiable information about an individual collected online, including—

(A) a first and last name;

(B) a home or other physical address including street name and name of a city or town;

(C) an e-mail address;

(D) a telephone number;

(E) a Social Security number;

(F) any other identifier that the Commission determines permits the physical or online contracting of a specific individual; or

(G) information concerning the child or the parents of that child that the website collects online from the child and combines with an identifier described in this paragraph.

(9) VERIFIABLE PARENTAL CONSENT.—The term "verifiable parental consent" means any reasonable effort (taking into consideration available technology), including a request for authorization for future collection use, and disclosure described in the notice, to ensure that a parent of a child receives notice of the operator's personal information collection, use, and disclosure practices, and authorizes the collection, use, and disclosure, as applicable, of personal information and the subsequent use of that information before that information is collected from that child.

(10) WEBSITE OR ONLINE SERVICE DIRECTED TO CHILDREN.—

(A) IN GENERAL.—The term "website or online service directed to children" means—

(i) A commercial website or online service that is targeted to children; or

(ii) that portion of a commercial website or online service that is targeted to children.

(B) LIMITATION.—A commercial website or online service, or a portion of a commercial website or online service, shall not be deemed directed to children solely for referring or linking to a commercial website or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

(11) PERSON.—The term "person" means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

(12) ONLINE CONTACT INFORMATION.—The term "online contact information" means an e-mail address or another substantially similar identifier that permits direct contact with a person online.

SEC. 203. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE COLLECTION AND USE OF PERSONAL INFORMATION FROM AND ABOUT CHILDREN ON THE INTERNET.

(A) ACTS PROHIBITED.—

(1) IN GENERAL.—It is unlawful for an operator of a website or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under subsection (b).

(2) DISCLOSURE TO PARENT PROTECTED.—Notwithstanding paragraph (1), neither an operator of such a website or online service nor the operator's agent shall be held to be liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under subsection (b)(1)(B)(iii) to the parent of a child.

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Commission shall promulgate under section 553 of title 5, United States Code, regulations that—

(A) require the operator of any website or online service directed to children that collects personal information from children or the operator of a website or online service that has actual knowledge that it is collecting personal information from a child—

(i) to provide notice on the website of what information is collected from children by the operator, how the operator uses such information, and the operator's disclosure practices for such information; and

(ii) to obtain verifiable parental consent for the collection, use, or disclosure of personal information from children;

(B) require the operator to provide, upon request of a parent under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) the opportunity at any time to refuse to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child; and

(iii) notwithstanding any other provision of law, a means that is reasonable under the circumstances for the parent to obtain any personal information collected from that child;

(C) prohibit conditioning a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity; and

(D) require the operator of such a website or online service to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

(2) WHEN CONSENT NOT REQUIRED.—The regulations shall provide that verifiable parental consent under paragraph (1)(A)(ii) is not required in the case of—

(A) online contact information collected from a child that is used only to respond directly on a one-time basis to a specific request from the child and is not used to recontact the child and is not maintained in retrievable form by the operator;

(B) a request for the name or online contact information of a parent or child that is used for the sole purpose of obtaining parental consent or providing notice under this section and where such information is not maintained in retrievable form by the operator if parental consent is not obtained after a reasonable time;

(C) online contact information collected from a child that is used only to respond more than once directly to a specific request from the child and is not used to recontact the child beyond the scope of that request—

(i) if, before any additional response after the initial response to the child, the operator uses reasonable efforts to provide a parent notice of the online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(ii) without notice to the parent in such circumstances as the Commission may determine are appropriate, taking into consideration the benefits to the child of access to information and services, and risks to the security and privacy of the child, in regulations promulgated under this subsection;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on the site)—

(i) used only for the purpose of protecting such safety;

(ii) not used to recontact the child or for any other purpose; and

(iii) not disclosed on the site,

if the operator uses reasonable efforts to provide a parent notice of the name and online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) TERMINATION OF SERVICE.—The regulations shall permit the operator of a website or an online service to terminate service provided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator's further use or maintenance in retrievable form,

or future online collection, of personal information from that child.

(c) ENFORCEMENT.—Subject to sections 204 and 206, a violation of a regulation prescribed under subsection (a) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(d) INCONSISTENT STATE LAW.—No State or local government may impose any liability for commercial activities or actions by operators in interstate or foreign commerce in connection with an activity or action described in this title that is inconsistent with the treatment of those activities or actions under this section.

SEC. 204. SAFE HARBORS.

(a) GUIDELINES.—An operator may satisfy the requirements of regulations issued under section 203(b) by following a set of self-regulatory guidelines, issued by representatives of the marketing or online industries, or by other persons, approved under subsection (b).

(b) INCENTIVES.—

(1) SELF-REGULATORY INCENTIVES.—In prescribing regulations under section 203, the Commission shall provide incentives for self-regulation by operators to implement the protections afforded children under the regulatory requirements described in subsection (b) of that section.

(2) DEEMED COMPLIANCE.—Such incentives shall include provisions for ensuring that a person will be deemed to be in compliance with the requirements of the regulations under section 203 if that person complies with guidelines that, after notice and comment, are approved by the Commission upon making a determination that the guidelines meet the requirements of the regulations issued under section 203.

(3) EXPEDITED RESPONSE TO REQUESTS.—The Commission shall act upon requests for safe harbor treatment within 180 days of the filing of the request, and shall set forth in writing its conclusions with regard to such requests.

(c) APPEALS.—Final action by the Commission on a request for approval of guidelines, or the failure to act within 180 days on a request for approval of guidelines, submitted under subsection (b) may be appealed to a district court of the United States of appropriate jurisdiction as provided for in section 706 of title 5, United States Code.

SEC. 205. ACTIONS BY STATES.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates any regulation of the Commission prescribed under section 203(b), the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with the regulation;

(C) obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) INTERVENTION.—

(1) IN GENERAL.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) EFFECT OF INTERVENTION.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(3) AMICUS CURIAE.—Upon application to the court, a person whose self-regulatory guidelines have been approved by the Commission and are relied upon as a defense by any defendant to a proceeding under this section may file amicus curiae in that proceeding.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Commission for violation of any regulation prescribed under section 293, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that regulation.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 206. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) IN GENERAL.—Except as otherwise provided, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) PROVISIONS.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et. seq.), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et. seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. (2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) EXERCISE OF CERTAIN POWERS.—For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

(d) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating a rule of the Commission under section 203 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any entity that violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(e) EFFECT ON OTHER LAWS.—Nothing contained in the Act shall be construed to limit the authority of the Commission under any other provisions of law.

SEC. 207. REVIEW.

(a) IN GENERAL.—Not later than 5 years after the effective date of the regulations initially issued under section 203, the Commission shall—

(1) review the implementation of this title, including the effect of the implementation of this title on practices relating to the collection and disclosure of information relating

to children, children's ability to obtain access to information of their choice online, and on the availability of websites directed to children; and

(2) prepare and submit to Congress a report on the results of the review under paragraph (1).

SEC. 208. EFFECTIVE DATE.

Sections 203(a), 205, and 206 of this title take effect on the later of—

(1) the date that is 18 months after the date of enactment of this Act; or

(2) the date on which the Commission rules on the first application for safe harbor treatment under section 204 if the Commission does not rule on the first such application within 1 year after the date of enactment of this Act, but in no case later than the date that is 30 months after the date of enactment of this Act.", and insert in lieu thereof:

(3) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) ACCEPTANCE OF GIFTS AND GRANTS.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) SUNSET.—The Commission shall terminate 20 months after the date of the enactment of this Act.

(f) RULES OF THE COMMISSION.—

(1) QUORUM.—Ten members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) MEETINGS.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) OPPORTUNITIES TO TESTIFY.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) ADDITIONAL RULES.—The Commission may adopt other rules as needed.

(g) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) ISSUES TO BE STUDIED.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) BIT TAX.—The term "bit tax" means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) DISCRIMINATORY TAX.—The term "discriminatory tax" means any tax imposed by a State or political subdivision thereof on electronic commerce that—

(A) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means;

(B) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period; or

(C) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving the same or similar property, goods, services, or information accomplished through other means.

(3) ELECTRONIC COMMERCE.—The term "electronic commerce" means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) INTERNET.—The term "Internet" means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocol, to transmit information.

(5) INTERNET ACCESS.—The term "Internet access" means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. Such term does not include telecommunications services.

(6) MULTIPLE TAX.—

(A) IN GENERAL.—The term "multiple tax" means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) EXCEPTION.—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) SALES OR USE TAX.—For purposes of subparagraph (B), the term "sales or use tax" means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) STATE.—The term "State" means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) TAX.—

(A) IN GENERAL.—The term "tax" means—

(i) any levy, fee, or charge imposed under governmental authority by any governmental entity; or

(ii) the imposition of or obligation to collect and to remit to a governmental entity any such levy, fee, or charge imposed by a governmental entity.

(B) EXCEPTION.—Such term shall not include any franchise fees or similar fees imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573).

(9) TELECOMMUNICATIONS SERVICES.—The term "telecommunications services" has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

TITLE II—OTHER PROVISIONS

SEC. 201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

SEC. 202. NATIONAL TRADE ESTIMATE.

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking "and" at the end of clause (i);

(ii) by inserting "and" at the end of clause (ii); and

(iii) by inserting after clause (ii) the following new clause:

"(iii) United States electronic commerce,"; and

(B) in subparagraph (C)—

(i) by striking "and" at the end of clause (i);

(ii) by inserting "and" at the end of clause (ii);

(iii) by inserting after clause (ii) the following new clause:

"(iii) the value of additional United States electronic commerce,"; and

(iv) by inserting "or transacted with," after "or invested in";

(2) in subsection (a)(2)(E)—

(A) by striking "and" at the end of clause (i);

(B) by inserting "and" at the end of clause (ii); and

(C) by inserting after clause (ii) the following new clause:

"(iii) the value of electronic commerce transacted with,"; and

(3) by adding at the end the following new subsection:

"(d) ELECTRONIC COMMERCE.—For purposes of this section, the term 'electronic commerce' has the meaning given that term in section 104(3) of the Internet Tax Freedom Act.".

SEC. 203. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

(a) IN GENERAL.— It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the America, the North American Free Trade Agreement, and other appropriate venues.

(b) NEGOTIATING OBJECTIVES.—The negotiating objectives of the United States shall be—

(1) to assure that electronic commerce is free from—

(A) tariff and nontariff barriers;

(B) burdensome and discriminatory regulation and standards; and

(C) discriminatory taxation; and

(2) to accelerate the growth of electronic commerce by expanding market access opportunities for—

(A) the development of telecommunications infrastructure;

(B) the procurement of telecommunications equipment;

(C) the provision of Internet access and telecommunications services; and

(D) the exchange of goods, services, and digitalized information.

(c) ELECTRONIC COMMERCE.—For purposes of this section, the term "electronic commerce" has the meaning given that term in section 104(3).

SEC. 204. NO EXPANSION OF TAX AUTHORITY.

Nothing in this Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

SEC. 205. PRESERVATION OF AUTHORITY.

Nothing in this Act shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104–104) or the amendments made by such Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Government Paperwork Elimination Act."

SEC. 2. DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

"(vi) the acquisition and use of information technology, including the use of alternative information technologies (such as the use of electronic submission, maintenance, or disclosure of information) to substitute for paper, and the use and acceptance of electronic signatures.".

SEC. 3. PROCEDURES.

(a) Within 18 months after enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use.

(1) The procedures shall be compatible with standards and technology for electronic signatures as may be generally used in commerce and industry and by State governments, based upon consultation with appropriate private sector and State government standard setting bodies.

(2) Such procedures shall not inappropriately favor one industry or technology.

(3) An electronic signature shall be as reliable as is appropriate for the purpose, and efforts shall be made to keep the information submitted intact.

(4) Successful submission of an electronic form shall be electronically acknowledged.

(5) In accordance with all other sections of the Act, to the extent feasible and appropriate, and described in a written finding, an agency, when it expects to receive electronically 50,000 or more submittals of a particular form, shall take all steps necessary to ensure that multiple formats of electronic signatures are made available for submitting such forms.

SEC. 4. AUTHORITY AND FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, within 5 years of the date of enactment of this Act, executive agencies provide for the optional use of electronic maintenance, submission, or disclosure of information where practicable, as an alternative information technology to substitute for paper, and the use and acceptance of electronic signatures where practicable.

SEC. 5. ELECTRONIC STORAGE OF FORMS.

Within 18 months of enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use to permit employer electronic storage and filing of forms containing information pertaining to employees.

SEC. 6. STUDY.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget, shall conduct an ongoing study of paperwork reduction and electronic commerce, the impact on individual privacy, and the security and authenticity of transactions due to the use of electronic signatures pursuant to this Act, and shall report the findings to Congress.

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with agency procedures and guidelines established pursuant to this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures and guidelines, shall not be denied legal effect, validity or enforceability because they are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH OTHER LAWS.

Nothing in this title shall apply to the Department of the Treasury or the Internal Revenue Service, to the extent that—

(1) it involves the administration of the internal revenue laws; and

(2) it conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) EXECUTIVE AGENCY.—The term "executive agency" has the meaning given that term in section 105 of title 5, United States Code.

(2) ELECTRONIC SIGNATURE.—The term "electronic signature" means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of such electronic message; and

(B) indicates such person's approval of the information contained in such electronic message.

(3) FORM, QUESTIONNAIRE, OR SURVEY.—The terms "form", "questionnaire", and "survey" include documents produced by an agency to facilitate interaction between an agency and non-government persons.

TITLE II—CHILDREN'S ONLINE PRIVACY PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the "Children's Online Privacy Protection Act of 1999".

SEC. 202. DEFINITIONS.

In this title:

(1) Child.—the term "child" means an individual under the age of 13.

(2) Operator.—The term "operator"—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

(i) among the several States or with 1 or more foreign nations;

(ii) in any territory of the United States or in the District of Columbia, or between any such territory and—

(I) another such territory; or

(II) any State or foreign nation; or

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) does not include any non-profit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) Commission.—The term "Commission" means the Federal Trade Commission.

(4) Disclosure.—The term "disclosure" means, with respect to personal information—

(A) the release of personal information collected from a child in identifiable form by an operator for any purpose, except where such information is provided to a person other than the operator who provides support for the internal operations of the website and does not disclose or use that information for any other purpose; and

(B) making personal information collected from a child by a website or online service directed to children or with actual knowledge that such information was collected from a child, publicly available in identifiable form, by any means including by a public posting, through the Internet, or through—

(i) a home page of a website;

(ii) a pen pal service;

(iii) an electronic mail service;

(iv) a message board; or

(v) a chat room.

(5) Federal agency.—The term "Federal agency" means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(6) Internet.—The term "Internet" means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(7) Parent.—The term "parent" includes a legal guardian.

(8) Personal information.—The term "personal information" means individually identifiable information about an individual collected online, including—

(A) a first and last name;

(B) a home or other physical address including street name and name of a city or town;

(C) an e-mail address;

(D) a telephone number;

(E) a Social Security number;

(F) any other identifier that the Commission determines permits the physical or online contracting of a specific individual; or

(G) information concerning the child or the parents of that child that the website collects online from the child and combines with an identifier described in this paragraph.

(9) Verifiable parental consent.—The term "verifiable parental consent" means any reasonable effort (taking into consideration available technology), including a request for authorization for future collection use, and disclosure described in the notice, to ensure that a parent of a child receives notice of the operator's personal information collection, use, and disclosure practices, and authorizes the collection, use, and disclosure, as applicable, of personal information and the subsequent use of that information before that information is collected from that child.

(10) Website or online service directed to children.—

(A) In general.—The term "website or online service directed to children" means—

(i) A commercial website or online service that is targeted to children; or

(ii) that portion of a commercial website or online service that is targeted to children.

(B) Limitation.—A commercial website or online service, or a portion of a commercial website or online service, shall not be deemed directed to children solely for referring or linking to a commercial website or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

(11) Person.—The term "person" means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

(12) Online contact information.—The term "online contact information" means an e-mail address or another substantially similar identifier that permits direct contact with a person online.

SEC. 203. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE COLLECTION AND USE OF PERSONAL INFORMATION FROM AND ABOUT CHILDREN ON THE INTERNET.

(A) Acts Prohibited.—

(1) In general.—It is unlawful for an operator of a website or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under subsection (b).

(2) Disclosure to parent protected.—Notwithstanding paragraph (1), neither an operator of such a website or online service nor the operator's agent shall be held to be liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under subsection (b)(1)(B)(iii) to the parent of a child.

(b) Regulations.—

(1) In general.—Not later than 1 year after the date of the enactment of this Act, the Commission shall promulgate under section 553 of title 5, United States Code, regulations that—

(A) require the operator of any website or online service directed to children that collects personal information from children or the operator of a website or online service that has actual knowledge that it is collecting personal information from a child—

(i) to provide notice on the website of what information is collected from children by the operator, how the operator uses such information, and the operator's disclosure practices for such information; and

(ii) to obtain verifiable parental consent for the collection, use, or disclosure of personal information from children;

(B) require the operator to provide, upon request of a parent under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) the opportunity at any time to refuse to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child; and

(iii) notwithstanding any other provision of law, a means that is reasonable under the circumstances for the parent to obtain any personal information collected from that child;

(C) prohibit conditioning a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity; and

(D) require the operator of such a website or online service to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

(2) When consent not required.—The regulations shall provide that verifiable parental consent under paragraph (1)(A)(ii) is not required in the case of—

(A) online contact information collected from a child that is used only to respond directly on a one-time basis to a specific request from the child and is not used to recontact the child and is not maintained in retrievable form by the operator;

(B) a request for the name or online contact information of a parent or child that is used for the sole purpose of obtaining parental consent or providing notice under this section and where such information is not maintained in retrievable form by the operator if parental consent is not obtained after a reasonable time;

(C) online contact information collected from a child that is used only to respond more than once directly to a specific request from the child and is not used to recontact the child beyond the scope of that request—

(i) if, before any additional response after the initial response to the child, the operator uses reasonable efforts to provide a parent notice of the online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(ii) without notice to the parent in such circumstances as the Commission may determine are appropriate, taking into consideration the benefits to the child of access to information and services, and risks to the security and privacy of the child, in regulations promulgated under this subsection;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on the site)—

(i) used only for the purpose of protecting such safety;

(ii) not used to recontact the child or for any other purpose; and

(iii) not disclosed on the site,

if the operator uses reasonable efforts to provide a parent notice of the name and online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) Termination of service.—The regulations shall permit the operator of a website or an online service to terminate service provided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) Enforcement.—Subject to sections 204 and 206, a violation of a regulation prescribed under subsection (a) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(d) Inconsistent State Law.—No State or local government may impose any liability for commercial activities or actions by operators in interstate or foreign commerce in connection with an activity or action described in this title that is inconsistent with the treatment of those activities or actions under this section.

SEC. 204. SAFE HARBORS.

(a) Guidelines.—An operator may satisfy the requirements of regulations issued under section 203(b) by following a set of self-regulatory guidelines, issued by representatives of the marketing or online industries, or by other persons, approved under subsection (b).

(b) Incentives.—

(1) Self-regulatory incentives.—In prescribing regulations under section 203, the Commission shall provide incentives for self-regulation by operators to implement the protections afforded children under the regulatory requirements described in subsection (b) of that section.

(2) Deemed compliance.—Such incentives shall include provisions for ensuring that a person will be deemed to be in compliance with the requirements of the regulations under section 203 if that person complies with guidelines that, after notice and comment, are approved by the Commission upon making a determination that the guidelines meet the requirements of the regulations issued under section 203.

(3) Expedited response to requests.—The Commission shall act upon requests for safe harbor treatment within 180 days of the filing of the request, and shall set forth in writing its conclusions with regard to such requests.

(c) Appeals.—Final action by the Commission on a request for approval of guidelines, or the failure to act within 180 days on a request for approval of guidelines, submitted under subsection (b) may be appealed to a district court of the United States of appropriate jurisdiction as provided for in section 706 of title 5, United States Code.

SEC. 205. ACTIONS BY STATES.

(a) In General.—

(1) Civil actions.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates any regulation of the Commission prescribed under section 203(b), the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with the regulation;

(C) obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.

(2) Notice.—

(A) In general.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) Exemption.—

(i) In general.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) Notification.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) Intervention.—

(1) In general.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) Effect of intervention.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(3) Amicus curiae.—Upon application to the court, a person whose self-regulatory guidelines have been approved by the Commission and are relied upon as a defense by any defendant to a proceeding under this section may file amicus curiae in that proceeding.

(c) Construction.—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) Actions by the Commission.—In any case in which an action is instituted by or on behalf of the Commission for violation of any regulation prescribed under section 293, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that regulation.

(e) Venue; Service of Process.—

(1) Venue.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) Service of process.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 206. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) In General.—Except as otherwise provided, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) Provisions.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et. seq.), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et. seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. (2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) Exercise of Certain Powers.—For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

(d) Actions by the Commission.—The Commission shall prevent any person from violating a rule of the Commission under section 203 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any entity that violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(e) EFFECT ON OTHER LAWS.—Nothing contained in the Act shall be construed to limit the authority of the Commission under any other provisions of law.

SEC. 207. REVIEW.

(a) IN GENERAL.—Not later than 5 years after the effective date of the regulations initially issued under section 203, the Commission shall—

(1) review the implementation of this title, including the effect of the implementation of this title on practices relating to the collection and disclosure of information relating to children, children's ability to obtain access to information of their choice online, and on the availability of websites directed to children; and

(2) prepare and submit to Congress a report on the results of the review under paragraph (1).

SEC. 208. EFFECTIVE DATE.

Sections 203(a), 205, and 206 of this title take effect on the later of—

(1) the date that is 18 months after the date of enactment of this Act; or

(2) the date on which the Commission rules on the first application for safe harbor treatment under section 204 if the Commission does not rule on the first such application within 1 year after the date of enactment of this Act, but in no case later than the date that is 30 months after the date of enactment of this Act."

AMENDMENT NO. 3768

Strike "days after the date of the enactment of this Act.

(3) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) ACCEPTANCE OF GIFTS AND GRANTS.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) SUNSET.—The Commission shall terminate 18 months after the date of the enactment of this Act.

(f) RULES OF THE COMMISSION.—

(1) QUORUM.—Nine members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) MEETINGS.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) OPPORTUNITIES TO TESTIFY.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) ADDITIONAL RULES.—The Commission may adopt other rules as needed.

(g) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) ISSUES TO BE STUDIED.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) BIT TAX.—The term "bit tax" means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) DISCRIMINATORY TAX.—The term "discriminatory tax" means any tax imposed by a State or political subdivision thereof on electronic commerce that—

(A) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means;

(B) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period; or

(C) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving the same or similar property, goods, services, or information accomplished through other means.

(3) ELECTRONIC COMMERCE.—The term "electronic commerce" means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) INTERNET.—The term "Internet" means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocol, to transmit information.

(5) INTERNET ACCESS.—The term "Internet access" means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. Such term does not include telecommunications services.

(6) MULTIPLE TAX.—

(A) IN GENERAL.—The term "multiple tax" means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) EXCEPTION.—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) SALES OR USE TAX.—For purposes of subparagraph (B), the term "sales or use

tax" means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) STATE.—The term "State" means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) TAX.—

(A) IN GENERAL.—The term "tax" means—

(i) any levy, fee, or charge imposed under governmental authority by any governmental entity; or

(ii) the imposition of or obligation to collect and to remit to a governmental entity any such levy, fee, or charge imposed by a governmental entity.

(B) EXCEPTION.—Such term shall not include any franchise fees or similar fees imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573).

(9) TELECOMMUNICATIONS SERVICES.—The term "telecommunications services" has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

TITLE II—OTHER PROVISIONS

SEC. 201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

SEC. 202. NATIONAL TRADE ESTIMATE.

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking "and" at the end of clause (i);

(ii) by inserting "and" at the end of clause (ii); and

(iii) by inserting after clause (ii) the following new clause:

"(iii) United States electronic commerce,"; and

(B) in subparagraph (C)—

(i) by striking "and" at the end of clause (i);

(ii) by inserting "and" at the end of clause (ii);

(iii) by inserting after clause (ii) the following new clause:

"(iii) the value of additional United States electronic commerce,"; and

(iv) by inserting "or transacted with," after "or invested in";

(2) in subsection (a)(2)(E)—

(A) by striking "and" at the end of clause (i);

(B) by inserting "and" at the end of clause (ii); and

(C) by inserting after clause (ii) the following new clause:

"(iii) the value of electronic commerce transacted with,"; and

(3) by adding at the end the following new subsection:

"(d) ELECTRONIC COMMERCE.—For purposes of this section, the term 'electronic commerce' has the meaning given that term in section 104(3) of the Internet Tax Freedom Act.".

SEC. 203. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

(a) IN GENERAL.— It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the America, the North American Free Trade Agreement, and other appropriate venues.

(b) NEGOTIATING OBJECTIVES.—The negotiating objectives of the United States shall be—

(1) to assure that electronic commerce is free from—

(A) tariff and nontariff barriers;

(B) burdensome and discriminatory regulation and standards; and

(C) discriminatory taxation; and

(2) to accelerate the growth of electronic commerce by expanding market access opportunities for—

(A) the development of telecommunications infrastructure;

(B) the procurement of telecommunications equipment;

(C) the provision of Internet access and telecommunications services; and

(D) the exchange of goods, services, and digitalized information.

(c) ELECTRONIC COMMERCE.—For purposes of this section, the term "electronic commerce" has the meaning given that term in section 104(3).

SEC. 204. NO EXPANSION OF TAX AUTHORITY.

Nothing in this Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

SEC. 205. PRESERVATION OF AUTHORITY.

Nothing in this Act shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104–104) or the amendments made by such Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Government Paperwork Elimination Act."

SEC. 2. DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

"(vi) the acquisition and use of information technology, including the use of alternative information technologies (such as the use of electronic submission, maintenance, or disclosure of information) to substitute for paper, and the use and acceptance of electronic signatures.".

SEC. 3. PROCEDURES.

(a) Within 18 months after enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use.

(1) The procedures shall be compatible with standards and technology for electronic signatures as may be generally used in commerce and industry and by State governments, based upon consultation with appropriate private sector and State government standard setting bodies.

(2) Such procedures shall not inappropriately favor one industry or technology.

(3) An electronic signature shall be as reliable as is appropriate for the purpose, and efforts shall be made to keep the information submitted intact.

(4) Successful submission of an electronic form shall be electronically acknowledged.

(5) In accordance with all other sections of the Act, to the extent feasible and appropriate, and described in a written finding, an agency, when it expects to receive electronically 50,000 or more submittals of a particular form, shall take all steps necessary to ensure that multiple formats of electronic signatures are made available for submitting such forms.

SEC. 4. AUTHORITY AND FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, within 5 years of the date of enactment of this Act, executive agencies provide for the optional use of electronic maintenance, submission, or disclosure of information where practicable, as an alternative information technology to substitute for paper, and the use and acceptance of electronic signatures where practicable.

SEC. 5. ELECTRONIC STORAGE OF FORMS.

Within 18 months of enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use to permit employer electronic storage and filing of forms containing information pertaining to employees.

SEC. 6. STUDY.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget, shall conduct an ongoing study of paperwork reduction and electronic commerce, the impact on individual privacy, and the security and authenticity of transactions due to the use of electronic signatures pursuant to this Act, and shall report the findings to Congress.

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with agency procedures and guidelines established pursuant to this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures and guidelines, shall not be denied legal effect, validity or enforceability because they are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH OTHER LAWS.

Nothing in this title shall apply to the Department of the Treasury or the Internal Revenue Service, to the extent that—

(1) it involves the administration of the internal revenue laws; and

(2) it conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) Executive agency.—The term "executive agency" has the meaning given that term in section 105 of title 5, United States Code.

(2) Electronic signature.—The term "electronic signature" means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of such electronic message; and

(B) indicates such person's approval of the information contained in such electronic message.

(3) Form, questionnaire, or survey.—The terms "form", "questionnaire", and "survey" include documents produced by an agency to facilitate interaction between an agency and non-government persons.

TITLE II—CHILDREN'S ONLINE PRIVACY PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the "Children's Online Privacy Protection Act of 1999".

SEC. 202. DEFINITIONS.

In this title:

(1) Child.—the term "child" means an individual under the age of 13.

(2) Operator.—The term "operator"—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

(i) among the several States or with 1 or more foreign nations;

(ii) in any territory of the United States or in the District of Columbia, or between any such territory and—

(I) another such territory; or

(II) any State or foreign nation; or

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) does not include any non-profit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) Commission.—The term "Commission" means the Federal Trade Commission.

(4) Disclosure.—The term "disclosure" means, with respect to personal information—

(A) the release of personal information collected from a child in identifiable form by an operator for any purpose, except where such information is provided to a person other than the operator who provides support for the internal operations of the website and does not disclose or use that information for any other purpose; and

(B) making personal information collected from a child by a website or online service directed to children or with actual knowledge that such information was collected from a child, publicly available in identifiable form, by any means including by a public posting, through the Internet, or through—

(i) a home page of a website;

(ii) a pen pal service;

(iii) an electronic mail service;

(iv) a message board; or

(v) a chat room.

(5) Federal agency.—The term "Federal agency" means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(6) Internet.—The term "Internet" means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(7) Parent.—The term "parent" includes a legal guardian.

(8) Personal information.—The term "personal information" means individually identifiable information about an individual collected online, including—

(A) a first and last name;

(B) a home or other physical address including street name and name of a city or town;

(C) an e-mail address;

(D) a telephone number;

(E) a Social Security number;

(F) any other identifier that the Commission determines permits the physical or online contracting of a specific individual; or

(G) information concerning the child or the parents of that child that the website collects online from the child and combines with an identifier described in this paragraph.

(9) Verifiable parental consent.—The term "verifiable parental consent" means any reasonable effort (taking into consideration available technology), including a request for authorization for future collection use, and disclosure described in the notice, to ensure that a parent of a child receives notice of the operator's personal information collection, use, and disclosure practices, and authorizes the collection, use, and disclosure, as applicable, of personal information and the subsequent use of that information before that information is collected from that child.

(10) Website or online service directed to children.—

(A) In general.—The term "website or online service directed to children" means—

(i) A commercial website or online service that is targeted to children; or

(ii) that portion of a commercial website or online service that is targeted to children.

(B) Limitation.—A commercial website or online service, or a portion of a commercial website or online service, shall not be deemed directed to children solely for referring or linking to a commercial website or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

(11) Person.—The term "person" means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

(12) Online contact information.—The term "online contact information" means an e-mail address or another substantially similar identifier that permits direct contact with a person online.

SEC. 203. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE COLLECTION AND USE OF PERSONAL INFORMATION FROM AND ABOUT CHILDREN ON THE INTERNET.

(A) Acts Prohibited.—

(1) In general.—It is unlawful for an operator of a website or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under subsection (b).

(2) Disclosure to parent protected.—Notwithstanding paragraph (1), neither an operator of such a website or online service nor the operator's agent shall be held to be liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under subsection (b)(1)(B)(iii) to the parent of a child.

(b) Regulations.—

(1) In general.—Not later than 1 year after the date of the enactment of this Act, the Commission shall promulgate under section 553 of title 5, United States Code, regulations that—

(A) require the operator of any website or online service directed to children that collects personal information from children or the operator of a website or online service that has actual knowledge that it is collecting personal information from a child—

(i) to provide notice on the website of what information is collected from children by the operator, how the operator uses such information, and the operator's disclosure practices for such information; and

(ii) to obtain verifiable parental consent for the collection, use, or disclosure of personal information from children;

(B) require the operator to provide, upon request of a parent under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) the opportunity at any time to refuse to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child; and

(iii) notwithstanding any other provision of law, a means that is reasonable under the circumstances for the parent to obtain any personal information collected from that child;

(C) prohibit conditioning a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity; and

(D) require the operator of such a website or online service to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

(2) When consent not required.—The regulations shall provide that verifiable parental consent under paragraph (1)(A)(ii) is not required in the case of—

(A) online contact information collected from a child that is used only to respond directly on a one-time basis to a specific request from the child and is not used to recontact the child and is not maintained in retrievable form by the operator;

(B) a request for the name or online contact information of a parent or child that is used for the sole purpose of obtaining parental consent or providing notice under this section and where such information is not maintained in retrievable form by the operator if parental consent is not obtained after a reasonable time;

(C) online contact information collected from a child that is used only to respond more than once directly to a specific request from the child and is not used to recontact the child beyond the scope of that request—

(i) if, before any additional response after the initial response to the child, the operator uses reasonable efforts to provide a parent notice of the online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(ii) without notice to the parent in such circumstances as the Commission may determine are appropriate, taking into consideration the benefits to the child of access to information and services, and risks to the security and privacy of the child, in regulations promulgated under this subsection;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on the site)—

(i) used only for the purpose of protecting such safety;

(ii) not used to recontact the child or for any other purpose; and

(iii) not disclosed on the site,

if the operator uses reasonable efforts to provide a parent notice of the name and online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) Termination of service.—The regulations shall permit the operator of a website or an online service to terminate service provided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) Enforcement.—Subject to sections 204 and 206, a violation of a regulation prescribed under subsection (a) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(d) Inconsistent State Law.—No State or local government may impose any liability for commercial activities or actions by operators in interstate or foreign commerce in connection with an activity or action described in this title that is inconsistent with the treatment of those activities or actions under this section.

SEC. 204. SAFE HARBORS.

(a) Guidelines.—An operator may satisfy the requirements of regulations issued under section 203(b) by following a set of self-regulatory guidelines, issued by representatives of the marketing or online industries, or by other persons, approved under subsection (b).

(b) Incentives.—

(1) Self-regulatory incentives.—In prescribing regulations under section 203, the Commission shall provide incentives for self-regulation by operators to implement the protections afforded children under the regulatory requirements described in subsection (b) of that section.

(2) Deemed compliance.—Such incentives shall include provisions for ensuring that a person will be deemed to be in compliance with the requirements of the regulations under section 203 if that person complies with guidelines that, after notice and comment, are approved by the Commission upon making a determination that the guidelines meet the requirements of the regulations issued under section 203.

(3) Expedited response to requests.—The Commission shall act upon requests for safe harbor treatment within 180 days of the filing of the request, and shall set forth in writing its conclusions with regard to such requests.

(c) Appeals.—Final action by the Commission on a request for approval of guidelines, or the failure to act within 180 days on a request for approval of guidelines, submitted under subsection (b) may be appealed to a district court of the United States of appropriate jurisdiction as provided for in section 706 of title 5, United States Code.

SEC. 205. ACTIONS BY STATES.

(a) In General.—

(1) Civil actions.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates any regulation of the Commission prescribed under section 203(b), the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with the regulation;

(C) obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.

(2) Notice.—

(A) In general.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) Exemption.—

(i) In general.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) Notification.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) Intervention.—

(1) In general.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) Effect of intervention.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(3) Amicus curiae.—Upon application to the court, a person whose self-regulatory guidelines have been approved by the Commission and are relied upon as a defense by any defendant to a proceeding under this section may file amicus curiae in that proceeding.

(c) Construction.—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) Actions by the Commission.—In any case in which an action is instituted by or on behalf of the Commission for violation of any regulation prescribed under section 293, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that regulation.

(e) Venue; Service of Process.—

(1) Venue.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) Service of process.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 206. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) In General.—Except as otherwise provided, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) Provisions.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et. seq.), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union

Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et. seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. (2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) EXERCISE OF CERTAIN POWERS.—For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

(d) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating a rule of the Commission under section 203 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any entity that violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(e) EFFECT ON OTHER LAWS.—Nothing contained in the Act shall be construed to limit the authority of the Commission under any other provisions of law.

SEC. 207. REVIEW.

(a) IN GENERAL.—Not later than 5 years after the effective date of the regulations initially issued under section 203, the Commission shall—

(1) review the implementation of this title, including the effect of the implementation of this title on practices relating to the collection and disclosure of information relating to children, children's ability to obtain access to information of their choice online, and on the availability of websites directed to children; and

(2) prepare and submit to Congress a report on the results of the review under paragraph (1).

SEC. 208. EFFECTIVE DATE.

Sections 203(a), 205, and 206 of this title take effect on the later of—

(1) the date that is 18 months after the date of enactment of this Act; or

(2) the date on which the Commission rules on the first application for safe harbor treatment under section 204 if the Commission does not rule on the first such application within 1 year after the date of enactment of this Act, but in no case later than the date that is 30 months after the date of enactment of this Act.", and insert in lieu thereof: "days after the date of the enactment of this Act.

(3) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) ACCEPTANCE OF GIFTS AND GRANTS.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) SUNSET.—The Commission shall terminate 19 months after the date of the enactment of this Act.

(f) RULES OF THE COMMISSION.—

(1) QUORUM.—Ten members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) MEETINGS.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) OPPORTUNITIES TO TESTIFY.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) ADDITIONAL RULES.—The Commission may adopt other rules as needed.

(g) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) ISSUES TO BE STUDIED.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) BIT TAX.—The term "bit tax" means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) DISCRIMINATORY TAX.—The term "discriminatory tax" means any tax imposed by a State or political subdivision thereof on electronic commerce that—

(A) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means;

(B) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period; or

(C) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving the same or similar property, goods, services, or information accomplished through other means.

(3) ELECTRONIC COMMERCE.—The term "electronic commerce" means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) INTERNET.—The term "Internet" means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising

the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocol, to transmit information.

(5) INTERNET ACCESS.—The term "Internet access" means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. Such term does not include telecommunications services.

(6) MULTIPLE TAX.—

(A) IN GENERAL.—The term "multiple tax" means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) EXCEPTION.—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) SALES OR USE TAX.—For purposes of subparagraph (B), the term "sales or use tax" means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) STATE.—The term "State" means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) TAX.—

(A) IN GENERAL.—The term "tax" means—

(i) any levy, fee, or charge imposed under governmental authority by any governmental entity; or

(ii) the imposition of or obligation to collect and to remit to a governmental entity any such levy, fee, or charge imposed by a governmental entity.

(B) EXCEPTION.—Such term shall not include any franchise fees or similar fees imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573).

(9) TELECOMMUNICATIONS SERVICES.—The term "telecommunications services" has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

TITLE II—OTHER PROVISIONS

SEC. 201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

SEC. 202. NATIONAL TRADE ESTIMATE.

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking "and" at the end of clause (i);

(ii) by inserting "and" at the end of clause (ii); and

(iii) by inserting after clause (ii) the following new clause:

"(iii) United States electronic commerce,"; and

(B) in subparagraph (C)—

(i) by striking "and" at the end of clause (i);

(ii) by inserting "and" at the end of clause (ii);

(iii) by inserting after clause (ii) the following new clause:

"(iii) the value of additional United States electronic commerce,"; and

(iv) by inserting "or transacted with," after "or invested in";

(2) in subsection (a)(2)(E)—

(A) by striking "and" at the end of clause (i);

(B) by inserting "and" at the end of clause (ii); and

(C) by inserting after clause (ii) the following new clause:

"(iii) the value of electronic commerce transacted with,"; and

(3) by adding at the end the following new subsection:

"(d) ELECTRONIC COMMERCE.—For purposes of this section, the term 'electronic commerce' has the meaning given that term in section 104(3) of the Internet Tax Freedom Act.".

SEC. 203. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

(a) IN GENERAL.— It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the America, the North American Free Trade Agreement, and other appropriate venues.

(b) NEGOTIATING OBJECTIVES.—The negotiating objectives of the United States shall be—

(1) to assure that electronic commerce is free from—

(A) tariff and nontariff barriers;

(B) burdensome and discriminatory regulation and standards; and

(C) discriminatory taxation; and

(2) to accelerate the growth of electronic commerce by expanding market access opportunities for—

(A) the development of telecommunications infrastructure;

(B) the procurement of telecommunications equipment;

(C) the provision of Internet access and telecommunications services; and

(D) the exchange of goods, services, and digitalized information.

(c) ELECTRONIC COMMERCE.—For purposes of this section, the term "electronic commerce" has the meaning given that term in section 104(3).

SEC. 204. NO EXPANSION OF TAX AUTHORITY.

Nothing in this Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

SEC. 205. PRESERVATION OF AUTHORITY.

Nothing in this Act shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104–104) or the amendments made by such Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Government Paperwork Elimination Act."

SEC. 2. DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

"(vi) the acquisition and use of information technology, including the use of alternative information technologies (such as the use of electronic submission, maintenance, or disclosure of information) to substitute for paper, and the use and acceptance of electronic signatures.".

SEC. 3. PROCEDURES.

(a) Within 18 months after enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use.

(1) The procedures shall be compatible with standards and technology for electronic signatures as may be generally used in commerce and industry and by State governments, based upon consultation with appropriate private sector and State government standard setting bodies.

(2) Such procedures shall not inappropriately favor one industry or technology.

(3) An electronic signature shall be as reliable as is appropriate for the purpose, and efforts shall be made to keep the information submitted intact.

(4) Successful submission of an electronic form shall be electronically acknowledged.

(5) In accordance with all other sections of the Act, to the extent feasible and appropriate, and described in a written finding, an agency, when it expects to receive electronically 50,000 or more submittals of a particular form, shall take all steps necessary to ensure that multiple formats of electronic signatures are made available for submitting such forms.

SEC. 4. AUTHORITY AND FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, within 5 years of the date of enactment of this Act, executive agencies provide for the optional use of electronic maintenance, submission, or disclosure of information where practicable, as an alternative information technology to substitute for paper, and the use and acceptance of electronic signatures where practicable.

SEC. 5. ELECTRONIC STORAGE OF FORMS.

Within 18 months of enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use to permit employer electronic storage and filing of forms containing information pertaining to employees.

SEC. 6. STUDY.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget, shall conduct an ongoing study of paperwork reduction and electronic commerce, the impact on individual privacy, and the security and authenticity of transactions due to the use of electronic signatures pursuant to this Act, and shall report the findings to Congress.

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with agency procedures and guidelines established pursuant to this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures and guidelines, shall not be denied legal effect, validity or enforceability because they are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH OTHER LAWS.

Nothing in this title shall apply to the Department of the Treasury or the Internal Revenue Service, to the extent that—

(1) it involves the administration of the internal revenue laws; and

(2) it conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) Executive agency.—The term "executive agency" has the meaning given that term in section 105 of title 5, United States Code.

(2) Electronic signature.—The term "electronic signature" means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of such electronic message; and

(B) indicates such person's approval of the information contained in such electronic message.

(3) Form, questionnaire, or survey.—The terms "form", "questionnaire", and "survey" include documents produced by an agency to facilitate interaction between an agency and non-government persons.

TITLE II—CHILDREN'S ONLINE PRIVACY PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the "Children's Online Privacy Protection Act of 1999".

SEC. 202. DEFINITIONS.

In this title:

(1) Child.—the term "child" means an individual under the age of 13.

(2) Operator.—The term "operator"—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

(i) among the several States or with 1 or more foreign nations;

(ii) in any territory of the United States or in the District of Columbia, or between any such territory and—

(I) another such territory; or

(II) any State or foreign nation; or

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) does not include any non-profit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) Commission.—The term "Commission" means the Federal Trade Commission.

(4) Disclosure.—The term "disclosure" means, with respect to personal information—

(A) the release of personal information collected from a child in identifiable form by an operator for any purpose, except where such information is provided to a person other than the operator who provides support for the internal operations of the website and does not disclose or use that information for any other purpose; and

(B) making personal information collected from a child by a website or online service directed to children or with actual knowledge that such information was collected from a child, publicly available in identifiable form, by any means including by a public posting, through the Internet, or through—

(i) a home page of a website;

(ii) a pen pal service;

(iii) an electronic mail service;

(iv) a message board; or

(v) a chat room.

(5) Federal agency.—The term "Federal agency" means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(6) Internet.—The term "Internet" means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(7) Parent.—The term "parent" includes a legal guardian.

(8) Personal information.—The term "personal information" means individually identifiable information about an individual collected online, including—

(A) a first and last name;

(B) a home or other physical address including street name and name of a city or town;

(C) an e-mail address;

(D) a telephone number;

(E) a Social Security number;

(F) any other identifier that the Commission determines permits the physical or online contracting of a specific individual; or

(G) information concerning the child or the parents of that child that the website collects online from the child and combines with an identifier described in this paragraph.

(9) Verifiable parental consent.—The term "verifiable parental consent" means any reasonable effort (taking into consideration available technology), including a request for authorization for future collection use, and disclosure described in the notice, to ensure that a parent of a child receives notice of the operator's personal information collection, use, and disclosure practices, and authorizes the collection, use, and disclosure, as applicable, of personal information and the subsequent use of that information before that information is collected from that child.

(10) Website or online service directed to children.—

(A) In general.—The term "website or online service directed to children" means—

(i) A commercial website or online service that is targeted to children; or

(ii) that portion of a commercial website or online service that is targeted to children.

(B) Limitation.—A commercial website or online service, or a portion of a commercial website or online service, shall not be deemed directed to children solely for referring or linking to a commercial website or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

(11) Person.—The term "person" means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

(12) Online contact information.—The term "online contact information" means an e-mail address or another substantially similar identifier that permits direct contact with a person online.

SEC. 203. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE COLLECTION AND USE OF PERSONAL INFORMATION FROM AND ABOUT CHILDREN ON THE INTERNET.

(A) Acts Prohibited.—

(1) In general.—It is unlawful for an operator of a website or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under subsection (b).

(2) Disclosure to parent protected.—Notwithstanding paragraph (1), neither an operator of such a website or online service nor the operator's agent shall be held to be liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under subsection (b)(1)(B)(iii) to the parent of a child.

(b) Regulations.—

(1) In general.—Not later than 1 year after the date of the enactment of this Act, the Commission shall promulgate under section 553 of title 5, United States Code, regulations that—

(A) require the operator of any website or online service directed to children that collects personal information from children or the operator of a website or online service that has actual knowledge that it is collecting personal information from a child—

(i) to provide notice on the website of what information is collected from children by the operator, how the operator uses such information, and the operator's disclosure practices for such information; and

(ii) to obtain verifiable parental consent for the collection, use, or disclosure of personal information from children;

(B) require the operator to provide, upon request of a parent under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) the opportunity at any time to refuse to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child; and

(iii) notwithstanding any other provision of law, a means that is reasonable under the circumstances for the parent to obtain any personal information collected from that child;

(C) prohibit conditioning a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity; and

(D) require the operator of such a website or online service to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

(2) WHEN CONSENT NOT REQUIRED.—The regulations shall provide that verifiable parental consent under paragraph (1)(A)(ii) is not required in the case of—

(A) online contact information collected from a child that is used only to respond directly on a one-time basis to a specific request from the child and is not used to recontact the child and is not maintained in retrievable form by the operator;

(B) a request for the name or online contact information of a parent or child that is used for the sole purpose of obtaining parental consent or providing notice under this section and where such information is not maintained in retrievable form by the operator if parental consent is not obtained after a reasonable time;

(C) online contact information collected from a child that is used only to respond more than once directly to a specific request from the child and is not used to recontact the child beyond the scope of that request—

(i) if, before any additional response after the initial response to the child, the operator uses reasonable efforts to provide a parent notice of the online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(ii) without notice to the parent in such circumstances as the Commission may determine are appropriate, taking into consideration the benefits to the child of access to information and services, and risks to the security and privacy of the child, in regulations promulgated under this subsection;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on the site)—

(i) used only for the purpose of protecting such safety;

(ii) not used to recontact the child or for any other purpose; and

(iii) not disclosed on the site,

if the operator uses reasonable efforts to provide a parent notice of the name and online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) TERMINATION OF SERVICE.—The regulations shall permit the operator of a website or an online service to terminate service provided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) ENFORCEMENT.—Subject to sections 204 and 206, a violation of a regulation prescribed under subsection (a) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(d) INCONSISTENT STATE LAW.—No State or local government may impose any liability for commercial activities or actions by operators in interstate or foreign commerce in connection with an activity or action described in this title that is inconsistent with the treatment of those activities or actions under this section.

SEC. 204. SAFE HARBORS.

(a) GUIDELINES.—An operator may satisfy the requirements of regulations issued under section 203(b) by following a set of self-regulatory guidelines, issued by representatives of the marketing or online industries, or by other persons, approved under subsection (b).

(b) INCENTIVES.—

(1) SELF-REGULATORY INCENTIVES.—In prescribing regulations under section 203, the Commission shall provide incentives for self-regulation by operators to implement the protections afforded children under the regulatory requirements described in subsection (b) of that section.

(2) DEEMED COMPLIANCE.—Such incentives shall include provisions for ensuring that a person will be deemed to be in compliance with the requirements of the regulations under section 203 if that person complies with guidelines that, after notice and comment, are approved by the Commission upon making a determination that the guidelines meet the requirements of the regulations issued under section 203.

(3) EXPEDITED RESPONSE TO REQUESTS.—The Commission shall act upon requests for safe harbor treatment within 180 days of the filing of the request, and shall set forth in writing its conclusions with regard to such requests.

(c) APPEALS.—Final action by the Commission on a request for approval of guidelines, or the failure to act within 180 days on a request for approval of guidelines, submitted under subsection (b) may be appealed to a district court of the United States of appropriate jurisdiction as provided for in section 706 of title 5, United States Code.

SEC. 205. ACTIONS BY STATES.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates any regulation of the Commission prescribed under section 203(b), the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with the regulation;

(C) obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) INTERVENTION.—

(1) IN GENERAL.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) EFFECT OF INTERVENTION.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(3) AMICUS CURIAE.—Upon application to the court, a person whose self-regulatory guidelines have been approved by the Commission and are relied upon as a defense by any defendant to a proceeding under this section may file amicus curiae in that proceeding.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Commission for violation of any regulation prescribed under section 293, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that regulation.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 206. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) IN GENERAL.—Except as otherwise provided, this title shall be enforced by the

Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) PROVISIONS.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et. seq.), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et. seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. (2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) EXERCISE OF CERTAIN POWERS.—For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

(d) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating a rule of the Commission under section 203 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any entity that violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(e) EFFECT ON OTHER LAWS.—Nothing contained in the Act shall be construed to limit the authority of the Commission under any other provisions of law.

SEC. 207. REVIEW.

(a) IN GENERAL.—Not later than 5 years after the effective date of the regulations initially issued under section 203, the Commission shall—

(1) review the implementation of this title, including the effect of the implementation of this title on practices relating to the collection and disclosure of information relating to children, children's ability to obtain access to information of their choice online, and on the availability of websites directed to children; and

(2) prepare and submit to Congress a report on the results of the review under paragraph (1).

SEC. 208. EFFECTIVE DATE.

Sections 203(a), 205, and 206 of this title take effect on the later of—

(1) the date that is 18 months after the date of enactment of this Act; or

(2) the date on which the Commission rules on the first application for safe harbor treatment under section 204 if the Commission does not rule on the first such application within 1 year after the date of enactment of this Act, but in no case later than the date that is 30 months after the date of enactment of this Act."

AMENDMENT NO. 3769

Strike "days after the date of the enactment of this Act.

(3) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) ACCEPTANCE OF GIFTS AND GRANTS.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) SUNSET.—The Commission shall terminate 18 months after the date of the enactment of this Act.

(f) RULES OF THE COMMISSION.—

(1) QUORUM.—Nine members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) MEETINGS.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) OPPORTUNITIES TO TESTIFY.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) ADDITIONAL RULES.—The Commission may adopt other rules as needed.

(g) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) ISSUES TO BE STUDIED.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) BIT TAX.—The term "bit tax" means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) DISCRIMINATORY TAX.—The term "discriminatory tax" means any tax imposed by

a State or political subdivision thereof on electronic commerce that—

(A) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means;

(B) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period; or

(C) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving the same or similar property, goods, services, or information accomplished through other means.

(3) Electronic commerce.—The term "electronic commerce" means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) Internet.—The term "Internet" means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocol, to transmit information.

(5) Internet access.—The term "Internet access" means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. Such term does not include telecommunications services.

(6) Multiple tax.—

(A) In general.—The term "multiple tax" means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) Exception.—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) Sales or use tax.—For purposes of subparagraph (B), the term "sales or use tax" means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) State.—The term "State" means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) Tax.—

(A) In general.—The term "tax" means—

(i) any levy, fee, or charge imposed under governmental authority by any governmental entity; or

(ii) the imposition of or obligation to collect and to remit to a governmental entity any such levy, fee, or charge imposed by a governmental entity.

(B) Exception.—Such term shall not include any franchise fees or similar fees imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573).

(9) Telecommunications services.—The term "telecommunications services" has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

TITLE II—OTHER PROVISIONS

SEC. 201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

SEC. 202. NATIONAL TRADE ESTIMATE.

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking "and" at the end of clause (i);

(ii) by inserting "and" at the end of clause (ii); and

(iii) by inserting after clause (ii) the following new clause:

"(iii) United States electronic commerce,"; and

(B) in subparagraph (C)—

(i) by striking "and" at the end of clause (i);

(ii) by inserting "and" at the end of clause (ii);

(iii) by inserting after clause (ii) the following new clause:

"(iii) the value of additional United States electronic commerce,"; and

(iv) by inserting "or transacted with," after "or invested in";

(2) in subsection (a)(2)(E)—

(A) by striking "and" at the end of clause (i);

(B) by inserting "and" at the end of clause (ii); and

(C) by inserting after clause (ii) the following new clause:

"(iii) the value of electronic commerce transacted with,"; and

(3) by adding at the end the following new subsection:

"(d) Electronic Commerce.—For purposes of this section, the term 'electronic commerce' has the meaning given that term in section 104(3) of the Internet Tax Freedom Act.".

SEC. 203. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

(a) In General.— It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the America, the North American Free Trade Agreement, and other appropriate venues.

(b) Negotiating Objectives.—The negotiating objectives of the United States shall be—

(1) to assure that electronic commerce is free from—

(A) tariff and nontariff barriers;

(B) burdensome and discriminatory regulation and standards; and

(C) discriminatory taxation; and

(2) to accelerate the growth of electronic commerce by expanding market access opportunities for—

(A) the development of telecommunications infrastructure;

(B) the procurement of telecommunications equipment;

(C) the provision of Internet access and telecommunications services; and

(D) the exchange of goods, services, and digitalized information.

(c) Electronic Commerce.—For purposes of this section, the term "electronic commerce" has the meaning given that term in section 104(3).

SEC. 204. NO EXPANSION OF TAX AUTHORITY.

Nothing in this Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

SEC. 205. PRESERVATION OF AUTHORITY.

Nothing in this Act shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104-104) or the amendments made by such Act.

Amendment No. 3770

Strike "days after the date of the enactment of this Act.

(3) Vacancies.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) Acceptance of Gifts and Grants.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) Other Resources.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) Sunset.—The Commission shall terminate 18 months after the date of the enactment of this Act.

(f) Rules of the Commission.—

(1) Quorum.—Nine members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) Meetings.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) Opportunities to testify.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) Additional rules.—The Commission may adopt other rules as needed.

(g) Duties of the Commission.—

(1) In general.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) ISSUES TO BE STUDIED.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) BIT TAX.—The term "bit tax" means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) DISCRIMINATORY TAX.—The term "discriminatory tax" means any tax imposed by a State or political subdivision thereof on electronic commerce that—

(A) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means;

(B) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period; or

(C) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving the same or similar property, goods, services, or information accomplished through other means.

(3) ELECTRONIC COMMERCE.—The term "electronic commerce" means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) INTERNET.—The term "Internet" means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocol, to transmit information.

(5) INTERNET ACCESS.—The term "Internet access" means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. Such term does not include telecommunications services.

(6) MULTIPLE TAX.—

(A) IN GENERAL.—The term "multiple tax" means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) EXCEPTION.—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) SALES OR USE TAX.—For purposes of subparagraph (B), the term "sales or use tax" means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) STATE.—The term "State" means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) TAX.—

(A) IN GENERAL.—The term "tax" means—

(i) any levy, fee, or charge imposed under governmental authority by any governmental entity; or

(ii) the imposition of or obligation to collect and to remit to a governmental entity any such levy, fee, or charge imposed by a governmental entity.

(B) EXCEPTION.—Such term shall not include any franchise fees or similar fees imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573).

(9) TELECOMMUNICATIONS SERVICES.—The term "telecommunications services" has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

TITLE II—OTHER PROVISIONS

SEC. 201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

SEC. 202. NATIONAL TRADE ESTIMATE.

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking "and" at the end of clause (i);

(ii) by inserting "and" at the end of clause (ii); and

(iii) by inserting after clause (ii) the following new clause:

"(iii) United States electronic commerce,"; and

(B) in subparagraph (C)—

(i) by striking "and" at the end of clause (i);

(ii) by inserting "and" at the end of clause (ii);

(iii) by inserting after clause (ii) the following new clause:

"(iii) the value of additional United States electronic commerce,"; and

(iv) by inserting "or transacted with," after "or invested in";

(2) in subsection (a)(2)(E)—

(A) by striking "and" at the end of clause (i);

(B) by inserting "and" at the end of clause (ii); and

(C) by inserting after clause (ii) the following new clause:

"(iii) the value of electronic commerce transacted with,"; and

(3) by adding at the end the following new subsection:

"(d) ELECTRONIC COMMERCE.—For purposes of this section, the term 'electronic commerce' has the meaning given that term in section 104(3) of the Internet Tax Freedom Act.".

SEC. 203. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

(a) IN GENERAL.— It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the America, the North American Free Trade Agreement, and other appropriate venues.

(b) NEGOTIATING OBJECTIVES.—The negotiating objectives of the United States shall be—

(1) to assure that electronic commerce is free from—

(A) tariff and nontariff barriers;

(B) burdensome and discriminatory regulation and standards; and

(C) discriminatory taxation; and

(2) to accelerate the growth of electronic commerce by expanding market access opportunities for—

(A) the development of telecommunications infrastructure;

(B) the procurement of telecommunications equipment;

(C) the provision of Internet access and telecommunications services; and

(D) the exchange of goods, services, and digitalized information.

(c) Electronic Commerce.—For purposes of this section, the term "electronic commerce" has the meaning given that term in section 104(3).

SEC. 204. NO EXPANSION OF TAX AUTHORITY.

Nothing in this Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

SEC. 205. PRESERVATION OF AUTHORITY.

Nothing in this Act shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104–104) or the amendments made by such Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Government Paperwork Elimination Act."

SEC. 2. DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

"(vi) the acquisition and use of information technology, including the use of alternative information technologies (such as the use of electronic submission, maintenance, or disclosure of information) to substitute for paper, and the use and acceptance of electronic signatures.".

SEC. 3. PROCEDURES.

(a) Within 18 months after enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use.

(1) The procedures shall be compatible with standards and technology for electronic signatures as may be generally used in commerce and industry and by State governments, based upon consultation with appropriate private sector and State government standard setting bodies.

(2) Such procedures shall not inappropriately favor one industry or technology.

(3) An electronic signature shall be as reliable as is appropriate for the purpose, and efforts shall be made to keep the information submitted intact.

(4) Successful submission of an electronic form shall be electronically acknowledged.

(5) In accordance with all other sections of the Act, to the extent feasible and appropriate, and described in a written finding, an agency, when it expects to receive electronically 50,000 or more submittals of a particular form, shall take all steps necessary to ensure that multiple formats of electronic signatures are made available for submitting such forms.

SEC. 4. AUTHORITY AND FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, within 5 years of the date of enactment of this Act, executive agencies provide for the optional use of electronic maintenance, submission, or disclosure of information where practicable, as an alternative information technology to substitute for paper, and the use and acceptance of electronic signatures where practicable.

SEC. 5. ELECTRONIC STORAGE OF FORMS.

Within 18 months of enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use to permit employer electronic storage and filing of forms containing information pertaining to employees.

SEC. 6. STUDY.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget, shall conduct an ongoing study of paperwork reduction and electronic commerce, the impact on individual privacy, and the security and authenticity of transactions due to the use of electronic signatures pursuant to this Act, and shall report the findings to Congress.

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with agency procedures and guidelines established pursuant to this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures and guidelines, shall not be denied legal effect, validity or enforceability because they are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH OTHER LAWS.

Nothing in this title shall apply to the Department of the Treasury or the Internal Revenue Service, to the extent that—

(1) it involves the administration of the internal revenue laws; and

(2) it conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) Executive agency.—The term "executive agency" has the meaning given that term in section 105 of title 5, United States Code.

(2) Electronic signature.—The term "electronic signature" means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of such electronic message; and

(B) indicates such person's approval of the information contained in such electronic message.

(3) Form, questionnaire, or survey.—The terms "form", "questionnaire", and "survey" include documents produced by an agency to facilitate interaction between an agency and non-government persons.

TITLE II—CHILDREN'S ONLINE PRIVACY PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the "Children's Online Privacy Protection Act of 1999".

SEC. 202. DEFINITIONS.

In this title:

(1) Child.—the term "child" means an individual under the age of 13.

(2) Operator.—The term "operator"—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

(i) among the several States or with 1 or more foreign nations;

(ii) in any territory of the United States or in the District of Columbia, or between any such territory and—

(I) another such territory; or

(II) any State or foreign nation; or

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) does not include any non-profit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) Commission.—The term "Commission" means the Federal Trade Commission.

(4) Disclosure.—The term "disclosure" means, with respect to personal information—

(A) the release of personal information collected from a child in identifiable form by an operator for any purpose, except where such information is provided to a person other than the operator who provides support for the internal operations of the website and does not disclose or use that information for any other purpose; and

(B) making personal information collected from a child by a website or online service directed to children or with actual knowledge that such information was collected from a child, publicly available in identifiable form, by any means including by a public posting, through the Internet, or through—

(i) a home page of a website;

(ii) a pen pal service;

(iii) an electronic mail service;

(iv) a message board; or

(v) a chat room.

(5) Federal agency.—The term "Federal agency" means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(6) Internet.—The term "Internet" means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(7) Parent.—The term "parent" includes a legal guardian.

(8) Personal information.—The term "personal information" means individually identifiable information about an individual collected online, including—

(A) a first and last name;

(B) a home or other physical address including street name and name of a city or town;

(C) an e-mail address;

(D) a telephone number;

(E) a Social Security number;

(F) any other identifier that the Commission determines permits the physical or online contracting of a specific individual; or

(G) information concerning the child or the parents of that child that the website collects online from the child and combines with an identifier described in this paragraph.

(9) VERIFIABLE PARENTAL CONSENT.—The term "verifiable parental consent" means any reasonable effort (taking into consideration available technology), including a request for authorization for future collection use, and disclosure described in the notice, to ensure that a parent of a child receives notice of the operator's personal information collection, use, and disclosure practices, and authorizes the collection, use, and disclosure, as applicable, of personal information and the subsequent use of that information before that information is collected from that child.

(10) WEBSITE OR ONLINE SERVICE DIRECTED TO CHILDREN.—

(A) IN GENERAL.—The term "website or online service directed to children" means—

(i) A commercial website or online service that is targeted to children; or

(ii) that portion of a commercial website or online service that is targeted to children.

(B) LIMITATION.—A commercial website or online service, or a portion of a commercial website or online service, shall not be deemed directed to children solely for referring or linking to a commercial website or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

(11) PERSON.—The term "person" means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

(12) ONLINE CONTACT INFORMATION.—The term "online contact information" means an e-mail address or another substantially similar identifier that permits direct contact with a person online.

SEC. 203. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE COLLECTION AND USE OF PERSONAL INFORMATION FROM AND ABOUT CHILDREN ON THE INTERNET.

(A) ACTS PROHIBITED.—

(1) IN GENERAL.—It is unlawful for an operator of a website or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under subsection (b).

(2) DISCLOSURE TO PARENT PROTECTED.—Notwithstanding paragraph (1), neither an operator of such a website or online service nor the operator's agent shall be held to be liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under subsection (b)(1)(B)(iii) to the parent of a child.

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Commission shall promulgate under section 553 of title 5, United States Code, regulations that—

(A) require the operator of any website or online service directed to children that collects personal information from children or the operator of a website or online service that has actual knowledge that it is collecting personal information from a child—

(i) to provide notice on the website of what information is collected from children by the operator, how the operator uses such information, and the operator's disclosure practices for such information; and

(ii) to obtain verifiable parental consent for the collection, use, or disclosure of personal information from children;

(B) require the operator to provide, upon request of a parent under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) the opportunity at any time to refuse to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child; and

(iii) notwithstanding any other provision of law, a means that is reasonable under the circumstances for the parent to obtain any personal information collected from that child;

(C) prohibit conditioning a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity; and

(D) require the operator of such a website or online service to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

(2) WHEN CONSENT NOT REQUIRED.—The regulations shall provide that verifiable parental consent under paragraph (1)(A)(ii) is not required in the case of—

(A) online contact information collected from a child that is used only to respond directly on a one-time basis to a specific request from the child and is not used to recontact the child and is not maintained in retrievable form by the operator;

(B) a request for the name or online contact information of a parent or child that is used for the sole purpose of obtaining parental consent or providing notice under this section and where such information is not maintained in retrievable form by the operator if parental consent is not obtained after a reasonable time;

(C) online contact information collected from a child that is used only to respond more than once directly to a specific request from the child and is not used to recontact the child beyond the scope of that request—

(i) if, before any additional response after the initial response to the child, the operator uses reasonable efforts to provide a parent notice of the online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(ii) without notice to the parent in such circumstances as the Commission may determine are appropriate, taking into consideration the benefits to the child of access to information and services, and risks to the security and privacy of the child, in regulations promulgated under this subsection;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on the site)—

(i) used only for the purpose of protecting such safety;

(ii) not used to recontact the child or for any other purpose; and

(iii) not disclosed on the site,

if the operator uses reasonable efforts to provide a parent notice of the name and online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) TERMINATION OF SERVICE.—The regulations shall permit the operator of a website or an online service to terminate service provided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) ENFORCEMENT.—Subject to sections 204 and 206, a violation of a regulation prescribed under subsection (a) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(d) INCONSISTENT STATE LAW.—No State or local government may impose any liability for commercial activities or actions by operators in interstate or foreign commerce in connection with an activity or action described in this title that is inconsistent with the treatment of those activities or actions under this section.

SEC. 204. SAFE HARBORS.

(a) GUIDELINES.—An operator may satisfy the requirements of regulations issued under section 203(b) by following a set of self-regulatory guidelines, issued by representatives of the marketing or online industries, or by other persons, approved under subsection (b).

(b) INCENTIVES.—

(1) SELF-REGULATORY INCENTIVES.—In prescribing regulations under section 203, the Commission shall provide incentives for self-regulation by operators to implement the protections afforded children under the regulatory requirements described in subsection (b) of that section.

(2) DEEMED COMPLIANCE.—Such incentives shall include provisions for ensuring that a person will be deemed to be in compliance with the requirements of the regulations under section 203 if that person complies with guidelines that, after notice and comment, are approved by the Commission upon making a determination that the guidelines meet the requirements of the regulations issued under section 203.

(3) EXPEDITED RESPONSE TO REQUESTS.—The Commission shall act upon requests for safe harbor treatment within 180 days of the filing of the request, and shall set forth in writing its conclusions with regard to such requests.

(c) APPEALS.—Final action by the Commission on a request for approval of guidelines, or the failure to act within 180 days on a request for approval of guidelines, submitted under subsection (b) may be appealed to a district court of the United States of appropriate jurisdiction as provided for in section 706 of title 5, United States Code.

SEC. 205. ACTIONS BY STATES.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates any regulation of the Commission prescribed under section 203(b), the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with the regulation;

(C) obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) INTERVENTION.—

(1) IN GENERAL.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) EFFECT OF INTERVENTION.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(3) AMICUS CURIAE.—Upon application to the court, a person whose self-regulatory guidelines have been approved by the Commission and are relied upon as a defense by any defendant to a proceeding under this section may file amicus curiae in that proceeding.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Commission for violation of any regulation prescribed under section 293, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that regulation.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 206. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) IN GENERAL.—Except as otherwise provided, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) PROVISIONS.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et. seq.), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et. seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. (2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) EXERCISE OF CERTAIN POWERS.—For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

(d) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating a rule of the Commission under section 203 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any entity that violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(e) EFFECT ON OTHER LAWS.—Nothing contained in the Act shall be construed to limit the authority of the Commission under any other provisions of law.

SEC. 207. REVIEW.

(a) IN GENERAL.—Not later than 5 years after the effective date of the regulations initially issued under section 203, the Commission shall—

(1) review the implementation of this title, including the effect of the implementation of this title on practices relating to the collection and disclosure of information relating to children, children's ability to obtain access to information of their choice online, and on the availability of websites directed to children; and

(2) prepare and submit to Congress a report on the results of the review under paragraph (1).

SEC. 208. EFFECTIVE DATE.

Sections 203(a), 205, and 206 of this title take effect on the later of—

(1) the date that is 18 months after the date of enactment of this Act; or

(2) the date on which the Commission rules on the first application for safe harbor treatment under section 204 if the Commission does not rule on the first such application within 1 year after the date of enactment of this Act, but in no case later than the date that is 30 months after the date of enactment of this Act.", and insert in lieu thereof: "days after the date of the enactment of this Act.

(3) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) ACCEPTANCE OF GIFTS AND GRANTS.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) SUNSET.—The Commission shall terminate 18 months after the date of the enactment of this Act.

(f) RULES OF THE COMMISSION.—

(1) QUORUM.—Eleven members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) MEETINGS.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) OPPORTUNITIES TO TESTIFY.—The Commission shall provide opportunities for representatives of the general public, taxpayer

groups, consumer groups, and State and local government officials to testify.

(4) ADDITIONAL RULES.—The Commission may adopt other rules as needed.

(g) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) ISSUES TO BE STUDIED.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) BIT TAX.—The term "bit tax" means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) DISCRIMINATORY TAX.—The term "discriminatory tax" means any tax imposed by a State or political subdivision thereof on electronic commerce that—

(A) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means;

(B) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period; or

(C) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving the same or similar property, goods, services, or information accomplished through other means.

(3) ELECTRONIC COMMERCE.—The term "electronic commerce" means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) INTERNET.—The term "Internet" means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocol, to transmit information.

(5) INTERNET ACCESS.—The term "Internet access" means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. Such term does not include telecommunications services.

(6) MULTIPLE TAX.—

(A) IN GENERAL.—The term "multiple tax" means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) EXCEPTION.—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) SALES OR USE TAX.—For purposes of subparagraph (B), the term "sales or use tax" means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) STATE.—The term "State" means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) TAX.—

(A) IN GENERAL.—The term "tax" means—

(i) any levy, fee, or charge imposed under governmental authority by any governmental entity; or

(ii) the imposition of or obligation to collect and to remit to a governmental entity any such levy, fee, or charge imposed by a governmental entity.

(B) EXCEPTION.—Such term shall not include any franchise fees or similar fees imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573).

(9) TELECOMMUNICATIONS SERVICES.—The term "telecommunications services" has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

TITLE II—OTHER PROVISIONS

SEC. 201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

SEC. 202. NATIONAL TRADE ESTIMATE.

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking "and" at the end of clause (i);

(ii) by inserting "and" at the end of clause (ii); and

(iii) by inserting after clause (ii) the following new clause:

"(iii) United States electronic commerce,"; and

(B) in subparagraph (C)—

(i) by striking "and" at the end of clause (i);

(ii) by inserting "and" at the end of clause (ii);

(iii) by inserting after clause (ii) the following new clause:

"(iii) the value of additional United States electronic commerce,"; and

(iv) by inserting "or transacted with," after "or invested in";

(2) in subsection (a)(2)(E)—

(A) by striking "and" at the end of clause (i);

(B) by inserting "and" at the end of clause (ii); and

(C) by inserting after clause (ii) the following new clause:

"(iii) the value of electronic commerce transacted with,"; and

(3) by adding at the end the following new subsection:

"(d) ELECTRONIC COMMERCE.—For purposes of this section, the term 'electronic commerce' has the meaning given that term in section 104(3) of the Internet Tax Freedom Act.".

SEC. 203. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

(a) IN GENERAL.— It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the America, the North American Free Trade Agreement, and other appropriate venues.

(b) NEGOTIATING OBJECTIVES.—The negotiating objectives of the United States shall be—

(1) to assure that electronic commerce is free from—

(A) tariff and nontariff barriers;

(B) burdensome and discriminatory regulation and standards; and

(C) discriminatory taxation; and

(2) to accelerate the growth of electronic commerce by expanding market access opportunities for—

(A) the development of telecommunications infrastructure;

(B) the procurement of telecommunications equipment;

(C) the provision of Internet access and telecommunications services; and

(D) the exchange of goods, services, and digitalized information.

(c) ELECTRONIC COMMERCE.—For purposes of this section, the term "electronic commerce" has the meaning given that term in section 104(3).

SEC. 204. NO EXPANSION OF TAX AUTHORITY.

Nothing in this Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

SEC. 205. PRESERVATION OF AUTHORITY.

Nothing in this Act shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104-104) or the amendments made by such Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Government Paperwork Elimination Act."

SEC. 2. DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

"(vi) the acquisition and use of information technology, including the use of alternative information technologies (such as the use of electronic submission, maintenance, or disclosure of information) to substitute for paper, and the use and acceptance of electronic signatures.".

SEC. 3. PROCEDURES.

(a) Within 18 months after enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use.

(1) The procedures shall be compatible with standards and technology for electronic signatures as may be generally used in commerce and industry and by State governments, based upon consultation with appropriate private sector and State government standard setting bodies.

(2) Such procedures shall not inappropriately favor one industry or technology.

(3) An electronic signature shall be as reliable as is appropriate for the purpose, and efforts shall be made to keep the information submitted intact.

(4) Successful submission of an electronic form shall be electronically acknowledged.

(5) In accordance with all other sections of the Act, to the extent feasible and appropriate, and described in a written finding, an agency, when it expects to receive electronically 50,000 or more submittals of a particular form, shall take all steps necessary to ensure that multiple formats of electronic signatures are made available for submitting such forms.

SEC. 4. AUTHORITY AND FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, within 5 years of the date of enactment of this Act, executive agencies provide for the optional use of electronic maintenance, submission, or disclosure of information where practicable, as an alternative information technology to substitute for paper, and the use and acceptance of electronic signatures where practicable.

SEC. 5. ELECTRONIC STORAGE OF FORMS.

Within 18 months of enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use to permit employer electronic storage and filing of forms containing information pertaining to employees.

SEC. 6. STUDY.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget, shall conduct an ongoing study of paperwork reduction and electronic commerce, the impact on individual privacy, and the security and authenticity of transactions due to the use of electronic signatures pursuant to this Act, and shall report the findings to Congress.

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with agency procedures and guidelines established pursuant to this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures and guidelines, shall not be denied legal effect, validity or enforceability because they are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH OTHER LAWS.

Nothing in this title shall apply to the Department of the Treasury or the Internal Revenue Service, to the extent that—

(1) it involves the administration of the internal revenue laws; and

(2) it conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) EXECUTIVE AGENCY.—The term "executive agency" has the meaning given that term in section 105 of title 5, United States Code.

(2) ELECTRONIC SIGNATURE.—The term "electronic signature" means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of such electronic message; and

(B) indicates such person's approval of the information contained in such electronic message.

(3) FORM, QUESTIONNAIRE, OR SURVEY.—The terms "form", "questionnaire", and "survey" include documents produced by an agency to facilitate interaction between an agency and non-government persons.

TITLE II—CHILDREN'S ONLINE PRIVACY PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the "Children's Online Privacy Protection Act of 1999".

SEC. 202. DEFINITIONS.

In this title:

(1) CHILD.—the term "child" means an individual under the age of 13.

(2) OPERATOR.—The term "operator"—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

(i) among the several States or with 1 or more foreign nations;

(ii) in any territory of the United States or in the District of Columbia, or between any such territory and—

(I) another such territory; or

(II) any State or foreign nation; or

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) does not include any non-profit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) COMMISSION.—The term "Commission" means the Federal Trade Commission.

(4) DISCLOSURE.—The term "disclosure" means, with respect to personal information—

(A) the release of personal information collected from a child in identifiable form by an operator for any purpose, except where such information is provided to a person other than the operator who provides support for the internal operations of the website and does not disclose or use that information for any other purpose; and

(B) making personal information collected from a child by a website or online service directed to children or with actual knowledge that such information was collected from a child, publicly available in identifiable form, by any means including by a public posting, through the Internet, or through—

(i) a home page of a website;

(ii) a pen pal service;

(iii) an electronic mail service;

(iv) a message board; or

(v) a chat room.

(5) FEDERAL AGENCY.—The term "Federal agency" means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(6) Internet.—The term "Internet" means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(7) Parent.—The term "parent" includes a legal guardian.

(8) Personal information.—The term "personal information" means individually identifiable information about an individual collected online, including—

(A) a first and last name;

(B) a home or other physical address including street name and name of a city or town;

(C) an e-mail address;

(D) a telephone number;

(E) a Social Security number;

(F) any other identifier that the Commission determines permits the physical or online contracting of a specific individual; or

(G) information concerning the child or the parents of that child that the website collects online from the child and combines with an identifier described in this paragraph.

(9) Verifiable parental consent.—The term "verifiable parental consent" means any reasonable effort (taking into consideration available technology), including a request for authorization for future collection use, and disclosure described in the notice, to ensure that a parent of a child receives notice of the operator's personal information collection, use, and disclosure practices, and authorizes the collection, use, and disclosure, as applicable, of personal information and the subsequent use of that information before that information is collected from that child.

(10) Website or online service directed to children.—

(A) In general.—The term "website or online service directed to children" means—

(i) A commercial website or online service that is targeted to children; or

(ii) that portion of a commercial website or online service that is targeted to children.

(B) Limitation.—A commercial website or online service, or a portion of a commercial website or online service, shall not be deemed directed to children solely for referring or linking to a commercial website or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

(11) Person.—The term "person" means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

(12) Online contact information.—The term "online contact information" means an e-mail address or another substantially similar identifier that permits direct contact with a person online.

SEC. 203. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE COLLECTION AND USE OF PERSONAL INFORMATION FROM AND ABOUT CHILDREN ON THE INTERNET.

(A) Acts Prohibited.—

(1) In general.—It is unlawful for an operator of a website or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under subsection (b).

(2) Disclosure to parent protected.—Notwithstanding paragraph (1), neither an operator of such a website or online service nor the operator's agent shall be held to be liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under subsection (b)(1)(B)(iii) to the parent of a child.

(b) Regulations.—

(1) In general.—Not later than 1 year after the date of the enactment of this Act, the Commission shall promulgate under section 553 of title 5, United States Code, regulations that—

(A) require the operator of any website or online service directed to children that collects personal information from children or the operator of a website or online service that has actual knowledge that it is collecting personal information from a child—

(i) to provide notice on the website of what information is collected from children by the operator, how the operator uses such information, and the operator's disclosure practices for such information; and

(ii) to obtain verifiable parental consent for the collection, use, or disclosure of personal information from children;

(B) require the operator to provide, upon request of a parent under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) the opportunity at any time to refuse to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child; and

(iii) notwithstanding any other provision of law, a means that is reasonable under the circumstances for the parent to obtain any personal information collected from that child;

(C) prohibit conditioning a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity; and

(D) require the operator of such a website or online service to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

(2) When consent not required.—The regulations shall provide that verifiable parental consent under paragraph (1)(A)(ii) is not required in the case of—

(A) online contact information collected from a child that is used only to respond directly on a one-time basis to a specific request from the child and is not used to recontact the child and is not maintained in retrievable form by the operator;

(B) a request for the name or online contact information of a parent or child that is used for the sole purpose of obtaining parental consent or providing notice under this section and where such information is not maintained in retrievable form by the operator if parental consent is not obtained after a reasonable time;

(C) online contact information collected from a child that is used only to respond more than once directly to a specific request from the child and is not used to recontact the child beyond the scope of that request—

(i) if, before any additional response after the initial response to the child, the operator uses reasonable efforts to provide a parent notice of the online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(ii) without notice to the parent in such circumstances as the Commission may determine are appropriate, taking into consideration the benefits to the child of access to information and services, and risks to the security and privacy of the child, in regulations promulgated under this subsection;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on the site)—

(i) used only for the purpose of protecting such safety;

(ii) not used to recontact the child or for any other purpose; and

(iii) not disclosed on the site,

if the operator uses reasonable efforts to provide a parent notice of the name and online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) Termination of service.—The regulations shall permit the operator of a website or an online service to terminate service provided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) Enforcement.—Subject to sections 204 and 206, a violation of a regulation prescribed under subsection (a) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(d) Inconsistent State Law.—No State or local government may impose any liability for commercial activities or actions by operators in interstate or foreign commerce in connection with an activity or action described in this title that is inconsistent with the treatment of those activities or actions under this section.

SEC. 204. SAFE HARBORS.

(a) Guidelines.—An operator may satisfy the requirements of regulations issued under section 203(b) by following a set of self-regulatory guidelines, issued by representatives of the marketing or online industries, or by other persons, approved under subsection (b).

(b) Incentives.—

(1) Self-regulatory incentives.—In prescribing regulations under section 203, the Commission shall provide incentives for self-regulation by operators to implement the protections afforded children under the regulatory requirements described in subsection (b) of that section.

(2) Deemed compliance.—Such incentives shall include provisions for ensuring that a person will be deemed to be in compliance

with the requirements of the regulations under section 203 if that person complies with guidelines that, after notice and comment, are approved by the Commission upon making a determination that the guidelines meet the requirements of the regulations issued under section 203.

(3) EXPEDITED RESPONSE TO REQUESTS.—The Commission shall act upon requests for safe harbor treatment within 180 days of the filing of the request, and shall set forth in writing its conclusions with regard to such requests.

(c) APPEALS.—Final action by the Commission on a request for approval of guidelines, or the failure to act within 180 days on a request for approval of guidelines, submitted under subsection (b) may be appealed to a district court of the United States of appropriate jurisdiction as provided for in section 706 of title 5, United States Code.

SEC. 205. ACTIONS BY STATES.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates any regulation of the Commission prescribed under section 203(b), the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with the regulation;

(C) obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) INTERVENTION.—

(1) IN GENERAL.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) EFFECT OF INTERVENTION.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(3) AMICUS CURIAE.—Upon application to the court, a person whose self-regulatory guidelines have been approved by the Commission and are relied upon as a defense by any defendant to a proceeding under this section may file amicus curiae in that proceeding.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Commission for violation of any regulation prescribed under section 293, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that regulation.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 206. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) IN GENERAL.—Except as otherwise provided, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) PROVISIONS.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et. seq.), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et. seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. (2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) EXERCISE OF CERTAIN POWERS.—For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

(d) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating a rule of the Commission under section 203 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any entity that violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(e) EFFECT ON OTHER LAWS.—Nothing contained in the Act shall be construed to limit the authority of the Commission under any other provisions of law.

SEC. 207. REVIEW.

(a) IN GENERAL.—Not later than 5 years after the effective date of the regulations initially issued under section 203, the Commission shall—

(1) review the implementation of this title, including the effect of the implementation of this title on practices relating to the collection and disclosure of information relating to children, children's ability to obtain access to information of their choice online, and on the availability of websites directed to children; and

(2) prepare and submit to Congress a report on the results of the review under paragraph (1).

SEC. 208. EFFECTIVE DATE.

Sections 203(a), 205, and 206 of this title take effect on the later of—

(1) the date that is 18 months after the date of enactment of this Act; or

(2) the date on which the Commission rules on the first application for safe harbor treatment under section 204 if the Commission does not rule on the first such application within 1 year after the date of enactment of this Act, but in no case later than the date that is 30 months after the date of enactment of this Act."

McCAIN AMENDMENTS NOS. 3771-3772

(Ordered to lie on the table.)

Mr. MCCAIN submitted two amendments intended to be proposed by him to amendment No. 3722 submitted by him to the bill, S. 442, supra; as follows:

AMENDMENT NO. 3771

Strike all and insert the following substitute:

On page 17, beginning with line 18, strike through line 21 on page 19 and insert the following:

(a) ESTABLISHMENT OF COMMISSION.—There is established a commission to be known as the Advisory Commission on Electronic Commerce (in this title referred to as the "Commission"). The Commission shall—

(1) be composed of 19 members appointed in accordance with subsection (b), including the chairperson selected by the members of the Commission from among themselves; and

(2) conduct its business in accordance with the provisions of this title.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commissioners shall serve for the life of the Commission. The membership of the Commission shall be as follows:

(A) 3 representatives from the Federal Government, comprised of the Secretary of Commerce, the Secretary of the Treasury, and the United States Trade Representative (or their respective delegates).

(B) 8 representatives from State and local governments (one such representative shall be from a State or local government that does not impose a sales tax).

(C) 8 representatives of the electronic commerce industry (including small business), telecommunications carriers, local retail businesses, and consumer groups, comprised of—

(i) 5 individuals appointed by the Majority Leader of the Senate;

(ii) 3 individuals appointed by the Minority Leader of the Senate;

(iii) 5 individuals appointed by the Speaker of the House of Representatives; and

(iv) 3 individuals appointed by the Minority Leader of the House of Representatives.

AMENDMENT NO. 3772

On page 3, strike lines 7 through 23 and insert the following:

(i) the ability to access a site on a remote seller's computer server is considered a factor in determining a remote seller's tax collection obligation; or

(ii) a provider of Internet access service or online services is deemed to be the agent of a remote seller for determining tax collection obligations as a result of—

(I) the display of a remote seller's information or content on the computer server of a provider of Internet access service or online services; or

(II) the processing of orders through the computer server of a provider of Internet access service or on-line services.

MCCAIN AMENDMENT NO. 3773

(Ordered to lie on the table.)

Mr. MCCAIN submitted an amendment intended to be proposed by him to amendment No. 3719 submitted by him to the bill, S. 442, supra; as follows:

On page 3, after line 23, insert the following:

(2A) TAX THAT WAS GENERALLY IMPOSED AND ACTUALLY ENFORCED.—The term "tax that was generally imposed and actually enforced" means a tax—

(A) that was authorized by statute price to October 1, 1998; and

(B) with respect to which the appropriate state administrative agency provided clear notice that the tax was being interpreted to apply to Internet access services and which provided the taxable entity with a reasonable opportunity to be aware that such tax would apply to them, such as a rule or a public proclamation by such State administrative agency or a public disclosure by such agency of the fact that the State in question had previously assessed such a tax or was applying its tax to charges for Internet access.

WYDEN AMENDMENT NO. 3774

(Ordered to lie on the table.)

Mr. WYDEN submitted an amendment intended to be proposed by him to amendment No. 3719 submitted by Mr. MCCAIN to the bill, S. 442, supra; as follows:

On page 2, after line 14, add the following:

(d) DEFINITIONS.—For the purposes of this section, a tax has been "generally imposed and actually enforced" if, prior to October 1, 1998—

(1) the tax was authorized by statute; and

(2) a provider of Internet access service had been given a reasonable opportunity to know by virtue of a rule or other public proclamation made by the appropriate administrative agency of the state that the tax—

(A) had been interpreted to apply to Internet access services;

(B) had been applied to Internet access services; and

(C) had been assessed to charges for Internet access.

SHELBY AMENDMENT NO. 3775

(Ordered to lie on the table.)

Mr. SHELBY submitted an amendment intended to be proposed by him to amendment No. 3686 submitted by Mr. SHELBY to the bill, S. 442, supra; as follows:

In lieu of the language to be inserted, insert the following,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Internet Tax Freedom Act".

TITLE I—MORATORIUM ON CERTAIN TAXES

SEC. 101. MORATORIUM.

(a) MORATORIUM.—No State or political subdivision thereof shall impose any of the following taxes on transactions occurring during the period beginning on July 29, 1998, and ending 4 years after the date of the enactment of this Act:

(1) Taxes on Internet access.

(2) Bit taxes.

(3) Multiple or discriminatory taxes on electronic commerce.

(b) APPLICATION OF MORATORIUM.—Subsection (a) shall not apply with respect to the provision of Internet access that is offered for sale as part of a package of services that includes services other than Internet access, unless the service provider separately states that portion of the billing that applies to such services on the user's bill.

SEC. 102. ADVISORY COMMISSION ON ELECTRONIC COMMERCE.

(a) ESTABLISHMENT OF COMMISSION.—There is established a commission to be known as the Advisory Commission on Electronic Commerce (in this title referred to as the "Commission"). The Commission shall—

(1) be composed of 16 members appointed in accordance with subsection (b), including the chairperson who shall be selected by the members of the Commission from among themselves; and

(2) conduct its business in accordance with the provisions of this title.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commissioners shall serve for the life of the Commission. The membership of the Commission shall be as follows:

(A) Four representatives from the Federal Government comprised of the Secretary of Commerce, the Secretary of State, the Secretary of the Treasury, and the United States Trade Representative, or their respective representatives.

(B) Six representatives from State and local governments comprised of—

(i) two representatives appointed by the Majority Leader of the Senate;

(ii) one representative appointed by the Minority Leader of the Senate;

(iii) two representatives appointed by the Speaker of the House of Representatives; and

(iv) one representative appointed by the Minority Leader of the House of Representatives.

(C) Six representatives of the electronic industry and consumer groups comprised of—

(i) two representatives appointed by the Majority Leader of the Senate;

(ii) one representative appointed by the Minority Leader of the Senate;

(iii) two representatives appointed by the Speaker of the House of Representatives; and

(iv) one representative appointed by the Minority Leader of the House of Representatives.

(2) APPOINTMENTS.—Appointments to the Commission shall be made not later than 45 days after the date of the enactment of this Act. The chairperson shall be selected not later than 60 days after the date of the enactment of this Act.

(3) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) ACCEPTANCE OF GIFTS AND GRANTS.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) SUNSET.—The Commission shall terminate 18 months after the date of the enactment of this Act.

(f) RULES OF THE COMMISSION.—

(1) QUORUM.—Nine members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) MEETINGS.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) OPPORTUNITIES TO TESTIFY.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) ADDITIONAL RULES.—The Commission may adopt other rules as needed.

(g) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) ISSUES TO BE STUDIED.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) BIT TAX.—The term "bit tax" means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) DISCRIMINATORY TAX.—The term "discriminatory tax" means any tax imposed by a State or political subdivision thereof on electronic commerce that—

(A) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means;

(B) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period; or

(C) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving the same or similar property, goods, services, or information accomplished through other means.

(3) ELECTRONIC COMMERCE.—The term "electronic commerce" means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) INTERNET.—The term "Internet" means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocol, to transmit information.

(5) INTERNET ACCESS.—The term "Internet access" means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. Such term does not include telecommunications services.

(6) MULTIPLE TAX.—

(A) IN GENERAL.—The term "multiple tax" means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) EXCEPTION.—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) SALES OR USE TAX.—For purposes of subparagraph (B), the term "sales or use tax" means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) STATE.—The term "State" means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) TAX.—

(A) IN GENERAL.—The term "tax" means—

(i) any levy, fee, or charge imposed under governmental authority by any governmental entity; or

(ii) the imposition of or obligation to collect and to remit to a governmental entity any such levy, fee, or charge imposed by a governmental entity.

(B) EXCEPTION.—Such term shall not include any franchise fees or similar fees imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573).

(9) TELECOMMUNICATIONS SERVICES.—The term "telecommunications services" has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

TITLE II—OTHER PROVISIONS

SEC. 201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

SEC. 202. NATIONAL TRADE ESTIMATE.

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking "and" at the end of clause (i);

(ii) by inserting "and" at the end of clause (ii); and

(iii) by inserting after clause (ii) the following new clause:

"(iii) United States electronic commerce,"; and

(B) in subparagraph (C)—

(i) by striking "and" at the end of clause (i);

(ii) by inserting "and" at the end of clause (ii);

(iii) by inserting after clause (ii) the following new clause:

"(iii) the value of additional United States electronic commerce,"; and

(iv) by inserting "or transacted with," after "or invested in";

(2) in subsection (a)(2)(E)—

(A) by striking "and" at the end of clause (i);

(B) by inserting "and" at the end of clause (ii); and

(C) by inserting after clause (ii) the following new clause:

"(iii) the value of electronic commerce transacted with,"; and

(3) by adding at the end the following new subsection:

"(d) ELECTRONIC COMMERCE.—For purposes of this section, the term 'electronic commerce' has the meaning given that term in section 104(3) of the Internet Tax Freedom Act.".

SEC. 203. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

(a) IN GENERAL.— It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the America, the North American Free Trade Agreement, and other appropriate venues.

(b) NEGOTIATING OBJECTIVES.—The negotiating objectives of the United States shall be—

(1) to assure that electronic commerce is free from—

(A) tariff and nontariff barriers;

(B) burdensome and discriminatory regulation and standards; and

(C) discriminatory taxation; and

(2) to accelerate the growth of electronic commerce by expanding market access opportunities for—

(A) the development of telecommunications infrastructure;

(B) the procurement of telecommunications equipment;

(C) the provision of Internet access and telecommunications services; and

(D) the exchange of goods, services, and digitalized information.

(c) Electronic Commerce.—For purposes of this section, the term "electronic commerce" has the meaning given that term in section 104(3).

SEC. 204. NO EXPANSION OF TAX AUTHORITY.

Nothing in this Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

SEC. 205. PRESERVATION OF AUTHORITY.

Nothing in this Act shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104–104) or the amendments made by such Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Government Paperwork Elimination Act."

SEC. 2. DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

"(vi) the acquisition and use of information technology, including the use of alternative information technologies (such as the use of electronic submission, maintenance, or disclosure of information) to substitute for paper, and the use and acceptance of electronic signatures.".

SEC. 3. PROCEDURES.

(a) Within 18 months after enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use.

(1) The procedures shall be compatible with standards and technology for electronic signatures as may be generally used in commerce and industry and by State governments, based upon consultation with appropriate private sector and State government standard setting bodies.

(2) Such procedures shall not inappropriately favor one industry or technology.

(3) An electronic signature shall be as reliable as is appropriate for the purpose, and efforts shall be made to keep the information submitted intact.

(4) Successful submission of an electronic form shall be electronically acknowledged.

(5) In accordance with all other sections of the Act, to the extent feasible and appropriate, and described in a written finding, an agency, when it expects to receive electronically 50,000 or more submittals of a particular form, shall take all steps necessary to ensure that multiple formats of electronic signatures are made available for submitting such forms.

SEC. 4. AUTHORITY AND FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, within 5 years of the date of enactment of this Act, executive agencies provide for the optional use of electronic maintenance, submission, or disclosure of information where practicable, as an alternative information technology to substitute for paper, and the use and acceptance of electronic signatures where practicable.

SEC. 5. ELECTRONIC STORAGE OF FORMS.

Within 18 months of enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use to permit employer electronic storage and filing of forms containing information pertaining to employees.

SEC. 6. STUDY.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget, shall conduct an ongoing study of paperwork reduction and electronic commerce, the impact on individual privacy, and the security and authenticity of transactions due to the use of electronic signatures pursuant to this Act, and shall report the findings to Congress.

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with agency procedures and guidelines established pursuant to this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures and guidelines, shall not be denied legal effect, validity or enforceability because they are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH OTHER LAWS.

Nothing in this title shall apply to the Department of the Treasury or the Internal Revenue Service, to the extent that—

(1) it involves the administration of the internal revenue laws; and

(2) it conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) Executive agency.—The term "executive agency" has the meaning given that term in section 105 of title 5, United States Code.

(2) Electronic signature.—The term "electronic signature" means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of such electronic message; and

(B) indicates such person's approval of the information contained in such electronic message.

(3) Form, questionnaire, or survey.—The terms "form", "questionnaire", and "survey" include documents produced by an agency to facilitate interaction between an agency and non-government persons.

TITLE II—CHILDREN'S ONLINE PRIVACY PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the "Children's Online Privacy Protection Act of 1999".

SEC. 202. DEFINITIONS.

In this title:

(1) Child.—the term "child" means an individual under the age of 13.

(2) Operator.—The term "operator"—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

(i) among the several States or with 1 or more foreign nations;

(ii) in any territory of the United States or in the District of Columbia, or between any such territory and—

(I) another such territory; or

(II) any State or foreign nation; or

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) does not include any non-profit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) Commission.—The term "Commission" means the Federal Trade Commission.

(4) Disclosure.—The term "disclosure" means, with respect to personal information—

(A) the release of personal information collected from a child in identifiable form by an operator for any purpose, except where such information is provided to a person other than the operator who provides support for the internal operations of the website and does not disclose or use that information for any other purpose; and

(B) making personal information collected from a child by a website or online service directed to children or with actual knowledge that such information was collected from a child, publicly available in identifiable form, by any means including by a public posting, through the Internet, or through—

(i) a home page of a website;

(ii) a pen pal service;

(iii) an electronic mail service;

(iv) a message board; or

(v) a chat room.

(5) Federal agency.—The term "Federal agency" means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(6) Internet.—The term "Internet" means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(7) Parent.—The term "parent" includes a legal guardian.

(8) Personal information.—The term "personal information" means individually identifiable information about an individual collected online, including—

(A) a first and last name;

(B) a home or other physical address including street name and name of a city or town;

(C) an e-mail address;

(D) a telephone number;

(E) a Social Security number;

(F) any other identifier that the Commission determines permits the physical or online contracting of a specific individual; or

(G) information concerning the child or the parents of that child that the website collects online from the child and combines with an identifier described in this paragraph.

(9) VERIFIABLE PARENTAL CONSENT.—The term "verifiable parental consent" means any reasonable effort (taking into consideration available technology), including a request for authorization for future collection use, and disclosure described in the notice, to ensure that a parent of a child receives notice of the operator's personal information collection, use, and disclosure practices, and authorizes the collection, use, and disclosure, as applicable, of personal information and the subsequent use of that information before that information is collected from that child.

(10) WEBSITE OR ONLINE SERVICE DIRECTED TO CHILDREN.—

(A) IN GENERAL.—The term "website or online service directed to children" means—

(i) A commercial website or online service that is targeted to children; or

(ii) that portion of a commercial website or online service that is targeted to children.

(B) LIMITATION.—A commercial website or online service, or a portion of a commercial website or online service, shall not be deemed directed to children solely for referring or linking to a commercial website or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

(11) PERSON.—The term "person" means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

(12) ONLINE CONTACT INFORMATION.—The term "online contact information" means an e-mail address or another substantially similar identifier that permits direct contact with a person online.

SEC. 203. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE COLLECTION AND USE OF PERSONAL INFORMATION FROM AND ABOUT CHILDREN ON THE INTERNET.

(A) ACTS PROHIBITED.—

(1) IN GENERAL.—It is unlawful for an operator of a website or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under subsection (b).

(2) DISCLOSURE TO PARENT PROTECTED.—Notwithstanding paragraph (1), neither an operator of such a website or online service nor the operator's agent shall be held to be liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under subsection (b)(1)(B)(iii) to the parent of a child.

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Commission shall promulgate under section 553 of title 5, United States Code, regulations that—

(A) require the operator of any website or online service directed to children that collects personal information from children or the operator of a website or online service that has actual knowledge that it is collecting personal information from a child—

(i) to provide notice on the website of what information is collected from children by the operator, how the operator uses such information, and the operator's disclosure practices for such information; and

(ii) to obtain verifiable parental consent for the collection, use, or disclosure of personal information from children;

(B) require the operator to provide, upon request of a parent under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) the opportunity at any time to refuse to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child; and

(iii) notwithstanding any other provision of law, a means that is reasonable under the circumstances for the parent to obtain any personal information collected from that child;

(C) prohibit conditioning a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity; and

(D) require the operator of such a website or online service to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

(2) WHEN CONSENT NOT REQUIRED.—The regulations shall provide that verifiable parental consent under paragraph (1)(A)(ii) is not required in the case of—

(A) online contact information collected from a child that is used only to respond directly on a one-time basis to a specific request from the child and is not used to recontact the child and is not maintained in retrievable form by the operator;

(B) a request for the name or online contact information of a parent or child that is used for the sole purpose of obtaining parental consent or providing notice under this section and where such information is not maintained in retrievable form by the operator if parental consent is not obtained after a reasonable time;

(C) online contact information collected from a child that is used only to respond more than once directly to a specific request from the child and is not used to recontact the child beyond the scope of that request—

(i) if, before any additional response after the initial response to the child, the operator uses reasonable efforts to provide a parent notice of the online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(ii) without notice to the parent in such circumstances as the Commission may determine are appropriate, taking into consideration the benefits to the child of access to information and services, and risks to the security and privacy of the child, in regulations promulgated under this subsection;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on the site)—

(i) used only for the purpose of protecting such safety;

(ii) not used to recontact the child or for any other purpose; and

(iii) not disclosed on the site,

if the operator uses reasonable efforts to provide a parent notice of the name and online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) TERMINATION OF SERVICE.—The regulations shall permit the operator of a website or an online service to terminate service provided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) ENFORCEMENT.—Subject to sections 204 and 206, a violation of a regulation prescribed under subsection (a) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(d) INCONSISTENT STATE LAW.—No State or local government may impose any liability for commercial activities or actions by operators in interstate or foreign commerce in connection with an activity or action described in this title.that is inconsistent with the treatment of those activities or actions under this section.

SEC. 204. SAFE HARBORS.

(a) GUIDELINES.—An operator may satisfy the requirements of regulations issued under section 203(b) by following a set of self-regulatory guidelines, issued by representatives of the marketing or online industries, or by other persons, approved under subsection (b).

(b) INCENTIVES.—

(1) SELF-REGULATORY INCENTIVES.—In prescribing regulations under section 203, the Commission shall provide incentives for self-regulation by operators to implement the protections afforded children under the regulatory requirements described in subsection (b) of that section.

(2) DEEMED COMPLIANCE.—Such incentives shall include provisions for ensuring that a person will be deemed to be in compliance with the requirements of the regulations under section 203 if that person complies with guidelines that, after notice and comment, are approved by the Commission upon making a determination that the guidelines meet the requirements of the regulations issued under section 203.

(3) EXPEDITED RESPONSE TO REQUESTS.—The Commission shall act upon requests for safe harbor treatment within 180 days of the filing of the request, and shall set forth in writing its conclusions with regard to such requests.

(c) APPEALS.—Final action by the Commission on a request for approval of guidelines, or the failure to act within 180 days on a request for approval of guidelines, submitted under subsection (b) may be appealed to a district court of the United States of appropriate jurisdiction as provided for in section 706 of title 5, United States Code.

SEC. 205. ACTIONS BY STATES.

(a) In General.—

(1) Civil actions.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates any regulation of the Commission prescribed under section 203(b), the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with the regulation;

(C) obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.

(2) Notice.—

(A) In general.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) Exemption.—

(i) In general.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) Notification.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) Intervention.—

(1) In general.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) Effect of intervention.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(3) Amicus curiae.—Upon application to the court, a person whose self-regulatory guidelines have been approved by the Commission and are relied upon as a defense by any defendant to a proceeding under this section may file amicus curiae in that proceeding.

(c) Construction.—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) Actions by the Commission.—In any case in which an action is instituted by or on behalf of the Commission for violation of any regulation prescribed under section 293, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that regulation.

(e) Venue; Service of Process.—

(1) Venue.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) Service of process.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 206. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) In General.—Except as otherwise provided, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) Provisions.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et. seq.), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et. seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. (2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) Exercise of Certain Powers.—For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

(d) Actions by the Commission.—The Commission shall prevent any person from violating a rule of the Commission under section 203 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any entity that violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(e) Effect on Other Laws.—Nothing contained in the Act shall be construed to limit the authority of the Commission under any other provisions of law.

SEC. 207. REVIEW.

(a) In General.—Not later than 5 years after the effective date of the regulations initially issued under section 203, the Commission shall—

(1) review the implementation of this title, including the effect of the implementation of this title on practices relating to the collection and disclosure of information relating to children, children's ability to obtain access to information of their choice online, and on the availability of websites directed to children; and

(2) prepare and submit to Congress a report on the results of the review under paragraph (1).

SEC. 208. EFFECTIVE DATE.

Sections 203(a), 205, and 206 of this title take effect on the later of—

(1) the date that is 18 months after the date of enactment of this Act; or

(2) the date on which the Commission rules on the first application for safe harbor treatment under section 204 if the Commission does not rule on the first such application within 1 year after the date of enactment of this Act, but in no case later than the date that is 30 months after the date of enactment of this Act.

SHELBY AMENDMENT NO. 3776

(Ordered to lie on the table.)

Mr. SHELBY submitted an amendment intended to be proposed by him to amendment No. 3685 submitted by Mr. Shelby to the bill, S. 442, supra; as follows:

In lieu of the language to be inserted, insert the following,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Internet Tax Freedom Act".

TITLE I—MORATORIUM ON CERTAIN TAXES

SEC. 101. MORATORIUM.

(a) Moratorium.—No State or political subdivision thereof shall impose any of the following taxes on transactions occurring during the period beginning on July 29, 1998, and ending 3 years after the date of the enactment of this Act:

(1) Taxes on Internet access.

(2) Bit taxes.

(3) Multiple or discriminatory taxes on electronic commerce.

(b) Application of Moratorium.—Subsection (a) shall not apply with respect to the provision of Internet access that is offered for sale as part of a package of services that includes services other than Internet access, unless the service provider separately states that portion of the billing that applies to such services on the user's bill.

SEC. 102. ADVISORY COMMISSION ON ELECTRONIC COMMERCE.

(a) ESTABLISHMENT OF COMMISSION.—There is established a commission to be known as the Advisory Commission on Electronic Commerce (in this title referred to as the "Commission"). The Commission shall—

(1) be composed of 16 members appointed in accordance with subsection (b), including the chairperson who shall be selected by the members of the Commission from among themselves; and

(2) conduct its business in accordance with the provisions of this title.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commissioners shall serve for the life of the Commission. The membership of the Commission shall be as follows:

(A) Four representatives from the Federal Government comprised of the Secretary of Commerce, the Secretary of State, the Secretary of the Treasury, and the United States Trade Representative, or their respective representatives.

(B) Six representatives from State and local governments comprised of—

(i) two representatives appointed by the Majority Leader of the Senate;

(ii) one representative appointed by the Minority Leader of the Senate;

(iii) two representatives appointed by the Speaker of the House of Representatives; and

(iv) one representative appointed by the Minority Leader of the House of Representatives.

(C) Six representatives of the electronic industry and consumer groups comprised of—

(i) two representatives appointed by the Majority Leader of the Senate;

(ii) one representative appointed by the Minority Leader of the Senate;

(iii) two representatives appointed by the Speaker of the House of Representatives; and

(iv) one representative appointed by the Minority Leader of the House of Representatives.

(2) APPOINTMENTS.—Appointments to the Commission shall be made not later than 45 days after the date of the enactment of this Act. The chairperson shall be selected not later than 60 days after the date of the enactment of this Act.

(3) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) ACCEPTANCE OF GIFTS AND GRANTS.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) SUNSET.—The Commission shall terminate 18 months after the date of the enactment of this Act.

(f) RULES OF THE COMMISSION.—

(1) QUORUM.—Nine members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) MEETINGS.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) OPPORTUNITIES TO TESTIFY.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) ADDITIONAL RULES.—The Commission may adopt other rules as needed.

(g) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) ISSUES TO BE STUDIED.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) BIT TAX.—The term "bit tax" means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) DISCRIMINATORY TAX.—The term "discriminatory tax" means any tax imposed by a State or political subdivision thereof on electronic commerce that—

(A) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means;

(B) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period; or

(C) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving the same or similar property, goods, services, or information accomplished through other means.

(3) ELECTRONIC COMMERCE.—The term "electronic commerce" means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) INTERNET.—The term "Internet" means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocol, to transmit information.

(5) INTERNET ACCESS.—The term "Internet access" means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. Such term does not include telecommunications services.

(6) MULTIPLE TAX.—

(A) IN GENERAL.—The term "multiple tax" means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) EXCEPTION.—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) SALES OR USE TAX.—For purposes of subparagraph (B), the term "sales or use

tax" means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) STATE.—The term "State" means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) TAX.—

(A) IN GENERAL.—The term "tax" means—

(i) any levy, fee, or charge imposed under governmental authority by any governmental entity; or

(ii) the imposition of or obligation to collect and to remit to a governmental entity any such levy, fee, or charge imposed by a governmental entity.

(B) EXCEPTION.—Such term shall not include any franchise fees or similar fees imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573).

(9) TELECOMMUNICATIONS SERVICES.—The term "telecommunications services" has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

TITLE II—OTHER PROVISIONS

SEC. 201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

SEC. 202. NATIONAL TRADE ESTIMATE.

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking "and" at the end of clause (i);

(ii) by inserting "and" at the end of clause (ii); and

(iii) by inserting after clause (ii) the following new clause:

"(iii) United States electronic commerce,"; and

(B) in subparagraph (C)—

(i) by striking "and" at the end of clause (i);

(ii) by inserting "and" at the end of clause (ii);

(iii) by inserting after clause (ii) the following new clause:

"(iii) the value of additional United States electronic commerce,"; and

(iv) by inserting "or transacted with," after "or invested in";

(2) in subsection (a)(2)(E)—

(A) by striking "and" at the end of clause (i);

(B) by inserting "and" at the end of clause (ii); and

(C) by inserting after clause (ii) the following new clause:

"(iii) the value of electronic commerce transacted with,"; and

(3) by adding at the end the following new subsection:

"(d) ELECTRONIC COMMERCE.—For purposes of this section, the term 'electronic commerce' has the meaning given that term in section 104(3) of the Internet Tax Freedom Act.".

SEC. 203. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

(a) IN GENERAL.— It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the America, the North American Free Trade Agreement, and other appropriate venues.

(b) NEGOTIATING OBJECTIVES.—The negotiating objectives of the United States shall be—

(1) to assure that electronic commerce is free from—

(A) tariff and nontariff barriers;

(B) burdensome and discriminatory regulation and standards; and

(C) discriminatory taxation; and

(2) to accelerate the growth of electronic commerce by expanding market access opportunities for—

(A) the development of telecommunications infrastructure;

(B) the procurement of telecommunications equipment;

(C) the provision of Internet access and telecommunications services; and

(D) the exchange of goods, services, and digitalized information.

(c) ELECTRONIC COMMERCE.—For purposes of this section, the term "electronic commerce" has the meaning given that term in section 104(3).

SEC. 204. NO EXPANSION OF TAX AUTHORITY.

Nothing in this Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

SEC. 205. PRESERVATION OF AUTHORITY.

Nothing in this Act shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104–104) or the amendments made by such Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Government Paperwork Elimination Act."

SEC. 2. DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

"(vi) the acquisition and use of information technology, including the use of alternative information technologies (such as the use of electronic submission, maintenance, or disclosure of information) to substitute for paper, and the use and acceptance of electronic signatures.".

SEC. 3. PROCEDURES.

(a) Within 18 months after enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use.

(1) The procedures shall be compatible with standards and technology for electronic signatures as may be generally used in commerce and industry and by State governments, based upon consultation with appropriate private sector and State government standard setting bodies.

(2) Such procedures shall not inappropriately favor one industry or technology.

(3) An electronic signature shall be as reliable as is appropriate for the purpose, and efforts shall be made to keep the information submitted intact.

(4) Successful submission of an electronic form shall be electronically acknowledged.

(5) In accordance with all other sections of the Act, to the extent feasible and appropriate, and described in a written finding, an agency, when it expects to receive electronically 50,000 or more submittals of a particular form, shall take all steps necessary to ensure that multiple formats of electronic signatures are made available for submitting such forms.

SEC. 4. AUTHORITY AND FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, within 5 years of the date of enactment of this Act, executive agencies provide for the optional use of electronic maintenance, submission, or disclosure of information where practicable, as an alternative information technology to substitute for paper, and the use and acceptance of electronic signatures where practicable.

SEC. 5. ELECTRONIC STORAGE OF FORMS.

Within 18 months of enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use to permit employer electronic storage and filing of forms containing information pertaining to employees.

SEC. 6. STUDY.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget, shall conduct an ongoing study of paperwork reduction and electronic commerce, the impact on individual privacy, and the security and authenticity of transactions due to the use of electronic signatures pursuant to this Act, and shall report the findings to Congress.

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with agency procedures and guidelines established pursuant to this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures and guidelines, shall not be denied legal effect, validity or enforceability because they are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH OTHER LAWS.

Nothing in this title shall apply to the Department of the Treasury or the Internal Revenue Service, to the extent that—

(1) it involves the administration of the internal revenue laws; and

(2) it conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) EXECUTIVE AGENCY.—The term "executive agency" has the meaning given that term in section 105 of title 5, United States Code.

(2) ELECTRONIC SIGNATURE.—The term "electronic signature" means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of such electronic message; and

(B) indicates such person's approval of the information contained in such electronic message.

(3) FORM, QUESTIONNAIRE, OR SURVEY.—The terms "form", "questionnaire", and "survey" include documents produced by an agency to facilitate interaction between an agency and non-government persons.

TITLE II—CHILDREN'S ONLINE PRIVACY PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the "Children's Online Privacy Protection Act of 1999".

SEC. 202. DEFINITIONS.

In this title:

(1) CHILD.—the term "child" means an individual under the age of 13.

(2) OPERATOR.—The term "operator"—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

(i) among the several States or with 1 or more foreign nations;

(ii) in any territory of the United States or in the District of Columbia, or between any such territory and—

(I) another such territory; or

(II) any State or foreign nation; or

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) does not include any non-profit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) COMMISSION.—The term "Commission" means the Federal Trade Commission.

(4) DISCLOSURE.—The term "disclosure" means, with respect to personal information—

(A) the release of personal information collected from a child in identifiable form by an operator for any purpose, except where such information is provided to a person other than the operator who provides support for the internal operations of the website and does not disclose or use that information for any other purpose; and

(B) making personal information collected from a child by a website or online service directed to children or with actual knowledge that such information was collected from a child, publicly available in identifiable form, by any means including by a public posting, through the Internet, or through—

(i) a home page of a website;

(ii) a pen pal service;

(iii) an electronic mail service;

(iv) a message board; or

(v) a chat room.

(5) FEDERAL AGENCY.—The term "Federal agency" means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(6) INTERNET.—The term "Internet" means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(7) PARENT.—The term "parent" includes a legal guardian.

(8) PERSONAL INFORMATION.—The term "personal information" means individually identifiable information about an individual collected online, including—

(A) a first and last name;

(B) a home or other physical address including street name and name of a city or town;

(C) an e-mail address;

(D) a telephone number;

(E) a Social Security number;

(F) any other identifier that the Commission determines permits the physical or online contracting of a specific individual; or

(G) information concerning the child or the parents of that child that the website collects online from the child and combines with an identifier described in this paragraph.

(9) VERIFIABLE PARENTAL CONSENT.—The term "verifiable parental consent" means any reasonable effort (taking into consideration available technology), including a request for authorization for future collection use, and disclosure described in the notice, to ensure that a parent of a child receives notice of the operator's personal information collection, use, and disclosure practices, and authorizes the collection, use, and disclosure, as applicable, of personal information and the subsequent use of that information before that information is collected from that child.

(10) WEBSITE OR ONLINE SERVICE DIRECTED TO CHILDREN.—

(A) IN GENERAL.—The term "website or online service directed to children" means—

(i) A commercial website or online service that is targeted to children; or

(ii) that portion of a commercial website or online service that is targeted to children.

(B) LIMITATION.—A commercial website or online service, or a portion of a commercial website or online service, shall not be deemed directed to children solely for referring or linking to a commercial website or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

(11) PERSON.—The term "person" means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

(12) ONLINE CONTACT INFORMATION.—The term "online contact information" means an e-mail address or another substantially similar identifier that permits direct contact with a person online.

SEC. 203. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE COLLECTION AND USE OF PERSONAL INFORMATION FROM AND ABOUT CHILDREN ON THE INTERNET.

(A) ACTS PROHIBITED.—

(1) IN GENERAL.—It is unlawful for an operator of a website or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under subsection (b).

(2) DISCLOSURE TO PARENT PROTECTED.—Notwithstanding paragraph (1), neither an operator of such a website or online service nor the operator's agent shall be held to be liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under subsection (b)(1)(B)(iii) to the parent of a child.

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Commission shall promulgate under section 553 of title 5, United States Code, regulations that—

(A) require the operator of any website or online service directed to children that collects personal information from children or the operator of a website or online service that has actual knowledge that it is collecting personal information from a child—

(i) to provide notice on the website of what information is collected from children by the operator, how the operator uses such information, and the operator's disclosure practices for such information; and

(ii) to obtain verifiable parental consent for the collection, use, or disclosure of personal information from children;

(B) require the operator to provide, upon request of a parent under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) the opportunity at any time to refuse to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child; and

(iii) notwithstanding any other provision of law, a means that is reasonable under the circumstances for the parent to obtain any personal information collected from that child;

(C) prohibit conditioning a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity; and

(D) require the operator of such a website or online service to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

(2) WHEN CONSENT NOT REQUIRED.—The regulations shall provide that verifiable parental consent under paragraph (1)(A)(ii) is not required in the case of—

(A) online contact information collected from a child that is used only to respond directly on a one-time basis to a specific request from the child and is not used to recontact the child and is not maintained in retrievable form by the operator;

(B) a request for the name or online contact information of a parent or child that is used for the sole purpose of obtaining parental consent or providing notice under this section and where such information is not maintained in retrievable form by the operator if parental consent is not obtained after a reasonable time;

(C) online contact information collected from a child that is used only to respond more than once directly to a specific request from the child and is not used to recontact the child beyond the scope of that request—

(i) if, before any additional response after the initial response to the child, the operator uses reasonable efforts to provide a parent notice of the online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(ii) without notice to the parent in such circumstances as the Commission may determine are appropriate, taking into consideration the benefits to the child of access to information and services, and risks to the security and privacy of the child, in regulations promulgated under this subsection;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on the site)—

(i) used only for the purpose of protecting such safety;

(ii) not used to recontact the child or for any other purpose; and

(iii) not disclosed on the site,

if the operator uses reasonable efforts to provide a parent notice of the name and online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) Termination of service.—The regulations shall permit the operator of a website or an online service to terminate service provided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) Enforcement.—Subject to sections 204 and 206, a violation of a regulation prescribed under subsection (a) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(d) Inconsistent State Law.—No State or local government may impose any liability for commercial activities or actions by operators in interstate or foreign commerce in connection with an activity or action described in this title that is inconsistent with the treatment of those activities or actions under this section.

SEC. 204. SAFE HARBORS.

(a) Guidelines.—An operator may satisfy the requirements of regulations issued under section 203(b) by following a set of self-regulatory guidelines, issued by representatives of the marketing or online industries, or by other persons, approved under subsection (b).

(b) Incentives.—

(1) Self-regulatory incentives.—In prescribing regulations under section 203, the Commission shall provide incentives for self-regulation by operators to implement the protections afforded children under the regulatory requirements described in subsection (b) of that section.

(2) Deemed compliance.—Such incentives shall include provisions for ensuring that a person will be deemed to be in compliance with the requirements of the regulations under section 203 if that person complies with guidelines that, after notice and comment, are approved by the Commission upon making a determination that the guidelines meet the requirements of the regulations issued under section 203.

(3) Expedited response to requests.—The Commission shall act upon requests for safe harbor treatment within 180 days of the filing of the request, and shall set forth in writing its conclusions with regard to such requests.

(c) Appeals.—Final action by the Commission on a request for approval of guidelines, or the failure to act within 180 days on a request for approval of guidelines, submitted under subsection (b) may be appealed to a district court of the United States of appropriate jurisdiction as provided for in section 706 of title 5, United States Code.

SEC. 205. ACTIONS BY STATES.

(a) In General.—

(1) Civil actions.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates any regulation of the Commission prescribed under section 203(b), the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with the regulation;

(C) obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.

(2) Notice.—

(A) In general.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) Exemption.—

(i) In general.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) Notification.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) Intervention.—

(1) In general.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) Effect of intervention.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(3) Amicus curiae.—Upon application to the court, a person whose self-regulatory guidelines have been approved by the Commission and are relied upon as a defense by any defendant to a proceeding under this section may file amicus curiae in that proceeding.

(c) Construction.—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) Actions by the Commission.—In any case in which an action is instituted by or on behalf of the Commission for violation of any regulation prescribed under section 293, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that regulation.

(e) Venue; Service of Process.—

(1) Venue.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) Service of process.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 206. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) In General.—Except as otherwise provided, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) Provisions.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et. seq.), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et. seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. (2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) Exercise of Certain Powers.—For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

(d) Actions by the Commission.—The Commission shall prevent any person from violating a rule of the Commission under section 203 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any entity that violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(e) Effect on Other Laws.—Nothing contained in the Act shall be construed to limit the authority of the Commission under any other provisions of law.

SEC. 207. REVIEW.

(a) In General.—Not later than 5 years after the effective date of the regulations initially issued under section 203, the Commission shall—

(1) review the implementation of this title, including the effect of the implementation of this title on practices relating to the collection and disclosure of information relating to children, children's ability to obtain access to information of their choice online, and on the availability of websites directed to children; and

(2) prepare and submit to Congress a report on the results of the review under paragraph (1).

SEC. 208. EFFECTIVE DATE.

Sections 203(a), 205, and 206 of this title take effect on the later of—

(1) the date that is 18 months after the date of enactment of this Act; or

(2) the date on which the Commission rules on the first application for safe harbor treatment under section 204 if the Commission does not rule on the first such application within 1 year after the date of enactment of this Act, but in no case later than the date that is 30 months after the date of enactment of this Act.

ENZI AMENDMENTS NOS. 3777–3778

(Ordered to lie on the table.)

Mr. ENZI submitted two amendments intended to be proposed by him to the bill, S. 442, supra; as follows:

Amendment No. 3777

On page ____, line ____ of the amendment strike "____" and insert the following: "including at least one who represents a State that does not impose an income tax".

On page ____, line ____, of the amendment, strike "____" and insert the following:

"( ) Preservation of State and Local Taxing Authority.—Except as provided in this section, nothing in this Act shall be construed to modify, impair, or supersede, or authorize the modification, impairment, or superseding of, any State or local law pertaining to taxation that is otherwise permissible by or under the Constitution of the United States or other Federal law and in effect on the date of enactment of this Act.

( ) Liabilities and Pending Cases.—Nothing in this Act affects liability for taxes accrued and enforced before the date of enactment of this Act, nor does this Act affect ongoing litigation relating to such taxes."

DORGAN AMENDMENT NO. 3779

(Ordered to lie on the table.)

Mr. DORGAN submitted an amendment intended to be proposed by him to amendment No. 3719 submitted by Mr. Shelby to the bill, S. 442, supra; as follows:

On page 2, after line 14, add the following:

(d) Definitions.—For the purposes of this section, a tax has been "generally imposed and actually enforced" if—

(1) a tax was authorized by statute prior to October 1, 1998; and

(2) provider of Internet access services had a reasonable opportunity to know by virtue of a rule or other public proclamation made by the appropriate administration agency of the State or political subdivision thereof, that such agency had, prior to October 1, 1998—

(A) interpreted such tax to apply to Internet access services:

(B) applied such tax to Internet access services; or

(C) assessed such tax to charges for Internet access.

DODD AMENDMENT NO. 3780

Mr. DODD proposed an amendment to the bill, S. 442, supra; as follows:

At the end of the amendment, add:

(d) Additional Exception to Moratorium.—

(1) In general.—Subsection (a) shall also not apply with respect to an Internet access provider, unless, at the time of entering into an agreement with a customer for the provision of Internet access services, such provider offers such customer (either for a fee or at no charge) screening software that is designed to permit the customer to limit access to material on the Internet that is harmful to minors.

(2) Definitions.—In this subsection:

(A) Internet access provider.—The term 'Internet access provider' means a person engaged in the business of providing a computer and communications facility through which a customer may obtain access to the Internet, but does not include a common carrier to the extent that it provides only telecommunications services.

(B) Internet access services.—The term 'Internet access services' means the provision of computer and communications services through which a customer using a computer and a modem or other communications device may obtain access to the Internet, but does not include telecommunications services provided by a common carrier.

(C) Screening software.—The term "screening software" means software that is designed to permit a person to limit access to material on the Internet that is harmful to minors.

(3) Applicability.—Paragraph (1) shall apply to agreements for the provision of Internet access services entered into on or after the date that is 6 months after the date of enactment of this Act.

DODD AMENDMENT NO. 3781

(Ordered to lie on the table.)

Mr. DODD submitted an amendment intended to be proposed to the bill, S. 442, supra; as follows:

At the end of the amendment, add:

SEC. . EXCEPTION TO MORATORIUM.

(a) In General.—Section 101(a) shall not apply with respect to an Internet access provider, unless, at the time of entering into an agreement with a customer for the provision of Internet access services, such provider offers such customer (either for a fee or at no charge) screening software that is designed to permit the customer to limit access to material on the Internet that is harmful to minors.

(b) Definitions.—In this section:

(1) Internet access provider.—The term "Internet access provider" means a person engaged in the business of providing a computer and communications facility through which a customer may obtain access to the Internet, but does not include a common carrier to the extent that it provides only telecommunications services.

(2) Internet access services.—The term "Internet access services" means the provision of computer and communications services through which a customer using a computer and a modem or other communications device may obtain access to the Internet, but does not include telecommunications services provided by a common carrier.

(3) Screening software.—The term "screening software" means software that is designed to permit a person to limit access to material on the Internet that is harmful to minors.

(c) Applicability.—Subsection (a) shall apply to agreements for the provision of Internet access services entered into on or after the date that is 6 months after the date of enactment of this Act.

COPYRIGHT TERM EXTENSION ACT OF 1998

HATCH AMENDMENT NO. 3782

Mr. LOTT (for Mr. Hatch) proposed an amendment to the bill (S. 505) to amend the provisions of title 17, United States Code, with respect to the duration of copyright, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

TITLE I—COPYRIGHT TERM EXTENSION

SEC. 101. SHORT TITLE.

This title may be referred to as the "Sonny Bono Copyright Term Extension Act".

SEC. 102. DURATION OF COPYRIGHT PROVISIONS.

(a) Preemption With Respect to Other Laws.—Section 301(c) of title 17, United States Code, is amended by striking "February 15, 2047" each place it appears and inserting "February 15, 2067".

(b) Duration of Copyright: Works Created on or After January 1, 1978.—Section

302 of title 17, United States Code, is amended—

(1) in subsection (a) by striking "fifty" and inserting "70";

(2) in subsection (b) by striking "fifty" and inserting "70";

(3) in subsection (c) in the first sentence—

(A) by striking "seventy-five" and inserting "95"; and

(B) by striking "one hundred" and inserting "120"; and

(4) in subsection (e) in the first sentence—

(A) by striking "seventy-five" and inserting "95";

(B) by striking "one hundred" and inserting "120"; and

(C) by striking "fifty" each place it appears and inserting "70".

(c) Duration of Copyright: Works Created but Not Published or Copyrighted Before January 1, 1978.—Section 303 of title 17, United States Code, is amended in the second sentence by striking "December 31, 2027" and inserting "December 31, 2047".

(d) Duration of Copyright: Subsisting Copyrights.—

(1) In general.—Section 304 of title 17, United States Code, is amended—

(A) in subsection (a)—

(i) in paragraph (1)—

(I) in subparagraph (B) by striking "47" and inserting "67"; and

(II) in subparagraph (C) by striking "47" and inserting "67";

(ii) in paragraph (2)—

(I) in subparagraph (A) by striking "47" and inserting "67"; and

(II) in subparagraph (B) by striking "47" and inserting "67"; and

(iii) in paragraph (3)—

(I) in subparagraph (A)(i) by striking "47" and inserting "67"; and

(II) in subparagraph (B) by striking "47" and inserting "67";

(B) by amending subsection (b) to read as follows:

"(b) Copyrights in Their Renewal Term at the Time of the Effective Date of the Sonny Bono Copyright Term Extension Act.—Any copyright still in its renewal term at the time that the Sonny Bono Copyright Term Extension Act becomes effective shall have a copyright term of 95 years from the date copyright was originally secured.";

(C) in subsection (c)(4)(A) in the first sentence by inserting "or, in the case of a termination under subsection (d), within the five-year period specified by subsection (d)(2)," after "specified by clause (3) of this subsection,"; and

(D) by adding at the end the following new subsection:

"(d) Termination Rights Provided in Subsection (c) Which Have Expired on or Before the Effective Date of the Sonny Bono Copyright Term Extension Act.—In the case of any copyright other than a work made for hire, subsisting in its renewal term on the effective date of the Sonny Bono Copyright Term Extension Act for which the termination right provided in subsection (c) has expired by such date, where the author or owner of the termination right has not previously exercised such termination right, the exclusive or nonexclusive grant of a transfer or license of the renewal copyright or any right under it, executed before January 1, 1978, by any of the persons designated in subsection (a)(1)(C) of this section, other than by will, is subject to termination under the following conditions:

"(1) The conditions specified in subsection (c)(1), (2), (4), (5), and (6) of this section apply to terminations of the last 20 years of copyright term as provided by the amendments made by the Sonny Bono Copyright Term Extension Act.

"(2) Termination of the grant may be effected at any time during a period of 5 years beginning at the end of 75 years from the date copyright was originally secured.".

(2) Copyright Amendments Act of 1992.—Section 102 of the Copyright Amendments Act of 1992 (Public Law 102–307; 106 Stat. 266; 17 U.S.C. 304 note) is amended—

(A) in subsection (c)—

(i) by striking "47" and inserting "67";

(ii) by striking "(as amended by subsection (a) of this section)"; and

(iii) by striking "effective date of this section" each place it appears and inserting "effective date of the Sonny Bono Copyright Term Extension Act"; and

(B) in subsection (g)(2) in the second sentence by inserting before the period the following: ", except each reference to forty-seven years in such provisions shall be deemed to be 67 years".

SEC. 103. TERMINATION OF TRANSFERS AND LICENSES COVERING EXTENDED RENEWAL TERM.

Sections 203(a)(2) and 304(c)(2) of title 17, United States Code, are each amended—

(1) by striking "by his widow or her widower and his or her children or grandchildren"; and

(2) by inserting after subparagraph (C) the following:

"(D) In the event that the author's widow or widower, children, and grandchildren are not living, the author's executor, administrator, personal representative, or trustee shall own the author's entire termination interest.".

SEC. 104. REPRODUCTION BY LIBRARIES AND ARCHIVES.

Section 108 of title 17, United States Code, is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following:

"(h)(1) For purposes of this section, during the last 20 years of any term of copyright of a published work, a library or archives, including a nonprofit educational institution that functions as such, may reproduce, distribute, display, or perform in facsimile or digital form a copy or phonorecord of such work, or portions thereof, for purposes of preservation, scholarship, or research, if such library or archives has first determined, on the basis of a reasonable investigation, that none of the conditions set forth in subparagraphs (A), (B), and (C) of paragraph (2) apply.

"(2) No reproduction, distribution, display, or performance is authorized under this subsection if—

"(A) the work is subject to normal commercial exploitation;

"(B) a copy or phonorecord of the work can be obtained at a reasonable price; or

"(C) the copyright owner or its agent provides notice pursuant to regulations promulgated by the Register of Copyrights that either of the conditions set forth in subparagraphs (A) and (B) applies.

"(3) The exemption provided in this subsection does not apply to any subsequent uses by users other than such library or archives.".

SEC. 105. VOLUNTARY NEGOTIATION REGARDING DIVISION OF ROYALTIES.

It is the sense of the Congress that copyright owners of audiovisual works for which the term of copyright protection is extended by the amendments made by this title, and the screenwriters, directors, and performers of those audiovisual works, should negotiate in good faith in an effort to reach a voluntary agreement or voluntary agreements with respect to the establishment of a fund or other mechanism for the amount of remuneration to be divided among the parties for the exploitation of those audiovisual works.

SEC. 106. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on the date of the enactment of this Act.

TITLE II—MUSIC LICENSING EXEMPTION FOR FOOD SERVICE OR DRINKING ESTABLISHMENTS

SEC. 201. SHORT TITLE.

This title may be cited as the "Fairness In Music Licensing Act of 1998."

SEC. 202. EXEMPTIONS.

(a) Exemptions for Certain Establishments.—Section 110 of title 17, United States Code is amended—

(1) in paragraph (5)—

(A) by striking "(5)" and inserting "(5)(A) except as provided in subparagraph (B),"; and

(B) by adding at the end the following:

"(B) communication by an establishment of a transmission or retransmission embodying a performance or display of a nondramatic musical work intended to be received by the general public, originated by a radio or television broadcast station licensed as such by the Federal Communications Commission, or, if an audiovisual transmission, by a cable system or satellite carrier, if—

"(i) in the case of an establishment other than a food service or drinking establishment, either the establishment in which the communication occurs has less than 2000 gross square feet of space (excluding space used for customer parking and for no other purpose), or the establishment in which the communication occurs has 2000 or more gross square feet of space (excluding space used for customer parking and for no other purpose) and—

"(I) if the performance is by audio means only, the performance is communicated by means of a total of not more than 6 loudspeakers, of which not more than 4 loudspeakers are located in any 1 room or adjoining outdoor space; or

"(II) if the performance or display is by audiovisual means, any visual portion of the performance or display is communicated by means of a total of not more than 4 audiovisual devices, of which not more than 1 audiovisual device is located in any 1 room, and no such audiovisual device has a diagonal screen size greater than 55 inches, and any audio portion of the performance or display is communicated by means of a total of not more than 6 loudspeakers, of which not more than 4 loudspeakers are located in any 1 room or adjoining outdoor space;

"(ii) in the case of a food service or drinking establishment, either the establishment in which the communication occurs has less than 3750 gross square feet of space (excluding space used for customer parking and for no other purpose), or the establishment in which the communication occurs has 3750 gross square feet of space or more (excluding space used for customer parking and for no other purpose) and—

"(I) if the performance is by audio means only, the performance is communicated by means of a total of not more than 6 loudspeakers, of which not more than 4 loudspeakers are located in any 1 room or adjoining outdoor space; or

"(II) if the performance or display is by audiovisual means, any visual portion of the performance or display is communicated by means of a total of not more than 4 audiovisual devices, of which not more than 1 audiovisual device is located in any 1 room, and no such audiovisual device has a diagonal screen size greater than 55 inches, and any audio portion of the performance or display is communicated by means of a total of not more than 6 loudspeakers, of which not more than 4 loudspeakers are located in any 1 room or adjoining outdoor space;

"(iii) no direct charge is made to see or hear the transmission or retransmission;

"(iv) the transmission or retransmission is not further transmitted beyond the establishment where it is received; and

"(v) the transmission or retransmission is licensed by the copyright owner of the work so publicly performed or displayed;"; and

(2) by adding after paragraph (10) the following:

"The exemptions provided under paragraph (5) shall not be taken into account in any administrative, judicial, or other governmental proceeding to set or adjust the royalties payable to copyright owners for the public performance or display of their works. Royalties payable to copyright owners for any public performance or display of their works other than such performances or displays as are exempted under paragraph (5) shall not be diminished in any respect as a result of such exemption".

(b) EXEMPTION RELATING TO PROMOTION.—Section 110(7) of title 17, United States Code, is amended by inserting "or of the audiovisual or other devices utilized in such performance," after "phonorecords of the work,".

SEC. 203. LICENSING BY PERFORMING RIGHTS SOCIETIES.

(a) IN GENERAL.—Chapter 5 of title 17, United States Code, is amended by adding at the end the following:

"§ 512. Determination of reasonable license fees for individual proprietors

"In the case of any performing rights society subject to a consent decree which provides for the determination of reasonable license rates or fees to be charged by the performing rights society, notwithstanding the provisions of that consent decree, an individual proprietor who owns or operates fewer than 7 non-publicly traded establishments in which nondramatic musical works are performed publicly and who claims that any license agreement offered by that performing rights society is unreasonable in its license rate or fee as to that individual proprietor, shall be entitled to determination of a reasonable license rate or fee as follows:

"(1) The individual proprietor may commence such proceeding for determination of a reasonable license rate or fee by filing an application in the applicable district court under paragraph (2) that a rate disagreement exists and by serving a copy of the application on the performing rights society. Such proceeding shall commence in the applicable district court within 90 days after the service of such copy, except that such 90-day requirement shall be subject to the administrative requirements of the court.

"(2) The proceeding under paragraph (1) shall be held, at the individual proprietor's election, in the judicial district of the district court with jurisdiction over the applicable consent decree or in that place of holding court of a district court that is the seat of the Federal circuit (other than the Court of Appeals for the Federal Circuit) in which the proprietor's establishment is located.

"(3) Such proceeding shall be held before the judge of the court with jurisdiction over the consent decree governing the performing rights society. At the discretion of the court, the proceeding shall be held before a special master or magistrate judge appointed by such judge. Should that consent decree provide for the appointment of an advisor or advisors to the court for any purpose, any such advisor shall be the special master so named by the court.

"(4) In any such proceeding, the industry rate shall be presumed to have been reasonable at the time it was agreed to or determined by the court. Such presumption shall in no way affect a determination of whether the rate is being correctly applied to the individual proprietor.

"(5) Pending the completion of such proceeding, the individual proprietor shall have the right to perform publicly the copyrighted musical compositions in the repertoire of the performing rights society by paying an interim license rate or fee into an interest bearing escrow account with the clerk of the court, subject to retroactive adjustment when a final rate or fee has been determined, in an amount equal to the industry rate, or, in the absence of an industry rate, the amount of the most recent license rate or fee agreed to by the parties.

"(6) Any decision rendered in such proceeding by a special master or magistrate judge named under paragraph (3) shall be reviewed by the judge of the court with jurisdiction over the consent decree governing the performing rights society. Such proceeding, including such review, shall be concluded within 6 months after its commencement.

"(7) Any such final determination shall be binding only as to the individual proprietor commencing the proceeding, and shall not be applicable to any other proprietor or any other performing rights society, and the performing rights society shall be relieved of any obligation of nondiscrimination among similarly situated music users that may be imposed by the consent decree governing its operations.

"(8) An individual proprietor may not bring more than one proceeding provided for in this section for the determination of a reasonable license rate or fee under any license agreement with respect to any one performing rights society.

"(9) For purposes of this section, the term 'industry rate' means the license fee a performing rights society has agreed to with, or which has been determined by the court for, a significant segment of the music user industry to which the individual proprietor belongs.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 17, United States Code, is amended by adding after the item relating to section 511 the following:

"512. Determination of reasonable license fees for individual proprietors.".

SEC. 204. PENALTIES.

Section 504 of title 17, United States Code, is amended by adding at the end the following:

"(d) ADDITIONAL DAMAGES IN CERTAIN CASES.—In any case in which the court finds that a defendant proprietor of an establishment who claims as a defense that its activities were exempt under section 110(5) did not have reasonable grounds to believe that its use of a copyrighted work was exempt under such section, the plaintiff shall be entitled to, in addition to any award of damages under this section, an additional award of two times the amount of the license fee that the proprietor of the establishment concerned should have paid the plaintiff for such use during the preceding period of up to 3 years.".

SEC. 205. DEFINITIONS.

Section 101 of title 17, United States Code, is amended—

(1) by inserting after the definition of "display" the following:

"An 'establishment' is a store, shop, or any similar place of business open to the general public for the primary purpose of selling goods or services in which the majority of the gross square feet of space that is nonresidential is used for that purpose, and in which nondramatic musical works are performed publicly.

"A 'food service or drinking establishment' is a restaurant, inn, bar, tavern, or any other similar place of business in which the public or patrons assemble for the primary purpose of being served food or drink, in which the majority of the gross square feet of space that is nonresidential is used for that purpose, and in which nondramatic musical works are performed publicly.";

(2) by inserting after the definition of "fixed" the following:

"The 'gross square feet of space' of an establishment means the entire interior space of that establishment, and any adjoining outdoor space used to serve patrons, whether on a seasonal basis or otherwise.";

(3) by inserting after the definition of "perform" the following:

"A 'performing rights society' is an association, corporation, or other entity that licenses the public performance of nondramatic musical works on behalf of copyright owners of such works, such as the American Society of Composers, Authors and Publishers (ASCAP), Broadcast Music, Inc. (BMI), and SESAC, Inc."; and

(4) by inserting after the definition of "pictorial, graphic and sculptural works" the following:

"A 'proprietor' is an individual, corporation, partnership, or other entity, as the case may be, that owns an establishment, or a food service or drinking establishment, except that no owner or operator of a radio or television station licensed by the Federal Communications Commission, cable system or satellite carrier, cable or satellite carrier service or programmer, provider of online services or network access or the operator of facilities therefor, telecommunications company, or any other such audio or audiovisual service or programmer now known or as may be developed in the future, commercial subscription music service, or owner or operator of any other transmission service, shall under any circumstances be deemed to be a proprietor.".

SEC. 206. CONSTRUCTION OF TITLE.

Except as otherwise provided in this title, nothing in this title shall be construed to relieve any performing rights society of any obligation under any State or local statute, ordinance, or law, or consent decree or other court order governing its operation, as such statute, ordinance, law, decree, or order is in effect on the date of the enactment of this Act, as it may be amended after such date, or as it may be issued or agreed to after such date.

SEC. 207. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 90 days after the date of the enactment of this Act.

INTERNET TAX FREEDOM ACT

McCAIN (AND WYDEN) AMENDMENT NO. 3783

Mr. McCAIN (for himself and Mr. WYDEN) proposed an amendment to the bill, S. 442, supra; as follows:

On line 5, strike "3" and insert "4".

ALTERNATIVE DISPUTE RESOLUTION ACT OF 1998

GRASSLEY (AND DURBIN) AMENDMENT NO. 3784

Mr. McCAIN (for Mr. GRASSLEY for himself and Mr. DURBIN) proposed an amendment to the bill (H.R. 3528) to amend title 28, United States Code, with respect to the use of alternative dispute resolution processes in United States district courts, and for other purposes; as follows:

Page 6, line 17, strike "2071(b)" and substitute "2071(a)".

Page 8, line 1, strike "SEC. 5" and substitute "**SEC. 6**".

Page 9, line 12, strike "action" and substitute "program."

Page 9, line 13, strike "section 906" and substitute "Title IX."

Page 9, lines 14 and 15, strike "100–102" and substitute "100–702."

Page 9, line 15, strike "as in effect prior to the date of its repeal" and substitute "as amended by Section 1 of Public Law 105–53."

Page 13, line 10, after "arbitrators" insert "and other neutral."

CHEYENNE RIVER SIOUX TRIBE EQUITABLE COMPENSATION ACT

CAMPBELL AMENDMENT NO. 3785

(Ordered to lie on the table.)

Mr. CAMPBELL submitted an amendment intended to be proposed to the bill (S. 1905) to provide for equitable compensation for the Cheyenne River Sioux Tribe, and for other purposes; as follows:

On page 23, strike all of subsection 5(b) on lines 1 through 3, and redesignate subsection (c) on line 4 as subsection (b).

FALL RIVER WATER USERS DISTRICT RURAL WATER SYSTEM ACT OF 1998

DASCHLE (AND JOHNSON) AMENDMENT NO. 3786

Mr. McCAIN (for Mr. DASCHLE for himself and Mr. JOHNSON) proposed an amendment to the bill (S. 744) to authorize the construction of the Fall River Water Users District Rural Water System and authorize financial assistance to the Fall River Water Users District, a non-profit corporation, in the planning and construction of the water supply system, and for other purposes, as follows:

On page 2, line 3, strike "1997" and insert "1998."

On page 6, line 3, strike "has" and insert "and plan for a water conservation program here."

On page 9, line 2, strike "80" and insert "70."

On page 9, line 11, strike "20" and insert "30."

PERKINS COUNTY RURAL WATER SYSTEM ACT OF 1998

DASCHLE (AND JOHNSON) AMENDMENT NO. 3787

Mr. McCAIN (for Mr. DASCHLE for himself and Mr. JOHNSON) proposed an amendment to the bill (S. 2117) to authorize the construction of the Perkins County Rural Water System and authorize financial assistance to the Perkins County Rural Water System, Inc., a nonprofit corporation, in the planning and construction of the water supply system, and for other purposes; as follows:

On page 2, line 3, strike "1997" and insert "1998."

On page 6, line 1, strike "has" and insert "and a plan for a water conservation program have."

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. McCAIN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, October 7, 1998, to conduct a hearing of the following nominee: Ira G. Peppercorn, of Indiana, to be Director of the Office of Multifamily Housing Assistance Restructuring.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. McCAIN. Mr. PRESIDENT. I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to conduct a hearing to receive testimony from Isadore Rosenthal, nominated by the President to be a Member of the Chemical Safety and Hazard Investigation Board; and William Clifford Smith, nominated by the President to be a Member of the Mississippi River Commission, Wednesday, October 7, 9:30 a.m., Hearing Room (SD–406).

THE PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. McCAIN. Mr. President, I ask unanimous consent tha the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, October 7, 1998 at 10:00 a. to hold a hearing.

THE PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. McCAIN. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Wednesday, October 7, 1998, at 10:00 a.m. for a hearing on the nominations of Dana Covington to be Commissioner, Postal Rate Commission, and Ed Gleiman to be Commissioner, Postal Rate Commission.

THE PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. McCAIN. Mr. President, I ask unanimous consent that the Senate Committee on Indian Affairs be authorized to meet during the session of the Senate on Wednesday, October 7, 1998 at 9:30 a.m. to conduct a hearing on H.R. 1833, to amend the Indian Self-Determination and Education Assistance Act to provide for further Self-Governance for Indian tribes. The hearing will be held in room 485 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. McCAIN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, October 7, 1998 at 2:00 p.m. in room 226 of the Senate Dirksen Office Building to hold a hearing on: "Judicial Nominations."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. McCAIN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, October 7, 1998 immediately following the 2:00 Hearing in room 226 of the Senate Hart Office Building to hold a hearing on: "A Review of the Radiation Exposure Compensation Act."

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON THE YEAR 2000 TECHNOLOGY PROBLEM

Mr. McCAIN. Mr. President, I ask unanimous consent that the Special Committee on the Year 2000 Technology Problem be permitted to meet on October 7, 1998, at 9:30 a.m. for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, RESTRUCTURING AND THE DISTRICT OF COLUMBIA

Mr. McCAIN. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Subcommittee on Oversight of Government Management, Restructuring and the District of Columbia to meet on Wednesday, October 7, 1998, at 2:00 p.m. for a hearing on "Are Military Adultery Standards Changing: What Are the Implications?"

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRIBUTE TO KIMBEL E. OELKE

• Mr. SARBANES. Mr. President, I rise today to honor the memory of Kimbel E. Oelke, publisher of the Dundalk Eagle—a homespun and pioneering publication committed to covering the local news stories that directly affect the daily lives of the citizens of the greater Dundalk area. Once sold for 10 cents to 500 subscribers and written entirely by Mr. Oelke at its founding in 1969, the Dundalk Eagle is now circulated to 24,000 people by a staff of 20.

Oelke's commitment to the community extended beyond his distribution of the newspaper to include his participation in the creation of the Dundalk Library, the Dundalk Chamber of Commerce, the Dundalk Association of Businesses and the Greater Dundalk Sports Hall of Fame.

From the age of 7 when he first moved to Baltimore, Oelke had journalistic ambitions. I think all would agree that the realization of his dream has not only enriched the lives of thousands of his readers, but conveyed a sense of community too often missing in our modern era. Kimbel Oelke's commitment to community journalism will leave a legacy of service for future generations both in and out of Dundalk.

I extend my most sincere sympathies to his wife Mary, their three sons and seven daughters, and to all the family and friends of Kimbel Oelke. Mr. President, I ask that two articles celebrating Kimbel Oelke's life be printed in the RECORD.

The articles follow:

[From the Sun, Aug. 4, 1998]

KIMBEL E. OELKE, 80, LONGTIME PUBLISHER OF DUNDALK EAGLE AND COMMUNITY BOOSTER

(By Fred Rasmussen)

Kimbel E. Oelke, publisher of the Dundalk Eagle, died Sunday of a heart attack while attending Mass at St. Rita Roman Catholic Church in Dundalk. He was 80.

Mr. Oelke, a well-known figure in eastern Baltimore County, was a seasoned newspaper reporter and editor when the unthinkable happened one day.

He woke up one morning and noticed his name missing from the mastheads of Dundalk's Community Press and the Eastern Beacon, where he had worked for 31 years.

He had complained when the newspapers began expanding and turning away from local news coverage, and the owner, Stromberg Publications, demoted him to advertising manager of the Essex Times, another of the chain's newspapers.

Disgruntled, he quit. He was in his early 50s and had a wife and 11 children to support.

He and his wife took a gamble. They took their savings and started their own newspaper.

The Dundalk Eagle, a tabloid, arrived on May 15, 1969. Its slogan was "Of The People, By The People, For The People."

In a front-page editorial, Mr. Oelke wrote, "I am firmly convinced that there is a need for a paper in the greater Dundalk area continually cognizant of the needs and desires of the people and the local businesses."

The paper sold for 10 cents a copy and subscriptions were $1 a year. It has grown from 500 subscribers to a paid circulation of 24,000 and a staff of 20.

For many years, Mr. Oelke wrote most of the newspaper copy and was a familiar figure in courtrooms, police stations and firehouses. Tipsters kept his phones ringing.

The paper was homespun and covered Dundalk and its environs in great detail. Mr. Oelke's appetite for Dundalk minutiae was insatiable.

One of the Mr. Oelke's space-saving tricks, which gave his newspaper a particularly distinguishing if not unusual look, was his use of ampersands—"&"—instead of the word "and" in copy.

"The Eagle is more family-like than at most places," said Wayne Laufert, who was hired as a reporter in 1986 and was named editor in 1996.

"That's due to the personalities of Mr. and Mrs. O. Most of us think of them as grandparents. They treated a group of 20 or more people to Christmas dinner every year and hosted summer parties where we ate crabs and played softball."

Mr. Laufert described Mr. Oelke as "a very warm person" who had "difficulty saying 'no' to people. He was very accommodating and it was one of his most endearing qualities."

Deborah I. Cornely of Dundalk, a daughter and the paper's managing editor, said, "He was the kind of man who was very humble. He never bragged about his accomplishments, but most of all tried to give everyone an even break."

Deeply involved in the community, Mr. Oelke led the efforts to establish the Dundalk Library, the Dundalk Chamber of Commerce, the Dundalk Association of Businesses and the Greater Dundalk Sports Hall of Fame.

Mr. Oelke, a soft-spoken man who had a penchant for green eyeshades and big King Edward cigars, was born in Louisville, Ky. When he was seven, his family moved to Dundalk, when his father was transferred there by American Standard, the maker of plumbing fixtures.

The 1935 graduate of Sparrows Point High School once dreamed of becoming a major-league baseball player, but his hitting failed him. In 1938, he became sports editor of the Community Press.

"When I was in high school, I had two ambitions: To be a baseball player and to be a newsman," he told the Dundalk Eagle on the newspaper's 25th anniversary.

After serving with the Navy in the Pacific during World War II, he returned to the Press and was promoted to editor.

Studying at night, he earned a law degree from the University of Baltimore Law School.

Services will be held at 8:30 p.m. today at the Duda-Ruck Funeral Home of Dundalk, 7922 Wise Ave.

He is survived by his wife, the former Mary Georgina Jarboe, whom he married in 1946; three sons, Timothy Oelke of New Freedom, Pa., James A. Oelke of Corpus Christi and Andrew P. Oelke of Seattle; seven other daughters, Kim E. Boone of Dundalk, Barbara E. Oelke of Monkton, Elizabeth A. Oelke of Fawn Grove, Pa., Mary Jane Oelke of White Marsh, Suzanne C. Oelke of Seattle, Amy K. Christensen of Upperco and Kerry A. Raszewski of Monkton; a sister, Virginia Becker of Dundalk; 16 grandchildren; and four great-grandchildren.

[From the Dundalk Eagle, Aug. 13, 1998]

FAMILY, FRIENDS BID LAST GOODBYE TO KIMBEL OELKE

(By Terri Narrell Mause)

The St. Rita Catholic Church parish priest explained that God has a purpose for each person's life, and praised Kimbel Oelke for fulfilling what he was "called to do."

But it was three of Oelke's daughters who painted the most vivid picture of the newspaper publisher during the Mass of Christian burial for their father Aug. 5. The Mass was led by the Rev. William Remmel of St. Rita's, assisted by the Rev. Joseph Cornely, who works with Trinity Missions in California, and Deacon Albert Chesnavage.

Oelke, the founder and publisher of The Dundalk Eagle, died Aug. 2 while attending St. Rita's with his wife. He was 80 years old.

In emotional and eloquent testimonials, the three women recalled their father as a man devoted to his family and dedicated to bringing out the best in others.

Deborah Cornely, Oelke's second daughter and managing editor of The Eagle, told the story of how her father taught her to ride a bike.

Oelke transformed the bicycle into a simulated airplane, complete with painted wings and a tail, finishing it the evening before the then-4-year-old was to ride it in Dundalk's 4th of July parade.

"The only problem was that I'd never ridden a two-wheeler before," Cornely said in her eulogy.

So on that evening, her father removed the training wheels from the bike, steadied it as she climbed aboard and assured her she could do it.

After she had ridden some distance, confident her father was still holding on, she looked back to see him, "standing all smiles & applause, way back at my point of departure."

"He'd sent me off alone, and through his encouragement, his insistence that I was up to the task, I'd accomplished something on my own that I didn't think I could do," Cornely said. "That was one of the first of many cherished memories I have of my father helping me overcome my fears & succeed in life."

The next day, the newly trained bicyclist collected a blue ribbon for the bicycle division from then-Gov. Theodore McKeldin.

Elizabeth Oelke, her parents' fifth child, next recited the publisher's favorite poem, William Henley's Invictus, as she remembered her father as a journalistic poet, an "adman" who appreciated the power and beauty of language.

The poem was one Oelke knew by heart and recited with "precision, gusto and conviction," applying it to his own life and encouraging his family to do the same, Elizabeth Oelke told the mourners at St. Rita's.

"I am the master of my fate, I am the captain of my soul," she said, reciting the final lines of the poem. "And if that was the only think my father had given me, that would have been enough. But he gave us so much more."

In a final family tribute, Amy Oelke, the ninth of her parents' 11 children, remembered how her father fostered independence and self-confidence in his children with encouragement and praise. She specifically recalled his use of the word "best."

"Every Thanksgiving, we had the best turkey we'd ever had," she said. "Mom was the best woman in the world. And he always made us all feel like the best. But he never acted like he or his family was better than anyone else.

"I was blessed—and we all were—with the best father."

FINAL FAREWELLS

After the service, family members and friends joined a procession down Merritt Boulevard to Sacred Heart of Jesus Cemetery of German Hill Road.

Under a sunny, clear sky with a soft breeze accompanying the priest's brief words of comfort, several of Oelke's friends took one last opportunity to remember the man.

Some remembered his love of golf.

"He'll be playing that big golf course in heaven," said former Baltimore County councilman Don Mason of Eastwood.

Oelke's son-in-law Donald Cornely (a nephew of the priest who assisted in the service) pulled from his pocket a handful of orange golf tees imprinted with "The Dundalk Eagle, Published Weekly, Read Daily," and told about golfing with the publisher.

"The first time he took me golfing—he was a very patient man, because I'm not very good at the game—he handed me a couple of these," Cornely recalled. "After teeing off the first time, I started to pick up the tee, but he wouldn't let me. He told me to leave it there, and he took some more from his pocket, leaving them across the course as we walked.

"He knew other golfers would pick up the tees to use themselves, and The Eagle would get publicity. He did that wherever we played—New York, Pennsylvania and other States—no matter how far away we were from Dundalk."

Oelke was buried in his golf shoes with his favorite putter lying along-side him.

Others attending the graveside service recalled his contributions to the community and his passion for community news.

Kenneth C. Coldwell Sr., publisher of the Avenue newspapers, said Oelke encouraged and helped him when he first entered the newspaper business 25 years ago.

"He was a great guy and a great friend," Coldwell said at the graveside service Aug. 5. "Community newspapers throughout the world should take a chapter from him, because he knew how to run a community newspaper.

"He would look you in the eye, shake your hand with a firm handshake and say, 'Good luck.' That's how I want to remember him."

Mason first met Oelke when he organized a group that tried to pinpoint and expose excessive government spending. Oelke, Mason says, always supported the group by printing its findings in The Eagle.

"I recognize—and I'm sure a lot of people will recognize—that an institution has passed on," Mason said. "I'm sure when St. Peter meets and interviews Mr. Oelke, he'll appoint him editor-in-chief of heaven's weekly."

WORKING FOR OELKE MEANT COVERING POLICE BEAT, PAINTING OFFICE

The following was written by Gaitherburg resident Stuart Gorin, who got his start in newspapers as a 14-year-old hired by Kilmel Oelke, the Eagle founder who died Aug. 2.

As a writer with the U.S. Information Agency focusing on aspects of U.S. foreign policy, I am a long way from Dundalk, Md., where many years ago Kimbel Oelke gave me my start in journalism.

He was a customer in my late father's store, the old Stansbury Food Center, where I was a 14-year-old reluctantly helping out while dreaming of becoming a newspaper reporter. Scoop—he was always Scoop to me, never Mr. Oelke—nearly bowled me over when, after murmured conversations with my parents, he offered me a summer job as a cub reporter for The Community Press and Baltimore Countian in 1953 for the princely sum of $6 a week.

Scoop took me under his wing and taught me how to be a reporter: how to write in newspaper style, how to ask questions, how to be fair. When a citizen has a complaint against the city council, write it, he said, but be sure to get the council's side in the story, too.

It wasn't always easy, but it sure was exciting. When he gave me my first byline, on a story about the family of a little boy in a coma, I felt on top of the world.

Part of my job, Scoop said, was to cover the police beat. We went to the police station, where he introduced me to the desk sergeant. Every day I would gather material from the police blotter for stories, and I thought I was becoming a seasoned professional. But the next week, a new officer was on the desk, and when I explained my mission he brushed me aside and told me to go home to my mother. Crushed, I trudged back to the office and informed Scoop, who roared with laughter and then took me back to the station and smilingly declared that yes, I really was his reporter and needed to see the blotter.

But that embarrassment was nothing compared to what Scoop put me through for an interview with the winner of a local beauty pageant. Get all of the details, and don't forget her measurements, he admonished. Back in the 1950s, this was considered routine, but not for a red-faced 14-year-old who had to approach a "grownup" 18-year-old. What I finally decided to do was type out a list of questions for her, asking her the vital statistics in the middle of the list. I rang her doorbell, identified myself as a reporter for the Community Press, handed her the list, and asked her to please fill it out. When I admitted to Scoop how I obtained the information, he again roared with laughter.

One time he didn't laugh. He needed the newspaper office painted, and I said I could do it on a Saturday morning. Of course I knew how, I said. I had completed half of the ceiling in blotchy streaks with drops on the floor and the desks when he came in, shook his head, took the paintbrush out of my hand and sat me down in front of a typewriter instead, saying this was where I belonged. A professional painter finished the job right, and I haven't held a paintbrush in my hand since.

Early on, Scoop showed me one of the benefits of being a reporter. It was the first year that the Baltimore Orioles were in the major leagues, and we went to a couple of games using our press passes.

During my high school year between the two summers I worked for Scoop, I attended Saturday matinees at the old Hilltop Theater in Baltimore, where big-name stars came weekly for live productions. Each week I would interview the star and write a column on the theater's activities that Scoop ran in The Community Press.

Then, after I finished college and was drafted, the Army sent me back to Dundalk to Fort Holabird in 1962. When I stopped in to say hello, Scoop told me that his night court reporter had just left, and if I wanted the job for old time's sake it was mine. So while I was a soldier, every Monday night I would cover the court session and leave my stories in the office for him to pick up the next day.

There were occasional phone calls after that assignment, but years passed before I saw Scoop again. Helen Delich Bentley was still in Congress and running for re-election in 1986, and I came to Dundalk during one of her campaign stops to write an article. I got together with Scoop for lunch and we had a wonderful afternoon reminiscing. Regrettably, that was the last time I saw him.

Besides writing for USIA, I've worked for newspapers and wire services not only in the United States but also in Europe and Asia. It's been a satisfying career that all started with the Dundalk Community Press. Thanks, Scoop. I'm going to miss you.

LETTER WRITERS RECALL FOUNDER OF "EAGLE"

Condolences sent to The Eagle upon the death of the paper's founder, Kimbel Oelke, included the following letters:

Kimbel Oelke contributed more to our community than most of us know. His tenacity and vision gave Dundalk a weekly reminder of who we are as individuals and as a community. His paper is our family album. His legacy is our deep sense of community. His life is our measure of what it means to be a good man.

Kimbel, I am certain you are reading this from heaven. You left an undeniable and meaningful mark on Dundalk and on so many of us who had the fortune of knowing you.—Michael Galiazzo, Rainflower Path, Sparks, Md.

We at Sparrows Point send our deepest sympathy to all of you upon the death of Mr. Oelke. He was a universal citizen, a true friend of businesses and the community.

We recall his unconditional support of Bethlehem Steel and his wholehearted, selfless help in a grassroots campaign against steel imports. His help was crucially needed at a critical time in our history, and he came through with flying colors.

There were many other times when his advice, counsel and friendship were sought, and he was there for us, as he was for everyone in the community. He will be missed by all whose lives he touched.—The letter was signed by Sparrows Point Division president Duane R. Dunham and 15 other company officials.

As always, Baltimore Sun reporter Fred Rasmussen had outdone himself in his magnificent obituary of a truly great man, the late Kimbel E. Oelke of Dundalk, founder and publisher of The Eagle.

That having been said, nevertheless, Mr. Rasmussen overlooked or did not know some remarkable events about this man's epic saga of life which I was present to witness by virtue of my relation to both him and his community.

I first me him in 1974 while handling public relations for Patrick T. Welsh's House of Delegates campaign and later, in 1978, for the same man's State Senate campaign. Today, Mr. Welsh is President of The Eastern Baltimore Area Chamber of Commerce. None of his successes would have happened without the fair coverage of Mr. Oelke and The Eagle—and the same is true of every other candidate for public office from that time to this.

In 1984, when I worked at Dundalk Community College and the entire collegiate community harnessed its abilities and energies to re-employ area residents, Mr. Oelke was there as well, and when I had occasion to run for the office of Congress of the United States in 1982, 1984 and 1988, I got a fair hearing from him each and every time.

Thus, he was, is and remains my ideal of what a newspaper publisher should be: fair, faithful and true. I am not surprised that he died in church in the arms of the Lord and the family that loved him. I, too, shall miss him.—Blaine Taylor, Joppa Road, Towson.

Please accept our most sincere wishes regarding Mr. Oelke's death. Hopefully his family, friends, and the staff at The Eagle are doing well.

I am new to the Baltimore area, so I obviously have no previous knowledge of Mr. Oelke and the paper. However, your staff should know that his story and the related story of the newspaper is a great one. He sounds like he was a good person with his head and heart in the right place. It is great when the good guys win!

Anyway, just know that I was personally moved by learning about Mr. Oelke's life. I will look to learn more in upcoming issues of your paper. Keep up the (his) great work over there at The Eagle.—Paul Kin, The writer is a community relations director representing Bradley-Ashton-Dabrowski-Matthews Funeral Homes.

THANKING LIEUTENANT GENERAL MICHAEL D. MCGINTY FOR HIS LIFE LONG CAREER IN THE AIR FORCE

• Mr. KEMPTHORNE. Mr. President, over the last 33 years, Lt Gen Michael D. McGinty has served as an exemplary Air Force officer. His career-long efforts to provide quality support to all the members of the Air Force and their families serve as a benchmark for other military services and leave a lasting and positive legacy of Air Force personnel policy and practice.

Lt Gen Mike McGinty entered the Air Force as a distinguished graduate of the University of Minnesota Reserve Officer Training Corps program. In his early days as an Air Force pilot, Lt Gen McGinty flew the F–4 and logged over 115 combat missions in Southeast Asia, including 100 missions over North Vietnam.

As his Air Force career progressed, Lt Gen McGinty gained vast experience both as an pilot and as a personnel expert. He earned the rating of Command Pilot with more than 3,500 flight hours in a variety of aircraft, including the F–4, A–10, C–21 and T–39. He also invested 19 years of his career working a broad range of Air Force personnel issues.

In March 1988, Mike McGinty assumed command of the 10th Tactical Fighter Wing at the Royal Air Force Station in Alconbury, England. During a time of great change in world affairs, Lt Gen McGinty worked diligently to maintain and solidify local host nation relations while simultaneously enhancing quality of life support for service members assigned to his command. As a result of Lt Gen McGinty's vision and dedication to his troops he established Alconbury's first-ever Family Support Center.

As commander of the Air Force Military Personnel Center, and more recently as the Air Force's Deputy Chief of Staff for Personnel, Lt Gen McGinty led the Air Force through a period of great challenge and change. During his tenure, Mike moved Air Force personnel systems into the "electronic era." He expertly managed significant drawdowns of both military and civilian personnel while simultaneously meeting the expanded personnel requirements resulting from increased deployments. A constant advocate for Air Force people, he led the way in working difficult issues in the rated force management, recruiting, retention, and transition assistance arenas. Lt Gen McGinty worked to meet changing Air Force needs by expanding the role of Department of the Air Force civilians in Air Force personnel management. He increased career broadening opportunities for Air Force civilians through developmental positions at the Air Staff, the Air Force Personnel Center, and major command headquarters. He established the first-ever Air Force Civilian Executive Matters Office, introducing policies and operations that ensure training and development of senior civilians that parallels their military counterparts. His efforts in this arena clearly enhance force stability.

Most importantly, Lt Gen McGinty's career has been based on his unfaltering support of Air Force people. His philosophy has been that "the strength of the Air Force lies in it's members." He remains a strong advocate for ongoing quality of life initiatives, enhanced family support services, career mentoring, and leadership by example.

I have personally known Mike McGinty for several years as both a colleague and a friend. We have worked together to improve our Nation's Air Force by addressing the critical people issues we face: retaining our key qualified and experienced Air Force professionals, improving the quality of life for our families, enhancing our recruiting efforts, and placing our pay and benefits programs where they should be to take care of those who guard and defend our Nation. Mike has led the way in this effort, a performance characteristic of his entire career. The men and women of the Air Force, as well as our entire Nation, owe him a debt of gratitude. I recall his candor and wisdom during testimony as a shining example of how well our military leaders represent the best interests of our men and women in uniform.

Also a dedicated family man, Mike and his wife, Karen, are the proud parents of a daughter, Shannon, and a son, Tim. In addition to flying, their interests include bird watching and photography.

During his distinguished career, the general has earned some of our Nation's highest honors: the Distinguished Service Medal twice, the Legion of Merit twice, the Distinguished Flying Cross with device, the Meritorious Service Medal four times, and the Air Medal 10 times, along with the Air Force Commendation Medal and numerous campaign and service medals.

Lt Gen Mike McGinty's vision, leadership and dedication will have a lasting positive impact on the Air Force and the Nation. As he embarks upon his retirement, I wish him continued success in all that he and Karen pursue. Those of us in Congress, and the men and women of our Air Force, will greatly miss him.•

REMOVING HOLD ON H.R. 2610, A BILL TO REAUTHORIZE THE OFFICE OF NATIONAL DRUG CONTROL POLICY

• Mr. WYDEN. Mr. President, as you know, I believe that the Senate custom of placing holds on legislation should be practiced in public. In that spirit, I rise today to remove the hold I placed on H.R. 2610, a bill to reauthorize the Office of National Drug Control Policy. I do not object to Senate consideration of this legislation.•

RECOGNITION OF THE 50TH UNITED WAY TORCH DRIVE

• Mr. LEVIN. Mr. President, I rise today to call my colleagues' attention to a remarkable example of community commitment taking place in my home State of Michigan this fall, the United Way Torch Drive. This year will mark the 50th United Way Torch Drive in metropolitan Detroit.

The Torch Drive was officially kicked off in 1949 by General Mark Clark with a goal of raising $8,550,000. Many people doubted that this goal could be reached. During that period of time, similar fundraising campaigns in other cities were falling short of their goals. However, the people of the Detroit area proved the skeptics wrong, contributing almost $9.3 million to the Torch Drive in 3 weeks. The metropolitan Detroit Torch Drive was the first such drive in the country, and its success has been a model for cities throughout the country.

The Detroit Torch Drive has been helped by local and nationally recognized Americans from every walk of life. Business leaders like Max Fisher and Lee Iacocca have lent their time and talents to the Drive. Entertainers like Jackie Gleason, Audrey Hepburn and the Supremes have donated time as well. National and local media stars, from Walter Cronkite to J.P. McCarthy have made themselves available to help. And sports stars, from Hockey Hall of Fame player Gordie Howe to current Detroit Pistons star Grant Hill, pitch in as needed. But as impressive as this list of famous people is, United Way representatives will tell you that it is the dedication and heart of the people of metropolitan Detroit which make the Torch Drive a success year after year. Thanks to them, the United Way is able to support more than 130 agencies in metropolitan Detroit, providing assistance to people in need and solutions to long term problems like homelessness, substance abuse, hunger and mental illness.

Mr. President, I have many reasons to be proud to be a Detroiter. One of the strongest reasons for my pride is the generosity and warm-heartedness of my neighbors. I hope my colleagues will join me in thanking the tens of thousands of people who have made the annual United Way Torch Drive such an overwhelming success over the past 50 years, and in looking forward to the next 50 years of giving help and hope to people in need in metropolitan Detroit.•

IN MEMORY OF MEG DONOVAN

• Mr. KERRY. Mr. President, last Thursday, Meg Donovan, Deputy Assistant Secretary of State for Legislative Affairs, passed away after a painful struggle with cancer. Her death, far too early at age 47, has dimmed the light for all those who loved and knew her: her husband, Stephen Duffy, her three children Colin, Liam and Emma, her father, Daniel Donovan, her sisters, Paula and Mary Ellen, her brother, Patrick, and her many friends and colleagues in Washington.

Meg was a Washington veteran, having worked in the nongovernmental affair community for the National Conference on Soviet Jewry, in the Congress for nearly 20 years, and most recently in the Department of State. Through all those years she has consistently been an advocate for the downtrodden, for those who live in countries where the basic human rights and freedoms which we take for granted are denied. They could have had no better champion than Meg Donovan.

Meg was invaluable to me and my staff during the years that I served as Chairman of the International Operations Subcommittee, which had jurisdiction over the authorization bill for the State Department, USIA and the international broadcasting agencies. When we needed information, she ensured that we got it. She was an articulate advocate for the Administration's positions and an effective deal maker when the time was right. And as Secretary of State Albright, former Secretary of State Christopher, and all those who have been confirmed as Ambassadors during the Clinton administration's tenure will tell you, Meg Donovan knew better than anyone how to help a nominee navigate the shoals of the confirmation process in the Senate.

On Saturday, Secretary Albright delivered the eulogy at Meg's funeral. Her heartfelt words aptly captured the many sides of Meg Donovan—a devoted wife and mother, a dedicated and passionate government servant, and a woman whose zest for life was boundless.

Mr. President, I would like to take this opportunity to extend my sincere sympathies to Meg's family. I also ask that Secretary Albright's eulogy for Meg be printed in the RECORD.

EULOGY FOR MEG DONOVAN

By Secretary of State Madeleine Albright

Father D'Silva; Duffy, Colin, Emma, Liam, Mr. Daniel Donovan, Patrick, Paula, Mary Ellen, and other members of Meg Donovan's family; colleagues, friends and acquaintances of Meg:

There are times when it seems more fitting just to stammer with emotion than to speak with finely turned phrases.

It does not seem fair; it is not fair that Heaven, which already has so much, now has so much more. And that we here on Earth, who need so much, have lost someone who is irreplaceable in our hearts.

This we know. Meg could not pass from one world to the other without changing both.

We are crushed with grief. But the scriptures say that those who mourn are blessed for they shall be comforted; and we are comforted by the knowledge that, somewhere up above, God is getting an earful on human rights.

I did not become acquainted with Meg Donovan until I went to the State Department in 1993. Like her, I was a mother of three, including twins. I felt I understood better than some others might the choices and challenges she faced. But many of you knew her longer and more intimately than I. I cannot capture her personality or her career in full.

To me, if there is 1 word that sums up Meg, it is "completeness."

There are others in this town who are smart and good at their jobs; others with a commitment to causes that are right and just; others who bargain shrewdly and hard; others with a warm and wonderful sense of humor; others who understand the obligations of friendship; others who are devoted and loving to their families; others who have the discipline to live their faith.

There may even be others with Christmas sweaters that light up and play jingle bells. But rarely have the elements of true character been so artfully mixed as they were in Meg Donovan. Van Gogh is arriving in Washington; but a human masterpiece is gone.

When I was designated by President Clinton to serve as Secretary of State, I did what my predecessor, Warren Christopher, did. I turned to the person with the best instincts in Washington on how to deal with our friends on Capitol Hill. That was Meg. We began preparing in December.

Now, naturally, I thought the President had made a brilliant choice for the job, but I had to wonder, as we went along in practice, and Meg corrected and improved upon my every answer on every subject, whether there was anyone more qualified to be Secretary of State than she.

Of course, that being December, the birthday of the twins came along. And naturally, Liam and Emma didn't understand why their mother couldn't promise to attend the party. Their proposal, passed on and advocated by Meg, was that we adjourn our practice session and re-convene at Chuck E. Cheese. It is typical that, when the hour of the party drew near, Meg excused herself, and did not ask but told her new boss, that she was heading for Chuck E. Cheese.

When he was Secretary of State, George Marshall used to tell his staff "don't fight the problem, decide it, then take action." I suspect he would have liked Meg a lot because, all her life, Meg was a doer.

Like quite a few others, she came to Washington committed to the fight for tolerance and respect for basic human rights for all people. What set her apart is that she could still make that claim after having worked here 25 years.

Whether at the Helsinki Commission, or the House Committee on International Relations, or the Department of State, Meg was one of the good guys. She could out-talk anyone, but talk isn't what she was after. She wanted change.

She wanted Soviet Jews to be able to exercise their right to emigrate. She wanted Tibetans to be able to preserve their heritage. She wanted prisoners of conscience to breathe the air of freedom. She wanted women to have the power to make choices that would determine the course of their lives.

Above all, she wanted to draw on and draw out the best in America: the America that would use its resources and power to help others achieve the blessings we all too often take for granted.

These were her ideals, but Meg was more than a dreamer. No one was more effective than she at creating the coalitions, marshaling the arguments and devising the strategies that would yield concrete results.

One of Meg's big problems was that she knew the system better and played it better than anyone else. So, whenever we found ourselves in a real legislative mess, which was not more than 3 or 4 times a week, we turned to Meg to help get us out.

Around the Department and earlier in her years on Capitol Hill, Meg's energy and wisdom added sparkle to every meeting. When she spoke, people listened. When she listened, people chose their words with care. She was thoughtful and patient with those who, by virtue of experience or ability, needed her help. She brought out the best in others; just as she demanded the best from herself.

In our collective mind's eye, we can still see her striding purposefully down a hall with her arms full of folders, trailed by some hapless Ambassadorial nominee whose future had been entrusted to Meg's capable hands.

We see her, hugely pregnant, maneuvering around swivel chairs and outthrust elbows on the cramped dais of the House International Relations Committee.

We see her serious and firm, forearms chopping the air for emphasis, persuading us with eloquence and passion that doing the right thing is also the smart thing.

We see her relaxing at an office party, gold bracelets flashing, surrounded by flowers from her garden, a cherub's face aglow with health and life, and her 100 megawatt smile turned on full.

We see her where she most belonged, with Duffy, her partner of 24 years, and with their children.

And as we see her, we also hear that inimitable laugh, which was not exactly musical, but which conveyed a love and enjoyment of living that somehow makes what happened even harder to believe and accept.

Meg knew the impermanence of life. She lost her mother to cancer and a sister to cystic fibrosis. So she made the most of every single day.

The poet, William Blake, wrote that:

He who binds himself to a joy
Does the winged life destroy
But he who kisses the joy as it flies
Lives in eternity's sunrise.

No force, not even life itself, could bind Meg Donovan or ground her flight. She was only 47. But, in that time, her gifts to those of us who are gathered here and to those from around the world who have benefited directly or indirectly from her commitment, were full and rich.

This morning, as she looks down upon us, I know that she would expect us to cry and that, if she could, she would herself hand us the tissues. But she would also want us to be thankful for our time together, and to dedicate ourselves to improving our own lives by helping others.

We are sad today, but our sorrow is accompanied by the abundance of joy in the memories we share, the life we celebrate and the love that surrounds us.

May that joy melt, over time, the clouds of our grief. May Meg's family, especially, draw comfort from our affection and from the deep respect we held for her.

And may Meg Donovan rest in peace, for we will never, never forget her.●

UNIVERSITY OF SOUTH CAROLINA INTERNS

● Mr. HOLLINGS. Mr. President, the South Carolina Semester in Washington Program, hosted by the Institute of Public Affairs at the University of South Carolina, provides outstanding Honors College students at the State's public universities an invaluable opportunity to work as fellows in Congress, the Administration and in the private sector while pursuing an academically rigorous program of study and examination in Washington, DC.

This program joins a number of other prestigious offerings sponsored by many of the finest colleges and universities from across the Nation. Not only do these fellows assist in taking care of the business of the Nation, providing a tremendous service to Congress, the Agencies and the entities supporting them, by doing so these exemplary young people represent the best for the future of government at the local, city, county, State, regional, national and international levels.

As the South Carolina Semester in Washington completes its 7th year, the program continues to demonstrate that these students and the campuses they represent are some of the finest in the country. To date students have participated from USC Columbia, Clemson University, the College of Charleston, the Citadel, South Carolina State University, University South Carolina Aiken, Winthrop University, Lander University and the University of South Carolina Lancaster. For the Fall of 1998, the program will add its first student from Coastal Carolina University. Certainly few States can demonstrate a more comprehensive involvement from its higher education community.

The offices which participate are essential to the quality of the program. The time spent by professional staff in the office setting mentoring these students is a contribution to success; not only in this program but to these young people for a lifetime. Over the years the following offices have been gracious host learning sites for the South Carolina Semester in Washington fellows: Senator STROM THURMOND, Senator FRITZ HOLLINGS, Congressman FLOYD SPENCE, Congressman JOHN SPRATT, Congressman JIM CLYBURN, Congressman BOB INGLIS, Congressman LINDSEY GRAHAM, Congressman SANFORD, Congressman ED WHITFIELD, Congressman CLIFF STEARNS, former Congressman Butler Derrick, former Congressman Robin Tallon, former Congresswoman Liz Patterson, former Congressman Arthur Ravenel, the Senate Commerce Committee, the White House, the Department of Education, the Department of Veterans Affairs, the Corporation for National and Community Service, the Office of the United States Trade Representative, the South Carolina State Washington Office, Barron Birrell and the American Council of Life Insurance.

The participants during the 1997-98 academic year further enhanced the reputation of the program for reliable, diligent and intelligent contributions to their workplace. These students, their university, hometown and placement include for the Fall 1997 semester: Mary Borowiec, USC Columbia, Columbia, S.C., Congressman LINDSEY GRAHAM; Cara Carter, USC Columbia, Spartanburg, S.C., Congressman MARK SANFORD; Katherine Graham, USC Columbia, Charleston, S.C., Office of the United States Trade Representative; Scott Harris, Lander University, Batesburg, S.C., Congressman JOHN SPRATT, Kim Hartwell, USC Columbia, Lexington, Kentucky, the White House; Charlene Miller, USC Columbia, Lancaster, Pennsylvania, Senator HOLLINGS; John Sallee, USC Columbia, Lexington, Kentucky, U.S. Department of Education; Beth Sims, Winthrop University, Darlington, S.C., Congressman BOB INGLIS; Amber Stamegna, USC Columbia, Mount Pleasant, S.C., Barron Birrell.

For the Spring 1998 semester, the participants include: Heather Brooks, USC Columbia, Charlotte, North Carolina, Congressman JOHN SPRATT; Derham Cole, USC Columbia, Spartanburg, S.C., Congressman BOB INGLIS; Ryan Lindsay, USC Columbia, Clemson, S.C., American Council of Life Insurance; Anne Knight, USC Columbia, Columbia, S.C., Congressman JIM CLYBURN; Amy Milligan, College of Charleston, Mount Pleasant, S.C., Congressman FLOYD SPENCE; Becky Sibilia, Clemson University, Bridgewater, New Jersey, Senator STROM THURMOND; Josh Staveley-O'Carroll, Clemson University, Charleston, S.C., Senate Commerce Committee.

Mr. President, I wish to commend the Institute of Public Affairs at the University of South Carolina for implementing and coordinating such a fine program. Dr. Doug Dobson and Dr. William Mould have been instrumental in the successful tenure of this offering. I also wish to salute the other campuses and offices which make the effort to give quality to this endeavor. Finally to say well done to these outstanding students in hopes we will enjoy their contributions to society from positions of leadership in the years to come.●

RECOGNITION OF EVELYN DUKES

● Mr. LEVIN. Mr. President, I rise today to recognize a true urban innovator, a woman who has devoted her "retirement" years to solving the many challenges that confront urban communities across the Nation, Ms. Evelyn Dukes.

The urban community of northeastern Detroit has greatly benefitted from the work of Ms. Evelyn Dukes. Her involvement with urban and neighborhood renewal began with the "Adopt-A-Park" program. In her neighborhood, Ms. Dukes daily observed gangs, drug users, and loiterers frequenting a parcel of land that was formerly a small community park, but had become a symbol of fear and apathy. Fortunately, Ms. Dukes did not view Brookins Park in the same manner. As an organizer for numerous Block Clubs and Neighborhood Watch Groups, Ms. Dukes saw the area as an opportunity to bring the community together and reclaim a vital recreational park. By calling on organizations from the city's Park and Recreation Department to the Detroit Piston Basketball Organization, Ms. Dukes' vision for Brookins Park became a reality. Today the land is used by community residents for picnics, reunions, and birthday parties, and Ms. Dukes is on to her next project, Skinner Park.

Ms. Dukes is also involved in her neighborhood organization and is an active member in the Citizen Band Radio Patrol organization. While on patrol, she documents dangerous situations and possible criminal actions. Evelyn is President of the Ninth Precinct Community Relations Board and is very involved in the City Wide Roundtable, an organization of Detroit leaders who meet on a regular basis to discuss issues and solutions involving public service, safety, and awareness.

At 73, Evelyn Dukes' personal commitment to her neighborhood and city are an inspiration to everyone. She is truly a model for community involvement, and her efforts and achievements clearly set Ms. Dukes apart as an exemplary citizen. She has been honored by being selected as only 1 of 7 people in the country to receive the National Crime Prevention Council's Ameritech Award of Excellence in Crime Prevention.

I know my colleagues join me in congratulating Ms. Evelyn Dukes on receiving this award and thanking her for the stalwart dedication she has shown to improving her community.●

ANTI-NEPOTISM BILL

● Mr. KYL. Mr. President, I rise in support of S. 1892, the judicial anti-nepotism bill.

Section 458 of 28 U.S.C. reads: "No person shall be appointed to or employed in any office or duty in any court who is related by affinity or consanguinity within the degree of first cousin to any justice or judge of such court." There is some debate about the interpretation of section 458. Some hold the view that the statute means what it says—no person related to a judge of a court may be appointed to that same court. But some hold a contrary view. Indeed, in a 1995 memo by Richard Shiffrin of the Office of Legal Counsel, although the OLC conceded that the statutory language appears to restrict Presidential appointments to offices or duties in Federal courts, the OLC argued that the statute only applies to judges hiring or appointing persons to the courts. Many scholars disagree with this view and with the other memoranda issued by the administration. Finally, there is also disagreement as to whether section 458 applies to appointments where a judge has taken senior status is a "judge of such court."

For future judicial nominees, the administration and the Senate must understand the criteria required for article III judicial appointments. S. 1892 maintains the current prohibition on relatives of judges being appointed to or employed in any job of the court, such as for example, positions as clerks and bailiffs.

S. 1892 amends 28 U.S.C. 458 to clarify that no person may be appointed to be a judge of a court if that person is related within the degree of first cousin to any judge, including a judge retired in senior status of that "same court." Under the bill, "same court" means, in the case of a district court, any court of the same single judicial district; and, in the case of a court of appeals, the court of appeals of a single judicial district.

For example, a person may not be a member of the Federal District Court in Arizona if a related person is already a member of the Federal District Court in Arizona, but related persons may serve simultaneously on Federal District Courts in Arizona and New Mexico. Additionally, related persons may serve simultaneously on the Northern and Eastern Federal District Courts in California. A person may not be a member of the 2nd Circuit if a related person is a member of that circuit, but related persons may serve on the 2nd and the 7th Circuits simultaneously.

It is important to note that this act does not apply to the Supreme Court.

The act takes effect on the date of enactment and applies only to an individual whose nomination is submitted to the Senate on or after such date. Thus, the bill would not affect the nomination of William Fletcher.

A thorough study of the constitutional provisions at issue, of the relevant case law, and of prominent legal treatises makes it clear that the bill is constitutional. Indeed, a March 31, 1998 report on the bill by the American Law Division of the Congressional Research Service has concluded that "[a]fter consideration of the text of the Constitution, the precedents, and the historical practice, we believe it to be established that Congress has the authority to fix this and other qualifications for the office of judges of Article III courts. . . ." The Constitution is, in fact, silent on what lower courts there were to be, their composition and jurisdiction, and their powers. Inasmuch as the Constitution "delineated only the great outlines of the judicial power . . ., leaving the details to Congress, . . . "[t]he distribution and appropriate exercise of the judicial power must . . . be made by laws passed by Congress. . . ." Rhode Island v. Massachusetts, 12 Pet. (37 U.S.) 657, 721 (1838).

The public policy behind Section 458 and S. 1892 is clear: For the public to maintain a sufficient level of confidence in the integrity and impartiality of its public institutions, those institutions must strive not only to avoid circumstances in which actual impropriety could arise among public servants, but to avoid all circumstances that create even the remote appearance of impropriety. Having close family members serve on the same court would create an appearance of impropriety. Of all the relationships that one judge could have to another—for example, former law partners or members of the same bench for 20 years—a familial relationship is one that is certain to automatically cause a litigant to question the impartiality of a judge.

Litigants must have complete confidence that Federal judges will be objective and impartial while on the bench. The institutional integrity of Federal courts requires scrupulous protection of public confidence in the judicial process. Preventing close family members from serving on the same court is a small price to pay to avoid a potential diminution of credibility and impartiality of the Judiciary, one of the Nation's most hallowed institutions.●

TRIBUTE TO MICHAEL J. WILLIAMS

● Mr. CLELAND. Mr. President, I rise today to pay tribute to an invaluable member of my staff, Mike Williams, who has served as my Military Legislative Assistant since I arrived in the Senate in January 1997. Mike joined my staff after serving a great American and one of Georgia's most honored and beloved Senators, Senator Sam Nunn, where he began as an intern while attending Georgia Tech and after graduation quickly became involved in legislative matters, including military issues. After more than 5 years of public service, Mike will be leaving my staff after the 105th Congress adjourns to pursue other career opportunities. He will be sorely missed and not easily replaced.

Mike's excellent assistance and invaluable experience made my transition from being Georgia's Secretary of State to a United States Senator and a member of the Senate's Armed Services Committee smooth and successful. He serves as a positive example to us all—a good person who is committed to his family and to continually improving himself. While working full-time for Senator Nunn and then myself, Mike has attended law school in the evening while still finding quality time to devote to his lovely wife Allyson and their beautiful daughter Catherine. Now in his final year of law school at Georgetown, Mike has decided to leave Capitol Hill to pursue a career in the law profession. I wish him well in all of his future endeavors and I know that he will have a lifetime of many more accomplishments and shining moments. Although Mike's invaluable contribution to my staff will be greatly missed, his daily presence in our lives will be missed even more. Mike, thank you for your years of service to me and the people of the great State of Georgia—I am very proud of all you do. You truly are a great American!●

NOTICE OF INTENTION TO MOVE TO SUSPEND THE RULES

● Mr. MCCAIN. Mr. President, I hereby give notice in writing of my intention to move to suspend the provisions of Rule 22 requiring that the following amendment be germane:

AMENDMENT NO. 3711

(Purpose: To define what is meant by the term "discriminatory tax" as used in the bill)

On page 26, beginning with line 3, strike through line 5 on page 27 and insert the following:

(2) DISCRIMINATORY TAX.—The term "discriminatory tax" means—

(A) any tax imposed by a State or political subdivision thereof on electronic commerce that—

(i) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving similar property, goods, services, or information accomplished through other means;

(ii) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period;

(iii) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving similar property, goods, services, or information accomplished through other means;

(v) establishes a classification of Internet access service providers or online service providers for purposes of establishing a higher tax rate to be imposed on such providers than the tax rate generally applied to providers of similar information services delivered through other means; or

(B) any tax imposed by a State or political subdivision thereof, if—

(i) the ability to access a site on a remote seller's out-of-State computer server is considered a factor in determining a remote seller's tax collection obligation; or

(ii) a provider of Internet access service or online services is deemed to be the agent of a remote seller for determining tax collection obligations as a result of—

(I) the display of a remote seller's information or content on the out-of-State computer server of a provider of Internet access service or online services; or

(II) the processing of orders through the out-of-State computer server of a provider of Internet access service or online services.•

RECOGNITION OF BRUNO NOWICKI

• Mr. LEVIN. Mr. President, I rise today to pay tribute to a good friend of mine and a great leader in my home State of Michigan, Bruno Nowicki. On October 11, 1998, Bruno's friends and family will help him celebrate his 90th birthday at a celebration at the Polish Century Club.

Bruno Nowicki is well known in Michigan and in his native Poland for his efforts to commemorate and celebrate the contributions of Polish people to the United States and to the world. He has designed monuments to Polish-American heroes of World War II and Vietnam and to Revolutionary War Generals Pulaski and Kosciuszko. Bruno Nowicki has also been a strong supporter of public libraries, and served on the Board of Governors of the Detroit Public Library from 1971 until 1994. He melded his interests in promoting Polish culture and supporting public libraries by arranging for statues, mosaics and busts of prominent figures in Poland's history to be displayed in the Detroit Main Library and the Hamtramck Public Library. Bruno worked with artist Zygmunt Dousa of the University of Krakow to design the Polish Room of the Ethnic Conference and Study Center at the Wayne State University in Detroit. He is a co-founder of the Polish Riverfront Festival, which provides assistance to children's hospitals in Poland.

I was proud to work with Bruno Nowicki in 1993–1994 on an issue especially close to his heart, promoting chess to students in schools. An avid chess player who participates in (and has won) tournaments in the United States, Bermuda and Cuba, he believes that the skills children develop by learning to play chess can be applied to everyday life. A 4-year study of school chess players confirmed Bruno Nowicki's belief. The study found that chess helps children build self-confidence and self-worth, dramatically improves children's ability to think rationally, and results in higher grades, especially in English and Math. Bruno provided me with important information which I used in drafting an amendment to the 1994 Goals 2000: Educate America Act, which allows State educational agencies to use certain title III funds to promote instruction in chess as a tool for teachers to use to motivate students to develop critical thinking skills, self-discipline and creative resolution methods.

Mr. President, Bruno Nowicki has demonstrated time and again his commitment to his community. He is truly a person who has touched the lives of thousands of people. I know my colleagues join me in wishing Bruno a happy 90th birthday and in commending him for his remarkable dedication to community service.•

ONE GUN A MONTH FORUM

• Mr. LAUTENBERG. Mr. President, last month I convened a forum to investigate the problem of gun-trafficking. At the forum, we heard from a number of compelling witnesses and I have been submitting their testimony into the RECORD so that my colleagues and the public can benefit from their insights. Taken together, this testimony makes a compelling case for the Anti-Gun Trafficking Act, S. 466, which I introduced earlier this Congress.

Today, I would like to submit the final testimony from this forum, that of Captain Thomas Bowers, Director of the Office of Crime Gun Enforcement for the Maryland State Police. Two years ago, the Maryland Legislature passed the Gun Violence Act of 1996, which restricted the purchase of handguns to 1 in a 30-day period. The results have already been dramatic. In fact, Maryland saw a 78 percent decrease in the number of handguns sold as a result of multiple purchases in the first year after the enactment of this law. This means fewer lethal weapons supplied to criminals in cities nationwide.

I hope that my colleagues will work with me to pass this important piece of legislation. Keeping handguns out of the hands of criminals, and reducing the gun violence across our Nation should be of paramount importance to all.

Mr. President, I ask that the testimony of Captain Thomas Bowers be printed in the RECORD.

The testimony follows:

TESTIMONY OF CAPT. THOMAS BOWERS

Senator LAUTENBERG, I am Captain Thomas Bowers, Director of the Office of Crime Gun Enforcement for the Maryland State Police.

On behalf of Colonel David B. Mitchell, our superintendent, thank you for the opportunity to address you today.

The troopers seated behind me represent the subject matter experts in the area of firearms enforcement.

The Maryland State Police is the point of contact for regulatory and criminal oversight of all regulated firearm purchases in Maryland. In 1966, Maryland initiated an application process to purchase handguns. This process included a 7-day waiting period and a background check.

In 1995, Governor Parris N. Glendening, Lieutenant Governor Kathleen Kennedy Townsend, and Colonel Mitchell initiated a comprehensive program entitled Operation Cease-Fire, one element of the cease-fire initiative was the Maryland State Police Firearms Investigation Unit. This unit provides the "front line" response to the problem of firearms related violence throughout the State of Maryland.

The Firearms Investigation Unit was initially tasked with the responsibility of enforcing Maryland's existing firearms laws and, more importantly, identifying the source or sources of firearms used in the commission of violent crimes.

Through the work of the Firearms Investigation Unit and information provided by the Bureau of Alcohol, Tobacco and Firearms the straw purchase was identified as the major source of crime guns in Maryland, even more significant, based upon crime gun trace data from the city of Baltimore. The straw purchase of firearms through multiple sales was determined to be the source of the majority of regulated firearms used in the commission of violent crime. Let me repeat that the straw purchase of firearms through multiple sales was determined to be the source of the majority of regulated firearms used in the commission of violent crime.

Each multiple straw purchase tells a dramatic story. I'd like to give you two examples.

1. The first is that of a 32-year old male who was recruited by a drug organization to purchase 9 9mm semi-automatic handguns from a Maryland regulated firearms dealer. Upon receipt of the handguns from the dealer, the young man immediately provided them to a member of the hierarchy of the drug organization who then distributed the handguns to drug traffickers whom he controlled. Within a few weeks, two of the 9mm handguns were used in two separate homicides.

2. A second example is that of a young man who purchased 11 9mm and 45 caliber semi-automatic handguns from a Maryland regulated firearms dealer. A short time later, the same resident returned to the same regulated firearms dealer and purchased 30 more semi-automatic handguns. An investigation was initiated which revealed that all 41 semi-automatic handguns were smuggled out of the United States and into the country of Nigeria in violation of both United States and Nigerian law.

In 1996, through the efforts of Governor Glendening, the Maryland legislature passed a comprehensive violence reduction initiative entitled, The Gun Violence Act of 1996. This act limited the purchase of a regulated firearm to one in a 30-day period and also required a background check and 7-day waiting period for secondary sales of regulated firearms between individuals. (Three charts; regulated firearm definition, secondary sale definition, and secondary sale regs.)

Maryland's one gun a month law limits the number of handguns an individual can purchase to only one during a 30-day period not per calendar month. There are codified provisions for specific exceptions to the law. They are enumerated on the chart displayed before you. (Two charts; exceptions to 1/month and Maryland State Police From 77M (multiple purchase).

(1) Residents may apply to the Maryland State Police to be designated as private collectors.

(2) Residents may purchase two handguns during a single visit to a licensed gun dealer

if the dealer has offered a second handgun at a discount when purchased with the first. Under this exception the resident cannot purchase another handgun for 60 days.

(3) Law enforcement agencies and licensed private security organizations are exempt from the multiple purchase law when purchasing handguns for use by their employees.

(4) Residents may purchase more than one handgun if they are part of a set or sequential serial numbers as in an accepted collector series.

(5) To facilitate the replacement of a firearm that was lost or stolen with documentation from a law enforcement agency.

(6) To facilitate the replacement of a defective firearm by the same regulated firearms dealer with 30 days of purchase.

(7) Lastly the one gun in 30 days provision does not apply to estate sales.

As a result of this legislation, the number of firearms acquired through multiple purchases have reduced significantly.

In addition, and perhaps most telling effect, is the drastic decrease in the number of guns initially purchased in Maryland that have been recovered as a result of crimes in other States.

By comparing the 1 year period prior to the enactment of Maryland's multiple purchase legislation, which became effective on October 1, 1996, with the year following its enactment, you can clearly see the dramatic results (two charts; multiple sales bar chart comparison, and multiple sales graph)

From October, 1, 1995, to September 30, 1996, 7,569 handguns were sold in Maryland, as a result of multiple purchases.

From October 1, 1996, to September 30, 1997, that number was reduced to 1,618 handguns which were sold as a result of multiple purchases, a seventy eight percent (78%) (59% difference) reduction in firearms acquired through multiple purchases.

In 1991 Maryland was nationally ranked second in terms of suppliers of crime guns to the city of New York. By 1997, 1 year after the passage of Maryland's one gun a month law, Maryland moved out of the top ten suppliers of crime guns to New York City.

Maryland is proud of it's proactive firearms legislation. Our efforts to limit the supply of guns to the illegal market without adversely impacting upon law abiding citizens are strong and sincere. The multiple purchase allows for the quick acquisition of large numbers of regulated firearms by proscribed individuals. The one gun a month law in Maryland has shown that it is an effective means of disrupting the illegal diversion of firearms which are acquired through multiple purchases and will ultimately reduce the supply of firearms readily available to criminals.

Thank you again for the opportunity to appear before you today.•

TRIBUTE TO MICHAEL S. DALEY

•Mr. JEFFORDS. Mr. President, I rise today to pay tribute to Michael S. Daley who is retiring from over 30 years as an orderly at Fletcher Allen Hospital in Burlington, Vermont. Michael joined the hospital in the late 1960's and began his career as a health care worker. After a few years, he thought he would try his luck in California. He soon realized that Vermont was where he wanted to be. He rejoined the workers at the hospital in October 1970 and continued to be a care giver in every sense of the word. Michael is my wife, Liz's, brother. I can not count the number of times Vermonters' have come up to me to tell me how kind Michael had been to them when they were ill or injured.

Being an orderly was more than a job to Michael. It was a vocation. He was ever mindful of the importance of medical care, however, he never neglected the soul. Every one of his co-workers would tell you that Michael brought a sense of humor to everything he did. He would often bring his lunch to a patient's room and visit during this lunch break. Doctors, new to the O.R. or leaving for other assignments, were regularly treated to lunches prepared by Michael in their honor. "Michael knows everyone", a co-worker stated. I think that Michael made it his business to get to know everyone. He would note when someone from our hometown of Shrewsbury, Vermont was hospitalized and he would pay them a visit. If a person wanted to talk, Michael would be there.

Michael is a religious man who lives his faith. His work in the Episcopal church in Milton, Vermont kept that small community alive for years. Along with his wife, Alice, and their three children, Michael is and has been very active in Saint Andrews Church in Colchester, Vermont. His faith has helped Michael go the extra mile in the care and comfort of his fellow Vermonters. His sense of humor has added sunshine to the lives of those he meets. Michael represents the millions of unsung heros who care for and comfort our neighbors, family and friends. I wish to honor him and his life's work.•

COMMENDING THE WORK OF THE NATIONAL COMMEMORATIVE COMMITTEE FOR THE CENTENNIAL OF THE SUBMARINE FORCE

• Mr. WARNER. Mr. President, I rise today to pay tribute to the U.S. Navy Submarine Force as it approaches its 100 year anniversary and to commend to the work of the National Commemorative Committee for the Centennial of the Submarine Force.

The Submarine Force traces its beginnings to the spring morning of April 11, 1900. Following demonstration trials off Mount Vernon on the Potomac River, the Navy agreed to purchase the submarine boat U.S.S. *Holland* (SS–1). The U.S.S. *Holland* was named for its inventor John Holland. Inventors such as John Holland and Simon Lake had been experimenting in submarine design during the last decades of the nineteenth century. However, Mr. Holland was the first to give the submarine true mobility by using a gasoline engine on the surface and a battery supplying electric motors when submerged. It was due to the success of the U.S.S. *Holland* that the Navy pursued the submarine program. For this reason, the Submarine Force traditionally recognized April 11th as the anniversary of its establishment.

Dramatic improvements to the submarine have been made since the U.S.S. *Holland*. The diesel engine replaced the gasoline engine in 1912. All welded hulls, allowing submarines to submerge to much greater depths, were introduced in the 1930s. Radar and sonar were incorporated during World War II. It is with the introduction of nuclear power, however, that the submarine became a true submersible—limited in endurance only by the needs of its human crew.

Earlier this year the Naval Nuclear Propulsion Program celebrated its 50th anniversary. It was in 1948 that the legendary Admiral Hyman Rickover, then a Captain, assigned himself the task of building a nuclear submarine. At that time, the technology that enabled the release of nuclear power was in its infancy. Just 7 years later, the U.S.S. *Nautilus* put to sea under nuclear power. Today the Navy's nuclear submarine force is a crown jewel of our Nation's Defense arsenal.

In the year 2000, the Navy's Submarine Force will celebrate its 100th anniversary. The Secretary of the Navy has designated the period from January 2000 through December 2000 for the commemoration of the Centennial of the U.S. Submarine Force. The Director of Submarine Warfare, Rear Admiral Malcolm Fages, and the Submarine Warfare Division have the responsibility for overall coordination of commemorative activities with assistance of the National Commemorative Committee for the Centennial of the Submarine Force.

Mr. President, it is the work of the National Commemorative Committee and its chairman, Admiral Hank Chiles, that I wish to recognize today. Plans are already underway to observe the anniversary at appropriate occasions throughout the calendar year 2000. The National Commemorative Committee is planning events and ceremonies that will provide the opportunity for people to observe and experience the special world of the U.S. Navy Submarine Force and to become more acquainted with its rich and colorful history. Proposed events for 2000 include the opening of a Smithsonian exhibit, a birthday ball and the unveiling of a submarine stamp in Washington, DC, and participation in fleet week celebrations throughout the year.

I commend the dedicated effort of the National Commemorative Committee for the Centennial of the Submarine Force and urge my colleagues to support the Committee as they continue their work planning the centennial events.•

CELEBRATION OF THE REPUBLIC OF CHINA'S 87TH ANNIVERSARY NATIONAL DAY

• Mr. CLELAND. Mr. President, I rise today to celebrate the Republic of China's 87th Anniversary National Day on October 10, 1998. Taiwan has prospered beyond most people's wildest dreams despite its limited resources and vast population. The people of the United States have a special bond with the people of Taiwan, who have unfalteringly demonstrated to the world their commitment to democracy and Democratic ideals. Taiwan is a vibrant, thriving country for the present and a model for the future—a model characterized by strong economic growth and respect for basic human rights and Democratic freedoms.

Taiwan has been and will continue to be an important partner of the United States, economically, culturally, strategically, and politically. May God bless our friends in Taiwan, including President Lee Teng-hui, Vice President Lien Chan and Taipei's Foreign Minister, Dr. Jason Hu, who have done an excellent job in leading Taiwan down the road of democracy and prosperity. Mr. President, I ask that you join me and our colleagues in congratulating the Republic of China's freedom on its 87th Anniversary National Day. I look forward to celebrating this historic event annually for many, many years to come.•

NATIONAL SALVAGE MOTOR VEHICLE PROTECTION ACT

• Mr. GORTON. Mr. President, I rise today in support of the substitute amendment to S. 852, the National Salvage Motor Vehicle Protection Act of 1998.

The substitute makes a number of changes to the committee-passed bill. While not as far reaching as some would like, I believe that the changes improve a measure that has always had a very laudable intent, but which was criticized nevertheless by attorneys general and consumer groups for preempting, in some instances, more favorable State law and not providing consumers with enough information about a vehicles' history.

As a former attorney general, I was particularly sensitive to these criticisms, and last fall I placed a hold on the measure with the expectation of facilitating a consensus between the bill's supporters, the attorneys general, and various consumer advocate groups. Regrettably, a consensus of legislation was not to be had. While the changes in the amendment are generally intended to address concerns raised by the attorneys general and, to some extent, consumer advocates, neither of these groups has endorsed this measure. I removed my hold on the amendment despite this, however, because there is a consensus, of which I am a part, on the need for Federal legislation regarding salvage and rebuilt vehicles. The bill, as amended, is not perfect. But as my months of trying to broker an agreement revealed, "perfect," even if defined to mean the best interest of consumers, is a subjective term. S. 852, as amended, is, in my view, and in that of over 50 co-sponsors, better than the status quo.

I remain troubled that the attorneys general and some consumer advocate groups do not agree. I am also somewhat baffled by the seemingly studied misconstruction of the bill, and my amendment to it by some who continue to oppose it.

Let me explain the changes in the amendment to S. 852. In response to complaints that S. 852 set too high a damage threshold for designating a vehicle as "salvage," the amendment lowers the threshold from 80% to the lower of 75% or the percentage threshold in a State as of the date of enactment. Seventy-five percent is the threshold recommended by the task force created by the Anti-Car Theft Act of 1992, on whose work this legislation is based. Industry defenders of the higher threshold argued that lowering it would hurt, not help, consumers because it would devalue vehicles even when there is no legitimate safety-related reason for mandating the disclosure of prior damage. I understand their point, but don't agree. Yes, there is some threshold at which mandatory labeling, and the bureaucratic burden that attends it, is more costly than beneficial for both buyers and sellers, but I do not believe we have come close to that turning point.

The attorneys general's concern that S. 852 did not provide for sufficient disclosure applied not only to the percent of damage threshold, but also to limited scope of the vehicles covered by the bill. S. 852 proposed to permit the "salvage vehicle" label to attach only to vehicles less than 7 years old or with more than $7500. While States were free to use any other label they chose for all vehicles, including older vehicles, State attorneys general wanted to be able to use the term "salvage" to describe older vehicles because it is the term most commonly used today to advise of prior damage. The amendment to S. 852 permits States to do this, and explicitly provides that States can use the term "older model salvage vehicle" to label older vehicles.

Complaints about the mandatory nature of S. 852 ran the gamut. Some critics of S. 852, including the Department of Transportation, objected to the fact that States were not obligated to comply with the Act, arguing that States could opt out and become regional title washing capitals. Others complained that the bill was too prescriptive, and did not allow States (the majority of which, until now, do not appear to have adopted very consumer-friendly laws) to set the standards for labeling and disclosure. Rather than refight the battle that led the House to conclude that a mandate would be unconstitutional, and because I was unable to persuade anyone to agree that we should use a big stick as opposed to a carrot approach, the amendment to S. 852 does not make the labeling system mandatory, but incorporates a provision to address concerns that opt-out States will become title-washing capitals. The amendment to S. 852 makes it a violation of the Act to move vehicles, or vehicle titles, across State lines for the purpose of avoiding the requirements in the Act.

Another minor modification to S. 852 corrects what I believe was an oversight in S. 852, and makes it a violation of the Act not to comply with the labeling and disclosure requirements for "flood vehicles."

Another modification made to S. 852 clarifies that states that choose to abide by the provisions of the Act must carry over not only the "salvage vehicle," "nonrepairable vehicle," and "flood vehicle" labels on titles, but also any other disclosure that States prescribe. This concept was contained in S. 852, but the language was unclear. The legislation does not restrict States from labeling a car with any term, and prescribing treatment of a car so labeled with any term, other than the very limited list of terms used in the bill. In other words, a State that accepts Federal funds for the national motor vehicle identification number database, and that does not specifically state on its titles that it is not complying with the Federal titling standards, must use the definition of "salvage vehicle" and "nonrepairable vehicle" prescribed in the bill. However, S. 852 permits that state to label the same vehicle with any other term it chooses and imposes any restrictions attendant to the other label. The amendment clarifies that states that chose to use the national labels, including those for "salvage vehicle" and "nonrepairable vehicle," must not only carry over these labels from other States, but must also carry over any other labels another State chooses to affix, and specify the State that so labeled the vehicle.

Other modifications specifically permit state attorneys general to bring actions on behalf of individuals for violations of the Act, and clarify that the Act in no way affects individuals' ability to bring private rights of action. In response to concerns that S. 852 preempted state causes of action and created a sole remedy for violations relating to title labeling and disclosure, the amendment specifically provides that the Act does not preclude any private right of action available under state law. This provision was intended to provide assurances that nothing in the Act restricts individuals, or attorneys general, from pursuing any claims under state law, such as claims based on violations of consumer protection laws, unfair trade practices, or failures to disclose the material terms of a contract. Curiously, the inclusion of this provision, designed to allay concerns about preemption, appears to have unreasonable stirred them. Some appear to have drawn the illogical and legally unsupported conclusion that any claim not specifically preserved is implicity barred. Let met again try to clarify. There is absolutely nothing in the bill that suggests that the remedies it provides (action by attorneys general) are exclusive. Simply because the legislation states that private actions are specifically preserved does not mean that all other actions are barred or restricted in any way.

The modification that has drawn criticism even from those consumer groups whose interests I was attempting to advance in my amendment, is the striking of the criminal penalty provisions. This modification was not requested by anyone seeking to avoid accountability. Rather, I sought to strike the criminal penalties because I believe that the criminal sanctions in S. 852 were inappropriate in most instances, and unnecessary in others. As a general matter, I believe that Congress creates too many Federal criminal offenses, when it should leave this task to state law. A violation of this bill, such as a failures to make disclosures about a vehicle's history, generally is not the type of violation for which people should be sent to jail. If the conduct is so egregious that criminal sanctions are warranted, then existing state laws against fraud, theft, and the like are available based on which to prosecute violators.

The change I have just described to S. 852 are not extensive. They are, nevertheless, important and, in my opinion, improve a bill that is needed at this time.●

NORTH AMERICAN WETLANDS CONSERVATION ACT, S. 1677

● Mr. DeWINE. Mr. President, I rise today to offer my strong support for this bill offered by our distinguished colleague from Rhode Island. I want to thank Senator CHAFEE for all the work he has done, and especially his effort to addressing some of the concerns I had about the bill.

The North American Wetlands Conservation Act, or NAWCA, is a blueprint for successful environmental protection—through voluntary cooperation among government agencies, private conservation organizations, and landowners. It is a matching fund which involves state, Federal, and private partners in protecting and restoring wetlands across the country.

Mr. President, this is very important for the environment. Wetlands serve a multitude of purposes. Obviously, they provide critical habitat and breeding grounds for migratory birds, fish and aquatic plants. But their benefit goes far beyond wildlife habitat. Wetlands are nature's sponges—absorbing heavy rains and minimizing the damaging effects of floods and erosion. Wetlands are also natural filters, trapping and isolating potentially damaging pollution and improving the quality of our lakes and rivers.

Since 1990, there have been 9 NAWCA projects in Ohio which have protected almost 9,000 acres of critical wetlands. NAWCA has contributed $3.3 million towards these projects—and those funds were matched by $6.9 million from groups such as Ducks Unlimited and Ohio's Division of Wildlife.

Last summer, I was able to visit one of these projects, Metzger Marsh in northwest Ohio. I was impressed, not only with the beauty and diversity of the wildlife at this marsh, but also with the cooperation among government, private agencies, and landowners that protected this area.

While there are several partners working together on this effort, I would like to mention one organization in particular. Ducks Unlimited is a national nonprofit conservation organization with over 18,000 members in Ohio alone. It has contributed over $80 million in matching funds to support NAWCA projects across the country. This is over three times the amount contributed by any other conservation organization. In light of the longstanding commitment of Ducks Unlimited to this project, I believe they should continue to serve on the NAWCA Council—and I would like to thank Senators CHAFEE, KEMPTHORNE, INHOFE and HUTCHISON for insuring that the organization's membership on this council will continue.

Mr. President, this is a very important piece of environmental legislation, and I urge its adoption.●

CONSUMER REPORTING EMPLOYMENT CLARIFICATION ACT OF 1998

(The text of (S. 2561), the Consumer Reporting Employment Clarification Act of 1998, as passed by the Senate on October 6, 1998, is as follows:)

S. 2561

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Consumer Reporting Employment Clarification Act of 1998".

SEC. 2. USE OF CONSUMER REPORTS FOR EMPLOYMENT PURPOSES.

(a) Disclosure to Consumer.—Section 604(b)(2) of the Fair Credit Reporting Act (15 U.S.C. 1681b(b)(2)) is amended to read as follows:

"(2) Disclosure to consumer.—

"(A) In general.—Except as provided in subparagraph (B), a person may not procure a consumer report, or cause a consumer report to be procured, for employment purposes with respect to any consumer, unless—

"(i) a clear and conspicuous disclosure has been made in writing to the consumer at any time before the report is procured or caused to be procured, in a document that consists solely of the disclosure, that a consumer report may be obtained for employment purposes; and

"(ii) the consumer has authorized in writing (which authorization may be made on the document referred to in clause (i)) the procurement of the report by that person.

"(B) Application by mail, telephone, computer, or other similar means.—If a consumer described in subparagraph (C) applies for employment by mail, telephone, computer, or other similar means, at any time before a consumer report is procured or caused to be procured in connection with that application—

"(i) the person who procures the consumer report on the consumer for employment purposes shall provide to the consumer, by oral, written, or electronic means, notice that a consumer report may be obtained for employment purposes, and a summary of the consumer's rights under section 615(a)(3); and

"(ii) the consumer shall have consented, orally, in writing, or electronically to the procurement of the report by that person.

"(C) Scope.—Subparagraph (B) shall apply to a person procuring a consumer report on a consumer in connection with the consumer's application for employment only if—

"(i) the consumer is applying for a position over which the Secretary of Transportation has the power to establish qualifications and maximum hours of service pursuant to the provisions of section 31502 of title 49, or a position subject to safety regulation by a State transportation agency; and

"(ii) as of the time at which the person procures the report or causes the report to be procured the only interaction between the consumer and the person in connection with that employment application has been by mail, telephone, computer, or other similar means.".

(b) Conditions on Use for Adverse Actions.—Section 604(b)(3) of the Fair Credit Reporting Act (15 U.S.C. 1681b(b)(3)) is amended to read as follows:

"(3) Conditions on use for adverse actions.—

"(A) In general.—Except as provided in subparagraph (B), in using a consumer report for employment purposes, before taking any adverse action based in whole or in part on the report, the person intending to take such adverse action shall provide to the consumer to whom the report relates—

"(i) a copy of the report; and

"(ii) a description in writing of the rights of the consumer under this title, as prescribed by the Federal Trade Commission under section 609(c)(3).

"(B) Application by mail, telephone, computer, or other similar means.—

"(i) If a consumer described in subparagraph (C) applies for employment by mail, telephone, computer, or other similar means, and if a person who has procured a consumer report on the consumer for employment purposes takes adverse action on the employment application based in whole or in part on the report, then the person must provide to the consumer to whom the report relates, in lieu of the notices required under subparagraph (A) of this section and under section 615(a), within 3 business days of taking such action, an oral, written or electronic notification—

"(I) that adverse action has been taken based in whole or in part on a consumer report received from a consumer reporting agency;

"(II) of the name, address and telephone number of the consumer reporting agency that furnished the consumer report (including a toll-free telephone number established by the agency if the agency compiles and maintains files on consumers on a nationwide basis);

"(III) that the consumer reporting agency did not make the decision to take the adverse action and is unable to provide to the consumer the specific reasons why the adverse action was taken; and

"(IV) that the consumer may, upon providing proper identification, request a free copy of a report and may dispute with the consumer reporting agency the accuracy or completeness of any information in a report.

"(ii) If, under clause (B)(i)(IV), the consumer requests a copy of a consumer report from the person who procured the report, then, within 3 business days of receiving the consumer's request, together with proper identification, the person must send or provide to the consumer a copy of a report and a copy of the consumer's rights as prescribed by the Federal Trade Commission under section 609(c)(3).

"(C) Scope.—Subparagraph (B) shall apply to a person procuring a consumer report on a consumer in connection with the consumer's application for employment only if—

"(i) the consumer is applying for a position over which the Secretary of Transportation has the power to establish qualifications and maximum hours of service pursuant to the provisions of section 31502 of title 49, or a position subject to safety regulation by a State transportation agency; and

"(ii) as of the time at which the person procures the report or causes the report to be procured the only interaction between the consumer and the person in connection with that employment application has been by mail, telephone, computer, or other similar means.".

SEC. 3. PROVISION OF SUMMARY OF RIGHTS.

Section 604(b)(1)(B) of the Fair Credit Reporting Act (15 U.S.C. 1681b(b)(1)(B)) is amended by inserting ", or has previously provided," before "a summary".

SEC. 4. NATIONAL SECURITY INVESTIGATION CONFORMING AMENDMENTS.

(a) Government as End User.—Section 609(a)(3) of the Fair Credit Reporting Act (15 U.S.C. 1681g(a)(3)) is amended by adding at the end the following:

"(C) Subparagraph (A) does not apply if—

"(i) the end user is an agency or department of the United States Government that procures the report from the person for purposes of determining the eligibility of the consumer to whom the report relates to receive access or continued access to classified information (as defined in section 604(b)(4)(E)(i)); and

"(ii) the head of the agency or department makes a written finding as prescribed under section 604(b)(4)(A).".

(b) National Security Investigations.—Section 613 of the Fair Credit Reporting Act (15 U.S.C. 1681k) is amended—

(1) by inserting "(a) In General.—" before "A consumer"; and

(2) by adding at the end the following:

"(b) Exemption for National Security Investigations.—Subsection (a) does not apply in the case of an agency or department of the United States Government that seeks to obtain and use a consumer report for employment purposes, if the head of the agency or department makes a written finding as prescribed under section 604(b)(4)(A).".

SEC. 5. CIVIL SUITS AND JUDGMENTS.

Section 605(a) of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)) is amended—

(1) in paragraph (2), by striking "Suits and Judgments which" and inserting "Civil suits, civil judgments, and records of arrest that";

(2) by striking paragraph (5);

(3) in paragraph (6), by inserting ", other than records of convictions of crimes" after "of information"; and

(4) by redesignating paragraph (6) as paragraph (5).

SEC. 6. TECHNICAL AMENDMENTS.

The Fair Credit Reporting Act (15 U.S.C. 1601 et seq.) is amended—

(1) in section 603(d)(2)(A)(iii), by striking "any communication" and inserting "communication";

(2) in section 603(o)(1), by striking "(d)(2)(E)" and inserting "(d)(2)(D)";

(3) in section 603(o)(4), by striking "or" at the end and inserting "and";

(4) in section 604(g), by striking "or a direct marketing transaction";

(5) in section 611(a)(7), by striking "(6)(B)(iv)" and inserting "(6)(B)(iii)"; and

(6) in section 621(b), by striking "or (e)".

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act shall be deemed to have the same effective date as the amendments made by section 2403 of the Consumer Credit Reporting Reform Act of 1996 (Public Law 104–208; 110 Stat. 3009–1257).

UNANIMOUS CONSENT REQUEST—H.R. 2431

Mr. McCAIN. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 456, H.R. 2431, the religious freedom bill.

Mr. WYDEN. Mr. President, I object on behalf of Senators on this side of the aisle.

The PRESIDING OFFICER. Objection is heard.

FREEDOM FROM RELIGIOUS PERSECUTION ACT OF 1998—MOTION TO PROCEED

CLOTURE MOTION

Mr. McCAIN. I now move to proceed to H.R. 2431, and send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion, having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

Cloture Motion

We, the undersigned Senators, in accordance with the provisions of rule XXII of Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 456, H.R. 2431, the religious freedom legislation:

Senators Trent Lott, Don Nickles, Conrad Burns, Robert Bennett, Charles Grassley, Michael Enzi, Bill Frist, John Ashcroft, Dan Coats Tim Hutchinson Ben Campbell Craig Thomas, James Inhofe, Thad Cochran Jeff Sessions, and Strom Thurmond

Mr. McCAIN. Mr. President, I ask unanimous consent the mandatory quorum under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. For the information of all Senators, this cloture vote will occur on Friday. All Senators will be notified as to the exact time when this becomes available.

I now withdraw the motion.

The PRESIDING OFFICER. Without objection, it is so ordered.

WILLIAM F. GOODLING CHILD NUTRITION REAUTHORIZATION ACT OF 1998—CONFERENCE REPORT

Mr. McCAIN. Mr. President, I now ask unanimous consent the Senate proceed to the conference report to accompany H.R. 3874, the Child Nutrition Act reauthorization.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report.

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3874) have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the Record of October 6, 1998.)

Mr. McCAIN. I ask unanimous consent the conference report be agreed to, the motion to reconsider be laid on the table, and any statements relating to the conference report be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The conference report was agreed to.

MINTING OF COINS IN COMMEMORATION OF THOMAS ALVA EDISON

Mr. McCAIN. I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 678, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows.

A bill (H.R. 678) to require the Secretary of the Treasury to mint coins in commemoration of Thomas Alva Edison and the 125th anniversary of Edison's invention of the light, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. LAUTENBERG. Mr. President, I rise in support of H.R. 678, the "Thomas Edison Commemorative Coin Act", a bill that directs the Secretary of the Treasury to mint and issue coins commemorating Thomas Edison and the

125th anniversary of the invention of the lightbulb. I am the author of the Senate version of this bill. In 1928, Congress saw fit to award to Mr. Edison a Congressional gold medal "for the development and application of inventions that have revolutionized civilization in the last century." Mr. President, by passing this legislation today, we have the opportunity to once again honor the memory of one of the world's greatest inventors by issuing commemorative coins bearing Mr. Edison's likeness.

Thomas Edison produced more than 1,300 inventions during the course of his lifetime, 1,093 of which were patented. These included the incandescent lightbulb, the alkaline battery, the phonograph, the microphone, motion picture cameras, and stock tickers. He was one of America's greatest inventors, and truly a genius. Formerly known as "The Wizard of Menlo Park", he would spend countless hours in his labs in New Jersey coming up with ideas that ultimately made all our lives much easier.

In 1887, Thomas Edison built his lab in West Orange, New Jersey. It was known as the world's first "invention factory", where he and his partners invented, built and shipped out numerous products stemming from Edison's work. He saw every failure as a success. One story is that Thomas Edison failed 10,000 times in his storage battery experiments. Instead of being dejected, he said "Why, I haven't failed. I've just found 10,000 ways that it won't work." Conversely, in response to remarks about his success, he would say, "Genius is 1% inspiration and 99% perspiration." It is now proper to honor this man who left such a lasting legacy with these commemorative coins.

Mr. President, not only would these coins honor the memory of Thomas Edison, they would also raise revenue to support organizations that preserve his legacy. The two New Jersey sites, the "invention factory" in West Orange, New Jersey and the Edison Memorial Tower in Edison, New Jersey, are in need of funding for maintenance and repair. Each year, 9,000 young students visit the West Orange site alone to learn about the great inventor. The proceeds from the sale of these coins will help to preserve irreplaceable records containing Edison's thoughts as well as priceless memorabilia. This bill, at no cost to the Government, would provide the funds necessary to protect these and six other historical sites so that generations of school children can continue to visit them.

Mr. President, I introduced similar legislation in the 104th Congress as well as at the beginning of this Congress. I now urge the passage of H.R. 678 so that we may honor the memory of Thomas Alva Edison and celebrate the 125th anniversary of the lightbulb while, at no cost to the Government, providing needed funds to important historical sites.

I urge my colleagues to support this legislation.

Mr. McCAIN. I ask unanimous consent the bill be considered read a third time and passed, the motion to reconsider be laid on the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 678) was considered read a third time and passed.

UNANIMOUS CONSENT AGREEMENT—CONFERENCE REPORT ACCOMPANYING S. 2206

Mr. McCAIN. Mr. President, I ask unanimous consent that when the Senate considers the conference report accompanying S. 2206, that the reading be waived and that there be 30 minutes for debate on the conference report with the time equally divided and controlled between Senators JEFFORDS and KENNEDY or their designees, that upon the use or yielding back of time the conference report be adopted, and the motion to reconsider be laid upon the table, without intervening action.

The PRESIDING OFFICER. Without objection, it is so ordered.

OMNIBUS CRIME CONTROL AND SAFE STREETS ACT AMENDMENTS

Mr. McCAIN. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of Calendar No. 606, S. 2235.

The PRESIDING OFFICER. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2235) a bill to amend part Q of the Omnibus Crime Control and Safe Streets Act of 1968 to encourage the use of school resource officers.

The Senate proceeded to consider the bill.

Mr. McCAIN. Mr. President, I ask unanimous consent the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2235) was considered read the third time and passed, as follows:

S. 2235

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SCHOOL RESOURCE OFFICERS.

Part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd et seq.) is amended—

(1) in section 1701(d)—

(A) by redesignating paragraphs (8) through (10) as paragraphs (9) through (11), respectively; and

(B) by inserting after paragraph (7) the following:

"(8) establish school-based partnerships between local law enforcement agencies and local school systems by using school resource officers who operate in and around elementary and secondary schools to combat school-related crime and disorder problems, gangs, and drug activities;"; and

(2) in section 1709—

(A) by redesignating the first 3 undesignated paragraphs as paragraphs (1) through (3), respectively; and

(B) by adding at the end the following:

"(4) 'school resource officer' means a career law enforcement officer, with sworn authority, deployed in community-oriented policing, and assigned by the employing police department or agency to work in collaboration with schools and community-based organizations—

"(A) to address crime and disorder problems, gangs, and drug activities affecting or occurring in or around an elementary or secondary school;

"(B) to develop or expand crime prevention efforts for students;

"(C) to educate likely school-age victims in crime prevention and safety;

"(D) to develop or expand community justice initiatives for students;

"(E) to train students in conflict resolution, restorative justice, and crime awareness;

"(F) to assist in the identification of physical changes in the environment that may reduce crime in or around the school; and

"(G) to assist in developing school policy that addresses crime and to recommend procedural changes.".

ALTERNATE DISPUTE RESOLUTION ACT OF 1998

Mr. McCAIN. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of Calendar No. 514, H.R. 3528.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3528) to amend title 28 of the United States Code, with respect to the use of alternative dispute resolution processes in the United States district courts, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.

H.R. 3528

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Alternative Dispute Resolution Act of 1998".

SEC. 2. FINDINGS AND DECLARATION OF POLICY.

Congress finds that—

(1) alternative dispute resolution, when supported by the bench and bar, and utilizing properly trained neutrals in a program adequately administered by the court, has the potential to

provide a variety of benefits, including greater satisfaction of the parties, innovative methods of resolving disputes, and greater efficiency in achieving settlements;

(2) certain forms of alternative dispute resolution, including mediation, early neutral evaluation, minitrials, and voluntary arbitration, may have potential to reduce the large backlog of cases now pending in some Federal courts throughout the United States, thereby allowing the courts to process their remaining cases more efficiently; and

(3) the continued growth of Federal appellate court-annexed mediation programs suggests that this form of alternative dispute resolution can be equally effective in resolving disputes in the Federal trial courts; therefore, the district courts should consider including mediation in their local alternative dispute resolution programs.

[SEC. 2.] SEC. 3. ALTERNATIVE DISPUTE RESOLUTION PROCESSES TO BE AUTHORIZED IN ALL DISTRICT COURTS.

Section 651 of title 28, United States Code, is amended to read as follows:

"§ 651. Authorization of alternative dispute resolution

"(a) DEFINITION.—For purposes of this chapter, an alternative dispute resolution process includes any process or procedure, other than an adjudication by a presiding judge, in which a neutral third party participates to assist in the resolution of issues in controversy, through processes such as early neutral evaluation, mediation, minitrial, and arbitration as provided in sections 654 through 658.

"(b) AUTHORITY.—Each United States district court shall authorize, by local rule adopted under section **[2071(b)]** *2071(a)*, the use of alternative dispute resolution processes in all civil actions, including adversary proceedings in bankruptcy, in accordance with this chapter, except that the use of arbitration may be authorized only as provided in section 654. Each United States district court shall devise and implement its own alternative dispute resolution program, by local rule adopted under section **[2071(b)]** *2071(a)*, to encourage and promote the use of alternative dispute resolution in its district.

"(c) EXISTING ALTERNATIVE DISPUTE RESOLUTION PROGRAMS.—In those courts where an alternative dispute resolution program is in place on the date of the enactment of the Alternative Dispute Resolution Act of 1998, the court shall examine the effectiveness of that program and adopt such improvements to the program as are consistent with the provisions and purposes of this chapter.

"(d) ADMINISTRATION OF ALTERNATIVE DISPUTE RESOLUTION PROGRAMS.—Each United States district court shall designate an employee, or a judicial officer, who is knowledgeable in alternative dispute resolution practices and processes to implement, administer, oversee, and evaluate the court's alternative dispute resolution program. Such person may also be responsible for recruiting, screening, and training attorneys to serve as neutrals and arbitrators in the court's alternative dispute resolution program.

"(e) TITLE 9 NOT AFFECTED.—This chapter shall not affect title 9, United States Code.

"(f) PROGRAM SUPPORT.—The Federal Judicial Center and the Administrative Office of the United States Courts are authorized to assist the district courts in the establishment and improvement of alternative dispute resolution programs by identifying particular practices employed in successful programs and providing additional assistance as needed and appropriate.".

[SEC. 3.] SEC. 4. JURISDICTION.

Section 652 of title 28, United States Code, is amended to read as follows:

"§ 652. Jurisdiction

"(a) CONSIDERATION OF ALTERNATIVE DISPUTE RESOLUTION IN APPROPRIATE CASES.—Notwithstanding any provision of law to the contrary and except as provided in subsections (b) and (c), each district court shall, by local rule adopted under section **[2071(b)]** *2071(a)*, require that litigants in all civil cases consider the use of an alternative dispute resolution process at an appropriate stage in the litigation. Each district court shall provide litigants in all civil cases with at least one alternative dispute resolution process, including, but not limited to, mediation, early neutral evaluation, minitrial, and arbitration as authorized in sections 654 through 658. Any district court that elects to require the use of alternative dispute resolution in certain cases may do so only with respect to mediation, early neutral evaluation, and, if the parties consent, arbitration.

"(b) ACTIONS EXEMPTED FROM CONSIDERATION OF ALTERNATIVE DISPUTE RESOLUTION.—Each district court may exempt from the requirements of this section specific cases or categories of cases in which use of alternative dispute resolution would not be appropriate. In defining these exemptions, each district court shall consult with members of the bar, including the United States Attorney for that district.

"(c) AUTHORITY OF THE ATTORNEY GENERAL.—Nothing in this section shall alter or conflict with the authority of the Attorney General to conduct litigation on behalf of the United States, with the authority of any Federal agency authorized to conduct litigation in the United States courts, or with any delegation of litigation authority by the Attorney General.

"(d) CONFIDENTIALITY PROVISIONS.—Until such time as rules are adopted under chapter 131 of this title providing for the confidentiality of alternative dispute resolution processes under this chapter, each district court shall, by local rule adopted under section 2071(b), provide for the confidentiality of the alternative dispute resolution processes and to prohibit disclosure of confidential dispute resolution communications.".

[SEC. 4.] SEC. 5. MEDIATORS AND NEUTRAL EVALUATORS.

Section 653 of title 28, United States Code, is amended to read as follows:

"§ 653. Neutrals

"(a) PANEL OF NEUTRALS.—Each district court that authorizes the use of alternative dispute resolution processes shall adopt appropriate processes for making neutrals available for use by the parties for each category of process offered. Each district court shall promulgate its own procedures and criteria for the selection of neutrals on its panels.

"(b) QUALIFICATIONS AND TRAINING.—Each person serving as a neutral in an alternative dispute resolution process should be qualified and trained to serve as a neutral in the appropriate alternative dispute resolution process. For this purpose, the district court may use, among others, magistrate judges who have been trained to serve as neutrals in alternative dispute resolution processes, professional neutrals from the private sector, and persons who have been trained to serve as neutrals in alternative dispute resolution processes. Until such time as rules are adopted under chapter 131 of this title relating to the disqualification of neutrals, each district court shall issue rules under section **[2071(b)]** *2071(a)* relating to the disqualification of neutrals (including, where appropriate, disqualification under section 455 of this title, other applicable law, and professional responsibility standards).".

SEC. 5. ACTIONS REFERRED TO ARBITRATION.

Section 654 of title 28, United States Code, is amended to read as follows:

"§ 654. Arbitration

"(a) REFERRAL OF ACTIONS TO ARBITRATION.—Notwithstanding any provision of law to the contrary and except as provided in **[subsections (b) and (c)]** *subsections (a), (b), and (c)* of section 652 and subsection (d) of this section, a district court may allow the referral to arbitration of any civil action (including any adversary proceeding in bankruptcy) pending before it *when the parties consent*, except that referral to arbitration may not be made where—

"(1) the action is based on an alleged violation of a right secured by the Constitution of the United States;

"(2) jurisdiction is based in whole or in part on section 1343 of this title; or

"(3) the relief sought consists of money damages in an amount greater than $150,000.

"(b) SAFEGUARDS IN CONSENT CASES.—Until such time as rules are adopted under chapter 131 of this title relating to procedures described in this subsection, the district court shall, by local rule adopted under section **[2071(b)]** *2071(a)*, establish procedures to ensure that any civil action in which arbitration by consent is allowed under subsection (a)—

"(1) consent to arbitration is freely and knowingly obtained; and

"(2) no party or attorney is prejudiced for refusing to participate in arbitration.

"(c) PRESUMPTIONS.—For purposes of subsection (a)(3), a district court may presume damages are not in excess of $150,000 unless counsel certifies that damages exceed such amount.

"(d) EXISTING PROGRAMS.—Nothing in this **[section]** *chapter* is deemed to affect any action in which arbitration is conducted pursuant to section 906 of the Judicial Improvements and Access to Justice Act (Public Law 100-102), as in effect prior to the date of its repeal.".

[SEC. 6.] SEC. 7. ARBITRATORS.

Section 655 of title 28, United States Code, is amended to read as follows:

"§ 655. Arbitrators

"(a) POWERS OF ARBITRATORS.—An arbitrator to whom an action is referred under section 654 shall have the power, within the judicial district of the district court which referred the action to arbitration—

"(1) to conduct arbitration hearings;

"(2) to administer oaths and affirmations; and

"(3) to make awards.

"(b) STANDARDS FOR CERTIFICATION.—Each district court that authorizes arbitration shall establish standards for the certification of arbitrators and shall certify arbitrators to perform services in accordance with such standards and this chapter. The standards shall include provisions requiring that any arbitrator—

"(1) shall take the oath or affirmation described in section 453; and

"(2) shall be subject to the disqualification rules under section 455.

"(c) IMMUNITY.—All individuals serving as arbitrators in an alternative dispute resolution program under this chapter are performing quasi-judicial functions and are entitled to the immunities and protections that the law accords to persons serving in such capacity.".

[SEC. 7.] SEC. 8. SUBPOENAS.

Section 656 of title 28, United States Code, is amended to read as follows:

"§ 656. Subpoenas

"Rule 45 of the Federal Rules of Civil Procedure (relating to subpoenas) applies to subpoenas for the attendance of witnesses and the production of documentary evidence at an arbitration hearing under this chapter.".

[SEC. 8.] SEC. 9. ARBITRATION AWARD AND JUDGMENT.

Section 657 of title 28, United States Code, is amended to read as follows:

"§ 657. Arbitration award and judgment

"(a) Filing and Effect of Arbitration Award.—An arbitration award made by an arbitrator under this chapter, along with proof of service of such award on the other party by the prevailing party or by the plaintiff, shall be filed promptly after the arbitration hearing is concluded with the clerk of the district court that referred the case to arbitration. Such award shall be entered as the judgment of the court after the time has expired for requesting a trial de novo. The judgment so entered shall be subject to the same provisions of law and shall have the same force and effect as a judgment of the court in a civil action, except that the judgment shall not be subject to review in any other court by appeal or otherwise.

"(b) Sealing of Arbitration Award.—The district court shall provide, by local rule adopted under section **[2071(b)]** *2071(a)*, that the contents of any arbitration award made under this chapter shall not be made known to any judge who might be assigned to the case until the district court has entered final judgment in the action or the action has otherwise terminated.

"(c) Trial de Novo of Arbitration Awards.—

"(1) Time for filing demand.—Within 30 days after the filing of an arbitration award with a district court under subsection (a), any party may file a written demand for a trial de novo in the district court.

"(2) Action restored to court docket.—Upon a demand for a trial de novo, the action shall be restored to the docket of the court and treated for all purposes as if it had not been referred to arbitration.

"(3) Exclusion of evidence of arbitration.—The court shall not admit at the trial de novo any evidence that there has been an arbitration proceeding, the nature or amount of any award, or any other matter concerning the conduct of the arbitration proceeding, unless—

"(A) the evidence would otherwise be admissible in the court under the Federal Rules of Evidence; or

"(B) the parties have otherwise stipulated.".

[SEC. 9.] SEC. 10. COMPENSATION OF ARBITRATORS AND NEUTRALS.

Section 658 of title 28, United States Code, is amended to read as follows:

"§ 658. Compensation of arbitrators and neutrals

"(a) Compensation.—The district court shall, subject to regulations approved by the Judicial Conference of the United States, establish the amount of compensation, if any, that each arbitrator or neutral shall receive for services rendered in each case under this chapter.

"(b) Transportation Allowances.—Under regulations prescribed by the Director of the Administrative Office of the United States Courts, a district court may reimburse arbitrators for actual transportation expenses necessarily incurred in the performance of duties under this chapter.".

[SEC. 10.] SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out chapter 44 of title 28, United States Code, as amended by this Act.

[SEC. 11.] SEC. 12. CONFORMING AMENDMENTS.

(a) Limitation on Money Damages.—Section 901 of the Judicial Improvements and Access to Justice Act (28 U.S.C. 652 note), is amended by striking subsection (c).

(b) Other Conforming Amendments.—(1) The chapter heading for chapter 44 of title 28, United States Code, is amended to read as follows:

"CHAPTER 44—ALTERNATIVE DISPUTE RESOLUTION".

(2) The table of contents for chapter 44 of title 28, United States Code, is amended to read as follows:

"Sec.
"651. Authorization of alternative dispute resolution.
"652. Jurisdiction.
"653. Neutrals.
"654. Arbitration.
"655. Arbitrators.
"656. Subpoenas.
"657. Arbitration award and judgment.
"658. Compensation of arbitrators and neutrals.".

(3) The item relating to chapter 44 in the table of chapters for Part III of title 28, United States Code, is amended to read as follows:

"44. Alternative Dispute Resolution ... 651".

AMENDMENT NO. 3784

(Purpose: To make technical modifications regarding the use of alternative dispute resolution processes in United States district courts, and for other purposes)

Mr. McCAIN. Mr. President, Senators Grassley and Durbin have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. McCain], for Mr. Grassley, for himself, and Mr. Durbin, proposes an amendment numbered 3784.

The amendment follows:

Page 6, line 17, strike "2071(b)" and substitute "2071(a)".

Page 8, line 1, strike "SEC. 5" and substitute "SEC. 6".

Page 9, line 12, strike "action" and substitute "program".

Page 9, line 13, strike "section 906" and substitute "Title IX".

Page 9, lines 14 and 15, strike "100–102" and substitute "100–702".

Page 9, line 15, strike "as in effect prior to the date of its repeal" and substitute "as amended by Section 1 of Public Law 105–53".

Page 13, line 10, after "arbitrators" insert "and other neutrals".

Mr. McCAIN. I ask unanimous consent the amendment be agreed to, the committee amendments be agreed to, the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and any statements appear in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3784) was agreed to.

The committee amendments were agreed to.

The bill (H.R. 3528) was considered read the third time and passed.

AUTHORIZING THE PRINTING OF THE "TESTIMONY FROM THE HEARINGS OF THE TASK FORCE ON ECONOMIC SANCTIONS"

Mr. McCAIN. I ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 289 submitted earlier by Senator McConnell.

The PRESIDING OFFICER. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 289) authorizing the printing of the "testimony from the hearings of the task force on economic sanctions."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. McCAIN. I ask unanimous consent the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 289) was agreed to, as follows:

S. Res. 289

Resolved, That the "Testimony from the Hearings of the Task Force on Economic Sanctions", be printed as a Senate document, and that there be printed 300 additional copies of such document for the use of the Task Force on Economic Sanctions at a cost not to exceed $16,311.

AUTHORIZING REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. McCAIN. I ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 290, submitted earlier by Senators Lott and Daschle.

The PRESIDING OFFICER. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 290) to authorize representation by Senate Legal Counsel.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, this resolution concerns a pro se civil case brought against the CIA and other defendants by a state prisoner. Last month, the plaintiff served a subpoena for documents upon Senator John F. Kerry, apparently because of the Senator's former role as Chairman of the Subcommittee on Terrorism, Narcotics and International Operations of the Foreign Relations Committee. After Senator Kerry objected to the subpoena and advised the plaintiff that the documents he sought were privileged by the Speech or Debate Clause, the plaintiff filed a motion asking the court to compel Senator Kerry to produce the documents. Accordingly, this resolution would authorize the

Senate Legal Counsel to represent Senator KERRY in connection with this subpoena and to respond to the motion to compel.

Mr. McCAIN. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the resolution appear in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 290) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 290

Whereas, Senator John F. Kerry has received a subpoena for documents in the case of *Tyree* v. *Central Intelligence Agency, et al.*, Case No. 98–CV–11829, now pending in the United States District Court for the District of Massachusetts;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1), the Senate may direct its counsel to represent Members of the Senate with respect to any subpoena, order, or request for documents relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate: Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent Senator Kerry in connection with the subpoena served upon him in the case of *Tyree* v. *Central Intelligence Agency, et al.*

AUTHORIZING REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. McCAIN. I ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 291, submitted earlier by Senators LOTT and DASCHLE.

The PRESIDING OFFICER. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 291) to authorize representation by Senate Legal Counsel.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, this resolution concerns a civil action commenced in the United States District Court for the District of Columbia on September 14, 1998, by the District of Columbia and a group of approximately fifty residents of the District. The action seeks a declaratory judgment that residents of the District of Columbia have a constitutional right to vote in elections for Members of the Senate and the House of Representatives, and also asks the court to ensure that Congress fashion a remedy for this alleged deprivation of voting rights. The lead defendants are the Secretary of Commerce and the United States, who are being represented by the Department of Justice.

The complaint also names as defendants the Secretary of the Senate, Gary Sisco, and the Sergeant at Arms and Doorkeeper of the Senate, Greg Casey, as well as the Clerk and the Sergeant at Arms of the House of Representatives, because of their roles in paying and certifying the election of Members and in controlling access to the two Chambers.

This resolution authorizes the Senate Legal Counsel to represent the Secretary of the Senate and the Senate Sergeant at Arms in this matter to seek dismissal of the case against them. The Legal Counsel will argue that the Senate officers are not proper defendants in this matter.

Mr. McCAIN. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the resolution appear in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 291) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 291

Whereas, the Secretary of the Senate, Gary Sisco, and the Sergeant at Arms and Doorkeeper of the Senate, Gregory S. Casey, have been named as defendants in the case of *Clifford Alexander, et al.* v. *William M. Daley, et al.*, Case No. 1:98CV02187, now pending in the United States District Court for the District of Columbia;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1), the Senate may direct its counsel to represent officers of the Senate in civil actions with respect to their official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent the Secretary of the Senate and the Sergeant at Arms and Doorkeeper of the Senate in the case of *Alexander, et al.* v. *Daley, et al.*

ESTABLISHING A PROGRAM TO SUPPORT A TRANSITION TO DEMOCRACY IN IRAQ

Mr. McCAIN. I ask unanimous consent that the Senate now proceed to the consideration of H.R. 4655, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4655) to establish a program to support a transition to democracy in Iraq.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. LOTT. Mr. President, I am pleased the Senate is about to act on H.R. 4655, the Iraq Liberation Act of 1998. I introduced companion legislation, S. 2525, last week with seven cosponsors. Last Friday, the House International Relations Committee marked up the legislation and made only minor, technical changes. On October 5, the House passed H.R. 4655 by an overwhelmingly bipartisan vote of 360 to 38. That vote, and our vote in several moments, is a strong demonstration of congressional support for a new policy toward Iraq—a policy that overtly seeks the replacement of Saddam Hussein's regime through military and political support for the Iraq opposition.

The United States has many means at its disposal to support the liberation of Iraq. At the height of the cold war, we support freedom fighters in Asia, Africa and Latin America willing to fight and die for a Democratic future. We can and should do the same now in Iraq.

The Clinton administration regularly calls for bipartisanship in foreign policy. I support them when I can. Today, we see a clear example of a policy that has the broadest possible bipartisan support. I know the administration understands the depth of our feeling on this issue. I think they are beginning to understand the strategic argument in favor of moving beyond containment to a policy of "rollback." Containment is not sustainable. Pressure to lift sanctions on Iraq is increasing—despite Iraq's 7 years of refusal to comply with the terms of the Gulf War cease-fire. Our interests in the Middle East cannot be protected with Saddam Hussein in power. Our legislation provides a roadmap to achieve our objective.

This year, Congress has already provided $5 million to support the Iraqi political opposition. We provided $5 million to establish Radio Free Iraq. We will provide additional resources for political support in the FY 1999 Foreign Operations Appropriations Act, including $3 million for the Iraqi National Congress.

Enactment of this bill will go farther. It requires the President to designate at least one Iraqi opposition group to receive U.S. military assistance. It defines eligibility criteria such a group or groups must meet. Many of us have ideas on how the designation process should work. I have repeatedly stated that the Iraqi National Congress has been effective in the past and can be effective in the future. They represent the broadest possible base of the opposition. There are other groups that are currently active inside Iraq: the Patriotic Union of Kurdistan, the Kurdish Democratic Party and the Supreme Council for the Islamic Revolution in Iraq. The State Department seems to believe there are more than 70 opposition groups, many of which do not meet the criteria in H.R. 4655. Many barely even exist or have no political base. They should not be considered for support. We should also be very careful about considering designation of groups which do not share our values or which are simply creations of external forces or exile politics, such as the Iraqi Communist Party or the Iraqi National Accord.

I appreciate the work we have been able to do with the administration on this legislation. But we should be very clear about the designation process. We intend to exercise our oversight responsibility and authority as provided in section 4(d) and section 5(d). I do not think the Members of Congress, notified pursuant to law, will agree to any designation that we believe does not meet the criteria in section 5 of the Iraq Liberation Act of 1998.

This is an important step. Observers should not misunderstand the Senate's action. Even though this legislation will pass without controversy on an unanimous voice vote, it is a major step forward in the final conclusion of the Persian Gulf war. In 1991, we and our allies shed blood to liberate Kuwait. Today, we are empowering Iraqis to liberate their own country.

Mr. HELMS. Mr. President, I am an original co-sponsor of H.R. 4655, the Iraq Liberation Act, for one simple reason: Saddam Hussein is a threat to the United States and a threat to our friends in the Middle East.

This lunatic is bent on building an arsenal of weapons of mass destruction with a demonstrable willingness to use them. For nearly 8 years the United States has stood by and allowed the U.N. weapons inspections process to proceed in defanging Saddam. That process is now in the final stages of collapse, warning that the U.S. cannot stand idly by hoping against hope that everything will work itself out.

We have been told by Scott Ritter and others that Saddam can reconstitute his weapons of mass destruction within months. The Washington Post reported only last week that Iraq still has three nuclear "implosion devices"—in other words, nuclear bombs minus the necessary plutonium or uranium to set them off. The time has come to recognize that Saddam Hussein the man is inextricable from Iraq's drive for weapons of mass destruction. For as long as he and his regime are in power, Iraq will remain a mortal threat.

This bill will begin the long-overdue process of ousting Saddam. It will not send in U.S. troops or commit American forces in any way. Rather, it harkens back to the successes of the Reagan doctrine, enlisting the very people who are suffering most under Saddam's yoke to fight the battle against him.

The bill requires the President to designate an Iraqi opposition group or groups to receive military drawdown assistance. The President need not look far; the Iraqi National Congress once flourished as an umbrella organization for Kurds, Shiites and Sunni Muslims. It should flourish again, but it needs our help.

Mr. President, the people of Iraq, through representative organizations such as the INC, the Patriotic Union of Kurdistan, the Kurdish Democratic Party and the Shiite SCIRI, have begged for our help. The day may yet come when we are dragged back to Baghdad; I believe that day can be put off, perhaps even averted, by helping the people of Iraq help themselves.

Opponents of this initiative—I shouldn't call them friends of Saddam—have said that the Iraqi opposition exists in name only, that they are too parochial to come together. They are not entirely wrong—which is why Senator LOTT and Chairman GILMAN (the lead House sponsor) have carefully crafted the designation requirement in H.R. 4655 to insist that only broad-based, pro-democracy groups be selected by the President to receive drawdown assistance. I would go further, and suggest to the President that he designate just one group, the Iraqi National Congress, in which the Kurds, the Shiites and the Sunnis of Iraq hold membership. The opposition must be unified, but it may just take the leadership of the United States to bring them together.

Finally, this bill gives the Congress oversight over the designation and drawdown authorities. As Chairman of the Foreign Relations Committee, I intend to exercise vigorously that authority. The White House and the State Department have indicated that they support this bill. We have a unique opportunity, and I intend to do everything in my power to ensure that opportunity is not frittered away. The price of failure is far too high.

Mr. KERREY. Mr. President, I rise to urge the passage of H.R. 4655, the Iraq Liberation Act. Thanks to strong leadership in both Houses of Congress and thanks to the commitment of the administration toward the goals we all share for Iraq and the region, this legislation is moving quickly. This is the point to state what this legislation is not, and what it is, from my understanding, and why I support it so strongly.

First, this bill is not, in my view, and instrument to direct U.S. funds and supplies to any particular Iraqi revolutionary movement. There are Iraqi movements now in existence which could qualify for designation in accordance with this bill. Other Iraqis not now associated with each other could also band together and qualify for designation. It is for Iraqis, not Americans to organize themselves to put Saddam Hussein out of power, just as it will be for Iraqis to choose their leaders in a democratic Iraq. This bill will help the administration encourage and support Iraqis to make their revolution.

Second, this bill is not a device to involve the U.S. military in operations in or near Iraq. The Iraqi revolution is for Iraqis, not Americans, to make. The bill provides the administration a potent new tool to help Iraqis toward this goal, and at the same time advance America's interest in a peaceful and secure Middle East.

This bill, when passed and signed into law, is a clear commitment to a U.S. policy replacing the Saddam Hussein regime and replacing it with a transition to democracy. This bill is a statement that America refuses to coexist with a regime which has used chemical weapons on its own citizens and on neighboring countries, which has invaded its neighbors twice without provocation, which has still not accounted for its atrocities committed in Kuwait, which has fired ballistic missiles into the cities of three of its neighbors, which is attempting to develop nuclear and biological weapons, and which has brutalized and terrorized its own citizens for 30 years. I don't see how any Democratic country could accept the existence of such a regime, but this bill says America will not. I will be an even prouder American when the refusal, and commitment to materially help the Iraqi resistance, are U.S. policy.

Mr. McCAIN. Mr. President, I ask unanimous consent the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4655) was considered read the third time, and passed.

BOUNTY HUNTER ACCOUNTABILITY AND QUALITY ASSISTANCE ACT OF 1998

Mr. McCAIN. I ask unanimous consent that the Senate now proceed to consideration of Calendar No. 582, S. 1637.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> A bill (S. 1637) to expedite State review of criminal records of applicants for bail enforcement officer employment, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bounty Hunter Accountability and Quality Assistance Act of 1998".

SEC. 2. FINDINGS.

Congress finds that—

(1) bounty hunters, also known as bail enforcement officers or recovery agents, provide law enforcement officers and the courts with valuable assistance in recovering fugitives from justice;

(2) regardless of the differences in their duties, skills, and responsibilities, the public has had difficulty in discerning the difference between law enforcement officers and bounty hunters;

(3) the availability of bail as an alternative to the pretrial detention or unsecured release of criminal defendants is important to the effective functioning of the criminal justice system;

(4) the safe and timely return to custody of fugitives who violate bail contracts is an important matter of public safety, as is the return of any other fugitive from justice;

(5) bail bond agents are widely regulated by the States, whereas bounty hunters are largely unregulated;

(6) the public safety requires the employment of qualified, well-trained bounty hunters; and

(7) in the course of their duties, bounty hunters often move in and affect interstate commerce.

SEC. 3. DEFINITIONS.

In this Act—

(1) the term "bail bond agent" means any retail seller of a bond to secure the release of a criminal defendant pending judicial proceedings, unless such person also is self-employed to obtain the recovery of any fugitive from justice who has been released on bail;

(2) the term "bounty hunter"—

(A) means any person whose services are engaged, either as an independent contractor or as an employee of a bounty hunter employer, to obtain the recovery of any fugitive from justice who has been released on bail; and

(B) does not include any—

(i) law enforcement officer acting under color of law;

(ii) attorney, accountant, or other professional licensed under applicable State law;

(iii) employee whose duties are primarily internal audit or credit functions;

(iv) person while engaged in the performance of official duties as a member of the Armed Forces on active duty (as defined in section 101(d)(1) of title 10, United States Code); or

(v) bail bond agent;

(3) the term "bounty hunter employer"—

(A) means any person that—

(i) employs 1 or more bounty hunters; or

(ii) provides, as an independent contractor, for consideration, the services of 1 or more bounty hunters (which may include the services of that person); and

(B) does not include any bail bond agent; and

(4) the term "law enforcement officer" means a public officer or employee authorized under applicable Federal or State law to conduct or engage in the prevention, investigation, prosecution, or adjudication of criminal offenses, including any public officer or employee engaged in corrections, parole, or probation functions, or the recovery of any fugitive from justice.

SEC. 4. MODEL GUIDELINES.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Attorney General shall develop model guidelines for the State control and regulation of persons employed or applying for employment as bounty hunters. In developing such guidelines, the Attorney General shall consult with organizations representing—

(1) State and local law enforcement officers;

(2) State and local prosecutors;

(3) the criminal defense bar;

(4) bail bond agents;

(5) bounty hunters; and

(6) corporate sureties.

(b) RECOMMENDATIONS.—The guidelines developed under subsection (a) shall include recommendations of the Attorney General regarding whether—

(1) a person seeking employment as a bounty hunter should—

(A) be required to submit to a fingerprint-based criminal background check prior to entering into the performance of duties pursuant to employment as a bounty hunter; or

(B) not be allowed to obtain such employment if that person has been convicted of a felony offense under Federal or State law;

(2) bounty hunters and bounty hunter employers should be required to obtain adequate liability insurance for actions taken in the course of performing duties pursuant to employment as a bounty hunter; and

(3) State laws should provide—

(A) for the prohibition on bounty hunters entering any private dwelling, unless the bounty hunter first knocks on the front door and announces the presence of 1 or more bounty hunters; and

(B) the official recognition of bounty hunters from other States.

(c) EFFECT ON BAIL.—The guidelines published under subsection (a) shall include an analysis of the estimated effect, if any, of the adoption of the guidelines by the States on—

(1) the cost and availability of bail; and

(2) the bail bond agent industry.

(d) BYRNE GRANT PREFERENCE FOR CERTAIN STATES.—

(1) IN GENERAL.—Section 505 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3755) is amended by adding at the end the following:

"(e) PREFERENCE FOR CERTAIN STATES.—Notwithstanding any other provision of this part, in making grants to States under this subpart, the Director shall give priority to States that have adopted the model guidelines developed under section 4(a) of the Bounty Hunter Accountability and Quality Assistance Act of 1998.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect 2 years after the date of enactment of this Act.

(e) NO REGULATORY AUTHORITY.—Nothing in this section may be construed to authorize the promulgation of any Federal regulation relating to bounty hunters, bounty hunter employers, or bail bond agents.

(f) PUBLICATION OF GUIDELINES.—The Attorney General shall publish model guidelines developed pursuant to subsection (a) in the Federal Register.

Mr. McCAIN. I ask unanimous consent that the substitute amendment be agreed to, the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Committee substitute amendment was agreed to.

The bill (S. 1637), as amended, was considered read the third time, and passed.

UNANIMOUS CONSENT AGREEMENT—H.R. 3694

Mr. McCAIN. I ask unanimous consent that when the Senate proceeds to the consideration of the conference report to accompany H.R. 3694, the Intelligence authorization bill, that there be 30 minutes for debate divided as follows: 15 minutes for Senator MOYNIHAN, 15 minutes equally divided between the managers. I further ask unanimous consent that following that debate time, the conference report be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the conference report be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. McCAIN. I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on the Executive Calendar: No. 816 and No. 817.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. I further ask unanimous consent the nominations be confirmed, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Joy Harjo, of New Mexico, to be a Member of the National Council on the Arts for a term expiring September 3, 2002.

Joan Specter, of Pennsylvania, to be a Member of the National Council on the Arts for a term expiring September 3, 2002.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

THE CALENDAR

Mr. McCAIN. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of the following bills, en bloc: Calendar No. 578, H.R. 2795; Calendar No. 600, H.R. 1659; Calendar No. 601, H.R. 2000; Calendar No. 612, S. 736; Calendar No. 614, S. 777; Calendar No. 616, S. 1175; Calendar No. 617, S. 1641; Calendar No. 619, S. 2041; Calendar No. 620, S. 2086; Calendar No. 624, S. 2140; Calendar No. 625, S. 2142; Calendar No. 626, S. 2239; Calendar No. 627, S. 2240; Calendar No. 628, S. 2241; Calendar No. 629, S. 2246; Calendar No. 630, S. 2247; Calendar No. 631, S. 2248; Calendar No. 632, S. 2257; Calendar No. 633, S. 2284; Calendar No. 634, S. 2285; Calendar No. 636, S. 2309; Calendar No. 638, S. 2468; Calendar No. 641, H.R. 2411;

Calendar No. 643, H.R. 4079; Calendar No. 644, H.R. 4166.

I ask unanimous consent that any committee amendments be agreed to; that the bills be read a third time and passed, as amended, if amended; that the motions to reconsider be laid upon the table; that any amendments to titles be agreed to, as may be necessary; and that any statements relating to the bills appear at the appropriate place in the RECORD, with the above occurring en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

IRRIGATION PROJECT CONTRACT EXTENSION ACT OF 1998

The bill (H.R. 2795) to extend contracts between the Bureau of Reclamation and irrigation water contractors in Wyoming and Nebraska that receive water from Glendo Reservoir, was considered, ordered to a third reading, read the third time, and passed.

MOUNT ST. HELENS NATIONAL VOLCANIC MONUMENT COMPLETION ACT

The bill (H.R. 1659) to provide for the expeditious completion of the acquisition of private mineral interests within the Mount St. Helens National Volcanic Monument mandated by the 1982 Act that established the Monument and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

ANCSA LAND BANK PROTECTION ACT OF 1998

The bill (H.R. 2000) to amend the Alaska Native Claims Settlement Act to make certain clarifications to the land bank protection provisions, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

Mr. MURKOWSKI. Mr. President, today is a historic day for the Congress, the National Park Service and the American people. After 2 years of intense negotiations, hearings from coast to coast, and a great deal of hard work I am pleased to inform my colleagues that we have National Park Service Reform.

More importantly, after 8 years of disagreement, and as part of the National Park Service Reform package, we have achieved victory; we have come together in true bipartisan fashion, and we have reformed the management and administration of concession operations in the National Park Service System.

Under this legislation, and in addition to concession reform, we have provided the National Park Service with increased opportunities, in cooperation with colleges and universities, to conduct scientific research in our parks so that in future years resource management decisions can be based more on sound science as opposed to emotion and guess work.

We direct the Secretary of the Interior to develop a comprehensive training program for employees in all professional careers in the work force of the National Park Service to ensure that personnel have the best, up-to-date knowledge, skills and abilities with which to manage, interpret and protect the resources of the National Park System.

As we all know the management and administration of parks is becoming more complex. We require managers who are fully prepared to take on the challenges that the next century will offer. The Secretary is directed to develop a training program which will ensure that future park managers will come from the cream of the crop and will be fully prepared to assume the responsibilities that management and administration of multiple park programs will demand.

We have established procedures for the establishment of new units of the National Park System to ensure that only those areas of truly national significance are authorized.

Mr. President, the original bill passed by the Senate contained new fee authorities which would have allowed the actual users of the System to shoulder more of the responsibility to decrease the $8 billion backlog in maintenance and infrastructure repair needed in our parks. Unfortunately, the other Body decided to delete these provisions from this legislative package. I regret this decision; however, I want you to know that the Committee on Energy and Natural Resources is going to address the fee systems for all of the agencies under our jurisdiction early in the next Congress. There are needs to be met and problems to be resolved in this specific arena.

Senator THOMAS came up with a park passport and stamp as an entrance pass to our National Parks. The winning design of the stamp will be through a competitive process each year, a similar process to the popular Duck Stamp that we are all familiar with. It's a great marketing tool and should increase revenues. Along that same line we are directing the National Park Foundation to assist other park friends groups. The Foundation possesses a great deal of expertise in fund raising and philanthropic activities. Sharing that expertise will benefit hundreds of parks across this Nation.

We also direct the Secretary and provide him the authority to lease unused Park Service buildings and enter into expanded cooperative agreements in the hope that the private sector will take advantage of occupying and maintaining some of these unused structures, thereby off-setting expenditures by the Service.

Mr. President, Senator THOMAS, Senator BUMPERS, Senator BENNETT, and Secretary Babbitt entered into negotiations on concession reform. The end result is before you today. All of these gentlemen deserve our congratulations and thanks for the time and energy each put into the effort.

This bill is a direct result of discussions amongst the House and Senate Committees, representatives of the concession industry, and other interest groups. It reflects, I believe, a fair and just resolution of some issues about which there is legitimate disagreement. The recent amendment offered by Representative MILLER alters the terms of that agreement to some degree, but it remains a piece of legislation I can still support and endorse. However, I do think the amendment does give rise to a need for some clarification.

Protection of the existing possessory interests of concessioners is an important element of this legislation. Possessory interest is a significant and valuable right. It reflects the capital investment of the concessioner. It was one of the foundations on which the 1965 Concessions Act was built and it can not be simply eliminated. The concessioners are entitled to the protections which the 1965 Act promised.

For those reasons I think we must make clear what the Miller amendment does not do. In authorizing the Secretary to, in the future, alter the treatment of possessory interests, it does not empower him to do what Congress has specifically chosen not to do, by which I mean deny those concessioners the value of their existing possessory interest. Regardless of what the Secretary may ultimately decide, those existing possessory interest will remain a valuable and legally protected right for which concessioners must be compensated. They will remain entitled to see their investment protected and to receive the benefit of their bargain.

Mr. President, on another point, we have just received a GAO study that tells us that many of our existing concession facilities are below standard and deteriorating. Visitors to our parks should not expect to stay in a facility that cannot pass the minimum requirements that apply to those hotels and motels on the borders of our parks. On that note, and as I have previously stated the negotiations that lead to this compromise were difficult to say the least. Each had to come across the table, no one got everything they wanted except the American people, and they got a lot.

The provisions of this compromise mean that we will have the expertise of the private sector to assist and advise the National Park Service in the management and administration of concession operations. I am confident that under this scenario concession operations have no where to go but to produce better quality services.

The private sector will be more than glad to provide major investments in new and existing facilities because they are able to maintain a financial interest in the properties. There is a great incentive for the operators to maintain their facilities and infrastructure to the highest standards possible. If they don't, the provisions provide for a decrease in the dollar amount of interest they are entitled to receive.

Finally, concession operators will be paying more in fees which go back to the parks.

Mr. President, I personally want to thank Senator THOMAS for the extreme effort that he has put forth in this endeavor. In my years in the Senate I have never seen a Senator work harder on this contentious issue. He has done the impossible.

And, last but not least, I want to say thank you to the Committee staff, for the hard work, the lost weekends, the evenings and for the great work.

CARLSBAD IRRIGATION PROJECT ACQUIRED LAND TRANSFER ACT

The Senate proceeded to consider the bill (S. 736) to convey certain real property within the Carlsbad Project in New Mexico to the Carlsbad Irrigation District, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

S. 736

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Carlsbad Irrigation Project Acquired Land Transfer Act".

SEC. 2. CONVEYANCE.

(a) LANDS AND FACILITIES.—

(1) IN GENERAL.—Except as provided in paragraph (2), and subject to subsection (c), the Secretary of the Interior (in this Act referred to as the "Secretary") may convey to the Carlsbad Irrigation District (a quasi-municipal corporation formed under the laws of the State of New Mexico and in this Act referred to as the "District"), all right, title, and interest of the United States in and to the lands described in subsection (b) (in this Act referred to as the "acquired lands") and all interests the United States holds in the irrigation and drainage system of the Carlsbad Project and all related lands including ditch rider houses, maintenance shop and buildings, and Pecos River Flume.

(2) LIMITATION.—

(A) RETAINED SURFACE RIGHTS.—The Secretary shall retain title to the surface estate (but not the mineral estate) of such acquired lands which are located under the footprint of Brantley and Avalon dams or any other project dam or reservoir division structure.

(B) STORAGE AND FLOW EASEMENT.—The Secretary shall retain storage and flow easements for any tracts located under the maximum spillway elevations of Avalon and Brantley Reservoirs.

(b) ACQUIRED LANDS DESCRIBED.—The lands referred to in subsection (a) are those lands (including the surface and mineral estate) in Eddy County, New Mexico, described as the acquired lands and in section (7) of the "Status of Lands and Title Report: Carlsbad Project" as reported by the Bureau of Reclamation in 1978.

(c) TERMS AND CONDITIONS OF CONVEYANCE.—Any conveyance of the acquired lands under this Act shall be subject to the following terms and conditions:

(1) MANAGEMENT AND USE, GENERALLY.—The conveyed lands shall continue to be managed and used by the District for the purposes for which the Carlsbad Project was authorized, based on historic operations and consistent with the management of other adjacent project lands.

(2) ASSUMED RIGHTS AND OBLIGATIONS.—Except as provided in paragraph (3), the District shall assume all rights and obligations of the United States under—

(A) the agreement dated July 28, 1994, between the United States and the Director, New Mexico Department of Game and Fish (Document No. 2–LM–40–00640), relating to management of certain lands near Brantley Reservoir for fish and wildlife purposes; and

(B) the agreement dated March 9, 1977, between the United States and the New Mexico Department of Energy, Minerals, and Natural Resources (Contract No. 7–07–57–X0888) for the management and operation of Brantley Lake State Park.

(3) EXCEPTIONS.—In relation to agreements referred to in paragraph (2)—

(A) the District shall not be obligated for any financial support agreed to by the Secretary, or the Secretary's designee, in either agreement; and

(B) the District shall not be entitled to any receipts for revenues generated as a result of either agreement.

(d) COMPLETION OF CONVEYANCE.—If the Secretary does not complete the conveyance within 180 days from the date of enactment of this Act, the Secretary shall submit a report to the Congress within 30 days after that period that includes a detailed explanation of problems that have been encountered in completing the conveyance, and specific steps that the Secretary has taken or will take to complete the conveyance.

SEC. 3. LEASE MANAGEMENT AND PAST REVENUES COLLECTED FROM THE ACQUIRED LANDS.

(a) IDENTIFICATION AND NOTIFICATION OF LEASEHOLDERS.—Within 120 days after the date of enactment of this Act, the Secretary of the Interior shall—

(1) provide to the District a written identification of all mineral and grazing leases in effect on the acquired lands on the date of enactment of this Act; and

(2) notify all leaseholders of the conveyance authorized by this Act.

(b) MANAGEMENT OF MINERAL AND GRAZING LEASES, LICENSES, AND PERMITS.—The District shall assume all rights and obligations of the United States for all mineral and grazing leases, licenses, and permits existing on the acquired lands conveyed under section 2, and shall be entitled to any receipts from such leases, licenses, and permits accruing after the date of conveyance. All such receipts shall be used for purposes for which the Project was authorized and for financing the portion of operations, maintenance, and replacement of the Summer Dam which, prior to conveyance, was the responsibility of the Bureau of Reclamation, with the exception of major maintenance programs in progress prior to conveyance which shall be funded through the cost share formulas in place at the time of conveyance. The District shall continue to adhere to the current Bureau of Reclamation mineral leasing stipulations for the Carlsbad Project.

(c) AVAILABILITY OF AMOUNTS PAID INTO RECLAMATION FUND.—

(1) EXISTING RECEIPTS.—Receipts in the reclamation fund on the date of enactment of this Act which exist as construction credits to the Carlsbad Project under the terms of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351–359) shall be deposited in the General Treasury and credited to deficit reduction or retirement of the Federal debt.

(2) RECEIPTS AFTER ENACTMENT.—Of the receipts from mineral and grazing leases, licenses, and permits on acquired lands to be conveyed under section 2, that are received by the United States after the date of enactment and before the date of conveyance—

(A) not to exceed $200,000 shall be available to the Secretary for the actual costs of implementing this Act with any additional costs shared equally between the Secretary and the District; and

(B) the remainder shall be deposited into the General Treasury of the United States and credited to deficit reduction or retirement of the Federal debt.

SEC. 4. VOLUNTARY WATER CONSERVATION PRACTICES.

Nothing in this Act shall be construed to limit the ability of the District to voluntarily implement water conservation practices.

SEC. 5. LIABILITY.

Effective on the date of conveyance of any lands and facilities authorized by this Act, the United States shall not be held liable by any court for damages of any kind arising out of any act, omission, or occurrence relating to the conveyed property, except for damages caused by acts of negligence committed by the United States or by its employees, agents, or contractors, prior to conveyance. Nothing in this section shall be considered to increase the liability of the United States beyond that provided under chapter 171 of title 28, United States Code, popularly known as the Federal Tort Claims Act.

SEC. 6. FUTURE BENEFITS.

Effective upon transfer, the lands and facilities transferred pursuant to this Act shall not be entitled to receive any further Reclamation benefits pursuant to the Reclamation Act of June 17, 1902, and Acts supplementary thereof or amendatory thereto attributable to their status as part of a Reclamation Project.

The committee amendment was agreed to.

The bill (S. 736), as amended, was considered read the third time and passed.

Mr. DOMENICI. Mr. President, I am very pleased that the Senate has passed S. 736—the Carlsbad Irrigation Project Acquired Land Transfer Act. I, along with Congressman SKEEN, have been working to convey tracts of land—paid for by Carlsbad Irrigation District and referred to as "acquired lands"—back to the district, during the past several congresses.

I introduced this bill in May of 1997 in order to transfer lands back to the rightful owners. This legislation will not affect operations at the New Mexico State park at Brantley Dam, or the operations and ownership of the dam itself. Furthermore, the bill will not affect recreation activities in the area.

This legislation is specific to the Carlsbad project in New Mexico, and directs the Carlsbad Irrigation District to continue to manage the lands as they have been in the past, for the purposes for which the project was constructed. I believe this is a fair and equitable bill that has been developed over years of negotiations. The Carlsbad Irrigation District has had operations and maintenance responsibilities for the past 66 years. It met all the repayment obligations to the Government in 1991, and it's about time we let CID have what is rightfully theirs.

This legislation accomplishes three things: Conveys title of acquired lands and facilities to Carlsbad Irrigation District; allows the District to assume management of leases and the benefits of the receipts from these acquired lands; and sets a 180-day deadline for the transfer, establishing a 50-50 cost-sharing standard for carrying out the transfer.

The Carlsbad Irrigation Project is a single-purpose project created in 1905 by the Bureau of Reclamation, acquiring all facilities, lands and water rights of the privately-owned Pecos Irrigation Company. The CID has had operations and maintenance responsibilities for the irrigation and drainage system since 1932.

During the 104th Congress, the Carlsbad Irrigation District presented testimony before the Committee on Energy and Natural Resources on one occasion, and before the House Committee on Resources on two occasions. Additionally, the administration expressed on several occasions before these two committees that they want to move forward with acquired land transfers where they make sense. The Commissioner of the Bureau of Reclamation, Eluid Martinez, has informed the district and me that he believes that the Carlsbad project is one of several projects where the Bureau would like to pursue transfer opportunities. It is about time that we pass this legislation to provide the Bureau with the ability to accomplish their stated goal in a fair and equitable manner.

This transfer shifts responsibility from the Federal Government back to a local entity, and creates opportunity for the district to improve and enhance the management of these lands. After a long wait, we have gotten administration support for this transfer in language substituted by the Senate Energy Committee, and have gained support from the Democratic side of the aisle. I hope that the House of Representatives will act quickly on this legislation so that the Carlsbad Irrigation District will promptly begin getting the benefits for that which they have paid.

LEWIS AND CLARK RURAL WATER SYSTEM ACT OF 1998

The Senate proceeded to consider the bill (S. 777) to authorize the construction of the Lewis and Clark Water System and to authorize assistance to Lewis and Clark Rural Water System, Inc., a nonprofit corporation, for the planning and construction of the water supply system, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 777

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Lewis and Clark Rural Water System Act of 1997".

SEC. 2. DEFINITIONS.

In this Act:

(1) ENVIRONMENTAL ENHANCEMENT.—The term "environmental enhancement" means the wetland and wildlife enhancement activities that are carried out substantially in accordance with the environmental enhancement component of the feasibility study.

(2) ENVIRONMENTAL ENHANCEMENT COMPONENT.—The term "environmental enhancement component" means the component described in the report entitled "Wetlands and Wildlife Enhancement for the Lewis and Clark Rural Water System", dated April 1991, that is included in the feasibility study.

(3) FEASIBILITY STUDY.—The term "feasibility study" means the study entitled "Feasibility Level Evaluation of a Missouri River Regional Water Supply for South Dakota, Iowa and Minnesota", dated September 1993, that includes a water conservation plan, environmental report, and environmental enhancement component.

(4) MEMBER ENTITY.—The term "member entity" means a rural water system or municipality that signed a Letter of Commitment to participate in the water supply system.

(5) PROJECT CONSTRUCTION BUDGET.—The term "project construction budget" means the description of the total amount of funds needed for the construction of the water supply system, as contained in the feasibility study.

(6) PUMPING AND INCIDENTAL OPERATIONAL REQUIREMENTS.—The term "pumping and incidental operational requirements" means all power requirements that are incidental to the operation of intake facilities, pumping stations, water treatment facilities, reservoirs, and pipelines up to the point of delivery of water by the water supply system to each member entity that distributes water at retail to individual users.

[(7) SECRETARY.—The term "Secretary" means the Secretary of the Interior.]

(7) SYSTEM FUNDING AGENCIES.—The term "System Funding Agencies" means the Environmental Protection Agency and the Department of Agriculture.

(8) WATER SUPPLY SYSTEM.—The term "water supply system" means the Lewis and Clark Rural Water System, Inc., a nonprofit corporation established and operated substantially in accordance with the feasibility study.

SEC. 3. FEDERAL ASSISTANCE FOR THE WATER SUPPLY SYSTEM.

(a) IN GENERAL.—The [Secretary] *System Funding Agencies* shall make grants to the water supply system for the planning and construction of the water supply system.

(b) SERVICE AREA.—The water supply system shall provide for safe and adequate municipal, rural, and industrial water supplies, environmental enhancement, mitigation of wetland areas, and water conservation in—

(1) Lake County, McCook County, Minnehaha County, Turner County, Lincoln County, Clay County, and Union County, in southeastern South Dakota;

(2) Rock County and Nobles County, in southwestern Minnesota; and

(3) Lyon County, Sioux County, Osceola County, O'Brien County, Dickinson County, and Clay County, in northwestern Iowa.

(c) AMOUNT OF GRANTS.—Grants made available under subsection (a) to the water supply system shall not exceed the amount of funds authorized under section 10.

(d) LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.—The [Secretary] *System Funding Agencies* shall not obligate funds for the construction of the water supply system until—

(1) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are met;

(2) a final engineering report is prepared and submitted to Congress not less than 90 days before the commencement of construction of the water supply system; and

(3) a water conservation program is developed and implemented.

SEC. 4. FEDERAL ASSISTANCE FOR THE ENVIRONMENTAL ENHANCEMENT COMPONENT.

(a) INITIAL DEVELOPMENT.—The [Secretary] *System Funding Agencies* shall make grants and other funds available to the water supply system and other private, State, and Federal entities, for the initial development of the environmental enhancement component.

(b) NONREIMBURSEMENT.—Funds provided under subsection (a) shall be nonreimbursable and nonreturnable.

SEC. 5. WATER CONSERVATION PROGRAM.

(a) IN GENERAL.—The water supply system shall establish a water conservation program that ensures that users of water from the water supply system use the best practicable technology and management techniques to conserve water use.

(b) REQUIREMENTS.—The water conservation programs shall include—

(1) low consumption performance standards for all newly installed plumbing fixtures;

(2) leak detection and repair programs;

(3) rate schedules that do not include declining block rate schedules for municipal households and special water users (as defined in the feasibility study);

(4) public education programs and technical assistance to member entities; and

(5) coordinated operation among each rural water system, and each water supply facility in existence on the date of enactment of this Act, in the service area of the system.

(c) REVIEW AND REVISION.—The programs described in subsection (b) shall contain provisions for periodic review and revision, in cooperation with the [Secretary.] *Secretary of the Interior.*

SEC. 6. MITIGATION OF FISH AND WILDLIFE LOSSES.

Mitigation for fish and wildlife losses incurred as a result of the construction and operation of the water supply system shall be on an acre-for-acre basis, based on ecological equivalency, concurrent with project construction, as provided in the feasibility study.

SEC. 7. USE OF PICK-SLOAN POWER.

(a) IN GENERAL.—From power designated for future irrigation and drainage pumping for the Pick-Sloan Missouri Basin program, the Western Area Power Administration shall make available the capacity and energy required to meet the pumping and incidental operational requirements of the water supply system during the period beginning on May 1 and ending on October 31 of each year.

(b) CONDITIONS.—The capacity and energy described in subsection (a) shall be made available on the following conditions:

(1) The water supply system shall be operated on a not-for-profit basis.

(2) The water supply system shall contract to purchase the entire electric service requirements of the system, including the capacity and energy made available under subsection (a), from a qualified preference power supplier that itself purchases power from the Western Area Power Administration.

(3) The rate schedule applicable to the capacity and energy made available under subsection (a) shall be the firm power rate schedule of the Pick-Sloan Eastern Division of the Western Area Power Administration in effect when the power is delivered by the Administration.

(4) It is agreed by contract among—

(A) the Western Area Power Administration;

(B) the power supplier with which the water supply system contracts under paragraph (2);

(C) the power supplier of the entity described in subparagraph (B); and

(D) the water supply system;

that in the case of the capacity and energy made available under subsection (a), the benefit of the rate schedule described in paragraph (3) shall be passed through to the water supply system, except that the power supplier of the water supply system shall not be precluded from including, in the charges of the supplier to the water system for the electric service, the other usual and customary charges of the supplier.

SEC. 8. NO LIMITATION ON WATER PROJECTS IN STATES.

This Act does not limit the authorization for water projects in the States of South Dakota, Iowa, and Minnesota under law in effect on or after the date of enactment of this Act.

SEC. 9. WATER RIGHTS.

Nothing in this Act—

(1) invalidates or preempts State water law or an interstate compact governing water;

(2) alters the rights of any State to any appropriated share of the waters of any body of surface or ground water, whether determined by past or future interstate compacts or by past or future legislative or final judicial allocations;

(3) preempts or modifies any Federal or State law, or interstate compact, governing water quality or disposal; or

(4) confers on any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.

SEC. 10. COST SHARING.

(a) FEDERAL COST SHARE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the **[**Secretary**]** *System Funding Agencies* shall provide funds equal to 80 percent of—

(A) the amount allocated in the total project construction budget for planning and construction of the water supply system under section 3;

(B) such amounts as are necessary to defray increases in the budget for planning and construction of the water supply system under section 3; and

(C) such amounts as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after September 1, 1993.

(2) SIOUX FALLS.—The **[**Secretary**]** *System Funding Agencies* shall provide funds for the city of Sioux Falls, South Dakota, in an amount equal to 50 percent of the incremental cost to the city of participation in the project.

(b) NON-FEDERAL COST SHARE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the non-Federal share of the costs allocated to the water supply system shall be 20 percent of the amounts described in subsection (a)(1).

(2) SIOUX FALLS.—The non-federal cost-share for the city of Sioux Falls, South Dakota, shall be 50 percent of the incremental cost to the city of participation in the project.

SEC. 11. BUREAU OF RECLAMATION.

(a) AUTHORIZATION.—The Secretary *of the Interior* may allow the Director of the Bureau of Reclamation to provide project construction oversight to the water supply system and environmental enhancement component for the service area of the water supply system described in section 3(b).

(b) PROJECT OVERSIGHT ADMINISTRATION.—The amount of funds used by the Director of the Bureau of Reclamation for **[**planning and construction**]** *oversight and other technical assistance* of the water supply system shall not exceed the amount that is equal to 1 percent of the amount provided in the total project construction budget for the entire project construction period.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $226,320,000, of which not less than $8,487,000 shall be used for the initial development of the environmental enhancement component under section 4, to remain available until expended.

The committee amendments were agreed to.

The bill (S. 777), as amended, was considered read the third time and passed, as follows:

[The bill was not available for printing. It will appear in a future issue of the RECORD.]

DELAWARE WATER GAP NATIONAL RECREATION AREA CITIZEN ADVISORY COMMISSION

The bill (S. 1175) to reauthorize the Delaware Water Gap National Recreation Area Citizen Advisory Commission for 10 additional years, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1175

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REAUTHORIZATION OF THE DELAWARE WATER GAP NATIONAL RECREATION AREA CITIZEN ADVISORY COMMISSION.

Section 5 of Public Law 101–573 (16 U.S.C. 460o note) is amended by striking "10" and inserting "20".

WOMEN'S RIGHTS NATIONAL HISTORIC TRAIL ACT OF 1998

The Senate proceeded to consider the bill (S. 1641) to direct the Secretary of the Interior to study alternatives for establishing a national historic trail to commemorate and interpret the history of women's rights in the United States, which had been reported from the Committee on Energy and Natural Resources with an amendment, as follows:

(The part of the bill intended to be stricken is shown in boldface brackets.)

S. 1641

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Women's Rights National Historic Trail Act of 1998".

SEC. 2. STUDY OF ALTERNATIVES FOR NATIONAL HISTORIC TRAIL TO COMMEMORATE AND INTERPRET HISTORY OF WOMEN'S RIGHTS IN THE UNITED STATES.

(a) IN GENERAL.—The Secretary of the Interior, acting through the Director of the National Park Service (referred to in this section as the "Secretary"), shall conduct a study of alternatives for **[**establishing a national historic trail**]** commemorating and interpreting the history of women's rights in the United States.

(b) MATTERS TO BE CONSIDERED.—The study under subsection (a) shall include—

(1) consideration of the establishment of a new unit of the National Park System;

(2) consideration of the establishment of various appropriate designations for routes and sites relating to the history of women's rights in the United States, and alternative means to link those sites, including a corridor between Buffalo, New York, and Boston, Massachusetts;

(3) recommendations for cooperative arrangements with State and local governments, local historical organizations, and other entities; and

(4) cost estimates for the alternatives.

(c) STUDY PROCESS.—The Secretary shall—

(1) conduct the study with public involvement and in consultation with State and local officials, scholarly and other interested organizations, and individuals;

(2) complete the study as expeditiously as practicable after the date on which funds are made available for the study; and

(3) on completion of the study, submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the findings and recommendations of the study.

The committee amendment was agreed to.

The bill (S. 1641), as amended, was considered read the third time and passed, as follows:

S. 1641

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Women's Rights National Historic Trail Act of 1998".

SEC. 2. STUDY OF ALTERNATIVES FOR NATIONAL HISTORIC TRAIL TO COMMEMORATE AND INTERPRET HISTORY OF WOMEN'S RIGHTS IN THE UNITED STATES.

(a) IN GENERAL.—The Secretary of the Interior, acting through the Director of the National Park Service (referred to in this section as the "Secretary"), shall conduct a study of alternatives for commemorating and interpreting the history of women's rights in the United States.

(b) MATTERS TO BE CONSIDERED.—The study under subsection (a) shall include—

(1) consideration of the establishment of a new unit of the National Park System;

(2) consideration of the establishment of various appropriate designations for routes and sites relating to the history of women's rights in the United States, and alternative means to link those sites, including a corridor between Buffalo, New York, and Boston, Massachusetts;

(3) recommendations for cooperative arrangements with State and local governments, local historical organizations, and other entities; and

(4) cost estimates for the alternatives.

(c) STUDY PROCESS.—The Secretary shall—

(1) conduct the study with public involvement and in consultation with State and local officials, scholarly and other interested organizations, and individuals;

(2) complete the study as expeditiously as practicable after the date on which funds are made available for the study; and

(3) on completion of the study, submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the findings and recommendations of the study.

WILLOW LAKE NATURAL TREATMENT SYSTEM PROJECT

The bill (S. 2041) to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the design, planning, and construction of the Willow Lake Natural Treatment System Project for the reclamation and reuse of water, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2041

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WILLOW LAKE NATURAL TREATMENT SYSTEM PROJECT.

(a) IN GENERAL.—The Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h et seq.) is amended—

(1) by redesignating sections 1631, 1632, and 1633 as sections 1632, 1633, and 1634, respectively; and

(2) by inserting after section 1630 the following new section 1631:

"SEC. 1631. WILLOW LAKE NATURAL TREATMENT SYSTEM PROJECT.

"(a) AUTHORIZATION.—The Secretary, in cooperation with the City of Salem, Oregon, is authorized to participate in the design, planning, and construction of the Willow Lake Natural Treatment System Project to reclaim and reuse wastewater within and without the service area of the City of Salem.

"(b) COST SHARE.—The Federal share of the cost of a project described in subsection (a) shall not exceed 25 percent of the total cost.

"(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of a project described in subsection (a).".

(b) CONFORMING AMENDMENTS.—That Act is further amended—

(1) in section 1632 (43 U.S.C. 390h–13) (as redesignated by subsection (a)(1)), by striking "section 1630" and inserting "section 1631";

(2) in section 1633(c) (43 U.S.C. 390h–14) (as so redesignated), by striking "section 1633" and inserting "section 1634"; and

(3) in section 1634 (43 U.S.C. 390h–15) (as so redesignated), by striking "section 1632" and inserting "section 1633".

(c) CLERICAL AMENDMENT.—The table of contents in section 2 of the Reclamation Projects Authorization and Adjustment Act of 1992 is amended by striking the items relating to sections 1631 through 1633 and inserting the following:

"Sec. 1631. Willow Lake Natural Treatment System Project.
"Sec. 1632. Authorization of appropriations.
"Sec. 1633. Groundwater study.
"Sec. 1634. Authorization of appropriations.".

GEORGE WASHINGTON BIRTHPLACE NATIONAL MONUMENT

The Senate proceeded to consider the bill (S. 2086) to revise the boundaries of the George Washington Birthplace National Monument, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. ADDITION TO NATIONAL MONUMENT.

(a) ADDITION.—The boundaries of the George Washington Birthplace National Monument are modified to include the property generally know as George Washington's Boyhood Home, Ferry Farm, located in Stafford County, Virginia, across the Rappahannock River from Fredericksburg, Virginia, comprising approximately 8 acres. The boundary modification is generally depicted on the map entitled "George Washington Birthplace National Monument Boundary Map", numbered 322/80, 020 and dated April 1998. The Secretary of the Interior shall keep the map on file and available for public inspection in appropriate offices of the National Park Service.

(b) ACQUISITION OF EASEMENT.—After the enactment of this Act, the Secretary of the Interior may acquire a conservation easement for the property described in subsection (a) to ensure the preservation of this important cultural and natural resources associated with Ferry Farm.

SEC. 2. RESOURCE STUDY.

(a) IN GENERAL.—Not later than 18 months after the date on which funds are made available to carry out this section, the Secretary of the Interior shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a resource study of the property described in section 1(a).

(b) CONTENTS.—The study under subsection (a) shall—

(1) identify the full range of resources and historic themes associated with Ferry Farm, including those associated with George Washington's tenure at the property described in section 1(a) and those associated with the Civil War period;

(2) identify alternatives for further National Park Service involvement at the property described in section 1(a) beyond those that may be provided for in the acquisition authorized under section 1(b); and

(3) include cost estimates for any necessary acquisition, development, interpretation, operation, and maintenance associated with the alternatives identified.

SEC. 3. AGREEMENTS.

Upon completion of the resource study under section 2, the Secretary of the Interior may enter into agreements with the owner of the property described in section 1(a) or other entities for the purpose of providing programs, services, facilities, or technical assistance that further the preservation and public use of the property.

The committee amendment was agreed to.

The bill (S. 2086), as amended, was considered read the third time and passed.

DENVER WATER REUSE PROJECT

The bill (S. 2140) to amend the Reclamation Projects Authorization and Adjustment Act of 1992 to authorize the Secretary of the Interior to participate in the design, planning, and construction of the Denver Water Reuse project, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2140

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DENVER WATER REUSE PROJECT.

(a) IN GENERAL.—The Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. 390h et seq.) is amended—

(1) by redesignating sections 1631, 1632, and 1633 (42 U.S.C. 390h–13, 390h–14, 390h–15) as sections 1632, 1633, and 1634, respectively; and

(2) by inserting after section 1630 (43 U.S.C. 390h–12p) the following:

"SEC. 1631. DENVER WATER REUSE PROJECT.

"(a) AUTHORIZATION.—The Secretary, in cooperation with the appropriate State and local authorities, may participate in the design, planning, and construction of the Denver Water Reuse project to reclaim and reuse water in the service area of the Denver Water Department of the city and county of Denver, Colorado.

"(b) COST SHARE.—The Federal share of the cost of the project described in subsection (a) shall not exceed 25 percent of the total cost.

"(c) LIMITATION.—The Secretary shall not provide funds for the operation or maintenance of the project described in subsection (a).".

(b) CONFORMING AMENDMENTS.—

(1) The table of contents in section 2 of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. prec. 371) is amended—

(A) by redesignating the items relating to sections 1631, 1632, and 1633 as items relating to sections 1632, 1633, and 1634, respectively, and

(B) by inserting after the item relating to section 1630 the following:

"Sec. 1631. Denver Water Reuse Project.".

(2) Section 1632(a) of the Reclamation Projects Authorization and Adjustment Act of 1992 (as redesignated by subsection (a)(1)) is amended by striking "1630" and inserting "1631".

(3) Section 1633(c) of the Reclamation Projects Authorization and Adjustment Act of 1992 (as redesignated by subsection (a)(1)) is amended by striking "section 1633" and inserting "section 1634".

(4) Section 1634 of the Reclamation Projects Authorization and Adjustment Act of 1992 (as redesignated by subsection (a)(1))

is amended by striking "section 1632" and inserting "section 1633".

PINE RIVER PROJECT CONVEYANCE ACT

The Senate proceeded to consider the bill (S. 2142) to authorize the Secretary of the Interior to convey the facilities of the Pine River Project, to allow jurisdictional transfer of lands between the Department of Agriculture, Forest Service, and the Department of the Interior, Bureau of Reclamation, and the Bureau of Indian Affairs, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Pine River Project Conveyance Act".

SEC. 2. DEFINITIONS.

For purposes of this Act:

(1) The term "Jurisdictional Map" means the map entitled "Transfer of Jurisdiction—Vallecito Reservoir, United States Department of Agriculture, Forest Service and United States Department of the Interior, Bureau of Reclamation and the Bureau of Indian Affairs" dated March, 1998.

(2) The term "Pine River Project" or the "Project" means Vallecito Dam and Reservoir owned by the United States and authorized in 1937 under the provisions of the Department of the Interior Appropriation Act of June 25, 1910, 36 Stat. 835; facilities appurtenant to the Dam and Reservoir, including equipment, buildings, and other improvements; lands adjacent to the Dam and Reservoir; easements and rights-of-way necessary for access and all required connections with the Dam and Reservoir, including those for necessary roads; and associated personal property, including contract rights and any and all ownership or property interest in water or water rights.

(3) The term "Repayment Contract" means Repayment Contract #Ilr–1204, between Reclamation and the Pine River Irrigation District, dated April 15, 1940, and amended November 30, 1953, and all amendments and additions thereto, including the Act of July 27, 1954 (68 Stat. 534), covering the Pine River Project and certain lands acquired in support of the Vallecito Dam and Reservoir pursuant to which the Pine River Irrigation District has assumed operation and maintenance responsibilities for the dam, reservoir, and water-based recreation in accordance with existing law.

(4) The term "Reclamation" means the Department of the Interior, Bureau of Reclamation.

(5) The term "Secretary" means the Secretary of the Interior.

(6) The term "Southern Ute Indian Tribe" or "Tribe" means a federally recognized Indian tribe, located on the Southern Ute Indian Reservation, La Plata County, Colorado.

(7) The term "Pine River Irrigation District" or "District" means a political division of the State of Colorado duly organized, existing, and acting pursuant to the laws thereof with its principal place of business in the City of Bayfield, La Plata County, Colorado and having an undivided ⅚ right and interest in the use of the water made available by Vallecito Reservoir for the purpose of supplying the lands of the District, pursuant to the Repayment Contract, and the decree in Case No. 1848–B, District Court, Water Division 7, State of Colorado, as well as an undivided ⅚ right and interest in the Pine River Project.

SEC. 3. TRANSFER OF THE PINE RIVER PROJECT.

(a) CONVEYANCE.—The Secretary is authorized to convey, without consideration or compensation to the District, by quitclaim deed or patent, pursuant to section 6, the United States undivided ⅚ right and interest in the Pine River Project under the jurisdiction of Reclamation for the benefit of the Pine River Irrigation District. No partition of the undivided ⅚ right and interest in the Pine River Project shall be permitted from the undivided ⅙ right and interest in the Pine River Project described in subsection 3(b) and any quit claim deed or patent evidencing a transfer shall expressly prohibit partitioning. Effective on the date of the conveyance, all obligations between the District and the Bureau of Indian Affairs on the one hand and Reclamation on the other hand, under the Repayment Contract or with respect to the Pine River Project are extinguished. Upon completion of the title transfer, said Repayment Contract shall become null and void. The District shall be responsible for paying 50 percent of all costs associated with the title transfer.

(b) BUREAU OF INDIAN AFFAIRS INTEREST.—At the option of the Tribe, the Secretary is authorized to convey to the Tribe the Bureau of Indian Affairs' undivided ⅙ right and interest in the Pine River Project and the water supply made available by Vallecito Reservoir pursuant to the Memorandum of Understanding between the Bureau of Reclamation and the Office of Indian Affairs dated January 3, 1940, together with its Amendment dated July 9, 1964 ('MOU'), the Repayment Contract and decrees in Case Nos. 1848–B and W–1603–76D, District Court, Water Division 7, State of Colorado. In the event of such conveyance, no consideration or compensation shall be required to be paid to the United States.

(c) FEDERAL DAM USE CHARGE.—Nothing in this Act shall relieve the holder of the license issued by the Federal Energy Regulatory Commission under the Federal Power Act for Vallecito Dam in effect on the date of enactment of this Act from the obligation to make payments under section 10(e)(2) of the Federal Power Act during the remaining term of the present license. At the expiration of the present license term, the Federal Energy Regulatory Commission shall adjust the charge to reflect either (1) the ⅙ interest of the United States remaining in the Vallecito Dam after conveyance to the District; or (2) if the remaining ⅙ interest of the United States has been conveyed to the Tribe pursuant to section 3(b), then no Federal dam charge shall be levied from the date of expiration of the present license.

SEC. 4. JURISDICTIONAL TRANSFER OF LANDS.

(a) INUNDATED LANDS.—To provide for the consolidation of lands associated with the Pine River Project to be retained by the Forest Service and the consolidation of lands to be transferred to the District, the administrative jurisdiction of lands inundated by and along the shoreline of Vallecito Reservoir, as shown on the Jurisdictional Map, shall be transferred, as set forth below (the "Jurisdictional Transfer"), concurrently with the conveyance described in section 3(a). Except as otherwise shown on the Jurisdictional Map—

(1) for withdrawn lands (approximately 260 acres) lying below the 7,765-foot reservoir water surface elevation level, the Forest Service shall transfer an undivided ⅚ interest to Reclamation and an undivided ⅙ interest to the Bureau of Indian Affairs in trust for the Tribe; and

(2) for Project acquired lands (approximately 230 acres) above the 7,765-foot reservoir water surface elevation level, Reclamation and the Bureau of Indian Affairs shall transfer their interests to the Forest Service.

(b) MAP.—The Jurisdictional Map and legal descriptions of the lands transferred pursuant to subsection (a) above shall be on file and available for public inspection in the offices of the Chief of the Forest Service, Department of Agriculture, the Commissioner of Reclamation, Department of the Interior, appropriate field offices of those agencies, and the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(c) ADMINISTRATION.—Following the Jurisdictional Transfer:

(1) All lands that, by reason of the Jurisdictional Transfer, become National Forest System lands within the boundaries of the San Juan National Forest, shall be administered in accordance with the laws, rules, and regulations applicable to the National Forest System.

(2) Reclamation withdrawals of land from the San Juan National Forest established by Secretarial Orders on November 9, 1936, October 14, 1937, and June 20, 1945, together designated as Serial No. C–28259, shall be revoked.

(3) The Forest Service shall issue perpetual easements to the District and the Bureau of Indian Affairs, at no cost to the District or the Bureau of Indian Affairs, providing adequate access across all lands subject to Forest Service jurisdiction to insure the District and the Bureau of Indian Affairs the ability to continue to operate and maintain the Pine River Project.

(4) The undivided ⅚ interest in National Forest System lands that, by reason of the Jurisdictional Transfer is to be administered by Reclamation, shall be conveyed to the District pursuant to section 3(a).

(5) The District and the Bureau of Indian Affairs shall issue perpetual easements to the Forest Service, at no cost to the Forest Service, from National Forest System lands to Vallecito Reservoir to assure continued public access to Vallecito Reservoir when the Reservoir level drops below the 7,665-foot water surface elevation.

(6) The District and the Bureau of Indian Affairs shall issue a perpetual easement to the Forest Service, at no cost to the Forest Service, for the reconstruction, maintenance, and operation of a road from La Plata County Road No. 501 to National Forest System lands east of the Reservoir.

(d) VALID EXISTING RIGHTS.—Nothing in this section shall affect any valid existing rights or interests in any existing land use authorization, except that any such land use authorization shall be administered by the agency having jurisdiction over the land after the Jurisdictional Transfer in accordance with subsection (c) and other applicable law. Renewal or reissuance of any such authorization shall be in accordance with applicable law and the regulations of the agency having jurisdiction, except that the change of administrative jurisdiction shall not in itself constitute a ground to deny the renewal or reissuance of any such authorization.

SEC. 5. LIABILITY.

Effective on the date of the conveyance of the remaining undivided ⅙ right and interest in the Pine River Project to the Tribe pursuant to subsection 3(b), the United States shall not be held liable by any court for damages of any kind arising out of any act, omission, or occurrence relating to such Project, except for damages caused by acts of negligence committed by the United States or by its employees, agents, or contractors prior to the date of conveyance. Nothing in this section shall be deemed to increase the liability of the United States beyond that currently provided in the Federal Tort Claims Act (28 U.S.C. 2671 et seq.)

SEC. 6. COMPLETION OF CONVEYANCE.

(a) IN GENERAL.—The Secretary's completion of the conveyance under section 3 shall not

occur until the following events have been completed:

(1) Compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and other applicable Federal and State laws.

(2) The submission of a written statement from the Southern Ute Indian Tribe to the Secretary indicating the Tribe's satisfaction that the Tribe's Indian Trust Assets are protected in the conveyance described in section 3.

(3) Execution of an agreement acceptable to the Secretary which limits the future liability of the United States relative to the operation of the Project.

(4) The submission of a statement by the Secretary to the District, the Bureau of Indian Affairs, and the State of Colorado on the existing condition of Vallecito Dam based on Bureau of Reclamation's current knowledge and understanding.

(5) The development of an agreement between the Bureau of Indian Affairs and the District to prescribe the District's obligation to so operate the Project that the ⅙ rights and interests to the Project and water supply made available by Vallecito Reservoir held by the Bureau of Indian Affairs are protected. Such agreement shall supercede the Memorandum of Agreement referred to in section 3(b) of this Act.

(6) The submission of a plan by the District to manage the Project in a manner substantially similar to the manner in which it was managed prior to the transfer and in accordance with applicable Federal and State laws, including management for the preservation of public access and recreational values and for the prevention of growth on certain lands to be conveyed hereunder, as set forth in an Agreement dated March 20, 1998, between the District and residents of Vallecito Reservoir. Any future change in the use of the water supplied by Vallecito Reservoir shall comply with applicable law.

(7) The development of a flood control plan by the Secretary of the Army acting through the Corps of Engineers which shall direct the District in the operation of Vallecito Dam for such purposes.

(b) REPORT.—If the transfer authorized in section 3 is not substantially completed within 18 months from the date of enactment of this Act, the Secretary, in coordination with the District, shall promptly provide a report to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate on the status of the transfer described in section 3(a), any obstacles to completion of such transfer, and the anticipated date for such transfer.

(c) FUTURE BENEFITS.—Effective upon transfer, the District shall not be entitled to receive any further Reclamation benefits attributable to its status as a Reclamation project pursuant to the Reclamation Act of June 17, 1902, and Acts supplementary thereto or amendatory thereof.

The committee amendment was agreed to.

The bill (S. 2142), as amended, was considered the third time and passed.

FORT MATANZAS NATIONAL MONUMENT

The bill (S. 2239) to revise the boundary of Fort Matanzas National Monument, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2239

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REVISION OF BOUNDARIES.

The boundary of Fort Matanzas National Monument is revised to include the area generally depicted on the map entitled "Fort Matanzas National Monument", numbered 347/80,004 and dated February 1991, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

SEC. 2. ACQUISITION.

The Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, transfer from any other Federal Agency, or exchange, my lands, waters or interests which are located within the revised boundaries of the monument.

SEC. 3. ADMINISTRATION.

Lands and interests in land held by the United States which are included within the boundary referred to in section 1 shall be administered by the Secretary as part of the Fort Matanzas National Monument, subject to the laws applicable to the monument.

ADAMS NATIONAL HISTORICAL PARK ACT OF 1998

The Senate proceeded to consider the bill (S. 2240) to establish the Adams National Historic Park in the Commonwealth of Massachusetts, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 2240

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Adams National Historical Park Act of 1998".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) in 1946, Secretary of the Interior J.A. Krug, by means of the authority granted the Secretary of the Interior under section 2 of the Historic Sites Act of August 21, 1935, established the Adams Mansion National Historic Site, located in Quincy, Massachusetts;

(2) in 1952, Acting Secretary of the Interior Vernon D. Northrup enlarged the site and renamed it the Adams National Historic Site, using the Secretary's authority as provided in the Historic Sites Act;

(3) in 1972, Congress, through Public Law 92–272, authorized the Secretary of the Interior to add approximately 3.68 acres at Adams National Historic Site;

(4) in 1978, Congress, through Public Law 95–625, authorized the Secretary of the Interior to accept by conveyance the birthplaces of John Adams and John Quincy Adams, both in Quincy, Massachusetts, to be managed as part of the Adams National Historic Site;

(5) in 1980, Congress, through Public Law 96–435, authorized the Secretary of the Interior to accept the conveyance of the United First Parish Church in Quincy, Massachusetts, the burial place of John Adams, Abigail Adams, and John Quincy Adams and his wife, to be administered as part of the Adams National Historic Site;

(6) the actions taken by past Secretaries of the Interior and past Congresses to preserve for the benefit, education and inspiration of present and future generations of Americans the home, property, birthplaces and burial site of John Adams, John Quincy Adams, and Abigail Adams, have resulted in a multi-site unit of the National Park System with no overarching enabling or authorizing legislation; and

(7) that the sites and resources associated with John Adams, 2nd President of the United States, his wife Abigail Adams, and John Quincy Adams, 6th President of the United States, require recognition as a National Historical Park in the National Park System.

(b) PURPOSE.—The purpose of this Act is to establish the Adams National Historical Park in the City of Quincy, in the Commonwealth of Massachusetts, to preserve, maintain and interpret the home, property, birthplaces, and burial site of John Adams and his wife Abigail, John Quincy Adams, and subsequent generations of the Adams family associated with the Adams property in Quincy, Massachusetts, for the benefit, education and inspiration of present and future generations of Americans.

SEC. 3. DEFINITIONS.

As used in this Act:

[(1) ADAMS PROPERTY.—The term "Adams property" means the property currently owned by the National Park Service and commonly referred to as the Old House and Stone Library situated at the northwest corner of the intersection of Adams Street and Newport Avenue in Quincy, Massachusetts.**]**

(1) HISTORICAL PARK.—The term "historical park" means the Adams National Historical Park established in section 4.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

[SEC. 4. ADAMS NATIONAL HISTORICAL PARK.

[(a) ESTABLISHMENT.—In order to preserve for the benefit and inspiration of the people of the United States as a National historical park certain properties in Quincy, Massachusetts, there is established as a unit of the National Park System the Adams National Historical Park.

[(b) BOUNDARIES.—(1) The historical park shall be comprised of all property currently owned by the National Park Service as generally depicted on the map entitled "Adams National Historical Park", numbered ________ and dated ________, 1997. Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

[(2) To preserve the historical setting of the Adams property, the Secretary is authorized to acquire up to 10 additional acres for the development of visitor, administrative, museum, curatorial, and maintenance facilities adjacent to or in the general proximity of the property depicted on the map identified in subsection (b)(1) of this section. Any lands acquired shall be administered by the Secretary as part of the park and the park's boundary shall be modified to include the additional land parcels upon their conveyance.**]**

SEC. 4. ADAMS NATIONAL HISTORICAL PARK.

(a) ESTABLISHMENT.—In order to preserve for the benefit and inspiration of the people of the United States as a National Historical Park certain properties in Quincy, Massachusetts, associated with John Adams, second President of the United States, his wife, Abigail Adams, John Quincy Adams, sixth President of the United States, and his wife, Louisa Adams, there is established the Adams National Historical Park as a unit of the National Park System.

(b) BOUNDARIES.—

(1) The historical park shall be comprised of the following:

(A) All property administered by the National Park Service in the Adams National Historic Site as of the date of enactment of this Act, as well as all property previously authorized to be acquired by the Secretary for inclusion in the Adams National Historic Site, as generally depicted on the map entitled "Adams National Historical Park", numbered NERO 386/80,000, and dated April 1998;

(B) all property authorized to be acquired for inclusion in the historical park by this Act or other law enacted after the date of the enactment of this Act.

(c) VISITOR AND ADMINISTRATIVE SITES.—To preserve the historical character and landscape of the main features of the historical park, the Secretary may acquire up to 10 acres for the development of visitor, administrative, museum, curatorial, and maintenance facilities adjacent to or in the general proximity of the property depicted on the map identified in subsection (b)(1)(A).

(d) MAP.—The map of the historical park shall be on file and available for public inspection in the appropriate offices of the National Park Service.

SEC. 5. ADMINISTRATION.

(a) IN GENERAL.—The park shall be administered by the Secretary in accordance with this section and the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2, 3, and 4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467), as amended.

(b) COOPERATIVE AGREEMENTS.—(1) The Secretary may consult and enter into cooperative agreements with interested entities and individuals to provide for the preservation, development, interpretation, and use of the park.

(2) Any payment made by the Secretary pursuant to a cooperative agreement under this paragraph shall be subject to an agreement that conversion, use, or disposal of the project so assisted for purposes contrary to the purposes of this Act, as determined by the Secretary, shall result in a right of the United States to reimbursement of all funds made available to such a project or the proportion of the increased value of the project attributable to such funds as determined at the time of such conversion, use, or disposal, whichever is greater.

(c) ACQUISITION OF REAL PROPERTY.—For the purposes of the park, the Secretary is authorized to acquire real property with appropriated or donated funds, by donation, or by exchange, within the boundaries of the park.

(d) REPEAL OF SUPERCEDED ADMINISTRATIVE AUTHORITIES.—

(1) Section 312 of the National Parks and Recreation Act of 1978 (Public Law 95–625; 92 Stat. 3479) is amended by striking "(a)" after "SEC. 312"; and strike subsection (b) in its entirety.

(2) The first section of Public Law 96–435 (94 Stat. 1861) is amended by striking "(a)" after "That"; and strike subsection (b) in its entirety.

(e) REFERENCES TO THE HISTORIC SITE.—Any reference in any law (other than this Act), regulation, document, record, map, or other paper of the United States to the Adams National Historic Site shall be considered to be a reference to the historical park.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized such sums as may be necessary to carry out the purposes of this Act for annual operations and maintenance of the park and for acquisition of property and development of facilities necessary to operate and maintain the park as may be outlined in an approved general management plan for the park.]

There is authorized to be appropriated such sums as may be necessary to carry out this Act.

The committee amendments were agreed to.

The bill (S. 2240), as amended, was considered read the third time and passed, as follows:

S. 2240

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Adams National Historical Park Act of 1998".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) in 1946, Secretary of the Interior J.A. Krug, by means of the authority granted the Secretary of the Interior under section 2 of the Historic Sites Act of August 21, 1935, established the Adams Mansion National Historic Site, located in Quincy, Massachusetts;

(2) in 1952, Acting Secretary of the Interior Vernon D. Northrup enlarged the site and renamed it the Adams National Historic Site, using the Secretary's authority as provided in the Historic Sites Act;

(3) in 1972, Congress, through Public Law 92–272, authorized the Secretary of the Interior to add approximately 3.68 acres at Adams National Historic Site;

(4) in 1978, Congress, through Public Law 95–625, authorized the Secretary of the Interior to accept by conveyance the birthplaces of John Adams and John Quincy Adams, both in Quincy, Massachusetts, to be managed as part of the Adams National Historic Site;

(5) in 1980, Congress, through Public Law 96–435, authorized the Secretary of the Interior to accept the conveyance of the United First Parish Church in Quincy, Massachusetts, the burial place of John Adams, Abigail Adams, and John Quincy Adams and his wife, to be administered as part of the Adams National Historic Site;

(6) the actions taken by past Secretaries of the Interior and past Congresses to preserve for the benefit, education and inspiration of present and future generations of Americans the home, property, birthplaces and burial site of John Adams, John Quincy Adams, and Abigail Adams, have resulted in a multi-site unit of the National Park System with no overarching enabling or authorizing legislation; and

(7) that the sites and resources associated with John Adams, second President of the United States, his wife Abigail Adams, and John Quincy Adams, sixth President of the United States, require recognition as a National Historical Park in the National Park System.

(b) PURPOSE.—The purpose of this Act is to establish the Adams National Historical Park in the City of Quincy, in the Commonwealth of Massachusetts, to preserve, maintain and interpret the home, property, birthplaces, and burial site of John Adams and his wife Abigail, John Quincy Adams, and subsequent generations of the Adams family associated with the Adams property in Quincy, Massachusetts, for the benefit, education and inspiration of present and future generations of Americans.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) HISTORICAL PARK.—The term "historical park" means the Adams National Historical Park established in section 4.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 4. ADAMS NATIONAL HISTORICAL PARK.

(a) ESTABLISHMENT.—In order to preserve for the benefit and inspiration of the people of the United States as a National Historical Park certain properties in Quincy, Massachusetts, associated with John Adams, second President of the United States, his wife, Abigail Adams, John Quincy Adams, sixth President of the United States, and his wife, Louisa Adams, there is established the Adams National Historical Park as a unit of the National Park System.

(b) BOUNDARIES.—The historical park shall be comprised of the following:

(1) All property administered by the National Park Service in the Adams National Historic Site as of the date of enactment of this Act, as well as all property previously authorized to be acquired by the Secretary for inclusion in the Adams National Historic Site, as generally depicted on the map entitled "Adams National Historical Park", numbered NERO 386/80,000, and dated April 1998.

(2) All property authorized to be acquired for inclusion in the historical park by this Act or other law enacted after the date of the enactment of this Act.

(c) VISITOR AND ADMINISTRATIVE SITES.—To preserve the historical character and landscape of the main features of the historical park, the Secretary may acquire up to 10 acres for the development of visitor, administrative, museum, curatorial, and maintenance facilities adjacent to or in the general proximity of the property depicted on the map identified in subsection (b)(1)(A).

(d) MAP.—The map of the historical park shall be on file and available for public inspection in the appropriate offices of the National Park Service.

SEC. 5. ADMINISTRATION.

(a) IN GENERAL.—The park shall be administered by the Secretary in accordance with this section and the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2, 3, and 4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467), as amended.

(b) COOPERATIVE AGREEMENTS.—(1) The Secretary may consult and enter into cooperative agreements with interested entities and individuals to provide for the preservation, development, interpretation, and use of the park.

(2) Any payment made by the Secretary pursuant to a cooperative agreement under this paragraph shall be subject to an agreement that conversion, use, or disposal of the project so assisted for purposes contrary to the purposes of this Act, as determined by the Secretary, shall result in a right of the United States to reimbursement of all funds made available to such a project or the proportion of the increased value of the project attributable to such funds as determined at the time of such conversion, use, or disposal, whichever is greater.

(c) ACQUISITION OF REAL PROPERTY.—For the purposes of the park, the Secretary is authorized to acquire real property with appropriated or donated funds, by donation, or by exchange, within the boundaries of the park.

(d) REPEAL OF SUPERCEDED ADMINISTRATIVE AUTHORITIES.—

(1) Section 312 of the National Parks and Recreation Act of 1978 (Public Law 95–625; 92 Stat. 3479) is amended by striking "(a)" after "SEC. 312"; and strike subsection (b) in its entirety.

(2) The first section of Public Law 96-435 (94 Stat. 1861) is amended by striking "(a)" after "That"; and strike subsection (b) in its entirety.

(e) References to the Historic Site.—Any reference in any law (other than this Act), regulation, document, record, map, or other paper of the United States to the Adams National Historic Site shall be considered to be a reference to the historical park.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this Act.

ROOSEVELT NATIONAL HISTORIC SITE

The bill (S. 2241) to provide for the acquisition of lands formerly occupied by the Franklin D. Roosevelt family at Hyde Park, New York, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2241

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GENERAL AUTHORITY.

The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to acquire, by purchase with donated or appropriated funds, by donation, or otherwise, lands and interests in lands located in Hyde Park, New York, that were owned by Franklin D. Roosevelt or his family at the time of his death as depicted on the map entitled "F.D. Roosevelt Property Entire Park" dated July 26, 1962, and numbered FDR-NHS 3008. Such map shall be on file for inspection in the appropriate offices of the National Park Service.

SEC. 2. ADMINISTRATION.

Lands and interests therein acquired by the Secretary shall be added to, and administered by the Secretary as part of the Home of Franklin D. Roosevelt National Historic Site or the Eleanor Roosevelt National Historic Site, as appropriate.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

FREDERICK LAW OLMSTED NATIONAL HISTORIC SITE

The bill (S. 2246) to amend the Act which established the Frederick Law Olmsted National Historic Site, in the Commonwealth of Massachusetts, by modifying the boundary, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2246

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 201 of the Act of October 12, 1979 (93 Stat. 664), is amended by adding at the end thereof a new subsection to read as follows:

"(d) In order to preserve and maintain the historic setting of the Site, the Secretary is authorized to acquire, through donation only, lands with associated easements situated adjacent to the Site owned by the Brookline Conservation Land Trust. These lands are to be used for educational and interpretive purposes and shall be maintained and managed as part of the Frederick Law Olmsted National Historic Site.".

NATIONAL PARK SERVICE LEGISLATION

The bill (S. 2247) to permit the payment of medical expenses incurred by the United States Park Police in the performance of duty to be made directed by the National Park Service, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2247

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 12(e) of the Act of September 1, 1916 (ch. 433, 39 Stat. 718), is amended—

(1) following "District of Columbia", by inserting "in the case of Metropolitan Police members, or by the National Park Service in the case of United States Park Police members"; and

(2) following the second reference to "the Mayor", by inserting, ", in the case of Metropolitan Police members, or upon a certificate of the Chief, United States Park Police, in the case of United States Park Police members".

NATIONAL PARK SERVICE LEGISLATION

The bill (S. 2248) to allow for waiver and indemnification in mutual law enforcement agreements between the National Park Service and a State or political subdivision, when required by State law, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2248

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 10 of the Act of August 18, 1970, Public Law 91-383 (16 U.S.C. 1a-6), is amended—

(1) in paragraph (c)(2) by striking "and";

(2) by redesignating paragraphs (c)(3) and (c)(4) as (c)(4) and (c)(5), respectively; and

(3) by inserting the following new paragraph:

"(c)(3) waive, in any agreement pursuant to paragraph (1) and (2) of this subsection with any State or political subdivision thereof where State law requires such waiver and indemnification, any and all claims against all the other parties thereto and, subject to available appropriations, indemnify and save harmless the other parties to such agreement from all claims by third parties for property damage or personal injury, which may arise out of the State or political subdivision's activities outside their respective jurisdictions under such agreement; and".

SEC. 2. TECHNICAL AMENDMENT.

Section 10(c)(5) is further amended by striking the paragraph (5) designation, by striking "the" at the beginning of the paragraph and inserting "The", and by removing the indentation of the first line of the paragraph.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

The Senate proceeded to consider the bill (S. 2257) to reauthorize the National historic Preservation Act, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

(The part of the bill intended to be stricken is shown in boldface brackets and the part of the bill intended to be inserted is shown in italic.)

S. 2257

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. [NATIONAL HISTORIC PRESERVATION ACT.] ***REAUTHORIZATION OF HISTORIC PRESERVATION FUND.***

The second sentence of section 108 of the National Historic Preservation Act (16 U.S.C. 470h) is amended by striking "1997" and inserting "2004".

SEC. 2. REAUTHORIZATION OF ADVISORY COUNCIL ON HISTORIC PRESERVATION.

The last sentence of section 212(a) (16 U.S.C. 470t(a)) is amended by striking "2000" and inserting in lieu thereof, "2004".

The committee amendments were agreed to.

The bill (S. 2257), as amended, was considered read the third time and passed.

MINUTEMAN MISSILE NATIONAL HISTORIC SITE ESTABLISHMENT ACT OF 1998

The Senate proceeded to consider the bill (S. 2284) to establish the Minuteman Missile National Historic Site in the State of South Dakota, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Minuteman Missile National Historic Site Establishment Act of 1998".

SEC. 2. FINDINGS AND PURPOSES.

(a) Findings.—Congress finds that—

(1) the Minuteman II intercontinental ballistic missile (hereinafter referred to as "ICBM") launch control facility and launch facility known as "Delta 1" and "Delta 9", respectively, have national significance as the best preserved examples of the operational character of American history during the Cold War;

(2) the facilities are symbolic of the dedication and preparedness exhibited by the missileers of the Air Force stationed throughout the upper Great Plains in remote and forbidding locations during the Cold War;

(3) the facilities provide a unique opportunity to illustrate the history and significance of the Cold War, the arms race, and ICBM development; and

(4) the National Park System does not contain a unit that specifically commemorates or interprets the Cold War.

(b) Purposes.—The purposes of this Act are—

(1) to preserve, protect, and interpret for the benefit and enjoyment of present and future generations the structures associated with the Minuteman II missile defense system;

(2) to interpret the historical role of the Minuteman II missile defense system in the broader context of the Cold War and the role of the system as a key component of America's strategic commitment to preserve world peace; and

(3) to complement the interpretive programs relating to the Minuteman II missile defense system offered by the South Dakota Air and Space Museum at Ellsworth Air Force Base.

SEC. 3. MINUTEMAN MISSILE NATIONAL HISTORIC SITE.

(a) ESTABLISHMENT.—(1) The Minuteman Missile National Historic Site in the State of South Dakota (hereinafter referred to as the "historic site") is hereby established as a unit of the National Park System. The historic site shall consist of lands and interests therein comprising the following Minuteman II ICBM launch control facilities, as generally depicted on the map referred to as "Minuteman Missile National Historic Site", numbered 406/80,008 and dated September, 1998:

(A) An area surrounding the Minuteman II ICBM launch control facility depicted as "Delta 1 Launch Control Facility".

(B) An area surrounding the Minuteman II ICBM launch control facility depicted as "Delta 9 Launch Facility".

(2) The map described in paragraph (1) shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(3) The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to make minor adjustments to the boundary of the historic site.

(b) ADMINISTRATION OF HISTORIC SITE.—The Secretary shall administer the historic site in accordance with this Act and laws generally applicable to units of the National Park System, including the Act of August 25, 1916 (16 U.S.C. 1, 2–4) and the Act of August 21, 1935 (16 U.S.C. 461–467).

(c) COORDINATION WITH SECRETARY OF DEFENSE.—The Secretary shall consult with the Secretary of Defense and the Secretary of State, as appropriate, to ensure that administration of the historic site is in compliance with applicable treaties.

(d) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with appropriate public and private entities and individuals in furtherance of the purposes of this Act.

(e) LAND ACQUISITION.—(1) Except as provided in paragraph (2), the Secretary is authorized to acquire lands and interests therein within the boundaries of the historic site by donation, purchase with donated or appropriated funds, exchange or transfer from another Federal agency: Provided, That lands or interests therein owned by the State of South Dakota may only be acquired by donation or exchange.

(2) The Secretary shall not acquire any lands pursuant to this Act if the Secretary determines that such lands, or any portion thereof, are contaminated with hazardous substances (as defined in the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601)), unless all remedial action necessary to protect human health and the environment has been taken pursuant to such Act.

(f) GENERAL MANAGEMENT PLAN.—(1) Within 3 years after the date funds are made available, the Secretary shall prepare a general management plan for the historic site.

(2) The plan shall include an evaluation of an appropriate location for a visitor facility and administrative site within the areas depicted as "Support Facility Study Area—Alternative A" or "Support Facility Study Area—Alternative B" on the map referred to in subsection (a). Upon a determination by the Secretary of the appropriate location for such facilities, the boundaries of the historic site shall be modified to include the selected site.

(3) In developing the plan, the Secretary shall consider coordinating or consolidating appropriate administrative, management, and personnel functions with Badlands National Park.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated such sums as may be necessary to carry out this Act.

(b) AIR FORCE FUNDS.—The Secretary of the Air Force shall transfer to the Secretary any funds specifically appropriated to the Air Force for the maintenance, protection, or preservation of the facilities described in section 3. Such funds shall be used by the Secretary for establishing, operating, and maintaining the historic site.

(c) LEGACY RESOURCE MANAGEMENT PROGRAM.—Nothing in this Act affects the use of any funds available for the Legacy Resource Management Program being carried out by the Air Force that, before the date of enactment of this Act, were directed to be used for resource preservation and treaty compliance.

The committee amendment was agreed to.

The bill (S. 2284), as amended, was considered read the third time and passed.

WOMEN'S PROGRESS COMMEMORATION ACT

The bill (S. 2285) to establish a commission in honor of the 150th Anniversary of the Seneca Falls Convention, to further protect sites of importance in the historic efforts to secure equal rights for women, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2285

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Women's Progress Commemoration Act".

SEC. 2. DECLARATION.

Congress declares that—

(1) the original Seneca Falls Convention, held in upstate New York in July 1848, convened to consider the social conditions and civil rights of women at that time;

(2) the convention marked the beginning of an admirable and courageous struggle for equal rights for women;

(3) the 150th Anniversary of the convention provides an excellent opportunity to examine the history of the women's movement; and

(4) a Federal Commission should be established for the important task of ensuring the historic preservation of sites that have been instrumental in American women's history, creating a living legacy for generations to come.

SEC. 3. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the "Women's Progress Commemoration Commission" (referred to in this Act as the "Commission").

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be composed of 15 members, of whom—

(A) 3 shall be appointed by the President;

(B) 3 shall be appointed by the Speaker of the House of Representatives;

(C) 3 shall be appointed by the minority leader of the House of Representatives;

(D) 3 shall be appointed by the majority leader of the Senate; and

(E) 3 shall be appointed by the minority leader of the Senate.

(2) PERSONS ELIGIBLE.—

(A) IN GENERAL.—The members of the Commission shall be individuals who have knowledge or expertise, whether by experience or training, in matters to be studied by the Commission. The members may be from the public or private sector, and may include Federal, State, local, or employees, members of academia, nonprofit organizations, or industry, or other interested individuals.

(B) DIVERSITY.—It is the intent of Congress that persons appointed to the Commission under paragraph (1) be persons who represent diverse economic, professional, and cultural backgrounds.

(3) CONSULTATION AND APPOINTMENT.—

(A) IN GENERAL.—The President, Speaker of the House of Representatives, minority leader of the House of Representatives, majority leader of the Senate, and minority leader of the Senate shall consult among themselves before appointing the members of the Commission in order to achieve, to the maximum extent practicable, fair and equitable representation of various points of view with respect to the matters to be studied by the Commission.

(B) COMPLETION OF APPOINTMENTS; VACANCIES.—The President, Speaker of the House of Representatives, minority leader of the House of Representatives, majority leader of the Senate, and minority leader of the Senate shall conduct the consultation under subparagraph (3) and make their respective appointments not later than 60 days after the date of enactment of this Act.

(4) VACANCIES.—A vacancy in the membership of the Commission shall not affect the powers of the Commission and shall be filled in the same manner as the original appointment not later than 30 days after the vacancy occurs.

(c) MEETINGS.—

(1) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(2) SUBSEQUENT MEETINGS.—After the initial meeting, the Commission shall meet at the call of the Chairperson.

(d) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business, but a lesser number of members may hold hearings.

(e) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall select a Chairperson and Vice Chairperson from among its members.

SEC. 4. DUTIES OF THE COMMISSION.

Not later than 1 year after the initial meeting of the Commission, the Commission, in cooperation with the Secretary of the Interior and other appropriate Federal, State, and local public and private entities, shall prepare and submit to the Secretary of the Interior a report that—

(1) identifies sites of historical significance to the women's movement; and

(2) recommends actions, under the National Historic Preservation Act (16 U.S.C. 470 et seq.) and other law, to rehabilitate and preserve the sites and provide to the public interpretive and educational materials and activities at the sites.

SEC. 5. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out its duties of this Act.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this Act. At the request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

SEC. 6. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—A member of the Commission who is not otherwise an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Commission. A member of the Commission who is otherwise an officer or employee of the United States shall serve without compensation in addition to that received for services as an officer or employee of the United States.

(b) TRAVEL EXPENSES.—A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of service for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws (including regulations), appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment and termination of an executive director shall be subject to confirmation by a majority of the members of the Commission.

(2) COMPENSATION.—The executive director shall be compensated at a rate not to exceed the rate payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code. The Chairperson may fix the compensation of other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for such personnel may not exceed the rate payable for a position at level V of the Executive Schedule under section 5316 of that title.

(3) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee, with the approval of the head of the appropriate Federal agency, may be detailed to the Commission without reimbursement, and the detail shall be without interruption or loss of civil service status, benefits, or privilege.

(d) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay prescribed for a position at level V of the Executive Schedule under section 5316 of that title.

SEC. 7. FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission such sums as are necessary to carry out this Act.

(b) DONATIONS.—The Commission may accept donations from non-Federal sources to defray the costs of the operations of the Commission.

SEC. 8. TERMINATION.

The Commission shall terminate on the date that is 30 days after the date on which the Commission submits to the Secretary of the Interior the report under section 4(b).

SEC. 9. REPORTS TO CONGRESS.

Not later than 2 years and not later than 5 years after the date on which the Commission submits to the Secretary of the Interior the report under section 4, the Secretary of the Interior shall submit to Congress a report describing the actions that have been taken to preserve the sites identified in the Commission report as being of historical significance.

GATEWAY VISITOR CENTER AUTHORIZATION ACT OF 1998

The bill (S. 2309) to authorize the Secretary of the Interior to enter into an agreement for the construction and operation of the Gateway Visitor Center at Independence National Historical Park, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2309

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Gateway Visitor Center Authorization Act of 1998".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) in 1997, the National Park Service completed a general management plan for Independence National Historical Park that establishes goals and priorities for the future of the park;

(2) the plan calls for the revitalization of Independence Mall and recommends as a critical component of the revitalization the development of a new visitor center;

(3) such a visitor center would replace the existing park visitor center and serve as an orientation center for visitors to the park and to city and regional attractions;

(4) after completing of the general management plan, the National Park Service completed a design project and master plan for Independence Mall that includes the Gateway Visitor Center;

(5) plans for the Gateway Visitor Center call for the center to be developed and managed, in cooperation with the Secretary of the Interior, by a nonprofit organization that represents the various public and civic interests of the Philadelphia metropolitan area; and

(6) the Gateway Visitor Center Corporation, a nonprofit organization, has been established to raise funds for and cooperate in a program to design, develop, construct, and operate the proposed Gateway Visitor Center.

(b) PURPOSE.—The purpose of this Act is to authorize the Secretary of the Interior to enter into an agreement with the Gateway Visitor Center Corporation to construct and operate a regional visitor center on Independence Mall in cooperation with the Secretary.

SEC. 3. GATEWAY VISITOR CENTER.

The Act of June 28, 1948 (16 U.S.C. 407m et seq.) is amended by adding at the end the following:

"SEC. 8. REGIONAL GATEWAY VISITOR CENTER.

"(a) DEFINITIONS.—In this section:

"(1) CENTER.—The term 'Center' means the Gateway Visitor Center authorized by subsection (b).

"(2) CORPORATION.—The term 'Corporation' means Gateway Visitor Center Corporation, a nonprofit organization.

"(b) AGREEMENT.—The Secretary of the Interior may enter into an agreement under appropriate terms and conditions with the Corporation to facilitate the construction and operation of the Gateway Visitor Center on Independence Mall.

"(c) AUTHORIZED ACTIVITIES.—The agreement under subsection (b) shall—

"(1) authorize the Corporation—

"(A) to operate the Center in cooperation with the Secretary and provide at the Center information, interpretation, facilities, and services to visitors of Independence National Historical Park, its surrounding historic sites, the city of Philadelphia, and the region, in order to assist in the enjoyment of the historic, cultural, educational, and recreational resources of the Philadelphia metropolitan area; and

"(B) to engage in activities appropriate for operation of a regional visitor center, which may include selling food, charging fees, conducting events, and selling merchandise and tickets to visitors to the Center; and

"(2) authorize the Secretary to undertake at the Center activities relating to the management of Independence National Historical Park, including provision of appropriate visitor information and interpretive facilities and programs related to the park.

"(d) REVENUES.—Revenues from the operation of the Center's facilities and services shall be used to pay for expenses of operation.

"(e) PRESERVATION AND PROTECTION.—Nothing in this section authorizes the Secretary or the Corporation to take any action in derogation of the preservation and protection of the values and resources of Independence National Historical Park.".

DANTE FASCELL BISCAYNE NATIONAL PARK VISITOR CENTER DESIGNATION ACT

The Senate proceeded to consider the bill (S. 2468) to designate the Biscayne National Park visitor center as the Dante Fascell Visitor Center at Biscayne National Park, which had been reported from the Committee on Energy and Natural Resources, with an amendment, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 2468

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Dante Fascell Biscayne National Park Visitor Center Designation Act".

SEC. 2. DESIGNATION OF THE DANTE FASCELL VISITOR CENTER AT BISCAYNE NATIONAL PARK.

(a) DESIGNATION.—The Biscayne National Park visitor center, located on the shore of Biscayne Bay on Convoy Point, Florida, is designated as the "Dante Fascell Visitor **[**Center at Biscayne National Park".**]** *Center.*"

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other document of the United States to the Biscayne National Park visitor center shall be deemed to be a reference to the "Dante Fascell Visitor **[**Center at Biscayne National Park".**]** *Center.*"

Mr. GRAHAM. Mr. President, I am pleased today to support, along with my colleague, Senator MACK, legislation to honor former Congressman Dante Fascell by naming the Biscayne National Park Visitors Center after the ex-Congressman of Florida. I had the pleasure to begin my political career as an intern in Congressman Fascell's office and am proud to have had the opportunity to serve with one of Florida's greatest representatives.

Congressman Fascell's long history of public service began in the Florida House of Representatives after his service in World War II. He was elected to the Eighty-fourth Congress and spent the following thirty-six years in office. During this time Congressman Fascell was influential in both foreign and domestic policy.

While in Congress, Dante Fascell influenced U.S. foreign policy by co-authoring the War Powers act and chairing the Committees on Foreign Affairs and Arms Control, International Security and Science. In 1969, Congressman Fascell led House action to establish the Department of Housing and Urban Development. This legislation was the first step in efforts to develop economically healthy communities and affordable opportunities for numerous families throughout the nation. He was also a devout supporter of both law enforcement and education on narcotics abuse.

During his years in Congress, Dante Fascell was an outstanding environmental activist and improved the quality of Florida's natural habitats and wildlife. He battled to protect South Florida's National Parks and led the successful effort to establish the National Marine Sanctuary in the Florida Keys during the 101st Congress.

The Biscayne National Park visitor center introduces local, national and international visitors to the resources of the Biscayne National Park at Convoy Point, Florida. Its museum features exhibits simulating the park's four main ecosystems: the mangrove forest, Biscayne Bay, the Florida Keys, and the coral reef. The naming of this visitor center will serve as a lasting tribute to Congressman Fascell's persistent efforts to protect the environment for future generations.

I ask for your support today for our bill which will pay tribute to the service of the former Florida Congressman, Dante Fascell.

The committee amendment was agreed to.

The bill (S. 2468), as amended, was considered read the third time and passed.

The title was amended so as to read: "A bill to designate the Biscayne National Park Visitor Center as the Dante Fascell Visitor Center.".

CAPE COD NATIONAL SEASHORE ADVISORY COMMISSION

The bill (H.R. 2411) to provide for a land exchange involving the Cape Cod National Seashore and to extend the authority for the Cape Cod National Seashore Advisory Commission, was considered, ordered to a third reading, read the third time, and passed.

FOLSOM DAM, CALIFORNIA

The bill (H.R. 4079) to authorize the construction of temperature control devices at Folsom Dam in California, was considered, ordered to a third reading, read the third time, and passed.

IDAHO ADMISSION ACT AMENDMENTS

The bill (H.R. 4166) to amend the Idaho Admission Act regarding the sale or lease of school land, was considered, ordered to a third reading, read the third time, and passed.

UNANIMOUS CONSENT AGREEMENT—S. 744 AND S. 2117

Mr. McCAIN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration en bloc of the following bills: Calendar No. 613, S. 744 and Calendar No. 621, S. 2117.

I further ask unanimous consent that amendment No. 3786 to S. 744 and amendment No. 3787 to S. 2117 be agreed to, en bloc.

I finally ask unanimous consent that any committee amendments be agreed to; that the bills then be read a third time and passed, as amended; that the motions to reconsider be laid upon the table; and that any statements relating to these measures appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

FALL RIVER WATER USERS DISTRICT WATER SYSTEM ACT OF 1998

The Senate proceeded to consider the bill (S. 744) to authorize the construction of the Fall River Water Users District Rural Water System and authorize financial assistance to the Fall River Water Users District, a nonprofit corporation, in the planning and construction of the water supply system, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 744

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fall River Water Users District Rural Water System Act of 1997".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) there are insufficient water supplies of reasonable quality available to the members of the Fall River Water Users District Rural Water System located in Fall River County, South Dakota, and the water supplies that are available are of poor quality and do not meet minimum health and safety standards, thereby posing a threat to public health and safety;

(2) past cycles of severe drought in the southeastern area of Fall River County have left residents without a satisfactory water supply, and, during 1990, many home owners and ranchers were forced to haul water to sustain their water needs;

(3) because of the poor quality of water supplies, most members of the Fall River Water Users District are forced to either haul bottled water for human consumption or use distillers;

(4) the Fall River Water Users District Rural Water System has been recognized by the State of South Dakota; and

(5) the best available, reliable, and safe rural and municipal water supply to serve the needs of the Fall River Water Users District Rural Water System members consists of a Madison Aquifer well, 3 separate water storage reservoirs, 3 pumping stations, and approximately 200 miles of pipeline.

(b) PURPOSES.—The purposes of this Act are—

(1) to ensure a safe and adequate municipal, rural, and industrial water supply for the members of the Fall River Water Users District Rural Water System in Fall River County, South Dakota;

(2) to assist the members of the Fall River Water Users District in developing safe and adequate municipal, rural, and industrial water supplies; and

(3) to promote the implementation of water conservation programs by the Fall River Water Users District Rural Water System.

SEC. 3. DEFINITIONS.

In this Act:

(1) ENGINEERING REPORT.—The term "engineering report" means the study entitled "Supplemental Preliminary Engineering Report for Fall River Water Users District" published in August 1995.

(2) PROJECT CONSTRUCTION BUDGET.—The term "project construction budget" means the description of the total amount of funds that are needed for the construction of the water supply system, as described in the engineering report.

(3) PUMPING AND INCIDENTAL OPERATIONAL REQUIREMENTS.—The term "pumping and incidental operational requirements" means all power requirements that are incidental to the operation of intake facilities, pumping stations, water treatment facilities, cooling facilities, reservoirs, and pipelines to the point of delivery of water by the Fall River Water Users District Rural Water System to each entity that distributes water at retail to individual users.

(4) SECRETARY.—The term "Secretary" means the Secretary of **[**the Interior, acting through the Director of the Bureau of Reclamation.**]** *Agriculture.*

(5) Water supply system.—The term "water supply system" means the Fall River Water Users District Rural Water System, a nonprofit corporation, established and operated substantially in accordance with the engineering report.

SEC. 4. FEDERAL ASSISTANCE FOR WATER SUPPLY SYSTEM.

(a) In General.—The Secretary shall make grants to the water supply system for the Federal share of the costs of the planning and construction of the water supply system.

(b) Service Area.—The water supply system shall provide for safe and adequate municipal, rural, and industrial water supplies, mitigation of wetlands areas, and water conservation within the boundaries of the Fall River Water Users District, described as follows: bounded on the north by the Angostura Reservoir, the Cheyenne River, and the line between Fall River and Custer Counties, bounded on the east by the line between Fall River and Shannon Counties, bounded on the south by the line between South Dakota and Nebraska, and bounded on the west by the Igloo-Provo Water Project District.

(c) Amount of Grants.—Grants made available under subsection (a) to the water supply system shall not exceed the Federal share under section 9.

(d) Limitation on Availability of Construction Funds.—The Secretary shall not obligate funds for the construction of the water supply system until—

(1) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are met with respect to the water supply system; and

(2) a final engineering report has been prepared and submitted to Congress for a period of not less than 90 days before the commencement of construction of the system.

SEC. 5. MITIGATION OF FISH AND WILDLIFE LOSSES.

Mitigation of fish and wildlife losses incurred as a result of the construction and operation of the water supply system shall be on an acre-for-acre basis, based on ecological equivalency, concurrent with project construction, as provided in the engineering report.

SEC. 6. USE OF PICK-SLOAN POWER.

(a) In General.—From power designated for future irrigation and drainage pumping for the Pick-Sloan Missouri River Basin Program, the Western Area Power Administration shall make available the capacity and energy required to meet the pumping and incidental operational requirements of the water supply system during the period beginning May 1 and ending October 31 of each year.

(b) Conditions.—The capacity and energy described in subsection (a) shall be made available on the following conditions:

(1) The water supply system shall be operated on a not-for-profit basis.

(2) The water supply system shall contract to purchase its entire electric service requirements, including the capacity and energy made available under subsection (a), from a qualified preference power supplier that itself purchases power from the Western Area Power Administration.

(3) The rate schedule applicable to the capacity and energy made available under subsection (a) shall be the firm power rate schedule of the Pick-Sloan Eastern Division of the Western Area Power Administration in effect when the power is delivered by the Administration.

(4) It shall be agreed by contract among—

(A) the Western Area Power Administration;

(B) the power supplier with which the water supply system contracts under paragraph (2);

(C) the power supplier of the entity described in subparagraph (B); and

(D) the Fall River Water Users District;

that in the case of the capacity and energy made available under subsection (a), the benefit of the rate schedule described in paragraph (3) shall be passed through to the water supply system, except that the power supplier of the water supply system shall not be precluded from including, in the charges of the supplier to the water system for the electric service, the other usual and customary charges of the supplier.

SEC. 7. NO LIMITATION ON WATER PROJECTS IN STATE.

This Act does not limit the authorization for water projects in South Dakota under law in effect on or after the date of enactment of this Act.

SEC. 8. WATER RIGHTS.

Nothing in this Act—

(1) invalidates or preempts State water law or an interstate compact governing water;

(2) alters the rights of any State to any appropriated share of the waters of any body of surface or ground water, whether determined by past or future interstate compacts or by past or future legislative or final judicial allocations;

(3) preempts or modifies any Federal or State law, or interstate compact, dealing with water quality or disposal; or

(4) confers on any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.

SEC. 9. FEDERAL SHARE.

The Federal share under section 4 shall be 80 percent of—

(1) the amount allocated in the total project construction budget for the planning and construction of the water supply system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after August 1, 1995.

SEC. 10. NON-FEDERAL SHARE.

The non-Federal share under section 4 shall be 20 percent of—

(1) the amount allocated in the total project construction budget for the planning and construction of the water supply system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after August 1, 1995.

SEC. 11. CONSTRUCTION OVERSIGHT.

(a) Authorization.—The Secretary *of the Interior, acting through the Director of the Bureau of Reclamation* may provide construction oversight to the water supply system for areas of the water supply system.

(b) Project Oversight Administration.—The amount of funds used by the Secretary for planning and construction of the water supply system may not exceed an amount equal to 3 percent of the amount provided in the total project construction budget for the portion of the project to be constructed in Fall River County, South Dakota.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) $3,600,000 for the planning and construction of the water system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after August 1, 1995.

The amendment (No. 3786) was agreed to, as follows:

On page 2, line 3, strike "1997" and insert "1998".

On page 6, line 3, strike "has" and insert "and plan" for a water conservation program have".

On page 9, line 2, strike "80" and insert "70".

On page 9, line 11, strike "20" and insert "30".

The committee amendments were agreed to.

The bill (S. 744), as amended, was considered read the third time and passed, as follows:

S. 744

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fall River Water Users District Rural Water System Act of 1998".

SEC. 2. FINDINGS AND PURPOSES.

(a) Findings.—Congress finds that—

(1) there are insufficient water supplies of reasonable quality available to the members of the Fall River Water Users District Rural Water System located in Fall River County, South Dakota, and the water supplies that are available are of poor quality and do not meet minimum health and safety standards, thereby posing a threat to public health and safety;

(2) past cycles of severe drought in the southeastern area of Fall River County have left residents without a satisfactory water supply, and, during 1990, many home owners and ranchers were forced to haul water to sustain their water needs;

(3) because of the poor quality of water supplies, most members of the Fall River Water Users District are forced to either haul bottled water for human consumption or use distillers;

(4) the Fall River Water Users District Rural Water System has been recognized by the State of South Dakota; and

(5) the best available, reliable, and safe rural and municipal water supply to serve the needs of the Fall River Water Users District Rural Water System members consists of a Madison Aquifer well, 3 separate water storage reservoirs, 3 pumping stations, and approximately 200 miles of pipeline.

(b) Purposes.—The purposes of this Act are—

(1) to ensure a safe and adequate municipal, rural, and industrial water supply for the members of the Fall River Water Users District Rural Water System in Fall River County, South Dakota;

(2) to assist the members of the Fall River Water Users District in developing safe and adequate municipal, rural, and industrial water supplies; and

(3) to promote the implementation of water conservation programs by the Fall River Water Users District Rural Water System.

SEC. 3. DEFINITIONS.

In this Act:

(1) Engineering report.—The term "engineering report" means the study entitled "Supplemental Preliminary Engineering Report for Fall River Water Users District" published in August 1995.

(2) Project construction budget.—The term "project construction budget" means the description of the total amount of funds that are needed for the construction of the

water supply system, as described in the engineering report.

(3) PUMPING AND INCIDENTAL OPERATIONAL REQUIREMENTS.—The term "pumping and incidental operational requirements" means all power requirements that are incidental to the operation of intake facilities, pumping stations, water treatment facilities, cooling facilities, reservoirs, and pipelines to the point of delivery of water by the Fall River Water Users District Rural Water System to each entity that distributes water at retail to individual users.

(4) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(5) WATER SUPPLY SYSTEM.—The term "water supply system" means the Fall River Water Users District Rural Water System, a nonprofit corporation, established and operated substantially in accordance with the engineering report.

SEC. 4. FEDERAL ASSISTANCE FOR WATER SUPPLY SYSTEM.

(a) IN GENERAL.—The Secretary shall make grants to the water supply system for the Federal share of the costs of the planning and construction of the water supply system.

(b) SERVICE AREA.—The water supply system shall provide for safe and adequate municipal, rural, and industrial water supplies, mitigation of wetlands areas, and water conservation within the boundaries of the Fall River Water Users District, described as follows: bounded on the north by the Angostura Reservoir, the Cheyenne River, and the line between Fall River and Custer Counties, bounded on the east by the line between Fall River and Shannon Counties, bounded on the south by the line between South Dakota and Nebraska, and bounded on the west by the Igloo-Provo Water Project District.

(c) AMOUNT OF GRANTS.—Grants made available under subsection (a) to the water supply system shall not exceed the Federal share under section 9.

(d) LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.—The Secretary shall not obligate funds for the construction of the water supply system until—

(1) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are met with respect to the water supply system; and

(2) a final engineering report and plan for a water conservation program have been prepared and submitted to Congress for a period of not less than 90 days before the commencement of construction of the system.

SEC. 5. MITIGATION OF FISH AND WILDLIFE LOSSES.

Mitigation of fish and wildlife losses incurred as a result of the construction and operation of the water supply system shall be on an acre-for-acre basis, based on ecological equivalency, concurrent with project construction, as provided in the engineering report.

SEC. 6. USE OF PICK-SLOAN POWER.

(a) IN GENERAL.—From power designated for future irrigation and drainage pumping for the Pick-Sloan Missouri River Basin Program, the Western Area Power Administration shall make available the capacity and energy required to meet the pumping and incidental operational requirements of the water supply system during the period beginning May 1 and ending October 31 of each year.

(b) CONDITIONS.—The capacity and energy described in subsection (a) shall be made available on the following conditions:

(1) The water supply system shall be operated on a not-for-profit basis.

(2) The water supply system shall contract to purchase its entire electric service requirements, including the capacity and energy made available under subsection (a), from a qualified preference power supplier that itself purchases power from the Western Area Power Administration.

(3) The rate schedule applicable to the capacity and energy made available under subsection (a) shall be the firm power rate schedule of the Pick-Sloan Eastern Division of the Western Area Power Administration in effect when the power is delivered by the Administration.

(4) It shall be agreed by contract among—

(A) the Western Area Power Administration;

(B) the power supplier with which the water supply system contracts under paragraph (2);

(C) the power supplier of the entity described in subparagraph (B); and

(D) the Fall River Water Users District;

that in the case of the capacity and energy made available under subsection (a), the benefit of the rate schedule described in paragraph (3) shall be passed through to the water supply system, except that the power supplier of the water supply system shall not be precluded from including, in the charges of the supplier to the water system for the electric service, the other usual and customary charges of the supplier.

SEC. 7. NO LIMITATION ON WATER PROJECTS IN STATE.

This Act does not limit the authorization for water projects in South Dakota under law in effect on or after the date of enactment of this Act.

SEC. 8. WATER RIGHTS.

Nothing in this Act—

(1) invalidates or preempts State water law or an interstate compact governing water;

(2) alters the rights of any State to any appropriated share of the waters of any body of surface or ground water, whether determined by past or future interstate compacts or by past or future legislative or final judicial allocations;

(3) preempts or modifies any Federal or State law, or interstate compact, dealing with water quality or disposal; or

(4) confers on any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.

SEC. 9. FEDERAL SHARE.

The Federal share under section 4 shall be 70 percent of—

(1) the amount allocated in the total project construction budget for the planning and construction of the water supply system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after August 1, 1995.

SEC. 10. NON-FEDERAL SHARE.

The non-Federal share under section 4 shall be 30 percent of—

(1) the amount allocated in the total project construction budget for the planning and construction of the water supply system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after August 1, 1995.

SEC. 11. CONSTRUCTION OVERSIGHT.

(a) AUTHORIZATION.—The Secretary of the Interior, acting through the Director of the Bureau of Reclamation may provide construction oversight to the water supply system for areas of the water supply system.

(b) PROJECT OVERSIGHT ADMINISTRATION.—The amount of funds used by the Secretary for planning and construction of the water supply system may not exceed an amount equal to 3 percent of the amount provided in the total project construction budget for the portion of the project to be constructed in Fall River County, South Dakota.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) $3,600,000 for the planning and construction of the water system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after August 1, 1995.

PERKINS COUNTY RURAL WATER SYSTEM ACT OF 1988

The Senate proceeded to consider the bill (S. 2117) to authorize the construction of the Perkins County Rural Water System and authorize financial assistance to the Perkins County Rural Water System, Inc., a nonprofit corporation, in the planning and construction of the water supply system, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 2117

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Perkins County Rural Water System Act of 1997".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) there are insufficient water supplies of reasonable quality available to the members of the Perkins County Rural Water System located in Perkins County, South Dakota, and the water supplies that are available do not meet minimum health and safety standards, thereby posing a threat to public health and safety;

(2) in 1977, the North Dakota State Legislature authorized and directed the State Water Commission to conduct the Southwest Area Water Supply Study, which included water service to a portion of Perkins County, South Dakota;

(3) amendments made by the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 101–294) authorized the Southwest Pipeline project as an eligible project for Federal cost share participation;

(4) the Perkins County Rural Water System has continued to be recognized by the State of North Dakota, the Southwest Water Authority, the North Dakota Water Commission, the Department of the Interior, and Congress as a component of the Southwest Pipeline Project; and

(5) the best available, reliable, and safe rural and municipal water supply to serve the needs of the Perkins County Rural Water System, Inc., members is the waters of the Missouri River as delivered by the Southwest Pipeline Project in North Dakota.

(b) PURPOSES.—The purposes of this Act are—

(1) to ensure a safe and adequate municipal, rural, and industrial water supply for the members of the Perkins County Rural

Water Supply System, Inc., in Perkins County, South Dakota;

(2) to assist the members of the Perkins County Rural Water Supply System, Inc., in developing safe and adequate municipal, rural, and industrial water supplies; and

(3) to promote the implementation of water conservation programs by the Perkins County Rural Water System, Inc.

SEC. 3. DEFINITIONS.

In this Act:

(1) FEASIBILITY STUDY.—The term "feasibility study" means the study entitled "Feasibility Study for Rural Water System for Perkins County Rural Water System, Inc.", as amended in March 1995.

(2) PROJECT CONSTRUCTION BUDGET.—The term "project construction budget" means the description of the total amount of funds that are needed for the construction of the water supply system, as described in the feasibility study.

(3) PUMPING AND INCIDENTAL OPERATIONAL REQUIREMENTS.—The term "pumping and incidental operational requirements" means all power requirements that are incidental to the operation of intake facilities, pumping stations, water treatment facilities, cooling facilities, reservoirs, and pipelines to the point of delivery of water by the Perkins County Rural Water System to each entity that distributes water at retail to individual users.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation.

(5) WATER SUPPLY SYSTEM.—The term "water supply system" means the Perkins County Rural Water System, Inc., a nonprofit corporation, established and operated substantially in accordance with the feasibility study.

SEC. 4. FEDERAL ASSISTANCE FOR WATER SUPPLY SYSTEM.

(a) IN GENERAL.—The Secretary shall make grants to the water supply system for the Federal share of the costs of—

(1) the planning and construction of the water supply system; and

(2) repairs to existing public water distribution systems to ensure conservation of the resources and to make the systems functional under the new water supply system.

(b) SERVICE AREA.—The water supply system shall provide for safe and adequate municipal, rural, and industrial water supplies, mitigation of wetlands areas, repairs to existing public water distribution systems, and water conservation in Perkins County, South Dakota.

(c) AMOUNT OF GRANTS.—Grants made available under subsection (a) to the water supply system shall not exceed the Federal share under section 10.

(d) LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.—The Secretary shall not obligate funds for the construction of the water supply system until—

(1) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are met with respect to the water supply [system;] *system; and*

(2) a final engineering report has been prepared and submitted to Congress for a period of not less than 90 days before the commencement of construction of the [system; and] *system.*

[(3) the water supply system has developed and implemented a water conservation program.

[SEC. 5. WATER CONSERVATION PROGRAM.

[(a) PURPOSE.—The water conservation program under section 4(d)(3) shall be designed to ensure that users of water from the water supply system will use the best practicable technology and management techniques to conserve water use.

[(b) DESCRIPTION.—The water conservation program shall include—

[(1) low consumption performance standards for all newly installed plumbing fixtures;

[(2) leak detection and repair programs;

[(3) rate structures that do not include declining block rate schedules for municipal households or special water users (as defined in the feasibility study);

[(4) public education programs;

[(5) coordinated operation and maintenance (including necessary repairs to ensure minimal water losses) by and between the water supply system and any member of the system that is a preexisting water supply facility within the service area of the system; and

[(6) coordinated operation between the Southwest Pipeline Project of North Dakota and the Perkins County Rural Water System, Inc., of South Dakota.

[(c) REVIEW AND REVISION.—The program described in subsection (b) shall contain provisions for periodic review and revision, in cooperation with the Secretary.]

SEC. [6.] *5.* MITIGATION OF FISH AND WILDLIFE LOSSES.

Mitigation of fish and wildlife losses incurred as a result of the construction and operation of the water supply system shall be on an acre-for-acre basis, based on ecological equivalency, concurrent with project construction, as provided in the feasibility study.

SEC. [7.] *6.* USE OF PICK-SLOAN POWER.

(a) IN GENERAL.—From power designated for future irrigation and drainage pumping for the Pick-Sloan Missouri River Basin Program, the Western Area Power Administration shall make available the capacity and energy required to meet the pumping and incidental operational requirements of the water supply system during the period beginning May 1 and ending October 31 of each year.

(b) CONDITIONS.—The capacity and energy described in subsection (a) shall be made available on the following conditions:

(1) The water supply system shall be operated on a not-for-profit basis.

(2) The water supply system shall contract to purchase its entire electric service requirements, including the capacity and energy made available under subsection (a), from a qualified preference power supplier that itself purchases power from the Western Area Power Administration.

(3) The rate schedule applicable to the capacity and energy made available under subsection (a) shall be the firm power rate schedule of the Pick-Sloan Eastern Division of the Western Area Power Administration in effect when the power is delivered by the Administration.

(4) It shall be agreed by contract among—

(A) the Western Area Power Administration;

(B) the power supplier with which the water supply system contracts under paragraph (2);

(C) the power supplier of the entity described in subparagraph (B); and

(D) the Perkins County Rural Water System, Inc.;

that in the case of the capacity and energy made available under subsection (a), the benefit of the rate schedule described in paragraph (3) shall be passed through to the water supply system, except that the power supplier of the water supply system shall not be precluded from including, in the charges of the supplier to the water system for the electric service, the other usual and customary charges of the supplier.

SEC. [8.] *7.* NO LIMITATION ON WATER PROJECTS IN STATES.

This Act does not limit the authorization for water projects in South Dakota and North Dakota under law in effect on or after the date of enactment of this Act.

SEC. [9.] *8.* WATER RIGHTS.

Nothing in this Act—

(1) invalidates or preempts State water law or an interstate compact governing water;

(2) alters the rights of any State to any appropriated share of the waters of any body of surface or ground water, whether determined by past or future interstate compacts or by past or future legislative or final judicial allocations;

(3) preempts or modifies any Federal or State law, or interstate compact, dealing with water quality or disposal; or

(4) confers on any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.

SEC. [10.] *9.* FEDERAL SHARE.

The Federal share under section 4 shall be 75 percent of—

(1) the amount allocated in the total project construction budget for the planning and construction of the water supply system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after March 1, 1995.

SEC. [11.] *10.* NON-FEDERAL SHARE.

The non-Federal share under section 4 shall be 25 percent of—

(1) the amount allocated in the total project construction budget for the planning and construction of the water supply system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after March 1, 1995.

SEC. [12.] *11.* CONSTRUCTION OVERSIGHT.

(a) AUTHORIZATION.—The Secretary may provide construction oversight to the water supply system for areas of the water supply system.

(b) PROJECT OVERSIGHT ADMINISTRATION.—The amount of funds used by the Secretary for planning and construction of the water supply system may not exceed an amount equal to 3 percent of the amount provided in the total project construction budget for the portion of the project to be constructed in Perkins County, South Dakota.

SEC. [13.] *12.* AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) $15,000,000 for the planning and construction of the water system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after March 1, 1995.

The amendment (No. 3787) was agreed to, as follows:

AMENDMENT NO. 3787

(Purpose: To require a water conservation program)

On page 2, line 3, strike "1997" and insert "1998".

On page 6, line 1, strike "has" and insert "and a plan for a water conservation program have".

The committee amendments were agreed to.

The bill (S. 2117), as amended, was considered read the third time and passed, as follows:

S. 2117

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Perkins County Rural Water System Act of 1998".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) there are insufficient water supplies of reasonable quality available to the members of the Perkins County Rural Water System located in Perkins County, South Dakota, and the water supplies that are available do not meet minimum health and safety standards, thereby posing a threat to public health and safety;

(2) in 1977, the North Dakota State Legislature authorized and directed the State Water Commission to conduct the Southwest Area Water Supply Study, which included water service to a portion of Perkins County, South Dakota;

(3) amendments made by the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 101–294) authorized the Southwest Pipeline project as an eligible project for Federal cost share participation;

(4) the Perkins County Rural Water System has continued to be recognized by the State of North Dakota, the Southwest Water Authority, the North Dakota Water Commission, the Department of the Interior, and Congress as a component of the Southwest Pipeline Project; and

(5) the best available, reliable, and safe rural and municipal water supply to serve the needs of the Perkins County Rural Water System, Inc., members is the waters of the Missouri River as delivered by the Southwest Pipeline Project in North Dakota.

(b) PURPOSES.—The purposes of this Act are—

(1) to ensure a safe and adequate municipal, rural, and industrial water supply for the members of the Perkins County Rural Water Supply System, Inc., in Perkins County, South Dakota;

(2) to assist the members of the Perkins County Rural Water Supply System, Inc., in developing safe and adequate municipal, rural, and industrial water supplies; and

(3) to promote the implementation of water conservation programs by the Perkins County Rural Water System, Inc.

SEC. 3. DEFINITIONS.

In this Act:

(1) FEASIBILITY STUDY.—The term "feasibility study" means the study entitled "Feasibility Study for Rural Water System for Perkins County Rural Water System, Inc.", as amended in March 1995.

(2) PROJECT CONSTRUCTION BUDGET.—The term "project construction budget" means the description of the total amount of funds that are needed for the construction of the water supply system, as described in the feasibility study.

(3) PUMPING AND INCIDENTAL OPERATIONAL REQUIREMENTS.—The term "pumping and incidental operational requirements" means all power requirements that are incidental to the operation of intake facilities, pumping stations, water treatment facilities, cooling facilities, reservoirs, and pipelines to the point of delivery of water by the Perkins County Rural Water System to each entity that distributes water at retail to individual users.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation.

(5) WATER SUPPLY SYSTEM.—The term "water supply system" means the Perkins County Rural Water System, Inc., a nonprofit corporation, established and operated substantially in accordance with the feasibility study.

SEC. 4. FEDERAL ASSISTANCE FOR WATER SUPPLY SYSTEM.

(a) IN GENERAL.—The Secretary shall make grants to the water supply system for the Federal share of the costs of—

(1) the planning and construction of the water supply system; and

(2) repairs to existing public water distribution systems to ensure conservation of the resources and to make the systems functional under the new water supply system.

(b) SERVICE AREA.—The water supply system shall provide for safe and adequate municipal, rural, and industrial water supplies, mitigation of wetlands areas, repairs to existing public water distribution systems, and water conservation in Perkins County, South Dakota.

(c) AMOUNT OF GRANTS.—Grants made available under subsection (a) to the water supply system shall not exceed the Federal share under section 10.

(d) LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.—The Secretary shall not obligate funds for the construction of the water supply system until—

(1) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are met with respect to the water supply system; and

(2) a final engineering report and a plan for a water conservation program have been prepared and submitted to Congress for a period of not less than 90 days before the commencement of construction of the system.

SEC. 5. MITIGATION OF FISH AND WILDLIFE LOSSES.

Mitigation of fish and wildlife losses incurred as a result of the construction and operation of the water supply system shall be on an acre-for-acre basis, based on ecological equivalency, concurrent with project construction, as provided in the feasibility study.

SEC. 6. USE OF PICK-SLOAN POWER.

(a) IN GENERAL.—From power designated for future irrigation and drainage pumping for the Pick-Sloan Missouri River Basin Program, the Western Area Power Administration shall make available the capacity and energy required to meet the pumping and incidental operational requirements of the water supply system during the period beginning May 1 and ending October 31 of each year.

(b) CONDITIONS.—The capacity and energy described in subsection (a) shall be made available on the following conditions:

(1) The water supply system shall be operated on a not-for-profit basis.

(2) The water supply system shall contract to purchase its entire electric service requirements, including the capacity and energy made available under subsection (a), from a qualified preference power supplier that itself purchases power from the Western Area Power Administration.

(3) The rate schedule applicable to the capacity and energy made available under subsection (a) shall be the firm power rate schedule of the Pick-Sloan Eastern Division of the Western Area Power Administration in effect when the power is delivered by the Administration.

(4) It shall be agreed by contract among—

(A) the Western Area Power Administration;

(B) the power supplier with which the water supply system contracts under paragraph (2);

(C) the power supplier of the entity described in subparagraph (B); and

(D) the Perkins County Rural Water System, Inc.;

that in the case of the capacity and energy made available under subsection (a), the benefit of the rate schedule described in paragraph (3) shall be passed through to the water supply system, except that the power supplier of the water supply system shall not be precluded from including, in the charges of the supplier to the water system for the electric service, the other usual and customary charges of the supplier.

SEC. 7. NO LIMITATION ON WATER PROJECTS IN STATES.

This Act does not limit the authorization for water projects in South Dakota and North Dakota under law in effect on or after the date of enactment of this Act.

SEC. 8. WATER RIGHTS.

Nothing in this Act—

(1) invalidates or preempts State water law or an interstate compact governing water;

(2) alters the rights of any State to any appropriated share of the waters of any body of surface or ground water, whether determined by past or future interstate compacts or by past or future legislative or final judicial allocations;

(3) preempts or modifies any Federal or State law, or interstate compact, dealing with water quality or disposal; or

(4) confers on any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.

SEC. 9. FEDERAL SHARE.

The Federal share under section 4 shall be 75 percent of—

(1) the amount allocated in the total project construction budget for the planning and construction of the water supply system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after March 1, 1995.

SEC. 10. NON-FEDERAL SHARE.

The non-Federal share under section 4 shall be 25 percent of—

(1) the amount allocated in the total project construction budget for the planning and construction of the water supply system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after March 1, 1995.

SEC. 11. CONSTRUCTION OVERSIGHT.

(a) AUTHORIZATION.—The Secretary may provide construction oversight to the water supply system for areas of the water supply system.

(b) PROJECT OVERSIGHT ADMINISTRATION.—The amount of funds used by the Secretary for planning and construction of the water supply system may not exceed an amount equal to 3 percent of the amount provided in the total project construction budget for the portion of the project to be constructed in Perkins County, South Dakota.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) $15,000,000 for the planning and construction of the water system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after March 1, 1995.

EXTENDING DEADLINE UNDER FEDERAL POWER ACT

Mr. McCAIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4081, just received from the House.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4081) to extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in the State of Arkansas.

The Senate proceeded to consider the bill.

Mr. McCAIN. Mr. President, I ask unanimous consent that the bill be read a third time and passed and that the motion to reconsider be laid upon the table, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4081) was considered read the third time and passed.

ORDERS FOR THURSDAY, OCTOBER 8, 1998

Mr. McCAIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m. on Thursday, October 8. I further ask unanimous consent that the time for the two leader be reserved.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. I further ask unanimous consent that there then be a period for the transaction of morning business until 10 a.m., with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, I further ask unanimous consent that following morning business, the Senate proceed to the consideration of the VA, HUD conference report, and that there be 1 hour for debate equally divided on the report. I further ask that at 11 a.m., the Senate proceed to vote on the adoption of the conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. McCAIN. Mr. President, for the information of all Senators, on Thursday, there will be a period for the transaction of morning business until 10 a.m. Following morning business, the Senate will begin consideration of the VA–HUD conference report under a 1-hour time agreement. At 11 a.m., the Senate will proceed to vote on the adoption of the VA–HUD conference report.

Following that vote, the Senate may resume consideration of the Internet tax bill or begin consideration of the intelligence authorization conference report, the human services reauthorization conference report and possibly the Treasury-Postal appropriations conference report. The Senate may also consider any other available conference reports or other legislative or executive items cleared for action.

Once again, the leader would like to stress to all Members that there are only a few days remaining in which to complete many important legislative items. Therefore, Members are encouraged to be flexible to accommodate a busy schedule, with votes occurring throughout each day and into the evenings.

ORDER FOR RECESS

Mr. McCAIN. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that following the remarks of the Senator from Hawaii, the Senate stand in recess under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, I thank the Senator from Hawaii for his usual courtesy in allowing me to proceed with this closing business. I thank my dear friend from Hawaii. I yield the floor.

REAUTHORIZATION OF THE ENDANGERED SPECIES ACT

Mr. AKAKA. Mr. President, for the last year or so, both the House and Senate have been working on legislation that would reauthorize the Endangered Species Act of 1973. The Senate Environment and Public Works Committee has reported legislation offered by my colleague from Idaho, Senator KEMPTHORNE, that would modify the Act in significant ways. Although it is unlikely that we will take up this bill in the short time remaining to us, I would like to make a few observations about the Endangered Species Act and what it has meant to Hawaii, home to more endangered species than any other State or territory within the United States.

Mr. President, as legislators, we are guardians of our Nation's rich natural inheritance; in this capacity, we cannot afford to squander the ecological legacy we leave to our children. Surely, part of our concern for rare species and ecosystems is the simple realization that once they are gone, we would have failed in our stewardship responsibility. Hawaii is poised on the brink of irreversible ecological change, and it is important that wise stewardship decisions be rendered to preserve our unique, tropical ecosystem.

The term "ecosystem" has become a political buzzword and does not adequately described the delicate checks and balances that make up the natural world. The basis of Hawaii's natural system begins not with a list of threatened plants and animals, but with the unique origin of the islands. For millions of years, lava welling out from the Earth's mantle cooled upon the ocean floor, gradually forming the Hawaiian islands, one by one, a process that is ongoing even today. As one island moves away from the influence of a "hot spot" in the middle of the Pacific, another island is born. Each island is the peak of a volcanic mountain, with its base hidden far below the surface of the ocean. Only a few types of birds, insects, and plants were able to colonize the remote islands, and these few evolved into scores or even hundreds of unique species. The islands sheltered no large land mammals or reptiles, only creatures that have gradually lost their natural defenses against such predators.

The Endangered Species Act is critical to this unique, insular ecosystem. There are, 1,126 total U.S. species listed by Fish and Wildlife Service under protection of the ESA, and although its islands represent just two-tenths of one percent of the total U.S. land area, Hawaii is home to more rare and endangered species than any other State or territory. In addition, three-fourths of the Nation's now extinct plants and birds once existed only in Hawaii. Hawaii has an astounding 363 listed endangered species. Only California, with 223 listed species, rivals Hawaii in the number of listed endangered species. The Pacific islands, not including Hawaii, have a total of 16 listed endangered species.

The causes of Hawaiian species decline are numerous and complicated, but the most significant threats come from non-native animals that uproot and devour fragile native plants. Feral pigs, rats, and mongooses not only physicially destroy plants, but spread the seeds of aggressive alien plants such as the South American banana poke vine, and small invasive trees like the Brazilian strawberry guava. These alien plants form thick, impenetrable monocultures that choke out native plants. When native plants disappear, the birds and insects that rely on native plants for food are also threatened. Diseases that kill native flora and fauna are also spread by alien species: birds in particular are ravaged by diseases transmitted through mosquitoes.

Hawaiian plants and animals coevolved over millions of years and continue to depend on each other for survival. The interdependency of Hawaiian insects, birds, and plants makes this ecosystem susceptible to rapid, irreversible change due to loss of species richness. Endangered species in Hawaii range from mammals such as the charismatic monk seal and the Hawaiian goose (also the State bird), or nene [nay-nay], to sea creatures like the hawksbill sea turtle and invertebrates such as the Oahu tree snail. There are endangered plants from 279 taxa, including plants with great cultural significance such as the mahoe and uhiuhi. Hawaii harbors at least 5,000 species as yet unknown to science as well as many rare species, including the wekiu bug, which has "antifreeze" in its blood, and the Wood's tree hibiscus, a small tree previously unknown to science, found in Kauai, with only four individuals known worldwide.

I cannot stress enough that the loss of even 1 species may contribute to the decline of entire ecosystems, and barring unprecedented action, many species may vanish undiscovered. Along with the species, lost also is genetic information that could lead to new foods and medicines.

Mr. President, the survival of hundreds of endangered species now depends on human intervention. Though gravely threatened, Hawaii's remaining natural treasures can be saved. Conservation of habitat, control and eradication of noxious introduced plants and predators, and enlightened resource management are the answer. Conservationists within Hawaii kill feral animals, erect fences to keep ungulates away from fragile plants, breed animals in captivity, pollinate flowers by hand, and destroy alien plants. We are hoping to restore and maintain healthy ecosystems so that Hawaii's native species have the respite and protection they need to survive. Thus, Hawaii is not a lost cause: more than a quarter of the State's land remains unspoiled. But we must continue in our struggle to protect rare and endangered species before the battle is over and our legacy to our children is robbed of species richness.

Since the enactment of the Endangered Species Act of 1973, we have garnered important knowledge and won substantial victories across the country in our efforts to protect imperiled species. Eight U.S. species have removed from the list due to recovery and another 18 species have been upgraded from endangered to threatened. More importantly, at least half of all species listed for a decade or more are not either stable or improving in status.

For example, the first group of captive-bred Mexican wolves was released back into the American southwest this year; California condors, southeastern fish, and dear to me, the Hawaiian silversword plant and 'alala have also been re-introduced to the wild. Bird conservation groups in my own State have hatched eggs from 12 different endemic species—species that have never before been reared in captivity like the 'akohekohe, palila, Maui parrotbill, puaiohi, 'elepaio, and 'amakihi. All of this has been accomplished in 25 years since the Act's passage—remarkable when considered on nature's time scale rather than our fast paced Congressional calendar.

But these successful conservation efforts are not merely a result of Federal law. In Hawaii at least, the State legislature has enacted an endangered species law that is comparable, and, in some instances, stronger than Federal law. Last year, the State amended this law to allow "take" of endangered or threatened species when such authorization is issued in conjunction with a safe harbor agreement or habitat conservation plan. Although modelled after Federal law, the State amendments are more strict. For example, under the ESA, in order to allow for a "take," the population must not decrease; however, under the Hawaiian statute, the likelihood of population increase must be proven before taking is allowed.

Despite success on the Federal and State levels to protect and preserve biological diversity, Congress may next year consider legislation similar to the Kempthorne bill, that in its current form could weaken the Endangered Species Act of 1973, the Nation's most important law protecting endangered wildlife and wildlife habitat.

There are many provisions of the Kempthorne bill, S. 1180, the Endangered Species Recovery Act of 1997, that I applaud and support. The bill emphasizes recovery efforts, and codifies many of the administration's efforts to provide incentives to landowners that are affected by the Endangered Species Act. The Kempthorne bill also expands the role of States in implementing the Act, which has the potential to tailor species recovery efforts on a case-by-case basis, rather than applying a Federal cookie-cutter approach to species protection.

However, there are key elements of S. 1180 that are fundamentally unsound. For example, the legislation would lock in Habitat Conservation Plans without allowing for review and adjustment. Mr. President, our knowledge of rare species is slow in coming; but as our information base grows, Habitat Conservation Plans need to change and grow, too, reflecting new and more complete information about the needs of endangered species. Imagine if our knowledge or medical science were similarly locked in—we would still be using leeches to bleed patients of "humors."

In addition, the Kempthorne measure does not fully cover water rights, nor does it provide just compensation to property owners. It would also establish significant bureaucratic obstacles to listing, management, and recovery plans. And it offers less conservation per dollar appropriated.

Our House colleague, Congressman GEORGE MILLER, has put forward a bill that I find more consistent with the original intent of the Endangered Species Act. The Miller bill emphasizes recovery of species; steps up protection of candidate species; creates a new and important category of "survival habitat" which is designated at time of listing, yet also has a version of "no surprises" permits; and creates a habitat conservation fund based on performance bonds paid by recipients of incidental take permits. It contains extensive tax benefits for landowners affected by the Endangered Species Act. Most importantly, under the Miller legislation, the public is allowed to sue to enforce the terms of Habitat Conservation Plans.

I applaud Senator KEMPTHORNE for attempting in his legislation to balance the needs of private landowners against the protections we accord endangered species; unfortunately, I believe his bill tilts too far in favor of the former. However well-meaning, key provisions of the bill represent a backtracking on endangered species and endangered species habitat protection. Until these shortcomings are addressed, Congress should not consider altering the most important and effective law we have on the books for protecting our rarest forms of life.

Mr. President, let me conclude by noting that more than any other State, Hawaii is teetering on the edge of no return. The Endangered Species Act is our ultimate safety net when the more than 150 other U.S. laws and international treaties fail to prevent a species from declining toward extinction. When measured in terms of preventing threatened species from going extinct, the Act has been an overwhelming success. I would be reluctant to support legislation, however well-intentioned, that would reduce the effectiveness of this landmark law.

I therefore look forward to debating reauthorization of the Endangered Species Act when the 106th Congress convenes. Senator KEMPTHORNE and Congressman MILLER have both made good starts in heightening concern about endangered species and in bringing to light the complexities of species protection and recovery. Let us build on their efforts next year and debate more thoroughly the requirements that are necessary to crafting a stronger, more effective endangered species law.

I yield the floor.

RECESS UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 9:30 a.m., Thursday, October 7, 1998.

Thereupon, the Senate, at 8:04 p.m., recessed until 9:30 a.m., Thursday, October 8, 1998.

NOMINATIONS

Executive nominations received by the Senate October 7, 1998:

DEPARTMENT OF JUSTICE

MARGARET ELLEN CURRAN, OF RHODE ISLAND, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF RHODE ISLAND FOR THE TERM OF FOUR YEARS, VICE SHELDON WHITEHOUSE, RESIGNED.

BYRON TODD JONES, OF MINNESOTA, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF MINNESOTA FOR THE TERM OF FOUR YEARS, VICE DAVID LEE LILLEHAUG, RESIGNED.

FEDERAL MARITIME COMMISSION

HAROLD J. CREEL, JR., OF SOUTH CAROLINA, TO BE A FEDERAL MARITIME COMMISSIONER FOR THE TERM EXPIRING JUNE 30, 2004. (REAPPOINTMENT)

ENVIRONMENTAL PROTECTION AGENCY

ROBERT W. PERCIASEPE, OF MARYLAND, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY. (REAPPOINTMENT)

CONFIRMATIONS

Executive Nominations Confirmed by the Senate October 7, 1998:

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

JOY HARJO, OF NEW MEXICO, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 2002.

JOAN SPECTER, OF PENNSYLVANIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 2002.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Wednesday, October 7, 1998*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. SESSIONS).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
October 7, 1998.

I hereby designate the Honorable PETE SESSIONS to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Reverend James David Ford, D.D., offered the following prayer:

May Your blessing, gracious God, dwell in the sacred places of life so that the words of our lips and the deeds of our hands are hallowed by Your good word and Your bountiful favor. As the psalmist has asked: "Where shall we go from thy spirit and whether shall we flee from thy presence?" We acknowledge, O God, that Your spirit leads us and guides us from the mountains to the valleys, from the heavens to the deepest oceans. We are thankful that Your presence in our lives, O God, sanctifies the good work that we seek to do, and we are grateful that Your spirit never departs from us. In Your name we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New Jersey (Mr. PALLONE) come forward and lead the House in the Pledge of Allegiance.

Mr. PALLONE led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 3790. An act to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the Library of Congress.

H.R. 4248. An act to authorize the use of receipts from the sale of the Migratory Bird Hunting and Conservation Stamps to promote additional stamp purchases.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2614. An act to improve the reading and literacy skills of children and families by improving in-service instructional practices for teachers who teach reading, to stimulate the development of more high-quality family literacy programs, to support extended learning-time opportunities for children, to ensure that children can read well and independently not later than third grade, and for other purposes.

The message also announced that the Senate had passed a bill of the following title in which the concurrence of the House is requested:

S. 2095. An act to reauthorize and amend the National Fish and Wildlife Foundation Establishment Act.

ANNOUNCEMENT OF BILLS TO BE CONSIDERED UNDER SUSPENSION OF THE RULES TODAY

Mr. BLUNT. Mr. Speaker, pursuant to House Resolution 575, I announce the following suspensions to be considered today:

S. 2094, Fish and Wildlife Revenue Enhancement Act of 1998;

H.R. 2886, Granite Watershed Enhancement and Protection Act;

H.R. 3796, To Authorize the Secretary of Agriculture to Convey the Administrative Site for the Rogue River National Forest and Use the Proceeds for the Construction or Improvement of Offices and Support Buildings for the Rogue River National Forest and the Bureau of Land Management;

H.R. 4151, Identity Theft and Assumption Deterrence Act;

S. 53, Curt Flood Act;

S.J. Res. 51, Granting the Consent of Congress to the Potomac Highlands Airport Authority; and

S. 1021, Veterans Employment Opportunities Act.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain 15 1-minutes on each side.

PRESENTATION OF THE FREEDOM WORKS AWARD TO JOE WHITE, FOUNDER OF KIDS ACROSS AMERICA

(Mr. ARMEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARMEY. Mr. Speaker, I am honored today to have my good friends the gentleman from Kansas (Mr. RYUN) and the gentleman from Missouri (Mr. BLUNT) join me in presenting the Freedom Works Award to Joe White, founder of Kids Across America. I would like to bring to the Houses's attention an exceptional individual who has changed the lives of thousands of kids across this Nation.

Mr. Speaker, Joe White has taken upon himself the responsibility to minister today's generation of young people. He founded Kids Across America as part of his larger family of Christian athletic camps in an effort to reach out to inner city kids and to give all of them a chance to go to summer camp. Today, Kids Across America is able to reach approximately 4,000 urban youth each summer.

Here kids can escape the troubles of the inner city and find refuge in the Ozark Mountains of Missouri for 8 days. Kids get a chance to play over 25 sports, meet new friends, build relationships with a staff of 400 counselors and hear a message of hope.

Look at these young men here. You can see the smiles on their faces, that their lives will be forever changed.

Imagine a place where it is the in thing to read your bible daily, to pray for your friends, to encourage your opponents, to serve others before yourself. Imagine a place where role models and heroes are everywhere one looks. Imagine a place where peer pressure is a good thing, and violence and profanity and everything dark is left at the gate. There is no need to imagine. It can all be found at Kids Across America.

America is a great Nation, and if we are going to be able to continue to be a great Nation in the future, it will be because of dedicated men like Joe White who has voluntarily taken upon himself the responsibility to make this world a better place.

Mr. Speaker, I yield to the gentleman from Missouri (Mr. BLUNT).

Mr. BLUNT. Mr. Speaker, I am pleased to be here today as the Majority Leader recognizes Joe White, Joe White from my district in southwest

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Missouri, Joe White with a doctors degree from Southwest Baptist University, Joe White who has devoted his life to kids.

Mr. Speaker, Joe founded a foundation, the I Am Third Foundation, and I think the three principles of that foundation talk about what Joe's life is about and what these camps that the Majority Leader has talked about focus on. The I Am Third Foundation is God first, family second, and I am third. The individual is third. A life based on faith is part of these camps.

Mr. Speaker, I have heard Joe White from memory quote entire books of the bible, quote the Book of First Timothy and in Paul's letter to Timothy in First Timothy Paul says:

"You are my true child in the faith."

Joe White becomes a father to children who need a male role model. Joe White becomes an example to kids who often do not have an example. Joe White has scholarshipped thousands of urban youth into a life and a life style for that 8 days in southwest Missouri that changes their life from the time they come one year until the time so many of these want to come back and get to come back the second year.

The picture that the Majority Leader has, the smile on his face, I think says it all. Joe White makes a difference in the lives of kids.

Mr. ARMEY. Mr. Speaker, again with your continued indulgence and the graceful generosity of my colleagues on both sides of the aisle, I yield to the gentleman from Kansas (Mr. RYUN).

Mr. RYUN. Mr. Speaker, let me first of all add my congratulations to what Joe White has been able to do with the program in Missouri.

As my colleagues know, I have had the opportunity to see hands on exactly what he does with the urban teenagers, and for them to be in an environment, a Christian environment in which they can have not only their character encouraged, but also feel safe and to be with people that love them, gives them a great opportunity to experience part of what life is all about, and Joe White certainly done a great job and is worthy of this award.

Mr. ARMEY. Mr. Speaker, let me finish with this point. So many times we have said around here that the idea is bigger than the man. Joe White once again has shown us the idea is never bigger than the child.

POINT OF ORDER

Mr. PALLONE. Mr. Speaker, point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. PALLONE. No offense to the Majority Leader, Mr. Speaker, but the procedure the way I understand it is that these are 1 minute speeches that alternate with each side, and I would ask that the Speaker follow that procedure.

The SPEAKER pro tempore. The gentleman is correct. The Chair will follow that procedure.

IT IS TIME FOR A NEW DIRECTION

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, as the time runs out on the Congress, it is important to keep in mind that the Republican Congress has been a failed Congress.

The Democrats are putting out a report today called A Failed Republican Congress, Partisanship Instead of Progress, and it details how Republicans have spent a lot of time driving their partisan agenda, but very little to help the American people.

Mr. Speaker, Republicans have failed to act on the critical kitchen table issues that Americans really care about. We have had no managed care reform, no bill to reduce class size and modernize schools, no action to safeguard the surplus for Social Security, no bill to reduce teen smoking, no bill to reform our campaign finance system and no bill to increase the minimum wage for working families.

Republicans have let down the American people. It is time for a new direction. Congress needs to put the public interest ahead of partisan politics. There is still a few days left here. I think we should see some action on HMO reform, on education initiatives and on safeguarding Social Security. So far we are seeing nothing.

IS THE PRESIDENT REALLY LIKE A CEO OF A CORPORATION?

(Mr. PAPPAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAPPAS. Mr. Speaker, I rise today to ask a question that has been bothering me for a few weeks now.

In response to the ongoing situation over at the White House, many of his apologists say we should treat the President of the United States as the CEO of the world's largest business. My question is, if he is the CEO, when is our next dividend? When will the CEO allow the shareholders to reap the benefits of excess revenues?

The gentleman from Texas (Mr. ARCHER) outlines the Republican agenda of lower taxes while saving Social Security. Republicans are proud to see the fruits of their insistence on sane fiscally conservative spending policies. The Republican tax relief plan addresses the marriage tax penalty, provides for tax simplification, increases access to health care for small businesses and provides tax relief for farmers. By opposing the Republican plan for tax relief, the President would prove he is still the leading proponent of big government.

Mr. Speaker, I urge this Congress to move tax reform now.

VOTE AGAINST THE LABOR-HHS-EDUCATION APPROPRIATIONS BILL

(Ms. SANCHEZ asked and was given permission to address the House for 1 minute.)

Ms. SANCHEZ. Mr. Speaker, I rise today in opposition to the Labor-HHS-Education appropriations bill. With a veto threat hovering over this measure, I cannot understand why a bipartisan compromise has still not been reached. There are too many provisions that are just unacceptable, not just for Democrats, but for our kids, for our schools and for our families. Rather than hiring more teachers, building more schools, reducing class size, this bill instead shortchanges our schools. It provides $2 billion less, less than the administration requested for education programs. It cuts Goals 2000 in half. It eliminates the Summer Jobs Program. It cuts school to work opportunities.

Mr. Speaker, I could go on and on. Eliminating the Summers Jobs Program will deny the world of work for half a million youth.

My colleagues talked earlier about a camp. Do not send them to camp. Teach them how to be a productive citizen. Does the majority party really want our youth out on the streets instead of learning good work habits?

This bill is just not fair. Until changes are made, I urge my colleagues to vote against the Labor-HHS-Education appropriations bill.

TRUST, TRUTH AND ACCOUNTABILITY

(Mr. BALLENGER asked and was given permission to address the House for 1 minute.)

Mr. BALLENGER. Mr. Speaker, let me give a few quotes from our President.

October 1992, and I quote:

> I think trust and trustworthiness is an issue in this campaign, and I think I have demonstrated it in my life.

In December of 1992 concerning the Iran-Contra pardons the President-elect said:

> I am concerned about any action which sends a signal that if you work for the government you're above the law or not telling the truth to Congress under oath is somehow less serious than not telling the truth to some other body under oath.

October 1995:

> The road to tyranny, we must never forget, begins with the destruction of truth.

And June of 1996:

> The other thing we have to do is to take seriously the role of this problem, older men who prey on under age women. There are consequences to decisions. One way or another people always wind up being held accountable.

SOMETHING IS WRONG WITH THIS POLICY

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, in America we have record trade deficits, record bankruptcies, record debt, consolidations, downsizing, more American jobs keep going overseas, a schizophrenia stock market, all symptoms of a major economic problem in America.

□ 1015

After all this, the experts say American taxpayers must keep sending more money to the International Monetary Fund to prop up foreign countries to avert disaster. Beam me up, Mr. Speaker.

When American dollars end up in the pockets of foreign politicians who then vote against America at the United Nations, something is wrong with this policy, very wrong. I say these foreign countries do not need American taxpayer dollars. They need reform. Think about it.

Mr. Speaker, I yield back what economy we have left.

PRESIDENT THREATENS TO VETO SPENDING BILLS

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, I am very and deeply disappointed by reports that the President intends to veto several spending bills over so-called environmental riders. Further reports indicate that this is part of the President's politically motivated effort to force a government shutdown.

This country cannot afford another government shutdown, particularly in these trying economic times.

A decision to simply veto spending bills without good-faith efforts to negotiate policy differences will jeopardize billions of dollars of increases for wildlife, recreation, parks, forests, endangered species, public health, and other important priorities.

Mr. Speaker, the President's rhetoric is unhelpful in resolving honest policy differences and unnecessarily erodes the public trust in the legislative process. Hard working men and women cannot afford another government shutdown, but it appears the President has played partisan politics above people, above the environment, and above the best interest of this Nation.

The President has an open invitation to negotiate, in good faith, areas of legitimate policy disagreement. For the sake of the American people, let us hope he accepts this invitation.

VOTE NO ON THE OMNIBUS PARKS PORK BILL

(Ms. McKINNEY asked and was given permission to address the House for 1 minute.)

Ms. McKINNEY. Mr. Speaker, today's Washington Post Editorial calls the Republican Omnibus Parks Bill "pork." The Washington Post did not get it quite right. It is not just a pork bill, it is the pork bill straight from the environmental butchers. People in Georgia are very concerned about the bill's provision for Cumberland Island. This bill will carve up Cumberland Island, so that it can be served on a silver platter to one of America's wealthiest families.

The butchery of Cumberland Island is not just pork, it is old fashioned Republican service with a smile. What else can we expect from the Republican Party. They failed their polluting friends when they wanted to dirty our water and air. Now they are trying to let their other friends buy our national treasures. In contrast to the TV commercial, this work is not the other white meat. This pork bill is Republican green.

Republicans have always believed that America should reward the wealthiest and most privileged among us. And what better way to keep giving to the rich than by robbing the American people of a national treasurer of Cumberland Island.

If this bill makes it out of Congress, I will urge the President to veto it. I ask my colleagues to vote "no" on this pork bill.

MANAGED CARE REFORM

(Mr. GREEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREEN. Mr. Speaker, I am glad to hear my colleagues trying to define the Democrats, and sometimes they would not know one if they saw one.

But the problem we have this year is that this is a historic Congress. We are getting ready to vote tomorrow on an historic vote on opening an inquiry of impeachment of the President. But this, more than any Congress, has done nothing at all for the American people on the bread and butter issues.

But what I want to talk about this morning is the HMO reform that should have been passed, should have been passed by the Senate, and the quality bill should have been passed by the House.

It is clear that this do-nothing Congress has been by design this year, because they don't want to make the changes that the American people want. The polls show the American people want HMO reform. They want their doctors to be able to help them make medical decisions instead of a gag rule. They want to be able to appeal decisions made by a bureaucrat with an insurance company.

They want some choices in their medical care. They want access to specialty care, and they want emergency care when they need it, not based on somebody deciding, no, you cannot go to your closest emergency room.

That is why this is a do-nothing Congress, and that is why tomorrow, even with this historic vote, we are going to go home without providing any help to the American people for their health care.

PINOCCHIO

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, there is a children's story that is instructive in these critical days. It goes something like this: There was once a little boy who lived in a little white house. His name was Pinocchio. Pinocchio was a wooden puppet who came to life and had many unhappy adventures because he was very selfish. Pinocchio had trouble with telling the truth.

Whenever Pinocchio told a lie, his nose grew longer. Once, when he told several lies, his nose became so long he could not even get out of his little white house. I wonder, Mr. Speaker, how long his nose could get with 7 months of not telling the truth.

Like Pinocchio, some people today have a problem with telling the truth. In the end, Pinocchio became a real boy, and he did the honorable thing; he told the truth. I wish certain people today would learn the same lesson, those in the big White House.

LEGACY OF REPUBLICAN CONTROLLED CONGRESS

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, for the past 2 years, the Republican majority has failed to act on the basic issues that face hardworking Americans. This Congress has failed to pass meaningful HMO reform, killed efforts to reduce teen smoking, undermined attempts to reduce school class size, ignored the need to bolster the minimum wage, and suffocated serious campaign finance reform.

Because Republicans control this Congress, the American people are not guaranteed that they can choose their own doctor. They do not have guaranteed access to hospital emergency rooms. And American people cannot hold HMOs accountable for medical decisions.

Because Republicans control this Congress, our children will not have smaller class sizes next year. Because

Republicans control this Congress, teenagers will not be safe from big tobacco's nefarious marketing and consistent lying. Because Republicans control this Congress, there will be no increase in the minimum wage for families who work hard and who play by the rules.

Tough luck, America. Republicans are in charge. For 2 years, America's needs have been ignored. That is the legacy of this Republican controlled Congress.

MORE GOOD NEWS: DOLLARS TO THE CLASSROOM REPEALS GOALS 2000

(Mrs. LINDA SMITH of Washington asked and was given permission to address the House for 1 minute.)

Mrs. LINDA SMITH of Washington. Mr. Speaker, I rise today with more good news. Yes, it is true. Above the clamor of scandals and the President's threat to shut the government down, this Congress is doing good things. We are taking steps to shrink the power of the Federal Government into the lives and pocketbooks of American families.

We just passed the Dollars to the Classroom Act. This bill can reduce classrooms size all over the Nation if the Senate will just pass it and the President will not veto it.

You see, because President Clinton himself said, and I agree with him, I think we have clear direction and he should not veto this one, he said, "We cannot ask the American people to spend more on education until we do a better job with the money we have got now."

As I look around this town, Washington, DC, and see all these big buildings filled with bureaucracies, I know those folks that many make $70,000 to $100,000 should go home, and we should send that money back to the classrooms.

Our Dollars to the Classroom Act also abolishes Goal 2000. This is an experiment that did not work. We will send that money back to the classrooms to achieve the goals of education excellence. Getting more money in the classroom is truly good news.

RUMORS OF GOVERNMENT SHUTDOWN

(Mr. BOB SCHAFFER of Colorado asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, the Republicans want to move in one direction and the Democrats in another. This year, like every year, on almost every single spending bill, the division is quite clear. Republicans want to cut back on the size of government. Democrats want to expand it.

We have different visions, different ideas about what government should do, what it can do, and how much of the government spending is an outrageous waste of taxpayers' money.

But our differences are no excuse for a government shutdown, and I am very depressed to hear the persistent rumors that many in the White House are urging the President to provoke a confrontation, shut down the government, and divert attention away from the crisis in the White House.

They want to shut down the government and then try to blame it on Republicans. This is an interesting way, indeed, to combat public cynicism toward government.

I urge the President to reject the advice of his more liberal advisors and continue to work with the Republicans toward an honorable compromise on the remaining spending bills. Do not shut down the government, Mr. President.

SAVE SOCIAL SECURITY; ELIMINATE MARRIAGE TAX PENALTY

(Mr. WELLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELLER. Mr. Speaker, I have an important question to ask this morning. Why does the President want to squander the surplus on new government bureaucratic spending? Why does the President want to squander the surplus on State Department spending and defense spending and, of course, a computer fix for government bureaucracies?

This House just a few weeks ago made a commitment to save Social Security and to use the surplus to save Social Security. This House made a commitment to set aside $1.4 trillion, 90 percent of the projected tax revenue surplus, over the next 10 years and use that to save Social Security.

The remaining dime on the dollar we would then use to eliminate the marriage tax penalty, help expand, build new classrooms in schools back in Illinois, help family farmers, help family businesses, help those who want to send their kids off to college.

Mr. Speaker, it is interesting that the President says, if we use $7 billion of the tax revenue surplus next year to eliminate the marriage tax penalty, that is squandering. But then he turns right around and says let us use $14 billion, twice as much, for government spending, bureaucratic spending. Mr. Speaker, you cannot have it both ways. Let us save Social Security. Let us eliminate the marriage tax penalty.

MARCH FOR CUBAN FREEDOM AND DEMOCRACY

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, this Saturday, the South Florida community will hold a march through the streets of Miami to reaffirm our commitment with the Cuban people in their struggle for freedom against the last totalitarian dictatorship of our hemisphere, that of Fidel Castro.

This march will join our diverse community as one, under one ideal; that the people of Cuba are not alone in their struggle for freedom. This march will ask the Clinton administration to stop appeasing the Cuban Communist regime and start enforcing the sanction laws that this Congress has imposed on the Castro tyranny that the White House has conveniently refused to apply.

We will also ask the international community to stop its immoral investments in Castro's slave-economy that only serve to strengthen the dictatorship.

It will be a solemn occasion to remember the hundreds of thousands of victims who have fallen prey to the Castro regime over its almost 40 years reign of terror and repression.

The thousands of people who will walk through the streets of Miami this Saturday will send a clear message to the tyrant in Havana: We will not rest until the Cuban people reclaim their freedom and democracy.

HOW THE U.N. AND THE CLINTON ADMINISTRATION IS CREATING A MORE DANGEROUS WORLD FOR ALL

(Mr. PETERSON of Pennsylvania asked and was given permission to address the House for 1 minute.)

Mr. PETERSON of Pennsylvania. Mr. Speaker, the United Nations, led by the United States,' is getting pushed around by a rogue Nation with an unfeeling dictator, Saddam Hussein.

There is no other way to say it, Mr. Speaker, the United States is sitting idly by while this tyrant, Saddam Hussein, is thumbing his nose at us. As former U.N. Inspector Scott Ritter said before the House Committee on National Security, the reality is that Iraq is winning its bid to retaining its prohibited weapons.

□ 1030

Continuation of sanctions as a sole means of enforcing Security Council resolutions is a self-defeating, weak policy.

The Clinton administration has intervened to prevent surprise inspections in Iraq because it wishes to avoid a new conflict with Baghdad. I cannot stress enough how dangerous this policy is.

The question is, are the United Nations and the Clinton administration gambling with all of our lives? Unfortunately, it appears they are.

TO SAVE THE PARTY, DEMOCRATS MUST VOTE TO IMPEACH

(Mr. BARR of Georgia asked and was given permission to address the House for 1 minute.)

Mr. BARR of Georgia. Mr. Speaker, on the issue of impeachment, I submit to the House an article submitted to the Wall Street Journal by Jerome M. Zeifman, who is a lifelong Democrat and was chief counsel to the House Committee on the Judiciary at the time of the Nixon inquiry.

He writes, "As a lifelong Democrat and chief counsel of the House Judiciary Committee at the time of the Nixon impeachment inquiry, I believe I have a personal responsibility to speak out about the current impeachment crisis. And I believe my fellow Democrats on today's Judiciary Committee have a moral, ethical and constitutional responsibility to vote to impeach President Clinton. The positions taken by the President and his die-hard Democratic defenders in Congress and the media are indefensible.

"We are living in dangerous times. I believe the President has personally brought his office into scandal and disrepute.

"Having long championed traditional Democratic causes, I simply cannot accept Mr. Clinton's own shameless defense and his supporters' offensive attacks on Congress and its traditional rules. Like most traditional Democrats, like most Americans, I have grave reservations about Mr. Clinton's morality and ethics. In my view there is now more than substantial evidence to consider our President a felon who has committed impeachable offenses."

NO GOVERNMENT SHUTDOWN

(Mr. THUNE asked and was given permission to address the House for 1 minute.)

Mr. THUNE. Mr. Speaker, Republicans in Congress have a message to the President: do not shut the government down.

Republicans have been working with this administration since last spring, last spring, Mr. Speaker, to avoid a government shutdown this year. I think we would agree that it is not in the national interests to shut down the government. How tragic it would be if the President were to force a shutdown for political reasons.

Republicans are willing to reach a compromise with the White House on our remaining differences, just as we did last summer when we balanced the budget and cut taxes at the same time. Although there are still significant differences between the White House and Republicans in Congress on the remaining spending bills, these differences can be resolved without a government shutdown. In almost every case, the administration wants to spend more, Republicans want to spend less.

Let us find common ground and avoid a government shutdown.

CONFERENCE REPORT ON H.R. 3694, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1999

Mr. GOSS. Mr. Speaker, pursuant to the unanimous consent agreement of October 6, 1998, I call up the conference report on the bill (H.R. 3694) to authorize appropriations for fiscal year 1999 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. SESSIONS). Pursuant to the order of the House of Tuesday, October 6, 1998, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of October 5, 1998, at page H9522.)

The SPEAKER pro tempore. The gentleman from Florida (Mr. GOSS) and the gentleman from Washington (Mr. DICKS) each will control 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. GOSS).

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

I know that the gentleman from Washington (Mr. DICKS) is on his way to the Chamber at this time, and I am going to read from a prepared opening statement, which I know the gentleman will have access to, so I am going to proceed with my remarks.

Mr. Speaker, I rise in support of the conference report to accompany H.R. 3694, the Intelligence Reauthorization Act for Fiscal Year 1999.

This has been a busy summer from an intelligence and national security vantage point. Since House passage of H.R. 3694 in early May, we have witnessed nuclear tests in Pakistan and India; terrorist attacks on 2 of our embassies in Africa, and U.S. counterstrikes against terrorist-linked targets; a worsening world financial crisis that has spread from Asia to Russia and threatens now parts of Latin America; the eviction of United Nations weapons inspectors from Iraq; a deepening crisis in Kosovo that could embroil NATO troops before the end of the year, if not the end of this speech; and numerous ballistic missile tests by hostile and potentially hostile countries.

In addition, 2 major studies of our intelligence capabilities and processes were conducted this summer. The Rumsfeld Commission study brought to light the increasing pace of ballistic missile proliferation and the shrinking warning times that we can expect given our current intelligence collection posture. The Jeremiah Report, conducted in the wake of India's nuclear tests, highlighted several gaps in our analytical and reporting processes. Both reports expressed concern that foreign governments are increasingly able to hide their activities from us due, apparently, to their familiarity with our intelligence methods and our capabilities.

The point of recapitulating these developments and reports is to highlight the continuing critical need for good intelligence in the post-Cold War world, in this era that we find ourselves today. This after-Cold War era is an era that has seen a significant downsizing of our armed forces.

What I have not spelled out is the successes the community has had as well. All those bad things that did not happen and do not happen because we do have good intelligence capability, even though we have downsized that as well, and we need to reverse that trend.

Good intelligence enables policymakers in the government to head off crises before they occur. It provides an advantage to our military planners in everything from procurement to deployment and saves the lives of citizens and soldiers, and saving the lives of citizens and soldiers is certainly something we are about.

Mr. Speaker, I am pleased that this conference report incorporates the lessons learned from this busy summer. It provides needed investments in modernization of signals intelligence; revitalization of human intelligence, or espionage, capabilities; strengthening all-source analysis; and enhancement of covert action capabilities. It also includes a significant increase in research and development funding to ensure that we can stay one step ahead of the pack and compensate for foreign denial and deception practices, which, as I said, have gotten ever better.

This conference report provides new protections for "whistle-blowers," intelligence community employees who report on potential problems within their agencies, even though it may involve classified information. I believe we have struck an appropriate balance between the need to preserve employees' rights and the unique retirement within the intelligence arena to safeguard classified information and, of course, national security. We have created a front door for rank and file information-sharing with Congress. This is a good thing.

I know that this legislation is the product of a bipartisan, bicameral effort. I am grateful for the hard work of all of our Members and the entire committee staff. I know that it took many long hours and a few sleepless nights to get this conference report completed.

I will call particular attention to the effort of my friend, the gentleman from Washington (Mr. DICKS), the ranking member of this committee, for his dedication to intelligence and national security matters. I am disappointed to say that this will be his last appearance on the House floor managing an intelligence authorization bill, I am told. The Rules of the House require the rotation of all members of our committee. The gentleman from Washington (Mr. DICKS) has been a hard-charging, ardent supporter of improving U.S. intelligence capabilities, especially those in the advanced technical area. Indeed, his expertise in that area is unrivaled, in my view, on Capitol Hill.

While I cannot say that we have always agreed on the substance of all issues during my 2 years as chairman of the committee, I think it is very fair to say that we have always agreed to sit down and do the extra work necessary to resolve issues in a reasonable manner, and I would add in a very pleasant way.

Mr. Speaker, I say to the gentleman that both the community and the Committee on Intelligence have benefited from his 8 years of service here and I know that we can continue to count on his input, wisdom and judgment on crucial matters in the years to come on which he has so much expertise.

I will also pay tribute to the others members who are rotating off the committee or retiring next year. We have been extremely fortunate to have the distinguished chairman of the Subcommittee on National Security, the gentleman from Florida (Mr. YOUNG) as a senior member of the Committee on Intelligence. Indeed, this has been his second tenure on the committee for a total of 14 years. We have benefited from the gentleman's wisdom and his willingness to find the resources necessary for intelligence in some very lean years for overall defense spending, and I thank him, particularly for his help in the committee this past week when I could not be here and he substituted for me very ably. I know I can count on him too for his advise and assistance.

The committee is further losing 2 valued democratic members to retirement: the gentlewoman from California (Ms. HARMAN), and the gentleman from Colorado (Mr. SKAGGS). We thank them for their service and dedication and wish them luck in their new endeavors, and I personally thank them for the commitment and time that they have given on so many issues on the committee.

Finally I would be remiss if I did not mention the recent departures of professional staff members Mary Engebreth and Susan Ouellete, two women who have worked on the committee since 1995. Susan was our expert in the areas of analysis and defense intelligence, and Mary was our resident rocket scientist. We are going to miss Mary, and we are going to miss Susan as well.

Mr. Speaker, I urge my colleagues to support this conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. DICKS. Mr. Speaker, I yield myself such time as I may consume.

First, I want to thank the distinguished chairman and we want to welcome him back, although this has been a difficult time for he and his family. We are certainly glad to hear the positive news about his wife, Mariel.

I want to say that I appreciate his kind remarks. It has been a great pleasure to serve on this committee for eight years, and we have had bipartisan cooperation. I do not think there has ever been a time when we have not come to this floor unified behind the intelligence bill, and I think that is good. This is one area where partisanship should not be a part. It should be only how do we get the best intelligence for the American people.

Mr. Speaker, the goal of any conference committee should be to produce an agreement that improves the bills submitted to it. I believe the conference on the intelligence authorization for fiscal year 1999 achieved that result, and I urge the adoption of the conference report.

I am especially pleased that the conferees were willing to reconsider earlier legislative recommendations which I believe would have negatively impacted the ability to collect reliable and timely intelligence through our national technical means. Make no mistake about it, had these recommendations gone forward, the consequences would have been felt for years, primarily by those whose responsibility it is to ensure that United States military forces operate with maximum efficiency and minimum casualties.

The conferees did not, however, fully resist the temptation to unduly encumber highly complex programs, particularly new ones, with directives which I believe were unwise in terms of constraining the flexibility of those who are supposed to manage these programs. Congressional oversight should be vigorous and constant, but it should be reasonable as well. I am concerned that we are prematurely forcing technical programs into a budgetary straitjacket that will force them to either satisfy fewer requirements, or to become operational much later than necessary. We must never lose sight of the fact that congressionally imposed restraints on the development of intelligence collection programs can have real effects on the Nation's security.

The conference report contains a resolution of a matter on which the House and Senate intelligence committees have worked for some time, the means by which intelligence community employees can bring significant information to the attention of the intelligence committees. In perhaps no other aspect of the relationship between the executive and legislative branches is the Congress as dependent on information from the object of its oversight as it is in the area of intelligence.

□ 1045

We can simply not do our job if the intelligence agencies are not forthcoming with information, the bad as well as the good. We must know that impediments do not exist which would prevent intelligence community employees from bringing important information to the attention of the Intelligence committees.

I want to commend our chairman, the gentleman from Florida (Mr. GOSS) for crafting an alternative means by which to assist and encourage employees who have significant information in bringing it to Congress, and the leadership of the Senate Intelligence Committee for raising an important issue and insisting that it be addressed.

Mr. Speaker, we should be proud of the fact that even in the chairman's absence we had a spirited debate on this subject, but the chairman prevailed, so his deft hand and good work were felt, but were felt properly. The job that the chairman did in crafting this legislation and refining it was exemplary, and I commend him for it.

My service on the Permanent Select Committee on Intelligence saw the successful prosecution of the Persian Gulf War and the collapse of the Soviet Union. It also saw greater proliferation of technologies associated with weapons of mass destruction, protracted ethnic conflicts, the possibility of information warfare, and persistent terrorist threats.

I have been continually impressed in my 8 years on the committee by the need of our policymakers and military commanders for reliable and timely intelligence. I wish at times they had made better use of the intelligence available to them. To stay ahead in the collection, analysis, processing, and dissemination of actionable intelligence is admitedly costly. The authorization levels in this conference report exceed the President's request by less than 1 percent. The amount authorized is substantial, but I am concerned it may not be enough. We must insist that intelligence activities be pursued with efficiency, that funds provided be used wisely and well. We would make a mistake, in my judgment, however, if we did not invest enough in intelligence, and thereby risked our Nation's preeminence in this area. I hope in the years to come we will be able to devote more resources to this critical underpinning of our security.

Mr. Speaker, I commend the conference agreement to the House, and recommend its approval. I, too, want to compliment the staff of the committee. I think the Permanent Select Committee on Intelligence has been well served by having an outstanding staff. Mike Sheehy has been the director on our side, and I want to thank him and all the members of the Democratic staff for the outstanding work they have done, especially for me over the last 4 years as the ranking member. I also want to thank the majority staff; they have done an outstanding job.

I think maybe our finest hour was on the question of encryption, an issue which still has not been resolved, but I must say that I felt very proud of the fact that we had a strong majority vote out of our committee. I think we sent a very powerful message about the importance of this technology, and of the challenge that law enforcement and our intelligence agencies have in dealing with it, and why it is so important for this Congress to be very, very careful how we proceed so we do not undermine law enforcement and national security.

Mr. Speaker, I thank the chairman again for his kind remarks.

Mr. Speaker, I reserve the balance of my time.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think Members and those watching the proceedings can see the caliber of people in the ranking member, as exemplified by what he said and the service he has provided.

People need to know that the way our system works with oversight is that the most sensitive matters are shared with the ranking member, the chairman of this body and the other body, and I cannot imagine a more honorable man, a more efficient, capable professional than the gentleman from Washington (Mr. DICKS). I mean what I say. We are sorely going to miss him up there. I am sure the gentleman's shoes will be properly filled, but it is going to be a tough deal.

Mr. Speaker, I yield 3 minutes to my colleague, the distinguished gentleman from Florida (Mr. MCCOLLUM), who is chairman of our Subcommittee on Human Intelligence, Analysis, and Counterintelligence.

Mr. McCOLLUM. I thank the gentleman for yielding time to me, Mr. Speaker. I wish to express my appreciation for this bill, for the conference report, for all the work that has been done, and for everybody who has put a lot of time in on it. It authorizes funding for the intelligence and intelligence-related activities for this coming year.

As the chairman of the Subcommittee on Human Intelligence, Analysis, and Counterintelligence, I am pleased to say the report continues the efforts of the gentleman from Florida (Chairman GOSS) and of my subcommittee to put more eyes and ears on the streets around the world to detect, penetrate, and disrupt the movement of drugs to our cities, the planning of terrorists against our citizens, the shipment of nuclear components to rogue States, and the actions of Nations against our interests abroad.

What this country faced during the Cold War was fundamentally a single military threat from the combined forces of the Warsaw Pact. Today, standing on the rubble of the Berlin Wall, we face new transnational threats that in many cases arise in smaller, poorer, and more often obscure capitals and cities in Latin America, the Near East, and Africa.

Drug cartels reach out from the coca fields of southern Colombia and the poppy fields of Burma to poison our cities. Terrorist networks run from rural Afghanistan to Nairobi, Dar es Salaam, the Balkans, and even New York to kill our citizens and threaten our peace.

Decisions taken in Tehran, Baku, T'Blisi, and Ashgabat may affect the exploitation of the vast oil fields of the Caspian Sea, and through that, the world's economy.

It is not enough to know how badly our cities are being poisoned by cocaine and heroin from Latin America and East Asia. It is not enough to know how large a crater was left behind by terrorists in Africa. It is not enough to document how adversely our interests might be affected by the route of a pipeline through central Eurasia.

Rather, we must know the plans and intentions of those behind the transnational threats and the concerns that touch our country, its citizens, and its interests. We must know all of this before it is too late for us to act. We need to know the who, the where, and the how of drug shipments coming to Miami, New York and San Diego; of a truck bomb to be left in the front of an Embassy in Africa; of a plan for hostile control of oil from the Caspian sea.

For that we must have the eyes and ears of our case officers, and technology, on the streets where these threats originate. No amount of logic or divination by our analysts back here in Washington can pick up the launch of a drug boat in the Caribbean or the Eastern Pacific, or the fusing of a bomb intended for a U.S. Embassy. That must be done by the brave men and women of the intelligence community, on the front lines of this national endeavor. That Mr. Speaker is where they must be if the United States is to move away from being reactive to the transnational threats to becoming proactive in our efforts to frustrate and hinder as best we can future catastrophes.

With that, I would like to speak to one particular portion of the bill which has given pause to some of our Members this morning. That concerns a very minor change but a very significant change in the law dealing with wiretaps.

As the terrorist threat has grown, it has become apparent that we have had a problem, as people decide to evade a wiretap that is ordered by a court, and they decide to go to other phones than the stationary phone in the single court order that is presented, where you have just a single phone you are allowed to tap.

We have had a lot of debate about this issue. In this bill there is a provision that I think is very refined that goes to the issue. We have a provision in this bill that simply changes the law to say that a court, when it goes about considering whether to order a wiretap that allows, as it can now do, somebody to be followed and every phone they use to be tapped, rather than simply a stationary phone in the order, and the current law allows that, but instead of requiring the court to find an intent, a specific criminal intent to evade the tap, that instead we may reach the conclusion, the judge may reach the conclusion that the person is evading the tap by the circumstances that are presented, because the intent is very hard to prove a lot of times.

There is no expansion of more phones that can be tapped. In fact, there is a narrowing of that. In fact, in our provision we narrow it so now, if this becomes law, once somebody leaves an area where a phone is, let's say he is on a street corner and walks away from a phone booth and somebody is following him along, figuring out what he is doing, that phone cannot be tapped anymore. We cannot tap a phone to listen in on anybody's conversation except the person who is indeed the person being suspected of whatever it is that we are tapping their phone on.

This is a very minor change. No Member should mistake this as some major addition to the wiretap laws. It is not. I would encourage everybody to vote for this bill. It is a very important bill.

Mr. GOSS. Mr. Speaker, I reserve the balance of my time.

Mr. DICKS. Mr. Speaker, I yield 7 minutes to the distinguished gentleman from California (Mr. DIXON).

Mr. DIXON. Mr. Speaker, I thank the ranking member for yielding time to me.

Mr. Speaker, I rise today in support of the conference report, H.R. 3694, the Intelligence Authorization Act for Fiscal Year 1999. I also want to recognize the hard and long hours of leadership that the gentleman from Florida (Chairman GOSS) has dedicated to producing a bipartisan bill that provides the necessary resources to our Nation's intelligence community.

The gentleman from Florida (Mr. GOSS) was joined in his efforts by the ranking Democratic Member, the gentleman from Washington (Mr. NORM DICKS), who is serving his final year on the Permanent Select Committee on Intelligence. The committee will certainly miss the gentleman from Washington (Mr. DICKS), his insights, and continued input that he has had into the areas of reconnaissance and other advanced technology problems we have addressed.

I suspect that it will be difficult if not impossible to replace him on the committee. I will miss his presence in the committee's hearing room but I look forward to his continuing leadership on the Subcommittee on National Security of the Committee on Appropriations.

Mr. Speaker, the conference report authorizes appropriate levels of funding to support our country's cadre of human intelligence case officers. These individuals toil in anonymity and often times perform the most sensitive and dangerous operations in furtherance of our national security. The duties and responsibilities of human intelligence case officers are multiple, and the training needed to produce an effective case officer is rigorous and intense.

The measure we are presently considering provides badly needed resources to the Directorate of Operations of the Central Intelligence Agency. It is within this directorate that CIA's case officers reside. Additionally, resources are also provided for the Defense Human Intelligence Service, which houses the Department of Defense's case officers.

The resources authorized by this conference report provide for additional training to ensure that case officers possess the necessary skills to meet future intelligence challenges, such as terrorism, proliferation, and narcotics trafficking.

Human intelligence is the one form of information that provides policymakers a look at the plans and intentions of other countries, foreign organizations, and terrorist groups. This bill also provides for the necessary tools that case officers need to carry out operations while providing for their personal security and that of their assets. Technology and its uses can only take us so far, but it is the human intelligence that often provides the critical degree of corroboration.

To ensure that these resources are put to the best possible uses, I will continue to monitor these programs during the next Congress in an effort to be certain that the initiatives designed to enhance our human intelligence capabilities are implemented.

Mr. Speaker, I am pleased to report that this conference report authorizes resources for continuing undergraduate training programs at CIA, NSA, and DIA. This program will be one of the many legacies of the gentleman from Ohio (Mr. LOUIS STOKES), who is retiring after 30 years of service to this Nation.

When the gentleman from Ohio (Mr. STOKES) served as chairman of the Permanent Select Committee on Intelligence, he was struck by the lack of minorities in the intelligence community. Even today the fact is that the intelligence community lags behind the Federal labor sector in its representation of minorities and women.

The undergraduate training program identifies and recruits qualified minorities out of high school who have demonstrated abilities in disciplines essential to the effective performance of intelligence missions. These students are provided a scholarship to colleges or universities of their choosing, and in return agree to work for the sponsoring agency for a specified length of time.

Last summer I attended the graduation ceremonies of students in NSA's program. I was impressed by the quality and the caliber of the students, and left with confidence that the future of our intelligence community is in good hands. This report represents a continuing commitment to the undergraduate training program and to the ideals of equality of opportunity. I will continue to review the administration of these important programs in succeeding years to ensure that they are meeting their goals of providing equal employment opportunities to women and minorities.

Mr. Speaker, the threat to our Nation posed by international terrorism was made abundantly clear with the bombing of the embassies in Kenya and Tanzania. The threat to our national security posed by nuclear proliferation was underscored when India and Pakistan detonated nuclear devices.

Finally, the devastation inflicted on our fellow Americans by international narcotics traffickers is visible in every city, village, and township. This conference report authorizes resources to enable the intelligence community to mount operations against these transitional threats. It will not be an easy chore to combat these threats, but this conference report arms the men and women of the intelligence community with the weapons they need to meet these challenges.

□ 1100

Finally, Mr. Speaker, I must pay tribute to the gentleman from Colorado (Mr. SKAGGS) and the gentlewoman from California (Ms. HARMAN) who are both leaving the committee. They have certainly served the Permanent Select Committee on Intelligence well.

I too would like to thank the staff on a bipartisan way for their total cooperation, but would like to single out one member who is leaving us and that is Mr. Humphrey, Democratic senior counsel, who is moving on to another Federal Agency. I have had an opportunity to work with him on an issue very, very closely. I appreciate his abilities and admire him for moving out at the appropriate time and look forward to our continued friendship.

Mr. GOSS. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Florida (Mr. YOUNG) my colleague and friend, the subcommittee Cardinal of extraordinary importance to the intelligence effort.

Mr. YOUNG of Florida. Mr. Speaker, I thank the gentleman from Florida for yielding me the time.

I want to say first that it has been a real honor to serve as a member of the Permanent Select Committee on Intelligence, this term for 8 years and in the previous term for 6 years, and to be entrusted with some of the most critical secrets relative to our own national security during that period of time.

I am real honored to work with people like the gentleman from Florida (Chairman GOSS), my distinguished colleague who before coming to Congress even had his own outstanding record as a member of our intelligence community, and the gentleman from Washington (Mr. DICKS), our ranking member.

The gentleman from Washington and I have had a chance to work together for a long time as members of the Subcommittee on National Security of the Committee on Appropriations, which I have the privilege to chair.

Mr. Speaker, I want to say that these two Members, and the other members of our committee, have dedicated their lives to the security of the United States of America without any sign of partisanship, without any discussion or controversy, other than sometimes good honest opinions on what might be right or what might be wrong.

As has been pointed out, the staff has been unusual in their dedication to the members of the committee, and to the mission of the committee.

This is a good bill. I wanted to start off by saying that this bill meets the requirements of our intelligence community, but actually it does not. There are a lot more things that we need to be doing that we have not been able to do in this bill because of the financial limitations.

But it does a good job and it is important that the United States of America, as the leading Nation in the world, the leading military Nation in the world, that our Nation have the ability to hear or see what potential threat there might be to us, to our people, and to our national interest. And that is what intelligence is all about.

Whether we are dealing with a military situation such as we dealt with in Iraq with Saddam Hussein, or in Bosnia, or potentially in Kosovo, wherever it might be, Korea is one of the most realistic examples of where good intelligence is necessary, because military operations could happen overnight. And especially in places like the Mideast. We have to be aware of what a potential threat there is out there.

After the Iron Curtain melted and the Berlin Wall came down, many of us felt that we could breathe a sigh of relief. No more threats to our interests, no more threats to our own security. And all of the sudden up from the sands of the deserts of Iraq came Saddam Hussein.

We do not know who might be next to raise the ugly threat of a threat against the United States militarily or one of the growing threats is terrorism. The terrorists operate in the dark of the night with stealth, sneaky tactics. We have to not only be aware of the military, but also aware of the potential threat from terrorism.

Also another major subject is drug interdiction; to detect who the drug movers are that are bringing the devastating drugs into our country that are so devastating. This bill goes a long way towards meeting those requirements.

But I must say there is more that needs to be done, Mr. Speaker. And with the leadership of the gentleman from Florida (Chairman GOSS) and the gentleman from Washington (Mr. DICKS) and the members of the committee, I am satisfied that we will meet those obligations.

I am also proud to say that the Subcommittee on Appropriations that I have the privilege to chair works extremely closely with the Members and the staff of the Permanent Select Committee on Intelligence, because we have the funding responsibility. We are obligated to find the money that this legislation authorizes. We have had a tremendous working relationship. We are all working together for what is in the best interest of the United States of America.

Mr. Speaker, I rise in support of the conference report to accompany House bill, H.R. 3694, that authorizes funds for intelligence and intelligence-related activities for Fiscal Year 1999. This conference report, Mr. Speaker, reflects a constant theme: That, in order to protect our Nation, we must provide for an Intelligence Community that can be strategic, as well as a tactical; flexible, as well as resolute; and worldwide, as well as specialized.

What do I mean?

Strategic as well as Tactical: Our conference report has paid close attention to the needs of the Department of Defense for tactical intelligence as reflected in the request for the Tactical Intelligence and Related Activities program, or TIARA, and for the Joint Military Intelligence Program, or JMIP. For both these programs, we have invested in needed improvements and capabilities aimed at providing our armed forces with the information that they need to operate effectively in the myriad of situations that they are now asked to address. This includes peacekeeping assignments, as well as direct military confrontation. And whether that action might be with Iraq or in Kosovo, we must work to make sure that the men and women that we are putting in harm's way have the tactical edge. That edge is comprised of raw information and analysis * * * in other words: Intelligence.

But tactical intelligence alone will not win the day. Prior to deployment of our military forces, regardless of the mission, various types of strategic intelligence collection and analysis are required in order to ensure success. This strategic intelligence ranges from human intelligence that protects our forces by warning of upcoming plans and intentions of those who look for opportunities to hurt, sometimes fatally, our troops, to indications and warnings of key, significant activities that give us technical insight into the types of weaponry and forces that our military will confront in the years to come.

Put simply, the military must have both strategic and tactical intelligence to be successful in defending our interests and way of life in this ear of worldwide turmoil. Mr. Speaker, in my capacity as Chairman of the National Security Subcommittee for Appropriations, I have the luxury to look across the broad spectrum of our Nation's defense. I can say, without reservation, that intelligence is the first line of defense. Without it, without the investments being made through this conference report, we do nothing less than risk our national security. It is that simple. Let me provide a few examples.

Flexible as well as resolute: This legislation recognizes that changes in technology will require changes that we cannot currently anticipate. These technological advances will determine how we will collect intelligence against the new translational threats and challenges that now confront us. Drug cartels and terrorist networks operate through fiber, on the net, and across continents. Our "eyes and ears" must keep up with these complexities if they are to give us warning on a shipment of heroin or a truckload of C4. For these reasons, the Conference Report provides the means for the investments in research and development that should enable our collectors to keep up with our adversaries.

Finally, worldwide as well as specialized: For the Intelligence Community, the Cold War was trench warfare. The enemy's command post—the Kremlin—was fixed and its deployments were static. In contrast, the war against narcotics traffickers, terrorists, and proliferators of weapons of mass destruction, including chemical and biological weapons, is guerrilla warfare. The command post of our current adversary could be in southern Columbia, rural Afghanistan, or in a ship headed south down the Bosphorus. They could be in Baghdad, in the Balkans, or in Port-au-Prince. To detect and counter these new adversaries, we must have the "eyes and ears" of our Intelligence Community in the fields, on the streets, in the air, and over the waters where they operate. For these reasons, our Conference Report provides the Community with the means to deploy more officers, and more technology, where they must be to meet these challenges: In the field.

Our conference report, Mr. Speaker, begins to provide the investment that the Intelligence Community needs during fiscal year 1999: to develop its capability to collect tactical, as well as strategic intelligence, to meet and to exploit changes in technology, and to put its "eyes and ears" where they are needed.

I am particularly proud of this report—and of the Committee that produced it—because it will be my last as a Member of the House Permanent Select Committee on Intelligence, or HPSCI. Over my 14 years on this Committee, I have been proud to have represented not only the people of this country, but also, in a very special way the Members of this House, in the oversight of the unique, exciting, and sometimes strange mix of espionage, technology, and plain old bureaucracy that is our Intelligence Community. What I would like to end with today is a reassurannce to my colleagues here, and our constituents everywhere, that the Members of this Committee have worked hard to begin to rebuild an Intelligence Community that will have the capability to collect against whatever enemies and adversaries we will face tomorrow, and in the next century.

Like most Americans, I doubted I would ever see a world in which Moscow would not be the focus of our concern and our collection efforts. Though, to be sure, it cannot be altogether ignored. Like most today, I cannot imagine a world now without drug traffickers and terrorists as our major adversaries and targets of collection.

But times change, and threats grow and recede. What we in HPSCI have worked so hard to do is to have an Intelligence Community with the capability to confront and to collect against any adversary that will threaten our country, its interest and most importantly, its citizens.

For that, and for their steadfastness to this cause, I thank those on the Committee staff, and my colleagues on HPSCI. In particular, I thank Chairman GOSS and NORM DICKS, the Ranking Democratic Member, for their vision, as well as for their hard work in achieving these critical goals. I would also extend a special thank you and congratulations to NORM DICKS, who is rotating off the Committee with me, and to Ms. HARMAN and Mr. SKAGGS, both of whom are retiring from Congress. It has been my pleasure to serve with all of you, and I believe that you leave the Committee having served our Nation's defense needs very well.

Mr. DICKS. Mr. Speaker, I yield 5½ minutes to the gentleman from Georgia (Mr. BISHOP), my colleague and a distinguished member of the committee.

Mr. BISHOP. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong support of the conference agreement on H.R. 3694, the Intelligence Authorization Act for Fiscal Year 1999.

First, let me take this opportunity to congratulate the gentleman from Florida (Chairman GOSS) for his efforts in producing a bipartisan bill that addresses the needs of the United States intelligence community.

Additionally, praise must also be extended to the ranking Democratic member, the gentleman from Washington (Mr. DICKS) for his work in helping to craft this important piece of legislation and for his service to the Permanent Select Committee on Intelligence. There is perhaps no Member in this great institution who has dedicated more time and energy to understanding the technology supporting our intelligence community than the gentleman from Washington.

Due to the service limitations placed on members of the Permanent Select Committee on Intelligence, he will be leaving the committee in the next Congress. I will personally miss his leadership on technical and tactical issues that confront the committee, and the committee as a whole will miss his innovative ideas and his commitment to maintaining the best intelligence community in the world.

Mr. Speaker, the gentleman from Colorado (Mr. SKAGGS) and the gentlewoman from California (Ms. HARMAN) will also be leaving the committee, and I want to take this opportunity to wish them well and to say that these two defenders of democracy, freedom and justice will also be sorely missed. Mr. Speaker, I say, "Thank you, Mr. SKAGGS and Ms. HARMAN, for your friendship and for your commitment to the men and the women of the national security and intelligence communities."

Also leaving the committee is Mr. Calvin Humphrey, as was mentioned by the gentleman from California (Mr. DIXON), who was the first minority, African-American, in our Nation's history to hold a professional staff position with the intelligence committee. He has provided professional support to the committee for the last 11 years. He served under six chairmen and has served in almost every official senior staff position with the committee.

Mr. Speaker, he has certainly enhanced our national security, and the efficiency of our country's intelligence community has been enhanced by his service. We will certainly miss him very much.

We congratulate him, however, as he assumes a senior level position with a Federal agency. I'm confident he will be successful and continue to contribute to the setterment of our Nation.

Mr. Speaker, the conference report before us today authorizes resources to ensure that our intelligence capabilities are sufficient to meet the contingencies of the next millennium. With each passing day, our intelligence community is called upon to respond to more and more contingencies within a restrained budget.

We all recall with horror the cowardly and ruthless attacks on our embassies in Nairobi, Kenya, and Dar es Salaam, Tanzania. A number of representatives of the intelligence community were on the ground in both countries in a short period of time collecting and analyzing information. The efforts of the intelligence community to date have been indispensable to the leads that have been developed and the arrests that have been made in these bombings.

Additionally, it has been widely reported in a number of our Nation's periodicals that planned attacks on other embassies have been interrupted and avoided as a result of the dedication and hard work of intelligence community personnel.

This conference report provides resources for our intelligence community's counterterrorism efforts. Additionally, funding is provided to collect, process, analyze, and disseminate critical intelligence that helps shield our sons and daughters serving in our Nation's armed forces against the deadly force of terrorism.

In short, let me say that I am confident that this conference report will assist in maintaining the intelligence capabilities necessary to provide policymakers with the information they need to make key decisions affecting our national security.

Mr. Speaker, just last week I met with individuals concerned with the fate of Americans still unaccounted for as a result of wars that our Nation has been involved in. Last January, I traveled to Southeast Asia to review our intelligence activities and operations in that region of the world. Specifically, I focused my attention on efforts aimed at achieving a full accounting of Americans still unaccounted for as a result of the Vietnam war.

Again, I want to ensure our Nation's veterans and the families of those soldiers, airmen, sailors and marines still unaccounted for that this conference report contains the necessary resources to permit the intelligence community to continue its efforts to determine the fate of those who have yet to come home.

Mr. Speaker, this conference report provides critical support to all facets of our intelligence community. Resources are authorized to sustain the intelligence community's efforts to assist in providing force protection intelligence to our troops and to assist in the collection and analysis of critical intelligence bearing on such challenging issues as counterterrorism, counternarcotics, and counterproliferation.

I am proud to support this conference agreement and I urge my colleagues to support it as well.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Delaware (Mr. CASTLE) my friend, former Governor of Delaware, and a member of the committee.

Mr. CASTLE. Mr. Speaker, I also join in support of the conference report for H.R. 3694, the intelligence authorization bill, and give due credit to the gentleman from Washington (Mr. DICKS) and to the gentleman from Florida (Mr. GOSS) who worked so very hard on this to do such a wonderful job.

United States policymakers must have the most comprehensive, responsive and timely strategic perspective on major global changes. To help provide this perspective, we rely on our intelligence agencies to collect, sort, and analyze information from all over the world.

When this bill was originally before the House in May, I expressed concerns about the capability of the intelligence community to tackle specialized financial issues like economic analysis and tracking illicit money laundering. As global financial markets grow and intertwine, timely economic intelligence in tracking the flow of laundered money becomes increasingly important to the United States national security.

Support for economic intelligence was downgraded earlier this decade, but the need for stronger support in this area was driven home by the degree to which the Asian financial crisis caught our government flat-footed. If we are to rely on the United States intelligence community to provide this kind of support, it is essential that we provide them with the resources necessary to do the job.

Also essential to our efforts to fight increasingly sophisticated international organized crime operations and narcotics traffickers is our ability to track the flow of money. With the right tools and support, the intelligence community can provide key insights into these areas to support our law enforcement agencies. And I would add that an ability to follow the money is vital to our efforts to unravel the complex web of Usama Bin Ladin's international terrorist connections.

The members and staff of the Permanent Select Committee on Intelligence have followed these issues closely this year, and I am satisfied that this conference report makes some headway in addressing these critical needs.

Mr. Speaker, I urge my colleagues to support this conference report.

Mr. DICKS. Mr. Speaker, I yield 5 minutes to the distinguished gentlewoman from California (Ms. HARMAN), who is also leaving the committee. She has been one of the most outstanding Members I think of the House, both on the Committee on National Security and the Permanent Select Committee on Intelligence, and she will be sorely missed in the next Congress. She has done an outstanding job on the Permanent Select Committee on Intelligence, she is a quick learner, and I am going to miss her service.

Ms. HARMAN. Mr. Speaker, I thank the gentleman from Washington (Mr. DICKS) for yielding me this time, and for 26 years of friendship so far. I thank our other colleagues for their very kind remarks about me and my service on the committee.

Mr. Speaker, I rise in support of the conference report to accompany H.R. 3694, the bill authorizing intelligence spending for fiscal year 1999. As we have heard, this is my last intelligence authorization. Before commenting on the bill, I would like to commend the gentleman from Florida (Chairman GOSS) for generating an unusually collaborative and bipartisan environment in which talented colleagues and a superb staff can work productively. It was a special goal of mine to serve on this committee and I have loved it.

As I have often said, intelligence spending is intelligent spending, perhaps now more than ever. The U.S. no longer confronts a single, well-known adversary, but a fluid international environment where weapons of mass destruction can be had on the international market for a price; where crime syndicates organize across national borders; where terrorists, as we sadly experienced this summer, can strike with deadly force.

Mr. Speaker, it is crucial that we be able to anticipate and meet these new challenges.

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Despite our efforts to strengthen the nonproliferation regime, the demand for weapons of mass destruction and their means of delivery has not waned, and neither has the supply.

This past year, after information indicated an increase in the in-flow of missile technology and know-how to Iran, Congress directed the administration to impose sanctions on entities involved in these transfers. Congress' action will help curb efforts by Iran to accelerate its missile programs and impede its capability to field missiles that can strike Israel, our NATO ally Turkey, and targets in Central Europe; missiles which could be armed with chemical, biological and nuclear warheads.

We have also seen alarming developments elsewhere in Asia. Recently, North Korea tested its first Taepo Dong 1 missile. We anticipated the launch, monitored it, and now know more about this missile's performance than the North Koreans. This new missile does not yet allow North Korea to deliver a weapon to the United States, or reach significant military targets it could not strike already, but it puts it on that path. The launch also advertised North Korea's capabilities to would-be buyers, a very disturbing development.

Mr. Speaker, these are just two examples of proliferation in already unstable regions of the world. Intelligence resources will be crucial not only in monitoring these developing weapon capabilities but also in shaping policies to stem attempts to proliferate this technology.

Intelligence is also increasingly essential for success on the future battlefield. As a member of both the Permanent Select Committee on Intelligence and the Committee on National Security, I have witnessed the incredible advantages that information technology provides to our military forces. I have strongly supported improvements to our eyes and ears in the sky so that commanders will have a complete understanding of the battlefield, and the enemy's locations and intentions. Combined with advances in precision weapon systems, we have vastly improved the capabilities of our Nation's armed forces.

I am aware that some of our colleagues would prefer to reduce the priority of satellite reconnaissance and its support to military operations. My view, however, is that there is no more important mission for our intelligence community than supporting our combatant commanders. Our intelligence capabilities are the crux of our defense modernization efforts, and we cannot shortchange intelligence without significantly weakening our military.

Mr. Speaker, accurate and timely intelligence makes our Nation safer and armed forces more effective. It is an investment we must protect and nurture.

I urge my colleagues to join me in supporting this bill and, on a personal note, Mr. Speaker, to join me in sending bipartisan and heartfelt get well wishes to Mariel Goss, a very important asset to our committee.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume to thank the gentlewoman for those very kind remarks, and for the other remarks she has made. And I know that the gentlewoman will do well in her next endeavor, and I certainly suspect that we will be talking in the future.

Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. BOEHLERT), a distinguished member of our committee who makes a very valuable contribution and we are pleased to have him.

Mr. BOEHLERT. Mr. Speaker, it is important that our colleagues and the American people understand that intelligence, as distasteful as it sometimes may seem, is critical to the very survival of our Nation and our way of life. This conference report focuses on those programs that provide the best possibility of success for our Nation's first line of defense: its intelligence community.

Specifically, this report puts a great deal of emphasis on the future. We made some very difficult choices to cut funding for some legacy programs so that we could add funding for critical technologies and research and development necessary to ensure future capabilities. The ability of our laboratories and scientists to develop new techniques and "leap-ahead" technologies is critical for our intelligence community to stay ahead of the threats that our country faces.

This report is about the wise and prudent funding and oversight of those intelligence collection, analysis and dissemination functions necessary to ensure the security of our Nation, its interests and its citizens around the world, now and into the future. So I urge my colleagues to stand with our chairman and ranking member and support the report.

Finally, Mr. Speaker, I would like to add to the remarks of my colleagues and say farewell to the two distinguished gentlemen, the gentleman from Florida (Mr. YOUNG) and the gentleman from Washington (Mr. DICKS), both of whom are leaving this committee this year. They have been great mentors for me, with respect to many intelligence issues, and they remain great friends.

Also, to the gentleman from Colorado (Mr. SKAGGS) and the gentlewoman from California (Ms. HARMAN), who are leaving not only the committee but the Congress, I join with the other Members in wishing them well in all of their future endeavors and thanking them most sincerely for their very distinguished service not only in this committee but in the Congress of the United States.

Mr. DICKS. Mr. Speaker, I yield 4 minutes to the gentleman from Colorado (Mr. SKAGGS), another one of our most distinguished colleagues. He has been one of the hardest working members on the Permanent Select Committee on Intelligence. He has made an enormous contribution in this House.

I have had the privilege of serving with him on the Committee on Appropriations. I think of him as kind of the conscience of the House of Representatives, and I am going to very much miss him next year, and I want to wish him the very best in his future endeavors. I know he will be a success wherever he goes.

Mr. SKAGGS. Mr. Speaker, I want to thank very much the gentleman from Washington. I am grateful for those kind remarks, and let me return them to him. His leadership on this committee has been extraordinary, and the Nation is in his debt for the kind of care and attention that he has paid to these many, many profoundly important issues.

I also extend my great thanks and admiration and respect to the gentleman from Florida (Mr. GOSS), who really has conducted this committee in an exemplary fashion.

Mr. Speaker, I arrived at the Capitol this morning for what may be my third or fourth next to the last day of voting in this great body. It is a cherished and awesome responsibility that we all enjoy as Members of this House. But this committee, I think, has a special responsibility that goes beyond that which we all share here.

Yes, we have a vital role in developing every year the spending authorization bill for the next fiscal year. That is what is before the House at the moment, and I urge the adoption of the 1999 bill.

But this committee has an especially critical role as proxy for our many colleagues, in fulfilling our responsibility under that always pertinent maxim from the days of the founding of the Republic, that, "The price of liberty is eternal vigilance."

On this committee that means not only vigilance with regard to the threats posed by our enemies and adversaries abroad, and the effort to fashion the capabilities of the intelligence community to meet those threats, but also vigilance internally as well; vigilance against the seductiveness of the intelligence business, the seductiveness of power, the seductiveness of classified information, and the allure that the chief executive can always bring through his principal assists to the table upstairs where we debate these terribly difficult and important issues.

We act in behalf of our colleagues in making sure that the executive branch of government follows the law. And that is just as important a responsibility as the one that we bear with regard to any external threats that this country faces.

In that respect, I hope my colleagues understand how wonderful the bipartisanship on this committee is in its service to the country in this critical area.

It has been a real privilege to get to spend 5½ years working with colleagues on my side and the other side of the aisle in behalf of national security and that eternal vigilance. It has been an enormous privilege to see the kind of dedicated staff work that goes in to support the efforts of this committee, again motivated by an absolutely remarkable level of patriotism and commitment to duty. I want our colleagues and I want the country to have some appreciation of that, because the vast bulk of the work that we do is done in secret and, therefore, cannot be discussed in any detail.

And on that point it is appropriate that on this occasion we recognize as well the dedicated work of the thousands of intelligence officers and workers in the intelligence business of this country, here at home and around the world, who work extraordinarily long hours, in very difficult circumstances, for modest compensation, because they believe in the United States of America. Most of what they do we cannot recognize publicly, but we can offer them, as I do, our thanks.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume to say that I think we now understand what a loss the gentleman from Colorado (Mr. SKAGGS) is also going to be from the committee, after those thoughtful remarks, which are consistent with all the thoughtful work he has done for our committee all these years, and we appreciate that.

Mr. Speaker, I yield 2 minutes to the gentleman from New Hampshire (Mr. BASS), who is the man who time and again seems to bail us out on the budget matters that keep confronting us.

Mr. BASS. Mr. Speaker, I also rise in support of the conference report and to pay tribute to our distinguished chairman who, under some recently difficult circumstances, has certainly led this committee with great expertise and integrity.

I also want to pay tribute to our two ranking members who will not be coming back with us next year, the gentleman from Florida (Mr. BILL YOUNG) and the gentleman from Washington (Mr. NORM DICKS). I cannot think of two individuals who are more committed to a strong and capable defense and an efficient and effective intelligence capability.

I came to the committee and I watched the gentleman from Washington defend an issue that was particularly near and dear to him, and this individual just would not take no for an answer. And I asked one of our ever respectful staff people, what is the story with this guy? And they said, "NORM DICKS never has a bad day."

Over the last 2 years, and after 38 or so hearings, and 30 formal hearings, visits to Bosnia, to North Korea, to China, reports from Central America and from Africa and other places all over the world, I found, much to my surprise, that we live in a world that is far more dangerous than I ever thought it was. Those dangers are more diffuse and more difficult to identify and to contain. Indeed, I feel, as a member of this committee now, like a Dutch boy at the dike as we seek to protect Americans against threats both here and abroad.

This bill moves us forward in the direction of protecting our strategic national defense and economic interests around the world. We may never succeed, but the fact that we have a committee and a Congress that is dedicated to addressing these issues and doing it in such a fashion so that our scarce resources are expended in the most efficient and productive fashion, is very commendable to this Congress.

So I rise in support of this conference committee report and urge its passage.

Mr. GOSS. Mr. Speaker, may I ask how much time each side has?

The SPEAKER pro tempore (Mr. SESSIONS). The gentleman from Florida (Mr. GOSS) has 9½ minutes remaining, and the gentleman from Washington (Mr. DICKS) has 4½ minutes remaining.

Mr. GOSS. Mr. Speaker, I yield 2½ minutes to the gentleman from Nevada (Mr. GIBBONS), who is a decorated Air Force officer from Nevada who we are proud to have on our committee.

Mr. GIBBONS. Mr. Speaker, I thank the distinguished gentleman for yielding me this time, and I rise today in strong support of the conference report to accompany H.R. 3694, the intelligence authorization bill for fiscal year 1999.

Mr. Speaker, I have the high honor and distinct pleasure of being able to serve on both the House Permanent Select Committee on Intelligence and the House Committee on National Security. This allows me the opportunity to look across the operational military and defense issues, as well as the intelligence functions that not only support but, in fact, participate in the various defense operations.

I can tell my colleagues, Mr. Speaker, that this is a very prudent report. It is a conference report that not only sustains currently required capabilities, this is a report that provides our military forces with the informational resources necessary to build warfighter confidence and perhaps even keep them out of harm's way. It also seeks to provide them with the indications and warning intelligence that allow them the advantage in a conflict.

Let there be no mistake, Mr. Speaker, this is not a more secure world since the end of the Cold War. While it is true that we do not face the imminent threat of nuclear annihilation from behind the Iron Curtain, the events of the past few months regarding ballistic missiles and nuclear weapons development and testing by Nations seeking to have arsenals that include weapons of mass destruction, strongly suggest that we may well face that imminent threat once again on a broader scale, and sooner than many think or may even want to believe.

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Add to that threats posed by international terrorism, transnational threats such as narcotics trafficking, organized international crime, the rampant proliferation of weapons of mass destruction, and use of chemical and biological weapons by rogue nations. Activities we have witnessed recently tell us that these threats are more pressing and considerably more dangerous than they have ever been. The problems associated with collecting and understanding information about today's risks are in many ways more difficult because formal government boundaries are not limiting the threats to our peace and security.

This conference report begins to provide our intelligence community and military forces the infrastructure necessary to give the U.S. that information dominance to increase our security.

That is the bottom line, the security of the United States. The Constitution of the United States places a responsibility on each of us to act in the best interest of the U.S. and our fellow citizens. We have done that here in this conference report.

Mr. GOSS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Ohio (Mr. PORTMAN) who has made a valuable contribution to the particular conference report before us.

Mr. DICKS. Mr. Speaker, I yield 30 seconds to the gentleman from Ohio (Mr. PORTMAN).

Mr. PORTMAN. Mr. Speaker, I thank the gentleman from Florida for yielding me the time and for his strong personal support from the outset for the worthy effort to designate the CIA compound in Langley, Virginia "The George Bush Center for Intelligence."

Earlier this year with the help of the gentleman from Florida (Mr. GOSS), with the help of the gentleman from

Missouri (Mr. SKELTON), the gentleman from Indiana (Mr. HAMILTON), the gentleman from California (Mr. DREIER), the gentleman from Washington (Mr. DICKS) and others we were able to get such legislation passed.

I want to thank the gentleman from Florida (Mr. GOSS) and the gentleman from Washington (Mr. DICKS) as well as Senators DICK SHELBY, BOB KERREY and others in the conference committee for including the Bush legislation in this very important authorization bill today.

It is a very fitting tribute to George Bush, the only President to have served as CIA Director. His tenure from 1976 to 1977 was a difficult time when the Agency was under fire from investigative committees up here on the Hill, from the press and from the public. The CIA was demoralized and in need of new leadership and direction. George Bush turned the tide. He was key to developing an executive order to prevent future violations of the Agency's mandate and, most important, he provided the steady hand of leadership at a turbulent time and in doing so improved the mission and morale of the CIA.

When he resigned his post, Senator DANIEL INOUYE said, "Bush was one of the best CIA Directors we had. The morale of the intelligence community has been inspired by Bush's leadership."

Mr. Speaker, as a decorated Navy pilot in World War II, a distinguished Congressman, U.S. Ambassador to the United Nations, Liaison to China, CIA Director, Vice President and President, he has ably served our Nation for over 50 years and inspired many of us. He exemplifies the highest values and principles of public service.

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. PORTMAN. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Speaker, I just want to commend the gentleman for outstanding leadership on this issue. I am very pleased to have been a cosponsor of his legislation. I think this is one of the best things this Congress has done. I want to commend the gentleman for the great leadership that he has demonstrated. George Bush was a great American and I think this was an outstanding idea. I want to congratulate him on his leadership.

Mr. PORTMAN. I thank the gentleman for his support, too, and for his yielding time.

Mr. Speaker, again I want to thank the Members in this body for helping make this possible, because George Bush does represent the highest values and principles in public service, integrity, honesty, and has set an example really for all of us. This is the appropriate recognition of his remarkable and inspirational service to our Nation.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Georgia (Mr. BARR).

Mr. BARR of Georgia. Mr. Speaker, I thank the gentleman from Florida, the distinguished chairman of the committee, for yielding me this time for me to do something that I do not like to do and, that is, to rise in opposition to this bill.

Comments were made earlier that there was a minor change to the electronic surveillance or wiretapping legislation. The change that is contained in this bill is neither minor nor inconsequential. It represents a fundamental shift in wiretapping procedures in this country.

Back in 1996, Mr. Speaker, we debated extensively provisions almost identical to these that are found in section 604 of this conference report. After extensive debate, this House defeated the expanded powers that were sought by the executive branch.

Essentially, Mr. Speaker, this changes Federal wiretapping laws in a way that allows the Government to seek a court order in any case, not limited to foreign intelligence surveillance, in any case that a Federal wiretap order is sought to provide that the wiretap follow the person no matter what phone that person uses. No longer would the standard be if you have grounds to tap and grounds to obtain a court order, you tap a particular person's phone, and if that person moves to another phone, you either have to provide a showing that they are deliberately trying to thwart or you have to then get another court order.

This is a very important civil liberty and privacy right. The Government, however, under this legislation if this bill passes would be able to "issue an order authorizing the interception of all communications made by a particular person regardless of what telephone he may use." That is language from the conference report. To argue with a straight face that that is a minor change to our electronic surveillance or wiretap laws is disingenuous. This is a significant change. It needs to be debated fully. I urge that this not be allowed to stand.

I rise in opposition to this conference report, Mr. Speaker.

Mr. GOSS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Florida (Mr. MCCOLLUM), the author of the provision, but I would also point out before I do that any Members who wish to read the section in question, it is section 604, published yesterday in the CONGRESSIONAL RECORD of the House on page H9530, and I think it is very clear, and the safeguards that are necessary I think are equally clear.

Mr. MCCOLLUM. Mr. Speaker, I want to point out to the Members that this is truly a minor change in the wiretap laws. It is designed to combat terrorism. Current law does permit multipoint, or roving wiretaps. Current law does permit this. Court approval is still required under this bill. Probable cause of criminal activity is still required for any wiretap.

Current law requires the court to find intent to evade wiretap before allowing the tap of whatever phone is used by the suspect as opposed to a specific phone. But you can have it if that intent is proven. The bill simply changes this. It permits the court-ordered wiretap that follows the criminal terrorist suspect to whatever phone he uses if the court determines his actions show he is trying to evade the tap, not requiring the specific criminal intent which has been very hard to do. The bill also protects innocent people by limiting the tap of any phone to only those times when the criminal or terrorist suspect actually is using that phone.

This is a very minor change. It is a change allowing the court to follow the suspect as it is doing now with the simple showing that there is an evasion effort by the criminal suspect rather than having to prove the technical intent which is almost impossible now to prove. That is all that this does.

I urge a vote for the authorization bill.

Mr. DICKS. Mr. Speaker, I yield 3½ minutes to the distinguished gentlewoman from California (Ms. PELOSI) who has been one of our most outstanding members.

Ms. PELOSI. Mr. Speaker, I thank the distinguished ranking member for his kind words and for the time that he has yielded me, and I thank the distinguished chairman for his leadership in bringing this legislation to the floor. It is good to see you here, Mr. Chairman.

Mr. Speaker, one of the concerns that I wanted to address in my remarks today is about the issue of whistle blowers. One of the major issues of contention indeed between the House and Senate committees over the past 2 years has been how to address the issue of employees of the executive branch who face reprisals or threats of reprisals for bringing information to the intelligence committees concerning serious violations of law in intelligence activities of the United States.

I myself personally supported the Senate amendment which was very clear about those employees who brought to the attention of Congress issues of gross mismanagement, gross waste of funds, abuse of authority and specific danger to public health and safety. I thought that that amendment should have been passed, but we did not prevail in conference. But our chairman has made a valiant effort to protect those who come forth with information. While I would have liked to have seen the broader language, I am pleased that we have the report language that specifically says that those who come forward with information who have a right to have that information will not have reprisals against them.

While it is not disputed that the Congress is entitled by law to receive prompt reports of any illegal intelligence activities, officials of the executive branch have asserted that the Constitution does not permit Congress to vest in lower-level employees the right to disclose classified information, even to Members of Congress. These officials have asserted that any attempt to do so by Congress would lead them to recommend the President veto such legislation.

The better constitutional view, of course, is that national security is a shared responsibility of the legislative and executive branches and that the Constitution does not deny Congress the power to direct executive activities and gain access to information needed for the performance of legislative duties.

The conferees have made very clear in the findings and the legislative history of the legislation the following:

First, Congress, as a coequal branch of government, has a need to know of allegations of wrongdoing within the intelligence community;

Second, no basis in law exists for requiring prior authorization of disclosures to the intelligence committees of Congress by employees of the executive branch of classified information about wrongdoing within the intelligence community;

Third, the nondisclosure agreements signed by employees of the Central Intelligence Agency stipulate that nothing contained in the agreement prohibits the employee from reporting intelligence activities the employee considers to be unlawful or improper directly to the select committees on intelligence of the Congress; and,

Finally, separate and apart from the process established by the legislation through the inspector general, as proposed by our distinguished chairman, an intelligence community employee should not be subject to reprisals or threats of reprisals for making a report to appropriate members or staff of the intelligence committees about wrongdoing within the intelligence community.

Mr. Speaker, the conferees have thus agreed to legislation that establishes a new and additional procedure for employees of intelligence agencies to bring issues of urgent concern to the attention of Congress through the offices of their inspector general. This procedure provides the employee who uses it the protections of confidentiality now found in the CIA and 1978 inspector general acts and discourages reprisals and threat of reprisals through a new reporting requirement on the heads of intelligence agencies.

I trust, Mr. Speaker, that these findings and admonitions will guide the Director of the CIA and the heads of intelligence agencies in the treatment of intelligence community employees who seek to bring important information to the attention of Congress.

Again I repeat my support for the report language that says even if you do not go this route, no reprisals.

Mr. GOSS. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Pennsylvania (Mr. SHUSTER).

Mr. SHUSTER. Mr. Speaker, I rise in strong support of this legislation.

The Fiscal Year 1999 intelligence authorization addresses a wide range of the intelligence community's current and future needs and it remedies areas where Congress has felt that funding was insufficient. Importantly, the conference report strengthens the ability of our intelligence agencies to respond to rogue States such as Iraq, to weapons proliferation by global competitor States such as China and Russia, and to terrorism. Today, anti-American terrorism ranges from the recent embassy bombings in Africa to murders and kidnappings in Latin America. The terrorist of the 1990's can be found in loosely knit groups motivated by anti-American hatreds, in groups such as the Usama bin Laden organization or the Hisballah in Lebanon or in the FARC in Colombia. In all cases, intelligence is called on repeatedly to track the activities of these individuals and groups, to provide threat warning, and to support the capture and prosecution of those responsible for the deaths of U.S. citizens.

I wholeheartedly support the conference report because it also takes steps to strengthen key areas of U.S. intelligence collection and analytic capabilities. The conference report provides for more robust recapitalization and modernization of our signal intelligence capabilities. The conference report allocates increased funding to strengthen Human Intelligence collection. The conference report also provides additional funding to enhance the ability of intelligence analysts to assess the information that has been gathered. The intelligence committees recognize that increased and wiser investment in information age technologies will be necessary to cope with the large volumes of data. Finally, this conference report includes added resources to strengthen the ability of the Intelligence Community to perform force protection duties to protect our forces against terrorism and defense acquisition programs and operational activities against espionage.

As a Member who has long supported efforts to wage and win the war on drugs, I applaud this conference report for what it does to enhance the Intelligence Community's ability to combat major multinational narcotics trafficking organizations. Although the Intelligence Community's share is but a small percentage of the total National Drug Control Strategy budget, intelligence counternarcotics programs have inflicted substantial damage on a number of the world's leading narcotics trafficking organizations in Latin America, and in Southeast and Southwest Asia. The counternarcotics programs supported by this conference report have and will continue to have a devastating impact on some of the world's most sophisticated and dangerous criminal organizations.

The conference report will strengthen intelligence support to policymakers who must address growth in global organized crime involving such entities as the Russian Mafia, the Chinese Triad societies, and the Mexican drug cartels. The major Mexican, Colombian, and Asian narcotics trafficking organizations represent a growing and sophisticated national security threat to the United States. Only the U.S. intelligence community has the people and the technology to support policymaker response to this threat.

The narcotics traffickers have the wealth to purchase the newest available encryption technology to communicate; they employ highly competent bankers, lawyers, and accountants to conceal their financial transactions on a global basis; their transport networks are highly flexible and respond quickly to changes in U.S. interdiction strategy; and the global supply of cocaine and heroin far exceeds demand in the United States and elsewhere. Close coordination between U.S. law enforcement agencies and intelligence is vital to U.S. efforts to reduce the flow of cocaine and heroin into the United States. Among those U.S. and foreign officials who are responsible for fighting drug trafficking, I am always told that their first priority is on obtaining accurate and timely intelligence on drug suppliers, transporters and money launderers. The conference report will provide the needed funds to enable the robust intelligence support that law enforcement needs.

Mr. Speaker, I strongly support this conference report and urge that all Members of the House do the same.

Mr. DICKS. Mr. Speaker, I yield myself the balance of my time.

I want to also add my congratulations to Calvin Humphrey who has been one of our most outstanding staff people. I want to congratulate him on the great job he has done for our committee. He has handled some of the most difficult assignments. He had to travel with Congressman Richardson all over the world. Together, they got many American citizens out of tight spots around the world.

The only thing I have ever had a problem with Calvin on is his devotion to the Cleveland Indians even when they kept my Seattle Mariners out of the World Series. That I may not be able to forgive him for, but I will never forget him. We wish him well in his new post.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

I would certainly like to use some of that time also to have my best wishes to Calvin Humphrey's future. Let me tell you that even on the Intelligence Committee, we are sometimes surprised. When I heard that public statement made this morning, I would put it in the category of surprise. It does not diminish in any way my good wishes for your future success which I know are very well assured because of your capabilities. I want to thank you very much not only for getting me out of North Korea but for getting me into North Korea. That was a very valuable experience. And all the other things you have done for our committee.

I also need to say thank you to every member of our committee. Every member brings something to the Permanent Select Committee on Intelligence and is given an extraordinary trust on behalf of all Members and all people of this country. It is a remarkable committee. I hope people who have been watching this and other Members can see that we are able to do our business well, in a bipartisan and professional way, because there is good will to do it and there is an understanding of the need to do it and get it done.

□ 1145

Mr. Speaker, I have nothing but pride for all of the Members and the way they work and the staff that so ably supports us.

I have mentioned some staff; I have to mention Mike Chi and the job he does with all of what I will call not his staff but our staff because I do not make a distinction between one party or the other and the staff. John Mills, our chief of staff, has done a remarkable job, I think, of trying to pull together in a harmony all the management needs to discharge our responsibilities ably. Tim Sample has done an extraordinary job managing numbers. I never will entirely understand, but I am told they always add up, and I check the bottom line, and they seem to.

These are important people that are doing important work far from the madding crowd, far out of the visibility of the "hoo-wah" of the Beltway and the media. The work is getting done, and it matters because we are talking about national security. I want to thank everybody involved.

As for the whistle-blower provisions, I want to thank everybody for their understanding, the compromise that was worked out, and I assure the gentlewoman from California, if we find that this is not working as well as I hope it will, that we always will be able to revisit it in the future. I believe this will work.

With regard to those concerned about the matter that was brought up by the gentleman from Georgia (Mr. BARR) and the gentleman from Florida (Mr. MCCOLLUM) I have read the safeguards that are in the bill; I think they are adequate. Again, if something egregious comes out of this, obviously we are prepared to resolve it.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. OXLEY).

Mr. OXLEY. Mr. Speaker, I rise in support of the conference report.

Mr. GOSS. I would also on a personal note thank everybody for a difficult time while I have been away. It just goes to show that everybody is expendable here, and I appreciate being reminded of that. It keeps me humble.

Ms. WATERS. Mr. Speaker, I rise today to remind the Members of this body of the unfinished business we have regarding the dark, terrible, still classified secrets of our intelligence agencies. The list of misdeeds by our intelligence agencies is long and much of it still remains shrouded in secrecy, in many cases acting to protect criminals who have died and dictators who are no longer in power. We must end our senseless protection of these terrible acts. Congress has the power to do so, and must not shirk its duty.

I have focused my energies on investigating the allegations of Contra-CIA drug dealing. But, there are many other sordid, terrible tales of U.S. intelligence activities that remain a secret to the American people. Some have been investigated, while the reports remain classified. Others have yet to be investigated. The list includes the CIA's involvement with the brutal Battalion 316 in Honduras, the overthrow of Arbenz in Guatemala and Allende in Chile, the death squads in El Salvador, Duvalier's drug dealing regime and the ton ton macout death squads of Haiti, and of course, the many illegal assassination attempts against Fidel Castro. We must release the information we have about these affairs, investigate the others that remain unexamined and bring those responsible to justice. We cannot exhort other Nations to follow the rule of law without ensuring that we likewise follow the rule of law.

My investigation into the allegations of CIA-Contra drug dealing has led me to an undeniable conclusion—that U.S. intelligence and law enforcement agencies knew about drug trafficking in South Central Los Angeles and throughout the U.S.—and they let the dealing go on without taking any actions against it.

Robert Perry and Brian Barger first broke the shocking story of Contra involvement in drug trafficking in 1985, at the height of the Contra war against Nicaragua. As a result of this story's revelations, Senator JOHN KERRY conducted a two year Senate probe into the allegations and published the sub-committee's devastating findings in an 1,166-page report in 1989.

Remarkably, the Committee's findings went virtually unreported when they were released.

Then in August 1996 Gary Webb published his explosive series in the San Jose Mercury News. It resulted in a firestorm of anger and outrage in the Black community and throughout the Nation. Here was evidence that, while the Nation was being told of a national "war on drugs" by the Reagan Administration, our anti-drug intelligence apparatus was actually aiding the drug lords in getting their deadly product into the U.S.

The resulting grassroots outrage put tremendous pressure on the CIA, the Department of Justice and Congress to investigate the matter and report the truth. The Inspectors General of the CIA and Department of Justice were forced to conduct investigations and publish reports on the allegations. The DOJ's Report and Volume I of the CIA's Report published brief executive summaries that concluded that the allegations made in the Mercury News could not be substantiated. However, both Reports, and in particular the DOJ Report, are filled with evidence that contradicts their own conclusions and confirms all of the basic allegations.

Quite unexpectedly, on April 30, 1998, I obtained a secret 1982 Memorandum of Understanding between the CIA and the Department of Justice, that allowed drug trafficking by CIA assets, agents, and contractors to go unreported to federal law enforcement agencies. I also received correspondence between then Attorney General William French Smith and the head of the CIA, William Casey, that spelled out their intent to protect drug traffickers on the CIA payroll from being reported to federal law enforcement.

Then on July 17, 1998 the New York Times ran this amazing front page CIA admission:

CIA SAYS IT USED NICARAGUAN REBELS ACCUSED OF DRUG TIE

> [T]he Central Intelligence Agency continued to work with about two dozen Nicaraguan rebels and their supporters during the 1980s despite allegations that they were trafficking in drugs . . . [T]he agency's decision to keep those paid agents, or to continue dealing with them in some less formal relationship, was made by top [CIA] officials at headquarters in Langley, Va. (emphasis added)

This front page confirmation of CIA involvement with Contra drug traffickers came from a leak of the still classified CIA Volume II internal review, described by sources as full of devastating revelations of CIA involvement with known Contra drug traffickers.

The CIA had always vehemently denied any connection to drug traffickers and the massive global drug trade, despite over ten years of documented reports. But in a shocking reversal, the CIA finally admitted that it was CIA policy to keep Contra drug traffickers on the CIA payroll.

The Committee has yet to release Volume II of the CIA Inspector General's investigation into the CIA-Contra drug network. But this body is moving ahead with reauthorizing the Central Intelligence Agency. I call on Members of the Committee and this body to end our policy of protecting criminal conduct by intelligence assets. Declassify and release these reports so that the many who have suffered can seek justice and we can bring the many still protected criminals to justice.

Mr. GOSS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

MOTION TO RECOMMIT OFFERED BY MR. BARR OF GEORGIA

Mr. BARR of Georgia. Mr. Speaker, I offer a motion to recommit with instructions.

The SPEAKER pro tempore (Mr. SESSIONS). Is the gentleman opposed to the conference report?

Mr. BARR of Georgia. He is, Mr. Speaker.

PARLIAMENTARY INQUIRY

Mr. DICKS. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will please state his parliamentary inquiry.

Mr. DICKS. It is my understanding that this bill was taken up in the Senate yesterday. If that is true, can there be a motion to recommit?

The SPEAKER pro tempore. One moment. The Chair will examine the official papers.

Mr. DICKS. Mr. Speaker, I have now been informed by staff that the bill was not taken up yesterday, so I withdraw my objection.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. BARR of Georgia moves to recommit the Intelligence Authorization Conference bill to the Committee on Conference with instructions to the managers on the part of the House to remove section 604.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. BARR of Georgia. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Pursuant to the provisions of clause 5, rule XV, the Chair announces the he will reduce to a minimum of 5 minutes the period of time within a vote by electronic device, if ordered, will be taken on the question of passage.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 148, nays 267, not voting 19, as follows:

[Roll No. 486]

YEAS—148

Abercrombie
Aderholt
Bachus
Ballenger
Barcia
Barr
Barrett (WI)
Bartlett
Becerra
Bonilla
Bonior
Bryant
Burton
Camp
Campbell
Cannon
Cardin
Carson
Chabot
Chenoweth
Christensen
Clayton
Clyburn
Coburn
Conyers
Cooksey
Cox
Coyne
Crapo
Cubin
Cummings
Davis (IL)
Deal
DeFazio
Delahunt
DeLay
Doggett
Doolittle
Duncan
Ehrlich
Emerson
English
Ensign
Everett
Filner
Ford
Fossella
Furse
Gillmor
Goode
Goodlatte
Gutknecht
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hostettler
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jenkins
Johnson (WI)
Jones
Kanjorski
Kilpatrick
Kingston
Klink
Largent
Lee
Lewis (GA)
Lewis (KY)
Lofgren
Lucas
Maloney (CT)
Manzullo
Matsui
McDade
McGovern
McInnis
McIntosh
McKinney
Meek (FL)
Meeks (NY)
Metcalf
Mica
Mink
Mollohan
Moran (KS)
Myrick
Neal
Neumann
Ney
Norwood
Owens
Pappas
Parker
Pastor
Paul
Payne
Petri
Pickering
Pitts
Pombo
Radanovich
Rangel
Redmond
Riley
Rivers
Rohrabacher
Royce
Ryun
Salmon
Sanders
Sanford
Scarborough
Schaffer, Bob
Scott
Sensenbrenner
Serrano
Smith (MI)
Smith, Linda
Snowbarger
Stark
Stearns
Stokes
Sununu
Talent
Thompson
Thornberry
Thurman
Tiahrt
Torres
Towns
Traficant
Velázquez
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Weller
Whitfield
Wilson
Yates

NAYS—267

Ackerman
Allen
Archer
Armey
Baesler
Baker
Baldacci
Barrett (NE)
Barton
Bass
Bateman
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bunning
Burr
Buyer
Callahan
Calvert
Canady
Capps
Castle
Chambliss
Clement
Coble
Collins
Combest
Condit
Cook
Costello
Cramer
Crane
Cunningham
Danner
Davis (FL)
Davis (VA)
DeGette
DeLauro
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doyle
Dreier
Dunn
Edwards
Ehlers
Engel
Eshoo
Etheridge
Evans
Ewing
Farr
Fawell
Fazio
Foley
Forbes
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gilman
Gonzalez
Gordon
Goss
Granger
Green
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hefner
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Jefferson
John
Johnson (CT)
Johnson, E.B.
Johnson, Sam
Kaptur
Kasich
Kelly
Kennedy (RI)
Kildee
Kim
King (NY)
Kleczka
Klug
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Lantos
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Linder
Lipinski
Livingston
LoBiondo
Lowey
Luther
Maloney (NY)
Manton
Markey
Mascara
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McHale
McHugh
McIntyre
McNulty
Meehan
Menendez
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Moakley
Moran (VA)
Morella
Murtha
Nadler
Nethercutt
Northup
Nussle
Oberstar
Obey
Olver
Ortiz
Oxley
Packard
Pallone
Pascrell
Paxon
Pease
Pelosi
Peterson (MN)
Pickett
Pomeroy
Porter
Portman
Price (NC)
Quinn
Rahall
Ramstad
Regula
Reyes
Riggs
Rodriguez
Roemer
Rogan
Rogers
Ros-Lehtinen
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sandlin
Sawyer
Saxton
Schaefer, Dan
Schumer
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Snyder
Spence
Spratt
Stabenow
Stenholm
Strickland
Stump
Stupak
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thune
Tierney
Turner
Upton
Vento
Visclosky
Walsh
Waxman
Weldon (FL)
Weldon (PA)
Wexler
Weygand
Wicker
Wise
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NOT VOTING—19

Andrews
Clay
Fattah
Goodling
Graham
Kennedy (MA)
Kennelly
Kind (WI)
LaFalce
Martinez
McCrery
McKeon
Peterson (PA)
Poshard
Pryce (OH)
Roukema
Solomon
Souder
White

☐ 1215

Messrs. COMBEST, KOLBE, FORBES, HUTCHINSON, SHADEGG, TAYLOR of Mississippi, NADLER, MILLER of California, REYES and OBEY and Ms. KAPTUR changed their vote from "yea" to "nay."

Messrs. KINGSTON, REDMOND, WELLER, ADERHOLT BRYANT, SALMON, BOB SCHAFFER of Colorado, HILLIARD, DELAHUNT, CRAPO, THOMPSON, JACKSON of Illinois, SERRANO, FOSSELLA, DOGGETT, PICKERING, YATES, FORD and McGOVERN and Mrs. THURMAN, Ms. KILPATRICK, Ms. VELÁZQUEZ, Mrs. CLAYTON, and Mrs. MEEK of Florida changed their vote from "nay" to "yea."

So the motion was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. WHITE. Mr. Speaker, on rollcall No. 486, I was unavoidably detained. Had I been present, I would have voted "no."

☐ 1218

The SPEAKER pro tempore (Mr. SESSIONS). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DICKS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 337, noes 83, not voting 14, as follows:

[Roll No. 487]

AYES—337

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Baesler
Baker
Baldacci
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Bryant
Bunning
Burr
Buyer
Callahan
Calvert
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Clement
Clyburn
Coble
Collins
Combest
Condit
Cook

Cooksey
Costello
Cox
Coyne
Cramer
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dreier
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fawell
Fazio
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Goss
Granger
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hefley
Hefner
Herger
Hinojosa
Hobson
Hoekstra
Holden
Horn
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inglis
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (RI)
Kildee
Kim
Kind (WI)
King (NY)
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Linder
Lipinski
Livingston
LoBiondo
Lowey
Luther
Maloney (NY)
Manton
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDade
McGovern
McHale
McHugh
McInnis
McIntyre
McNulty
Meehan
Menendez
Millender-McDonald
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Nadler
Neal
Nethercutt
Ney
Northup
Nussle
Oberstar
Obey
Olver
Ortiz
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paxon
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Pickering
Pickett
Pitts
Pomeroy
Porter
Portman
Price (NC)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Rogan
Rogers
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sánchez
Sandlin
Sawyer
Saxton
Schaefer, Dan
Schumer
Scott
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Torres
Traficant
Turner
Upton
Vento
Visclosky
Walsh
Watkins
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wilson
Wise
Wolf
Wynn
Young (AK)
Young (FL)

NOES—83

Bachus
Barr
Bonilla
Bonior
Brown (OH)
Burton
Chenoweth
Christensen
Clay
Clayton
Coburn
Conyers
Crane
Crapo
Cubin
Deal
DeFazio
Doolittle
Duncan
Ensign
Filner
Furse
Goode
Gordon
Graham
Green
Hayworth
Hill
Hilleary
Hilliard
Hinchey
Hooley
Hostettler
Istook
Jones
Kilpatrick
Kingston
Kucinich
Lee
Lewis (KY)
Lofgren
Lucas
Manzullo
Martinez
McDermott
McIntosh
McKinney
Meek (FL)
Meeks (NY)
Metcalf
Mica
Miller (CA)
Myrick
Neumann
Norwood
Owens
Paul
Payne
Petri
Pombo
Redmond
Roemer
Rohrabacher
Ryun
Sanders
Sanford
Scarborough
Schaffer, Bob
Sensenbrenner
Smith, Linda
Stark
Stearns
Talent
Tiahrt
Tierney
Towns
Velázquez
Wamp
Waters
Watt (NC)
Watts (OK)
Woolsey
Yates

NOT VOTING—14

Camp
Dunn
Fattah
Gephardt
Hutchinson
Kennedy (MA)
Kennelly
LaFalce
Lewis (GA)
Maloney (CT)
McCrery
McKeon
Poshard
Pryce (OH)

☐ 1225

Mr. MICA changed his vote from "aye" to "no."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. DUNN. Mr. Speaker, on rollcall No. 487, I was unavoidably detained. Had I been present, I would have voted "yes."

PERSONAL EXPLANATION

Mr. MCKEON. Mr. Speaker, this morning I was at the White House on official business and was not present for rollcall votes 486 and 487. Had I been present, I would have voted "no" on rollcall 486 and "yes" on rollcall 487.

GENERAL LEAVE

Mr. GOSS. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report on H.R. 3694, just agreed to.

The SPEAKER pro tempore (Mrs. EMERSON). Is there objection to the request of the gentleman from Florida?

There was no objection.

ANNOUNCEMENT OF BILLS TO BE CONSIDERED UNDER SUSPENSION OF THE RULES TODAY

Mr. MCINNIS. Madam Speaker, pursuant to House Resolution 575, I announce the following suspensions to be considered today:

H.R. 4712, a bill regarding music licensing and copyright protection; and

S. 1892, a bill to provide that a person closely related to a judge of a court exercising judicial power under article III of the United States Constitution (other than the Supreme Court) may not be appointed as a judge of the same court, and for other purposes.

☐ 1230

OMNIBUS NATIONAL PARKS AND PUBLIC LANDS ACT OF 1998

Mr. MCINNIS. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 573 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 573

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of the rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 4570) to provide for certain boundary adjustments and conveyances involving public lands, to establish and improve the management of certain heritage areas, historic areas, National Parks, wild and scenic rivers, and national trails, to protect communities by reducing hazardous fuels levels on public lands, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Resources. After general debate the bill shall be considered for amendment under the five-minute rule and shall be considered as read. No amendment to the bill shall be in order except those specified in section 2 of this resolution. Each amendment may be offered only in the order specified, may be offered only by a Member specified or his designee, shall be considered as read, shall be debatable for the time specified equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against the first amendment specified in section 2 are waived. The chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with our without instructions.

SEC. 2. The amendments described in the first section of this resolution are as follows:

(1) the amendments by Representative Hansen of Utah printed in the Congressional Record and numbered one pursuant to clause

6 of rule XXIII, which shall be debatable for twenty minutes; and

(2) an amendment by Representative Miller of California if printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII on October 5, 1998, which shall be debatable for one hour.

The SPEAKER pro tempore (Mrs. EMERSON). The gentleman from Colorado (Mr. MCINNIS) is recognized for 1 hour.

Mr. McINNIS. Madam Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Ohio (Mr. HALL), pending which I yield myself such time as I may consume. Madam Speaker, during the consideration of this resolution, all time yielded is for the purposes of debate only.

Madam Speaker, the proposed rule is for a modified closed rule providing for 1 hour of general debate, equally divided between the chairman and ranking minority member of the Committee on Resources.

The rule provides that no amendment will be in order except, one, the amendment offered by the gentleman from Utah (Mr. HANSEN) printed in the CONGRESSIONAL RECORD and numbered one, which shall be debatable for a period of 20 minutes; and two, the amendment offered by the gentleman from California (Mr. MILLER) if printed in the CONGRESSIONAL RECORD on October 5th, 1998, which shall be debatable for 1 hour.

The rule provides that the two amendments listed above may be offered only in the order specified, may be offered only by a Member specified, or his designee, and shall be considered as read, shall be debatable for the time specified, equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment.

The rule waives all points of order against the amendment offered by the gentleman from Utah (Mr. HANSEN).

In addition, the rule allows the chairman of the Committee of the Whole to postpone votes during consideration of the bill, and to reduce votes to 5 minutes on a postponed question if the vote follows a 15-minute vote. Finally, the rule provides one motion to recommit, with or without instructions. This rule was voted out of the Committee on Rules by a voice vote.

Madam Speaker, the underlying legislation, the Omnibus National Parks and Public Lands Act of 1998, addresses a wide variety of important national parks, wild and scenic rivers, heritage areas, national forests, and many other public lands issues and concerns.

This bill includes new protections for national parks and heritage and wilderness areas in 36 States throughout this Nation. There are over 80 proposals from approximately 70 Members of the United States Congress within this underlying legislation. This is critical legislation. This deals with our national parks. It is a good approach to our national park needs.

As I stated earlier, Madam Speaker, this provides much protection and many of the projects that are critical across the country for our national park system.

Madam Speaker, H.R. 4570 is a bipartisan effort. As I mentioned earlier, Madam Speaker, we have a number of different congressional districts who have projects contained within this bill, both Democrat and Republican. This is a bipartisan bill. It is an effort to get a number of very important pieces of legislation passed because, obviously, we are in the final few days of this session.

Madam Speaker, some groups have expressed concern with a few sections included in 4570. Consistent with the bipartisan spirit in which this bill was drafted, compromise language has been worked out for many of these sections, including major changes to the San Rafael section, the NEPA parity provision, Chugach, Cumberland Island, hazardous fuels reduction, the treaty of Guadalupe Hidalgo, Canyon Ferry Reservoir, Paoli Battlefield, Tuskegee Airmen, and the Emigrant Wilderness provisions. Other controversial sections are also deleted by the manager's amendment.

The gentleman from Utah (Mr. HANSEN), chairman of the Subcommittee on National Parks and Public Lands of the Committee on Resources, has made significant efforts and he has made significant concessions to the groups that have expressed concerns with the provisions of this bill.

Madam Speaker, as I mentioned earlier, this bill includes over 80 proposals from about 70 Members of Congress contained within the legislation. I am one of those 70 Members with provisions in this bill. Title 13 of the Omnibus National Parks and Public Lands Act of 1998 proposes a transfer of the title to the facilities of the Pine River Irrigation Project from the U.S. Bureau of Reclamation to the Pine River Irrigation District.

My piece of this bill is an excellent example of how we, the United States Congress, can govern in a better way, a way that involves communities and local and State Government, a way that empowers the people that we represent.

In response to local initiative, and in my opinion demonstrating one of the best examples of the so-called "New West" model of cooperation to achieve local control of public resources, a proposal to transfer title to the Pine River Irrigation Project was worked out.

I believe this type of action, shifting Federal control of appropriate projects to local communities, and doing so only after significant commitment by interested government agencies and extensive input from the public impacted by the proposal, will serve as the model for the future efforts of this nature.

Madam Speaker, this bill contains too many other examples of good governance and good public lands policies to discuss in detail. I encourage my colleagues to support the rule and the underlying bill.

Madam Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, this is a modified closed rule. It allows for the consideration of the National Parks and Public Lands Act of 1998. As my colleague, the gentleman from Colorado (Mr. MCINNIS) has described, this rule provides for 1 hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Committee on Resources.

The rule permits the manager's amendment. The Committee on Resources ranking minority member chose not to offer an amendment. No other floor amendments can be offered. I understand the need for cutting corners at the end of the session in order to move legislation before adjournment, but that is not a good enough excuse for the bill before us today. The bill contains more than 100 provisions affecting specific parks, monuments, landmarks, trails, and heritage areas.

Some of these provisions were originally introduced as freestanding bills, and have partially gone through the normal congressional process, including hearings and reporting by the Committee on Resources. However, other provisions have not. In fact, some sections have only seen the light of day in the subcommittee amendment which was made available yesterday for the first time. Some of these provisions are very controversial, and would never have survived if they had been subject to an open committee process.

There is no committee report for this bill, there have been no hearings, no Congressional Budget Office cost estimate, no Federal mandate statement, no constitutional authority statement. What is the point of having a committee process if we are going to bypass it on a regular basis?

The bill is strongly opposed by a coalition of conservation and environmental groups. The administration would veto the bill if enacted in its present form. Unfortunately, the rule will not permit Members to offer amendments to improve the bill. Madam Speaker, Members deserve the opportunity to debate and amend the bill. Unfortunately, this does not happen at the committee level, and this rule will not permit it on the House floor.

Madam Speaker, I reserve the balance of my time.

Mr. McINNIS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, first I should mention that in Ohio we establish the

American Discovery Trail, an important aspect of this bill.

Madam Speaker, I yield such time as he may consume to my friend, the gentleman from Alaska (Mr. YOUNG), the chairman of the Committee on Resources, who I think is a good leader on this bill and somebody who understands the details of this bill.

Mr. YOUNG of Alaska. Madam Speaker, this is a good rule that should be adopted.

First of all, I want to commend my colleague, the gentleman from Utah (Mr. HANSEN). He has done an excellent job. In fact, he has done more than I would have done in the realm of trying to become reality in the sense of compromise with all walks, all thoughts, and all understanding. He has done an excellent job.

This is a pro-environment, pro-park, pro-history preservation bill that will improve our national parks, wild and scenic rivers, heritage areas, national forests, and many other public lands. Most of the sections of this bill have gone through individual hearings and followed the legislative process on free-standing bills.

Sixty-seven Members of this Congress from both parties have worked on separate pieces of legislation in this bill. We have worked closely with the Members on the important projects, Members of the Republican side and Democrat side. This bill affects 36 different States, the District of Columbia, and will benefit millions of people.

I will not list all the projects of this bill, the gentleman from Utah (Mr. HANSEN) will speak about that in the general debate. Let me say, though, this bill is a delicate balance, a very delicate balance. There will be some Members who believe we have spent too much time on the parks, some who believe we have not spent enough. I think it is a good investment.

There are those who are going to make the usual accusations we are not protecting the environment enough, but this bill creates new opportunities for recreation, for protection of our wildlife, and for improving the quality of life of Americans. This bill deserves the support of every Member of this House.

May I say, Madam Speaker, that for those who may think about voting against this bill or this rule, I would suggest respectfully, because I have worked with each Member who has come to me, it is going to be very difficult in the future to listen to someone sincerely when they do not support their own legislation, or when they suggest that "I want to have mine, but no one else gets theirs."

I suggest that those things that are in Ohio, those things that are in Pennsylvania and California, Mississippi, all those other States, those Members had better think very carefully about this great bill.

As far as the administration threatening to veto it, I have never for the life of me understood why we have to listen to the administration with regards to administration saying they are going to veto it. We are supposed to be the governing body for the people. If he wants to veto a parks bill, let the President veto it. I have no objection to that, if he wishes to do so. That is our form of government.

But I have listened day after day to this President threatening vetoes. I am saying, we ought to be ashamed of ourselves if we listen just to the President. Under our Constitution, we are the House of the people. It is our decision. If we want to vote this bill down, fine, but do not vote it down because in fact he threatens a veto. If Members want a king, they can have a king. I suggest the President would make a very poor king.

Mr. HALL of Ohio. Madam Speaker, I yield 2 minutes to the gentleman from California (Mr. MILLER), the former chairman and now the ranking member of the Committee on Resources.

Mr. MILLER of California. Madam Speaker, I thank the gentleman for yielding time to me.

Madam Speaker, this rule is adequate for this purpose. It does provide for an amendment. Obviously, the problem is that this bill cannot be amended in such a fashion to make it a better bill. We have declined to offer an amendment. We think the bill should be defeated. It should be defeated because it is contrary to the procedures of this House. It is contrary to sound environmental policy. It has many, many bad provisions in it.

It also has some very good provisions in it. Unfortunately, those good provisions are being used as bait. They are being used to try to enable some bad things to happen in this legislation, and to provide camouflage for the underlying provisions in this bill that are very bad policy.

That is why the administration has said it will recommend a veto of this legislation, should it pass. The reason Members ought to listen to this recommendation is so we do not go through this charade and then end up with nothing.

The fact of the matter is there are many, many portions of this bill sponsored by Members on both sides of the aisle that are noncontroversial, that have bipartisan support, and that can be dealt with and passed out of the House almost immediately on unanimous consent. We can deal with those pieces of legislation.

□ 1245

There are others that have had no hearings that we know very little about, or are so controversial that they simply drag the whole package down.

So Members can make a decision. They can vote "no" on this. Then we can concentrate on passing legislation that will be without controversy, that will address the needs of many, many Members, or they can continue the charade that somehow this bill is going to pass, when many of the Senators who are responsible for the jurisdiction of this bill have indicated that the Senate will not give consideration to it.

Unfortunately, the Senate has passed some noncontroversial portions of this bill and sent them off to the President. So the constituency for this bill is declining, and the controversy is increasing. That does not sound like a formula for success at the end of the session.

The fact of the matter is we have had all of this year in which many of the provisions of this bill could have been brought before us and then we could have dealt with them. But at the end of the session, this is a veto. It is unacceptable. It is bad policy, and I would urge all Members to vote against it and understand that not only the administration, but all major environmental groups oppose this legislation.

Mr. McINNIS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I think we need to lay out very clearly here, especially in light of the criticism from the gentleman from California (Mr. MILLER) about the process that we are following. The gentleman from California is quick to step up to the plate and criticize this bill. But the gentleman from California has not been very quick to step up to the plate and offer a substitute. Offer something better.

It is very easy to stand on this House floor and criticize the Republicans and criticize the Democrats who have worked to put this bill together. But I think that that criticism loses some of its credibility when one who steps up has the opportunity under the rule, has the opportunity under the rule to offer a substitute to put in place of this a better bill, stands up and criticizes us. I think this criticism would be much better received had they had a substitute on that side.

I would add that that is not a Democrat or Republican kind of bill. This is a bipartisan bill. So, we have a few Members on the Democratic side criticizing this thing. But still, out of fairness, the Republican leadership out of fairness insisted that these Democrats who are objecting to this bill have an opportunity, out of fairness, have an opportunity to offer their own proposal.

They declined to do that. Why? Because they do not want any criticism. It is much easier to criticize somebody than offer a substitute or come up with a good alternative. And that is the exact route they are traveling, and in my opinion that route comes to a dead end.

Madam Speaker, this is a good bill, a good rule; it is a fair bill, and a fair rule.

Madam Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Madam Speaker, I yield 3 minutes to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Madam Speaker, I thank the gentleman from Ohio (Mr. HALL) for yielding me this time.

Madam Speaker, I rise in opposition to the rule. It is only at the end of the session that we will probably ever see rules like this in which there is simply no opportunity for the body to work its will on what constitutes almost 100 different land use and park measures in one bill.

Some of these have been passed and are noncontroversial and have received deliberation of the Committee on Resources and the Subcommittee on National Parks and Public Lands. But many of these provisions, of course, have not been considered or debated on the House floor on their merits. We are forced to swallow whole in this case almost a 100 different modifications to various land use policy.

Of course, it is easy enough to say that there is an alliance here between Members that have some provision in this bill, and that they are basically being force-fed 99 other bills along with the one provision that they want to see enacted into law. But this is not the way to do business in terms of park and public land policy.

If these issues had been vetted, if they had been amended, if they had been debated on their merits, but there is no opportunity here today to in fact amend or to extract these specific provisions from this bill and move on in a deliberate way with the measures that are before us. There is simply no way to do it.

This is sort of a sorry excuse. I think the committee has worked very hard over the last 2 years in having hearings. I know I've sat through my share of such hearings. I am a little surprised that at the end of the session now they bring forth this type of bill, when there is not consensus on it, when all the major conservation and environmental groups are against it and numerous proposals of controversy bad policy and no hearings on the topic.

It is bad policy. It is a bad rule. This is not providing the ability of the body to work its will. This is simply a slam dunk of 100 different land use decisions that frankly repeal long-standing wilderness designations, that provide for roads, provide for other types of activities, and it is being force-fed to the Members as if they have to accept it in order to gain some reasonable changes in terms of public lands and parks bills that they want. The veiled threat and policy is inherent in this approach.

Quite frankly, I think the Congress has rightfully reserved to itself some of the responsibility to work on parks and public lands bills. But this type of action, I think, is the type of action that will, in fact, argue for changing that particular responsibility and conveying this responsibilty to the administration, because I think it is irresponsible to act on a measure of this nature, of this magnitude, in this rule.

Madam Speaker, this is simply a slam-dunk rule that is going to not provide for deliberation or consideration. It is an attempt to push through this body measures that cannot survive on their own merit on an up-or-down vote, and they are shoved into this measure.

Someone talks about it being "park pork." It is more that that. Part of this pork sausage is rancid meat that is into this omnibus park pork sausage. As Bismarck said, those that like laws and sausages should never watch either being made. I would hope we would move away from such an approach. It is not so much sausage, but that we have rancid meat in here that destroys our parks and wilderness system, that are an affront to the American people, and that is why I urge a "no" vote on this rule and on this bill.

Mr. McINNIS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, the gentleman's are very eloquent comments, but where is the meat? The gentleman has an opportunity to offer a substitute. If he thinks this is a rotten bill, he should come up with a better car.

We are not prohibiting. Our rule is very specific. Let me make it clear that this rule allows the opposition to come up with a substitute through the gentleman from California (Mr. MILLER). He is free to do that.

Mr. VENTO. Madam Speaker, would the gentleman yield? I would be happy to respond.

Mr. McINNIS. Madam Speaker, I would be happy to yield in a moment, if the gentleman would sit around and listen to the debate.

Madam Speaker, I yield 3 minutes to the gentleman from Texas (Mr. BONILLA).

Mr. BONILLA. Madam Speaker, I rise in strong support of the rule and of this legislation that is a result of a lot of hard work between both sides on this committee. The gentleman from Alaska (Chairman YOUNG) and the gentleman from Utah (Chairman HANSEN) have done an outstanding job in moving this legislation forward.

This bill contains, as the chairman alluded to earlier, many stories out in the heartland that will result in positive changes in communities affecting national parks all over the country. It is a good bipartisan bill, and every Member of Congress that is affected by this bill has a good story to tell about the changes that would result when this legislation passes.

I will just highlight briefly what will happen in my congressional district. There is a piece of land that the owners would like to donate to the Fort Davis National Historic Site. And there are other bills as well that have other local significance, and these changes should not fall prey to partisan politics.

In my part of the country, the bill would permit a simple 16-acre expansion of the Fort Davis Historical Site. This legislation is necessary because the original legislation limited the historic site to 460 acres.

Fort Davis is located in the heart of west Texas, a wonderful part of the country nestled in an area that is very scenic in its own rough and rugged way. I am proud to represent this area, and I would like to invite my colleagues to visit this area any time they are passing through my State.

That entire area of the State is the most popular tourist attraction in the State of Texas now. The fort was a key post in the defense of west Texas and thus played a major role in this region's history. From 1854 to 1891, troops at the post guarded immigrants, freighters, and stage coaches on the San Antonio-El Paso Road. Fort Davis is the best remaining example in the Southwest of the typical post-Civil War frontier fort. The post has extensive surviving structures and ruins.

The particular parcel of land that would be added is known as Sleeping Lion Mountain. This land overlooks the park's historic landmarks. It is adjacent to the park's southern boundary, and I believe that the inclusion of this tract of land into the site would ensure the visual and historic integrity for this State and national treasure.

The land is slated to be donated to the National Park Service by the Conservation Fund. The land has been purchased by the Conservation Fund. They secured the funds from several private foundations to purchase this land. The purchase of the land was completed in April, and they are simply waiting for us to act. In fact, they have been waiting for a long time for us to act.

Madam Speaker, this park expansion has the blessing of the local community and is supported by the Texas Historical Commission. This is a simple piece of legislation that allows for a minor park expansion. And reflecting on the story that I just told, Madam Speaker, there are countless others around the country that could be told about a positive change in their community and their national parks that could result in something good for the communities that these communities are crying out for.

Madam Speaker, I commend the gentleman from Utah (Chairman HANSEN) and the gentleman from Alaska (Chairman YOUNG), as well as the gentleman from New York (Chairman SOLOMON), my friend who is sitting to my right, and also the gentleman from Colorado (Mr. McINNIS) who has worked hard on this rule and on this legislation.

Mr. McINNIS. Madam Speaker, I yield 15 seconds to the gentleman from

Minnesota (Mr. VENTO), out of fairness, for him to respond.

Mr. VENTO. Madam Speaker, I thank the gentleman from Colorado (Mr. McINNIS), and I will certainly also get time from the gentleman from Ohio (Mr. HALL). But this rule does not even provide the opportunity for 5 minutes debate for each of the measures in the bill. I mean, that is its sort of stand-on-your-head-type logic, because it says we can offer a substitute, but this rule waives all points of order against the substitute offered by the gentleman from Utah (Mr. HANSEN), but does not waive them for the substitute if offered by the gentleman from California (Mr. MILLER). And we did not know what the substitute was going to be, and we were supposed to have the amendment in by Monday. It is an unequal playing field and a bad bill and a bad rule.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

I think the gentleman from Minnesota has brought up a couple of valid points. I am not sure that the gentleman is aware of the historical perspective up in the Committee on Rules. Waivers were offered, and on top of that, we gave the other side an hour, 1 hour, of debate on the substitute. I am baffled by the fact that there is such strong criticism coming about this bill, yet no one who criticizes has decided to step forward with a better car.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. McINNIS. I yield to the gentleman from Minnesota.

Mr. VENTO. Madam Speaker, I would just point out that I think it is an impossible process when we have nearly a hundred measures in here that are important. The measure that the gentleman from Texas (Mr. BONILLA) mentioned is important, and I do not have any objections to it. But this does not provide 5 minutes of debate, not even a minute of debate for each measure in the bill. I think these measures deserve attention.

Mr. McINNIS. Madam Speaker, reclaiming my time, I would say to the gentleman, that is exactly the point. It is a very complicated bill. It has lots of different projects in it. We are not going to get everybody in here happy about this all the time. But this is probably, this is clearly the most critical bill dealing in helping our national parks we have had this session.

We cannot put together the perfect model because we have too many players and projects. This is the best we are going to get. And if the gentleman could have done better, he should have introduced it.

Madam Speaker, I yield 2 minutes to the gentleman from New York (Mr. BOEHLERT).

Mr. BOEHLERT. Madam Speaker, I rise in support of the rule, but in opposition to the bill. It is a perfectly fine rule for a fatally flawed bill.

I had hoped not to be standing here today. I had hoped the Committee on Resources would pull together a noncontroversial bill, one that would be signable, that actually had a chance to become law. That result was encouraged before the bill was even introduced and there was an offer to negotiate.

Indeed, discussions did take place for 4 days last week. But the Committee on Resources opened those negotiations by listing the items that they considered nonnegotiable, and they were some of the worst provisions of the bill. That is not a very promising way to start negotiations.

But we still tried to work out issues concerning forestry, Bureau of Reclamation projects, and the rules governing wilderness areas. Unfortunately, none of these issues was fully resolved. We did reach a compromise on one provision, procedures for a NEPA waiver for certain forests.

In short, the bill and the manager's amendment do not address my concerns or the concerns of so many of my colleagues. If my colleagues have heard otherwise, they have been misled.

So, I urge my colleagues to support the rule, but oppose the bill; a bill that could have been negotiated, a bill that could have been noncontroversial, a bill that could have helped Americans all around the country, but a bill that instead is opposed by every environmental group.

It is opposed by the Taxpayers for Common Sense, it is opposed by the administration, it is a bill that is going nowhere, regardless of what happens here today. The majority of this bill could have been passed on the suspension calendar if the temptation had been resisted to deal with controversial matters that have never been the subject of full and open hearings.

I have no objection to the rule. It is a tribute to my friend and good chairman, the gentleman from New York (Mr. SOLOMON). But I urge defeat of the bill.

Mr. HALL of Ohio. Madam Speaker, I yield 3 minutes to the gentleman from American Samoa (Mr. FALEOMAVAEGA).

□ 1300

Mr. FALEOMAVAEGA. Madam Speaker, I rise in reluctant opposition to both the rule and to H.R. 4570. I say reluctant because this is likely the last parks bill to be considered by the House in this Congress, and I would have liked it to be bipartisan.

Madam Speaker, this bill contains laudable provisions which should be enacted into law. The bill contains many provisions supported today by both sides of the aisle, and many more provisions, I believe, that could have been negotiated into forms both sides could have supported. Over the past several weeks I have had discussions with several Members concerning their sections of this bill, and I was prepared to work with them and the gentleman from Utah (Mr. HANSEN) to craft a bill that could have passed the House today. Such a bill could stand a good chance of being enacted into law.

Madam Speaker, among the provisions which I believe there is bipartisan support for are the expansion of the Fort Davis National Historic Site in Texas, expansion of the Arches National Park in Utah, establishment of the Thomas Cole National Historic Site in New York, the amendments to the boundaries of the Abraham Lincoln Birth Place National Historic Site in Kentucky, the Automobile National Heritage Area in Michigan and Indiana, and the land exchanges involving Yosemite National Park and the Cape Cod National Seashore.

Among the provisions I believe, Madam Speaker, that could have been negotiated to acceptable resolutions are the Cumberland Island National Seashore in Georgia and the San Rafael Swell National Conservation Area in Utah.

With all due respect to my dear friend and colleagues, the gentleman from Utah (Mr. HANSEN) and the gentleman from Alaska (Mr. YOUNG), even with the changes contained in today's amendment, there are many provisions which I cannot support in good conscience. Among those are the Guadalupe-Hidalgo Treaty Land, the requirements for congressional approval of national monuments, and changes in environmental laws which go farther than I believe are beneficial to our public resources.

Madam Speaker, these are honest differences on how best to manage our public parks, lands and forests. Based on my subcommittee work with the gentleman from Utah over the past 2 years, I think many of these differences could have worked out. There are others, however, that, given the number of them and basic philosophical differences between the Members, we probably could not have resolved. I believe we should have saved the provisions for which there is strong support by pulling others from this bill. Perhaps this is unacceptable from the majority's perspective, but as we move through these last days of this Congress, I had hoped that we could have focused on moving to enactment as many meritorious bills as possible. With more compromise from the parties involved, we could have done this.

Madam Speaker, as I noted earlier, I would have preferred to be speaking in support of this legislation, but given the substantive differences, I feel compelled to recommend to my colleagues to vote against this rule as well as the bill.

Mr. McINNIS. Madam Speaker, I yield such time as he may consume to the gentleman from New York (Mr. SOLOMON), the chairman of the Committee on Rules.

Mr. SOLOMON. Madam Speaker, I thank the gentleman for yielding me this time. I was not going to speak on this measure, but I have been sitting here listening patiently to the debate and I just am surprised at the opposition to the rule from the Democrat side.

I am looking at a chart here of all of the individual bills that are incorporated into this. H.R. 3047 passed the House, H.R. 799 on the Union Calendar, and another on the Union Calendar. Here are four more that have passed the House. We can go right down the line here. Most of this legislation has already been acted on by this body, and passed either unanimously or by overwhelming vote. Not even one of these bills was controversial.

I would like to say to the other side that before we took over control of the House 4 years ago, we Republicans were treated quite badly. We had ranking members of full committees that were not given the opportunity to offer a substitute. We have changed the protocol in the Committee on Rules and we never, ever deny the minority party the right to offer their alternative—not through a motion to recommit or not through defeating the previous question, but through a substitute. And they are given ample time.

We offered that to the gentleman from California (Mr. GEORGE MILLER). I specifically said, and Members can go back upstairs and read the record, that if the gentleman from California needed waivers, we would do it. All he needed to do was to print his bill, have it printed in the RECORD so it is there for Members to see in the morning. That is really bending over backwards. We have done everything we can to be fair, and then I see people stand up here opposing the rule. I just do not understand it.

Ronald Reagan taught me the value of compromise years ago, and it was hard to teach me, because as my colleagues saw from yesterday's tribute on the floor, I am very opinionated. But when we do compromise, it feels like we are compromising our principles. But that is what this body is all about. We have to work together. We should be doing that.

I want to assure everybody, all the conservatives in this House, that I have scoured the bill. There is nothing in the bill that intrudes on, that infringes on States' rights or the individual rights of local governments, whether they be towns or villages or cities or counties. This bill does not do that. So from that point of view, it is a good bill.

It is a good bill from some of the environmentalists' point of view. I saw my good friend, the gentleman from New York (Mr. BOEHLERT), who I appreciate is going to vote for the rule, but he is going to oppose the bill. For the Hudson Valley there is very important legislation in the bill that my good friend the gentleman from Utah (Mr. JIM HANSEN), the subcommittee chairman, has provided.

I brought to the floor a bill not too long ago, and it passed the House. During debate I brought in the paintings of Frederick Church and Thomas Cole, which are just outstanding, which pictorialize the entire northeast, the Hudson Valley, the Adirondack and Catskill Mountains. That legislation is in here. And every environmentalist that I know in the mid Hudson Valley supports this legislation. So I just do not know where all the opposition is coming from.

I think Members should vote for the rule and certainly they should support the bill. It is a good bill, and I thank the gentleman for yielding me the time.

Mr. HALL of Ohio. Madam Speaker, I yield myself such time as I may consume to say that we do not argue with the fact that there are some very good provisions in this bill, but the fact is it is my understanding that over half of the provisions that are in this bill have never been reported from the committee, and there is over two dozen provisions that have never, ever had a hearing.

So the people on the committee and the people on the floor of the House, we do not know what is in this bill and we just want a chance to take a look at it, debate it, and we cannot do it today with this very restrictive rule.

Madam Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Madam Speaker, I thank the gentleman for yielding me this time. Listening to the appeal of our distinguished friend and chairman of the Committee on Rules, I would just point out that the history of Mo Udall and, for that matter, the gentleman from California (Mr. GEORGE MILLER), who most recently led this committee and now has passed the torch on to the gentleman from Alaska (Mr. DON YOUNG), was to, in fact, have open rules on most of these issues.

As has been indicated here, with a hundred measures on this bill, no opportunity to amend them, some that have not had hearings, some considerable number, some that are very controversial, if it were only the matter of the Thomas Cole measure, that has passed this House and is awaiting action in the Senate, that were included in this bill as a way to try to optimize the opportunity to enact some of these measures into law, I think most of us would be trying to work to accomplish that. It is a difficult task in this format. But given the way that this has been constructed, and the controversy over many of these issues, I think it is unreasonable to expect us to accept this type of substitute.

I think that in order to achieve that, it is not something we are going to do a slam dunk passage here in the House and score some points. It is not going to accomplish what is being sought. I think it has a tendency to polarize. There just is not enough time, given the rule and where we are at on the floor today, to go through and expect to get hours and hours of debate on this. And, logically, the gentleman did not provide that, given the circumstance we are in this week attempting to end this session.

So I think this is a step backward toward seeing the enactment of the good provisions and mixing them up with the bad and hoping somehow that, by rolling the dice here, that we will get to enact these particular measures. This is not the way to do business. This is not deliberative. This is not fair. I understand the pressure the Committee on Rules and the body is under, but this is not a step forward, it is a step backward.

Mr. McINNIS. Madam Speaker, I yield 7½ minutes to the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Madam Speaker, I appreciate the gentleman from Colorado yielding this time to me and the excellent remarks that he has made, and let me just say a few things.

We have heard all this stuff, but let us get down to the facts on this baby and what really happened. People are saying, oh, this is going to be vetoed. We promise it will be vetoed. I want to hearken back to 2 years ago. We stood here with a bill that had more titles in it, more bills in it than we have today, and we heard exactly the same thing: oh, this one will be vetoed.

How many of my colleagues were with me as we stood in the Oval Office while the President put his John Henry on that and said, this is a great way to do legislation. The President of the United States said that. I do not know if I agree with him that it is a good way to do legislation.

But now we hear these other arguments. It has all these things in it that we have not had hearings on. We have not had time on these things. Well, guess what? Most of these are so minuscule, so infinitesimal that they amount to nothing. The bills in here that have got things of substance in it we have had hearings on. We have had a lot of them on the floor. And when we start looking at some of these others, they are almost infinitesimal.

What is this rule about and this bill about? It is about compromise. The whole thing is compromise. My staff, the staff of the gentleman from Alaska (Mr. DON YOUNG), the staff on the other side has worked with others to try to compromise in some of these areas. I almost feel bad that we have compromised so far on our side. I think we have given away the store in some particular things.

But I would like to talk about some of those things on this term compromise. It probably comes down to only two bills in this whole shooting match that really bothers anybody, and this is probably the biggest one, right here. It is called San Rafael Swell. This happens to be an area that I doubt anybody in this room, other than me and maybe one other, has ever seen, but my colleagues should go look at it. It is one of the most beautiful geological things the Lord ever put on the earth.

But as we look at that particular area, the people in Emery County said someday we have to come to grips with this area. This is where Butch Cassidy and the Sundance Kid mixed it up with a few people. This is where there were shootouts and there were mines. This is a very interesting area. People who go in there are just enthralled with the history of the area. So they came up with the San Rafael Swell. And the Emery and Carbon County folks, all those good Democrats down there, said this is what we will do. We will work out something with the environmental community that will work. And so they did, and they gave them about everything. Yet every environmentalist I have talked to said we do not like the way they have it.

Look at this. This green area goes into wilderness under this bill. This light green goes into primitive areas that are nonmotorized. So what is the issue? We are giving them everything they asked for but one thing, and that is called Sid's Mountain. Please look at this yellow place right here. That is Sid's Mountain. A very interesting place. But 15 years ago Fish and Wildlife and the State of Utah, and fish and wildlife came from all over America, said this is the ideal place to have the desert big horn sheep. We do not have a good herd anywhere. We have some other places, but not anywhere in the west. So they started the desert big horn sheep.

Guess what the problem is? They have to drink water, just like all the rest of us do, and there is no water on that mountain. So they came up with this original idea called guzzlers. For those who do not know what a guzzler is, let me explain it. It is a large thing that works by evaporation. And through the sun coming up and then it getting cold, it evaporates, goes into a trough, and the big horn sheep get their water there.

However, we all realize the 1964 wilderness bill says what? We cannot have a mechanized thing in the wilderness. So we cannot have guzzlers. So they cannot have the sheep. Well, a lot of people want to go in and see them. There are some roads at the bottom of this, and a lot of people want to see these sheep.

But when it gets down to this great big thing that we are all mad about, it comes down to the idea of the San Rafael Swell and the desert big horn sheep.

Now, we have talked to our environmental friends and asked them what they have against the desert big horn sheep. That is the whole issue on this rascal. The desert big horn sheep seems to be the whole thing that may turn this bill one way or the other. And I am stale waiting for a member of the Sierra Club or one of the others to stand up and say this is what we have against the desert big horn sheep.

What it amounts to is the idea of wilderness. They have built their whole thing on wilderness. They should build it on the term restrictive areas. It means the same thing, but one is a romantic word and one is another word.

Let me go through a few others. The Canyon Ferry Reservoir we considered modification. The Tuskegee Historic Site we went on. The water projects with the gentleman from California (Mr. MILLER) we went on. The Nevada Airport, we worked that out. The things with the gentleman from Alaska (Mr. DON YOUNG), we came up with a provision on the Chugach area. The C&O Canal. The list goes on and on of things we have agreed to, to make this an acceptable bill.

□ 1315

I personally would urge the passage of this rule, and I would urge the passage of this bill. This is a good piece of legislation. We have played this game time after time. We will hear the same arguments every time. The fact of the matter is the President signed it the last time, and I would hope he would see the wisdom in signing it this time.

Mr. PAUL. Madam Speaker, moments ago, H.R. 4570 was described as a "delicate balance" not to be disturbed by votes against either the resolution or the rule. In fact, the primary justification presented for passage of the bill was the "brilliance" with which a compromise securing the necessary number of votes was "engineered." Statements such as these are an unfortunate commentary on the state of affairs in the Nation's capital insofar as they represent not advancement of sound policy principles but rather a seriously flawed process by which federal government "favors" are distributed in a means which assures everyone gets a little something if they vote to give enough other districts a little something too. This is not the procedure by which Congress should be deciding matters of federal land disposition and acquisition. In fact, there appears to be no Constitutional authority for most of what H.R. 4570 proposes to do.

Particularly frustrating is that in my attempt to return authority to the State of Texas for a water project located in the 14th District, I introduced H.R. 2161, The Palmetto Bend Title Transfer Project. Return of such authority comports with my Constitutional notion that local control is preferred to unlimited federal authority to dictate from Washington, the means by which a water project in Edna, Texas will be managed. I understand that certain Members of Congress may disagree with the notion of the proper and limited role of the Federal Government. The point here, however, is that the "political process" embracing the so-called "high virtue of compromise" means that in order for one to vote for less federal authority one must, at the same time, in this bill, vote for more. Political schizophrenia was never more rampant. One would have to vote to authorize the transfer of 377,000 acres of public land in Utah to the Federal Government (at taxpayer expense of $50 million for Utah's public schools) in order to return Lake Texana to the State of Texas. Two unrelated issues; two opposite philosophies as to the proper role of the Federal Government—a policy at odds with itself (unless, of course, compromise is one's ultimate end).

H.R. 2161 merely facilitates the early payment of the construction costs (discounted, of course, by the amount of interest no longer due as a consequence of early payment) and transfers title of the Palmetto Bend Project to the Texas state authorities. Both the LNRA and TWDB concur that an early buy-out and title transfer is extremely beneficial to the economical and operational well-being of the project as well as the Lake Texana water users. The Texas Legislature and Governor George W. Bush have both formally supported the early payment and title transfer. In fact, even the residents of Highland Lakes in Travis County who initially expressed a concern as to the effects of the title transfer on the Colorado River Basin, came to support the legislation. This bill will save Lake Texana water users as much as one million dollars per year as well as providing an immediate infusion of $43 million dollars to the national treasury. Additionally, all liability associated with this water project are, under my legislation, assumed by the state of Texas thus further relieving the financial burden of the Federal Government.

Texas has already demonstrated sound management of this resource. Recreational use of the lake has been well-provided under Texas State management to include provision of a marina, pavilion, playground, and boating docks, all funded without Federal money. Additionally, a woodland bird sanctuary and wildlife viewing area will also be established upon transfer with the assistance of the Texas Parks and Wildlife Department and several environmental organizations.

Members of Congress must not be put in the position of having to support a massive federal land grab to secure for the residents of Texas more local control over their water supply. For these reasons, while I remain committed to the return of Lake Texana to Texas State authorities, I must reluctantly and necessarily oppose H.R. 4570.

Mr. PORTER. Madam Speaker, I rise today in opposition to this bill and in particular to Section Nine which seeks to reduce hazardous fuels in our national forests. While I oppose many provisions in this bill, I am particularly concerned with the process by which this legislation has made its way to the floor. Most of the provisions have circumvented Committee consideration and some have never even been considered by the relevant Subcommittee. There is a reason why there is a detailed procedure for the consideration of legislation in the House—a procedure that I strongly support—and I am very dismayed that H.R. 4570 was not developed in this way. As many of my colleagues are aware, I have been very active in reforming management policies in our National Forests. Until his point, the dialogue on this issue between various interested parties within Congress has been very productive. However, the provisions pertaining to hazardous fuels reduction in this bill are a step backwards in improving the management of our national forests. Section Nine authorizes the Forest Service to combine commercial timber sales with forest stewardship contracting. Further, it establishes an off-budget account that while initially funded by transferring money from the hazardous fuels reduction program, is regenerated through timber receipts from these sales.

As a fiscal conservative, I cannot support the connection of these contracts. Providing offsets for timber purchasers to do stewardship work in connection with a timber sale may have the result of paying timber purchasers to take our natural resources. No Member with any fiscal sense should support such a policy.

While this practice may work in private forestry, it is not something I can support on our federal lands. If private contracting is the most effective and cost-efficient option for performing stewardship contracting, it should be used, but separate to a commercial timber sale. There is no reason that these two services need to be connected in a contract.

In addition, since I already have concerns about existing off-budget accounts maintained by the Forest Service, I cannot support the establishment of another one. Everyone can agree on the fact that the Forest Service has fiscal accountability problems. Allowing them to use more money without congressional oversight is completely irresponsible.

Since I know that there are many good and important provisions in this bill, I am sorry that I cannot support it. However, my concerns with other provisions are serious enough to warrant my overall opposition. It is my hope that in the future this sort of process for developing legislation will be avoided and real progress can be made.

Mr. CASTLE. Madam Speaker, I rise today to express my opposition to ten percent of the Omnibus National Parks and Public Lands Act of 1998. This massive 481 page document that rolls almost 100 bills into one package is 90 percent perfect. It makes needed technical corrections to the 1996 Omnibus National Parks Act, makes important adjustments to park boundaries, designates desirable land as heritage and historic areas, and reauthorizes the Historic Preservation Fund. The bill even establishes the transcontinental American Discovery Trail which ends in Cape Henlopen State Park in my State of Delaware. However, 10 percent of this bill needs to be separated out and addressed on an individual basis.

That ten percent includes some of the following measures:

Opens areas proposed or being managed as wilderness to possible development, including the Everglades National Park which Congress has spent millions of dollars to restore;

Hands over title and operation of some western water projects to private interests without requiring them to pay full value for the project. This year, the House passed the Salton Sea Reclamation Act with a price tax of almost one-third of the Bureau of Reclamation's annual budget. There is a long list of other reclamation projects seeking funding. Why then would we want to sell existing projects at less than their fair market value? it is not fiscally responsible especially in a year where the President wants to spend the Social Security Surplus on "emergency" spending;

Waives environmental review procedures for a proposed road that cuts through one of the richest wetlands on the Pacific Coast of North America, as well as a migratory bird nesting area, and salmon spawning grounds. The value of this road may well outweigh these environmental concerns, but we should not blindly authorize the road easement without stopping to study its full environmental impact and plotting a course that minimizes the environmental harm. That is simply poor management.

Ninety percent of this bill could have been one of the shining stars in the 105th Congress' environmental record. Instead, due to the controversial 10 percent it will either die in this Chamber, never be considered in the Senate, or be vetoed at the President's desk. We have precious few days left in the legislative session and many of us need to return to our districts and debate serious national issues with political opponents. Let us not be the only institution to pass an unsignable law that has not been thoroughly examined by the committee process, and 10 percent of which bypasses or degrades the world-class environmental protections we have established in this country.

Mr. KINGSTON. Madam Speaker, I rise in strong support of the Omnibus National Parks and Public Lands Act. In particular, I would like to address one portion of the act regarding Cumberland Island National Seashore in my district.

Cumberland Island National Seashore is governed largely by two establishing acts. The first, in 1972, created the seashore. The second, the 1982, established a large wilderness area on the island. Unfortunately, this act was assembled hastily and before the National Park Service's wilderness suitability study was completed. The unfortunate result was that the wilderness designation was placed on top of a number of important historic assets, essentially locking them away and seriously jeopardizing their existence. While the listing of these structures, districts, and sites on the National Register of Historic Places represents the Federal Government's obligation to protect them, their inclusion within the wilderness in 1982 seriously undermines that effort. Not only does it impede public access to these treasures, it presents significant obstacles to their preservation. These concerns were recognized and noted to Congress in writing at the time by both the President and the Department of Interior, but they were not corrected.

Madam Speaker, Cumberland Island is a beautiful and unique island. The diversity of its resources is one of its greatest strengths. My intention in introducing this legislation is to recognize the value of this diversity and protect it. I believe it is indeed possible—and imperative in this case—to protect both the natural and historic assets. They do not have to be mutually exclusive goals.

This bill takes three basic steps to achieve this balance. First, it removes the wilderness or potential wilderness label from structures listed on the National Register of Historic Places. This provision will lift restrictions on the Park Service as to the steps they can take to preserve them. It also removes the fundamental conflict of mandates on how these structures are to be treated: whether they are to be preserved according to the Historic Preservation Act of allowed to "revert to their natural state" consistent with the Wilderness Act.

The bill also seeks to provide public access to these sites. Because they are encased in wilderness, the only way for the public to visit them is by making a 15 to 30 mile round trip hike. Obviously, only very healthy backpackers can ever see and learn from these sites. A 200-hundred year old road (which itself has been designated as a national historic asset), known as the "Main Road" or "Grand Avenue" runs from the south end of the island up to many of these historic sites within the wilderness. Our bill allows this road to be used in some manner which does not have an undue negative impact on the wilderness so that the park's visitors can see, study, and enjoy these sites.

Unfortunately, under the present circumstances, few visitors even realize all that exists on the island, let alone the events that enhance their historic significance. Cumberland's history is as rich as Georgia's. Off its shore, pirates once loomed and British and Spanish warships fought. Soldiers were stationed there in the War of 1812. Revolutionary War hero Nathaniel Greene and his remarkable wife Katie Littlefield Greene farmed and planted there. Their Cumberland Island timber business supplied the wood for "Old Ironsides." Thomas Carnegie built mansions on the Island and once had over 300 servants there. On the north end of the island is a historic settlement called Half Moon Bluff founded by newly emancipated slaves. This was one of the first free Black settlements in America and one of the few which embodies and represents their transition from slavery to freedom and landownership. In all, there are nine Cumberland island sites and districts and many structures on the National Register of Historic Places. Today many of their remnants are gone, and the rest are decaying.

The third component of the legislation authorizes the restoration of the beautiful historic Plum Orchard mansion which has dangerously deteriorated. This house was gifted to the Federal Government on the condition that it be maintained and enjoyed by the public. I am sorry to say that this trust has been betrayed. Without serious and prompt intervention, this structure like some of its surrounding buildings will fall victim to neglect. This not only marginalizes the Historic Preservation Act, it serves as a pitiful warning to other citizens who would like to donate valuable cultural or historic assets to the Government.

Madam Speaker, I strongly urge support of this legislation and point to this provision as a model for the protection of all resources, natural and historic, which fall within our Government's trust.

Mr. STARK. Madam Speaker, I rise today in opposition to the Republican National Parks Bill. As former President Reagan once said, "here we go again."

It has become a tradition in Congress since the Republicans gained control of the majority to pass a massive end of session bill dealing with the environment. Because the Committee brings up these bills on short notice and with minimal oversight, they are ripe for anti-environmental provisions that would not pass on their own muster.

This bill is a desperate attempt to pass legislation prior to hitting the campaign trail and to pass through specific favors to special interests. This "omnibus" bill contains many environmental provisions that should be voted upon and should become law. These provisions, if brought to the floor independently, would enjoy broad bipartisan approval. My Republican friends have included pet projects and environmental attacks in the context of this larger package. This bill should be rejected as it is written and Members should have the right to vote on individual parts of this package. Whatever positive environmental effects that part of this bill would help to create is undermined by the backdoor attacks on law that protect our public lands and national parks.

I have heard from numerous environmental groups in opposition to this bill. The Sierra Club, the American Lands Alliance, the Wilderness Society, the U.S. Public Interest Research Group, the National Parks and Conservation Association, the League of Conservation Voters, the Defenders of Wildlife, the Environmental Defense Fund, the World Wildlife Fund, the National Trust for Historic Preservation and more than 20 other organizations have gone on record in opposition to H.R. 4570.

What is hidden in the midst of this bill? Let's take a quick look.

H.R. 4570 exempts certain public bodies from agreements and laws designed to manage public lands wisely. Sections 1351–1357 specifically make exceptions for an irrigation district in Southwestern Arizona from compliance with multiple-species conservation and water use plans now being developed by stakeholders in the Lower Colorado River Basin. Section 1009 is a backdoor assault on standard environmental review procedures for tree removal projects where natural events have happened. These carve-outs set terrible precedent and encourage the selective enforcement of environmental laws.

What else is in this bill? Section 208 makes allowances for the development of a commercial airport in the Mojave National Preserve. Even if you are willing to look beyond the environmental and recreational impact this development will have, this provision also exempts the transfer from the Federal Lands Management Policy Act, another horrible precedent. Section 1342 allows for the development of a road through Alaska's Copper River Delta, including a 250-foot easement for logging in this pristine environmental wetlands area.

H.R. 4570 paves the way for the privatization of National Park Lands, the transfer of Everglades National Park Land and weakens the Federal Antiquities Act. None of these ideas could garnish a majority vote in Congress on their own. Extreme members of the Republican Party must seek this cloak and dagger approach to get their pet projects before the body.

H.R. 4570 incorporates the intent of H.R. 2458, which was introduced by Representative HELEN CHENOWETH. This provision would allow the U.S. Forest Service to give away $350 million in "forest health" credits over the next 5 years to pay for increased logging and grazing on National Forests under the pretension of wildfire reduction. I guess the logic is clear, it is hard to have a wildfire without any trees.

I have been working with many Members of Congress to monitor and decrease the invasive use of motorized vehicles in our national parks and public lands. The bill before us today declassifies designated wilderness areas throughout the West to specifically allow motorized access. This dreadful provision could not pass if brought up on its own. But buried in the end of year rush to adjournment, and desperately trying to show their constituents that they have actually passed legislation this year, my colleagues on the other side of the aisle are threatening our natural lands and public areas with irreparable harm.

I urge my colleagues to put the public interest ahead of the special interests and vote against this bill.

Mr. FARR of California. Madam Speaker, I rise today reminded of the first lines in the Tale of Two Cities "It was the best of times; it was the worst of times." I am pleased that one of my bills, the California Coastal Rocks and Islands Wilderness Act of 1998, is included in the Omnibus National Parks and Public Lands Act. Unfortunately, because of the lateness of the legislative calendar, it will be difficult to reconcile the differences between the executive and legislative branches on how we go about protecting our natural resources.

I am glad to have an opportunity to discuss the language that I introduced along with Messrs. GALLEGLY, BILBRAY and several other California Coastal Members. I especially want to give my thanks to Mr. GALLEGLY for his hard work and efforts to get this legislation on the floor today. Unfortunately, in the hoopla of the moment I can not forget that this bill is destined to be vetoed.

Madam Speaker, the purpose of the Rocks and Islands Wilderness Act is to recognize the ecological significance of the tens of thousands of small rocks, islands and pinnacles off the California coast, by designating them as part of the National Wilderness Preservation System.

These small islands and rocks provide important resting sites for California sea lions, Steller's sea lions, elephant seals and harbor seals, as well as providing a narrow flight lane in the Pacific Flyway. An estimated 200,000 breeding seabirds of 13 different species use these rocks and islands for feeding, perching, nesting and shelter. Birds that use these areas include three threatened and endangered species; the brown pelican, the least tern and the peregrine falcon.

The Wilderness designation afforded by this act would apply to all rocks, islands and pinnacles off the California coast from the Oregon border to the United States-Mexico border, land that is currently under the jurisdiction of the Bureau of Land Management (BLM). This includes nearly all of the federally-owned lands above the mean high tide and within 3 geographical miles off the coast.

The designation would afford the highest protected status and highlight the ecological importance of all of the small rocks, islands and pinnacles off the California coast, which together comprise approximately 7,000 acres. Adding these areas would also further the Wilderness Act's goal of including unique, ecologically representative areas to the System.

Rocks and islands which are already patented or reserved for marine navigational aids, national monuments, or State parks will not be affected by the legislation.

Madam Speaker, this is a good, straight-forward, noncontroversial proposal that protects a unique array of California ecosystems. Unfortunately it is coupled here with many questionable ones that threaten our precious parks and public lands. This omnibus bill is unacceptable in its current form, despite containing a number of worthwhile measures. Regrettably then, I must ask my colleagues to reject this bill but to continue to fight for the good measures that it contains. We must work together to protect our natural heritage so that we can leave a truly worthy legacy to our children and to future generations.

Mr. HALL of Ohio. Madam Speaker, I urge a "no" vote on the rule.

I have no further requests for time, and I yield back the balance of my time.

Mr. McINNIS. Madam Speaker, I urge a "yes" vote on the rule.

Madam Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mrs. EMERSON). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HALL of Ohio. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 225, nays 198, not voting 11, as follows:

[Roll No. 488]

YEAS—225

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Deal
DeLay
Diaz-Balart
Dickey
Dingell
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox

Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Stupak
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NAYS—198

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Gejdenson
Gephardt
Gonzalez
Goode
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—11

Davis (VA)
Furse
Gilman
Kennedy (MA)
Kennelly
LaFalce
McCrery
Poshard
Pryce (OH)
Serrano
Weldon (PA)

□ 1335

Ms. MCCARTHY of Missouri and Ms. MCKINNEY changed their vote from "yea" to "nay."

Mrs. MORELLA and Mr. LEACH changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. UPTON). Pursuant to House Resolution 573 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4570.

The Chair designates the gentleman from Ohio (Mr. NEY) as chairman of the Committee of the Whole, and requests the gentlewoman from Missouri (Mrs. EMERSON) to assume the chair temporarily.

□ 1338

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4570) to provide for certain boundary adjustments and conveyances involving public lands, to establish and improve the management of certain heritage areas, historic areas, national parks, wild and scenic rivers, and national trails, to protect communities by reducing hazardous fuels levels on public lands, and for other purposes, with Mrs. EMERSON (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Utah (Mr. HANSEN) and the gentleman from California (Mr. MILLER) each will control 30 minutes.

Mr. MILLER of California. Madam Chairman, I ask unanimous consent that the gentleman from New York (Mr. BOEHLERT) be allowed to control 10 minutes of the 30 minutes allotted to me.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

Mr. HANSEN. Madam Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

PARLIAMENTARY INQUIRY

Mr. BOEHLERT. Parliamentary inquiry, Madam Chairman. May I get a clarification?

The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. BOEHLERT. The request from the gentleman from California (Mr. MILLER) was that 10 minutes of his time, Mr. MILLER's time, be controlled by this Member.

Is that correct?

The CHAIRMAN pro tempore. That is correct, time which Mr. MILLER has yielded to you.

Mr. HANSEN. I withdraw my objection, Madam Chairman.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, it is a great pleasure today that I rise in support of H.R. 4570, the Omnibus National Park and Public Lands Act of 1998. This is an outstanding bill that addresses a variety of important concerns, and national parks, wild and scenic rivers, heritage areas, national forests and other public lands. This bill is the result of a number of resource-related bills, most of which have already gone through individual areas and followed the legislative process. Numerous Members of Congress are to be commended and congratulated for their hard work on the single parts of this bill which together make a landmark piece of legislation. In fact an impressive 67 individual Members of Congress, both Republican and Democrat, introduced legislation that is now part of this bill.

This is a far-reaching bipartisan omnibus bill, accomplishes many goals and addresses a multitude of public lands concerns to ensure that America's cherished parks and public lands, many of them national treasures, are protected, expanded and improved. It also creates new and important historic sites, heritage areas and wilderness areas so the American public can enjoy, benefit and use these extraordinarily natural and historic resources.

Furthermore, the superb natural and significant and historic areas that the omnibus bill protects and creates span the breadth of this great country of ours. In fact, it deals with resource issues and areas in 36 separate States, from wild and scenic rivers of Massachusetts, creating wilderness areas in California; from a national recreation area, to Georgia, to Midway Island, far from the Pacific Ocean and from the Everglades of Florida to Mt. St. Helens in the State of Washington.

Madam Chairman, this is a work of a lot of compromise. We have compromised this thing from a number of areas. During the debate regarding the rule I talked about the most controversial thing, the San Rafael swell bill which was basically just protecting big horn sheep. I cannot imagine why anyone is against big horn sheep, but apparently a lot of folks on this floor are in America, and there is a couple of other minor ones. Other than that, this is almost an agreed-on piece of legislation, and I would hope that the Members would look at this and see what the good things it does for America.

Let us not be legislating by polls and political pundits. Let us legislate on what is right for America and not to be concerned about getting 20 phone calls in the office.

Madam Chairman, it is with great pleasure that I rise today in support of H.R. 4570, the Omnibus National Parks and Public Lands Act of 1998. This is an outstanding bill that addresses a variety of important concerns in National Parks, wild and scenic rivers, heritage areas, National Forests, and other public lands. This bill is the result of a number of resource related bills, most of which have already gone through individual hearings and followed the legislative process. Numerous Members of Congress are to be commended and congratulated for their hard work on the single parts of this bill which, together, make this a landmark piece of legislation. In fact, an impressive 67 individual Members of Congress, both Republican and Democrat, introduced legislation that is now part of this bill.

Madam Chairman, the far-reaching bi-partisan Omnibus Bill accomplishes many goals and addresses a multitude of public lands concerns to assure that America's cherished parks and public lands, many of them national treasures, are protected, expanded, and improved. It also creates new and important historic sites, heritage areas, and wilderness areas so that the American public can enjoy, benefit, and use these extraordinary natural and historic resources.

Furthermore, the superb natural and significant historic areas that the Omnibus Bill protects and creates, span the breadth of this great country of ours. In fact, it deals with resource issues and areas in 36 separate States—from wild and scenic rivers in Massachusetts, to creating wilderness areas in California, from a national recreation area in Georgia to Midway Island, far out in the Pacific Ocean, and from the Everglades of Florida to Mount St. Helens in the State of Washington.

Madam Chairman, allow me to point out in greater detail a few of the many provisions in the bill which will help improve and create more of our outstanding natural, historic, and cultural resources.

This bill expands the boundary of the boyhood home of one of our country's greatest presidents, Abraham Lincoln. It authorizes the inclusion of the Knob Creek Farm into the Lincoln Birthplace National Historic Site. This is the farm where Lincoln spent much of his childhood and still retains its great historic significance.

Likewise, this bill modifies and expands the boundaries of the birthplace of our country's first president, George Washington. It expands the current boundary of the National Monument to include an area known as Ferry Farm located on the banks of the beautiful Rappahannock River. This area is highly prized because of the cultural and natural resources associated with the boyhood home of George Washington and is thought to be the place where George Washington chopped down the well-known cherry tree.

The Omnibus Parks bill enhances the management and public enjoyment of a number of National Heritage Areas including the Delaware and Lehigh National Heritage Corridor in Pennsylvania, the Blackstone River Valley National Heritage Corridor which flows through Massachusetts and Rhode Island, and the Illinois and Michigan National Heritage Corridor. Moreover, it creates a new Heritage Area in Michigan, the Automobile National Heritage Area, so the public can celebrate and enjoy the important resources related to the industrial and cultural heritage of the automotive industry, an industry that, without doubt, has touched every single American in a variety of ways.

This bill provides new opportunities for Americans to visit new historic areas around the country such as the Thomas Cole National Historic Site in the state of New York. Thomas Cole is an extremely important American artist and founded the Hudson River school of art, an important cultural movement with great significance to the beginning of the conservation movement in the United States.

Moreover, it authorizes the addition of the Paoli Battlefield to the Valley Forge National Historic Park. Paoli Battlefield, located in Pennsylvania, is the site of a very important Revolutionary War battle which became a rallying cry for many of the soldiers and citizens alike during the American Revolution.

Other historic sites are established by this bill, as well. For example, in Arizona the Casa Malpais National Historic Landmark would become an affiliated site of the National Park System. This site is an amazing archaeological pueblo ruin once occupied by the Mongollon culture 700 years ago and includes a number of impressive features such as a Great Kiva complex, stairways, wall fortifications, catacombs, and sacred chambers.

Turning to more recent times, the Omnibus Bill establishes the Lower East Side Tenement National Historic Site in New York City also as an affiliated site of the National Park Service. The Lower East Side Tenement, built in the mid-1860s, is the first tenement in the Nation to be preserved as a historic site and represents a unique opportunity for the public to interpret this rich cultural heritage which has contributed to the very fabric of America.

H.R. 4570 authorizes construction of the Gateway Visitor Center at Independence National Historical Park in Philadelphia, home to many of our country's most cherished treasures such as Carpenter's Hall, Independence Hall, and the Liberty Bell. This ensures, that for years to come, visitors will have an enjoyable and educational experience on some of our most revered land in the United States.

H.R. 4570 establishes the Tuskegee Airmen National Historic Site as a unit of the National Park System in the State of Alabama. This site will commemorate and interpret the heroic efforts made by the Tuskegee Airmen during World War II through the development and management of the Tuskegee Airmen National Center. Furthermore, this bill establishes the Little Rock Central High School as a National Historic Site. As many people know, Little Rock Central High School played a prominent role in the struggle for civil rights and served as an example and a catalyst for the integration of public schools across the country. Establishment of this historic site would recognize this great achievement and the evolution of the civil rights movement in the United States.

Madam Chairman, the Omnibus Parks Bill also provides for the expansion of a number of national park units like that of the spectacular Arches National Park in my beautiful home state of Utah. This spectacular park contains one of the largest concentrations of natural stone arches in the world, and numerous geologic features such as spires, pinnacles, pedestals, and balanced rocks. Another park unit expands by authorizing the acquisition of a parcel of property for the Morristown National Historical Park in New Jersey. This property was the strategically located winter headquarters of General George Washington during the winter of 1779–1780. And it expands the Chattahoochee River National Recreation which will increase protection and visitor enjoyment of the river, by adding land-based links between current units of the national recreation area. This addition is a prime example of a public/private initiative to preserve and protect one of our Nation's most popular recreation areas.

Importantly, Madam Chairman, this bill would reauthorize the Historic Preservation Fund created by the Historic Preservation Act. This fund is a very significant component for the preservation of the vast array of prehistoric and historic resources across this Nation. There are a number of worthwhile programs that are associated with this Fund including two types of grants which support the administrative functions of the State Historic Preservation Office and also support the "bricks and mortar" preservation and rehabilitation of important historic properties.

H.R. 4570 establishes the National Discovery Trails System and designates the first such trail as the "American Discovery Trail". These trails would be continuous interstate trails located to provide quality outdoor recreation and travel connecting the Nation's metropolitan, urban, rural, and back country regions. The American Discovery Trail would extend 6,000 miles from Delaware across the United States to the coast of California. Provisions are also included in this section that provide needed protection and notification for private property owners. This will ensure both public enjoyment of the trails and protection of the private property owner.

In addition H.R. 4570 establishes the country's newest wild and scenic river system in the state of Massachusetts. It designates four beautiful segments of the Sudbury, Assabet and Concord Rivers to the National Wild and Scenic River System. This will guarantee the protection and conservation of these spectacular rivers, so that the public can continue to enjoy the recreational opportunities these rivers have to offer.

Madam Chairman, this bill resolves a very important issue that has been ongoing in the state of Utah for a number of years. When Utah was granted statehood, the Federal Government designated scattered sections throughout the State as school trust land. These parcels were to be sold or developed, and the revenue was to go into a trust fund for the school children of Utah. Over the years, however, the Federal Government created several National Parks, National Monuments, and Indian Reservations that surrounded hundreds of these school sections, essentially making them undevelopable and nontransferable. Since it became almost impossible for the State to derive any economical use from these lands, the school trust has suffered greatly. This section would trade these lands out of Parks, Monuments and Reservations for economically developable lands elsewhere in the State, greatly benefiting the school children of Utah. Like many others, this provision is supported by the State of Utah, environmental groups, and the Administration.

Madam Chairman, I have just given a more detailed description on only a few of the many, many things that this bill will accomplish. In addition to items I mentioned, H.R. 4570 will establish a hazardous fuels reduction program, settle property rights issues, authorize construction of memorials to great leaders like Mahatma Gandhi and great men of science life Benjamin Bannecker, convey a number of federal reclamation projects to local irrigation districts, establish a cave and karst institute, create wilderness areas, and authorize a number of provisions for the people of Alaska.

Simply put Madam Chairman, this is a very important and comprehensive natural resource bill that represents many single pieces of legislation by nearly 70 individual Members of Congress in both parties over 36 separate States. The Administration is in full support of most of the sections of this bill. Moreover, many of the provisions of this bill have been reported by the Full Committee and many others passed the House or the Senate. H.R. 4570 will greatly benefit our National Park System by expanding units, creating others, and constructing new facilities. We have the opportunity to enhance and strengthen our commitment to historic and cultural preservation and protecting many other natural resources that make this country the most beautiful in the world.

Madam Chairman, I have spent a number of years proudly representing the people of Utah in this House. I have seen many pieces of legislation dealing with national parks and natural resources in my years of service. Very rarely, however, does bi-partisan legislation that does so much, for the benefit of so many people, in so many different States come along. This is one such bill which shows that we here in the Congress are truly committed to ensure that our national parks and natural resources are protected for now and for future generations. I strongly urge my colleagues to support H.R. 4570.

Madam Chairman, I reserve the balance of my time.

Mr. MILLER of California. Madam Chairman, I yield myself 1 minute, and I rise in strong opposition to this legislation. The supporters of this legislation have been promoting it as noncontroversial, bipartisan initiative that is good for the environment. It simply is not true. It is misrepresentation of what is in this legislation. This is a very bad environmental bill with some noncontroversial items in it to try to provide the camouflage so the Members will pass this legislation. But let us make it very clear from the beginning: the administration opposes this legislation, the major environmental groups in this country oppose this legislation, The League of Conservation Voters oppose this legislation, and this legislation ought to be rejected.

□ 1345

Yes, we can do a major parks bill at the end of this session, but we must do it based upon noncontroversial measures with bipartisan support. It is said that this legislation has bipartisan support. Let us also understand that it has strong bipartisan opposition to this matter. Why? Because many of these measures have not gone through committee. They have not received hearings. They have been brought up at the last minute in spite of the fact that we have had an awful lot of time in this Congress to deal with these kinds of items. Because it also contains some very contentious measures that, if brought out here on their own, would simply not pass, and that is why they are put in this legislation to see whether or not, in fact, they can package a bill that would be passed.

We ought to take the packaging off this legislation and understand exactly what it is, and that is that it is a very bad bill for the environment and without support either in the House or in the Senate.

Mr. BOEHLERT. Madam Chairman, I reserve the balance of my time.

Mr. HANSEN. Madam Chairman, I yield 1 minute to the gentleman from New Mexico (Mr. REDMOND).

Mr. REDMOND. Madam Chairman, I rise today in support of H.R. 4570. As a Member from a State that is home to sweeping vistas, lush forests, and the largest volcanic caldera in North America, I understand the importance of our maintaining our historic national treasures.

H.R. 4570 will address a variety of public lands issues and concerns, including the authorization of the purchase of 900 acres of expansion of the Bandelier National Monument in New Mexico, one of the oldest national monuments in the United States.

This language represents one of the Park Service's highest priorities and will allow them to fulfill a long goal and acquire the Alamo Headwaters, protect the watershed from any upstream contamination.

I want to express my heartfelt, sincere appreciation to the gentleman from Utah (Mr. HANSEN) for bringing this bill to the floor. The State of New Mexico and most of the United States, as a whole, stands to benefit tremendously from H.R. 4570, and if it had not been for the wise guidance and careful attention to these issues of the gentleman from Utah (Mr. HANSEN), we would not be in this comprehensive conservation legislation today.

Mr. BOEHLERT. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I rise in strong opposition to this bill, and I must say I have plenty of company. The bill is opposed by every environmental group and by Taxpayers for Common Sense. The League of Conservation Voters will score it. The administration will veto it.

Why all this opposition? Is it just the natural negativity or orneriness of these groups? I am afraid not. They are against the bill because it will set bad public policy. The bill would weaken protection for wilderness areas, and it would remove 74,000 acres from wilderness protection, 74,000 acres that President Bush said merited that protection.

The bill would waive normal environmental review for a controversial road in Alaska, a road that is controversial, not just in Congress, but Alaska itself, where Native communities, among others, oppose it.

The bill would make it hard to get discovery trails approved by setting new bureaucratic hurdles. The bill would create new incentives to cut trees in national forests and would create new special funds within the Forest Service at a time when we are trying to remove such incentives and clean up Forest Service accounting.

The bill would transfer Federal property to the private sector in a way that would weaken environmental protection and deny the Nation's taxpayers the ability to recoup the full value of the Federal investment.

Those are just the most significant bad policies that would be established by this bill. It was totally unnecessary to include these provisions in the bill.

The bulk of this bill consists of noncontroversial projects throughout the entire country. The committee could have brought these projects to the floor individually or collectively under the Suspension Calendar. It chose not to do so. It chose, instead, to hold perfectly good projects hostage so it could attempt to jam through the Congress bad policies that do not have a prayer of passing independently. In fact, some of those bad policies have not even been approved by the Committee on Resources itself.

So I urge my colleagues to vote against this bill, not only to reject the bad policies, policies a wide majority of Members would oppose if they came up individually, but also to reject bad process.

We are faced with a bill that was deliberately constructed to win support for policies that Members oppose. That is not a fair process. We are faced with a bill that did not go through normal committee review. That is not a fair process.

We are faced with a bill that could not be fairly negotiated because its key provisions were labeled nonnegotiable. That is not a fair process. We are faced with a bill on which negotiations had been repeatedly mischaracterized. That is not a fair process.

We are faced with a bill whose primary point is to put one wing of the Republican party at the mercy of another wing of the Republican Party. That is not a fair process.

So, again, I urge my colleagues to vote down this bill even if it contains your own project. That is, unfortunately, the only way to stop these bad policies and bad processes. My colleagues will not be giving up much because the bill is not going anywhere anyway.

Let us vote down this bill in order to protect the environment and to protect the taxpayer, and let us vote down this bill to prove that we will not stand for being held hostage.

Madam Chairman, I reserve the balance of my time.

Mr. MILLER of California. Madam Chairman, I yield 2 minutes to the gentlewoman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Madam Chairman, I rise today in opposition to this poorly conceived, hastily prepared anti-environmental legislation. This legislation, as has been noted, has attracted the opposition of the administration, the environmental groups, and even such newspapers as the Washington Post and Los Angeles Times.

Even though I know the gentleman from Utah will be offering an amendment in the nature of a substitute, it still falls far short.

This legislation does not set sound environmental policies. It sets them on the track in the wrong direction at a time when Americans see the environment as a top priority. This legislation turns a blind eye to the demand of our constituents.

For example, in Colorado, a recent statewide poll indicates that an overwhelming number of Coloradans, almost 70 percent across the State, Democrats, Republicans, and Independents, support wilderness designation for over a million acres currently being managed by the Bureau of Land Management.

This astounding level of support is throughout the State, across party lines. But, instead, what this Congress intends to do, instead of listening to voters like that, is to pass a bill that contains provisions such as taxpayers paying for increased clear-cutting and livestock grazing in national forests.

It takes wilderness study area in the San Rafael Swell in Utah and terminates it for 125,000 acres. It creates a new provision for the National Park Service which prohibits the Service from removing inappropriate commercial buildings to protect park values, and on and on.

Are these rollback of environmental protections the legacy we want to leave for future generations? I do not. As somebody who represents a State that is well known for its natural beauty, I will do everything I can to make sure we defeat ill-conceived legislation of this nature.

Mr. BOEHLERT. Madam Chairman, I yield 2½ minutes to the gentleman from Alaska (Mr. YOUNG), chairman of the Committee on Resources.

Mr. YOUNG of Alaska. Madam Chairman, for those that are saying this is a nonenvironmental bill, and also the gentleman from New York (Mr. BOEHLERT) said that all environmental groups are against it, I would like it to say also that, yes, they are, because they have told people, and I have got confirmation of this, that they are just going to show the Congress how strong they are. Because I asked them specifically what was wrong with this bill. They could not give me an answer.

Yes, they brought up the Chugach Road. But remember, Madam Chairman, my colleagues voted on this. It was voted on in this House; and I won, and my colleagues lost. We won that by 250 votes. Think about that a moment. We bring this up as an issue. They did not like the results, so now they are saying this is a bad bill.

This is already law. We should pass it. It will be signed in law, the President will sign it, and that road will be built. But think about all those proposals in this package that said they were not hurt.

By the way, the gentleman from California (Mr. MILLER) is not here, but the bill of the gentleman from California (Mr. MILLER) is in here, and we did not hear anything about his bill, and he wanted it.

The gentleman from Pennsylvania (Mr. MCHALE) came to me and said this is a good bill. We looked at it, and he wants it. Let us see.

Oh, by the way, the gentleman from Arkansas (Mr. SNYDER), the gentleman from Connecticut (Mr. MALONEY). The gentleman from Connecticut (Mr. MALONEY), that is interesting. The gentleman from Massachusetts (Mr. MOAKLEY). Let us go down the line here a ways. There is the gentlewoman from Hawaii (Mrs. MINK). I can go on down. No hearings.

But we reviewed these, and they were good pieces of legislation, and I happen to have the belief that this is a representative form of government. If someone thinks this is right for the district, they have to live with it.

Now to have the environmental communities come out and say that this is bad environmental legislation, this is a disservice. It goes to show us how far the environmental community has gone in the United States. They are zealots. They think nothing of the people that live in those districts, nor the Representatives that represent them.

I am terribly disappointed. In the rule I mentioned that those of us that have legislation in this bill and, in fact, do not vote for this bill, do not come to me next year and say, "I need this." Think about it a moment. My colleagues asked for this. Now they say it is bad because they say there are wrong things in it.

I will say this to the gentleman from New York. I said before he ought to be ashamed, because the gentleman from Utah (Mr. HANSEN) worked very hard with him all through this last 2 years trying to reach a solution. The gentleman from Utah has given, and he gave more than I would have ever given. San Rafael I never would have given up, but he did trying to reach the compromise.

Now to have opposition because certain interest groups call my colleagues on the phone and say this is a bad piece of legislation, my, God, when are they going to start thinking for themselves? It is time to start thinking about America and the people and not some interest group that has a bill around this highway. I am ashamed of those people that respond to those.

Mr. BOEHLERT. Madam Chairman, I yield myself 30 seconds to point out to my distinguished colleague, the gentleman from Alaska, that some of those calls I have received are long distance from Alaska from people up there who are vitally concerned for the environment.

Secondly, I would point out that I hope we do have good memories. Thirty-five Republicans voted on that Chugach measure. We had the Black Caucus which initially supported the position of the gentleman from Alaska (Mr. YOUNG), but upon serious reflection have issued a statement that they are opposed to it.

Madam Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. GREENWOOD).

Mr. GREENWOOD. Madam Chairman, I rise to oppose the bill, and I do so filled with regret, because the gentleman from Utah is a gentleman. He is a friend.

He called me a couple of weeks ago and asked me if I would help him negotiate this bill, and the reason he called me is that one of the roles that has been assigned to me by the majority leader has been to try to build bridges between Republicans, Republicans who some of us come from the Northeast and have one orientation with regard to the environment, and some of our colleagues from the West and other parts of the country who have different perspectives.

The process that we have tried to establish to do that is to say, if the goal is to make law, then that should be an easy process, because if this President is going to sign a bill, and if the goal is to get him to sign the bill, then we can certainly work out our differences.

We tried that. I gave my staff the assignment to spend an awful lot of time on this measure. It did not work. We could not get the bill anywhere close in these negotiations to where it could be signed into law.

If we had, we would have come out here, and the gentleman from New York and I would have done what we done on other occasions. We would say this is not really what we want. We are uncomfortable with this. We are going to take some criticism from some of our environmental supporters. But it is the right thing to do. It is a compromise. We cannot have it all. But that is not what this process yielded. This process did not yield a bill that looks like it has a prayer to become law.

So the question then becomes what is the point of going through this exercise? Is it simply a test of egos? Is it a test of strength? Is it done for political purposes? That is not why I came to Washington. I came to legislate. Legislating means we compromise, we give up the battle one day to fight it on another day. Maybe we can still do that.

I address my remarks to my friend, the gentleman from Utah. Maybe before this session is over miraculously in the little time that remains, we can do that.

□ 1400

But we are not there yet, and as a matter of honor, I cannot support the gentleman today.

Mr. MILLER of California. Madam Chairman, I yield 3 minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Madam Chairman, as the New York Times has rightly editorialized, "Since sweeping into Washington in 1995, the Contract-With-America Republicans have tried every legislative trick in the book to undermine the Nation's environmental laws."

The particular trick that elicited that assessment was the Gingrich scheme to tack on some 50 anti-environmental riders, a scheme to tack them into the appropriations bills that is still holding up appropriations bills in this Congress. It is a practice that was appropriately described as our Republican friends "mugging the environment."

Well, today we have something a little different. In this omnibus parks bill, we have another legislative trick. In fact, I guess in eager anticipation of Halloween, we have both trick and treat in this bill. The only problem is that the tricks are all in there for the taxpayer, and the treats are there for those who want to exploit the environment and particularly to exploit publicly-owned resources.

Madam Chairman, this bill is a trick because it takes dozens of anti-environmental bills, stirs them all together in a big old legislative cauldron, including a few Democratic proposals that are good, which are sprinkled in there to give this measure a nice touch, as was just described by the honorable chair of our Committee on Resources. This whole mess of a parks bill, seems to have everything in that cauldron but "eye of Newt." And if one looks real closely, one will see not only the eye, but the hand of Newt, the same hand that was out there trying to mug the environment in the appropriations bills.

What does this bill do? Well, it is appropriately called an omnibus bill because it has near omnibus opposition. It has brought together those deeply concerned with protecting our national resources, with protecting our air and our water, protecting our environment; it has brought them together with groups that are aware that we ought not to waste our taxpayer resources. If the taxpayers have paid for these resources, if these are public resources, they ought not to be quickly given away to those that wish to exploit them. So we find both environmental groups and Taxpayers for Common Sense coming together to oppose in an omnibus way this omnibus, awful bill.

What all does the bill do? What is its theme? In short, where there are national forests, clear-out them. Where there are pristine wetlands, build on them. Where there is a public reservoir, give it away to someone.

This bill is a Frankenstein's monster of bad ideas. It contains loopholes, exemptions, corporate welfare. The Republicans, with the exception of a few, who have had the courage to stand up here today and oppose it, the Gingrich leadership has sewn all this mess together, and they hope to shock it back to life, just prior to Halloween, here on the House floor. It should be rejected.

Mr. HANSEN. Madam Chairman, I yield 2 minutes to the distinguished gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Madam Chairman, without any recriminations towards any of my colleagues, I recognize there are strong feelings on this, but today the House has an opportunity to make significant progress in moving forward to address a number of important issues and opportunities with regard to the national parks and the public lands. This is a good bill.

I want to commend my good friend, the gentleman from Utah (Mr. HANSEN), chairman of the subcommittee, for the outstanding job that he has done in going forward on this matter. I also want to commend my old friend, the chairman of the committee, the gentleman from Alaska (Mr. YOUNG) with whom I worked for many years as members of the Subcommittee on Fisheries and Wildlife Conservation on the old Committee on Merchant Marine and Fisheries. There we passed enormous progress in the area of wildlife conservation and the environment. Those were good bills then, and the gentleman from Utah and the distinguished chairman of the committee have carried forward that tradition.

The gentleman from Utah has been very busy the last few days trying to address the concerns, many of which are legitimate, of Members on this side, and members of the environmental community.

The way legislation is achieved is not simply by saying, no, we are not going to pass this. It is by passing this legislation, working together, continuing the dialogue, and moving forward to achieve the necessary compromises that can put together a bill that will ultimately pass the Senate and go to the White House. Today we have the simple opportunity of moving forward on a piece of legislation, or of saying, no, we are not going to.

The gentleman from Utah has done a superb job, and I want to salute him. I will tell him and tell my colleagues that there is a provision in here which will benefit enormously the people of the 16th District in the State of Michigan and those who work in and are dependent upon the auto industry by creating an auto heritage area, which is very, very important to us in Michigan in terms of remembering our history and in terms of celebrating what we in Michigan, and we who are part of the auto industry, have done to make this a greater country.

I would urge my colleagues to approach it in that light; to recognize that while there may be imperfections in this bill, it is a good bill. It is a bill which is good for the country. It is a bill which makes progress. It is a bill which saves and preserves and protects important areas and values, and it is a bill which keeps in mind the great traditions of this country in terms of protecting its heritage, its traditions, its important areas, and its environment.

I urge my colleagues to support the hand of the distinguished gentleman from Utah, the distinguished gentleman from Alaska, and the others who have worked on this. There may be problems, but they are problems which are resolvable in the spirit of goodwill, and I urge my colleagues to approach it in that way.

Mr. BOEHLERT. Madam Chairman, I yield 1 minute to the gentleman from Delaware (Mr. CASTLE), the former Governor.

Mr. CASTLE. Madam Chairman, I thank the gentleman for yielding, and I rise in reluctant, but strong, opposition to this legislation.

It is this simple. We are down to the last few days of this session of the Congress, we are going to go out of session in 3 days or so, and in this time we are going to find a lot of legislation which comes forward which has not gone through the entire committee process, sometimes not even the subcommittee process, and it is too bad in this case, because this is a very good piece of legislation, if we just took certain portions of it. Somebody said as much as 90 percent of it is actually very good, and frankly, I would not be opposed to that at all.

But the bottom line is that there is enough in it to bring it down that the Senate will probably not act on it. The White House will probably veto it if it came there. It has not gone through committee, and it has certain flaws in it which I think are fundamental in terms of protecting the environment of this country.

It would remove areas from wilderness protection that should not be removed from wilderness protection; it would set new and weaker guidelines for such wilderness protection; it would waive normal environmental reviews for a road across world-famous salmon streams; it would create new barriers to the creation of discovery trails, something which is very important; and it would create new incentives to cut trees in national forests and transfer Federal property in a manner that endangers the environment and cheats taxpayers.

The time has come to get a good environmental agenda that we can all agree on. Unfortunately, this bill does not quite reach it. I urge opposition to the bill.

Mr. MILLER of California. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Chairman, I rise today in opposition to H.R. 4570, the omnibus parks bill. I would like to see a park bill. I would like to see one that we can support across party lines and across environmental and nonenvironmental lines, because our parks are absolutely the treasures of our Nation.

These are the lands that we as individuals have to protect and treasure so that our children will have lands that they can appreciate also. And this bill would threaten these treasures, threaten them by putting the Channel Island National Park, the Cumberland Island National Seashore, and the C&O Canal up for sale.

H.R. 4570 would also accelerate timber harvesting on Federal land and provide a $150 million subsidy to the timber industry for logging on what the Republicans call overgrown forestlands.

This bill would also build a road without environmental review through the wetlands of Alaska's Chugach National Forest.

I would like to see an omnibus parks bill, I would like to see one passed this year, but I want to see one that has significant bipartisan input and fair representation. Sixteen Democratic issues or measures out of almost 100 is not fair representation, no matter how one adds it up.

I urge my colleagues to oppose this bill, and I urge the majority on the Committee on Resources to work with the Democrats and with the environmentalists in their caucus so that we can have a bill that we can pass.

Mr. HANSEN. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. WELLER).

Mr. WELLER. Mr. Chairman, I rise in support of the omnibus parks bill because it is a good environmental bill, and it is good for Illinois. I particularly want to thank the gentleman from Utah (Mr. HANSEN) for including a provision in this legislation, a bipartisan provision that has been sought by the gentleman from Illinois, (Mr. LIPINSKI), my friend, and myself which would extend the Commission of the Illinois and Michigan Canal Heritage Corridor for 5 more years.

The Illinois and Michigan Canal Heritage Corridor was established by legislation sponsored by my political mentor, former Congressman Tom Corcoran, in 1984 and expires in the coming year.

This legislation established the first heritage area in the Nation which was established to protect, interpret and preserve historical and cultural resources and to promote recreational activity. The corridor served as a model for the numerous other heritage areas that have since been created. This particular heritage area stretches from the city of Chicago 100 miles west from the district I represent to LaSalle/Peru.

The I&M Canal is home to numerous prairie reserves, hiking trails and parks. Visitors can see a pioneer settlement in Lockport, a nature center in Joliet, the Aux Sable Aqueduct, or a historic courthouse in my hometown of Morris. If that is not enough, one can visit the first site of the famous Lincoln-Douglas debates in Ottawa.

The I&M Canal tells the story of early canal towns and early American culture. It tells the story of the friendship between the Potawatomi Indians and new settlers. The canal provided farmers access to new markets, and was instrumental in the development of the industrial revolution, and contributed to the development of one of the world's greatest cities, Chicago. This heritage area is so rich with culture, history, and national resources.

Mr. Chairman, I want to point out that this initiative is bipartisan, cosponsored by my friend from Illinois (Mr. LIPINSKI) and myself, and would extend the Illinois and Michigan Canal Heritage Corridor Commission for another 5 years. Otherwise, it will expire in this coming year. It is a national treasure. We must extend it.

I want to ask my colleagues to join everyone in a bipartisan effort to help Illinois.

Again, I want to thank the chairman of the subcommittee for his leadership and friendship and also for including something that is important to Illinois in this important legislation.

Mr. BOEHLERT. Mr. Chairman, how much time is remaining?

The CHAIRMAN. The gentleman from New York (Mr. BOEHLERT) has 2½ minutes; the gentleman from Utah (Mr. HANSEN) has 20 minutes remaining; and the gentleman from California (Mr. MILLER) has 12 minutes remaining.

Mr. BOEHLERT. Mr. Chairman, I reserve the balance of my time.

Mr. MILLER of California. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. HINCHEY).

Mr. HINCHEY. Mr. Chairman, this is a very important bill. In one sense I am opposed to it with some reluctance, because I know that my good friend, the chairman of the subcommittee, the gentleman from Utah (Mr. HANSEN), has spent a great deal of time working on this legislation, and I think that he has truly made an effort to accommodate a number of people and their interests and ideas in this legislation.

In many ways the bill contains a number of very good provisions. For that reason I am somewhat reluctant to oppose it. But when one looks at the bill carefully, one finds that overwhelmingly, too many of the provisions are simply unacceptable.

I will just mention a couple. On the issue of the San Rafael, for example, this is a separate bill, and it is treated in this legislation in some unusual ways. It provides some very unorthodox and unusual ways of managing public land. In addition to that, it reduces the acreage of lands that are eligible for wilderness designation, and I think that that is a big mistake. It fails to give Federal agencies the water that they would need to meet their land management goals.

□ 1415

Then they cannot manage the land properly, if we do not allow them to have the water they need in these arid areas to accomplish that objective.

It gives unusual management authority over nationally-owned land to local officials. This, of course, would be establishing a very dangerous and a very wrong precedent. It creates a strong possibility that sensitive areas would be open to vehicle use. These are areas that should be closed to vehicle use in order to protect wildlife and the land itself. People go out on these areas, but they ought not to go out there with vehicles that are going to wreak havoc with the wildlife and ruin the land.

Another provision of the bill deals with the American Discovery Trail. This is a piece of legislation that had broad bipartisan support. It is a top priority of hiking groups, a proposal that would benefit people from coast-to-coast, just as the Appalachian Trail has benefited people up and down the East Coast.

But there is a poison pill in this initiative as well, which would require that all adjacent property owners be notified. This would tie up all or most of the money that is allocated to accomplish the reasonable and good objectives of the bill, and, in short, it would effectively kill the trail. The trail would not come into existence.

The Chugach Road provision, we hear that this has been improved to meet the objections of the Forest Service. But that is not what the Forest Service has told us. We would, under this bill, still be granting an unregulated easement through one of the richest wildlife habitats and migratory bird flyways in the continent.

In the final analysis I think we all have to oppose this legislation, and I have just mentioned a few of the adverse provisions. We have to oppose this on the grounds that this legislation just does not make any sense, and because of that, it is opposed by virtually every environmental group, and the Taxpayers for Common Sense, as well.

Mr. HANSEN. Mr. Chairman, I yield 2 minutes to the gentleman from Nevada (Mr. GIBBONS).

Mr. GIBBONS. Mr. Chairman, I rise in strong support of H.R. 4570. Today we have an historic opportunity to enact bipartisan legislation that will not only protect but expand and improve America's cherished national parks and many of its public lands.

Since I have been in Congress, I have had the great fortune and opportunity to work with distinguished men like the chairman of the subcommittee, the gentleman from Utah (Mr. JIM HANSEN) and the chairman of the full committee, the gentleman from Alaska (Mr. DON YOUNG). Their dedication to the environment of America and sound scientific policies that govern our public lands is a tribute to this bill and to the American people who use and enjoy America's national treasures.

This bill will address a wide variety of important national parks, wild and scenic rivers, heritage areas, national forests, and many other public lands issues and concerns. This bill brings benefits to our public lands, including such items as reauthorization of the National Historic Preservation Fund, the Abraham Lincoln Birthplace National Historic Site, George Washington Birthplace National Monument, and the Little Rock Central High School National Historic Site, among others.

This bill reflects the bipartisan goals and directions of this Congress by confirming that the proper management and creation of America's parks and public lands remain a top priority for years to come.

Some in this body will demagogue. Some will come to the well and dispel the importance of this bill. They will say that this destroys our environment, and that it bodes ill will to our national parks and public lands. But I assure the Members, it does not. I would hope each of my colleagues would read this bill, and I would encourage each of them to ask questions on how it will affect our districts, Members' districts, and our constituents.

I, for one, will support this bill, because I know the benefits it brings to my constituents and the benefits it brings to America. I encourage all Members to support the passage of H.R. 4570.

Mr. HANSEN. Mr. Chairman, I yield 1 minute to the gentleman from Utah (Mr. COOK).

Mr. COOK. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of H.R. 4570, but with strong objections. We have jumbled and junked together several bills here, some good, some bad, hoping that the bad bills will be passed by the sheer momentum of the good ones.

I have always considered that a bad way to legislate, but this bill contains a land swap that gives Utah's schoolchildren hundreds of millions of dollars for their education. I voted for that bill earlier this year when it stood alone, and I am voting for this omnibus bill today, only because of that crucial money for Utah's schoolchildren.

This bill contains weak legislation which I believe is devastating to a prized natural resource also in my State, legislation that would fail on its own because it is a bad idea, legislation I have consistently opposed. I am angry and disappointed in the cynical process that ties these two bills together, and I did work, but unsuccessfully, to separate those two bills. What we are doing today is a disservice to the legislative process, but for the sake of Utah's children, I am voting for it.

Mr. MILLER of California. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Chairman, I think this bill is a disservice to those that have provisions in the bill that are noncontroversial. I think that this is advanced here, on the eve of the conclusion of this session, on the notion that somehow if we come together in an obmnibus bill, we can get this all done together. I think this is a step backwards for those provisions, as we haven't compromised or agreed to such measure.

It is being held out as a bipartisan bill, but the fact is that there has not been an effective agreement between the leadership of the Committee on Resources, and I think that 2 years ago that was possible in a polarized situation, and we were able to come together in 1996. But as I look here, we have bipartisan opposition to this today, and I think it is much stronger than the support for this bill.

Obviously, some are concerned desperately that they want to pass their legislation that is noncontroversial. I certainly sympathize with the gentleman from Utah, with the school lands problem that he just conveyed to us.

But I think in the end that this process is flawed, that it is going to result in less action by the Senate even with those House bills that are in the Senate today, and certainly the discussion and veto policy from the administration should give great pause. I think if we defeat this bill, we might actually get something done in the end, but this measure is a step backwards today.

As I quoted earlier, Otto von Bismarck said, "If you like laws and sausages, you should never watch either being made." He must have had this bill, H.R. 4570, in mind, Mr. Chairman. The legislation continues the tradition of park pork, and I might say land use pork.

Unfortunately, the legislation is not a mixture of the finest or acceptable products pending before the committee. Instead, it includes some of the worst, with a few rancid proposals that would give the American people and our public lands system more than just a little stomachache. This sets in place precedents that are going to bother us for a long time. It is an affront to the taxpayers of this country in the way that we manage the public lands, give away communication sites, provide for new definitions of logging without laws. It is a return to the thrilling days of the 104th Congress and the antienvironmental message that came from it.

H.R. 4570 is indeed the leftovers from the anti-enviromental last Congress. Under this legislation wilderness lands will be opened to motorized use, logging of our national forests will be accelerated with increased federal subsidies for the logging industry and important federal lands and sites will be sold to private interests. Frustrated by the public outcry and opposition to their proposals in the last Congress, the majority party, in the waning days of this Congress, is seeking to slip through their ill conceived pet projects in this bill and the 50 riders that have been added to the appropriations measures. These proposals should be rejected.

H.R. 4570 is death by a thousand cuts of many of our most important federal land management laws. The legislation establishes exemptions for wilderness that will be carried forward into future actions creating precedent and changes that will be repeated over and over again to the detrement of the environment. It undermines the basic review process for the National Environmental Policy Act in order to accelerate logging.

Perhaps most importantly, this bill calls into question the basic issue of to whom do our national forests and public lands belong. The American public and past Congresses have acted under the core belief that these lands belong to the American people and that with these lands there is a trust responsibility to pass them on to future generations in at least as good a condition as we received them. This legislation turns that belief on its head. Instead the bill turns our national lands over to the highest bidder through timber sales, the transfer of federal reclamation projects to private interests and the sale of federal lands and historic sites.

Mr. Chairman, the American people spoke loud and clear in outrage to the anti-environmental agenda in the 104th Congress. Their views remain as strong today. I urge my colleagues to reject this anti-environmental proposal.

DEPARTMENT OF AGRICULTURE,
Washington, DC, October 7, 1998.
Hon. GEORGE MILLER,
Ranking Democratic Member, Committee on Resources, U.S. House of Representatives, Washington, DC.

DEAR GEORGE: Several provisions of H.R. 4570, the Omnibus National Parks and Public Lands Act of 1998, would give away or exchange National Forest System lands without adequate compensation to the public. Moreover, the bill contains at least two very controversial forest management provisions that would inappropriately legislate a road easement over environmentally sensitive Alaskan lands and accelerate timber harvesting through an improper application of alternative arrangements for the environmental review process under the National Environmental Policy Act (NEPA). While the Department of Agriculture (USDA) supports some provisions in the bill, the number of objectionable provisions far outweigh them; therefore, I would join the President's senior advisors in recommending that the President veto this legislation if it were submitted to him in its current form.

Regarding section 1009, East Texas blowdown-NEPA Parity, of Title X, Miscellaneous Provisions, the Administration believes that the procedures it follows for alternative NEPA compliance processes to mitigate true natural resource emergencies are more than adequate. USDA strongly opposes expanding the use of these alternative NEPA processes to non-emergency activities, such as the large majority of timber salvage sales.

Section 1432, Easement for Chugach Alaska Corporation, of Title XIV, Provisions Specific to Alaska, legislates an easement for construction of a road across the Chugach National Forest, Near Cordova, Alaska. I have previously stated that I would recommend a veto of earlier versions of this legislation because they give away much more public land, without compensating taxpayers, than necessary to build the road. In addition, they provide the native corporation the opportunity to construct facilities, such as gas stations and restaurants, in an extraordinarily environmentally sensitive area managed solely for wildlife and fish. The Forest Service and the native corporation agreed in 1982 on the terms and conditions of this road easement, including not allowing commercialization along this easement. Therefore, any legislation concerning this easement is neither appropriate nor necessary.

The Administration also strongly objects to section 105, Wasatch-Cache National Forest and Mount Naomi Wilderness, Utah, of Title I, Boundary Adjustment and Related Conveyances; and sections 231, Authorization of use of National Forest lands for public school purposes, and 251, Conveyance, Camp Owen and related parcels, Kern County California, of Title II, Other Land Conveyances and Management, which would convey Federal and out of the public's ownership either for less than market value or in exchange for lands that are undesirable for the public to own.

Your consideration of these matters is greatly appreciated. I am sending an identical letter to Chairman Don Young.

Sincerely,

DAN GLICKMAN,
Secretary.

THE SECRETARY OF THE INTERIOR,
Washington, DC, September 29, 1998.
Hon. DON YOUNG,
Chairman, Committees on Resources, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the Administration, I am writing to you regarding H.R. 4570, the "Omnibus National Parks and Public Lands Act of 1998." H.R. 4570 is a compilation of many separate bills that are of interest to your Committee.

This bill contains many provisions that have previously been strongly opposed by the Administration. These provisions would cause serious damage to our natural resources by, among other things, removing land from wilderness and other protective status to facilitate road building, motorized access, and airport construction.

Indeed, the Chair of the Council on Environmental Quality and I have previously informed the Committee that we would recommend to the President that he veto several of the provisions of this bill, such as those involving San Rafael Swell (Utah), congressional review of National Monument designations, and National Environmental Policy Act (NEPA) parity—East Texas Blowdown.

Over the course of the 105th Congress, the Administration has expressed its support for many provisions now included in H.R. 4570, and we would fully support their enactment were they presented to the President as free-standing bills. However, we cannot endorse them when combined with other provisions we strongly oppose. For example, the bill includes provisions of H.R. 3830, a bill to ratify an exchange agreement between the Department of the Interior and the State of Utah. As you know, the Administration strongly supports enactment of H.R. 3830. However, I made it clear in my testimony of May 19, 1998, that the Administration's support still would not apply if the bill were combined with other objectionable legislation.

Since this is now the case, I must inform you that the Administration is strongly opposed to the enactment of H.R. 4570 and, if the bill is presented to the President in its current form, we will recommend that he veto this legislation.

Sincerely,

BRUCE BABBITT.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, October 5, 1998.
Re H.R. 4570—Omnibus National Parks and Public Lands Act of 1998.

For the reasons outlined below, the President's senior advisors will recommend that the President veto H.R. 4570 if the bill, either as introduced or in the form of the proposed substitute amendment, is presented to him.

H.R. 4570, an omnibus bill that would affect Federal lands and reclamation projects, includes many provisions that the Administration strongly opposes because they would cause grave harm to the Nation's natural resources. These include provisions that would: Designate insufficient wilderness areas within the San Rafael Swell in Utah; sanction uses within the proposed wilderness area that would undermine wilderness values and management practices; establish confusing and inappropriate layers of management; and limit the Bureau of Land Management's ability to manage livestock.

Undermine the President's authority under the Antiquities Act to act quickly to protect significant natural, historical, and scientific resources on Federal lands; and prohibit, under the Antiquities Act, permanent designations of national monuments in excess of 50,000 acres without further congressional action.

Seek to accelerate timber harvesting on Federal lands through inappropriate application of alternative arrangements for the environmental review process under the National Environmental Policy Act (NEPA), while at the same time requiring the issuance of unnecessary, bureaucratic regulations which can hamper flexibility in addressing emergency situations.

Deny the public future access to lake-front lands around Canyon Ferry Reservoir, Montana, by conveying these properties to non-federal entities.

Permit the sale and lease of valuable structures and lands at Channel Island National Park, California, to private individuals.

Exclude certain lands and roadways from the Cumberland Island Wilderness, Georgia, thus undermining the ongoing collaborative effort between the Federal Government, non-federal public entities, and private individuals to prepare a wilderness management plan for both the Cumberland Island National Seashore and the Cumberland Island Wilderness.

Convey facilities and lands of eight Federal water resources projects throughout the West (e.g. the Sly Park Unit of the Central Valley Project, California) under terms and conditions that: (1) were not developed in an open and public manner; (2) lack sufficient environmental protections; and (3) fail to consider the financial interests of the American taxpayer.

Allow an airport to be constructed near Mojave Preserve, Nevada, without any consideration of the possible harmful environmental impact and effect.

Grant an irrevocable and perpetual easement over environmentally sensitive lands in the Chugach National Forest, Alaska, to the Chugach Alaska Corporation, thereby overriding the provisions of the 1982 Settlement Agreement with the Corporation's predecessor organization.

Notwithstanding the Administration's strong opposition to these and other provisions of the bill, as listed in the Attachment, the Administration has expressed support for some provisions that are now included in H.R. 4570. The Administration would fully support enactment of those particular bills, especially the legislation that would ratify an exchange agreement between the Department of the Interior and the State of Utah, if they are presented individually to the President.

PAY-AS-YOU-GO SCORING

H.R. 4570 would affect direct spending; therefore, it is subject to the pay-as-you-go (PAYGO) requirement of the Omnibus Budget Reconciliation Act of 1990. OMB's PAYGO estimate for this bill is under development.

ATTACHMENT

The following provisions of H.R. 4570, in combination with the aforementioned provisions, would also cause grave harm to the Nation's resources and, thus, are objectionable to the Administration:

Wasatch-Cache National Forest and Mount Naomi Wilderness, Utah; Conveyance to Clark County Department of Aviation, Nevada; Authorization of Use of National Forest Lands for Public School Purposes; Conveyance of Camp Owen and Related parcels, Kern County, California; Protection of Oregon and California Railroad Grant Lands; Addition of the Paoli Battlefield to the Valley Forge National Historical Park, Pennsylvania; Casa Malpais National Historic Landmark, Arizona; Amendment of Land and Water Conservation Fund Act of 1965 regarding Treatment of Receipts at Certain Parks; Amendments to the National Historic Preservation Act (the Administration, however, supports the Senate-passed bill that would reauthorize the National Historic Preservation Fund); and Hazardous Fuels Reduction.

Guadalupe-Hidalgo Treaty Land Claims; Acquisition and Management of Wilcox Ranch, Utah, for Wildlife Habitat; Operation and Maintenance of Existing Dams and Weirs, Emigrant Wilderness, Stanislaus National Forest, California; Exemption for Not-for-Profit Entities from Strict Liability for Recovery of Fire Suppression Costs; Communication Site at San Bernardino National Forest, California; Amendment of the Outer Continental Shelf Lands Act; Carlsbad Irrigation Project, New Mexico; Palmetto Bend Project, Texas; Minidoka Water Reclamation Resources Project, Idaho; Wellton-Mohawk Division, Gila Project, Arizona; Colusa Basin Watershed Integrated Resources Management, California; and Moratorium on Federal Management, Alaska.

Mr. HANSEN. Mr. Chairman, I yield 2 minutes to distinguished gentleman from Tennessee (Mr. DUNCAN), the chairman of the Subcommittee on Aviation of the Committee on Transportation and Infrastructure.

Mr. DUNCAN. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in strong support of this very bipartisan bill which improves parks and public lands in 36 States, and includes requests from over 70 Members.

I first would like to thank my good friend, the gentleman from Utah (Chairman HANSEN) for his hard work and leadership in crafting this legislation. There is no man in this Congress who is more fair or kinder than the gentleman from Utah (Mr. JIM HANSEN), or more well respected on both sides of the aisle.

I would like to briefly discuss two provisions of this bill which would emphasize why I believe my colleagues should support H.R. 4570. First, this bill includes a provision of legislation I introduced which would allow national parks which cannot collect entrance fees to keep all other fees on site for park improvements.

For instance, the Great Smoky Mountains National Park, which is the most visited national park in the country, keeps roughly $800,000 of all the other fees collected in the park. In comparison, the Grand Canyon National Park, under the Fee Demonstration Program, has been allowed to keep over $10 million a year.

Under this bill, the Great Smokies will be allowed to keep all of the fees collected since it cannot, due to deed restrictions, collect an entrance fee. This would mean roughly $250,000 each year for this most visited national park. This provision is supported by organizations like the Friends of the Smokies and the Sierra Club. This provision has just passed the Senate outline.

The second provision of this bill I want to alert my colleagues to is one which will lead to the designation of the Midway Atoll as a national memorial. H.R. 4570 includes language of a bill I introduced which will require a study of the Midway Atoll in order to designate it as a national memorial. As we know, the Battle of Midway was a pivotal battle in the Pacific during World War II. I believe we should take this important step towards honoring our veterans who fought for our freedom in this battle.

The Midway Study Act is supported by the American Legion, the Veterans of Foreign Wars, the Association of Naval Aviation, the Battle of the Coral Sea Association, the Midway Memorial Foundation. This is good legislation, and this legislation contains very many bipartisan measures which every Member of this body should support.

Mr. HANSEN. Mr. Chairman, I yield 2 minutes to the gentleman from Montana (Mr. HILL).

Mr. HILL. Mr. Chairman, I thank the chairman of the Subcommittee on National Parks and Public Lands for yielding time to me, and also for including a provision that is very important to my home State of Montana. It is a provision that allows for the sale of about 300 acres of land that adjoins Canyon Ferry Reservoir, and to set aside the proceeds of that sale into a trust fund that can be used for conservation purposes, land acquisition and conservation needs in the area of Canyon Ferry Lake.

This measure is supported by our Governor, both Senators, both political parties, almost all local conservation groups and sportsmen groups. It has been the subject of hearings, and it has been reported out by the Subcommittee on National Parks and Public Lands.

Mr. Chairman, this is extremely important to this local area because it would put aside a matter that has been an ongoing dispute between these cabin site lessees and the Federal Government. But even more important is that these proceeds would be put aside for conservation purposes.

This is an important watershed that is an important trout habitat and spawning area. These proceeds could be invested in improving those fisheries. It will improve access to Canyon Ferry Lake. It will be used to improve the campground facilities around the lake, and it will also reduce the the Federal government's debt.

Mr. Chairman, I urge all of my colleagues to support this public lands and parks measure. I thank the chairman for including this provision in the bill.

Mr. HANSEN. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from New Jersey (Mrs. ROUKEMA).

Mrs. ROUKEMA. Mr. Chairman, I will abbreviate my remarks to say how important this portion of this obmnibus legislation is to northern New Jersey, and specifically the Fifth Congressional District.

The Delaware Watergap National Recreation Area, the crown jewel of our national parks, one of the crown jewels, is located in that district. We have to here, in this bill, reauthorize the Citizens Advisory Commission, which was created 10 years ago with the support of myself and our colleague, the gentleman from Pennsylvania (Mr. JOE MCDADE).

That advisory commission runs out October 31. It must be reauthorized. It is essential so that the people of northern New Jersey and the constituents in my district can have a say in how that park system is being run. Time is running out, it is late. My constituents need this commission, and the obmnibus bill represents our last best hope to do that.

I want to thank the committee for having the farsightedness to deal with this issue.

Mr. Chairman, I rise in support of H.R. 4570, the Omnibus National Parks and Public Lands Act of 1998. This massive package contains legislation that is critically important to northern New Jersey and the western portion of New Jersey's Fifth Congressional District—that portion of the District that includes the Delaware Water Gap National Recreation Area.

The Delaware Water Gap National Recreation Area is one of the crown jewels of the National Parks Service system. The largest national park east of the Mississippi—the Water Gap is a recreation and tourism centerpiece for the nation. Its economic benefits to the surrounding communities in Sussex and Warren Counties in New Jersey are quite significant.

The Citizens Advisory Commission was created through legislation that I sponsored, along with our Colleague Joe McDade, in 1988. This Commission has operated with virtually no cost to the taxpayers. Yet, this Commission has made an invaluable contribution to the region.

Without the Delaware Water Gap Citizens Advisory Commission, the general public would have virtually no involvement in the development process of the park. The communities in this part of the State would have no direct mechanism through which to affect Park Service policy. Without this legislation, the Commission will cease to exist on October 31 and our communities in northern New Jersey will have lost a valuable tool. This is the 11th hour and time is of the essence.

Mr. Chairman, H.R. 1894 is a non-controversial bill that would reauthorize the Delaware Water Gap National Recreation Citizens Advisory Committee and deserves to be passed. I had hoped that this legislation would be brought up on the Suspension Calendar earlier in the year. For whatever reason, that has not happened.

The time is now late. This session is rushing to a conclusion. We are faced with two unattractive prospects—either watch this valuable commission fade out of existence, or vote for a massive package containing environmentally sensitive provisions I do not support. I would sincerely hope that as we move through this legislative process that further progress could be made on these controversial issues.

But the major portion of the bill is constructive and very valuable to our park systems.

My constituents need this Commission. This omnibus bill represents our last best hope to do that.

Mr. BOEHLERT. Mr. Chairman, I yield 2 minutes to the gentleman from Oklahoma (Mr. COBURN).

Mr. COBURN. Mr. Chairman, there is not anybody in this House that I respect more than the gentleman from Utah (Chairman HANSEN). There are a ton of good things in this bill, especially for Western States. I support those things. But this bill steps on property rights as much as anything in the 4 years that I have been here.

We cannot continue in Washington to decide that we are going to take private property rights away from people, that we are just going to unilaterally do it. Let me give a couple of examples in this bill. We are going to create an American Discovery Trail across the Nation, probably a pretty good idea, and right now it says it is going to be voluntary, or government land.

What is going to happen next year, when the voluntary land and the government land is there, and one of my farmers is right in the middle, or one of the farmers in Kansas is right in the middle? What is going to happen? We are going to take their land away from them. It is going to go away, for us to complete the trail. Two-thirds of that land is going to come from private property owners.

□ 1430

There is also in this bill an area called the Sudbury, Assabet, and Concord Wild and Scenic Rivers provision. The agreement to have that done was an agreement that there would be no takings associated. There was a piece in the original bill that would protect private properties. That has been excluded from this bill. The Antiquities Act. I know, it is out. The Antiquities Act is out. It is one of the things that in fact precludes the President from taking 1.7 million acres in Utah. And because he objects, we are going to take it out.

The gentleman from Utah (Mr. HANSEN) and the gentleman from Alaska (Mr. YOUNG) both have my respect. I am probably wrong on the issue that overall this bill may be better for us than it is bad for us, but I cannot see that we have such great wisdom that we once again are going to take private property away from those American citizens who worked hard to earn it without their permission.

Mr. HANSEN. Mr. Chairman, I yield 2 minutes to the gentleman from Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. Mr. Chairman, I rise in strong support of the legislation, for I too take a back seat to no one in adherence to property rights. And at the same time, I believe everyone in this House should look carefully at this legislation and ultimately support it, not exclusively for recreation, although recreational reasons are at stake here; not exclusively for preservation, although the Casa Malpais area in the Round Valley of Arizona with great archaeological value would be preserved; but the most important reason I believe we should support this legislation is for a reason that might not occur to many in this House. That is education.

We heard the gentleman from Utah, despite his many reservations, rise in support of the schoolchildren of that State. I would rise in strongest support of this legislation for the new Education Land-Grant Act that is included in this bill. Understand, in a bipartisan way we worked together to set up a new provision in U.S. Code to designate certain nonenvironmentally sensitive parcels of federally controlled land to be conveyed to rural school districts for the construction of new academic and athletic facilities.

Mr. Chairman, we have heard a lot in the politically correct double-speak of Washington, D.C. and all the talk about benefitting our children and education. And I will tell my colleagues this, Mr. Chairman, nothing will do more for the rural schoolchildren north, east, west and south, than this particular provision within this omnibus bill. It will revolutionize educational opportunities much as we saw done in a smaller piece of legislation in the Alpine District in the 6th District of Arizona. In these districts that find themselves cash poor but land rich, this is a chance to help them. Let us really help children and education.

Mr. MILLER of California. Mr. Chairman, I ask unanimous consent that I may be able to yield 3 minutes to the gentleman from New York (Mr. BOEHLERT) and that he be allowed to control that time.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BOEHLERT. Mr. Chairman, I reserve the balance of my time.

Mr. HANSEN. Mr. Chairman, I yield 1 minute to the gentleman from Indiana (Mr. SOUDER).

Mr. SOUDER. Mr. Chairman, I rise in support of this bill and in particular would like to thank the gentleman from Alaska (Chairman YOUNG), the gentleman from Utah (Chairman HANSEN), and the rest of the committee for their leadership for including our National Historic Preservation Act for lighthouses. Senator MURKOWSKI and I began working on this bill last year. He held hearings on the bill last year in the Senate. We worked closely with the nonprofit lighthouse preservation groups and the Coast Guard and the National Park Service and the GSA.

Let me make it clear, I have no lighthouses in my district. So do not try to and come to northeast Indiana to see lighthouses. This bill is for lighthouse lovers across America.

Many of these historic lighthouses have been developed by nonprofit groups and then go up for bidding. There are about 400 that are going to be excess property and we need a procedure so that individual Members of Congress do not have to come down here to try to preserve these things, and so that the nonprofit groups do not have to bid against the very things that they helped set the equity for.

I commend the chairman for moving this. I believe this sets an orderly procedure. And I know that many Members of this body have lighthouses in their district and groups that this would be very important to.

Mr. HANSEN. Mr. Chairman, I yield 2 minutes to the gentleman from Kentucky (Mr. LEWIS).

Mr. LEWIS of Kentucky. Mr. Chairman, I rise today in support of H.R. 4570, the Omnibus National Parks and Public Lands Act of 1999. H.R. 4570 is comprehensive, common sense legislation which incorporates a number of resource bills that will ultimately benefit 36 States throughout this great Nation of ours.

Once again, some environmental extremists are determined to torpedo any legislation that proposes to alter the status quo, despite the fact that many compromises have been reached to address their concerns. Since the tactics of fear can be a powerful weapon, I believe a careful review of the legislation will assure my colleagues that H.R. 4570 is no threat to our environmental interest.

It does, however, mark a major step in resolving some important public lands issues and also presents the 105th Congress a great opportunity to help fulfill the dreams and plans of so many Americans who cherish our national parks and our national historic and natural resources.

Many States and communities across this country worked very hard to establish these historic heritage areas, such as Automobile National Heritage Area in Michigan and Indiana, and the Midway Atoll as the national memorial to the Battle of Midway. Still other measures will further protect our great national resources by providing for expansion and improvements to our national parks.

I am particularly grateful to the gentleman from Utah (Chairman HANSEN) and the members of his subcommittee for supporting legislation which would add a very important property to the Abraham Lincoln Birthplace National Historic Site, Knob Creek Farm of Hodgenville, Kentucky, the boyhood home of Abraham Lincoln.

The preservation of Knob Creek Lincoln Farm, as important as it is, represents only a single part of H.R. 4570. The Omnibus National Parks and Public Lands Act of 1999 allows us to move forward with what I believe are balanced proposals to protect and more effectively manage our national parks, national forests, scenic rivers, and other public lands. Also, it offers improved access for Americans to enjoy the vast beauty of our national resources and proud history throughout our country.

Mr. Chairman, I urge my colleagues to support this reasonable and comprehensive legislation.

Mr. HANSEN. Mr. Chairman, I yield 1 minute to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Chairman, I rise in support of H.R. 4570. It represents a wide, bipartisan group of projects of local interest. And it is amazing to me how most of these are very specific to certain areas that the local folks have all supported, and yet when it comes to Washington, experts up here are saying that the locals really do not know what they are doing. We better kill this legislation.

I think that this is a good bill. The part that I have the most interest is Cumberland Island in Georgia. The reason I support that is that we have historic properties on a historic island that was deemed a wilderness area. One of them is a 100-year-old mansion and the other part is a settlement that was founded by freed slaves. Mr. Chairman, we cannot name the number of villages founded by free slaves in the United States of America. There are not any. Yet here is one and it is right in the middle of a wilderness area and the Park Service, under their present plan, will let it fall to pieces because that is what a wilderness mandates. What our provision does is that it frees those properties, the 100-year-old mansion and the freed slaves area, also incidently called The Settlement, and allows them to be saved and protected for future generations because of their very historical significance.

Mr. HANSEN. Mr. Chairman, I yield 2 minutes to the gentleman from Utah (Mr. CANNON).

Mr. CANNON. Mr. Chairman, I would like to thank also the gentleman from Utah (Mr. HANSEN) who is also the chairman of the subcommittee, for this opportunity to speak and for what I think is a very good bill.

I would like to associate myself with the comments made by the gentleman from Georgia (Mr. KINGSTON) about the rationale, the difficulty of the rationale of Federal people substituting their judgment for that of locals.

I think this is a wonderful bill with a lot of local interest that works very well for local people. In my district, we have several bills that are affected. I do not think anybody in America is unaware of Arches National Park. It is the beautiful sandstone, freestanding arches and other beautiful sandstone formations in southern Utah.

We have in this bill a bill that would expand Arches to include the full geographic area and that would result in a much more beautiful and satisfying experience in the park. So I urge support for this bill on the basis of that.

Also in this bill there is an attempt to make adjustments for some of the technical problems with the Grand Staircase and Escalante National Monument. Members will recall it was well-documented that it was done without consultation with local folks, Congressmen, Senators or county commissioners, and a number of mistakes were made. I think everybody agrees on the changes that need to be made to that and we need to get that passed in this bill.

We also have language that would privatize the small Federal town of Dutch John. This is one of those few remaining Federal towns where bureaucratic restrictions cost a million dollars a year in government expenditures that could be borne privately at a much lower cost. We need to pass this law to privatize Dutch John and relieve the Treasury of that kind of an expense.

Thirdly, let me point out that we have, as the gentleman from Utah (Mr. COOK) has pointed out, a huge trade of school trust lands that has been negotiated and considered. It is a very important trade and it will do wonderful things for the children of Utah and their schools.

Lastly, let me just deal with briefly the San Rafael Swell. This is the area where Butch Cassidy and the Sundance Kid roamed and was made famous by that movie. It is a harsh and beautiful area that needs to be managed according to what the locals understand and that is appropriate in this bill.

Mr. HANSEN. Mr. Chairman, I would inquire how much time I have remaining.

The CHAIRMAN. The gentleman from Utah (Mr. HANSEN) has 4½ minutes remaining.

Mr. HANSEN. Mr. Chairman, may I inquire who has the right to close?

The CHAIRMAN. The gentleman from Utah has the right to close.

Mr. HANSEN. Mr. Chairman, I yield 1 minute to the gentleman from Alabama (Mr. RILEY).

Mr. RILEY. Mr. Chairman, I rise today in strong support of H.R. 4570. Once enacted, H.R. 4570 will go a long way to expand, to protect, and to improve our national park system. This bipartisan effort is a compilation of over 80 bills designed to enhance and protect the environment and our public lands.

Moreover, the omnibus park bill will create a new Heritage Area and historic sites that will help our Nation to celebrate the true American experience. Of particular interest to me is the creation of the Tuskegee Airmen Historic Site in Moton Field, Alabama.

Mr. Chairman, by any standard, the famed Tuskegee Airmen of World War II were and are true American heroes. The Tuskegee Airmen, in my view, should be remembered, honored, and thanked for their courageous, selfless efforts to preserve and protect the freedoms that we enjoy today. I believe that the Tuskegee Airmen National Historic Site will be a fitting and a worthy tribute to these American heroes.

Mr. Chairman, I want to thank the gentleman from Utah (Chairman HANSEN) and the gentleman from Alaska (Chairman YOUNG) for including this historic site in the bill. I believe that the Tuskegee Airmen deserve no less from any of us today, and I urge my colleagues to vote in favor of this bill.

Mr. HANSEN. Mr. Chairman, I yield 1 minute to the gentleman from Nebraska (Mr. BEREUTER).

Mr. BEREUTER. Mr. Chairman, I was involved in a hearing and I happened to see some comments on the television monitor by the distinguished gentleman from Oklahoma (Mr. COBURN) and I have to tell my colleagues that despite his good intentions, they are inaccurate.

Because of a huge effort the trails organization made over several years, and as a result of a thorough study, of the 6,000-plus miles in the American Discovery Trail, only 58 miles of the trail cross private property. Most of that is in the hands of a few big electrical utilities.

There are less than 20 private property owners that are affected by this 6,000-plus mile trail. And all of them, every single one of them, have given consent or signed agreements permit access for the trail.

Furthermore, there is an absolute prohibition against imminent domain or even the voluntary sale by owners of the private property for the American Discovery Trail.

□ 1445

Now, I am very unhappy that this legislation is a part of the overall omnibus bill. I was guaranteed by the chairman the gentleman from Alaska (Mr. YOUNG) that the ADT legislation, my bill, would be brought up separately. It has great support in the House, passed in the other body, but I do not want the argument raised in this debate that the ADT presents a private property issue. It absolutely does not. There is no way that the ADT component of this legislation threatens private property rights; therefore I ask Members to disregard those comments by the gentleman from Okahoma (Mr. COBURN).

Mr. MILLER of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, many Members have come down to this floor and commented on a number of good projects in this bill, and that is, in fact, accurate. But many Members who have good projects in this bill will be opposing this legislation because they understand that they are being used; that they are being held hostage to get some very bad pieces of legislation enacted into law.

In fact, many of the organizations that are supporting many provisions that are in this bill oppose this bill because they understand that the harm that will be done by this bill is greater than the good that will be done by those provisions, many of which have bipartisan support. They also understand that this legislation, that a good portion of these bills, in fact, have received no hearings.

Some 33 provisions of this legislation have received no hearings, 62 provisions have never been reported from committee, and yet we are told at the end that we have to take these provisions so that we can have a few good pieces, in many cases noncontroversial pieces of legislation, pass. That is not the way this place should work and that is not the way it will work. Why? Because there is another way to do this.

We started negotiations about this legislation, and the gentleman from New York (Mr. BOEHLERT) and the gentleman from Pennsylvania (Mr. GREENWOOD) and others started negotiation separate from ours about this. We told them there were things we thought should be put in this bill. They took those things but they refused to take any of the bad pieces out. They kept trying to add more things to it that were better in this bill so they could continue to pull the bad pieces of legislation with it.

It has turned out that that simply will not work. The people understand that and the environmental organizations understand that. That is why they are opposing it. The administration understands that. That is why the administration is opposing it. That is why it has been recommended that the President veto this legislation.

Members have said, well, 2 years ago we did the same thing. No, 2 years ago we did not do the same thing. Two years ago we had this kind of bill and we could not even get it to the floor of the Congress. Then, later, we negotiated it out in real negotiations, between Members of each side and the administration, and we worked basically on a bill that passed overwhelmingly and was noncontroversial with huge bipartisan support. That is the way this legislation should work.

We should not be coming here at the last minute and lumping in water projects, lumping in bad environmental projects, lumping in projects that have had no hearings, that have not gone through the committee process, that we do not know the cost of them, that waive environmental laws, that waive all kinds of planning and process that are necessary to protect the environment.

In fact, many of the local organizations that have supported these projects in many instances did so because they believed that they would continue to have a local voice in how those projects were designed and what the benefits were and what the detriments were so they could have a project they are proud of. Now we have legislation that, in fact, waives many of those provisions for that kind of planning and environmental review of these projects.

That is why this legislation should be rejected. That is why this legislation should be rejected on a bipartisan basis, because it is not about whether or not a few of the provisions in here that are noncontroversial, that are bipartisan in their support, that have support from the administration are good or not, it is the fact that this legislation has numerous, numerous components of it that are offensive to environmental policy, that are offensive to environmental planning, and that are, in many cases, offensive to local communities that oppose them.

Those bills ought to be brought to this floor and they ought to be debated in the light of day. They may still pass on a majority vote, but they ought not to be put in this bill to sink this bill down so that it cannot happen. The best thing we can do for people who want provisions passed is to kill this bill and then get on with the negotiations to negotiate a bill that, in fact, upholds the standards of environmental policy in this country, that will pass the administration's review and will have bipartisan support and then can pass the Senate.

If this bill goes over to the Senate in the number of days left, given the controversy in the bill, we will end up with nothing. We will end up with nothing. So the point is, if we really and truly want our projects, what we should do is understand that we ought to negotiate from a good bill, not trying to add things on to a very bad bill and hoping that that will make it pass.

I ask for the Members to oppose this legislation, to join the administration, to join the taxpayer organizations, and to join the environmental organizations in opposition to this legislation.

Mr. BOEHLERT. Mr. Chairman, I yield myself such time as I may consume.

I rise to once again reinforce my opposition to this measure. And it is too bad that it has worked out this way, because it could have been worked out in such a way that this bill would have passed unanimously in the House of Representatives. Ninety percent of the provisions in this bill are good provisions and could pass on the suspension calendar, which is reserved for noncontroversial items. But 10 percent of the bill, 10 percent of the bill, is not good. It is bad public policy. I would suggest to my colleagues that anyone who wants to do good would not prescribe a solution, a potion, 90 percent penicillin laced with 10 percent arsenic.

Let us recap what this bill would do. This bill would remove areas from wilderness protection. It would set new weaker guidelines for wilderness protection. It would waive normal environmental reviews for a road across world famous salmon streams. It would create new barriers to the creation of discovery trails. It would create new incentives to cut trees in national forests. And it would transfer Federal property in a manner that endangers the environment and cheats taxpayers.

Now, this is not just my view. This is not just the view of many of us in this chamber. This is the view of a whole wide range of organizations. Let me point out, first of all, that the opposition is led by the gentleman from California (Mr. MILLER) and this Member from New York, from coast to coast.

But this is region specific, too. For example, the opposition comes from the Alaska Rainforest Campaign and from the Alaska Wilderness League. The opposition comes from the Southern Utah Wilderness Alliance and from the Federation of Western Outdoor Clubs. If that is not enough, these region specific organizations, such national organizations as Friends of the Earth, the Isaac Walton League, the National Environment Trust, the National Trust for Historic Preservation, Physicians for Social Responsibility, and the National Audubon Society all strongly oppose this legislation, and with good reason. It does harm to the environment.

Now, we want a bill that would be signable, a bill that actually has an opportunity to become law. Let me point out that one of the previous speakers, the gentleman from Tennessee (Mr. DUNCAN), rightly enumerated a number of measures in this bill that he supports and, quite frankly, we all support them. They are noncontroversial. They were passed by the Senate, as he so properly suggested. They would be passed in this bill if they were presented to us separate from all the controversial provisions that have been added on.

This is an effort that is unfortunate, but the fact of the matter is we have to stand up here and register our strongest opposition, not just with all the environmental groups, not just with the Taxpayers for Common Sense, but with those who are offended by the process, a process that says a 450 or so page bill can be introduced and 3 weeks later, without the benefit of full committee hearings, without the benefit even of subcommittee hearings on some of the more controversial provisions are presented to the people's House in the closing days of a session for consideration.

That is a process, quite honestly, that offends many of us here, whether we are for or against the individual bill. We want thorough deliberation. We want open and public hearings. We want a chance for the people's House to examine all of the various provisions.

So for all of the above reasons, I rise in strong opposition to this measure and point out that the amendment to be offered by the chairman will not correct those deficiencies.

Mr. HANSEN. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, let me point out this has probably been one of the most interesting debates I have heard in a long time. It is interesting to note that some people are worried about property rights, and some people are worried about heritage areas, and some people are worried that maybe some in the environmental community did not get everything they wanted in this particular piece of legislation.

I would like to ask my colleagues, can anybody name a bill around here that everybody got what they wanted in it? This is not a 10, but none of us here are a 10. We are lucky if we are a 4, if we look at some of the political polls right now. When we get right down to it, this bill is probably a high 8.

Some people have one little particular area and they say, gee, I do not feel good about that so I am going to vote against the whole package, throw out the whole thing and forget all the goods things in there. That does not make any sense. I have never seen a piece of legislation like that.

We keep hearing the idea of the President vetoing this. We all know it will be vetoed. As I mentioned before, last time around he said the same thing, and I stood in the Oval Office and he signed the bill. That was 2 years ago.

Now, he did send up some things he was objecting to: The San Rafael Swell. So we made the changes he wanted. So who is talking about San Rafael Swell around here? The antiquities Act. He could not go along with that, even though his administration acknowledged they violated the law when they did the Grand Staircase Escalante. So we took it out. It is not there. He also talked about NEPA parity, but we have worked on that. So where is the obstruction?

The most interesting thing about this debate that I have heard is no one has said, specifically in this one piece, we do not like that. We talk about all these people that are against it. My good friend from New York mentioned a few of them. Tell me what environmental community can we please around this country, anyway? In Utah, if I gave SUWA 5.7 million acres, they would want 8.5. If I gave them 8.5, they would want 15. The same with these other organizations. We cannot please them all. Who believes we can do that in this country? Can we all please our wives, can we please our kids and our colleagues? Nobody can.

So look at this thing. On a scale of 1 to 10, we have a high 8. Put that green card in there and vote a green button and we will be all right and we will get something moved. We will get to the Senate and get some good legislation. This idea we are all going to sit down and have a good Sunday school lesson and we are all going to agree on something is poppycock. Has that ever happened around here in 200 years? Of course not. It never happens.

The only thing I have ever seen we have agreed on is when we gave a gold medal to Queen Beatrice. I think it got 100 percent. And we are not giving any gold medals today. We are trying to move some good legislation.

I think it is interesting that many of these organizations that have the name Utah on them have their headquarters in New York. I thought the gentleman from New York (Mr. BOEHLERT) would enjoy that.

So I urge my colleagues to do everything they can to vote for this bill. Let us get it out, let us get something done for America and get off this nonsense that it needs 100 percent. It will never happen.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill is considered as having been read for amendment under the 5-minute rule.

The text of H.R. 4570 is as follows:

H.R. 4570

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Omnibus National Parks and Public Lands Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

TITLE I—BOUNDARY ADJUSTMENTS AND RELATED CONVEYANCES

Sec. 101. Fort Davis Historic Site, Fort Davis, Texas.
Sec. 102. Abraham Lincoln Birthplace National Historic Site, Kentucky.
Sec. 103. Grand Staircase-Escalante National Monument, Utah.
Sec. 104. George Washington Birthplace National Monument, Virginia.
Sec. 105. Wasatch-Cache National Forest and Mount Naomi Wilderness, Utah.
Sec. 106. Red Rock Canyon National Conservation Area, Nevada.
Sec. 107. Cape Cod National Seashore, Massachusetts.
Sec. 108. Hells Canyon Wilderness, Hells Canyon National Recreation Area.

TITLE II—OTHER LAND CONVEYANCES AND MANAGEMENT

Subtitle A—Southern Nevada Public Land Management

Sec. 201. Findings and purpose.
Sec. 202. Definitions.
Sec. 203. Disposal and exchange.
Sec. 204. Acquisitions.
Sec. 205. Report.
Sec. 206. Recreation and Public Purposes Act.
Sec. 207. Support for affordable housing.
Sec. 208. Conveyance to Clark County Department of Aviation.

Subtitle B—Gallatin Land Consolidation

Sec. 211. Findings.
Sec. 212. Definitions.
Sec. 213. Gallatin land consolidation completion.
Sec. 214. Other facilitated exchanges.
Sec. 215. General provisions.
Sec. 216. Authorization of appropriations.

Subtitle C—Conveyance of Canyon Ferry Reservoir Properties

Sec. 221. Findings.
Sec. 222. Purpose.
Sec. 223. Definitions.
Sec. 224. Sale of Properties.
Sec. 225. Management of Bureau of Reclamation recreation area.
Sec. 226. Use of proceeds.
Sec. 227. Montana Fish and Wildlife Conservation Trust.
Sec. 228. Canyon Ferry-Broadwater County Trust.

Subtitle D—Conveyance of National Forest Lands for Public School Purposes

Sec. 231. Authorization of use of National Forest lands for public school purposes.

Subtitle E—Other Conveyances

Sec. 241. Land exchange, El Portal Administrative Site, California.
Sec. 242. Authorization to use land in Merced County, California, for elementary school.
Sec. 243. Issuance of quitclaim deed, Steffens family property, Big Horn County, Wyoming.
Sec. 244. Issuance of quitclaim deed, Lowe family property, Big Horn County, Wyoming.
Sec. 245. Utah schools and lands exchange.
Sec. 246. Land exchange, Routt National Forest, Colorado.
Sec. 247. Conveyance of administrative site, Rogue River National Forest, Oregon and California.
Sec. 248. Hart Mountain jurisdictional transfers, Oregon.
Sec. 249. Sale, lease, or exchange of Idaho school land.

Sec. 250. Transfer of jurisdiction of certain property in San Joaquin County, California, to Bureau of Land Management.
Sec. 251. Conveyance, Camp Owen and related parcels, Kern County, California.
Sec. 252. Treatment of certain land acquired by exchange, Red Cliffs Desert Reserve, Utah.

TITLE III—HERITAGE AREAS

Subtitle A—Delaware and Lehigh National Heritage Corridor of Pennsylvania

Sec. 301. Change in name of Heritage Corridor.
Sec. 302. Purpose.
Sec. 303. Corridor Commission.
Sec. 304. Powers of Corridor Commission.
Sec. 305. Duties of Corridor Commission.
Sec. 306. Termination of Corridor Commission.
Sec. 307. Duties of other Federal entities.
Sec. 308. Authorization of appropriations.
Sec. 309. Local authority and private property.
Sec. 310. Duties of the Secretary.

Subtitle B—Automobile National Heritage Area of Michigan

Sec. 311. Findings and purposes.
Sec. 312. Definitions.
Sec. 313. Automobile National Heritage Area.
Sec. 314. Designation of partnership as management entity.
Sec. 315. Management duties of the Automobile National Heritage Area Partnership.
Sec. 316. Duties and authorities of Federal agencies.
Sec. 317. Lack of effect on land use regulation and private property.
Sec. 318. Sunset.
Sec. 319. Authorization of appropriations.

Subtitle C—Miscellaneous Provisions

Sec. 321. Blackstone River Valley National Heritage Corridor, Massachusetts and Rhode Island.
Sec. 322. Illinois and Michigan Canal National Heritage Corridor, Illinois.

TITLE IV—HISTORIC AREAS

Sec. 401. Battle of Midway National Memorial study.
Sec. 402. Historic lighthouse preservation.
Sec. 403. Thomas Cole National Historic Site, New York.
Sec. 404. Addition of the Paoli battlefield to the Valley Forge National Historical Park.
Sec. 405. Casa Malpais National Historic Landmark, Arizona.
Sec. 406. Lower East Side Tenement National Historic Site, New York.
Sec. 407. Gateway Visitor Center authorization, Independence National Historical Park.
Sec. 408. Tuskegee Airmen National Historic Site, Alabama.
Sec. 409. Little Rock Central High School National Historic Site, Arkansas.
Sec. 410. Sand Creek Massacre National Historic Site study.
Sec. 411. Chesapeake and Ohio Canal National Historical Park enhancement and protection.

TITLE V—SAN RAFAEL SWELL

Sec. 501. Short title.
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TITLE I—BOUNDARY ADJUSTMENTS AND RELATED CONVEYANCES

SEC. 101. FORT DAVIS HISTORIC SITE, FORT DAVIS, TEXAS.

The Act entitled "An Act Authorizing the establishment of a national historic site at Fort Davis, Jeff Davis County, Texas", approved September 8, 1961 (75 Stat. 488; 16 U.S.C. 461 note), is amended in the first section by striking "not to exceed four hundred and sixty acres" and inserting "not to exceed 476 acres".

SEC. 102. ABRAHAM LINCOLN BIRTHPLACE NATIONAL HISTORIC SITE, KENTUCKY.

(a) IN GENERAL.—Upon acquisition of the land known as Knob Creek Farm pursuant to subsection (b), the boundary of the Abraham Lincoln Birthplace National Historic Site, established by the Act of July 17, 1916 (39 Stat. 385, chapter 247; 16 U.S.C. 211 et seq.), is revised to include such land.

(b) ACQUISITION OF KNOB CREEK FARM.—The Secretary of the Interior may acquire, by donation only, the approximately 228 acres of land known as Knob Creek Farm in Larue County, Kentucky.

(c) STUDY AND REPORT.—The Secretary of the Interior shall study the Knob Creek Farm in Larue County, Kentucky, and not later than 1 year after the date of enactment of this Act, submit a report to the Congress containing the results of the study. The purpose of the study shall be to:

(1) Identify significant resources associated with the Knob Creek Farm and the early boyhood of Abraham Lincoln.

(2) Evaluate the threats to the long-term protection of the Knob Creek Farm's cultural, recreational, and natural resources.

(3) Examine the incorporation of the Knob Creek Farm into the operations of the Abraham Lincoln Birthplace National Historic Site and establish a strategic management plan for implementing such incorporation. In developing the plan, the Secretary shall—

(A) determine infrastructure requirements and property improvements needed at Knob Creek Farm to meet National Park Service standards;

(B) identify current and potential uses of Knob Creek Farm for recreational, interpretive, and educational opportunities; and

(C) project costs and potential revenues associated with acquisition, development, and operation of Knob Creek Farm.

(d) Authorization.—There are authorized to be appropriated such sums as may be necessary to carry out subsection (c).

SEC. 103. GRAND STAIRCASE-ESCALANTE NATIONAL MONUMENT, UTAH.

(a) Exclusion of Certain Lands.—The boundaries of the Grand Staircase-Escalante National Monument in the State of Utah are hereby modified to exclude the following lands:

(1) The parcel known as Henrieville Town, Utah, as generally depicted on the map entitled "Henrieville Town Exclusion, Garfield County, Utah", dated March 25, 1998.

(2) The parcel known as Cannonville Town, Utah, as generally depicted on the map entitled "Cannonville Town Exclusion, Garfield County, Utah", dated March 25, 1998.

(3) The parcel known as Tropic Town, Utah, as generally depicted on the map entitled "Tropic Town Parcel", dated July 21, 1998.

(4) The parcel known as Boulder Town, Utah, as generally depicted on the map entitled "Boulder Town Exclusion, Garfield County, Utah", dated March 25, 1998.

(b) Inclusion of Certain Additional Lands.—The boundaries of the Grand Staircase-Escalante National Monument are hereby modified to include the parcel known as East Clark Bench, as generally depicted on the map entitled "East Clark Bench Inclusion, Kane County, Utah", dated March 25, 1998.

(c) Maps.—The maps referred to in subsections (a) and (b) shall be on file and available for public inspection in the office of the Grand Staircase-Escalante National Monument in the State of Utah and in the office of the Director of the Bureau of Land Management.

(d) Land Conveyance, Tropic Town, Utah.—The Secretary of the Interior shall convey to Garfield County School District, Utah, all right, title, and interest of the United States in and to the lands shown on the map entitled "Tropic Town Parcel" and dated July 21, 1998, in accordance with section 1 of the Act of June 14, 1926 (43 U.S.C. 869; commonly known as the Recreation and Public Purposes Act), for use as the location for a school and for other education purposes.

(e) Land Conveyance, Kodachrome Basin State Park, Utah.—The Secretary shall transfer to the State of Utah all right, title, and interest of the United States in and to the lands shown on the map entitled "Kodachrome Basin Conveyance No. 1 and No. 2" and dated July 21, 1998, in accordance with section 1 of the Act of June 14, 1926 (43 U.S.C. 869; commonly known as the Recreation and Public Purposes Act), for inclusion of the lands in Kodachrome Basin State Park.

(f) Utility Corridor Designation, U.S. Route 89, Kane County, Utah.—There is hereby designated a utility corridor with regard to U.S. Route 89, in Kane County, Utah. The utility corridor shall run from the boundary of Glen Canyon Recreation Area easterly to Mount Carmel Jct. and shall consist of the following:

(1) Bureau of Land Management lands located on the north side of U.S. Route 89 within 240 feet of the center line of the highway.

(2) Bureau of Land Management lands located on the south side of U.S. Route 89 within 500 feet of the center line of the highway.

SEC. 104. GEORGE WASHINGTON BIRTHPLACE NATIONAL MONUMENT, VIRGINIA.

(a) Addition.—The boundaries of the George Washington Birthplace National Monument are modified to include the property generally known as George Washington's Boyhood Home, Ferry Farm, located in Stafford County, Virginia, across the Rappahannock River from Fredericksburg, Virginia, comprising approximately 85 acres. The boundary modification is generally depicted on the map entitled "George Washington Birthplace National Monument Boundary Map", numbered 322/80,020 and dated April 1998. The Secretary of the Interior shall keep the map on file and available for public inspection in appropriate offices of the National Park Service.

(b) Acquisition of Easement.—After enactment of this section, the Secretary of the Interior may acquire no more than a less than fee interest in the property described in subsection (a) to ensure the preservation of the important cultural and natural resources associated with Ferry Farm.

(c) Resource Study.—Not later than 18 months after the date on which funds are made available to carry out this section, the Secretary of the Interior shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a resource study of the property described in subsection (a). The study shall—

(1) identify the full range of resources and historic themes associated with Ferry Farm, including those associated with George Washington's tenure at the property described in subsection (a) and those associated with the Civil War period;

(2) identify alternatives for further National Park Service involvement at the property described in subsection (a) beyond those that may be provided for in the acquisition authorized under subsection (b); and

(3) include cost estimates for any necessary acquisition, development, interpretation, operation, and maintenance associated with the alternatives identified.

(d) Agreements.—Upon completion of the resource study under subsection (c), the Secretary of the Interior may enter into agreements with the owner of the property described in subsection (a) or other entities for the purpose of providing programs, services, facilities, or technical assistance that further the preservation and public use of the property.

SEC. 105. WASATCH-CACHE NATIONAL FOREST AND MOUNT NAOMI WILDERNESS, UTAH.

(a) Boundary Adjustment.—To correct a faulty land survey, the boundaries of the Wasatch-Cache National Forest in the State of Utah and the boundaries of the Mount Naomi Wilderness, which is located within the Wasatch-Cache National Forest and was established as a component of the National Wilderness Preservation System in section 102(a)(1) of the Utah Wilderness Act of 1984 (Public Law 98-428; 98 Stat. 1657), are hereby modified to exclude the parcel of land known as the D. Hyde property, which encompasses an area of cultivation and private use, as generally depicted on the map entitled "D. Hyde Property Section 7 Township 12 North Range 2 East SLB & M", dated July 23, 1998.

(b) Land Conveyance.—The Secretary of Agriculture shall convey to Darrell Edward Hyde of Cache County, Utah, all right, title, and interest of the United States in and to the parcel of land identified in subsection (a). As part of the conveyance, the Secretary shall release, on behalf of the United States, any claims of the United States against Darrell Edward Hyde for trespass or unauthorized use of the parcel before its conveyance.

SEC. 106. RED ROCK CANYON NATIONAL CONSERVATION AREA, NEVADA.

Paragraph (2) of section 3(a) of the Red Rock Canyon National Conservation Area Establishment Act of 1990 (16 U.S.C. 460ccc-1(a)) is amended to read as follows:

"(2) The conservation area shall consist of approximately 195,780 acres as generally depicted on the map entitled 'Red Rock Canyon National Conservation Area Administrative Boundary Modification', dated August 8, 1996.".

SEC. 107. CAPE COD NATIONAL SEASHORE, MASSACHUSETTS.

(a) Land Exchange and Boundary Adjustment.—Section 2 of Public Law 87-126 (16 U.S.C. 459b-1) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d) The Secretary may convey to the town of Provincetown, Massachusetts, a parcel of real property consisting of approximately 7.62 acres of Federal land within such area in exchange for approximately 11.157 acres of land outside of such area, as depicted on the map entitled 'Cape Cod National Seashore Boundary Revision Map', dated May 1997, and numbered 609/80,801, to allow for the establishment of a municipal facility to serve the town that is restricted to solid waste transfer and recycling facilities and for other municipal activities that are compatible with National Park Service laws and regulations. Upon completion of the exchange, the Secretary shall modify the boundary of the Cape Cod National Seashore to include the land that has been added.".

(b) Reauthorization of Advisory Commission.—Section 8(a) of Public Law 87-126 (16 U.S.C. 459b-7(a)) is amended by striking the second sentence and inserting the following new sentence: "The Commission shall terminate September 26, 2008.".

SEC. 108. HELLS CANYON WILDERNESS, HELLS CANYON NATIONAL RECREATION AREA.

The Secretary of Agriculture shall revise the map and detailed boundary description of the Hells Canyon Wilderness designated by section 2 of Public Law 94-199 (16 U.S.C. 460gg-1) to exclude Forest Service Road 3965 from the wilderness area so that the road may continue to be used by motorized vehicles to its historical terminus at Squirrel Prairie, as was the original intent of the Congress. The road shall continue to be included in the Hells Canyon National Recreation Area also established by such Act.

TITLE II—OTHER LAND CONVEYANCES AND MANAGEMENT

Subtitle A—Southern Nevada Public Land Management

SEC. 201. FINDINGS AND PURPOSE.

(a) Findings.—The Congress finds the following:

(1) The Bureau of Land Management has extensive land ownership in small and large parcels interspersed with or adjacent to private land in the Las Vegas Valley, Nevada, making many of these parcels difficult to manage and more appropriate for disposal.

(2) In order to promote responsible and orderly development in the Las Vegas Valley, certain of those Federal lands should be sold by the Federal Government based on recommendations made by local government and the public.

(3) The Las Vegas metropolitan area is the fastest growing urban area in the United States, which is causing significant impacts upon the Lake Mead National Recreation Area, the Red Rock Canyon National Conservation Area, and the Spring Mountains

National Recreation Area, which surround the Las Vegas Valley.

(b) PURPOSE.—The purpose of this subtitle is to provide for the orderly disposal of certain Federal lands in Clark County, Nevada, and to provide for the acquisition of environmentally sensitive lands in the State of Nevada.

SEC. 202. DEFINITIONS.

As used in this subtitle:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(2) UNIT OF LOCAL GOVERNMENT.—The term "unit of local government" means Clark County, the City of Las Vegas, the City of North Las Vegas, or the City of Henderson; all in the State of Nevada.

(3) AGREEMENT.—The term "Agreement" means the agreement entitled "The Interim Cooperative Management Agreement Between The United States Department of the Interior—Bureau of Land Management and Clark County", dated November 4, 1992.

(4) SPECIAL ACCOUNT.—The term "special account" means the account in the Treasury of the United States established under section 203(e)(1)(C).

(5) RECREATION AND PUBLIC PURPOSES ACT.—The term "Recreation and Public Purposes Act" means the Act entitled "An Act to authorize acquisition or use of public lands by States, counties, or municipalities for recreational purposes", approved June 14, 1926 (43 U.S.C. 869 et seq.).

(6) REGIONAL GOVERNMENTAL ENTITY.—The term "regional governmental entity" means the Southern Nevada Water Authority, the Regional Flood Control District, and the Clark County Sanitation District.

(7) AVIATION DEPARTMENT.—The term "Aviation Department" means the Department of Aviation of Clark County, Nevada.

SEC. 203. DISPOSAL AND EXCHANGE.

(a) DISPOSAL.—Notwithstanding the land use planning requirements contained in sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711 and 1712), the Secretary, in accordance with this section, the Federal Land Policy and Management Act of 1976, and other applicable law, and subject to valid existing rights, is authorized to dispose of lands within the boundary of the area under the jurisdiction of the Direction of the Bureau of Land Management in Clark County, Nevada, as generally depicted on the map entitled "Las Vegas Valley, Nevada, Land Disposal Map", dated April 10, 1997. Such map shall be on file and available for public inspection in the offices of the Director and the Las Vegas District of the Bureau of Land Management.

(b) RESERVATION FOR LOCAL PUBLIC PURPOSES.—

(1) RECREATION AND PUBLIC PURPOSE ACT CONVEYANCES.—Not less than 30 days before the offering of lands for sale or exchange pursuant to subsection (a), the State of Nevada or the unit of local government in whose jurisdiction the lands are located may elect to obtain any such lands for local public purposes pursuant to the provisions of the Recreation and Public Purposes Act. Pursuant to any such election, the Secretary shall retain the elected lands for conveyance to the State of Nevada or such unit of the local government in accordance with the provisions of the Recreation and Public Purposes Act.

(2) RIGHTS-OF-WAY.—

(A) ISSUANCE.—Upon application, by a unit of local government or regional governmental entity, the Secretary, in accordance with this section and the Federal Land Policy and Management Act of 1976, and other applicable provisions of law, shall issue right-of-way grants on Federal lands in Clark County, Nevada, for all reservoirs, canals, channels, ditches, pipes, pipelines, tunnels and other facilities and systems needed for—

(i) the impoundment, storage, treatment, transportation or distribution of water (other than water from the Virgin River) or wastewater; or

(ii) flood control management.

(B) DURATION.—Right-of-way grants issued under this paragraph shall be valid in perpetuity.

(C) WAIVER OF FEES.—Right-of-way grants issued under this paragraph shall not require the payment of rental or cost recovery fees.

(3) YOUTH ACTIVITY FACILITIES.—Within 30 days after a request by Clark County, Nevada, the Secretary shall offer to Clark County, Nevada, the land depicted on the map entitled "Vicinity Map Parcel 177-28-101-020 dated August 14, 1996, in accordance with the Recreation and Public Purposes Act for the construction of youth activity facilities.

(c) WITHDRAWAL.—Subject to valid existing rights, all Federal lands identified in subsection (a) for disposal are withdrawn from location and entry, under the mining laws and from operation under the mineral leasing and geothermal leasing laws until such time as the Secretary terminates the withdrawal or the lands are patented.

(d) SELECTION.—

(1) JOINT SELECTION REQUIRED.—The Secretary and the unit of local government in whose jurisdiction lands referred to in subsection (a) are located shall jointly select lands to be offered for sale or exchange under this section. The Secretary shall coordinate land disposal activities with the unit of local government in whose jurisdiction such lands are located. Land disposal activities of the Secretary shall be consistent with local land use planning and zoning requirements and recommendations.

(2) OFFERING.—After land has been selected in accordance with this subsection, the Secretary shall make the first offering of land as soon as practicable after the date of enactment of this Act.

(e) DISPOSITION OF PROCEEDS.—

(1) LAND SALES.—Of the gross proceeds of sales of land under this section in a fiscal year—

(A) 5 percent shall be paid directly to the State of Nevada for use in the general education program of the State;

(B) 10 percent shall be paid directly to the Southern Nevada Water Authority for water treatment and transmission facility infrastructure in Clark County, Nevada; and

(C) the remainder shall be deposited in a special account in the Treasury of the United States for use pursuant to the provisions of paragraph (3).

Amounts in the special account shall be available to the Secretary without further appropriation and shall remain available until expended.

(2) LAND EXCHANGES.—

(A) PAYMENTS.—In the case of a land exchange under this section, the non-Federal party shall provide direct payments to the State of Nevada and the Southern Nevada Water Authority in accordance with subparagraphs (A) and (B) of paragraph (1). The payments shall be based on the fair market value of the Federal lands to be conveyed in the exchange and shall be considered a cost incurred by the non-Federal party that shall be compensated by the Secretary if so provided by any agreement to initiate the exchange.

(B) PENDING EXCHANGES.—The provisions of this section, except this subsection and subsections (a) and (b), shall not apply to any land exchange for which an initial agreement to initiate an exchange was signed by an authorized representative of the exchange proponent and an authorized officer of the Bureau of Land Management prior to February 29, 1996.

(3) AVAILABILITY OF SPECIAL ACCOUNT.—

(A) IN GENERAL.—Amounts deposited in the special account may be expended by the Secretary for—

(i) the acquisition of environmentally sensitive land in the State of Nevada in accordance with section 5, with priority given to lands located within Clark County;

(ii) capital improvements at the Lake Mead National Recreation Area, the Desert National Wildlife Refuge, the Red Rock Canyon National Conservation Area and other areas administered by the Bureau of Land Management in Clark County, and the Spring Mountains National Recreation Area;

(iii) development of a multispecies habitat conservation plan in Clark County, Nevada;

(iv) development of parks, trails, and natural areas in Clark County, Nevada, pursuant to a cooperative agreement with a unit of local government; and

(v) reimbursement of costs incurred by the local offices of the Bureau of Land Management in arranging sales or exchanges under this subtitle.

(B) PROCEDURES.—The Secretary shall coordinate the use of the special account with the Secretary of Agriculture, the State of Nevada, local governments, and other interested persons, to ensure accountability and demonstrated results.

(C) LIMITATION.—Not more than 25 percent of the amounts available to the Secretary from the special account in any fiscal year (determined without taking into account amounts deposited under subsection (g)(4)) may be used in any fiscal year for the purposes described in subparagraph (A)(ii).

(f) INVESTMENT OF SPECIAL ACCOUNT.—All funds deposited as principal in the special account shall earn interest in the amount determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities. Such interest shall be added to the principal of the account and expended according to the provisions of subsection (e)(3).

(g) AIRPORT ENVIRONS OVERLAY DISTRICT LAND TRANSFER.—Upon request of Clark County, Nevada, the Secretary shall transfer to Clark County, Nevada, without consideration, all right, title, and interest of the United States in and to the lands identified in the Agreement, subject to the following:

(1) Valid existing rights.

(2) Clark County agrees to manage such lands in accordance with the Agreement and with section 47504 of title 49, United States Code (relating to airport noise compatibility planning), and regulations promulgated pursuant to that section.

(3) Clark County agrees that if any of such lands are sold, leased, or otherwise conveyed or leased by Clark County, such sale, lease, or other conveyance shall contain a limitation which requires uses compatible with the Agreement and such airport noise compatibility planning provisions.

(4) Clark County agrees that if any of such lands are sold, leased, or otherwise conveyed by Clark County, such lands shall be sold, leased, or otherwise conveyed for fair market value. Clark County shall contribute 85 percent of the gross proceeds from the sale,

lease, or other conveyance of such lands directly to the special account. If any of such lands sold, leased, or otherwise conveyed by Clark County are identified on the map referenced in section 2(a) of the Act entitled "An Act to provide for the orderly disposal of certain Federal lands in Nevada and for the acquisition of certain other lands in the Lake Tahoe Basin, and for other purposes", approved December 23, 1980 (94 Stat. 3381; commonly known as the "Santini-Burton Act"), the proceeds contributed to the special account by Clark County from the sale, lease, or other conveyance of such lands shall be used by the Secretary of Agriculture to acquire environmentally sensitive land in the Lake Tahoe Basin pursuant to section 3 of the Santini-Burton Act. Clark County shall contribute 5 percent of the gross proceeds from the sale, lease, or other conveyance of such lands directly to the State of Nevada for use in the general education program of the State, and the remainder shall be available for use by the Aviation Department for the benefit of airport development and the noise compatibility program.

SEC. 204. ACQUISITIONS.

(a) ACQUISITIONS.—

(1) DEFINITION.—For purposes of this section, the term "environmentally sensitive land" means land or an interest in land, the acquisition of which the United States would, in the judgment of the Secretary or the Secretary of Agriculture—

(A) promote the preservation of natural, scientific, aesthetic, historical, cultural, watershed, wildlife, and other values contributing to public enjoyment and biological diversity;

(B) enhance recreational opportunities and public access;

(C) provide the opportunity to achieve better management of public land through consolidation of Federal ownership; or

(D) otherwise serve the public interest.

(2) IN GENERAL.—After the consultation process has been completed in accordance with paragraph (3), the Secretary may acquire with the proceeds of the special account environmentally sensitive land and interests in environmentally sensitive land. Lands may not be acquired under this section without the consent of the owner thereof. Funds made available from the special account may be used with any other funds made available under any other provision of law.

(3) CONSULTATION.—Before initiating efforts to acquire land under this section, the Secretary or the Secretary of Agriculture shall consult with the State of Nevada and with local government within whose jurisdiction the lands are located, including appropriate planning and regulatory agencies, and with other interested persons, concerning the necessity of making the acquisition, the potential impacts on State and local government, and other appropriate aspects of the acquisition. Consultation under this paragraph is in addition to any other consultation required by law.

(b) ADMINISTRATION.—On acceptance of title by the United States, land and interests in land acquired under this section that is within the boundaries of a unit of the National Forest System, National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, National Trails System, National Wilderness Preservation System, any other system established by Act of Congress, or any national conservation or national recreation area established by Act of Congress—

(1) shall become part of the unit or area without further action by the Secretary or Secretary of Agriculture; and

(2) shall be managed in accordance with all laws and regulations and land use plans applicable to the unit or area.

(c) DETERMINATION OF FAIR MARKET VALUE.—The fair market value of land or an interest in land to be acquired by the Secretary or the Secretary of Agriculture under this section shall be determined pursuant to section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716) and shall be consistent with other applicable requirements and standards. Fair market value shall be determined without regard to the presence of a species listed as threatened or endangered under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(d) PAYMENTS IN LIEU OF TAXES.—Section 6901(1) of title 31, United States Code, is amended as follows:

(1) By striking "or" at the end of subparagraph (F).

(2) By striking the period at the end of subparagraph (G) and inserting "; or".

(3) By adding at the end the following:

"(H) acquired by the Secretary of the Interior or the Secretary of Agriculture under subtitle A of title II of the Omnibus National Parks and Public Lands Act of 1998 that is not otherwise described in subparagraphs (A) through (G).".

SEC. 205. REPORT.

The Secretary, in cooperation with the Secretary of Agriculture, shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives an annual report on all transactions under this subtitle.

SEC. 206. RECREATION AND PUBLIC PURPOSES ACT.

(a) TRANSFER OF REVERSIONARY INTEREST.—Upon request by a grantee of lands within Clark County, Nevada, that are subject to a lease or patent issued under the Recreation and Public Purposes Act, the Secretary may transfer the reversionary interest in such lands to other non-Federal lands. The transfer of the reversionary interest shall only be made to lands of equal value, except that with respect to the State of Nevada or a unit of local government, an amount equal to the excess (if any) of the fair market value of lands received by the unit of local government over the fair market value of lands transferred by the unit of local government shall be paid to the Secretary and shall be treated under section 203(e)(1) of this section as proceeds from the sale of land. For purposes of this subsection, the fair market value of lands to be transferred by the State of Nevada or a unit of local government may be based upon a statement of value prepared by a qualified appraiser.

(b) TERMS AND CONDITIONS APPLICABLE TO LANDS ACQUIRED.—Land selected under subsection (a) by a grantee described in such subsection shall be subject to the terms and conditions, uses, and acreage limitations of the lease or patent to which the lands transferred by the grantee were subject, including the reverter provisions, under the Recreation and Public Purposes Act.

SEC. 207. SUPPORT FOR AFFORDABLE HOUSING.

The Secretary, in consultation with the Secretary of Housing and Urban Development, may make available, in accordance with section 203 of the Federal Land Planning and Management Act of 1976 (43 U.S.C. 1712), land in the State of Nevada at less than fair market value and under other such terms and conditions as the Secretary may determine for affordable housing purposes. Such lands shall be made available only to State or local governmental entities, including local public housing authorities. For the purposes of this subsection, housing shall be considered to be affordable housing if the housing serves low-income families (as defined in section 104 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704)).

SEC. 208. CONVEYANCE TO CLARK COUNTY DEPARTMENT OF AVIATION.

(a) CONVEYANCE REQUIRED.—Notwithstanding the land use planning requirements contained in sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711 and 1712), but subject to subsection (b) of this section, the Secretary shall convey to the Department of Aviation of Clark County, Nevada, all right, title, and interest of the United States in and to the public lands identified for disposition on the map entitled "Ivanpah Valley, Nevada-Airport Selections", numbered ____, and dated ____, for the purpose of developing an airport facility and related infrastructure. Such map shall be on file and available for public inspection in the offices of the Director and the Las Vegas District of the Bureau of Land Management.

(b) AIRSPACE STUDY AND MITIGATION OF ADVERSE EFFECTS.—The conveyance identified in subsection (a) shall not occur unless each of the following occur:

(1) The Aviation Department conducts an airspace assessment to identify any adverse effect on access to the Las Vegas Basin under visual flight rules that would result from the construction and operation of a commercial or primary airport, or both, on the land to be conveyed.

(2) The Federal Aviation Administration certifies to the Secretary that the Aviation Department's assessment is thorough and that alternatives have been developed to address each adverse effect identified in the assessment, including alternatives that ensure access to the Las Vegas Basin under visual flight rules at a level that is equal to or better than existing access.

(3) The Aviation Department enters into an agreement with the Secretary to retain ownership of nearby Jean Airport and to maintain and develop Jean Airport as a general aviation airport.

(c) PHASED CONVEYANCES.—The Secretary shall convey the lands identified in subsection (a) in smaller parcels over a period of up to 20 years, as may be required to carry out the phased construction and development of the airport facility and infrastructure on the lands to be conveyed. As consideration for the conveyance of each parcel, the Aviation Department shall pay to the United States an amount equal to the fair market value of the parcel.

(d) DETERMINATIONS OF FAIR MARKET VALUE.—During the 3-year period beginning on the date of the enactment of this Act, the fair market value of a parcel to be conveyed under subsection (a) shall be based on an appraisal of the fair market value as of a date not later than 6 months after the date of the enactment of this Act. The fair market value of each parcel conveyed after the end of such period shall be based on a subsequent appraisal. An appraisal conducted after such period shall consider the parcel in its unimproved state and shall not reflect any enhancement in value to the parcel based upon the existence or planned construction of infrastructure on or near the parcel.

(e) REVERSIONARY INTEREST.—During the 5-year period beginning 20 years after the date on which the Secretary conveys the first parcel under subsection (a), if the Secretary determines that the Aviation Department is not developing or progressing toward the development of the conveyed lands as an airport facility, the Secretary may exercise a right to reenter the conveyed lands. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing. If the Secretary exercises a right to reenter the conveyed lands under this subsection, the Secretary shall reimburse the Aviation Department for all payments made to the United States under subsection (c).

(f) WITHDRAWAL.—The public lands referred to in subsection (a) are hereby withdrawn from mineral entry under the Act of May 10, 1872 (30 U.S.C. 22 et seq.; popularly known as the Mining Law of 1872), and the Mineral Leasing Act (30 U.S.C. 181 et seq.).

Subtitle B—Gallatin Land Consolidation

SEC. 211. FINDINGS.

Congress finds that—

(1) the land north of Yellowstone National Park possesses outstanding natural characteristics and wildlife habitats that make the land a valuable addition to the National Forest System;

(2) it is in the interest of the United States to establish a logical and effective ownership pattern for the Gallatin National Forest, reducing long-term costs for taxpayers and increasing and improving public access to the forest;

(3) it is in the interest of the United States for the Secretary of Agriculture to enter into an Option Agreement for the acquisition of land owned by Big Sky Lumber Co. to accomplish the purposes of this subtitle;

(4) other private property owners are willing to enter into exchanges that further improve the ownership pattern of the Gallatin National Forest; and

(5) BSL, acting in good faith, has shouldered many aspects of the financial burden of the appraisal and subsequent option and exchange process.

SEC. 212. DEFINITIONS.

In this subtitle:

(1) BLM LAND.—The term "BLM land" means approximately 2,000 acres of Bureau of Land Management land (including all appurtenances to the land) that is proposed to be acquired by BSL, as depicted in Exhibit B to the Option Agreement.

(2) BSL.—The term "BSL" means Big Sky Lumber Co., an Oregon joint venture, and its successors and assigns, and any other entities having a property interest in the BSL land.

(3) BSL LAND.—The term "BSL land" means approximately 54,000 acres of land (including all appurtenances to the land except as provided in section 213(e)(1)(D)(i)) owned by BSL that is proposed to be acquired by the Secretary of Agriculture, as depicted in Exhibit A to the Option Agreement.

(4) EASTSIDE NATIONAL FORESTS.—The term "Eastside National Forests" means national forests east of the Continental Divide in the State of Montana, including the Beaverhead National Forest, Deerlodge National Forest, Helena National Forest, Custer National Forest, and Lewis and Clark National Forest.

(5) NATIONAL FOREST SYSTEM LAND.—The term "National Forest System land" means approximately 29,000 acres of land (including all appurtenances to the land) owned by the United States in the Gallatin National Forest, Flathead National Forest, Deerlodge National Forest, Helena National Forest, Lolo National Forest, and Lewis and Clark National Forest that is proposed to be acquired by BSL, as depicted in Exhibit B to the Option Agreement.

(6) OPTION AGREEMENT.—The term "Option Agreement" means—

(A) the document signed by BSL, dated July 29, 1998, and entitled "Option Agreement for the Acquisition of Big Sky Lumber Co. Lands Pursuant to the Gallatin Range Consolidation and Protection Act of 1993";

(B) the exhibits and maps attached to the document described in subparagraph (A); and

(C) a negotiated agreement to be entered into between the Secretary and BSL and made part of the document described in subparagraph (A).

(7) SECRETARY.—The "Secretary" means the Secretary of Agriculture.

SEC. 213. GALLATIN LAND CONSOLIDATION COMPLETION.

(a) IN GENERAL.—Notwithstanding any other provision of law, and subject to the terms and conditions of the Option Agreement—

(1) if BSL offers title acceptable to the Secretary to the BSL land—

(A) the Secretary shall accept a warranty deed to the BSL land and a quit claim deed to agreed to mineral interests in the BSL land;

(B) the Secretary shall convey to BSL, subject to valid existing rights and to other terms, conditions, reservations, and exceptions as may be agreed to by the Secretary and BSL, fee title to the National Forest System land; and

(C) the Secretary of the Interior shall convey to BSL, by patent or otherwise, subject to valid existing rights and other terms, conditions, reservations, and exceptions as may be agreed to by the Secretary of the Interior and BSL, fee title to the BLM land;

(2) if BSL places title in escrow acceptable to the Secretary to 11½ sections of the BSL land in the Taylor Fork area as set forth in the Option Agreement—

(A) the Secretary shall place Federal land in the Bangtail and Doe Creek areas of the Gallatin National Forest, as identified in the Option Agreement, in escrow pending conveyance to the Secretary of the Taylor Fork land, as identified in the Option Agreement in escrow;

(B) the Secretary, subject to the availability of funds, shall purchase 7½ sections of BSL land in the Taylor Fork area held in escrow and identified in the Option Agreement at a purchase price of $4,150,000 plus interest at a rate acceptable to the Secretary; and

(C) the Secretary shall acquire the 4 Taylor Fork sections identified in the Option Agreement remaining in escrow, and any of the 6 sections referred to in subparagraph (B) for which funds are not available, by providing BSL with timber sale receipts from timber sales on the Gallatin National Forest and other eastside national forests in the State of Montana in accordance with subsection (c); and

(3)(A) as funds or timber sale receipts are received by BSL—

(i) the deeds to an equivalent value of BSL Taylor Fork land held in escrow shall be released and conveyed to the Secretary; and

(ii) the escrow of deeds to an equivalent value of Federal land shall be released to the Secretary in accordance with the terms of the Option Agreement; or

(B) if funds or timber sale receipts are not provided to BSL as provided in the Option Agreement, BSL shall be entitled to receive patents and deeds to an equivalent value of the Federal land held in escrow.

(b) VALUATION.—

(1) IN GENERAL.—The property and other assets exchanged or conveyed by BSL and the United States under subsection (a) shall be approximately equal in value, as determined by the Secretary.

(2) DIFFERENCE IN VALUE.—To the extent that the property and other assets exchanged or conveyed by BSL or the United States under subsection (a) are not approximately equal in value, as determined by the Secretary, the values shall be equalized in accordance with methods identified in the Option Agreement.

(c) TIMBER SALE PROGRAM.—

(1) IN GENERAL.—The Secretary shall implement a timber sale program, according to the terms and conditions identified in the Option Agreement and subject to compliance with applicable environmental laws, judicial decisions, and acts beyond the control of the Secretary, to generate sufficient timber receipts to purchase the portions of the BSL land in Taylor Fork identified in the Option Agreement.

(2) IMPLEMENTATION.—In implementing the timber sale program—

(A) the Secretary shall provide BSL with a proposed annual schedule of timber sales;

(B) as set forth in the Option Agreement, receipts generated from the timber sale program shall be deposited by the Secretary in a special account established by the Secretary and paid by the Secretary to BSL;

(C) receipts from the Gallatin National Forest shall not be subject to the Act of May 23, 1908 (16 U.S.C. 500); and

(D) the Secretary shall fund the timber sale program at levels determined by the Secretary to be commensurate with the preparation and administration of the identified timber sale program.

(d) RIGHTS-OF-WAY.—As specified in the Option Agreement—

(1) the Secretary, under the authority of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), shall convey to BSL such easements in or other rights-of-way over National Forest System land for access to the land acquired by BSL under this subtitle for all lawful purposes; and

(2) BSL shall convey to the United States such easements in or other rights-of-way over land owned by BSL for all lawful purposes, as may be agreed to by the Secretary and BSL.

(e) QUALITY OF TITLE.—

(1) DETERMINATION.—The Secretary shall review the title for the BSL land described in subsection (a) and, within 45 days after receipt of all applicable title documents from BSL, determine whether—

(A) the applicable title standards for Federal land acquisition have been satisfied and the quality of the title is otherwise acceptable to the Secretary of Agriculture;

(B) all draft conveyances and closing documents have been received and approved;

(C) a current title commitment verifying compliance with applicable title standards has been issued to the Secretary; and

(D) the title includes both the surface and subsurface estates without reservation or exception (except as specifically provided in this subtitle), including—

(i) minerals, mineral rights, and mineral interests (including severed oil and gas surface rights), subject to and excepting other outstanding or reserved oil and gas rights;

(ii) timber, timber rights, and timber interests (except those reserved subject to section 251.14 of title 36, Code of Federal Regulations, by BSL and agreed to by the Secretary);

(iii) water, water rights, ditch, and ditch rights;

(iv) geothermal rights; and

(v) any other interest in the property.

(2) Conveyance of title.—

(A) In general.—If the quality of title does not meet Federal standards or is otherwise determined to be unacceptable to the Secretary of Agriculture, the Secretary shall advise BSL regarding corrective actions necessary to make an affirmative determination under paragraph (1).

(B) Title to subsurface estate.—Title to the subsurface estate shall be conveyed by BSL to the Secretary in the same form and content as that estate is received by BSL from Burlington Resources Oil & Gas Company Inc. and Glacier Park Company.

(f) Timing of Implementation.—

(1) Land-for-land exchange.—The Secretary shall accept the conveyance of land described in subsection (a) not later than 45 days after the Secretary has made an affirmative determination of quality of title.

(2) Land-for-timber sale receipt exchange.—As provided in subsection (c) and the Option Agreement, the Secretary shall make timber receipts described in subsection (a)(3) available not later than December 31 of the fifth full calendar year that begins after the date of enactment of this subtitle.

(3) Purchase.—The Secretary shall complete the purchase of BSL land under subsection (a)(2)(B) not later than 30 days after the date on which funds are made available for such purchase and an affirmative determination of quality of title is made with respect to the BSL land.

SEC. 214. OTHER FACILITATED EXCHANGES.

(a) Authorized Exchanges.—

(1) In general.—The Secretary shall enter into the following land exchanges if the landowners are willing:

(A) Wapiti land exchange, as outlined in the documents entitled "Non-Federal Lands in Facilitated Exchanges" and "Federal Lands in Facilitated Exchanges" and dated July 1998.

(B) Eightmile/West Pine land exchange as outlined in the documents entitled "Non-Federal Lands in Facilitated Exchanges" and "Federal Lands in Facilitated Exchanges" and dated July 1998.

(2) Equal Value.—Before entering into an exchange under paragraph (1), the Secretary shall determine that the parcels of land to be exchanged are of approximately equal value, based on an appraisal.

(b) Section 1 of the Taylor Fork Land.—

(1) In general.—The Secretary is encouraged to pursue a land exchange with the owner of section 1 of the Taylor Fork land after completing a full public process and an appraisal.

(2) Report.—The Secretary shall report to Congress on the implementation of paragraph (1) not later than 180 days after the date of enactment of this subtitle.

SEC. 215. GENERAL PROVISIONS.

(a) Minor Corrections.—

(1) In general.—The Option Agreement shall be subject to such minor corrections and supplemental provisions as may be agreed to by the Secretary and BSL.

(2) Notification.—The Secretary shall notify the Committee on Energy and Natural Resources of the Senate, the Committee on Resources of the House of Representatives, and each member of the Montana congressional delegation of any changes made under this subsection.

(3) Boundary adjustment.—

(A) In general.—The boundary of the Gallatin National Forest is adjusted in the Wineglass and North Bridger area, as described on maps dated July 1998, upon completion of the conveyances.

(B) No limitation.—Nothing in this subsection limits the authority of the Secretary to adjust the boundary pursuant to section 11 of the Act of March 1, 1911 (commonly known as the "Weeks Act") (16 U.S.C. 521).

(C) Allocation of land and water conservation fund moneys.—For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–9), boundaries of the Gallatin National Forest shall be considered to be the boundaries of the National Forest as of January 1, 1965.

(b) Public Availability.—The Option Agreement—

(1) shall be on file and available for public inspection in the office of the Supervisor of the Gallatin National Forest; and

(2) shall be filed with the county clerk of each of Gallatin County, Park County, Madison County, Granite County, Broadwater County, Meagher County, Flathead County, and Missoula County, Montana.

(c) Compliance With Option Agreement.—The Secretary, the Secretary of the Interior, and BSL shall comply with the terms and conditions of the Option Agreement except to the extent that any provision of the Option Agreement conflicts with this subtitle.

(d) Conveyance of Timber.—After completion of the land-for-land exchange under section 213(a)(1), the Secretary shall convey to BSL 1,000,000 board feet of timber from roaded land in the Gallatin National Forest, which—

(1) shall be treated as reserved timber under section 251.14 of title 36, Code of Federal Regulations; and

(2) shall not be considered as part of the appraisal value of land exchanged under this subtitle.

(e) Status of Land.—All land conveyed to the United States under this subtitle shall be added to and administered as part of the Gallatin National Forest and Deerlodge National Forest, as appropriate, in accordance with the Act of March 1, 1911 (5 U.S.C. 515 et seq.), and other laws (including regulations) pertaining to the National Forest System.

(f) Management.—

(1) Public process.—Not later than 30 days after the date of completion of the land-for-land exchange under section 213(f)(1), the Secretary shall initiate a public process to amend the Gallatin National Forest Plan and the Deerlodge National Forest Plan to integrate the acquired land into the plans.

(2) Process time.—The amendment process under paragraph (1) shall be completed as soon as practicable, and in no event later than 540 days after the date on which the amendment process is initiated.

(3) Limitation.—An amended management plan shall not permit surface occupancy on the acquired land for access to reserved or outstanding oil and gas rights or for exploration or development of oil and gas.

(4) Interim management.—Pending completion of the forest plan amendment process under paragraph (1), the Secretary shall—

(A) manage the acquired land under the standards and guidelines in the applicable land and resource management plans for adjacent land managed by the Forest Service; and

(B) maintain all existing public access to the acquired land.

(g) Restoration.—

(1) In general.—The Secretary shall implement a restoration program including reforestation and watershed enhancements to bring the acquired land and surrounding national forest land into compliance with Forest Service standards and guidelines.

(2) State and local conservation corps.—In implementing the restoration program, the Secretary shall, when practicable, use partnerships with State and local conservation corps, including the Montana Conservation Corps, under the Public Lands Corps Act of 1993 (16 U.S.C. 1721 et seq.).

(h) Implementation.—The Secretary of Agriculture shall ensure that sufficient funds are made available to the Gallatin National Forest to carry out this subtitle.

(i) Revocations.—Notwithstanding any other provision of law, any public orders withdrawing lands identified in the Option Agreement from all forms of appropriation under the public land laws are revoked upon conveyance of the lands by the Secretary.

SEC. 216. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this subtitle.

Subtitle C—Conveyance of Canyon Ferry Reservoir Properties

SEC. 221. FINDINGS.

The Congress finds that the conveyance of the Properties described in section 224(b) to the Lessees of those Properties for fair market value would have the beneficial results of—

(1) reducing Pick-Sloan project debt for the Canyon Ferry Reservior;

(2) providing a permanent source of funding to acquire public access, to conserve fish and wildlife, and to enhance public hunting, fishing, and recreational opportunities in the State of Montana;

(3) eliminating Federal payments in lieu of taxes and associated management expenditures in connection with the Federal Government's ownership of the Properties while increasing local tax revenues from the new owners of the Properties; and

(4) eliminating expensive and contentious disputes between the Secretary of the Interior and Lessees while ensuring that the Federal Government receives full and fair value for the conveyance of the Properties.

SEC. 222. PURPOSE.

The purpose of this subtitle is to establish terms and conditions under which the Secretary of the Interior shall convey, for fair market value, certain Properties around Canyon Ferry Reservoir in the State of Montana, to the Lessees of the Properties.

SEC. 223. DEFINITIONS.

In this subtitle:

(1) CFRA.—The term "CFRA" means the Canyon Ferry Recreation Association, Incorporated, a Montana corporation.

(2) Commissioners.—The term "Commissioners" means the Board of Commissioners for Broadwater County, Montana.

(3) County Trust.—The terms "County Trust" and "Canyon Ferry-Broadwater County Trust" mean the Canyon Ferry-Broadwater County Trust established pursuant to section 228.

(3) Lessee.—The term "Lessee" means the leaseholder of any 1 of the cabin sites described in section 224(b) on the date of the enactment of this subtitle and the heirs, executors, and assigns of the leaseholder's interest in that cabin site.

(4) Property.—The term "Property" means any one of the cabin sites described in section 224(b).

(5) Properties.—The term "Properties" means all 265 of the cabin sites (and related parcels) described in section 224(b).

(6) Purchaser.—The term "Purchaser" means a person or entity, excluding CFRA,

that purchases the Properties under section 224.

(7) RESERVOIR.—The terms "Reservoir" and "Canyon Ferry Reservoir" mean the Canyon Ferry Reservoir in the State of Montana.

(8) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(9) STATE TRUST.—The terms "State Trust" and "Montana Fish and Wildlife Conservation Trust" mean the Montana Fish and Wildlife Conservation Trust established pursuant to section 227.

SEC. 224. SALE OF PROPERTIES.

(a) SALE REQUIRED.—Subject to subsection (c) and section 228, and notwithstanding any other provision of law, the Secretary shall sell at fair market value—

(1) all right, title, and interest of the United States in and to all (but not fewer than all) of the Properties, subject to valid existing rights; and

(2) perpetual easements for—

(A) vehicular access to each Property;

(B) access to and the use of one dock per Property; and

(C) access to and the use of all boathouses, ramps, retaining walls, and other improvements for which access is provided in the Property leases as of the date of the enactment of this subtitle.

(b) DESCRIPTION OF PROPERTIES.—

(1) IN GENERAL.—The Properties to be conveyed are—

(A) the 265 cabin sites of the Bureau of Reclamation located along the northern end of the Reservoir in portions of sections 2, 11, 12, 13, 15, 22, 23, and 26, Township 10 North, Range 1 West; and

(B) any small parcels contiguous to the Properties (not including shoreline or land needed to provide public access to the shoreline of the Reservoir) that the Secretary determines should be conveyed in order to eliminate inholdings and facilitate administration of surrounding land remaining in Federal ownership.

(2) ACREAGE; LEGAL DESCRIPTION.—The acreage and legal description of each Property and of each parcel determined by the Secretary under paragraph (1)(B) shall be determined by agreement between the Secretary and CFRA.

(c) PURCHASE PROCESS.—

(1) IN GENERAL.—The Secretary shall—

(A) solicit sealed bids for the Properties;

(B) subject to paragraph (2), sell the Properties to the bidder that submits the highest bid above the minimum bid determined under paragraph (2); and

(C) only accept bids that provide for the purchase of all of the Properties in one bundle.

(2) MINIMUM BID.—Before accepting bids, the Secretary, in consultation with CFRA, shall establish a minimum bid based on an appraisal of the fair market value of the Properties, exclusive of the value of private improvements made by leaseholders of the Properties before the date of the conveyance. The appraisal shall be conducted in conformance with the Uniform Standards of Professional Appraisal Practice.

(3) RIGHT OF FIRST REFUSAL.—If the highest bidder is a person other than CFRA, CFRA shall have the right to match the highest bid and purchase the Properties at a price equal to the amount of that bid.

(d) TERMS OF CONVEYANCE.—

(1) PURCHASER TO EXTEND OPTION TO PURCHASE OR TO CONTINUE LEASING.—

(A) PURCHASE OPTION.—The Purchaser shall give each Lessee of a Property conveyed under this section an option to purchase the Property at fair market value as determined under subsection (c)(2).

(B) RIGHT TO CONTINUE LEASE.—A Lessee that is unable or unwilling to purchase a Property shall be provided the opportunity to continue to lease the Property for fair market value rent under the same terms and conditions as apply under the existing lease for the Property, including the right to renew the term of the existing lease for two consecutive five-year terms.

(C) COMPENSATION FOR IMPROVEMENTS.—If a Lessee declines to purchase a Property, the Purchaser shall compensate the Lessee for the fair market value, as determined pursuant to customary appraisal procedures, of all improvements made to the Property. The Lessee may sell the improvements to the Purchaser at any time, but the sale shall be completed by the final termination of the lease, after all renewals as provided in subparagraph (B).

(2) PROPERTY DESCRIPTIONS AND HISTORICAL USE.—The Purchaser shall honor the existing descriptions of the Properties and historical use restrictions for the Properties.

(3) CFRA PURCHASES.—

(A) CONVEYANCE TO STATE TRUST IN LIEU OF PAYMENT.—If CFRA is the highest bidder, or matches the highest bid, CFRA may convey to the Montana Fish and Wildlife Conservation Trust the fee title to any Property that is not purchased by a Lessee under paragraph (1)(A). The conveyance to the State Trust shall be in lieu of payment, and the value of each Property contribution under this subparagraph shall be the fair market value of the Property under this section.

(B) CONTINUATION OF LEASES.—

(i) IN GENERAL.—CFRA (or the State Trust if a Property is conveyed to the State Trust under subparagraph (A)) shall allow the Lessee of that Property who is unable or unwilling to purchase the Property to continue to lease the Property pursuant to the terms and conditions of the lease in effect for the Property on the date of the enactment of this subtitle.

(ii) RENTAL PAYMENTS.—All rents received during the continuation of a lease under clause (i) shall be paid to CFRA (or the State Trust if the Property is conveyed to the State Trust under subparagraph (A)).

(iii) LIMITATION ON RIGHT TO TRANSFER LEASE.—Subject to valid existing rights, a Lessee may not sell or otherwise assign or transfer the Lessee's Property without purchasing the Property from CFRA (or the State Trust if the Property is conveyed to the State Trust under subparagraph (A)) and conveying the fee interest in the Property.

(C) CONVEYANCE BY STATE TRUST.—All conveyances of a Property and any related parcels under subsection (b)(1)(B) by the State Trust shall be at fair market value as determined by a new appraisal, but in no event may the State Trust convey any Property to a Lessee for an amount less than the value established for the Property by the appraisal conducted pursuant to subsection (c)(2).

(e) ADMINISTRATIVE COSTS.—Any reasonable administrative cost incurred by the Secretary incident to the conveyance under subsection (a) shall be reimbursed by the Purchaser or CFRA, as the case may be.

(f) TIMING.—The Secretary shall make every effort to complete the conveyance under subsection (a) not later than one year after the date of the enactment of this subtitle.

(g) CLOSING.—Real estate closings to complete the conveyance under subsection (a) may be staggered to facilitate the conveyance as agreed to by the Secretary and the Purchaser or CFRA, as the case may be.

(h) CONVEYANCE TO LESSEE.—If a Lessee elects to purchase a Property from the Purchaser or CFRA as provided in subsection (d)(1)(A), the Secretary, upon request by the Lessee, shall have the conveyance documents prepared in the Lessee's name or names in order to minimize the time and documents required to complete the closing for the Property.

(h) COSTS.—The Lessee shall reimburse CFRA for a proportionate share of the costs to CFRA of completing the transactions contemplated by this subtitle, including any interest charges. In addition, the Lessee shall reimburse the State Trust for costs, including costs of the new appraisal, associated with conveying the Property from the Trust to the Lessee.

SEC. 225. MANAGEMENT OF BUREAU OF RECLAMATION RECREATION AREA.

(a) CONTRACT FOR CAMPGROUND MANAGEMENT.—Not later than six months after the date of the enactment of this subtitle, the Secretary shall—

(1) offer to enter into a contract with the Board of Commissioners for Broadwater County, Montana, under which the Commissioners would undertake the management of the Bureau of Reclamation recreation area known as Silos recreation area; and

(2) enter into such a contract if mutually agreed upon by the Secretary and the Commissioners.

(b) CONCESSION INCOME.—Any income generated by any concessions which may be granted by the Commissioners at the recreation area shall be deposited in the Canyon Ferry-Broadwater County Trust established pursuant to section 228 and may be dispersed by the manager of the County Trust as part of the income of the County Trust.

SEC. 226. USE OF PROCEEDS.

Proceeds received by the United States from the conveyances under this subtitle shall be used as follows:

(1) 10 percent of the proceeds shall be applied by the Secretary of the Treasury to reduce the outstanding debt for the Pick-Sloan project at Canyon Ferry Reservoir.

(2) 90 percent of the proceeds shall be deposited into the State Trust.

SEC. 227. MONTANA FISH AND WILDLIFE CONSERVATION TRUST.

As part of the conveyance of the Properties under section 224, there shall be established a nonprofit charitable permanent perpetual public trust in Montana to be known as the "Montana Fish and Wildlife Conservation Trust", to provide a permanent source of funding to acquire publicly accessible land and interests in land, including easements and conservation easements, in Montana from willing sellers at fair market value to—

(1) restore and conserve fisheries habitat, including riparian habitat;

(2) restore and conserve wildlife habitat;

(3) enhance public hunting, fishing, and recreational opportunities; and

(4) improve public access to public lands.

SEC. 228. CANYON FERRY-BROADWATER COUNTY TRUST.

(a) TRUST REQUIRED AS CONDITION ON CONVEYANCES.—The Secretary may not sell the Properties under section 224 unless and until the Board of Commissioners for Broadwater County, Montana—

(1) establishes a nonprofit charitable permanent perpetual public trust, to be known as the "Canyon Ferry-Broadwater County Trust"; and

(2) deposits at least $3,000,000 as the initial corpus of the County Trust.

(b) REDUCTION FOR IN-KIND CONTRIBUTIONS.—The Secretary may reduce the amount required to be deposited in the County Trust under subsection (a)(2) to reflect in-kind contributions made in Broadwater County and related to the maintenance or improvement of access to or recreational facilities at the Reservoir. In kind contributions shall be valued based on the fair market value of the goods or services provided.

(c) COUNTY TRUST MANAGEMENT.—The County Trust shall be managed by the Montana Community Foundation, in this section referred to as the "trust manager".

(d) USE.—

(1) IN GENERAL.—The trust manager shall invest the corpus of the County Trust and shall disperse funds from the County Trust only as provided in this subsection.

(2) SILO RECREATION AREA.—A sum not to exceed $500,000 may be expended from the corpus of the County Trust to pay for the planning and construction of a harbor at the Silos recreation area.

(3) OTHER USES.—The balance of the principal of the County Trust shall be inviolate. Income derived from the County Trust may be expended for the improvement of access to those portions of Canyon Ferry Reservoir lying within Broadwater County, Montana, and for the creation and improvement of new and existing recreational areas within Broadwater County.

(4) LIMITATION.—All interest earned on the principal of the County Trust shall be reinvested and considered part of the corpus of the Trust until the sum of $3,000,000, or such lesser amount established by the Secretary under subsection (b), is deposited as the initial corpus of County Trust.

(5) DISPERSEMENT.—The trust manager shall either approve or reject any request for dispersement, but shall not make any expenditure except on the recommendation of the advisory committee established under subsection (e).

(e) ADVISORY COMMITTEE.—

(1) APPOINTMENT.—The Commissioners shall appoint an advisory committee consisting of not less than three nor more than person persons.

(2) DUTIES.—The advisory committee shall meet on a regular basis to establish priorities and prepare requests for the dispersement of funds from the County Trust, except that the advisory committee shall recommend only such expenditures as are approved by the Commissioners.

Subtitle D—Conveyance of National Forest Lands for Public School Purposes

SEC. 231. AUTHORIZATION OF USE OF NATIONAL FOREST LANDS FOR PUBLIC SCHOOL PURPOSES.

(a) TRANSFERS.—The Secretary of Agriculture may, upon a finding that the transfer of certain National Forest lands for local public school purposes would serve the public interest, authorize the transfer of up to 40 acres of National Forest lands to a local governmental entity for public school purposes. The Secretary may make available only those National Forest lands that have been identified for disposal or exchange or are not otherwise needed for National Forest purposes. The Secretary shall make such transfers using the least amount of land required for the efficient operation of the project involved.

(b) COSTS.—Such transfers may be made at discounted or no-cost. The Secretary shall provide for a no-cost transfer to a local governmental entity for public school purposes if the Secretary determines that the charges for such lands would impose an undue hardship on the local governmental entity.

(c) CONDITIONS.—Such transfers shall be conditioned on the requirement that the lands so transferred will be used solely for public school purposes.

(d) DEADLINE FOR CONSIDERATION OF APPLICATION FOR USE FOR SCHOOL.—If the Secretary receives an application from a duly qualified applicant that is a local education agency seeking a conveyance of land under this section for use for an elementary or secondary school, including a public charter school, the Secretary shall—

(1) before the end of the 10-day period beginning on the date of that receipt, provide notice of that receipt to the applicant; and

(2) before the end of the 90-day period beginning on the date of that receipt—

(A) determine whether or not to convey land pursuant to the application, and notify the applicant of that determination; or

(B) report to the Congress and the applicant the reasons that determination has not been made.

Subtitle D—Other Conveyances

SEC. 241. LAND EXCHANGE, EL PORTAL ADMINISTRATIVE SITE, CALIFORNIA.

(a) AUTHORIZATION OF EXCHANGE.—If the non-Federal lands described in subsection (b) are conveyed to the United States in accordance with this section, the Secretary of the Interior shall convey to the party conveying the non-Federal lands all right, title, and interest of the United States in and to a parcel of land consisting of approximately 8 acres administered by the Department of Interior as part of the El Portal Administrative Site in the State of California, as generally depicted on the map entitled "El Portal Administrative Site Land Exchange", dated June 1998.

(b) RECEIPT OF NON-FEDERAL LANDS.—The parcel of non-Federal lands referred to in subsection (a) consists of approximately 8 acres, known as the Yosemite View parcel, which is located adjacent to the El Portal Administrative Site, as generally depicted on the map referred to in subsection (a). Title to the non-Federal lands must be acceptable to the Secretary of the Interior, and the conveyance shall be subject to such valid existing rights of record as may be acceptable to the Secretary. The parcel shall conform with the title approval standards applicable to Federal land acquisitions.

(c) EQUALIZATION OF VALUES.—If the value of the Federal land and non-Federal lands to be exchanged under this section are not equal in value, the difference in value shall be equalized through a cash payment or the provision of goods or services as agreed upon by the Secretary and the party conveying the non-Federal lands.

(d) APPLICABILITY OF OTHER LAWS.—Except as otherwise provided in this section, the Secretary of the Interior shall process the land exchange authorized by this section in the manner provided in part 2200 of title 43, Code of Federal Regulations, as in effect on the date of the enactment of this subtitle.

(e) BOUNDARY ADJUSTMENT.—Upon completion of the land exchange, the Secretary shall adjust the boundaries of the El Portal Administrative Site as necessary to reflect the exchange. Lands acquired by the Secretary under this section shall be administered as part of the El Portal Administrative Site.

(f) MAP.—The map referred to in subsection (a) shall be on file and available for inspection in appropriate offices of the Department of the Interior.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Interior may require such additional terms and conditions in connection with the land exchange under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 242. AUTHORIZATION TO USE LAND IN MERCED COUNTY, CALIFORNIA, FOR ELEMENTARY SCHOOL.

(a) REMOVAL OF RESTRICTIONS.—Notwithstanding the restrictions otherwise applicable under the terms of conveyance by the United States of any of the land described in subsection (b) to Merced County, California, or under any agreement concerning any part of such land between such county and the Secretary of the Interior or any other officer or agent of the United States, the land described in subsection (b) may be used for the purpose specified in subsection (c).

(b) LAND AFFECTED.—The land referred to in subsection (a) is the north 25 acres of the 40 acres located in the northwest quarter of the southwest quarter of section 20, township 7 south, range 13 east, Mount Diablo base line and Meridian in Merced County, California, conveyed to such county by deed recorded in volume 1941 at page 441 of the official records in Merced County, California.

(c) AUTHORIZED USES.—Merced County, California, may authorize the use of the land described in subsection (b) for an elementary school serving children without regard to their race, creed, color, national origin, physical or mental disability, or sex, operated by a nonsectarian organization on a nonprofit basis and in compliance with all applicable requirements of the laws of the United States and the State of California. If Merced County permits such lands to be used for such purposes, the county shall include information concerning such use in the periodic reports to the Secretary of the Interior required under the terms of the conveyance of such lands to the county by the United States. Any violation of the provisions of this subsection shall be deemed to be a breach of the conditions and covenants under which such lands were conveyed to Merced County by the United States, and shall have the same effect as provided by deed whereby the United States conveyed the lands to the county. Except as specified in this subsection, nothing in this section shall increase or diminish the authority or responsibility of the county with respect to the land.

SEC. 243. ISSUANCE OF QUITCLAIM DEED, STEFFENS FAMILY PROPERTY, BIG HORN COUNTY, WYOMING.

(a) ISSUANCE.—Subject to valid existing rights and subsection (d), the Secretary of the Interior is directed to issue, without consideration, a quitclaim deed to Marie Wambeke of Big Horn County, Wyoming, the personal representative of the estate of Fred Steffens, to the land described in subsection (b).

(b) LAND DESCRIPTION.—The land referred to in subsection (a) is the approximately 80-parcel known as "Farm Unit C" in the E½NW¼ of Section 27, Township 57 North, Range 97 West, 6th Principal Meridian, Wyoming.

(c) REVOCATION OF WITHDRAWAL.—The Bureau of Reclamation withdrawal for the Shoshone Reclamation Project under Secretarial Order dated October 21, 1913, is hereby revoked with respect to the land described in subsection (b).

(d) RESERVATION OF MINERAL INTERESTS.—All minerals underlying the land described in subsection (b) are hereby reserved to the United States.

SEC. 244. ISSUANCE OF QUITCLAIM DEED, LOWE FAMILY PROPERTY, BIG HORN COUNTY, WYOMING.

(a) ISSUANCE.—Subject to valid existing rights and subsection (c), the Secretary of the Interior is directed to issue, without consideration, a quitclaim deed to John R. and Margaret J. Lowe of Big Horn County, Wyoming, to the land described in subsection (b).

(b) Land Description.—The land referred to in subsection (a) is the approximately 40-acre parcel located in the SW¼SE¼ of Section 11, Township 51 North, Range 96 West, 6th Principal Meridian, Wyoming.

(c) Reservation of Mineral Interests.—All minerals underlying the land described in subsection (b) are hereby reserved to the United States.

SEC. 245. UTAH SCHOOLS AND LANDS EXCHANGE.

(a) Findings.—The Congress finds the following:

(1) The State of Utah owns approximately 176,600 acres of land, as well as approximately 24,165 acres of mineral interests, administered by the Utah School and Institutional Trust Lands Administration, within the exterior boundaries of the Grand Staircase-Escalante National Monument, established by Presidential proclamation on September 18, 1996, pursuant to section 2 of the Antiquities Act of 1906 (16 U.S.C. 431). The State of Utah also owns approximately 200,000 acres of land, and 76,000 acres of mineral interests, administered by the Utah School and Institutional Trust Lands Administration, within the exterior boundaries of several units of the National Park System and the National Forest System, and within certain Indian reservations in Utah. These lands were granted by Congress to the State of Utah pursuant to the Utah Enabling Act, chap. 138, 28 Stat. 107 (1894), to be held in trust for the benefit of the State's public school system and other public institutions.

(2) Many of the State school trust lands within the monument may contain significant economic quantities of mineral resources, including coal, oil, and gas, tar sands, coalbed methane, titanium, uranium, and other energy and metalliferous minerals. Certain State school trust lands within the Monument, like the Federal lands comprising the Monument, have substantial noneconomic scientific, historic, cultural, scenic, recreational, and natural resources, including ancient Native American archaeological sites and rare plant and animal communities.

(3) Development of surface and mineral resources on State school trust lands within the monument could be incompatible with the preservation of these scientific and historic resources for which the monument was established. Federal acquisition of State school trust lands within the monument would eliminate this potential incompatibility, and would enhance management of the Grand Staircase-Escalante National Monument.

(4) The United States owns lands and interest in lands outside of the monument that can be transferred to the State of Utah in exchange for the monument inholdings without jeopardizing Federal management objectives or needs.

(5) In 1993, Congress passed and the President signed Public Law 103-93, which contained a process for exchanging State of Utah school trust inholdings in the National Park System, the National Forest System, and certain Indian reservations in Utah. Among other things, it identified various Federal lands and interests in land that were available to exchange for these State inholdings.

(6) Although Public Law 103-93 offered the hope of a prompt, orderly exchange of State inholdings for Federal lands elsewhere, implementation of the legislation has been very slow. Completion of this process is realistically estimated to be many years away, at great expense to both the State and the United States in the form of expert witnesses, lawyers, appraisers, and other litigation costs.

(7) The State also owns approximately 2,560 acres of land in or near the Alton coal field which has been declared an area unsuitable for coal mining under the terms of the Surface Mining Control and Reclamation Act. This land is also administered by the Utah School and Institutional Trust Lands Administration, but its use is limited given this declaration.

(8) The large presence of State school trust land inholdings in the monument, national parks, national forests, and Indian reservations make land and resource management in these areas difficult, costly, and controversial for both the State of Utah and the United States.

(9) It is in the public interest to reach agreement on exchange of inholdings, on terms fair to both the State and the United States. Agreement saves much time and delay in meeting the expectations of the State school and institutional trusts, in simplifying management of Federal and Indian lands and resources, and in avoiding expensive, protracted litigation under Public Law 103-93.

(10) The State of Utah and the United States have reached an agreement under which the State would exchange of all its State school trust lands within the monument, and specified inholdings in national parks, forests, and Indian reservations that are subject to Public Law 103-93, for various Federal lands and interests in lands located outside the monument, including Federal lands and interests identified as available for exchange in Public Law 103-93 and additional Federal lands and interests in lands.

(11) The State school trust lands to be conveyed to the Federal Government include properties within units of the National Park System, the National Forest System, and the Grand Staircase-Escalante National Monument. The Federal assets made available for exchange with the State were selected with a great sensitivity to environmental concerns and a belief and expectation by both parties that Federal assets to be conveyed to the State would be unlikely to trigger significant environmental controversy.

(12) The parties agreed at the outset of negotiations to avoid identifying Federal assets for conveyance to the State where any of the following was known to exist or likely to be an issue as a result of foreseeable future uses of the land: significant wildlife resources, endangered species habitat, significant archaeological resources, areas of critical environmental concern, coal resources requiring surface mining to extract the mineral deposits, wilderness study areas, significant recreational areas, or any other lands known to raise significant environmental concerns of any kind.

(13) The parties further agreed that the use of any mineral interests obtained by the State of Utah where the Federal Government retains surface and other interest, will not conflict with established Federal land and environmental management objectives, and shall be fully subject to all environmental regulations applicable to development of non-Federal mineral interest on Federal lands.

(14) Because the inholdings to be acquired by the Federal Government include properties within the boundaries of some of the most renowned conservation land units in the United States, and because a mission of the Utah School and Institutional Trust Lands Administration is to produce economic benefits for Utah's public schools and other beneficiary institutions, the exchange of lands called for in this agreement will resolve many longstanding environmental conflicts and further the interest of the State trust lands, the school children of Utah, and these conservation resources.

(15) Under this Agreement taken as a whole, the State interests to be conveyed to the United States by the State of Utah, and the Federal interests and payments to be conveyed to the State of Utah by the United States, are approximately equal in value.

(16) The purpose of this section is to enact into law and direct prompt implementation of this historic agreement.

(b) Ratification of Agreed Exchange Between the State of Utah and the Department of the Interior.—

(1) Agreement.—The State of Utah and the Department of the Interior have agreed to exchange certain Federal lands, Federal mineral interests, and payment of money for lands and mineral interests managed by the Utah School and Institutional Trust Lands Administration, lands and mineral interests of approximately equal value inheld within the Grand Staircase-Escalante National Monument the Goshute and Navajo Indian Reservations, units of the National Park System, the National Forest System, and the Alton coal fields.

(2) Ratification.—All terms, conditions, procedures, covenants, reservations, and other provisions set forth in the document entitled "Agreement to Exchange Utah School Trust Lands Between the State of Utah and the United States of America" (in this section referred to as the "Agreement") are hereby incorporated in this section, are ratified and confirmed, and set forth the obligations and commitments of the United States, the State of Utah, and Utah School and Institutional Trust Lands Administration, as a matter of Federal law.

(c) Legal Descriptions.—

(1) In general.—The maps and legal descriptions referred to in the Agreement depict the lands subject to the conveyances.

(2) Public availability.—The maps and descriptions referred to in the Agreement shall be on file and available for public inspection in the offices of the Secretary of the Interior and the Utah State Director of the Bureau of Land Management.

(3) Conflict.—In case of conflict between the maps and the legal descriptions, the legal descriptions shall control.

(d) Costs.—The United States and the State of Utah shall each bear its own respective costs incurred in the implementation of this section.

(e) Repeal of Public Law 103-93 and Public Law 104-211.—The provisions of Public Law 103-93 (107 Stat. 995), other than section 7(b)(1), section 7(b)(3), and section 10(b) thereof, are hereby repealed. Public Law 104-211 (110 Stat. 3013) is hereby repealed.

(f) Cash Payment Previously Authorized.—As previously authorized and made available by section 7(b)(1) and (b)(3) of Public Law 103-93, upon completion of all conveyances described in the Agreement, the United States shall pay $50,000,000 to the State of Utah from funds not otherwise appropriated from the Treasury.

(g) Schedule for Conveyances.—All conveyances under sections 2 and 3 of the Agreement shall be completed within 70 days after the enactment of this Act.

SEC. 246. LAND EXCHANGE, ROUTT NATIONAL FOREST, COLORADO.

(a) Authorization of Exchange.—If the non-Federal lands described in subsection (b) are conveyed to the United States in accordance with this section, the Secretary of Agriculture shall convey to the party conveying the non-Federal lands all right, title, and interest of the United States in and to a parcel of land consisting of approximately 84 acres within the Routt National Forest in the State of Colorado, as generally depicted on the map entitled "Miles Land Exchange", Routt National Forest, dated May 1996.

(b) Receipt of Non-Federal Lands.—The parcel of non-Federal lands referred to in subsection (a) consists of approximately 84 acres, known as the Miles parcel, located adjacent to the Routt National Forest, as generally depicted on the map entitled "Miles Land Exchange", Routt National Forest, dated May 1996. Title to the non-Federal lands must be acceptable to the Secretary of Agriculture, and the conveyance shall be subject to such valid existing rights of record as may be acceptable to the Secretary of Agriculture. The parcel shall conform with the title approval standards applicable to Federal land acquisitions.

(c) Approximately Equal in Value.—The values of both the Federal and non-Federal lands to be exchanged under this section are deemed to be approximately equal in value, and no additional valuation determinations are required.

(d) Applicability of Other Laws.—Except as otherwise provided in this section, the Secretary of Agriculture shall process the land exchange authorized by this section in the manner provided in subpart A of part 254 of title 36, Code of Federal Regulations.

(e) Maps.—The maps referred to in subsections (a) and (b) shall be on file and available for inspection in the office of the Forest Supervisor, Routt National Forest, and in the office of the Chief of the Forest Service.

(f) Boundary Adjustment.—Upon approval and acceptance of title by the Secretary of Agriculture, the non-Federal lands conveyed to the United States under this section shall become part of the Routt National Forest, and the boundaries of the Routt National Forest shall be adjusted to reflect the land exchange. Upon receipt of the non-Federal lands, the Secretary of Agriculture shall manage the lands in accordance with the laws and regulations pertaining to the National Forest System. For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–9), the boundaries of the Routt National Forest, as adjusted by this section, shall be considered to be the boundaries of the National Forest as of January 1, 1965.

(g) Additional Terms and Conditions.—The Secretary of Agriculture may require such additional terms and conditions in connection with the conveyances under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 247. CONVEYANCE OF ADMINISTRATIVE SITE, ROGUE RIVER NATIONAL FOREST, OREGON AND CALIFORNIA.

(a) Sale or Exchange Authorized.—The Secretary of Agriculture, under such terms and conditions as the Secretary may prescribe, may sell or exchange any or all right, title, and interest of the United States in and to the Rogue River National Forest administrative site depicted on the map entitled "Rogue River Administrative Conveyance" dated April 23, 1998, consisting of approximately 5.1 acres.

(b) Exchange Acquisitions.—The Secretary of Agriculture may provide for the construction of administrative facilities in exchange for a conveyance of the administrative site under subsection (a).

(c) Applicable Authorities.—Except as otherwise provided in this section, any sale or exchange of an administrative site shall be subject to the laws (including regulations) applicable to the conveyance and acquisition of land for National Forest System purposes.

(d) Cash Equalization.—Notwithstanding any other provision of law, the Secretary of Agriculture may accept a cash equalization payment in excess of 25 percent of the value of an administrative site in an exchange under subsection (a).

(e) Solicitations of Offers.—In carrying out this section, the Secretary of Agriculture may—

(1) use solicitations of offers for sale or exchange on such terms and conditions as the Secretary may prescribe; and

(2) reject any offer if the Secretary determines that the offer is not adequate or not in the public interest.

(f) Disposition of Funds.—The proceeds of a sale or exchange under subsection (a) shall be deposited in the fund established under Public Law 90–171 (16 U.S.C. 484a; commonly known as the Sisk Act) and shall be available, until expended, for the construction or improvement of offices and support buildings for combined use by the Forest Service for the Rogue River National Forest, and by the Bureau of Land Management.

(g) Revocation of Public Land Orders.—Notwithstanding any other provision of law, to facilitate the sale or exchange of the administrative site, public land orders withdrawing the administrative site from all forms of appropriation under the public land laws are revoked for any portion of the administrative site, upon conveyance of that portion by the Secretary of Agriculture. The effective date of a revocation made by this subsection shall be the date of the patent or deed conveying the administrative site (or portion thereof).

SEC. 248. HART MOUNTAIN JURISDICTIONAL TRANSFERS, OREGON.

(a) Transfer From the Bureau of Land Management to the United States Fish and Wildlife Service.—

(1) In general.—Administrative jurisdiction over the parcels of land identified for transfer to the United States Fish and Wildlife Service on the map entitled "Hart Mountain Jurisdictional Transfer", dated February 26, 1998, comprising approximately 12,100 acres of land in Lake County, Oregon, located adjacent to or within the Hart Mountain National Antelope Refuge, is transferred from the Bureau of Land Management to the United States Fish and Wildlife Service.

(2) Inclusion in refuge.—The parcels of land described in paragraph (1) shall be included in the Hart Mountain National Antelope Refuge.

(3) Withdrawal.—Subject to valid existing rights, the parcels of land described in paragraph (1)—

(A) are withdrawn from—

(i) surface entry under the public land laws;

(ii) leasing under the mineral leasing laws and Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.); and

(iii) location and entry under the mining laws; and

(B) shall be treated as parcels of land subject to the provisions of Executive Order No. 7523 of December 21, 1936, as amended by Executive Order No. 7895 of May 23, 1938, and Presidential Proclamation No. 2416 of July 25, 1940, that withdrew parcels of land for the Hart Mountain National Antelope Refuge.

(4) Management.—The land described in paragraph (1) shall be included in the Hart Mountain National Antelope Refuge and managed in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.), and other applicable law and with management plans and agreements between the Bureau of Land Management and the United States Fish and Wildlife Service for the Hart Mountain Refuge.

(b) Continued Management of Guano Creek Wilderness Study Area by the Bureau of Land Management.—

(1) In general.—The parcels of land identified for cooperative management on the map entitled "Hart Mountain Jurisdictional Transfer", dated February 26, 1998, comprising approximately 10,900 acres of land in Lake County, Oregon, located south of the Hart Mountain National Antelope Refuge, shall be retained under the jurisdiction of the Bureau of Land Management.

(2) Management.—The parcels of land described in paragraph (1) that are within the Guano Creek Wilderness Study Area Act shall be managed so as not to impair the suitability of the area for designation as wilderness, in accordance with current and future management plans and agreements (including the agreement known as the "Shirk Ranch Agreement" dated September 30, 1997), until such date as Congress enacts a law directing otherwise.

(c) Transfer From the United States Fish and Wildlife Service to the Bureau of Land Management.—

(1) In general.—Administrative jurisdiction over the parcels of land identified for transfer to the Bureau of Land Management on the map entitled "Hart Mountain Jurisdictional Transfer", dated February 26, 1998, comprising approximately 7,700 acres of land in Lake County, Oregon, located adjacent to or within the Hart Mountain National Antelope Refuge, is transferred from the United States Fish and Wildlife Service to the Bureau of Land Management.

(2) Removal from refuge.—The parcels of land described in paragraph (1) are removed from the Hart Mountain National Antelope Refuge, and the boundary of the refuge is modified to reflect that removal.

(3) Revocation of withdrawal.—The provisions of Executive Order No. 7523 of December 21, 1936, as amended by Executive Order No. 7895 of May 23, 1938, and Presidential Proclamation No. 2416 of July 25, 1940, that withdrew the parcels of land for the refuge, shall be of no effect with respect to the parcels of land described in paragraph (1).

(4) Status.—The parcels of land described in paragraph (1)—

(A) are designated as public land; and

(B) shall be open to—

(i) surface entry under the public land laws;

(ii) leasing under the mineral leasing laws and the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.); and

(iii) location and entry under the mining laws.

(5) Management.—The land described in paragraph (1) shall be managed in accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and other applicable law, and the agreement known as the "Shirk Ranch Agreement" dated September 30, 1997.

(d) Map.—A copy of the map described in subsections (a), (b), and (c) and such additional legal descriptions as are applicable shall be kept on file and available for public inspection in the Office of the Regional Director of Region 1 of the United States Fish and Wildlife Service, the local District Office of the Bureau of Land Management, the Committee on Energy and Natural Resources of the Senate, and the Committee on Resources of the House of Representatives.

(e) Correction of Reference to Wildlife Refuge.—Section 28 of the Act of August 13, 1954 (68 Stat. 718, chapter 732; 72 Stat. 818; 25 U.S.C. 564w–1), is amended in subsections (f) and (g) by striking "Klamath Forest National Wildlife Refuge" each place it appears and inserting "Klamath Marsh National Wildlife Refuge".

SEC. 249. SALE, LEASE, OR EXCHANGE OF IDAHO SCHOOL LAND.

The Act of July 3, 1890 (commonly known as the "Idaho Admission Act") (26 Stat. 215, chapter 656), is amended by striking section 5 and inserting the following:

"**SEC. 5. SALE, LEASE, OR EXCHANGE OF SCHOOL LAND.**

"(a) Sale.—

"(1) In general.—Except as provided in subsection (c), all land granted under this Act for educational purposes shall be sold only at public sale.

"(2) Use of proceeds.—

"(A) In general.—Proceeds of the sale of school land—

"(i) except as provided in clause (ii), shall be deposited in the public school permanent endowment fund and expended only for the support of public schools; and

"(ii)(I) may be deposited in a land bank fund to be used to acquire, in accordance with State law, other land in the State for the benefit of the beneficiaries of the public school permanent endowment fund; or

"(II) if the proceeds are not used to acquire other land in the State within a period specified by State law, shall be transferred to the public school permanent endowment fund.

"(B) Earnings reserve fund.—Earnings on amounts in the public school permanent endowment fund shall be deposited in an earnings reserve fund to be used for the support of public schools of the State in accordance with State law.

"(b) Lease.—Land granted under this Act for educational purposes may be leased in accordance with State law.

"(c) Exchange.—

"(1) In general.—Land granted for educational purposes under this Act may be exchanged for other public or private land.

"(2) Valuation.—The values of exchanged lands shall be approximately equal, or, if the values are not approximately equal, the values shall be equalized by the payment of funds by the appropriate party.

"(3) Exchanges with the United States.—

"(A) In general.—A land exchange with the United States shall be limited to Federal land within the State that is subject to exchange under the law governing the administration of the Federal land.

"(B) Previous exchanges.—All land exchanges made with the United States before the date of enactment of this paragraph are approved.

"(d) Reservation for School Purposes.—Land granted for educational purposes, whether surveyed or unsurveyed, shall not be subject to preemption, homestead entry, or any other form of entry under the land laws of the United States, but shall be reserved for school purposes only.".

SEC. 250. TRANSFER OF JURISDICTION OF CERTAIN PROPERTY IN SAN JOAQUIN COUNTY, CALIFORNIA, TO BUREAU OF LAND MANAGEMENT.

(a) Transfer.—The property described in subsection (b) is hereby transferred by operation of law upon the enactment of this Act from the administrative jurisdiction of the Federal Bureau of Prisons, United States Department of Justice, to the Bureau of Land Management, United States Department of the Interior. The Attorney General of the United States and the Secretary of the Interior shall take such actions as may be necessary to carry out such transfer.

(b) Property Description.—The property referred to in subsection (a) is a portion of a 200-acre property located in the San Joaquin Valley, approximately 55 miles east of San Francisco, 2 miles to the west of the City of Tracy, California, municipal limits, approximately 1.25 miles west of Interstate 5 (I–5) and ½ mile southeast of the I–580/I–205 split as indicated by Exhibit I–3, formerly a Federal Aviation Administration (FAA) antenna field, known as the "Tracy Site".

SEC. 251. CONVEYANCE, CAMP OWEN AND RELATED PARCELS, KERN COUNTY, CALIFORNIA.

(a) Conveyance Required.—The Secretary of Agriculture shall convey, without consideration, to Kern County, California, all right, title, and interest of the United States in and to three parcels of land under the jurisdiction of the Forest Service in Kern County, as follows

(1) Approximately 104 acres known as Camp Owen.

(2) Approximately 4 acres known as Wofford Heights Park.

(3) Approximately 3.4 acres known as the French Gulch maintenance yard.

(b) Condition on Conveyance.—The lands conveyed under this section shall be subject to valid existing rights of record.

(c) Time for Conveyance.—The Secretary shall complete the conveyance under this section within three months after the date of the enactment of this Act.

(d) Legal Descriptions.—The exact acreage and legal description of the lands to be conveyed under this section shall be determined by a survey satisfactory to the Secretary.

SEC. 252. TREATMENT OF CERTAIN LAND ACQUIRED BY EXCHANGE, RED CLIFFS DESERT RESERVE, UTAH.

(a) Limitation on Liability.—In support of the habitat conservation plan of Washington County, Utah, for the protection of the desert tortoise and surrounding habitat, the transfer of the land described in subsection (b) from the city of St. George, Utah, to the United States shall convey no liability on the United States that did not already exist with the United States on the date of the transfer of the land.

(b) Description of Land.—The land referred to in subsection (a) is a parcel of approximately 15 acres of land located within the Red Cliffs Desert Reserve in Washington County, Utah, that was formerly used as a landfill by the city of St. George.

TITLE III—HERITAGE AREAS

Subtitle A—Delaware and Lehigh National Heritage Corridor of Pennsylvania

SEC. 301. CHANGE IN NAME OF HERITAGE CORRIDOR.

The Delaware and Lehigh Navigation Canal National Heritage Corridor Act of 1988 (Public Law 100–692; 102 Stat. 4552; 16 U.S.C. 461 note) is amended by striking "Delaware and Lehigh Navigation Canal National Heritage Corridor" each place it appears (except section 4(a)) and inserting "Delaware and Lehigh National Heritage Corridor".

SEC. 302. PURPOSE.

Section 3(b) of such Act (102 Stat. 4552) is amended as follows:

(1) By inserting after "subdivisions" the following: "in enhancing economic development within the context of preservation and".

(2) By striking "and surrounding the Delaware and Lehigh Navigation Canal in the Commonwealth" and inserting "the Corridor".

SEC. 303. CORRIDOR COMMISSION.

(a) Membership.—Section 5(b) of such Act (102 Stat. 4553) is amended as follows:

(1) In the matter preceding paragraph (1), by striking "appointed not later than 6 months after the date of enactment of this Act".

(2) By striking paragraph (2) and inserting the following:

"(2) 3 individuals appointed by the Secretary upon consideration of individuals recommended by the governor, of whom—

"(A) 1 shall represent the Pennsylvania Department of Conservation and Natural Resources;

"(B) 1 shall represent the Pennsylvania Department of Community and Economic Development; and

"(C) 1 shall represent the Pennsylvania Historical and Museum Commission.".

(3) In paragraph (3), by striking "the Secretary, after receiving recommendations from the Governor, of whom" and all that follows through "Delaware Canal region" and inserting the following: "the Secretary upon consideration of individuals recommended by the governor, of whom—

"(A) 1 shall represent a city, 1 shall represent a borough, and 1 shall represent a township; and

"(B) 1 shall represent each of the 5 counties of Luzerne, Carbon, Lehigh, Northampton, and Bucks in Pennsylvania".

(4) In paragraph (4)—

(A) By striking "8 individuals" and inserting "9 individuals".

(B) By striking "the Secretary, after receiving recommendations from the Governor, who shall have" and all that follows through "Canal region. A vacancy" and inserting the following: "the Secretary upon consideration of individuals recommended by the governor, of whom—

"(A) 3 shall represent the northern region of the Corridor;

"(B) 3 shall represent the middle region of the Corridor; and

"(C) 3 shall represent the southern region of the Corridor.

A vacancy".

(b) Terms.—Section 5 of such Act (102 Stat. 4553) is amended by striking subsection (c) and inserting the following:

"(c) Terms.—The following provisions shall apply to a member of the Commission appointed under paragraph (3) or (4) of subsection (b):

"(1) Length of term.—The member shall serve for a term of 3 years.

"(2) Carryover.—The member shall serve until a successor is appointed by the Secretary.

"(3) Replacement.—If the member resigns or is unable to serve due to incapacity or death, the Secretary shall appoint, not later than 60 days after receiving a nomination of the appointment from the Governor, a new member to serve for the remainder of the term.

"(4) Term limits.—A member may serve for not more than 6 years."

SEC. 304. POWERS OF CORRIDOR COMMISSION.

(a) Conveyance of Real Estate.—Section 7(g)(3) of such Act (102 Stat. 4555) is amended in the first sentence by inserting "or nonprofit organization" after "appropriate public agency".

(b) Cooperative Agreements.—Section 7(h) of such Act (102 Stat. 4555) is amended as follows:

(1) In the first sentence, by inserting "any non-profit organization," after "subdivision of the Commonwealth,".

(2) In the second sentence, by inserting "such nonprofit organization," after "such political subdivision,".

SEC. 305. DUTIES OF CORRIDOR COMMISSION.

Section 8(b) of such Act (102 Stat. 4556) is amended in the matter preceding paragraph (1) by inserting ", cultural, natural, recreational, and scenic" after "interpret the historic".

SEC. 306. TERMINATION OF CORRIDOR COMMISSION.

Section 9(a) of such Act (102 Stat. 4556) is amended by striking "5 years after the date of enactment of this Act" and inserting "5 years after the date of enactment of the Omnibus National Parks and Public Lands Act of 1998".

SEC. 307. DUTIES OF OTHER FEDERAL ENTITIES.

Section 11 of such Act (102 Stat. 4557) is amended in the matter preceding paragraph (1) by striking "the flow of the Canal or the natural" and inserting "directly affecting the purposes of the Corridor".

SEC. 308. AUTHORIZATION OF APPROPRIATIONS.

Section 12(a) of such Act (102 Stat. 4558) is amended by striking "$350,000" and inserting "$650.000".

SEC. 309. LOCAL AUTHORITY AND PRIVATE PROPERTY.

Such Act is further amended—

(1) by redesignating section 13 (102 Stat. 4558) as section 14; and

(2) by inserting after section 12 the following:

"SEC. 13. LOCAL AUTHORITY AND PRIVATE PROPERTY.

"The Commission shall not interfere with—

"(1) the private property rights of any person; or

"(2) any local zoning ordinance or land use plan of the Commonwealth of Pennsylvania or any political subdivision of Pennsylvania.".

SEC. 310. DUTIES OF THE SECRETARY.

Section 10 of such Act (102 Stat. 4557) is amended by striking subsection (d) and inserting the following:

"(d) Technical Assistance and Grants.—The Secretary, upon request of the Commission, is authorized to provide grants and technical assistance to the Commission or units of government, nonprofit organizations, and other persons, for development and implementation of the Plan.".

Subtitle B—Automobile National Heritage Area of Michigan

SEC. 311. FINDINGS AND PURPOSES.

(a) Findings.—The Congress finds that—

(1) the industrial, cultural, and natural heritage legacies of Michigan's automobile industry are nationally significant;

(2) in the areas of Michigan including and in proximity to Detroit, Dearborn, Pontiac, Flint, and Lansing, the design and manufacture of the automobile helped establish and expand the United States industrial power;

(3) the industrial strength of automobile manufacturing was vital to defending freedom and democracy in 2 world wars and played a defining role in American victories;

(4) the economic strength of our Nation is connected integrally to the vitality of the automobile industry, which employs millions of workers and upon which 1 out of 7 United States jobs depends;

(5) the industrial and cultural heritage of the automobile industry in Michigan includes the social history and living cultural traditions of several generations;

(6) the United Auto Workers and other unions played a significant role in the history and progress of the labor movement and the automobile industry;

(7) the Department of the Interior is responsible for protecting and interpreting the Nation's cultural and historic resources, and there are significant examples of these resources within Michigan to merit the involvement of the Federal Government to develop programs and projects in cooperation with the Automobile National Heritage Area Partnership, Incorporated, the State of Michigan, and other local and governmental bodies, to adequately conserve, protect, and interpret this heritage for the educational and recreational benefit of this and future generations of Americans;

(8) the Automobile National Heritage Area Partnership, Incorporated would be an appropriate entity to oversee the development of the Automobile National Heritage Area; and

(9) 2 local studies, "A Shared Vision for Metropolitan Detroit" and "The Machine That Changed the World", and a National Park Service study, "Labor History Theme Study: Phase III; Suitability-Feasibility", demonstrated that sufficient historical resources exist to establish the Automobile National Heritage Area.

(b) Purpose.—The purpose of this subtitle is to establish the Automobile National Heritage Area to—

(1) foster a close working relationship with all levels of government, the private sector, and the local communities in Michigan and empower communities in Michigan to conserve their automotive heritage while strengthening future economic opportunities; and

(2) conserve, interpret, and develop the historical, cultural, natural, and recreational resources related to the industrial and cultural heritage of the Automobile National Heritage Area.

SEC. 312. DEFINITIONS.

For purposes of this subtitle:

(1) Board.—The term "Board" means the Board of Directors of the Partnership.

(2) Heritage area.—The term "Heritage Area" means the Automobile National Heritage Area established by section 313.

(3) Partnership.—The term "Partnership" means the Automobile National Heritage Area Partnership, Incorporated (a nonprofit corporation established under the laws of the State of Michigan).

(4) Secretary.—The term "Secretary" means the Secretary of the Interior.

SEC. 313. AUTOMOBILE NATIONAL HERITAGE AREA.

(a) Establishment.—There is established in the State of Michigan the Automobile National Heritage Area.

(b) Boundaries.—

(1) In general.—Subject to paragraph (2), the boundaries of the Heritage Area shall include lands in Michigan that are related to the following corridors:

(A) The Rouge River Corridor.

(B) The Detroit River Corridor.

(C) The Woodward Avenue Corridor.

(D) The Lansing Corridor.

(E) The Flint Corridor.

(F) The Sauk Trail/Chicago Road Corridor.

(2) Specific boundaries.—The specific boundaries of the Heritage Area shall be those specified in the management plan approved under section 315.

(3) Map.—The Secretary shall prepare a map of the Heritage Area which shall be on file and available for public inspection in the office of the Director of the National Park Service.

(4) Consent of local governments.—(A) The Partnership shall provide to the government of each city, village, and township that has jurisdiction over property proposed to be included in the Heritage Area written notice of that proposal.

(B) Property may not be included in the Heritage Area if—

(i) the Partnership fails to give notice of the inclusion in accordance with subparagraph (A);

(ii) any local government to which the notice is required to be provided objects to the inclusion, in writing to the Partnership, by not later than the end of the period provided pursuant to clause (iii); or

(iii) fails to provide a period of at least 60 days for objection under clause (ii).

(c) Administration.—The Heritage Area shall be administered in accordance with this subtitle.

(d) Additions and Deletions of Lands.—The Secretary may add or remove lands to or from the Heritage Area in response to a request from the Partnership.

SEC. 314. DESIGNATION OF PARTNERSHIP AS MANAGEMENT ENTITY.

(a) In General.—The Partnership shall be the management entity for the Heritage Area.

(b) Federal Funding.—

(1) Authorization to receive funds.—The Partnership may receive amounts appropriated to carry out this subtitle.

(2) Disqualification.—If a management plan for the Heritage Area is not submitted to the Secretary as required under section 315 within the time specified in that section, the Partnership shall cease to be authorized to receive Federal funding under this subtitle until such a plan is submitted to the Secretary.

(c) Authorities of Partnership.—The Partnership may, for purposes of preparing and implementing the management plan for the Heritage Area, use Federal funds made available under this subtitle—

(1) to make grants to the State of Michigan, its political subdivisions, nonprofit organizations, and other persons;

(2) to enter into cooperative agreements with or provide technical assistance to the State of Michigan, its political subdivisions, nonprofit organizations, and other organizations;

(3) to hire and compensate staff;

(4) to obtain money from any source under any program or law requiring the recipient of such money to make a contribution in order to receive such money; and

(5) to contract for goods and services.

(d) Prohibition of Acquisition of Real Property.—The Partnership may not use Federal funds received under this subtitle to acquire real property or any interest in real property.

SEC. 315. MANAGEMENT DUTIES OF THE AUTOMOBILE NATIONAL HERITAGE AREA PARTNERSHIP.

(a) Heritage Area Management Plan.—

(1) Submission for review by secretary.—The Board of Directors of the Partnership shall, within 3 years after the date of enactment of this subtitle, develop and submit for review to the Secretary a management plan for the Heritage Area.

(2) Plan requirements, generally.—A management plan submitted under this section shall—

(A) present comprehensive recommendations for the conservation, funding, management, and development of the Heritage Area;

(B) be prepared with public participation;

(C) take into consideration existing Federal, State, county, and local plans and involve residents, public agencies, and private organizations in the Heritage Area;

(D) include a description of actions that units of government and private organizations are recommended to take to protect the resources of the Heritage Area; and

(E) specify existing and potential sources of Federal and non-Federal funding for the conservation, management, and development of the Heritage Area.

(3) ADDITIONAL PLAN REQUIREMENTS.—The management plan also shall include the following, as appropriate:

(A) An inventory of resources contained in the Heritage Area, including a list of property in the Heritage Area that should be conserved, restored, managed, developed, or maintained because of the natural, cultural, or historic significance of the property as it relates to the themes of the Heritage Area. The inventory may not include any property that is privately owned unless the owner of the property consents in writing to that inclusion.

(B) A recommendation of policies for resource management that consider and detail the application of appropriate land and water management techniques, including (but not limited to) the development of intergovernmental cooperative agreements to manage the historical, cultural, and natural resources and recreational opportunities of the Heritage Area in a manner consistent with the support of appropriate and compatible economic viability.

(C) A program for implementation of the management plan, including plans for restoration and construction and a description of any commitments that have been made by persons interested in management of the Heritage Area.

(D) An analysis of means by which Federal, State, and local programs may best be coordinated to promote the purposes of this subtitle.

(E) An interpretive plan for the Heritage Area.

(4) APPROVAL AND DISAPPROVAL OF THE MANAGEMENT PLAN.—

(A) IN GENERAL.—Not later than 180 days after submission of the Heritage Area management plan by the Board, the Secretary shall approve or disapprove the plan. If the Secretary has taken no action after 180 days, the plan shall be considered approved.

(B) DISAPPROVAL AND REVISIONS.—If the Secretary disapproves the management plan, the Secretary shall advise the Board, in writing, of the reasons for the disapproval and shall make recommendations for revision of the plan. The Secretary shall approve or disapprove proposed revisions to the plan not later than 60 days after receipt of such revisions from the Board. If the Secretary has taken no action for 60 days after receipt, the plan and revisions shall be considered approved.

(b) PRIORITIES.—The Partnership shall give priority to the implementation of actions, goals, and policies set forth in the management plan for the Heritage Area, including—

(1) assisting units of government, regional planning organizations, and nonprofit organizations—

(A) in conserving the natural and cultural resources in the Heritage Area;

(B) in establishing and maintaining interpretive exhibits in the Heritage Area;

(C) in developing recreational opportunities in the Heritage Area;

(D) in increasing public awareness of and appreciation for the natural, historical, and cultural resources of the Heritage Area;

(E) in the restoration of historic buildings that are located within the boundaries of the Heritage Area and related to the theme of the Heritage Area; and

(F) in ensuring that clear, consistent, and environmentally appropriate signs identifying access points and sites of interest are put in place throughout the Heritage Area; and

(2) consistent with the goals of the management plan, encouraging economic viability in the affected communities by appropriate means.

(c) CONSIDERATION OF INTERESTS OF LOCAL GROUPS.—The Partnership shall, in preparing and implementing the management plan for the Heritage Area, consider the interest of diverse units of government, businesses, private property owners, and nonprofit groups within the Heritage Area.

(d) PUBLIC MEETINGS.—The Partnership shall conduct public meetings at least annually regarding the implementation of the Heritage Area management plan.

(e) ANNUAL REPORTS.—The Partnership shall, for any fiscal year in which it receives Federal funds under this subtitle or in which a loan made by the Partnership with Federal funds under section 314(c)(1) is outstanding, submit an annual report to the Secretary setting forth its accomplishments, its expenses and income, and the entities to which it made any loans and grants during the year for which the report is made.

(f) COOPERATION WITH AUDITS.—The Partnership shall, for any fiscal year in which it receives Federal funds under this subtitle or in which a loan made by the Partnership with Federal funds under section 314(c)(1) is outstanding, make available for audit by the Congress, the Secretary, and appropriate units of government all records and other information pertaining to the expenditure of such funds and any matching funds, and require, for all agreements authorizing expenditure of Federal funds by other organizations, that the receiving organizations make available for such audit all records and other information pertaining to the expenditure of such funds.

(g) DELEGATION.—The Partnership may delegate the responsibilities and actions under this section for each corridor identified in section 313(b)(1). All delegated actions are subject to review and approval by the Partnership.

SEC. 316. DUTIES AND AUTHORITIES OF FEDERAL AGENCIES.

(a) TECHNICAL ASSISTANCE AND GRANTS.—

(1) IN GENERAL.—The Secretary may provide technical assistance and, subject to the availability of appropriations, grants to units of government, nonprofit organizations, and other persons upon request of the Partnership, and to the Partnership, regarding the management plan and its implementation.

(2) PROHIBITION OF CERTAIN REQUIREMENTS.—The Secretary may not, as a condition of the award of technical assistance or grants under this section, require any recipient of such technical assistance or a grant to enact or modify land use restrictions.

(3) DETERMINATIONS REGARDING ASSISTANCE.—The Secretary shall decide if a unit of government, nonprofit organization, or other person shall be awarded technical assistance or grants and the amount of that assistance. Such decisions shall be based on the relative degree to which the assistance effectively fulfills the objectives contained in the Heritage Area management plan and achieves the purposes of this subtitle. Such decisions shall give consideration to projects which provide a greater leverage of Federal funds.

(b) PROVISION OF INFORMATION.—In cooperation with other Federal agencies, the Secretary shall provide the general public with information regarding the location and character of the Heritage Area.

(c) OTHER ASSISTANCE.—The Secretary may enter into cooperative agreements with public and private organizations for the purposes of implementing this subsection.

(d) DUTIES OF OTHER FEDERAL AGENCIES.—Any Federal entity conducting any activity directly affecting the Heritage Area shall consider the potential effect of the activity on the Heritage Area management plan and shall consult with the Partnership with respect to the activity to minimize the adverse effects of the activity on the Heritage Area.

SEC. 317. LACK OF EFFECT ON LAND USE REGULATION AND PRIVATE PROPERTY.

(a) LACK OF EFFECT ON AUTHORITY OF LOCAL GOVERNMENT.—Nothing in this subtitle shall be construed to modify, enlarge, or diminish any authority of Federal, State, or local governments to regulate any use of land under any other law or regulation.

(b) LACK OF ZONING OR LAND USE POWERS.—Nothing in this subtitle shall be construed to grant powers of zoning or land use control to the Partnership.

(c) LOCAL AUTHORITY AND PRIVATE PROPERTY NOT AFFECTED.—Nothing in this subtitle shall be construed to affect or to authorize the Partnership to interfere with—

(1) the rights of any person with respect to private property; or

(2) any local zoning ordinance or land use plan of the State of Michigan or a political subdivision thereof.

SEC. 318. SUNSET.

The Secretary may not make any grant or provide any assistance under this subtitle after September 30, 2014.

SEC. 319. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated under this subtitle not more than $1,000,000 for any fiscal year. Not more than a total of $10,000,000 may be appropriated for the Heritage Area under this subtitle.

(b) 50 PERCENT MATCH.—Federal funding provided under this subtitle, after the designation of the Heritage Area, may not exceed 50 percent of the total cost of any activity carried out with any financial assistance or grant provided under this subtitle.

Subtitle C—Miscellaneous Provisions

SEC. 321. BLACKSTONE RIVER VALLEY NATIONAL HERITAGE CORRIDOR, MASSACHUSETTS AND RHODE ISLAND.

Section 10(b) of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99-647; 16 U.S.C. 461 note), is amended by striking "For fiscal year 1996, 1997, and 1998," and inserting "For fiscal years 1998, 1999, and 2000,".

SEC. 322. ILLINOIS AND MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR, ILLINOIS.

(a) EXTENSION OF COMMISSION.—Section 111(a) of the Illinois and Michigan Canal National Heritage Corridor Act of 1984 (Public Law 98-398; 98 Stat. 1456; 16 U.S.C. 461 note) is amended by striking "ten" and inserting "20".

(b) REPEAL OF EXTENSION AUTHORITY.—Section 111 of such Act (16 U.S.C. 461 note) is further amended—

(1) by striking “(a) TERMINATION.—”; and

(2) by striking subsection (b).

TITLE IV—HISTORIC AREAS

SEC. 401. BATTLE OF MIDWAY NATIONAL MEMORIAL STUDY.

(a) FINDINGS.—The Congress makes the following findings:

(1) September 2, 1998, marked the 53d anniversary of the United States victory over Japan in World War II.

(2) The Battle of Midway proved to be the turning point in the war in the Pacific, as United States Navy forces inflicted such severe losses on the Imperial Japanese Navy during the battle that the Imperial Japanese Navy never again took the offensive against United States or allied forces.

(3) During the Battle of Midway on June 4, 1942, an outnumbered force of the United States Navy, consisting of 29 ships and other units of the Armed Forces under the command of Admiral Nimitz and Admiral Spruance, outmaneuvered and out-fought 350 ships of the Imperial Japanese Navy.

(4) It is in the public interest to study whether Midway Atoll should be established as a national memorial to the Battle of Midway to express the enduring gratitude of the American people for victory in the battle and to inspire future generations of Americans with the heroism and sacrifice of the members of the Armed Forces who achieved that victory.

(5) The historic structures on Midway Atoll should be protected and maintained.

(b) PURPOSE.—The purpose of this section shall be to require a study of the feasibility and suitability of designating the Midway Atoll as a national memorial to the Battle of Midway within the boundaries of the Midway Atoll National Wildlife Refuge. The study of the Midway Atoll and its environs shall include, but not be limited to, identification of interpretive opportunities for the educational and inspirational benefit of present and future generations, and of the unique and significant circumstances involving the defense of the island by the United States in World War II and the Battle of Midway.

(c) STUDY OF THE ESTABLISHMENT OF MIDWAY ATOLL AS A NATIONAL MEMORIAL TO THE BATTLE OF MIDWAY.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, shall carry out a study of the suitability and feasibility of establishing Midway Atoll as a national memorial to the Battle of Midway. The Secretary shall carry out the study in consultation with the Director of the National Park Service, the International Midway Memorial Foundation, Inc. (referred to in this section as the “Foundation”), the Veterans of Foreign Wars, the Battle of Coral Sea Association, the American Legion, or other appropriate veterans group, respectively, and the Midway Phoenix Corporation.

(2) CONSIDERATIONS.—In studying the establishment of Midway Atoll as a national memorial to the Battle of Midway under paragraph (1), the Secretary shall address the following:

(A) The appropriate Federal agency to manage such a memorial, and whether and under what conditions to lease or otherwise allow the Foundation or another appropriate entity to administer, maintain, and fully utilize for use as a national memorial to the Battle of Midway the lands (including any equipment, facilities, infrastructure, and other improvements) and waters of Midway Atoll if designated as a national memorial.

(B) Whether designation as a national memorial would conflict with current management of Midway Atoll as a wildlife refuge and whether, and under what circumstances, the needs and requirements of the wildlife refuge should take precedence over the needs and requirements of a national memorial on Midway Atoll.

(C) Whether, and under what conditions, to permit the use of the facilities on Sand Island for purposes other than a wildlife refuge or a national memorial.

(D) Whether to impose conditions on public access to Midway Atoll if designated as a national memorial.

(d) REPORT.—Upon completion of the study required under paragraph (1), the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the study, which shall include any recommendations for further legislative action. The report shall also include an inventory of all known past and present facilities and structures of historical significance on Midway Atoll and its environs. The report shall include a description of each historic facility and structure and a discussion of how each will contribute to the designation and interpretation of the proposed national memorial.

(e) CONTINUING DISCUSSIONS.—Nothing in this section shall be construed to delay or prohibit discussions or agreements between the Foundation, the Veterans of Foreign Wars, the Battle of Coral Sea Association, the American Legion, or any other appropriate veterans group, or the Midway Phoenix Corporation and the United States Fish and Wildlife Service or any other Government entity regarding the future role of the Foundation or the Midway Phoenix Corporation on Midway Atoll.

(f) EXISTING AGREEMENT.—This section shall not affect any agreement in effect on the date of the enactment of this Act between the United States Fish and Wildlife Service and Midway Phoenix Corporation.

(g) AUTHORIZATION.—There are authorized to be appropriated to carry out this section not more than $100,000.

SEC. 402. HISTORIC LIGHTHOUSE PRESERVATION.

(a) PRESERVATION OF HISTORIC LIGHT STATIONS.—Title III of the National Historic Preservation Act (16 U.S.C. 470w-470w-6) is amended by adding the following new section after section 307:

“SEC. 308. HISTORIC LIGHTHOUSE PRESERVATION.

“(a) IN GENERAL.—In order to provide a national historic light station program, the Secretary shall—

“(1) collect and disseminate information concerning historic light stations, including historic lighthouses and associated structures;

“(2) foster educational programs relating to the history, practice, and contribution to society of historic light stations;

“(3) sponsor or conduct research and study into the history of light stations;

“(4) maintain a listing of historic light stations; and

“(5) assess the effectiveness of the program established by this section regarding the conveyance of historic light stations.

“(b) CONVEYANCE OF HISTORIC LIGHT STATIONS.—

“(1) Within one year of the date of enactment of this section, the Secretary and the Administrator of General Services shall establish a process for identifying, and selecting, an eligible entity to which a historic light station could be conveyed for education, park, recreation, cultural, or historic preservation purposes.

“(2) The Secretary shall review all applicants for the conveyance of a historic light station, when the historic light station has been identified as excess to the needs of the agency with administrative jurisdiction over the historic light station, and forward to the Administrator a single approved application for the conveyance of the historic light station. When selecting an eligible entity, the Secretary may consult with the State Historic Preservation Officer of the State in which the historic light station is located. A priority of consideration shall be afforded public entities that submit applications in which the public entity enters into a partnership with a nonprofit organization whose primary mission is historic light station preservation.

“(3)(A) Except as provided in paragraph (B), the Administrator shall convey, by quitclaim deed, without consideration, all right, title, and interest of the United States in and to the historic light station, subject to the conditions set forth in subsection (c). The conveyance of a historic light station under this section shall not be subject to the provisions of 42 U.S.C. 11301 et seq.

“(B)(i) Historic light stations located within the exterior boundaries of a unit of the National Park System or a refuge within the National Wildlife Refuge System shall be conveyed or sold only with the approval of the Secretary.

“(ii) If the Secretary approves the conveyance or sale of a historic light station referenced in this paragraph, such conveyance or sale shall be subject to the conditions set forth in subsection (c) and any other terms or conditions the Secretary considers necessary to protect the resources of the park unit or wildlife refuge.

“(iii) For those historic light stations referenced in this paragraph, the Secretary is encouraged to enter cooperative agreements with appropriate eligible entities, as provided in this Act, to the extent such cooperative agreements are consistent with the Secretary's responsibilities to manage and administer the park unit or wildlife refuge, as appropriate.

“(c) TERMS OF CONVEYANCE.—

“(1) The conveyance of a historic light station shall be made subject to any conditions the Administrator considers necessary to ensure that—

“(A) the lights, antennas, sound signal, electronic navigation equipment, and associated light station equipment located at the historic light station, which are active aids to navigation, shall continue to be operated and maintained by the United States for as long as needed for this purpose;

“(B) the eligible entity to which the historic light station is conveyed under this section shall not interfere or allow interference in any manner with aids to navigation without the express written permission of the head of the agency responsible for maintaining the aids to navigation;

“(C) there is reserved to the United States the right to relocate, replace, or add any aid to navigation located at the historic light station as may be necessary for navigation purposes;

“(D) the eligible entity to which the historic light station is conveyed under this section shall maintain the historic light station in accordance with this Act, the Secretary's Standards for the Treatment of Historic Properties, and other applicable laws;

“(E) the eligible entity to which the historic light station is conveyed under this section shall make the historic light station available for education, park, recreation, cultural or historic preservation purposes for the general public at reasonable times and under reasonable conditions; and

"(F) the United States shall have the right, at any time, to enter the historic light station without notice for purposes of maintaining and inspecting aids to navigation and ensuring compliance with paragraph (C), to the extent that it is not possible to provide advance notice.

"(2) The Secretary, the Administrator, and any eligible entity to which a historic light station is conveyed under this section, shall not be required to maintain any active aids to navigation associated with a historic light station.

"(3) In addition to any term or condition established pursuant to this subsection, the conveyance of a historic light station shall include a condition that the historic light station in its existing condition, at the option of the Administrator, revert to the United States if—

"(A) the historic light station or any part of the historic light station ceases to be available for education, park, recreation, cultural, or historic preservation purposes for the general public at reasonable times and under reasonable conditions which shall be set forth in the eligible entity's application;

"(B) the historic light station or any part of the historic light station ceases to be maintained in a manner that ensures its present or future use as an aid to navigation or compliance with this Act, the Secretary's Standards for the Treatment of Historic Properties, and other applicable laws; or

"(C) at least 30 days before the reversion, the Administrator provides written notice to the owner that the historic light station is needed for national security purposes.

"(d) Description of Property.—The Administrator shall prepare the legal description of any historic light station conveyed under this section. The Administrator may retain all right, title, and interest of the United States in and to any historical artifact, including any lens or lantern, that is associated with the historic light station and located at the light station at the time of conveyance. All conditions placed with the deed of title to the historic light station shall be construed as covenants running with the land. No submerged lands shall be conveyed to non-Federal entities.

"(e) Responsibilities of Conveyees.—Each eligible entity to which a historic light station is conveyed under this section shall use and maintain the historic light station in accordance with this section, and have such conditions recorded with the deed of title to the historic light station.

"(f) Definitions.—For purposes of this section and sections 309 and 310:

"(1) Historic light station.—The term 'historic light station' includes the light tower, lighthouse, keepers dwelling, garages, storage sheds, oil house, fog signal building, boat house, barn, pumphouse, tramhouse support structures, piers, walkways, and related real property and improvements associated therewith; provided that the light tower or lighthouse shall be included in or eligible for inclusion in the National Register of Historic Places.

"(2) Eligible entity.—The term 'eligible entity' shall mean—

"(A) any department or agency of the Federal Government; or

"(B) any department or agency of the State in which the historic light station is located, the local government of the community in which the historic light station is located, nonprofit corporation, educational agency, or community development organization that—

"(i) has agreed to comply with the conditions set forth in subsection (c) and to have such conditions recorded with the deed of title to the historic light station;

"(ii) is financially able to maintain the historic light station in accordance with the conditions set forth in subsection (c); and

"(iii) can indemnify the Federal Government to cover any loss in connection with the historic light station, or any expenses incurred due to reversion.

"(3) Administrator.—The term 'Administrator' means the Administrator of General Services.".

(b) Sale of Excess Light Stations.—Title III of the National Historic Preservation Act (16 U.S.C. 470w–470w–6) is amended by adding the following new section after section 308:

"SEC. 309. HISTORIC LIGHT STATION SALES.

"In the event no applicants are approved for the conveyance of a historic light station pursuant to section 308, the historic light station shall be offered for sale. Terms of such sales shall be developed by the Administrator. Conveyance documents shall include all necessary covenants to protect the historical integrity of the historic light station and ensure that any active aids to navigation located at the historic light station are operated and maintained by the United States for as long as needed for that purpose. Net sale proceeds shall be transferred to the National Maritime Heritage Grant Program, established by section 4 of the National Maritime Heritage Act of 1994 (Public Law 103–451; 16 U.S.C. 5403), within the Department of the Interior.".

(c) Transfer of Historic Light Stations to Federal Agencies.—Title III of the National Historic Preservation Act (16 U.S.C. 470w–470w–6) is amended by adding the following new section after section 309:

"SEC. 310. TRANSFER OF HISTORIC LIGHT STATIONS TO FEDERAL AGENCIES.

"After the date of enactment of this section, any department or agency of the Federal Government, to which a historic light station is conveyed, shall maintain the historic light station in accordance with this Act, the Secretary's Standards for the Treatment of Historic Properties, and other applicable laws.".

(d) Funding.—There are hereby authorized to be appropriated to the Secretary of the Interior such sums as may be necessary to carry out this section.

SEC. 403. THOMAS COLE NATIONAL HISTORIC SITE, NEW YORK.

(a) Definitions.—As used in this section:

(1) The term "historic site" means the Thomas Cole National Historic Site established by subsection (c).

(2) The term "Hudson River artists" means artists who were associated with the Hudson River school of landscape painting.

(3) The term "plan" means the general management plan developed pursuant to subsection (e)(4).

(4) The term "Secretary" means the Secretary of the Interior.

(5) The term "Society" means the Greene County Historical Society of Greene County, New York, which owns the Thomas Cole home, studio, and other property comprising the historic site.

(b) Findings and Purposes.—

(1) Findings.—Congress finds the following:

(A) The Hudson River school of landscape painting was inspired by Thomas Cole and was characterized by a group of 19th century landscape artists who recorded and celebrated the landscape and wilderness of America, particularly in the Hudson River Valley region in the State of New York.

(B) Thomas Cole is recognized as America's most prominent landscape and allegorical painter of the mid-19th century.

(C) Located in Greene County, New York, the Thomas Cole House, also known as Thomas Cole's Cedar Grove, is listed on the National Register of Historic Places and has been designated as a National Historic Landmark.

(D) Within a 15 mile radius of the Thomas Cole House, an area that forms a key part of the rich cultural and natural heritage of the Hudson River Valley region, significant landscapes and scenes painted by Thomas Cole and other Hudson River artists, such as Frederic Church, survive intact.

(E) The State of New York has established the Hudson River Valley Greenway to promote the preservation, public use, and enjoyment of the natural and cultural resources of the Hudson River Valley region.

(F) Establishment of the Thomas Cole National Historic Site will provide opportunities for the illustration and interpretation of cultural themes of the heritage of the United States and unique opportunities for education, public use, and enjoyment.

(2) Purposes.—The purposes of this section are—

(A) to preserve and interpret the home and studio of Thomas Cole for the benefit, inspiration, and education of the people of the United States;

(B) to help maintain the integrity of the setting in the Hudson River Valley region that inspired artistic expression;

(C) to coordinate the interpretive, preservation, and recreational efforts of Federal, State, and other entities in the Hudson Valley region in order to enhance opportunities for education, public use, and enjoyment; and

(D) to broaden understanding of the Hudson River Valley region and its role in American history and culture.

(c) Establishment of Thomas Cole National Historic Site.—

(1) Establishment.—There is established, as an affiliated area of the National Park System, the Thomas Cole National Historic Site in the State of New York.

(2) Description.—The historic site shall consist of the home and studio of Thomas Cole, comprising approximately 3.4 acres, located at 218 Spring Street, in the village of Catskill, New York, as generally depicted on the boundary map numbered TCH/80002, and dated March 1992.

(d) Retention of Ownership And Management of Historic Site By Greene County Historical Society.—The Greene County Historical Society of Greene County, New York, shall continue to own, manage, and operate the historic site.

(e) Administration of Historic Site.—

(1) Applicability of national park system laws.—The historic site shall be administered by the Society in a manner consistent with this Act and all laws generally applicable to units of the National Park System, including the Act of August 25, 1916 (16 U.S.C. 1 et seq.; commonly known as the National Park Service Organic Act), and the Act of August 21, 1935 (16 U.S.C. 461 et seq.; commonly known as the Historic Sites, Buildings, and Antiquities Act).

(2) Cooperative agreements.—

(A) Assistance to society.—The Secretary may enter into cooperative agreements with the Society to preserve the Thomas Cole House and other structures in the historic site and to assist with education programs and research and interpretation of the Thomas Cole House and associated landscapes.

(B) OTHER ASSISTANCE.—To further the purposes of this section, the Secretary may enter into cooperative agreements with the State of New York, the Society, the Thomas Cole Foundation, and other public and private entities to facilitate public understanding and enjoyment of the lives and works of the Hudson River artists through the provision of assistance to develop, present, and fund art exhibits, resident artist programs, and other appropriate activities related to the preservation, interpretation, and use of the historic site.

(3) ARTIFACTS AND PROPERTY.—

(A) PERSONAL PROPERTY GENERALLY.—The Secretary may acquire personal property associated with, and appropriate for, the interpretation of the historic site.

(B) WORKS OF ART.—The Secretary may acquire works of art associated with Thomas Cole and other Hudson River artists for the purpose of display at the historic site.

(4) GENERAL MANAGEMENT PLAN.—Within two complete fiscal years after the date of the enactment of this Act, the Secretary shall develop a general management plan for the historic site with the cooperation of the Society. Upon the completion of the plan, the Secretary shall provide a copy of the plan to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. The plan shall include recommendations for regional wayside exhibits, to be carried out through cooperative agreements with the State of New York and other public and private entities. The plan shall be prepared in accordance with section 12(b) of Public Law 91-383 (16 U.S.C. 1a-1 et seq.; commonly known as the National Park System General Authorities Act).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 404. ADDITION OF THE PAOLI BATTLEFIELD TO THE VALLEY FORGE NATIONAL HISTORICAL PARK.

(a) BOUNDARY MODIFICATION.—Section 2(a) of the Act of July 4, 1976 (Public Law 94-337; 90 Stat. 796; 16 U.S.C. 410aa-1), is amended by adding the following after the first sentence thereof: "The park shall also include the Paoli Battlefield, located in the Borough of Malvern, Pennsylvania, as depicted on the map numbered —— and dated —— (hereinafter in this Act referred to as the 'Paoli Battlefield Addition')."

(b) ACQUISITION OF LANDS.—Section 4(a) of the Act of July 4, 1976 (Public Law 94-337; 90 Stat. 796; 16 U.S.C. 410aa-3), is amended by adding the following before the period at the end thereof: ", except that there is authorized to be appropriated an additional amount of not more than $2,500,000 for the acquisition of property within the Paoli Battlefield Addition if non-Federal monies in the amount of not less than $1,000,000 are available for the acquisition (and subsequent donation to the National Park Service) of such property".

(c) COOPERATIVE MANAGEMENT.—Section 3 of the Act of July 4, 1976 (Public Law 94-337; 90 Stat. 796; 16 U.S.C. 410aa-2), is amended by adding the following at the end thereof: "The Secretary may enter into a cooperative agreement with the Borough of Malvern for the management by the Borough of the Paoli Battlefield Addition.".

SEC. 405. CASA MALPAIS NATIONAL HISTORIC LANDMARK, ARIZONA.

(a) FINDINGS.—The Congress finds and declares that—

(1) the Casa Malpais National Historic Landmark was occupied by one of the largest and most sophisticated Mogollon communities in the United States;

(2) the landmark includes a 58-room masonry pueblo, including stairways, Great Kiva complex, and fortification walls, a prehistoric trail, and catacomb chambers where the deceased were placed;

(3) the Casa Malpais was designated as a national historic landmark by the Secretary of the Interior in 1964; and

(4) the State of Arizona and the community of Springerville are undertaking a program of interpretation and preservation of the landmark.

(b) PURPOSE.—It is the purpose of this section to assist in the preservation and interpretation of the Casa Malpais National Historic Landmark for the benefit of the public.

(c) COOPERATIVE AGREEMENTS.—

(1) IN GENERAL.—In furtherance of the purpose of this section, the Secretary of the Interior is authorized to enter into cooperative agreements with the State of Arizona and the town of Springerville, Arizona, pursuant to which the Secretary may provide technical assistance to interpret, operate, and maintain the Casa Malpais National Historic Landmark and may also provide financial assistance for planning, staff training, and development of the Casa Malpais National Historic Landmark, but not including other routine operations.

(2) ADDITIONAL PROVISIONS.—Any such agreement may also contain provisions that—

(A) the Secretary, acting through the Director of the National Park Service, shall have right to access at all reasonable times to all public portions of the property covered by such agreement for the purpose of interpreting the landmark; and

(B) no changes or alterations shall be made in the landmark except by mutual agreement between the Secretary and the other parties to all such agreements.

(d) APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to provide financial assistance in accordance with this section.

SEC. 406. LOWER EAST SIDE TENEMENT NATIONAL HISTORIC SITE, NEW YORK.

(a) FINDINGS.—Congress finds that—

(1) immigration, and the resulting diversity of cultural influences, is a key factor in defining American identity; the majority of United States citizens trace their ancestry to persons born in nations other than the United States;

(2) the latter part of the 19th century and the early part of the 20th century marked a period in which the volume of immigrants coming to the United States far exceeded that of any time prior to or since that period;

(3) no single identifiable neighborhood in the United States absorbed a comparable number of immigrants than the Lower East Side neighborhood of Manhattan in New York City;

(4) the Lower East Side Tenement at 97 Orchard Street in New York City is an outstanding survivor of the vast number of humble buildings that housed immigrants to New York City during the greatest wave of immigration in American history;

(5) the Lower East Side Tenement is owned and operated as a museum by the Lower East Side Tenement Museum;

(6) the Lower East Side Tenement Museum is dedicated to interpreting immigrant life within a neighborhood long associated with the immigrant experience in the United States, New York's Lower East Side, and its importance to United States history; and

(7) the National Park Service found the Lower East Side Tenement at 97 Orchard Street to be nationally significant; the Secretary of the Interior declared it a National Historic Landmark on April 19, 1994, and the National Park Service through a special resource study found the Lower East Side Tenement suitable and feasible for inclusion in the National Park System.

(b) PURPOSES.—The purposes of this section are—

(1) to ensure the preservation, maintenance, and interpretation of this site and to interpret at the site the themes of immigration, tenement life in the later half of the 19th century and the first half of the 20th century, the housing reform movement, and tenement architecture in the United States;

(2) to ensure continued interpretation of the nationally significant immigrant phenomenon associated with New York City's Lower East Side and its role in the history of immigration to the United States; and

(3) to enhance the interpretation of the Castle Clinton, Ellis Island, and Statue of Liberty National Monuments.

(c) DEFINITIONS.—As used in this section:

(1) HISTORIC SITE.—The term "historic site" means the Lower East Side Tenement at 97 Orchard Street on Manhattan Island in New York City, New York, and designated as a national historic site by subsection (d)(1).

(2) LOWER EAST SIDE TENEMENT MUSEUM.—The term "Lower East Side Tenement Museum" means the Lower East Side Tenement Museum, a nonprofit organization established in New York City, which owns and operates the tenement building at 97 Orchard Street and manages other properties in the vicinity of 97 Orchard Street as administrative and program support facilities for 97 Orchard Street.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(d) ESTABLISHMENT OF HISTORIC SITE.—

(1) DESIGNATION.—To further the purposes of this section and the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (16 U.S.C. 461 et seq.), the Lower East Side Tenement at 97 Orchard Street, in the City of New York, State of New York, is designated a national historic site to be known as "Lower East Side Tenement National Historic Site".

(2) STATUS AS AFFILIATED SITE.—The Lower East Side Tenement National Historic Site shall be an affiliated site of the National Park System. The Secretary shall coordinate the operation and interpretation of the historic site with that of the Lower East Side Tenement Historic Site and the Statue of Liberty, Ellis Island, and Castle Clinton National Monument, as the historic site's story and interpretation of the immigrant experience in the United States is directly related to the themes and purposes of these national monuments.

(3) OWNERSHIP AND OPERATION.—The Lower East Side Tenement National Historic Site shall continue to be owned, operated, and managed by the Lower East Side Tenement Museum.

(e) MANAGEMENT OF HISTORIC SITE.—

(1) COOPERATIVE AGREEMENT.—The Secretary is authorized to enter into a cooperative agreement with the Lower East Side

Tenement Museum to ensure the marking, interpretation, and preservation of the historic site.

(2) ASSISTANCE.—The Secretary is authorized to provide technical and financial assistance to the Lower East Side Tenement Museum to mark, interpret, and preserve the historic site, including the making of preservation-related capital improvements and repairs.

(3) MANAGEMENT PLAN.—The Secretary shall, working with the Lower East Side Tenement Museum, develop a general management plan for the historic site to define the National Park Service's roles and responsibilities with regard to the interpretation and the preservation of the historic site. The plan shall also outline how interpretation and programming for the Lower East Side Tenement National Historic Site and the Statue of Liberty, Ellis Island, and Castle Clinton national monuments will be integrated and coordinated so as to enhance the stories at each of the 4 sites. Such plan shall be completed within 2 years after the enactment of this Act.

(4) SAVINGS CLAUSE.—Nothing in this section authorizes the Secretary to acquire the property at 97 Orchard Street or to assume overall financial responsibility for the operation, maintenance, or management of the Lower East Side Tenement National Historic Site.

(f) APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 407. GATEWAY VISITOR CENTER AUTHORIZATION, INDEPENDENCE NATIONAL HISTORICAL PARK.

(a) FINDINGS AND PURPOSE.—

(1) FINDINGS.—The Congress finds the following:

(A) The National Park Service completed and approved in 1997 a general management plan for Independence National Historical Park that establishes goals and priorities for the park's future.

(B) The general management plan for Independence National Historical Park calls for the revitalization of Independence Mall and recommends as a critical component of the Independence Mall's revitalization the development of a new "Gateway Visitor Center".

(C) Such a visitor center would replace the existing park visitor center and would serve as an orientation center for visitors to the park and to city and regional attractions.

(D) Subsequent to the completion of the general management plan, the National Park Service undertook and completed a design project and master plan for Independence Mall which includes the Gateway Visitor Center.

(E) Plans for the Gateway Visitor Center call for it to be developed and managed, in cooperation with the Secretary of the Interior, by a nonprofit organization which represents the various public and civic interests of the greater Philadelphia metropolitan area.

(F) The Gateway Visitor Center Corporation, a nonprofit organization, has been established to raise funds for and cooperate in a program to design, develop, construct, and operate the proposed Gateway Visitor Center.

(2) PURPOSE.—The purpose of this section is to authorize the Secretary of the Interior to enter into a cooperative agreement with the Gateway Visitor Center Corporation to construct and operate a regional visitor center on Independence Mall.

(b) GATEWAY VISITOR CENTER AUTHORIZATION.—

(1) AGREEMENT.—The Secretary of the Interior, in administering the Independence National Historical Park, may enter into an agreement under appropriate terms and conditions with the Gateway Visitor Center Corporation (a nonprofit corporation established under the laws of the State of Pennsylvania) to facilitate the construction and operation of a regional Gateway Visitor Center on Independence Mall.

(2) OPERATIONS OF CENTER.—The Agreement shall authorize the Corporation to operate the Center in cooperation with the Secretary and to provide at the Center information, interpretation, facilities, and services to visitors to Independence National Historical Park, its surrounding historic sites, the city of Philadelphia, and the region, in order to assist in their enjoyment of the historic, cultural, educational, and recreational resources of the greater Philadelphia area.

(3) MANAGEMENT-RELATED ACTIVITIES.—The Agreement shall authorize the Secretary to undertake at the Center activities related to the management of Independence National Historical Park, including, but not limited to, provision of appropriate visitor information and interpretive facilities and programs related to Independence National Historical Park.

(4) ACTIVITIES OF CORPORATION.—The Agreement shall authorize the Corporation, acting as a private nonprofit organization, to engage in activities appropriate for operation of a regional visitor center that may include, but are not limited to, charging fees, conducting events, and selling merchandise, tickets, and food to visitors to the Center.

(5) USE OF REVENUES.—Revenues from activities engaged in by the Corporation shall be used for the operation and administration of the Center.

(6) PROTECTION OF PARK.—Nothing in this section authorizes the Secretary or the Corporation to take any actions in derogation of the preservation and protection of the values and resources of Independence National Historical Park.

(7) DEFINITIONS.—In this subsection:

(A) AGREEMENT.—The term "Agreement" means an agreement under this section between the Secretary and the Corporation.

(B) CENTER.—The term "Center" means a Gateway Visitor Center constructed and operated in accordance with the Agreement.

(C) CORPORATION.—The term "Corporation" means the Gateway Visitor Center Corporation (a nonprofit corporation established under the laws of the State of Pennsylvania).

(D) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 408. TUSKEGEE AIRMEN NATIONAL HISTORIC SITE, ALABAMA.

(a) DEFINITIONS.—As used in this section:

(1) HISTORIC SITE.—The term "historic site" means the Tuskegee Airmen National Historic Site as established by subsection (d).

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(3) TUSKEGEE AIRMEN.—The term "Tuskegee Airmen" means the thousands of men and women who served in America's African-American Air Force units of World War II and shared in the Tuskegee Experience.

(4) TUSKEGEE UNIVERSITY.—The term "Tuskegee University" means the institution of higher education by that name located in the State of Alabama and founded by Booker T. Washington in 1881, formerly named Tuskegee Institute.

(b) FINDINGS.—The Congress finds the following:

(1) The struggle of African-Americans for greater roles in North American military conflicts spans the 17th, 18th, 19th, and 20th centuries. Opportunities for African-American participation in the United States military were always very limited and controversial. Quotas, exclusion, and racial discrimination were based on the prevailing attitude in the United States, particularly on the part of the United States military, that African-Americans did not possess the intellectual capacity, aptitude, and skills to be successful fighters.

(2) By the early 1940's these perceptions continued within the United States military. Key leaders within the United States Army Air Corps did not believe that African-Americans possessed the capacity to become successful military pilots. After succumbing to pressure exerted by civil rights groups and the black press, the Army decided to train a small number of African-American pilot cadets under special conditions. Although prejudice and discrimination against African-Americans was a national phenomenon, not just a southern trait, it was more intense in the South where it had hardened into rigidly enforced patterns of segregation. Such was the environment where the military chose to locate the training of the Tuskegee Airmen.

(3) The military selected Tuskegee Institute (now known as Tuskegee University) as a civilian contractor for a variety of reasons. These included the school's existing facilities, engineering and technical instructors, and a climate with ideal flying conditions year round. Tuskegee Institute's strong interest in providing aeronautical training for African-American youths was also an important factor. Students from the school's civilian pilot training program had some of the best test scores when compared to other students from programs across the Southeast.

(4) In 1941 the United States Army Air Corps awarded a contract to Tuskegee Institute to operate a primary flight school at Moton Field. Tuskegee Institute (now known as Tuskegee University) chose an African-American contractor who designed and constructed Moton Field, with the assistance of its faculty and students, as the site for its military pilot training program. The field was named for the school's second president, Robert Russa Moton. Consequently, Tuskegee Institute was one of a very few American institutions (and the only African-American institution) to own, develop, and control facilities for military flight instruction.

(5) Moton Field, also known as the Primary Flying Field or Airport Number 2, was the only primary flight training facility for African-American pilot candidates in the United States Army Air Corps during World War II. The facility symbolizes the entrance of African-American pilots into the United States Army Air Corps, although on the basis of a policy of segregation that was mandated by the military and institutionalized in the South. The facility also symbolizes the singular role of Tuskegee Institute (Tuskegee University) in providing leadership as well as economic and educational resources to make that entry possible.

(6) The Tuskegee Airmen were the first African-American soldiers to complete their training successfully and to enter the United States Army Air Corps. Almost 1,000 aviators were trained as America's first African-American military pilots. In addition, more than 10,000 military and civilian African-American men and women served as flight instructors, officers, bombardiers, navigators, radio technicians, mechanics, air traffic controllers, parachute riggers, electrical

and communications specialists, medical professionals, laboratory assistants, cooks, musicians, supply, firefighting, and transportation personnel.

(7) Although military leaders were hesitant to use the Tuskegee Airmen in combat, the Airmen eventually saw considerable action in North Africa and Europe. Acceptance from United States Army Air Corps units came slowly, but their courageous and, in many cases, heroic performance earned them increased combat opportunities and respect.

(8) The successes of the Tuskegee Airmen proved to the American public that African-Americans, when given the opportunity, could become effective military leaders and pilots. This helped pave the way for desegregation of the military, beginning with President Harry S Truman's Executive Order 9981 in 1948. The Tuskegee Airmen's success also helped set the stage for civil rights advocates to continue the struggle to end racial discrimination during the civil rights movement of the 1950's and 1960's.

(9) The story of the Tuskegee Airmen also reflects the struggle of African-Americans to achieve equal rights, not only through legal attacks on the system of segregation, but also through the techniques of nonviolent direct action. The members of the 477th Bombardment Group, who staged a nonviolent demonstration to desegregate the officer's club at Freeman Field, Indiana, helped set the pattern for direct action protests popularized by civil rights activists in later decades.

(c) PURPOSES.—The purposes of this section are the following:

(1) To benefit and inspire present and future generations to understand and appreciate the heroic legacy of the Tuskegee Airmen, through interpretation and education, and the preservation of cultural resources at Moton Field, which was the site of primary flight training.

(2) To commemorate and interpret the impact of the Tuskegee Airmen during World War II; the training process for the Tuskegee Airmen including the roles played by Moton Field, other training facilities, and related sites; the strategic role of Tuskegee Institute (Tuskegee University) in the training; the African-American struggle for greater participation in the United States military and more significant roles in defending their country; the significance of successes of the Tuskegee Airmen in leading to desegregation of the United States military shortly after World War II; and the impacts of Tuskegee Airmen accomplishments on subsequent civil rights advances of the 1950's and 1960's.

(d) ESTABLISHMENT OF THE TUSKEGEE AIRMEN NATIONAL HISTORIC SITE.

(1) IN GENERAL.—There is hereby established as a unit of the National Park System the Tuskegee Airmen National Historic Site, in association with Tuskegee University, in the State of Alabama.

(2) DESCRIPTION.—The total historic site, after the conditions are met for its full development and management, and subsequent to agreements to donate land by Tuskegee University and the city of Tuskegee, shall consist of approximately 90 acres, known as Moton Field, in Macon County, Alabama, as generally depicted on a map entitled "Alternative C, Living History: Tuskegee Airmen Experience", dated June 1998. Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(e) PROPERTY ACQUISITION.—The Secretary may acquire by donation, exchange, or purchase with donated or appropriated funds the real property described in subsection (d)(2), except that any property owned by the State of Alabama or any political subdivision thereof or Tuskegee University may be acquired only by donation. It is understood that property donated by Tuskegee University shall be used only for purposes consistent with this Act in commemorating the Tuskegee Airmen. The initial donation of land by Tuskegee University shall consist of approximately 35 acres with the remainder of the acreage to be donated by Tuskegee University after agreement is reached regarding the development and management of the Tuskegee Airmen National Center. The Secretary may also acquire by the same methods personal property associated with, and appropriate for, the interpretation of the historic site.

(f) ADMINISTRATION OF HISTORIC SITE.—

(1) IN GENERAL.—The Secretary shall administer the historic site in accordance with this section and the laws generally applicable to units of the National Park System, including the Act of August 25, 1916 (39 Stat. 535), and the Act of August 21, 1935 (49 Stat. 666).

(2) ROLE OF TUSKEGEE INSTITUTE NATIONAL HISTORIC SITE.—Tuskegee Institute National Historic Site shall serve as the principal administrative facility for the historic site.

(3) ROLE OF TUSKEGEE UNIVERSITY.—Tuskegee University shall serve as the principal partner with the National Park Service, and other Federal agencies mutually agreed upon, for the leadership, organization, development, and management of the historic site.

(4) ROLE OF TUSKEGEE AIRMEN.—The Tuskegee Airmen shall assist the principal partners for the historic site in fundraising for the development of visitor facilities and programs, and provide artifacts, memorabilia, and historical research for interpretive exhibits.

(5) DEVELOPMENT.—The general management plan for the operation and development of the historic site shall reflect Alternative C, Living History: The Tuskegee Airmen Experience, as expressed in the draft special resource study entitled "Moton Field/Tuskegee Airmen Special Resource Study", dated June 1998. Subsequent development of the historic site, with the approval of Tuskegee University, shall reflect Alternative D.

(6) COOPERATIVE AGREEMENTS.—

(A) IN GENERAL.—The Secretary may enter into cooperative agreements with Tuskegee University, other nonhigher educational institutions, the Tuskegee Airmen, individuals, private and public organizations, and other Federal agencies in furtherance of the purposes of this Act. The Secretary shall recognize the concern of Tuskegee University for the wise management, use, and development of the historic site, and shall consult with Tuskegee University in the formulation of any cooperative agreement that may affect the historic site.

(B) TUSKEGEE AIRMEN NATIONAL CENTER.—The Secretary may enter into a cooperative agreement with Tuskegee University to define and implement the public/private partnership needed to develop the historic site, including the Tuskegee Airmen National Center on the grounds of the historic site. The purpose of the center shall be to extend the ability to relate more fully the story of the Tuskegee Airmen at Moton Field. The center shall house a Tuskegee Airmen Memorial and provide large exhibit space for the display of period aircraft and equipment used by the Tuskegee Airmen and a Tuskegee University Department of Aviation Science. It is the intent of the Congress that interpretive programs for visitors benefit from the school's active pilot training instruction program, and that the training program will provide a historical continuum of flight training in the tradition of the Tuskegee Airmen. The Tuskegee University Department of Aviation Science may be located in historic buildings within the Moton Field complex until the Tuskegee Airmen National Center has been completed.

(C) REPORT.—Within one year after the date of the enactment of this Act, the Secretary and Tuskegee University, in consultation with the Tuskegee Airmen, shall prepare a report on the partnership needed to develop and operate the Tuskegee Airmen National Center, and submit the report to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Subject to the approval of the Congress, the Secretary and Tuskegee University may enter into a cooperative agreement to permit the development of the Center. Before the balance of the land is donated and before the development of the Tuskegee Airmen National Center can proceed, a cooperative agreement acceptable to the Secretary and Tuskegee University must be executed.

(7) GENERAL MANAGEMENT PLAN.—Within 2 complete fiscal years after funds are first made available to carry out this section, the Secretary shall prepare, with the full participation of Tuskegee University, a general management plan for the historic site and submit the plan to the Committee on Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 409. LITTLE ROCK CENTRAL HIGH SCHOOL NATIONAL HISTORIC SITE, ARKANSAS.

(a) FINDINGS.—The Congress finds that—

(1) the 1954 United States Supreme Court decision of Brown v. Board of Education, which mandated an end to the segregation of public schools, was one of the most significant court decisions in the history of the United States;

(2) the admission of 9 African-American students, known as the "Little Rock Nine", to Little Rock's Central high School as a result of the Brown decision, was the most prominent national example of the implementation of the Brown decision, and served as a catalyst for the integration of other, previously segregated public schools in the United States;

(3) 1997 marked the 70th anniversary of the construction of Central High School, which has been named by the American Institute of Architects as "the most beautiful high school building in America";

(4) Central High School was included on the National Register of Historic Places in 1977 and designated by the Secretary of the Interior as a national historic landmark in 1982 in recognition of its national significance in the development of the civil rights movement in the United States; and

(5) the designation of Little Rock Central High School as a unit of the National Park System will recognize the significant role the school played in the desegregation of public schools in the South and will interpret for future generations the events associated with early desegregation of Southern schools.

(b) Purpose.—The purpose of this section is to preserve, protect, and interpret for the benefit, education, and inspiration of present and future generations, Central High School in Little Rock, Arkansas, and its role in the integration of public schools and the development of the civil rights movement in the United States.

(c) Establishment of Central High School National Historic Site.—

(1) Establishment.—The Little Rock Central High School national historic site in the State or Arkansas (referred to in this section as the "historic site") is hereby established as a unit of the National Park System. The historic site shall consist of lands and interests therein comprising the Central High School campus in Little Rock, Arkansas, as generally depicted on a map entitled ____________ and dated June 1998. Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(2) Administration of historic site.—The Secretary of the Interior (referred to in this section as the "Secretary") shall administer the historic site in accordance with this section and the laws generally applicable to units of the National Park System, including the Act of August 25, 1916 (16 U.S.C. 1, 2-4) and the Act of August 21, 1935 (16 U.S.C. 461–467): *Provided*, That nothing in this section shall affect the authority of the Little Rock School District to administer Little Rock Central High School.

(3) Cooperative agreements.—(A) The Secretary may enter into cooperative agreements with appropriate public and private agencies, organizations, and institutions (including, but not limited to, the State of Arkansas, the city of Little Rock, the Little Rock School District, Central High Museum, Inc., Central High Neighborhood, Inc., or the University of Arkansas) in furtherance of the purposes of this Act.

(B) The Secretary shall coordinate visitor interpretation of the historic site with the Little Rock School District and the Central High School Museum, Inc.

(4) General management plan.—Within 2 years after the date funds are made available, the Secretary shall prepare a general management plan for the historic site.

(5) Continuing educational use.—The Secretary shall consult and coordinate with the Little Rock School District in the development of the general management plan and in the administration of the historic site so as to not interfere with the continuing use of Central High School as an educational institution.

(6) Acquisition of property.—The Secretary is authorized to acquire by purchase with donated or appropriated funds, by exchange, or donation the lands and interests therein located within the boundaries of the historic site, except that the Secretary may only acquire lands or interests therein with the consent of the owner thereof and lands or interests therein owned by the State of Arkansas or a political subdivision thereof, may only be acquired by donation or exchange.

(d) Desegregation in Public Education Theme Study.—

(1) Theme study.—Within 2 years after the date funds are made available, the Secretary shall prepare and transmit to the Committee on Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a national historic landmark theme study (hereinafter referred to as the "theme study") on the history of desegregation in public education. The purpose of the theme study shall be to identify sites, districts, buildings, structures, and landscapes that best illustrate or commemorate key events or decisions in the historical movement to provide for racial desegregation in public education. On the basis of the theme study, the Secretary shall identify possible new national historic landmarks appropriate to this theme and prepare a list in order of importance or merit of the most appropriate sites for national historic landmark designation.

(2) Opportunities for education and research.—The theme study shall identify appropriate means to establish linkages between sites identified in paragraph (1) and between those sites and the Central High School National Historic Site established in this section and with other existing units of the National Park System to maximize opportunities for public education and scholarly research on desegregation in public education. The theme study also shall recommend opportunities for cooperative arrangements with State and local governments, educational institutions, local historical organizations, and other appropriate entities to preserve and interpret key sites in the history of desegregation in public education.

(3) Cooperative agreements.—The Secretary may enter into cooperative agreements with 1 or more major educational institutions, public history organizations, or civil rights organizations knowledgeable about desegregation in public education to prepare the theme study and to ensure that the theme study meets scholarly standards.

(4) Theme study coordination with general management plan.—The theme study shall be prepared as part of the preparation and development of the general management plan for the Little Rock Central High School National Historic Site established in this section.

(e) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 410. SAND CREEK MASSACRE NATIONAL HISTORIC SITE STUDY.

(a) Findings.—Congress finds that—

(1) on November 29, 1864, Colonel John M. Chivington led a group of 700 armed soldiers to a peaceful Cheyenne village of more than 100 lodges on the Big Sandy, also known as Sand Creek, located within the Territory of Colorado, and in a running fight that ranged several miles upstream along the Big Sandy, slaughtered several hundred Indians in Chief Black Kettle's village, the majority of whom were women and children;

(2) the incident was quickly recognized as a national disgrace and investigated and condemned by 2 congressional committees and a military commission;

(3) although the United States admitted guilt and reparations were provided for in article VI of the Treaty of Little Arkansas of October 14, 1865 (14 Stat. 703) between the United States and the Cheyenne and Arapaho Tribes of Indians, those treaty obligations remain unfulfilled;

(4) land at or near the site of the Sand Creek Massacre may be available for purchase from a willing seller; and

(5) the site is of great significance to the Cheyenne and Arapaho Indian descendants of those who lost their lives at the incident at Sand Creek and to their tribes, and those descendants and tribes deserve the right of open access to visit the site and rights of cultural and historical observance at the site.

(b) Definitions.—For purposes of this section:

(1) Secretary.—The term "Secretary" means the Secretary of the Interior acting through the Director of the National Park Service.

(2) Site.—The term "site" means the Sand Creek massacre site described in subsection (a).

(3) Tribes.—The term "Tribes" means—

(A) the Cheyenne and Arapaho Tribe of Oklahoma;

(B) the Northern Cheyenne Tribe; and

(C) the Northern Arapaho Tribe.

(c) Study.—

(1) In general.—Not later than 18 months after the date on which funds are made available for the purpose of this section, the Secretary, in consultation with the Tribes and the State of Colorado, shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a resource study of the site.

(2) Contents.—The study under paragraph (1) shall—

(A) identify the location and extent of the massacre area and the suitability and feasibility of designating the site as a unit of the National Park System; and

(B) include cost estimates for any necessary acquisition, development, operation and maintenance, and identification of alternatives for the management, administration, and protection of the area.

(d) Authorization of Appropriations.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 411. CHESAPEAKE AND OHIO CANAL NATIONAL HISTORICAL PARK ENHANCEMENT AND PROTECTION.

(a) Findings.—The Congress finds the following:

(1) The National Park Service has insufficient funds for the operation, maintenance, and rehabilitation of certain units of the National Park System.

(2) Federal full fee ownership of structures and lands that are not consistent with the purposes for which a national historical park was established and that are essential only to the protection of such a park is not always required to preserve the aesthetic, natural, cultural, and historical values of national historical parks.

(3) The sale or lease, or any extension of a sale or lease, of secondary structures and surplus lands of national historical parks that are not consistent with the purposes for which the parks were established and that are essential only to the protection of such parks, could generate needed funds while preserving the values for which the parks were established, if adequate protection of natural, aesthetic, recreational, cultural, and historical values is assured by appropriate terms, covenants, conditions, or reservations.

(4) There are some secondary structures and surplus lands of the Chesapeake and Ohio Canal National Historical Park that need not be owned by the Federal Government in fee simple to achieve the benefits for which the park was established.

(b) Definitions.—In this section:

(1) Surplus land.—The term "surplus land" means land owned by the United States that—

(A) is controlled by the Secretary, is administered as part of the Chesapeake and Ohio Canal National Historical Park, and was first included in the park in the period beginning January 1, 1972, and ending December 31, 1983;

(B) is not consistent with the purposes for which the park was established; and

(C) is determined by the Secretary to be surplus to the purposes of national historical parks.

(2) Secondary Structures.—The term "secondary structure"—

(A) except as provided in subparagraph (B), means a structure (including associated land) that—

(i) is controlled by the Secretary and administered as part of the Chesapeake and Ohio Canal National Historical Park, and was first included in the park in the period beginning January 1, 1972, and ending December 31, 1983;

(ii) is not historic under National Register on Historic Places criteria; and

(iii) is determined by the Secretary to be surplus to the purposes of national historical parks; and

(B) does not include any structure or land that is determined by the Secretary to be part of the essence of the Chesapeake and Ohio Canal National Historical Park.

(3) Secretary.—The term "Secretary" means the Secretary of the Interior.

(c) Allowing Private Acquisition or Use of Secondary Structures and Surplus Land.—

(1) Determination of secondary structures and surplus land.—The Secretary shall review the lands and structures that are controlled by the Secretary and administered as part of the Chesapeake and Ohio Canal National Historical Park and determine whether any of those lands or structures are secondary structures or surplus lands, respectively.

(2) Allowing private acquisition or use.—The Secretary, after determining it to be in the public interest and after publication of notice in the Federal Register and 30 days for public comment, may in accordance with this section sell, lease, permit the use of, or extend a lease or use permit for, any land and structure determined by the Secretary to be a secondary structure or surplus land, respectively.

(d) Requirements.—

(1) Competition.—Except as provided in paragraph (3), any sale or lease of property under this section shall be made under full and open competition.

(2) Costs.—The Secretary shall ensure that the terms of any sale, lease, or use permit under this section are sufficient to recover the costs to the United States of awarding and administering the sale, lease, or permit. The Secretary shall require that a person acquiring, leasing, or using property under this section shall bear all reasonable costs of appraisal incidental to such conveyance, lease, or use, as determined by the Secretary.

(3) Reacquisition by original owner.—Before disposing of any secondary structure or surplus land under this section, the Secretary shall, to the extent possible, provide the person or persons from whom the structure or land was acquired by the United States, or their heirs, as determined from the deed and land records for the property, an opportunity to reacquire the structure or land by negotiated sale, lease, or use permit. The Secretary shall publish a notice in an appropriate regional or local newspaper in an attempt to locate such persons.

(4) Notice to congress.—The Secretary shall report to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate each conveyance, lease, or issuance of a use permit for property under this section having a total value greater than $150,000, at least 30 days prior to consummation of the transaction.

(e) Protection of Historical Integrity of Park.—In order to protect the natural, aesthetic, recreational, cultural, or historic values of the Chesapeake and Ohio Canal National Historical Park, the Secretary shall include in any sale, lease, or use permit under this section any terms, covenants, conditions, or reservations necessary to ensure preservation of the public interest and uses consistent with the purposes for which the park was established.

(f) Use of Revenues.—Amounts received by the United States as proceeds from any sale, lease, or use of a secondary structure or surplus land under this section in excess of the administrative cost of the sale, lease, or use—

(1) shall be deposited in a special fund in the Treasury; and

(2) shall be available to the Secretary, without further appropriation, for operation, maintenance, or improvement of, or for the acquisition of land or interests therein for, the Chesapeake and Ohio Canal National Historical Park.

TITLE V—SAN RAFAEL SWELL

SEC. 501. SHORT TITLE.

This title may be cited as the "San Rafael Swell National Heritage and Conservation Act".

SEC. 502. DEFINITIONS.

In this title:

(1) Advisory council.—The term "Advisory Council" means the San Rafael Swell National Conservation Area Advisory Council established under section 525.

(2) Conservation area.—The term "conservation area" means the San Rafael Swell National Conservation Area established by section 522.

(3) Director.—The term "Director" means the Director of the Bureau of Land Management.

(4) National heritage area.—The term "national heritage area" means the San Rafael Swell National Heritage Area established by section 513.

(5) Secretary.—The term "Secretary" means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

(6) Semi-primitive area.—The term "semi-primitive area" means any area designated as a semi-primitive nonmotorized use area under section 542.

Subtitle A—San Rafael Swell National Heritage Area

SEC. 511. SHORT TITLE; FINDINGS; PURPOSES.

(a) Short Title.—This subtitle may be cited as the "San Rafael Swell National Heritage Area Act".

(b) Findings.—Congress finds the following:

(1) The history of the American West is one of the most significant chapters of United States history, and the major themes and images of the history of the American West provide a legacy that has done much to shape the contemporary culture, attitudes, and values of the American West and the United States.

(2) The San Rafael Swell region of the State of Utah was one of the country's last frontiers and possesses important historical, cultural, and natural resources that are representative of the central themes associated with the history of the American West, including themes of pre-Columbian and Native American culture, exploration, pioneering, settlement, ranching, outlaws, prospecting and mining, water development and irrigation, railroad building, industrial development, and the utilization and conservation of natural resources.

(3) The San Rafael Swell region contains important historical sites, including sections of the Old Spanish Trail, the Outlaw Trail, the Green River Crossing, and numerous sites associated with cowboy, pioneer, and mining history.

(4) The heritage of the San Rafael Swell region includes the activities of many prominent historical figures of the old American West, such as Chief Walker, John Wesley Powell, Kit Carson, John C. Fremont, John W. Gunnison, Butch Cassidy, John W. Taylor, and the Swasey brothers.

(5) The San Rafael Swell region has a notable history of coal and uranium mining, and a rich cultural heritage of activities associated with mining, such as prospecting, railroad building, immigrant workers, coal camps, labor union movements, and mining disasters.

(6) The San Rafael Swell region is widely recognized for its significant paleontological resources and dinosaur bone quarries, including the Cleveland Lloyd Dinosaur Quarry which was designated as a National Natural Landmark in 1966.

(7) The beautiful rural landscapes, historic and cultural landscapes, and spectacular scenic vistas of the San Rafael Swell region contain significant undeveloped recreational opportunities for people throughout the United States.

(8) Museums and visitor centers have already been constructed in the San Rafael Swell region, including the John Wesley Powell River History Museum, the College of Eastern Utah Prehistoric Museum, the Museum of the San Rafael, the Western Mining and Railroad Museum, the Emery County Pioneer Museum, and the Cleveland Lloyd Dinosaur Quarry, and these museums are available to interpret the themes of the national heritage area established by this title and to coordinate the interpretive and preservation activities of the area.

(9) Despite the efforts of the State of Utah, political subdivisions of the State, volunteer organizations, and private businesses, the cultural, historical, natural, and recreational resources of the San Rafael Swell region have not realized their full potential and may be lost without assistance from the Federal Government.

(10) Many of the historical, cultural, and scientific sites of the San Rafael Swell region are located on lands owned by the Federal Government and are managed by the Bureau of Land Management or the United States Forest Service.

(11) The preservation of the cultural, historical, natural, and recreational resources of the San Rafael Swell region within a regional framework requires cooperation among local property owners and Federal, State, and local government entities.

(12) Partnerships between Federal, State, and local governments, local and regional entities of these governments, and the private sector offer the most effective opportunities for the enhancement and management of the cultural, historical, natural, and recreational resources of the San Rafael Swell region.

(c) Purposes.—The purposes of this subtitle are—

(1) to establish the San Rafael Swell National Heritage Area to promote the preservation, conservation, interpretation, and development of the historical, cultural, natural, and recreational resources related to the historical, cultural, and industrial heritage of the San Rafael Swell region of the

State of Utah, which includes the counties of Carbon and Emery, and portions of the county of Sanpete;

(2) to encourage within the national heritage area a broad range of economic and recreational opportunities to enhance the quality of life for present and future generations;

(3) to assist the State of Utah, political subdivisions of the State and their local and regional entities, and nonprofit organizations, or combinations thereof, in preparing and implementing a heritage plan for the national heritage area and in developing policies and programs that will preserve, enhance, and interpret the cultural, historical, natural, recreational, and scenic resources of the heritage area; and

(4) to authorize the Secretary of the Interior to provide financial assistance and technical assistance to support the preparation and implementation of the heritage plan for the national heritage area.

SEC. 512. DESIGNATION.

There is hereby designated the San Rafael Swell National Heritage Area.

SEC. 513. DEFINITIONS.

For purposes of this subtitle:

(1) Compact.—The term "compact" means an agreement described in section 515(a).

(2) Financial assistance.—The term "financial assistance" means funds appropriated by the Congress and made available to the Heritage Council for the purposes of preparing and implementing a heritage plan.

(3) Heritage area.—The term "Heritage Area" means the San Rafael Swell National Heritage Area established by this subtitle.

(4) Heritage plan.—The term "heritage plan" means a plan described in section 515(b).

(5) Heritage council.—The term "Heritage Council" means the entity designated in the compact for a National Heritage Area and described in section 516(a).

(6) Secretary.—The term "Secretary" means the Secretary of the Interior.

(7) Technical assistance.—The term "technical assistance" includes—

(A) assistance by the Secretary in the preparation of any heritage plan, compact, or resource inventory; and

(B) professional guidance provided by the Secretary.

(8) Unit of government.—The term "unit of government" means the government of a State, a political subdivision of a State, or an Indian tribe.

SEC. 514. GRANTS, TECHNICAL ASSISTANCE, AND OTHER DUTIES AND AUTHORITIES OF FEDERAL AGENCIES.

(a) Grants.—

(1) In general.—The Secretary may make grants for the purposes of this subtitle to any unit of government or to the Heritage Council.

(2) Permitted and prohibited uses of grants.—

(A) Permitted uses.—Grants made under this section may be used for reports, studies, interpretive exhibits, historic preservation projects, construction of cultural, recreational, and interpretive facilities that are open to the public, and such other expenditures as are consistent with this subtitle.

(B) Prohibited uses.—Grants made under this section may not be used for acquisition of real property or any interest in real property.

(3) Applicability of restrictions to subgrants.—For purposes of paragraph (2), any subgrant made from funds received as a grant (or subgrant) made under this section shall be treated as a grant made under this section.

(4) Protection of federal investment.—Any grant made under this section shall be subject to an agreement that conversion, use, or disposal of the project so assisted for purposes contrary to the purposes of this subtitle, as determined by the Secretary, shall result in a right of the United States to compensation equal to the greater of—

(A) all Federal funds made available to such project under this subtitle; or

(B) the proportion of the increased value of the project attributable to such funds, as determined at the time of such conversion, use, or disposal.

(b) Technical Assistance.—The Secretary may provide technical assistance with respect to this subtitle.

(c) Duration of Eligibility for Grants and Technical Assistance.—The Secretary may not provide any grant, and may provide only limited technical assistance, under this subtitle after the expiration of the 10-year period beginning on the date of the designation of the National Heritage Area.

(d) Disqualification for Federal Funding.—If a heritage plan meeting the requirements of section 515(b) is not forwarded to the Secretary as required under section 516(b)(1) within the time specified in section 516(b)(1), the Secretary may not, after such time, provide technical assistance or grants under this subtitle until such a heritage plan for the National Heritage Area is developed and forwarded to the Secretary.

(e) Other Duties and Authorities of Secretary.—

(1) Signing of compact.—The Secretary shall sign or withhold signature on any proposed compact submitted under this subtitle not later than 90 days after receiving the proposed compact. If the Secretary withholds signature on the proposed compact, the Secretary shall advise the submitter, in writing, of the reasons. The Secretary shall sign or withhold signature on each proposed revision to the proposed compact not later than 90 days after receiving the proposed revision. A submitter shall hold a public meeting in the immediate vicinity of the proposed National Heritage Area before making any major revisions in any proposed compact submitted under this subtitle.

(2) Monitoring of national heritage area.—The Secretary shall monitor the National Heritage Area. Monitoring of the National Heritage Area shall include monitoring to ensure compliance with the terms of the compact for the area.

(f) Duties of Federal Entities.—Any Federal entity conducting or supporting activities within the National Heritage Area, and any unit of government acting pursuant to a grant of Federal funds or a Federal permit or agreement and conducting or supporting such activities, shall, to the maximum extent practicable—

(1) consult with the Secretary and the Heritage Council for the National Heritage Area with respect to such activities; and

(2) cooperate with the Secretary and the Heritage Council in the carrying out of the duties of the Secretary and the Heritage Council under this subtitle, and coordinate such activities to minimize any real or potential adverse impact on the National Heritage Area.

(g) Prohibition of Certain Requirements.—The Secretary may not, as a condition of the award of technical assistance or financial assistance under this section, require any recipient of such assistance to enact or modify land use restrictions.

SEC. 515. COMPACT AND HERITAGE PLAN.

(a) Compact.—

(1) In general.—The compact submitted under this subtitle with respect to the National Heritage Area shall consist of an agreement entered into by the Secretary, the Secretary of Agriculture, and the Governor of Utah or a designee of the Governor, in coordination with the Heritage Council. Such agreement shall define the area, describe anticipated programs for the area, and include information relating to the objectives and management of the area. Such information shall include, but need not be limited to, each of the following:

(A) Boundaries.—A delineation of the boundaries of the National Heritage Area. Such boundaries shall include the land generally depicted on the map entitled San Rafael Swell National Heritage-Conservation Area Proposed, dated June 12, 1998, which shall be on file and available for public inspection in the office of the Director of the Bureau of Land Management.

(B) Management entity.—An identification and description of the Heritage Council.

(C) Non-federal participants.—A list of the initial participants to be involved in developing and implementing the heritage plan and a statement of the financial commitment of those participants.

(D) Goals, objectives, and conceptual framework.—A discussion of the goals, objectives, and cost of the National Heritage Area, including an explanation of—

(i) the conceptual framework, proposed by the partners referred to in subparagraph (C), for development and implementation of the heritage plan for the National Heritage Area; and

(ii) the costs associated with the conceptual framework.

(E) Role of state.—A description of the role of the State of Utah.

(2) Consistency with economic viability.—The compact submitted under this subtitle shall be consistent with continued economic viability in the communities within the National Heritage Area.

(3) Initiation of actions.—Actions called for in the compact shall be initiated within a reasonable time after designation of the National Heritage Area and shall ensure effective implementation of the State and local aspects of the compact.

(b) Heritage Plan.—

(1) In general.—The heritage plan forwarded to the Secretary under this subtitle shall be a plan which sets forth the strategy to implement the goals and objectives of the National Heritage Area. The heritage plan shall—

(A) present comprehensive recommendations for the conservation, funding, management, and development of the area;

(B) be prepared with public participation;

(C) take into consideration existing Federal, State, county, and local plans and involve residents, private property owners, public agencies, and private organizations in the area;

(D) include a description of actions that units of government and private organizations could take to protect the resources of the area; and

(E) specify existing and potential sources of funding for the conservation, management, and development of the area.

(2) Additional information.—The heritage plan forwarded to the Secretary under this subtitle also shall include the following, as appropriate:

(A) Inventory of resources.—An inventory of important natural, cultural, or historic resources which illustrate the themes of the National Heritage Area.

(B) RECOMMENDATIONS FOR MANAGEMENT.—A recommendation of policies for management of the historical, cultural, and natural resources and the recreational and educational opportunities of the area in a manner consistent with the support of appropriate and compatible economic viability.

(C) PROGRAM AND COMMITMENTS.—A program for implementation of the heritage plan by the Heritage Council and specific commitments, for the first 5 years of operation of the heritage plan, by the partners identified in the compact.

(D) ANALYSIS OF COORDINATION.—An analysis of means by which Federal, State, and local programs may best be coordinated to promote the purposes of this subtitle.

(E) INTERPRETIVE PLAN.—An interpretive plan for the National Heritage Area.

(3) RELATIONSHIP TO CONSERVATION AREA MANAGEMENT PLAN.—The heritage plan and the conservation area management plan shall not be inconsistent. However, nothing in the heritage plan may supersede the management plan for the conservation area under section 533, with respect to the application of the management plan to the conservation area.

SEC. 516. HERITAGE COUNCIL.

(a) IN GENERAL.—The management entity for the National Heritage Area shall be known as the "Heritage Council". The Heritage Council shall be an entity that reflects a broad cross-section of interests within the National Heritage Area and shall include—

(1) at least 1 representative of one or more units of government in the State of Utah;

(2) representatives of interested or affected groups; and

(3) private property owners who reside within the National Heritage Area.

(b) DUTIES.—The Heritage Council shall fulfill each of the following requirements:

(1) HERITAGE PLAN.—Not later than 3 years after the date of the designation of the National Heritage Area, the Heritage Council shall develop and forward to the Secretary and to the Governor of Utah a heritage plan in accordance with the compact under subsection (a).

(2) PRIORITIES.—The Heritage Council shall give priority to the implementation of actions, goals, and policies set forth in the compact and heritage plan for the National Heritage Area, including assisting units of government and others in—

(A) carrying out programs which recognize important resource values within the National Heritage Area;

(B) encouraging economic viability in the affected communities;

(C) establishing and maintaining interpretive exhibits in the area;

(D) developing recreational and educational opportunities in the area;

(E) increasing public awareness of and appreciation for the natural, historical, and cultural resources of the area;

(F) restoring historic buildings that are located within the boundaries of the area and relate to the theme of the area; and

(G) ensuring that clear, consistent, and appropriate signs identifying public access points and sites of interest are put in place throughout the area.

(3) CONSIDERATION OF INTERESTS OF LOCAL GROUPS.—The Heritage Council shall, in developing and implementing the heritage plan for the National Heritage Area, consider the interests of diverse units of government, businesses, private property owners, and nonprofit groups within the geographic area.

(4) PUBLIC MEETINGS.—The Heritage Council shall conduct public meetings at least annually regarding the implementation of the heritage plan for the National Heritage Area. The Heritage Council shall place a notice of each such meeting in a newspaper of general circulation in the area and shall make the minutes of the meeting available to the public.

SEC. 517. LACK OF EFFECT ON LAND USE REGULATION.

(a) LACK OF EFFECT ON AUTHORITY OF GOVERNMENTS.—Nothing in this subtitle shall be construed to modify, enlarge, or diminish any authority of Federal, State, and local governments to regulate any use of land as provided for by law or regulation.

(b) LACK OF ZONING OR LAND USE POWERS OF ENTITY.—Nothing in this subtitle shall be construed to grant powers of zoning or land use to the management entity for the National Heritage Area.

(c) BLM AUTHORITY.—

(1) IN GENERAL.—Nothing in this subtitle shall be construed to modify, enlarge, or diminish the authority of the Secretary or the Bureau of Land Management with respect to lands under the administrative jurisdiction of the Bureau.

(2) COOPERATION.—In carrying out this subtitle, the Secretary shall work cooperatively under the Federal Land Policy and Management Act of 1976 with the Forest Service, the Heritage Council under section 516, State and local governments, and private entities.

SEC. 518. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for grants made and technical assistance provided under subsections (a) and (b), respectively, of section 514, and the administration of such grants and assistance, not more than $1,000,000 annually, to remain available until expended.

(b) ANNUAL ALLOCATION FOR GRANTS.—In any fiscal year, not less than 70 percent of the funds obligated under this subtitle shall be used for grants made under section 514(a).

(c) LIMITATION ON PERCENT OF COST.—

(1) IN GENERAL.—Federal funding provided under this subtitle, after the designation of the National Heritage Area, for any technical assistance or grant with respect to the area may not exceed 50 percent of the total cost of the assistance or grant. Federal funding provided under this subtitle with respect to an area before the designation of the area as the National Heritage Area may not exceed an amount proportionate to the level of local support of and commitment to the designation of the area.

(2) TREATMENT OF DONATIONS.—The value of property or services donated by non-Federal sources and used for management of the National Heritage Area shall be treated as non-Federal funding for purposes of paragraph (1).

(d) LIMITATION ON TOTAL FUNDING.—Not more than a total of $10,000,000 may be made available under this section with respect to the National Heritage Area.

(e) ALLOCATION OF APPROPRIATIONS.—Notwithstanding any other provision of law, no funds appropriated or otherwise made available to the Secretary to carry out this subtitle—

(1) may be obligated or expended by any person unless the appropriation of such funds has been allocated in the manner prescribed by this subtitle; or

(2) may be obligated or expended by any person in excess of the amount prescribed by this subtitle.

Subtitle B—San Rafael Swell National Conservation Area

SEC. 521. DEFINITION OF PLAN.

In this subtitle, the term "plan" means the comprehensive management plan developed for the national conservation area under section 523, including such revisions thereto as may be required in order to implement this subtitle.

SEC. 522. ESTABLISHMENT OF NATIONAL CONSERVATION AREA.

(a) ESTABLISHMENT.—In order to preserve and maintain heritage, tourism, recreational, historical, scenic, archaeological, paleontological, biological, cultural, scientific, educational, and economic resources, there is hereby established the San Rafael Swell National Conservation Area.

(b) AREA INCLUDED.—The conservation area shall consist of all public lands within the exterior boundaries of the conservation area, comprised of approximately 630,000 acres, as generally depicted on the map entitled "San Rafael Swell National Heritage/Conservation Area Proposed", dated June 12, 1998, including areas depicted within those boundaries on that map as "Proposed Wilderness", "Proposed Bighorn Sheep Management Area", "Scenic Visual Area of Critical Environmental Concern", and "Semi-Primitive Non-Motorized Use Areas".

(c) MAP AND LEGAL DESCRIPTION.—As soon as is practicable after enactment of this Act, the map referred to in subsection (b) and a legal description of the conservation area shall be filed by the Secretary with the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Such map and description shall have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in such map and legal description. Such map and description shall be on file and available for public inspection in the office of the Director and the Utah State Director of the Bureau of Land Management of the Department of the Interior.

(d) WITHDRAWALS.—Subject to valid existing rights, the Federal lands within the conservation area are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws; and from entry, application, and selection under the Act of March 3, 1877 (Ch. 107, 19 Stat. 377, 43 U.S.C. 321 et seq.; commonly referred to as the "Desert Lands Act"), section 4 of the Act of August 18, 1894 (Ch. 301, 28 Stat. 422; 43 U.S.C. 641; commonly referred to as the "Carey Act"), section 2275 of the Revised Statutes, as amended (43 U.S.C. 851), and section 2276 of the Revised Statutes (43 U.S.C. 852). The Secretary shall return to the applicants any such applications pending on the date of enactment of this Act, without further action. Subject to valid existing rights, as of the date of enactment of this Act, lands within the conservation area are withdrawn from location under the general mining laws, the operation of the mineral and geothermal leasing laws, and the mineral material disposal laws, except that mineral materials subject to disposal may be made available from existing sites to the extent compatible with the purposes for which the conservation area is established.

(e) CLOSURE TO FORESTRY.—The Secretary shall prohibit all commercial sale of trees, portions of trees, and forest products located in the conservation area.

SEC. 523. MANAGEMENT.

(a) IN GENERAL.—The Secretary shall, in consultation with the Advisory Council and subject to valid existing rights, manage the conservation area to conserve, protect, and enhance the resources of the conservation area referred to in section 522(a), the Federal Land Policy and Management Act of 1976, and other applicable laws.

(b) USES.—The Secretary shall allow such uses of the conservation area as are specified in the management plan developed under subsection (b) and that the Secretary finds will further the conservation, protection, enhancement, public use, and enjoyment of the resource values referred to in section 522(a). Except when needed for administrative and emergency purposes, the uses of motorized vehicles in the conservation area shall be permitted only on roads and trails specifically designated for such use as part of the management plan prepared pursuant to subsection (c).

(c) MANAGEMENT PLAN.—No later than 3 years after the date of enactment of this Act, the Secretary, in cooperation with the Advisory Council, shall develop a comprehensive plan for the long-range management and protection of the conservation area. The plan shall be developed with full opportunity for public participation and comment, and shall contain provisions designed to assure access to an protection of the heritage, tourism, recreational, historical, scenic, archaeological, paleontological, biological, cultural, scientific, educational, and economic resources and values of the conservation area.

(d) VISITORS.—

(1) VISITORS CENTER.—The Secretary may establish, in cooperation with the Advisory Council and other public or private entities as the Secretary considers appropriate, a visitors center designed to interpret the history and the geological, ecological, natural, cultural, and other resources of the conservation area.

(2) VISITORS USE OF AREA.—In addition to the Visitors Center, the Secretary may provide for visitor use of the public lands in the conservation area to such extent and in such manner as the Secretary considers consistent with the purposes for which the conservation area is established. To the extent practicable, the Secretary shall make available to visitors and other members of the public a map of the conservation area and such other educational and interpretive materials as may be appropriate.

(e) COOPERATIVE AGREEMENTS.—The Secretary may provide technical assistance to, and enter into such cooperative agreements and contracts with, the State of Utah and with local governments and private entities as the Secretary deems necessary or desirable to carry out the purposes and policies of this subtitle.

SEC. 524. ADDITIONS.

(a) ADDITION TO CONSERVATION AREA.—Any lands located within the boundaries of the conservation area that are acquired by the United States on or after the date of enactment of this Act shall become a part of the conservation area and shall be subject to this subtitle.

(b) LAND EXCHANGES TO RESOLVE CONFLICTS.—The Secretary shall, within 4 years after the date of enactment of this Act, study, identify, and initiate voluntary land exchanges which would resolve ownership-related land use conflicts within the conservation area. Lands may be acquired under this subsection only from willing sellers.

SEC. 525. ADVISORY COUNCIL.

(a) ESTABLISHMENT.—There is established the San Rafael Swell National Conservation Area Advisory Council. The Advisory Council shall advise the Secretary regarding management of the conservation area.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Advisory Council shall consist of 11 members appointed by the Secretary from among persons who are representative of the various major citizen's interests concerned with the management of the public lands located in the conservation area. Of the members—

(A) 2 shall be appointed from individuals recommended by the Governor of the State of Utah;

(B) 4 shall be appointed from individuals recommended by the Board of Commissioners of Emery County, Utah, and shall include a representative of each of the Emery County Public Lands Council and the San Rafael Regional Heritage Council recognized under section 514(a);

(C) 1 shall be the Director of the Bureau of Land Management in the State of Utah, or his or her designee; and

(D) 4 shall be selected by the Secretary.

(2) APPOINTMENT PROCESS.—The Secretary shall appoint the members of the Advisory Council in accordance with rules prescribed by the Secretary.

(3) TERMS.—(A) The term of members of the Advisory Council shall be a period established by the Secretary, which may not exceed 4 years and which, except as provided by subparagraph (B), shall be the same for all members.

(B) In appointing the initial members of the Advisory Council, the Secretary shall, for a portion of the members, specify terms that are shorter than the period established under subparagraph (A), as necessary to achieve staggering of terms.

(c) CHAIRPERSON.—The Advisory Council shall have a Chairperson, who shall be selected by the Advisory Council from among its members.

(d) MEETINGS.—The Advisory Council shall meet at least twice each year, at the call of the Secretary or the Chairperson.

(e) PAY AND EXPENSES.—Members of the Advisory Council shall serve without pay, except travel and per diem shall be paid to each member for meetings called by the Secretary or the Chairperson.

(f) FURNISHING ADVICE.—The Advisory Council may furnish advice to the Secretary with respect to the planning and management of the public lands within the conservation area and such other matters as may be referred to it by the Secretary.

(g) TERMINATION.—The Advisory Council shall terminate 10 years after the date of the enactment of this Act, unless otherwise extended by law.

SEC. 526. RELATIONSHIP TO OTHER LAWS AND ADMINISTRATIVE PROVISIONS.

(a) PUBLIC LAND LAWS.—Except as otherwise specifically provided in this title, nothing in this subtitle shall be construed as limiting the applicability to lands in the conservation area of laws applicable to public lands generally, including but not limited to the National Historic Preservation Act (16 U.S.C. 470 et seq.), the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.), or the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.).

(b) NON-BLM LAND.—Nothing in this subtitle shall be construed as by itself altering the status of any lands that on the date of enactment of this Act were not managed by the Bureau of Land Management.

SEC. 527. COMMUNICATIONS EQUIPMENT.

Nothing in this title shall be construed to prohibit the Secretary from authorizing the installation of communications equipment in the conservation area for public safety purposes, other than within areas designated as wilderness, to the highest practicable degree consistent with requirements and restrictions otherwise applicable to the conservation area.

Subtitle C—Wilderness Areas Within Conservation Area

SEC. 531. DESIGNATION OF WILDERNESS.

(a) DESIGNATION.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), the following lands in the conservation area, as generally depicted on the map entitled "San Rafael Swell National Heritage/Conservation Area Proposed", dated June 12, 1998, are hereby designated as wilderness and therefore as components of the National Wilderness Preservation System:

(1) Crack Canyon Wilderness Area, consisting of approximately 25,624 acres.

(2) Mexican Mountain Wilderness Area, consisting of approximately 27,257 acres.

(3) Muddy Creek Wilderness Area, consisting of approximately 39,348 acres.

(4) San Rafael Reef Wilderness Area, consisting of approximately 48,227 acres.

(b) MAP AND DESCRIPTION.—As soon as practicable after the date of the enactment of this Act, the Secretary shall file a map and a legal description of each area designated as wilderness by subsection (a) with the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Each map and description shall have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in such maps and legal descriptions. Each map and legal description shall be on file and available for public inspection in the office of the Director of the Bureau of Land Management, and the office of the State Director of the Bureau of Land Management in the State of Utah, Department of the Interior.

SEC. 532. ADMINISTRATION OF WILDERNESS AREAS.

(a) IN GENERAL.—Subject to valid existing rights and the full exercise of those rights, each area designated as wilderness by this title shall be administered by the Secretary in accordance with this title and the Wilderness Act (16 U.S.C. 1131 et seq.).

(b) INCORPORATION OF ACQUIRED LANDS AND INTERESTS.—Any lands or interest in lands within the boundaries of an area designated as wilderness by this title that is acquired by the United States after the date of the enactment of this Act shall be added to and administered as part of the wilderness area within which the acquired lands or interest in lands are located.

(c) MANAGEMENT PLANS.—As soon as possible after the date of the enactment of this Act, the Secretary, in cooperation with the Advisory Council, shall prepare plans in accordance with section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712) to manage the areas designated as wilderness by this title.

SEC. 533. LIVESTOCK.

Grazing of livestock in areas designated as wilderness by this title, where such grazing is established before the date of the enactment of this Act—

(1) may not be reduced, increased, or withdrawn, except based solely on scientific analyses of range conditions; and

(2) shall be administered in accordance with section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)) and the guidelines set forth in House Report 96–1126.

SEC. 534. WILDERNESS RELEASE.

(a) FINDING.—The Congress finds and directs that public lands administered by the Bureau of Land Management within the conservation area in the County of Emery, Utah, that are depicted on the map entitled "San Rafael Swell National Heritage/Conservation

Area Proposed", dated June 12, 1998, have been adequately studied for wilderness designation pursuant to section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782).

(b) RELEASE.—Any public lands administered by the Bureau of Land Management within the conservation area in the County of Emery, Utah, that are depicted on the map entitled "San Rafael Swell National Heritage/Conservation Area Proposed", dated June 12, 1998, and that are not designated as wilderness by this title are no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)). Such lands shall be managed for public uses as defined in section 103(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(c)) and in accordance with land management plans adopted pursuant to section 202 of such Act (43 U.S.C. 1712) and this title.

Subtitle D—Other Special Management Areas Within Conservation Area

SEC. 541. SAN RAFAEL SWELL DESERT BIGHORN SHEEP MANAGEMENT AREA.

(a) ESTABLISHMENT AND PURPOSES.—

(1) ESTABLISHMENT.—There is hereby established in the conservation area the San Rafael Swell Desert Bighorn Sheep Management Area (in this section referred to as the "management area").

(2) PURPOSES.—The purposes of the management area are the following:

(A) To provide for the prudent management of Desert Bighorn Sheep and their habitat in the Sid's Mountain area of the conservation area.

(B) To provide opportunities for watchable wildlife, hunting, and scientific study of Desert Bighorn Sheep and their habitat.

(C) To provide a seed source for other Desert Bighorn Sheep herds, and a gene pool to protect genetic diversity within the Desert Bighorn Sheep species.

(D) To provide educational opportunities to the public regarding Desert Big Horn Sheep and their environs.

(E) To maintain the natural qualities of the lands and habitat of the management area to the extent practicable with prudent management of desert bighorn sheep.

(b) AREA INCLUDED.—The management area shall consist of approximately 73,909 acres of federally owned lands and interests therein managed by the Bureau of Land Management as generally depicted on the map entitled "San Rafael Swell National Heritage/Conservation Area Proposed", dated June 12, 1998.

(c) MANAGEMENT AND USE.—

(1) IN GENERAL.—Except as otherwise provided in this section, the management area and use of the management area shall be subject to all requirements and restrictions that apply to the conservation area.

(2) MECHANIZED TRAVEL.—The Secretary shall not allow any mechanized travel in the management area, except—

(A) mechanized travel that is in accordance with the plan; and

(B) mechanized travel by personnel of the Utah Division of Wildlife Resources and the Bureau of Land Management, including overflights of aircraft and landings of helicopters, may be allowed as needed to manage the Desert Bighorn Sheep and their habitat.

(3) DESERT BIGHORN SHEEP MANAGEMENT.—The Secretary and the Utah Division of Wildlife Resources may use such management tools as are needed to provide for the sustainability of the Desert Bighorn Sheep herd and the range resource of the management area, including animal transplanting (both into and out of the management area), hunting, water development, fencing, surveys, prescribed fire, control of noxious or invading weeds, and predator control.

(4) WILDLIFE VIEWING.—The Secretary, in cooperation with the State of Utah and the Advisory Council, shall manage the management area to provide opportunities for the public to view Desert Bighorn Sheep in their natural habitat. However, the Secretary may restrict mechanized and nonmechanized visitation to sensitive areas during critical seasons as needed to provide for the proper management of the Desert Bighorn Sheep herd of the management area.

(d) MANAGEMENT PLAN.—

(1) IN GENERAL.—The Secretary shall include a management plan for the management area in the management plan for the conservation area under section 523.

(2) CONTENTS.—The management plan for the management area shall establish goals and management steps to be taken within the management area to achieve the purposes of the management area under subsection (a)(2).

(3) PARTICIPATION.—The Secretary shall cooperate with the Utah Division of Wildlife Resources and the Advisory Council in developing the management plan for the management area.

(e) FACILITIES.—

(1) IN GENERAL.—The Secretary may establish, operate, and maintain in the management area such facilities as are needed to provide for the management and safety of recreational users of the management area.

(2) VIEWING SITES.—Facilities under this subsection may include improved sheep viewing sites around the periphery of the management area, if such sites do not interfere with the proper management of the sheep and their habitat.

(f) DEVELOPMENT OF HERITAGE SITES.—This section shall not be construed to preclude the utilization, enhancement, and maintenance of national heritage area sites in the management area, if such activities do not conflict with the purposes of the management area under subsection (a).

SEC. 542. SEMI-PRIMITIVE NONMOTORIZED USE AREAS.

(a) DESIGNATION AND PURPOSES.—The Secretary shall designate areas in the conservation area as semi-primitive nonmotorized use areas. The purposes of the semi-primitive areas are the following:

(1) To provide opportunities for isolation from the sights and sounds of man.

(2) To provide opportunities to have a high degree of interaction with the natural environment.

(3) To provide opportunities for recreational users to practice outdoor skills in settings that present moderate challenge and risk.

(b) AREA INCLUDED.—The semi-primitive areas shall consist generally of approximately 120,695 acres of federally owned lands and interests therein located in the conservation area that are managed by the Bureau of Land Management, as generally depicted on the map entitled "San Rafael Swell National Heritage/Conservation Area Proposed", dated June 12, 1998.

(c) MANAGEMENT AND USE.—Except as otherwise provided in this section, semi-primitive areas shall be subject to all requirements and restrictions that apply to the conservation area.

(d) MANAGEMENT PLAN.—

(1) IN GENERAL.—The Secretary shall include a management plan for the semi-primitive areas in the management plan for the conservation area under section 523.

(2) CONTENTS.—The management plans for the semi-primitive areas shall establish goals and management steps to be taken within the semi-primitive areas to achieve the purposes under subsection (a).

(e) DEVELOPMENT OF HERITAGE SITES.—This section shall not be construed to preclude the utilization, enhancement, and maintenance of national heritage area sites in any semi-primitive area, if such activities do not conflict with the purposes of the semi-primitive areas under subsection (a).

SEC. 543. SCENIC VISUAL AREA OF CRITICAL ENVIRONMENTAL CONCERN.

(a) DESIGNATION AND PURPOSE.—The Secretary shall designate areas in the conservation area as a scenic visual area of critical environmental concern (in this section referred to as the "scenic visual ACEC"). The purpose of the scenic visual ACEC is to preserve the scenic value of the Interstate Route 70 corridor within the conservation area.

(b) AREA INCLUDED.—The scenic visual ACEC shall consist generally of approximately 27,670 acres of lands and interests therein located in the conservation area bordering Interstate Route 70 that are managed by the Bureau of Land Management, as generally depicted on the map entitled "San Rafael Swell National Heritage/Conservation Area Proposed", dated June 12, 1998.

(c) MANAGEMENT AND USE.—Except as otherwise provided in this section, the scenic visual ACEC shall be subject to all requirements and restrictions that apply to the conservation area, and shall be managed to protect scenic values in accordance with the Bureau of Land Management document entitled "San Rafael Resource Management Plan, Utah, Moab District, San Rafael Resource Area, 1991".

Subtitle E—General Management Provisions

SEC. 551. LIVESTOCK GRAZING.

(a) AREAS OTHER THAN WILDERNESS.—

(1) IN GENERAL.—Except as provided in subsection (b), the Secretary shall permit domestic livestock grazing in areas of the conservation area where grazing was established before the enactment of this Act. Grazing in such areas may not be reduced, increased, or withdrawn, except based solely on scientific analyses of range conditions.

(2) COMPLIANCE WITH APPLICABLE REQUIREMENTS.—Except as provided in subsection (b), any livestock grazing on public lands within the conservation area and activities the Secretary determines necessary to carry out proper and practical grazing management programs on such public lands (such as animal damage control activities), shall be managed in accordance with the Act of June 28, 1934 (43 U.S.C. 315 et seq.; commonly referred to as the "Taylor Grazing Act"), section 402 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1752), other laws applicable to such use and programs on the public lands, and the management plan for the conservation area.

(3) CERTAIN WATER FACILITIES NOT AFFECTED.—Nothing in this title shall affect the maintenance, repair, replacement, or improvement of, or ingress to or egress from, water catchment, storage, and conveyance facilities in existence before the date of the enactment of this Act that are associated with livestock or wildlife purposes, whether located within or outside of the boundaries of areas designated as part of the conservation area under this title.

(b) WILDERNESS.—Subsection (a) shall not apply to any wilderness designated by this title.

SEC. 552. CULTURAL AND PALEONTOLOGICAL RESOURCES.

The Secretary shall allow for the discovery of, shall protect, and may interpret, cultural or paleontological resources located within areas designated as part of the conservation area, to the extent consistent with the other provisions of this title governing management of those areas.

SEC. 553. LAND EXCHANGES RELATING TO SCHOOL AND INSTITUTIONAL TRUST LANDS.

(a) EXCHANGE AUTHORIZED.—

(1) IDENTIFICATION OF LANDS AND INTERESTS BY STATE.—Not later than 1 year after the date of enactment of this Act, the Governor of the State of Utah may identify, describe, and notify the Secretary of any school and institutional trust lands the value or economic potential of which may be diminished by establishment of the conservation area under this title, and that the State would like to exchange for other Federal lands or interests in land within the State of Utah.

(2) OFFER BY SECRETARY.—Not later than 1 year after the date of receipt of notification under subsection (a), and after seeking the advice of the Governor of the State of Utah on potential lands for exchange, the Secretary shall transmit to the Governor a list of Federal lands or interests in lands within the State of Utah that the Secretary believes are approximately equivalent in value to the lands described in subsection (a) of this section, and shall offer such lands for exchange to the State for the lands described in subsection (a).

(b) ENSURING EQUIVALENT VALUE.—

(1) IN GENERAL.—In preparing the list under subsection (a)(2), the Secretary shall take all steps as are necessary and reasonable to ensure that the State of Utah agrees that the lands offered by the Secretary are approximately equivalent in value to the lands identified and described by the State under subsection (a)(1).

(2) ACCOUNTING FOR REVENUE SHARING.—If the State of Utah shares revenue from the properties to be acquired by the State under this section, the value of such properties shall be the value otherwise established under this section, reduced by a percentage that represents the Federal revenue sharing obligation. The amount of such reduction shall not be considered a property right of the State of Utah.

(c) PUBLIC INTEREST.—The exchange of lands included in the list prepared under subsection (a)(2) shall be construed as satisfying the provisions of section 206(a) of the Federal Land Policy and Management Act of 1976 requiring that exchanges of lands be in the public interest.

(d) DEFINITIONS.—As used in this section:

(1) SCHOOL AND INSTITUTIONAL TRUST LANDS.—The term "school and institutional trust lands" means those properties granted by the United States in the Utah Enabling Act to the State of Utah in trust, and other lands that under State law must be managed for the benefit of the public school system or the institutions of the State that are designated by the Utah Enabling Act, that are located in the conservation area.

(2) UTAH ENABLING ACT.—The term "Utah Enabling Act" means the Act entitled "An Act to enable the people of Utah to form a constitution and State government, and to be admitted into the Union on an equal footing with the original States", approved July 16, 1894 (chapter 138; 28 Stat. 107).

SEC. 554. WATER RIGHTS.

(a) FINDINGS.—The Congress finds the following:

(1) The San Rafael Swell region of Utah is a high desert climate with little annual precipitation and scarce water resources.

(2) In order to preserve the limited amount of water available to wildlife, the State of Utah has granted to the Division of Wildlife Resources an in-stream flow right in the San Rafael River.

(3) This preserved right will guarantee that wetland and riparian habitats within the San Rafael region will be protected for designations such as wilderness, semi-primitive areas, bighorn sheep, and other Federal land needs within the San Rafael Swell region.

(b) NO FEDERAL RESERVATION.—Nothing in this title or any other Act of Congress shall constitute or be construed to constitute either an express or implied Federal reservation of water or water rights for any purpose arising from the designation of areas as part of the conservation area or as a wilderness or semi-primitive area under this title.

(c) ACQUISITION AND EXERCISE OF WATER RIGHTS UNDER UTAH LAW.—The United States may acquire and exercise such water rights as it deems necessary to carry out its responsibilities on any lands designated as part of the conservation area under this title pursuant to the substantive and procedural requirements of the State of Utah. Nothing in this title shall be construed to authorize the use of eminent domain by the United States to acquire water rights for such lands. Within areas designated as part of the conservation area under this title, all rights to water granted under the laws of the State of Utah may be exercised in accordance with the substantive and procedural requirements of the State of Utah.

(d) EXERCISE OF WATER RIGHTS GENERALLY UNDER UTAH LAWS.—Nothing in this title shall be construed to limit the exercise of water rights as provided under the laws of the State of Utah.

(e) COLORADO RIVER.—Nothing in this title shall be construed to affect the operation of any existing private, local, State, or federally owned dam, reservoir, or other water works on the Colorado River or its tributaries. Nothing in this title shall alter, amend, construe, supersede, or preempt any local, State, or Federal law; any existing private, local, or State agreement; or any interstate compact or international treaty pertaining to the waters of the Colorado River or its tributaries.

SEC. 555. MISCELLANEOUS.

(a) STATE FISH AND WILDLIFE MANAGEMENT.—In accordance with section 4(d)(7) of the Wilderness Act (16 U.S.C. 1131(d)(7)), nothing in this title shall be construed as affecting the jurisdiction or responsibilities of the State of Utah with respect to fish and wildlife management activities, including water development, predator control, transplanting animals, stocking fish, hunting, fishing, and trapping.

(b) PROHIBITION OF BUFFER ZONES.—The Congress does not intend that the designation of an area by this title as part of the conservation area or a wilderness or semi-primitive area lead to the creation of protective perimeters or buffer zones around the area. It is the intention of the Congress that any protective perimeter or buffer zone be located wholly within such an area. The fact that nonconforming activities or uses can be seen or heard from land within such an area shall not, of itself, preclude such activities or uses up to the boundary of the area. Nonconforming activities that occur outside of the boundaries of such an area designated by this title shall not be taken into account in assessing unnecessary and undue degradation of such an area.

(c) ROADS AND RIGHTS-OF-WAY AS BOUNDARIES.—Unless depicted otherwise on a map referred to in this title, where roads form the boundaries of an area designated as part of the conservation area or a wilderness or semi-primitive area under this title, the boundary of the area shall be set back from the center line of the road as follows:

(1) A setback that corresponds with the boundary of the right-of-way for Interstate 70.

(2) 150 feet for high standard roads.

(3) 100 feet for roads classified as County Class B roads.

(4) 50 feet for roads equivalent to County Class D roads.

(d) ACCESS.—

(1) REASONABLE ACCESS ALLOWED.—Subject to valid existing rights, reasonable access shall be allowed to existing improvements, structures, and facilities, including those related to water and grazing resources, which are within the conservation area or a wilderness or semi-primitive area designated under this title, whether located on Federal or non-Federal lands, in order that they may be operated, maintained, repaired, modified, or replaced as necessary.

(2) REASONABLE ACCESS DEFINED.—For the purposes of this subsection, the term "reasonable access" means right of entry and includes access by motorized transport when necessarily, customarily, or historically employed on routes in existence as of the date of the enactment of this Act.

(e) LAND ACQUISITION BY EXCHANGE OR PURCHASE.—The Secretary shall offer to acquire from non-governmental entities lands and interests in lands located within or adjacent to the conservation area or a wilderness or semi-primitive area designated under this title. Lands may be acquired under this subsection only by exchange or purchase from willing sellers.

(f) RIGHTS-OF-WAY.—

(1) RIGHT-OF-WAY CLAIMS NOT AFFECTED.—Nothing in this title, including any reference to or depiction on the map entitled "San Rafael Swell National Heritage/Conservation Area Proposed", dated June 12, 1998, affects any right-of-way claim that arose under section 2477 of the Revised Statutes (43 U.S.C. 932).

(2) DEPICTIONS NOT DETERMINATIVE.—Any depiction or lack of depiction of a highway, road, right-of-way, or trail on the map entitled "San Rafael Swell National Heritage/Conservation Area Proposed", dated June 12, 1998, shall not be considered in any determination under section 2477 of the Revised Statutes (43 U.S.C. 932) of whether or not such highway, road, right-of-way, or trail exists.

TITLE VI—NATIONAL PARKS

SEC. 601. PROVISION FOR ROADS IN PICTURED ROCKS NATIONAL LAKESHORE.

Section 6 of the Act of October 15, 1966, entitled "An Act to establish in the State of Michigan the Pictured Rocks National Lakeshore, and for other purposes" (16 U.S.C. 460s–5), is amended as follows:

(1) In subsection (b)(1) by striking "including a scenic shoreline drive" and inserting "including appropriate improvements to Alger County Road H–58".

(2) By adding at the end the following new subsection:

"(c) PROHIBITION OF CERTAIN CONSTRUCTION.—A scenic shoreline drive may not be constructed in the Pictured Rocks National Lakeshore.".

SEC. 602. EXPANSION OF ARCHES NATIONAL PARK, UTAH.

(a) IN GENERAL.—

(1) BOUNDARY EXPANSION.—Subsection (a) of the first section of Public Law 92–155 (16 U.S.C. 272; 85 Stat. 422) is amended as follows:

(A) By inserting after the first sentence the following new sentence: "Effective on the date of the enactment of this sentence, the boundary of the park shall also include the area consisting of approximately 3,140 acres and known as the 'Lost Spring Canyon Addition', as depicted on the map entitled 'Boundary Map, Arches National Park, Lost Spring Canyon Addition', numbered 138/60,000–B, and dated April 1997.".

(B) In the last sentence, by striking "Such map" and inserting "Such maps".

(2) INCLUSION OF LAND IN PARK.—Section 2 of Public Law 92–155 (16 U.S.C. 272a) is amended by adding at the end the following new sentences: "As soon as possible after the date of the enactment of this sentence, the Secretary of the Interior shall transfer jurisdiction over the Federal lands contained in the Lost Spring Canyon Addition from the Bureau of Land Management to the National Park Service. The Lost Spring Canyon addition shall be administered in accordance with the laws and regulations applicable to the park.".

(3) PROTECTION OF EXISTING GRAZING PERMIT.—Section 3 of Public Law 92–155 (16 U.S.C. 272b) is amended as follows:

(A) By inserting "(a) IN GENERAL.—" before "Where".

(B) By adding at the end the following new subsection:

"(b) EXISTING LEASES, PERMITS, OR LICENSES.—(1) In the case of any grazing lease, permit, or license with respect to lands within the Lost Spring Canyon Addition that was issued before the date of the enactment of this subsection, the Secretary of the Interior shall, subject to periodic renewal, continue such lease, permit, or license for a period of time equal to the lifetime of the permittee as of that date and any direct descendants of the permittee born before that date. Any such grazing lease, permit, or license shall be permanently retired at the end of such period. Pending the expiration of such period, the permittee (or a descendant of the permittee who holds the lease, permit, or license) shall be entitled to periodically renew the lease, permit, or license, subject to such limitations, conditions, or regulations as the Secretary may prescribe.

"(2) Any such grazing lease, permit, or license may be sold during the period specified in paragraph (1) only on the condition that the purchaser shall, immediately upon such acquisition, permanently retire such lease, permit, or license. Nothing in this subsection shall affect other provisions concerning leases, permits, or licenses under the Taylor Grazing Act.

"(3) Any portion of any grazing lease, permit, or license with respect to lands within the Lost Spring Canyon Addition shall be administered by the National Park Service.".

(4) WITHDRAWAL FROM MINERAL ENTRY AND LEASING; PIPELINE MANAGEMENT.—Section 5 of Public Law 92–155 (16 U.S.C. 272d) is amended by adding at the end the following new subsection:

"(c) WITHDRAWAL FROM MINERAL ENTRY AND LEASING; PIPELINE MANAGEMENT.—(1) Subject to valid existing rights, Federal lands within the Lost Spring Canyon Addition are hereby appropriated and withdrawn from entry, location, selection, leasing, or other disposition under the public land laws, including the mineral leasing laws.

"(2) The inclusion of the Lost Spring Canyon Addition in the park shall not affect the operation or maintenance by the Northwest Pipeline Corporation (or its successors or assigns) of the natural gas pipeline and related facilities located in the Lost Spring Canyon Addition on the date of the enactment of this subsection.".

(5) EFFECT ON SCHOOL TRUST LANDS.—

(A) FINDINGS.—The Congress finds the following:

(i) A parcel of State school trust lands, more specifically described as section 16, township 23 south, range 22 east, of the Salt Lake base and meridian, is partially contained within the Lost Spring Canyon Addition included within the boundaries of Arches National Park by the amendment by subsection (a).

(ii) The parcel was originally granted to the State of Utah for the purpose of generating revenue for the public schools through the development of natural and other resources located on the parcel.

(iii) It is in the interest of the State of Utah and the United States for the parcel to be exchanged for Federal lands of equivalent value outside the Lost Spring Canyon Addition, in order to permit Federal management of all lands within the Lost Spring Canyon Addition.

(B) LAND EXCHANGE.—Public Law 92–155 is amended by adding at the end the following new section:

"SEC. 8. LAND EXCHANGE INVOLVING SCHOOL TRUST LANDS.

"(a) EXCHANGE REQUIREMENT.—If, not later than one year after the date of the enactment of this section, and in accordance with this section, the State of Utah offers to transfer all right, title and interest of the State in and to the parcel of school trust lands described in subsection (b)(1) to the United States, the Secretary of the Interior shall accept the offer on behalf of the United States and, within 180 days after the date of such acceptance, transfer to the State of Utah all right, title and interest of the United States in and to the parcel of land described in subsection (b)(2). Title to the State lands shall be transferred at the same time as conveyance of title to the Federal lands by the Secretary of the Interior. The exchange of lands under this section shall be subject to valid existing rights, and each party shall succeed to the rights and obligations of the other party with respect to any lease, right-of-way, or permit encumbering the exchanged lands.

"(b) DESCRIPTION OF PARCELS.—

"(1) STATE CONVEYANCE.—The parcel of school trust lands to be conveyed by the State of Utah under subsection (a) is section 16, township 23 south, range 22 east of the Salt Lake base and meridian.

"(2) FEDERAL CONVEYANCE.—The parcel of Federal lands to be conveyed by the Secretary of the Interior consists of approximately 639 acres and is identified as lots 1 through 12 located in the S½N½ and the N½N½N½S½.of section 1, township 25 south, range 18 east, Salt Lake base and meridian.

"(3) EQUIVALENT VALUE.—The Federal lands described in paragraph (2) are of equivalent value to the State school trust lands described in paragraph (1).

"(c) MANAGEMENT BY STATE.—At least 60 days before undertaking or permitting any surface disturbing activities to occur on the lands acquired by the State under this section, the State shall consult with the Utah State Office of the Bureau of Land Management concerning the extent and impact of such activities on Federal lands and resources and conduct, in a manner consistent with Federal laws, inventory, mitigation, and management activities in connection with any archaeological, paleontological, and cultural resources located on the acquired lands. To the extent consistent with applicable law governing the use and disposition of State school trust lands, the State shall preserve existing grazing, recreational, and wildlife uses of the acquired lands. Nothing in this subsection shall be construed to preclude the State from authorizing or undertaking surface or mineral activities authorized by existing or future land management plans for the acquired lands.

"(d) IMPLEMENTATION.—Administrative actions necessary to implement the land exchange described in this section shall be completed within 180 days after the date of the enactment of this section.".

SEC. 603. MICCOSUKEE RESERVED AREA.

(a) FINDINGS.—Congress finds the following:

(1) Since 1964, the Miccosukee Tribe of Indians of Florida have lived and governed their own affairs on a strip of land on the northern edge of the Everglades National Park pursuant to permits from the National Park Service and other legal authority. The current permit expires in 2014.

(2) Since the commencement of the Tribe's permitted use and occupancy of the Special Use Permit Area, the Tribe's membership has grown, as have the needs and desires of the Tribe and its members for modern housing, governmental and administrative facilities, schools and cultural amenities, and related structures.

(3) The United States, the State of Florida, the Miccosukee Tribe, and the Seminole Tribe of Florida are participating in a major intergovernmental effort to restore the South Florida ecosystem, including the restoration of the environment of the Park.

(4) The Special Use Permit Area is located within the northern boundary of the Park, which is critical to the protection and restoration of the Everglades, as well as to the cultural values of the Miccosukee Tribe.

(5) The interests of both the Miccosukee Tribe and the United States would be enhanced by a further delineation of the rights and obligations of each with respect to the Special Use Permit Area and to the Park as a whole.

(6) The amount and location of land allocated to the Tribe fulfills the purposes of the Park.

(b) PURPOSES.—The purposes of this section are as follows:

(1) To replace the special use permit with a legal framework under which the Tribe can live permanently and govern the Tribe's own affairs in a modern community within the Park.

(2) To protect the Park outside the boundaries of the Miccosukee Reserved Area from adverse effects of structures or activities within that area, and to support restoration of the South Florida ecosystem, including restoring the environment of the Park.

(c) DEFINITIONS.—For purposes of this section:

(1) EVERGLADES.—The term "Everglades" means the areas within the Florida Water Conservation Areas, Everglades National Park, and Big Cypress National Preserve.

(2) FEDERAL AGENCY.—The term "Federal agency" means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(3) MICCOSUKEE RESERVED AREA; MRA.—The term "Miccosukee Reserved Area" or "MRA" means, notwithstanding any other provision of law and subject to the limitations specified in subsection (l) of this section, the portion of the Everglades National

Park described as follows: "Beginning at the western boundary of Everglades National Park at the west line of sec. 20, T. 54 S., R. 35 E., thence E. following the Northern boundary of said Park in T. 54 S., Rs. 35 and 36 E., to a point in sec. 19, T. 54 S., R. 36 E., 500 feet west of the existing road known as Seven Miles Road, thence 500 feet south from said road, thence west paralleling the Park boundary for 3,200 feet, thence south for 600 feet, thence west, paralleling the Park boundary to the west line of sec. 20, T. 54 S., R. 35 E., thence N. 1,100 feet to the point of beginning.".

(4) PARK.—The term "Park" means the Everglades National Park, including any additions to that Park.

(5) PERMIT.—The term "permit", unless otherwise specified, means any federally issued permit, license, certificate of public convenience and necessity, or other permission of any kind.

(6) SECRETARY.—The term "Secretary" means the Secretary of the Interior or the designee of the Secretary.

(7) SOUTH FLORIDA ECOSYSTEM.—The term "South Florida ecosystem" has the meaning given that term in section 528(a)(4) of the Water Resources Development Act of 1996 (Public Law 104–303).

(8) SPECIAL USE PERMIT AREA.—The term "special use permit area" means the area of 333.3 acres on the northern boundary of the Park reserved for the use, occupancy, and governance of the Tribe under a special use permit before the date of enactment of this Act.

(9) TRIBE.—The term "Tribe", unless otherwise specified, means the Miccosukee Tribe of Indians of Florida, a tribe of American Indians recognized by the United States and organized under section 16 of the Act of June 18, 1934 (48 Stat. 987; 25 U.S.C. 476), and recognized by the State of Florida pursuant to chapter 285, Florida Statutes.

(10) TRIBAL.—The term "tribal" means of or pertaining to the Miccosukee Tribe of Indians of Florida.

(11) TRIBAL CHAIRMAN.—The term "tribal chairman" means the duly elected chairman of the Miccosukee Tribe of Indians of Florida, or the designee of that chairman.

(d) SPECIAL USE PERMIT TERMINATED.—

(1) TERMINATION.—The special use permit dated February 1, 1973, issued by the Secretary to the Tribe, and any amendments to that permit, are terminated.

(2) EXPANSION OF SPECIAL USE PERMIT AREA.—The special use permit area shall be expanded pursuant to this section and known as the Miccosukee Reserved Area.

(3) GOVERNANCE OF AFFAIRS IN MICCOSUKEE RESERVED AREA.—Subject to the provisions of this section and other applicable Federal law, the Tribe shall govern its own affairs in the MRA as though the MRA were a Federal Indian reservation.

(e) PERPETUAL USE AND OCCUPANCY.—The Tribe shall have the exclusive right to use and develop the MRA in perpetuity in a manner consistent with this section for purposes of the administration, education, housing, and cultural activities of the Tribe, including commercial services necessary to support those purposes.

(f) INDIAN COUNTRY STATUS.—The MRA shall be—

(1) considered to be Indian Country (as that term is defined in section 1151 of title 18, United States Code); and

(2) treated as a federally recognized Indian reservation solely for purposes of—

(A) determining the authority of the Tribe to govern its own affairs within the MRA; and

(B) the eligibility of the Tribe and its members for any Federal health, education, employment, economic assistance, revenue sharing, or social welfare programs, or any other similar Federal program for which Indians are eligible because of their—

(i) status as Indians; and

(ii) residence on or near an Indian reservation.

(g) EXCLUSIVE FEDERAL JURISDICTION PRESERVED.—The exclusive Federal legislative jurisdiction as applied to the MRA as in effect on the date of enactment of this Act shall be preserved. The Act of August 15, 1953, 67 Stat. 588, chapter 505 and the amendments made by that Act, including section 1162 of title 18, United States Code, as added by that Act and section 1360 of title 28, United States Code, as added by that Act, shall not apply with respect to the MRA.

(h) OTHER RIGHTS PRESERVED.—Nothing in this section shall affect any rights of the Tribe under Federal law, including the right to use other lands or waters within the Park for other purposes, including, fishing, boating, hiking, camping, cultural activities, or religious observances.

(i) ENVIRONMENTAL PROTECTION AND ACCESS REQUIREMENTS.—

(1) IN GENERAL.—The MRA shall remain within the boundaries of the Park and be a part of the Park in a manner consistent with this section.

(2) COMPLIANCE WITH APPLICABLE LAWS.—The Tribe shall be responsible for compliance with all applicable laws, except as specifically exempted by this section.

(3) PREVENTION OF DEGRADATION; ABATEMENT.—

(A) PREVENTION OF DEGRADATION.—The Tribe shall prevent and abate any significant degradation of the quality of surface or groundwater that is released into other parts of the Park, as follows:

(i) With respect to water entering the MRA which fails to meet applicable water quality standards approved under the Clean Water Act by the Federal Government, actions of the Tribe shall not further degrade water quality. The Tribe shall not be responsible for improving the water quality.

(ii) With respect to water entering the MRA which meets water quality standards approved under the Clean Water Act by the Federal Government, the Tribe shall not cause the water to fail to comply with applicable water quality standards.

(B) PREVENTION AND ABATEMENT.—The Tribe shall prevent and abate any significant disruption of the restoration or preservation of the quantity, timing, or distribution of surface or groundwater that would enter the MRA and flow, directly or indirectly, into other parts of the Park, but only to the extent that such disruption is caused by conditions, activities, or structures within the MRA.

(C) PREVENTION OF SIGNIFICANT PROPAGATION OF EXOTIC PLANTS AND ANIMALS.—The Tribe shall prevent significant propagation of exotic plants or animals outside the MRA.

(D) PUBLIC ACCESS TO CERTAIN AREAS OF THE PARK.—The Tribe shall not impede public access to those areas of the Park outside the boundaries of the MRA, and to and from the Big Cypress National Preserve, except that the Tribe shall not be required to allow individuals who are not members of the Tribe access to the MRA other than Federal employees, agents, officers, and officials (as provided in this section).

(E) PREVENTION OF SIGNIFICANT CUMULATIVE ADVERSE ENVIRONMENTAL IMPACTS.—The Tribe shall prevent and abate any significant cumulative adverse environmental impact on the Park outside the MRA resulting from development or other activities within the MRA.

(i) PROCEDURES.—Not later than 12 months after the date of enactment of this Act, the Tribe shall develop, publish, and implement procedures that shall ensure adequate public notice and opportunity to comment on major tribal actions within the MRA that may contribute to a significant cumulative adverse impact on the Everglades ecosystem.

(ii) WRITTEN NOTICE.—The procedures in clause (i) shall include timely written notice to the Secretary and consideration of the Secretary's comments.

(F) WATER QUALITY STANDARDS.—

(i) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Tribe shall adopt and comply with water quality standards within the MRA that are at least as protective as the standards approved under the Clean Water Act by the Federal Government for the area encompassed by Everglades National Park.

(ii) EFFECT OF FAILURE TO ADOPT OR PRESCRIBE STANDARDS.—In the event the Tribe fails to adopt water quality standards referred to in clause (i) or fails to revise its own standards within the 12-month period beginning on the date on which any changes to water quality standards of the State of Florida are made to ensure that the standards of the Tribe are at least as protective as the standards of the State of Florida, the standards of the State of Florida shall be deemed to apply to the Tribe until such time as the Tribe adopts standards that meet the requirements of this subparagraph.

(G) NATURAL EASEMENTS.—The Tribe shall not engage in any construction, development, or improvement in any area that is designated as a natural easement.

(j) HEIGHT RESTRICTIONS.—

(1) RESTRICTIONS.—Except as provided in paragraphs (2) through (4), no structure constructed within the MRA shall exceed the height of 45 feet or exceed 2 stories, except that a structure within the government center, whichis that portion of the MRA whose road frontage is occupied by a government building onthe date of the enactment of this Act, shall not exceed the height of 70 feet.

(2) EXCEPTIONS.—The following types of structures are exempt from the restrictions of this section to the extent necessary for the health, safety, or welfare of the tribal members, and for the utility of the structures:

(A) Water towers or standpipes.

(B) Radio towers.

(C) Utility lines.

(3) WAIVER.—The Secretary may waive the restrictions of this subsection if the Secretary finds that the needs of the Tribe for the structure that is taller than structure allowed under the restrictions would outweigh the adverse effects to the Park or its visitors.

(4) GRANDFATHER CLAUSE.—Any structure approved by the Secretary before to the date of enactment of this Act, and for which construction commences not later than 12 months after the date of enactment of this Act, shall not be subject to the provisions of this subsection.

(5) MEASUREMENT.—The heights specified in this subsection shall be measured from mean sea level.

(k) OTHER CONDITIONS.—

(1) GAMING.—No class II or class III gaming (as those terms are defined in section 4 (7) and (8) of the Indian Gaming Regulatory Act (25 U.S.C. 2703 (7) and (8)) shall be conducted within the MRA.

(2) Aviation.—

(A) In general.—No commercial aviation may be conducted from or to the MRA.

(B) Emergency operators.—Takeoffs and landings of aircraft shall be allowed for emergency operations and administrative use by the Tribe or the United States, including resource management and law enforcement.

(C) State agencies and officials.—The Tribe may permit the State of Florida, as agencies or municipalities of the State of Florida to provide for takeoffs or landings of aircraft on the MRA for emergency operations or administrative purposes.

(3) Visual quality.—

(A) In general.—In the planning, use, and development of the MRA by the Tribe, the Tribe shall consider the quality of the visual experience from the Shark River Valley visitor use area, including limitations on the height and locations of billboards or other commercial signs or other advertisements visible from the Shark Valley visitor center, tram road, or observation tower.

(B) Exemption of markings.—The Tribe may exempt markings on a water tower or standpipe that merely identify the Tribe.

(l) Easements and Ranger Station.—Notwithstanding any other provision of this section:

(1) Natural easements.—The use and occupancy of the MRA by the Tribe shall be perpetually subject to natural easements on parcels of land that are—

(A) bounded on the north and south by the boundaries of the MRA, specified in the legal description under subsection (c); and

(B) bounded on the east and west by boundaries than run north and south perpendicular to the northern and southern boundaries of the MRA, as follows:

(i) easement #1, being 443 feet wide with western boundary 525 feet, and eastern boundary 970 feet, east of the western boundary of the MRA;

(ii) easement #2, being 443 feet wide with western boundary 3637 feet, and eastern boundary 4080 feet, east of the western boundary of the MRA;

(iii) easement #3, being 320 feet wide with western boundary 5380 feet, and eastern boundary 5700 feet, east of the western boundary of the MRA;

(iv) easement #4, being 290 feet wide with western boundary 6020 feet, and eastern boundary 6310 feet, east of the western boundary of the MRA;

(v) easement #5, being 290 feet wide with western boundary 8160 feet, and eastern boundary 8460 feet, east of the western boundary of the MRA; and

(vi) easement #6, being 312 feet wide with western boundary 8920 feet, and eastern boundary 9232 feet, east of the western boundary of the MRA.

(2) Extent of easements.—The aggregate extent of the east-west parcels of lands subject to easements under this paragraph shall not exceed 2,100 linear feet.

(3) Use of easements.—The Secretary in his discretion may use the natural easements specified in paragraphs (1) and (2) to fulfill the hydrological and other environmental objectives of Everglades National Park.

(4) Additional requirements.—In addition to providing for the easements specified in paragraphs (1) and (2), the Tribe shall not impair or impede the continued function of the water control structures designated as "S–12A" and "S–12B", located north of the MRA on the Tamiami Trail and any existing water flows under the Old Tamiami Trail.

(5) Use by department of the interior.—The Department of the Interior shall have a right, in perpetuity, to use and occupy, and to have access to, the Tamiami Ranger Station presently located within the MRA, except that the pad on which such station is constructed shall not be increased in size without the consent of the Tribe.

(m) Government-to-Government Agreements.—The Secretary and the tribal chairman shall make reasonable, good faith efforts to implement the requirements of this section. Those efforts may include government-to-government consultations, and the development of standards of performance and monitoring protocols.

(n) Federal Mediation and Conciliation Service.—If the Secretary and the tribal chairman both believe that they cannot reach agreement on any significant issue relating to the implementation of the requirements of this section, the Secretary and the tribal chairman may jointly request that the Federal Mediation and Conciliation Service assist them in reaching a satisfactory agreement.

(o) 60-Day Time Limit.—The Federal Mediation and Conciliation Service may conduct mediation or other nonbinding dispute resolution activities for a period not to exceed 60 days beginning on the date on which the Federal Mediation and Conciliation Service receives the request for assistance, unless the Secretary and the tribal chairman agree to an extension of period of time.

(p) Other Rights Preserved.—The facilitated dispute resolution specified in this section shall not prejudice any right of the parties to—

(1) commence an action in a court of the United States at any time; or

(2) any other resolution process that is not prohibited by law.

(q) No General Applicability.—Nothing in this section creates any right, interest, privilege, or immunity affecting any other Tribe or any other park or Federal lands.

(r) Noninterference With Federal Agents.—

(1) In general.—Federal employees, agents, officers, and officials shall have a right of access to the MRA—

(A) to monitor compliance with the provisions of this section; and

(B) for other purposes, as though it were a Federal Indian reservation.

(2) Statutory construction.—Nothing in this section shall authorize the Tribe or members or agents of the Tribe to interfere with any Federal employee, agent, officer, or official in the performance of official duties (whether within or outside the boundaries of the MRA) except that nothing in this paragraph may prejudice any right under the Constitution of the United States.

(s) Federal Permits.—

(1) In general.—No Federal permit shall be issued to the Tribe for any activity or structure that would be inconsistent with this section.

(2) Consultations.—Any Federal agency considering an application for a permit for construction or activities on the MRA shall consult with, and consider the advice, evidence, and recommendations of the Secretary before issuing a final decision.

(3) Rule of construction.—Except as otherwise specifically provided in this section, nothing in this section supersedes any requirement of any other applicable Federal law.

(t) Volunteer Programs and Tribal Involvement.—The Secretary may establish programs that foster greater involvement by the Tribe with respect to the Park. Those efforts may include internships and volunteer programs with tribal schoolchildren and with adult tribal members.

(u) Saving Ecosystem Restoration.—

(1) In general.—Nothing in this section shall be construed to amend or prejudice the authority of the United States to design, construct, fund, operate, permit, remove, or degrade canals, levees, pumps, impoundments, wetlands, flow ways, or other facilities, structures, or systems, for the restoration or protection of the South Florida ecosystem pursuant to Federal laws.

(2) Groundwater.—

(A) In general.—The Secretary may use all or any part of the MRA lands to the extent necessary to restore or preserve the quality, quantity, timing, or distribution of surface or groundwater, if other reasonable alternative measures to achieve the same purpose are impractical.

(B) Use of lands.—The Secretary may use lands referred to in subparagraph (A) either under an agreement with the tribal chairman or upon an order of the United States district court for the district in which the MRA is located, upon petition by the Secretary and finding by the court that—

(i) the proposed actions of the Secretary are necessary; and

(ii) other reasonable alternative measures are impractical.

(3) Costs.—

(A) In general.—In the event the Secretary exercises the authority granted the Secretary under paragraph (2), the United States shall be liable to the Tribe or the members of the Tribe for—

(i) cost of modification, removal, relocation, or reconstruction of structures lawfully erected in good faith on the MRA; and

(ii) loss of use of the affected land within the MRA.

(B) Payment of compensation.—Any compensation paid under subparagraph (A) shall be paid as cash payments with respect to taking structures and other fixtures and in the form of rights to occupy similar land adjacent to the MRA with respect to taking land.

(4) Rule of construction.—Subsections (2) and (3) shall not apply to natural easements specified in subsection (l)(1) and (2).

(v) Parties Held Harmless.—

(1) United States held harmless.—

(A) In general.—Subject to subparagraph (B) with respect to any tribal member, tribal employee, tribal contractor, tribal enterprise, or any person residing within the MRA, notwithstanding any other provision of law, the United States (including an officer, agent, or employee of the United States), shall not be liable for any action or failure to act by the Tribe (including an officer, employee, or member of the Tribe), including any failure to perform any of the obligations of the Tribe under this section.

(B) Rule of construction.—Nothing in this section shall be construed to alter any liability or other obligation that the United States may have under section 2 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450).

(2) Tribe held harmless.—Notwithstanding any other provision of law, the Tribe and the members of the Tribe shall not be liable for any injury, loss, damage, or harm that—

(A) occurs with respect to the MRA; and

(B) is caused by an action or failure to act by the United States, or the officer, agent, or employee of the United States (including the failure to perform any obligation of the United States under this section).

(w) COOPERATIVE AGREEMENTS.—Nothing in this section shall alter the authority of the Secretary and the Tribe to enter into any cooperative agreement, including any agreement concerning law enforcement, emergency response, or resource management.

(x) WATER RIGHTS.—Nothing in this section shall enhance or diminish any water rights of the Tribe, or members of the Tribe, or the United States (with respect to the Park).

(y) ENFORCEMENT.—

(1) ACTIONS BROUGHT BY ATTORNEY GENERAL.—The Attorney General may bring a civil action in the United States district court for the district in which the MRA is located, to enjoin the Tribe from violating any provision of this section.

(2) ACTION BROUGHT BY TRIBE.—The Tribe may bring a civil action in the United States district court for the district in which the MRA is located enjoin the United States from violating any provision of this section.

SEC. 604. CUMBERLAND ISLAND.

(a) BOUNDARY ADJUSTMENTS FOR LAND EXCHANGE.—

(1) EXCLUSION OF CERTAIN CONVEYED LANDS.—If a proposed land exchange described in subsection (b) is agreed to by the Secretary of the Interior, any lands to be conveyed by the United States as part of the land exchange shall be excluded from the boundaries of the Cumberland Island Wilderness or the potential wilderness area if the lands contain improvements.

(2) INCLUSION OF ACQUIRED LANDS.—All lands acquired by the United States as part of the land exchange described in subsection (b) shall be included in, and managed as part of, the Cumberland Island Wilderness. Upon acquisition of the lands, the Secretary of the Interior shall adjust the boundaries of the Cumberland Island Wilderness to include the acquired lands.

(b) DESCRIPTION OF LAND EXCHANGE.—The land exchange referred to in subsection (a) is a land exchange with regard to Cumberland Island National Seashore and Cumberland Island Wilderness that is being negotiated by the Secretary of the Interior with the Nature Conservancy and High Point, Inc., for the purpose of acquiring privately owned lands on Cumberland Island, which have substantial wilderness characteristics, in exchange for Federal lands (or rights or interests therein) located at the north end of the island.

(c) TREATMENT OF MAIN ROAD.—

(1) FINDINGS.—Congress finds the following:

(A) The main road at Cumberland Island National Seashore is included on the register of national historic places.

(B) The continued existence and use of the main road, as well as a spur road that provides access to Plum Orchard mansion at Cumberland Island National Seashore, is necessary for maintenance and access to the natural, cultural, and historical resources of Cumberland Island National Seashore.

(C) The preservation of the main road is not only lawful, but also mandated under section 4(a)(3) of the Wilderness Act (16 U.S.C. 1133(a)(3)).

(D) The inclusion of these roads both on the register of national historic places and in the Cumberland Island Wilderness or potential wilderness area is incompatible and causes competing mandates on the Secretary of the Interior for management.

(2) EXCLUSION FROM WILDERNESS.—The main road on Cumberland Island (as described on the register of national historic places), the spur road that provides access to Plum Orchard mansion, and the area extending 10 feet on each side of the center line of both roads are hereby excluded from the boundaries of the Cumberland Island Wilderness and the potential wilderness area.

(3) EFFECT OF EXCLUSION.—Nothing in this subsection shall be construed to affect the inclusion of the main road on the register of national historic places or the authority of the Secretary of the Interior to impose reasonable restrictions, subject to valid existing rights, on the use of the main road or spur road to minimize any adverse impacts on the Cumberland Island Wilderness or the potential wilderness area.

(d) RESTORATION OF PLUM ORCHARD MANSION.—

(1) RESTORATION REQUIRED.—Using funds appropriated pursuant to the authorization of appropriations in paragraph (4), the Secretary of the Interior shall restore Plum Orchard mansion at Cumberland Island National Seashore so that the condition of the restored mansion is at least equal to the condition of the mansion when it was donated to the United States. The Secretary shall endeavor to collect donations of money and in-kind contributions for the purpose of restoring structures within the Plum Orchard historic district.

(2) SUBSEQUENT MAINTENANCE.—The Secretary of the Interior shall endeavor to enter into an agreement with public persons, private persons, or both, to provide for the maintenance of Plum Orchard mansion following its restoration.

(3) RESTORATION PLAN.—Not later than 270 days after the date of the enactment of this Act, the Secretary of the Interior shall submit to Congress a comprehensive plan for the repair, stabilization, restoration, and subsequent maintenance of Plum Orchard mansion to the condition the mansion was in when acquired by the United States.

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as are necessary for the restoration and maintenance of Plum Orchard mansion under this subsection.

(e) ARCHAEOLOGICAL AND HISTORIC SITES.—The Secretary of the Interior shall identify, document, and protect archaeological sites located on Federal land within Cumberland Island National Seashore. The Secretary shall prepare and implement a plan to preserve designated national historic sites within the seashore.

(f) DESIGNATION OF ADDITIONAL WILDERNESS AREA.—

(1) DESIGNATION.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), a parcel of Federal lands within Cumberland Island National Seashore, which comprises approximately ____ acres on the southern portion of Cumberland Island, as depicted on the map entitled "Cumberland Island Wilderness Addition, Proposed", dated _______, 1998, is hereby designated as wilderness and therefore as a component of the National Wilderness Preservation System.

(2) ADMINISTRATION.—The parcel designated by paragraph (1) shall be administered by the Secretary of the Interior in accordance with the Wilderness Act as part of the Cumberland Island Wilderness. The Secretary shall adjust the boundaries of the Cumberland Island Wilderness to include the parcel.

(3) EXISTING RIGHTS AND USES.—The designation of the wilderness area under paragraph (1) shall be subject to valid existing rights of the designated parcel.

(g) DEFINITIONS.—In this section:

(1) The term "Cumberland Island National Seashore" means the national seashore established under Public Law 92–536 (16 U.S.C. 4591 et seq.).

(2) The term "Cumberland Island Wilderness" means the wilderness area in the Cumberland Island National Seashore designated by section 2 of Public Law 97–250 (96 Stat. 709; 16 U.S.C. 1132 note).

(3) The term "potential wilderness area" means the potential wilderness area in the Cumberland Island National Seashore designated by such section 2.

SEC. 605. STUDIES OF POTENTIAL NATIONAL PARK SYSTEM UNITS IN HAWAII.

(a) IN GENERAL.—The Secretary of the Interior, acting through the Director of the National Park Service, shall undertake feasibility studies regarding the establishment of National Park System units in the following areas in the State of Hawaii:

(1) Island of Maui: The shoreline area known as "North Beach", immediately north of the present resort hotels at Kaanapali Beach, in the Lahaina district in the area extending from the beach inland to the main highway.

(2) Island of Lanai: The mountaintop area known as "Hale" in the central part of the island.

(3) Island of Kauai: The shoreline area from "Anini Beach" to "Makua Tunnels" on the north coast of this island.

(4) Island of Molokai: The "Halawa Valley" on the eastern end of the island, including its shoreline, cove and lookout/access roadway.

(b) KALAUPAPA SETTLEMENT BOUNDARIES.—The studies conducted under this section shall include a study of the feasibility of extending the present National Historic Park boundaries at Kalaupapa Settlement eastward to Halawa Valley along the island's north shore.

(c) REPORT.—A report containing the results of the studies under this section shall be submitted to the Congress promptly upon completion.

SEC. 606. CONGRESSIONAL REVIEW OF NATIONAL MONUMENT STATUS AND CONSULTATION.

Section 2 of the Act of June 8, 1906 (Chapter 3060; 34 Stat. 225; 16 U.S.C. 431; commonly referred to as the "Antiquities Act"), is amended by adding at the end the following: "A proclamation of the President under this section that results in the designation of a total acreage in excess of 50,000 acres in a single State in a single calendar year as a national monument may not be issued until 30 days after the President has transmitted the proposed proclamation to the Governor of the State in which such acreage is located and solicited such Governor's written comments, and any such proclamation shall cease to be effective on the date 2 years after issuance unless the Congress has approved such proclamation by the enactment of a law.".

SEC. 607. SANTA CRUZ ISLAND, ADDITIONAL RIGHTS OF USE AND OCCUPANCY.

Section 202(e) of Public Law 96–199 (16 U.S.C. 410ff–1(e)) is amended by adding the following at the end thereof:

"(5) In the case of the real property referred to in paragraph (1), in addition to the rights of use and occupancy reserved under paragraph (1) and set forth in Instrument 90-027494, upon the enactment of this paragraph, the Secretary shall grant identical rights of use and occupancy to Mr. Francis Gherini of Ventura, California, the previous owner of the real property, and to each of the two grantors identified in Instrument No. 92-102117 recorded in the Official Records of the County of Santa Barbara, California. The use and occupancy rights granted to Mr. Francis Gherini shall be for a term of 25 years from the date of the enactment of this paragraph. The Secretary shall grant such rights without consideration and shall execute and record such instruments as necessary to vest such rights in such individuals as promptly as practicable, but no later than 90 days, after the enactment of this paragraph.''.

SEC. 608. ACQUISITION OF WARREN PROPERTY FOR MORRISTOWN NATIONAL HISTORICAL PARK.

The Act entitled "An Act to provide for the establishment of the Morristown National Historical Park in the State of New Jersey, and for other purposes", approved March 2, 1933 (chapter 182; 16 U.S.C. 409 et seq.), is amended by adding at the end the following new section:

"SEC. 8. (a) In addition to any other lands or interest authorized to be acquired for inclusion in Morristown National Historical Park, and notwithstanding the first proviso of the first section of this Act, the Secretary of the Interior may acquire by purchase, donation, purchase with appropriated funds, or otherwise, not to exceed 15 acres of land and interests therein comprising the property known as the Warren Property or Mount Kimble. The Secretary may expend such sums as may be necessary for such acquisition.

"(b) Any lands or interests acquired under this section shall be included in and administered as part of the Morristown National Historical Park.''.

SEC. 609. AMENDMENT OF LAND AND WATER CONSERVATION FUND ACT OF 1965 REGARDING TREATMENT OF RECEIPTS AT CERTAIN PARKS.

Section 4(i)(1)(B) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–6a(i)(1)(B)) is amended by inserting the following after the second sentence: "Notwithstanding subparagraph (A), in any fiscal year, the Secretary of the Interior shall also withhold from the special account 100 percent of the fees and charges collected in connection with any unit of the national park system at which entrance or admission fees cannot be collected by reason of deed restrictions, and the amounts so withheld shall be retained by the Secretary and shall be available, without further appropriation, for expenditure by the Secretary for purpose of such park system unit.''.

SEC. 610. CHATTAHOOCHEE RIVER NATIONAL RECREATION AREA.

(a) FINDINGS.—The Congress finds that:

(1) The Chattahoochee River National Recreation Area is a nationally significant resource and the national recreation area has been adversely affected by land use changes occurring within and outside its boundaries.

(2) The population of the metropolitan Atlanta area continues to expand northward, leaving dwindling opportunities to protect the scenic, recreation, natural, and historic values of the 2,000-foot wide corridor adjacent to each bank of the Chattahoochee River and its impoundments in the 48-mile segment known as the area of national concern.

(3) The State of Georgia has enacted the Metropolitan River Protection Act in order to ensure the protection of the corridor located within 2,000 feet of each bank of the Chattahoochee River, or the 100-year flood plain, whichever is greater, and such corridor includes the area of national concern.

(4) Visitor use of the Chattahoochee River National Recreation Area has shifted dramatically since the establishment of the national recreation area from waterborne to water-related and land-based activities.

(5) The State of Georgia and its political subdivisions along the Chattahoochee River have indicated their willingness to join in cooperative efforts with the United States of America to link existing units of the national recreation area with a series of linear corridors to be established within the area of national concern and elsewhere on the river and provided Congress appropriates certain funds in support of such effort, funding from the State, its political subdivisions, private foundations, corporate entities, private individuals, and other sources will be available to fund more than half of the estimated cost of such cooperative effort.

(b) PURPOSES.—The purposes of this section are to—

(1) increase the level of protection of the remaining open spaces within the area of national concern along the Chattahoochee River and to enhance visitor enjoyment of such areas by adding land-based links between existing units of the national recreation area;

(2) assure that the national recreation area is managed to standardize acquisition, planning, design, construction, and operation of the linear corridors; and

(3) authorize the appropriation of Federal funds to cover a portion of the costs of the Federal, State, local, and private cooperative effort to add additional areas to the Chattahoochee River National Recreation Area in order to establish a series of linear corridors linking existing units of the national recreation area and to protect other undeveloped portions of the Chattahoochee River corridor.

(c) AMENDMENTS TO CHATTAHOOCHEE NRA ACT.—The Act of August 15, 1978, entitled "An Act to authorize the establishment of the Chattahoochee River National Recreation Area in the State of Georgia, and for other purposes" (Public Law 95–344; 16 U.S.C. 460ii–2(b)) is amended as follows:

(1) Section 101 is amended as follows:

(A) By inserting after "map entitled 'Boundary Map, Chattahoochee River National Recreation Area', numbered Chat-20,003 and dated September 1984" the following: "and on the maps entitled 'Chattahoochee River National Recreation Area, Interim Boundary Map #1, #2, and #3, dated ''.

(B) By amending the fourth sentence to read as follows: "After July 1, 1999, the Secretary of the Interior (in this Act referred to as the 'Secretary') may modify the boundaries of the recreation area to include other lands within the river corridor of the Chattahoochee River by submitting a revised map or other boundary description to the Congress. Such revised boundaries shall take effect on the date 6 months after the date of such submission unless, within such 6-month period, the Congress adopts a Joint Resolution disapproving such revised boundaries. Such revised map or other boundary description shall be prepared by the Secretary after consultation with affected landowners and with the State of Georgia and affected political subdivisions.''.

(C) By striking out "may not exceed approximately 6,800 acres." and inserting "may not exceed 10,000 acres.''.

(2) Section 102(f) is repealed.

(3) Section 103(b) is amended to read as follows:

"(b) COOPERATIVE AGREEMENTS.—The Secretary is authorized to enter into cooperative agreements with the State, its political subdivisions, and other entities to assure standardized acquisition, planning, design, construction, and operation of the national recreation area.''.

(4) Section 105(a) is amended to read as follows:

"(a) AUTHORIZATION OF APPROPRIATIONS; ACCEPTANCE OF DONATIONS.—In addition to funding and the donation of lands and interests in lands provided by the State of Georgia, local government authorities, private foundations, corporate entities, and individuals, and funding that may be available pursuant to the settlement of litigation, there is hereby authorized to be appropriated for land acquisition not more than $25,000,000 for fiscal years after fiscal year 1998. The Secretary is authorized to accept the donation of funds and lands or interests in lands to carry out this Act.''.

(5) Section 105(c) (16 U.S.C. 460ii–4(c)) is amended by adding the following at the end thereof: "The Secretary shall submit a new plan within 3 years after the enactment of this sentence to provide for the protection, enhancement, enjoyment, development, and use of areas added to the national recreation area. During the preparation of the revised plan the Secretary shall seek and encourage the participation of the State of Georgia and its affected political subdivisions, private landowners, interested citizens, public officials, groups, agencies, educational institutions, and others.''.

(6) Section 102(a) (16 U.S.C. 460ii–1(a)) is amended by inserting the following before the period at the end of the first sentence: ", except that lands and interests in lands within the Addition Area depicted on the map referred to in section 101 may not be acquired without the consent of the owner thereof''.

TITLE VII—REAUTHORIZATIONS

SEC. 701. REAUTHORIZATION OF NATIONAL HISTORIC PRESERVATION ACT.

The National Historic Preservation Act (16 U.S.C. 470 and following; Public Law 89-665) is amended as follows:

(1) In the third sentence of section 101(a)(6) (16 U.S.C. 470a(a)(6)) by striking "shall review" and inserting "may review" and by striking "shall determine" and inserting "determine''.

(2) Section 101(e)(2) (16 U.S.C. 470a(e)(2)) is amended to read as follows:

"(2) The Secretary may administer grants to the National Trust for Historic Preservation in the United States, chartered by an Act of Congress approved October 26, 1949 (63 Stat. 947), consistent with the purposes of its charter and this Act.''.

(3) Section 102 (16 U.S.C. 470b) is amended by redesignating subsection (e) as subsection (f) and by redesignating subsection (d), as added by section 4009(3) of Public Law 102–575, as subsection (e).

(4) Section 101(b)(1) (16 U.S.C. 470a(b)(1)) is amended by adding the following at the end thereof:

"For purposes of subparagraph (A), the State and Indian tribe shall be solely responsible for determining which professional employees, are necessary to carry out the duties of the State or tribe, consistent with standards developed by the Secretary.''.

(5) Section 107 (16 U.S.C. 470g) is amended to read as follows:

"SEC. 107. Nothing in this Act shall be construed to be applicable to the White House and its grounds, the Supreme Court building and its grounds, or the United States Capitol and its related buildings and grounds as depicted on the map entitled 'Map Showing Properties Under the Jurisdiction of the Architect of the Capitol' and dated November 6, 1996, which shall be on file in the office of the Secretary of the Interior.''.

(6) Section 108 (16 U.S.C. 470h) is amended by striking "1997" and inserting "2004''.

(7) Section 110(a)(1) (16 U.S.C. 470h–2(a)(1)) is amended by inserting the following before the period at the end of the second sentence: ", especially those located in central business areas. When locating Federal facilities, Federal agencies shall give first consideration to historic properties in historic districts. If no such property is operationally appropriate and economically prudent, then Federal agencies shall consider other developed or undeveloped sites within historic districts. Federal agencies shall then consider historic properties outside of historic districts, if no suitable site within a district exists. Any rehabilitation or construction that is undertaken pursuant to this Act must be architecturally compatible with the character of the surrounding historic district or properties".

(8) The first sentence of section 110(l) (16 U.S.C. 470h–2(l)) is amended by striking "with the Council" and inserting "pursuant to regulations issued by the Council".

(9) The last sentence of section 212(a) (16 U.S.C. 470t(a)) is amended by striking "2000" and inserting "2004".

SEC. 702. REAUTHORIZATION OF DELAWARE WATER GAP NATIONAL RECREATION AREA CITIZEN ADVISORY COMMISSION.

Section 5 of Public Law 101–573 (16 U.S.C. 460*o* note) is amended by striking "10" and inserting "20".

SEC. 703. COASTAL HERITAGE TRAIL ROUTE IN NEW JERSEY.

Public Law 100–515 (102 Stat. 2563; 16 U.S.C. 1244 note) is amended as follows:

(1) In subsection (b)(1) of section 6 by striking "$1,000,000" and inserting "$4,000,000".

(2) In subsection (c) of section 6 by striking "five" and inserting "10".

(3) In the second sentence of section 2 by inserting "including sites in the Township of Woodbridge, New Jersey," after "cultural sites".

SEC. 704. EXTENSION OF AUTHORIZATION FOR UPPER DELAWARE CITIZENS ADVISORY COUNCIL.

The last sentence of paragraph (1) of section 704(f) of the National Parks and Recreation Act of 1978 (16 U.S.C. 1274 note) is amended by striking "20" and inserting "30".

TITLE VIII—RIVERS AND TRAILS

SEC. 801. NATIONAL DISCOVERY TRAILS.

(a) NATIONAL TRAILS SYSTEM ACT AMENDMENTS.—

(1) NATIONAL DISCOVERY TRAILS ESTABLISHED.—

(A) IN GENERAL.—Section 3(a) of the National Trails System Act (16 U.S.C. 1242(a)) is amended by inserting after paragraph (4) the following:

"(5)(A) National discovery trails, established as provided in section 5, which will be extended, continuous, interstate trails so located as to provide for outstanding outdoor recreation and travel and to connect representative examples of America's trails and communities. National discovery trails should provide for the conservation and enjoyment of significant natural, cultural, and historic resources associated with each trail and should be so located as to represent metropolitan, urban, rural, and backcountry regions of the Nation. Any such trail may be designated on Federal lands and, with the consent of the owner thereof, on any non-Federal lands. The consent of the owner shall be obtained in the form of a written agreement, which shall include such terms and conditions as the parties to the agreement consider advisable, and may include provisions regarding the discontinuation of the trail designation. The Congress does not intend for the establishment of a national discovery trail to lead to the creation of protective perimeters or buffer zones adjacent to a national discovery trail. The fact that there may be activities or uses on lands adjacent to the trail that would not be permitted on the trail shall not preclude such activities or uses on such lands adjacent to the trail to the extent consistent with other applicable law. Nothing in this Act may be construed to impose or permit the imposition of any landowner on the use of any non-Federal lands without the consent of the owner. Neither the designation of a national discovery trail nor any plan related thereto shall affect, or be considered, in the granting or denial of a right-of-way or any conditions relating thereto.

"(B) The appropriate Secretary for each national discovery trail shall administer the trail in cooperation with a competent trailwide volunteer-based organization. Where national discovery trails are congruent with other local, State, national scenic, or national historic trails, the designation of the discovery trail shall not in any way diminish the values and significance for which these trails were established.".

(B) FEASIBILITY REQUIREMENTS; COOPERATIVE MANAGEMENT REQUIREMENT.—Section 5(b) of such Act (16 U.S.C. 1244(b)) is amended by adding at the end the following new paragraph:

"(12) For purposes of this subsection, a trail shall not be considered feasible and desirable for designation as a national discovery trail unless it meets all of the following criteria:

"(A) The trail must link to one or more areas within the boundaries of a metropolitan area (as those boundaries are determined under section 134(c) of title 23, United States Code). It should also join with other trails, tying the National Trails System to significant recreation and resources areas.

"(B) The trail must be supported by at least one competent trailwide volunteer-based organization. Each trail shall have extensive local and trailwide support by the public, by user groups, and by affected State and local governments.

"(C) The trail must be extended and pass through more than one State. At a minimum, it should be a continuous, walkable route. National discovery trails are specifically exempted from the provisions of sections 7(g) of this Act.

"(D) The appropriate Secretary shall obtain written consent from affected landowners prior to entering nonpublic lands for the purposes of conducting any surveys or studies of nonpublic lands for purposes of this Act. Provided, before any designation or establishment of any discovery trail provided by this Act, the appropriate Secretary must ensure written notification to all nonpublic landowners on which a designated trail crosses or abuts nonpublic lands. Furthermore, any nonpublic landowner that has property crossed by or abutting land designated under this Act, if trespassing should occur by travelers on the National Discovery Trail, has the right to request and subsequently require the appropriate Secretary to coordinate with State and local officials to ensure to the maximum extent feasible that no further trespassing should occur on such nonpublic land.".

(2) DESIGNATION OF THE AMERICAN DISCOVERY TRAIL AS A NATIONAL DISCOVERY TRAIL.—Section 5(a) of such Act (16 U.S.C. 1244(a)) is amended as follows:

(A) By redesignating the paragraph relating to the California National Historic Trail as paragraph (18).

(B) By redesignating the paragraph relating to the Pony Express National Historic Trail as paragraph (19).

(C) By redesignating the paragraph relating to the Selma to Montgomery National Historic Trail as paragraph (20).

(D) By adding at the end the following:

"(21) The American Discovery Trail, a trail of approximately 6,000 miles extending from Cape Henlopen State Park in Delaware to Point Reyes National Seashore in California, extending westward through Delaware, Maryland, the District of Columbia, West Virginia, Ohio, and Kentucky, where near Cincinnati it splits into two routes. The Northern Midwest route traverses Ohio, Indiana, Illinois, Iowa, Nebraska, and Colorado, and the Southern Midwest route traverses Indiana, Illinois, Missouri, Kansas, and Colorado. After the two routes rejoin in Denver, Colorado, the route continues through Colorado, Utah, Nevada, and California. The trail is generally described in Volume 2 of the National Park Service feasibility study dated June 1995 which shall be on file and available for public inspection in the office of the Director of the National Park Service, Department of the Interior, the District of Columbia. The American Discovery Trail shall be administered by the Secretary of the Interior in cooperation with at least one competent trailwide volunteer-based organization, affected land managing agencies and State and local governments as appropriate. No lands or interests outside the exterior boundaries of federally administered areas may be acquired by the Federal Government solely for the American Discovery Trail. The American Discovery Trail is specifically exempted from the provisions of subsection (e), (f), and (g) of section 7.".

(3) COMPREHENSIVE NATIONAL DISCOVERY TRAIL PLAN.—Section 5 of such Act (16 U.S.C. 1244) is further amended by adding at the end the following new subsection:

"(g) Within 3 complete fiscal years after the date of enactment of any law designating a national discovery trail, the responsible Secretary shall submit a comprehensive plan for the protection, management, development, and use of the Federal portions of the trail, and provide technical assistance to States and local units of government and private landowners, as requested, for nonfederal portions of the trail, to the Committee on Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. In developing a comprehensive management plan for a national discovery trail, the responsible Secretary shall cooperate to the fullest practicable extent with the organizations sponsoring the trail. The responsible Secretary shall ensure that the comprehensive plan does not conflict with existing agency direction and shall consult with the affected land managing agencies, the Governors of the affected States, affected county and local political jurisdictions, and local organizations maintaining components of the trail. Components of the comprehensive plan include—

"(1) policies, objectives and practices to be observed in the administration and management of the trail, including the identification of all significant natural, historical, and cultural resources to be preserved, model agreements necessary for joint trail administration among and between interested parties, and an identified carrying capacity for critical segments of the trail and procedures for implementation, where appropriate;

"(2) strategies for trail protection to retain the values for which the trail is being established and recognized by the Federal Government;

"(3) general and site-specific trail-related development, including anticipated costs; and

"(4) the process to be followed to implement the trail marking authorities in section 7(c) conforming to approved trail logo or emblem requirements.".

(b) CONFORMING AMENDMENTS.—The National Trails System Act is amended:

(1) In section 2(b) (16 U.S.C. 1241(b)), by striking "scenic and historic" and inserting "scenic, historic, and discovery".

(2) In the section heading to section 5 (16 U.S.C. 1244), by striking "AND NATIONAL HISTORIC" and inserting ", NATIONAL HISTORIC, AND NATIONAL DISCOVERY".

(3) In section 5(a) (16 U.S.C. 1244(a)), in the matter preceding paragraph (1)—

(A) by striking "and national historic" and inserting ", national historic, and national discovery"; and

(B) by striking "and National Historic" and inserting ", National Historic, and National Discovery".

(4) In section 5(b) (16 U.S.C. 1244(b)), in the matter preceding paragraph (1), by striking "or national historic" and inserting ", national historic, or national discovery".

(5) In section 5(b)(3) (16 U.S.C. 1244(b)(3)), by striking "or national historic" and inserting ", national historic, or national discovery".

(6) In section 7(a)(2) (16 U.S.C. 1246(a)(2)), by striking "and national historic" and inserting ", national historic, and national discovery".

(7) In section 7(b) (16 U.S.C. 1246(b)), by striking "or national historic" each place such term appears and inserting ", national historic, or national discovery".

(8) In section 7(c) (16 U.S.C. 1246(c))—

(A) by striking "scenic or national historic" each place it appears and inserting "scenic, national historic, or national discovery";

(B) in the second proviso, by striking "scenic, or national historic" and inserting "scenic, national historic, or national discovery"; and

(C) by striking ", and national historic" and inserting ", national historic, and national discovery".

(9) In section 7(d) (16 U.S.C. 1246(d)), by striking "or national historic" and inserting "national historic, or national discovery".

(10) In section 7(e) (16 U.S.C. 1246(e)), by striking "or national historic" each place such term appears and inserting ", national historic, or national discovery".

(11) In section 7(f)(2) (16 U.S.C. 1246(f)(2)), by striking "National Scenic or Historic Trail" and inserting "national scenic, historic, or discovery trail".

(12) In section 7(h)(1) (16 U.S.C. 1246(h)(1)), by striking "or national historic" and inserting "national historic, or national discovery".

(13) In section 7(i) (16 U.S.C. 1246(i)), by striking "or national historic" and inserting "national historic, or national discovery".

SEC. 802. LINCOLN NATIONAL HISTORIC TRAIL.

(a) POTENTIAL ADDITION.—Section 5(a) of the National Trails System Act (16 U.S.C. 1276(a)) is amended by adding the following new paragraph at the end thereof:

"( ) The Lincoln National Historic Trail, a trail of approximately 350 miles extending from Lake Michigan to the Mississippi River, as generally described in 'The Proposal' in the Department of the Interior report entitled 'Illinois Trail, National Trail Feasibility Study and Environmental Assessment', dated September 1987, with an extension of the water route down the Mississippi River to connect with the Lewis and Clark National Historic Trail near Wood River, Illinois. A map generally depicting the route shall be on file and available for public inspection in the Office of the Director of the National Park Service, Washington, District of Columbia. The trail shall be administered by the Secretary of the Interior.".

(b) DESIGNATION.—Section 3(a) of the National Trails System Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraph at the end thereof:

"( ) SUDBURY, ASSABET, AND CONCORD RIVERS, MASSACHUSETTS.—The 29 miles of river segments in Massachusetts, as follows:

"(A) The 14.9 mile segment of the Sudbury river beginning at the Danforth Street bridge in the town of Framington, downstream to Route 2 bridge in Concord, as a scenic river.

"(B) The 1.7 mile segment of the Sudbury River from the Route 2 bridge downstream to its confluence with the Assabet River at Egg Rock, as a recreational river.

"(C) The 4.4 mile segment of the Assabet River beginning 1,000 feet downstream from the Damon Mill Dam in the town of Concord, to its confluence with the Sudbury River at Egg Rock in Concord, as a recreational river.

"(D) The 8.0 mile segment of the Concord River from Egg Rock at the confluence of the Sudbury and Assabet Rivers downstream to the Route 3 bridge in the town of Billerica, as a recreational river.

The segments referred to in subparagraphs (A) through (D) shall be administered by the Secretary of the Interior in cooperation with the SUASCO River Stewardship Council provided for in the plan through cooperative agreements under section 10(e) between the Secretary and the Commonwealth of Massachusetts and its relevant political subdivisions (including the towns of Framingham, Wayland, Sudbury, Lincoln, Concord, Carlisle, Bedford, and Billerica). The segments shall be managed in accordance with the plan entitled 'Sudbury, Assabet and Concord Wild and Scenic River Study, River Conservation Plan' dated March 16, 1995. The plan is deemed to satisfy the requirement for a comprehensive management plan under subsection (d) of this section.".

SEC. 803. ASSISTANCE TO THE NATIONAL HISTORIC TRAILS INTERPRETIVE CENTER.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—The Congress finds and declares the following:

(A) The city of Casper, Wyoming, is nationally significant as the only geographic location in the western United States where 4 congressionally recognized historic trails (the Oregon Trail, the Mormon Trail, the California Trail, and the Pony Express Trail), the Bridger Trail, the Bozeman Trail, and many Indian routes converged.

(B) The historic trails that passed through the Casper area are a distinctive part of the national character and possess important historical and cultural values representing themes of migration, settlement, transportation, and commerce that shaped the landscape of the West.

(C) The Bureau of Land Management has not yet established a historic trails interpretive center in Wyoming or in any adjacent State to educate and focus national attention on the history of the mid-19th century immigrant trails that crossed public lands in the Intermountain West.

(D) At the invitation of the Bureau of Land Management, the city of Casper and the National Historic Trails Foundation, Inc. (a nonprofit corporation established under the laws of the State of Wyoming) entered into a memorandum of understanding in 1992, and have since signed an assistance agreement in 1993 and a cooperative agreement in 1997, to create, manage, and sustain a National Historic Trails Interpretive Center to be located in Casper, Wyoming, to professionally interpret the historic trails in the Casper area for the benefit of the public.

(E) The National Historic Trails Interpretive Center authorized by this section is consistent with the purposes and objectives of the National Trails System Act (16 U.S.C. 1241 et seq.), which directs the Secretary of the Interior to protect, interpret, and manage the remnants of historic trails on public lands.

(F) The State of Wyoming effectively joined the partnership to establish the National Historic Trails Interpretive Center through a legislative allocation of supporting funds, and the citizens of the city of Casper have increased local taxes to meet their financial obligations under the assistance agreement and the cooperative agreement referred to in paragraph (4).

(G) The National Historic Trails Foundation, Inc. has secured most of the $5,000,000 of non-Federal funding pledged by State and local governments and private interests pursuant to the cooperative agreement referred to in subparagraph (D).

(H) The Bureau of Land Management has completed the engineering and design phase of the National Historic Trails Interpretive Center, and the National Historic Trails Foundation, Inc. is ready for Federal financial and technical assistance to construct the Center pursuant to the cooperative agreement referred to in subparagraph (D).

(2) PURPOSES.—The purposes of this section are the following:

(A) To recognize the importance of the historic trails that passed through the Casper, Wyoming, area as a distinctive aspect of American heritage worthy of interpretation and preservation.

(B) To assist the city of Casper, Wyoming, and the National Historic Trails Foundation, Inc. in establishing the National Historic Trails Interpretive Center to memorialize and interpret the significant role of those historic trails in the history of the United States.

(C) To highlight and showcase the Bureau of Land Management's stewardship of public lands in Wyoming and the West.

(b) NATIONAL HISTORIC TRAILS INTERPRETIVE CENTER.—

(1) ESTABLISHMENT.—The Secretary of the Interior, acting through the Director of the Bureau of Land Management (in this section referred to as the "Secretary"), shall establish in Casper, Wyoming, a center for the interpretation of the historic trails in the vicinity of Casper, including the Oregon Trail, the Mormon Trail, the California Trail, and the Pony Express Trail, the Bridger Trail, the Bozeman Trail, and various Indian routes. The center shall be known as the National Historic Trails Interpretive Center (in this section referred to as the "Center").

(2) FACILITIES.—The Secretary, subject to the availability of appropriations, shall construct, operate, and maintain facilities for the Center—

(A) on land provided by the city of Casper, Wyoming;

(B) in cooperation with the city of Casper and the National Historic Trails Interpretive

Center Foundation, Inc. (a nonprofit corporation established under the laws of the State of Wyoming); and

(C) in accordance with—

(i) the Memorandum of Understanding entered into on March 4, 1993, by the city, the foundation, and the Wyoming State Director of the Bureau of Land Management; and

(ii) the cooperative agreement between the foundation and the Wyoming State Director of the Bureau of Land Management, numbered K910A970020.

(3) DONATIONS.—Notwithstanding any other provision of law, the Secretary may accept, retain, and expend donations of funds, property, or services from individuals, foundations, corporations, or public entities for the purpose of development and operation of the Center.

(4) ENTRANCE FEE.—Notwithstanding section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a), the Secretary may—

(A) collect an entrance fee from visitors to the Center; and

(B) use amounts received by the United States from that fee for expenses of operation of the Center.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $5,000,000 to carry out this section.

TITLE IX—HAZARDOUS FUELS REDUCTION

SEC. 901. SHORT TITLE.

This title may be cited as the "Community Protection and Hazardous Fuels Reduction Act of 1998".

SEC. 902. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) Management of Federal lands has been characterized by large cyclical variations in fire suppression policies, timber harvesting levels, and the attention paid to commodity and noncommodity values.

(2) Forests on Federal lands are experiencing significant disease epidemics and insect infestations.

(3) The combination of inconsistent management and natural effects has resulted in a hazardous fuels buildup on Federal lands that threatens catastrophic wildfire.

(4) While the long-term effect of catastrophic wildfire on forests and forest systems is a matter of debate, there should be no question that catastrophic wildfire must be prevented in areas of the Federal lands where wildlands abut, or are located in close proximity to, communities, residences, and other private and public facilities on non-Federal lands.

(5) Wildfire resulting from hazardous fuels buildup in such wildland/urban interface areas threatens the destruction of communities, puts human life and property at risk, threatens community water supplies with erosion that follows wildfire, destroys wildlife habitat, and damages ambient air quality.

(6) The Secretary of Agriculture and the Secretary of the Interior must assign a high priority and undertake aggressive management to achieve the elimination of hazardous fuel buildup and reduction of the risk of wildfire to the wildland/urban interface areas on Federal lands. Protection of human life and property, including water supplies and ambient air quality, must be given the highest priority.

(7) The noncommodity resources, including riparian zones and wildlife habitats, in wildland/urban interface areas on Federal lands which must be protected to provide recreational opportunities, clean water, and other amenities to neighboring communities and the public suffer from a backlog of unfunded forest management projects designed to provide such protection.

(8) In a period of fiscal austerity characterized by shrinking budgets and personnel levels, Congress must provide the Secretary of Agriculture and the Secretary of the Interior with innovative tools to accomplish the required reduction in hazardous fuels buildup and undertake other forest management projects in the wildland/urban interface areas on the Federal lands at least cost.

(b) PURPOSE.—The purpose of this title is to provide new authority and innovative tools to the Secretary of Agriculture and the Secretary of the Interior to safeguard communities, lives, and property by reducing or eliminating the threat of catastrophic wildfire, and to undertake needed forest management projects, in wildland/urban interface areas on Federal lands.

SEC. 903. DEFINITIONS.

As used in this title:

(1) FEDERAL LANDS.—The term "Federal lands" means—

(A) federally managed lands administered by the Bureau of Land Management under the Secretary of the Interior; and

(B) federally managed lands administered by the Secretary of Agriculture.

(2) FOREST MANAGEMENT PROJECT.—The term "forest management project" means a project, including riparian zone enhancement, habitat improvement, forage removal by livestock grazing or mechanical means, and soil stabilization or other water quality improvement project, designed to protect one or more noncommodity resources on or in close proximity to Federal lands.

(3) LAND MANAGEMENT PLAN.—The term "land management plan" means the following:

(A) With respect to Federal lands described in paragraph (1)(A), a land use plan prepared by the Bureau of Land Management pursuant to section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712), or other multiple-use plan currently in effect.

(B) With respect to Federal lands described in paragraph (1)(B), a land and resource management plan (or if no final plan is in effect, a draft land and resource management plan) prepared by the Forest Service pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604).

(4) SECRETARY CONCERNED.—The term "Secretary concerned" means—

(A) with respect to the Federal lands described in paragraph (1)(A), the Secretary of the Interior; and

(B) with respect to the Federal lands described in paragraph (1)(B), the Secretary of Agriculture.

(5) WILDLAND/URBAN INTERFACE AREA.—The term "wildland/urban interface area" means the line, area, or zone where structures and other human development meet or intermingle with undeveloped wildland or vegetative fuel.

(6) CONGRESSIONAL COMMITTEES.—The term "congressional committees" means the Committee on Resources and the Committee on Agriculture of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(7) HAZARDOUS FUELS BUILDUP.—The term "hazardous fuels buildup" means that level of fuels accumulation, within a fire regime, in which an ignition with the right combination of weather and topographic conditions can result in—

(A) a dangerous exposure of risk to firefighters and the public;

(B) a high potential to cause risk of loss to key components that define ecological resources, capital investments, and private property; or

(C) both subparagraphs (A) and (B).

(8) FUELS.—The term "fuels" includes forage, woody debris, duff, needle cast, brush, dead or dying understory, and dead or dying overstory.

Subtitle A—Management of Wildland/Urban Interface Areas

SEC. 911. IDENTIFICATION OF WILDLAND/URBAN INTERFACE AREAS.

On or before September 30 of each year, each District Manager of the Bureau of Land Management and each Forest Supervisor of the Forest Service shall identify those areas on Federal lands within the jurisdiction of the District Manager or Forest Supervisor that the District Manager or Forest Supervisor determines—

(1) meet the definition of wildland/urban interface areas; and

(2) have hazardous fuels buildups and other forest management needs that warrant the use of forest management projects as provided in section 912.

SEC. 912. CONTRACTING TO REDUCE HAZARDOUS FUELS AND UNDERTAKE FOREST MANAGEMENT PROJECTS IN WILDLAND/URBAN INTERFACE AREAS.

(a) CONTRACTING AUTHORITY.—

(1) IN GENERAL.—The Secretary concerned is authorized to enter into contracts under this section for the sale of forest products in a wildland/urban interface area identified under section 911 for the purpose of reducing hazardous fuels buildups in the area.

(2) INCLUSION OF FOREST MANAGEMENT PROJECTS.—Subject to paragraph (3), the Secretary concerned may require, as a condition of any sale of forest products referred to in paragraph (1), that the purchaser of such products undertake one or more forest management projects in the wildland/urban interface area.

(3) CONDITIONS ON INCLUSION.—The Secretary concerned may include a forest management project as a condition in a contract for the sale of forest products referred to in paragraph (1) only when the Secretary determines that—

(A) the forest management project is consistent with the applicable land management plan; and

(B) the objectives of the forest management project can be accomplished most cost efficiently and effectively when the project is performed as part of the sale contract.

(b) FINANCING AND SUPPLEMENTAL FUNDING.—

(1) FOREST MANAGEMENT CREDITS.—The financing of a forest management project required as a condition of a contract for a sale authorized by subsection (a) shall be accomplished through the inclusion in the contract of a provision for amortization of the cost of the forest management project through the issuance of forest management credits to the purchaser. Such forest management credits shall offset the cost of the required forest management project against the purchaser's payment for forest products.

(2) USE OF APPROPRIATED FUNDS.—The Secretary concerned may use appropriated funds to assist the purchaser to undertake a forest management project required as a condition of a contract authorized by subsection (a) if

such funds are provided from the resource function or functions that directly benefit from the performance of the project and are available from the annual appropriation for such function or functions during the fiscal year in which the sale is offered. The amount of assistance to be provided for each forest management project shall be included in the prospectus, and published in the advertisement, for the sale.

(c) Determination of Forest Management Credits.—Prior to the advertisement of a sale authorized by subsection (a), the Secretary concerned shall determine the amount of forest management credits to be allocated to each forest management project to be required as a condition of the sale contract. A description of the forest management project, and the amount of the forest management credits allocated to the project, shall be included in the prospectus, and published in the advertisement, for the sale.

(d) Transfer of Forest Management Credits.—The Secretary concerned may permit a purchaser that holds forest management credits earned by the purchaser as part of a sale authorized by subsection (a), but not used in connection with that sale, to transfer the forest management credits to another sale authorized by subsection (a) if—

(1) the subsequent sale is also purchased by that purchaser; and

(2) the sale parcel is located on Federal lands under that Secretary's jurisdiction.

(e) Treatment of Forest Management Credits as Moneys Received.—

(1) Bureau of land management lands.—In the case of Federal lands described in section 903(1)(A), all amounts earned by or allowed to any purchaser of a sale authorized by subsection (a) in the form of forest management credits shall be considered to be money received for purposes of title II of the Act of August 28, 1937 (50 Stat. 875; 43 U.S.C. 1181f), the first section of the Act of May 24, 1939 (53 Stat. 753; 43 U.S.C. 1181f-1), or other applicable law concerning the distribution of receipts from the sale of forest products on such lands.

(2) Forest system lands.—In the case of Federal lands described in section 903(1)(B), all amounts earned by or allowed to any purchaser of a sale authorized by subsection (a) in the form of forest management credits shall be considered to be money received for purposes of the sixth paragraph under the heading "FOREST SERVICE" in the Act of May 23, 1908 (35 Stat. 260; 16 U.S.C. 500), and section 13 of the Act of March 1, 1911 (36 Stat. 963; commonly known as the Weeks Act; 16 U.S.C. 500).

(f) Cost Considerations.—Because of the strong concern for the safety of human life and property and the protection of water quality, air quality, and wildlife habitat, a sale authorized by subsection (a) shall not be precluded because the costs of the sale may exceed the revenues derived from the sale, nor shall such sales be considered in any calculations concerning the revenue effects of the forest products sales program for the Federal lands or units of the Federal lands.

(g) Limitation on Credits.—Each Secretary concerned may utilize the authority in this section for up to $75,000,000 per fiscal year.

SEC. 913. MONITORING REQUIREMENTS.

The Secretary concerned shall monitor the preparation and offering of contracts, and the performance of forest management projects, pursuant to section 912 to determine the effectiveness of such contracts and forest management projects in achieving the purpose of this title.

SEC. 914. REPORTING REQUIREMENTS.

(a) Annual Report.—Not later than 90 days after the end of each full fiscal year in which contracts are entered into under section 912, the Secretary concerned shall submit to the congressional committees a report, which shall provide for the Federal lands within the jurisdiction of the Secretary concerned the following:

(1) A list of the wildland/urban interface areas identified on or before September 30 of the previous fiscal year pursuant to section 911.

(2) A summary of all contracts entered into, and all forest management projects performed, pursuant to section 912 during the preceding fiscal year;

(3) A discussion of any delays in excess of three months encountered during the preceding fiscal year, and likely to occur in the fiscal year in which the report is submitted, in preparing and offering the sales, and in performing the forest management projects, pursuant to section 912.

(4) The results of the monitoring required by section 913 of the contracts authorized, and the forest management projects performed, pursuant to section 912.

(5) Any anticipated problems in the implementation of this subtitle.

(b) Four Year Report.—The fourth report prepared by the Secretary concerned under subsection (a) shall contain, in addition to the matters required by subsection (a), the following:

(1) An assessment by the Secretary concerned regarding whether the contracting authority provided in section 912 should be reauthorized beyond the period specified in section 915(a).

(2) If reauthorization is warranted, such recommendations as the Secretary concerned considers appropriate regarding changes in such authority to better achieve the purpose of this title.

SEC. 915. TERMINATION OF AUTHORITY.

(a) Termination Date.—The authority of the Secretary concerned to offer sales of forest products pursuant to section 912, and to require the purchasers of such products to undertake forest management projects as a condition of such sales, shall terminate at the end of the five-fiscal year beginning on the first October 1st occurring after the date of the enactment of this Act.

(b) Effect on Existing Sales.—Any contract for a sale of forest products pursuant to section 912 entered into before the end of the period specified in subsection (a), and still in effect at the end of such period, shall remain in effect after the end of such period pursuant to the terms of the contract.

(c) Effect on Existing Forest Management Credits.—If any forest management credits from a sale of forest products pursuant to section 912 are not used before the end of the period specified in subsection (a), and no law providing authority to offer sales pursuant to section 912 after such period is enacted by Congress, such credits may be used after such period in any sale of forest products that is authorized by another law, is purchased by the purchaser of the sale in which the credits were earned, and is conducted by the Secretary concerned who had jurisdiction over the sale in which the credits were earned.

Subtitle B—Miscellaneous Provisions

SEC. 921. REGULATIONS.

Not later than 180 days after the date of the enactment of this Act, the Secretary concerned shall prescribe such regulations as are necessary and appropriate to implement this title.

SEC. 922. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each of the first five fiscal years beginning after the date of the enactment of this Act such sums as may be necessary to carry out this title.

TITLE X—MISCELLANEOUS PROVISIONS

SEC. 1001. AUTHORITY TO ESTABLISH MAHATMA GANDHI MEMORIAL.

(a) In General.—The Government of India may establish a memorial to honor Mahatma Gandhi on the Federal land in the District of Columbia.

(b) Cooperative Agreements.—The Secretary of the Interior or any other head of a Federal agency may enter into cooperative agreements with the Government of India to maintain features associated with the memorial.

(c) Compliance With Standards for Commemorative Works.—The establishment of the memorial shall be in accordance with the Commemorative Works Act (40 U.S.C. 1001 et seq.), except that sections 2(c) and 6(b) of that Act shall not apply with respect to the memorial.

(d) Limitation on Payment of Expenses.—The Government of the United States shall not pay any expense of the establishment of the memorial or its maintenance.

SEC. 1002. ESTABLISHMENT OF THE NATIONAL CAVE AND KARST RESEARCH INSTITUTE IN NEW MEXICO.

(a) Purposes.—The purposes of this section are—

(1) to further the science of speleology;

(2) to centralize and standardize speleological information;

(3) to foster interdisciplinary cooperation in cave and karst research programs;

(4) to promote public education;

(5) to promote national and international cooperation in protecting the environment for the benefit of cave and karst landforms; and

(6) to promote and develop environmentally sound and sustainable resource management practices.

(b) Establishment of the Institute.—

(1) In general.—The Secretary of the Interior (referred to in this section as the "Secretary"), acting through the Director of the National Park Service, shall establish the National Cave and Karst Research Institute (referred to in this section as the "Institute").

(2) Purposes.—The Institute shall, to the extent practicable, further the purposes of this section.

(3) Location.—The Institute shall be located in the vicinity of Carlsbad Caverns National Park, in the State of New Mexico. The Institute shall not be located inside the boundaries of Carlsbad Caverns National Park.

(c) Administration of the Institute.—

(1) Management.—The Institute shall be jointly administered by the National Park Service and a public or private agency, organization, or institution, as determined by the Secretary.

(2) Guidelines.—The Institute shall be operated and managed in accordance with the study prepared by the National Park Service pursuant to section 203 of Public Law 101-578 (16 U.S.C. 4310 note).

(3) Contracts and cooperative agreements.—The Secretary may enter into a contract or cooperative agreement with a public or private agency, organization, or institution to carry out this section.

(4) Facility.—

(A) Leasing or acquiring a facility.—The Secretary may lease or acquire a facility for the Institute.

(B) Construction of a facility.—If the Secretary determines that a suitable facility is not available for a lease or acquisition under subparagraph (A), the Secretary may construct a facility for the Institute.

(5) Acceptance of grants and transfers.—To carry out this section, the Secretary may accept—

(A) a grant or donation from a private person; or

(B) a transfer of funds from another Federal agency.

(d) Funding.—

(1) Matching funds.—The Secretary may spend only such amount of Federal funds to carry out this section as is matched by an equal amount of funds from non-Federal sources.

(2) Authorization of appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 1003. GUADALUPE-HIDALGO TREATY LAND CLAIMS.

(a) Definitions and Findings.—

(1) Definitions.—For purposes of this section:

(A) Commission.—The term "Commission" means the Guadalupe-Hidalgo Treaty Land Claims Commission established under subsection (b).

(B) Treaty of Guadalupe-Hidalgo.—The term "Treaty of Guadalupe-Hidalgo" means the Treaty of Peace, Friendship, Limits, and Settlement (Treaty of Guadalupe Hidalgo), between the United States and the Republic of Mexico, signed February 2, 1848 (TS 207; 9 Bevans 791).

(C) Eligible descendant.—The term "eligible descendant" means a descendant of a person who—

(i) was a Mexican citizen before the Treaty of Guadalupe-Hidalgo;

(ii) was a member of a community land grant; and

(iii) became a United States citizen within ten years after the effective date of the Treaty of Guadalupe-Hidalgo, May 30, 1848, pursuant to the terms of the Treaty.

(D) Community land grant.—The term "community land grant" means a village, town, settlement, or pueblo consisting of land held in common (accompanied by lesser private allotments) by three or more families under a grant from the King of Spain (or his representative) before the effective date of the Treaty of Cordova, August 24, 1821, or from the authorities of the Republic of Mexico before May 30, 1848, in what became the State of New Mexico, regardless of the original character of the grant.

(E) Reconstituted.—The term "reconstituted", with regard to a valid community land grant, means restoration to full status as a municipality with rights properly belonging to a municipality under State law and the right of local self-government.

(2) Findings.—Congress finds the following:

(A) New Mexico has a unique history regarding the acquisition of ownership of land as a result of the substantial number of Spanish and Mexican land grants that were an integral part of the colonization and growth of New Mexico before the United States acquired the area in the Treaty of Guadalupe-Hidalgo.

(B) Various provisions of the Treaty of Guadalupe-Hidalgo have not yet been fully implemented in the spirit of Article VI, section 2, of the Constitution of the United States.

(C) Serious questions regarding the prior ownership of lands in the State of New Mexico, particularly certain public lands, still exist.

(D) Congressionally established land claim commissions have been used in the past to successfully examine disputed land possession questions.

(b) Establishment and Membership of Commission.—

(1) Establishment.—There is established a commission to be known as the "Guadalupe-Hidalgo Treaty Land Claims Commission".

(2) Number and appointment of members.—The Commission shall be composed of 5 members appointed by the President by and with the advice and consent of the Senate. At least 2 of the members of the Commission shall be selected from among persons who are eligible descendants.

(3) Terms.—Each member shall be appointed for the life of the Commission. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(4) Compensation.—Members shall each be entitled to receive the daily equivalent of level V of the Executive Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission.

(c) Examination of Land Claims.—

(1) Submission of land claims petitions.—Any 3 (or more) eligible descendants who are also descendants of the same community land grant may file with the Commission a petition on behalf of themselves and all other descendants of that community land grant seeking a determination of the validity of the land claim that is the basis for the petition.

(2) Deadline for submission.—To be considered by the Commission, a petition under paragraph (1) must be received by the Commission not later than 5 years after the date of the enactment of this Act.

(3) Elements of petition.—A petition under paragraph (1) shall be made under oath and shall contain the following:

(A) The names and addresses of the eligible descendants who are petitioners.

(B) The fact that the land involved in the petition was a community land grant at the time of the effective date of the Guadalupe-Hidalgo Treaty.

(C) The extent of the community land grant, to the best of the knowledge of the petitioners, accompanied with a survey or, if a survey is not feasible to them, a sketch map thereof.

(D) The fact that the petitioners reside, or intend to settle upon, the community land grant.

(E) All facts known to petitioners concerning the community land grant, together with copies of all papers in regard thereto available to petitioners.

(4) Petition hearing.—At one or more designated locations in the State of New Mexico, the Commission shall hold a hearing upon each petition timely submitted under paragraph (1), at which hearing all persons having an interest in the land involved in the petition shall have the right, upon notice, to appear as a party.

(5) Subpoena power.—

(A) In general.—The Commission may issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any petition submitted under paragraph (1). The attendance of witnesses and the production of evidence may be required from any place within the United States at any designated place of hearing within the State of New Mexico.

(B) Failure to obey a subpoena.—If a person refuses to obey a subpoena issued under this paragraph, the Commission may apply to a United States district court for an order requiring that person to appear before the Commission to give testimony, produce evidence, or both, relating to the matter under investigation. The application may be made within the judicial district where the hearing is conducted or where that person is found, resides, or transacts business. Any failure to obey the order of the court may be punished by the court as civil contempt.

(C) Service of subpoenas.—The subpoenas of the Commission shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(D) Service of process.—All process of any court to which application is to be made under subparagraph (B) may be served in the judicial district in which the person required to be served resides or may be found.

(6) Decision.—On the basis of the facts contained in a petition submitted under paragraph (1), and the hearing held with regard to the petition, the Commission shall determine the validity of the community land grant described in the petition. The decision shall include a recommendation of the Commission regarding whether the community land grant should be reconstituted and its lands restored.

(7) Protection of non-federal property.—The decision of the Commission regarding the validity of a petition submitted under paragraph (1) shall not affect the ownership, title, or rights of owners of any non-Federal lands covered by the petition. Any recommendation of the Commission under paragraph (6) regarding whether a community land grant should be reconstituted and its lands restored may not address non-Federal lands. In the case of a valid petition covering lands held in non-Federal ownership, the Commission shall modify the recommendation under paragraph (6) to recommend the substitution of comparable Federal lands in the State of New Mexico for the lands held in non-Federal ownership.

(d) Community Land Grant Study Center.—To assist the Commission in the performance of its activities under subsection (c), the Commission shall establish a Community Land Grant Study Center at the Onate Center in Alcalde, New Mexico. The Commission shall be charged with the responsibility of directing the research, study, and investigations necessary for the Commission to perform its duties under this section.

(e) Miscellaneous Powers of Commission.—

(1) Hearings and sessions.—The Commission may, for the purpose of carrying out this section, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it.

(2) Powers of members and agents.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this subsection.

(3) Gifts, bequests, and devises.—The Commission may accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Commission.

(4) Mails.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(5) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

(6) IMMUNITY.—The Commission is an agency of the United States for the purpose of part V of title 18, United States Code (relating to immunity of witnesses).

(f) REPORT.—As soon as practicable after reaching its last decision under subsection (c), the Commission shall submit to the President and the Congress a report containing each decision, including the recommendation of the Commission regarding whether certain community land grants should be reconstituted, so that the Congress may act upon the recommendations.

(g) TERMINATION.—The Commission shall terminate on 180 days after submitting its final report under subsection (f).

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $1,000,000 for each of the fiscal years 1999 through 2007 for the purpose of carrying out the activities of the Commission and to establish and operate the Community Land Grant Study Center under subsection (d).

SEC. 1004. OTAY MOUNTAIN WILDERNESS.

(a) FINDINGS.—The Congress finds and declares the following:

(1) The public lands within the Otay Mountain region of California are one of the last remaining pristine locations in western San Diego County, California.

(2) This rugged mountain adjacent to the United States-Mexico border is internationally known for its diversity of unique and sensitive plants.

(3) This area plays a critical role in San Diego's multi-species conservation plan, a national model made for maintaining biodiversity.

(4) Due to its proximity to the international border, this area is the focus of important law enforcement and border interdiction efforts necessary to curtail illegal immigration and protect the area's wilderness values.

(5) The illegal immigration traffic, combined with the rugged topography, also presents unique fire management challenges for protecting lives and resources.

(b) DESIGNATION.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), certain public lands in the California Desert District of the Bureau of Land Management, California, comprising approximately 18,500 acres as generally depicted on a map entitled "Otay Mountain Wilderness" and dated May 7, 1998, are hereby designated as wilderness and therefore as a component of the National Wilderness Preservation System, which shall be known as the Otay Mountain Wilderness.

(c) MAP AND LEGAL DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, a map and a legal description for the Wilderness Area shall be filed by the Secretary with the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives. Such map and legal description shall have the same force and effect as if included in this Act, except that the Secretary, as appropriate, may correct clerical and typographical errors in such legal description and map. Such map and legal description for the Wilderness Area shall be on file and available for public inspection in the offices of the Director and California State Director, Bureau of Land Management, Department of the Interior.

(2) UNITED STATES-MEXICO BORDER.—In carrying out this subsection, the Secretary shall ensure that the southern boundary of the Wilderness Area is 100 feet north of the trail depicted on the map referred to in paragraph (1) and is at least 100 feet from the United States-Mexico international border.

(e) WILDERNESS REVIEW.—The Congress hereby finds and directs that all the public lands not designated wilderness within the boundaries of the Southern Otay Mountain Wilderness Study Area (CA-060-029) and the Western Otay Mountain Wilderness Study Area (CA-060-028) managed by the Bureau of Land Management and reported to the Congress in 1991, have been adequately studied for wilderness designation pursuant to section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782), and are no longer subject to the requirements contained in section 603(c) of that Act pertaining to the management of wilderness study areas in a manner that does not impair the suitability of such areas for preservation as wilderness.

(f) ADMINISTRATION OF WILDERNESS AREA.—

(1) IN GENERAL.—Subject to valid existing rights and to paragraph (2), the Wilderness Area shall be administered by the Secretary in accordance with the provisions of the Wilderness Act (16 U.S.C. 1131 et seq.), except that—

(A) any reference in such provisions to the effective date of the Wilderness Act is deemed to be a reference to the effective date of this Act; and

(B) any reference in such provisions to the Secretary of Agriculture is deemed to be a reference to the Secretary of the Interior.

(2) BORDER ENFORCEMENT, DRUG INTERDICTION, AND WILDLAND FIRE PROTECTION.—Because of the proximity of the Wilderness Area to the United States-Mexico international border, drug interdiction, border operations, and wildland fire management operations are common management actions throughout the area encompassing the Wilderness Area. This section recognizes the need to continue such management actions so long as such management actions are conducted in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) and are subject to such conditions as the Secretary considers appropriate.

(g) FURTHER ACQUISITIONS.—Any lands within the boundaries of the Wilderness Area that are acquired by the United States after the date of enactment of this Act shall become part of the Wilderness Area and shall be managed in accordance with all the provisions of this section and other laws applicable to such a wilderness.

(h) NO BUFFER ZONES.—The Congress does not intend for the designation of the Wilderness Area by this section to lead to the creation of protective perimeters or buffer zones around the Wilderness Area. The fact that nonwilderness activities or uses can be seen or heard from areas within the Wilderness Area shall not, of itself, preclude such activities or uses up to the boundary of the Wilderness Area.

(i) DEFINITIONS.—As used in this section:

(1) PUBLIC LANDS.—The term "public lands" has the same meaning as that term has in section 103(e) of the Federal Land Policy and Management Act of 1976.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(3) WILDERNESS AREA.—The term "Wilderness Area" means the Otay Mountain Wilderness designated by subsection (b).

SEC. 1005. ACQUISITION AND MANAGEMENT OF WILCOX RANCH, UTAH, FOR WILDLIFE HABITAT.

(a) FINDINGS.—Congress finds the following:

(1) The lands within the Wilcox Ranch in eastern Utah are prime habitat for wild turkeys, eagles, hawks, bears, cougars, elk, deer, bighorn sheep, and many other important species, and Range Creek within the Wilcox Ranch could become a blue ribbon trout stream.

(2) These lands also contain a great deal of undisturbed cultural and archeological resources, including ancient pottery, arrowheads, and rock homes constructed centuries ago.

(3) These lands, while comprising only approximately 3,800 acres, control access to over 75,000 acres of Federal lands under the jurisdiction of the Bureau of Land Management.

(4) Acquisition of the Wilcox Ranch would benefit the people of the United States by preserving and enhancing important wildlife habitat, ensuring access to lands of the Bureau of Land Management, and protecting priceless archeological and cultural resources.

(5) These lands, if acquired by the United States, can be managed by the Utah Division of Wildlife Resources at no additional expense to the Federal Government.

(b) ACQUISITION OF LANDS.—As soon as practicable, after the date of the enactment of this Act, the Secretary of the Interior shall acquire, through purchase, the Wilcox Ranch located in Emery County, in eastern Utah.

(c) FUNDS FOR PURCHASE.—The Secretary of the Interior is authorized to use not more than $5,000,000 from the land and water conservation fund established under section 2 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-5) for the purchase of the Wilcox Ranch under subsection (b).

(d) MANAGEMENT OF LANDS.—Upon payment by the State of Utah of one-half of the purchase price of the Wilcox Ranch to the United States, or transfer by the State of Utah of lands of the same such value to the United States, the Secretary of the Interior shall transfer to the State of Utah all right, title, and interest of the United States in and to those Wilcox Ranch lands acquired under subsection (b) for management by the State Division of Wildlife Resources for wildlife habitat and public access.

SEC. 1006. ACQUISITION OF MINERAL AND GEOTHERMAL INTERESTS WITHIN MOUNT ST. HELENS NATIONAL VOLCANIC MONUMENT.

(a) FINDINGS.—Congress finds the following:

(1) The Act entitled "An Act to designate the Mount St. Helens National Volcanic Monument in the State of Washington, and for other purposes", approved August 26, 1982 (96 Stat. 301; 16 U.S.C. 431 note), required the United States to acquire all land and interests in land in the Mount St. Helens National Volcanic Monument.

(2) The Act directed the Secretary of Agriculture to acquire the surface interests and the mineral and geothermal interests by separate exchanges and expressed the sense of Congress that the exchanges be completed by November 24, 1982, and August 26, 1983, respectively.

(3) The surface interests exchange was consummated timely, but the exchange of all mineral and geothermal interests has not yet been completed a decade and a half after the enactment of the Act.

(b) PURPOSE.—The purpose of this section is to provide for the expeditious completion of the previously mandated Federal acquisition of certain private mineral and geothermal interests within the Mount St. Helens National Volcanic Monument.

(c) ACQUISITION.—Section 3 of the Act entitled "An Act to designate the Mount St. Helens National Volcanic Monument in the State of Washington, and for other purposes", approved August 26, 1982 (Public Law 97–243; 96 Stat. 302; 16 U.S.C. 431 note), is amended—

(1) in subsection (a), by striking "and except that the Secretary may acquire mineral and geothermal interests only by exchange. It is the sense of the Congress that in the case of mineral and geothermal interests such exchanges should be completed within one year after the date of enactment of the Act"; and

(2) by adding at the end the following new subsections:

"(g) EXPEDITIOUS COMPLETION OF EXCHANGES FOR MINERAL AND GEOTHERMAL INTERESTS.—

"(1) DEFINITION OF HOLDER.—In this subsection, the term 'holder' means a company referred to in subsection (c) or its assigns or successors.

"(2) EXCHANGE REQUIRED.—Within 60 days after the date of enactment of this subsection, the Secretary of the Interior shall acquire by exchange the mineral and geothermal interests in the Monument of each holder.

"(3) MONETARY CREDITS.—

"(A) ISSUANCE.—In exchange for all mineral and geothermal interests acquired by the Secretary of the Interior from each holder under paragraph (2), the Secretary of the Interior shall issue to each such holder monetary credits with a value of $2,100,000 that may be used for the payment of—

"(i) not more than 50 percent of the bonus or other payments made by successful bidders in any sales of mineral, oil, gas, or geothermal leases under the Mineral Leasing Act (30 U.S.C. 181 et seq.), the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), or the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) in the contiguous 48 States;

"(ii) not more than 10 percent of the bonus or other payments made by successful bidders in any sales of mineral, oil, gas, or geothermal leases in Alaska under the laws specified in clause (i);

"(iii) not more than 50 percent of any royalty, rental, or advance royalty payment made to the United States to maintain any mineral, oil or gas, or geothermal lease in the contiguous 48 States issued under the laws specified in clause (i); or

"(iv) not more than 10 percent of any royalty, rental, or advance royalty payment made to the United States to maintain any mineral, oil or gas, or geothermal lease in Alaska issued under the laws specified in clause (i).

"(B) VALUE OF CREDITS.—The total credits of $4,200,000 in value issued under subparagraph (A) are deemed to equal the fair market value of all mineral and geothermal interests to be conveyed by exchange under paragraph (2).

"(4) ACCEPTANCE OF CREDITS.—The Secretary of the Interior shall accept credits issued under paragraph (3)(A) in the same manner as cash for the payments described in such paragraph. The use of the credits shall be subject to the laws (including regulations) governing such payments, to the extent the laws are consistent with this subsection.

"(5) TREATMENT OF CREDITS FOR DISTRIBUTION TO STATES.—All amounts in the form of credits accepted by the Secretary of the Interior under paragraph (4) for the payments described in paragraph (3)(A) shall be considered to be money received for the purpose of section 35 of the Mineral Leasing Act (30 U.S.C. 191) and section 20 of the Geothermal Steam Act of 1970 (30 U.S.C. 1019).

"(6) EXCHANGE ACCOUNT.—

"(A) ESTABLISHMENT.—Notwithstanding any other provision of law, not later than 30 days after the completion of the exchange with a holder required by paragraph (2), the Secretary of the Interior shall establish an exchange account for that holder for the monetary credits issued to that holder under paragraph (3). The account for a holder shall be established with the Minerals Management Service of the Department of the Interior and have an initial balance of credits equal to $2,100,000.

"(B) USE OF CREDITS.—The credits in a holder's account shall be available to the holder for the purposes specified in paragraph (3)(A). The Secretary of the Interior shall adjust the balance of credits in the account to reflect credits accepted by the Secretary of the Interior pursuant to paragraph (4).

"(C) TRANSFER OR SALE OF CREDITS.—

"(i) TRANSFER OR SALE AUTHORIZED.—A holder may transfer or sell any credits in the holder's account to another person.

"(ii) USE OF TRANSFERRED CREDITS.—Credits transferred or sold under clause (i) may be used in accordance with this subsection only by a person that is qualified to bid on, or that holds, a mineral, oil, or gas lease under the Mineral Leasing Act (30 U.S.C. 181 et seq.), the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), or the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.).

"(iii) NOTIFICATION.—Within 30 days after the transfer or sale of any credits by a holder, that holder shall notify the Secretary of the Interior of the transfer or sale. The transfer or sale of any credit shall not be considered valid until the Secretary of the Interior has received the notification required under this clause.

"(D) TIME LIMIT ON USE OF CREDITS.—On the date that is 5 years after the date on which an account is created under subparagraph (A) for a holder, the Secretary of the Interior shall terminate that holder's account. Any credits that originated in the terminated account and have not been used as of the termination date, including any credits transferred or sold under subparagraph (C), shall become unusable.

"(7) TITLE TO INTERESTS.—On the date of the establishment of an exchange account for a holder under paragraph (6)(A), title to any mineral and geothermal interests that are held by the holder and are to be acquired by the Secretary of the Interior under paragraph (2) shall transfer to the United States.

"(h) IDENTIFICATION OF OTHER INTERESTS.—Within 180 days after the date of the enactment of this subsection, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report—

"(1) identifying any other non-Federal property interests within the boundaries of the Monument; and

"(2) containing the recommendations of the Secretary regarding whether acquisition of any such interests may be warranted to avoid future management problems in connection with the Monument.".

SEC. 1007. OPERATION AND MAINTENANCE OF EXISTING DAMS AND WEIRS, EMIGRANT WILDERNESS, STANISLAUS NATIONAL FOREST, CALIFORNIA.

The Secretary of Agriculture shall enter into an agreement with a non-Federal entity, under which the entity will retain, maintain, and operate at private expense the 18 concrete dams and weirs located within the boundaries of the Emigrant Wilderness in the Stanislaus National Forest, California, as designated by section 2(b) of Public Law 93–632 (88 Stat. 2154; 16 U.S.C. 1132 note). The Secretary shall require the entity to operate and maintain the dams and weirs at the level of operation and maintenance that applied to such dams and weirs before January 3, 1975.

SEC. 1008. DEMONSTRATION RESOURCE MANAGEMENT PROJECT, STANISLAUS NATIONAL FOREST, CALIFORNIA, TO ENHANCE AND PROTECT THE GRANITE WATERSHED.

(a) RESOURCE MANAGEMENT CONTRACT AUTHORIZED.—The Secretary of Agriculture may enter into a contract with a single private contractor to perform multiple resource management activities on Federal lands within the Stanislaus National Forest in the State of California for the purpose of demonstrating enhanced ecosystem health and water quality, and significantly reducing the risk of catastrophic wildfire, in the Granite watershed at a reduced cost to the Government. The contract shall be for a term of five years.

(b) AUTHORIZED MANAGEMENT ACTIVITIES.—The types of resource management activities performed under the contract shall include the following:

(1) Reduction of forest fuel loads through the use of precommercial and commercial thinning and prescribed burns in the Granite watershed.

(2) Monitoring of ecosystem health and water quality in the Granite watershed.

(3) Monitoring of the presence of wildlife in the area in which management activities are performed and the effect of the activities on wildlife presence.

(4) Such other resource management activities as the Secretary considers appropriate to demonstrate enhanced ecosystem health and water quality in the Granite watershed.

(c) COMPLIANCE WITH FEDERAL LAW AND SPOTTED OWL GUIDELINES.—All resource management activities performed under the contract shall be performed in a manner consistent with applicable Federal law and the standards and guidelines for the conservation of the California spotted owl (as set forth in the California Spotted Owl Sierran Province Interim Guidelines or the subsequently issued final guidelines, whichever is in effect).

(d) FUNDING.—

(1) SOURCES OF FUNDS.—To provide funds for the resource management activities to be performed under the contract, the Secretary may use—

(A) funds appropriated to carry out this section;

(B) funds specifically provided to the Forest Service to implement projects to demonstrate enhanced water quality and protect aquatic and upland resources;

(C) excess funds that are allocated for the administration and management of the Stanislaus National Forest, California;

(D) hazardous fuels reduction funds allocated for Region 5 of the Forest Service; and

(E) a contract provision allowing the cost of performing authorized management activities described in subsection (b) to be offset by the values owed to the United States for any forest products removed by the contractor.

(2) PROHIBITION ON USE OF CERTAIN FUNDS.—Except as provided in paragraph (1), the Secretary may not carry out the contract using funds appropriated for any other unit of the National Forest System.

(3) CONDITIONS ON FUNDS TRANSFERS.—Any transfer of funds under paragraph (1) may be made only in accordance with the procedures concerning notice to, and review by, the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate that are applied by the Secretary in the case of a transfer of funds between appropriations.

(e) ACCEPTANCE AND USE OF STATE FUNDS.—The Secretary may accept and use funds provided by the State of California to assist in the implementation of the contract under this section.

(f) REPORTING REQUIREMENTS.—Not later than February 28 of each year during the term of the contract, the Secretary shall submit to Congress a report describing—

(1) the resource management activities performed under the contract during the period covered by the report;

(2) the source and amount of funds used under subsection (d) to carry out the contract; and

(3) the resource management activities to be performed under the contract during the calendar year in which the report is submitted.

(g) RELATIONSHIP TO OTHER LAWS.—Nothing in this section exempts the contract, or resource management activities to be performed under the contract, from any Federal environmental law.

SEC. 1009. EAST TEXAS BLOWDOWN-NEPA PARITY.

(a) IN GENERAL.—The Secretary of Agriculture may remove dead, downed, or severely root-sprung trees in areas described in subsection (b) in accordance with the alternative arrangements approved by the Council on Environmental Quality for National Forests and Grasslands in Texas, as set forth in a letter from the Chairman of the Council on Environmental Quality to the Deputy Chief of the National Forest System dated March 10, 1998.

(b) AREAS DESCRIBED.—The areas referred to in subsection (a) are the following:

(1) Approximately 20,000 acres of blowdown forest in the Routt National Forest, Colorado.

(2) Approximately 700 acres of blowdown forest in the Rio Grande National Forest, Colorado.

(3) Approximately 50,000 acres of bark beetle infested forest in the Dixie National Forest, Utah.

(4) Approximately 25,000 acres of insect and fuel-loading conditions on National Forest System lands in the Tahoe Basin, California.

(5) Approximately 28,000 acres of fire-damaged, dead, and dying trees in the Malheur National Forest, Oregon.

(6) Approximately 10,000 acres of gypsy moth infestation in the Allegheny National Forest, Pennsylvania.

(7) Approximately 5,000 acres of severely ice damaged forests in the White Mountain National Forest, New Hampshire, and the Green Mountain National Forest, Vermont.

(8) Approximately 10,000 acres of severe Mountain pine beetle damaged forests in the Panhandle National Forest, Nezperce National Forest, and Boise National Forest, Idaho.

(9) Approximately 10,000 acres of severely ice damaged forests in the Daniel Boone National Forest, Kentucky.

(10) Approximately 15,000 acres of fire-damaged, dead, and dying trees in the Osceola National Forest and Apalachica National Forest, Florida.

(c) OTHER FORESTS.—

(1) REQUIREMENT TO REQUEST ALTERNATIVE ARRANGEMENTS.—The Secretary of Agriculture or the Secretary of the Interior, respectively, shall promptly request the Council on Environmental Quality to approve alternative arrangements under part 1506.11 of title 40, Code of Federal Regulations, authorizing removal of dead, downed, or severely root-sprung trees on any national forest or public domain lands where premature mortality is expected as a result of catastrophic forest conditions.

(2) CONSIDERATION OF REQUESTS.—Upon receipt of a request under paragraph (1), the Council on Environmental Quality shall promptly consider and approve or disapprove the request.

(3) REGULATIONS.—The Chairman of the Council on Environmental Quality shall, by not later than 180 days after the date of the enactment of this Act, issue regulations—

(A) governing the approval of alternative arrangements under part 1506.11 of title 40, Code of Federal Regulations, pursuant to requests under paragraph (1); and

(B) establishing criteria under which those requests will be considered and approved or disapproved.

SEC. 1010. EXEMPTION FOR NOT-FOR-PROFIT ENTITIES FROM STRICT LIABILITY FOR RECOVERY OF FIRE SUPPRESSION COSTS.

Section 504(h) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1764(h)) is amended by adding at the end the following new paragraph:

"(3) In the regulations required under this subsection, the Secretary concerned may not impose liability without fault for fire suppression costs incurred by the United States with respect to a right-of-way under this title if the holder of the right-of-way is a not-for-profit entity, including a not-for-profit entity that uses the right-of-way for the delivery of electricity to parties having an equity interest in the not-for-profit entity.".

SEC. 1011. STUDY OF IMPROVED OUTDOOR RECREATIONAL ACCESS FOR PERSONS WITH DISABILITIES.

(a) STUDY REQUIRED.—The Secretary of Agriculture and the Secretary of the Interior shall jointly provide for the conduct of a study to consider ways to improve the access of persons with disabilities to outdoor recreational opportunities (such as fishing, hunting, shooting, trapping, wildlife viewing, hiking, boating, and camping) that are made available to the public on the Federal lands described in subsection (b).

(b) COVERED FEDERAL LANDS.—The Federal lands referred to in subsection (a) are the following:

(1) National Forest System lands.

(2) Units of the National Park System.

(3) Areas in the National Wildlife Refuge System.

(4) Lands administered by the Bureau of Land Management.

(c) PERFORMANCE BY INDEPENDENT ENTITY.—To conduct the study under this section, the Secretaries shall select an independent entity in the private sector that has demonstrated expertise in issues regarding improved access for persons with disabilities. The Secretaries shall consult with the National Council on Disability regarding the selection of the independent entity.

(d) REPORT ON STUDY.—Not later than 18 months after the date of the enactment of this Act, the entity conducting the study shall submit to the Secretaries and the Congress a report that sets forth the results of the study.

SEC. 1012. COMMUNICATION SITE.

(a) IN GENERAL.—The site located directly below Inspiration Point within the San Jacinto Ranger District of the San Bernardino National Forest, California, on which communications facilities are located on August 1, 1998, is hereby designated to be used for communication purposes by the persons who operate such communications facilities on such data and their successors or assigns until such time as such persons, successors, or assigns no longer require the use of such site and provide written notice to that effect to the Forest Service.

(b) LIMITATION.—Nothing in this subsection (a) shall be construed to—

(1) excuse such persons, successors, or assigns from complying with requirements of law or regulation that do not unreasonably or unduly restrict the continued use of such site;

(2) require the site to be made available to other persons for communications use or other purposes; and

(3) require dedication of the site for continued use for communications purposes after the notice referred to in subsection (a).

SEC. 1013. AMENDMENT OF THE OUTER CONTINENTAL SHELF LANDS ACT.

Section 8(k)(2)(B) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(k)(2)(B)) is amended by striking "an agency of the Federal Government" and inserting "a Federal, State, or local government agency".

SEC. 1014. LEASING OF CERTAIN RESERVED MINERAL INTERESTS.

(a) APPLICATION OF MINERAL LEASING ACT.—Notwithstanding the provisions of section 4 of the 1964 Public Land Sale Act (P.L. 88-608, 78 Stat. 988), the Federal reserved mineral interests in lands conveyed under that Act by United States land patents No. 49-71-0059 and No. 49-71-0065 shall be subject to the operation of the Mineral Leasing Act (30 U.S.C. 181 et seq.).

(b) ENTRY.—Any person who acquires any lease under the Mineral Leasing Act for the interests referred to in subsection (a) may exercise the right to enter reserved to the United States and persons authorized by the United States in the patents conveying the lands described in subsection (a) by occupying so much of the surface thereof as may be required for all purposes reasonably incident to the exploration for, and extraction and removal of, the leased minerals by either of the following means:

(1) By securing the written consent or waiver of the patentee.

(2) In the absence of such consent or waiver, by posting a bond or other financial guarantee with the Secretary of the Interior in an amount sufficient to insure—

(A) the completion of reclamation pursuant to the Secretary's requirements under the Mineral Leasing Act, and

(B) the payment to the surface owner for—

(i) any damages to crops and tangible improvements of the surface owner that result from activities under the mineral lease, and

(ii) any permanent loss of income to the surface owner due to loss or impairment of grazing use, or of other uses of the land by the surface owner at the time of commencement of activities under the mineral lease.

(c) LANDS COVERED BY PATENT NO. 49-71-0065.—In the case of the lands in United States patent No. 49-71-0065, the preceding provisions of this section take effect January 1, 1997.

SEC. 1015. OIL AND GAS WELLS IN WAYNE NATIONAL FOREST, OHIO.

(a) AUTHORITY.—The Secretary of the Interior may enter into noncompetitive oil and gas production and reclamation contracts in accordance with this section with operators of wells in the Wayne National Forest in the State of Ohio who meet the criteria of section 17(b)(3)(A) of the Act of February 25, 1920 (30 U.S.C. 226(b)(3)(A)) pursuant to private land mineral leases which were in effect on and after the date of the enactment of this section, subject to the same laws and regulations that applied to those private land mineral leases.

(b) ADDITIONAL DRILLING.—No contract under this section may authorize deeper completions or additional drilling.

(c) BONDING.—

(1) WAIVER OF FEDERAL BONDING.—Each contract under this section shall require the contractor to provide a Federal oil and gas bond to ensure complete and timely reclamation of the former lease tract in accordance with the regulations of the Bureau of Land Management and the Forest Service, unless the Secretary of the Interior accepts in lieu thereof assurances from the Ohio Department of Natural Resources, Division of Oil and Gas, that—

(A) the contractor has duly satisfied the bonding requirements of the State of Ohio; and following inspection of operator performance, the Ohio Department of Natural Resources is not opposed to such waiver of Federal bonding requirements;

(B) the United States of America is entitled to apply for and receive funding under the provision of section 1509.071 of the Ohio Revised Code so as to properly plug and restore oil and gas sites and lease tracts; and

(C) during the 2 years prior to the date on which the contract is entered into no less than 20 percent of Ohio State severance tax revenues has been allocated to the State of Ohio Orphan Well Fund.

(2) CONTINUED COMPLIANCE WITH 20 PERCENT REQUIREMENT.—In entering into any contract under this section, the Secretary of the Interior shall reserve the right to require the contractor to comply with all Federal oil and gas bonding requirements applicable to Federal oil and gas leases under the regulations of the Bureau of Land Management and the Forest Service whenever the Secretary finds that less than 20 percent of Ohio State severance tax revenues has been allocated to the State of Ohio Orphan Well Fund.

SEC. 1016. MEMORIAL TO MR. BENJAMIN BANNEKER IN THE DISTRICT OF COLUMBIA.

(a) MEMORIAL AUTHORIZED.—The Washington Interdependence Council of the District of Columbia is authorized to establish a memorial in the District of Columbia to honor and commemorate the accomplishments of Mr. Benjamin Banneker.

(b) COMPLIANCE WITH STANDARDS FOR COMMEMORATIVE WORKS.—The establishment of the memorial shall be in accordance with the Commemorative Works Act (40 U.S.C. 1001 et seq.).

(c) PAYMENT OF EXPENSES.—The Washington Interdependence Council shall be solely responsible for acceptance of contributions for, and payment of the expenses of, the establishment of the memorial. No Federal funds may be used to pay any expense of the establishment of the memorial.

(d) DEPOSIT OF EXCESS FUNDS.—If, upon payment of all expenses of the establishment of the memorial (including the maintenance and preservation amount required under section 8(b) of the Commemorative Works Act (40 U.S.C. 1008(b))), or upon expiration of the authority for the memorial under section 10(b) of such Act (40 U.S.C. 1010(b)), there remains a balance of funds received for the establishment of the memorial, the Washington Interdependence Council shall transmit the amount of the balance to the Secretary of the Treasury for deposit in the account provided for in section 8(b)(1) of such Act (40 U.S.C. 1008(b)(1)).

TITLE XI—AMENDMENTS AND TECHNICAL CORRECTIONS TO 1996 OMNIBUS PARKS ACT

SEC. 1100. REFERENCE TO OMNIBUS PARKS AND PUBLIC LANDS MANAGEMENT ACT OF 1996.

In this title, the term “Omnibus Parks Act” means the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104–333; 110 Stat. 4093).

Subtitle A—Technical Corrections to the Omnibus Parks Act

SEC. 1101. PRESIDIO OF SAN FRANCISCO.

Title I of division I of the Omnibus Parks Act (16 U.S.C. 460bb note) is amended as follows:

(1) In section 101(2) (110 Stat. 4097), by striking “the Presidio is” and inserting “the Presidio was”.

(2) In section 103(b)(1) (110 Stat. 4099), by striking “other lands administrated by the Secretary.” in the last sentence and inserting “other lands administered by the Secretary.”.

(3) In section 105(a)(2) (110 Stat. 4104), by striking “in accordance with section 104(h) of this title.” and inserting “in accordance with section 104(i) of this title.”.

SEC. 1102. COLONIAL NATIONAL HISTORICAL PARK.

Section 211(d) of division I of the Omnibus Parks Act (110 Stat. 4110; 16 U.S.C. 81p) is amended by striking “depicted on the map dated August 1993, numbered 333/80031A,” and inserting “depicted on the map dated August 1996, numbered 333/80331B,”.

SEC. 1103. MERCED IRRIGATION DISTRICT.

Section 218(a) of division I of the Omnibus Parks Act (110 Stat. 4113) is amended by striking “this Act” and inserting “this section”.

SEC. 1104. BIG THICKET NATIONAL PRESERVE.

Section 306 of division I of the Omnibus Parks Act (110 Stat. 4132; 16 U.S.C. 698 note) is amended as follows:

(1) In subsection (d), by striking “until the earlier of the consummation of the exchange of July 1, 1998,” and inserting “until the earlier of the consummation of the exchange or July 1, 1998,”.

(2) In subsection (f)(2), by striking “Menard Creek” and inserting “the Mendard Creek”.

(3) In subsection (g), by striking “Menard Creek” and inserting “Mendard Creek”.

SEC. 1105. KENAI NATIVES ASSOCIATION LAND EXCHANGE.

Section 311 of division I of the Omnibus Parks Act (110 Stat. 4139) is amended as follows:

(1) In subsection (d)(2)(B)(ii), by striking “W, Seward Meridian” and inserting “W., Seward Meridian”.

(2) In subsection (f)(1), by striking “to be know” and inserting “to be known”.

SEC. 1106. LAMPREY WILD AND SCENIC RIVER.

(a) TECHNICAL CORRECTION.—Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C 1274(a)), as amended by section 405(a) of division I of the Omnibus Parks Act (110 Stat. 4149), is amended in the second sentence of the unnumbered paragraph relating to the Lamprey River, New Hampshire, by striking “through cooperation agreements” and inserting “through cooperative agreements”.

(b) CROSS REFERENCE.—Section 405(b)(1) of division I of the Omnibus Parks Act (110 Stat. 4149; 16 U.S.C. 1274 note) is amended by striking “this Act” and inserting “the Wild and Scenic Rivers Act”.

SEC. 1107. VANCOUVER NATIONAL HISTORIC RESERVE.

Section 502(a) of division I of the Omnibus Parks Act (110 Stat. 4154; 16 U.S.C. 461 note) is amended by striking “by the Vancouver Historical Assessment’ published”.

SEC. 1108. MEMORIAL TO MARTIN LUTHER KING, JR.

Section 508 of division I of the Omnibus Parks Act (110 Stat. 4157, 40 U.S.C. 1003 note) is amended as follows:

(1) In subsection (a), by striking “of 1986” and inserting “(40 U.S.C. 1001 et seq.)”;.

(2) In subsection (b), by striking “the Act” and all that follows through “1986” and inserting “the Commemorative Works Act”.

(3) In subsection (d), by striking “the Act referred to in section 4401(b))” and inserting “the Commemorative Works Act)”.

SEC. 1109. ADVISORY COUNCIL ON HISTORIC PRESERVATION.

The first sentence of section 205(g) of the National Historic Preservation Act (16 U.S.C. 470m(g)), as amended by section 509(c) of division I of the Omnibus Parks Act (110 Stat. 4157), is amended by striking “for the purpose.” and inserting “for that purpose.”.

SEC. 1110. GREAT FALLS HISTORIC DISTRICT, NEW JERSEY.

Section 510(a)(1) of division I of the Omnibus Parks Act (110 Stat. 4158; 16 U.S.C. 461 note) is amended by striking “the contribution of our national heritage” and inserting “the contribution to our national heritage”.

SEC. 1111. NEW BEDFORD WHALING NATIONAL HISTORICAL PARK.

(a) Section 511 of division I of the Omnibus Parks Act (110 Stat. 4159; 16 U.S.C. 410ddd) is amended as follows:

(1) In the section heading, by striking “**NATIONAL HISTORIC LANDMARK DISTRICT**” and inserting “**WHALING NATIONAL HISTORICAL PARK**”.

(2) In subsection (c)—

(A) in paragraph (1), by striking “certain districts structures, and relics” and inserting “certain districts, structures, and relics”; and

(B) in paragraph (2)(A)(i), by striking “The area included with the New Bedford National Historic Landmark District, known as the” and inserting “The area included within the New Bedford Historic District (a National Landmark District), also known as the”.

(3) In subsection (d)(2), by striking “to provide”.

(4) By redesignating the second subsection (e) and subsection (f) as subsections (f) and (g), respectively.

(5) In subsection (g), as so redesignated—

(A) in paragraph (1), by striking “section 3(D).” and inserting “subsection (d).”; and

(B) in paragraph (2)(C), by striking “cooperative grants under subsection (d)(2).” and inserting “cooperative agreements under subsection (e)(2).”.

SEC. 1112. NICODEMUS NATIONAL HISTORIC SITE.

Section 512(a)(1)(B) of division I of the Omnibus Parks Act (110 Stat. 4163; 16 U.S.C. 461 note) is amended by striking “Afican-Americans” and inserting “African-Americans”.

SEC. 1113. UNALASKA.

Section 513(c) of division I of the Omnibus Parks Act (110 Stat. 4165; 16 U.S.C. 461 note) is amended by striking “whall be comprised” and inserting “shall be comprised”.

SEC. 1114. REVOLUTIONARY WAR AND WAR OF 1812 HISTORIC PRESERVATION STUDY.

Section 603(d)(2) of division I of the Omnibus Parks Act (110 Stat. 4172; 16 U.S.C. 1a–5 note) is amended by striking "subsection (b) shall—" and inserting "paragraph (1) shall—".

SEC. 1115. SHENANDOAH VALLEY BATTLEFIELDS.

Section 606 of division I of the Omnibus Parks Act (110 Stat. 4175; 16 U.S.C. 461 note) is amended as follows:

(1) In subsection (d)—

(A) in paragraph (1), by striking "section 5." and inserting "subsection (e).";

(B) in paragraph (2), by striking "section 9." and inserting "subsection (h)."; and

(C) in paragraph (3), by striking "Commission plan approved by the Secretary under section 6." and inserting "plan developed and approved under subsection (f).".

(2) In subsection (f)(1), by striking "this Act" and inserting "this section".

(3) In subsection (g)—

(A) in paragraph (3), by striking "purposes of this Act" and inserting "purposes of this section"; and

(B) in paragraph (5), by striking "section 9." and inserting "subsection (i).".

(4) In subsection (h)(12), by striking "this Act" and inserting "this section".

SEC. 1116. WASHITA BATTLEFIELD.

Section 607 of division I of the Omnibus Parks Act (110 Stat. 4181; 16 U.S.C. 461 note) is amended—

(1) in subsection (c)(3), by striking "this Act" and inserting "this section"; and

(2) in subsection (d)(2), by striking "local land owners" and inserting "local landowners".

SEC. 1117. SKI AREA PERMIT RENTAL CHARGE.

Section 701 of division I of the Omnibus Parks Act (110 Stat 4182; 16 U.S.C. 497c) is amended as follows:

(1) In subsection (b)(3), by striking "legislated by this Act" and inserting "required by this section".

(2) In subsection (d)—

(A) in the matter preceding paragraph (1), by striking "formula of this Act" and inserting "formula of this section";

(B) in paragraphs (1), (2), and (3), by striking "this Act" each place it appears and inserting "this section"; and

(C) in the sentence below paragraph (3)—

(i) by inserting "adjusted gross revenue for the" before "1994–1995 base year"; and

(ii) by striking "this Act" and inserting "this section".

(3) In subsection (f)—

(A) by striking "sublessees" and inserting "subpermittees"; and

(B) by inserting inside the parenthesis "offered for commercial or other promotional purposes" after "complimentary lift tickets".

(4) In subsection (i), by striking "this Act" and inserting "this section".

SEC. 1118. GLACIER BAY NATIONAL PARK.

Section 3 of Public Law 91–383 (16 U.S.C. 1a–2), as amended by section 703 of division I of the Omnibus Parks Act (110 Stat. 4185), is amended as follows:

(1) In subsection (g), by striking "bearing the cost of such exhibits and demonstrations;" and inserting "bearing the cost of such exhibits and demonstrations.".

(2) By capitalizing the first letter of the first word in each of the subsections (a) through (i).

(3) By striking the semicolon at the end of each of the subsections (a) through (f) and at the end of subsection (h) and inserting a period.

(4) In subsection (i), by striking "; and" and inserting a period.

(5) By conforming the margins of subsection (j) with the margins of the preceding subsections.

SEC. 1119. ROBERT J. LAGOMARSINO VISITOR CENTER.

Section 809(b) of division I of the Omnibus Parks Act (110 Stat. 4189; 16 U.S.C. 410ff note) is amended by striking "section 301" and inserting "subsection (a)".

SEC. 1120. NATIONAL PARK SERVICE ADMINISTRATIVE REFORM.

(a) Technical Corrections.—Section 814 of division I of the Omnibus Parks Act (110 Stat. 4190) is amended as follows:

(1) In subsection (a) (16 U.S.C. 17o note)—

(A) in paragraph (6), by striking "this Act" and inserting "this section";

(B) in paragraph (7)(B), by striking "Comptetitive leasing.—" and inserting "Competitive leasing.—";

(C) in paragraph (9), by striking "granted by statue" and inserting "granted by statute";

(D) in paragraph (11)(B)(ii), by striking "more cost effective" and inserting "more cost-effective";

(E) in paragraph (13), by striking "paragraph (13)," and inserting "paragraph (12),"; and

(F) in paragraph (18), by striking "under paragraph (7)(A)(i)(I), any lease under paragraph (11)(B), and any lease of seasonal quarters under subsection (l)," and inserting "under paragraph (7)(A) and any lease under paragraph (11)".

(2) In subsection (d)(2)(E), by striking "is amended".

(b) Change to Plural.—Section 7(c)(2) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–9(c)(2)), as added by section 814(b) of the Omnibus Parks Act (110 Stat. 4194), is amended as follows:

(1) In subparagraph (C), by striking "lands, water, and interest therein" and inserting "lands, waters, and interests therein".

(2) In subparagraph (F), by striking "lands, water, or interests therein, or a portion of whose lands, water, or interests therein," and inserting "lands, waters, or interests therein, or a portion of whose lands, waters, or interests therein,".

SEC. 1121. BLACKSTONE RIVER VALLEY NATIONAL HERITAGE CORRIDOR.

Section 6(d)(2) of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99–647; 16 U.S.C. 461 note), as added by section 901(c) of division I of the Omnibus Parks Act (110 Stat. 4202), is amended by striking "may be made in the approval plan" and inserting "may be made in the approved plan".

SEC. 1122. TALLGRASS PRAIRIE NATIONAL PRESERVE.

Subtitle A of title X of division I of the Omnibus Parks Act is amended as follows:

(1) In section 1002(a)(4)(A) (110 Stat. 4204; 16 U.S.C. 689u(a)(4)(A)), by striking "to purchase" and inserting "to acquire".

(2) In section 1004(b) (110 Stat. 4205; 16 U.S.C. 689u–2(b)), by striking "of June 3, 1994," and inserting "on June 3, 1994,".

(3) In section 1005 (110 Stat. 4205; 16 U.S.C. 689u–3)—

(A) in subsection (d)(1), by striking "this Act" and inserting "this subtitle"; and

(B) in subsection (g)(3)(A), by striking "the tall grass prairie" and inserting "the tallgrass prairie".

SEC. 1123. RECREATION LAKES.

(a) Technical Corrections.—Section 1021(a) of division I of the Omnibus Parks Act (110 Stat. 4210; 16 U.S.C. 460l–10e note) is amended as follows:

(1) By striking "manmade lakes" both places it appears and inserting "man-made lakes".

(2) By striking "for recreational opportunities at federally-managed" and inserting "for recreational opportunities at federally managed".

(b) Advisory Commission.—Section 13 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–10e), as added by section 1021(b) of the Omnibus Parks Act (110 Stat. 4210), is amended as follows:

(1) In subsection (b)(6), by striking "recreation related infrastructure." and inserting "recreation-related infrastructure.".

(2) In subsection (e)—

(A) by striking "water related recreation" in the first sentence and inserting "water-related recreation";

(B) in paragraph (2), by striking "at federally-managed lakes" and inserting "at federally managed lakes"; and

(C) by striking "manmade lakes" each place it appears and inserting "man-made lakes".

SEC. 1124. FOSSIL FOREST PROTECTION.

Section 103 of the San Juan Basin Wilderness Protection Act of 1984 (43 U.S.C. 178), as amended by section 1022(e) of the Omnibus Parks Act (110 Stat. 4213), is amended as follows:

(1) In subsections (b)(1) and (e)(1), by striking "Committee on Natural Resources" and inserting "Committee on Resources".

(2) In subsection (e)(1), by striking "this Act" and inserting "this subsection".

SEC. 1125. OPAL CREEK WILDERNESS AND SCENIC RECREATION AREA.

Section 1023(c)(1)(A) of division I of the Omnibus Parks Act (110 Stat. 4215; 16 U.S.C. 545b(c)(1)(A)) is amended by striking "of 1964".

SEC. 1126. BOSTON HARBOR ISLANDS NATIONAL RECREATION AREA.

Section 1029 of division I of the Omnibus Parks Act (110 Stat. 4232; 16 U.S.C. 460kkk) is amended as follows:

(1) In the section heading, by striking "**RECREATION AREA**" and inserting "**NATIONAL RECREATION AREA**".

(2) In subsection (e)(3)(B), by striking "subsections (b) (3), (4), (5), (6), (7), (8), (9), and (10)." and inserting "subparagraphs (C), (D), (E), (F), (G), (H), (I), and (J) of paragraph (2).".

(3) In subsection (f)(2)(A)(i), by striking "profit sector roles" and inserting "private-sector roles".

(4) In subsection (g)(1), by striking "and revenue raising activities." and inserting "and revenue-raising activities.".

SEC. 1127. NATCHEZ NATIONAL HISTORICAL PARK.

Section 3(b)(1) of Public Law 100–479 (16 U.S.C. 410oo–2(b)(1)), as added by section 1030 of the Omnibus Parks Act (110 Stat. 4238), is amended by striking "and visitors' center" and inserting "and visitor center".

SEC. 1128. REGULATION OF FISHING IN CERTAIN WATERS OF ALASKA.

Section 1035 of division I of the Omnibus Parks Act (110 Stat. 2240) is amended as follows:

(1) In the section heading, by striking "**REGULATIONS**" and inserting "**REGULATION**".

(2) In subsection (c), by striking "this Act" and inserting "this section".

SEC. 1129. NATIONAL COAL HERITAGE AREA.

Title I of division II of the Omnibus Parks Act (16 U.S.C. 461 note) is amended as follows:

(1) In section 104(4) (110 Stat. 4244), by striking "history preservation" and inserting "historic preservation".

(2) In section 105 (110 Stat. 4244), by striking "paragraphs (2) and (5) of section 104" and inserting "paragraph (2) of section 104".

(3) In section 106(a)(3) (110 Stat. 4244), by striking "or Secretary" and inserting "or the Secretary".

SEC. 1130. TENNESSEE CIVIL WAR HERITAGE AREA.

Title II of division II of the Omnibus Parks Act (16 U.S.C. 461 note) is amended as follows:

(1) In section 201(b)(4) (110 Stat. 4245), by striking "and associated sites associated" and insert "and sites associated".

(2) In section 207(a) (110 Stat. 4248), by striking "as provide for" and inserting "as provided for".

SEC. 1131. AUGUSTA CANAL NATIONAL HERITAGE AREA.

Section 301(1) of division II of the Omnibus Parks Act (110 Stat. 4249; 16 U.S.C. 461 note) is amended by striking "National Historic Register of Historic Places," and inserting "National Register of Historic Places,".

SEC. 1132. ESSEX NATIONAL HERITAGE AREA.

Section 501(8) of division II of the Omnibus Parks Act (110 Stat. 4257; 16 U.S.C. 461 note) is amended by striking "a visitors' center" and inserting "a visitor center".

SEC. 1133. OHIO & ERIE CANAL NATIONAL HERITAGE CORRIDOR.

Title VIII of division II of the Omnibus Parks Act (16 U.S.C. 461 note) is amended as follows:

(1) In section 805(b)(2) (110 Stat. 4269), by striking "One individuals," and inserting "One individual,".

(2) In section 808(a)(3)(A) (110 Stat. 4279), by striking "from the Committee." and inserting "from the Committee,".

Subtitle B—Other Amendments to Omnibus Parks Act

SEC. 1151. BLACK REVOLUTIONARY WAR PATRIOTS MEMORIAL EXTENSION.

Section 506 of division I of the Omnibus Parks Act (40 U.S.C. 1003 note; 110 Stat. 4155) is amended by striking "October 27, 1998" and inserting "October 27, 2003".

TITLE XII—DUTCH JOHN FEDERAL PROPERTY DISPOSITION AND ASSISTANCE

SEC. 1201. SHORT TITLE.

This title may be cited as the "Dutch John Federal Property Disposition and Assistance Act of 1998".

SEC. 1202. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1)(A) Dutch John, Utah, was founded by the Secretary of the Interior in 1958 on Bureau of Reclamation land as a community to house personnel, administrative offices, and equipment for project construction and operation of the Flaming Gorge Dam and Reservoir as authorized by the Act of April 11, 1956 (70 Stat. 105, chapter 203; 43 U.S.C. 620 et seq.); and

(B) permanent structures (including houses, administrative offices, equipment storage and maintenance buildings, and other public buildings and facilities) were constructed and continue to be owned and maintained by the Secretary of the Interior;

(2)(A) Bureau of Reclamation land surrounding the Flaming Gorge Reservoir (including the Dutch John community) was included within the boundaries of the Flaming Gorge National Recreation Area in 1968 under Public Law 90-540 (16 U.S.C. 460v et seq.);

(B) Public Law 90-540 assigned responsibility for administration, protection, and development of the Flaming Gorge National Recreation Area to the Secretary of Agriculture and provided that lands and waters needed or used for the Colorado River Storage Project would continue to be administered by the Secretary of the Interior; and

(C) most structures within the Dutch John community (including the schools and public buildings within the community) occupy lands administered by the Secretary of Agriculture;

(3)(A) the Secretary of Agriculture and the Secretary of the Interior are unnecessarily burdened with the cost of continuing to provide basic services and facilities and building maintenance and with the administrative costs of operating the Dutch John community; and

(B) certain structures and lands are no longer essential to management of the Colorado River Storage Project or to management of the Flaming Gorge National Recreation Area;

(4)(A) residents of the community are interested in purchasing the homes they currently rent from the Secretary of the Interior and the land on which the homes are located;

(B) Daggett County, Utah, is interested in reducing the financial burden the County experiences in providing local government support services to a community that produces little direct tax revenue because of Federal ownership; and

(C) a withdrawal of the role of the Federal Government in providing basic direct community services to Dutch John would require local government to provide the services at a substantial cost;

(5)(A) residents of the Dutch John community are interested in self-government of the community; and

(B) with growing demands for additional commercial recreation services for visitors to the Flaming Gorge National Recreation Area and Ashley National Forest, there are opportunities for private economic development, but few private lands are available for the services; and

(6) the privatization and disposal to local government of certain lands in and surrounding Dutch John would be in the public interest.

(b) PURPOSES.—The purposes of this title are—

(1) to privatize certain lands in and surrounding Dutch John, Utah;

(2) to transfer jurisdiction of certain Federal property between the Secretary of Agriculture and the Secretary of the Interior;

(3) to improve the Flaming Gorge National Recreation Area;

(4) to dispose of certain residential units, public buildings, and facilities;

(5) to provide interim financial assistance to local government to defray the cost of providing basic governmental services;

(6) to achieve efficiencies in operation of the Flaming Gorge Dam and Reservoir and the Flaming Gorge National Recreation Area;

(7) to reduce long-term Federal outlays; and

(8) to serve the interests of the residents of Dutch John and Daggett County, Utah, and the general public.

SEC. 1203. DEFINITIONS.

In this title:

(1) SECRETARY OF AGRICULTURE.—The term "Secretary of Agriculture" means the Secretary of Agriculture, acting through the Chief of the Forest Service.

(2) SECRETARY OF THE INTERIOR.—The term "Secretary of the Interior" means the Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation.

SEC. 1204. DISPOSITION OF CERTAIN LANDS AND PROPERTIES.

(a) IN GENERAL.—Lands, structures, and community infrastructure facilities within or associated with Dutch John, Utah, that have been identified by the Secretary of Agriculture or the Secretary of the Interior as unnecessary for support of the agency of the respective Secretary shall be transferred or disposed of in accordance with this title.

(b) LAND DESCRIPTION.—Except as provided in subsection (e), the Secretary of Agriculture and the Secretary of the Interior shall dispose of (in accordance with this title) approximately 2,450 acres within or associated with the Dutch John, Utah, community in the NW¼ NW¼, S½ NW¼, and S½ of Section 1, the S½ of Section 2, 10 acres more or less within the NE¼ SW¼ of Section 3, Sections 11 and 12, the N½ of Section 13, and the E½ NE¼ of Section 14 of Township 2 North, Range 22 East, Salt Lake Base and Meridian, that have been determined to be available for transfer by the Secretary of Agriculture and the Secretary of the Interior, respectively.

(c) INFRASTRUCTURE FACILITIES AND LAND.—Except as provided in subsection (e), the Secretary of the Interior shall dispose of (in accordance with this title) community infrastructure facilities and land that have been determined to be available for transfer by the Secretary of the Interior, including the following:

(1) The fire station, sewer systems, sewage lagoons, water systems (except as provided in subsection (e)(3)), old post office, electrical and natural gas distribution systems, hospital building, streets, street lighting, alleys, sidewalks, parks, and community buildings located within or serving Dutch John, including fixtures, equipment, land, easements, rights-of-way, or other property primarily used for the operation, maintenance, replacement, or repair of a facility referred to in this paragraph.

(2) The Dutch John Airport, comprising approximately 25 acres, including runways, roads, rights-of-way, and appurtenances to the Airport, subject to such monitoring and remedial action by the United States as is necessary.

(3) The lands on which are located the Dutch John public schools, which comprise approximately 10 acres.

(d) OTHER PROPERTIES AND FACILITIES.—The Secretary of Agriculture and the Secretary of the Interior shall dispose of (in accordance with this title) the other properties and facilities that have been determined to be available for transfer or disposal by the Secretary of Agriculture and the Secretary of the Interior, respectively, including the following:

(1) Certain residential units occupied on the date of enactment of this Act, as determined by the Secretary of the Interior.

(2) Certain residential units unoccupied on the date of enactment of this Act, as determined by the Secretary of the Interior.

(3) Lots within the Dutch John community that are occupied on the date of enactment of this Act by privately owned modular homes under lease agreements with the Secretary of the Interior.

(4) Unoccupied platted lots within the Dutch John community.

(5) The land, comprising approximately 3.8 acres, on which is located the Church of Jesus Christ of Latter Day Saints, within Block 9, of the Dutch John community.

(6) The lands for which special use permits, easements, or rights-of-way for commercial uses have been issued by the Forest Service.

(7) The lands on which are located the offices, 3 employee residences, warehouses, and facilities of the Utah Division of Wildlife Resources, as described in the survey required under section 1207, including yards and land defined by fences in existence on the date of enactment of this Act.

(8) The Dutch John landfill site, subject to such monitoring and remedial action by the United States as is necessary, with responsibility for monitoring and remediation being shared by the Secretary of Agriculture and the Secretary of the Interior proportionate to their historical use of the site.

(9) Such fixtures and furnishing in existence and in place on the date of enactment of this Act as are mutually determined by Daggett County, the Secretary of Agriculture, and the Secretary of the Interior to be necessary for the full use of properties or facilities disposed of under this title.

(10) Such other properties or facilities at Dutch John that the Secretary of Agriculture or the Secretary of the Interior determines are not necessary to achieve the mission of the respective Secretary and the disposal of which would be consistent with this title.

(e) RETAINED PROPERTIES.—Except to the extent the following properties are determined by the Secretary of Agriculture or the Secretary of the Interior to be available for disposal, the Secretary of Agriculture and the Secretary of the Interior shall retain for their respective use the following:

(1) All buildings and improvements located within the industrial complex of the Bureau of Reclamation, including the maintenance shop, 40 industrial garages, 2 warehouses, the equipment storage building, the flammable equipment storage building, the hazardous waste storage facility, and the property on which the buildings and improvements are located.

(2) 17 residences under the jurisdiction of the Secretary of the Interior and the Secretary of Agriculture, of which—

(A) 15 residences shall remain under the jurisdiction of the Secretary of the Interior; and

(B) 2 residences shall remain under the jurisdiction of the Secretary of Agriculture.

(3) The Dutch John water system raw water supply line and return line between the power plant and the water treatment plant, pumps and pumping equipment, and any appurtenances and rights-of-way to the line and other facilities, with the retained facilities to be operated and maintained by the United States with pumping costs and operation and maintenance costs of the pumps to be included as a cost to Daggett County in a water service contract.

(4) The heliport and associated real estate, consisting of approximately 20 acres, which shall remain under the jurisdiction of the Secretary of Agriculture.

(5) The Forest Service warehouse complex and associated real estate, consisting of approximately 2 acres, which shall remain under the jurisdiction of the Secretary of Agriculture.

(6) The Forest Service office complex and associated real estate, which shall remain under the jurisdiction of the Secretary of Agriculture.

(7) The United States Post Office, pursuant to Forest Service Special Use Permit No. 1073, which shall be transferred to the jurisdiction of the United States Postal Service pursuant to section 1206(d).

SEC. 1205. REVOCATION OF WITHDRAWALS.

In the case of lands and properties transferred under section 1204, effective on the date of transfer to the Secretary of the Interior (if applicable) or conveyance by quitclaim deed out of Federal ownership, authorization for each of the following withdrawals is revoked:

(1) The Public Water Reserve No. 16, Utah No. 7, dated March 9, 1914.

(2) The Secretary of the Interior Order dated October 20, 1952.

(3) The Secretary of the Interior Order dated July 2, 1956, No. 71676.

(4) The Flaming Gorge National Recreation Area, dated October 1, 1968, established under Public Law 90-540 (16 U.S.C. 460v et seq.), as to lands described in section 1204(b).

(5) The Dutch John Administrative Site, dated December 12, 1951 (PLO 769, U–0611).

SEC. 1206. TRANSFERS OF JURISDICTION.

(a) TRANSFERS FROM THE SECRETARY OF AGRICULTURE.—Except for properties retained under section 1204(e), all lands designated under section 1204 for disposal shall be—

(1) transferred from the jurisdiction of the Secretary of Agriculture to the Secretary of the Interior and, if appropriate, the United States Postal Service; and

(2) removed from inclusion in the Ashley National Forest and the Flaming Gorge National Recreation Area.

(b) EXCHANGE OF JURISDICTION BETWEEN INTERIOR AND AGRICULTURE.—

(1) TRANSFER TO SECRETARY OF AGRICULTURE.—The Secretary of the Interior shall transfer to the Secretary of Agriculture administrative jurisdiction over certain lands and interests in lands, consisting of approximately 2,167 acres in Duchesne and Wasatch Counties, Utah, which were acquired by the Secretary of the Interior for the Central Utah Project, as depicted on the following maps:

(A) The map entitled "The Dutch John Townsite, Ashley National Forest, Lower Stillwater", dated February 1997.

(B) The map entitled "The Dutch John Townsite, Ashley National Forest, Red Hollow (Diamond Properties)", dated February 1997.

(C) The map entitled "The Dutch John Townsite, Ashley National Forest, Coal Hollow (Current Creek Reservoir)", dated February 1997.

(2) TRANSFER TO SECRETARY OF THE INTERIOR.—The Secretary of Agriculture shall transfer to the Secretary of the Interior administrative jurisdiction over certain lands and interests in lands, consisting of approximately 2,450 acres in the Ashley National Forest, as depicted on the map entitled "Ashley National Forest, Lands to be Transferred to the Bureau of Reclamation (BOR) from the Forest Service", dated February 1997.

(3) EFFECT OF EXCHANGE.—

(A) NATIONAL FORESTS.—The lands and interests in land transferred to the Secretary of Agriculture under paragraph (1) shall become part of the Ashley or Uinta National Forest, as appropriate. The boundaries of each of the National Forests are hereby adjusted as appropriate to reflect the transfers of administrative jurisdiction.

(B) MANAGEMENT.—The Secretary of Agriculture shall manage the lands and interests in land transferred to the Secretary of Agriculture under paragraph (1) in accordance with the Act of March 1, 1911 (commonly known as the "Weeks Law") (36 Stat. 962, chapter 186; 16 U.S.C. 515 et seq.), and other laws (including rules and regulations) applicable to the National Forest System.

(C) WILDLIFE MITIGATION.—As of the date of the transfer under paragraph (1), the wildlife mitigation requirements of section 8 of the Act of April 11, 1956 (43 U.S.C. 620g), shall be deemed to be met.

(D) ADJUSTMENT OF BOUNDARIES.—This paragraph does not limit the authority of the Secretary of Agriculture to adjust the boundaries of the Ashley or Uinta National Forest pursuant to section 11 of the Act of March 1, 1911 (commonly known as the "Weeks Law") (36 Stat. 963, chapter 186; 16 U.S.C. 521).

(4) LAND AND WATER CONSERVATION FUND.—For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–9), the boundaries of the Ashley and Uinta National Forests, as adjusted under this section, shall be considered to be the boundaries of the Forests as of January 1, 1965.

(c) FEDERAL IMPROVEMENTS.—The Secretary of the Interior shall transfer to the Secretary of Agriculture jurisdiction over Federal improvements on the lands transferred to the Secretary of Agriculture under this section.

(d) TRANSFER TO UNITED STATES POSTAL SERVICE.—The Secretary of Agriculture shall transfer to the United States Postal Service administrative jurisdiction over certain lands and interests in land subject to Forest Service Special Use Permit No. 1073, containing approximately 0.34 acres.

(e) WITHDRAWALS.—Notwithstanding subsection (a), lands retained by the Federal Government under this title shall continue to be withdrawn from mineral entry under the United States mining laws.

SEC. 1207. SURVEYS.

The Secretary of the Interior shall survey or resurvey all or portions of the Dutch John community as necessary—

(1) to accurately describe parcels identified under this title for transfer among agencies, for Federal disposal, or for retention by the United States; and

(2) to facilitate future recordation of title.

SEC. 1208. PLANNING.

(a) RESPONSIBILITY.—In cooperation with the residents of Dutch John, the Secretary of Agriculture, and the Secretary of the Interior, Daggett County, Utah, shall be responsible for developing a land use plan that is consistent with maintenance of the values of the land that is adjacent to land that remains under the jurisdiction of the Secretary of Agriculture or Secretary of the Interior under this title.

(b) COOPERATION.—The Secretary of Agriculture and the Secretary of the Interior shall cooperate with Daggett County in ensuring that disposal processes are consistent with the land use plan developed under subsection (a) and with this title.

SEC. 1209. APPRAISALS.

(a) REQUIREMENTS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior shall conduct appraisals to determine the fair market value of properties designated for disposal under paragraphs (1), (2), (3), (5), and (7) of section 1204(d).

(2) UNOCCUPIED PLATTED LOTS.—Not later than 90 days after the date of receipt by the Secretary of the Interior from an eligible purchaser of a written notice of intent to purchase an unoccupied platted lot referred to in section 1204(d)(4), the Secretary of the Interior shall conduct an appraisal of the lot.

(3) SPECIAL USE PERMITS.—

(A) IN GENERAL.—Not later than 90 days after the date of receipt by the Secretary of the Interior from a permit holder of a written notice of intent to purchase a property described in section 1210(g), the Secretary of the Interior shall conduct an appraisal of the property.

(B) IMPROVEMENTS AND ALTERNATIVE LAND.—An appraisal to carry out subparagraph (A) may include an appraisal of the value of permit holder improvements and alternative land in order to conduct an in-lieu land sale.

(4) OCCUPIED PARCELS.—In the case of an occupied parcel, an appraisal under this subsection shall include an appraisal of the full fee value of the occupied lot or land parcel and the value of residences, structures, facilities, and existing, in-place federally owned fixtures and furnishings necessary for full use of the property.

(5) UNOCCUPIED PARCELS.—In the case of an unoccupied parcel, an appraisal under this subsection shall consider potential future uses of the parcel that are consistent with the land use plan developed under section 1208(a) (including the land use map of the plan) and with subsection (c).

(6) FUNDING.—Funds for appraisals conducted under this section shall be derived from the Upper Colorado River Basin Fund authorized by section 5 of the Act of April 11, 1956 (70 Stat. 107, chapter 203; 43 U.S.C. 620d).

(b) REDUCTIONS FOR IMPROVEMENTS.—An appraisal of a residence or a structure or facility leased for private use under this section shall deduct the contributory value of improvements made by the current occupant or lessee if the occupant or lessee provides reasonable evidence of expenditure of money or materials in making the improvements.

(c) CURRENT USE.—An appraisal under this section shall consider the current use of a property (including the use of housing as a community residence) and avoid uncertain speculation as to potential future use.

(d) REVIEW.—

(1) IN GENERAL.—The Secretary of the Interior shall make an appraisal under this section available for review by a current occupant or lessee.

(2) ADDITIONAL INFORMATION OR APPEAL.—

(A) IN GENERAL.—The current occupant or lessee may provide additional information, or appeal the findings of the appraisal in writing, to the Upper Colorado Regional Director of the Bureau of Reclamation.

(B) ACTION BY SECRETARY OF THE INTERIOR.—The Secretary of the Interior—

(i) shall consider the additional information or appeal; and

(ii) may conduct a second appraisal if the Secretary determines that a second appraisal is necessary.

(e) INSPECTION.—The Secretary of the Interior shall provide opportunities for other qualified, interested purchasers to inspect completed appraisals under this section.

SEC. 1210. DISPOSAL OF PROPERTIES.

(a) CONVEYANCES.—

(1) PATENTS.—The Secretary of the Interior shall dispose of properties identified for disposal under section 1204, other than properties retained under section 1204(e), without regard to law governing patents.

(2) CONDITION AND LAND.—Except as otherwise provided in this title, conveyance of a building, structure, or facility under this title shall be in its current condition and shall include the land parcel on which the building, structure, or facility is situated.

(3) FIXTURES AND FURNISHINGS.—An existing and in-place fixture or furnishing necessary for the full use of a property or facility under this title shall be conveyed along with the property.

(4) MAINTENANCE.—

(A) BEFORE CONVEYANCE.—Before property is conveyed under this title, the Secretary of the Interior shall ensure reasonable and prudent maintenance and proper care of the property.

(B) AFTER CONVEYANCE.—After property is conveyed to a recipient under this title, the recipient shall be responsible for—

(i) maintenance and proper care of the property; and

(ii) any contamination of the property.

(b) INFRASTRUCTURE FACILITIES AND LAND.—Infrastructure facilities and land described in paragraphs (1) and (2) of section 1204(c) shall be conveyed, without consideration, to Daggett County, Utah.

(c) SCHOOL.—The lands on which are located the Dutch John public schools described in section 1204(c)(3) shall be conveyed, without consideration, to the Daggett County School District.

(d) UTAH DIVISION OF WILDLIFE RESOURCES.—Lands on which are located the offices, 3 employee residences, warehouses, and facilities of the Utah Division of Wildlife Resources described in section 1204(d)(7) shall be conveyed, without consideration, to the Division.

(e) RESIDENCES AND LOTS.—

(1) IN GENERAL.—

(A) FAIR MARKET VALUE.—A residence and occupied residential lot to be disposed of under this title shall be sold for the appraised fair market value.

(B) NOTICE.—The Secretary of the Interior shall provide local general public notice, and written notice to lessees and to current occupants of residences and of occupied residential lots for disposal, of the intent to sell properties under this title.

(2) PURCHASE OF RESIDENCES OR LOTS BY LESSEES.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary of the Interior shall provide a holder of a current lease from the Secretary for a residence to be sold under paragraph (1) or (2) of section 1204(d) or for a residential lot occupied by a privately owned dwelling described in section 1204(d)(3) a period of 180 days beginning on the date of the written notice of the Secretary of intent of the Secretary to sell the residence or lot, to execute a contract with the Secretary of the Interior to purchase the residence or lot for the appraised fair market value.

(B) NOTICE OF INTENT TO PURCHASE.—To obtain the protection of subparagraph (A), the lessee shall, during the 30-day period beginning on the date of receipt of the notice referred to in subparagraph (A), notify the Secretary in writing of the intent of the lessee to purchase the residence or lot.

(C) NO NOTICE OR PURCHASE CONTRACT.—If no written notification of intent to purchase is received by the Secretary in accordance with subparagraph (B) or if a purchase contract has not been executed in accordance with subparagraph (A), the residence or lot shall become available for purchase by other persons under paragraph (3).

(3) PURCHASE OF RESIDENCES OR LOTS BY OTHER PERSONS.—

(A) ELIGIBILITY.—If a residence or lot becomes available for purchase under paragraph (2)(C), the Secretary of the Interior shall make the residence or lot available for purchase by—

(i) a current authorized occupant of the residence to be sold;

(ii) a holder of a current reclamation lease for a residence within Dutch John;

(iii) an employee of the Bureau of Reclamation or the Forest Service who resides in Dutch John; or

(iv) a Federal or non-Federal employee in support of a Federal agency who resides in Dutch John.

(B) PRIORITY.—

(i) SENIORITY.—Priority for purchase of properties available for purchase under this paragraph shall be by seniority of reclamation lease or residency in Dutch John.

(ii) PRIORITY LIST.—The Secretary of the Interior shall compile a priority list of eligible potential purchasers that is based on the length of continuous residency in Dutch John or the length of a continuous residence lease issued by the Bureau of Reclamation in Dutch John, with the highest priority provided for purchasers with the longest continuous residency or lease.

(iii) INTERRUPTIONS.—If a continuous residency or lease was interrupted, the Secretary shall consider only that most recent continuous residency or lease.

(iv) OTHER FACTORS.—In preparing the priority list, the Secretary shall not consider a factor (including agency employment or position) other than the length of the current residency or lease.

(v) DISPUTES.—A potential purchaser may file a written appeal over a dispute involving eligibility or ranking on the priority list with the Secretary of the Interior, acting through the Upper Colorado Regional Director of the Bureau of Reclamation. The Secretary, acting through the Regional Director, shall consider the appeal and resolve the dispute.

(C) NOTICE.—The Secretary of the Interior shall provide general public notice and written notice by certified mail to eligible purchasers that specifies—

(i) properties available for purchase under this paragraph;

(ii) the appraised fair market value of the properties;

(iii) instructions for potential eligible purchasers; and

(iv) any purchase contract requirements.

(D) NOTICE OF INTENT TO PURCHASE.—An eligible purchaser under this paragraph shall have a period of 90 days after receipt of written notification to submit to the Secretary of the Interior a written notice of intent to purchase a specific available property at the listed appraised fair market value.

(E) NOTICE OF ELIGIBILITY OF HIGHEST ELIGIBLE PURCHASER TO PURCHASE PROPERTY.—The Secretary of the Interior shall provide notice to the potential purchaser with the highest eligible purchaser priority for each property that the purchaser will have the first opportunity to execute a sales contract and purchase the property.

(F) AVAILABILITY TO OTHER PURCHASERS ON PRIORITY LIST.—If no purchase contract is executed for a property by the highest priority purchaser within the 180 days after receipt of notice under subparagraph (E), the Secretary of the Interior shall make the property available to other purchasers listed on the priority list.

(G) LIMITATION ON NUMBER OF PROPERTIES.—No household may purchase more than 1 residential property under this paragraph.

(4) RESIDUAL PROPERTY TO COUNTY.—If a residence or lot to be disposed of under this title is not purchased in accordance with paragraph (2) or (3) within 2 years after providing the first notice of intent to sell under paragraph (1)(B), the Secretary of the Interior shall convey the residence or lot to Daggett County without consideration.

(5) ADVISORY COMMITTEE.—The Secretary of the Interior, acting through the Upper Colorado Regional Director of the Bureau of Reclamation, may appoint a nonfunded Advisory

Committee comprised of 1 representative from each of the Bureau of Reclamation, Daggett County, and the Dutch John community to review and provide advice to the Secretary on the resolution of disputes arising under this subsection and subsection (f).

(6) FINANCING.—The Secretary of the Interior shall provide advice to potential purchasers under this subsection and subsection (f) in obtaining appropriate and reasonable financing for the purchase of a residence or lot.

(f) UNOCCUPIED PLATTED LOTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary of the Interior shall make an unoccupied platted lot described in section 1204(d)(4) available for sale to eligible purchasers for the appraised fair market value of the lot.

(2) CONVEYANCE FOR PUBLIC PURPOSE.—On request from Daggett County, the Secretary of the Interior may convey directly to the County without consideration a lot referred to in paragraph (1) that will be used for a public use purpose that is consistent with the land use plan developed under section 1208(a).

(3) ADMINISTRATION.—The procedures established under subsection (e) shall apply to this subsection to the maximum extent practicable, as determined by the Secretary of the Interior.

(4) LAND-USE DESIGNATION.—For each lot sold under this subsection, the Secretary of the Interior shall include in the notice of intent to sell the lot provided under this subsection the land-use designation of the lot established under the land use plan developed under section 1208(a).

(5) LIMITATION ON NUMBER OF LOTS.—No household may purchase more than 1 residential lot under this subsection.

(6) LIMITATION ON PURCHASE OF ADDITIONAL LOTS.—No household purchasing an existing residence under this section may purchase an additional single home, residential lot.

(7) RESIDUAL LOTS TO COUNTY.—If a lot described in paragraph (1) is not purchased in accordance with paragraphs (1) through (6) within 2 years after providing the first notice of intent to sell under this subsection, the Secretary of the Interior shall convey the lot to Daggett County without consideration.

(g) SPECIAL USE PERMITS.—

(1) SALE.—Lands on which Forest Service special use permits are issued to holders numbered 4054 and 9303, Ashley National Forest, comprising approximately 15.3 acres and 1 acre, respectively, may be sold at appraised fair market value to the holder of the permit.

(2) ADMINISTRATION OF PERMITS.—On transfer of jurisdiction of the land to the Secretary of the Interior pursuant to section 1206, the Secretary of the Interior shall administer the permits under the terms and conditions of the permits.

(3) NOTICE OF AVAILABILITY FOR PURCHASE.—The Secretary of the Interior shall notify the respective permit holders in writing of the availability of the land for purchase.

(4) APPRAISALS.—The Secretary of the Interior shall not conduct an appraisal of the land unless the Secretary receives a written notice of intent to purchase the land within 2 years after providing notice under paragraph (3).

(5) ALTERNATIVE PARCELS.—On request by permit holder number 9303, the Secretary of the Interior, in consultation with Daggett County, may—

(A) consider sale of a parcel within the Daggett County community of similar size and appraised value in lieu of the land under permit on the date of enactment of this Act; and

(B) provide the holder credit toward the purchase or other negotiated compensation for the appraised value of improvements of the permittee to land under permit on the date of enactment of this Act.

(6) RESIDUAL LAND TO COUNTY.—If land described in paragraph (1) is not purchased in accordance with paragraphs (1) through (5) within 2 years after providing the first notice of intent to sell under this subsection, the Secretary of the Interior shall convey the land to Daggett County without consideration.

(h) TRANSFERS TO COUNTY.—Other land occupied by authorization of a special use permit, easement, or right-of-way to be disposed of under this title shall be transferred to Daggett County if the holder of the authorization and the County, prior to transfer of the lands to the County—

(1) agree to and execute a legal document that grants the holder the rights and privileges provided in the existing authorization; or

(2) enter into another arrangement that is mutually satisfactory to the holder and the County.

(i) CHURCH LAND.—

(1) IN GENERAL.—The Secretary of the Interior shall offer to sell land to be disposed of under this title on which is located an established church to the parent entity of the church at the appraised fair market value.

(2) NOTICE.—The Secretary of the Interior shall notify the church in writing of the availability of the land for purchase.

(3) RESIDUAL LAND TO COUNTY.—If land described in paragraph (1) is not purchased in accordance with paragraphs (1) and (2) within 2 years after providing the first notice of intent to sell under this subsection, the Secretary of the Interior shall convey the land to Daggett County without consideration.

(j) RESIDUAL PROPERTIES TO COUNTY.—The Secretary of the Interior shall convey all lands, buildings, or facilities designated for disposal under this title that are not conveyed in accordance with subsections (a) through (i) to Daggett County without consideration.

(k) WATER RIGHTS.—

(1) IN GENERAL.—Subject to the other provisions of this subsection, the Secretary of the Interior shall transfer all water rights the Secretary holds that are applicable to the Dutch John municipal water system to Daggett County.

(2) WATER SERVICE CONTRACT.—

(A) IN GENERAL.—Transfer of rights under paragraph (1) is contingent on Daggett County entering into a water service contract with the Secretary of the Interior covering payment for and delivery of untreated water to Daggett County pursuant to the Act of April 11, 1956 (70 Stat. 105, chapter 203; 43 U.S.C. 620 et seq.).

(B) DELIVERED WATER.—The contract shall require payment only for water actually delivered.

(3) EXISTING RIGHTS.—Existing rights for transfer to Daggett County under this subsection include—

(A) Utah Water Right 41–2942 (A30557, Cert. No. 5903) for 0.08 cubic feet per second from a water well; and

(B) Utah Water Right 41–3470 (A30414b), an unapproved application to segregate 12,000 acre-feet per year of water from the original approved Flaming Gorge water right (41–2963) for municipal use in the town of Dutch John and surrounding areas.

(4) CULINARY WATER SUPPLIES.—The transfer of water rights under this subsection is conditioned on the agreement of Daggett County to provide culinary water supplies to Forest Service campgrounds served (on the date of enactment of this Act) by the water supply system and to Forest Service and Bureau of Reclamation facilities, at a rate equivalent to other similar uses.

(5) MAINTENANCE.—The Secretary of Agriculture and the Secretary of the Interior shall be responsible for maintenance of their respective water systems from the point of the distribution lines of the systems.

(l) SHORELINE ACCESS.—On receipt of an acceptable application, the Secretary of Agriculture shall consider issuance of a special use permit affording Flaming Gorge Reservoir public shoreline access and use within the vicinity of Dutch John in conjunction with commercial visitor facilities provided and maintained under such a permit.

(m) REVENUES.—

(1) IN GENERAL.—Except as provided in paragraph (2), all revenues derived from the sale of properties as authorized by this title shall temporarily be deposited in a segregated interest-bearing trust account in the Treasury with the moneys on hand in the account paid to Daggett County semiannually to be used by the County for purposes associated with the provision of governmental and community services to the Dutch John community.

(2) DEPOSIT IN THE GENERAL FUND.—Of the revenues described in paragraph (1), 15.1 percent shall be deposited in the general fund of the Treasury.

SEC. 1211. VALID EXISTING RIGHTS.

(a) AGREEMENTS.—

(1) IN GENERAL.—If any lease, permit, right-of-way, easement, or other valid existing right is appurtenant to land conveyed to Daggett County, Utah, under this title, the County shall honor and enforce the right through a legal agreement entered into by the County and the holder before the date of conveyance.

(2) EXTENSION OR TERMINATION.—The County may extend or terminate an agreement under paragraph (1) at the end of the term of the agreement.

(b) USE OF REVENUES.—During such period as the County is enforcing a right described in subsection (a)(1) through a legal agreement between the County and the holder of the right under subsection (a), the County shall collect and retain any revenues due the Federal Government under the terms of the right.

(c) EXTINGUISHMENT OF RIGHTS.—If a right described in subsection (a)(1) with respect to certain land has been extinguished or otherwise protected, the County may dispose of the land.

SEC. 1212. CULTURAL RESOURCES.

(a) MEMORANDA OF AGREEMENT.—Before transfer and disposal under this title of any land that contains cultural resources and that may be eligible for listing on the National Register of Historic Places, the Secretary of Agriculture, in consultation with the Secretary of the Interior, the Utah Historic Preservation Office, and Daggett County, Utah, shall prepare a memorandum of agreement, for review and approval by the Utah Office of Historical Preservation and the Advisory Council on Historic Preservation established by title II of the National Historic Preservation Act (16 U.S.C. 470i et seq.), that contains a strategy for protecting or mitigating adverse effects on cultural resources on the land.

(b) Interim Protection.—Until such time as a memorandum of agreement has been approved, or until lands are disposed of under this title, the Secretary of Agriculture shall provide clearance or protection for the resources.

(c) Transfer Subject to Agreement.—On completion of actions required under the memorandum of agreement for certain land, the Secretary of the Interior shall provide for the conveyance of the land to Daggett County, Utah, subject to the memorandum of agreement.

SEC. 1213. TRANSITION OF SERVICES TO LOCAL GOVERNMENT CONTROL.

(a) Assistance.—

(1) In general.—The Secretary of the Interior shall provide training and transitional operating assistance to personnel designated by Daggett County, Utah, as successors to the operators for the Secretary of the infrastructure facilities described in section 1204(c).

(2) Duration of training.—With respect to an infrastructure facility, training under paragraph (1) shall continue for such period as is necessary for the designated personnel to demonstrate reasonable capability to safely and efficiently operate the facility, but not to exceed 2 years.

(3) Continuing assistance.—The Secretary shall remain available to assist with resolving questions about the original design and installation, operating and maintenance needs, or other aspects of the infrastructure facilities.

(b) Transition Costs.—For the purpose of defraying costs of transition in administration and provision of basic community services, an annual payment of $300,000 (as adjusted by the Secretary for changes in the Consumer Price Index for all-urban consumers published by the Department of Labor) shall be provided from the Upper Colorado River Basin Fund authorized by section 5 of the Act of April 11, 1956 (70 Stat. 107, chapter 203; 43 U.S.C. 620d), to Daggett County, Utah, or, in accordance with subsection (c), to Dutch John, Utah, for a period not to exceed 15 years beginning the first January 1 that occurs after the date of enactment of this Act.

(c) Division of Payment.—If Dutch John becomes incorporated and become responsible for operating any of the infrastructure facilities referred to in subsection (a)(1) or for providing other basic local governmental services, the payment amount for the year of incorporation and each following year shall be proportionately divided between Daggett County and Dutch John based on the respective costs paid by each government for the previous year to provide the services.

(d) Electric Power.—

(1) Availability.—The United States shall make available electric power and associated energy from the Colorado River Storage Project for the Dutch John community.

(2) Amount.—The amount of electric power and associated energy made available under paragraph (1) shall not exceed 1,000,000 kilowatt-hours per year.

(3) Rates.—The rates for power and associated energy shall be the firm capacity and energy rates of the Salt Lake City Area/Integrated Projects.

SEC. 1214. AUTHORIZATION OF APPROPRIATIONS.

(a) Resource Recovery and Mitigation.—There are authorized to be appropriated to the Secretary of Agriculture, out of nonpower revenues to the Federal Government from land transferred under this title, such sums as are necessary to implement such habitat, sensitive resource, or cultural resource recovery, mitigation, or replacement strategies as are developed with respect to land transferred under this title, except that the strategies may not include acquisition of privately owned lands in Daggett County.

(b) Other Sums.—In addition to sums made available under subsection (a), there are authorized to be appropriated such sums as are necessary to carry out this title.

TITLE XIII—RECLAMATION PROJECT CONVEYANCES AND MISCELLANEOUS PROVISIONS

Subtitle A—Sly Park Dam and Reservoir, California

SEC. 1311. SHORT TITLE.

This subtitle may be cited as the "Sly Park Unit Conveyance Act".

SEC. 1312. DEFINITIONS.

For purposes of this subtitle:

(1) The term "District" means the El Dorado Irrigation District, a political subdivision of the State of California that has its principal place of business in the city of Placerville, El Dorado County, California.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "Project" means all of the right, title, and interest in and to the Sly Park Dam and Reservoir, Camp Creek Diversion Dam and Tunnel, and conduits and canals held by the United States pursuant to or related to the authorization in the Act entitled "An Act to authorize the American River Basin Development, California, for irrigation and reclamation, and for other purposes", approved October 14, 1949 (63 Stat. 852 chapter 690);

SEC. 1313. CONVEYANCE OF PROJECT.

(a) In General.—In consideration of the District accepting the obligations of the Federal Government for the Project and subject to the payment by the District of the net present value of the remaining repayment obligation, as determined by Office of Management and Budget Circular A-129 (in effect on the date of enactment of this Act), the Secretary shall convey the Project to the District.

(b) Deadline.—

(1) In general.—If no changes in Project operations are expected following the conveyance under subsection (a), the Secretary shall complete the conveyance expeditiously, but not later than 180 days after the date of the enactment of this Act.

(2) Deadline if changes in operations intended.—If the District intends to change Project operations as a result of the conveyance under subsection (a), the Secretary—

(A) shall take into account those potential changes for the purpose of completing any required environmental evaluation associated with the conveyance; and

(B) shall complete the conveyance by not later than 2 years after the date of the enactment of this Act.

(3) Administrative costs of conveyance.—If the Secretary fails to complete the conveyance under this subtitle before the applicable deadline under paragraph (1) or (2), the full cost of administrative action and environmental compliance for the conveyance shall be borne by the Secretary. If the Secretary completes the conveyance before that deadline, ½ of such cost shall be paid by the District.

SEC. 1314. RELATIONSHIP TO EXISTING OPERATIONS.

(a) In General.—Nothing in this subtitle shall be construed as significantly expanding or otherwise changing the use or operation of the Project from its current use and operation.

(b) Future Alterations.—If the District alters the operations or uses of the Project it shall comply with all applicable laws or regulations governing such changes at that time (subject to section 1315).

SEC. 1315. RELATIONSHIP TO CERTAIN CONTRACT OBLIGATIONS.

(a) Payment Obligations Not Affected.—The conveyance of the Project under this subtitle does not affect the payment obligations of the District under the contract between the District and the Secretary numbered 14-06-200-7734, as amended by contracts numbered 14-06-200-4282A and 14-06-200-8536A.

(b) Payment Obligations Extinguished.—Provision of consideration by the District in accordance with section 1313(b) shall extinguish all payment obligations under contract numbered 14-06-200-949IR1 between the District and the Secretary.

SEC. 1316. RELATIONSHIP TO OTHER LAWS.

(a) Reclamation Laws.—Except as provided in subsection (b), upon conveyance of the Project under this subtitle, the Reclamation Act of 1902 (82 Stat. 388) and all Acts amendatory thereof or supplemental thereto shall not apply to the Project.

(b) Payments Into the Central Valley Project Restoration Fund.—The El Dorado Irrigation District shall continue to make payments into the Central Valley Project Restoration Fund for 31 years after the date of the enactment of this Act. The District's obligation shall be calculated in the same manner as Central Valley Project water contractors.

SEC. 1317. LIABILITY.

Except as otherwise provided by law, effective on the date of conveyance of the Project under this subtitle, the United States shall not be liable for damages of any kind arising out of any act, omission, or occurrence based on its prior ownership or operation of the conveyed property.

Subtitle B—Minidoka Project, Idaho

SEC. 1321. SHORT TITLE

This subtitle may be cited as the "Burley Irrigation District Conveyance Act".

SEC. 1322. DEFINITIONS.

In this subtitle:

(1) District.—The term "District" means the Burley Irrigation District, an irrigation district organized under the law of the State of Idaho.

(2) Secretary.—The term "Secretary" means the Secretary of the Interior.

(3) Project.—The term "Project" means all of the right, title, and interest in and to the Southside Pumping Division of the Minidoka Project, Idaho, including the water distribution system below the headworks of the Minidoka Dam held in the name of the United States for the benefit of, and for use on land within, the District for which the allocable construction costs have been fully repaid by the District.

SEC. 1323. CONVEYANCE.

(a) In General.—In consideration of the District accepting the obligations of the Federal Government for the Project, and subject to the completion of payments by the District required under subsection (c)(3), the Secretary shall convey the Project and the water rights described in subsection (b) to the District.

(b) Water Rights.—

(1) Transfer required.—The Secretary shall transfer to the District, through an agreement among the District, the Minidoka Irrigation District, and the Secretary and in accordance with and subject to the law of the State of Idaho, all natural flow, waste,

seepage, return flow, and ground water rights held in the name of the United States—

(A) for the benefit of the South Side Pumping Division operated and maintained by the District;

(B) for use on lands within the District or that are return flows for which the District may receive credit against storage water used.

(2) LIMITATION.—The transfer of the property interest of the United States in Project water rights directed to be conveyed by this section shall—

(A) neither enlarge nor diminish the water rights of either the Minidoka Irrigation District or the District, as set forth in their respective contracts with the United States;

(B) not be exercised as to impair the integrated operation of the Minidoka Project by the Secretary pursuant to applicable Federal law;

(C) not affect any other water rights; and

(D) not result in any adverse impact on any other project water user.

(c) DEADLINE.—

(1) IN GENERAL.—If no changes in Project operations are expected following the conveyance under subsection (a), the Secretary shall complete the conveyance expeditiously, but not later than 180 days after the date of the enactment of this Act.

(2) DEADLINE IF CHANGES IN OPERATIONS INTENDED.—If the District intends to change Project operations as a result of the conveyance under subsection (a), the Secretary—

(A) shall take into account those potential changes for the purpose of completing any required environmental evaluation associated with the conveyance; and

(B) shall complete the conveyance by not later than 2 years after the date of the enactment of this Act.

(3) ADMINISTRATIVE COSTS OF CONVEYANCE.—If the Secretary fails to complete the conveyance under this subtitle before the applicable deadline under paragraph (1) or (2), the full cost of administrative action and environmental compliance for the conveyance shall be borne by the Secretary. If the Secretary completes the conveyance before that deadline, ½ of such cost shall be borne by the District.

SEC. 1324. RELATIONSHIP TO EXISTING OPERATIONS.

(a) IN GENERAL.—Nothing in this subtitle shall be construed as significantly expanding or otherwise changing the use or operation of the Project from its current use and operation.

(b) FUTURE ALTERATIONS.—If the District alters the operations or uses of the Project it shall comply with all applicable laws or regulations governing such changes at that time (subject to section 1325).

SEC. 1325. RELATIONSHIP TO CERTAIN CONTRACT OBLIGATIONS.

(a) SAVINGS.—Nothing in this subtitle or any transfer pursuant thereto shall affect the right of Minidoka Irrigation District to the joint use of the gravity portion of the Southside Canal, subject to compliance by the Minidoka Irrigation District with the terms and conditions of a contract between the District and Minidoka Irrigation District, and any amendments or changes made by agreement of the irrigation districts.

(b) ALLOCATION OF STORAGE SPACE.—The Secretary shall provide an allocation to the District of storage space in Minidoka Reservoir, American Falls Reservoir, and Palisades Reservoir, as described in Burley Contract Nos. 14–06–100–2455 and 14–06–W–48, subject to the obligation of Burley to continue to assume and satisfy its allocable costs of operation and maintenance associated with the storage facilities operated by the Bureau of Reclamation.

(c) PROJECT RESERVED POWER.—The Secretary shall continue to provide the District with project reserved power from the Minidoka Reclamation Power Plant, Palisades Reclamation Power Plant, Black Canyon Reclamation Power Plant, and Anderson Ranch Reclamation Power Plant in accordance with the terms of the existing contracts, including any renewals thereof as provided in such contracts.

SEC. 1326. LIABILITY.

Except as otherwise provided by law, effective on the date of conveyance of the Project under this subtitle, the United States shall not be held liable for damages of any kind arising out of any act, omission, or occurrence based on its prior ownership or operation of the conveyed property.

Subtitle C—Carlsbad Irrigation Project, New Mexico

SEC. 1331. SHORT TITLE.

This subtitle may be cited as the "Carlsbad Irrigation Project Acquired Land Conveyance Act".

SEC. 1332. DEFINITIONS.

For purposes of this subtitle:

(1) The term "District" means the Carlsbad Irrigation District, a quasimunicipal corporation formed under the laws of the State of New Mexico that has its principal place of business in the city of Carlsbad, Eddy County, New Mexico.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "Project" means all right, title, and interest in and to the lands (including the subsurface and mineral estate) in Eddy County, New Mexico, described as the acquired lands in section (7) of the Status of Lands and Title Report: Carlsbad Project as reported by the Bureau of Reclamation in 1978 and all interests the United States holds in the irrigation and drainage system of the Carlsbad Project and all related ditch rider houses, maintenance shop and buildings, and Pecos River Flume.

SEC. 1333. CONVEYANCE OF PROJECT.

(a) IN GENERAL.—Except as provided in subsection (b), in consideration of the District accepting the obligations of the Federal Government for the Project, and subject to the completion of payments by the District required under subsection (c)(3), the Secretary shall convey the Project to the District

(b) RETAINED TITLE.—The Secretary shall retain title to the surface estate (but not the mineral estate) of such Project lands which are located under the footprint of Brantley and Avalon dams or any other Project dam or reservoir diversion structure. The Secretary shall retain storage and flow easements for any tracts located under the maximum spillway elevations of Avalon and Brantley Reservoirs.

(c) DEADLINE.—

(1) IN GENERAL.—If no changes in Project operations are expected following the conveyance under subsection (a), the Secretary shall complete the conveyance expeditiously, but not later than 180 days after the date of the enactment of this Act.

(2) DEADLINE IF CHANGES IN OPERATIONS INTENDED.—If the District intends to change Project operations as a result of the conveyance under subsection (a), the Secretary—

(A) shall take into account those potential changes for the purpose of completing any required environmental evaluation associated with the conveyance; and

(B) shall complete the conveyance by not later than 2 years after the date of the enactment of this Act.

(3) ADMINISTRATIVE COSTS OF CONVEYANCE.—If the Secretary fails to complete the conveyance under this subtitle before the applicable deadline under paragraph (1) or (2), the full cost of administrative action and environmental compliance for the conveyance shall be borne by the Secretary. If the Secretary completes the conveyance before that deadline, ½ of such cost shall be paid by the District.

SEC. 1334. RELATIONSHIP TO EXISTING OPERATIONS.

(a) IN GENERAL.—Nothing in this subtitle shall be construed as significantly expanding or otherwise changing the use and operation of the Project from its current use. The Project shall continue to be managed and used by the District for the purposes for which the Project was authorized, based on historic operations, and consistent with the management of other adjacent project lands.

(b) FUTURE ALTERATIONS.—If the District alters the operations or uses of the Project, it shall comply with all applicable laws or regulations governing such changes at that time (subject to section 1335).

SEC. 1335. RELATIONSHIP TO CERTAIN CONTRACT OBLIGATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), upon conveyance of the Project under this subtitle the District shall assume all rights and obligations of the United States under the agreement dated July 28, 1994, between the United States and the Director, New Mexico Department of Game and Fish (Document No. 2–LM–40–00640), relating to management of certain lands near Brantley Reservoir for fish and wildlife purposes and the agreement dated March 9, 1977, between the United States and the New Mexico Department of Energy, Minerals, and Natural Resources (Contract No. 7–07–57–X0888) for the management and operation of Brantley Lake State Park.

(b) LIMITATION.—The District shall not be obligated for any financial support agreed to by the Secretary, or the Secretary's designee, in either agreement and the District shall not be entitled to any receipts or revenues generated as a result of either agreement.

SEC. 1336. LEASE MANAGEMENT AND PAST REVENUES COLLECTED FROM THE ACQUIRED LANDS.

(a) NOTIFICATION OF LEASEHOLDERS.—Within 120 days after the date of enactment of this Act, the Secretary shall provide to the District a written identification of all mineral and grazing leases in effect on Project lands on the date of enactment of this Act and notify all leaseholders of the conveyance authorized by this subtitle.

(b) MANAGEMENT OF LEASES, LICENSES, AND PERMITS.—The District shall assume all rights and obligations of the United States for all mineral and grazing leases, licenses, and permits existing on the Project lands conveyed under section 1333, and shall be entitled to any receipts from such leases, licenses, and permits accruing after the date of conveyance. All such receipts shall be used for purposes for which the Project was authorized and for financing the portion of operations, maintenance, and replacement at the Sumner Dam that, prior to conveyance, was the responsibility of the Bureau of Reclamation, with the exception of major maintenance programs in progress prior to conveyance. The District shall continue to adhere to the current Bureau of Reclamation mineral leasing stipulations for the Project.

(c) Availability of Amounts Paid Into the Reclamation Fund.—

(1) Amounts in fund on date of enactment.—Amounts in the reclamation fund on the date of enactment of this Act which exist as construction credits to the Carlsbad Project under the terms of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351–359) shall be deposited into the general fund of the Treasury and credited to deficit reduction or retirement of the Federal debt.

(2) Receipts after date of enactment.—Of the receipts from mineral and grazing leases, licenses, and permits on Project lands to be conveyed under section 1333 that are received by the United States after the date of enactment of this Act and before the date of conveyance, up to $200,000 shall be applied to pay the cost referred to in section 1333(c)(3) and the remainder shall be deposited into the general fund of the Treasury of the United States and credited to deficit reduction or retirement of the Federal debt.

SEC. 1337. WATER CONSERVATION PRACTICES.

Nothing in this subtitle shall be construed to limit the ability of the District to voluntarily implement water conservation practices.

SEC. 1338. LIABILITY.

Except as otherwise provided by law, effective on the date of conveyance of the Project under this subtitle, the United States shall not be liable for damages of any kind arising out of any act, omission, or occurrence based on its prior ownership or operation of the conveyed property.

SEC. 1339. FUTURE RECLAMATION BENEFITS.

After completion of the conveyance under this subtitle, the District shall not be eligible for any emergency loan from the Bureau of Reclamation for maintenance or replacement of any facility conveyed under this subtitle.

Subtitle D—Palmetto Bend Project, Texas

SEC. 1341. SHORT TITLE.

This subtitle may be cited as the "Palmetto Bend Conveyance Act".

SEC. 1342. DEFINITIONS.

In this subtitle:

(1) State.—The term "State" means the Lavaca-Navidad River Authority and the Texas Water Development Board, jointly.

(2) Secretary.—The term "Secretary" means the Secretary of the Interior.

(3) Project.—The term "Project" means all of the right, title, and interest in and to the Palmetto Bend reclamation project, Texas, authorized by Public Law 90–562 (82 Stat. 999).

SEC. 1343. CONVEYANCE OF PROJECT.

(a) In General.—In consideration of the State accepting the obligations of the Federal Government for the Project and subject to the payment by the State of the net present value of the remaining repayment obligation, as determined by Office of Management and Budget Circular A–129 (in effect on the date of enactment of this Act) and the completion of payments by the State required under subsection (b)(3), the Secretary shall convey the Project to the State.

(b) Deadline.—

(1) In general.—If no changes in Project operations are expected following the conveyance under subsection (a), the Secretary shall complete the conveyance expeditiously, but not later than 180 days after the date of the enactment of this Act.

(2) Deadline if changes in operations intended.—If the State intends to change Project operations as a result of the conveyance under subsection (a), the Secretary—

(A) shall take into account those potential changes for the purpose of completing any required environmental evaluation associated with the conveyance; and

(B) shall complete the conveyance by not later than 2 years after the date of the enactment of this Act.

(3) Administrative costs of conveyance.—If the Secretary fails to complete the conveyance under this title before the applicable deadline under paragraph (1) or (2), the full cost of administrative action and environmental compliance for the conveyance shall be borne by the Secretary. If the Secretary completes the conveyance before that deadline, ½ of such cost shall be paid by the State.

SEC. 1344. RELATIONSHIP TO EXISTING OPERATIONS.

(a) In General.—Nothing in this subtitle shall be construed as significantly expanding or otherwise changing the use or operation of the Project from its current use and operation.

(b) Future Alterations.—If the State alters the operations or uses of the Project it shall comply will all applicable laws or regulations governing such changes at that time.

(c) Condition.—Subject to the laws of the State of Texas, Lake Texana shall not be used to wheel water originating from the Texas, Colorado River.

SEC. 1345. RELATIONSHIP TO CERTAIN CONTRACT OBLIGATIONS.

Existing obligations of the United States pertaining to the Project shall continue in effect and be assumed by the State.

SEC. 1346. RELATIONSHIP TO OTHER LAWS.

Upon conveyance of the Project under this subtitle, the Reclamation Act of 1902 (82 Stat. 388) and all Acts amendatory thereof or supplemental thereto shall not apply to the Project.

SEC. 1347. LIABILITY.

Except as otherwise provided by law, effective on the date of conveyance of the Project under this subtitle, the United States shall not be liable for damages of any kind arising out of any act, omission, or occurrence based on its prior ownership or operation of the conveyed property.

Subtitle E—Wellton-Mohawk Division, Gila Project, Arizona

SEC. 1351. SHORT TITLE.

This subtitle may be cited as the "Wellton-Mohawk Division Title Transfer Act of 1998".

SEC. 1352. DEFINITIONS.

For purposes of this subtitle:

(1) The term "District" means the Wellton-Mohawk Irrigation and Drainage District, an irrigation and drainage district created, organized, and existing under and by virtue of the laws of the State of Arizona.

(2) The term "Project" means all of the right, title, and interest in and to the Wellton-Mohawk Division, Gila Project, Arizona, held by the United States pursuant to or related to any authorization in the Act of July 30, 1947 (chapter 382; 61 Stat. 628).

(3) The term "Secretary" means the Secretary of the Interior.

(4) The term "withdrawn lands" means those lands within and adjacent to the District that have been withdrawn from public use for reclamation purposes.

SEC. 1353. CONVEYANCE OF PROJECT.

(a) In General.—In consideration of the District accepting the obligations of the Federal Government for the Project, and subject to the payment of fair market value by the District for the withdrawn lands and the completion of payments by the District required under subsection (b)(3), the Secretary shall convey the Project and the withdrawn lands to the District in accordance with the Memorandum of Agreement between the Secretary and the District numbered 8–AA–34–WAO14 and dated July 10, 1998.

(b) Deadline.—

(1) In general.—The Secretary shall complete the conveyance expeditiously, but not later than 3 years after the date of enactment of this Act.

(2) Administrative costs of conveyance.—If the Secretary fails to complete the conveyance under this subtitle before the applicable deadline under paragraph (1), the full cost of administrative action and environmental compliance for the conveyance shall be borne by the Secretary. If the Secretary completes the conveyance before that deadline, ½ of such cost shall be paid by the District.

SEC. 1354. RELATIONSHIP TO EXISTING OPERATIONS.

(a) In General.—Nothing in this subtitle shall be construed as significantly expanding or otherwise changing the use or operation of the Project from its current use or operation.

(b) Future Alterations.—If the District alters the operations or uses of the Project, it shall comply with all applicable laws and regulations governing such changes at that time.

SEC. 1355. LIABILITY.

Except as otherwise provided by law, effective on the date of conveyance of the Project under this subtitle, the United States shall not be held liable under any law for damages of any kind arising out of any act, omission, or occurrence based on its prior ownership or operation of the conveyed property.

SEC. 1356. LANDS TRANSFER.

Pursuant to the Memorandum of Agreement between the Secretary and the District numbered 8–AA–34–WAO14 and dated July 10, 1998, the Secretary may transfer to the District, by sale or exchange, at fair market value, public lands located in or adjacent to the Project, and lands held by the Federal Government on the date of the enactment of this Act pursuant to Public Law 93–320 and Public Law 100–512 and located in or adjacent to the District, other than lands in the Gila River channel.

SEC. 1357. WATER AND POWER CONTRACTS.

Notwithstanding any conveyance or transfer under this subtitle, the Secretary and the Secretary of Energy shall provide for and deliver Colorado River water and Parker-Davis Project Priority Use Power to the District in accordance with the terms of existing contracts with the District, including any amendments and supplements thereto or extensions thereof and as provided under section 2 of the Memorandum of Agreement between the Secretary and the District numbered 8–AA–34–WAO14 and dated July 10, 1998.

Subtitle F—Canadian River Project, Texas

SEC. 1361. SHORT TITLE.

This subtitle may be cited as the "Canadian River Project Prepayment Act".

SEC. 1362. DEFINITIONS.

For the purposes of this subtitle:

(1) The term "Authority" means the Canadian River Municipal Water Authority, a conservation and reclamation district of the State of Texas.

(2) The term "Canadian River Project Authorization Act" means the Act entitled 'An Act to authorize the construction, operation, and maintenance by the Secretary of the Interior of the Canadian River reclamation project, Texas", approved December 29, 1950 (chapter 1183; 64 Stat. 1124).

(3) The term "Project" means all of the right, title, and interest in and to all land

and improvements comprising the pipeline and related facilities of the Canadian River Project authorized by the Canadian River Project Authorization Act.

(4) The term "Secretary" means the Secretary of the Interior.

SEC. 1363. PREPAYMENT AND CONVEYANCE OF PROJECT.

(a) In General.—(1) In consideration of the Authority accepting the obligation of the Federal Government for the Project and subject to the payment by the Authority of the applicable amount under paragraph (2) within the 360-day period beginning on the date of the enactment of this subtitle, the Secretary shall convey the Project to the Authority, as provided in section 2(c)(3) of the Canadian River Project Authorization Act (64 Stat. 1124).

(2) For purposes of paragraph (1), the applicable amount shall be—

(A) $34,806,731, if payment is made by the Authority within the 270-day period beginning on the date of enactment of this title; or

(B) the amount specified in subparagraph (A) adjusted to include interest on that amount since the date of the enactment of this subtitle at the appropriate Treasury bill rate for an equivalent term, if payment is made by the Authority after the period referred to in subparagraph (A).

(3) If payment under paragraph (1) is not made by the Authority within the period specified in paragraph (1), this subtitle shall have no force or effect.

(b) Financing.—Nothing in this subtitle shall be construed to affect the right of the Authority to use a particular type of financing.

SEC. 1364. RELATIONSHIP TO EXISTING OPERATIONS.

(a) In General.—Nothing in this subtitle shall be construed as significantly expanding or otherwise changing the use or operation of the Project from its current use and operation.

(b) Future Alterations.—If the Authority alters the operations or uses of the Project it shall comply with all applicable laws or regulations governing such alteration at that time.

(c) Recreation.—The Secretary of the Interior, acting through the National Park Service, shall continue to operate the Lake Meredith National Recreation Area at Lake Meredith.

(d) Flood Control.—The Secretary of the Army, acting through the Corps of Engineers, shall continue to prescribe regulations for the use of storage allocated to flood control at Lake Meredith as prescribed in the Letter of Understanding entered into between the Corps, the Bureau of Reclamation, and the Authority in March and May 1980.

(e) Sanford Dam Property.—The Authority shall have the right to occupy and use without payment of lease or rental charges or license or use fees the property retained by the Bureau of Reclamation at Sanford Dam and all buildings constructed by the United States thereon for use as the Authority's headquarters and maintenance facility. Buildings constructed by the Authority on such property, or past and future additions to Government constructed buildings, shall be allowed to remain on the property. The Authority shall operate and maintain such property and facilities without cost to the United States.

SEC. 1365. RELATIONSHIP TO CERTAIN CONTRACT OBLIGATIONS.

(a) Payment Obligations Extinguished.—Provision of consideration by the Authority in accordance with section 603(a) shall extinguish all payment obligations under contract numbered 14-06-500-485 between the Authority and the Secretary.

(b) Operation and Maintenance Costs.—After completion of the conveyance provided for in section 1363, the Authority shall have full responsibility for the cost of operation and maintenance of Sanford Dam, and shall continue to have full responsibility for operation and maintenance of the Project pipeline and related facilities.

(c) General.—Rights and obligations under the existing contract No. 14-06-500-485 between the Authority and the United States, other than provisions regarding repayment of construction charge obligation by the Authority and provisions relating to the Project aqueduct, shall remain in full force and effect for the remaining term of the contract.

SEC. 1366. RELATIONSHIP TO OTHER LAWS.

Upon conveyance of the Project under this subtitle, the Reclamation Act of 1902 (82 Stat. 388) and all Acts amendatory thereof or supplemental thereto shall not apply to the Project.

SEC. 1367. LIABILITY.

Except as otherwise provided by law, effective on the date of conveyance of the Project under this subtitle, the United States shall not be liable under any law for damages of any kind arising out of any act, omission, or occurrence relating to the conveyed property.

Subtitle G—Clear Creek Distribution System, California

SEC. 1371. SHORT TITLE.

This subtitle may be cited as the "Clear Creek Distribution System Conveyance Act".

SEC. 1372. DEFINITIONS.

For purposes of this subtitle:

(1) Secretary.—The term "Secretary" means the Secretary of the Interior.

(2) District.—The term "District" means the Clear Creek Community Services District, a California community services district located in Shasta County, California.

(3) Distribution system.—The term "Distribution System" means all the right title and interest in and to the Clear Creek distribution system as defined in the agreement entitled "Agreement Between the United States and the Clear Creek Community Services District to Transfer Title to the Clear Creek Distribution System to the Clear Creek Community Services District" (Agreement No. 8-07-20-L6975).

SEC. 1373. CONVEYANCE OF PROJECT.

(a) In General.—In consideration of the District accepting the obligations of the Federal Government for the Distribution System and subject to the completion of payments by the District required under subsection (b)(3), the Secretary shall convey the Distribution System to the District.

(b) Deadline.—

(1) In general.—If no changes in Project operations are expected following the conveyance under subsection (a), the Secretary shall complete the conveyance expeditiously, but not later than 180 days after the date of the enactment of this Act.

(2) Deadline if changes in operations intended.—If the District intends to change Project operations as a result of the conveyance under subsection (a), the Secretary—

(A) shall take into account those potential changes for the purpose of completing any required environmental evaluation associated with the conveyance; and

(B) shall complete the conveyance by not later than 2 years after the date of the enactment of this Act.

(3) Administrative costs of conveyance.—If the Secretary fails to complete the conveyance under this subtitle before the applicable deadline under paragraph (1) or (2), the full cost of administrative action and environmental compliance for the conveyance shall be borne by the Secretary. If the Secretary completes the conveyance before that deadline, ½ of such cost shall be paid by the District.

SEC. 1374. RELATIONSHIP TO EXISTING OPERATIONS.

(a) In General.—Nothing in this subtitle shall be construed as significantly expanding or otherwise changing the use or operation of the Distribution System from its current use and operation.

(b) Future Alterations.—If the District alters the operations or uses of the Distribution System it shall comply with all applicable laws or regulations governing such changes at that time (subject to section 1375).

SEC. 1375. RELATIONSHIP TO CERTAIN CONTRACT OBLIGATIONS.

(a) Native American Trust Responsibility.—The Secretary shall ensure that any trust responsibilities to any Native American Tribes that may be affected by the conveyance under this title are protected and fulfilled.

(b) Contract Obligations.—Conveyance of the Distribution System under this subtitle—

(1) shall not affect any of the provisions of the District's existing water service contract with the United States (contract number 14-06-200-489-IR3), as it may be amended or supplemented; and

(2) shall not deprive the District of any existing contractual or statutory entitlement to subsequent interim renewals of such contract or to renewal by entering into a long-term water service contract.

SEC. 1376. LIABILITY.

Effective on the date of conveyance of the Distribution System under this subtitle, the United States shall not be liable under any law for damages of any kind arising out of any act, omission, or occurrence based on its prior ownership or operation of the conveyed property.

Subtitle H—Pine River Project, Colorado

SEC. 1381. SHORT TITLE.

This subtitle may be cited as the "Vallecito Dam and Reservoir Conveyance Act".

SEC. 1382. DEFINITIONS.

For purposes of this subtitle:

(1) The term "District" means the Pine River Irrigation District, a political division of the State of Colorado duly organized, existing, and acting pursuant to the laws thereof with its principal place of business in the city of Bayfield, La Plata County, Colorado.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term the "Project" means Vallecito Dam and Reservoir, and associated interests, owned by the United States and authorized in 1937 under the provisions of the Department of the Interior Appropriation Act of June 25, 1910 (36 Stat. 835).

(4) The term "Repayment Contract" means Repayment Contract #Ilr-1204, between Reclamation and the Pine River Irrigation District, dated April 15, 1940, and amended November 30, 1953, all amendments thereto, and changes pursuant to the Act of July 27, 1954 (68 Stat. 534).

(5) The term "Tribe" means the Southern Ute Indian Tribe, a federally recognized Indian tribe located on the Southern Ute Indian Reservation, La Plata County, Colorado.

(6) The term "Jurisdictional Map" means the map entitled "Transfer of Jurisdiction—Vallecito Reservoir, United States Department of Agriculture, Forest Service and United States Department of the Interior, Bureau of Reclamation and the Bureau of Indian Affairs" dated March, 1998.

SEC. 1383. CONVEYANCE OF PROJECT.

(a) CONVEYANCE TO DISTRICT.—

(1) IN GENERAL.—In consideration of the District accepting the obligations of the Federal Government for the Project and subject to the completion of payments by the District required under subsection (b)(3) and occurrence of the events described in paragraphs (2) and (3) of this subsection, the Secretary shall convey an undivided ⅚ interest in the Project to the District.

(2) SUBMISSION OF MANAGEMENT PLAN.—Prior to any conveyance under paragraph (1), the District shall submit to the Secretary a plan to manage the Project in a manner substantially similar to the manner in which it was managed prior to the transfer and in accordance with applicable Federal and State laws, including provisions—

(A) protecting the interests in the Project held by the Bureau of Indian Affairs for the Tribe;

(B) preserving public access and recreational values and preventing growth on certain lands to be conveyed hereunder, as set forth in an Agreement dated March 20, 1998, between the District and residents of Vallecito Reservoir; and

(C) ensuring that any future change in the use of the water supplied by Vallecito Reservoir shall comply with applicable law.

(3) LIMITATION.—No interest in the Project shall convey under this subsection before the date on which the Secretary receives a copy of a resolution adopted by the Tribe declaring that the terms of the conveyance protects the Indian trust assets of the Tribe.

(b) DEADLINE.—

(1) IN GENERAL.—If no changes in Project operations are expected following the conveyance under subsection (a), the Secretary shall complete the conveyance under subsection (a) expeditiously, but not later than 180 days after the date of the enactment of this Act.

(2) DEADLINE IF CHANGES IN OPERATIONS INTENDED.—If the District intends to change Project operations as a result of the conveyance under subsection (a), the Secretary—

(A) shall take into account those potential changes for the purpose of completing any required environmental evaluation associated with the conveyance; and

(B) shall complete the conveyance by not later than 2 years after the date of the enactment of this Act.

(3) ADMINISTRATIVE COSTS OF CONVEYANCE.—If the District submits a plan in accordance with subsection (a)(2) and the Secretary receives a copy of a resolution described in subsection (a)(3), and the Secretary fails to complete the conveyance under subsection (a) before the applicable deadline under paragraph (1) or (2), the full cost of administrative action and environmental compliance for the conveyance shall be borne by the Secretary. If the Secretary completes the conveyance before that deadline, ½ of such cost shall be paid by the District.

(c) TRIBAL INTERESTS.—At the option of the Tribe, the Secretary shall convey to the Tribe an undivided ⅙ interest in the Project, all interests in lands over which the Bureau of Indian Affairs holds administrative jurisdiction under section 1384(e)(1)(A), and water rights associated with those interests. No consideration or compensation shall be required to be paid to the United States for such conveyance.

(d) RESTRICTION ON PARTITION.—Any conveyance of interests in lands under this subtitle shall be subject to the prohibition that those interests in those lands may not be partitioned. Any quit claim deed or patent evidencing such a conveyance shall expressly prohibit partitioning.

SEC. 1384. RELATIONSHIP TO EXISTING OPERATIONS.

(a) IN GENERAL.—Nothing in this subtitle shall be construed as significantly expanding or otherwise changing the use or operation of the Project from its current use and operation.

(b) DESCRIPTION OF EXISTING CONDITION.—The Secretary shall submit to the District, the Bureau of Indian Affairs, and the State of Colorado a description of the existing condition of Vallecito Dam based on Bureau of Reclamation's current knowledge and understanding.

(c) FUTURE ALTERATIONS.—If the District alters the operations or uses of the Project it shall comply with all applicable laws or regulations governing such changes at that time.

(d) FLOOD CONTROL PLAN.—The District shall work with Corps of Engineers to develop a flood control plan for the operation of Vallecito Dam for flood control purposes.

(e) JURISDICTIONAL TRANSFER OF LANDS.—

(1) INUNDATED LANDS.—To provide for the consolidation of lands associated with the Project to be retained by the Forest Service and the consolidation of lands to be transferred to the District, the administrative jurisdiction of lands inundated by and along the shoreline of Vallecito Reservoir, as shown on the Jurisdictional Map, shall be transferred, as set forth in this subsection, concurrently with any conveyance under section 1383. Except as otherwise shown on the Jurisdictional Map—

(A) for withdrawn lands (approximately 260 acres) lying below the 7,665-foot reservoir water surface elevation level, the Forest Service shall transfer an undivided ⅚ interest to the Bureau of Reclamation and an undivided ⅙ interest to the Bureau of Indian Affairs in trust for the Tribe; and

(B) for Project acquired lands (approximately 230 acres) above the 7,665-foot reservoir water surface elevation level, the Bureau of Reclamation and the Bureau of Indian Affairs shall transfer their interests to the Forest Service.

(2) MAP.—The Jurisdictional Map and legal descriptions of the lands transferred pursuant to paragraph (1) shall be on file and available for public inspection in the offices of the Chief of the Forest Service, the Commissioner of Reclamation, appropriate field offices of those agencies, and the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(3) ADMINISTRATION.—Following the transfer of administrative jurisdiction under paragraph (1):

(A) All lands that, by reason of the transfer of administrative jurisdiction under paragraph (1), become National Forest System lands within the boundaries of the San Juan National Forest, shall be administered in accordance with the laws, rules, and regulations applicable to the National Forest System.

(B) Bureau of Reclamation withdrawals of land from the San Juan National Forest established by Secretarial Orders on November 9, 1936, October 14, 1937, and June 20, 1945, together designated as Serial No. C–28259, shall be revoked.

(C) The Forest Service shall issue perpetual easements to the District and the Bureau of Indian Affairs, at no cost to the District or the Bureau of Indian Affairs, providing adequate access across all lands subject to Forest Service jurisdiction to insure the District and the Bureau of Indian Affairs the ability to continue to operate and maintain the Project.

(D) The undivided ⅚ interest in National Forest System lands that, by reason of the transfer of administrative jurisdiction under paragraph (1) is to be administered by Bureau of Reclamation, shall be conveyed to the District pursuant to section 1383.

(E) The District and the Bureau of Indian Affairs shall issue perpetual easements to the Forest Service, at no cost to the Forest Service, from National Forest System lands to Vallecito Reservoir to assure continued public access to Vallecito Reservoir when the Reservoir level drops below the 7,665-foot water surface elevation.

(F) The District and the Bureau of Indian Affairs shall issue a perpetual easement to the Forest Service, at no cost to the Forest Service, for the reconstruction, maintenance, and operation of a road from La Plata County Road No. 501 to National Forest System lands east of the Reservoir.

(4) VALID EXISTING RIGHTS.—Nothing in this subsection shall affect any valid existing rights or interests in any existing land use authorization, except that any such land use authorization shall be administered by the agency having jurisdiction over the land after the transfer of administrative jurisdiction under paragraph (1) in accordance with paragraph (3) and other applicable law. Renewal or reissuance of any such authorization shall be in accordance with applicable law and the regulations of the agency having jurisdiction, except that the change of administrative jurisdiction shall not in itself constitute a ground to deny the renewal or reissuance of any such authorization.

(f) FEDERAL DAM CHARGE.—Nothing in this subtitle shall relieve the holder of the Federal Energy Regulatory Commission license for Vallecito Dam in effect on the date of the enactment of this Act from the obligation to make payments under section 10(e)(2) of the Federal Power Act during the term of the license.

SEC. 1385. RELATIONSHIP TO OTHER LAWS.

Upon conveyance of the Project under this subtitle, the Reclamation Act of 1902 (82 Stat. 388) and all Acts amendatory thereof or supplemental thereto shall not apply to the Project.

SEC. 1386. LIABILITY.

Except as otherwise provided by law, effective on the date of conveyance of the Project under this subtitle, the liability of the United States under any law for damages of any kind arising out of any act, omission, or occurrence based on its prior ownership or operation of property in which an interest is conveyed by the United States pursuant to this subtitle shall be limited to the portion of the total damages that bears the same proportion to the total damages as the interest in the property retained by the United States bears to the total interest in the property.

Subtitle I—Technical Corrections and Miscellaneous Provisions

SEC. 1391. TECHNICAL CORRECTIONS.

(a) Reduction of Waiting Period for Obligation of Funds Provided Under Reclamation Safety of Dams Act of1978.—Section 5 of the Reclamation Safety of Dams Act of 1978 (92 Stat. 2471; 43 U.S.C. 509) is amended by striking "sixty days" and all that follows through "day certain)" and inserting "30 calendar days".

(b) Albuquerque Metropolitan Area Reclamation and Reuse Project.—Section 1621 of the Reclamation Projects Authorization and Adjustment Act of 1992, as added by section 2(a)(2) of the Reclamation Recycling and Water Conservation Act of 1996 (110 Stat. 3292; 43 U.S.C. 390h–12g), is amended—

(1) in the heading by striking "study" and inserting "project"; and

(2) in subsection (a)—

(A) by inserting "the planning, design, and construction of" after "participate in";

(B) by striking "Study" and inserting "Project"; and

(C) by inserting "and nonpotable surface water" after "impaired groundwater".

(c) Phoenix Metropolitan Water Reclamation and Reuse Project.—Section 1608 of the Reclamation Projects Authorization and Adjustment Act of 1992 (106 Stat. 4666; 43 U.S.C. 390h–6) is amended—

(1) by amending subsection (a) to read as follows:

"(a) The Secretary, in cooperation with the city of Phoenix, Arizona, shall participate in the planning, design, and construction of the Phoenix Metropolitan Water Reclamation and Reuse Project to utilize fully wastewater from the regional wastewater treatment plant for direct municipal, industrial, agricultural, and environmental purposes, groundwater recharge, and indirect potable reuse in the Phoenix metropolitan area.";

(2) in subsection (b) by striking the first sentence; and

(3) by striking subsection (c).

(d) Refund of Certain Amounts Received Under Reclamation Reform Act of 1982.—

(1) Refund required.—Subject to paragraph (2) and the availability of appropriations, the Secretary of the Interior shall refund fully amounts received by the United States as collections under section 224(i) of the Reclamation Reform Act of 1982 (101 Stat. 1330–268; 43 U.S.C. 390ww(i)) for paid bills (including interest collected) issued by the Secretary of the Interior before January 1, 1994, for full-cost charges that were assessed for failure to file certain certification forms under sections 206 and 224(c) of such Act (96 Stat. 1266, 1272; 43 U.S.C. 390ff, 390ww(c)).

(2) Administrative fee.—In the case of a refund of amounts collected in connection with sections 206 and 224(c) of the Reclamation Reform Act of 1982 (96 Stat. 1266, 1272; 43 U.S.C. 390ff, 390ww(c)) with respect to any water year after the 1987 water year, the amount refunded shall be reduced by an administrative fee of $260 for each occurrence.

(3) Authorization of appropriations.—There are authorized to be appropriated to carry out this subsection $3,000,000.

(e) Extension of Periods for Repayments for Nueces River Reclamation Project and Canadian River Reclamation Project, Texas.—Section 2 of the Emergency Drought Relief Act of 1996 (Public Law 104–318; 110 Stat. 3862) is amended by adding at the end the following new subsection:

"(c) Extension of Periods for Repayment.—Notwithstanding any provision of the Reclamation Project Act of 1939 (43 U.S.C. 485 et seq.), the Secretary of the Interior—

"(1) shall extend the period for repayment by the city of Corpus Christi, Texas, and the Nueces River Authority under contract No. 6–07–01–X0675, relating to the Nueces River reclamation project, Texas, until—

"(A) August 1, 2029, for repayment pursuant to the municipal and industrial water supply benefits portion of the contract; and

"(B) until August 1, 2044, for repayment pursuant to the fish and wildlife and recreation benefits portion of the contract; and

"(2) shall extend the period for repayment by the Canadian River Municipal Water Authority under contract No. 14–06–500–485, relating to the Canadian River reclamation project, Texas, until October 1, 2021.".

(f) Solano Project Water.—

(1) Authorization.—The Secretary of the Interior is authorized to enter into contracts with the Solano County Water Agency, or any of its member unit contractors for water from the Solano Project, California, pursuant to the Act of February 21, 1911 (43 U.S.C. 523), for—

(A) the impounding, storage, and carriage of nonproject water for domestic, municipal, industrial, and other beneficial purposes, using any facilities associated with the Solano Project, California, and

(B) the exchange of water among Solano Project contractors, for the purposes set forth in subparagraph (A), using facilities associated with the Solano Project, California.

(2) Limitation.—The authorization under paragraph (1) shall be limited to the use of that portion of the Solano Project facilities downstream of Mile 26 of the Putah South Canal (as that canal is depicted on the official maps of the Bureau of Reclamation), which is below the diversion points on the Putah South Canal utilized by the city of Fairfield for delivery of Solano Project water.

(g) Fish Passage and Protective Facilities, Rogue River Basin, Oregon.—The Secretary of the Interior is authorized to use otherwise available amounts to provide up to $2,000,000 in financial assistance to the Medford Irrigation District and the Rogue River Valley Irrigation District for the design and construction of fish passage and protective facilities at North Fork Little Butte Creek Diversion Dam and South Fork Little Butte Creek Diversion Dam in the Rogue River basin, Oregon, if the Secretary determines in writing that these facilities will enhance the fish recovery efforts currently underway at the Rogue River Basin Project, Oregon.

SEC. 1392. AUTHORIZATION TO CONSTRUCT TEMPERATURE CONTROL DEVICES.

(a) Folsom Dam.—The Secretary of the Interior is hereby authorized to construct in accordance with the draft environmental impact statement/environmental impact report for the Central Valley Supply contracts under Public Law 101–514 (section 206) and the report entitled "Assessment of the Beneficial and Adverse Impacts of Operating a Temperature Control Device (TCD) at the Water Supply Intakes of Folsom Dam", a temperature control device on Folsom Dam and necessary associated temperature monitoring facilities. The temperature control device and said associated temperature monitoring facilities shall be operated as an integral part of the Central Valley Project for the benefit and propagation of fall-run chinook salmon and steelhead trout in the American River, California.

(b) Device on Non-CVP Facilities.—The Secretary of the Interior is hereby authorized to construct or assist in the construction of 1 or more temperature control devices on existing non-Federal facilities delivering Central Valley Project water supplies from Folsom Reservoir and necessary associated temperature monitoring facilities. These costs of construction of temperature control device and associated temperature monitoring facilities shall be nonreimbursable and operated by the non-Federal facility owner at its expense, in coordination with the Central Valley Project for the benefit and propagation of chinook salmon and steelhead trout in the American River, California.

(c) Authorization.—There is hereby authorized to be appropriated for the construction of a temperature control device on Folsom Dam and necessary associated temperature monitoring facilities the sum of $5,000,000 (adjusted for inflation based on October 1997 prices). There is also authorized to be appropriated for the construction of a temperature control device on existing non-Federal facilities and necessary associated temperature monitoring facilities the sum of $2,000,000 (October 1997 prices). There is also authorized to be appropriated, in addition thereto, such amounts as are required for operation, maintenance, and replacement of the temperature control devices on Folsom Dam and associated temperature monitoring facilities.

SEC. 1393. COLUSA BASIN WATERSHED INTEGRATED RESOURCES MANAGEMENT.

(a) Short Title.—This section may be cited as the "Colusa Basin Watershed Integrated Resources Management Act".

(b) Authorization of Assistance.—The Secretary of the Interior (in this section referred to as the "Secretary") may provide financial assistance to the Colusa Basin Drainage District, California (in this section referred to as the "District"), for use by the District or by local agencies acting pursuant to section 413 of the State of California statute known as the Colusa Basin Drainage Act (California Stats. 1987, ch. 1399), as in effect on the date of the enactment of this Act (in this section referred to as the "State statute"), for planning, design, environmental compliance, and construction required in carrying out eligible projects in the Colusa Basin Watershed to—

(1)(A) reduce the risk of damage to urban and agricultural areas from flooding or the discharge of drainage water or tailwater;

(B) assist in groundwater recharge efforts to alleviate overdraft and land subsidence; or

(C) construct, restore, or preserve wetland and riparian habitat; and

(2) capture, as an incidental purpose of any of the purposes referred to in paragraph (1), surface or stormwater for conservation, conjunctive use, and increased water supplies.

(c) Project Selection.—

(1) Eligible projects.—A project shall be an eligible project for purposes of subsection (b) only if it is—

(A) identified in the document entitled "Colusa Basin Water Management Program", dated February 1995; and

(B) carried out in accordance with that document and all environmental documentation requirements that apply to the project under the laws of the United States and the State of California.

(2) Compatibility requirement.—The Secretary shall ensure that projects for which assistance is provided under this section are not inconsistent with watershed protection and environmental restoration efforts being carried out under the authority of the Central Valley Project Improvement Act (Public Law 102–575; 106 Stat. 4706 et seq.) or the CALFED Bay-Delta Program.

(d) COST SHARING.—

(1) NON-FEDERAL SHARE.—The Secretary shall require that the District and cooperating non-Federal agencies or organizations pay—

(A) 25 percent of the costs associated with construction of any project carried out with assistance provided under this section; and

(B) 100 percent of any operation, maintenance, and replacement and rehabilitation costs with respect to such a project.

(2) PLANNING, DESIGN, AND COMPLIANCE ASSISTANCE.—Funds appropriated pursuant to this section may be made available to fund all costs incurred for planning, design, and environmental compliance activities by the District or by local agencies acting pursuant to the State statute, in accordance with agreements with the Secretary.

(3) TREATMENT OF CONTRIBUTIONS.—For purposes of this subsection, the Secretary shall treat the value of lands, interests in lands (including rights-of-way and other easements), and necessary relocations contributed by the District to a project as a payment by the District of the costs of the project.

(e) COSTS NONREIMBURSABLE.—Amounts expended pursuant to this section shall be considered nonreimbursable for purposes of the Act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 371 et seq.), and Acts amendatory thereof and supplemental thereto.

(f) AGREEMENTS.—Funds appropriated pursuant to this section may be made available to the District or a local agency only if the District or local agency, as applicable, has entered into a binding agreement with the Secretary—

(1) under which the District or the local agency is required to pay the non-Federal share of the costs of construction required by subsection (d)(1); and

(2) governing the funding of planning, design, and compliance activities costs under subsection (d)(2).

(g) REIMBURSEMENT.—For project work (including work associated with studies, planning, design, and construction) carried out by the District or by a local agency acting pursuant to the State statute referred to in subsection (b) before the date amounts are provided for the project under this section, the Secretary shall, subject to amounts being made available in advance in appropriations Acts, reimburse the District or the local agency, without interest, an amount equal to the estimated Federal share of the cost of such work under subsection (d).

(h) COOPERATIVE AGREEMENTS.—

(1) IN GENERAL.—The Secretary may enter into cooperative agreements and contracts with the District to assist the Secretary in carrying out the purposes of this section.

(2) SUBCONTRACTING.—Under such cooperative agreements and contracts, the Secretary may authorize the District to manage and let contracts and receive reimbursements, subject to amounts being made available in advance in appropriations Acts, for work carried out under such contracts or subcontracts.

(i) RELATIONSHIP TO RECLAMATION REFORM ACT OF 1982.—Activities carried out, and financial assistance provided, under this section shall not be considered a supplemental or additional benefit for purposes of the Reclamation Reform Act of 1982 (96 Stat. 1263; 43 U.S.C. 390aa et seq.).

(j) APPROPRIATIONS AUTHORIZED.—There are authorized to be appropriated to the Secretary to carry out this section $25,000,000, plus such additional amount, if any, as may be required by reason of changes in costs of services of the types involved in the District's projects as shown by engineering and other relevant indexes. Sums appropriated under this subsection shall remain available until expended.

TITLE XIV—PROVISIONS SPECIFIC TO ALASKA

Subtitle A—Land Exchange Near Gustavus and Related Provisions

SEC. 1401. SHORT TITLE.

This subtitle may be cited as the "Glacier Bay National Park Boundary Adjustment Act of 1998".

SEC. 1402. LAND EXCHANGE AND WILDERNESS DESIGNATION.

(a) IN GENERAL.—(1) Subject to conditions set forth in subsection (c), if the State of Alaska, in a manner consistent with this subtitle, offers to transfer to the United States the lands identified in paragraph (4) in exchange for the lands identified in paragraph (3), selected from the area described in section 1403(b)(1), the Secretary of the Interior (in this subtitle referred to as the "Secretary") shall complete such exchange no later than 6 months after the issuance of a license to Gustavus Electric Company by the Federal Energy Regulatory Commission (in this subtitle referred to as "FERC"), in accordance with this subtitle. This land exchange shall be subject to the laws applicable to exchanges involving lands managed by the Secretary as part of the National Park System in Alaska and the appropriate process for the exchange of State lands required by State law.

(2) The lands to be conveyed to the United States by the State of Alaska shall be determined by mutual agreement of the Secretary and the State of Alaska. Lands that will be considered for conveyance to the United States pursuant to the process required by State law are lands owned by the State of Alaska in the Long Lake area within Wrangell-St. Elias National Park and Preserve, or other lands owned by the State of Alaska.

(3) If the Secretary and the State of Alaska have not agreed on which lands the State of Alaska will convey by a date not later than 6 months after a license is issued pursuant to this subtitle, the United States shall accept, within 1 year after a license is issued, title to land having a sufficiently equal value to satisfy State and Federal law, subject to clear title and valid existing rights, and absence of environmental contamination, and as provided by the laws applicable to exchanges involving lands managed by the Secretary as part of the National Park System in Alaska and the appropriate process for the exchange of State lands required by State law. Such land shall be accepted by the United States, subject to the other provisions of this subtitle, from among the following State lands in the priority listed:

COPPER RIVER MERIDIAN

(A) T.6 S., R. 12 E., partially surveyed, Sec. 5, lots 1, 2, and 3, NE¼, S½NW¼, and S½. Containing 617.68 acres, as shown on the plat of survey accepted June 9, 1922.

(B) T.6 S., R. 11 E., partially surveyed, Sec. 11, lots 1 and 2, NE¼, S½NW¼, SW¼, and N½SE¼; Sec. 12; Sec. 14, lots 1 and 2, NW¼NW¼. Containing 838.66 acres, as shown on the plat of survey accepted June 9, 1922.

(C) T.6 S., R. 11 E., partially surveyed, Sec. 2, NW¼NE¼ and NW¼. Containing 200.00 acres, as shown on the plat of survey accepted June 9, 1922.

(D) T.6 S., R. 12 E., partially surveyed, Sec. 6, lots 1 through 10, E½SW¼ and SE¼. Containing approximately 529.94 acres, as shown on the plat of survey accepted June 9, 1922.

(4) The lands to be conveyed to the State of Alaska by the United States under paragraph (1) are lands to be designated by the Secretary and the State of Alaska, consistent with sound land management principles, based on those lands determined by FERC with the concurrence of the Secretary and the State of Alaska, in accordance with section 1403(b), to be the minimum amount of land necessary for the construction and operation of a hydroelectric project.

(5) The time periods set forth for the completion of the land exchanges described in this subtitle may be extended as necessary by the Secretary should the processes of State law or Federal law delay completion of an exchange.

(6) For purposes of this subtitle, the term "land" means lands, waters, and interests therein.

(b) WILDERNESS.—(1) To ensure that this transaction maintains, within the National Wilderness Preservation System, approximately the same amount of area of designated wilderness as currently exists, the following lands in Alaska shall be designated as wilderness in the priority listed, upon consummation of the land exchange authorized by this subtitle and shall be administered according to the laws governing national wilderness areas in Alaska:

(A) An unnamed island in Glacier Bay National Park lying southeasterly of Blue Mouse Cove in sections 5, 6, 7, and 8, T. 36 S., R. 54 E., CRM, and shown on United States Geological Survey quadrangle Mt. Fairweather (D–2), Alaska, containing approximately 789 acres.

(B) Cenotaph Island of Glacier Bay National Park lying within Lituya Bay in sections 23, 24, 25, and 26, T. 37 S., R. 47 E., CRM, and shown on United States Geological Survey quadrangle Mt. Fairweather (C–5), Alaska, containing approximately 280 acres.

(C) An area of Glacier Bay National Park lying in T. 31. S., R. 43 E and T. 32 S., R. 43 E., CRM, that is not currently designated wilderness, containing approximately 2,270 acres.

(2) The specific boundaries and acreage of these wilderness designations may be reasonably adjusted by the Secretary, consistent with sound land management principles, to approximately equal, in sum, the total wilderness acreage deleted from Glacier Bay National Park and Preserve pursuant to the land exchange authorized by this subtitle.

(c) CONDITIONS.—Any exchange of lands under this subtitle may occur only if—

(1) following the submission of a complete license application, FERC has conducted economic and environmental analyses under the Federal Power Act (16 U.S.C. 791–828) (notwithstanding provisions of that Act and the Federal regulations that otherwise exempt this project from economic analyses), the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370), and the Fish and Wildlife Coordination Act (16 U.S.C. 661–666), that conclude, with the concurrence of the Secretary of the Interior with respect to subparagraphs (A) and (B), that the construction and operation of a hydroelectric power project on the lands described in section 1403(b)—

(A) will not adversely impact the purposes and values of Glacier Bay National Park and Preserve (as constituted after the consummation of the land exchange authorized by this section);

(B) will comply with the requirements of the National Historic Preservation Act (16 U.S.C. 470–470w); and

(C) can be accomplished in an economically feasible manner;

(2) FERC held at least one public meeting in Gustavus, Alaska, allowing the citizens of Gustavus to express their views on the proposed project;

(3) FERC has determined, with the concurrence of the Secretary and the State of Alaska, the minimum amount of land necessary to construct and operate this hydroelectric power project; and

(4) Gustavus Electric Company has been granted a license by FERC that requires Gustavus Electric Company to submit an acceptable financing plan to FERC before project construction may commence, and the FERC has approved such plan.

SEC. 1403. ROLE OF FERC.

(a) LICENSE APPLICATION.—(1) The FERC licensing process shall apply to any application submitted by Gustavus Electric Company to the FERC for the right to construct and operate a hydropower project on the lands described in subsection (b).

(2) FERC is authorized to accept and consider an application filed by Gustavus Electric Company for the construction and operation of a hydropower plant to be located on lands within the area described in subsection (b), notwithstanding section 3(2) of the Federal Power Act (16 U.S.C. 796(2)). Such application must be submitted within 3 years after the date of the enactment of this Act.

(3) FERC will retain jurisdiction over any hydropower project constructed on this site.

(b) ANALYSES.—(1) The lands referred to in subsection (a) of this section are lands in the State of Alaska described as follows:

COPPER RIVER MERIDIAN

Township 39 South, Range 59 East, partially surveyed, Section 36 (unsurveyed), SE¼SW¼, S½SW¼SW¼, NE¼SW¼, W½W½NW¼SE¼, and S½SE¼NW¼. Containing approximately 130 acres.

Township 40 South, Range 59 East, partially surveyed, Section 1 (unsurveyed), NW¼, SW¼, W½SE¼, and SW¼SW¼NE¼, excluding U.S. Survey 944 and Native allotment A–442; Section 2 (unsurveyed), fractional, that portion lying above the mean high tide line of Icy Passage, excluding U.S. Survey 944 and U.S. Survey 945; Section 11 (unsurveyed), fractional, that portion lying above the mean high tide line of Icy Passage, excluding U.S. Survey 944; Section 12 (unsurveyed), fractional, NW¼NE¼, W½NW¼SW¼NE¼, and those portions of NW¼ and SW¼ lying above the mean high tide line of Icy Passage, excluding U.S. Survey 944 and Native allotment A–442. Containing approximately 1,015 acres.

(2) Additional lands and acreage will be included as needed in the study area described in paragraph (1) to account for accretion to these lands from natural forces.

(3) With the concurrence of the Secretary and the State of Alaska, the FERC shall determine the minimum amount of lands necessary for construction and operation of such project.

(4) The National Park Service shall participate as a joint lead agency in the development of any environmental document under the National Environmental Policy Act of 1969 in the licensing of such project. Such environmental document shall consider both the impacts resulting from licensing and any land exchange necessary to authorize such project.

(c) ISSUANCE OF LICENSE.—(1) A condition of the license to construct and operate any portion of the hydroelectric power project shall be FERC's approval, prior to any commencement of construction, of a finance plan submitted by Gustavus Electric Company.

(2) The National Park Service, as the existing supervisor of potential project lands ultimately to be deleted from the Federal reservation in accordance with this subtitle, waives its right to impose mandatory conditions on such project lands pursuant to section 4(e) of the Federal Power Act (16 U.S.C. 797(e)).

(3) FERC shall not license or relicense the project, or amend the project license unless it determines, with the Secretary's concurrence, that the project will not adversely impact the purposes and values of Glacier Bay National Park and Preserve (as constituted after the consummation of the land exchange authorized by this subtitle). Additionally, a condition of the license, or any succeeding license, to construct and operate any portion of the hydroelectric power project shall require the licensee to mitigate any adverse effects of the project on the purposes and values of Glacier Bay National Park and Preserve identified by the Secretary after the initial licensing.

(4) A condition of the license to construct and operate any portion of the hydroelectric power project shall be the completion, prior to any commencement of construction, of the land exchange described in this subtitle.

SEC. 1404. ROLE OF SECRETARY OF THE INTERIOR.

(a) SPECIAL USE PERMIT.—Notwithstanding the provisions of the Wilderness Act (16 U.S.C. 1133–1136), the Secretary shall issue a special use permit to Gustavus Electric Company to allow the completion of the analyses referred to in section 1403. The Secretary shall impose conditions in the permit as needed to protect the purposes and values of Glacier Bay National Park and Preserve.

(b) PARK SYSTEM.—The lands acquired from the State of Alaska under this subtitle shall be added to and administered as part of the National Park System, subject to valid existing rights. Upon completion of the exchange of lands under this subtitle, the Secretary shall adjust, as necessary, the boundaries of the affected National Park System units to include the lands acquired from the State of Alaska; and adjust the boundary of Glacier Bay National Park and Preserve to exclude the lands transferred to the State of Alaska under this subtitle. Any such adjustment to the boundaries of National Park System units shall not be considered in applying any acreage limitations under section 103(b) of Public Law 96–487.

(c) WILDERNESS AREA BOUNDARIES.—The Secretary shall make any necessary modifications or adjustments of boundaries of wilderness areas as a result of the additions and deletions caused by the land exchange referenced in section 1402. Any such adjustment to the boundaries of National Park System units shall not be considered in applying any acreage limitations under section 103(b) of Public Law 96–487.

(d) CONCURRENCE OF THE SECRETARY.—Whenever in this subtitle the concurrence of the Secretary is required, it shall not be unlawfully withheld or unreasonably delayed.

SEC. 1405. APPLICABLE LAW.

The authorities and jurisdiction provided in this subtitle shall continue in effect until such time as this subtitle is expressly modified or repealed by Congress.

Subtitle B—Amendments to Alaska Native Claims Settlement Act and Related Provisions

SEC. 1411. AUTOMATIC LAND BANK PROTECTION.

(a) LANDS RECEIVED IN EXCHANGE FROM CERTAIN FEDERAL AGENCIES.—The matter preceding clause (i) of section 907(d)(1)(A) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1636(d)(1)(A)) is amended by inserting "or conveyed to a Native Corporation pursuant to an exchange authorized by section 22(f) of Alaska Native Claims Settlement Act or section 1302(h) of this Act or other applicable law" after "Settlement Trust".

(b) LANDS EXCHANGED AMONG NATIVE CORPORATIONS.—Section 907(d)(2)(B) of such Act (43 U.S.C. 1636(d)(2)(B)) is amended—

(1) by striking "and" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting "; and"; and

(3) by adding at the end the following:

"(iv) lands or interest in lands shall not be considered developed or leased or sold to a third party as a result of an exchange or conveyance of such land or interest in land between or among Native Corporations and trusts, partnerships, corporations, or joint ventures, whose beneficiaries, partners, shareholders, or joint venturers are Native Corporations.".

(c) ACTIONS BY TRUSTEE SERVING PURSUANT TO AGREEMENT OF NATIVE CORPORATIONS.—Section 907(d)(3)(B) of such Act (43 U.S.C. 1636(d)(3)(B)) is amended—

(1) by striking "or" at the end of clause (i);

(2) by striking the period at the end of clause (ii) and inserting "; or"; and

(3) by adding at the end the following:

"(iii) to actions by any trustee whose right, title, or interest in land or interests in land arises pursuant to an agreement between or among Native Corporations and trusts, partnerships, or joint ventures whose beneficiaries, partners, shareholders, or joint venturers are Native Corporations.".

SEC. 1412. DEVELOPMENT BY THIRD-PARTY TRESPASSERS.

Section 907(d)(2)(A)(i) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1636(d)(2)(A)(i)) is amended—

(1) by inserting "Any such modification shall be performed by the Native individual or Native Corporation." after "substantial modification.";

(2) by inserting a period after "developed state" the second place it appears; and

(3) by adding "Any lands previously developed by third-party trespassers shall not be considered to have been developed.".

SEC. 1413. RETAINED MINERAL ESTATE.

(a) IN GENERAL.—Section 12(c)(4) of the Alaska Native Claims Settlement Act (43 U.S.C. 1611(c)(4)) is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (E) and (F), respectively, and by inserting after subparagraph (B) the following new subparagraphs:

"(C) Where such public lands are surrounded by or contiguous to subsurface lands obtained by a Regional Corporation under subsections (a) or (b), the Corporation may, upon request, have such public land conveyed to it.

"(D)(i) A Regional Corporation which elects to obtain public lands under subparagraph (C) shall be limited to a total of not more than 12,000 acres. Selection by a Regional Corporation of in lieu surface acres under subparagraph (E) pursuant to an election under subparagraph (C) shall not be made from any lands within a conservation system unit (as that term is defined by section 102(4) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(4)).

"(ii) An election to obtain the public lands described in subparagraph (A), (B), or (C) shall include all available parcels within the township in which the public lands are located.

"(iii) For purposes of this subparagraph and subparagraph (C), the term 'Regional

Corporation' shall refer only to Doyon, Limited."; and

(2) in subparagraph (E) (as so redesignated), by striking "(A) or (B)" and inserting "(A), (B), or (C)".

(b) FAILURE TO APPEAL NOT PROHIBITIVE.—Section 12(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1611(c)) is amended by adding at the end the following:

"(5) Subparagraphs (A), (B), and (C) of paragraph (4) shall apply, notwithstanding the failure of the Regional Corporation to have appealed the rejection of a selection during the conveyance of the relevant surface estate.".

SEC. 1414. AMENDMENT TO PUBLIC LAW 102-415.

Section 20 of the Alaska Land Status Technical Corrections Act of 1992 (106 Stat. 2129), is amended by adding at the end the following new subsection:

"(h) Establishment of the account under subsection (b) and conveyance of land under subsection (c), if any, shall be treated as though 3,520 acres of land had been conveyed to Gold Creek under section 14(h)(2) of the Alaska Native Claims Settlement Act for which rights to subsurface estate are hereby provided to CIRI. Within 1 year from the date of the enactment of this subsection, CIRI shall select 3,520 acres of land from the area designated for selection by paragraph I.B.(2)(b) of the document identified in section 12(b) (referring to the Talkeetna Mountains) of the Act of January 2, 1976 (43 U.S.C. 1611 note). Not more than five selections shall be made under this subsection, each of which shall be reasonably compact and in whole sections, except when separated by unavailable land or when the remaining entitlement is less than a whole section.".

SEC. 1415. CLARIFICATION ON TREATMENT OF BONDS FROM A NATIVE CORPORATION.

Section 29(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c)) is amended—

(1) in paragraph (3)(A), by inserting "and on bonds received from a Native Corporation" after "from a Native Corporation"; and

(2) in paragraph (3)(B), by inserting "or bonds issued by a Native Corporation which bonds shall be subject to the protection of section 7(h) until voluntarily and expressly sold or pledged by the shareholder subsequent to the date of distribution" before the semicolon.

SEC. 1416. MINING CLAIMS.

Paragraph (3) of section 22(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1621(c)) is amended—

(1) by striking out "regional corporation" each place it appears and inserting in lieu thereof "Regional Corporation"; and

(2) by adding at the end the following: "The provisions of this section shall apply to Haida Corporation and the Haida Traditional Use Sites, which shall be treated as a Regional Corporation for the purposes of this paragraph, except that any revenues remitted to Haida Corporation under this section shall not be subject to distribution pursuant to section 7(i) of this Act.".

SEC. 1417. SALE, DISPOSITION, OR OTHER USE OF COMMON VARIETIES OF SAND, GRAVEL, STONE, PUMICE, PEAT, CLAY, OR CINDER RESOURCES.

Subsection (i) of section 7 of the Alaska Native Claims Settlement Act (43 U.S.C. 1606(i)) is amended—

(1) by striking "Seventy per centum" and inserting "(A) Except as provided by subparagraph (B), seventy percent"; and

(2) by adding at the end the following:

"(B) In the case of the sale, disposition, or other use of common varieties of sand, gravel, stone, pumice, peat, clay, or cinder resources made during a fiscal year ending after the date of enactment of this subparagraph, the revenues received by a Regional Corporation shall not be subject to division under subparagraph (A). Nothing in this subparagraph is intended to or shall be construed to alter the ownership of such sand, gravel, stone, pumice, peat, clay, or cinder resources.".

SEC. 1418. ALASKA NATIVE ALLOTMENT APPLICATIONS.

Section 905(a) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1634(a)) is amended by adding at the end the following:

"(7) Paragraph (1) of this subsection and subsection (d) shall apply, and paragraph (5) of this subsection shall cease to apply, to an application—

"(A) that is open and pending on the date of enactment of this paragraph,

"(B) if the lands described in the application are in Federal ownership other than as a result of reacquisition by the United States after January 3, 1959, and

"(C) if any protest which is filed by the State of Alaska pursuant to paragraph (5)(B) with respect to the application is withdrawn or dismissed either before, on, or after the date of the enactment of this paragraph.

"(8)(A) Any allotment application which is open and pending and which is legislatively approved by enactment of paragraph (7) shall, when allotted, be made subject to any easement, trail, or right-of-way in existence on the date of the Native allotment applicant's commencement of use and occupancy.

"(B) The jurisdiction of the Secretary is extended to make any factual determinations required to carry out this paragraph.".

SEC. 1419. VISITOR SERVICES.

Paragraph (1) of section 1307(b) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3197(b)) is amended—

(1) by striking "Native Corporation" and inserting "Native Corporations"; and

(2) by striking "is most directly affected" and inserting "are most directly affected".

SEC. 1420. LOCAL HIRE REPORT.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary of the Interior shall transmit to Congress a report.

(b) LOCAL HIRE.—The report required by subsection (a) shall—

(1) indicate the actions taken in carrying out subsection (b) of section 1308 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3198);

(2) address the recruitment processes that may restrict employees hired under subsection (a) of such section from successfully obtaining positions in the competitive service; and

(3) describe the actions of the Secretary of the Interior in contracting with Alaska Native Corporations to provide services with respect to public lands in Alaska.

(c) COOPERATION.—The Secretary of Agriculture shall cooperate with the Secretary of the Interior in carrying out this section with respect to the Forest Service.

SEC. 1421. SHAREHOLDER BENEFITS.

Section 7 of the Alaskan Native Claims Settlement Act (43 U.S.C. 1606) is amended by adding at the end the following:

"(r) BENEFITS FOR SHAREHOLDERS OR IMMEDIATE FAMILIES.—The authority of a Native Corporation to provide benefits to its shareholders who are Natives or descendants of Natives or to its shareholders' immediate family members who are Natives or descendants of Natives to promote the health, education, or welfare of such shareholders or family members is expressly authorized and confirmed. Eligibility for such benefits need not be based on share ownership in the Native Corporation and such benefits may be provided on a basis other than pro rata based on share ownership.".

Subtitle C—Miscellaneous Provisions

SEC. 1431. MORATORIUM ON FEDERAL MANAGEMENT.

Prior to December 31, 1999, neither the Secretary of the Interior nor the Secretary of Agriculture may issue or implement final regulations, rules, or policies pursuant to title VIII of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3111 et seq.) to assert jurisdiction, management, or control over the navigable waters transferred to the State of Alaska pursuant to the Submerged Lands Act (43 U.S.C. 1301 et seq.) or the Act entitled "An Act to provide for the admission of the State of Alaska into the Union", approved July 7, 1958 (Public Law 85-508; 72 Stat. 339).

SEC. 1432. EASEMENT FOR CHUGACH ALASKA CORPORATION.

(a) IN GENERAL.—Notwithstanding any other provision of law, not later than December 11, 1998, the Secretary of Agriculture shall convey to Chugach Alaska Corporation an easement for the construction, use, and maintenance of forest roads and related facilities necessary for access to and economic development of the land interests in the Carbon Mountain and Katalla vicinity that were conveyed to Chugach Alaska Corporation pursuant to the Alaska Native Claims Settlement Act. The public shall be permitted use of the roads pursuant to the terms and conditions contained in the 1982 Chugach Natives, Inc. Settlement Agreement. The location of the easement is depicted on the map entitled "Carbon Mountain Access Easement" and dated November 4, 1997. Nothing in this section waives any legal environmental requirement with respect to the actual road construction.

(b) CONSTRUCTION AND MAINTENANCE.—Construction and maintenance of any roads pursuant to subsection (a) shall be in accordance with the best management practices of the Forest Service as promulgated in the Forest Service Handbook.

(c) SETTLEMENT AGREEMENT TO REMAIN IN FORCE.—Nothing in this section shall be construed as impairing or diminishing any right granted Chugach Alaska Corporation under the 1982 Chugach Natives, Inc. Settlement Agreement.

The CHAIRMAN. No amendment is in order except those specified in section 2 of House Resolution 573. Each amendment may be offered only in the order printed, may be offered only by the Member specified, shall be considered read, debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment and shall not be subject to a demand for division of the question.

The Chairman of the Committee of the Whole may postpone a demand for a recorded vote on any amendment and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

AMENDMENT NO. 1 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. HANSEN

Mr. HANSEN. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment No. 1 in the nature of a substitute offered by Mr. HANSEN:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Omnibus National Parks and Public Lands Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

TITLE I—BOUNDARY ADJUSTMENTS AND RELATED CONVEYANCES

Sec. 101. Fort Davis Historic Site, Fort Davis, Texas.
Sec. 102. Abraham Lincoln Birthplace National Historic Site, Kentucky.
Sec. 103. Grand Staircase-Escalante National Monument, Utah.
Sec. 104. George Washington Birthplace National Monument, Virginia.
Sec. 105. Wasatch-Cache National Forest and Mount Naomi Wilderness, Utah.
Sec. 106. Bandelier National Monument, New Mexico.

TITLE II—OTHER LAND CONVEYANCES AND MANAGEMENT

Subtitle A—Southern Nevada Public Land Management

Sec. 201. Conveyance to Clark County Department of Aviation.

Subtitle B—Conveyance of Canyon Ferry Reservoir Properties

Sec. 221. Findings.
Sec. 222. Purpose.
Sec. 223. Definitions.
Sec. 224. Sale of Properties.
Sec. 225. Management of Bureau of Reclamation recreation area.
Sec. 226. Use of proceeds.
Sec. 227. Montana Fish and Wildlife Conservation Trust.
Sec. 228. Canyon Ferry-Broadwater County Trust.
Sec. 229. Canyon Ferry Cabin Site Transfer Trust.

Subtitle C—Conveyance of National Forest Lands for Public School Purposes

Sec. 231. Authorization of use of National Forest lands for public school purposes.

Subtitle D—Other Conveyances

Sec. 241. Land exchange, El Portal Administrative Site, California.
Sec. 242. Authorization to use land in Merced County, California, for elementary school.
Sec. 243. Issuance of quitclaim deed, Steffens family property, Big Horn County, Wyoming.
Sec. 244. Issuance of quitclaim deed, Lowe family property, Big Horn County, Wyoming.
Sec. 245. Utah schools and lands exchange.
Sec. 246. Land exchange, Routt National Forest, Colorado.
Sec. 247. Hart Mountain jurisdictional transfers, Oregon.
Sec. 248. Sale, lease, or exchange of Idaho school land.
Sec. 249. Transfer of jurisdiction of certain property in San Joaquin County, California, to Bureau of Land Management.
Sec. 250. Conveyance, Camp Owen and related parcels, Kern County, California.
Sec. 251. Treatment of certain land acquired by exchange, Red Cliffs Desert Reserve, Utah.
Sec. 252. Land conveyance, Yavapai County, Arizona.
Sec. 253. Conveyance, Old Coyote Administrative Site, Rio Arriba County, New Mexico.
Sec. 254. Acquisition of real property interests for addition to Chickamauga-Chattanooga National Military Park.
Sec. 255. Land transfers involving Rogue River National Forest and other public lands in Oregon.
Sec. 256. Protection of Oregon and California Railroad grant lands.

TITLE III—HERITAGE AREAS

Subtitle A—Delaware and Lehigh National Heritage Corridor of Pennsylvania

Sec. 301. Change in name of Heritage Corridor.
Sec. 302. Purpose.
Sec. 303. Corridor Commission.
Sec. 304. Powers of Corridor Commission.
Sec. 305. Duties of Corridor Commission.
Sec. 306. Termination of Corridor Commission.
Sec. 307. Duties of other Federal entities.
Sec. 308. Authorization of appropriations.
Sec. 309. Local authority and private property.
Sec. 310. Duties of the Secretary.

Subtitle B—Automobile National Heritage Area of Michigan

Sec. 311. Findings and purposes.
Sec. 312. Definitions.
Sec. 313. Automobile National Heritage Area.
Sec. 314. Designation of partnership as management entity.
Sec. 315. Management duties of the Automobile National Heritage Area Partnership.
Sec. 316. Duties and authorities of Federal agencies.
Sec. 317. Lack of effect on land use regulation and private property.
Sec. 318. Sunset.
Sec. 319. Authorization of appropriations.

Subtitle C—Lackawanna Heritage Valley American Heritage Area of Pennsylvania

Sec. 321. Findings and purpose.
Sec. 322. Lackawanna Heritage Valley American Heritage Area.
Sec. 323. Compact.
Sec. 324. Authorities and duties of management entity.
Sec. 325. Duties and authorities of Federal agencies.
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SEC. 101. FORT DAVIS HISTORIC SITE, FORT DAVIS, TEXAS.

The Act entitled "An Act Authorizing the establishment of a national historic site at Fort Davis, Jeff Davis County, Texas", approved September 8, 1961 (75 Stat. 488; 16 U.S.C. 461 note), is amended in the first section by striking "not to exceed four hundred and sixty acres" and inserting "not to exceed 476 acres".

SEC. 102. ABRAHAM LINCOLN BIRTHPLACE NATIONAL HISTORIC SITE, KENTUCKY.

(a) IN GENERAL.—Upon acquisition of the land known as Knob Creek Farm pursuant to subsection (b), the boundary of the Abraham Lincoln Birthplace National Historic Site, established by the Act of July 17, 1916 (39 Stat. 385, chapter 247; 16 U.S.C. 211 et seq.), is revised to include such land. Lands acquired pursuant to this section shall be administered by the Secretary of the Interior as part of the historic site.

(b) ACQUISITION OF KNOB CREEK FARM.—The Secretary of the Interior may acquire, by donation only, the approximately 228 acres of land known as Knob Creek Farm in Larue County, Kentucky, as generally depicted on a map entitled "Knob Creek Farm Unit, Abraham Lincoln National Historic Site", numbered 338/80,077, and dated October 1998. Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(c) STUDY AND REPORT.—The Secretary of the Interior shall study the Knob Creek Farm in Larue County, Kentucky, and not later than 1 year after the date of enactment of this Act, submit a report to the Congress containing the results of the study. The purpose of the study shall be to:

(1) Identify significant resources associated with the Knob Creek Farm and the early boyhood of Abraham Lincoln.

(2) Evaluate the threats to the long-term protection of the Knob Creek Farm's cultural, recreational, and natural resources.

(3) Examine the incorporation of the Knob Creek Farm into the operations of the Abraham Lincoln Birthplace National Historic Site and establish a strategic management plan for implementing such incorporation. In developing the plan, the Secretary shall—

(A) determine infrastructure requirements and property improvements needed at Knob Creek Farm to meet National Park Service standards;

(B) identify current and potential uses of Knob Creek Farm for recreational, interpretive, and educational opportunities; and

(C) project costs and potential revenues associated with acquisition, development, and operation of Knob Creek Farm.

(d) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out subsection (c).

SEC. 103. GRAND STAIRCASE-ESCALANTE NATIONAL MONUMENT, UTAH.

(a) EXCLUSION OF CERTAIN LANDS.—The boundaries of the Grand Staircase-Escalante National Monument in the State of Utah are hereby modified to exclude the following lands:

(1) The parcel known as Henrieville Town, Utah, as generally depicted on the map entitled "Henrieville Town Exclusion, Garfield County, Utah", dated March 25, 1998.

(2) The parcel known as Cannonville Town, Utah, as generally depicted on the map entitled "Cannonville Town Exclusion, Garfield County, Utah", dated March 25, 1998.

(3) The parcel known as Tropic Town, Utah, as generally depicted on the map entitled "Tropic Town Parcel", dated July 21, 1998.

(4) The parcel known as Boulder Town, Utah, as generally depicted on the map entitled "Boulder Town Exclusion, Garfield County, Utah", dated March 25, 1998.

(b) INCLUSION OF CERTAIN ADDITIONAL LANDS.—The boundaries of the Grand Staircase-Escalante National Monument are hereby modified to include the parcel known as East Clark Bench, as generally depicted on the map entitled "East Clark Bench Inclusion, Kane County, Utah", dated March 25, 1998.

(c) MAPS.—The maps referred to in subsections (a) and (b) shall be on file and available for public inspection in the office of the Grand Staircase-Escalante National Monument in the State of Utah and in the office of the Director of the Bureau of Land Management.

(d) LAND CONVEYANCE, TROPIC TOWN, UTAH.—The Secretary of the Interior shall convey to Garfield County School District, Utah, all right, title, and interest of the United States in and to the lands shown on the map entitled "Tropic Town Parcel" and dated July 21, 1998, in accordance with section 1 of the Act of June 14, 1926 (43 U.S.C. 869; commonly known as the Recreation and Public Purposes Act), for use as the location for a school and for other education purposes.

(e) LAND CONVEYANCE, KODACHROME BASIN STATE PARK, UTAH.—The Secretary shall transfer to the State of Utah all right, title, and interest of the United States in and to the lands shown on the map entitled "Kodachrome Basin Conveyance No. 1 and No. 2" and dated July 21, 1998, in accordance with section 1 of the Act of June 14, 1926 (43 U.S.C. 869; commonly known as the Recreation and Public Purposes Act), for inclusion of the lands in Kodachrome Basin State Park.

(f) UTILITY CORRIDOR DESIGNATION, U.S. ROUTE 89, KANE COUNTY, UTAH.—There is hereby designated a utility corridor with regard to U.S. Route 89, in Kane County, Utah. The utility corridor shall run from the boundary of Glen Canyon Recreation Area easterly to Mount Carmel Jct. and shall consist of the following:

(1) Bureau of Land Management lands located on the north side of U.S. Route 89 within 240 feet of the center line of the highway.

(2) Bureau of Land Management lands located on the south side of U.S. Route 89 within 500 feet of the center line of the highway.

SEC. 104. GEORGE WASHINGTON BIRTHPLACE NATIONAL MONUMENT, VIRGINIA.

(a) ADDITION.—The boundaries of the George Washington Birthplace National Monument are modified to include the property generally known as George Washington's Boyhood Home, Ferry Farm, located in Stafford County, Virginia, across the Rappahannock River from Fredericksburg, Virginia, comprising approximately 85 acres. The boundary modification is generally depicted on the map entitled "George Washington Birthplace National Monument Boundary Map", numbered 322/80,020 and dated April 1998. The Secretary of the Interior shall keep the map on file and available for public inspection in appropriate offices of the National Park Service.

(b) ACQUISITION OF EASEMENT.—After enactment of this section, the Secretary of the Interior may acquire no more than a less than fee interest in the property described in subsection (a) to ensure the preservation of the important cultural and natural resources associated with Ferry Farm.

(c) RESOURCE STUDY.—Not later than 18 months after the date on which funds are made available to carry out this section, the Secretary of the Interior shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a resource study of the property described in subsection (a). The study shall—

(1) identify the full range of resources and historic themes associated with Ferry Farm, including those associated with George Washington's tenure at the property described in subsection (a) and those associated with the Civil War period;

(2) identify alternatives for further National Park Service involvement at the property described in subsection (a) beyond those that may be provided for in the acquisition authorized under subsection (b); and

(3) include cost estimates for any necessary acquisition, development, interpretation, operation, and maintenance associated with the alternatives identified.

(d) AGREEMENTS.—Upon completion of the resource study under subsection (c), the Secretary of the Interior may enter into agreements with the owner of the property described in subsection (a) or other entities for the purpose of providing programs, services, facilities, or technical assistance that further the preservation and public use of the property.

SEC. 105. WASATCH-CACHE NATIONAL FOREST AND MOUNT NAOMI WILDERNESS, UTAH.

(a) BOUNDARY ADJUSTMENT.—To correct a faulty land survey, the boundaries of the Wasatch-Cache National Forest in the State of Utah and the boundaries of the Mount Naomi Wilderness, which is located within the Wasatch-Cache National Forest and was established as a component of the National Wilderness Preservation System in section 102(a)(1) of the Utah Wilderness Act of 1984 (Public Law 98-428; 98 Stat. 1657), are hereby modified to exclude the parcel of land known as the D. Hyde property, which encompasses an area of cultivation and private use, as generally depicted on the map entitled "D. Hyde Property Section 7 Township 12 North Range 2 East SLB & M", dated July 23, 1998.

(b) LAND CONVEYANCE.—The Secretary of Agriculture shall convey to Darrell Edward Hyde of Cache County, Utah, all right, title, and interest of the United States in and to the parcel of land identified in subsection (a). As part of the conveyance, the Secretary shall release, on behalf of the United States, any claims of the United States against Darrell Edward Hyde for trespass or unauthorized use of the parcel before its conveyance.

(c) WILDERNESS ADDITION.—To prevent any net loss of wilderness within the State of Utah, the boundaries of the Mount Naomi Wilderness are hereby modified to include a parcel of land comprising approximately 7.25 acres, identified as the "Mount Naomi Wilderness Boundary Realignment Consideration" on the map entitled "Mount Naomi Wilderness Addition", dated September 25, 1998.

SEC. 106. BANDELIER NATIONAL MONUMENT, NEW MEXICO.

(a) FINDINGS.—Congress finds the following:

(1) Bandelier National Monument (in this section referred to as the "Monument") was established by Presidential proclamation on February 11, 1916, to preserve the archaeological resources of a "vanished people, with as much land as may be necessary for the proper protection thereof. . ." (Presidential Proclamation No. 1322; 39 Stat. 1764).

(2) At various times since the establishment of the Monument, the Congress and the President have adjusted the boundaries and purpose of the Monument to further preservation of archaeological and natural resources within the Monument:

(A) On February 25, 1932, the Otowi Section of the Santa Fe National Forest (some 4,699 acres of land) was transferred to the Monument from the Santa Fe National Forest (Presidential Proclamation No. 1991; 47 Stat. 2503).

(B) On December 9, 1959, 3,600 acres of Frijoles Mesa were transferred to the National Park Service from the Atomic Energy Commission, and such lands were subsequently added to the Monument on January 9, 1961, because of "pueblo-type archeological ruins germane to those in the monument area" (Presidential Proclamation No. 3388; 75 Stat. 1014).

(C) On May 27, 1963, Upper Canyon, consisting of 2,882 acres of land previously administered by the Atomic Energy Commission, was added to the Monument to preserve the lands "unusual scenic character together with geologic and topographic features, the preservation of which would implement the purposes of such monument (Presidential Proclamation No. 3539; 77 Stat. 1006).

(D) In 1976, concerned about upstream land management activities that could result in flooding and erosion in the Monument, Congress enacted Public Law 94-578 (90 Stat. 2732, 2736) to include the headwaters of the Rito de los Frijoles and the Cañada de Cochiti Grant (a total of 7,310 acres) within the boundaries of the Monument.

(E) In 1976, Congress enacted Public Law 94-567 (90 Stat. 2692), which created the Bandelier Wilderness, a 23,267 acres area that covers over 70 percent of the Monument.

(3) The Monument still has potential threats from flooding, erosion, and water quality deterioration because of the mixed ownership of the upper watersheds, along its western border, particularly in Alamo Canyon.

(b) PURPOSE.—The purpose of this section is to modify the boundaries of the Monument to allow for acquisition and enhanced protection of the lands within the Monument's upper watershed.

(c) BOUNDARY MODIFICATION.—Effective on the date of enactment of this Act, the boundaries of the Monument are hereby modified to include approximately 935 acres of land, comprised of the Elk Meadows subdivision, the Gardner parcel, the Clark parcel, and the Baca Land & Cattle Co. lands within the Upper Alamo watershed, as depicted on the National Park Service map entitled "Proposed Boundary Expansion Map Bandelier National Monument" dated July 1997. Such map shall be on file and available for public inspection in the offices of the Director of the National Park Service, Department of the Interior.

(d) ACQUISITION AUTHORITY—

(1) ACQUISITION METHODS.—Subject to paragraphs (2), (3), and (4), the Secretary of the Interior may acquire lands and interests therein within the boundaries of the area added to the Monument by this section by donation, purchase with donated or appropriated funds, transfer with another Federal agency, or exchange.

(2) CONSENT OF OWNER REQUIRED.—Lands or interests therein may be acquired under paragraph (1) only with the consent of the owner of the lands.

(3) STATE AND LOCAL LANDS.—Lands or interests therein owned by the State of New Mexico, or a political subdivision thereof, may be acquired under paragraph (1) only by donation or exchange.

(4) ACQUISITION OF LESS THAN FEE INTERESTS IN LAND.—The Secretary may acquire less than fee interests in land only if the Secretary determines that such less than fee acquisition will adequately protect the Monument from flooding, erosion, and degradation of its drainage waters.

(e) ADMINISTRATION.—The Secretary of the Interior, acting through the Director of the National Park Service, shall manage the Monument, including lands added to the Monument by this section, in accordance with this section, the provisions of law generally applicable to units of National Park System, including the Act of August 25, 1916 (16 U.S.C. 1 et seq.; commonly known as the National Park Service Organic Act), and such specific laws as heretofore have been enacted regarding the Monument.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out the purpose of this section.

TITLE II—OTHER LAND CONVEYANCES AND MANAGEMENT

Subtitle A—Southern Nevada Public Land Management

SEC. 201. CONVEYANCE TO CLARK COUNTY DEPARTMENT OF AVIATION.

(a) CONVEYANCE REQUIRED.—Notwithstanding the land use planning requirements contained in sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711 and 1712), but subject to subsection (b) of this section, the Secretary of the Interior shall convey to the Department of Aviation of Clark County, Nevada (in this section referred to as the "Aviation Department"), all right, title, and interest of the United States in and to the public lands identified for disposition on the map entitled "Ivanpah Valley Airport Selections, #1" and dated September 30, 1998, for the purpose of developing an airport facility and related infrastructure. Such map shall be on file and available for public inspection in the offices of the Director and the Las Vegas District of the Bureau of Land Management.

(b) AIRSPACE STUDY AND MITIGATION OF ADVERSE EFFECTS.—The conveyance identified in subsection (a) shall not occur unless each of the following occur:

(1) The Aviation Department conducts an airspace assessment to identify any adverse effect on access to the Las Vegas Basin under visual flight rules that would result from the construction and operation of a commercial or primary airport, or both, on the land to be conveyed.

(2) The Federal Aviation Administration certifies to the Secretary that the Aviation Department's assessment is thorough and that alternatives have been developed to address each adverse effect identified in the assessment, including alternatives that ensure access to the Las Vegas Basin under visual flight rules at a level that is equal to or better than existing access.

(3) The Aviation Department enters into an agreement with the Secretary to retain ownership of nearby Jean Airport and to maintain and develop Jean Airport as a general aviation airport.

(c) PHASED CONVEYANCES.—The Secretary shall convey the lands identified in subsection (a) in smaller parcels over a period of up to 20 years, as may be required to carry out the phased construction and development of the airport facility and infrastructure on the lands to be conveyed. As consideration for the conveyance of each parcel, the Aviation Department shall pay to the United States an amount equal to the fair market value of the parcel.

(d) DETERMINATIONS OF FAIR MARKET VALUE.—During the 3-year period beginning on the date of the enactment of this Act, the fair market value of a parcel to be conveyed under subsection (a) shall be based on an appraisal of the fair market value as of a date not later than 6 months after the date of the enactment of this Act. The fair market value of each parcel conveyed after the end of such period shall be based on a subsequent appraisal. An appraisal conducted after such period shall consider the parcel in its unimproved state and shall not reflect any enhancement in value to the parcel based upon the existence or planned construction of infrastructure on or near the parcel.

(e) REVERSIONARY INTEREST.—During the 5-year period beginning 20 years after the date on which the Secretary conveys the first parcel under subsection (a), if the Secretary determines that the Aviation Department is not developing or progressing toward the development of the conveyed lands as an airport facility, the Secretary may exercise a right to reenter the conveyed lands. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing. If the Secretary exercises a right to reenter the conveyed lands under this subsection, the Secretary shall reimburse the Aviation Department for all payments made to the United States under subsection (c).

(f) WITHDRAWAL.—The public lands referred to in subsection (a) are hereby withdrawn from mineral entry under the Act of May 10, 1872 (30 U.S.C. 22 et seq.; popularly known as the Mining Law of 1872), and the Mineral Leasing Act (30 U.S.C. 181 et seq.).

(g) MOJAVE NATIONAL PRESERVE OVERFLIGHTS.—The Secretary of Transportation shall consult with the Secretary in the preparation of an airspace management plan for the Ivanpah Airport which avoids, to the maximum extent practicable, overflights of the Mojave National Preserve in California consistent with Federal Aviation Administration recommendations for safety.

Subtitle B—Conveyance of Canyon Ferry Reservoir Properties

SEC. 221. FINDINGS.

The Congress finds that the conveyance of the Properties described in section 224(b) to the Lessees of those Properties for fair market value would have the beneficial results of—

(1) reducing Pick-Sloan project debt for the Canyon Ferry Reservoir;

(2) providing a permanent source of funding to acquire and improve public access, to conserve fish and wildlife, and to enhance public hunting, fishing, and recreational opportunities in the State of Montana;

(3) eliminating Federal payments in lieu of taxes and associated management expenditures in connection with the Federal Government's ownership of the Properties while increasing local tax revenues from the new owners of the Properties; and

(4) eliminating expensive and contentious disputes between the Secretary of the Interior and Lessees while ensuring that the Federal Government receives full and fair value for the conveyance of the Properties.

SEC. 222. PURPOSE.

The purpose of this subtitle is to establish terms and conditions under which the Secretary of the Interior shall convey, for fair market value, certain Properties around Canyon Ferry Reservoir in the State of Montana, to the Lessees of the Properties.

SEC. 223. DEFINITIONS.

In this subtitle:

(1) CABIN TRUST.—The terms "Cabin Trust" and "Canyon Ferry Cabin Site Transfer Trust" mean the Canyon Ferry Cabin Site Transfer Trust established pursuant to section 229.

(2) CFRA.—The term "CFRA" means the Canyon Ferry Recreation Association, Incorporated, a Montana corporation.

(3) COMMISSIONERS.—The term "Commissioners" means the Board of Commissioners for Broadwater County, Montana.

(4) COUNTY TRUST.—The terms "County Trust" and "Canyon Ferry-Broadwater County Trust" mean the Canyon Ferry-Broadwater County Trust established pursuant to section 228.

(5) LESSEE.—The term "Lessee" means the leaseholder (or permit holder) of any one of the cabin sites described in section 224(b) on the date of the enactment of this subtitle and the heirs, executors, and assigns of the leaseholder's (or permit holder's) interest in that cabin site.

(6) PROPERTY.—The term "Property" means any one of the cabin sites described in section 224(b).

(7) PROPERTIES.—The term "Properties" means all 265 of the cabin sites (and related parcels) described in section 224(b).

(8) PURCHASER.—The term "Purchaser" means a person or entity, excluding CFRA or a Lessee, that purchases the Properties under section 224.

(9) RESERVOIR.—The terms "Reservoir" and "Canyon Ferry Reservoir" mean the Canyon Ferry Reservoir in the State of Montana.

(10) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(11) STATE TRUST.—The terms "State Trust" and "Montana Fish and Wildlife Conservation Trust" mean the Montana Fish and Wildlife Conservation Trust established pursuant to section 227.

SEC. 224. SALE OF PROPERTIES.

(a) SALE REQUIRED.—Subject to subsection (c) and section 228(a), and notwithstanding any other provision of law, the Secretary shall sell at fair market value—

(1) all right, title, and interest of the United States in and to all (but not fewer than all) of the Properties, subject to valid existing rights; and

(2) perpetual easements for—

(A) vehicular access to each Property;

(B) access to and the use of one dock per Property; and

(C) access to and the use of all boathouses, ramps, retaining walls, and other improvements for which access is provided in the Property leases as of the date of the enactment of this subtitle.

(b) DESCRIPTION OF PROPERTIES.—

(1) IN GENERAL.—The Properties to be conveyed are—

(A) the 265 cabin sites of the Bureau of Reclamation located along the northern end of the Reservoir in portions of sections 2, 11, 12, 13, 15, 22, 23, and 26, Township 10 North, Range 1 West; and

(B) any small parcels contiguous to the Property (not including shoreline or land needed to provide public access to the shoreline of the Reservoir) that the Secretary determines should be conveyed in order to eliminate inholdings and facilitate administration of surrounding land remaining in Federal ownership.

(2) ACREAGE; LEGAL DESCRIPTION.—The acreage and legal description of each Property and of each parcel determined by the Secretary under paragraph (1)(B) shall be determined by agreement between the Secretary and CFRA.

(c) PURCHASE PROCESS.—

(1) IN GENERAL.—The Secretary shall—

(A) solicit sealed bids for the Properties;

(B) subject to paragraph (2), sell the Properties to the bidder that submits the highest bid above the minimum bid determined under paragraph (2); and

(C) only accept bids that provide for the purchase of all of the Properties in one bundle.

(2) MINIMUM BID.—Before accepting bids, the Secretary, in consultation with CFRA, shall establish a minimum bid based on an appraisal of the fair market value of the Properties, exclusive of the value of private improvements made by leaseholders of the Properties before the date of the conveyance. The appraisal shall be conducted in conformance with the Uniform Standards of Professional Appraisal Practice.

(3) RIGHT OF FIRST REFUSAL.—If the highest bidder is a person other than CFRA, CFRA shall have the right to match the highest bid and purchase the Properties at a price equal to the amount of that other person's bid.

(d) TERMS OF CONVEYANCE FOR PURCHASER OTHER THAN CFRA.—

(1) APPLICATION OF SUBSECTION.—This subsection applies in the event that the highest bidder for the Properties is other than CFRA, and CFRA does not match the highest bid as authorized in subsection (c)(3).

(2) PAYMENT AND CONVEYANCE.—The Secretary shall convey the Properties to the Purchaser upon the payment by the Purchaser of the bid amount. The Secretary shall use the proceeds as provided in section 226.

(3) PURCHASER TO EXTEND OPTION TO PURCHASE OR TO CONTINUE LEASING.—

(A) PURCHASE OPTION.—The Purchaser shall give each Lessee of a Property conveyed under this section an option to purchase the Property at fair market value as determined under subsection (c)(2).

(B) RIGHT TO CONTINUE LEASE.—A Lessee that is unable or unwilling to purchase a Property shall be provided the opportunity to continue to lease the Property for fair market value rent under the same terms and conditions as apply under the existing lease for the Property, including the right to renew the term of the existing lease for two consecutive five-year terms.

(C) COMPENSATION FOR IMPROVEMENTS.—If a Lessee declines to purchase a Property, the Purchaser shall compensate the Lessee for the fair market value, as determined pursuant to customary appraisal procedures, of all improvements made to the Property. The Lessee may sell the improvements to the Purchaser at any time, but the sale shall be completed by the final termination of the lease, after all renewals as provided in subparagraph (B).

(4) PROPERTY DESCRIPTIONS AND HISTORICAL USE.—The Purchaser shall honor the existing descriptions of the Properties and historical use restrictions for the Properties.

(e) TERMS OF CONVEYANCE FOR CFRA.—

(1) APPLICATION OF SUBSECTION.—This subsection applies in the event that CFRA is the highest bidder or matches the highest bid as authorized in subsection (c)(3).

(2) TIME FOR CONVEYANCE.—The Secretary shall close on a Property within 45 days after receipt of the purchase request from the Lessee of the Property or CFRA.

(3) TIME FOR PAYMENT.—At the closing for a Property to be purchased by the Lessee or CFRA, the Lessee or CFRA shall deliver to the Secretary payment for the Property. The Secretary shall use the proceeds as provided in section 226.

(4) PURCHASE AMOUNT.—The Secretary and CFRA shall determine the purchase amount of each Property based on the appraisal conducted pursuant to subsection (c)(2), the amount bid pursuant to subsection (c)(1), and the proportionate share of administrative costs pursuant to subsection (g). The total purchase amount for all Properties shall equal the total bid amount plus administrative costs pursuant to subsection (g).

(5) Time for purchase.—CFRA and the Lessees shall complete purchase of at least 75 percent of the Properties not later than August 1 of the year that is at least 12 months after title to the first Property is transferred by the Secretary to a Lessee.

(6) Effect of failure to complete purchase.—On the August 1 determined under paragraph (5), the Secretary shall convey, without consideration, to the Canyon Ferry Cabin Site Transfer Trust the fee title to any Property not purchased by CFRA or a Lessee before that date.

(7) Costs.—The Lessee shall reimburse CFRA for a proportionate share of the costs to CFRA of completing the transactions, including any interest charges.

(f) Continued Public Access to Reservoir.—The Secretary, the Purchaser, CFRA, and subsequent owners of each Property shall ensure that existing public access to and along the shoreline of the Reservoir is not obstructed.

(g) Administrative Costs.—Any reasonable administrative cost incurred by the Secretary incident to the conveyance under subsection (a) shall be reimbursed by the Purchaser or CFRA, as the case may be.

(h) Timing.—The Secretary shall make every effort to complete the conveyance under subsection (a) not later than one year after the date on which the conditions specified in section 228(a) are satisfied.

(i) Closing.—

(1) In general.—The Secretary shall complete no real estate closings under this section until the Secretary is prepared to close on every individual Property. Real estate closings to complete the conveyance under subsection (a) may be staggered to facilitate the conveyance as agreed to by the Secretary and the Purchaser or CFRA, as the case may be.

(2) Conveyance to lessee.—If a Lessee elects to purchase a Property from the Purchaser or CFRA, the Secretary, upon request by the Lessee, shall have the conveyance documents prepared in the Lessee's name or names in order to minimize the time and documents required to complete the closing for the Property.

SEC. 225. MANAGEMENT OF BUREAU OF RECLAMATION RECREATION AREA.

(a) Contract for Campground Management.—Not later than six months after the date of the enactment of this subtitle, the Secretary shall—

(1) offer to enter into a contract with the Board of Commissioners for Broadwater County, Montana, under which the Commissioners would undertake the management of the Bureau of Reclamation recreation area known as Silos recreation area;

(2) enter into such a contract if mutually agreed upon by the Secretary and the Commissioners; and

(3) grant necessary easements to Broadwater County, Montana, for access roads within and adjacent to the Silos recreation area.

(b) Concession Income.—Any income generated by any concessions which may be granted by the Commissioners at the Silos recreation area shall be deposited in the Canyon Ferry-Broadwater County Trust established pursuant to section 228 and may be disbursed by the manager of the County Trust as part of the income of the County Trust.

SEC. 226. USE OF PROCEEDS.

Proceeds received by the United States from the conveyances under this subtitle shall be used as follows:

(1) 10 percent of the proceeds shall be applied by the Secretary of the Treasury to reduce the outstanding debt for the Pick-Sloan project at Canyon Ferry Reservoir.

(2) 90 percent of the proceeds shall be deposited into the State Trust.

SEC. 227. MONTANA FISH AND WILDLIFE CONSERVATION TRUST.

(a) Establishment of State Trust.—

(1) Establishment.—The Secretary shall establish a nonprofit charitable permanent perpetual public trust in Montana to be known as the "Montana Fish and Wildlife Conservation Trust", to provide a permanent source of funding to acquire publicly accessible land and interests in land, including easements and conservation easements, in Montana from willing sellers at fair market value to—

(A) restore and conserve fisheries habitat, including riparian habitat;

(B) restore and conserve wildlife habitat;

(C) enhance public hunting, fishing, and recreational opportunities; and

(D) improve public access to public lands.

(2) Consultation.—The Secretary shall establish the State Trust in consultation with the Montana congressional delegation and the Governor of the State of Montana.

(b) State Trust Manager.—The State Trust shall be managed by a manager who shall be responsible for—

(1) investing the corpus of the State Trust; and

(2) disbursing funds from the State Trust at the request of the Joint State-Federal Agency Board established under subsection (c) upon receipt of a request for disbursement that complies with the requirements of such subsection.

(c) Joint State-Federal Agency Board.—

(1) Establishment.—An advisory board for the State Trust shall be established by the State Trust and shall be known as the "Joint State-Federal Agency Board". The Joint State-Federal Agency Board shall consist of the following persons:

(A) A Forest Service employee working in Montana designated by the Forest Service.

(B) A Bureau of Land Management employee working in Montana designated by the Bureau of Land Management.

(C) A Bureau of Reclamation employee working in Montana designated by the Bureau of Reclamation.

(D) A Fish and Wildlife Service employee working in Montana designated by the United States Fish and Wildlife Service.

(E) A Fish, Wildlife, and Parks employee designated by the Montana Department of Fish, Wildlife, and Parks.

(2) Submission of disbursement request.—A request for disbursement from the State Trust may be submitted to the manager of the State Trust if the request satisfies a purpose of the State Trust specified in subsection (a) and is agreed to by a majority of the members of the Joint State-Federal Agency Board.

(3) Consultation and consideration.—Before submitting a request for disbursement to the manager of the State Trust, the Joint State-Federal Agency Board shall consult with the Citizen Advisory Board established under subsection (d) regarding the merits of the request and after consideration of the plan for the State Trust prepared under subsection (e). The Joint State-Federal Agency Board shall also notify members of the public, including local governments, of proposed requests for disbursement and shall provide an opportunity for public comment. The Joint State-Federal Agency Board shall consider any comments or recommendations for requests submitted by members of the public or the Citizen Advisory Board.

(d) Citizen Advisory Board.—The Joint State-Federal Agency Board shall appoint, from nominations submitted by the Secretary, a Citizen Advisory Board consisting of four members, including one representative with a demonstrated commitment to improving public access to public lands and to fish and wildlife conservation from each of the following:

(1) A Montana organization representing agricultural landowners.

(2) A Montana organization representing hunters.

(3) A Montana organization representing fishermen.

(4) A Montana nonprofit land trust or environmental organization.

(e) State Trust Plan.—The Citizen Advisory Board, in consultation with the Joint State-Federal Agency Board and the Montana Association of Counties, shall prepare (and periodically update) a plan for the management and use of the State Trust. The plan shall include recommendations regarding appropriate requests for disbursement from the State Trust. The plan shall be designed to maximize effectiveness of State Trust expenditures considering public needs and requests, availability of property, alternative sources of funding, and availability of matching funds.

(f) Treatment of Principal and Earnings.—

(1) Principal.—The principal amount of the State Trust shall be inviolate.

(2) Earnings.—Earnings on amounts in the State Trust shall be used to carry out subsection (a) and to administer the State Trust and Citizen Advisory Board.

(g) Local Purposes.—No more than 50 percent of the income from the State Trust in any given year shall be utilized outside the watershed of the Missouri River in Montana, from Holter Dam upstream to the confluence of the Jefferson, Gallatin, and Madison Rivers.

(h) Management of Acquisitions.—Land and interests in land acquired under this section shall be managed for the purposes specified in subsection (a).

SEC. 228. CANYON FERRY-BROADWATER COUNTY TRUST.

(a) Trust Required as Condition on Conveyances.—The Secretary may not sell the Properties under section 224 unless and until—

(1) the Board of Commissioners for Broadwater County, Montana, establishes a nonprofit charitable permanent perpetual public trust, to be known as the "Canyon Ferry-Broadwater County Trust"; and

(2) at least $3,000,000, or some lesser amount as offset by in-kind contributions made before full funding of the County Trust, is deposited as the initial corpus of the County Trust.

(b) Reduction for In-Kind Contributions.—The amount required to be deposited in the County Trust under subsection (a)(2) may be reduced to reflect in-kind contributions made in Broadwater County and related to the improvement of access to those portions of the Reservoir lying within Broadwater County or for the creation and improvement of new and existing recreational areas within Broadwater County. In kind contributions, including the value of such contributions, the nature and type of contribution, and the entity providing the contribution, must be approved in advance by the commissioners, but in kind contributions may not include any contribution made by Broadwater County.

(c) COUNTY TRUST MANAGEMENT.—The County Trust shall be managed by a nonprofit foundation or other independent trustee to be selected by the Commissioners. The selected person or entity shall be referred to as the "trust manager".

(d) USE.—

(1) IN GENERAL.—The trust manager shall invest the corpus of the County Trust and shall disburse funds from the County Trust only as provided in this subsection.

(2) SILO RECREATION AREA.—A sum not to exceed $500,000 may be expended from the corpus of the County Trust to pay for the planning and construction of a harbor at the Silos recreation area.

(3) OTHER USES.—The balance of the principal of the County Trust shall be inviolate. Income derived from the County Trust may be expended for the improvement of access to those portions of Canyon Ferry Reservoir lying within Broadwater County, Montana, and for the creation and improvement of new and existing recreational areas within Broadwater County.

(4) LIMITATION.—All interest earned on the principal of the County Trust shall be reinvested and considered part of the corpus of the County Trust until the sum of $3,000,000, or such lesser amount as offset by in-kind contributions (as defined under subsection (b)), is deposited as the initial corpus of the County Trust.

(5) DISBURSEMENT.—The trust manager shall either approve or reject any request for disbursement, but shall not make any expenditure except on the recommendation of the advisory committee established under subsection (e).

(e) ADVISORY COMMITTEE.—

(1) APPOINTMENT.—The Commissioners shall appoint an advisory committee consisting of not less than three nor more than five persons.

(2) DUTIES.—The advisory committee shall meet on a regular basis to establish priorities and prepare requests for the disbursement of funds from the County Trust, except that the advisory committee shall recommend only such expenditures as are approved by the Commissioners.

(f) NO OFFSET.—Neither the corpus of the County Trust nor its interest shall be used to reduce or replace the regular operating expenses of the Secretary at the Reservoir, unless such use is authorized by the Commissioners.

SEC. 229. CANYON FERRY CABIN SITE TRANSFER TRUST.

(a) ESTABLISHMENT.—The Secretary shall establish a trust in Montana, to be known as the "Canyon Ferry Cabin Site Transfer Trust".

(b) PURPOSES.—The purposes of the Canyon Ferry Cabin Site Transfer Trust are as follows:

(1) To receive each unsold Property transferred by the Secretary under section 224(e)(6).

(2) To provide all appropriate real estate management services, including collecting rents, paying taxes, enforcing lease terms and selling Property.

(3) To pay to the State Trust any income generated from the Cabin Trust after the payment of management fees, costs, and expenses.

(c) TRUST TERM.—

(1) ESTABLISHMENT.—The Cabin Trust shall be established on August 1 of the year that is at least 12 months after title to the first Property is transferred by the Secretary to a Lessee.

(2) TERMINATION.—The Cabin Trust shall terminate after the completion of the last sale of a Property under its management.

(d) ADMINISTRATION.—The Cabin Trust shall be managed by a trust manager who shall administer it consistent with the purposes of this section.

(e) CONTINUATION OF LEASES.—

(1) IN GENERAL.—The Cabin Trust shall allow a Lessee that is unable or unwilling to purchase a Property to continue to lease the Property pursuant to the terms and conditions of the lease in effect for the Property on the date of the enactment of this subtitle.

(2) RENTAL PAYMENTS.—All rents received during the continuation of a lease under paragraph (1) shall be paid to the Cabin Trust.

(3) LIMITATION ON RIGHT TO TRANSFER LEASE.—Subject to valid existing rights, a Lessee may not sell or otherwise assign or transfer the leasehold without purchasing the Property from the Cabin Trust and conveying the fee interest in the Property. In the event of a sale by a Lessee to a third party, it shall be permissible for a simultaneous closing to be conducted wherein the Lessee conveys its interest in the leasehold improvements to the third party and the Cabin Trust conveys the fee title to the third party.

(f) CONVEYANCE BY CABIN TRUST.—All conveyances of a Property and any related parcels described in section 224(b)(1)(B) by the Cabin Trust shall be at fair market value as determined by a new appraisal, but in no event may the Cabin Trust convey any Property to a Lessee for an amount less than the value established for the Property by the appraisal conducted pursuant to section 224(c)(2).

(g) SALE PROCEEDS.—All proceeds from the sale of a Property received by the Cabin Trust shall be distributed by the trust manager as follows:

(1) 10 percent of the proceeds shall be paid to the Secretary of the Treasury to be applied to the reduction of the outstanding debt for the Pick-Sloan project at Canyon Ferry Reservoir.

(2) 90 percent of the proceeds shall be paid to the Montana Fish and Wildlife Conservation Trust.

(h) COSTS.—The Lessee, or a third party acquiring a Property with the cooperation of the Lessee, shall reimburse the Cabin Trust for a proportionate share of the costs to the Cabin Trust of completing the transactions contemplated by this section. In addition, the Lessee, or a third party acquiring a Property with the cooperation of the Lessee, shall reimburse the Cabin Trust for costs, including costs of the new appraisal, associated with conveying the Property from the Cabin Trust to the Lessee or a third party.

Subtitle C—Conveyance of National Forest Lands for Public School Purposes

SEC. 231. AUTHORIZATION OF USE OF NATIONAL FOREST LANDS FOR PUBLIC SCHOOL PURPOSES.

(a) TRANSFERS.—The Secretary of Agriculture may, upon a finding that the transfer of certain National Forest lands for local public school purposes would serve the public interest, authorize the transfer of up to 40 acres of National Forest lands to a local governmental entity for public school purposes. The Secretary may make available only those National Forest lands that have been identified for disposal or exchange or are not otherwise needed for National Forest purposes. The Secretary shall make such transfers using the least amount of land required for the efficient operation of the project involved.

(b) COSTS.—Such transfers may be made at discounted or no-cost. The Secretary shall provide for a no-cost transfer to a local governmental entity for public school purposes if the Secretary determines that the charges for such lands would impose an undue hardship on the local governmental entity.

(c) CONDITIONS.—Such transfers shall be conditioned on the requirement that the lands so transferred will be used solely for public school purposes.

(d) DEADLINE FOR CONSIDERATION OF APPLICATION FOR USE FOR SCHOOL.—If the Secretary receives an application from a duly qualified applicant that is a local education agency seeking a conveyance of land under this section for use for an elementary or secondary school, including a public charter school, the Secretary shall—

(1) before the end of the 10-day period beginning on the date of that receipt, provide notice of that receipt to the applicant; and

(2) before the end of the 90-day period beginning on the date of that receipt—

(A) determine whether or not to convey land pursuant to the application, and notify the applicant of that determination; or

(B) report to the Congress and the applicant the reasons that determination has not been made.

Subtitle D—Other Conveyances

SEC. 241. LAND EXCHANGE, EL PORTAL ADMINISTRATIVE SITE, CALIFORNIA.

(a) AUTHORIZATION OF EXCHANGE.—If the non-Federal lands described in subsection (b) are conveyed to the United States in accordance with this section, the Secretary of the Interior shall convey to the party conveying the non-Federal lands all right, title, and interest of the United States in and to a parcel of land consisting of approximately 8 acres administered by the Department of Interior as part of the El Portal Administrative Site in the State of California, as generally depicted on the map entitled "El Portal Administrative Site Land Exchange", dated June 1998.

(b) RECEIPT OF NON-FEDERAL LANDS.—The parcel of non-Federal lands referred to in subsection (a) consists of approximately 8 acres, known as the Yosemite View parcel, which is located adjacent to the El Portal Administrative Site, as generally depicted on the map referred to in subsection (a). Title to the non-Federal lands must be acceptable to the Secretary of the Interior, and the conveyance shall be subject to such valid existing rights of record as may be acceptable to the Secretary. The parcel shall conform with the title approval standards applicable to Federal land acquisitions.

(c) EQUALIZATION OF VALUES.—If the value of the Federal land and non-Federal lands to be exchanged under this section are not equal in value, the difference in value shall be equalized through a cash payment or the provision of goods or services as agreed upon by the Secretary and the party conveying the non-Federal lands.

(d) APPLICABILITY OF OTHER LAWS.—Except as otherwise provided in this section, the Secretary of the Interior shall process the land exchange authorized by this section in the manner provided in part 2200 of title 43, Code of Federal Regulations, as in effect on the date of the enactment of this subtitle.

(e) BOUNDARY ADJUSTMENT.—Upon completion of the land exchange, the Secretary shall adjust the boundaries of the El Portal Administrative Site as necessary to reflect the exchange. Lands acquired by the Secretary under this section shall be administered as part of the El Portal Administrative Site.

(f) Map.—The map referred to in subsection (a) shall be on file and available for inspection in appropriate offices of the Department of the Interior.

(g) Additional Terms and Conditions.—The Secretary of the Interior may require such additional terms and conditions in connection with the land exchange under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 242. AUTHORIZATION TO USE LAND IN MERCED COUNTY, CALIFORNIA, FOR ELEMENTARY SCHOOL.

(a) Removal of Restrictions.—Notwithstanding the restrictions otherwise applicable under the terms of conveyance by the United States of any of the land described in subsection (b) to Merced County, California, or under any agreement concerning any part of such land between such county and the Secretary of the Interior or any other officer or agent of the United States, the land described in subsection (b) may be used for the purpose specified in subsection (c).

(b) Land Affected.—The land referred to in subsection (a) is the north 25 acres of the 40 acres located in the northwest quarter of the southwest quarter of section 20, township 7 south, range 13 east, Mount Diablo base line and Meridian in Merced County, California, conveyed to such county by deed recorded in volume 1941 at page 441 of the official records in Merced County, California.

(c) Authorized Uses.—Merced County, California, may authorize the use of the land described in subsection (b) for an elementary school serving children without regard to their race, creed, color, national origin, physical or mental disability, or sex, operated by a nonsectarian organization on a nonprofit basis and in compliance with all applicable requirements of the laws of the United States and the State of California. If Merced County permits such lands to be used for such purposes, the county shall include information concerning such use in the periodic reports to the Secretary of the Interior required under the terms of the conveyance of such lands to the county by the United States. Any violation of the provisions of this subsection shall be deemed to be a breach of the conditions and covenants under which such lands were conveyed to Merced County by the United States, and shall have the same effect as provided by deed whereby the United States conveyed the lands to the county. Except as specified in this subsection, nothing in this section shall increase or diminish the authority or responsibility of the county with respect to the land.

SEC. 243. ISSUANCE OF QUITCLAIM DEED, STEFFENS FAMILY PROPERTY, BIG HORN COUNTY, WYOMING.

(a) Issuance.—Subject to valid existing rights and subsection (d), the Secretary of the Interior is directed to issue, without consideration, a quitclaim deed to Marie Wambeke of Big Horn County, Wyoming, the personal representative of the estate of Fred Steffens, to the land described in subsection (b).

(b) Land Description.—The land referred to in subsection (a) is the approximately 80-parcel known as "Farm Unit C" in the E½NW¼ of Section 27, Township 57 North, Range 97 West, 6th Principal Meridian, Wyoming.

(c) Revocation of Withdrawal.—The Bureau of Reclamation withdrawal for the Shoshone Reclamation Project under Secretarial Order dated October 21, 1913, is hereby revoked with respect to the land described in subsection (b).

(d) Reservation of Mineral Interests.—All minerals underlying the land described in subsection (b) are hereby reserved to the United States.

SEC. 244. ISSUANCE OF QUITCLAIM DEED, LOWE FAMILY PROPERTY, BIG HORN COUNTY, WYOMING.

(a) Issuance.—Subject to valid existing rights and subsection (c), the Secretary of the Interior is directed to issue, without consideration, a quitclaim deed to John R. and Margaret J. Lowe of Big Horn County, Wyoming, to the land described in subsection (b).

(b) Land Description.—The land referred to in subsection (a) is the approximately 40-acre parcel located in the SW¼SE¼ of Section 11, Township 51 North, Range 96 West, 6th Principal Meridian, Wyoming.

(c) Reservation of Mineral Interests.—All minerals underlying the land described in subsection (b) are hereby reserved to the United States.

SEC. 245. UTAH SCHOOLS AND LANDS EXCHANGE.

(a) Findings.—The Congress finds the following:

(1) The State of Utah owns approximately 176,600 acres of land, as well as approximately 24,165 acres of mineral interests, administered by the Utah School and Institutional Trust Lands Administration, within the exterior boundaries of the Grand Staircase-Escalante National Monument, established by Presidential proclamation on September 18, 1996, pursuant to section 2 of the Antiquities Act of 1906 (16 U.S.C. 431). The State of Utah also owns approximately 200,000 acres of land, and 76,000 acres of mineral interests, administered by the Utah School and Institutional Trust Lands Administration, within the exterior boundaries of several units of the National Park System and the National Forest System, and within certain Indian reservations in Utah. These lands were granted by Congress to the State of Utah pursuant to the Utah Enabling Act, chap. 138, 28 Stat. 107 (1894), to be held in trust for the benefit of the State's public school system and other public institutions.

(2) Many of the State school trust lands within the monument may contain significant economic quantities of mineral resources, including coal, oil, and gas, tar sands, coalbed methane, titanium, uranium, and other energy and metalliferous minerals. Certain State school trust lands within the Monument, like the Federal lands comprising the Monument, have substantial noneconomic scientific, historic, cultural, scenic, recreational, and natural resources, including ancient Native American archaeological sites and rare plant and animal communities.

(3) Development of surface and mineral resources on State school trust lands within the monument could be incompatible with the preservation of these scientific and historic resources for which the monument was established. Federal acquisition of State school trust lands within the monument would eliminate this potential incompatibility, and would enhance management of the Grand Staircase-Escalante National Monument.

(4) The United States owns lands and interest in lands outside of the monument that can be transferred to the State of Utah in exchange for the monument inholdings without jeopardizing Federal management objectives or needs.

(5) In 1993, Congress passed and the President signed Public Law 103-93, which contained a process for exchanging State of Utah school trust inholdings in the National Park System, the National Forest System, and certain Indian reservations in Utah. Among other things, it identified various Federal lands and interests in land that were available to exchange for these State inholdings.

(6) Although Public Law 103-93 offered the hope of a prompt, orderly exchange of State inholdings for Federal lands elsewhere, implementation of the legislation has been very slow. Completion of this process is realistically estimated to be many years away, at great expense to both the State and the United States in the form of expert witnesses, lawyers, appraisers, and other litigation costs.

(7) The State also owns approximately 2,560 acres of land in or near the Alton coal field which has been declared an area unsuitable for coal mining under the terms of the Surface Mining Control and Reclamation Act. This land is also administered by the Utah School and Institutional Trust Lands Administration, but its use is limited given this declaration.

(8) The large presence of State school trust land inholdings in the monument, national parks, national forests, and Indian reservations make land and resource management in these areas difficult, costly, and controversial for both the State of Utah and the United States.

(9) It is in the public interest to reach agreement on exchange of inholdings, on terms fair to both the State and the United States. Agreement saves much time and delay in meeting the expectations of the State school and institutional trusts, in simplifying management of Federal and Indian lands and resources, and in avoiding expensive, protracted litigation under Public Law 103-93.

(10) The State of Utah and the United States have reached an agreement under which the State would exchange of all its State school trust lands within the monument, and specified inholdings in national parks, forests, and Indian reservations that are subject to Public Law 103-93, for various Federal lands and interests in lands located outside the monument, including Federal lands and interests identified as available for exchange in Public Law 103-93 and additional Federal lands and interests in lands.

(11) The State school trust lands to be conveyed to the Federal Government include properties within units of the National Park System, the National Forest System, and the Grand Staircase-Escalante National Monument. The Federal assets made available for exchange with the State were selected with a great sensitivity to environmental concerns and a belief and expectation by both parties that Federal assets to be conveyed to the State would be unlikely to trigger significant environmental controversy.

(12) The parties agreed at the outset of negotiations to avoid identifying Federal assets for conveyance to the State where any of the following was known to exist or likely to be an issue as a result of foreseeable future uses of the land: significant wildlife resources, endangered species habitat, significant archaeological resources, areas of critical environmental concern, coal resources requiring surface mining to extract the mineral deposits, wilderness study areas, significant recreational areas, or any other lands known to raise significant environmental concerns of any kind.

(13) The parties further agreed that the use of any mineral interests obtained by the State of Utah where the Federal Government retains surface and other interest, will not

conflict with established Federal land and environmental management objectives, and shall be fully subject to all environmental regulations applicable to development of non-Federal mineral interest on Federal lands.

(14) Because the inholdings to be acquired by the Federal Government include properties within the boundaries of some of the most renowned conservation land units in the United States, and because a mission of the Utah School and Institutional Trust Lands Administration is to produce economic benefits for Utah's public schools and other beneficiary institutions, the exchange of lands called for in this agreement will resolve many longstanding environmental conflicts and further the interest of the State trust lands, the school children of Utah, and these conservation resources.

(15) Under this Agreement taken as a whole, the State interests to be conveyed to the United States by the State of Utah, and the Federal interests and payments to be conveyed to the State of Utah by the United States, are approximately equal in value.

(16) The purpose of this section is to enact into law and direct prompt implementation of this historic agreement.

(b) Ratification of Agreed Exchange Between the State of Utah and the Department of the Interior.—

(1) Agreement.—The State of Utah and the Department of the Interior have agreed to exchange certain Federal lands, Federal mineral interests, and payment of money for lands and mineral interests managed by the Utah School and Institutional Trust Lands Administration, lands and mineral interests of approximately equal value inheld within the Grand Staircase-Escalante National Monument the Goshute and Navajo Indian Reservations, units of the National Park System, the National Forest System, and the Alton coal fields.

(2) Ratification.—All terms, conditions, procedures, covenants, reservations, and other provisions set forth in the document entitled "Agreement to Exchange Utah School Trust Lands Between the State of Utah and the United States of America" (in this section referred to as the "Agreement") are hereby incorporated in this section, are ratified and confirmed, and set forth the obligations and commitments of the United States, the State of Utah, and Utah School and Institutional Trust Lands Administration, as a matter of Federal law.

(c) Legal Descriptions.—

(1) In general.—The maps and legal descriptions referred to in the Agreement depict the lands subject to the conveyances.

(2) Public availability.—The maps and descriptions referred to in the Agreement shall be on file and available for public inspection in the offices of the Secretary of the Interior and the Utah State Director of the Bureau of Land Management.

(3) Conflict.—In case of conflict between the maps and the legal descriptions, the legal descriptions shall control.

(d) Costs.—The United States and the State of Utah shall each bear its own respective costs incurred in the implementation of this section.

(e) Repeal of Public Law 103–93 and Public Law 104–211.—The provisions of Public Law 103–93 (107 Stat. 995), other than section 7(b)(1), section 7(b)(3), and section 10(b) thereof, are hereby repealed. Public Law 104–211 (110 Stat. 3013) is hereby repealed.

(f) Cash Payment Previously Authorized.—As previously authorized and made available by section 7(b)(1) and (b)(3) of Public Law 103–93, upon completion of all conveyances described in the Agreement, the United States shall pay $50,000,000 to the State of Utah from funds not otherwise appropriated from the Treasury.

(g) Schedule for Conveyances.—All conveyances under sections 2 and 3 of the Agreement shall be completed within 70 days after the enactment of this Act.

SEC. 246. LAND EXCHANGE, ROUTT NATIONAL FOREST, COLORADO.

(a) Authorization of Exchange.—If the non-Federal lands described in subsection (b) are conveyed to the United States in accordance with this section, the Secretary of Agriculture shall convey to the party conveying the non-Federal lands all right, title, and interest of the United States in and to a parcel of land consisting of approximately 84 acres within the Routt National Forest in the State of Colorado, as generally depicted on the map entitled "Miles Land Exchange", Routt National Forest, dated May 1996.

(b) Receipt of Non-Federal Lands.—The parcel of non-Federal lands referred to in subsection (a) consists of approximately 84 acres, known as the Miles parcel, located adjacent to the Routt National Forest, as generally depicted on the map entitled "Miles Land Exchange", Routt National Forest, dated May 1996. Title to the non-Federal lands must be acceptable to the Secretary of Agriculture, and the conveyance shall be subject to such valid existing rights of record as may be acceptable to the Secretary of Agriculture. The parcel shall conform with the title approval standards applicable to Federal land acquisitions.

(c) Approximately Equal in Value.—The values of both the Federal and non-Federal lands to be exchanged under this section are deemed to be approximately equal in value, and no additional valuation determinations are required.

(d) Applicability of Other Laws.—Except as otherwise provided in this section, the Secretary of Agriculture shall process the land exchange authorized by this section in the manner provided in subpart A of part 254 of title 36, Code of Federal Regulations.

(e) Maps.—The maps referred to in subsections (a) and (b) shall be on file and available for inspection in the office of the Forest Supervisor, Routt National Forest, and in the office of the Chief of the Forest Service.

(f) Boundary Adjustment.—Upon approval and acceptance of title by the Secretary of Agriculture, the non-Federal lands conveyed to the United States under this section shall become part of the Routt National Forest, and the boundaries of the Routt National Forest shall be adjusted to reflect the land exchange. Upon receipt of the non-Federal lands, the Secretary of Agriculture shall manage the lands in accordance with the laws and regulations pertaining to the National Forest System. For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–9), the boundaries of the Routt National Forest, as adjusted by this section, shall be considered to be the boundaries of the National Forest as of January 1, 1965.

(g) Additional Terms and Conditions.—The Secretary of Agriculture may require such additional terms and conditions in connection with the conveyances under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 247. HART MOUNTAIN JURISDICTIONAL TRANSFERS, OREGON.

(a) Transfer From the Bureau of Land Management to the United States Fish and Wildlife Service.—

(1) In general.—Administrative jurisdiction over the parcels of land identified for transfer to the United States Fish and Wildlife Service on the map entitled "Hart Mountain Jurisdictional Transfer", dated February 26, 1998, comprising approximately 12,100 acres of land in Lake County, Oregon, located adjacent to or within the Hart Mountain National Antelope Refuge, is transferred from the Bureau of Land Management to the United States Fish and Wildlife Service.

(2) Inclusion in refuge.—The parcels of land described in paragraph (1) shall be included in the Hart Mountain National Antelope Refuge.

(3) Withdrawal.—Subject to valid existing rights, the parcels of land described in paragraph (1)—

(A) are withdrawn from—

(i) surface entry under the public land laws;

(ii) leasing under the mineral leasing laws and Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.); and

(iii) location and entry under the mining laws; and

(B) shall be treated as parcels of land subject to the provisions of Executive Order No. 7523 of December 21, 1936, as amended by Executive Order No. 7895 of May 23, 1938, and Presidential Proclamation No. 2416 of July 25, 1940, that withdrew parcels of land for the Hart Mountain National Antelope Refuge.

(4) Management.—The land described in paragraph (1) shall be included in the Hart Mountain National Antelope Refuge and managed in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.), and other applicable law and with management plans and agreements between the Bureau of Land Management and the United States Fish and Wildlife Service for the Hart Mountain Refuge.

(b) Continued Management of Guano Creek Wilderness Study Area by the Bureau of Land Management.—

(1) In general.—The parcels of land identified for cooperative management on the map entitled "Hart Mountain Jurisdictional Transfer", dated February 26, 1998, comprising approximately 10,900 acres of land in Lake County, Oregon, located south of the Hart Mountain National Antelope Refuge, shall be retained under the jurisdiction of the Bureau of Land Management.

(2) Management.—The parcels of land described in paragraph (1) that are within the Guano Creek Wilderness Study Area Act shall be managed so as not to impair the suitability of the area for designation as wilderness, in accordance with current and future management plans and agreements (including the agreement known as the "Shirk Ranch Agreement", dated September 30, 1997), until such date as Congress enacts a law directing otherwise.

(c) Transfer From the United States Fish and Wildlife Service to the Bureau of Land Management.—

(1) In general.—Administrative jurisdiction over the parcels of land identified for transfer to the Bureau of Land Management on the map entitled "Hart Mountain Jurisdictional Transfer", dated February 26, 1998, comprising approximately 7,700 acres of land in Lake County, Oregon, located adjacent to or within the Hart Mountain National Antelope Refuge, is transferred from the United States Fish and Wildlife Service to the Bureau of Land Management.

(2) Removal from refuge.—The parcels of land described in paragraph (1) are removed from the Hart Mountain National Antelope

Refuge, and the boundary of the refuge is modified to reflect that removal.

(3) Revocation of withdrawal.—The provisions of Executive Order No. 7523 of December 21, 1936, as amended by Executive Order No. 7895 of May 23, 1938, and Presidential Proclamation No. 2416 of July 25, 1940, that withdrew the parcels of land for the refuge, shall be of no effect with respect to the parcels of land described in paragraph (1).

(4) Status.—The parcels of land described in paragraph (1)—

(A) are designated as public land; and

(B) shall be open to—

(i) surface entry under the public land laws;

(ii) leasing under the mineral leasing laws and the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.); and

(iii) location and entry under the mining laws.

(5) Management.—The land described in paragraph (1) shall be managed in accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and other applicable law, and the agreement known as the "Shirk Ranch Agreement", dated September 30, 1997.

(d) Map.—A copy of the map described in subsections (a), (b), and (c) and such additional legal descriptions as are applicable shall be kept on file and available for public inspection in the Office of the Regional Director of Region 1 of the United States Fish and Wildlife Service, the local District Office of the Bureau of Land Management, the Committee on Energy and Natural Resources of the Senate, and the Committee on Resources of the House of Representatives.

(e) Correction of Reference to Wildlife Refuge.—Section 28 of the Act of August 13, 1954 (68 Stat. 718, chapter 732; 72 Stat. 818; 25 U.S.C. 564w–1), is amended in subsections (f) and (g) by striking "Klamath Forest National Wildlife Refuge" each place it appears and inserting "Klamath Marsh National Wildlife Refuge".

SEC. 248. SALE, LEASE, OR EXCHANGE OF IDAHO SCHOOL LAND.

The Act of July 3, 1890 (commonly known as the "Idaho Admission Act") (26 Stat. 215, chapter 656), is amended by striking section 5 and inserting the following:

"SEC. 5. SALE, LEASE, OR EXCHANGE OF SCHOOL LAND.

"(a) Sale.—

"(1) In general.—Except as provided in subsection (c), all land granted under this Act for educational purposes shall be sold only at public sale.

"(2) Use of proceeds.—

"(A) In general.—Proceeds of the sale of school land—

"(i) except as provided in clause (ii), shall be deposited in the public school permanent endowment fund and expended only for the support of public schools; and

"(ii)(I) may be deposited in a land bank fund to be used to acquire, in accordance with State law, other land in the State for the benefit of the beneficiaries of the public school permanent endowment fund; or

"(II) if the proceeds are not used to acquire other land in the State within a period specified by State law, shall be transferred to the public school permanent endowment fund.

"(B) Earnings reserve fund.—Earnings on amounts in the public school permanent endowment fund shall be deposited in an earnings reserve fund to be used for the support of public schools of the State in accordance with State law.

"(b) Lease.—Land granted under this Act for educational purposes may be leased in accordance with State law.

"(c) Exchange.—

"(1) In general.—Land granted for educational purposes under this Act may be exchanged for other public or private land.

"(2) Valuation.—The values of exchanged lands shall be approximately equal, or, if the values are not approximately equal, the values shall be equalized by the payment of funds by the appropriate party.

"(3) Exchanges with the United States.—

"(A) In general.—A land exchange with the United States shall be limited to Federal land within the State that is subject to exchange under the law governing the administration of the Federal land.

"(B) Previous exchanges.—All land exchanges made with the United States before the date of enactment of this paragraph are approved.

"(d) Reservation for School Purposes.—Land granted for educational purposes, whether surveyed or unsurveyed, shall not be subject to preemption, homestead entry, or any other form of entry under the land laws of the United States, but shall be reserved for school purposes only.".

SEC. 249. TRANSFER OF JURISDICTION OF CERTAIN PROPERTY IN SAN JOAQUIN COUNTY, CALIFORNIA, TO BUREAU OF LAND MANAGEMENT.

(a) Transfer.—The property described in subsection (b) is hereby transferred by operation of law upon the enactment of this Act from the administrative jurisdiction of the Federal Bureau of Prisons, United States Department of Justice, to the Bureau of Land Management, United States Department of the Interior. The Attorney General of the United States and the Secretary of the Interior shall take such actions as may be necessary to carry out such transfer.

(b) Property Description.—The property referred to in subsection (a) is a portion of a 200-acre property located in the San Joaquin Valley, approximately 55 miles east of San Francisco, 2 miles to the west of the City of Tracy, California, municipal limits, approximately 1.25 miles west of Interstate 5 (I–5) and ½ mile southeast of the I–580/I–205 split as indicated by Exhibit I–3, formerly a Federal Aviation Administration (FAA) antenna field, known as the "Tracy Site".

SEC. 250. CONVEYANCE, CAMP OWEN AND RELATED PARCELS, KERN COUNTY, CALIFORNIA.

(a) Conveyance Required.—The Secretary of Agriculture shall convey, without consideration, to Kern County, California, all right, title, and interest of the United States in and to three parcels of land under the jurisdiction of the Forest Service in Kern County, as follows

(1) Approximately 104 acres known as Camp Owen.

(2) Approximately 4 acres known as Wofford Heights Park.

(3) Approximately 3.4 acres known as the French Gulch maintenance yard.

(b) Condition on Conveyance.—The lands conveyed under this section shall be subject to valid existing rights of record.

(c) Time for Conveyance.—The Secretary shall complete the conveyance under this section within three months after the date of the enactment of this Act.

(d) Legal Descriptions.—The exact acreage and legal description of the lands to be conveyed under this section shall be determined by a survey satisfactory to the Secretary.

SEC. 251. TREATMENT OF CERTAIN LAND ACQUIRED BY EXCHANGE, RED CLIFFS DESERT RESERVE, UTAH.

(a) Limitation on Liability.—In support of the habitat conservation plan of Washington County, Utah, for the protection of the desert tortoise and surrounding habitat, the transfer of the land described in subsection (b) from the city of St. George, Utah, to the United States shall convey no liability on the United States that did not already exist with the United States on the date of the transfer of the land.

(b) Description of Land.—The land referred to in subsection (a) is a parcel of approximately 15 acres of land located within the Red Cliffs Desert Reserve in Washington County, Utah, that was formerly used as a landfill by the city of St. George.

SEC. 252. LAND CONVEYANCE, YAVAPAI COUNTY, ARIZONA.

(a) Conveyance Required.—Notwithstanding any other provision of law, the Secretary of the Interior shall convey, without consideration and for educational related purposes, to Embry-Riddle Aeronautical University, Florida, a nonprofit corporation authorized to do business in the State of Arizona, all right, title, and interest of the United States, if any, to a parcel of real property consisting of approximately 16 acres in Yavapai County, Arizona, which is more fully described as the parcel lying east of the east right-of-way boundary of the Willow Creek Road in the southwest one-quarter of the southwest one-quarter (SW¼SW¼) of section 2, township 14 north, range 2 west, Gila and Salt River meridian.

(b) Terms of Conveyance.—Subject to the limitation that the land to be conveyed is to be used only for educational related purposes, the conveyance under subsection (a) is to be made without any other conditions, limitations, reservations, restrictions, or terms by the United States.

SEC. 253. CONVEYANCE, OLD COYOTE ADMINISTRATIVE SITE, RIO ARRIBA COUNTY, NEW MEXICO.

(a) Conveyance of Property.—Not later than one year after the date of enactment of this Act, the Secretary of the Interior (referred to in this section as the "Secretary") shall convey to the County of Rio Arriba, New Mexico (referred to in this section as the "County"), subject to the terms and conditions stated in subsection (b), all right, title, and interest of the United States in and to the land (including all improvements on the land) known as the "Old Coyote Administrative Site" located approximately ½ mile east of the Village of Coyote, New Mexico, on State Road 96, comprising one tract of 130.27 acres (as described in Public Land Order 3730), and one tract of 276.76 acres (as described in Executive Order 4599).

(b) Terms and Conditions.—

(1) Consideration for the conveyance described in subsection (a) shall be—

(A) an amount that is consistent with the special pricing program for Governmental entities under the Recreation and Public Purposes Act; and

(B) an agreement between the Secretary and the County indemnifying the Government of the United States from all liability of the Government that arises from the property.

(2) The lands conveyed by this Act shall be used for public purposes. If such lands cease to be used for public purposes, at the option of the United States, such lands will revert to the United States.

(c) Land Withdrawals.—Land withdrawals under Public Land Order 3730 and Executive Order 4599 as extended in the Federal Register on May 25, 1989 (54 F.R. 22629), shall be revoked simultaneous with the conveyance of the property under subsection (a).

SEC. 254. ACQUISITION OF REAL PROPERTY INTERESTS FOR ADDITION TO CHICKAMAUGA-CHATTANOOGA NATIONAL MILITARY PARK.

The Secretary of the Interior may acquire private lands, easements, and buildings within the areas authorized for acquisition for Chickamauga-Chattanooga National Military Park, by donation, purchase with donated or appropriated funds, or by exchange. Lands acquired by the Secretary pursuant to this section shall be administered by the Secretary as part of the park.

SEC. 255. LAND TRANSFERS INVOLVING ROGUE RIVER NATIONAL FOREST AND OTHER PUBLIC LANDS IN OREGON.

(a) TRANSFER FROM PUBLIC DOMAIN TO NATIONAL FOREST.—

(1) LAND TRANSFER.—The public domain lands depicted on the map entitled "BLM/Rogue River N.F. Administrative Jurisdiction Transfer" and dated April 28, 1998, consisting of approximately 2,058 acres within the external boundaries of Rogue River National Forest in the State of Oregon are hereby added to and made a part of Rogue River National Forest.

(2) ADMINISTRATIVE JURISDICTION.—Administrative jurisdiction over the lands described in paragraph (1) is hereby transferred from the Secretary of the Interior to the Secretary of Agriculture. Subject to valid existing rights, the Secretary of Agriculture shall manage such lands as part of Rogue River National Forest in accordance with the Act of March 1, 1911 (commonly known as the Weeks Law), and under the laws, rules, and regulations applicable to the National Forest System.

(b) TRANSFER FROM NATIONAL FOREST TO PUBLIC DOMAIN.—

(1) LAND TRANSFER.—The Federal lands depicted on the map entitled "BLM/Rogue River N.F. Administrative Jurisdiction Transfer" and dated April 28, 1998, consisting of approximately 1,632 acres within the external boundaries of Rogue River National Forest, are hereby transferred to unreserved public domain status, and their status as part of Rogue River National Forest and the National Forest System is hereby revoked.

(2) ADMINISTRATIVE JURISDICTION.—Administrative jurisdiction over the lands described in paragraph (1) is hereby transferred from the Secretary of Agriculture to the Secretary of the Interior. Subject to valid existing rights, the Secretary of the Interior shall administer such lands under the laws, rules, and regulations applicable to unreserved public domain lands.

(c) RESTORATION OF STATUS OF CERTAIN NATIONAL FOREST LANDS AS REVESTED RAILROAD GRANT LANDS.—

(1) RESTORATION OF EARLIER STATUS.—The Federal lands depicted on the map entitled "BLM/Rogue River N.F. Administrative Jurisdiction Transfer" and dated April 28, 1998, consisting of approximately 4,298 acres within the external boundaries of Rogue River National Forest, are hereby restored to the status of revested Oregon and California Railroad grant lands, and their status as part of Rogue River National Forest and the National Forest System is hereby revoked.

(2) ADMINISTRATIVE JURISDICTION.—Administrative jurisdiction over the lands described in paragraph (1) is hereby transferred from the Secretary of Agriculture to the Secretary of the Interior. Subject to valid existing rights, the Secretary of the Interior shall administer such lands under the Act of August 28, 1937 (43 U.S.C. 1181a et seq.), and other laws, rules, and regulations applicable to revested Oregon and California Railroad grant lands under the administrative jurisdiction of the Secretary of the Interior.

(d) ADDITION OF CERTAIN REVESTED RAILROAD GRANT LANDS TO NATIONAL FOREST.—

(1) LAND TRANSFER.—The revested Oregon and California Railroad grant lands depicted on the map entitled "BLM/Rogue River N.F. Administrative Jurisdiction Transfer" and dated April 28, 1998, consisting of approximately 960 acres within the external boundaries of Rogue River National Forest, are hereby added to and made a part of Rogue River National Forest.

(2) ADMINISTRATIVE JURISDICTION.—Administrative jurisdiction over the lands described in paragraph (1) is hereby transferred from the Secretary of the Interior to the Secretary of Agriculture. Subject to valid existing rights, the Secretary of Agriculture shall manage such lands as part of the Rogue River National Forest in accordance with the Act of March 1, 1911 (commonly known as the Weeks Law), and under the laws, rules, and regulations applicable to the National Forest System.

(3) DISTRIBUTION OF RECEIPTS.—Notwithstanding the sixth paragraph under the heading "FOREST SERVICE" in the Act of May 23, 1908 and section 13 of the Act of March 1, 1911 (16 U.S.C. 500), revenues derived from the lands described in paragraph (1) shall be distributed in accordance with the Act of August 28, 1937 (43 U.S.C. 1181a et seq.).

(e) BOUNDARY ADJUSTMENT.—The boundaries of Rogue River National Forest are hereby adjusted to encompass the lands transferred to the administrative jurisdiction of the Secretary of Agriculture under this section and to exclude private property interests adjacent to the exterior boundaries of Rogue River National Forest, as depicted on the map entitled "Rogue River National Forest Boundary Adjustment" and dated April 28, 1998.

(f) MAPS.—Within 60 days after the date of the enactment of this Act, the maps referred to in this section shall be available for public inspection in the office of the Chief of the Forest Service.

(g) MISCELLANEOUS REQUIREMENTS.—As soon as practicable after the date of the enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall revise the public land records relating to the lands transferred under this section to reflect the administrative, boundary, and other changes made by this section. The Secretaries shall publish in the Federal Register appropriate notice to the public of the changes in administrative jurisdiction made by this section with regard to lands described in this section.

SEC. 256. PROTECTION OF OREGON AND CALIFORNIA RAILROAD GRANT LANDS.

(a) DEFINITIONS.—For purposes of this section:

(1) O&C LANDS.—The term "O&C lands" means the lands that—

(A) revested in the United States under the Act of June 9, 1916 (Chapter 137; 39 Stat. 218), commonly known as Oregon and California Railroad grant lands; and

(B) are managed by the Secretary of the Interior through the Bureau of Land Management under the Act of August 28, 1937 (43 U.S.C. 1181a et seq.).

(2) CBWR LANDS.—The term "CBWR lands" means the lands that—

(A) were reconveyed to the United States under the Act of February 26, 1919 (Chapter 47; 40 Stat. 1179), commonly known as Coos Bay Wagon Road grant lands; and

(B) are managed by the Secretary of the Interior through the Bureau of Land Management under the Act of August 28, 1937 (43 U.S.C. 1181a et seq.).

(3) PUBLIC DOMAIN LANDS.—The term "public domain lands" has the meaning given the term "public lands" in the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), except that the term does not include O&C lands and CBWR lands.

(4) O&C GEOGRAPHIC AREA.—The term "O&C geographic area" means all lands in the State of Oregon located within the boundaries of the Bureau of Land Management's Medford District, Roseburg District, Eugene District, Salem District, Coos Bay District, and Klamath Resource Area of the Lakeview District, as those districts and that resource area were constituted on January 1, 1998.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(b) POLICY OF NO NET LOSS OF O&C LANDS.—In carrying out sales, purchases, and exchanges of lands located in the O&C geographic area, the Secretary shall seek to ensure that such sales, purchases, and exchanges do not decrease the number of acres of O&C lands.

(c) DETERMINATION OF WHETHER LOSS OCCURRED.—Not later than April 1 of each fiscal year, the Secretary shall determine whether there has been a net reduction in the number of acres of O&C lands during the preceding fiscal year as a result of the disposal of lands by the United States under any provision of law.

(d) ACTIONS IN EVENT OF A LOSS OF O&C LANDS.—

(1) DESIGNATION OF REPLACEMENT LANDS.—If the Secretary determines under subsection (c) for a fiscal year that a reduction in the number of acres of O&C lands occurred, the Secretary shall designate a number of acres of forested public domain lands within the O&C geographic area, equal to the number of acres of that reduction, for treatment as O&C lands under subsection (e). The Secretary shall make the designation under this paragraph within 90 days after the date on which the Secretary made the determination under subsection (c).

(2) LANDS DESIGNATED.—The Secretary shall designate under paragraph (1) forested public domain lands that are stocked with timber in volumes per acre that are not less than the average volumes per acre found on the O&C lands that were disposed of during the fiscal year involved. Public domain lands designated under paragraph (1) shall be selected from public domain lands within similar land allocations, under the resource management plans then in effect, as the O&C lands that were disposed of.

(e) TREATMENT OF DESIGNATED LANDS.—Public domain lands designated by the Secretary under subsection (d) shall for all purposes have the same status, be administered, and be otherwise treated as lands that were revested in the United States pursuant to the Act of June 9, 1916 (chapter 137; 39 Stat. 218), and managed by the Secretary under the Act of August 28, 1937 (43 U.S.C. 1181a et seq.).

(f) CONGRESSIONAL NOTIFICATION.—Not later than September 30 of each fiscal year in which public domain lands are designated under subsection (d), the Secretary shall submit to Congress a report describing each designation of lands under such subsection in that fiscal year.

TITLE III—HERITAGE AREAS

Subtitle A—Delaware and Lehigh National Heritage Corridor of Pennsylvania

SEC. 301. CHANGE IN NAME OF HERITAGE CORRIDOR.

The Delaware and Lehigh Navigation Canal National Heritage Corridor Act of 1988 (Public Law 100–692; 102 Stat. 4552; 16 U.S.C.

461 note) is amended by striking "Delaware and Lehigh Navigation Canal National Heritage Corridor" each place it appears (except section 4(a)) and inserting "Delaware and Lehigh National Heritage Corridor".

SEC. 302. PURPOSE.

Section 3(b) of such Act (102 Stat. 4552) is amended as follows:

(1) By inserting after "subdivisions" the following: "in enhancing economic development within the context of preservation and".

(2) By striking "and surrounding the Delaware and Lehigh Navigation Canal in the Commonwealth" and inserting "the Corridor".

SEC. 303. CORRIDOR COMMISSION.

(a) MEMBERSHIP.—Section 5(b) of such Act (102 Stat. 4553) is amended as follows:

(1) In the matter preceding paragraph (1), by striking "appointed not later than 6 months after the date of enactment of this Act".

(2) By striking paragraph (2) and inserting the following:

"(2) 3 individuals appointed by the Secretary upon consideration of individuals recommended by the governor, of whom—

"(A) 1 shall represent the Pennsylvania Department of Conservation and Natural Resources;

"(B) 1 shall represent the Pennsylvania Department of Community and Economic Development; and

"(C) 1 shall represent the Pennsylvania Historical and Museum Commission.".

(3) In paragraph (3), by striking "the Secretary, after receiving recommendations from the Governor, of whom" and all that follows through "Delaware Canal region" and inserting the following: "the Secretary upon consideration of individuals recommended by the governor, of whom—

"(A) 1 shall represent a city, 1 shall represent a borough, and 1 shall represent a township; and

"(B) 1 shall represent each of the 5 counties of Luzerne, Carbon, Lehigh, Northampton, and Bucks in Pennsylvania".

(4) In paragraph (4)—

(A) By striking "8 individuals" and inserting "9 individuals".

(B) By striking "the Secretary, after receiving recommendations from the Governor, who shall have" and all that follows through "Canal region. A vacancy" and inserting the following: "the Secretary upon consideration of individuals recommended by the governor, of whom—

"(A) 3 shall represent the northern region of the Corridor;

"(B) 3 shall represent the middle region of the Corridor; and

"(C) 3 shall represent the southern region of the Corridor.

A vacancy".

(b) TERMS.—Section 5 of such Act (102 Stat. 4553) is amended by striking subsection (c) and inserting the following:

"(c) TERMS.—The following provisions shall apply to a member of the Commission appointed under paragraph (3) or (4) of subsection (b):

"(1) LENGTH OF TERM.—The member shall be appointed for a term of 3 years.

"(2) CARRYOVER.—The member shall serve until a successor is appointed by the Secretary.

"(3) REPLACEMENT.—If the member resigns or is unable to serve due to incapacity or death, the Secretary shall appoint, not later than 60 days after receiving a nomination of the appointment from the Governor, a new member to serve for the remainder of the term.

"(4) TERM LIMITS.—A member may serve for not more than 6 years."

SEC. 304. POWERS OF CORRIDOR COMMISSION.

(a) CONVEYANCE OF REAL ESTATE.—Section 7(g)(3) of such Act (102 Stat. 4555) is amended in the first sentence by inserting "or nonprofit organization" after "appropriate public agency".

(b) COOPERATIVE AGREEMENTS.—Section 7(h) of such Act (102 Stat. 4555) is amended as follows:

(1) In the first sentence, by inserting "any non-profit organization," after "subdivision of the Commonwealth,".

(2) In the second sentence, by inserting "such nonprofit organization," after "such political subdivision,".

SEC. 305. DUTIES OF CORRIDOR COMMISSION.

Section 8(b) of such Act (102 Stat. 4556) is amended in the matter preceding paragraph (1) by inserting ", cultural, natural, recreational, and scenic" after "interpret the historic".

SEC. 306. TERMINATION OF CORRIDOR COMMISSION.

Section 9(a) of such Act (102 Stat. 4556) is amended by striking "5 years after the date of enactment of this Act" and inserting "5 years after the date of enactment of the Omnibus National Parks and Public Lands Act of 1998".

SEC. 307. DUTIES OF OTHER FEDERAL ENTITIES.

Section 11 of such Act (102 Stat. 4557) is amended in the matter preceding paragraph (1) by striking "the flow of the Canal or the natural" and inserting "directly affecting the purposes of the Corridor".

SEC. 308. AUTHORIZATION OF APPROPRIATIONS.

(a) COMMISSION.—Section 12(a) of such Act (102 Stat. 4558) is amended by striking "$350,000" and inserting "$1,000,000".

(b) MANAGEMENT ACTION PLAN.—Section 12 of such Act (102 Stat. 4558) is amended by adding at the end the following:

"(c) MANAGEMENT ACTION PLAN.—

"(1) IN GENERAL.—To implement the management action plan created by the Commission, there is authorized to be appropriated $1,000,000 for each of fiscal years 2000 through 2007.

"(2) LIMITATION ON EXPENDITURES.—Amounts made available under paragraph (1) shall not exceed 50 percent of the costs of implementing the management action plan.".

SEC. 309. LOCAL AUTHORITY AND PRIVATE PROPERTY.

Such Act is further amended—

(1) by redesignating section 13 (102 Stat. 4558) as section 14; and

(2) by inserting after section 12 the following:

"SEC. 13. LOCAL AUTHORITY AND PRIVATE PROPERTY.

"The Commission shall not interfere with—

"(1) the private property rights of any person; or

"(2) any local zoning ordinance or land use plan of the Commonwealth of Pennsylvania or any political subdivision of Pennsylvania.".

SEC. 310. DUTIES OF THE SECRETARY.

Section 10 of such Act (102 Stat. 4557) is amended by striking subsection (d) and inserting the following:

"(d) TECHNICAL ASSISTANCE AND GRANTS.—The Secretary, upon request of the Commission, is authorized to provide grants and technical assistance to the Commission or units of government, nonprofit organizations, and other persons, for development and implementation of the Plan.".

Subtitle B—Automobile National Heritage Area of Michigan

SEC. 311. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the industrial, cultural, and natural heritage legacies of Michigan's automobile industry are nationally significant;

(2) in the areas of Michigan including and in proximity to Detroit, Dearborn, Pontiac, Flint, and Lansing, the design and manufacture of the automobile helped establish and expand the United States industrial power;

(3) the industrial strength of automobile manufacturing was vital to defending freedom and democracy in 2 world wars and played a defining role in American victories;

(4) the economic strength of our Nation is connected integrally to the vitality of the automobile industry, which employs millions of workers and upon which 1 out of 7 United States jobs depends;

(5) the industrial and cultural heritage of the automobile industry in Michigan includes the social history and living cultural traditions of several generations;

(6) the United Auto Workers and other unions played a significant role in the history and progress of the labor movement and the automobile industry;

(7) the Department of the Interior is responsible for protecting and interpreting the Nation's cultural and historic resources, and there are significant examples of these resources within Michigan to merit the involvement of the Federal Government to develop programs and projects in cooperation with the Automobile National Heritage Area Partnership, Incorporated, the State of Michigan, and other local and governmental bodies, to adequately conserve, protect, and interpret this heritage for the educational and recreational benefit of this and future generations of Americans;

(8) the Automobile National Heritage Area Partnership, Incorporated would be an appropriate entity to oversee the development of the Automobile National Heritage Area; and

(9) 2 local studies, "A Shared Vision for Metropolitan Detroit" and "The Machine That Changed the World", and a National Park Service study, "Labor History Theme Study: Phase III; Suitability-Feasibility", demonstrated that sufficient historical resources exist to establish the Automobile National Heritage Area.

(b) PURPOSE.—The purpose of this subtitle is to establish the Automobile National Heritage Area to—

(1) foster a close working relationship with all levels of government, the private sector, and the local communities in Michigan and empower communities in Michigan to conserve their automotive heritage while strengthening future economic opportunities; and

(2) conserve, interpret, and develop the historical, cultural, natural, and recreational resources related to the industrial and cultural heritage of the Automobile National Heritage Area.

SEC. 312. DEFINITIONS.

For purposes of this subtitle:

(1) BOARD.—The term "Board" means the Board of Directors of the Partnership.

(2) HERITAGE AREA.—The term "Heritage Area" means the Automobile National Heritage Area established by section 313.

(3) PARTNERSHIP.—The term "Partnership" means the Automobile National Heritage Area Partnership, Incorporated (a nonprofit corporation established under the laws of the State of Michigan).

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 313. AUTOMOBILE NATIONAL HERITAGE AREA.

(a) ESTABLISHMENT.—There is established in the State of Michigan the Automobile National Heritage Area.

(b) BOUNDARIES.—

(1) IN GENERAL.—Subject to paragraph (2), the boundaries of the Heritage Area shall include lands in Michigan that are related to the following corridors:

(A) The Rouge River Corridor.

(B) The Detroit River Corridor.

(C) The Woodward Avenue Corridor.

(D) The Lansing Corridor.

(E) The Flint Corridor.

(F) The Sauk Trail/Chicago Road Corridor.

(2) SPECIFIC BOUNDARIES.—The specific boundaries of the Heritage Area shall be those specified in the management plan approved under section 315.

(3) MAP.—The Secretary shall prepare a map of the Heritage Area which shall be on file and available for public inspection in the office of the Director of the National Park Service.

(4) CONSENT OF LOCAL GOVERNMENTS.—(A) The Partnership shall provide to the government of each city, village, and township that has jurisdiction over property proposed to be included in the Heritage Area written notice of that proposal.

(B) Property may not be included in the Heritage Area if—

(i) the Partnership fails to give notice of the inclusion in accordance with subparagraph (A);

(ii) any local government to which the notice is required to be provided objects to the inclusion, in writing to the Partnership, by not later than the end of the period provided pursuant to clause (iii); or

(iii) fails to provide a period of at least 60 days for objection under clause (ii).

(c) ADMINISTRATION.—The Heritage Area shall be administered in accordance with this subtitle.

(d) ADDITIONS AND DELETIONS OF LANDS.—The Secretary may add or remove lands to or from the Heritage Area in response to a request from the Partnership.

SEC. 314. DESIGNATION OF PARTNERSHIP AS MANAGEMENT ENTITY.

(a) IN GENERAL.—The Partnership shall be the management entity for the Heritage Area.

(b) FEDERAL FUNDING.—

(1) AUTHORIZATION TO RECEIVE FUNDS.—The Partnership may receive amounts appropriated to carry out this subtitle.

(2) DISQUALIFICATION.—If a management plan for the Heritage Area is not submitted to the Secretary as required under section 315 within the time specified in that section, the Partnership shall cease to be authorized to receive Federal funding under this subtitle until such a plan is submitted to the Secretary.

(c) AUTHORITIES OF PARTNERSHIP.—The Partnership may, for purposes of preparing and implementing the management plan for the Heritage Area, use Federal funds made available under this subtitle—

(1) to make grants to the State of Michigan, its political subdivisions, nonprofit organizations, and other persons;

(2) to enter into cooperative agreements with or provide technical assistance to the State of Michigan, its political subdivisions, nonprofit organizations, and other organizations;

(3) to hire and compensate staff;

(4) to obtain money from any source under any program or law requiring the recipient of such money to make a contribution in order to receive such money; and

(5) to contract for goods and services.

(d) PROHIBITION OF ACQUISITION OF REAL PROPERTY.—The Partnership may not use Federal funds received under this subtitle to acquire real property or any interest in real property.

SEC. 315. MANAGEMENT DUTIES OF THE AUTOMOBILE NATIONAL HERITAGE AREA PARTNERSHIP.

(a) HERITAGE AREA MANAGEMENT PLAN.—

(1) SUBMISSION FOR REVIEW BY SECRETARY.—The Board of Directors of the Partnership shall, within 3 years after the date of enactment of this subtitle, develop and submit for review to the Secretary a management plan for the Heritage Area.

(2) PLAN REQUIREMENTS, GENERALLY.—A management plan submitted under this section shall—

(A) present comprehensive recommendations for the conservation, funding, management, and development of the Heritage Area;

(B) be prepared with public participation;

(C) take into consideration existing Federal, State, county, and local plans and involve residents, public agencies, and private organizations in the Heritage Area;

(D) include a description of actions that units of government and private organizations are recommended to take to protect the resources of the Heritage Area; and

(E) specify existing and potential sources of Federal and non-Federal funding for the conservation, management, and development of the Heritage Area.

(3) ADDITIONAL PLAN REQUIREMENTS.—The management plan also shall include the following, as appropriate:

(A) An inventory of resources contained in the Heritage Area, including a list of property in the Heritage Area that should be conserved, restored, managed, developed, or maintained because of the natural, cultural, or historic significance of the property as it relates to the themes of the Heritage Area. The inventory may not include any property that is privately owned unless the owner of the property consents in writing to that inclusion.

(B) A recommendation of policies for resource management that consider and detail the application of appropriate land and water management techniques, including (but not limited to) the development of intergovernmental cooperative agreements to manage the historical, cultural, and natural resources and recreational opportunities of the Heritage Area in a manner consistent with the support of appropriate and compatible economic viability.

(C) A program for implementation of the management plan, including plans for restoration and construction and a description of any commitments that have been made by persons interested in management of the Heritage Area.

(D) An analysis of means by which Federal, State, and local programs may best be coordinated to promote the purposes of this subtitle.

(E) An interpretive plan for the Heritage Area.

(4) APPROVAL AND DISAPPROVAL OF THE MANAGEMENT PLAN.—

(A) IN GENERAL.—Not later than 180 days after submission of the Heritage Area management plan by the Board, the Secretary shall approve or disapprove the plan. If the Secretary has taken no action after 180 days, the plan shall be considered approved.

(B) DISAPPROVAL AND REVISIONS.—If the Secretary disapproves the management plan, the Secretary shall advise the Board, in writing, of the reasons for the disapproval and shall make recommendations for revision of the plan. The Secretary shall approve or disapprove proposed revisions to the plan not later than 60 days after receipt of such revisions from the Board. If the Secretary has taken no action for 60 days after receipt, the plan and revisions shall be considered approved.

(b) PRIORITIES.—The Partnership shall give priority to the implementation of actions, goals, and policies set forth in the management plan for the Heritage Area, including—

(1) assisting units of government, regional planning organizations, and nonprofit organizations—

(A) in conserving the natural and cultural resources in the Heritage Area;

(B) in establishing and maintaining interpretive exhibits in the Heritage Area;

(C) in developing recreational opportunities in the Heritage Area;

(D) in increasing public awareness of and appreciation for the natural, historical, and cultural resources of the Heritage Area;

(E) in the restoration of historic buildings that are located within the boundaries of the Heritage Area and related to the theme of the Heritage Area; and

(F) in ensuring that clear, consistent, and environmentally appropriate signs identifying access points and sites of interest are put in place throughout the Heritage Area; and

(2) consistent with the goals of the management plan, encouraging economic viability in the affected communities by appropriate means.

(c) CONSIDERATION OF INTERESTS OF LOCAL GROUPS.—The Partnership shall, in preparing and implementing the management plan for the Heritage Area, consider the interest of diverse units of government, businesses, private property owners, and nonprofit groups within the Heritage Area.

(d) PUBLIC MEETINGS.—The Partnership shall conduct public meetings at least annually regarding the implementation of the Heritage Area management plan.

(e) ANNUAL REPORTS.—The Partnership shall, for any fiscal year in which it receives Federal funds under this subtitle or in which a loan made by the Partnership with Federal funds under section 314(c)(1) is outstanding, submit an annual report to the Secretary setting forth its accomplishments, its expenses and income, and the entities to which it made any loans and grants during the year for which the report is made.

(f) COOPERATION WITH AUDITS.—The Partnership shall, for any fiscal year in which it receives Federal funds under this subtitle or in which a loan made by the Partnership with Federal funds under section 314(c)(1) is outstanding, make available for audit by the Congress, the Secretary, and appropriate units of government all records and other information pertaining to the expenditure of such funds and any matching funds, and require, for all agreements authorizing expenditure of Federal funds by other organizations, that the receiving organizations make available for such audit all records and other information pertaining to the expenditure of such funds.

(g) DELEGATION.—The Partnership may delegate the responsibilities and actions under this section for each corridor identified in section 313(b)(1). All delegated actions are subject to review and approval by the Partnership.

SEC. 316. DUTIES AND AUTHORITIES OF FEDERAL AGENCIES.

(a) TECHNICAL ASSISTANCE AND GRANTS.—

(1) IN GENERAL.—The Secretary may provide technical assistance and, subject to the availability of appropriations, grants to units of government, nonprofit organizations, and other persons upon request of the Partnership, and to the Partnership, regarding the management plan and its implementation.

(2) PROHIBITION OF CERTAIN REQUIREMENTS.—The Secretary may not, as a condition of the award of technical assistance or grants under this section, require any recipient of such technical assistance or a grant to enact or modify land use restrictions.

(3) DETERMINATIONS REGARDING ASSISTANCE.—The Secretary shall decide if a unit of government, nonprofit organization, or other person shall be awarded technical assistance or grants and the amount of that assistance. Such decisions shall be based on the relative degree to which the assistance effectively fulfills the objectives contained in the Heritage Area management plan and achieves the purposes of this subtitle. Such decisions shall give consideration to projects which provide a greater leverage of Federal funds.

(b) PROVISION OF INFORMATION.—In cooperation with other Federal agencies, the Secretary shall provide the general public with information regarding the location and character of the Heritage Area.

(c) OTHER ASSISTANCE.—The Secretary may enter into cooperative agreements with public and private organizations for the purposes of implementing this subsection.

(d) DUTIES OF OTHER FEDERAL AGENCIES.—Any Federal entity conducting any activity directly affecting the Heritage Area shall consider the potential effect of the activity on the Heritage Area management plan and shall consult with the Partnership with respect to the activity to minimize the adverse effects of the activity on the Heritage Area.

SEC. 317. LACK OF EFFECT ON LAND USE REGULATION AND PRIVATE PROPERTY.

(a) LACK OF EFFECT ON AUTHORITY OF LOCAL GOVERNMENT.—Nothing in this subtitle shall be construed to modify, enlarge, or diminish any authority of Federal, State, or local governments to regulate any use of land under any other law or regulation.

(b) LACK OF ZONING OR LAND USE POWERS.—Nothing in this subtitle shall be construed to grant powers of zoning or land use control to the Partnership.

(c) LOCAL AUTHORITY AND PRIVATE PROPERTY NOT AFFECTED.—Nothing in this subtitle shall be construed to affect or to authorize the Partnership to interfere with—

(1) the rights of any person with respect to private property; or

(2) any local zoning ordinance or land use plan of the State of Michigan or a political subdivision thereof.

SEC. 318. SUNSET.

The Secretary may not make any grant or provide any assistance under this subtitle after September 30, 2014.

SEC. 319. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated under this subtitle not more than $1,000,000 for any fiscal year. Not more than a total of $10,000,000 may be appropriated for the Heritage Area under this subtitle.

(b) 50 PERCENT MATCH.—Federal funding provided under this subtitle, after the designation of the Heritage Area, may not exceed 50 percent of the total cost of any activity carried out with any financial assistance or grant provided under this subtitle.

Subtitle C—Lackawanna Heritage Valley American Heritage Area of Pennsylvania

SEC. 321. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) The industrial and cultural heritage of northeastern Pennsylvania inclusive of Lackawanna, Luzerne, Wayne, and Susquehanna counties, related directly to anthracite and anthracite-related industries, is nationally significant, as documented in the United States Department of the Interior-National Parks Service, National Register of Historic Places, Multiple Property Documentation submittal of the Pennsylvania Historic and Museum Commission (1996).

(2) These industries include anthracite mining, ironmaking, textiles, and rail transportation.

(3) The industrial and cultural heritage of the anthracite and related industries in this region includes the social history and living cultural traditions of the people of the region.

(4) The labor movement of the region played a significant role in the development of the Nation including the formation of many key unions such as the United Mine Workers of America, and crucial struggles to improve wages and working conditions, such as the 1900 and 1902 anthracite strikes.

(5) The Department of the Interior is responsible for protecting the Nation's cultural and historic resources, and there are significant examples of these resources within this 4-county region to merit the involvement of the Federal Government to develop programs and projects, in cooperation with the Lackawanna Heritage Valley Authority, the Commonwealth of Pennsylvania, and other local and governmental bodies, to adequately conserve, protect, and interpret this heritage for future generations, while providing opportunities for education and revitalization.

(6) The Lackawanna Heritage Valley Authority would be an appropriate management entity for a Heritage Area established in the region.

(b) PURPOSE.—The objectives of the Lackawanna Heritage Valley American Heritage Area are as follows:

(1) To foster a close working relationship with all levels of government, the private sector, and the local communities in the anthracite coal region of northeastern Pennsylvania and empower the communities to conserve their heritage while continuing to pursue economic opportunities.

(2) To conserve, interpret, and develop the historical, cultural, natural, and recreational resources related to the industrial and cultural heritage of the 4-county region of northeastern Pennsylvania.

SEC. 322. LACKAWANNA HERITAGE VALLEY AMERICAN HERITAGE AREA.

(a) ESTABLISHMENT.—There is hereby established the Lackawanna Heritage Valley American Heritage Area (in this subtitle referred to as the "Heritage Area").

(b) BOUNDARIES.—The Heritage Area shall be comprised of all or parts of the counties of Lackawanna, Luzerne, Wayne, and Susquehanna in Pennsylvania, determined pursuant to the compact under section 323.

(c) MANAGEMENT ENTITY.—The management entity for the Heritage Area shall be the Lackawanna Heritage Valley Authority.

SEC. 323. COMPACT.

To carry out the purposes of this subtitle, the Secretary of the Interior (in this subtitle referred to as the "Secretary") shall enter into a compact with the management entity. The compact shall include information relating to the objectives and management of the area, including each of the following:

(1) A delineation of the boundaries of the Heritage Area.

(2) A discussion of the goals and objectives of the Heritage Area, including an explanation of the proposed approach to conservation and interpretation and a general outline of the protection measures committed to by the partners.

SEC. 324. AUTHORITIES AND DUTIES OF MANAGEMENT ENTITY.

(a) AUTHORITIES OF THE MANAGEMENT ENTITY.—The management entity may, for purposes of preparing and implementing the management plan developed under subsection (b), use funds made available through this subtitle for the following:

(1) To make loans and grants to, and enter into cooperative agreements with States and their political subdivisions, private organizations, or any person.

(2) To hire and compensate staff.

(b) MANAGEMENT PLAN.—The management entity shall develop a management plan for the Heritage Area that presents comprehensive recommendations for the Heritage Area's conservation, funding, management, and development. Such plan shall take into consideration existing State, county, and local plans and involve residents, public agencies, and private organizations working in the Heritage Area. It shall include actions to be undertaken by units of government and private organizations to protect the resources of the Heritage Area. It shall specify the existing and potential sources of funding to protect, manage, and develop the Heritage Area. Such plan shall include, as appropriate, the following:

(1) An inventory of the resources contained in the Heritage Area, including a list of any property in the Heritage Area that is related to the themes of the Heritage Area and that should be preserved, restored, managed, developed, or maintained because of its natural, cultural, historic, recreational, or scenic significance.

(2) A recommendation of policies for resource management which considers and details application of appropriate land and water management techniques, including, but not limited to, the development of intergovernmental cooperative agreements to protect the Heritage Area's historical, cultural, recreational, and natural resources in a manner consistent with supporting appropriate and compatible economic viability.

(3) A program for implementation of the management plan by the management entity, including plans for restoration and construction, and specific commitments of the identified partners for the first 5 years of operation.

(4) An analysis of ways in which local, State, and Federal programs may best be coordinated to promote the purposes of this subtitle.

(5) An interpretation plan for the Heritage Area.

The management entity shall submit the management plan to the Secretary for approval within 3 years after the date of enactment of this subtitle. If a management plan is not submitted to the Secretary as required within the specified time, the Heritage Area shall no longer qualify for Federal funding.

(c) DUTIES OF MANAGEMENT ENTITY.—The management entity shall—

(1) give priority to implementing actions set forth in the compact and management plan, including steps to assist units of government, regional planning organizations, and nonprofit organizations in preserving the Heritage Area;

(2) assist units of government, regional planning organizations, and nonprofit organizations in establishing and maintaining interpretive exhibits in the Heritage Area; assist units of government, regional planning organizations, and nonprofit organizations in developing recreational resources in the Heritage Area;

(3) assist units of government, regional planning organizations, and nonprofit organizations in increasing public awareness of and appreciation for the natural, historical, and architectural resources and sites in the Heritage Area; assist units of government, regional planning organizations and nonprofit organizations in the restoration of any historic building relating to the themes of the Heritage Area;

(4) encourage by appropriate means economic viability in the Heritage Area consistent with the goals of the plan; encourage local governments to adopt land use policies consistent with the management of the Heritage Area and the goals of the plan;

(5) assist units of government, regional planning organizations, and nonprofit organizations to ensure that clear, consistent, and environmentally appropriate signs identifying access points and sites of interest are put in place throughout the Heritage Area;

(6) consider the interests of diverse governmental, business, and nonprofit groups within the Heritage Area;

(7) conduct public meetings at least quarterly regarding the implementation of the management plan;

(8) submit substantial changes (including any increase of more than 20 percent in the cost estimates for implementation) to the management plan to the Secretary for the Secretary's approval; for any year in which Federal funds have been received under this subtitle, submit an annual report to the Secretary setting forth its accomplishments, its expenses and income, and the entity to which any loans and grants were made during the year for which the report is made; and

(9) for any year in which Federal funds have been received under this subtitle, make available for audit all records pertaining to the expenditure of such funds and any matching funds, and require, for all agreements authorizing expenditure of Federal funds by other organizations, that the receiving organizations make available for audit all records pertaining to the expenditure of such funds.

(d) Prohibition on the Acquisition of Real Property.—The management entity may not use Federal funds received under this subtitle to acquire real property or an interest in real property. Nothing in this subtitle shall preclude any management entity from using Federal funds from other sources for their permitted purposes.

SEC. 325. DUTIES AND AUTHORITIES OF FEDERAL AGENCIES.

(a) Technical and Financial Assistance.—

(1) In general.—The Secretary may, upon request of the management entity, provide technical and financial assistance to the management entity to develop and implement the management plan. In assisting the management entity, the Secretary shall give priority to actions that in general assist in—

(A) conserving the significant natural, historic, and cultural resources which support its themes; and

(B) providing educational, interpretive, and recreational opportunities consistent with its resources and associated values.

(2) Spending for non-federally owned property.—The Secretary may spend Federal funds directly on non-federally owned property to further the purposes of this subtitle, especially in assisting units of government in appropriate treatment of districts, sites, buildings, structures, and objects listed or eligible for listing on the National Register of Historic Places. The Historic American Building Survey/Historic American Engineering Record shall conduct those studies necessary to document the industrial, engineering, building, and architectural history of the region.

(b) Approval and Disapproval of Compacts and Management Plans.—The Secretary, in consultation with the Governor of Pennsylvania, shall approve or disapprove a compact or management plan submitted under this subtitle not later than 90 days after receiving such compact or management plan.

(c) Action Following Disapproval.—If the Secretary disapproves a submitted compact or management plan, the Secretary shall advise the management entity in writing of the reasons therefore and shall make recommendations for revisions in the compact or plan. The Secretary shall approve or disapprove a proposed revision within 90 days after the date it is submitted.

(d) Approving Amendments.—The Secretary shall review substantial amendments to the management plan for the Heritage Area. Funds appropriated pursuant to this subtitle may not be expended to implement the changes made by such amendments until the Secretary approves the amendments.

SEC. 326. SUNSET.

The Secretary may not make any grant or provide any assistance under this subtitle after September 30, 2012.

SEC. 327. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—There is authorized to be appropriated under this subtitle not more than $1,000,000 for any fiscal year. Not more than a total of $10,000,000 may be appropriated for the Heritage Area under this subtitle.

(b) 50 Percent Match.—Federal funding provided under this subtitle, after the designation of the Heritage Area, may not exceed 50 percent of the total cost of any assistance or grant provided or authorized under this subtitle.

Subtitle D—Miscellaneous Provisions

SEC. 331. BLACKSTONE RIVER VALLEY NATIONAL HERITAGE CORRIDOR, MASSACHUSETTS AND RHODE ISLAND.

Section 10(b) of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99-647; 16 U.S.C. 461 note), is amended by striking "For fiscal year 1996, 1997, and 1998," and inserting "For fiscal years 1998, 1999, and 2000,".

SEC. 332. ILLINOIS AND MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR, ILLINOIS.

(a) Extension of Commission.—Section 111(a) of the Illinois and Michigan Canal National Heritage Corridor Act of 1984 (Public Law 98-398; 98 Stat. 1456; 16 U.S.C. 461 note) is amended by striking "ten" and inserting "20".

(b) Repeal of Extension Authority.—Section 111 of such Act (16 U.S.C. 461 note) is further amended—

(1) by striking "(a) Termination.—"; and

(2) by striking subsection (b).

TITLE IV—HISTORIC AREAS

SEC. 401. BATTLE OF MIDWAY NATIONAL MEMORIAL STUDY.

(a) Findings.—The Congress makes the following findings:

(1) September 2, 1998, marked the 53d anniversary of the United States victory over Japan in World War II.

(2) The Battle of Midway proved to be the turning point in the war in the Pacific, as United States Navy forces inflicted such severe losses on the Imperial Japanese Navy during the battle that the Imperial Japanese Navy never again took the offensive against United States or allied forces.

(3) During the Battle of Midway on June 4, 1942, an outnumbered force of the United States Navy, consisting of 29 ships and other units of the Armed Forces under the command of Admiral Nimitz and Admiral Spruance, outmaneuvered and out-fought 350 ships of the Imperial Japanese Navy.

(4) It is in the public interest to study whether Midway Atoll should be established as a national memorial to the Battle of Midway to express the enduring gratitude of the American people for victory in the battle and to inspire future generations of Americans with the heroism and sacrifice of the members of the Armed Forces who achieved that victory.

(5) The historic structures on Midway Atoll should be protected and maintained.

(b) Purpose.—The purpose of this section shall be to require a study of the feasibility and suitability of designating the Midway Atoll as a national memorial to the Battle of Midway within the boundaries of the Midway Atoll National Wildlife Refuge. The study of the Midway Atoll and its environs shall include, but not be limited to, identification of interpretive opportunities for the educational and inspirational benefit of present and future generations, and of the unique and significant circumstances involving the defense of the island by the United States in World War II and the Battle of Midway.

(c) Study of The Establishment of Midway Atoll as a National Memorial to the Battle of Midway.—

(1) In general.—Not later than 6 months after the date of enactment of this Act, the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, shall carry out a study of the suitability and feasibility of establishing Midway Atoll as a national memorial to the Battle of Midway. The Secretary shall carry out the study in consultation with the Director of the National Park Service, the International Midway Memorial Foundation, Inc. (referred to in this section as the "Foundation"), the Veterans of Foreign Wars, the Battle of Coral Sea Association, the American Legion, or other appropriate veterans group, respectively, and the Midway Phoenix Corporation.

(2) Considerations.—In studying the establishment of Midway Atoll as a national memorial to the Battle of Midway under paragraph (1), the Secretary shall address the following:

(A) The appropriate Federal agency to manage such a memorial, and whether and under what conditions to lease or otherwise allow the Foundation or another appropriate entity to administer, maintain, and fully utilize for use as a national memorial to the Battle of Midway the lands (including any equipment, facilities, infrastructure, and other improvements) and waters of Midway Atoll if designated as a national memorial.

(B) Whether designation as a national memorial would conflict with current management of Midway Atoll as a wildlife refuge and whether, and under what circumstances, the needs and requirements of the wildlife refuge should take precedence over the needs and requirements of a national memorial on Midway Atoll.

(C) Whether, and under what conditions, to permit the use of the facilities on Sand Island for purposes other than a wildlife refuge or a national memorial.

(D) Whether to impose conditions on public access to Midway Atoll if designated as a national memorial.

(d) REPORT.—Upon completion of the study required under paragraph (1), the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the study, which shall include any recommendations for further legislative action. The report shall also include an inventory of all known past and present facilities and structures of historical significance on Midway Atoll and its environs. The report shall include a description of each historic facility and structure and a discussion of how each will contribute to the designation and interpretation of the proposed national memorial.

(e) CONTINUING DISCUSSIONS.—Nothing in this section shall be construed to delay or prohibit discussions or agreements between the Foundation, the Veterans of Foreign Wars, the Battle of Coral Sea Association, the American Legion, or any other appropriate veterans group, or the Midway Phoenix Corporation and the United States Fish and Wildlife Service or any other Government entity regarding the future role of the Foundation or the Midway Phoenix Corporation on Midway Atoll.

(f) EXISTING AGREEMENT.—This section shall not affect any agreement in effect on the date of the enactment of this Act between the United States Fish and Wildlife Service and Midway Phoenix Corporation.

(g) AUTHORIZATION.—There are authorized to be appropriated to carry out this section not more than $100,000.

SEC. 402. HISTORIC LIGHTHOUSE PRESERVATION.

(a) PRESERVATION OF HISTORIC LIGHT STATIONS.—Title III of the National Historic Preservation Act (16 U.S.C. 470w–470w–6) is amended by adding the following new section after section 307:

"SEC. 308. HISTORIC LIGHTHOUSE PRESERVATION.

"(a) IN GENERAL.—In order to provide a national historic light station program, the Secretary shall—

"(1) collect and disseminate information concerning historic light stations, including historic lighthouses and associated structures;

"(2) foster educational programs relating to the history, practice, and contribution to society of historic light stations;

"(3) sponsor or conduct research and study into the history of light stations;

"(4) maintain a listing of historic light stations; and

"(5) assess the effectiveness of the program established by this section regarding the conveyance of historic light stations.

"(b) CONVEYANCE OF HISTORIC LIGHT STATIONS.—

"(1) Within one year of the date of enactment of this section, the Secretary and the Administrator of General Services shall establish a process for identifying, and selecting, an eligible entity to which a historic light station could be conveyed for education, park, recreation, cultural, or historic preservation purposes.

"(2) The Secretary shall review all applicants for the conveyance of a historic light station, when the historic light station has been identified as excess to the needs of the agency with administrative jurisdiction over the historic light station, and forward to the Administrator a single approved application for the conveyance of the historic light station. When selecting an eligible entity, the Secretary may consult with the State Historic Preservation Officer of the State in which the historic light station is located. A priority of consideration shall be afforded public entities that submit applications in which the public entity enters into a partnership with a nonprofit organization whose primary mission is historic light station preservation.

"(3)(A) Except as provided in paragraph (B), the Administrator shall convey, by quitclaim deed, without consideration, all right, title, and interest of the United States in and to the historic light station, subject to the conditions set forth in subsection (c). The conveyance of a historic light station under this section shall not be subject to the provisions of 42 U.S.C. 11301 et seq.

"(B)(i) Historic light stations located within the exterior boundaries of a unit of the National Park System or a refuge within the National Wildlife Refuge System shall be conveyed or sold only with the approval of the Secretary.

"(ii) If the Secretary approves the conveyance or sale of a historic light station referenced in this paragraph, such conveyance or sale shall be subject to the conditions set forth in subsection (c) and any other terms or conditions the Secretary considers necessary to protect the resources of the park unit or wildlife refuge.

"(iii) For those historic light stations referenced in this paragraph, the Secretary is encouraged to enter cooperative agreements with appropriate eligible entities, as provided in this Act, to the extent such cooperative agreements are consistent with the Secretary's responsibilities to manage and administer the park unit or wildlife refuge, as appropriate.

"(c) TERMS OF CONVEYANCE.—

"(1) The conveyance of a historic light station shall be made subject to any conditions the Administrator considers necessary to ensure that—

"(A) the lights, antennas, sound signal, electronic navigation equipment, and associated light station equipment located at the historic light station, which are active aids to navigation, shall continue to be operated and maintained by the United States for as long as needed for this purpose;

"(B) the eligible entity to which the historic light station is conveyed under this section shall not interfere or allow interference in any manner with aids to navigation without the express written permission of the head of the agency responsible for maintaining the aids to navigation;

"(C) there is reserved to the United States the right to relocate, replace, or add any aid to navigation located at the historic light station as may be necessary for navigation purposes;

"(D) the eligible entity to which the historic light station is conveyed under this section shall maintain the historic light station in accordance with this Act, the Secretary's Standards for the Treatment of Historic Properties, and other applicable laws;

"(E) the eligible entity to which the historic light station is conveyed under this section shall make the historic light station available for education, park, recreation, cultural or historic preservation purposes for the general public at reasonable times and under reasonable conditions; and

"(F) the United States shall have the right, at any time, to enter the historic light station without notice for purposes of maintaining and inspecting aids to navigation and ensuring compliance with paragraph (C), to the extent that it is not possible to provide advance notice.

"(2) The Secretary, the Administrator, and any eligible entity to which a historic light station is conveyed under this section, shall not be required to maintain any active aids to navigation associated with a historic light station.

"(3) In addition to any term or condition established pursuant to this subsection, the conveyance of a historic light station shall include a condition that the historic light station in its existing condition, at the option of the Administrator, revert to the United States if—

"(A) the historic light station or any part of the historic light station ceases to be available for education, park, recreation, cultural, or historic preservation purposes for the general public at reasonable times and under reasonable conditions which shall be set forth in the eligible entity's application;

"(B) the historic light station or any part of the historic light station ceases to be maintained in a manner that ensures its present or future use as an aid to navigation or compliance with this Act, the Secretary's Standards for the Treatment of Historic Properties, and other applicable laws; or

"(C) at least 30 days before the reversion, the Administrator provides written notice to the owner that the historic light station is needed for national security purposes.

"(d) DESCRIPTION OF PROPERTY.—The Administrator shall prepare the legal description of any historic light station conveyed under this section. The Administrator may retain all right, title, and interest of the United States in and to any historical artifact, including any lens or lantern, that is associated with the historic light station and located at the light station at the time of conveyance. All conditions placed with the deed of title to the historic light station shall be construed as covenants running with the land. No submerged lands shall be conveyed to non-Federal entities.

"(e) RESPONSIBILITIES OF CONVEYEES.—Each eligible entity to which a historic light station is conveyed under this section shall use and maintain the historic light station in accordance with this section, and have such conditions recorded with the deed of title to the historic light station.

"(f) DEFINITIONS.—For purposes of this section and sections 309 and 310:

"(1) HISTORIC LIGHT STATION.—The term 'historic light station' includes the light tower, lighthouse, keepers dwelling, garages, storage sheds, oil house, fog signal building, boat house, barn, pumphouse, tramhouse support structures, piers, walkways, and related real property and improvements associated therewith; provided that the light tower or lighthouse shall be included in or eligible for inclusion in the National Register of Historic Places.

"(2) ELIGIBLE ENTITY.—The term 'eligible entity' shall mean—

"(A) any department or agency of the Federal Government; or

"(B) any department or agency of the State in which the historic light station is located, the local government of the community in which the historic light station is located, nonprofit corporation, educational agency, or community development organization that—

"(i) has agreed to comply with the conditions set forth in subsection (c) and to have such conditions recorded with the deed of title to the historic light station;

"(ii) is financially able to maintain the historic light station in accordance with the conditions set forth in subsection (c); and

"(iii) can indemnify the Federal Government to cover any loss in connection with the historic light station, or any expenses incurred due to reversion.

"(3) ADMINISTRATOR.—The term 'Administrator' means the Administrator of General Services.".

(b) SALE OF EXCESS LIGHT STATIONS.—Title III of the National Historic Preservation Act (16 U.S.C. 470w–470w–6) is amended by adding the following new section after section 308:

"SEC. 309. HISTORIC LIGHT STATION SALES.

"In the event no applicants are approved for the conveyance of a historic light station pursuant to section 308, the historic light station shall be offered for sale. Terms of such sales shall be developed by the Administrator. Conveyance documents shall include all necessary covenants to protect the historical integrity of the historic light station and ensure that any active aids to navigation located at the historic light station are operated and maintained by the United States for as long as needed for that purpose. Net sale proceeds shall be transferred to the National Maritime Heritage Grant Program, established by section 4 of the National Maritime Heritage Act of 1994 (Public Law 103–451; 16 U.S.C. 5403), within the Department of the Interior.".

(c) TRANSFER OF HISTORIC LIGHT STATIONS TO FEDERAL AGENCIES.—Title III of the National Historic Preservation Act (16 U.S.C. 470w–470w–6) is amended by adding the following new section after section 309:

"SEC. 310. TRANSFER OF HISTORIC LIGHT STATIONS TO FEDERAL AGENCIES.

"After the date of enactment of this section, any department or agency of the Federal Government, to which a historic light station is conveyed, shall maintain the historic light station in accordance with this Act, the Secretary's Standards for the Treatment of Historic Properties, and other applicable laws.".

(d) FUNDING.—There are hereby authorized to be appropriated to the Secretary of the Interior such sums as may be necessary to carry out this section.

SEC. 403. THOMAS COLE NATIONAL HISTORIC SITE, NEW YORK.

(a) DEFINITIONS.—As used in this section:

(1) The term "historic site" means the Thomas Cole National Historic Site established by subsection (c).

(2) The term "Hudson River artists" means artists who were associated with the Hudson River school of landscape painting.

(3) The term "plan" means the general management plan developed pursuant to subsection (e)(4).

(4) The term "Secretary" means the Secretary of the Interior.

(5) The term "Society" means the Greene County Historical Society of Greene County, New York, which owns the Thomas Cole home, studio, and other property comprising the historic site.

(b) FINDINGS AND PURPOSES.—

(1) FINDINGS.—Congress finds the following:

(A) The Hudson River school of landscape painting was inspired by Thomas Cole and was characterized by a group of 19th century landscape artists who recorded and celebrated the landscape and wilderness of America, particularly in the Hudson River Valley region in the State of New York.

(B) Thomas Cole is recognized as America's most prominent landscape and allegorical painter of the mid-19th century.

(C) Located in Greene County, New York, the Thomas Cole House, also known as Thomas Cole's Cedar Grove, is listed on the National Register of Historic Places and has been designated as a National Historic Landmark.

(D) Within a 15 mile radius of the Thomas Cole House, an area that forms a key part of the rich cultural and natural heritage of the Hudson River Valley region, significant landscapes and scenes painted by Thomas Cole and other Hudson River artists, such as Frederic Church, survive intact.

(E) The State of New York has established the Hudson River Valley Greenway to promote the preservation, public use, and enjoyment of the natural and cultural resources of the Hudson River Valley region.

(F) Establishment of the Thomas Cole National Historic Site will provide opportunities for the illustration and interpretation of cultural themes of the heritage of the United States and unique opportunities for education, public use, and enjoyment.

(2) PURPOSES.—The purposes of this section are—

(A) to preserve and interpret the home and studio of Thomas Cole for the benefit, inspiration, and education of the people of the United States;

(B) to help maintain the integrity of the setting in the Hudson River Valley region that inspired artistic expression;

(C) to coordinate the interpretive, preservation, and recreational efforts of Federal, State, and other entities in the Hudson Valley region in order to enhance opportunities for education, public use, and enjoyment; and

(D) to broaden understanding of the Hudson River Valley region and its role in American history and culture.

(c) ESTABLISHMENT OF THOMAS COLE NATIONAL HISTORIC SITE.—

(1) ESTABLISHMENT.—There is established, as an affiliated area of the National Park System, the Thomas Cole National Historic Site in the State of New York.

(2) DESCRIPTION.—The historic site shall consist of the home and studio of Thomas Cole, comprising approximately 3.4 acres, located at 218 Spring Street, in the village of Catskill, New York, as generally depicted on the boundary map numbered TCH/80002, and dated March 1992.

(d) RETENTION OF OWNERSHIP AND MANAGEMENT OF HISTORIC SITE BY GREENE COUNTY HISTORICAL SOCIETY.—The Greene County Historical Society of Greene County, New York, shall continue to own, manage, and operate the historic site.

(e) ADMINISTRATION OF HISTORIC SITE.—

(1) APPLICABILITY OF NATIONAL PARK SYSTEM LAWS.—The historic site shall be administered by the Society in a manner consistent with this Act and all laws generally applicable to units of the National Park System, including the Act of August 25, 1916 (16 U.S.C. 1 et seq.; commonly known as the National Park Service Organic Act), and the Act of August 21, 1935 (16 U.S.C. 461 et seq.; commonly known as the Historic Sites, Buildings, and Antiquities Act).

(2) COOPERATIVE AGREEMENTS.—

(A) ASSISTANCE TO SOCIETY.—The Secretary may enter into cooperative agreements with the Society to preserve the Thomas Cole House and other structures in the historic site and to assist with education programs and research and interpretation of the Thomas Cole House and associated landscapes.

(B) OTHER ASSISTANCE.—To further the purposes of this section, the Secretary may enter into cooperative agreements with the State of New York, the Society, the Thomas Cole Foundation, and other public and private entities to facilitate public understanding and enjoyment of the lives and works of the Hudson River artists through the provision of assistance to develop, present, and fund art exhibits, resident artist programs, and other appropriate activities related to the preservation, interpretation, and use of the historic site.

(3) ARTIFACTS AND PROPERTY.—

(A) PERSONAL PROPERTY GENERALLY.—The Secretary may acquire personal property associated with, and appropriate for, the interpretation of the historic site.

(B) WORKS OF ART.—The Secretary may acquire works of art associated with Thomas Cole and other Hudson River artists for the purpose of display at the historic site.

(4) GENERAL MANAGEMENT PLAN.—Within two complete fiscal years after the date of the enactment of this Act, the Secretary shall develop a general management plan for the historic site with the cooperation of the Society. Upon the completion of the plan, the Secretary shall provide a copy of the plan to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. The plan shall include recommendations for regional wayside exhibits, to be carried out through cooperative agreements with the State of New York and other public and private entities. The plan shall be prepared in accordance with section 12(b) of Public Law 91–383 (16 U.S.C. 1a–1 et seq.; commonly known as the National Park System General Authorities Act).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 404. ADDITION OF THE PAOLI BATTLEFIELD TO THE VALLEY FORGE NATIONAL HISTORICAL PARK.

(a) BOUNDARY MODIFICATION.—Section 2(a) of the Act of July 4, 1976 (Public Law 94–337; 90 Stat. 796; 16 U.S.C. 410aa–1), is amended by adding the following after the first sentence thereof: "The park shall also include the Paoli Battlefield, located in the Borough of Malvern, Pennsylvania, as depicted on the map numbered 001 and dated July 24, 1996 (hereinafter in this Act referred to as the 'Paoli Battlefield Addition')."

(b) ACQUISITION OF LANDS.—Section 4(a) of the Act of July 4, 1976 (Public Law 94–337; 90 Stat. 796; 16 U.S.C. 410aa–3), is amended by adding the following before the period at the end thereof: ", except that there is authorized to be appropriated an additional amount of not more than $2,500,000 for the acquisition of property within the Paoli Battlefield Addition if non-Federal monies in the amount of not less than $1,000,000 are available for the acquisition (and subsequent donation to the National Park Service) of such property".

(c) COOPERATIVE MANAGEMENT.—Section 3 of the Act of July 4, 1976 (Public Law 94–337; 90 Stat. 796; 16 U.S.C. 410aa–2), is amended by adding the following at the end thereof: "The Secretary may enter into a cooperative agreement with the Borough of Malvern for the management by the Borough of the Paoli Battlefield Addition.".

SEC. 405. CASA MALPAIS NATIONAL HISTORIC LANDMARK, ARIZONA.

(a) FINDINGS.—The Congress finds and declares that—

(1) the Casa Malpais National Historic Landmark was occupied by one of the largest and most sophisticated Mogollon communities in the United States;

(2) the landmark includes a 58-room masonry pueblo, including stairways, Great Kiva complex, and fortification walls, a prehistoric trail, and catacomb chambers where the deceased were placed;

(3) the Casa Malpais was designated as a national historic landmark by the Secretary of the Interior in 1964; and

(4) the State of Arizona and the community of Springerville are undertaking a program of interpretation and preservation of the landmark.

(b) PURPOSE.—It is the purpose of this section to assist in the preservation and interpretation of the Casa Malpais National Historic Landmark for the benefit of the public.

(c) COOPERATIVE AGREEMENTS.—

(1) IN GENERAL.—In furtherance of the purpose of this section, the Secretary of the Interior is authorized to enter into cooperative agreements with the State of Arizona and the town of Springerville, Arizona, pursuant to which the Secretary may provide technical assistance to interpret, operate, and maintain the Casa Malpais National Historic Landmark and may also provide financial assistance for planning, staff training, and development of the Casa Malpais National Historic Landmark, but not including other routine operations.

(2) ADDITIONAL PROVISIONS.—Any such agreement may also contain provisions that—

(A) the Secretary, acting through the Director of the National Park Service, shall have right to access at all reasonable times to all public portions of the property covered by such agreement for the purpose of interpreting the landmark; and

(B) no changes or alterations shall be made in the landmark except by mutual agreement between the Secretary and the other parties to all such agreements.

(d) APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to provide financial assistance in accordance with this section.

SEC. 406. LOWER EAST SIDE TENEMENT NATIONAL HISTORIC SITE, NEW YORK.

(a) FINDINGS.—Congress finds that—

(1) immigration, and the resulting diversity of cultural influences, is a key factor in defining American identity; the majority of United States citizens trace their ancestry to persons born in nations other than the United States;

(2) the latter part of the 19th century and the early part of the 20th century marked a period in which the volume of immigrants coming to the United States far exceeded that of any time prior to or since that period;

(3) no single identifiable neighborhood in the United States absorbed a comparable number of immigrants than the Lower East Side neighborhood of Manhattan in New York City;

(4) the Lower East Side Tenement at 97 Orchard Street in New York City is an outstanding survivor of the vast number of humble buildings that housed immigrants to New York City during the greatest wave of immigration in American history;

(5) the Lower East Side Tenement is owned and operated as a museum by the Lower East Side Tenement Museum;

(6) the Lower East Side Tenement Museum is dedicated to interpreting immigrant life within a neighborhood long associated with the immigrant experience in the United States, New York's Lower East Side, and its importance to United States history; and

(7) the National Park Service found the Lower East Side Tenement at 97 Orchard Street to be nationally significant; the Secretary of the Interior declared it a National Historic Landmark on April 19, 1994, and the National Park Service through a special resource study found the Lower East Side Tenement suitable and feasible for inclusion in the National Park System.

(b) PURPOSES.—The purposes of this section are—

(1) to ensure the preservation, maintenance, and interpretation of this site and to interpret at the site the themes of immigration, tenement life in the later half of the 19th century and the first half of the 20th century, the housing reform movement, and tenement architecture in the United States;

(2) to ensure continued interpretation of the nationally significant immigrant phenomenon associated with New York City's Lower East Side and its role in the history of immigration to the United States; and

(3) to enhance the interpretation of the Castle Clinton, Ellis Island, and Statue of Liberty National Monuments.

(c) DEFINITIONS.—As used in this section:

(1) HISTORIC SITE.—The term "historic site" means the Lower East Side Tenement at 97 Orchard Street on Manhattan Island in New York City, New York, and designated as a national historic site by subsection (d)(1).

(2) LOWER EAST SIDE TENEMENT MUSEUM.—The term "Lower East Side Tenement Museum" means the Lower East Side Tenement Museum, a nonprofit organization established in New York City, which owns and operates the tenement building at 97 Orchard Street and manages other properties in the vicinity of 97 Orchard Street as administrative and program support facilities for 97 Orchard Street.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(d) ESTABLISHMENT OF HISTORIC SITE.—

(1) DESIGNATION.—To further the purposes of this section and the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (16 U.S.C. 461 et seq.), the Lower East Side Tenement at 97 Orchard Street, in the City of New York, State of New York, is designated a national historic site to be known as "Lower East Side Tenement National Historic Site".

(2) STATUS AS AFFILIATED SITE.—The Lower East Side Tenement National Historic Site shall be an affiliated site of the National Park System. The Secretary shall coordinate the operation and interpretation of the historic site with that of the Lower East Side Tenement Historic Site and the Statue of Liberty, Ellis Island, and Castle Clinton National Monument, as the historic site's story and interpretation of the immigrant experience in the United States is directly related to the themes and purposes of these national monuments.

(3) OWNERSHIP AND OPERATION.—The Lower East Side Tenement National Historic Site shall continue to be owned, operated, and managed by the Lower East Side Tenement Museum.

(e) MANAGEMENT OF HISTORIC SITE.—

(1) COOPERATIVE AGREEMENT.—The Secretary is authorized to enter into a cooperative agreement with the Lower East Side Tenement Museum to ensure the marking, interpretation, and preservation of the historic site.

(2) ASSISTANCE.—The Secretary is authorized to provide technical and financial assistance to the Lower East Side Tenement Museum to mark, interpret, and preserve the historic site, including the making of preservation-related capital improvements and repairs.

(3) MANAGEMENT PLAN.—The Secretary shall, working with the Lower East Side Tenement Museum, develop a general management plan for the historic site to define the National Park Service's roles and responsibilities with regard to the interpretation and the preservation of the historic site. The plan shall also outline how interpretation and programming for the Lower East Side Tenement National Historic Site and the Statue of Liberty, Ellis Island, and Castle Clinton national monuments will be integrated and coordinated so as to enhance the stories at each of the 4 sites. Such plan shall be completed within 2 years after the enactment of this Act.

(4) SAVINGS CLAUSE.—Nothing in this section authorizes the Secretary to acquire the property at 97 Orchard Street or to assume overall financial responsibility for the operation, maintenance, or management of the Lower East Side Tenement National Historic Site.

(f) APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 407. GATEWAY VISITOR CENTER AUTHORIZATION, INDEPENDENCE NATIONAL HISTORICAL PARK.

(a) FINDINGS AND PURPOSE.—

(1) FINDINGS.—The Congress finds the following:

(A) The National Park Service completed and approved in 1997 a general management plan for Independence National Historical Park that establishes goals and priorities for the park's future.

(B) The general management plan for Independence National Historical Park calls for the revitalization of Independence Mall and recommends as a critical component of the Independence Mall's revitalization the development of a new "Gateway Visitor Center".

(C) Such a visitor center would replace the existing park visitor center and would serve as an orientation center for visitors to the park and to city and regional attractions.

(D) Subsequent to the completion of the general management plan, the National Park Service undertook and completed a design project and master plan for Independence Mall which includes the Gateway Visitor Center.

(E) Plans for the Gateway Visitor Center call for it to be developed and managed, in cooperation with the Secretary of the Interior, by a nonprofit organization which represents the various public and civic interests of the greater Philadelphia metropolitan area.

(F) The Gateway Visitor Center Corporation, a nonprofit organization, has been established to raise funds for and cooperate in a program to design, develop, construct, and operate the proposed Gateway Visitor Center.

(2) PURPOSE.—The purpose of this section is to authorize the Secretary of the Interior to enter into a cooperative agreement with the Gateway Visitor Center Corporation to construct and operate a regional visitor center on Independence Mall.

(b) GATEWAY VISITOR CENTER AUTHORIZATION.—

(1) AGREEMENT.—The Secretary of the Interior, in administering the Independence National Historical Park, may enter into an agreement under appropriate terms and conditions with the Gateway Visitor Center Corporation (a nonprofit corporation established under the laws of the State of Pennsylvania)

to facilitate the construction and operation of a regional Gateway Visitor Center on Independence Mall.

(2) Operations of center.—The Agreement shall authorize the Corporation to operate the Center in cooperation with the Secretary and to provide at the Center information, interpretation, facilities, and services to visitors to Independence National Historical Park, its surrounding historic sites, the city of Philadelphia, and the region, in order to assist in their enjoyment of the historic, cultural, educational, and recreational resources of the greater Philadelphia area.

(3) Management-related activities.—The Agreement shall authorize the Secretary to undertake at the Center activities related to the management of Independence National Historical Park, including, but not limited to, provision of appropriate visitor information and interpretive facilities and programs related to Independence National Historical Park.

(4) Activities of corporation.—The Agreement shall authorize the Corporation, acting as a private nonprofit organization, to engage in activities appropriate for operation of a regional visitor center that may include, but are not limited to, charging fees, conducting events, and selling merchandise, tickets, and food to visitors to the Center.

(5) Use of revenues.—Revenues from activities engaged in by the Corporation shall be used for the operation and administration of the Center.

(6) Protection of park.—Nothing in this section authorizes the Secretary or the Corporation to take any actions in derogation of the preservation and protection of the values and resources of Independence National Historical Park.

(7) Definitions.—In this subsection:

(A) Agreement.—The term "Agreement" means an agreement under this section between the Secretary and the Corporation.

(B) Center.—The term "Center" means a Gateway Visitor Center constructed and operated in accordance with the Agreement.

(C) Corporation.—The term "Corporation" means the Gateway Visitor Center Corporation (a nonprofit corporation established under the laws of the State of Pennsylvania).

(D) Secretary.—The term "Secretary" means the Secretary of the Interior.

SEC. 408. TUSKEGEE AIRMEN NATIONAL HISTORIC SITE, ALABAMA.

(a) Definitions.—As used in this section:

(1) Historic site.—The term "historic site" means the Tuskegee Airmen National Historic Site as established by subsection (d).

(2) Secretary.—The term "Secretary" means the Secretary of the Interior.

(3) Tuskegee airmen.—The term "Tuskegee Airmen" means the thousands of men and women who were trained at Tuskegee University's Moton Field to serve in America's African-American Air Force units during World War II and those men and women who participate in the Tuskegee Experience today, who are represented by Tuskegee Airmen, Inc.

(4) Tuskegee university.—The term "Tuskegee University" means the institution of higher education by that name located in the State of Alabama and founded by Booker T. Washington in 1881, formerly named Tuskegee Institute.

(b) Findings.—The Congress finds the following:

(1) The struggle of African-Americans for greater roles in North American military conflicts spans the 17th, 18th, 19th, and 20th centuries. Opportunities for African-American participation in the United States military were always very limited and controversial. Quotas, exclusion, and racial discrimination were based on the prevailing attitude in the United States, particularly on the part of the United States military, that African-Americans did not possess the intellectual capacity, aptitude, and skills to be successful fighters.

(2) As late as the 1940's these perceptions continued within the United States military. Key leaders within the United States Army Air Corps did not believe that African-Americans possessed the capacity to become successful military pilots. After succumbing to pressure exerted by civil rights groups and the black press, the Army decided to train a small number of African-American pilot cadets under special conditions. Although prejudice and discrimination against African-Americans was a national phenomenon, not just a southern trait, it was more intense in the South where it had hardened into rigidly enforced patterns of segregation. Such was the environment where the military chose to locate the training of the Tuskegee Airmen.

(3) The military selected Tuskegee Institute (now known as Tuskegee University) as a civilian contractor for a variety of reasons. These included the school's existing facilities, engineering and technical instructors, and a climate with ideal flying conditions year round. Tuskegee Institute's strong interest in providing aeronautical training for African-American youths was also an important factor. Students from the school's civilian pilot training program had some of the best test scores when compared to other students from programs across the Southeast.

(4) In 1941 the United States Army Air Corps awarded a contract to Tuskegee Institute to operate a primary flight school at Moton Field. Tuskegee Institute (now known as Tuskegee University) chose an African-American contractor who designed and constructed Moton Field, with the assistance of its faculty and students, as the site for its military pilot training program. The field was named for the school's second president, Robert Russa Moton. Consequently, Tuskegee Institute was one of a very few American institutions (and the only African-American institution) to own, develop, and control facilities for military flight instruction.

(5) Moton Field, also known as the Primary Flying Field or Airport Number 2, was the only primary flight training facility for African-American pilot candidates in the United States Army Air Corps during World War II. The facility symbolizes the entrance of African-American pilots into the United States Army Air Corps, although on the basis of a policy of segregation that was mandated by the military and institutionalized in the South. The facility also symbolizes the singular role of Tuskegee Institute (Tuskegee University) in providing leadership as well as economic and educational resources to make that entry possible.

(6) The Tuskegee Airmen were the first African-American soldiers to complete their training successfully and to enter the United States Army Air Corps. Almost 1,000 aviators were trained as America's first African-American military pilots. In addition, more than 10,000 military and civilian African-American men and women served as flight instructors, officers, bombardiers, navigators, radio technicians, mechanics, air traffic controllers, parachute riggers, electrical and communications specialists, medical professionals, laboratory assistants, cooks, musicians, supply, firefighting, and transportation personnel.

(7) Although military leaders were hesitant to use the Tuskegee Airmen in combat, the Airmen eventually saw considerable action in North Africa and Europe. Acceptance from United States Army Air Corps units came slowly, but their courageous and, in many cases, heroic performance earned them increased combat opportunities and respect.

(8) The successes of the Tuskegee Airmen proved to the American public that African-Americans, when given the opportunity, could become effective military leaders and pilots. This helped pave the way for desegregation of the military, beginning with President Harry S. Truman's Executive Order 9981 in 1948. The Tuskegee Airmen's success also helped set the stage for civil rights advocates to continue the struggle to end racial discrimination during the civil rights movement of the 1950's and 1960's.

(9) The story of the Tuskegee Airmen also reflects the struggle of African-Americans to achieve equal rights, not only through legal attacks on the system of segregation, but also through the techniques of nonviolent direct action. The members of the 477th Bombardment Group, who staged a nonviolent demonstration to desegregate the officer's club at Freeman Field, Indiana, helped set the pattern for direct action protests popularized by civil rights activists in later decades.

(c) Purposes.—The purposes of this section are the following:

(1) To inspire present and future generations to strive for excellence by understanding and appreciating the heroic legacy of the Tuskegee Airmen, through interpretation and education, and the preservation of cultural resources at Moton Field, which was the site of primary flight training.

(2) To commemorate and interpret—

(A) the impact of the Tuskegee Airmen during World War II;

(B) the training process for the Tuskegee Airmen, including the roles played by Moton Field, other training facilities, and related sites;

(C) the African-American struggle for greater participation in the United States Armed Forces and more significant roles in defending their country;

(D) the significance of successes of the Tuskegee Airmen in leading to desegregation of the United States Armed Forces shortly after World War II; and

(E) the impacts of Tuskegee Airmen accomplishments on subsequent civil rights advances of the 1950's and 1960's.

(3) To recognize the strategic role of Tuskegee Institute (now Tuskegee University) in training the airmen and commemorating them at this historic site.

(d) Establishment of the Tuskegee Airmen National Historic Site.—In order to commemorate and interpret, in association with Tuskegee University, the heroic actions of the Tuskegee Airmen during World War II, there is hereby established as a unit of the National Park System the Tuskegee Airmen National Historic Site in the State of Alabama.

(e) Description of Historic Site.—

(1) Initial parcel.—The historic site shall consist of approximately 44 acres, including approximately 35 acres owned by Tuskegee University and approximately 9 acres owned by the City of Tuskegee, known as Moton Field, in Macon County, Alabama, as generally depicted on a map entitled "Tuskegee Airmen National Historic Site Boundary Map", numbered NHS–TA–80,000, and dated

September 1998. Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(2) SUBSEQUENT EXPANSION.—Upon completion of agreements regarding the development and operation of the Tuskegee Airmen National Center as described in subsection (i), the Secretary is authorized to acquire approximately 46 additional acres owned by Tuskegee University as generally depicted on the map referenced in paragraph (1). Lands acquired by the Secretary pursuant to this paragraph shall be administered by the Secretary as part of the historic site.

(f) PROPERTY ACQUISITION.—The Secretary may acquire by donation, exchange, or purchase with donated or appropriated funds the real property described in subsection (e), except that any property owned by the State of Alabama, any political subdivision thereof, or Tuskegee University may be acquired only by donation. Property donated by Tuskegee University shall be used only for purposes consistent with the purposes of this section. The Secretary may also acquire by the same methods personal property associated with, and appropriate for, the interpretation of the historic site.

(g) ADMINISTRATION OF HISTORIC SITE.—

(1) IN GENERAL.—The Secretary shall administer the historic site in accordance with this section and the laws generally applicable to units of the National Park System, including the Act of August 25, 1916 (commonly known as the National Park Service Organic Act; 16 U.S.C. 1 et seq.), and the Act of August 21, 1935 (commonly known as the Historic Sites, Buildings, and Antiquities Act; 16 U.S.C. 461 et seq.).

(2) ROLE OF TUSKEGEE UNIVERSITY.—The Secretary shall consult with Tuskegee University as its principal partner in determining the organizational structure, developing the ongoing interpretive themes, and establishing policies for the wise management, use and development of the historic site. With the agreement of Tuskegee University, the Secretary shall engage appropriate departments, and individual members of the University's staff, faculty, and students in the continuing work of helping to identify, research, explicate, interpret, and format materials for the historic site. Through the President of the University, or with the approval of the President of the University, the Secretary shall seek to engage Tuskegee alumni in the task of providing artifacts and historical information for the historic site.

(3) ROLE OF TUSKEGEE AIRMEN.—The Secretary, in cooperation with Tuskegee University, shall work with the Tuskegee Airmen to facilitate the acquisition of artifacts, memorabilia, and historical research for interpretive exhibits, and to support their efforts to raise funds for the development of visitor facilities and programs at the historic site.

(4) DEVELOPMENT.—Operation and development of the historic site shall reflect Alternative C, Living History: The Tuskegee Airmen Experience, as expressed in the final special resource study entitled "Moton Field/Tuskegee Airmen Special Resource Study", dated September 1998. Subsequent development of the historic site shall reflect Alternative D after an agreement is reached with Tuskegee University on the development of the Tuskegee Airmen National Center as described in subsection (i).

(h) COOPERATIVE AGREEMENTS GENERALLY.—The Secretary may enter into cooperative agreements with Tuskegee University, other educational institutions, the Tuskegee Airmen, individuals, private and public organizations, and other Federal agencies in furtherance of the purposes of this section. The Secretary shall consult with Tuskegee University in the formulation of any major cooperative agreements with other universities or federal agencies that may affect Tuskegee University's interests in the historic site. To every extent possible, the Secretary shall seek to complete cooperative agreements requiring the use of higher educational institutions with and through Tuskegee University.

(i) TUSKEGEE AIRMEN NATIONAL CENTER.—

(1) COOPERATIVE AGREEMENT FOR DEVELOPMENT.—The Secretary shall enter into a cooperative agreement with Tuskegee University to define the partnership needed to develop the Tuskegee Airmen National Center on the grounds of the historic site.

(2) PURPOSE OF CENTER.—The purpose of the Tuskegee Airmen National Center shall be to extend the ability to relate more fully the story of the Tuskegee Airmen at Moton Field. The center shall provide for a Tuskegee Airmen Memorial, shall provide large exhibit space for the display of period aircraft and equipment used by the Tuskegee Airmen, and shall house a Tuskegee University Department of Aviation Science. The Secretary shall insure that interpretive programs for visitors benefit from the University's active pilot training instruction program, and the historical continuum of flight training in the tradition of the Tuskegee Airmen. The Secretary is authorized to permit the Tuskegee University Department of Aviation Science to occupy historic buildings within the Moton Field complex until the Tuskegee Airmen National Center has been completed.

(3) REPORT.—Within 1 year after the date of the enactment of this Act, the Secretary, in consultation with Tuskegee University and the Tuskegee Airmen, shall prepare a report on the partnership needed to develop the Tuskegee Airmen National Center, and submit the report to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(4) TIME FOR AGREEMENT.—Sixty days after the report required by paragraph (3) is submitted to Congress, the Secretary may enter into the cooperative agreement under this subsection with Tuskegee University, and other interested partners, to implement the development and operation of the Tuskegee Airmen National Center.

(j) GENERAL MANAGEMENT PLAN.—Within 2 complete fiscal years after funds are first made available to carry out this section, the Secretary shall prepare, in consultation with Tuskegee University, a general management plan for the historic site and shall submit the plan to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section $29,114,000.

SEC. 409. LITTLE ROCK CENTRAL HIGH SCHOOL NATIONAL HISTORIC SITE, ARKANSAS.

(a) FINDINGS.—The Congress finds the following:

(1) The 1954 United States Supreme Court decision of Brown v. Board of Education, which mandated an end to the segregation of public schools, was one of the most significant court decisions in the history of the United States.

(2) The admission of nine African-American students, known as the "Little Rock Nine", to Central High School in Little Rock, Arkansas, as a result of the Brown decision, was the most prominent national example of the implementation of the Brown decision, and served as a catalyst for the integration of other, previously segregated public schools in the United States.

(3) 1997 marked the 70th anniversary of the construction of Central High School, which has been named by the American Institute of Architects as the most beautiful high school building in America.

(4) Central High School was included on the National Register of Historic Places in 1977 and designated by the Secretary of the Interior as a National Historic Landmark in 1982 in recognition of its national significance in the development of the civil rights movement in the United States.

(5) The designation of Little Rock Central High School as a unit of the National Park System will recognize the significant role the school played in the desegregation of public schools in the South and will interpret for future generations the events associated with early desegregation of southern schools.

(b) PURPOSE.—The purpose of this section is to preserve, protect, and interpret for the benefit, education, and inspiration of present and future generations, Central High School in Little Rock, Arkansas, and its role in the integration of public schools and the development of the civil rights movement in the United States.

(c) ESTABLISHMENT AS NATIONAL HISTORIC SITE.—The Little Rock Central High School National Historic Site in the State of Arkansas (referred to in this section as the "historic site") is hereby established as a unit of the National Park System. The historic site shall consist of lands and interests therein comprising the Central High School campus and adjacent properties in Little Rock, Arkansas, as generally depicted on a map entitled "Proposed Little Rock Central High School National Historic Site", numbered LIRO–20,000, and dated July 1998. Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(d) ADMINISTRATION OF HISTORIC SITE.—The Secretary of the Interior (referred to in this section as the "Secretary") shall administer the historic site in accordance with this section. Only those lands under the direct jurisdiction of the Secretary shall be administered in accordance with the provisions of law generally applicable to units of the National Park System, including the Act of August 25, 1916 (16 U.S.C. 1 et seq.; commonly known as the National Park Service Organic Act), and the Act of August 21, 1935 (16 U.S.C. 461 et seq.; commonly known as the Historic Sites, Buildings, and Antiquities Act). Nothing in this section shall affect the authority of the Little Rock School District to administer Little Rock Central High School nor shall this section affect the authorities of the City of Little Rock in the neighborhood surrounding the school.

(e) COOPERATIVE AGREEMENTS.—

(1) AUTHORITY.—The Secretary may enter into cooperative agreements with appropriate public and private agencies, organizations, and institutions (including, but not limited to, the State of Arkansas, the City of Little Rock, the Little Rock School District, Central High Museum, Inc., Central High Neighborhood, Inc., or the University of Arkansas) in furtherance of the purposes of this section.

(2) Coordination.—The Secretary shall coordinate visitor interpretation of the historic site with the Little Rock School District and the Central High School Museum, Inc.

(f) General Management Plan.—Within three years after the date funds are made available, the Secretary shall prepare a general management plan for the historic site. The plan shall be prepared in consultation and coordination with the Little Rock School District, the City of Little Rock, Central High Museum, Inc., and with other appropriate organizations and agencies. The plan shall identify specific roles and responsibilities for the National Park Service in administering the historic site, and shall identify lands or property, if any, that might be necessary for the National Park Service to acquire in order to carry out its responsibilities. The plan shall also identify the roles and responsibilities of other entities in administering the historic site and its programs. The plan shall include a management framework that ensures the administration of the historic site does not interfere with the continuing use of Central High School as an educational institution.

(g) Acquisition of Property.—

(1) Method of acquisition.—Subject to paragraph (2), the Secretary is authorized to acquire, by purchase with donated or appropriated funds, by exchange, or by donation, the lands and interests therein located within the boundaries of the historic site.

(2) Conditions.—The Secretary may acquire lands or interests therein under paragraph (1) only with the consent of the owner thereof. Lands or interests therein owned by the State of Arkansas or a political subdivision thereof may be acquired under paragraph (1) only by donation or exchange.

(h) Desegregation in Public Education Theme Study.—

(1) Theme study.—Within two years after the date funds are made available, the Secretary shall prepare and transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a National Historic Landmark Theme Study (referred to in this subsection as the "theme study") on the history of desegregation in public education. The purpose of the theme study shall be to identify sites, districts, buildings, structures, and landscapes that best illustrate or commemorate key events or decisions in the historical movement to provide for racial desegregation in public education. On the basis of the theme study, the Secretary shall identify possible new national historic landmarks appropriate to this theme and prepare a list in order of importance or merit of the most appropriate sites for national historic landmark designation.

(2) Opportunities for education and research.—The theme study shall identify appropriate means to establish linkages between sites identified in paragraph (1) and between those sites and the historic site and with other existing units of the National Park System to maximize opportunities for public education and scholarly research on desegregation in public education. The theme study also shall recommend opportunities for cooperative arrangements with State and local governments, educational institutions, local historical organizations, and other appropriate entities to preserve and interpret key sites in the history of desegregation in public education.

(3) Cooperative agreements.—The Secretary may enter into cooperative agreements with one or more educational institutions, public history organizations, or civil rights organizations knowledgeable about desegregation in public education to prepare the theme study and to ensure that the theme study meets scholarly standards.

(4) Theme study coordination with general management plan.—The theme study shall be prepared as part of the preparation and development of the general management plan for the historic site.

(i) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 410. WEIR FARM NATIONAL HISTORIC SITE, CONNECTICUT.

(a) Acquisition of Land for Visitor and Administrative Facilities.—Section 4 of the Weir Farm National Historic Site Establishment Act of 1990 (Public Law 101–485; 104 Stat. 1171; 16 U.S.C. 461 note) is amended by adding at the end the following new subsection:

"(d) Acquisition of Land for Visitor and Administrative Facilities; Limitations.—(1) In order to preserve and maintain the historic setting and character of the historic site, the Secretary may acquire not more than 15 additional acres for the development of visitor and administrative facilities for the historic site. The property acquired under the authority of this paragraph may be contiguous or in close proximity to the parcels described in subsection (b). The acquired property shall be included within the boundaries of the historic site and shall be operated and maintained as part of the historic site.

"(2) The Secretary shall keep development of the property acquired under paragraph (1) to a minimum so that the character of the acquired property is similar to the natural and undeveloped landscape of the parcels described in subsection (b). Any parking area for the resulting visitor and administrative facilities shall not exceed 30 spaces. Items sold in the visitor facilities shall be limited to educational and interpretive materials related to the purpose of the historic site and shall not include food.

"(3) Prior to and as a prerequisite to any development of visitor and administrative facilities on the property acquired under paragraph (1), the Secretary shall enter into one or more agreements with the appropriate zoning authority of the town of Ridgefield and the town of Wilton for the purposes of—

"(A) developing the parking, visitor, and administrative facilities for the historic site; and

"(B) managing bus traffic to the historic site, which will include limiting parking for large tour buses to an offsite location.".

(b) Increase in Maximum Acquisition Authority.—Section 7 of such Act (104 Stat. 1173) is amended by striking "$1,500,000" and inserting "$4,000,000".

SEC. 411. KATE MULLANY NATIONAL HISTORIC SITE, NEW YORK.

(a) Definitions.—As used in this section:

(1) The term "historic site" means the Kate Mullany National Historic Site established by subsection (d).

(2) The term "plan" means the general management plan developed pursuant to subsection (h).

(3) The term "Secretary" means the Secretary of the Interior.

(b) Findings.—Congress finds the following:

(1) The Kate Mullany House in Troy, New York, is listed on the National Register of Historic Places and has been designated as a National Historic Landmark.

(2) The National Historic Landmark Theme Study on American Labor History concluded that the Kate Mullany House appears to meet the criteria of national significance, suitability, and feasibility for inclusion in the National Park System.

(3) The city of Troy, New York—

(A) played an important role in the development of the collar and cuff industry and the iron industry in the 19th century, and in the development of early men's and women's worker and cooperative organizations; and

(B) was the home of the first women's labor union, led by Irish immigrant Kate Mullany.

(4) The city of Troy, New York, with 6 neighboring cities, towns, and villages, entered into a cooperative arrangement to create the Hudson-Mohawk Urban Cultural Park Commission to manage their valuable historic resources and the area within these municipalities has been designated by the State of New York as a heritage area to represent industrial development and labor themes in the State's development.

(5) This area, known as the Hudson-Mohawk Urban Cultural Park or RiverSpark, has been a pioneer in the development of partnership parks where intergovernmental and public and private partnerships bring abut the conservation of our heritage and the attainment of goals for preservation, education, recreation, and economic development.

(6) Establishment of the Kate Mullany National Historic Site and cooperative efforts between the National Park Service and the Hudson-Mohawk Urban Cultural Park Commission will provide opportunities for the illustration and interpretation of important themes of the heritage of the United States, and will provide unique opportunities for education, public use, and enjoyment.

(c) Purposes.—The purposes of this section are—

(1) to preserve and interpret the nationally significant home of Kate Mullany for the benefit, inspiration, and education of the people of the United States; and

(2) to interpret the connection between immigration and the industrialization of the Nation, including the history of Irish immigration, women's history, and worker history.

(d) Establishment of Historic Site.—There is established, as a unit of the National Park System, the Kate Mullany National Historic Site in the State of New York. The historic site shall consist of the home of Kate Mullany, comprising approximately .05739 acre, located at 350 Eighth Street in Troy, New York, as generally depicted on the map entitled "Kate Mullany House, Troy, New York", numbered 101.23, and dated December 10, 1976 (as revised September 16, 1997).

(e) Acquisition of Property.—

(1) Real property.—The Secretary may acquire lands and interests therein within the boundaries of the historic site and ancillary real property for parking or interpretation, as necessary and appropriate for management of the historic site. Such acquisitions may be by donation, purchase from willing sellers with donated or appropriated funds, or exchange.

(2) Personal property.—The Secretary may acquire personal property associated with, and appropriate for, the interpretation of the historic site using the methods provided in paragraph (1).

(f) Administration of Historic Site.—

(1) In general.—The Secretary shall administer the historic site in accordance with

this section and all laws generally applicable to units of the National Park System, including the Act of August 25, 1916 (16 U.S.C. 1 et seq.; commonly known as the National Park Service Organic Act), and the Act of August 21, 1935 (16 U.S.C. 461 et seq.; commonly known as the Historic Sites, Buildings, and Antiquities Act).

(2) COOPERATIVE AGREEMENTS.—To further the purposes of this section, the Secretary may consult with and enter into cooperative agreements with the State of New York and the Hudson-Mohawk Urban Cultural Park Commission, and other public and private entities to facilitate public understanding and enjoyment of the life and work of Kate Mullany through the development, presentation, and funding of exhibits and other appropriate activities related to the preservation, interpretation, and use of the historic site and related historic resources.

(g) EXHIBITS.—The Secretary may display, and accept for the purposes of display, items associated with Kate Mullany, as may be necessary for the interpretation of the historic site.

(h) GENERAL MANAGEMENT PLAN.—Not later than two complete fiscal years after the date of the enactment of this Act, the Secretary shall develop a general management plan for the historic site. Upon its completion, the Secretary shall submit the plan to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives. The plan shall include recommendations for regional wayside exhibits, to be carried out through cooperative agreements with the State of New York and other public and private entities. The plan shall be prepared in accordance with section 12(b) of Public Law 91–383 (16 U.S.C. 1a–1 et seq.; commonly known as the National Park System General Authorities Act).

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 412. ROUTE 66 NATIONAL HISTORIC HIGHWAY.

(a) DEFINITIONS.—In this section:

(1) ROUTE 66.—The term "Route 66" means—

(A) portions of the highway formerly designated as United States Route 66 that remain in existence as of the date of enactment of this Act;

(B) public lands in the immediate vicinity of the highway; and

(C) private lands in the immediate vicinity of the highway owned by persons who are willing to participate in the programs authorized by this section.

(2) CULTURAL RESOURCE PROGRAMS.—The term "Cultural Resource Programs" means the programs established and administered by the National Park Service for the benefit of and in support of cultural resources related to Route 66, either directly or indirectly.

(3) PRESERVATION OF ROUTE 66.—The term "preservation of Route 66" means the preservation or restoration of portions of the highway, businesses and sites of interest and other contributing resources along the highway commemorating Route 66 during its period of outstanding historic significance (principally between 1933 and 1970), as defined by the July 1995 National Park Service "Special Resource Study of Route 66".

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Cultural Resource Programs at the National Park Service.

(5) STATE.—The term "State" means a State in which a portion of Route 66 is located.

(b) DESIGNATION OF HISTORIC HIGHWAY.—Route 66 is designated as "Route 66 National Historic Highway".

(c) GENERAL MANAGEMENT.—The Secretary, in collaboration with the entities described in subsection (d), shall facilitate the development of guidelines and a program of technical assistance and grants that will set priorities for the preservation of Route 66. The Secretary shall designate officials of the National Park Service stationed at locations convenient to the States to perform the functions of the Cultural Resource Programs under this section.

(d) GENERAL FUNCTIONS.—The Secretary shall—

(1) support efforts of State and local public and private persons, nonprofit Route 66 preservation entities, Indian Tribes, State Historic Preservation Offices, and entities in the States to preserve Route 66 by providing technical assistance, participating in cost-sharing programs, and making grants;

(2) act as a clearinghouse for communication among Federal, State, and local agencies, nonprofit Route 66 preservation entities, Indian Tribes, State historic Preservation Offices, and private persons and entities interested in the preservation of Route 66; and

(3) assist the States in determining the appropriate form of and establishing and supporting a non-Federal entity or entities to perform the functions of the Cultural Resource Programs after those programs are terminated.

(e) OTHER AUTHORITIES.—In carrying out this section, the Secretary may—

(1) collaborate with the Secretary of Transportation to—

(A) address transportation factors that may conflict with preservation efforts in such a way as to ensure ongoing preservation, interpretation and management of Route 66 National Historic Highway; and

(B) take advantage, to the maximum extent possible, of existing programs, such as the Scenic Byways program under section 162 of title 23, United States Code.

(2) enter into cooperative agreements, including, but not limited to study, planning, preservation, rehabilitation and restoration;

(3) accept donations;

(4) provide cost-share grants and information;

(5) provide technical assistance in historic preservation; and

(6) conduct research.

(f) ROAD SIGNS.—The Secretary may sponsor a road sign program on Route 66 to be implemented on a cost-sharing basis with State and local organizations.

(g) PRESERVATION ASSISTANCE.—

(1) IN GENERAL.—The Secretary shall provide assistance in the preservation of Route 66 in a manner that is compatible with the idiosyncratic nature of the highway.

(2) PLANNING.—The Secretary shall not prepare or require preparation of an overall management plan for Route 66, but shall cooperate with the States and local public and private persons and entities, State Historic Preservation Offices, nonprofit Route 66 preservation entities, and Indian Tribes in developing local preservation plans to guide efforts to protect the most important or representative resources of Route 66.

(h) TECHNICAL ASSISTANCE PROGRAM.—

(1) IN GENERAL.—The Secretary shall develop a program of technical assistance in the preservation of Route 66.

(2) GUIDELINES FOR PRESERVATION NEEDS.—

(A) IN GENERAL.—As part of the program under paragraph (1), the Secretary shall establish guidelines for setting priorities for preservation needs.

(B) BASIS.—The guidelines under subparagraph (A) may be based on national register standards, modified as appropriate to meet the needs of Route 66 so as to allow for the preservation of Route 66.

(i) PROGRAM FOR COORDINATION OF ACTIVITIES.—

(1) IN GENERAL.—The Secretary shall coordinate a program of historic research, curation, preservation strategies, and the collection of oral and video histories of Route 66.

(2) DESIGN.—The program under paragraph (1) shall be designed for continuing use and implementation by other organizations after the Cultural Resource Programs are terminated.

(j) GRANTS.—The Secretary shall—

(1) make cost-share grants for preservation of Route 66 available for resources that meet the guidelines under subsection (h); and

(2) provide information about existing cost-share opportunities.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for the period of fiscal years 2000 through 2009 to carry out the purposes of this section.

SEC. 413. VALLEY FORGE MUSEUM OF THE AMERICAN REVOLUTION AT VALLEY FORGE NATIONAL HISTORICAL PARK, PENNSYLVANIA.

The Act of July 4, 1976 (Public Law 94–337; 90 Stat. 796; 16 U.S.C. 410aa et seq.), is amended by adding at the end the following new section:

"SEC. 5. VALLEY FORGE MUSEUM OF THE AMERICAN REVOLUTION.

"(a) MUSEUM AUTHORIZED.—In administering the park, the Secretary may enter into an agreement pursuant to this section with the Valley Forge Historical Society (hereinafter referred to as the 'Society') to facilitate the planning, construction, and operation of a museum on Federal land within the boundaries of the park to be known as the 'Valley Forge Museum of the American Revolution'.

"(b) PURPOSE OF MUSEUM.—

"(1) ACTIVITIES OF SOCIETY.—The agreement shall authorize the Society to construct and operate the museum in cooperation with the Secretary and to provide at the museum programs and services to visitors to the park related to the story of Valley Forge and the American Revolution. The Society, acting as a private nonprofit organization, may engage in activities appropriate for operation of the museum, including charging fees, conducting events, and selling merchandise, tickets, and food to visitors to the museum.

"(2) ACTIVITIES OF SECRETARY.—The agreement shall authorize the Secretary to undertake at the museum activities related to the management of the park, including the provision of appropriate visitor information and interpretive facilities and programs related to the park.

"(c) USE OF REVENUES.—The agreement shall require that revenues derived by the Society from the museum's facilities and services be used to offset the expenses of the museum's operation and maintenance.

"(d) TERM OF OCCUPANCY.—The agreement shall authorize the Society to occupy any structure constructed pursuant to the agreement for such a term as the parties may specify in the agreement.

"(e) Conditions.—The agreement shall be subject to the following terms and conditions:

"(1) The conveyance by the Society to the United States of all right, title, and interest in any structure constructed at the park pursuant to the agreement.

"(2) The authority of the Society to occupy and use any such structure shall be for the exhibition, preservation, and interpretation of artifacts associated with the Valley Forge story and the American Revolution to enhance the visitor experience to the park and to conduct appropriately related activities of the Society consistent with its mission. Such authority shall not be transferred or conveyed without the express consent of the Secretary.

(3) Such other terms and conditions as the Secretary considers appropriate to protect the interests of the United States.

"(f) Relation to Other Park Values.—Nothing in this section shall authorize the Secretary or the Society to take any actions in derogation of the preservation and protection of the values and resources of the park.".

TITLE V—SAN RAFAEL SWELL

SEC. 501. SHORT TITLE.

This title may be cited as the "San Rafael Swell National Heritage and Conservation Act".

SEC. 502. DEFINITIONS.

In this title:

(1) Advisory council.—The term "Advisory Council" means the San Rafael Swell National Conservation Area Advisory Council established under section 525.

(2) Conservation area.—The term "conservation area" means the San Rafael Swell National Conservation Area established by section 522.

(3) Director.—The term "Director" means the Director of the Bureau of Land Management.

(4) National heritage area.—The term "national heritage area" means the San Rafael Swell National Heritage Area established by section 513.

(5) Secretary.—The term "Secretary" means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

(6) Semi-primitive area.—The term "semi-primitive area," means any area designated as a semi-primitive nonmotorized use area under section 542.

Subtitle A—San Rafael Swell National Heritage Area

SEC. 511. SHORT TITLE; FINDINGS; PURPOSES.

(a) Short Title.—This subtitle may be cited as the "San Rafael Swell National Heritage Area Act".

(b) Findings.—Congress finds the following:

(1) The history of the American West is one of the most significant chapters of United States history, and the major themes and images of the history of the American West provide a legacy that has done much to shape the contemporary culture, attitudes, and values of the American West and the United States.

(2) The San Rafael Swell region of the State of Utah was one of the country's last frontiers and possesses important historical, cultural, and natural resources that are representative of the central themes associated with the history of the American West, including themes of pre-Columbian and Native American culture, exploration, pioneering, settlement, ranching, outlaws, prospecting and mining, water development and irrigation, railroad building, industrial development, and the utilization and conservation of natural resources.

(3) The San Rafael Swell region contains important historical sites, including sections of the Old Spanish Trail, the Outlaw Trail, the Green River Crossing, and numerous sites associated with cowboy, pioneer, and mining history.

(4) The heritage of the San Rafael Swell region includes the activities of many prominent historical figures of the old American West, such as Chief Walker, John Wesley Powell, Kit Carson, John C. Fremont, John W. Gunnison, Butch Cassidy, John W. Taylor, and the Swasey brothers.

(5) The San Rafael Swell region has a notable history of coal and uranium mining, and a rich cultural heritage of activities associated with mining, such as prospecting, railroad building, immigrant workers, coal camps, labor union movements, and mining disasters.

(6) The San Rafael Swell region is widely recognized for its significant paleontological resources and dinosaur bone quarries, including the Cleveland Lloyd Dinosaur Quarry which was designated as a National Natural Landmark in 1966.

(7) The beautiful rural landscapes, historic and cultural landscapes, and spectacular scenic vistas of the San Rafael Swell region contain significant undeveloped recreational opportunities for people throughout the United States.

(8) Museums and visitor centers have already been constructed in the San Rafael Swell region, including the John Wesley Powell River History Museum, the College of Eastern Utah Prehistoric Museum, the Museum of the San Rafael, the Western Mining and Railroad Museum, the Emery County Pioneer Museum, and the Cleveland Lloyd Dinosaur Quarry, and these museums are available to interpret the themes of the national heritage area established by this title and to coordinate the interpretive and preservation activities of the area.

(9) Despite the efforts of the State of Utah, political subdivisions of the State, volunteer organizations, and private businesses, the cultural, historical, natural, and recreational resources of the San Rafael Swell region have not realized their full potential and may be lost without assistance from the Federal Government.

(10) Many of the historical, cultural, and scientific sites of the San Rafael Swell region are located on lands owned by the Federal Government and are managed by the Bureau of Land Management or the United States Forest Service.

(11) The preservation of the cultural, historical, natural, and recreational resources of the San Rafael Swell region within a regional framework requires cooperation among local property owners and Federal, State, and local government entities.

(12) Partnerships between Federal, State, and local governments, local and regional entities of these governments, and the private sector offer the most effective opportunities for the enhancement and management of the cultural, historical, natural, and recreational resources of the San Rafael Swell region.

(c) Purposes.—The purposes of this subtitle are—

(1) to establish the San Rafael Swell National Heritage Area to promote the preservation, conservation, interpretation, and development of the historical, cultural, natural, and recreational resources related to the historical, cultural, and industrial heritage of the San Rafael Swell region of the State of Utah, which includes the counties of Carbon and Emery, and portions of the county of Sanpete;

(2) to encourage within the national heritage area a broad range of economic and recreational opportunities to enhance the quality of life for present and future generations;

(3) to assist the State of Utah, political subdivisions of the State and their local and regional entities, and nonprofit organizations, or combinations thereof, in preparing and implementing a heritage plan for the national heritage area and in developing policies and programs that will preserve, enhance, and interpret the cultural, historical, natural, recreational, and scenic resources of the heritage area; and

(4) to authorize the Secretary of the Interior to provide financial assistance and technical assistance to support the preparation and implementation of the heritage plan for the national heritage area.

SEC. 512. DESIGNATION.

There is hereby designated the San Rafael Swell National Heritage Area.

SEC. 513. DEFINITIONS.

For purposes of this subtitle:

(1) Compact.—The term "compact" means an agreement described in section 515(a).

(2) Financial assistance.—The term "financial assistance" means funds appropriated by the Congress and made available to the Heritage Council for the purposes of preparing and implementing a heritage plan.

(3) Heritage area.—The term "Heritage Area" means the San Rafael Swell National Heritage Area established by this subtitle.

(4) Heritage plan.—The term "heritage plan" means a plan described in section 515(b).

(5) Heritage council.—The term "Heritage Council" means the entity designated in the compact for a National Heritage Area and described in section 516(a).

(6) Secretary.—The term "Secretary" means the Secretary of the Interior.

(7) Technical assistance.—The term "technical assistance" includes—

(A) assistance by the Secretary in the preparation of any heritage plan, compact, or resource inventory; and

(B) professional guidance provided by the Secretary.

(8) Unit of government.—The term "unit of government" means the government of a State, a political subdivision of a State, or an Indian tribe.

SEC. 514. GRANTS, TECHNICAL ASSISTANCE, AND OTHER DUTIES AND AUTHORITIES OF FEDERAL AGENCIES.

(a) Grants.—

(1) In general.—The Secretary may make grants for the purposes of this subtitle to any unit of government or to the Heritage Council.

(2) Permitted and prohibited uses of grants.—

(A) Permitted uses.—Grants made under this section may be used for reports, studies, interpretive exhibits, historic preservation projects, construction of cultural, recreational, and interpretive facilities that are open to the public, and such other expenditures as are consistent with this subtitle.

(B) Prohibited uses.—Grants made under this section may not be used for acquisition of real property or any interest in real property.

(3) Applicability of restrictions to subgrants.—For purposes of paragraph (2), any subgrant made from funds received as a grant (or subgrant) made under this section shall be treated as a grant made under this section.

(4) PROTECTION OF FEDERAL INVESTMENT.—Any grant made under this section shall be subject to an agreement that conversion, use, or disposal of the project so assisted for purposes contrary to the purposes of this subtitle, as determined by the Secretary, shall result in a right of the United States to compensation equal to the greater of—

(A) all Federal funds made available to such project under this subtitle; or

(B) the proportion of the increased value of the project attributable to such funds, as determined at the time of such conversion, use, or disposal.

(b) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance with respect to this subtitle.

(c) DURATION OF ELIGIBILITY FOR GRANTS AND TECHNICAL ASSISTANCE.—The Secretary may not provide any grant, and may provide only limited technical assistance, under this subtitle after the expiration of the 10-year period beginning on the date of the designation of the National Heritage Area.

(d) DISQUALIFICATION FOR FEDERAL FUNDING.—If a heritage plan meeting the requirements of section 515(b) is not forwarded to the Secretary as required under section 516(b)(1) within the time specified in section 516(b)(1), the Secretary may not, after such time, provide technical assistance or grants under this subtitle until such a heritage plan for the National Heritage Area is developed and forwarded to the Secretary.

(e) OTHER DUTIES AND AUTHORITIES OF SECRETARY.—

(1) SIGNING OF COMPACT.—The Secretary shall sign or withhold signature on any proposed compact submitted under this subtitle not later than 90 days after receiving the proposed compact. If the Secretary withholds signature on the proposed compact, the Secretary shall advise the submitter, in writing, of the reasons. The Secretary shall sign or withhold signature on each proposed revision to the proposed compact not later than 90 days after receiving the proposed revision. A submitter shall hold a public meeting in the immediate vicinity of the proposed National Heritage Area before making any major revisions in any proposed compact submitted under this subtitle.

(2) MONITORING OF NATIONAL HERITAGE AREA.—The Secretary shall monitor the National Heritage Area. Monitoring of the National Heritage Area shall include monitoring to ensure compliance with the terms of the compact for the area.

(f) DUTIES OF FEDERAL ENTITIES.—Any Federal entity conducting or supporting activities within the National Heritage Area, and any unit of government acting pursuant to a grant of Federal funds or a Federal permit or agreement and conducting or supporting such activities, shall, to the maximum extent practicable—

(1) consult with the Secretary and the Heritage Council for the National Heritage Area with respect to such activities; and

(2) cooperate with the Secretary and the Heritage Council in the carrying out of the duties of the Secretary and the Heritage Council under this subtitle, and coordinate such activities to minimize any real or potential adverse impact on the National Heritage Area.

(g) PROHIBITION OF CERTAIN REQUIREMENTS.—The Secretary may not, as a condition of the award of technical assistance or financial assistance under this section, require any recipient of such assistance to enact or modify land use restrictions.

SEC. 515. COMPACT AND HERITAGE PLAN.

(a) COMPACT.—

(1) IN GENERAL.—The compact submitted under this subtitle with respect to the National Heritage Area shall consist of an agreement entered into by the Secretary, the Secretary of Agriculture, and the Governor of Utah or a designee of the Governor, in coordination with the Heritage Council. Such agreement shall define the area, describe anticipated programs for the area, and include information relating to the objectives and management of the area. Such information shall include, but need not be limited to, each of the following:

(A) BOUNDARIES.—A delineation of the boundaries of the National Heritage Area. Such boundaries shall include the land generally depicted on the map entitled San Rafael Swell National Heritage-Conservation Area Proposed, dated June 12, 1998, which shall be on file and available for public inspection in the office of the Director of the Bureau of Land Management.

(B) MANAGEMENT ENTITY.—An identification and description of the Heritage Council.

(C) NON-FEDERAL PARTICIPANTS.—A list of the initial participants to be involved in developing and implementing the heritage plan and a statement of the financial commitment of those participants.

(D) GOALS, OBJECTIVES, AND CONCEPTUAL FRAMEWORK.—A discussion of the goals, objectives, and cost of the National Heritage Area, including an explanation of—

(i) the conceptual framework, proposed by the partners referred to in subparagraph (C), for development and implementation of the heritage plan for the National Heritage Area; and

(ii) the costs associated with the conceptual framework.

(E) ROLE OF STATE.—A description of the role of the State of Utah.

(2) CONSISTENCY WITH ECONOMIC VIABILITY.—The compact submitted under this subtitle shall be consistent with continued economic viability in the communities within the National Heritage Area.

(3) INITIATION OF ACTIONS.—Actions called for in the compact shall be initiated within a reasonable time after designation of the National Heritage Area and shall ensure effective implementation of the State and local aspects of the compact.

(b) HERITAGE PLAN.—

(1) IN GENERAL.—The heritage plan forwarded to the Secretary under this subtitle shall be a plan which sets forth the strategy to implement the goals and objectives of the National Heritage Area. The heritage plan shall—

(A) present comprehensive recommendations for the conservation, funding, management, and development of the area;

(B) be prepared with public participation;

(C) take into consideration existing Federal, State, county, and local plans and involve residents, private property owners, public agencies, and private organizations in the area;

(D) include a description of actions that units of government and private organizations could take to protect the resources of the area; and

(E) specify existing and potential sources of funding for the conservation, management, and development of the area.

(2) ADDITIONAL INFORMATION.—The heritage plan forwarded to the Secretary under this subtitle also shall include the following, as appropriate:

(A) INVENTORY OF RESOURCES.—An inventory of important natural, cultural, or historic resources which illustrate the themes of the National Heritage Area.

(B) RECOMMENDATIONS FOR MANAGEMENT.—A recommendation of policies for management of the historical, cultural, and natural resources and the recreational and educational opportunities of the area in a manner consistent with the support of appropriate and compatible economic viability.

(C) PROGRAM AND COMMITMENTS.—A program for implementation of the heritage plan by the Heritage Council and specific commitments, for the first 5 years of operation of the heritage plan, by the partners identified in the compact.

(D) ANALYSIS OF COORDINATION.—An analysis of means by which Federal, State, and local programs may best be coordinated to promote the purposes of this subtitle.

(E) INTERPRETIVE PLAN.—An interpretive plan for the National Heritage Area.

(3) RELATIONSHIP TO CONSERVATION AREA MANAGEMENT PLAN.—The heritage plan and the conservation area management plan shall not be inconsistent. However, nothing in the heritage plan may supersede the management plan for the conservation area under section 533, with respect to the application of the management plan to the conservation area.

SEC. 516. HERITAGE COUNCIL.

(a) IN GENERAL.—The management entity for the National Heritage Area shall be known as the "Heritage Council". The Heritage Council shall be an entity that reflects a broad cross-section of interests within the National Heritage Area and shall include—

(1) at least 1 representative of one or more units of government in the State of Utah;

(2) representatives of interested or affected groups; and

(3) private property owners who reside within the National Heritage Area.

(b) DUTIES.—The Heritage Council shall fulfill each of the following requirements:

(1) HERITAGE PLAN.—Not later than 3 years after the date of the designation of the National Heritage Area, the Heritage Council shall develop and forward to the Secretary and to the Governor of Utah a heritage plan in accordance with the compact under subsection (a).

(2) PRIORITIES.—The Heritage Council shall give priority to the implementation of actions, goals, and policies set forth in the compact and heritage plan for the National Heritage Area, including assisting units of government and others in—

(A) carrying out programs which recognize important resource values within the National Heritage Area;

(B) encouraging economic viability in the affected communities;

(C) establishing and maintaining interpretive exhibits in the area;

(D) developing recreational and educational opportunities in the area;

(E) increasing public awareness of and appreciation for the natural, historical, and cultural resources of the area;

(F) restoring historic buildings that are located within the boundaries of the area and relate to the theme of the area; and

(G) ensuring that clear, consistent, and appropriate signs identifying public access points and sites of interest are put in place throughout the area.

(3) CONSIDERATION OF INTERESTS OF LOCAL GROUPS.—The Heritage Council shall, in developing and implementing the heritage plan for the National Heritage Area, consider the interests of diverse units of government, businesses, private property owners, and nonprofit groups within the geographic area.

(4) PUBLIC MEETINGS.—The Heritage Council shall conduct public meetings at least annually regarding the implementation of the

heritage plan for the National Heritage Area. The Heritage Council shall place a notice of each such meeting in a newspaper of general circulation in the area and shall make the minutes of the meeting available to the public.

SEC. 517. LACK OF EFFECT ON LAND USE REGULATION.

(a) Lack of Effect on Authority of Governments.—Nothing in this subtitle shall be construed to modify, enlarge, or diminish any authority of Federal, State, and local governments to regulate any use of land as provided for by law or regulation.

(b) Lack of Zoning or Land Use Powers of Entity.—Nothing in this subtitle shall be construed to grant powers of zoning or land use to the management entity for the National Heritage Area.

(c) BLM Authority.—

(1) In general.—Nothing in this subtitle shall be construed to modify, enlarge, or diminish the authority of the Secretary or the Bureau of Land Management with respect to lands under the administrative jurisdiction of the Bureau.

(2) Cooperation.—In carrying out this subtitle, the Secretary shall work cooperatively under the Federal Land Policy and Management Act of 1976 with the Forest Service, the Heritage Council under section 516, State and local governments, and private entities.

SEC. 518. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—There are authorized to be appropriated for grants made and technical assistance provided under subsections (a) and (b), respectively, of section 514, and the administration of such grants and assistance, not more than $1,000,000 annually, to remain available until expended.

(b) Annual Allocation for Grants.—In any fiscal year, not less than 70 percent of the funds obligated under this subtitle shall be used for grants made under section 514(a).

(c) Limitation on Percent of Cost.—

(1) In general.—Federal funding provided under this subtitle, after the designation of the National Heritage Area, for any technical assistance or grant with respect to the area may not exceed 50 percent of the total cost of the assistance or grant. Federal funding provided under this subtitle with respect to an area before the designation of the area as the National Heritage Area may not exceed an amount proportionate to the level of local support of and commitment to the designation of the area.

(2) Treatment of donations.—The value of property or services donated by non-Federal sources and used for management of the National Heritage Area shall be treated as non-Federal funding for purposes of paragraph (1).

(d) Limitation on Total Funding.—Not more than a total of $10,000,000 may be made available under this section with respect to the National Heritage Area.

(e) Allocation of Appropriations.—Notwithstanding any other provision of law, no funds appropriated or otherwise made available to the Secretary to carry out this subtitle—

(1) may be obligated or expended by any person unless the appropriation of such funds has been allocated in the manner prescribed by this subtitle; or

(2) may be obligated or expended by any person in excess of the amount prescribed by this subtitle.

Subtitle B—San Rafael Swell National Conservation Area

SEC. 521. DEFINITION OF PLAN.

In this subtitle, the term "plan" means the comprehensive management plan developed for the national conservation area under section 523, including such revisions thereto as may be required in order to implement this subtitle.

SEC. 522. ESTABLISHMENT OF NATIONAL CONSERVATION AREA.

(a) Establishment.—In order to preserve and maintain heritage, tourism, recreational, historical, scenic, archaeological, paleontological, biological, cultural, scientific, educational, and economic resources, there is hereby established the San Rafael Swell National Conservation Area.

(b) Area Included.—The conservation area shall consist of all public lands within the exterior boundaries of the conservation area, comprised of approximately 630,000 acres, as generally depicted on the map entitled "San Rafael Swell National Heritage/Conservation Area Proposed", dated June 12, 1998, including areas depicted within those boundaries on that map as "Proposed Wilderness", "Proposed Bighorn Sheep Management Area", "Scenic Visual Area of Critical Environmental Concern", and "Semi-Primitive Non-Motorized Use Areas".

(c) Map and Legal Description.—As soon as is practicable after enactment of this Act, the map referred to in subsection (b) and a legal description of the conservation area shall be filed by the Secretary with the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Such map and description shall have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in such map and legal description. Such map and description shall be on file and available for public inspection in the office of the Director and the Utah State Director of the Bureau of Land Management of the Department of the Interior.

(d) Withdrawals.—Subject to valid existing rights, the Federal lands within the conservation area are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws; and from entry, application, and selection under the Act of March 3, 1877 (Ch. 107, 19 Stat. 377, 43 U.S.C. 321 et seq.; commonly referred to as the "Desert Lands Act"), section 4 of the Act of August 18, 1894 (Ch. 301, 28 Stat. 422; 43 U.S.C. 641; commonly referred to as the "Carey Act"), section 2275 of the Revised Statutes, as amended (43 U.S.C. 851), and section 2276 of the Revised Statutes (43 U.S.C. 852). The Secretary shall return to the applicants any such applications pending on the date of enactment of this Act, without further action. Subject to valid existing rights, as of the date of enactment of this Act, lands within the conservation area are withdrawn from location under the general mining laws, the operation of the mineral and geothermal leasing laws, and the mineral material disposal laws, except that mineral materials subject to disposal may be made available from existing sites to the extent compatible with the purposes for which the conservation area is established. All minerals located within an area designated as wilderness by this title shall be administered in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.).

(e) Closure to Forestry.—The Secretary shall prohibit all commercial sale of trees, portions of trees, and forest products located in the conservation area.

SEC. 523. MANAGEMENT.

(a) In General.—The Secretary shall, in consultation with the Advisory Council and subject to valid existing rights, manage the conservation area to conserve, protect, and enhance the resources of the conservation area referred to in section 522(a), the Federal Land Policy and Management Act of 1976, and other applicable laws.

(b) Uses.—The Secretary shall allow such uses of the conservation area as are specified in the management plan developed under subsection (b) and that the Secretary finds will further the conservation, protection, enhancement, public use, and enjoyment of the resource values referred to in section 522(a). Except when needed for administrative and emergency purposes, the uses of motorized vehicles in the conservation area shall be permitted only on roads and trails specifically designated for such use as part of the management plan prepared pursuant to subsection (c).

(c) Management Plan.—No later than 3 years after the date of enactment of this Act, the Secretary, in cooperation with the Advisory Council, shall develop a comprehensive plan for the long-range management and protection of the conservation area. The plan shall be developed with full opportunity for public participation and comment, and shall contain provisions designed to assure access to an protection of the heritage, tourism, recreational, historical, scenic, archaeological, paleontological, biological, cultural, scientific, educational, and economic resources and values of the conservation area.

(d) Visitors.—

(1) Visitors center.—The Secretary may establish, in cooperation with the Advisory Council and other public or private entities as the Secretary considers appropriate, a visitors center designed to interpret the history and the geological, ecological, natural, cultural, and other resources of the conservation area.

(2) Visitors use of area.—In addition to the Visitors Center, the Secretary may provide for visitor use of the public lands in the conservation area to such extent and in such manner as the Secretary considers consistent with the purposes for which the conservation area is established. To the extent practicable, the Secretary shall make available to visitors and other members of the public a map of the conservation area and such other educational and interpretive materials as may be appropriate.

(e) Cooperative Agreements.—The Secretary may provide technical assistance to, and enter into such cooperative agreements and contracts with, the State of Utah and with local governments and private entities as the Secretary deems necessary or desirable to carry out the purposes and policies of this subtitle.

SEC. 524. ADDITIONS.

(a) Addition to Conservation Area.—Any lands located within the boundaries of the conservation area that are acquired by the United States on or after the date of enactment of this Act shall become a part of the conservation area and shall be subject to this subtitle.

(b) Land Exchanges To Resolve Conflicts.—The Secretary shall, within 4 years after the date of enactment of this Act, study, identify, and initiate voluntary land exchanges which would resolve ownership-related land use conflicts within the conservation area. Lands may be acquired under this subsection only from willing sellers.

SEC. 525. ADVISORY COUNCIL.

(a) Establishment.—There is established the San Rafael Swell National Conservation Area Advisory Council. The Advisory Council shall advise the Secretary regarding management of the conservation area.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Advisory Council shall consist of 11 members appointed by the Secretary from among persons who are representative of the various major citizen's interests concerned with the management of the public lands located in the conservation area. Of the members—

(A) 2 shall be appointed from individuals recommended by the Governor of the State of Utah;

(B) 4 shall be appointed from individuals recommended by the Board of Commissioners of Emery County, Utah, and shall include a representative of each of the Emery County Public Lands Council and the San Rafael Regional Heritage Council recognized under section 514(a);

(C) 1 shall be the Director of the Bureau of Land Management in the State of Utah, or his or her designee; and

(D) 4 shall be selected by the Secretary.

(2) APPOINTMENT PROCESS.—The Secretary shall appoint the members of the Advisory Council in accordance with rules prescribed by the Secretary.

(3) TERMS.—(A) The term of members of the Advisory Council shall be a period established by the Secretary, which may not exceed 4 years and which, except as provided by subparagraph (B), shall be the same for all members.

(B) In appointing the initial members of the Advisory Council, the Secretary shall, for a portion of the members, specify terms that are shorter than the period established under subparagraph (A), as necessary to achieve staggering of terms.

(c) CHAIRPERSON.—The Advisory Council shall have a Chairperson, who shall be selected by the Advisory Council from among its members.

(d) MEETINGS.—The Advisory Council shall meet at least twice each year, at the call of the Secretary or the Chairperson.

(e) PAY AND EXPENSES.—Members of the Advisory Council shall serve without pay, except travel and per diem shall be paid to each member for meetings called by the Secretary or the Chairperson.

(f) FURNISHING ADVICE.—The Advisory Council may furnish advice to the Secretary with respect to the planning and management of the public lands within the conservation area and such other matters as may be referred to it by the Secretary.

(g) TERMINATION.—The Advisory Council shall terminate 10 years after the date of the enactment of this Act, unless otherwise extended by law.

SEC. 526. RELATIONSHIP TO OTHER LAWS AND ADMINISTRATIVE PROVISIONS.

(a) PUBLIC LAND LAWS.—Except as otherwise specifically provided in this title, nothing in this subtitle shall be construed as limiting the applicability to lands in the conservation area of laws applicable to public lands generally, including but not limited to the National Historic Preservation Act (16 U.S.C. 470 et seq.), the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.), or the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.).

(b) NON-BLM LAND.—Nothing in this subtitle shall be construed as by itself altering the status of any lands that on the date of enactment of this Act were not managed by the Bureau of Land Management.

SEC. 527. COMMUNICATIONS EQUIPMENT.

Nothing in this title shall be construed to prohibit the Secretary from authorizing the installation of communications equipment in the conservation area for public safety purposes, other than within areas designated as wilderness, to the highest practicable degree consistent with requirements and restrictions otherwise applicable to the conservation area.

Subtitle C—Wilderness Areas Within Conservation Area

SEC. 531. DESIGNATION OF WILDERNESS.

(a) DESIGNATION.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), the following lands in the conservation area, as generally depicted on the map entitled "San Rafael Swell National Heritage/Conservation Area Proposed", dated June 12, 1998, are hereby designated as wilderness and therefore as components of the National Wilderness Preservation System:

(1) Crack Canyon Wilderness Area, consisting of approximately 25,624 acres.

(2) Mexican Mountain Wilderness Area, consisting of approximately 27,257 acres.

(3) Muddy Creek Wilderness Area, consisting of approximately 39,348 acres.

(4) San Rafael Reef Wilderness Area, consisting of approximately 48,227 acres.

(b) MAP AND DESCRIPTION.—As soon as practicable after the date of the enactment of this Act, the Secretary shall file a map and a legal description of each area designated as wilderness by subsection (a) with the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Each map and description shall have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in such maps and legal descriptions. Each map and legal description shall be on file and available for public inspection in the office of the Director of the Bureau of Land Management, and the office of the State Director of the Bureau of Land Management in the State of Utah, Department of the Interior.

SEC. 532. ADMINISTRATION OF WILDERNESS AREAS.

(a) IN GENERAL.—Subject to valid existing rights, each area designated as wilderness by this title shall be administered by the Secretary in accordance with this title and the Wilderness Act (16 U.S.C. 1131 et seq.).

(b) INCORPORATION OF ACQUIRED LANDS AND INTERESTS.—Any lands or interest in lands within the boundaries of an area designated as wilderness by this title that is acquired by the United States after the date of the enactment of this Act shall be added to and administered as part of the wilderness area within which the acquired lands or interest in lands are located.

(c) MANAGEMENT PLANS.—As soon as possible after the date of the enactment of this Act, the Secretary, in cooperation with the Advisory Council, shall prepare plans in accordance with section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712) to manage the areas designated as wilderness by this title.

SEC. 533. LIVESTOCK.

Grazing of livestock in areas designated as wilderness by this title, where such grazing was established before the date of the enactment of this Act—

(1) may not be reduced, increased, or withdrawn, except in accordance with the laws and regulations that apply to grazing on lands managed by the Bureau of Land Management; and

(2) shall be administered in accordance with section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)) and the guidelines set forth in House Report 96–1126.

SEC. 534. WILDERNESS RELEASE.

(a) FINDING.—The Congress finds and directs that public lands administered by the Bureau of Land Management within the conservation area in the County of Emery, Utah, that are depicted on the map entitled "San Rafael Swell National Heritage/Conservation Area Proposed", dated June 12, 1998, have been adequately studied for wilderness designation pursuant to section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782).

(b) RELEASE.—Any public lands administered by the Bureau of Land Management within the conservation area in the County of Emery, Utah, that are depicted on the map entitled "San Rafael Swell National Heritage/Conservation Area Proposed", dated June 12, 1998, and that are not designated as wilderness by this title are no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)). Such lands shall be managed for public uses as defined in section 103(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(c)) and in accordance with land management plans adopted pursuant to section 202 of such Act (43 U.S.C. 1712) and this title.

Subtitle D—Other Special Management Areas Within Conservation Area

SEC. 541. SAN RAFAEL SWELL DESERT BIGHORN SHEEP MANAGEMENT AREA.

(a) ESTABLISHMENT AND PURPOSES.—

(1) ESTABLISHMENT.—There is hereby established in the conservation area the San Rafael Swell Desert Bighorn Sheep Management Area (in this section referred to as the "management area").

(2) PURPOSES.—The purposes of the management area are the following:

(A) To provide for the prudent management of Desert Bighorn Sheep and their habitat in the Sid's Mountain area of the conservation area.

(B) To provide opportunities for watchable wildlife, hunting, and scientific study of Desert Bighorn Sheep and their habitat.

(C) To provide a seed source for other Desert Bighorn Sheep herds, and a gene pool to protect genetic diversity within the Desert Bighorn Sheep species.

(D) To provide educational opportunities to the public regarding Desert Big Horn Sheep and their environs.

(E) To maintain the natural qualities of the lands and habitat of the management area to the extent practicable with prudent management of desert bighorn sheep.

(b) AREA INCLUDED.—The management area shall consist of approximately 73,909 acres of federally owned lands and interests therein managed by the Bureau of Land Management as generally depicted on the map entitled "San Rafael Swell National Heritage/Conservation Area Proposed", dated June 12, 1998.

(c) MANAGEMENT AND USE.—

(1) IN GENERAL.—Except as otherwise provided in this section, the management area and use of the management area shall be subject to all requirements and restrictions that apply to the conservation area.

(2) MECHANIZED TRAVEL.—The Secretary shall not allow any mechanized travel in the management area, except—

(A) mechanized travel that is in accordance with the plan; and

(B) mechanized travel by personnel of the Utah Division of Wildlife Resources and the Bureau of Land Management, including landings of helicopters, may be allowed as needed to manage the Desert Bighorn Sheep and their habitat.

(3) DESERT BIGHORN SHEEP MANAGEMENT.—The Secretary and the Utah Division of Wildlife Resources may use such management

tools as are needed to provide for the sustainability of the Desert Bighorn Sheep herd and the range resource of the management area, including animal transplanting (both into and out of the management area), hunting, water development, fencing, surveys, prescribed fire, control of noxious or invading weeds, and predator control.

(4) Wildlife viewing.—The Secretary, in cooperation with the State of Utah and the Advisory Council, shall manage the management area to provide opportunities for the public to view Desert Bighorn Sheep in their natural habitat. However, the Secretary may restrict mechanized and nonmechanized visitation to sensitive areas during critical seasons as needed to provide for the proper management of the Desert Bighorn Sheep herd of the management area.

(d) Management Plan.—

(1) In general.—The Secretary shall include a management plan for the management area in the management plan for the conservation area under section 523.

(2) Contents.—The management plan for the management area shall establish goals and management steps to be taken within the management area to achieve the purposes of the management area under subsection (a)(2).

(3) Participation.—The Secretary shall cooperate with the Utah Division of Wildlife Resources and the Advisory Council in developing the management plan for the management area.

(e) Facilities.—

(1) In general.—The Secretary may establish, operate, and maintain in the management area such facilities as are needed to provide for the management and safety of recreational users of the management area.

(2) Viewing sites.—Facilities under this subsection may include improved sheep viewing sites around the periphery of the management area, if such sites do not interfere with the proper management of the sheep and their habitat.

(f) Development of Heritage Sites.—This section shall not be construed to preclude the utilization, enhancement, and maintenance of national heritage area sites in the management area, if such activities do not conflict with the purposes of the management area under subsection (a).

SEC. 542. SEMI-PRIMITIVE NONMOTORIZED USE AREAS.

(a) Designation and Purposes.—The Secretary shall designate areas in the conservation area as semi-primitive nonmotorized use areas. The purposes of the semi-primitive areas are the following:

(1) To provide opportunities for isolation from the sights and sounds of man.

(2) To provide opportunities to have a high degree of interaction with the natural environment.

(3) To provide opportunities for recreational users to practice outdoor skills in settings that present moderate challenge and risk.

(b) Area Included.—The semi-primitive areas shall consist generally of approximately 120,695 acres of federally owned lands and interests therein located in the conservation area that are managed by the Bureau of Land Management, as generally depicted on the map entitled "San Rafael Swell National Heritage/Conservation Area Proposed", dated June 12, 1998.

(c) Management and Use.—Except as otherwise provided in this section, semi-primitive areas shall be subject to all requirements and restrictions that apply to the conservation area.

(d) Management Plan.—

(1) In general.—The Secretary shall include a management plan for the semi-primitive areas in the management plan for the conservation area under section 523.

(2) Contents.—The management plans for the semi-primitive areas shall establish goals and management steps to be taken within the semi-primitive areas to achieve the purposes under subsection (a).

(e) Development of Heritage Sites.—This section shall not be construed to preclude the utilization, enhancement, and maintenance of national heritage area sites in any semi-primitive area, if such activities do not conflict with the purposes of the semi-primitive areas under subsection (a).

SEC. 543. SCENIC VISUAL AREA OF CRITICAL ENVIRONMENTAL CONCERN.

(a) Designation and Purpose.—The Secretary shall designate areas in the conservation area as a scenic visual area of critical environmental concern (in this section referred to as the "scenic visual ACEC"). The purpose of the scenic visual ACEC is to preserve the scenic value of the Interstate Route 70 corridor within the conservation area.

(b) Area Included.—The scenic visual ACEC shall consist generally of approximately 27,670 acres of lands and interests therein located in the conservation area bordering Interstate Route 70 that are managed by the Bureau of Land Management, as generally depicted on the map entitled "San Rafael Swell National Heritage/Conservation Area Proposed", dated June 12, 1998.

(c) Management and Use.—Except as otherwise provided in this section, the scenic visual ACEC shall be subject to all requirements and restrictions that apply to the conservation area, and shall be managed to protect scenic values in accordance with the Bureau of Land Management document entitled "San Rafael Resource Management Plan, Utah, Moab District, San Rafael Resource Area, 1991".

Subtitle E—General Management Provisions

SEC. 551. LIVESTOCK GRAZING.

(a) Areas Other Than Wilderness.—

(1) In general.—Except as provided in subsection (b), the Secretary shall permit domestic livestock grazing in areas of the conservation area where grazing was established before the enactment of this Act. Grazing in such areas may not be reduced, increased, or withdrawn, except in accordance with the laws and regulations that apply to grazing on lands managed by the Bureau of Land Management.

(2) Compliance with applicable requirements.—Except as provided in subsection (b), any livestock grazing on public lands within the conservation area and activities the Secretary determines necessary to carry out proper and practical grazing management programs on such public lands (such as animal damage control activities), shall be managed in accordance with the Act of June 28, 1934 (43 U.S.C. 315 et seq.; commonly referred to as the "Taylor Grazing Act"), section 402 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1752), other laws governing the management of public lands, and the management plan for the conservation area.

(3) Certain water facilities not affected.—Nothing in this title shall affect the maintenance, repair, or equivalent replacement of, or ingress to or egress from, water catchment, storage, and conveyance facilities in existence before the date of the enactment of this Act that are associated with livestock or wildlife purposes, whether located within or outside of the boundaries of areas designated as part of the conservation area under this title.

(b) Wilderness.—Subsection (a) shall not apply to any wilderness designated by this title.

SEC. 552. CULTURAL AND PALEONTOLOGICAL RESOURCES.

The Secretary shall allow for the discovery of, shall protect, and may interpret, cultural or paleontological resources located within areas designated as part of the conservation area, to the extent consistent with the other provisions of this title governing management of those areas.

SEC. 553. LAND EXCHANGES RELATING TO SCHOOL AND INSTITUTIONAL TRUST LANDS.

(a) Exchange Authorized.—

(1) Identification of lands and interests by State.—Not later than 1 year after the date of enactment of this Act, the Governor of the State of Utah may identify, describe, and notify the Secretary of any school and institutional trust lands the value or economic potential of which may be diminished by establishment of the conservation area under this title, and that the State would like to exchange for other Federal lands or interests in land within the State of Utah.

(2) Offer by secretary.—Not later than 1 year after the date of receipt of notification under subsection (a), and after seeking the advice of the Governor of the State of Utah on potential lands for exchange, the Secretary shall transmit to the Governor a list of Federal lands or interests in lands within the State of Utah that the Secretary believes are approximately equivalent in value to the lands described in subsection (a) of this section, and shall offer such lands for exchange to the State for the lands described in subsection (a).

(b) Ensuring Equivalent Value.—

(1) In general.—In preparing the list under subsection (a)(2), the Secretary shall take all steps as are necessary and reasonable to ensure that the State of Utah agrees that the lands offered by the Secretary are approximately equivalent in value to the lands identified and described by the State under subsection (a)(1).

(2) Accounting for revenue sharing.—If the State of Utah shares revenue from the properties to be acquired by the State under this section, the value of such properties shall be the value otherwise established under this section, reduced by a percentage that represents the Federal revenue sharing obligation. The amount of such reduction shall not be considered a property right of the State of Utah.

(c) Public Interest.—The exchange of lands included in the list prepared under subsection (a)(2) shall be construed as satisfying the provisions of section 206(a) of the Federal Land Policy and Management Act of 1976 requiring that exchanges of lands be in the public interest.

(d) Definitions.—As used in this section:

(1) School and institutional trust lands.—The term "school and institutional trust lands" means those properties granted by the United States in the Utah Enabling Act to the State of Utah in trust, and other lands that under State law must be managed for the benefit of the public school system or the institutions of the State that are designated by the Utah Enabling Act, that are located in the conservation area.

(2) Utah enabling act.—The term "Utah Enabling Act" means the Act entitled "An Act to enable the people of Utah to form a constitution and State government, and to

be admitted into the Union on an equal footing with the original States", approved July 16, 1894 (chapter 138; 28 Stat. 107).

SEC. 554. WATER RIGHTS.

(a) FINDINGS.—The Congress finds the following:

(1) The San Rafael Swell region of Utah is a high desert climate with little annual precipitation and scarce water resources.

(2) In order to preserve the limited amount of water available to wildlife, the State of Utah has granted to the Division of Wildlife Resources an in-stream flow right in the San Rafael River.

(3) This preserved right will guarantee that wetland and riparian habitats within the San Rafael region will be protected for designations such as wilderness, semi-primitive areas, bighorn sheep, and other Federal land needs within the San Rafael Swell region.

(b) NO FEDERAL RESERVATION.—Nothing in this title or any other Act of Congress shall constitute or be construed to constitute either an express or implied Federal reservation of water or water rights for any purpose arising from the designation of areas as part of the conservation area or as a wilderness or semi-primitive area under this title.

(c) ACQUISITION AND EXERCISE OF WATER RIGHTS UNDER UTAH LAW.—The United States may acquire and exercise such water rights as it deems necessary to carry out its responsibilities on any lands designated as part of the conservation area under this title pursuant to the substantive and procedural requirements of the State of Utah. Nothing in this title shall be construed to authorize the use of eminent domain by the United States to acquire water rights for such lands. Within areas designated as part of the conservation area under this title, all rights to water granted under the laws of the State of Utah may be exercised in accordance with the substantive and procedural requirements of the State of Utah.

(d) EXERCISE OF WATER RIGHTS GENERALLY UNDER UTAH LAWS.—Nothing in this title shall be construed to limit the exercise of water rights as provided under the laws of the State of Utah.

(e) COLORADO RIVER.—Nothing in this title shall be construed to affect the operation of any existing private, local, State, or federally owned dam, reservoir, or other water works on the Colorado River or its tributaries. Nothing in this title shall alter, amend, construe, supersede, or preempt any local, State, or Federal law; any existing private, local, or State agreement; or any interstate compact or international treaty pertaining to the waters of the Colorado River or its tributaries.

SEC. 555. MISCELLANEOUS.

(a) STATE FISH AND WILDLIFE MANAGEMENT.—In accordance with section 4(d)(7) of the Wilderness Act (16 U.S.C. 1131(d)(7)), nothing in this title shall be construed as affecting the jurisdiction or responsibilities of the State of Utah with respect to fish and wildlife management activities, including water development, predator control, transplanting animals, stocking fish, hunting, fishing, and trapping.

(b) PROHIBITION OF BUFFER ZONES.—The Congress does not intend that the designation of an area by this title as part of the conservation area or a wilderness or semi-primitive area lead to the creation of protective perimeters or buffer zones around the area. It is the intention of the Congress that any protective perimeter or buffer zone be located wholly within such an area. The fact that nonconforming activities or uses can be seen or heard from land within such an area shall not, of itself, preclude such activities or uses up to the boundary of the area. Nonconforming activities that occur outside of the boundaries of such an area designated by this title shall not be taken into account in assessing unnecessary and undue degradation of such an area.

(c) ADJUSTMENT OF CERTAIN BOUNDARIES ALONG ROADS.—

(1) ADJUSTMENT AUTHORIZED.—The Secretary may adjust a boundary described in paragraph (2) that runs along a road as necessary to ensure that the boundary is set back from the center line of the road, as follows:

(A) In the case of Interstate 70, a setback that corresponds with the boundary of the right-of-way for Interstate 70.

(B) In the case of any high standard road, 150 feet.

(C) In the case of any road classified as a County Class B road, 100 feet.

(D) In the case of any road that is equivalent to County Class D roads, 50 feet.

(2) BOUNDARIES DESCRIBED.—A boundary referred to in paragraph (1) is any boundary of a wilderness or semi-primitive area designated by this title, or of the San Rafael Swell Desert Bighorn Sheep Management Area established by section 541, that is depicted on a map referred to in this title.

(d) ACCESS.—

(1) REASONABLE ACCESS ALLOWED.—Subject to valid existing rights, the holder of any permit authorizing use of an existing improvement, structure, or facility (including those related to water and grazing resources) that is located within the conservation area or a wilderness or semi-primitive area designated under this title, whether located on Federal or non-Federal lands, shall be allowed reasonable access to such improvement, structure, or facility in order that it may be operated, maintained, repaired, or equivalently replaced as necessary.

(2) REASONABLE ACCESS DEFINED.—For the purposes of this subsection, the term "reasonable access"—

(A) means the right of ingress and egress; and

(B) includes access by motorized transport on routes in existence as of the date of the enactment of this Act, unless the Secretary determines that transport—

(i) is not necessary or customary; or

(ii) was not historically employed.

(e) LAND ACQUISITION BY EXCHANGE OR PURCHASE.—The Secretary shall offer to acquire from non-governmental entities lands and interests in lands located within or adjacent to the conservation area or a wilderness or semi-primitive area designated under this title. Lands may be acquired under this subsection only by exchange or purchase from willing sellers.

(f) RIGHTS-OF-WAY.—Nothing in this title, including any reference to, or depiction or lack of a depiction on, the map entitled "San Rafael Swell National Heritage/Conservation Area Proposed", dated June 12, 1998, affects any right-of-way claim that arose under section 2477 of the Revised Statutes (43 U.S.C. 932).

TITLE VI—NATIONAL PARKS

SEC. 601. PROVISION FOR ROADS IN PICTURED ROCKS NATIONAL LAKESHORE.

Section 6 of the Act of October 15, 1966, entitled "An Act to establish in the State of Michigan the Pictured Rocks National Lakeshore, and for other purposes" (16 U.S.C. 460s-5), is amended as follows:

(1) In subsection (b)(1) by striking "including a scenic shoreline drive" and inserting "including appropriate improvements to Alger County Road H-58".

(2) By adding at the end the following new subsection:

"(c) PROHIBITION OF CERTAIN CONSTRUCTION.—A scenic shoreline drive may not be constructed in the Pictured Rocks National Lakeshore.".

SEC. 602. EXPANSION OF ARCHES NATIONAL PARK, UTAH.

(a) IN GENERAL.—

(1) BOUNDARY EXPANSION.—Subsection (a) of the first section of Public Law 92-155 (16 U.S.C. 272; 85 Stat. 422) is amended as follows:

(A) By inserting after the first sentence the following new sentence: "Effective on the date of the enactment of this sentence, the boundary of the park shall also include the area consisting of approximately 3,140 acres and known as the 'Lost Spring Canyon Addition', as depicted on the map entitled 'Boundary Map, Arches National Park, Lost Spring Canyon Addition', numbered 138/60,000-B, and dated April 1997.".

(B) In the last sentence, by striking "Such map" and inserting "Such maps".

(2) INCLUSION OF LAND IN PARK.—Section 2 of Public Law 92-155 (16 U.S.C. 272a) is amended by adding at the end the following new sentences: "As soon as possible after the date of the enactment of this sentence, the Secretary of the Interior shall transfer jurisdiction over the Federal lands contained in the Lost Spring Canyon Addition from the Bureau of Land Management to the National Park Service. The Lost Spring Canyon addition shall be administered in accordance with the laws and regulations applicable to the park.".

(3) PROTECTION OF EXISTING GRAZING PERMIT.—Section 3 of Public Law 92-155 (16 U.S.C. 272b) is amended as follows:

(A) By inserting "(a) IN GENERAL.—" before "Where".

(B) By adding at the end the following new subsection:

"(b) EXISTING LEASES, PERMITS, OR LICENSES.—(1) In the case of any grazing lease, permit, or license with respect to lands within the Lost Spring Canyon Addition that was issued before the date of the enactment of this subsection, the Secretary of the Interior shall, subject to periodic renewal, continue such lease, permit, or license for a period of time equal to the lifetime of the permittee as of that date and any direct descendants of the permittee born before that date. Any such grazing lease, permit, or license shall be permanently retired at the end of such period. Pending the expiration of such period, the permittee (or a descendant of the permittee who holds the lease, permit, or license) shall be entitled to periodically renew the lease, permit, or license, subject to such limitations, conditions, or regulations as the Secretary may prescribe.

"(2) Any such grazing lease, permit, or license may be sold during the period specified in paragraph (1) only on the condition that the purchaser shall, immediately upon such acquisition, permanently retire such lease, permit, or license. Nothing in this subsection shall affect other provisions concerning leases, permits, or licenses under the Taylor Grazing Act.

"(3) Any portion of any grazing lease, permit, or license with respect to lands within the Lost Spring Canyon Addition shall be administered by the National Park Service.".

(4) WITHDRAWAL FROM MINERAL ENTRY AND LEASING; PIPELINE MANAGEMENT.—Section 5 of Public Law 92-155 (16 U.S.C. 272d) is amended by adding at the end the following new subsection:

"(c) WITHDRAWAL FROM MINERAL ENTRY AND LEASING; PIPELINE MANAGEMENT.—(1)

Subject to valid existing rights, Federal lands within the Lost Spring Canyon Addition are hereby appropriated and withdrawn from entry, location, selection, leasing, or other disposition under the public land laws, including the mineral leasing laws.

"(2) The inclusion of the Lost Spring Canyon Addition in the park shall not affect the right of the Northwest Pipeline Corporation (or its successors or assigns) to operate the natural gas pipeline located within the park and the Addition on the date of the enactment of this subsection and to maintain the pipeline and related facilities in a manner consistent with the requirments of the natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 60201 and following).".

(5) EFFECT ON SCHOOL TRUST LANDS.—

(A) FINDINGS.—The Congress finds the following:

(i) A parcel of State school trust lands, more specifically described as section 16, township 23 south, range 22 east, of the Salt Lake base and meridian, is partially contained within the Lost Spring Canyon Addition included within the boundaries of Arches National Park by the amendment by subsection (a).

(ii) The parcel was originally granted to the State of Utah for the purpose of generating revenue for the public schools through the development of natural and other resources located on the parcel.

(iii) It is in the interest of the State of Utah and the United States for the parcel to be exchanged for Federal lands of equivalent value outside the Lost Spring Canyon Addition, in order to permit Federal management of all lands within the Lost Spring Canyon Addition.

(B) LAND EXCHANGE.—Public Law 92–155 is amended by adding at the end the following new section:

"SEC. 8. LAND EXCHANGE INVOLVING SCHOOL TRUST LANDS.

"(a) EXCHANGE REQUIREMENT.—If, not later than one year after the date of the enactment of this section, and in accordance with this section, the State of Utah offers to transfer all right, title and interest of the State in and to the parcel of school trust lands described in subsection (b)(1) to the United States, the Secretary of the Interior shall accept the offer on behalf of the United States and, within 180 days after the date of such acceptance, transfer to the State of Utah all right, title and interest of the United States in and to the parcel of land described in subsection (b)(2). Title to the State lands shall be transferred at the same time as conveyance of title to the Federal lands by the Secretary of the Interior. The exchange of lands under this section shall be subject to valid existing rights, and each party shall succeed to the rights and obligations of the other party with respect to any lease, right-of-way, or permit encumbering the exchanged lands.

"(b) DESCRIPTION OF PARCELS.—

"(1) STATE CONVEYANCE.—The parcel of school trust lands to be conveyed by the State of Utah under subsection (a) is section 16, township 23 south, range 22 east of the Salt Lake base and meridian.

"(2) FEDERAL CONVEYANCE.—The parcel of Federal lands to be conveyed by the Secretary of the Interior consists of approximately 639 acres and is identified as lots 1 through 12 located in the S½N½ and the N½N½N½S½ of section 1, township 25 south, range 18 east, Salt Lake base and meridian.

"(3) EQUIVALENT VALUE.—The Federal lands described in paragraph (2) are of equivalent value to the State school trust lands described in paragraph (1).

"(c) MANAGEMENT BY STATE.—At least 60 days before undertaking or permitting any surface disturbing activities to occur on the lands acquired by the State under this section, the State shall consult with the Utah State Office of the Bureau of Land Management concerning the extent and impact of such activities on Federal lands and resources and conduct, in a manner consistent with Federal laws, inventory, mitigation, and management activities in connection with any archaeological, paleontological, and cultural resources located on the acquired lands. To the extent consistent with applicable law governing the use and disposition of State school trust lands, the State shall preserve existing grazing, recreational, and wildlife uses of the acquired lands. Nothing in this subsection shall be construed to preclude the State from authorizing or undertaking surface or mineral activities authorized by existing or future land management plans for the acquired lands.

"(d) IMPLEMENTATION.—Administrative actions necessary to implement the land exchange described in this section shall be completed within 180 days after the date of the enactment of this section.".

SEC. 603. CUMBERLAND ISLAND NATIONAL SEASHORE, GEORGIA.

(a) TREATMENT OF MAIN ROAD AND HISTORIC STRUCTURES.—

(1) FINDINGS.—Congress finds the following:

(A) The main road at Cumberland Island National Seashore and numerous historic structures on Cumberland Island are included on the National Register of Historic Places.

(B) The continued existence and use of the main road, as well as a spur road that provides access to Plum Orchard mansion at Cumberland Island National Seashore, is necessary for maintenance and access to the natural, cultural, and historical resources of Cumberland Island National Seashore.

(C) The preservation of the main road and the numerous historic structures at Cumberland Island National Seashore is not only lawful, but also mandated under section 4(a)(3) of the Wilderness Act (16 U.S.C. 1133(a)(3)).

(D) The inclusion of these roads and historic structures both on the National Register of Historic Places and in the Cumberland Island Wilderness or potential wilderness area is incompatible and causes competing mandates on the Secretary of the Interior for management.

(2) EXCLUSION OF ROADS FROM WILDERNESS.—The main road on Cumberland Island (as described on the National Register of Historic Places), the spur road that provides access to Plum Orchard mansion, and the area extending 10 feet on each side of the center line of both roads are hereby excluded from the boundaries of the Cumberland Island Wilderness and the potential wilderness area.

(3) EXCLUSION OF STRUCTURES FROM WILDERNESS.—The Secretary of the Interior shall modify the boundaries of the Cumberland Island Wilderness and the potential wilderness area to exclude—

(A) each structure at Cumberland Island National Seashore that is listed on National Register of Historic Places; and

(B) such land surrounding each excluded structure as the Secretary considers necessary to eliminate incompatible and competing management requirements.

(4) EFFECT OF EXCLUSION.—Nothing in this subsection shall be construed to affect the inclusion of the main road or a structure at Cumberland Island National Seashore on the National Register of Historic Places or the authority of the Secretary of the Interior to impose reasonable restrictions, subject to valid existing rights, on the use of the main road or spur road to minimize any adverse impacts on the Cumberland Island Wilderness or the potential wilderness area.

(b) RESTORATION OF PLUM ORCHARD MANSION.—

(1) RESTORATION REQUIRED.—Using funds appropriated pursuant to the authorization of appropriations in paragraph (4), the Secretary of the Interior shall restore Plum Orchard mansion at Cumberland Island National Seashore so that the condition of the restored mansion is at least equal to the condition of the mansion when it was donated to the United States. The Secretary shall endeavor to collect donations of money and in-kind contributions for the purpose of restoring structures within the Plum Orchard historic district.

(2) SUBSEQUENT MAINTENANCE.—The Secretary of the Interior shall endeavor to enter into an agreement with public persons, private persons, or both, to provide for the maintenance of Plum Orchard mansion following its restoration.

(3) RESTORATION PLAN.—Not later than 270 days after the date of the enactment of this Act, the Secretary of the Interior shall submit to Congress a comprehensive plan for the repair, stabilization, restoration, and subsequent maintenance of Plum Orchard mansion to the condition the mansion was in when acquired by the United States.

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as are necessary for the restoration and maintenance of Plum Orchard mansion under this subsection.

(c) ARCHAEOLOGICAL AND HISTORIC SITES.—The Secretary of the Interior shall identify, document, and protect archaeological sites located on Federal land within Cumberland Island National Seashore. The Secretary shall prepare and implement a plan to preserve designated national historic sites within the seashore.

(d) DEFINITIONS.—In this section:

(1) The term "Cumberland Island National Seashore" means the national seashore established under Public Law 92–536 (16 U.S.C. 4591 et seq.).

(2) The term "Cumberland Island Wilderness" means the wilderness area in the Cumberland Island National Seashore designated by section 2 of Public Law 97–250 (96 Stat. 709; 16 U.S.C. 1132 note).

(3) The term "potential wilderness area" means the potential wilderness area in the Cumberland Island National Seashore designated by such section 2.

(4) The term "National Register of Historic Places" means the register maintained by the Secretary of the Interior under section 101(a)(1)(A) of the National Historic Preservation Act (16 U.S.C. 470a(a)(1)(A)) that is composed of districts, sites, buildings, structures, and objects significant in American history, architecture, archaeology, engineering, and culture.

SEC. 604. STUDIES OF POTENTIAL NATIONAL PARK SYSTEM UNITS IN HAWAII.

(a) IN GENERAL.—The Secretary of the Interior, acting through the Director of the National Park Service, shall undertake feasibility studies regarding the establishment of National Park System units in the following areas in the State of Hawaii:

(1) Island of Maui: The shoreline area known as "North Beach", immediately north of the present resort hotels at Kaanapali Beach, in the Labaina district in the area extending from the beach inland to the main highway.

(2) Island of Lanai: The mountaintop area known as "Hale" in the central part of the island.

(3) Island of Kauai: The shoreline area from "Anini Beach" to "Makua Tunnels" on the north coast of this island.

(4) Island of Molokai: The "Halawa Valley" on the eastern end of the island, including its shoreline, cove and lookout/access roadway.

(b) Kalaupapa Settlement Boundaries.—The studies conducted under this section shall include a study of the feasibility of extending the present National Historic Park boundaries at Kalaupapa Settlement eastward to Halawa Valley along the island's north shore.

(c) Report.—A report containing the results of the studies under this section shall be submitted to the Congress promptly upon completion.

SEC. 605. SANTA CRUZ ISLAND, ADDITIONAL RIGHTS OF USE AND OCCUPANCY.

Section 202(e) of Public Law 96–199 (16 U.S.C. 410ff–1(e)) is amended by adding the following at the end thereof:

"(5) In the case of the real property referred to in paragraph (1), in addition to the rights of use and occupancy reserved under paragraph (1) and set forth in Instrument 90–027494, upon the enactment of this paragraph, the Secretary shall grant identical rights of use and occupancy to Mr. Francis Gherini of Ventura, California, the previous owner of the real property, and to each of the two grantors identified in Instrument No. 92–102117 recorded in the Official Records of the County of Santa Barbara, California. The use and occupancy rights granted to Mr. Francis Gherini shall be for a term of 25 years from the date of the enactment of this paragraph. The Secretary shall grant such rights without consideration and shall execute and record such instruments as necessary to vest such rights in such individuals as promptly as practicable, but no later than 90 days, after the enactment of this paragraph.".

SEC. 606. ACQUISITION OF WARREN PROPERTY FOR MORRISTOWN NATIONAL HISTORICAL PARK.

The Act entitled "An Act to provide for the establishment of the Morristown National Historical Park in the State of New Jersey, and for other purposes", approved March 2, 1933 (chapter 182; 16 U.S.C. 409 et seq.), is amended by adding at the end the following new section:

"Sec. 8. (a) In addition to any other lands or interest authorized to be acquired for inclusion in Morristown National Historical Park, and notwithstanding the first proviso of the first section of this Act, the Secretary of the Interior may acquire by purchase, donation, purchase with appropriated funds, or otherwise, not to exceed 15 acres of land and interests therein comprising the property known as the Warren Property or Mount Kimble. The Secretary may expend such sums as may be necessary for such acquisition.

"(b) Any lands or interests acquired under this section shall be included in and administered as part of the Morristown National Historical Park.".

SEC. 607. AMENDMENT OF LAND AND WATER CONSERVATION FUND ACT OF 1965 REGARDING TREATMENT OF RECEIPTS AT CERTAIN PARKS.

Section 4(i)(1)(B) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(i)(1)(B)) is amended by inserting the following after the second sentence: "Notwithstanding subparagraph (A), in any fiscal year, the Secretary of the Interior shall also withhold from the special account 100 percent of the fees and charges collected in connection with any unit of the national park system at which entrance or admission fees cannot be collected by reason of deed restrictions, and the amounts so withheld shall be retained by the Secretary and shall be available, without further appropriation, for expenditure by the Secretary for purpose of such park system unit.".

SEC. 608. CHATTAHOOCHEE RIVER NATIONAL RECREATION AREA.

(a) Findings.—The Congress finds that:

(1) The Chattahoochee River National Recreation Area is a nationally significant resource and the national recreation area has been adversely affected by land use changes occurring within and outside its boundaries.

(2) The population of the metropolitan Atlanta area continues to expand northward, leaving dwindling opportunities to protect the scenic, recreation, natural, and historic values of the 2,000-foot wide corridor adjacent to each bank of the Chattahoochee River and its impoundments in the 48-mile segment known as the area of national concern.

(3) The State of Georgia has enacted the Metropolitan River Protection Act in order to ensure the protection of the corridor located within 2,000 feet of each bank of the Chattahoochee River, or the 100-year flood plain, whichever is greater, and such corridor includes the area of national concern.

(4) Visitor use of the Chattahoochee River National Recreation Area has shifted dramatically since the establishment of the national recreation area from waterborne to water-related and land-based activities.

(5) The State of Georgia and its political subdivisions along the Chattahoochee River have indicated their willingness to join in cooperative efforts with the United States of America to link existing units of the national recreation area with a series of linear corridors to be established within the area of national concern and elsewhere on the river and provided Congress appropriates certain funds in support of such effort, funding from the State, its political subdivisions, private foundations, corporate entities, private individuals, and other sources will be available to fund more.than half of the estimated cost of such cooperative effort.

(b) Purposes.—The purposes of this section are to—

(1) increase the level of protection of the remaining open spaces within the area of national concern along the Chattahoochee River and to enhance visitor enjoyment of such areas by adding land-based links between existing units of the national recreation area;

(2) assure that the national recreation area is managed to standardize acquisition, planning, design, construction, and operation of the linear corridors; and

(3) authorize the appropriation of Federal funds to cover a portion of the costs of the Federal, State, local, and private cooperative effort to add additional areas to the Chattahoochee River National Recreation Area in order to establish a series of linear corridors linking existing units of the national recreation area and to protect other undeveloped portions of the Chattahoochee River corridor.

(c) Amendments to Chattahoochee NRA Act.—The Act of August 15, 1978, entitled "An Act to authorize the establishment of the Chattahoochee River National Recreation Area in the State of Georgia, and for other purposes" (Public Law 95–344; 16 U.S.C. 460ll et seq.) is amended as follows:

(1) Section 101 (16 U.S.C. 460ll) is amended as follows:

(A) By inserting after "numbered Chat-20,003, and dated September 1984" the following: "and on the maps entitled 'Chattahoochee River National Recreation Area Interim Boundary Maps 1, 2, and 3' and dated August 6, 1998".

(B) By amending the fourth sentence to read as follows: "After July 1, 1999, the Secretary of the Interior (in this Act referred to as the 'Secretary') may modify the boundaries of the recreation area to include other lands within the river corridor of the Chattahoochee River by submitting a revised map or other boundary description to the Congress. Such revised boundaries shall take effect on the date 6 months after the date of such submission unless, within such 6-month period, the Congress adopts a Joint Resolution disapproving such revised boundaries. Such revised map or other boundary description shall be prepared by the Secretary after consultation with affected landowners and with the State of Georgia and affected political subdivisions.".

(C) By striking out "may not exceed approximately 6,800 acres." and inserting "may not exceed 10,000 acres.".

(2) Section 102(f) (16 U.S.C. 460ll–1(f)) is repealed.

(3) Section 103(b) (16 U.S.C. 460ll–2(b)) is amended to read as follows:

"(b) Cooperative Agreements.—The Secretary is authorized to enter into cooperative agreements with the State, its political subdivisions, and other entities to assure standardized acquisition, planning, design, construction, and operation of the national recreation area.".

(4) Section 105(a) (16 U.S.C. 460ll–4(a)) is amended to read as follows:

"(a) Authorization of Appropriations; Acceptance of Donations.—In addition to funding and the donation of lands and interests in lands provided by the State of Georgia, local government authorities, private foundations, corporate entities, and individuals, and funding that may be available pursuant to the settlement of litigation, there is hereby authorized to be appropriated for land acquisition not more than $25,000,000 for fiscal years after fiscal year 1998. The Secretary is authorized to accept the donation of funds and lands or interests in lands to carry out this Act.".

(5) Section 105(c) (16 U.S.C. 460ll–4(c)) is amended by adding the following at the end thereof: "The Secretary shall submit a new plan within 3 years after the enactment of this sentence to provide for the protection, enhancement, enjoyment, development, and use of areas added to the national recreation area. During the preparation of the revised plan the Secretary shall seek and encourage the participation of the State of Georgia and its affected political subdivisions, private landowners, interested citizens, public officials, groups, agencies, educational institutions, and others.".

(6) Section 102(a) (16 U.S.C. 460ll–1(a)) is amended by inserting the following before the period at the end of the first sentence: ", except that lands and interests in lands within the Addition Area depicted on the map referred to in section 101 may not be acquired without the consent of the owner thereof".

SEC. 609. PROTECTION OF LODGES IN GRAND CANYON NATIONAL PARK.

Section 3 of the Grand Canyon National Park Enlargement Act (16 U.S.C. 228b) is amended by adding at the end the following new subsection:

"(d) The Secretary of the Interior is prohibited from demolishing, or authorizing or permitting (by contract or otherwise) any other person to demolish, the Thunderbird Lodge or the Kachina Lodge in the Grand Canyon National Park unless the Congress approves of the demolition in advance by the enactment of a law.".

TITLE VII—REAUTHORIZATIONS

SEC. 701. REAUTHORIZATION OF NATIONAL HISTORIC PRESERVATION ACT.

The National Historic Preservation Act (16 U.S.C. 470 and following; Public Law 89-665) is amended as follows:

(1) In the third sentence of section 101(a)(6) (16 U.S.C. 470a(a)(6)) by striking "shall review" and inserting "may review" and by striking "shall determine" and inserting "determine".

(2) Section 101(e)(2) (16 U.S.C. 470a(e)(2)) is amended to read as follows:

"(2) The Secretary may administer grants to the National Trust for Historic Preservation in the United States, chartered by an Act of Congress approved October 26, 1949 (63 Stat. 947), consistent with the purposes of its charter and this Act.".

(3) Section 102 (16 U.S.C. 470b) is amended by redesignating subsection (e) as subsection (f) and by redesignating subsection (d), as added by section 4009(3) of Public Law 102-575, as subsection (e).

(4) Section 101(b)(1) (16 U.S.C. 470a(b)(1)) is amended by adding the following at the end thereof:

"For purposes of subparagraph (A), the State and Indian tribe shall be solely responsible for determining which professional employees, are necessary to carry out the duties of the State or tribe, consistent with standards developed by the Secretary.".

(5) Section 107 (16 U.S.C. 470g) is amended to read as follows:

"SEC. 107. Nothing in this Act shall be construed to be applicable to the White House and its grounds, the Supreme Court building and its grounds, or the United States Capitol and its related buildings and grounds as depicted on the map entitled 'Map Showing Properties Under the Jurisdiction of the Architect of the Capitol' and dated November 6, 1996, which shall be on file in the office of the Secretary of the Interior.".

(6) Section 108 (16 U.S.C. 470h) is amended by striking "1997" and inserting "2004".

(7) Section 110(a)(1) (16 U.S.C. 470h-2(a)(1)) is amended by inserting the following before the period at the end of the second sentence: ", especially those located in central business areas. When locating Federal facilities, Federal agencies shall give first consideration to historic properties in historic districts. If no such property is operationally appropriate and economically prudent, then Federal agencies shall consider other developed or undeveloped sites within historic districts. Federal agencies shall then consider historic properties outside of historic districts, if no suitable site within a district exists. Any rehabilitation or construction that is undertaken pursuant to this Act must be architecturally compatible with the character of the surrounding historic district or properties".

(8) The first sentence of section 110(l) (16 U.S.C. 470h-2(l)) is amended by striking "with the Council" and inserting "pursuant to regulations issued by the Council".

(9) The last sentence of section 212(a) (16 U.S.C. 470t(a)) is amended by striking "2000" and inserting "2004".

SEC. 702. REAUTHORIZATION OF DELAWARE WATER GAP NATIONAL RECREATION AREA CITIZEN ADVISORY COMMISSION.

Section 5 of Public Law 101-573 (16 U.S.C. 460*o* note) is amended by striking "10" and inserting "20".

SEC. 703. COASTAL HERITAGE TRAIL ROUTE IN NEW JERSEY.

Public Law 100-515 (102 Stat. 2563; 16 U.S.C. 1244 note) is amended as follows:

(1) In subsection (b)(1) of section 6 by striking "$1,000,000" and inserting "$4,000,000".

(2) In subsection (c) of section 6 by striking "five" and inserting "10".

(3) In the second sentence of section 2 by inserting "including sites in the Township of Woodbridge, New Jersey," after "cultural sites".

SEC. 704. EXTENSION OF AUTHORIZATION FOR UPPER DELAWARE CITIZENS ADVISORY COUNCIL.

The last sentence of paragraph (1) of section 704(f) of the National Parks and Recreation Act of 1978 (16 U.S.C. 1274 note) is amended by striking "20" and inserting "30".

TITLE VIII—RIVERS AND TRAILS

SEC. 801. NATIONAL DISCOVERY TRAILS.

(a) National Trails System Act Amendments.—

(1) National Discovery Trails Established.—

(A) In general.—Section 3(a) of the National Trails System Act (16 U.S.C. 1242(a)) is amended by inserting after paragraph (4) the following:

"(5)(A) National discovery trails, established as provided in section 5, which will be extended, continuous, interstate trails so located as to provide for outstanding outdoor recreation and travel and to connect representative examples of America's trails and communities. National discovery trails should provide for the conservation and enjoyment of significant natural, cultural, and historic resources associated with each trail and should be so located as to represent metropolitan, urban, rural, and backcountry regions of the Nation. Any such trail may be designated on Federal lands and, with the consent of the owner thereof, on any non-Federal lands. The consent of the owner shall be obtained in the form of a written agreement, which shall include such terms and conditions as the parties to the agreement consider advisable, and may include provisions regarding the discontinuation of the trail designation. The Congress does not intend for the establishment of a national discovery trail to lead to the creation of protective perimeters or buffer zones adjacent to a national discovery trail. The fact that there may be activities or uses on lands adjacent to the trail that would not be permitted on the trail shall not preclude such activities or uses on such lands adjacent to the trail to the extent consistent with other applicable law. Nothing in this Act may be construed to impose or permit the imposition of any landowner on the use of any non-Federal lands without the consent of the owner. Neither the designation of a national discovery trail nor any plan related thereto shall affect, or be considered, in the granting or denial of a right-of-way or any conditions relating thereto.

"(B) The appropriate Secretary for each national discovery trail shall administer the trail in cooperation with a competent trailwide volunteer-based organization. Where national discovery trails are congruent with other local, State, national scenic, or national historic trails, the designation of the discovery trail shall not in any way diminish the values and significance for which these trails were established.".

(B) Feasibility requirements; cooperative management requirement.—Section 5(b) of such Act (16 U.S.C. 1244(b)) is amended by adding at the end the following new paragraph:

"(12) For purposes of this subsection, a trail shall not be considered feasible and desirable for designation as a national discovery trail unless it meets all of the following criteria:

"(A) The trail must link to one or more areas within the boundaries of a metropolitan area (as those boundaries are determined under section 134(c) of title 23, United States Code). It should also join with other trails, tying the National Trails System to significant recreation and resources areas.

"(B) The trail must be supported by at least one competent trailwide volunteer-based organization. Each trail shall have extensive local and trailwide support by the public, by user groups, and by affected State and local governments.

"(C) The trail must be extended and pass through more than one State. At a minimum, it should be a continuous, walkable route. National discovery trails are specifically exempted from the provisions of sections 7(g) of this Act.

"(D) The appropriate Secretary shall obtain written consent from affected landowners prior to entering nonpublic lands for the purposes of conducting any surveys or studies of nonpublic lands for purposes of this Act. Provided, before any designation or establishment of any discovery trail provided by this Act, the appropriate Secretary must ensure written notification to all nonpublic landowners on which a designated trail crosses or abuts nonpublic lands. Furthermore, any nonpublic landowner that has property crossed by or abutting land designated under this Act, if trespassing should occur by travelers on the National Discovery Trail, has the right to request and subsequently require the appropriate Secretary to coordinate with State and local officials to ensure to the maximum extent feasible that no further trespassing should occur on such nonpublic land.".

(2) Designation of the American Discovery Trail as a National Discovery Trail.—Section 5(a) of such Act (16 U.S.C. 1244(a)) is amended as follows:

(A) By redesignating the paragraph relating to the California National Historic Trail as paragraph (18).

(B) By redesignating the paragraph relating to the Pony Express National Historic Trail as paragraph (19).

(C) By redesignating the paragraph relating to the Selma to Montgomery National Historic Trail as paragraph (20).

(D) By adding at the end the following:

"(21) The American Discovery Trail, a trail of approximately 6,000 miles extending from Cape Henlopen State Park in Delaware to Point Reyes National Seashore in California, extending westward through Delaware, Maryland, the District of Columbia, West Virginia, Ohio, and Kentucky, where near Cincinnati it splits into two routes. The Northern Midwest route traverses Ohio, Indiana, Illinois, Iowa, Nebraska, and Colorado, and the Southern Midwest route traverses Indiana, Illinois, Missouri, Kansas, and Colorado. After the two routes rejoin in Denver, Colorado, the route continues through Colorado, Utah, Nevada, and California. The trail is generally described in Volume 2 of the National Park Service feasibility study dated June 1995 which shall be on file and available for public inspection in the office of the Director of the National Park Service, Department of the Interior, the District of Columbia. The American Discovery Trail shall be administered by the Secretary of the Interior in cooperation with at least one competent trailwide volunteer-based organization, affected land managing agencies and State and local governments as appropriate. No lands or interests outside the exterior boundaries of federally administered areas may be acquired by the Federal Government solely for the American Discovery Trail. The American Discovery Trail is specifically exempted from the provisions of subsection (e), (f), and (g) of section 7.".

(3) Comprehensive National Discovery Trail Plan.—Section 5 of such Act (16 U.S.C. 1244) is further amended by adding at the end the following new subsection:

"(g) Within 3 complete fiscal years after the date of enactment of any law designating a national discovery trail, the responsible Secretary shall submit a comprehensive plan for the protection, management, development, and use of the Federal portions of the trail, and provide technical assistance to States and local units of government and private landowners, as requested, for non-federal portions of the trail, to the Committee on Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. In developing a comprehensive management plan for a national discovery trail, the responsible Secretary shall cooperate to the fullest practicable extent with the organizations sponsoring the trail. The responsible Secretary shall ensure that the comprehensive plan does not conflict with existing agency direction and shall consult with the affected land managing agencies, the Governors of the affected States, affected county and local political jurisdictions, and local organizations maintaining components of the trail. Components of the comprehensive plan include—

"(1) policies, objectives and practices to be observed in the administration and management of the trail, including the identification of all significant natural, historical, and cultural resources to be preserved, model agreements necessary for joint trail administration among and between interested parties, and an identified carrying capacity for critical segments of the trail and procedures for implementation, where appropriate;

"(2) strategies for trail protection to retain the values for which the trail is being established and recognized by the Federal Government;

"(3) general and site-specific trail-related development, including anticipated costs; and

"(4) the process to be followed to implement the trail marking authorities in section 7(c) conforming to approved trail logo or emblem requirements.".

(b) Conforming Amendments.—The National Trails System Act is amended:

(1) In section 2(b) (16 U.S.C. 1241(b)), by striking "scenic and historic" and inserting "scenic, historic, and discovery".

(2) In the section heading to section 5 (16 U.S.C. 1244), by striking "AND NATIONAL HISTORIC" and inserting ", NATIONAL HISTORIC, AND NATIONAL DISCOVERY".

(3) In section 5(a) (16 U.S.C. 1244(a)), in the matter preceding paragraph (1)—

(A) by striking "and national historic" and inserting ", national historic, and national discovery"; and

(B) by striking "and National Historic" and inserting ", National Historic, and National Discovery".

(4) In section 5(b) (16 U.S.C. 1244(b)), in the matter preceding paragraph (1), by striking "or national historic" and inserting ", national historic, or national discovery".

(5) In section 5(b)(3) (16 U.S.C. 1244(b)(3)), by striking "or national historic" and inserting ", national historic, or national discovery".

(6) In section 7(a)(2) (16 U.S.C. 1246(a)(2)), by striking "and national historic" and inserting ", national historic, and national discovery".

(7) In section 7(b) (16 U.S.C. 1246(b)), by striking "or national historic" each place such term appears and inserting ", national historic, or national discovery".

(8) In section 7(c) (16 U.S.C. 1246(c))—

(A) by striking "scenic or national historic" each place it appears and inserting "scenic, national historic, or national discovery";

(B) in the second proviso, by striking "scenic, or national historic" and inserting "scenic, national historic, or national discovery"; and

(C) by striking ", and national historic" and inserting ", national historic, and national discovery".

(9) In section 7(d) (16 U.S.C. 1246(d)), by striking "or national historic" and inserting "national historic, or national discovery".

(10) In section 7(e) (16 U.S.C. 1246(e)), by striking "or national historic" each place such term appears and inserting ", national historic, or national discovery".

(11) In section 7(f)(2) (16 U.S.C. 1246(f)(2)), by striking "National Scenic or Historic Trail" and inserting "national scenic, historic, or discovery trail".

(12) In section 7(h)(1) (16 U.S.C. 1246(h)(1)), by striking "or national historic" and inserting "national historic, or national discovery".

(13) In section 7(i) (16 U.S.C. 1246(i)), by striking "or national historic" and inserting "national historic, or national discovery".

SEC. 802. SUDBURY, ASSABET, AND CONCORD WILD AND SCENIC RIVERS.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended—

(1) by designating the four undesignated paragraphs after paragraph (156) as paragraphs (157), (158), (159), and (160), respectively; and

(2) by adding the following new paragraph at the end thereof:

"(161) Sudbury, Assabet, and Concord Rivers, Massachusetts.—The 29 miles of river segments in Massachusetts, as follows:

"(A) The 14.9 mile segment of the Sudbury river beginning at the Danforth Street bridge in the town of Framington, downstream to Route 2 bridge in Concord, as a scenic river.

"(B) The 1.7 mile segment of the Sudbury River from the Route 2 bridge downstream to its confluence with the Assabet River at Egg Rock, as a recreational river.

"(C) The 4.4 mile segment of the Assabet River beginning 1,000 feet downstream from the Damon Mill Dam in the town of Concord, to its confluence with the Sudbury River at Egg Rock in Concord, as a recreational river.

"(D) The 8.0 mile segment of the Concord River from Egg Rock at the confluence of the Sudbury and Assabet Rivers downstream to the Route 3 bridge in the town of Billerica, as a recreational river.

The segments referred to in subparagraphs (A) through (D) shall be administered by the Secretary of the Interior in cooperation with the SUASCO River Stewardship Council provided for in the plan through cooperative agreements under section 10(e) between the Secretary and the Commonwealth of Massachusetts and its relevant political subdivisions (including the towns of Framingham, Wayland, Sudbury, Lincoln, Concord, Carlisle, Bedford, and Billerica). The segments shall be managed in accordance with the plan entitled 'Sudbury, Assabet and Concord Wild and Scenic River Study, River Conservation Plan' dated March 16, 1995. The plan is deemed to satisfy the requirement for a comprehensive management plan under subsection (d) of this section.".

SEC. 803. ASSISTANCE TO THE NATIONAL HISTORIC TRAILS INTERPRETIVE CENTER.

(a) Findings and Purposes.—

(1) Findings.—The Congress finds and declares the following:

(A) The city of Casper, Wyoming, is nationally significant as the only geographic location in the western United States where 4 congressionally recognized historic trails (the Oregon Trail, the Mormon Trail, the California Trail, and the Pony Express Trail), the Bridger Trail, the Bozeman Trail, and many Indian routes converged.

(B) The historic trails that passed through the Casper area are a distinctive part of the national character and possess important historical and cultural values representing themes of migration, settlement, transportation, and commerce that shaped the landscape of the West.

(C) The Bureau of Land Management has not yet established a historic trails interpretive center in Wyoming or in any adjacent State to educate and focus national attention on the history of the mid-19th century immigrant trails that crossed public lands in the Intermountain West.

(D) At the invitation of the Bureau of Land Management, the city of Casper and the National Historic Trails Foundation, Inc. (a nonprofit corporation established under the laws of the State of Wyoming) entered into a memorandum of understanding in 1992, and have since signed an assistance agreement in 1993 and a cooperative agreement in 1997, to create, manage, and sustain a National Historic Trails Interpretive Center to be located in Casper, Wyoming, to professionally interpret the historic trails in the Casper area for the benefit of the public.

(E) The National Historic Trails Interpretive Center authorized by this section is consistent with the purposes and objectives of the National Trails System Act (16 U.S.C. 1241 et seq.), which directs the Secretary of the Interior to protect, interpret, and manage the remnants of historic trails on public lands.

(F) The State of Wyoming effectively joined the partnership to establish the National Historic Trails Interpretive Center through a legislative allocation of supporting funds, and the citizens of the city of Casper have increased local taxes to meet their financial obligations under the assistance agreement and the cooperative agreement referred to in paragraph (4).

(G) The National Historic Trails Foundation, Inc. has secured most of the $5,000,000 of non-Federal funding pledged by State and local governments and private interests pursuant to the cooperative agreement referred to in subparagraph (D).

(H) The Bureau of Land Management has completed the engineering and design phase of the National Historic Trails Interpretive Center, and the National Historic Trails Foundation, Inc. is ready for Federal financial and technical assistance to construct the Center pursuant to the cooperative agreement referred to in subparagraph (D).

(2) PURPOSES.—The purposes of this section are the following:

(A) To recognize the importance of the historic trails that passed through the Casper, Wyoming, area as a distinctive aspect of American heritage worthy of interpretation and preservation.

(B) To assist the city of Casper, Wyoming, and the National Historic Trails Foundation, Inc. in establishing the National Historic Trails Interpretive Center to memorialize and interpret the significant role of those historic trails in the history of the United States.

(C) To highlight and showcase the Bureau of Land Management's stewardship of public lands in Wyoming and the West.

(b) NATIONAL HISTORIC TRAILS INTERPRETIVE CENTER.—

(1) ESTABLISHMENT.—The Secretary of the Interior, acting through the Director of the Bureau of Land Management (in this section referred to as the "Secretary"), shall establish in Casper, Wyoming, a center for the interpretation of the historic trails in the vicinity of Casper, including the Oregon Trail, the Mormon Trail, the California Trail, and the Pony Express Trail, the Bridger Trail, the Bozeman Trail, and various Indian routes. The center shall be known as the National Historic Trails Interpretive Center (in this section referred to as the "Center").

(2) FACILITIES.—The Secretary, subject to the availability of appropriations, shall construct, operate, and maintain facilities for the Center—

(A) on land provided by the city of Casper, Wyoming;

(B) in cooperation with the city of Casper and the National Historic Trails Interpretive Center Foundation, Inc. (a nonprofit corporation established under the laws of the State of Wyoming); and

(C) in accordance with—

(i) the Memorandum of Understanding entered into on March 4, 1993, by the city, the foundation, and the Wyoming State Director of the Bureau of Land Management; and

(ii) the cooperative agreement between the foundation and the Wyoming State Director of the Bureau of Land Management, numbered K910A970020.

(3) DONATIONS.—Notwithstanding any other provision of law, the Secretary may accept, retain, and expend donations of funds, property, or services from individuals, foundations, corporations, or public entities for the purpose of development and operation of the Center.

(4) ENTRANCE FEE.—Notwithstanding section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a), the Secretary may—

(A) collect an entrance fee from visitors to the Center; and

(B) use amounts received by the United States from that fee for expenses of operation of the Center.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $5,000,000 to carry out this section.

TITLE IX—HAZARDOUS FUELS REDUCTION

SEC. 901. SHORT TITLE.

This title may be cited as the "Community Protection and Hazardous Fuels Reduction Act of 1998".

SEC. 902. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) Management of Federal lands has been characterized by large cyclical variations in fire suppression policies, timber harvesting levels, and the attention paid to commodity and noncommodity values.

(2) Forests on Federal lands are experiencing significant disease epidemics and insect infestations.

(3) The combination of inconsistent management and natural effects has resulted in a hazardous fuels buildup on Federal lands that threatens catastrophic wildfire.

(4) While the long-term effect of catastrophic wildfire on forests and forest systems is a matter of debate, there should be no question that catastrophic wildfire must be prevented in areas of the Federal lands where wildlands abut, or are located in close proximity to, communities, residences, and other private and public facilities on non-Federal lands.

(5) Wildfire resulting from hazardous fuels buildup in such wildland/urban interface areas threatens the destruction of communities, puts human life and property at risk, threatens community water supplies with erosion that follows wildfire, destroys wildlife habitat, and damages ambient air quality.

(6) The Secretary of Agriculture and the Secretary of the Interior must assign a high priority and undertake aggressive management to achieve the elimination of hazardous fuel buildup and reduction of the risk of wildfire to the wildland/urban interface areas on Federal lands. Protection of human life and property, including water supplies and ambient air quality, must be given the highest priority.

(7) The noncommodity resources, including riparian zones and wildlife habitats, in wildland/urban interface areas on Federal lands which must be protected to provide recreational opportunities, clean water, and other amenities to neighboring communities and the public suffer from a backlog of unfunded forest management projects designed to provide such protection.

(8) In a period of fiscal austerity characterized by shrinking budgets and personnel levels, Congress must provide the Secretary of Agriculture and the Secretary of the Interior with innovative tools to accomplish the required reduction in hazardous fuels buildup and undertake other forest management projects in the wildland/urban interface areas on the Federal lands at least cost.

(b) PURPOSE.—The purpose of this title is to provide new authority and innovative tools to the Secretary of Agriculture and the Secretary of the Interior to safeguard communities, lives, and property by reducing or eliminating the threat of catastrophic wildfire, and to undertake needed forest management projects, in wildland/urban interface areas on Federal lands.

SEC. 903. DEFINITIONS.

As used in this title:

(1) FEDERAL LANDS.—The term "Federal lands" means—

(A) federally managed lands administered by the Bureau of Land Management under the Secretary of the Interior; and

(B) federally managed lands administered by the Secretary of Agriculture.

(2) FOREST MANAGEMENT PROJECT.—The term "forest management project" means a project, including riparian zone enhancement, habitat improvement, noncommercial hazardous fuels reduction, and soil stabilization or other water quality improvement project, designed to protect one or more noncommodity resources on or in close proximity to Federal lands.

(3) LAND MANAGEMENT PLAN.—The term "land management plan" means the following:

(A) With respect to Federal lands described in paragraph (1)(A), a land use plan prepared by the Bureau of Land Management pursuant to section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712), or other multiple-use plan currently in effect.

(B) With respect to Federal lands described in paragraph (1)(B), a land and resource management plan (or if no final plan is in effect, a draft land and resource management plan) prepared by the Forest Service pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604).

(4) SECRETARY CONCERNED.—The term "Secretary concerned" means—

(A) with respect to the Federal lands described in paragraph (1)(A), the Secretary of the Interior; and

(B) with respect to the Federal lands described in paragraph (1)(B), the Secretary of Agriculture.

(5) WILDLAND/URBAN INTERFACE AREA.—The term "wildland/urban interface area" means the line, area, or zone where structures and other human development meet or intermingle with undeveloped wildland or vegetative fuel.

(6) CONGRESSIONAL COMMITTEES.—The term "congressional committees" means the Committee on Resources and the Committee on Agriculture of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(7) HAZARDOUS FUELS BUILDUP.—The term "hazardous fuels buildup" means that level of fuels accumulation, within a fire regime, in which an ignition with the right combination of weather and topographic conditions can result in—

(A) a dangerous exposure of risk to firefighters and the public;

(B) a high potential to cause risk of loss to key components that define ecological resources, capital investments, and private property; or

(C) both subparagraphs (A) and (B).

(8) FOREST PRODUCT.—The term "forest product" means any tree or tree part that can be used for a commercial purpose.

(9) FUELS.—The term "fuels" includes forage, woody debris, duff, needle cast, brush, understory, ladder fuels, and dead or dying overstory.

Subtitle A—Management of Wildland/Urban Interface Areas

SEC. 911. IDENTIFICATION OF WILDLAND/URBAN INTERFACE AREAS.

On or before September 30 of each year, each District Manager of the Bureau of Land Management and each Forest Supervisor of the Forest Service shall identify those areas on Federal lands within the jurisdiction of the District Manager or Forest Supervisor that the District Manager or Forest Supervisor determines—

(1) meet the definition of wildland/urban interface areas; and

(2) have hazardous fuels buildups and other forest management needs that warrant the use of forest management projects as provided in section 912.

SEC. 912. CONTRACTING TO REDUCE HAZARDOUS FUELS AND UNDERTAKE FOREST MANAGEMENT PROJECTS IN WILDLAND/URBAN INTERFACE AREAS.

(a) CONTRACTING AUTHORITY.—

(1) IN GENERAL.—The Secretary concerned is authorized to enter into contracts under this section for the sale of forest products in

a wildland/urban interface area identified under section 911 for the primary purpose of reducing hazardous fuels buildups in the area.

(2) INCLUSION OF FOREST MANAGEMENT PROJECTS.—Subject to paragraph (3) and subsection (e), the Secretary concerned may require, as a condition of any sale of forest products referred to in paragraph (1), that the purchaser of such products undertake one or more forest management projects in the wildland/urban interface area.

(3) CONDITIONS ON INCLUSION.—The Secretary concerned may include a forest management project as a condition in a contract for the sale of forest products referred to in paragraph (1) only when the Secretary determines that—

(A) the forest management project is consistent with the applicable land management plan; and

(B) the objectives of the forest management project can be accomplished most cost efficiently and effectively when the project is performed as part of the sale contract.

(b) FINANCING AND SUPPLEMENTAL FUNDING.—

(1) FINANCING THROUGH SALES.—The financing of a forest management project required as a condition of a contract for a sale of forest products authorized by subsection (a) shall be accomplished by including in the contract a provision that offsets the costs incurred by the purchaser in carrying out the required forest management project, by reducing the amount required to be paid to the United States by the purchaser for forest products sold under the contract.

(2) AMOUNT OF REDUCTION OF PAYMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amount of the reduction referred to in paragraph (1) shall be equal to the costs referred to in paragraph (1), minus any assistance to the purchaser under paragraph (3) used to pay those costs.

(B) LIMITATION.—The amount of the reduction for a sale may not exceed the portion of the total amount otherwise required to be paid to the United States by the purchaser (before the reduction) that remains after deducting from that total amount the amounts necessary to make distributions and payments under the provisions of law referred to in paragraph (1) or (2) of subsection (d) that apply to that total amount.

(3) USE OF APPROPRIATED FUNDS.—The Secretary concerned may use appropriated funds to assist the purchaser to undertake a forest management project required as a condition of a contract authorized by subsection (a) if such funds are provided from the resource function or functions that directly benefit from the performance of the project and are available from the annual appropriation for such function or functions during the fiscal year in which the sale is offered. The amount of assistance to be provided for each forest management project shall be included in the prospectus, and published in the advertisement, for the sale.

(c) DETERMINATION OF FOREST MANAGEMENT OFFSETS.—Prior to the advertisement of a sale authorized by subsection (a) and subject to section 915(b), the Secretary concerned shall determine the offsetting cost (under subsection (b)(1)) of each forest management project to be required as a condition of the sale contract. A description of the forest management project, and the cost of the project to be offset against the purchaser's payment for forest products in the sale, shall be included in the prospectus, and published in the advertisement, for the sale.

(d) TREATMENT OF FOREST MANAGEMENT PROJECT OFFSETS AS MONEYS RECEIVED.—

(1) BUREAU OF LAND MANAGEMENT LANDS.—In the case of Federal lands described in section 903(1)(A), the amount of any reduction under subsection (b)(1) of the amount required to be paid by a purchaser in a sale authorized by subsection (a) shall be considered to be money received, for purposes of title II of the Act of August 28, 1937 (50 Stat. 875; 43 U.S.C. 1181f), the first section of the Act of May 24, 1939 (53 Stat. 753; 43 U.S.C. 1181f–1), or other applicable law concerning the distribution of receipts from the sale of forest products on such lands.

(2) FOREST SYSTEM LANDS.—In the case of Federal lands described in section 903(1)(B), the amount of any reduction under subsection (b)(1) of the amount required to be paid by a purchaser in a sale authorized by subsection (a)—

(A) shall be considered to be money received, for purposes of the sixth paragraph under the heading "FOREST SERVICE" in the Act of May 23, 1908 (35 Stat. 260; 16 U.S.C. 500), and section 13 of the Act of March 1, 1911 (36 Stat. 963; commonly known as the Weeks Act; 16 U.S.C. 500); and

(B) shall not be considered to be money received, for purposes of the fourteenth paragraph under the heading "FOREST SERVICE" of the Act of March 4, 1913 (37 Stat. 843; 16 U.S.C. 501).

(e) LIMITATION ON AMOUNT OF OFFSETS.—The total amount by which purchase payments are reduced under subsection (b)(1) each fiscal year—

(1) under contracts awarded by the Secretary of Agriculture, may not exceed $40,000,000; and

(2) under contracts awarded by the Secretary of the Interior, may not exceed $10,000,000.

SEC. 913. MONITORING REQUIREMENTS.

The Secretary concerned shall monitor the preparation and offering of contracts, and the performance of forest management projects, pursuant to section 912 to determine the effectiveness of such contracts and forest management projects in achieving the purpose of this title.

SEC. 914. REPORTING REQUIREMENTS.

(a) ANNUAL REPORT.—Not later than 90 days after the end of each full fiscal year in which contracts are entered into under section 912, the Secretary concerned shall submit to the congressional committees a report, which shall provide for the Federal lands within the jurisdiction of the Secretary concerned the following:

(1) A list of the wildland/urban interface areas identified on or before September 30 of the previous fiscal year pursuant to section 911.

(2) A summary of all contracts entered into, and all forest management projects performed, pursuant to section 912 during the preceding fiscal year;

(3) A discussion of any delays in excess of three months encountered during the preceding fiscal year, and likely to occur in the fiscal year in which the report is submitted, in preparing and offering the sales, and in performing the forest management projects, pursuant to section 912.

(4) The results of the monitoring required by section 913 of the contracts authorized, and the forest management projects performed, pursuant to section 912.

(5) Any anticipated problems in the implementation of this subtitle.

(b) FOUR YEAR REPORT.—The fourth report prepared by the Secretary concerned under subsection (a) shall contain, in addition to the matters required by subsection (a), the following:

(1) An assessment by the Secretary concerned regarding whether the contracting authority provided in section 912 should be reauthorized beyond the period specified in section 915(a).

(2) If reauthorization is warranted, such recommendations as the Secretary concerned considers appropriate regarding changes in such authority to better achieve the purpose of this title.

SEC. 915. SPECIAL FUNDS.

(a) ESTABLISHMENT AND INITIAL FUNDING.—Notwithstanding any other provision of law, not later than 30 days after the date of enactment of this Act—

(1) the Secretary of Agriculture and the Secretary of the Interior shall each establish and maintain a special fund which shall be available, without further appropriation, for the purposes of planning, offering, and managing sales of forest products referred to in section 912(a)(1);

(2) the Secretary of Agriculture shall transfer, from amounts available to such Secretary for reduction of wildland fire hazardous fuels for the fiscal year in which this Act is enacted and each of the 3 following fiscal years, $10,000,000 to the fund established by the Secretary of Agriculture pursuant to paragraph (1); and

(3) the Secretary of the Interior shall transfer, from amounts available to such Secretary for reduction of hazardous fuels for the fiscal year in which this Act is enacted, $10,000,000 to the fund established by the Secretary of the Interior pursuant to paragraph (1).

(b) REPLENISHMENT OF FUNDS.—Each fund established pursuant to subsection (a) shall receive all of the receipts from each sale of forest products referred to in section 912(a)(1) from Federal lands within the jurisdiction of the Secretary who established such fund, minus the amount required to be distributed under the provisions of law referred to in paragraph (1) or (2), as applicable, of section 912(d).

(c) TERMINATION.—

(1) IN GENERAL.—Each Secretary concerned shall terminate the fund established by such Secretary pursuant to subsection (a) at the expiration of the last day of the fifth full fiscal year occurring after the date of enactment of this Act.

(2) TREATMENT OF BALANCE AND FUTURE RECEIPTS.—Any moneys remaining in a fund established pursuant to subsection (a)(1) upon the expiration of the day referred to in paragraph (1), and any receipts after that day from sales of forest products under section 912(a)(1)—

(A) shall be available to the Secretary of Agriculture for reduction of wildland fire hazardous fuels, in the case of moneys remaining in the fund established by the Secretary of Agriculture and receipts for forest products from Federal lands within the jurisdiction of such Secretary; and

(B) shall be available to the Secretary of the Interior for the reduction of hazardous fuels, in the case of moneys remaining in the fund established by the Secretary of the Interior and receipts for forest products from Federal lands within the jurisdiction of such Secretary.

SEC. 916. TERMINATION OF AUTHORITY.

(a) TERMINATION DATE.—The authority of the Secretary concerned to offer sales of forest products pursuant to section 912, and to require the purchasers of such products to undertake forest management projects as a condition of such sales, shall terminate at the end of the five-fiscal year beginning on the first October 1st occurring after the date of the enactment of this Act.

(b) Effect on Existing Sales.—Any contract for a sale of forest products pursuant to section 912 entered into before the end of the period specified in subsection (a), and still in effect at the end of such period, shall remain in effect after the end of such period pursuant to the terms of the contract.

Subtitle B—Miscellaneous Provisions

SEC. 921. REGULATIONS.

Not later than 180 days after the date of the enactment of this Act, the Secretary concerned shall prescribe such regulations as are necessary and appropriate to implement this title.

SEC. 922. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each of the first five fiscal years beginning after the date of the enactment of this Act such sums as may be necessary to carry out this title.

TITLE X—MISCELLANEOUS PROVISIONS

SEC. 1001. AUTHORITY TO ESTABLISH MAHATMA GANDHI MEMORIAL.

(a) In General.—The Government of India may establish a memorial to honor Mahatma Gandhi on the Federal land in the District of Columbia.

(b) Cooperative Agreements.—The Secretary of the Interior or any other head of a Federal agency may enter into cooperative agreements with the Government of India to maintain features associated with the memorial.

(c) Compliance With Standards for Commemorative Works.—The establishment of the memorial shall be in accordance with the Commemorative Works Act (40 U.S.C. 1001 et seq.), except that sections 2(c) and 6(b) of that Act shall not apply with respect to the memorial.

(d) Limitation on Payment of Expenses.—The Government of the United States shall not pay any expense of the establishment of the memorial or its maintenance.

SEC. 1002. ESTABLISHMENT OF THE NATIONAL CAVE AND KARST RESEARCH INSTITUTE IN NEW MEXICO.

(a) Purposes.—The purposes of this section are—

(1) to further the science of speleology;

(2) to centralize and standardize speleological information;

(3) to foster interdisciplinary cooperation in cave and karst research programs;

(4) to promote public education;

(5) to promote national and international cooperation in protecting the environment for the benefit of cave and karst landforms; and

(6) to promote and develop environmentally sound and sustainable resource management practices.

(b) Establishment of the Institute.—

(1) In general.—The Secretary of the Interior (referred to in this section as the "Secretary"), acting through the Director of the National Park Service, shall establish the National Cave and Karst Research Institute (referred to in this section as the "Institute").

(2) Purposes.—The Institute shall, to the extent practicable, further the purposes of this section.

(3) Location.—The Institute shall be located in the vicinity of Carlsbad Caverns National Park, in the State of New Mexico. The Institute shall not be located inside the boundaries of Carlsbad Caverns National Park.

(c) Administration of the Institute.—

(1) Management.—The Institute shall be jointly administered by the National Park Service and a public or private agency, organization, or institution, as determined by the Secretary.

(2) Guidelines.—The Institute shall be operated and managed in accordance with the study prepared by the National Park Service pursuant to section 203 of Public Law 101–578 (16 U.S.C. 4310 note).

(3) Contracts and cooperative agreements.—The Secretary may enter into a contract or cooperative agreement with a public or private agency, organization, or institution to carry out this section.

(4) Facility.—

(A) Leasing or acquiring a facility.—The Secretary may lease or acquire a facility for the Institute.

(B) Construction of a facility.—If the Secretary determines that a suitable facility is not available for a lease or acquisition under subparagraph (A), the Secretary may construct a facility for the Institute.

(5) Acceptance of grants and transfers.—To carry out this section, the Secretary may accept—

(A) a grant or donation from a private person; or

(B) a transfer of funds from another Federal agency.

(d) Funding.—

(1) Matching funds.—The Secretary may spend only such amount of Federal funds to carry out this section as is matched by an equal amount of funds from non-Federal sources.

(2) Authorization of appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 1003. GUADALUPE-HIDALGO TREATY LAND CLAIMS.

(a) Short Title.—This section may be cited as the "Guadalupe-Hidalgo Treaty Land Claims Equity Act of 1998".

(b) Definitions and Findings.—

(1) Definitions.—For purpose of this section:

(A) Commission.—The term "Commission" means the Guadalupe-Hidalgo Treaty Land Claims Commission established under subsection (c).

(B) Treaty of guadalupe-hidalgo.—The term "Treaty of Guadalupe-Hidalgo" means the treaty of Peace, Friendship, Limits, and Settlement (Treaty of Guadalupe Hidalgo), between the United States and the Republic of Mexico, signed February 2, 1848 (TS 207: 9 Bevans 791).

(C) Eligible descendant.—The term "eligible descendant" means a descendant of a person who—

(i) was a Mexican citizen before the Treaty of Guadalupe Hidalgo;

(ii) was a member of a community land grant; and

(iii) became a United States citizen within ten years after the effective date of the Treaty of Guadalupe-Hidalgo, May 30, 1848, pursuant to the terms of the Treaty.

(D) Community land grant.—The term "community land grant" means a village, town, settlement, or pueblo consisting of land held in common (accompanied by lesser private allotments) by three or more families under a grant from the King of Spain (or his representative) before the effective date of the Treaty of Cordova, August 24, 1821, or from the authorities of the Republic of Mexico before May 30, 1848, in what became the State of New Mexico, regardless of the original character of the grant.

(E) Reconstituted.—The term "reconstituted", with regard to a valid community land grant, means restoration to full status as a municipality with rights properly belonging to a municipality under State law and the right of local self-government.

(2) Findings.—Congress finds the following:

(A) New Mexico has a unique history regarding the acquisition of ownership of land as a result of the substantial number of Spanish and Mexican land grants that were an integral part of the colonization and growth of New Mexico before the United States acquired the area in the Treaty of Guadalupe-Hidalgo.

(B) Various provisions of the Treaty of Guadalupe-Hidalgo have not yet been fully implemented in the spirit of article VI, section 2, of the Constitution of the United States.

(C) Serious questions regarding the prior ownership of lands in the State of New Mexico, particularly certain public lands, still exist.

(D) Congressionally established land claim commissions have been used in the past to successfully examine disputed land possession questions.

(c) Establishment and Membership of Commission.

(1) Establishment.—There is established a commission to be known as the "Guadalupe-Hidalgo Treaty Land Claims Commission".

(2) Number and Appointment of Members.—The Commission shall be composed of five members appointed by the President, by and with the advice and consent of the Senate. At least two of the members of the Commission shall be selected from among persons who are eligible descendants. All members shall demonstrate knowledge and expertise about the history and law associated with the New Mexico land grants.

(3) Terms.—Each member shall be appointed for the life of the Commission. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(4) Compensation.—Members shall each be entitled to receive the daily equivalent of level V of the Executive Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission.

(d) International Agreements for Cooperation in the Procurement of Relevant Documents.—

(1) Findings.—Congress recognizes that—

(A) the availability of documents concerning community land grants in the State of New Mexico in the United States is limited; and

(B) a fair and equitable evaluation of the community land grants will depend upon obtaining a comprehensive compilation of the relevant documents available.

(2) Bilateral agreements.—The Secretary of State is authorized to negotiate bilateral agreements with the Governments of Mexico and Spain to obtain their full cooperation with the Commission so that the Commission will have access to certified copies of all relevant documents in those countries relating to community land grants in the State of New Mexico.

(e) Development of Code of Land Grant Claims Procedures.—

(1) Development of procedures.—Not later than one year after the date on which the second bilateral agreement described in subsection (d) is concluded, the Commission shall develop workable and equitable procedures, in clear and concise form, for land grant evaluations, including but not limited to—

(A) a criteria for the Commission to use during its evaluation of what constituted a legal community land grant under Mexican and Spanish law;

(B) the scope of admissible evidence;

(C) appropriate presumptions, if any, regarding previous adjudications made by the Surveyor General and the Court of Private Land Claims, and other court decisions involving the Treaty;

(D) a set of procedural rules setting forth the burden of proof that the Commission will use in determining the validity of community land grants;

(E) an outline of investigative services the Commission proposes to make available to land grant claimants;

(F) safeguards, acceptable to title insurance companies, to ensure that private property owners will not be affected, either with the threat of losing possession to their property or any impairment to the legal, equitable or clear title to their property by the work of the Commission;

(G) safeguards, acceptable to the New Mexico State Engineer, that clearly protect and do not in any way affect the water rights of any person or entity;

(H) safeguards, acceptable to the various Native American Tribes and Pueblos, that clearly protect the status quo regarding existing Indian Lands;

(I) procedures, acceptable to the various Native American Tribes and Pueblos, that—

(i) provide them with access to sacred sites that may eventually be adjudicated as community land grants, and that may become part of any reconstituted community land grant; and

(ii) require that any such sites be identified by the various Native American Tribes and Pueblos during the development of the Code of Land Grant Claims Procedures for the Commission;

(J) an outline of the rights and responsibilities of community land grantees if a community land grant is reconstituted; and

(K) any other items the Commission deems appropriate and necessary.

(2) REVIEW BY CONGRESSIONAL RESOURCE COMMITTEES.—Prior to beginning the examination of specific community land claims, the Commission shall submit the Code of Land Claims Procedure to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives. The Committees shall have ninety days to hold hearings and examine the Code. The Commission may not commence evaluations of specific community land claims earlier than the 90 days after the date of submission of the Code under this subsection.

(f) EXAMINATION OF LAND CLAIMS LOCATED IN NEW MEXICO.—

(1) SUBMISSION OF NEW MEXICO LAND CLAIMS PETITIONS.—Any three (or more) eligible descendants who are also descendants of the same community land grant may file with the Commission a petition on behalf of themselves and all other descendants of that community land grant seeking a determination of the validity of the land claim that is the basis for the petition.

(2) DEADLINE FOR SUBMISSION.—To be considered by the Commission a petition under paragraph (1) must be received by the Commission not later than five years after the date on which the Committee on Energy and Natural Resources and the Committee on Resources of the House of Representatives has completed the 90-day review period.

(3) ELEMENTS OF PETITION.—A petition under paragraph (1) shall be made under oath and shall contain the following:

(A) The names and addresses of the eligible descendants who are petitioners.

(B) The fact that the land involved in the petition was a community land grant at the time of the effective date of the Guadalupe-Hidalgo Treaty and that such land is now within the borders of the State of New Mexico.

(C) The extent of the community land grant, to the best of the knowledge of the petitioners, accompanied with a survey or, if a survey is not feasible for them, a sketch map thereof.

(D) The fact that the petitioners reside, or intend to settle upon, the community land grant.

(E) All facts known to petitioners concerning the community land grant, together with copies of all papers in regard thereto available to petitioners.

(4) PETITION HEARING.—At one or more designated locations in the State of New Mexico, the Commission shall hold a hearing upon each petition timely submitted under this subsection, at which hearing all persons having an interest in the land involved in the petition shall have the right, upon notice, to appear as a party.

(5) SUBPOENA POWER.—

(A) IN GENERAL.—The Commission may issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any petition submitted under paragraph (1). The attendance of witnesses and the production of evidence may be required from any place within the United States at any designated place of hearing within the State of New Mexico.

(B) FAILURE TO OBEY A SUBPOENA.—If a person refuses to obey a subpoena issued under subparagraph (A), the Commission may apply to a United States district court for an order requiring that person to appear before the Commission to give testimony, produce evidence, or both, relating to the matter under investigation. The application may be made within the judicial district where the hearing is conducted or where that person is found, resides, or transacts business. Any failure to obey the order of the court may be punished by the court as civil contempt.

(C) SERVICE OF SUBPOENAS.—The subpoenas of the Commission shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(D) SERVICE OF PROCESS.—All process of any court to which application is to be made under subparagraph (B) may be served in the judicial district in which the person required to be served resides or may be found.

(6) DECISION.—On the basis of the facts contained in a petition submitted under paragraph (1), and the hearing held with regard to the petition, the commission shall determine, consistent with the Code of Land Claims Procedure, the validity of the community land grant described in the petition. The decision shall include a recommendation of the Commission regarding whether the community land grant should be reconstituted and its lands restored.

(7) PROTECTION OF NON-FEDERAL PROPERTY.—The decision of the Commission regarding the validity of a petition submitted under paragraph (1) shall not affect the ownership, title or rights of owners of any non-Federal lands covered by the petition. Any recommendation of the Commission under paragraph (6) regarding whether a community land grant should be reconstituted and its lands restored may not address, affect or otherwise involve non-Federal lands. In the case of a valid petition covering lands held in non-Federal ownership, the Commission shall modify the recommendation under the paragraph (6) to recommend the substitution of comparable Federal lands in the State of New Mexico for the lands held in non-Federal ownership.

(g) COMMUNITY LAND GRANT STUDY CENTER.—To assist the Commission in the performance of its activities under subsection (d), the commission shall establish a Community Land Grant Study Center at the Onate Center in Alcalde, New Mexico. The Commission shall be charged with the responsibility of directing the research, study, and investigations necessary for the Commission to perform its duties under this section.

(h) MISCELLANEOUS POWERS OF COMMISSION.—

(1) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this section, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate, and may administer oaths or affirmations to witnesses appearing before it.

(2) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this subsection.

(3) GIFTS, BEQUESTS, AND DEVISES.—The Commission may accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Commission so long as it is determined that the acceptance of such gifts, bequests or devises do not constitute a conflict of interest.

(4) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as the other departments and agencies of the United States.

(5) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

(6) IMMUNITY.—The Commission is an agency of the United States for the purpose of part V of title 18, United States Code (relating to immunity of witnesses).

(i) REPORT.—As soon as practicable after reaching its last decision under subsection (f), the Commission shall submit to the President and the Congress a report containing each decision, including the recommendation of the Commission regarding whether certain community land grants should be reconstituted, so that the Congress may act upon the recommendations.

(j) TERMINATION.—The Commission shall terminate on 180 days after submitting its final report under subsection (i).

(k) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $1,000,000 for each of the fiscal years 1999 through 2007 for the purpose of carrying out the activities of the Commission and to establish and operate the Community Land Grant Study Center under subsection (g).

SEC. 1004. OTAY MOUNTAIN WILDERNESS.

(a) FINDINGS.—The Congress finds and declares the following:

(1) The public lands within the Otay Mountain region of California are one of the last remaining pristine locations in western San Diego County, California.

(2) This rugged mountain adjacent to the United States-Mexico border is internationally known for its diversity of unique and sensitive plants.

(3) This area plays a critical role in San Diego's multi-species conservation plan, a national model made for maintaining biodiversity.

(4) Due to its proximity to the international border, this area is the focus of important law enforcement and border interdiction efforts necessary to curtail illegal immigration and protect the area's wilderness values.

(5) The illegal immigration traffic, combined with the rugged topography, also presents unique fire management challenges for protecting lives and resources.

(b) DESIGNATION.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), certain public lands in the California Desert District of the Bureau of Land Management, California, comprising approximately 18,500 acres as generally depicted on a map entitled "Otay Mountain Wilderness" and dated May 7, 1998, are hereby designated as wilderness and therefore as a component of the National Wilderness Preservation System, which shall be known as the Otay Mountain Wilderness.

(c) MAP AND LEGAL DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, a map and a legal description for the Wilderness Area shall be filed by the Secretary with the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives. Such map and legal description shall have the same force and effect as if included in this Act, except that the Secretary, as appropriate, may correct clerical and typographical errors in such legal description and map. Such map and legal description for the Wilderness Area shall be on file and available for public inspection in the offices of the Director and California State Director, Bureau of Land Management, Department of the Interior.

(2) UNITED STATES-MEXICO BORDER.—In carrying out this subsection, the Secretary shall ensure that the southern boundary of the Wilderness Area is 100 feet north of the trail depicted on the map referred to in paragraph (1) and is at least 100 feet from the United States-Mexico international border.

(e) WILDERNESS REVIEW.—The Congress hereby finds and directs that all the public lands not designated wilderness within the boundaries of the Southern Otay Mountain Wilderness Study Area (CA-060-029) and the Western Otay Mountain Wilderness Study Area (CA-060-028) managed by the Bureau of Land Management and reported to the Congress in 1991, have been adequately studied for wilderness designation pursuant to section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782), and are no longer subject to the requirements contained in section 603(c) of that Act pertaining to the management of wilderness study areas in a manner that does not impair the suitability of such areas for preservation as wilderness.

(f) ADMINISTRATION OF WILDERNESS AREA.—

(1) IN GENERAL.—Subject to valid existing rights and to paragraph (2), the Wilderness Area shall be administered by the Secretary in accordance with the provisions of the Wilderness Act (16 U.S.C. 1131 et seq.), except that—

(A) any reference in such provisions to the effective date of the Wilderness Act is deemed to be a reference to the effective date of this Act; and

(B) any reference in such provisions to the Secretary of Agriculture is deemed to be a reference to the Secretary of the Interior.

(2) BORDER ENFORCEMENT, DRUG INTERDICTION, AND WILDLAND FIRE PROTECTION.—Because of the proximity of the Wilderness Area to the United States-Mexico international border, drug interdiction, border operations, and wildland fire management operations are common management actions throughout the area encompassing the Wilderness Area. This section recognizes the need to continue such management actions so long as such management actions are conducted in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) and are subject to such conditions as the Secretary considers appropriate.

(g) FURTHER ACQUISITIONS.—Any lands within the boundaries of the Wilderness Area that are acquired by the United States after the date of enactment of this Act shall become part of the Wilderness Area and shall be managed in accordance with all the provisions of this section and other laws applicable to such a wilderness.

(h) NO BUFFER ZONES.—The Congress does not intend for the designation of the Wilderness Area by this section to lead to the creation of protective perimeters or buffer zones around the Wilderness Area. The fact that nonwilderness activities or uses can be seen or heard from areas within the Wilderness Area shall not, of itself, preclude such activities or uses up to the boundary of the Wilderness Area.

(i) DEFINITIONS.—As used in this section:

(1) PUBLIC LANDS.—The term "public lands" has the same meaning as that term has in section 103(e) of the Federal Land Policy and Management Act of 1976.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(3) WILDERNESS AREA.—The term "Wilderness Area" means the Otay Mountain Wilderness designated by subsection (b).

SEC. 1005. ACQUISITION AND MANAGEMENT OF WILCOX RANCH, UTAH, FOR WILDLIFE HABITAT.

(a) FINDINGS.—Congress finds the following:

(1) The lands within the Wilcox Ranch in eastern Utah are prime habitat for wild turkeys, eagles, hawks, bears, cougars, elk, deer, bighorn sheep, and many other important species, and Range Creek within the Wilcox Ranch could become a blue ribbon trout stream.

(2) These lands also contain a great deal of undisturbed cultural and archeological resources, including ancient pottery, arrowheads, and rock homes constructed centuries ago.

(3) These lands, while comprising only approximately 3,800 acres, control access to over 75,000 acres of Federal lands under the jurisdiction of the Bureau of Land Management.

(4) Acquisition of the Wilcox Ranch would benefit the people of the United States by preserving and enhancing important wildlife habitat, ensuring access to lands of the Bureau of Land Management, and protecting priceless archeological and cultural resources.

(5) These lands, if acquired by the United States, can be managed by the Utah Division of Wildlife Resources at no additional expense to the Federal Government.

(b) ACQUISITION OF LANDS.—As soon as practicable, after the date of the enactment of this Act, the Secretary of the Interior shall acquire, through purchase, the Wilcox Ranch located in Emery County, in eastern Utah.

(c) FUNDS FOR PURCHASE.—The Secretary of the Interior is authorized to use not more than $5,000,000 from the land and water conservation fund established under section 2 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-5) for the purchase of the Wilcox Ranch under subsection (b).

(d) MANAGEMENT OF LANDS.—Upon payment by the State of Utah of one-half of the purchase price of the Wilcox Ranch to the United States, or transfer by the State of Utah of lands of the same such value to the United States, the Secretary of the Interior shall transfer to the State of Utah all right, title, and interest of the United States in and to those Wilcox Ranch lands acquired under subsection (b) for management by the State Division of Wildlife Resources for wildlife habitat and public access.

SEC. 1006. ACQUISITION OF MINERAL AND GEOTHERMAL INTERESTS WITHIN MOUNT ST. HELENS NATIONAL VOLCANIC MONUMENT.

(a) FINDINGS.—Congress finds the following:

(1) The Act entitled "An Act to designate the Mount St. Helens National Volcanic Monument in the State of Washington, and for other purposes", approved August 26, 1982 (96 Stat. 301; 16 U.S.C. 431 note), required the United States to acquire all land and interests in land in the Mount St. Helens National Volcanic Monument.

(2) The Act directed the Secretary of Agriculture to acquire the surface interests and the mineral and geothermal interests by separate exchanges and expressed the sense of Congress that the exchanges be completed by November 24, 1982, and August 26, 1983, respectively.

(3) The surface interests exchange was consummated timely, but the exchange of all mineral and geothermal interests has not yet been completed a decade and a half after the enactment of that Act.

(b) PURPOSE.—The purpose of this section is to facilitate and otherwise provide for the expeditious completion of the previously mandated Federal acquisition of private mineral and geothermal interests within the Mount St. Helens National Volcanic Monument.

(c) ACQUISITION.—Section 3 of the Act entitled "An Act to designate the Mount St. Helens National Volcanic Monument in the State of Washington, and for other purposes", approved August 26, 1982 (Public Law 97-243; 96 Stat. 302; 16 U.S.C. 431 note), is amended by adding at the end the following new subsections:

"(g) EXCHANGES FOR MINERAL AND GEOTHERMAL INTERESTS HELD BY CERTAIN COMPANIES.—

"(1) DEFINITION OF COMPANY.—In this subsection, the term 'company' means a company referred to in subsection (c) or its assigns or successors.

"(2) EXCHANGE REQUIRED.—Within 60 days after the date of enactment of this subsection, the Secretary of the Interior shall acquire by exchange the mineral and geothermal interests in the Monument of each company.

"(3) MONETARY CREDITS.—

"(A) ISSUANCE.—In exchange for all mineral and geothermal interests acquired by the Secretary of the Interior from each company under paragraph (2), the Secretary of the Interior shall issue to each such company monetary credits with a value of $2,100,000 that may be used for the payment of—

"(i) not more than 50 percent of the bonus or other payments made by successful bidders in any sales of mineral, oil, gas, or geothermal leases under the Mineral Leasing Act (30 U.S.C. 181 et seq.), the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), or the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) in the contiguous 48 States;

"(ii) not more than 10 percent of the bonus or other payments made by successful bidders in any sales of mineral, oil, gas, or geothermal leases in Alaska under the laws specified in clause (i);

"(iii) not more than 50 percent of any royalty, rental, or advance royalty payment made to the United States to maintain any mineral, oil or gas, or geothermal lease in the contiguous 48 States issued under the laws specified in clause (i); or

"(iv) not more than 10 percent of any royalty, rental, or advance royalty payment made to the United States to maintain any mineral, oil or gas, or geothermal lease in Alaska issued under the laws specified in clause (i).

"(B) VALUE OF CREDITS.—The total credits of $4,200,000 in value issued under subparagraph (A) are deemed to equal the fair market value of all mineral and geothermal interests to be conveyed by exchange under paragraph (2).

"(4) ACCEPTANCE OF CREDITS.—The Secretary of the Interior shall accept credits issued under paragraph (3)(A) in the same manner as cash for the payments described in such paragraph. The use of the credits shall be subject to the laws (including regulations) governing such payments, to the extent the laws are consistent with this subsection.

"(5) TREATMENT OF CREDITS FOR DISTRIBUTION TO STATES.—All amounts in the form of credits accepted by the Secretary of the Interior under paragraph (4) for the payments described in paragraph (3)(A) shall be considered to be money received for the purpose of section 35 of the Mineral Leasing Act (30 U.S.C. 191) and section 20 of the Geothermal Steam Act of 1970 (30 U.S.C. 1019).

"(6) EXCHANGE ACCOUNT.—

"(A) ESTABLISHMENT.—Notwithstanding any other provision of law, not later than 30 days after the completion of the exchange with a company required by paragraph (2), the Secretary of the Interior shall establish an exchange account for that company for the monetary credits issued to that company under paragraph (3). The account for a company shall be established with the Minerals Management Service of the Department of the Interior and have an initial balance of credits equal to $2,100,000.

"(B) USE OF CREDITS.—The credits in a company's account shall be available to the company for the purposes specified in paragraph (3)(A). The Secretary of the Interior shall adjust the balance of credits in the account to reflect credits accepted by the Secretary of the Interior pursuant to paragraph (4).

"(C) TRANSFER OR SALE OF CREDITS.—

"(i) TRANSFER OR SALE AUTHORIZED.—A company may transfer or sell any credits in the company's account to another person.

"(ii) USE OF TRANSFERRED CREDITS.—Credits transferred or sold under clause (i) may be used in accordance with this subsection only by a person that is qualified to bid on, or that holds, a mineral, oil, or gas lease under the Mineral Leasing Act (30 U.S.C. 181 et seq.), the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), or the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.).

"(iii) NOTIFICATION.—Within 30 days after the transfer or sale of any credits by a company, that company shall notify the Secretary of the Interior of the transfer or sale. The transfer or sale of any credit shall not be considered valid until the Secretary of the Interior has received the notification required under this clause.

"(D) TIME LIMIT ON USE OF CREDITS.—On the date that is 5 years after the date on which an account is created under subparagraph (A) for a company, the Secretary of the Interior shall terminate that company's account. Any credits that originated in the terminated account and have not been used as of the termination date, including any credits transferred or sold under subparagraph (C), shall become unusable.

"(7) TITLE TO INTERESTS.—On the date of the establishment of an exchange account for a company under paragraph (6)(A), title to any mineral and geothermal interests that are held by the company and are to be acquired by the Secretary of the Interior under paragraph (2) shall transfer to the United States.

"(h) OTHER MINERAL AND GEOTHERMAL INTERESTS.—Within 180 days after the date of the enactment of this subsection, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report—

"(1) identifying all remaining privately held mineral interests within the boundaries of the Monument referred to in section 1(a); and

"(2) setting forth a plan and a timetable by which the Secretary would propose to complete the acquisition of such interests.".

SEC. 1007. OPERATION AND MAINTENANCE OF CERTAIN WATER IMPOUNDMENT STRUCTURES IN THE EMIGRANT WILDERNESS, STANISLAUS NATIONAL FOREST, CALIFORNIA.

(a) AGREEMENT TO OPERATE AND MAINTAIN CERTAIN WATER IMPOUNDMENT STRUCTURES.—The Secretary of Agriculture shall enter into a cooperative agreement with a qualified non-Federal entity under which the entity shall assume the responsibility to operate and maintain all the following water impoundment structures within the boundaries of the Emigrant Wilderness in the Stanislaus National Forest, California:

(1) Horse Meadow enhancement structure.

(2) Red Can Lake level structure.

(3) Yellowhammer Lake level structure.

(4) Huckleberry Lake level structure.

(5) Long streamflow maintenance structure.

(6) Lower Buck streamflow maintenance structure.

(7) Leighton streamflow maintenance structure.

(8) High Emigrant streamflow maintenance structure.

(9) Emigrant Meadow streamflow maintenance structure.

(10) Middle Emigrant streamflow maintenance structure.

(11) Emigrant streamflow maintenance structure.

(12) Snow streamflow maintenance structure.

(13) Bigelow streamflow maintenance structure.

(b) RESPONSIBILITIES OF THE SECRETARY.—The Secretary shall—

(1) prepare a map identifying the location, size, and type of each water impoundment structure listed in subsection (a);

(2) share equally with the non-Federal entity the administrative cost of complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and all other applicable laws, except that the cost share of the non-Federal entity shall not exceed $5,000;

(3) prescribe terms and conditions of the cooperative agreement that sets forth the rights and obligations of the Secretary and the non-Federal entity, including, at a minimum, provisions that—

(A) require the non-Federal entity to conduct its operation and maintenance activities in accordance with a plan of operations approved by the Secretary;

(B) require approval by the Secretary of all operation and maintenance activities conducted by the non-Federal entity;

(C) require the Secretary to solicit public involvement during any environmental analysis under NEPA in accordance with the Forest Service NEPA procedures;

(D) require the non-Federal entity to comply with all applicable State and Federal environmental, public health, and safety requirements;

(E) establish monitoring standards; and

(F) establish enforcement standards, including provisions for termination for noncompliance with terms and conditions; and

(4) ensure that the non-Federal entity is in compliance with the terms and conditions of this section and the cooperative agreement.

(c) RESPONSIBILITIES OF THE NON-FEDERAL ENTITY.—

(1) IN GENERAL.—The non-Federal entity shall be responsible for carrying out its operation and maintenance activities on the structures listed in subsection (a) in conformance with this section and the cooperative agreement.

(2) OPERATION AND MAINTENANCE COSTS.—The non-Federal entity shall be responsible for the costs associated with the maintenance and operation of the structures listed in subsection (a).

(3) SAFETY REQUIREMENTS.—Maintenance referred to in paragraphs (1) and (2) includes any reconstruction or rehabilitation necessary to meet applicable State and Federal public health and safety requirements.

(d) FAILURE TO CONSUMMATE AN AGREEMENT.—The Secretary shall not be obligated to maintain any of the structures listed in subsection (a) if—

(1) within 365 days after the date of the enactment of this Act, the Secretary is unable to identify any qualified non-Federal entity that is willing to enter into a cooperative agreement regarding the operation and maintenance of the water impoundment structures listed in subsection (a), or

(2) within 365 days after the date of the termination of a cooperative agreement entered into under subsection (a), the Secretary is unable to identify any non-Federal entity qualified and willing to enter into a subsequent cooperative agreement regarding the operation and maintenance of the water impoundment structures listed in subsection (a).

(e) PROHIBITION OF MECHANIZED TRANSPORT AND MOTORIZED EQUIPMENT.—The use of mechanized transport and motorized equipment to operate and maintain the structures listed in section 1(a) is prohibited.

(f) DEFINITIONS.—In this section:

(1) NON-FEDERAL ENTITY.—The term "non-Federal entity" means a nonprofit organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)), any State or local government or political subdivision of such a government, or any private individual, organization, corporation, or other legal entity.

(2) NEPA.—The term "NEPA" means the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

SEC. 1008. EAST TEXAS BLOWDOWN-NEPA PARITY.

(a) IN GENERAL.—The Secretary of Agriculture or the Secretary of the Interior, as appropriate, shall request the Council on Environmental Quality to approve alternative arrangements under part 1506.11 of title 40, Code of Federal Regulations, authorizing removal of dead, downed, or severely rootsprung trees in areas described in subsection (b), that are similar to the alternative arrangements approved by the Council on Environmental Quality for National Forests and Grasslands in Texas, as set forth in a letter from the Chairman of the Council on Environmental Quality to the Deputy Chief of the National Forest System dated March 10, 1998.

(b) Areas Described.—The areas referred to in subsection (a) are the following:

(1) Approximately 20,000 acres of blowdown forest in the Routt National Forest, Colorado.

(2) Approximately 700 acres of blowdown forest in the Rio Grande National Forest, Colorado.

(3) Approximately 50,000 acres of bark beetle infested forest in the Dixie National Forest, Utah.

(4) Approximately 25,000 acres of insect and fuel-loading conditions on National Forest System lands in the Tahoe Basin, California.

(5) Approximately 28,000 acres of fire-damaged, dead, and dying trees in the Malheur National Forest, Oregon.

(6) Approximately 10,000 acres of gypsy moth infestation in the Allegheny National Forest, Pennsylvania.

(7) Approximately 5,000 acres of severely ice damaged forests in the White Mountain National Forest, New Hampshire, and the Green Mountain National Forest, Vermont.

(8) Approximately 10,000 acres of severe Mountain pine beetle damaged forests in the Panhandle National Forest, Nezperce National Forest, and Boise National Forest, Idaho.

(9) Approximately 10,000 acres of severely ice damaged forests in the Daniel Boone National Forest, Kentucky.

(10) Approximately 15,000 acres of fire-damaged, dead, and dying trees in the Osceola National Forest and Apalachica National Forest, Florida.

(c) Consideration of Requests.—Upon receipt of a request under subsection (a), the Council on Environmental Quality shall promptly consider and approve or disapprove the request.

(d) Regulations.—The Chairman of the Council on Environmental Quality shall, by not later than 180 days after the date of the enactment of this Act, issue regulations—

(1) governing the approval of alternative arrangements under part 1506.11 of title 40, Code of Federal Regulations, pursuant to requests under subsection (a); and

(2) establishing criteria under which those requests will be considered and approved or disapproved.

SEC. 1009. EXEMPTION FOR CERTAIN RIGHT-OF-WAY HOLDERS FROM STRICT LIABILITY FOR RECOVERY OF FIRE SUPPRESSION COSTS.

Section 504(h) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1764(h)) is amended by adding at the end the following:

"(3) Fire suppression costs.—In the regulations required under this subsection, the Secretary concerned may not impose liability without fault against any holder of a right-of-way granted, issued, or renewed under section 501(a)(4) to recover fire suppression costs incurred by the United States with respect to right-of-way.".

SEC. 1010. STUDY OF IMPROVED OUTDOOR RECREATIONAL ACCESS FOR PERSONS WITH DISABILITIES.

(a) Study Required.—The Secretary of Agriculture and the Secretary of the Interior shall jointly provide for the conduct of a study to consider ways to improve the access of persons with disabilities to outdoor recreational opportunities (such as fishing, hunting, shooting, trapping, wildlife viewing, hiking, boating, and camping) that are made available to the public on the Federal lands described in subsection (b).

(b) Covered Federal Lands.—The Federal lands referred to in subsection (a) are the following:

(1) National Forest System lands.

(2) Units of the National Park System.

(3) Areas in the National Wildlife Refuge System.

(4) Lands administered by the Bureau of Land Management.

(c) Performance by Independent Entity.—To conduct the study under this section, the Secretaries shall select an independent entity in the private sector that has demonstrated expertise in issues regarding improved access for persons with disabilities. The Secretaries shall consult with the National Council on Disability regarding the selection of the independent entity.

(d) Report on Study.—Not later than 18 months after the date of the enactment of this Act, the entity conducting the study shall submit to the Secretaries and the Congress a report that sets forth the results of the study.

SEC. 1011. COMMUNICATION SITE.

(a) In General.—The site located directly below Inspiration Point within the San Jacinto Ranger District of the San Bernardino National Forest, California, on which communications facilities are located on August 1, 1998, is hereby designated to be used for communication purposes by the persons who operate such communications facilities on such date and their successors or assigns until such time as such persons, successors, or assigns no longer require the use of such site and provide written notice to that effect to the Forest Service.

(b) Limitation.—Nothing in this subsection (a) shall be construed to—

(1) excuse such persons, successors, or assigns from complying with requirements of law or regulation that do not unreasonably or unduly restrict the continued use of such site;

(2) require the site to be made available to other persons for communications use or other purposes; and

(3) require dedication of the site for continued use for communications purposes after the notice referred to in subsection (a).

SEC. 1012. AMENDMENT OF THE OUTER CONTINENTAL SHELF LANDS ACT.

Section 8(k)(2)(B) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(k)(2)(B)) is amended by striking "an agency of the Federal Government" and inserting "a Federal, State, or local government agency".

SEC. 1013. LEASING OF CERTAIN RESERVED MINERAL INTERESTS.

(a) Application of Mineral Leasing Act.—Notwithstanding the provisions of section 4 of the 1964 Public Land Sale Act (P.L. 88–608, 78 Stat. 988), the Federal reserved mineral interests in lands conveyed under that Act by United States land patents No. 49–71–0059 and No. 49–71–0065 shall be subject to the operation of the Mineral Leasing Act (30 U.S.C. 181 et seq.).

(b) Entry.—Any person who acquires any lease under the Mineral Leasing Act for the interests referred to in subsection (a) may exercise the right to enter reserved to the United States and persons authorized by the United States in the patents conveying the lands described in subsection (a) by occupying so much of the surface thereof as may be required for all purposes reasonably incident to the exploration for, and extraction and removal of, the leased minerals by either of the following means:

(1) By securing the written consent or waiver of the patentee.

(2) In the absence of such consent or waiver, by posting a bond or other financial guarantee with the Secretary of the Interior in an amount sufficient to insure—

(A) the completion of reclamation pursuant to the Secretary's requirements under the Mineral Leasing Act, and

(B) the payment to the surface owner for—

(i) any damages to crops and tangible improvements of the surface owner that result from activities under the mineral lease, and

(ii) any permanent loss of income to the surface owner due to loss or impairment of grazing use, or of other uses of the land by the surface owner at the time of commencement of activities under the mineral lease.

(c) Lands Covered by Patent No. 49–71–0065.—In the case of the lands in United States patent No. 49–71–0065, the preceding provisions of this section take effect January 1, 1997.

SEC. 1014. OIL AND GAS WELLS IN WAYNE NATIONAL FOREST, OHIO.

(a) Authority.—The Secretary of the Interior may enter into noncompetitive oil and gas production and reclamation contracts in accordance with this section with operators of wells in the Wayne National Forest in the State of Ohio who meet the criteria of section 17(b)(3)(A) of the Act of February 25, 1920 (30 U.S.C. 226(b)(3)(A)) pursuant to private land mineral leases which were in effect on and after the date of the enactment of this section, subject to the same laws and regulations that applied to those private land mineral leases.

(b) Additional Drilling.—No contract under this section may authorize deeper completions or additional drilling.

(c) Bonding.—

(1) Waiver of Federal bonding.—Each contract under this section shall require the contractor to provide a Federal oil and gas bond to ensure complete and timely reclamation of the former lease tract in accordance with the regulations of the Bureau of Land Management and the Forest Service, unless the Secretary of the Interior accepts in lieu thereof assurances from the Ohio Department of Natural Resources, Division of Oil and Gas, that—

(A) the contractor has duly satisfied the bonding requirements of the State of Ohio; and following inspection of operator performance, the Ohio Department of Natural Resources is not opposed to such waiver of Federal bonding requirements;

(B) the United States of America is entitled to apply for and receive funding under the provision of section 1509.071 of the Ohio Revised Code so as to properly plug and restore oil and gas sites and lease tracts; and

(C) during the 2 years prior to the date on which the contract is entered into no less than 20 percent of Ohio State severance tax revenues has been allocated to the State of Ohio Orphan Well Fund.

(2) Continued compliance with 20 percent requirement.—In entering into any contract under this section, the Secretary of the Interior shall reserve the right to require the contractor to comply with all Federal oil and gas bonding requirements applicable to Federal oil and gas leases under the regulations of the Bureau of Land Management and the Forest Service whenever the Secretary finds that less than 20 percent of Ohio State

severance tax revenues has been allocated to the State of Ohio Orphan Well Fund.

SEC. 1015. MEMORIAL TO MR. BENJAMIN BANNEKER IN THE DISTRICT OF COLUMBIA.

(a) MEMORIAL AUTHORIZED.—The Washington Interdependence Council of the District of Columbia is authorized to establish a memorial in the District of Columbia to honor and commemorate the accomplishments of Mr. Benjamin Banneker.

(b) COMPLIANCE WITH STANDARDS FOR COMMEMORATIVE WORKS.—The establishment of the memorial shall be in accordance with the Commemorative Works Act (40 U.S.C. 1001 et seq.).

(c) PAYMENT OF EXPENSES.—The Washington Interdependence Council shall be solely responsible for acceptance of contributions for, and payment of the expenses of, the establishment of the memorial. No Federal funds may be used to pay any expense of the establishment of the memorial.

(d) DEPOSIT OF EXCESS FUNDS.—If, upon payment of all expenses of the establishment of the memorial (including the maintenance and preservation amount required under section 8(b) of the Commemorative Works Act (40 U.S.C. 1008(b))), or upon expiration of the authority for the memorial under section 10(b) of such Act (40 U.S.C. 1010(b)), there remains a balance of funds received for the establishment of the memorial, the Washington Interdependence Council shall transmit the amount of the balance to the Secretary of the Treasury for deposit in the account provided for in section 8(b)(1) of such Act (40 U.S.C. 1008(b)(1)).

SEC. 1016. PROTECTION OF SANCTITY OF CONTRACTS AND LEASES OF SURFACE PATENT HOLDERS WITH RESPECT TO COALBED METHANE GAS.

(a) IN GENERAL.—Subject to subsection (b), the United States shall recognize as not infringing upon any ownership rights of the United States to coalbed methane any—

(1) contract or lease covering any land that was conveyed by the United States under the Act entitled "An Act for the protection of surface rights of entrymen", approved March 3, 1909 (30 U.S.C. 81), or the Act entitled "An Act to provide for agricultural entries on coal lands", approved June 22, 1910 (30 U.S.C. 83 et seq.), that—

(A) was entered into by a person who has title to the land derived under those Acts, and

(B) conveys rights to explore for, extract, and sell coalbed methane from the land; or

(2) coalbed methane production from the land described in paragraph (1) by a person who has title to the land and who, on or before the date of enactment of this Act, has filed an application with the State oil and gas regulating agency for a permit to drill an oil and gas well to a completion target located in a coal formation.

(b) APPLICATION.—Subsection (a)—

(1) shall apply only to a valid contract or lease described in subsection (a) that is in effect on the date of enactment of this Act;

(2) shall not otherwise change the terms or conditions of, or affect the rights or obligations of any person under, such a contract or lease;

(3) shall apply only to land with respect to which the United States is the owner of coal reserved to the United States in a patent issued under the Act of March 3, 1909 (30 U.S.C. 81), or the Act of June 22, 1910 (30 U.S.C. 83 et seq.), the position of the United States as the owner of the coal not having passed to a third party by deed, patent, or other conveyance by the United States;

(4) shall not apply to any interest in coal or land conveyed, restored, or transferred by the United States to a federally recognized Indian tribe, including any conveyance, restoration, or transfer made pursuant to the Indian Reorganization Act, June 18, 1934 (c. 576, 48 Stat. 984, as amended); the Act of June 28, 1938 (c. 776, 52 Stat. 1209 as implemented by the order of September 14, 1938, 3 Fed. Reg. 1425); and including the area described in section 3 of Public Law 98-290; or any executive order;

(5) shall not be construed to constitute a waiver of any rights of the United States with respect to coalbed methane production that is not subject to subsection (a); and

(6) shall not limit the right of any person who entered into a contract or lease before the date of enactment of this Act, or enters into a contract or lease on or after the date of enactment of this Act, for coal owned by the United States, to mine and remove the coal and to release coalbed methane without liability to any person referred to in subsection (a)(1)(A) or (a)(2).

TITLE XI—AMENDMENTS AND TECHNICAL CORRECTIONS TO 1996 OMNIBUS PARKS ACT

SEC. 1100. REFERENCE TO OMNIBUS PARKS AND PUBLIC LANDS MANAGEMENT ACT OF 1996.

In this title, the term "Omnibus Parks Act" means the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104–333; 110 Stat. 4093).

Subtitle A—Technical Corrections to the Omnibus Parks Act

SEC. 1101. PRESIDIO OF SAN FRANCISCO.

Title I of division I of the Omnibus Parks Act (16 U.S.C. 460bb note) is amended as follows:

(1) In section 101(2) (110 Stat. 4097), by striking "the Presidio is" and inserting "the Presidio was".

(2) In section 103(b)(1) (110 Stat. 4099), by striking "other lands administrated by the Secretary." in the last sentence and inserting "other lands administered by the Secretary.".

(3) In section 105(a)(2) (110 Stat. 4104), by striking "in accordance with section 104(h) of this title." and inserting "in accordance with section 104(i) of this title.".

SEC. 1102. COLONIAL NATIONAL HISTORICAL PARK.

Section 211(d) of division I of the Omnibus Parks Act (110 Stat. 4110; 16 U.S.C. 81p) is amended by striking "depicted on the map dated August 1993, numbered 333/80031A," and inserting "depicted on the map dated August 1996, numbered 333/80031B,".

SEC. 1103. MERCED IRRIGATION DISTRICT.

Section 218(a) of division I of the Omnibus Parks Act (110 Stat. 4113) is amended by striking "this Act" and inserting "this section".

SEC. 1104. BIG THICKET NATIONAL PRESERVE.

Section 306(d) of division I of the Omnibus Parks Act (110 Stat. 4132; 16 U.S.C. 698 note) is amended by striking "until the earlier of the consummation of the exchange of July 1, 1998," and inserting "until the earlier of the consummation of the exchange or July 1, 1998,".

SEC. 1105. KENAI NATIVES ASSOCIATION LAND EXCHANGE.

Section 311 of division I of the Omnibus Parks Act (110 Stat. 4139) is amended as follows:

(1) In subsection (d)(2)(B)(ii), by striking "W, Seward Meridian" and inserting "W., Seward Meridian".

(2) In subsection (f)(1), by striking "to be know" and inserting "to be known".

SEC. 1106. LAMPREY WILD AND SCENIC RIVER.

(a) TECHNICAL CORRECTION.—Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C 1274(a)), as amended by section 405(a) of division I of the Omnibus Parks Act (110 Stat. 4149), is amended in the second sentence of the unnumbered paragraph relating to the Lamprey River, New Hampshire, by striking "through cooperation agreements" and inserting "through cooperative agreements".

(b) CROSS REFERENCE.—Section 405(b)(1) of division I of the Omnibus Parks Act (110 Stat. 4149; 16 U.S.C. 1274 note) is amended by striking "this Act" and inserting "the Wild and Scenic Rivers Act".

SEC. 1107. VANCOUVER NATIONAL HISTORIC RESERVE.

Section 502(a) of division I of the Omnibus Parks Act (110 Stat. 4154; 16 U.S.C. 461 note) is amended by striking "by the Vancouver Historical Assessment' published".

SEC. 1108. MEMORIAL TO MARTIN LUTHER KING, JR.

Section 508 of division I of the Omnibus Parks Act (110 Stat. 4157, 40 U.S.C. 1003 note) is amended as follows:

(1) In subsection (a), by striking "of 1986" and inserting "(40 U.S.C. 1001 et seq.)";.

(2) In subsection (b), by striking "the Act" and all that follows through "1986" and inserting "the Commemorative Works Act".

(3) In subsection (d), by striking "the Act referred to in section 4401(b))" and inserting "the Commemorative Works Act)".

SEC. 1109. ADVISORY COUNCIL ON HISTORIC PRESERVATION.

The first sentence of section 205(g) of the National Historic Preservation Act (16 U.S.C. 470m(g)), as amended by section 509(c) of division I of the Omnibus Parks Act (110 Stat. 4157), is amended by striking "for the purpose." and inserting "for that purpose.".

SEC. 1110. GREAT FALLS HISTORIC DISTRICT, NEW JERSEY.

Section 510(a)(1) of division I of the Omnibus Parks Act (110 Stat. 4158; 16 U.S.C. 461 note) is amended by striking "the contribution of our national heritage" and inserting "the contribution to our national heritage".

SEC. 1111. NEW BEDFORD WHALING NATIONAL HISTORICAL PARK.

(a) Section 511 of division I of the Omnibus Parks Act (110 Stat. .4159; 16 U.S.C. 410ddd) is amended as follows:

(1) In the section heading, by striking "**national historic landmark district**" and inserting "**whaling national historical park**".

(2) In subsection (c)—

(A) in paragraph (1), by striking "certain districts structures, and relics" and inserting "certain districts, structures, and relics"; and

(B) in paragraph (2)(A)(i), by striking "The area included with the New Bedford National Historic Landmark District, known as the" and inserting "The area included within the New Bedford Historic District (a National Landmark District), also known as the".

(3) In subsection (d)(2), by striking "to provide".

(4) By redesignating the second subsection (e) and subsection (f) as subsections (f) and (g), respectively.

(5) In subsection (g), as so redesignated—

(A) in paragraph (1), by striking "section 3(D)." and inserting "subsection (d)."; and

(B) in paragraph (2)(C), by striking "cooperative grants under subsection (d)(2)." and inserting "cooperative agreements under subsection (e)(2).".

SEC. 1112. NICODEMUS NATIONAL HISTORIC SITE.

Section 512(a)(1)(B) of division I of the Omnibus Parks Act (110 Stat. 4163; 16 U.S.C. 461

note) is amended by striking "Afican-Americans" and inserting "African-Americans".

SEC. 1113. UNALASKA.

Section 513(c) of division I of the Omnibus Parks Act (110 Stat. 4165; 16 U.S.C. 461 note) is amended by striking "whall be comprised" and inserting "shall be comprised".

SEC. 1114. REVOLUTIONARY WAR AND WAR OF 1812 HISTORIC PRESERVATION STUDY.

Section 603(d)(2) of division I of the Omnibus Parks Act (110 Stat. 4172; 16 U.S.C. 1a-5 note) is amended by striking "subsection (b) shall—" and inserting "paragraph (1) shall—".

SEC. 1115. SHENANDOAH VALLEY BATTLEFIELDS.

Section 606 of division I of the Omnibus Parks Act (110 Stat. 4175; 16 U.S.C. 461 note) is amended as follows:

(1) In subsection (d)—

(A) in paragraph (1), by striking "section 5." and inserting "subsection (e).";

(B) in paragraph (2), by striking "section 9." and inserting "subsection (h)."; and

(C) in paragraph (3), by striking "Commission plan approved by the Secretary under section 6." and inserting "plan developed and approved under subsection (f).".

(2) In subsection (f)(1), by striking "this Act" and inserting "this section".

(3) In subsection (g)—

(A) in paragraph (3), by striking "purposes of this Act" and inserting "purposes of this section"; and

(B) in paragraph (5), by striking "section 9." and inserting "subsection (i).".

(4) In subsection (h)(12), by striking "this Act" and inserting "this section".

SEC. 1116. WASHITA BATTLEFIELD.

Section 607 of division I of the Omnibus Parks Act (110 Stat. 4181; 16 U.S.C. 461 note) is amended—

(1) in subsection (c)(3), by striking "this Act" and inserting "this section"; and

(2) in subsection (d)(2), by striking "local land owners" and inserting "local landowners".

SEC. 1117. SKI AREA PERMIT RENTAL CHARGE.

Section 701 of division I of the Omnibus Parks Act (110 Stat 4182; 16 U.S.C. 497c) is amended as follows:

(1) In subsection (b)(2), by striking "1992" and inserting "1993".

(2) In subsection (b)(3), by striking "legislated by this Act" and inserting "required by this section".

(3) In subsection (d)—

(A) in the matter preceding paragraph (1), by striking "formula of this Act" and inserting "formula of this section"; and

(B) in paragraphs (1), (2), and (3) and in the sentence below paragraph (3)—

(i) by inserting "adjusted gross revenue for the" before "1994-1995 base year" each place it appears ; and

(ii) by striking "this Act" each place it appears and inserting "this section".

(4) In subsection (f), by inserting inside the parenthesis "offered for commercial or other promotional purposes" after "complimentary lift tickets".

(5) In subsection (i), by striking "this Act" and inserting "this section".

SEC. 1118. GLACIER BAY NATIONAL PARK.

Section 3 of Public Law 91-383 (16 U.S.C. 1a-2), as amended by section 703 of division I of the Omnibus Parks Act (110 Stat. 4185), is amended as follows:

(1) In subsection (g), by striking "bearing the cost of such exhibits and demonstrations;" and inserting "bearing the cost of such exhibits and demonstrations.".

(2) By capitalizing the first letter of the first word in each of the subsections (a) through (i).

(3) By striking the semicolon at the end of each of the subsections (a) through (f) and at the end of subsection (h) and inserting a period.

(4) In subsection (i), by striking "; and" and inserting a period.

(5) By conforming the margins of subsection (j) with the margins of the preceding subsections.

SEC. 1119. ROBERT J. LAGOMARSINO VISITOR CENTER.

Section 809(b) of division I of the Omnibus Parks Act (110 Stat. 4189; 16 U.S.C. 410ff note) is amended by striking "section 301" and inserting "subsection (a)".

SEC. 1120. NATIONAL PARK SERVICE ADMINISTRATIVE REFORM.

(a) Technical Corrections.—Section 814 of division I of the Omnibus Parks Act (110 Stat. 4190) is amended as follows:

(1) In subsection (a) (16 U.S.C. 17o note)—

(A) in paragraph (6), by striking "this Act" and inserting "this section";

(B) in paragraph (7)(B), by striking "Comptetitive leasing.—" and inserting "Competitive leasing.—";

(C) in paragraph (9), by striking "granted by statue" and inserting "granted by statute";

(D) in paragraph (11)(B)(ii), by striking "more cost effective" and inserting "more cost-effective";

(E) in paragraph (13), by striking "paragraph (13)," and inserting "paragraph (12),"; and

(F) in paragraph (18), by striking "under paragraph (7)(A)(i)(I), any lease under paragraph (11)(B), and any lease of seasonal quarters under subsection (l)," and inserting "under paragraph (7)(A) and any lease under paragraph (11)".

(2) In subsection (d)(2)(E), by striking "is amended".

(b) Change to Plural.—Section 7(c)(2) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-9(c)(2)), as added by section 814(b) of the Omnibus Parks Act (110 Stat. 4194), is amended as follows:

(1) In subparagraph (C), by striking "lands, water, and interest therein" and inserting "lands, waters, and interests therein".

(2) In subparagraph (F), by striking "lands, water, or interests therein, or a portion of whose lands, water, or interests therein," and inserting "lands, waters, or interests therein, or a portion of whose lands, waters, or interests therein,".

(c) Add Missing Word.—Section 2(b) of Public Law 101-337 (16 U.S.C. 19jj-1(b)), as amended by section 814(h)(3) of the Omnibus Parks Act (110 Stat. 4199), is amended by inserting "or" after "park system resource".

SEC. 1121. BLACKSTONE RIVER VALLEY NATIONAL HERITAGE CORRIDOR.

Section 6(d)(2) of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99-647; 16 U.S.C. 461 note), as added by section 901(c) of division I of the Omnibus Parks Act (110 Stat. 4202), is amended by striking "may be made in the approval plan" and inserting "may be made in the approved plan".

SEC. 1122. TALLGRASS PRAIRIE NATIONAL PRESERVE.

Subtitle A of title X of division I of the Omnibus Parks Act is amended as follows:

(1) In section 1002(a)(4)(A) (110 Stat. 4204; 16 U.S.C. 689u(a)(4)(A)), by striking "to purchase" and inserting "to acquire".

(2) In section 1004(b) (110 Stat. 4205; 16 U.S.C. 689u-2(b)), by striking "of June 3, 1994," and inserting "on June 3, 1994,".

(3) In section 1005 (110 Stat. 4205; 16 U.S.C. 689u-3)—

(A) in subsection (d)(1), by striking "this Act" and inserting "this subtitle"; and

(B) in subsection (g)(3)(A), by striking "the tall grass prairie" and inserting "the tallgrass prairie".

SEC. 1123. RECREATION LAKES.

(a) Technical Corrections.—Section 1021(a) of division I of the Omnibus Parks Act (110 Stat. 4210; 16 U.S.C. 460l-10e note) is amended as follows:

(1) By striking "manmade lakes" both places it appears and inserting "man-made lakes".

(2) By striking "for recreational opportunities at federally-managed" and inserting "for recreational opportunities at federally managed".

(b) Advisory Commission.—Section 13 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-10e), as added by section 1021(b) of the Omnibus Parks Act (110 Stat. 4210), is amended as follows:

(1) In subsection (b)(6), by striking "recreation related infrastructure." and inserting "recreation-related infrastructure.".

(2) In subsection (e)—

(A) by striking "water related recreation" in the first sentence and inserting "water-related recreation";

(B) in paragraph (2), by striking "at federally-managed lakes" and inserting "at federally managed lakes"; and

(C) by striking "manmade lakes" each place it appears and inserting "man-made lakes".

SEC. 1124. FOSSIL FOREST PROTECTION.

Section 103 of the San Juan Basin Wilderness Protection Act of 1984 (43 U.S.C. 178), as amended by section 1022(e) of the Omnibus Parks Act (110 Stat. 4213), is amended as follows:

(1) In subsections (b)(1) and (e)(1), by striking "Committee on Natural Resources" and inserting "Committee on Resources".

(2) In subsection (e)(1), by striking "this Act" and inserting "this subsection".

SEC. 1125. OPAL CREEK WILDERNESS AND SCENIC RECREATION AREA.

Section 1023(c)(1)(A) of division I of the Omnibus Parks Act (110 Stat. 4215; 16 U.S.C. 545b(c)(1)(A)) is amended by striking "of 1964".

SEC. 1126. BOSTON HARBOR ISLANDS NATIONAL RECREATION AREA.

Section 1029 of division I of the Omnibus Parks Act (110 Stat. 4232; 16 U.S.C. 460kkk) is amended as follows:

(1) In the section heading, by striking "**recreation area**" and inserting "**national recreation area**".

(2) In subsection (b)(1), by inserting quotation marks around the term "recreation area".

(3) In subsection (e)(3)(B), by striking "subsections (b) (3), (4), (5), (6), (7), (8), (9), and (10)." and inserting "subparagraphs (C), (D), (E), (F), (G), (H), (I), and (J) of paragraph (2).".

(4) In subsection (f)(2)(A)(i), by striking "profit sector roles" and inserting "private-sector roles".

(5) In subsection (g)(1), by striking "and revenue raising activities." and inserting "and revenue-raising activities.".

SEC. 1127. NATCHEZ NATIONAL HISTORICAL PARK.

Section 3(b)(1) of Public Law 100-479 (16 U.S.C. 410oo-2(b)(1)), as added by section 1030 of the Omnibus Parks Act (110 Stat. 4238), is amended by striking "and visitors' center" and inserting "and visitor center".

SEC. 1128. REGULATION OF FISHING IN CERTAIN WATERS OF ALASKA.

Section 1035 of division I of the Omnibus Parks Act (110 Stat. 2240) is amended as follows:

(1) In the section heading, by striking "**regulations**" and inserting "**regulation**".

(2) In subsection (c), by striking "this Act" and inserting "this section".

SEC. 1129. NATIONAL COAL HERITAGE AREA.

Title I of division II of the Omnibus Parks Act (16 U.S.C. 461 note) is amended as follows:

(1) In section 104(4) (110 Stat. 4244), by striking "history preservation" and inserting "historic preservation".

(2) In section 105 (110 Stat. 4244), by striking "paragraphs (2) and (5) of section 104" and inserting "paragraph (2) of section 104".

(3) In section 106(a)(3) (110 Stat. 4244), by striking "or Secretary" and inserting "or the Secretary".

SEC. 1130. TENNESSEE CIVIL WAR HERITAGE AREA.

Title II of division II of the Omnibus Parks Act (16 U.S.C. 461 note) is amended as follows:

(1) In section 201(b)(4) (110 Stat. 4245), by striking "and associated sites associated" and insert "and sites associated".

(2) In section 207(a) (110 Stat. 4248), by striking "as provide for" and inserting "as provided for".

SEC. 1131. AUGUSTA CANAL NATIONAL HERITAGE AREA.

Section 301(1) of division II of the Omnibus Parks Act (110 Stat. 4249; 16 U.S.C. 461 note) is amended by striking "National Historic Register of Historic Places," and inserting "National Register of Historic Places,".

SEC. 1132. ESSEX NATIONAL HERITAGE AREA.

Section 501(8) of division II of the Omnibus Parks Act (110 Stat. 4257; 16 U.S.C. 461 note) is amended by striking "a visitors' center" and inserting "a visitor center".

SEC. 1133. OHIO & ERIE CANAL NATIONAL HERITAGE CORRIDOR.

Title VIII of division II of the Omnibus Parks Act (16 U.S.C. 461 note) is amended as follows:

(1) In section 805(b)(2) (110 Stat. 4269), by striking "One individuals," and inserting "One individual,".

(2) In section 808(a)(3)(A) (110 Stat. 4279), by striking "from the Committee." and inserting "from the Committee,".

SEC. 1134. HUDSON RIVER VALLEY NATIONAL HERITAGE AREA.

Section 908(a)(1)(B) of division II of the Omnibus Parks Act (110 Stat. 4279; 16 U.S.C. 461 note) is amended by striking "on nonfederally owned property" and inserting "for non-federally owned property".

Subtitle B—Other Amendments to Omnibus Parks Act

SEC. 1151. BLACK REVOLUTIONARY WAR PATRIOTS MEMORIAL EXTENSION.

Section 506 of division I of the Omnibus Parks Act (40 U.S.C. 1003 note; 110 Stat. 4155) is amended by striking "October 27, 1998" and inserting "October 27, 2003".

SEC. 1152. LAND ACQUISITION, BOSTON HARBOR ISLANDS RECREATION AREA.

Section 1029(c) of division I of the Omnibus Parks Act (110 Stat. 4233; 16 U.S.C. 460kkk(c)) is amended by adding at the end the following new paragraph:

"(3) Land acquisition.—Notwithstanding subsection (h), the Secretary is authorized to acquire, in partnership with other entities, a less than fee interest in lands at Thompson Island within the recreation area. The Secretary may acquire the lands only by donation, purchase with donated or appropriated funds, or by exchange.".

TITLE XII—DUTCH JOHN FEDERAL PROPERTY DISPOSITION AND ASSISTANCE

SEC. 1201. SHORT TITLE.

This title may be cited as the "Dutch John Federal Property Disposition and Assistance Act of 1998".

SEC. 1202. FINDINGS AND PURPOSES.

(a) Findings.—Congress finds that—

(1)(A) Dutch John, Utah, was founded by the Secretary of the Interior in 1958 on Bureau of Reclamation land as a community to house personnel, administrative offices, and equipment for project construction and operation of the Flaming Gorge Dam and Reservoir as authorized by the Act of April 11, 1956 (70 Stat. 105, chapter 203; 43 U.S.C. 620 et seq.); and

(B) permanent structures (including houses, administrative offices, equipment storage and maintenance buildings, and other public buildings and facilities) were constructed and continue to be owned and maintained by the Secretary of the Interior;

(2)(A) Bureau of Reclamation land surrounding the Flaming Gorge Reservoir (including the Dutch John community) was included within the boundaries of the Flaming Gorge National Recreation Area in 1968 under Public Law 90–540 (16 U.S.C. 460v et seq.);

(B) Public Law 90–540 assigned responsibility for administration, protection, and development of the Flaming Gorge National Recreation Area to the Secretary of Agriculture and provided that lands and waters needed or used for the Colorado River Storage Project would continue to be administered by the Secretary of the Interior; and

(C) most structures within the Dutch John community (including the schools and public buildings within the community) occupy lands administered by the Secretary of Agriculture;

(3)(A) the Secretary of Agriculture and the Secretary of the Interior are unnecessarily burdened with the cost of continuing to provide basic services and facilities and building maintenance and with the administrative costs of operating the Dutch John community; and

(B) certain structures and lands are no longer essential to management of the Colorado River Storage Project or to management of the Flaming Gorge National Recreation Area;

(4)(A) residents of the community are interested in purchasing the homes they currently rent from the Secretary of the Interior and the land on which the homes are located;

(B) Daggett County, Utah, is interested in reducing the financial burden the County experiences in providing local government support services to a community that produces little direct tax revenue because of Federal ownership; and

(C) a withdrawal of the role of the Federal Government in providing basic direct community services to Dutch John would require local government to provide the services at a substantial cost;

(5)(A) residents of the Dutch John community are interested in self-government of the community; and

(B) with growing demands for additional commercial recreation services for visitors to the Flaming Gorge National Recreation Area and Ashley National Forest, there are opportunities for private economic development, but few private lands are available for the services; and

(6) the privatization and disposal to local government of certain lands in and surrounding Dutch John would be in the public interest.

(b) Purposes.—The purposes of this title are—

(1) to privatize certain lands in and surrounding Dutch John, Utah;

(2) to transfer jurisdiction of certain Federal property between the Secretary of Agriculture and the Secretary of the Interior;

(3) to improve the Flaming Gorge National Recreation Area;

(4) to dispose of certain residential units, public buildings, and facilities;

(5) to provide interim financial assistance to local government to defray the cost of providing basic governmental services;

(6) to achieve efficiencies in operation of the Flaming Gorge Dam and Reservoir and the Flaming Gorge National Recreation Area;

(7) to reduce long-term Federal outlays; and

(8) to serve the interests of the residents of Dutch John and Daggett County, Utah, and the general public.

SEC. 1203. DEFINITIONS.

In this title:

(1) Secretary of agriculture.—The term "Secretary of Agriculture" means the Secretary of Agriculture, acting through the Chief of the Forest Service.

(2) Secretary of the interior.—The term "Secretary of the Interior" means the Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation.

SEC. 1204. DISPOSITION OF CERTAIN LANDS AND PROPERTIES.

(a) In General.—Lands, structures, and community infrastructure facilities within or associated with Dutch John, Utah, that have been identified by the Secretary of Agriculture or the Secretary of the Interior as unnecessary for support of the agency of the respective Secretary shall be transferred or disposed of in accordance with this title.

(b) Land Description.—Except as provided in subsection (e), the Secretary of Agriculture and the Secretary of the Interior shall dispose of (in accordance with this title) approximately 2,450 acres within or associated with the Dutch John, Utah, community in the NW¼ NW¼, S½ NW¼, and S½ of Section 1, the S½ of Section 2, 10 acres more or less within the NE¼ SW¼ of Section 3, Sections 11 and 12, the N½ of Section 13, and the E½ NE¼ of Section 14 of Township 2 North, Range 22 East, Salt Lake Base and Meridian, that have been determined to be available for transfer by the Secretary of Agriculture and the Secretary of the Interior, respectively.

(c) Infrastructure Facilities and Land.—Except as provided in subsection (e), the Secretary of the Interior shall dispose of (in accordance with this title) community infrastructure facilities and land that have been determined to be available for transfer by the Secretary of the Interior, including the following:

(1) The fire station, sewer systems, sewage lagoons, water systems (except as provided in subsection (e)(3)), old post office, electrical and natural gas distribution systems, hospital building, streets, street lighting, alleys, sidewalks, parks, and community buildings located within or serving Dutch John, including fixtures, equipment, land, easements, rights-of-way, or other property primarily used for the operation, maintenance, replacement, or repair of a facility referred to in this paragraph.

(2) The Dutch John Airport, comprising approximately 25 acres, including runways,

roads, rights-of-way, and appurtenances to the Airport, subject to such monitoring and remedial action by the United States as is necessary.

(3) The lands on which are located the Dutch John public schools, which comprise approximately 10 acres.

(d) OTHER PROPERTIES AND FACILITIES.—The Secretary of Agriculture and the Secretary of the Interior shall dispose of (in accordance with this title) the other properties and facilities that have been determined to be available for transfer or disposal by the Secretary of Agriculture and the Secretary of the Interior, respectively, including the following:

(1) Certain residential units occupied on the date of enactment of this Act, as determined by the Secretary of the Interior.

(2) Certain residential units unoccupied on the date of enactment of this Act, as determined by the Secretary of the Interior.

(3) Lots within the Dutch John community that are occupied on the date of enactment of this Act by privately owned modular homes under lease agreements with the Secretary of the Interior.

(4) Unoccupied platted lots within the Dutch John community.

(5) The land, comprising approximately 3.8 acres, on which is located the Church of Jesus Christ of Latter Day Saints, within Block 9, of the Dutch John community.

(6) The lands for which special use permits, easements, or rights-of-way for commercial uses have been issued by the Forest Service.

(7) The lands on which are located the offices, 3 employee residences, warehouses, and facilities of the Utah Division of Wildlife Resources, as described in the survey required under section 1207, including yards and land defined by fences in existence on the date of enactment of this Act.

(8) The Dutch John landfill site, subject to such monitoring and remedial action by the United States as is necessary, with responsibility for monitoring and remediation being shared by the Secretary of Agriculture and the Secretary of the Interior proportionate to their historical use of the site.

(9) Such fixtures and furnishing in existence and in place on the date of enactment of this Act as are mutually determined by Daggett County, the Secretary of Agriculture, and the Secretary of the Interior to be necessary for the full use of properties or facilities disposed of under this title.

(10) Such other properties or facilities at Dutch John that the Secretary of Agriculture or the Secretary of the Interior determines are not necessary to achieve the mission of the respective Secretary and the disposal of which would be consistent with this title.

(e) RETAINED PROPERTIES.—Except to the extent the following properties are determined by the Secretary of Agriculture or the Secretary of the Interior to be available for disposal, the Secretary of Agriculture and the Secretary of the Interior shall retain for their respective use the following:

(1) All buildings and improvements located within the industrial complex of the Bureau of Reclamation, including the maintenance shop, 40 industrial garages, 2 warehouses, the equipment storage building, the flammable equipment storage building, the hazardous waste storage facility, and the property on which the buildings and improvements are located.

(2) 17 residences under the jurisdiction of the Secretary of the Interior and the Secretary of Agriculture, of which—

(A) 15 residences shall remain under the jurisdiction of the Secretary of the Interior; and

(B) 2 residences shall remain under the jurisdiction of the Secretary of Agriculture.

(3) The Dutch John water system raw water supply line and return line between the power plant and the water treatment plant, pumps and pumping equipment, and any appurtenances and rights-of-way to the line and other facilities, with the retained facilities to be operated and maintained by the United States with pumping costs and operation and maintenance costs of the pumps to be included as a cost to Daggett County in a water service contract.

(4) The heliport and associated real estate, consisting of approximately 20 acres, which shall remain under the jurisdiction of the Secretary of Agriculture.

(5) The Forest Service warehouse complex and associated real estate, consisting of approximately 2 acres, which shall remain under the jurisdiction of the Secretary of Agriculture.

(6) The Forest Service office complex and associated real estate, which shall remain under the jurisdiction of the Secretary of Agriculture.

(7) The United States Post Office, pursuant to Forest Service Special Use Permit No. 1073, which shall be transferred to the jurisdiction of the United States Postal Service pursuant to section 1206(d).

SEC. 1205. REVOCATION OF WITHDRAWALS.

In the case of lands and properties transferred under section 1204, effective on the date of transfer to the Secretary of the Interior (if applicable) or conveyance by quitclaim deed out of Federal ownership, authorization for each of the following withdrawals is revoked:

(1) The Public Water Reserve No. 16, Utah No. 7, dated March 9, 1914.

(2) The Secretary of the Interior Order dated October 20, 1952.

(3) The Secretary of the Interior Order dated July 2, 1956, No. 71676.

(4) The Flaming Gorge National Recreation Area, dated October 1, 1968, established under Public Law 90–540 (16 U.S.C. 460v et seq.), as to lands described in section 1204(b).

(5) The Dutch John Administrative Site, dated December 12, 1951 (PLO 769, U–0611).

SEC. 1206. TRANSFERS OF JURISDICTION.

(a) TRANSFERS FROM THE SECRETARY OF AGRICULTURE.—Except for properties retained under section 1204(e), all lands designated under section 1204 for disposal shall be—

(1) transferred from the jurisdiction of the Secretary of Agriculture to the Secretary of the Interior and, if appropriate, the United States Postal Service; and

(2) removed from inclusion in the Ashley National Forest and the Flaming Gorge National Recreation Area.

(b) EXCHANGE OF JURISDICTION BETWEEN INTERIOR AND AGRICULTURE.—

(1) TRANSFER TO SECRETARY OF AGRICULTURE.—The Secretary of the Interior shall transfer to the Secretary of Agriculture administrative jurisdiction over certain lands and interests in lands, consisting of approximately 2,167 acres in Duchesne and Wasatch Counties, Utah, which were acquired by the Secretary of the Interior for the Central Utah Project, as depicted on the following maps:

(A) The map entitled "The Dutch John Townsite, Ashley National Forest, Lower Stillwater", dated February 1997.

(B) The map entitled "The Dutch John Townsite, Ashley National Forest, Red Hollow (Diamond Properties)", dated February 1997.

(C) The map entitled "The Dutch John Townsite, Ashley National Forest, Coal Hollow (Current Creek Reservoir)", dated February 1997.

(2) TRANSFER TO SECRETARY OF THE INTERIOR.—The Secretary of Agriculture shall transfer to the Secretary of the Interior administrative jurisdiction over certain lands and interests in lands, consisting of approximately 2,450 acres in the Ashley National Forest, as depicted on the map entitled "Ashley National Forest, Lands to be Transferred to the Bureau of Reclamation (BOR) from the Forest Service", dated February 1997.

(3) EFFECT OF EXCHANGE.—

(A) NATIONAL FORESTS.—The lands and interests in land transferred to the Secretary of Agriculture under paragraph (1) shall become part of the Ashley or Uinta National Forest, as appropriate. The boundaries of each of the National Forests are hereby adjusted as appropriate to reflect the transfers of administrative jurisdiction.

(B) MANAGEMENT.—The Secretary of Agriculture shall manage the lands and interests in land transferred to the Secretary of Agriculture under paragraph (1) in accordance with the Act of March 1, 1911 (commonly known as the "Weeks Law") (36 Stat. 962, chapter 186; 16 U.S.C. 515 et seq.), and other laws (including rules and regulations) applicable to the National Forest System.

(C) WILDLIFE MITIGATION.—As of the date of the transfer under paragraph (1), the wildlife mitigation requirements of section 8 of the Act of April 11, 1956 (43 U.S.C. 620g), shall be deemed to be met.

(D) ADJUSTMENT OF BOUNDARIES.—This paragraph does not limit the authority of the Secretary of Agriculture to adjust the boundaries of the Ashley or Uinta National Forest pursuant to section 11 of the Act of March 1, 1911 (commonly known as the "Weeks Law") (36 Stat. 963, chapter 186; 16 U.S.C. 521).

(4) LAND AND WATER CONSERVATION FUND.—For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–9), the boundaries of the Ashley and Uinta National Forests, as adjusted under this section, shall be considered to be the boundaries of the Forests as of January 1, 1965.

(c) FEDERAL IMPROVEMENTS.—The Secretary of the Interior shall transfer to the Secretary of Agriculture jurisdiction over Federal improvements on the lands transferred to the Secretary of Agriculture under this section.

(d) TRANSFER TO UNITED STATES POSTAL SERVICE.—The Secretary of Agriculture shall transfer to the United States Postal Service administrative jurisdiction over certain lands and interests in land subject to Forest Service Special Use Permit No. 1073, containing approximately 0.34 acres.

(e) WITHDRAWALS.—Notwithstanding subsection (a), lands retained by the Federal Government under this title shall continue to be withdrawn from mineral entry under the United States mining laws.

SEC. 1207. SURVEYS.

The Secretary of the Interior shall survey or resurvey all or portions of the Dutch John community as necessary—

(1) to accurately describe parcels identified under this title for transfer among agencies, for Federal disposal, or for retention by the United States; and

(2) to facilitate future recordation of title.

SEC. 1208. PLANNING.

(a) Responsibility.—In cooperation with the residents of Dutch John, the Secretary of Agriculture, and the Secretary of the Interior, Daggett County, Utah, shall be responsible for developing a land use plan that is consistent with maintenance of the values of the land that is adjacent to land that remains under the jurisdiction of the Secretary of Agriculture or Secretary of the Interior under this title.

(b) Cooperation.—The Secretary of Agriculture and the Secretary of the Interior shall cooperate with Daggett County in ensuring that disposal processes are consistent with the land use plan developed under subsection (a) and with this title.

SEC. 1209. APPRAISALS.

(a) Requirements.—

(1) In general.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior shall conduct appraisals to determine the fair market value of properties designated for disposal under paragraphs (1), (2), (3), (5), and (7) of section 1204(d).

(2) Unoccupied platted lots.—Not later than 90 days after the date of receipt by the Secretary of the Interior from an eligible purchaser of a written notice of intent to purchase an unoccupied platted lot referred to in section 1204(d)(4), the Secretary of the Interior shall conduct an appraisal of the lot.

(3) Special use permits.—

(A) In general.—Not later than 90 days after the date of receipt by the Secretary of the Interior from a permit holder of a written notice of intent to purchase a property described in section 1210(g), the Secretary of the Interior shall conduct an appraisal of the property.

(B) Improvements and alternative land.—An appraisal to carry out subparagraph (A) may include an appraisal of the value of permit holder improvements and alternative land in order to conduct an in-lieu land sale.

(4) Occupied parcels.—In the case of an occupied parcel, an appraisal under this subsection shall include an appraisal of the full fee value of the occupied lot or land parcel and the value of residences, structures, facilities, and existing, in-place federally owned fixtures and furnishings necessary for full use of the property.

(5) Unoccupied parcels.—In the case of an unoccupied parcel, an appraisal under this subsection shall consider potential future uses of the parcel that are consistent with the land use plan developed under section 1208(a) (including the land use map of the plan) and with subsection (c).

(6) Funding.—Funds for appraisals conducted under this section shall be derived from the Upper Colorado River Basin Fund authorized by section 5 of the Act of April 11, 1956 (70 Stat. 107, chapter 203; 43 U.S.C. 620d).

(b) Reductions for Improvements.—An appraisal of a residence or a structure or facility leased for private use under this section shall deduct the contributory value of improvements made by the current occupant or lessee if the occupant or lessee provides reasonable evidence of expenditure of money or materials in making the improvements.

(c) Current Use.—An appraisal under this section shall consider the current use of a property (including the use of housing as a community residence) and avoid uncertain speculation as to potential future use.

(d) Review.—

(1) In general.—The Secretary of the Interior shall make an appraisal under this section available for review by a current occupant or lessee.

(2) Additional information or appeal.—

(A) In general.—The current occupant or lessee may provide additional information, or appeal the findings of the appraisal in writing, to the Upper Colorado Regional Director of the Bureau of Reclamation.

(B) Action by secretary of the interior.—The Secretary of the Interior—

(i) shall consider the additional information or appeal; and

(ii) may conduct a second appraisal if the Secretary determines that a second appraisal is necessary.

(e) Inspection.—The Secretary of the Interior shall provide opportunities for other qualified, interested purchasers to inspect completed appraisals under this section.

SEC. 1210. DISPOSAL OF PROPERTIES.

(a) Conveyances.—

(1) Patents.—The Secretary of the Interior shall dispose of properties identified for disposal under section 1204, other than properties retained under section 1204(e), without regard to law governing patents.

(2) Condition and land.—Except as otherwise provided in this title, conveyance of a building, structure, or facility under this title shall be in its current condition and shall include the land parcel on which the building, structure, or facility is situated.

(3) Fixtures and furnishings.—An existing and in-place fixture or furnishing necessary for the full use of a property or facility under this title shall be conveyed along with the property.

(4) Maintenance.—

(A) Before conveyance.—Before property is conveyed under this title, the Secretary of the Interior shall ensure reasonable and prudent maintenance and proper care of the property.

(B) After conveyance.—After property is conveyed to a recipient under this title, the recipient shall be responsible for—

(i) maintenance and proper care of the property; and

(ii) any contamination of the property.

(b) Infrastructure Facilities and Land.—Infrastructure facilities and land described in paragraphs (1) and (2) of section 1204(c) shall be conveyed, without consideration, to Daggett County, Utah.

(c) School.—The lands on which are located the Dutch John public schools described in section 1204(c)(3) shall be conveyed, without consideration, to the Daggett County School District.

(d) Utah Division of Wildlife Resources.—Lands on which are located the offices, 3 employee residences, warehouses, and facilities of the Utah Division of Wildlife Resources described in section 1204(d)(7) shall be conveyed, without consideration, to the Division.

(e) Residences and Lots.—

(1) In general.—

(A) Fair market value.—A residence and occupied residential lot to be disposed of under this title shall be sold for the appraised fair market value.

(B) Notice.—The Secretary of the Interior shall provide local general public notice, and written notice to lessees and to current occupants of residences and of occupied residential lots for disposal, of the intent to sell properties under this title.

(2) Purchase of residences or lots by lessees.—

(A) In general.—Subject to subparagraph (B), the Secretary of the Interior shall provide a holder of a current lease from the Secretary for a residence to be sold under paragraph (1) or (2) of section 1204(d) or for a residential lot occupied by a privately owned dwelling described in section 1204(d)(3) a period of 180 days beginning on the date of the written notice of the Secretary of intent of the Secretary to sell the residence or lot, to execute a contract with the Secretary of the Interior to purchase the residence or lot for the appraised fair market value.

(B) Notice of intent to purchase.—To obtain the protection of subparagraph (A), the lessee shall, during the 30-day period beginning on the date of receipt of the notice referred to in subparagraph (A), notify the Secretary in writing of the intent of the lessee to purchase the residence or lot.

(C) No notice or purchase contract.—If no written notification of intent to purchase is received by the Secretary in accordance with subparagraph (B) or if a purchase contract has not been executed in accordance with subparagraph (A), the residence or lot shall become available for purchase by other persons under paragraph (3).

(3) Purchase of residences or lots by other persons.—

(A) Eligibility.—If a residence or lot becomes available for purchase under paragraph (2)(C), the Secretary of the Interior shall make the residence or lot available for purchase by—

(i) a current authorized occupant of the residence to be sold;

(ii) a holder of a current reclamation lease for a residence within Dutch John;

(iii) an employee of the Bureau of Reclamation or the Forest Service who resides in Dutch John; or

(iv) a Federal or non-Federal employee in support of a Federal agency who resides in Dutch John.

(B) Priority.—

(i) Seniority.—Priority for purchase of properties available for purchase under this paragraph shall be by seniority of reclamation lease or residency in Dutch John.

(ii) Priority list.—The Secretary of the Interior shall compile a priority list of eligible potential purchasers that is based on the length of continuous residency in Dutch John or the length of a continuous residence lease issued by the Bureau of Reclamation in Dutch John, with the highest priority provided for purchasers with the longest continuous residency or lease.

(iii) Interruptions.—If a continuous residency or lease was interrupted, the Secretary shall consider only that most recent continuous residency or lease.

(iv) Other factors.—In preparing the priority list, the Secretary shall not consider a factor (including agency employment or position) other than the length of the current residency or lease.

(v) Disputes.—A potential purchaser may file a written appeal over a dispute involving eligibility or ranking on the priority list with the Secretary of the Interior, acting through the Upper Colorado Regional Director of the Bureau of Reclamation. The Secretary, acting through the Regional Director, shall consider the appeal and resolve the dispute.

(C) Notice.—The Secretary of the Interior shall provide general public notice and written notice by certified mail to eligible purchasers that specifies—

(i) properties available for purchase under this paragraph;

(ii) the appraised fair market value of the properties;

(iii) instructions for potential eligible purchasers; and

(iv) any purchase contract requirements.

(D) Notice of intent to purchase.—An eligible purchaser under this paragraph shall have a period of 90 days after receipt of written notification to submit to the Secretary of the Interior a written notice of intent to purchase a specific available property at the listed appraised fair market value.

(E) NOTICE OF ELIGIBILITY OF HIGHEST ELIGIBLE PURCHASER TO PURCHASE PROPERTY.—The Secretary of the Interior shall provide notice to the potential purchaser with the highest eligible purchaser priority for each property that the purchaser will have the first opportunity to execute a sales contract and purchase the property.

(F) AVAILABILITY TO OTHER PURCHASERS ON PRIORITY LIST.—If no purchase contract is executed for a property by the highest priority purchaser within the 180 days after receipt of notice under subparagraph (E), the Secretary of the Interior shall make the property available to other purchasers listed on the priority list.

(G) LIMITATION ON NUMBER OF PROPERTIES.—No household may purchase more than 1 residential property under this paragraph.

(4) RESIDUAL PROPERTY TO COUNTY.—If a residence or lot to be disposed of under this title is not purchased in accordance with paragraph (2) or (3) within 2 years after providing the first notice of intent to sell under paragraph (1)(B), the Secretary of the Interior shall convey the residence or lot to Daggett County without consideration.

(5) ADVISORY COMMITTEE.—The Secretary of the Interior, acting through the Upper Colorado Regional Director of the Bureau of Reclamation, may appoint a nonfunded Advisory Committee comprised of 1 representative from each of the Bureau of Reclamation, Daggett County, and the Dutch John community to review and provide advice to the Secretary on the resolution of disputes arising under this subsection and subsection (f).

(6) FINANCING.—The Secretary of the Interior shall provide advice to potential purchasers under this subsection and subsection (f) in obtaining appropriate and reasonable financing for the purchase of a residence or lot.

(f) UNOCCUPIED PLATTED LOTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary of the Interior shall make an unoccupied platted lot described in section 1204(d)(4) available for sale to eligible purchasers for the appraised fair market value of the lot.

(2) CONVEYANCE FOR PUBLIC PURPOSE.—On request from Daggett County, the Secretary of the Interior may convey directly to the County without consideration a lot referred to in paragraph (1) that will be used for a public use purpose that is consistent with the land use plan developed under section 1208(a).

(3) ADMINISTRATION.—The procedures established under subsection (e) shall apply to this subsection to the maximum extent practicable, as determined by the Secretary of the Interior.

(4) LAND-USE DESIGNATION.—For each lot sold under this subsection, the Secretary of the Interior shall include in the notice of intent to sell the lot provided under this subsection the land-use designation of the lot established under the land use plan developed under section 1208(a).

(5) LIMITATION ON NUMBER OF LOTS.—No household may purchase more than 1 residential lot under this subsection.

(6) LIMITATION ON PURCHASE OF ADDITIONAL LOTS.—No household purchasing an existing residence under this section may purchase an additional single home, residential lot.

(7) RESIDUAL LOTS TO COUNTY.—If a lot described in paragraph (1) is not purchased in accordance with paragraphs (1) through (6) within 2 years after providing the first notice of intent to sell under this subsection, the Secretary of the Interior shall convey the lot to Daggett County without consideration.

(g) SPECIAL USE PERMITS.—

(1) SALE.—Lands on which Forest Service special use permits are issued to holders numbered 4054 and 9303, Ashley National Forest, comprising approximately 15.3 acres and 1 acre, respectively, may be sold at appraised fair market value to the holder of the permit.

(2) ADMINISTRATION OF PERMITS.—On transfer of jurisdiction of the land to the Secretary of the Interior pursuant to section 1206, the Secretary of the Interior shall administer the permits under the terms and conditions of the permits.

(3) NOTICE OF AVAILABILITY FOR PURCHASE.—The Secretary of the Interior shall notify the respective permit holders in writing of the availability of the land for purchase.

(4) APPRAISALS.—The Secretary of the Interior shall not conduct an appraisal of the land unless the Secretary receives a written notice of intent to purchase the land within 2 years after providing notice under paragraph (3).

(5) ALTERNATIVE PARCELS.—On request by permit holder number 9303, the Secretary of the Interior, in consultation with Daggett County, may—

(A) consider sale of a parcel within the Daggett County community of similar size and appraised value in lieu of the land under permit on the date of enactment of this Act; and

(B) provide the holder credit toward the purchase or other negotiated compensation for the appraised value of improvements of the permittee to land under permit on the date of enactment of this Act.

(6) RESIDUAL LAND TO COUNTY.—If land described in paragraph (1) is not purchased in accordance with paragraphs (1) through (5) within 2 years after providing the first notice of intent to sell under this subsection, the Secretary of the Interior shall convey the land to Daggett County without consideration.

(h) TRANSFERS TO COUNTY.—Other land occupied by authorization of a special use permit, easement, or right-of-way to be disposed of under this title shall be transferred to Daggett County if the holder of the authorization and the County, prior to transfer of the lands to the County—

(1) agree to and execute a legal document that grants the holder the rights and privileges provided in the existing authorization; or

(2) enter into another arrangement that is mutually satisfactory to the holder and the County.

(i) CHURCH LAND.—

(1) IN GENERAL.—The Secretary of the Interior shall offer to sell land to be disposed of under this title on which is located an established church to the parent entity of the church at the appraised fair market value.

(2) NOTICE.—The Secretary of the Interior shall notify the church in writing of the availability of the land for purchase.

(3) RESIDUAL LAND TO COUNTY.—If land described in paragraph (1) is not purchased in accordance with paragraphs (1) and (2) within 2 years after providing the first notice of intent to sell under this subsection, the Secretary of the Interior shall convey the land to Daggett County without consideration.

(j) RESIDUAL PROPERTIES TO COUNTY.—The Secretary of the Interior shall convey all lands, buildings, or facilities designated for disposal under this title that are not conveyed in accordance with subsections (a) through (i) to Daggett County without consideration.

(k) WATER RIGHTS.—

(1) IN GENERAL.—Subject to the other provisions of this subsection, the Secretary of the Interior shall transfer all water rights the Secretary holds that are applicable to the Dutch John municipal water system to Daggett County.

(2) WATER SERVICE CONTRACT.—

(A) IN GENERAL.—Transfer of rights under paragraph (1) is contingent on Daggett County entering into a water service contract with the Secretary of the Interior covering payment for and delivery of untreated water to Daggett County pursuant to the Act of April 11, 1956 (70 Stat. 105, chapter 203; 43 U.S.C. 620 et seq.).

(B) DELIVERED WATER.—The contract shall require payment only for water actually delivered.

(3) EXISTING RIGHTS.—Existing rights for transfer to Daggett County under this subsection include—

(A) Utah Water Right 41–2942 (A30557, Cert. No. 5903) for 0.08 cubic feet per second from a water well; and

(B) Utah Water Right 41–3470 (A30414b), an unapproved application to segregate 12,000 acre-feet per year of water from the original approved Flaming Gorge water right (41–2963) for municipal use in the town of Dutch John and surrounding areas.

(4) CULINARY WATER SUPPLIES.—The transfer of water rights under this subsection is conditioned on the agreement of Daggett County to provide culinary water supplies to Forest Service campgfounds served (on the date of enactment of this Act) by the water supply system and to Forest Service and Bureau of Reclamation facilities, at a rate equivalent to other similar uses.

(5) MAINTENANCE.—The Secretary of Agriculture and the Secretary of the Interior shall be responsible for maintenance of their respective water systems from the point of the distribution lines of the systems.

(l) SHORELINE ACCESS.—On receipt of an acceptable application, the Secretary of Agriculture shall consider issuance of a special use permit affording Flaming Gorge Reservoir public shoreline access and use within the vicinity of Dutch John in conjunction with commercial visitor facilities provided and maintained under such a permit.

(m) REVENUES.—

(1) IN GENERAL.—Except as provided in paragraph (2), all revenues derived from the sale of properties as authorized by this title shall temporarily be deposited in a segregated interest-bearing trust account in the Treasury with the moneys on hand in the account paid to Daggett County semiannually to be used by the County for purposes associated with the provision of governmental and community services to the Dutch John community.

(2) DEPOSIT IN THE GENERAL FUND.—Of the revenues described in paragraph (1), 15.1 percent shall be deposited in the general fund of the Treasury.

SEC. 1211. VALID EXISTING RIGHTS.

(a) AGREEMENTS.—

(1) IN GENERAL.—If any lease, permit, right-of-way, easement, or other valid existing right is appurtenant to land conveyed to Daggett County, Utah, under this title, the County shall honor and enforce the right through a legal agreement entered into by the County and the holder before the date of conveyance.

(2) EXTENSION OR TERMINATION.—The County may extend or terminate an agreement under paragraph (1) at the end of the term of the agreement.

(b) USE OF REVENUES.—During such period as the County is enforcing a right described in subsection (a)(1) through a legal agreement between the County and the holder of the right under subsection (a), the County shall collect and retain any revenues due the Federal Government under the terms of the right.

(c) EXTINGUISHMENT OF RIGHTS.—If a right described in subsection (a)(1) with respect to certain land has been extinguished or otherwise protected, the County may dispose of the land.

SEC. 1212. CULTURAL RESOURCES.

(a) MEMORANDA OF AGREEMENT.—Before transfer and disposal under this title of any land that contains cultural resources and that may be eligible for listing on the National Register of Historic Places, the Secretary of Agriculture, in consultation with the Secretary of the Interior, the Utah Historic Preservation Office, and Daggett County, Utah, shall prepare a memorandum of agreement, for review and approval by the Utah Office of Historical Preservation and the Advisory Council on Historic Preservation established by title II of the National Historic Preservation Act (16 U.S.C. 470i et seq.), that contains a strategy for protecting or mitigating adverse effects on cultural resources on the land.

(b) INTERIM PROTECTION.—Until such time as a memorandum of agreement has been approved, or until lands are disposed of under this title, the Secretary of Agriculture shall provide clearance or protection for the resources.

(c) TRANSFER SUBJECT TO AGREEMENT.—On completion of actions required under the memorandum of agreement for certain land, the Secretary of the Interior shall provide for the conveyance of the land to Daggett County, Utah, subject to the memorandum of agreement.

SEC. 1213. TRANSITION OF SERVICES TO LOCAL GOVERNMENT CONTROL.

(a) ASSISTANCE.—

(1) IN GENERAL.—The Secretary of the Interior shall provide training and transitional operating assistance to personnel designated by Daggett County, Utah, as successors to the operators for the Secretary of the infrastructure facilities described in section 1204(c).

(2) DURATION OF TRAINING.—With respect to an infrastructure facility, training under paragraph (1) shall continue for such period as is necessary for the designated personnel to demonstrate reasonable capability to safely and efficiently operate the facility, but not to exceed 2 years.

(3) CONTINUING ASSISTANCE.—The Secretary shall remain available to assist with resolving questions about the original design and installation, operating and maintenance needs, or other aspects of the infrastructure facilities.

(b) TRANSITION COSTS.—For the purpose of defraying costs of transition in administration and provision of basic community services, an annual payment of $300,000 (as adjusted by the Secretary for changes in the Consumer Price Index for all-urban consumers published by the Department of Labor) shall be provided from the Upper Colorado River Basin Fund authorized by section 5 of the Act of April 11, 1956 (70 Stat. 107, chapter 203; 43 U.S.C. 620d), to Daggett County, Utah, or, in accordance with subsection (c), to Dutch John, Utah, for a period not to exceed 15 years beginning the first January 1 that occurs after the date of enactment of this Act.

(c) DIVISION OF PAYMENT.—If Dutch John becomes incorporated and become responsible for operating any of the infrastructure facilities referred to in subsection (a)(1) or for providing other basic local governmental services, the payment amount for the year of incorporation and each following year shall be proportionately divided between Daggett County and Dutch John based on the respective costs paid by each government for the previous year to provide the services.

(d) ELECTRIC POWER.—

(1) AVAILABILITY.—The United States shall make available electric power and associated energy from the Colorado River Storage Project for the Dutch John community.

(2) AMOUNT.—The amount of electric power and associated energy made available under paragraph (1) shall not exceed 1,000,000 kilowatt-hours per year.

(3) RATES.—The rates for power and associated energy shall be the firm capacity and energy rates of the Salt Lake City Area/Integrated Projects.

SEC. 1214. AUTHORIZATION OF APPROPRIATIONS.

(a) RESOURCE RECOVERY AND MITIGATION.—There are authorized to be appropriated to the Secretary of Agriculture, out of nonpower revenues to the Federal Government from land transferred under this title, such sums as are necessary to implement such habitat, sensitive resource, or cultural resource recovery, mitigation, or replacement strategies as are developed with respect to land transferred under this title, except that the strategies may not include acquisition of privately owned lands in Daggett County.

(b) OTHER SUMS.—In addition to sums made available under subsection (a), there are authorized to be appropriated such sums as are necessary to carry out this title.

TITLE XIII—RECLAMATION PROJECT CONVEYANCES AND MISCELLANEOUS PROVISIONS

Subtitle A—Sly Park Dam and Reservoir, California

SEC. 1311. SHORT TITLE.

This subtitle may be cited as the "Sly Park Unit Conveyance Act".

SEC. 1312. DEFINITIONS.

For purposes of this subtitle:

(1) The term "District" means the El Dorado Irrigation District, a political subdivision of the State of California that has its principal place of business in the city of Placerville, El Dorado County, California.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "Project" means all of the right, title, and interest in and to the Sly Park Dam and Reservoir, Camp Creek Diversion Dam and Tunnel, and conduits and canals held by the United States pursuant to or related to the authorization in the Act entitled "An Act to authorize the American River Basin Development, California, for irrigation and reclamation, and for other purposes", approved October 14, 1949 (63 Stat. 852 chapter 690);

SEC. 1313. CONVEYANCE OF PROJECT.

(a) IN GENERAL.—In consideration of the District accepting the obligations of the Federal Government for the Project and subject to the payment by the District of the net present value of the remaining repayment obligation, as determined by Office of Management and Budget Circular A–129 (in effect on the date of enactment of this Act), the Secretary shall convey the Project to the District.

(b) DEADLINE.—

(1) IN GENERAL.—If no changes in Project operations are expected following the conveyance under subsection (a), the Secretary shall complete the conveyance expeditiously, but not later than 180 days after the date of the enactment of this Act.

(2) DEADLINE IF CHANGES IN OPERATIONS INTENDED.—If the District intends to change Project operations as a result of the conveyance under subsection (a), the Secretary—

(A) shall take into account those potential changes for the purpose of completing any required environmental evaluation associated with the conveyance; and

(B) shall complete the conveyance by not later than 2 years after the date of the enactment of this Act.

(3) ADMINISTRATIVE COSTS OF CONVEYANCE.—If the Secretary fails to complete the conveyance under this subtitle before the applicable deadline under paragraph (1) or (2), the full cost of administrative action and environmental compliance for the conveyance shall be borne by the Secretary. If the Secretary completes the conveyance before that deadline, ½ of such cost shall be paid by the District.

SEC. 1314. RELATIONSHIP TO EXISTING OPERATIONS.

(a) IN GENERAL.—Nothing in this subtitle shall be construed as significantly expanding or otherwise changing the use or operation of the Project from its current use and operation.

(b) FUTURE ALTERATIONS.—If the District alters the operations or uses of the Project it shall comply with all applicable laws or regulations governing such changes at that time (subject to section 1315).

SEC. 1315. RELATIONSHIP TO CERTAIN CONTRACT OBLIGATIONS.

(a) PAYMENT OBLIGATIONS NOT AFFECTED.—The conveyance of the Project under this subtitle does not affect the payment obligations of the District under the contract between the District and the Secretary numbered 14–06–200–7734, as amended by contracts numbered 14–06–200–4282A and 14–06–200–8536A.

(b) PAYMENT OBLIGATIONS EXTINGUISHED.—Provision of consideration by the District in accordance with section 1313(b) shall extinguish all payment obligations under contract numbered 14–06–200–949IR1 between the District and the Secretary.

SEC. 1316. RELATIONSHIP TO OTHER LAWS.

(a) RECLAMATION LAWS.—Except as provided in subsection (b), upon conveyance of the Project under this subtitle, the Reclamation Act of 1902 (82 Stat. 388) and all Acts amendatory thereof or supplemental thereto shall not apply to the Project.

(b) PAYMENTS INTO THE CENTRAL VALLEY PROJECT RESTORATION FUND.—The El Dorado Irrigation District shall continue to make payments into the Central Valley Project Restoration Fund for 31 years after the date of the enactment of this Act. The District's obligation shall be calculated in the same manner as Central Valley Project water contractors.

SEC. 1317. LIABILITY.

Except as otherwise provided by law, effective on the date of conveyance of the Project under this subtitle, the United States shall not be liable for damages of any kind arising out of any act, omission, or occurrence based on its prior ownership or operation of the conveyed property.

Subtitle B—Minidoka Project, Idaho

SEC. 1321. SHORT TITLE

This subtitle may be cited as the "Burley Irrigation District Conveyance Act".

SEC. 1322. DEFINITIONS.

In this subtitle:

(1) DISTRICT.—The term "District" means the Burley Irrigation District, an irrigation district organized under the law of the State of Idaho.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(3) PROJECT.—The term "Project" means all of the right, title, and interest in and to the Southside Pumping Division of the Minidoka Project, Idaho, including the water distribution system below the headworks of the Minidoka Dam held in the name of the United States for the benefit of, and for use on land within, the District for which the allocable construction costs have been fully repaid by the District.

SEC. 1323. CONVEYANCE.

(a) IN GENERAL.—In consideration of the District accepting the obligations of the Federal Government for the Project, and subject to the completion of payments by the District required under subsection (c)(3), the Secretary shall convey the Project and the water rights described in subsection (b) to the District.

(b) WATER RIGHTS.—

(1) TRANSFER REQUIRED.—The Secretary shall transfer to the District, through an agreement among the District, the Minidoka Irrigation District, and the Secretary and in accordance with and subject to the law of the State of Idaho, all natural flow, waste, seepage, return flow, and ground water rights held in the name of the United States—

(A) for the benefit of the South Side Pumping Division operated and maintained by the District;

(B) for use on lands within the District or that are return flows for which the District may receive credit against storage water used.

(2) LIMITATION.—The transfer of the property interest of the United States in Project water rights directed to be conveyed by this section shall—

(A) neither enlarge nor diminish the water rights of either the Minidoka Irrigation District or the District, as set forth in their respective contracts with the United States;

(B) not be exercised as to impair the integrated operation of the Minidoka Project by the Secretary pursuant to applicable Federal law;

(C) not affect any other water rights; and

(D) not result in any adverse impact on any other project water user.

(c) DEADLINE.—

(1) IN GENERAL.—If no changes in Project operations are expected following the conveyance under subsection (a), the Secretary shall complete the conveyance expeditiously, but not later than 180 days after the date of the enactment of this Act.

(2) DEADLINE IF CHANGES IN OPERATIONS INTENDED.—If the District intends to change Project operations as a result of the conveyance under subsection (a), the Secretary—

(A) shall take into account those potential changes for the purpose of completing any required environmental evaluation associated with the conveyance; and

(B) shall complete the conveyance by not later than 2 years after the date of the enactment of this Act.

(3) ADMINISTRATIVE COSTS OF CONVEYANCE.—If the Secretary fails to complete the conveyance under this subtitle before the applicable deadline under paragraph (1) or (2), the full cost of administrative action and environmental compliance for the conveyance shall be borne by the Secretary. If the Secretary completes the conveyance before that deadline, ½ of such cost shall be borne by the District.

SEC. 1324. RELATIONSHIP TO EXISTING OPERATIONS.

(a) IN GENERAL.—Nothing in this subtitle shall be construed as significantly expanding or otherwise changing the use or operation of the Project from its current use and operation.

(b) FUTURE ALTERATIONS.—If the District alters the operations or uses of the Project it shall comply with all applicable laws or regulations governing such changes at that time (subject to section 1325).

SEC. 1325. RELATIONSHIP TO CERTAIN CONTRACT OBLIGATIONS.

(a) SAVINGS.—Nothing in this subtitle or any transfer pursuant thereto shall affect the right of Minidoka Irrigation District to the joint use of the gravity portion of the Southside Canal, subject to compliance by the Minidoka Irrigation District with the terms and conditions of a contract between the District and Minidoka Irrigation District, and any amendments or changes made by agreement of the irrigation districts.

(b) ALLOCATION OF STORAGE SPACE.—The Secretary shall provide an allocation to the District of storage space in Minidoka Reservoir, American Falls Reservoir, and Palisades Reservoir, as described in Burley Contract Nos. 14–06–100–2455 and 14–06–W–48, subject to the obligation of Burley to continue to assume and satisfy its allocable costs of operation and maintenance associated with the storage facilities operated by the Bureau of Reclamation.

(c) PROJECT RESERVED POWER.—The Secretary shall continue to provide the District with project reserved power from the Minidoka Reclamation Power Plant, Palisades Reclamation Power Plant, Black Canyon Reclamation Power Plant, and Anderson Ranch Reclamation Power Plant in accordance with the terms of the existing contracts, including any renewals thereof as provided in such contracts.

SEC. 1326. LIABILITY.

Except as otherwise provided by law, effective on the date of conveyance of the Project under this subtitle, the United States shall not be held liable for damages of any kind arising out of any act, omission, or occurrence based on its prior ownership or operation of the conveyed property.

Subtitle C—Carlsbad Irrigation Project, New Mexico

SEC. 1331. SHORT TITLE.

This subtitle may be cited as the "Carlsbad Irrigation Project Acquired Land Conveyance Act".

SEC. 1332. DEFINITIONS.

For purposes of this subtitle:

(1) The term "District" means the Carlsbad Irrigation District, a quasimunicipal corporation formed under the laws of the State of New Mexico that has its principal place of business in the city of Carlsbad, Eddy County, New Mexico.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "Project" means all right, title, and interest in and to the lands (including the subsurface and mineral estate) in Eddy County, New Mexico, described as the acquired lands in section (7) of the Status of Lands and Title Report: Carlsbad Project as reported by the Bureau of Reclamation in 1978 and all interests the United States holds in the irrigation and drainage system of the Carlsbad Project and all related ditch rider houses, maintenance shop and buildings, and Pecos River Flume.

SEC. 1333. CONVEYANCE OF PROJECT.

(a) IN GENERAL.—Except as provided in subsection (b), in consideration of the District accepting the obligations of the Federal Government for the Project, and subject to the completion of payments by the District required under subsection (c)(3), the Secretary shall convey the Project to the District

(b) RETAINED TITLE.—The Secretary shall retain title to the surface estate (but not the mineral estate) of such Project lands which are located under the footprint of Brantley and Avalon dams or any other Project dam or reservoir diversion structure. The Secretary shall retain storage and flow easements for any tracts located under the maximum spillway elevations of Avalon and Brantley Reservoirs.

(c) DEADLINE.—

(1) IN GENERAL.—If no changes in Project operations are expected following the conveyance under subsection (a), the Secretary shall complete the conveyance expeditiously, but not later than 180 days after the date of the enactment of this Act.

(2) DEADLINE IF CHANGES IN OPERATIONS INTENDED.—If the District intends to change Project operations as a result of the conveyance under subsection (a), the Secretary—

(A) shall take into account those potential changes for the purpose of completing any required environmental evaluation associated with the conveyance; and

(B) shall complete the conveyance by not later than 2 years after the date of the enactment of this Act.

(3) ADMINISTRATIVE COSTS OF CONVEYANCE.—If the Secretary fails to complete the conveyance under this subtitle before the applicable deadline under paragraph (1) or (2), the full cost of administrative action and environmental compliance for the conveyance shall be borne by the Secretary. If the Secretary completes the conveyance before that deadline, ½ of such cost shall be paid by the District.

SEC. 1334. RELATIONSHIP TO EXISTING OPERATIONS.

(a) IN GENERAL.—Nothing in this subtitle shall be construed as significantly expanding or otherwise changing the use and operation of the Project from its current use. The Project shall continue to be managed and used by the District for the purposes for which the Project was authorized, based on historic operations, and consistent with the management of other adjacent project lands.

(b) FUTURE ALTERATIONS.—If the District alters the operations or uses of the Project, it shall comply with all applicable laws or regulations governing such changes at that time (subject to section 1335).

SEC. 1335. RELATIONSHIP TO CERTAIN CONTRACT OBLIGATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), upon conveyance of the Project under this subtitle the District shall assume all rights and obligations of the United States under the agreement dated July 28, 1994, between the United States and the Director, New Mexico Department of Game and Fish (Document No. 2–LM–40–00640), relating to management of certain lands near Brantley Reservoir for fish and wildlife purposes and the agreement dated March 9, 1977, between the United States and the New Mexico Department of Energy, Minerals, and Natural Resources (Contract No. 7–07–57–X0888) for the management and operation of Brantley Lake State Park.

(b) LIMITATION.—The District shall not be obligated for any financial support agreed to by the Secretary, or the Secretary's designee, in either agreement and the District shall not be entitled to any receipts or revenues generated as a result of either agreement.

SEC. 1336. LEASE MANAGEMENT AND PAST REVENUES COLLECTED FROM THE ACQUIRED LANDS.

(a) NOTIFICATION OF LEASEHOLDERS.—Within 120 days after the date of enactment of this Act, the Secretary shall provide to the District a written identification of all mineral and grazing leases in effect on Project lands on the date of enactment of this Act and notify all leaseholders of the conveyance authorized by this subtitle.

(b) MANAGEMENT OF LEASES, LICENSES, AND PERMITS.—The District shall assume all rights and obligations of the United States for all mineral and grazing leases, licenses, and permits existing on the Project lands conveyed under section 1333, and shall be entitled to any receipts from such leases, licenses, and permits accruing after the date of conveyance. All such receipts shall be used for purposes for which the Project was authorized and for financing the portion of operations, maintenance, and replacement at the Sumner Dam that, prior to conveyance, was the responsibility of the Bureau of Reclamation, with the exception of major maintenance programs in progress prior to conveyance. The District shall continue to adhere to the current Bureau of Reclamation mineral leasing stipulations for the Project.

(c) AVAILABILITY OF AMOUNTS PAID INTO THE RECLAMATION FUND.—

(1) AMOUNTS IN FUND ON DATE OF ENACTMENT.—Amounts in the reclamation fund on the date of enactment of this Act which exist as construction credits to the Carlsbad Project under the terms of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351–359) shall be deposited into the general fund of the Treasury and credited to deficit reduction or retirement of the Federal debt.

(2) RECEIPTS AFTER DATE OF ENACTMENT.—Of the receipts from mineral and grazing leases, licenses, and permits on Project lands to be conveyed under section 1333 that are received by the United States after the date of enactment of this Act and before the date of conveyance, up to $200,000 shall be applied to pay the cost referred to in section 1333(c)(3) and the remainder shall be deposited into the general fund of the Treasury of the United States and credited to deficit reduction or retirement of the Federal debt.

SEC. 1337. WATER CONSERVATION PRACTICES.

Nothing in this subtitle shall be construed to limit the ability of the District to voluntarily implement water conservation practices.

SEC. 1338. LIABILITY.

Except as otherwise provided by law, effective on the date of conveyance of the Project under this subtitle, the United States shall not be liable for damages of any kind arising out of any act, omission, or occurrence based on its prior ownership or operation of the conveyed property.

SEC. 1339. FUTURE RECLAMATION BENEFITS.

After completion of the conveyance under this subtitle, the District shall not be eligible for any emergency loan from the Bureau of Reclamation for maintenance or replacement of any facility conveyed under this subtitle.

Subtitle D—Palmetto Bend Project, Texas

SEC. 1341. SHORT TITLE.

This subtitle may be cited as the "Palmetto Bend Conveyance Act".

SEC. 1342. DEFINITIONS.

In this subtitle:

(1) STATE.—The term "State" means the Lavaca-Navidad River Authority and the Texas Water Development Board, jointly.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(3) PROJECT.—The term "Project" means all of the right, title, and interest in and to the Palmetto Bend reclamation project, Texas, authorized by Public Law 90–562 (82 Stat. 999).

SEC. 1343. CONVEYANCE OF PROJECT.

(a) IN GENERAL.—In consideration of the State accepting the obligations of the Federal Government for the Project and subject to the payment by the State of the net present value of the remaining repayment obligation, as determined by Office of Management and Budget Circular A–129 (in effect on the date of enactment of this Act) and the completion of payments by the State required under subsection (b)(3), the Secretary shall convey the Project to the State.

(b) DEADLINE.—

(1) IN GENERAL.—If no changes in Project operations are expected following the conveyance under subsection (a), the Secretary shall complete the conveyance expeditiously, but not later than 180 days after the date of the enactment of this Act.

(2) DEADLINE IF CHANGES IN OPERATIONS INTENDED.—If the State intends to change Project operations as a result of the conveyance under subsection (a), the Secretary—

(A) shall take into account those potential changes for the purpose of completing any required environmental evaluation associated with the conveyance; and

(B) shall complete the conveyance by not later than 2 years after the date of the enactment of this Act.

(3) ADMINISTRATIVE COSTS OF CONVEYANCE.—If the Secretary fails to complete the conveyance under this title before the applicable deadline under paragraph (1) or (2), the full cost of administrative action and environmental compliance for the conveyance shall be borne by the Secretary. If the Secretary completes the conveyance before that deadline, ½ of such cost shall be paid by the State.

SEC. 1344. RELATIONSHIP TO EXISTING OPERATIONS.

(a) IN GENERAL.—Nothing in this subtitle shall be construed as significantly expanding or otherwise changing the use or operation of the Project from its current use and operation.

(b) FUTURE ALTERATIONS.—If the State alters the operations or uses of the Project it shall comply will all applicable laws or regulations governing such changes at that time.

(c) CONDITION.—Subject to the laws of the State of Texas, Lake Texana shall not be used to wheel water originating from the Texas, Colorado River.

SEC. 1345. RELATIONSHIP TO CERTAIN CONTRACT OBLIGATIONS.

Existing obligations of the United States pertaining to the Project shall continue in effect and be assumed by the State.

SEC. 1346. RELATIONSHIP TO OTHER LAWS.

Upon conveyance of the Project under this subtitle, the Reclamation Act of 1902 (82 Stat. 388) and all Acts amendatory thereof or supplemental thereto shall not apply to the Project.

SEC. 1347. LIABILITY.

Except as otherwise provided by law, effective on the date of conveyance of the Project under this subtitle, the United States shall not be liable for damages of any kind arising out of any act, omission, or occurrence based on its prior ownership or operation of the conveyed property.

Subtitle E—Wellton-Mohawk Division, Gila Project, Arizona

SEC. 1351. SHORT TITLE.

This subtitle may be cited as the "Wellton-Mohawk Division Title Transfer Act of 1998".

SEC. 1352. DEFINITIONS.

For purposes of this subtitle:

(1) The term "District" means the Wellton-Mohawk Irrigation and Drainage District, an irrigation and drainage district created, organized, and existing under and by virtue of the laws of the State of Arizona.

(2) The term "Project" means all of the right, title, and interest in and to the Wellton-Mohawk Division, Gila Project, Arizona, held by the United States pursuant to or related to any authorization in the Act of July 30, 1947 (chapter 382; 61 Stat. 628).

(3) The term "Secretary" means the Secretary of the Interior.

(4) The term "withdrawn lands" means those lands within and adjacent to the District that have been withdrawn from public use for reclamation purposes.

SEC. 1353. CONVEYANCE OF PROJECT.

(a) IN GENERAL.—In consideration of the District accepting the obligations of the Federal Government for the Project, and subject to the payment of fair market value by the District for the withdrawn lands and the completion of payments by the District required under subsection (b)(3), the Secretary shall convey the Project and the withdrawn lands to the District in accordance with the Memorandum of Agreement between the Secretary and the District numbered 8–AA–34–WAO14 and dated July 10, 1998.

(b) DEADLINE.—

(1) IN GENERAL.—The Secretary shall complete the conveyance expeditiously, but not later than 3 years after the date of enactment of this Act.

(2) ADMINISTRATIVE COSTS OF CONVEYANCE.—If the Secretary fails to complete the conveyance under this subtitle before the applicable deadline under paragraph (1), the full cost of administrative action and environmental compliance for the conveyance shall be borne by the Secretary. If the Secretary completes the conveyance before that deadline, ½ of such cost shall be paid by the District.

SEC. 1354. RELATIONSHIP TO EXISTING OPERATIONS.

(a) IN GENERAL.—Nothing in this subtitle shall be construed as significantly expanding or otherwise changing the use or operation of the Project from its current use or operation.

(b) FUTURE ALTERATIONS.—If the District alters the operations or uses of the Project, it shall comply with all applicable laws and regulations governing such changes at that time.

SEC. 1355. LIABILITY.

Except as otherwise provided by law, effective on the date of conveyance of the Project under this subtitle, the United States shall not be held liable under any law for damages of any kind arising out of any act, omission, or occurrence based on its prior ownership or operation of the conveyed property.

SEC. 1356. LANDS TRANSFER.

Pursuant to the Memorandum of Agreement between the Secretary and the District numbered 8–AA–34–WAO14 and dated July 10, 1998, the Secretary may transfer to the District, by sale or exchange, at fair market value, public lands located in or adjacent to the Project, and lands held by the Federal Government on the date of the enactment of this Act pursuant to Public Law 93–320 and Public Law 100–512 and located in or adjacent to the District, other than lands in the Gila River channel.

SEC. 1357. WATER AND POWER CONTRACTS.

Notwithstanding any conveyance or transfer under this subtitle, the Secretary and the Secretary of Energy shall provide for and deliver Colorado River water and Parker-Davis Project Priority Use Power to the District in accordance with the terms of existing contracts with the District, including any amendments and supplements thereto or extensions thereof and as provided under section 2 of the Memorandum of Agreement between the Secretary and the District numbered 8–AA–34–WAO14 and dated July 10, 1998.

Subtitle F—Canadian River Project, Texas

SEC. 1361. SHORT TITLE.

This subtitle may be cited as the "Canadian River Project Prepayment Act".

SEC. 1362. DEFINITIONS.

For the purposes of this subtitle:

(1) The term "Authority" means the Canadian River Municipal Water Authority, a conservation and reclamation district of the State of Texas.

(2) The term "Canadian River Project Authorization Act" means the Act entitled 'An Act to authorize the construction, operation, and maintenance by the Secretary of the Interior of the Canadian River reclamation project, Texas", approved December 29, 1950 (chapter 1183; 64 Stat. 1124).

(3) The term "Project" means all of the right, title, and interest in and to all land and improvements comprising the pipeline and related facilities of the Canadian River Project authorized by the Canadian River Project Authorization Act.

(4) The term "Secretary" means the Secretary of the Interior.

SEC. 1363. PREPAYMENT AND CONVEYANCE OF PROJECT.

(a) IN GENERAL.—(1) In consideration of the Authority accepting the obligation of the Federal Government for the Project and subject to the payment by the Authority of the applicable amount under paragraph (2) within the 360-day period beginning on the date of the enactment of this subtitle, the Secretary shall convey the Project to the Authority, as provided in section 2(c)(3) of the Canadian River Project Authorization Act (64 Stat. 1124).

(2) For purposes of paragraph (1), the applicable amount shall be—

(A) $34,806,731, if payment is made by the Authority within the 270-day period beginning on the date of enactment of this title; or

(B) the amount specified in subparagraph (A) adjusted to include interest on that amount since the date of the enactment of this subtitle at the appropriate Treasury bill rate for an equivalent term, if payment is made by the Authority after the period referred to in subparagraph (A).

(3) If payment under paragraph (1) is not made by the Authority within the period specified in paragraph (1), this subtitle shall have no force or effect.

(b) FINANCING.—Nothing in this subtitle shall be construed to affect the right of the Authority to use a particular type of financing.

SEC. 1364. RELATIONSHIP TO EXISTING OPERATIONS.

(a) IN GENERAL.—Nothing in this subtitle shall be construed as significantly expanding or otherwise changing the use or operation of the Project from its current use and operation.

(b) FUTURE ALTERATIONS.—If the Authority alters the operations or uses of the Project it shall comply with all applicable laws or regulations governing such alteration at that time.

(c) RECREATION.—The Secretary of the Interior, acting through the National Park Service, shall continue to operate the Lake Meredith National Recreation Area at Lake Meredith.

(d) FLOOD CONTROL.—The Secretary of the Army, acting through the Corps of Engineers, shall continue to prescribe regulations for the use of storage allocated to flood control at Lake Meredith as prescribed in the Letter of Understanding entered into between the Corps, the Bureau of Reclamation, and the Authority in March and May 1980.

(e) SANFORD DAM PROPERTY.—The Authority shall have the right to occupy and use without payment of lease or rental charges or license or use fees the property retained by the Bureau of Reclamation at Sanford Dam and all buildings constructed by the United States thereon for use as the Authority's headquarters and maintenance facility. Buildings constructed by the Authority on such property, or past and future additions to Government constructed buildings, shall be allowed to remain on the property. The Authority shall operate and maintain such property and facilities without cost to the United States.

SEC. 1365. RELATIONSHIP TO CERTAIN CONTRACT OBLIGATIONS.

(a) PAYMENT OBLIGATIONS EXTINGUISHED.—Provision of consideration by the Authority in accordance with section 603(a) shall extinguish all payment obligations under contract numbered 14–06–500–485 between the Authority and the Secretary.

(b) OPERATION AND MAINTENANCE COSTS.—After completion of the conveyance provided for in section 1363, the Authority shall have full responsibility for the cost of operation and maintenance of Sanford Dam, and shall continue to have full responsibility for operation and maintenance of the Project pipeline and related facilities.

(c) GENERAL.—Rights and obligations under the existing contract No. 14–06–500–485 between the Authority and the United States, other than provisions regarding repayment of construction charge obligation by the Authority and provisions relating to the Project aqueduct, shall remain in full force and effect for the remaining term of the contract.

SEC. 1366. RELATIONSHIP TO OTHER LAWS.

Upon conveyance of the Project under this subtitle, the Reclamation Act of 1902 (82 Stat. 388) and all Acts amendatory thereof or supplemental thereto shall not apply to the Project.

SEC. 1367. LIABILITY.

Except as otherwise provided by law, effective on the date of conveyance of the Project under this subtitle, the United States shall not be liable under any law for damages of any kind arising out of any act, omission, or occurrence relating to the conveyed property.

Subtitle G—Clear Creek Distribution System, California

SEC. 1371. SHORT TITLE.

This subtitle may be cited as the "Clear Creek Distribution System Conveyance Act".

SEC. 1372. DEFINITIONS.

For purposes of this subtitle:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(2) DISTRICT.—The term "District" means the Clear Creek Community Services District, a California community services district located in Shasta County, California.

(3) DISTRIBUTION SYSTEM.—The term "Distribution System" means all the right title and interest in and to the Clear Creek distribution system as defined in the agreement entitled "Agreement Between the United States and the Clear Creek Community Services District to Transfer Title to the Clear Creek Distribution System to the Clear Creek Community Services District" (Agreement No. 8–07–20–L6975).

SEC. 1373. CONVEYANCE OF PROJECT.

(a) IN GENERAL.—In consideration of the District accepting the obligations of the Federal Government for the Distribution System and subject to the completion of payments by the District required under subsection (b)(3), the Secretary shall convey the Distribution System to the District.

(b) DEADLINE.—

(1) IN GENERAL.—If no changes in Project operations are expected following the conveyance under subsection (a), the Secretary shall complete the conveyance expeditiously, but not later than 180 days after the date of the enactment of this Act.

(2) DEADLINE IF CHANGES IN OPERATIONS INTENDED.—If the District intends to change Project operations as a result of the conveyance under subsection (a), the Secretary—

(A) shall take into account those potential changes for the purpose of completing any required environmental evaluation associated with the conveyance; and

(B) shall complete the conveyance by not later than 2 years after the date of the enactment of this Act.

(3) ADMINISTRATIVE COSTS OF CONVEYANCE.—If the Secretary fails to complete the conveyance under this subtitle before the applicable deadline under paragraph (1) or (2), the full cost of administrative action and environmental compliance for the conveyance shall be borne by the Secretary. If the Secretary completes the conveyance before that deadline, ½ of such cost shall be paid by the District.

SEC. 1374. RELATIONSHIP TO EXISTING OPERATIONS.

(a) IN GENERAL.—Nothing in this subtitle shall be construed as significantly expanding or otherwise changing the use or operation of the Distribution System from its current use and operation.

(b) FUTURE ALTERATIONS.—If the District alters the operations or uses of the Distribution System it shall comply with all applicable laws or regulations governing such changes at that time (subject to section 1375).

SEC. 1375. RELATIONSHIP TO CERTAIN CONTRACT OBLIGATIONS.

(a) NATIVE AMERICAN TRUST RESPONSIBILITY.—The Secretary shall ensure that any trust responsibilities to any Native American Tribes that may be affected by the conveyance under this title are protected and fulfilled.

(b) CONTRACT OBLIGATIONS.—Conveyance of the Distribution System under this subtitle—

(1) shall not affect any of the provisions of the District's existing water service contract with the United States (contract number 14–06–200–489–IR3), as it may be amended or supplemented; and

(2) shall not deprive the District of any existing contractual or statutory entitlement to subsequent interim renewals of such contract or to renewal by entering into a long-term water service contract.

SEC. 1376. LIABILITY.

Except as otherwise provided by law, effective on the date of conveyance of the Distribution System under this subtitle, the

United States shall not be liable under any law for damages of any kind arising out of any act, omission, or occurrence based on its prior ownership or operation of the conveyed property.

Subtitle H—Pine River Project, Colorado

SEC. 1381. SHORT TITLE.

This subtitle may be cited as the "Vallecito Dam and Reservoir Conveyance Act".

SEC. 1382. DEFINITIONS.

For purposes of this subtitle:

(1) The term "District" means the Pine River Irrigation District, a political division of the State of Colorado duly organized, existing, and acting pursuant to the laws thereof with its principal place of business in the city of Bayfield, La Plata County, Colorado.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term the "Project" means Vallecito Dam and Reservoir, and associated interests, owned by the United States and authorized in 1937 under the provisions of the Department of the Interior Appropriation Act of June 25, 1910 (36 Stat. 835).

(4) The term "Repayment Contract" means Repayment Contract #Ilr-1204, between Reclamation and the Pine River Irrigation District, dated April 15, 1940, and amended November 30, 1953, all amendments thereto, and changes pursuant to the Act of July 27, 1954 (68 Stat. 534).

(5) The term "Tribe" means the Southern Ute Indian Tribe, a federally recognized Indian tribe located on the Southern Ute Indian Reservation, La Plata County, Colorado.

(6) The term "Jurisdictional Map" means the map entitled "Transfer of Jurisdiction—Vallecito Reservoir, United States Department of Agriculture, Forest Service and United States Department of the Interior, Bureau of Reclamation and the Bureau of Indian Affairs" dated March, 1998.

SEC. 1383. CONVEYANCE OF PROJECT.

(a) CONVEYANCE TO DISTRICT.—

(1) IN GENERAL.—In consideration of the District accepting the obligations of the Federal Government for the Project and subject to the completion of payments by the District required under subsection (b)(3) and occurrence of the events described in paragraphs (2) and (3) of this subsection, the Secretary shall convey an undivided ⅚ interest in the Project to the District.

(2) SUBMISSION OF MANAGEMENT PLAN.—Prior to any conveyance under paragraph (1), the District shall submit to the Secretary a plan to manage the Project in a manner substantially similar to the manner in which it was managed prior to the transfer and in accordance with applicable Federal and State laws, including provisions—

(A) protecting the interests in the Project held by the Bureau of Indian Affairs for the Tribe;

(B) preserving public access and recreational values and preventing growth on certain lands to be conveyed hereunder, as set forth in an Agreement dated March 20, 1998, between the District and residents of Vallecito Reservoir; and

(C) ensuring that any future change in the use of the water supplied by Vallecito Reservoir shall comply with applicable law.

(3) LIMITATION.—No interest in the Project shall convey under this subsection before the date on which the Secretary receives a copy of a resolution adopted by the Tribe declaring that the terms of the conveyance protects the Indian trust assets of the Tribe.

(b) DEADLINE.—

(1) IN GENERAL.—If no changes in Project operations are expected following the conveyance under subsection (a), the Secretary shall complete the conveyance under subsection (a) expeditiously, but not later than 180 days after the date of the enactment of this Act.

(2) DEADLINE IF CHANGES IN OPERATIONS INTENDED.—If the District intends to change Project operations as a result of the conveyance under subsection (a), the Secretary—

(A) shall take into account those potential changes for the purpose of completing any required environmental evaluation associated with the conveyance; and

(B) shall complete the conveyance by not later than 2 years after the date of the enactment of this Act.

(3) ADMINISTRATIVE COSTS OF CONVEYANCE.—If the District submits a plan in accordance with subsection (a)(2) and the Secretary receives a copy of a resolution described in subsection (a)(3), and the Secretary fails to complete the conveyance under subsection (a) before the applicable deadline under paragraph (1) or (2), the full cost of administrative action and environmental compliance for the conveyance shall be borne by the Secretary. If the Secretary completes the conveyance before that deadline, ½ of such cost shall be paid by the District.

(c) TRIBAL INTERESTS.—At the option of the Tribe, the Secretary shall convey to the Tribe an undivided ⅙ interest in the Project, all interests in lands over which the Bureau of Indian Affairs holds administrative jurisdiction under section 1384(e)(1)(A), and water rights associated with those interests. No consideration or compensation shall be required to be paid to the United States for such conveyance.

(d) RESTRICTION ON PARTITION.—Any conveyance of interests in lands under this subtitle shall be subject to the prohibition that those interests in those lands may not be partitioned. Any quit claim deed or patent evidencing such a conveyance shall expressly prohibit partitioning.

SEC. 1384. RELATIONSHIP TO EXISTING OPERATIONS.

(a) IN GENERAL.—Nothing in this subtitle shall be construed as significantly expanding or otherwise changing the use or operation of the Project from its current use and operation.

(b) DESCRIPTION OF EXISTING CONDITION.—The Secretary shall submit to the District, the Bureau of Indian Affairs, and the State of Colorado a description of the existing condition of Vallecito Dam based on Bureau of Reclamation's current knowledge and understanding.

(c) FUTURE ALTERATIONS.—If the District alters the operations or uses of the Project it shall comply with all applicable laws or regulations governing such changes at that time.

(d) FLOOD CONTROL PLAN.—The District shall work with Corps of Engineers to develop a flood control plan for the operation of Vallecito Dam for flood control purposes.

(e) JURISDICTIONAL TRANSFER OF LANDS.—

(1) INUNDATED LANDS.—To provide for the consolidation of lands associated with the Project to be retained by the Forest Service and the consolidation of lands to be transferred to the District, the administrative jurisdiction of lands inundated by and along the shoreline of Vallecito Reservoir, as shown on the Jurisdictional Map, shall be transferred, as set forth in this subsection, concurrently with any conveyance under section 1383. Except as otherwise shown on the Jurisdictional Map—

(A) for withdrawn lands (approximately 260 acres) lying below the 7,665-foot reservoir water surface elevation level, the Forest Service shall transfer an undivided ⅚ interest to the Bureau of Reclamation and an undivided ⅙ interest to the Bureau of Indian Affairs in trust for the Tribe; and

(B) for Project acquired lands (approximately 230 acres) above the 7,665-foot reservoir water surface elevation level, the Bureau of Reclamation and the Bureau of Indian Affairs shall transfer their interests to the Forest Service.

(2) MAP.—The Jurisdictional Map and legal descriptions of the lands transferred pursuant to paragraph (1) shall be on file and available for public inspection in the offices of the Chief of the Forest Service, the Commissioner of Reclamation, appropriate field offices of those agencies, and the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(3) ADMINISTRATION.—Following the transfer of administrative jurisdiction under paragraph (1):

(A) All lands that, by reason of the transfer of administrative jurisdiction under paragraph (1), become National Forest System lands within the boundaries of the San Juan National Forest, shall be administered in accordance with the laws, rules, and regulations applicable to the National Forest System.

(B) Bureau of Reclamation withdrawals of land from the San Juan National Forest established by Secretarial Orders on November 9, 1936, October 14, 1937, and June 20, 1945, together designated as Serial No. C–28259, shall be revoked.

(C) The Forest Service shall issue perpetual easements to the District and the Bureau of Indian Affairs, at no cost to the District or the Bureau of Indian Affairs, providing adequate access across all lands subject to Forest Service jurisdiction to insure the District and the Bureau of Indian Affairs the ability to continue to operate and maintain the Project.

(D) The undivided ⅚ interest in National Forest System lands that, by reason of the transfer of administrative jurisdiction under paragraph (1) is to be administered by Bureau of Reclamation, shall be conveyed to the District pursuant to section 1383.

(E) The District and the Bureau of Indian Affairs shall issue perpetual easements to the Forest Service, at no cost to the Forest Service, from National Forest System lands to Vallecito Reservoir to assure continued public access to Vallecito Reservoir when the Reservoir level drops below the 7,665-foot water surface elevation.

(F) The District and the Bureau of Indian Affairs shall issue a perpetual easement to the Forest Service, at no cost to the Forest Service, for the reconstruction, maintenance, and operation of a road from La Plata County Road No. 501 to National Forest System lands east of the Reservoir.

(4) VALID EXISTING RIGHTS.—Nothing in this subsection shall affect any valid existing rights or interests in any existing land use authorization, except that any such land use authorization shall be administered by the agency having jurisdiction over the land after the transfer of administrative jurisdiction under paragraph (1) in accordance with paragraph (3) and other applicable law. Renewal or reissuance of any such authorization shall be in accordance with applicable law and the regulations of the agency having

jurisdiction, except that the change of administrative jurisdiction shall not in itself constitute a ground to deny the renewal or reissuance of any such authorization.

(f) Federal Dam Charge.—Nothing in this subtitle shall relieve the holder of the Federal Energy Regulatory Commission license for Vallecito Dam in effect on the date of the enactment of this Act from the obligation to make payments under section 10(e)(2) of the Federal Power Act during the term of the license. At the expiration of the present license term, the Federal Energy Regulatory Commission shall adjust the charge to reflect either (1) the 1/6 interest of the United States remaining in the Vallecito Dam after conveyance to the District; or (2) if the remaining 1/6 interest of the United States has been conveyed to the Tribe pursuant to section 1383(c), then no Federal dam charge shall be levied from the date of expiration of the present license.

SEC. 1385. RELATIONSHIP TO OTHER LAWS.

Upon conveyance of the Project under this subtitle, the Reclamation Act of 1902 (82 Stat. 388) and all Acts amendatory thereof or supplemental thereto shall not apply to the Project.

SEC. 1386. LIABILITY.

Except as otherwise provided by law, effective on the date of the conveyance of the remaining undivided 1/6 right and interest in the Pine River Project to the Tribe pursuant to subsection 1383(c), the United States shall not be held liable by any court for damages of any kind arising out of any act, omission, or occurrence relating to such Project, based on its prior ownership or operation of the conveyed property.

Subtitle I—Technical Corrections and Miscellaneous Provisions

SEC. 1391. TECHNICAL CORRECTIONS.

(a) Reduction of Waiting Period for Obligation of Funds Provided Under Reclamation Safety of Dams Act of 1978.—Section 5 of the Reclamation Safety of Dams Act of 1978 (92 Stat. 2471; 43 U.S.C. 509) is amended by striking "sixty days" and all that follows through "day certain)" and inserting "30 calendar days".

(b) Albuquerque Metropolitan Area Reclamation and Reuse Project.—

(1) Technical corrections.—Section 1621 of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. 390h–12g) is amended—

(A) by amending the section heading to read as follows:

"SEC. 1621. ALBUQUERQUE METROPOLITAN AREA WATER RECLAMATION AND REUSE PROJECT.";

and

(B) in subsection (a) by striking "Reuse" and all that follows through "reclaim" and inserting "Reuse Project to reclaim".

(2) Clerical amendment.—The table of sections in section 2 of such Act is amended by striking the item relating to section 1621 and inserting the following:

"Sec. 1621. Albuquerque Metropolitan Area Water Reclamation and Reuse Project.".

(c) Phoenix Metropolitan Water Reclamation and Reuse Project.—Section 1608 of the Reclamation Projects Authorization and Adjustment Act of 1992 (106 Stat. 4666; 43 U.S.C. 390h–6) is amended—

(1) by amending subsection (a) to read as follows:

"(a) The Secretary, in cooperation with the city of Phoenix, Arizona, shall participate in the planning, design, and construction of the Phoenix Metropolitan Water Reclamation and Reuse Project to utilize fully wastewater from the regional wastewater treatment plant for direct municipal, industrial, agricultural, and environmental purposes, groundwater recharge, and indirect potable reuse in the Phoenix metropolitan area.";

(2) in subsection (b) by striking the first sentence; and

(3) by striking subsection (c).

(d) Refund of Certain Amounts Received Under Reclamation Reform Act of 1982.—

(1) Refund required.—Subject to paragraph (2) and the availability of appropriations, the Secretary of the Interior shall refund fully amounts received by the United States as collections under section 224(i) of the Reclamation Reform Act of 1982 (101 Stat. 1330–268; 43 U.S.C. 390ww(i)) for paid bills (including interest collected) issued by the Secretary of the Interior before January 1, 1994, for full-cost charges that were assessed for failure to file certain certification forms under sections 206 and 224(c) of such Act (96 Stat. 1266, 1272; 43 U.S.C. 390ff, 390ww(c)).

(2) Administrative fee.—In the case of a refund of amounts collected in connection with sections 206 and 224(c) of the Reclamation Reform Act of 1982 (96 Stat. 1266, 1272; 43 U.S.C. 390ff, 390ww(c)) with respect to any water year after the 1987 water year, the amount refunded shall be reduced by an administrative fee of $260 for each occurrence.

(3) Authorization of appropriations.—There are authorized to be appropriated to carry out this subsection $3,000,000.

(e) Extension of Periods for Repayments for Nueces River Reclamation Project and Canadian River Reclamation Project, Texas.—Section 2 of the Emergency Drought Relief Act of 1996 (Public Law 104–318; 110 Stat. 3862) is amended by adding at the end the following new subsection:

"(c) Extension of Periods for Repayment.—Notwithstanding any provision of the Reclamation Project Act of 1939 (43 U.S.C. 485 et seq.), the Secretary of the Interior—

"(1) shall extend the period for repayment by the city of Corpus Christi, Texas, and the Nueces River Authority under contract No. 6–07–01–X0675, relating to the Nueces River reclamation project, Texas, until—

"(A) August 1, 2029, for repayment pursuant to the municipal and industrial water supply benefits portion of the contract; and

"(B) until August 1, 2044, for repayment pursuant to the fish and wildlife and recreation benefits portion of the contract; and

"(2) shall extend the period for repayment by the Canadian River Municipal Water Authority under contract No. 14–06–500–485, relating to the Canadian River reclamation project, Texas, until October 1, 2021.".

(f) Solano Project Water.—

(1) Authorization.—The Secretary of the Interior is authorized to enter into contracts with the Solano County Water Agency, or any of its member unit contractors for water from the Solano Project, California, pursuant to the Act of February 21, 1911 (43 U.S.C. 523), for—

(A) the impounding, storage, and carriage of nonproject water for domestic, municipal, industrial, and other beneficial purposes, using any facilities associated with the Solano Project, California, and

(B) the exchange of water among Solano Project contractors, for the purposes set forth in subparagraph (A), using facilities associated with the Solano Project, California.

(2) Limitation.—The authorization under paragraph (1) shall be limited to the use of that portion of the Solano Project facilities downstream of Mile 26 of the Putah South Canal (as that canal is depicted on the official maps of the Bureau of Reclamation), which is below the diversion points on the Putah South Canal utilized by the city of Fairfield for delivery of Solano Project water.

(g) Fish Passage and Protective Facilities, Rogue River Basin, Oregon.—The Secretary of the Interior is authorized to use otherwise available amounts to provide up to $2,000,000 in financial assistance to the Medford Irrigation District and the Rogue River Valley Irrigation District for the design and construction of fish passage and protective facilities at North Fork Little Butte Creek Diversion Dam and South Fork Little Butte Creek Diversion Dam in the Rogue River basin, Oregon, if the Secretary determines in writing that these facilities will enhance the fish recovery efforts currently underway at the Rogue River Basin Project, Oregon.

SEC. 1392. AUTHORIZATION TO CONSTRUCT TEMPERATURE CONTROL DEVICES.

(a) Folsom Dam.—The Secretary of the Interior is hereby authorized to construct in accordance with the draft environmental impact statement/environmental impact report for the Central Valley Supply contracts under Public Law 101–514 (section 206) and the report entitled "Assessment of the Beneficial and Adverse Impacts of Operating a Temperature Control Device (TCD) at the Water Supply Intakes of Folsom Dam", a temperature control device on Folsom Dam and necessary associated temperature monitoring facilities. The temperature control device and said associated temperature monitoring facilities shall be operated as an integral part of the Central Valley Project for the benefit and propagation of fall-run chinook salmon and steelhead trout in the American River, California.

(b) Device on Non-CVP Facilities.—The Secretary of the Interior is hereby authorized to construct or assist in the construction of 1 or more temperature control devices on existing non-Federal facilities delivering Central Valley Project water supplies from Folsom Reservoir and necessary associated temperature monitoring facilities. These costs of construction of temperature control device and associated temperature monitoring facilities shall be nonreimbursable and operated by the non-Federal facility owner at its expense, in coordination with the Central Valley Project for the benefit and propagation of chinook salmon and steelhead trout in the American River, California.

(c) Authorization.—There is hereby authorized to be appropriated for the construction of a temperature control device on Folsom Dam and necessary associated temperature monitoring facilities the sum of $5,000,000 (adjusted for inflation based on October 1997 prices). There is also authorized to be appropriated for the construction of a temperature control device on existing non-Federal facilities and necessary associated temperature monitoring facilities the sum of $2,000,000 (October 1997 prices). There is also authorized to be appropriated, in addition thereto, such amounts as are required for operation, maintenance, and replacement of the temperature control devices on Folsom Dam and associated temperature monitoring facilities.

SEC. 1393. COLUSA BASIN WATERSHED INTEGRATED RESOURCES MANAGEMENT.

(a) Short Title.—This section may be cited as the "Colusa Basin Watershed Integrated Resources Management Act".

(b) AUTHORIZATION OF ASSISTANCE.—The Secretary of the Interior (in this section referred to as the "Secretary") may provide financial assistance to the Colusa Basin Drainage District, California (in this section referred to as the "District"), for use by the District or by local agencies acting pursuant to section 413 of the State of California statute known as the Colusa Basin Drainage Act (California Stats. 1987, ch. 1399), as in effect on the date of the enactment of this Act (in this section referred to as the "State statute"), for planning, design, environmental compliance, and construction required in carrying out eligible projects in the Colusa Basin Watershed to—

(1)(A) reduce the risk of damage to urban and agricultural areas from flooding or the discharge of drainage water or tailwater;

(B) assist in groundwater recharge efforts to alleviate overdraft and land subsidence; or

(C) construct, restore, or preserve wetland and riparian habitat; and

(2) capture, as an incidental purpose of any of the purposes referred to in paragraph (1), surface or stormwater for conservation, conjunctive use, and increased water supplies.

(c) PROJECT SELECTION.—

(1) ELIGIBLE PROJECTS.—A project shall be an eligible project for purposes of subsection (b) only if it is—

(A) identified in the document entitled "Colusa Basin Water Management Program", dated February 1995; and

(B) carried out in accordance with that document and all environmental documentation requirements that apply to the project under the laws of the United States and the State of California.

(2) COMPATIBILITY REQUIREMENT.—The Secretary shall ensure that projects for which assistance is provided under this section are not inconsistent with watershed protection and environmental restoration efforts being carried out under the authority of the Central Valley Project Improvement Act (Public Law 102–575; 106 Stat. 4706 et seq.) or the CALFED Bay-Delta Program.

(d) COST SHARING.—

(1) NON-FEDERAL SHARE.—The Secretary shall require that the District and cooperating non-Federal agencies or organizations pay—

(A) 25 percent of the costs associated with construction of any project carried out with assistance provided under this section; and

(B) 100 percent of any operation, maintenance, and replacement and rehabilitation costs with respect to such a project.

(2) PLANNING, DESIGN, AND COMPLIANCE ASSISTANCE.—Funds appropriated pursuant to this section may be made available to fund all costs incurred for planning, design, and environmental compliance activities by the District or by local agencies acting pursuant to the State statute, in accordance with agreements with the Secretary.

(3) TREATMENT OF CONTRIBUTIONS.—For purposes of this subsection, the Secretary shall treat the value of lands, interests in lands (including rights-of-way and other easements), and necessary relocations contributed by the District to a project as a payment by the District of the costs of the project.

(e) COSTS NONREIMBURSABLE.—Amounts expended pursuant to this section shall be considered nonreimbursable for purposes of the Act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 371 et seq.), and Acts amendatory thereof and supplemental thereto.

(f) AGREEMENTS.—Funds appropriated pursuant to this section may be made available to the District or a local agency only if the District or local agency, as applicable, has entered into a binding agreement with the Secretary—

(1) under which the District or the local agency is required to pay the non-Federal share of the costs of construction required by subsection (d)(1); and

(2) governing the funding of planning, design, and compliance activities costs under subsection (d)(2).

(g) REIMBURSEMENT.—For project work (including work associated with studies, planning, design, and construction) carried out by the District or by a local agency acting pursuant to the State statute referred to in subsection (b) before the date amounts are provided for the project under this section, the Secretary shall, subject to amounts being made available in advance in appropriations Acts, reimburse the District or the local agency, without interest, an amount equal to the estimated Federal share of the cost of such work under subsection (d).

(h) COOPERATIVE AGREEMENTS.—

(1) IN GENERAL.—The Secretary may enter into cooperative agreements and contracts with the District to assist the Secretary in carrying out the purposes of this section.

(2) SUBCONTRACTING.—Under such cooperative agreements and contracts, the Secretary may authorize the District to manage and let contracts and receive reimbursements, subject to amounts being made available in advance in appropriations Acts, for work carried out under such contracts or subcontracts.

(i) RELATIONSHIP TO RECLAMATION REFORM ACT OF 1982.—Activities carried out, and financial assistance provided, under this section shall not be considered a supplemental or additional benefit for purposes of the Reclamation Reform Act of 1982 (96 Stat. 1263; 43 U.S.C. 390aa et seq.).

(j) APPROPRIATIONS AUTHORIZED.—There are authorized to be appropriated to the Secretary to carry out this section $25,000,000, plus such additional amount, if any, as may be required by reason of changes in costs of services of the types involved in the District's projects as shown by engineering and other relevant indexes. Sums appropriated under this subsection shall remain available until expended.

SEC. 1394. LIMITATION ON STATUTORY CONSTRUCTION.

Nothing in this title shall be construed to abrogate or affect any obligation of the United States under section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)).

TITLE XIV—PROVISIONS SPECIFIC TO ALASKA

SEC. 1401. AUTOMATIC LAND BANK PROTECTION.

(a) LANDS RECEIVED IN EXCHANGE FROM CERTAIN FEDERAL AGENCIES.—The matter preceding clause (i) of section 907(d)(1)(A) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1636(d)(1)(A)) is amended by inserting "or conveyed to a Native Corporation pursuant to an exchange authorized by section 22(f) of Alaska Native Claims Settlement Act or section 1302(h) of this Act or other applicable law" after "Settlement Trust".

(b) LANDS EXCHANGED AMONG NATIVE CORPORATIONS.—Section 907(d)(2)(B) of such Act (43 U.S.C. 1636(d)(2)(B)) is amended—

(1) by striking "and" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting "; and"; and

(3) by adding at the end the following:

"(iv) lands or interest in lands shall not be considered developed or leased or sold to a third party as a result of an exchange or conveyance of such land or interest in land between or among Native Corporations and trusts, partnerships, corporations, or joint ventures, whose beneficiaries, partners, shareholders, or joint venturers are Native Corporations.".

(c) ACTIONS BY TRUSTEE SERVING PURSUANT TO AGREEMENT OF NATIVE CORPORATIONS.—Section 907(d)(3)(B) of such Act (43 U.S.C. 1636(d)(3)(B)) is amended—

(1) by striking "or" at the end of clause (i);

(2) by striking the period at the end of clause (ii) and inserting "; or"; and

(3) by adding at the end the following:

"(iii) to actions by any trustee whose right, title, or interest in land or interests in land arises pursuant to an agreement between or among Native Corporations and trusts, partnerships, or joint ventures whose beneficiaries, partners, shareholders, or joint venturers are Native Corporations.".

SEC. 1402. DEVELOPMENT BY THIRD-PARTY TRESPASSERS.

Section 907(d)(2)(A)(i) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1636(d)(2)(A)(i)) is amended—

(1) by inserting "Any such modification shall be performed by the Native individual or Native Corporation." after "substantial modification.";

(2) by inserting a period after "developed state" the second place it appears; and

(3) by adding "Any lands previously developed by third-party trespassers shall not be considered to have been developed.".

SEC. 1403. RETAINED MINERAL ESTATE.

(a) IN GENERAL.—Section 12(c)(4) of the Alaska Native Claims Settlement Act (43 U.S.C. 1611(c)(4)) is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (E) and (F), respectively, and by inserting after subparagraph (B) the following new subparagraphs:

"(C) Where such public lands are surrounded by or contiguous to subsurface lands obtained by a Regional Corporation under subsections (a) or (b), the Corporation may, upon request, have such public land conveyed to it.

"(D)(i) A Regional Corporation which elects to obtain public lands under subparagraph (C) shall be limited to a total of not more than 12,000 acres. Selection by a Regional Corporation of in lieu surface acres under subparagraph (E) pursuant to an election under subparagraph (C) shall not be made from any lands within a conservation system unit (as that term is defined by section 102(4) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(4)).

"(ii) An election to obtain the public lands described in subparagraph (A), (B), or (C) shall include all available parcels within the township in which the public lands are located.

"(iii) For purposes of this subparagraph and subparagraph (C), the term 'Regional Corporation' shall refer only to Doyon, Limited."; and

(2) in subparagraph (E) (as so redesignated), by striking "(A) or (B)" and inserting "(A), (B), or (C)".

(b) FAILURE TO APPEAL NOT PROHIBITIVE.—Section 12(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1611(c)) is amended by adding at the end the following:

"(5) Subparagraphs (A), (B), and (C) of paragraph (4) shall apply, notwithstanding the failure of the Regional Corporation to have appealed the rejection of a selection during the conveyance of the relevant surface estate.".

SEC. 1404. AMENDMENT TO PUBLIC LAW 102–415.

Section 20 of the Alaska Land Status Technical Corrections Act of 1992 (106 Stat. 2129), is amended by adding at the end the following new subsection:

"(h) Establishment of the account under subsection (b) and conveyance of land under subsection (c), if any, shall be treated as though 3,520 acres of land had been conveyed to Gold Creek under section 14(h)(2) of the Alaska Native Claims Settlement Act for which rights to subsurface estate are hereby provided to CIRI. Within 1 year from the date of the enactment of this subsection, CIRI shall select 3,520 acres of land from the area designated for selection by paragraph I.B.(2)(b) of the document identified in section 12(b) (referring to the Talkeetna Mountains) of the Act of January 2, 1976 (43 U.S.C. 1611 note). Not more than five selections shall be made under this subsection, each of which shall be reasonably compact and in whole sections, except when separated by unavailable land or when the remaining entitlement is less than a whole section.".

SEC. 1405. CLARIFICATION ON TREATMENT OF BONDS FROM A NATIVE CORPORATION.

Section 29(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c)) is amended—

(1) in paragraph (3)(A), by inserting "and on bonds received from a Native Corporation" after "from a Native Corporation"; and

(2) in paragraph (3)(B), by inserting "or bonds issued by a Native Corporation which bonds shall be subject to the protection of section 7(h) until voluntarily and expressly sold or pledged by the shareholder subsequent to the date of distribution" before the semicolon.

SEC. 1406. MINING CLAIMS.

Paragraph (3) of section 22(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1621(c)) is amended—

(1) by striking out "regional corporation" each place it appears and inserting in lieu thereof "Regional Corporation"; and

(2) by adding at the end the following: "The provisions of this section shall apply to Haida Corporation and the Haida Traditional Use Sites, which shall be treated as a Regional Corporation for the purposes of this paragraph, except that any revenues remitted to Haida Corporation under this section shall not be subject to distribution pursuant to section 7(i) of this Act.".

SEC. 1407. SALE, DISPOSITION, OR OTHER USE OF COMMON VARIETIES OF SAND, GRAVEL, STONE, PUMICE, PEAT, CLAY, OR CINDER RESOURCES.

Subsection (i) of section 7 of the Alaska Native Claims Settlement Act (43 U.S.C. 1606(i)) is amended—

(1) by striking "Seventy per centum" and inserting "(A) Except as provided by subparagraph (B), seventy percent"; and

(2) by adding at the end the following:

"(B) In the case of the sale, disposition, or other use of common varieties of sand, gravel, stone, pumice, peat, clay, or cinder resources made during a fiscal year ending after the date of enactment of this subparagraph, the revenues received by a Regional Corporation shall not be subject to division under subparagraph (A). Nothing in this subparagraph is intended to or shall be construed to alter the ownership of such sand, gravel, stone, pumice, peat, clay, or cinder resources.".

SEC. 1408. ALASKA NATIVE ALLOTMENT APPLICATIONS.

Section 905(a) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1634(a)) is amended by adding at the end the following:

"(7) Paragraph (1) of this subsection and subsection (d) shall apply, and paragraph (5) of this subsection shall cease to apply, to an application—

"(A) that is open and pending on the date of enactment of this paragraph,

"(B) if the lands described in the application are in Federal ownership other than as a result of reacquisition by the United States after January 3, 1959, and

"(C) if any protest which is filed by the State of Alaska pursuant to paragraph (5)(B) with respect to the application is withdrawn or dismissed either before, on, or after the date of the enactment of this paragraph.

"(8)(A) Any allotment application which is open and pending and which is legislatively approved by enactment of paragraph (7) shall, when allotted, be made subject to any easement, trail, or right-of-way in existence on the date of the Native allotment applicant's commencement of use and occupancy.

"(B) The jurisdiction of the Secretary is extended to make any factual determinations required to carry out this paragraph.".

SEC. 1409. VISITOR SERVICES.

Paragraph (1) of section 1307(b) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3197(b)) is amended—

(1) by striking "Native Corporation" and inserting "Native Corporations"; and

(2) by striking "is most directly affected" and inserting "are most directly affected".

SEC. 1410. LOCAL HIRE REPORT.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary of the Interior shall transmit to Congress a report.

(b) LOCAL HIRE.—The report required by subsection (a) shall—

(1) indicate the actions taken in carrying out subsection (b) of section 1308 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3198);

(2) address the recruitment processes that may restrict employees hired under subsection (a) of such section from successfully obtaining positions in the competitive service; and

(3) describe the actions of the Secretary of the Interior in contracting with Alaska Native Corporations to provide services with respect to public lands in Alaska.

(c) COOPERATION.—The Secretary of Agriculture shall cooperate with the Secretary of the Interior in carrying out this section with respect to the Forest Service.

SEC. 1411. SHAREHOLDER BENEFITS.

Section 7 of the Alaskan Native Claims Settlement Act (43 U.S.C. 1606) is amended by adding at the end the following:

"(r) BENEFITS FOR SHAREHOLDERS OR IMMEDIATE FAMILIES.—The authority of a Native Corporation to provide benefits to its shareholders who are Natives or descendants of Natives or to its shareholders' immediate family members who are Natives or descendants of Natives to promote the health, education, or welfare of such shareholders or family members is expressly authorized and confirmed. Eligibility for such benefits need not be based on share ownership in the Native Corporation and such benefits may be provided on a basis other than pro rata based on share ownership.".

SEC. 1412. SHAREHOLDER HOMESITE PROGRAM.

Section 39(b)(1)(B) of the Alaskan Native Claims Settlement Act (43 U.S.C. 1629e(b)(1)(B)) is amended by inserting after "settlor corporation" the following: "or the land is conveyed for a homesite by the Trust to a beneficiary of the Trust who is also a legal resident under Alaska law of the Native village of the settlor corporation and the conveyance does not exceed 1.5 acres".

SEC. 1413. MORATORIUM ON FEDERAL MANAGEMENT.

Prior to December 31, 1999, neither the Secretary of the Interior nor the Secretary of Agriculture may issue or implement final regulations, rules, or policies pursuant to title VIII of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3111 et seq.) to assert jurisdiction, management, or control over the navigable waters transferred to the State of Alaska pursuant to the Submerged Lands Act (43 U.S.C. 1301 et seq.) or the Act entitled "An Act to provide for the admission of the State of Alaska into the Union", approved July 7, 1958 (Public Law 85-508; 72 Stat. 339).

SEC. 1414. EASEMENT FOR CHUGACH ALASKA CORPORATION.

(a) IN GENERAL.—Notwithstanding any other provision of law, not later than December 11, 1998, the Secretary of Agriculture shall convey to Chugach Alaska Corporation an easement for the construction, use, and maintenance of forest roads and related facilities necessary for access to and economic development of the land interests in the Carbon Mountain and Katalla vicinity that were conveyed to Chugach Alaska Corporation pursuant to the Alaska Native Claims Settlement Act. The public shall be permitted use of the roads pursuant to the terms and conditions contained in the 1982 Chugach Natives, Inc. Settlement Agreement. The location of the easement is depicted on the map entitled "Carbon Mountain Access Easement" and dated November 4, 1997. Nothing in this section waives any legal environmental requirement with respect to the actual road construction.

(b) CONSTRUCTION AND MAINTENANCE.—Construction and maintenance of any roads pursuant to subsection (a) shall be in accordance with the best management practices of the Forest Service as promulgated in the Forest Service Handbook.

(c) SETTLEMENT AGREEMENT TO REMAIN IN FORCE.—Nothing in this section shall be construed as impairing or diminishing any right granted Chugach Alaska Corporation under the 1982 Chugach Natives, Inc. Settlement Agreement.

SEC. 1415. CALISTA NATIVE CORPORATION LAND EXCHANGE.

(a) CONGRESSIONAL FINDINGS.—Congress finds and declares that—

(1) the land exchange authorized by section 8126 of Public Law 102–172 should be implemented without further delay;

(2) the Calista Corporation, the Native Regional Corporation organized under the authority of the Alaska Native Claims Settlement Act for the Yupik Eskimos of Southwestern Alaska, which includes the majority of the Yukon Delta National Wildlife Refuge—

(A) has responsibilities provided for by the Alaska Native Claims Settlement Act to help address social, cultural, economic, health, subsistence, and related issues within the region and among its villages, including the viability of the villages themselves, many of which are remote and isolated; and

(B) has been unable to fully carry out such responsibilities;

(3) the implementation of the exchange referenced in this subsection is essential to helping Calista utilize its assets to carry out those responsibilities and to realize the benefits of the Alaska Native Claims Settlement Act;

(4) the parties to the exchange have been unable to reach agreement on the valuation of the lands and interests in lands to be conveyed to the United States under section 8126 of Public Law 102–172; and

(5) in light of the foregoing, it is appropriate and necessary in this unique situation that Congress authorize and direct the implementation of this exchange as set forth in this section in furtherance of the purposes and underlying goals of the Alaska Native Claims Settlement Act and the Alaska National Interest Lands Conservation Act.

(b) LAND EXCHANGE IMPLEMENTATION.—Section 8126 of Public Law 102–172 (105 Stat. 1206) is amended to read as follows:

"SEC. 8126. (a)(1) In exchange for lands, partial estates, and land selection rights identified in the document entitled 'The Calista Conveyance and Relinquishment Document', dated October 28, 1991, as amended September 18, 1998 (hereinafter referred to as 'CCRD'), the United States will establish a property account for the Calista Corporation, a corporation organized under the laws of the State of Alaska, in the amount identified in the CCRD, and in accordance with the provisions of this Act.

"(2) The CCRD contains the land descriptions of the lands and interests in lands to be conveyed, the selections to be relinquished, the charges to entitlement, the quantity and class of entitlement to be transferred to the United States, the terms of the Kuskokwim Corporation Conservation Easement, and the amount that is authorized for the property account.

"(3) The covenants, terms, and conditions to be used in any transfers to the United States described in the CCRD shall be binding on the United States and the participating Native corporations and shall be a matter of Federal law.

"(b)(1) The aggregate values of such lands and interests in lands, together with compensation for the considerations set forth in congressional findings concerning the Calista Region and its villages, shall be the sum provided in section IX of the CCRD. The amounts credited to the property account described in this subsection shall not be subject to adjustment for minor changes in acreage resulting from preparation or correction of the land descriptions in the CCRD or the exclusion of any small tracts of land as a result of hazardous material surveys. The Secretary of the Interior shall maintain an accounting of the lands and interests in lands remaining to be conveyed or relinquished by Calista Corporation and the participating village corporations pursuant to this section. The Secretary of the Treasury on October 1, 1998, shall establish a property account on behalf of Calista Corporation.

"(2) The account shall be credited and available for use as provided in paragraph (4), according to the following schedule of percentages of the amount in section IX of the CCRD:

"(A) On October 1, 1999, and on October 1 of each year thereafter through October 1, 2005, the amount equal to 12.69 percent.

"(B) On October 1, 2007, the amount equal to 11.17 percent.

"(3)(A) Unless otherwise authorized by law, the aggregate amount of all credits to the account, pursuant to the schedule set forth in paragraph (2), shall be equal to the amount in section IX of the CCRD.

"(B) All amounts credited to the account shall be from amounts in the Treasury not otherwise appropriated and shall be available for expenditure without further appropriation and without fiscal year limitation.

"(4) The property account may not be used until all conveyances, relinquishments of selections, and adjustments to entitlements described in the CCRD have been made to and accepted by the United States. The Secretary of the Interior shall notify the Secretary of the Treasury when all requirements of the preceding sentence have been met. Immediately thereafter the Secretary of the Treasury shall comply with his duties under this paragraph including the computations of the amount in the account, the amount that may be expended in any particular Federal fiscal year, and the balance of the account after any transaction. The property account may be used in the same manner as any other property account held by any other Alaska Native Corporation.

"(5) Notwithstanding any other provision of law, Calista Corporation on its own behalf or on behalf of the village corporations identified in the CCRD, may assign any or all of the account upon written notification to the Secretary of the Treasury and the Secretary of the Interior.

"(6) The Secretary of the Treasury shall notify the Secretary of the Interior and Calista whenever there is a reduction in the property account, the purpose for such reduction and the remaining balance in the account. The Alaska State Office of the Bureau of Land Management shall be the official repository of such notices.

"(7) For the purpose of the determination of the applicability of section 7(i) of the Alaska Native Claims Settlement Act (43 U.S.C. 1606(i)) to revenues generated pursuant to that section, such revenues shall be calculated in accordance with section IX of the CCRD.

"(8) The United States shall not be liable for the redistribution of benefits by the Calista Corporation to the participating Alaska Native village corporations pursuant to this section.

"(9) These transactions are not based on appraised property values and therefore shall not be used as a precedent for establishing property values.

"(10) Prior to the issuance of any conveyance documents or relinquishments and acceptance, the Secretary of the Interior and the participating Native corporations may, by mutual agreement, modify the legal descriptions included in the CCRD to correct clerical errors.

"(11) Property located in the State of Alaska that is purchased by use of the property account shall be considered and treated as conveyances of land selections under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

"(12) The conveyance of lands, partial estates and land selection rights and relinquishment or adjustments to entitlement made by the Alaska Native Corporations pursuant to this section and the use of the property account in the Treasury shall be treated as the receipt of land or any interest therein or cash in order to equalize the values of properties exchanged pursuant to section 22(f) of the Alaska Native Claims Settlement Act (43 U.S.C. 1621(f)) as provided in the first sentence in section 21(c) of that Act (43 U.S.C. 1620(c)).

"(13) With respect to the content of the CCRD, the Secretary of the Interior, the Calista Regional Corporation, and the participating village corporations agree upon the lands, interests in lands, relinquishments and adjustments to entitlement described therein that may be offered to the United States pursuant to this section. These parties also agree with the amounts to be made available in the property account once all conveyances and relinquishments are completed, and the parties agree with the needs set forth in the congressional findings in section 6(a) of the ANCSA Land Bank Protection Act of 1998. The parties do not necessarily agree on the hortatory statements, descriptions, and attributions of resource values which are included in the CCRD as drafted by Calista. But such disagreements will not affect the implementation of this section.

"(14) Descriptions of resource values provided for surface lands which are not offered in the exchange and will remain privately owned by village corporations form no part of the consideration for the exchange.".

TITLE XV—OTHER PROVISIONS

SEC. 1501. ADAMS NATIONAL HISTORICAL PARK.

(a) FINDINGS.—Congress finds the following:

(1) In 1946, the Secretary of the Interior, by means of the authority provided to the Secretary under section 2 of the Act of August 21, 1935 (16 U.S.C. 462; commonly known as the Historic Sites, Buildings, and Antiquities Act), established the Adams Mansion National Historic Site in Quincy, Massachusetts.

(2) In 1952, again using the authority provided under the Act of August 21, 1935, the Secretary enlarged the historic site and renamed it the Adams National Historic Site.

(3) In 1972, title III of Public Law 92–272 (86 Stat. 121) authorized the Secretary to expand the boundaries of the Adams National Historic Site to include an additional 3.68 acres and to acquire lands and interests in lands within the expanded boundaries.

(4) Section 312 of the National Parks and Recreation Act of 1978 (Public Law 95–625; 92 Stat. 3479) authorized the Secretary to accept the conveyance of the birthplaces in Quincy, Massachusetts, of John Adams, second President of the United States, and John Quincy Adams, sixth President of the United States, and to administer the birthplaces as part of the Adams National Historic Site.

(5) In 1980, Public Law 96–435 (94 Stat. 1861) authorized the Secretary to accept the conveyance of the United First Parish Church in Quincy, Massachusetts, the burial site of John Adams and his wife, Abigail Adams, and John Quincy Adams and his wife, Louisa Adams, and to administer the burial site as part of the Adams National Historic Site.

(6) The actions described in the preceding paragraphs to preserve for the benefit, education, and inspiration of present and future generations of Americans the home, property, birthplaces, and burial site of John Adams, Abigail Adams, John Quincy Adams, and Louisa Adams, have resulted in a multisite unit of the National Park System with no overarching enabling or authorizing legislation.

(7) The sites and resources associated with John Adams and his wife, Abigail Adams, and John Quincy Adams and his wife, Louisa Adams, deserve recognition as a national historical park in the National Park System.

(b) DEFINITIONS.—As used in this section:

(1) HISTORICAL PARK.—The term "historical park" means the Adams National Historical Park established in subsection (c).

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(c) ADAMS NATIONAL HISTORICAL PARK.

(1) ESTABLISHMENT.—In order to preserve for the benefit, education, and inspiration of the people of the United States certain properties in Quincy, Massachusetts, associated with John Adams, second President of the United States, his wife, Abigail Adams, John

Quincy Adams, sixth President of the United States, and his wife, Louisa Adams, there is established the Adams National Historical Park as a unit of the National Park System.

(2) BOUNDARIES.—The historical park shall be comprised of—

(A) all property owned by the National Park Service in the Adams National Historic Site as of the date of the enactment of this Act, as well as all property previously authorized to be acquired by the Secretary for inclusion in the Adams National Historic Site, as generally depicted on the map entitled "Adams National Historical Park", numbered NARO 386/92001, and dated July 22, 1992; and

(B) all property authorized to be acquired for inclusion in the historical park by this section or other law enacted after the date of the enactment of this Act.

(3) VISITOR AND ADMINISTRATIVE SITES.—To preserve the historical character and landscape of the main features of the historical park, the Secretary may acquire up to 10 acres for the development of visitor, administrative, museum, curatorial, and maintenance facilities adjacent to or in the general proximity of the property depicted on the map identified in paragraph (2)(A).

(4) MAP.—The map of the historical park shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(d) ADMINISTRATION.—

(1) IN GENERAL.—The park shall be administered by the Secretary in accordance with this section and the provisions of law generally applicable to units of the National Park System, including the Act of August 25, 1916 (16 U.S.C. 1 et seq.; commonly known as the National Park Service Organic Act), and the Act of August 21, 1935 (16 U.S.C. 461 et seq.; commonly known as the Historic Sites, Buildings, and Antiquities Act).

(2) COOPERATIVE AGREEMENTS.—

(A) AGREEMENTS AUTHORIZED.—The Secretary may consult and enter into cooperative agreements with interested entities and individuals to provide for the preservation, development, interpretation, and use of the historical park.

(B) CONDITION.—Any payments made by the Secretary pursuant to a cooperative agreement under this subsection shall be subject to the condition that conversion, use, or disposal of the project for which the payments are made for purposes contrary to the purposes for which the historical park is established, as determined by the Secretary, will result in a right of the United States to reimbursement in an amount equal to the greater of—

(i) all payments made by the Secretary in connection with the project; or

(ii) the proportion of the increased value of the project attributable to the payments, as determined at the time of such conversion, use, or disposal.

(3) ACQUISITION OF REAL PROPERTY.—To advance the purposes for which the historical park is established, the Secretary may acquire real property within the boundaries of the historical park by any of the following methods:

(A) Purchase using funds appropriated or donated to the Secretary.

(B) Acceptance of a donation of the real property.

(C) Use of a land exchange.

(4) REPEAL OF SUPERSEDED ADMINISTRATIVE AUTHORITIES.—(A) Section 312 of the National Parks and Recreation Act of 1978 (Public Law 95–625; 92 Stat. 3479) is amended—

(i) by striking "(a)" after "SEC. 312."; and

(ii) by striking subsection (b).

(B) The first section of Public Law 96–435 (94 Stat. 1861) is amended—

(i) by striking "(a)" after "That"; and

(ii) by striking subsection (b).

(5) REFERENCES TO HISTORIC SITE.—Any reference in any law (other than this section), regulation, document, record, map, or other paper of the United States to the Adams National Historic Site shall be considered to be a reference to the historical park.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes for which the historical park is established, for annual operations and maintenance of the historical park, and for acquisition of property and development of facilities necessary to operate and maintain the historical park, as may be outlined in an approved general management plan for the historical park.

SEC. 1502. ACQUISITION OF LANDS FOR FREDERICK LAW OLMSTEAD NATIONAL HISTORIC SITE.

Section 201 of Public Law 96–87 (93 Stat. 664; 16 U.S.C. 461 note) is amended by adding at the end the following:

"(d)(1) Notwithstanding subsection (c), in order to preserve and maintain the historic setting of the Site, the Secretary may acquire, by donation only, lands and interests in lands that are situated adjacent to the Site and owned by the Brookline Conservation Land Trust (a nonprofit corporation established under the laws of the State of Massachusetts).

"(2) Lands acquired under this subsection shall be included in and maintained and managed as part of the Site.".

SEC. 1503. DESIGNATION OF DANTE FASCELL VISITOR CENTER AT BISCAYNE NATIONAL PARK.

(a) DESIGNATION.—The Biscayne National Park visitor center, located on the shore of Biscayne Bay on Convoy Point, is designated as the Dante Fascell Visitor Center at Biscayne National Park.

(b) REFERENCES.—Any reference in any statute, rule, regulation, Executive order, publication, map, or paper or other document of the United States to the Biscayne National Park visitor center is deemed to refer to the Dante Fascell Visitor Center at Biscayne National Park.

SEC. 1504. DESIGNATION OF CALIFORNIA COASTAL ROCKS AND ISLANDS WILDERNESS AREA TO BE ADMINISTERED BY BUREAU OF LAND MANAGEMENT.

(a) FINDINGS.—The Congress finds the following:

(1) The California coastal rocks and islands are a critical component of a unique ecosystem of California.

(2) The California coastal rocks and islands comprise a narrow flight lane in the Pacific Flyway, providing protected nest sites as well as feeding and perching areas for millions of seabirds.

(3) This unique ecosystem is also important for the continued survival of endangered or threatened sea mammals, such as stellar sea lions and elephant seals.

(4) Designation of the California coastal rocks and islands as wilderness would add a significant natural component to the National Wilderness Preservation System.

(b) DESIGNATION AS WILDERNESS.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), all unreserved and unappropriated ocean islands in the State of California (as more fully described in subsection (c)) that, as of the date of the enactment of this Act, are under the jurisdiction of the Bureau of Land Management are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System, and shall be known as the California Coastal Rocks and Islands Wilderness.

(c) DESCRIPTION OF COVERED ISLANDS.—The ocean islands covered by subsection (b) are those islands, reefs, rocks, and islets lying within three miles off the Pacific coast of the State of California from Oregon to the Mexican border and above the mean high tides, except those already reserved and appropriated for other uses as listed in the exhibit titled "Lands Not Affected By Wilderness Designation" dated February 26, 1997, and on file and available for public review in the California office of the Bureau of Land Management.

(d) MANAGEMENT AUTHORITY.—The California Coastal Rocks and Islands Wilderness shall remain under the jurisdiction of the Bureau of Land Management, and the islands, reefs, rocks, and islets designated as wilderness under subsection (b) are managed, as of the date of the enactment of this Act, under a memorandum of understanding by the California Department of Fish and Game.

(e) MANAGEMENT.—Subject to valid existing rights, the California Coastal Rocks and Islands Wilderness shall be administered by the Secretary of the Interior in accordance with the Wilderness Act, except that, with respect to such wilderness area, any reference in the Wilderness Act to the effective date of the Wilderness Act shall be deemed to be a reference to the date of the enactment of this Act and any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

(f) EFFECT ON OTHER LAWS.—This section shall take precedence over and supersede the temporary reservation made by the Act of February 18, 1931 (Chapter 226; 46 Stat. 1172).

SEC. 1505. SPANISH PEAKS WILDERNESS.

(a) AMENDMENT.—Section 2 of the Colorado Wilderness Act of 1993 (Public Law 103–77) is amended by adding the following new paragraph at the end of subsection (a):

"(20) Certain lands in the San Isabel National Forest which comprise approximately 18,000 acres, as generally depicted on a map entitled 'Proposed Spanish Peaks Wilderness', dated May 1997, and which shall be known as the Spanish Peaks Wilderness.".

(b) MAP AND DESCRIPTION.—As soon as practicable after the date of enactment of this Act, the Secretary of Agriculture shall file a map and a boundary description of the area designated as the Spanish Peaks Wilderness by paragraph (20) of subsection 2(a) of the Colorado Wilderness Act of 1993, as amended by this section, with the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Such map and boundary description shall have the same force and effect as if included in the Colorado Wilderness Act of 1993, except that if the Secretary is authorized to correct clerical and typographical errors in such boundary description and map. Such map and boundary description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

(c) CONFORMING CHANGE.—Section 10 of the Colorado Wilderness Act of 1993 (Public Law 103–77) is hereby repealed, and section 11 of such Act is renumbered as section 10.

SEC. 1506. ROSIE THE RIVETER NATIONAL PARK SERVICE AFFILIATED SITE.

(a) FINDINGS.—The Congress finds the following:

(1) The City of Richmond, California, is located on the northeastern shore of San Francisco Bay and consists of several miles of waterfront which have been used for shipping and industry since the beginning of the 20th century. During the years of World War II, the population of Richmond grew from 220 to over 100,000.

(2) An area of Richmond, California, now known as Marina Park and Marina Green, was the location in the 1940's of the Richmond Kaiser Shipyards, which produced Liberty and Victory ships during World War II.

(3) Thousands of women of all ages and ethnicities moved from across the United States to Richmond, California, in search of high paying jobs and skills never before available to women in the shipyards.

(4) Kaiser Corporation supported women workers by installing child care centers at the shipyards so mothers could work while their children were well cared for nearby.

(5) These women, referred to as "Rosie the Riveter" and "Wendy the Welder", built hundreds of liberty and victory ships in record time for use by the United States Navy. Their labor played a crucial role in increasing American productivity during the war years and in meeting the demand for naval ships.

(6) In part the Japanese plan to defeat the United States Navy was predicated on victory occurring before United States shipyards could build up its fleet of ships.

(7) The City of Richmond, California, has dedicated the former site of Kaiser Shipyard #2 as Rosie the Riveter Memorial Park and will construct a memorial honoring American women's labor during World War II. The memorial will be representative of one of the Liberty ships built on the site during the war effort.

(8) The City of Richmond, California, is committed to collective interpretative oral histories for the public to learn of the stories of the "Rosies" and "Wendys" who worked in the shipyards.

(9) The Rosie the Riveter Park is a nationally significant site because there tens of thousands of women entered the work force for the first time, working in heavy industry to support their families and the War effort. This was a turning point for the Richmond, California, area and the nation as a whole, when women joined the workforce and successfully completed jobs for which previously it was believed they were incapable.

(b) STUDY.—

(1) IN GENERAL.—The Secretary of the Interior shall conduct a feasibility study to determine whether—

(A) the Rosie the Riveter Park located in Richmond, California, is suitable for designation as an affiliated site to the National Park Service; and

(B) the Rosie the Riveter Memorial Committee established by the City of Richmond, California, with respect to that park is eligible for technical assistance for interpretative functions relating to the park, including preservation of oral histories from former works at the Richmond Kaiser Shipyards.

(2) REPORTS.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall complete the study under paragraph (1) and submit a report containing findings, conclusions, and recommendations from the study to the Committee on Resources of the House of Representatives and the Committee on Energy and Environment of the Senate.

The CHAIRMAN. Pursuant to House resolution 573, the gentleman from Utah (Mr. HANSEN) and the gentleman from California (Mr. MILLER) each will control 10 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Mr. Chairman, I yield myself such time as I may consume to explain the purpose of the amendment to H.R. 4570.

Many of the additions contained in the amendment are small word changes and technical corrections. With a bill this size, it is reasonable to expect a number of refinements along the way. We have tried to spot and make corrections to all those areas that require corrections, and I think we caught most of them.

Mr. Chairman, the vast majority of the provisions contained in this bill are noncontroversial and bipartisan. However, we have made major concessions to the more controversial measures and included revised language in this amendment. In particular, the provisions for Cumberland Island and the Tuskegee Institute have undergone considerable changes in order to make these more acceptable yet still deal with important concerns.

Likewise, this amendment contains major changes to the conveyance of property at the Canyon Ferry Reservoir in Montana, to the hazardous fuels reduction programs in our national forests, to the forest health-NEPA parity program, and a program for improved operation and maintenance of water impoundments in the Emigrant Wilderness of California. Furthermore, this amendment has made significant and agreeable modifications to the provisions dealing with land claims under the Treaty of Guadelupe-Hidalgo in New Mexico.

Mr. Chairman, we have gone out of our way to craft this amendment to address the majority of the concerns by both the administration and the minority. This included eliminating from this package a number of provisions that were very important to us. For example, the highly controversial Antiquities Act provision that many of the people got up and talked about is not in the bill. That has been entirely deleted from the omnibus bill.

☐ 1500

This provision was especially important to me and I still believe it is a good and necessary idea. However, I will strike this provision. Likewise, both the C&O Canal and the Hell's Canyon provisions have been eliminated. These were strongly opposed by the administration and we reluctantly, yet willingly agreed to compromise and strike these provisions in the spirit of compromise.

We have also made noncontroversial additions to the original bill which followed the intent of this landmark legislation which create new historic areas and heritage areas along with expanding national park units. For example, the additions contained in the amendment will create the Kate Mullany Historic Site in New York sponsored by the gentleman from New York (Mr. MCNULTY), establish the Lackawanna Valley Heritage Area in Pennsylvania sponsored by the gentleman from Pennsylvania (Mr. MCDADE), and authorize Route 66 as a National Historic Highway sponsored by the gentlewoman from New Mexico (Mrs. WILSON). This amendment will also expand Bandelier National Monument in New Mexico sponsored by the gentleman from New Mexico (Mr. REDMOND), expand the Weir Farm Historic Site in Connecticut sponsored by the gentleman from Connecticut (Mr. MALONEY), and authorize an expansion of the Chickamauga-Chattanooga National Military Park sponsored by the gentleman from Tennessee (Mr. WAMP).

Mr. Chairman, these new additions easily fall within our goal to further benefit our national parks and public lands. This amendment crafted with bipartisanship goes further to absolutely assure that our national parks, public lands and national resources are cared for and properly managed so that visitors can enjoy and experience these lands for many generations to come.

Lastly, Mr. Chairman, in the spirit of bipartisanship, we have added in the amendment a number of provisions that the minority strongly and earnestly wanted to see as part of this package. These provisions include the Adams National Historical Park sponsored by the gentleman from Massachusetts (Mr. DELAHUNT) which consolidates the current Adams Historical Sites into a historical park and allows for further acquisitions of a small parcel of property.

The amendment also allows for expansion of the Frederick Law Olmstead National Historic Site sponsored by the gentleman from Massachusetts (Mr. FRANK). Another provision would designate two new wilderness areas, the Spanish Peaks Wilderness in Colorado sponsored by the gentleman from Colorado (Mr. SKAGGS) and the California Coastal Rocks and Islands Wilderness sponsored by the gentleman from California (Mr. FARR).

One other provision designates the Dante Fascell Biscayne National Park Visitor Center as the official name of the visitors center in Biscayne Bay National Park, sponsored by the gentleman from Florida (Mr. DEUTSCH) and cosponsored by the gentleman from Florida (Mr. HASTINGS) and the gentlewoman from Florida (Mrs. MEEKS) among others.

Lastly, Mr. Chairman, a new provision authorizes a feasibility study of Rosie the Riveter in California, sponsored by the ranking minority member of the House Committee on Resources the gentleman from California (Mr. MILLER).

I strongly urge all my colleagues to support the amendment to H.R. 4570, especially those Members, Republicans and Democrats alike, that have sponsored legislation which is part of this package.

REQUEST FOR MODIFICATION OF AMENDMENT NO. 1 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. HANSEN

Mr. HANSEN. Mr. Chairman, I ask unanimous consent that the amendment I have just offered be modified to strike section 1504.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

> Mr. HANSEN asks unanimous consent to modify his amendment No. 1 in the nature of a substitute as follows: "Strike section 1504".

The CHAIRMAN. Is there objection to the modification?

Mr. GALLEGLY. Reserving the right to object, Mr. Chairman. I rise reluctantly because I have tremendous respect for my chairman. He has done a yeoman's job. I do not know of anyone that has worked harder to try to reach a consensus on a very difficult piece of legislation, a very important piece of legislation. But I will reluctantly oppose the unanimous consent.

The CHAIRMAN. Does the gentleman object?

Mr. GALLEGLY. I do object.

The CHAIRMAN. Objection is heard.

Mr. MILLER of California. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Chairman, I do not object to the gentleman from Utah, the chairman of the subcommittee, trying to improve this product. It needs a lot of improvement. That is for sure. That much, we can agree upon. I think he has made a step forward to improve it. But you remember that sausage I was talking about a little earlier, about part of it having some bad product in it. When you add spices to that sausage, you can add a little more salt to it, for a preservative, I might add, not to rub it in or anything, but in the end it still does not pass the smell test and it still is not edible.

I appreciate the gentleman's effort to negotiate on his own, not with me, not with the gentleman from California (Mr. MILLER), not with the administration, not with our good friend the gentleman from New York (Mr. BOEHLERT), but the end result is that still the gentleman, as I heard our chairman talk about, well, he looked over some of these bills and he decided they were all right. Well, that is just fine. I am glad that he decided that, and maybe you decided that with him. I trust your judgment, but I think frankly that many of these provisions that have not had hearings may be good provisions, they may not. I know that we have worked hard on that subcommittee. I have sat through a lot of hearings myself. I just think that we can do better than bringing this sort of bill with 100 different provisions on the floor and trying to pass it at this late date without the type of agreement. As I said before, I think even with this sugar-coated substitute, these new spices to the sausage and this new salt preservative that you are trying to put in here to cure this, I think we have to go back and start over and look at these provisions, and I think we could do an omnibus bill. But I think at this point in the process, there does not appear to be the willingness to excise from this all of the elements which are a problem.

Frankly many of these provisions have passed and are in the other body and are being sent to the President. I appreciate the fact that all this work that has gone on for the last 2 years deserves positive consideration. But this is not the way to get it done. I think trying to put these things on the floor, and the reason I think that this is being done is that this is a train that is being made to pull a lot of bad policy into law. I think that is what you are trying to do. I think it is the wrong way to do it. It is wrong to put this stuff in the appropriation bills, it is wrong to put it in this omnibus bill and not give it the type of deliberation and discussion that is deserved in this.

This substitute, while I do not oppose it because I think that this bill, as I have said, needs a lot of improvement but a lot more than this substitute is providing today. In the end, I hope that the Members will vote against this and join the environmental groups, the administration, we now have a letter from the Secretary of Agriculture which I believe should be put in the RECORD, the Secretary of the Interior is against it, the administration itself is, the President has stated his intention to veto if it ever were to get that far. I think at this late date it just does a disservice to the Members who want to get projects done to pursue a policy and an attitude on this floor that is going nowhere fast.

Mr. MILLER of California. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. BOEHLERT).

Mr. BOEHLERT. Mr. Chairman, I have no objection to this amendment which does make some real improvements in the bill. But I would simply point out that the amendment does not fix the fundamental problems with the bill which I have already outlined several times today, and others have done the same.

Let me emphasize that this amendment, despite what Members may have heard or seen reported, does not take care of the objections that the environmentalists and the administration had with this bill. It does not incorporate, as has been suggested, most of what I and other moderates were seeking in negotiations. It does not touch the most troubling parts of this bill.

So while I appreciate and support the amendment by the gentleman from Utah (Mr. HANSEN), I would urge my colleagues not to fall into thinking that it makes the bill acceptable. Far from it. I continue to urge my colleagues to oppose this bill.

Mr. HANSEN. Mr. Chairman, will the gentleman yield?

Mr. BOEHLERT. I yield to the gentleman from Utah.

Mr. HANSEN. Would the gentleman specifically tell me what the environmental community objects to in this bill? I have heard that for 2, 3 hours now.

Mr. BOEHLERT. I will be glad to. I will share once again what I have shared with the gentleman many times before, with members of his staff, a whole list of objections.

Mr. HANSEN. A specific thing, not a generality if I could from the gentleman from New York.

Mr. BOEHLERT. I will be glad to share this with my distinguished chairman.

Mr. MILLER of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the manager's amendment is really immaterial here. As the gentleman from New York (Mr. BOEHLERT) has pointed out, it fails to remove any of the fatal flaws that exist in this legislation. We have been told now several times by the supporters of this bill that they have compromised and they have worked with the administration and others, except the fact of the matter is on those areas where they talked to the administration, where they did not get the answers they wanted, they just stopped talking and, therefore, the administration continues to oppose the legislation.

We have just received a letter from the Department of Agriculture, from the Secretary of Agriculture that continues to be opposed to the Chugach Alaska provisions in this bill because it gives away much more public land than is necessary and it gives it away without compensating the taxpayers. That is why the taxpayer organizations continue to oppose this. And it does it in an environmentally insensitive way. That is why the environmental organizations continue to oppose this. And it goes on and on and on and on.

What they have tried to do now in the 11th hour is add a little bit of frosting to this old piece of legislation to see if they could get one or two more votes to vote for it. The fact of the matter is that this legislation remains unacceptable to a bipartisan coalition in this House, to the major environmental organizations, to many local environmental organizations and citizen organizations. This legislation remains unacceptable to taxpayer organizations in this country and remains unacceptable to the Department of Agriculture, to the Department of Interior and to the administration. That is why it is going to get a veto and that is why it is not going to get taken up in the Senate. That is why we ought to kill it now and then go back to the business of trying to put together legislation that deals with those projects that have bipartisan support, that deals with those projects that are noncontroversial in terms of the environmental insults, and drop from this bill, or drop from this negotiation those items that are far too controversial to allow them to be signed into law before the end of this session. Those items should have been brought out here on the floor of the Congress. They should have been debated openly. We had many, many hours in every week of this session where we went home in the middle of the afternoon, where we did not show up until Tuesday night, where we left on Thursday morning and we could have been debating this legislation. But the effort here has been to try to jam the members of this Congress so the Members of this Congress would try to jam this vote and to somehow agree because they got one small project or one small commission or one small boundary change that somehow they would then enable the real agenda of this legislation to pass, which is huge environmental insults that cannot stand on their own, cannot take the light of day, cannot take the scrutiny of any of the citizens organizations or of the public interest or of the taxpayers.

We ought not to be doing that. Members ought not to take and trade their integrity for some small bill when this bill insults taxpayers, when it is a waste of public moneys, when it insults the environmental policy in this country in the manner in which it does. Members ought not to make that trade. This bill ought to go down and then those Members that have good pieces of legislation that are noncontroversial, that are bipartisan and that have the support of environmental organizations and the administration and taxpayer organizations, that bill ought to be put together and it will pass out of here on unanimous consent. That is how you legislate. That is how you bring environmental progress to this country. You do not do it in the 11th hour at the end of a session where you have had plenty of time and then try to see whether or not you can squeeze every Member to vote against their conscience so that somehow we can have these bills that have been opposed for many, many, many months. Many months, where there has not been discussion about them and bills that they have refused to submit to the committee because the committee probably would not approve them, bills that they have submitted to no hearings because the hearings would be controversial and probably end up with people opposing the legislation from local organizations and elsewhere. Now all of a sudden they decide that all of that has got to be put into one bill and Members are told to take it or leave it. The Members ought to leave it. Then we ought to get back to the business of legislating legislation in the environmental area, in the public lands area that we can be proud of, that we can talk about and we can show the American people that we care about the environmental assets of this country without destroying them in the name of saving a few others in different parts of the country.

I would urge Members on a bipartisan basis, my colleagues here, to oppose this legislation and then let us get on with the people's business.

Mr. Chairman, I yield the balance of my time to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Chairman, I just want to comment. I think it is regrettable. At the end of the session we do not need this type of polarization. I appreciate the gentleman from Utah attempting to mollify some of the provisions in the bill that are troublesome, but frankly it simply does not go far enough. I think my fear is at the end of the session like this that Members want an opportunity to demonstrate that they are against these types of provisions. We went through this catharsis for the last 3½ years, in the last Congress passing laws like logging without laws, riders on various things. I had hoped that this session that we would at least be able to come to compromise as we did toward the end of the last session, and I think that that is possible. But this step is a step in the wrong direction. I fear this will in fact end up polarizing the circumstances. I rise in opposition to this bill again and ask Members to oppose it.

□ 1515

Mr. HANSEN. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. POMBO).

Mr. POMBO. Mr. Chairman, I thank the gentleman for yielding this time to me, and I come to the floor reluctantly opposed to the bill and reluctantly opposed to the manager's amendment.

I heard the gentleman from California (Mr. MILLER) a minute ago say that the manager's amendment was inconsequential, that it really did not do anything. Well, it does do things. It takes a lot of things out of the bill that I care about, it takes things out that I think made this bill better than it will be after the manager's amendment passes. It also adopts a provision that will be included in this particular bill that is known as the California Coastal Rocks and Islands Wilderness Act of 1998 that I do not think anybody in this place knows or has any clue how many thousands of rocks and islands and reefs and everything else that will be included in that; nobody has any idea what will be included in that. And I oppose including that in this bill.

I also believe that the gentleman from Utah (Mr. HANSEN) went way too far in accepting changes to try to make this bill work, and I know he was trying to put a bill together that would work for people, he was trying to put good legislation together that we could pass and that the President would sign. But as far as this Member is concerned, he went way too far. He went way too far in trying to codify and trying to accept the things that these people that are down here complaining about the bill wanted. He did not get a single vote for doing all that. And as far as I am concerned, he ought to strip all that stuff out, and then maybe we will vote on it.

But I appreciate the gentleman having yielded to me.

Mr. HANSEN. Mr. Chairman I yield myself such time as I may consume.

Mr. Chairman, I found this very interesting on this debate on the Hansen amendment as I have not heard anyone talk to the Hansen amendment except myself when we started out, and, as long as we have a few minutes here, I really appreciate my friend from New York giving me the final time in all this debate that we can find out what these people object to, and they have a list of five here. I am having a very difficult time seeing where it is in any part of the bill.

It would remove areas from wilderness protection. I guess they are talking about one of these 90 something bills in the Cumberland where there is a small little road goes through so people can have access. That is as far as we can figure that out. Sets new weaker guidelines for wilderness protection; I assume they are talking about the big horn sheep which I talked about before where here we are trying to establish a herd of desert big horn sheep, and it would not be called wilderness, but it would be preserved. But I guess some people cannot get enough, and the only place I know of in America where we can have a herd of big horn sheep, but we are against those poor sheep. That is fine. Veterinarians cannot go in and take care of them because they have to do it with a helicopter, and we cannot have guzzlers to give them a drink, but that is all right, if we just every little square inch of grounds got to be wilderness. Forget these poor sheep in this thing. This idea of the poor Indians up there in the tribe in Alaska, these American natives, cannot have access to their own property. That is the other one I see. So, if we have an emergency of some kind, let us fly a plane in there in turbulent weather and kill everybody on board, and as a past pilot I can tell you they would not get me to do it, but apparently some have tried. We have had a lot of debts up there, but let us worry about this one little road going across there so these American natives can get out. We do not want that to happen. Keep every square inch in there to take care of it.

Makes no sense to me, and that is all I can see on the omnibus park bill that the environmentalists object to. That is all there seems to be.

But on the flip side of the argument look at all of the good things that are in this bill. I think it was interesting, my friend from California says that Congressman HANSEN went too far. My gosh, there is 435 big egos in this place, and everyone of us goes too far occasionally. I am trying to work out a compromise; that is why it has got so many things in for my friends on the other side of the aisle.

And again, there is no tent around here; we are trying to come up with a compromise piece of legislation that we can be proud of. I do not know. It is easy to stand in the kitchen and talk to the kids and tell them how things go, but standing on this floor is a lot harder, and I would hope people would realize, yes, I did not get everything I wanted, I did not cross every T and dot every I and get everything I personally wanted because my ego is so big I have got to have it all. Let us just say here a good compromise, and drop these egos around here and vote for something good for the American people

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Utah (Mr. HANSEN).

The amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. HASTERT) having assumed the chair, Mr. NEY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4570) to provide for certain boundary adjustments and conveyances involving public lands, to establish and improve the management of certain heritage areas, historic areas, national parks, wild and scenic rivers, and national trails, to protect communities by reducing hazardous fuels levels on public lands, and for other purposes, pursuant to House Resolution 573, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MILLER of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 123, nays 302, not voting 9, as follows:

[Roll No. 489]

YEAS—123

Archer
Armey
Baker
Ballenger
Barr
Barrett (NE)
Barton
Bateman
Bereuter
Bliley
Blunt
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Burton
Buyer
Callahan
Calvert
Cannon
Chambliss
Christensen
Coble
Collins
Combest
Cook
Cooksey
Cox
Crane
Cubin
Deal
DeLay
Dickey
Dingell
Doolittle
Dreier
Duncan
Dunn
Fowler
Frelinghuysen
Gallegly
Gibbons
Gillmor
Goodling
Granger
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hunter
Istook
Jenkins
Johnson, Sam
Kim
Kingston
Knollenberg
Kolbe
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
Lucas
Maloney (CT)
McCollum
McDade
McHugh
McInnis
McKeon
Metcalf
Mica
Norwood
Ortiz
Oxley
Packard
Parker
Paxon
Pickering
Pitts
Radanovich
Redmond
Regula
Riley
Rogers
Ros-Lehtinen
Roukema
Royce
Salmon
Schaefer, Dan
Schaffer, Bob
Sessions
Shadegg
Shuster
Skeen
Smith (OR)
Smith (TX)
Snowbarger
Solomon
Souder
Spence
Stenholm
Stump
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wicker
Wilson
Young (AK)

NAYS—302

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Bachus
Baesler
Baldacci
Barcia
Barrett (WI)
Bartlett
Bass
Becerra
Bentsen
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Burr
Camp
Campbell
Canady
Capps
Cardin
Carson
Castle
Chabot
Chenoweth
Clay
Clayton
Clement
Clyburn
Coburn
Condit
Conyers
Costello
Coyne
Cramer
Crapo
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dixon
Doggett
Dooley
Doyle
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Filner
Foley
Forbes
Ford
Fossella
Fox
Frank (MA)
Franks (NJ)
Frost
Furse
Ganske
Gejdenson
Gephardt
Gilchrest
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hutchinson
Hyde
Inglis
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kleczka
Klink
Klug
Kucinich
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (GA)
LoBiondo
Lofgren
Lowey
Luther
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntosh
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Nussle
Oberstar
Obey
Olver
Owens
Pallone
Pappas
Pascrell
Pastor
Paul
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Price (NC)
Quinn
Rahall
Ramstad
Rangel
Reyes
Riggs
Rivers
Rodriguez
Roemer
Rogan
Rohrabacher
Rothman
Roybal-Allard
Rush
Ryun
Sabo
Sánchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schumer
Scott
Sensenbrenner
Serrano
Shaw
Shays
Sherman
Shimkus
Sisisky
Skaggs
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith, Adam
Smith, Linda
Snyder
Spratt
Stabenow
Stark
Stearns
Stokes
Strickland
Stupak
Sununu
Talent
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Waters
Watt (NC)
Waxman
Wexler
Weygand
White
Whitfield
Wise
Wolf
Woolsey
Wynn
Yates
Young (FL)

NOT VOTING—9

Fazio
Gekas
Hefner
Kennedy (MA)
Kennelly
LaFalce
McCrery
Poshard
Pryce (OH)

□ 1543

Mrs. JOHNSON of Connecticut and Messrs. GRAHAM, NEY, ADERHOLT, CUNNINGHAM, RUSH, KASICH, GOODLATTE, BACHUS And McHALE changed their vote from "yea" to "nay."

Messrs. CALLAHAN, HEFLEY, LIPINSKI and ORTIZ changed their vote from "nay" to "yea."

So the bill was not passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GEKAS. Mr. Speaker, earlier today, October 7, 1998, I was unavoidably detained while discussing the conference committee report on bankruptcy reform and missed a recorded vote on H.R. 4570, the Omnibus National Parks and Public Lands Act of 1998. Had I been present, I would have voted "aye" on rollcall No. 489, to agree to H.R. 4570.

☐ 1545

CONFERENCE REPORT ON H.R. 4104, TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1999

Mr. KOLBE submitted the following conference report and statement on the bill (H.R. 4104) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1999, and for other purposes:

CONFERENCE REPORT (H. REPT. 105–789)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4104) "making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1999, and for other purposes", having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1999, and for other purposes, namely:

TITLE I—DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICES

SALARIES AND EXPENSES

For necessary expenses of the Departmental Offices including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; maintenance, repairs, and improvements of, and purchase of commercial insurance policies for, real properties leased or owned overseas, when necessary for the performance of official business; not to exceed $2,900,000 for official travel expenses; not to exceed $150,000 for official reception and representation expenses; not to exceed $258,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Secretary of the Treasury and to be accounted for solely on his certificate, $123,151,000: Provided, That the Office of Foreign Assets Control shall be funded at no less than $6,560,800: Provided further, That the Department is authorized to charge both direct and indirect costs to the Office of Foreign Assets Control in the implementation of this floor: Provided further, That the methodology for applying such charges will be the same method used in developing the Departmental Offices Fiscal Year 1999 President's Budget Justification to the Congress.

AUTOMATION ENHANCEMENT

(INCLUDING TRANSFER OF FUNDS)

For development and acquisition of automatic data processing equipment, software, and services for the Department of the Treasury, $28,690,000: Provided, That these funds shall remain available until September 30, 2000: Provided further, That these funds shall be transferred to accounts and in amounts as necessary to satisfy the requirements of the Department's offices, bureaus, and other organizations: Provided further, That this transfer authority shall be in addition to any other transfer authority provided in this Act: Provided further, That none of the funds appropriated shall be used to support or supplement the Internal Revenue Service appropriations for Information Systems: Provided further, That $6,000,000 of the funds appropriated for the Customs Modernization project may not be transferred to the United States Customs Service or obligated until the Treasury's Chief Information Officer, through the Treasury Investment Review Board, concurs on the plan and milestone schedule for the deployment of the system: Provided further, That $6,000,000 of the funds made available for the Customs Modernization project may not be obligated for any major system investments prior to the development of an architecture which is compliant with the Treasury Information Systems Architecture Framework (TISAF) and the establishment of measures to enforce compliance with the architecture.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, not to exceed $2,000,000 for official travel expenses; including hire of passenger motor vehicles; and not to exceed $100,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Inspector General of the Treasury, $30,678,000.

TREASURY BUILDING AND ANNEX REPAIR AND RESTORATION

For the repair, alteration, and improvement of the Treasury Building and Annex, $27,000,000, to remain available until expended: Provided, That none of the funds provided shall be available for obligation until September 30, 1999.

FINANCIAL CRIMES ENFORCEMENT NETWORK

SALARIES AND EXPENSES

For necessary expenses of the Financial Crimes Enforcement Network, including hire of passenger motor vehicles; travel expenses of non-Federal law enforcement personnel to attend meetings concerned with financial intelligence activities, law enforcement, and financial regulation; not to exceed $14,000 for official reception and representation expenses; and for assistance to Federal law enforcement agencies, with or without reimbursement, $24,000,000: Provided, That funds appropriated in this account may be used to procure personal services contracts.

VIOLENT CRIME REDUCTION PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For activities authorized by Public Law 103–322, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund, as follows:

(1) As authorized by section 190001(e), $119,000,000; of which $3,000,000 shall be available to the Bureau of Alcohol, Tobacco and Firearms for administering the Gang Resistance Education and Training program; of which $1,400,000 shall be available to the Financial Crimes Enforcement Network; of which $22,628,000 shall be available to the United States Secret Service, including $6,700,000 for vehicle replacement, $5,000,000 for investigations of counterfeiting, $7,732,000 for the 2000 candidate/nominee protection program, and $3,196,000 for forensic and related support of investigations of missing and exploited children, of which $1,196,000 shall be available as a grant for activities related to the investigations of exploited children and shall remain available until expended; of which $65,472,000 shall be available for the United States Customs Service, including $54,000,000 for narcotics detection technology, $9,500,000 for the passenger processing initiative, $972,000 for construction of canopies for inspection of outbound vehicles along the Southwest border, and $1,000,000 for technology investments related to the Cyber-Smuggling Center; of which $2,500,000 shall be available to the Office of National Drug Control Policy, including $1,000,000 for Model State Drug Law Conferences, and $1,500,000 to expand the Milwaukee, Wisconsin High Intensity Drug Trafficking Area; and of which $24,000,000 shall be available for Interagency Crime and Drug Enforcement;

(2) As authorized by section 32401, $13,000,000 to the Bureau of Alcohol, Tobacco and Firearms for disbursement through grants, cooperative agreements, or contracts to local governments for Gang Resistance Education and Training: Provided, That notwithstanding sections 32401 and 310001, such funds shall be allocated to State and local law enforcement and prevention organizations.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Law Enforcement Training Center, as a bureau of the Department of the Treasury, including materials and support costs of Federal law enforcement basic training; purchase (not to exceed 52 for police-type use, without regard to the general purchase price limitation) and hire of passenger motor vehicles; for expenses for student athletic and related activities; uniforms without regard to the general purchase price limitation for the current fiscal year; the conducting of and participating in firearms matches and presentation of awards; for public awareness and enhancing community support of law enforcement training; not to exceed $9,500 for official reception and representation expenses; room and board for student interns; and services as authorized by 5 U.S.C. 3109, $71,923,000, of which up to $13,843,000 for materials and support costs of Federal law enforcement basic training shall remain available until September 30, 2001: Provided, That the Center is authorized to accept and use gifts of property, both real and personal, and to accept services, for authorized purposes, including funding of a gift of intrinsic value which shall be awarded annually by the Director of the Center to the outstanding student who graduated from a basic training program at the Center during the previous fiscal year, which shall be funded only by gifts received through the Center's gift authority: Provided further, That notwithstanding any other provision of law, students attending training at any Federal Law Enforcement Training Center site shall reside in on-Center or Center-provided housing, insofar as available and in accordance with Center policy: Provided further, That funds appropriated in this account shall be available, at the discretion of the Director, for the following: (1) training United States Postal Service law enforcement personnel and Postal police officers; (2) State and local government law enforcement training on a space-available basis; (3) training of foreign law enforcement officials on a space-available basis with reimbursement of actual costs to this appropriation, except that reimbursement may be waived by the

Secretary for law enforcement training activities in foreign countries undertaken pursuant to section 801 of the Antiterrorism and Effective Death Penalty Act of 1996, Public Law 104–32; (4) training of private sector security officials on a space-available basis with reimbursement of actual costs to this appropriation; and (5) travel expenses of non-Federal personnel to attend course development meetings and training sponsored by the Center: Provided further, That the Center is authorized to obligate funds in anticipation of reimbursements from agencies receiving training sponsored by the Federal Law Enforcement Training Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available at the end of the fiscal year: Provided further, That the Federal Law Enforcement Training Center is authorized to provide training for the Gang Resistance Education and Training program to Federal and non-Federal personnel at any facility in partnership with the Bureau of Alcohol, Tobacco and Firearms: Provided further, That the Federal Law Enforcement Training Center is authorized to provide short-term medical services for students undergoing training at the Center.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For expansion of the Federal Law Enforcement Training Center, for acquisition of necessary additional real property and facilities, and for ongoing maintenance, facility improvements, and related expenses, $34,760,000, to remain available until expended.

INTERAGENCY LAW ENFORCEMENT

INTERAGENCY CRIME AND DRUG ENFORCEMENT

For expenses necessary for the detection and investigation of individuals involved in organized crime drug trafficking, including cooperative efforts with State and local law enforcement, $51,900,000, of which $7,827,000 shall remain available until expended.

FINANCIAL MANAGEMENT SERVICE

SALARIES AND EXPENSES

For necessary expenses of the Financial Management Service, $196,490,000, of which not to exceed $13,235,000 shall remain available until September 30, 2001, for information systems modernization initiatives.

FEDERAL FINANCING BANK

For liquidation of certain debts to the United States Treasury incurred by the Federal Financing Bank pursuant to section 9(b) of the Federal Financing Bank Act of 1973, $3,317,960,000.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For necessary expenses of the Bureau of Alcohol, Tobacco and Firearms, including purchase of not to exceed 812 vehicles for police-type use, of which 650 shall be for replacement only, and hire of passenger motor vehicles; hire of aircraft; services of expert witnesses at such rates as may be determined by the Director; for payment of per diem and/or subsistence allowances to employees where an assignment to the National Response Team during the investigation of a bombing or arson incident requires an employee to work 16 hours or more per day or to remain overnight at his or her post of duty; not to exceed $15,000 for official reception and representation expenses; for training of State and local law enforcement agencies with or without reimbursement, including training in connection with the training and acquisition of canines for explosives and fire accelerants detection; and provision of laboratory assistance to State and local agencies, with or without reimbursement, $541,574,000, of which $2,206,000 shall not be available for obligation until September 30, 1999; of which $27,000,000 may be used for the Youth Crime Gun Interdiction Initiative; of which not to exceed $1,000,000 shall be available for the payment of attorneys' fees as provided by 18 U.S.C. 924(d)(2); and of which $1,000,000 shall be available for the equipping of any vessel, vehicle, equipment, or aircraft available for official use by a State or local law enforcement agency if the conveyance will be used in joint law enforcement operations with the Bureau of Alcohol, Tobacco and Firearms and for the payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement personnel, including sworn officers and support personnel, that are incurred in joint operations with the Bureau of Alcohol, Tobacco and Firearms: Provided, That no funds made available by this or any other Act may be used to transfer the functions, missions, or activities of the Bureau of Alcohol, Tobacco and Firearms to other agencies or Departments in fiscal year 1999: Provided further, That of the funds made available, $4,500,000 shall be made available for the expansion of the National Tracing Center: Provided further, That no funds appropriated herein shall be available for salaries or administrative expenses in connection with consolidating or centralizing, within the Department of the Treasury, the records, or any portion thereof, of acquisition and disposition of firearms maintained by Federal firearms licensees: Provided further, That no funds appropriated herein shall be used to pay administrative expenses or the compensation of any officer or employee of the United States to implement an amendment or amendments to 27 CFR 178.118 or to change the definition of "Curios or relics" in 27 CFR 178.11 or remove any item from ATF Publication 5300.11 as it existed on January 1, 1994: Provided further, That none of the funds appropriated herein shall be available to investigate or act upon applications for relief from Federal firearms disabilities under 18 U.S.C. 925(c): Provided further, That such funds shall be available to investigate and act upon applications filed by corporations for relief from Federal firearms disabilities under 18 U.S.C. 925(c): Provided further, That no funds in this Act may be used to provide ballistics imaging equipment to any State or local authority who has obtained similar equipment through a Federal grant or subsidy unless the State or local authority agrees to return that equipment or to repay that grant or subsidy to the Federal Government: Provided further, That no funds under this Act may be used to electronically retrieve information gathered pursuant to 18 U.S.C. 923(g)(4) by name or any personal identification code.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Customs Service, including purchase and lease of up to 1,050 motor vehicles of which 550 are for replacement only and of which 1,030 are for police-type use and commercial operations; hire of motor vehicles; contracting with individuals for personal services abroad; not to exceed $40,000 for official reception and representation expenses; and awards of compensation to informers, as authorized by any Act enforced by the United States Customs Service, $1,642,565,000, of which such sums as become available in the Customs User Fee Account, except sums subject to section 13031(f)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended (19 U.S.C. 58c(f)(3)), shall be derived from that Account; of the total, not to exceed $150,000 shall be available for payment for rental space in connection with pre-clearance operations, not to exceed $4,000,000 shall be available until expended for research, not to exceed $5,000,000 shall be available until expended for conducting special operations pursuant to 19 U.S.C. 2081, and up to $8,000,000 shall be available until expended for the procurement of automation infrastructure items, including hardware, software, and installation: Provided, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: Provided further, That of the amount provided, an additional $2,400,000 shall be made available for staffing and resources for the child pornography cyber-smuggling initiative: Provided further, That $500,000 shall be available to fund the expansion of services at the Vermont World Trade Office: Provided further, That not to exceed $2,500,000 shall be available until expended for relocation of the Customs Air Branch from Belle Chase, Louisiana, to Hammond, Louisiana: Provided further, That notwithstanding any other provision of law, the fiscal year aggregate overtime limitation prescribed in subsection 5(c)(1) of the Act of February 13, 1911 (19 U.S.C. 261 and 267) shall be $30,000: Provided further, That of the amount provided, $9,500,000 shall not be available for obligation until September 30, 1999.

OPERATION, MAINTENANCE AND PROCUREMENT, AIR AND MARINE INTERDICTION PROGRAMS

For expenses, not otherwise provided for, necessary for the operation and maintenance of marine vessels, aircraft, and other related equipment of the Air and Marine Programs, including operational training and mission-related travel, and rental payments for facilities occupied by the air or marine interdiction and demand reduction programs, the operations of which include the following: (1) the interdiction of narcotics and other goods; (2) the provision of support to Customs and other Federal, State, and local agencies in the enforcement or administration of laws enforced by the Customs Service; and (3) at the discretion of the Commissioner of Customs, the provision of assistance to Federal, State, and local agencies in other law enforcement and emergency humanitarian efforts, $113,688,000, which shall remain available until expended: Provided, That no aircraft or other related equipment, with the exception of aircraft which is one of a kind and has been identified as excess to Customs requirements and aircraft which has been damaged beyond repair, shall be transferred to any other Federal agency, department, or office outside of the Department of the Treasury, during fiscal year 1999 without the prior approval of the Committees on Appropriations.

HARBOR MAINTENANCE FEE COLLECTION

(INCLUDING TRANSFER OF FUNDS)

For administrative expenses related to the collection of the Harbor Maintenance Fee, pursuant to Public Law 103–182, $3,000,000, to be derived from the Harbor Maintenance Trust Fund and to be transferred to and merged with the Customs "Salaries and Expenses" account for such purposes.

BUREAU OF THE PUBLIC DEBT

ADMINISTERING THE PUBLIC DEBT

For necessary expenses connected with any public-debt issues of the United States, $176,500,000, of which not to exceed $2,500 shall be available for official reception and representation expenses, and of which not to exceed $2,000,000 shall remain available until September 30, 2001, for information systems modernization initiatives: Provided, That the sum appropriated herein from the General Fund for fiscal year 1999 shall be reduced by not more than $4,400,000 as definitive security issue fees and Treasury Direct Investor Account Maintenance fees are collected, so as to result in a final fiscal year 1999 appropriation from the General Fund estimated at $172,100,000, and in addition, $20,000, to be derived from the Oil Spill Liability Trust Fund to reimburse the Bureau for administrative and personnel expenses for financial management of the Fund, as authorized by section 102 of Public Law 101–380: Provided further, That notwithstanding any other provisions *of law, effective upon enactment and thereafter, the Bureau of the Public Debt shall be fully and directly reimbursed by the funds described in section 104 of Public Law 101–136 (103 Stat. 789) for costs and services performed by the Bureau in the administration of such funds.*

INTERNAL REVENUE SERVICE

PROCESSING, ASSISTANCE, AND MANAGEMENT

For necessary expenses of the Internal Revenue Service for tax returns processing; revenue accounting; tax law and account assistance to taxpayers by telephone and correspondence; programs to match information returns and tax returns; management services; rent and utilities; and inspection; including purchase (not to exceed 150 for replacement only for police-type use) and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner, $3,086,208,000, of which up to $3,700,000 shall be for the Tax Counseling for the Elderly Program, and of which not to exceed $25,000 shall be for official reception and representation expenses: Provided, That of the amount provided, $105,000,000 shall remain available until expended for postage and shall not be obligated before September 30, 1999: Provided further, That, pursuant to 39 U.S.C. 3206(a), funds shall continue to be provided to the United States Postal Service for postage due: Provided further, That of the amount provided, $25,000,000 shall not be available for obligation until September 30, 1999.

TAX LAW ENFORCEMENT

For necessary expenses of the Internal Revenue Service for determining and establishing tax liabilities; providing litigation support; issuing technical rulings; examining employee plans and exempt organizations; conducting criminal investigation and enforcement activities; securing unfiled tax returns; collecting unpaid accounts; compiling statistics of income and conducting compliance research; purchase (for police-type use, not to exceed 850) and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner, $3,164,189,000.

EARNED INCOME TAX CREDIT COMPLIANCE INITIATIVE

For funding essential earned income tax credit compliance and error reduction initiatives pursuant to section 5702 of the Balanced Budget Act of 1997 (Public Law 105–33), $143,000,000, of which not to exceed $10,000,000 may be used to reimburse the Social Security Administration for the costs of implementing section 1090 of the Taxpayer Relief Act of 1997.

INFORMATION SYSTEMS

For necessary expenses of the Internal Revenue Service for information systems and telecommunications support, including developmental information systems and operational information systems; the hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner, $1,265,456,000, which shall remain available until September 30, 2000, and of which $103,000,000 shall be available only for improvements to customer service.

INFORMATION TECHNOLOGY INVESTMENTS

For necessary expenses of the Internal Revenue Service, $211,000,000, to remain available until September 30, 2002, for the capital asset acquisition of information technology systems, including management and related contractual costs of such acquisition, and including contractual costs associated with operations authorized by 5 U.S.C. 3109: Provided, That none of these funds is available for obligation until September 30, 1999: Provided further, That none of these funds shall be obligated until the Internal Revenue Service and the Department of the Treasury submit to Congress for approval, a plan for expenditure that: (1) implements the Internal Revenue Service's Modernization Blueprint submitted to Congress on May 15, 1997; (2) meets the information systems investment guidelines established by the Office of Management and Budget and in the fiscal year 1998 budget; (3) is reviewed and approved by the Office of Management and Budget, the Department of the Treasury's IRS Management Board, and is reviewed by the General Accounting Office; (4) meets the requirements of the May 15, 1997 Internal Revenue Service's Systems Life Cycle program; and (5) is in compliance with acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government.

ADMINISTRATIVE PROVISIONS—INTERNAL REVENUE SERVICE

SECTION 101. Not to exceed 5 percent of any appropriation made available in this Act to the Internal Revenue Service may be transferred to any other Internal Revenue Service appropriation upon the advance approval of the House and Senate Committees on Appropriations.

SEC. 102. The Internal Revenue Service shall maintain a training program to ensure that Internal Revenue Service employees are trained in taxpayers' rights, in dealing courteously with the taxpayers, and in cross-cultural relations.

SEC. 103. The funds provided in this Act for the Internal Revenue Service shall be used to provide, as a minimum, the fiscal year 1995 level of service, staffing, and funding for Taxpayer Services.

SEC. 104. None of the funds appropriated by this title shall be used in connection with the collection of any underpayment of any tax imposed by the Internal Revenue Code of 1986 unless the conduct of officers and employees of the Internal Revenue Service in connection with such collection, including any private sector employees under contract to the Internal Revenue Service, complies with subsection (a) of section 805 (relating to communications in connection with debt collection), and section 806 (relating to harassment or abuse), of the Fair Debt Collection Practices Act (15 U.S.C. 1692).

SEC. 105. The Internal Revenue Service shall institute and enforce policies and procedures which will safeguard the confidentiality of taxpayer information.

SEC. 106. Funds made available by this or any other Act to the Internal Revenue Service shall be available for improved facilities and increased manpower to provide a sufficient and effective 1–800 help line for taxpayers. The Commissioner shall continue to make the improvement of the Internal Revenue Service 1–800 help line service a priority and allocate resources necessary to increase phone lines and staff to improve the Internal Revenue Service 1–800 help line service.

SEC. 107. Notwithstanding any other provision of law, no reorganization of the field office structure of the Internal Revenue Service Criminal Investigators Division will result in a reduction of criminal investigators in Wisconsin and South Dakota from the 1996 level.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Secret Service, including purchase of not to exceed 739 vehicles for police-type use, of which 675 shall be for replacement only, and hire of passenger motor vehicles; hire of aircraft; training and assistance requested by State and local governments, which may be provided without reimbursement; services of expert witnesses at such rates as may be determined by the Director; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; for payment of per diem and/or subsistence allowances to employees where a protective assignment during the actual day or days of the visit of a protectee require an employee to work 16 hours per day or to remain overnight at his or her post of duty; the conducting of and participating in firearms matches; presentation of awards; for travel of Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act if approval is obtained in advance from the Committees on Appropriations; for research and development; for making grants to conduct behavioral research in support of protective research and operations; not to exceed $20,000 for official reception and representation expenses; not to exceed $50,000 to provide technical assistance and equipment to foreign law enforcement organizations in counterfeit investigations; for payment in advance for commercial accommodations as may be necessary to perform protective functions; and for uniforms without regard to the general purchase price limitation for the current fiscal year, $600,302,000: Provided, That $18,000,000 provided for protective travel shall remain available until September 30, 2000; Provided further, That of the amount provided, $5,000,000 shall not be available for obligation until September 30, 1999.

ACQUISITION, CONSTRUCTION, IMPROVEMENT, AND RELATED EXPENSES

For necessary expenses of construction, repair, alteration, and improvement of facilities, $8,068,000, to remain available until expended.

GENERAL PROVISIONS—DEPARTMENT OF THE TREASURY

SEC. 110. Any obligation or expenditure by the Secretary of the Treasury in connection with law enforcement activities of a Federal agency or a Department of the Treasury law enforcement organization in accordance with 31 U.S.C. 9703(g)(4)(B) from unobligated balances remaining in the Fund on September 30, 1999, shall be made in compliance with reprogramming guidelines.

SEC. 111. Appropriations to the Department of the Treasury in this Act shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901), including maintenance, repairs, and cleaning; purchase of insurance for official motor vehicles operated in foreign countries; purchase of motor vehicles without regard to the general purchase price limitations for vehicles purchased and used overseas for the current fiscal year; entering into contracts with the Department of State for the furnishing of health and medical services to employees and their dependents serving in foreign countries; and services authorized by 5 U.S.C. 3109.

SEC. 112. The funds provided to the Bureau of Alcohol, Tobacco and Firearms for fiscal year 1999 in this Act for the enforcement of the Federal Alcohol Administration Act shall be expended in a manner so as not to diminish enforcement efforts with respect to section 105 of the Federal Alcohol Administration Act.

SEC. 113. Not to exceed 2 percent of any appropriations in this Act made available to the Federal Law Enforcement Training Center, Financial Crimes Enforcement Network, Bureau of Alcohol, Tobacco and Firearms, United States Customs Service, and United States Secret Service may be transferred between such appropriations upon the advance approval of the Committees on Appropriations. No transfer may increase or decrease any such appropriation by more than 2 percent.

SEC. 114. Not to exceed 2 percent of any appropriations in this Act made available to the Departmental Offices, Office of Inspector General, Financial Management Service, and Bureau of the Public Debt, may be transferred between *such appropriations upon the advance approval of the Committees on Appropriations. No transfer may increase or decrease any such appropriation by more than 2 percent.*

SEC. 115. Section 921(a) of title 18, United States Code, is amended—

(1) in paragraph (5), by striking "the explosive in a fixed shotgun shell" and inserting "an explosive";

(2) in paragraph (7), by striking "the explosive in a fixed metallic cartridge" and inserting "an explosive"; and

(3) by striking paragraph (16) and inserting the following:

"(16) The term 'antique firearm' means—

"(A) any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898; or

"(B) any replica of any firearm described in subparagraph (A) if such replica—

"(i) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; or

"(ii) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade; or

"(C) any muzzle loading rifle, muzzle loading shotgun, or muzzle loading pistol, which is designed to use black powder, or a black powder substitute, and which cannot use fixed ammunition. For purposes of this subparagraph, the term 'antique firearm' shall not include any weapon which incorporates a firearm frame or receiver, any firearm which is converted into a muzzle loading weapon, or any muzzle loading weapon which can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breechblock, or any combination thereof.".

SEC. 116. Of the funds available for the purchase of law enforcement vehicles, no funds may be obligated until the Secretary of the Treasury certifies that the purchase by the respective Treasury bureau is consistent with the vehicle management principles: Provided, That the Secretary may delegate this authority to the Assistant Secretary for Management.

SEC. 117. EXCEPTION TO IMMUNITY FROM ATTACHMENT OR EXECUTION. (a) Section 1610 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(f)(1)(A) Notwithstanding any other provision of law, including but not limited to section 208(f) of the Foreign Missions Act (22 U.S.C. 4308(f)), and except as provided in subparagraph (B), any property with respect to which financial transactions are prohibited or regulated pursuant to section 5(b) of the Trading with the Enemy Act (50 U.S.C. App. 5(b)), section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)), sections 202 and 203 of the International Emergency Economic Powers Act (50 U.S.C. 1701–1702), or any other proclamation, order, regulation, or license issued pursuant thereto, shall be subject to execution or attachment in aid of execution of any judgment relating to a claim for which a foreign state (including any agency or instrumentality or such state) claiming such property is not immune under section 1605(a)(7).

"(B) Subparagraph (A) shall not apply if, at the time the property is expropriated or seized by the foreign state, the property has been held in title by a natural person or, if held in trust, has been held for the benefit of a natural person or persons.

"(2)(A) At the request of any party in whose favor a judgment has been issued with respect to a claim for which the foreign state is not immune under section 1605(a)(7), the Secretary of the Treasury and the Secretary of State shall fully, promptly, and effectively assist any judgment creditor or any court that has issued any such judgment in identifying, locating, and executing against the property of that foreign state or any agency or instrumentality of such State.

"(B) In providing such assistance, the Secretaries—

"(i) may provide such information to the court under seal; and

"(ii) shall provide the information in a manner sufficient to allow the court to direct the United States Marshall's office to promptly and effectively execute against that property.".

(b) CONFORMING AMENDMENT.—Section 1606 of title 28, United States Code, is amended by inserting after "punitive damages" the following: ", except any action under section 1605(a)(7) or 1610(f)".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to any claim for which a foreign state is not immune under section 1605(a)(7) of title 28, United States Code, arising before, on, or after the date of the enactment of this Act.

(d) WAIVER.—The President may waive the requirements of this section in the interest of national security.

This title may be cited as the "Treasury Department Appropriations Act, 1999".

TITLE II—POSTAL SERVICE

PAYMENTS TO THE POSTAL SERVICE FUND

For payment to the Postal Service Fund for revenue forgone on free and reduced rate mail, pursuant to subsections (c) and (d) of section 2401 of title 39, United States Code, $71,195,000, which shall remain available until September 30, 2000: Provided, That none of the funds provided shall be available for obligation until October 1, 1999: Provided further, That mail for overseas voting and mail for the blind shall continue to be free: Provided further, That 6-day delivery and rural delivery of mail shall continue at not less than the 1983 level: Provided further, That none of the funds made available to the Postal Service by this Act shall be used to implement any rule, regulation, or policy of charging any officer or employee of any State or local child support enforcement agency, or any individual participating in a State or local program of child support enforcement, a fee for information requested or provided concerning an address of a postal customer: Provided further, That none of the funds provided in this Act shall be used to consolidate or close small rural and other small post offices in the fiscal year ending on September 30, 1999.

This title may be cited as the "Postal Service Appropriations Act, 1999".

TITLE III—EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT

COMPENSATION OF THE PRESIDENT AND THE WHITE HOUSE OFFICE

COMPENSATION OF THE PRESIDENT

For compensation of the President, including an expense allowance at the rate of $50,000 per annum as authorized by 3 U.S.C. 102, $250,000: Provided, That none of the funds made available for official expenses shall be expended for any other purpose and any unused amount shall revert to the Treasury pursuant to section 1552 of title 31, United States Code: Provided further, That none of the funds made available for official expenses shall be considered as taxable to the President.

SALARIES AND EXPENSES

For necessary expenses for the White House as authorized by law, including not to exceed $3,850,000 for services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 105; subsistence expenses as authorized by 3 U.S.C. 105, which shall be expended and accounted for as provided in that section; hire of passenger motor vehicles, newspapers, periodicals, teletype news service, and travel (not to exceed $100,000 to be expended and accounted for as provided by 3 U.S.C. 103); and not to exceed $19,000 for official entertainment expenses, to be available for allocation within the Executive Office of the President, $52,344,000: Provided, That $10,100,000 of the funds appropriated shall be available for reimbursements to the White House Communications Agency.

EXECUTIVE RESIDENCE AT THE WHITE HOUSE

OPERATING EXPENSES

For the care, maintenance, repair and alteration, refurnishing, improvement, heating, and lighting, including electric power and fixtures, of the Executive Residence at the White House and official entertainment expenses of the President, $8,061,000, to be expended and accounted for as provided by 3 U.S.C. 105, 109, 110, and 112–114: Provided, That such amount shall not be available for expenses for domestic staff overtime.

In addition, for necessary expenses for domestic staff overtime, $630,000: Provided, That such amount shall not become available for obligation until the Comptroller General of the United States notifies the Committees on Appropriations that: (1) the Executive Office of the President has received, reviewed, and commented on the draft report of the General Accounting Office with respect to its audit of the Executive Residence at the White House; and (2) the General Accounting Office has received the comments of the Executive Office of the President.

REIMBURSABLE EXPENSES

For the reimbursable expenses of the Executive Residence at the White House, such sums as may be necessary: Provided, That all reimbursable operating expenses of the Executive Residence shall be made in accordance with the provisions of this paragraph: Provided further, That, notwithstanding any other provision of law, such amount for reimbursable operating expenses shall be the exclusive authority of the Executive Residence to incur obligations and to receive offsetting collections, for such expenses: Provided further, That the Executive Residence shall require each person sponsoring a reimbursable political event to pay in advance an amount equal to the estimated cost of the event, and all such advance payments shall be credited to this account and remain available until expended: Provided further, That the Executive Residence shall require the national committee of the political party of the President to maintain on deposit $25,000, to be separately accounted for and available for expenses relating to reimbursable political events sponsored by such committee during such fiscal year: Provided further, That the Executive Residence shall ensure that a written notice of any amount owed for a reimbursable operating expense under this paragraph is submitted to the person owing such amount within 60 days after such expense is incurred, and that such amount is collected within 30 days after the submission of such notice: Provided further, That the Executive Residence shall charge interest and assess penalties and other charges on any such amount that is not reimbursed within such 30 days, in accordance with the interest and penalty provisions applicable to an outstanding debt on a United States Government claim under section 3717 of title 31, United States Code: Provided further, That each such amount that is reimbursed, and any accompanying interest and charges, shall be deposited in the Treasury as miscellaneous receipts: Provided further, That the Executive Residence shall prepare and submit to the Committees on Appropriations, by not later than 90 days after the end of the fiscal year covered by this Act, a report setting forth the reimbursable operating expenses of the Executive Residence during the preceding fiscal year, including the total amount of such expenses, the *amount of such total that consists of reimbursable official and ceremonial events, the amount of such total that consists of reimbursable political events, and the portion of each such amount that has been reimbursed as of the date of the report: Provided further, That the Executive Residence shall maintain a system for the tracking of expenses related to reimbursable events within the Executive Residence that includes a standard for the classification of any such expense as political or nonpolitical: Provided further, That no provision of this paragraph may be construed to exempt the Executive Residence from any other applicable requirement of subchapter I or II of chapter 37 of title 31, United States Code.*

SPECIAL ASSISTANCE TO THE PRESIDENT AND THE OFFICIAL RESIDENCE OF THE VICE PRESIDENT

SALARIES AND EXPENSES

For necessary expenses to enable the Vice President to provide assistance to the President in connection with specially assigned functions; services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 106, including subsistence expenses as authorized by 3 U.S.C. 106, which shall be expended and accounted for as provided in that section; and hire of passenger motor vehicles, $3,512,000.

OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For the care, operation, refurnishing, improvement, heating, and lighting, including electric power and fixtures, of the official residence of the Vice President; the hire of passenger motor vehicles; and not to exceed $90,000 for official entertainment expenses of the Vice President, to be accounted for solely on his certificate, $334,000: Provided, That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities.

COUNCIL OF ECONOMIC ADVISERS

SALARIES AND EXPENSES

For necessary expenses of the Council in carrying out its functions under the Employment Act of 1946 (15 U.S,C. 1021), $3,666,000.

OFFICE OF POLICY DEVELOPMENT

SALARIES AND EXPENSES

For necessary expenses of the Office of Policy Development, including services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 107, $4,032,000.

NATIONAL SECURITY COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the National Security Council, including services as authorized by 5 U.S.C. 3109, $6,806,000.

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Office of Administration, including services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 107, and hire of passenger motor vehicles, $28,350,000.

OFFICE OF MANAGEMENT AND BUDGET

SALARIES AND EXPENSES

For necessary expenses of the Office of Management and Budget (OMB), including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, $60,617,000, of which not to exceed $5,000,000 shall be available to carry out the provisions of chapter 35 of title 44, United States Code: Provided, That, as provided in 31 U.S.C. 1301(a), appropriations shall be applied only to the objects for which appropriations were made except as otherwise provided by law: Provided further, That none of the funds appropriated in this Act for the Office of Management and Budget may be used for the purpose of reviewing any agricultural marketing orders or any activities or regulations under the provisions of the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 et seq.): Provided further, That none of the funds made available for the Office of Management and Budget by this Act may be expended for the altering of the transcript of actual testimony of witnesses, except for testimony of officials of the Office of Management and Budget, before the Committees on Appropriations or the Committees on Veterans' Affairs or their subcommittees: Provided further, That the preceding shall not apply to printed hearings released by the Committees on Appropriations or the Committees on Veterans' Affairs: Provided further, That the Director of OMB amends Section ____.36 of OMB Circular A–110 to require Federal awarding agencies to ensure that all data produced under an award will be made available to the public through the procedures established under the Freedom of Information Act: Provided further, That if the agency obtaining the data does so solely at the request of a private party, the agency may authorize a reasonable user fee equaling the incremental cost of obtaining the data: Provided further, That OMB is directed to submit a report by March 31, 1999, to the Committees on Appropriations, the Senate Committee on Governmental Affairs, and the House Committee on Government Reform and Oversight that: (1) identifies specific paperwork reduction accomplishments expected, constituting annual 5 percent reductions in paperwork expected in fiscal year 1999 and fiscal year 2000; and (2) issues guidance on the requirements of 5 U.S.C. Sec. 801(a)(1) and (3); sections 804(3), and 808(2), including a standard new rule reporting form for use under section 801(a)(1)(A) and (B).

OFFICE OF NATIONAL DRUG CONTROL POLICY

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of National Drug Control Policy; for research activities pursuant to title I of Public Law 100–690; not to exceed $8,000 for official reception and representation expenses; and for participation in joint projects or in the provision of services on matters of mutual interest with nonprofit, research, or public organizations or agencies, with or without reimbursement, $48,042,000, of which $30,100,000 shall remain available until expended, consisting of $1,100,000 for policy research and evaluation, and $16,000,000 for the Counterdrug Technology Assessment Center for counternarcotics research and development projects, and $13,000,000 for the continued operation of the technology transfer program: Provided, That the $16,000,000 for the Counterdrug Technology Assessment Center shall be available for transfer to other Federal departments or agencies: Provided further, That the Office is authorized to accept, hold, administer, and utilize gifts, both real and personal, public and private, without fiscal year limitation, for the purpose of aiding or facilitating the work of the Office.

FEDERAL DRUG CONTROL PROGRAMS

HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of National Drug Control Policy's High Intensity Drug Trafficking Areas Program, $182,477,000 for drug control activities consistent with the approved strategy for each of the designated High Intensity Drug Trafficking Areas, of which no less than 51 percent shall be transferred to State and local entities for drug control activities, which shall be obligated within 120 days of the date of the enactment of this Act: Provided, That funding shall be provided for existing High Intensity Drug Trafficking Areas at no less than the total fiscal year 1998 level consisting of funding from this account as well as the Violent Crime Reduction Trust Fund.

SPECIAL FORFEITURE FUND

(INCLUDING TRANSFER OF FUNDS)

For activities to support a national anti-drug campaign for youth, and other purposes, authorized by Public Law 100–690, as amended, $214,500,000, to remain available until expended: Provided, That such funds may be transferred to other Federal departments and agencies to carry out such activities: Provided further, That of the funds provided, $185,000,000 shall be to support a national media campaign to reduce and prevent drug use among young Americans: Provided further, That none of the funds provided for the support of a national media campaign may be obligated for the following purposes: to supplant current anti-drug community based coalitions; to supplant current pro bono public service time donated by national and local broadcasting networks; for partisan political purposes; or to fund media campaigns that feature any elected officials, persons seeking elected office, cabinet-level officials, or other Federal officials employed pursuant to Schedule C of title 5, Code of Federal Regulations, section 213, absent advance notice to the Committees on Appropriations and the Senate Judiciary Committee: Provided further, That: (1) the Office of National Drug Control Policy (ONDCP) will require a pro bono match commitment up-front as part of its media buy from each and every seller of ad time and space; (2) ONDCP, or any agent acting on its behalf, may not obligate any funds for the creative development of advertisements from for-profit organizations, not including out-of-pocket production costs and talent re-use payments, unless: (A) the advertisements are intended to reach a minority, ethnic or other special audience that cannot be obtained on a pro bono basis within the time frames required by ONDCP's advertising and buying agencies; and (B) ONDCP receives prior approval from the Committees on Appropriations; (3) ONDCP will submit within 3 months of the enactment of this Act an implementation plan to the Committees on Appropriations to secure corporate sponsorship equaling 40 percent of the appropriated amount in fiscal year 1999, the definition of which is a contribution that is not received as a result of leveraging funds to receive said sponsorship, corporate sponsorship equaling 60 percent of the appropriated amount in fiscal year 2000, corporate sponsorship equaling 80 percent of the appropriated amount in fiscal year 2001, corporate sponsorship equaling 100 percent of the appropriated amount in fiscal year 2002; (4) the funds provided for the support of a national media campaign may be used to fund the purchase of media time and space, talent re-use payments, out-of-pocket advertising production costs, testing and evaluation of advertising, evaluation of the effectiveness of the media campaign, the negotiated fees for the winning bidder on the request for proposal recently issued by ONDCP, partnership with community, civic, and professional groups, and Government organizations related to the media campaign, entertainment industry collaborations to fashion anti-drug messages in movies, television programming, and popular music, interactive (Internet and new) media projects/activities, public information (News Media Outreach), and corporate sponsorship/participation; (5) ONDCP shall not obligate funds provided for the national media campaign for fiscal year 1999 until ONDCP has submitted the evaluation and results of Phase I of the campaign to the Committees on Appropriations, and may obligate not more than 75 percent of these funds until ONDCP has submitted the evaluation and results of Phase II of the campaign to the Committees on Appropriations; and (6) ONDCP is required to report to the Committees on Appropriations not only quarterly, but also to provide monthly itemized reports of all expenditures and *obligations relating to the media campaign as well as the specific parameters of the national media campaign, and shall report to Congress within 1 year on the effectiveness of the national media campaign based upon the measurable outcomes provided to Congress previously: Provided further, That of the funds provided, $4,500,000 shall be available for transfer to the Agricultural Research Service for anti-drug research and related matters: Provided further, That of the funds provided, $20,000,000 shall be to continue a program of matching grants to drug-free communities, as authorized in the Drug-Free Communities Act of 1997: Provided further, That of the funds provided, $5,000,000 shall be available for the chronic users study.*

UNANTICIPATED NEEDS

For expenses necessary to enable the President to meet unanticipated needs, in furtherance of the national interest, security, or defense which may arise at home or abroad during the current fiscal year, $1,000,000.

This title may be cited as the "Executive Office Appropriations Act, 1999".

TITLE IV—INDEPENDENT AGENCIES

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

SALARIES AND EXPENSES

For necessary expenses of the Committee for Purchase From People Who Are Blind or Severely Disabled established by the Act of June 23, 1971, Public Law 92–28, $2,464,000.

FEDERAL ELECTION COMMISSION

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the Federal Election Campaign Act of 1971, as amended, $36,500,000, of which no less than $4,402,500 shall be available for internal automated data processing systems, and of which not to exceed $5,000 shall be available for reception and representation expenses: Provided, That of the amounts appropriated for salaries and expenses, $1,120,000 may not be obligated until the Federal Election Commission submits a plan for approval to the House Committee on Appropriations for the expenditure of such funds.

FEDERAL LABOR RELATIONS AUTHORITY

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Federal Labor Relations Authority, pursuant to Reorganization Plan Numbered 2 of 1978, and the Civil Service Reform Act of 1978, including services authorized by 5 U.S.C. 3109, including hire of experts and consultants, hire of passenger motor vehicles, and rental of conference rooms in the District of Columbia and elsewhere, $22,586,000: Provided, That public members of the Federal Service Impasses Panel may be paid travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons employed intermittently in the Government service, and compensation as authorized by 5 U.S.C. 3109: Provided further, That notwithstanding 31 U.S.C. 3302, funds received from fees charged to non-Federal participants at labor-management relations conferences shall be credited to and merged with this account, to be available without further appropriation for the costs of carrying out these conferences.

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

(INCLUDING TRANSFER OF FUNDS)

For additional expenses necessary to carry out the purpose of the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)), $450,018,000 to be deposited into the Fund. The revenues and collections deposited into the Fund shall be available for necessary expenses of real property management and related activities not otherwise provided for, including operation, maintenance, and protection of federally owned and leased buildings; rental of buildings in the District of Columbia; restoration of leased premises; moving governmental agencies (including space adjustments and telecommunications relocation expenses) in connection with the assignment, allocation and transfer of space; contractual services incident to cleaning or servicing buildings, and moving; repair and alteration of federally owned buildings including grounds, approaches and appurtenances; care and safeguarding of sites; maintenance, preservation, demolition, and equipment; acquisition of buildings and sites by purchase, condemnation, or as otherwise authorized by law; acquisition of options to purchase buildings and sites; conversion and extension of federally owned buildings; preliminary planning and design of projects by contract or otherwise; construction of new buildings (including equipment for such buildings); and payment of principal, interest, and any other obligations for public buildings acquired by installment purchase and purchase contract; in the aggregate amount of $5,605,018,000, of which: (1) $492,190,000 shall remain available until expended for construction of additional projects at locations and at maximum construction improvement costs (including funds for sites and expenses and associated design and construction services) as follows:

New construction:
Arkansas:
Little Rock, U.S. courthouse, $3,436,000
California:
San Diego, U.S. courthouse, $15,400,000
San Jose, U.S. courthouse, $10,800,000
Colorado:
Denver, U.S. courthouse, $83,959,000
District of Columbia:
Southeast Federal Center remediation, $10,000,000
Florida:
Jacksonville, U.S. courthouse, $86,010,000
Orlando, U.S. courthouse, $1,930,000
Massachusetts:
Springfield, U.S. courthouse, $5,563,000
Michigan:
Sault Sainte Marie, border station, $572,000
Mississippi:
Biloxi-Gulfport, U.S. courthouse, $7,543,000
Missouri:
Cape Girardeau, U.S. courthouse, $2,196,000
Montana:
Babb, Piegan border station, $6,165,000
New York:
Brooklyn, U.S. courthouse, $152,626,000
New York, U.S. Mission to the United Nations, $3,163,000
Oregon:
Eugene, U.S. courthouse, $7,190,000
Tennessee:
Greenville, U.S. courthouse, $28,229,000
Texas:
Laredo, U.S. courthouse, $28,105,000
West Virginia:
Wheeling, U.S. courthouse, $29,303,000
Nationwide:
Non-prospectus, $10,000,000:

Provided, That each of the immediately foregoing limits of costs on new construction projects may be exceeded to the extent that savings are effected in other such projects, but not to exceed 10 percent unless advance approval is obtained from the Committees on Appropriations of a greater amount: Provided further, That notwithstanding any other provision of law in order to rescind a General Services Administration property sale, the General Services Administration is authorized to re-acquire that parcel of land on Block 111, East Denver, Denver, Colorado, which was sold at public auction by the Federal Government to its present owner pursuant to paragraphs (6) and (7) of section 12 of Public Law 94–204 (43 U.S.C. 1611 note) at a price equivalent to the 1988 auction sale price plus the amount of cumulative consumer price index, pursuant to the methodology as used in Public Law 104–42, Sec. 107(a), from the closing date of the sale until the date of re-acquisition by the Federal Government, offset by any net income received from the property by the present owner since the 1988 sale: Provided further, That the funds provided in Public Law 102–393 for Hilo, Hawaii, shall be expended for the planning and design of the Mauna Kea Astronomy Educational Center, notwithstanding Public Law 103–123, and of the funds provided not more than $475,000 is to be disbursed in this fiscal year: Provided further, That all funds for direct construction projects shall expire on September 30, 2000, and remain in the Federal Buildings Fund except for funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date: Provided further, That of the funds provided for non-prospectus construction projects, $2,100,000 shall be available until expended for acquisition, lease, construction, and equipping of flexiplace telecommuting centers: Provided further, That from the funds made available under this heading in this or prior Acts of Congress, the Administrator of General Services may purchase at a price he determines appropriate, notwithstanding any other provision of law, property adjacent to the new courthouse currently under construction in Scranton, Pennsylvania; and (2) $668,031,000 shall remain available until expended, for repairs and alterations which includes associated design and construction services: Provided further, That of the amount provided, $161,500,000 shall not be available for obligation until September 30, 1999: Provided further, That funds in the Federal Buildings Fund for Repairs and Alterations shall, for prospectus projects, be limited to the amount by project as follows, except each project may be increased by an amount not to exceed 10 percent unless advance approval is obtained from the Committees on Appropriations of a greater amount:

Repairs and alterations:
California:
San Francisco, Appraisers Building, $29,778,000
Colorado:
Lakewood, Denver Federal Center, Building 25, $29,351,000
District of Columbia:
Federal Office Building, 10B, $13,844,000
Interstate Commerce Commission, Connecting Wing Complex, Customs Building, Phase 3/3, $83,959,000
Old Executive Office Building, $25,210,000
Department of State, Phase 1, $29,779,000
New York:
Brookhaven, Internal Revenue Service, Service Center, $20,019,000
New York, U.S. Courthouse, 40 Foley Square, $4,782,000
Pennsylvania:
Philadelphia, Byrne-Green, Federal Building-U.S. Courthouse, $11,212,000
Virginia:
Reston, J.W. Powell Building, $9,151,000
Nationwide:
Chlorofluorocarbons Program, $25,000,000
Energy Program, $25,000,000
Design Program, $16,710,000
Basic Repairs and Alteration, $344,236,000:

Provided further, That additional projects for which prospectuses have been fully approved may be funded under this category only if advance approval is obtained from the Committees on Appropriations: Provided further, That the *amounts provided in this or any prior Act for "Repairs and Alterations" may be used to fund costs associated with implementing security improvements to buildings necessary to meet the minimum standards for security in accordance with current law and in compliance with the reprogramming guidelines of the appropriate committees of the House and Senate: Provided further, That the difference between the funds appropriated and expended on any projects in this or any prior Act, under the heading "Repairs and Alterations", may be transferred to Basic Repairs and Alterations or used to fund authorized increases in prospectus projects: Provided further, That all funds for repairs and alterations prospectus projects shall expire on September 30, 2000, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date: Provided further, That of the amount provided, $100,000 shall be used to address the lighting issues at the Byrne-Green Federal Courthouse in Philadelphia, Pennsylvania: Provided further, That of the amount provided in this or any prior Act for Basic Repairs and Alterations, $1,600,000 shall be provided to complete the alterations required at the Milwaukee, Wisconsin Courthouse: Provided further, That of the amount provided in this or any prior Act for Basic Repairs and Alterations, $1,100,000 may be used to provide a new fence surrounding the Suitland Federal Complex in Suitland, Maryland: Provided further, That $5,700,000 of the funds provided under this heading in Public Law 103–329 for the Holtsville, New York, IRS Service Center shall remain available until September 30, 1999: Provided further, That the amount provided in this or any prior Act for Basic Repairs and Alterations may be used to pay claims against the Government arising from any projects under the heading "Repairs and Alterations" or used to fund authorized increases in prospectus projects; (3) $215,764,000 for installment acquisition payments including payments on purchase contracts which shall remain available until expended; (4) $2,583,261,000 for rental of space which shall remain available until expended: Provided further, That of the amount provided, $15,000,000 shall not be available for obligation until September 30, 1999; and (5) $1,554,772,000 for building operations which shall remain available until expended: Provided further, That of the amount provided $68,000,000 shall not be available for obligation until September 30, 1999: Provided further, That funds available to the General Services Administration shall not be available for expenses of any construction, repair, alteration and acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, as amended, has not been approved, except that necessary funds may be expended for each project for required expenses for the development of a proposed prospectus: Provided further, That for the purposes of this authorization, and hereafter, buildings constructed pursuant to the purchase contract authority of the Public Buildings Amendments of 1972 (40 U.S.C. 602a), buildings occupied pursuant to installment purchase contracts, and buildings under the control of another department or agency where alterations of such buildings are required in connection with the moving of such other department or agency from buildings then, or thereafter to be, under the control of the General Services Administration shall be considered to be federally owned buildings: Provided further, That funds available in the Federal Buildings Fund may be expended for emergency repairs when advance approval is obtained from the Committees on Appropriations: Provided further, That amounts necessary to provide reimbursable special services to other agencies under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)(6)) and amounts to provide such reimbursable fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control as may be appropriate to enable the United States Secret Service to perform its protective functions pursuant to 18 U.S.C. 3056, shall be available from such revenues and collections: Provided further, That the remaining balances and associated assets and liabilities of the Pennsylvania Avenue Activities account are hereby transferred to the Federal Buildings Fund to be effective October 1, 1998, and that all income earned after that effective date that would otherwise have been deposited to the Pennsylvania Avenue Activities account shall thereafter be deposited to the Federal Buildings Fund, to be available for the purposes authorized by Public Laws 104–134 and 104–208, notwithstanding subsection 210(f)(2) of the Federal Property and Administrative Services Act, as amended: Provided further, That of the amount provided, $475,000 shall be made available for the 1999 Women's World Cup Soccer event: Provided further, That of the amount provided, $600,000 shall be made available for the 1999 World Alpine Ski Championships: Provided further, That revenues and collections and any other sums accruing to this Fund during fiscal year 1999, excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6)) in excess of $5,605,018,000 shall remain in the Fund and shall not be available for expenditure except as authorized in appropriations Acts.*

POLICY AND OPERATIONS

For expenses authorized by law, not otherwise provided for, for Government-wide policy and oversight activities associated with asset management activities; utilization and donation of surplus personal property; transportation; procurement and supply; Government-wide and internal responsibilities relating to automated data management, telecommunications, information resources management, and related technology activities; utilization survey, deed compliance inspection, appraisal, environmental and cultural analysis, and land use planning functions pertaining to excess and surplus real property; agency-wide policy direction; Board of Contract Appeals; accounting, records management, and other support services incident to adjudication of Indian Tribal Claims by the United States Court of Federal Claims; services as authorized by 5 U.S.C. 3109; and not to exceed $5,000 for official reception and representation expenses; $109,594,000: Provided, That none of the funds appropriated from this Act shall be available to convert the Old Post Office at 1100 Pennsylvania Avenue in Northwest Washington, D.C., from office use to any other use until a comprehensive plan, which shall include street-level retail use, has been approved by the Senate Committee on Appropriations, the House Committee on Transportation and Infrastructure, and the Senate Committee on Environment and Public Works: Provided further, That no funds from this Act shall be available to acquire by purchase, condemnation, or otherwise the leasehold rights of the existing lease with private parties at the Old Post Office prior to the approval of the comprehensive plan by the Senate Committee on Appropriations, the House Committee on Transportation and Infrastructure, and the Senate Committee on Environment and Public Works: Provided further, That $100,000 is provided to the property disposal activity for the Racine, Wisconsin, property transfer identified in General Services Administration General Provision section 409.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General and services authorized by 5 U.S.C. 3109, $32,000,000: Provided, That not to exceed $10,000 shall be available for payment for information and detection of fraud against the Government, including payment for recovery of stolen Government property: Provided further, That not to exceed $2,500 shall be available for awards to employees of other Federal agencies and private citizens in recognition of efforts and initiatives resulting in enhanced Office of Inspector General effectiveness.

ALLOWANCES AND OFFICE STAFF FOR FORMER PRESIDENTS

(INCLUDING TRANSFER OF FUNDS)

For carrying out the provisions of the Act of August 25, 1958, as amended (3 U.S.C. 102 note), and Public Law 95–138, $2,241,000: Provided, That the Administrator of General Services shall transfer to the Secretary of the Treasury such sums as may be necessary to carry out the provisions of such Acts.

GENERAL PROVISIONS—GENERAL SERVICES ADMINISTRATION

SEC. 401. The appropriate appropriation or fund available to the General Services Administration shall be credited with the cost of operation, protection, maintenance, upkeep, repair, and improvement, included as part of rentals received from Government corporations pursuant to law (40 U.S.C. 129).

SEC. 402. Funds available to the General Services Administration shall be available for the hire of passenger motor vehicles.

SEC. 403. Funds in the Federal Buildings Fund made available for fiscal year 1999 for Federal Buildings Fund activities may be transferred between such activities only to the extent necessary to meet program requirements: Provided, That any proposed transfers shall be approved in advance by the Committees on Appropriations.

SEC. 404. No funds made available by this Act shall be used to transmit a fiscal year 2000 request for United States Courthouse construction that: (1) does not meet the design guide standards for construction as established and approved by the General Services Administration, the Judicial Conference of the United States, and the Office of Management and Budget; and (2) does not reflect the priorities of the Judicial Conference of the United States as set out in its approved 5-year construction plan: Provided, That the fiscal year 2000 request must be accompanied by a standardized courtroom utilization study of each facility to be constructed, replaced, or expanded.

SEC. 405. None of the funds provided in this Act may be used to increase the amount of occupiable square feet, provide cleaning services, security enhancements, or any other service usually provided through the Federal Buildings Fund, to any agency which does not pay the rate per square foot assessment for space and services as determined by the General Services Administration in compliance with the Public Buildings Amendments Act of 1972 (Public Law 92–313).

SEC. 406. Funds provided to other Government agencies by the Information Technology Fund, General Services Administration, under 40 U.S.C. 757 and sections 5124(b) and 5128 of Public Law 104–106, Information Technology Management Reform Act of 1996, for performance of pilot information technology projects which have potential for Government-wide benefits and savings, may be repaid to this Fund from any savings actually incurred by these projects or other funding, to the extent feasible.

SEC. 407. From funds made available under the heading "Federal Buildings Fund Limitations on Revenue", claims against the Government of less than $250,000 arising from direct *construction projects and acquisition of buildings may be liquidated from savings effected in other construction projects with prior notification to the Committees on Appropriations.*

SEC. 408. From the funds made available under the heading "Federal Buildings Fund Limitations on Revenue", in addition to amounts provided in budget activities above, up to $5,000,000 shall be available for the demolition, cleanup and conveyance of the property at block 35 and lot 2 of block 36 in Anchorage, Alaska: Provided, That notwithstanding any other provision of law, the Administrator of General Services shall, not later than 18 months after the date of the enactment of this Act, demolish and remove all buildings, structures and other fixtures on the property at block 35 and lot 2 of block 36, Anchorage Original Townsite East Addition, Anchorage, Alaska, excluding any portion dedicated for use by the Centers for Disease Control and Prevention: Provided further, That the remediation of said parcel shall include the removal of all asbestos, lead and any other contamination, and restoration of the property, to the extent practicable, to an undeveloped condition: Provided further, That upon completion of the activities required for the demolition and removal of buildings, and notwithstanding any other provision of law, the Administrator of General Services shall convey to the municipality of Anchorage, without reimbursement, all right, title, and interest of the United States to the property.

SEC. 409. The Administrator of General Services may convey to the City of Racine, Wisconsin, all right, title, and interest of the United States in and to a parcel of excess real property, including improvements thereon, that is located on 2310 Center Street, commencing at the intersection of the North line of 24th Street and the center line of Center Street, being the point of the beginning; thence Northerly along the center line of Center Street, 426 feet to the South line of 23rd Street extended East; thence Westerly along the South line of 23rd Street extended East; 325 feet to the West line of Franklin Street extended South; thence southerly along the West line of Franklin Street extended South to a point on the North line of 24th Street; thence Easterly along the North line of 24th Street to the point of beginning located in Racine, Wisconsin, and which contains the U.S. Army Reserve Center.

SEC. 410. DEPARTMENT OF TRANSPORTATION HEADQUARTERS. (a) IN GENERAL.—The Administrator of General Services shall—

(1) enter into an operating lease to acquire space for the Department of Transportation headquarters; and

(2) commence procurement of the lease not later than November 1, 1998:

Provided, That the annual rent payment does not exceed $55,000,000.

(b) TERMS.—The authority granted in subsection (a) is effective only to the extent that the lease acquisition meets the guidelines for operating leases set forth in the joint statement of the managers for the conference report to the Balanced Budget Agreement of 1997, as determined by the Director of the Office of Management and Budget.

SEC. 411. Notwithstanding any other provision of law, the requirement under section 407 of Public Law 104–208 (110 Stat. 3009–337–38), that the Administrator of General Services charge user fees for flexiplace telecommuting centers that approximate commercial charges for comparable space and services but in no instance less than the amount necessary to pay the cost of establishing and operating such centers, shall not apply to the user fees charged for the period beginning October 1, 1996, and ending September 30, 1998, for the telecommuting centers established as part of a pilot telecommuting demonstration program in the Washington, D.C. metropolitan area by Public Laws 102–393, 103–123, 103–329, 104–52, and 104–208: Provided, That for these centers in the pilot demonstration program for the period beginning October 1, 1998, and ending September 30, 2000, the Administrator shall charge fees for Federal agency use of a telecenter based on 50 percent of the Administrator's annual costs of operating the center, including the reasonable cost of replacement for furniture, fixtures, and equipment: Provided further, That effective October 1, 2000, the Administrator shall charge fees for Federal agency use of the demonstration telecommuting centers based on 100 percent of the annual operating costs, including the reasonable cost of replacement for furniture, fixtures, and equipment: Provided further, That, to the extent such user charges do not cover the Administrator's costs in operating these centers, appropriations to the General Services Administration are authorized to reimburse the Federal Buildings Fund for any loss of revenue.

SEC. 412. (a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Administrator of General Services shall convey to the University of Miami, by negotiated sale or by negotiated land exchange and by not later than September 30, 1999, all right, title, and interest of the United States in and to the property described in paragraph (2).

(2) PROPERTY DESCRIBED.—The property referred to in paragraph (1) is real property in Miami-Dade County, Florida, including improvements thereon, comprising the Federal facility known as the United States Naval Observatory/Alternate Time Service Laboratory, consisting of approximately 76 acres. The exact acreage and legal description of the property shall be determined by a survey that is satisfactory to the Administrator.

(b) CONDITION REGARDING USE.—Any conveyance under subsection (a) shall be subject to the condition that during the 10-year period beginning on the date of the conveyance, the University shall use the property, or provide for use of the property, only for—

(1) a research, education, and training facility complementary to longstanding national research missions, subject to such incidental exceptions as may be approved by the Administrator;

(2) research-related purposes other than the use specified in paragraph (1), under an agreement entered into by the Administrator and the University; or

(3) a combination of uses described in paragraph (1) and paragraph (2), respectively.

(c) ADDITIONAL TERMS AND CONDITIONS.—The Administrator may require such additional terms and conditions with respect to the conveyance under subsection (a) as the Administrator considers appropriate to protect the interests of the United States.

(d) REVERSION.—If the Administrator determines at any time that the property conveyed under subsection (a) is not being used in accordance with this section, all right, title, and interest in and to the property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry thereon.

SEC. 413. The Administrator of General Services is directed to reincorporate the elements of the original proposed design for the façade of the United States Courthouse, London, Kentucky, project into the revised design of the building in order to ensure compatibility of this new facility with the historic U.S. Courthouse in London, Kentucky, to maintain the stateliness of the building. Construction or design of the London, Kentucky, project should not be diminished in anyway to achieve this goal.

ENVIRONMENTAL DISPUTE RESOLUTION FUND

For payment to the Environmental Dispute Resolution Fund to carry out activities authorized in the Environmental Policy and Conflict Resolution Act of 1997, $4,250,000, to remain available until expended, of which $3,000,000 will be for capitalization of the Fund, and $1,250,000 will be for annual operating expenses.

MERIT SYSTEMS PROTECTION BOARD

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out functions of the Merit Systems Protection Board pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, and direct procurement of survey printing, $25,805,000, together with not to exceed $2,430,000 for administrative expenses to adjudicate retirement appeals to be transferred from the Civil Service Retirement and Disability Fund in amounts determined by the Merit Systems Protection Board.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

OPERATING EXPENSES

For necessary expenses in connection with the administration of the National Archives (including the Information Security Oversight Office) and records and related activities, as provided by law, and for expenses necessary for the review and declassification of documents, and for the hire of passenger motor vehicles, $224,614,000: Provided, That of the amount provided, $7,861,000 shall not be available for obligation until September 30, 1999: Provided further, That the Archivist of the United States is authorized to use any excess funds available from the amount borrowed for construction of the National Archives facility, for expenses necessary to provide adequate storage for holdings.

REPAIRS AND RESTORATION

For the repair, alteration, and improvement of archives facilities, and to provide adequate storage for holdings, $11,325,000, to remain available until expended, of which $2,000,000 is for an architectural and engineering study for the renovation of the Archives I facility, of which $4,000,000 is for encasement of the Charters of Freedom, and of which $875,000 is for a requirements study and design of the National Archives Anchorage, Alaska, facility.

NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION

GRANTS PROGRAM

For necessary expenses for allocations and grants for historical publications and records as authorized by 44 U.S.C. 2504, as amended, $10,000,000, to remain available until expended: Provided, That of the amount provided, $4,000,000 shall not be available for obligation until September 30, 1999.

OFFICE OF GOVERNMENT ETHICS

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of Government Ethics pursuant to the Ethics in Government Act of 1978, as amended and the Ethics Reform Act of 1989, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, and not to exceed $1,500 for official reception and representation expenses, $8,492,000.

OFFICE OF PERSONNEL MANAGEMENT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses to carry out functions of the Office of Personnel Management pursuant to Reorganization Plan Numbered 2 of 1978 *and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109; medical examinations performed for veterans by private physicians on a fee basis; rental of conference rooms in the District of Columbia and elsewhere; hire of passenger motor vehicles; not to exceed $2,500 for official reception and representation expenses; advances for reimbursements to applicable funds of the Office of Personnel Management and the Federal Bureau of Investigation for expenses incurred under Executive Order No. 10422 of January 9, 1953, as amended; and payment of per diem and/or subsistence allowances to employees where Voting Rights Act activities require an employee to remain overnight at his or her post of duty, $85,350,000; and in addition $91,236,000 for administrative expenses, to be transferred from the appropriate trust funds of the Office of Personnel Management without regard to other statutes, including direct procurement of printed materials, for the retirement and insurance programs: Provided, That the provisions of this appropriation shall not affect the authority to use applicable trust funds as provided by section 8348(a)(1)(B) of title 5, United States Code: Provided further, That, except as may be consistent with 5 U.S.C. 8902a(f)(1) and (i), no payment may be made from the Employees Health Benefits Fund to any physician, hospital, or other provider of health care services or supplies who is, at the time such services or supplies are provided to an individual covered under chapter 89 of title 5, United States Code, excluded, pursuant to section 1128 or 1128A of the Social Security Act (42 U.S.C. 1320a–7 through 1320a–7a), from participation in any program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.): Provided further, That no part of this appropriation shall be available for salaries and expenses of the Legal Examining Unit of the Office of Personnel Management established pursuant to Executive Order No. 9358 of July 1, 1943, or any successor unit of like purpose: Provided further, That the President's Commission on White House Fellows, established by Executive Order No. 11183 of October 3, 1964, may, during fiscal year 1999, accept donations of money, property, and personal services in connection with the development of a publicity brochure to provide information about the White House Fellows, except that no such donations shall be accepted for travel or reimbursement of travel expenses, or for the salaries of employees of such Commission.*

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act, as amended, including services as authorized by 5 U.S.C. 3109, hire of passenger motor vehicles, $960,000; and in addition, not to exceed $9,145,000 for administrative expenses to audit the Office of Personnel Management's retirement and insurance programs, to be transferred from the appropriate trust funds of the Office of Personnel Management, as determined by the Inspector General: Provided, That the Inspector General is authorized to rent conference rooms in the District of Columbia and elsewhere.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEES HEALTH BENEFITS

For payment of Government contributions with respect to retired employees, as authorized by chapter 89 of title 5, United States Code, and the Retired Federal Employees Health Benefits Act (74 Stat. 849), as amended, such sums as may be necessary.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEE LIFE INSURANCE

For payment of Government contributions with respect to employees retiring after December 31, 1989, as required by chapter 87 of title 5, United States Code, such sums as may be necessary.

PAYMENT TO CIVIL SERVICE RETIREMENT AND DISABILITY FUND

For financing the unfunded liability of new and increased annuity benefits becoming effective on or after October 20, 1969, as authorized by 5 U.S.C. 8348, and annuities under special Acts to be credited to the Civil Service Retirement and Disability Fund, such sums as may be necessary: Provided, That annuities authorized by the Act of May 29, 1944, as amended, and the Act of August 19, 1950, as amended (33 U.S.C. 771–775), may hereafter be paid out of the Civil Service Retirement and Disability Fund.

OFFICE OF SPECIAL COUNSEL

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of Special Counsel pursuant to Reorganization Plan Numbered 2 of 1978, the Civil Service Reform Act of 1978 (Public Law 95–454), the Whistleblower Protection Act of 1989 (Public Law 101–12), Public Law 103–424, and the Uniformed Services Employment and Reemployment Act of 1994 (Public Law 103–353), including services as authorized by 5 U.S.C. 3109, payment of fees and expenses for witnesses, rental of conference rooms in the District of Columbia and elsewhere, and hire of passenger motor vehicles, $8,720,000.

UNITED STATES TAX COURT

SALARIES AND EXPENSES

For necessary expenses, including contract reporting and other services as authorized by 5 U.S.C. 3109, $32,765,000: Provided, That travel expenses of the judges shall be paid upon the written certificate of the judge.

This title may be cited as the "Independent Agencies Appropriations Act, 1999".

TITLE V—GENERAL PROVISIONS

THIS ACT

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 502. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 503. None of the funds made available by this Act shall be available for any activity or for paying the salary of any Government employee where funding an activity or paying a salary to a Government employee would result in a decision, determination, rule, regulation, or policy that would prohibit the enforcement of section 307 of the Tariff Act of 1930.

SEC. 504. None of the funds made available by this Act shall be available in fiscal year 1999 for the purpose of transferring control over the Federal Law Enforcement Training Center located at Glynco, Georgia, and Artesia, New Mexico, out of the Department of the Treasury.

SEC. 505. No part of any appropriation contained in this Act shall be available to pay the salary for any person filling a position, other than a temporary position, formerly held by an employee who has left to enter the Armed Forces of the United States and has satisfactorily completed his period of active military or naval service, and has within 90 days after his release from such service or from hospitalization continuing after discharge for a period of not more than 1 year, made application for restoration to his former position and has been certified by the Office of Personnel Management as still qualified to perform the duties of his former position and has not been restored thereto.

SEC. 506. No funds appropriated pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c, popularly known as the "Buy American Act").

SEC. 507. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Secretary of the Treasury shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

SEC. 508. If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 509. No funds appropriated by this Act shall be available to pay for an abortion, or the administrative expenses in connection with any health plan under the Federal employees health benefit program which provides any benefits or coverage for abortions.

SEC. 510. The provision of section 509 shall not apply where the life of the mother would be endangered if the fetus were carried to term, or the pregnancy is the result of an act of rape or incest.

SEC. 511. Except as otherwise specifically provided by law, not to exceed 50 percent of unobligated balances remaining available at the end of fiscal year 1999 from appropriations made available for salaries and expenses for fiscal year 1999 in this Act, shall remain available through September 30, 2000, for each such account for the purposes authorized: Provided, That a request shall be submitted to the Committees on Appropriations for approval prior to the expenditure of such funds: Provided further, That these requests shall be made in compliance with reprogramming guidelines.

SEC. 512. None of the funds made available in this Act may be used by the Executive Office of the President to request from the Federal Bureau of Investigation any official background investigation report on any individual, except when it is made known to the Federal official having authority to obligate or expend such funds that—

(1) such individual has given his or her express written consent for such request not more than 6 months prior to the date of such request and during the same presidential administration; or

(2) such request is required due to extraordinary circumstances involving national security.

SEC. 513. Funds provided in this Act may be used to initiate or continue projects or activities to the extent necessary, consistent with existing agency plans, to achieve Year 2000 (Y2K) computer conversion until such time as supplemental appropriations are made available for that purpose: Provided, That the program, project, or activity from which funds are obligated for Y2K conversion activities shall be reimbursed when such supplemental appropriations are made available.

SEC. 514. Hereafter, any payment of attorneys fees, costs, and sanctions required to be made by the Federal Government pursuant to the order of the district court in the case Association of American Physicians and Surgeons, Inc. v. Clinton, 989 F. Supp. 8 (1997), or any appeal of such case, shall be derived by transfer from amounts made available in this or any other Act for any fiscal year for "Compensation of the President and the White House Office—Salaries and Expenses".

SEC. 515. Notwithstanding section 515 of Public Law 104–208, 50 percent of the unobligated balances available to the White House Office, Salaries and Expenses appropriations in fiscal year 1997, shall remain available through September 30, 1999, for the purposes of satisfying the conditions of section 515 of this Act.

SEC. 516. The Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992, as amended (20 U.S.C. 5601 et seq.), is amended as follows:

(a) in section 11, by—

(1) deleting the heading and inserting "Use of the Institute by a Federal Agency or Other Entity."; and

(2) adding the following new subsection at the end:

"(e) NON-FEDERAL ENTITIES.—

"(1) Non-Federal entities, including State and local governments, Native American tribal governments, nongovernmental organizations and persons, as defined in 1 U.S.C. 1, may use the Foundation and the Institute to provide assessment, mediation, or other related services in connection with a dispute or conflict involving the Federal Government related to the environment, public lands, or natural resources.

"(2) PAYMENT INTO THE ENVIRONMENTAL DISPUTE RESOLUTION FUND.—Entities utilizing services pursuant to this subsection shall reimburse the Institute for the costs of services provided. Such amounts shall be deposited into the Environmental Dispute Resolution Fund established under section 10."; and

(b) in section 12, by:

(1) deleting "IN GENERAL—" and inserting "(a) IN GENERAL—"; and

(2) adding the following new subsection:

"(b) THE INSTITUTE.—The authorities set forth above shall, with the exception of paragraph (4), apply to the Institute established pursuant to section 10."; and

(c) in section 10(b), by adding before the period the following: ", including not to exceed $1,000 annually for official reception and representation expenses".

SEC. 517. The cost accounting standards promulgated under section 26 of the Office of Federal Procurement Policy Act (Public Law 93–400; 41 U.S.C. 422) shall not apply with respect to a contract under the Federal Employees Health Benefits Program established under chapter 89 of title 5, United States Code.

TITLE VI—GENERAL PROVISIONS

DEPARTMENTS, AGENCIES, AND CORPORATIONS

SEC. 601. Funds appropriated in this or any other Act may be used to pay travel to the United States for the immediate family of employees serving abroad in cases of death or life threatening illness of said employee.

SEC. 602. No department, agency, or instrumentality of the United States receiving appropriated funds under this or any other Act for fiscal year 1999 shall obligate or expend any such funds, unless such department, agency, or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such department, agency, or instrumentality.

SEC. 603. Notwithstanding 31 U.S.C. 1345, any agency, department, or instrumentality of the United States which provides or proposes to provide child care services for Federal employees may, in fiscal year 1999 and thereafter, reimburse any Federal employee or any person employed to provide such services for travel, transportation, and subsistence expenses incurred for training classes, conferences, or other meetings in connection with the provision of such services: Provided, That any per diem allowance made pursuant to this section shall not exceed the rate specified in regulations prescribed pursuant to section 5707 of title 5, United States Code.

SEC. 604. Unless otherwise specifically provided, the maximum amount allowable during the current fiscal year in accordance with section 16 of the Act of August 2, 1946 (60 Stat. 810), for the purchase of any passenger motor vehicle (exclusive of buses, ambulances, law enforcement, and undercover surveillance vehicles), is hereby fixed at $8,100 except station wagons for which the maximum shall be $9,100: Provided, That these limits may be exceeded by not to exceed $3,700 for police-type vehicles, and by not to exceed $4,000 for special heavy-duty vehicles: Provided further, That the limits set forth in this section may not be exceeded by more than 5 percent for electric or hybrid vehicles purchased for demonstration under the provisions of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976: Provided further, That the limits set forth in this section may be exceeded by the incremental cost of clean alternative fuels vehicles acquired pursuant to Public Law 101–549 over the cost of comparable conventionally fueled vehicles.

SEC. 605. Appropriations of the executive departments and independent establishments for the current fiscal year available for expenses of travel, or for the expenses of the activity concerned, are hereby made available for quarters allowances and cost-of-living allowances, in accordance with 5 U.S.C. 5922–5924.

SEC. 606. Unless otherwise specified during the current fiscal year, no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in the continental United States unless such person: (1) is a citizen of the United States; (2) is a person in the service of the United States on the date of the enactment of this Act who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States; (3) is a person who owes allegiance to the United States; (4) is an alien from Cuba, Poland, South Vietnam, the countries of the former Soviet Union, or the Baltic countries lawfully admitted to the United States for permanent residence; (5) is a South Vietnamese, Cambodian, or Laotian refugee paroled in the United States after January 1, 1975; or (6) is a national of the People's Republic of China who qualifies for adjustment of status pursuant to the Chinese Student Protection Act of 1992: Provided, That for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his or her status have been complied with: Provided further, That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined no more than $4,000 or imprisoned for not more than 1 year, or both: Provided further, That the above penal clause shall be in addition to, and not in substitution for, any other provisions of existing law: Provided further, That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of Ireland, Israel, or the Republic of the Philippines, or to nationals of those countries allied with the United States in a current defense effort, or to international broadcasters employed by the United States Information Agency, or to temporary employment of translators, or to temporary employment in the field service (not to exceed 60 days) as a result of emergencies.

SEC. 607. Appropriations available to any department or agency during the current fiscal year for necessary expenses, including maintenance or operating expenses, shall also be available for payment to the General Services Administration for charges for space and services and those expenses of renovation and alteration of buildings and facilities which constitute public improvements performed in accordance with the Public Buildings Act of 1959 (73 Stat. 749), the Public Buildings Amendments of 1972 (87 Stat. 216), or other applicable law.

SEC. 608. In addition to funds provided in this or any other Act, all Federal agencies are authorized to receive and use funds resulting from the sale of materials, including Federal records disposed of pursuant to a records schedule recovered through recycling or waste prevention programs. Such funds shall be available until expended for the following purposes:

(1) Acquisition, waste reduction and prevention, and recycling programs as described in Executive Order No. 12873 (October 20, 1993), including any such programs adopted prior to the effective date of the Executive order.

(2) Other Federal agency environmental management programs, including, but not limited to, the development and implementation of hazardous waste management and pollution prevention programs.

(3) Other employee programs as authorized by law or as deemed appropriate by the head of the Federal agency.

SEC. 609. Funds made available by this or any other Act for administrative expenses in the current fiscal year of the corporations and agencies subject to chapter 91 of title 31, United States Code, shall be available, in addition to objects for which such funds are otherwise available, for rent in the District of Columbia; services in accordance with 5 U.S.C. 3109; and the objects specified under this heading, all the provisions of which shall be applicable to the expenditure of such funds unless otherwise specified in the Act by which they are made available: Provided, That in the event any functions budgeted as administrative expenses are subsequently transferred to or paid from other funds, the limitations on administrative expenses shall be correspondingly reduced.

SEC. 610. No part of any appropriation for the current fiscal year contained in this or any other Act shall be paid to any person for the filling of any position for which he or she has been nominated after the Senate has voted not to approve the nomination of said person.

SEC. 611. No part of any appropriation contained in this or any other Act shall be available for interagency financing of boards (except Federal Executive Boards), commissions, councils, committees, or similar groups (whether or not they are interagency entities) which do not have a prior and specific statutory approval to receive financial support from more than one agency or instrumentality.

SEC. 612. Funds made available by this or any other Act to the Postal Service Fund (39 U.S.C.

2003) shall be available for employment of guards for all buildings and areas owned or occupied by the Postal Service and under the charge and control of the Postal Service, and such guards shall have, with respect to such property, the powers of special policemen provided by the first section of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318), and, as to property owned or occupied by the Postal Service, the Postmaster General may take the same actions as the Administrator of General Services may take under the provisions of sections 2 and 3 of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318a and 318b), attaching thereto penal consequences under the authority and within the limits provided in section 4 of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318c).

SEC. 613. None of the funds made available pursuant to the provisions of this Act shall be used to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. 614. (a) Notwithstanding any other provision of law, and except as otherwise provided in this section, no part of any of the funds appropriated for fiscal year 1999, by this or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States Code—

(1) during the period from the date of expiration of the limitation imposed by section 614 of the Treasury and General Government Appropriations Act, 1998, until the normal effective date of the applicable wage survey adjustment that is to take effect in fiscal year 1999, in an amount that exceeds the rate payable for the applicable grade and step of the applicable wage schedule in accordance with section 614; and

(2) during the period consisting of the remainder of fiscal year 1999, in an amount that exceeds, as a result of a wage survey adjustment, the rate payable under paragraph (1) by more than the sum of—

(A) the percentage adjustment taking effect in fiscal year 1999 under section 5303 of title 5, United States Code, in the rates of pay under the General Schedule; and

(B) the difference between the overall average percentage of the locality-based comparability payments taking effect in fiscal year 1999 under section 5304 of such title (whether by adjustment or otherwise), and the overall average percentage of such payments which was effective in fiscal year 1998 under such section.

(b) Notwithstanding any other provision of law, no prevailing rate employee described in subparagraph (B) or (C) of section 5342(a)(2) of title 5, United States Code, and no employee covered by section 5348 of such title, may be paid during the periods for which subsection (a) is in effect at a rate that exceeds the rates that would be payable under subsection (a) were subsection (a) applicable to such employee.

(c) For the purposes of this section, the rates payable to an employee who is covered by this section and who is paid from a schedule not in existence on September 30, 1998, shall be determined under regulations prescribed by the Office of Personnel Management.

(d) Notwithstanding any other provision of law, rates of premium pay for employees subject to this section may not be changed from the rates in effect on September 30, 1998, except to the extent determined by the Office of Personnel Management to be consistent with the purpose of this section.

(e) This section shall apply with respect to pay for service performed after September 30, 1998.

(f) For the purpose of administering any provision of law (including any rule or regulation that provides premium pay, retirement, life insurance, or any other employee benefit) that requires any deduction or contribution, or that imposes any requirement or limitation on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

(g) Nothing in this section shall be considered to permit or require the payment to any employee covered by this section at a rate in excess of the rate that would be payable were this section not in effect.

(h) The Office of Personnel Management may provide for exceptions to the limitations imposed by this section if the Office determines that such exceptions are necessary to ensure the recruitment or retention of qualified employees.

SEC. 615. During the period in which the head of any department or agency, or any other officer or civilian employee of the Government appointed by the President of the United States, holds office, no funds may be obligated or expended in excess of $5,000 to furnish or redecorate the office of such department head, agency head, officer, or employee, or to purchase furniture or make improvements for any such office, unless advance notice of such furnishing or redecoration is expressly approved by the Committees on Appropriations. For the purposes of this section, the word "office" shall include the entire suite of offices assigned to the individual, as well as any other space used primarily by the individual or the use of which is directly controlled by the individual.

SEC. 616. Notwithstanding any other provision of law, no executive branch agency shall purchase, construct, and/or lease any additional facilities, except within or contiguous to existing locations, to be used for the purpose of conducting Federal law enforcement training without the advance approval of the Committees on Appropriations, except that the Federal Law Enforcement Training Center is authorized to obtain the temporary use of additional facilities by lease, contract, or other agreement for training which cannot be accommodated in existing Center facilities.

SEC. 617. Notwithstanding section 1346 of title 31, United States Code, or section 611 of this Act, funds made available for fiscal year 1999 by this or any other Act shall be available for the interagency funding of national security and emergency preparedness telecommunications initiatives which benefit multiple Federal departments, agencies, or entities, as provided by Executive Order No. 12472 (April 3, 1984).

SEC. 618. (a) None of the funds appropriated by this or any other Act may be obligated or expended by any Federal department, agency, or other instrumentality for the salaries or expenses of any employee appointed to a position of a confidential or policy-determining character excepted from the competitive service pursuant to section 3302 of title 5, United States Code, without a certification to the Office of Personnel Management from the head of the Federal department, agency, or other instrumentality employing the Schedule C appointee that the Schedule C position was not created solely or primarily in order to detail the employee to the White House.

(b) The provisions of this section shall not apply to Federal employees or members of the armed services detailed to or from—

(1) the Central Intelligence Agency;

(2) the National Security Agency;

(3) the Defense Intelligence Agency;

(4) the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

(5) the Bureau of Intelligence and Research of the Department of State;

(6) any agency, office, or unit of the Army, Navy, Air Force, and Marine Corps, the Federal Bureau of Investigation and the Drug Enforcement Administration of the Department of Justice, the Department of Transportation, the Department of the Treasury, and the Department of Energy performing intelligence functions; and

(7) the Director of Central Intelligence.

SEC. 619. No department, agency, or instrumentality of the United States receiving appropriated funds under this or any other Act for fiscal year 1999 shall obligate or expend any such funds, unless such department, agency, or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from discrimination and sexual harassment and that all of its workplaces are not in violation of title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act of 1967, and the Rehabilitation Act of 1973.

SEC. 620. No part of any appropriation contained in this Act may be used to pay for the expenses of travel of employees, including employees of the Executive Office of the President, not directly responsible for the discharge of official governmental tasks and duties: Provided, That this restriction shall not apply to the family of the President, Members of Congress or their spouses, Heads of State of a foreign country or their designees, persons providing assistance to the President for official purposes, or other individuals so designated by the President.

SEC. 621. For purposes of each provision of law amended by section 704(a)(2) of the Ethics Reform Act of 1989 (5 U.S.C. 5318 note), no adjustment under section 5303 of title 5, United States Code, shall be considered to have taken effect in fiscal year 1999 in the rates of basic pay for the statutory pay systems.

SEC. 622. None of the funds appropriated in this or any other Act shall be used to acquire information technologies which do not comply with part 39.106 (Year 2000 compliance) of the Federal Acquisition Regulation, unless an agency's Chief Information Officer determines that noncompliance with part 39.106 is necessary to the function and operation of the requesting agency or the acquisition is required by a signed contract with the agency in effect before the date of the enactment of this Act. Any waiver granted by the Chief Information Officer shall be reported to the Office of Management and Budget, and copies shall be provided to Congress.

SEC. 623. None of the funds made available in this Act for the United States Customs Service may be used to allow the importation into the United States of any good, ware, article, or merchandise mined, produced, or manufactured by forced or indentured child labor, as determined pursuant to section 307 of the Tariff Act of 1930 (19 U.S.C. 1307).

SEC. 624. Notwithstanding any other provision of law, no part of any funds provided by this Act or any other Act beginning in fiscal year 1999 and thereafter shall be available for paying Sunday premium pay to any employee unless such employee actually performed work during the time corresponding to such premium pay.

SEC. 625. No part of any appropriation contained in this or any other Act shall be available for the payment of the salary of any officer or employee of the Federal Government, who—

(1) prohibits or prevents, or attempts or threatens to prohibit or prevent, any other officer or employee of the Federal Government from having any direct oral or written communication or contact with any Member, committee, or subcommittee of the Congress in connection with any matter pertaining to the employment of such other officer or employee or pertaining to the department or agency of such other officer

or employee in any way, irrespective of whether such communication or contact is at the initiative of such other officer or employee or in response to the request or inquiry of such Member, committee, or subcommittee; or

(2) removes, suspends from duty without pay, demotes, reduces in rank, seniority, status, pay, or performance of efficiency rating, denies promotion to, relocates, reassigns, transfers, disciplines, or discriminates in regard to any employment right, entitlement, or benefit, or any term or condition of employment of, any other officer or employee of the Federal Government, or attempts or threatens to commit any of the foregoing actions with respect to such other officer or employee, by reason of any communication or contact of such other officer or employee with any Member, committee, or subcommittee of the Congress as described in paragraph (1).

SEC. 626. Section 626(b) of the Treasury, Postal Service, and General Government Appropriations Act, 1997, as contained in section 101(f) of Public Law 104–208 (110 Stat. 3009–360), the Omnibus Consolidated Appropriations Act, 1997, is amended to read as follows: "(b) Until September 30, 1999, or until the end of the current FTS 2000 contracts, whichever is earlier, subsection (a) shall continue to apply to the use of the funds appropriated by this or any other Act.".

SEC. 627. (a) DEFINITIONS.—In this section—

(1) the term "crime of violence" has the meaning given that term in section 16 of title 18, United States Code; and

(2) the term "law enforcement officer" means any employee described in subparagraph (A), (B), or (C) of section 8401(17) of title 5, United States Code; and any special agent in the Diplomatic Security Service of the Department of State.

(b) RULE OF CONSTRUCTION.—Notwithstanding any other provision of law, for purposes of chapter 171 of title 28, United States Code, or any other provision of law relating to tort liability, a law enforcement officer shall be construed to be acting within the scope of his or her office or employment, if the officer takes reasonable action, including the use of force, to—

(1) protect an individual in the presence of the officer from a crime of violence;

(2) provide immediate assistance to an individual who has suffered or who is threatened with bodily harm; or

(3) prevent the escape of any individual who the officer reasonably believes to have committed in the presence of the officer a crime of violence.

SEC. 628. FEDERAL FIREFIGHTERS OVERTIME PAY REFORM ACT OF 1998. (a) IN GENERAL.—Subchapter V of chapter 55 of title 5, United States Code, is amended—

(1) in section 5542 by adding at the end the following new subsection:

"(f) In applying subsection (a) of this section with respect to a firefighter who is subject to section 5545b—

"(1) such subsection shall be deemed to apply to hours of work officially ordered or approved in excess of 106 hours in a biweekly pay period, or, if the agency establishes a weekly basis for overtime pay computation, in excess of 53 hours in an administrative workweek; and

"(2) the overtime hourly rate of pay is an amount equal to one and one-half times the hourly rate of basic pay under section 5545b(b)(1)(A) or (c)(1)(B), as applicable, and such overtime hourly rate of pay may not be less than such hourly rate of basic pay in applying the limitation on the overtime rate provided in paragraph (2) of such subsection (a)."; and

(2) by inserting after section 5545a the following new section:

"§ 5545b. Pay for firefighters

"(a) This section applies to an employee whose position is classified in the firefighter occupation in conformance with the GS–081 standard published by the Office of Personnel Management, and whose normal work schedule, as in effect throughout the year, consists of regular tours of duty which average at least 106 hours per biweekly pay period.

"(b)(1) If the regular tour of duty of a firefighter subject to this section generally consists of 24-hour shifts, rather than a basic 40-hour workweek (as determined under regulations prescribed by the Office of Personnel Management), section 5504(b) shall be applied as follows in computing pay—

"(A) paragraph (1) of such section shall be deemed to require that the annual rate be divided by 2756 to derive the hourly rate; and

"(B) the computation of such firefighter's daily, weekly, or biweekly rate shall be based on the hourly rate under subparagraph (A);

"(2) For the purpose of sections 5595(c), 5941, 8331(3), and 8704(c), and for such other purposes as may be expressly provided for by law or as the Office of Personnel Management may by regulation prescribe, the basic pay of a firefighter subject to this subsection shall include an amount equal to the firefighter's basic hourly rate (as computed under paragraph (1)(A)) for all hours in such firefighter's regular tour of duty (including overtime hours).

"(c)(1) If the regular tour of duty of a firefighter subject to this section includes a basic 40-hour workweek (as determined under regulations prescribed by the Office of Personnel Management), section 5504(b) shall be applied as follows in computing pay—

"(A) the provisions of such section shall apply to the hours within the basic 40-hour workweek;

"(B) for hours outside the basic 40-hour workweek, such section shall be deemed to require that the hourly rate be derived by dividing the annual rate by 2756; and

"(C) the computation of such firefighter's daily, weekly, or biweekly rate shall be based on subparagraphs (A) and (B), as each applies to the hours involved.

"(2) For purposes of sections 5595(c), 5941, 8331(3), and 8704(c), and for such other purposes as may be expressly provided for by law or as the Office of Personnel Management may by regulation prescribe, the basic pay of a firefighter subject to this subsection shall include—

"(A) an amount computed under paragraph (1)(A) for the hours within the basic 40-hour workweek; and

"(B) an amount equal to the firefighter's basic hourly rate (as computed under paragraph (1)(B)) for all hours outside the basic 40-hour workweek that are within such firefighter's regular tour of duty (including overtime hours).

"(d)(1) A firefighter who is subject to this section shall receive overtime pay in accordance with section 5542, but shall not receive premium pay provided by other provisions of this subchapter.

"(2) For the purpose of applying section 7(k) of the Fair Labor Standards Act of 1938 to a firefighter who is subject to this section, no violation referred to in section 7(k) shall be deemed to have occurred if the requirements of section 5542(a) are met, applying section 5542(a) as provided in subsection (f) of that section: Provided, That the overtime hourly rate of pay for such firefighter shall in all cases be an amount equal to one and one-half times the firefighter's hourly rate of basic pay under subsection (b)(1)(A) or (c)(1)(B) of this section, as applicable.

"(3) The Office of Personnel Management may prescribe regulations, with respect to firefighters subject to this section, that would permit an agency to reduce or eliminate the variation in the amount of firefighters' biweekly pay caused by work scheduling cycles that result in varying hours in the regular tours of duty from pay period to pay period. Under such regulations, the pay that a firefighter would otherwise receive for regular tours of duty over the work scheduling cycle shall, to the extent practicable, remain unaffected.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5545a the following:

"5545b. Pay for firefighters.".

(c) TRAINING.—Section 4109 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(d) Notwithstanding subsection (a)(1), a firefighter who is subject to section 5545b of this title shall be paid basic pay and overtime pay for the firefighter's regular tour of duty while attending agency sanctioned training.".

(d) INCLUSION IN BASIC PAY FOR FEDERAL RETIREMENT.—Section 8331(3) of title 5, United States Code, is amended—

(1) by striking "and" after subparagraph (D);

(2) by redesignating subparagraph (E) as subparagraph (G);

(3) by inserting the following:

"(E) with respect to a criminal investigator, availability pay under section 5545a of this title;

"(F) pay as provided in section 5545b (b)(2) and (c)(2); and "; and

(4) by striking "subparagraphs (B), (C), (D), and (E)" and inserting "subparagraphs (B) through (G)".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first applicable pay period which begins on or after October 1, 1998.

(f) REGULATIONS.—Under regulations prescribed by the Office of Personnel Management, a firefighter subject to section 5545b of title 5, United States Code, as added by this section, whose regular tours of duty average 60 hours or less per workweek and do not include a basic 40-hour workweek, shall, upon implementation of this section, be granted an increase in basic pay equal to 2 step-increases of the applicable General Schedule grade, and such increase shall not be an equivalent increase in pay. If such increase results in a change to a longer waiting period for the firefighter's next step increase, the firefighter shall be credited with an additional year of service for the purpose of such waiting period. If such increase results in a rate of basic pay which is above the maximum rate of the applicable grade, such resulting pay rate shall be treated as a retained rate of basic pay in accordance with section 5363 of title 5, United States Code.

(g) NO REDUCTION IN REGULAR PAY.—Under regulations prescribed by the Office of Personnel Management, the regular pay (over the established work scheduling cycle) of a firefighter subject to section 5545b of title 5, United States Code, as added by this section, shall not be reduced as a result of the implementation of this section.

SEC. 629. (1) Not later than 180 days after the date of the enactment of this Act, the Director of the Office of National Drug Control Policy, the Secretary of the Treasury, and the Attorney General shall conduct a joint review of Federal efforts and submit to the appropriate congressional committees, including the Committees on Appropriations, a plan to improve coordination among the Federal agencies with responsibility to protect the borders against drug trafficking. The review shall also include consideration of Federal agencies' coordination with State and local law enforcement agencies. The plan shall include an assessment and action plan, including the activities of the following departments and agencies:

(A) Department of the Treasury;

(B) Department of Justice;

(C) United States Coast Guard;

(D) Department of Defense;

(E) Department of Transportation;

(F) Department of State; and

(G) Department of the Interior.

(2) The purpose of the plan under paragraph (1) is to maximize the effectiveness of the border control efforts in achieving the objectives of the national drug control strategy in a manner that is also consistent with the goal of facilitating trade. In order to maximize the effectiveness, the plan shall:

(A) specify the methods used to enhance cooperation, planning and accountability among the Federal, State, and local agencies with responsibilities along the Southwest border;

(B) specify mechanisms to ensure cooperation among the agencies, including State and local agencies, with responsibilities along the Southwest border;

(C) identify new technologies that will be used in protecting the borders including conclusions regarding appropriate deployment of technology;

(D) identify new initiatives for infrastructure improvements;

(E) recommend reinforcements in terms of resources, technology and personnel necessary to ensure capacity to maintain appropriate inspections;

(F) integrate findings of the White House Intelligence Architecture Review into the plan; and

(G) make recommendations for strengthening the HIDTA program along the Southwest border.

SEC. 630. (a) FLEXIPLACE WORK TELECOMMUTING PROGRAMS.—For fiscal year 1999 and each fiscal year thereafter, of the funds made available to each Executive agency for salaries and expenses, at a minimum $50,000 shall be available only for the necessary expenses of the Executive agency to carry out a flexiplace work telecommuting program.

(b) DEFINITIONS.—For purposes of this section:

(1) EXECUTIVE AGENCY.—The term "Executive agency" means the following list of departments and agencies: Department of State, Treasury, Defense, Justice, Interior, Labor, Health and Human Services, Agriculture, Commerce, Housing and Urban Development, Transportation, Energy, Education, Veterans' Affairs, General Services Administration, Office of Personnel Management, Small Business Administration, Social Security Administration, Environmental Protection Agency, and the United States Postal Service.

(2) FLEXIPLACE WORK TELECOMMUTING PROGRAM.—The term "flexiplace work telecommuting program" means a program under which employees of an Executive agency are permitted to perform all or a portion of their duties at a flexiplace work telecommuting center established under section 210(l) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(l)) or other Federal law.

SEC. 631. (a) MERITORIOUS EXECUTIVE.—Section 4507(e)(1) of title 5, United States Code, is amended by striking "$10,000" and inserting "an amount equal to 20 percent of annual basic pay".

(b) DISTINGUISHED EXECUTIVE.—Section 4507(e)(2) of title 5, United States Code, is amended by striking "$20,000" and inserting "an amount equal to 35 percent of annual basic pay".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1998, or the date of the enactment of this Act, whichever is later.

SEC. 632. (a) CAREER SES PERFORMANCE AWARDS.—Section 5384(b)(3) of title 5, United States Code, is amended—

(1) by striking "3 percent" and inserting "10 percent"; and

(2) by striking "15 percent" and inserting "20 percent".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1998, or the date of the enactment of this Act, whichever is later.

SEC. 633. (a) INTERNATIONAL POSTAL ARRANGEMENTS.—Section 407 of title 39, United States Code, is amended to read as follows:

"§407. International Postal Arrangements

"(a)(1) The Secretary of State shall have primary responsibility for formulation, coordination and oversight of policy with respect to United States participation in the Universal Postal Union, including the Universal Postal Convention and other Acts of the Universal Postal Union, amendments thereto, and all postal treaties and conventions concluded within the framework of the Convention and such Acts.

"(2) Subject to subsection (d), the Secretary may, with the consent of the President, negotiate and conclude treaties, conventions and amendments referred to in paragraph (1).

"(b)(1) Subject to subsections (a), (c), and (d), the Postal Service may, with the consent of the President, negotiate and conclude postal treaties and conventions.

"(2) The Postal Service may, with the consent of the President, establish rates of postage or other charges on mail matter conveyed between the United States and other countries.

"(3) The Postal Service shall transmit a copy of each postal treaty or convention concluded with other governments under the authority of this subsection to the Secretary of State, who shall furnish a copy to the Public Printer for publication.

"(c) The Postal Service shall not conclude any treaty or convention under the authority of this section or any other arrangement related to the delivery of international postal services that is inconsistent with any policy developed pursuant to subsection (a).

"(d) In carrying out their responsibilities under this section, the Secretary and the Postal Service shall consult with such federal agencies as the Secretary or the Postal Service considers appropriate, private providers of international postal services, users of international postal services, the general public, and such other persons as the Secretary or the Postal Service considers appropriate.".

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that any treaty, convention or amendment entered into under the authority of section 407 of title 39 of the United States Code, as amended by this section, should not grant any undue or unreasonable preference to the Postal Service, a private provider of postal services, or any other person.

(c) TRADE-IN-SERVICE PROGRAMS.—The second sentence of paragraph (5) of section 306(a) of the Trade and Tariff Act of 1984 (19 U.S.C. 2114b(5)) is amended by inserting "postal and delivery services," after "transportation.".

(d) TRANSFER OF FUNDS.—In fiscal year 1999 and each fiscal year hereafter, the Postal Service shall allocate to the Department of State from any funds available to the Postal Service such sums as may be reasonable, documented and auditable for the Department of State to carry out the activities of section 407 of title 39, United States Code.

SEC. 634. Notwithstanding any provision of law, the President, or his designee, must certify to Congress, annually, that no person or persons with direct or indirect responsibility for administering the Executive Office of the President's Drug-Free Workplace Plan are themselves subject to a program of individual random drug testing.

SEC. 635. (a) None of the funds made available in this or any other Act may be obligated or expended for any employee training that—

(1) does not meet identified needs for knowledge, skills, and abilities bearing directly upon the performance of official duties;

(2) contains elements likely to induce high levels of emotional response or psychological stress in some participants;

(3) does not require prior employee notification of the content and methods to be used in the training and written end of course evaluation;

(4) contains any methods or content associated with religious or quasi-religious belief systems or "new age" belief systems as defined in Equal Employment Opportunity Commission Notice N–915.022, dated September 2, 1988; or

(5) is offensive to, or designed to change, participants' personal values or lifestyle outside the workplace.

(b) Nothing in this section shall prohibit, restrict, or otherwise preclude an agency from conducting training bearing directly upon the performance of official duties.

SEC. 636. No funds appropriated in this or any other Act for fiscal year 1999 may be used to implement or enforce the agreements in Standard Forms 312 and 4355 of the Government or any other nondisclosure policy, form, or agreement if such policy, form, or agreement does not contain the following provisions: "These restrictions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by Executive Order No. 12958; section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of title 10, United States Code, as amended by the Military Whistleblower Protection Act (governing disclosure to Congress by members of the military); section 2302(b)(8) of title 5, United States Code, as amended by the Whistleblower Protection Act (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents); and the statutes which protect against disclosure that may compromise the national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Act of 1950 (50 U.S.C. 783(b)). The definitions, requirements, obligations, rights, sanctions, and liabilities created by said Executive order and listed statutes are incorporated into this agreement and are controlling.": Provided, That notwithstanding the preceding paragraph, a nondisclosure policy form or agreement that is to be executed by a person connected with the conduct of an intelligence or intelligence-related activity, other than an employee or officer of the United States Government, may contain provisions appropriate to the particular activity for which such document is to be used. Such form or agreement shall, at a minimum, require that the person will not disclose any classified information received in the course of such activity unless specifically authorized to do so by the United States Government. Such nondisclosure forms shall also make it clear that they do not bar disclosures to Congress or to an authorized official of an executive agency or the Department of Justice that are essential to reporting a substantial violation of law.

SEC. 637. No part of any funds appropriated in this or any other Act shall be used by an agency of the executive branch, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, and for the preparation, distribution or use of any kit, pamphlet, booklet, publication, radio, television or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

SEC. 638. (a) IN GENERAL.—For calendar year 2000, the Director of the Office of Management and Budget shall prepare and submit to Congress, with the budget submitted under section 1105 of title 31, United States Code, an accounting statement and associated report containing—

(1) an estimate of the total annual costs and benefits (including quantifiable and nonquantifiable effects) of Federal rules and paperwork, to the extent feasible—

(A) in the aggregate;

(B) by agency and agency program; and

(C) by major rule;

(2) an analysis of impacts of Federal regulation on State, local, and tribal government, small business, wages, and economic growth; and

(3) recommendations for reform.

(b) NOTICE.—The Director of the Office of Management and Budget shall provide public notice and an opportunity to comment on the statement and report under subsection (a) before the statement and report are submitted to Congress.

(c) GUIDELINES.—To implement this section, the Director of the Office of Management and Budget shall issue guidelines to agencies to standardize—

(1) measures of costs and benefits; and

(2) the format of accounting statements.

(d) PEER REVIEW.—The Director of the Office of Management and Budget shall provide for independent and external peer review of the guidelines and each accounting statement and associated report under this section. Such peer review shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

SEC. 639. None of the funds appropriated by this Act or any other Act, may be used by an agency to provide a Federal employee's home address to any labor organization except when it is made known to the Federal official having authority to obligate or expend such funds that the employee has authorized such disclosure or that such disclosure has been ordered by a court of competent jurisdiction.

SEC. 640. The Secretary of the Treasury is authorized to establish scientific certification standards for explosives detection canines, and shall provide, on a reimbursable basis, for the certification of explosives detection canines employed by Federal agencies, or other agencies providing explosives detection services at airports in the United States.

SEC. 641. None of the funds made available in this Act or any other Act may be used to provide any non-public information such as mailing or telephone lists to any person or any organization outside of the Federal Government without the approval of the Committees on Appropriations.

SEC. 642. No part of any appropriation contained in this or any other Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress.

SEC. 643. The Director of the United States Marshals Service is directed to conduct a quarterly threat assessment on the Director of the Office of National Drug Control Policy.

SEC. 644. Section 636(c) of Public Law 104–208 is amended as follows:

(1) In subparagraph (1) by inserting after "United States Code" the following: "any agency or court in the Judicial Branch,";

(2) In subparagraph (2) by amending "prosecution, or detention" to read: "prosecution, detention, or supervision"; and

(3) In subparagraph (3) by inserting after "title 5," the following: "and, with regard to the Judicial Branch, mean a justice or judge of the United States as defined in 28 U.S.C. 451 in regular active service or retired from regular active service, other judicial officers as authorized by the Judicial Conference of the United States, and supervisors and managers within the Judicial Branch as authorized by the Judicial Conference of the United States,".

SEC. 645. (a) In this section the term "agency"—

(1) means an Executive agency as defined under section 105 of title 5, United States Code;

(2) includes a military department as defined under section 102 of such title, the Postal Service, and the Postal Rate Commission; and

(3) shall not include the General Accounting Office.

(b) Unless authorized in accordance with law or regulations to use such time for other purposes, an employee of an agency shall use official time in an honest effort to perform official duties. An employee not under a leave system, including a Presidential appointee exempted under section 6301(2) of title 5, United States Code, has an obligation to expend an honest effort and a reasonable proportion of such employee's time in the performance of official duties.

SEC. 646. Notwithstanding any other provision of law, the Secretary of the Treasury is authorized to, upon submission of proper documentation (as determined by the Secretary), reimburse importers of large capacity military magazine rifles as defined in the Treasury Department's April 6, 1998 "Study on the Sporting Suitability of Modified Semiautomatic Assault Rifles", for which authority had been granted to import such firearms into the United States on or before November 14, 1997, and released under bond to the importer by the U.S. Customs Service on or before February 10, 1998: Provided, That the importer abandons title to the firearms to the United States: Provided further, That reimbursements are submitted to the Secretary for his approval within 120 days of the enactment of this provision. In no event shall reimbursements under this provision exceed the importers cost for the weapons, plus any shipping, transportation, duty, and storage costs related to the importation of such weapons. Money made available for expenditure under 31 U.S.C. 1304(a) in an amount not to exceed $1,000,000 shall be available for reimbursements under this provision: Provided further, That accepting the compensation provided under this provision is final and conclusive and constitutes a complete release of any and all claims, demands, rights, and causes of action whatsoever against the United States, its agencies, officers, or employees arising from the denial by the Department of the Treasury of the entry of such firearms into the United States. Such compensation is not otherwise required by law and is not intended to create or recognize any legally enforceable right to any person.

SEC. 647. (a) The adjustment in rates of basic pay for the statutory pay systems that takes effect in fiscal year 1999 under section 5303 and 5304 of title 5, United States Code, shall be an increase of 3.6 percent.

(b) Funds used to carry out this section shall be paid from appropriations which are made to each applicable department or agency for salaries and expenses for fiscal year 1999.

SEC. 648. INTERNATIONAL MAIL REPORTING REQUIREMENT. (a) IN GENERAL.—Chapter 36 of title 39, United States Code, is amended by adding after section 3662 the following:

"§3663. Annual report on international services

"(a) Not later than July 1 of each year, the Postal Rate Commission shall transmit to each House of Congress a comprehensive report of the costs, revenues, and volumes accrued by the Postal Service in connection with mail matter conveyed between the United States and other countries for the previous fiscal year.

"(b) Not later than March 15 of each year, the Postal Service shall provide to the Postal Rate Commission such data as the Commission may require to prepare the report required under subsection (a) of this section. Data shall be provided in sufficient detail to enable the Commission to analyze the costs, revenues, and volumes for each international mail product or service, under the methods determined appropriate by the Commission for the analysis of rates for domestic mail.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 63 of title 39, United States Code, is amended by adding after the item relating to section 3662 the following:

"3663. Annual report on international services.".

SEC. 649. EXTENSION OF SUNSET PROVISION.—Section 2(f)(2) of the Undetectable Firearms Act of 1988 (18 U.S.C. 922 note) is amended by striking "(2)" and all that follows through "10 years" and inserting the following:

"(2) SUNSET.—Effective 15 years".

SEC. 650. IMPORTATION OF CERTAIN GRAINS. (a) FINDINGS.—The Congress finds that—

(1) importation of grains into the United States at less than the cost to produce those grains is causing injury to the United States producers of those grains;

(2) importation of grains into the United States at less than the fair value of those grains is causing injury to the United States producers of those grains;

(3) the Canadian Government and the Canadian Wheat Board have refused to disclose pricing and cost information necessary to determine whether grains are being exported to the United States at prices in violation of United States trade laws or agreements.

(b) REQUIREMENTS.—

(1) The Customs Service, consulting with the United States Trade Representative and the Department of Commerce, shall conduct a study of the efficiency and effectiveness of requiring that all spring wheat, durum or barley imported into the United States be imported into the United States through a single port of entry.

(2) The Customs Service shall report to the Committees on Appropriations and the Senate Committee on Finance and the House Committee on Ways and Means not later than 90 days after the effective date of this Act on the results of the study required by paragraph (1).

SEC. 651. DESIGNATION OF EUGENE J. MCCARTHY POST OFFICE BUILDING. (a) IN GENERAL.—The building of the United States Postal Service located at 180 East Kellogg Boulevard in Saint Paul, Minnesota, shall be known and designated as the "Eugene J. McCarthy Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in subsection (a) shall be deemed to be a reference to the "Eugene J. McCarthy Post Office Building".

SEC. 652. The Administrator of General Services may provide, from government-wide credit card rebates, up to $3,000,000 in support of the Joint Financial Management Improvement Program as approved by the Chief Financial Officer's Council.

SEC. 653. Section 6302(g) of title 5, United States Code, is amended by inserting after "chapter 35" the following: "or section 3595".

SEC. 654. ASSESSMENT OF FEDERAL REGULATIONS AND POLICIES ON FAMILIES. (a) PURPOSES.—The purposes of this section are to—

(1) require agencies to assess the impact of proposed agency actions on family well-being; and

(2) improve the management of executive branch agencies.

(b) DEFINITIONS.—In this section—

(1) the term "agency" has the meaning given the term "Executive agency" by section 105 of title 5, United States Code, except such term does not include the General Accounting Office; and

(2) the term "family" means—

(A) a group of individuals related by blood, marriage, adoption, or other legal custody who live together as a single household; and

(B) any individual who is not a member of such group, but who is related by blood, marriage, or adoption to a member of such group, and over half of whose support in a calendar year is received from such group.

(c) FAMILY POLICYMAKING ASSESSMENT.—Before implementing policies and regulations that may affect family well-being, each agency shall assess such actions with respect to whether—

(1) the action strengthens or erodes the stability or safety of the family and, particularly, the marital commitment;

(2) the action strengthens or erodes the authority and rights of parents in the education, nurture, and supervision of their children;

(3) the action helps the family perform its functions, or substitutes governmental activity for the function;

(4) the action increases or decreases disposable income or poverty of families and children;

(5) the proposed benefits of the action justify the financial impact on the family;

(6) the action may be carried out by State or local government or by the family; and

(7) the action establishes an implicit or explicit policy concerning the relationship between the behavior and personal responsibility of youth, and the norms of society.

(d) GOVERNMENTWIDE FAMILY POLICY COORDINATION AND REVIEW.—

(1) CERTIFICATION AND RATIONALE.—With respect to each proposed policy or regulation that may affect family well-being, the head of each agency shall—

(A) submit a written certification to the Director of the Office of Management and Budget and to Congress that such policy or regulation has been assessed in accordance with this section; and

(B) provide an adequate rationale for implementation of each policy or regulation that may negatively affect family well-being.

(2) OFFICE OF MANAGEMENT AND BUDGET.—The Director of the Office of Management and Budget shall—

(A) ensure that policies and regulations proposed by agencies are implemented consistent with this section; and

(B) compile, index, and submit annually to the Congress the written certifications received pursuant to paragraph (1)(A).

(3) OFFICE OF POLICY DEVELOPMENT.—The Office of Policy Development shall—

(A) assess proposed policies and regulations in accordance with this section;

(B) provide evaluations of policies and regulations that may affect family well-being to the Director of the Office of Management and Budget; and

(C) advise the President on policy and regulatory actions that may be taken to strengthen the institutions of marriage and family in the United States.

(e) ASSESSMENTS UPON REQUEST BY MEMBERS OF CONGRESS.—Upon request by a Member of Congress relating to a proposed policy or regulation, an agency shall conduct an assessment in accordance with subsection (c), and shall provide a certification and rationale in accordance with subsection (d).

(f) JUDICIAL REVIEW.—This section is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

SEC. 655. None of the funds appropriated pursuant to this Act or any other provision of law may be used for any system to implement section 922(t) of title 18, United States Code, unless the system allows, in connection with a person's delivery of a firearm to a Federal firearms licensee as collateral for a loan, the background check to be performed at the time the collateral is offered for delivery to such licensee: Provided, That the licensee notifies local law enforcement within 48 hours of the licensee receiving a denial on the person offering the collateral: Provided further, That the provisions of section 922(t) shall apply at the time of the redemption of the firearm.

TITLE VIII—TECHNICAL AND CLARIFYING AMENDMENTS

SEC. 801. TECHNICAL AND CLARIFYING AMENDMENTS RELATING TO DISTRICT OF COLUMBIA RETIREMENT FUNDS.

(a) PERMITTING OTHER FEDERAL ENTITIES TO ADMINISTER PROGRAM.—Section 11003 of the Balanced Budget Act of 1997 (D.C. Code, sec. 1–761.2) is amended—

(1) in paragraph (1), by inserting ", and includes any agreement with a department, agency, or instrumentality of the United States entered into under that section" after "the Trustee"; and

(2) in paragraph (10), by striking ", partnership, joint venture, corporation, mutual company, joint-stock company, trust, estate, unincorporated organization, association, or employee organization" and inserting "; partnership; joint venture; corporation; mutual company; joint-stock company; trust; estate; unincorporated organization; association; employee organization; or department, agency, or instrumentality of the United States" .

(b) PERMITTING WAIVER OF RECOVERY OF AMOUNTS PAID IN ERROR.—Section 11021(3) of such Act (D.C. Code, sec. 1–763.1(3)) is amended by inserting ", or waive recoupment or recovery of," after "recover".

(c) PERMITTING USE OF TRUST FUND TO COVER ADMINISTRATIVE EXPENSES.—Section 11032 of such Act (D.C. Code, sec. 1–764.2) is amended—

(1) by amending subsection (a) to read as follows:

"(a) IN GENERAL.—Amounts in the Trust Fund shall be used—

"(1) to make Federal benefit payments under this subtitle;

"(2) subject-to subsection (b)(1), to cover the reasonable and necessary expenses of administering the Trust Fund under the contract entered into pursuant to section 11035(b);

"(3) to cover the reasonable and necessary administrative expenses incurred by the Secretary in carrying out the Secretary s responsibilities under this subtitle; and

"(4) for such other purposes as are specified in this subtitle."; and

(2) in subsection (b)(2), by inserting "(including expenses described in section 11041(b))" after "to administer the Trust Fund".

(d) PROMOTING FLEXIBILITY IN ADMINISTRATION OF PROGRAM.—Section 11035 of such Act (D.C. Code, sec. 1–764.5) is amended—

(1) by redesignating subsection (c) as subsection (e); and

(2) by inserting after subsection (b) the following new subsections:

"(c) SUBCONTRACTS.—Notwithstanding any provision of a District Retirement Program or any other law, rule, or regulation, the Trustee may, with the approval of the Secretary, enter into one or more subcontracts with the District Government or any person to provide services to the Trustee in connection with its performance of the contract. The Trustee shall monitor the performance of any such subcontract and enforce its provisions.

"(d) DETERMINATION BY THE SECRETARY.—Notwithstanding subsection (b) or any other provision of this subtitle, the Secretary may determine, with respect to any function otherwise to be performed by the Trustee, that in the interest of economy and efficiency such function shall be performed by the Secretary rather than the Trustee.".

(e) PROCESS FOR REIMBURSEMENT OF DISTRICT GOVERNMENT FOR EXPENSES OF INTERIM ADMINISTRATION.—Section 11041 of such Act (D.C. Code, sec. 1–765.1) is amended—

(1) in subsection (b), by striking "The Trustee shall" and inserting "The Secretary or the Trustee shall, at such times during or after the period of interim administration described in subsection (a) as are deemed appropriate by the Secretary or the Trustee";

(2) in subsection (b)(1), by inserting "the Secretary or" after "if"; and

(3) in subsection (c), by striking "the replacement plan adoption date" and inserting "such time as the Secretary notifies the District Government that the Secretary has directed the Trustee to carry out the duties and responsibilities required under the contract".

(f) ANNUAL FEDERAL PAYMENT INTO FEDERAL SUPPLEMENTAL FUND.—Section 11053 of such Act (D.C. Code, sec. 1–766.3) is amended—

(1) by amending subsection (a) to read as follows:

"(a) ANNUAL AMORTIZATION AMOUNT.—At the end of each applicable fiscal year the Secretary shall promptly pay into the Federal Supplemental Fund from the General Fund of the Treasury an amount equal to the annual amortization amount for the year (which may not be less than zero).";

(2) in subsection (b), by striking "freeze date" and inserting "effective date of this Act";

(3) by redesignating subsections (b) and (c) as subsections (c) and (d); and

(4) by inserting after subsection (a) the following new subsection:

"(b) ADMINISTRATIVE EXPENSES.—During each applicable fiscal year, the Secretary shall pay into the Federal Supplemental Fund from the General Fund of the Treasury amounts not to exceed the covered administrative expenses for the year.".

(g) TECHNICAL CORRECTIONS.—(1) Section 11012(c) of such Act (D.C. Code, sec. 1–752.2(c)) is amended by striking "District of Columbia Retirement Board" and inserting "District Government".

(2) Section 11033(c)(1) of such Act (D.C. Code, sec. 1–764.3(c)(1)) is amended by striking "consisting" in the first place that it appears.

(3) Section 11052 of such Act (D.C. Code, sec. 1–766.2) is amended by inserting "to" after "may be made only".

SEC. 802. CLARIFYING TREATMENT OF DISTRICT OF COLUMBIA EMPLOYEES TRANSFERRED TO FEDERAL RETIREMENT SYSTEMS.

(a) ELIGIBILITY OF NONJUDICIAL EMPLOYEES OF DISTRICT OF COLUMBIA COURTS FOR MEDICARE AND SOCIAL SECURITY BENEFITS.—Section 11246(b) of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 755) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4); and

(2) by inserting after paragraph (1) the following new paragraph:

"(2) CONFORMING AMENDMENTS TO INTERNAL REVENUE CODE AND SOCIAL SECURITY.—(A) Section 3121(b)(7)(C) of the Internal Revenue Code of 1986 (relating to the definition of employment for service performed in the employ of the District of Columbia) is amended by inserting '(other than the Federal Employees Retirement System provided in chapter 84 of title 5, United States Code)' after 'law of the United States'.

"(B) Section 210(a)(7)(D) of the Social Security Act (42 U.S.C. 410(a)(7)(D)) (relating to the definition of employment for service performed in the employ of the District of Columbia), is

amended by inserting '(other than the Federal Employees Retirement System provided in chapter 84 of title 5, United States Code)' after "law of the United States.".

(b) VESTING UNDER PREVIOUS DISTRICT OF COLUMBIA RETIREMENT PROGRAM.—For purposes of vesting pursuant to section 2610(b) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (D.C. Code, sec. 1–627.10(b)), creditable service with the District for employees whose participation in the District Defined Contribution Plan ceases as a result of the implementation of the Balanced Budget Act of 1997 shall include—

(1) continuous service performed by nonjudicial employees of the District of Columbia courts after September 30, 1997; and

(2) service performed for a successor employer, including the Department of Justice or the District of Columbia Offender Supervision, Defender, and Courts Services Agency established under section 11233 of the Balanced Budget Act of 1997, that provides services previously performed by the District government.

SEC. 803. METHODOLOGY FOR DESIGNATING ASSETS OF RETIREMENT FUND.

Section 11033 of the Balanced Budget Act of 1997 (D.C. Code, sec. 1–764.3) is amended by adding at the end the following new subsection:

"(e) METHODOLOGY FOR DESIGNATING ASSETS.—

"(1) IN GENERAL.—In carrying out subsection (b), the Secretary may develop and implement a methodology for designating assets after the replacement plan adoption date that takes into account the value of the District Retirement Fund as of the replacement plan adoption date and the proportion of such value represented by $1.275 billion, together with the income (including returns on investments) earned on the assets of and withdrawals from and deposits to the Fund during the period between such date and the date on which the Secretary designates assets under subsection (b). In implementing a methodology under the previous sentence, the Secretary shall not be required to determine the value of designated assets as of the replacement plan adoption date. Nothing in this paragraph may be deemed to effect the entitlement of the District Retirement Fund to income (including returns on investments) earned after the replacement plan adoption date on assets designated for retention by the Fund.

"(2) EMPLOYEE CONTRIBUTIONS; JUDICIAL RETIREMENT AND SURVIVORS ANNUITY FUND.—The Secretary may develop and implement a methodology comparable to the methodology described in paragraph (1) in carrying out the requirements of subsection (c) and in designating assets to be transferred to the District of Columbia Judicial Retirement and Survivors Annuity Fund pursuant to section 124(c)(1) of the District of Columbia Retirement Reform Act (as amended by section 11252).

"(3) DISCRETION OF THE SECRETARY.—The Secretary's development and implementation of methodologies for designating assets under this subsection shall be final and binding.".

SEC. 804. TECHNICAL AND CLARIFYING AMENDMENTS RELATING TO JUDICIAL RETIREMENT PROGRAM.

(a) ADMINISTRATION OF JUDICIAL RETIREMENT AND SURVIVORS ANNUITY FUND.—Section 11–1570, District of Columbia Code, as amended by section 11251 of the Balanced Budget Act of 1997, is amended as follows:

(1) In subsection (b)(1)—

(A) by striking "title I of the National Capital Revitalization and Self-Government Improvement Act of 1997" and inserting "subtitle A of title XI of the Balanced Budget Act of 1997"; and

(B) by inserting after the second sentence the following new sentences: "Notwithstanding any other provision of District law or any other law, rule, or regulation, any Trustee, contractor, or enrolled actuary selected by the Secretary under this subsection may, with the approval of the Secretary, enter into one or more subcontracts with the District of Columbia government or any person to provide services to such Trustee, contractor, or enrolled actuary in connection with its performance of its agreement with the Secretary. Such Trustee, contractor, or enrolled actuary shall monitor the performance of any subcontract to which it is a party and enforce its provisions.".

(2) In subsection (b)(2)—

(A) by striking "chief judges of the District of Columbia Court of Appeals and Superior Court of the District of Columbia" and inserting "Secretary";

(B) by striking "and the Secretary";

(C) by striking "and appropriations"; and

(D) by striking "and deficiency".

(3) By amending subsection (c) to read as follows:

"(c)(1) Amounts in the Fund are available—

"(A) for the payment of judges retirement pay, annuities, refunds, and allowances under this subchapter;

"(B) to cover the reasonable and necessary expenses of administering the Fund under any agreement entered into with a Trustee, contractor, or enrolled actuary under subsection (b)(1), including any agreement with a department, agency or instrumentality of the United States; and

"(C) to cover the reasonable and necessary administrative expenses incurred by the Secretary in carrying out the Secretary s responsibilities under this subchapter.

"(2) Notwithstanding any other provision of District law or any other law, rule, or regulation—

"(A) the Secretary may review benefit determinations under this subchapter made prior to the date of the enactment of the Balanced Budget Act of 1997, and shall make initial benefit determinations after such date; and

"(B) the Secretary may recoup or recover, or waive recoupment or recovery of, any amounts paid under this subchapter as a result of errors or omissions by any person.".

(4) In subsection (d)(1)—

(A) by striking "Subject to the availability of appropriations, there shall be deposited into the Fund" and inserting "The Secretary shall pay into the Fund from the General Fund of the Treasury"; and

(B) by striking "(beginning with the first fiscal year which ends more than 6 months after the replacement plan adoption date described in section 103(13) of the National Capital Revitalization and Self-Government Improvement Act of 1997)".

(5) In subsection (d)(2)(A)—

(A) by striking "June 30, 1997" and inserting "September 30, 1997"; and

(B) by striking "net the sum of future normal cost" and inserting "net of the sum of the present value of future normal costs".

(6) In subsection (d)(3), by striking "shall be taken from sums available for that fiscal year for the payment of the expenses of the Court, and".

(7) By adding at the end the following new subsections:

"(h) For purposes of the Internal Revenue Code of 1986—

"(1) the Fund shall be treated as a trust described in section 401(a) of the Code that is exempt from taxation under section 501(a) of the Code;

"(2) any transfer to or distribution from the Fund shall be treated in the same manner as a transfer to or distribution from a trust described in section 401(a) of the Code; and

"(3) the benefits provided by the Fund shall be treated as benefits provided under a governmental plan maintained by the District of Columbia.

"(i) For purposes of the Employee Retirement Income Security Act of 1974, the benefits provided by the Fund shall be treated as benefits provided under a governmental plan maintained by the District of Columbia.

"(j) To the extent that any provision of subpart A of part I of subchapter D of the chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. 401 et seq.) is amended after the date of the enactment of this subsection, such provision as amended shall apply to the Fund only to the extent the Secretary determines that application of the provision as amended is consistent with the administration of this subchapter.

"(k) Federal obligations for benefits under this subchapter are backed by the full faith and credit of the United States.".

(b) REGULATORY AUTHORITY OF SECRETARY.—Section 11251 of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 756) is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) by inserting after subsection (a) the following new subsection:

"(b) REGULATIONS; EFFECT ON REFORM ACT.—Title 11, District of Columbia Code, is amended by adding the following new section:

'§ 11–1572. Regulations; effect on Reform Act

'(a) The Secretary is authorized to issue regulations to implement, interpret, administer and carry out the purposes of this subchapter, and, in the Secretary's discretion, those regulations may have retroactive effect, except that nothing in this subsection may be construed to permit the Secretary to issue any regulation to retroactively reduce or eliminate the benefits to which any individual is entitled under this subchapter.

'(b) This subchapter supersedes any provision of the District of Columbia Retirement Reform Act (Public Law 96-122) inconsistent with this subchapter and the regulations thereunder.'."; and

(3) by amending subsection (c) (as so redesignated) to read as follows:

"(c) CLERICAL AMENDMENTS.—

"(1) The table of sections for subchapter III of chapter 15 of title 11, District of Columbia Code, is amended by amending the item relating to section 11–1570 to read as follows:

'11–1570. The District of Columbia Judicial Retirement and Survivors Annuity Fund.'.

"(2) The table of sections for subchapter III of chapter 15 of title 11, District of Columbia Code, is amended by adding at the end the following new item:

'11–1572. Regulations; effect on Reform Act.'.".

(c) TERMINATION OF PREVIOUS FUND AND PROGRAM.—Section 124 of the District of Columbia Retirement Reform Act (D.C. Code, sec. 1–714), as amended by section 11252(a) of the Balanced Budget Act of 1997, is amended—

(1) in subsection (a), by inserting "(except as provided in section 11–1570, District of Columbia Code)" after "the following";

(2) in subsection (c)(1), by striking "title I of the National Capital Revitalization and Self-Government Improvement Act of 1997" and inserting "subtitle A of title XI of the Balanced Budget Act of 1997"; and

(3) in subsection (c)(2)—

(A) by striking "(2) The" and inserting "(2) In accordance with the direction of the Secretary, the";

(B) by striking "in the Treasury" and inserting "at the Board"; and

(C) by striking "appropriated" and inserting "used".

(d) ADMINISTRATION OF RETIREMENT FUNDS.—Section 11252 of the Balanced Budget Act of 1997 is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) by inserting after subsection (a) the following new subsection:

"(b) TRANSITION FROM DISTRICT OF COLUMBIA ADMINISTRATION.—Sections 11023, 11032(b)(2), 11033(d), and 11041 shall apply to the administration of the District of Columbia Judges Retirement Fund established under section 124 of the District of Columbia Retirement Reform Act (D.C. Code, sec. 1–714), the District of Columbia Judicial Retirement and Survivors Annuity Fund established under section 11–1570, District of Columbia Code, and the retirement program for judges under subchapter III of chapter 15 of title 11, District of Columbia Code, except as follows:

"(1) In applying each such section—

"(A) any reference to this subtitle shall instead refer to subchapter III of chapter 15 of title 11, District of Columbia Code;

"(B) any reference to the District Retirement Program shall be deemed to include the retirement program for judges under subchapter III of chapter 15 of title 11, District of Columbia Code;

"(C) any reference to the District Retirement Fund shall be deemed to include the District of Columbia Judges Retirement Fund established under section 124 of the District of Columbia Retirement Reform Act;

"(D) any reference to Federal benefit payments shall be deemed to include judges retirement pay, annuities, refunds and allowances under subchapter III of chapter 15 of title 11, District of Columbia Code;

"(E) any reference to the Trust Fund shall instead refer to the District of Columbia Judicial Retirement and Survivors Annuity Fund established under section 11–1570, District of Columbia Code;

"(F) any reference to section 11033 shall instead refer to section 124 of the District of Columbia Retirement Reform Act, as amended by section 11252; and

"(G) any reference to chapter 2 shall instead refer to section 11–1570, District of Columbia Code.

"(2) In applying section 11023—

"(A) any reference to the contract shall instead refer to the agreement referred to in section 11–1570(b), District of Columbia Code ; and

"(B) any reference to the Trustee shall instead refer to the Trustee or contractor referred to in section 11–1570(b), District of Columbia Code.

"(3) In applying section 11033(d)—

"(A) any reference to this section shall instead refer to section 124 of the District of Columbia Retirement Reform Act, as amended by section 11252; and

"(B) any reference to the Trustee shall instead refer to the Secretary or the Trustee or contractor referred to in section 11–1570(b), District of Columbia Code.

"(4) In applying section 11041(b), any reference to the Trustee shall instead refer to the Trustee or contractor referred to in section 11–1570(b), District of Columbia Code."; and

(3) by adding at the end the following new subsection:

"(d) EFFECTIVE DATE.—The provisions of subsection (c) shall take effect on the date on which the assets of the District of Columbia Judges Retirement Fund are transferred to the District of Columbia Judicial Retirement and Survivors Annuity Fund.".

(e) MISCELLANEOUS TECHNICAL AND CLERICAL AMENDMENTS.—(1) Sections 11–1568(d) and 11–1569, District of Columbia Code, are each amended by striking "Mayor" each place it appears and inserting "Secretary of the Treasury".

(2) Section 11–1568.2, District of Columbia Code, is amended by striking "Mayor of the District of Columbia" each place it appears and inserting "Secretary of the Treasury".

(3) Section 121(b)(1)(A) of the District of Columbia Retirement Reform Act (D.C. Code, sec. 1–711(b)(1)(A)), as amended by section 11252(c)(1) of the Balanced Budget Act of 1997 (as redesignated by subsection (d)(1)), is amended in the matter preceding clause (i), by striking "11" and inserting "12".

(4) Section 11–1561(4), District of Columbia Code, as amended by section 11253(b) of the Balanced Budget Act of 1997, is amended by striking "sections" and inserting "section".

(5) Section 11253(c) of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 759) is amended to read as follows:

"(c) TREATMENT OF FEDERAL SERVICE OF JUDGES.—Section 11–1564, District of Columbia Code, is amended—

"(1) in subsection (d)(2)(A), by striking 'section 1–1814)' and inserting 'section 1–714) or the District of Columbia Judicial Retirement and Survivors Annuity Fund (established by section 11–1570)'; and

"(2) in subsection (d)(4), by striking 'Judges Retirement Fund established by section 124(a) of the District of Columbia Retirement Reform Act' and inserting 'Judicial Retirement and Survivors Annuity Fund under section 11–1570'.".

(6) Section 11253 of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 759) is amended by adding at the end the following new subsection:

"(d) REDEPOSITS TO FUND.—Section 11–1568.1(4)(A), District of Columbia Code, is amended by striking 'Judges Retirement Fund' and inserting 'Judicial Retirement and Survivors Annuity Fund'.".

(f) EFFECTIVE DATE.—The amendments made by subsections (a)(2), (a)(4), and (a)(6) shall take effect October 1, 1998.

SEC. 805. EFFECTIVE DATE.

Except as otherwise specifically provided, this title and the amendments made by this title shall take effect as if included in the enactment of title XI of the Balanced Budget Act of 1997.

This Act may be cited as the "Treasury and General Government Appropriations Act, 1999".

And the Senate agree to the same.

JIM KOLBE,
FRANK WOLF,
ERNEST ISTOOK, JR.,
ANNE M. NORTHUP,
ROBERT B. ADERHOLT,
BOB LIVINGSTON,
JOSEPH MCDADE,
Managers on the Part of the House.

BEN NIGHTHORSE CAMPBELL,
RICHARD SHELBY,
LAUCH FAIRCLOTH,
TED STEVENS,
ROBERT C. BYRD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4104), making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1999, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The conference agreement on the Treasury and General Government Appropriations Act, 1999, incorporates some of the language and allocations set forth in House Report 105–592 and Senate Report 105–251. The language in these reports should be complied with unless specifically addressed in the accompanying statement of managers.

Senate Amendment: The Senate deleted the entire House bill after the enacting clause and inserted the Senate bill. The conference agreement includes a revised bill.

Throughout the accompanying explanatory statement, the managers refer to the Committee and the Committees on Appropriations. Unless otherwise noted, in both instances the managers are referring to the House Subcommittee on Treasury, Postal Service, and General Government and the Senate Subcommittee on Treasury and General Government.

REPROGRAMMING AND TRANSFER OF FUNDS GUIDELINES

Due to continuing issues associated with agency requests for reprogramming and transfer of funds and use of unobligated balances, the conferees have agreed to reprogramming guidelines included in House Report 105–592. Those guidelines shall be complied with by all agencies funded by the Treasury and General Government Appropriations Act, 1999:

1. Except under extraordinary and emergency situations, the Committees on Appropriations will not consider requests for a reprogramming or a transfer of funds, or use of unobligated balances, which are submitted after the close of the third quarter of the fiscal year, June 30;

2. Clearly stated and detailed documentation presenting justification for the reprogramming, transfer, or use of unobligated balances shall accompany each request;

3. For agencies, departments, or offices receiving appropriations in excess of $20,000,000, a reprogramming shall be submitted if the amount to be shifted to or from any object class, budget activity, program line item, or program activity involved is in excess of $500,000 or 10 percent, whichever is greater, of the object class, budget activity, program line item, or program activity;

4. For agencies, departments, or offices receiving appropriations less than $20,000,000, a reprogramming shall be submitted if the amount to be shifted to or from any object class, budget activity, program line item, or program activity involved is in excess of $50,000, or 10 percent, whichever is greater, of the object class, budget activity, program line item, or program activity;

5. For any action where the cumulative effect of below threshold reprogramming actions, or past reprogramming and/or transfer actions added to the request, would exceed the dollar threshold mentioned above, a reprogramming shall be submitted;

6. For any action which would result in a major change to the program or item which is different than that presented to and approved by either of the Committees, or the Congress, a reprogramming shall be submitted;

7. For any action where funds earmarked by either of the Committees for a specific activity are proposed to be used for a different activity, a reprogramming shall be submitted; and,

8. For any action where funds earmarked by either of the Committees for a specific activity are in excess of the project or activity requirement, and are proposed to be used for a different activity, a reprogramming shall be submitted.

Additionally, each request shall include a declaration that, as of the date of the request, none of the funds included in the request have been obligated, and none will be obligated, until the Committees on Appropriations have approved the request.

TITLE I—DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICES

SALARIES AND EXPENSES

The conference agreement appropriates $123,151,000 for Departmental Offices instead of $122,889,000 as proposed by the House and $120,671,000 as proposed by the Senate. The amount appropriated includes: $3,704,000 for mandatory cost increases; an additional $470,000 for the Office of Tax Policy; an additional $255,000 for the Office of Economic Policy; an additional $499,000 for International Affairs Policies and Programs; an additional $801,000 for Enforcement Policies and Programs; an additional $866,000 for the Office of Foreign Assets Control; an additional $239,000 for Fiscal and Financial Policies and Programs; and an additional $300,000 for Treasury-wide management policies and practices. The conferees are aware that additional funds in the amount of $1,238,000 are required in fiscal year 1999 for Year 2000 compliance. The conference agreement also includes funding to allow the Department to provide no more than $500,000 in contract awards to the National Law Center for Inter-American Free Trade as proposed by the House.

The conferees have agreed to provide an additional $1,200,000 within this account for the Under Secretary of Enforcement to continue the operations of the Office of Professional Responsibility, should he so desire, as proposed by the Senate.

The conference agreement includes language which provides that the Office of Foreign Assets Control shall be funded at no less than $6,560,800 as proposed by the Senate instead of $5,517,000 as proposed by the House. The conferees have included language authorizing the Department to charge both direct and indirect costs to the Office of Foreign Assets Control in the implementation of this floor.

The Senate bill included language in this and a number of other accounts which provides that funds appropriated in this Act may be used for Year 2000 computer conversion costs pending the availability of funding for that purpose in a separate appropriation. The conferees have deleted that language in each instance in which it occurs and have instead included a new general provision (Section 513) to permit the use of funds provided in this Act to initiate or continue projects or activities to the extent necessary to achieve Year 2000 computer conversion until such time as supplemental appropriations are provided for those activities.

The conference agreement deletes language proposed by the House which provides compensation for losses incurred due to the denial of entry into the United States of certain firearms. The conferees have included language in Title VI (Section 646) of the bill to provide for this relief through the use of the Judgement Fund, as proposed by the Senate.

TREASURY LAW ENFORCEMENT VEHICLES

No later than 90 days after enactment of this Act, the Department shall submit to the Committees on Appropriations directives to implement the management of law enforcement vehicle usage in the Department. These directives shall include: development of a Department-wide vehicle management system to ensure adequate oversight of vehicle usage; standards and procedures for full compliance with home-to-work regulations on vehicle use; verifiable determination that vehicle use throughout the Department is in support of law enforcement purposes only; and implementation of a log tracking system by activity and specific use of law enforcement vehicles.

UNDER SECRETARY FOR ENFORCEMENT

The conferees direct the Department of the Treasury to submit, with its fiscal year 2000 budget request, detailed budget justification materials for the Office of the Under Secretary for Enforcement.

OFFICE OF PROFESSIONAL RESPONSIBILITY

SALARIES AND EXPENSES

The conferees agree to provide no separate funding for the Office of Professional Responsibility (OPR) in fiscal year 1999 as proposed by the Senate, but instead have provided adequate funding within the Departmental Offices appropriations for the Under Secretary for Enforcement to continue the work of this office should he so desire. The conferees expect that the Department also will use approximately $350,000 in reprogramming authority, the anticipated share of the unobligated balance of funds at the end of fiscal year 1998, to augment this appropriation.

In fiscal year 1998, the Under Secretary for Enforcement was charged with tasking OPR to conduct a comprehensive review of integrity issues and other matters related to the potential vulnerability of the United States Customs Service to corruption, to include examination of charges of professional misconduct and corruption as well as analysis of the efficacy of departmental and bureau internal affairs systems. The conferees expect that this work will continue, and that it will be in conjunction with related efforts funded through the Customs Integrity Awareness Program.

AUTOMATION ENHANCEMENT

The conferees agree to provide $28,690,000 for Automation Enhancement instead of $31,190,000 as proposed by the House and $28,990,000 as proposed by the Senate. The amount provided shall be transferred as follows:

Customs Service.—$8,000,000 for the Automated Commercial Environment.

Bureau of Alcohol, Tobacco, and Firearms.—$3,700,000 for a human resources system reengineering pilot program.

Departmental Offices.—$16,990,000, of which $5,400,000 is for the International Trade Data System, of which $6,577,000 is for Department-wide human resources re-engineering program management and implementation, of which $3,813,000 is for Departmental Offices productivity enhancement, of which $1,000,000 is for the Treasury Vehicle Management System, and of which $200,000 is for Department-wide implementation of the Treasury Information System Architecture Framework.

The conferees agree that the funds provided shall remain available until September 30, 2000, as proposed by the House rather than remain available until expended as proposed by the Senate.

The conferees are aware that additional funds in the amount of $2,762,000 are required in fiscal year 1999 for Year 2000 compliance.

AUTOMATED COMMERCIAL ENVIRONMENT

The conferees agree to provide $8,000,000 for the Customs Service ACE project, with the proviso that $6,000,000 shall not be available for obligation until the Treasury's Chief Information Officer, through the Treasury Investment Review Board, concurs on the plan and milestone schedule for the deployment of the system. Furthermore, $6,000,000 shall not be obligated until the Commissioner of Customs provides to the Committees on Appropriations an Enterprise Information Systems Architecture (EISA) for Customs that covers all Customs' areas of business—not just trade compliance. For the EISA to be acceptable, it must comply with the Treasury Information Systems Architecture Framework, include measures to enforce compliance, and be approved by the Treasury Investment Review Board.

The conferees are pleased with the efforts made by the Treasury Department to exercise some management responsibility for the ACE project, which represents an enormous information technology investment for the Department and Customs. Clear benefits are already being seen in the quality of analysis applied to investment decisions, and coordination with other information technology projects such as the International Trade Data System (ITDS). The conferees support the continued exercise of strong oversight by the Treasury Department over this project.

FINANCIAL CRIMES ENFORCEMENT NETWORK

The conferees agree to provide $24,000,000 as proposed by the House instead of $23,670,000 as proposed by the Senate. In addition, the conferees agree that the funds shall be available with no earmark for the GATEWAY program, as had been proposed by the Senate.

TREASURY FORFEITURE FUND

The conferees expect that the super surplus for the Treasury Forfeiture Fund will continue to be large in fiscal year 1999, and direct the Department to provide the Committees its plan for intended use of these resources in a timely fashion, as well as in its presentation of the fiscal year 2000 budget request.

The conferees support the use of the super surplus to further advance Treasury Department law enforcement programs, and acknowledge the Department's plan to use its surplus for a variety of activities. The conferees direct the Department to use $11,012,000 as follows: $5,512,000 for the construction of a P–3 hangar in Corpus Christi, Texas, for the United States Customs Service; $4,000,000 for the CEASEFIRE/IBIS program, and $1,500,000 for the Global Transpark Customs Information Project. The conferees also agree that super surplus funds may be used for replacement of law enforcement vehicles, instead of the prohibition proposed by the Senate.

VIOLENT CRIME REDUCTION PROGRAMS

The conferees agree to provide $132,000,000 as proposed by the House and Senate. This amount is to be used as follows:

Bureau of Alcohol, Tobacco and Firearms:	
GREAT administration/training	$3,000,000
GREAT Program Grants	13,000,000
Customs Service:	
Narcotics detection technology	54,000,000
Passenger processing initiative	9,500,000
Canopy construction	972,000

Child pornography investigation	1,000,000
Subtotal, Customs Service	65,472,000
Secret Service:	
Counterfeiting investigations	5,000,000
Forensic technology and assistance	2,000,000
NCMEC assistance	1,196,000
2000 campaign protection	7,732,000
Vehicle replacement	6,700,000
Subtotal, Secret Service	22,628,000
Financial Crimes Enforcement Network:	
Cyberpayment studies	800,000
Suspicious Activity Report analysis	300,000
Support for State & local GATEWAY	200,000
Money laundering regulations	100,000
Subtotal, FinCEN	1,400,000
Interagency Crime and Drug Enforcement	24,000,000
Office of National Drug Control Policy:	
Model State Drug Law Conferences	1,000,000
High Intensity Drug Trafficking Areas	1,500,000
Subtotal, ONDCP	2,500,000

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

The conferees agree to provide $3,000,000 to ATF for the management of the GREAT program as proposed by the House rather than in the ATF Salaries and Expenses appropriation as proposed by the Senate. The funding proposed•by the Senate for laboratory and investigative support is funded under ATF's Salaries and Expenses appropriation.

GANG RESISTANCE EDUCATION AND TRAINING

The conferees agree to provide $13,000,000 to ATF, instead of $10,000,000 as proposed by the House and $13,239,000 as proposed by the Senate for grants to local law enforcement organizations for the Gang Resistance Education and Training (GREAT) program. The GREAT program has been enthusiastically endorsed by communities in Colorado, North Carolina and Wisconsin. The conferees direct that qualified law enforcement and prevention organizations from these areas be funded under GREAT.

The conferees are aware of concerns about the lack of a long-term evaluation of the impact of this program. Therefore, the conferees urge ATF to contract with the National Academy of Sciences, Committee on Law and Justice, to conduct an independent evaluation of the GREAT program.

CUSTOMS SERVICE

The conferees agree to provide $65,472,000, instead of $66,472,000 as proposed by the House and $54,000,000 as proposed by the Senate. Within these funds, the conferees include $54,000,000 for narcotics detection technology, $9,500,000 for passenger processing, $972,000 for canopy construction, and $1,000,000 for additional technologies associated with the child pornography cyber-smuggling initiative. The conferees agree that $2,400,000 of the Customs Salaries and Expenses account should be used for the cyber-smuggling initiative, as proposed by the Senate.

SECRET SERVICE

The conferees agree to provide $22,628,000, instead of $14,528,000 as proposed by the House and $15,403,000 as proposed by the Senate. Within these funds, the conferees include $5,000,000 for counterfeiting investigations, $7,732,000 for campaign protection activities, $6,700,000 for vehicle replacement, and $3,196,000 for forensic and related support of investigations of missing and exploited children. Of the amounts provided for missing and exploited children, the conferees agree to provide $1,196,000 for the continued operations of the Child Exploitation Unit at the National Center for Missing and Exploited Children.

FINANCIAL CRIMES ENFORCEMENT NETWORK

The conferees agree to provide $1,400,000 for FinCEN as proposed by the Senate, instead of no funding as proposed by the House. Within these funds, the conferees include $800,000 for cyberpayment studies; $300,000 for Suspicious Activity Report analysis; $200,000 for training and support for State and local GATEWAY participation; and $100,000 for money laundering regulations.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

The conferees agree to provide no VCRTF funding for FLETC as proposed by the House, instead of $1,158,000 as proposed by the Senate. The affected programs—rural law enforcement training and equipment replacement—are funded in FLETC's Salaries and Expenses appropriation.

INTERAGENCY CRIME AND DRUG ENFORCEMENT

The conferees agree to provide $24,000,000 for ICDE as proposed by the House, instead of $45,000,000 as proposed by the Senate. An additional $51,900,000 is provided in the Interagency Law Enforcement account. The total of $75,900,000 fully funds the President's request.

OFFICE OF NATIONAL DRUG CONTROL POLICY

The conferees agree to provide $2,500,000 for ONDCP, instead of $14,000,000 as proposed by the House and no funding as proposed by the Senate. $1,000,000 of this funding would cover the costs of continuing support for Model State Drug Law Conferences, as proposed by the House. $13,000,000 proposed by the House for continued funding for the technology transfer program run by the Counterdrug Technology Assessment Center will instead be funded in the ONDCP Salaries and Expenses account, as proposed by the Senate.

HIGH INTENSITY DRUG TRAFFICKING AREAS

The conferees agree to provide $1,500,000 in additional funding for the Milwaukee, Wisconsin HIDTA.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

The conferees agree to provide $71,923,000 as proposed by the House instead of $66,251,000 as proposed by the Senate, including up to $13,843,000 to be used for materials and support costs. The conferees agree to language proposed by the Senate to permit funding for travel expenses of non-Federal personnel to attend course development meetings and training sponsored by the Center. The conferees also agree to maintain existing statutory language affecting the authority to provide funding for student athletics and student interns, as proposed by the Senate.

GREAT TRAINING

The conferees agree to include new language, as proposed by the Senate, to authorize the Center to provide training for the Gang Resistance Education and Training program to Federal and non-Federal personnel at any facility in partnership with ATF.

FIREARMS TRAINING SYSTEMS

The conferees direct the Federal Law Enforcement Training Center, in consultation with their interested client law enforcement agencies, to examine and evaluate all available firearms training technologies for systems providing the greatest cost effective multi-application benefit for firearms training of law enforcement personnel. The conferees are aware of current technologies, such as the BEAMHIT targeting system and plastic cased ammunition, which appear to offer cost benefits and systems flexibility for multiple training activities and greater sensitivity for environmental protection.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

The conferees agree to provide $34,760,000, instead of $28,360,000 as proposed by the House and $15,360,000 as proposed by the Senate. This amount includes $6,400,000 for construction of new facilities at Artesia, New Mexico, required to meet the Center's basic training requirements.

INTERAGENCY LAW ENFORCEMENT

INTERAGENCY CRIME AND DRUG ENFORCEMENT

The conferees agree to provide $51,900,000 for ICDE as proposed by the House. An additional $24,000,000 is provided in the Violent Crime Reduction Programs account. The total of $75,900,000 fully funds the President's request.

FINANCIAL MANAGEMENT SERVICE

SALARIES AND EXPENSES

The conference agreement appropriates $196,490,000 for the Financial Management Service (FMS) as proposed by the Senate instead of $198,510,000 as proposed by the House.

The conferees have agreed with the proposal of the Senate on the funding level for the FMS, which reflects a reduction of $6,000,000 for Year 2000 conversion costs which will be available for FMS from a separate appropriation. The conferees received conflicting information from the Department of the Treasury about what the FMS's needs are for this purpose. Therefore, the conferees have assumed the higher number. The conferees understand and fully appreciate the need for FMS equipment to be Year 2000 compliant and note that the Department does have authority to transfer funding to FMS from other accounts within the Department under Section 114 of this Act should that become necessary.

The conference agreement deletes language proposed by the Senate delaying the availability of $4,500,000 for postage costs until September 30, 1999, and language proposed by the Senate stating that funds shall continue to be provided to the United States Postal Service for postage due.

DEBT COLLECTION IMPROVEMENT ACCOUNT

The conferees have agreed to delete funding for the Debt Collection Improvement Account proposed by the Senate. The House bill contained no similar provision.

FEDERAL FINANCING BANK

The conference agreement provides $3,317,960,000 for the liquidation of debts by the Federal Financing Bank instead of $3,317,690,000 as proposed by the Senate. The House bill contained no similar provision.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

The conferees agree to provide $541,574,000, instead of $530,624,000 as proposed by the

House and $529,489,000 as proposed by the Senate. This includes $2,000,000 for the Violent Crime Coordinators program and $4,500,000 for expansion of the National Tracing Center, as proposed by the Senate. The conferees agree that $2,206,000 of this funding will not be available for obligation until September 30, 1999, as proposed by the House.

The conferees are aware that additional funds in the amount of $5,000,000 are required in fiscal year 1999 for Year 2000 compliance.

The conferees agree to increase the limit for purchase of police-type vehicles to 812, as proposed by the House. The conferees direct the Under Secretary for Enforcement to exercise strong oversight with regard to any additional purchases in keeping with Department-wide efforts (addressed under Departmental Offices, above) to manage the use, allocation and acquisition of law enforcement vehicles. While neither the House nor Senate provided funding for this purpose, the conferees agree to provide $3,700,000 for vehicle replacement as the Administration had requested.

The conferees agree to authorize up to $15,000 for official reception and representation expenses, instead of $20,000 as proposed by the House and $12,500 proposed by the Senate.

The conferees agree to retain the limitation of $1,000,000 in authority to fund the equipping of vessels, vehicles or aircraft available for official use by a State or local law enforcement agency for use in joint law enforcement operations with ATF and for the payment of overtime salaries, travel, fuel and other costs for State and local law enforcement personnel, including sworn officers and support personnel, as proposed by the House. The conferees note that, while this maintains a limitation, unlike the Senate proposal, it allows such funding to be used for law enforcement operations other than drug-related ones, and clarifies that it encompasses support personnel as well as sworn law enforcement officers.

The conferees agree that per diem and/or subsistence allowances may be paid to employees for extensive overtime required when an employee is assigned to a National Response Team during the investigation of a bombing or arson incident, as proposed by the Senate, rather than simply for a major investigative assignment, as proposed by the House.

YOUTH CRIME GUN INTERDICTION INITIATIVE

The conferees strongly support ATF's efforts to stop illegal trafficking of crime weapons to young people and its statistical analysis in "The Crime Gun Trace Analysis Reports: The Illegal Youth Firearms Markets in 17 Communities", published in July 1997. However, the conferees believe that the proposed increase in funding must be supported by evidence of a significant reduction in youth crime, gun trafficking and availability. The conferees would like to see additional evidence linking the Youth Crime Gun Interdiction Initiative (YCGII) to a corresponding decrease in gun trafficking among youths and minors. Therefore, the conferees direct ATF to report no later than February 1, 1999, on the performance of YCGII.

The conferees further believe that an investment in experienced trafficking agents to conduct investigations arising out of leads obtained through this regional initiative is likely to have a significant impact on the number of prosecutions for illegal firearms trafficking. As a result, the conferees direct that, of the $27,000,000 to be provided for YCGII efforts, $16,000,000 be used to hire 81 experienced trafficking agents to expand the YCGII efforts in the 27 pilot cities. As part of the expansion, the conferees recommend that not less than $2,400,000 be used for the addition of 12 experienced trafficking agents, including 3 in Milwaukee, Wisconsin, to implement a multifaceted regional enforcement strategy within the Midwest region. The conferees request that ATF give strong consideration to Aurora, CO, Denver, CO, and Omaha, NE, as it determines new locations for YCGII.

CEASEFIRE

The conferees agree to provide $2,000,000 for continued expansion of the CEASEFIRE/IBIS program, and expect that this will be used to meet requests for new equipment and related installation costs. The conferees also direct the Secretary of the Treasury to provide $4,000,000 to ATF from the Treasury Forfeiture Fund to allow ATF to provide CEASEFIRE technology to eligible State and local law enforcement organizations who have requested this equipment.

COLLECTION AND MAINTENANCE OF FEDERAL FIREARMS LICENSEE RECORDS

The conferees agree that there does not appear to be a written policy regarding the collection and maintenance of records on the acquisition and disposition of firearms by Federal firearms licensees for use in criminal or civil enforcement or firearms trace systems, in particular with regard to the length of time such records are kept. Therefore, the conferees direct ATF to develop such a written policy and provide a copy of that written policy to the Committees on Appropriations no later than March 31, 1999. This is in lieu of the direction by the House to provide the House Committee with a report on efforts to improve its practices within 90 days after enactment of this bill.

CONTRABAND CIGARETTES

The conferees direct ATF to continue to fully fund its investigations of diversion and trafficking of contraband cigarettes, particularly on Indian lands. The conferees are pleased to see that recent investigations have borne fruit in a number of arrests in Oklahoma and Kansas. The conferees understand that the current investigation in Oklahoma and Kansas is estimated to cost up to $2,000,000 and that nationwide investigation will cost approximately $8,000,000.

United States Customs Service

SALARIES AND EXPENSES

The conferees agree to provide $1,642,565,000 instead of $1,638,065,000 as proposed by the House and $1,630,273,000 as proposed by the Senate. $9,500,000 is delayed for obligation, instead of the delays proposed by the House and the Senate.

The conferees agree to restrict purchase of vehicles to 550 for replacement only, as proposed by the House, rather than 985, as proposed by the Senate. The conferees direct the Under Secretary for Enforcement to exercise strong oversight over any purchases of new vehicles in keeping with Department-wide efforts (addressed under Departmental Offices, above) to manage the use, allocation and acquisition of law enforcement vehicles. The conferees also agree that $500,000 of the appropriation should be used to fund expansion of services at the Vermont World Trade Office, as proposed by the Senate. The conferees also agree to increase the limitation on representation funding to $40,000, instead of $30,000 as proposed by the House and Senate.

The conferees agree to provide $2,500,000 to remain available until expended for the costs of relocation of the New Orleans Air Branch from Belle Chase, Louisiana, to Hammond, Louisiana.

CUSTOMS INTEGRITY AWARENESS PROGRAM

The conferees agree to provide $6,000,000 to the Customs Service, fully funding the new Customs Integrity Awareness Program (CIAP), as proposed by the House, instead of $4,200,000 as proposed by the Senate. The conferees direct the Secretary of the Treasury to be fully engaged in CIAP, providing necessary oversight and assistance to the Customs Service Office of Internal Affairs in order to achieve program goals.

CHILD PORNOGRAPHY

The conferees strongly support Customs leadership in stopping the vile traffic in child pornography and are pleased with its recent successful takedown of a major international pornography organization. To continue this success, the conferees agree to set aside $2,400,000 of the Customs appropriation to double the staffing and resources for the child pornography cyber-smuggling initiative, as proposed by the Senate, instead of $2,000,000 proposed by the House to be funded through the Violent Crime Reduction Trust Fund. In addition, the conferees agree to include $1,000,000 in the Violent Crime Reduction Trust Fund for technology support for this initiative.

CUSTOMS INSPECTION SERVICES FOR INTERNATIONAL AIR CARGO

The conferees are concerned about the availability of Customs Service personnel to provide inspection services for airports that are seeing increased traffic or project such increases as part of regional development patterns. In many locations Customs has been asked to initiate or expand the level and availability of such services. The conferees understand that decisions to allocate inspection personnel must be based on availability of staff and funding, and should also be a function of the level of current or expected traffic, as well as concerns about enforcing trade laws and countering smuggling threats. At the same time, the conferees recognize that some airports, such as Dulles International Airport, Miami International Airport, and Fort Lauderdale International Airport, are experiencing growth and may have good cases for initiating or increasing cargo traffic operations, which are dependent on the availability of specific Customs inspection services. The conferees therefore urge the Customs Service, as it undertakes to establish a comprehensive model for assessing and allocating its inspection and investigative staff, to work closely with the airport authorities and the trade community to ensure that it will meet requirements for new and expanded service. The aim of such a process should be allocation of staff and resources that is in the best interest of regional economic interests, trade, and the mission of the Customs Service.

OPERATIONS, MAINTENANCE AND PROCUREMENT, AIR AND MARINE INTERDICTION PROGRAMS

The conferees agree to provide $113,688,000, instead of $100,688,000 as proposed by the House and $113,488,000 as proposed by the Senate. No funding for this account would be delayed, as had been proposed by the Senate, and there is no earmark for activities in South Florida and the Caribbean, as had been proposed by the Senate. This number includes an additional $1,000,000 for increased support for operations and upgrades for equipment for the marine enforcement program and $14,200,000 for Black Hawk helicopter program support.

BLACK HAWK HELICOPTERS

The conferees have included $14,200,000 to restore three off line Black Hawk helicopters to an operational readiness condition and provide for increased operation and maintenance requirements for Customs' helicopter component. The conferees understand that this funding will permit Customs to increase Black Hawk flying hours from 18 to 30 hours per month. The conferees direct the Customs Service to maximize the mission operability of all sixteen Black Hawk helicopters assigned to the Air Interdiction Program.

CUSTOMS MARINE PROGRAM

The conferees include an additional $1,000,000 to augment the $5,200,000 requested for the marine program.

CUSTOMS AIR AND MARINE INTERDICTION PROGRAMS

The conferees continue to be impressed with the successes associated with the Customs Air and Marine Interdiction programs and are aware of the growing operational commitments associated with this success. The conferees encourage the Customs Service to examine the benefits of a consolidated air maintenance system and take actions to improve operational coordination of its air assets to meet our national drug enforcement priorities. The conferees, in the interest of maintaining viable and effective air and marine interdiction programs, direct the Customs Service to develop two comprehensive modernization plans for the air interdiction and marine enforcement programs, respectively. These plans shall be submitted with the President's fiscal year 2000 budget and should include the projected lifespans and project a replacement schedule, as well as the current status, of each aircraft or vessel; associated operations and maintenance activities for these craft; and any costs for fleet extension or modernization. These modernization plans should be living documents that the Customs Service continually reevaluates and utilizes in its effort to maximize its operational effectiveness.

SPECIAL OPERATIONS

The conferees agree that the special operations requirements of the Customs Service Air and Marine Interdiction Programs demand special tactical and logistical operations considerations due to the high threat nature of these activities. The conferees direct the Customs Service to review its utilization of these special operations assets with the goal of improving management, coordination, training and utilization of equipment and personnel. The Customs Service should consider all options to achieve the greatest efficiency and productivity for our coastal and border interdiction efforts.

Bureau of Engraving and Printing

DOLLAR BILL REDESIGN

To combat international counterfeiting threats to the United States, the Department of the Treasury is continuing to redesign Federal Reserve Notes. By the end of 1999, newly designed $100, $50, and $20 Federal Reserve Notes will be in circulation.

The conferees remain concerned about the cost associated with producing special anti-counterfeiting properties for the estimated 6 billion circulating $1 Federal Reserve Notes. As a result, the conferees do not believe the Bureau of Engraving and Printing should undertake cost prohibitive anti-counterfeiting changes to the $1 note. However, the conferees do believe it is important to update the currency, such as making minor modifications to assist the visually impaired.

Therefore, the conferees direct the Department of the Treasury and the Bureau of Engraving and Printing not to pursue redesign of the $1 Federal Reserve Note to combat international counterfeiting threats, but to only make minor design enhancements to the $1 note for the visually impaired and elderly population, provided it has no effect on the use of $1 Federal Reserve Notes with existing bill accepting machinery.

Bureau of the Public Debt

ADMINISTERING THE PUBLIC DEBT

The conference agreement appropriates $172,100,000 for the Bureau of the Public Debt as proposed by the House and the Senate.

The conference agreement also provides that $2,000,000 of the funds provided shall be available until September 30, 2001, for information systems modernization initiatives as proposed by the House instead of $1,000,000 as proposed by the Senate.

The conferees are aware that additional funds in the amount of $1,000,000 are required in fiscal year 1999 for Year 2000 compliance.

Internal Revenue Service

PROCESSING, ASSISTANCE, AND MANAGEMENT

The conference agreement appropriates $3,086,208,000 for Processing, Assistance, and Management instead of $3,025,013,000 as proposed by the House and $3,077,353,000 as proposed by the Senate. The amount provided includes $90,650,000 for mandatory cost increases and $70,279,000 for base realignments from the Tax Law Enforcement account. The conferees have agreed not to transfer funding for the TIMIS personnel/payroll system from the Information Systems appropriation to this account as proposed by the Senate.

The budget request for Processing, Assistance, and Management included $58,325,000 for customer service initiatives. Funding for these initiatives has been included in the Information Systems account as proposed by the House. The Senate had proposed to provide $18,145,000 for customer service initiatives in this account.

The conferees want to express strong support for the Commissioner's proposal for organizational modernization. The recently enacted Internal Revenue Service Restructuring and Reform Act of 1998 will allow the Commissioner to make significant operational improvements through organizational modernization and reorganization. Therefore, the conference agreement also includes $25,000,000 for organizational modernization and restructuring of the Internal Revenue Service, the total amount requested by the Administration for that purpose. However, because the restructuring legislation has only recently been enacted and the Commissioner has not yet been able to provide a detailed plan and cost estimate for the restructuring effort, the conferees have included language in the bill which delays these funds for obligation until September 30, 1999.

The conferees have also provided $2,000,000 for low income taxpayer clinics. These funds will be used to award matching grants to develop, expand, or continue qualifying low income taxpayer clinics as authorized in Section 3601 of the Internal Revenue Service Restructuring and Reform Act of 1998.

The conference agreement includes language proposed by the Senate delaying the availability of $105,000,000 for postage costs until September 30, 1999, and language proposed by the Senate stating that funds shall continue to be provided to the United States Postal Service for postage due.

TAXPAYER EDUCATION

The conferees agree that the Internal Revenue Service needs to be more proactive in educating our citizens. Therefore, the conferees believe that the IRS should consider the feasibility of a taxpayer education initiative which encourages IRS employees to visit schools to talk about the history of our tax system as well as taxpayer rights and responsibilities. Further, the conferees believe that the IRS should provide no less than $750,000 to create an educational program, such as the project currently under development at the University of Florida, covering matters of current interest to those involved in administering, advising, teaching, and studying the technical aspects of Federal taxation. Therefore, the conferees request that the IRS provide an analysis of these proposals, and steps they would take to implement these proposals, to the Committees on Appropriations by March 1, 1999.

TAX LAW ENFORCEMENT

The conference agreement appropriates $3,164,189,000 for Tax Law Enforcement as proposed by the House instead of $3,164,399,000 as proposed by the Senate. The conference agreement does not delay the availability of $175,000,000 of the funds appropriated until September 30, 1999, proposed by the Senate.

The budget request included $2,645,000 for customer service initiatives. Funding for these initiatives has been included in the Information Systems account as proposed by the House. The Senate had proposed to fund $210,000 for customer service initiatives in this account.

TAX STANDARDS FOR TAX-EXEMPT HEALTH CLUBS

The conferees are aware that there has been significant growth in health club and fitness services. Intensified competition has developed a market for for-profit and tax-exempt health clubs. With certain tax-exempt organizations moving away from their core purpose, questions arise as to whether they are engaging in commercial competition with the for-profit sector. The conferees understand that the IRS has developed appropriate standards based on broad community accessibility for determining whether fitness activities are substantially related to the charitable mission of community organizations, such as YMCAs, YWCAs, and JCCs, organizations with a variety of programs based on community needs, including health and fitness for people of all ages, incomes, and abilities. Accordingly, changes in the standards that apply to such organizations are not the conferees' concern. Rather, the conferees direct that the IRS review the standards it applies to fitness activities operated by educational and health-care organizations. The conferees further request that the Department of the Treasury report to Congress by April 1, 1999, on the statutory and regulatory changes that may be needed to assure that the health and fitness activities of these organizations substantially further the purposes for which the organization was granted tax exemption and do not constitute unfair competition with private sector, taxable organizations.

TRANSFER PRICING

The conferees are concerned about the Nation's loss of revenue as a result of foreign corporations employing transfer pricing. Transfer pricing, utilized by State Trading Enterprises, reallocates items of income and deduction among entities under common control. Reallocation of the income and deduction results in minimizing the U.S. tax of foreign corporations' U.S. affiliates. Since the foreign parent corporations do not normally do business in the United States, their income is completely free from U.S. tax.

To ensure the Internal Revenue Service is vigorously administering section 482 of the Internal Revenue Code, which empowers the Secretary of the Treasury to distribute, apportion, and allocate items of gross income and deduction between the parent corporations and their U.S. affiliates, the conferees direct the Internal Revenue Service to review and report to Congress, no later than six months after enactment of this Act, on the following issues: IRS's loss of revenue as a result of transfer pricing; detailed information on IRS's administration of section 482 to distribute, apportion, and allocate items of gross income and deduction; and recommendations on how to improve the collection of revenue from trading enterprises.

INFORMATION SYSTEMS

The conference agreement appropriates $1,265,456,000 for Information Systems instead of $1,224,032,000 as proposed by the House and $1,329,486,000 as proposed by the Senate. The amount provided includes $43,939,000 for mandatory cost increases; however, the conferees have agreed not to transfer funding for the TIMIS personnel/payroll system from this appropriation to the Processing, Assistance, and Management account. In addition, the conference agreement includes an increase of $32,900,000 for operational information systems as proposed by the House and the Senate and $68,700,000 for the modernization program infrastructure as proposed by the Senate instead of $34,350,000 as proposed by the House.

The conferees have agreed to include language in the bill which provides that $103,000,000 of the funds appropriated in this account shall only be available for improvements to customer service. This is the full amount requested by the Administration for customer service initiatives within the Internal Revenue Service.

The conferees are aware that additional funds in the amount of $359,000,000 are required in fiscal year 1999 for Year 2000 compliance. Included in that total is: $8,700,000 for the submissions processing investment program, $4,000,000 for compliance research information systems, $33,300,000 for examination laptop computers, $60,700,000 to complete the rollout of the Integrated Collection System, $4,300,000 for the Inventory Delivery System, and $14,000,000 for the Integrated Personnel System.

The conference agreement deletes language proposed by the Senate which delayed the availability of $68,700,000 of the funds appropriated until September 30, 1999.

INFORMATION TECHNOLOGY INVESTMENTS

The conference agreement appropriates $211,000,000 for Information Technology Investments instead of $210,000,000 as proposed by the House and $137,569,000 as proposed by the Senate. These funds are not available for obligation until September 30, 1999. The conference agreement also provides that the funds shall remain available until September 30, 2002, as proposed by the Senate instead of remaining available until expended as proposed by the House.

The conference agreement includes language proposed by the House which specifies the contents of an expenditure plan that the Internal Revenue Service and the Department of the Treasury are required to submit before the funds appropriated may be obligated.

The conferees are concerned that the IRS' efforts to modernize its information systems could divert its attention from the more pressing matter of assuring that all of its existing systems will be Year 2000 compliant.

The conferees expect that IRS will continue to view Year 2000 compliance as its highest priority and direct that the IRS not divert any resources from its Year 2000 efforts to the information systems modernization program.

ADMINISTRATIVE PROVISIONS—INTERNAL REVENUE SERVICE

Section 101. The conference agreement includes a provision proposed by the House and the Senate which allows the transfer of 5 percent of any appropriation made available to the IRS to any other IRS appropriation subject to Congressional approval.

Section 102. The conference agreement includes a provision proposed by the House and the Senate which requires the IRS to maintain a training program in taxpayer's rights, dealing courteously with taxpayers, and cross cultural relations.

Section 103. The conference agreement includes a provision proposed by the House and the Senate which requires the IRS to maintain taxpayer services at not less than fiscal year 1995 levels.

Section 104. The conference agreement includes a provision proposed by the House and the Senate which prohibits the expenditure of funds for the collection of taxes unless the conduct of officers and employees of the IRS complies with the Fair Debt Collection Practices Act.

Section 105. The conference agreement includes a provision proposed by the House and the Senate which requires the IRS to institute policies and practices which will safeguard the confidentiality of taxpayer information.

Section 106. The conference agreement includes a provision proposed by the House and the Senate which directs that funds shall be available for improved facilities and increased manpower to provide sufficient and effective 1–800 help line telephone assistance.

Section 107. The conference agreement includes a provision proposed by the Senate which provides that no reorganization of the field office structure of the Internal Revenue Service Criminal Investigation Division will result in a reduction in the number of criminal investigators in Wisconsin and South Dakota from the 1996 level.

The conference agreement deletes a Sense of the Senate provision regarding the use of random selection of returns for examination by the Internal Revenue Service.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

The conferees agree to provide $600,302,000 instead of $594,657,000 as proposed by the House and $584,902,000 as proposed by the Senate. This includes an additional $18,000,000 for the costs of protective travel. The conferees agree that $1,623,000 required for fixed site security will be included in the Acquisition, Construction, Improvement, and Related Expenses account, as proposed by the Senate. The conferees also agree that the limitation for new vehicle purchases shall be 739, as proposed by the House, rather than 705, as proposed by the Senate. The conferees direct the Under Secretary for Enforcement to exercise strong oversight over any purchases of new vehicles in keeping with Department-wide efforts (addressed under Departmental Offices, above) to manage the use, allocation and acquisition of law enforcement vehicles. The conferees agree that $5,000,000 shall not be available for obligation until September 30, 1999.

The conferees are aware that additional funds in the amount of $3,000,000 are required in fiscal year 1999 for Year 2000 compliance.

PROTECTIVE TRAVEL

The conferees continue to be concerned about shortfalls in the United States Secret Service protective travel activity. Therefore the conferees direct the Service to develop an accurate financial plan for predicting protective travel needs, and report regularly to the Committees on Appropriations on their progress. As part of the financial plan the conferees expect the funds for this activity will be apportioned separately. The Service should consult with the Office of Management and Budget about the level of detail required in the financial plan. The conferees agree to provide additional funding of $18,000,000 for protective travel, which is made available for two fiscal years.

ARMORED PRIMARY LIMOUSINES

The conferees understand the need to provide the President of the United States safe and secure ground transportation both locally and around the world. The conferees are, however, concerned with the Secret Service's projected cost to acquire primary limousines for this purpose. As a result, the conferees direct the Secret Service to report to the Committees on Appropriations on the major differences and costs between the proposed project and armored vehicles previously acquired by the Service prior to the obligation of funds for this project.

ACQUISITION, CONSTRUCTION, IMPROVEMENT, AND RELATED EXPENSES

The conferees agree to provide $8,068,000 as proposed by the Senate, instead of $6,445,000 as proposed by the House, which includes $1,623,000 for fixed site security.

GENERAL PROVISIONS—DEPARTMENT OF THE TREASURY

Section 110. The conference agreement includes a provision which requires the Secretary of the Treasury to comply with certain reprogramming guidelines when obligating or expending funds for law enforcement activities from unobligated balances available on September 30, 1999, as proposed by the Senate instead of September 30, 1998, as proposed by the House.

Section 111. The conference agreement includes a provision proposed by the House and the Senate which allows the Department of the Treasury to purchase uniforms, insurance, and motor vehicles without regard to the general purchase price limitation, and enter into contracts with the State Department for health and medical services for Treasury employees in overseas locations.

Section 112. The conference agreement includes a provision proposed by the House and the Senate which requires the expenditure of funds so as not to diminish efforts under section 105 of the Federal Alcohol Administration Act.

Section 113. The conference agreement includes a provision proposed by the House and the Senate which authorizes transfers, up to 2 percent, between law enforcement appropriations under certain circumstances.

Section 114. The conference agreement includes a provision proposed by the House and the Senate which authorizes transfers, up to 2 percent, between the Departmental Offices, Office of Inspector General, Financial Management Service, and Bureau of the Public Debt appropriations under certain circumstances.

Section 115. The conference agreement includes a provision proposed by the Senate which amends 18 U.S.C. 921(a) by broadening the definition of explosives and redefining the term "antique firearm."

Section 116. The conference agreement includes a provision regarding the purchase of law enforcement vehicles.

Section 117. The conferees have agreed to the provision contained in Section 117 of the Senate bill regarding the execution of property upon judgements against foreign state violators of international law. The conferees have included additional language giving the President the authority to waive the requirements of this provision in the interest of national security.

ELECTRONIC FILING

The conferees have agreed to delete language requested by the Administration and contained in Section 115 of the House and Senate bills regarding the electronic filing of tax returns since this matter has been addressed in a comprehensive fashion in the Internal Revenue Service Restructuring and Reform Act of 1998. In undertaking any electronic tax administration programs, the conferees expect the Internal Revenue Service to assure the security of all electronic transmissions and provide for the full protection of the privacy of taxpayer data.

CURRENCY PAPER

The House and Senate passed bills each contained a provision (Section 116 of both bills) regarding the acquisition of currency paper by the Bureau of Engraving and Printing. The conferees have agreed to include no language in the bill regarding this issue. The conferees are aware of attempts made by the Bureau of Engraving and Printing (BEP) to address concerns regarding the need to make it easier for all United States paper companies to compete for currency paper contracts. However, the conferees expect the BEP to continue to enhance the process for procuring currency paper to the extent permitted under Federal law. In carrying out its currency paper procurement responsibilities, the conferees expect BEP to secure the best overall value for the government, giving equal consideration to all cost factors. Based on the General Accounting Office's (GAO) inability to reach any concrete conclusions with respect to competition and pricing, the conferees understand this issue is very complicated and, therefore, direct the Department of the Treasury and the Bureau of Engraving and Printing to report to the Committees on Appropriations how they plan to address GAO's recommendations to the Secretary of the Treasury. Further, it is the conferees' understanding that the authorizing committees in both the House and Senate will closely examine the GAO report, hold hearings on this matter, and develop legislation, if necessary, to ensure that the Federal Government will have adequate competition and fair pricing.

TITLE II—POSTAL SERVICE

PAYMENTS TO THE POSTAL SERVICE FUND

The conferees agree to provide $71,195,000 as proposed by the House and the Senate. The conferees defer the obligation of these funds until October 1, 1999, as proposed by the Senate.

NON-POSTAL COMMERCIAL ACTIVITIES

The conferees are aware that the Postal Service is initiating a wide range of new commercial activities. These activities include, but are not limited to, volume retail photocopying, packaging services, bankwire services, the sale of office supplies and novelty items, and new e-commerce or Internet related technologies.

The conferees recognize the Postal Service's need to generate new sources of revenue to offset its operating costs. However, many of the Postal Service's new commercial activities may result in unfair competition with a number of private sector enterprises, thus raising significant policy issues about the Postal Service's present and future commercial role.

Therefore, the conferees request the Postal Service submit, within 6 months of enactment of this Act, a report on its ongoing and planned commercial services, including policy justifications, the costs of development and implementation, revenues earned, and revenues lost. As part of the report, the conferees are interested in packaging services ("Pack and Send") and specifically direct the Postal Service to describe how packaging services will meet "customer demand" in all geographic regions, especially rural areas, before such service is initiated. The conferees believe these issues deserve consideration by the authorizing committees.

AVONDALE-GOODYEAR, ARIZONA

The conferees urge the Postal Service, before awarding any contract to purchase or lease property for the Main Post Office in Avondale-Goodyear, Arizona, to do an analysis of the population presently in this area to be used in assisting the Postal Service in making a selection which will be most accessible for the current and future population of the area. The Postal Service shall report to the Committees prior to awarding any contract for sale or lease, but in no event later than October 14, 1998.

GILPIN COUNTY, COLORADO

The conferees urge the Postal Service to seriously consider providing a separate ZIP Code for Gilpin County, Colorado.

TITLE III—EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT

WHITE HOUSE OFFICE

SALARIES AND EXPENSES

The conferees agree to provide $52,344,000 for White House Office Salaries and Expenses, as proposed by the House and the Senate. The conferees provide $10,100,000 for reimbursements to the White House Communications Agency as a specific line item, as proposed by the House.

EXECUTIVE RESIDENCE AT THE WHITE HOUSE

OPERATING EXPENSES

The conferees provide $8,061,000, as proposed by the House instead of $8,691,000, as proposed by the Senate and prohibit the use of these funds for domestic staff overtime. As a separate provision, the conferees include $630,000 for domestic staff overtime and make these funds available upon the Comptroller General notifying the Committees that the Executive Office of the President (EOP) has received, reviewed and commented on the draft report of the General Accounting Office (GAO) with respect to Executive Residence operations and that the GAO is in receipt of the EOP's comments.

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

The conferees agree to provide $28,350,000 for the Office of Administration as proposed by the House instead of $29,140,000 as proposed by the Senate.

The conferees are aware that additional funds of $12,200,000 for Year 2000 compliance within the Executive Office of the President are required for fiscal year 1999.

OFFICE OF MANAGEMENT AND BUDGET

SALARIES AND EXPENSES

The conferees agree to provide $60,617,000 for the Office of Management and Budget as proposed by the Senate instead of $59,017,000 as proposed by the House. The conferees agree to delete the earmark and the fence on the use of funds for the Office of Information and Regulatory Affairs, as proposed by the Senate, and include two provisos regarding the review of transcripts of the Committees on Veterans' Affairs and agricultural marketing orders, as proposed by the House. The conferees have included new language to amend Section ____.36 of OMB Circular A–110 to ensure that all data produced under an award will be made available to the public through the procedures established under the Freedom of Information Act.

Including technical modifications, the conferees agree to include bill language requiring OMB to report on government wide paperwork reduction and the implementation of the Congressional Review Act, as proposed by the Senate.

PERFORMANCE OF STATUTORY RESPONSIBILITIES

The conferees have agreed to delete the earmark of $5,229,000 for the Office of Information and Regulatory Affairs (OIRA) and a fence of $1,200,000 for OIRA. The conferees have been assured that OMB will strictly adhere to the statutory requirements included in the bill on Paperwork Reduction and the Congressional Review Act. The conferees will monitor OMB's compliance with these requirements carefully.

FEDERAL EMPLOYEES' PAY COMPARABILITY ACT

The conferees question the validity of the Administration's use of the "serious economic conditions" exception in the Federal Employees' Pay Comparability Act (FEPCA) to put forth an alternative pay plan for 1999. Press reports have indicated that members of the Administration may have concerns regarding the pay setting methodology established by FEPCA. In an effort to see that FEPCA is either fully implemented or perfected, the conferees direct the President's Pay Agent to provide the Committees with any pay setting methodology concerns it has with regard to FEPCA by May 1, 1999.

CENTURY DATE CONVERSION

The conferees remain concerned that with little more than a year to go before the new millennium, many critical government information systems are still in jeopardy of not meeting the January 1, 2000, deadline for date conversion. The conferees further believe that the Administration has failed to adequately champion the Y2K issue, not only to its own departments, but has also not provided the critical national leadership and coordination to our local, state and international partners in both the public and private sectors. Information systems experts have reported that the Y2K fix is rooted in management and oversight, not in the lack of technology available to address the problem. Unfortunately, valuable time has been lost waiting for management to embrace the magnitude and consequences of this issue. Only recently, has organizational management finally recognized the potential for shut down of critical information systems associated with entitlement payments, revenue collection, air traffic control, defense systems, telecommunications, mass transit, supply inventories, elevator function, medical equipment, to mention a few. Many agencies at all levels of government still do not have a complete grasp of the problem and are now at the greatest risk for systems failure.

The conferees direct the Administration to focus all of its attention and resources on the management and oversight of the most critical date sensitive information and infrastructure systems, prioritizing systems renovations, repair and replacement to those that can meet the January 1, 2000, deadline. The conferees further direct the Administration to accelerate the development of contingency plans for those critical systems that cannot meet the Y2K deadline, in order to maintain functional systems operations, until patent date conversion repairs can be completed.

The conferees strongly encourage the new Y2K Czar to take a high profile national leadership position, to aggressively promote century date change awareness for both information technology systems and sensitive infrastructure applications. The Y2K Czar should monitor, coordinate and provide oversight over the progress of all government-wide century date change conversion initiatives, with the primary goal of maintaining critical systems operations into the new millennium. Finally, the Y2K Czar should have Administration standing to directly access and take control of any critical agency system that is in jeopardy of not meeting the January 1, 2000, deadline because of ineffective management action.

OMB is directed to include in its quarterly Y2K report submissions an assessment of those critical information systems that will not meet the Y2K deadline and the problems that can be anticipated. In addition, the report should include the status of operational contingency plans for those systems identified as being in jeopardy.

VIOLENT CRIME REDUCTION PROGRAMS

The conferees expect the President's budget submissions for the Department of the Treasury's funding from the Violent Crime Reduction Trust Fund be reflected for the Department as a whole and not separately within each bureau's request.

OFFICE OF NATIONAL DRUG CONTROL POLICY

SALARIES AND EXPENSES

The conferees agree to provide $48,042,000 for the Office of National Drug Control Policy (ONDCP) as proposed by the Senate, instead of $36,442,000 as proposed by the House. This includes $13,000,000 to continue the technology transfer pilot program managed by the Counterdrug Technology Assessment Center (CTAC). It also includes $17,942,000 for ONDCP operations, as proposed by the Senate, $16,000,000 for the basic CTAC program, and $1,100,000 for policy research of which $100,000 is to be used for evaluating the Drug-Free Communities Act, as proposed by the Senate. The conferees agree to modify language governing the authority of ONDCP to accept and use gifts.

The conference agreement separately funds $1,000,000 for Model State Drug Law Conferences through the Violent Crime Reduction Trust Fund.

ONDCP STAFFING

The conferees are concerned about requests by ONDCP to reprogram monies from the Salaries and Expenses account to fund other initiatives. The conferees in the past have fully supported and funded the full time equivalent staffing level requested by ONDCP and are concerned that ONDCP is not filling those vacancies but is instead requesting to use those funds for other purposes. The conferees believe that ONDCP needs to maintain its staffing at the authorized level in order to maximize the agency's effectiveness. The conferees therefore direct ONDCP to review its staffing requirements and report back to the Committees on Appropriations by December 15, 1998, on the steps it is taking to fill the vacancies or, if not, what changes it is making in its staffing plan.

PERFORMANCE MEASURES OF EFFECTIVENESS

The conferees strongly urge ONDCP to work within the Administration to ensure that the Performance Measures of Effectiveness (PMEs) it developed are embraced and employed by all federal agencies for future budgetary and planning work. The conferees direct ONDCP to apply the same standard to its own internal management and organization, and to include such measures with each new budget submission.

RESEARCH AND ANALYSIS INITIATIVES

The conferees recognize that ONDCP has proposed some initiatives for research that, owing to lack of resources, cannot be funded in this appropriation. Nonetheless, the conferees strongly urge ONDCP to continue to press through its interagency leadership to coordinate research in such areas as improving R&D coordination, developing a government-wide intelligence architecture, and mapping out drug trafficking flows.

PROTECTIVE SECURITY ASSESSMENT

The conferees have included a new general provision, Section 643, as proposed by the Senate which directs the U.S. Marshals Service to conduct a threat assessment on the Director of the Office of National Drug Control Policy on a quarterly basis. The level of security is to be provided to ONDCP on a reimbursable basis by the U.S. Marshals Service and will be based on this quarterly threat assessment.

RURAL DRUG CONFERENCES

The conferees are concerned about the spread of drugs and drug-related crimes to rural areas and whether or not rural law enforcement can sufficiently address these new trends. Therefore, the conferees encourage the Director to consider convening a national conference on rural drug crime, to include regional conferences in rural areas, such as Luna County, NM, and similar counties in Colorado, in order to assess the needs of rural law enforcement and the impact that drug-related crimes have on rural communities as they cope with these issues.

The conferees believe that ONDCP can combine its knowledge and experience working with larger communities in this area and translate effective drug fighting practices to rural law enforcement, while taking into consideration their unique needs. Should ONDCP convene this event, the conference is requested to report to the Committees on Appropriations and the Director of ONDCP on its findings.

SHOUT

The conferees have provided $50,000 to continue the work of SHOUT, an outreach organization that works with minors, as defined by 21 CFR 897.14. This early intervention program focuses on shaping the attitudes of minors in order to discourage the use of illegal substances.

COUNTERDRUG TECHNOLOGY ASSESSMENT CENTER

The conferees expect the multiagency research and development programs to be coordinated by the Counterdrug Technology Assessment Center (CTAC) in order to prevent duplication of effort and to assure that, whenever possible, those efforts provide capabilities that transcend the need of any single Federal agency. Prior to obligation of these funds, the conferees expect to be notified by the chief scientist on how these funds will be spent. The conferees also expect to receive periodic reports from the chief scientist on the priority counterdrug enforcement research and development requirements identified by the Center and on the status of projects funded by CTAC.

FEDERAL DRUG CONTROL PROGRAMS

HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM

The conferees provide $182,477,000, instead of $162,007,000 as proposed by the House and $183,977,000 as proposed by the Senate. The conferees agree to fund all existing High Intensity Drug Trafficking Areas (HIDTAs) at the fiscal year 1998 level. This funding level shall be based on direct fiscal year 1998 appropriations for HIDTAs contained in the HIDTA and Violent Crime Reduction Trust Fund accounts. The conferees also agree that not less than fifty-one percent of this amount shall be transferred to State and local entities for drug control activities.

Within the amount appropriated, the conferees include $20,477,000 to supplement or expand existing HIDTAs, or provide for the creation of new HIDTAs. The conferees have been informed that unmet needs for funding exist in: the Arizona HIDTA for completion of an intelligence center and unmet programmatic needs for methamphetamine and border initiatives; the New Mexico HIDTA for unmet programmatic needs; the Southwest HIDTA for its wiretapping initiative; the Cascade HIDTA for unmet programmatic needs; the expansion of the Midwest HIDTA to include the State of North Dakota; the Rocky Mountain HIDTA for expansion of its methamphetamine initiative; the Chicago HIDTA for unmet programmatic needs; and the Central Florida HIDTA for unmet programmatic needs. Additionally, the conferees are aware of interest in the designation of new HIDTAs in the New England states, East Texas, Ohio, and Hawaii.

While the conferees are obviously supportive of the HIDTA program, it is critical to the continued support and the health of all HIDTAs and the program in general that decisions about funding be founded on clear, concrete measures of performance. The conferees also believe that ONDCP must have the flexibility to allocate resources to those HIDTAs that will have the greatest impact on our drug problems. In making these decisions, ONDCP must focus on the performance of HIDTAs, existing or proposed, and their significant impact on drug trafficking, use, and associated crime. This means that ONDCP must assess which HIDTAs are the top performers and document the factors it uses to make this determination. At the same time, ONDCP must determine where the impact will be greatest based on the combined effect of HIDTA performance and the nature and severity of drug problems that exist in the areas where HIDTAs currently operate or are proposed—whether measured by use, associated crime, or volume of trafficking in drugs or money. The conferees therefore direct ONDCP to submit its fiscal year 2000 budget for HIDTAs based on applying both ONDCP's own performance measures of effectiveness and the priorities dictated by changing threats.

SPECIAL FORFEITURE FUND

The conferees agree to provide $214,500,000, instead of $215,000,000 as proposed by the House and $200,000,000 as proposed by the Senate. This includes $185,000,000 for the youth media campaign, $20,000,000 for implementation of the Drug-Free Community Act, $5,000,000 for the chronic users study, and $4,500,000 for a transfer to the Agricultural Research Service for anti-drug research and related matters.

YOUTH MEDIA CAMPAIGN

The conferees recommend a funding level of $185,000,000 for the National Media Campaign. In fiscal year 1998, ONDCP proposed a

5-year media campaign at a total cost to the Federal Government of $875,000,000. The initial request was based on a $175,000,000 annual funding level for five years of the program. The conferees continue to be fully supportive of this program and believe that this national media campaign, if properly executed, has the potential to produce concrete results. The conferees look forward to working with ONDCP on this effort to produce demonstrable results as the campaign matures.

The conferees have included new language calling for ONDCP to report on its efforts to achieve corporate sponsorship beyond the matching requirement for participation in the media campaign; clarifies the pro bono requirement; and limits the possible use of funding for creative development efforts. The conferees agree that 75% of the funds will become available when ONDCP submits to the Committees the results of Phase I of the campaign and the remainder will become available when ONDCP submits the results of Phase II.

The Committees will closely track this national media campaign, and its contribution to achieving a drug-free America. Therefore, the conferees direct ONDCP to submit quarterly reports on the obligation of funds as well as the specific parameters of the pilot campaign. The conferees anticipate that future funding will be based upon results. ONDCP is directed to report to the Committees on Appropriations by January 15, 1999 on the effectiveness of the national media campaign. In addition, ONDCP is to report to the Committees within 6 months of enactment of this Act on State and local prevention and treatment facilities infrastructure and their capacity to handle the increased demands of communities as a result of the national media campaign. ONDCP is to continue to report on the effectiveness and implementation status of the guidelines set out in the fiscal year 1998 appropriations bill.

The conferees direct the General Accounting Office to conduct a financial audit and review of the financial transactions relating to the media campaign. The conferees request that the scope of the review include how monies have been obligated and the effectiveness of the campaign and report to the Committees on Appropriations. As part of this review, GAO shall determine the definition, acquisition, and utilization of matching contributions sought by ONDCP relating to the media campaign. In addition, the conferees direct GAO to review Phase I, the 12 city test pilot, and report its findings to the Committees. This review is to examine the development of the test market plan for Phase I, determine the viability of extrapolating Phase I results to the national level, and determine the success of Phase I in the 12 city pilot.

CHRONIC USERS STUDY

The Administration's budget estimate includes a request of $10,000,000 to expand a preliminary user study conducted in Cook County, IL. The Cook County study developed a methodology for estimating the number of hardcore drug users in the United States. Accurately identifying this population is important since they consume a massive amount of the drugs available in the United States, create a large proportion of the demand for illegal drug markets, and are responsible for a great deal of criminal activity. The accurate identification of this population will provide communities a base for estimating the type and number of drug treatment and prevention programs required.

The conferees congratulate ONDCP on conducting this study and continue to support this effort. The conferees provide $5,000,000 to expand the study to regional areas. Although this is less than the request, the conferees understand that ONDCP may be able to use this level of funding to complete a study that can serve as an accurate basis for a national estimate of the size and location of chronic user populations. The conferees encourage ONDCP to work with the Department of Health and Human Services to identify additional funding sources, if necessary and available, and encourage ONDCP to promote utilization of the Cook County study that contributes to reductions in the population of hardcore drug users.

UNANTICIPATED NEEDS

The conferees agree to provide $1,000,000 as requested by the Administration for unanticipated needs.

INFORMATION TECHNOLOGY SYSTEMS AND RELATED EXPENSES

The conferees have not included language contained in the Senate bill to provide $3,250,000,000 in contingent emergency funding for Year 2000 computer conversion costs. On September 2, 1998, the President transmitted to Congress a request for this level of funding in fiscal year 1998. The conferees expect that this issue will be resolved as part of a supplemental appropriation.

TITLE IV—INDEPENDENT AGENCIES

FEDERAL ELECTION COMMISSION

SALARIES AND EXPENSES

The conferees agree to provide $36,500,000 as proposed by the House and the Senate. This level of funding will support a base appropriation of $32,580,000, an additional $2,800,000 for enhanced enforcement efforts, as proposed by the House and Senate, and an additional $1,120,000 for other initiatives, as proposed by the House. The conferees fence $1,120,000, pending the submission of a plan for the obligation of these funds and provide that not less than $4,402,500 shall be available for internal automated data processing systems. The conferees strongly recommend that the FEC target the additional $1,120,000 in fenced appropriations to the improvement of enforcement procedures and preventing the unnecessary dismissal of appropriate enforcement actions; the conferees specifically recommend -that FEC expedite automated data processing improvements as they relate to enforcement. The conferees assume that full time employment will not exceed 347 FTE in fiscal year 1999.

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

The conference agreement provides $5,605,018,000 in new obligational authority for the General Services Administration's Federal Buildings Fund instead of $5,624,128,000 as proposed by the House and $5,648,680,000 as proposed by the Senate. In order to provide the resources necessary to carry out that program, the conferees have recommended an appropriation of $450,018,000 into the Fund instead of $479,300,000 as proposed by the House and $508,752,000 as proposed by the Senate.

The conferees have provided $492,190,000 for the construction and acquisition of new projects instead of $527,100,000 as proposed by the House and $538,652,000 as proposed by the Senate. The conferees have included funding for the following projects:

Arkansas: Little Rock, U.S. Courthouse	$3,436,000
California:	
San Diego, U.S. Courthouse	15,400,000
San Jose, U.S. Courthouse	10,800,000
Colorado: Denver, U.S. Courthouse	83,959,000
District of Columbia: Southeast Federal Center Remediation	10,000,000
Florida:	
Jacksonville, U.S. Courthouse	86,010,000
Orlando, U.S. Courthouse	1,930,000
Massachusetts: Springfield, U.S. Courthouse	5,563,000
Michigan: Sault Sainte Marie, Border Station	572,000
Mississippi: Biloxi—Gulfport, U.S. Courthouse	7,543,000
Missouri: Cape Girardeau, U.S. Courthouse	2,196,000
Montana: Babb, Piegan Border Station	6,165,000
New York:	
Brooklyn, U.S. Courthouse	152,626,000
New York, U.S. Mission to the United Nations	3,163,000
Oregon: Eugene, U.S. Courthouse	7,190,000
Tennessee: Greenville, U.S. Courthouse	28,229,000
Texas: Laredo, U.S. Courthouse	28,105,000
West Virginia: Wheeling, U.S. Courthouse	29,303,000
Nationwide: Non-prospectus construction projects	10,000,000

The conferees have not provided funds for the Savannah, Georgia, U.S. Courthouse Annex project. The conferees are aware that at a recent meeting to consider the authorization of new courthouse construction projects, the Public Buildings and Economic Development Subcommittee of the House Committee on Transportation and Infrastructure deferred action on this project pending further review. The conferees further understand that that action was taken primarily because of the significant increase in estimated project cost that has occurred since the approval of funds for site acquisition and design, even though the size of the building has been, reduced. The conferees share those concerns and, have, therefore, elected to defer funding for the project pending resolution of the issues that have been raised by the authorizing committee.

The conferees recognize the efforts of the General Services Administration and the Judiciary to reduce the cost of courthouse construction and encourage the continuation of these efforts. The conferees are pleased that the Administrative Office of the U.S. Courts' recent draft utilization study answers some questions about the utilization rates of existing and proposed courthouses. The conferees are aware of the Judiciary's needs to have court space available to conduct business and understand their position that a courtroom's existence may result in moving a case to settlement. However, the conferees continue to be concerned that the courts are not fully examining information that is key to the development of a utilization planning model. As a result, the conferees request the Administrative Office of the U.S. Courts to revise the utilization study to include the assumptions used to develop the planning model. Additionally, the conferees direct the General Services Administration to provide the utilization rates of existing and proposed courtrooms with any request for new construction, replacement, or expansion of court space.

The conference agreement includes language proposed by the Senate authorizing the General Services Administration to reacquire the parcel of land on Block 111, East Denver, Denver, Colorado, which was sold at public auction by the Federal Government to the present owner of the property.

The conference agreement includes language proposed by the Senate which provides that funds provided in fiscal year 1993 for the Hilo, Hawaii, federal building shall be expended for the planning and design of the Mauna Kea Astronomy Educational Center.

The conference agreement deletes language proposed by the Senate regarding funding for the design of the Department of Transportation headquarters building and landing rights at Denver International Airport.

The conference agreement includes language included in the House reported bill which provides that of the funds provided for non-prospectus construction projects, $2,100,000 shall be available for acquisition, lease, construction, and equipping of flexiplace telecommuting centers.

The conferees have also agreed to include language in the bill permitting the General Services Administration to purchase, at the appropriate price, real estate essential to meet security interests related to the successful completion of the new courthouse in Scranton, Pennsylvania.

The conferees have provided $668,031,000 for repairs and alterations as proposed by the Senate instead of $655,031,000 as proposed by the House. The conference agreement provides that $161,500,000 of the funds shall not be available for obligation until September 30, 1999, instead of $19,000,000 as proposed by the House and $323,800,000 as proposed by the Senate.

The amount provided includes $25,000,000 for the chlorofluorocarbons program and $25,000,000 for the energy program as proposed by the Senate instead of $18,500,000 for each program as proposed by the House.

The conferees have agreed to list in the bill the amounts provided for each of the projects and activities to be undertaken under Repairs and Alterations as proposed by the Senate. Accordingly, there is no need for GSA to submit the plan for program execution called for in the House report.

The conference agreement includes the language contained in the Senate bill regarding the use of funds for security improvements.

The conference agreement includes language proposed by the House which provides that funds provided in Public Law 103–329 for the IRS Service Center in Holtsville, New York, shall remain available until September 30, 1999.

The conference agreement includes language proposed by the Senate which: provides that $100,000 shall be used to address lighting issues at the Byrne-Green Federal Courthouse in Philadelphia, Pennsylvania; provides that $1,600,000 shall be used to complete alterations at the Milwaukee, Wisconsin, Courthouse; and provides that $1,100,000 may be used to provide a new fence for the Suitland Federal Complex in Suitland, Maryland.

The conferees have provided $215,764,000 for installment acquisition payments as proposed by the House and the Senate.

The conferees have provided $2,583,261,000 for rental of space as proposed by the Senate instead of $2,580,461,000 as proposed by the House. The conference agreement provides that $15,000,000 of the funds provided shall not be available for obligation until September 30, 1999, instead of $51,667,000 as proposed by the Senate.

The conferees have provided $1,554,772,000 for building operations as proposed by the House and the Senate. The conference agreement provides that $68,000,000 of the funds provided shall not be available for obligation until September 30, 1999, instead of $223,000,000 as proposed by the House and $31,095,000 as proposed by the Senate.

The conference agreement provides that $475,000 shall be available for the 1999 Women's World Cup soccer event and that $600,000 shall be available for the 1999 World Alpine Ski Championships.

PUBLIC SERVICE RECOGNITION WEEK

The conferees recognize that Public Service Recognition Week, a program of the Public Employees Roundtable, has educated America about the value of the career workforce which carries out the daily operations of government. This program, which has existed for over ten years, plays an important role in educating our nation's youth and providing them with timely information about their government. The conferees urge the General Services Administration to support the mission of the Public Employees Roundtable and provide administrative and logistical assistance equaling $100,000 for carrying out its Public Service Recognition Week activities.

LOS ANGELES, CALIFORNIA, CIVIC CENTER TRUST

The conferees are aware that the U.S. Courthouse in Los Angeles, California, will be serving as the cornerstone for an economic revitalization of the Civic Center neighborhood, where currently more than 50 public and private projects are in various stages of development. The Los Angeles City Civic Center Trust, established by Project Restore, a nonprofit organization, will facilitate and coordinate this revitalization. The conferees urge the General Services Administration to continue its current work and support the mission of the Los Angeles Civic Center Trust by providing planning, administrative, and logistical support for its activities.

RONALD REAGAN COURTHOUSE—SANTA ANA, CALIFORNIA

The conferees understand that none of the artwork acquired for the Ronald Reagan Courthouse in Santa Ana, California, recognizes President Reagan. The conferees urge the General Services Administration to acquire and display artwork that appropriately commemorates President Reagan. Further, the conferees urge the General Services Administration to work with the Ronald Reagan Presidential Library and Museum to determine the feasibility of maintaining a rotating exhibit at the Ronald Reagan Courthouse.

PRESIDENT HARRY S TRUMAN

The conferees note that there is no major recognition of President Harry S Truman in the Nation's Capital. The conferees request that the General Services Administration review such proposals as may exist and report to the Committees on Appropriations no later than June 1, 1999.

POLICY AND OPERATIONS

The conference agreement appropriates $109,594,000 for Policy and Operations instead of $108,494,000 as proposed by the House and $106,494,000 as proposed by the Senate. The conferees direct that $2,000,000 be provided for the pilot project in digital learning technologies as described in the House report and that $1,000,000 be used to initiate a digital education project.

The conferees have also included language in the bill that provides that $100,000 of the funds appropriated shall be provided to the Property Disposal activity of this account. This amount represents the estimated fair market value of the property to be conveyed to the City of Racine, Wisconsin, as described in section 409 of the bill.

The conferees have modified language proposed by the Senate regarding the Old Post Office at 1100 Pennsylvania Avenue in Washington, D.C., to make the language applicable only for fiscal year 1999 and to require that the comprehensive plan for use of the property also be approved by the Senate Committee on Environment and Public Works and the House Committee on Transportation and Infrastructure.

SURPLUS EQUIPMENT TO SCHOOLS AND EDUCATIONAL INSTITUTIONS

The conferees urge the General Services Administration, in line with its responsibilities for the disposal of excess and surplus Federal personal property, to promote and foster the transfer of excess and surplus computer equipment directly to schools and to appropriate nonprofit, community-based educational organizations. The GSA should communicate with other Federal agencies to heighten their ongoing awareness of the existing opportunities at both the national and local levels to meet the needs of the schools for such equipment.

All Federal agencies are required, to the extent permitted by law and after determining that the equipment is excess to their needs, to give highest preference to schools and nonprofit organizations in the transfer of educationally useful Federal computer equipment. Agencies are required to inventory all computer equipment and identify in their inventories their excess and surplus equipment. Federal agencies are also required to report to GSA the transfer of any personal property, including computer equipment, made to nongovernmental entities such as schools.

The conferees commend GSA and the Office of Science and Technology Policy (OSTP) for the progress that has been made simplifying and improving the Federal Surplus Computer Donation Program. One remaining hurdle for schools interested in participating in the program is the lack of operating systems on many donated computers. The conferees urge GSA and OSTP to work together with operating system providers to develop a partnership with those providers similar to the partnership that has already been formed with van lines to assist in transporting donated computers. The goal of this partnership would be to provide operating systems to schools which receive computers through the donation program.

FEDERAL OFFICE BUILDING IN COLORADO SPRINGS, COLORADO

The Federal building located at 1520 Willamette Ave. in Colorado Springs, Colorado, is owned by GSA and is currently leased to the U.S. Air Force Space Command. It is the conferees' understanding that Space Command is moving ahead with options to vacate the facility. In the event that Space Command does not renew its lease and the facility becomes vacant and is deemed surplus, the conferees urge GSA to strongly consider the U.S. Olympic Committee's (USOC) need for additional space and to give priority to the USOC's request to gain title or acquire the property.

GENERAL PROVISIONS—GENERAL SERVICES ADMINISTRATION

Section 401. The conference agreement includes a provision proposed by the Senate which provides that accounts available to GSA shall be credited with certain funds received from government corporations. The provision was also included in the House reported bill.

Section 402. The conference agreement includes a provision proposed by the Senate which provides that funds available to GSA shall be available for the hire of passenger motor vehicles. The provision was also included in the House reported bill.

Section 403. The conference agreement includes a provision proposed by the Senate which authorizes GSA to transfer funds within the Federal Buildings Fund to meet program requirements. A similar provision was included in the House reported bill.

Section 404. The conference agreement includes a provision proposed by the Senate which prohibits the use of funds to submit a fiscal year 2000 budget request for courthouse construction projects that do not meet design guide criteria, do not reflect the priorities of the Judicial Conference of the United States, and are not accompanied by a standardized courtroom utilization study. A similar provision was included in the House reported bill.

Section 405. The conference agreement includes a provision proposed by the Senate which provides that no funds may be used to increase the amount of occupiable square feet or provide cleaning services, security enhancements, or any other service usually provided, to any agency which does not pay the requested rental rates. The provision was also included in the House reported bill.

Section 406. The conference agreement includes a provision proposed by the Senate which provides that funds provided by the Information Technology Fund for pilot information technology projects may be repaid to the Fund. The provision was also included in the House reported bill.

Section 407. The conference agreement includes a provision proposed by the Senate which permits GSA to pay claims of up to $250,000 arising from construction projects and the acquisition of buildings. The provision was also included in the House reported bill.

Section 408. The conference agreement includes a provision proposed by the Senate providing $5,000,000 for the demolition, cleanup, and conveyance of the property at block 35, and lot 2 of block 36 in Anchorage, Alaska. The House bill contained no similar provision.

Section 409. The conference agreement includes a provision proposed by the Senate authorizing GSA to convey the property which contains the U.S. Army Reserve Center in Racine, Wisconsin, to the City of Racine. The Senate language has been amended by deleting the phrase "without consideration." The House reported bill contained a similar provision.

Section 410. The conference agreement includes language proposed by the Senate directing the General Services Administration to enter into an operating lease to acquire space for the Department of Transportation headquarters. The House bill contained no similar provision.

Section 411. The conference agreement includes a provision proposed by the House regarding the fees charged by GSA for the use of telecommuting centers by Federal agencies. The Senate bill contained no similar provision.

Section 412. The conference agreement includes a provision proposed by the Senate authorizing GSA to transfer property in Dade County, Florida, to the University of Miami. The Senate language has been amended to allow a land exchange. The House reported bill contained a similar provision.

Section 413. The conference agreement includes a provision directing GSA to reincorporate the elements of the original proposed design for the facade of the United States Courthouse project in London, Kentucky, into the revised design of the building. This will ensure that the construction of the new courthouse is compatible with the architectural character of the historic existing U.S. courthouse. The construction of the project should in no way be diminished in order to achieve this goal. This provision was included in the House reported bill.

The conference agreement deletes language contained in section 411 of the Senate bill which appropriates $14,105,000 for costs associated with the security of the Capitol complex. The conferees recognize the importance of Capitol security and have consulted with and deferred to the jurisdiction of the Legislative Branch Appropriations Subcommittee to coordinate those requirements.

Environmental Dispute Resolution Fund

The conference agreement appropriates $4,250,000 for capitalization of the Environmental Dispute Resolution Fund and operation of the United States Institute for Environmental Conflict Resolution as proposed by the House. The Senate did not include funds for this activity.

Merit Systems Protection Board

The conferees understand that an agreement has been reached between MSPB and its administrative judges regarding the establishment of a special pay classification for the administrative judges. The conferees are encouraged by this progress and urge MSPB to work with the proper House and Senate authorizing committees and the Office of Management and Budget so this agreement can be addressed in the fiscal year 2000 budget submission and through appropriate legislative action.

National Archives and Records Administration

OPERATING EXPENSES

The conference agreement appropriates $224,614,000 for operating expenses of the National Archives and Records Administration instead of $216,753,000 as proposed by the House and $221,030,000 as proposed by the Senate. The conferees have included language delaying the availability of $7,861,000 of the funds appropriated until September 30, 1999, instead of $4,277,000 as proposed by the Senate.

The conferees are aware that additional funds in the amount of $5,411,000 are required in fiscal year 1999 for Year 2000 compliance.

NATIONAL PERSONNEL RECORDS CENTER

The conferees are aware that in many instances veterans are experiencing significant delays, often as long as six months, when attempting to gain access to records they need to obtain medical assistance or other benefits from the National Personnel Records Center in St. Louis, Missouri. The conferees believe that this is unacceptable. The conferees are also aware that the National Archives and Records Administration (NARA) has initiated a business process re-engineering project at the center to address concerns about the timeliness of responses to veterans' requests. The implementation of this project will take about five years at a total cost of approximately $6,000,000. The goal of the program is to achieve case cycle time of 10 days or less. For fiscal year 1999, the NARA will be conducting a pilot test of the business process re-engineering program to validate the processes and methods that have been recommended. The conferees have been informed by NARA that this pilot test can be funded from within existing resources. The conferees further understand that the Archives plans to begin implementation of this program in fiscal year 2000. The conferees are very supportive of this extremely important effort and expect NARA to request the funds it needs to begin implementation of the program in the fiscal year 2000 budget.

REPAIRS AND RESTORATION

The conference agreement appropriates $11,325,000 for repairs and restoration of Archives facilities as proposed by the Senate instead of $10,450,000 as proposed by the House. The conferees have not included language proposed by the Senate delaying the availability of $2,000,000 of the funds until September 30, 1999.

The conference agreement includes language proposed by the Senate providing $875,000 for a requirements study and design of a facility in Anchorage, Alaska.

National Historical Publications and Records Commission

GRANTS PROGRAM

The conference agreement appropriates $10,000,000 for the Grants Program of the National Historical Publications and Records Commission instead of $6,000,000 as proposed by the House and $11,000,000 as proposed by the Senate.

The conferees have included language delaying the availability of $4,000,000 of the funds until September 30, 1999, instead of $5,500,000 as proposed by the Senate.

The conferees have agreed to provide $4,000,000 for a grant to the Center for Jewish History instead of $5,000,000 as proposed by the Senate. The conferees note, however, that a single grant of this size is far beyond the scope of activities normally undertaken by the National Historical Publications and Records Commission. For example, the Commission expects to fund, in whole or in part, 103 proposals with the $5,500,000 provided in fiscal year 1998. Therefore, the conferees agree that the funds provided for the Center for Jewish History represent the total to be provided from this account.

United States Tax Court

SALARIES AND EXPENSES

The conference agreement appropriates $32,765,000 for the United States Tax Court as proposed by the Senate instead of $34,490,000 as proposed by the House.

TITLE V—GENERAL PROVISIONS

This Act

Sec. 501. The conferees agree to continue to limit the expenditure of appropriated funds to the current year, unless otherwise designated.

Sec. 502. The conferees agree to continue to limit funding for consulting services.

Sec. 503. The conferees agree to continue to prohibit the use of funds prohibiting the enforcement of Sec. 307 of the 1930 Tariff Act. (Sec. 307 bans imported goods produced by slave/forced labor).

Sec. 504. The conferees agree to continue the prohibition on transfer of control over FLETC.

Sec. 505. The conferees agree to continue to protect civilian employee rights following assignment with the Armed Forces.

Sec. 506. The conferees agree to continue the requirements on "Buy American Act" compliance.

Sec. 507. The conferees agree to continue "Sense of Congress" language regarding purchase of American made equipment and products.

Sec. 508. The conferees agree to continue to prohibit contract eligibility where fraudulent intent has been proven in affixing "Made in America" labels.

Sec. 509. The conferees agree to a provision proposed by the House which prohibits funds to pay for an abortion or any administrative expenses for FEHBP plans that provide benefits or coverage for abortions.

Sec. 510. The conferees agree to a provision proposed by the Senate in Title VI of this bill providing that Sec. 509 shall not apply if the life of the mother is in danger or the pregnancy is the result of an act of rape or incest.

Sec. 511. The conferees agree to a provision proposed by the Senate which authorizes the use of unobligated balances for certain purposes, providing that such requests be made in compliance with reprogramming guidelines.

Sec. 512. The conferees agree to include a provision as proposed by both the House and Senate which prohibits the use of funds for the White House to request official background reports without the written consent of the individual who is the subject of the report.

Sec. 513. The conferees have included language which provides that funds provided in this Act may be used to initiate or continue projects or activities, to the extent necessary, consistent with existing agency plans, to achieve Year 2000 (Y2K) conversion to ensure adequate funding until such time as supplemental appropriations are made available for that purpose. The language also includes a provision which requires agencies that use funds appropriated in this Act for Y2K conversion activities to restore funds to the program, project, or activity from which the funds were obligated when supplemental appropriations for Y2K conversion activities are made available.

Sec. 515. The conferees agree to include a provision authorizing the payment of attorneys' fees, costs and sanctions by the Federal Government in the case *Association of American Physicians and Surgeons, Inc.* v. *Clinton* from the White House Office Salaries and Expenses account, as proposed by the House in the House-reported bill.

Sec. 516. The conferees agree to include a new provision authorizing the use of fifty percent of the fiscal year 1997 unobligated balances available to the White House Salaries and Expenses account for the purposes of partially satisfying the conditions of Section 515.

Sec. 517. The conferees have agreed to include language which makes technical corrections to the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992.

Sec. 518. The conferees have agreed to include a new provision regarding cost accounting standards to contracts under the FEHBP.

The conferees delete a provision which provides for the appointment and reappointment of Staff Director and General Counsel of the Federal Election Commission

TITLE VI—GENERAL PROVISIONS

DEPARTMENTS, AGENCIES, AND CORPORATIONS

Section 601. The conferees agree to continue a provision authorizing agencies to pay costs of travel to the United States for the immediate families of Federal employees assigned to foreign duty in the event of a death or a life threatening illness of the employee.

Section 602. The conferees agree to continue a provision requiring agencies to administer a policy designed to ensure that all of its workplaces are free from the illegal use of controlled substances.

Section 603. The conferees agree to continue a provision authorizing reimbursement for travel, transportation, and subsistence expenses incurred for training classes, conferences, or other meetings in connection with the provision of child care services to Federal employees.

Section 604. The conferees agree to continue a provision regarding price limitations on vehicles to be purchased by the Federal Government.

Section 605. The conferees agree to continue a provision allowing funds made available to agencies for travel to also be used for quarters allowances and cost-of-living allowances.

Section 606. The conferees agree to continue a provision prohibiting the Government, with certain specified exceptions, from employing non-U.S. citizens whose posts of duty would be in the continental U.S.

Section 607. The conferees agree to continue a provision authorizing agencies to use funds to pay GSA bills for renovations and other services.

Section 608. The conferees agree to continue a provision allowing agencies to finance the costs of recycling and waste prevention programs with proceeds from the sale of materials recovered through such programs.

Section 609. The conferees agree to continue a provision providing that funds may be used to pay rent and other service costs in the District of Columbia.

Section 610. The conferees agree to continue a provision prohibiting the use of appropriated funds to pay the salary of any nominee after the Senate voted not to approve the nomination.

Section 611. The conferees agree to continue a provision precluding the financing of groups by more than one Federal agency absent prior and specific statutory approval.

Section 612. The conferees agree to continue a provision authorizing the Postal Service to employ guards and give them the same special police powers as GSA guards.

Section 613. The conferees agree to continue a provision prohibiting the use of funds for enforcing regulations disapproved in accordance with the applicable law of the U.S.

Section 614. The conferees agree to continue a provision limiting the pay increases of certain prevailing rate employees.

Section 615. The conferees agree to continue a provision limiting the amount of funds that can be used for redecoration of offices under certain circumstances.

Section 616. The conferees agree to modify a provision prohibiting the expenditure of funds for the acquisition of additional law enforcement training facilities.

Section 617. The conferees agree to continue a provision to allow for interagency funding of national security and emergency telecommunications initiatives.

Section 618. The conferees agree to continue a provision requiring agencies to certify that a Schedule C appointment was not created solely or primarily to detail the employee to the White House.

Section 619. The conferees agree to continue a provision requiring agencies to administer a policy designed to ensure that all of its workplaces are free from discrimination and sexual harassment.

Section 620. The conferees agree to continue a provision prohibiting the use of funds for travel expenses not directly related to official governmental duties.

Section 621. The conferees agree to a new provision providing that no adjustment shall take effect in fiscal year 1999 in the rates of basic pay for the statutory pay systems under section 5303 of title 5, United States Code.

Section 622. The conferees agree to continue a provision which prohibits the use of appropriated funds in this or any other Act to acquire information technology which does not comply with part 39.106 (Year 2000 compliance) of the Federal acquisition regulations.

Section 623. The conferees agree to continue the provision prohibiting the importation of any goods manufactured by forced or indentured child labor.

Section 624. The conferees agree to modify a provision which prohibits the use of funds for Sunday premium pay to an employee unless the work was actually performed.

Section 625. The conferees agree to continue a provision which prohibits the use of funds to prevent Federal employees from communicating with Congress or to take disciplinary or personnel actions against employees for such communication.

Section 626. The conferees agree to a new provision that provides additional flexibility relating to the FTS 2000 contract.

Section 627. The conferees agree to a new provision to protect Federal law enforcement officers who intervene in certain situations.

Section 628. The conferees agree to a new provision reforming Federal firefighters overtime pay.

Section 629. The conferees agree to a new provision requiring a joint review by the Department of the Treasury, the Department of Justice, and the Office of National Drug Control Policy on the coordination of Southwest border counter drug activities.

Section 630. The conferees agree to a new provision that provides that for fiscal year 1999 and each fiscal year thereafter, each executive agency of the Federal Government shall make available at a minimum $50,000 for expenses necessary to carry out a flexiplace work telecommuting program.

Section 631. The conferees agree to a new provision to amend permanent law to make Senior Executive Service Presidential Awards based upon base salary percentages of 20 percent (for "Meritorious Awards") and 35 percent (for "Distinguished Awards") rather than the current dollar amounts.

Section 632. The conferees agree to a new provision to increase the formula used to calculate the aggregate amount available for performance awards to 10 percent of the Senior Executive Service pool or 20 percent of the average of annual rates of basic pay.

Section 633. The conferees agree to a new provision regarding U.S. Government participation in the Universal Postal Union.

Section 634. The conferees agree to continue a provision requiring the President to certify that no persons responsible for administering the Drug Free Workplace Program are themselves the subject of random drug testing.

Section 635. The conferees agree to modify a provision prohibiting Federal training not directly related to the performance of official duties.

Section 636. The conferees agree to continue a provision prohibiting expenditure of funds for implementation of agreements in nondisclosure policies, without "Whistleblower" protection clauses.

Section 637. The conferees agree to continue a provision which prohibits executive branch agencies from the use of appropriated funds for publicity or propaganda purposes to support or defeat legislation pending before Congress.

Section 638. The conferees agree to a new provision requiring the OMB to do an accounting statement and associated report on the cumulative costs and benefits of Federal regulatory programs, as proposed by the Senate and make this provision applicable for one year only.

Section 639. The conferees agree to continue a provision providing that no funds may be expended to provide an employee's home address to a labor organization except when the employee has authorized such a disclosure or such disclosure has been ordered by a court of competent jurisdiction.

Section 640. The conferees agree to continue a provision authorizing the Secretary of the Treasury to establish scientific certification standards for explosives detection canines.

Section 641. The conferees agree to continue a provision prohibiting the use of appropriated funds to provide nonpublic information such as mailing or telephone lists to any person or organization outside of the Government.

Section 642. The conferees agree to continue a provision prohibiting funding for publicity or propaganda purposes not authorized by Congress.

Section 643. The conferees agree to a new provision that directs the U.S. Marshals Service to conduct a quarterly threat assessment on the Director of the Office of National Drug Control Policy upon which the Director's security needs will be based.

Section 644. The conferees agree to a new provision to expand section 636 of the Treasury, Postal Service and General Government Appropriations Act, 1997 (Public Law 104–208) to include the judicial branch.

Section 645. The conferees agree to a new provision directing employees to use "official time" in an honest effort to perform official duties. The conferees agree that this section does not affect the rights and responsibilities under Chapter 71 of title 5, United States Code.

Section 646. The conferees agree to a new provision providing monetary relief to importers whose legally purchased goods were denied entry upon arrival because of changes in official policy.

Section 647. The conferees agree to a new provision regarding pay for Federal employees. The conferees anticipate that the President will issue an Executive Order allocating the 3.6 percent pay increase between an increase in rates of basic pay for the statutory pay systems under section 5303 of title 5, United States Code, and increases in comparability-based locality payments for General Schedule employees under section 5304. The conferees have not made the language more specific so that the President may exercise his discretion to distribute any amount allocated for comparability-based locality payments in the most appropriate fashion among the pay localities established by the President's Pay Agent.

Section 648. The conferees agree to a new provision requiring the Postal Rate Commission to submit an annual report to Congress regarding international mail rates.

Section 649. The conferees agree to a new provision to extend the sunset date for Section 2(f)(2) of the Undetectable Firearms Act of 1988 (18 U.S.C. 922 note) from 10 to 15 years.

Section 650. The conferees agree to a new provision to direct the Customs Service, in consultation with the U.S. Trade Representative and the Department of Commerce, to report on the importation of certain grains.

Section 651. The conferees agree to a new provision to designate the Eugene J. McCarthy Post Office Building.

Section 652. The conferees agree to a new provision authorizing the use of credit card rebates to support the Joint Financial Management Improvement Program.

Section 653. The conferees agree to a new provision addressing use of accrued leave as it applies to Senior Executive Service reduction in force actions.

Section 654. The conferees agree to a new provision directing agencies to assess the impact of Federal regulations and policies on families.

Section 655. The conferees include a new provision relating to the application of 18 U.S.C., Section 922(t).

The conferees delete provisions addressing contraceptive coverage in health plans participating in the FEHB program, as proposed by the House and the Senate.

The conferees delete a provision included by the House prohibiting the use of appropriated funds for new nonpostal commercial activities or pack and send services.

The conferees delete a provision included by the Senate prohibiting the acquisition of products produced by forced or indentured child labor.

The conferees delete a provision included by the Senate authorizing agencies to provide child care in federal or leased facilities. This issue is addressed in Title VII of this Act.

The conferees delete a provision included by the Senate expressing a sense of Congress that a postal stamp be created to commemorate Oskar Schindler.

The conferees delete a provision included by the Senate prohibiting the use of any funds in this Act to pay for abortions or administrative expenses of any FEHBP plans which provide abortion benefits. This provision is addressed in Section 509.

The conferees delete a provision included by the Senate authorizing the expenditure of funds for abortions under the FEHBP if the life of the mother is in danger or the pregnancy is the result of an act of rape or incest. This provision is addressed in Section 510.

The conferees delete a provision included by the Senate requiring any Senate or House bill or joint resolution of a public character to include a detailed analysis of the potential impact of such legislation on family well-being and on children.

The conferees delete a provision included by the Senate authorizing $420,000,000 in emergency funding for the Strategic Petroleum Reserve.

The conferees delete a provision included by the Senate expressing the sense of Congress that a postal stamp be created to honor the 150th Anniversary of Irish immigrants to the United States.

The conferees delete a provision included by the Senate authorizing the Community and Postal Participation Act of 1998.

The conferees delete a provision included by the Senate waiving Section 611 of this title to permit interagency funding of the National Bioethics Advisory Commission.

The conferees delete a provision included by the Senate to permit the interagency funding of the National Science and Technology Council.

The conferees delete a provision included by the Senate allowing amounts appropriated in this Act to be transferred to the FLETC ACIRE account. The conferees address this appropriation in Title I of this Act.

The conferees delete a provision dealing with child care in Federal facilities, proposed by the Senate.

TITLE VIII—TECHNICAL AND CLARIFYING AMENDMENTS

The conferees agree to delete a new title authorizing the Office of National Drug Control Policy proposed by the Senate and instead insert a new title regarding administration of the DC Retirement Trust Fund.

The conferees delete language addressing the immigration status of Haitians previously paroled into the United States proposed by the Senate.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1999 recommended by the Committee of Conference, with comparisons to the fiscal year 1998 amount, the 1999 budget estimates, and the House and Senate bills for 1999 follow:

New budget (obligational) authority, fiscal year 1998	$25,325,767,500
Budget estimates of new (obligational) authority, fiscal year 1999	26,839,489,000
House bill, fiscal year 1999	26,614,669,000
Senate bill, fiscal year 1999	29,923,612,000
Conference agreement, fiscal year 1999	26,772,527,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1998	+1,446,759,500
Budget estimates of new (obligational) authority, fiscal year 1999	−66,962,000
House bill, fiscal year 1999	+157,858,000
Senate bill, fiscal year 1999	−3,151,085,000

JIM KOLBE,
FRANK WOLF,
ERNEST ISTOOK, JR.,
ANNE M. NORTHUP,
ROBERT B. ADERHOLT,
BOB LIVINGSTON,
JOSEPH MCDADE
Managers on the Part of the House.
BEN NIGHTHORSE CAMPBELL,
RICHARD SHELBY,
LAUCH FAIRCLOTH,
TED STEVENS,
ROBERT C. BYRD
Managers on the Part of the Senate.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. NEY). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken later in the day.

ANTIMICROBIAL REGULATION TECHNICAL CORRECTIONS ACT OF 1998

Mr. BLILEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4679) to amend the Federal Food, Drug, and Cosmetic Act to clarify the circumstances in which a substance is considered to be a pesticide chemical for purposes of such Act, and for other purposes.

The Clerk read as follows:

H.R. 4679

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Antimicrobial Regulation Technical Corrections Act of 1998".

SEC. 2. DEFINITION OF PESTICIDE CHEMICAL UNDER FEDERAL FOOD, DRUG, AND COSMETIC ACT.

(a) IN GENERAL.—Section 201(q) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(q)) is amended by striking "(q)(1)" and all that follows through the end of subparagraph (1) and inserting the following:

"(q)(1)(A) Except as provided in clause (B), the term 'pesticide chemical' means any substance that is a pesticide within the meaning of the Federal Insecticide, Fungicide, and Rodenticide Act, including all active and inert ingredients of such pesticide. Notwithstanding any other provision of law, the term 'pesticide' within such meaning includes ethylene oxide and propylene oxide when such substances are applied on food.

"(B) In the case of the use, with respect to food, of a substance described in clause (A) to prevent, destroy, repel, or mitigate microorganisms (including bacteria, viruses, fungi, protozoa, algae, and slime), the following applies for purposes of clause (A):

"(i) The definition in such clause for the term 'pesticide chemical' does not include the substance if the substance is applied for such use on food, or the substance is included for such use in water that comes into contact with the food, in the preparing, packing, or holding of the food for commercial purposes. The substance is not excluded under this subclause from such definition if the substance is ethylene oxide or propylene oxide, and is applied for such use on food. The substance is not so excluded if the substance is applied for such use on a raw agricultural commodity, or the substance is included for such use in water that comes into contact with the commodity, as follows:

"(I) The substance is applied in the field.

"(II) The substance is applied at a treatment facility where raw agricultural commodities are the only food treated, and the treatment is in a manner that does not change the status of the food as a raw agricultural commodity (including treatment through washing, waxing, fumigating, and packing such commodities in such manner).

"(III) The substance is applied during the transportation of such commodity between the field and such a treatment facility.

"(ii) The definition in such clause for the term 'pesticide chemical' does not include the substance if the substance is a food contact substance as defined in section 409(h)(6), and any of the following circumstances exist: The substance is included for such use in an object that has a food contact surface but is not intended to have an ongoing effect on any portion of the object; the substance is included for such use in an object that has a food contact surface and is intended to have an ongoing effect on a portion of the object but not on the food contact surface; or the substance is included for such use in or is applied for such use on food packaging (without regard to whether the substance is intended to have an ongoing effect on any portion of the packaging). The food contact substance is not excluded under this subclause from such definition if any of the following circumstances exist: The substance is applied for such use on a semipermanent or permanent food contact surface (other than being applied on food packaging); or the substance is included for such use in an object that has a semipermanent or permanent food contact surface (other than being included in food packaging) and the substance is intended to have an ongoing effect on the food contact surface.

With respect to the definition of the term 'pesticide' that is applicable to the Federal Insecticide, Fungicide, and Rodenticide Act, this clause does not exclude any substance from such definition.".

(b) REGULATIONS.—Section 408(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j)) is amended by adding at the end the following paragraph:

"(4) CERTAIN SUBSTANCES.—With respect to a substance that is not included in the definition of the term 'pesticide chemical' under section 201(q)(1) but was so included on the day before the date of the enactment of the Antimicrobial Regulation Technical Corrections Act of 1998, the following applies as of such date of enactment:

"(A) Notwithstanding paragraph (2), any regulation applying to the use of the substance that was in effect on the day before such date, and was on such day deemed in such paragraph to have been issued under this section, shall be considered to have been issued under section 409.

"(B) Notwithstanding paragraph (3), any regulation applying to the use of the substance that was in effect on such day and was issued under this section (including any such regulation issued before the date of the enactment of the Food Quality Protection Act of 1996) is deemed to have been issued under section 409.".

(c) TECHNICAL AMENDMENT.—Section 201(q)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(q)(3)) is amended in the matter preceding clause (A) by striking "paragraphs (1) and (2)" and inserting "subparagraphs (1) and (2)".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. BLILEY) and the gentleman from California (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. BLILEY).

GENERAL LEAVE

Mr. BLILEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to insert extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. BLILEY. Mr. Speaker, I yield myself 5 minutes.

This bill, the Antimicrobial Regulation Technical Corrections Act of 1998, corrects an unintended problem created by the Food Quality Protection Act of 1996.

When we passed that legislation, we expanded the definition of "pesticide chemical." Unfortunately, that had the effect of transferring to the EPA jurisdiction over a small class of substances known as antimicrobials.

Used in food contact applications, these products play an important role in the safety of our food supply. For example, food and drinks like milk are often packaged in paper containers. To make sure that this paper is free of contamination, we use antimicrobials.

Before 1996, such substances were regulated by the FDA as food additives. That was right then, and it should be today. As a result, the bill before us today will return them once again to the FDA.

This is strictly a technical corrections measure; it does not represent a change in FQPA policy, and it does not weaken any environmental safeguards. Indeed, one of the products blocked from the market by this problem actually won the President's Green Chemistry Award for its environmental benefits.

Mr. Speaker, when we passed FDA reform last year, the conference report acknowledged this problem and urged the FDA and EPA to work with Congress to develop a bill that would correct it. This is that bill. It was developed jointly with EPA and FDA, the affected industries, and the environmental community. I think they all should be commended for their cooperation and effort.

In closing, I would just like to inform my colleagues that the Senate is set to approve this measure tonight or tomorrow. It is being sponsored by Senators DURBIN, KENNEDY, WARNER, MIKULSKI, and HUTCHINSON, among others.

Mr. Speaker, H.R. 4679 will enable companies to bring beneficial antimicrobial products to market without further delay. I urge its immediate passage.

Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is my pleasure to support H.R. 4679 to amend the Food Quality Protection Act of 1996. The changes made to the Food Quality Protection Act mistakenly defined "pesticide chemical" in the Federal Food, Drug and Cosmetic Act. This definition unintentionally transferred regulatory authority of antimicrobials, which have traditionally been under the FDA to the EPA.

This legislation would not change the Federal Insecticide, Fungicide and Rodenticide Act or remove any use of a substance from regulation as a pesticide under that act. FIFRA would continue to review these substances for registration and maintain the traditional FDA review for food additives.

Antimicrobial food additive petitions have been delayed at the FDA since the enactment of FQPA. This legislation will shift regulatory jurisdiction from review and approval of petitions for specialty chemicals in food contact applications back to the FDA. This amendment would grant the FDA authority to regulate antimicrobial substances that may be used in food, come in contact with food, or be used in food packaging. This will facilitate consideration of petitions for new products.

The Environmental Working Group, the Natural Resources Defense Council, and many other public interest groups have agreed not to oppose the legislation. At their request, language has been included to recognize that FQPA protective provisions have not been eliminated.

These environmental groups and other organizations are right in their concern about food safety. This Congress has failed in the wake of NAFTA and other trade agreements to modernize our food safety laws and protect the public. Food imports, especially fruits and vegetables, have increased dramatically in the last 10 years in this country, especially since the passage of NAFTA, yet our inspection facilities are underfunded and unprepared, which unfortunately seems to be of little concern to this Congress.

Nonetheless, Mr. Speaker, I support this bill and I urge my colleagues to do the same.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1 minute to the gentlewoman from North Carolina (Mrs. CLAYTON).

Mrs. CLAYTON. Mr. Speaker, I thank the gentleman for yielding me this time.

I am pleased to rise in support of H.R. 4679, and I am appreciative of the leadership who has brought this to the House. I want my colleagues to know this corrects a problem that will impact many workers in our areas. I know it was a mistake, but nevertheless, it would make a correction that does not lessen the quality of inspections of food, gives the same amount of regulation, and allows for this more worthy project to go forward.

Mr. BROWN of Ohio. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BLILEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. BLILEY) that the House suspend the rules and pass the bill, H.R. 4679.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

BORDOR SMOG REDUCTION ACT OF 1998

Mr. BLILEY. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 8) to amend the Clean Air Act to deny entry into the United States of certain foreign motor vehicles that do not comply with State laws governing motor vehicle emissions, and for other purposes.

The Clerk read as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Border Smog Reduction Act of 1998".

SEC. 2. AMENDMENT OF CLEAN AIR ACT.

Section 183 of the Clean Air Act (42 U.S.C. 7511b) is amended by adding at the end the following:

"(h) VEHICLES ENTERING OZONE NONATTAINMENT AREAS.—

"(1) AUTHORITY REGARDING OZONE INSPECTION AND MAINTENANCE TESTING.—

"(A) IN GENERAL.—No noncommercial motor vehicle registered in a foreign country and operated by a United States citizen or by an alien who is a permanent resident of the United States, or who holds a visa for the purposes of employment or educational study in the United States, may enter a covered ozone nonattainment area from a foreign country bordering the United States and contiguous to the nonattainment area more than twice in a single calendar-month period, if State law has requirements for the inspection and maintenance of such vehicles under the applicable implementation plan in the nonattainment area.

"(B) APPLICABILITY.—Subparagraph (A) shall not apply if the operator presents documentation at the United States border entry point establishing that the vehicle has complied with such inspection and maintenance requirements as are in effect and are applicable to motor vehicles of the same type and model year.

"(2) SANCTIONS FOR VIOLATIONS.—The President may impose and collect from the operator of any motor vehicle who violates, or attempts to violate, paragraph (1) a civil penalty of not more than $200 for the second violation or attempted violation and $400 for the third and each subsequent violation or attempted violation.

"(3) STATE ELECTION.—The prohibition set forth in paragraph (1) shall not apply in any State that elects to be exempt from the prohibition. Such an election shall take effect upon the President's receipt of written notice from the Governor of the State notifying the President of such election.

"(4) ALTERNATIVE APPROACH.—The prohibition set forth in paragraph (1) shall not apply in a State, and the President may implement an alternative approach, if—

"(A) the Governor of the State submits to the President a written description of an alternative approach to facilitate the compliance, by some or all foreign-registered motor vehicles, with the motor vehicle inspection and maintenance requirements that are—

"(i) related to emissions of air pollutants;

"(ii) in effect under the applicable implementation plan in the covered ozone nonattainment area; and

"(iii) applicable to motor vehicles of the same types and model years as the foreign-registered motor vehicles; and

"(B) the President approves the alternative approach as facilitating compliance with the motor vehicle inspection and maintenance requirements referred to in subparagraph (A).

"(5) DEFINITION OF COVERED OZONE NONATTAINMENT AREA.—In this section, the term 'covered ozone nonattainment area' means a Serious Area, as classified under section 181 as of the date of enactment of this subsection.".

SEC. 3. GENERAL PROVISIONS.

(a) IN GENERAL.—The amendment made by section 2 takes effect 180 days after the date of enactment of this Act. Nothing in that amendment shall require action that is inconsistent with the obligations of the United States under any international agreement.

(b) INFORMATION.—As soon as practicable after the date of enactment of this Act, the appropriate agency of the United States shall distribute information to publicize the prohibition set forth in the amendment made by section 2.

SEC. 4. STUDY BY GENERAL ACCOUNTING OFFICE.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the impact of the amendment made by section 2.

(b) CONTENTS OF STUDY.—The study under subsection (a) shall compare—

(1) the potential impact of the amendment made by section 2 on air quality in ozone nonattainment areas affected by the amendment; with

(2) the impact on air quality in those areas caused by the increase in the number of vehicles engaged in commerce operating in the United States and registered in, or operated from, Mexico, as a result of the implementation of the North American Free Trade Agreement.

(c) REPORT.—Not later than July 1, 1999, the Comptroller General of the United States shall submit to the Committee on Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate a report describing the findings of the study under subsection (a).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. BLILEY) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. BLILEY).

GENERAL LEAVE

Mr. BLILEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to insert extraneous material on the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. BLILEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 8, the Border Smog Reduction Act of 1998, and I want to thank the chairman of the Subcommittee on Health and the Environment, the gentleman from Florida (Mr. BILIRAKIS) for his effort in guiding H.R. 8 through the legislative process.

Throughout the entire consideration of this bill, the gentleman from Florida (Mr. BILIRAKIS) worked with his colleagues on both sides of the aisle to ensure that any concerns were resolved in a bipartisan fashion.

I also want to thank and commend the gentleman from California (Mr. BILBRAY), the author of this legislation. Over 2 years ago the gentleman from California identified a very real environmental problem on the border between the United States and Mexico, and attempted to frame an effective solution. He introduced legislation, requested hearings in the Committee on Commerce, and was the driving force behind bringing H.R. 8 to markup.

Indeed, even after the Committee on Commerce and full House approved H.R. 8, the gentleman from California (Mr. BILBRAY) did not let up. He crossed Capitol Hill and personally lobbied Members of the other body to ensure that this legislation would see action during the present session.

The gentleman understood very well that it takes a great deal of effort for Congress to consider and improve any bill, and in every stage of the process he was there on the legislative grid iron moving the ball forward. We are now at the 1 yard line thanks to the gentleman. With approval of H.R. 8 today, the bill will be sent to the President for his signature.

Certain changes have been made in H.R. 8 by the other body. All changes are agreeable to the Committee on Commerce and were the result of bipartisan discussions between the majority and minority on our committee. I know of no opposition to the final version of this legislation.

In brief, by agreeing to H.R. 8, as amended by the Senate, we will establish a program to deny entry into the United States of certain noncommercial foreign registered vehicles at the southern California border crossing. While these vehicles will be allowed to cross into the United States twice each month, they will be denied further entry unless they comply with existing State laws designed to ensure that the vehicles meet applicable emissions standards.

There is also flexibility in the legislation to continue either the sanctions provided in the bill, or to design an alternative system addressing some or all foreign registered vehicles. Any alternative system, however, must be approved by the President.

Again, I want to thank the gentleman from California (Mr. BILBRAY) for all of his hard work. H.R. 8 is a testament to the dedication and determination of the gentleman to make life better for citizens on both sides of the border.

The Border Smog Reduction Act of 1998 will result in both cleaner air and more equitable treatment between domestic and foreign-registered vehicles.

Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to express support for H.R. 8, the Border Smog Reduction Act.

In July of this year, the House passed H.R. 8. At the end of September the Senate Committee on Environment and Public Works passed the bill without amendment on a voice vote. Just days after the committee's action in the Senate, however, majority and minority members of the House Committee on Commerce and Senate Committee on Environment and Public Works agreed to revise the bill in order to address concerns about how the bill might apply to States other than California.

□ 1600

This week the Senate passed an amendment and improved H.R. 8, which we consider today. I would like to thank the gentleman from California (Mr. BILBRAY), the gentleman from California (Mr. WAXMAN), the gentleman from Virginia (Mr. BLILEY), and the gentleman from Florida (Mr. BILIRAKIS) for making several important improvements to this legislation.

Unlike the version of H.R. 8 passed by the House in July, the Senate-passed bill applies to the California-Mexico border only. The Senate-passed bill retains important language which I offered in committee to study the effects of the North American Free Trade Agreement on air quality in communities along the United States-Mexico border.

The provision requires the General Accounting Office to conduct a study comparing the potential effect of this legislation on air quality in ozone nonattainment areas with air quality in these same areas caused by vehicles registered in or operating from Mexico as a result of implementation of NAFTA.

It is difficult to imagine that the increased commercial truck traffic, much of it brought about by NAFTA, is not adding significantly to the nonattainment problems in Southern California.

The environmental devastation brought on by NAFTA is a serious problem on both sides of the border, created by both sides of the border. I hope that this study will provide critical information on the effect this increased traffic under NAFTA is having on air quality in our border areas.

Again, I would like to thank my colleague and chairman, the gentleman from Virginia (Mr. BLILEY), the gentleman from California (Mr. BILBRAY), and the gentleman from Florida (Mr. BILIRAKIS), the gentleman from California (Mr. WAXMAN) and the gentleman from Michigan (Mr. STUPAK) for working together to resolve the concerns many of us have this with legislation. H.R. 8 has been significantly improved from the version originally introduced.

Mr. Speaker, I urge my colleagues to support the bill, and I reserve the balance of my time.

Mr. BLILEY. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. BILIRAKIS), the chairman of the Subcommittee on Health and Environment.

Mr. BILIRAKIS. Mr. Speaker, I am pleased that the House is considering H.R. 8, the Border Smog Reduction Act, as amended by the Senate. I also want to express my gratitude to the gentleman from Virginia (Chairman BLILEY), to the ranking member, the gentleman from Michigan (Mr. DINGELL), the ranking member, the gentleman from Ohio (Mr. SHERROD BROWN), and our staff and all the members of the subcommittee particularly for their work on this issue.

As I am sure our friend and colleague, the gentleman from California (Mr. BILBRAY) will attest, today's legislative action did not happen overnight. Instead, today represents a culmination of many hours of work by the gentleman from California (Mr. BILBRAY) and the Subcommittee on Health and Environment to review this legislation to solicit the opinion of Members of Congress, both on and off the committee, and to work with the administration to address any concerns.

The gentleman from California (Mr. BILBRAY) and the city of San Diego hosted a hearing in November of last year attended by five members of the subcommittee, wherein we were able to speak with environmental people, with the general public, and we also visited a location on the border and saw firsthand the problems that we are trying to improve and to correct.

We also worked closely with our colleagues in the other body to ensure that the final adjustments to the legislative language of H.R. 8 were acceptable to the House.

Indeed, at every stage of the process of considering this legislation, the majority and minority closely reviewed and agreed upon all changes. The final legislation attempts to address air quality conditions in an evenhanded fashion.

Certain foreign-registered commuter vehicles not meeting State inspections and maintenance requirements will be denied entry into the United States in the California-Mexico border area after being given two opportunities each month to obtain proper State certification. However, public notice of the new prohibitions is required prior to the implementation of the act.

There is also flexibility provided to design an alternative system if the State so desires and the President approves that alternative system.

Taken as a whole, Mr. Speaker, the legislation seeks to obtain the same emission reductions from foreign-registered vehicles as are obtained from vehicles owned and operated solely in the United States.

The United States Environmental Protection Agency considers vehicle inspection and maintenance programs to be one of the most cost-effective measures we can take to clear the air. Thus, H.R. 8 allows us to fill an apparent hole in our Clean Air Act enforcement network.

The bill will help ensure that air quality on both sides of the border can make the progress necessary to obtain compliance with the national ambient air quality standards.

Again, I want to commend the gentleman from California (Mr. BILBRAY) for his hard work and dedication to this issue, and I know that his interest in this legislation stems from a strong desire to improve air quality in border regions, and to achieve an equitable burden-sharing between domestic and foreign mobile sources.

I think that establishing such equity is an important element in maintaining respect for the implementation of our environmental laws. I want to thank the gentleman and the ranking minority member of my subcommittee, again, the gentleman from Ohio (Mr. BROWN), for helping to ensure that this bill becomes law in the present session.

Mr. BLILEY. Mr. Speaker, it is a great pleasure to yield 3 minutes to the gentleman from California (Mr. BILBRAY), the author of this legislation.

Mr. BILBRAY. Mr. Speaker, I rise today in strong support of H.R. 8, the Border Smog Reduction Act. H.R. 8 is a bipartisan commonsense approach to an environmental problem that has been identified along our Mexican border for all too long. It is common sense in the manner that it completely connects the concept that those who wish to gain economic opportunities must also bear environmental responsibilities. At the heart of this bill is the basic concept that fairness is essential in the enforcement of our environmental regulations within this country and among nations.

I would ask Members to remember that with H.R. 8, we are asking our Federal agencies to now be included in assisting the enforcement of environmental regulations that the Federal Government has mandated on the local communities along our borders.

Mr. Speaker, at this time I would like to make sure that I have identified and thanked my colleagues for the immense amount of help that has been given to this Member in moving along the Smog Reduction Act—by the subcommittee chairman, the gentleman from Florida (Mr. MICHAEL BILIRAKIS), by the full chairman, the gentleman from Virginia (Mr. TOM BLILEY), and specifically staff member, Bob Meyers, who worked hard in making sure that H.R. 8 did become law.

The oversight chairman, the gentleman from Texas (Mr. JOE BARTON) actually was one of the original coauthors of this bill in the 104th Congress, and the experience of Texas in this process was actually enhanced by the support of the gentleman from El Paso, Texas (Mr. SYLVESTRE REYES), with his extensive background in border issues.

At the same time, in the other body, Senator CHAFEE and Senator INHOFE have been very, very supportive in getting this bill through the Senate.

I would also at this time like to strongly praise my colleague and ranking member, the gentleman from Ohio (Mr. SHERROD BROWN) for his aid in making this bill possible, and my colleague, the gentleman from California (Mr. HENRY WAXMAN).

Mr. Speaker, this bill is a model, not only for those of us in the House to be able to work in a bipartisan way to address environmental problems, but also a model of the fact that we are no longer going to ignore the environmental challenges along our frontiers. In fact, it is refective of the strategy that we are going to use the economic opportunities of international trade as a vehicle to focus on environmental problems that have been ignored for all too long.

Mr. Speaker, I would like to state quite clearly my appreciation to the entire governmental structure in Washington, for once addressing these problems, faced by those of us who live along the border. I look forward to working together with my colleagues on both sides of the aisle, and working with the Republic of Mexico, and Canada, in making sure that current and future problems, faced such as smog problems along the border are addressed, along with many others. I think this can be a vehicle that we can use as a blueprint here in the House of Representatives and in the Senate and hopefully in our continuing relationships with our neighbors to the north and south.

I ask Members' support for H.R. 8. It is a common-sense approach to addressing an important public health issue, and at the same time assessing what more can be done to make sure that we properly address those remaining issues that have not been addressed comprehensively. Mr. Speaker, I ask for the passage of H.R. 8.

Mr. BROWN of Ohio. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BLILEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. NEY). The question is on the motion offered by the gentleman from Virginia (Mr. BLILEY) that the House suspend the rules and concur in the Senate amendments to H.R. 8.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendments were concurred in.

A motion to reconsider was laid on the table.

CHILD ONLINE PROTECTION ACT

Mr. TAUZIN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3783) to amend section 223 of the Communications Act of 1934 to require persons who are engaged in the business of selling or transferring, by means of the World Wide Web, material that is harmful to minors to restrict access to such material by minors, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3783

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Online Protection Act".

TITLE I—PROTECTION FROM MATERIAL THAT IS HARMFUL TO MINORS

SEC. 101. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) while custody, care, and nurture of the child resides first with the parent, the widespread availability of the Internet presents opportunities for minors to access materials through the World Wide Web in a manner that can frustrate parental supervision or control;

(2) the protection of the physical and psychological well-being of minors by shielding them from materials that are harmful to them is a compelling governmental interest;

(3) to date, while the industry has developed innovative ways to help parents and educators restrict material that is harmful to minors through parental control protections and self-regulation, such efforts have not provided a national solution to the problem of minors accessing harmful material on the World Wide Web;

(4) a prohibition on the distribution of material harmful to minors, combined with legitimate defenses, is currently the most effective and least restrictive means by which to satisfy the compelling government interest; and

(5) notwithstanding the existence of protections that limit the distribution over the World Wide Web of material that is harmful to minors, parents, educators, and industry must continue efforts to find ways to protect children from being exposed to harmful material found on the Internet.

SEC. 102. REQUIREMENT TO RESTRICT ACCESS BY MINORS TO MATERIALS COMMERCIALLY DISTRIBUTED BY MEANS OF THE WORLD WIDE WEB THAT ARE HARMFUL TO MINORS.

Part I of title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end the following new section:

"SEC. 231. RESTRICTION OF ACCESS BY MINORS TO MATERIALS COMMERCIALLY DISTRIBUTED BY MEANS OF WORLD WIDE WEB THAT ARE HARMFUL TO MINORS.

"(a) REQUIREMENT TO RESTRICT ACCESS.—

"(1) PROHIBITED CONDUCT.—Whoever knowingly and with knowledge of the character of the material, in interstate or foreign commerce by means of the World Wide Web, makes any communication for commercial purposes that is available to any minor and that includes any material that is harmful to minors shall be fined not more than $50,000, imprisoned not more than 6 months, or both.

"(2) INTENTIONAL VIOLATIONS.—In addition to the penalties under paragraph (1), whoever intentionally violates such paragraph shall be subject to a fine of not more than $50,000 for each violation. For purposes of this paragraph, each day of violation shall constitute a separate violation.

"(3) Civil penalty.—In addition to the penalties under paragraphs (1) and (2), whoever violates paragraph (1) shall be subject to a civil penalty of not more than $50,000 for each violation. For purposes of this paragraph, each day of violation shall constitute a separate violation.

"(b) Inapplicability of Carriers and Other Service Providers.—For purposes of subsection (a), a person shall not be considered to make any communication for commercial purposes to the extent that such person is—

"(1) a telecommunications carrier engaged in the provision of a telecommunications service;

"(2) a person engaged in the business of providing an Internet access service;

"(3) a person engaged in the business of providing an Internet information location tool; or

"(4) similarly engaged in the transmission, storage, retrieval, hosting, formatting, or translation (or any combination thereof) of a communication made by another person, without selection or alteration of the content of the communication, except that such person's deletion of a particular communication or material made by another person in a manner consistent with subsection (c) or section 230 shall not constitute such selection or alteration of the content of the communication.

"(c) Affirmative Defense.—

"(1) Defense.—It is an affirmative defense to prosecution under this section that the defendant, in good faith, has restricted access by minors to material that is harmful to minors—

"(A) by requiring use of a credit card, debit account, adult access code, or adult personal identification number;

"(B) by accepting a digital certificate that verifies age; or

"(C) by any other reasonable measures that are feasible under available technology.

"(2) Protection for use of defenses.—No cause of action may be brought in any court or administrative agency against any person on account of any activity that is not in violation of any law punishable by criminal or civil penalty, and that the person has taken in good faith to implement a defense authorized under this subsection or otherwise to restrict or prevent the transmission of, or access to, a communication specified in this section.

"(d) Privacy Protection Requirements.—

"(1) Disclosure of information limited.—A person making a communication described in subsection (a)—

"(A) shall not disclose any information collected for the purposes of restricting access to such communications to individuals 17 years of age or older without the prior written or electronic consent of—

"(i) the individual concerned, if the individual is an adult; or

"(ii) the individual's parent or guardian, if the individual is under 17 years of age; and

"(B) shall take such actions as are necessary to prevent unauthorized access to such information by a person other than the person making such communication and the recipient of such communication.

"(2) Exceptions.—A person making a communication described in subsection (a) may disclose such information if the disclosure is—

"(A) necessary to make the communication or conduct a legitimate business activity related to making the communication; or

"(B) made pursuant to a court order authorizing such disclosure.

"(e) Definitions.—For purposes of this subsection, the following definitions shall apply:

"(1) By means of the world wide web.—The term 'by means of the World Wide Web' means by placement of material in a computer server-based file archive so that it is publicly accessible, over the Internet, using hypertext transfer protocol or any successor protocol.

"(2) Commercial purposes; engaged in the business.—

"(A) Commercial purposes.—A person shall be considered to make a communication for commercial purposes only if such person is engaged in the business of making such communications.

"(B) Engaged in the business.—The term 'engaged in the business' means that the person who makes a communication, or offers to make a communication, by means of the World Wide Web, that includes any material that is harmful to minors, devotes time, attention, or labor to such activities, as a regular course of such person's trade or business, with the objective of earning a profit as a result of such activities (although it is not necessary that the person make a profit or that the making or offering to make such communications be the person's sole or principal business or source of income). A person may be considered to be engaged in the business of making, by means of the World Wide Web, communications for commercial purposes that include material that is harmful to minors, only if the person knowingly causes the material that is harmful to minors to be posted on the World Wide Web or knowingly solicits such material to be posted on the World Wide Web.

"(3) Internet.—The term 'Internet' means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol or any successor protocol to transmit information.

"(4) Internet access service.—The term 'Internet access service' means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. Such term does not include telecommunications services.

"(5) Internet information location tool.—The term 'Internet information location tool' means a service that refers or links users to an online location on the World Wide Web. Such term includes directories, indices, references, pointers, and hypertext links.

"(6) Material that is harmful to minors.—The term 'material that is harmful to minors' means any communication, picture, image, graphic image file, article, recording, writing, or other matter of any kind that is obscene or that—

"(A) the average person, applying contemporary community standards, would find, taking the material as a whole and with respect to minors, is designed to appeal to, or is designed to pander to, the prurient interest;

"(B) depicts, describes, or represents, in a manner patently offensive with respect to minors, an actual or simulated sexual act or sexual contact, an actual or simulated normal or perverted sexual act, or a lewd exhibition of the genitals or post-pubescent female breast; and

"(C) taken as a whole, lacks serious literary, artistic, political, or scientific value for minors.

"(7) Minor.—The term 'minor' means any person under 17 years of age.".

SEC. 103. NOTICE REQUIREMENT.

(a) Notice.—Section 230 of the Communications Act of 1934 (47 U.S.C. 230) is amended—

(1) in subsection (d)(1), by inserting "or 231" after "section 223";

(2) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(3) by inserting after subsection (c) the following new subsection:

"(d) Obligations of Interactive Computer Service.—A provider of interactive computer service shall, at the time of entering an agreement with a customer for the provision of interactive computer service and in a manner deemed appropriate by the provider, notify such customer that parental control protections (such as computer hardware, software, or filtering services) are commercially available that may assist the customer in limiting access to material that is harmful to minors. Such notice shall identify, or provide the customer with access to information identifying, current providers of such protections.".

(b) Conforming Amendment.—Section 223(h)(2) of the Communications Act of 1934 (47 U.S.C. 223(h)(2)) is amended by striking "230(e)(2)" and inserting "230(f)(2)".

SEC. 104. STUDY BY COMMISSION ON ONLINE CHILD PROTECTION.

(a) Establishment.—There is hereby established a temporary Commission to be known as the Commission on Online Child Protection (in this section referred to as the "Commission") for the purpose of conducting a study under this section regarding methods to help reduce access by minors to material that is harmful to minors on the Internet.

(b) Membership.—The Commission shall be composed of 19 members, as follows:

(1) Industry members.—The Commission shall include—

(A) 2 members who are engaged in the business of providing Internet filtering or blocking services or software;

(B) 2 members who are engaged in the business of providing Internet access services;

(C) 2 members who are engaged in the business of providing labeling or ratings services;

(D) 2 members who are engaged in the business of providing Internet portal or search services;

(E) 2 members who are engaged in the business of providing domain name registration services;

(F) 2 members who are academic experts in the field of technology; and

(G) 4 members who are engaged in the business of making content available over the Internet.

Of the members of the Commission by reason of each subparagraph of this paragraph, an equal number shall be appointed by the Speaker of the House of Representatives and by the Majority Leader of the Senate.

(2) Ex officio members.—The Commission shall include the following officials:

(A) The Assistant Secretary (or the Assistant Secretary's designee).

(B) The Attorney General (or the Attorney General's designee).

(C) The Chairman of the Federal Trade Commission (or the Chairman's designee).

(c) Study.—

(1) IN GENERAL.—The Commission shall conduct a study to identify technological or other methods that—

(A) will help reduce access by minors to material that is harmful to minors on the Internet; and

(B) may meet the requirements for use as affirmative defenses for purposes of section 231(c) of the Communications Act of 1934 (as added by this Act).

Any methods so identified shall be used as the basis for making legislative recommendations to the Congress under subsection (d)(3).

(2) SPECIFIC METHODS.—In carrying out the study, the Commission shall identify and analyze various technological tools and methods for protecting minors from material that is harmful to minors, which shall include (without limitation)—

(A) a common resource for parents to use to help protect minors (such as a "one-click-away" resource);

(B) filtering or blocking software or services;

(C) labeling or rating systems;

(D) age verification systems;

(E) the establishment of a domain name for posting of any material that is harmful to minors; and

(F) any other existing or proposed technologies or methods for reducing access by minors to such material.

(3) ANALYSIS.—In analyzing technologies and other methods identified pursuant to paragraph (2), the Commission shall examine—

(A) the cost of such technologies and methods;

(B) the effects of such technologies and methods on law enforcement entities;

(C) the effects of such technologies and methods on privacy;

(D) the extent to which material that is harmful to minors is globally distributed and the effect of such technologies and methods on such distribution;

(E) the accessibility of such technologies and methods to parents; and

(F) such other factors and issues as the Commission considers relevant and appropriate.

(d) REPORT.—Not later than 1 year after the enactment of this Act, the Commission shall submit a report to the Congress containing the results of the study under this section, which shall include—

(1) a description of the technologies and methods identified by the study and the results of the analysis of each such technology and method;

(2) the conclusions and recommendations of the Commission regarding each such technology or method;

(3) recommendations for legislative or administrative actions to implement the conclusions of the committee; and

(4) a description of the technologies or methods identified by the study that may meet the requirements for use as affirmative defenses for purposes of section 231(c) of the Communications Act of 1934 (as added by this Act).

(e) STAFF AND RESOURCES.—The Assistant Secretary for Communication and Information of the Department of Commerce shall provide to the Commission such staff and resources as the Assistant Secretary determines necessary for the Commission to perform its duty efficiently and in accordance with this section.

(f) TERMINATION.—The Commission shall terminate 30 days after the submission of the report under subsection (d).

(g) INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

SEC. 105. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 30 days after the date of enactment of this Act.

TITLE II—CHILDREN'S ONLINE PRIVACY PROTECTION

SEC. 201. DEFINITIONS.

In this title:

(1) CHILD.—The term "child" means an individual under the age of 13.

(2) OPERATOR.—The term "operator" means any person operating a website on the World Wide Web or any online service for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

(A) among the several States or with 1 or more foreign nations;

(B) in any territory of the United States or in the District of Columbia, or between any such territory and—

(i) another such territory; or

(ii) any State or foreign nation; or

(C) between the District of Columbia and any State, territory, or foreign nation.

For purposes of this title, the term "operator" does not include any non-profit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) COMMISSION.—The term "Commission" means the Federal Trade Commission.

(4) DISCLOSURE.—The term "disclosure" means, with respect to personal information—

(A) the release of personal information collected from a child in identifiable form by an operator for any purpose, except where such information is provided to a person other than the operator who provides support for the internal operations of the website and does not disclose or use that information for any other purpose; and

(B) making personal information collected from a child by a website or online service directed to children or with actual knowledge that such information was collected from a child, publicly available in identifiable form, by any means including by a public posting, through the Internet, or through—

(i) a home page of a website;

(ii) a pen pal service;

(iii) an electronic mail service;

(iv) a message board; or

(v) a chat room.

(5) FEDERAL AGENCY.—The term "Federal agency" means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(6) INTERNET.—The term "Internet" means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(7) PARENT.—The term "parent" includes a legal guardian.

(8) PERSONAL INFORMATION.—The term "personal information" means individually identifiable information about an individual collected online, including—

(A) a first and last name;

(B) a home or other physical address including street name and name of a city or town;

(C) an e-mail address;

(D) a telephone number;

(E) a Social Security number;

(F) any other identifier that the Commission determines permits the physical or online contacting of a specific individual; or

(G) information concerning the child or the parents of that child that the website collects online from the child and combines with an identifier described in this paragraph.

(9) VERIFIABLE PARENTAL CONSENT.—The term "verifiable parental consent" means any reasonable effort (taking into consideration available technology), including a request for authorization for future collection, use, and disclosure described in the notice, to ensure that a parent of a child receives notice of the operator's personal information collection, use, and disclosure practices, and authorizes the collection, use, and disclosure, as applicable, of personal information and the subsequent use of that information before that information is collected from that child.

(10) WEBSITE OR ONLINE SERVICE DIRECTED TO CHILDREN.—

(A) IN GENERAL.—The term "website or online service directed to children" means —

(i) a commercial website or online service that is targeted to children; or

(ii) that portion of a commercial website or online service that is targeted to children.

(B) LIMITATION.—A commercial website or online service, or a portion of a commercial website or online service, shall not be deemed directed to children solely for referring or linking to a commercial website or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

(11) PERSON.—The term "person" means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

(12) ONLINE CONTACT INFORMATION.—The term "online contact information" means an e-mail address or another substantially similar identifier that permits direct contact with a person online.

SEC. 202. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE COLLECTION AND USE OF PERSONAL INFORMATION FROM AND ABOUT CHILDREN ON THE INTERNET.

(a) ACTS PROHIBITED.—

(1) IN GENERAL.—It is unlawful for an operator of a website or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under subsection (b).

(2) DISCLOSURE TO PARENT PROTECTED.—Notwithstanding paragraph (1), neither an operator of such a website or online service nor the operator's agent shall be held to be liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under subsection (b)(1)(B)(iii) to the parent of a child.

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Commission shall promulgate under section 553 of title 5, United States Code, regulations that—

(A) require the operator of any website or online service directed to children that collects personal information from children or the operator of a website or online service that has actual knowledge that it is collecting personal information from a child—

(i) to provide notice on the website of what information is collected from children by the operator, how the operator uses such information, and the operator's disclosure practices for such information; and

(ii) to obtain verifiable parental consent for the collection, use, or disclosure of personal information from children;

(B) require the operator to provide, upon request of a parent whose child has provided personal information to that website or online service—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) notwithstanding any other provision of law, the opportunity at any time to refuse to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information on that child; and

(iii) a means that is reasonable under the circumstances for the parent to obtain any personal information collected from that child;

(C) prohibit conditioning a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity;

(D) require the operator of such a website or online service to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children; and

(E) permit the operator of such a website or online service to collect, use, and disseminate such information as is necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; and

(iv) to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(2) WHEN CONSENT NOT REQUIRED.—Verifiable parental consent under paragraph (1)(A)(ii) is not required in the case of—

(A) online contact information collected from a child that is used only to respond directly on a one-time basis to a specific request from the child and is not used to recontact the child and is not maintained in retrievable form by the operator;

(B) a request for the name or online contact information of a parent or child that is used for the sole purpose of obtaining parental consent or providing notice under this section and where such information is not maintained in retrievable form by the operator if parental consent is not obtained after a reasonable time;

(C) online contact information collected from a child that is used only to respond more than once directly to a specific request from the child and is not used to recontact the child beyond the scope of that request—

(i) if, before any additional response after the initial response to the child, the operator uses reasonable efforts to provide a parent notice of the online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(ii) without notice to the parent in such circumstances as the Commission may determine are appropriate, taking into consideration the benefits to the child of access to information and services, and risks to the security and privacy of the child, in regulations promulgated under this subsection; or

(D) the name of the child and online contact information (to the extent necessary to protect the safety of a child participant in the site)—

(i) used only for the purpose of protecting such safety;

(ii) not used to recontact the child or for any other purpose; and

(iii) not disclosed on the site,

if the operator uses reasonable efforts to provide a parent notice of the name and online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form.

(c) ENFORCEMENT.—Subject to sections 203 and 205, a violation of a regulation prescribed under subsection (a) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(d) INCONSISTENT STATE LAW.—No State or local government may impose any liability for commercial activities or actions by operators in interstate or foreign commerce in connection with an activity or action described in this title that is inconsistent with the treatment of those activities or actions under this section.

SEC. 203. SAFE HARBORS.

(a) GUIDELINES.—An operator may satisfy the requirements of regulations issued under section 202(b) by following a set of self-regulatory guidelines, issued by representatives of the marketing or online industries, or by other persons, approved under subsection (b).

(b) INCENTIVES.—

(1) SELF-REGULATORY INCENTIVES.—In prescribing regulations under section 202, the Commission shall provide incentives for self-regulation by operators to implement the protections afforded children under the regulatory requirements described in subsection (b) of that section.

(2) DEEMED COMPLIANCE.—Such incentives shall include provisions for ensuring that a person will be deemed to be in compliance with the requirements of the regulations under section 202 if that person complies with guidelines that, after notice and comment, are approved by the Commission upon making a determination that the guidelines meet the requirements of the regulations issued under section 202.

(3) EXPEDITED RESPONSE TO REQUESTS.—The Commission shall act upon requests for safe harbor treatment within 180 days of the filing of the request, and shall set forth in writing its conclusions with regard to such requests.

(c) APPEALS.—Final action by the Commission on a request for approval of guidelines, or the failure to act within 180 days on a request for approval of guidelines, submitted under subsection (b) may be appealed to a district court of the United States of appropriate jurisdiction as provided for in section 706 of title 5, United States Code.

SEC. 204. ACTIONS BY STATES.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates any regulation of the Commission prescribed under section 202(b), the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with the regulation;

(C) obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) INTERVENTION.—

(1) IN GENERAL.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) EFFECT OF INTERVENTION.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(3) AMICUS CURIAE.—Upon application to the court, a person whose self-regulatory guidelines have been approved by the Commission and are relied upon as a defense by any defendant to a proceeding under this section may file amicus curiae in that proceeding.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Commission for violation of any regulation prescribed under section 202, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that regulation.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 205. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) IN GENERAL.—Except as otherwise provided, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) PROVISIONS.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et. seq.), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et. seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. (2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) EXERCISE OF CERTAIN POWERS.—For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

(d) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating a rule of the Commission under section 202 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any entity that violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(e) EFFECT ON OTHER LAWS.—Nothing contained in this title shall be construed to limit the authority of the Commission under any other provisions of law.

SEC. 206. REVIEW.

Not later than 5 years after the effective date of the regulations initially issued under section 202, the Commission shall—

(1) review the implementation of this title, including the effect of the implementation of this title on practices relating to the collection and disclosure of information relating to children, children's ability to obtain access to information of their choice online, and on the availability of websites directed to children; and

(2) prepare and submit to Congress a report on the results of the review under paragraph (1).

SEC. 207. EFFECTIVE DATE.

Sections 202(a), 204, and 205 of this title take effect on the later of—

(1) the date that is 18 months after the date of enactment of this Act; or

(2) the date on which the Commission rules on the first application for safe harbor treatment under section 203 if the Commission does not rule on the first such application within one year after the date of enactment of this Act, but in no case later than the date that is 30 months after the date of enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from Massachusetts (Mr. MARKEY) each will control 20 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. TAUZIN).

GENERAL LEAVE

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on this legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. TAUZIN. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in support of H.R. 3783, the Child Online Protection Act. Last month the Committee on Commerce overwhelmingly approved this bill. The bill as adopted would simply make it illegal to sell pornography to minors on the World Wide Web unless and until an adult verification system is in place.

Let me make it clear, the bill does not try to control the sale of that material to adults. Neither does it say one cannot sell it to a minor for whom an adult says it is okay. It simply says that insofar as the sale of material to a minor, that the producer of that product cannot do so without the consent of the parents in an adult verification system that actually works.

It directs the FTC to promulgate regulations within a year of the date of the act prohibiting commercial websites and online operators from collecting personally identifying information from children 12 and under, unless certain requirements are met. This is an FTC agreement that has been reached and supported and already adopted on the other side that we have added by amendment to this bill.

Further, the public posting of children's identifying information in chat rooms and other online forums may pose safety concerns, and the bill simply protects against those things happening.

The bill requires four simple things. It requires ample notice to make sure that operators provide clear, prominent, understandable notice on their sites of what information they are collecting from children, how they will use it, and disclosure practice for that information.

Second, it states that operators must obtain parental consent; and third, that operators must prohibit inducements to provide personal information from the children by games and contests; and that operators must disclose the specific types of information collected to a parent, and offer the parent the opportunity to opt out of future use of that information.

For those who are still denying that the legislation is not needed, I ask them to go back to their offices and surf the net for a few minutes. If Members take a few minutes, Members will see that H.R. 3783 really attempts to solve a real, not a perceived, problem.

If Members go to an Internet search engine such as Yahoo, type in "porn" or "sex", under porn I am told we will receive more than 105,000 matches, and under sex, receive 670,000 matches. Within seconds Members can retrieve information from any one of these hits, and they will display, in many cases, pornographic material.

Some sites will have warnings, 18 or older. Other sites ask for credit cards or information prior to entering, but virtually all the sites contain teasers that display sexual behavior, in an attempt to lure us into that site, us or our children. Imagine, now, a Member's 8-year-old son or daughter is accessing that same information.

The bill that we are considering today makes an honest attempt, without interference with the first amendment, to provide that our sons or daughters will not easily access this information without our consent. It is effective because it focuses on the commercial seller of pornography, and it uses a constitutionally already verified protection phrase, "harm to children," rather than the obscenity phrase that was attempted in the 1996 Act and was rejected by the Supreme Court.

In short, H.R. 3783 attempts to address all the issues raised by the Supreme Court. It has a narrow prohibition, tighter definition, and a realization that the applicability of the law may change as technology is involved.

I want to particularly commend the gentleman from Ohio (Mr. OXLEY), the vice chairman of the Subcommittee on Telecommunications, Trade, and Consumer Protection, who is the principal author and who has worked so diligently with all members of the committee to make sure it came out with unanimous consent, and with conditions and language that we think is supportable in any court challenge.

I want to thank the gentleman from Virginia (Chairman BLILEY) for his leadership on this issue. He knows, as we all know, that this is a real problem, and this bill attempts to solve it in a real simple but meaningful way.

Mr. Speaker, I encourage Members to support H.R. 3783, and I reserve the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we bring to the floor the Child Online Protection Act, the bill that has been introduced by my good friend, the gentleman from Ohio (Mr. OXLEY), the gentleman from Pennsylvania (Mr. GREENWOOD), the gentleman from New York (Mr. MANTON), under the leadership of the gentleman from Louisiana (Mr. TAUZIN) and the chairman of the full committee, the gentleman from Virginia (Mr. BLILEY).

The legislation that we are bringing to the floor also includes the child privacy protection provisions similar to those of my bill, H.R. 4667, the Electronic Privacy Bill of Rights Act of 1998.

□ 1615

As many know, Senator BRYAN has similar child privacy legislation moving through the Senate, and hopefully we can enact children's privacy legislation before Congress adjourns this year.

I want to thank the gentleman from Virginia (Chairman BLILEY) and the gentleman from Louisiana (Chairman TAUZIN) and the gentleman from Ohio (Mr. OXLEY) and others for agreeing to add this provision here at the end of this session.

The first part of the legislation we consider this afternoon is designed to protect children from Internet fare that is inappropriate for them. Mr. Speaker, there is no question that there is content out on the Internet that is harmful to children and that they ought not to have access to such on-line fare from their computers.

In the previous session of Congress, the Communications Decency Act provision of the Telecommunications Act established a national indecency standard that the Court struck down because it was overly vague and broad, and I agreed with that decision. I opposed the Communications Decency Act out here on the floor.

The standard in the bill before us today is "harmful to minors," much narrower than the Communications Decency Act. Yet like the CDA, the bill would propose a national standard rather than a community-based standard of what harmful to minors means.

The legislation before us raises a number of difficult policy questions such as whether a policy of community-by-community-based standards of harmful to minors is at all possible in a global medium, whether the Internet requires national treatment for what is harmful to minors across the country.

The legislation also tacitly determines that filtering or blocking software cannot do the job of protecting minors, and, therefore, the government needs to step in and regulate access to certain Internet content.

I have long believed that technology can offer a solution to some of the problems that technology itself creates. Software filtering technology and other blocking technology can help to provide parents some tools for shielding children from inappropriate on-line fare.

In addition, I believe that other solutions may also help to mitigate against minors gaining access to Websites that parents want to shield from young children. I commend the gentleman from Ohio (Mr. OXLEY) for going to great lengths to listen to the concerns that many of us have and thank him for the adjustments that he has made in the legislation to meet some of those concerns.

While many of us still have concerns over the scope and the timing of some of these provisions, I hope that as we proceed and further discuss these provisions with our friends in the Senate, we can address how we define the scope of those entities that are providing inappropriate content and properly distinguish them from those entities that are solely conduits for accessing that information; further talk about alternatives such as filtering; and perhaps address the timing of when certain provisions become effective; and adjust the commission in the bill to make its membership more bipartisan and reflective of the bipartisan manner in which this body deals with telecommunications issues generally.

Mr. Speaker, the second part of the bill, as the chairman of the subcommittee has pointed out, addresses the issue of child privacy on the Internet. The issue of privacy in the Information Age, and in particular children's privacy protection, is quite timely as the Nation becomes ever more linked by communications networks such as the Internet.

It is important as we tackle these issues now, before we travel down the information superhighway too far and realize perhaps that we made a wrong turn, that we had a chance to build in protection for kids before this technology took too much control over the lives of kids across our country.

In general, I believe that Congress ought to embrace a three-part comprehensive policy of privacy for children in our country:

Number one, that every parent should have knowledge about information which is being gathered about children in our country. As we know, many of these Websites attach cookies, attach this technology which allows them to gather the information about children without the knowledge of those children or parents. I believe that every family should know when information is being gathered about their children.

Secondly, notice that those companies, that those individuals plan on reusing that information for purposes other than that which was originally intended by the family, by the children.

And thirdly, that the family, that the consumer, that the children, have a right to say no, that they do not want this information to be reused other than that purpose for which the family had, the children using the Internet at that time.

These provisions in this bill are very consistent with those larger principles. The Senate has included language that is nearly identical; not quite, but very close in their bill. It gives us a chance to deal with this children's issue, this privacy issue, and I would hope that the full House today would adopt the bill in its entirety.

I thank the gentleman from Louisiana (Mr. TAUZIN), chairman of the subcommittee, again for his graciousness in helping us to add that provision.

Mr. TAUZIN. Mr. Speaker, will the gentleman yield?

Mr. MARKEY. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Speaker, just to make everyone clear on the fact that the gentleman from Massachusetts (Mr. MARKEY) is the principal author of these on-line privacy provisions, and they come, as he has pointed out, with full recommendation of the FTC and many consumer and family and children's support groups around America. I have a long list.

I also wanted to add that the provisions do include a safe harbor provision which says to the industry that if they can come up with a better provision, they can submit it to the FTC, and that would be the one that would be used. That is a very good type of provision that we like to include in this type of Internet legislation.

Mr. MARKEY. Mr. Speaker, reclaiming my time, I just think it is good electronic ethics for Website operators to know that they have a responsibility to children in our country. They should obtain parental consent. And I thank all who have helped to work on that issue, the gentleman from Louisiana (Mr. TAUZIN) the gentleman from Virginia (Mr. BLILEY) the gentleman from Ohio (Mr. OXLEY). On our side, the gentleman from Michigan (Mr. DINGELL) and his staff have worked with us very closely to craft this in a way which we believe does really meet this very great concern that is rising across the country.

Mr. Speaker, I reserve the balance of my time.

Mr. TAUZIN. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. OXLEY) the principal author of the main part of this legislation which protects against pornography and children on the Net.

Mr. OXLEY. Mr. Speaker, I rise today in support of the Child On-line Protection Act and as an advocate for a child's right to explore the World Wide Web without exposure to graphic pornography.

Currently more than 60,000 Websites featuring sexually explicit and obscene material are available to unsuspecting children. While the Internet can be a positive tool for the education and entertainment of our children, it can also be a window to the dark world of pornography. Minors can readily access obscene material intentionally or unintentionally and be lured into dangerous situations. Children cannot safely learn in a virtual red light district.

Common sense and 40 years of research in the field of child development clearly demonstrate that exposure to sexually explicit material is detrimental to the healthy psychological development of children.

Current law does not prevent adult Websites from providing sexually explicit images to children. Commercial distributors of pornography offer free teaser pages to lure potential customers into viewing more. A child may innocently search for key words like "dollhouse," "toys" or "pet," and be led into numerous sexually explicit sites.

That is why COPA enjoys broad bipartisan support today, and I specifically would like to express my appreciation to my original cosponsor, the gentleman from Pennsylvania (Mr. GREENWOOD), as well as the gentleman from Virginia (Chairman BLILEY), the gentleman from Louisiana (Chairman TAUZIN) for bringing this bill to the floor today, the ranking member of my subcommittee, the gentleman from New York (Mr. MANTON), the gentleman from Massachusetts (Mr. MARKEY), who has added the protections also in the privacy side that we applaud, and the gentleman from California (Mr. COX). Their input allowed us to clarify the intent of H.R. 3783 and eliminate any vagueness.

The gentleman from Washington (Mr. WHITE) particularly deserves particular recognition for helping to refine the bill to protect Internet service providers for liability for content which they do not produce.

I also want to express my support for Chairman Bliley's addition of child privacy protection language to the bill and express my sincere thanks to the gentleman from Massachusetts (Mr. MARKEY) for his good work in this area.

Mr. Chairman, COPA employs the constitutionally tested "harmful to minors" standard recognized and upheld in Federal courts for more than 30 years. It only applied to material which is not protected speech for minors under the first amendment.

COPA requires commercial on-line pornographers to take steps to restrict children's access to adult material on the Web by requiring adult verification, such as an adult access code, PIN number, credit card numbers, or new technologies such as digital signatures when they become available.

COPA does not, and I want make this very clear, does not restrict an adult's ability to access pornographic Websites and does not apply to content with redeeming value or regulate content. The bill merely proposes that Web porn be treated in the same manner as the print media.

Unfortunately, the Web is awash in degrading smut. There are literally thousands of sites dedicated to every manner of perversion and brutality. This is nothing less than an attempt to protect childhood. I urge all Members to join us in supporting this legislation.

Mr. MARKEY. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. MANTON) coauthor of the bill.

Mr. MANTON. Mr. Speaker, I thank the gentleman from Massachusetts (Mr. MARKEY) for yielding me this time.

Mr. Speaker, I rise today in strong support of this legislation, as amended. I am proud to be a cosponsor of this bill and to urge all of my colleagues to support its passage.

The Internet is one of our society's most valuable educational tools and an exciting entertainment medium for children. It allows them to access information and learn about the world in a way no past generation has experienced. Unfortunately, it can also be a dangerous place for children who either knowingly or unwittingly stumble across pornographic material.

We can all agree that children should not have access to pornography via the Internet, but how to achieve this end while upholding the first amendment rights of adults is a delicate task. I believe the Child On-line Protection Act will go a long way toward protecting children, but do so in the least restrictive manner, ensuring the rights of adults are not compromised.

Mr. Speaker, this bill addresses a very serious problem. With estimates that close to 28,000 pornography Websites exist today, it is clear that we must act to keep such material from our children.

I would like to thank both the gentleman from Ohio (Mr. OXLEY) and the gentleman from Pennsylvania (Mr. GREENWOOD) for all of their hard work in bringing this legislation before us today.

Again, I urge my colleagues to support the Child On-line Protection Act.

Mr. TAUZIN. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. GREENWOOD).

Mr. GREENWOOD. Mr. Speaker, I thank the gentleman from Louisiana (Mr. TAUZIN) for yielding me this time.

Mr. Speaker, and I also rise to support the Child On-line Protection Act. In the Greenwood house, we have a small room. It is the playroom. And as my two little daughters, Laura and Katy, have grown up, it has been kind of fun to watch the transition of the toys in their playroom.

When we got our computer, we put it in the playroom, figuring that as time goes by and they grow, they will shift from the toys and spend more time with their studies and computers. At any given time, I can walk in the playroom and see one of my daughters on the computer and another playing with her dollhouse or maybe some of her toys inspired by Disney movies.

As the gentleman from Ohio (Mr. OXLEY) said, the terrible problem is that if my daughter sits at the computer and types in a word like "dollhouse" or "toys" or "Disney" even, she could find herself at the direct access to pornographic sites.

The Communications Decency Act was our first effort to try to stop this problem, a problem that every parent in America wants us to address. Of course that was struck down first by a circuit court in my area, Philadelphia, and then by the Supreme Court. So, we looked for a new standard, and we found the standard that meets the Court's guidelines in H.R. 3783.

The principle is very simple. The first amendment certainly protects the right of people to have any kind of literature in their adult bookstores, but it certainly does not mean that proprietors can open an adult bookstore in a mall and display their merchandise on the windows of their store visible to shoppers, including children, in the store. It is common sense. That is what this legislation does on the Web.

There are adult movie theaters, so-called adult movie theaters, where there are pornographic films, but the purveyors of those films cannot display their videos on the marquee visible to people on the sidewalk.

This legislation, by simply requiring adult access to these sites, is consistent with the first amendment rights outlined by the Supreme Court and certainly consistent with the will and the wishes of every parent, including this parent, that our children be protected from that material and that it be accessible only by adults with the correct code or Visa card.

Mr. Speaker, I urge support of the legislation.

Mr. MARKEY. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, I congratulate my colleague from Massachusetts on the privacy protections here. They are very, very important.

□ 1630

I wish they were coming up as a separate bill, because they are attached to a bill which I believe will be found unconstitutional and which ought not to be passed.

Obviously, it is important to try to protect minors from being exploited and abused and exposed to inappropriate material on the internet. But it is important to do that in a way that does not interfere with the constitutional right of adults to communicate with each other. The operative part of this bill, on page 4, says it is a crime to make any communication for commercial purposes available to any minor. That does not mean that the communication was aimed at the minor: to make it available to a minor. That means an entity is held responsible for anybody who has access to the internet.

Now, here is the problem we have. We have in this country a great deal of free speech. If we are writing or speaking or communicating ideas in a nonelectronic context, we have more freedom in America than in any other country. But we began in the 1930s, because of the limited radio spectrum, a second doctrine on freedom of expression. Freedom of expression does not fully apply, we said, if it is electronically communicated. Well, the courts are no longer maintaining that strict definition, because the basis, the limited spectrum, the notion of the public interest, does not quite control.

We are in danger now of having two separate standards because, clearly, this standard where we would be committing a crime if we made any communication for commercial purposes available to a minor, that was harmful to a minor, that would not obviously even be offered for a newspaper, for a magazine or for a book. And the notion that we should give a lesser standard of constitutional protection for freedom of expression because it is electronically communicated is not only mistaken, but given that we will increasingly communicate with each other electronically, it will erode our freedom.

In the definition of harmful to a minor it says obscenity or another category. This bill specifically says it regulates nonobscene material if the material appeals on the whole to prurient interests. And, again, it does not only deal with material aimed at minors. If we put something on the web that is not obscene, and it has an appeal to prurient interests and is then judged harmful to minors, we can be guilty of a crime. This will further erode the notion of freedom of speech.

So I welcome the privacy protections here, and I understand the importance of trying to protect children, but doing it in a way that says, and let me be very clear that this is what this says, nonobscene material that is constitutionally protected, because the bill explicitly says it is banning obscene material and nonobscene material if it is harmful to minors. If we put that on the web and a minor sees it, we can be criminally liable even if we were not even making any efforts to try to aim it at the minor.

This is far too broad. I believe it will be held unconstitutional. That is why the Justice Department asked us to hold off. I think it would be a grave error to do this today.

Mr. TAUZIN. Mr. Speaker, I yield myself such time as I may consume just to respond.

First of all, I want to point out that the harmful to minor standard was upheld in 1969 by the Supreme Court itself and that 48 States have such standards in their State laws. Five circuit courts have already examined those and approved those as constitutional, and that is the standard used in this bill.

Secondly, I would point out that the owners and producers of these sites are liable only if they are commercial operators who do not put in filtering devices where parents can say yes or no. If in fact the filtering device is in place, and the parents say it is okay for our children to see this stuff, so be it. It simply requires, if someone is going to go into the commercial business of putting material that is harmful to minors under that Supreme Court standard on the internet, that that material must contain a filtering device so that parents have the ability to say yes or no.

That is the sum and substance of the bill. And, again, I would urge its adoption.

Mr. Speaker, I yield 1 minute to the gentleman from Washington State (Mr. WHITE).

Mr. WHITE. Mr. Speaker, I have four children, they are 14, 12, 9 and 7. They use the internet all the time. And I can tell my colleagues we do have a real problem in terms of their access to pornography that might exist on the internet.

I would also say, however, that a law is not always the best way to solve these problems. And I think we know our laws do not apply in Amsterdam. They sometimes breed a false sense of security. And, even worse, they sometimes lock us into the wrong technology, technology that is obsolete and will not do as good a job as technology that might come along in the future.

So I think it is no secret to my friends on the committee that I would have preferred to wait a year to let the technology community really give us their input on this bill. The committee felt otherwise, and I know many of my colleagues feel otherwise. And, frankly, working together, we have produced a very good bill.

The main improvement that I see in this bill, and one that we should focus on, is we call for a commission made up of 16 members from the technology community and 3 members of government who will report to us in 1 year as to whether this is the best way to solve this problem, or whether there are other technologies out there that we are not aware of that might do a better job of helping us solve this problem.

So with that improvement, I think this bill is a good bill, deserves our support, and I urge my colleagues to vote for it.

Mr. TAUZIN. Mr. Speaker, may I inquire of the time remaining?

The SPEAKER pro tempore (Mr. NEY). The gentleman from Louisiana (Mr. TAUZIN) has 9 minutes remaining; and the gentleman from Massachusetts (Mr. MARKEY) has 8 minutes remaining.

Mr. MARKEY. Mr. Speaker, I yield 3½ minutes to the gentlewoman from Texas (Ms. SHEILA JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman for yielding me this time and I rise vigorously to support this legislation. And, Mr. Speaker, I want to thank the gentleman from Pennsylvania (Mr. GREENWOOD), the gentleman from Ohio (Mr. OXLEY), the gentleman from New York (Mr. MANTON), the gentleman from Massachusetts (Mr. MARKEY), the gentleman from Louisiana (Mr. TAUZIN), the gentleman from Virginia (Mr. BLILEY), and as well the gentleman from Michigan (Mr. DINGELL).

This legislation did not come through the House Committee on the Judiciary, but I think that we can always consider ways to ensure its constitutionality. My real concern is the children of America. As a chair of the Congressional Children's Caucus, and one who has interacted frequently in my local community as a former city council member, recognizing the vital role that computers play and the internet plays in schools, in churches, in homes, and in libraries, and our children are in all those places, it is for that very reason I do not believe this legislation sets the bar too high to protect our children.

Frankly, it is tragic that we have to even do this, because this is good technology. The internet and the online services are good technology. I know that we were together 1 or 2 years ago in the telecommunications conference where we tried the v-chip, and we know what happened with that, but we are back here trying to do it the right way on the internet, and the internet does have a free flow in reaching our children.

I am particularly gratified for the leadership of the gentleman from Massachusetts on some very vital points as to parents. Parents, listen to this, for information is always gathered about our children. But with the children's privacy provision it is important to realize that parents must have knowledge about the gathering of this material, even if it is a toy company trying to find out what our children like to play with. Then, the notice must be given of the company's or the user's or the gatherer's use of that material. And then, as well, if it is not comporting with what the parents originally thought it was going to be used for, the gathering of that material, the parent, the child, can say no. I think that we are at a point in this country where that is a responsible way to go.

As a member of the Subcommittee on Crime of the Committee on the Judiciary, I can assure my colleagues that solicitation of children over the internet is a growing problem, pornography on the internet is a growing problem, and children's access to the internet is a growing problem in contrast to what they are receiving. So I do not think we can finish this session of Congress without getting a bill out of the House that emphasizes the importance of keeping children away from pornographic issues or pornographic material, obscene materials, on the internet and, likewise, protecting them.

So I would simply extend my thanks for providing us with a framework within which we can work. Let the parents of America recognize that we are giving them a tool reasonably grounded in the constitutional right to privacy and the first amendment, and I know we can work on it additionally.

I see my good friend from Louisiana standing, and there were some points made on this issue dealing with the Constitution. I know we are working very hard, because the computer industry or the internet providers are a powerful group, and I hope that they respect what the FCC has done in working with the gentleman. We are going to be reasonable about the amendment.

Mr. TAUZIN. Mr. Speaker, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Speaker, first, let me commend the gentlewoman for an excellent statement and, indeed, to confirm her statement. We have been very careful about using the language that the courts have already approved on the standard, the one approved by the Supreme Court. We have crafted the bill so that it applies only to commercial sites and not to ordinary speakers.

Ms. JACKSON-LEE of Texas. Mr. Speaker, reclaiming my time, I thank the gentleman for the time and for an excellent piece of legislation.

Mr. Speaker, thank you for the opportunity to speak on this bill this morning. The Child Online Protection Act will require operators of commercial adult World Wide Web sites to protect our children from exposure to pornographic materials.

The Internet was designed by innovators, visionaries in the scientific and academic community to expand our horizons, to help us learn about each other and to have simple access to new information, ideas and data. The net has now moved far beyond an educational tool and has become a global phenomenon of communication and commerce. Although the Web can be a fantastic vehicle for enriching our lives, we must also keep unwanted sexual imagery and pornography from invading our children's lives.

I support this bill in that it requires the operators of commercial adult sites to act responsibly in taking steps to restrict children's access to pornographic sites. This bill does not restrict an adults' right to access adult material on the net, it simply requires that users have a verified credit card number or adult personal identification number to access adult materials.

Protecting our children from pornography is a challenge, but as a parent and as Chair of the Congressional Children's Caucus, we must make every effort to do so.

Mr. TAUZIN. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. PITTS).

Mr. PITTS. Mr. Speaker, I rise in strong support of the Child Online Protection Act. It is our duty to protect America's children from online pornographers.

Kids in America know computers. They are being raised in an age where information is at their fingertips; at the flip of a switch or at the click of a mouse. While internet access is an incredible enhancer of learning, our kids are also put in danger of exposure to pornographic materials.

The Child Online Protection Act would require operators of commercial adult worldwide web sites to take steps to restrict children's access to pornographic materials. Opponents of this bill will claim that we are attempting to federally sensor the internet. This is simply not true. In fact, the legislation specifically states that it must not be construed to authorize the FCC to regulate in any manner the content of any information provided on the worldwide web. The bill simply requires commercial providers to place materials that are harmful to minors on the other side of adult verification technology.

Let us protect our children, let us make the internet more family friendly by passing the Child Online Protection Act today.

Mr. MARKEY. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, as I read this, I do not believe filtering equipment would be a complete affirmative defense, as I read the line about affirmative defenses. But I then had a question. It says material that is harmful to minors, and I gather in a picture or text that would be describing sex and would appeal to prurient interests.

A question would be if a commercial entity took the Starr report, which was not copyrighted, and put it out on the web as part of their business-making enterprise, would a commercial business that put the Starr report out on the web and did not restrict it with filtering information, would that commercial enterprise be subject to a penalty under this bill?

Mr. OXLEY. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Ohio.

Mr. OXLEY. Mr. Speaker, I thank the gentleman. The answer is no. Because the harmful to minors, as has been interpreted by the courts, it defines harmful to minors as not covering content which, taken as a whole, has serious literary, artistic, political or scientific value. And I think it is pretty clear this has political content.

Mr. FRANK of Massachusetts. Reclaiming my time, Mr. Speaker, if the gentleman is talking about the Starr report, I guess maybe he is right. It certainly does not have any literary value or scientific value or artistic value. But from the standpoint of his party, it has political value, so maybe it would get off.

Mr. OXLEY. The gentleman can interpret it however he wants.

Mr. MARKEY. Mr. Speaker, I yield back the balance of my time.

Mr. TAUZIN. Mr. Speaker, I yield 1 minute to the gentlewoman from New Mexico (Mrs. WILSON).

Mrs. WILSON. Mr. Speaker, I rise in support of this bill, and I appreciate this bill for a number of reasons. In my view it is really the brown paper wrapper approach to the internet, where technology has really exceeded our ability as parents to protect our children from things that we would like to protect them from.

By making commercial sale against the law in the internet without age verification, we are really doing no more than is required by most Circle K's or convenience stores, and I think that that is the right way to approach it.

I also appreciate that this bill includes studies on filtering and other methods, like zoning, that may be able to help parents and help schools without prescribing an answer before we know what the technology is capable of.

☐ 1645

I think that that is also a rational approach to solving this problem. I appreciate the amendment that protects personal information of children online. As a parent, I understand the strengths and benefits of the Internet.

But it also has the potential to exceed our ability as parents to control the access of our children to things that they may not even know they are accessing.

Let us give ourselves another tool. Let us give ourselves that electronic brown paper wrapper.

Mr. TAUZIN. Mr. Speaker, I yield myself such time as I may consume. I want to point out that the gentleman from Washington (Mr. WHITE) and I have authored a bill that codifies in law the concept of forbearance of regulating the Internet. The FCC has voluntarily forborne any regulations of the Internet and we think that is proper. The bill we have offered indicates that the FCC should continue in that forbearance but that where and if areas of concern arise, such as this area of harmfulness to minors, that the Congress itself should make the decisions about how and where the Internet should be affected by any such restrictions or regulations. It is for that reason that we think this bill is very much in line with the concept of the White bill that we have earlier offered and which we will try to pursue passage in a future Congress.

The concept again is that the Internet should be as free and open as possible. Otherwise, it cannot be the place where free expression under the first amendment is fully utilized as we all want it to be. But where areas exist, such as in this area of harmfulness to minors or areas where minors' information is being taken from them without parental consent, this is the area where Congress itself should express those areas of concern and come up with solutions. This bill is an honest attempt to do that.

Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Mr. Speaker, I rise today in support of H.R. 3783. I believe it is fundamentally important that as the representatives of our Nation, we do everything we can to protect our children from the detrimental effects of pornography reaching their eyes.

This bill as it is is tailored to withstand the legal requirements established by the Supreme Court when it struck down the Communications Decency Act. The bill uses the constitutionally defensible "harmful to minors" standard rather than the constitutionally questionable "decency" standard. The bill prohibits businesses from selling or transferring through the Internet material that is harmful to minors. Businesses would be in compliance of the law and not liable to prosecution if they adhere to some "affirmative defenses" in the conduct of their businesses. An example of an affirmative defense for a company would be requiring the use of a credit card, debit account or some type of "adult access code."

This is an integral bill that will be good for the Nation. I urge my colleagues' support.

Mr. BLILEY. Mr. Speaker, as the Commerce Committee has learned during the course of the 105th Congress, the Internet, and consequently, electronic commerce, will only continue to develop if it is safe, secure, and private. H.R. 3783 addresses the "safety" of the Internet and provides an effective means to help protect children online.

Pronography is widely available on the Internet. According to Wired Magazine, there are approximately 28,000 adult Web sites promoting pornography and these sites generate close to $925 million in revenues. While adults have a right to view this material, parents, educators, and civic groups agree that exposure to pornography is not appropriate for minors. Forty-eight States agree with this assessment and have adopted "harmful to minor" statutes.

Whether these States require porn to be sold behind the counter at a drug store, on blinder racks at a convenient store, or in a shrink wrap at a news stand, each of them recognizes the proper role government can play to help restrict a child's access to inappropriate material. The purpose of H.R. 3783 is to extend those protections in cyberspace by restricting the sale of material harmful to minors over the World Wide Web.

Most opponents of legislation continue to argue that adult verification systems are not fool proof and that industry needs more time to come up with effective solutions. On the one hand, I agree that no solution is perfect, not even requiring the sale of pornography behind the counter at a drug store. On the other hand, delaying for another year does nothing to help the parents and educators today.

We can continue to debate the effectiveness of filtering software, rating systems, and adult domain name zoning, but none of these solutions apply the necessary burden on the appropriate industry, that is, the adult entertainment industry. I applaud the efforts of the software industry to develop filtering software and other technological solutions, but the law should impose duties on the source of the problem, not the victims.

H.R. 3783 does not "burn the house to roast the pig." Adults may still view any materials on the Internet they wish, with minimal inconvenience, and engage in adult conversations in chat rooms, e-mails, and bulletin board services. Thus, H.R. 3783 strikes the appropriate balance between the first amendment rights of adults and the government's compelling interest to protect children.

The amendment we are considering today also contains privacy protections for kids. These provisions generally prohibit businesses from collecting personal information from a child online without the parent's consent.

Legislation will not solve all the problems. Parents, educators, and industry must continue to play a role to ensure that kids are protected online.

I thank Mr. OXLEY and Mr. GREENWOOD for their leadership and Mr. TAUZIN for helping to move the bill along.

Mr. DINGELL. Mr. Speaker, we are attempting to accomplish a laudable goal in this legislation. Parents are clamoring for ways to protect their kids from the onslaught of pornographic material on the Internet, and Congress has a responsibility to assist them in whatever ways it can. However, we have been down this road before, and our most recent attempt was met with a resounding rebuke from the Supreme Court. The Communications Decency Act was declared unconstitutional by a unanimous vote, and I harbor serious concerns that this bill will meet the same fate.

While the notion of regulating materials which are deemed "harmful to minors" sounds appealing, it raises many practical concerns. Who decides what materials are "harmful to minors?" Should the standard be community-based, or national? If local judgments about the suitability of materials differ around the country, how can a global medium such as the Internet respond to these different views? For example, will the Internet sale of mainstream movies and sound recordings be subject to the most conservative community's view of what is harmful to minors, exposing itself to civil and criminal penalties in the process? If a chill is placed on the sale of these materials, what will be the practical effect on the growth of electronic commerce?

These questions and many more should be addressed before we rush to adopt an easy fix to a complex problem. The Supreme Court is likely to force Congress's hand on these matters, and reiterate its demand for a more thorough evaluation if and when this legislation is enacted.

Mr. PITTS. Mr. Speaker, I rise in strong support of the Child Online Protection Act.

It is our duty to protect America's children from online pornographers.

Kids in America know computers. They are being raised in an age where information is at their fingertips at the flip of a switch and a click of the mouse.

While Internet access is an incredible enhancer of learning, our kids are also put in danger of exposure to pornographic materials.

The Child Online Protection Act would require operators of commercial adult World Wide Web sites to take steps to restrict children's access to pornographic materials.

Opponents of this bill will claim that we are attempting to federally censor the Internet. This is simply not true. The bill simply requires commercial providers to place materials that are "harmful to minors" on the other side of adult verification technology.

Let's protect our children and make the Internet more family friendly by passing the Child Online Protection Act today.

Mr. TAUZIN. Mr. Speaker, I again want to thank the gentleman from Ohio (Mr. OXLEY) the principal author of the bill and the gentleman from Massachusetts (Mr. MARKEY) who has indeed improved it so much with the privacy provisions.

Mr. Speaker, I have no additional requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. NEY). The question is on the motion offered by the gentleman from Louisiana (Mr. TAUZIN) that the House suspend the rules and pass the bill, H.R. 3783, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A Bill to amend the Communications Act of 1934 to require persons who are engaged in the business of distributing, by means of the World Wide Web, material that is harmful to minors to restrict access to such material by minors, and for other purposes.".

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed bills of the following titles in which the concurrence of the House is requested:

S. 505. An act to amend the provisions of title 17, United States Code, with respect to the duration of copyright, and for other purposes.

S. 2561. An act to amend the Fair Credit Reporting Act with respect to furnishing and using consumer reports for employment purposes.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 4104, TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1999

Mr. McINNIS, from the Committee on Rules, submitted a privileged report (Rept. No. 105–790) on the resolution (H. Res. 579) waiving points of order against the conference report to accompany the bill (H.R. 4104) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1999, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 131, WAIVING ENROLLMENT REQUIREMENTS FOR REMAINDER OF 105TH CONGRESS WITH RESPECT TO ANY BILL OR JOINT RESOLUTION MAKING GENERAL OR CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1999

Mr. McINNIS, from the Committee on Rules, submitted a privileged report (Rept. No. 105–791) on the resolution (H. Res. 580) providing for consideration of the joint resolution (H.J. Res. 131) waiving certain enrollment requirements for the remainder of the One Hundred Fifth Congress with respect to any bill or joint resolution making general or continuing appropriations for fiscal year 1999, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT REGARDING LEGISLATION TO BE CONSIDERED UNDER SUSPENSION OF THE RULES TODAY

Mr. McINNIS. Mr. Speaker, pursuant to House Resolution 575, I announce the following suspension to be considered today:

S. 505.

CONFERENCE REPORT ON H.R. 4104, TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1999

Mr. McINNIS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 579 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 579

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 4104) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1999, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore. The gentleman from Colorado (Mr. McINNIS) is recognized for 1 hour.

Mr. McINNIS. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MOAKLEY), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, the proposed rule for the conference report to accompany H.R. 4104, the Treasury, Postal Service, and General Government Appropriations bill for fiscal year 1999 waives all points of order against the conference report and against its consideration. The rule provides that the conference report will be considered as read.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I thank my very dear friend and my colleague from Colorado (Mr. McINNIS) for yielding me the customary half-hour, and I yield myself such time as I may consume.

Mr. Speaker, I urge my colleagues to oppose this rule and oppose the conference report. I realize we are nearing the end of our session and I understand that tempers are growing very short, but I am also very disappointed to hear that my Republican colleagues on the Treasury-Postal conference committee have deleted some Democrat-supported provisions, and it appears that they did so without any Democratic participation.

As late as yesterday afternoon, discussions between Democrat and Republican conferees were ongoing and all indications were that the conference report would pass with a bipartisan majority. But this morning without so much as a notice of meeting, my Democratic colleagues learned that these Democratic provisions had been taken out of the bill. Although these provisions were included in the first conference report this morning, they were removed and as a result not one Democrat has signed their name to this conference report.

Mr. Speaker, this conference report gives new meaning to the term "martial law." Some of the provisions that have been removed include the provision of the gentlewoman from Florida (Mrs. MEEK) that Haitian immigrants be given the same protections as the Cuban and Nicaraguan immigrants; the provision of the gentlewoman from New York (Mrs. LOWEY); and the provision requiring standards for Federal child care facilities.

We may also hear that the provision firing the FEC general counsel has been removed. But the assumption is that it may not be dead but may be resurrected not in this bill but in the continuing resolution. In case my colleagues do not remember, this is the reason firing someone for investigating the Christian Coalition and GOPAC, along with a lot of Democratic organizations and candidates.

Mr. Speaker, regardless of which organization supports which party, if the FEC is not free to investigate who it will, when it will, our entire electoral system will suffer.

I urge my colleagues to oppose this rule and oppose this conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume. First of all I need to correct the statement made by my good friend the gentleman from Massachusetts (Mr. MOAKLEY). The statement if I recall correctly from the record here a couple of minutes ago was that there had not been a Democrat who had signed the conference report. In fact Senator BYRD has signed the conference report. I know that this has just come up. I just wanted to bring that to the gentleman's attention. Obviously we are not going to have the perfect bill. We went through this on some other legislation the other night. We had extensive debate on this bill. We have gone out, we have talked with our colleagues, we have worked with our colleagues on both sides of the aisle and determined what needs to happen with this bill so that this Congress can conclude its business for the American people and move on. We came up with several elements. Those are going to be described in some detail by the gentleman from Arizona whom I intend to yield to here in just a couple of minutes. But the point here is this was a compromise. There were Democrats involved in this. Obviously the rule I think today will pass with bipartisan support. I hope it passes with bipartisan support because this bill deserves bipartisan support because it is built on a bipartisan structure.

The other day there were strong objections made by the other side. Frankly we looked at some of those objections and we have refined this bill so that we address in a fair manner those objections. Another point that I think we need to make. We have had some sacrifice on this side of the aisle. My colleague the gentleman from Florida (Mr. DIAZ-BALART) is very, very disappointed. He is very upset about this. I just spent the last 15 minutes trying to calm him down on the Haitian issue. I do not know anybody who has been more ardent in their support or have voiced their expressions on a more regular basis on this House floor in support of these Haitians. But that Haitian provision had to be dropped. That is the only way we could pick up those votes. He is very upset. He keeps standing up for the Haitians. I admire that position. But the fact is we have got to get these votes. We have got to move this bill. Ninety-nine percent of the content of this bill I think satisfies a lot of people. But we are never going to have the perfect bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona (Mr. KOLBE).

Mr. KOLBE. Mr. Speaker, I thank the gentleman for yielding time. I rise in strong support of this rule. The gentleman from Colorado and I were here the other night. The outcome was not a very good one. I hope today that we will have a better outcome to the rule for this conference report.

Let me say a little bit about why I do support this conference report. I guess maybe it sounds a little bit like a Government 101 lecture, and I apologize if it seems that way. I think we have to face some of the realities. The reality is that to get a conference report adopted and to the President for signature, you have to do two things: You have to get it out of the conference, and that means getting a majority of Democrats and Republicans on the conference to sign a conference report. The second thing you have to do is to get it passed in both houses. The only way we can do that is with the bill that we have here this afternoon.

Now, there are provisions in here that are very controversial and some that I strongly supported. Let me just deal with the four issues that are different from where we were the other night when we got only 106 votes for the rule, with only 17 votes from the minority side of the aisle to support a rule that had in it things that they said they strongly, strongly supported. One of those was expanding contraceptive coverage for Federal employees covered by Federal health programs. That expansion of coverage is something that passed here in the House, it passed in the Senate, but they were very, very different provisions and they were very, very controversial. Members will remember the controversy we had when that occurred on the floor of the House. It caused a tremendous weight to be added to this bill. It was very difficult for us to deal with those who oppose this kind of expansion of contraceptive coverage for Federal employees. I happen to believe we should have it. But I also have a responsibility to the 165,000 Federal employees that are covered by this who would be out of work this weekend if we do not have the conference report signed.

The second is the Haiti Refugee Assistance Act. Now, this is also very controversial. There is bipartisan support for this from Republicans and Democrats in Florida and opposition to it from people on both sides of the aisle. It is a provision which clearly does not belong on this bill. It is not even vaguely related to the Treasury-Postal bill. If this is very important, it is an issue which can be addressed again in the ongoing discussions about the omnibus spending bill which will cover those bills that we cannot get passed on the floor, those conference reports that we cannot get adopted. This provision can be addressed in that bill.

□ 1700

The third thing is the day care provision, a whole title that was added by the Senate. Some people are very strongly supportive on this side of the aisle, but there are some jurisdictional problems about this provision. There are issues about day care that those chairmen of those subcommittees of jurisdiction had real questions about, and it was controversial.

And finally there was the FEC provision, the appointment authority for the General Counsel of the FEC, a highly controversial provision that had been added because some people on this side of the aisle believed that the general counsel of the FEC has been patently unfair in the kinds of rulings that he has given, and because there is no provision right now for getting rid of that individual. He is there literally until retirement because they cannot get votes to get rid of this person. So there was a provision to provide for an appointment authority for the general counsel.

Now those four provisions, Mr. Speaker, are the provisions that are being dropped out of this bill. We could not get this bill to the floor without taking those out.

Now I begged, I pleaded, with my colleagues on the other side of the aisle the other night to support that rule. Three of those provisions: those dealing with day care, with the Haiti refugee assistance and with the contraceptive coverage, were strongly supported by most or many and most of the Members on the other side of the aisle. The other issue, on dealing with the FEC, was not, but they made it clear that three out of four was not good enough. It had to be four out of four.

Mr. Speaker, I cannot get the bill to the floor, and we cannot pass this bill with that. As my colleague, my ranking member from the other side, has said time and again, this is a good bill. It provides for good money for law enforcement, to increase the amount of money we have for drug interdiction for our Customs agents, it increases the flying hours for the black hawks. This is good law enforcement provisions in this bill. This is a good bill that covers the IRS reforms that we passed by wide margins in this Congress just a few months ago, to implement those reforms and get us moving forward with an IRS that is more user friendly.

This is legislation that we need, and, Mr. Speaker, we need to pass this bill tonight. So we have dealt with this in a fair way. We have said we will take out all of the provisions that are controversial, and all four of the provisions that are in this bill that were controversial have been taken out.

So what we have now is a bill that does, as it should do, an appropriation bill that deals with appropriations, that funds the agencies it says it is going to fund, that funds the agencies it should fund. And that is what this bill does, and it deserves the strong support, this rule deserves the support of this body, this conference report deserves the support, and I urge my colleagues to vote for it.

Mr. MOAKLEY. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin (Mr. OBEY) the ranking minority member on the Committee on Appropriations.

Mr. OBEY. Mr. Speaker, I hope that we are not about to spend another couple of fruitless hours. Excuse me, but I have laryngitis, so probably everybody will be happy about that. But the gentleman from Colorado (Mr. MCINNIS) is nodding yes.

Mr. Speaker, I want to put this bill in the context of what is happening to the budget in this end-of-the-session snarl that we always appear to get in.

Last Friday Senator BYRD was told by Senator STEVENS that the process which the majority party would like to follow is as follows: He was told that by Friday the Republican majority would have laid out for all of the bills that were still unsigned, they would lay out what the approximate wishes of the majority party would be on those bills, what the bills would look like if the majority party could write them. They then wanted us to take that paper and come back to them with our honest response about what our differences were that would have to be resolved in order for us to get signed bills, and they were hoping that we would have no more than 10 objections to each bill. We have gotten some information since that time, but we still frankly feel that the basic Johnnie Higgins work has not been done, the basic nitty-gritty work has not been done, in a number of these bills so that we know exactly what it is the majority wants to do. And I think one of the reasons for that is because there is a huge chasm between what the majority wants to do in the Senate and what the majority wants to do in the House. And so we still, even at the staff level, do not have a complete understanding of what it is that the Republican party would like to see on each of the bills in dispute.

What we desperately need, if we are going to finish our work, is a complete understanding of where the majority party wants to go on these bills so that we can then sit down, have a clear understanding of what the differences are and work our way towards resolution of those differences.

So it has been a very frustrating 2 days.

In the midst of that this bill which fell in a heap a week ago because of unilateral judgments on the part of the majority, this bill is now back once again being brought here by unilateral judgments on the part of the majority, and what they have essentially done is to get rid of a number of provisions which had bipartisan support in the House, and now they are going to try to pass the bill with only Republican votes. Well, they can do that if they want, and they may even be able to pass it with only Republican votes, but the fact is that the other remaining issues still remain and this bill will not be finally disposed of until those issues are addressed. The gentleman from Maryland (Mr. HOYER) will in more detail get into the matter of what these amendments are.

But it simply seems to me that yesterday we offered the majority this proposition. We said, "If you drop one of the items that is causing so much controversy and has no bipartisan support, if you drop the item that we feel would gag the ability of the FEC to enforce the law on elections, we would provide the lion's share of our votes in the caucus, and we could easily pass the bill." Instead of continuing to pursue a bipartisan approach, the majority party has decided that they are going to take unilateral action to once again try to ram this bill through.

All this action does is further delay our ability to resolve the differences between us. It is not the kind of negotiating posture that I would expect from a majority party that tells the press every hour on the hour that they want to get out of here by Saturday. If you want to get out of here by Saturday, they ought to start negotiating like they want to get out of here by Saturday rather than negotiating like they think they have got the next 2 or 3 months to be around here, or we will be around here for the next 2 or 3 months.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

Obviously I take issue with some of the comments made by the previous speaker about the majority going out there and speaking to the press. Frankly, we have not had much time to speak to the media. We have been up there in the conference room trying to work out a compromise.

Now last week that very gentleman stood up here and talked about a provision that was offensive to some Democrats over there. They could deliver those votes if that offensive, as they put it, provision was dropped, and it was. Now today it is a different trail, it is a different direction, it is a different path. As my colleagues know, I do not know which way they are going to travel.

And the comments at the end just are taking a cheap shot at the Republicans. As my colleagues know, it is time to put that partisan stuff aside. We are in the final days, and the only way we are going to resolve this is to quit playing that partisan stuff and come together in a compromise.

In addition to my comments, I yield 1 minute to the gentleman from Arizona (Mr. KOLBE) because I would like him to address these comments that are totally out of line in my opinion.

Mr. KOLBE. Mr. Speaker, I appreciate the gentleman yielding this time to me, and it will not take me more than 1 minute.

As I listened to the gentleman from Wisconsin and his comments, it is correct that yesterday there was a suggestion of an offer of a deal that might be made, and it was to drop out the one provision that we do not like in there, and keep the other three that we do like.

So, Mr. Speaker, the offer was:

What's mine is mine, what's yours is also mine.

That is basically it. It is four out of four. We have got four provisions in there, three we really like, one we do not like. We have to be given the fourth one. That is their idea of a compromise. It is like moving the goalposts all the time.

Now we have got a provision here, a bill on the floor, where we have dropped out that one that was so controversial last week and that caused most of the Democrats to vote against it. But that is not enough, there has to be something else. So they always keep moving the markers, and we have to pass a bill, we do have to get out here, and we have to get our job done, and we are going to pass this bill.

Mr. Speaker, it is a good bill. As my colleague from Maryland has said, it is a good bill which provides for good money for law enforcement, and we should pass this bill.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentlewoman from Florida (Mrs. MEEK), my dear friend.

Mrs. MEEK of Florida. Mr. Speaker, I thank the gentleman from Massachusetts for yielding this time to me, and I rise today in strong opposition to the rule, and it is a very strong and hurtful opposition to the rule because I am a member of the Subcommittee on Treasury, Postal Service, and General Government, and under the leadership of our chairman we had a very good year. We worked very hard together, and also the Chairman and the gentleman from Maryland (Mr. HOYER) worked very well together. But at the very end it appears that things have come up that caused this bill to be objectionable to me.

The revised conference report shows that once again the House leadership is abandoning the Haitians. The revised conference report continues a policy of discriminating against Haitians. Many of my constituents are worried about the treatment that the Haitians have gotten. It has been unfair, it has shown that some Central Americans and some others like the Nicaraguans have been given one treatment and the Haitians the other. It is not a fair yardstick.

Do we want to deport 40,000 Haitians back to Haiti after this country has allowed them to come in and to have a chance to get green cards and work in this country? In my district Haitians live in the same neighborhood as the Cubans and the Nicaraguans, which this Congress saw fit to give them a chance to get their green cards. Can my colleagues imagine that neighbors living next door to each other, one can receive a green card and another one cannot? We should not have abandoned that in this rule.

Let me give my colleagues just a short bit of history on this matter:

Last fall the Senate added to the Fiscal Year 1998 District of Columbia appropriations a bill giving permanent green cards to all Nicaraguans and Cuban immigrants who were in this country at the end of 1995. This provision helped more than 150,000 people. That provision was added on the Senate floor without any Senate hearings. The House accepted the Senate provision on Cubans and Nicaraguans, but they would not accept any provision on the Haitians. The Senate then realized it had failed to help Haitian immigrants who had fled a terror similar to the terror of the Civil War in Nicaragua, so last November Senator GRAMM and Senator MACK introduced a bill to correct this unintentional omission. This bill moved quickly through the Senate. It is only the House where there seems to be some real strong reason why there has to be this unfairness to Haitians. The Senate Judiciary Committee held a hearing, and then they approved the bill with minor changes. Then it came back to the House, and again the House stood in the schoolhouse door, as George Wallace used to do years ago, and now we need to show in terms of this conference report Haitian children are being devastated by this, they are here in this country.

And I want to say, Mr. Speaker, this rule should go down. There are many other elements, but the Haitian issue is one that I ask my colleagues' consideration to kill this.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I might consume.

I listened to the gentlewoman from Florida and tell my colleagues that our colleague, the gentleman from Florida (Mr. DIAZ-BALART), is extremely disappointed as well on the Haitian issue, and that is understandable. But we cannot get the votes in here and give everybody what they want. I mean when we give one group what they want, then another group is mad. We are trying to come up with a compromise so that we can get on with the Nation's business.

□ 1715

The compromise will satisfy the most pressing needs which this bill does. The compromise will satisfy enough votes to secure the votes necessary to pass this bill, which this bill does, and so all of us are going to have to come to the table.

So I appreciate the comments, and I appreciate the comments of my colleague, the gentleman from Florida, (Mr. DIAZ-BALART), who stood up relentlessly for the Haitian issue. But the fact is we have to come to a compromise.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield 4 minutes to the gentlewoman from New York (Mrs. LOWEY).

Mrs. LOWEY. Mr. Speaker, I rise in strong opposition to this undemocratic rule and this conference report. I appreciate the openness and honesty of the gentleman from Arizona (Chairman KOLBE), and I appreciate the work that the gentleman from Arizona (Chairman KOLBE) and my colleague the gentleman from Maryland (Mr. HOYER) has put into this bill.

It is really a shame that this bill, which in many ways is a good bill, had to end in this way. Frankly, to me, it is amazing, and I hope the American people are watching this, contraceptives may be controversial in this body in the Republican Congress, but not for the majority of women in this country who want to end and prevent unintended pregnancies, who want to reduce abortions in this country. Contraceptives is not controversial for the majority of American women.

I truly am outraged, my colleagues, at the Republican conference for stripping from this conference report my amendment to provide contraceptive coverage to Federal employees. A majority of this House supported this provision twice, not once, but twice. It passed unanimously in the Senate by voice vote. But at every turn, the House leadership has tried it kill it.

If we pass this conference report, the leadership of this Congress is telling American women once again that their basic health care does not matter to this Congress, that it does not matter to the Republican leadership. Killing this basic women's health provision was a back-door way to overturn the will of the majority in Congress.

This truly is an insult to all 224 Members of the House Republicans and Democrats, pro-choice, pro-life who voted for my amendment. It is an insult to every Senator.

The Republican leadership truly should be ashamed of themselves. They have stomped all over democracy today. The women of America, my colleagues, are going to see right through this sham, and those responsible for stripping through this provision I think will regret it.

I only hope that the Members of the Republican conference who are such champions of this issue when it passed the House in July will see through the political games of the leadership and vote with us to bring down this rule and bring down this bill.

I cannot stress enough, my colleagues, how critical this basic women's health provision is to the women of America. It will take us a huge step forward in our efforts to improve women's health, prevent unintended pregnancies, and reduce the number of abortions.

With more than 2 million employees, the Federal Government is the Nation's largest employer. Approximately 1.2 million women of child-bearing age are beneficiaries in the Federal Employees Health Benefits program. Currently over 80 percent of Federal health plans do not cover the full range of FDA approved contraceptives used by women, and 10 percent of FEHB plans offer no coverage of contraceptives at all.

Women pay 68 percent more in out-of-pocket health care costs than men. This provision will have reduced that gender gap in insurance coverage. With this vote, my colleagues, we will see who in this House will stand up with the women of America, who will stand up with right wing extremists that want to regulate every aspect of women's health, and we will see who in this House has respect for the democratic process and the will of the majority.

I urge my colleagues to vote against this rule, vote against this bill, and vote for basic women's health care that was supported by the majority of this House. That is the democratic way, small "d."

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am a little surprised by the previous comments. Obviously I guess the definition of a border is a line drawn in the sand to see how close you can get to it without going to the other side.

I think that civility, when you talk about the leadership should be ashamed of themselves, that is not necessary. The leadership here on both sides of the aisle have been working very hard, and they are going to have some pretty intense hours here in the next few days to come to some kind of compromise. I do not think we ought to take cheap shots about saying leadership should be ashamed with themselves.

Furthermore, I have been involved in working in the Committee on Rules and so on, and I have not seen any so-called right wing extremists, which again questions on civility, jumping out and making demands.

The fact is, to my colleague, she did not deliver the votes. She voted yes the other day on the rule. I carried the rule. We lost that rule by a majority.

The issue here is not whether there are right wing extremists. I have not discovered them in this body. The issue is not whether or not the leadership ought to be ashamed of themselves.

The fact is, for the majority of this bill, can we satisfy most concerns on the floor? The answer is yes. We cannot satisfy the gentlewoman's. The gentleman from Florida (Mr. DIAZ-BALART) has got a problem for the Haitians. But can we deliver the votes on the compromise on a bill that is mostly good? The answer is yes.

Mr. Speaker, I reserve the balance of my time.

Ms. LOWEY. Mr. Speaker, will the gentleman yield?

Mr. McINNIS. Mr. Speaker, the gentlewoman has more time on her side than I do on mine. I think the gentleman from Massachusetts (Mr. MOAKLEY) will yield to her. If not, I would be happy at some point towards the end to yield to the gentlewoman when I know I have time.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I feel like asking this body to wake me up when this is all over. Wake me up when you finish choosing what kind of contraception female Federal employees ought to use. The good faith of this body, indeed the sacred vote of this body and of the Senate is at stake.

I have just come to the floor to say women are not going to take tampering with their contraceptive health.

Look, we agree choice is controversial in this body. But I can tell my colleagues what is not controversial in this body or among the American people, and that is choice of contraceptives.

There is a reason; that is because we have got to have a choice of contraception because some of that does not work on some of us. Some of it will make us sick. Some has long-term effects. Some has short-term effects.

So when Members of this body go into conference and try to make the diaphragm the only contraception that is available to women, they are insulting the women, not only of the Federal Government, but of the United States of America at their core.

We are fooling around with women's health when we decide as a body to choose or to limit their choice of contraception. One does not have to be a woman to know that one size does not fit all when it comes to contraception.

If we want to preserve women's health, if we want to stop abortion, then the one issue that ought to unite us, pro-life and pro-choice, together is contraception.

I ask this body not to let history record that we decided in this year to instruct women on what contraception they ought to use.

Mr. MCINNIS. Mr. Speaker, may I get a time check?

The SPEAKER pro tempore (Mr. SHIMKUS). The gentleman from Colorado (Mr. MCINNIS) has 16½ minutes remaining. The gentleman from Massachusetts (Mr. MOAKLEY) has 13½ minutes remaining.

Mr. MCINNIS. Mr. Speaker, I yield myself as much as time I might consume.

Mr. Speaker, I understand the previous gentlewoman's comments, but I think the issue here is not at all about women's health. Obviously people on both sides of the aisle in this fine institution care about women's health. There are women on both sides of the aisle. There are men on both sides of the aisle that care.

This is a very important issue. It is a critical issue in any home in this country. So to suggest that perhaps some people do not care about the women's health I think is a little off base. I am trying to focus and bring us back to the direction that we are going.

First of all, we have got a fair rule. Second of all, this rule follows the same structure as other conference committee reports. Third of all, let me talk about compromise.

I spent this afternoon, I visited with my colleague, the gentlewoman from Florida (Ms. ROS-LEHTINEN), and she was adamant, she was adamant about this Haitian issue. But as I said to her and I say to my colleagues, look, we are trying to put together a good bill. We cannot make everybody happy. That is the struggle we are facing.

My colleague over there, the gentleman from Maryland, said we had a good bill, but there were areas he had difficulty with. That was understandable. That was why it did not pass. It was a message to us. We have got to restructure it. We have got to rebuild this car.

This car is not going to sell. Now we have got a car that can. And for people who want to put a modification on the car, they want to add a stereo or they want to put something else on it, that is fine if you can deliver the purchase price for it.

That is our difficulty here. We are not attacking or assailing these issues. We are just saying we are trying to round up the votes.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, we all come to this House with the good intentions of our conscience and what is right for the Nation. I wish I could be convinced by my Republican friends on the other side of the aisle, the gentleman from Colorado and the gentleman from Arizona that seem to be arguing reason and goodwill, and we attempted to do all that we could.

But why do I not share the real facts. This rule now is a punitive rule. This is a "gotcha" rule. They fully well know that the reason that there were many of us who voted against this legislation, this rule early on, was the punitive poignant attack on the FEC, general counsel, and others not allowing them to do their jobs.

So what do they do? Yes, they do come back now and remove that provision. But the hard work of the gentlewoman from Florida (Mrs. MEEK), the gentleman from Michigan (Mr. CONYERS), and others, impacting 40,000 Haitian refugees who simply want a green card after being here, equalizing their position in this Nation with many other Central Americans, they knew there was a contingent of people who worked and bled to get this done; they took it out.

Then the gentlewoman from New York (Mrs. LOWEY), who worked so very hard in a real compromise to provide contraceptive prescriptive drugs for those individuals in the Federal Government, they took it out.

Then my good colleague, the gentlewoman from New York (Mrs. MALONEY), who said working Federal employees and others need day care, and we can provide it in a fair budgetwise manner, they took it out because they wanted to get in our eye. This is not a compromise. This is a "gotcha" legislation or rule.

This is to say we do not care that this rule goes forward. We are going to satisfy those on that side of the aisle. We are not going to be responsive to people who have toiled in this land, 40,000 Haitian refugees are made a pawn. Children who need child care made a pawn, women who need prescriptive drugs are made a pawn. Do not fool me with this calm talk about we tried to compromise. This is a "gotcha" game of politics. I will not tolerate it. The American people will not tolerate it either.

Mr. MCINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, some excitement here. If I just heard the words do not fool with this hobnob, or I am not exactly sure of the quote, but that is pretty close to what the gentlewoman from Texas just said.

But the gentlewoman, when she had the Haitian provision in the last rule voted "no" on that. She voted "no" on that. Now she is saying vote no again. In other words, give me this way, give them this way.

She has got to make some choices. She needs to be consistent in her voting record if she is going to get up and say hobnobbing fools. That is not what is happening here. What is happening here is the Congress is doing the business of the people. This Congress has to wrap this up in the next few days. The way to do it is we get the more level heads here on both sides of the aisle, as it should be, to come up with a compromise.

□ 1730

That is exactly what has occurred here.

Mr. Speaker, as I said, my colleagues, the gentleman from Florida (Mr. DIAZ-BALART) and the gentlewoman from Florida (Ms. ROS-LEHTINEN), brought up this issue, but their record is consistent. And I listened to the gentlewoman from New York (Mrs. LOWEY), and she as well is consistent in her statements. And I think that is important. We have the consistency here, and we have some level heads that are trying to come up with a compromise. We do not have the perfect bill.

If somebody over there who is objecting to this rule can come up with a perfect bill and deliver the 218 votes and the votes in the Senate and the President's signature, come up with it. So far, we have not discovered it. We would like to do it.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield 2½ minutes to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Speaker, this is a blatantly unfair rule. It is not a compromise, it is not inadequate. It is obnoxious.

We had a debate on this floor, and the House voted that Federal employees covered by this bill should have available to them contraceptive services for birth control. The Senate voted to make available contraceptive services for birth control to female Federal employees. An attempt was made on this floor to say that some forms of birth control are really abortions; that the pill should be outlawed because it is an abortifacient; that the IUD is not good, that is an abortifacient. This House intelligently voted that down by 2 to 1.

The conference report, the conference committee, faced with a House vote that said, we want contraceptive services covered, faced with a Senate bill that said, we want contraceptive services covered, put contraceptive services in the conference report. Then the Committee on Rules saw it and they said, oh, no, we do not care what the House said, we do not care what the Senate said, go back and rewrite the conference report, and they did. And since they could not pick and choose among the contraceptive services because they did not have the votes in the House, people laughed at it.

This conference report before us today says, American women who work for the Federal Government shall not have available to them any contraceptive services paid for by their health plans.

Mr. Speaker, that is obnoxious. It is not a compromise, it is obnoxious.

The antichoice extremist agenda is very clear. Not only do they want to ban abortions by any means necessary, the Supreme Court decision to the country notwithstanding, they want to ban contraception as well. They are not content with denying reproductive health services for women in prison or Federal employees or women in the Armed Forces or women on public assistance. They will not stop there. They want to eliminate contraceptive services as well.

Although this debate is supposed to be about Federal health plans, we can all see the dangerous precedent they are attempting to set. They are actually calling every woman who takes a birth control pill an abortionist. This is absurd, it is offensive, it is obnoxious. We must restore sanity to this discussion of women's health, and we ought to be clear that the American people will not accept efforts to make contraception or, for that matter, abortion illegal.

Mr. Speaker, I urge my colleagues to reject this rule, send it back to the drafters, reject the rule as we did the last one. Let them come back again and do the will of this House and the will of the American people, and not say to American women, you cannot have contraceptive services.

Mr. MCINNIS. Mr. Speaker, I yield myself such time as I may consume.

I see that the gentleman is very aggressive in his comments. I would just remind the gentleman that he had that provision right in his lands last week, and he voted against it, so today all of a sudden he shows up, and all of a sudden we are going to get another "no" vote when the provision is gone. I mean, which way, which direction?

I think it is time we level this thing off, calm it down, and let us hear from the other side of the issue.

Mr. Speaker, I yield 4 minutes to the gentlewoman from Kentucky (Mrs. NORTHUP).

Mrs. NORTHUP. Mr. Speaker, I think it is important that we inject a little honesty into this conversation.

The fact is, 84 percent of all Federal employees' plans cover oral contraceptives, and nearly 40 percent cover all 5 forms of contraceptives.

But rather than just make that statement, I brought to the floor 50 copies and will provide as many more as needed of a list of all of the plans that serve Federal employees so that my colleagues can see the chart of just how many plans there are, about 600, and how many cover so many, an array, of different forms of contraceptives.

The fact is that Federal employees have the envy of what the whole private sector needs and wants in health insurance. Every single Federal employee has the ability to choose whatever policy they want.

What do we get? A booklet of policies. We get a booklet of high-cost HMOs, low-cost HMOs, fee-for-service, point of service. We have every option of every kind of health plan we want.

What we ought to do is work to give what we have to the private sector, because the truth is that we have many different choices, many different plans, and most of them, most of them provide an array of contraceptive services.

Mr. Speaker, what happens if we mandate that every plan cover every form of contraceptive? We take away the one choice that Federal employees have today that they will not have in the future, and that is affordable health insurance, because when one starts adding mandates, one starts doing what every State legislature has found for years, and that is, one starts adding to the cost of health insurance. And as it goes up, one starts on that slippery slope. Every woman who is 31 years old and is paying for every form of contraceptives for everybody in the workplace who cannot get pregnant says, why should I pay for their contraceptives and they not have to pay for my fertilization? And every 60-year-old woman says, why should I have to pay for all the young women's contraceptives and they not have to pay for my estrogen?

The fact is we can do what State legislators have done. We can add every mandate that everybody wants, every service, every provider, every need, and we will drive the cost of health insurance right through the ceiling.

What we need to do is make sure that every employee in Federal office keep what they have now, the choice of whatever services they believe are important to their health, and then we need to make sure that it is also affordable. That is the best choice and the best gift that Federal employees have. What we need to do is take what we have and not ruin it, but make sure that the private sector have it, too.

Mr. MCINNIS. Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Speaker, this week's issue of Time Magazine features what it calls a numbers column, and it quotes various expenditures and notable numbers like this one: Next year the Pentagon plans to spend $50 million for Viagra for troops and retirees.

I think it is important to note that we are apparently willing to spend money for the potency of our armed services, but not willing to help prevent unwanted pregnancies by providing the full range of contraceptive services.

But on the other hand, we were willing to help prevent unwanted pregnancies. This language already passed the House and the Senate. But there is a small minority on the conference committee that changed it.

I believe that this language discriminates against women. When we defeated the rule for this conference report last week, it was clear that it could easily pass if only the language on the FEC were removed.

Mr. Speaker, I am glad that we at least accomplished that, but I cannot support this bill, because it does not provide the full range of contraceptive services, thereby discriminating against women.

I urge a "no" vote on the rule.

Mr. MCINNIS. Mr. Speaker, could I inquire as to the time remaining?

The SPEAKER pro tempore. The gentleman from Colorado (Mr. MCINNIS) has 10 minutes remaining; the gentleman from Massachusetts (Mr. MOAKLEY) has 8 minutes remaining.

Mr. MCINNIS. Mr. Speaker, I yield myself such time as I may consume.

I have asked the gentlewoman to return because I think that the comments that she brought up are very pertinent to the subject, and since we seem to have gotten off the rule and onto the subject of contraception, I think we need to close this out, and then we can get back to the rule and the fairness of the rule. So I am asking that the gentlewoman from Kentucky come back.

Mr. Speaker, I yield 3 minutes to the gentlewoman from Kentucky (Mrs. NORTHUP).

Mrs. NORTHUP. Mr. Speaker, I want to start with where this idea I believe originated. There are women today that are in the private work force.

They have a choice of one policy. Their employer says, you can have this policy; you have to contribute the monthly payment toward it, and some of those policies, in fact, pay for prescriptions, but do not pay for oral contraceptives.

We need to address that issue. I hope that the gentlewoman from New York (Mrs. LOWEY) will bring it to us. I asked a long time ago why we did not ask for a GAO study that would study both the private and the public workplace to see what sorts of discriminations exist for women in terms of access to health insurance policies that give them what they need.

Before we start fumbling around with the best choice that exists in the United States of America, and that is for Federal employees, before we start driving the price up, what we ought to do is be deliberative and see, first of all, do we have a problem? Do we have a problem in the public workplace? Do we have a problem in the private workplace?

But because this came so quick and unstudied, I did ask OMB a second question besides asking for a chart, and that was, is there any Federal employee anywhere in the United States that does not have access to policies that cover oral contraceptives; and the answer is, no, there is not one.

So I think that before we push the price up at a cost, by the way, to many of the employees, because right now, what they may have chosen is the only affordable plan or the most affordable plan that meets their needs. If this plan either decides to drop out of the Federal employees health insurance plan because it cannot tailor something just to our mandate, and then they have to go to a more expensive plan, or if they have to pay more for the plan they currently have, we ought to ask them if that is what they want.

I think the whole problem in health care is that somehow we in the Congress think that we can play God, that we can somehow hand out free health care. Nobody can hand out free health care. It feels good here, but somebody pays the bill. The taxpayers pay the bill, and the Federal employees who have to pay a higher copayment pay the bill.

Please, do for Federal employees what the entire work force is asking us for, affordable health insurance, and do not take away that right that they have today.

Mr. McINNIS. Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, the wrong that is proposed here tonight has nothing to do with the price of care in an economic sense. It is not going to raise the cost of health care to anyone. In fact, the Republican Congressional Budget Office has already pointed out that any cost change is negligible. The price is not economics; it is the political price that the Republican conferees were unwilling to pay to say no to the extremists who demand interference in reproductive health care, and yes to this House and to the United States Senate which said, by an overwhelming majority, that it is wrong to discriminate against women across this country and say to them that they can get some prescriptions, but not others.

Mr. Speaker, 80 percent of the health plans available to Federal workers do not provide all forms of contraception, and some women are unable to use certain forms of contraception. While our women Members like the gentlewoman from New York (Mrs. LOWEY) have provided dynamic leadership on this issue, I am here to say that this is an important issue not just to women, but to men, to families all across this country; that the Federal Government ought to be a model employer, ought to set the example, and it ought not to be discriminating against women in saying they cannot get access to something that is so very important to their health care.

I would say that this very debate, the first night the gentlewoman from New York (Mrs. LOWEY) successfully put this amendment on to assure access to health care for women across this country was truly a defining moment.

When Republican men stood on this floor and began to interfere and say, well, an IUD, I think that is abortifacient, the pill, well, maybe it is, they did not seem to have confidence that women understood what they were doing with their own bodies when health care was involved. They needed some Congressman to come in and tell them what kinds of contraception were appropriate and what kinds were not.

□ 1745

This is a radical decision this conference committee has made. It is wrong. We need to reject it, and say that the women of America are intelligent enough to make their own decision on this matter, and do not need any Republican help from the gentleman from Georgia (Mr. NEWT GINGRICH) or anyone else.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, obviously the gentleman from Texas paints as pretty a picture as he can get on it. He likes to put roses and flowers into it.

Let us talk about some economic reality here. First of all, I am astounded that in one-half of the gentleman's sentence he says there is no cost to the Federal Government, and in the next half of the sentence he says the cost is only negligible. That sounds like Democratic talk. That is what got us into a deficit: "Well, it is just negligible, throw a few more bucks in."

The second point is, remember, it is wrong for Members to stand up here and act like we can offer to the American people and the Federal employees of this government Mayo Clinic coverage. We cannot do it. If we want to do it, we can do like they did in Kentucky. They kept expanding and expanding what they ought to put in their medical plan and their choices.

If we want to talk about choice to the gentleman from Texas, their choices went from 47 plans to two plans. So what the gentleman is proposing up here is, let us go ahead and offer them the moon, which means that first of all and most importantly, most of these companies are not going to be competitive, which gives us the Kentucky example, 47 choices to 2 choices.

It is very important here that we understand that nothing is free. We do not get something for free. It just does not happen. Every time we give something to somebody free, we are taking it out of somebody else's pocket. It is debit-credit. It happens automatically.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield the balance of my time to the gentleman from Maryland (Mr. HOYER), the ranking member of the Subcommittee on Treasury, Postal Service, and General Government.

Mr. HOYER. I thank the distinguished gentleman from Massachusetts (Mr. MOAKLEY), the ranking member of the Committee on Rules, for yielding time to me, Mr. Speaker.

Mr. Speaker, I rise, unfortunately, in opposition to this rule. I have been quoted numerous times on this floor as saying that this is a good bill. Let me repeat that statement. This is a good bill.

Let me also repeat, for all my colleagues, that the gentleman from Arizona (Chairman KOLBE) has done a good job in shepherding this bill to this point. The gentleman from Arizona (Mr. KOLBE) in my opinion is one of the fairest, brightest, hardest-working Members of this House. He is a gentleman for whom I have unrestrained respect and affection and with whom I enjoy working.

It is unfortunate that a provision that he supports is dropped from his bill and is causing us so much consternation on this side. There is an irony, I suppose, in that, as well.

Let me now speak to where this bill is. I have said it is a good bill. The good news is, for America and for this House, that 99.999 percent of this bill is agreed upon. We have four provisions, just four, that ultimately the conference could not agree on or could not be agreed upon in this House, because obviously the provisions that were included in the bill that came to the conference committee were agreed upon.

There was one provision, as I pointed out in the last debate on the rule, that was unanimously opposed on our side of the aisle. We perceived it as a partisan issue. That is to say that it was not supported by Members of both parties. That was, of course, the provision that dealt with the FEC, which would have had the effect of immediately firing, as of January 1 or fairly immediately, January 1, 1999, the incumbent counsel. We perceived that to be a payback, an action which would have been taken for the purposes of disciplining somebody who took an adverse action against GOPAC and the Christian Coalition.

I know my colleagues on the other side of the aisle do not believe that was the motivation, and I accept their premise as being honest. But that was our perception of what that item was about, so it was very controversial. That item has now been dropped. We think that is appropriate.

This issue will be discussed. I think the chairman of our committee has a legitimate concern about bringing in new blood to oversee this agency. I will be glad to work with him and talk to him about those issues. The right thing was done with respect to the FEC. We went into conference again to discuss this.

I made it very clear to the gentleman from Arizona (Chairman KOLBE), on behalf of the Democratic side that if the FEC was dropped, I say to my friend, the gentleman from Colorado (Mr. McINNIS), that at least 180 members of my side of the aisle would vote for the rule and this bill if the FEC were dropped. We could not pledge all 207 because there was some controversy on other substance, but I believe we could have gotten 180, which means that if the gentleman had 40 on his side or 100 or 140, this bill would have passed overwhelmingly.

Unfortunately, however, that was not to be. The chairman, as we left the conference, said the deal is off, we are not going to do a conference, we are going to put this in the omnibus bill. I have talked to the administration about that. I will tell my friends that the administration is going to be very, very hard and adamant on the inclusion of the contraceptive position of either this bill or the omnibus bill and the provision dealing with the Haitians.

The child care provision most of us I think are for on both sides of the aisle. We have a procedural problem that is causing a very substantial problem. I do not think the chairman is against it, and certainly I am for it. The gentleman from Virginia (Mr. WOLF) is for it, and other Members are for it.

With respect to the contraception, this, we believe, is the most egregious action that has been taken as this is reported back. First of all, let me tell my friend, the gentleman from Colorado, forget about what the Democrats say about cost. The Congressional Budget Office, I say to my friend, headed up by the selection of the gentleman from Ohio (Mr. KASICH) and Mr. DOMENICI, two Republicans who head the Committees on the Budget in the Senate and in the House, said that there is no cost; not Democrats, not the gentlewoman from New York (Mrs. LOWEY), but CBO says that, no cost. We were not scored for any cost whatsoever on this provision.

So that I think that is dispositive. CBO has talked to OPM, OPM says there is not going to be any cost, and CBO says there is to be no cost. So that was not the issue. In fact, it should not be the issue, this being a bipartisan-supported bill. In fact, 51 Republicans joined approximately 178 Democrats in voting to sustain this provision, 51 Republicans. What a significant number on the gentleman's side of the aisle, a very bipartisan support for this provision, which we perceive to be in the best interests of the health of America's women, in the best interests of the health of Federal employees, and in the best interests of pursuing a diminishing of abortions in this country. Will it be significant? We do not know. Will it affect that? We think it will.

We hope that Members vote against this rule so that we can go back to conference, as we did before, include back those provisions that we think have bipartisan support, pass this rule, and pass this very good bill that the gentleman from Arizona (Mr. KOLBE) has worked so hard on.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do want to make one point to the fine gentleman from the State of Maryland in regard to the CBO statement or the estimate that there is no cost.

First of all, my point to the gentleman from Texas was that in one statement he said there was no cost, and in the next statement he said it was negligible, so I am not sure what it is. Frankly, I think the gentleman probably observed it a little more closely. The point is, there is a shift in cost. While it is true that the government does not pick up additional costs, the individual will pick up additional costs. I think we just need to clarify that. What the gentleman has said is accurate, but to complete the picture, we need to show that the individual will pick up additional costs.

Mr. Speaker, I, of course, think it is important to get to this good bill. To get to this good bill we have to pass this rule.

Mr. Speaker, I yield the balance of my time to the gentleman from Arizona (Mr. KOLBE).

Mr. MORAN of Virginia. Mr. Speaker, will the gentleman yield?

Mr. KOLBE. I yield to the gentleman from Virginia.

Mr. MORAN of Virginia. Mr. Speaker, I rise in opposition to the rule.

Mr. Speaker, in the last four years I can't count the number of times I have been here on the House floor voting on bills, amendments, appropriations riders, and every possible vehicle for so-called anti-abortion legislation. The reality is, every Member of Congress is anti-abortion. Every Member of Congress wants to make abortion less necessary and eventually unnecessary. By improving access to affordable contraception, the Lowey amendment is an excellent way to achieve this goal.

As a founding co-chair of the Congressional Prevention Caucus, I am a strong proponent of using preventive methods to improve the length and quality of human life and also to reduce the skyrocketing costs of health care. On average, women spend 68% more on health care costs than men. Much of these additional costs can be attributed to reproductive health care costs. The use of contraception can help to reduce these costs for women by preventing unplanned pregnancy, an expensive and potentially life threatening condition.

Opponents of this amendment argue that 81% of FEHB plans already cover at least one form of contraception and that women federal employees already have a choice of plans. The one form is generally oral hormonal contraception known as "the pill." Oral contraceptives are one of the five most common forms of contraceptive but it is not always recommended to some women who experience negative side effects or may be at higher risk of breast cancer or stroke. Alternatives should be accessible to women who decide in consultation with their doctor that it is a safer option. Ten percent of plans cover no forms of contraception at all.

Regardless of the percentage of plans that cover this option and don't cover that option, contraception should be considered basic health care for women of reproductive age. As employers, we have a responsibility to choose what kind of health care we want to provide for our employees. We should be providing this basic preventive care and not forcing our employees to choose a plan that may not be the best plan for them because none of the other plans provide contraceptive coverage.

Furthermore, if we are denying federal employees coverage of abortion services in their health plans, as we have since 1995, it would be hypocritical not to make methods to prevent the necessity of abortion as accessible as possible to federal employees. Contraception is a proven method in reducing the number of abortions. A recent study of the use of contraception in the former Soviet republics shows that preventing pregnancy with contraception reduces the number of abortions. In Kazakastan for example, abortion rates have fallen by more than 40% since the change in contraception policy by the government and widespread access to contraception was implemented.

As adversaries of the "abortion issue" continue to disagree over pro-choice, pro-life semantics, we should be working together on policies that we can agree reduce the necessity of abortion. I urge my colleagues to work together where we can on this terribly divisive issue by supporting the Lowey amendment to provide comprehensive contraceptive health care coverage for federal employees.

Mr. KOLBE. Mr. Speaker, I once again thank the gentleman from Colorado (Mr. McINNIS) for his assistance here with the rule, and all of the members of the Committee on Rules. I want to thank the gentlewoman from New York (Mrs. LOWEY) for the very nice words she said, and the gentleman from Maryland (Mr. HOYER) for the nice words he said about the work that I have done, and the subcommittee Members and the staff.

I reciprocate completely the respect and the strong feelings that I have for both the gentlewoman from New York (Mrs. LOWEY) and the gentleman from Maryland (Mr. HOYER). I am very grateful for their assistance on this bill; assistance to a point, I guess, is where we are at. It does not extend all the way, as the gentleman from Maryland (Mr. HOYER) made clear the other night and again this afternoon.

The fact of the matter is, and let me just review again what we are talking about, the fact of the matter is, we have a conference report, yes. As everybody in this body knows, the process is you pass a bill, the Senate passes a bill, you have to go to conference, and you have a conference report. Each of those is a different bill. Each of those is different than the form it was in in the other body or the form it was when it first passed this House.

So the conference report has to be seen separately. It is not accurate to simply say that this was a controversy, this position was in or some form of it was in the House and some form was in the Senate bill, so therefore, ergo, it has to be included in this bill. That is not the case here.

Mr. Speaker, the fact of the matter is that the gentlewoman from New York (Mrs. LOWEY) well knows, and she spoke passionately, and I do agree with her position that we should extend contraceptive coverage to Federal employees beyond where it is today, but we are not, as some of the speakers talked about here this afternoon, not cutting off contraceptive coverage. We are not denying it.

As the gentlewoman from Kentucky (Mrs. NORTHUP) has pointed out, 84 percent of the plans provide it in some form or another, and 40 percent provide all the forms of contraceptive coverage. We are keeping the current law where it is today. There is no change in the current law, so we are neither expanding it nor moving backwards, we are keeping the law where it is today.

If this was so important, if this provision was so important, is so important to those who have spoken so passionately about it here this afternoon, where were they last Thursday night?

Yes, the gentlewoman from New York (Mrs. LOWEY) was there and she spoke to it, and the gentlewoman from Florida (Mrs. MEEK), because of the Haiti position, and voted for the rule. But where were all these other people that this afternoon have said this is such an important provision? Why were they not there, speaking for the rule at that time?

In fact, one of the people, the gentlewoman from New York (Mrs. MALONEY) who was up here earlier, spoke against the rule last Thursday night. She said we should defeat it. Today she says it is very important to have that contraceptive coverage in there, that expansion of contraceptive coverage. It is important today, but it was not important last Thursday, or it was not as important. It is a moving marker. The field keeps moving. It is whatever there is today that we do not like in here is why we are going to be against this.

I understand that the National Abortion Rights Action League has decided they will score this vote, but last Thursday night, when we had an opportunity to get to the floor with that in it and with the Haiti assistance, they did not score it. They did not think it was that important last Thursday night.

I want to just say, in conclusion, that the gentleman from Maryland (Mr. HOYER) was correct in the way he described the sequence of events that occurred on this bill. When we finished the conference meeting yesterday morning, I did say that it looks to me as though we do not have any deal. I cannot see any way out of this.

Yet today, the dynamics of this conference report have changed. There is now a way to get this through the Senate and the House that I believe is possible, and this is the only way. I know the gentleman from Maryland (Mr. HOYER) believes very strongly that we should not have a Government shutdown, that these 163,000 Federal employees that are supported by this bill should go on collecting IRS taxes, should go along with drug enforcement.

☐ 1800

Mr. Speaker, this conference report is important. I urge my colleagues to support the rule and to support the conference.

Mr. McINNIS. Mr. Speaker, I move the previous question on the resolution.

The previous resolution was ordered.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MOAKLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 231, nays 194, not voting 9, as follows:

[Roll No. 490]

YEAS—231

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Costello
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kildee
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Mollohan
Moran (KS)
Myrick
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Roukema
Royce
Ryun
Salmon
Sanford
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NAYS—194

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bilbray
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio

DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kilpatrick
Kind (WI)
Kleczka
Klink
LaFalce
Lantos
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Moran (VA)
Morella
Murtha
Nadler
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Price (NC)
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ros-Lehtinen
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Shays
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Wexler
Weygand
Wise
Woolsey
Wynn

NOT VOTING—9

Boucher
Kennelly
McCrery
Poshard
Pryce (OH)
Saxton
Waxman
Weller
Yates

□ 1819

Mrs. CHENOWETH and Mr. RAHALL changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. KOLBE. Mr. Speaker, pursuant to House Resolution 579, I call up the conference report on the bill (H.R. 4104) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1999, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. SHIMKUS). Pursuant to House Resolution 579, the conference report is considered as having been read.

(For conference report and statement, see prior proceedings of the House of today.)

The SPEAKER pro tempore. The gentleman from Arizona (Mr. KOLBE) and the gentleman from Maryland (Mr. HOYER) each will control 30 minutes.

The Chair recognizes the gentleman from Arizona (Mr. KOLBE).

GENERAL LEAVE

Mr. KOLBE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill (H.R. 4104) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1999, and for other purposes, and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. KOLBE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, at the outset, let me begin by saying that we have had an extraordinary ordeal to get to where we are today, but as any Member that has ever worked on an appropriations bill, or any bill for that matter, knows, it requires the work of a lot of very good staff people to get us here.

When we considered the bill on the floor, I paid tribute to all the staff on both the majority and the minority side, but this evening, Mr. Speaker, I want to just pay special tribute to two individuals who are going to be leaving the staff of this House of Representatives.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. KOLBE. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I know the gentleman and I have had the discussion, but it is my understanding, and I do not know whether anybody has announced it, that we intend to roll votes until 8 o'clock. Perhaps we should tell Members, if that is the case.

Mr. KOLBE. Reclaiming my time, Mr. Speaker, I thank the gentleman for his point, and I would like to advise all those on the floor and otherwise in our hearing range that the intention and the understanding of both the majority and the minority side is that when we complete the debate on this conference report there will likely be a motion to recommit. But the vote on both the motion to recommit and on final passage of the conference report will not occur until at least 8 o'clock this evening. So there will be approximately an hour and a half before we have any votes.

Now, Mr. Speaker, if I might proceed. As I said, staff is obviously essential to getting any piece of legislation passed, but I want to pay special tribute to two staff people who will be leaving this body after having given it exceptional service.

One is our congressional fellow, Francis Larken, who has worked for the subcommittee for the past year. He will be beginning his job as Assistant to the Special Agent in Charge for the U.S. Secret Service in New York.

Frank has been a tremendous asset to this subcommittee, bringing not only the experience and knowledge that he has coming from the Secret Service and from Treasury law enforcement, but also from local law enforcement. He has been an absolutely essential part of our subcommittee staff, and I am very grateful for the work that he has done.

Mr. Speaker, the other one I want to pay tribute to is an individual who has worked for me now for nearly 8 years on my personal staff, but for the last 2 years has absolutely been essential to this legislation, and that is my good friend and staff person Jason Isaak.

Jason has been with us since he came directly out of college at Baylor University. He began as an intern and has progressively worked up through the office to a legislative assistant, legislative director; He has directed many important pieces of legislation, but none so ably as the work that I have had to do from my office on this subcommittee. He will be leaving this month in order to take a position in Phoenix, Arizona, returns to the State from where he came, and he will be marrying Miss Beth Barr, a former Olympic medalist in swimming.

Mr. Speaker, I have a statement I will put in the RECORD at this point regarding both of these individuals and the exemplary service they have given this Congress and our country.

Mr. Speaker, this week the Treasury Appropriations Subcommittee bids farewell to our Congressional Fellow, Francis J. Larkin, as he begins his assignment as Assistant to the Special Agent in Charge for the U.S. Secret Service in New York. Frank has proven himself to be tremendous asset to the work of this Subcommittee, bringing with him the experience he has gained with the Secret Service, from local law enforcement, as an emergency medical technician, and as a U.S. Navy SEAL. Frank began his fellowship in 1997 with the Senate counterpart of this Subcommittee, and so came to us with a strong background in the technical issues and folkways of the appropriations process.

Working as a member of my subcommittee staff, Frank has brought a unique perspective to bear on many of the turbulent and sometimes arcane issues that we confront in the course of crafting appropriations bills, and in overseeing the agencies and programs in our jurisdiction. In particular, Frank's advice and contribution has been invaluable on matters affecting law enforcement, national security, and the Year 2000 computer issue. Throughout his service here, Franks's consummate professionalism, good nature and level head have helped this Subcommittee and the Congress achieve progress on both short- and long-term policy and budgetary issues.

Specal Agent Larkin has served me, this subcommittee, and the House well: we will miss him as a colleague and as a friend. All of us on the Treasury Appropriations Subcommittee wish Frank and his family all the best as they begin their new lives in the New jersey/New York area.

Mr. Speaker, I would like to take a few moments to recognize someone very special to me who soon will be leaving Capitol Hill to pursue new personal challenges.

Jason Isaak, my legislative director, has been with me for the past 7 years. Upon graduating from Baylor University, Jason started as an intern in my office and has progressively worked his way up the ranks to his current position. He has managed many important issues for my office and has been my point person for Defense, Commerce, Justice, State and the Treasury Postal Service and General Government Appropriations.

Jason is leaving Washington to take a position with a consulting firm in Phoenix and on October 24, 1998, will marry Miss Beth Barr, a former Olympic medalist in swimming.

Mr. Speaker, Jason Isaak has made enormous contributions to our legislative process and will be truly missed for his professionalism, insight, and tireless dedication. As I mentioned, for seven years, he has been one of my key lieutenants, and I personally will feel a great loss when he leaves. Jason Isaak is truly a model for those who seek to constructively offer their intellectual skills and motivation to better this governmental process, and to do so with unflagging grace and good humor.

Mr. Speaker, I ask you to join me in wishing Jason Isaak the very best for a brilliant career, one in which I foresee him potentially returning to Congress as a Member of this great body.

□ 1830

Mr. Speaker, I am pleased to rise today to talk about the conference report on H.R. 4104. This is a bill and a conference that has had more lives than a cat. It has had the Perils of Pauline. It has had every other travail along the way, but here we are and I hope that, finally, tonight we are going to be able to pass this legislation. I want to thank all the members of the subcommittee, those on both sides of the aisle, those who have supported us in various provisions. I know that at times when we get to this legislation, there are times when they cannot be with us on the vote that we need them on final passage. But we would not be here this evening if it were not for the work of the distinguished gentleman from Maryland (Mr. HOYER) and the other members of the minority side and all the members of this side of the aisle as well, I might say, who have helped us get to where we are tonight. The work has paid off. The conference report that is before us I believe is one that can make us all very proud because it is about law enforcement, it is about the operations of the Federal Government, it is about what this appropriations bill should be about.

Six days ago when we brought this rule for this conference report, it failed, because it was saddled with four controversial legislative riders. Well, this evening we bring this back with all four of those provisions stripped. Gone is the provision so vehemently objected to by the minority regarding the appointment of the Federal Election Commission's General Counsel. Gone is the provision expanding contraceptive coverage for Federal employees. Gone is the provision providing for assistance and easier admission for Haitian refugees to the United States. Gone is the provision in the bill dealing with child care in the Federal Government. Everyone with an interest in these provisions is treated the same. In that sense, I believe it is a fair compromise. These provisions are stripped. They are stripped because we simply could not get a conference report to the floor and we could not get it passed if we had these provisions there.

I for one believe that some of these provisions have real merit. Particularly I have been a strong supporter of the gentlewoman from New York (Mrs. LOWEY) and the provisions that she had dealing with contraceptive coverage in the FEHBP. I also happen to believe that the time has come for us to change the way the General Counsel of the Federal Election Commission is appointed and that we should require a term for that person and we should require an affirmative majority vote for that person to be appointed or reappointed. But because politics has taken priority over the practical demands of governing, these items are not going to see the light of day—at least not in this appropriations measure. Quite honestly, it is not just that I am disappointed in this outcome. More than anything, I am fed up frankly with trying to negotiate these controversial legislative riders in an appropriations bill. As we have learned from this last week or from the last month, it is a no-win situation. This bill, which ought to be a relatively easy bill, has been through the wringer. I do not think there is any bill that has been brought to the floor this year that has been a more difficult bill to get to the floor and get passed.

In case my colleagues have forgotten, let me replay a year in the life of the Treasury-Postal subcommittee. Our first rule providing for the consideration of the bill as reported went down in flames on June 24 of this year on a vote of 125–291. The second rule squeaked by, by a vote of 218–201. During House debate on July 16, we had 48 points of order raised against legislative provisions in the bill. Final passage of the bill barely eked out with a vote of 218–203. Believe me, you could actually hear bones practically breaking in this Chamber to get to 218 votes. Last week the rule, the first time we considered the rule for considering the conference report, bombed on a vote of 106–294. Those votes were not because we failed to do our jobs as appropriators, and I say that of every member of this subcommittee, both on the minority and majority side. Far from it. Let me be clear about this. The Department of Treasury likes this bill very, very much and they are anxious to have it signed into law. It is the best bill they have seen in years. The debate on this bill is never about money. It is about legislative riders and only about legislative riders. This bill and the conference report deserves better treatment than to be battered about over legislative matters. It is an outstanding appropriations measure.

I know all the Members are familiar with the legislative riders that have been causing us so much trouble, but let me just tell you about a few other items, items that these Members have been voting against each time they voted against the rule or each time they voted against this bill or the conference report:

We provide $1.95 billion for drug-related activities, including $185 million for the second year of the national media campaign. $20 million for the Drug Free Communities Act, so strongly supported by so many people on both sides of this aisle. $1.8 billion for the Customs Service, including $54 million for new narcotics detections technologies for both sea and land ports of entry. $15.2 million to address the badly needed maintenance needs of the air and marine interdiction programs. I am pleased to say that these funds will be reused to return three Black Hawk helicopters to operational status and to increase the flight hours for the entire Customs Black Hawk fleet from 18 hours per month to 30 hours per month. We have $3.2 million to fight crimes against children through the National Center for Missing and Exploited Children. We have $3.4 million to further combat child pornography and related Internet cyber smuggling. We have $7.9 billion for the Internal Revenue Service, including $211 million for ongoing efforts to revamp the IRS computer systems, $25 million for restructuring the way the IRS does business, $103 million for improved customer relations. And then there is $462 million for 14 new courthouse construction projects in order to accommodate the increasing demands we are placing on our judicial system.

I can count on one hand the number of times that Members have offered appropriations-related amendments to this bill. Of the 14 amendments that were offered to this bill during House consideration, only three of them had anything to do with an appropriations matter. All the rest involved controversial legislative riders that have little or nothing to do with the work of this committee or this subcommittee.

Well, I have an announcement. Not that it should come as any great surprise, but guess what? We are not going to be able to effectively govern if we continue to blur the lines between appropriations and authorization. We cannot run the Customs Service, the IRS, the Secret Service, the Office of National Drug Policy if we continue to hold this bill hostage to extraneous legislative matters.

The conference report before us right now is one of which I am very proud and I believe every Member on both sides of the aisle can be very proud. It is not about controversial legislative riders. It is now about appropriations. It is now about funding these Federal agencies. It is about fiscal responsibility with respect to how we fund the agencies that come under the jurisdiction of this bill. It is about accountability to Congress and to the American people.

Mr. Speaker, it is time for Members to set aside their disagreement over specific legislative matters that deserve more deliberate review and action than being stuck into this appropriations bill. It is time to put aside the politics and do the right thing. Vote for an appropriations bill that is free of these controversial riders and deals with appropriations matters as it should deal. Mr. Speaker, I encourage all of my colleagues to support this conference report.

Mr. Speaker, I include the following extraneous matter for the RECORD:

H.R. 4104 - TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS BILL, 1999

	FY 1998 Enacted	FY 1999 Estimate	House	Senate	Conference	Conference compared with enacted
TITLE I - DEPARTMENT OF THE TREASURY						
Departmental Offices	114,771,000	123,846,000	122,869,000	120,671,000	123,151,000	+8,380,000
Automation Enhancement	61,389,000	33,952,000	31,190,000	28,990,000	28,690,000	-32,699,000
(Delay in obligation)				(-6,000,000)		
Transfer to Customs Service		(-8,000,000)				
Transfer to ATF		(-3,700,000)				
Office of Inspector General	29,719,000	30,678,000	30,678,000	30,678,000	30,678,000	+959,000
Office of Professional Responsibility	1,250,000	1,654,000	1,250,000			-1,250,000
Treasury Buildings and Annex Repair and Restoration	10,484,000	27,000,000	27,000,000	27,000,000	27,000,000	+16,516,000
(Delay in obligation)			(-27,000,000)	(-27,000,000)	(-27,000,000)	(-27,000,000)
Financial Crimes Enforcement Network	22,835,000	24,000,000	24,000,000	23,670,000	24,000,000	+1,165,000
Violent Crime Reduction Programs:						
Bureau of Alcohol, Tobacco and Firearms	19,421,000		3,000,000	1,800,000	3,000,000	-16,421,000
Financial Crimes Enforcement Network	1,000,000	1,000,000		1,400,000	1,400,000	+400,000
Interagency crime and drug enforcement		45,000,000	24,000,000	45,000,000	24,000,000	+24,000,000
United States Secret Service	15,731,000	11,700,000	14,528,000	15,403,000	22,628,000	+6,897,000
(Delay in obligation)			(-828,000)			
ONDCP	23,200,000		14,000,000		2,500,000	-20,700,000
Gang Resistance Education and Training: Grants	10,000,000	10,000,000	10,000,000	13,239,000	13,000,000	+3,000,000
Federal Law Enforcement Training Center	1,000,000			1,158,000		-1,000,000
United States Customs Service	60,648,000	64,472,000	65,472,000	54,000,000	65,472,000	+4,824,000
Total, Violent Crime Reduction Programs	131,000,000	132,172,000	132,000,000	132,000,000	132,000,000	+1,000,000
Federal Law Enforcement Training Center:						
Salaries and Expenses	64,663,000	71,923,000	71,923,000	66,251,000	71,923,000	+7,260,000
Acquisition, Construction, Improvements, and Related Expenses	32,548,000	28,360,000	28,360,000	15,360,000	34,760,000	+2,212,000
Total, Federal Law Enforcement Training Center	97,211,000	100,283,000	100,283,000	81,611,000	106,683,000	+9,472,000
Interagency Law Enforcement:						
Interagency crime and drug enforcement	73,794,000	30,900,000	51,900,000		51,900,000	-21,894,000
Financial Management Service	207,790,000	202,510,000	196,510,000	196,490,000	196,490,000	-11,300,000
(Delay in obligation)				(-4,500,000)		
Debt collection improvement account		3,000,000		3,000,000		
Federal Financing Bank (debt liquidation)		(2,854,000,000)		(3,317,890,000)	(3,317,980,000)	(+3,317,980,000)
Bureau of Alcohol, Tobacco and Firearms:						
Salaries and Expenses	478,934,000	544,324,000	530,624,000	529,489,000	541,574,000	+62,640,000
Transfer from Automation Enhancement		(3,700,000)				
(Delay in obligation)			(-2,206,000)		(-2,206,000)	(-2,206,000)
Laboratory facilities and headquarters	55,022,000	32,000,000				-55,022,000
Total, Bureau of Alcohol, Tobacco and Firearms	533,956,000	576,324,000	530,624,000	529,489,000	541,574,000	+7,618,000
United States Customs Service:						
Salaries and Expenses	1,522,165,000	1,638,065,000	1,638,065,000	1,630,273,000	1,642,565,000	+120,400,000
(Delay in obligation)			(-7,000,000)	(-28,480,000)	(-6,500,000)	(-6,500,000)
Transfer from Automation Enhancement		(8,000,000)				
Rescission	-6,000,000					+6,000,000
Subtotal	1,516,165,000	1,638,065,000	1,638,065,000	1,630,273,000	1,642,565,000	+126,400,000
Operation, Maintenance and Procurement, Air and Marine Interdiction Programs	92,758,000	98,468,000	100,688,000	113,488,000	113,688,000	+20,930,000
(Delay in obligation)				(-20,100,000)		
Rescission	-4,470,000					+4,470,000
Subtotal	88,288,000	98,468,000	100,688,000	113,488,000	113,688,000	+25,400,000
Customs Services at Small Airports (to be derived from fees collected)	2,406,000	2,000,000	2,000,000	2,000,000	2,000,000	-406,000
Harbor Maintenance Fee Collection	3,000,000	3,000,000	3,000,000	3,000,000	3,000,000	
Total, United States Customs Service	1,609,859,000	1,741,553,000	1,743,753,000	1,748,761,000	1,761,253,000	+151,394,000
Bureau of the Public Debt	169,426,000	173,100,000	172,100,000	172,100,000	172,100,000	+2,674,000
Internal Revenue Service:						
Processing, Assistance, and Management	2,925,874,000	3,162,430,000	3,025,013,000	3,077,353,000	3,086,208,000	+160,334,000
(Delay in obligation)				(-105,000,000)	(-130,000,000)	(-130,000,000)
Tax Law Enforcement	3,142,822,000	3,169,539,000	3,164,189,000	3,164,389,000	3,164,189,000	+21,367,000
(Delay in obligation)				(-175,000,000)		
Rescission	-32,000,000					+32,000,000
Subtotal	3,110,822,000	3,169,539,000	3,164,189,000	3,164,389,000	3,164,189,000	+53,367,000
Earned Income Tax Credit Compliance Initiative	138,000,000	143,000,000	143,000,000	143,000,000	143,000,000	+5,000,000
Information Systems	1,272,487,000	1,540,884,000	1,224,032,000	1,329,486,000	1,265,456,000	-7,031,000
(Delay in obligation)				(-68,700,000)		

H.R. 4104 - TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS BILL, 1999 — continued

	FY 1998 Enacted	FY 1999 Estimate	House	Senate	Conference	Conference compared with enacted
Information technology investments	325,000,000	323,000,000	210,000,000	137,569,000	211,000,000	-114,000,000
(Delay in obligation)				(-137,569,000)	(-211,000,000)	(-211,000,000)
Rescission	-30,330,000					+30,330,000
Subtotal	294,670,000	323,000,000	210,000,000	137,569,000	211,000,000	-83,670,000
Net total, Internal Revenue Service	7,741,853,000	8,338,853,000	7,766,234,000	7,851,807,000	7,869,853,000	+128,000,000
United States Secret Service:						
Salaries and Expenses	564,348,000	594,657,000	594,657,000	584,902,000	600,302,000	+35,954,000
(Delay in obligation)				(-13,860,000)	(-5,000,000)	(-5,000,000)
Acquisition, Construction, Improvement, & Related Expenses	8,799,000	6,445,000	6,445,000	8,068,000	8,068,000	-731,000
Total, United States Secret Service	573,147,000	601,102,000	601,102,000	592,970,000	608,370,000	+35,223,000
Payment for the joint financial management improvement program		3,000,000				
Net total, title I, Department of the Treasury	11,378,484,000	12,143,927,000	11,533,513,000	11,539,237,000	11,673,742,000	+295,258,000
(Debt liquidation)		(2,654,000,000)		(3,317,690,000)	(3,317,960,000)	(+3,317,960,000)
TITLE II - POSTAL SERVICE						
Payments to the Postal Service						
Payments to the Postal Service Fund	86,274,000	100,195,000	71,195,000	71,195,000	71,195,000	-15,079,000
(Delay in obligation)				(-71,195,000)	(-71,195,000)	(-71,195,000)
TITLE III - EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT						
Compensation of the President and the White House Office:						
Compensation of the President	250,000	250,000	250,000	250,000	250,000	
Salaries and Expenses	51,199,000	52,344,000	52,344,000	52,344,000	52,344,000	+1,145,000
Executive Residence at the White House:						
Operating Expenses	8,045,000	8,691,000	8,061,000	8,691,000	8,691,000	+646,000
White House Repair and Restoration	200,000					-200,000
Special Assistance to the President and the Official Residence of the Vice President:						
Salaries and Expenses	3,378,000	3,512,000	3,512,000	3,512,000	3,512,000	+134,000
Operating expenses	334,000	334,000	334,000	334,000	334,000	
Council of Economic Advisers	3,542,000	3,666,000	3,666,000	3,666,000	3,666,000	+124,000
Office of Policy Development	3,983,000	4,032,000	4,032,000	4,032,000	4,032,000	+49,000
National Security Council	6,648,000	6,806,000	6,806,000	6,806,000	6,806,000	+158,000
Office of Administration	28,883,000	40,550,000	28,350,000	29,140,000	28,350,000	-533,000
Office of Management and Budget	57,440,000	60,617,000	59,017,000	60,617,000	60,617,000	+3,177,000
Office of National Drug Control Policy	35,016,000	36,442,000	36,442,000	48,042,000	48,042,000	+13,026,000
Unanticipated Needs		1,000,000			1,000,000	+1,000,000
Federal Drug Control Programs: High Intensity Drug Trafficking Areas Program	159,007,000	162,007,000	162,007,000	183,977,000	182,477,000	+23,470,000
Special forfeiture fund	211,000,000	251,000,000	215,000,000	200,000,000	214,500,000	+3,500,000
Information technology systems and related expenses (contingent emergency)				3,250,000,000		
Total, title III, Executive Office of the President and Funds Appropriated to the President	568,925,000	631,251,000	579,821,000	601,411,000	614,621,000	+45,696,000
Emergency funding				3,250,000,000		
TITLE IV - INDEPENDENT AGENCIES						
Committee for Purchase from People Who Are Blind or Severely Disabled	1,940,000	2,464,000	2,464,000	2,464,000	2,464,000	+524,000
Federal Election Commission	31,650,000	36,504,000	36,500,000	36,500,000	36,500,000	+4,850,000
Federal Labor Relations Authority	22,039,000	22,586,000	22,586,000	22,586,000	22,586,000	+547,000
General Services Administration:						
Federal Buildings Fund:						
Appropriation			479,300,000	506,752,000	450,018,000	+450,018,000
Limitations on availability of revenue:						
Construction and acquisition of facilities		(44,005,000)	(527,100,000)	(538,652,000)	(492,190,000)	(+492,190,000)
Repairs and alterations	(300,000,000)	(668,031,000)	(655,031,000)	(668,031,000)	(668,031,000)	(+368,031,000)
(Delay in obligation)			(-19,000,000)	(-323,800,000)	(-161,500,000)	(-161,500,000)
Installment acquisition payments	(142,542,000)	(215,764,000)	(215,764,000)	(215,764,000)	(215,764,000)	(+73,222,000)
Rental of space	(2,275,340,000)	(2,583,261,000)	(2,580,461,000)	(2,583,261,000)	(2,583,261,000)	(+307,921,000)
(Delay in obligation)				(-51,667,000)	(-15,000,000)	(-15,000,000)
Building Operations	(1,331,789,000)	(1,554,772,000)	(1,554,772,000)	(1,554,772,000)	(1,554,772,000)	(+222,983,000)
(Delay in obligation)			(-223,000,000)	(-31,096,000)	(-68,000,000)	(-68,000,000)
Repayment of Debt	(105,720,000)	(91,000,000)	(91,000,000)	(91,000,000)	(91,000,000)	(-14,720,000)
Previously appropriated activities	(680,543,000)					(-680,543,000)
Unspecified reduction to limitations				(-2,800,000)		
Total, Federal Buildings Fund			479,300,000	506,752,000	450,018,000	+450,018,000
(Limitations)	(4,835,934,000)	(5,156,833,000)	(5,624,128,000)	(5,648,680,000)	(5,605,018,000)	(+769,084,000)

H.R. 4104 - TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS BILL, 1999 — continued

	FY 1998 Enacted	FY 1999 Estimate	House	Senate	Conference	Conference compared with enacted
Policy and Operations	107,487,000	108,494,000	108,494,000	108,494,000	109,594,000	+2,107,000
Office of Inspector General	33,870,000	32,000,000	32,000,000	32,000,000	32,000,000	-1,870,000
Allowances and Office Staff for Former Presidents	2,208,000	2,241,000	2,241,000	2,241,000	2,241,000	+33,000
Total, General Services Administration	143,565,000	140,735,000	622,035,000	649,487,000	593,853,000	+450,288,000
John F. Kennedy Assassination Record Review Board	1,600,000					-1,600,000
Merit Systems Protection Board:						
Salaries and Expenses	25,290,000	25,805,000	25,806,000	25,806,000	25,806,000	+516,000
(Limitation on administrative expenses)	(2,430,000)	(2,430,000)	(2,430,000)	(2,430,000)	(2,430,000)	
Morris K. Udall scholarship and excellence in national environmental policy foundation	1,750,000	2,000,000				-1,750,000
Environmental Dispute Resolution Fund		4,250,000	4,250,000		4,250,000	+4,250,000
National Archives and Records Administration:						
Operating expenses	205,166,500	230,025,000	216,753,000	221,030,000	224,614,000	+19,447,500
(Delay in obligation)				(-4,277,000)	(-7,861,000)	(-7,861,000)
Reduction of debt	-4,012,000	-4,012,000	-4,012,000	-4,012,000	-4,012,000	
Repairs and Restoration	14,650,000	10,450,000	10,450,000	11,325,000	11,325,000	-3,325,000
(Delay in obligation)				(-2,000,000)		
National Historical Publications and Records Commission:						
Grants program	5,500,000	6,000,000	6,000,000	11,000,000	10,000,000	+4,500,000
(Delay in obligation)				(-5,500,000)	(-4,000,000)	(-4,000,000)
Total, National Archives and Records Administration	221,304,500	242,463,000	229,191,000	239,343,000	241,927,000	+20,622,500
Office of Government Ethics	8,265,000	8,492,000	8,492,000	8,492,000	8,492,000	+227,000
Office of Personnel Management:						
Salaries and Expenses	85,350,000	85,350,000	85,350,000	85,350,000	85,350,000	
(Limitation on administrative expenses)	(91,236,000)	(91,236,000)	(91,236,000)	(91,236,000)	(91,236,000)	
Office of Inspector General	960,000	960,000	960,000	960,000	960,000	
(Limitation on administrative expenses)	(8,645,000)	(9,145,000)	(9,145,000)	(9,145,000)	(9,145,000)	(+500,000)
Government Payment for Annuitants, Employees Health Benefits	4,338,000,000	4,632,000,000	4,632,000,000	4,632,000,000	4,632,000,000	+294,000,000
Government Payment for Annuitants, Employee Life Insurance	32,000,000	35,000,000	35,000,000	35,000,000	35,000,000	+3,000,000
Payment to Civil Service Retirement and Disability Fund	8,336,000,000	8,682,297,000	8,682,297,000	8,682,297,000	8,682,297,000	+346,297,000
Total, Office of Personnel Management	12,792,310,000	13,435,607,000	13,435,607,000	13,435,607,000	13,435,607,000	+643,297,000
Office of Special Counsel	8,450,000	8,720,000	8,720,000	8,720,000	8,720,000	+270,000
United States Tax Court	33,921,000	34,490,000	34,490,000	32,765,000	32,765,000	-1,156,000
Total, title IV, Independent Agencies	13,292,084,500	13,984,116,000	14,430,140,000	14,461,769,000	14,412,969,000	+1,120,884,500
(Limitation on administrative expenses)	(4,938,245,000)	(5,259,644,000)	(5,726,939,000)	(5,751,491,000)	(5,707,829,000)	(+769,584,000)
Net grand total	25,325,767,500	26,839,489,000	26,614,669,000	29,923,612,000	26,772,527,000	+1,446,759,500
Appropriations	(25,398,567,500)	(26,839,489,000)	(26,614,669,000)	(26,673,612,000)	(26,772,527,000)	(+1,373,959,500)
Rescissions	(-72,800,000)					(+72,800,000)
Emergency funding				(3,250,000,000)		
(Debt liquidation)		(2,854,000,000)		(3,317,690,000)	(3,317,960,000)	(+3,317,960,000)
(Limitations)	(4,938,245,000)	(5,259,644,000)	(5,726,939,000)	(5,751,491,000)	(5,707,829,000)	(+769,584,000)
Scorekeeping adjustments:						
Bureau of The Public Debt (Permanent)	144,000,000	138,000,000	138,000,000	138,000,000	138,000,000	-6,000,000
Federal Reserve Bank reimbursement fund		126,000,000	126,000,000	126,000,000	126,000,000	+126,000,000
Federal Savings & Loan Insurance Corp. (sec. 636)	34,000,000					-34,000,000
Trust fund budget authority	102,311,000	102,000,000	102,000,000	102,000,000	102,000,000	-311,000
US Mint revolving fund	30,000,000	15,000,000	15,000,000	15,000,000	15,000,000	-15,000,000
Sallie Mae	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	
Federal buildings fund	-50,000,000	-28,000,000	-40,000,000	-45,000,000	-30,000,000	+20,000,000
Postal service advance appropriation				-71,195,000	-71,195,000	-71,195,000
Retirement open season (sec. 642)	-2,000,000					+2,000,000
General provision (sec. 406)				5,000,000	5,000,000	+5,000,000
Security of the Capitol Complex (sec. 411)				14,105,000		
Strategic petroleum reserve (sec. 655) (emergency)				420,000,000		
Ethics Reform Act adjustment			-2,000,000	-2,000,000	-2,000,000	-2,000,000
Contingent emergencies				-3,670,000,000		
Total, scorekeeping adjustments	259,311,000	354,000,000	340,000,000	-2,967,090,000	283,805,000	+24,494,000
Total mandatory and discretionary	25,585,078,500	27,193,489,000	26,954,669,000	26,956,522,000	27,056,332,000	+1,471,253,500
Mandatory	12,850,250,000	13,613,547,000	13,613,547,000	13,613,547,000	13,613,547,000	+763,297,000
Discretionary:						
Crime trust fund	131,000,000	132,172,000	132,000,000	132,000,000	132,000,000	+1,000,000
General purposes	12,603,828,500	13,447,770,000	13,209,122,000	13,210,975,000	13,310,785,000	+706,956,500
Total, Discretionary	12,734,828,500	13,579,942,000	13,341,122,000	13,342,975,000	13,442,785,000	+707,956,500

Mr. KOLBE. Mr. Speaker, I reserve the balance of my time.

Mr. HOYER. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, I want to rise and speak on behalf of this bill and say that I am probably going to vote to recommit it. But I will reiterate one more time, this bill is 99.9 percent pure and good. The gentleman from Arizona (Mr. KOLBE) has done an outstanding job. This bill does in fact provide for the needs of the agencies that are within it, it provides funds sufficient for them to carry out their duties in an appropriate way, and it has not included provisions which would undermine their effectiveness. For that I think we owe the chairman of this committee a great deal of thanks because of his conscientious handling of this bill.

Unfortunately as the chairman indicates and as we indicated in the debate on the rule, this bill has gotten caught up in four, what could be called extraneous issues. I would suggest, however, that one of them is not really extraneous to the extent that its provision in the bill is an appropriation matter in that it says none of the funds in this bill shall be spent to purchase policies which do not have full coverage for contraception. To that extent, that is an appropriation provision. The other three provisions essentially are legislation on an appropriation bill. The gentlewoman from New York (Mrs. LOWEY) was able to offer it because it was in order under the rules. And when she offered it, it passed.

I want to go back to that subject, but I want to thank the chairman for his work on this bill. I want to also join him in thanking the chief clerk of the committee Michelle Mrdeza, also Bob Schmidt, Jeff Ashford, Tammy Hughes, and Frank Larkin. I particularly want to join the chairman in his justifiable pride and appreciation at the work that Jason Isaak has done. I always want to make the observation that the public far too often sees us fighting and confronting one another as if we did not try to work constructively together. I want to say that the chairman, joined by Jason Isaak, has been a very positive interlocutor in trying to come to grips with the important issues confronting this bill. Jason, I want to on behalf of not only myself but all the Democrats on the committee, our Democratic staff, thank you for the extraordinarily able contribution you have made to the consideration of this bill over the past few years. It has been a joy to work with you. We respect your ability and your integrity. We wish you the best of luck.

Mr. Speaker, this bill, and I am not going to make all my comments because I will adopt the chairman's comment and include my statement for the RECORD. But in particular this bill provides appropriate resources for the IRS. Why is that important? When we did IRS reform, I made the point that if you were not for IRS reform at budget time and at tax-writing time, all the reform legislation you passed was going to be meaningless. You need to give the IRS the resources to serve the public in a customer-friendly way. You also need good management. I want to congratulate again Secretary Rubin and Larry Summers, the Deputy Secretary, for bringing in a manager, Charles Rossotti. His predecessors have been outstanding people. For the most part they have been tax lawyers. Obviously that was an important skill to have, but really what IRS needed was management skill. Secretary Rubin brought in a manager with Mr. Rossotti from the private sector, an 8,000 person firm, an expert in the field of information management. He is doing an outstanding job. That is the good news.

The second piece of good news is that the gentleman from Arizona and our committee has provided him the resources to make sure that reform in fact occurs. I want to thank the chairman again for that. The bill does fund as well law enforcement. Forty percent of Federal law enforcement is in this bill, whether on the borders, in our cities, in our schools, training kids how to stay out of gangs. This bill is a critical component of fighting crime in America in every community in America. The gentleman from Arizona is committed to that effort. He and I have the privilege of working together with our law enforcement officials in the Treasury Department to make sure they are as effective as we could possibly make them to keep our schools and communities and States and Nation as free of crime as we possibly can; as well to interdict drugs which are eating at the fabric of our society. This bill funds that effort. I congratulate him for it.

Mr. Speaker, before my time concludes, I will include the rest of my remarks in the RECORD, talking about the programs that this bill does well by. Mr. Speaker, we will be discussing what this bill, however, deleted.

When this bill went to conference, there were a number of provisions, four in number, that became contentious. One, the provision about the FEC which the gentleman from Louisiana (Mr. LIVINGSTON) has been a very strong supporter and proponent of, was obviously very controversial and a confrontation between the two parties where one party was all against it and for the most part the other party was for it. I suggested that that provision be dropped because we could not get agreement on that provision, and I am pleased that it has been dropped. The other three provisions, however, were different, Mr. Speaker, and they were different because they had and still to this time, I believe, enjoy bipartisan support.

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Not only do they enjoy bipartisan support in the House, but also in the Senate, and that bipartisan support also reflected itself in the conference. It is unfortunate that they were dropped. I will have more to say about them in a few minutes.

But again, this is a good bill once we resolve these four items. I hope it moves forward.

Almost half of the $13.4 billion in discretionary budget authority in this bill is targeted at law enforcement and anti-drug efforts.

Roughly $450 million in provided to the drug czar for a variety of drug-fighting efforts, including $182 million for the very successful high-intensity drug trafficking areas [HIDTAS], and $185 million for the ONDCP's national media campaign.

We provided IRS commissioner Rossoitti with funding that will enable him to continue with the reform and restructuring efforts. IRS is funded at $7.9 billion, $469 million less than the President's request—most of which is attributable to the IRS' Y2K needs, which should be funded in the supplemental being planned by the leadership.

Secretary Rubin and Deputy Secretary Summers should be given credit for rescuing the failing tax modernization program. They provided the needed oversight to allow IRS to make the dramatic improvement in their computer systems area.

This bill also funds many smaller agencies, including the National Archives, OPM, GSA, the FEC, and the Executive Office of the President, including the White House Office, and executive residence.

I am pleased that the chairman and I were able to reach an agreement to modify the fence on $630,000 for spending on overtime expenses at the executive residence. I wish the fence were not there, however, the language will allow the White House to provide the General Accounting Office with its comments and once the GAO notifies the committees of its receipt of the White House comments, the fence is eliminated. I was informed today that GAD has given its report to the White House, and this well be finished soon.

For GSA, I am very pleased that we are able to include over $500 million for needed courthouse construction projects. Chairman Kolbe and I agreed that the courthouses needing funding were the only ones that would be funded in this bill. The courthouses included in this bill is identical to the list of construction projects recommended by the judicial conference as the top priority needs of the courts.

In addition, I am disappointed that this bill does not include much needed funding for the Y2K problems facing the Federal Government.

When this bill came out of the full committee, and funding for Y2K was stripped, I was assured that the leadership understood the urgency of the problem and understood that funding had to be provided.

However, as of October, days after the beginning of the new fiscal year in the 3 months since the funding was stripped from this bill, we still have not dealt with this issue.

I had very much hoped that the bill would contain the contraceptive equity language that passed the House and Senate.

Since it does not, I am offering a motion to recommit this conference report with an instruction to include the House-passed contraceptive language.

Mr. Speaker, I reserve the balance of my time.

Mr. KOLBE. Mr. Speaker, I yield 3 minutes to the very distinguished gentleman from Louisiana (Mr. LIVINGSTON), Chairman of the Committee on Appropriations.

Mr. LIVINGSTON. Mr. Speaker, I thank my friend, the very distinguished chairman of the Subcommittee on Treasury, Postal Service, and General Government for yielding this time to me, and I want to congratulate him and the staff and all the Members on both sides for doing such a great job with what I think is a fine bill and a bill which I hope will go to the other body, get passed, be sent down to the President and be signed because there is a lot that is good about this bill. In fact, I appreciate the comments by the gentleman from Maryland (Mr. HOYER) talking about what is good about this bill. It is a good bill.

And I was a little bit taken aback. Yes, there are four provisions which were irritants to many Members. I really appreciate the position of the gentleman when he said that whether it was one of the four that he was against, let us throw that one out and let us keep the other three. Well, that is a neat bargaining position, but that is not going to cut it because there are a lot of people in the House who are opposed to the other three, for one reason or the other, and they were not unanimous. Each of the four had its opposition, each of the four had its segment of people who were vigorously opposed to it, and together they came to the floor last Thursday night and cast their vote against the rule which prevented us from proceeding as we are proceeding tonight.

It was a simple decision, was not political, was not a vendetta, was not intended to single any one group out. If there were four irritants on a very good bill, let us take out the irritants, and pass the very good bill and go on about our business.

We have got three days, three legislative days between now and the end of the 105th Congress. It seems to me that if my colleagues did not get their provision kept in, but they are mad because the others that they liked were not also kept in, that they need to understand what a compromise means.

I simply say that it just makes common sense, take all four out, pass the bill, send it to the Senate, let us go on about our business.

This is a good bill. All of the Members have worked hard. We have had difficulty with the process, but we have not had difficulty with 99 percent of the substance of this bill. Let us stop talking about process, let us stop taking political advantage.

Yes, I have one of these provisions that I strenuously am in favor of. I lost. I lost my position on the FEC. I think that is a terrible mistake, but I am willing to concede it, and I would think my colleagues would be willing to concede it, and that is why I cannot understand why they would support a motion to recommit, rehash the process and undo this very fine bill which the gentleman himself concedes is great legislation.

If it is great legislation, let us stop playing politics, let us move the bill to the other body, and let us get the President to sign it.

Mr. HOYER. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from Florida (Mrs. MEEK), a member of the subcommittee.

Mrs. MEEK of Florida. Mr. Speaker, this bill needs to be defeated. It is amazing to me how we can make relative comparisons in this bill. My Chairman, a man I have a lot of respect for, enumerated a lot of things that are in this bill that are good. They are good. But most of the things the Chairman enumerated were things that deal in things or buildings or objects like IRS, Customs, and many other things that he enumerated. But one thing that he left out: he did not deal with human lives and how this bill is going to negatively impact 40,000 Haitians that are in this country.

Why are they in this country? Not because they have the freedom to come here. They left fleeing a government which was unfair to them, a terrorist government, a government that caused them to go hungry, a government that caused them to give up their lives with their bodies washed ashore all along the Atlantic. These are the things this Congress has failed to look at.

Mr. Speaker, I have tried for 4 years to get some relief in this Congress for the Haitians. Certainly in the House we have consistently ignored these people, consistently we have. We were able to the last time to admit the Nicaraguans and 5000 more Cubans. The Cubans already had an opening in this country. We always support people who need help in this Congress.

I went along with the gentlewoman from Florida (Ms. ROS-LEHTINEN) and the gentleman from Florida (Mr. DIAZ-BALART) to help get the Nicaraguans and the Cubans in this country. Then they went along with me with the Haitians. And I want to say, Mr. Speaker, in this rider, it is not caused by all the people on the other side. We know who they are, and they know who they are. The good people on the other side have been swayed by a right-wing extremist group which for some reason cannot stand the idea of Haitians coming into this country and receiving green cards. Yet they can allow 150,000 of a people in this country who did not face similar kinds of terrorist actions as the Haitians.

I cannot understand it, Mr. Speaker. I wish I had the answer as to why this disparity is being made here in this House. The Senate did what they thought was a humane thing to do. They voted to allow them to come in, this 40,000. They did not let everybody in. They thought about the children, they thought about the ones who came from Guantanamo, and they thought about the ones who had sought asylum in this country. There are many other Haitians in this country, over 100,000 others, but at least the Senate stepped forward and said we believe it is righteous, we believe in it.

This House has shown that it believes in disparate treatment for Haitians. That is why this bill should go down, Mr. Speaker.

Mr. KOLBE. Mr. Speaker, I yield myself 30 seconds.

Let me just say, Mr. Speaker, that the gentlewoman from Florida makes a very powerful argument for the assistance to the Haitian refugees. I believe that her argument is one that should be considered by this House. But, as she knows, there are people, people who have responsibility for the authorization of immigration legislation that have very strong views on the other side, and we just could not carry it in this bill. If it is as important as it is, and the administration agrees, and the Senate leadership agrees, and the House leadership agrees, it should be included in the omnibus bill.

Mr. Speaker, I yield 4 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Speaker, on July 16 I felt tremendous pride in this Congress when Republicans and Democrats came together and passed an important family planning provision that would have extended contraceptive coverage to more than a million women enrolled in Federal health plans. The debate was heated, but it was honest and driven by the merits of the issue. Now, three months later, that same provision is no longer in this bill. No one is more disappointed than I.

I am particularly disappointed by the fact that it was the victim of an incredible partisanship. The Democrats simply decided contraceptive coverage was expendable, and I rarely make this kind of claim, but honestly that is the truth. It was expendable, it was less important than a provision that will have no effect for 4 years.

The Haitian solution was less important than the FEC problem that can be fixed in the next 4 years. The child care improvements were less important than the FEC provisions that will not have effect for 4 years. We should have been able to pass that bill on the floor that had those provisions in it. If my colleagues did not like the FEC provisions, and I know they did not and we know there is a pressing need for FEC reform, then we would have had time to work together and address those issues. But since there was no willingness to recognize the three major provisions we agreed on, 3 of 4, there was no choice for people like me but to support the bill before us.

Mr. Speaker, my responsibility is to keep the government open. My responsibility is to fund the United States Treasury Department that I think does very important things for the people of this Nation. I am proud that in this bill is $103 million to improve IRS customer service. This Congress, the House and Senate, spent 2 years thinking through reform of the IRS, changing the law, and I am proud that the committee of the gentleman from Arizona (Mr. KOLBE) and with the cooperation of the gentleman from Maryland (Mr. HOYER) have got the money in this bill so that we can do what we told the people we were going to do and improve customer service at the IRS. Twenty-seven million dollars for restructuring and taxpayer clinics so people can have some timely help in understanding what their responsibilities are and how to pay their taxes in an honorable way on time.

Also in this bill is $3.2 million. It is a small amount of money but so important to the National Center for Missing and Exploited Children. This is also a lot of money for drug interdiction and other drug prevention programs.

This is a good bill. The tragedy is that everybody agrees that the subcommittee did an excellent job on funding this function of government, and we have caused ourselves enormous problems by legislating on an appropriation bill.

We have caused ourselves increasingly serious problems over the years by legislating more and more provisions on appropriations bills. While we know this is illegal under our rules, this time we did have some very serious debates about some of those riders, and some of them included from the Senate side, like the Haitian provisions, did solve very, very important problems for families who are stranded here in America. It just pains me that we were not big enough to move this bill through with those three provisions on it and come back next year to better address FEC problems. the D's could have gotten some solid agreement from us to come back and let us look on the FEC. Let us agree to make a real conscious effort to reform it. That was not done; I regret it. My responsibility was to fund the IRS and the other agencies funded in this bill, and I am proud to support it.

Mr. HOYER. Mr. Speaker, I yield myself 15 seconds.

Mr. Speaker, I tell the gentlewoman for whom I have a great deal of respect, the FEC provision is effective January 1, 1999. She firing Mr. Noble as of January 1, 1999, less than 90 days from today.

Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, I would simply say to the gentlewoman from Connecticut (Mrs. JOHNSON) that that speech simply will not wash. If you really believe that contraceptive coverage should be provided in this bill, there is only one way to get it: turn the bill down, and bring a bill back which contains it. The majority party was told by people on this side of the aisle that all they had to do to get 200 votes on our side of the aisle for the bill is to drop the amendment on the Federal Elections Commission that threatens to corrupt the entire election process. That is still the best way to cover or to get the contraceptive coverage that she says that she wants.

So they can give all the excuses they want about how it is necessary to fund the IRS. Nobody seriously believes the IRS is not going to be funded. It will be funded no matter what happens to this bill. Quit kidding people.

□ 1900

Mr. HOYER. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, I rise in strong opposition to the Treasury-Postal Appropriations conference report because it strips out the contraceptive prescription coverage, strips out language that both the House and the other body passed, Mr. Speaker, language that was passed.

It seems like, in this Congress, the appropriations process immediately signals the beginning of hunting season on a woman's reproductive rights. Figure it out. Unwanted pregnancy and abortion rates drop when women have access to preventative reproductive health care, the health care they need.

I ask Members, look at your female staff, those women who work so hard to serve your districts. Look at them and tell them that you do not care about their reproductive health and their choices. Then look at the millions of Federal employees who, day in and day out, serve the people of this country. Go ahead. Tell them that you want to deny them the rights made accessible to other women but not to them.

Voluntary family planning services give our women and their families new choices and new hope. These services increase child survival and save motherhood. Prohibiting Federal workers from using their health care coverage for prescription contraceptive coverage discriminates against women, women that work for the Federal Government. This is a disgrace. Government workers should not be treated so poorly.

The democratic process deserves more respect. The appropriations process should not signal to women in this Nation that their rights are at risk. Vote against this conference.

Mr. KOLBE. Mr. Speaker, I yield 30 seconds to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Speaker, I just want to make it clear that I do not consider it partisan to require that the chief counsel of the FEC have bipartisan support, that there be bipartisan confidence in his work.

Almost every board and commission requires a majority vote for anything, and certainly for hiring a major staffer. The only thing that goes into effect January 1 is the change that a majority has to support, has to have confidence in their chief of staff. I consider this a bipartisan improvement.

Mr. HOYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentlewoman for her comment; but in point of fact, we are all confident that there are not three votes to do anything for Mr. Noble on the Republican side; and, therefore, as of January 1, 1999, less than 90 days, he would be terminated by legislation. I think that is unprecedented.

Mrs. JOHNSON of Connecticut. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentlewoman from Connecticut.

Mrs. JOHNSON of Connecticut. Mr. Speaker, does the gentleman not think that is incredible? Does the gentleman think that is healthy? Does it give the gentleman any insight into why this organization has been so ineffective in the last couple of years?

Mr. HOYER. Mr. Speaker, reclaiming my time from the gentlewoman, I will tell the gentlewoman, no, I do not think it is incredible because Mr. Noble went after GOPAC, and he went after the Christian Coalition. I will tell the gentlewoman that it is our strong conviction on this side that is why this issue has been raised this year, I will tell my friend.

Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Speaker, I rise in support of a motion to recommit with great disappointment that the Lowey provision was removed from the bill.

It is outrageous to me that we would prevent Federal employees from access to basic health care which includes contraceptive coverage as was stated. These are our colleagues who work in our offices. These are the women and the families they represent who work in Federal agencies across this country.

Before coming to Congress, I spent 20 years as a school nurse and led a program for pregnant teenagers and teenage mothers. Many of these young parents were married and wanted to stay in school.

This experience convinced me that access to contraceptives is such a key part of our goal to reduce unintended pregnancies and, in turn, reduce the number of abortions in this country.

When we provide women and people with access to contraceptives, we empower them to make their own critical decisions about their own lives and the lives of their families.

Contraception is first and foremost a health issue. Close to half of all the pregnancies in the United States are unintended. Unwanted pregnancies often carry the risk of poor prenatal care and the risk of unwanted and disadvantaged children.

Improved access to contraception is a simple cost-effective way to keep women healthy, to protect their families, and ensure that the children who are brought into this world have the support they need to thrive. Federal employees should be allowed access to a basic part of health coverage and should not be treated as second-class citizens.

Again, I am sorely disappointed that this provision so vital for women's health was stripped by our leadership.

Mr. HOYER. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Denver, Colorado (Ms. DEGETTE).

Ms. DEGETTE. Mr. Speaker, last time I checked, it was 1998. But, frankly, as far as I am concerned today, it might as well be 1918 when Margaret Sanger went to prison for smuggling diaphragms to women.

This is a very sad day for American women. A proposal to provide birth control, birth control, not abortion, a proposal which passed both the House and Senate has now fallen to the demands of the Christian Coalition and the radical right.

Denying access to contraception for Federal employees is just a small step in the systemic efforts by the radical right to eradicate, not just a woman's right to abortion, but a woman's right to birth control, to reproductive health.

First, it is denying insurance coverage for contraception, then it is outlawing FDA approval of contraception, then criminalizing grandparents for taking teens across State lines for abortion. On and on and on are attempts to both reverse Roe versus Wade and then remove a woman's right to reproductive choice.

I think that we need to tell the tens of thousands of Federal employees in this country and their families that this Congress will stop playing God and do what the American people have elected us to do. We have no business in America's bedrooms. We cannot force natural family planning, the method by which my parents had 5 children in 6½ years.

We have got to have sensible birth control which will reduce abortion in this country and will give American women a choice over when they have planned pregnancies.

I urge this body to vote "yes" on the motion to recommit, put this important language for our employees and all Federal employees back in the bill. At that point, it is an excellent bill, and we should all support it.

Mr. KOLBE. Mr. Speaker, I yield myself 15 seconds.

Mr. Speaker, I would just point out to the gentlewoman from Colorado (Ms. DEGETTE), if this was such an important provision, where was she Thursday night? She was not here to vote for it. She voted against it. She did not think it was important on Thursday when we had the bill up here.

Mr. Speaker, I would ask how much time remains on both sides.

The SPEAKER pro tempore (Mr. GUTKNECHT). The gentleman from Arizona (Mr. KOLBE) has 10 minutes remaining. The gentleman from Maryland (Mr. HOYER) has 13 minutes remaining.

Mr. HOYER. Mr. Speaker, I yield 4 minutes to the gentlewoman from New York (Mrs. LOWEY), who was the sponsor of the provision in question on contraception.

Mrs. LOWEY. Mr. Speaker, I thank the ranking member of the committee for yielding to me. I want to say again to our distinguished chairman, the gentleman from Arizona (Mr. KOLBE), and to the ranking member, the gentleman from Maryland (Mr. HOYER) that I feel very sad tonight that I cannot enthusiastically support this bill.

I know how hard the gentleman from Arizona (Mr. KOLBE) worked on the bill and the gentleman from Maryland (Mr. HOYER) worked on the bill. There are a lot of Federal workers out there who depend upon the provisions of this bill.

I have heard from my colleagues this evening that we had to just remove all of the controversial provisions in the bill because otherwise the bill could not get through. I just want to make it clear to my friends on both sides of the aisle that I strongly disagree with that point of view.

There is a big difference between disagreeing on a provision and taking a provision out of the bill that was voted on democratically, with a small "d," by the majority of this House, by a voice vote in the Senate that was in the conference report.

There is a big difference between taking that provision out, having the leadership of this House making a decision to take that provision out, and to remove other provisions that many of us felt were clearly political and were not supported by both the House and Senate. So I wanted to make that point, number one.

Secondly, as a woman, sometimes you get an opportunity to do something that really helps the majority of women in this country. I want to urge my colleagues and alert my colleagues to a poll, and not that polls means anything in this House, but a poll that is being released tomorrow saying 78 percent of women in this country support contraceptive coverage.

I know my good friend the gentlewoman from Kentucky (Mrs. NORTHUP) has said that any woman can choose a plan that has a contraceptive. We know, and I have 2 daughters and daughters-in-law, that some contraceptives are good for some people; others are good for others.

In fact, I would like to say to my good friend, the gentlewoman from Kentucky, is it not sad that a woman in 1998 should have to choose a plan just because it has the kind of contraceptive that is best for her.

What we are saying is that there are five established methods of contraception. The plan should cover them if, in fact, they cover prescription drugs. That is what the American people want. That is what the women of America want. If some people feel one of those contraceptives is an abortifacient, it is your right. Just do not use it.

I do not agree with everything that is in every plan, but the Budget Office has made it very clear that covering this would be an incidental cost. It does not mean anything.

So I just want to say in closing, we try to operate in a small "d" democratic way in this House of Representatives in this Congress of the United States, and I am still proud to be a part of the Congress of the United States.

But I have to tell my colleagues, to find a way to take out a provision that was democratically voted in both the House and the Senate I think is an outrage. I think it is an insult to American women when 80 percent of the plans do not cover all forms of contraception that have been approved.

I have to tell my colleagues, all but one covers sterilization. We have just seen that it is okay for the military to include $50 million for Viagra. This is patently unfair.

I would hope that everybody would vote for the motion to recommit so we can correct the error and put this contraceptive provision back in. That is what the American people want. That is what American women want. I thank again my chair and my ranking member.

Mr. KOLBE. Mr. Speaker, I yield 1½ minutes to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, I thank my good friend for yielding to me.

Mr. Speaker, I urge a "no" vote on the motion to recommit. The language that would be offered, I believe by either the gentleman from Maryland (Mr. HOYER) or by the gentlewoman from New York (Mrs. LOWEY), would force most health care providers in the Federal Employees Health Benefits Program to provide chemicals and devices that result in early abortions.

What is largely unknown and largely misunderstood is the fact that some devices and some chemicals that advertise as contraceptives also have the effect of preventing implantation of a newly created human being.

For example, the copper IUD, when inserted up to 7 days after intercourse, after intercourse, acts in a way that does not prevent fertilization, but it acts in a way to prevent implantation. That is advertised as emergency contraception.

If a conscientious objector who is not basing his or her objection on religious beliefs or plan would like to not provide this, they would not have that opportunity because it is a mandate. That is what we are talking about.

All of these things are permissible under current administrative policy and current law. All of these things are permissible, including early abortions through these chemicals. What is not the case, they are not mandated.

This is all about a mandate saying to a plan, you either tow the line and offer copper IUDs 7 days after intercourse, or you lose your ability to be in this program; and that is where the mandate ought to be rejected. Keep it permissible, not mandatory. Vote "no" on the motion.

□ 1915

Mr. HOYER. Mr. Speaker, I yield 1 minute to the gentlewoman from New York (Mrs. LOWEY).

Mrs. LOWEY. Mr. Speaker, I just want to respond to my good friend from New Jersey (Mr. SMITH) and to my colleagues. I just want to make it very clear that there are 5 established methods of contraception that have been approved by the FDA, number 1.

Second, 78 percent of the American people believe that we should work hard to reduce unintended pregnancies, to reduce the number of abortions, and most people in this country, men and women, do believe that the way to do that is with family planning, is with contraception.

Now, we can debate on this floor when life begins, but remember, if a plan offers the 5 methods of established contraception, that does not mean everyone has to choose that. Everyone has the opportunity to make a decision based on their religious beliefs, and in fact, we have exempted the 5 religiously-based health plans so that they do not have to offer contraception. I think we have been very fair in drafting this provision. It was passed in a bipartisan way. Let us vote for the motion to recommit and support it.

Mr. KOLBE. Mr. Speaker, I yield 4 minutes to the gentlewoman from Kentucky (Mrs. NORTHUP).

Mrs. NORTHUP. Mr. Speaker, often when I go before groups at home they ask me what sort of training I had or what seemed to help me be a Member of Congress. I tell them that it was growing up in a family of 11 children, because when one grows up in a family of 11 children, one does not always get one's way.

In fact, it often seems like one never gets their way, and one learns that one gives up all the time. One gives up their choice on what television show to watch, one does not get to choose when one goes to the pool, where one goes, what one eats for breakfast. The fact is that when one is 1 of 11 children, one learns to compromise all the time to get to an end that is very important.

So in the conference committee we had very strong feelings. Most of us compromised. Three of the provisions that were controversial I agreed with. I do not believe that we should add more mandates on our Federal employees' health plans that will have the effect of driving up their costs. But I agree, because it was very important to a group on the Democratic side particularly, but on both sides, that we include that.

The fact is that in the end the minority party decided not to support the rule and not to support the conference committee because one thing was more important than anything, and that is that the general council have bipartisan support to stay in place.

So the rule went down. So now we are back with all of the controversial provisions stripped.

I understand that it is very important to the gentlewoman from New York (Mrs. LOWEY). She has dedicated day after day to this mandate on health insurance. So she is going to stand up and offer a rule to recommit, I understand, for her provision. It sort of ignores, to the gentlewoman from Florida (Mrs. MEEK) and to me, the fact that the Haitian provision was very important, and that in this recommit rule, what we are saying is what I want is more important than anything else, and so I am going to recommit the bill to get the one provision that trumps everything else.

That is the sort of lesson one learns when one is in a family of 11 that one cannot do.

To directly address this, I just want to say that not one Federal employee has contacted me asking me to mandate every form of birth control in every plan. They like what they have. They like their choices, and they have confidence that they can choose the plan that is best for them.

Now, if we want to go back to a state where we have to tell Federal employees, we know what is better, you may not want a higher priced plan, but we know what is better for you and we are going to mandate it. They will come back and tell us that CBO said there is no additional cost, and the truth is, there is no additional cost for the Federal Government.

First of all, CBO has now said that maybe they did not score it correctly. But let me point out that in some ways, Federal employees are like many employees of small businesses. The employer says, I am going to pay this much every month for your policy, and you are going to pay the balance. And so if right now they do not need contraceptive coverage, and maybe what they need is the most affordable plan, something that they can choose, and in fact, we know Federal employees are moving to cheaper plans, that tends to be their criteria, what we are saying is that we do not care that is your criteria, we know better.

Mr. Speaker, I have not had one Federal employee that wants me to change and mandate, add mandates.

So what we are doing is deciding here that maybe something we want them to have is not even something that they want. There are women in the private sector that would love to have options on their insurance, but they do not exist in the Federal system.

Mr. HOYER. Mr. Speaker, I yield 1 minute to the gentlewoman from New York (Mrs. LOWEY).

Mrs. LOWEY. Mr. Speaker, I would just like to quickly respond to my colleague from Kentucky.

Number one, the association that represents the Federal employees does support this provision. They are on record.

Second, my colleague accused me of being selfish. I strongly endorse the provision of the gentlewoman from Florida (Mrs. MEEK), and I would hope that it would be in the bill. The reason the contraceptive provision is the motion to recommit is that provision did pass the House and the Senate; it was in the conference, and so it really is quite undemocratic to take it out.

Last, I just want to say that I just have one brother. I have 3 children, and maybe I did not have to share everything with 11, but I have learned that democracy should work in this body, as a Member who has been here for 10 years, and I still think, in closing, it is outrageous that a provision that passed the Senate and the House and the conference should be taken out.

We could have a longer debate about what should and should not be in a health benefit plan, but this has been supported by the association that represents these employees.

Mr. HOYER. Mr. Speaker, I yield 1½ minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Speaker, I thank the gentleman for yielding me this time and I thank him for his leadership on this issue and so many other important issues before this House.

I rise in opposition to this bill, because while it restores some of the necessary powers to the Federal Elections Commission, it takes power away from women. It discriminates against women by denying them access to the full range of contraception services.

We are wasting no time in handing out over $50 million worth of Viagra to service members through the Pentagon this year, but we are denying women access to contraception. It is discriminatory and it is wrong.

Some of my Republican colleagues have accused us of wanting things both ways. Well, they are absolutely right, because restoring power to the Federal Elections Commission as well as giving women proper access to contraception, these are the right things to do.

Mr. Speaker, as we all know, this language, the contraception language has already been approved by the majority in both Houses. It passed this House twice. We should play by the rules. It has been approved by the House, approved by the Senate, and we have a great deal of additional work we need to do. We should not be undoing what this Congress has already passed, and I urge a "no" vote against this conference report.

The SPEAKER pro tempore. The Chair would advise that the gentleman from Maryland (Mr. HOYER) has 5½ minutes remaining; the gentleman from Arizona (Mr. KOLBE) has 4½ minutes remaining.

Mr. HOYER. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, I thank the gentleman.

I rise today opposed to this report and opposed to the way the Republican leadership has run roughshod over the will of the majority of the House, the majority of the Senate, and the American people.

We have discussed this issue many times before. The full House voted twice, the Senate voted once in support of contraceptive coverage for Federal employees. This is basic health care for women, health care that will help to reduce the number of abortions.

But to satisfy their right wing, for political reasons, the Republican leadership is once again extending the arm of government into the doctor's office. They claim to know better than doctors. It has been said many times before, but let me say it once again. This provision will not require plans to cover any form of abortion, including RU486.

We all know that the law forbids Federal health plans from covering any form of abortion. What was intended here was to ensure that women have access to the health care that they need and that they deserve. It enables couples to reduce the need for abortion.

Mr. HOYER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I rise to speak about the motion that we will make, because there will be no time for debate when the motion to recommit is made.

As has been referenced earlier in this debate, there will be a motion to recommit. I regret that the gentlewoman from Connecticut is not on the floor, because the motion to recommit will be limited to one single issue, and it will be an issue that has enjoyed the majority support of the Members of this House, including approximately 51 Republicans, as well as 178 Democrats. It is a measure that has been supported in a bipartisan fashion, that is overwhelmingly supported in this Nation, and that is to commit to providing for women the family planning options of their choice that they can use most effectively.

Mr. Speaker, I would hope that every Member who voted for the Lowey amendment and who voted in opposition to the Smith amendment to undercut the Lowey amendment would vote for the motion to recommit, which will recommit the bill to conference, with instructions to add back the provision that passed this House.

Now, I want to make it clear that that position was the position shared by the chairman; shared by the ranking member, myself; shared by the chairman of the Senate conference committee; shared by the ranking member of the conference committee; supported by the Senate in a 5 to 2 vote by their conference.

Mr. Speaker, this should not be a controversial issue. I do not mean by that that there are not people who feel strongly in opposition to the suggestion of the full array of contraceptives being available to women. I understand that opposition. But it is to say that there is a clear majority in both Houses for this provision. One cannot say that about any other of these provisions. It is the only provision that fills that bill.

Furthermore, let me perhaps put a caveat to that.

□ 1930

The FEC measure may enjoy the majority support in both Houses, but Republicans only, so there is not bipartisan support for that. We make a distinction on that basis. Yes, we felt strongly about it.

I would hope that Members of this House, realizing that this is a good bill that should pass, and will pass in some form within the next 72 hours, I believe, I hope, and I will work towards that objective, but it is also a bill that could and should carry this provision, supported by the overwhelming majority of the Congress, the Senate, the House, and the conference committee.

Why should it pass? Because it is an important provision, as the gentlewoman from New York (Mrs. LOWEY) and so many others have stated, to provide for full health services for women in America.

I would suggest to my friends that if the men of America felt as strongly about a provision, the chances of us dropping it would be zero. Let me repeat that. If the men of America felt as strongly about a provision, the chances of us dropping it would be zero.

I would hope that when we come to the floor, that we vote for the motion to recommit. I would then hope my chairman would take us into conference immediately, and because I know that the Senator from Colorado, the chairman of the Senate conference, and the ranking member, the gentleman from Wisconsin, support this provision, and I know the chairman supports this provision, and obviously I support this provision, that we report this bill back immediately, and I will agree to a unanimous consent request for a limited debate, 5 minutes a side, and that this bill would then pass.

I want to tell the chairman that I would strongly support the Haitian provision as well. I am not sure that will go. I have talked to the administration, and believe that will be a very significant issue in the omnibus bill. But I would hope that the motion to recommit would be approved by this House, and the will of this House would be carried out in this bill.

Mr. KOLBE. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I rise in opposition to the motion to recommit, and I urge my colleagues to vote against that, when we come to that vote. I urge them to vote for the passage of the conference report.

Let me say that I support very strongly providing contraceptive coverage for women. My record on these issues has been very clear since I have come to this body, and I have taken more than my fair amount of heat at home from some of my more conservative members of my party on this issue, but I strongly support it because I think it is the right thing to do. I favor expanding the coverage. I believe that women who work for the Federal Government should have more options than they do now.

But I want to make it clear that without this provision that passed the House of Representatives, a very controversial provision, and it was, if Members will recall, a very tough fight when we had it, but it passed the House of Representatives, by eliminating this we are not eliminating contraceptive coverage for any woman who works for the Federal Government.

We are not providing any denial of coverage. We are not putting any limitation on what kinds of contraceptive coverage any Federal health plan can provide. That is a determination that the health plan can make. That is a determination that any person who signs up can make, as to whether they want to be in that plan.

We are retaining the status quo. We are where we are with the law today. Those on this side of the aisle and the minority side of the aisle would argue that it is not enough. I would agree. I think we should have an expansion. I think there should be more coverage.

There are those over here who would want to ban any contraceptive coverage in a Federal health plan. We have neither position. Neither position has been able to work its will here. So we have a law today that allows coverage, but it does not mandate it. Eighty-four percent of the Federal plans do provide for some kind of coverage. Forty percent of them provide for all of the contraceptive coverage. There is virtually no woman working for the Federal Government that does not have access to a plan that has some kind of coverage.

So I would prefer the position that has been articulated by those over there, but we could not get it out. My colleagues on that side of the aisle would not support it last Thursday when we had this vote up. It was not important enough to them then. Tonight it is important to them, so they want us to defeat this and recommit this, but it was not important enough to them last week.

I have a responsibility, as the chairman of this subcommittee, and the gentleman from Maryland (Mr. HOYER) has been there himself, to get this bill to the floor, to get this conference report done, to make sure that 163,000 Federal employees that are supported by this bill continue to work if we somehow do not have an omnibus bill on Friday; that they will continue to work; that they will continue to do the work of collecting the taxes for the Federal Government, of doing the work of the IRS of processing tax returns; that they will continue to do the work of Customs, of checking the borders, of interdicting drugs from coming into this country; that they will continue to do the work of the Secret Service, that provides protection for the President and fights against counterfeiters; that they will continue to provide the money for the Drug-Free Communities Act, so that we will be able to continue the work of the drug war through the Media Program; that we will continue to be able to do all of these programs.

But Mr. Speaker, if we recommit this bill tonight, it is dead. We do not have contraceptive coverage. We do not have the good things that the gentleman from Maryland (Mr. HOYER) spoke about earlier in this bill. There is no way we can get that out of the conference committee. My colleague knows that. We have gone over this. We have talked about it. We cannot get it out, so we simply cannot pass the legislation.

Mr. Speaker, I urge my colleagues in the strongest possible terms to reject the motion to recommit. Let us move forward with the bill that is a good bill for the agencies that it funds, a bill that does not have extraneous legislative provisions on it.

Defeat the motion to recommit, pass the conference report tonight, and keep the Treasury-Postal agencies in business.

Ms. MILLENDER-McDONALD. Mr. Speaker, I rise in strong opposition to the rule. The Lowey provision within the Treasury-Postal Appropriations bill was passed in both Chambers of Congress—twice in the House—and was included in the final conference report. To strip this language now flies in the face of the legislative process.

The vast majority of Federal Employee Health Benefit (FEHB) plans do not cover the full range of prescription contraceptives which prevent unintended pregnancies and 10 percent of the FEHB plans do not even cover any of the five major contraceptives.

The Lowey provision in the Treasury-Postal Appropriations bill simply requires that FEHB plans cover prescription contraception, just as they cover other prescriptions. The FEHB program serves as a model for the Nation's private health insurance plans. The FEHB program must cover these basic and essential prescription drugs that can decrease the need and likelihood of abortions in this country. We owe this not only to the millions of women who make more than half this population, but to their families who are trying to be responsible parents.

Eighty-one percent of FEHB plans do not even cover the five leading reversible methods of contraception. Due to various medical conditions, many women do not even have the option of using certain forms of contraception. Women deserve a full and fair choice when it comes to their personal health needs.

Currently, women of reproductive age spend 68% more in out-of-pocket health costs than men. We need to narrow the gender gap in insurance coverage—not widen the disparities between those who have and those who have not, and further expand the chasm that has hurt far too many women and families throughout the country already.

The Lowey provision is a critical, basic necessity that has a "negligible" cost according to the Congressional Budget Office. I urge my colleagues to recognize and respect the legislative process.

And we must vote "no" because the Republicans have also stripped the language providing Haitian refugees the chance to establish legal permanent residence in the United States. This Haitian language would enable an estimated 40,000 Haitians, including about 11,000 paroled into the United States after the military coup in 1991 by the Bush administration, to adjust to permanent residence status. These Haitians deserve the asylum that has been provided to their Nicaraguan and Cuban counterparts.

Again, I urge my colleagues to vote "no" on this destructive and unjudicious rule.

Mr. CONYERS. Mr. Speaker, this conference report is a shocking disappointment for two reasons: First of all it unjustly strips away well-deserved rights from a small group of Haitians in the United States. The Senate bill included relief for 40,000 Haitians who had arrived in the United States by the end of 1995 by granting them the right to apply for legal permanent residency. These Haitians were paroled in upon the invitation of the attorney general. Due to bipartisan, bicameral support the House receded to the other body.

Now a small minority here in Congress wants to kill this issue. This is totally unacceptable.

Second of all, this conference report deletes the Lowey language which requires that Federal Employees Health Benefits (FEHB) plans cover prescription contraception, just as they cover other kinds of prescriptions. The Lowey amendment was approved by the full Appropriations Committee, twice by the House, once by the Senate unanimously by voice vote, and was included in the conference report.

The problem is that the vast majority of FEHB plans fail to cover the full range of prescription contraceptives which prevent unintended pregnancy and reduce the need for abortion. In fact, 81% of FEHB plans do not cover all five leading reversible methods of contraception and 10% have no coverage of contraceptives at all. Women of reproductive age spend 68% more in out-of-pocket health costs than men and much of this is due to the cost of contraception—we need to narrow this gender gap in insurance coverage. The Federal Government needs to provide a model for private health plans by providing this very basic health benefit for women insured by FEHB plans.

I urge my colleagues to reject this conference report.

Mr. KOLBE. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

MOTION TO RECOMMIT OFFERED BY MR. HOYER

Mr. HOYER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore (Mr. GUTKNECHT). Is the gentleman opposed to the conference report?

Mr. HOYER. Mr. Speaker, in its present form I am.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. HOYER moves to recommit the conference report on the bill H.R. 4104 to the committee of conference with instructions to the managers on the part of the House to insist on section 624 of H.R. 4104 dealing with contraceptive prescription coverage under the Federal Employees Health Benefit Plan.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. HOYER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Without objection, further proceedings on this motion will be postponed.

There was no objection.

MULTICHANNEL VIDEO COMPETITION AND CONSUMER PROTECTION ACT OF 1998

Mr. TAUZIN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2921) to amend the Communications Act of 1934 to require the Federal Communications Commission to conduct an inquiry into the impediments to the development of competition in the market for multichannel video programming distribution, as amended.

The Clerk read as follows:

H.R. 2921

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Multichannel Video Competition and Consumer Protection Act of 1998".

SEC. 2. DIRECT-TO-HOME SATELLITE PIRACY PREVENTION.

Section 705(d)(6) of the Communications Act of 1934 (47 U.S.C. 605(d)(6)) is amended by inserting "or direct-to-home satellite services (as defined in section 303(v))" after "satellite cable programming".

SEC. 3. TEMPORARY STAY OF SATELLITE ROYALTY FEE INCREASE.

Notwithstanding any other provision of law, the Copyright Office shall not before December 31, 1999, implement, enforce, collect, or award copyright royalty fees pursuant to the decision of the Librarian of Congress on October 28, 1997, which established a royalty fee of $0.27 per subscriber per month for the retransmission of distant broadcast signals by satellite carriers, and no obligation or liability for copyright royalty fees shall accrue before December 31, 1999, pursuant to that decision. This section shall not affect implementing, enforcing, collecting, or awarding copyright royalty fees pursuant to the royalty fee structure affected by the decision, as it existed prior to October 28, 1997.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from Massachusetts (Mr. MARKEY) each will control 20 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. TAUZIN).

GENERAL LEAVE

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on this legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. TAUZIN. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, today I am delighted to bring to the floor for Members' consideration H.R. 2921, the Multichannel Video Competition and Consumer Protection Act of 1998. I want to commend the gentleman from Virginia (Chairman BLILEY) for his leadership in bringing this bill to the floor, and my good friend, the gentleman from Massachusetts (Mr. MARKEY), the ranking member, for his kind and gracious support and assistance.

I introduced the bill in November of last year to address the inequitable decision of the Copyright Arbitration Rate Panel to increase the copyright fees that are paid by the direct broadcast satellite providers. This decision has resulted in increased rates for every DBS dish consumer in America.

To date, the bill has garnered 157 cosponsors, representing Members from all parts of our Nation. The bill has substantially bipartisan support because it does the right thing, it protects consumers and promotes competition in the video marketplace.

H.R. 2921 delays the impact of copyright fees that are paid by satellite providers and ultimately by consumers for distant network signals and superstations.

The Librarian of Congress made a decision to raise the rates of satellite services to 27 cents per subscriber for superstation and distant network signals. This rate compares to the rate of 9.7 cents per subscriber for superstations, and 2.7 cents for network signals that cable operators pay.

In effect, the satellite carriers, and thus, their consumers, are currently paying almost 270 percent more than cable for superstations, and 900 percent more for network signals. This enormous disparity in the copyright fees paid for the exact same signals has resulted in major rate increases for consumers, and has hurt the direct broadcast satellite industry's ability to compete with cable.

The bill rolls back these copyright rates paid by the DBS service providers to the rate they were prior to the decision of the court or the Librarian of Congress' panel. This rollback will extend from the period beginning January 1, 1998, until December 31, 1999.

Why are we doing this? We have seen the rapid development of the home satellite industry. Today direct broadcast satellite providers are offering consumers hundreds of programming channels in various packages. In part, these DBS companies have helped to keep cable companies from raising their rates, encourage them to improve their services, and to upgrade their networks.

I do not have to tell Members how all three are seriously important to America's consumers. At a time when we need more, not less, competition in the video marketplace, we should not be burdening the DBS industry and its consumers with unnecessary and arbitrary additional costs.

According to the Bureau of Labor Statistics, cable rates have risen 3 times faster than the rate of inflation since the Telecommunications Act of 1996 was passed. As we approach March 31, 1999, next year, when pursuant to that act cable will be deregulated, it is becoming increasingly clear that Congress has to consider legislation to further promote competition for the cable industry.

I find it far preferable to promote true and meaningful competition for cable, and thus to let competitive marketplaces drive the prices down for consumers, than it is for us to constantly regulate. That is why it is so important to pass this bill. This bill declares a time out on the Librarian's decision until we can determine its impact on consumers and the video marketplace.

This is an appropriate and measured response to the CARP panel's decision, and I hope this Congress will move this bill, give us a chance to make sure that next year we have the opportunity to ensure that more competition is available, more choice is available to America's television consumers, so that in fact better prices, better terms, better services become the wave of the future, rather than increase prices in a situation where customers have no other choice but to choose one service provider.

Mr. Speaker, I reserve the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in wholehearted support of this very important legislation, and I rise first to praise the chairman of our subcommittee, which my long observation of him has led to I think the conclusion, not only by me but by everyone who observes this whole area of telecommunications policy, that he is the leading satellite samurai warrior in Congress. He of all Members has led the battle to ensure that the satellite industry will be able to compete and to provide vigorous competition for the cable industry, the product and the pricing that revolutionizes the way in which we receive video in this country.

Now, I give him credit, but I know that the real inspiration is and always has been his father, who is the original satellite philosopher of Cajun country. He instilled a philosophy of competition into the gentleman from Louisiana which I deeply appreciated, and have been educated to appreciate, since we have about the same number of satellite dishes in my congressional district as we have hydroelectric dams. These are phenomenon that we have to have explained to us from Members in other parts of the country.

Now because of the gentleman from Louisiana, we have been able to introduce a revolution, a revolution not of 8-foot dishes that we need a zoning variance to put in our backyards.

☐ 1945

Of course that is possible in Iowa or Louisiana, Oklahoma. But not in Boston. Not three-decker homes with 8-foot dishes hanging off the back. That is not going to work.

But the vision was of 18-inch dishes, dishes that could be put between the petunias out in the backyard, hanging off of the back of the three-decker. But to do that requires programming that is available, HBO, ESPN, and programming that is affordable.

Interestingly, and I am sure it comes as somewhat of a mystery to most Members of Congress and without question to most Americans, it is the Library of Congress that determines the price that people pay for this programming. Now, tell me who is going to get that answer on Jeopardy? I do not think so. I think we could put that question up almost every other week and continue to stump people.

So, because of the leadership of the gentleman from Louisiana, we bring legislation today that helps to make it possible for us to ensure that there is a pricing scheme that reflects the fair market.

Now, the Library of Congress says, "We determine what the fair market price is." And, of course, the response that we make is how can they determine that? The cable marketplace is a monopoly. There is no fair market that exists in the cable universe as it exists today.

Now, we hope to reach the point in time where telephone companies and electric companies and multipoint distribution systems from other sources provide competition. But while we are waiting, we have to be very conscious of the fact that we are still devising the mechanism by which this marketplace is competitive.

The legislation which the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from Virginia (Mr. BOUCHER), the distinguished member of both the Committee on Commerce and the Committee on the Judiciary, bringing the wisdom of both committees to this process, helped to construct out here on the floor, I think helps us, at least over the next year, to buy the time we need in order to get an honest and fair resolution of this issue.

It is my hope that in the course of this evening, listening to my colleagues who are so wise on these issues from the hollows of southern Virginia to the Bayou country in Louisiana, that we can produce a bill tonight that helps to advance the cause of a truly competitive video marketplace.

Mr. Speaker, I reserve the balance of my time.

Mr. TAUZIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Massachusetts (Mr. MARKEY). I have been called a lot of things, but John Belushi or not, but I appreciate that reference. The fact of the matter, it was my friend from Massachusetts who was there by my side, shoulder to shoulder, battling for the rights of satellite consumers to have the right to programming in this Chamber in 1992 that gave birth to these small dishes. And he did so, as he said, when very few of his consumers relied on satellite reception of television. With so many in Virginia, where the gentleman from Virginia (Mr. BOUCHER), my good friend, lives, and those of us in Bayou country, and in Colorado, the State of the gentleman that I am about to introduce, have to rely on satellite signals live.

It is really a credit to the gentleman from Massachusetts that he learned how important it was to folks in rural countries like ours to have satellite television reception. I want to tell my colleagues that he learned that by coming to my home in Chackbay with me where my mother fed him a Cajun meal. And I have often threatened, when he was not with me on a bill, to explain to him what he ate that night and coerce him to join me in an effort. But he has always been there by our side on this issue, and I want to commend him and particularly my friend, the gentleman from Virginia (Mr. BOUCHER), for his help.

Mr. Speaker, I yield 2 minutes to the gentleman from Colorado (Mr. DAN SCHAEFER), another great friend. But I also want to say, Mr. Speaker, how sadly our Committee on Commerce is going to miss not only his friendship, but his service to this country and his incredibly talented and gifted service to the Committee on Commerce. The gentleman from Colorado is not just a close personal friend of all of us on both sides of the aisle, but he has been a great Congressman for his State and country, and we will miss him dearly.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I thank the gentleman from Louisiana (Mr. TAUZIN) for yielding me this time.

Mr. Speaker, I rise today in strong support of H.R. 2921. This is a situation where a lot of talk has been made about cable television rate increases. Last year, the Federal Communications Commission, the FCC, in a report to Congress found that noncable television programmers, i.e., wireless cable and DBS, continue to experience substantial rates of growth.

However, the FCC report found that noncable television programmers, particularly Direct Broadcast Satellite operators, face several obstacles as they compete for television viewers. One of the most substantial obstacles is the Copyright Office-mandated increase in the copyright royalty fees that multichannel video programming operators pay to retransmit broadcast network and superstation signals to their consumers.

In September of 1997, the Copyright Arbitration Rate Panel increased satellite broadcasters' rates, as has already been said, from 6 cents per subscriber per month for broadcast network signals and 14 cents per subscriber per month for superstation signals, to 27 cents per subscriber per month for retransmission of both signals. Meanwhile, the statutory prescribed rate for cable transmission remains at 2.7 cents per subscriber per month for network signals and 9.7 cents per subscriber per month for superstation signals.

Mr. Speaker, I cosponsored this particular piece of legislation and am a strong supporter of it because it will roll back the copyright fees paid by satellite broadcasters to its past level. This will give us time to enact other legislation that will promote competition for the consumers in this country in the multichannel video programming industry and give consumers greater choices.

I thank the gentleman from Louisiana for yielding and for this excellent piece of legislation that has been brought out of our committee.

Mr. MARKEY. Mr. Speaker, I yield 3½ minutes to the exceptionally distinguished gentleman from Virginia (Mr. BOUCHER).

Mr. BOUCHER. Mr. Speaker, I want to express appreciation to the gentleman from Massachusetts (Mr. MARKEY) for his leadership on this measure and for yielding this time to me. I also want to thank my friend, the gentleman from Louisiana (Mr. TAUZIN), the chairman of our Subcommittee on Telecommunications, Trade, and Consumer Protection, for his very fine work on this measure. He has contributed substantially to resolving a major problem, and I want to thank him very much for his efforts.

Mr. Speaker, I rise in strong support of this legislation which will remove a major hindrance that exists today to the arrival of viable competition in the multichannel video marketplace.

As Members of Congress, we are hearing complaints every day from our constituents about cable television rates, the high level of those rates at the present time, and the fact that cable television rates are going up faster than the price of most of the products and services in the American economy. In fact, in many communities, cable TV rates are even increasing faster than the price of health care services.

Many of us believe that while some measure of rate regulation may be necessary in the interim period in order to address those problems of rates, over the long-term the right answer, and the best approach to addressing the concerns of ever-increasing cable television rates, is to bring competition into that market and make sure that the consumers of multichannel video services have a choice and have viable alternatives. Many of us also see the satellite industry as being the most viable immediate competitor for the cable industry.

Unfortunately, the regulation that was issued last year by the Copyright Office in the Library of Congress places a major barrier in the way of the arrival of that competition because it imposes copyright fees for the delivery of material over satellites that are many times greater than the fees imposed upon cable systems for the delivery of exactly the same programming.

In fact, with regard to network signals, the fees will be 9 times greater when imposed upon satellite deliverers of this programming than upon cable systems, and with regard to superstation signals, the difference is 3 times, 3 times more for the satellite carrier than for the cable company.

This discrepancy also disproportionately affects the rural consumers of satellite services because most of the satellite dishes are found in rural America today. And as a Representative of a rural district, that fact has particular resonance with me.

The amount of this charge per year for every consumer of satellite services is about $20. That is the amount of the increase imposed by the Copyright Office, and so it is not an inconsiderable amount of money.

The legislation before us would impose a freeze on the imposition of these disproportionate and unwise fees until the end of 1999, and that gives us an opportunity here in the Congress to establish a mechanism that will assure that the same fee is imposed upon satellite systems and cable systems and other providers of multichannel video services so that we have fairness, we have balance, and through the copyright fees we do not favor one provider of these services over others.

It is a very wise approach. I commend the gentleman from Louisiana and the gentleman from Massachusetts for bringing the measure forward, and I urge its approval by the House.

Mr. TAUZIN. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. BURR) from the Committee on Commerce, and a dear friend.

Mr. BURR of North Carolina. Mr. Speaker, I rise today in strong support of H.R. 2921. This legislation delays for 18 months CARP's decision to increase royalties paid by satellite carriers on retransmission of network broadcasts. During this period, we will have time to examine the impact that an increase will have on consumer rates and on competition.

While copyright holders certainly deserve compensation for the use of their signal, rate adjustments should not be used to create competitive disadvantages. By passing this bill, we will help ensure fairness for rural viewers who cannot receive over-the-air broadcast and live in areas not served by cable TV.

I would also like to take this opportunity to add that we could help all satellite subscribers by enacting legislation like my SALSA bill, which allows DBS providers to retransmit local TV stations to their local markets. This will provide a long-term solution to problems highlighted by recent court cases.

In closing, Mr. Speaker, let me urge my colleagues to vote for H.R. 2921, and to continue working on the other outstanding issues facing the satellite TV industry.

Mr. TAUZIN. Mr. Speaker, will the gentleman yield?

Mr. BURR of North Carolina. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Speaker, I simply wanted to commend the gentleman's statement and to pledge to him my continued efforts to see to it that we do pass local-into-local legislation in the next Congress. That will give the satellite providers a chance to offer local signals in that satellite package. That, in essence, would give much more coverage and competition to rural consumers. I will assist in every way to make that happen.

Mr. BURR of North Carolina. Mr. Speaker, reclaiming my time, like this legislation, that would protect consumers, and I look forward to additionally protecting consumers with the gentleman from Louisiana.

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, just, in conclusion, to compliment the gentleman from Louisiana (Mr. TAUZIN). This is a part of an overall strategy that we have to construct if we are, in fact, going to introduce real competition into the video marketplace.

□ 2000

The cable company remains largely a monopoly in 97 percent of our country. The telephone companies, after promising in the 1996 Telecommunications Act that they were going to, by the year 2000, provide a second wire, second video service in almost every community in America, have pulled back from that commitment. I think that in this satellite area, though, we have a real potential to provide an alternative, not just for rural, not just for the most suburban communities in America, but for urban America.

And I think that in exploring this whole question of whether or not a local television station, here in Washington Channel 4, 5, 7, 9, and 50, can be carried by a satellite and beamed right back into the homes in that viewing area holds the key to whether or not we are going to give consumers, cable consumers, disgruntled, unhappy cable consumers across this country, the ability to just disconnect their cable company and, instead, just subscribe to an 18-inch satellite dish service with the local broadcast stations as well.

I have introduced, with the leadership of the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from Virginia (Mr. BOUCHER), legislation that we are hoping that we will be able to move in the future that will make that possible. Because I know it is very frustrating to cable consumers across the country to know that if they disconnect their cable and move to satellite today they lose their local broadcast stations. That is frustrating to them because they really do want to disconnect in millions of homes across the country. And working with the gentleman from Louisiana to create a way in which we can get those local stations up on satellite, and to deal with this white area issue, to deal with the issue of who can receive the distant signals, is something that I think is absolutely critical.

I am pledging my continued assistance to the gentleman from Louisiana. I have been his partner now for the past 17 or 18 years on this issue, and I have now become an urban pioneer.

Mr. TAUZIN. Mr. Speaker, will the gentleman yield?

Mr. MARKEY. I yield to the gentleman from Louisiana.

Mr. TAUZIN. I think we could be called urban samurais.

Mr. MARKEY. Well, Mr. Speaker, reclaiming my time, I do not know what we would be called there, but I will work with the gentleman to make it possible.

Mr. TAUZIN. Mr. Speaker, if the gentleman will continue to yield, I just want my colleagues to know that the gentleman makes such an important statement. Competition to cable is not real until the local signals are part of the package.

We all know that the local television signals are the part of the television that is watched the most. They are the programs that people most desire in that package. And when they cannot get those local signals from the satellite distributor, they have to receive, instead, long-distance signals.

Now, the awful truth about what the librarian did was to say to satellite consumers that not only are they to be penalized by not having the local signals, but they are going to have to pay more than the cable subscriber for these long-distance signals, just to hit them one more time. That is so unfair.

Getting this straightened out in this bill is important, but my friend makes such a valid point. This is but one of the many pieces of the puzzle we have to solve in order to make sure that consumers in America have real choices in true packages that contain both the local signals and all the other wonderful cable programming that the cable industry rightfully takes great pride in having provided to America.

I pledge to my friend the same partnership we have enjoyed for many years to put all those pieces together.

Mr. MARKEY. Once again reclaiming my time, Mr. Speaker, I would say in conclusion that I am looking forward to working with the gentleman, as his urban and suburban samurai sidekick, in making it possible for us to bring this revolution to every American in our country.

Mr. Speaker, I yield back the balance of my time.

Mr. TAUZIN. Mr. Speaker, I yield 2½ minutes to the gentleman from Florida (Mr. STEARNS), another distinguished member of our subcommittee.

Mr. STEARNS. Mr. Speaker, I thank the distinguished chairman for yielding me this time.

I say to my colleagues that we are here, roughly at 8 o'clock at night, and there are not a lot of people on the

House floor, but what we are doing this evening is extremely important, particularly for those Americans not just in the suburbs or in the urban areas, but also in rural parts of the United States, which I represent, who have satellites. And they are out there trying to get their picture and they do not realize that this CARP, this Copyright Arbitration Royalty Panel, increased the royalty charge to the satellite companies so tremendously, so egregiously, that it almost put them out of business. So the people in the rural part of the United States, particularly in central Florida, will be impacted tremendously.

It is fundamentally important that this bill that we are here talking about tonight go forward, and the gentleman from Louisiana (Mr. TAUZIN) is doing a whale of a job to make this point. Because what really we are talking about is government increasing the cost of services and eliminating competition. And if we did not have this bill tonight, and we did not put this 18-month moratorium on, then what would happen is the government would increase this and the share of satellite would go down.

In fact, I have here a graph that in 1997 the satellite industry had about 11 percent of the market and they were paying about 22 percent of the distribution fees. One year later, after CARP, this Copyright Arbitration Royalty Panel, increases the fees tremendously, the satellite share is now at 12 percent. Only increased 1 percent, yet their amount of distribution fees went up to 39 percent.

So I mean there is a clear example of government stepping in, increasing the cost, with the help and approval of the Librarian of Congress, as the gentleman mentioned, and so we are going to knock out all competition for satellite. Simply tripling the royalty fees is unfair. It was no gradual matter. It just came in in a whoosh, tripled these royalty fees, and, in the end, people in the rural part of the United States will not be able to afford satellites because the satellite companies will pass these charges on.

So Congress basically has to ensure that the satellite services have a financial foothold in order to make a lasting competitive challenge. Without this bill, without the efforts of the chairman we would not have that opportunity tonight.

We will return next year, as the gentleman from Massachusetts (Mr. MARKEY) mentioned, and pass legislation to allow the satellite customer to get local-to-local service so they can have their local channels beamed directly to their homes. But I am hoping tonight that we can move forward and that the Senate, by unanimous consent, will pass this tomorrow. There is no reason not to. There is no controversy involved here. We should get this passed so that the competition in the satellite industry will increase, and I again commend the chairman for his efforts.

Mr. TAUZIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. MARKEY. Mr. Speaker, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Speaker, I thank the gentleman very much for yielding to me.

In the course of the debate I did not properly mention the work that the gentleman from Michigan (Mr. JOHN DINGELL), on our side, and the work also done by the gentleman from Virginia (Mr. TOM BLILEY), on the majority side, to help to formulate this policy, because it has been long in the making. We still have much more work to do, but we could not have done it without their able work, as well as the work of our staffers. We have David Schooler and Andy Levin and Colin Crowell on my staff; and Justin Lilley and Whitney Fox, it is like an all-time all-star team on the gentleman's side, that have worked together to make these policies come to pass.

I just wanted to publicly recognize them for all the excellent work which they have done.

Mr. TAUZIN. Mr. Speaker, reclaiming my time, I thank the gentleman.

Let me indeed indicate that this is but one step. Our staff and our committee, our chairman and our ranking member, are indeed to be commended for taking us down the right path. We have much work to do. I want to pledge to my colleagues as we complete work on this bill that they will hear and see from the gentleman from Massachusetts (Mr. MARKEY) and I again as we approach the date of March next year when cable is set to be deregulated.

We will be presenting, hopefully, for this House to consider, various options on how to make sure competition is really available for the American consumer, who, in many parts of America, is given one choice when it comes to cable, take it or leave it. That is not a good American choice. In a good American marketplace it means various choices, good prices, better service. That is the kind of marketplace the Committee on Commerce is committed to developing for the television consumers of America, and we will not stop until that is done.

Mr. Speaker, would the Chair indicate how much time we have remaining?

The SPEAKER pro tempore (Mr. GUTKNECHT). The gentleman from Louisiana (Mr. TAUZIN) has 4 minutes remaining; the gentleman from Massachusetts (Mr. MARKEY) has yielded his time back.

Mr. TAUZIN. Mr. Speaker, I yield 2 minutes to the gentlewoman from New Mexico (Mrs. WILSON), who is a new member of our committee and doing a great job.

Mrs. WILSON. Mr. Speaker, I rise to support this bill. It is something of an irony that I do, since at my house we do not have cable, we do not have a satellite dish, and we barely have a television. But I like this bill because it seems to delay things until folks can sort out exactly what is fair and what is equitable in order to enhance competition, which is the American way.

I commend my colleague for bringing this forward and the chairman of the committee for bringing it forward to increase competition and to make sure that there is a level playing field for all of those who provide services to our homes.

Mr. TAUZIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. MARKEY. Mr. Speaker, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Speaker, when I was going down the litany of saints who helped to make the satellite policy possible, I did forget Hugh Halpern and I forgot to mention Mike O'Rielly. And I think in order for us to have a complete and definitive list of those who labored in the vineyards for this competition in the video marketplace, that they all be listed at this time, and I thank the gentleman for yielding.

Mr. TAUZIN. Reclaiming my time, Mr. Speaker, the gentleman is indeed gracious in remembering all those who helped us so diligently day and night to make this bill come true, and we deeply appreciate that.

Let me say in conclusion that this bill is but one step. I want to make a point that I think all Members of Congress should be aware of, and that is there is nothing in our policy that in any way denigrates from the great work that cable has done in bringing new programming, in bringing extensive and delightful varieties of programming to America. Indeed, we are very grateful for that.

We are simply saying in this policy that for those who decide to receive that programming on a satellite transmission rather than over a cable, or over the air, as in New Orleans, or in Atlanta in a terrestrial air distribution system, those consumers are entitled to equal treatment. We should not be putting copyright fees that are 3 times and 9 times as high on a consumer simply because they choose to receive that wonderful programming one way or another.

Secondly, we are saying that, in the end, this Congress will be faced with the choice of either reregulating cable, because it does not have a competitor, or we will have successfully provided for Americans the chance to regulate that marketplace by themselves deciding which of the methods of transmission they prefer, whether satellite, terrestrial wireless, or cable, or several cable systems in their community. To me, I hope to all of us, the best solution is to give Americans those choices.

The gentleman from Massachusetts (Mr. MARKEY) and our chairman, the gentleman from Virginia (Mr. BLILEY), and our ranking member, the gentleman from Michigan (Mr. DINGELL), are all committed to making sure that in the end America decides the right way to have more choices and less regulation in this important marketplace.

Mr. DINGELL. Mr. Speaker, I rise in strong support of H.R. 2921.

It is important to note that the bill we are considering today is a short-term fix to a greater problem. The greater problem is how do we encourage more competition to cable television so consumers can get more choices and not be held captive to ever-increasing rates? The answer to that question is not simple, and it is one the Commerce Committee continues to grapple with. What is clear, however, is that emerging alternatives to cable, like satellite television, should not be put at a competitive disadvantage to incumbent monopolies. That problem is one that we are attempting to fix, in part, today.

Both cable and satellite television operators are required to pay copyrights royalties fees for the right to carry distant broadcast signals at "superstations." Last year, a ruling by the Librarian of Congress required satellite television operators to pay almost three times the amount of money that cable operators pay—for the same programming. Obviously this is unfair, and flies in the face of Congressional policy to make sure that similar telecommunciations services are subject to similar rules and regulations.

This bill would freeze the copyright rates at preexisting levels to that parity continues between these competitors. Of course, the hard question remains: at what level should the rates be set for both cable and satellite television operators when the freeze mandated by this bill expries next December? The answer to that question must be evaluated in the context of several other important issues, such as whether satellite operators should be allowed to transmit local broadcast stations and, if so, whether traditional "must carry" rules should apply.

If we are to achieve the goal of the Telecommunications Act to open up all markets to competition, and free consumers from the tether of cable television monopolies in the process, we must address these issues comprehensively and quickly.

I thank Chairman BLILEY and Subcommittee Chairman TAUZIN for their leadership on the rate freeze issue before us today, and look forward to working with them to resolve these larger competitive concerns next year.

Mr. TAUZIN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. TAUZIN) that the House suspend the rules and pass the bill, H.R. 2921, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to promote the competitive viability of direct-to-home satellite television service.".

A motion to reconsider was laid on the table.

CORPORAL HAROLD GOMEZ POST OFFICE

Mr. MCHUGH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4616) to designate the United States Post Office located at 3813 Main Street in East Chicago, Indiana, as the "Corporal Harold Gomez Post Office".

The Clerk read as follows:

H.R. 4616

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States Post Office located at 3813 Main Street in East Chicago, Indiana, shall be known and designated as the "Corporal Harold Gomez Post Office".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the post office referred to in section 1 shall be deemed to be a reference to the "Corporal Harold Gomez Post Office".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. MCHUGH) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. MCHUGH).

GENERAL LEAVE

Mr. MCHUGH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 4616.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. MCHUGH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have before us, first in this bill and then in another similar proposal that I know will follow, really two distinct stories, two stories of two fine individuals but nevertheless two who share a great deal. They share, it seems to me, the history of contributions and the history of sacrifices and helping to make this country the great place that it is.

This first bill has been introduced by our distinguished colleague from Indiana (Mr. VISCLOSKY), and was introduced on August 23d of this year.

□ 2015

This legislation has the support of each member of the House delegation from the State of Indiana which is pursuant to the Committee on Government Reform and Oversight rules, and it designates the United States Post Office located at 3813 Main Street in East Chicago, Indiana, as the Corporal Harold Gomez Post Office.

Mr. Gomez was the son of Mr. and Mrs. Alfredo Gomez. He was born in 1946 in East Chicago, Indiana. After graduating from high school, he worked for a summer at Inland Steel Company and then, like many young men and young women of his age, he enlisted in the Marine Corps in 1965. In March of the following year, 1966, he was sent to Vietnam which followed his basic infantry training in San Diego, California.

Corporal Gomez was a fire team leader in a rife company of the Third Marine Division when in 1967 he was killed by a land mine explosion in South Vietnam. A look, however brief, at the numerous awards and medals and recognition that this fine young man received during his military career shows, I think, what an extraordinary individual he was: The Purple Heart, the Combat Action Ribbon, the Presidential Unit Citation, the National Defense Service Medal, the Vietnam Service Medal, the RVN Military Merit Medal and on and on and on. Truly, Mr. Speaker, this effort to memorialize the contributions and the sacrifices of this great individual I think is a very worth one and certainly one that I think embodies the kind of positive effort that we have a history of in this House of naming these very important Federal facilities after such deserving individuals.

I know that the gentleman from Illinois (Mr. DAVIS) and perhaps others would like to make comments as well.

At this time I would with a word of urging of support of fellow Members of this House, Mr. Speaker, reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume. I join the gentleman from New York (Mr. MCHUGH) in bringing to the House floor H.R. 4616, legislation naming the United States Post Office located at 3813 Main Street in East Chicago, Indiana, as the Corporal Harold Gomez Post Office Building. Corporal Gomez, as we have already heard, a Vietnam veteran, was a fire team leader in a rifle company of the Third Marine Corps during the Vietnam War. He was the recipient of the Silver Star Medal for his leadership and bravery during his service, earning recognition for his actions during the February 21, 1967 battle in which he died.

Corporal Gomez was the first citizen of northwest Indiana to die in the Vietnam War. I commend the Indiana delegation for seeking to honor such a man, one who would give his life in the service of his country.

Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana (Mr. VISCLOSKY) the sponsor of this measure who will make some comments.

Mr. VISCLOSKY. Mr. Speaker, I appreciate the gentleman yielding and I would first want to thank the chair of the committee for the expeditious, speed-of-light consideration of this legislation that literally was introduced a month and a half ago as well as thanking my colleague from Illinois for ensuring that it was heard before Congress adjourned. I also would be remiss if I did not thank the members of the Indiana delegation who joined me in this effort.

Mr. Speaker, I do rise to urge my colleagues to support this legislation to rename a post office in East Chicago, Indiana in honor of Lance Corporal Harold Gomez. Corporal Gomez was the first resident of East Chicago to die during the Vietnam War and his community would like to honor him in this special way.

Corporal Gomez was born in East Chicago in 1946. After working briefly at Inland Steel Company, he enlisted in the U.S. Marine Corps and was sent to Vietnam in 1966. Corporal Gomez quickly became a fire team leader in a rifle company of the Third Marine Corps in Vietnam. He was awarded the Silver Star Medal posthumously for valiant leadership and bravery during his service, earning particular praise for his actions during the February 21, 1967 battle in which he died. Corporal Gomez's military awards also include the Purple Heart Medal, Combat Action Ribbon, Presidential Unit Citation, National Defense Service Medal, Vietnam Campaign Medal, and the Rifle Sharpshooters Badge.

In Harold Gomez's short life, he touched many lives and was admired by both friends and colleagues. I am deeply honored to offer this legislation to honor a true hero of northwest Indiana and our country. Corporal Gomez distinguished himself in combat and is a source of inspiration to many citizens of East Chicago and the rest of the northwest Indiana community. He is worthy of this honor.

On behalf of northwest Indiana's many veterans, I am proud to support this legislation to name an East Chicago post office in honor of Corporal Harold Gomez.

Mr. DAVIS of Illinois. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. McHUGH. Mr. Speaker, with a final urging of support for the gentleman from Indiana in this very worthy measure and thanking the gentleman from Illinois (Mr. DAVIS) and his staff for their efforts and cooperation, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GUTKNECHT). The question is on the motion offered by the gentleman from New York (Mr. McHUGH) that the House suspend the rules and pass the bill, H.R. 4616.

The question was taken.

Mr. McHUGH. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

MERVYN DYMALLY POST OFFICE BUILDING

Mr. McHUGH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2348) to redesignate the Federal building located at 701 South Santa Fe Avenue in Compton, California, and known as the Compton Main Post Office, as the "Mervyn Dymally Post Office Building".

The Clerk read as follows:

H.R. 2348

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDESIGNATION.

The Federal building located at 701 South Santa Fe Avenue in Compton, California, and known as the Compton Main Post Office, shall be known and designated as the "Mervyn Dymally Post Office Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Mervyn Dymally Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. McHUGH) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. McHUGH).

GENERAL LEAVE

Mr. McHUGH. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on this measure.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. McHUGH. Mr. Speaker, I yield myself such time as I may consume.

As I alluded to in my opening remarks on the previous bill, we indeed have here a very different but equally important story about the expansion and about the growth of this great country and its path to become the longest-lived democracy in the history of the world.

This bill, Mr. Speaker, H.R. 2348, was introduced by our distinguished colleague the gentlewoman from California (Ms. MILLENDER-McDONALD) on July 31, 1997. There have been 86 Members who cosponsored this legislation which even when you consider that 51 are as required under House committee rules from the State of California, it is an extraordinary number to find on this kind of proposal. I think that fact in and of itself reflects very highly both on the sponsor who has made the great effort to bring together so many in support of this measure but also obviously is a statement on the achievements and the worthiness of the recipient.

This legislation designates the Federal building located at 701 South Santa Fe Avenue in Compton, California, presently known as the Compton Main Post Office, as the Mervyn Dymally Post Office Building. Like so many Americans before him, Mervyn Dymally was born not directly in the United States but rather in Cedros, Trinidad, British West Indies. After he attended government school there and graduating from secondary school in San Fernando, Trinidad, he came to the United States like so many before him to study at the Lincoln University in Jefferson City, Missouri. After completing his education, including earning his doctorate in 1969 from United States International University, he then began a career of distinguished public service. He became a California State Assemblyman from 1963 to 1966, then became a California State Senator from 1967 to 1975, and then Lieutenant Governor of the great State of California from 1975 to 1979.

To those in this body, though, he is probably best remembered as a Member of the 97th Congress where he served for five succeeding terms. He was a member indeed of the then Committee on Post Office and Civil Service. Presently our former colleague resides in Los Angeles.

As I said, Mr. Speaker, this is a story of America. It is a story of what makes this country great. In this nominee and in this gentleman, I think we have an extraordinarily worthy individual, one again that I commend our colleague from California for bringing to our attention and thank her and the gentleman from Illinois (Mr. DAVIS) and the others on the subcommittee for their efforts in bringing this to the floor today.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

I am proud to join the gentleman from New York (Mr. McHUGH) in bringing to the House floor H.R. 2348, legislation naming the United States Post Office located at 701 South Santa Fe Avenue in Compton, California, as the Mervyn Dymally Post Office Building.

A Member of Congress from 1980 until his retirement in 1992, Congressman Mervyn Dymally represented the 31st Congressional District with both distinction and honor. During his time in Congress, he served on the House Foreign Affairs Committee, chairing the Subcommittee on International Operations, the Post Office and Civil Service Committee, and the District of Columbia Committee. He also served as

Chair of the Congressional Black Caucus. Congressman Dymally sponsored legislation advocating the causes of many human rights groups and devoted particular attention to United States policies toward nations in Africa and the Caribbean. A few days ago, I had the pleasure of meeting his son, who is following in his footsteps as a public servant as a member of a local commission.

Mr. Speaker, I yield such time as she may consume to the sponsor of this legislation, the former mayor of the City of Compton, California, the Honorable Congresswoman from California (Ms. MILLENDER-McDONALD).

Ms. MILLENDER-McDONALD. Mr. Speaker, first let me thank the great gentleman from Illinois for his kind words and for yielding time to me. I would like to thank the chairman for his sensitivity in the support of the bill and for the kind words that he has given and extended to the recipient.

Mr. Speaker, today I rise to pay tribute to my dear friend, former Congressman Mervyn Malcolm Dymally and redesignate the Post Office located at 701 South Santa Fe Avenue in Compton, California, currently known as the Compton Main Post Office, to the Mervyn Dymally Post Office Building.

Jet Magazine, a prominent African-American publication, once wrote, "Few black elected officials were more aggressive, uncompromising and daring than representative Mervyn Dymally."

Mervyn Dymally was elected to the United States House of Representatives in 1981 as the body's first foreign born member. Mervyn came to this country in 1945 from Cedros, Trinidad, British West Indies as a 19-year-old student to attend Lincoln University in Jefferson City, Missouri and to study journalism. After attending Lincoln University, Dymally traveled to California to attend Chapman College in Los Angeles before transferring to California State University, Los Angeles where he graduated in 1954 with a bachelor of arts in education. After graduation, Mervyn taught educationally handicapped children in the Los Angeles Unified School District.

In addition to a bachelor's degree, Dymally also holds a master's in government from California State University, Sacramento and a Ph.D. in human behavior from the United States International University. Mervyn is also a distinguished member of the Kappa Alpha Psi Fraternity and a member of the Phi Kappa Phi National Honor Scholastic Society.

Mervyn's political career began in 1960 when he worked as a field coordinator for then presidential candidate John F. Kennedy.

□ 2030

Building upon his success in the Kennedy campaign, Dymally was elected to the California State Assembly in 1963 and then to the State Senate in 1967 where he served for 8 years. As a State Senator, Dymally chaired the committees on social welfare and veterans affairs, elections and reapportionment, and a select committee on medical education and health. In 1975, he was elected Lieutenant Governor of the State of California and was the State's first and highest-ranking African American elected official to have been voted statewide in an election.

On January 3, 1981, following a diverse career in education and government, Mervyn Dymally was sworn in as a Member of the 97th Congress, representing California's 31st District, where he served his constituents for six terms.

Congressman Dymally served on the House Committee on Foreign Affairs where he was the Chair of the Subcommittee on International Operations. Dymally also became the only other black to chair the Subcommittee on Africa, succeeding former Detroit Representative Charles Diggs who held the post 20 years earlier than that. In his first year he traveled to 20 African countries. He launched the drive to increase the number of minority business investments on the continent and paid particular attention to the United States policies toward assistance levels to African and the Caribbean nations. In addition to his position on the Foreign Affairs Committee, Mervyn also served on the Post Office and Civil Service Committee and the Committee on the District of Columbia, chairing its Subcommittee on Judiciary and Education. While in Congress, Dymally sponsored legislation advocating several human rights issues. One of his crowning achievements was the passage of legislation authorizing relief, rehabilitation and reconstruction in war-torn Liberia.

When Mervyn retired in 1992, he was praised for leadership in raising the Congress' awareness of the suffering and misery in Africa and his ability to devise new initiatives for remedies.

Since his retirement from Congress Mervyn was quoted as saying, "In retirement I am busier now than ever." Indeed he is. Since leaving Congress, Mr. Speaker, he has traveled extensively to Africa and to the Caribbean. His duties as President of the Grace Home for Waiting Children and Chairman of the Caribbean Action Lobby keep the time on his schedule at a premium.

Former Congressman Dymally is also a distinguished professor at the Central State University in Ohio and is also the President of the Dymally International Group, a consulting and financial advisory firm.

If these activities were not enough to keep him busy, former Congressman Dymally serves as Honorary Counsel to the Republic of Benin, West Africa, and Vice President of the Pacific Century Institute.

At every step in his career Mervyn has made his family proud. He has demonstrated to us what hard work and dedication to one's belief can accomplish. He dedicated his life to serving the people of the State of California and was the pride of his native Trinidad.

In an age of 30-second sound bites, Mervyn rarely held press conferences and often steered clear of glitzy words. He was a diligent and capable advocate for the needs of his constituents and will also be known as an industrious, savvy politician. Designating the post office located in Compton, California, as the Mervyn Dymally Post Office Building is a honor befitting his service to his community and to the State of California.

I would like to thank his wife, Alice, his children, Mark and Lynn Dymally, and his grandchildren, Maya, Christian and Cameron, for sharing him with us. I would also like to thank the members of the California delegation and other Members for joining me in cosponsoring this legislation and paying tribute to one of California's political giants and one of the most distinguished statesmen I have ever known and had the privilege of knowing, the gentleman of California, Congressman Mervyn Dymally.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

We have no further speakers, and so I commend once again the chairman of this subcommittee for the outstanding work that he and the ranking member, the gentleman from Pennsylvania (Mr. FATTAH), did. It has been a pleasure working with them and other members of the committee throughout this past session, and we look forward to another great time beginning in January.

Mr. Speaker, I yield back the balance of my time.

Mr. McHUGH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me return the fine and very gracious compliment of the gentleman from Illinois (Mr. DAVIS). I, too, thoroughly enjoyed working with him and with his colleagues on the minority side, but also I think it really speaks well of our colleagues on both sides. It has been a pleasure, and, with the vagaries of democracy aside, I am looking forward perhaps to working with him in the future.

So with that, Mr. Speaker, and a final word of praise to the gentlewoman from California who sponsored this very worthy measure, I would urge our colleagues to support this bill.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. McHUGH) that the House suspend the rules and pass the bill, H.R. 2348.

The question was taken.

Ms. MILLENDER-McDONALD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore (Mr. GUTKNECHT). Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed earlier today in the order in which that motion was entertained.

Votes will be taken in the following order: H.R. 4616 by the yeas and nays and H.R. 2348 by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

CORPORAL HAROLD GOMEZ POST OFFICE

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 4616.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. McHUGH) that the House suspend the rules and pass the bill, H.R. 4616, on which the years and nays are ordered.

The vote was taken by electronic device, and there were— yeas 425, nays 0, not voting 9, as follows:

[Roll No. 491]

YEAS—425

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sánchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NOT VOTING—9

Cooksey
Greenwood
Kennelly
McCrery
Miller (CA)
Poshard
Pryce (OH)
Rogers
Yates

□ 2055

Mr. GUTIERREZ changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GUTKNECHT). Pursuant to the provisions of clause 5, rule I, and the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the additional motion to suspend the rules in which the Chair has postponed further proceedings.

MERVYN DYMALLY POST OFFICE BUILDING

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 2348.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. McHUGH) that the House suspend the rules and pass the bill, H.R. 2348, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 421, nays 1, not voting 12, as follows:

[Roll No. 492]

YEAS—421

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell

Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sánchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wilson
Wise
Woolsey
Wynn
Young (AK)
Young (FL)

NAYS—1

Bereuter

NOT VOTING—12

Conyers
Kennelly
McCrery
Miller (CA)
Pastor
Poshard
Pryce (OH)
Sherman
Smith (NJ)
Solomon
Wolf
Yates

□ 2105

So (two-thirds having voted in favor thereof), the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 4104, TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1999

MOTION TO RECOMMIT OFFERED BY MR. HOYER

The SPEAKER pro tempore. (Mr. GUTKNECHT). The pending business is the question on the motion to recommit the conference committee report on the bill, H.R. 4104, offered by the gentleman from Maryland (Mr. HOYER) on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion to recommit.

The vote was taken by electronic device, and there were—yeas 202, nays 226, not voting 6, as follows:

[Roll No. 493]

YEAS—202

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barrett (WI)
Bass
Becerra
Bentsen
Berman
Bilbray
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Castle
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Coyne
Cramer
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Edwards
Engel
Ensign
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Ford
Fox
Frank (MA)
Frelinghuysen
Frost
Furse
Gejdenson
Gephardt
Gilman
Gonzalez
Gordon
Granger
Green
Gutierrez
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Hooley
Horn
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kilpatrick
Kind (WI)
Kleczka
Klug
Kucinich
Lampson
Lantos
Lazio
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Moran (VA)
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pickett
Pomeroy
Porter
Price (NC)
Ramstad
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Shays
Sherman
Sisisky
Skaggs
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Tanner
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn

NAYS—226

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bateman
Bereuter
Berry
Bilirakis
Bliley
Blunt
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Costello
Cox
Crane
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Franks (NJ)
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goodling
Goss
Graham
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson, Sam
Jones
Kasich
Kildee
Kim
King (NY)
Kingston
Klink
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lipinski

Livingston
LoBiondo
Lucas
Manzullo
Mascara
McCollum
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Mollohan
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Ortiz
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Portman
Quinn
Radanovich
Rahall
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Stupak
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NOT VOTING—6

Kennelly
McCrery
Poshard
Pryce (OH)
Smith (OR)
Yates

☐ 2122

Mr. COX of California changed his vote from "yea" to "nay."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. GUTKNECHT). The question is on the conference report.

Pursuant to clause 7 of rule XV, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 290, nays 137, not voting 7, as follows:

[Roll No. 494]

YEAS—290

Aderholt
Allen
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Borski
Boswell
Boyd
Brady (TX)
Brown (FL)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Castle
Chabot
Chambliss
Christensen
Clayton
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Cramer
Cubin
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeLay
Dickey
Dicks
Dooley
Doyle
Dreier
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fazio
Foley
Forbes
Ford
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kildee
Kim
King (NY)
Kingston
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manton
Manzullo
Martinez
Mascara
McCollum
McDade
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
Meek (FL)
Metcalf
Mica
Miller (FL)
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Myrick
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Olver
Ortiz
Oxley
Packard
Pappas
Parker
Pascrell
Pastor
Paxon
Pease
Peterson (PA)
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Reyes
Riggs
Riley
Rodriguez
Rogan
Rogers
Rohrabacher
Roukema
Royce
Ryun
Sabo
Salmon
Sawyer
Saxton
Scarborough
Schaefer, Dan
Scott
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Torres
Traficant
Turner
Upton
Vento
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wilson
Wise
Wolf
Wynn
Young (AK)
Young (FL)

NAYS—137

Abercrombie
Ackerman
Andrews
Baldacci
Barrett (WI)
Becerra
Bentsen
Berman
Blagojevich
Blumenauer
Bonior
Boucher
Brady (PA)
Brown (CA)
Brown (OH)
Carson
Chenoweth
Clay
Clyburn
Conyers
Coyne
Crane
Crapo
Cummings
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dingell
Dixon
Doggett
Doolittle
Duncan
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Goodlatte
Gordon
Green
Gutierrez
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hooley
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (WI)
Johnson, E. B.
Kennedy (MA)
Kennedy (RI)
Kilpatrick
Kind (WI)
Kleczka
Lantos
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moran (KS)
Nadler
Neumann
Obey
Owens
Pallone
Paul
Payne
Pelosi
Peterson (MN)
Petri
Rangel
Rivers
Roemer
Ros-Lehtinen
Rothman
Roybal-Allard
Rush
Sánchez
Sanders
Sandlin
Sanford
Schaffer, Bob
Schumer
Sensenbrenner
Serrano
Sherman
Skaggs
Smith, Adam
Stabenow
Stark
Stokes
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Towns
Velázquez
Waters
Watt (NC)
Waxman
Wexler
Woolsey

NOT VOTING—7

Kennelly
Markey
McCrery
Poshard
Pryce (OH)
Smith (OR)
Yates

☐ 2138

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GUTKNECHT). Pursuant to the provisions of House Resolution 577, the Chair desires to inform Members that the official picture of the House while in session will be taken immediately after approval of the Journal when the House convenes tomorrow.

The Chair further announces that any recorded votes requested tonight will be postponed until tomorrow.

ANNOUNCEMENT OF BILLS AND RESOLUTIONS TO BE CONSIDERED UNDER SUSPENSION OF THE RULES ON THURSDAY, OCTOBER 8, 1998

Mr. HULSHOF. Mr. Speaker, pursuant to H. Res. 575, I announce the following suspensions to be considered on Thursday October 8:

H.R. 4364, Depository Institution Regulatory Streamlining Act of 1998;

H. Res. 578, Science Policy Report;

H. Res. 565, Mammograms;

H.R. 2263, Theodore Roosevelt;

H.R. 4506, International Child Labor Relief Act of 1998;

H.R. 4660, To Provide Rewards for Information Leading to the Arrest or Conviction of Any Individual for the Commission of an Act, or Conspiracy to Act, of International Terrorism, Narcotics Related Offenses, or for Serious Violations of International Humanitarian Law Relating to the Former Yugoslavia;

H. Con. Res. 320, Supporting the Baltic People of Estonia, Latvia, and Lithuania, and Condemning the Nazi Soviet Pact of Non-Aggression of August 23, 1939;

H. Res. 557, Expressing Support for U.S. Government Efforts to Identify Holocaust Era Assets, Urging the Restitution of Individual and Communal Property;

H. Con. Res. 331, Expressing the Sense of Congress Concerning the Inadequacy of Sewage Infrastructure Facilities in Tijuana, Mexico;

H. Con. Res. 309, Condemning the Forced Abduction of Ugandan Children and Their Use As Soldiers;

H.R. 3874, William F. Goodling Child Nutrition Reauthorization Act of 1998;

S. 2206, Coats Human Services Reauthorization Act of 1998;

S.J. Res. 51;

S. 1021;

H.R. 2281, WIPO; and

H.R. 2109, Campaign Finance Sunshine.

CURT FLOOD ACT OF 1998

Mr. HYDE. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 53) to require the general application of the antitrust laws to major league baseball, and for other purposes.

The Clerk read as follows:

S. 53

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Curt Flood Act of 1998".

SEC. 2. PURPOSE.

It is the purpose of this legislation to state that major league baseball players are covered under the antitrust laws (i.e., that major league baseball players will have the same rights under the antitrust laws as do other professional athletes, e.g., football and basketball players), along with a provision that makes it clear that the passage of this Act does not change the application of the antitrust laws in any other context or with respect to any other person or entity.

SEC. 3. APPLICATION OF THE ANTITRUST LAWS TO PROFESSIONAL MAJOR LEAGUE BASEBALL.

The Clayton Act (15 U.S.C. §12 et seq.) is amended by adding at the end the following new section:

"SEC. 27. (a) Subject to subsections (b) through (d), the conduct, acts, practices, or agreements of persons in the business of organized professional major league baseball directly relating to or affecting employment of major league baseball players to play baseball at the major league level are subject to the antitrust laws to the same extent such conduct, acts, practices, or agreements would be subject to the antitrust laws if engaged in by persons in any other professional sports business affecting interstate commerce.

"(b) No court shall rely on the enactment of this section as a basis for changing the application of the antitrust laws to any conduct, acts, practices, or agreements other than those set forth in subsection (a). This section does not create, permit or imply a cause of action by which to challenge under the antitrust laws, or otherwise apply the antitrust laws to, any conduct, acts, practices, or agreements that do not directly relate to or affect employment of major league baseball players to play baseball at the major league level, including but not limited to—

"(1) any conduct, acts, practices, or agreements of persons engaging in, conducting or participating in the business of organized professional baseball relating to or affecting employment to play baseball at the minor league level, any organized professional baseball amateur or first-year player draft, or any reserve clause as applied to minor league players;

"(2) the agreement between organized professional major league baseball teams and the teams of the National Association of Professional Baseball Leagues, commonly known as the 'Professional Baseball Agreement', the relationship between organized professional major league baseball and organized professional minor league baseball, or any other matter relating to organized professional baseball's minor leagues;

"(3) any conduct, acts, practices, or agreements of persons engaging in, conducting or participating in the business of organized professional baseball relating to or affecting franchise expansion, location or relocation, franchise ownership issues, including ownership transfers, the relationship between the Office of the Commissioner and franchise owners, the marketing or sales of the entertainment product of organized professional baseball and the licensing of intellectual property rights owned or held by organized professional baseball teams individually or collectively;

"(4) any conduct, acts, practices, or agreements protected by Public Law 87–331 (15 U.S.C. §1291 et seq.) (commonly known as the 'Sports Broadcasting Act of 1961');

"(5) the relationship between persons in the business of organized professional baseball and umpires or other individuals who are employed in the business of organized professional baseball by such persons; or

"(6) any conduct, acts, practices, or agreements of persons not in the business of organized professional major league baseball.

"(c) Only a major league baseball player has standing to sue under this section. For the purposes of this section, a major league baseball player is—

"(1) a person who is a party to a major league player's contract, or is playing baseball at the major league level; or

"(2) a person who was a party to a major league player's contract or playing baseball at the major league level at the time of the injury that is the subject of the complaint; or

"(3) a person who has been a party to a major league player's contract or who has played baseball at the major league level, and who claims he has been injured in his efforts to secure a subsequent major league player's contract by an alleged violation of the antitrust laws: *Provided however*, That for the purposes of this paragraph, the alleged antitrust violation shall not include any conduct, acts, practices, or agreements of persons in the business of organized professional baseball relating to or affecting employment to play baseball at the minor league level, including any organized professional baseball amateur or first-year player draft, or any reserve clause as applied to minor league players; or

"(4) a person who was a party to a major league player's contract or who was playing baseball at the major league level at the conclusion of the last full championship season immediately preceding the expiration of the last collective bargaining agreement between persons in the business of organized professional major league baseball and the exclusive collective bargaining representative of major league baseball players.

"(d)(1) As used in this section, 'person' means any entity, including an individual, partnership, corporation, trust or unincorporated association or any combination or association thereof. As used in this section, the National Association of Professional Baseball Leagues, its member leagues and the clubs of those leagues, are not 'in the business of organized professional major league baseball'.

"(2) In cases involving conduct, acts, practices, or agreements that directly relate to or affect both employment of major league baseball players to play baseball at the major league level and also relate to or affect any other aspect of organized professional baseball, including but not limited to employment to play baseball at the minor league level and the other areas set forth in subsection (b) above, only those components, portions or aspects of such conduct, acts, practices, or agreements that directly relate to or affect employment of major league players to play baseball at the major league level may be challenged under subsection (a) and then only to the extent that they directly relate to or affect employment of major league baseball players to play baseball at the major league level.

"(3) As used in subsection (a), interpretation of the term 'directly' shall not be governed by any interpretation of section 151 et seq. of title 29, United States Code (as amended).

"(4) Nothing in this section shall be construed to affect the application to organized professional baseball of the nonstatutory labor exemption from the antitrust laws.

"(5) The scope of the conduct, acts, practices, or agreements covered by subsection (b) shall not be strictly or narrowly construed.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. HYDE) and the gentleman from Michigan (Mr. CONYERS) each will control 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. HYDE).

GENERAL LEAVE

Mr. HYDE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 53, the Curt Flood Act of 1998. After years of disagreement, the baseball players, the baseball owners, and the minor leagues have reached an historic agreement on the application of the antitrust laws to labor relations in baseball. This agreement has already passed the Senate by unanimous consent, and I hope we will pass it today.

Mr. Speaker, let me just add, because we are talking about baseball, let me tip my cap to my good friend, the gentleman from Michigan (Mr. CONYERS) the ranking member of the Committee on the Judiciary. He has his own bill on this topic, H.R. 21, and he has led the charge on this issue in the House. I want to thank him for his outstanding work in bringing this bill to fruition.

I also want to thank my friends, Senators ORRIN HATCH and PAT LEAHY, chairman and ranking member of the Senate Committee on the Judiciary. They worked many long hours to negotiate the delicate compromise that this bill embodies. We are also indebted to them for their outstanding efforts in bringing this bill to passage. I am delighted to support this simple but important bill, and I ask my colleagues to do the same.

Mr. Speaker, I rise in support of S. 53, the "Curt Flood Act of 1998." After years of disagreement, the baseball players, the baseball owners, and the minor leagues have reached a historic agreement on the application of the antitrust laws to labor relations in baseball. This agreement has already passed the Senate by unanimous consent, and I hope that we will pass it today.

The Supreme Court first held that the business of baseball is exempt from the antitrust laws in 1922. *Federal Baseball Club of Baltimore, Inc.* v. *National League of Professional Baseball Clubs,* 259 U.S. 200 (1922). The Court, emphasizing organized baseball's longstanding reliance on that exemption, has twice declined to overrule its original 1922 decision. *Flood* v. *Kuhn,* 407 U.S. 258 (1972); *Toolson* v. *New York Yankees, Inc.,* 346 U.S. 356 (1953). Instead, the Court has left it to Congress to decide whether the baseball exemption should continue.

Given the agreement of the parties, Congress has now decided to legislate in this area, but we do so only in an extremely narrow manner. S. 53 leaves completely unchanged all aspects of the baseball exemption except for the narrow issue of the labor relations of major league players at the major league level as set out in detail in the new subsection 27(b) of the Clayton Act.

This bill originates from a compromise struck during the last round of collective bargaining between the major league owners and the major league players. After a lengthy labor dispute, these parties reached a collective bargaining agreement that, among other things, required negotiation to reach agreement on a limited repeal of baseball's antitrust exemption. They did so because the players' union argued that the antitrust exemption contributed to the labor disputes that have long marked its relationship with the owners. Specifically, the union asserted that it was disadvantaged in its labor negotiations with the owners because, unlike unions of other professional athletes, it could not challenge allegedly unlawful employment terms under the antitrust laws.

The major league clubs, of course, disagreed with this view. They contended that the baseball exemption was irrelevant to their labor negotiations with the union. The clubs argued that, like every other multi-employer bargaining group, they were protected from antitrust challenges to their employment terms by the nonstatutory labor antitrust exemption. In that regard, I want to note that nothing in this bill will affect in any way the protections afforded to the major league clubs by the nonstatutory labor antitrust exemption.

As a result of this difference of opinion, both the players and the owners were willing to support the repeal of the specific and narrow portion of the baseball exemption covering labor relations between major league players and major league clubs. The bill was carefully drafted, however, to leave the remainder of the exemption intact.

Before this bill passed the Senate, several changes were adopted to address concerns raised by owners of the minor league teams—the members of the National Association of Professional Baseball Leagues. Minor league baseball owners were concerned that the original bill reported by the Senate Judiciary Committee might not adequately protect their interests. Specifically, the minor league clubs were concerned that the original version of S. 53 was not sufficiently clear to preserve antitrust protection for: (1) the relationship between the major league clubs and the minor league clubs and (2) those work rules and employment terms that arguably affect both major league and minor league baseball players.

Members of Congress agreed that this narrow legislation should not hurt the grass roots minor league baseball played in over 150 towns across the country. For that reason, the minor league clubs were invited into the discussion and given an opportunity to suggest changes to address their concerns, and those changes have been incorporated.

As a result of these three-way negotiations, the parties agreed to amend the bill in several significant ways. These amendments clarify the limited reach of the bill and the expansive nature of the continued protection the bill affords to minor league baseball. For instance, to accommodate the concerns of the minor league clubs, subsection (b) of the new section 27 of the Clayton Act was changed by adding the word "directly" immediately before the phrase "relating to or affecting employment" and the phrase "major league players" was added before the phrase "to play baseball." These changes were made to ensure that neither major league players nor minor league players could use new subsection (a) to attack conduct, acts, practices, or agreements designed to apply to minor league employment.

In addition, new subsection (c) was added to clarify that only major league players could sue under the new subsection (a). Again, the minor leagues were concerned that, without a narrow standing section, minor league players or amateurs might attempt to attack minor league issues by asserting that these issues also indirectly affected major league employment terms.

Therefore, the new subsection (c) carefully limits the zone of persons protected by the bill to only major league players by providing that "only a major league baseball player has standing to sue under" this limited antitrust legislation. The standing provision gives major league baseball players the same right to sue under the antitrust laws over the major league employment terms that other professional athletes have. Of course, the United States has standing to sue to enjoin all antitrust violations under 15 U.S.C. §§4 and 25, and we do not intend subsection 27(c) to limit that broad authority.

This bill does not affect the application of the antitrust laws to anyone outside the business of baseball. In particular, it does not affect the application of the antitrust laws to other professional sports. The law with respect to the other professional sports remains exactly the same after this bill becomes law.

Because we are talking about baseball, let me tip my cap to my good friend, the Ranking Member of the Judiciary Committee, JOHN CONYERS. Mr. CONYERS has his own bill on this topic, H.R. 21, and he has led the charge on this issue in the House. I want to thank him for his outstanding work in bringing this bill to fruition.

I also want to thank my friends Senators ORRIN HATCH and PAT LEAHY, the Chairman and Ranking Member of the Senate Judiciary Committee. They worked many long hours to negotiate the delicate compromise that this bill embodies. We are also indebted to them for their outstanding efforts in bringing this bill to passage.

Mr. Speaker, I am delighted to support this simple, but important, bill, and I ask my colleagues to do the same. At this point, I will reserve the balance of my time.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this Curt Flood Act is an important piece of legislation. I thank the gentleman from Illinois (Chairman HYDE) for his very charitable comments. As two baseball aficionados, we know that the right thing is being done as we move this to finality.

Professional baseball is the only industry in the United States exempt from the antitrust laws without being subject to regulatory supervision. This circumstance has resulted from a rather sorry Supreme Court decision in 1922 holding that baseball did not involve interstate commerce and was beyond the reach of antitrust laws.

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For some reason, we in the Congress have failed to rectify this, despite subsequent court decisions holding that all the other professional sports were fully subject to these same laws that baseball claimed to be exempt from.

There may have been a time when baseball's unique treatment was a source of pride and distinction for many loyal fans who loved our national pastime. But with baseball suffering more work stoppages over the last century than all the other sports combined, including a 1994 strike which ended the possibility of a World Series for the first time in 90 years, and depriving many of our cities of tens of millions of dollars in tax revenues, we can now no longer afford to treat professional baseball in a manner enjoyed by no other professional sport. And that is what S. 53 and H.R. 21 attempt to do.

I am very pleased to be a major sponsor of this legislation, because concerns have been previously raised that by repealing the antitrust exemption we would somehow be disrupting the operation of the minor leagues. That, my colleagues will remember, was the defense that was always raised. An ugly specter. Or professional baseball's ability to limit franchise relocation might also occur. This legislation carefully eliminates these matters from the scope of new antitrust coverage.

In the past, some of us in this body objected to legislating in this area because of their hesitancy to take any action which could impact an ongoing labor dispute. But because the owners and the players have recently agreed to enter into a new collective bargaining agreement, that objection no longer exists. Additionally, the baseball owners are now in full support of this legislation, as of course the Major League Players Association has always been.

This bill was introduced by myself in honor of a very courageous and beautiful ball player, center fielder, Curt Flood, who passed away earlier this year, in January, and, unfortunately, is no longer with us to see the fruit of his work. Mr. Flood, one of the greatest players of his time, risked his career when he challenged baseball's reserve clause after he was traded from the St. Louis Cardinals to the Philadelphia Phillies. Although the Supreme Court rejected the 1972 challenge of Flood, we all owe a debt of gratitude for his willingness to challenge the baseball oligarchy. And he paid the price, too.

By the way, at his funeral in California, George Will, perhaps the supreme baseball nut of all, was there, and Reverend Jesse Jackson, Senior was there as well. It was a very touching event.

Now, this bill has gone through many changes over the years and was introduced originally in the 103rd Congress by our former beloved member of the Judiciary, Mike Synar, of Oklahoma.

In order to address the concern of the minor leagues, it contains many redundancies and, accordingly, a court may have questions about how the provisions of this bill will interrelate. Any court facing such questions would be advised, if I may dare suggest, to return to the purpose section of the bill for aid and interpretation. The purpose section states what Congress intends; that is, that it is no longer subject to question that major league baseball players have the same rights under antitrust laws as do other professional athletes.

This is a simple proposition, yet it is indeed startling that 26 years after this brave and eloquent player, Curt Flood, stood alone before the Supreme Court to seek an answer to a question whose answer seemed obvious to him, that it is only just now being addressed by this branch of government. I am very proud of the Congress for this.

If a court has any doubt as to the meaning or purpose of any provision of this act, it should be guided by our purpose, which is, at long last, to give the answer that Mr. Flood indeed knew to be the correct one. The legislation is not intended to have an adverse effect on any ongoing litigation nor intended to limit the ability of the United States Government to bring antitrust actions.

It is overdue. I hope it will be quickly passed for the good of the game, which has once again demonstrated why we love it, why baseball is on a resurgence, and we are just delighted that now that McGwire and Sosa have brought new enjoyment and life to the game that we now have this legislation to accompany it.

Mr. Speaker, I reserve the balance of my time.

Mr. HYDE. Mr. Speaker, I yield 5 minutes to the gentleman from Kentucky (Mr. JIM BUNNING), a member of Baseball's Hall of Fame.

Mr. BUNNING. Mr. Speaker, I thank the gentleman from Illinois for yielding me this time.

Mr. Speaker, I rise in strong support of S. 53, the Curt Flood Act, named for the player who challenged the antitrust laws all the way to the Supreme Court.

Baseball is the only sport, and just about the only business in America, that is immune from the antitrust laws. Because of an outdated Supreme Court decision, major league baseball has been operating under a different set of rules than everyone else for the past 75 years. The legislation before us today is very simple: It provides for a limited repeal of that exemption when it comes to labor-management relations.

Baseball has had big troubles in recent years, and the antitrust exemption has been the root cause. There has been eight work stoppages in the last three decades, and it is no coincidence that baseball, the only sport that enjoyed such special treatment, has had more strikes and lockouts than all other sports combined.

After playing and managing in professional baseball for over 25 years, and serving on the Executive Board of the Players Association, I know firsthand how the exemption distorts player-owner relationships and has contributed to the turmoil in baseball. The exemption effectively removes a negotiating tool from the labor negotiating process and forces both sides to play hardball when it comes to bargaining over contracts. It removes a way for the players to push their grievances, and encourages the owners to take a hard line and reduces their incentive to compromise.

Personally, I think this exemption should be repealed altogether. Baseball is a multibillion dollar business that should have to play by the same rules as other sports and businesses. The exemption is anti-competitive and anti-American. But by passing this bill today, and partially repealing the exemption, we provide another avenue for the owners and the players to explore another way to vent steam before calling a strike or staging a lockout.

This is a bipartisan consensus bill that the Senate passed without opposition. It is supported by all of the affected parties in baseball, owners, players, and the minor leagues. Everyone agrees that it represents a positive step forward for our national pastime.

But most importantly, this legislation represents a win for the fans. Just 4 years ago the players were on strike. The World Series was canceled. Baseball seemed doomed. But this year, as the gentleman from Michigan (Mr. CONYERS) has said, baseball has had a renaissance. Mark McGwire and Sammy Sosa thrilled us with the home run race. The playoffs are more exciting than ever before. And baseball is back.

Fans are returning to baseball, and passing this bill today will help ensure that the game does not spiral backward, down into the abyss of labor strife. It will help ensure that the fans are not robbed of their right to the greatest game ever invented.

Mr. Speaker, I urge strong support for the bill.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

I neglected to mention that the gentleman from Kentucky (Mr. JIM BUNNING), Hall of Famer, worked diligently on this bill with myself and the gentleman from Illinois (Mr. HYDE), and he was also a Detroit Tiger, where his greatest playing took place, and we still claim him, although he represents the great State of Kentucky. And, Mr. Speaker, he has a baseball in his hand now, as we watch.

Mr. Speaker, I yield back the balance of my time.

Mr. HYDE. Mr. Speaker, I yield 2 minutes to the gentleman from Arkansas (Mr. HUTCHINSON).

Mr. HUTCHINSON. Mr. Speaker, I want to thank the chairman for yielding me this time, and I want to thank the gentleman from Kentucky (Mr. BUNNING) for signing my baseball and being such a great baseball hero.

I speak as a fan today. In Arkansas, we do not have major league baseball in the State, but we have minor league baseball and we have a great baseball tradition. This bill that is before us has been agreed to by the players and the owners, but, more importantly, in my judgment, it is a bill for the fans. The fans want to see the boys of summer out on the field. They want to see them play ball. This has been a great year for the fans and we want that to continue without interruption.

This bill, as has been explained, and so eloquently by the gentleman from Michigan (Mr. CONYERS), and also by the chairman, provides baseball players with the same rights already afforded the National Football League and the National Basketball Association players. So they can act as their counterparts do in other fields of endeavor. But this also recognizes the importance of an antitrust exemption for certain aspects of the game so team owners may continue to cooperate on issues such as league expansion, franchise location and broadcast rights, without fear of lawsuit. So it protects and helps minor league baseball that is important in my State.

Mr. Speaker, baseball is America's pastime and it is my State's as well. Arkansas has produced its share of baseball greats as well, men like Lou Brock, Dizzy Dean, George Kell, and Brooks Robinson, all Hall of Famers, that have made us proud as they have carried a little bit of Arkansas to the far corners of this country.

Mr. Speaker, this is a good bill for baseball, the players and owners alike; it is a good bill for the fans, and I urge my colleagues to support it.

Mr. HYDE. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. BOEHLERT).

Mr. BOEHLERT. Mr. Speaker, I rise in support of this conference report. I do so in my capacity as chairman of the Minor League Baseball Caucus. The common thread that unites all of us in this caucus is our love for America's pastime.

I am a little bit disappointed that the two gentlemen that preceded me in the well, the gentleman from Kentucky (Mr. BUNNING), who is a member of the Baseball Hall of Fame, when he talked about the great year of 1998, I am surprised that he, a great Hall of Fame pitcher, did not mention that David Wells pitched a perfect game for the New York Yankees. The gentleman from Kentucky knows more than most that good pitching beats good hitting all the time.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. BOEHLERT. I yield to the gentleman from Illinois.

Mr. HYDE. I would like to point out to the gentleman that the gentleman from Kentucky (Mr. BUNNING) also pitched a perfect game when he was in the major leagues.

Mr. BOEHLERT. Reclaiming my time, Mr. Speaker, the gentleman is exactly right, and I was one of the great fans cheering him on when he pitched that perfect game.

And my colleague from Arkansas neglected to mention another great Hall of Famer from his home State. Arky Vaughn.

The fact of the matter is, one of the reasons why this settlement was delayed was the genuine concern for the future of minor league baseball. Because when all is said and done, while we are all thrilled by America's pastime, most people have to watch it on television. But across America, 35 million fans are going to the ball parks to see minor league baseball, in places like Syracuse, New York, and Utica, New York, and all over America. In Toledo, Ohio, the Mudhens. Who can forget them.

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It is indeed America's pastime. The great concern that all of us had was the preservation of minor league baseball. I am pleased to report to my colleagues that the minor league baseball officials have worked cooperatively and they do endorse this package. It is good for baseball at all levels.

Mr. LUTHER. Mr. Speaker, in an attempt to clarify the legislative intent of S. 53, I would like to place the following Senate colloquy between Senator PAUL WELLSTONE, Judiciary Committee Chairman ORRIN HATCH and Ranking Judiciary Committee Member PATRICK LEAHY in the House record.

CURT FLOOD ACT OF 1998

Mr. WELLSTONE. Mr. President, late last night (July 30, 1998), the Senate passed by unanimous consent S. 53. I have been contacted by the Attorney General of my State, Hubert H. Humphrey III, and asked to try to clarify a technical legal point about the effect of this legislation. The State of Minnesota, through the office of Attorney General, and the Minnesota Twins are currently involved in an antitrust-related investigation. It is my understanding that S. 53 will have no impact on this investigation or any litigation arising out of the investigation.

Mr. HATCH. That is correct. The bill simply makes it clear that major league baseball players have the same rights under the antitrust laws as do other professional athletes. The bill does not change current law in any other context or with respect to any other person or entity.

Mr. WELLSTONE. Thank you for that clarification. I also note that several lower courts have recently found that baseball currently enjoys only a narrow exemption from antitrust laws and that this exemption applies only to the reserve system. For example, the Florida Supreme Court in *Butterworth* v. *National League*, 644 So.2d 1021 (Fla. 1994), the U.S. District Court in Pennsylvania in *Piazza* v. *Major League Baseball*, 831 F. Supp. 420 (E.D. Pa. 1993) and a Minnesota State court in a case involving the Twins have all held the baseball exemption from antitrust laws is now limited only to the reserve system. It is my understanding that S. 53 will have no effect on the courts' ultimate resolution of the scope of the antitrust exemption on matters beyond those related to owner-player relations at the major league level.

Mr. HATCH. That is correct. S. 53 is intended to have no effect other than to clarify the status of major league players under the antitrust laws. With regard to all other context or other persons or entities, the law will be the same after passage of the Act as it is today.

Mr. LEAHY. I concur with the statement of the Chairman of the Committee. The bill affects no pending or decided cases except to the extent that courts have exempted major league baseball clubs from the antitrust laws in their dealings with major league players. In fact, Section 3 of the legislation makes clear that the law is unchanged with regard to issues such as relocation. The bill has no impact on the recent decisions in federal and state courts in Florida, Pennsylvania and Minnesota concerning baseball's status under the antitrust laws.

Mr. WELLSTONE. I thank the Senator. I call to my colleagues attention the decision in *Minnesota Twins* v. *State by Humphrey*, No. 62–CX–98–568 (Minn. dist. Court, 2d Judicial dist., Ramsey County April 20, 1998) reprinted in 1998–1 Trade Cases (CCH) 72,136.

Mr. BILIRAKIS. Mr. Speaker, I rise to support S. 53, the Curt Flood Act, which gives major league baseball players the same rights other professional athletes have under antitrust laws.

As a longtime proponent of lifting baseball's antitrust exemption, I have sponsored bills in the past to lift this exemption completely as it applies to all aspects of baseball's business. Although the bill we are considering now is more limited in scope, it is an important first step in correcting a seven decade-old mistake.

Federal antitrust laws prohibit businesses from taking actions that "unreasonably" constrain interstate commerce. However, many years ago Major League Baseball was singled out for a complete exemption from America's antitrust laws by the Supreme Court. The Court said baseball was an amusement and not a business, exempting it from antitrust laws. This exemption created a monopoly for baseball and established artificial barriers to league expansion. It sent the wrong signal to Americans that baseball did not have to comply with our country's antitrust laws.

In 1972, the Supreme Court called the situation an "anomaly" and an "aberration" which Congress should remedy. A 1976 report by the House Select Committee on Professional Sports concluded that there was no justification for baseball's special exemption. Unfortunately, no action was ever taken.

Mr. Speaker, baseball has seen a resurgence since the dark days of the 1994 strike. Who can forget Cal Ripken's triumphant lap around Camden Yards after breaking Lou Gehrig's Iron Man streak of consecutive games played? Or the incredible home run chase this year between Mark McGwire and Sammy Sosa that culminated in both players smashing the 37-year home run record held by Roger Maris?

I felt immense personal pride when I watched my hometown team, the Tampa Bay Devil Rays, take the field for their inaugural season at Tropicana field. The debut of a major league team in the Tampa-St. Petersburg area was delayed for years because Major League Baseball did not have to abide by our nation's antitrust laws.

I urge my colleagues to support S. 53 because it makes baseball live by the same laws as the fans who sit in the bleachers. It tells baseball fans that competition and fairness in baseball boardrooms is just as important as it is on the field. Let's give America its game back.

Mr. CHABOT. Mr. Speaker, the legislation before us today is the result of a negotiation resulting in a compromise among the union that represents major league players, the owners of major league baseball clubs, and by the owners of minor league baseball teams affiliated with major league clubs. The compromise addresses only the limited area of the labor relations of major league players at the major league level. The bill does not affect any other aspect of the organized baseball exemption. Also, the legislation does not change in any way the antitrust exemption for the major league players union or the major league clubs in the collective bargaining process provided by the nonstatutory labor antitrust exemption available to all unions and employers.

The legislation is a success because it has been carefully crafted to make clear that only major league baseball players, and no other party, can bring suit under this amendment to the Clayton Act.

This protection will help to ensure the continued viability of minor league baseball.

Minor league baseball owners were concerned that any legislation preserve the antitrust protections for the historic relationship between the major league clubs and the minor league clubs. The minor league owners were particularly concerned about the work rules and terms of employment that impact both major league and minor league baseball players. The language of the bill guarantee that neither major league players nor minor league players can use subsection (a) of new section 27 of the Clayton Act to attack conduct, acts, practices or agreements designed to apply only to minor league employment.

I believe the compromise is successful because it protects minor league baseball by barring minor league players or amateur players from using the antitrust laws to attack issues unique to the continued economic success of minor league baseball.

Mr. CLAY. Mr. Speaker, I rise in strong support of S. 53, the "Curt Flood Act of 1998." This is the Senate counterpart of H.R. 21, legislation I introduced in the each of the last two Congresses providing for the partial repeal of baseball's antitrust exemption. I'd like to thank Chairman Hyde for his leadership in seeing that this vital and long overdue legislation reached the House Floor.

Professional baseball is the only industry in the United States exempt from antitrust laws without being subject to alternative regulatory supervision. This circumstance resulted from an erroneous 1922 Supreme Court decision holding that baseball did not involve "interstate commerce" and was therefore beyond the reach of the antitrust laws. Congress has failed to overturn this decision despite subsequent court decisions holding that the other professional sports were fully subject to the antitrust laws.

There may have been a time when baseball's unique treatment was a source of pride and distinction for the many loyal fans who loved our national pastime. But with baseball suffering more work stoppages over the last 25 years than all of the other professional sports combined—including the 1994–95 strike which ended the possibility of a World Series for the first time in 90 years and deprived our cities of thousands of jobs and millions of dollars in tax revenues—we can no longer afford to treat professional baseball in a manner enjoyed by no other professional sport.

Because concerns have previously been raised that by repealing the antitrust exemption we could somehow be disrupting the operation of the minor leagues, or professional baseball's ability to limit franchise relocation, the legislation carefully eliminates these matters from the scope of the new antitrust coverage.

In the past, some in Congress had objected to legislating in this area because of their hesitancy to take any action which could impact the ongoing labor dispute. But because the owners and players have recently agreed to enter into a new collective bargaining agreement, this objection no longer exists. In addition, the baseball owners are now in full support of this legislation as are the Major League Players Association.

I originally introduced the House version of the bill as H.R. 21, in honor of the courageous center fielder, Curt Flood, who passed away earlier this year on January 21. Mr. Flood, one of the greatest players of his time, risked his career when he challenged baseball's reserve clause after he was traded from the St. Louis Cardinals to the Philadelphia Phillies. Although the Supreme Court rejected Flood's challenge in 1972, we all owe a debt of gratitude for his willingness to challenge the baseball oligarchy.

This bill has gone through many iterations over the years, beginning with its first enaction by the House Judiciary Committee at the end of the 103d Congress. That legislation was introduced by my former colleague Mike Synar.

In order to address the concern of the minor leagues, it contains many redundancies. Accordingly, a court may have questions about how the provisions of this bill interrelate. Any court facing such questions would be well-advised to return to the purpose section of the bill for aid in interpretation. The purpose section is the statement of what Congress intends the bundle of works now known as the "Curt Flood Act of 1998" to mean—that is, it is no longer subject to question that major league baseball players have the same rights under the antitrust laws as do other professional athletes. That is a simple proposition, yet it is indeed startling that 26 years after a brave and eloquent player stood alone before the Supreme Court to seek an answer that was obvious to him, it is only now being addressed directly by any branch of the United States Government. If a court has any doubt as to the meaning or purpose of any provision of this new Act, it should be guided by our purpose which is at long last to give the answer Mr. Flood knew to be the correct one. This legislation is not intended to have any adverse effect on any ongoing litigation nor is it intended to limit the ability of the United States to bring antitrust actions.

Mr. Speaker, this bill is long overdue. I hope the House will act quickly to pass it for the good of the game, which has once again demonstrated why we love it, and for the good of the fans, who deserve to enjoy the national pastime without the continuous interruptions that have become nearly as predictable and plentiful, as McGwire or Sosa home runs.

Mr. HYDE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GUTKNECHT). The question is on the motion offered by the gentleman from Illinois (Mr. HYDE) that the House suspend the rules and pass the Senate bill, S. 53.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

SONNY BONO COPYRIGHT TERM EXTENSION ACT

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 505) to amend the provisions of title 17, United States Code, with respect to the duration of copyright, and for other purposes.

The Clerk read as follows:

S. 505

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—COPYRIGHT TERM EXTENSION

SEC. 101. SHORT TITLE.

This title may be referred to as the "Sonny Bono Copyright Term Extension Act".

SEC. 102. DURATION OF COPYRIGHT PROVISIONS.

(a) PREEMPTION WITH RESPECT TO OTHER LAWS.—Section 301(c) of title 17, United States Code, is amended by striking "February 15, 2047" each place it appears and inserting "February 15, 2067".

(b) DURATION OF COPYRIGHT: WORKS CREATED ON OR AFTER JANUARY 1, 1978.—Section 302 of title 17, United States Code, is amended—

(1) in subsection (a) by striking "fifty" and inserting "70";

(2) in subsection (b) by striking "fifty" and inserting "70";

(3) in subsection (c) in the first sentence—

(A) by striking "seventy-five" and inserting "95"; and

(B) by striking "one hundred" and inserting "120"; and

(4) in subsection (e) in the first sentence—

(A) by striking "seventy-five" and inserting "95";

(B) by striking "one hundred" and inserting "120"; and

(C) by striking "fifty" each place it appears and inserting "70".

(c) DURATION OF COPYRIGHT: WORKS CREATED BUT NOT PUBLISHED OR COPYRIGHTED BEFORE JANUARY 1, 1978.—Section 303 of title 17, United States Code, is amended in the second sentence by striking "December 31, 2027" and inserting "December 31, 2047".

(d) DURATION OF COPYRIGHT: SUBSISTING COPYRIGHTS.—

(1) IN GENERAL.—Section 304 of title 17, United States Code, is amended—

(A) in subsection (a)—

(i) in paragraph (1)—

(I) in subparagraph (B) by striking "47" and inserting "67"; and

(II) in subparagraph (C) by striking "47" and inserting "67";

(ii) in paragraph (2)—

(I) in subparagraph (A) by striking "47" and inserting "67"; and

(II) in subparagraph (B) by striking "47" and inserting "67"; and

(iii) in paragraph (3)—

(I) in subparagraph (A)(i) by striking "47" and inserting "67"; and

(II) in subparagraph (B) by striking "47" and inserting "67";

(B) by amending subsection (b) to read as follows:

"(b) COPYRIGHTS IN THEIR RENEWAL TERM AT THE TIME OF THE EFFECTIVE DATE OF THE SONNY BONO COPYRIGHT TERM EXTENSION ACT.—Any copyright still in its renewal term at the time that the Sonny Bono Copyright Term Extension Act becomes effective shall have a copyright term of 95 years from the date copyright was originally secured.";

(C) in subsection (c)(4)(A) in the first sentence by inserting "or, in the case of a termination under subsection (d), within the five-year period specified by subsection (d)(2)," after "specified by clause (3) of this subsection,"; and

(D) by adding at the end the following new subsection:

"(d) Termination Rights Provided in Subsection (c) Which Have Expired on or Before the Effective Date of the Sonny Bono Copyright Term Extension Act.—In the case of any copyright other than a work made for hire, subsisting in its renewal term on the effective date of the Sonny Bono Copyright Term Extension Act for which the termination right provided in subsection (c) has expired by such date, where the author or owner of the termination right has not previously exercised such termination right, the exclusive or nonexclusive grant of a transfer or license of the renewal copyright or any right under it, executed before January 1, 1978, by any of the persons designated in subsection (a)(1)(C) of this section, other than by will, is subject to termination under the following conditions:

"(1) The conditions specified in subsection (c)(1), (2), (4), (5), and (6) of this section apply to terminations of the last 20 years of copyright term as provided by the amendments made by the Sonny Bono Copyright Term Extension Act.

"(2) Termination of the grant may be effected at any time during a period of 5 years beginning at the end of 75 years from the date copyright was originally secured.".

(2) Copyright Amendments Act of 1992.—Section 102 of the Copyright Amendments Act of 1992 (Public Law 102–307; 106 Stat. 266; 17 U.S.C. 304 note) is amended—

(A) in subsection (c)—

(i) by striking "47" and inserting "67";

(ii) by striking "(as amended by subsection (a) of this section)"; and

(iii) by striking "effective date of this section" each place it appears and inserting "effective date of the Sonny Bono Copyright Term Extension Act"; and

(B) in subsection (g)(2) in the second sentence by inserting before the period the following: ", except each reference to forty-seven years in such provisions shall be deemed to be 67 years".

SEC. 103. TERMINATION OF TRANSFERS AND LICENSES COVERING EXTENDED RENEWAL TERM.

Sections 203(a)(2) and 304(c)(2) of title 17, United States Code, are each amended—

(1) by striking "by his widow or her widower and his or her children or grandchildren"; and

(2) by inserting after subparagraph (C) the following:

"(D) In the event that the author's widow or widower, children, and grandchildren are not living, the author's executor, administrator, personal representative, or trustee shall own the author's entire termination interest.".

SEC. 104. REPRODUCTION BY LIBRARIES AND ARCHIVES.

Section 108 of title 17, United States Code, is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following:

"(h)(1) For purposes of this section, during the last 20 years of any term of copyright of a published work, a library or archives, including a nonprofit educational institution that functions as such, may reproduce, distribute, display, or perform in facsimile or digital form a copy or phonorecord of such work, or portions thereof, for purposes of preservation, scholarship, or research, if such library or archives has first determined, on the basis of a reasonable investigation, that none of the conditions set forth in subparagraphs (A), (B), and (C) of paragraph (2) apply.

"(2) No reproduction, distribution, display, or performance is authorized under this subsection if—

"(A) the work is subject to normal commercial exploitation;

"(B) a copy or phonorecord of the work can be obtained at a reasonable price; or

"(C) the copyright owner or its agent provides notice pursuant to regulations promulgated by the Register of Copyrights that either of the conditions set forth in subparagraphs (A) and (B) applies.

"(3) The exemption provided in this subsection does not apply to any subsequent uses by users other than such library or archives.".

SEC. 105. VOLUNTARY NEGOTIATION REGARDING DIVISION OF ROYALTIES.

It is the sense of the Congress that copyright owners of audiovisual works for which the term of copyright protection is extended by the amendments made by this title, and the screenwriters, directors, and performers of those audiovisual works, should negotiate in good faith in an effort to reach a voluntary agreement or voluntary agreements with respect to the establishment of a fund or other mechanism for the amount of remuneration to be divided among the parties for the exploitation of those audiovisual works.

SEC. 106. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on the date of the enactment of this Act.

TITLE II—MUSIC LICENSING EXEMPTION FOR FOOD SERVICE OR DRINKING ESTABLISHMENTS

SEC. 201. SHORT TITLE.

This title may be cited as the "Fairness In Music Licensing Act of 1998."

SEC. 202. EXEMPTIONS.

(a) Exemptions for Certain Establishments.—Section 110 of title 17, United States Code is amended—

(1) in paragraph (5)—

(A) by striking "(5)" and inserting "(5)(A) except as provided in subparagraph (B),"; and

(B) by adding at the end the following:

"(B) communication by an establishment of a transmission or retransmission embodying a performance or display of a nondramatic musical work intended to be received by the general public, originated by a radio or television broadcast station licensed as such by the Federal Communications Commission, or, if an audiovisual transmission, by a cable system or satellite carrier, if—

"(i) in the case of an establishment other than a food service or drinking establishment, either the establishment in which the communication occurs has less than 2000 gross square feet of space (excluding space used for customer parking and for no other purpose), or the establishment in which the communication occurs has 2000 or more gross square feet of space (excluding space used for customer parking and for no other purpose) and—

"(I) if the performance is by audio means only, the performance is communicated by means of a total of not more than 6 loudspeakers, of which not more than 4 loudspeakers are located in any 1 room or adjoining outdoor space; or

"(II) if the performance or display is by audiovisual means, any visual portion of the performance or display is communicated by means of a total of not more than 4 audiovisual devices, of which not more than one audiovisual device is located in any 1 room, and no such audiovisual device has a diagonal screen size greater than 55 inches, and any audio portion of the performance or display is communicated by means of a total of not more than 6 loudspeakers, of which not more than 4 loudspeakers are located in any 1 room or adjoining outdoor space;

"(ii) in the case of a food service or drinking establishment, either the establishment in which the communication occurs has less than 3750 gross square feet of space (excluding space used for customer parking and for no other purpose), or the establishment in which the communication occurs has 3750 gross square feet of space or more (excluding space used for customer parking and for no other purpose) and—

"(I) if the performance is by audio means only, the performance is communicated by means of a total of not more than 6 loudspeakers, of which not more than 4 loudspeakers are located in any 1 room or adjoining outdoor space; or

"(II) if the performance or display is by audiovisual means, any visual portion of the performance or display is communicated by means of a total of not more than 4 audiovisual devices, of which not more than one audiovisual device is located in any 1 room, and no such audiovisual device has a diagonal screen size greater than 55 inches, and any audio portion of the performance or display is communicated by means of a total of not more than 6 loudspeakers, of which not more than 4 loudspeakers are located in any 1 room or adjoining outdoor space;

"(iii) no direct charge is made to see or hear the transmission or retransmission;

"(iv) the transmission or retransmission is not further transmitted beyond the establishment where it is received; and

"(v) the transmission or retransmission is licensed by the copyright owner of the work so publicly performed or displayed;"; and

(2) by adding after paragraph (10) the following:

"The exemptions provided under paragraph (5) shall not be taken into account in any administrative, judicial, or other governmental proceeding to set or adjust the royalties payable to copyright owners for the public performance or display of their works. Royalties payable to copyright owners for any public performance or display of their works other than such performances or displays as are exempted under paragraph (5) shall not be diminished in any respect as a result of such exemption".

(b) Exemption Relating to Promotion.—Section 110(7) of title 17, United States Code, is amended by inserting "or of the audiovisual or other devices utilized in such performance," after "phonorecords of the work,".

SEC. 203. LICENSING BY PERFORMING RIGHTS SOCIETIES.

(a) In General.—Chapter 5 of title 17, United States Code, is amended by adding at the end the following:

"§ 512. Determination of reasonable license fees for individual proprietors

"In the case of any performing rights society subject to a consent decree which provides for the determination of reasonable license rates or fees to be charged by the performing rights society, notwithstanding the provisions of that consent decree, an individual proprietor who owns or operates fewer than 7 non-publicly traded establishments in which nondramatic musical works are performed publicly and who claims that any license agreement offered by that performing rights society is unreasonable in its license rate or fee as to that individual proprietor, shall be entitled to determination of a reasonable license rate or fee as follows:

"(1) The individual proprietor may commence such proceeding for determination of a reasonable license rate or fee by filing an application in the applicable district court under paragraph (2) that a rate disagreement exists and by serving a copy of the application on the performing rights society. Such proceeding shall commence in the applicable district court within 90 days after the service of such copy, except that such 90-day requirement shall be subject to the administrative requirements of the court.

"(2) The proceeding under paragraph (1) shall be held, at the individual proprietor's election, in the judicial district of the district court with jurisdiction over the applicable consent decree or in that place of holding court of a district court that is the seat of the Federal circuit (other than the Court of Appeals for the Federal Circuit) in which the proprietor's establishment is located.

"(3) Such proceeding shall be held before the judge of the court with jurisdiction over the consent decree governing the performing rights society. At the discretion of the court, the proceeding shall be held before a special master or magistrate judge appointed by such judge. Should that consent decree provide for the appointment of an advisor or advisors to the court for any purpose, any such advisor shall be the special master so named by the court.

"(4) In any such proceeding, the industry rate shall be presumed to have been reasonable at the time it was agreed to or determined by the court. Such presumption shall in no way affect a determination of whether the rate is being correctly applied to the individual proprietor.

"(5) Pending the completion of such proceeding, the individual proprietor shall have the right to perform publicly the copyrighted musical compositions in the repertoire of the performing rights society by paying an interim license rate or fee into an interest bearing escrow account with the clerk of the court, subject to retroactive adjustment when a final rate or fee has been determined, in an amount equal to the industry rate, or, in the absence of an industry rate, the amount of the most recent license rate or fee agreed to by the parties.

"(6) Any decision rendered in such proceeding by a special master or magistrate judge named under paragraph (3) shall be reviewed by the judge of the court with jurisdiction over the consent decree governing the performing rights society. Such proceeding, including such review, shall be concluded within 6 months after its commencement.

"(7) Any such final determination shall be binding only as to the individual proprietor commencing the proceeding, and shall not be applicable to any other proprietor or any other performing rights society, and the performing rights society shall be relieved of any obligation of nondiscrimination among similarly situated music users that may be imposed by the consent decree governing its operations.

"(8) An individual proprietor may not bring more than one proceeding provided for in this section for the determination of a reasonable license rate or fee under any license agreement with respect to any one performing rights society.

"(9) For purposes of this section, the term 'industry rate' means the license fee a performing rights society has agreed to with, or which has been determined by the court for, a significant segment of the music user industry to which the individual proprietor belongs.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 17, United States Code, is amended by adding after the item relating to section 511 the following:

"512. Determination of reasonable license fees for individual proprietors.".

SEC. 204. PENALTIES.

Section 504 of title 17, United States Code, is amended by adding at the end the following:

"(d) ADDITIONAL DAMAGES IN CERTAIN CASES.—In any case in which the court finds that a defendant proprietor of an establishment who claims as a defense that its activities were exempt under section 110(5) did not have reasonable grounds to believe that its use of a copyrighted work was exempt under such section, the plaintiff shall be entitled to, in addition to any award of damages under this section, an additional award of two times the amount of the license fee that the proprietor of the establishment concerned should have paid the plaintiff for such use during the preceding period of up to 3 years.".

SEC. 205. DEFINITIONS.

Section 101 of title 17, United States Code, is amended—

(1) by inserting after the definition of "display" the following:

"An 'establishment' is a store, shop, or any similar place of business open to the general public for the primary purpose of selling goods or services in which the majority of the gross square feet of space that is nonresidential is used for that purpose, and in which nondramatic musical works are performed publicly.

"A 'food service or drinking establishment' is a restaurant, inn, bar, tavern, or any other similar place of business in which the public or patrons assemble for the primary purpose of being served food or drink, in which the majority of the gross square feet of space that is nonresidential is used for that purpose, and in which nondramatic musical works are performed publicly.";

(2) by inserting after the definition of "fixed" the following:

"The 'gross square feet of space' of an establishment means the entire interior space of that establishment, and any adjoining outdoor space used to serve patrons, whether on a seasonal basis or otherwise.";

(3) by inserting after the definition of "perform" the following:

"A 'performing rights society' is an association, corporation, or other entity that licenses the public performance of nondramatic musical works on behalf of copyright owners of such works, such as the American Society of Composers, Authors and Publishers (ASCAP), Broadcast Music, Inc. (BMI), and SESAC, Inc."; and

(4) by inserting after the definition of "pictorial, graphic and sculptural works" the following:

"A 'proprietor' is an individual, corporation, partnership, or other entity, as the case may be, that owns an establishment or a food service or drinking establishment, except that no owner or operator of a radio or television station licensed by the Federal Communications Commission, cable system or satellite carrier, cable or satellite carrier service or programmer, provider of online services or network access or the operator of facilities therefor, telecommunications company, or any other such audio or audiovisual service or programmer now known or as may be developed in the future, commercial subscription music service, or owner or operator of any other transmission service, shall under any circumstances be deemed to be a proprietor.".

SEC. 206. CONSTRUCTION OF TITLE.

Except as otherwise provided in this title, nothing in this title shall be construed to relieve any performing rights society of any obligation under any State or local statute, ordinance, or law, or consent decree or other court order governing its operation, as such statute, ordinance, law, decree, or order is in effect on the date of the enactment of this Act, as it may be amended after such date, or as it may be issued or agreed to after such date.

SEC. 207. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 90 days after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from Texas (Ms. JACKSON-LEE) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume. S. 505 contains two important provisions and is substantially identical to H.R. 4712 which the gentleman from Florida (Mr. MCCOLLUM) and I introduced earlier today. It adopts the Sonny Bono Copyright Term Extension Act identical to the language the House passed by an overwhelming margin in March. This section of the bill is a fitting tribute to our departed colleague Sonny Bono. The second part of the bill adopts an agreement on the issue of fairness in music licensing issue. This agreement is the product of grueling and ofttimes contentious negotiations. I am proud of the final product and am pleased that all sides were able to work together to bridge their differences. This bill is a victory for small business and a tribute to the commitment of its supporters. In March, the House overwhelmingly passed the Sensenbrenner amendment to the Copyright Term Extension bill by a 297-112 vote. That amendment reflected the core principles of my legislation, the Fairness in Music Licensing Act, and had the strong endorsement of groups, including the National Federation of Independent Business and the National Restaurant Association. Since that time, we have been working to strike an agreement with the other body over this language. I am pleased to report we have arrived at a compromise that is supported by the same groups and is acceptable to the opponents of the original Sensenbrenner amendment. In short, passage of this bill today will allow the Sonny Bono Copyright Term Extension Act and the Fairness in Music Licensing Act to become law in very short course.

Under the music licensing compromise, restaurants and bars with 3,750 gross square feet or less will be exempt from paying music licensing fees for playing the radio or television in their establishments. Retail businesses will benefit from a 2,000 gross square foot exemption for radio and television. Importantly, both types of establishments, regardless of size, will be exempt if they have six or fewer external speakers or four televisions measuring 55 inches or less. Secondly, the bill contains a "circuit rider" provision that will provide small businesses an alternative to the existing system of dispute resolution which requires businesses to challenge ASCAP and BMI in a New York rate court. Under the provision in this bill, the existing New York rate court maintains jurisdiction over those cases but will hear them at the circuit court level. Lastly, the bill provides an exemption from licensing fees for television and stereo equipment retailers so that these businesses are not required to pay a fee simply to demonstrate to a potential customer that a product works. At this point in my statement, I would like to engage in a colloquy with the gentleman from Florida (Mr. MCCOLLUM).

Mr. Speaker, I want to make certain that the critically important provision concerning the burden of proof is clearly understood in the license fee determination provision, Section 512(4). Nothing in Section 512(4) shall change the burden of proof with respect to the rates or fees under the consent decrees, which places the burden of showing a reasonable rate or fee on the performing rights society.

Does the preceding statement reflect the gentleman's understanding of the provisions stated above?

I yield to the gentleman from Florida.

Mr. McCOLLUM. Madam Speaker, yes, it does. I thank the gentleman for asking that question. I most certainly agree that is correct.

Mr. SENSENBRENNER. I thank the gentleman for his answer.

Madam Speaker, the legislation before us today demonstrates that the system works. Title I of the legislation satisfies a top priority for the entertainment industry and ensures that one of America's most valuable assets will continue to dominate in global markets. Title II of the bill brings to a close a 4-year effort to bring common sense, fairness and clarity to the copyright music licensing system. This victory for small business should make Congress proud. I urge a unanimous vote in favor of this agreement and this bill.

Madam Speaker, I include in this part of the RECORD an exchange of correspondence between the gentleman from North Carolina (Mr. COBLE) who is the chairman of the Subcommittee on Courts and Intellectual Property and myself.

The correspondence referred to is as follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, October 7, 1998.
Hon. HOWARD COBLE,
Chairman, Subcommittee on Courts and Intellectual Property.

DEAR MR. CHAIRMAN: I am writing to you regarding the upcoming floor action on S. 505, a bill to amend title 17, United States Code, to extend the term of copyright, to provide for a music licensing exemption, and for other purposes.

Among the negotiated portions included in the final version was a provision concerning the burden of proof in determining reasonableness of the license rate. I want to make certain that this critically important provision concerning the burden of proof is clearly understood in the license fee determination provision, Section 512(4). Nothing in Section 512(4) shall change the burden of proof with respect to the rates or fees under the consent decrees, which places the burden of showing a reasonable rate or fee on the performing rights society.

Mr. Chairman, I respectfully request your affirmation of this understanding be included in the record for purposes of providing legislative history on this subject.

Sincerely,
F. JAMES SENSENBRENNER, JR.,
Member of Congress.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, October 7, 1998.
Hon. F. JAMES SENSENBRENNER, Jr.,
U.S. Representative for the 9th District of Wisconsin, Rayburn House Office Building, Washington, DC.

DEAR REPRESENTATIVE SENSENBRENNER: Thank you for your letter of October 7, 1998, regarding the upcoming floor action on S. 505, a bill to amend title 17, United States Code, to extend the term of copyright, to provide for a music licensing exemption, and for other purposes.

This letter is to affirm your understanding that nothing in section 512(4) of the Copyright Act, as amended by the bill, is intended to change the burden of proof with respect to rates or fees under applicable consent decrees, which places the burden of showing a reasonable rate or fee on the performing rights society.

This letter, along with your letter, will be placed in the RECORD for purposes of providing legislative history on this subject.

Sincerely,
HOWARD COBLE,
Chairman, Subcommittee on Courts and Intellectual Property.

Madam Speaker, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I am delighted to rise in strong support of the Copyright Term Extension Act before us this evening, the passage of which marks an important moment for those of us who support strong copyright and specifically our domestic copyright and creative industries. The enactment of this legislation will bring United States copyright creators and owners into full citizenship with respect to the international community and finally permit us to enjoy the full and appropriate term that European copyright owners have enjoyed for some time now.

There is a provision in the legislation which I am especially happy to see, and that is the resolution of the long-simmering dispute between copyright owners and restaurants and other small businesses. I have always said, Madam Speaker, that small businesses like restaurants are the backbone of America. They create job opportunities, they provide entertainment and enjoyment. The latter of whom have sought and argued for a fair exemption from music licensing fees for some time. I am sorry that the dispute was so protracted and difficult, but I am, as I have said, delighted that we have reached a workable compromise on this difficult legislation. Sometimes the most difficult struggles bring about the fairest resolutions, and I think we may have achieved such a result tonight.

I appreciate the work of the gentleman from North Carolina (Mr. COBLE) and certainly the gentleman from Wisconsin (Mr. SENSENBRENNER) who I know has worked on this issue for a very long time, the ranking minority member the gentleman from Massachusetts (Mr. FRANK) and the gentleman from Michigan (Mr. CONYERS) who have worked on this issue as well. I know that there has been some disagreement and may still continue to be. But I think we have come to a point in this legislation that we have recognized the importance of our small businesses like restaurants, like various other centers who need to have the ability to create and improve their enjoyment. Again I commend all of those who have been working on this matter for their hard work and I am very pleased to have seen this come to a good end. I am asking my colleagues to support this legislation.

I rise today in strong support of the Copyright Term Extension Act before us this evening, the passage of which marks an important moment for those of us who support copyright, and specifically our domestic copyright and creative industries. The enactment of this legislation will bring United States copyright creators and owners into full citizenship with respect to the international community, and finally permit us to enjoy the full and appropriate term that European copyright owners have enjoyed for some time now.

There is a provision in this legislation which I am especially happy to see, and that is the resolution of the long simmering dispute between copyright owners and restaurants and other small businesses, the latter of whom have sought and argued for a fair exemption from music licensing fees for some time. I am sorry that the dispute was so protracted, and difficult, but I am as I say delighted that we have reached a workable compromise on this difficult legislation. Sometimes the most difficult struggles bring about the fairest resolutions, and I think we may have achieved such a result tonight.

I commend those in the majority and the minority who worked hard to get to this day. I commend Chairman COBLE, ranking member CONYERS, and Mr. SENSENBRENNER for their hard work and efforts on this important bill, and I am pleased to support it strongly.

Madam Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Madam Speaker, I yield 4 minutes to the gentleman from North Carolina (Mr. COBLE).

Mr. COBLE. I thank the gentleman for yielding me this time, Madam Speaker. This has been a long, extended journey that we have traveled. The gentleman from Wisconsin and I have slugged it out literally as well as figuratively on this matter, but I think tonight we are finally in the position to maybe put it to bed.

I rise in support of the bill, S. 505, Madam Speaker. Copyright Extension is essential legislation that will ensure that the United States will continue to receive the enormous export revenues that it does today from the sale of its copyrighted works abroad. At the same time, S. 505 resolves the question of music licensing fees for restaurants and small businesses.

I want to applaud the efforts of the parties and Members involved in negotiating the music licensing agreement. This legislation is the result of much hard work and diligent negotiation. I want to express my thanks to the Speaker the gentleman from Georgia (Mr. GINGRICH) for his efforts in bringing the parties together. I also want to express my thanks to the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Florida (Mr. MCCOLLUM) for their work in bringing about a fair resolution. It was no small task. Of course, I would be remiss if I did not mention the late Mr. Bono, the gentleman from California, regarding his work and interest in the Copyright Extension feature of this.

S. 505 will give the United States economy 20 more years of foreign sales revenue from movies, books, records and software products sold abroad. We are by far the world's largest producer of copyrighted works and the copyright industries give us one of our most significant trade surpluses. The European Union countries, pursuant to a directive, have adopted domestic laws which would protect their own works for 20 years more than they protect American works. This bill would correct that by granting to the United States works the same amount of protection which under international agreements requires reciprocity.

This bill is also good for consumers, Madam Speaker. When works are protected by copyright, they attract investors who can exploit the work for profit. That in turn brings the work to the consumer who may enjoy it at the movie theater, in a home, in an automobile, or in a retail establishment.

Finally, the bill addresses the concern of restaurants and small businesses regarding the payment of licensing fees for the use of music broadcasts over the radio or television. It gives qualifying establishments an exemption from paying music licensing fees and forums in addition to the Southern District of New York which the gentleman from Wisconsin previously mentioned in which to challenge the reasonableness of the fees charged. I believe this bill protects small business interests which represent a key sector of our society.

This bill, Madam Speaker, recognizes the importance of the business community, the small business community in particular. That is, the entrepreneurs who operate restaurants across our land but at the same time recognizes the importance and the obvious significance of our maintaining a sound copyright system.

I urge Members to vote "yes" on S. 505.

Ms. JACKSON-LEE of Texas. Madam Speaker, I yield 3 minutes to the distinguished gentleman from New York (Mr. NADLER), a member of the Committee on the Judiciary.

Mr. NADLER. Madam Speaker, I thank the distinguished gentlewoman for yielding me this time. I want to rise in opposition to that portion of the bill regulating music licensing fees. This is a very interesting occasion. Here we have under the leadership of the party that believes preeminently in the free enterprise system that government should not intervene against the operation of the free market advancing a bill that would interfere between an arm's length relationship between two different business interests.

Now, I do not agree with most of my friends on the other side of the aisle in as great a degree of the sanctity of the free market system as they might. I probably support more government regulation than they would. I probably think the Government should intervene in the free market more often. But I do think that before you have the Government intervene in the free market, you have to have a showing of necessity.

What showing of necessity have we here? Restaurants that pay an average of $400 a year in music licensing fees, a rather small, I would say minute percentage of the revenues of an average restaurant, do not want to pay the $400 a year to the songwriters. Well, that is interesting. Let them try to negotiate a different deal. Or let them not use the music. But what necessity, what public interest is served by the Government coming in and making a decision and saying, "Thou shalt not pay the $400; you shall get it free"?

Is there a great housing shortage that necessitates rent control? Is there a great shortage of restaurant musicians or of restaurant radios that necessitates that, my God, if we do not pass this bill, people are not going to be able to eat because they will be so nervous without the radio music as to justify the Government intervention in the free market here, to come in and say, "We're not going to let you make this deal, we're going to upset the licensing arrangements"?

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I do not see the point. Why is Government intervening in the free market here? Point One.

Point Two: Assuming we want the Government to intervene in the free market, assuming that we should arrogate to ourselves the power of determining what the deal should be, the deal should be very different. We are saying that the restaurant that pays a average of $400 a year for these licensing fees, a minute part of its expenses to the restaurant to which it makes virtually no difference, that is the one interest. The other interest is the song writer to whom this revenue may be a very large part of their income.

So let us take the song writer for whom this may be a very large part of their income and say, "You can't get that income because the restaurants for whom this is a minute expense, we don't want them to have this expense."

So if government should make this decision, I would make it the other way around and leave the situation as it is, but why should Government make this decision? Government should intervene in the free market when there is a real public policy purpose only, when there is a necessity, when the free market is not working right, when there is not an arm's length relationship, when consumers have to be protected, when the antitrust has to be promoted, when the free market is leading to exploitation of wages, when some real public policy purpose necessities the intervention.

What is the public policy purpose? I have been asking that question for 2 years. I have never heard any answer suggested. So I would hope that this part of this bill, which I otherwise support, would not be adopted.

Mr. SENSENBRENNER. Madam Speaker, I yield 3 minutes to the gentleman from Florida (Mr. MCCOLLUM).

Mr. MCCOLLUM. Madam Speaker, I thank the gentleman from Wisconsin for yielding this time to me.

Madam Speaker, I am pleased to support S. 505 which will extend copyright protection and resolve a long standing issue concerning music licensing. I am also pleased to be joined by my colleague, the gentleman from Wisconsin (Mr. SENSENBRENNER) who has devoted extensive time and energy to reaching the solution on this issue. It is clear to me that today we would not be here if it were not for Mr. SENSENBRENNER's committed effort, and I believe that that deserves recognition, and I want to thank him personally for the time he has put in on it. I also wanted to express my gratitude to the gentleman from Illinois (Mr. HYDE) and to the gentleman from North Carolina (Mr. COBLE) and to Senator HATCH for their dedicated commitment to copyright protection.

Extending the term of copyright protection by 20 years will ensure that the American public continues to enjoy the contributions made by our creative community. In addition, it would eliminate harmful discrimination against American works abroad. Copyright protection benefits the public. It promotes the creation of educational materials, widens the dissemination of information and provides countless hours of entertainment. Copyright products such as movies, software, music and books contributed more than $275 billion to the U.S. economy in 1996 and employed more than 6½ million workers.

It is clear that we must be as vigilant in protecting intellectual property as we are protecting physical property. Unfortunately, without the enactment of this legislation, U.S. copyright owners would continue to be at a critical disadvantage in overseas markets. The European Union, which is the largest market for U.S. copyrighted products protects its own products for 20 years longer than it protects American works. This is due to the fact that foreign countries only protect U.S. works for as long as the U.S. itself protects its own works. Enactment of S. 505 would eliminate this extreme economic disadvantage and contribute to America's balance of trade.

With S. 505 we will no longer be abandoning 20 years worth of copyright protection for our creative community. In addition, we will be promoting the creation of new copyrighted works for the American public and strengthening our international trading position abroad. Also, S. 505 resolves the longstanding dispute between song writers, music publishers and the performing rights societies on the side, one side, and the restaurants and the other, and commercial users of music on still the other. The compromise provides certain exemptions from copyright infringement for the limited commercial use of radios and televisions. It also provides for additional forums for individuals to be heard in court concerning music licensing rates and fees.

This fair and balanced compromise is the result of years of work, and I am pleased to be joined by the gentleman from Wisconsin (Mr. SENSENBRENNER) in urging my colleagues to support the passage of this resolution and the resolution of this matter by the adoption of S. 505 which I certainly encourage tonight.

Ms. JACKSON-LEE of Texas. Madam Speaker, I yield myself such time as I may consume.

Let me conclude by adding again my emphasis on the importance of the compromise and resolution of this bill that brings the restaurants and copyright entities together. It is important that we do recognize that this was a very vital part of the economic structure of these businesses, and it is our responsibility to ensure their viability as well as the fair treatment of those in the copyright industry.

With that I would ask my colleagues to support this legislation.

Madam Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Madam Speaker, I yield 2 minutes to the gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Madam Speaker, I want to take a moment to thank the gentleman from Wisconsin (Mr. SENSENBRENNER), the gentleman from Florida (Mr. MCCOLLUM), the gentleman from North Carolina (Mr. COBLE) and, of course, the House leadership for bringing this important measure to the floor tonight and spend a moment of special tribute to our good friend Sonny Bono who was basically the one that brought this bill to the attention of the floor. Sonny, as many of my colleagues know, was a song writer and cared deeply about the rights of performers like himself who had created music and wanted that protection under law as other nations have recognized. The gentleman from Florida (Mr. MCCOLLUM) eloquently laid out that European nations protect their copyrighted materials, and we should do no less for our artists.

I also want, as Chairman of the House Entertainment Task Force, to thank all parties for recognizing the importance of this issue to America's creative community. Whether it is Sony, BMI, Disney or any of the multitude of companies that make up the fabric of our entertainment community, as the gentleman from Florida (Mr. MCCOLLUM) clearly stated, 6½ million workers make up the work force of the entertainment industry in America. It is a thriving business, it is an important business, but, more importantly, it is a business that needs protection so that the works of these creative artists, the works they have struggled to produce, the works that have now reached critical acclaim are not stolen and pirated.

When we were in China with the Speaker last year we noticed that there were CDs for sale in the streets of China for a $1.25 and $2, American currency. That record cost $14 here in the United States, but it was being bootlegged by foreign sources, if my colleagues will, and sold under market, under value and no attribution to the recording label or the artist.

So, again I want to take a moment because I know it has been difficult, and I know it has been stressful to reach a compromise. But thanks to the leadership of the gentleman from Wisconsin (Mr. SENSENBRENNER) bringing all parties together, we were able to really produce what this House is all about. Comity. And I would also like to thank the minority and certainly those that have worked so hard at this, the gentlewoman from Texas (Ms. JACKSON-LEE), the gentleman from Massachusetts (Mr. FRANK) in the Committee on the Judiciary for their hard work in this effort because they too recognize the importance of the artistic community.

So really this is a spirit of bipartisanship, this is a good bill, and I urge all Members to support it as it reaches the floor tonight.

Mrs. BONO. Madam Speaker, I rise to extend my deep appreciation to my colleagues, including the gentleman from Florida, for honoring Sonny with the legislation before us today. I support this bill and ask my colleagues to do the same.

Copyright Term Extension is a very fitting memorial for Sonny. This is not only because of his experience as a pioneer in the music and television industries. The most important reason for me was that he was a legislator who understood the delicate balance of the constitutional interests at stake. Last year he sponsored the Term Extension bill, H.R. 1621, in conjunction with Sen. HATCH. He was active on intellectual property issues because he truly understood the goals of Framers of the Constitution: that by maximizing the incentives for original creation, we help expand the public store-house of art, films music, books and now also, software. It is said that "it all starts with a song," and these works have defined our culture to audiences world-wide.

Actually, Sonny wanted the term of copyright protection to last forever. I am informed by staff that such a change would violate the Constitution. I invite all of you to work with me to strengthen our copyright laws in all of the ways available to us. As you know, there is also Jack Valenti's proposal for term to last forever less 1 day. Perhaps the Committee may look at that next Congress.

In addition, this bill also presents a significant change in the music licensing system. Everyone must remember that I was a small business woman before I came to Washington. I am sympathetic to the concerns raised by many industries. Unfortunately the generous exemption included in this bill tests my patience because it comes at the expense of songwriters. The current system has worked for decades, and in my view serves the public well.

Yet, we must bring this bill forward today. Our inaction risks a response from the international community. While one of the goals of term extension is having our system conform to a strong international standard, I am troubled to learn that with the music licensing section, we risk violating our international treaty obligations. These treaties protect American property overseas, for example under the Berne Convention and the TRIPS agreement. I ask that the RECORD include the following letters from the U.S. Trade Representative, the

Patent and Trademark Office, the Department of Commerce, and the Register of Copyrights concerning the possible serious international consequences of this portion of the bill.

I am hopeful that we in the House Judiciary Committee will have the chance to revisit this issue, and pursuant to our oversight powers, review its effect on American songwriters and our multi-lateral trade obligations. Further, this may be an unconstitutional taking of property. The talented men and women who write our music may rest assured that I will continue to be their advocate in the House.

Again, I truly thank all of my colleagues for this tribute to Sonny.

THE U.S. TRADE REPRESENTATIVE,
Washington, DC, August 26, 1998.
Hon. MARY BONO,
U.S. House of Representatives, Washington, DC.

DEAR CONGRESSWOMAN BONO: Thank you for your recent letter regarding the Fairness in Musical Licensing Act. As you note in your letter, Administration officials have expressed serious concerns about this legislation on a number of occasions. If this legislation is passed, we believe that our trading partners will argue that it violates our international obligations under the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights.

You have asked whether it is fair to conclude that there would be repercussions in the global community if Congress passed legislation that violated U.S. multilateral treaty obligations. Your question is phrased as a hypothetical one and we assume that it is not limited to the music licensing context. In general, we would expect that our relations with our trading partners would be impaired if the United States enacted legislation that was inconsistent with its previous commitments. In response to your second question—again, as a general matter—we would also expect that our trading partners might pursue action in the World Trade Organization (WTO) if the United States enacted legislation that those countries believed violated our WTO obligations and impaired their interests.

You have also asked whether our trading partners could respond to the passage of music licensing legislation in a manner that would compromise the integrity of the copyright sectors and other sectors of the U.S. economy. It is difficult to predict exactly how our trading partners would react to the passage of legislation resembling the Fairness in Musical Licensing Act. We are certain, however, that the reaction would be a strong negative one. One of our most important trading partners, the European Union (EU), has already expressed significant concern about the pending legislation, and we know that EU officials are following its progress in Congress very closely. The EU is currently threatening to bring dispute settlement proceedings in the WTO challenging the existing "home style" exception in U.S. copyright law as overly broad. The pending legislation, as you know, would expand that exception, and thus would likely elicit a strong reaction.

Finally, you have asked whether it is the policy of the Administration to oppose a legislative package that violates our multilateral trade obligations. We cannot generalize about the Administration's likely position on legislation in the abstract, but can reiterate the seriousness with which we take all of our international commitments. With respect to music licensing, the Administration has opposed the pending legislation for a wide variety of policy reasons.

I appreciate this opportunity to reiterate the Administration's concerns regarding the pending legislation and would be pleased to respond to any further questions that you might have.

Sincerely,

RICHARD W. FISHER,
Acting.

THE SECRETARY OF COMMERCE,
Washington, DC, March 20, 1998.
Hon. NEWT GINGRICH,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: The House may consider H.R. 2589, the "Copyright Term Extension Act," next week. The Administration supports passage of this bill, as reported by the House Judiciary Committee, and urges favorable consideration. I have been informed, however, that there also may be an attempt by supporters of H.R. 789, the "Fairness in Musical Licensing Act of 1997," to add the provisions of that bill to H.R. 2589. The Administration strongly opposes the provisions of H.R. 789 and urges that any such amendment be rejected.

The Administration strongly opposes H.R. 789 because it would amend section 110 of the Copyright Act of 1976 in ways that effectively strip music copyright owners of one of their fundamental rights under the Copyright Act—the right of copyright owners of literary, musical, dramatic, audiovisual and other works to publicly perform their copyrighted work or to authorize the performance by others. For example, the bill replaces the limited "small business" or "home style" exemptions of current law, which provide for minimal public use of a private-type radio or television under section 110(5) of the Copyright Act, with a much broader exemption based on whether an "admission fee" is charged or the transmission is otherwise not licensed. This change would thereby expand the limited "home style" exemption to encompass profitable restaurants and bars and would favor these establishments at the expense of the copyright owner and his or her Constitutionally granted rights.

If the amendment were adopted, we know that our trading partners will claim that it is an overly broad exception that violates our obligations under the Berne Convention for the Protection of Literary Works and the Agreement on the Trade-Related Aspects of Intellectual Property Rights (TRIPs Agreement). We are equally concerned that enactment could sacrifice the interests of U.S. music copyright owners abroad to satisfy the demands of those domestic interests that seek uncompensated use of their music. The American music industry is the most successful in the world, and royalties from foreign performances are an important source of income for U.S. artists and composers. If we expand the exemptions in our law as contemplated in H.R. 789, other countries may use that as an excuse to adopt this or other exemptions in their copyright laws, thereby leading to economic losses to U.S. music copyright owners in hundreds of millions of dollars.

Accordingly, the Administration strongly urges the House to reject any attempt to attach the provisions of H.R. 789 to H.R. 2589. Thank you for your consideration.

Sincerely,

WILLIAM M. DALEY.

PATENT AND TRADEMARK OFFICE
Washington, DC, January 16, 1998.
Hon. HOWARD COBLE,
Chairman, Subcommittee on Courts and Intellectual Property,
Committee on the Judiciary, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: We received the attached letter from the late Representative Sonny Bono raising issues concerned with certain provisions in H.R. 789, the "Fairness in Music Licensing Act." In view of the tragic and untimely death of Mr. Bono and the importance of these issues, I thought we should send this response to you so that the Committee could be made aware of the depth of his concerns. I am pleased to share the Administration's views on this issue with you.

As we testified last summer, the Administration is concerned that the United States maintain its role as the world's leader in ensuring adequate and effective intellectual property protection. We are seriously concerned, as are you, that, if enacted, section 110(5) of H.R. 789, could be challenged by our trading partners, who could argue that it is an overly broad exception that would violate our obligations under the Berne Convention for the Protection of Literary and Artistic Works.

We are also concerned that we should not sacrifice the interests of U.S. music copyright owners—authors, composers and publishers—abroad to satisfy the demands of those domestic interests who would seek to permit uncompensated use of their music. The American music industry is the most successful in the world, and American popular music is publicly performed widely in virtually every country on the planet. Royalties from those foreign performances is an important part of the income for U.S. artists and composers. Creating in our own copyright law anything more than a *de minimus* exception to the public performance right will be used against us internationally, when other countries seek to enact similar limitations. If put in place, such limitations would keep U.S. music copyright owners from collecting royalties for the public performance of their works in those countries which would cause hundreds of millions of dollars in losses to U.S. music copyright owners.

As you have noted in your letter, the current "home style exception" has been applied by the courts to exempt establishments of approximately 1000 square feet. The Irish Performing Rights Organization has requested the Commission of the European Communities to investigate the consistency of the "home style exception" with the Berne Convention. We believe that this request is groundless. We believe that the courts' ability to apply the "home style exception" on a case-by-case basis is appropriate and that legislating a specific size exemption would be problematic. If there are to be further limitations on the public performance right, such limitations should be the subject of private agreements and not set in legislation.

We share your concern that, if it is determined that there must be specific guidance in the copyright law, an exception tailored to the kind of equipment used might be more appropriate, but even in this case, we are concerned that it could lead to substantial erosion of the public performance right, and could lead to the erosion of other rights. As we continue to urge other countries to improve their intellectual property protection, we should not be weakening our own laws by the imposition of additional limitations on the rights of copyright owners. As we noted in our earlier testimony, we believe that private negotiations to exempt certain performances or size of establishments are the appropriate solution, consistent with our treaty obligations.

Sincerely,

BRUCE A. LEHMANN,
Assistant Secretary of Commerce and Commissioner of Patents and Trademarks.

THE REGISTER OF COPYRIGHTS,
Washington, DC, Sept. 28, 1994.

Hon. WILLIAM J. HUGHES,
Chairman, House Subcommittee on Intellectual Property and Judicial Administration, Washington, DC.

DEAR CHAIRMAN HUGHES: I would like to comment on H.R. 4936, the "Fairness in Musical Licensing Act of 1994," which was introduced on August 10, 1994. I have a number of concerns that I would like to share with you.

AMENDMENT TO SECTION 110(5)

My first concern is with the proposed amendments to 17 USC §110(5); that section represents a narrowly crafted exemption to the copyright owner's exclusive right of public performance under section 106(4). I believe that H.R. 4936 would make major changes and would violate our treaty obligations.

At the time section 110(5) was enacted into law the United States was not a member of the Berne Convention. The United States became a signatory to the Berne Convention on March 1, 1989. In joining the Berne Convention the United States reviewed its copyright law to make sure that it was consistent with the requirements of Berne. For the most part deficiencies in our law were corrected in the Berne Convention Implementation Act of 1988; P.L. 100–568, 102 Stat. 2853 (1988). One of the sections reviewed was section 110(5). An Ad Hoc Working Group on U.S. Adherence to the Berne Convention noted that section 110(5) was an extremely narrow exemption to the public performance right and that the case law interpreting that section had not broadened the exemption beyond Congress' intent. The Working Group noted that the exemption did not extend to the use of loudspeakers or any sort of speaker arrangement which was the characteristics of a commercial sound system and therefore found section 110(5) compatible with the provisions of the Convention.

Let me quickly review part of the legislative history of section 110(5). The 1965 Supplementary Report of the Register on the General Revision of the Copyright Law stated:

"The intention behind this exception is to make clear that it is not an infringement of copyright merely to turn on, in a public place, an ordinary radio or television receiving apparatus of a type commonly sold to members of the public for private use. This exception would apply for the most part to the incidental entertainment of small public audiences (patrons in a bar, customers getting a shoeshine, patients waiting in a doctor's office, etc.). It is not intended to exempt larger establishments, such as supermarkets, bus stations, factories, etc., in which broadcasts are not merely received in the usual manner of a private reception, but are transmitted to substantial audiences by means of a receiving system connected with a number of loudspeakers spread over a wide area. The exemption would also not apply in any case where the public is charged directly to see or hear the broadcast." *Id.* at 44.

The legislative history shows that the rationale for the subsection was that the secondary use of the transmission by turning on an ordinary receiver in public is so remote and minimal that no further liability should be imposed.

During the revision process the Supreme Court decided *Twentieth Century Music Corp.* v. *Aiken*, 422 U.S. 151 (1975) which, though addressing the issue of what constituted a performance under the 1909 law, raised questions about the proper interpretation of section 110(5). The Senate, House and Conference Committee Reports all written after *Aiken* indicate how that case would be decided under the 1976 Copyright Act. The House Report states that *Aiken* represented the outer limit of the exemption; (Aiken operated a small fast-food restaurant which had a radio with four ordinary speakers in the ceiling.) That report states that the line should be drawn here. It goes on to say "the clause would exempt small commercial establishments whose proprietors merely bring onto their premises standard radio or television equipment and turn it on for their customers' enjoyment." H. Rep. No. 1476, 94th Cong., 2d Sess. 87 (1976).

The House Report also suggests some of the factors to consider in particular cases—the size, physical arrangement, and noise level of areas within the establishment where the transmissions are made audible or visible. The Conference Committee Report states that the establishment involved is "of sufficient size to justify, as a practical matter, a subscription to a commercial background music service." H.R. Conf. Rept. No. 1733, 94th Cong., 2d Sess. 75 (1976)."

It is true that there has been litigation on the scope of section 110(5) exemption; some courts have relied on the legislative history while others have refused to go beyond the plain language of the statute.

At the time that the United States joined the Berne Convention courts had consistently held that the §110(5) exemption was not available to businesses financially capable of paying reasonable licensing fees for the use of music. However, since that time two decisions have significantly expanded scope of the exemption. *Broadcast Music, Inc. v. Claire's Boutiques*, 949 F.2d 1482 (7th Cir. 1991) and *Edison Brothers Stores, Inc. v. Broadcast Music, Inc.*, 954 F.2d 1419 (8th Cir. 1992). It can be argued that the holding in these cases violate the spirit, if not the letter, of the Berne Convention.

My concern is that the proposed amendment to section 110(5) would do further violence to our Berne Convention obligations.

Berne allows only narrow exemptions to the author's exclusive right to authorize public performance. Thus, only in rare instances may third parties use a broadcast without a license and without remuneration to the author. Article 11 *bis* (1) (iii) establishes the exclusive right of the author to authorize the "public communication by loudspeaker or any other analogous instrument transmitting by signs, sounds, or images, the broadcast of the work." The World Intellectual Property Organization Guide to the Berne Convention (Paris Act 1971) (1978) states:

"Finally, the third case dealt with in this paragraph is that in which the work which has been broadcast is publicly communicated e.g., by loudspeaker, or otherwise, to the public. The case is becoming more common. In places where people gather (cafes, restaurants, tea-rooms, hotels, large shops, trains, aircraft, etc.) the practice is growing of providing broadcast programs . . . The question is whether the license given by the author to the broadcasting station covers, in addition, all the use made of the broadcast which may or may not be for commercial ends." *Id.* notes 11 and 12 at 68. The Convention's answer is no. *Id.* note 12.

In 1988 Congress decided to adhere to the Berne Convention to increase protection for United States' interests in the international copyright arena. The House Report on the implementing legislation states:

". . . the relationship of Berne adherence to promotion of U.S. trade is clear. American popular culture and information products have become precious export commodities of immense economic value. That value is badly eroded by low international copyright standards. Berne standards are both high, reasonable and widely accepted internationally. Lending our prestige and power to the international credibility of those standards will promote development of acceptable copyright regimes in bilateral and multilateral contexts." H.R. Rep. No. 609, 100th Cong., 2d Sess. 19–20 (1988).

To expand the section 110(5) exemption would send the wrong signal. Moreover, I am not aware of any new or unusual difficulties with respect to the licensing of music in commercial establishments. I urge you to reconsider this amendment.

With respect to the particular language in the proposed amendment to section 110(5), let me raise some additional questions. The proposed language contains no limitation on the type of equipment, and it could permit businesses to use sophisticated equipment with no limitation on the number of speakers or the size of a television screen.

The Copyright Office also wonders about the interpretation of "indirect charge." There is no indication on how this is to be interpreted. Entertainment and background music is frequently part of the overhead cost of running an establishment. Would overhead costs built into the price of food, for example, make this exception unavailable?

CHORAL GROUP EXEMPTION

This proposal exemption would eliminate liability for public performance of a "nondramatic musical work by a choral group of a nonprofit educational institution choral group, unless a direct or indirect charge is made to hear the performance." I understand that this change was suggested in response to complaints that performing rights organizations were attempting to require school groups to pay license fees for performing seasonal musical compositions.

The Copyright Act of 1976 already covers most situations in which a choral group connected with a non-profit institution may be permitted to perform works freely. Section 110(4) contains a nonprofit exemption for performance of nondramatic literary and musical works if the performance is "without any purpose of direct or indirect commercial advantage and without payment of any fee or other compensation for the performance to any of its performers, promoters, organizers . . ." 17 U.S.C. §110(4). If there is a charge, the exemption is still available if the net proceeds are used exclusively for educational, charitable or religious purposes. Although a copyright owner may prohibit such a performance by serving the performing organization with a signed written notice, this is rarely done. Thus, it would seem that virtually all performances by such choral groups are already covered either by existing licenses or existing exemptions. I urge you to reconsider the necessity for a further exemption.

ARBITRATION OF RATE DISPUTES

The proposed legislation allows a defendant in a copyright infringement suit involving a licensed nondramatic musical work to admit liability but contest the amount being charged for the license. Either the defendant or the plaintiff in the suit would be able to request arbitration of the licensing fee under 28 U.S.C. 652(e).

This section would reconfigure the dispute resolution process between the performing rights societies and their licensees. Currently, ASCAP rates may be altered by the federal district court of the Southern District of New York, although this is far from a daily practice. Neither BMI nor SESAC has such a mechanism; disputes about their rates must be solved by means of negotiation. However, BMI has asked the United States Department of Justice for permission to amend its consent decree to provide for a rate court similar to that now in place for ASCAP. The Justice Department has agreed, and opened a public comment period on this matter. BMI would like to designate the Southern District of New York as its rate court. When the comment period closes, that court may agree to BMI's requested changes, or may disagree and suggest an alternative. We feel a trend may be developing that would provide more efficient administration of rate disputes and that amendment at this time is premature.

Furthermore, H.R. 4936 would allow any party who disagrees with the licensing organization to demand arbitration proceedings. This proposal may be a more cost effective system for an individual defendant who admits liability, but it could create a tremendous burden on the licensing organizations to address each complaint individually. Even arbitration proceedings are time-consuming and expensive, and at the end of the day, may not result in an arrangement that is any fairer to copyright owners or users than a negotiated licensing agreement would have been. Such a result would make it difficult for representatives of performers to set prices for use consistently, as they are required to do now.

I am also troubled by the proposed conforming amendment to Title 28 of the United States Code concerning civil actions for copyright infringement. The proposed amendment says that upon a request by either party for arbitration, as set out in section 4 of H.R. 4936, a district court may refer the dispute with respect to that defendant to arbitration. It also says that "[e]ach district court shall establish procedures by local rule authorizing the use of arbitration under this subsection."

Should each district court be charged with creating a set of rules and procedures regarding arbitration for public performance of nondramatic musical works? Since courts have extremely busy schedules, it does not appear to be judicially efficient to impose new duties on all district courts. Moreover, permitting each court to set its own rules would likely result in an uneven, patchwork effect that is undesirable as well as unpredictable. In addition, the Southern District Court of New York and the legal representatives of the private parties have developed a certain expertise in music licensing matters that other courts would take time to gain.

ACCESS TO REPERTOIRE

This proposed section mandates free access to critical information about copyrighted works by those who wish to license use of the works from performing rights organizations. We think it is unwise to mandate provision of this information at this time. Moreover, address and telephone information about authors who no longer are copyright owners seems unwarranted.

ASCAP is now providing information about its activities and its membership via CompuServe's Entertainment Drive. In addition, BMI recently launched its accessible database containing information that more than satisfies the needs evidenced by H.R. 4936's Sec. 5. The Library of Congress and the Copyright Office are working with the Corporation for National Research Initiative to develop an electronic copyright management system; a key feature of this system will make certain basic information about copyright owners available to the public for licensing purposes.

In conclusion, I urge you to reconsider this legislation. Many of the problems H.R. 4936 is attempting to resolve are currently being addressed elsewhere; thus, the proposed legislation seems premature. In at least one case, the new exemption for choral groups, it is difficult to see where the problem is, and finally, the proposed modification to §110(5) seems unwise.

Sincerely,

MARYBETH PETERS,
Register of Copyrights.

Mr. SENSENBRENNER. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. WILSON). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the Senate bill, S. 505.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

CONFERENE REPORT ON H.R. 3150, BANKRUPTCY REFORM ACT OF 1998

Mr. GEKAS submitted the following conference report and statement on the bill (H.R. 3150) to amend title 11 of the United States Code, and for other purposes:

CONFERENCE REPORT (H. REPT. 105–794)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3150), to amend title 11 of the United States Code, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Bankruptcy Reform Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—CONSUMER BANKRUPTCY PROVISIONS

Subtitle A—Needs based bankruptcy

Sec. 101. Conversion.
Sec. 102. Dismissal or conversion.
Sec. 103. Notice of alternatives.
Sec. 104. Debtor financial management training test program.

Subtitle B—Consumer Bankruptcy Protections

Sec. 105. Definitions.
Sec. 106. Disclosures.
Sec. 107. Debtor's bill of rights.
Sec. 108. Enforcement.
Sec. 109. Sense of the congress.
Sec. 110. Discouraging abuse reaffirmation practices.
Sec. 111. Promotion alternative dispute resolution.
Sec. 112. Enhanced disclosure for credit extensions secured by a dwelling.
Sec. 113. Dual use debit card.
Sec. 114. Enhanced disclosures under an open-end credit plan.
Sec. 115. Protection of savings earmarked for the postsecondary education of children.
Sec. 116. Effect of discharge.
Sec. 117. Automatic stay.
Sec. 118. Reinforce the fresh start.
Sec. 119. Discouraging bad faith repeat filings.
Sec. 120. Curbing abusive filings.
Sec. 121. Debtor retention of personal property security.
Sec. 122. Relief from the automatic stay when the debtor does not complete intended surrender of consumer debt collateral.
Sec. 123. Giving secured creditors fair treatment in chapter 13.
Sec. 124. Restraining abusive purchases on secured credit.
Sec. 125. Fair valuation of collateral.
Sec. 126. Exemptions.
Sec. 127. Limitation.
Sec. 128. Rolling stock equipment.
Sec. 129. Discharge under chapter 13.
Sec. 130. Bankruptcy judgeships.
Sec. 131. Additional amendments to title 11, United States code.
Sec. 132. Amendment to section 1325 of title 11, United States code.
Sec. 133. Application of the codebtor stay only when the stay protects the debtor.
Sec. 134. Adequate protection for investors.
Sec. 135. Limitation on luxury goods.
Sec. 136. Giving debtors the ability to keep leased personal property by assumption.
Sec. 137. Adequate protection of lessors and purchase money secured creditors.
Sec. 139. Automatic stay.
Sec. 140. Extend period between bankruptcy discharges.
Sec. 141. Definition of domestic support obligation.
Sec. 142. Priorities for claims for domestic support obligations.
Sec. 143. Requirements to obtain confirmation and discharge in cases involving domestic support obligations.
Sec. 144. Exceptions to automatic stay in domestic support obligation proceedings.
Sec. 145. Nondischargeability of certain debts for alimony, maintenance, and support.
Sec. 146. Continued liability of property.
Sec. 147. Protection of domestic support claims against preferential transfer motions.
Sec. 148. Definition of household goods and antiques.
Sec. 149. Nondischargeable debts.

TITLE II—DISCOURAGING BANKRUPTCY ABUSE

Sec. 201. Reenactment of chapter 12.
Sec. 202. Meetings of creditors and equity security holders.
Sec. 203. Protection of retirement savings in bankruptcy.
Sec. 204. Protection of refinance of security interest.

Sec. 205. Executory contracts and unexpired leases.
Sec. 206. Creditors and equity security holders committees.
Sec. 207. Amendment to section 546 of title 11, United States code.
Sec. 208. Limitation.
Sec. 209. Amendment to section 330(a) of title 11, United States code.
Sec. 210. Postpetition disclosure and solicitation.
Sec. 211. Preferences.
Sec. 212. Venue of certain proceedings.
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Sec. 1128. Prohibition on certain actions for failure to incur finance charges.
Sec. 1129. Protection of valid purchase money security interests.
Sec. 1130. Trustees.

TITLE XII—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

Sec. 1201. Effective date; application of amendments.

TITLE I—CONSUMER BANKRUPTCY PROVISIONS

Subtitle A—Needs based bankruptcy

SEC. 101. CONVERSION.

Section 706(c) of title 11, United States Code, is amended by inserting "or consents to" after "requests".

SEC. 102. DISMISSAL OR CONVERSION.

(a) IN GENERAL.—Section 707 of title 11, United States Code, is amended—

(1) by striking the section heading and inserting the following:

"§ 707. Dismissal of a case or conversion to a case under chapter 13";

and

(2) in subsection (b)—

(A) by inserting "(1)" after "(b)"; and

(B) in paragraph (1), as redesignated by subparagraph (A) of this paragraph—

(i) in the first sentence—

(I) by striking "but not at the request or suggestion" and inserting ", panel trustee or";

(II) by inserting ", or, with the debtor's consent, convert such a case to a case under chapter 13 of this title," after "consumer debts"; and

(III) by striking "substantial abuse" and inserting "abuse"; and

(ii) by striking the last sentence and inserting the following:

"(2)(A)(i) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter, the court shall presume abuse exists if the debtor's current monthly income less amounts set forth in clauses (ii), (iii), and (iv), and multiplied by 60 months is not less than 25 percent of the debtor's nonpriority unsecured claims in the case or $5,000, whichever is less.

"(ii) The debtor's monthly expenses shall be the applicable monthly expenses under National Standards, Local Standards, and Other Necessary Expenses allowance (excluding payments for debts) issued by the Internal Revenue Service for the area in which the debtor resides, as in effect on the date of the entry of the order for relief, for the debtor, the dependents of the debtor, and the spouse of the debtor in a joint case, if the spouse is not otherwise a dependent.

"(iii) The debtor's average monthly payments on account of secured debts shall be calculated as the total of all amounts scheduled as contractually due to secured creditors in each month of the 60 months following the date of the petition, and dividing that total by 60 months.

"(iv) The debtor's expenses for payment of all priority claims (including priority child support and alimony claims), which shall be calculated as the total amount of debts entitled to priority, and dividing the total by 60 months.

"(B) In any proceeding brought under this subsection, the presumption of abuse may be rebutted only by demonstrating extraordinary circumstances that require additional expenses or adjustment of current monthly total income. In order to establish extraordinary circumstances, the debtor must itemize each additional expense or adjustment of income and provide documentation for such expenses and a detailed explanation of the extraordinary circumstances which make such expenses necessary and reasonable. The debtor, and the attorney for the debtor if the debtor has an attorney, shall attest under oath to the accuracy of any information provided to demonstrate that additional expenses or adjustment to income are required. The presumption of abuse may be rebutted only if such additional expenses or adjustments to income cause the debtor's current monthly income less the amounts set forth in clauses (ii), (iii), and (iv) of subparagraph (A) when multiplied by 60 to be less than 25 percent of the debtor's nonpriority unsecured claims $5,000, whichever is less.

"(C) As part of the schedule of current income and expenditures required under section 521 of this title, the debtor shall include a statement of the debtor's current monthly income, and the calculations which determine whether a presumption arises under subparagraph (A)(i), showing how each amount is calculated. The bankruptcy rules promulgated under section 2075 of title 28, United States Code, shall prescribe a form for such statement and may provide general rules on its content.

"(3) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter in a case in which the presumption in subparagraph (A)(i) does not apply or has been rebutted, the court shall consider—

"(A) whether the debtor filed the petition in bad faith; or

"(B) the totality of the circumstances (including whether the debtor seeks to reject a personal services contract and the financial need for such rejection as sought by the debtor) of the debtor's financial situation demonstrates abuse.".

(b) Definition.—Title 11, United States Code, is amended—

(1) in section 101 by inserting after paragraph (10) the following:

"(10A) 'currently monthly income' means the average monthly income from all sources derived which the debtor, or in a joint case, the debtor and the debtor's spouse, receive without regard to whether it is taxable income, in the 180 days preceding the date of determination, and includes any amount paid by anyone other than the debtor or, in a joint case, the debtor and the debtor's spouse, on a regular basis to the household expenses of the debtor or the debtor's dependents and, in a joint case, the debtor's spouse if not otherwise a dependent;"; and

(2) in section 704—

(i) in paragraph (8) by striking "and" at the end;

(ii) in paragraph (9) by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(10) With respect to an individual debtor under this chapter, the panel trustee or bankruptcy administrator shall review all materials filed by the debtor and, 10 days prior to the first meeting of creditors, file with the court a statement as to whether the debtor's case would be presumed to be an abuse under section 707(b) of this title, and the court shall provide a copy of such statement to all creditors within 5 days. If, based on the filing of such statement with the court, the panel trustee or bankruptcy administrator determines that the debtor's case should be presumed to be an abuse under section 707(b) of this title and the debtor's current monthly income, when multiplied by 12, is not less than the highest national median family income reported for a family of equal or lesser size, or in the case of a household of 1 person, the national median household income for 1 earner, the panel trustee or bankruptcy administrator shall within 30 days file a motion to dismiss or convert under section 707(b) of this title, or file a statement setting forth the reasons the trustee does not believe that such a motion would be appropriate.

"(3)(A) If a panel trustee appointed under section 586(a)(1) of title 28 brings a motion for dismissal or conversion under this subsection and the court grants that motion and finds that the action of the counsel for the debtor in filing under this chapter was not substantially justified, the court shall order the counsel for the debtor to reimburse the trustee for all reasonable costs in prosecuting the motion, including reasonable attorneys' fees.

"(B) If the court finds that the attorney for the debtor violated Rule 9011, at a minimum, the court shall order—

"(i) the assessment of an appropriate civil penalty against the counsel for the debtor; and

"(ii) the payment of the civil penalty to the panel trustee or the United States trustee.

"(C) In the case of a petition referred to in subparagraph (B), the signature of an attorney shall constitute a certificate that the attorney has—

"(i) performed a reasonable investigation into the circumstances that gave rise to the petition; and

"(ii) determined that the petition—

"(I) is well grounded in fact; and

"(II) is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law and does not constitute an abuse under paragraph (1) of this subsection.

"(4)(A) Except as provided in subparagraph (B), the court may award a debtor all reasonable costs in contesting a motion brought by a party in interest (other than a panel trustee or United States trustee) under this subsection (including reasonable attorneys' fees) if—

"(i) the court does not grant the motion; and

"(ii) the court finds that—

"(I) the position of the party that brought the motion was not substantially justified; or

"(II) the party brought the motion solely for the purpose of coercing a debtor into waiving a right guaranteed to the debtor under this title.

"(B) A party in interest that has a claim of an aggregate amount less than $1,000 shall not be subject to subparagraph (A).

"(5) However, only the judge, United States trustee, bankruptcy administrator or panel trustee may bring a motion under this section if the debtor and the debtor's spouse combined, as of the date of the order for relief, have current monthly total income equal to or less than the national median household monthly income calculated on a monthly basis for a household of equal size. However, for a household of more than 4 individuals, the median income shall be that of a household of 4 individuals plus $583 for each additional member of that household.".

(c) Clerical Amendment.—The table of sections at the beginning of chapter 7 of title 11, United States Code, is amended by striking the item relating to section 707 and inserting the following:

"707. Dismissal of a case or conversion to a case under chapter 13.".

SEC. 103. NOTICE OF ALTERNATIVES.

Section 342(b) of title 11, United States Code, is amended to read as follows:

"(b) Before the commencement of a case under this title by an individual whose debts are primarily consumer debts, that individual shall be given or obtain (as required in section 521(a)(1), as part of the certification process under subchapter 1 of chapter 5) a written notice prescribed by the United States trustee for the district in which the petition is filed pursuant to section 586 of title 28. The notice shall contain the following:

"(1) A brief description of chapters 7, 11, 12, and 13 and the general purpose, benefits, and costs of proceeding under each of those chapters.

"(2) A brief description of services that may be available to that individual from a credit counseling service that is approved by the United States trustee for that district.".

SEC. 104. DEBTOR FINANCIAL MANAGEMENT TRAINING TEST PROGRAM.

(a) Development of Financial Management and Training Curriculum and Materials.—The Director of the Executive Office for United States Trustees (in this section referred to as the "Director") shall consult with a wide range of individuals who are experts in the field of debtor education, including trustees who are appointed under chapter 13 of title 11 of the United States Code and who operate financial management education programs for debtors, and shall develop a financial management training curriculum and materials that can be used to educate individual debtors on how to better manage their finances.

(b) Test—(1) The Director shall select 3 judicial districts of the United States in which to test the effectiveness of the financial management training curriculum and materials developed under subsection (a).

(2) For a 1-year period beginning not later than 270 days after the date of the enactment of this Act, such curriculum and materials shall be made available by the Director, directly or indirectly, on request to individual debtors in cases filed in such 1-year period under chapter 7 or 13 of title 11 of the United States Code.

(c) Evaluation.—(1) During the 1-year period referred to in subsection (b), the Director shall evaluate the effectiveness of—

(A) the financial management training curriculum and materials developed under subsection (a); and

(B) a sample of existing consumer education programs such as those described in the Report of the National Bankruptcy Review Commission (October 20, 1997) that are representative of consumer education programs carried out by the credit industry, by trustees serving under chapter 13 of title 11 of the United States Code, and by consumer counselling groups.

(2) Not later than 3 months after concluding such evaluation, the Director shall submit a report to the Speaker of the House of Representatives and the President pro tempore of the Senate, for referral to the appropriate committees of the Congress, containing the findings of the Director regarding the effectiveness of such curriculum, such materials, and such programs.

Subtitle B—Consumer Bankruptcy Protections

SEC. 105. DEFINITIONS.

(a) Definitions.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (3) the following:

"(3A) 'assisted person' means any person whose debts consist primarily of consumer debts *and whose non-exempt assets are less than $150,000;'';*

(2) by inserting after paragraph (4) the following:

''(4A) 'bankruptcy assistance' means any goods or services sold or otherwise provided to an assisted person with the express or implied purpose of providing information, advice, counsel, document preparation or filing, or attendance at a creditors' meeting or appearing in a proceeding on behalf of another or providing legal representation with respect to a proceeding under this title;''; and

(3) by inserting after paragraph (12A) the following:

''(12B) 'debt relief agency' means any person who provides any bankruptcy assistance to an assisted person in return for the payment of money or other valuable consideration, or who is a bankruptcy petition preparer pursuant to section 110 of this title, but does not include any person that is any of the following or an officer, director, employee or agent thereof—

''(A) any nonprofit organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

''(B) any creditor of the person to the extent the creditor is assisting the person to restructure any debt owed by the person to the creditor; or

''(C) any depository institution (as defined in section 3 of the Federal Deposit Insurance Act) or any Federal credit union or State credit union (as those terms are defined in section 101 of the Federal Credit Union Act), or any affiliate or subsidiary of such a depository institution or credit union;''.

(b) Conforming Amendment.—In section 104(b)(1) by inserting ''101(3),'' after ''sections''.

SEC. 106. DISCLOSURES.

(a) Disclosures.—Subchapter II of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

''§ 526. Disclosures

''(a) A debt relief agency providing bankruptcy assistance to an assisted person shall provide the following notices to the assisted person:

''(1) the written notice required under section 342(b)(1) of this title; and

''(2) to the extent not covered in the written notice described in paragraph (1) of this section and no later than three business days after the first date on which a debt relief agency first offers to provide any bankruptcy assistance services to an assisted person, a clear and conspicuous written notice advising assisted persons of the following—

''(A) all information the assisted person is required to provide with a petition and thereafter during a case under this title must be complete, accurate and truthful;

''(B) all assets and all liabilities must be completely and accurately disclosed in the documents filed to commence the case, and the replacement value of each asset as defined in section 506 of this title must be stated in those documents where requested after reasonable inquiry to establish such value;

''(C) current monthly total income, projected monthly net income and, in a chapter 13 case, monthly net income must be stated after reasonable inquiry; and

''(D) that information an assisted person provides during their case may be audited pursuant to this title and that failure to provide such information may result in dismissal of the proceeding under this title or other sanction including, in some instances, criminal sanctions.

''(b) A debt relief agency providing bankruptcy assistance to an assisted person shall provide each assisted person at the same time as the notices required under subsection (a)(1) with the following statement, to the extent applicable, or one substantially similar. The statement shall be clear and conspicuous and shall be in a single document separate from other documents or notices provided to the assisted person:

'''IMPORTANT INFORMATION ABOUT BANKRUPTCY ASSISTANCE SERVICES FROM AN ATTORNEY OR BANKRUPTCY PETITION PREPARER

'''If you decide to seek bankruptcy relief, you can represent yourself, you can hire an attorney to represent you, or you can get help in some localities from a bankruptcy petition preparer who is not an attorney. THE LAW REQUIRES AN ATTORNEY OR BANKRUPTCY PETITION PREPARER TO GIVE YOU A WRITTEN CONTRACT SPECIFYING WHAT THE ATTORNEY OR BANKRUPTCY PETITION PREPARER WILL DO FOR YOU AND HOW MUCH IT WILL COST. Ask to see the contract before you hire anyone.

'''The following information helps you understand what must be done in a routine bankruptcy case to help you evaluate how much service you need. Although bankruptcy can be complex, many cases are routine.

'''Before filing a bankruptcy case, either you or your attorney should analyze your eligibility for different forms of debt relief made available by the Bankruptcy Code and which form of relief is most likely to be beneficial for you. Be sure you understand the relief you can obtain and its limitations. To file a bankruptcy case, documents called a Petition, Schedules and Statement of Financial Affairs, as well as in some cases a Statement of Intention need to be prepared correctly and filed with the bankruptcy court. You will have to pay a filing fee to the bankruptcy court. Once your case starts, you will have to attend the required first meeting of creditors where you may be questioned by a court official called a ''trustee'' and by creditors.

'''If you choose to file a chapter 7 case, you may be asked by a creditor to reaffirm a debt. You may want help deciding whether to do so and a creditor is not permitted to coerce you into reaffirming your debts.

'''If you choose to file a chapter 13 case in which you repay your creditors what you can afford over three to five years, you may also want help with preparing your chapter 13 plan and with the confirmation hearing on your plan which will be before a bankruptcy judge.

'''If you select another type of relief under the Bankruptcy Code other than chapter 7 or chapter 13, you will want to find out what needs to be done from someone familiar with that type of relief.

'''Your bankruptcy case may also involve litigation. You are generally permitted to represent yourself in litigation in bankruptcy court, but only attorneys, not bankruptcy petition preparers, can give you legal advice.'.

''(c) Except to the extent the debt relief agency provides the required information itself after reasonably diligent inquiry of the assisted person or others so as to obtain such information reasonably accurately for inclusion on the petition, schedules or statement of financial affairs, a debt relief agency providing bankruptcy assistance to an assisted person, to the extent permitted by nonbankruptcy law, shall provide each assisted person at the time required for the notice required under subsection (a)(1) reasonably sufficient information (which may be provided orally or in a clear and conspicuous writing) to the assisted person on how to provide all the information the assisted person is required to provide under this title pursuant to section 521, including—

''(1) how to value assets at replacement value, determine current monthly total income, projected monthly income and, in a chapter 13 case, net monthly income, and related calculations;

''(2) how to complete the list of creditors, including how to determine what amount is owed and what address for the creditor should be shown; and

''(3) how to determine what property is exempt and how to value exempt property at replacement value as defined in section 506 of this title.

''(d) A debt relief agency shall maintain a copy of the notices required under subsection (a) of this section for two years after the later of the date on which the notice is given the assisted person.''.

(b) Conforming Amendment.—The table of section for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 525 the following:

''526. Disclosures.''.

SEC. 107. DEBTOR'S BILL OF RIGHTS.

(a) Debtor's Bill of Rights.—Subchapter II of chapter 5 of title 11, United States Code, as amended by section 106, is amended by adding at the end the following:

''§ 527. Debtor's bill of rights

''(a) A debt relief agency shall—

''(1) no later than five business days after the first date on which a debt relief agency provides any bankruptcy assistance services to an assisted person, but prior to such assisted person's petition under this title being filed, execute a written contract with the assisted person specifying clearly and conspicuously the services the agency will provide the assisted person and the basis on which fees or charges will be made for such services and the terms of payment, and give the assisted person a copy of the fully executed and completed contract in a form the person can keep;

''(2) disclose in any advertisement of bankruptcy assistance services or of the benefits of bankruptcy directed to the general public (whether in general media, seminars or specific mailings, telephonic or electronic messages or otherwise) that the services or benefits are with respect to proceedings under this title, clearly and conspicuously using the following statement: 'We are a debt relief agency. We help people file Bankruptcy petitions to obtain relief under the Bankruptcy Code.' or a substantially similar statement. An advertisement shall be of bankruptcy assistance services if it describes or offers bankruptcy assistance with a chapter 13 plan, regardless of whether chapter 13 is specifically mentioned, including such statements as 'federally supervised repayment plan' or 'Federal debt restructuring help' or other similar statements which would lead a reasonable consumer to believe that help with debts was being offered when in fact in most cases the help available is bankruptcy assistance with a chapter 13 plan; and

''(3) if an advertisement directed to the general public indicates that the debt relief agency provides assistance with respect to credit defaults, mortgage foreclosures, lease eviction proceedings, excessive debt, debt collection pressure, or inability to pay any consumer debt, disclose conspicuously in that advertisement that the assistance is with respect to or may involve proceedings under this title, using the following statement: ''We are a debt relief agency. We help people file Bankruptcy petitions to obtain relief under the Bankruptcy Code.'' or a substantially similar statement.

''(b) A debt relief agency shall not—

''(1) fail to perform any service which the debt relief agency has told the assisted person or prospective assisted person the agency would provide that person in connection with the preparation for or activities during a proceeding under this title;

''(2) make any statement, or counsel or advise any assisted person to make any statement in any document filed in a proceeding under this title, which is untrue and misleading or which upon the exercise of reasonable care, should be

known by the debt relief agency to be untrue or misleading;

"(3) misrepresent to any assisted person or prospective assisted person, directly or indirectly, affirmatively or by material omission, what services the debt relief agency can reasonably expect to provide that person, or the benefits an assisted person may obtain or the difficulties the person may experience if the person seeks relief in a proceeding pursuant to this title; or

"(4) advise an assisted person or prospective assisted person to incur more debt in contemplation of that person filing a proceeding under this title or in order to pay an attorney or bankruptcy petition preparer fee or charge for services performed as part of preparing for or representing a debtor in a proceeding under this title.".

(b) CONFORMING AMENDMENT.—The table of section for chapter 5 of title 11, United States Code, as amended by section 106, is amended by inserting after the item relating to section 526, the following:

"527. Debtor's bill of rights.".

SEC. 108. ENFORCEMENT.

(a) ENFORCEMENT.—Subchapter II of chapter 5 of title 11, United States Code, as amended by sections 106 and 107, is amended by adding at the end the following:

"§528. Debt relief agency enforcement

"(a) ASSISTED PERSON WAIVERS INVALID.—Any waiver by any assisted person of any protection or right provided by or under section 526 or 527 of this title shall be void and may not be enforced by any Federal or State court or any other person.

"(b) NONCOMPLIANCE.—

"(1) Any contract between a debt relief agency and an assisted person for bankruptcy assistance which does not comply with the material requirements of section 526 or 527 of this title shall be treated as void and may not be enforced by any Federal or State court or by any other person.

"(2) Any debt relief agency which has been found, after notice and hearing, to have—

"(A) negligently failed to comply with any provision of section 526 or 527 with respect to a bankruptcy case or related proceeding of an assisted person;

"(B) provided bankruptcy assistance to an assisted person in a case or related proceeding which is dismissed or converted because the debt relief agency's negligent failure to file bankruptcy papers, including papers specified in section 521 of this title; or

"(C) negligently or intentionally disregarded the material requirements of this title or the Federal Rules of Bankruptcy Procedure applicable to such debt relief agency shall be liable to the assisted person in the amount of any fees and charges in connection with providing bankruptcy assistance to such person which the debt relief agency has already been paid on account of that proceeding.

"(3) In addition to such other remedies as are provided under State law, whenever the chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating section 526 or 527 of this title, the State—

"(A) may bring an action to enjoin such violation;

"(B) may bring an action on behalf of its residents to recover the actual damages of assisted persons arising from such violation, including any liability under paragraph (2); and

"(C) in the case of any successful action under subparagraph (A) or (B), shall be awarded the costs of the action and reasonable attorney fees as determined by the court.

"(4) The United States District Court for any district located in the State shall have concurrent jurisdiction of any action under subparagraph (A) or (B) of paragraph (3).

"(5) Notwithstanding any other provision of Federal law, if the court, on its own motion or on the motion of the United States trustee, finds that a person intentionally violated section 526 or 527 of this title, or engaged in a clear and consistent pattern or practice of violating section 526 or 527 of this title, the court may—

"(A) enjoin the violation of such section; or

"(B) impose an appropriate civil penalty against such person.

"(c) RELATION TO STATE LAW.—This section and sections 526 and 527 shall not annul, alter, affect or exempt any person subject to those sections from complying with any law of any State except to the extent that such law is inconsistent with those sections, and then only to the extent of the inconsistency.".

(b) CONFORMING AMENDMENT.—The table of section for chapter 5 of title 11, United States Code, as amended by sections 106 and 107, is amended by inserting after the item relating to section 527, the following:

"528. Debt relief agency enforcement.".

SEC. 109. SENSE OF THE CONGRESS.

It is the sense of the Congress that States should develop curricula relating to the subject of personal finance, designed for use in elementary and secondary schools.

SEC. 110. DISCOURAGING ABUSE REAFFIRMATION PRACTICES.

Section 524(c)(2) of title 11, United States Code, is amended—

(1) in subparagraph (A) by striking "and" at the end;

(2) in subparagraph (B) by adding "and" at the end; and

(3) by adding at the end the following:

"(C) if the consideration for such agreement is based on a wholly unsecured consumer debt, such agreement contains a clear and conspicuous statement which advises the debtor—

"(i) that the debtor is entitled to a hearing before the court at which the debtor shall appear in person and at which the court will decide whether the agreement is an undue hardship, not in the debtor's best interest, and not the result of a threat by the creditor to take any action that cannot be legally taken or that is not intended to be taken; and

"(ii) that if the debtor is represented by counsel, the debtor may waive the debtor's right to such a hearing by signing a statement waiving the hearing, stating that the debtor is represented by counsel, and identifying such counsel;";

(3) in subsection (6)(A)—

(A) by striking "and" at the end of clause (i);

(B) by striking the period at the end of clause (ii) and inserting "; and"; .

(C) by adding at the end thereof the following:

"(iii) not entered into by the debtor as the result of a threat by the creditor to take any action that cannot be legally taken or that is not intended to be taken."; and

(4) in the 3d sentence of subsection (d)—

(A) by striking "of this section" and inserting a comma; and

(B) by inserting after "such agreement" the following:

"or if the consideration for such agreement is based on a wholly unsecured consumer debt (except for debts owed to creditors defined in section 461(b)(10(A)(iv) of title 12, United States Code) and the debtor has not waived the debtor's right to a hearing on the agreement in accordance with subsection (c)(2)(C) of this section".

SEC. 111. PROMOTION ALTERNATIVE DISPUTE RESOLUTION.

(a) REDUCTION OF CLAIM.—Section 502 of title 11, United States Code, is amended by adding at the end the following:

"(k)(1) The court, on the motion of the debtor and after a hearing, may reduce a claim filed under this section based in whole on unsecured consumer debts by not more than 20 percent, if the debtor can prove by clear and convincing evidence that the claim was filed by a creditor who unreasonably refused to negotiate a reasonable alternative repayment schedule proposed by an approved credit counseling agency acting on behalf of the debtor, if—

"(A) such offer was made at least 60 days before the filing of the petition;

"(B) such offer provided for payment of at least 60 percent of the amount of the debtor over a period not to exceed the repayment period of the loan, or a reasonable extension thereof; and

"(C) no part of the debt under the alternative repayment schedule is nondischargeable.

"(2) The debtor shall have the burden of proving that the proposed alternative repayment schedule was made in the 60-day period specified in subparagraph (A) and that the creditor unreasonably refused to consider the debtor's proposal.".

(b) LIMITATION ON AVOIDABILITY.—Section 547 of title 11, United States Code, is amended by adding at the end the following:

"(h) The trustee may not avoid a transfer if such transfer was made as a part of an alternative repayment plan between the debtor and any creditor of the debtor created by an approved credit counseling agency.",

SEC. 112. ENHANCED DISCLOSURE FOR CREDIT EXTENSIONS SECURED BY A DWELLING.

(a) STUDY REQUIRED.—During the period beginning 180 days after the date of enactment of this Act and ending 18 months after the date of the enactment, the Board of Governors of the Federal Reserve System (in this section referred to as the "Board") shall conduct a study and submit to Congress a report (including recommendations for any appropriate legislation) regarding—

(1) whether a consumer engaging in an open-end credit transaction (as defined pursuant to section 103 of the Truth in lending Act) secured by the consumer's principal dwelling is provided adequate information under Federal law, including under section 127A of the Truth in Lending Act, regarding the tax deductibility of interest paid on such transaction; and

(2) whether a consumer engaging in a closed-end credit transaction (as defined pursuant to section 103 of the Truth in Lending Act) secured by the consumer's principal dwelling is provided adequate information regarding the tax deductibility of interest paid on such transaction.

In conducting such study, the Board shall specifically consider whether additional disclosures are necessary with respect to such open-end or closed-end credit transactions in which the amount of the credit extended exceeds the fair market value of the dwelling.

(b) REGULATIONS.—If the Board determines that additional disclosures are necessary in connection with transactions described in subsection (a), the Board, pursuant to its authority under the Truth in Lending Act, may promulgate regulations that would require such additional disclosures. Any such regulations promulgated by the Board under this section shall not take effect before the end of the 36-month period after the date of the enactment of this Act.

SEC. 113. DUAL USE DEBIT CARD.

(a) STUDY REQUIRED.—The Board of Governors of the Federal Reserve System (in this section referred to as the "Board") shall conduct a study of existing protections provided to consumers to limit their liability for unauthorized use or a debit card or similar access device.

(b) SPECIFIC CONSIDERATIONS.—In conducting the study required by subsection (a), the Board shall specifically consider the following—

(1) the extent to which existing provisions of section 909 of the Electronic Fund Transfer Act and the Board's implementing regulations provide adequate unauthorized use liability protection for consumers;

(2) the extent to which any voluntary industry rules have enhanced the level of protection afforded consumers in connection with such unauthorized use liability; and

(3) whether amendments to the Electronic Funds Transfer Act or the Board's implementing regulations thereto are necessary to provide adequate protection for consumers in this area.

(c) REPORT AND REGULATIONS.—Not later than 2 years after the date of the enactment of this Act, the Board shall make public a report on its findings with respect to the adequacy of existing protections afforded consumers with respect to unauthorized-use liability for debit cards and similar access devices. If the Board determines that such protections are inadequate, the Board, pursuant to its authority under the Electronic Funds Transfer Act, may issue regulations to address such inadequacy. Any regulations issued by the Board shall not be effective before 36 months after the date of the enactment of this Act.

SEC. 114. ENHANCED DISCLOSURES UNDER AN OPEN-END CREDIT PLAN.

(a) INITIAL AND ANNUAL MINIMUM PAYMENT DISCLOSURE.—Section 127(a) of the Truth in Lending Act (15 U.S.C. 1637(a)) is amended by adding at the end the following:

"(9) In the case of any credit or charge card account under an open-end consumer credit plan on which a minimum monthly or periodic payment will be required, other than an account described in paragraph (8)—

"(A) the following statement: 'The minimum payment amount shown on your billing statement is the smallest payment which you an make in order to keep the account in good standing. This payment option is offered as a convenience and you may make larger payments at any time. Making only the minimum payment each month will increase the amount of interest you pay and the length of time it takes to repay your outstanding balance.';

"(B) if the plan provides that the consumer will be permitted to forgo making a minimum payment during a specified billing cycle, a statement, if applicable, that if the consumer chooses to forgo making the minimum payment, finance charges will continue to accrue; and

"(C) an example, based on an annual percentage rate and method for determining minimum periodic payments recently in effect for that creditor, and a $500 outstanding balance, showing the estimated minimum periodic payment, and the estimated period of time it would take to repay the $500 outstanding balance if the consumer paid only the minimum periodic payment on each monthly or periodic statement and obtained no additional extensions of credit.

"(10) With respect to one billing cycle per calendar year, the creditor shall transmit the information required under paragraph (9) to each consumer to whom the creditor is required to transit a statement pursuant to subsection (b) for such billing cycle. The creditor shall also transmit to such consumer for such cycle a worksheet prescribed by the Board to assist the consumer in determining the consumer's household income and debt obligations.".

(b) PERIOD MINIMUM PAYMENT DISCLOSURES.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

"(11) The following statement: 'The minimum payment amount shown on your billing statement is the smallest payment which you can make in order to keep the account in good standing. This payment option is offered as a convenience and you may make larger payments at any time. Making only the minimum payment each month will increase the amount of interest you pay and the length of time it takes to repay your outstanding balance.'".

(c) ENFORCEMENT.—Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end the following:

"(h) In promulgating regulations to implement the disclosure of an example required under subsection (a)(9)(C) and (a)(10), the Board shall set forth a model disclosure to accompany the example stating that the credit features shown are only an example which does not obligate the creditor, but is intended to illustrate the approximate length of time it could take to repay using the assumptions set forth in subsection (a)(9)(C) without regard to any other factors that could impact an approximate repayment period, including other credit features or the consumer's payment or other behavior with respect to the account. Compliance with the disclosures required under subsection (a)(9)(C) and (a)(10) shall be enforced exclusively by the Federal agencies set forth in section 108.".

(d) REGULATORY IMPLEMENTATION.—The Board of Governors of the Federal Reserve System (in this section referred to as the "Board") shall promulgate regulations implementing the amendments made by subsections (a) and (b). Such regulations shall take effect no earlier than the end of the 36-month period beginning on the date of the enactment of this Act.

(e) STUDY REQUIRED.—The Board shall conduct a study to determine whether consumers have adequate information about borrowing activities which may result in financial problems. In studying this issue, the Board shall consider the extent to which—

(1) consumers, in establishing new credit arrangements, are aware of their existing payment obligations, the need to consider those obligations in deciding to take on new credit, and how taking on excessive credit can result in financial difficulty;

(2) minimum periodic payment features offered in connection with open-end credit plans impact consumer default rates;

(3) consumers always make only the minimum payment throughout the life of the plan;

(4) consumers are aware that making only minimum payments will increase the cost and repayment period of an open-end loan; and

(5) the availability of low minimum payment options is a cause of consumers experiencing financial difficulty.

(f) REPORT TO CONGRESS.—Before the end of the 2-year period beginning on the date of the enactment of this Act, the Board shall submit to Congress a report containing the findings of the Board in connection with the study required under subsection (b).

(g) REGULATIONS.—The Board shall, by regulation promulgated pursuant to its authority under the Truth in Lending Act, require additional disclosures to consumers regarding minimum payment features, including periodic statement disclosures, if the Board determines that such disclosures are necessary based on its findings. Any such regulations promulgated by the Board shall not take effect earlier than January 1, 2001.

SEC. 115. PROTECTION OF SAVINGS EARMARKED FOR THE POSTSECONDARY EDUCATION OF CHILDREN.

(a) IN GENERAL.—Section 522(b) of title 11, United States Code, as amended by section 330, is amended—

(1) in paragraph (2)—

(A) in subparagraph (B), by striking "and" at the end;

(B) in subparagraph (C), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(D) postsecondary education accounts as described as follows:

"(i) except as provided under applicable State law or except as provided in paragraph (5), any funds placed in a qualified tuition program (as described in section 529(b) of the Internal Revenue Code of 1986) at least 365 days before the date of entry of the order for relief and which has not been pledged or promised to any person in connection with any extension of credit; or

"(ii) except as provided in paragraph (5), any funds placed in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) at least 365 days before the date of entry of the order for relief and which has not been pledged or promised to any person in connection with any extension of credit;"; and

(4) by adding at the end the following:

"(5) For purposes of paragraph (3)(D), funds placed in a qualified tuition program or in an education individual retirement account shall not be exempt under this subsection—

"(A) unless the debtor has one or more dependent children less than 22 years of age;

"(B) if the amounts in such postsecondary accounts do not exceed the lesser of $50,000 (in the aggregate) in accounts attributable to each such dependent child or $100,000 (in the aggregate) attributable to all such dependent children;

"(C) to the extent such funds contributed to such account exceed $500 per year per child; and

"(D) any individual (other than the dependent child of the debtor to whom such account is attributable) has any ownership right to such funds, or the right to obtain ownership in the future of any amount of such funds (other than upon the death or serious mental impairment of such child), or direct the application of such funds for any purpose other than the postsecondary education of such child.".

SEC. 116. EFFECT OF DISCHARGE.

Section 524 of title 11, United States Code, is amended by adding at the end the following:

"(i) The willful failure of a creditor to credit payments received under a plan confirmed under this title (including a plan of reorganization confirmed under chapter 11 of this title) in the manner required by the plan (including crediting the amounts required under the plan) shall constitute a violation of an injunction under subsection (a)(2).

"(j)(1) An individual who is injured by the failure of a creditor to comply with the requirements for a reaffirmation agreement under subsections (c) and (d), or by any willful violation of the injunction under subsection (a)(2), shall be entitled to recover—

"(A) the greater of—

"(i) the amount of actual damages; or

"(ii) $1,000; and

"(B) costs and attorneys' fees.

"(2) An action to recover for a violation specified in paragraph (1) may not be brought as a class action.".

SEC. 117. AUTOMATIC STAY.

Section 362(h) of title 11, United States Code, is amended to read as follows:

"(h)(1) An individual who is injured by any willful violation of a stay provided in this section shall be entitled to recover—

"(A) actual damages; and

"(B) reasonable costs, including attorneys' fees.

"(2) An action to recover for a violation specified in paragraph (1) may not be brought as a class action.".

SEC. 118. REINFORCE THE FRESH START.

(a) RESTORATION OF AN EFFECTIVE DISCHARGE.—Section 523(a)(17) of title 11, United States Code, is amended—

(1) by striking "by a court" and inserting "on a prisoner by any court",

(2) by striking "section 1915(b) or (f)" and inserting "subsection (b) or (f)(2) of section 1915", and

(3) by inserting "(or a similar non-Federal law)" after "title 28" each place it appears.

SEC. 119. DISCOURAGING BAD FAITH REPEAT FILINGS.

Section 362(c) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking "and" at the end;

(2) in paragraph (2) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(3) If a single or joint case is filed by or against an individual debtor under chapter 7, 11, or 13, and if a single or joint case of the debtor was pending within the previous 1-year period but was dismissed, other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b) of this title, the stay under subsection (a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease will terminate with respect to the debtor on the 30th day after the filing of the later case. Upon motion by a party in interest for continuation of the automatic stay and upon notice and a hearing, the court may extend the stay in particular cases as to any or all creditors (subject to such conditions or limitations as the court may then impose) after notice and a hearing completed before the expiration of the 30-day period only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed. A case is presumptively filed not in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

"(A) as to all creditors if—

"(i) more than 1 previous case under any of chapters 7, 11, or 13 in which the individual was a debtor was pending within such 1-year period;

"(ii) a previous case under any of chapters 7, 11, or 13 in which the individual was a debtor was dismissed within such 1-year period, after the debtor failed to file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney), failed to provide adequate protection as ordered by the court, or failed to perform the terms of a plan confirmed by the court; or

"(iii) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under any of chapters 7, 11, or 13 of this title, or any other reason to conclude that the later case will be concluded, if a case under chapter 7 of this title, with a discharge, and if a chapter 11 or 13 case, a confirmed plan which will be fully performed;

"(B) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of such case, that action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to actions of such creditor.

"(4) If a single or joint case is filed by or against an individual debtor under this title, and if 2 or more single or joint cases of the debtor were pending within the previous year but were dismissed, other than a case refiled under section 707(b) of this title, the stay under subsection (a) will not go into effect upon the filing of the later case. On request of a party in interest, the court shall promptly enter an order confirming that no stay is in effect. If a party in interest requests within 30 days of the filing of the later case, the court may order the stay to take effect in the case as to any or all creditors (subject to such conditions or limitations as the court may impose), after notice and hearing, only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed. A stay imposed pursuant to the preceding sentence will be effective on the date of entry of the order allowing the stay to go into effect. A case is presumptively not filed in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

"(A) as to all creditors if—

"(i) 2 or more previous cases under this title in which the individual was a debtor were pending within the 1-year period;

"(ii) a previous case under this title in which the individual was a debtor was dismissed within the time period stated in this paragraph after the debtor failed to file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney), failed to pay adequate protection as ordered by the court, or failed to perform the terms of a plan confirmed by the court; or

"(iii) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under this title, or any other reason to conclude that the later case will not be concluded, if a case under chapter 7, with a discharge, and if a case under chapter 11 or 13, with a confirmed plan that will be fully performed; or

"(B) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of such case, such action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to action of such creditor.".

SEC. 120. CURBING ABUSIVE FILINGS.

(a) IN GENERAL.—Section 362(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking "or" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(4) with respect to a stay of an act against real property under subsection (a), by a creditor whose claim is secured by an interest in such real estate, if the court finds that the filing of the bankruptcy petition was part of a scheme to delay, hinder, and defraud creditors that involved either—

"(A) transfer of all or part ownership of, or other interest in, the real property without the consent of the secured creditor or court approval; or

"(B) multiple bankruptcy filings affecting the real property.

If recorded in compliance with applicable State laws governing notices of interests or liens in real property, an order entered pursuant to this subsection shall be binding in any other case under this title purporting to affect the real property filed not later than 2 years after that recording, except that a debtor in a subsequent case may move for relief from such order based upon changed circumstances or for good cause shown, after notice and a hearing.".

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, is amended—

(1) in paragraph (17), by striking "or" at the end;

(2) in paragraph (18) by striking the period at the end; and

(3) by inserting after paragraph (18) the following:

"(19) under subsection (a), of any act to enforce any lien against or security interest in real property following the entry of an order under section 362(d)(4) of this title as to that property in any prior bankruptcy case for a period of 2 years after entry of such an order. The debtor in a subsequent case, however, may move the court for relief from such order based upon changed circumstances or for other good cause shown, after notice and a hearing; or

"(20) under subsection (a), of any act to enforce any lien against or security interest in real property—

"(A) if the debtor is ineligible under section 109(g) of this title to be a debtor in a bankruptcy case; or

"(B) if the bankruptcy case was filed in violation of a bankruptcy court order in a prior bankruptcy case prohibiting the debtor from being a debtor in another bankruptcy case.".

SEC. 121. DEBTOR RETENTION OF PERSONAL PROPERTY SECURITY.

Title 11, United States Code, is amended—

(1) in section 521—

(A) in paragraph (4) by striking "and" at the end;

(B) in paragraph (5) by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(6) in an individual case under chapter 7 of this title, not retain possession of personal property as to which a creditor has an allowed claim for the purchase price secured in whole or in part by an interest in that personal property unless, in the case of an individual debtor, the debtor takes 1 of the following actions within 45 days after the first meeting of creditors under section 341(a)—

"(A) enters into an agreement with the creditor pursuant to section 524(c) of this title with respect to the claim secured by such property; or

"(B) redeems such property from the security interest pursuant to section 722 of this title.

"If the debtor fails to so act within the 45-day period, the personal property affected shall no longer be property of the estate, and the creditor may take whatever action as to such property as is permitted by applicable nonbankruptcy law, unless the court determines on the motion of the trustee, and after notice and a hearing, that such property is of consequential value or benefit to the estate."; and

(2) in section 722 by inserting "in full at the time of redemption" before the period at the end.

SEC. 122. RELIEF FROM THE AUTOMATIC STAY WHEN THE DEBTOR DOES NOT COMPLETE INTENDED SURRENDER OF CONSUMER DEBT COLLATERAL.

Title 11, United States Code, is amended as follows—

(1) in section 362—

(A) by striking "(e), and (f)" in subsection (c) and inserting in lieu thereof "(e), (f), and (h)"; and

(B) by redesignating subsection (h), as amended by section 117, as subsection (i) and by inserting after subsection (g) the following:

"(h) In an individual case pursuant to chapter 7, 11, or 13 the stay provided by subsection (a) is terminated with respect to property of the estate securing in whole or in part a claim, or subject to an unexpired lease, if the debtor fails within the applicable time set by section 521(a)(2) of this title—

"(1) to file timely any statement of intention required under section 521(a)(2) of this title with respect to that property or to indicate therein that the debtor will either surrender the property or retain it and, if retaining it, either redeem the property pursuant to section 722 of this title, reaffirm the debt it secures pursuant to section 524(c) of this title, or assume the unexpired lease pursuant to section 365(p) of this title if the trustee does not do so, as applicable; or

"(2) to take timely the action specified in that statement of intention, as it may be amended before expiration of the period for taking action, unless the statement of intention specifies reaffirmation and the creditor refuses to reaffirm on the original contract terms;

unless the court determines on the motion of the trustee, and after notice and a hearing, that such property is of consequential value or benefit to the estate.''; and

(2) in section 521, as amended by sections 121 and 604—

(A) in paragraph (2) by striking ''consumer'';

(B) in paragraph (2)(B)—

(i) by striking ''forty-five days after the filing of a notice of intent under this section'' and inserting ''30 days after the first date set for the meeting of creditors under section 341(a) of this title''; and

(ii) by striking ''forty-five day'' the second place it appears and inserting ''30-day'';

(C) in paragraph (2)(C) by inserting ''except as provided in section 362(h) of this title'' before the semicolon; and

(D) by adding at the end the following:

''(c) If the debtor fails timely to take the action specified in subsection (a)(6) of this section, or in paragraphs (1) and (2) of section 362(h) of this title, with respect to property which a lessor or bailor owns and has leased, rented, or bailed to the debtor or as to which a creditor holds a security interest not otherwise voidable under section 522(f), 544, 545, 547, 548, or 549 of this title, nothing in this title shall prevent or limit the operation of a provision in the underlying lease or agreement which has the effect of placing the debtor in default under such lease or agreement by reason of the occurrence, pendency, or existence of a proceeding under this title or the insolvency of the debtor. Nothing in this subsection shall be deemed to justify limiting such a provision in any other circumstance.''.

SEC. 123. GIVING SECURED CREDITORS FAIR TREATMENT IN CHAPTER 13.

Section 1325(a)(5)(B)(i) of title 11, United States Code, is amended to read as follows:

''(i) the plan provides that the holder of such claim retain the lien securing such claim until the earlier of payment of the underlying debt determined under nonbankruptcy law or discharge under section 1328 of this title, and that if the case under this chapter is dismissed or converted without completion of the plan, such lien shall also be retained by such holder to the extent recognized by applicable nonbankruptcy law; and''.

SEC. 124. RESTRAINING ABUSIVE PURCHASES ON SECURED CREDIT.

Section 506 of title 11, United States Code, is amended by adding at the end the following:

''(e) In an individual case under chapter 7, 11, 12, or 13—

''(1) subsection (a) shall not apply to an allowed claim to the extent attributable in whole or in part to the purchase price of personal property acquired by the debtor within 5 years of the filing of the petition, except for the purpose of applying paragraph (3) of this subsection;

''(2) if such allowed claim attributable to the purchase price is secured only by the personal property so acquired, the value of the personal property and the amount of the allowed secured claim shall be the sum of the unpaid principal balance of the purchase price and accrued and unpaid interest and charges at the contract rate;

''(3) if such allowed claim attributable to the purchase price is secured by the personal property so acquired and other property, the value of the security may be determined under subsection (a), but the value of the security and the amount of the allowed secured claim shall be not less than the unpaid principal balance of the purchase price of the personal property acquired and unpaid interest and charges at the contract rate; and

''(4) in any subsequent case under this title that is filed by or against the debtor in the 2-year period beginning on the date the petition is filed in the original case, the value of the personal property and the amount of the allowed secured claim shall be deemed to be not less than the amount provided under paragraphs (2) and (3).''.

SEC. 125. FAIR VALUATION OF COLLATERAL.

Section 506(a) of title 11, United States Code, is amended by adding at the end the following: ''In the case of an individual debtor under chapters 7 and 13, such value with respect to personal property securing an allowed claim shall be determined based on the replacement value of such property as of the date of filing the petition without deduction for costs of sale or marketing. With respect to property acquired for personal, family, or household purpose, replacement value shall mean the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined.''.

SEC. 126. EXEMPTIONS.

Section 522(b)(2)(A) of title 11, United States Code, is amended—

(1) by striking ''180'' and inserting ''730''; and

(2) by striking '', or for a longer portion of such 180-day period than in any other place''.

SEC. 127. LIMITATION.

Section 522 of title 11, United States Code, is amended—

(1) in subsection (b)(2)(A) by inserting ''subject to subsection (n),'' before ''any property''; and

(2) by adding at the end the following:

''(n) For purposes of subsection (b)(2)(A) and notwithstanding subsection (a), the value of an interest in—

''(1) real or personal property that the debtor or a dependent of the debtor uses as a residence;

''(2) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence; or

''(3) a burial plot for the debtor or a dependent of the debtor;

shall be reduced to the extent such value is attributable to any portion of any property that the debtor disposed of in the 730-day period ending of the date of the filing of the petition, with the intent to hinder, delay, or defraud a creditor and that the debtor could not exempt, or that portion that the debtor could not exempt, under subsection (b) if on such date the debtor had held the property so disposed of.''.

SEC. 128. ROLLING STOCK EQUIPMENT.

(a) IN GENERAL.—Section 1168 of title 11, United States Code, is amended to read as follows:

''§ 1168. Rolling stock equipment.

''(a)(1) The right of a secured party with a security interest in or of a lessor or conditional vendor of equipment described in paragraph (2) to take possession of such equipment in compliance with an equipment security agreement, lease, or conditional sale contract, and to enforce any of its other rights or remedies under such security agreement, lease, or conditional sale contract, to sell, lease, or otherwise retain or dispose of such equipment, is not limited or otherwise affected by any other provision of this title or by any power of the court, except that the right to take possession and enforce those other rights and remedies shall be subject to section 362 of this title, if—

''(A) before the date that is 60 days after the date of commencement of a case under this chapter, the trustee, subject to the court's approval, agrees to perform all obligations of the debtor under such security agreement, lease, or conditional sale contract; and

''(B) any default, other than a default of a kind described in section 365(b)(2) of this title, under such security agreement, lease, or conditional sale contract—

''(i) that occurs before the date of commencement of the case and is an event of default therewith is cured before the expiration of such 60-day period;

''(ii) that occurs or becomes an event of default after the date of commencement of the case and before the expiration of such 60-day period is cured before the later of—

''(I) the date that is 30 days after the date of the default or event of the default; or

''(II) the expiration of such 60-day period; and

''(iii) that occurs on or after the expiration of such 60-day period is cured in accordance with the terms of such security agreement, lease, or conditional sale contract, if cure is permitted under that agreement, lease, or conditional sale contract.

''(2) The equipment described in this paragraph—

''(A) is rolling stock equipment or accessories used on rolling stock equipment, including superstructures or racks, that is subject to a security interest granted by, leased to, or conditionally sold to a debtor; and

''(B) includes all records and documents relating to such equipment that are required, under the terms of the security agreement, lease, or conditional sale contract, that is to be surrendered or returned by the debtor in connection with the surrender or return of such equipment.

''(3) Paragraph (1) applies to a secured party, lessor, or conditional vendor acting in its own behalf or acting as trustee or otherwise in behalf of another party.

''(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the court's approval, to extend the 60-day period specified in subsection (a)(1).

''(c)(1) In any case under this chapter, the trustee shall immediately surrender and return to a secured party, lessor, or conditional vendor, described in subsection (a)(1), equipment described in subsection (a)(2), if at any time after the date of commencement of the case under this chapter such secured party, lessor, or conditional vendor is entitled pursuant to subsection (a)(1) to take possession of such equipment and makes a written demand for such possession of the trustee.

''(2) At such time as the trustee is required under paragraph (1) to surrender and return equipment described in subsection (a)(2), any lease of such equipment, and any security agreement or conditional sale contract relating to such equipment, if such security agreement or conditional sale contract is an executory contract, shall be deemed rejected.

''(d) With respect to equipment first placed in service on or prior to October 22, 1994, for purposes of this section—

''(1) the term 'lease' includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and

''(2) the term 'security interest' means a purchase-money equipment security interest.

''(e) With respect to equipment first placed in service after October 22, 1994, for purposes of this section, the term 'rolling stock equipment' includes rolling stock equipment that is substantially rebuilt and accessories used on such equipment.''.

(b) AIRCRAFT EQUIPMENT AND VESSELS.—Section 1110 of title 11, United States Code, is amended to read as follows:

''§ 1110. Aircraft equipment and vessels

''(a)(1) Except as provided in paragraph (2) and subject to subsection (b), the right of a secured party with a security interest in equipment described in paragraph (3), or of a lessor *or conditional vendor of such equipment, to take possession of such equipment in compliance with a security agreement, lease, or conditional sale contract, and to enforce any of its other rights or remedies, under such security agreement, lease, or conditional sale contract, to sell, lease, or otherwise retain or dispose of such equipment, is not limited or otherwise affected by any other provision of this title or by any power of the court.*

"(2) The right to take possession and to enforce the other rights and remedies described in paragraph (1) shall be subject to section 362 of this title if—

"(A) before the date that is 60 days after the date of the order for relief under this chapter, the trustee, subject to the approval of the court, agrees to perform all obligations of the debtor under such security agreement, lease, or conditional sale contract; and

"(B) any default, other than a default of a kind specified in section 365(b)(2) of this title, under such security agreement, lease, or conditional sale contract—

"(i) that occurs before the date of the order is cured before the expiration of such 60-day period;

"(ii) that occurs after the date of the order and before the expiration of such 60-day period is cured before the later of—

"(I) the date that is 30 days after the date of the default; or

"(II) the expiration of such 60-day period; and

"(iii) that occurs on or after the expiration of such 60-day period is cured in compliance with the terms of such security agreement, lease, or conditional sale contract, if a cure is permitted under that agreement, lease, or contract.

"(3) The equipment described in this paragraph—

"(A) is—

"(i) an aircraft, aircraft engine, propeller, appliance, or spare part (as defined in section 40102 of title 49) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that, at the time such transaction is entered into, holds an air carrier operating certificate issued pursuant to chapter 447 of title 49 for aircraft capable of carrying 10 or more individuals or 6,000 pounds or more of cargo; or

"(ii) a documented vessel (as defined in section 30101(1) of title 46) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that is a water carrier that, at the time such transaction is entered into, holds a certificate of public convenience and necessity or permit issued by the Department of Transportation; and

"(B) includes all records and documents relating to such equipment that are required, under the terms of the security agreement, lease, or conditional sale contract, to be surrendered or returned by the debtor in connection with the surrender or return of such equipment.

"(4) Paragraph (1) applies to a secured party, lessor, or conditional vendor acting in its own behalf or acting as trustee or otherwise in behalf of another party.

"(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the approval of the court, to extend the 60-day period specified in subsection (a)(1).

"(c)(1) In any case under this chapter, the trustee shall immediately surrender and return to a secured party, lessor, or conditional vendor, described in subsection (a)(1), equipment described in subsection (a)(3), if at any time after the date of the order for relief under this chapter such secured party, lessor, or conditional vendor is entitled pursuant to subsection (a)(1) to take possession of such equipment and makes a written demand for such possession to the trustee.

"(2) At such time as the trustee is required under paragraph (1) to surrender and return equipment described in subsection (a)(3), any lease of such equipment, and any security agreement or conditional sale contract relating to such equipment, if such security agreement or conditional sale contract is an executory contract, shall be deemed rejected.

"(d) With respect to equipment first placed in service on or before October 22, 1994, for purposes of this section—

"(1) the term 'lease' includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and

"(2) the term 'security interest' means a purchase-money equipment security interest.".

SEC. 129. DISCHARGE UNDER CHAPTER 13.

Section 1328(a) of title 11, United States Code, is amended by striking paragraphs (1) through (3) and inserting the following:

"(1) provided for under section 1322(b)(5) of this title;

"(2) of the kind specified in paragraph (2), (4), (3)(B), (5), (8), or (9) of section 523(a) of this title;

"(3) for restitution, or a criminal fine, included in a sentence on the debtor's conviction of a crime; or

"(4) for restitution, or damages, awarded in a civil action against the debtor as a result of willful or malicious injury by the debtor that caused personal injury to an individual or the death of an individual.".

SEC. 130. BANKRUPTCY JUDGESHIPS.

(a) SHORT TITLE.—This section may be cited as the "Bankruptcy Judgeship Act of 1998".

(b) TEMPORARY JUDGESHIPS.—

(1) APPOINTMENTS.—The following judgeship positions shall be filled in the manner prescribed in section 152(a)(1) of title 28, United States Code, for the appointment of bankruptcy judges provided for in section 152(a)(2) of such title:

(A) One additional bankruptcy judgeship for the eastern district of California.

(B) Four additional bankruptcy judgeships for the central district of California.

(C) One additional bankruptcy judgeship for the southern district of Florida.

(D) Two additional bankruptcy judgeships for the district of Maryland.

(E) One additional bankruptcy judgeship for the eastern district of Michigan.

(F) One additional bankruptcy judgeship for the southern district of Mississippi.

(G) One additional bankruptcy judgeship for the district of New Jersey.

(H) One additional bankruptcy judgeship for the eastern district of New York.

(I) One additional bankruptcy judgeship for the northern district of New York.

(J) One additional bankruptcy judgeship for the southern district of New York.

(K) One additional bankruptcy judgeship for the eastern district of Pennsylvania.

(L) One additional bankruptcy judgeship for the middle district of Pennsylvania.

(M) One additional bankruptcy judgeship for the western district of Tennessee.

(N) One additional bankruptcy judgeship for the eastern district of Virginia.

(2) VACANCIES.—The first vacancy occurring in the office of a bankruptcy judge in each of the judicial districts set forth in paragraph (1) that—

(A) results from the death, retirement, resignation, or removal of a bankruptcy judge; and

(B) occurs 5 years or more after the appointment date of a bankruptcy judge appointed under paragraph (1);

shall not be filled.

(c) EXTENSIONS.—

(1) IN GENERAL.—The temporary bankruptcy judgeship positions authorized for the northern district of Alabama, the district of Delaware, the district of Puerto Rico, the district of South Carolina, and the eastern district of Tennessee under section 3(a) (1), (3), (7), (8), and (9) of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) are extended until the first vacancy occurring in the office of a bankruptcy judge in the applicable district resulting from the death, retirement, resignation, or removal of a bankruptcy judge and occurring—

(A) 8 years or more after November 8, 1993, with respect to the northern district of Alabama;

(B) 10 years or more after October 28, 1993, with respect to the district of Delaware;

(C) 8 years or more after August 29, 1994, with respect to the district of Puerto Rico;

(D) 8 years or more after June 27, 1994, with respect to the district of South Carolina; and

(E) 8 years or more after November 23, 1993, with respect to the eastern district of Tennessee.

(2) APPLICABILITY OF OTHER PROVISIONS.—All other provisions of section 3 of the Bankruptcy Judgeship Act of 1992 remain applicable to such temporary judgeship position.

(d) TECHNICAL AMENDMENT.—The first sentence of section 152(a)(1) of title 28, United States Code, is amended to read as follows: "Each bankruptcy judge to be appointed for a judicial district as provided in paragraph (2) shall be appointed by the United States court of appeals for the circuit in which such district is located.".

(e) TRAVEL EXPENSES OF BANKRUPTCY JUDGES.—Section 156 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(g)(1) In this subsection, the term 'travel expenses'—

"(A) means the expenses incurred by a bankruptcy judge for travel that is not directly related to any case assigned to such bankruptcy judge; and

"(B) shall not include the travel expenses of a bankruptcy judge if—

"(i) the payment for the travel expenses is paid by such bankruptcy judge from the personal funds of such bankruptcy judge; and

"(ii) such bankruptcy judge does not receive funds (including reimbursement) from the United States or any other person or entity for the payment of such travel expenses.

"(2) Each bankruptcy judge shall annually submit the information required under paragraph (3) to the chief bankruptcy judge for the district in which the bankruptcy judge is assigned.

"(3)(A) Each chief bankruptcy judge shall submit an annual report to the Director of the Administrative Office of the United States Courts on the travel expenses of each bankruptcy judge assigned to the applicable district (including the travel expenses of the chief bankruptcy judge of such district).

"(B) The annual report under this paragraph shall include—

"(i) the travel expenses of each bankruptcy judge, with the name of the bankruptcy judge to whom the travel expenses apply;

"(ii) a description of the subject matter and purpose of the travel relating to each travel expense identified under clause (i), with the name of the bankruptcy judge to whom the travel applies; and

"(iii) the number of days of each travel described under clause (ii), with the name of the bankruptcy judge to whom the travel applies.

"(4)(A) The Director of the Administrative Office of the United States Courts shall—

"(i) consolidate the reports submitted under paragraph (3) into a single report; and

"(ii) annually submit such consolidated report to Congress.

"(B) The consolidated report submitted under this paragraph shall include the specific information required under paragraph (3)(B), including the name of each bankruptcy judge with respect to clauses (i), (ii), and (iii) of paragraph (3)(B).".

SEC. 131. ADDITIONAL AMENDMENTS TO TITLE 11, UNITED STATES CODE.

(a) Section 507(a) of title 11, United States Code, is amended by inserting after paragraph (9) the following:

"(10) Tenth, allowed claims for death or personal injuries resulting from the operation of a motor vehicle or vessel if such operation was unlawful because the debtor was intoxicated from using alcohol, a drug or another substance.".

(b) Section 523(a)(9) of title 11, United States Code, is amended by inserting "or vessel" after "vehicle".

SEC. 132. AMENDMENT TO SECTION 1325 OF TITLE 11, UNITED STATES CODE.

Section 1325(b)(2) of title 11, United States Code, is amended by inserting after "received by the debtor", "(other than child support payments, foster care payments, or disability payments for a dependent child made in accordance with applicable nonbankruptcy law and which is reasonably necessary to be expended)".

SEC. 133. APPLICATION OF THE CODEBTOR STAY ONLY WHEN THE STAY PROTECTS THE DEBTOR.

Section 1301(b) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following:

"(2)(A) Notwithstanding subsection (c) and except as provided in subparagraph (B), in any case in which the debtor did not receive the consideration for the claim held by a creditor, the stay provided by subsection (a) shall apply to that creditor for a period not to exceed 30 days beginning on the date of the order for relief, to the extent the creditor proceeds against—

"(i) the individual that received that consideration; or

"(ii) property not in the possession of the debtor that secures that claim.

"(B) Notwithstanding subparagraph (A), the stay provided by subsection (a) shall apply in any case in which the debtor is primarily obligated to pay the creditor in whole or in part with respect to a claim described in subparagraph (A) under a legally binding separation or property settlement agreement or divorce or dissolution decree with respect to—

"(i) an individual described in subparagraph (A)(i); or

"(ii) property described in subparagraph (A)(ii).

"(3) Notwithstanding subsection (c), the stay provided by subsection (a) shall terminate as of the date of confirmation of the plan, in any case in which the plan of the debtor provides that the debtor's interest in personal property subject to a lease with respect to which the debtor is the lessee will be surrendered or abandoned or no payments will be made under the plan on account of the debtor's obligations under the lease.".

SEC. 134. ADEQUATE PROTECTION FOR INVESTORS.

(a) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (48) the following:

"(48A) 'securities self regulatory organization' means either a securities association registered with the Securities and Exchange Commission pursuant to section 15A of the Securities Exchange Act of 1934 or a national securities exchange registered with the Securities and Exchange Commission pursuant to section 6 of the Securities Exchange Act of 1934;".

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by section 120, is amended—

(1) in paragraph (19) by striking "or" at the end;

(2) in paragraph (20) by striking the period at the end and a inserting "; or"; and

(3) by inserting after paragraph (20) the following:

"(21) under subsection (a), of the commencement or continuation of an investigation or action by a securities self regulatory organization to enforce such organization's regulatory power; of the enforcement of an order or decision, other than for monetary sanctions, obtained in an action by the securities self regulatory organization to enforce such organization's regulatory power; or of any act taken by the securities self regulatory organization to delist, delete, or refuse to permit quotation of any stock that does not meet applicable regulatory requirements.".

SEC. 135. LIMITATION ON LUXURY GOODS.

Section 523(a)(2)(C) of title 11, United States Code, is amended to read as follows:

"(C)(i) for purposes of subparagraph (A), consumer debts owed to a single creditor and aggregating more than $250 for 'luxury goods or services' incurred by an individual debtor on or within 90 days before the order for relief under this title, or cash advances aggregating more than $250 that are extensions of consumer credit under an open end credit plan obtained by an individual debtor on or within 90 days before the order for relief under this title, are presumed to be nondischargeable; and

"(ii) for purposes of this subparagraph—

"(I) the term 'luxury goods or services' does not include goods or services reasonably necessary for the support or maintenance of the debtor or a dependent of the debtor; and

"(II) the term 'an extension of consumer credit under an open end credit plan' has the same meaning such term has for purposes of the Consumer Credit Protection Act;".

SEC. 136. GIVING DEBTORS THE ABILITY TO KEEP LEASED PERSONAL PROPERTY BY ASSUMPTION.

Section 365 of title 11, United States Code, is amended by adding at the end the following:

"(p)(1) If a lease of personal property is rejected or not timely assumed by the trustee under subsection (d), the leased property is no longer property of the estate and the stay under section 362(a) of this title is automatically terminated.

"(2) In the case of an individual under chapter 7, the debtor may notify the creditor in writing that the debtor desires to assume the lease. Upon being so notified, the creditor may, at its option, notify the debtor that it is willing to have the lease assumed by the debtor and may condition such assumption on cure of any outstanding default on terms set by the contract. If within 30 days of such notice the debtor notifies the lessor in writing that the lease is assumed, the liability under the lease will be assumed by the debtor and not by the estate. The stay under section 362 of this title and the injunction under section 524(a)(2) of this title shall not be violated by notification of the debtor and negotiation of cure under this subsection.

"(3) In a case under chapter 11 of this title in which the debtor is an individual and in a case under chapter 13 of this title, if the debtor is the lessee with respect to personal property and the lease is not assumed in the plan confirmed by the court, the lease is deemed rejected as of the conclusion of the hearing on confirmation. If the lease is rejected, the stay under section 362 of this title and any stay under section 1301 is automatically terminated with respect to the property subject to the lease.".

SEC. 137. ADEQUATE PROTECTION OF LESSORS AND PURCHASE MONEY SECURED CREDITORS.

(a) IN GENERAL.—Chapter 13 of title 11, United States Code, is amended by adding after section 1307 the following:

"§ 1307A. Adequate protection in chapter 13 cases

"(a)(1)(A) On or before the date that is 30 days after the filing of a case under this chapter, the debtor shall make cash payments in an amount determined under paragraph (2)(A), to—

"(i) any lessor of personal property; and

"(ii) any creditor holding a claim secured by personal property to the extent that the claim is attributable to the purchase of that property by the debtor.

"(B) The debtor or the plan shall continue making the adequate protection payments until the earlier of the date on which—

"(i) the creditor begins to receive actual payments under the plan; or

"(ii) the debtor relinquishes possession of the property referred to in subparagraph (A) to—

"(I) the lessor or creditor; or

"(II) any third party acting under claim of right, as applicable.

"(2) The payments referred to in paragraph (1)(A) shall be the contract amount.

"(b)(1) Subject to the limitations under paragraph (2), the court may, after notice and hearing, change the amount and timing of the dates of payment of payments made under subsection (a).

"(2)(A) The payments referred to in paragraph (1) shall be payable not less frequently than monthly.

"(B) The amount of payments referred to in paragraph (1) shall not be less than the amount of any weekly, biweekly, monthly, or other periodic payment schedules as payable under the contract between the debtor and creditor.

"(c) Notwithstanding section 1326(b), the payments referred to in subsection (a)(1)(A) shall be continued in addition to plan payments under a confirmed plan until actual payments to the creditor begin under that plan, if the confirmed plan provides—

"(1) for payments to a creditor or lessor described in subsection (a)(1); and

"(2) for the deferral of payments to such creditor or lessor under the plan until the payment of amounts described in section 1326(b).

"(d) Notwithstanding sections 362, 542, and 543, a lessor or creditor described in subsection (a) may retain possession of property described in that subsection that was obtained in accordance with applicable law before the date of filing of the petition until the first payment under subsection (a)(1)(A) is received by the lessor or creditor.

"(e) On or before 60 days after the filling of a case under this chapter, a debtor retaining possession of personal property subject to a lease or securing a claim attributable in whole or in part to the purchase price of such property shall provide each creditor or lessor reasonable evidence of the maintenance of any required insurance coverage with respect to the use or ownership of such property and continue to do so for so long as the debtor retains possession of such property.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 13 of title 11, United States Code, is amended by inserting after the item relating to section 1307 the following:

"1307A. Adequate protection in chapter 13 cases.".

SEC. 139. AUTOMATIC STAY.

Section 362(b) of title 11, United States Code, as amended by sections 120 and 134, is amended—

(1) in paragraph (20), by striking "or" at the end;

(2) in paragraph (21), by striking the period at the end and inserting a semicolon; and

(3) by inserting after paragraph (21) the following:

"(22) under subsection (a) of any transfer that is not avoidable under section 544 of this title and that is not avoidable under section 549 of this title;

"(23) under subsection (a)(3), of the continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential real property in which the debtor resides as a tenant under a rental agreement and the debtor has not paid rent to the lessor pursuant to the terms of the lease agreement or applicable State law after the commencement and during the course of the case;

"(24) under subsection (a)(3), of the commencement or continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential real property in which the debtor resides as a tenant under a rental agreement that has terminated pursuant to the lease agreement or applicable State law;

"(25) under subsection (a)(3), of any eviction, unlawful detainer action, or similar proceeding, if the debtor has previously filed within the last year and failed to pay post-petition rent during the course of that case; or

"(26) under subsection (a)(3), of eviction actions based on endangerment to property or person or the use of illegal drugs.".

SEC. 140. EXTEND PERIOD BETWEEN BANKRUPTCY DISCHARGES.

Title 11, United States Code, is amended—

(1) in section 727(a)(8) by striking "six" and inserting "8"; and

(2) in section 1328 by adding at the end the following:

"(f) Notwithstanding subsections (a) and (b), the court shall not grant a discharge of all debts provided for by the plan or disallowed under section 502 of this title if the debtor has received a discharge in any case filed under this title within 5 years of the order for relief under this chapter.".

SEC. 141. DEFINITION OF DOMESTIC SUPPORT OBLIGATION.

Section 101 of title 11, United States Code, is amended—

(1) by striking paragraph (12A); and

(2) by inserting after paragraph (14) the following:

(14A) 'domestic support obligation' means a debt that accrues before or after the entry of an order for relief under this title that is—

"(A) owed to or recoverable by—

"(i) a spouse, former spouse, or child of the debtor or that child's legal guardian; or

"(ii) a governmental unit;

"(B) in the nature of alimony, maintenance, or support (including assistance provided by a governmental unit) of such spouse, former spouse, or child, without regard to whether such debt is expressly so designated;

"(C) established or subject to establishment before or after entry of an order for relief under this title, by reason of applicable provisions of—

"(i) a separation agreement, divorce decree, or property settlement agreement;

"(ii) an order of a court of record; or

"(iii) a determination made in accordance with applicable nonbankruptcy law by a governmental unit; and

"(D) not assigned to a nongovernmental entity, unless that obligation is assigned voluntarily by the spouse, former spouse, child, or parent solely for the purpose of collecting the debt.".

SEC. 142. PRIORITIES FOR CLAIMS FOR DOMESTIC SUPPORT OBLIGATIONS.

Section 507(a) of title 11, United States Code, is amended—

(1) by striking paragraph (7);

(2) by redesignating paragraphs (1) through (6) as paragraphs (2) through (7), respectively;

(3) in paragraph (2), as redesignated, by striking "First" and inserting "Second";

(4) in paragraph (3), as redesignated, by striking "Second" and inserting "Third";

(5) in paragraph (4), as redesignated, by striking "Third" and inserting "Fourth";

(6) in paragraph (5), as redesignated, by striking "Fourth" and inserting "Fifth";

(7) in paragraph (6), as redesignated, by striking "Fifth" and inserting "Sixth";

(8) in paragraph (7), as redesignated, by striking "Sixth" and inserting "Seventh"; and

(9) by inserting before paragraph (2), as redesignated, the following:

"(1) First, allowed claims for domestic support obligations to be paid in the following order on the condition that funds received under this paragraph by a governmental unit in a case under this title be applied:

"(A) Claims that, as of the date of entry of the order for relief, are owed directly to a spouse, former spouse, or child of the debtor, or the parent of such child, without regard to whether the claim is filed by the spouse, former spouse, child, or parent, or is filed by a governmental unit on behalf of that person.

"(B) Claims that, as of the date of entry of the order for relief, are assigned by a spouse, former spouse, child of the debtor, or the parent of that child to a governmental unit or are owed directly to a governmental unit under applicable nonbankruptcy law.".

SEC. 143. REQUIREMENTS TO OBTAIN CONFIRMATION AND DISCHARGE IN CASES INVOLVING DOMESTIC SUPPORT OBLIGATIONS.

Title 11, United States Code, is amended—

(1) in section 1129(a), by adding at the end the following:

"(14) If the debtor is required by a judicial or administrative order or statute to pay a domestic support obligation, the debtor has paid all amounts payable under such order or statute for such obligation that become payable after the date on which the petition is filed.";

(2) in section 1325(a)—

(A) in paragraph (5), by striking "and" at the end;

(B) in paragraph (6), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(7) if the debtor is required by a judicial or administrative order or statute to pay a domestic support obligation, the debtor has paid all amounts payable under such order for such obligation that become payable after the date on which the petition is filed."; and

(3) in section 1328(a), as amended by section 129, in the matter preceding paragraph (1), by inserting ", and with respect to a debtor who is required by a judicial or administrative order to pay a domestic support obligation, certifies that all amounts payable under such order or statute that are due on or before the date of the certification (including amounts due before or after the petition was filed) have been paid" after "completion by the debtor of all payments under the plan".

SEC. 144. EXCEPTIONS TO AUTOMATIC STAY IN DOMESTIC SUPPORT OBLIGATION PROCEEDINGS.

Section 362(b) of title 11, United States Code, as amended by sections 120, 134, and 139, is amended—

(1) by striking paragraph (2) and inserting the following:

"(2) under subsection (a)—

"(A) of the commencement or continuation of an action or proceeding for—

"(i) the establishment of paternity as a part of an effort to collect domestic support obligations; or

"(ii) the establishment or modification of an order for domestic support obligations; or

"(B) the collection of a domestic support obligation from property that is not property of the estate;";

(2) in paragraph (25), by striking "or" at the end;

(3) in paragraph (26), by striking the period at the end and inserting a semicolon; and

(4) by inserting after paragraph (26) the following:

"(27) under subsection (a) with respect to the withholding of income pursuant to an order as specified in section 466(b) of the Social Security Act (42 U.S.C. 666(b)); or

"(28) under subsection (a) with respect to—

"(A) the withholding, suspension, or restriction of drivers' licenses, professional and occupational licenses, and recreational licenses pursuant to State law, as specified in section 466(a)(16) of the Social Security Act (42 U.S.C. 666(a)(16)) or with respect to the reporting of overdue support owed by an absent parent to any consumer reporting agency as specified in section 466(a)(7) of the Social Security Act (42 U.S.C. 666(a)(7));

"(B) the interception of tax refunds, as specified in sections 464 and 466(a)(3) of the Social Security Act (42 U.S.C. 664 and 666(a)(3)); or

"(C) the enforcement of medical obligations as specified under title IV of the Social Security Act (42 U.S.C. 601 et seq.).".

SEC. 145. NONDISCHARGEABILITY OF CERTAIN DEBTS FOR ALIMONY, MAINTENANCE, AND SUPPORT.

Section 523 of title 11, United States Code, is amended—

(1) in subsection (a), by striking paragraph (5) and inserting the following:

"(5) for a domestic support obligation;";

(2) in subsection (c), by striking "(6), or (15)" and inserting "or (6)"; and

(3) in paragraph (15), by striking "governmental unit" and all through the end of the paragraph and inserting a semicolon.

SEC. 146. CONTINUED LIABILITY OF PROPERTY.

Section 522 of title 11, United States Code, is amended—

(1) in subsection (c), by striking paragraph (1) and inserting the following:

"(1) a debt of a kind specified in paragraph (1) or (5) of section 523(a) (in which case, notwithstanding any provision of applicable nonbankruptcy law to the contrary, such property shall be liable for a debt of a kind specified in section 523(a)(5);"; and

(2) in subsection (f)(1)(A), by striking the dash and all that follows through the end of the subparagraph and inserting "of a kind that is specified in section 523(a)(5); or".

SEC. 147. PROTECTION OF DOMESTIC SUPPORT CLAIMS AGAINST PREFERENTIAL TRANSFER MOTIONS.

Section 547(c)(7) of title 11, United States Code, is amended to read as follows:

"(7) to the extent such transfer was a bona fide payment of a debt for a domestic support obligation; or".

SEC. 148. DEFINITION OF HOUSEHOLD GOODS AND ANTIQUES.

Section 522(f)(1)(B) of title 11, United States Code, is amended as follows:

(1) by inserting "(i)" after "(B)"; and

(2) by striking "(i)" and inserting "(aa)"; and

(3) by striking "(ii)" and inserting "(bb)";

(4) by striking "(iii)" and inserting "(cc)";

(5) by adding at the end thereof the following:

"(ii) 'household goods' shall mean for the purposes of this subparagraph (B) clothing; furniture; appliances; one radio; one television; one VCR; linens; china; crockery; kitchenware; educational materials and educational equipment primarily for the use of minor dependent children of the debtor, but only one personal computer only if used primarily for the education or

entertainment of such minor children; medical equipment and supplies; furniture exclusively for the use of minor children, elderly or disabled dependents of the debtor; and personal effects (including wedding rings and the toys and hobby equipment of minor dependent children) of the debtor and his or her dependents: Provided, That the following are not included within the scope of the term 'household goods':

"(aa) works of art (unless by or of the debtor or his or her dependents);

"(bb) electronic entertainment equipment (except one television, one radio, and one VCR);

"(cc) items acquired as antiques;

"(dd) jewelry (except wedding rings);

"(ee) a computer (except as otherwise provided for in this section), motor vehicle (including a tractor or lawn tractor), boat, or a motorized recreational device, conveyance, vehicle, watercraft, or aircraft.".

SEC. 149. NONDISCHARGEABLE DEBTS.

Section 523(a) of title 11, United States Code, is amended by inserting after paragraph (14) the following:

"(14A) incurred to pay a debt that is nondischargeable by reason of section 727, 1141, 1228(a), 1228(b), or 1328(b), or any other provision of this subsection, if the debtor incurred the debt to pay such a nondischargeable debt with the intent to discharge in bankruptcy the newly-created debt, except that all debts incurred to pay nondischargeable debts, without regard to intent, are nondischargeable if incurred within 90 days of the filing of the petition;".

TITLE II—DISCOURAGING BANKRUPTCY ABUSE

SEC. 201. REENACTMENT OF CHAPTER 12.

(a) REENACTMENT.—Chapter 12 of title 11 of the United States Code, as in effect on September 30, 1998, is hereby reenacted.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1998.

SEC. 202. MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.

Section 341 of title 11, United States Code, is amended by adding at the end the following:

"(e) Notwithstanding subsections (a) and (b), the court, on the request of a party in interest and after notice and a hearing, for cause may order that the United States trustee not convene a meeting of creditors or equity security holders if the debtor has filed a plan as to which the debtor solicited acceptances prior to the commencement of the case.".

SEC. 203. PROTECTION OF RETIREMENT SAVINGS IN BANKRUPTCY.

(a) IN GENERAL.—Section 522 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (2)—

(i) by striking "(2)(A) any property" and inserting:

"(3) Property listed in this paragraph is—

"(A) any property";

(ii) in subparagraph (A), by striking "and" at the end;

(iii) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(iv) by adding at the end the following:

"(C) retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986.";

(B) by striking paragraph (1) and inserting:

"(2) Property listed in this paragraph is property that is specified under subsection (d), unless the State law that is applicable to the debtor under paragraph (3)(A) specifically does not so authorize.";

(C) in the matter preceding paragraph (2)—

(i) by striking "(b)" and inserting "(b)(1)";

(ii) by striking "paragraph (2)" both places it appears and inserting "paragraph (3)";

(iii) by striking "paragraph (1)" each place it appears and inserting "paragraph (2)"; and

(iv) by striking "Such property is—"; and

(D) by adding at the end of the subsection the following:

"(4) For purposes of paragraph (3)(C), the following shall apply:

"(A) If the retirement funds are in a retirement fund that has received a favorable determination pursuant to section 7805 of the Internal Revenue Code of 1986, and that determination is in effect as of the date of the commencement of the case under section 301, 302, or 303 of this title, those funds shall be presumed to be exempt from the estate.

"(B) If the retirement funds are in a retirement fund that has not received a favorable determination pursuant to such section 7805, those funds are exempt from the estate if the debtor demonstrates that—

"(i) no prior determination to the contrary has been made by a court or the Internal Revenue Service; and

"(ii) the retirement fund is in substantial compliance with the applicable requirements of the Internal Revenue Code of 1986.

"(C) A direct transfer of retirement funds from 1 fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986, pursuant to section 401(a)(31) of the Internal Revenue Code of 1986, or otherwise, shall not cease to qualify for exemption under paragraph (3)(C) by reason of that direct transfer.

"(D)(i) Any distribution that qualifies as an eligible rollover distribution within the meaning of section 402(c) of the Internal Revenue Code of 1986 or that is described in clause (ii) shall not cease to qualify for exemption under paragraph (3)(C) by reason of that distribution.

"(ii) A distribution described in this clause is an amount that—

"(I) has been distributed from a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986; and

"(II) to the extent allowed by law, is deposited in such a fund or account not later than 60 days after the distribution of that amount."; and

(2) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking "subsection (b)(1)" and inserting "subsection (b)(2)"; and

(B) by adding at the end the following:

"(12) Retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986.".

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by sections 120, 134, 139, and 144 is amended—

(1) in paragraph (27), by striking "or" at the end;

(2) in paragraph (28), by striking the period and inserting "; or";

(3) by inserting after paragraph (28) the following:

"(29) under subsection (a), of withholding of income from a debtor's wages and collection of amounts withheld, pursuant to the debtor's agreement authorizing that withholding and collection for the benefit of a pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986 that is sponsored by the employer of the debtor, or an affiliate, successor, or predecessor of such employer—

"(A) to the extent that the amounts withheld and collected are used solely for payments relating to a loan from a plan that satisfies the requirements of section 408(b)(1) of the Employee Retirement Income Security Act of 1974 or is subject to section 72(p) of the Internal Revenue Code of 1986; or

"(B) in the case of a loan from a thrift savings plan described in subchapter III of title 5, that satisfies the requirements of section 8433(g) of such title."; and

(4) by adding at the end of the flush material following paragraph (19) the following: "Paragraph (19) does not apply to any amount owed to a plan referred to in that paragraph that is incurred under a loan made during the 1-year period preceding the filing of a petition. Nothing in paragraph (19) may be construed to provide that any loan made under a governmental plan under section 414(d), or a contract or account under section 403(b), of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title.".

(c) EXCEPTIONS TO DISCHARGE.—Section 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (17);

(2) by striking the period at the end of paragraph (18) and inserting "; or"; and

(3) by adding at the end the following:

"(19) owed to a pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408, 408A, 414, 457, or 501(c) of the Internal Revenue Code of 1986, pursuant to—

"(A) a loan permitted under section 408(b)(1) of the Employee Retirement Income Security Act of 1974) or subject to section 72(p) of the Internal Revenue Code of 1986; or

"(B) a loan from the thrift savings plan described in subchapter III of title 5, that satisfies the requirements of section 8433(g) of such title. Paragraph (19) does not apply to any amount owed to a plan referred to in that paragraph that is incurred under a loan made during the 1-year period preceding the filing of a petition. Nothing in paragraph (19) may be construed to provide that any loan made under a governmental plan under section 414(d), or a contract or account under section 403(b), of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title.".

(d) PLAN CONTENTS.—Section 1322 of title 11, United States Code, is amended by adding at the end the following:

"(f) A plan may not materially alter the terms of a loan described in section 362(b)(19) of this title.".

SEC. 204. PROTECTION OF REFINANCE OF SECURITY INTEREST.

Subparagraphs (A), (B), and (C) of section 547(e)(2) of title 11, United States Code, are amended by striking "10" each place it appears and inserting "30".

SEC. 205. EXECUTORY CONTRACTS AND UNEXPIRED LEASES.

Section 365(d)(4) of title 11, United States Code, is amended to read as follows:

"(4)(A) Subject to subparagraph (B), in any case under any chapter of this title, an unexpired lease of nonresidential real property under which the debtor is the lessee shall be deemed rejected and the trustee shall immediately surrender that nonresidential real property to the lessor if the trustee does not assume or reject the unexpired lease by the earlier of—

"(i) the date that is 180 days after the date of the order for relief; or

"(ii) the date of the entry of an order confirming a plan.

"(B) The court may extend the period determined under subparagraph (A) only upon a motion of the lessor.".

SEC. 206. CREDITORS AND EQUITY SECURITY HOLDERS COMMITTEES.

Section 1102(a)(2) of title 11, United States Code, is amended by inserting before the first sentence the following: "On its own motion or on request of a party in interest, and after notice and hearing, the court may order a change in the membership of a committee appointed under this subsection, if the court determines that the change is necessary to ensure adequate representation of creditors or equity security holders.".

SEC. 207. AMENDMENT TO SECTION 546 OF TITLE 11, UNITED STATES CODE.

Section 546 of title 11, United States Code, is amended by inserting at the end thereof:

"(I) Notwithstanding section 545 (2) and (3) of this title, the trustee may not avoid a warehouseman's lien for storage, transportation or other costs incidental to the storage and handling of goods, as provided by section 7–209 of the Uniform Commercial Code.".

SEC. 208. LIMITATION.

Section 546(c)(1)(B) of title 11, United States Code, is amended by striking "20" and inserting "45".

SEC. 209. AMENDMENT TO SECTION 330(a) OF TITLE 11, UNITED STATES CODE.

Section 330(a) of title 11, United States Code, is amended—

(1) in subsection (3)(A) after the word "awarded", by inserting "to an examiner, chapter 11 trustee, or professional person"; and

(2) by adding at the end of subsection (3)(A) the following:

"(3)(B) In determining the amount of reasonable compensation to be awarded a trustee, the court shall treat such compensation as a commission based on the results achieved.".

SEC. 210. POSTPETITION DISCLOSURE AND SOLICITATION.

Section 1125 of title 11, United States Code, is amended by adding at the end the following:

"(g) Notwithstanding subsection (b), an acceptance or rejection of the plan may be solicited from a holder of a claim or interest if such solicitation complies with applicable nonbankruptcy law and if such holder was solicited before the commencement of the case in a manner complying with applicable nonbankruptcy law.".

SEC. 211. PREFERENCES.

Section 547(c) of title 11, United States Code, is amended—

(1) by amending paragraph (2) to read as follows:

"(2) to the extent that such transfer was in payment of a debt incurred by the debtor in the ordinary course of business or financial affairs of the debtor and the transferee, and such transfer was—

"(A) made in the ordinary course of business or financial affairs of the debtor and the transferee; or

"(B) made according to ordinary business terms;";

(2) in paragraph (7) by striking "or" at the end;

(3) in paragraph (8) by striking the period at the end and inserting "; or"; and

(4) by adding at the end the following:

"(9) if, in a case filed by a debtor whose debts are not primarily consumer debts, the aggregate value of all property that constitutes or is affected by such transfer is less than $5000.".

SEC. 212. VENUE OF CERTAIN PROCEEDINGS.

Section 1409(b) of title 28, United States Code, is amended by inserting ", or a nonconsumer debt against a noninsider of less than $10,000," after "$5,000".

SEC. 213. PERIOD FOR FILING PLAN UNDER CHAPTER 11.

Section 1121(d) of title 11, United States Code, is amended—

(1) by striking "On" and inserting "(1) Subject to paragraph (1), on"; and

(2) by adding at the end the following:

"(2)(A) Such 120-day period may not be extended beyond a date that is 18 months after the date of the order for relief under this chapter.

"(B) Such 180-day period may not be extended beyond a date that is 20 months after the date of the order for relief under this chapter.".

SEC. 214. FEES ARISING FROM CERTAIN OWNERSHIP INTERESTS.

Section 523(a)(16) of title 11, United States Code, is amended—

(1) by striking "dwelling" the first place it appears;

(2) by striking "ownership or" and inserting "ownership,";

(3) by striking "housing" the first place it appears; and

(4) by striking "but only" and all that follows through "such period,", and inserting "or a lot in a homeowners association, for as long as the debtor or the trustee has a legal, equitable, or possessory ownership interest in such unit, such corporation, or such lot, and until such time as the debtor or trustee has surrendered any legal, equitable or possessory interest in such unit, such corporation, or such lot,".

SEC. 215. CLAIMS RELATING TO INSURANCE DEPOSITS IN CASES ANCILLARY TO FOREIGN PROCEEDINGS.

Section 304 of title 11, United States Code, is amended to read as follows:

"§304. Cases ancillary to foreign proceedings

"(a) For purposes of this section—

"(1) the term 'domestic insurance company' means a domestic insurance company, as such term is used in section 109(b)(2);

"(2) the term 'foreign insurance company' means a foreign insurance company, as such term is used in section 109(b)(3);

"(3) the term 'United States claimant' means a beneficiary of any deposit referred to in subsection (b) or any multibeneficiary trust referred to in subsection (b);

"(4) the term 'United States creditor' means, with respect to a foreign insurance company—

"(i) a United States claimant; or

"(ii) any business entity that operates in the United States and that is a creditor; and

"(5) the term 'United States policyholder' means a holder of an insurance policy issued in the United States.

"(b) The court may not grant relief under chapter 15 of this title with respect to any deposit, escrow, trust fund, or other security required or permitted under any applicable State insurance law or regulation for the benefit of claim holders in the United States.".

SEC. 215. DEFAULTS BASED ON NONMONETARY OBLIGATIONS.

(a) Executory Contracts and Unexpired Leases.—Section 365 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1)(A) by striking the semicolon at the end and inserting the following: "other than a default that is a breach of a provision relating to—

"(i) the satisfaction of any provision (other than a penalty rate or penalty provision) relating to a default arising from any failure to perform nonmonetary obligations under an unexpired lease of real property (excluding executory contracts that transfer a right or interest under a filed or issued patent, copyright, trademark, trade dress, or trade secret), if it is impossible for the trustee to cure such default by performing nonmonetary acts at and after the time of assumption; or

"(ii) the satisfaction of any provision (other than a penalty rate or penalty provision) relating to a default arising from any failure to perform nonmonetary obligations under an executory contract, if it is impossible for the trustee to cure such default by performing nonmonetary acts at and after the time of assumption and if the court determines, based on the equities of the case, that this subparagraph should not apply with respect to such default;"; and

(B) by amending paragraph (2)(D) to read as follows:

"(D) the satisfaction of any penalty rate or penalty provision relating to a default arising from a failure to perform nonmonetary obligations under an executory contract (excluding executory contracts that transfer a right or interest under a filed or issued patent, copyright, trademark, trade dress, or trade secret) or under an unexpired lease of real or personal property.";

(2) in subsection (c)—

(A) in paragraph (2) by adding "or" at the end;

(B) in paragraph (3) by striking "; or" at the end and inserting a period; and

(C) by striking paragraph (4);

(3) in subsection (d)—

(A) by striking paragraphs (5) through (9); and

(B) by redesignating paragraph (10) as paragraph(5); and

(4) in subsection (f)(1) by striking "; except that" and all that follows through the end of the paragraph and inserting a period.

(b) Impairment of Claims or Interests.—Section 1124(2) of title 11, United States Code, is amended—

(1) in subparagraph (A) by inserting "or of a kind that section 365(b)(1)(A) of this title expressly does not require to be cured" before the semicolon at the end;

(2) in subparagraph (C) by striking "and" at the end;

(3) by redesignating subparagraph (D) as subparagraph (E); and

(4) by inserting after subparagraph (C) the following:

"(D) if such claim or such interest arises from any failure to perform a nonmonetary obligation, compensates the holder of such claim or such interest (other than the debtor or an insider) for any actual pecuniary loss incurred by such holder as a result of such failure; and".

TITLE III—GENERAL BUSINESS BANKRUPTCY PROVISIONS

SEC. 301. DEFINITION OF DISINTERESTED PERSON.

Section 101(14) of title 11, United States Code, is amended to read as follows:

"(14) 'disinterested person' means a person that—

"(A) is not a creditor, an equity security holder, or an insider;

"(B) is not and was not, within 2 years before the date of the filing of the petition, a director, officer, or employee of the debtor; and

"(C) does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor, or for any other reason;".

SEC. 302. MISCELLANEOUS IMPROVEMENTS.

(a) Who May Be a Debtor.—Section 109 of title 11, United States Code, is amended by adding at the end the following:

"(h)(1) Subject to paragraphs (2) and (3) and notwithstanding any other provision of this section, an individual may not be a debtor under this title unless that individual has, during the 90-day period preceding the date of filing of the petition of that individual, received credit counseling, including, at a minimum, participation in an individual or group briefing that outlined the opportunities for available credit counseling and assisted that individual in performing an initial budget analysis, through a credit counseling program (offered through an approved credit counseling service described in section 111(a)).

"(2)(A) Paragraph (1) shall not apply with respect to a debtor who resides in a district for which the United States trustee or bankruptcy administrator of the bankruptcy court of that district determines that the approved credit counseling services for that district are not reasonably able to provide adequate services to the additional individuals who would otherwise seek credit counseling from those programs by reason of the requirements of paragraph (1).

"(B) Each United States trustee or bankruptcy administrator that makes a determination described in subparagraph (A) shall review that determination not later than one year after the date of that determination, and not less frequently than every year thereafter.

"(3)(A) Subject to subparagraph (B), the requirements of paragraph (1) shall not apply with respect to a debtor who submits to the court a certification that—

"(i) describes exigent circumstances that merit a waiver of the requirements of paragraph (1);

"(ii) states that the debtor requested credit counseling services from an approved credit counseling service, but was unable to obtain the services referred to in paragraph (1) during the 5-day period beginning on the date on which the debtor made that request; and

"(iii) is satisfactory to the court.

"(B) With respect to a debtor, an exemption under subparagraph (A) shall cease to apply to that debtor on the date on which the debtor meets the requirements of paragraph (1), but in no case may the exemption apply to that debtor after the date that is 30 days after the debtor files a petition.".

(b) CHAPTER 7 DISCHARGE.—Section 727(a) of title 11, United States Code, is amended—

(1) in paragraph (9), by striking "or" at the end;

(2) in paragraph (10), by striking the period and inserting "; or"; and

(3) by adding at the end the following:

"(11) after the filing of the petition, the debtor failed to complete an instructional course concerning personal financial management described in section 111.".

(c) CHAPTER 13 DISCHARGE.—Section 1328 of title 11, United States Code, is amended by adding at the end the following:

"(f) The court shall not grant a discharge under this section to a debtor, unless after filing a petition the debtor has completed an instructional course concerning personal financial management described in section 111.

"(g) Subsection (f) shall not apply with respect to a debtor who resides in a district for which the United States trustee or bankruptcy administrator of the bankruptcy court of that district determines that the approved instructional courses are not adequate to service the additional individuals who would be required to complete the instructional course by reason of the requirements of this section.

"(h) Each United States trustee or bankruptcy administrator that makes a determination described in subsection (g) shall review that determination not later than 1 year after the date of that determination, and not less frequently than every year thereafter.

(d) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, as amended by sections 121, 604, and 122, is amended by adding at the end the following:

"(d) In addition to the requirements under subsection (a), an individual debtor shall file with the court—

"(1) a certificate from the credit counseling service that provided the debtor services under section 109(h); and

"(2) a copy of the debt repayment plan, if any, developed under section 109(h) through the credit counseling service referred to in paragraph (1).".

(e) EXCEPTIONS TO DISCHARGE.—Section 523(d) of title 11, United States Code, as amended by section 202 of this Act, is amended by striking paragraph (3)(A)(i) and inserting the following:

"(i) within the applicable period of time prescribed under section 109(h), the debtor received credit counseling through a credit counseling program in accordance with section 109(h); and".

(f) GENERAL PROVISIONS.—

(1) IN GENERAL.—Chapter 1 of title 11, United States Code, is amended by adding at the end the following:

"§111. Credit counseling services; financial management instructional courses

"(a) The clerk of each district shall maintain a list of credit counseling services that provide 1 or more programs described in section 109(h) and a list of instructional courses concerning personal financial management that have been approved by—

"(1) the United States trustee; or

"(2) the bankruptcy administrator for the district.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 of title 11, United States Code, is amended by adding at the end the following:

"111. Credit counseling services; financial management instructional courses.".

(g) DEFINITIONS.—Section 101 of title 11, United States Code, as amended by section 317 of this Act, is amended—

(1) by inserting after paragraph (13) the following:

"(13A) 'debtor's principal residence'—

"(A) means a residential structure, including incidental property, without regard to whether that structure is attached to real property; and

"(B) includes an individual condominium or cooperative unit;"; and

(2) by inserting after paragraph (27A), as added by section 318 of this Act, the following:

"(27B) 'incidental property' means, with respect to a debtor's principal residence—

"(A) property commonly conveyed with a principal residence in the area where the real estate is located;

"(B) all easements, rights, appurtenances, fixtures, rents, royalties, mineral rights, oil or gas rights or profits, water rights, escrow funds, or insurance proceeds; and

"(C) all replacements or additions;".

(h) LIMITATION.—Section 362 of title 11, United States Code, is amended by adding at the end the following:

"(j) If 1 case commenced under chapter 7, 11, or 13 of this title is dismissed due to the creation of a debt repayment plan, then for purposes of section 362(c)(3) of this title the subsequent case commenced under any such chapter shall not be presumed to be filed not in good faith.".

SEC. 303. EXTENSIONS.

Section 302(d)(3) of the Bankruptcy, Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is amended—

(1) in subparagraph (A), in the matter following clause (ii), by striking "or October 1, 2002, whichever occurs first"; and

(2) in subparagraph (F)—

(A) in clause (i)—

(i) in subclause (II), by striking "or October 1, 2002, whichever occurs first"; and

(ii) in the matter following subclause (II), by striking "October 1, 2003, or"; and

(B) in clause (ii), in the matter following subclause (II)—

(i) by striking "before October 1, 2003, or"; and

(ii) by striking ", whichever occurs first".

TITLE IV—SMALL BUSINESS BANKRUPTCY PROVISIONS

SEC. 401. FLEXIBLE RULES FOR DISCLOSURE STATEMENT AND PLAN.

Section 1125(f) of title 11, United States Code, is amended to read as follows:

"(f) Notwithstanding subsection (b), in a small business case—

"(1) in determining whether a disclosure statement provides adequate information, the court shall consider the complexity of the case, the benefit of additional information to creditors and other parties in interest, and the cost of providing additional information;

"(2) the court may determine that the plan itself provides adequate information and that a separate disclosure statement is not necessary;

"(3) the court may approve a disclosure statement submitted on standard forms approved by the court or adopted pursuant to section 2075 of title 28; and

"(4)(A) the court may conditionally approve a disclosure statement subject to final approval after notice and a hearing;

"(B) acceptances and rejections of a plan may be solicited based on a conditionally approved disclosure statement if the debtor provides adequate information to each holder of a claim or interest that is solicited, but a conditionally approved disclosure statement shall be mailed not less than 20 days before the date of the hearing on confirmation of the plan; and

"(C) the hearing on the disclosure statement may be combined with the hearing on confirmation of a plan.".

SEC. 402. DEFINITIONS.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended by striking paragraph (51C) and inserting the following:

"(51C) 'small business case' means a case filed under chapter 11 of this title in which the debtor is a small business debtor;

"(51D) 'small business debtor' means—

"(A) a person (including affiliates of such person that are also debtors under this title) that has aggregate noncontingent, liquidated secured and unsecured debts as of the date of the petition or the order for relief in an amount not more than $4,000,000 (excluding debts owed to 1 or more affiliates or insiders) a case in which the United States trustee has appointed under section 1102(a)(1) of this title a committee of unsecured creditors that 'the court has determined' is sufficiently active and representative to provide effective oversight of the debtor, except that if a group of affiliated debtors has aggregate noncontingent liquidated secured and unsecured debts greater than $4,000,000 (excluding debt owed to 1 or more affiliates or insiders), then no member of such group is a small business debtor;".

(b) EFFECT OF DISCHARGE.—Section 524 of title 11, United States Code, as amended by section 402, is amended by adding at the end the following:

"(k)(1) An individual who is injured by the willful failure of a creditor to substantially comply with the requirements specified in subsections (c) and (d), or by any willful violation of the injunction operating under subsection (a)(2), shall be entitled to recover—

"(A) the greater of—

"(i) the amount of actual damages; or

"(ii) $1,000; and

"(B) costs and attorneys' fees.

"(2) An action to recover for a violation specified in paragraph (1) may not be brought as a class action.".

(c) CONFORMING AMENDMENT.—Section 1102(a)(3) of title 11, United States Code, is amended by inserting "debtor" after "small business".

SEC. 403. STANDARD FORM DISCLOSURE STATEMENT AND PLAN.

The Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States shall, within a reasonable period of time after the date of the enactment of this Act, propose for adoption standard form disclosure statements and plans of reorganization for small business debtors (as defined in section 101 of title 11, United States Code, as amended by this Act), designed to achieve a practical balance between—

(1) the reasonable needs of the courts, the United States trustee, creditors, and other parties in interest for reasonably complete information; and

(2) economy and simplicity for debtors.

SEC. 404. UNIFORM NATIONAL REPORTING REQUIREMENTS.

(a) Reporting Required.—(1) Title 11 of the United States Code is amended by inserting after section 307 the following:

"§308. Debtor reporting requirements

"A small business debtor shall file periodic financial and other reports containing information including—

"(1) the debtor's profitability, that is, approximately how much money the debtor has been earning or losing during current and recent fiscal periods;

"(2) reasonable approximations of the debtor's projected cash receipts and cash disbursements over a reasonable period;

"(3) comparisons of actual cash receipts and disbursements with projections in prior reports;

"(4) whether the debtor is—

"(A) in compliance in all material respects with postpetition requirements imposed by this title and the Federal Rules of Bankruptcy Procedure; and

"(B) timely filing tax returns and paying taxes and other administrative claims when due, and, if not, what the failures are and how, at what cost, and when the debtor intends to remedy such failures; and

"(5) such other matters as are in the best interests of the debtor and creditors, and in the public interest in fair and efficient procedures under chapter 11 of this title.".

(2) The table of sections of chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 307 the following:

"308. Debtor reporting requirements.".

(b) Effective Date.—The amendments made by subsection (a) shall take effect 60 days after the date on which rules are prescribed pursuant to section 2075, title 28, United States Code to establish forms to be used to comply with section 308 of title 11, United States Code, as added by subsection (a).

SEC. 405. UNIFORM REPORTING RULES AND FORMS FOR SMALL BUSINESS CASES.

(a) Proposal of Rules and Forms.—The Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States shall propose for adoption amended Federal Rules of Bankruptcy Procedure and Official Bankruptcy Forms to be used by small business debtors to file periodic financial and other reports containing information, including information relating to—

(1) the debtor's profitability;

(2) the debtor's cash receipts and disbursements; and

(3) whether the debtor is timely filing tax returns and paying taxes and other administrative claims when due.

(b) Purpose.—The rules and forms proposed under subsection (a) shall be designed to achieve a practical balance between—

(1) the reasonable needs of the bankruptcy court, the United States trustee, creditors, and other parties in interest for reasonably complete information;

(2) the small business debtor's interest that required reports be easy and inexpensive to complete; and

(3) the interest of all parties that the required reports help the small business debtor to understand its financial condition and plan its future.

SEC. 406. DUTIES IN SMALL BUSINESS CASES.

(a) Duties in Chapter 11 Cases.—Title 11 of the United States Code is amended by inserting after section 1114 the following:

"§1115. Duties of trustee or debtor in possession in small business cases

"In a small business case, a trustee or the debtor in possession, in addition to the duties provided in this title and as otherwise required by law, shall—

"(1) append to the voluntary petition or, in an involuntary case, file within 3 days after the date of the order for relief—

"(A) its most recent balance sheet, statement of operations, cash-flow statement, Federal income tax return; or

"(B) a statement made under penalty of perjury that no balance sheet, statement of operations, or cash-flow statement has been prepared and no Federal tax return has been filed;

"(2) attend, through its senior management personnel and counsel, meetings scheduled by the court or the United States trustee, including initial debtor interviews, scheduling conferences, and meetings of creditors convened under section 341 of this title unless the court waives this requirement after notice and hearing, upon a finding of extraordinary and compelling circumstances;

"(3) timely file all schedules and statements of financial affairs, unless the court, after notice and a hearing, grants an extension, which shall not extend such time period to a date later than 30 days after the date of the order for relief, absent extraordinary and compelling circumstances;

"(4) file all postpetition financial and other reports required by the Federal Rules of Bankruptcy Procedure or by local rule of the district court;

"(5) subject to section 363(c)(2) of this title, maintain insurance customary and appropriate to the industry;

"(6)(A) timely file tax returns;

"(B) subject to section 363(c)(2) of this title, timely pay all administrative expense tax claims, except those being contested by appropriate proceedings being diligently prosecuted; and

"(C) subject to section 363(c)(2) of this title, establish 1 or more separate deposit accounts not later than 10 business days after the date of order for relief (or as soon thereafter as possible if all banks contacted decline the business) and deposit therein, not later than 1 business day after receipt thereof, all taxes payable for periods beginning after the date the case is commenced that are collected or withheld by the debtor for governmental units unless the court waives this requirement after notice and hearing, upon a finding of extraordinary and compelling circumstances; and

"(7) allow the United States trustee, or its designated representative, to inspect the debtor's business premises, books, and records at reasonable times, after reasonable prior written notice, unless notice is waived by the debtor.".

(b) Technical Amendment.—The table of sections of chapter 11, United States Code, is amended by inserting after the item relating to section 1114 the following:

"1115. Duties of trustee or debtor in possession in small business cases.".

SEC. 407. PLAN FILING AND CONFIRMATION DEADLINES.

Section 1121(e) of title 11, United States Code, is amended to read as follows:

"(e) In a small business case—

"(1) only the debtor may file a plan until after 90 days after the date of the order for relief, unless shortened on request of a party in interest made during the 90-day period, or unless extended as provided by this subsection, after notice and hearing the court, for cause, orders otherwise;

"(2) the plan, and any necessary disclosure statement, shall be filed not later than 90 days after the date of the order for relief; and

"(3) the time periods specified in paragraphs (1) and (2), and the time fixed in section 1129(e) of this title, within which the plan shall be confirmed may be extended only if—

"(A) the debtor, after providing notice to parties in interest (including the United States trustee), demonstrates by a preponderance of the evidence that it is more likely than not that the court will confirm a plan within a reasonable time;

"(B) a new deadline is imposed at the time the extension is granted; and

"(C) the order extending time is signed before the existing deadline has expired.".

SEC. 408. PLAN CONFIRMATION DEADLINE.

Section 1129 of title 11, United States Code, is amended by adding at the end the following:

"(e) In a small business case, the plan shall be confirmed not later than 150 days after the date of the order for relief unless such 150-day period is extended as provided in section 1121(e)(3) of this title.".

SEC. 409. PROHIBITION AGAINST EXTENSION OF TIME.

Section 105(d) of title 11, United States Code, is amended—

(1) in paragraph (2)(B)(vi) by striking the period at the end and inserting "; and"; and

(2) by adding at the end the following:

"(3) in a small business case, not extend the time periods specified in sections 1121(e) and 1129(e) of this title except as provided in section 1121(e)(3) of this title.".

SEC. 410. DUTIES OF THE UNITED STATES TRUSTEE.

(a) Duties of the United States Trustee.—Section 586(a) of title 28, United States Code, is amended—

(1) in paragraph (3)—

(A) in subparagraph (G) by striking "and" at the end;

(B) by redesignating subparagraph (H) as subparagraph (I); and

(C) by inserting after subparagraph (G) the following:

"(H) in small business cases (as defined in section 101 of title 11), performing the additional duties specified in title 11 pertaining to such cases;";

(2) in paragraph (6) by striking "and" at the end;

(3) in paragraph (7) by striking the period at the end and inserting "; and"; and

(4) by inserting after paragraph (7) the following:

"(8) in each of such small business cases—

"(A) conduct an initial debtor interview as soon as practicable after the entry of order for relief but before the first meeting scheduled under section 341(a) of title 11 at which time the United States trustee shall begin to investigate the debtor's viability, inquire about the debtor's business plan, explain the debtor's obligations to file monthly operating reports and other required reports, attempt to develop an agreed scheduling order, and inform the debtor of other obligations;

"(B) when determined to be appropriate and advisable, visit the appropriate business premises of the debtor and ascertain the state of the debtor's books and records and verify that the debtor has filed its tax returns; and

"(C) review and monitor diligently the debtor's activities, to identify as promptly as possible whether the debtor will be unable to confirm a plan; and

"(9) in cases in which the United States trustee finds material grounds for any relief under section 1112 of title 11, the United States trustee shall apply promptly to the court for relief.".

SEC. 411. SCHEDULING CONFERENCES.

Section 105(d) of title 11, United States Code, is amended—

(1) in the matter preceding paragraph (1) by striking ", may";

(2) by amending paragraph (1) to read as follows:

"(1) shall hold such status conferences as are necessary to further the expeditious and economical resolution of the case; and"; and

(3) in paragraph (2) by striking "unless inconsistent with another provision of this title or with applicable Federal Rules of Bankruptcy Procedure," and inserting "may".

SEC. 412. SERIAL FILER PROVISIONS.

Section 362 of title 11, United States Code, is amended—

(1) in subsection (i) as so redesignated by section 124—

(A) by striking "An" and inserting "(1) Except as provided in paragraph (2), an"; and

(B) by adding at the end the following:

"(2) If such violation is based on an action taken by an entity in the good-faith belief that subsection (h) applies to the debtor, then recovery under paragraph (1) against such entity shall be limited to actual damages."; and

(2) by inserting after subsection (i), as redesignated by section 124, the following:

"(j) The filing of a petition under chapter 11 of this title operates as a stay of the acts described in subsection (a) only in an involuntary case involving no collusion by the debtor with creditors and in which the debtor—

"(1) is a debtor in a small business case pending at the time the petition is filed;

"(2) was a debtor in a small business case which was dismissed for any reason by an order that became final in the 2-year period ending on the date of the order for relief entered with respect to the petition;

"(3) was a debtor in a small business case in which a plan was confirmed in the 2-year period ending on the date of the order for relief entered with respect to the petition; or

"(4) is an entity that has succeeded to substantially all of the assets or business of a small business debtor described in subparagraph (A), (B), or (C); unless the debtor proves, by a preponderance of the evidence, that the filing of such petition resulted from circumstances beyond the control of the debtor not foreseeable at the time the case then pending was filed; and that it is more likely than not that the court will confirm a feasible plan, but not a liquidating plan, within a reasonable time.".

SEC. 413. EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION AND APPOINTMENT OF TRUSTEE.

(a) Expanded Grounds for Dismissal or Conversion.—Section 1112(b) of title 11, United States Code, is amended to read as follows:

"(b)(1) Except as provided in paragraph (2), in subsection (c), and in section 1104(a)(3) of this title, on request of a party in interest, and after notice and a hearing, the court shall convert a case under this chapter to a case under chapter 7 of this title or dismiss a case under this chapter, whichever is in the best interest of creditors and the estate, if the movant establishes cause.

"(2) The relief provided in paragraph (1) shall not be granted if the debtor or another party in interest objects and establishes, by a preponderance of the evidence that—

"(A) it is more likely than not that a plan will be confirmed within a time as fixed by this title or by order of the court entered pursuant to section 1121(e)(3), or within a reasonable time if no time has been fixed; and

"(B) if the reason is an act or omission of the debtor that—

"(i) there exists a reasonable justification for the act or omission; and

"(ii) the act or omission will be cured within a reasonable time fixed by the court not to exceed 30 days after the court decides the motion, unless the movant expressly consents to a continuance for a specific period of time, or compelling circumstances beyond the control of the debtor justify an extension.

"(3) For purposes of this subsection, cause includes—

"(A) substantial or continuing loss to or diminution of the estate;

"(B) gross mismanagement of the estate;

"(C) failure to maintain appropriate insurance;

"(D) unauthorized use of cash collateral harmful to 1 or more creditors;

"(E) failure to comply with an order of the court;

"(F) failure timely to satisfy any filing or reporting requirement established by this title or by any rule applicable to a case under this chapter;

"(G) failure to attend the meeting of creditors convened under section 341(a) of this title or an examination ordered under rule 2004 of the Federal Rules of Bankruptcy Procedure;

"(H) failure timely to provide information or attend meetings reasonably requested by the United States trustee;

"(I) failure timely to pay taxes due after the date of the order for relief or to file tax returns due after the order for relief;

"(J) failure to file a disclosure statement, or to file or confirm a plan, within the time fixed by this title or by order of the court;

"(K) failure to pay any fees or charges required under chapter 123 of title 28;

"(L) revocation of an order of confirmation under section 1144 of this title;

"(M) inability to effectuate substantial consummation of a confirmed plan;

"(N) material default by the debtor with respect to a confirmed plan; and

"(O) termination of a plan by reason of the occurrence of a condition specified in the plan.

"(4) The court shall commence the hearing on any motion under this subsection not later than 30 days after filing of the motion, and shall decide the motion within 15 days after commencement of the hearing, unless the movant expressly consents to a continuance for a specific period of time or compelling circumstances prevent the court from meeting the time limits established by this paragraph.".

(b) Additional Grounds for Appointment of Trustee.—Section 1104(a) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking "or" at the end;

(2) in paragraph (2) by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(3) if grounds exist to convert or dismiss the case under section 1112 of this title, but the court determines that the appointment of a trustee is in the best interests of creditors and the estate.".

SEC. 414. STUDY OF OPERATION OF TITLE 11 OF THE UNITED STATES CODE WITH RESPECT TO SMALL BUSINESSES.

Not later than 2 years after the date of the enactment of this Act, the Administrator of the Small Business Administration, in consultation with the Attorney General, the Director of the Administrative Office of United States Trustees, and the Director of the Administrative Office of the United States Courts, shall—

(1) conduct a study to determine—

(A) the internal and external factors that cause small businesses, especially sole proprietorships, to become debtors in cases under title 11 of the United States Code and that cause certain small businesses to successfully complete cases under chapter 11 of such title; and

(B) how Federal laws relating to bankruptcy may be made more effective and efficient in assisting small businesses to remain viable; and

(2) submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report summarizing that study.

SEC. 415. PAYMENT OF INTEREST.

Section 362(d)(3) of title 11, United States Code, is amended—

(1) by inserting "or 30 days after the court determines that the debtor is subject to this paragraph, whichever is later" after "90-day period)"; and

(2) by amending subparagraph (B) to read as follows:

"(B) the debtor has commenced monthly payments (which payments may, in the debtor's sole discretion, notwithstanding section 363(c)(2) of this title, be made from rents or other income generated before or after the commencement of the case by or from the property) to each creditor whose claim is secured by such real estate (other than a claim secured by a judgment lien or by an unmatured statutory lien), which payments are in an amount equal to interest at the then-applicable nondefault contract rate of interest on the value of the creditor's interest in the real estate; or".

TITLE V—MUNICIPAL BANKRUPTCY PROVISIONS

SEC. 501. PETITION AND PROCEEDINGS RELATED TO PETITION.

(a) Technical Amendment Relating to Municipalities.—Section 921(d) of title 11, United States Code, is amended by inserting "notwithstanding section 301(b)" before the period at the end.

(b) Conforming Amendment.—Section 301 of title 11, United States Code, is amended—

(1) by inserting "(a)" before "A voluntary"; and

(2) by amending the last sentence to read as follows:

"(b) The commencement of a voluntary case under a chapter of this title constitutes an order for relief under such chapter.".

SEC. 502. APPLICABILITY OF OTHER SECTIONS TO CHAPTER 9.

Section 901 of title 11, United States Code, is amended—

(1) by inserting "555, 556," after "553,"; and

(2) by inserting "559, 560," after "557,".

TITLE VI—STREAMLINING THE BANKRUPTCY SYSTEM

SEC. 601. CREDITOR REPRESENTATION AT FIRST MEETING OF CREDITORS.

Section 341(c) of title 11, United States Code, is amended by inserting after the first sentence the following: "Notwithstanding any local court rule, provision of a State constitution, any other Federal or State law that is not a bankruptcy law, or other requirement that representation at the meeting of creditors under subsection (a) be by an attorney, a creditor holding a consumer debt or any representative of the creditor (which may include an entity or an employee of an entity and may be a representative for more than one creditor) shall be permitted to appear at and participate in the meeting of creditors in a case under chapter 7 or 13, either alone or in conjunction with an attorney for the creditor. Nothing in this subsection shall be construed to require any creditor to be represented by an attorney at any meeting of creditors.".

SEC. 602. AUDIT PROCEDURES.

(a) Amendments.—Section 586 of title 28, United States Code, is amended—

(1) in subsection (a) by amending striking paragraph (6) to read as follows:

"(6) make such reports as the Attorney General directs, including the results of audits performed under subsection (f); and"; and

(2) by adding at the end the following:

"(f)(1)(A) The Attorney General shall establish procedures to determine the accuracy, veracity, and completeness of petitions, schedules, and other information which the debtor is required to provide under sections 521 and 1322 of title 11, and, if applicable, section 111 of title 11, in individual cases filed under chapter 7 or 13 of such title. Such audits shall be in accordance with generally accepted auditing standards and performed by independent certified public accountants or independent licensed public accountants.

"(B) Those procedures shall—

"(i) establish a method of selecting appropriate qualified persons to contract to perform those audits;

"(ii) establish a method of randomly selecting cases to be audited, except that not less than 1 out of every 250 cases in each Federal judicial district shall be selected for audit;

"(iii) require audits for schedules of income and expenses which reflect greater than average variances from the statistical norm of the district in which the schedules were filed; and

"(iv) establish procedures for providing, not less frequently than annually, public information concerning the aggregate results of such audits including the percentage of cases, by district, in which a material misstatement of income or expenditures is reported.

"(2) The United States trustee for each district is authorized to contract with auditors to perform audits in cases designated by the United States trustee according to the procedures established under paragraph (1).

"(3)(A) The report of each audit conducted under this subsection shall be filed with the court and transmitted to the United States trustee. Each report shall clearly and conspicuously specify any material misstatement of income or expenditures or of assets identified by the person performing the audit. In any case where a material misstatement of income or expenditures or of assets has been reported, the clerk of the bankruptcy court shall give notice of the misstatement to the creditors in the case.

"(B) If a material misstatement of income or expenditures or of assets is reported, the United States trustee shall—

"(i) report the material misstatement, if appropriate, to the United States Attorney pursuant to section 3057 of title 18, United States Code; and

"(ii) if advisable, take appropriate action, including but not limited to commencing an adversary proceeding to revoke the debtor's discharge pursuant to section 727(d) of title 11, United States Code.".

(b) AMENDMENTS TO SECTION 521 OF TITLE 11, U.S.C.—Section 521(a) of title 11, United States Code, as amended by section 604, is amended in paragraphs (3) and (4) by adding "or an auditor appointed pursuant to section 586 of title 28, United States Code" after "serving in the case".

(c) AMENDMENTS TO SECTION 727 OF TITLE 11, U.S.C.—Section 727(d) of title 11, United States Code, is amended—

(1) by deleting "or" at the end of paragraph (2);

(2) by substituting "; or" for the period at the end of paragraph (3); and

(3) by adding the following at the end the following:

"(4) the debtor has failed to explain satisfactorily—

"(A) a material misstatement in an audit performed pursuant to section 586(f) of title 28, United States Code; or

"(B) a failure to make available for inspection all necessary accounts, papers, documents, financial records, files, and all other papers, things, or property belonging to the debtor that are requested for an audit conducted pursuant to section 586(f) of title 28, United States Code.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

SEC. 603. GIVING CREDITORS FAIR NOTICE IN CHAPTER 7 AND 13 CASES.

(a) NOTICE.—Section 342 of title 11, United States Code, is amended—

(1) in subsection (c)—

(A) by striking ", but the failure of such notice to contain such information shall not invalidate the legal effect of such notice"; and

(B) by adding the following at the end:

"If the credit agreement between the debtor and the creditor or the last communication before the filing of the petition in a voluntary case from the creditor to a debtor who is an individual states an account number of the debtor which is the current account number of the debtor with respect to any debt held by the creditor against the debtor, the debtor shall include such account number in any notice to the creditor required to be given under this title. If the creditor has specified to the debtor an address at which the creditor wishes to receive correspondence regarding the debtor's account, any notice to the creditor required to be given by the debtor under this title shall be given at such address. For the purposes of this section, 'notice' shall include, but shall not be limited to, any correspondence from the debtor to the creditor after the commencement of the case, any statement of the debtor's intention under section 521(a)(2) of this title, notice of the commencement of any proceeding in the case to which the creditor is a party, and any notice of the hearing under section 1324 of this title.";

(2) by adding at the end the following:

"(d) At any time, a creditor in a case of an individual debtor under chapter 7 or 13 may file with the court and serve on the debtor a notice of the address to be used to notify the creditor in that case. Five days after receipt of such notice, if the court or the debtor is required to give the creditor notice, such notice shall be given at that address.

"(e) An entity may file with the court a notice stating its address for notice in cases under chapters 7 and 13. After 30 days following the filing of such notice, any notice in any case filed under chapter 7 or 13 given by the court shall be to that address unless specific notice is given under subsection (d) with respect to a particular case.

"(f) Notice given to a creditor other than as provided in this section shall not be effective notice until it has been brought to the attention of the creditor. If the creditor has designated a person or department to be responsible for receiving notices concerning bankruptcy cases and has established reasonable procedures so that bankruptcy notices received by the creditor will be delivered to such department or person, notice will not be brought to the attention of the creditor until received by such person or department. No sanction under section 362(h) of this title or any other sanction which a court may impose on account of violations of the stay under section 362(a) of this title or failure to comply with section 542 or 543 of this title may be imposed on any action of the creditor unless the action takes place after the creditor has received notice of the commencement of the case effective under this section.".

(b) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, as amended by sections 121, 604, 122, 301, and 302, is amended—

(1) by inserting "(a)" before "The debtor shall—";

(2) by striking paragraph (1) and inserting the following:

"(1) file—

"(A) a list of creditors; and

"(B) unless the court orders otherwise—

"(i) a schedule of assets and liabilities;

"(ii) a schedule of current income and current expenditures;

"(iii) a statement of the debtor's financial affairs and, if applicable, a certificate—

"(I) of an attorney whose name is on the petition as the attorney for the debtor or any bankruptcy petition preparer signing the petition pursuant to section 110(b)(1) of this title indicating that such attorney or bankruptcy petition preparer delivered to the debtor any notice required by section 342(b) of this title; or

"(II) if no attorney for the debtor is indicated and no bankruptcy petition preparer signed the petition, of the debtor that such notice was obtained and read by the debtor;

"(iv) copies of any Federal tax returns, including any schedules or attachments, filed by the debtor for the 3-year period preceding the order for relief;

"(v) copies of all payment advices or other evidence of payment, if any, received by the debtor from any employer of the debtor in the period 60 days prior to the filing of the petition;

"(vi) a statement of the amount of projected monthly net income, itemized to show how calculated; and

"(vii) a statement disclosing any reasonably anticipated increase in income or expenditures over the 12-month period following the date of filing;"; and

(3) by adding at the end the following:

"(e)(1) At any time, a creditor, in the case of an individual under chapter 7 or 13, may file with the court notice that the creditor requests the petition, schedules, and a statement of affairs filed by the debtor in the case and the court shall make those documents available to the creditor who requests those documents.

"(2) At any time, a creditor in a case under chapter 13 may file with the court notice that the creditor requests the plan filed by the debtor in the case, and the court shall make such plan available to the creditor who requests such plan at a reasonable cost and not later than 5 days after such request.

"(f) An individual debtor in a case under chapter 7 or 13 shall file with the court—

"(1) at the time filed with the taxing authority, all tax returns, including any schedules or attachments, with respect to the period from the commencement of the case until such time as the case is closed;

"(2) at the time filed with the taxing authority, all tax returns, including any schedules or attachments, that were not filed with the taxing authority when the schedules under subsection (a)(1) were filed with respect to the period that is 3 years before the order for relief;

"(3) any amendments to any of the tax returns, including schedules or attachments, described in paragraph (1) or (2); and

"(4) in a case under chapter 13, a statement subject to the penalties of perjury by the debtor of the debtor's income and expenditures in the preceding tax year and monthly income, that shows how the amounts are calculated—

"(A) beginning on the date that is the later of 90 days after the close of the debtor's tax year or 1 year after the order for relief, unless a plan has been confirmed; and

"(B) thereafter, on or before the date that is 45 days before each anniversary of the confirmation of the plan until the case is closed.

"(d)(1) A statement referred to in subsection (c)(4) shall disclose—

"(A) the amount and sources of income of the debtor;

"(B) the identity of any persons responsible with the debtor for the support of any dependents of the debtor; and

"(C) the identity of any persons who contributed, and the amount contributed, to the household in which the debtor resides.

"(2) The tax returns, amendments, and statement of income and expenditures described in paragraph (1) shall be available to the United States trustee, any bankruptcy administrator, any trustee, and any party in interest for inspection and copying, subject to the requirements of subsection (e).

"(g)(1) Not later than 30 days after the date of enactment of the Consumer Bankruptcy Reform Act of 1998, the Director of the Administrative Office of the United States Courts shall establish procedures for safeguarding the confidentiality of any tax information required to be provided under this section.

"(2) The procedures under paragraph (1) shall include restrictions on creditor access to tax information that is required to be provided under this section.

"(3) Not later than 1 year after the date of enactment of the Consumer Bankruptcy Reform Act of 1998, the Director of the Administrative Office of the United States Courts shall prepare, and submit to Congress a report that—

"(A) assesses the effectiveness of the procedures under paragraph (1); and

"(B) if appropriate, includes proposed legislation—

"(i) to further protect the confidentiality of tax information; and

"(ii) to provide penalties for the improper use by any person of the tax information required to be provided under this section.

"(h) If requested by the United States trustee or a trustee serving in the case, the debtor provide a document that establishes the identity of the debtor, including a driver's license, passport, or other document that contains a photograph of the debtor and such other personal identifying information relating to the debtor that establishes the identity of the debtor.".

SEC. 604. DISMISSAL FOR FAILURE TO TIMELY FILE SCHEDULES OR PROVIDE REQUIRED INFORMATION.

Section 521 of title 11, United States Code, is amended—

(1) by inserting "(a)" before "The debtor"; and

(2) by adding at the end the following:

"(b)(1) Notwithstanding section 707(a) of this title, and subject to paragraph (2), if an individual debtor in a voluntary case under chapter 7 or 13 fails to file all of the information required under subsection (a)(1) within 45 days after the filing of the petition commencing the case, the case shall be automatically dismissed effective on the 46th day after the filing of the petition.

"(2) With respect to a case described in paragraph (1), any party in interest may request the court to enter an order dismissing the case. The court shall, if so requested, enter an order of dismissal not later than 5 days after such request.

"(3) Upon request of the debtor made within 45 days after the filing of the petition commencing a case described in paragraph (1), the court may allow the debtor an additional period of not to exceed 45 days to file the information required under subsection (a)(1) if the court finds justification for extending the period for the filing.".

SEC. 605. ADEQUATE TIME TO PREPARE FOR HEARING ON CONFIRMATION OF THE PLAN.

(a) HEARING.—Section 1324 of title 11, United States Code, is amended—

(1) by striking "After" and inserting the following:

"(a) Except as provided in subsection (b) and after"; and

(2) by adding at the end the following:

"(b) The hearing on confirmation of the plan may be held not earlier than 20 days, and not later than 45 days, after the meeting of creditors under section 341(a) of this title.".

(b) FILING OF PLAN.—Section 1321 of title 11, United States Code, is amended to read as follows:

"§1321. Filing of plan

"The debtor shall file a plan not later than 90 days after the order for relief under this chapter, except that the court may extend such period if the need for an extension is attributable to circumstances for which the debtor should not justly be held accountable.".

SEC. 606. CHAPTER 13 PLANS TO HAVE A 5-YEAR DURATION IN CERTAIN CASES.

Title 11, United States Code, is amended—

(1) by amending section 1322(d) to read as follows:

"(d) If the current monthly total income of the debtor and in a joint case, the debtor and the debtor's spouse combined, is not less than the highest national median family income reported for a family of equal or lesser size or, in the case of a household of 1 person, not less than the national median household income for 1 earner, the plan may not provide for payments over a period that is longer than 5 years. If the current monthly total income of the debtor or in a joint case, the debtor and the debtor's spouse combined, is less than the highest national median family income reported for a family of equal or lesser size, or in the case of a household of 1 person less than the national median household income for 1 earner, the plan may not provide for payments over a period that is longer than 3 years, unless the court, for cause, approves a longer period, but the court may not approve a period that is longer than 5 years."; and

(2) in section 1329—

(A) by striking in subsection (c) "three years" and inserting "the applicable commitment period under section 1325(b)(1)(B)(ii)"; and

(B) by inserting at the end of subsection (c) the following:

"The duration period shall be 5 years if the current monthly total income of the debtor, and in a joint case, the debtor and the debtor's spouse combined, is not less than the highest national median family income reported for a family of equal or lesser size or, in the case of a household of 1 person, not less than the national median household income for 1 earner, as of the date of the modification and shall be 3 years if the current monthly total income is less than the highest national median family income reported for a family of equal or lesser size or, in the case of a household of 1 person, less than the national median household income for 1 earner as of the date of the modification.".

SEC. 607. SENSE OF THE CONGRESS REGARDING EXPANSION OF RULE 9011 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE.

It is the sense of the Congress that rule 9011 of the Federal Rules of Bankruptcy Procedure (11 U.S.C. App) should be modified to include a requirement that all documents (including schedules), signed and unsigned, submitted to the court or to a trustee by debtors who represent themselves and debtors who are represented by an attorney be submitted only after the debtor or the debtor's attorney has made reasonable inquiry to verify that the information contained in such documents is well grounded in fact, and is warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law.

SEC. 608. ELIMINATION OF CERTAIN FEES PAYABLE IN CHAPTER 11 BANKRUPTCY CASES.

(a) AMENDMENTS.—Section 1930(a)(6) of title 28, United States Code, is amended—

(1) in the 1st sentence by striking "until the case is converted or dismissed, whichever occurs first"; and

(2) in the 2d sentence—

(A) by striking "The" and inserting "Until the plan is confirmed or the case is converted (whichever occurs first) the"; and

(B) by striking "less than $300,000;" and inserting "less than $300,000. Until the case is converted, dismissed, or closed (whichever occurs first and without regard to confirmation of the plan) the fee shall be".

(b) DELAYED EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1999.

SEC. 609. STUDY OF BANKRUPTCY IMPACT OF CREDIT EXTENDED TO DEPENDENT STUDENTS.

Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall—

(1) conduct a study regarding the impact that the extension of credit to individuals who are—

(A) claimed as dependents for purposes of the Internal Revenue Code of 1986; and

(B) enrolled in post-secondary educational institutions,

has on the rate of cases filed under title 11 of the United States Code; and

(2) submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report summarizing such study.

SEC. 610. PROMPT RELIEF FROM STAY IN INDIVIDUAL CASES.

Section 362(e) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(e)"; and

(2) by adding at the end the following:

"(2) Notwithstanding paragraph (1), in the case of an individual filing under chapter 7, 11, or 13, the stay under subsection (a) shall terminate on the date that is 60 days after a request is made by a party in interest under subsection (d), unless—

"(A) a final decision is rendered by the court during the 60-day period beginning on the date of the request; or

"(B) that 60-day period is extended—

"(i) by agreement of all parties in interest; or

"(ii) by the court for such specific period of time as the court finds is required by for good cause as described in findings made by the court.".

SEC. 611. STOPPING ABUSIVE CONVERSIONS FROM CHAPTER 13.

Section 348(f)(1) of title 11, United States Code, is amended—

(1) in subparagraph (A), by striking "and" at the end;

(2) in subparagraph (B)—

(A) by striking "in the converted case, with allowed secured claims" and inserting "only in a case converted to chapter 11 or 12 but not in a case converted to chapter 7, with allowed secured claims in cases under chapters 11 and 12"; and

(B) by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(C) with respect to cases converted from chapter 13—

"(i) the claim of any creditor holding security as of the date of the petition shall continue to be secured by that security unless the full amount of such claim determined under applicable nonbankruptcy law has been paid in full as of the date of conversion, notwithstanding any valuation or determination of the amount of an allowed secured claim made for the purposes of the chapter 13 proceeding; and

"(ii) unless a prebankruptcy default has been fully cured pursuant to the plan at the time of conversion, in any proceeding under this title or otherwise, the default shall have the effect given under applicable nonbankruptcy law.".

TITLE VII—BANKRUPTCY DATA

SEC. 701. IMPROVED BANKRUPTCY STATISTICS.

(a) AMENDMENT.—Chapter 6 of part 1 of title 28, United States Code, is amended by adding at the end the following:

"§ 159. Bankruptcy statistics

"(a) The clerk of each district shall compile statistics regarding individual debtors with primarily consumer debts seeking relief under chapters 7, 11, and 13 of title 11. Those statistics shall be in a form prescribed by the Director of the Administrative Office of the United States Courts (referred to in this section as the 'Office').

"(b) The Director shall—

"(1) compile the statistics referred to in subsection (a);

"(2) make the statistics available to the public; and

"(3) not later than October 31, 1998, and annually thereafter, prepare, and submit to Congress a report concerning the information collected under subsection (a) that contains an analysis of the information.

"(c) The compilation required under subsection (b) shall—

"(1) be itemized, by chapter, with respect to title 11;

"(2) be presented in the aggregate and for each district; and

"(3) include information concerning—

"(A) the total assets and total liabilities of the debtors described in subsection (a), and in each category of assets and liabilities, as reported in the schedules prescribed pursuant to section 2075 of this title and filed by those debtors;

"(B) the current total monthly income, projected monthly net income, and average income and average expenses of those debtors as reported on the schedules and statements that each such debtor files under sections 111, 521, and 1322 of title 11;

"(C) the aggregate amount of debt discharged in the reporting period, determined as the difference between the total amount of debt and obligations of a debtor reported on the schedules and the amount of such debt reported in categories which are predominantly nondischargeable;

"(D) the average period of time between the filing of the petition and the closing of the case;

"(E) for the reporting period—

"(i) the number of cases in which a reaffirmation was filed; and

"(ii)(I) the total number of reaffirmations filed;

"(II) of those cases in which a reaffirmation was filed, the number in which the debtor was not represented by an attorney; and

"(III) of those cases, the number of cases in which the reaffirmation was approved by the court;

"(F) with respect to cases filed under chapter 13 of title 11, for the reporting period—

"(i)(I) the number of cases in which a final order was entered determining the value of property securing a claim in an amount less than the amount of the claim; and

"(II) the number of final orders determining the value of property securing a claim issued;

"(ii) the number of cases dismissed for failure to make payments under the plan; and

"(iii) the number of cases in which the debtor filed another case within the 6 years previous to the filing;

"(G) the number of cases in which creditors were fined for misconduct and any amount of punitive damages awarded by the court for creditor misconduct; and

"(H) the number of cases in which sanctions under rule 9011 of the Federal Rules of Bankruptcy Procedure were imposed against debtor's counsel and damages awarded under such Rule.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 6 of title 28, United States Code, is amended by adding at the end the following:

"159. Bankruptcy statistics.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

SEC. 702. UNIFORM RULES FOR THE COLLECTION OF BANKRUPTCY DATA.

(a) AMENDMENT.—Title 28 of the United States Code is amended by inserting after section 589a the following:

"§ 589b. Bankruptcy data

"(a) RULES.—The Attorney General shall, within a reasonable time after the effective date of this section, issue rules requiring uniform forms for (and from time to time thereafter to appropriately modify and approve)—

"(1) final reports by trustees in cases under chapters 7, 12, and 13 of title 11; and

"(2) periodic reports by debtors in possession or trustees, as the case may be, in cases under chapter 11 of title 11.

"(b) REPORTS.—All reports referred to in subsection (a) shall be designed (and the requirements as to place and manner of filing shall be established) so as to facilitate compilation of data and maximum possible access of the public, both by physical inspection at 1 or more central filing locations, and by electronic access through the Internet or other appropriate media.

"(c) REQUIRED INFORMATION.—The information required to be filed in the reports referred to in subsection (b) shall be that which is in the best interests of debtors and creditors, and in the public interest in reasonable and adequate information to evaluate the efficiency and practicality of the Federal bankruptcy system. In issuing rules proposing the forms referred to in subsection (a), the Attorney General shall strike the best achievable practical balance between—

"(1) the reasonable needs of the public for information about the operational results of the Federal bankruptcy system; and

"(2) economy, simplicity, and lack of undue burden on persons with a duty to file reports.

"(d) FINAL REPORTS.—Final reports proposed for adoption by trustees under chapters 7, 12, and 13 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General in the discretion of the Attorney General, shall propose, include with respect to a case under such title—

"(1) information about the length of time the case was pending;

"(2) assets abandoned;

"(3) assets exempted;

"(4) receipts and disbursements of the estate;

"(5) expenses of administration;

"(6) claims asserted;

"(7) claims allowed; and

"(8) distributions to claimants and claims discharged without payment,

in each case by appropriate category and, in cases under chapters 12 and 13 of title 11, date of confirmation of the plan, each modification thereto, and defaults by the debtor in performance under the plan.

"(e) PERIODIC REPORTS.—Periodic reports proposed for adoption by trustees or debtors in possession under chapter 11 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General, in the discretion of the Attorney General, shall propose, include—

"(1) information about the standard industry classification, published by the Department of Commerce, for the businesses conducted by the debtor;

"(2) length of time the case has been pending;

"(3) number of full-time employees as at the date of the order for relief and at end of each reporting period since the case was filed;

"(4) cash receipts, cash disbursements and profitability of the debtor for the most recent period and cumulatively since the date of the order for relief;

"(5) compliance with title 11, whether or not tax returns and tax payments since the date of the order for relief have been timely filed and made;

"(6) all professional fees approved by the court in the case for the most recent period and cumulatively since the date of the order for relief (separately reported, in for the professional fees incurred by or on behalf of the debtor, between those that would have been incurred absent a bankruptcy case and those not); and

"(7) plans of reorganization filed and confirmed and, with respect thereto, by class, the recoveries of the holders, expressed in aggregate dollar values and, in the case of claims, as a percentage of total claims of the class allowed.".

(b) TECHNICAL AMENDMENT.—The table of sections of chapter 39 of title 28, United States Code, is amended by adding at the end the following:

"589b. Bankruptcy data.".

SEC. 703. SENSE OF THE CONGRESS REGARDING AVAILABILITY OF BANKRUPTCY DATA.

It is the sense of the Congress that—

(1) the national policy of the United States should be that all data held by bankruptcy clerks in electronic form, to the extent such data reflects only public records (as defined in section 107 of title 11 of the United States Code), should be released in a usable electronic form in bulk to the public subject to such appropriate privacy concerns and safeguards as the Judicial Conference of the United States may determine; and

(2) there should be established a bankruptcy data system in which—

(A) a single set of data definitions and forms are used to collect data nationwide; and

(B) data for any particular bankruptcy case are aggregated in the same electronic record.

TITLE VIII—BANKRUPTCY TAX PROVISIONS

SEC. 801. TREATMENT OF CERTAIN LIENS.

(a) TREATMENT OF CERTAIN LIENS.—Section 724 of title 11, United States Code, is amended—

(1) in subsection (b), in the matter preceding paragraph (1), by inserting "(other than to the extent that there is a properly perfected unavoidable tax lien arising in connection with an ad valorem tax on real or personal property of the estate)" after "under this title";

(2) in subsection (b)(2), after "507(a)(1)", insert "(except that such expenses, other than claims for wages, salaries, or commissions which arise after the filing of a petition, shall be limited to expenses incurred under chapter 7 of this title and shall not include expenses incurred under chapter 11 of this title)"; and

(3) by adding at the end the following:

"(e) Before subordinating a tax lien on real or personal property of the estate, the trustee shall—

"(1) exhaust the unencumbered assets of the estate; and

"(2) in a manner consistent with section 506(c) of this title, recover from property securing an allowed secured claim the reasonable, necessary costs and expenses of preserving or disposing of that property.

"(f) Notwithstanding the exclusion of ad valorem tax liens set forth in this section and subject to the requirements of subsection (e)—

"(1) claims for wages, salaries, and commissions that are entitled to priority under section 507(a)(3) of this title; or

"(2) claims for contributions to an employee benefit plan entitled to priority under section 507(a)(4) of this title,

may be paid from property of the estate which secures a tax lien, or the proceeds of such property.".

(b) DETERMINATION OF TAX LIABILITY.—Section 505(a)(2) of title 11, United States Code, is amended—

(1) in subparagraph (A), by striking "or" at the end;

(2) in subparagraph (B), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(C) the amount or legality of any amount arising in connection with an ad valorem tax on real or personal property of the estate, if the applicable period for contesting or redetermining that amount under any law (other than a bankruptcy law) has expired.".

SEC. 802. EFFECTIVE NOTICE TO GOVERNMENT.

(a) EFFECTIVE NOTICE TO GOVERNMENTAL UNITS.—Section 342 of title 11, United States Code, is amended by adding at the end the following:

"(d) If a debtor lists a governmental unit as a creditor in a list or schedule, any notice required to be given by the debtor under this title, any rule, any applicable law, or any order of the court, shall identify the department, agency, or instrumentality through which the debtor is indebted. The debtor shall identify (with information such as a taxpayer identification number, loan, account or contract number, or real estate parcel number, where applicable), and describe the underlying basis for the governmental unit's claim. If the debtor's liability to a governmental unit arises from a debt or obligation owed or incurred by another individual, entity, or organization, or under a different name, the debtor shall identify such individual, entity, organization, or name.

"(e) The clerk shall keep and update quarterly, in the form and manner as the Director of the Administrative Office of the United States Courts prescribes, and make available to debtors, a register in which a governmental unit may designate a safe harbor mailing address for service of notice in cases pending in the district. A governmental unit may file a statement with the clerk designating a safe harbor address to which notices are to be sent, unless such governmental unit files a notice of change of address.".

(b) ADOPTION OF RULES PROVIDING NOTICE.—The Advisory Committee on Bankruptcy Rules of the Judicial Conference shall, within a reasonable period of time after the date of the enactment of this Act, propose for adoption enhanced rules for providing notice to State, Federal, and local government units that have regulatory authority over the debtor or which may be creditors in the debtor's case. Such rules shall be reasonably calculated to ensure that notice will reach the representatives of the governmental unit, or subdivision thereof, who will be the proper persons authorized to act upon the notice. At a minimum, the rules should require that the debtor—

(1) identify in the schedules and the notice, the subdivision, agency, or entity in respect of which such notice should be received;

(2) provide sufficient information (such as case captions, permit numbers, taxpayer identification numbers, or similar identifying information) to permit the governmental unit or subdivision thereof, entitled to receive such notice, to identify the debtor or the person or entity on behalf of which the debtor is providing notice where the debtor may be a successor in interest or may not be the same as the person or entity which incurred the debt or obligation; and

(3) identify, in appropriate schedules, served together with the notice, the property in respect of which the claim or regulatory obligation may have arisen, if any, the nature of such claim or regulatory obligation and the purpose for which notice is being given.

(c) EFFECT OF FAILURE OF NOTICE.—Section 342 of title 11, United States Code, as amended by subsection (a), is amended by adding at the end the following:

"(f) A notice that does not comply with subsections (d) and (e) shall not be effective unless the debtor demonstrates, by clear and convincing evidence, that timely notice was given in a manner reasonably calculated to satisfy the requirements of this section was given, and that—

"(1) either the notice was timely sent to the safe harbor address provided in the register maintained by the clerk of the district in which the case was pending for such purposes; or

"(2) no safe harbor address was provided in such list for the governmental unit and that an officer of the governmental unit who is responsible for the matter or claim had actual knowledge of the case in sufficient time to act.".

SEC. 803. NOTICE OF REQUEST FOR A DETERMINATION OF TAXES.

Section 505(b) of title 11, United States Code, is amended by striking "Unless" at the beginning of the second sentence thereof and inserting "If the request is made substantially in the manner designated by the governmental unit and unless".

SEC. 804. RATE OF INTEREST ON TAX CLAIMS.

Chapter 5 of title 11, United States Code, is amended by adding at the end the following:

"§511. Rate of interest on tax claims

"If any provision of this title requires the payment of interest on a tax claim or requires the payment of interest to enable a creditor to receive the present value of the allowed amount of a tax claim, the rate of interest shall be as follows:

"(1) In the case of ad valorem tax claims, whether secured or unsecured, other unsecured tax claims where interest is required to be paid under section 726(a)(5) of this title, secured tax claims, and administrative tax claims paid under section 503(b)(1) of this title, the rate shall be determined under applicable nonbankruptcy law.

"(2) In the case of all other tax claims, the minimum rate of interest shall be the Federal short-term rate rounded to the nearest full percent, determined under section 1274(d) of the Internal Revenue Code of 1986, plus 3 percentage points

"(A) In the case of claims for Federal income taxes, such rate shall be subject to any adjustment that may be required under section 6621(d) of the Internal Revenue Code of 1986.

"(B) In the case of taxes paid under a confirmed plan or reorganization, such rate shall be determined as of the calendar month in which the plan is confirmed.".

SEC. 805. TOLLING OF PRIORITY OF TAX CLAIM TIME PERIODS.

Section 507(a)(9)(A) of title 11, United States Code, as so redesignated, is amended—

(1) in clause (i) by inserting after "petition" and before the semicolon ", plus any time, plus 6 months, during which the stay of proceedings was in effect in a prior case under this title"; and

(2) amend clause (ii) to read as follows:

"(ii) assessed within 240 days before the date of the filing of the petition, exclusive of—

"(I) any time plus 30 days during which an offer in compromise with respect of such tax, was pending or in effect during such 240-day period;

"(II) any time plus 30 days during which an installment agreement with respect of such tax was pending or in effect during such 240-day period, up to 1 year; and

"(III) any time plus 6 months during which a stay of proceedings against collections was in effect in a prior case under this title during such 240-day period.".

SEC. 806. PRIORITY PROPERTY TAXES INCURRED.

Section 507(a)(8)(B) of title 11, United States Code, is amended by striking "assessed" and inserting "incurred".

SEC. 807. CHAPTER 13 DISCHARGE OF FRAUDULENT AND OTHER TAXES.

Section 1328(a)(2) of title 11, United States Code, is amended by inserting "(1)," after "paragraph".

SEC. 808. CHAPTER 11 DISCHARGE OF FRAUDULENT TAXES.

Section 1141(d) of title 11, United States Code, as amended by section 119A, is amended by adding at the end the following:

"(6) Notwithstanding the provisions of paragraph (1), the confirmation of a plan does not discharge a debtor which is a corporation from any debt for a tax or customs duty with respect to which the debtor made a fraudulent return or willfully attempted in any manner to evade or defeat such tax.".

SEC. 809. STAY OF TAX PROCEEDINGS.

(a) SECTION 362 STAY LIMITED TO PREPETITION TAXES.—Section 362(a)(8) of title 11, United States Code, is amended by striking the period at the end and inserting ", in respect of a tax liability for a taxable period ending before the order for relief.".

(b) APPEAL OF TAX COURT DECISIONS PERMITTED.—Section 362(b)(9) of title 11, United States Code, is amended—

(1) in subparagraph (C) by striking "or" at the end;

(2) in subparagraph (D) by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(E) the appeal of a decision by a court or administrative tribunal which determines a tax liability of the debtor without regard to whether such determination was made prepetition or postpetition.".

SEC. 810. PERIODIC PAYMENT OF TAXES IN CHAPTER 11 CASES.

Section 1129(a)(9) of title 11, United States Code, is amended—

(1) in subparagraph (B) by striking "and" at the end; and

(2) in subparagraph (C)—

(A) by striking "deferred cash payments, over a period not exceeding six years after the date of assessment of such claim," and inserting "regular installment payments in cash, but in no case with a balloon provision, and no more than three months apart, beginning no later than the effective date of the plan and ending on the earlier of five years after the petition date or the last date payments are to be made under the plan to unsecured creditors,";

(B) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(D) with respect to a secured claim which would be described in section 507(a)(8) of this title but for its secured status, the holder of such claim will receive on account of such claim cash payments of not less than is required in subparagraph (C) and over a period no greater than is required in such subparagraph.".

SEC. 811. AVOIDANCE OF STATUTORY TAX LIENS PROHIBITED.

Section 545(2) of title 11, United States Code, is amended by striking the semicolon at the end and inserting ", except where such purchaser is a purchaser described in section 6323 of the Internal Revenue Code of 1986 or similar provision of State or local law;".

SEC. 812. PAYMENT OF TAXES IN THE CONDUCT OF BUSINESS.

(a) PAYMENT OF TAXES REQUIRED.—Section 960 of title 28, United States Code, is amended—

(1) by inserting "(a)" before "Any"; and

(2) by adding at the end the following:

"(b) Such taxes shall be paid when due in the conduct of such business unless—

"(1) the tax is a property tax secured by a lien against property that is abandoned within a reasonable time after the lien attaches, by the trustee of a bankruptcy estate, pursuant to section 554 of title 11; or

"(2) payment of the tax is excused under a specific provision of title 11.

"(c) In a case pending under chapter 7 of title 11, payment of a tax may be deferred until final distribution is made under section 726 of title 11 if—

"(1) the tax was not incurred by a trustee duly appointed under chapter 7 of title 11; or

"(2) before the due date of the tax, the court has made a finding of probable insufficiency of funds of the estate to pay in full the administrative expenses allowed under section 503(b) of title 11 that have the same priority in distribution under section 726(b) of title 11 as such tax.".

(b) PAYMENT OF AD VALOREM TAXES REQUIRED.—Section 503(b)(1)(B) of title 11, United States Code, is amended in clause (i) by inserting after "estate," and before "except" the following: "whether secured or unsecured, including property taxes for which liability is in rem only, in personam or both,".

(c) REQUEST FOR PAYMENT OF ADMINISTRATIVE EXPENSE TAXES ELIMINATED.—Section 503(b)(1) of title 11, United States Code, is amended by adding at the end the following:

"(D) notwithstanding the requirements of subsection (a) of this section, a governmental unit shall not be required to file a request for the payment of a claim described in subparagraph (B) or (C);".

(d) PAYMENT OF TAXES AND FEES AS SECURED CLAIMS.—Section 506 of title 11, United States Code, is amended—

(1) in subsection (b) by inserting "or State statute" after "agreement"; and

(2) in subsection (c) by inserting ", including the payment of all ad valorem property taxes in respect of the property" before the period at the end.

SEC. 813. TARDILY FILED PRIORITY TAX CLAIMS.

Section 726(a)(1) of title 11, United States Code, is amended by striking "before the date on which the trustee commences distribution under this section" and inserting "on or before the earlier of 10 days after the mailing to creditors of the summary of the trustee's final report or the date on which the trustee commences final distribution under this section".

SEC. 814. INCOME TAX RETURNS PREPARED BY TAX AUTHORITIES.

Section 523(a)(1)(B) of title 11, United States Code, is amended—

(1) by inserting "or equivalent report or notice," after "a return,";

(2) in clause (i)—

(A) by inserting "or given" after "filed"; and

(B) by striking "or" at the end;

(3) in clause (ii)—

(A) by inserting "or given" after "filed"; and

(B) by inserting ", report, or notice" after "return"; and

(4) by adding at the end the following:

"(iii) for purposes of this subsection, a return—

"(I) must satisfy the requirements of applicable nonbankruptcy law, and includes a return prepared pursuant to section 6020(a) of the Internal Revenue Code of 1986, or similar State or local law, or a written stipulation to a judgment entered by a nonbankruptcy tribunal, but does not include a return made pursuant to section 6020(b) of the Internal Revenue Code of 1986, or similar State or local law; and

"(II) must have been filed in a manner permitted by applicable nonbankruptcy law; or".

SEC. 815. DISCHARGE OF THE ESTATE'S LIABILITY FOR UNPAID TAXES.

Section 505(b) of title 11, United States Code, is amended in the second sentence by inserting "the estate," after "misrepresentation,".

SEC. 816. REQUIREMENT TO FILE TAX RETURNS TO CONFIRM CHAPTER 13 PLANS.

(a) FILING OF PREPETITION TAX RETURNS REQUIRED FOR PLAN CONFIRMATION.—Section 1325(a) of title 11, United States Code, as amended by section 143, is amended—

(1) in paragraph (6) by striking "and" at the end;

(2) in paragraph (7) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(8) if the debtor has filed all Federal, State, and local tax returns as required by section 1308 of this title.".

(b) ADDITIONAL TIME PERMITTED FOR FILING TAX RETURNS.—(1) Chapter 13 of title 11, United States Code, as amended by section 137, is amended by adding at the end the following:

"§ 1308. Filing of prepetition tax returns

"(a) On or before the day prior to the day on which the first meeting of the creditors is convened under section 341(a) of this title, the debtor shall have filed with appropriate tax authorities all tax returns for all taxable periods ending in the 3-year period ending on the date of filing of the petition.

"(b) If the tax returns required by subsection (a) have not been filed by the date on which the first meeting of creditors is convened under section 341(a) of this title, the trustee may continue such meeting for a reasonable period of time, to allow the debtor additional time to file any unfiled returns, but such additional time shall be no more than—

"(1) for returns that are past due as of the date of the filing of the petition, 120 days from such date;

"(2) for returns which are not past due as of the date of the filing of the petition, the later of 120 days from such date or the due date for such returns under the last automatic extension of time for filing such returns to which the debtor is entitled, and for which request has been timely made, according to applicable nonbankruptcy law; and

"(3) upon notice and hearing, and order entered before the lapse of any deadline fixed according to this subsection, where the debtor demonstrates, by clear and convincing evidence, that the failure to file the returns as required is because of circumstances beyond the control of the debtor, the court may extend the deadlines set by the trustee as provided in this subsection for—

"(A) a period of no more than 30 days for returns described in paragraph (1) of this subsection; and

"(B) for no more than the period of time ending on the applicable extended due date for the returns described in paragraph (2).

"(c) For purposes of this section only, a return includes a return prepared pursuant to section 6020 (a) or (b) of the Internal Revenue Code of 1986 or similar State or local law, or a written stipulation to a judgment entered by a nonbankruptcy tribunal.".

(2) The table of sections of chapter 13 of title 11, United States Code, is amended by inserting after the item relating to section 1307 the following:

"1308. Filing of prepetition tax returns.".

(c) DISMISSAL OR CONVERSION ON FAILURE TO COMPLY.—Section 1307 of title 11, United States Code, is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following:

"(e) Upon the failure of the debtor to file tax returns under section 1308 of this title, on request of a party in interest or the United States trustee and after notice and a hearing, the court shall dismiss a case or convert a case under this chapter to a case under chapter 7 of this title, whichever is in the best interests of creditors and the estate.".

(d) TIMELY FILED CLAIMS.—Section 502(b)(9) of title 11, United States Code, is amended by striking the period at the end and inserting ", and except that in a case under chapter 13 of this title, a claim of a governmental unit for a tax in respect of a return filed under section 1308 of this title shall be timely if it is filed on or before 60 days after such return or returns were filed as required.".

(e) RULES FOR OBJECTIONS TO CLAIMS AND TO CONFIRMATION.—It is the sense of the Congress that the Advisory Committee on Bankruptcy Rules of the Judicial Conference should, within a reasonable period of time after the date of the enactment of this Act, propose for adoption amended Federal Rules of Bankruptcy Procedure which provide that—

(1) notwithstanding the provisions of Rule 3015(f), in cases under chapter 13 of title 11, United States Code, a governmental unit may object to the confirmation of a plan on or before 60 days after the debtor files all tax returns required under sections 1308 and 1325(a)(7) of title 11, United States Code; and

(2) in addition to the provisions of Rule 3007, in a case under chapter 13 of title 11, United States Code, no objection to a tax in respect of a return required to be filed under such section 1308 shall be filed until such return has been filed as required.

SEC. 817. STANDARDS FOR TAX DISCLOSURE.

Section 1125(a) of title 11, United States Code, is amended in paragraph (1)—

(1) by inserting after "records," the following: "including a full discussion of the potential material Federal, State, and local tax consequences of the plan to the debtor, any successor to the debtor, and a hypothetical investor domiciled in the State in which the debtor resides or has its principal place of business typical of the holders of claims or interests in the case,";

(2) by inserting "such" after "enable"; and

(3) by striking "reasonable" where it appears after "hypothetical" and by striking "typical of holders of claims or interests" after "investor".

SEC. 818. SETOFF OF TAX REFUNDS.

Section 362(b) of title 11, United States Code, as amended by sections 120, 134, 139, and 203, is amended—

(1) in paragraph (29) by striking "or";

(2) in paragraph (29) by striking the period at the end and inserting "; or"; and

(3) by inserting after paragraph (29) the following:

"(30) under subsection (a) of the setoff of an income tax refund, by a governmental unit, in respect of a taxable period which ended before the order for relief against an income tax liability for a taxable period which also ended before the order for relief, unless—

"(A) prior to such setoff, an action to determine the amount or legality of such tax liability under section 505(a) was commenced; or

"(B) where the setoff of an income tax refund is not permitted because of a pending action to determine the amount or legality of a tax liability, the governmental unit may hold the refund pending the resolution of the action.".

TITLE IX—ANCILLARY AND OTHER CROSS-BORDER CASES

SEC. 901. AMENDMENT TO ADD CHAPTER 15 TO TITLE 11, UNITED STATES CODE.

(a) IN GENERAL.—Title 11, United States Code, is amended by inserting after chapter 13 the following:

"CHAPTER 15—ANCILLARY AND OTHER CROSS-BORDER CASES

"Sec.
"1501. Purpose and scope of application.

"SUBCHAPTER I—GENERAL PROVISIONS

"1502. Definitions.

"1503. International obligations of the United States.
"1504. Commencement of ancillary case.
"1505. Authorization to act in a foreign country.
"1506. Public policy exception.
"1507. Additional assistance.
"1508. Interpretation.

"SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT

"1509. Right of direct access.
"1510. Limited jurisdiction.
"1511. Commencement of case under section 301 or 303.
"1512. Participation of a foreign representative in a case under this title.
"1513. Access of foreign creditors to a case under this title.
"1514. Notification to foreign creditors concerning a case under this title.

"SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF

"1515. Application for recognition of a foreign proceeding.
"1516. Presumptions concerning recognition.
"1517. Order recognizing a foreign proceeding.
"1518. Subsequent information.
"1519. Relief that may be granted upon petition for recognition of a foreign proceeding.
"1520. Effects of recognition of a foreign main proceeding.
"1521. Relief that may be granted upon recognition of a foreign proceeding.
"1522. Protection of creditors and other interested persons.
"1523. Actions to avoid acts detrimental to creditors.
"1524. Intervention by a foreign representative.

"SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES

"1525. Cooperation and direct communication between the court and foreign courts or foreign representatives.
"1526. Cooperation and direct communication between the trustee and foreign courts or foreign representatives.
"1527. Forms of cooperation.

"SUBCHAPTER V—CONCURRENT PROCEEDINGS

"1528. Commencement of a case under this title after recognition of a foreign main proceeding.
"1529. Coordination of a case under this title and a foreign proceeding.
"1530. Coordination of more than 1 foreign proceeding.
"1531. Presumption of insolvency based on recognition of a foreign main proceeding.
"1532. Rule of payment in concurrent proceedings.

"§ 1501. Purpose and scope of application

"(a) The purpose of this of chapter is to incorporate the Model Law on Cross-Border Insolvency so as to provide effective mechanisms for dealing with cases of cross-border insolvency with the objectives of—

"(1) cooperation between—

"(A) United States courts, United States Trustees, trustees, examiners, debtors, and debtors in possession; and

"(B) the courts and other competent authorities of foreign countries involved in cross-border insolvency cases;

"(2) greater legal certainty for trade and investment;

"(3) fair and efficient administration of cross-border insolvencies that protects the interests of all creditors, and other interested entities, including the debtor;

"(4) protection and maximization of the value of the debtor's assets; and

"(5) facilitation of the rescue of financially troubled businesses, thereby protecting investment and preserving employment.

"(b) This chapter applies where—

"(1) assistance is sought in the United States by a foreign court or a foreign representative in connection with a foreign proceeding;

"(2) assistance is sought in a foreign country in connection with a case under this title;

"(3) a foreign proceeding and a case under this title with respect to the same debtor are taking place concurrently; or

"(4) creditors or other interested persons in a foreign country have an interest in requesting the commencement of, or participating in, a case or proceeding under this title.

"(c) This chapter does not apply to—

"(1) a proceeding concerning an entity identified by exclusion in subsection 109(b);

"(2) an individual, or to an individual and such individual's spouse, who have debts within the limits specified in section 109(e) and who are citizens of the United States or aliens lawfully admitted for permanent residence in the United States; or

"(3) an entity subject to a proceeding under the Securities Investor Protection Act, a stockbroker subject to subchapter III of chapter 7 of this title, or a commodity broker subject to subchapter IV of chapter 7 of this title.

"SUBCHAPTER I—GENERAL PROVISIONS

"§ 1502. Definitions

"For the purposes of this chapter, the term—

"(1) 'debtor' means an entity that is the subject of a foreign proceeding;

"(2) 'establishment' means any place of operations where the debtor carries out a nontransitory economic activity;

"(3) 'foreign court' means a judicial or other authority competent to control or supervise a foreign proceeding;

"(4) 'foreign main proceeding' means a foreign proceeding taking place in the country where the debtor has the center of its main interests;

"(5) 'foreign nonmain proceeding' means a foreign proceeding, other than a foreign main proceeding, taking place in a country where the debtor has an establishment;

"(6) 'trustee' includes a trustee, a debtor in possession in a case under any chapter of this title, or a debtor under chapter 9 of this title; and

"(7) 'within the territorial jurisdiction of the United States' when used with reference to property of a debtor refers to tangible property located within the territory of the United States and intangible property deemed under applicable nonbankruptcy law to be located within that territory, including any property subject to attachment or garnishment that may properly be seized or garnished by an action in a Federal or State court in the United States.

"§ 1503. International obligations of the United States

"To the extent that this chapter conflicts with an obligation of the United States arising out of any treaty or other form of agreement to which it is a party with 1 or more other countries, the requirements of the treaty or agreement prevail.

"§ 1504. Commencement of ancillary case

"A case under this chapter is commenced by the filing of a petition for recognition of a foreign proceeding under section 1515.

"§ 1505. Authorization to act in a foreign country

"A trustee or another entity, including an examiner, may be authorized by the court to act in a foreign country on behalf of an estate created under section 541. An entity authorized to act under this section may act in any way permitted by the applicable foreign law.

"§ 1506. Public policy exception

"Nothing in this chapter prevents the court from refusing to take an action governed by this chapter if the action would be manifestly contrary to the public policy of the United States.

"§ 1507. Additional assistance

"(a) Subject to the specific limitations stated elsewhere in this chapter the court, upon recognition of a foreign proceeding, to provide additional assistance to a foreign representative under this title or under other laws of the United States.

"(b) In determining whether to provide additional assistance under this title or under other laws of the United States, the court shall consider whether such additional assistance, consistent with the principles of comity, will reasonably assure—

"(1) just treatment of all holders of claims against or interests in the debtor's property;

"(2) protection of claim holders in the United States against prejudice and inconvenience in the processing of claims in such foreign proceeding;

"(3) prevention of preferential or fraudulent dispositions of property of the debtor;

"(4) distribution of proceeds of the debtor's property substantially in accordance with the order prescribed by this title; and

"(5) if appropriate, the provision of an opportunity for a fresh start for the individual that such foreign proceeding concerns.

"§ 1508. Interpretation

"In interpreting this chapter, the court shall consider its international origin, and the need to promote an application of this chapter that is consistent with the application of similar statutes adopted by foreign jurisdictions.

"SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT

"§ 1509. Right of direct access

"(a) A foreign representative is entitled to commence a case under section 1504 by filing a petition for recognition under section 1515, and upon recognition, to apply directly to other Federal and State courts for appropriate relief in those courts.

"(b) Upon recognition, and subject to section 1510, a foreign representative has the capacity to sue and be sued, and shall be subject to the laws of the United States of general applicability.

"(c) Subject to section 1510 of this title, a foreign representative is subject to laws of general application.

"(d) Recognition under this chapter is prerequisite to the granting of comity or cooperation to a foreign representative in any State or Federal court in the United States. Any request for comity or cooperation by a foreign representative in any court shall be accompanied by a sworn statement setting forth whether recognition under section 1515 has been sought and the status of any such petition.

"(e) Upon denial of recognition under this chapter, the court may issue appropriate orders necessary to prevent an attempt to obtain comity or cooperation from courts in the United States without such recognition.

"§ 1510. Limited jurisdiction

"The sole fact that a foreign representative files a petition under section 1515 does not subject the foreign representative to the jurisdiction of any court in the United States for any other purpose.

"§ 1511. Commencement of case under section 301 or 303

"(a) Upon recognition, a foreign representative may commence—

"(1) an involuntary case under section 303; or

“(2) a voluntary case under section 301 or 302, if the foreign proceeding is a foreign main proceeding.

“(b) The petition commencing a case under subsection (a) must be accompanied by a statement describing the petition for recognition and its current status. The court where the petition for recognition has been filed must be advised of the foreign representative's intent to commence a case under subsection (a) prior to such commencement.

“§1512. Participation of a foreign representative in a case under this title

“Upon recognition of a foreign proceeding, the foreign representative in that proceeding is entitled to participate as a party in interest in a case regarding the debtor under this title.

“§1513. Access of foreign creditors to a case under this title

“(a) Foreign creditors have the same rights regarding the commencement of, and participation in, a case under this title as domestic creditors.

“(b)(1) Subsection (a) does not change or codify present law as to the priority of claims under section 507 or 726 of this title, except that the claim of a foreign creditor under those sections shall not be given a lower priority than that of general unsecured claims without priority solely because the holder of such claim is a foreign creditor.

“(2)(A) Subsection (a) and paragraph (1) do not change or codify present law as to the allowability of foreign revenue claims or other foreign public law claims in a proceeding under this title.

“(B) Allowance and priority as to a foreign tax claim or other foreign public law claim shall be governed by any applicable tax treaty of the United States, under the conditions and circumstances specified therein.

“§1514. Notification to foreign creditors concerning a case under this title

“(a) Whenever in a case under this title notice is to be given to creditors generally or to any class or category of creditors, such notice shall also be given to the known creditors generally, or to creditors in the notified class or category, that do not have addresses in the United States. The court may order that appropriate steps be taken with a view to notifying any creditor whose address is not yet known.

“(b) Such notification to creditors with foreign addresses described in subsection (a) shall be given individually, unless the court considers that, under the circumstances, some other form of notification would be more appropriate. No letters rogatory or other similar formality is required.

“(c) When a notification of commencement of a case is to be given to foreign creditors, the notification shall—

“(1) indicate the time period for filing proofs of claim and specify the place for their filing;

“(2) indicate whether secured creditors need to file their proofs of claim; and

“(3) contain any other information required to be included in such a notification to creditors pursuant to this title and the orders of the court.

“(d) Any rule of procedure or order of the court as to notice or the filing of a claim shall provide such additional time to creditors with foreign addresses as is reasonable under the circumstances.

“SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF

“§1515. Application for recognition of a foreign proceeding

“(a) A foreign representative applies to the court for recognition of the foreign proceeding in which the foreign representative has been appointed by filing a petition for recognition.

“(b) A petition for recognition shall be accompanied by—

“(1) a certified copy of the decision commencing the foreign proceeding and appointing the foreign representative;

“(2) a certificate from the foreign court affirming the existence of the foreign proceeding and of the appointment of the foreign representative; or

“(3) in the absence of evidence referred to in paragraphs (1) and (2), any other evidence acceptable to the court of the existence of the foreign proceeding and of the appointment of the foreign representative.

“(c) A petition for recognition shall also be accompanied by a statement identifying all foreign proceedings with respect to the debtor that are known to the foreign representative.

“(d) The documents referred to in paragraphs (1) and (2) of subsection (b) must be translated into English. The court may require a translation into English of additional documents.

“§1516. Presumptions concerning recognition

“(a) If the decision or certificate referred to in section 1515(b) indicates that the foreign proceeding is a foreign proceeding as defined in section 101 and that the person or body is a foreign representative as defined in section 101, the court is entitled to so presume.

“(b) The court is entitled to presume that documents submitted in support of the petition for recognition are authentic, whether or not they have been legalized.

“(c) In the absence of evidence to the contrary, the debtor's registered office, or habitual residence in the case of an individual, is presumed to be the center of the debtor's main interests.

“§1517. Order recognizing a foreign proceeding

“(a) Subject to section 1506, after notice and a hearing an order recognizing a foreign proceeding shall be entered if—

“(1) the foreign proceeding is a foreign main proceeding or foreign nonmain proceeding within the meaning of section 1502;

“(2) the foreign representative applying for recognition is a person or body as defined in section 101; and

“(3) the petition meets the requirements of section 1515.

“(b) The foreign proceeding shall be recognized—

“(1) as a foreign main proceeding if it is taking place in the country where the debtor has the center of its main interests; or

“(2) as a foreign nonmain proceeding if the debtor has an establishment within the meaning of section 1502 in the foreign country where the proceeding is pending.

“(c) A petition for recognition of a foreign proceeding shall be decided upon at the earliest possible time. Entry of an order recognizing a foreign proceeding shall constitute recognition under this chapter.

“(d) The provisions of this subchapter do not prevent modification or termination of recognition if it is shown that the grounds for granting it were fully or partially lacking or have ceased to exist, but in considering such action the court shall give due weight to possible prejudice to parties that have relied upon the granting of recognition. The case under this chapter may be closed in the manner prescribed for a case under section 350.

“§1518. Subsequent information

“From the time of filing the petition for recognition of the foreign proceeding, the foreign representative shall file with the court promptly a notice of change of status concerning—

“(1) any substantial change in the status of the foreign proceeding or the status of the foreign representative's appointment; and

“(2) any other foreign proceeding regarding the debtor that becomes known to the foreign representative.

“§1519. Relief that may be granted upon petition for recognition of a foreign proceeding

“(a) From the time of filing a petition for recognition until the petition is decided upon, the court may, at the request of the foreign representative, where relief is urgently needed to protect the assets of the debtor or the interests of the creditors, grant relief of a provisional nature, including—

“(1) staying execution against the debtor's assets;

“(2) entrusting the administration or realization of all or part of the debtor's assets located in the United States to the foreign representative or another person authorized by the court, including an examiner, in order to protect and preserve the value of assets that, by their nature or because of other circumstances, are perishable, susceptible to devaluation or otherwise in jeopardy; and

“(3) any relief referred to in paragraph (3), (4), or (7) of section 1521(a).

“(b) Unless extended under section 1521(a)(6), the relief granted under this section terminates when the petition for recognition is decided upon.

“(c) It is a ground for denial of relief under this section that such relief would interfere with the administration of a foreign main proceeding.

“(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

“(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under this section.

“§1520. Effects of recognition of a foreign main proceeding

“(a) Upon recognition of a foreign proceeding that is a foreign main proceeding—

“(1) section 362 applies with respect to the debtor and that property of the debtor that is within the territorial jurisdiction of the United States;

“(2) a transfer, an encumbrance, or any other disposition of an interest of the debtor in property within the territorial jurisdiction of the United States is restrained as and to the extent that is provided for property of an estate under sections 363, 549, and 552; and

“(3) unless the court orders otherwise, the foreign representative may operate the debtor's business and may exercise the powers of a trustee under section 549, subject to sections 363 and 552.

“(b) The scope, and the modification or termination, of the stay and restraints referred to in subsection (a) are subject to the exceptions and limitations provided in subsections (b), (c), and (d) of section 362, subsections (b) and (c) of section 363, and sections 552, 555 through 557, 559, and 560.

“(c) Subsection (a) does not affect the right to commence individual actions or proceedings in a foreign country to the extent necessary to preserve a claim against the debtor.

“(d) Subsection (a) does not affect the right of a foreign representative or an entity to file a petition commencing a case under this title or the right of any party to file claims or take other proper actions in such a case.

“§1521. Relief that may be granted upon recognition of a foreign proceeding

“(a) Upon recognition of a foreign proceeding, whether main or nonmain, where necessary to effectuate the purpose of this chapter and to protect the assets of the debtor or the interests of the creditors, the court may, at the request of the foreign representative, grant any appropriate relief, including—

''(1) staying the commencement or continuation of individual actions or individual proceedings concerning the debtor's assets, rights, obligations or liabilities to the extent they have not been stayed under section 1520(a);

''(2) staying execution against the debtor's assets to the extent it has not been stayed under section 1520(a);

''(3) suspending the right to transfer, encumber or otherwise dispose of any assets of the debtor to the extent this right has not been suspended under section 1520(a);

''(4) providing for the examination of witnesses, the taking of evidence or the delivery of information concerning the debtor's assets, affairs, rights, obligations or liabilities;

''(5) entrusting the administration or realization of all or part of the debtor's assets within the territorial jurisdiction of the United States to the foreign representative or another person, including an examiner, authorized by the court;

''(6) extending relief granted under section 1519(a); and

''(7) granting any additional relief that may be available to a trustee, except for relief available under sections 522, 544, 545, 547, 548, 550, and 724(a).

''(b) Upon recognition of a foreign proceeding, whether main or nonmain, the court may, at the request of the foreign representative, entrust the distribution of all or part of the debtor's assets located in the United States to the foreign representative or another person, including an examiner, authorized by the court, provided that the court is satisfied that the interests of creditors in the United States are sufficiently protected.

''(c) In granting relief under this section to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the law of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

''(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

''(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under paragraphs (1), (2), (3), and (6) of subsection (a).

''§1522. Protection of creditors and other interested persons

''(a) The court may grant relief under section 1519 or 1521, or may modify or terminate relief under subsection (c), only if the interests of the creditors and other interested entities, including the debtor, are sufficiently protected.

''(b) The court may subject relief granted under section 1519 or 1521, or the operation of the debtor's business under section 1520(a)(2) of this title, to conditions it considers appropriate, including the giving of security or the filing of a bond.

''(c) The court may, at the request of the foreign representative or an entity affected by relief granted under section 1519 or 1521, or at its own motion, modify or terminate such relief.

''(d) Section 1104(d) shall apply to the appointment of an examiner under this chapter. Any examiner shall comply with the qualification requirements imposed on a trustee by section 322.

''§1523. Actions to avoid acts detrimental to creditors

''(a) Upon recognition of a foreign proceeding, the foreign representative has standing in a case concerning the debtor pending under another chapter of this title to initiate actions under sections 522, 544, 545, 547, 548, 550, and 724(a).

''(b) When the foreign proceeding is a foreign nonmain proceeding, the court must be satisfied that an action under subsection (a) relates to assets that, under United States law, should be administered in the foreign nonmain proceeding.

''§1524. Intervention by a foreign representative

''Upon recognition of a foreign proceeding, the foreign representative may intervene in any proceedings in a State or Federal court in the United States in which the debtor is a party.

''SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES

''§1525. Cooperation and direct communication between the court and foreign courts or foreign representatives

''(a) Consistent with section 1501, the court shall cooperate to the maximum extent possible with foreign courts or foreign representatives, either directly or through the trustee.

''(b) The court is entitled to communicate directly with, or to request information or assistance directly from, foreign courts or foreign representatives, subject to the rights of parties in interest to notice and participation.

''§1526. Cooperation and direct communication between the trustee and foreign courts or foreign representatives

''(a) Consistent with section 1501, the trustee or other person, including an examiner, authorized by the court, shall, subject to the supervision of the court, cooperate to the maximum extent possible with foreign courts or foreign representatives.

''(b) The trustee or other person, including an examiner, authorized by the court is entitled, subject to the supervision of the court, to communicate directly with foreign courts or foreign representatives.

''§1527. Forms of cooperation

''Cooperation referred to in sections 1525 and 1526 may be implemented by any appropriate means, including—

''(1) appointment of a person or body, including an examiner, to act at the direction of the court;

''(2) communication of information by any means considered appropriate by the court;

''(3) coordination of the administration and supervision of the debtor's assets and affairs;

''(4) approval or implementation of agreements concerning the coordination of proceedings; and

''(5) coordination of concurrent proceedings regarding the same debtor.

''SUBCHAPTER V—CONCURRENT PROCEEDINGS

''§1528. Commencement of a case under this title after recognition of a foreign main proceeding

''After recognition of a foreign main proceeding, a case under another chapter of this title may be commenced only if the debtor has assets in the United States. The effects of such case shall be restricted to the assets of the debtor that are within the territorial jurisdiction of the United States and, to the extent necessary to implement cooperation and coordination under sections 1525, 1526, and 1527, to other assets of the debtor that are within the jurisdiction of the court under sections 541(a) of this title, and 1334(e) of title 28, to the extent that such other assets are not subject to the jurisdiction and control of a foreign proceeding that has been recognized under this chapter.

''§1529. Coordination of a case under this title and a foreign proceeding

''Where a foreign proceeding and a case under another chapter of this title are taking place concurrently regarding the same debtor, the court shall seek cooperation and coordination under sections 1525, 1526, and 1527, and the following shall apply:

''(1) When the case in the United States is taking place at the time the petition for recognition of the foreign proceeding is filed—

''(A) any relief granted under sections 1519 or 1521 must be consistent with the relief granted in the case in the United States; and

''(B) even if the foreign proceeding is recognized as a foreign main proceeding, section 1520 does not apply.

''(2) When a case in the United States under this title commences after recognition, or after the filing of the petition for recognition, of the foreign proceeding—

''(A) any relief in effect under sections 1519 or 1521 shall be reviewed by the court and shall be modified or terminated if inconsistent with the case in the United States; and

''(B) if the foreign proceeding is a foreign main proceeding, the stay and suspension referred to in section 1520(a) shall be modified or terminated if inconsistent with the relief granted in the case in the United States.

''(3) In granting, extending, or modifying relief granted to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the law of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

''(4) In achieving cooperation and coordination under sections 1528 and 1529, the court may grant any of the relief authorized under section 305.

''§1530. Coordination of more than 1 foreign proceeding

''In matters referred to in section 1501, with respect to more than 1 foreign proceeding regarding the debtor, the court shall seek cooperation and coordination under sections 1525, 1526, and 1527, and the following shall apply:

''(1) Any relief granted under section 1519 or 1521 to a representative of a foreign nonmain proceeding after recognition of a foreign main proceeding must be consistent with the foreign main proceeding.

''(2) If a foreign main proceeding is recognized after recognition, or after the filing of a petition for recognition, of a foreign nonmain proceeding, any relief in effect under section 1519 or 1521 shall be reviewed by the court and shall be modified or terminated if inconsistent with the foreign main proceeding.

''(3) If, after recognition of a foreign nonmain proceeding, another foreign nonmain proceeding is recognized, the court shall grant, modify, or terminate relief for the purpose of facilitating coordination of the proceedings.

''§1531. Presumption of insolvency based on recognition of a foreign main proceeding

''In the absence of evidence to the contrary, recognition of a foreign main proceeding is for the purpose of commencing a proceeding under section 303, proof that the debtor is generally not paying its debts as such debts become due.

''§1532. Rule of payment in concurrent proceedings

''Without prejudice to secured claims or rights in rem, a creditor who has received payment with respect to its claim in a foreign proceeding pursuant to a law relating to insolvency may not receive a payment for the same claim in a case under any other chapter of this title regarding the debtor, so long as the payment to other creditors of the same class is proportionately less than the payment the creditor has already received.''.

(b) CLERICAL AMENDMENT.—The table of chapters for title 11, United States Code, is amended by inserting after the item relating to chapter 13 the following:

''15. Ancillary and Other Cross-Border Cases .... 1501''.

SEC. 902. AMENDMENTS TO OTHER CHAPTERS IN TITLE 11, UNITED STATES CODE.

(a) APPLICABILITY OF CHAPTERS.—Section 103 of title 11, United States Code, is amended—

(1) in subsection (a), by inserting before the period the following: ", and this chapter, sections 307, 304, 555 through 557, 559, and 560 apply in a case under chapter 15"; and

(2) by adding at the end the following:

"(j) Chapter 15 applies only in a case under such chapter, except that—

"(1) sections 1513 and 1514 apply in all cases under this title; and

"(2) section 1505 applies to trustees and to any other entity (including an examiner) authorized by the court under chapters 7, 11, and 12, to debtors in possession under chapters 11 and 12, and to debtors under chapter 9 who are authorized to act under section 1505.".

(b) DEFINITIONS.—Paragraphs (23) and (24) of title 11, United States Code, are amended to read as follows:

"(23) 'foreign proceeding' means a collective judicial or administrative proceeding in a foreign country, including an interim proceeding, pursuant to a law relating to insolvency in which proceeding the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganization or liquidation;

"(24) 'foreign representative' means a person or body, including a person or body appointed on an interim basis, authorized in a foreign proceeding to administer the reorganization or the liquidation of the debtor's assets or affairs or to act as a representative of the foreign proceeding;".

(c) AMENDMENTS TO TITLE 28, UNITED STATES CODE.—

(1) PROCEDURES.—Section 157(b)(2) of title 28, United States Code, is amended—

(A) in subparagraph (N), by striking "and" at the end;

(B) in subparagraph (O), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(P) recognition of foreign proceedings and other matters under chapter 15 of title 11.".

(2) BANKRUPTCY CASES AND PROCEEDINGS.—Section 1334(c)(1) of title 28, United States Code, is amended by striking "Nothing in" and inserting "Except with respect to a case under chapter 15 of title 11, nothing in".

(3) DUTIES OF TRUSTEES.—Section 586(a)(3) of title 28, United States Code, is amended by inserting "15," after "chapter".

TITLE X—FINANCIAL CONTRACT PROVISIONS

SEC. 1001. TREATMENT OF CERTAIN AGREEMENTS BY CONSERVATORS OR —RECEIVERS OF INSURED DEPOSITORY INSTITUTIONS.

(a) DEFINITION OF QUALIFIED FINANCIAL CONTRACT.—Section 11(e)(8)(D)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(i)) is amended by inserting ", resolution or order" after "any similar agreement that the Corporation determines by regulation".

(b) DEFINITION OF SECURITIES CONTRACT.—Section 11(e)(8)(D)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(ii)) is amended to read as follows:

"(ii) SECURITIES CONTRACT.—The term 'securities contract'—

"(I) means a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan, or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or any option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, loan, interest, group or index, or option;

"(II) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such agreement within the meaning of such term;

"(III) means any option entered into on a national securities exchange relating to foreign currencies;

"(IV) means the guarantee by or to any securities clearing agency of any settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, loan, interest, group or index or option;

"(V) means any margin loan;

"(VI) means any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

"(VII) means any combination of the agreements or transactions referred to in this clause;

"(VIII) means any option to enter into any agreement or transaction referred to in this clause;

"(IX) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this clause, except that the master agreement shall be considered to be a securities contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII); and

"(X) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause.".

(c) DEFINITION OF COMMODITY CONTRACT.—Section 11(e)(8)(D)(iii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iii)) is amended to read as follows:

"(iii) COMMODITY CONTRACT.—The term 'commodity contract' means—

"(I) with respect to a futures commission merchant, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade;

"(II) with respect to a foreign futures commission merchant, a foreign future;

"(III) with respect to a leverage transaction merchant, a leverage transaction;

"(IV) with respect to a clearing organization, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization, or commodity option traded on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization;

"(V) with respect to a commodity options dealer, a commodity option;

"(VI) any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

"(VII) any combination of the agreements or transactions referred to in this clause;

"(VIII) any option to enter into any agreement or transaction referred to in this clause;

"(IX) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this clause, except that the master agreement shall be considered to be a commodity contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII); or

"(X) a security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause.".

(d) DEFINITION OF FORWARD CONTRACT.—Section 11(e)(8)(D)(iv) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iv)) is amended to read as follows:

"(iv) FORWARD CONTRACT.—The term 'forward contract' means—

"(I) a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than 2 days after the date the contract is entered into, including a repurchase agreement, reverse repurchase agreement, consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any other similar agreement;

"(II) any combination of agreements or transactions referred to in subclauses (I) and (III);

"(III) any option to enter into any agreement or transaction referred to in subclause (I) or (II);

"(IV) a master agreement that provides for an agreement or transaction referred to in subclauses (I), (II), or (III), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a forward contract under this clause, except that the master agreement shall be considered to be a forward contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), or (III); or

"(V) a security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (II), (III), or (IV).".

(e) DEFINITION OF REPURCHASE AGREEMENT.—Section 11(e)(8)(D)(v) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(v)) is amended to read as follows:

"(v) REPURCHASE AGREEMENT.—The terms 'repurchase agreement' and 'reverse repurchase agreement'—

"(I) mean an agreement, including related terms, which provides for the transfer of 1 or more certificates of deposit, mortgage-related securities (as such term is defined in the Securities Exchange Act of 1934), mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, loans, or interests with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, securities, loans, or interests as described above, at a date certain not later than 1 year after such transfers or on demand, against the transfer of funds, or any other similar agreement;

"(II) does not include any repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such participation within the meaning of such term;

"(III) means any combination of agreements or transactions referred to in subclauses (I) and (IV);

"(IV) means any option to enter into any agreement or transaction referred to in subclause (I) or (III);

"(V) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a repurchase agreement under this clause, except that the master agreement shall be considered to be a repurchase agreement under this subclause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), or (IV); and

"(VI) means a security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (III), (IV), or (V).

For purposes of this clause, the term 'qualified foreign government security' means a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development (as determined by regulation or order adopted by the appropriate Federal banking authority).".

(f) Definition of Swap Agreement.—The Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vi)) is amended to read as follows:

"(vi) Swap agreement.—The term 'swap agreement' means—

"(I) any agreement, including the terms and conditions incorporated by reference in any such agreement, which is an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap; a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement; a currency swap, option, future, or forward agreement; an equity index or equity swap, option, future, or forward agreement; a debt index or debt swap, option, future, or forward agreement; a credit spread or credit swap, option, future, or forward agreement; a commodity index or commodity swap, option, future, or forward agreement;

"(II) any agreement or transaction similar to any other agreement or transaction referred to in this clause that is presently, or in the future becomes, regularly entered into in the swap market (including terms and conditions incorporated by reference in such agreement) and that is a forward, swap, future, or option on 1 or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, or economic indices or measures of economic risk or value;

"(III) any combination of agreements or transactions referred to in this clause;

"(IV) any option to enter into any agreement or transaction referred to in this clause;

"(V) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this clause, except that the master agreement shall be considered to be a swap agreement under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), or (IV); and

"(VI) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in subparagraph (I), (II), (III), or (IV).

Such term is applicable for purposes of this Act only and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, and the regulations promulgated by the Securities and Exchange Commission or the Commodity Futures Trading Commission.".

(g) Definition of Transfer.—Section 11(e)(8)(D)(viii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(viii)) is amended to read as follows:

"(viii) Transfer.—The term 'transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the depository institutions's equity of redemption.".

(h) Treatment of Qualified Financial Contracts.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(1) in subparagraph (A), by striking "paragraph (10)" and inserting "paragraphs (9) and (10)";

(2) in subparagraph (A)(i), by striking "to cause the termination or liquidation" and inserting "such person has to cause the termination, liquidation, or acceleration";

(3) by amending subparagraph (A)(ii) to read as follows:

"(ii) any right under any security agreement or arrangement or other credit enhancement related to 1 or more qualified financial contracts described in clause (i);"; and

(4) by amending subparagraph (E)(ii) to read as follows:

"(ii) any right under any security agreement or arrangement or other credit enhancement related to 1 or more qualified financial contracts described in clause (i);".

(i) Avoidance of Transfers.—Section 11(e)(8)(C)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(C)(i)) is amended by inserting "section 5242 of the Revised Statutes (12 U.S.C. 91) or any other Federal or State law relating to the avoidance of preferential or fraudulent transfers," before "the Corporation".

SEC. 1002. AUTHORITY OF THE CORPORATION WITH RESPECT TO FAILED AND FAILING INSTITUTIONS.

(a) In General.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(1) in subparagraph (E), by striking "other than paragraph (12) of this subsection, subsection (d)(9)" and inserting "other than subsections (d)(9) and (e)(10)"; and

(2) by adding at the end the following new subparagraphs:

"(F) Clarification.—No provision of law shall be construed as limiting the right or power of the Corporation, or authorizing any court or agency to limit or delay, in any manner, the right or power of the Corporation to transfer any qualified financial contract in accordance with paragraphs (9) and (10) of this subsection or to disaffirm or repudiate any such contract in accordance with subsection (e)(1) of this section.

"(G) Walkaway clauses not effective.—

"(i) In general.—Notwithstanding the provisions of subparagraphs (A) and (E), and sections 403 and 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, no walkaway clause shall be enforceable in a qualified financial contract of an insured depository institution in default.

"(ii) Walkaway clause defined.—For purposes of this subparagraph, the term 'walkaway clause' means a provision in a qualified financial contract that, after calculation of a value of a party's position or an amount due to or from 1 of the parties in accordance with its terms upon termination, liquidation, or acceleration of the qualified financial contract, either does not create a payment obligation of a party or extinguishes a payment obligation of a party in whole or in part solely because of such party's status as a nondefaulting party.".

(b) Technical and Conforming Amendment.—Section 11(e)(12)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(12)(A)) is amended by inserting "or the exercise of rights or powers" after "the appointment".

SEC. 1003. AMENDMENTS RELATING TO TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS.

(a) Transfers of Qualified Financial Contracts to Financial Institutions.—Section 11(e)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(9)) is amended to read as follows:

"(9) Transfer of qualified financial contracts.—

"(A) In general.—In making any transfer of assets or liabilities of a depository institution in default which includes any qualified financial contract, the conservator or receiver for such depository institution shall either—

"(i) transfer to 1 financial institution, other than a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding—

"(I) all qualified financial contracts between any person or any affiliate of such person and the depository institution in default;

"(II) all claims of such person or any affiliate of such person against such depository institution under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such institution);

"(III) all claims of such depository institution against such person or any affiliate of such person under any such contract; and

"(IV) all property securing or any other credit enhancement for any contract described in subclause (I) or any claim described in subclause (II) or (III) under any such contract; or

"(ii) transfer none of the qualified financial contracts, claims, property or other credit enhancement referred to in clause (i) (with respect to such person and any affiliate of such person).

"(B) Transfer to foreign bank, foreign financial institution, or branch or agency of a foreign bank or financial institution.—In transferring any qualified financial contracts and related claims and property pursuant to subparagraph (A)(i), the conservator or receiver for such depository institution shall not make such transfer to a foreign bank, financial institution organized under the laws of a foreign country, or a branch or agency of a foreign bank or financial institution unless, under the law applicable to such bank, financial institution, branch or agency, to the qualified financial contracts, and to any netting contract, any security agreement or arrangement or other credit enhancement related to 1 or more qualified financial contracts the contractual rights of the parties to such qualified financial contracts, netting contracts, security agreements or arrangements, or other credit enhancements are enforceable substantially to the same extent as permitted under this section.

"(C) Transfer of contracts subject to the rules of a clearing organization.—In the event that a conservator or receiver transfers any qualified financial contract and related claims, property and credit enhancements pursuant to subparagraph (A)(i) and such contract is subject to the rules of a clearing organization, the clearing organization shall not be required

to accept the transferee as a member by virtue of the transfer.

"(D) DEFINITION.—For purposes of this section, the term 'financial institution' means a broker or dealer, a depository institution, a futures commission merchant, or any other institution as determined by the Corporation by regulation to be a financial institution.".

(b) NOTICE TO QUALIFIED FINANCIAL CONTRACT COUNTERPARTIES.—Section 11(e)(10)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)(A)) is amended by amending the flush material following clause (ii) to read as follows: "the conservator or receiver shall notify any person who is a party to any such contract of such transfer by 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver, in the case of a receivership, or the business day following such transfer, in the case of a conservatorship.".

(c) RIGHTS AGAINST RECEIVER AND TREATMENT OF BRIDGE BANKS.—Section 11(e)(10) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)) is further amended—

(1) by redesignating subparagraph (B) as subparagraph (D); and

(2) by inserting after subparagraph (A) the following new subparagraphs:

"(B) CERTAIN RIGHTS NOT ENFORCEABLE.—

"(i) RECEIVERSHIP.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right such person has to terminate, liquidate, or net such contract under paragraph (8)(A) or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991 solely by reason of or incidental to the appointment of a receiver for the depository institution (or the insolvency or financial condition of the depository institution for which the receiver has been appointed)—

"(I) until 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver; or

"(II) after the person has received notice that the contract has been transferred pursuant to paragraph (9)(A).

"(ii) CONSERVATORSHIP.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right such person has to terminate, liquidate, or net such contract under paragraph (8)(E) or sections 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a conservator for the depository institution (or the insolvency or financial condition of the depository institution for which the conservator has been appointed).

"(iii) NOTICE.—For purposes of this subsection, the Corporation as receiver or conservator of an insured depository institution shall be deemed to have notified a person who is a party to a qualified financial contract with such depository institution if the Corporation has taken steps reasonably calculated to provide notice to such person by the time specified in subparagraph (A) of this subsection.

"(C) TREATMENT OF BRIDGE BANKS.—The following institutions shall not be considered a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding for purposes of subsection (e)(9)—

"(i) a bridge bank; or

"(ii) a depository institution organized by the Corporation, for which a conservator is appointed either—

"(I) immediately upon the organization of the institution; or

"(II) at the time of a purchase and assumption transaction between such institution and the Corporation as receiver for a depository institution in default.".

SEC. 1004. AMENDMENTS RELATING TO DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.

Section 11(e) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)) is further amended—

(1) by redesignating paragraphs (11) through (15) as paragraphs (12) through (16), respectively; and

(2) by inserting after paragraph (10) the following new paragraph:

"(11) DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.—In exercising the rights of disaffirmance or repudiation of a conservator or receiver with respect to any qualified financial contract to which an insured depository institution is a party, the conservator or receiver for such institution shall either—

"(A) disaffirm or repudiate all qualified financial contracts between—

"(i) any person or any affiliate of such person; and

"(ii) the depository institution in default; or

"(B) disaffirm or repudiate none of the qualified financial contracts referred to in subparagraph (A) (with respect to such person or any affiliate of such person).".

SEC. 1005. CLARIFYING AMENDMENT RELATING TO MASTER AGREEMENTS.

Section 11(e)(8)(D)(vii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vii)) is amended to read as follows:

"(vii) TREATMENT OF MASTER AGREEMENT AS 1 AGREEMENT.—Any master agreement for any contract or agreement described in any preceding clause of this subparagraph (or any master agreement for such master agreement or agreements), together with all supplements to such master agreement, shall be treated as a single agreement and a single qualified financial contract. If a master agreement contains provisions relating to agreements or transactions that are not themselves qualified financial contracts, the master agreement shall be deemed to be a qualified financial contract only with respect to those transactions that are themselves qualified financial contracts.".

SEC. 1006. FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.

(a) DEFINITIONS.—Section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4402) is amended—

(1) in paragraph (6)—

(A) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively;

(B) by inserting after subparagraph (A) the following new subparagraph:

"(B) an uninsured national bank or an uninsured State bank that is a member of the Federal Reserve System if the national bank or State member bank is not eligible to make application to become an insured bank under section 5 of the Federal Deposit Insurance Act;"; and

(C) by amending subparagraph (C) (as redesignated) to read as follows:

"(C) a branch or agency of a foreign bank, a foreign bank and any branch or agency of the foreign bank, or the foreign bank that established the branch or agency, as those terms are defined in section 1(b) of the International Banking Act of 1978;";

(2) in paragraph (11), by adding before the period "and any other clearing organization with which such clearing organization has a netting contract";

(3) by amending paragraph (14)(A)(i) to read as follows:

"(i) means a contract or agreement between 2 or more financial institutions, clearing organizations, or members that provides for netting present or future payment obligations or payment entitlements (including liquidation or closeout values relating to such obligations or entitlements) among the parties to the agreement; and"; and

(4) by adding at the end the following new paragraph:

"(15) PAYMENT.—The term 'payment' means a payment of United States dollars, another currency, or a composite currency, and a noncash delivery, including a payment or delivery to liquidate an unmatured obligation.".

(b) ENFORCEABILITY OF BILATERAL NETTING CONTRACTS.—Section 403 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4403) is amended—

(1) by amending subsection (a) to read as follows:

"(a) GENERAL RULE.—Notwithstanding any other provision of State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act or any order authorized under section 5(b)(2) of the Securities Investor Protection Act of 1970, the covered contractual payment obligations and the covered contractual payment entitlements between any 2 financial institutions shall be netted in accordance with, and subject to the conditions of, the terms of any applicable netting contract (except as provided in section 561(b)(2) of title 11)."; and

(2) by adding at the end the following new subsection:

"(f) ENFORCEABILITY OF SECURITY AGREEMENTS.—The provisions of any security agreement or arrangement or other credit enhancement related to 1 or more netting contracts between any 2 financial institutions shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11) and shall not be stayed, avoided, or otherwise limited by any State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and section 5(b)(2) of the Securities Investor Protection Act of 1970).".

(c) ENFORCEABILITY OF CLEARING ORGANIZATION NETTING CONTRACTS.—Section 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4404) is amended—

(1) by amending subsection (a) to read as follows:

"(a) GENERAL RULE.—Notwithstanding any other provision of State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and any order authorized under section 5(b)(2) of the Securities Investor Protection Act of 1970, the covered contractual payment obligations and the covered contractual payment entitlements of a member of a clearing organization to and from all other members of a clearing organization shall be netted in accordance with and subject to the conditions of any applicable netting contract (except as provided in section 561(b)(2) of title 11, United States Code)."; and

(2) by adding at the end the following new subsection:

"(h) ENFORCEABILITY OF SECURITY AGREEMENTS.—The provisions of any security agreement or arrangement or other credit enhancement related to 1 or more netting contracts between any 2 members of a clearing organization shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11, United States Code) and shall not be stayed, avoided, or otherwise limited by any State or Federal law other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and section 5(b)(2) of the Securities Investor Protection Act of 1970.".

(d) ENFORCEABILITY OF CONTRACTS WITH UNINSURED NATIONAL BANKS AND UNINSURED FEDERAL BRANCHES AND AGENCIES.—The Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4401 et seq.) is amended—

(1) by redesignating section 407 as section 408; and

(2) by adding after section 406 the following new section:

"SEC. 407. TREATMENT OF CONTRACTS WITH UNINSURED NATIONAL BANKS AND UNINSURED FEDERAL BRANCHES AND AGENCIES.

"(a) IN GENERAL.—Notwithstanding any other provision of law, paragraphs (8), (9), (10), and (11) of section 11(e) of the Federal Deposit Insurance Act shall apply to an uninsured national bank or uninsured Federal branch or Federal agency except—

"(1) any reference to the 'Corporation as receiver' or 'the receiver or the Corporation' shall refer to the receiver of an uninsured national bank or uninsured Federal branch or Federal agency appointed by the Comptroller of the Currency;

"(2) any reference to the 'Corporation' (other than in section 11(e)(8)(D) of such Act), the 'Corporation, whether acting as such or as conservator or receiver', a 'receiver', or a 'conservator' shall refer to the receiver or conservator of an uninsured national bank or uninsured Federal branch or Federal agency appointed by the Comptroller of the Currency; and

"(3) any reference to an 'insured depository institution' or 'depository institution' shall refer to an uninsured national bank or an uninsured Federal branch or Federal agency.

"(b) LIABILITY.—The liability of a receiver or conservator of an uninsured national bank or uninsured Federal branch or agency shall be determined in the same manner and subject to the same limitations that apply to receivers and conservators of insured depository institutions under section 11(e) of the Federal Deposit Insurance Act.

"(c) REGULATORY AUTHORITY.—

"(1) IN GENERAL.—The Comptroller of the Currency, in consultation with the Federal Deposit Insurance Corporation, may promulgate regulations to implement this section.

"(2) SPECIFIC REQUIREMENT.—In promulgating regulations to implement this section, the Comptroller of the Currency shall ensure that the regulations generally are consistent with the regulations and policies of the Federal Deposit Insurance Corporation adopted pursuant to the Federal Deposit Insurance Act.

"(d) DEFINITIONS.—For purposes of this section, the terms 'Federal branch', 'Federal agency', and 'foreign bank' have the same meaning as in section 1(b) of the International Banking Act.".

SEC. 1007. BANKRUPTCY CODE AMENDMENTS.

(a) DEFINITIONS OF FORWARD CONTRACT, REPURCHASE AGREEMENT, SECURITIES CLEARING AGENCY, SWAP AGREEMENT, COMMODITY CONTRACT, AND SECURITIES CONTRACT.—Title 11, United States Code, is amended—

(1) in section 101—

(A) in paragraph (25)—

(i) by striking "means a contract" and inserting "means—

"(A) a contract";

(ii) by striking ", or any combination thereof or option thereon;" and inserting ", or any other similar agreement;"; and

(iii) by adding at the end the following:

"(B) a combination of agreements or transactions referred to in subparagraphs (A) and (C);

"(C) an option to enter into an agreement or transaction referred to in subparagraph (A) or (B);

"(D) a master netting agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), or (C), together with all supplements to such master netting agreement, without regard to whether such master netting agreement provides for an agreement or transaction that is not a forward contract under this paragraph, except that such master netting agreement shall be considered to be a forward contract under this paragraph only with respect to each agreement or transaction under such master netting agreement that is referred to in subparagraph (A), (B) or (C); or

"(E) a security agreement or arrangement, or other credit enhancement, directly pertaining to a contract, option, agreement, or transaction referred to in subparagraph (A), (B), (C), or (D), but not to exceed the actual value of such contract, option, agreement, or transaction on the date of the filing of the petition;";

(B) by amending paragraph (47) to read as follows:

"(47) 'repurchase agreement' and 'reverse repurchase agreement'—

"(A) mean—

"(i) an agreement, including related terms, which provides for the transfer of—

"(I) a certificate of deposit, mortgage-related security (as defined in the Securities Exchange Act of 1934), mortgage loan, interest in a mortgage-related security or mortgage loan, eligible bankers' acceptance, qualified foreign government security; or

"(II) security that is a direct obligation of, or that is fully guaranteed by, the United States or an agency of the United States against the transfer of funds by the transferee of such certificate of deposit, eligible bankers' acceptance, security, loan, or interest;

with a simultaneous agreement by such transferee to transfer to the transferor thereof a certificate of deposit, eligible bankers' acceptance, security, loan, or interest of the kind described in subclause (I) or (II), at a date certain not later than 1 year after the transferor's transfer or on demand, against the transfer of funds;

"(ii) a combination of agreements or transactions referred to in clauses (i) and (iii);

"(iii) an option to enter into an agreement or transaction referred to in clause (i) or (ii);

"(iv) a master netting agreement that provides for an agreement or transaction referred to in clause (i), (ii), or (iii), together with all supplements to such master netting agreement, without regard to whether such master netting agreement provides for an agreement or transaction that is not a repurchase agreement under this subparagraph, except that such master netting agreement shall be considered to be a repurchase agreement under this subparagraph only with respect to each agreement or transaction under such master netting agreement that is referred to in clause (i), (ii), or (iii); or

"(v) a security agreement or arrangement, or other credit enhancement, directly pertaining to a contract referred to in clause (i), (ii), (iii), or (iv), but not to exceed the actual value of such contract on the date of the filing of the petition; and

"(B) do not include a repurchase obligation under a participation in a commercial mortgage loan;

and, for purposes of this paragraph, the term 'qualified foreign government security' means a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development;";

(C) in paragraph (48) by inserting "or exempt from such registration under such section pursuant to an order of the Securities and Exchange Commission" after "1934"; and

(D) by amending paragraph (53B) to read as follows:

"(53B) 'swap agreement' means—

"(A) an agreement, including the terms and conditions incorporated by reference in such agreement, that is—

"(i) an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap;

"(ii) a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement;

"(iii) a currency swap, option, future, or forward agreement;

"(iv) an equity index or an equity swap, option, future, or forward agreement;

"(v) a debt index or a debt swap, option, future, or forward agreement;

"(vi) a credit spread or a credit swap, option, future, or forward agreement; or

"(vii) a commodity index or a commodity swap, option, future, or forward agreement;

"(B) an agreement or transaction similar to an agreement or transaction referred to in this paragraph that—

"(i) is currently, or in the future becomes, regularly entered into in the swap market (including terms and conditions incorporated by reference therein); and

"(ii) is a forward, swap, future, or option on a rate, currency, commodity, equity security, or other equity instrument, on a debt security or other debt instrument, or on an economic index or measure of economic risk or value;

"(C) a combination of agreements or transactions referred to in this paragraph;

"(D) an option to enter into an agreement or transaction referred to in this paragraph;

"(E) a master netting agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), (C), or (D), together with all supplements to such master netting agreement and without regard to whether such master netting agreement contains an agreement or transaction described in any such subparagraph, but only with respect to each agreement or transaction referred to in any such subparagraph that is under such master netting agreement; or

"(F) is applicable for purposes of this title only and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, and the regulations prescribed by the Securities and Exchange Commission or the Commodity Futures Trading Commission.";

(2) by amending section 741(7) to read as follows:

"(7) 'securities contract'—

"(A) means—

"(i) a contract for the purchase, sale, or loan of a security, a mortgage loan or an interest in a mortgage loan, a group or index of securities, or mortgage loans or interests therein (including an interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any of the foregoing;

"(ii) an option entered into on a national securities exchange relating to foreign currencies;

"(iii) the guarantee by or to a securities clearing agency of a settlement of cash, securities, mortgage loans or interests therein, group or index of securities, or mortgage loans or interests therein (including any interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any of the foregoing;

"(iv) a margin loan;

"(v) any other agreement or transaction that is similar to an agreement or transaction referred to in this subparagraph;

"(vi) a combination of the agreements or transactions referred to in this subparagraph;

"(vii) an option to enter into an agreement or transaction referred to in this subparagraph;

"(viii) a master netting agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii), together with all supplements to such master netting agreement, without regard to whether such master netting agreement provides for an agreement or transaction that is not a securities contract under this subparagraph, except that such master netting agreement shall be considered to be a securities contract under this subparagraph only with respect to each agreement or transaction under such master netting agreement that is referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii); or

"(ix) a security agreement or arrangement, or other credit enhancement, directly pertaining to a contract referred to in this subparagraph, but not to exceed the actual value of such contract on the date of the filing of the petition; and

"(B) does not include a purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan;"; and

(3) in section 761(4)—

(A) by striking "or" at the end of subparagraph (D); and

(B) by adding at the end the following:

"(F) any other agreement or transaction that is similar to an agreement or transaction referred to in this paragraph;

"(G) a combination of the agreements or transactions referred to in this paragraph;

"(H) an option to enter into an agreement or transaction referred to in this paragraph;

"(I) a master netting agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H), together with all supplements to such master netting agreement, without regard to whether such master netting agreement provides for an agreement or transaction that is not a commodity contract under this paragraph, except that such master netting agreement shall be considered to be a commodity contract under this paragraph only with respect to each agreement or transaction under such master netting agreement that is referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H); or

"(J) a security agreement or arrangement, or other credit enhancement, directly pertaining to a contract referred to in this paragraph, but not to exceed the actual value of such contract on the date of the filing of the petition;".

(b) Definitions of Financial Institution, Financial Participant, and Forward Contract Merchant.—Section 101 of title 11, United States Code, is amended—

(1) by amending paragraph (22) to read as follows:

"(22) 'financial institution' means—

"(A) a Federal reserve bank, or an entity that is a commercial or savings bank, industrial savings bank, savings and loan association, trust company, or receiver or conservator for such entity and, when such Federal reserve bank, receiver, or conservator or entity is acting as agent or custodian for a customer in connection with a securities contract, as defined in section 741 of this title, such customer; or

"(B) in connection with a securities contract, as defined in section 741 of this title, an investment company registered under the Investment Company Act of 1940;";

(2) by inserting after paragraph (22) the following:

"(22A) 'financial participant' means an entity that is a party to a securities contract, commodity contract or forward contract, or on the date of the filing of the petition, has a commodity contract (as defined in section 761 of this title) with the debtor or any other entity (other than an affiliate) of a total gross dollar value of at least $1,000,000,000 in notional or actual principal amount outstanding on any day during the previous 15-month period, or has gross mark-to-market positions of at least $100,000,000 (aggregated across counterparties) in any such agreement or transaction with the debtor or any other entity (other than an affiliate) on any day during the previous 15-month period;"; and

(3) by amending paragraph (26) to read as follows:

"(26) 'forward contract merchant' means a Federal reserve bank, or an entity whose business consists in whole or in part of entering into forward contracts as or with merchants or in a commodity, as defined or in section 761 of this title, or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing or in the forward contract trade;".

(c) Definition of Master Netting Agreement and Master Netting Agreement Participant.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (38) the following new paragraphs:

"(38A) the term 'master netting agreement' means an agreement providing for the exercise of rights, including rights of netting, setoff, liquidation, termination, acceleration, or closeout, under or in connection with 1 or more contracts that are described in any 1 or more of paragraphs (1) through (5) of section 561(a), or any security agreement or arrangement or other credit enhancement related to 1 or more of the foregoing. If a master netting agreement contains provisions relating to agreements or transactions that are not contracts described in paragraphs (1) through (5) of section 561(a), the master netting agreement shall be deemed to be a master netting agreement only with respect to those agreements or transactions that are described in any 1 or more of the paragraphs (1) through (5) of section 561(a);

"(38B) the term 'master netting agreement participant' means an entity that, at any time before the filing of the petition, is a party to an outstanding master netting agreement with the debtor;".

(d) Swap Agreements, Securities Contracts, Commodity Contracts, Forward Contracts, Repurchase Agreements, and Master Netting Agreements Under the Automatic-Stay.—

(1) In general.—Section 362(b) of title 11, United States Code, as amended by sections 120, 134, 139, 203 and 818, is amended—

(A) in paragraph (6), by inserting ", pledged to, and under the control of," after "held by";

(B) in paragraph (7), by inserting ", pledged to, and under the control of," after "held by";

(C) by amending paragraph (17) to read as follows:

"(17) under subsection (a), of the setoff by a swap participant of a mutual debt and claim under or in connection with a swap agreement that constitutes the setoff of a claim against the debtor for a payment or transfer due from the debtor under or in connection with a swap agreement against a payment due to the debtor from the swap participant under or in connection with a swap agreement or against cash, securities, or other property held by, pledged to, and under the control of, or due from such swap participant to guarantee, secure, or settle a swap agreement;";

(D) in paragraph (27), by striking "or" at the end;

(E) in paragraph (28) by striking the period at the end and inserting "; and"; and

(F) by inserting after paragraph (28) the following new paragraph:

"(29) under subsection (a), of the setoff by a master netting agreement participant of a mutual debt and claim under or in connection with 1 or more master netting agreements or any contract or agreement subject to such agreements that constitutes the setoff of a claim against the debtor for any payment or other transfer of property due from the debtor under or in connection with such agreements or any contract or agreement subject to such agreements against any payment due to the debtor from such master netting agreement participant under or in connection with such agreements or any contract or agreement subject to such agreements or against cash, securities, or other property held by, pledged or and under the control of, or due from such master netting agreement participant to margin, guarantee, secure, or settle such agreements or any contract or agreement subject to such agreements, to the extent such participant is eligible to exercise such offset rights under paragraph (6), (7), or (17) for each individual contract covered by the master netting agreement in issue.".

(2) Limitation.—Section 362 of title 11, United States Code, is amended by adding at the end the following:

"(i) Limitation.—The exercise of rights not subject to the stay arising under subsection (a) pursuant to paragraph (6), (7), or (17) of subsection (b) shall not be stayed by an order of a court or administrative agency in any proceeding under this title.".

(e) Limitation of Avoidance Powers Under Master Netting Agreement.—Section 546 of title 11, United States Code, is amended—

(1) in subsection (g) (as added by section 103 of Public Law 101–311)—

(A) by striking "under a swap agreement";

(B) by striking "in connection with a swap agreement" and inserting "under or in connection with any swap agreement";

(2) by redesignating subsection (g) (as added by section 222(a) of Public Law 103–394) as subsection (i); and

(3) by inserting before subsection (i) (as redesignated) the following new subsection:

"(h) Notwithstanding sections 544, 545, 547, 548(a)(2)(B), and 548(b) of this title, the trustee may not avoid a transfer made by or to a master netting agreement participant under or in connection with any master netting agreement or any individual contract covered thereby that is made before the commencement of the case, and except to the extent the trustee could otherwise avoid such a transfer made under an individual contract covered by such master netting agreement, except under section 548(a)(1)(A) of this title.".

(f) Fraudulent Transfers of Master Netting Agreements.—Section 548(d)(2) of title 11, United States Code, is amended—

(1) in subparagraph (C), by striking "and";

(2) in subparagraph (D), by striking the period and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(E) a master netting agreement participant that receives a transfer in connection with a master netting agreement or any individual contract covered thereby takes for value to the extent of such transfer, except, with respect to a transfer under any individual contract covered thereby, to the extent such master netting agreement participant otherwise did not take (or is otherwise not deemed to have taken) such transfer for value.".

(g) Termination or Acceleration of Securities Contracts.—Section 555 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

"§555. Contractual right to liquidate, terminate, or accelerate a securities contract"; and

(2) in the first sentence, by striking "liquidation" and inserting "liquidation, termination, or acceleration".

(h) Termination or Acceleration of Commodities or Forward Contracts.—Section 556 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

"§556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract"; and

(2) in the first sentence, by striking "liquidation" and inserting "liquidation, termination, or acceleration".

(i) TERMINATION OR ACCELERATION OF REPURCHASE AGREEMENTS.—Section 559 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

"§559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement"; and

(2) in the first sentence, by striking "liquidation" and inserting "liquidation, termination, or acceleration".

(j) LIQUIDATION, TERMINATION, OR ACCELERATION OF SWAP AGREEMENTS.—Section 560 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

"§560. Contractual right to liquidate, terminate, or accelerate a swap agreement"; and

(2) in the first sentence, by striking "termination of a swap agreement" and inserting "liquidation, termination, or acceleration of a swap agreement"; and

(3) by striking "in connection with any swap agreement" and inserting "in connection with the termination, liquidation, or acceleration of a swap agreement".

(k) LIQUIDATION, TERMINATION, ACCELERATION, OR OFFSET UNDER A MASTER NETTING AGREEMENT AND ACROSS CONTRACTS.—Title 11, United States Code, is amended by inserting after section 560 the following new section:

"§561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts

"(a) IN GENERAL.—Subject to subsection (b), the exercise of any contractual right, because of a condition of the kind specified in section 365(e)(1), to cause the termination, liquidation, or acceleration of or to offset or net termination values, payment amounts or other transfer obligations arising under or in connection with 1 or more (or the termination, liquidation, or acceleration of 1 or more—

"(1) securities contracts, as defined in section 741(7);

"(2) commodity contracts, as defined in section 761(4);

"(3) forward contracts;

"(4) repurchase agreements;

"(5) swap agreements; or

"(6) master netting agreements,

shall not be stayed, avoided, or otherwise limited by operation of any provision of this title or by any order of a court or administrative agency in any proceeding under this title.

"(b) EXCEPTION.—

"(1) A party may exercise a contractual right described in subsection (a) to terminate, liquidate, or accelerate only to the extent that such party could exercise such a right under section 555, 556, 559, or 560 for each individual contract covered by the master netting agreement in issue.

"(2) If a debtor is a commodity broker subject to subchapter IV of chapter 7 of this title—

"(A) a party may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract against any claim arising under, or in connection with, other instruments, contracts, or agreements listed in subsection (a) except to the extent the party has no positive net equity in the commodity accounts at the debtor, as calculated under subchapter IV;

"(B) another commodity broker may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract entered into or held on behalf of a customer of the debtor against any claim arising under, or in connection with, other instruments, contracts, or agreements listed in subsection (a).

"(c) DEFINITION.—As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a national securities exchange, a national securities association, or a securities clearing agency, a right set forth in a bylaw of a clearing organization or contract market or in a resolution of the governing board thereof, and a right, whether or not evidenced in writing, arising under common law, under law merchant, or by reason of normal business practice.".

(l) MUNICIPAL BANKRUPTCIES.—Section 901 of title 11, United States Code, is amended—

(1) by inserting ", 555, 556" after "553"; and

(2) by inserting ", 559, 560, 561," after "557".

(m) ANCILLARY PROCEEDINGS.—Section 304 of title 11, United States Code, is amended by adding at the end the following:

"(d) Any provisions of this title relating to securities contracts, commodity contracts, forward contracts, repurchase agreements, swap agreements, or master netting agreements shall apply in a case ancillary to a foreign proceeding under this section or any other section of this title, so that enforcement of contractual provisions of such contracts and agreements in accordance with their terms will not be stayed or otherwise limited by operation of any provision of this title or by order of a court in any case under this title, and to limit avoidance powers to the same extent as in a proceeding under chapter 7 or 11 of this title (such enforcement not to be limited based on the presence or absence of assets of the debtor in the United States).".

(n) COMMODITY BROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 766 the following:

"§767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, securities clearing agencies, swap participants, repo participants, and master netting agreement participants

"Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, securities clearing agency, swap participant, repo participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.".

(o) STOCKBROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 752 the following:

"§753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, securities clearing agencies, swap participants, repo participants, and master netting agreement participants

"Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, securities clearing agency, swap participant, repo participant, financial participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.".

(p) SETOFF.—Section 553 of title 11, United States Code, is amended—

(1) in subsection (a)(3)(C), by inserting "(except for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(19), 555, 556, 559, or 560 of this title)" before the period; and

(2) in subsection (b)(1), by striking "362(b)(14)," and inserting "362(b)(17), 362(b)(19), 555, 556, 559, 560,".

(q) SECURITIES CONTRACTS, COMMODITY CONTRACTS, AND FORWARD CONTRACTS.—Title 11, United States Code, is amended—

(1) in section 362(b)(6), by striking "financial institutions," each place such term appears and inserting "financial institution, financial participant";

(2) in section 546(e), by inserting "financial participant" after "financial institution,";

(3) in section 548(d)(2)(B), by inserting "financial participant" after "financial institution,";

(4) in section 555—

(A) by inserting "financial participant" after "financial institution,"; and

(B) by inserting before the period ", a right set forth in a bylaw of a clearing organization or contract market or in a resolution of the governing board thereof, and a right, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice"; and

(5) in section 556, by inserting ", financial participant" after "commodity broker".

(r) CONFORMING AMENDMENTS.—Title 11 of the United States Code is amended—

(1) in the table of sections of chapter 5—

(A) by amending the items relating to sections 555 and 556 to read as follows:

"555. Contractual right to liquidate, terminate, or accelerate a securities contract.
"556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract."; and

(B) by amending the items relating to sections 555 and 556 to read as follows:

"559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement.
"560. Contractual right to liquidate, terminate, or accelerate a swap agreement."; and

(2) in the table of sections of chapter 7—

(A) by inserting after the item relating to section 766 the following:

"767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, securities clearing agencies, swap participants, repo participants, and master netting agreement participants."; and

(B) by inserting after the item relating to section 752 the following:

"753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.".

SEC. 1008. RECORDKEEPING REQUIREMENTS.

Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended by adding at the end the following new subparagraph:

"(H) RECORDKEEPING REQUIREMENTS.—The Corporation, in consultation with the appropriate Federal banking agencies, may prescribe regulations requiring more detailed recordkeeping with respect to qualified financial contracts (including market valuations) by insured depository institutions.".

SEC. 1009. EXEMPTIONS FROM CONTEMPORANEOUS EXECUTION —REQUIREMENT.

Section 13(e)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)(2)) is amended to read as follows:

"(2) EXEMPTIONS FROM CONTEMPORANEOUS EXECUTION REQUIREMENT.—An agreement to provide for the lawful collateralization of—

"(A) deposits of, or other credit extension by, a Federal, State, or local governmental entity, or of any depositor referred to in section 11(a)(2), including an agreement to provide collateral in lieu of a surety bond;

"(B) bankruptcy estate funds pursuant to section 345(b)(2) of title 11, United States Code;

"(C) extensions of credit, including any overdraft, from a Federal reserve bank or Federal home loan bank; or

"(D) 1 or more qualified financial contracts, as defined in section 11(e)(8)(D),

shall not be deemed invalid pursuant to paragraph (1)(B) solely because such agreement was not executed contemporaneously with the acquisition of the collateral or because of pledges, delivery, or substitution of the collateral made in accordance with such agreement.".

SEC. 1010. DAMAGE MEASURE.

(a) Title 11, United States Code, is amended—

(1) by inserting after section 561 the following:

"§562. Damage measure in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, or master netting agreements

"If the trustee rejects a swap agreement, securities contract as defined in section 741 of this title, forward contract, commodity contract (as defined in section 761 of this title) repurchase agreement, or master netting agreement pursuant to section 365(a) of this title, or if a forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant liquidates, terminates, or accelerates such contract or agreement, damages shall be measured as of the earlier of—

"(1) the date of such rejection; or

"(2) the date of such liquidation, termination, or acceleration."; and

(2) in the table of sections of chapter 5 by inserting after the item relating to section 561 the following:

"562. Damage measure in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, or master netting agreements.".

(b) CLAIMS ARISING FROM REJECTION.—Section 502(g) of title 11, United States Code, is amended—

(1) by designating the existing text as paragraph (1); and

(2) by adding at the end the following:

"(2) A claim for damages calculated in accordance with section 561 of this title shall be allowed under subsection (a), (b), or (c), or disallowed under subsection (d) or (e), as if such claim had arisen before the date of the filing of the petition.".

SEC. 1011. SIPC STAY.

Section 5(b)(2) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78eee(b)(2)) is amended by adding after subparagraph (B) the following new subparagraph:

"(C) EXCEPTION FROM STAY.—

"(i) Notwithstanding section 362 of title 11, United States Code, neither the filing of an application under subsection (a)(3) nor any order or decree obtained by Securities Investor Protection Corporation from the court shall operate as a stay of any contractual rights of a creditor to liquidate, terminate, or accelerate a securities contract, commodity contract, forward contract, repurchase agreement, swap agreement, or master netting agreement, each as defined in title 11, to offset or net termination values, payment amounts, or other transfer obligations arising under or in connection with 1 or more of such contracts or agreements, or to foreclose on any cash collateral pledged by the debtor whether or not with respect to 1 or more of such contracts or agreements.

"(ii) Notwithstanding clause (i), such application, order, or decree may operate as a stay of the foreclosure on securities collateral pledged by the debtor, whether or not with respect to 1 or more of such contracts or agreements, securities sold by the debtor under a repurchase agreement or securities lent under a securities lending agreement.

"(iii) As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a national securities exchange, a national securities association, or a securities clearing agency, a right set forth in a bylaw of a clearing organization or contract market or in a resolution of the governing board thereof, and a right, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice.".

SEC. 1012. ASSET-BACKED SECURITIZATIONS.

Section 541 of title 11, United States Code, is amended—

(1) in subsection (b), by striking "or" at the end of paragraph (4);

(2) by redesignating paragraph (5) of subsection (b) as paragraph (6);

(3) by inserting after paragraph (4) of subsection (b) the following new paragraph:

"(5) any eligible asset (or proceeds thereof), to the extent that such eligible asset was transferred by the debtor, before the date of commencement of the case, to an eligible entity in connection with an asset-backed securitization, except to the extent such asset (or proceeds or value thereof) may be recovered by the trustee under section 550 by virtue of avoidance under section 548(a); or"; and

(4) by adding at the end the following new subsection:

"(e) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) ASSET-BACKED SECURITIZATION.—The term 'asset-backed securitization' means a transaction in which eligible assets transferred to an eligible entity are used as the source of payment on securities, the most senior of which are rated investment grade by 1 or more nationally recognized securities rating organizations, issued by an issuer;

"(2) ELIGIBLE ASSET.—The term 'eligible asset' means—

"(A) financial assets (including interests therein and proceeds thereof), either fixed or revolving, including residential and commercial mortgage loans, consumer receivables, trade receivables, and lease receivables, that, by their terms, convert into cash within a finite time period, plus any rights or other assets designed to assure the servicing or timely distribution of proceeds to security holders;

"(B) cash; and

"(C) securities.

"(3) ELIGIBLE ENTITY.—The term 'eligible entity' means—

"(A) an issuer; or

"(B) a trust, corporation, partnership, or other entity engaged exclusively in the business of acquiring and transferring eligible assets directly or indirectly to an issuer and taking actions ancillary thereto;

"(4) ISSUER.—The term 'issuer' means a trust, corporation, partnership, or other entity engaged exclusively in the business of acquiring and holding eligible assets, issuing securities backed by eligible assets, and taking actions ancillary thereto.

"(5) TRANSFERRED.—The term 'transferred' means the debtor, pursuant to a written agreement, represented and warranted that eligible assets were sold, contributed, or otherwise conveyed with the intention of removing them from the estate of the debtor pursuant to subsection (b)(5), irrespective, without limitation of—

"(A) whether the debtor directly or indirectly obtained or held an interest in the issuer or in any securities issued by the issuer;

"(B) whether the debtor had an obligation to repurchase or to service or supervise the servicing of all or any portion of such eligible assets; or

"(C) the characterization of such sale, contribution, or other conveyance for tax, accounting, regulatory reporting, or other purposes.".

SEC. 1013. FEDERAL RESERVE COLLATERAL REQUIREMENTS.

The 2d sentence of the 2d undesignated paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 412) is amended by striking "acceptances acquired under section 13 of this Act" and inserting "acceptances acquired under section 10A, 10B, 13, or 13A of this Act".

SEC. 1014. SEVERABILITY; EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) SEVERABILITY.—If any provision of this Act or any amendment made by this Act, or the application of any such provision or amendment to any person or circumstance, is held to be unconstitutional, the remaining provisions of and amendments made by this Act and the application of such other provisions and amendments to any person or circumstance shall not be affected thereby.

(b) EFFECTIVE DATE.—This Act shall take effect on the date of the enactment of this Act.

(c) APPLICATION OF AMENDMENTS.—The amendments made by this Act shall apply with respect to cases commenced or appointments made under any Federal or State law after the date of enactment of this Act, but shall not apply with respect to cases commenced or appointments made under any Federal or State law before the date of enactment of this Act.

TITLE XI—TECHNICAL CORRECTIONS

SEC. 1101. DEFINITIONS.

Section 101 of title 11, United States Code, as amended by section 317, is amended—

(1) by striking "In this title—" and inserting "In this title:";

(2) in each paragraph, by inserting "The term" after the paragraph designation;

(3) in paragraph (35)(B), by striking "paragraphs (21B) and (33)(A)" and inserting "paragraphs (23) and (35)";

(4) in each of paragraphs (35A) and (38), by striking "; and" at the end and inserting a period;

(5) in paragraph (51B)—

(A) by inserting "who is not a family farmer" after "debtor" the first place it appears; and

(B) by striking "thereto having aggregate" and all that follows through the end of the paragraph;

(6) by amending paragraph (54) to read as follows:

"(54) The term 'transfer' means—

"(A) the creation of a lien;

"(B) the retention of title as a security interest;

"(C) the foreclosure of a debtor's equity of redemption; or

"(D) each mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with—

"(i) property; or

"(ii) an interest in property;";

(7) in each of paragraphs (1) through (35), in each of paragraphs (36) and (37), and in each of paragraphs (40) through (55) (including paragraph (54), as amended by paragraph (6) of this section), by striking the semicolon at the end and inserting a period; and

(8) by redesignating paragraphs (4) through (55), including paragraph (54), as amended by paragraph (6) of this section, in entirely numerical sequence.

SEC. 1102. ADJUSTMENT OF DOLLAR AMOUNTS.

Section 104 of title 11, United States Code, is amended by inserting "522(f)(3), 707(b)(5)," after "522(d)," each place it appears.

SEC. 1103. EXTENSION OF TIME.

Section 108(c)(2) of title 11, United States Code, is amended by striking "922" and all that follows through "or", and inserting "922, 1201, or".

SEC. 1104. TECHNICAL AMENDMENTS.

Title 11 of the United States Code is amended—

(1) in section 109(b)(2) by striking "subsection (c) or (d) of";

(2) in section 541(b)(4) by adding "or" at the end; and

(3) in section 552(b)(1) by striking "product" each place it appears and inserting "products".

SEC. 1105. PENALTY FOR PERSONS WHO NEGLIGENTLY OR FRAUDULENTLY PREPARE BANKRUPTCY PETITIONS.

Section 110(j)(3) of title 11, United States Code, is amended by striking "attorney's" and inserting "attorneys' ".

SEC. 1106. LIMITATION ON COMPENSATION OF PROFESSIONAL PERSONS.

Section 328(a) of title 11, United States Code, is amended by inserting "on a fixed or percentage fee basis," after "hourly basis,".

SEC. 1107. SPECIAL TAX PROVISIONS.

Section 346(g)(1)(C) of title 11, United States Code, is amended by striking ", except" and all that follows through "1986".

SEC. 1108. EFFECT OF CONVERSION.

Section 348(f)(2) of title 11, United States Code, is amended by inserting "of the estate" after "property" the first place it appears.

SEC. 1109. AMENDMENT TO TABLE OF SECTIONS.

The table of sections for chapter 5 of title 11, United States Code, is amended by striking the item relating to section 556 and inserting the following:

"556. Contractual right to liquidate a commodities contract or forward contract.".

SEC. 1110. ALLOWANCE OF ADMINISTRATIVE EXPENSES.

Section 503(b)(4) of title 11, United States Code, is amended by inserting "subparagraph (A), (B), (C), (D), or (E) of" before "paragraph (3)".

SEC. 1111. PRIORITIES.

Section 507(a) of title 11, United States Code, as amended by section 323, is amended—

(1) in paragraph (3)(B), by striking the semicolon at the end and inserting a period; and

(2) in paragraph (7), by inserting "unsecured" after "allowed".

SEC. 1112. EXEMPTIONS.

Section 522 of title 11, United States Code, as amended by section 320, is amended—

(1) in subsection (f)(1)(A)(ii)(II)—

(A) by striking "includes a liability designated as" and inserting "is for a liability that is designated as, and is actually in the nature of,"; and

(B) by striking ", unless" and all that follows through "support"; and

(2) in subsection (g)(2), by striking "subsection (f)(2)" and inserting "subsection (f)(1)(B)".

SEC. 1113. EXCEPTIONS TO DISCHARGE.

Section 523 of title 11, United States Code, is amended—

(1) in subsection (a)(3), by striking "or (6)" each place it appears and inserting "(6), or (15)";

(2) as amended by section 304(e) of Public Law 103–394 (108 Stat. 4133), in paragraph (15), by transferring such paragraph so as to insert it after paragraph (14) of subsection (a);

(3) in subsection (a)(9), by inserting ", watercraft, or aircraft" after "motor vehicle";

(4) in subsection (a)(15), as so redesignated by paragraph (2) of this subsection, by inserting "to a spouse, former spouse, or child of the debtor and" after "(15)";

(5) in subsection (a)(17)—

(A) by striking "by a court" and inserting "on a prisoner by any court";

(B) by striking "section 1915 (b) or (f)" and inserting "subsection (b) or (f)(2) of section 1915"; and

(C) by inserting "(or a similar non-Federal law)" after "title 28" each place it appears; and

(6) in subsection (e), by striking "a insured" and inserting "an insured".

SEC. 1114. EFFECT OF DISCHARGE.

Section 524(a)(3) of title 11, United States Code, is amended by striking "section 523" and all that follows through "or that" and inserting "section 523, 1228(a)(1), or 1328(a)(1) of this title, or that".

SEC. 1115. PROTECTION AGAINST DISCRIMINATORY TREATMENT.

Section 525(c) of title 11, United States Code, is amended—

(1) in paragraph (1), by inserting "student" before "grant" the second place it appears; and

(2) in paragraph (2), by striking "the program operated under part B, D, or E of" and inserting "any program operated under".

SEC. 1116. PROPERTY OF THE ESTATE.

Section 541(b)(4)(B)(ii) of title 11, United States Code, is amended by inserting "365 or" before "542".

SEC. 1117. PREFERENCES.

Section 547 of title 11, United States Code, is amended—

(1) in subsection (b), by striking "subsection (c)" and inserting "subsections (c) and (h)"; and

(2) by adding at the end the following:

"(h) If the trustee avoids under subsection (b) a security interest given between 90 days and 1 year before the date of the filing of the petition, by the debtor to an entity that is not an insider for the benefit of a creditor that is an insider, such security interest shall be considered to be avoided under this section only with respect to the creditor that is an insider.".

SEC. 1118. POSTPETITION TRANSACTIONS.

Section 549(c) of title 11, United States Code, is amended—

(1) by inserting "an interest in" after "transfer of";

(2) by striking "such property" and inserting "such real property"; and

(3) by striking "the interest" and inserting "such interest".

SEC. 1119. DISPOSITION OF PROPERTY OF THE ESTATE.

Section 726(b) of title 11, United States Code, is amended by striking "1009,".

SEC. 1120. GENERAL PROVISIONS.

Section 901(a) of title 11, United States Code, as amended by section 408, is amended by inserting "1123(d)," after "1123(b),".

SEC. 1121. APPOINTMENT OF ELECTED TRUSTEE.

Section 1104(b) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following:

"(2)(A) If an eligible, disinterested trustee is elected at a meeting of creditors under paragraph (1), the United States trustee shall file a report certifying that election. Upon the filing of a report under the preceding sentence—

"(i) the trustee elected under paragraph (1) shall be considered to have been selected and appointed for purposes of this section; and

"(ii) the service of any trustee appointed under subsection (d) shall terminate.

"(B) In the case of any dispute arising out of an election under subparagraph (A), the court shall resolve the dispute.".

SEC. 1122. ABANDONMENT OF RAILROAD LINE.

Section 1170(e)(1) of title 11, United States Code, is amended by striking "section 11347" and inserting "section 11326(a)".

SEC. 1123. CONTENTS OF PLAN.

Section 1172(c)(1) of title 11, United States Code, is amended by striking "section 11347" and inserting "section 11326(a)".

SEC. 1124. DISCHARGE UNDER CHAPTER 12.

Subsections (a) and (c) of section 1228 of title 11, United States Code, are amended by striking "1222(b)(10)" each place it appears and inserting "1222(b)(9)".

SEC. 1125. BANKRUPTCY CASES AND PROCEEDINGS.

Section 1334(d) of title 28, United States Code, is amended—

(1) by striking "made under this subsection" and inserting "made under subsection (c)"; and

(2) by striking "This subsection" and inserting "Subsection (c) and this subsection".

SEC. 1126. KNOWING DISREGARD OF BANKRUPTCY LAW OR RULE.

Section 156(a) of title 18, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by inserting "(1) the term" before " 'bankruptcy"; and

(B) by striking the period at the end and inserting "; and"; and

(2) in the second undesignated paragraph—

(A) by inserting "(2) the term" before " 'document"; and

(B) by striking "this title" and inserting "title 11".

SEC. 1127. TRANSFERS MADE BY NONPROFIT CHARITABLE CORPORATIONS.

(a) SALE OF PROPERTY OF ESTATE.—Section 363(d) of title 11, United States Code, is amended—

(1) by striking "only" and all that follows through the end of the subsection and inserting "only—

"(1) in accordance with applicable nonbankruptcy law that governs the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust; and

"(2) to the extent not inconsistent with any relief granted under subsection (c), (d), (e), or (f) of section 362 of this title.".

(b) CONFIRMATION OF PLAN FOR REORGANIZATION.—Section 1129(a) of title 11, United States Code, as amended by section 143, is amended by adding at the end the following:

"(15) All transfers of property of the plan shall be made in accordance with any applicable provisions of nonbankruptcy law that govern the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust.".

(c) TRANSFER OF PROPERTY.—Section 541 of title 11, United States Code, is amended by adding at the end the following:

"(e) Notwithstanding any other provision of this title, property that is held by a debtor that is a corporation described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code may be transferred to an entity that is not such a corporation, but only under the same conditions as would apply if the debtor had not filed a case under this title.".

(d) APPLICABILITY.—The amendments made by this section shall apply to a case pending under title 11, United States Code, on the date of enactment of this Act, except that the court shall not confirm a plan under chapter 11 of this title without considering whether this section would substantially affect the rights of a party in interest who first acquired rights with respect to the debtor after the date of the petition. The parties who may appear and be heard in a proceeding under this section include the attorney *general of the State in which the debtor is incorporated, was formed, or does business.*

(e) RULE OF CONSTRUCTION.—Nothing in this section shall be deemed to require the court in which a case under chapter 11 is pending to remand or refer any proceeding, issue, or controversy to any other court or to require the approval of any other court for the transfer of property.

SEC. 1128. PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.

Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end the following:

"(h) PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.—A creditor of an account under an open end consumer credit plan may not terminate an account prior to its expiration date solely because the consumer has not incurred finance charges on the account. Nothing in this subsection shall prohibit a creditor from terminating an account for inactivity in 3 or more consecutive months.".

SEC. 1129. PROTECTION OF VALID PURCHASE MONEY SECURITY INTERESTS.

Section 547(c)(3)(B) of title 11, United States Code, is amended by striking "20" and inserting "30".

SEC. 1130. TRUSTEES.

(a) SUSPENSION AND TERMINATION OF PANEL TRUSTEES AND STANDING TRUSTEES.—Section 586(d) of title 28, United States Code, is amended—

(1) by inserting "(1)" after "(d)"; and

(2) by adding at the end the following:

"(2) A trustee whose appointment under subsection (a)(1) or under subsection (b) is terminated or who ceases to be assigned to cases filed under title 11 of the United States Code may obtain judicial review of the final agency decision by commencing an action in the United States district court for the district for which the panel to which the trustee is appointed under subsection (a)(1), or in the United States district court for the district in which the trustee is appointed under subsection (b) resides, after first exhausting all available administrative remedies, which if the trustee so elects, shall also include an administrative hearing on the record. Unless the trustee elects to have an administrative hearing on the record, the trustee shall be deemed to have exhausted all administrative remedies for purposes of this paragraph if the agency fails to make a final agency decision within 90 days after the trustee requests administrative remedies. The Attorney General shall prescribe procedures to implement this paragraph. The decision of the agency shall be affirmed by the district court unless it is unreasonable and without cause based on the administrative record before the agency.".

(b) EXPENSES OF STANDING TRUSTEES.—Section 586(e) of title 28, United States Code, is amended by adding at the end the following:

"(3) After first exhausting all available administrative remedies, an individual appointed under subsection (b) may obtain judicial review of final agency action to deny a claim of actual, necessary expenses under this subsection by commencing an action in the United States district court in the district where the individual resides. The decision of the agency shall be affirmed by the district court unless it is unreasonable or without cause based upon the administrative record before the agency.

"(4) The Attorney General shall prescribe procedures to implement this subsection.".

TITLE XII—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

SEC. 1201. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided otherwise in this Act, this Act and the amendments made by this Act shall take effect 180 days after the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this Act shall not apply with respect to cases commenced under title 11 of the United States Code before the effective date of this Act.

And the Senate agree to the same.

From the Committee on the Judiciary, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

HENRY HYDE,
BILL MCCOLLUM,
GEORGE W. GEKAS,
BOB GOODLATTE,
ED BRYANT,
STEVE CHABOT,
RICK BOUCHER,
Managers on the Part of the House.

ORRIN G. HATCH,
CHUCK GRASSLEY,
JEFF SESSIONS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3150), to amend title 11 of the United States Code, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

Differences between the House and Senate bills on several primary issues were the focus of discussions at the Conference.

MEANS TESTING

The House version contained a pre-filing formula to steer debtors with repayment capacity into Chapter 13 repayment plans. The Senate bill directed bankruptcy judges to consider the repayment capacity of debtors who had filed in Chapter 7 bankruptcy to determine whether they were appropriately filed. The compromise combines the best aspects of both approaches. It adopts the procedural approach of the Senate bill directing bankruptcy judges to consider repayment capacity, while instructing that such repayment capacity shall be presumed by the judge if the individual meets certain bright-line standards for measuring such repayment capacity. This approach preserves the right of a debtor in bankruptcy to have a judge review his or her individual case so that the debtor's unique circumstances could be taken into account.

NON-DISCHARGEABILITY

The House bill contained a provision that any debts incurred within 90 days of declaring bankruptcy, other than reasonably necessary living expenses not exceeding $250, were presumed to be nondischargeable. The House bill capped necessary living expenses at $250. The Senate bill contained a provision that debts other than reasonably necessary living expenses incurred within 90 days of declaring bankruptcy were presumed non-dischargeable. The Senate bill exempted all expenses, whether reasonable or not, up to $400. The Conferees reached a compromise between these provisions that new debts incurred within 90 days of bankruptcy for luxury goods over $250 in value would be presumed non-dischargeable. The compromise provides no limitation for reasonably necessary living expenses.

In addition, the House bill contained a provision that any debt incurred to pay non-dischargeable debt is also non-dischargeable. Under the Senate bill, debts incurred to pay non-dischargeable debts were only non-dischargeable if the debtor intended to discharge the newly created debt in bankruptcy. Under the Committee compromise, only debts incurred within 90 days prior to filing for bankruptcy to pay non-dischargeable debts are non-dischargeable, however, debts incurred prior to 90 days prior to filing for bankruptcy to pay nondischargeable debts are nondischargeable only if the debtor intended to discharge the newly created debt in bankruptcy.

ENHANCED DISCLOSURES AND CREDITOR PENALTIES

The House bill contained disclosure requirements for debtor lawyers who advertise debt relief services to ensure that unwary consumers were not lured into bankruptcy without being fully aware of their alternatives. The Senate bill contained provisions which required certain lenders to make disclosures, regarding minimum monthly payments, total costs, among others. The House bill contained no such provisions on enhanced consumer disclosures for credit extensions. The Conferees agreed to retain the disclosure provisions for debtor attorneys and to direct the Board of Governors of the Federal Reserve to develop appropriate and meaningful additional disclosure requirements for the use of consumers. In addition, several of the Senate bill provisions which assessed stiff fines on creditors who used abusive collection techniques, were adopted in the final Conference Report. The Conference Report also specifies that the new penalties will not give rise to class action liability.

REAFFIRMATIONS

The House bill contained no comparable provision to the Senate bill, which imposed a requirement for a hearing before a judge for certain types of reaffirmations by debtors. The Conference Committee streamlined these judicial procedures by ensuring that every debtor who reaffirms unsecured debt has the opportunity to appear before a judge. Under the compromise an enhanced standard is provided for the review of certain reaffirmation agreements. The judge is now required to determine that the reaffirmation was in the best interest of the debtor, would not impose an undue hardship, and was not the result of coercion.

CRAMDOWNS

The House bill prohibited cramdowns for certain secured debts incurred within 180 days prior to bankruptcy. The Senate bill contained an absolute prohibition on cramdowns in Chapter 13 cases. The Committee compromised by prohibiting cramdowns on debts securing personal property incurred within five years of filing for bankruptcy.

HOMESTEAD EXEMPTION

The House version of the homestead exemption required a one-year residency prior to being able to claim the homestead exemption. The Senate versions capped all homestead exemptions at $100,000. The Committee compromise imposes a two-year residency requirement before a debtor can claim the homestead exemption available in a particular state.

Other differences between the bills that were resolved by the Committee of Conference are apparent from a comparison of the two bills.

CURBING ABUSIVE FILINGS

The conferees have added a new paragraph to section 707(b) to make clear that, among the considerations in applying the "totality of the circumstances" test for "abuse" is whether an individual debtor seeks to reject a personal services contract and the financial need for such rejection as sought by the debtor. This is intended to remedy problems brought to the attention of Congress involving bankruptcy filings that were motivated in material part in order to reject executory contracts for personal services so that the debtor could negotiate a new and better contract with a different company. This problem was initially addressed in Section 212 of H.R. 3150, and the solution contained in that provision was targeted at this particular form of abuse of the bankruptcy process. With the new standard for "abuse" in Section 707(b)(2)(C), the conferees have determined that the specific provisions of Section 212 are no longer necessary, as the bankruptcy court will not have the authority to identify and remedy such abuses. The conferees intend that, under the "totality of the circumstances" test, an "abuse" of Chapter 7 exists when rejection of the personal services contract was a material reason for commencing the bankruptcy case, and economic rehabilitation of the debtor's finances can be achieved absent rejection of the contract. The conferees also intend that application of the existing judicially-determined "bad faith" standard now be used in these circumstances in Chapter 7 cases and in Chapter 11 and Chapter 13 cases, in which the debtor or debtors are parties to a single personal services contract.

From the Committee on the Judiciary, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

HENRY HYDE,
BILL MCCOLLUM,
GEORGE W. GEKAS,
BOB GOODLATTE,
ED BRYANT,
STEVE CHABOT,
RICK BOUCHER,
Managers on the Part of the House.

ORRIN G. HATCH,
CHUCK GRASSLEY,
JEFF SESSIONS,
Managers on the Part of the Senate.

LIMITATION ON CLOSELY RELATED PERSONS SERVING AS FEDERAL JUDGES ON THE SAME COURT

Mr. COBLE. Madam Speaker, I move to suspend the rules and pass the Senate bill (S. 1892) to provide that a person closely related to a judge of a court exercising judicial power under article III of the United States Constitution (other than the Supreme Court) may not be appointed as a judge of the same court, and for other purposes, as amended.

The Clerk read as follows:

S. 1892

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIMITATION ON CLOSELY RELATED PERSONS SERVING AS FEDERAL JUDGES ON THE SAME COURT.

(a) IN GENERAL.—Section 458 of title 28, United States Code, is amended—

(1) by inserting "(a)(1)" before "No person"; and

(2) by adding at the end the following:

"(2) With respect to the appointment of a judge of a court exercising judicial power under article III of the United States Constitution (other than the Supreme Court), subsection (b) shall apply in lieu of this subsection.

"(b)(1) In this subsection, the term—

"(A) 'same court' means—

"(i) in the case of a district court, the court of a single judicial district; and

"(ii) in the case of a court of appeals, the court of appeals of a single circuit; and

"(B) 'member'—

"(i) means an active judge or a judge retired in senior status under section 371(b); and

"(ii) shall not include a retired judge, except as described under clause (i).

"(2) No person may be appointed to the position of judge of a court exercising judicial power under article III of the United States Constitution (other than the Supreme Court) who is related by affinity or consanguinity within the degree of first cousin to any judge who is a member of the same court.".

(b) EFFECTIVE DATE.—This Act shall take effect on the date of enactment of this Act and shall apply only to any individual whose nomination is submitted to the Senate on or after such date.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from North Carolina (Mr. COBLE) and the gentlewoman from Texas (Ms. JACKSON-LEE) each will control 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. COBLE).

GENERAL LEAVE

Mr. COBLE. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. COBLE. Madam Speaker, I yield myself such time as I may consume.

I rise in support of S. 1892, a bill to provide that a person closely related to a judge of Federal court may not be appointed as a judge of the same court. The integrity of our Federal court system is a paramount concern for this Congress, and this bill further insures that a citizen litigant will know that an individual appointed to the bench was done so out of merit and not out of nepotism.

This bill has no known opposition to me and was passed by the Senate unanimously by voice vote. The Senate version we consider today is virtually identical to the House version introduced by the gentlewoman from Washington (Ms. DUNN). I want to commend her on her interest, leadership and diligence in bringing this bill to the floor, and I urge my colleagues to support this legislation.

Madam Speaker, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Madam Speaker, I rise today to express my qualified objection to H.R. 3926, S. 1892, another unnecessary piece of legislation that I wish we were not considering at any time, and I understand that this bill is supported by those who decided to extract a change in Federal court procedure in exchange for supporting the nomination of one Federal court candidate, an able one I might add.

I will not call for a vote on this bill, but I do not support it. Rather my silence in not calling for a vote nor objecting more than this statement is my understanding from my years here that sometimes to get something done around here we have to do something we do not like.

Obviously I respect the nominees for this very important bench and understand the circumstances that we face. There have been judicial candidates whose nominations have been pending before the Senate for far too long. I have said over and over again, as a member of the House Committee on the Judiciary, that we should stop the logjam and pay respect to the President of the United States in respecting the nominees who are long qualified but short on approval from the United States Senate. It is inappropriate as a matter of public policy and politics to hold up nominees because a clock is running out or because they are not affiliated with the right party. I do not approve of that, but it is a fact, and it is happening.

As an opportunity to help break a logjam over one candidate, we are being asked to change the rules, the immediate effect of which would be nil. Although this bill was directed at the situation of a mother and son sitting on the Ninth Circuit together, if enacted, this bill would not even apply to that situation. So it is a solution in search of a problem.

As I say, I do not think this is a good idea. I am glad, however, for the nominees' progress in moving through the process. I am glad this legislation was not around when I learned when the learned hands brother was appointed to the Southern District of New York or when President Bush appointed Morris Arnold to join his brother, Richard, on the Sixth Circuit.

But the legislation is before us now. It is the price we are being asked to pay for a good candidates's nomination to go forward. So let us get on with it, but, as we get on with it, let us get on with it in the Senate to approve many others who are standing by waiting to be approved to be able to serve their Nation.

Madam Speaker, I thank the chairman in any event for his good works on this matter albeit that I disagree with it, and I do believe that we will solve the problem for the gentleman tomorrow.

I rise today to express my qualified objection to H.R. 3926, another unnecessary piece of legislation that I wish we were not considering at any time. I understand that this bill is supported by those who have decided to extract a change in Federal court procedure in exchange for supporting the nomination of one Federal court candidate. I will not call for a vote on this bill, but I do not support it. Rather, my silence in not calling for a vote, nor objecting more than this statement, is my understanding from my years here that sometimes to get something done around here, you have to do something you don't like.

There have been judicial candidates whose nominations have been pending before the Senate for far too long. It is inappropriate as a matter of public policy, and politics, to hold up nominees because the clock is running out, or because they are not affiliated with the right party. I don't approve of that. But it is a fact. It is happening.

As an opportunity to help break a log jam over one candidate, we are being asked to change the rules on consanguinity, the immediate effect of which would be nil. Although this bill was directed at the situation of a mother and son sitting on the ninth circuit together, if enacted this bill wouldn't even apply to that situation. So, it's a solution in search of a problem. As I say, I don't think this is a good idea. I'm glad this legislation wasn't around when learned Hand's brother was appointed to the Southern District of New York, or when President Bush appointed Morris Arnold to join his brother Richard on the sixth circuit.

But the legislation is before us. It is the price we are being asked to pay for a good candidate's nomination to go forward. Let's get on with it.

Madam Speaker, I reserve the balance of my time.

Mr. COBLE. Madam Speaker, I yield myself such time as I may consume.

Ms. DUNN. Madam Speaker, today I rise in support of this legislation which will preserve the institutional integrity of the federal court system. This bill will clarify the 1922 anti-nepotism law, which prohibits the employment in any court of individuals who are related within the degree of first cousin.

Currently, there is disagreement about whether this anti-nepotism law applies simply to employees or to the judges themselves.

I believe that the law must apply to both employees and the judges if courts are to remain unbiased. It is the duty of Congress to ensure that the credibility of our judicial branch is not compromised. This is why I am supporting the Judicial Anti-Nepotism Act. This legislation clarifies the intent of the original 1922 law to preclude the appointment of a judge to a court if that person is related with the degree of first cousin to any judge to that same court.

If the law were not to apply to the familial relationship of judges close family members would be able to serve concurrently on the same court, causing litigants to whose confidence in system clearly designed to be objective and impartial. We simply cannot afford to let this happen. We must assure that federal judges are independent from any outside influence in order the their decisions to be completely just and based only on the laws and facts of the cases.

When going to trial over serious, life changing issues, a litigant must be assured of the right to be treated fairly. When a judge sits in the position to over-turn the decision of another judge who is a close relative sitting on a panel of judges, the litigant clearly is going to question the impartiality and fairness of the final court decision. Preventing close family members from serving on the same court is a small price to pay to avoid the appearance of a loss of credibility of our court system.

This bill passed unanimously out of the Senate yesterday. I encourage my colleagues to support this bill and help uphold the just character and composition of one of our most revered institutions. I want to thank Chairman COBLE for allowing the expeditious consideration of this measure and urge my colleagues to support its passage.

□ 2230

Mr. COBLE. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. WILSON). The question is on the motion offered by the gentleman from Arizona (Mr. COBLE) that the House suspend the rules and pass the Senate bill, S. 1892, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ANNOUNCEMENT OF BILLS TO BE CONSIDERED UNDER SUSPENSION OF THE RULES ON THURSDAY, OCTOBER 8, 1998

Mr. McCOLLUM. Madam Speaker, pursuant to H. Res. 575, I announce the following suspensions to be considered tomorrow:

H. Con. Res. 335, H1-B Technical Corrections;

H. Con. Res. 334, Taiwan World Health Organization; and H. Con. Res. 302, Recognizing the Importance of Children and Families.

CRIME IDENTIFICATION TECHNOLOGY ACT OF 1998

Mr. McCOLLUM. Madam Speaker, I move to suspend the rules and pass the Senate bill (S. 2022) to provide for the improvement of interstate criminal justice identification, information, communications, and forensics, as amended.

The Clerk read as follows:

S. 2022

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Table of contents.

TITLE I—CRIME IDENTIFICATION TECHNOLOGY ACT OF 1998

Sec. 101. Short title.
Sec. 102. State grant program for criminal justice identification, information, and communication.

TITLE II—NATIONAL CRIMINAL HISTORY ACCESS AND CHILD PROTECTION ACT

Sec. 201. Short title.

Subtitle A—Exchange of Criminal History Records for Noncriminal Justice Purposes

Sec. 211. Short title.
Sec. 212. Findings.
Sec. 213. Definitions.
Sec. 214. Enactment and consent of the United States.
Sec. 215. Effect on other laws.
Sec. 216. Enforcement and implementation.
Sec. 217. National Crime Prevention and Privacy Compact.

OVERVIEW

ARTICLE I—DEFINITIONS

ARTICLE II—PURPOSES

ARTICLE III—RESPONSIBILITIES OF COMPACT PARTIES

ARTICLE IV—AUTHORIZED RECORD DISCLOSURES

ARTICLE V—RECORD REQUEST PROCEDURES

ARTICLE VI—ESTABLISHMENT OF COMPACT COUNCIL

ARTICLE VII—RATIFICATION OF COMPACT

ARTICLE VIII—MISCELLANEOUS PROVISIONS

ARTICLE IX—RENUNCIATION

ARTICLE X—SEVERABILITY

ARTICLE XI—ADJUDICATION OF DISPUTES

Subtitle B—Volunteers for Children Act

Sec. 221. Short title.
Sec. 222. Facilitation of fingerprint checks.

TITLE I—CRIME IDENTIFICATION TECHNOLOGY ACT OF 1998

SEC. 101. SHORT TITLE.

This title may be cited as the "Crime Identification Technology Act of 1998".

SEC. 102. STATE GRANT PROGRAM FOR CRIMINAL JUSTICE IDENTIFICATION, INFORMATION, AND COMMUNICATION.

(a) IN GENERAL.—Subject to the availability of amounts provided in advance in appropriations Acts, the Office of Justice Programs relying principally on the expertise of the Bureau of Justice Statistics shall make a grant to each State, in a manner consistent with the national criminal history improvement program, which shall be used by the State, in conjunction with units of local government, State and local courts, other States, or combinations thereof, to establish or upgrade an integrated approach to develop information and identification technologies and systems to—

(1) upgrade criminal history and criminal justice record systems, including systems operated by law enforcement agencies and courts;

(2) improve criminal justice identification;

(3) promote compatibility and integration of national, State, and local systems for—

(A) criminal justice purposes;

(B) firearms eligibility determinations;

(C) identification of sexual offenders;

(D) identification of domestic violence offenders; and

(E) background checks for other authorized purposes unrelated to criminal justice; and

(4) capture information for statistical and research purposes to improve the administration of criminal justice.

(b) USE OF GRANT AMOUNTS.—Grants under this section may be used for programs to establish, develop, update, or upgrade—

(1) State centralized, automated, adult and juvenile criminal history record information systems, including arrest and disposition reporting;

(2) automated fingerprint identification systems that are compatible with standards

established by the National Institute of Standards and Technology and interoperable with the Integrated Automated Fingerprint Identification System (IAFIS) of the Federal Bureau of Investigation;

(3) finger imaging, live scan, and other automated systems to digitize fingerprints and to communicate prints in a manner that is compatible with standards established by the National Institute of Standards and Technology and interoperable with systems operated by States and by the Federal Bureau of Investigation;

(4) programs and systems to facilitate full participation in the Interstate Identification Index of the National Crime Information Center;

(5) systems to facilitate full participation in any compact relating to the Interstate Identification Index of the National Crime Information Center;

(6) systems to facilitate full participation in the national instant criminal background check system established under section 103(b) of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note) for firearms eligibility determinations;

(7) integrated criminal justice information systems to manage and communicate criminal justice information among law enforcement agencies, courts, prosecutors, and corrections agencies;

(8) noncriminal history record information systems relevant to firearms eligibility determinations for availability and accessibility to the national instant criminal background check system established under section 103(b) of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note);

(9) court-based criminal justice information systems that promote—

(A) reporting of dispositions to central State repositories and to the Federal Bureau of Investigation; and

(B) compatibility with, and integration of, court systems with other criminal justice information systems;

(10) ballistics identification and information programs that are compatible and integrated with the National Integrated Ballistics Network (NIBN);

(11) the capabilities of forensic science programs and medical examiner programs related to the administration of criminal justice, including programs leading to accreditation or certification of individuals or departments, agencies, or laboratories, and programs relating to the identification and analysis of deoxyribonucleic acid;

(12) sexual offender identification and registration systems;

(13) domestic violence offender identification and information systems;

(14) programs for fingerprint-supported background checks capability for noncriminal justice purposes, including youth service employees and volunteers and other individuals in positions of responsibility, if authorized by Federal or State law and administered by a government agency;

(15) criminal justice information systems with a capacity to provide statistical and research products including incident-based reporting systems that are compatible with the National Incident-Based Reporting System (NIBRS) and uniform crime reports; and

(16) multiagency, multijurisdictional communications systems among the States to share routine and emergency information among Federal, State, and local law enforcement agencies.

(c) Assurances.—

(1) In general.—To be eligible to receive a grant under this section, a State shall provide assurances to the Attorney General that the State has the capability to contribute pertinent information to the national instant criminal background check system established under section 103(b) of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note).

(2) Information sharing.—Such assurances shall include a provision that ensures that a statewide strategy for information sharing systems is underway, or will be initiated, to improve the functioning of the criminal justice system, with an emphasis on integration of all criminal justice components, law enforcement, courts, prosecution, corrections, and probation and parole. The strategy shall be prepared after consultation with State and local officials with emphasis on the recommendation of officials whose duty it is to oversee, plan, and implement integrated information technology systems, and shall contain—

(A) a definition and analysis of "integration" in the State and localities developing integrated information sharing systems;

(B) an assessment of the criminal justice resources being devoted to information technology;

(C) Federal, State, regional, and local information technology coordination requirements;

(D) an assurance that the individuals who developed the grant application took into consideration the needs of all branches of the State Government and specifically sought the advice of the chief of the highest court of the State with respect to the application;

(E) State and local resource needs;

(F) the establishment of statewide priorities for planning and implementation of information technology systems; and

(G) a plan for coordinating the programs funded under this title with other federally funded information technology programs, including directly funded local programs such the Local Law Enforcement Block Grant program (described under the heading 'Violent Crime Reduction Programs, State and Local Law Enforcement Assistance' of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (Public Law 105–119)) and the M.O.R.E. program established pursuant to part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968.

(d) Matching Funds.—The Federal share of a grant received under this title may not exceed 90 percent of the costs of a program or proposal funded under this title unless the Attorney General waives, wholly or in part, the requirements of this subsection.

(e) Authorization of Appropriations.—

(1) In general.—There is authorized to be appropriated to carry out this section $250,000,000 for each of fiscal years 1999 through 2003.

(2) Limitations.—Of the amount made available to carry out this section in any fiscal year—

(A) not more than 3 percent may be used by the Attorney General for salaries and administrative expenses;

(B) not more than 5 percent may be used for technical assistance, training and evaluations, and studies commissioned by Bureau of Justice Statistics of the Department of Justice (through discretionary grants or otherwise) in furtherance of the purposes of this section;

(C) not less than 20 percent shall be used by the Attorney General for the purposes described in paragraph (11) of subsection (b); and

(D) the Attorney General shall ensure the amounts are distributed on an equitable geographic basis.

(f) Grants to Indian Tribes.—Notwithstanding any other provision of this section, the Attorney General may use amounts made available under this section to make grants to Indian tribes for use in accordance with this section.

TITLE II—NATIONAL CRIMINAL HISTORY ACCESS AND CHILD PROTECTION ACT

SEC. 201. SHORT TITLE.

This title may be cited as the "National Criminal History Access and Child Protection Act".

Subtitle A—Exchange of Criminal History Records for Noncriminal Justice Purposes

SEC. 211. SHORT TITLE.

This subtitle may be cited as the "National Crime Prevention and Privacy Compact Act of 1998".

SEC. 212. FINDINGS.

Congress finds that—

(1) both the Federal Bureau of Investigation and State criminal history record repositories maintain fingerprint-based criminal history records;

(2) these criminal history records are shared and exchanged for criminal justice purposes through a Federal-State program known as the Interstate Identification Index System;

(3) although these records are also exchanged for legally authorized, noncriminal justice uses, such as governmental licensing and employment background checks, the purposes for and procedures by which they are exchanged vary widely from State to State;

(4) an interstate and Federal-State compact is necessary to facilitate authorized interstate criminal history record exchanges for noncriminal justice purposes on a uniform basis, while permitting each State to effectuate its own dissemination policy within its own borders; and

(5) such a compact will allow Federal and State records to be provided expeditiously to governmental and nongovernmental agencies that use such records in accordance with pertinent Federal and State law, while simultaneously enhancing the accuracy of the records and safeguarding the information contained therein from unauthorized disclosure or use.

SEC. 213. DEFINITIONS.

In this subtitle:

(1) Attorney general.—The term "Attorney General" means the Attorney General of the United States.

(2) Compact.—The term "Compact" means the National Crime Prevention and Privacy Compact set forth in section 217.

(3) Council.—The term "Council" means the Compact Council established under Article VI of the Compact.

(4) FBI.—The term "FBI" means the Federal Bureau of Investigation.

(5) Party state.—The term "Party State" means a State that has ratified the Compact.

(6) State.—The term "State" means any State, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 214. ENACTMENT AND CONSENT OF THE UNITED STATES.

The National Crime Prevention and Privacy Compact, as set forth in section 217, is enacted into law and entered into by the Federal Government. The consent of Congress is given to States to enter into the Compact.

SEC. 215. EFFECT ON OTHER LAWS.

(a) Privacy Act of 1974.—Nothing in the Compact shall affect the obligations and responsibilities of the FBI under section 552a of title 5, United States Code (commonly known as the "Privacy Act of 1974").

(b) Access to Certain Records Not Affected.—Nothing in the Compact shall interfere in any manner with—

(1) access, direct or otherwise, to records pursuant to—

(A) section 9101 of title 5, United States Code;

(B) the National Child Protection Act;

(C) the Brady Handgun Violence Prevention Act (Public Law 103–159; 107 Stat. 1536);

(D) the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322; 108 Stat. 2074) or any amendment made by that Act;

(E) the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.); or

(F) the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.); or

(2) any direct access to Federal criminal history records authorized by law.

(c) Authority of FBI Under Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973.—Nothing in the Compact shall be construed to affect the authority of the FBI under the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973 (Public Law 92–544 (86 Stat. 1115)).

(d) Federal Advisory Committee Act.—The Council shall not be considered to be a Federal advisory committee for purposes of the Federal Advisory Committee Act (5 U.S.C. App.).

(e) Members of Council Not Federal Officers or Employees.—Members of the Council (other than a member from the FBI or any at-large member who may be a Federal official or employee) shall not, by virtue of such membership, be deemed—

(1) to be, for any purpose other than to effect the Compact, officers or employees of the United States (as defined in sections 2104 and 2105 of title 5, United States Code); or

(2) to become entitled by reason of Council membership to any compensation or benefit payable or made available by the Federal Government to its officers or employees.

SEC. 216. ENFORCEMENT AND IMPLEMENTATION.

All departments, agencies, officers, and employees of the United States shall enforce the Compact and cooperate with one another and with all Party States in enforcing the Compact and effectuating its purposes. For the Federal Government, the Attorney General shall make such rules, prescribe such instructions, and take such other actions as may be necessary to carry out the Compact and this subtitle.

SEC. 217. NATIONAL CRIME PREVENTION AND PRIVACY COMPACT.

The Contracting Parties agree to the following:

OVERVIEW

(a) In General.—This Compact organizes an electronic information sharing system among the Federal Government and the States to exchange criminal history records for noncriminal justice purposes authorized by Federal or State law, such as background checks for governmental licensing and employment.

(b) Obligations of Parties.—Under this Compact, the FBI and the Party States agree to maintain detailed databases of their respective criminal history records, including arrests and dispositions, and to make them available to the Federal Government and to Party States for authorized purposes. The FBI shall also manage the Federal data facilities that provide a significant part of the infrastructure for the system.

ARTICLE I—DEFINITIONS

In this Compact:

(1) Attorney General.—The term "Attorney General" means the Attorney General of the United States;

(2) Compact Officer.—The term "Compact officer" means—

(A) with respect to the Federal Government, an official so designated by the Director of the FBI; and

(B) with respect to a Party State, the chief administrator of the State's criminal history record repository or a designee of the chief administrator who is a regular full-time employee of the repository.

(3) Council.—The term "Council" means the Compact Council established under Article VI.

(4) Criminal History Records.—The term "criminal history records"—

(A) means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, or other formal criminal charges, and any disposition arising therefrom, including acquittal, sentencing, correctional supervision, or release; and

(B) does not include identification information such as fingerprint records if such information does not indicate involvement of the individual with the criminal justice system.

(5) Criminal History Record Repository.—The term "criminal history record repository" means the State agency designated by the Governor or other appropriate executive official or the legislature of a State to perform centralized recordkeeping functions for criminal history records and services in the State.

(6) Criminal Justice.—The term "criminal justice" includes activities relating to the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice includes criminal identification activities and the collection, storage, and dissemination of criminal history records.

(7) Criminal Justice Agency.—The term "criminal justice agency"—

(A) means—

(i) courts; and

(ii) a governmental agency or any subunit thereof that—

(I) performs the administration of criminal justice pursuant to a statute or Executive order; and

(II) allocates a substantial part of its annual budget to the administration of criminal justice; and

(B) includes Federal and State inspectors general offices.

(8) Criminal Justice Services.—The term "criminal justice services" means services provided by the FBI to criminal justice agencies in response to a request for information about a particular individual or as an update to information previously provided for criminal justice purposes.

(9) Criterion Offense.—The term "criterion offense" means any felony or misdemeanor offense not included on the list of nonserious offenses published periodically by the FBI.

(10) Direct Access.—The term "direct access" means access to the National Identification Index by computer terminal or other automated means not requiring the assistance of or intervention by any other party or agency.

(11) Executive Order.—The term "Executive order" means an order of the President of the United States or the chief executive officer of a State that has the force of law and that is promulgated in accordance with applicable law.

(12) FBI.—The term "FBI" means the Federal Bureau of Investigation.

(13) Interstate Identification System.—The term "Interstate Identification Index System" or "III System"—

(A) means the cooperative Federal-State system for the exchange of criminal history records; and

(B) includes the National Identification Index, the National Fingerprint File and, to the extent of their participation in such system, the criminal history record repositories of the States and the FBI.

(14) National Fingerprint File.—The term "National Fingerprint File" means a database of fingerprints, or other uniquely personal identifying information, relating to an arrested or charged individual maintained by the FBI to provide positive identification of record subjects indexed in the III System.

(15) National Identification Index.—The term "National Identification Index" means an index maintained by the FBI consisting of names, identifying numbers, and other descriptive information relating to record subjects about whom there are criminal history records in the III System.

(16) National Indices.—The term "National indices" means the National Identification Index and the National Fingerprint File.

(17) Nonparty State.—The term "Nonparty State" means a State that has not ratified this Compact.

(18) Noncriminal Justice Purposes.—The term "noncriminal justice purposes" means uses of criminal history records for purposes authorized by Federal or State law other than purposes relating to criminal justice activities, including employment suitability, licensing determinations, immigration and naturalization matters, and national security clearances.

(19) Party State.—The term "Party State" means a State that has ratified this Compact.

(20) Positive Identification.—The term "positive identification" means a determination, based upon a comparison of fingerprints or other equally reliable biometric identification techniques, that the subject of a record search is the same person as the subject of a criminal history record or records indexed in the III System. Identifications based solely upon a comparison of subjects' names or other nonunique identification characteristics or numbers, or combinations thereof, shall not constitute positive identification.

(21) Sealed Record Information.—The term "sealed record information" means—

(A) with respect to adults, that portion of a record that is—

(i) not available for criminal justice uses;

(ii) not supported by fingerprints or other accepted means of positive identification; or

(iii) subject to restrictions on dissemination for noncriminal justice purposes pursuant to a court order related to a particular subject or pursuant to a Federal or State statute that requires action on a sealing petition filed by a particular record subject; and

(B) with respect to juveniles, whatever each State determines is a sealed record under its own law and procedure.

(22) State.—The term "State" means any State, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

ARTICLE II—PURPOSES

The purposes of this Compact are to—

(1) provide a legal framework for the establishment of a cooperative Federal-State system for the interstate and Federal-State exchange of criminal history records for noncriminal justice uses;

(2) require the FBI to permit use of the National Identification Index and the National Fingerprint File by each Party State, and to provide, in a timely fashion, Federal and State criminal history records to requesting States, in accordance with the terms of this Compact and with rules, procedures, and standards established by the Council under Article VI;

(3) require Party States to provide information and records for the National Identification Index and the National Fingerprint File and to provide criminal history records, in a timely fashion, to criminal history record repositories of other States and the Federal Government for noncriminal justice purposes, in accordance with the terms of this Compact and with rules, procedures, and standards established by the Council under Article VI;

(4) provide for the establishment of a Council to monitor III System operations and to prescribe system rules and procedures for the effective and proper operation of the III System for noncriminal justice purposes; and

(5) require the FBI and each Party State to adhere to III System standards concerning record dissemination and use, response times, system security, data quality, and other duly established standards, including those that enhance the accuracy and privacy of such records.

ARTICLE III—RESPONSIBILITIES OF COMPACT PARTIES

(a) FBI Responsibilities.—The Director of the FBI shall—

(1) appoint an FBI Compact officer who shall—

(A) administer this Compact within the Department of Justice and among Federal agencies and other agencies and organizations that submit search requests to the FBI pursuant to Article V(c);

(B) ensure that Compact provisions and rules, procedures, and standards prescribed by the Council under Article VI are complied with by the Department of Justice and the Federal agencies and other agencies and organizations referred to in Article III(1)(A); and

(C) regulate the use of records received by means of the III System from Party States when such records are supplied by the FBI directly to other Federal agencies;

(2) provide to Federal agencies and to State criminal history record repositories, criminal history records maintained in its database for the noncriminal justice purposes described in Article IV, including—

(A) information from Nonparty States; and

(B) information from Party States that is available from the FBI through the III System, but is not available from the Party State through the III System;

(3) provide a telecommunications network and maintain centralized facilities for the exchange of criminal history records for both criminal justice purposes and the noncriminal justice purposes described in Article IV, and ensure that the exchange of such records for criminal justice purposes has priority over exchange for noncriminal justice purposes; and

(4) modify or enter into user agreements with Nonparty State criminal history record repositories to require them to establish record request procedures conforming to those prescribed in Article V.

(b) State Responsibilities.—Each Party State shall—

(1) appoint a Compact officer who shall—

(A) administer this Compact within that State;

(B) ensure that Compact provisions and rules, procedures, and standards established by the Council under Article VI are complied with in the State; and

(C) regulate the in-State use of records received by means of the III System from the FBI or from other Party States;

(2) establish and maintain a criminal history record repository, which shall provide—

(A) information and records for the National Identification Index and the National Fingerprint File; and

(B) the State's III System-indexed criminal history records for noncriminal justice purposes described in Article IV;

(3) participate in the National Fingerprint File; and

(4) provide and maintain telecommunications links and related equipment necessary to support the services set forth in this Compact.

(c) Compliance With III System Standards.—In carrying out their responsibilities under this Compact, the FBI and each Party State shall comply with III System rules, procedures, and standards duly established by the Council concerning record dissemination and use, response times, data quality, system security, accuracy, privacy protection, and other aspects of III System operation.

(d) Maintenance of Record Services.—

(1) Use of the III System for noncriminal justice purposes authorized in this Compact shall be managed so as not to diminish the level of services provided in support of criminal justice purposes.

(2) Administration of Compact provisions shall not reduce the level of service available to authorized noncriminal justice users on the effective date of this Compact.

ARTICLE IV—AUTHORIZED RECORD DISCLOSURES

(a) State Criminal History Record Repositories.—To the extent authorized by section 552a of title 5, United States Code (commonly known as the "Privacy Act of 1974"), the FBI shall provide on request criminal history records (excluding sealed records) to State criminal history record repositories for noncriminal justice purposes allowed by Federal statute, Federal Executive order, or a State statute that has been approved by the Attorney General and that authorizes national indices checks.

(b) Criminal Justice Agencies and Other Governmental or Nongovernmental Agencies.—The FBI, to the extent authorized by section 552a of title 5, United States Code (commonly known as the "Privacy Act of 1974"), and State criminal history record repositories shall provide criminal history records (excluding sealed records) to criminal justice agencies and other governmental or nongovernmental agencies for noncriminal justice purposes allowed by Federal statute, Federal Executive order, or a State statute that has been approved by the Attorney General, that authorizes national indices checks.

(c) Procedures.—Any record obtained under this Compact may be used only for the official purposes for which the record was requested. Each Compact officer shall establish procedures, consistent with this Compact, and with rules, procedures, and standards established by the Council under Article VI, which procedures shall protect the accuracy and privacy of the records, and shall—

(1) ensure that records obtained under this Compact are used only by authorized officials for authorized purposes;

(2) require that subsequent record checks are requested to obtain current information whenever a new need arises; and

(3) ensure that record entries that may not legally be used for a particular noncriminal justice purpose are deleted from the response and, if no information authorized for release remains, an appropriate "no record" response is communicated to the requesting official.

ARTICLE V—RECORD REQUEST PROCEDURES

(a) Positive Identification.—Subject fingerprints or other approved forms of positive identification shall be submitted with all requests for criminal history record checks for noncriminal justice purposes.

(b) Submission of State Requests.—Each request for a criminal history record check utilizing the national indices made under any approved State statute shall be submitted through that State's criminal history record repository. A State criminal history record repository shall process an interstate request for noncriminal justice purposes through the national indices only if such request is transmitted through another State criminal history record repository or the FBI.

(c) Submission of Federal Requests.—Each request for criminal history record checks utilizing the national indices made under Federal authority shall be submitted through the FBI or, if the State criminal history record repository consents to process fingerprint submissions, through the criminal history record repository in the State in which such request originated. Direct access to the National Identification Index by entities other than the FBI and State criminal history records repositories shall not be permitted for noncriminal justice purposes.

(d) Fees.—A State criminal history record repository or the FBI—

(1) may charge a fee, in accordance with applicable law, for handling a request involving fingerprint processing for noncriminal justice purposes; and

(2) may not charge a fee for providing criminal history records in response to an electronic request for a record that does not involve a request to process fingerprints.

(e) Additional Search.—

(1) If a State criminal history record repository cannot positively identify the subject of a record request made for noncriminal justice purposes, the request, together with fingerprints or other approved identifying information, shall be forwarded to the FBI for a search of the national indices.

(2) If, with respect to an request forwarded by a State criminal history record repository under paragraph (1), the FBI positively identifies the subject as having a III System-indexed record or records—

(A) the FBI shall so advise the State criminal history record repository; and

(B) the State criminal history record repository shall be entitled to obtain the additional criminal history record information from the FBI or other State criminal history record repositories.

ARTICLE VI—ESTABLISHMENT OF COMPACT COUNCIL

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established a council to be known as the "Compact Council", which shall have the authority to promulgate rules and procedures governing the use of the III System for noncriminal justice purposes, not to conflict with FBI administration of the III System for criminal justice purposes.

(2) ORGANIZATION.—The Council shall—

(A) continue in existence as long as this Compact remains in effect;

(B) be located, for administrative purposes, within the FBI; and

(C) be organized and hold its first meeting as soon as practicable after the effective date of this Compact.

(b) MEMBERSHIP.—The Council shall be composed of 15 members, each of whom shall be appointed by the Attorney General, as follows:

(1) Nine members, each of whom shall serve a 2-year term, who shall be selected from among the Compact officers of Party States based on the recommendation of the Compact officers of all Party States, except that, in the absence of the requisite number of Compact officers available to serve, the chief administrators of the criminal history record repositories of Nonparty States shall be eligible to serve on an interim basis.

(2) Two at-large members, nominated by the Director of the FBI, each of whom shall serve a 3-year term, of whom—

(A) 1 shall be a representative of the criminal justice agencies of the Federal Government and may not be an employee of the FBI; and

(B) 1 shall be a representative of the noncriminal justice agencies of the Federal Government.

(3) Two at-large members, nominated by the Chairman of the Council, once the Chairman is elected pursuant to Article VI(c), each of whom shall serve a 3-year term, of whom—

(A) 1 shall be a representative of State or local criminal justice agencies; and

(B) 1 shall be a representative of State or local noncriminal justice agencies.

(4) One member, who shall serve a 3-year term, and who shall simultaneously be a member of the FBI's advisory policy board on criminal justice information services, nominated by the membership of that policy board.

(5) One member, nominated by the Director of the FBI, who shall serve a 3-year term, and who shall be an employee of the FBI.

(c) CHAIRMAN AND VICE CHAIRMAN.—

(1) IN GENERAL.—From its membership, the Council shall elect a Chairman and a Vice Chairman of the Council, respectively. Both the Chairman and Vice Chairman of the Council—

(A) shall be a Compact officer, unless there is no Compact officer on the Council who is willing to serve, in which case the Chairman may be an at-large member; and

(B) shall serve a 2-year term and may be reelected to only 1 additional 2-year term.

(2) DUTIES OF VICE CHAIRMAN.—The Vice Chairman of the Council shall serve as the Chairman of the Council in the absence of the Chairman.

(d) MEETINGS.—

(1) IN GENERAL.—The Council shall meet a least once each year at the call of the Chairman. Each meeting of the Council shall be open to the public. The Council shall provide prior public notice in the Federal Register of each meeting of the Council, including the matters to be addressed at such meeting.

(2) QUORUM.—A majority of the Council or any committee of the Council shall constitute a quorum of the Council or of such committee, respectively, for the conduct of business. A lesser number may meet to hold hearings, take testimony, or conduct any business not requiring a vote.

(e) RULES, PROCEDURES, AND STANDARDS.—The Council shall make available for public inspection and copying at the Council office within the FBI, and shall publish in the Federal Register, any rules, procedures, or standards established by the Council.

(f) ASSISTANCE FROM FBI.—The Council may request from the FBI such reports, studies, statistics, or other information or materials as the Council determines to be necessary to enable the Council to perform its duties under this Compact. The FBI, to the extent authorized by law, may provide such assistance or information upon such a request.

(g) COMMITTEES.—The Chairman may establish committees as necessary to carry out this Compact and may prescribe their membership, responsibilities, and duration.

ARTICLE VII—RATIFICATION OF COMPACT

This Compact shall take effect upon being entered into by 2 or more States as between those States and the Federal Government. Upon subsequent entering into this Compact by additional States, it shall become effective among those States and the Federal Government and each Party State that has previously ratified it. When ratified, this Compact shall have the full force and effect of law within the ratifying jurisdictions. The form of ratification shall be in accordance with the laws of the executing State.

ARTICLE VIII—MISCELLANEOUS PROVISIONS

(a) RELATION OF COMPACT TO CERTAIN FBI ACTIVITIES.—Administration of this Compact shall not interfere with the management and control of the Director of the FBI over the FBI's collection and dissemination of criminal history records and the advisory function of the FBI's advisory policy board chartered under the Federal Advisory Committee Act (5 U.S.C. App.) for all purposes other than noncriminal justice.

(b) NO AUTHORITY FOR NONAPPROPRIATED EXPENDITURES.—Nothing in this Compact shall require the FBI to obligate or expend funds beyond those appropriated to the FBI.

(c) RELATING TO PUBLIC LAW 92–544.—Nothing in this Compact shall diminish or lessen the obligations, responsibilities, and authorities of any State, whether a Party State or a Nonparty State, or of any criminal history record repository or other subdivision or component thereof, under the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973 (Public Law 92–544), or regulations and guidelines promulgated thereunder, including the rules and procedures promulgated by the Council under Article VI(a), regarding the use and dissemination of criminal history records and information.

ARTICLE IX—RENUNCIATION

(a) IN GENERAL.—This Compact shall bind each Party State until renounced by the Party State.

(b) EFFECT.—Any renunciation of this Compact by a Party State shall—

(1) be effected in the same manner by which the Party State ratified this Compact; and

(2) become effective 180 days after written notice of renunciation is provided by the Party State to each other Party State and to the Federal Government.

ARTICLE X—SEVERABILITY

The provisions of this Compact shall be severable, and if any phrase, clause, sentence, or provision of this Compact is declared to be contrary to the constitution of any participating State, or to the Constitution of the United States, or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If a portion of this Compact is held contrary to the constitution of any Party State, all other portions of this Compact shall remain in full force and effect as to the remaining Party States and in full force and effect as to the Party State affected, as to all other provisions.

ARTICLE XI—ADJUDICATION OF DISPUTES

(a) IN GENERAL.—The Council shall—

(1) have initial authority to make determinations with respect to any dispute regarding—

(A) interpretation of this Compact;

(B) any rule or standard established by the Council pursuant to Article V; and

(C) any dispute or controversy between any parties to this Compact; and

(2) hold a hearing concerning any dispute described in paragraph (1) at a regularly scheduled meeting of the Council and only render a decision based upon a majority vote of the members of the Council. Such decision shall be published pursuant to the requirements of Article VI(e).

(b) DUTIES OF FBI.—The FBI shall exercise immediate and necessary action to preserve the integrity of the III System, maintain system policy and standards, protect the accuracy and privacy of records, and to prevent abuses, until the Council holds a hearing on such matters.

(c) RIGHT OF APPEAL.—The FBI or a Party State may appeal any decision of the Council to the Attorney General, and thereafter may file suit in the appropriate district court of the United States, which shall have original jurisdiction of all cases or controversies arising under this Compact. Any suit arising under this Compact and initiated in a State court shall be removed to the appropriate district court of the United States in the manner provided by section 1446 of title 28, United States Code, or other statutory authority.

Subtitle B—Volunteers for Children Act

SEC. 221. SHORT TITLE.

This subtitle may be cited as the "Volunteers for Children Act".

SEC. 222. FACILITATION OF FINGERPRINT CHECKS.

(a) STATE AGENCY.—Section 3(a) of the National Child Protection Act of 1993 (42 U.S.C. 5119a(a)) is amended by adding at the end the following:

"(3) In the absence of State procedures referred to in paragraph (1), a qualified entity designated under paragraph (1) may contact an authorized agency of the State to request national criminal fingerprint background checks. Qualified entities requesting background checks under this paragraph shall comply with the guidelines set forth in subsection (b) and with procedures for requesting national criminal fingerprint background checks, if any, established by the State.".

(b) FEDERAL LAW.—Section 3(b)(5) of the National Child Protection Act of 1993 (42 U.S.C. 5119a(b)(5)) is amended by inserting before the period at the end the following: ", except that this paragraph does not apply to any request by a qualified entity for a national criminal fingerprint background check pursuant to subsection (a)(3)''.

(c) AUTHORIZATION.—Section 4(b)(2) of the National Child Protection Act of 1993 (42 U.S.C. 5119b(b)(2)) is amended by striking "1994, 1995, 1996, and 1997" and inserting "1999, 2000, 2001, and 2002".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. MCCOLLUM) and the gentlewoman from Texas (Ms. JACKSON-LEE) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. MCCOLLUM).

GENERAL LEAVE

Mr. MCCOLLUM. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. MCCOLLUM. Madam Speaker, I yield myself such time as I may consume.

Efficient access to criminal history data and criminal justice information has become a necessity, not only for law enforcement agencies, but for school districts, volunteer organizations, child protection services, and a host of professions who want to conduct background checks to avoid hiring convicted offenders who pose a danger to the community. Information is absolutely crucial to successful law enforcement and neighborhood safety.

The Federal Government has invested billions of dollars in Federal information and identification systems, but the States are still lagging far behind in their ability to use these initiatives. There is a wide disparity between the criminal identification systems that are available, and the ability of State and local law enforcement to connect on any broad scale with these systems, which are operated by the FBI.

The types of information and identification technology initiatives to which I am referring are not fancy luxuries that would simply be convenient to have. They are necessary for law enforcement to compete in our information age.

Television programs that show police bringing up the record and photograph of a convicted offender at the touch of a button simply do not depict the reality of today's criminal justice system. Many States are still a long way from becoming computerized. They are unable to exchange compatible data in a timely manner, or on a widespread geographic basis. Some States still use card catalog systems. While Congress has invested significant resources in Federal information and identification systems, the benefits of these Federal initiatives are not being realized because the States do not have the technology to use them. It is the purpose of this bill to allow States to make use of Federal programs and to improve how we use information to solve crimes in this information age.

S. 2022, the Crime Identification Technology Act of 1998, authorizes $250 million a year for 5 years for flexible discretionary grants to States to upgrade criminal history records systems; promote integration of local, State and national criminal justice information and communications systems; and assist crime laboratories to reduce the backlog of forensic analysis requests that currently exist throughout the country. Grants may be given to States to be used in conjunction with local units of government, State and local courts, and other States.

It is also the intention of the bill to consolidate currently existing grant programs which provide technology assistance to the States. While the full funding of this proposal would require some new expenditures, the consolidation of current programs would generally provide for existing funding to go toward this act in the future.

Lastly, let me briefly mention that this bill also contains two other important provisions. Title II of the bill is called the National Criminal History Access and Child Protection Act, which provides for a compact between the States and the Federal Government to facilitate the exchange of criminal history records. The compact is somewhat administrative in nature and requires no authorization for funding. It would establish the "rules of the road" for interstate exchange of criminal history records, including records for background checks for child care workers. The compact provides for State-to-State and Federal-to-State sharing of records, while permitting each State to protect its own dissemination and privacy policies within its own borders.

The last provision in this bill is called the Volunteers for Children Act, which would amend the National Child Protection Act of 1993, often called the Oprah Act, to allow child care, elder care and volunteer organizations to request access to FBI criminal fingerprint background checks in the absence of specific State laws or procedures allowing such access. The House passed this provision in H.R. 3494, the Child Protection and Sexual Predator Punishment Act, which is pending in the other body.

Now, I know there are some volunteer organizations that find criminal fingerprint background checks to be a costly procedure, and many States are unable to deliver these checks on a timely basis. This bill in no way requires these organizations to conduct fingerprint checks, nor does it preclude them from using other resources such as State criminal history data to conduct background checks. The bill simply provides organizations with the option of requesting the checks if there is no law in place precluding them.

Passage of this bill should not be construed to create a new duty on the part of volunteer organizations. Accordingly, the failure to conduct such background checks should not be considered as evidence of negligence in civil litigation. It is simply not the intent of this bill to open up volunteer organizations to such liability.

Madam Speaker, as my colleagues can see, there is a pretty extensive bill here, but it will make some important changes to current law to allow for the better use of criminal history information. Let me say additionally that the administration strongly supports the proposal. Information is absolutely crucial to successful law enforcement, and I am convinced this bill will be a great assistance to the criminal justice community, and I urge my colleagues to support it.

Madam Speaker, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Madam Speaker, I yield myself such time as I may consume.

I rise in support of this legislation, S. 2022, which was introduced by Senator DEWINE in the Senate and passed that body by unanimous consent.

The Crime Identification Technology Act of 1998 directs the Attorney General to make grants to permit State and local governments to update their technological capabilities so that they more readily respond to the problem of crime. The bill authorizes $250 million in such grants per year over 5 years for these purposes. In order to be eligible for these grants, the State must show that it is able to contribute information required by the Instacheck system mandated by the Brady bill.

As a former member of the Houston City Council, I can assure my colleagues that these grants will be of great use by local and State authorities. It is extremely useful to be able to partake of the national technology to assist in crime fighting.

The bill also contains titles providing for a compact between the States and Federal Government to facilitate the exchange of criminal history records and also allow child care, elder care and volunteer organizations to request access to FBI fingerprint background checks. I can assure my colleagues as well, in cities that spend a lot of time with after-school programs or volunteer parks programs or recreational programs using volunteers, this is going to be of great assistance in protecting our children. Obviously, we do not suggest that our volunteers are filled with pedophiles, but how much more comfortable we will be with opening up our parks and libraries and other facilities where we have after-school programs or summer programs and using volunteers when our city governments and other volunteer associations can be assured that these people are not dangerous to our children.

This is a good, bipartisan bill. It takes advantage of the opportunities that the Federal Government have to enhance crime fighting techniques, and it is a collaborative effort between our local and Federal governments. This is a good bipartisan bill, and I urge its adoption.

I rise in support of this legislation, which was introduced by Senator DEWINE in the Senate and passed that body by unanimous consent.

The Crime Identification Technology Act of 1998 directs the Attorney General to make grants to permit state and local governments to update their technological capabilities so that they more readily respond to the problem of crime. The bill authorizes $250 million in such grants per year over five years for these purposes. In order to be eligible for these grants, the state must show that it as able to contribute information required by the Instacheck system mandated by the Brady bill.

The bill also contains titles providing for a compact between the states and federal government to facilitate the exchange of criminal history records, and also allow child care, elder care and volunteer organizations to request access to FBI fingerprint background checks.

This is a good, bipartisan bill and I urge its adoption.

Madam Speaker, I reserve the balance of my time.

Mr. McCOLLUM. Madam Speaker, I yield 4 minutes to the gentleman from Florida (Mr. FOLEY), who has been so instrumental in this bill.

Mr. FOLEY. Madam Speaker, I rise to strongly support this legislation and to thank specifically our subcommittee chairman, the gentleman from Florida (Mr. McCOLLUM), for his extremely hard work on this issue. This bill is vitally important to America's families and its children, and I will strongly suggest that this measure here will make America safer.

This bill contains much-needed help to States across America to improve their anticrime technology. It also contains the Volunteers for Children Act, a bill of mine that this body approved unanimously many months ago, which the other body unanimously added to this important legislation.

The Volunteers for Children provisions will give volunteer groups access, if they want that access, to fingerprint-based FBI background checks. Let me reiterate the gentleman from Florida's comments a moment ago. It does not require any group to seek these background checks, nor does it incur liability if they choose not to.

This access is supported by every group concerned about using the best tools possible to protect their young charges. Organizations like the Boys and Girls Clubs have been asking for this access because fingerprint checks are virtually the only way they can know whether a person who shows up in a community to volunteer around children has, in fact, a criminal background in another State.

As a report last year by the General Accounting Office put it, "National fingerprint-based background checks may be the only effective way to readily identify the potentially worst abusers of children; that is, the pedophiles who change their names and move from State to State to continue their sexually perverse patterns of behavior."

Two of the biggest problems with using fingerprint-based FBI checks has been that they have taken too long and cost too much to use them more than occasionally. But the FBI has been developing a computerized system that will all but eliminate both those concerns once States have comparable technology. That is the crux of this overall bill before us today: helping States acquire that technology.

Madam Speaker, it is critical that we give States the help we can in upgrading their crime-fighting technology. And it is critical that we allow volunteer groups, schools and others who work with young children access to the most effective resources they need to ensure that they are not inadvertently hiring criminals to work around young children.

As Robbie Callaway, the senior vice president for the Boys and Girls Clubs of America and a strong supporter of this legislation, put it, "Our clubs and most youth-serving organizations want every possible legal tool to guarantee the safety of the children we serve."

We are all dedicated to doing what we can to protect children from harm, and this bill will significantly advance those efforts.

Again, I thank the gentleman from Florida (Mr. McCOLLUM) for bringing this measure to the floor. I thank my local constituent, Jody Gorran, for bringing this to my attention. I want to specifically thank Aerin Bryant from the staff of the gentleman from Florida (Mr. McCOLLUM) for her very, very hard work and dedication to this issue, and of course to my staffer, Liz Nicolson, who has really worked with me to see this to success on the floor tonight, because it really does suggest that this is about protecting our children.

Is it fool-proof? No. Will it do everything? No, of course it will not. But it gives those organizations one more tool in their arsenal to protect our children.

I want to thank the gentlewoman from Texas (Ms. JACKSON-LEE) for her help on this bill and the National Center for Missing and Exploited Children for weighing in on this issue when it was most timely during committee hearings that the chairman agreed to hear on this bill, and again I thank my colleagues for not only supporting the portion that I am here today to speak on, but the entire bill, because it will be an effective tool for law enforcement in this country.

Ms. JACKSON-LEE of Texas. Madam Speaker, this is a great bill, and I hope we can make sure it passes, and I yield back the balance of my time.

Mr. McCOLLUM. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. McCOLLUM) that the House suspend the rules and pass the Senate bill, S. 2202, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

IDENTITY THEFT AND ASSUMPTION DETERRENCE ACT OF 1998

Mr. McCOLLUM. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 4151) to amend chapter 47 of title 18, United States Code, relating to identity fraud, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4151

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Identity Theft and Assumption Deterrence Act of 1998".

SEC. 2. CONSTITUTIONAL AUTHORITY TO ENACT THIS LEGISLATION.

The constitutional authority upon which this Act rests is the power of Congress to regulate commerce with foreign nations and among the several States, and the authority to make all laws which shall be necessary and proper for carrying into execution the powers vested by the Constitution in the Government of the United States or in any department or officer thereof, as set forth in article I, section 8 of the United States Constitution.

SEC. 3. IDENTITY THEFT.

(a) ESTABLISHMENT OF OFFENSE.—Section 1028(a) of title 18, United States Code, is amended—

(1) in paragraph (5), by striking "or" at the end;

(2) in paragraph (6), by adding "or" at the end;

(3) in the flush matter following paragraph (6), by striking "or attempts to do so,"; and

(4) by inserting after paragraph (6) the following:

"(7) knowingly transfers or uses, without lawful authority, a means of identification of another person with the intent to commit, or to aid or abet, any unlawful activity that constitutes a violation of Federal law, or that constitutes a felony under any applicable State or local law;".

(b) PENALTIES.—Section 1028(b) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking "or" at the end;

(B) in subparagraph (C), by adding "or" at the end; and

(C) by adding at the end the following:

"(D) an offense under paragraph (7) of such subsection that involves the transfer or use of 1 or more means of identification if, as a result of the offense, any individual committing the offense obtains anything of value aggregating $1,000 or more during any 1-year period;";

(2) in paragraph (2)—

(A) in subparagraph (A), by striking "or transfer of an identification document or" and inserting ", transfer, or use of a means of identification, an identification document, or a"; and

(B) in subparagraph (B), by inserting "or (7)" after "(3)";

(3) by amending paragraph (3) to read as follows:

"(3) a fine under this title or imprisonment for not more than 20 years, or both, if the offense is committed—

"(A) to facilitate a drug trafficking crime (as defined in section 929(a)(2));

"(B) in connection with a crime of violence (as defined in section 924(c)(3)); or

"(C) after a prior conviction under this section becomes final;";

(4) in paragraph (4), by striking "and" at the end;

(5) by redesignating paragraph (5) as paragraph (6); and

(6) by inserting after paragraph (4) the following:

"(5) in the case of any offense under subsection (a), forfeiture to the United States of any personal property used or intended to be used to commit the offense; and".

(c) CIRCUMSTANCES.—Section 1028(c) of title 18, United States Code, is amended by striking paragraph (3) and inserting the following:

"(3) either—

"(A) the production, transfer, possession, or use prohibited by this section is in or affects interstate or foreign commerce; or

"(B) the means of identification, identification document, false identification document, or document-making implement is transported in the mail in the course of the production, transfer, possession, or use prohibited by this section.".

(d) DEFINITIONS.—Subsection (d) of section 1028 of title 18, United States Code, is amended to read as follows:

"(d) In this section—

"(1) the term 'document-making implement' means any implement, impression, electronic device, or computer hardware or software, that is specifically configured or primarily used for making an identification document, a false identification document, or another document-making implement;

"(2) the term 'identification document' means a document made or issued by or under the authority of the United States Government, a State, political subdivision of a State, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization which, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals;

"(3) the term 'means of identification' means any name or number that may be used, alone or in conjunction with any other information, to identify a specific individual, including any—

"(A) name, social security number, date of birth, official State or government issued driver's license or identification number, alien registration number, government passport number, employer or taxpayer identification number;

"(B) unique biometric data, such as fingerprint, voice print, retina or iris image, or other unique physical representation;

"(C) unique electronic identification number, address, or routing code; or

"(D) telecommunication identifying information or access device (as defined in section 1029(e));

"(4) the term 'personal identification card' means an identification document issued by a State or local government solely for the purpose of identification;

"(5) the term 'produce' includes alter, authenticate, or assemble; and

"(6) the term 'State' includes any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other commonwealth, possession, or territory of the United States.".

(e) ATTEMPT AND CONSPIRACY.—Section 1028 of title 18, United States Code, is amended by adding at the end the following:

"(f) ATTEMPT AND CONSPIRACY.—Any person who attempts or conspires to commit any offense under this section shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.".

(f) FORFEITURE PROCEDURES.—Section 1028 of title 18, United States Code, is amended by adding at the end the following:

"(g) FORFEITURE PROCEDURES.—The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be governed by the provisions of section 413 (other than subsection (d) of that section) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853).".

(g) RULE OF CONSTRUCTION.—Section 1028 of title 18, United States Code, is amended by adding at the end the following:

"(h) RULE OF CONSTRUCTION.—For purpose of subsection (a)(7), a single identification document or false identification document that contains 1 or more means of identification shall be construed to be 1 means of identification.".

(h) CONFORMING AMENDMENTS.—Chapter 47 of title 18, United States Code, is amended—

(1) in the heading for section 1028, by adding "**and information**" at the end; and

(2) in the table of sections at the beginning of the chapter, in the item relating to section 1028, by adding "and information" at the end.

SEC. 4. AMENDMENT OF FEDERAL SENTENCING GUIDELINES FOR OFFENSES UNDER SECTION 1028.

(a) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall review and amend the Federal sentencing guidelines and the policy statements of the Commission, as appropriate, to provide an appropriate penalty for each offense under section 1028 of title 18, United States Code, as amended by this Act.

(b) FACTORS FOR CONSIDERATION.—In carrying out subsection (a), the United States Sentencing Commission shall consider, with respect to each offense described in subsection (a)—

(1) the extent to which the number of victims (as defined in section 3663A(a) of title 18, United States Code) involved in the offense, including harm to reputation, inconvenience, and other difficulties resulting from the offense, is an adequate measure for establishing penalties under the Federal sentencing guidelines;

(2) the number of means of identification, identification documents, or false identification documents (as those terms are defined in section 1028(d) of title 18, United States Code, as amended by this Act) involved in the offense, is an adequate measure for establishing penalties under the Federal sentencing guidelines;

(3) the extent to which the value of the loss to any individual caused by the offense is an adequate measure for establishing penalties under the Federal sentencing guidelines;

(4) the range of conduct covered by the offense;

(5) the extent to which sentencing enhancements within the Federal sentencing guidelines and the court's authority to sentence above the applicable guideline range are adequate to ensure punishment at or near the maximum penalty for the most egregious conduct covered by the offense;

(6) the extent to which Federal sentencing guidelines sentences for the offense have been constrained by statutory maximum penalties;

(7) the extent to which Federal sentencing guidelines for the offense adequately achieve the purposes of sentencing set forth in section 3553(a)(2) of title 18, United States Code; and

(8) any other factor that the United States Sentencing Commission considers to be appropriate.

SEC. 5. CENTRALIZED COMPLAINT AND CONSUMER EDUCATION SERVICE FOR VICTIMS OF IDENTITY THEFT.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Federal Trade Commission shall establish procedures to—

(1) log and acknowledge the receipt of complaints by individuals who certify that they have a reasonable belief that 1 or more of their means of identification (as defined in section 1028 of title 18, United States Code, as amended by this Act) have been assumed, stolen, or otherwise unlawfully acquired in violation of section 1028 of title 18, United States Code, as amended by this Act;

(2) provide informational materials to individuals described in paragraph (1); and

(3) refer complaints described in paragraph (1) to appropriate entities, which may include referral to—

(A) the 3 major national consumer reporting agencies; and

(B) appropriate law enforcement agencies for potential law enforcement action.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 6. TECHNICAL AMENDMENTS TO TITLE 18, UNITED STATES CODE.

(a) TECHNICAL CORRECTION RELATING TO CRIMINAL FORFEITURE PROCEDURES.—Section 982(b)(1) of title 18, United States Code, is amended to read as follows: "(1) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be governed by the provisions of section 413 (other than subsection (d) of that section) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853).".

(b) ECONOMIC ESPIONAGE AND THEFT OF TRADE SECRETS AS PREDICATE OFFENSES FOR WIRE INTERCEPTION.—Section 2516(1)(a) of title 18, United States Code, is amended by inserting "chapter 90 (relating to protection of trade secrets)," after "to espionage),".

SEC. 7. REDACTION OF ETHICS REPORTS FILED BY JUDICIAL OFFICERS AND EMPLOYEES.

Section 105(b) of the Ethics in Government Act of 1978 (5 U.S.C. App) is amended by adding at the end the following new paragraph:

"(3)(A) This section does not require the immediate and unconditional availability of reports filed by an individual described in section 109(8) or 109(10) of this Act if a finding is made by the Judicial Conference, in consultation with United States Marshall Service, that revealing personal and sensitive information could endanger that individual.

"(B) A report may be redacted pursuant to this paragraph only—

"(i) to the extent necessary to protect the individual who filed the report; and

"(ii) for as long as the danger to such individual exists.

"(C) The Administrative Office of the United States Courts shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate an annual report with respect to the operation of this paragraph including—

"(i) the total number of reports redacted pursuant to this paragraph;

"(ii) the total number of individuals whose reports have been redacted pursuant to this paragraph; and

"(iii) the types of threats against individuals whose reports are redacted, if appropriate.

"(D) The Judicial Conference, in consultation with the Department of Justice, shall issue regulations setting forth the circumstances under which redaction is appropriate under this paragraph and the procedures for redaction.

"(E) This paragraph shall expire on December 31, 2001, and apply to filings through calendar year 2001.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. MCCOLLUM) and the gentlewoman from Texas (Ms. JACKSON-LEE) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. MCCOLLUM).

GENERAL LEAVE

Mr. MCCOLLUM. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. MCCOLLUM. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 4151, the Identity Theft and Assumption Deterrence Act of 1998, amends the fraud chapter of title 18 of the United States Code to create a new crime prohibiting the unlawful use of personal identifying information, such as names, Social Security Numbers and credit card numbers. This bill was introduced by the gentleman from Arizona (Mr. SHADEGG) and originally cosponsored by a number of Members from both sides of the aisle.

Madam Speaker, identity fraud involves the misappropriation of another person's personal identifying information. Criminals use this information to establish credit in their name, run up debts on the another person's account, or take over existing financial accounts. According to a 1998 GAO study, the consequences of this crime are enormous. One national credit union reported that two-thirds of the 500,000 annual consumer inquiries it receives involve identity fraud. MasterCard has reported that its member banks lose almost $400 million annually to identity theft. The Secret Service, which investigates only a small portion of identity theft cases under the existing wire and mail fraud statutes, reported that cases it investigated in 1997 involved over $745 million in losses.

Madam Speaker, unfortunately, only a portion of identity fraud cases are investigated and prosecuted. At present, while the use of false identity documents is a crime, the gathering, use and sale of personal identifying information is not. Because of this gap in the law, law enforcement agencies can only investigate the fraud that occurs after stolen identity information is used, and as many of these individual crimes involve relatively small amounts, they are often too small to justify the use of valuable investigative and prosecutorial resources.

The Secret Service has informed the Committee on the Judiciary that if the transfer of personal identifiers were a crime, they would be able to prosecute those persons who traffic in this information and in many cases prevent the fraud that is later committed by those who buy this information from those who sell it.

H.R. 4151 gives law enforcement agencies the authority to investigate these crimes. It amends section 1029 of title 18 to make it a crime to unlawfully transfer or use a means of personal identification.

I want to point out that only an unlawful use or transfer is prohibited. The statute will still allow banks, credit card companies and credit bureaus to conduct their business as they always have.

This bill is similar to a bill that passed the other body by unanimous consent. It is supported by a number of groups including Visa USA, the American Bankers Association, the American Society for Industrial Security, the Center for Democracy and Technology, and the Electronic Privacy Information Center. I particularly again want to thank the gentleman from Arizona (Mr. SHADEGG) for his leadership in this important area, and I urge all of my colleagues to support the bill.

Madam Speaker, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Madam Speaker, I yield myself such time as I may consume.

I rise to support this legislation, but offer some reservations in the process. H.R. 4151, the identity Theft and Assumption Deterrence Act, was never considered by the House Committee on the Judiciary. I might add that this failure in process is not the most appropriate way to meet our legislative responsibilities.

Nevertheless, I will say that if there is ever extreme hardship on a person, it is their loss of identity, Social Security, theft of their credit cards through the mail system, and other intrusions on their privacy.

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We can always be reminded of the gasp of the individual who has found out that, unfortunately, they have left a litany of debts, because someone has either taken their credit cards or other identifying features, found their check numbers, and devastated their bank account.

Identity theft is a very important problem that deserves our attention. Billions of dollars were stolen by identity thieves when they steal account numbers, identification documents, and social security numbers. For our elderly, it is most devastating. Ofttimes it takes a long, frustrating time and thousands of dollars in legal fees for people to reconcile credit problems caused by identity thieves. In fact, Members will find that their credit may have been devastated, their credit record, before they can even determine that something has happened.

Our current Federal criminal code is inadequate in addressing these high-tech crimes. Unfortunately, our credit reporting laws and their lack of accountability and responsible consumer protection are as responsible for these identity theft problems as a thief's running credit card scams. We also have a responsibility to address these serious concerns.

I have expressed my reservations about the process, but I will be supporting this bill. But I do ask that we continue our work in this area by addressing related problems in credit reporting and consumer protection.

H.R. 4151, the Identity Theft and Assumption Deterrence Act, was never considered by the House Judiciary Committee. This failure in process is not the most appropriate way to meet our legislative responsibilities.

Identity theft is a very important problem that deserves our attention. Billions of dollars are stolen by identity thieves when they steal account numbers, identification documents and social security numbers. It oft times takes a long frustrating time and thousands of dollars in legal fees for people to reconcile credit problems caused by identity thieves. Our current federal criminal code is inadequate in addressing these high tech crimes.

Unfortunately, our credit reporting laws and their lack of accountability and responsible consumer protection are as responsible for these identity theft problems as the thieves running credit care scams. We also have a responsibility to address these serious concerns.

Despite my reservations about the process, I will support this bill. But, I ask that we continue our work in this area by addressing related problems in credit reporting and consumer protection.

Madam Speaker, I reserve the balance of my time.

Mr. McCOLLUM. Madam Speaker, I yield 7 minutes to the gentleman from Arizona (Mr. SHADEGG), the prime author of this bill.

Mr. SHADEGG. Madam Speaker, I rise in support of H.R. 4151, the Identity Theft and Assumption Deterrence Act of 1998.

Let me begin by thanking the distinguished gentleman from Florida (Mr. MCCOLLUM), chairman of the Subcommittee on Crime, for his strong support of this legislation, and the distinguished chairman of the Committee on the Judiciary, the gentleman from Illinois (Mr. HYDE), for his support, as well.

I also want to thank my colleagues on the opposite side of the aisle. As Members will hear tonight, many have worked very hard to secure passage of this legislation, and it is indeed truly bipartisan.

I also, most importantly, want to thank two of my own constituents, Bob and JoAnn Hartle, of Phoenix, Arizona, who were themselves victims of identity theft. They took this tragedy in their lives and turned it into a positive experience by becoming instrumental in passing the first State law in the Nation to criminalize identity theft, and by becoming instrumentally involved in passing this legislation.

Mr. and Mrs. Hartle suffered the devastation of identity theft when a convicted felon took Mr. Hartle's identity and then went out and made purchases totaling over $110,000. With Mr. Hartle's identity, this individual obtained a Social Security Card, a driver's license, numerous bank accounts, and credit cards, and did even more. He bought, as a matter of fact, trucks, motorcycles, mobile homes, and appliances, but, incredibly, it did not stop there.

Using Mr. Hartle's identity, he obtained a security clearance from the Federal Aviation Administration to secure areas of Phoenix Sky Harbor International Airport, and beyond that, he used Mr. Hartle's service record in Vietnam to obtain a Federal home loan and, stunningly, he used Mr. Hartle's clean record to go around the Brady gun law, and this previously-convicted felon obtained handguns through his theft of Mr. Hartle's identification.

Mr. and Mrs. Hartle, as a result of this victimization, were forced to spend more than 4 years of their lives and more than $15,000 of their own money just restoring their credit and reestablishing their good name, because at the time that these acts occurred, there were no criminal penalties for this conduct. The Hartles were left with no meaningful remedy whatsoever.

Ultimately the individual involved was caught and prosecuted, interestingly, for making a false statement to procure a firearm. He was sentenced in 1995 and served a brief period of time, having been released earlier this year. Most importantly, he was not required to and he did not make restitution to the Hartles.

Tragically, the Hartles' story is far from unique, as I am sure we will hear tonight. Identity theft is the fastest growing financial crime in America. It is one of the fastest growing crimes of any kind in America. There are thousands of Americans victimized by this conduct every day.

Indeed, I think, to the surprise of all of us involved in cosponsoring this legislation, after its introduction we were contacted by hundreds of our constituents who have come forward and told their own stories of victimization, including numerous Capitol Hill staffers who have been victimized by this conduct.

Identity theft ranges from individual instances, like the Hartles', involving sometimes small dollar amounts and sometimes large dollar amounts, all the way to large organized professional crime rings involving multiple States and hundreds of thousands of dollars.

Indeed, one such crime ring established a fictitious home improvement company and then a credit bureau account, and using that credit bureau account and a computer link, downloaded over 500 credit reports, and then, using that information, stole more than $250,000 from an array of victims.

Incredibly, because there were no laws punishing this conduct, the leader of the ring could only be charged with the crime of breach of computer security. He was sentenced to only 2 years of probation, no jail time, and fined just $500 for the theft of over $250,000. These, sadly, are just two examples of the thousands, no, tens of thousands, of identity thefts that occur each year.

H.R. 4151 is critically needed to punish this kind of conduct, which wreaks far-ranging emotional and personal financial damage on its victims. It is also needed to deter those who are tempted to engage in this conduct in the future.

In 1996, Arizona became the first State to enact criminal penalties for this conduct, and this year seven additional States also enacted criminal statutes for this conduct: California, Colorado, Georgia, Kansas, Mississippi, Wisconsin, and West Virginia.

H.R. 4151 complements these State laws already in place. It also, most importantly, provides Federal law enforcement officials, particularly the Secret Service, with the tools to prosecute and prevent identity theft.

In testimony before the Congress, the U.S. Secret Service testified that under current law, "* * * law enforcement must wait for an overt fraudulent act or creation of a fraudulent document before it can intercede in a case * * * involving identity [theft]. Establishing identity theft as a criminal violation would enable law enforcement to prevent the fraud before it starts. It would", in the Secret Service's words, "be a proactive answer to what is now being handled in a reactive manner."

To understand the dimension of this activity, we simply have to look at one national credit bureau, where in 1997, over two-thirds of the reports to that credit bureau were about identity theft, a total of over 300,000 reports in 1 year. The cost of this activity is monumental to victims, to financial institutions, and to taxpayers. Those costs have skyrocketed this year more than $2 billion.

H.R. 4151 prohibits the transfer and use of personal identification information such as a person's personal name, their home address, their Social Security Number, and other information to acquire the individual's identity. It will enable law enforcement to investigate and apprehend these crimes before they occur, before the individual has obtained credit cards, checking accounts, home loans, or purchased vehicles, furniture, or appliances, or even handguns, or, in the case of Bob Hartle, obtained security passes to go to secure areas.

This is incredibly important and critical legislation which will prevent thousands of dollars of financial loss in the future. More importantly, it will prevent future victims from having to endure the months, perhaps even years, of trying to clear their credit and reclaim their good names.

Identity theft is a critically important crime. This is essential needed legislation. It enacts stiff penalties for identity theft and even stiffer penalties for trafficking in someone's identity when the offense is connected with drug offenses or violent crimes.

I urge my colleagues to support this legislation, which has truly bipartisan support.

Ms. JACKSON-LEE of Texas. Madam Speaker, I yield myself such time as I may consume.

I would add my appreciation to the gentleman from Arizona (Mr. SHADEGG) for his good work. There are so many people this kind of identity theft impacts, and certainly I want to acknowledge the Members on this side of the aisle, the gentleman from Vermont (Mr. SANDERS) and the gentleman from Tennessee (Mr. CLEMENT), who had great interest and worked very hard on this.

Madam Speaker, I yield 4 minutes to the gentlewoman from Connecticut (Ms. DELAURO), who was very instrumental and worked long months and years to bring this legislation to this point.

Ms. DELAURO. Madam Speaker, I thank the gentlewoman from Texas for yielding time to me.

I am grateful for the rapid work the gentleman from Florida (Chairman MCCOLLUM) and the Committee on the Judiciary did to bring this important legislation to the floor. I was very pleased to have the opportunity to work with the gentleman from Arizona (Mr. SHADEGG), the gentleman from Tennessee (Mr. CLEMENT), and the gentleman from Vermont (Mr. SANDERS) on creating what is a new and improved and a bipartisan piece of legislation to combat identity fraud.

I rise in support of the McCollum substitute amendment to H.R. 4151, the Identity Theft and Assumption Deterrence Act, which makes technical modifications to the bill.

As Members have heard from my colleague, the gentleman from Arizona (Mr. SHADEGG), identity theft is growing. It is a harmful crime. It hurts the economy, it destroys consumer credit, and it places a burden on consumers to keep their identities under lock and key.

It took a nightmare story from my own constituent, Denice, and Denice does not want her last name known because she continues to be frightened by what has happened to her and her family, to bring the issue of identity fraud to my attention.

Denice contacted me 2 years ago and told me her story. Thieves had used her stolen identification to access credit in her name in Rhode Island and again in Utah. The thieves made more than $2,000 in purchases and rented several apartments.

Denice has worked for more than 2 years to clear her good name and credit through multiple contacts with credit reporting agencies and an attorney. This identity fraud case has cost her a tremendous amount of time and huge sums of money.

□ 2300

The identity thief who stole her identity is continuing to use her identification to access credit in her name. In response to her case, and numerous other similar stories brought to my attention, I introduced the Identity Piracy Act to fight identity fraud.

Today, I am pleased to join forces with my colleagues to pass the Identity Theft and Assumption Deterrence Act that incorporates important changes from the Identity Piracy Act. The bill incorporates language from my identity fraud bill that eliminates the dollar threshold making identity fraud a Federal crime. Under other identity fraud legislation, a thief had to steal both a victim's identity and $1,000. The new bill will ensure that the theft of identity is a crime, with enhanced penalties for stealing credit, for drug trafficking, and for violent crimes.

Identity fraud is a crime that leaves unsuspecting victims open to years of frustration and debt while they try to clear their credit. It exposes financial institutions, insurers, and consumers to financial losses from stolen credit and other fraud.

The base of support for passing this legislation is universal. Consumer groups, financial service institutions, and privacy rights groups all support this legislation. And the chairman identified a number of those groups.

Although ultimately the best weapon to stop crime is awareness and prevention, the new legislation that we are voting on tomorrow will be another weapon in the arsenal in the fight against identity fraud, and I am delighted and pleased and proud to join forces with my colleagues on both sides of the aisle to pass this piece of legislation.

Mr. MCCOLLUM. Madam Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. HOSTETTLER).

Mr. HOSTETTLER. Madam Speaker, I thank the gentleman from Florida (Mr. MCCOLLUM) chairman of the committee, and the gentleman from Arizona (Mr. SHADEGG), and I rise in strong support of this bill, a piece of legislation which, when discussed, may seem like something directly from the Sci-Fi Channel when someone would discuss theft of an identity and the assumption of that identity. One would think that was something far off in the future, but in many cases in these pieces of legislation the anecdotes we have heard, some of them come very close to home.

In fact, earlier this spring, my district scheduler back in southwestern Indiana, Erica, experienced this very phenomenon. A person in Michigan had purchased information such as Social Security Numbers and family information of Erica. The imposter then ordered a credit report to learn her credit status. After learning that status, and armed with that information, the perpetrator went on a 2-day spending spree, opened numerous charge accounts as Erica, and purchased in excess of $5,000 in goods, including the purchase of a cell phone.

The individual was caught only when a clerk noticed that the imposter hesitated at providing certain information and the credit card company called my district scheduler to verify it.

Madam Speaker, this is a piece of legislation that is very timely, very important, not only to the individuals that are directly impacted by it, but our economy as a whole. I commend the gentleman from Arizona (Mr. SHADEGG) for his work on this very needed piece of bipartisan legislation, and I ask my colleagues to vote in favor of it.

Ms. JACKSON-LEE. Madam Speaker, with that let me add my appreciation for all who have worked so hard on this legislation. It is about time we protect innocent victims of identity theft and assumption. Deterrence is very important, and I would hope our colleagues would support it.

Madam Speaker, I yield back the balance of my time.

Mr. MCCOLLUM. Madam Speaker, I submit for the RECORD the explanatory statement on the substitute amendment to this bill:

EXPLANATORY STATEMENT OF REP. BILL MCCOLLUM ON THE SUBSTITUTE AMENDMENT TO H.R. 4151

The substitute amendment to H.R. 4151 is very similar in substance, and identical in intent, to H.R. 4151 as it was introduced by Mr. Shadegg. The amendment modifies the bill so that its language will be similar to the text of S. 512, a bill on this same subject that passed in the other body by unanimous consent. The text of S. 512, as passed by the other body, incorporated amendments to the Senate bill that were suggested by the Justice Department.

There are four substantive changes accomplished by the substitute amendment. First, the substitute requires the government to prove that the person who unlawfully transfers or uses a means of identification of another person did so with the intent to commit, or aid and abet, a violation of federal law or any state felony. As introduced, the bill did not require that the government prove the intent behind a defendant's transfer or use of another's identifying information. Second, as amended, the bill deletes the mere possession of personal identifying information from the offense and requires that the government prove an unlawful use or transfer to another person of the personal information in order to prove the crime.

Third, the House bill as introduced differentiated between transferring the information and using it when determining whether a crime had been committed. It required that the government prove that a defendant transferred five or more means of identification in order to prove the crime had been committed. The substitute amendment eliminates this distinction. I believe that allowing even one person's identity to be sold to another person unlawfully should be punished. We need not wait until the criminal has jeopardized the financial security of five or more people before we act to stop him.

Fourth, the substitute amends the penalty for committing this new crime in conjunction with a violent crime from that originally set forth in the bill. The substitute will make this penalty the same as that for committing the new crime in conjunction with a drug trafficking crime, thus continuing the usual practice of punishing acts related to violent crimes and serious drug crimes in a similar manner.

The substitute also amends the Ethics in Government Act provision dealing with the release to the public of financial disclosure statements filed by federal judges. The substitute amendment will allow for some of the personal information in those filings to be redacted when they are released to the public if threats have been made against the judges who have filed those statements.

Finally, the substitute also makes two purely technical amendments to previously enacted statutes.

Mr. SANDERS. Madam Speaker, I am pleased to rise today to support the Identity Theft and Assumption Deterrence Act and I am proud to be an original cosponsor of this legislation. In order to clearly demonstrate the need for this bill, let me lay out a frightening scenario that could happen to any of us.

Imagine getting a bill from a credit card company for thousands of dollars that you didn't charge. Then, the next day, getting several more bills from other credit card companies, and getting overdue phone bills for an address you never lived at, and getting an invoice for a car you never bought. This sounds like something out of the Twilight Zone, but this nightmare is real. Someone, perhaps someone living in a country on the other side of the globe, has stolen your name, your financial history, your identity, and used it to run up huge debts—debts creditors want you to pay.

Once your identity has been "stolen," you must now spend many hours on the phone with credit card companies trying to clear up these misunderstandings. You may spend many months or even years with the three major credit bureaus trying to clear up your credit record, and you may find yourself having trouble getting a loan or a mortgage.

If someone with a prior criminal record assumes an individual's identity and is using that person's name, the victim can be denied jobs without knowing why. And, if the victim's credit is in disarray due to identity theft, an innocent consumer can be turned down for a car loan or mortgage.

You may spend the rest of your life worrying if this nightmare will happen again. But the worst part is that even if you or the law enforcement community knows who has committed this act against you, there is currently no law to punish the offender or to provide you with any compensation for all you've been through.

Current Federal law only prohibits the misuse of false identification documents. But with the growth of information that can be found on the Internet, identity thieves don't need an actual document. They can go on-line and find or purchase your Social Security Number, unlisted address and phone number, and date of birth, which are often the key pieces of information to unlocking the door to your personal financial history.

According to law enforcement authorities, identity theft is one of the Nation's fastest growing crimes, and it's a crime Federal authorities need help to combat. A recent GAO study reports that at one of the Nation's 3 largest credit bureaus, victim inquiries rose from 35,000 in 1992 to 522,000 in 1997. That's a 15-fold increase. The Social Security Administration reported that complaints about stolen Social Security Numbers, one of the most commonly stolen identifiers, doubled from 1996 to 1997. The U.S. Secret Service, which has jurisdiction over financial crimes, estimates that actual losses due to identity theft were $745 million last year.

We need to discourage this intrusion of privacy by making it a federal crime to take over someone's identity. In order to protect Americans from this financially and emotionally devastating crime, Reps. SHADEGG, DELAURO, CLEMENT, and I introduced H.R. 4151, the Identity Theft and Assumption Deterrence Act. This needed legislation will make it a Federal crime to assume someone else's identity. It also establishes a clearinghouse at the Federal Trade Commission for identity theft victims to get assistance in clearing their credit records. The bill allows victims of identity theft to receive restitution from the criminals who steal their identity. Previously, they were not entitled to restitution because identity theft was not a crime.

American consumers deserve to have their privacy protected. Identity theft can affect anyone at any time. We need to pass the Identity Theft and Assumption Deterrence Act to not only throw these identity thieves in jail, but also to give victims help with cleaning up their own credit records.

Mr. CLEMENT. Madam Speaker, I rise today to express my support for H.R. 4151, the Identity Theft and Assumption Deterrence Act. The measure would establish tough penalties for the crime, as well as direct the Federal Trade Commission to log reports of identity theft, provide information to victims, and refer complaints to appropriate law enforcement agencies.

Identity theft is one of the fastest-growing financial crimes, with reports of 2,000 cases occurring each week. Credit-card fraud losses—the major financial loss in personal-identity thefts—amount to as much as $2 billion a year. The act is called identity theft, yet it is not illegal. The notion that someone can steal your personal information and essentially pretend to be you without penalty is frightening.

I was first acquainted with this growing problem when one of my staffers became a victim of identity theft. The story my staffer told me was incredible. Someone stole her name and Social Security Number to open up eight credit card accounts and charged over $17,000 in her name. This thief switched my staffer's phone service and opened two cellular phone accounts. This imposter even had a government agency identification badge forged with my staff's name, Social Security Number, and address on it.

But the most incredible part of the story is that my staffer had absolutely no recourse. The only crime committed, she was told by police, was against the stores where the thief had charged merchandise.

There is another story of a woman in my home State of Tennessee, Mrs. Conjohna Mixon, who was actually arrested and sent to jail because someone had stolen her identity and had written worthless checks on a phony account. This innocent woman was even brought into court with leg shackles. After her release, she had to endure hours of paperwork and spend personal time and money because she was a victim. And the nightmare didn't end. Two months later, local authorities were still threatening this innocent woman with arrest on more bad check warrants.

One of my constituents, Mr. Paul White, wrote me a letter describing how someone had stolen the identify of his 18-year-old son, setting up a bank account in Colorado and issuing fraudulent checks. Mr. White made the following statement:

> As I do a great deal of legal work representing a local bank, I am well aware of the increasing incidence of identity fraud in this country and the necessity for federal legislation to outlaw this type of fraudulent activity.

The people who are being victimized have no recourse under law and must sacrifice their own time and money to repair the wrongdoings of others against them. This system is not fair, and that is why I urge immediate passage of the Identity Theft and Assumption Deterrence Act. In addition, I call on my colleagues to continue to monitor this crime, so that we can be sure that no future identity theft goes unpunished, and that every victim is served by the law.

Mr. KLECZKA. Madam Speaker. It's been called the crime that isn't a crime. How can that be? Ask Jessica Grant, a Wisconsin woman whose identity was stolen through use of her Social Security Number. Her name was used by a thief to buy two cars and a mobile home. Under her name, the thief racked up $60,000 in fraudulent charges. Yet, there was no Federal law to protect her.

Or, ask the thousands of consumers across the country whose names, Social Security Numbers, and personal credit information are pilfered every day. This "crime that isn't a crime" cost consumers $745 million in 1997, according to a recent GAO report I requested.

While Jessica Grant and thousands of individuals have indeed been violated, current Federal law provides protections only for lenders and credit card companies.

Madam Speaker, I rise today to support this legislation. Today, there is no standard definition of identity theft. There are no fines. No prison penalties. No protections for people like Jessica Grant. In short, ID theft is not a crime.

Passage of this legislation addresses two critical aspects of identity theft. First the bill would authorize the FTC to acknowledge and log reports of this new—and rapidly expanding—category of crime. At last, we will learn about the real impact identity theft.

Second, the bill clearly defines ID theft. People like Jessica Grant and prosecutors across the country can pursue these thieves and lock 'em up.

While H.R. 4151 is a positive step there is much more work to be done to thwart this growth industry in crime.

Under my bill, H.R. 1813, the Personal Information Privacy Act, the sale or purchase of a person's personal credit information without the express written consent of the owner would be explicitly prohibited. My bill, which I will re-introduce in the 106th Congress, also prohibits the use of Social Security Numbers as a condition of doing business.

Madam Speaker, with these two bills we at long last will have the one-two punch needed to strike back at identity thieves.<>

Mr. McCOLLUM. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. WILSON). The question is on the motion offered by the gentleman from Florida (Mr. McCOLLUM) that the House suspend the rules and pass the bill, H.R. 4151, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CRIME VICTIMS WITH DISABILITIES AWARENESS ACT

Mr. McCOLLUM. Madam Speaker, I move to suspend the rules and pass the

Senate bill (S. 1976) to increase public awareness of the plight of victims of crime with developmental disabilities, to collect data to measure the magnitude of the problem, and to develop strategies to address the safety and justice needs of victims of crime with developmental disabilities.

The Clerk read as follows:

S. 1976

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Crime Victims With Disabilities Awareness Act".

SEC. 2. FINDINGS; PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) although research conducted abroad demonstrates that individuals with developmental disabilities are at a 4 to 10 times higher risk of becoming crime victims than those without disabilities, there have been no significant studies on this subject conducted in the United States;

(2) in fact, the National Crime Victim's Survey, conducted annually by the Bureau of Justice Statistics of the Department of Justice, does not specifically collect data relating to crimes against individuals with developmental disabilities;

(3) studies in Canada, Australia, and Great Britain consistently show that victims with developmental disabilities suffer repeated victimization because so few of the crimes against them are reported, and even when they are, there is sometimes a reluctance by police, prosecutors, and judges to rely on the testimony of a disabled individual, making individuals with developmental disabilities a target for criminal predators;

(4) research in the United States needs to be done to—

(A) understand the nature and extent of crimes against individuals with developmental disabilities;

(B) describe the manner in which the justice system responds to crimes against individuals with developmental disabilities; and

(C) identify programs, policies, or laws that hold promises for making the justice system more responsive to crimes against individuals with developmental disabilities; and

(5) the National Academy of Science Committee on Law and Justice of the National Research Council is a premier research institution with unique experience in developing seminal, multidisciplinary studies to establish a strong research base from which to make public policy.

(b) PURPOSES.—The purposes of this Act are—

(1) to increase public awareness of the plight of victims of crime who are individuals with developmental disabilities;

(2) to collect data to measure the extent of the problem of crimes against individuals with developmental disabilities; and

(3) to develop a basis to find new strategies to address the safety and justice needs of victims of crime who are individuals with developmental disabilities.

SEC. 3. DEFINITION OF DEVELOPMENTAL DISABILITY.

In this Act, the term "developmental disability" has the meaning given the term in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001).

SEC. 4. STUDY.

(a) IN GENERAL.—The Attorney General shall conduct a study to increase knowledge and information about crimes against individuals with developmental disabilities that will be useful in developing new strategies to reduce the incidence of crimes against those individuals.

(b) ISSUES ADDRESSED.—The study conducted under this section shall address such issues as—

(1) the nature and extent of crimes against individuals with developmental disabilities;

(2) the risk factors associated with victimization of individuals with developmental disabilities;

(3) the manner in which the justice system responds to crimes against individuals with developmental disabilities; and

(4) the means by which States may establish and maintain a centralized computer database on the incidence of crimes against individuals with disabilities within a State.

(c) NATIONAL ACADEMY OF SCIENCES.—In carrying out this section, the Attorney General shall consider contracting with the Committee on Law and Justice of the National Research Council of the National Academy of Sciences to provide research for the study conducted under this section.

(d) REPORT.—Not later than 18 months after the date of enactment of this Act, the Attorney General shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report describing the results of the study conducted under this section.

SEC. 5. NATIONAL CRIME VICTIM'S SURVEY.

Not later than 2 years after the date of enactment of this Act, as part of each National Crime Victim's Survey, the Attorney General shall include statistics relating to—

(1) the nature of crimes against individuals with developmental disabilities; and

(2) the specific characteristics of the victims of those crimes.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. MCCOLLUM) and the gentlewoman from Texas (Ms. JACKSON-LEE) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. MCCOLLUM).

GENERAL LEAVE

Mr. MCCOLLUM. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. MCCOLLUM. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, S. 1976, the Crime Victims with Disabilities Awareness Act, is an effort to increase public awareness of the plight of crime victims who suffer from developmental disabilities. Sponsored by Senator DEWINE and passed by the other body on July 13, 1998, the bill directs the Attorney General, in conjunction with the National Research Council, to develop a plan to increase our understanding and help prevent crimes against vulnerable segments of our society. The Attorney General would be required to gather and report statistics on crimes against the physically and mentally disabled as part of the National Crime Victims Survey.

Madam Speaker, criminals are opportunists. We have long recognized they target the most vulnerable members of society for crime and exploitation and we have responded by successfully heightening awareness of crimes against women, children, and the elderly. This subcommittee has considered numerous pieces of legislation to address crimes against children and the elderly, but we have not considered the extent and the nature of crimes against disabled individuals.

I was shocked to find out that we know very little about crimes against the disabled. There is an estimated 52 million Americans with disabilities and we have every indication that crimes against this population are serious, yet no significant studies have been conducted in the United States. In fact, the Bureau of Justice Statistics in their annual National Crime Victims Survey does not specifically collect data about crimes against persons with developmental disabilities.

Research in foreign countries has found that persons with developmental disabilities are at a 4 to 10 times higher risk of becoming crime victims than those without disabilities. Studies in Canada, Australia and Great Britain consistently show that crime victims with developmental disabilities suffer repeated victimization because so few of the crimes against them are reported. Unfortunately, even when crimes against victims with disabilities are reported, there sometimes is a reluctance by justice officials to rely solely on the testimony of a disabled person, further making these victims a target for criminal predators.

S. 1976 seeks to promote research to, (1) understand the nature and extent of crimes against persons with developmental disabilities; (2) assess how the law enforcement and justice systems currently respond to crimes against the developmentally disabled; and (3) identify programs, policies, or laws that hold promise for making our law enforcement and justice systems more responsive to crimes against persons with developmental disabilities.

I am hopeful that the research in this legislation will have broad positive national policy implications. Greater knowledge about victims with developmental disabilities will help service providers target programs more effectively. Victims and their families will have a better understanding of crime risks. Justice and social service policy makers will have a greater understanding of how to improve investigative and prosecutorial strategies and how to use victims' testimony in conjunction with other case evidence.

Clearly, what this legislation is trying to do is to raise considerably the national profile of this issue among research agencies and the academic community and to continue to define and develop solutions to the problem. It is an important proposal and I urge my colleagues to support it.

Madam Speaker, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise to support this legislation which was introduced by Senator LEAHY and Senator DEWINE and passed by the Senate by unanimous consent.

Interestingly enough, as the gentleman from Florida (Mr. MCCOLLUM), my colleague and chairman has indicated, research has already been done on this issue in foreign countries and it has found that persons with developmental disabilities are at a 4 to 10 times higher risk of becoming crime victims than those without disabilities. Interestingly enough, we have not done similar research here in the United States.

The legislation is designed to achieve the three objectives: Increasing public awareness of the plight of crime victims with developmental disabilities; to start collecting data to measure the extent and nature of the problem; and, to develop strategies to address the safety and justice of these victims.

Many times these victims cannot explain or express the circumstances around their victimization. Research in the United States really needs to be done to understand the nature and extent of crimes against persons with developmental disabilities, again, to show how the law enforcement and justice systems currently respond to such crimes and to identify programs and policies or laws that hold promise for making our law enforcement and justice systems more responsive to crimes against persons with developmental disabilities.

Frankly, Madam Speaker, we need to reach out to these individuals, so that they can aggressively be able to protect themselves, we can provide them with comfort and training, and we can stave off those who would victimize these victims because of their disabilities.

The legislation directs the Attorney General to enter into contracts to develop a research agenda to increase the understanding and control of crime against persons with developmental disabilities.

In speaking to one of my colleagues here on the floor, they found this bill particularly interesting in light of the fact that people with disabilities, someone that they are very familiar with, would be subject to attack by those who thought they were easy prey. This is an important issue because there are more and more people with developmental disabilities in this Nation. This because of poor prenatal nutrition and care, serious accidents, and other tragedies that occur throughout one's life.

□ 2310

There are also increases in child abuse, and there is much substance abuse during pregnancy. So we are finding more and more Americans who are capable of surviving and supporting themselves, but they are developmentally disabled and become subject to victimization.

This is a strong bipartisan bill and I urge its adoption.

I rise in support of this legislation introduced by my good friend Mr. TRAFICANT which ensures that Federal funds for the Cops on the Beat Program are used in a manner that produces a net gain in the number of law enforcement officers who perform non-administrative safety services.

I was heavily involved in the enaction of the initial Cops on the Beat Program, and I can assure the Members that the overriding goal was to hire and retain as many neighborhood policeman as possible, not to use the money for excessive administrative or overhead costs.

Identical legislation has been enacted in each of the last several Congresses through the appropriations process, but has become entangled in other issues.

This is good legislation that will help our communities fight crime, and I urge a yes vote.

Madam Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. McCOLLUM. Madam Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Ms. WILSON). The question is on the motion offered by the gentleman from Florida (Mr. MCCOLLUM) that the House suspend the rules and pass the bill, H.R. 1976.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

ENSURING FEDERAL FUNDS MADE AVAILABLE TO HIRE OR REHIRE LAW ENFORCEMENT OFFICERS ARE USED IN MANNER THAT PRODUCES NET GAIN OF NUMBER OF LAW ENFORCEMENT OFFICERS WHO PERFORM NONADMINISTRATIVE PUBLIC SAFETY SERVICES

Mr. McCOLLUM. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 804) to amend part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 to ensure that Federal funds made available to hire or rehire law enforcement officers are used in a manner that produces a net gain of the number of law enforcement officers who perform nonadministrative public safety services.

The Clerk read as follows:

H.R. 804

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NET GAIN OF OFFICERS.

Section 1704 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding at the end the following:

"(d) NET GAIN OF OFFICERS.—Notwithstanding any other provision under this part, funding provided under this part for hiring or rehiring a career law enforcement officer shall be used by an entity described in section 1701(a) to ensure that such entity achieves a net gain in the number of law enforcement officers who perform nonadministrative public safety service.".

SEC. 2. EFFECTIVE DATE.

The amendment made by section 1 shall apply to all applications and grant renewal requests made on or after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. MCCOLLUM) and the gentlewoman from Texas (Ms. JACKSON-LEE) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. MCCOLLUM).

GENERAL LEAVE

Mr. McCOLLUM. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 804, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. McCOLLUM. Madam Speaker, I yield myself such time as I may consume.

H.R. 804 amends the 100,000 "COPS on the Beat" program established in the 1994 Crime Bill to ensure that Federal funds for the COPS Program are used in a manner that produces a net gain of the number of law enforcement officers who perform nonadministrative public safety services.

The President's "COPS on the Beat" program authorized $8.8 billion over 6 years in order to put 100,000 community-oriented police officers on the beat across the country. As of March 1998, the latest month in which a survey was completed, the COPS office claimed to have funded 71,000 COPS. Approximately 40,800 are actually hired and deployed on the streets. About 2400 more are in training.

The remaining 29,000 are officers counted under the COPS M.O.R.E. Program, which funds technology and equipment and is believed to produce real-time savings in order to increase policing activities and police presence on the streets. These grants have been counted toward the 100,000 goal not because grants have been used to pay officers' salaries, but because the technology and the equipment purchased have supposedly freed up officers to be on the streets.

I have been a critic of the 100,000 COPS Program in the past, not because I am opposed to putting more community police officers on the streets, but because I have been skeptical that the

President's program will be able to deliver on what it promises. The subcommittee held hearings on the COPS Program in the 104th Congress where we learned that local communities bear the majority of the financial burden of the COPS Pogram, and the COPS grants were not going where they were needed; in most high-crime areas. Since then, we have learned many communities cannot afford to keep police officers they have hired after the 3-year grant runs out.

It was because of these inadequacies of the COPS Program that I introduced the Local Government Law Enforcement Block Grants bill in 1996. This program, which is now law, provides communities flexible grants to control crime and improve public safety, including the hiring of police officers, if desired. I am of the view that communities, not Washington, know best how to spend funds to fight crime in local neighborhoods. In fact, just last month I received a letter from the National League of Cities stating that they believe that the block grants program, "has been one of the most influential factors that has led to the reduction of crime rates in our Nation's cities and towns." I believe this proposal has delivered what it promises to communities across the country.

Today's legislation seeks to ensure that the COPS office delivers what it promises. Recent news accounts indicate that some police agencies have failed to ensure an actual net gain of officers with the COPS grants they have received. Rather than creating new positions, some grants are used to fill existing vacancies, even though the law prohibits replacing officers who retire or who have otherwise left through attrition.

A September 1977 General Accounting Office report noted that the Office of Community Oriented Policing Services' efforts to monitor the COPS grants were "limited" and "information regarding the accomplishments of the police agencies who received the grants were not consistently collected or reviewed." The COPS office has since made an effort to improve grant monitoring by setting up systematic site visits and telephone monitoring of grantees. H.R. 804 is designed to ensure that Federal funds for the COPS Program are used to ensure net gains of officers and encourage the COPS office to improve grant monitoring of the program to ensure the goal that is involved in this issue.

I, therefore, support this bill, and I certainly want to thank the gentleman from Ohio (Mr. TRAFICANT) for sponsoring it. I believe it improves the existing COPS Program, and I urge my colleagues to support it.

Madam Speaker, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Madam Speaker, I yield myself such time as I may consume, and I rise in support of this legislation that was introduced by my very good friend, the gentleman from Ohio (Mr. TRAFICANT), who has worked very hard on this legislation.

I also want to thank the chairman, the gentleman from Florida (Mr. McCOLLUM), for working hard to ensure that Federal funds for the "COPS on the Beat" program are used in a manner that produces a net gain in the number of law enforcement officers who perform nonadministrative safety services.

If I might draw upon my local experience again as a city council member working with a lot of police officers, they are happiest when they are out on the beat enforcing the law, working with people, and it is infrequent that they are satisfied sitting at a desk. This legislation ensures that the police are where they need to be, protecting the people.

Let me also compliment the gentleman from Michigan (Mr. CONYERS), who was heavily involved in ensuring that the "COPS on the Beat" program passed, as well as assuring Members that the overriding goal was to hire and retain as many neighborhood policemen, and police persons, might I add, as possible, and not to use the money for excessive administrative or overhead costs.

Identical legislation has been enacted in each of the last several Congresses through the appropriations process but has become entangled in other issues. Many cities, towns, hamlets and places throughout this Nation have been gratified by officers that have come through the 100,000 police, the "COPS on the Beat" program, and so this legislation now allows those individuals to get away from the headiness of desk work, if they do not have to do it, and get out with the people.

This is good legislation that will help our communities fight crime and I urge a "yes" vote on this legislation.

Madam Speaker, I yield such time as he might consume to the gentleman from Ohio (Mr. TRAFICANT), the moving force behind this legislation in a steadfast and evenhanded manner. I wish to congratulate the gentleman on his work.

Mr. TRAFICANT. Madam Speaker, I thank the gentlewoman from Texas for her support, and I want to thank the chairman, the gentleman from Florida (Mr. McCOLLUM). Without his help this would not now be law through the appropriations process.

The chairman worked with me and he allowed legislation on appropriations bills for several years to ensure that, in fact, if we are going to be putting Federal dollars in grants to provide COPS on the Beat, then they shall be "COPS on the Beat" and not "COPS Behind Desks" or in public relation jobs.

So that is technically what my bill does here today. It codifies through the authorization process so that we do not continue to, year after year, bring the issue up in the appropriations process to deal with the issue.

As a former sheriff, I want to, in fact, comment on some of the remarks made by the gentleman from Florida, who has broad experience in law enforcement from perhaps a different perspective. One thing that happens in the law enforcement arena is that at times these grants do become available to chiefs and to sheriffs and they promote their friends from within and then put a few on the street. But the end result is the community that had 10 officers on the street before they got the money, and the taxpayers put up the money, the end result is there are still 10 policemen on the street.

What our language does here, and what we have done in the appropriations process is this: If Houston, Texas, gets 10 new officers, there must be at least one of those officers, to say the least, on the street. So if they had 500 on the street, they must have 501.

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But it deals more with those little townships and communities who gets that one or two officers. If they had a total of four officers on the street and they get two of these cops through the grant, then they must have five on the street. It is a very straightforward message that does what the intent supposedly of the underlying program was supposed to do, increase the number of nonadministrative street cops to protect our communities.

I want to thank the gentlewoman from Texas for the outstanding job she has done in the short time she has been here on this committee, and I want to thank the gentleman from Florida (Mr. McCOLLUM). Without him this would not happen. I appreciate the fact he was able to allow it to get on the appropriation process and hopefully now we can avoid all of that.

Ms. JACKSON-LEE of Texas. Madam Speaker, I yield myself such time as I may consume.

Needless to say this is a right direction bill. This is frankly a bill that answers the concerns of our local communities. They want police where they need to be, out enforcing the law.

I would like to thank the gentleman from Florida as well for working with my good friend from Ohio and his leadership for doing what most police would applaud and, that is, let them work with the people, enforce the laws and fight crimes.

Madam Speaker, I yield back the balance of my time and say congratulations for this legislation.

Mr. McCOLLUM. Madam Speaker, I yield myself such time as I may consume. I again want to thank the gentleman from Ohio (Mr. TRAFICANT) for his work putting this bill together. He, as he said, has put this on appropriations bills for a number of years. We are finally going to get it passed.

Madam Speaker, in closing, tonight is the last night and this is the last bill that Aerin Bryant who is a staff member on the Crime Subcommittee of Judiciary will be employed and bringing a bill out here. She is expecting her first child next month and she will be leaving our employ but not our hearts. We are with you, Aerin. We look forward to it. I want to thank her for many hours and many days and now several years of service to this Congress, to the Subcommittee on Crime and to the Committee on the Judiciary. I thank you particularly for being here tonight. You are deserving of that compliment. We certainly wish you fair seas ahead.

Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. WILSON). The question is on the motion offered by the gentleman from Florida (Mr. McCOLLUM) that the House suspend the rules and pass the bill, H.R. 804.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

IRISH PEACE PROCESS CULTURAL AND TRAINING PROGRAM ACT OF 1998

Mr. SMITH of Texas. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 4293) to establish a cultural and training program for disadvantaged individuals from Northern Ireland and the Republic of Ireland, as amended.

The Clerk read as follows:

H.R. 4293

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Irish Peace Process Cultural and Training Program Act of 1998".

SEC. 2. IRISH PEACE PROCESS CULTURAL AND TRAINING PROGRAM.

(a) PURPOSE.—

(1) IN GENERAL.—The Secretary of State and the Attorney General shall establish a program to allow young people from disadvantaged areas of designated counties suffering from sectarian violence and high structural unemployment to enter the United States for the purpose of developing job skills and conflict resolution abilities in a diverse, cooperative, peaceful, and prosperous environment, so that those young people can return to their homes better able to contribute toward economic regeneration and the Irish Peace Process. The program shall promote cross-community and cross-border initiatives to build grassroots support for long-term peaceful coexistence. The Secretary of State and the Attorney General shall cooperate with nongovernmental organizations to assist those admitted to participate fully in the economic, social, and cultural life of the United States.

(2) SCOPE AND DURATION OF PROGRAM.—

(A) IN GENERAL.—The program under paragraph (1) shall provide for the admission of not more than 4,000 aliens under section 101(a)(15)(Q)(ii) of the Immigration and Nationality Act (including spouses and minor children) in each of 3 consecutive program years.

(B) OFFSET IN NUMBER OF H–2B NONIMMIGRANT ADMISSIONS ALLOWED.—Notwithstanding any other provision of law, for each alien so admitted in a fiscal year, the numerical limitation specified under section 214(g)(1)(B) of the Immigration and Nationality Act shall be reduced by 1 for that fiscal year or the subsequent fiscal year.

(3) RECORDS AND REPORT.—The Immigration and Naturalization Service shall maintain records of the nonimmigrant status and place of residence of each alien admitted under the program. Not later than 120 days after the end of the third program year and for the 3 subsequent years, the Immigration and Naturalization Service shall compile and submit to the Congress a report on the number of aliens admitted with nonimmigrant status under section 101(a)(15)(Q)(ii) who have overstayed their visas.

(4) DESIGNATED COUNTIES DEFINED.—For the purposes of this Act, the term "designated counties" means the six counties of Northern Ireland and the counties of Louth, Monaghan, Cavan, Leitrim, Sligo, and Donegal within the Republic of Ireland.

(b) TEMPORARY NONIMMIGRANT VISA.—

(1) IN GENERAL.—Section 101(a)(15)(Q) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(Q)) is amended—

(A) by inserting "(i)" after "(Q)"; and

(B) by inserting after the semicolon at the end the following: "or (ii)(I) an alien 35 years of age or younger having a residence in Northern Ireland, or the counties of Louth, Monaghan, Cavan, Leitrim, Sligo, and Donegal within the Republic of Ireland, which the alien has no intention of abandoning who is coming temporarily (for a period not to exceed 36 months) to the United States as a participant in a cultural and training program approved by the Secretary of State and the Attorney General under section 2(a) of the Irish Peace Process Cultural and Training Program Act of 1998 for the purpose of providing practical training, employment, and the experience of coexistence and conflict resolution in a diverse society, and (II) the alien spouse and minor children of any such alien if accompanying the alien or following to join the alien;".

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the purposes of this section. Amounts appropriated pursuant to this subsection are authorized to be available until expended.

(d) SUNSET.—

(1) Effective October 1, 2005, the Irish Peace Process Cultural and Training Program Act of 1998 is repealed.

(2) Effective October 1, 2005, section 101(a)(15)(Q) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(Q)) is amended—

(A) by striking "or" at the end of clause (i);

(B) by striking "(i)" after "(Q)"; and

(C) by striking clause (ii).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. SMITH) and the gentlewoman from Texas (Ms. JACKSON-LEE) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. SMITH).

GENERAL LEAVE

Mr. SMITH of Texas. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. SMITH of Texas. Madam Speaker, I yield myself such time as I may consume.

H.R. 4293, the Irish Peace Process Cultural and Training Program Act of 1998, provides for a new nonimmigrant visa program to assist the Irish Peace Process.

The author of the bill, the gentleman from New York (Mr. WALSH) has tirelessly supported the Irish Peace Process. In support of the Peace Process, he has worked with numerous international organizations and visited Northern Ireland three times in the last year. H.R. 4293 is the result of his dedication on behalf of a cause in which he strongly believes. He is to be commended for his diligence and hard work in generating broad bipartisan support for H.R. 4293 and moving it to the House floor.

The bill sets up a 3-year program with 4,000 visas available each year. The visas are reserved for qualified applicants age 35 or under and their spouses and children. The visas are good for 3 years, and the bill requires the INS to monitor and report on any visa overstays so that the purpose of the program is met and the integrity of the United States' immigration system is maintained.

Finally, the new visas are offset against the available number of low-skilled employment visas from another nonimmigrant category, so that the overall number of available visas remains constant.

I urge my colleagues to support H.R. 4293.

Madam Speaker, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Madam Speaker, I yield myself such time as I may consume.

I rise to support H.R. 4293, the Irish Peace Process Cultural and Training Program Act of 1998. It creates a new temporary visa program for citizens from war-torn Northern Ireland and border counties of the Republic of Ireland. Might I say on a personal note to just congratulate so many of my colleagues that have been so energized and involved in this very important Peace Process. Just by a small measure as I note the gentleman from New York (Mr. GILMAN) on the floor, I was very honored to have been able to travel with him to see this issue firsthand and to be able to provide support to my colleagues who were intimately involved in working with the people of Ireland to bring peace. This is a glorious time that we can at least be comforted by the fact that there is peace and that we can help to contribute to this lasting peace by bringing these individuals who will come to the United States temporarily and participate in a cultural exchange program to develop conflict resolution skill and return to Northern Ireland and contribute to the ongoing Peace Process.

I truly believe that this program offers a great opportunity to show others how Americans from many different religions live and work peacefully together. I understand and I see today that the Irish people want peace and they want to be together. I look forward to working with my colleagues on other exchange programs from other countries that are war torn, in particular having visited Africa in recent years, especially those countries suffering from civil unrest and terrorist attacks in Africa.

I want to take this opportunity to thank the gentleman from New York (Mr. SCHUMER) a member of the Committee on the Judiciary. It is because of the gentleman from New York's hard work as well that this bill is possible this session. Again I appreciate the gentleman from Texas (Mr. SMITH) for his good work. This bill has had 16 Democratic cosponsors and I am particularly pleased to be able to acknowledge the very hard work of my good friend the gentleman from Massachusetts (Mr. NEAL) who was certainly one who pressed us forward into making sure this legislation would come to reality.

H.R. 4293, the "Irish Peace Process and Training Program Act of 1998" creates a new temporary visa program for citizens from war torn Northern Ireland and border counties of the Republic of Ireland. These individuals will come to the United States temporarily and participate in a cultural exchange to develop conflict resolution skill and return to Northern Ireland and contribute to the on-going Peace Process.

I believe this program offers a great opportunity to show others how Americans from many different religions live and work peacefully. I look forward to working with my colleagues on other exchange programs from other countries that are war torn—especially those countries suffering from civil unrest and terrorist attacks in Africa.

I want to take this opportunity to thank Judiciary Committee Member CHUCK SCHUMER. It is because of Representative SCHUMER's hard work that this bill is possible this session. This bill has 16 Democratic cosponsors and I am pleased to yield time to the Gentleman from Massachusetts—an original cosponsor—Mr. NEAL.

Madam Speaker, I yield the balance of my time for the purposes of controlling the time to the gentleman from Massachusetts (Mr. NEAL), an original cosponsor.

The SPEAKER pro tempore. Without objection, the gentleman from Massachusetts (Mr. NEAL) will control the balance of the time.

There was no objection.

Mr. SMITH of Texas. Madam Speaker, first of all I would like to thank the gentlewoman from Houston for her general comments. They were generous indeed, both to me and to the originator of the bill the gentleman from New York (Mr. WALSH).

Madam Speaker, I yield 3 minutes to the gentleman from New York (Mr. GILMAN) the chairman of the Committee on International Relations.

Mr. GILMAN. I thank the gentleman for yielding me this time.

Madam Speaker, I am pleased to join my colleague and friend the gentleman from New York (Mr. WALSH), the distinguished chairman of the Friends of Ireland here in the House, in support of this new nonimmigrant, transitional visa initiative for Northern Ireland and the affected border areas. I am also pleased that we are joined tonight by several leaders of the Irish cause in the Congress. Besides the gentleman from New York (Mr. WALSH), the gentleman from New York (Mr. MANTON) who incidentally may be making his very last appearance on the floor. We are going to sorely miss him amongst our Friends of Ireland and Irish Caucus. The gentleman from Massachusetts (Mr. NEAL), also a staunch supporter of the Irish cause. The gentleman from New York (Mr. KING); the gentleman from Pennsylvania (Mr. COYNE); the gentlewoman from New York (Mrs. MCCARTHY). This is an important initiative, the nonimmigrant transitionsal visa initiative for Northern Ireland and the affected border areas.

The future is bright for lasting peace and justice in that long troubled region. Despite the setbacks and serious problems surrounding the Orange Order marching season, the fire bomb deaths of the Quinn boys, and the demented and senseless Omagh terrorist bombing, the way ahead can be and is bright, much brighter than the recent past. We in America must do all we can to help that region at this critical moment in Irish history. We must help bring about real change and a shared economic opportunity, new wealth and increased growth which gives the youth of the north of both traditions a bright future, a future which envisions working together for a new and better society, irrespective of one's tradition.

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The Walsh D'Amato bill now before the Congress will help make that process of change a better and more productive one. It will provide for 4,000 annual nonimmigrant visas for the disadvantaged in the region for up to 3 years duration. It is going to help that transition that is so sorely needed on the ground by providing hundreds with a chance for learning new job skills, training and cross community living experiences here in our own Nation, skills, training and tolerance that can be brought back to the new north of Ireland we all want to see grow and change for the better. It is ironic, but most fitting, that temporary transitional immigration to help the north of Ireland is one vehicle we can utilize to help bring about needed economic change for it was Irish immigration that helped to change and to bring about a better and more prosperous America.

I was pleased to be an original cosponsor of this bill, and I congratulate the gentleman from New York (Mr. WALSH), the distinguished junior Senator from New York, Senator D'AMATO, for their tireless and outstanding leadership on moving forward expeditiously and building support for this important and new initiative, and I want to commend the subcommittee chairman, the gentleman from Texas (Mr. SMITH), of the Subcommittee on Immigration and Claims for helping us bring this measure to the floor at this time.

Accordingly, Madam Speaker, I urge my colleagues to support H.R. 4293, the Cultural and Training Program for Individuals from Northern Ireland and the Republic of Ireland.

Mr. NEAL of Massachusetts. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I think that this discussion this evening on the House floor speaks to the reach and the role of the United States as the mediator extraordinaire across the globe. I am particularly delighted tonight to stand in support of the good work of the gentleman from New York (Mr. WALSH) who I take a lot of satisfaction from having worked with because I recruited him to this cause some years ago when he came to the House, and the people that are here tonight I also think can take enormous satisfaction from the Good Friday agreement because people like the gentleman from New York (Mr. GILMAN) and the gentleman from New York (Mr. KING) and the gentleman from New York (Mr. MANTON) and the gentlewoman from New York (Mrs. MCCARTHY) and others, the gentleman from Pennsylvania (Mr. COYNE) were literally, I think, isolated voices on this floor time and again when we attempted to elevate this issue in the eyes of the American people.

We have advanced this cause long beyond what any of us might have imagined just a few years ago, and it is very, I think, satisfying tonight that the same actors are all here to participate in support of the Walsh initiative.

I cannot say enough good things about people of uncommon courage who stand with us tonight because it was these voices that literally changed this debate in America, and although there are many, I think, who can take again a bow at this time, it was the, I think, elevation of Bill Clinton to the

White House that also had an enormous influence. There are many fathers and mothers of this success, but the people who are standing here tonight that are about to speak in support of the Walsh initiative I think were the primary factors in getting us to this day.

I also must thank the gentleman from Texas (Mr. SMITH). He has always demonstrated a kind eye toward Irish immigrants with the notion that it has always been part of their legacy and heritage to demonstrate hard work time and again as they have taken their rightful role in American Society, and I will have an opportunity, as we move back and forth, to acknowledge the other speakers that are here, Madam Speaker.

Mr. SMITH of Texas. Madam Speaker, I yield 3 minutes to the gentleman from New York (Mr. KING).

Mr. KING. Madam Speaker, I thank the gentleman for yielding this time to me.

Madam Speaker, I rise tonight in strong support of this initiative by my good friend from New York (Mr. WALSH), and I want to join with the other speakers in commending him for the truly outstanding job he has done in pushing this legislation and advancing it so quickly because it is absolutely essential, I believe, to carry forward the Irish Peace Process and to continue the very significant role that the United States Government has played.

I also wanted to thank the gentleman from Texas (Mr. SMITH) for the tremendous cooperation we received from him and from all my colleagues here tonight. I want to join with the gentleman from New York (Mr. GILMAN) in commending the gentleman from New York (Mr. MANTON). This may well be his last night on the House floor, and no one has fought longer or harder for the cause of Irish freedom, and peace and justice than TOM MANTON. Certainly all of us are going to miss him, all of us who cherish his friendship and his sense of loyalty and dedication, and certainly his career has been an outstanding one, and there has been no issue on which he has been more pronounced than the Irish Peace Process.

I also want to commend Senator D'AMATO who is going to be carrying this bill in the Senate for the work that he has done on this bill and so many other issues which involve the Irish Peace Process.

And that is what this is really about. It is obviously very important for the 12,000 people who are going to receive visas over the next 3 years. It is very important for families, it is very important for their communities, because these men and women who come here are going to learn skills, they are going to be able to go back to Ireland in several years, they are going to be able to alleviate and attack the terrible poverty that has wracked so many parts of northern Ireland.

Those of us who have been to the north have seen the terrible poverty in areas such as Valley Murphy and along the Falls Road and the Shanker Road, and other parts of the north of Ireland and the border counties which have been devastated by 30 years of fighting just in the north of them. So, this bill is very, very important as far as the individuals who are going to be directly affected.

But even more importantly, Madam Speaker, it sends a message to the people of Ireland, north and south, that the United States is going to continue its active role in the Irish Peace Process, that we are going to stay as active players.

As my good friend, the gentleman from Massachusetts (Mr. NEAL) pointed out, it was the President of the United States, and it was the United States Congress which had so much to do in bringing all the parties together, and those of us who were just in Ireland last month with the President on his mission realized the one thing the people wanted to see was assurance that the U.S. would stay involved. By measures such as this, it shows we are in this for the long haul, we are committed, we are going to stand firm, and we are going to stand with those who struggle for peace for those who want the process to work. We are not going to allow those who may intend to to disrupt the Peace Process, to impede it, to slow it down, to throw unnecessary preconditions in the way. We are going to stand with those who want the Good Friday agreement to work. We are committed to making it work, and that is what the gentleman from New York (Mr. WALSH) has done in moving this forward as Chairman of the Friends of Ireland, working with the gentleman from Texas (Mr. SMITH) and the gentleman from New York (Mr. GILMAN) and all the people here tonight.

Madam Speaker, this is a tremendous step forward, and it is another great step by the United States and its commitment to a true and lasting peace for all the people of Ireland, north and south.

Mr. SMITH of Texas. Madam Speaker, I reserve the balance of my time.

Mr. NEAL of Massachusetts. Madam Speaker I yield as much time as he might consume to the gentleman from Pennsylvania (Mr. COYNE), an individual who has been long active in the issue of Irish peace and has been a major player in this issue since he has been in the Congress.

Mr. COYNE. Madam Speaker, I just rise to submit a statement for the RECORD and to congratulate our departing colleague, the gentleman from New York (Mr. MANTON) for all the work he has done for the Peace Process in Northern Ireland.

Madam Speaker, I rise today in support of H.R. 4293, the Irish Peace Process Cultural and Training Program Act of 1998, which is designed to assist Northern Ireland in its difficult transition to a peacetime economy and a more stable society.

As its centerpiece, this legislation would create a temporary nonimmigrant visa program targeted at providing disadvantaged, working-age individuals from Northern Ireland and the Border Counties of Ireland the opportunity to develop practical job training and work experience in the United States. While living and working here, these individuals would also be exposed to training in conflict resolution and the experience of coexisting in a diverse, multicultural society. The program would provide 12,000 visas over a 3 year period for these designated individuals, with a maximum of 4,000 such visas extended per year. These individuals would then return to Ireland with their newly acquired skills.

Madam Speaker, now that we have such an encouraging start, we should do all that we can to nurture the Irish Peace Process. While we sometimes take social and economic stability for granted in the United States, such conditions have not existed for the entire lifetimes of many working-age adults in Northern Ireland. These conditions cannot develop overnight, and indeed, can only be created through the cooperation of thousands of Irish citizens working together to regenerate their communities. H.R. 4293 will provide these individuals with the necessary cultural and economic training to start the process of rebuilding a working, civil society. I urge adoption of this legislation.

Mr. NEAL of Massachusetts. Madam Speaker, I yield such time as he may consume to the gentleman from New York (Mr. MANTON) who, as previously indicated, is retiring at the close of this Congress, and again I would say, as the gentleman from New York (Mr. KING) and the gentleman from New York (Mr. GILMAN) have already stated and I am sure others will reiterate, there has not been a longer or more dedicated champion of the Peace Process in Ireland than has been the Congressman from Queens.

Mr. MANTON. Madam Speaker, I thank the gentleman for yielding this time to me, and I thank him for his kind words and the kind words from others who have spoken here tonight on behalf of my upcoming retirement.

Madam Speaker, I rise today in support of H.R. 4293, the Irish Peace Process Cultural Training Program. At the outset, I want to thank my colleague, the gentleman from New York (Mr. WALSH) for introducing this important and timely legislation.

Although a handful of dissidents have recently tarnished the aura of peace in northern Ireland, the message sent earlier this year from people throughout Ireland was clear. They want peace, and they want it now. Today the situation in their country continues to be complex however. A movement toward a just and lasting peace is evident.

Congress has the opportunity to expand the advancement for peace by passing H.R. 4293 which would provide 12,000 visas over 3 years, each visa having a duration of 36 months. These temporary nonimmigrant visas would be made available to young individuals from the most volatile areas of northern Ireland in order to allow them the opportunity to partake in programs in the United States to further expand and develop their job skills. It is important to point out that these skills would be crucial to bringing economic opportunities to local communities in northern Ireland and thus further enhancing the Peace Process.

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In addition, these individuals would have the opportunity to work in one of the most diverse and socially interactive environments in the world, and that is, the United States of America.

Rather than arming themselves with guns and expressing themselves through violence, these young bright individuals will have the opportunity to prepare themselves and their country for the 21st century with the skills they gain through the programs offered in this bill. Madam Speaker, H.R. 4293 illustrates the United States continuing strong commitment to bringing a just and lasting peace to the people of Northern Ireland.

I encourage my colleagues to join me in supporting this legislation which already boasts strong bipartisan support from the Congressional Friends of Ireland, the Congressional Ad Hoc Committee for Irish Affairs, as well as a number of Irish and Irish American groups and newspapers.

Madam Speaker, as the 20th century draws to a close, let us put the hate and violence Northern Ireland has witnessed behind us and welcome the 21st century as a peaceful and economically enhanced time for the people throughout all of Ireland.

Mr. NEAL of Massachusetts. Madam Speaker, at this time I would include in the official RECORD comments of the gentleman from Massachusetts (Mr. McGovern) who has been a great friend and champion of the Irish Peace process as well.

Mr. MCGOVERN. Mr. Speaker, I rise in support of H.R. 4293, a bill to provide cultural and employment training for the disadvantaged of Northern Ireland and the Republic of Ireland.

I want to commend by colleagues—the gentleman from New York [Mr. WALSH] and the gentleman from my own Commonwealth of Massachusetts [Mr. NEAL]—for their leadership on Irish issues, and especially for drafting this bill that promotes peace and prosperity in Ireland.

Madam Speaker, we all know of the long sectarian violence and tragic history of Northern Ireland. But today we are facing a new history in Northern Ireland—one built upon collaboration, consensus-building, and the people's choice for peace. H.R. 4293 will contribute to this process by involving those who have been exposed to such violence an opportunity to live and work in a multicultural society, a diverse society, the democratic society of the United States.

At the same time, these disadvantaged individuals from Ireland and Northern Ireland will also be gaining valuable work skills and experience so that they might participate and become partners in building a new and more prosperous Ireland.

I urge all my colleagues to vote in support of H.R. 4293 and I salute the leadership of Congressman WALSH and Congressman NEAL.

Mr. NEAL of Massachusetts. Madam Speaker, I yield such time as she may consume to the gentlewoman from New York (Mrs. MCCARTHY), another great champion of the Irish Peace Process.

Mrs. MCCARTHY of New York. Madam Speaker, I am the newest member of this caucus, and it has been a privilege for me to learn from all of my colleagues in the last 2 years.

I had the privilege of traveling with many of my colleagues a month ago over to Ireland to continue the peace talks. It was my first trip to Ireland, and I have to tell my colleagues what I saw and the faith of the people there was unbelievable. But it was up to that point where I had learned from the gentleman from New York (Mr. KING), the gentleman from New York (Mr. MANTON), the gentleman from Massachusetts (Mr. NEAL), the gentleman from New York (Mr. WALSH) and the gentleman from New York (Mr. GILMAN), that I appreciate. Because going there and seeing what they have worked for so hard and to see that Peace Process come and see it in the faces of the people was unbelievable.

This bill that the gentleman from New York (Mr. WALSH) has put forward I support wholeheartedly, mainly because it is a commonsense bill. It is a bill that will certainly continue the Peace Process, and that is what we have to do. This will give the opportunity for many young people to come over here to learn different skills and to go back home and bring those skills back, and that will only bring together again the tie of Irish Americans and certainly the Irish people in Ireland.

This bill will pass, this bill will do very well, and I am grateful for the privilege of working with all of my colleagues.

Madam Speaker, I rise today in support of H.R. 4293, the Northern Ireland Visa for Peace and Reconciliation. I want to commend Representative WALSH and all my colleagues on the Congressional Ad Hoc Committee on Irish Affairs for their hard work and commitment to the Peace Process in Ireland.

Like so many fellow Americans of Irish descent, I was thrilled when the Good Friday Agreement was signed earlier this year. This historic agreement, which was the result of the hard work by the people of Northern Ireland along with the dedication of the Irish, British and American Governments, signaled a new day in Northern Ireland. After decades of turmoil, the people of Northern Ireland can now look toward a future with peace and justice.

But peace and justice do not come easy. True peace will take a lot of hard work and the continued commitment of all parties involved, including the United States. That is why I am so proud to be a cosponsor of H.R. 4293. By creating a temporary nonimmigrant visa program targeted at young men and women from disadvantaged areas in Northern Ireland, this legislation will assist Northern Ireland in its transition to a peacetime economy. This Visa initiative is designed to afford individuals from Northern Ireland and the Border Counties the opportunity to develop valuable 21st century job skills and the experience of working in the world's greatest economy. After their visit, they would return home providing the crucial skill base needed to attract private investment in their local communities. This low-cost, low-risk, high-return investment in peace would also pay dividends by introducing its participants to the diverse, cooperative, and multicultural environment present in the United States.

Last month, I went to Ireland with a number of my colleagues. Traveling from city to city, both north and south of the border, one thing became clear to us—the people of Ireland want peace. And their dreams and aspirations are no different from those of ordinary Americans. the people of Northern Ireland want a safe and economically secure life, for themselves and their children. H.R. 4293 will help achieve that goal and I urge all my colleagues to support this important piece of legislation.

Mr. NEAL of Massachusetts. Madam Speaker, I yield back the balance of my time.

Mr. SMITH of Texas. Madam Speaker, I yield such time as he may consume to the author of the bill, the gentleman from New York (Mr. WALSH).

Mr. WALSH. Madam Speaker, I thank the gentleman for yielding me this time. I also would like to extend my deepest thanks to the gentleman from Texas (Mr. SMITH) for allowing us to move this bill as expeditiously as we have.

This whole process has been a remarkable achievement for all of us. In all of my experience here in the Congress in 10 years, I have never seen a more bipartisan or nonpartisan, bicameral, multi-branch of government-supported project as this Irish Peace Process. The gentleman from Texas allowing us to move ahead; Speaker GINGRICH who recently visited Northern Ireland and in support of the Peace Process in every word that he uttered. President Clinton, who has provided just remarkable leadership, truly the catalyst behind this process, along with his colleagues Berty Hearne, the Teshok of the Republic of Ireland and Tony Blair, the Prime Minister of England. My good friends on the Democratic side, the gentleman from Massachusetts (Mr. NEAL) and the gentleman from New York (Mr. MANTON), the gentlewoman from New York (Mrs. MCCARTHY) and the gentleman from Pennsylvania (Mr. COYNE), and my hat especially goes off to the gentleman from New York (Mr. MANTON) for the leadership that he has provided. He taught a lot of us about these issues.

On our side, the gentleman from New York (Mr. KING), not only a brave and vigilant spokesman for peace and justice in Ireland, but all over the world. The gentleman is willing to go anywhere and pay any price to make sure that people have their freedom and justice, and I thank him for his leadership.

Over the last few months the world has witnessed events in Northern Ireland symbolizing both the hope for its future and the tragedy of its past. The politics of the gun has been replaced with the politics of the ballot box. The majority of men and women on all sides of this conflict have given overwhelming support for the Good Friday agreement and stood firmly together in condemnation of violence and terror. The Visa for Peace legislation is aimed at helping those who are working for that new beginning, a new Ireland.

As chairman of the Friends of Ireland and a member of the Ad Hoc Committee for Irish Affairs, I have personally been involved with this effort to help bring peace to Ireland. Back in May, the Speaker of the Irish Dail, Mr. Seamus Pattison, led a delegation to Washington for meetings between the newly established United States-Ireland Interparliamentary Group. During those meetings, the Irish representatives repeatedly raised the idea of a transitional visa program designed to support the implementation of the peace agreement. After a few weeks of research, consultation and negotiation, we, all of us, came to share their enthusiasm and introduced H.R. 4293.

The Irish Peace Process Cultural and Training Program Act legislation creates 12,000 temporary, nonimmigrant work visas targeted at young men and women from disadvantaged areas from Northern Ireland in the border counties. It aims to assist the region in its transition to a peacetime economy. As a new low-cost, low-risk, high return investment in peace, this visa affords individuals an opportunity to obtain valuable job skills needed for the 21st century and the experience of working in the world's greatest economy. After their visit, they would return home prepared to provide the crucial skill needed to attract private investment to their local economies.

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The program would provide up to 4,000 visas a year for 3 years, allowing the holder to live in the United States for up to but no more than 36 months.

It would identify disadvantaged areas within Northern Ireland and the border counties which require public and private sector activities to break the cycle of structural unemployment, retrain the long-term unemployed and out-of-work youth, and in doing so, assist in the regeneration of the economies in these locales.

It would encourage grass roots support for long-term peace and economic stability by providing a release valve for the tensions and disillusionment of communities in despair.

It would promote cross-community and cross-border initiatives which expose individuals from these disadvantaged areas to the business and social life of other communities.

These objectives can be achieved by a nonimmigrant program targeted at young adults from both sides of the border, and on all sides of the sectarian divide.

Drawing on the experience and empirical evidence from the universally respected Project Children program, it is believed that exposing individuals who have been subjected to a wartorn sectarian environment to the diverse, cooperative, multicultural environment present in the United States can provide long-lasting social and economic benefits.

It is this interaction with alternative cultures within a neutral environment that will provide people from the targeted areas the sense of confidence and worth they will need to rebuild their economies and their lives.

Last month I accompanied both the Speaker, the gentleman from Georgia (Mr. GINGRICH), and President Clinton on their separate visits to Ireland and Northern Ireland. During those trips we were constantly thanked for the support that Congress has given to advancing the Peace Process, and reminded of the need to maintain our involvement.

As the gentleman from New York (Mr. KING) spoke, we saw firsthand the benefits of public and private investment in the distressed areas that have suffered from the violence of the last 30 years.

American investment through the International Fund for Ireland has been successful in reaching out to all sections of the community, and has been very successful in promoting cross-border business activities.

The Northern Ireland Visa for Peace would leverage existing and future private investment. At a time of fiscal austerity and lack of support for foreign aid, our visa program would be a relatively inexpensive way to promote peace, reconciliation, and stability. America is also tired of sending its men and women overseas as peacekeepers. I believe it would be a lost opportunity not to try out a new, creative attempt at conflict resolution.

For those who are concerned that these temporary visas might encourage permanent emigration from Northern Ireland, I would respond that those fears do not stand up to the current facts. I would like to submit for the RECORD an article from the New York Times detailing how thousands of Irish are returning home from the United States.

The Irish Government's Central Statistics Office documents that 6,600 Irish immigrants have returned from the United States this year, with a net migration to Ireland of over 15,000 individuals in the last 2 years. This figure will increase as the economy continues to thrive in the north, or begins to thrive in the north.

Our bill is an attempt to duplicate that success in Northern Ireland. The people of Northern Ireland will enjoy the same benefits as those in the south, if peace holds and the conditions for private investment are met. Our visa proposal is a response to the demands made by the U.S. Trade and Investment Conferences of 1995 and 1996. Those conferences called for ways to assist the economy in the north through on-the-job training of young adults with cross-community and cross-border participation.

In the past several years, we have seen 800 years of Irish history take a dramatic shift toward peace and justice for all. I believe that this Visa for Peace legislation will further cement that progress. I hope all Members will join me in supporting this low-cost, low-risk, high-return investment in support of peace in Northern Ireland.

I would like to thank the chairman, the gentleman from Texas (Mr. SMITH) and his staffers, Jim Wilon and George Fishman, for their efforts to bring this bill to the floor. I would like to thank John Mackey, of the staff of the gentleman from New York (Mr. BEN GILMAN), Mr. Mackey has been just an absolute soldier in this process, and my staff, John Simmons and Pat Togni, who have worked so hard to bring this to its fruition. I thank the committee for its indulgence.

Madam Speaker, I include for the RECORD the following article:

LEAVING AMERICA—IRELAND, NEW PROMISED LAND

(By Mike Allen)

YONKERS, N.Y.—Between retrieving thrown juice cups and cleaning up crushed cookies, the moms in the mother-toddler group at the Irish Community Center here talk about home. But unlike generations of homesick Irish women before them, many of them aren't just talking. They're going.

With the Irish economy thriving and now an agreement for peace in the long-bloody North—resoundingly ratified in a referendum last weekend—the motherland's pull on its exiles in America seems more powerful than ever. Many young Irish adults are breaking with earlier generations of Irish immigrants who settled in the United States for good: The Irish Government reports that over the last two years, 13,000 more Irish moved back to Ireland from America than went the other way.

REVERSAL

That reversal breaks with previous decades of Irish immigration to the United States, one of the oldest, largest, most sustained and most culturally influential migration flows of American history—reaching nearly a million in the 1850's after the Irish potato famine, but dwindling lately to just a few thousand a year.

For a few years now, the Irish have been celebrating the surprising return of their countrymen from England and Australia as well as America, a trend that the peace agreement seems sure to accelerate. Now the Irish in America, who once saw little choice but to come here, are confronted with a happy dilemma: choosing between this land of opportunity and a land more familiar to them that has been newly vested with promise.

To economists, Ireland is now "the Celtic tiger." Thanks largely to American and other foreign investments in high-tech manufacturing plants for computers, pharmaceuticals and other products, newly created jobs have brought unemployment in Ireland down to 9 percent from nearly 16 percent in 1993. Investors, in turn, are bullish largely because next year Ireland (unlike neighboring Britian) will adopt the European Union's unified currency, the euro. Participation in the euro imposes economic discipline on countries using it and is expected to reduce the cost of doing business within the European Union.

Jerry J. Sexton, a labor-market specialist for the Economic and Social Research Institute in Dublin, said most of those returning from the States are in their mid-20's to mid-30's, and usually have some education or skills.

Across the Atlantic, his assessment is affirmed in interviews with Irish immigrants. James Dalton, an Irishman who owns Dublin Construction Inc. in Woodside, Queens, said he typically employs 20 of his countrymen as carpenters or laborers—and typically one leaves for home every week. After spending the day refitting a pub in mahogany, two of his 20-year-old carpenters—both out of Ireland just two months—ordered a round of Guinness and confided their dream: saving enough money to start a construction business back home.

In many of the Irish bars that dot New York, similar stories are being told, some that sound much like the fantastic tales that envious dreamers in the Old World once told about America. Seamus Gillespie, a 44-year-old asbestos remover who was sharing a pint and a cigarette with a co-worker and his fiancée at another bar in Woodside, leaned in to give the news about the Irish economy. "They're not building houses," he said. "They're building mansions!"

WHOLE HOUSEHOLDS

Historians of American immigration say revolving-door migrations like this one are nothing new, despite popular myths about America as the promised land. But they note that the Irish exodus is unusual in that it seems to involve whole households (as opposed to men without families), making the departure of the Irish more noticeable.

Dr. Kerby A. Miller, a history professor at the University of Missouri who specializes in Irish immigration, calls the turnabout simply astonishing for a people long motivated by starvation and political and religious repression to forsake their homeland. In the past, he said, "Irish immigrants longed to return, at least sentimentally, but they realized it was impractical or impossible."

Among the factors motivating the new Irish returnees, Irish immigration counselors say, are frustrations and delays in winning American citizenship, given the United States' current anti-immigrant political climate. Lately, though, the peace agreement for the British province of Northern Ireland provides another incentive for those already weighing a decision to return.

Arriving at the Irish Community Center in Yonkers to pick up his wife and young son, Andrew J. Convery, a taxi driver from the Bronx, said the prospect of peace was a big factor in their decision to return. A Catholic from Northern Ireland, he came here six years ago in search of the American dream, and met his future wife, Kerry, a Catholic from Dublin, when he picked her up as a fare. Now they are moving back so their 1-year-old, Ciaran, can be raised the way they were. But without the bombs. "Before, there wasn't much to go back to," Mr. Convery said.

The Irish exodus raises as yet unanswerable questions about the subtler cultural effects on two countries that have long drawn on each other's richness. Several neighborhoods in Queens and the Bronx look like Potemkin Irish villages: Newsstands sell papers from each Irish county, convenience stores carry ox-tail soup mix and butcher shops offer grouse. Lately in the United States, Irish culture, once shunned by the upper crust, has enjoyed a broad revival. "Angela's Ashes," Frank McCourt's Pulitzer Prize-winning memoir of growing up poor in Limerick (interestingly enough, after his family returned from America), has been on The New York Times Best-Seller List for 89 weeks. And in recent years, "Lord of the Dance," the choreographed extravaganza created by Michael Flatley, an Irish-American, has made Irish folk-dancing almost hip.

The Irish cultural vibrancy here could be diluted by Ireland's new drawing power, says Dr. Timothy J. Meagher, the director of the Center for Irish Studies at Catholic University in Washington.

"If you lose the immigrant base, it threatens the culture," he said.

The flow of Irish from the United States can be expected to increase as the Irish Government and business groups rev up the welcome wagon. Ireland's Department of Social Welfare, which earlier published "Thinking of Going to London?" and "Thinking of Going to the United States?" last year switched gears and put out "Thinking of Returning to Ireland?"—a guide to housing, pensions and workers' rights. A hopeful headline asked, "Home for Good?" A private group called Returned Emigrants was started last year and has grown to 180 members in three chapters; they gather to vent shared frustrations, including their experiences with the pokey Irish telephone service.

To other returnees, however, such flaws are quaint reflections of a more leisurely pace of life, which to them is one of Ireland's big draws. Pauline A. McGovern, who moved back to County Kerry in May with her husband, Brendan, and their son, said that within days of returning, her husband found work as a plumber. When they lived in Yonkers, he had to leave every workday at 6:45 A.M. to catch a train and then the subway for work in Manhattan. Now, he hops on his bike at 8:55 and rides 20 blocks to work—and comes home at noon for dinner. Their 3-year-old son, Ryan, sleeps three hours later. "I think it's in the air," Mrs. McGovern said.

Mr. SMITH of Texas. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I would simply like to compliment the gentleman from New York again on his hard work on this bill, and congratulate him on its imminent passage.

Mr. SCHUMER. Madam Speaker, today I rise in support of the Irish Peace Process Cultural and Training Program. I also want to take this opportunity to congratulate the leaders of Northern Ireland and England for achieving a much hoped for peace agreement many felt would be out-of-reach. We are now seeing peace materialize before our eyes. I am glad to be alive to see these days—the beginning of the end of the troubles in Northern Ireland.

I am pleased that we are able to vote on this bill today. It is both timely and necessary. One of my proudest legislative achievements is the passage of the Diversity Visa which helped our countries reestablish a very important bond. Today's vote in favor of this bill will further cement this union. Both our nations will benefit greatly from this exchange of knowledge and people.

This bill will help Irish nationals learn valuable skills needed to strengthen local economies in Northern Ireland. My only disappointment with this negotiated version of the bill is that it grants a smaller number of visas than under the original bill. That bill, which I cosponsored, would have made available 50,000 visas. Nonetheless let me be clear that I fully support the goals of this legislation and I urge my colleagues to do the same.

The people of Ireland have added to the cultural fabric of this country for many years. I have always believed that Irish immigrants have made a special and tangible contribution to America. Theirs is a story of hardship and hope, of trials and triumph. I ask my colleagues to remember that millions of Irish people chose us for their home away from home. They have come here to America for the promise of a better life. Many have helped build strong communities in the United States; others have chosen to return and take the example and experience of America back to their childhood homes.

Let us say welcome again to our brothers and sisters from the Emerald Isle and pledge to help them however we can in this time of peace and healing. Our bonds are strong and this bill will only help to make them stronger. I urge my colleagues to support this bill.

Mr. SMITH of New Jersey. Madam Speaker, as a cosponsor of H.R. 4293, The Northern Ireland Visa for Peace and Reconciliation Act, I rise to urge my colleagues to support final passage of this bill and give further evidence of America's support for achieving economic justice and a lasting peace in Northern Ireland.

As Chairman of the Subcommittee on International Operations and Human Rights, I have held a series of hearings on the human rights abuses that persist in Northern Ireland. Regrettably, harassment of defense attorneys, lack of access to legal counsel, search and seizure abuses, sectarian use of plastic bullets and the prospect of collusion between loyalist paramilitary organizations and the police and security forces have all marked the history of British rule in Northern Ireland.

Along with these problems in the judiciary and in the enforcement of the rule of law, Northern Ireland has also suffered from discrimination against Catholics in the workplace. For instance, Catholic males are more than twice as likely as Protestant males to be unemployed.

H.R. 4293, like the International Fund for Ireland which we created in the 1980s and which we have funded consistently every year since, will help those in Northern Ireland who continue to struggle to find work, or who are still discriminated against because of their faith. H.R. 4293 creates a temporary working visa category for individuals from disadvantaged areas in Northern Ireland so that they can come to the United States, learn new job skills, participate in cross-community training programs, and promote economic equality when they return to Ireland.

As drafted, H.R. 4293 is intended to help mitigate the social and economic problems that have contributed to civil unrest in Northern Ireland. By permitting young, unskilled people from the areas of civil strife to spend a brief time in the United States to learn a craft and experience the diversity of our country, we will help disadvantaged youth in nationalist and loyalist communities break the cycles of unemployment and distrust which have contributed greatly to the civil unrest in the region. The program will also enhance economic relations the trade between the United States and Northern Ireland.

When I was in Northern Ireland last year, I was amazed, saddened—and highly insulted—when a leading Unionist party official told me that Catholics remained unemployed in Northern Ireland not because of any subtle or blatant discrimination against them but rather because "they" are unskilled. He proceeded to reason, to my disbelief, that Catholics are good in the arts and entertainment field—i.e., singing and dancing—but are "wanting" in the math, sciences and other applications more fitting for finding work. I asked for data to back up his theory and needless to say I never got it.

It is this sort of "typecasting" and discrimination that can fuel civil strife. I am pleased that H.R. 4293 will go a long way in providing new employment experiences for the workers in both the Catholic and Protestant communities, give them opportunities to disprove the stereotypes they have supposed about each other over the years, and enable them to return home and provide the crucial skill base needed to attract more international private investment opportunities in their local economy.

Mr. SMITH of Texas. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. WILSON). The question is on the motion offered by the gentleman from Texas (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 4293, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read:

"A bill to establish a cultural training program for disadvantaged individuals to assist the Irish Peace Process."

A motion to reconsider was laid on the table.

COMMUNICATION FROM THE HONORABLE WILLIAM D. DELAHUNT, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable WILLIAM D. DELAHUNT, Member of Congress:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, October 6, 1998.

Hon. NEWT GINGRICH,
House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that my office has been served with a subpoena for documents issued by the Plymouth Superior Court, Commonwealth of Massachusetts, in the case of *Pert Dickie, et al. V. Kelly Regan, et al.*.

The subpoena appears to relate to my official duties. I am currently consulting with the Office of General Counsel to determine whether compliance with the subpoena is consistent with the privileges and precedents of the House.

Sincerely,
WILLIAM D. DELAHUNT.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

IN IMPEACHMENT INQUIRY DEBATE, LET MEMBERS PLEDGE ALLEGIANCE TO THEIR COUNTRY, NOT TO THEIR PARTY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri (Mr. HULSHOF) is recognized until midnight.

Mr. HULSHOF. Madam Speaker, these past several days this body has been consumed with political wrangling over spending bills and legislative riders, debate over tax cuts and Social Security, whether to fund the IMF or not fund the IMF. That has been the question.

It seems as if each side has sought some political advantage during these debates. That is not necessarily a criticism. We are, after all, a political body. The question we now face, Madam Speaker, however, is one of profound historical significance: Shall a formal impeachment inquiry commence.

As we consider and struggle with this weighty matter, I implore my colleagues to focus on the gravity of the moment. Some may be tempted to condemn the process, or the prosecutor. But Madam Speaker, now is not the time for talking points or for pointing fingers. Madam Speaker, in this debate, let us not pledge our loyalty to our party, let us pledge, instead, our allegiance to our country. We must not allow ourselves to be partisans. Instead, we must be patriots.

Like many Members, Madam Speaker, I am concerned about the open-ended nature of the resolution. I believe that each of us here would fervently wish this cup could pass us by. But I have profound faith in the integrity and the ability of the distinguished chairman of the Committee on the Judiciary, the gentleman from Illinois. He has given us his pledge that this process will move forward fairly and expeditiously, and I think the gentleman's word deserves and should be afforded great weight in this body.

The question then before us is whether or not we should follow the considered recommendation of the Committee on the Judiciary to move forward with formal hearings. As we ponder that question, let me ask another, which goes to the very heart of the matter.

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Is it possible that credible evidence exists which may constitute grounds for an impeachment? If the answer to the question is a solemn yes, then Members should cast their vote accordingly. But even if they respond with an equivocal "I do not know," I believe the doubt should be resolved in favor of holding hearings and the resolution should be accepted.

Madam Speaker, let us not avert our gaze but instead let us fix our eyes on the horizon wherever that little traveled road leads us. Last January I was granted the privilege to enter this Chamber for the first time.

The SPEAKER pro tempore (Mrs. WILSON). The time of the gentleman has expired.

Mr. HULSHOF. Madam Speaker, I ask unanimous consent for an additional 30 seconds to conclude.

The SPEAKER pro tempore. The Chair cannot entertain that request. The gentleman may finish his sentence.

Mr. HULSHOF. Madam Speaker,

Last January, I was granted the privilege to enter this Chamber for the first time. My family beamed down at me with pride from the gallery as I began my service to this Nation. On that day I rose in unison with my colleagues and pledged my oath, my sacred honor to uphold the Constitution of the United States. In my humble and considered opinion that oath requires from me a vote of "aye" on the resolution.

WHAT IT MEANS TO BE A DEMOCRAT

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include therein extraneous material.)

Mr. KINGSTON. Mr. Speaker, not wanting to respond directly to my friend, the gentlewoman from Georgia (Ms. MCKINNEY), I must say apparently she has not read the bill. There is nothing in the bill that talks about a land swap. I would invite my friend to read the bill. But then again, that might be asking too much of a Democrat. But that is not in the bill.

I do want to say this, Mr. Speaker, in terms of "What It Means to Be a Democrat", the article that was in the Washington Post by Michael Kelly. He talked to the Committee on the Judiciary the other day about that crimes, even if they had been committed, did not matter. He said what mattered were statements, whether truthful or not, but what was their context.

What the author Michael Kelly talked about is this is where the Democrat party has now come to, that it does not matter if you lie or tell the truth, it just mattered what the contexts are.

Is that what the new Democrat values are? They can talk about a bill that does not even have legislation in it and speak against the bill, but truth does not matter as long as you are a Democrat. The context is what matters. I think it is very important for my colleagues to know what the Democrat Party, it seems, has fallen to.

The article referred to is as follows:

[From the Washington Post, Oct. 7, 1998]

WHAT IT MEANS TO BE A DEMOCRAT

(By Michael Kelly)

Defining moments in politics sometimes arrive with fanfare and glory and purpose: "I pledge you, I pledge myself, to a New Deal for the American people." And sometimes they slip in unplanned and unannounced, and mostly unnoticed—moments where something is defined not by intent but by default.

The defining moment for what it means to be a Democrat now, in the time of Clinton, sidled quietly on-stage this week, on the afternoon of the day when all 16 Democratic members of the House Judiciary Committee, in dereliction of their constitutional duty, voted to block an inquiry into whether a president who is of their party had committed impeachable offenses.

David P. Schippers, the chief investigative counsel for the Republican-controlled Judiciary Committee, had concluded his official report to the committee with a careful finding that "there exists substantial and credible evidence of 15 separate events directly involving President William Jefferson Clinton that . . . may constitute grounds to proceed with an impeachment inquiry." Schippers then spoke briefly not as a counsel but as "a citizen of the United States who happens to be a father and a grandfather." He paraphrased the line given Sir Thomas More in the play "A Man For All Seasons": "The laws of this country are the great barriers that protect the citizens from the winds of evil and tyranny. If we permit one of those laws to fall, who will be able to stand in the winds that follow?"

This was a Democrat speaking. But Schippers, who ran Attorney General Robert Kennedy's organized crime task force in Chicago, is a Democrat from another time. Every word that Schippers spoke, in his grave and sober and serious report, rested not on the values of any vast right-wing conspiracy, but on what were once the values of a vast (and now almost vanished) Democratic liberalism, a liberalism that knew that it was the office that was sacred, not the man; that it was the law that ruled, not the ruler.

That was then, this is now. When Schippers spoke for the sacred law and for the old values, what was the reaction of the Democrats who sat listening to him in that committee room? They rushed to the chairman to complain that such talk was out of order. And Henry Hyde was happy to concede the point; if the Democrats wished to declare themselves opposed to even oratorical support for the rule of law—why, that would be fine with the Republicans. Hyde ordered Schippers' remarks stricken from the record, and the moment was complete.

So it went. Speaking for the old values, Schippers declared that it must matter if the president had broken the law because he was "the chief law enforcement officer of the United States," a man who had taken an oath to "preserve, protect and defend" the law and whose minions wielded the law against the rest of us citizens. Acts of perjury and obstruction of justice—for any reason, in any case—perpetuated by the man who controlled the forces of the law, Schippers said, would constitute "deliberate and direct assaults . . . upon the justice system of the United States and upon the judicial branch of our government." The chief law enforcement officer of the United States must not be allowed to lie under oath with impunity, he said, for "the principle that every witness in every case must tell the truth, the whole truth and nothing but the truth is the foundation of the American system of justice."

Abbe Lowell, the chief investigative counsel for the Democrats on the committee, argued the case for the party's new values. The new values are: Law, schmaw. As Lowell explained, even if the president had lied under oath, even if he had obstructed justice, even if he had committed crimes—it did not matter.

One hears, said Lowell, airily, much talk of "a largely rhetorical question: 'Are you saying that lying under oath or obstruction of justice is not an impeachable offense?'" That question, he sniffed, may be suitable for "classroom debate," but it was not a fit subject for Congress to consider. A proper inquiry, Lowell explained, should not focus on whether Clinton's "statements were or were not truthful, but what were their context, what were their impact, and what were their subject matter."

This is where the party of Franklin Roosevelt wishes to stand? On the ground that it is permissible—under certain circumstances, you see—for a president to lie under oath, to obstruct justice, to break the law? To stand for this is to stand for "nothing but an appetite," to borrow Jesse Jackson's description of what lurked in the core of Clinton's soul. A party that stands for that must fall.

TOUGH PROBLEMS OF PROTECTIONISM

(Mr. SMITH of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Michigan. Mr. Speaker, in the Monday's Wall Street Journal there was an editorial that talked about the Jones Act. The Jones Act is legislation that was passed in the 1920s that is pretty much pure protectionism. It says that only shippers of sea-going vessels that own ships that were built in the United States can ship from one United States port to another.

Now, we are running into a problem where United States shipyards are not building those ships. Especially at this time with the crunch on farmers and low commodity prices and, added to that problem of low prices a lack of transportation, we need to take a serious look at this protectionist law.

I hope my colleagues will read the Wall Street Journal editorial that was in Monday's paper. We need to address these tough problems of protectionism that punishes American consumers and American producers.

The agricultural economy is reeling under historically low commodity prices coupled with multiple-year disaster and weather related problems, plus the loss of export markets due to the Asian financial crisis. Farm income in my state of Michigan is predicted to be down by 10–20% depending upon the type of farming operation. The last thing American agriculture needs in another market hindrance.

Last year, grain and other feedstocks were left on the ground due to a lack of adequate transportation options. All indications suggest we will be faced with the same problem again this year. I understand that USDA and DOT have devised a plan to assist agricultural producers in transporting their goods to market, but the plan does not address a critical aspect of our transportation system that has led us to this problem—the utter lack of deep-sea transportation options available to America's agricultural producers.

American ship operators are forced to do business under the restrictions of an archaic 1920's law known as the Jones Act. The Jones Act restricts the transportation of goods from one United States port to another (even via a foreign port) to vessels which are built and flagged in the United States and owned and operated by American's. Because U.S. shipyards do not build large commercial ships and operators are unable to import vessels built abroad, there is only one bulk carrier left in the Jones Act fleet. No new bulk carriers are slated to be built in the next five years.

What this means is that shippers are unable to transport bulk commodities at reasonable rates along our nation's coasts. There are barges available to some shippers, but they are not competitive for the transportation of bulk commodities. According to agricultural transportation specialists, if only 2% of our Nation's agricultural commodities moved by deep-sea transportation, that would be enough to relieve the excess pressure on the railroads.

This will never happen until we have common sense reform of the Jones Act. I have introduced H.R. 4236, the Shipping Relief for Agriculture Act, that would allow U.S. ship operators the ability to purchase vessels used for the transportation of bulk commodities on the international market. Repealing the U.S. build requirement for ocean-going, bulk carriers is absolutely necessary if we expect agriculture shippers to be able to transport their products domestically by sea.

Jones Act reform is vital to America's agricultural economy and I urge this body to seriously consider this issue.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

The following Members (at the request of Mr. NEAL of Massachusetts) to revise and extend their remarks and include extraneous material:

Mr. ABERCROMBIE, for 5 minutes, today.
Ms. FURSE, for 5 minutes, today.
Mr. BLUMENAUER, for 5 minutes today.
Ms. JACKSON-LEE of Texas, for 5 minutes, today.
Mr. CONYERS, for 5 minutes, today.
Mr. FALEOMAVAEGA, for 5 minutes, today.

The following Members (at the request of Mr. HULSHOF) to revise and extend their remarks and include extraneous material:

Mr. UPTON, for 5 minutes, today.
Ms. ROS-LEHTINEN, for 5 minutes, today.
Mr. GUTKNECHT, for 5 minutes, today.
Mr. PAUL, for 5 minutes, today.
Mr. DUNCAN, for 5 minutes, today.
Mr. SOUDER, for 5 minutes today.
Mrs. ROUKEMA, for 5 minutes, today.
Mr. COBURN, for 5 minutes, on October 8.
Mr. HULSHOF, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. NEAL of Massachusetts) and to include extraneous material:)

Mr. LEVIN.
Mr. REYES.
Mr. FRANK of Massachusetts.
Mr. VISCLOSKY.
Mr. KIND.
Mr. KANJORSKI.
Mr. BENTSEN.
Mr. TOWNS.
Mr. PAYNE.
Mr. HALL of Ohio.
Ms. KAPTUR.
Mr. SABO.
Ms. DELAURO.
Mr. PASCRELL.
Mr. STARK.
Ms. JACKSON-LEE of Texas.
Mr. EVANS.
Mr. UNDERWOOD.
Ms. NORTON.
Mrs. LOWEY.
Mr. BORSKI.

(The following Members (at the request of Mr. HULSHOF) and to include extraneous material:)

Mr. OXLEY.
Mr. GALLEGLY.
Mr. GILMAN.
Mr. CRAPO.
Mr. PAUL.
Mr. BEREUTER.
Mr. MCCOLLUM.
Mr. SMITH of New Jersey.
Mr. LEWIS of California.
Mr. RAMSTAD.
Mr. BILIRAKIS.
Mr. PORTER.
Mr. GEKAS.
Mrs. NORTHUP.
Mr. DREIER.
Mr. WELLER.
Mr. WHITFIELD.
Mr. YOUNG of Alaska.
Mr. RIGGS.
Ms. ROS-LEHTINEN.
Mr. STUMP.

ENROLLED BILLS SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker.

H.R. 449. An act to provide for the orderly disposal of certain Federal lands in Clark County, Nevada, and to provide for the acquisition of environmentally sensitive lands in the State of Nevada.

H.R. 930. An act to require Federal employees to use Federal travel charge cards for all payments of expenses of official Government travel, to amend title 31, United States Code, to establish requirements for prepayment audits of Federal agency transportation expenses, to authorize reimbursement of Federal agency employees for taxes incurred on travel or transportation reimbursements, and to authorize test programs for the payment of Federal employee travel expenses and relocation expenses.

H.R. 1481. An act to amend the Great Lakes Fish and Wildlife Restoration Act of 1990 to provide for implementation of recommendations of the United States Fish and Wildlife Service contained in the Great Lakes Fishery Resources Restoration Study.

H.R. 1836. An act to amend chapter 89 of title 5, United States Code, to improve administration of sanctions against unfit health care providers under the Federal Employees Health Benefits Program, and for other purposes.

H.R. 3381. An act to direct the Secretary of Agriculture and the Secretary of the Interior to exchange land and other assets with Big Sky Lumber Co. and other entities.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 314. An act to provide a process for identifying the functions of the Federal Government that are not inherently governmental functions, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on the following date present to the President, for his approval, bills of the House of the following titles:

On October 6, 1998:

H.R. 4101. Making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1999, and for other purposes.

H.R. 4103. Making appropriations for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes.

ADJOURNMENT

Mr. HULSHOF. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 01 minutes a.m.), the House adjourned until today, Thursday, October 8, 1998, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

11583. A letter from the General Counsel, Department of Housing and Urban Development, transmitting the Department's final rule—Empowerment Zones: Rule for Second Round Designations [Docket No. FR-4281-F-07] (RIN: 2506-AB97) received October 6, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

11584. A letter from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting the Department's final rule—Migratory Bird Hunting; Extension of Temporary Approval of Tungsten-Iron Shot as Nontoxic for the 1998-99 Season (RIN: 1018-AE35) received October 6, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

11585. A letter from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting the Department's final rule—Migratory Bird Hunting; Temporary Approval of Tungsten-Polymer Shot as Nontoxic for the 1998-99 Season (RIN: 1018-AE66) received October 6, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

11586. A letter from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting the Department's final rule—Migratory Bird Hunting: Final Frameworks for Late-Season Migratory Bird Hunting Regulations (RIN: 1018-AE93) received October 6, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

11587. A letter from the Director, Fish and Wildlife Service, transmitting the Service's final rule—Endangered and Threatened Wildlife and Plants; Determination of Endangered or Threatened Status for Four Plants from Southwestern California and Baja California, Mexico (RIN: 1018-AD38) received October 6, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

11588. A letter from the Director, Fish and Wildlife Service, transmitting the Service's final rule—Endangered and Threatened Wildlife and Plants; Endangered or Threatened Status for Three Plants from the Chaparral and Scrub of Southwestern California (RIN: 1018-AD60) received October 6, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

11589. A letter from the Director, Fish and Wildlife Service, transmitting the Service's final rule—Endangered and Threatened Wildlife and Plants; Determination of Endangered or Threatened Status for Four Southwestern California Plants from Vernal Wetlands and Clay Soils (RIN: 1018-AL88) received October 6, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. KOLBE: Committee of Conference. Conference report on H.R. 4104. A bill making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1999, and for other purposes (Rept. 105–789). Ordered to be printed.

Mr. McINNIS: Committee on Rules. House Resolution 579. Resolution waiving points of order against the conference report to accompany the bill (H.R. 4104) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1999, and for other purposes (Rept. 105–790). Referred to the House Calendar.

Mr. DIAZ-BALART: Committee on Rules. House Resolution 580. Resolution providing for consideration of the joint resolution (H.J. Res. 131) waiving certain enrollment requirements for the remainder of the One Hundred Fifth Congress with respect to any bill or joint resolution making general or continuing appropriations for fiscal year 1999 (Rept. 105–791). Referred to the House Calendar.

Mr. BLILEY: Committee on Commerce. Report in the matter of Franklin L. Haney (Rept. 105–792). Referred to the House Calendar.

Mr. ARCHER: Committee on Ways and Means. H.R. 3828. A bill to amend title XVIII of the Social Security Act to improve access to health care services for certain Medicare-eligible veterans; with an amendment (Rept. 105–793 Pt. 1). Ordered to be printed.

Mr. HYDE. Committee of Conference. Conference report on H.R. 3150. A bill to amend title 11 of the United States Code, and for other purposes (Rept. 105–794). Ordered to be printed.

Mr. HYDE: Committee on the Judiciary. House Resolution 581. Resolution authorizing and directing the Committee on the Judiciary to investigate whether sufficient grounds exist for the impeachment of William Jefferson Clinton, President of the United States (Rept. 105–795). Referred to the House Calendar.

DISCHARGE OF COMMITTEE

Pursuant to clause 5 of rule X the Committee on Science discharged from further consideration. H.R. 3610 referred to the Committee of the Whole House on the State of the Union, and ordered to be printed.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 3828. Referral to the Committees on Veterans' Affairs and Commerce extended for a period ending not later than October 9, 1998.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. SENSENBRENNER (for himself and Mr. McCOLLUM):

H.R. 4712. A bill to amend title 17, United States Code, to extend the term of copyright, to provide for a music licensing exemption, and for other purposes; to the Committee on the Judiciary.

By Mr. FRANKS of New Jersey:

H.R. 4713. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for State and local real property taxes paid by certain taxpayers aged 65 or older who do not itemize their deductions and to provide for the establishment of senior citizen real property tax accounts; to the Committee on Ways and Means.

By Mr. CAMPBELL:

H.R. 4714. A bill to amend the Internal Revenue Code of 1986 to exempt certain transactions at fair market value between partnerships and private foundations from the tax on self-dealing and to require the Secretary of the Treasury to establish an exemption procedure from such taxes; to the Committee on Ways and Means.

By Mr. BURR of North Carolina:

H.R. 4715. A bill to remove Federal impediments to retail competition in the electric power industry, thereby providing opportunities within electricity restructuring; to the Committee on Commerce.

By Mr. GILMAN:

H.R. 4716. A bill to allow certain individuals who provided service to the Armed Forces of the United States in the Philippines during World War II to receive a reduced SSI benefit after moving back to the Philippines; to the Committee on Ways and Means.

By Mr. YOUNG of Alaska (for himself, Mr. DINGELL, Mr. TAUZIN, Mr. BAKER, Mr. JOHN, Mr. CHAMBLISS, Mr. BOB SCHAFFER, Mr. LAMPSON, Mr. BARCIA of Michigan, and Mr. JEFFERSON):

H.R. 4717. A bill to provide Outer Continental Shelf Impact Assistance to State and local governments, to amend the Land and Water Conservation Fund Act of 1965, the Urban Park and Recreation Recovery Act of 1978, and the Federal Aid in Wildlife Restoration Act (commonly referred to as the Pittman-Robertson Act) to establish a fund to meet the outdoor conservation and recreation needs of the American people, and for other purposes; to the Committee on Resources.

By Mr. JACKSON of Illinois (for himself, Mr. CONYERS, Ms. WATERS, Mr. STOKES, Mr. SCOTT, Mr. BECERRA, Mr. LEWIS of Georgia, Ms. MILLENDER-MCDONALD, Mr. WATT of North Carolina, Ms. LEE, Ms. PELOSI, Mr. KILDEE, Mr. KENNEDY of Massachusetts, Ms. LOFGREN, Mr. CUMMINGS, Mrs. MINK of Hawaii, Mr. KENNEDY of Rhode Island, Mr. HINCHEY, Mr. DAVIS of Illinois, Ms. VELÁZQUEZ, Ms. KILPATRICK, Mr. TORRES, Mr. MEEKS of New York, Ms. CHRISTIAN-GREEN, Mr. HASTINGS of Florida, Mr. SANDERS, Ms. CARSON, Mr. GUTIERREZ, Mr. WYNN, Mr. SERRANO, Ms. FURSE, Mr. RODRIGUEZ, Mr. ABERCROMBIE, Mr. RUSH, Mr. THOMPSON, Ms. MCKINNEY, Mr. HILLIARD, Mr. FALEOMAVAEGA, Mr. OWENS, Mr. PAYNE, and Mr. BLAGOJEVICH):

H.R. 4718. A bill to amend title VII of the Civil Rights Act of 1964 to make such title fully applicable to the judicial branch of the Federal Government; to the Committee on the Judiciary.

By Mr. BEREUTER:

H.R. 4719. A bill to establish the International Financial Institution Reexamination and Review Commission; to the Committee on Banking and Financial Services, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. CAPPS (for herself and Mr. GEJDENSON):

H.R. 4720. A bill to amend title XVIII of the Social Security Act to extend for 6 months the contracts of certain managed care organizations under the Medicare Program; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ISTOOK (for himself, Mr. ADERHOLT, Mr. BACHUS, Mr. BARCIA of Michigan, Mr. BLUNT, Mr. CANNON, Mr. COBURN, Mr. CRANE, Mr. DOOLITTLE, Mr. HOSTETTLER, Mr. KING of New York, Mr. LARGENT, Mr. LEWIS of Kentucky, Mr. MANZULLO, Mrs. MYRICK, Mr. PITTS, Mrs. LINDA SMITH of Washington, Mr. SMITH of New Jersey, and Mr. WELDON of Florida):

H.R. 4721. A bill to establish restrictions on the provision to minors of contraceptive drugs and devices through family planning projects under title X of the Public Health Service Act, and for other purposes; to the Committee on Commerce.

By Mrs. MALONEY of New York (for herself, Ms. PRYCE of Ohio, Ms. NORTON, Mrs. ROUKEMA, Mr. ABERCROMBIE, Mr. ALLEN, Mr. BERMAN, Mr. BISHOP, Mr. BOUCHER, Mr. BRADY of Pennsylvania, Mr. BROWN of Ohio, Mrs. CAPPS, Ms. CARSON, Mrs. CLAYTON, Ms. DEGETTE, Ms. DELAURO, Ms. DUNN of Washington, Mr. FARR of California, Mr. FILNER, Mr. FOLEY, Mr. FORBES, Mr. FROST, Ms. FURSE, Mr. GOODE, Mr. GUTIERREZ, Ms. HOOLEY of Oregon, Ms. KAPTUR, Mr. KENNEDY of Rhode Island, Mrs. KENNELLY of Connecticut, Ms. KILPATRICK, Mr. KOLBE, Ms. LEE, Ms. JACKSON-LEE of Texas, Mr. LEWIS of Georgia, Ms. LOFGREN, Mr. MCNULTY, Mr. MEEHAN, Mrs. MEEK of Florida, Ms. MILLENDER-MCDONALD, Mrs. MINK of Hawaii, Mrs. MORELLA, Mrs. MYRICK, Mr. OBERSTAR, Ms. PELOSI, Mr. RANGEL, Ms. RIVERS, Mr. ROMERO-BARCELO, Ms. ROYBAL-ALLARD, Mrs. TAUSCHER, Mr. TOWNS, Mr. UNDERWOOD, Mr. WAXMAN, Ms. WOOLSEY, and Mr. YATES):

H.R. 4722. A bill to create a National Museum of Women's History Advisory Committee; to the Committee on Resources.

By Mr. MANZULLO:

H.R. 4723. A bill to amend title XIX of the Social Security Act to deduct a children's contribution from the amount of income applied monthly to payment for the cost of care in an institution for an individual receiving medical assistance under a State Medicaid plan; to the Committee on Commerce.

By Mr. RODRIGUEZ:

H.R. 4724. A bill to amend the National Trails System Act to designate El Camino Real de los Tejas as a National Historic Trail; to the Committee on Resources.

By Mr. SMITH of New Jersey:

H.R. 4725. A bill to provide surveillance and research to better understand the prevalence and pattern of autism and other pervasive developmental disabilities so that effective treatment and prevention strategies can be implemented; to the Committee on Commerce.

By Mr. STARK:

H.R. 4726. A bill to amend title XVIII of the Social Security Act to reduce the maximum financial risk permitted for physicians participating in Medicare+Choice plans; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STARK (for himself, Mr. Dingell, Mr. Brown of Ohio, Mr. Matsui, Mr. Coyne, Mr. Levin, Mr. Cardin, Mr. McDermott, and Mr. McGovern):

H.R. 4727. A bill to amend title XVIII of the Social Security Act to delay the 15% reduction and to make revisions in the per beneficiary and per visit payment limits on payment for health services under the Medicare Program, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subseuently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdication of the committee concerned.

By Mr. WATKINS:

H.R. 4728. A bill to amend the Internal Revenue Code of 1986 to provide an increased credit for medical research; to the Committee on Ways and Means.

By Mr. YOUNG of Alaska (for himself, Mr. Doolittle, Mr. McInnis, Mr. Gibbons, Mrs. Cubin, Mr. Sessions, Mr. Pombo, Mr. Radanovich, Mr. McKeon, Mr. Bob Schaffer, and Mr. Hansen):

H.R. 4729. A bill to provide for protection of the Minnesota Valley National Wildlife Refuge and endangered species and other wildlife that inhabit or uses that refuge, and to ensure that scarce refuge land in and around the Minneapolis, Minnesota, metropolitan area is not subjected to physical or auditory impairment; to the Committee on Resources.

By Mr. SOLOMON:

H.J. Res. 131. A joint resolution waiving certain enrollment requirements for the remainder of the One Hundred Fifth Congress with respect to any bill or joint resolution making general or continuing appropriations for fiscal year 1999; to the Committee on House Oversight.

By Mr. SOLOMON (for himself, Mr. Gilman, Mr. Bereuter, and Mr. Brown of Ohio):

H. Con. Res. 334. Concurrent resolution relating to Taiwan's participation in the World Health Organization; to the Committee on International Relations.

By Mrs. NORTHUP (for herself and Mr. Young of Florida):

H. Con. Res. 335. Concurrent resolution recognizing the 50th anniversary of the National Institute of Allergy and Infectious Diseases, and for other purposes; to the Committee on Commerce.

By Mr. SENSENBRENNER (for himself and Mr. Ehlers):

H. Res. 578. A resolution expressing the sense of the House of Representatives that the print of the Committee on Science entitled "Unlocking Our Future: Toward a New National Science Policy"should serve as a framework for future deliberations on congressional science policy and funding; to the Committee on Science.

By Mr. HASTINGS of Florida (for himself and Mr. Kennedy of Rhode Island):

H. Res. 582. A resolution directing the Committee on the Judiciary to undertake an inquiry into whether grounds exist to impeach Kenneth W. Starr, an independent prosecutor of the United States; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. MCCOLLUM:

H.R. 4730. A bill for the relief of Robert Anthony Broley; to the Committee on the Judiciary.

By Mr. WATKINS:

H.R. 4731. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel EAGLE FEATHERS; to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

H.R. 26: Mr. Riley.

H.R. 158: Mr. Boswell.

H.R. 676: Mr. Quinn.

H.R. 746: Mr. Frank of Massachusetts.

H.R. 900: Mr. Sawyer, Mr. Lipinski, Mr. Costello, and Mr. Brown of Ohio.

H.R. 902: Mr. Shaw.

H.R. 1061: Mr. Deal of Georgia.

H.R. 1197: Mr. Farr of California.

H.R. 1354: Mr. Maloney of Connecticut.

H.R. 1371: Mr. Watkins.

H.R. 1401: Mr. Brown of California.

H.R. 1441: Mr. Peterson of Minnesota.

H.R. 2098: Mrs. Wilson.

H.R. 2263: Mr. McHugh.

H.R. 2346: Mr. Green, Mr. Holden, Mr. Bishop, Mr. Underwood, and Mr. Frost.

H.R. 2375: Ms. Eddie Bernice Johnson of Texas, Mr. Jackson of Illinois, Mr. Filner, Mr. Frost, Mr. Clay, Mr. McNulty, Mr. Poshard, Mr. Ackerman, and Mr. Engel.

H.R. 2754: Ms. Eshoo and Ms. Rivers.

H.R. 2908: Mr. Allen and Mr. Bilbray.

H.R. 2914: Mr. McGovern and Mr. Hastings of Florida.

H.R. 2938: Mr. Peterson of Pennsylvania, Ms. Christian-Green, and Mr. Abercrombie.

H.R. 2991: Ms. Pelosi and Mr. Oxley.

H.R. 3046: Mrs. Kelly.

H.R. 3081: Mr. Underwood.

H.R. 3230: Mr. Hayworth.

H.R. 3236: Mr. Adam Smith of Washington.

H.R. 3553: Ms. DeGette and Ms. Eshoo.

H.R. 3707: Mr. Ehrlich.

H.R. 3783: Mr. Aderholt.

H.R. 3814: Mr. Forbes, Mr. Redmond, Mr. Frank of Massachusetts, Mr. Smith of New Jersey, Mr. Doolittle, Mr. Camp, and Mr. Manzullo.

H.R. 3815: Mr. Maloney of Connecticut, Mr. Inglis of South Carolina, Mr. Talent, and Mr. McDermott.

H.R. 3835: Mr. Mascara, Mr. Pickett, Mrs. Mink of Hawaii, and Mr. Dickey.

H.R. 3855: Mr. Aderholt.

H.R. 3879: Mrs. Myrick, Mr. Fossella, Mr. Hunter, and Mr. Collins.

H.R. 3900: Mr. Sandlin.

H.R. 3912: Mr. Rohrabacher and Mr. Ballenger.

H.R. 3949: Mrs. Chenoweth.

H.R. 4012: Mr. Bachus.

H.R. 4071: Mr. Bunning of Kentucky and Ms. Hooley of Oregon.

H.R. 4126: Mr. Cramer and Mr. Aderholt.

H.R. 4170: Mr. Combest.

H.R. 4213: Mrs. McCarthy of New York and Mr. Nadler.

H.R. 4214: Mr. Underwood.

H.R. 4339: Mr. Lipinski.

H.R. 4340: Mr. Bilirakis and Mr. Wamp.

H.R. 4377: Mr. Kasich.

H.R. 4383: Mr. Shimkus and Mr. Stump.

H.R. 4395: Mr. Rush.

H.R. 4403: Mr. Sanders, Mr. Hilliard, and Ms. McCarthy of Missouri.

H.R. 4449: Mr. Wise and Mr. Hefner.

H.R. 4450: Mr. Gutierrez.

H.R. 4467: Mrs. Kennelly of Connecticut, Mr. Manton, and Mr. Hilliard.

H.R. 4513: Mr. Skeen.

H.R. 4522: Mr. Rush.

H.R. 4552: Ms. Lofgren and Ms. Kaptur.

H.R. 4577: Mr. Peterson of Minnesota.

H.R. 4590: Mr. DeFazio.

H.R. 4591: Mr. Underwood.

H.R. 4592: Mr. Kennedy of Massachusetts.

H.R. 4596: Mr. McHugh.

H.R. 4611: Ms. Slaughter and Mr. Frost.

H.R. 4621: Mr. Wise.

H.R. 4627: Mr. Delahunt, Mr. McGovern, Mrs. Maloney of New York, Mr. Green, Ms. Jackson-Lee of Texas, and Ms. DeGette.

H.R. 4643: Mr. McHugh.

H.R. 4644: Mr. McHugh.

H.R. 4648: Mr. Moakley and Mr. Olver.

H.R. 4653: Mr. Sandlin, Mr. Pascrell, Mrs. Capps, Mr. Brown of Ohio, and Ms. Kilpatrick.

H.R. 4672: Mr. McHugh.

H.R. 4683: Mr. Deutsch and Mr. Ganske.

H. Con. Res. 13: Mrs. Wilson

H. Con. Res. 52: Mr. McHugh and Mr. Bunning of Kentucky.

H. Con. Res. 69: Mr. Deal of Georgia.

H. Con. Res. 114: Mr. English of Pennsylvania.

H. Con. Res. 229: Mr. Ballenger, Mrs. Fowler, Mr. Hefner, Mr. Menendez, and Mr. Miller of California.

H. Con. Res. 236: Mr. Istook, Mr. Inglis of South Carolina, Mr. English of Pennsylvania, Mrs. Myrick, and Mr. Gibbons.

H. Con. Res. 249: Mr. Dingell and Ms. Sánchez.

H. Con. Res. 258: Mr. English of Pennsylvania, Mr. Conyers, Mr. Markey, Ms. Rivers, Mr. Horn, Ms. Roybal-Allard, and Mr. Berman.

H. Con. Res. 283: Ms. McKinney.

H. Con. Res. 316: Mr. Luther.

H. Con. Res. 325: Mr. Abercrombie.

H. Con. Res. 328: Mr. Gilchrest, Mr. McHugh, Mr. Duncan, and Mr. Barton of Texas.

H. Con. Res. 331: Mr. Sherman.

H. Res. 559: Mr. Lantos and Mr. Porter.

H. Res. 565: Ms. Eshoo, Ms. Stabenow, Mrs. Thurman, Ms. Kaptur, and Ms. Granger.

H. Res. 566: Mr. Levin, Mr. Kucinich, and Mr. Quinn.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3789

Offered By: Mr. Traficant

Amendment No. 8: Page 5, line 3, strike the quotation marks and second period.

Page 5, after line 3, insert the following:

"(4) Paragraph (1) and section 1453 shall not apply to any class action that is brought for harm caused by a breast implant.".

H.R. 4274

Offered By: Mr. Redmond

Amendment No. 34: Page 61, line 11, after the dollar amount, insert the following: "(increased by $14,000,000)".

Page 63, line 16, after the dollar amount, insert the following: "(decreased by $14,000,000)".

EXTENSIONS OF REMARKS

IN RECOGNITION OF CAPTAIN HENRY OSBORNE

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. HALL of Texas. Mr. Speaker, I rise today to honor and pay tribute to one of the greatest men and finest Americans I have ever known—Navy Captain Henry Osborne.

He was born in Ladonia, Texas, January 17, 1924, to Mr. and Mrs. Alonzo Osborne. Henry enlisted as a Seaman Second Class in the Navy May 8, 1942. He was designated a Naval Aviator and received a commission as Ensign, April 16, 1943. After a long and distinguished military career Henry retired June 30, 1973, as Captain, United States Navy.

Seeing Captain Osborne on Sundays at First United Methodist Church of Rockwall, I had the pleasure of getting to know him personally. Besides exchanging pleasantries, I had the opportunity to share old World War II stories with Captain Osborne on many occasions.

During these memorable conversations, Captain Osborne told me about the combat he saw in the Pacific during World War II and in Korea. He was a Prisoner of War in Korea from May 23, 1951 to September 2, 1953. Captain Osborne was awarded the Legion of Merit, the Distinguished Flying Cross, the Air Medal (12), the Joint Service Commendation, the Purple Heart, the Presidential Unit Citation and the Navy Unit Commendation. As shown by these many symbols of accomplishment and bravery, Henry fought for this country, he was imprisoned for this country, he bled for this country—and, yes, he lived for this country.

Captain Henry Osborne passed away last week on October 1, 1998. Henry is survived by his wife, the former Muriel Kathryn Ogden, whom he married at the Naval Air Station Chapel, Corpus Christi, Texas, October 31, 1947. Muriel knew the pains of fear as her husband was shot down in combat and imprisoned. She served side by side with Henry during the dark days of war and enjoyed the bright aftermath of armistice. Muriel is a lovely and talented lady who has shared her talents with our church choir. She has always been a wonderful wife, friend and partner to a great, great man. Henry is also survived by his three daughters: Kathryn, Henri and Zelma.

Mr. Speaker, I have rarely been as impressed by any one man, as I was by Henry Osborne. Henry was a "man's man." When I looked him in the eye I saw a man who bore the brunt of war. Henry Osborne was the epitome of a Naval Captain. Mr. Speaker, when we adjourn today, let us do so in honor and respect for this great American hero—the late Captain Henry Osborne.

TRIBUTE TO CAROLYN MOORE OF MUNSTER, IN

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. VISCLOSKY. Mr. Speaker, it is truly my distinct honor to congratulate one of Northwest Indiana's hidden treasures: Carolyn Moore, of Munster, Indiana. The Owner and President of Laughing Cat Productions, Carol's work, "Citizens Financial Services History," has been recognized with a Telly Finalist Award. Since 1986, when she founded Laughing Cat Productions, Carol has been serving businesses, schools, and individuals who wish to have a video produced. Winning a Telly Award is a significant honor, and raises Carol to the top of her field, not only in Northwest Indiana, but across the entire United States. The Telly Awards are a national competition for people and companies who create videos, commercials, and films; Carol earned a Finalist Award in the category of corporate image. The Telly Awards Organization was founded in 1980 to showcase and offer recognition to outstanding non-network and cable television commercials. Past winners include the Ford Motor Company, the American Medical Society, and Pepsi. Carol's Award and Recognition places her among the best in the advertising business.

When I think of Carol, however, the first image which comes to my mind is not her successful professional career, but her extraordinary community activism. Whenever a project has needed a leader or an issue has needed to be addressed, Carol has stepped forward to accept the challenge. I cannot emphasize how much her involvement in the community means to me, and to our region. Well before her career in advertising and production, Carol served our community as one of its most dedicated and successful activists. Beginning in 1978, she helped lead Northwest Indiana's endeavor to create a local television station. Her vision was realized in 1985, with a federal grant of one million dollars for a local television station from the Development of Commerce's National Telecommunications and Information Administration. Today, the residents of Northwest Indiana enjoy the fruit of Carol's labors: WYIN Channel 56, the region's only local broadcast station. Carol's community activism did not stop in 1985, however. For over a decade, she has worked with the Northwest Indiana Literacy Coalition, and today serves as a member of the Board of Directors. She is a member of both the Munster and Gary Chambers of Commerce, serves as the President of the Communicators of Northwest Indiana, and is currently the Vice President of Marketing for the Northwest Indiana World Trade Council.

Though Carol is dedicated to her career and community, she has never limited her time and love for her family. Longtime residents of Munster, Carol and her husband Dave have raised three children; Jillian, 27; Douglas, 23; and Owen, 21. Outside of her work and volunteer service, Carol enjoys spending her time reading, sailing, and golfing. She plans to continue her work as President of Laughing Cat Productions, and hopes to slowly expand the company. In addition, she intends to maintain her high levels of community service and involvement in the local media.

Mr. Speaker, I ask that you and my distinguished colleagues join me in congratulating Carolyn Moore for her truly well-earned honor, and, though often unrecognized, for her exemplary efforts to improve our region. Carol's community activism and desire to improve our community is commendable and praiseworthy. Whether through advancing the public's literacy awareness, championing the cause of local and public television in Northwest Indiana, or pursuing the economic re-vitalization of Northwest Indiana, Carol's actions have left an indelible mark on Indiana's First Congressional District. We are indeed fortunate to have such a dedicated and self-sacrificing citizen.

TAIWAN TO CELEBRATE NATIONAL DAY

HON. SILVESTRE REYES

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. REYES. Mr. Speaker, I rise to join in celebration with the Republic of China on Taiwan on the occasion of their upcoming National Day and to discuss Taiwan's status in the international community and with the United States.

The Republic of China was founded early in this century, and despite a history of struggle, they have been a strong ally and partner of the United States. They have developed a dynamic economy and industrial base with ties around the world. As a result, they are a valued trading partner. Moreover, they share our economic principles and with their economic success are a tremendous example of free market capitalism.

Additionally, they have shown themselves to be a stabilizing economic force. All of us have heard of the financial devastation and recessionary conditions plaguing various nations in Asia, yet Taiwan remains economically strong. They have assisted neighboring countries and used their financial strength to ease the Asian economic crisis and act as a valuable resource.

Taiwan has been able to take this leadership role, despite remaining isolated without a seat in the United Nations nor in the major international organizations. Moreover, despite a lack of formal diplomatic relations with the

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

United States, Taiwan has consistently worked in conjunction with the United States in support of our various interests. With their important strategic geographic and economic position in the world, they are an important ally.

During the occasion of Taiwan's forthcoming National Day we therefore celebrate our friendship with Taiwan. We must continue to cultivate an ever close partnership with Taiwan. I commend Taiwan on its leadership, friendship, and close relationship.

Mr. Speaker, I therefore congratulate Taiwan on its accomplishments and join in celebration on Taiwan's forthcoming National Day.

FILIPINO VETERANS SSI EXTENSION ACT, H.R. 4716

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. GILMAN. Mr. Speaker, I rise today to introduce H.R. 4716, the Filipino Veterans SSI Extension Act.

At the start of the 105th Congress, I introduced H.R. 836, the Filipino Veterans Equity Act, a bill which would have provided full veterans benefits to those veterans of the Commonwealth Army of the Philippines.

Although hearings were held earlier this year, the prospect of legislative action on H.R. 836 appears unlikely. Therefore, I am offering this measure in order to provide some relief for those Filipino veterans residing in the United States who currently receive Supplemental Security Income benefits.

Under current law, individuals who receive SSI benefits must relinquish those benefits if they choose to leave the country. This bill would permit those who were members of the Filipino Commonwealth Army and recognized guerilla units during World War II to continue to receive SSI benefits if they elect to return to the Philippines.

These benefits would be reduced by 25 percent if the individual veteran returned to the Philippines, to reflect the lower cost of living and per capita income of that nation.

It is estimated that several thousand veterans would be affected, many of whom are financially unable to petition their families to immigrate to the United States. Should this bill be adopted, these veterans would be able to return to their families in the Philippines while bringing a decent income with them.

I urge my colleagues to join me in supporting this worthwhile measure.

H.R. 4716

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROVISION OF REDUCED SSI BENEFIT TO CERTAIN INDIVIDUALS WHO PROVIDED SERVICE TO THE ARMED FORCES OF THE UNITED STATES IN THE PHILIPPINES DURING WORLD WAR II AFTER THEY MOVE BACK TO THE PHILIPPINES.

(a) IN GENERAL.—Notwithstanding sections 1611(b), 1611(f)(1), and 1614(a)(1)(B)(i) of the Social Security Act—

(1) the eligibility of a qualified individual for benefits under the supplemental security income program under title XVI of such Act shall not terminate by reason of a change in the place of residence of the individual to the Philippines; and

(2) the benefits payable to the individual under such program shall be reduced by 25 percent for so long as the place of residence of the individual is in the Philippines.

(b) QUALIFIED INDIVIDUAL DEFINED.—In subsection (a), the term "qualified individual" means an individual who—

(1) as of January 1, 1990, was eligible for benefits under the supplemental security income program under title XVI of the Social Security Act; and

(2) before August 15, 1945, served in the organized military forces of the Government of the Commonwealth of the Philippines while such forces were in the service of the Armed Forces of the United States pursuant to the military order of the President dated July 26, 1941, including among such military forces organized guerrilla forces under commanders appointed, designated, or subsequently recognized by the Commander in Chief, Southwest Pacific Area, or other competent military authority in the Army of the United States.

RECOGNIZING THE HAYS COUNTY 4-H ANNUAL DINNER, DANCE AND AUCTION

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. PAUL. Mr. Speaker, the Hays County 4-H will hold their annual dinner, dance and auction on Saturday, October 10, 1998. This is a very important event Mr. Speaker, as it recognizes 90 years of 4-H in Texas. For those of us who were raised on farms and who represent agricultural communities it is well known how important an organization 4-H truly is.

Head, Hand, Hearts and Health, these are the "4-H's" and they are truly indicative of what this organization is all about. One of the primary missions that this organization undertakes is agricultural education. Earlier this year I introduced a bill which would exempt the sale of livestock by those involved in educational activities such as FFA and 4-H from federal income taxation. By making young men and women who participate in these activities hire a group of tax accountants and attorneys we are sending the wrong message. Young people who sell livestock at county fairs and the like should be rewarded for taking self initiative and allowed to keep the money they've earned to help pay for their education or to re-invest in other animals to raise. My bill would eliminate the current policy of forcing these youngsters to visit the tax man.

Mr. Speaker, I want to commend the young people of Hays County's 4-H, as well as their parents and sponsors, for continuing the fine traditions of this truly great organization.

A TRIBUTE TO THE SHEET METAL WORKERS, LOCAL NO. 20

HON. PETER VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. VISCLOSKY. Mr. Speaker, it is my distinct honor to congratulate some of the most dedicated and skilled workers in Northwest Indiana. On September 18, 1998, in a salute to their workers' durability and longevity, the Sheet Metal Workers, Local #20, of Gary, Indiana, honored their members of fifty years, forty years, and twenty-five years continued service. These individuals, in addition to the other Local #20 members who have served Northwest Indiana so diligently for such a long time, are a testament to the proto-typical American worker: loyal, dedicated, and hardworking.

The men and women of Local #20 are a fine representation of America's union men and women; I am proud to represent such dedicated men and women in Congress. The Sheet Metal Workers Constitution states, ". . . to establish and maintain desirable working conditions and thus provide for themselves and their families that measure of comfort, happiness, and security to which every citizen is entitled in return for his labor, from a deep sense of pride in our trade, to give a fair day's work for a fair day's pay." For fifty years, the following individuals have followed this creed: John Bitner, Alan Bradford, Henry Eckstein, Clem Gora, Arthur Kekeis, Raymond Klodzen, Ton Mason, Andrew Mushinsky, John Piecuch, Joseph Pollock, Allen Tucker, and John Wesbecher. In 1958, Eugene Bitner, Harold Couma, John Downing, Harry Hamilton, Franklin Klee, Ralph Lasky, and Frank Macewicz, Arthur Panek, Willie Peters, Levi Richmond, Thomas Schaeffer, George Sweat, and Jack Teitge began their own forty years of service to Northwest Indiana and membership in the Sheet Metal Workers trade union. In addition to the great service and dedication displayed by the fifty and forty-year continued service members, the members with twenty-five years of continued service were honored. They are Robert Allen, Howard Alward, Keith Benson, Joseph Bloomfield, Robert Bonner, David Condon, Henry Cook, Benjamin Dear, Randall Hamilton, Terrence Henney, Arthur Herr, Donald Hill, David Hoffman, Kevin Hoffman, Clifford Hynd, David Jorgenson, John Klein, James Knapik, Carlton Kobe, Jerry Krachinski, Thomas Labney, Gerald Levendouski, Raymond Levendouski, Dan Londacre, John McShane, David Masterson, Gus Martakis, Richard Mendez, Earl Miller, Marty Mushinsky, Floyd Nelson, John Oros, Joseph Poropat, Rocky Richardson, Joseph Ring, Steven Sasko, William Schaeffer, Michael Shammert, Louis Schest, Jacob Sherwood, Eugene Skalba, Charles Spicker, Robert Swisher, Michael Switt, Larry Tayler, Walter Thomas, Charles Thompson, Robert Vaughn, Frank Vidimos, Wayne Werdin, Roger Wright, and Paul Zander.

As Orville Dewey said, "Labor is man's greatest function. He is nothing, he can do nothing, he can achieve nothing, he can fulfill nothing, without working." The men of Local

#20, in addition to all of the local unions in Northwest Indiana, form the backbone of our economy and community. Without their blood, sweat, and tears, Indiana's First Congressional District would not be a place of which to be proud, it would not be the place I love, nor would it be my home.

Mr. Speaker, I ask that you and my distinguished colleagues join me in congratulating these dedicated, upstanding members of Local #20, in addition to all the hard-working union men and women of America. Their hard labor and dauntless courage are the achievement and fulfillment of the American dream.

TRIBUTE TO ST. PAUL LUTHERAN CHURCH IN ROYAL OAK, MI

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. LEVIN. Mr. Speaker, I rise to honor the congregation of St. Paul Lutheran Church, Royal Oak, Michigan, as they celebrate 125 years of ministry to the Royal Oak community.

St. Paul Lutheran Church began as a Lutheran orphanage in 1873 on twenty acres of property at University and Main Street in Royal Oak. In August of 1873, Pastor George Speckhard was installed as Pastor of the Church as well as superintendent of the orphanage and instructor of deaf children.

Pastor Speckhard, a former teacher for the deaf in Germany before entering the ministry, had been instructing two deaf children and was soon asked to instruct other deaf children in the area. Within ten months, he was instructing 15 deaf children. Because of the obvious need, the orphanage was transferred to Addison, Illinois and the Royal Oak facility became a school for the deaf. In 1875, the school was moved to Nevada Avenue in Detroit, and became known as The Lutheran School for the Deaf.

After the School for the Deaf was moved, Pastor Speckhard faithfully made the trip to Royal Oak to continue church services and other pastoral duties in various temporary locations. After reorganization, the church was called St. Paul Evangelical Lutheran Church.

St. Paul's experienced changes in pastors throughout the years. In addition, the church made several moves, and underwent building and expansion projects to accommodate its growing congregation and increasing enrollment in the day school.

During these 125 years, St. Paul's has always served the Royal Oak community by participating in a variety of local projects, teaching children in their day school, and reaching out with their ministry program specifically formulated for Royal Oak's unique urban community.

I ask my colleagues to join me as we extend our sincere congratulations to St. Paul Lutheran Church for their 125 years of dedicated spiritual service to the Royal Oak community.

ARBEN XHAFERI ON PEACE AND DEMOCRACY IN THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. GILMAN. Mr. Speaker, Mr. Arben Xhaferi is the Chairman of the Albanian Democratic Party of Macedonia, one of the leading parties representing ethnic Albanian citizens of the Former Yugoslav Republic of Macedonia.

Mr. Xhaferi visited Washington last week and delivered a speech at the United States Institute of Peace concerning developments in the Former Yugoslav Republic of Macedonia and the situation in the Balkans in general. I would like to provide for the Members' review the introductory portion of Mr. Xhaferi's presentation, in which he outlines his argument that a people's right to self-determination should supercede a state's right to territorial integrity if that state does not guarantee democratic and human rights for all its citizens, regardless of ethnic background.

Mr. Speaker, while attention has been focused on the conflict that has raged in the Kosovo region of Serbia, we should note that the future of the Former Yugoslav Republic of Macedonia is just as important for the development of peace and democracy in the Balkans. The creation of a unitary state with equal rights for all it citizens is an important process in the Former Yugoslav Republic of Macedonia. The United States Department of State and Agency for International Development should pay full attention to the problems in that new country and re-double on-going efforts to support democratization, economic growth and educational opportunities there.

Mr. Speaker, the introductory portion of Mr. Xhaferi's speech follows.

CHALLENGES TO DEMOCRACY IN MULTIETHNIC STATES

(By Arben Xhaferi)

INTRODUCTION

Since the fall of communism, the economic, social, ethnic, and cultural problems that previously were concealed and suppressed by Communist ideologists have reemerged, and often in tragic ways. Five decades of the suppression of ethnic and social conflicts in the service of Communist ideology have resulted in the "revenge of history over ideology," which, in post-Communist states, has manifested itself in two troubling phenomena: the creation of "ethnic States" and the creation of colonial relations, and in some instances, apartheid relations, among different ethnic groups.

Consequently, in post-Communist States, there is and there will be for the foreseeable future a struggle between the forces that seek to affirm and cultivate diversity and democracy and those that seek the ethnic, religious, economic, and political domination of one group over another. The attempt of dominant ethnic groups to achieve hegemony is being orchestrated through the misuse of Western values. Democracy is proclaimed and then subverted by officials who have transformed it into an instrument of elimination, a method for marginalizing non-dominant ethnic groups. In the Former Yugoslav Republic of Macedonia (FYROM), for example, a parliament that represents the dominant group of Macedonians "votes" to legalize their "right" to dominate the minority.

With the shattering of the former Soviet Union and the corresponding rise in ethnic wars of secession, two competing claims in the sphere of international law now confront each other: the right of self-determination, including emancipation and decolinization, and the right of sovereignty, including the inviolability of borders. The former right is in alienable, whereas the latter right is not absolute—it simply defines the ways in which borders can or cannot be changed. The right to self-determination is under attack by those who would replace the ideological totalitarianism of the Communist system with ethnic totalitarianism. In Bosnia, we have witnessed ethnic cleansing. In Kosova, we have watched a apartheid unfolds into genocide; in FYROM, we have seen the second largest ethnic group, the Albanians, marginalized; and in Russia, a Slavophile diplomatic policy prevails.

The efforts of dominant ethnic groups in the post-Cold War world to deny individual liberties and ethnic, cultural, linguistic, and religious rights among ethnic groups seeking freedom and self-determination have been justified using arguments of Legality, the inviolability of borders, conspiracy (unfounded speculations about attempts by "foreign enemies" to overthrow the State), racist or ethnocentrist theories, history, including fictitious claims of national destiny, and the threat of instability posed by false comparisons between, for example, the demands and status of American Hispanics, Aborigines in Australia, Basques in Spain, Arabs in France, and Albanians in the former Yugoslavia.

Serbian President Slobodan Milosevic and his staff resort to most of these arguments when they discuss the factors that led to the disintegration of Yugoslavia. The blame foreign agents, the West in general and former U.S. Congressman Robert Dole and former German Minister of Foreign Affairs Hans Genscher in particular, as responsible for the disintegration of their country. Simultaneously, the hold aloft Serbia as the bastion of Orthodoxy preventing the penetration of Catholicism in the East and Islam in the West. In order to justify their hegemony, the Serbian regime oscillates between the ethnic argument (Bosnia and Hercegovina) and the historical argument (Kosova is Serbia's "Jerusalem").

Similarly, in FYROM, when the Albanians called for more extensive use of the Albanian language and the official recognition of the Albanian University of Tetova within the Macedonian educational system, the government of Koro Gligorov dismissed these demands by arguing that if such rights were given to Albanians, then the same should also be given to Hispanics in Texas and Arabs in Marseilles.

Nevertheless, we stand at the beginning of a new era in which old federations are dissolving, their constituent parts are seceding, and the right to self-determination is emerging as a defining issue on the historical stage. In the face of massive human rights abuses and economic, cultural, and political disenfranchisement, a people's right to self-determination must have priority over territorial integrity. Emerging new States should be recognized only if they guarantee human rights, freedom, equality, peace, and democracy for all groups.

RECOGNIZING THE FAYETTE COUNTY 4-H ANNUAL BANQUET

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. PAUL. Mr. Speaker, the Fayette County 4–H will hold their annual banquet on Sunday, October 11, 1998. This is a very important event Mr. Speaker, as it recognizes 90 years of 4–H in Texas. For those of us who were raised on farms and who represent agricultural communities it is well known how important an organization 4–H truly is.

Head, Hand, Hearts and Health, these are the "4–H's" and they are truly indicative of what this organization is all about. One of the primary missions that this organization undertakes is agricultural education. Earlier this year I introduced a bill which would exempt the sale of livestock by those involved in educational activities such as FFA and 4–H from federal income taxation. By making young men and women who participate in these activities hire a group of tax accountants and attorneys we are sending the wrong message. Young people who sell livestock at county fairs and the like should be rewarded for taking self initiative and allowed to keep the money they've earned to help pay for their education or to re-invest in other animals to raise. My bill would eliminate the current policy of forcing these youngsters to visit the tax man.

Mr. Speaker, I want to commend the young people of Fayette County's 4–H, as well as their parents and sponsors, for continuing the fine traditions of this truly great organization.

GAS PRICES

HON. SILVESTRE REYES

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. REYES. Mr. Speaker, the citizens of El Paso voiced their concerns to me over what they pay for gas at the pump. As many of you know, the mayor of El Paso, Carlos Ramirez, contacted me earlier this year with a request that I initiate a closer look at this situation. At my request, Congressman GENE GREEN chaired a public meeting in El Paso on gas prices. I would like to insert for the RECORD the statements of two of the participants, Mr. Carter Montgomery of Longhorn Partners Pipeline, and Dr. R. Perryman of Perryman and Associates, who both spoke about the gas prices in El Paso and how to resolve those problems.

STATEMENT OF CARTER R. MONTGOMERY, PRESIDENT AND CEO, THE LONGHORN PARTNERS PIPELINE, SEPT. 3, 1998, EL PASO, TX

Good morning. I am Carter Montgomery, President and CEO of Longhorn Partners Pipeline. Longhorn is a limited partnership based in Dallas, Texas. In 1995, we began developing a 700-mile, 18-inch diameter pipeline that will transport gasoline, diesel and jet fuel from Gulf Coast refineries to West Texas communities and the El Paso gateway market.

Our pipeline consists of an existing 450-mile section from Houston to Crane, which we have significantly improved; a newly constructed 250-mile extension from Crane to El Paso; and a new nine-mile section to connect the existing pipeline in Houston with the GATX terminal in Galena Park, Texas. GATX is the largest products terminal on the Gulf Coast. By originating there, Longhorn will be able to receive products for delivery to West Texas from as many as 12 Gulf Coast refineries that, together, constitute nearly 25 percent of the refining capacity of the U.S. Our goal is to begin delivering products to El Paso and West Texas before the end of 1998.

In El Paso, we are also constructing a 19-tank, 900,000-barrel terminal to allow shippers to store fuels for this area and send some on to New Mexico and Arizona. In addition, Longhorn is constructing a smaller terminal in Odessa, Texas to serve the Permian Basin market. An 8-inch pipeline is being constructed from Crane to serve the new terminal in Odessa.

We made the decision to serve El Paso consumers and businesses after identifying historically high gasoline costs, often 10 to 20 cents per gallon more than drivers pay in other parts of Texas, such as Houston. This costs El Pasoans more than $12 million per year.

As this chart shows, between January 1990 and July 1998, Houston had consistently lower gasoline prices than El Paso.

Even as El Paso's gasoline prices became slightly lower between June 1996 through July 1998, its prices have still remained higher than in Houston plus the cost of transportation, although an interesting phenomenon is taking place.

From June 1996 through July 1998, there has been a definite closing of the price gap. It appears to me that several factors have contributed to this welcome relief to El Paso motorists: the actions of El Paso citizens in demanding lower prices, including some very active advocates in the media; the actions of Mayor Ramirez and other elected officials like yourselves; and the mere threat of competition from the Gulf Coast that has resulted in gasoline merchandisers competing for market share before the new gasoline supplies get here.

I want to emphasize, though, that El Paso citizens have seen short-term price reductions before, only to have their hopes dashed a few months later. What will be different after Longhorn is operating is this—bringing gasoline and other fuels from those Gulf Coast refineries will create a structural change in the market. That structural change is what will seal in the new, more competitive market that will, in turn, help make fairer pricing a lasting part of the El Paso economy.

I am extremely proud to be a part of this project. We are building a safe, environmentally sound pipeline, with a goal of 100 percent safety. We have gone to great lengths to ensure the operating integrity of this pipeline. Many of the tests and improvements to the line exceed federal and state requirements.

Even before purchasing the line in 1995, we conducted several comprehensive tests. These included the "Smart Pig" test, a device, run through the pipeline, that electronically measures wall thickness and other structural conditions. Following that, a Hydrostatic Test was performed to confirm the integrity of the entire pipeline. In a Hydrostatic Test, the line is pressurized to 1.25 times its maximum operating pressure and held there for an extended period. The tests confirmed the pipeline's structural integrity. Going forward, Longhorn will conduct additional "Smart Pig" tests every five years.

Once in operation, the entire pipeline will be monitored 24 hours a day from a central control room, with readings taken every few seconds by computer. An operator will manage the pipeline, including the new remotely controlled valves we are adding as a safety upgrade.

Longhorn is adding these remotely operated block valves on both sides of the Edwards Aquifer and at all river crossings, isolating these small sections so the flow of products can be quickly halted if necessary. Volumes entering and exiting sections of the pipeline are metered and balanced every few seconds, allowing the operator to monitor the flow of products through the pipeline. Each valve operates independently, enabling the operator to select the most environmentally sound course of action.

Suction and discharge pressures at all pumping stations are also continually monitored, giving the operator additional data to operate the pipeline safely and reliably.

Longhorn will also install an additional pump near the Edwards Aquifer that will lower the operating pressures over the aquifer. These operating pressures will be lower than in the past. This is an additional step that will help to protect the environment.

We are also posting pipeline identification signs closer together than the previous operator, decreasing the risk of third-party damage to the line.

Longhorn will visually inspect the entire line once a week, more frequently than in the past. Many of these safety measures go beyond the requirements of law or regulation, but we are doing them because they enhance safety, help us fulfill our commitment to safety and environmental quality and, frankly, because they're good, prudent business measures.

We are, and will continue to be, regulated by the U.S. Department of Transportation's Office of Pipeline Safety on interstate pipeline matters, and by the Texas Railroad Commission on any intrastate pipeline matters.

This concludes my statement. I will be happy to answer any questions.

SUMMARY OF TESTIMONY BY M. RAY PERRYMAN, PHD, SEPT. 3, 1998, EL PASO CIVIC CENTER

INTRODUCTION AND QUALIFICATIONS

My name is M. Ray Perryman. I am President and Chief Executive Officer of The Perryman Group (TPG), an economic research and analysis firm with its principal place of Business in Waco, Texas. In addition to my responsibilities at the firm, I am business Economist-in-Residence at Southern Methodist University (SMU) and Institute Distinguished Professor of Economic Theory and Method at the International Institute for Advanced Studies.

It is my pleasure to appear before this Committee and offer a perspective on the retail gasoline market in El Paso and New Mexico. I am deeply appreciative of the work that the Committee is doing and greatly admire the willingness of this group to tackle such complex issues. I will do anything possible to assist in the process.

INTRODUCTION

A new competitor is seeking to enter the market for gasoline sales in the Upper Rio Grande area which is dominated by the El Paso Metropolitan Statistical Area (MSA).

The project will also provide a new source of refined petroleum products in New Mexico. The new venture promises substantial economic benefits to consumers in the form of lower costs. The project involves the development of a pipeline connecting the refineries of the Texas Gulf Coast with El Paso. The pricing structure offered by this new initiative will bring significant savings to area residents, particularly within the Hispanic population. The new pipeline will also enable connections to third party pipelines with access to major urban centers in Arizona and New Mexico.

The total project has far-reaching economic benefits for the economies of regions it serves, including construction costs, ongoing operating expenditures, and substantial savings to consumers. The present testimony presents the project's economic savings to residents in the El Paso area, to the local Hispanic community, and to New Mexico—all of which are made possible by the pipeline. Initially, a brief description of the methodology is provided. This discussion is followed by a presentation of results and a concluding synopsis.

METHODOLOGY

The basic technique used in this investigation is known as input-output analysis. In general, this approach involves the creation of a system which estimates the amount of various inputs required to make a unit of output (measured in monetary terms). For example, the construction of a typical house requires quantities of wood, glass, wiring, roofing shingles, financial services, and numerous other factors. Each of these items also requires inputs, thus leading to multiple rounds of activity. The portion of this production activity that remains in an area depends upon its capability to supply the various items required in the process.

The proposed pipeline will enable the achievement of consumer savings through notably lower prices for gasoline and diesel in the Upper Rio Grande areas it reaches. The direct magnitude of fuel purchases in the relevant regions is estimated based on data provided by the Texas Comptroller of Public Accounts and the New Mexico Taxation and Revenue Department for gallons of fuel sold and motor vehicle registrations. As a conservative assumption, 1997 volumes are used in the analysis although past data and forecasts for the regions suggest increasing future sales. (The regional forecasts of overall economic conditions are generated by The Perryman Group using standard regional modeling approaches.)

Once the volumes are established, the potential savings in wholesale costs are determined. Using data from the Oil Price Information Service, the differential between prices in the Gulf Coast area and the relevant consumer markets is calculated. A four-year average (19943–1997) disparity is employed in the analysis. The net differential in wholesale prices is determined by subtracting the expected transportation tariff for spot shippers to be levied by the new competitor and other third party shippers from the price gap. The calculations are completed in a manner that does not incorporate disparities in state gasoline taxes within the cost savings. Even greater savings could occur through contract shipments at lower negotiated rates, although this potential was not factored into the calculations in the interest of conservatism.

To translate these wholesale price reductions into retail savings for consumers requires an evaluation of the extent to which cost decreases are passed along to consumers. In general, studies indicate that "permanent" changes in wholesale gasoline costs are fully reflected in retail prices within a short period of time. Several recent national studies indicate that even temporary cost decreases are passed from 80%–100% to consumers. (See, for example, Robert Bacon, "Rockets and Feathers: The Asymmetric Speed of Adjustment of UK Retail Gasoline Prices to Cost Changes," Energy Economics, 1991; A. Borenstein, Colin Cameron, and Richard Gilbert, Do Gasoline Prices Respond Asymmetrically to Crude Oil Price Changes?, National Bureau of Economic Research, 1992; Jeffrey Karrenbrock, "The Behavior of Retail Gasoline Prices: Symmetric or Not?," Federal Reserve Bank of St. Louis Review, 1991; and US General Accounting Office, Analysis of the Pricing of Crude Oil and Petroleum Products, 1993.) In the present study, it is assumed that only 80% of the wholesale savings is translated to consumers, thus again understating the likely benefits. It is further assumed, and widely supported by empirical studies and market behavior, that reductions in cost from one supply source will be matched by others in the market. (See, for example, Howard Friedman, "The Analyst's Angle," Indiana Department of Natural Resources, 1998; "Taking the Mystery Out of Gasoline Prices," Petroleum Communications Foundation, 1997; Rick Castnais and Herb Johnson, "Gas Wars: Retail Gasoline Price Fluctuations," Review of Economics and Statistics, 1993; and Margaret E. Slade, "Vancouver's Gasoline-Price Wars: An Empirical Exercise in Uncovering Supergame Strategies," Review of Economic Studies, 1992.)

The calculated savings to consumers represent a net increase in after-tax spendable income. A portion of this gain will be saved or spent outside the area, but the vast majority of it will be spent locally on various household purchase items. The composition of these direct outlays is estimated using information regarding typical local spending patterns compiled from the US Department of Labor and the American Chamber of Commerce Researchers' Association. (Some of these savings also accrue to local business enterprises. Those entities typically have higher multipliers than consumers, thus making the approach employed in this study quite conservative.)

After the components of direct spending are compiled, the indirect and induced (or multiplier) effects are determined. (The actual incremental consumer spending that takes place as a result of savings stemming from the project is called the direct effect. The production of the purchased goods is known as the indirect effect, while that resulting from payroll spending is the induced effect.) Given a reliable measure of the direct magnitude of increased spending, localized input-output models may be used to determine the additional or "multiplier" production that is generated.

These effects are calculated by using the relevant geographic submodels of the U.S. Multi-Regional Impact Assessment System which was developed and is maintained by The Perryman Group. This model, which has been used in hundreds of applications over the past two decades, reflects the unique industrial composition of each geographic region and may be used to assess business activity in any county or multi-county region. The system is extremely comprehensive and encompasses more than 500 distinct industrial categories. The model is similar in scope to the Input-Output Model of the United States and the Regional Input-Output Modeling System maintained by the U.S. Department of Commerce, but it incorporates numerous refinements, updates, expansions, and localization parameters. It is designed to provide a realistic yet conservative estimate of the overall outcomes resulting from specific economic stimuli. Thus, it offers an ideal mechanism to assess the anticipated gains to residents in the El Paso area and New Mexico who will benefit from the new pipeline's lower gasoline prices.

ANNUAL ECONOMIC BENEFITS TO CONSUMERS IN THE UPPER RIO GRANDE (EL PASO MSA) AREA

The Upper Rio Grande region primarily benefits from the advent of new competition via cost savings in gasoline and diesel products. The total yearly gains (from cost savings) to consumers in the El Paso area at project maturity are thus determined to be: $46.648 million in annual Total Expenditures; $21.165 million in annual Gross Area Product; $13.168 million in annual Personal Income; $12.264 million in annual Retail Sales; and 568 Permanent Jobs.

The first graph appended to this report graphically illustrates these economic benefits. (All monetary values throughout this analysis are given in 1998 dollars in order to adjust for the effects of inflation.)

These enhancements to local economic conditions permeate the entire area and positively affect virtually all segments of the population.

ANNUAL ECONOMIC BENEFITS TO HISPANIC CONSUMERS IN THE EL PASO AREA

As more competitive gasoline prices occur in the El Paso area, the highly-concentrated Hispanic population will receive significant economic benefits. Due to the presence of lower gasoline prices, this group is projected to enjoy yearly savings of over $5.7 million, with an average gain of about 22.0% relative to non-Hispanic households.

The total yearly impacts (in consumer savings) from the new, competitive pipeline on economic activity among local Hispanics are expected to be: $7.045 million in annual Personal Income; $5.456 million in annual Wages and Salaries; $7.154 million in annual Retail Sales; $11.346 million in annual effective Purchasing Power; and 411 Permanent Jobs.

The second attached graph illustrates these benefits.

This entrance of a new player in the market clearly offers impressive increases in the well-being of the Hispanic community of the Upper Rio Grande region.

ANNUAL ECONOMIC BENEFITS TO HISPANIC CONSUMERS IN THE STATE OF TEXAS

Hispanics across Texas will enjoy further economic benefits from lower prices offered by the new competitor. Hispanic consumers and businesses in the Upper Rio Grande region will purchase inputs from other parts of the state, thus generating subsequent indirect and induced gains.

The total annual impact of the ongoing activities of the new pipeline (from cost savings) on the Hispanic population of Texas are estimated to be: $10.110 million in annual Personal Income; $7.813 million in annual Wages and Salaries; $9.249 million in annual Retail Sales; $14.875 million in annual effective Purchasing Power, and 590 Permanent Jobs.

The third attachment to this report graphically presents these economic enhancements.

There are, thus, substantial economic gains which will accrue to the Hispanic residents of the state due to the new competitor's lowered gasoline and diesel prices. Texans are not the only U.S. citizens to gain from the presence of a new competitor. New Mexico residents also stand to benefit.

ANNUAL ECONOMIC BENEFITS TO CONSUMERS IN THE ALBUQUERQUE METROPOLITAN AREA

Consumers in Albuquerque and Las Cruces are among New Mexico's residents most likely to feel an increase in economic activity from the new venture. The Albuquerque area will primarily benefit from the proposed pipeline through cost savings in gasoline and diesel products. At project maturity, the increase in local business activity generated by lower prices of refined products and the associated increase in consumer spending is expected to be: $33.133 million in annual Total Expenditures; $17.346 million in annual Gross Area Product; $10.348 million in annual Personal Income; $9.230 million in annual Retail Sales; and 581 Permanent Jobs.

These enhancements to local economic conditions permeate the entire area and positively affect virtually all segments of the population. The fourth graph following this report depicts these gains.

ANNUAL ECONOMIC BENEFITS TO CONSUMERS IN THE LAS CRUCES METROPOLITAN AREA

As in Albuquerque, the Las Cruces area will also derive its major gains from the proposed pipeline through savings accruing to purchasers of gasoline and diesel products.

The stimulus to the local economy resulting from lower prices of petroleum products and the corresponding enhancements to consumer spending is estimated at: $9.308 million in annual Total Expenditures; $4.704 million in annual Gross Area Product; $2.840 million in annual Personal Income; $2.667 million in annual Retail Sales; and 164 Permanent Jobs.

Again, these benefits, which are measured at project maturity, are enjoyed across a broad spectrum of industries and population cohorts. The fifth attached graph illustrates these enhancements.

ANNUAL ECONOMIC BENEFITS TO CONSUMERS IN THE STATE OF NEW MEXICO

The savings achieved in Las Cruces and Albuquerque yield spillover benefits to the entire state of New Mexico. The overall statewide gains from greater accessibility to more competitive gasoline prices in these two urban markets are projected to include: $48.938 million in annual Total Expenditures; $25.163 million in annual Gross Area Product; $14.469 million in annual Personal Income; $12.370 million in annual Retail Sales; and 807 Permanent Jobs.

Assuming that a similar level of direct savings is available across the entire state, the aggregate incremental stimulus to business activity in New Mexico expands to: $128.686 million in annual Total Expenditures; $66.167 million in annual Gross State Product; $38.048 million in annual Personal Income; $32.529 million in annual Retail Sales; and 2,122 Permanent Jobs.

It is, thus, readily apparent that the consumers and producers of New Mexico have a substantial stake in the ongoing availability of gasoline at lower prices which is afforded by the new, competitive pipeline. Both sets of consumer benefits are illustrated in the graphs following this report.

SYNOPSIS

This testimony presents an evaluation of the contributions to consumers of a dynamic, new competitor in the Upper Rio Grande and New Mexico markets for gasoline and diesel sales. The results reveal impressive economic enhancements for the residents of the El Paso area, particularly among Hispanic residents. Substantial gains are also observed for retail customers in New Mexico. Conservative assumptions were used throughout the analysis; longterm effects, such as the greater competitiveness of a region for new industrial locations engendered by lower transportation costs, have not been factored into the analysis. Thus, this assessment should be viewed as a measure of the minimum benefits ensuing from the entrance of a new competitor. The findings clearly reveal that the pipeline is an imaginative endeavor which will be highly advantageous to the consumers it reaches.

Again, I appreciate the opportunity to participate in this process and look forward to ongoing involvement. As additional issues surface concerning the impacts of gasoline prices, I will continue to update our analysis.

If any of you have questions or need additional information, please feel free to let me know. I appreciate the work that all of you do on behalf of the citizens of the United States, and I wish you all the best with the many challenges you face.

RELATIVE ECONOMIC STABILITY OF BRUNEI DARUSSALAM AMONG ASIAN ECONOMICS

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. TOWNS. Mr. Speaker, I would like to bring to my colleagues' attention the attached article from Euronmoney October 1998, "Brunei Darussalam: The Abode of Peace."

BRUNEI DARUSSALAM: THE ABODE OF PEACE

Asia is caught in recession. No country in the region can expect to escape from at least part of the consequences of the turnmoil that has swept Asian economies. That said, the Sultanate of Brunei Darussalam is better placed than most regional states to weather the challenges ahead.

With the August 1998 inauguration of HRH Prince Haji Al-Muhtadee Billah as Crown Prince and future 30th Sultan in a direct royal line that reaches back over 500 years, Negara Brunei Darussalam truly reaffirmed its position as "The Abode of Peace."

The spectacular and traditional ceremony held in the heart of the capital Bandar Seri Begawan, a modern and forward-looking city, served to underline Brunei Darussalam's fortunate and enduring ability to combine the very best of the past with the very best of the new.

Brunei Darussalam has changed hugely with the flow of oil wealth, but His Majesty Sultan Haji Hassanal Bolkiah Mu'izzaddin Waddaulah, his government and his people have all striven to maintain the traditional standards of the country.

On the resumption of independence in 1984, His Majesty the Sultan proclaimed the country a sovereign, democratic Sunni Moslem monarchy. From the 14th to the 16th centuries Brunei Darussalam was the centre of a substantial empire with strong trading links, which covered much of Borneo and the neighbouring islands. However, by the end of the 19th century the Sultanate had lost much of its territory and influence as the result of European colonial expansion throughout south-east Asia.

In these difficult circumstances, Brunei Darussalam agreed to become a British protectorate and in 1888 accepted a British resident who advised the Sultan on all matters except the Islamic faith and Malay custom.

The discovery of oil in the western part of the country 20 years later initiated a long period of economic development, which was accelerated when the first offshore discoveries were made in the 1960s and given a further boost by the increase in oil prices in the 1970s.

The Brunei Darussalam constitution was drawn up in 1959, at the same time that the Sultanate became self-governing, although the British maintained responsibility for the country's foreign affairs, security and defence.

In 1967, Sultan Haji Omar 'Ali Saifuddin Sa'adul Khari Waddien, who had reigned for 17 years, voluntarily abdicated in favour of his eldest son, His Majesty Sultan Haji Hassanal Bolkiah, who ascended the throne in 1968, becoming the 29th Sultan.

Since then, His Majesty the Sultan has built upon the foundations laid by his late father, HM Sultan Omar Ali Saifuddin, III, who is remembered as the architect of modern Brunei Darussalam. But the old Sultan never lost his links with his country's past. When he knew he was dying in 1986, he left his modern palace and returned to the old palace near the Kampong Ayer stilt village on the Brunei River, from which his family had first moved at the start of the century.

The 1979 Treaty of Friendship and Cooperation reinterpreted the long-standing relationship between Britain and Brunei Darussalam and paved the way for Brunei Darussalam to reassume full responsibility for its own destiny as an independent state in January 1, 1984.

Since that date, Brunei Darussalam has joined and supported the aims of all the principle international organizations. Upon independence, it joined the Association of South East Asian Nations (Asean). Most of Brunei's trade is conducted with the other members of Asean, with Singapore being the leading trading partner within the grouping. Participation within Asean projects has also given Brunei an interest in the economic development of the region.

In October 1991, the member states of Asean formally announced the establishment of the Asean Free Trade Area (Afta), which was to be implemented over a period of 15 years, later reduced to 10.

Brunei is also a member of Asia-Pacific Economic Cooperation (Apec) whose heads of government will be the guests of Brunei Darussalam during the Apec 2000 meeting, to be held in Bandar Seri Begawan.

Brunei Darussalam is also a member of the Islamic Development Bank, the World Bank and the International Monetary Fund.

In October 1993, the idea of a "growth quadrangle", encompassing Mindanao and Palawan (the Philippines), Sarawak, Labuan and Sabah (Malaysia), East and West Kalimantan and Sulawesi (Indonesia) and Brunei, was mooted, aiming to emulate the Singapore-Johore-Riau "growth triangle". At a meeting in Mindanao in November 1994, it was agreed to establish the "growth triangle" as the Brunei - Indonesia - Malaysia - Philippines - East Asean Growth Area (BIMP-EAGA). The area has since been expanded with the announcement of the incorporation of additional provinces in Indonesia, including North and South Kalimantan. Maluku Islands and Irian Jaya, in July 1996. It was also decided to locate the secretariat of the East Asean Business Council (EABC) in Brunei. The provision of an office and the pledge to fund one half of the secretariat's operating expenses on a three-year renewable basis, are seen as part of Brunei Darussalam's commitment towards the development of BIMP-EAGA.

Brunei Darussalam is on the northern coast of the island of Borneo. It covers an area of 5,765 square kilometres. Malays form the majority of the population with a Chinese minority. There are also small expatriate communities, particularly from Britain, the Netherlands, the United States and Australia.

Brunei Darussalam is divided into two parts by Sarawak, a part of eastern Malaysia. The western side of the country is made up of two main districts, Brunei-Muara, Tutong and Belait while the eastern side contains the Temburong district. The climate is tropical and the average daytime temperatures range between 26 degrees centigrade (80 degrees Fahrenheit) and 35C (95F), with the evenings generally being a little cooler.

The annual rainfall varies from 200 inches a year in the interior to 100 inches annually on the coast. Brunei Darussalam has 130 kilometres of coastline and over 85% of the population lives in the coastal area.

CAUTIOUS ECONOMIC MANAGEMENT

In 1997, GDP per head, in Brunei Darussalam measured at current prices was Br$25,600 ($14,712). After some years of gentle decline, between 1990 and 1997 GDP increased by an annual average of 2.2%. In 1997, Brunei's GDP, at current prices was estimated at Br$8,051 million. The economy is based largely on wealth from natural gas and petroleum and from the Brunei Investment Agency managed funds of short and long-term assets.

The proportion of GDP contributed by the petroleum sector has however declined steadily from 83.7% in 1980 to 72.8% in 1985 to 62.9% in 1990 and 35.6% in 1997. Based on the current rate of production, Brunei Darussalam's petroleum and natural gas reserves are expected to last for another 20 and 30 years respectively.

The diversification of the economy into non-petroleum-related activities, which is expected to reduce income disparity (with wealth concentrated hitherto in the petroleum sector) remains a major challenge.

The proportion of GDP contributed by the non-oil sector has increased annually since 1986. Between 1990 and 1996, the GDP of the non-oil sector rose at an average of 5.7% per annum. In 1997 this relatively high growth continued, particularly in service-related areas.

The petroleum sector was adversely affected by depressed prices on the world oil market in the late 1980s. Export earnings from petroleum and natural gas declined by about Br$9.7 billion in 1980 to Br$3.6 billion in 1997, although the latter figure still represented 91.1% of the total export revenue.

The downward movement in oil prices has, however, been somewhat balanced by the appreciation of the US dollar as well as the improvement in the non-oil sectors, helped to sustain the recovery of the overall economy, with GDP growth rising from −1.1% in 1992 to 4.1% in 1997.

Brunei's dependence on imports renders it susceptible to external inflationary pressures. Subsidies on essential foodstuffs and petrol however play a part in controlling inflationary pressure. The average annual rate of inflation, as measured by the consumer price index (CPI), was 4% during the decade to 1990 and 2.4% between 1990 and 1994. The index increased by 6.5% in 1995, largely owning to the stiff import tariff announced by the government early in the year, although this rise was mitigated somewhat by a tariff reduction on some 700 other items in the course of the year.

In 1997 the CPI stood at a low of 1.7%, further improving from the 2% recorded the previous year when the government implement further tariff cuts on imported consumer items, some tariffs being abolished altogether. In October 1987, the government began a year long survey of household expenditure to help it formulate a new base for the calculation of the CPI.

Brunei Darussalam has always sought to organize and direct its economic growth. There have been seven National Development Plans, covering the periods 1953–58, 1962–66, 1975–79, 1980–84, 1986–90, 1991–95 and 1996–2000 respectively. These plans, although they were far from comprehensive, delineated proposals for government investment in infrastructure, services and incentives, all aimed at diversifying the economy and at increasing private-sector participation in the economic life of the country.

In 1995, the Brunei Industrial Development Plan (IDP) was commissioned to reactivate the non-oil sector. The IDP has since produced several policy recommendations, including the development of "niche strategy" for industrial activities and the creation of an environment that is more conducive to promoting investments.

The government allocated Br$5.5 billion ($3.16 billion) for various sectors of the economy in the Sixth National Development Plan (1991–1995). Industry and commerce were slated to receive 10% of the total plan budget, of which Br$100 million was to be set aside for industrial promotion and development. The social-services sector, which includes government and national housing, public facilities, education and health, was again to receive the largest allocation, at 29.3% of the total planned budget. The transport and communications sector and the public utilities sector were each to receive 20% of the total development allocation. Particular emphasis was to be placed on communications, electricity and water-supply programmes and the treatment of waste products. The remaining funds were allocated to public buildings, defense and security and miscellaneous items.

During the Sixth Plan about 5,100 houses were built under the Housing Development Programme and the Landless Indigenous Housing Scheme, in addition to a number of other institutional and private housing developments.

Under the health programme, the establishment of rural clinics to complement the private clinics and private hospital contributed significantly to the improved provision of medical and health-care services.

In the education sector, various government secondary and religious schools were completed. Also under the Sixth Plan a total of 40 kilometres of new roads were completed, 12km of suburban roads widened and a total of 180 kilometres of existing roads either upgraded or rehabilitated.

The telecommunications sector was also able to diversify its services, which resulted in a marked increase in the number of subscribers. During this period BruNet, an information network, was established to provide access to the internet.

Other infrastructural projects were undertaken such as the deepening of Muara Port and the completion of the Maura Export Zone (MEZ). Civil aviation benefited from an expansion of cargo and passenger handling at Brunei International Airport. Royal Brunei Airlines, the national carrier, operates a modern fleet of aircraft and now flies to some 25 international and regional destinations with more being negotiated.

Of nearly 1,000 programmes and projects approved for the Sixth National Plan, 58% were completed, 28% were approaching completion at the end of the plan and 11% were under way when the plan ended, leaving only 3% of the projects cancelled or suspended for various reasons.

In terms of actual expenditures, of the original Br$5.6 billion, Br$5 billion or 89% of the total allocation had been or was in the process of being spent.

The Seventh National Development Plan (1996-2000) forms the third stage of the implementation of a 20-year long-term development strategy that began in 1985, one year after independence. This plan aspires further to improve the quality of life for the people of Brunei Darussalam, while at the same time seeking to widen and further enhance the country's economic base. The overall aims of the plan include: the achievement of a balanced and sustained socioeconomic development through a more outward looking economic diversification strategy; the continued development of physical infrastructure and public facilities; the implementation of effective human resource development; the implementation of social development projects, the deployment of appropriate technologies and the continuing protection of the environment.

The government approved a sum of Br$7.2 billion. The sectoral breakdown is as follows: industry 12.6% (up from 10% in the previous plan); transport and communications 19.5%; social services 27.5%; public utilities 21.9%; public building 8.8%; security (civilian projects for the police and army) 7.3%; and miscellaneous items, which included feasibility studies and local plans, 2.4%.

OIL AND GAS, THE TWIN PILLARS OF ECONOMIC DEVELOPMENT

Brunei Darussalam is south-east Asia's third-largest oil producer and has the world's fourth-largest production of liquified natural gas (LNG). In 1997 oil output averaged 163,000 barrels a day (b/d), while gas production was running at 1,070 million standard cubic feet a day (MMscf/d).

As long ago as 1981, the Sultanate introduced an oil and gas conversation policy, with the aim of guaranteeing the sound management of all hydrocarbon reservoirs, and ensuring that with the very best enhanced recovery techniques, production will be sustained for the maximum time period possible. Japan and other Asean nations take between them some 70% of Brunei Darussalam's oil production. South Korea is also an important customer. Further crude oil exports go to Australia, China, Taiwan and the United States. The domestic market refines and uses only 3% of total crude production.

The on-shore Seria oil field was discovered by Shell in 1929, only weeks after other oil companies had given up the search for commercial deposits and surrendered their exploration licenses. The Seria field, which had not then been fully developed, was badly damaged during World War II. However by 1956 it was producing 114,700 barrels a day.

Off-shore discoveries led to production at sea in 1964 and there are now around 182 offshore structures in the South-West Ampa, Fairley, Fairley-Baram (a field which is shared with Malaysia), Magpie, Gannet, Iron Duke and Champion Fields. The Champion field is the Sultanate's most prolific and holds some 40% of the country's proven reserves.

All the producing fields in Brunei Darussalam, both on-shore and off-shore are operated by the Brunei Shell Petroleum Company (BSP), which is jointly owned by the government of Brunei Darussalam and Royal Dutch Shell Petroleum.

BSP is a fully integrated operation which is responsible not only for exploration and production but also oil refining and crude oil trading. In studying complex local geological structures BSP regularly deploys the most technically advanced three-dimensional imaging equipment.

Brunei Darussalam's LNG is produced by a separate company, Brunei LNG, which liquifies product that it purchases from BSP. Brunei LNG, then sells that product to a third company, Brunei Coldgas, which markets the gas and organizes its transport to overseas customers. Brunei owns and operates a fleet of state-of-the-art LNG tankers. Both Brunei LNG and Coldgas are 50% owned by the government. In each company Royal Dutch Shell Petroleum and Mitsubishi hold a 25% stake.

A further company, Brunei Marketing, again jointly owned by the government and Royal Dutch Shell, is responsible for marketing a range of petroleum products, including gasoline, diesel, lubricants and jet fuel within Brunei itself.

When Bruneian LNG was first exported to Japan in 1974 under a 20 year contract, the technology used for the liquifaction and transport was new and ground breaking. The plant has since undergone regular upgrades, to keep abreast of advances in both in production efficiency and safety. The latest modernization programme cost in the region of $370 million and came at a time when the Japanese supply contract had been successfully renegotiated.

Brunei Darussalam's main Japanese customers are the Tokyo Electric Power Company and the gas utilities of Tokyo and Osaka. The successful renegotiation of the LNG supply contracts to these customers was based upon the secure and reliable supply of gas throughout the first contract period. Thus the LNG Tanker fleet operated by Brunei Shell Tankers has benefited from an evergreen programme of maintenance and technical upgrading, which means that the still represent a modern and highly efficient fleet.

Brunei Darussalam enjoys one of the most unpolluted environments in the world. To keep it that way the government decided to invest in gas as an efficient and environmentally clean fuel for local power generation.

FOREIGN INVESTMENT: A BIG STORY FOR A SMALL COUNTRY

In September 1997 Brunei Darussalam signed a deal with an American communications company to permit the Sultanate to be used as an earth hub to link broadcasting satellites in geostationary orbit over the United States and Europe. The facility reinforces Brunei Darussalam's ambition to establish itself as a regional service hub and centre for communications and broadcasting.

This contract is typical of the type of high-technology investment that Brunei Darussalam is encouraging along with a range of targeted "pioneer industries" which include pharmaceuticals, cement, aluminum, wall tiles, aircraft catering, steel rolling and chemical engineering.

Brunei Darussalam's position as a stable location with excellent infrastructure and communications in the heart of the Asean region recommends it to foreign investors, who wish to establish a regional operation in a country that enjoys excellent relations with its neighbours.

To attract these foreign investors, Brunei Darussalam has created a liberal legislative and fiscal regime which does not discriminate between local and overseas investment. The value for the Sultanate of the creation of new businesses, more often than not as joint ventures with local partners, (though in many instances 100% ownership is possible), is the opportunity such operations represent for technology transfer and the spread of business and administrative skills.

Tax breaks of up to eight years are available for new ventures, which include the waiving of duty on imported capital equipment and all production inputs that cannot be sourced in Brunei Darussalam itself. Established businesses in Brunei Darussalam that choose to expand their operations can in their turn enjoy tax breaks of up to five years and similar incentives relating to import duties.

Among other incentives is the provision that interest paid to non-resident lenders of an approved foreign loan, is exempt from withholding tax. There is no personal income tax, nor sales, payroll, manufacturing or export taxes and wages are subject only to a 5% pension contribution from both the employer and employee.

Brunei Darussalam being a small and cohesive society, foreign businessmen are never far away from decision makers and informed analysis. The Ministerial Economic Committee, established to examine the consequences and solutions of the current economic down-turn includes foreign businessmen and bankers on its working groups.

Indeed, it is generally agreed that the Ministerial Economic Committee and its working groups have produced an invaluable opportunity for leading businessmen and bankers to come together with ministers and senior officials and discuss existing ideas and new approaches to the challenges that are facing the economy at this time.

However while they may be a novelty in terms of the business world, they are typical of the way in which His Majesty the Sultan and his government seek out the opinion of citizens. During 1997 government ministers and officials held a series of meetings all around the Sultanate, to which every citizen was invited to come with grievances about and suggested improvements to any government service or agency. Complaints were taken up speedily and, if justified, remedied immediately. Of equal importance was that these meetings enabled the official party to explain government policies and actions.

Business start-ups in the Sultanate may attract special finance. The Economic Development Board is responsible for directly assisting local businessmen by providing loans at favorable rates of interest for new ventures or the expansion of their existing businesses. The scheme currently provides loans for up to a maximum of Br$1.5 million ($862,000) at 4% interest, repayable up to a maximum period of 12 years.

The cost of utilities and services are among the lowest in the region and there is a full range of international banking and accounting services. There are no restrictions on foreign exchange. Banks permit non-resident accounts to be maintained and there are no restrictions on borrowing by non-residents.

Brunei Darussalam has one of the best telecommunications systems in south-east Asia and there are major plans for improving it even further. The rate of telephone availability is currently one telephone for every three persons.

There are two earth satellite stations providing direct telephone, telex and facsimile links to most parts of the world. Several systems currently in operation include an analogue telephone exchange, fibre optic cable links with Singapore and Manila, a packet-switching exchange for access to high-speed computer bases overseas and a cellular mobile telephone and paging system. Direct telephone links are available to the remotest parts of the country through microwave and solar-powered telephones.

For manufacturers especially, the local market, while small, boasts high disposable incomes which could offer a lucrative domestic business base, with little or no competition, while firms also concentrate on exporting to Brunei's neighboring markets. There are regular flights with Royal Brunei Airlines to all major regional cities and a sophisticated cargo-handling facility at the ultra-modern Brunei International Airport, which is designed to handle 1.5 million passengers and 50,000 tonnes of cargo a year.

The country's two main ports at Muara and Kuala Belait provide direct shipping links to Hong Kong, Singapore and several other Asian destinations. Muara, a deep-water port 29 kilometers from the capital, was opened in 1973 and has since been considerably developed. There are 12,542 square meters of warehouse space and 6,225 square meters of transit sheds. Container yards have been increased in size and container freight station handles unstuffing operations.

The 2,000 kilometre road network serving the entire country is being expanded and modernized. A main highway runs the entire length of the country's coastline. It conveniently links Muara, the port entry at one end with Belait, the oil production centre at the western end of the state.

The official language of Brunei Darussalam is Malay but English is widely spoken and is also used in the education system. Half the population of the Sultanate is under the age of 20 and the education service has, not surprisingly, seen a massive expansion in recent years. Education is provided free from the age of five for all citizens. The government also provides scholarships for Bruneians to undertake further studies overseas, in subjects where facilities are not available locally.

There are currently two prime higher education establishments, the University of Brunei Darussalam and the Brunei Institute of Technology. The University, which was established 1985, has in recent years been receiving growing numbers of overseas students from the surrounding region. There are also various other technical and vocational institutes aimed at producing graduates who will meet the skill shortages in both the public and private sectors.

However, with such a limited population, the government recognizes that foreign investors will probably not be able to source all the skilled workers and managers they need from the local economy. There are therefore liberal regulations allowing companies based locally to hire foreign workers, from laborers to managers.

The quality of health care in Brunei Darussalam is better than that in many developed countries and all major disease have been eradicated. Malaria has been eliminated since 1970 and cholera and smallpox have also been stamped out and the Ministry of Health carries out regular immunization programmes. Moreover, Brunei Darussalam has substantially met the health requirements laid down by the World Health Organization in its Health for All by the Year 2000 programme.

Health care is free for Brunei Darussalam's citizens and is available to permanent residents, foreign citizens and their dependants for a nominal charge.

The final attraction for foreign investors is that Brunei Darussalam is an extremely pleasant place in which to live and do business. The quality of life is high, the streets of the capital are safe and the crime rate is negligible. Excellent housing is available and the children of foreign nationals have a choice of schools, including the outstanding new International School at Jerudong. Brunei Darussalam's equatorial weather may come as a surprise to new arrivals but it quickly becomes an interesting part of the pattern of life in the Sultanate, which has been fortunate in never experiencing the typhoons, earthquakes or severe floods that occasionally descend elsewhere in the region.

Brunei Darussalam is proud of its strong Islamic tradition, which is evidenced by the outstanding and impressive mosques that have been built in recent decades. Though some contend that Islam first came to the Sultanate as early as the seventh century, modern scholarship believes that it probably spread to Brunei Darussalam sometime in the 13th century. The constitution guarantees religious freedom.

For business trips, Brunei Darussalam is truly the regional hub of Asean with the flying time to Bangkok, Jakarta, Kuala Lumpur, Manila and Singapore between one-and-a-half and three hours flying time away.

A DIFFERENT HOLIDAY OPPORTUNITY

In a statement in 1996, the government gave details of a plan to develop Brunei as a "Service Hub for Trade and Tourism" (SHuTT) by 2003. Brunei Darussalam wants to see itself as a bridge for the EAGA member countries to the regional and global markets. At the same time, it aspires for Brunei Darussalam to become that gateway to EAGA markets for the rest of the world.

Ports, airport services and tourism services are all being upgraded as part of the move to build on Brunei's excellent regional and international telecommunications network.

Tourism is considered to be a key element in the SHuTT plan. Initiatives include the Visit Brunei Year and the production of the country's first Tourism Master Plan. A new tourism division was established under the Ministry of Industry and Primary Resources. Visa requirements have been relaxed (72-hour visas are now available) and border checkpoints have been upgraded.

Brunei Darussalam's location on the north east coast of Borneo, 450 kilometers north of the equator means it has a climate that combines a great deal of sunshine with a lot of rain, all of which contributes to the creation of the rich and fantastic flora and fauna of the rain forest.

Forestry and agriculture were the traditional productive sectors before the Sultanate was able to enjoy the benefits of its substantial hydrocarbon resources. The original exploitation of the rain forest therefore dated from a time when it had been managed on traditional, sustainable lines. This environmentally sensitive approach has been maintained because, unlike Brunei's neighbours, there has been no imperative to exploit the wealth of the rain forest up to and beyond supportable levels.

Brunei Darussalam therefore offers tourists a unique opportunity to visit large areas of unspoilt jungle which cover 80% of the country's land area, with a extraordinary range of biodiversity.

There are three main reserves, the largest and most striking of which is the Batu Apoi Forest Reserve covering a massive 500 square kilometres of undisturbed rain forest in south Temburong. The Reserve contains the Kuala Belalong Field Studies Centre. Visitors are presented with the extraordinary chance to move around areas of the forest by way of sensitively constructed walkways which include sections that actually take them up into the canopy of the trees, where a completely different range of flora and fauna exist. The Belalong Centre is most easily accessed by water and the up river journey is an outstanding way of experiencing Borneo's jungle waterways, which cut through steep valleys where the jungle towers several hundred metres overhead.

The other reserves are the Bukit Shahbandar Forest Recreation Park and the Sungai Liang Recreation Park, which features catwalks and tower tree houses in the tree canopy.

Brunei Darussalam currently has some 1,200 hotel beds, which are due to be increased to 3,000 by 2000. By that date Brunei is hoping to have doubled the number of visitors to one million a year. Besides its astonishing rain forests, Brunei has its own attractions including the remarkable Jerudong Play Park with a wide range of state-of-the-art rides, all of which are completely free. The Bruneians have also discovered golf in recent years and there is now a series of excellent golf links including one floodlit course for the cool evenings. There are also excellent gymnasia, fitness centres and swimming pools as well as an impressive range of sports stadia where it is planned to host the upcoming Asean games. Bandar Seri Bagawan will also host to meeting of Apec at the end of the millennium and in the first year of the new century, will be mounting a 12-month-long programme of cultural and sporting events as part of the Visit Brunei Year 2001.

Royal palaces, stunning mosques and miles of sandy beaches complement the country's attractions. In a move that will broaden the visitor's horizons yet further, the Brunei Darussalam tourism authorities have also produced a campaign to market the Sultanate as part of the island of Borneo as well. A modern highway circling the whole island is under construction, so that tourists with more time to spare can plan much longer journeys in this fascinating part of the world.

There are also plans to market "medical tourism", whereby visitors could be treated at the luxurious and fully equipped and staffed Jerudong Medical Centre, whose rooms are better appointed than those of a five star hotel.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, October 8, 1998, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 9

10:30 a.m.
Governmental Affairs
Business meeting, to consider pending nominations.
SD–342

CANCELLATIONS

OCTOBER 8

9:30 a.m.
Select on Intelligence
To hold hearings to examine the scope of national security threats.
SH–216

2:30 p.m.
Select on Intelligence
To hold closed hearings on intelligence matters.
SH–219

SENATE—*Thursday, October 8, 1998*

(Legislative day of Friday, October 2, 1998)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable MIKE DEWINE, a Senator from the State of Ohio.

PRAYER

The guest Chaplain, Dr. William Hawkins, of Graves Memorial Presbyterian Church, Clinton, NC, offered the following prayer:

Gracious God, whose compassion fails not and whose mercies are fresh and new every morning, hear our prayer as we look to You in spirit and in truth. We thank You for our Nation's leaders, who in times past found in You their stay in trouble, their strength in conflict, their guide and deep resource. May it please You heavenly Father that today this gathered company will find in You the same.

As the Psalmist has exclaimed, "Blessed is the Nation whose God is the Lord" (33:12), so may Your lordship be affirmed in our Nation and cherished always among the Members of this body. Grant unto these Senators the knowledge that they will serve our Nation best as they serve You first. Make them strong in Your strength, wise in Your wisdom, and compassionate in Your Spirit, that the legislation they propose will accomplish the greater good You would have them seek. Keep them, their families, and all those they love safe from harm, physical and spiritual, so that they can be about the affairs of our Nation with full attention and devotion.

Grant unto each a sense of divine purpose, that they know themselves here not by chance but by design. Fulfill Your intentions for them in this high office, that they will be found working together, doing that which is pleasing in Your sight and in accord with Your holy will. In Your great name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will read a communication to the Senate.

The legislative clerk read as follows:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 8, 1998.

To the Senate: Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MIKE DEWINE, a Senator from the State of Ohio, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. DEWINE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The distinguished majority leader is recognized.

Mr. LOTT. Mr. President, I will yield to the distinguished Senator from North Carolina who will welcome our guest Chaplain for the day.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina is recognized.

WELCOME TO DR. WILLIAM HAWKINS, GUEST CHAPLAIN

Mr. FAIRCLOTH. Mr. President, I am indeed honored and happy to be here this morning with my home church preacher. Bill Hawkins has been pastor of my church for 10 years now and he has made an outstanding impression and done a great job not only for the church membership but for the city that we live in as well. He has a wife and two daughters and they mean so much to me personally and to the community we live in. He is a Virginian, but we do not intend to allow him to leave. We plan to keep him in North Carolina and we are honored that he is there. He brings the youth and vigor to our church that we so much need. We are proud to have him there.

Bill, thank you.

I yield the floor.

Mr. LOTT. Mr. President, I add my welcome to the guest Chaplain. He did a beautiful job this morning. I know he is going to be very dedicated to tending to the needs of the Senator from North Carolina, Senator FAIRCLOTH.

We are delighted to have you here.

SCHEDULE

Mr. LOTT. Mr. President, the Senate will be in a period of morning business until 10 a.m. Following morning business, under a previous order, the Senate will begin 1 hour of final debate on the conference report to accompany the VA-HUD appropriations bill. At the expiration of debate time, at approximately 11 a.m., the Senate will vote on adoption of that conference report. Following that vote, the Senate may resume consideration of the Internet tax bill. I believe we are about ready to complete action on that. We have been saying that for a week, but I think that the opposition really is minimal. When we finally get to a vote, it is going to be overwhelming. I hope those obstructing and delaying the bill will give it up and let us get to the final passage of this important legislation before we leave. I understand there is one outstanding issue remaining on that legislation. Hopefully, it can be resolved by the managers early this afternoon.

In addition to the Internet bill, the Senate may consider the intelligence reauthorization bill, the human services reauthorization bill, under a 30-minute time agreement, and, possibly, the Treasury-Postal Service appropriations bill. The Senate may also begin consideration of the William Fletcher nomination under the previously agreed to 90-minute time agreement.

At 5 p.m., under a previous order, the Senate is scheduled to resume consideration of H.R. 10, the financial services reform bill, unless another agreement is reached. I hope we can also come to some compromise agreement on that legislation so we can get it completed. It is very important domestically and, as a matter of fact, for our ability to compete in international markets. Members should expect rollcall votes throughout the day and into the evening.

There are a number of meetings going on to resolve issues between the House and the Senate and the administration. I think a lot of good progress has been made in the last 24 hours. I felt like the dam sort of broke yesterday. We have the bankruptcy reform legislation conference report being finished now. The vocational education conference report was completed last night. That was the first time we had a vocational reauthorization in years, and certainly we need to focus on vocational education. That, coupled with the higher education bill that was signed into law 2 days ago, will begin to show that we are committed to working continuously to improve education for our children and for the families of this country in the future.

We are in a position where we are about in final agreement on the WIPO bill, the intellectual property issue, and music licensing.

A number of bills are coming to a conclusion. As soon as conference reports are available, particularly appropriations bills, they will be stuck right into the schedule, and hopefully a quick vote. We will then move with other conference reports. We hope to be able to move some Executive Calendar

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

nominations. But that also will take a lot of cooperation.

I thank the Senators for their assistance at this critical hour.

I yield the floor.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to a period of morning business until 10 a.m. with Senators permitted to speak for up to 5 minutes.

Mr. LOTT. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, we are in morning business?

The ACTING PRESIDENT pro tempore. That is correct.

THE PRESIDENT DID THE RIGHT THING

Mr. HARKIN. Mr. President, last evening, President Clinton did the right thing, did the right thing for this country and did the right thing for our farmers and for people who live all across rural America. He did the right thing for farmers who are suffering because of a drastic drop in prices. He did the right thing for farmers who are suffering because of a loss of crop in disaster areas in the South and Upper Midwest. The President did the right thing by vetoing the woefully inadequate farm disaster bill that this Congress passed and sent to him for his signature. Now it is up to us to see what we can do to make that bill better and get it back to the President for his signature.

Rural America needs help. Farmers need assistance. Disaster-hit areas need help. And yet they do not need the woefully inadequate bill that was passed here. I likened the bill that was passed by the Congress as giving a thimbleful of water to a person dying of thirst. It may assuage their thirst momentarily, but it is not going to keep them alive. We need to give those farmers who are dying of thirst out there the adequate water they need to get them through this year and the next to keep them alive.

Mr. President, I was encouraged by what I read in Congress Daily, that the chairman of the House Appropriations Committee, Congressman LIVINGSTON, has said that they expected a veto and that after the veto comes negotiations. I do not have the exact quote, but that is about what he said. I think that gives us some hope that we can work together here, we can negotiate out some differences, and we can come up with a bill that the President will sign and that will, indeed, benefit our producers.

There are some principles that we must maintain, however. First of all, there must be adequate disaster assistance. There needs to be equitable treatment regionally both within the distribution of the disaster assistance and within the overall package of disaster-related, commodity-based assistance. That means it has to be equitable, and it has to be adequate. It does not necessarily mean the dollars have to be spread around evenly. Equitable treatment is the key for farmers who have suffered from natural disasters.

A second principle is that assistance must go to producers who need it. Assistance based on low commodity prices should be delivered to producers suffering from low commodity prices. That is the advantage of the marketing loan proposal that those on our side have advocated. The proposal just to add on some money to this so-called AMTA payment has no relationship to the level of commodity prices. And not all commodity prices are depressed equally or substantially, particularly in cotton and rice. So assistance must have some relation to market conditions.

I always wonder what it is about some of my friends on the other side. They always talk about the market, the market, the market, yet the direct payment that goes out to farmers has no relationship to the market.

Removing the loan rate caps, as we want to do, does have a relationship to the market. If the market price goes up, the exposure to the Government is less and farmers will get their money from the market and not from the Government. Just giving out a direct payment has no relationship to the market whatsoever.

I think a third principle that we must have in any negotiated settlement is assistance to actual producers. Lump cash payments in a fixed amount are less likely to remain in the hands of the actual farmer than is assistance provided in a way that is contingent on market conditions. The additional AMTA payment that is in the vetoed bill is readily identified by landlords who are in a strong position to capture the payment in land rental rates. That is why raising the marketing loans, raising those caps will get to the producers.

Another principle. We must restore the safety net. Farmers are in their current predicament in large measure because the safety net feature of previous farm bills was abandoned in the 1996 farm bill. A set cash payment does nothing to restore the safety net because it is not responsive to market conditions. By contrast, removing loan rate caps would help restore a safety net responsive to market conditions.

Two last and final principles. Some linkage to actual production. The marketing assistance loan is tied directly to actual production. The Republican plan in the vetoed bill would have provided an additional money windfall even though no crop had been produced on the land. Why would we want to do that? Let's have assistance out to farmers who actually produced a crop.

And last, let's have a major measure of fiscal responsibility. This idea of just throwing out another payment to farmers is not fiscally responsible. If commodity prices should rise next year, which we all hope will happen, our plan would cost less than expected. But if the commodity prices rise next year, after the Republican plan payment went out, we would not recapture any of that money. It would be gone. That is why raising the marketing loan caps is, indeed, more fiscally responsible than just giving out a payment.

Mr. President, I believe within those principles there is room for negotiation. I look forward to the negotiations. I hope we can very rapidly come up with a bill that will meet these principles and that the President will sign into law, because our farmers need the assistance, and the disaster areas also need that assistance.

I will yield the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The time for morning business has expired.

DEPARTMENT OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1999—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. The Chair lays before the Senate the VA-HUD conference report. There are 60 minutes for debate to be equally divided.

The report will be stated.

The assistant legislative clerk read as follows:

> The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4194), have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The Senate proceeded to consider the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 5, 1998.)

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

Mr. BOND. I yield to my distinguished colleague from Maryland for a request.

PRIVILEGE OF THE FLOOR

Ms. MIKULSKI. Mr. President, I ask unanimous consent that during consideration of the report 105–769, that Ms. Bertha Lopez, a detailee from HUD serving with the VA–HUD committee, be afforded floor privileges.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Ms. MIKULSKI. Thank you. I yield the floor and look forward to proceeding on our conference.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Missouri is recognized.

Mr. BOND. I thank our distinguished ranking member, Senator MIKULSKI. Before I get into the bill, let me say Senator MIKULSKI and her staff have given us tremendous cooperation, guidance and support. The process is always very difficult in this bill, but it runs much more smoothly because of her leadership, her guidance, and her deep concern for all of the programs covered.

Mr. President, I am pleased to present to the Senate the conference report on the fiscal year 1999 VA–HUD and independent agencies appropriations bill. The conference report provides $93.4 billion, including $23.3 billion in mandatory veterans' benefits. I believe this represents a fair and balanced approach to meeting the many compelling needs that are afforded this subcommittee, particularly in the face of a very tight budget allocation.

The conference report accords the highest priority to veterans' needs, providing $439 million more than the President's request for veterans' programs. Other priorities include elderly housing, protecting environmental spending, and ensuring sufficient funding for space and science.

We did our best to satisfy priorities of Senators who made special requests for such items as economic development grants, water infrastructure improvements, and similar vitally important infrastructure investments. Such requests numbered over 1,000 individual items, illustrating the level of interest and the demand for assistance provided in this bill.

We also attempted to address the administration's top concerns wherever possible, including funding for 50,000 new incremental housing vouchers, funding for the National Service Program at the current year rate, additional funding for the cleanup of Boston Harbor, and $650 million in advance funding for Superfund, contingent upon authorization and reform of the Superfund Program by August 1, 1999.

For the Department of Veterans Affairs, the conference report provides a total of $42.6 billion. This includes $17.306 billion for veterans medical care. That figure is $278 million more than the President's request, and $249 million more than the 1998 level. Thus, we have increased by just about a quarter of a billion dollars the amount of money going to veterans health care above what was available for the past fiscal year. There was a strong consensus in this body, on a bipartisan basis, that the President's request for veterans medical care was inadequate, and that additional funds were needed to ensure the highest quality care to all eligible veterans seeking care.

Funds above the President's request also provided for construction, research, State veterans nursing homes, and the processing of veterans claims. I am confident these additional funds will be spent to honor and care for our Nation's veterans.

In HUD, the conference report provides for the Department of Housing and Urban Development a total of $26 billion. Again, this is $1 billion over the President's request. We were able to provide this significant increase in funding because of additional savings from excess section 8 project-based funds as well as savings from our reform of how HUD conducts its FHA property disposition program.

Because of these savings and reforms, we have been able to increase funding for a number of important HUD programs, including increasing critically needed funding for public housing modernization from $2.55 billion to $3 billion; increasing HOPE VI to eliminate distressed public housing from $550 million to $625 million; increasing the very important local government top priority, Community Development Block Grants from $4.675 billion to $4.750 billion.

We increased HOME funds, providing the flexibility for local governments to make improvements in providing needed housing for low-income and needy residents, from $1.5 billion to $1.6 billion, and we increased funding for homeless assistance from $823 million to over $1 billion, including requirements for HUD, recapturing and reprogramming unused homeless funds.

We also included $854 million for section 202 elderly housing, and section 811 disabled housing. This is an increase of some $550 million over the President's request for the section 202 program.

This reflects the sense of this body, expressed in a resolution jointly sponsored by my ranking member and myself, saying that we could not afford an 80-percent cut in assistance for elderly housing as proposed by the Office of Management and Budget.

I want to be clear that these funding decisions for HUD do not reflect a vote of confidence for HUD. HUD remains a troubled agency with significant capacity problems and dysfunctional decisionmaking. Let me remind my colleagues that HUD remains designated as a high-risk area by the General Accounting Office, the only departmentwide agency ever so designated. I am not confident that HUD is making appropriate progress. I also want to warn my colleagues that, while we have provided the additional 50,000 welfare-to-work incremental vouchers that the administration requested, HUD and we are fast approaching a train wreck. And the debris will be on our hands.

Let me call our colleagues' attention to this chart. It shows an explosion. To be specific, in fiscal year 1997 we had to appropriate $3.6 billion in budget authority for the renewal of existing section 8 vouchers. These are the renewals for people who are now receiving section 8 assistance. Because in prior years we had multiyear authorizations, those authorizations are expiring, and just to maintain the section 8 assistance we are providing we had to go up to $8.2 billion this year. We will go up next year to $11.1 billion, the year after $12.8 billion, and by 2004 we will have to find budget authority of $18.2 billion, just to maintain the section 8 certificates, the vouchers for assisted housing for those in need that we already provide.

So, this is a budgetary problem of huge magnitude and it is something that is coming. Unless we are to stop providing assistance for those who need section 8, we are going to have to find in the budget room for that much budget authority. I have asked HUD repeatedly, in hearings before our committee, to address this fiscal crisis. Yet HUD has repeatedly failed to fulfill these responsibilities. This is something this body and the House are going to have to work on next year and the year after and the year after. The problem grows significantly more severe as we move into the outyears.

The conference report, at the request of the House and the leaders of the Housing Authorization Committee in the Senate—the distinguished chairman of that subcommittee, Senator MACK, will be addressing this later—includes a public housing reform bill entitled the "Quality Housing and Work Responsibility Act of 1998." I congratulate the members of the authorizing committee for making significant and positive reforms to public and assisted housing programs. I believe that, given the legislative calendar and the situation, it was appropriate, with the advice, counsel and direction of the leadership, that we included it.

There are some issues I want to flag now because I think we may want to come back and readdress them, as we do in so many things that we pass in the housing area in this body.

I am concerned that the requirements on targeting might adversely impact the elderly poor. I am concerned about a provision that could allow HUD to micromanage housing choices of public housing families on a building-by-building basis, and I don't agree with the provision that would provide the HUD Secretary with a slush fund of some $110 million.

Most of my concerns, however, relate to provisions that will become effective in fiscal year 2000. I expect that we will continue to review these areas and we will work, as we have in the past, in full cooperation with our distinguished colleagues on the authorizing committees in both the House and the Senate and discuss these further in future bills.

Finally, this appropriations bill provides a significant increase for FHA mortgage insurance. We raised the floor from $86,000 to $109,000 and the ceiling for high-cost areas from $170,000 to $197,000. This is a critical provision. It means that families will have new and important opportunities to become homeowners.

With respect to the Environmental Protection Agency, the conference report provides $7.650 billion for EPA. That is about $200 million more than current year funding. Included in this is the President's full request for the clean water action plan which totals $150 million in new funding, principally for State grants aimed at controlling polluted runoff or nonpoint source pollution. The conference report also provides $2.125 billion for State clean water and safe drinking water revolving funds, an increase of $275 million over the President's request and $50 million over the current year.

Mr. President, I am very proud that we were able to provide this, because I think in every State, if you talk with the people who are actually doing the hard work of making sure that wastewater is cleaned up and that we have safe drinking water, they will tell you that these State revolving funds, which provide low-cost loans and enable communities to take vitally important steps necessary to ensure that they clean up their wastewater and they have safe drinking water, they will tell you that these State revolving funds are absolutely critical for meeting the long-term needs of our communities.

Back to the rest of the bill, for Superfund, the conference report provides $1.5 billion, the same as the current year funding. In addition, there is an advance appropriation of $650 million, contingent upon authorization by August 1, 1999.

Other high priorities in EPA, which we have funded, include particulate matter research, funding for the brownfields at the full request level, providing to the States the tools they need to prevent pollution, cleanup of waste sites and enforcing environmental laws. Almost half of the funds provided in this bill will go directly to the States for these purposes.

For FEMA, the Federal Emergency Management Agency, there is a total of $827 million, approximately the same amount as current year funding, with emphasis on preparing for both natural and man-made disasters.

The conference report includes the President's request of $308 million for disaster relief spending. While there are not any additional funds above the President's request for disaster relief, let me assure everyone that the current balances in the disaster relief fund are sufficient to meet all the needs at this time, including those stemming from Hurricane Georges, as well as the flooding that hit my State over the weekend and resulted in tragic deaths in the Kansas City area, as well as severe damage to homes and businesses.

We all appreciate the good work FEMA has done to help the victims struggling to recover from recent devastation, whether it is hurricanes, floods or tornadoes. Our thoughts and prayers are with the many people who suffered severe losses because of natural disasters.

In order to support efforts aimed at mitigating against future disasters, the conference report provides $25 million for predisaster mitigation grants. These funds are intended to ensure communities will be better prepared and that losses will be minimized when the next disaster strikes. We hope these funds will be well spent to strengthen the Nation's preparedness for natural disasters.

Finally, within FEMA, the conference agreement provides the full budget amount requested by the administration in July for antiterrorism activities. My ranking member and I believe this is vitally important preparation. It is something we need to be looking at in every area, and we are very proud to be able to provide this assistance for FEMA, because this is critical as part of an interagency effort aimed at preparing States and local governments for possible terrorists incidents.

For the National Aeronautics and Space Administration, NASA, the conference report provides a total of $13.665 billion. This is $200 million over the President's request, including $5.480 billion, for the international space station and shuttle activities.

We remain very concerned over cost overruns, and the failure of the Russian Government to meet its obligations as a partner in the development and operation of the space station. As a result, this conference report includes requirements for NASA to address Russian noncompliance and includes a provision addressing the need for NASA to explore alternative ways of doing business with the Russians. Again, I thank my distinguished ranking member for her leadership on this issue.

For the National Science Foundation, the conference agreement provides $3.6 billion for NSF. This is $242 million above the enacted level for the past year. Included in this is $50 million for the plant genome program. Mapping the significant crop genomes is vitally important to the future of agriculture and to feeding our country and to feeding the hungry people of the world. This is an increase of $10 million over last year's level and the initial phases of what I believe will be a significant scientific breakthrough.

Before I yield to my colleague from Maryland, I do want to take this opportunity to talk about a crisis that is wreaking havoc throughout our country. That crisis is in Medicare home health benefits. They are in severe jeopardy.

The Health Care Financing Administration implemented a home health interim payment system, the IPS, which hits hundreds of home health agencies, many of which are small, freestanding providers, and has been forcing them out of business.

In Missouri alone where we had last year 230 home health care agencies, 50 agencies have already shut their doors entirely or have stopped accepting Medicare patients. One of them is the largest program in the State, the St. Louis Visiting Nurses Association, but many of them are small businesses that provide vitally needed health care services. It may be in rural areas or it may be in the inner cities, but they are serving some of the most deserving, poor elderly and disabled in our country.

The agencies that are being hit are those that serve the most complex cases, the ones with the most difficult challenges. Some parts of Missouri are losing their only source of home health care.

My hometown of Mexico, MO, has a small rural hospital. It is the Audrain Medical Center. We are very proud of it. But recently I received a letter from David Neuendorf, the medical center's chief financial officer, describing the difficulties they are facing. He stated the following:

> In Mexico the HealthCor, Beacon of Hope, and Homecare Connections agencies have closed. Other firms headquartered elsewhere have closed their Mexico offices. People who need home care in this area are simply not going to be able to get it in the future. When they become sick enough they will end up in the hospital where they will receive more expensive treatment.

Mr. President, in Missouri we have a well known phrase: "Show me." Mr. President, people in Missouri have shown me that the interim payment system is denying access to critical home health services. The IPS is the worst case of false economy I have ever seen. If the elderly and disabled cannot get care in the home, what is going to happen? They either will wind up in the emergency room very sick or they will go into institutionalized care, going into expensive nursing homes or even hospitals, or the patients simply will not get care at all.

One agency chief officer who testified before the Small Business Committee exemplifies the problem. She tells me she provides care to the most complex cases, the most difficult ones to serve in a central city area. And if this system and the proposed cuts go through, she could go out of business, and of the 350 patients she has, almost half of them would have to go immediately into nursing homes.

This means that not only will Medicare costs rise, but there will be an explosion in State and Federal Medicaid budgets. We are going to have to pay for these poor, elderly, and disabled who are very sick. If we do not take care of them in the home health setting, we are going to take care of them in less convenient, less comfortable ways for them but far more expensive ways for us.

We must demand this insane, inequitable, and punitive system be corrected before we adjourn. And there are many proposals floating around. I believe Members on both sides of the aisle of this body know stories about how serious this crisis is. Some of them provide needed relief to home health agencies, those whom they serve. Some of them merely add a few lifeboats to a sinking ship. But it is clear one important consideration is missing. It is imperative we restore access to home health care for medically complex patients, especially those in center cities and rural areas. We cannot just reshuffle the deck and cause losses to vulnerable patients.

Mr. President, I would have addressed this under the VA-HUD bill, under the FEMA's emergency budget. Unfortunately, home health care does not qualify for disaster relief. But let me assure my colleagues, that the human disaster of failing to address this home health care problem is going to be as severe, if not more severe, than many of the tragic natural disasters we address in FEMA.

Mr. President, to sum up, I am very proud of the work that we have been able to accomplish. I appreciate once again the work of my distinguished colleague. I will recognize others who have worked on this later, but now it is my pleasure to defer to the distinguished Senator from Maryland.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Thank you very much, Mr. Chairman and Mr. President.

I am really proud once again to come to the floor with my colleague, Senator BOND, to bring to the Senate's attention the 1999 VA-HUD conference report and urge that we move quickly to vote on and pass what I believe is a very solid report. This is a strong conference report, and I believe it is one which will be signed by the President of the United States. And why? Because it meets the day-to-day needs of the American people as well as the long-range needs of the United States of America.

It provides a safety net for our seniors. It gets behind our kids. It invests in science and technology and makes our world safer. It meets compelling human needs and at the same time makes public investments in Federal Laboratories that will come up with the new ideas for the new products, for the new jobs, for the 21st century.

Let's talk about a safety net for seniors. We have often said to our veterans that we are a grateful Nation for the sacrifice that they have made in the wars, and many of them bear the permanent wounds of war. But I believe the way a grateful Nation expresses its gratitude is not with words but with deeds. That is why I am so pleased that we are providing in the VA medical care account $17.3 billion to meet that need. This will ensure that our veterans will receive quality medical care and that whenever they enter a VA hospital or an outpatient clinic, promises made will be promises kept.

At the same time, we provided $316 million for VA medical research. VA medical research is different from NIH research. Building on basic science, it actually does research in hands-on ways to improve clinical practice—both in acute care as well as in prevention and home health care. This means that this will focus on those diseases that ravage our veterans—like diabetes and like prostate cancer as well as the Gulf War Syndrome.

In addition to what we have done for senior citizens in the veterans health care program, we also worked to make sure that there is a safety net for seniors in our housing for the elderly. Misguided budget cutters sent a budget to us cutting housing for the elderly by a half a billion dollars, and at the same time they wanted to convert those funds to vouchers. On a bipartisan basis, Senator BOND and I said that was absolutely unacceptable.

First of all, the Housing for Elderly Program is one of the most popular programs within HUD. And it is often run by nonprofit organizations, many of whom are faith-based, like Catholic Charities and Associated Jewish Charities in my own State, not only taking taxpayers' dollars and adding housing for the elderly but value adding to that. That is why we restored that cut of a half-billion dollars, to make sure that the funds are there.

We also rejected their approach to providing vouchers. Senator BOND and I really did not believe that an 80-year-old frail, elderly woman with her walker should be walking up and down the streets of St. Louis, MO, or Baltimore, MD, or any of our communities, trying to get into an apartment that might not meet the needs of the elderly, and certainly the frail elderly.

So we got rid of the misguided budget cutting and also the poor policy thinking that went into it. We are challenging HUD, however, to come up with new thinking in their housing for the elderly to develop new approaches for our seniors, and particularly those that are aging in place. There will be a demonstration project run by Catholic Charities just to do that.

At the same time, in this subcommittee, we showed our commitment to the next generation in terms of our children. Within the National Science Foundation account, we have increased the funding for the training of science teachers as well as expanding the informal science education programs to reach beyond the classroom to our children to encourage them to study math, science, and engineering.

Also, we have added assistance for the historically black colleges, as well as ones serving Hispanic institutions, to develop important laboratory infrastructure so that they can modernize their facilities, so they can provide the best quality education available.

In addition to our educational efforts in terms of our children, we also wanted to look out for their health. That is often in the Labor-HHS appropriation, but there is a secret here often in housing, in old housing in slum neighborhoods, which is that they are loaded with lead. Lead constitutes one of the biggest problems facing many of the children in my own hometown of Baltimore. And we have taken Federal dollars and increased the funding for our lead abatement program. Again, we have worked on a bipartisan basis.

Scientists and physicians at Johns Hopkins point out when a child comes into Hopkins and his or her blood is loaded with lead, the very nature of detoxification is not only painful, but it often costs in the Medicaid budget thousands of dollars. The impact of lead not only can lead to death but severe impairment of intellectual ability. By getting the lead out of our housing and getting the lead out of our bureaucracy, we will make sure we get the lead out of our children. We are very pleased to have been able to do that.

While we are looking now to the day-to-day needs of the American people, we know we have to invest in science and technology. Again, Senator BOND and I believe that public investments in science and technology will lead to the new ideas, the new products and the new jobs for the 21st century. That is why we have provided significant funding for critical science and research at the National Science Foundation and the National Space Agency. This legislation will provide $3.6 billion in the National Science Foundation account. This is an 8 percent overall increase in funding.

The NSF has peer review programs focusing on developing cutting-edge science and technology. We want to, again, work to make sure that this money is used wisely. We believe that the National Science Foundation is on track.

In addition to that, this appropriation provides $13.6 billion for the National Space Agency. It will spur technology development, as well as look for the origins of the universe.

To my colleagues in the Senate and to those also watching, while we were working on the funding for NASA we recognized a great American hero, Senator JOHN GLENN. At the request of his colleague from Ohio, Senator DEWINE, we have renamed the NASA Lewis Research Center in Cleveland the "John Glenn Research Center," which we think is an appropriate recognition. We thank the junior Senator from Ohio for making that request.

While we are working on NASA, we have been troubled about the funding for the space station and also the failure of the Russian Government to deliver its promises. We have instructed NASA to take a look at how we are going to get value for taxpayers' dollars and how we are going to get technology for taxpayers' dollars. After rather firm conversations with the National Security Advisor of the United States, as well as the Administrator, we believe we have language in our appropriations that will help us get both value and technology for our cooperation in this effort.

We are also working on a safe world. We have funded the Environmental Protection Agency to clean up our environment and also take those steps that are necessary to prevent increased environmental degradation. One of the efforts, of course, is in brownfields, which we hope will be a new tool to be able to clean up those contaminated areas and turn a brownfield into a "green field" for economic development.

We continue to be troubled about the lack of an authorization for Superfund. We will fund Superfund at last year's level but we encourage the authorizers to be able to move ahead and pass an authorization. We have an additional $650 million included, contingent on a reauthorization by August 1. Those are the things we believe will truly be able to help clean up our environment and do preventive work.

Certain aspects in this legislation regarding EPA are important to my home State of Maryland. In Maryland, we consider good environment is absolutely good business. That is why we thank, once again, Senator BOND for work in continuing the funding for the cleanup and revitalization of the Chesapeake Bay. The bay is important because it provides tremendous jobs in our State, from the watermen who harvest the different species, including the crabs and oysters of the bay, to other small businesses that work on the bay.

All of my colleagues in the U.S. Senate know we were hit by the terrible situation of pfiesteria—this "X-like" organism that sits in the mud, mutates 24 times, and then wreaks havoc with our fish. What our legislation provides is important research in pfiesteria. We hope to be able to come up with solutions that will be important not only for Maryland and the causes of it, but also that will help other parts of the country, like North Carolina, and rivers that are affected by animal wastes, with dire consequences.

We are also very pleased the Federal Emergency Management Administration has been funded. We will meet, of course, the 9-1-1 request of the United States of America, but I believe in FEMA we provided the three "R's." We have funded readiness; we have funded response; and we have also funded both rehabilitation, but more importantly, prevention. This has been the hallmark, I think, of FEMA during the last 5 years, to do training at the local community and throughout this Nation, to be ready for those disasters that normally would affect a particular region, but at the same time the readiness help to move to a quick response. Often after a disaster we can't restore it to its old condition or even better, and, therefore, we need to look at ways to prevent disasters.

There is also another disaster that threatens the United States that is very deeply troubling to me. That is the whole issue of threats of terrorist attacks on our own United States of America. I know at the highest level there are coordinated task forces, particularly from our military, but within our legislation we made sure we fund FEMA's effort to do the training necessary to deal with attacks, particularly of bioterrorism and chemical weapons. We regard this as a very important effort.

I want to mention before I close the very close cooperation we have had in this bill with the authorizers on Housing and Banking. I particularly acknowledge the role of my senior Senator, Senator PAUL SARBANES, and Senator MACK of Florida. They really worked hard this year to come up with a new authorizing framework for public housing. I believe that they did it. They worked on economic integration of public housing so it doesn't remain ZIP Codes of pathology. We have worked together in our legislation. We are taking their authorization and incorporating it here to make sure that there are new housing resources. In our bill there will be 50,000 new vouchers designed for welfare-to-work, to make sure that welfare is not a way of life but a tool to a better life, and that public housing is not a way of life but a tool to a better life. We have worked cooperatively with them, and we have worked long and hard on our bill to eliminate outmoded public housing rules that only hold people in place, and often have kept people in poverty.

Also, this legislation will extend the life of HOPE VI. HOPE VI is a program that I helped develop that not only tried to eliminate the concentrations of poverty and bring down the old walls of public housing, but to create new hope and new opportunity. I am so pleased the authorizers have spent over 2 years looking at this to come up with a new framework.

I know my own colleague, Senator SARBANES, is trying to get here to speak on this bill. If he doesn't, I know he will speak later. We were both due at a breakfast meeting in Baltimore and he covered that so I could be here to move my bill. How I like working as a team. It is really a great pleasure to me to have my senior colleague, PAUL SARBANES, on the Budget Committee, as well as on the Housing and Banking where we have worked as a team to look at the day-to-day needs of people.

He took this concept of what was happening in public housing and delved into it to come up with new ideas and a new framework. He had the support of Senator MACK, who I know has gone into public housing, talked with residents, listened to the best ideas of foundations and think tanks and also the needs of residents, as did my own senior colleague. I wish all of my colleagues could enjoy the relationship with their colleague within my State as I do. Senator SARBANES and Senator MACK have come up with a new framework. They pushed us to the wall to come up with new funding. We had to forage for the funds, but we were able to do it. We truly hope this will create hope and opportunity.

In addition to that, we are particularly appreciative of the conference report to maintain the funding for national service, which others had wanted to eliminate.

We want to thank them for that because that is also another tool for creating hope and opportunity. So that is my perspective on the VA-HUD bill. Once again, working on a bipartisan basis, we show that we can meet the day-to-day needs of our American people, as well as the long-range needs of the United States of America. I thank Senator BOND and his staff for, once again, the cooperative and bipartisan way that they have worked with my staff and myself. Senator BOND, I thank you for all of the courtesies, the collegiality, and the consultation in which we engaged on this bill. I thank you for really the professionalism of your staff, Jon Kamarck and Carrie Apostolou, who really helped me in many ways to come up with good ideas and worked with you for good solutions.

I also thank my own staff, Andy Givens and David Bowers, and Bertha Lopez, a detailee from HUD who has been with us, who has worked hard to make sure I could fill my responsibilities. I thank them for their hard work and effort.

In closing, I also want to say that over on the House side, another member of VA-HUD is retiring. We pay our respects to Congressman LOUIS STOKES, who has also really helped move this bill forward.

So, Mr. President, that is my perspective on the bill. In a few minutes, I know we will be moving toward a vote. I urge every single Senator on my side of the aisle to support this bipartisan effort to move the appropriations and really encourage all others with outstanding appropriations to act in the same bipartisan fashion that we have.

Mr. President, I yield the floor.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I join with my colleague from Maryland in expressing our appreciation to the House authorizing committee. She mentioned Senator SARBANES. I want to express my sincere appreciation to Senator MACK. They spent 4 years in "legislative purgatory" attempting to come up with a resolution of these very difficult and important issues.

Mr. ALLARD. Mr. President, I wish to thank the conference committee members, and in particular the chairman of the VA/HUD Appropriations Committee, Senator BOND, and the Chairman of the Housing Subcommittee, Senator MACK. I appreciate their working with me to include two provisions in public housing reform language which I feel are important.

We have worked together to include a provision to allow vouchers for crime victims. This would create an opportunity for individuals who are living in public housing units the chance to leave a bad situation if they are a victim of a crime.

Public housing residents could receive a housing voucher if they were the victim of a crime of violence that has been reported to law enforcement.

These individuals would be empowered with the choice of where they want to live and are given the freedom to determine what surroundings they desire. I strongly believe that people should have the option of vouchers when their housing is unsafe.

We have also included what I hope will be a thorough study by the General Accounting Office of the full costs of each federal housing programs. I have been dismayed by the lack of data on the cost and benefits of public housing, section 8, and voucher programs. We need better data.

Once we determine what these programs actually cost on a unit by unit basis we can better determine the best approach. I personally prefer vouchers, but I want a complete review of all these programs to help us determine the most cost effective means of providing government assisted housing as we enter the 21st century.

Again, I would like to thank the chairmen and their staff for completing action on public housing reform legislation and look forward to working with them in the future.

CLARIFYING THE STATEMENT OF THE MANAGERS ACCOMPANYING THE VA-HUD CONFERENCE REPORT

Mr. LAUTENBERG. Mr. President, I want to clarify a section in the statement of the managers accompanying the VA-HUD conference report. The language urges EPA not to spend any funds or require any parties to dredge contaminated sediments until completion of a National Academy of Sciences report on dredging technology. The report may take two years to complete. It is my understanding that the language is not intended to limit EPA's authority during the next two years with respect to dredging contaminated sediments that pose a substantial threat to public health or the environment where EPA has found that dredging is an appropriate response action.

Mr. BOND. The Senator is correct. The statement of the managers is not intended to limit the EPA's authority with respect to dredging contaminated sediments that pose a substantial threat to public health or the environment where EPA has found, consistent with its contaminated sediment management strategy, that dredging is an appropriate response action.

ECONOMIC DEVELOPMENT INITIATIVES

Mr. SPECTER. Mr. President, I have sought recognition to thank Chairman BOND for his inclusion of funding within the Economic Development Initiatives account for three important projects in Pittsburgh, Wilkes-Barre, and Philadelphia, Pennsylvania that I requested.

The conference report also includes $2 million for the City of Pittsburgh to redevelop the LTV site in Hazelwood, Pennsylvania. These funds can be used by the city to clean up and prepare the site for eventual reuse. One possibility being contemplated in the area is an effort to attract the Sun Oil Company to build a new coke facility which create hundreds of new jobs.

I am pleased that we have been able to increase the level of funding in the bill from $750,000 to $1 million for the downtown revitalization project in Wilkes-Barre which is also a top priority for Mayor Tom McGroarty and Congressman PAUL KANJORSKI.

I am also pleased that the conference report includes $50,000 for a project in Central and South Philadelphia, which is plagued with an average annual family income of $7,600, a 45 percent unemployment rate, and a 50 percent high school drop-out rate. These funds are intended to provide initial resources for the development of a job training and business center to generate employment in this section of Philadelphia. The renewal project is spearheaded by Universal Community Homes, a not-for-profit community development corporation which has a strong presence in the city, and which has received grants from the Department of Housing and Urban Development for housing and other initiatives which are geared toward improving the quality of life for low-income families. In January of this year, I had the opportunity to visit Universal Community Homes to tour their facilities. More importantly, I met with individuals who directly benefit from the programs and services delivered by Universal Community Homes. Members of the media and community leaders were also present to bring to my attention that the South Central Philadelphia sections of the city are in critical need of a job training and business center.

I take this opportunity to clarify with Chairman BOND that it is the conferees' intent that Universal Community Homes is the appropriate applicant for the EDI grant for Central and South Philadelphia.

Mr. BOND. I thank my colleague for his comments and have appreciated his input on worthwhile projects in Pennsylvania. I agree with his understanding that the conferees intend that Universal Community Homes is the appropriate applicant for the funds provided for a job training and business center Central and South Philadelphia.

NEW ENGLAND HEALTH SYSTEM

Mr. LIEBERMAN. Mr. President, I rise with my colleague from Connecticut for the purpose of a colloquy with the Chairman and the Senator from Vermont. Is the Chairman aware of the financial constraints facing the veterans health system in New England's VISN 1?

Mr. BOND. Yes, the Chair is aware of the financial constraints in New England.

Mr. LIEBERMAN. Mr. President, news accounts have indicated that New England's veteran health care system will suffer additional cuts despite recent efficiency and consolidation efforts. Veterans could find themselves cut off from health services throughout the region. Is the Chairman aware that without additional dollars administrators will have to cut deeply into valuable health care programs and basic administrative support services?

Mr. BOND. I am well aware that the New England region has had to make significant reductions in health care costs, in part because of the VA funding formula.

Mr. DODD. I know the Chairman knows that the veterans in VISN 1 live in a region that stretches from Connecticut to Maine. The budget for our region's medical care has dropped from $854 million in fiscal year 1996 to $809 million in fiscal year 1998. I have been informed by the Department of Veterans Affairs that the New England region will endure yet another budget cut in fiscal year 1999. I hope that the Appropriations Committee will take note of the impact these reductions are having on facilities across New England.

Mr. LEAHY. Mr. President, as is the Chairman, I am a member of the VA/HUD Subcommittee that funds the Department of Veterans Affairs. He knows my personal concern about the situation facing our veterans in New England. The Appropriations Committee added $278 million in this conference report for veterans medical care, a significant increase over the President's budget request. It was my understanding that a portion of this increase will go to New England. Am I correct in that assumption?

Mr. BOND. The Senator from Vermont is correct. All networks will receive some part of these additional funds, and these funds will help New England and all regions address some critical funding issues.

Mr. LEAHY. I look forward to working with the Senator from Missouri on this issue in the coming year, and I thank him for his leadership on all issues affecting our Nation's veterans.

Mr. LIEBERMAN. As did my colleague from Vermont, I thank my friend from Missouri for his consideration on this issue of profound importance to New England veterans.

NOTICE OF PREPAYMENT

Mr. WELLSTONE. Mr. President, I rise today to speak on an important provision of the FY1999 VA/HUD appropriations bill. Thanks to the hard work and grassroots efforts of tenants and housing advocates across the country, this VA/HUD bill includes a 5 month minimum requirement to notify tenants and communities of an owner's intent to repay his or her federally assisted mortgage.

This provision helps tenants of Section 236 and Section 221(d)(3) housing as created by the National Housing Act for federally assisted, privately owned affordable housing. Under the Section 221 program, the Federal Government insures the mortgages on certain rental housing; under the Section 236 program, the Federal Government subsidizes the interest payments that owners of rental housing made on the mortgages. Both of these programs offer the security of a federal subsidy for building owners in return for their maintaining these buildings as affordable housing. Regulatory agreements signed between HUD and the building owners restrict the rents which could be charged on the units within the building so long as the mortgage is insured or subsidized by HUD. To be eligible, an owner signs a 40 year mortgage; however, the owner can prepay the mortgage or end the contract after 20 years and has the ability to remove that building from the pool of affordable housing.

Twenty years have now passed, and the legislative housing initiatives of the 1980s have failed to curb the collapse of this once sturdy guarantee of affordable housing for low-income families and individuals. One major provision is that owners of a Section 236 project simply need to give their tenants a 30-60 day notice that the property is under the prepayment process. All too often the prepayment of the mortgage by the owners results in a tremendous loss to the tenants of that project. Without the federally backed restriction on rents that can be charged, the prepayment of the mortgage opens the door to new owners who on average have increased the tenants monthly rent by 49%.

This increase in rent forces low-income tenants out of their homes. This increase in rent forces these tenants to search for new housing, often in rental markets with exceptionally low vacancy rates. At the same time the supply of low-income housing takes a big hit, fewer and fewer units are available with each prepayment of Section 236 housing for the low-income families in desperate need of adequate housing.

Mr. President, the Senate version of the VA/HUD bill included a provision to give tenants of Section 236 housing a fair notice—one full year—of the owner's intent to prepay the mortgage on the building. This critical one year notice was designed to accomplish two goals. First, it would have given the tenants a notice of the owner's prepayment intentions. For some tenants, especially those living in the Minneapolis/St. Paul Metropolitan area, finding housing has been extremely difficult. The vacancy rate is at 1.9%. It was simply unreasonably to expect those tenants to find alternative housing within only 30 days with such a low vacancy rate. In fact, it has been nearly impossible for low-income tenants and families to find adequate housing in such a short time in such a tight housing market. Secondly, the one year notice would have given a community the critical time necessary to begin to formulate options to keep that building available for those in need of affordable housing. I am pleased that the Senate is on record supporting the need for a fair notice to tenants.

Unfortunately, the conference report does not include the full extent of my provision. The one-year notice period was reduced in the VA/HUD Conference Committee. It was reduced to not shorter than five months, but not longer than a nine months notice by owners. In addition, the provision now includes an enactment date effective 150 days after passage of the bill. Clearly, I am not enthusiastic about this revision to the notice requirement, but it is certainly an improvement over the current requirement of 30-60 days. As a result, the shorter time may only buy additional time for the families facing the increase in rent and their eventual move to alternative housing. I fear that the 5-9 months will not accord non-profits and communities with the necessary time to purchase the building and maintain those units as affordable housing.

However, this revised provision does put the right foot forward. Not only is it a public acknowledgment that Congress sees the prepayment of Section 236 and Section 231 housing as a potential crisis facing the market, it gives tenants and communities the framework to find affordable alternatives for low-income families. This is only the first step. To truly restore fairness to the housing situation, tenants should have a longer period of time—one year or longer advance notice. The Senate is on record in support of a one-year notice and the next Congress should move to increase the notice period again. I am proud of the work that has been done, but I believe we have to do more.

I thank my colleagues for supporting this important provision. While the revisions in the conference report may be the best possible solution to the crisis facing the tens of thousands of families dealing with the prepayment of their building, it does provide a necessary improvement to existing law.

Mr. KERRY. Mr. President, I rise in support of the VA-HUD Appropriations bill. I thank Chairman BOND and Senator MIKULSKI for their success in bringing this bill to the floor with such widespread support. Balancing the many competing needs in an appropriations bill is never an easy task, and Senators BOND and MIKULSKI and all of the other conferees should be proud of the work they have done.

As ranking member of the Subcommittee on Housing Opportunity and Community Development, I am particularly pleased with the appropriations for the Department of Housing and Urban Development. The Fiscal Year 1999 appropriations for HUD is the agency's best in the past 10 years. Roughly $2 billion more has been appropriated for Fiscal Year 1999 than was made available in 1998. These gains would not have been possible without the tireless efforts of Secretary Cuomo, who delivered a strong and thoughtful budget request to the appropriators last January.

The Fiscal Year 1999 HUD appropriations bill symbolizes a renewed commitment to meet our Nation's severe housing shortages. Today, only about one out of every 4 households in need of housing assistance receives it. Of the roughly 12 million families that need housing assistance but do not receive it, almost half have worst case housing needs. These families are paying more than half of their incomes every month in rent, or live in physically substandard Housing, or both.

The appropriations bill will help address this need by funding 50,000 new section 8 vouchers, many of which will be targeted to people moving from welfare to work. These vouchers establish a crucial link between housing and employment opportunities, while simultaneously helping those who are making a concerted effort to get off of welfare assistance. They are important tools whose significance cannot be overstated given the uncertainty of welfare reform.

Furthermore, this bill changes current law so that housing authorities no longer have to hold off on reissuing vouchers and certificates for a period of three months upon turnover. Repealing this delay will provide section 8 vouchers to as many as 40,000 more low-income families each year. I commend the appropriators for recognizing the need for this resource, and implementing this important change.

The conference report also reaffirms our Nation's commitment to homeownership by expanding the FHA single family mortgage insurance program. We are currently seeing record levels of homeownership in this country, and HUD should take great pride in this accomplishment. But not all of those who qualify for homeownership are afforded an opportunity to purchase a home in the neighborhood of their choice. The Fiscal Year 1999 appropriations bill will help address this inequity by raising the FHA loan limits in both high cost urban areas and lower cost rural areas. These new loan limits will enable roughly 17,000 additional families to become homeowners each year.

The conferees are also to be commended for increasing the levels of funding for a number of important HUD programs. Funding for the CDBG program, the HOME program, the public Housing capital fund, the HOPE VI program, the homeless assistance fund, Fair Housing initiatives, HOPWA, Housing for Elderly and Disabled, and the Lead Hazard Abatement program have been significantly increased for Fiscal Year 1999. These funding levels, many of which are higher than the Administration's request, demonstrate the appropriators' commitment to supporting housing and economic development initiatives despite other competing needs contained in this appropriations bill.

I am especially pleased that the appropriators have chosen to fund the Youthbuild program at $42.5 million for Fiscal Year 1999—$7.5 million over what was enacted in 1998. Youthbuild, which I helped pass into law, provides on-site training in construction skills, as well as off-site academic and job skill lessons, to at-risk youth between the ages of 16 and 24. Approximately 7,300 young people have participated in Youthbuild programs to date, and many more-at-risk youth will be able to benefit in the future from the increased resources that have been devoted to this program.

Mr. President, I would also like to express my support for the public housing reform act which was attached to the conference report. As ranking member of the Subcommittee on Housing Opportunity and Community Development, I have worked closely with Senator MACK, Senator SARBANES, Secretary CUOMO, Representative KENNEDY and Representative LAZIO to develop this compromise measure. I am very proud of the final product.

The public housing reform act successfully achieves a delicate balance: it deregulates public housing authorities while simultaneously requiring them to better the lives of the residents they serve. For instance, the reform measure permanently repeals Federal preferences, which had the unintended consequence of concentrating poverty in public housing developments. The bill allows PHAs to develop their own preferences, including a preference for working families, but requires that at least 40 percent of all public housing units and 75 percent of all section 8 units that become available each year be provided to people making below 30 percent of area median income. These protections, which I fought very hard for on the Senate floor and which are better than current law, will benefit residents at all income levels by facilitating the creation of mixed income developments.

The value of mixed income developments cannot be overstated. Working families stabilize communities by offering hope and opportunity in environments of despair. In recognition of this important principle, the reform bill will require housing authorities to develop plans for the economic desegregation of their distressed communities. Each PHA must develop their plan in consultation with its residents, and all plans will be submitted to HUD for approval. The economic desegregation plan was incorporated into the bill at the strong urging of Secretary Cuomo, and I am confident that HUD officials will be committed to making this provision work.

The Reform Act eliminates many burdensome requirements for housing authorities. One-for-one replacement rules, which prevented PHAs from demolishing vacant public housing projects and building lower density developments, have been repealed. Total development costs have been revised to allow housing authorities to construct more viable communities. And PHAs will be permitted to use their Federal funds in a more flexible manner, including investment in mixed finance developments that attract private capital.

But with this freedom comes a new responsibility: housing authorities must involve residents in the decisions that will affect their lives. The Reform Act will empower residents in important ways. They will sit on PHA boards, they will participate in the PHA planning process, and they will be offered greater opportunity to manage their own developments or solicit alternative management entities.

Other provisions in the public housing reform act will benefit residents more directly. For instance, the bill includes a mandatory earned income disregard so that public housing residents who are unemployed, or who have been on welfare assistance, will not be charged any additional rent for a one year period after finding a job. The bill permits and encourages PHAs to establish escrow accounts for residents—accounts which residents can use to fund homeownership activities, moving expenses, education expenses, or other self sufficiency initiatives. The bill also retains the Tenant Opportunity Program as a separately funded grant program, and mandates that at least 25 percent of available funds under this program be distributed directly to qualified resident organizations.

The public housing bill also makes a real commitment to expanding homeownership opportunities for low income Americans. PHAs will now be permitted to use a portion of their capital funds in support of homeownership activities for public housing residents, and families can now use their Section 8 vouchers to help cover the cost of mortgage payments.

In short, the Public Housing Reform Act will go a long way towards improving the lives of the millions of Americans who are receiving Federal housing assistance. It is a nice complement to the funding increases contained in the rest of the VA-HUD bill—increases which will help many more Americans who are in dire need of housing assistance. I urge all of my colleagues to show their support for both of these important initiatives by voting in favor of the VA-HUD conference report.

Mr. DOMENCI. Mr. President, I rise in strong support of the conference agreement on H.R. 4194, the VA-HUD appropriations bill for 1999.

This bill provides new budget authority of $93.3 billion and new outlays of $54.0 billion to finance operations of the Departments of Veterans Affairs and Housing and Urban Development, the Environmental Protection Agency, NASA, and other independent agencies.

I congratulate the distinguished subcommittee chairman and ranking member for producing a bill that not only is within the subcommittee's 302(b) allocation, but that also can be signed by the President. When outlays from prior-year BA and other adjustments are taken into account, the bill totals $91.9 billion in BA and $102.1 billion in outlays. The total bill is exactly at the Senate subcommittee's 302(b) nondefense allocation for budget authority and is under the outlay allocation by $197 million. The bill is exactly at the defense allocation for both BA and outlays.

I note that this appropriations bill does include significant authorizing legislation, including a major reauthorization of public housing programs, and that some of the provisions have a revenue impact which will go on the paygo scorecard.

Mr. President, I ask unanimous consent to insert into the RECORD a table displaying the Budget Committee scoring of the conference agreement on H.R. 4194.

There being no objection, the data was ordered to be printed in the RECORD, as follows:

H.R. 4194, VA–HUD APPROPRIATIONS, 1999—SPENDING COMPARISONS—CONFERENCE REPORT

[Fiscal year 1999, in millions of dollars]

	Defense	Nondefense	Crime	Mandatory	Total
Conference Report:					
Budget authority	131	69,914	....	21,885	91,930
Outlays	127	80,364	....	21,570	102,061
Senate 302(b) allocation:					
Budget authority	131	69,914	....	21,885	91,930
Outlays	127	80,561	....	21,570	102,258
1998 Enacted:					
Budget authority	131	69,286	....	21,332	90,749
Outlays	139	80,250	....	20,061	100,450
President's request:					
Budget authority	131	69,957	....	21,885	91,973
Outlays	127	81,000	....	21,570	102,697
House-passed bill:					
Budget authority	130	70,899	....	21,885	92,914
Outlays	126	80,373	....	21,570	102,069
Senate-passed bill:					
Budget authority	131	69,855	....	21,885	91,871
Outlays	127	80,653	....	21,570	102,350
CONFERENCE REPORT COMPARED TO:					
Senate 302(b) allocation:					
Budget authority	....	....	....	....	....
Outlays	....	−197	....	....	−197
1998 Enacted:					
Budget authority	....	628	....	553	1,181
Outlays	−12	114	....	1,509	1,611
President's request:					
Budget authority	....	−43	....	....	−43
Outlays	....	−636	....	....	−636
House-passed bill:					
Budget authority	1	−985	....	....	−984
Outlays	1	−9	....	....	−8
Senate-passed bill:					
Budget authority	....	59	....	....	59
Outlays	....	−289	....	....	−289

Note: Details may not add to totals due to rounding. Totals adjusted for consistency with current scorekeeping conventions. Prepared by SBC Majority Staff, 10/07/98.

PROVISIONS IN THE QUALITY HOUSING AND WORK RESPONSIBILITY ACT OF 1998

Mr. MACK. Mr. President, I would like to enter into a colloquy with the distinguished ranking member of the Banking Committee, Senator SARBANES, to clarify various provisions in the Quality Housing and Work Responsibility Act of 1998 and discuss the understandings reached among conferees regarding these provisions.

Section 508 requires a disregard of earned income under some circumstances, including persons who obtain employment after one year of unemployment. The rules defining "unemployment" for this purpose should provide sufficient flexibility so that a family member who may have a brief, temporary period of employment during the preceding year would not be ineligible for the disregard. At the same time, the rules must not encourage households to change their employment patterns to take advantage of the disregard.

Section 519 provides guidance for a new Operating Fund formula, including that agencies will "benefit" from increases in rental income due to increases in earned income by families in occupancy. The extent of this benefit will be determined in the negotiated rulemaking on the Operating Fund formula. More generally, the Operating Fund formula should not be skewed against or discourage mixing of incomes in public housing that is consistent with the bill's objectives. With respect to the Capital Fund formula, the possibility of having an incentive to encourage agencies to leverage other resources, including through mixed-finance transactions, should be considered during the negotiated rulemaking process.

Section 520 amends the current definition of total development costs, but retains the current law directive in section 6(b)(2) of the United States Housing Act that these guidelines are to allow publicly bid construction of good and sound quality. In the past, HUD has not interpreted this reference in a way that allows for sufficiently durable construction, of a nature that will reduce maintenance and repair costs and will assure that public housing meets reasonable community standards. The Department should interpret this section as requiring the use of indices such as the R.S. Means cost index for construction of "average" quality and the Marshal & Swift cost index for construction of "good" quality.

Where a family is relocated due to demolition or disposition, voluntary conversion of a development to tenant-based assistance or homeownership (sections 531, 533 and 536), the family must be offered comparable housing that is located in an area that is generally not less desirable than the location of the displaced resident's housing. For purposes of this provision, the phrase "location of the displaced resident's housing" may be construed to mean the public housing development from which the family was vacated, rather than a larger geographic area.

Where a family is relocated due to demolition or disposition, voluntary or required conversion of public housing to tenant-based assistance or a homeownership program (sections 531, 533, 536 and 537), relocation may be to another public housing unit of the agency at a rental rate that is comparable to the rental rate applicable to the unit from which the family is vacated. However, this requirement does not mean that the rental rate always must be exactly the same. Specifically, if the agency has exercised its discretionary authority in the initial unit to charge less than thirty percent of adjusted income and that authority would be inapplicable to or inappropriate for the new unit, the comparable rent could be a rent that would apply if this discretionary authority had not been exercised (i.e., up to thirty percent of adjusted income).

With respect to public housing demolition (section 531), the conference report does not include a provision from the Senate bill that would deem applications approved if HUD did not respond within 60 days. However, HUD is urged to continue processing applications responsibly and expeditiously. In the same section, references to demolition or disposition of a "project" may be applied to portions of projects where only portions are undergoing demolition or disposition.

In the provisions for voluntary or required conversion of public housing to vouchers (sections 533 and 537), residents of affected developments are to be provided notification that they can remain in their dwelling unit and use tenant-based assistance if the affected development or portion is to be used as housing. In many such instances, the development may be undergoing rehabilitation, reconfiguration or demolition and new construction. If so, the resident would be entitled to stay in the same development and use tenant-based assistance, but not necessarily the same dwelling unit.

The bill provides for the possibility of transfer of housing from an agency to an eligible management entity due to the mismanagement of the agency (section 534). Such mismanagement may relate to a single housing development, rather than more widespread mismanagement.

With respect to the definition of "mixed-finance projects" in section 539, the requirement that a project is financially assisted by private resources means that the private resources must be greater than a de minimis amount. In addition, in the same section, new Section 35(h) of the 1937 Act applies only to a mixed-finance project that has a "significant number" of units other than public housing units. Therefore, this section would not apply to a mixed-finance project which had only a de minimis number of units other than public housing units.

It is intended that wherever appropriate in programs authorized throughout the bill, reasonable accommodation be made for persons with disabilities. This would apply, for example, in homeownership programs authorized by section 536. With respect to the setting of voucher payment standards authorized by section 545, agencies are urged to make payment standard adjustments to facilitate reasonable availability of suitable and accessible units and assure full participation of persons with disabilities. Subject to the availability of funds, HUD also should allow administrative fee adjustments to cover any necessary additional expenses for serving persons with disabilities fully, such as additional counseling expenses.

The provision allowing HUD to phase in the new Section 8 law, section 559, provides HUD the flexibility to apply current law to assistance obligated before October 1, 1999. This language is intended to be construed so that HUD may continue for as long as necessary to apply current law to families now assisted by Section 8, to the extent the Secretary deems appropriate.

Mr. SARBANES. I thank the Senator for the clarification and concur with the Senator's understanding of the intent of these provisions.

SECTION 226

Mr. D'AMATO. Mr. President, I would like to enter into a colloquy with my good friend Senator BOND in order to fully clarify a provision of the VA-HUD Appropriations Act for Fiscal Year 1999. I am pleased that the conferees have included language in Section 226 of the VA-HUD Appropriations Conference Report (H. Rpt. 105-769) which would clarify that existing contractual arrangements between the New York City Housing Authority (NYCHA) and HUD are maintained. Under current practice, NYCHA is expressly allowed, under prior formula agreement with HUD, to utilize its existing allocations of operating and modernization subsidies for the benefit of certain state and city developed public housing units. While the FY 1999 VA-HUD Appropriations Act will not allocate any additional funds for these local units, the Act does include a specific statutory protection for units which were assisted prior to October 1, 1998. Thus, the current contractual relationship between NYCHA and HUD would be fully protected and maintained. I would ask the distinguished Chairman of the VA-HUD Subcommittee if my explanation is consistent with the intent of the conferees?

Mr. BOND. Mr. President, I concur with the statement by Senator D'AMATO, the Chairman of the Senate Banking Committee. The conferees were mindful of the existing situation in New York City and have fully protected existing practice in the VA-HUD Appropriations Conference Report. No provision of the Act is intended in any way to interfere with or abrogate existing contracts for the use of assistance in New York City.

Mr. D'AMATO. I thank the Chairman for his clarifying remarks and wish to express my thanks to the conferees for their consideration of the unique circumstances which exist in New York City.

THE QUALITY HOUSING AND WORK RESPONSIBILITY ACT OF 1998

Mr. D'AMATO. Mr. President, I rise to support the Quality Housing and Work Responsibility Act of 1998. This public and assisted housing reform legislation is the result of four years of delicate crafting and compromise and has bipartisan Congressional support and the endorsement of Department of Housing and Urban Development Secretary Cuomo. I support its final passage today as part of the Fiscal Year 1999 Veterans Affairs, Housing and Urban Development (HUD) and Independent Agencies appropriations bill (H.R. 4194).

Mr. President, it is with great respect that I salute the distinguished Chairman of the Banking Subcommittee on Housing Opportunity and Community Development, Senator CONNIE MACK. Senator MACK is owed a debt of gratitude for his great determination and commitment to an informed and reasoned approach to public housing reform. He consistently pursued a steadfast course toward a compromise which represents a positive change to the existing public housing system while protecting our residents whom the program serves. I commend him for his strong leadership and effective stewardship of this landmark legislation.

I also commend Banking Committee Ranking Minority Member PAUL SARBANES, Housing Subcommittee Ranking Minority Member JOHN KERRY, all Members of the Banking Committee and many interested Members of the Senate for their essential guidance and leadership on this issue. Chairman KIT BOND and Ranking Member BARBARA MIKULSKI of the VA-HUD Appropriations Subcommittee deserve our appreciation for their willingness to allow this bipartisan legislation to be included in the Fiscal Year 1999 VA-HUD Appropriations Act. Our House colleagues, in particular Banking Subcommittee on Housing Chairman RICK LAZIO, Banking Committee Chairman JIM LEACH, Banking Committee Ranking Minority Member JOHN LAFALCE and Housing Subcommittee Ranking Minority Member JOE KENNEDY, all deserve thanks and appreciation. In addition, I commend and thank HUD Secretary Andrew Cuomo and his Administration for his able assistance and support of this bill. All deserve credit for their dedication to this consensus-building effort.

Resident associations, public housing authorities, low-income housing advocates, non-profit organizations, state and local officials and other affected parties have shared their views and participated in this important political and policy process. I express my thanks to all for their significant involvement which has successfully yielded a balanced, fair, and comprehensive reform bill which will enhance and revitalize affordable housing throughout our Nation.

The Quality Housing and Work Responsibility Act recognizes that the vast majority of public housing is well-managed and provides over 1 million American families, elderly and disabled with decent, safe and affordable housing. It also responds to the need for improvements to the public and assisted housing system. It will protect our residents by maintaining the Brooke amendment, which caps rents at 30% of a tenant's income, and establishing a ceiling rent voluntary option as an incentive for working families. In addition, the bill will ensure that housing assistance continues to be targeted to those most in need. Forty percent of all public housing units which become vacant in any year and seventy-five percent of re-issued Section 8 vouchers will be targeted to families with incomes below thirty percent of the local area median income. It will expand homeownership opportunities for low and moderate income families. The bill also will speed the demolition of distressed housing projects through the repeal of the one-for-one replacement requirement.

The reforms contained in this Act will reduce the costs of public and assisted housing to the Federal Government by streamlining regulations, facilitating the formation of local partnerships, and leveraging additional state, local and private resources to improve the quality of the existing stock. These changes will help ensure that federal funds can be used more efficiently in order to serve additional families through the creation of mixed income communities.

Mr. President, I would like to comment in more detail on a few of the many significant provisions in the bill. The legislation recognizes that every American deserves to live in a safe and secure community: To achieve that goal, a number of safety and security provisions have been included in the bill. Specifically, the Act will allow police officers to reside in public and assisted housing, regardless of their income. Also, the Act improves tenant screening and eviction procedures against persons engaged in violent or drug-related crimes or behavior which disrupts the health, safety or right to peaceful enjoyment of the premises of other tenants or public housing employees. In addition, the Act will serve to improve coordination between housing authorities, local law enforcement agencies and resident councils, particularly in developing and implementing anti-crime strategies.

Further, at my request, the Act includes provision to ban child molesters and sexually violent predators from receiving federal housing assistance. To achieve this, local public housing agencies would be granted access to the Federal Bureau of Investigation's national database on sexually violent offenders, as well as State databases. This improved records access provision is critical to ensuring that these offenders are properly screened out and prevented from endangering our children.

Another critical safety and security measure will ensure that housing authorities have the well-defined power to ban absentee and negligent landlords from participation in the Section 8 voucher program. Currently, HUD's regulations only allow housing authorities to refuse to do business with absentee landlords on very narrow grounds. The legislation being passed today will clarify that housing authorities may cease to do business with landlords who refuse to take action against tenants who are engaged in criminal activity or who threaten the health, safety or right to peaceful enjoyment of the premises of their neighbors.

In addition, my proposals to protect the essential rights of current residents have been adopted in the Act and I commend the residents of my home State for bringing injustices to my attention so that I might act. First, the protection against eviction without good cause has been fully maintained in the Act. This is critical for the hundreds of thousands of senior, disabled and hardworking low-income New Yorkers who depend on public and assisted housing for shelter. Second, the residents' right to organize and assemble has been fully protected and extended to the project-based and Section 8 opt-out properties. It is imperative that residents have their First Amendment rights to free speech and assembly protected. Finally, the Act makes absolutely clear that no provision of the existing HUD regulation (24 CFR 964) governing resident councils is in any way abrogated by this Act. I am gratified that the Act protects the residents' right to organize and empower themselves to improve further their own communities.

Without the tireless and steadfast efforts of our staff, this bill would not have become a reality. I would like to express my appreciation and thanks to the following Senate majority and minority Banking Committee and Housing Subcommittee staff: Chris Lord, Karl Davidson, Cheh Kim, Jonathan Miller, Matthew Josephs, and Army Randel. I would also like to commend the House Banking Committee and Housing Subcommittee staff for their fine work and spirit of cooperation.

Mr. President, this landmark legislation will greatly improve the quality of life for our Nation's families residing in public and assisted housing and will help to ensure the long-term viability of our Nation's existing stock of affordable housing. I respectfully urge its immediate passage.

RENT CHOICE PROVISION

Mr. D'AMATO. Mr. President, I would ask my friend Senator MACK for a clarification of the provision included in the Quality Housing and Work Responsibility Act of 1998 which will grant residents a voluntary option to choose a flat rent. Several clarifying provisions have been added to the legislation to protect residents and reduce the administrative burden of such a choice on housing authorities. First, residents will be protected from being coerced into making a choice of rents which is adverse to their interest. Second, in the case of a financial hardship, residents are granted the right to an immediate change to the Brooke Amendment rent, which caps rent at no greater than thirty percent of income.

Mr. President, the Act also specifically provides that no additional administrative burden be placed on housing authorities that already administer flat rent or ceiling rent systems. If an agency's present system allows the family the opportunity to annually request a change from an income-based system to a flat or ceiling rent system, or vice-versa, the fact that rent is initially determined by an existing computer system which automatically selects the lower rent should not be considered contrary to the requirements of the Act. I would ask Senator MACK if these statements accurately describe the provisions of the Act?

Mr. MACK. Mr. President, I fully concur with the statements of my friend, Senator D'AMATO. His statements are fully consistent with my understanding of the legislation.

SECTION 8 TENANT-BASED RENEWAL TERMS

Mr. D'AMATO. Mr. President, I would like to ask Senator MACK his view of the provisions of the Quality Housing and Work Responsibility Act of 1998 that relate to the renewal of expiring tenant-based Section 8 contracts. I am greatly heartened by the inclusion of specific terms for the renewal of expiring Section 8 tenant-based contracts. The renewal terms included in the Act will ensure that housing authorities continue to receive full funding to maintain effective Section 8 assisted housing programs. The Act's renewal provision will address a number of problems which have arisen—including a very serious potential threat to affordable housing in my home State of New York—as a result of HUD's attempt to revise its method of funding renewals.

Under the renewal terms of Section 556 of the Act, housing authorities will be ensured that they receive full funding to maintain their current obligations and continue to re-issue turnover vouchers, without any attrition or loss of assistance. Housing authorities in New York will be able to continue to assist thousands of new families each year—particularly the homeless and victims of domestic violence. Without the changes included in this legislation, the New York City Housing Authority alone could have suffered a loss of over 7,000 vouchers over the next few years. This potential catastrophe has been averted.

To be more specific, Section 556 establishes a baseline for maintaining current Section 8 obligations. This baseline is to be calculated by taking into account the number of families which were actually under lease as of October 1, 1997 plus any incremental units or additional units authorized by HUD after that date. It is the explicit intent of the authors of this legislation that the units approved by HUD pursuant to its April 1, 1998 Notice shall be included in the definition of "additional families authorized." Finally, HUD shall apply an inflation factor to the baseline which takes into account local factors such as actual increases in local market rents.

I would ask Senator MACK, if these statements are consistent with his views of the legislation?

Mr. MACK. Mr. President, Senator D'AMATO's comments are absolutely accurate. Section 556 of the Act was added in response to a vociferous outcry among housing authorities and low-income advocates who feared that HUD's administrative actions during Fiscal Year 1998 could have inadvertently led to a decline in housing assistance under the Section 8 program. The renewal terms included in the Act are intended to avoid such a result and will ensure that full funding for the program is maintained. I appreciate the Chairman's work to ensure that this provision will not have adverse budgetary implications.

Mr. D'AMATO. I thank the Senator for his clarifying remarks and commend him for the excellent work that went into the legislation.

DRUG ELIMINATION PROGRAM AMENDMENTS

Mr. D'AMATO. Mr. President, I would like to enter into a colloquy with the respected Chairman of the Banking Committee's Subcommittee on Housing Opportunity and Community Development, Senator CONNIE MACK and the full Committee Ranking Member, Senator PAUL SARBANES. One of the most significant provisions addressed by the Quality Housing and Work Responsibility Act of 1998 is the amendment of the Public and Assisted Housing Drug Elimination Act of 1990.

Mr. President, the Drug Elimination Program is critical to the fight against drugs and serious, violent crime in our Federal housing developments. The residents of this housing have a right to a safe and peaceful environment. The Federal Government bears a unique and overriding responsibility to ensure that residents feel secure in their homes, can walk to the store or send their children to school without fear for their physical well-being. I am especially appreciative of the inclusion of a funding mechanism which will ensure the continued direction of assistance to housing authorities with significant needs. In my home State, the Drug Elimination Program plays a critical role in communities from Buffalo, Syracuse, Rochester and Albany to Brooklyn, the Bronx and Long Island. The provisions of the Act will ensure that existing programs are placed on a solid financial foundation—without precluding assistance to new programs which meet urgent or serious crime problems.

I would ask the distinguished Chairman of the Housing Subcommittee for his views on the legislation?

Mr. MACK. Mr. President, I welcome the comments of my friend, Senator D'AMATO. Indeed, the amendments to the Public and Assisted Housing Drug Elimination Act of 1990 which we have included in the Act represent a significant improvement in the program. The amendments will provide renewable grants for agencies that meet performance standards established by HUD. In addition, housing authorities with urgent or serious crime needs are protected and will be assured an equitable amount of funding.

Mr. President, the intent of these provisions is to provide more certain funding for agencies with clear needs for funds and to assure that both current funding recipients and other agencies with urgent or serious crime problems are appropriately assisted by the program. The provisions will also reduce the administrative costs of the current application process which entails a substantial paperwork burden for agencies and HUD. Under the terms of the amendments, HUD can establish a fixed funding mechanism in which the relative needs of housing authorities are addressed with a greater amount of certainty.

Mr. SARBANES. Mr. President, I concur with my colleagues. Drug Elimination Grant funds have proven to be an extremely effective tool in fighting drugs and crime in public housing. This provision will enable housing authorities with significant needs to implement long-term strategies to continue this important fight. I appreciate the work of the Chairman on this important issue.

Mr. D'AMATO. Mr. President, I thank both of my colleagues for their clarifying remarks.

Mr. MCCAIN. Mr. President, once again, I find myself in the unpleasant position of speaking before my colleagues about unacceptable levels of parochial projects in the VA/HUD appropriations bill. Although the level of add-ons in some portions of this conference are down, this bill still contains approximately $865 million in wasteful pork barrel spending. This is an unacceptable amount of low priority, unrequested, wasteful spending.

The level of add-ons in the Veterans Affairs section of this conference report is down. The total value of specific earmarks in the Veterans Affairs section of this conference report is about $116 million.

Let me just review some examples of items included in the bill. The bill directs $1 million for the VA's first-year costs to the Alaska Federal Health Care Partnership's proposal to develop an Alaska-wide telemedicine network to provide access to health services and health education information at VA, IHS, DOD and Coast Guard clinic facilities and linking remote installations and villages with tertiary health facilities in Anchorage and Fairbanks.

An especially troublesome expense, neither budgeted for nor requested by the Administration for the past seven years, is a provision that directs the Department of Veterans Affairs to continue the seven-year-old demonstration project involving the Clarksburg, West Virginia VAMC and the Ruby Memorial Hospital at West Virginia University. Last year, the appropriations bill contained a plus-up of $2 million to the Clarksburg VAMC that ended up on the Administration's line-item veto list and that the Administration had concluded was truly wasteful.

The VA provides first-rate research in many areas such as prosthetics. However, some of my colleagues still prefer to direct the VA to ignore their priority research programs and instead provide critical veterans health care dollars for parochial or special interest projects. For example, this bill earmarks $3 million for the Center of Excellence at the Truman Memorial VA Medical Center in Missouri for studies on hypertension, surfactants, and lupus erythematosus, and provides $6 million in the medical and prosthetic research appropriation for Musculoskeletal Disease research in Long Beach, California. It is difficult to argue against worthy research projects such as these, but they are not a priority for the Department of Veterans Affairs.

Like transportation and military construction bills, the VA appropriations funding bill is no exception for construction project additions to the President's budget request. For example, the bill adds $7.5 million in funding for the Jefferson Barracks National Cemetery in Missouri for gravesite development which will provide 13,200 grave sites for full casket interments. Although this is a worthy cause, I wonder how many other national cemetery projects in other States were leapfrogged to ensure that Missouri's cemetery received in the VA's highest priority.

In the area of critical VA, medical facility funding, again, certain projects in key members' states received priority billing, including $20.8 million add for the Louis Stokes Cleveland VA Medical Center ambulatory care renovation project in Ohio, a $9.5 million add for the Lebanon, Pennsylvania VAMC for nursing unit renovations, including providing patients with increased privacy, a $25.2 million add for construction of an ambulatory care addition at the Tucson VA Medical Center in Arizona, and provides $125,000 for renovation of the Pershing Hall building in Paris, France for memorial and private purposes.

Mr. President, we are charged with the important responsibility of dedicating funding toward the highest priorities to safeguard our environment. Yet, I am troubled that this conference report is loaded with directed earmarks toward specific projects without adequate explanation of why these projects are higher in priority than national environmental problems and needs.

I continue to hear about the number of Superfund sites that are in critical need of remediation actions or leaking background storage tanks that continue to endanger lives. Yet, the picture that I am putting together from this report is a prioritization of member interest projects. EPA's overall budget contains approximately $484,325,000 in earmarks that are directed to specific states and to national organizations.

Rather than dedicating funding toward our most pressing environmental concerns, the priorities of the conferees are earmarking spending of $125,000 for the establishment of a regional environmental finance center in Kentucky and $225,000 for a demonstration project in Maryland to determine the feasibility of using poultry litter as a fuel to general electric power.

I commend the efforts of my colleagues who worked tirelessly to rectify differences between the two chambers and present us with this conference report. Each of them have worked diligently to ensure that important housing programs and initiatives are adequately funded in a fair and objective manner.

Contained in this bill is funding for many programs vital in meeting the housing needs of our Nation and for the revitalization and development of our communities. Many of the programs administered by HUD help our Nation's families purchase their homes, assists low-income families obtain affordable housing, combats discrimination in the housing market, assists in rehabilitating neighborhoods and helps our Nation's most vulnerable—the elderly, disabled and disadvantaged have access to safe and affordable housing.

In July, I came to the Senate floor and highlighted the numerous earmarks and set asides contained in the Senate version of this bill. At that time, the egregious violations of the appropriate budgetary process in the HUD section amounted to $270.25 million dollars.

Unfortunately, I find myself coming to the floor today to again highlight the numerous earmarks and budgetary violations which remain in the conference report of this bill. In the HUD section alone there is $265.1 million in set asides or earmarks. While this amount is slightly lower than when the Senate first considered this bill it is still too great a burden for the American taxpayers.

The list of projects which received priority billing is quite long but I will highlight a few of the more egregious violations. There is $1.25 million set aside for the City of Charlotte, NC to conduct economic development in the Wilkinson Boulevard corridor, $1 million for the Audubon Institute Living Sciences Museum in New Orleans and $2 million for the Hawaii Housing Authority to construct a community resource center at Kuhio Homes/Kuhio Park Terrace in Honolulu, Hawaii.

It is difficult to believe many credible and viable community development proposals may be excluded from access to federal housing funds because such a large amount of funds have been unfairly set aside for specific projects fortunate enough to have advocates on the appropriating committee.

Finally, I would like to comment on the public housing reform bill which is now included in this funding bill. In the limited period of time I was afforded to examine this provision, I have learned that it includes several initiatives intended to enhance the quality of life for many individuals while promoting self sufficiency and personal responsibility in our communities.

While I applaud these goals and will not object to this bill based on the inclusion of this section I am gravely concerned about the process used to pass this reform bill. It concerns me that this complex measure was inserted at the last moment during conference which precluded the Senate from having sufficient time to thoroughly examine its contents and fully evaluate its objectives. This is a very serious matter which directly impacts the lives of thousands of American families and our local communities.

Certainly, this issue deserves thoughtful deliberation and careful review through the established legislative process and should not be attached at the last moment to a funding conference report. This is not the manner in which we should be implementing meaningful reform intended to benefit the citizens of our Nation.

Mr. President, I have touched on only the tip if the iceberg. There is more I could point to, were time available. I continue to look forward to the day when my trips to the floor to highlight member interest spending are no longer necessary.

The PRESIDING OFFICER. The Senator from Missouri has 7 minutes 30 seconds remaining.

Mr. BOND. I yield 7 minutes 30 seconds to the Senator from Florida. I will ask my colleague, if there is additional time remaining, if he might have 2½ minutes.

Ms. MIKULSKI. I would be happy to work with the Senator. I would like to bring to my colleague's attention that Senator SARBANES might be parachuting in, as well, to comment on the public housing initiatives. If he lands, I want to be able to accommodate him.

The PRESIDING OFFICER. The Senator from Florida is recognized for the remaining time.

Mr. MACK. Mr. President, I am pleased to rise in support of this conference report. I want to commend the chairman of the subcommittee, Senator BOND, and the ranking member, Senator MIKULSKI for bringing to the floor a well-balanced bill.

I am extremely pleased that this bill contains a comprehensive reform of the Nation's system of public and assisted housing. We began this process of reforming public housing more than three years ago. Negotiating this legislation was a long, difficult and sometimes painful process. But the end result is a carefully crafted, bipartisan compromise that reflects input from the Senate, the House, and the administration. I believe it is a good bill. I appreciate the indulgence of Chairman BOND in permitting the authorizing committee to utilize the appropriations process as the vehicle to enact these important reforms, and I appreciate his long-standing support of public housing reform. In the end, it was the willingness of the Appropriations Committee to increase the level of incremental section 8 assistance that removed the last hurdle to this agreement.

I want to express special thanks to Senator PAUL SARBANES for his critical role in the development of this legislation and in the recent negotiations. I am convinced that this agreement would not have been possible without the leadership and support of the Senator from Maryland, and I can't thank him enough. I also want to thank the chairman of the Banking Committee, Senator ALFONSE D'AMATO, for his steady support and guidance over the past 3 years, and also the ranking member of the Housing Subcommittee, Senator KERRY, who has made major contributions to this legislation. This has truly been a bipartisan effort throughout.

There are so many people that have played a role in this. Obviously, the Secretary of HUD, Secretary Cuomo, and I spent many hours and many, many phone calls trying to work through this and working also with Congressman LAZIO, who made a special effort to try to find a way to bring this to a conclusion, and also the work of Congressman LEWIS, the chairman of the subcommittee on the House side. So, again, this has truly been a bipartisan effort. I thank all of those who were involved.

Since my appointment to the Banking Committee almost 10 years ago, I have visited public housing developments throughout Florida and in cities like Detroit, Chicago, and Jersey City. I have seen public housing that is well run and I have seen public housing that concentrates the very poorest of the poor in developments that are havens for crime and drug abuse and islands of welfare dependency.

On a personal note, I want to say to my colleagues that while I have been working on this specific legislation now for 4 years, I have been involved in public housing issues now for 10 years, since I have been on the Banking Committee. There are two particular thoughts that come to my mind, two visits that I made.

I spoke with individuals that lived in public housing, and that significantly affected me. I am pleased to say it has had a major role in this legislation that we developed. One person was an individual from Liberty City in Miami, who, frankly, grew up in public housing in Liberty City and saw how public housing has changed since the late 1930s. She—and I have used this term—"screamed" at me as she was explaining to me the problems she was dealing with and how she used to have a decent place to live and how it had been destroyed over the years. Her message was heard.

I also think of a little 4, 5, or 6-year-old boy in Melbourne, FL. When we walked out of an apartment that was totally destroyed, as we walked down between these three-story buildings and saw the boarding up of windows and doors hanging by their hinges, this little fellow was walking down between the buildings. I thought to myself, what kind of future can this little fellow possibly dream of if the only environment in which he was going to live was the public housing like we saw. I wanted to share that with my colleagues.

The time is long overdue for us to eliminate the disincentives to work and economic self-sufficiency that trap people in poverty, and to ease the complex, top-down bureaucratic rules and regulations that aggravate the problems and prevent housing authorities from operating effectively and efficiently. It is time to begin the process of deconcentrating the poor, create mixed-income communities with role models and establish a foundation for building communities of hope instead of despair.

Let me make clear that this is only the beginning. The effect of these reforms won't be felt overnight. We are creating a framework for meaningful and beneficial change in our public and assisted housing system. But our ultimate success will depend on the ongoing cooperation and commitment of Congress, HUD, housing authorities, residents, and local communities.

The reforms contained in this legislation will significantly improve the Nation's public housing and tenant-based rental assistance program and the lives of those who reside in federally assisted housing. The funding flexibility, substantial deregulation of the day-to-day operations and policies of public housing authorities, encouragement of mixed-finance developments, policies to deal with distressed and troubled public housing, and rent reforms will change the face of public housing for

PHAs, residents, and local communities.

This bill empowers residents and promotes self-sufficiency and personal responsibility. It institutes permanent rent reforms to remove disincentives for residents to work, seek higher paying jobs and maintain family unity. Further, it expands homeownership opportunities for residents of both public and assisted housing.

It improves the living environment for public housing residents by expanding opportunities for working poor families and providing flexibility for housing authorities to leverage private resources and develop mixed-income, mixed finance communities.

It refocuses the responsibility for managing public housing back to the public housing authorities, residents and communities, it eliminates counterproductive rules and regulations, and frees public housing communities to seek innovative ways to serve residents.

The bill requires tough, swift action against PHA with severe management deficiencies and provides HUD or court-appointed receivers with the necessary tools and powers to deal with troubled agencies and to protect public housing residents.

It enhances safety and security in public housing by enhancing the ability of public housing authorities to screen out and evict criminals and drug abusers who pose a threat to their communities.

Finally, the bill enhances resident choice. It merges the section 8 voucher and certificate programs into a single, choice-based program designed to operate more effectively in the private marketplace. It repeals requirements that are administratively burdensome to landlords, such as "take-one, take-all," endless lease and 90-day termination notice requirements. These reforms will make participation in the section 8 tenant-based program more attractive to private landlords and increase housing choices for lower income families.

To get to this stage, we have had to work through some very difficult and contentious issues. All sides have been willing to make concessions in the interest of compromise. I will mention only one of those issues—income targeting.

At a time when housing resources are scarce, a strong argument can be made that the bulk of housing assistance should be made available for the very poor. At the same time, there is a concern that excessive concentrations of the very poor in public housing developments have negatively affected the liveability of those developments.

The final income targeting numbers of public housing and project-based and tenant-based section 8 represent a fair compromise that will encourage mixed income communities in public housing, and ensure that tenant-based assistance remains an important tool for housing choice for very low-income families.

Mr. President, this public housing reform bill is the first comprehensive housing reform measure to pass Congress in almost six years. It is a good, bipartisan package that represents the most significant reform of public and assisted housing in decades. I urge my colleagues to adopt this conference report and I urge the President to sign the bill.

Mr. President, Senator SARBANES was not here when I mentioned earlier how much I appreciate his working with us, working with me, in trying to find ways to keep the process moving as we would hit roadblock after roadblock after roadblock. I want to extend to him publicly my appreciation for his work; also, again, to Senator MIKULSKI, and to Senator BOND. We know that we added to their difficulties. We greatly appreciate what they were able to accomplish with us.

Lastly, I want to mention some members of the staff. Jonathan Miller, and Matt Josephs of the minority staff, again, just went out of their way to help us accomplish this. David Hardiman and Melody Fennel—I thank them as well.

Chris Lord, Kari Davidson, and Cheh Kim of my staff did an outstanding job and worked endless hours to accomplish this, at moments of maybe thinking that we weren't going to make it but held in there to get the job done. I thank them.

I thank the Chair for his indulgence. I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. The Senator has 7 minutes 43 seconds remaining.

Ms. MIKULSKI. I yield such time as he may use to Senator SARBANES, and I very much appreciate his excellent work.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I thank the Chair.

First, although I am going to speak a little more later about our involvement in this process, I thank Senator MACK for his very generous and gracious comments, and I want to say that this bill would never have happened but for his very fine leadership. I am extremely indebted to him for the very positive and instructive and understanding way he moved this process forward. It has been a long and difficult process, but I am very pleased that we have arrived at this day.

First, let me express my very strong support for this bill. I want to commend Senator MIKULSKI and the chairman, Senator BOND, for their very excellent work with respect to the matters before the Appropriations Subcommittee. In particular, I want to applaud them for the excellent bill they have written with regard to the funding for the Department of Housing and Urban Development.

The President submitted a strong budget. And I am happy to see that the bill now before us responds to many of those requests.

The bill represents a well-rounded approach to housing and economic development. It provides for 50,000 new vouchers targeted to helping people move from welfare to work by eliminating the current 90-day wait on reissuing vouchers upon turnover. The bill effectively adds another 40,000 vouchers.

It provides $500 million in additional capital funds for public housing modernization to help maintain this important affordable housing resource. And the bill includes a total of $625 million for HOPE VI, the very innovative program that was created by my very able colleague, Senator MIKULSKI, which is focused on tearing down the worst, most isolated public housing projects and replacing them with mixed-income housing. Senator MIKULSKI has been an absolute champion of trying to rescue this situation which plagues many of our very large housing projects. I want to acknowledge the tremendous leadership that she has provided in this area. Working together with Senator BOND, they have fashioned I think a first-rate piece of legislation. I am very pleased to support it.

Let me say, since she is my very able colleague, what a pleasure it has been working with her. I sit on the authorizing committee. Of course, she is on the appropriating committee. Over the years we have been able to work together I think in a partnership not only for our State but for the country.

Mr. President, the primary reason I come to the floor today is to call the Senate's attention to the fact that an important piece of legislation reforming the Nation's Public Housing Program is attached to this appropriations conference report. This is a tremendous step forward. This public housing legislation I think represents a fine piece of legislative craftsmanship. It reflects a bipartisan approach to reform of our public and assisted housing.

We have been working at this problem, Senator MACK has been working at this problem for 4 years, at least. The success of this effort reflecting what is before us, is, to a very significant extent, the result of the fine leadership provided by Senator MACK as Chairman of the Housing Subcommittee of the authorizing committee; the work of Senator KERRY, the ranking member of that subcommittee, interacting with our House colleagues, and with Secretary Cuomo, who has been a tireless advocate for housing and economic development programs.

Senator MACK has taken a keen interest in the area of public housing since he took over the housing subcommittee in 1995. He has personally visited public housing projects and has spoken to administrators and residents. The commitment of his own time and concern I think is a model of how people responsible for certain programs need to understand the program, oversee the program, and then formulate the changes which will make the program work better.

Senator MACK has been a strongly positive and constructive force throughout the long and often difficult process we have followed to get this positive resolution. I am pleased to express publicly my very deep respect and appreciation for his efforts.

Mr. President, this public housing bill embodies an important bargain. We provide public housing authorities with increased flexibility to develop local situations to address housing needs in their communities but, in turn, they are required to use that flexibility to better serve their residents by creating healthier, more economically integrated communities.

The PHAs will get more flexibility in how to use operating and capital funds. It encourages them to seek new sources of private capital to both build new housing and to repair existing units. It provides more flexibility in the calculation of public housing development costs and encourages the construction of higher quality housing.

Finally, the law gives PHAs increased flexibility to admit higher income families while guaranteeing that the poor, including the working poor, continue to have access to 40 percent of the public housing units made available each year.

This new increased flexibility is not an end in itself. The purpose is to provide higher quality housing in an overall improved living environment to the families who live in public housing. We want the Public Housing Program and the Rental Voucher Program, which the appropriators have generously supported in this legislation, to be stepping stones to better lives, to provide access to better schools and more economic opportunities.

There is now a growing consensus that we need to have a mix of families with different levels of income in public housing. Such a policy will strengthen public housing projects and make them more livable communities. To ensure this outcome, the legislation requires the public housing authorities to demonstrate how they will attempt to create these more economically integrated communities. The Secretary is required to review these plans and to ensure that housing authorities pursue them.

The bill also creates new rent rules that encourage existing tenants to go to work. There is a mandatory earned income disregard so that tenants who start working will reap the benefit of that effort at least for a year before additional payments are phased in. As a result of the special efforts of Senator KERRY, the bill deepens the targeting above the levels contained in both House and Senate bills for section 8 vouchers, requiring 75 percent of vouchers to go to lower-income families.

The bill gives tenants an important role in working with housing authorities to determine housing policies. Residents will sit on boards, and the resident advisory boards I think will be very helpful.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SARBANES. May I have 30 seconds, if the chairman has any time?

The PRESIDING OFFICER. All time has expired.

Mr. BOND. Mr. President, I ask unanimous consent that the distinguished Senator from Maryland have an additional minute. I ask for an additional 3 minutes on this side to afford 2 minutes to my colleague from Ohio and a minute for myself to close.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SARBANES. I thank the chairman.

Finally, the bill helps encourage home ownership in two ways. First, as a result of an amendment offered by Senator DODD, our able colleague from Connecticut, public housing authorities will be able to devote part of their public housing capital funds to home ownership activities. In addition, section 8 assistance will be able to be used to support home ownership.

Mr. President, I close again by thanking Senator BOND and Senator MIKULSKI for their very effective efforts. We are deeply appreciative of their cooperation. I again voice my respect for the tremendous leadership which Senator MACK provided in enabling us to achieve public housing reform which we have been striving to achieve for a number of years and to do it in a way that commands a consensus. The process we followed in working this out I really commend to all my colleagues. I think it is an example of how really to craft legislation and in the end achieve a very positive and constructive result.

Finally, I want to recognize and thank the staff for their hard work and dedication. Jonathan Miller and Matt Josephs on the Democratic side, Chris Lord, Kari Davidson, Cheh Kim, David Hardiman, and Melody Fennel from the Majority side, worked extremely well together to help us bring this finished product to the floor today.

In closing, Mr. President, I urge all my colleagues to support this important piece of legislation.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I yield 2 minutes to the distinguished Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 2 minutes.

Mr. DEWINE. I thank my colleague.

Mr. President, I rise today to discuss two important provisions in this bill—provisions that honor two distinguished Ohioans who are retiring from public service this year—LOU STOKES and JOHN GLENN.

Mr. President, the bill before us would name the Veterans Administration Medical Center in Cleveland, Ohio, the Louis Stokes VA Medical Center. That is a fitting tribute for a number of reasons.

First, LOU STOKES is a veteran, serving our country in the U.S. Army during the Second World War.

Second, as ranking member of the House Appropriations Subcommittee on Veterans' Affairs, LOU STOKES has demonstrated that he is a true champion on behalf of his fellow veterans.

Third, LOU STOKES in recent years has dedicated his attention to improving the quality of care at the facility that will bear his name. He has been working tirelessly with me to provide funds to improve this facility for our veterans in northeast Ohio. This bill in fact contains $20.8 million to improve the ambulatory care unit at the Stokes Medical Center. This is the latest of a lifetime of examples of how LOU STOKES has made a difference—a difference for veterans and for all his constituents.

I also am pleased and proud that the bill before us contains a provision that, in my view, represents the deepest feelings of the people of Ohio regarding our senior Senator JOHN GLENN.

Mr. President, it would be fair to say that the imagination of Ohio, and indeed of all America, has been captured by Senator GLENN's impending space voyage. It is an inspiring odyssey. It is exciting—it reminds us of the spirit of American possibility we all thrilled to when JOHN GLENN made his first orbit back in 1962.

Senator GLENN's return to space as a member of the crew of the space shuttle *Discovery* marks the culmination of an incredible public career.

This is man who flew 149 heroic combat missions as a Marine pilot in World War II and the Korean war—facing death from enemy fighters and antiaircraft fire.

And none of us who were alive back in 1962 can forget his historic space flight. I was in Mr. Ed Wingard's science class, at Yellow Springs High School in Yellow Springs, Ohio—we were glued to the TV. Our hearts, and the hearts of all Americans, were with him that day.

JOHN GLENN reassured us all that America didn't just have a place in space. At the height of the cold war, he reassured us that we have a place—in the future.

And that, Mr. President, brings me to the purpose of the legislation I am introducing. Even as we speak, in Cleveland, Ohio, there are some hardworking men and women of science who are keeping America strong, who are keeping us on the frontier of the human adventure. They are the brilliant, persevering, and dedicated workers of the NASA-Lewis Space Research Center.

People who understand aviation know how crucially important the cutting-edge work of the NASA-Lewis scientists is, for America's economic and technological future.

Mr. President, what more fitting tribute could there be to our distinguished colleague, Senator GLENN, than to rename this facility—in his honor?

That, Mr. President, is the purpose of this legislation. It recognizes not just a man's physical accomplishments—but his spirit. It inspired us in 1962. It inspires us this year. And it will remain strong in the work of all those who expand America's frontiers.

The facility would be renamed the National Aeronautics and Space Administration John H. Glenn Research Center at Lewis Field—to honor our distinguished colleague, and also the aviation pioneer for whom it is currently named. George Lewis became Director of Aeronautical Research at the precursor to NASA in 1919. It was then called the National Advisory Committee on Aeronautics, or NACA.

Lewis visited Germany prior to World War II. When he saw their commitment to aeronautic research, he championed American investment in aeronautic improvements—and created the center which eventually bore his name.

He and JOHN GLENN are pioneers on the same American odyssey. Ohio looks to both of them with pride—and with immense gratitude for their leadership.

And I am proud, today, that we were able to include this in the bill. I thank my colleagues for that, and I also want to thank our good friend, LOUIS STOKES, who has been instrumental in shepherding this measure honoring Senator GLENN in the other body.

Mr. President, I thank the Chair and I yield the floor.

Mr. BOND. Mr. President, I thank my colleague from Ohio.

I, too, join with him in expressing appreciation for the services of our colleague, Senator GLENN, and our colleague on the House side, Congressman STOKES. I believe it is very important that we recognize them in this bill. I thank him for his comments.

Again, my sincerest thanks to Senator MIKULSKI, to Andy Givens, David Bowers, and Bertha Lopez on their side. On my side, this is a very difficult bill, and I could not have done it without the leadership of Jon Kamarck and the dedicated efforts of Carrie Apostolou and Lashawnda Leftwich.

We have the statement by the chairman of the Budget Committee saying this bill is within the budget guidelines.

I urge my colleagues to support this measure because I believe, while it has many compromises in it, they are reasonable compromises. I am most hopeful that we can have a resounding vote and see this measure signed into law.

I thank the Chair and staff for their courtesies, and I urge a yes vote on the conference report.

Mr. President, I ask for the yeas and nays on this conference report.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the VA-HUD conference report. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

Mr. FORD. I announce that the Senator from Ohio (Mr. GLENN) and the Senator from South Carolina (Mr. HOLLINGS) are necessarily absent.

The PRESIDING OFFICER (Mr. INHOFE). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 96, nays 1, as follows:

[Rollcall Vote No. 307 Leg.]

YEAS—96

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Faircloth
Feingold
Feinstein
Ford
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wellstone
Wyden

NAYS—1

Kyl

NOT VOTING—3

Glenn
Helms
Hollings

The conference report was agreed to.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

SENATOR GORTON RECEIVES HIS FIFTH GOLDEN GAVEL AWARD

Mr. LOTT. Mr. President, yesterday evening the senior Senator from Washington, Senator GORTON, reached 100 presiding hours in the 105th Congress for his 100 hours of service presiding over the Senate. He will be awarded the Golden Gavel. But there is an interesting point here. This is the fifth Golden Gavel that Senator GORTON has obtained in his years in the Senate—representing 500 hours presiding in the Senate Chamber.

I think most Senators will acknowledge that he does an excellent job when he is the Presiding Officer. He is one we call on quite often on Friday afternoons or late at night. He is always willing to do it. And he dedicates each one of these Golden Gavels to one of his grandchildren. He has seven. This is the fifth one; so he has two more to go.

This is an assignment that takes time and patience. I publicly thank Senator GORTON for achieving this and for the way that he is doing it for his grandchildren.

I ask my colleagues to join in expressing our appreciation.

(Applause.)

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. I do not know that anything else needs to be said, but I certainly want to join with the majority leader in offering my congratulations and my condolences for all of those hours. As one who has only been presented one Golden Gavel in my time in the Senate, I can appreciate the magnitude of the accomplishment just accomplished by the senior Senator from Washington. On behalf of all of our colleagues, I join in congratulating the Senator. I yield the floor.

INTERNET TAX FREEDOM ACT

Mr. MCCAIN. Mr. President, what is the pending business?

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:.

A bill (S. 442) to establish national policy against State and local government interference with interstate commerce on the Internet or interactive computer services, and to exercise Congressional jurisdiction over interstate commerce by establishing a moratorium on the imposition of exactions that would interfere with the free flow of commerce via the Internet, and for other purposes.

Pending:

McCain/Wyden amendment No. 3719, to make changes in the moratorium provision.

The Senate resumed consideration of the bill.

AMENDMENT NO. 3719

Mr. McCAIN. Mr. President, it is my understanding there is no further debate regarding the consideration of the amendment at the desk. I ask that it be adopted.

The PRESIDING OFFICER. Is there further debate?

If not, without objection, the amendment is agreed to.

The amendment (No. 3719) was agreed to.

AMENDMENT NO. 3711, AS MODIFIED

(Purpose: To define what is meant by the term "discriminatory tax" as used in the bill)

Mr. McCAIN. Mr. President, I call up amendment No. 3711, as modified.

The PRESIDING OFFICER. The clerk will report.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I raise a point of order that this amendment is not germane.

The PRESIDING OFFICER. Would the Senator from Florida suspend for just a moment?

The clerk first will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN], for himself and Mr. WYDEN, proposes an amendment numbered 3711, as modified.

The amendment is as follows:

On page 26, beginning with line 3, strike through line 5 on page 27 and insert the following:

(2) DISCRIMINATORY TAX.—The term "discriminatory tax" means—

(A) any tax imposed by a State or political subdivision thereof on electronic commerce that—

(i) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving similar property, goods, services, or information accomplished through other means;

(ii) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period;

(iii) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving similar property, goods, services, or information accomplished through other means;

(iv) establishes a classification of Internet access service providers or online service providers for purposes of establishing a higher tax rate to be imposed on such providers than the tax rate generally applied to providers of similar information services delivered through other means; or

(B) any tax imposed by a State or political subdivision thereof, if—

(i) except with respect to a tax on Internet access that was generally imposed and actually enforced prior to October 1, 1998, the ability to access a site on a remote seller's out-of-State computer server is considered a factor in determining a remote seller's tax collection obligation; or

(ii) a provider of Internet access service or online services is deemed to be the agent of a remote seller for determining tax collection obligations as a result of—

(I) the display of a remote seller's information or content on the out-of-State computer server of a provider of Internet access service or online services; or

(II) the processing of orders through the out-of-State computer server of a provider of Internet access service or online services.

The PRESIDING OFFICER. Is there objection to the amendment being modified?

Mr. GRAHAM. Mr. President, I object to the modification of the amendment and raise a point of order that the amendment is not germane.

AMENDMENT NO. 3711

(Purpose: To define what is meant by the term "discriminatory tax" as used in the bill.)

Mr. McCAIN. Mr. President, I call up amendment No. 3711.

The PRESIDING OFFICER. Does the Senator from Arizona withdraw his previous amendment?

Mr. McCAIN. I withdraw it and call up amendment No. 3711.

The amendment (No. 3711), as modified, was withdrawn.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN], for himself and Mr. WYDEN, proposes an amendment numbered 3711.

The amendment is as follows:

On page 26, beginning with line 3, strike through line 5 on page 27 and insert the following:

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(A) any tax imposed by a State or political subdivision thereof on electronic commerce that—

(i) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving similar property, goods, services, or information accomplished through other means;

(ii) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period;

(iii) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving similar property, goods, services, or information accomplished through other means;

(iv) imposes the obligation to collect or pay the tax on any provider of products or services made available and obtained digitally where the location, business, or residence address of the recipient is not provided as part of the transaction or otherwise is unknown to the provider; or

(v) establishes a classification of Internet access service providers or online service providers for purposes of establishing a higher tax rate to be imposed on such providers than the tax rate generally applied to providers of similar information services delivered through other means; or

(B) any tax imposed by a State or political subdivision thereof, if—

(i) the ability to access a site on a remote seller's out-of-State computer server is considered a factor in determining a remote seller's tax collection obligation; or

(ii) a provider of Internet access service or online services is deemed to be the agent of a remote seller for determining tax collection obligations as a result of—

(I) the display of a remote seller's information or content on the out-of-State computer server of a provider of Internet access service or online services; or

(II) the processing of orders through the out-of-State computer server of a provider of Internet access service or online services.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Am I correct that there is not a request to modify this amendment?

The PRESIDING OFFICER. There is a properly filed request to modify the——

Mr. GRAHAM. I object to that request to modify and I raise again the point of order that the amendment is not germane.

The PRESIDING OFFICER. There is no request to modify the pending amendment. There is a duly filed motion to suspend the rules with respect to that amendment. The motion to suspend is debatable.

Is there further debate?

Mr. GRAHAM. Mr. President, point of parliamentary inquiry. Will there be a ruling on the motion of the point of order as to germanity?

The PRESIDING OFFICER. The motion to suspend the rules needs to be resolved.

Mr. GRAHAM. Further point of inquiry.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. What is the position relative to debate on the motion to suspend the rules for the purpose of considering this amendment?

The PRESIDING OFFICER. The Senate is operating under cloture, and the motion will be debatable as under the limitation of the cloture rule.

Mr. McCAIN. Mr. President, has the Chair ruled?

The PRESIDING OFFICER. The Senator from Arizona.

MOTION TO SUSPEND THE RULES

Mr. McCAIN. In full accordance with the rules and procedures of the Senate and pursuant to the notice filed yesterday, I move to suspend rule XXII as it applies to the consideration of amendment No. 3711.

And, Mr. President, for the information of my colleagues, I want to explain what will occur here and the significance of this vote.

By the way, as far as the modification is concerned to amendment No. 3711, since it is agreed on both sides, once we dispense with this parliamentary tactic, then obviously we will be able, by unanimous consent, to modify to satisfy a concern that was not included in the amendment.

At some point this morning we will vote to suspend the rules regarding germaneness with respect to the pending amendment. Senator WYDEN and I would have offered this amendment earlier, long before cloture was invoked, but we didn't because we were still negotiating language with other Senators—specifically, the Senator from North Dakota and other Senators—who were involved in this very important piece of legislation. We could have offered it and I am sure we could have passed the amendment, but in the environment of trying to reach overall agreement on language of this legislation we did not do it at that time. We did not propose this amendment in order to accommodate other Senators. As we all know, sometimes there are package agreements involving different parts of the legislation.

The Democratic manager of the bill, Senator DORGAN, Senator WYDEN and myself came to agreement on the language of the amendment. It was at that time, and only at that time, we were notified that a point of order would be raised against the language, even though we have been negotiating with the Senator from Florida and his staff since last August on this package. Doing so obviously is the Senator's right. I don't begrudge any Senator their right to use the rules to his or her advantage. But I do want to make it clear we tried to be fair and accommodate everyone who has left us in this position.

Simply, if we don't succeed in suspending the rules and adopting this amendment, Senator WYDEN and myself will no longer pursue this legislation. It won't pass. Internet tax freedom, at least for this year, will be dead. Because, Mr. President, failure to adopt this amendment will render this bill impotent.

I suspect that may have been the desire of some Members all along, to kill this bill. Let there be no mistake, failure of this bill will hurt the future of electronic commerce and will subject our constituents to new taxes. Yes, a vote against suspending the rules is a vote to kill the bill. Without the language of this amendment being added, the bill is meaningless; it will accomplish nothing. Therefore, we will not pursue the legislation.

But this vote means more than killing the Internet Tax Freedom Act. Adopted to this bill was Senator BRYAN's Children's Online Privacy Act. That is a very important bill that will protect children who use the Internet. It is bipartisan legislation that was passed out of the Commerce Committee by a unanimous vote. If this bill dies today, Senator BRYAN's Children Online Privacy Bill dies today.

Adopted to this bill was Senator COATS' Decency Act. That measure was adopted by a vote of 98–1 yesterday. The Coats amendment is exceedingly important to protect our children from pornography that is proliferating on the world wide web. If this bill dies today, Senator COATS' Decency Act dies today.

Adopted to this bill was Senator DODD's amendment regarding filtering. The Dodd amendment would require Internet service providers making filtering software available to families so that they can screen unwanted and harmful material from appearing on their computer. The Dodd amendment has twice been adopted by the Senate. It is important.

Adopted to this bill was Senator ABRAHAM's Digital Signature bill. This bill was reported by the Commerce Committee with no opposition.

Mr. President, if we cannot suspend the rules and adopt this amendment that is supported by both managers, the Internet tax bill is dead and so is the vital legislation sponsored by our colleagues.

Let me briefly explain why this amendment is needed. The amendment does two things. First, it clarifies what is a discriminatory tax. This is necessary because without this definition the moratorium is rendered meaningless. States and localities do not pass new laws every time a new product appears. They simply interpret existing laws to apply to the products. What we are seeking to do here is clarify that the Internet cannot be singled out for the application of a tax in a discriminatory manner. For example, if an entity has a wicket tax, or a cellular phone tax, or a microwave oven tax, it would not be able to apply such tax in a discriminatory manner solely to the Internet and thereby claim the moratorium does not apply.

Mr. President, if this definition is not included in the bill, then the moratorium is gutted.

The second part of the amendment clarifies that the location of a server or of web pages does not constitute nexus. This is exceedingly important. If an individual in Iowa, sitting at his or her desk is surfing the web and buys a product for his mother in Tennessee from a company in Maine, using a server located in Florida, the fact that the server is located in Florida should not constitute nexus for the purposes of taxation. Neither the purchaser nor the company from which merchandise was purchased, nor the recipient, under this example, lived in Florida.

So, again, this language simply clarifies this matter. We do not state that the appearance of a catalog in someone's mailbox constitutes nexus. This provision simply updates that fact in the age of the Internet.

As technology bypasses us all and the use of the web becomes more and more ubiquitous and seamless, we will need to protect the technology that is fueling our economy. The issues of Quill and of who should and should not have to pay taxes will and should be settled by the Congress and the States. But regardless of that outcome, this technology should not be harmed by onerous, discriminatory, unfair—and in many cases—outdated laws.

To close, adoption of this amendment is vital to the passage of this legislation. This vote is key to its passage. If we fail to muster the 66 votes necessary, this bill will be dead. And as I have noted, some have wanted to kill it all along. We were forced to file cloture on the motion to proceed. We were forced to file cloture on the bill. We did all we could to accommodate all Senators with interests in this bill. We protected the rights of Senators to offer and debate amendments.

We did not have to allow the senior Senator from Arkansas an opportunity to offer non-germane amendments prior to cloture we did. We could have filled the tree or sat in quorum calls awaiting the cloture vote or final vote. But the Senate functions in a spirit of comity. So the Senator from Arkansas had his opportunity and his votes.

The bill has been changed and amended. We have accepted language offered by Senator HUTCHINSON from Arkansas. We accepted language offered by my good friend Senator ENZI. I did not care for those amendments, but I accepted the will of this body and I recognized that we must move forward on this important legislation. Especially on legislation like this, accommodations and concessions have to be made.

This bill does contain amendments which I wish were not in there, but there are 100 Members here. I also agreed to go along with the will of the majority, as did the Senator from North Dakota, as did the Senator from Oregon, and many other Senators who had deep and abiding interests in this legislation.

Again, this vote is exceedingly important if we are going to pass this bill. If we waive the rules for the purpose of this amendment, we can pass the bill and send it to the House. If we waive the rules, we can protect the Internet from unfair and discriminatory taxation, and more importantly, pass legislation that is vitally important to the country.

It is my understanding, and I ask parliamentary clarification, this motion is debatable; is that true?

The PRESIDING OFFICER. The Senator is correct.

Mr. McCAIN. But there is still a time limit that each individual Senator is allowed under the postcloture proceedings?

The PRESIDING OFFICER. The Senator is correct.

Mr. McCAIN. Parliamentary inquiry; how much time is remaining to the Senator from Florida?

The PRESIDING OFFICER. The Senator from Florida has 14 minutes remaining.

Mr. McCAIN. I yield the floor.

Mr. WYDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. BUMPERS. Mr. President, will the Senator from Oregon yield for a parliamentary inquiry?

Mr. WYDEN. If that is all I am yielding for.

Mr. BUMPERS. How much time do I have remaining on the bill?

The PRESIDING OFFICER. The Senator from Arkansas has 36 minutes remaining.

Mr. BUMPERS. I thank the Chair, and I thank the Senator from Oregon.

Mr. WYDEN. Mr. President, I urge the Senate suspend the rules and pass this important amendment.

First, let's be clear what happens if this amendment is passed. The most important thing is that the grandfather on Internet tax provision that was so central to the States is preserved and preserved completely.

Second, there is a separate section to ensure that all other existing taxes are preserved, and that there is another provision that would ensure that all ongoing liabilities—the matter the Senator from Florida says is important to the State of Connecticut—is also preserved.

After we filed this amendment last night, we again reached out to all sides to try to address concerns. I have done this now for a year and a half. The original bill that came out of the Commerce Committee, by the time it came to the floor, had more than 30 major changes. In our efforts here now to be reasonable, we have made at least another 20 changes to try to accommodate the Senator from Florida and others. In fact, the definition of a discriminatory tax—which is what this is all about—is essentially that which was used in the House, and it was agreeable to the Governors and the States when it was debated there in the House. The reason that the Senator from Arizona and I have focused on this issue is that this definition of discrimination is essential to ensure technological neutrality.

What this definition does is straightforward. It ensures that the new technology and the Internet is not discriminated against. It makes sure that a web site is treated like a catalog; catalogs aren't taxed. We don't want web sites to be singled out for selective and discriminatory treatment. The provision also makes sure that Internet service providers are, in effect, treated like the mail. The mail isn't taxed when a product is shipped to your home from a catalog merchant. Similarly, the Internet service provider should not be taxed merely for being the carriers or transmitters of information. In effect, Senator COATS recognized this in his amendment that was adopted yesterday.

So what we have done is, yesterday, we have worked with the Senator from North Dakota, Senator ENZI, and others, to address this discriminatory tax question in a way that we thought would be agreeable to the States. Overnight, we tightened up the language to deal with the grandfathering question. The minority leader, Senator DASCHLE, made some important and, I thought, useful suggestions. We incorporated those this morning to make sure that when we talk about the grandfathering provision, as it relates to South Dakota and North Dakota, the grandfather provision would tightly protect those two States. We have done that.

This Senator finds now that if we do not prevail on this point and the bill goes down, all of these efforts now for a year and a half are going to leave us in a situation where I think we will see, with respect to the Internet and the digital economy, the same problems develop that cropped up with respect to mail order and catalogs. We have had a number of people at the State and local level saying, you know, with respect to the mail-order and catalog issue, we wish we had done what you are bringing about with respect to the Internet.

We know that we have to have sensible policies so we can protect some of the existing sources of revenue for the States. Some call it the "old economy"; I don't. I think they are extremely important to the States. We have to respect those, while at the same time writing the ground rules for the digital economy—the economy where the Internet is going to be the infrastructure and when every few months takes us to exciting new fields and increases dramatically in revenue.

So I hope our colleagues will not cause all of the other important work that has been done here to go down. That is Senator DODD's legislation and the important work done by Senator BRYAN. There is a host of good measures that we agreed to accept as part of this legislation in an effort to be bipartisan and to accommodate our colleagues.

But, once again, the goalposts are moving. The definition of discriminatory tax that came up in the House is essentially what we are using. The Governors and the States found that acceptable. And then, after taking that kind of approach, even last night, we moved again, at the request of colleagues—and we thought they were reasonable requests—to tighten up the grandfathering provision. Now is the time to make sure that we do not gut this bill, the definition of a moratorium, and particularly don't gut a concept that we think is acceptable to our colleagues, and that is the concept of technological neutrality.

When you vote for the McCain-Wyden amendment to suspend the rules and pass this, you will be voting for a solid grandfather provision that ensures that all existing taxes are preserved. You will be voting to protect ongoing liabilities, which is what the Senator from Florida said he is concerned about, along with the Senator from Connecticut, and others. You will be voting to make sure, in a separate section, that all other existing taxes other than Internet taxes are preserved, and you will be voting for the principle of technological neutrality.

I think it would be a great mistake to gut this legislation now after all this progress has been made. I represent a State with 100,000 small businesses. These businesses are a big part of the economic future that we all want for our constituents. They cannot afford a crazy quilt of taxes that would be applied by a good chunk of the Nation's 30,000 taxing jurisdictions, based on what we have seen during this debate.

Let's do this job right. Let's do it in a thoughtful and uniform way. I urge our colleagues to support this bipartisan amendment Senator McCAIN and I have offered. I yield the floor.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, for those here on the floor and those who may be watching this on C-SPAN, I apologize, because we are about to enter some very arcane and not particularly exciting discussion. But it is necessary in order to understand what this amendment does and what it doesn't do. First, what it doesn't do.

Mr. President, this amendment starts by saying on page 26 of the bill that is before us that we will strike lines 3 through line 5 on page 27. So for those of you who have access to the legislation, I ask if you will turn to those pages. If you don't have access to the amendment, I am going to make a statement.

Unfortunately, both of those who have spoken—well, Senator WYDEN is on the floor. I would like him to listen to this statement. If he feels I am misstating—since it is not my intention to have to read all of this language—would he please indicate where I am misstating. But as I read the amendment, with the exception of changing the numeration—that is, what was listed as an (a) in the Senate Finance committee language is listed as a small paragraph letter (i) in the McCain amendment number 3711. With the changes of those numerations, the words in the amendment are almost verbatim to the words that are being stricken from line 3 on page 26 through line 5 on page 27. Is that an accurate statement?

Mr. WYDEN. We are anxious to be responsive to the Senator from Florida, but we are having trouble locating this. Why don't we do this: Continue, if you will, with your address and we will try to get the page numbers right.

Mr. GRAHAM. If there is a difference, I will yield to indicate that. In my reading of the amendment, I cannot find any substantial difference between the language that was in the Finance Committee's draft and the language that is in this amendment. We are striking out on the one hand and reinserting on the other. The difference begins with a new subparagraph added by the amendment, which is subparagraph Roman numeral (iv), beginning on line 16 of page 2 of the amendment through line 22. It is my understanding that paragraph will be deleted.

Mr. WYDEN. We agreed to take that paragraph out yesterday.

Mr. GRAHAM. So that is not an issue of controversy.

And Roman numeral (v), which is the new language under discriminatory tax, is acceptable.

Two-thirds of the amendment that is offered is not in contest, either because it is in existing law—so whether we adopt the amendment or not, it is still going to be in the legislation—or it is acceptable.

All the controversy, therefore, focuses on page 3, lines 5 through 23, which is the language that has been referred to as the "nexus" language. This language essentially as presented in this amendment was before the Senate Finance Committee. It was reviewed by the Senate Finance Committee and, on the recommendation of both the majority and minority legal counsel, was stricken from the bill.

What was the basis, Mr. President, that the Finance Committee made such a recommendation to strike what is now the essence of lines 5 through 23 from this bill? These are the arguments that the Finance Committee was persuaded by. It determined that the areas of nexus, which relate to the subject of how much of a presence does an entity such as a business have to have in a State to make it subject to that State's tax authority. It determined that the areas of nexus were sufficiently clear under today's law that it was inappropriate to include such standards in Federal legislation.

The basis of nexus: As the Presiding Officer, who was a distinguished member of the State Senate of the State of Wyoming, knows and from his professional career as a CPA, nexus has traditionally been determined by State law, not by Federal law. Each State determines what is the necessary presence for taxation. There are, of course, limits as to State law under constitutional provision for interstate commerce. But within that standard, the States have been the determinative bodies.

According to the Finance Committee staff, there has only been one other Federal law, and that was passed 40 years ago, in 1959, which relates to the issue of federalization of what those standards of nexus would be.

So the essential position of the Finance Committee was, first, that this is a matter that was being properly dealt with at the State level, and that was not a compelling reason why we should federalize the issue of nexus.

Second, they found that no State is currently attempting to enforce a tax collection obligation on the basis of the circumstances outlined in amendment; therefore, there was no necessity for this federalization, and that it would lead to potentially increased litigation over the nuances of this language. I am going to talk about that in a moment.

Finally, that the enactment of this amendment would create special federalized rules for a very small subset of the retail community. And it is inappropriate—for a bill that is intended to cause a timeout, a pause, a moratorium, on State action to allow a commission to develop recommendations on appropriate rules for taxation—for us now to essentially preempt that whole process by federalizing a significant, albeit very niche, area of commerce.

So those are the reasons that the Senate Finance Committee voted to eliminate this language in the bill. Certainly the Finance Committee was not adverse to the thrust of the bill, because it passed the bill on a 19-to-1 vote. The idea that by failing to include this language we would be "gutting" the bill is, in my opinion, an extreme overstatement.

Mr. President, beyond those reasons that were given by the Finance Committee, there is also another set of concerns which have come to light as this amendment has been increasingly in the public attention. That is the fact that there are States which either are or are potentially in litigation with various providers within the Internet industry over the question of their tax liability to a State. We have been sensitive to that in this legislation by providing a grandfather clause, which essentially protects the right of those States. As presented, this nexus amendment clause is retroactive, as the discriminatory tax definition in this bill is not covered by the general grandfather clause, and would apply to past events.

There is concern that the effect of this legislation would be to tilt the playing field in the courtroom of that litigation by making it more difficult on a retroactive basis for the States to make their arguments about an adequate nexus to the State as the basis of taxation of these Internet providers.

I don't think that this Congress wants to get into the business of intruding itself into ongoing litigation which might involve the State of Mississippi, or the State of North Dakota, or the State of Arizona, or the State of Florida, or any other State. That is not our business—to retroactively insert ourselves into that thicket of litigation.

Mr. President, it is for those reasons that I believe this amendment is defective. This Senate has adopted rules that provide that, after cloture has been invoked, the only amendments that can be considered are those that are germane to the bill.

The very fact that the sponsors of this amendment have filed what is a very unusual motion to suspend the Senate's rules as it relates to germanity is an indication that, first, they don't think it is germane; and, second, that under the rules of the Senate it should not be debatable in this postcloture environment.

As the managers and sponsors of this bill, they have had ample opportunity to get this language included throughout this long and tedious process. They have not done so. Now, in the postcloture environment, they are asking us to waive a fundamental rule of the Senate, which is, after cloture has been invoked, the cloture which was filed by the primary sponsor of the bill, now they want to be able to take up what is tacitly admitted to be a nongermane amendment, an amendment which was rejected after thorough analysis by the Senate Finance Committee, a measure which I think would have the effect of injecting us into litigation and affecting potential litigation between the States and various Internet providers.

Mr. President, I strongly urge my colleagues that we not adopt this motion, that we not change our rules, that we play by the rules that we have all agreed to, and that we play by the rules that have been in effect between States and the Internet industry in the past, and not retroactively reach back and adopt a provision which could interfere with the normal resolution of pending litigation.

Having said all of that, Mr. President, it is my hope that while this discussion has been going on, there have been good-faith efforts made to arrive at a resolution of this issue, and it would be my suggestion to have possibly a brief period by suggesting the absence of a quorum so that we might see if in fact we have arrived at a resolution that would obviate the necessity of the several steps that would be required in order to further pursue this matter. I think that would be in everybody's interest.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ENZI). The clerk will call the role.

The legislative clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Arizona.

Mr. McCAIN. Mr. President, I ask unanimous consent that amendment No. 3711 be withdrawn, and I send to the desk amendment No. 3711, with a modification.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment (No. 3711) was withdrawn.

AMENDMENT NO. 3711, AS MODIFIED

(Purpose: To define what is meant by the term "discriminatory tax" as used in the bill.)

The PRESIDING OFFICER. The clerk will report the new amendment as so modified.

The legislative clerk read as follows:

The Senator from Arizona [Mr. McCain], for himself and Mr. Wyden, proposes an amendment numbered 3711, as modified.

Mr. McCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 26, beginning with line 3, strike through line 5 on page 27 and insert the following:

(2) Discriminatory tax.—The term "discriminatory tax" means—

(A) any tax imposed by a State or political subdivision thereof on electronic commerce that—

(i) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving similar property, goods, services, or information accomplished through other means;

(ii) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period;

(iii) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving similar property, goods, services, or information accomplished through other means;

(iv) establishes a classification of Internet access service providers or online service providers for purposes of establishing a higher tax rate to be imposed on such providers than the tax rate generally applied to providers of similar information services delivered through other means; or

(B) any tax imposed by a State or political subdivision thereof, if—

(i) except with respect to a tax (on Internet access) that was generally imposed and actually enforced prior to Oct. 1, 1998, the sole ability to access a site on a remote seller's out-of-State computer server is considered a factor in determining a remote seller's tax collection obligation; or

(ii) a provider of Internet access service or online service is deemed to be the agent of a remote seller for determining tax collection obligations solely as a result of—

(I) the display of a remote seller's information or content on the out-of-State computer server of a provider of Internet access service or online services; or

(II) the processing of orders through the out-of-State computer server of a provider of Internet access service or online services.

Mr. McCAIN. Mr. President, let me say that I intend, after the Senator from Florida and the Senator from Oregon and the Senator from North Dakota and I speak on this, there is no controversy associated with it, that we would ask the amendment be agreed to. I would, at that time, request unanimous consent to withdraw my motion to suspend the rules.

The PRESIDING OFFICER. Is the Senator making that request at this time?

Mr. McCAIN. I make that request at this time. I ask unanimous consent to withdraw my motion to suspend the rules.

The PRESIDING OFFICER. Without objection, it is so ordered.

The motion was withdrawn.

Mr. McCAIN. Mr. President, I thank the Senator from Florida. This has been a tough battle. It has been a very difficult set of negotiations. We have disagreed on several issues, but we have reached a compromise. I thank him for his willingness to do that.

I also thank the good offices of the Senator from North Dakota whose calm demeanor has prevailed throughout this entire process we have been through. This amendment represents a compromise—another compromise—that has been made in the process of this legislation among ourselves and the Senator from Florida, and I thank him for it.

After the Senator from Florida and the Senator from Oregon speak, I hope we can adopt the amendment at that time. Then I hope we can go to final passage of this legislation.

Mr. President, I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Dakota.

Mr. DORGAN. Mr. President, the areas that have been most recently discussed with respect to this legislation are arcane, complicated areas dealing with nexus, jurisdiction of tax and so on. There are not a lot of people who understand the nuances of all of those words and all of the provisions. That is why it was hard to sift through all of this and reach an agreement. But an agreement has been reached that I think is a good agreement, one that accomplishes the purpose of this legislation in a manner that is not injurious to any other interests.

I thank the Senator from Arizona—I would say for his patience, but he is a Senator who is impatient to get things done on the Senate floor. I understand that and accept that, as do others. That is the reason he brings a lot of legislation to the floor and is successful with it.

I thank the Senator from Oregon who has been at this task for a long, long time and has been very determined to help get this legislation through the Senate.

Let me say to the Senator from Florida, one of the admirable qualities of that Senator, among many, is his stubborn determination to make certain that when things are done here, they are done the right way and that he understands it and that the interests affected are protected in a manner that is consistent with what he views as a matter of principle. I know that is frustrating for some, but the Senator from Florida certainly has that right. He contributes to this process by being determined to make certain we understand the consequences of all of this.

I thank him for working with us now in these final moments to reach an agreement that I think is the right agreement. We will pass this legislation, and I think we have accomplished something significant.

Mr. President, let me also indicate that my staff member, Greg Rohde, who has been working on these issues for many, many years with me, has done an outstanding job, as well as have other staff who have helped work through this process. I thank him for his work. I yield the floor.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Florida.

Mr. GRAHAM. Mr. President, I understand I only have 22 seconds. I want to say some positive things. I ask that I may be yielded——

Mr. McCAIN. I yield the Senator from Florida as much time as he may use from my time.

Mr. GRAHAM. Mr. President, I appreciate that generosity, and I will not overly indulge. Let me say, we have reached an honorable resolution to this issue which, for those who have been listening to this arcane debate, I will summarize by saying a significant issue will be made prospective in its application and not have retroactive application. Reading the language we have agreed to add to the McCain amendment 3711, which makes a portion of the nexus language prospective, in combination with the definition of "tax on internet access," which was agreed to earlier, this amendment should not interfere with litigation between States and internet service providers. With that agreement, that has brought the various parties of interest into concurrence.

What I want to say, Mr. President, is the three people who have been particularly active on this issue, who are on the floor now—Senator McCain of Arizona, Senator Dorgan of North Dakota, Senator Wyden of Oregon—are three of the finest people with whom I have had the privilege to serve in public office. If America was going to judge the quality of its public officials, I would be happy to be judged by these three men.

As the Senator from Arizona said, we have had some degree of controversy, but that is the nature of the democratic process. If this were a passive and tranquil process where everybody voted 400 to 0, that would be reminiscent of the way in which the Soviet

Union used to operate its parliament, not the U.S. Senate.

I think we have come to not only an appropriate resolution of this specific amendment, but I am proud where we are overall. We have achieved the purpose of having a reasonable period of timeout, with a thoughtful commission to be appointed to study some extremely complicated areas, the intersection of a legal system that is complex in areas of State-Federal relations, telecommunications and a highly complex new set of technologies.

This is an appropriate area for us to stand back and ask for the assistance of some thoughtful citizens who can bring their wisdom and experience to bear and give us the framework of some policy that then will be returned to the Senate and to the House of Representatives for enactment, as well as to the various State legislatures for their consideration.

I think we have, at the end of this process, arrived at exactly what our framers of this Constitution intended the legislative branch to do. I am proud to vote not only for this amendment but for the bill on final passage, and I look forward to the commission's work over the next several months and a return to these subjects in the year 2000 or 2002.

Again, I thank my colleagues for their very significant leadership in bringing us to this position.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Dakota.

PRIVILEGE OF THE FLOOR

Mr. DORGAN. Mr. President, I ask unanimous consent that Tyler Candee be accorded the privilege of the floor for the rest of the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I also would like to take this opportunity to thank Mr. Russ Sullivan, who is legislative director in my office, and Kate Mahar, who has worked with him. They have been on a fast learning curve on these issues, fortunately, about 12 hours ahead of myself. I publicly thank them for their contribution to this final conclusion.

Mr. WYDEN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Oregon.

Mr. WYDEN. Thank you very much, Mr. President. I think this may well be a historic day. What the U.S. Senate is doing is beginning to write the ground rules for the digital economy. As we have seen just in the last hour again, it is going to be a tough job.

We have had just in the last hour another set of questions that have come up with respect just to the terminology that is used in this new field. For example, some States call an Internet access tax a tax on on-line services.

What we have done now as a result of the agreement among the Senator from Arizona, the Senator from North Dakota, the Senator from Florida and myself, is we have said that we are going to treat those terms the same way when, in fact, they have the same effect. I think that this exercise, while certainly laborious and difficult, is just an indication of the kind of challenges we have to overcome.

I thank particularly the Senator from Florida. He feels very strongly about this issue and has made the case again and again to me that it is important to do this job right, and I share his view. I thank him for his courtesies.

The Senator from North Dakota and I have been debating this legislation now for a year and a half, probably at a much higher decibel level than either of us would have liked.

The chairman of the committee, Chairman McCAIN, and I have been friends for almost 20 years now. For this freshman Senator—not even a full freshman, an arrival in a special election—to have a chance to team up on this important piece of legislation is a great thrill. I thank him and his staff for all of their courtesies.

Before I make any final comments, I want to thank Ms. Carole Grunberg of our office who again and again, when this legislation simply did not look like it could go forward, persisted. And she, along with Senator DORGAN's staff and Senator McCAIN's staff, has helped to get us to this exciting day.

I am particularly pleased, Mr. President—I will wrap up with this—for the benefits that this legislation is going to have for people without a lot of political power in America. I think about the 100,000 home-based businesses I have in my State. I think about the disabled folks who are starting little businesses in their homes. For them, the Internet is the great equalizer. It allows people who think of themselves as the little guy to basically be able to compete in the global economy with the big guys.

Unless we come up with some ways to make uniform some of these definitions and terms, which is what we have been trying to do in the last hour—and we have made some real headway and reached a success—those little guys are going to find it hard to compete.

So I look forward to continuing the discussions with our colleagues as we look to other questions with respect to the Internet. This, it seems to me, is just the beginning of the discussion rather than the end.

Mr. President, I urge my colleagues now to support this modified amendment, to support the bill, and I yield the floor.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arizona.

Mr. McCAIN. Mr. President, I again thank Senator WYDEN, Senator DORGAN, the Senator from Florida, Senator GRAHAM, and all who were involved in this very difficult and very complex issue. I also thank my staff—all of them, including Mark Buse.

I also would like to add to the comments of the Senator from Florida, Senator GRAHAM, who said this is how the process should work. It has been very tough, very difficult, very time-consuming, but I think the magnitude of the legislation we are considering probably warranted all of that—and perhaps more. So I thank him very much. And as far as the freshman from Oregon is concerned, he has certainly earned his spurs as a member of the Commerce Committee.

By the way, I also thank the Chair for his involvement in this issue. He is probably the most computer literate Member of the U.S. Senate. We obviously value his talent and expertise and look forward to the day when he has his laptop on the floor for its use that so far we have failed to achieve but someday I hope we do.

I also mention one other person, Congressman COX over in the other body, who has also played a key role in the development of their legislation on the other side. He has done a tremendous job, Congressman COX of California.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3711, as modified.

The amendment (No. 3711), as modified, was agreed to.

AMENDMENT NO. 3718, AS FURTHER MODIFIED

Mr. McCAIN. I send to the desk a modification to amendment No. 3718 and ask unanimous consent that it to be adopted. Mr. President, the situation is that some written language that had been included in that amendment was not legible in the printer, so we had to remodify it.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3718), previously agreed to, as further modified, follows:

On page 29, beginning with line 20, strike through line 19 on page 30 and insert the following:

(8) TAX.—

(A) IN GENERAL.—The term "tax" means—

(i) any charge imposed by any governmental entity for the purpose of generating revenues for governmental purposes, and is not a fee imposed for a specific privilege, service, or benefit conferred; or

(ii) the imposition on a seller of an obligation to collect and to remit to a governmental entity any sales or use tax imposed on a buyer by a governmental entity.

(B) EXCEPTION.—Such term does not include any franchise fee or similar fee imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573), or any other fee related to obligations or telecommunications carriers under the Communications Act of 1934 (47 U.S.C. 151 et seq.).

(9) TELECOMMUNICATIONS SERVICE.—The term "telecommunications service" has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

(10) TAX ON INTERNET ACCESS.—The term "tax on Internet access" means a tax on Internet access, including the enforcement or application of any new or preexisting tax on the sale or use of Internet services; unless such tax was generally imposed and actually enforced prior to October 1, 1998.

Mr. KERRY. I'd like to take a moment to express my strong support for S. 442, the Internet Tax Freedom Act. In my view, S. 442 is a necessary first step to ensure that the Internet remains user-friendly to persons and businesses who seek to use it as a primary forum in which to conduct commerce. Before I begin, I'd like to credit my colleague from Oregon, Senator WYDEN, for his hard work on this legislation and for his longtime and pioneering leadership on Internet issues, both when he was in the House and now as a member of the Commerce Committee in the Senate. I'd also like to thank Senator McCAIN for his steadfastness and determination in ensuring that this important legislation is considered by the full Senate.

The Internet holds great promise to expand prosperity and bring ever more Americans into the national economy. In the past, to open a store and sell goods to the public, a merchant needed to find a good location for a storefront, build-out the store front, maintain its interior, pay rent and deal with myriad other business and legal concerns. All of these actions consume time and often scarce resources. To many Americans, they present an unreachably high bar to starting or maintaining a business. The Internet will allow millions of Americans to sell goods and services online, and will dispense with many of the burdensome costs involved with starting and maintaining a business. One great impediment, however, to the evolution of commerce over the Internet is the immediate threat of both disparate taxing jurisdictions and inequitable taxation.

A product offered over the Internet can be purchased by anyone with a computer and a modem, regardless of the town or state in which the person lives. Imagine needing to know the tax consequences of selling to each of the thousands of taxing jurisdictions in the country as a prerequisite to starting a business. This problem becomes even more complex if states and localities begin to impose taxes on electronic transactions or transmissions as such, in addition to sales, use and other taxes.

This legislation attempts to reasonably address this concern by imposing a brief moratorium specifically on the inequitable taxation of electronic commerce. It will allow the Federal Government, the states, the Internet industry and Main Street businesses a brief time-out to rationally discuss the several issues involved in Internet taxation and to develop a reasonable approach to taxation which permits electronic commerce to thrive in America. In my view, the legislation does not seek to deprive states of needed tax revenue. Senators WYDEN and McCAIN have gone to great lengths to minimize those existing taxes that would be affected. In addition, the bill expressly grandfathers existing state taxes on Internet access. What the bill does, however, is attempt to ensure that the development of the Internet is not hampered by a hodge-podge of confusing state and local taxes.

This bill was carefully negotiated to address competing equities. States and localities certainly have very real and legitimate needs to raise revenue to support vital state and community functions. By the same token, the Internet and the promise it holds for our economy, for schools, for children and families, and for our democracy is also very compelling. It is a wholly new medium whose mechanics, subtleties and nuances few of us really understand. I do not hear any Senator stating that electronic commerce should never be the basis of tax revenue, and I do not believe any Senator is trying to permanently deprive states of inherent privileges. Instead, the bill strives to create a brief period during which we in government and those in business can attempt to better understand this new medium and create a sensible policy that permits the medium to flourish as we all want.

I urge my colleagues to support this bill.

Mr. ROTH. Mr. President, I rise to express my support for the Internet Tax Freedom Act. This legislation imposes a temporary moratorium on taxes relating to the Internet and establishes a Commission to study and make recommendations for international, Federal, state, and local government taxes of the Internet and other comparable sales.

This legislation reflects the exciting times in which we live—a time when commerce between two individuals located a thousand miles apart can take place at the speed of light. Today, names like Netscape, Amazon.com, Yahoo, and America On-Line are household names—each a successful company in a new and exciting global business community. And they are only a few of literally thousands who provide their goods and services over the Internet.

They compete in a world where technological revolutions take place on a daily basis, and they benefit the lives of families everywhere. Even in America's most remote communities, our children have access to the seven wonders of the world, to metropolitan art museums, electronic encyclopedias, and the world's great music and literature. These companies—and the countless companies like them—are pioneers. And the new frontier is exciting, indeed.

In the new realm of cyberspace, government has three choices: lead, follow, or get out of the way. The legislation we introduce today is a clear indication that government is prepared to lead. It demonstrates that Congress is not going to allow haphazard tax policies, and a lack of foresight to get in the way of the growth and potential of this new and promising medium. It makes it clear that government's interaction with Internet commerce will be well-considered and constructive—beneficial to future prospects of Internet business and the individuals they service.

From the introduction of the Internet Tax Freedom Act, in early 1997, members of the Finance Committee expressed keen interest in considering this legislation. The Finance Committee has clear jurisdiction over state and local taxes—it's also the place for trade issues. And this July, we received a referral of the bill. We conducted a hearing on the issues and listened to witnesses detail the growth and potential of the Internet. Witnesses also articulated the many sides and concerns associated with the tax implications of Internet commerce.

Following our hearing, the Finance Committee held a markup, where we approved an amendment in the nature of a substitute to the original bill reported out of the Commerce Committee. The Finance Committee made significant improvements to the original legislation. We beefed up the trade component of the bill. We directed the USTR to examine and disclose the barriers to electronic commerce in its annual report. And we declared that it is the sense of Congress that international agreements provide that the Internet remain free from tariffs and discriminatory taxation.

The Finance Committee's substitute also shortened the moratorium period on State and local taxes relating to the Internet. We did this with an understanding that the advisory commission, set up in the legislation, would not need the five year period that was set out in the original Commerce bill. At the same time, we streamlined the Advisory Committee and focused its study responsibilities.

We took out any grandfather provision, feeling that as a policy matter, there should not be any taxes on the Internet during the moratorium period—regardless of whether some States had jumped the gun and applied existing taxes to Internet access. The Finance Committee also felt that this bill should be an example to our international negotiating partners—that if we wanted to keep grandfather provisions out of the international agreements, that we should remove them from our domestic taxation.

I recognize that there have been various floor amendments that have changed some of the things we did in the Finance Committee. Despite those amendments, the central thrust of the legislation, which is to call a time-out while a commission assesses the Internet and makes some recommendations about how we should tax electronic commerce, remains. Important international provisions—relating to trade and tariff issues—also remain unchanged.

Mr. President, I support the Internet Tax Freedom Act. It is a demonstration of Congress' understanding of the exciting potential and the opportunities that will be realized in cyberspace. It is a thoughtful approach to a very important issue. It meets current needs, and allows continued growth in this new frontier. I hope my colleagues will join me in supporting it.

Mr. MOYNIHAN. Mr. President, I first want to thank the Chairman of the Finance Committee, Senator ROTH, for his insistence that the Internet Tax Freedom Act be considered by the Finance Committee before any action on this floor. I recognize and applaud all of the effort that has gone into the other proposals dealing with this subject, and in particular we should acknowledge the work of Senators WYDEN, MCCAIN, DORGAN, GRAHAM, LIEBERMAN, and GREGG.

Since June of 1997, the chairman and I sought referral of this legislation to give the Finance Committee the opportunity to consider the important tax and trade issues related to the Internet, which by some estimates will grow to $300 billion of commercial transactions annually by the year 2000. The bill was finally referred to the Finance Committee on July 21st of this year.

That referral to the Finance Committee was consistent with Senate precedents. In recent years, the Finance Committee has had jurisdiction over at least two other pieces of legislation with direct impact on state and local taxes. Both the "source tax" bill that was of great interest to Senators BRYAN, REID, and BAUCUS, prohibiting states from taxing the pensions of former residents, and Senator BUMPERS' mail order sales tax proposal, requiring mail order companies to collect and remit sales taxes due on goods shipped across state lines, were referred to the Finance Committee.

The legislation before us today also deals directly with international trade. It requests that the administration continue to seek trade agreements that keep the Internet free from foreign tariffs and other trade barriers. As reported by the Finance Committee, this bill would establish trade objectives designed to guide future negotiations over the regulation of electronic commerce—issues clearly within the Finance Committee's jurisdiction.

A few comments on the substance of this legislation. I am not entirely persuaded that there is a pressing need for a federal moratorium on the power of state and local governments to impose and collect certain taxes, but it seems clear that such a moratorium does enjoy a great deal of support. The two-year moratorium period in the Finance Committee bill and the three-year period agreed to as a floor amendment during this debate is surely preferable to the six-year provision in the Commerce Committee bill.

There is some question whether such a moratorium is actually necessary. New York is proof that States do not need a directive from Congress to act on this matter: Governor Pataki and the New York State legislature have agreed on a bill exempting Internet access services from State or local sales, use, and telecommunications taxes. The Governor's legislation also makes it clear that out-of-state businesses will not be subject to State or local taxes in New York solely because they advertise on the Internet.

I am pleased that the Finance Committee's bill preserves the right of States or local governments to collect tax with respect to transactions occurring before July 29, 1998 (the date of Finance Committee action). Further, I am pleased that language has been added on the floor that goes beyond the Finance Committee bill and "grandfathers" any existing State and local taxes on Internet activity occurring during the period of the moratorium.

With respect to the Advisory Commission on Electronic Commerce established, a membership of 16, almost half of that in the House bill, is manageable and is more likely to lead to meaningful recommendations. An item of particular interest to me is the requirement in that the Commission examine the application of the existing Federal "communications services" excise tax to the Internet and Internet access. We need to know more about how and whether that tax should apply to new technology.

This bill is not perfect, but on balance I believe it deserves our support. I urge its adoption and hope it can be enacted this year.

Mr. LOTT. Mr. President, I am pleased to rise in support of the Senate's overwhelming passage today of the Internet Tax Freedom Act. This bill represents several months of thoughtful consideration and discussion among Members on both sides of the aisle to address the tax treatment of this emerging medium of commerce.

Throughout history, innovations in technology have dramatically changed lifestyles. Today, it is the Internet changing lives, and unlike any other technology to date. It is connecting people all around the world in ways that no one at the Department of Defense ever conceived of when the network was created. It is a true testament to the fact that leadership and entrepreneurial drive is alive and well in America.

This new tool of communication and information is also fast becoming one of the most important and vibrant marketplaces in decades. It holds great promise for businesses, both large and small, to offer their products and services for sale to a worldwide market. This is good news for everyone. It means new jobs, new opportunities and choices for consumers and retailers, and ultimately more revenue for state and local governments.

Mr. President, by its very nature, the Internet does not respect the traditional boundaries of state borders or county lines used to define our tax policies today. With about 30,000 taxing jurisdictions all across America, a myriad of overlapping and burdensome taxes is a legitimate concern for consumers and businesses online. This issue needs to be explored and resolved.

The Internet Tax Freedom Act is about the potential of technology.

It is about taking a necessary and temporary time-out so that a Commission of government and industry representatives can thoroughly study electronic commerce and make sensible recommendations to Congress about a fair, uniform and consistent Internet tax structure. The moratorium will apply to discriminatory and multiple taxes as well as to taxes paid just to access the Internet.

This legislation will treat Internet sales the same as any other type of remote sale. It will not favor the Internet or disadvantage others.

Businesses and consumers using electronic commerce need and deserve some level of assurance and sense of uniformity about how they will be taxed.

Mr. President, over the past several months, I personally heard from governors and groups across the Nation who expressed serious concerns about the hindering effect on electronic commerce due to ambiguous and conflicting tax treatment. I also heard from others expressing concerns about raising revenue and providing services to their citizens. Both voiced support for passage of a balanced bill that would represent their views. Adequate time was allowed for the Senate to hear what they had to say, and their concerns are reflected in the amendments and in the final bill.

Internet taxes, like many other issues faced in Congress, is not without controversy. The spirited exchange on the Senate floor during the past several days is evidence of that. I respect the differences that have been debated. I recognize the delicate balance in many of the views expressed, and appreciate the good faith efforts of my colleagues in working together to reach consensus. I know it was not easy.

Passage of this legislation was made possible by the hard work of many people.

First, I commend Senator John McCAIN, Chairman of the Senate's Commerce Committee, for his diligent leadership and commitment to tackle this complex and contentious issue. He has been steadfast throughout this process, and to him I say thank you.

I also owe a debt of gratitude for the work and contributions of the Chairman of the Senate's Finance Committee, Senator BILL ROTH. He provided a fresh perspective on the issue of electronic commerce.

Clearly, the participation of several Members with diverse interests was integral in moving this bill forward. I am proud to see Senators from both sides of the aisle—Senator BYRON DORGAN, Senator JUDD GREGG, Senator TIM HUTCHINSON, Senator JOE LIEBERMAN, and Senator RON WYDEN—all work together in a respectful manner to get the job done.

Nothing is ever accomplished in the Senate without the dedicated efforts of staff. I want to take a moment to identify those who worked hard to prepare this legislation for consideration. From the Senate Commerce Committee: Mark Buse, Jim Drewry, Carol Grunberg, Paula Ford, Kevin Joseph, John Raidt, Mike Rawson, and Jessica Yoo. From the Finance Committee: Stan Fendley, Keith Hennessey, Jeffrey Kupfer, Brigitta Pari, Frank Polk, and Mark Prater. Other individuals participated on behalf of their Senators: Renee Bennett, Laureen Daly, Richard Glick, Hazen Marshall, Greg Rhode, Mitch Rose, Stan Sokul and Russell Sullivan. I thank them all for their efforts.

Mr. President, the current power of the Internet and its future potential will advance America into the next millennium. Passage of the Internet Tax Freedom Act is a crucial step in recognizing the significance of the Internet in electronic commerce and what it will mean in the lives of every American consumer, to American businesses, and to America's economy.

Mr. LEAHY. Mr. President, I want to add my own support to promoting electronic commerce and keeping it free from new Federal, State or local taxes. I am a cosponsor of the Internet Tax Freedom Act, S. 442.

In ways that are becoming increasingly apparent, the Internet is changing the way we do business. More than 50 million people around the world surf the net—50 million. And more and more of these users turn to the World Wide Web and the Internet to place orders with suppliers or to sell products or services to customers or to communicate with clients.

The Internet market is growing at a tremendous pace. Over the past 2 years, sales generated through the web grew more than 5,000 percent. In fact, in a recent Business Week article, electronic commerce sales are estimated to reach $379 billion by the year 2002, pumping up the Nation's gross domestic sales by $10 to $20 billion every year by 2002.

And I see it in my own State of Vermont. On my home page on the web, I have put together a section called "Cyber Selling In Vermont." It is a step-by-step resource guide for exploring how you can have on-line commerce and other business uses of the Internet. It has links to businesses in Vermont that are already cyberselling.

As of today, this site includes links to web sites of more than 100 Vermont businesses doing business on the Internet. They range from the Quill Bookstore in Manchester Center to Al's Snowmobile Parts Warehouse in Newport.

For the past 3 years, I have held annual workshops on doing business on the Internet in my home State. I have received a tremendous response to these workshops from Vermont businesses of all sizes and customer bases, from Main Street merchants to boutique entrepreneurs.

At my last Doing Business on the Internet Workshop in Vermont, we had these small business owners from all over our State. They told how successful they have been selling on the web. They had such Main Street businesses as a bed and breakfast, or in one case a wool boutique, and a real estate company. One example is Megan Smith of the Vermont Inn in Killington. She attended one of my workshops. Now she is taking reservations over the net, reservations not just from Vermont, but from throughout the country. So cyberselling pays off for Vermonters.

Now Vermont businesses have an opportunity to take advantage of this tremendous growth by selling their goods on line. I have tried to be a missionary for this around our State, because I believe the Internet commerce can help Vermonters ease some of the geographic barriers that historically have limited our access to markets where our products can thrive.

The World Wide Web and Internet businesses can sell their goods all over the world in the blink of an eye, and they can do it any time of the day or night.

As this electronic commerce continues to grow—for even a small State like mine; we can see it all over the country—I hope we in Congress can be leaders in developing tax policy that will nurture this new market. I followed closely the Internet Tax Freedom Act since Senator WYDEN introduced it last summer. I want to commend the senior Senator from Oregon for his leadership on cyber tax policy.

More than 30,000 cities and towns in the United States are able to levy discriminatory sales on electronic commerce. Because of that, we need this national bill to provide the stability necessary if this electronic commerce is going to flourish.

We are not asking for a tax-free zone on the Internet. If sales taxes and other taxes would apply to traditional sales and services under State or local law, then those taxes would also apply to Internet sales under our bill. But the bill would outlaw taxes that are applied only to Internet sales in a discriminatory manner.

We do not want somebody to kill these businesses before they even begin because they think it is some way they can pluck the money out of the pockets of those who are using the Internet. We should not allow the future of electronic commerce—electronic commerce that can greatly expand the markets of even our Main Street businesses—we should not allow it to be crushed by the weight of multiple taxation. Without this legislation, they would have faced multiple taxation, and a lot of these Internet businesses now creating jobs, now flourishing, now adding to the commerce of our States would have been wiped out of business.

This legislation creates a temporary national commission to study and recommend appropriate rules for international, Federal, State, and local government taxation of transactions over the Internet. This also will help us very, very much.

The commission would submit its findings and recommendations to Congress within the next 18 months. With the help of this commission, Congress should be able to put a tax framework in place to foster electronic commerce and protect the rights of state and local governments when the three-year moratorium ends.

During my time in the Senate, I always tried to protect the rights of Vermont state and local legislators to craft their laws free from interference from Washington. Thus, the imposition of a broad, open-ended moratorium on state and local taxes relating to the Internet in the original bill gave me pause. I certainly agreed with the goal of no new state and local taxation of online commerce, but the means were questionable.

I believe those questions have been fully answered by the changes made to this legislation during its consideration in the Commerce and Finance Committees.

I want to commend Senators BURNS, KERRY, McCAIN, MOYNIHAN and ROTH for working with Senator WYDEN, the sponsor of the original bill, to craft a substitute bill that protects the free flow of online commerce while accommodating the rights of state and local governments.

Today there are more than 400,000 businesses selling their sales and services on the World Wide Web around the world. This explosion in web growth has led to thousands of new and exciting opportunities for businesses, from Main Street to Wall Street. The Internet Tax Freedom Act will ensure that these businesses, and many others, continue to reap the rewards of electronic commerce.

Mr. President, I am proud to cosponsor the Internet Tax Freedom Act to foster the growth of online commerce and urge my colleagues to support its swift passage into law.

Mr. LIEBERMAN. Mr. President, I want to say how pleased I am that this chamber has finally come to agreement on S. 442, the Internet Tax Freedom Act. First, I would like to thank Senator WYDEN for introducing this bill and his perseverance to see this legislation through. I would like to thank Chairman McCAIN for his management of this bill, and Senator DORGAN for working so closely with Senator WYDEN to arrive at a compromise. I would like to thank Senator GREGG for his unwavering insistence on what he believes is right. I would like to acknowledge the efforts of Senator BUMPERS and Senator GRAHAM who come to this issue from a different viewpoint but have tried to seek a common ground in what has been a polarizing and difficult negotiation.

I truly believe the most important things accomplished by this bill will be, first, to raise the visibility of the issue of taxation of the Internet. Just having this debate in Congress has stimulated discussion and thought about the future of electronic commerce and the Internet throughout the country. Three states—Texas, South Carolina, and my home State of Connecticut—came forward and said that they did not want their States' taxes to be grandfathered into the tax moratorium, but instead preferred to stop taxing the Internet. This debate has raised the consciousness of public leaders as to the great benefits electronic commerce holds for U.S. business to improve its productivity and reach new customers, and even more importantly, the level playing field the Internet provides for small businesses. At the same time, we have become aware of the enormous problems faced by small businesses which are suddenly, over the net, selling beyond their physical reach and the uncertainties they face in the legal and tax environment in 30,000 taxing jurisdictions.

The second major benefit of this bill will be to slow down the taxation of the Internet. The moratorium in S. 442, while grandfathering in existing State taxes on Internet access, will prevent new taxes from being added.

The third, and I consider the most important, major benefit of this legislation will be the creation of a commission to draft model State legislation creating uniform categories for these new Internet companies and transactions that gives these firms some certainty as to how they will be treated tax-wise in the different States. This is the essence of the bill that Senator GREGG and myself introduced in March, called NETFAIR, S. 1888—to remove the uncertainty under which electronic commerce companies have had to operate in the United States and bring some order into the present business climate. It is our intent that this model State legislation would not preempt the States, but would be adopted by the States, at their choice.

The Senate agreed to expand the duties of the commission beyond that of drafting model State legislation to looking at the States' collection of use taxes on all remote sales. This is a legitimate area of study and of concern to the States and to their revenue base. In opposing this amendment, I was merely voicing my concern that the commission may become bogged down in a debate over the taxation of catalog sales that I fear it will not be able to stay focused on the Internet and accomplish the very useful purpose of helping create a predictable legal environment for electronic commerce. It is my hope that the commission will try to complete the draft State legislation outlined in S. 442 first before turning to this larger debate.

At this point, I want to thank Senators ROTH and MOYNIHAN and the rest of the Finance Committee members for adding the international element to this bill. The Finance Committee reminded us to consider our domestic policies toward the Internet in the context of the international environment. Just as the Internet puts small companies on an equal footing with large companies, it also is creating a new level playing field internationally. Developing countries that have not yet fully industrialized, and countries whose telephone penetration is only a fraction of that in the United States, can leap frog entire stages of technology and move straight into fiber optic and wireless technologies that will carry video, sound, data, and voice.

A number of my colleagues and I have had an opportunity to speak with John Chambers, the President and CEO of Cisco Systems, one of the major suppliers of networking equipment at a breakfast last week. He knows something about electronic commerce since his company accounted for one-third of all electronic commerce last year. I was very impressed when he said that, on his trip through Asia, the political leaders of Singapore, Malaysia, Hong Kong and China wanted to hold substantive one- to two-hour conversations with him because they understand the power on the Internet and understand that information technology will change, not just their country's economy, but the economy of the world. They understand that those countries that embrace the information age will prosper and those who don't will fall behind.

Once again, Mr. President, I want to thank my colleagues and their staffs for the extraordinary effort they made to reach this point where we can finally vote on this bill. Finally, I would like to thank Laureen Daly of my staff who put in an enormous amount of work to assure that Connecticut's constituents, businesses and government will benefit from this legislation.

Mr. WARNER. Mr. President, I rise to restate my strong support for the Internet Tax Freedom Act. I am proud to be a cosponsor of this legislation and pleased that with end the 105th Congress legislation that brings fairness and equitable tax treatment to hundreds of Virginia Internet and online companies.

It has been a difficult week, but we have succeeded reaching a resolution on this most important issue. This moratorium is critical to the development of an industry that has become a pillar of Virginia's, and our Nation's, economy.

I will ask a resolution passed earlier this year expressing the sense of the General Assembly of Virginia that the Internet should remain free from State and local taxes.

Mr. President, I also wish to commend Governor Jim Gilmore. He has been a tireless advocate and a true leader on this issue. He was one of a handful of governors to recognize the potential of this industry and the irreparable harm that could come to it at the hands of tens of thousands of tax collectors across the Nation. He shares my view that we will remain the leader in the information technology industry only as long as we pursue policies of lower taxes and less regulation—policies that have made Virginia such an attractive home to thousands of high tech companies and their employees.

HOUSE JOINT RESOLUTION NO. 36

Expressing the sense of the General Assembly of Virginia that services which provide access to the international network of computer systems (commonly known as the Internet) and other related electronic communication services, as well as data and software transmitted via such services, should remain free from fees, assessments, or taxes imposed by the Commonwealth or its political subdivisions.

Agreed to by the House of Delegates, February 17, 1998; agreed to by the Senate, March 10, 1998.

Whereas, services which provide access to the international network of computer systems (commonly known as the Internet) and other related electronic communication services, as well as data and software transmitted via such services, have provided immeasurable social, educational, and economic benefits to the citizens of Virginia, the United States, and the world; and

Whereas, technological advancements made by and to the Internet and other related electronic communication services, as well as data and software transmitted via such services, develop at an ever-increasing rate, both qualitatively and quantitatively; and

Whereas, these advancements have been encouraged, in part, by public policies which facilitate technological innovation, research, and development; and

Whereas, companies which provide Internet access services and other related electronic communication services are making substantial capital investments in new plants and equipment; and

Whereas, it has been estimated that consumers, businesses, and others engaging in interstate and foreign commerce through the Internet or other related electronic communication services could be subject to more than 30,000 separate taxing jurisdictions in the United States alone; and

Whereas, multiple and excessive taxation places such investment at risk and discourages increased investment to provide such services, which, in turn, could put such jurisdictions at a long-term social, educational, and economic disadvantage; and

Whereas, the growth and development of electronic communication services should be nurtured and encouraged by appropriate state and federal policies; and

Whereas, the Commonwealth's exercise of its taxation and regulatory powers in relation to electronic communication services would likely impede the future viability and enhancement of Internet access services and other electronic communication services in the Commonwealth, which, in turn, could restrict access to such services, as well as data and software transmitted via such services, for all Virginians; and

Whereas, previous rulings of departments of taxation or revenue in several states have resulted in state taxes being levied on Internet service providers or Internet-related services, and have, in some cases, prompted action by those states' legislatures to overturn such rulings; and

Whereas, a majority of the states that have addressed the issue of taxing Internet-related services have chosen to exercise restraint in taxing Internet service providers and Internet-related services; and

Whereas, Virginia's existing tax code (§58.1-609.5) exempts from retail sales and use tax purchases of services where no tangible personal property is exchanged; and

Whereas, pursuant to §58.1-609.5, the Commissioner of the Department of Taxation has promulgated regulations (Title 23 Virginia Administrative Code 10-210-4040) which provide that charges for services generally are exempt from retail sales and use tax, but that services provided in connection with sales of tangible personal property are taxable; and

Whereas, in interpreting and applying Virginia's tax code and regulations, the Commissioner has ruled that sales of software via the Internet are not subject to Virginia's retail sales and use tax (P.D. 97-405, October 2, 1997); and

Whereas, in further interpreting and applying Virginia's tax code and regulations, the Commissioner has ruled that providers of Internet access services and other electronic communication services are not subject to Virginia's retail sales and use tax (P.D. 97-425, October 21, 1997); and

Whereas, services which provide access to the Internet and other related electronic communication services, as well as data and software transmitted via such services, are not tangible personal property and, therefore, should not be subject to Virginia's retail sales and use tax: now, therefore, be it

Resolved by the House of Delegates, the Senate concurring, That Internet access services and other related electronic communication services, as well as data and software transmitted via such services, should remain free from fees, assessments, or taxes imposed by the Commonwealth and its political subdivisions; and, be it

Resolved further, That P.D. 97-405 (October 2, 1997), by which the Commissioner ruled that sales of software via the Internet are not subject to Virginia's retail sales and use tax, correctly reflects the sense of the General Assembly and the law of the Commonwealth regarding this issue; and, be it

Resolved further, That P.D. 97-425 (October 21, 1997), by which the Commissioner ruled that providers of Internet access services and other related electronic communication services are not subject to Virginia's retail sales and use tax, correctly reflects the sense of the General Assembly and the law of the Commonwealth regarding this issue; and, be it

Resolved further, That, to the greatest extent possible, future rulings of the Commissioner reflect the sense of the General Assembly that Internet access services and other related electronic communication services, as well as data and software transmitted via such services, should remain free from fees, assessments, or taxes imposed by the Commonwealth and its political subdivisions; and, be it

Resolved finally, That the Clerk of the House of Delegates transmit a copy of this resolution to the Commissioner of the Department of Taxation that he may be apprised of the sense of the General Assembly in this matter.

Mr. McCAIN. Mr. President, I ask unanimous consent that no further amendments be in order to S. 442, the Senate proceed immediately to third reading, and final passage then occur, without debate, and I further ask that the final passage vote occur now, and that paragraph 4 of rule XII be waived.

And, Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill, as amended, pass? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Ohio (Mr. GLENN) and the Senator from South Carolina (Mr. HOLLINGS) are necessarily absent.

The PRESIDING OFFICER (Mr. KYL). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 96, nays 2, as follows:

[Rollcall Vote No. 308 Leg.]

YEAS—96

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Faircloth
Feingold
Feinstein
Ford
Frist
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wellstone
Wyden

NAYS—2

Bumpers
Gorton

NOT VOTING—2

Glenn
Hollings

The bill (S. 442), as amended was passed, as follows:

S. 442

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Internet Tax Freedom Act".

TITLE I—MORATORIUM ON CERTAIN TAXES

SEC. 101. MORATORIUM.

(a) MORATORIUM.—No State or political subdivision thereof shall impose any of the following taxes during the period beginning on October 1, 1998, and ending 3 years after the date of the enactment of this Act—

(1) taxes on Internet access, unless such tax was generally imposed and actually enforced prior to October 1, 1998; and

(2) multiple or discriminatory taxes on electronic commerce.

(b) PRESERVATION OF STATE AND LOCAL TAXING AUTHORITY.—Except as provided in this section, nothing in this Act shall be construed to modify, impair, or supersede, or authorize the modification, impairment, or superseding of, any State or local law pertaining to taxation that is otherwise permissible by or under the Constitution of the United States or other Federal law and in effect on the date of enactment of this Act.

(c) LIABILITIES AND PENDING CASES.—Nothing in this Act affects liability for taxes accrued and enforced before the date of enactment of this Act, nor does this Act affect ongoing litigation relating to such taxes.

(d) DEFINITION OF GENERALLY IMPOSED AND ACTUALLY ENFORCED.—For purposes of this section, a tax has been generally imposed and actually enforced prior to October 1, 1998, if, before that date, the tax was authorized by statute and either—

(1) a provider of Internet access services had a reasonable opportunity to know by virtue of a rule or other public proclamation made by the appropriate administrative agency of the State or political subdivision thereof, that such agency has interpreted and applied such tax to Internet access services; or

(2) a State or political subdivision thereof generally collected such tax on charges for Internet access.

(e) Exception to Moratorium.—

(1) In general.—Subsection (a) shall also not apply in the case of any person or entity who in interstate or foreign commerce is knowingly engaged in the business of selling or transferring, by means of the World Wide Web, material that is harmful to minors unless such person or entity requires the use of a verified credit card, debit account, adult access code, or adult personal identification number, or such other procedures as the Federal Communications Commission may prescribe, in order to restrict access to such material by persons under 17 years of age.

(2) Scope of exception.—For purposes of paragraph (1), a person shall not be considered to engaged in the business of selling or transferring material by means of the World Wide Web to the extent that the person is—

(A) a telecommunications carrier engaged in the provision of a telecommunications service;

(B) a person engaged in the business of providing an Internet access service;

(C) a person engaged in the business of providing an Internet information location tool; or

(D) similarly engaged in the transmission, storage, retrieval, hosting, formatting, or translation (or any combination thereof) of a communication made by another person, without selection or alteration of the communication.

(3) Definitions.—In this subsection:

(A) By means of the world wide web.—The term "by means of the World Wide Web" means by placement of material in a computer server-based file archive so that it is publicly accessible, over the Internet, using hypertext transfer protocol, file transfer protocol, or other similar protocols.

(B) Engaged in the business.—The term "engaged in the business" means that the person who sells or transfers or offers to sell or transfer, by means of the World Wide Web, material that is harmful to minors devotes time, attention, or labor to such activities, as a regular course of trade or business, with the objective of earning a profit, although it is not necessary that the person make a profit or that the selling or transferring or offering to sell or transfer such material be the person's sole or principal business or source of income.

(C) Internet.—The term "Internet" means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(D) Internet access service.—The term "Internet access service" means a service that enables users to access content, information, electronic mail, or other services offered over the Internet and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. Such term does not include telecommunications services.

(E) Internet information location tool.—The term "Internet information location tool" means a service that refers or links users to an online location on the World Wide Web. Such term includes directories, indices, references, pointers, and hypertext links.

(F) Material that is harmful to minors.—The term "material that is harmful to minors" means any communication, picture, image, graphic image file, article, recording, writing, or other matter of any kind that—

(i) taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;

(ii) depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and

(iii) taken as a whole, lacks serious literary, artistic, political, or scientific value for minors.

(G) Sexual act; sexual contact.—The terms "sexual act" and "sexual contact" have the meanings given such terms in section 2246 of title 18, United States Code.

(H) Telecommunications carrier; telecommunications service.—The terms "telecommunications carrier" and "telecommunications service" have the meanings given such terms in section 3 of the Communications Act of 1934 (47 U.S.C. 153).

(f) Additional Exception to Moratorium.—

(1) In general.—Subsection (a) shall also not apply with respect to an Internet access provider, unless, at the time of entering into an agreement with a customer for the provision of Internet access services, such provider offers such customer (either for a fee or at no charge) screening software that is designed to permit the customer to limit access to material on the Internet that is harmful to minors.

(2) Definitions.—In this subsection:

(A) Internet access provider.—The term 'Internet access provider' means a person engaged in the business of providing a computer and communications facility through which a customer may obtain access to the Internet, but does not include a common carrier to the extent that it provides only telecommunications services.

(B) Internet access services.—The term 'Internet access services' means the provision of computer and communications services through which a customer using a computer and a modem or other communications device may obtain access to the Internet, but does not include telecommunications services provided by a common carrier.

(C) Screening software.—The term "screening software" means software that is designed to permit a person to limit access to material on the Internet that is harmful to minors.

(3) Applicability.—Paragraph (1) shall apply to agreements for the provision of Internet access services entered into on or after the date that is 6 months after the date of enactment of this Act.

SEC. 102. ADVISORY COMMISSION ON ELECTRONIC COMMERCE.

(a) Establishment of Commission.—There is established a commission to be known as the Advisory Commission on Electronic Commerce (in this title referred to as the "Commission"). The Commission shall—

(1) be composed of 19 members appointed in accordance with subsection (b), including the chairperson who shall be selected by the members of the Commission from among themselves; and

(2) conduct its business in accordance with the provisions of this title.

(b) Membership.—

(1) In general.—The Commissioners shall serve for the life of the Commission. The membership of the Commission shall be as follows:

(A) 3 representatives from the Federal Government, comprised of the Secretary of Commerce, the Secretary of the Treasury, and the United States Trade Representative (or their respective delegates).

(B) 8 representatives from State and local governments (one such representative shall be from a State or local government that does not impose a sales tax and one representative shall be from a State that does not impose an income tax).

(C) 8 representatives of the electronic commerce industry (including small business), telecommunications carriers, local retail businesses, and consumer groups, comprised of—

(i) 5 individuals appointed by the Majority Leader of the Senate;

(ii) 3 individuals appointed by the Minority Leader of the Senate;

(iii) 5 individuals appointed by the Speaker of the House of Representatives; and

(iv) 3 individuals appointed by the Minority Leader of the House of Representatives.

(2) Appointments.—Appointments to the Commission shall be made not later than 45 days after the date of the enactment of this Act. The chairperson shall be selected not later than 60 days after the date of the enactment of this Act.

(3) Vacancies.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) Acceptance of Gifts and Grants.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) Other Resources.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) Sunset.—The Commission shall terminate 18 months after the date of the enactment of this Act.

(f) Rules of the Commission.—

(1) Quorum.—Nine members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) Meetings.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) Opportunities to testify.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) Additional rules.—The Commission may adopt other rules as needed.

(g) Duties of the Commission.—

(1) In general.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable intrastate, interstate or international sales activities.

(2) Issues to be studied.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on electronic commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of model State legislation that—

(i) would provide uniform definitions of categories of property, goods, service, or information subject to or exempt from sales and use taxes; and

(ii) would ensure that Internet access services, online services, and communications and transactions using the Internet, Internet access service, or online services would be treated in a tax and technologically neutral manner relative to other forms of remote sales;

(E) an examination of the effects of taxation, including the absence of taxation, on all interstate sales transactions, including transactions using the Internet, on retail businesses and on State and local governments, which examination may include a review of the efforts of State and local governments to collect sales and use taxes owed on in-State purchases from out-of-State sellers; and

(F) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

(3) EFFECT ON THE COMMUNICATIONS ACT OF 1934.—Nothing in this section shall include an examination of any fees or charges imposed by the Federal Communications Commission or States related to—

(A) obligations under the Communications Act of 1934 (47 U.S.C. 151 et seq.); or

(B) the implementation of the Telecommunications Act of 1996 (or of amendments made by that Act).

(h) NATIONAL TAX ASSOCIATION COMMUNICATIONS AND ELECTRONIC COMMERCE TAX PROJECT.—The Commission shall, to the extent possible, ensure that its work does not undermine the efforts of the National Tax Association Communications and Electronic Commerce Tax Project.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress for its consideration a report reflecting the results, including such legislative recommendations as required to address the findings of the Commission's study under this title. Any recommendation agreed to by the Commission shall be tax and technologically neutral and apply to all forms of remote commerce. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) BIT TAX.—The term "bit tax" means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) DISCRIMINATORY TAX.—The term "discriminatory tax" means—

(A) any tax imposed by a State or political subdivision thereof on electronic commerce that—

(i) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving similar property, goods, services, or information accomplished through other means;

(ii) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period;

(iii) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving similar property, goods, services, or information accomplished through other means;

(iv) establishes a classification of Internet access service providers or online service providers for purposes of establishing a higher tax rate to be imposed on such providers than the tax rate generally applied to providers of similar information services delivered through other means; or

(B) any tax imposed by a State or political subdivision thereof, if—

(i) except with respect to a tax (on Internet access) that was generally imposed and actually enforced prior to October 1, 1998, the sole ability to access a site on a remote seller's out-of-State computer server is considered a factor in determining a remote seller's tax collection obligation; or

(ii) a provider of Internet access service or online services is deemed to be the agent of a remote seller for determining tax collection obligations solely as a result of—

(I) the display of a remote seller's information or content on the out-of-State computer server of a provider of Internet access service or online services; or

(II) the processing of orders through the out-of-State computer server of a provider of Internet access service or online services.

(3) ELECTRONIC COMMERCE.—The term "electronic commerce" means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) INTERNET.—The term "Internet" means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(5) INTERNET ACCESS.—The term "Internet access" means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to users. Such term does not include telecommunications services.

(6) MULTIPLE TAX.—

(A) IN GENERAL.—The term "multiple tax" means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) EXCEPTION.—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) SALES OR USE TAX.—For purposes of subparagraph (B), the term "sales or use tax" means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) STATE.—The term "State" means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) TAX.—

(A) IN GENERAL.— The term "tax" means—

(i) any charge imposed by any governmental entity for the purpose of generating revenues for governmental purposes, and is not a fee imposed for a specific privilege, service, or benefit conferred; or

(ii) the imposition on a seller of an obligation to collect and to remit to a governmental entity any sales or use tax imposed on a buyer by a governmental entity.

(B) EXCEPTION.—Such term does not include any franchise fee or similar fee imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573), or any other fee related to obligations or telecommunications carriers under the Communications Act of 1934 (47 U.S.C. 151 et seq.).

(9) TELECOMMUNICATIONS SERVICE.—The term "telecommunications service" has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

(10) TAX ON INTERNET ACCESS.—The term "tax on Internet access" means a tax on Internet access, including the enforcement or application of any new or preexisting tax on the sale or use of Internet services unless such tax was generally imposed and actually enforced prior to October 1, 1998.

TITLE II—OTHER PROVISIONS

SEC. 201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

SEC. 202. NATIONAL TRADE ESTIMATE.

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking "and" at the end of clause (i);

(ii) by inserting "and" at the end of clause (ii); and

(iii) by inserting after clause (ii) the following new clause:

"(iii) United States electronic commerce,"; and

(B) in subparagraph (C)—

(i) by striking "and" at the end of clause (i);

(ii) by inserting "and" at the end of clause (ii);

(iii) by inserting after clause (ii) the following new clause:

"(iii) the value of additional United States electronic commerce,"; and

(iv) by inserting "or transacted with," after "or invested in";

(2) in subsection (a)(2)(E)—

(A) by striking "and" at the end of clause (i);

(B) by inserting "and" at the end of clause (ii); and

(C) by inserting after clause (ii) the following new clause:

"(iii) the value of electronic commerce transacted with,"; and

(3) by adding at the end the following new subsection:

"(d) Electronic Commerce.—For purposes of this section, the term 'electronic commerce' has the meaning given that term in section 104(3) of the Internet Tax Freedom Act.".

SEC. 203. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

(a) In General.—It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the America, the North American Free Trade Agreement, and other appropriate venues.

(b) Negotiating Objectives.—The negotiating objectives of the United States shall be—

(1) to assure that electronic commerce is free from—

(A) tariff and nontariff barriers;

(B) burdensome and discriminatory regulation and standards; and

(C) discriminatory taxation; and

(2) to accelerate the growth of electronic commerce by expanding market access opportunities for—

(A) the development of telecommunications infrastructure;

(B) the procurement of telecommunications equipment;

(C) the provision of Internet access and telecommunications services; and

(D) the exchange of goods, services, and digitalized information.

(c) Electronic Commerce.—For purposes of this section, the term "electronic commerce" has the meaning given that term in section 104(3).

SEC. 204. NO EXPANSION OF TAX AUTHORITY.

Nothing in this Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

SEC. 205. PRESERVATION OF AUTHORITY.

Nothing in this Act shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104–104) or the amendments made by such Act.

SEC. 206. SEVERABILITY.

If any provision of this Act, or any amendment made by this Act, or the application of that provision to any person or circumstance, is held by a court of competent jurisdiction to violate any provision of the Constitution of the United States, then the other provisions of that section, and the application of that provision to other persons and circumstances, shall not be affected.

TITLE III—GOVERNMENT PAPERWORK ELIMINATION ACT

SEC. 301. SHORT TITLE.

This title may be cited as the "Government Paperwork Elimination Act".

SEC. 302. AUTHORITY OF OMB TO PROVIDE FOR ACQUISITION AND USE OF ALTERNATIVE INFORMATION TECHNOLOGIES BY EXECUTIVE AGENCIES.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

"(vi) the acquisition and use of information technology, including alternative information technologies that provide for electronic submission, maintenance, or disclosure of information as a substitute for paper and for the use and acceptance of electronic signatures.".

SEC. 303. PROCEDURES FOR USE AND ACCEPTANCE OF ELECTRONIC SIGNATURES BY EXECUTIVE AGENCIES.

(a) In General.—In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106) and the amendments made by that Act, and the provisions of this title, the Director of the Office of Management and Budget shall, in consultation with the National Telecommunications and Information Administration and not later than 18 months after the date of enactment of this Act, develop procedures for the use and acceptance of electronic signatures by Executive agencies.

(b) Requirements for Procedures.—(1) The procedures developed under subsection (a)—

(A) shall be compatible with standards and technology for electronic signatures that are generally used in commerce and industry and by State governments;

(B) may not inappropriately favor one industry or technology;

(C) shall ensure that electronic signatures are as reliable as is appropriate for the purpose in question and keep intact the information submitted;

(D) shall provide for the electronic acknowledgment of electronic forms that are successfully submitted; and

(E) shall, to the extent feasible and appropriate, require an Executive agency that anticipates receipt by electronic means of 50,000 or more submittals of a particular form to take all steps necessary to ensure that multiple methods of electronic signatures are available for the submittal of such form.

(2) The Director shall ensure the compatibility of the procedures under paragraph (1)(A) in consultation with appropriate private bodies and State government entities that set standards for the use and acceptance of electronic signatures.

SEC. 304. DEADLINE FOR IMPLEMENTATION BY EXECUTIVE AGENCIES OF PROCEDURES FOR USE AND ACCEPTANCE OF ELECTRONIC SIGNATURES.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106) and the amendments made by that Act, and the provisions of this title, the Director of the Office of Management and Budget shall ensure that, commencing not later than five years after the date of enactment of this Act, Executive agencies provide—

(1) for the option of the electronic maintenance, submission, or disclosure of information, when practicable as a substitute for paper; and

(2) for the use and acceptance of electronic signatures, when practicable.

SEC. 305. ELECTRONIC STORAGE AND FILING OF EMPLOYMENT FORMS.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106) and the amendments made by that Act, and the provisions of this title, the Director of the Office of Management and Budget shall, not later than 18 months after the date of enactment of this Act, develop procedures to permit private employers to store and file electronically with Executive agencies forms containing information pertaining to the employees of such employers.

SEC. 306. STUDY ON USE OF ELECTRONIC SIGNATURES.

(a) Ongoing Study Required.—In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106) and the amendments made by that Act, and the provisions of this title, the Director of the Office of Management and Budget shall, in cooperation with the National Telecommunications and Information Administration, conduct an ongoing study of the use of electronic signatures under this title on—

(1) paperwork reduction and electronic commerce;

(2) individual privacy; and

(3) the security and authenticity of transactions.

(b) Reports.—The Director shall submit to Congress on a periodic basis a report describing the results of the study carried out under subsection (a).

SEC. 307. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with procedures developed under this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures, shall not be denied legal effect, validity, or enforceability because such records are in electronic form.

SEC. 308. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an executive agency, as provided by this title, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 309. APPLICATION WITH INTERNAL REVENUE LAWS.

No provision of this title shall apply to the Department of the Treasury or the Internal Revenue Service to the extent that such provision—

(1) involves the administration of the internal revenue laws; or

(2) conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 310. DEFINITIONS.

For purposes of this title:

(1) ELECTRONIC SIGNATURE.—The term "electronic signature" means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of the electronic message; and

(B) indicates such person's approval of the information contained in the electronic message.

(2) EXECUTIVE AGENCY.—The term "Executive agency" has the meaning given that term in section 105 of title 5, United States Code.

TITLE IV—CHILDREN'S ONLINE PRIVACY PROTECTION

SEC. 401. SHORT TITLE.

This title may be cited as the "Children's Online Privacy Protection Act of 1998".

SEC. 402. DEFINITIONS.

In this title:

(1) CHILD.—The term "child" means an individual under the age of 13.

(2) OPERATOR.—The term "operator"—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

(i) among the several States or with 1 or more foreign nations;

(ii) in any territory of the United States or in the District of Columbia, or between any such territory and—

(I) another such territory; or

(II) any State or foreign nation; or

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) does not include any nonprofit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) COMMISSION.—The term "Commission" means the Federal Trade Commission.

(4) DISCLOSURE.—The term "disclosure" means, with respect to personal information—

(A) the release of personal information collected from a child in identifiable form by an operator for any purpose, except where such information is provided to a person other than the operator who provides support for the internal operations of the website and does not disclose or use that information for any other purpose; and

(B) making personal information collected from a child by a website or online service directed to children or with actual knowledge that such information was collected from a child, publicly available in identifiable form, by any means including by a public posting, through the Internet, or through—

(i) a home page of a website;

(ii) a pen pal service;

(iii) an electronic mail service;

(iv) a message board; or

(v) a chat room.

(5) FEDERAL AGENCY.—The term "Federal agency" means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(6) INTERNET.—The term "Internet" means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(7) PARENT.—The term "parent" includes a legal guardian.

(8) PERSONAL INFORMATION.—The term "personal information" means individually identifiable information about an individual collected online, including—

(A) a first and last name;

(B) a home or other physical address including street name and name of a city or town;

(C) an e-mail address;

(D) a telephone number;

(E) a Social Security number;

(F) any other identifier that the Commission determines permits the physical or online contacting of a specific individual; or

(G) information concerning the child or the parents of that child that the website collects online from the child and combines with an identifier described in this paragraph.

(9) VERIFIABLE PARENTAL CONSENT.—The term "verifiable parental consent" means any reasonable effort (taking into consideration available technology), including a request for authorization for future collection, use, and disclosure described in the notice, to ensure that a parent of a child receives notice of the operator's personal information collection, use, and disclosure practices, and authorizes the collection, use, and disclosure, as applicable, of personal information and the subsequent use of that information before that information is collected from that child.

(10) WEBSITE OR ONLINE SERVICE DIRECTED TO CHILDREN.—

(A) IN GENERAL.—The term "website or online service directed to children" means—

(i) a commercial website or online service that is targeted to children; or

(ii) that portion of a commercial website or online service that is targeted to children.

(B) LIMITATION.—A commercial website or online service, or a portion of a commercial website or online service, shall not be deemed directed to children solely for referring or linking to a commercial website or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

(11) PERSON.—The term "person" means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

(12) ONLINE CONTACT INFORMATION.—The term "online contact information" means an e-mail address or another substantially similar identifier that permits direct contact with a person online.

SEC. 403. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE COLLECTION AND USE OF PERSONAL INFORMATION FROM AND ABOUT CHILDREN ON THE INTERNET.

(a) ACTS PROHIBITED.—

(1) IN GENERAL.—It is unlawful for an operator of a website or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under subsection (b).

(2) DISCLOSURE TO PARENT PROTECTED.—Notwithstanding paragraph (1), neither an operator of such a website or online service nor the operator's agent shall be held to be liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under subsection (b)(1)(B)(iii) to the parent of a child.

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Commission shall promulgate under section 553 of title 5, United States Code, regulations that—

(A) require the operator of any website or online service directed to children that collects personal information from children or the operator of a website or online service that has actual knowledge that it is collecting personal information from a child—

(i) to provide notice on the website of what information is collected from children by the operator, how the operator uses such information, and the operator's disclosure practices for such information; and

(ii) to obtain verifiable parental consent for the collection, use, or disclosure of personal information from children;

(B) require the operator to provide, upon request of a parent under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) the opportunity at any time to refuse to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child; and

(iii) notwithstanding any other provision of law, a means that is reasonable under the circumstances for the parent to obtain any personal information collected from that child;

(C) prohibit conditioning a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity; and

(D) require the operator of such a website or online service to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

(2) WHEN CONSENT NOT REQUIRED.—The regulations shall provide that verifiable parental consent under paragraph (1)(A)(ii) is not required in the case of—

(A) online contact information collected from a child that is used only to respond directly on a one-time basis to a specific request from the child and is not used to recontact the child and is not maintained in retrievable form by the operator;

(B) a request for the name or online contact information of a parent or child that is used for the sole purpose of obtaining parental consent or providing notice under this section and where such information is not maintained in retrievable form by the operator if parental consent is not obtained after a reasonable time;

(C) online contact information collected from a child that is used only to respond more than once directly to a specific request from the child and is not used to recontact the child beyond the scope of that request—

(i) if, before any additional response after the initial response to the child, the operator uses reasonable efforts to provide a parent notice of the online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(ii) without notice to the parent in such circumstances as the Commission may determine are appropriate, taking into consideration the benefits to the child of access to information and services, and risks to the security and privacy of the child, in regulations promulgated under this subsection;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on the site)—

(i) used only for the purpose of protecting such safety;

(ii) not used to recontact the child or for any other purpose; and

(iii) not disclosed on the site,

if the operator uses reasonable efforts to provide a parent notice of the name and online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) TERMINATION OF SERVICE.—The regulations shall permit the operator of a website or an online service to terminate service provided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) ENFORCEMENT.—Subject to sections 404 and 406, a violation of a regulation prescribed under subsection (a) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(d) INCONSISTENT STATE LAW.—No State or local government may impose any liability for commercial activities or actions by operators in interstate or foreign commerce in connection with an activity or action described in this title that is inconsistent with the treatment of those activities or actions under this section.

SEC. 404. SAFE HARBORS.

(a) GUIDELINES.—An operator may satisfy the requirements of regulations issued under section 403(b) by following a set of self-regulatory guidelines, issued by representatives of the marketing or online industries, or by other persons, approved under subsection (b).

(b) INCENTIVES.—

(1) SELF-REGULATORY INCENTIVES.—In prescribing regulations under section 403, the Commission shall provide incentives for self-regulation by operators to implement the protections afforded children under the regulatory requirements described in subsection (b) of that section.

(2) DEEMED COMPLIANCE.—Such incentives shall include provisions for ensuring that a person will be deemed to be in compliance with the requirements of the regulations under section 403 if that person complies with guidelines that, after notice and comment, are approved by the Commission upon making a determination that the guidelines meet the requirements of the regulations issued under section 403.

(3) EXPEDITED RESPONSE TO REQUESTS.—The Commission shall act upon requests for safe harbor treatment within 180 days of the filing of the request, and shall set forth in writing its conclusions with regard to such requests.

(c) APPEALS.—Final action by the Commission on a request for approval of guidelines, or the failure to act within 180 days on a request for approval of guidelines, submitted under subsection (b) may be appealed to a district court of the United States of appropriate jurisdiction as provided for in section 706 of title 5, United States Code.

SEC. 405. ACTIONS BY STATES.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates any regulation of the Commission prescribed under section 403(b), the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with the regulation;

(C) obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) INTERVENTION.—

(1) IN GENERAL.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) EFFECT OF INTERVENTION.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(3) AMICUS CURIAE.—Upon application to the court, a person whose self-regulatory guidelines have been approved by the Commission and are relied upon as a defense by any defendant to a proceeding under this section may file amicus curiae in that proceeding.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Commission for violation of any regulation prescribed under section 403, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that regulation.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 406. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) IN GENERAL.—Except as otherwise provided, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) PROVISIONS.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et. seq.), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et. seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) EXERCISE OF CERTAIN POWERS.—For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

(d) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating a rule of the Commission under section 403 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any entity that violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(e) EFFECT ON OTHER LAWS.—Nothing contained in the Act shall be construed to limit the authority of the Commission under any other provisions of law.

SEC. 407. REVIEW.

Not later than 5 years after the effective date of the regulations initially issued under section 403, the Commission shall—

(1) review the implementation of this title, including the effect of the implementation of this title on practices relating to the collection and disclosure of information relating to children, children's ability to obtain access to information of their choice online, and on the availability of websites directed to children; and

(2) prepare and submit to Congress a report on the results of the review under paragraph (1).

SEC. 408. EFFECTIVE DATE.

Sections 403(a), 405, and 406 of this title take effect on the later of—

(1) the date that is 18 months after the date of enactment of this Act; or

(2) the date on which the Commission rules on the first application filed for safe harbor treatment under section 404 if the Commission does not rule on the first such application within one year after the date of enactment of this Act, but in no case later than the date that is 30 months after the date of enactment of this Act.

TITLE V—OREGON INSTITUTE OF PUBLIC SERVICE AND CONSTITUTIONAL STUDIES

SEC. 501. DEFINITIONS.

In this title:

(1) ENDOWMENT FUND.—The term "endowment fund" means a fund established by Portland State University for the purpose of generating income for the support of the Institute.

(2) INSTITUTE.—The term "Institute" means the Oregon Institute of Public Service and Constitutional Studies established under this title.

(3) SECRETARY.—The term "Secretary" means the Secretary of Education.

SEC. 502. OREGON INSTITUTE OF PUBLIC SERVICE AND CONSTITUTIONAL STUDIES.

From the funds appropriated under section 506, the Secretary is authorized to award a grant to Portland State University at Portland, Oregon, for the establishment of an endowment fund to support the Oregon Institute of Public Service and Constitutional Studies at the Mark O. Hatfield School of Government at Portland State University.

SEC. 503. DUTIES.

In order to receive a grant under this title the Portland State University shall establish the Institute. The Institute shall have the following duties:

(1) To generate resources, improve teaching, enhance curriculum development, and further the knowledge and understanding of students of all ages about public service, the United States Government, and the Constitution of the United States of America.

(2) To increase the awareness of the importance of public service, to foster among the youth of the United States greater recognition of the role of public service in the development of the United States, and to promote public service as a career choice.

(3) To establish a Mark O. Hatfield Fellows program for students of government, public policy, public health, education, or law who have demonstrated a commitment to public service through volunteer activities, research projects, or employment.

(4) To create library and research facilities for the collection and compilation of research materials for use in carrying out programs of the Institute.

(5) To support the professional development of elected officials at all levels of government.

SEC. 504. ADMINISTRATION.

(a) LEADERSHIP COUNCIL.—

(1) IN GENERAL.—In order to receive a grant under this title Portland State University shall ensure that the Institute operates under the direction of a Leadership Council (in this title referred to as the "Leadership Council") that—

"(A) consists of 15 individuals appointed by the President of Portland State University; and

"(B) is established in accordance with this section.

(2) APPOINTMENTS.—Of the individuals appointed under paragraph (1)(A)—

(A) Portland State University, Willamette University, the Constitution Project, George Fox University, Warner Pacific University, and Oregon Health Sciences University shall each have a representative;

(B) at least 1 shall represent Mark O. Hatfield, his family, or a designee thereof;

(C) at least 1 shall have expertise in elementary and secondary school social sciences or governmental studies;

(D) at least 2 shall be representative of business or government and reside outside of Oregon;

(E) at least 1 shall be an elected official; and

(F) at least 3 shall be leaders in the private sector.

(3) EX-OFFICIO MEMBER.—The Director of the Mark O. Hatfield School of Government at Portland State University shall serve as an ex officio member of the Leadership Council.

(b) CHAIRPERSON.—

(1) IN GENERAL.—The President of Portland State University shall designate 1 of the individuals first appointed to the Leadership Council under subsection (a) as the Chairperson of the Leadership Council. The individual so designated shall serve as Chairperson for 1 year.

(2) REQUIREMENT.—Upon the expiration of the term of the Chairperson of the individual designated as Chairperson under paragraph (1), or the term of the Chairperson elected under this paragraph, the members of the Leadership Council shall elect a Chairperson of the Leadership Council from among the members of the Leadership Council.

SEC. 505. ENDOWMENT FUND.

(a) MANAGEMENT.—The endowment fund shall be managed in accordance with the standard endowment policies established by the Oregon University System.

(b) USE OF INTEREST AND INVESTMENT INCOME.—Interest and other investment income earned (on or after the date of enactment of this subsection) from the endowment fund may be used to carry out the duties of the Institute under section 503.

(c) DISTRIBUTION OF INTEREST AND INVESTMENT INCOME.—Funds realized from interest and other investment income earned (on or after the date of enactment of this subsection) shall be spent by Portland State University in collaboration with Willamette University, George Fox University, the Constitution Project, Warner Pacific University, Oregon Health Sciences University, and other appropriate educational institutions or community-based organizations. In expending such funds, the Leadership Council shall encourage programs to establish partnerships, to leverage private funds, and to match expenditures from the endowment fund.

SEC. 506. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this title $3,000,000 for fiscal year 1999.

TITLE VI—PAUL SIMON PUBLIC POLICY INSTITUTE

SEC. 601. DEFINITIONS.

In this title:

(1) ENDOWMENT FUND.—The term "endowment fund" means a fund established by the University for the purpose of generating income for the support of the Institute.

(2) ENDOWMENT FUND CORPUS.—The term "endowment fund corpus" means an amount equal to the grant or grants awarded under this title plus an amount equal to the matching funds required under section 602(d).

(3) ENDOWMENT FUND INCOME.—The term "endowment fund income" means an amount equal to the total value of the endowment fund minus the endowment fund corpus.

(4) INSTITUTE.—The term "Institute" means the Paul Simon Public Policy Institute described in section 602.

(5) SECRETARY.—The term "Secretary" means the Secretary of Education.

(6) UNIVERSITY.—The term "University" means Southern Illinois University at Carbondale, Illinois.

SEC. 602. PROGRAM AUTHORIZED.

(a) GRANTS.—From the funds appropriated under section 606, the Secretary is authorized to award a grant to Southern Illinois University for the establishment of an endowment fund to support the Paul Simon Public Policy Institute. The Secretary may enter into agreements with the University and include in any agreement made pursuant to this title such provisions as are determined necessary by the Secretary to carry out this title.

(b) DUTIES.—In order to receive a grant under this title, the University shall establish the Institute. The Institute, in addition to recognizing more than 40 years of public service to Illinois, to the Nation, and to the world, shall engage in research, analysis, debate, and policy recommendations affecting world hunger, mass media, foreign policy, education, and employment.

(c) DEPOSIT INTO ENDOWMENT FUND.—The University shall deposit the proceeds of any grant received under this section into the endowment fund.

(d) MATCHING FUNDS REQUIREMENT.—The University may receive a grant under this section only if the University has deposited in the endowment fund established under this title an amount equal to one-third of such grant and has provided adequate assurances to the Secretary that the University will administer the endowment fund in accordance with the requirements of this title. The source of the funds for the University match shall be derived from State, private foundation, corporate, or individual gifts or bequests, but may not include Federal funds or funds derived from any other federally supported fund.

(e) DURATION; CORPUS RULE.—The period of any grant awarded under this section shall not exceed 20 years, and during such period the University shall not withdraw or expend any of the endowment fund corpus. Upon expiration of the grant period, the University may use the endowment fund corpus, plus any endowment fund income for any educational purpose of the University.

SEC. 603. INVESTMENTS.

(a) IN GENERAL.—The University shall invest the endowment fund corpus and endowment fund income in those low-risk instruments and securities in which a regulated insurance company may invest under the laws of the State of Illinois, such as federally insured bank savings accounts or comparable interest bearing accounts, certificates of deposit, money market funds, or obligations of the United States.

(b) JUDGMENT AND CARE.—The University, in investing the endowment fund corpus and endowment fund income, shall exercise the judgment and care, under circumstances then prevailing, which a person of prudence, discretion, and intelligence would exercise in the management of the person's own business affairs.

SEC. 604. WITHDRAWALS AND EXPENDITURES.

(a) IN GENERAL.—The University may withdraw and expend the endowment fund income to defray any expenses necessary to the operation of the Institute, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, technical assistance, and research. No endowment fund income or endowment fund corpus may be used for any type of support of the executive officers of the University or for any commercial enterprise or endeavor. Except as provided in subsection (b), the University shall not, in the aggregate, withdraw or expend more than 50 percent of the total aggregate endowment fund income earned prior to the time of withdrawal or expenditure.

(b) SPECIAL RULE.—The Secretary is authorized to permit the University to withdraw or expend more than 50 percent of the total aggregate endowment fund income whenever the University demonstrates such withdrawal or expenditure is necessary because of—

(1) a financial emergency, such as a pending insolvency or temporary liquidity problem;

(2) a life-threatening situation occasioned by a natural disaster or arson; or

(3) another unusual occurrence or exigent circumstance.

(c) REPAYMENT.—

(1) INCOME.—If the University withdraws or expends more than the endowment fund income authorized by this section, the University shall repay the Secretary an amount equal to one-third of the amount improperly expended (representing the Federal share thereof).

(2) CORPUS.—Except as provided in section 602(e)—

(A) the University shall not withdraw or expend any endowment fund corpus; and

(B) if the University withdraws or expends any endowment fund corpus, the University shall repay the Secretary an amount equal to one-third of the amount withdrawn or expended (representing the Federal share thereof) plus any endowment fund income earned thereon.

SEC. 605. ENFORCEMENT.

(a) IN GENERAL.—After notice and an opportunity for a hearing, the Secretary is authorized to terminate a grant and recover any grant funds awarded under this section if the University—

(1) withdraws or expends any endowment fund corpus, or any endowment fund income in excess of the amount authorized by section 604, except as provided in section 602(e);

(2) fails to invest the endowment fund corpus or endowment fund income in accordance with the investment requirements described in section 603; or

(3) fails to account properly to the Secretary, or the General Accounting Office if properly designated by the Secretary to conduct an audit of funds made available under this title, pursuant to such rules and regulations as may be proscribed by the Comptroller General of the United States, concerning investments and expenditures of the endowment fund corpus or endowment fund income.

(b) TERMINATION.—If the Secretary terminates a grant under subsection (a), the University shall return to the Treasury of the United States an amount equal to the sum of the original grant or grants under this title, plus any endowment fund income earned thereon. The Secretary may direct the University to take such other appropriate measures to remedy any violation of this title and to protect the financial interest of the United States.

SEC. 606. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this title $3,000,000 for fiscal year 1999. Funds appropriated under this section shall remain available until expended.

TITLE VII—HOWARD BAKER SCHOOL OF GOVERNMENT

SEC. 701. DEFINITIONS.

In this title:

(1) BOARD.—The term "Board" means the Board of Advisors established under section 704.

(2) ENDOWMENT FUND.—The term "endowment fund" means a fund established by the University of Tennessee in Knoxville, Tennessee, for the purpose of generating income for the support of the School.

(3) SCHOOL.—The term "School" means the Howard Baker School of Government established under this title.

(4) SECRETARY.—The term "Secretary" means the Secretary of Education.

(5) UNIVERSITY.—The term "University" means the University of Tennessee in Knoxville, Tennessee.

SEC. 702. HOWARD BAKER SCHOOL OF GOVERNMENT.

From the funds authorized to be appropriated under section 706, the Secretary is authorized to award a grant to the University for the establishment of an endowment fund to support the Howard Baker School of Government at the University of Tennessee in Knoxville, Tennessee.

SEC. 703. DUTIES.

In order to receive a grant under this title, the University shall establish the School. The School shall have the following duties:

(1) To establish a professorship to improve teaching and research related to, enhance the curriculum of, and further the knowledge and understanding of, the study of democratic institutions, including aspects of regional planning, public administration, and public policy.

(2) To establish a lecture series to increase the knowledge and awareness of the major public issues of the day in order to enhance informed citizen participation in public affairs.

(3) To establish a fellowship program for students of government, planning, public administration, or public policy who have demonstrated a commitment and an interest in pursuing a career in public affairs.

(4) To provide appropriate library materials and appropriate research and instructional equipment for use in carrying out academic and public service programs, and to enhance the existing United States Presidential and public official manuscript collections.

(5) To support the professional development of elected officials at all levels of government.

SEC. 704. ADMINISTRATION.

(a) BOARD OF ADVISORS.—

(1) IN GENERAL.—The School shall operate with the advice and guidance of a Board of Advisors consisting of 13 individuals appointed by the Vice Chancellor for Academic Affairs of the University.

(2) APPOINTMENTS.—Of the individuals appointed under paragraph (1)—

(A) 5 shall represent the University;

(B) 2 shall represent Howard Baker, his family, or a designee thereof;

(C) 5 shall be representative of business or government; and

(D) 1 shall be the Governor of Tennessee, or the Governor's designee.

(3) EX OFFICIO MEMBERS.—The Vice Chancellor for Academic Affairs and the Dean of the College of Arts and Sciences at the University shall serve as an ex officio member of the Board.

(b) CHAIRPERSON.—

(1) IN GENERAL.—The Chancellor, with the concurrence of the Vice Chancellor for Academic Affairs, of the University shall designate 1 of the individuals first appointed to the Board under subsection (a) as the Chairperson of the Board. The individual so designated shall serve as Chairperson for 1 year.

(2) REQUIREMENTS.—Upon the expiration of the term of the Chairperson of the individual designated as Chairperson under paragraph (1) or the term of the Chairperson elected under this paragraph, the members of the Board shall elect a Chairperson of the Board from among the members of the Board.

SEC. 705. ENDOWMENT FUND.

(a) MANAGEMENT.—The endowment fund shall be managed in accordance with the standard endowment policies established by the University of Tennessee System.

(b) USE OF INTEREST AND INVESTMENT INCOME.—Interest and other investment income earned (on or after the date of enactment of this subsection) from the endowment fund may be used to carry out the duties of the School under section 703.

(c) DISTRIBUTION OF INTEREST AND INVESTMENT INCOME.—Funds realized from interest and other investment income earned (on or after the date of enactment of this subsection) shall be available for expenditure by the University for purposes consistent with section 703, as recommended by the Board. The Board shall encourage programs to establish partnerships, to leverage private funds, and to match expenditures from the endowment fund.

SEC. 706. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this title $10,000,000 for fiscal year 2000.

TITLE VIII—JOHN GLENN INSTITUTE FOR PUBLIC SERVICE AND PUBLIC POLICY

SEC. 801. DEFINITIONS.

In this title:

(1) ENDOWMENT FUND.—The term "endowment fund" means a fund established by the University for the purpose of generating income for the support of the Institute.

(2) ENDOWMENT FUND CORPUS.—The term "endowment fund corpus" means an amount equal to the grant or grants awarded under this title plus an amount equal to the matching funds required under section 802(d).

(3) ENDOWMENT FUND INCOME.—The term "endowment fund income" means an amount equal to the total value of the endowment fund minus the endowment fund corpus.

(4) INSTITUTE.—The term "Institute" means the John Glenn Institute for Public Service and Public Policy described in section 802.

(5) SECRETARY.—The term "Secretary" means the Secretary of Education.

(6) UNIVERSITY.—The term "University" means the Ohio State University at Columbus, Ohio.

SEC. 802. PROGRAM AUTHORIZED.

(a) GRANTS.—From the funds appropriated under section 806, the Secretary is authorized to award a grant to the Ohio State University for the establishment of an endowment fund to support the John Glenn Institute for Public Service and Public Policy. The Secretary may enter into agreements with the University and include in any agreement made pursuant to this title such provisions as are determined necessary by the Secretary to carry out this title.

(b) PURPOSES.—The Institute shall have the following purposes:

(1) To sponsor classes, internships, community service activities, and research projects to stimulate student participation in public service, in order to foster America's next generation of leaders.

(2) To conduct scholarly research in conjunction with public officials on significant issues facing society and to share the results of such research with decisionmakers and legislators as the decisionmakers and legislators address such issues.

(3) To offer opportunities to attend seminars on such topics as budgeting and finance, ethics, personnel management, policy evaluations, and regulatory issues that are designed to assist public officials in learning more about the political process and to expand the organizational skills and policy-making abilities of such officials.

(4) To educate the general public by sponsoring national conferences, seminars, publications, and forums on important public issues.

(5) To provide access to Senator John Glenn's extensive collection of papers, policy decisions, and memorabilia, enabling scholars at all levels to study the Senator's work.

(c) DEPOSIT INTO ENDOWMENT FUND.—The University shall deposit the proceeds of any grant received under this section into the endowment fund.

(d) MATCHING FUNDS REQUIREMENT.—The University may receive a grant under this section only if the University has deposited in the endowment fund established under this title an amount equal to one-third of such grant and has provided adequate assurances to the Secretary that the University will administer the endowment fund in accordance with the requirements of this title. The source of the funds for the University match shall be derived from State, private foundation, corporate, or individual gifts or bequests, but may not include Federal funds or funds derived from any other federally supported fund.

(e) DURATION; CORPUS RULE.—The period of any grant awarded under this section shall not exceed 20 years, and during such period the University shall not withdraw or expend any of the endowment fund corpus. Upon expiration of the grant period, the University may use the endowment fund corpus, plus any endowment fund income for any educational purpose of the University.

SEC. 803. INVESTMENTS.

(a) IN GENERAL.—The University shall invest the endowment fund corpus and endowment fund income in accordance with the University's investment policy approved by the Ohio State University Board of Trustees.

(b) JUDGMENT AND CARE.—The University, in investing the endowment fund corpus and endowment fund income, shall exercise the judgment and care, under circumstances then prevailing, which a person of prudence, discretion, and intelligence would exercise in the management of the person's own business affairs.

SEC. 804. WITHDRAWALS AND EXPENDITURES.

(a) IN GENERAL.—The University may withdraw and expend the endowment fund income to defray any expenses necessary to the operation of the Institute, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, technical assistance, and research. No endowment fund income or endowment fund corpus may be used for any type of support of the executive officers of the University or for any commercial enterprise or endeavor. Except as provided in subsection (b), the University shall not, in the aggregate, withdraw or expend more than 50 percent of the total aggregate endowment fund income earned prior to the time of withdrawal or expenditure.

(b) SPECIAL RULE.—The Secretary is authorized to permit the University to withdraw or expend more than 50 percent of the total aggregate endowment fund income whenever the University demonstrates such withdrawal or expenditure is necessary because of—

(1) a financial emergency, such as a pending insolvency or temporary liquidity problem;

(2) a life-threatening situation occasioned by a natural disaster or arson; or

(3) another unusual occurrence or exigent circumstance.

(c) REPAYMENT.—

(1) INCOME.—If the University withdraws or expends more than the endowment fund income authorized by this section, the University shall repay the Secretary an amount equal to one-third of the amount improperly expended (representing the Federal share thereof).

(2) CORPUS.—Except as provided in section 802(e)—

(A) the University shall not withdraw or expend any endowment fund corpus; and

(B) if the University withdraws or expends any endowment fund corpus, the University shall repay the Secretary an amount equal to one-third of the amount withdrawn or expended (representing the Federal share thereof) plus any endowment fund income earned thereon.

SEC. 805. ENFORCEMENT.

(a) IN GENERAL.—After notice and an opportunity for a hearing, the Secretary is authorized to terminate a grant and recover any grant funds awarded under this section if the University—

(1) withdraws or expends any endowment fund corpus, or any endowment fund income in excess of the amount authorized by section 804, except as provided in section 802(e);

(2) fails to invest the endowment fund corpus or endowment fund income in accordance with the investment requirements described in section 803; or

(3) fails to account properly to the Secretary, or the General Accounting Office if properly designated by the Secretary to conduct an audit of funds made available under this title, pursuant to such rules and regulations as may be prescribed by the Comptroller General of the United States, concerning investments and expenditures of the endowment fund corpus or endowment fund income.

(b) TERMINATION.—If the Secretary terminates a grant under subsection (a), the University shall return to the Treasury of the United States an amount equal to the sum of the original grant or grants under this title, plus any endowment fund income earned thereon. The Secretary may direct the University to take such other appropriate measures to remedy any violation of this title and to protect the financial interest of the United States.

SEC. 806. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this title $6,000,000 for fiscal year 2000. Funds appropriated under this section shall remain available until expended.

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Mr. President, pursuant to agreement of October 7, I ask the Senate proceed to the consideration of the conference report to accompany S. 2206, the human services reauthorization bill.

I further ask that immediately following adoption of the conference report, the Senate proceed to executive session, and pursuant to the consent agreement of October 6, that the nomination of William A. Fletcher of California to be United States Circuit Judge for the Ninth Circuit, be considered.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LOTT. For the information of all Senators, there will be about 25 minutes or so on the human services reauthorization bill—without a recorded vote. It will be a voice vote. Then we will go to the Fletcher nomination.

Therefore, the next recorded vote would be at approximately 2:30.

I yield the floor.

COATS HUMAN SERVICES REAUTHORIZATION ACT OF 1998—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of the conference report to accompany S. 2206, which the clerk will report.

The legislative clerk read as follows:

> The committee on conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2206), have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

(The conference report is printed in the House proceedings of the RECORD of October 6, 1998.)

Mr. JEFFORDS. Mr. President, the conference report on the Coats Human Services Reauthorization Act of 1998 includes the Head Start program, the Community Services Block Grant, and the Low Income Home Energy Assistance Program. Through this reauthorization, these programs can continue to provide vital assistance to the neediest of Americans. The Assets for Independence Act, also included in this bill, is a new way of helping low-income individuals and families to achieve economic self-sufficiency.

For three decades, Head Start, CSBG, and LIHEAP have effectively helped many low-income families and individuals throughout America. In this legislation, we have used the lessons learned over the past thirty years to reaffirm what is working well, make improvements where necessary to better meet today's challenges, and eliminate what no longer achieves our goals.

This bill leaves present law largely intact, but it does make some important changes to improve program accountability, expand services to meet the changing needs of today's families, and to increase the capacity of these programs to reach each of the program's purposes.

The reauthorization of Head Start expands the Early Head Start program for our youngest children, in a manner which balances the desire to make this program available to more children and families and the need to ensure that every Head Start program meets the high standards of quality that we have demanded.

The new evaluation and research provisions will provide much-needed information about how the program operates, help identify the "best practices," and will guide the grantees, the Department of Health and Human Services, and Congress to continue the improvements in Head Start which began four years ago.

This legislation expands the Head Start competitive grant process to include for-profit service providers. All Head Start grantees must meet the same high level of performance standards and outcome measures. Tax status does not guarantee the quality of a program—good or bad,. The most important issue is selecting the best possible provider, non-profit or for-profit, public or private, to deliver Head Start services. That is what this legislation does.

The second major program authorized under this legislation is the Community Services Block Grant, or CSBG. This program provides funding to States for work in local communities to alleviate the causes of poverty. That's an easily defined goal, but getting there takes lots of work, and diverse communities across the nation are taking equally as diverse approaches to meeting it.

Local Community Action Agencies, working with other groups and individuals in their communities, are helping people find and keep a job. They are helping them go back to school or get their GED. Provisions in this legislation will help States and local communities to continue this important work.

For almost two decades, the Low Income Home Energy Assistance Program (LIHEAP) has provided a lifeline to countless Americans who cannot pay their fuel bills. The program works very well. It is widely regarded as a model block grant program that gives states the flexibility to meet the needs of their low-income residents while ensuring an appropriate level of accountability for federal dollars.

The reauthorization of LIHEAP will help about four million low-income, disabled, and elderly households pay their fuel bills so they won't have to struggle to keep warm in the winter or to avoid heatstroke in the summer. They won't be forced to choose between heating and eating. Although some four million households received LIHEAP benefits this year, if we had the resources, some 30 million households would be eligible for LIHEAP assistance. This legislation establishes an authorization level that will permit Congress to increase funding for LIHEAP, a goal towards which I will continue to work.

I know some of our colleagues in Congress wonder whether we still need a LIHEAP Program. Today I think we send a strong message that the program is more important than ever, especially in light of welfare reform efforts. Low- and fixed-income households still spend at least 18 percent of their income on energy bills, a proportion virtually unchanged since LIHEAP was created.

The Assets for Independence Act represents an important new approach to helping low-income families and individuals. Through Individual Development Accounts, the saving, investment, and accumulation of assets is encouraged as a way to increase economic self-sufficiency and build a future. Senator COATS crafted this portion of the legislation. His work in the development of asset-based policies to help low-income individuals and families has helped us approach an old problem from a new angle.

Senator COATS took the lead in shepherding this bill through the legislative process, from the first draft to the conference report. When the Committee on Labor and Human Resources marked-up the bill, they unanimously voted to change the name of the legislation to the Coats Act as a tribute to Senator COATS' dedication to issues affecting children and their families.

In both his personal and professional life, Senator COATS has been a longstanding activist on behalf of American families. He was a Big Brother in Indiana long before his political career began, and was recently elected President of the Board of Directors for Big Brothers/Big Sisters of America. Early in his congressional career, Senator COATS served as the Republican leader for the House Select Committee on Children, Youth And Families.

Upon arriving in the Senate in 1989, he became the ranking member of the Subcommittee on Children and Families of the Senate Committee on Labor and Human Resources. Serving as the subcommittee's Chairman since 1995, Senator COATS has been a voice of reason and a tireless advocate for children and families.

His compassion and caring is evident in every piece of legislation that has come out of that subcommittee since Senator COATS became a member. When he leaves the Senate, I will miss his leadership and most of all, his friendship.

The Coats Human Services Reauthorization Act will serve to remind us all of his contributions to the Labor Committee and the Senate.

This legislation is the result of months of hard work, negotiation, and compromise. It has been a truly bi-partisan, bicameral effort that has resulted in good public policy.

The legislation reinforces what works in these programs, and discards what does not, which is the whole purpose of a reauthorization.

It continues the mission that we began many years ago of empowering communities to help their most vulnerable populations, and it does this in a responsible manner.

This bi-partisan effort would not have been possible without the hard work of many outstanding staff members.

With this legislation, Stephanie Monroe, the Staff Director for the Subcommittee on Children and Families, has added one more piece of effective public policy to her already impressive portfolio. Her work in researching, drafting, and negotiating this bill has been invaluable. Stephanie has been working in the Senate for fourteen years and I hope she will seriously consider continuing on here, after Senator COATS retires.

I want to thank Stephanie Robinson and Amy Lockhart, of Senator KENNEDY's staff and Suzanne Day and Jim Fenton of Senator DODD's staff for their contributions and their commitment to keeping this legislation a bipartisan effort.

Conferencing a bill always involves long hours, hard work, and much patience. I appreciate the efforts of Denzel McGuire, Mary Gardner Clagett, and Sally Lovejoy on the staff of the House Committee on Education and Workforce.

I also want to thank Jackie Cooney of Senator GREGG's staff, Alex Nock and Marcy Phillips with Representative MARTINEZ, Melanie Marola with Representative CASTLE, Amy Adair and Randy Brant with Representative SOUDER for their work on this legislation.

Brian Jones recently left my staff on the Committee on Labor and Human Resources, but before he left, he contributed enormously to the crafting of this legislation. I wish him well in his new venture, and appreciate his contributions to this and other legislation while on my staff. Geoff Brown, who is on my personal staff was instrumental in crafting and negotiating the LIHEAP portion of the bill. Working with Cameron Taylor, Legislative Director of the Northeast-Midwest Senate Coaltion, Geoff made sure that this critical program will continue to meet the needs of millions of low-income families.

Kimberly Barnes-O'Connor provided valuable and tireless counsel throughout this process, proving once again her capacity to put the interests of children and families first. I commend her for her exemplary service to me, the committee, the Congress, and the constituents we serve through these critical human services programs.

Mark Powden, the Staff Director for the Committee on Labor and Human Resources, as always, helped to clear the obstacles and push this legislation forward. Thank you, Mark.

I yield the remainder of my time to Senator COATS, who is worthy of all the praise possible with respect to this legislation and his total service to this Nation.

The PRESIDING OFFICER. The distinguished Senator from Indiana is recognized.

Mr. COATS. Mr. President, allow me to thank my colleagues for their kind words and also for their assistance.

At a time when our two parties are often divided over issues, major issues, this is truly a bipartisan effort. This is something that could not have been achieved without the cooperation, support, help and assistance of people on both sides of the aisle. I thank the chairman and Senator KENNEDY for their work with us on this. I thank my counterpart on the Children and Families Subcommittee, Senator DODD; Senator GREGG has been a supporter of this effort, and others on the committee who have worked hard and worked diligently with us to bring us to this particular point.

Each of the four programs that are encompassed in this bill represent an all too rare occurrence—a forging of public and private partnership to combat the effects of poverty and unleashing the vast resources of one of our most important assets, the local community.

The first component of this bill is the reauthorization of Head Start, a program that has proven to be significant in providing an opportunity for children to realize their full potential. It was more than a decade ago that Congressman GEORGE MILLER and I, as chairman and ranking member, respectively, of the Children, Youth and Family Subcommittee in the House of Representatives, asked the General Accounting Office to do an analysis of all of the programs that affected children, youth and families under the title and the theme of what works, what doesn't and why. It was a 2-year exhaustive study, and it came back listing eight Federal programs that provided real tangible benefits and a real return on the investment of the taxpayer's dollar and encouraged support for those programs.

At the head of the list, No. 1 on the list was Head Start. It said that for the taxpayer's investment in providing low-income, disadvantaged children with opportunities to prepare to enter the educational system, he or she was saving an enormous amount of money that would have had to be spent on remedial education and would have been potentially lost because those children were not prepared to enter the educational system. Since that time, I have been an ardent supporter of Head Start, in trying to provide funds for Head Start and also to make sure the program is effective. It is a program that clearly has provided many millions of children opportunities that they would not have otherwise had.

However, having said that, there have been questions about the quality of the program. We have experienced varying degrees of quality, from excellent in some cases to very poor in other cases. With the 1994 reauthorization, Congress and the administration made a commitment to enhance the focus on quality improvement. Since the last reauthorization, the Head Start bureau has offered technical assistance, resources and support to Head Start programs that are committed to pursuing excellence—again, something that is all too rare. We have also terminated, actually terminated grants to those programs that were experiencing deficiencies to the extent that they could not be remedied.

Close to 100 Head Start grantees have been terminated or have relinquished their grants since 1994—the first time in history that deficient programs were actually recompeted. These are essential. Too often here we authorize a new program with glowing words and the best of direction that we can provide, only to find later that those programs did not match up to the promise, and yet they are continued, they are perpetuated, they continue to receive funding, we continue to support mediocrity or even worse.

We have, through the actions in 1994 and subsequent, infused into the Head Start Program not only the technical assistance and resources and support necessary, but also the oversight and the investigation and the determination that we are either going to make some of these programs that are deficient, better, or we are going to recompete them—and, as I said, more than 100 have been recompeted.

The reauthorization bill that we are dealing with today builds on that commitment by requiring that 60 percent of the Head Start funds in the first years go toward enhancing program quality. It is important that we expand Head Start. We obviously want to get as many children in the program as possible, but it does no good to expand the program, to enroll more children, if the existing programs are not providing the health and the benefit and the quality that the children need to give them that edge that they need. So the emphasis on quality early and expansion later, I think, is the proper emphasis.

We also take steps to make sure Head Start students obtain the goal of school readiness by requiring the establishment of educational performance standards to ensure that the children develop a minimum level of literacy awareness and understanding coupled with very specific measures to help us assess whether or not this program is actually working. Under this scenario, poor programs, poorly administered programs, will be identified, they will be offered technical assistance, and if they fail to correct the deficiencies, they will be terminated and the grant recompeted.

We have responded to the concerns of Head Start programs to be able to more fully address the emerging needs of working families for full-day, full-year services, by significantly enhancing the Collaboration Grant Program in current law by requiring active collaboration between Head Start and other early care in education programs within the State, and we have included the President's request for an expansion of early Head Start programs from the current 7.5 percent in fiscal year 1999 to 10 percent in fiscal year 2003.

Finally, in response to concerns raised about the lack of reliable research on Head Start, which can be used as a basis for determining its effectiveness, we have authorized the National Impact Study of Head Start. These studies will yield very valuable information about how this program is working and whether Head Start is, in fact, making a difference.

Mr. President, the whole emphasis here, as you can tell, is on sufficient oversight, sufficient involvement in the program, to determine how it is working and to establish and identify where it is not working, and to help make where it is not working better and, if not, if necessary, recompeting the whole process and turning it over to someone else.

There are three other components of this particular bill before us. One is the Low Income Home Energy Assistance Program. I will allow other Members, including the chairman, to address that. That is an issue they have been involved in more directly than I have.

Another is the Community Services Block Grant, an excellent example of what can happen when Washington allows local communities to design their own responses to local problems. The "Washington knows best," the "Washington has one model formula that fits all sizes," is pretty much a discounted and discarded theory. We are working now, and need to work, with local communities to identify local problems and allow them to help us and work with us in fashioning a local solution.

Mr. President, 90 percent of the funds provided under this act, the Community Services Block Grant, must be passed through by the State to local eligible entities, which include a variety of public and nonprofit organizations, community action agencies, and faith-based neighborhood organizations.

We made some important improvements in this act, requiring each State to participate in a performance measurement system, again to determine effectiveness of programs and make sure they are meeting their program goals and priorities.

We have reauthorized a number of subcomponents of this—the Community Economic Development Program, the Rural Economic Development Program, National Youth Sports, the Community Food and Nutrition Program—and created a new program called the Neighborhood Innovation Projects, so that grants to private, neighborhood-based nonprofits can test or assist in the development of new approaches and developments in dealing with these community problems. These grants may be used for a variety of purposes, including gang interventions, addressing school violence, or any other purposes identified by the community as a problem resulting from poverty and consistent with the purposes of this CSBG.

Finally, let me address a program that has been near and dear to my heart, something that has been part of the Project for American Renewal that I authored some time ago. This is a 5-year demonstration program entitled "Assets for Independence." It is designed to encourage low-income individuals to develop strong habits for saving money. It is an IRA for low-income people. The current IRA program really is only available to those who have assets readily available or accessible to put into this saving program. The Assets for Independence Act allows sponsoring organizations to provide participating individuals and families intensive financial counseling and assistance in developing investment plans for education, home ownership, and entrepreneurship.

I am excited about this new program. As I said, it is part of the Project for American Renewal legislation I first introduced in 1995. It is estimated that our 5-year investment of $100 million in asset building through these individual accounts will generate 7,000-plus new businesses, 70,000 new jobs, $730 million in additional earnings, 12,000 new or rehabilitated homes, 6,600 families removed from welfare rolls, and 20,000 adults obtaining high school, vocational, and college degrees.

Each of the programs we are authorizing today represents an effort to give people a hand up, not simply a handout. They are an acknowledgment that when one family suffers, we all suffer as Americans; when communities break down, we all pay a price, and therefore we all have a stake in helping people achieve the American dream.

The legislation recognizes the limits of government and the fact that many of our worst social problems will never be solved by government alone. We are beginning to recognize that there are people and institutions, families, churches, synagogues, parishes, community volunteer organizations, faith-based charities, that are able to communicate societal ideals and restore individual hope, and we need to allow those organizations to compete to provide services, and we have done so in each of the programs I have described.

Community activist Robert Woodson makes the point that every social problem, no matter how severe, is currently being defeated somewhere by some volunteer community group, faith-based organization, or others. This is now one of America's great untold stories. No alternative approach to our cultural crisis holds such promise, because these institutions have resources denied to government at every level, resources of love, spiritual vitality, and true compassion.

Mr. President, I have been proud to be associated with one organization entitled Big Brothers/Big Sisters of America. I have been with them now for 26 years as a Big Brother as a local board member, board president, now as the president of the national board. This, along with organizations like Boys Clubs, Girls Clubs, Boy Scouts, Girl Scouts, and others, provides just one example of how local volunteer organizations can provide volunteers who can provide help to children to give them the kind of mentoring and support they need in difficult years, growing up often in one-parent families or families with poverty.

There are examples of this all across the board. The Gospel Rescue Ministry's efforts across the country have reached out to drug-addicted homeless individuals and provided astounding support. Whether the problem is teen pregnancy, school dropouts, school violence, children without fathers—whatever—there are organizations that we need to tap into, support, and enhance their involvement, providing support for young people and addressing social problems in this country.

Mr. President, I see my time is expiring. I did not mean to go on as long as I have. I hope I have not used up all the time. I know Senator KENNEDY and others are on the floor to talk about this. These programs, I believe, the ones we are reauthorizing, represent the true measure of our compassion as a nation.

I want to end by giving credit to Stephanie Johnson, who has poured her heart and soul into this reauthorization. She has given more than any one person can ask, making this a reality. This would not have happened without her involvement. Good staff makes good Senators, and she is the epitome of good staff. I thank her personally and publicly for her work in making this, and many of the things that have happened within our committee, a reality.

With that, I appreciate the extra time and yield the floor.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 11½ minutes.

Mr. KENNEDY. Mr. President, as the Nation is focusing on a number of matters today, I want to say what a really important achievement the Senate will accomplish in a few moments when we pass this very extensive authorization legislation, about $35 billion over the next 5 years.

The legislation has been described by our colleagues and friends, but I join in echoing the sentiments that have been expressed this morning in paying tribute to our friend and colleague from Indiana, Senator COATS, the staff who have worked with him, others on the committee, and our chairman, Senator JEFFORDS, in moving this legislation forward.

I remember back to 1994—maybe the Senator from Indiana remembers—when we were working at that time on the reauthorization of the Head Start Program. Many of us had been long-time supporters of that program. It is fair to say, at that time, that legislation, or the legislation that we are considering here, would not have been reauthorized unless it had the active involvement and leadership of the Senator from Indiana. That was a time of great crisis in the Head Start Program.

I think the accolades that have been given about the Senator are well-deserved.

I thank him, in particular, for saving the program back in 1994, but also for the continued commitment that he has had, along with my colleague, Senator DODD, for these past years. As Senator COATS has pointed out, he was working as a cochair of the children's caucus in the House of Representatives. Our colleague and friend Senator DODD is cochair of the children's caucus in the Senate. Both of these Senators have probably spent more time focusing on the needs of children in our country than any others and have worked in a very important bipartisan way.

I join with those who pay tribute to the Senator from Indiana, and naming this legislation after him is really well-deserved. I welcome the opportunity to stand with those who say he has made an indispensable contribution to the needs of poor children in our society. I say that with great sincerity and appreciation, because he has made a very, very important difference, not just in shaping these programs, but basically in helping our country respond to these particular needs.

There have been times when we have had differences on various policy issues. But we are friends, and the Senate is at its best when we have differences on some matters, but we are able to work them out and, most of all, to respect the individual integrity which Members bring to these issues. The legislation before us today—and I urge our fellow Members to support it—is really the product of our best efforts. I think it will make an important difference in the lives of children. I join with those in congratulating the Senator and in appreciating his leadership.

Mr. President, at a time when we have extraordinary prosperity, it is important that we look primarily at the needs of children, particularly the poor children. This bill invests in America's future by providing urgently needed assistance to low-income families and children.

This bill reauthorizes the Head Start program, the comprehensive early childhood development program for low-income children.

For more than thirty years, Head Start has been providing educational, nutritional, medical, and social services to help young children and their families reach their full potential. The advances made by this bill will ensure even greater success for the program in meeting the needs of today's families.

In preparing this bill, we've made significant efforts to improve program quality. That was particularly a matter that the Senator from Indiana was strongly committed to. We've established new education performance standards, to ensure that Head Start children enter school ready to learn. We've strengthened teacher qualifications, so that children will receive the very best care.

We've also worked to encourage closer cooperation by Head Start with other agencies so that full-day, full-year services will be more readily available to working families who need this kind of extended care.

More than 830,000 children currently receive the benefits of Head Start and they will continue to do so. Just as important, this bill makes it possible over the next five years to reach out more effectively to the 60% of eligible children who are not now receiving these services.

Head Start has demonstrated its success in lifting families out of poverty. With the program's support, many families obtain the boost they need to achieve economic self-sufficiency.

A letter I received from Monica Marafuga, a Head Start teacher in Massachusetts, makes this point well:

> I believe that Head start is sometimes the only hope for some families. As a teacher, I see the many families and children who need someone to guide them and point them in the right direction for a better life.

The Early Head Start program is also greatly enhanced by this bill. This program was established four years ago to provide high quality comprehensive services to very young children, from birth to age 3, and their families. There is nothing that can replace a parent and a home that is supportive and loving. But as we have seen, many of the children in our society are missing the support which can help them develop at a very critical and important time of their development.

We know that the first three years of life are a critical period in every child's development. We are mindful of the excellent studies that have been done by the Carnegie Commission about the importance of the development of a child's brain in the first months and years of life. The Early Head Start Program helps in developing those cognitive, emotional, and social skills that can help children seize future opportunities and fulfill their highest potential. This is something we want to encourage.

I welcome the fact that we are able to see an important enhancement of the Early Start Program. I'm especially pleased that this bill includes provisions to establish a new training and technical assistance fund, which will reinforce the program's commitment to provide quality services through on-going professional support for program staff.

The Early Start Program is having an important impact, and in this bill we continue a gradual expansion of the program so that more young children can be served. Currently, less than 2% of those eligible are receiving its benefit. This bill will expand the program over the next five years to cover an additional 40,000 babies and toddlers. This is a modest expansion, but one which I think, with its success, can be built on over future years.

In addition, the bill also renews our commitment to reducing poverty by reauthorizing the Community Services Block Grant. This program helps communities by providing assistance to address the specific needs of localities, marshaling other existing resources in the community, and encouraging the involvement of those directly affected.

Funds may be used for a variety of services, including employment, transportation, education, housing, nutrition, and child care.

I remember when Senator Robert Kennedy sponsored the initial Community Development Corporation more than 30 years ago, which was the precursor to the Community Services Block Grant. This program has a proven record of fostering innovative methods for eliminating the causes of poverty. The need today is as great as it has ever been. Poverty continues to be a significant problem across the nation.

We know that 37 million of our fellow citizens live in poverty. Children are particularly vulnerable, representing 40% of those living in poverty despite the fact that they make up only 25% of the overall population. These figures are particularly disturbing because studies show that children living in poverty tend to suffer disproportionately from stunted growth and lower test scores. The Community Services Block Grant can help alleviate these conditions and benefit these children.

The legislation also reauthorizes the Low-Income Home Energy Assistance Program for the next five years. The funding levels provided for this important program will ensure that LIHEAP continues to help low-income households with their home energy costs, particularly in extreme weather.

I am especially pleased that this legislation includes a provision to clarify the criteria for the President to release emergency LIHEAP funds. This assistance will enable many families hurt by hot or cold weather, ice storms, floods, earthquakes, and other natural disasters to get through the season.

In addition, it will enable the release of emergency LIHEAP funds if there is a significant increase in unemployment, home energy disconnections, or participation in a public benefit program.

There is clearly a continuing need for a strong LIHEAP Program. 95% of the five million households receiving LIHEAP assistance have annual incomes below $18,000. They spend an extremely burdensome 18% of their income on energy, compared to the average middle-class family, which spends only 4%.

Without a strong LIHEAP Program, families will be forced to spend less money on food and more money on their utility bills—the so-called "heat or eat effect." The result is increased malnutrition among children.

Without a strong LIHEAP Program, children will fall behind in school because they will be unable to study in their frigid households.

Without a strong LIHEAP Program, low income elderly will be at an even greater risk of hypothermia. In fact, older Americans accounted for more than half of all hypothermia deaths in 1991.

LIHEAP is clearly a lifeline for the most vulnerable citizens in society, and I commend the House and Senate for strengthening this vital program.

This bill also establishes a new and innovative approach to helping low-income individuals achieve financial independence, and again, I commend Senator COATS for his leadership on this new program. Individual Development Accounts are designed to promote economic self-sufficiency by providing matching funds for deposits made into qualifying savings accounts. Funds can be used to purchase a first home, open a small business, or pay for college education.

This program shows great promise for improving the lives of many individuals and families in communities across the country.

Mr. President, I want to just use the last minute in sharing my commendation for the wonderful staff, Republican and Democrat, who worked very closely together. This bipartisan effort is really the most effective way to develop the best possible legislation.

I want to also recognize Stephanie Monroe, who will be leaving the Senate and has been really a stalwart. Everyone has enormous respect for her. She has worked with Senator COATS, but I think all of us have had enormous confidence in her leadership. She has done really an outstanding job. I also thank Suzanne Day and Kimberly Barnes O'Connor, and Amy Lockhart, a Congressional Fellow in my office, and Stephanie Robinson of my staff who is an enormously gifted, talented and committed individual.

The Clinton administration worked effectively with us in the development of this legislation, and they also deserve great credit. I want to particularly recognize Helen Taylor who is the Associate Commissioner of the Head Start Bureau at the Department of Health and Human Services. Ms. Taylor has dedicated her professional career to improving the lives of young children and has had over 30 years of distinguished service in the field of early childhood development. Her knowledge and experience proved invaluable in this process, and I thank her for her true commitment to the children of Head Start.

This bill ensures the continuation of these important programs into the 21st century. Again, I thank the chairman of our committee, Senator JEFFORDS, and Senator DODD, and Senator COATS who really have done an extraordinary job in bringing this legislation to where it is today.

Mr. JEFFORDS. I want to take just a couple seconds to join in the accolades which Senator KENNEDY has made for the various staff members, and also to recognize all the tremendous work that Senator KENNEDY himself has done not only today but throughout the years on these very valuable programs.

Mr. President, I yield the floor.

Mr. DODD. Mr. President, I am delighted to stand here and thank the chairman and the ranking member, the Senator from Massachusetts, as we are about to adopt the Coats Human Services Reauthorization Act, which includes Head Start, LIHEAP and the community services block grants.

People are going to wonder. This is the second day in a row that I find myself on the floor extolling the tremendous contribution of my colleague from Indiana.

We were involved in a piece of legislation yesterday. But I think all of us, as I said yesterday, are going to miss our friend, who is going to be here only a few more days and will move on to another chapter in his life.

But it is highly appropriate, given his tremendous work over his career in the Senate on behalf of children and families that this piece of legislation is going to be named in honor of his service to our country.

I am very pleased to join in that effort, and to commend him for his spectacular work over the years of service in the Senate.

Senator COATS and I have worked intensively with Senator JEFFORDS, Senator KENNEDY, other members of our committee, and the House committee to complete this important reauthorization. The strong bipartisan support for this bill is a clear statement of how we all view the crucial programs included in this bill. And it is also a testament to the leadership of Senator COATS on this legislation. While we have not necessarily agreed on every issue, I have always admired Senator COATS dedication to working to help working families, and in particular, to helping children. His presence on the Labor Committee will surely be missed, and I am pleased that the full committee chose to name this important bill after Senator COATS, as a show of respect and admiration for his service in the Senate.

This bill is fundamentally about expanding opportunity in America for all of our citizens. Under the umbrella of the Human Services Act, low income communities, their families and children receive more than $5 billion of assistance each year. These dollars support the basic building blocks of stronger communities—care and education for young children in Head Start, food, job and economic development through the Community Services Block grant, and home heating assistance through LIHEAP.

Head Start is the Nation's leading child development program, because it focuses on the needs of the whole child. Inherently, we know that a child cannot be successful if he or she has unidentified health needs, if his or her parents are not involved in their education, and if he or she is not well-nourished or well-rested. Head Start is the embodiment of those concerns and works each day to meet children's critical needs. This year, Head Start will serve over 830,000 children and their families this year, and nearly 6,000 in my home State of Connecticut.

The bill before us today further strengthens the Head Start Program: We continue the expansion of the Early Head Start Program, increasing the set aside for this program to 10 percent in FY 2002. Anyone who has picked up a magazine or newspaper within the last year knows how vital the first three years of child's life are to their development. This program, which we established in 1994, extends comprehensive, high-quality services to these young children and their parents, to make sure the most is made of this window of opportunity.

We have added new provisions to encourage collaboration within states and local communities as well as within individual Head Start programs to expand the services they offer to families to full-day and full-year services, where appropriate, and to leverage other child care dollars to improve quality and better meet family needs.

We emphasize the importance of school readiness and literacy preparation in Head Start. While I think this has always been a critical part of Head Start, this bill ensures that gains will continue to be made in this area.

Mr. President, this bill puts Head Start on strong footing as we approach the 21st century. It is a framework within which Head Start can continue to grow to meet the needs of more children and their families. What is unfortunate is that we cannot guarantee more funding for Head Start—I think it is shameful that there are waiting lists for Head Start and that only 40 percent of eligible children are served by this program. And Early Head Start, which is admittedly a new program, serves just a tiny fraction of the infants and toddlers in need of these services.

The President has set a laudable goal to reach 1 million children by 2002. But I say we need to do more. We need a plan to serve 2 million children—all those eligible and in need of services—as soon as possible.

Some argue that meeting the goal of fully funding Head Start will be too costly. Yes, it will cost a great deal to get there. But my question is how much more will it cost not to get there?

Studies show us that children in quality early childhood development programs, such as Head Start, start school more ready to learn than their non-Head Start counterparts. They are more likely to keep up with their classmates, avoid placement in special education, and graduate from high school. They are also less likely to become teenage mothers and fathers, go on welfare, or become involved in violence or the criminal justice system.

How much does it cost when we don't see these benefits?

I know this is an issue for another place and another venue. But I am hopeful as we strengthen Head Start we can also strengthen our resolve to expand this successful program to reach more children and their families.

Mr. President, the bill before us also makes important changes to the Community Services Block Grant Program. CSBG makes funds available to states and local communities to assist low-income individuals and help alleviate the causes of poverty. One thousand local service providers—mainly Community Action Agencies—use these Federal funds to address the root causes of poverty within their communities. CSBG dollars are particularly powerful because local communities have substantial flexibility in determining where these dollars are best spent to meet their local circumstances.

I have had the pleasure of visiting Community Action Agencies in Connecticut many times. They are exciting, vibrant places at the very center of their communities—filled with adults taking literacy and job training courses, children at Head Start centers, seniors with housing or other concerns, and youths participating in programs or volunteering their time.

To see clearly how critical the CSBG program is to the Nation's low income families, one only needs to look at the statistics. The CSBG Program in 1995 served more than 11.5 million people, or one in three Americans living in poverty. Three-quarters of CSBG clients have incomes that fall below the Federal poverty guideline.

This bill recognizes the fundamental strength of this program and makes modest changes to encourage broader participation by neighborhood groups. In addition, it improves the accountability of local programs.

This bill also reauthorizes the vitally important Low Income Heating and Energy Assistance Program, or LIHEAP. Nearly 4.2 million low-income households received LIHEAP assistance during fiscal year 1996, more than 70,000 households in Connecticut. One quarter of those assisted by LIHEAP funds are elderly. Another 25 percent are individuals with disabilities. I cannot overvalue the importance of this assistance—it is nearly as necessary as food and water to a low-income senior citizen or family with children seeking help to stay warm in the winter—or as we saw a few months ago in the Southwest—to stay cool during the summer.

This bill makes no fundamental changes to the LIHEAP Program. I am very pleased we increase the authorization of the program to $2 billion, which recognizes the great need for this help. We also put into place a system to more accurately and quickly designate natural disasters. Early disaster designation will allow for the more efficient distribution of the critically important emergency LIHEAP funds, aiding States devastated by a natural disaster.

This bill contains one new, important program—the Individual Development Accounts, based on a bill offered by Senator COATS and Senator HARKIN. Individual Development Accounts, or IDA's, are dedicated savings accounts for very low income families, similar in structure to IRA's, that can be used to pay for post-secondary education, buy a first home, or capitalize a business. This program is a welcome addition to the Human Services Act family. The Assets for Independence title will provide low-income individuals and families with new opportunities to move their families out of poverty through savings.

This is a strong bill and it is a good bill. I hope my colleagues will support this conference report, and again I want to thank Senator COATS for his committed leadership on this effort.

For all of those reasons, Mr. President, I commend the chairman of the committee and again the ranking member. Suzanne Day of my office and Jim Fenton did a tremendous job; Stephanie Monroe from Senator COATS' office, Stephanie Robinson from Senator KENNEDY's office and Kimberly Barnes O'Connor of Senator JEFFORDS' office did a tremendous job in pulling this together. We thank all of them for their efforts.

Again, I thank the Senator from Vermont for his graciousness.

Mr. ASHCROFT. Mr. President, I would like to take this opportunity to congratulate the members of the conference committee on S. 2206 for their hard work on this legislation which reauthorizes the Head Start Program, the Low-Income Home Energy Assistance Program, and the Community Services Block Grant (CSBG) Program. I am particularly grateful to the conferees for including in this legislation language that will expand the opportunities for charitable and religious organizations to serve their communities with Community Services Block Grant funds. This language, which is based upon my Charitable Choice provision in the 1996 welfare reform law, will encourage successful charitable and faith-based organizations to expand their services to the poor while assuring them that they will not have to extinguish their religious character as a result of receiving government funds.

This provision makes clear that states may use CSBG funds to contract with charitable, religious and private organizations to run programs intended to fight poverty and alleviate its effects on people and their communities. When states do choose to partner with the private sector, the charitable choice concept ensures that religious organizations are considered on an equal basis with all other private organizations.

For years, America's charities and churches have been transforming shattered lives by addressing the deeper needs of people—by instilling hope and values which help change behavior and attitudes. By contrast, government social programs have often failed miserably in moving recipients from dependency and despair to responsibility and independence. We in Congress need to find ways to allow successful faith-based organizations to succeed where government has failed, and to unleash the cultural remedy that our society so desperately needs.

Unfortunately, in the past, many faith-based organizations have been afraid—often rightfully so—of accepting governmental funds in order to help the poor and downtrodden. They fear that participation in government programs would not only require them to alter their buildings, internal governance, and employment practices, but also make them compromise the very religious character which motivates them to reach out to people in the first place.

My charitable choice measure is intended to allay such fears and to prevent government officials from misconstruing constitutional law by banning faith-based organizations from the mix of private providers for fear of violating the Establishment Clause. Even when religious organizations are permitted to participate, government officials have often gone overboard by requiring such organizations to sterilize buildings or property of religious character and to remove any sectarian connections from their programs. This discrimination can destroy the character of many faith-based programs and diminish their effectiveness in helping people climb from despair and dependence to dignity and independence.

Charitable choice embodies existing U.S. Supreme Court case precedents in an effort to clarify to government officials and charitable organizations alike what is constitutionally permissible when involving religiously-affiliated institutions. Based upon these precedents, the legislation provides specific protections for religious organizations when they provide services with government funds. For example, the Government cannot discriminate against an organization on the basis of its religious character. A participating faith-based organization also retains its religious character and its control over the definition, development, practice, and expression of its religious beliefs.

Additionally, the Government cannot require a religious organization to alter its form of internal governance or remove religious art, icons, or symbols to be eligible to participate. Finally, religious organizations may consider religious beliefs and practices in their employment decisions. I have been told by numerous faith-based entities and attorneys representing them that autonomy in employment decisions is crucial in maintaining an organization's mission and character.

Charitable choice also states that funds going directly to religious organizations cannot be used for sectarian worship, instruction, or proselytization.

In recent years, Congress has begun to recognize more and more that government alone will never cure our societal ills. We must find ways to enlist America's faith-based charities and nongovernmental organizations to help fight poverty and lift the downtrodden. The legislation before us today provides us with such an opportunity.

Again, I want to express my appreciation to the conferees and their staff that worked on this legislation: Senators JEFFORDS, COATS, GREGG, KENNEDY and DODD, and Congressmen GOODLING, CASTLE, SOUDER, CLAY, and MARTINEZ. I especially want to commend Senator DAN COATS, the Chairman of the Labor Committee's Subcommittee on Children and Families, for his desire to include my charitable choice language in the Community Services Block Grant Reauthorization. Senator COATS worked very hard in the conference committee to garner bipartisan support for this provision. Thanks to his efforts, and the efforts of this Congress, we will soon expand the opportunities for charitable and faith-based organizations to make a positive impact in their neighborhoods and communities through the Community Services Block Grant Program.

Mr. SESSIONS. Mr. President, I wish to express my sincere appreciation and admiration for the distinguished Senator from Indiana. The Senator from Indiana has set a standard and an example in this body of what it means to be a Senator, what it means to be a decent Christian gentleman, the likes of which I do not think have been surpassed in my experience here. I have had the honor of calling him friend. I have had the opportunity to serve or participate with him in a prayer breakfast that he leads. He sets the kind of example of good public service that all of us ought to seek to emulate. And I am delighted that he has played an important role in this piece of legislation, as he has in so many others. And it will be, I am sure, successfully pursued.

The PRESIDING OFFICER. Under the previous order, the conference report is agreed to, and the motion to reconsider the vote is laid upon the table.

The conference report was agreed to.

EXECUTIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session to consider the nomination of William A. Fletcher to be a United States Circuit Judge.

NOMINATION OF WILLIAM A. FLETCHER, OF CALIFORNIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT

The PRESIDING OFFICER. The clerk will report Executive Calendar No. 619, on which there will be 90 minutes of debate equally divided in the usual form.

The assistant legislative clerk read the nomination of William A. Fletcher, of California, to be United States Circuit Judge for the Ninth Circuit.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, the role of the Senate is to advise and consent in nominations by the President for judicial vacancies. That is understood in the Constitution. Every nominee of the President comes before the Judiciary Committee and then they come before this body for a vote. We are at this point analyzing the nomination of William Fletcher, Willie Fletcher from California, to the Ninth Circuit. I regretfully must say I have concluded that I have to oppose that nomination. And I would like to discuss the reasons why.

Most of the nominations that have come forward from the President have received favorable review by the Judiciary Committee. In fact, we cleared nine today. A number of them are on the docket today and will probably pass out today. So we are making some substantial progress.

Nearly half of the vacancies that exist now in Federal courts are because there are no nominees for those vacancies—almost half of them. But on occasion we need to stand up as a Senate and affirm certain facts about our courts and our Nation. One of the facts that we need to affirm is that courts must carry out the rule of law, that they are not there to make law. The courts are there to enforce law as written by the Congress and as written by the people through their Constitution that we adopted over 200 years ago. Also, that is, I think, where we are basically today.

With regard to this nomination, it is to the Ninth Circuit Court of Appeals in California. Without any doubt, the Ninth Circuit is considered the most liberal circuit in the United States. It is also the largest circuit. There are 11 circuit courts of appeals. And in the United States we have the U.S. district judges. These are the trial judges. The next level—the only intermediate level—is the courts of appeals. And they are one step below the U.S. Supreme Court. It is the courts of appeals that superintend, day after day, the activities of the district judges who practice under them.

There are more district judges in the circuit than there are circuit judges. And every appeal from a district judge's ruling, almost virtually every one, would go to the courts of appeals in California and Arizona and the States in the West that are part of the Ninth Circuit. Those appeals go to the Ninth Circuit, not directly to the U.S. Supreme Court. As they rule on those matters, they set certain policy within the circuit.

We have—I think Senator BIDEN made a speech on it once—we have 1 Constitution in this country, not 11. The circuit courts of appeals are required to show fidelity to the Supreme Court and to the Constitution. The Supreme Court is the ultimate definer of the Constitution. And the courts of appeals must take the rulings of the Supreme Court and interpret them and apply them directly to their judges who work under them or in their circuit and in fact set the standards of the law.

We do not have 11 different circuits setting 11 different policies—at least we should not. But it is a known fact that the Ninth Circuit for many years has been out of step. Last year, 28 cases from the Ninth Circuit made it to the U.S. Supreme Court. The Supreme Court does not hear every case. This is why the circuits are so important.

Probably 95 percent of the cases decided by the circuits never are appealed to the Supreme Court. The Supreme Court will not hear them. But they agreed to hear 28 cases from the Ninth Circuit. And of those 28 cases, they reversed 27 of them. They reversed an unprecedented number. They reversed the Ninth Circuit 27 out of the 28 times they reviewed a case from that circuit. And this is not a matter of recent phenomena.

I was a Federal prosecutor for almost 15 years, and during that time I was involved in many criminal cases. And you study the law, and you seek out cases where you can find them. Well, it was quite obvious—and Federal prosecutors all over the country used to joke about the fact that the criminal defense lawyers, whenever they could not find any law from anywhere else, they could always find a Ninth Circuit case that was favorable to the defendant. And they were constantly, even in those days, being reversed by the U.S. Supreme Court, because the U.S. Supreme Court's idea and demand is that we have one Constitution, that the law be applied uniformly.

So I just say this. The New York Times, not too many months ago, wrote an article about the Ninth Circuit and said these words: "A majority of the U.S. Supreme Court considers the Ninth Circuit a rogue circuit, out of control. It needs to be brought back into control. They have been working on it for years but have not been able to do so."

All of that is sort of the background that we are dealing with today.

When we get a nominee to this circuit, I believe this Senate ought to utilize its advise and consent authority, constitutional duty, to ensure that the nominees to it bring that circuit from being a rogue circuit back into the mainstream of American law, so we do not have litigants time and again having adverse rulings, that they have to go to the Supreme Court—however many thousands and hundreds of thousands of dollars—to get reversed.

This is serious business. Some say, "They just reversed them. Big deal." It costs somebody a lot of money, and a lot of cases that were wrong in that circuit were never accepted by the Supreme Court and were never reversed. The Supreme Court can't hear every case that comes out of every circuit. So we are dealing with a very serious matter.

The Senator from Ohio who I suspect will comment today on the nominee, Senator DeWine, articulated it well. When we evaluate nominees, we have to ask ourselves what will be the impact of that nomination on the court and the overall situation. We want to support the President. We support the President time and again. I have seen some Presidential nominees that are good nominees. I am proud to support them. There are two here today who I know personally that I think would be good Federal judges. But I can't say that about this one.

We need to send the President of the United States a message, that those Members of this body who participate in helping select nominees cannot, in good conscience, continue to accept nominations to this circuit who are not going to make it better and bring it back into the mainstream of American law.

With regard to Mr. Fletcher, he has never practiced law. The only real experience he has had outside of being a professor, was as a law clerk. His clerkship was for Justice William Brennan of the U.S. Supreme Court. That is significant and it is an honor to be selected to be a law clerk for the Supreme Court. But the truth is, Justice Brennan has always been recognized as the point man, the leading spokesman in American juris prudence for an activist judiciary. I am not saying he is a bad man, but that is his position.

Justice Brennan used to dissent on every death penalty case, saying he adhered to the view that the death penalty was cruel and unusual punishment, and within that very Constitution he said he was interpreting, there are at least four to six references to the death penalty and capital crimes. The Founding Fathers who wrote that Constitution never dreamed that anyone would say that a prohibition of cruel and unusual punishment would prohibit the death penalty, because the death penalty was in every State and Colony in the United States at the time the Constitution was adopted. It never crossed their minds.

This is an example of judicial activism when Justice Brennan would conclude that he could reinterpret the Constitution and what the people contracted with their Government when they ratified it. It says, "We, the people, ordain and establish this Constitution. . .." So they adopt it; it is reinterpreted. That is a classic definition of judicial activism.

We know Mr. Fletcher was his law clerk and has written a law review article referring to Justice Brennan as a national treasure. It is obvious he considers him an outstanding judge and a man he would tend to emulate.

Of course, judicial activism is part of his family. One of the problems, and the Presiding Officer has attempted to deal with it through legislation, and was successful. Just today, I believe, we have passed legislation dealing with nepotism, two family members serving on the same court.

The truth is, Mr. Fletcher's mother is a judge on the Ninth Circuit already. Of the judges in the United States, I am sure she would be viewed as one of the most activist—in the Ninth Circuit, it is common knowledge she is one of the most activist nominee members of that court. It doesn't mean he will be, but he is connected to Justice Brennan, and his mother is a very liberal, an activist, and will remain on the court as a senior judge and will have the opportunity to participate in a substantial number of the opinions that are rendered by the Ninth Circuit, because they have three-judge panels who assign these cases out of the judges there and they often put these judges on a panel. If she takes senior status, which I understand she has agreed to do, she would not resign from the bench but take senior status and still be able to handle a substantial caseload. That is a troubling fact to me.

To me, a judge is a very important position at any level of the courts. This is not an absolute disqualifying factor to me, but it is a very important factor to me, and that is that Mr. Fletcher lacks any private practice experience. Mr. Fletcher has never practiced law. Mr. Fletcher has never tried a lawsuit. He has been a law clerk for William Brennan and a professor at the University of California Law School. He has never been in the courtroom as a litigant. He has never had the opportunity to have that knot in your stomach when a judge is about to rule on a motion, to understand the difficulties in dealing with human nature. He has not had that experience.

Having had 15 years of full-time litigation experience in Federal court trying cases, you learn things intuitively. Supreme Court justices and appellate court justices will be better judges if they have had that experience. It is an odd thing, and not a healthy thing, normally; it takes extraordinary and exceptional circumstances, in my opinion, to conclude that someone who has been nothing but a law professor all their life is now qualified to take a lifetime appointment to review the decisions of perhaps 100 or more trial judges in their district who are working long and hard, for whom he has never had the opportunity to practice before and see what it is like. That is not a good thing in itself. That is another reason I have serious reservations about this nominee.

Certainly Mr. Fletcher has a right to speak out, but in 1994, not too many years ago, he made a speech in which he criticized the "three strikes" law legislation, the criminal law changes that have swept the country, calling it "perfectly dreadful legislation." He has never been a prosecutor. He has never been a judge. He has never been a lawyer. Here he is saying this about this legislation, which I believe is widely supported throughout the country. In my opinion, it has helped reduce the rise in crime, because "three strikes and you are out" focuses on repeat, habitual offenders.

Make no mistake, somebody will say, "You will have everybody in jail, Jeff." Not so; everybody is not a repeat, three-time felony offender. If you focus on the repeat offender, those are the ones committing a disproportionate percentage of crime. We have done a better job on that in the last 10 or 15 years. We have tough Federal laws dealing with repeat offenders. States have implemented "three strike" laws and it has helped draw down the rise in crime. As a matter of fact, crime has been dropping after going up for many years because we got tough and identified the repeat offenders and prosecuted them successfully and States have stepped up to the plate and done so.

He criticized that. That gives me a real insight into his view about criminal law, and here he will be presiding over reviewing cases of trials involving murderers and other criminals in the Ninth Circuit and he has never had any experience.

The only thing we know about him is that he considers good, tough law legislation dreadful.

(Mr. ASHCROFT assumed the Chair.)

Mr. SESSIONS. Mr. President, I want to share some thoughts with you about judicial activism. In 1982, Mr. Fletcher wrote an article entitled "The Discretionary Constitution." He was a professor then. It has been interpreted by many as a blatant approval of judicial activism. He discusses institutional suits. I was attorney general of the State of Alabama and I had to deal with Federal judges who have major court orders dominating the prison system. Most States have prison systems under court order, having Federal judges ruling those, and mental health systems and school funding issues are decided by Federal judges. So he wrote about that and other issues. In that article, this is what he said, and it really troubles me:

> The only legitimate basis for a Federal judge to take over the political function in devising or choosing a remedy in an institutional suit is a demonstrated unwillingness or incapacity of the political body.

I want you to think about that. That is a revealing quote, that, well, the only way you can do it is if the institution demonstrates an unwillingness or incapacity to act. That is the rationale of the liberal activist. What they say is, well, the State of Alabama didn't provide enough gruel for the criminals, so we are going to issue an order and tell them what they have to feed them three times a day. Or we are going to have a law library for every prison, and they have to have so many square feet. Or you have to spend so much money on education; you have to change your whole way of funding education in your State. Why? Because the State would not act.

Now, we live in a democracy. In a democracy, the people rule; they decide what they want to do. I know the distinguished Senator in the Chair, Mr. ASHCROFT, shares this view. I have heard him express it. I think these are his exact words: "When the legislature does not act, that is a decision." When they go into session, they decide to act on matters or not act on them, and not acting is an action, a decision not to act. The people have influence with that because they elect their representatives and, if they are not happy, they can remove them from office.

But you can't remove a Federal judge because he has a lifetime appointment. He cannot be removed, except for the most serious personal abuses of office. Normally, making bad decisions is not one of those. I will just say this. We have a circuit that is in trouble. It is considered by a majority of the Supreme Court to be a rogue circuit. We need to put nominees on this circuit and move it back into the mainstream and not continue it out on the left wing. We have a responsibility to assure that the judges we confirm are going to improve the courts, and I think we need to vote "no" on this nomination because I don't believe it will take us back in the direction we need to go. I think it will take us in the wrong direction.

Mr. President, I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I yield myself such time as I need.

Mr. President, I rise to speak on the nomination of Professor William Fletcher, nominee to the Ninth Circuit Court of Appeals. I am pleased that the U.S. Senate is finally fully considering this nominee.

Mr. Fletcher was first nominated during the 104th Congress on December 21, 1995. I do regret the fact that his nomination has languished for as long as it has, but I would like to comment on some of the obstacles that have hindered this nomination.

First, all nominees to the Ninth Circuit Court of Appeals got bound up within the difficulties we were having with deciding whether or not to divide the Ninth Circuit. Once we established a commission to look into this matter, we have been able to process nominees to that court.

Second, some had concerns—legitimate concerns—that Professor Fletcher's mother, Betty Fletcher, currently serves as a judge on the Ninth Circuit. There is a statute that appears to prevent two people, closely related by blood or marriage, from serving on the same court. Now, the Justice Department said that only applies to people less than the judiciary, but that was pure bunk as far as I was concerned. The statute is pretty clear. Yes, it is an old statute, but it is clear and it is a matter of great concern to me. To ensure compliance with that law—or to the best of my ability to make sure that this law is complied with, Judge Betty Fletcher has agreed to take senior status upon her son's confirmation, and Senator KYL has introduced legislation, which passed the Senate last night, which I support, that will clarify the applicability of the so-called antinepotism statute.

Just to say a little bit on that statute, it seems to me that it is very logical that we should not place persons of such close consanguinity on the same court that overviews 50 million people. Surely we can find people other than sons of mothers on the court. So Senator KYL has made a splendid effort to try to resolve this matter. He indicated in our Judiciary Committee this morning that, as a matter of principle, he would have to vote against Professor Fletcher because he feels that the statute does apply. I tried to resolve it by chatting with Judge Betty Fletcher who has agreed to take senior status upon her son's confirmation.

Now that these obstacles have been removed, I am pleased that we are voting on Mr. Fletcher and would like to express my considered view that he should be confirmed.

I am the first to say that I may not agree with all of Professor Fletcher's views on Federal courts and procedure, the separation of powers, or constitutional interpretation. But the question is not whether I agree with all of his views, or whether a Republican President would or would not nominate such a candidate. The President is entitled to have his nominees confirmed, provided that the nominee is well qualified and will abide by the appropriate limitations on Federal judges.

I recognize that this is especially important for nominees to the Ninth Circuit and concur wholeheartedly with those of my colleagues who believe that the Ninth Circuit has literally gone out of control. I agree with the distinguished Senator from Alabama that that circuit is out of line and out of control. It is often reversed. It has a 75 percent reversal rate over the last number of decades because of these activist judges on that bench. But Professor Fletcher has personally assured me that he would follow precedent, that he would interpret and enforce the law, not make laws from the bench.

I believe Professor Fletcher is a man of honor and integrity and that he will live up to his word and, in fact, I hope Professor Fletcher, who is an expert on civil procedure, can actually help rein in some of the more radical forces on the Ninth Circuit Court of Appeals.

Professor Fletcher clearly is highly qualified. He is a graduate of the Yale Law School, he clerked for a Supreme Court Justice, and is considered an eminent legal scholar. That consideration is justified. Although some of his writings may push the envelope of established legal thinking, as often happens in the case of professors of law, we should recognize that this is the role of academics. I made that point during the Bork nomination when my colleagues on the other side were finding fault with many of the positions that Judge Bork had taken in some of his writings, many of which he repudiated later, but all of which were provocative and intended to create debate on the respective subjects.

In short, I believe Professor Fletcher is within the mainstream of American legal thought just as several Republican nominees such as Antonin Scalia, Frank Easterbrook, Richard Posner, and Ralph Winter were when they were nominated, and this body should confirm him today.

I hope my colleagues will confirm Professor Fletcher.

Today the Judiciary Committee voted out 15 judicial nominees and 4 U.S. attorneys. This year we have held hearings for 111 out of 127 nominees.

If all of the judges who are now pending on the Senate floor are confirmed, as I expect they will be, we will end this Congress having confirmed 106 judges, resulting in a vacancy rate of 5.4 percent. This will be the lowest vacancy rate since the judiciary was expanded in 1990.

Also, over 50 percent of the judges confirmed this year, to date, by this Republican Senate have been women and/or minorities.

Given the fact that over the last five Congresses the average number of article III judges confirmed is 96, I think this Republican majority has done very well to this point, and will continue to do so. Can we do better? Always. I am sure we can. And we will certainly try to do better during this coming year, and I intend to do better during the coming year.

At this particular point, we are concerned about Professor William Fletcher, who I believe is highly qualified for this job. Even though I don't agree with him on everything that he believes, or everything that he has taught, the fact of the matter is he is qualified, he is a decent man, and he should be confirmed here today.

Although Professor Fletcher's nomination has taken quite a while to be brought up for a vote, I do not think anyone can fairly criticize the work the Judiciary Committee has done this year, especially during the last few weeks of this session. On Tuesday of this week, Senator SPECTER chaired a hearing for 11 nominees. Nine of those 11 nominees were received by the Committee only within the last month. I am told that, according to the Department of Justice, the hearing Senator SPECTER chaired broke a record for the most nominees on a single hearing.

To date, the Republican Senate has already confirmed 80 judges. And today, that number will rise to 84, if Professor Fletcher and the other judges that will be brought up for a vote are confirmed—as I wholly expect they will. As I stated earlier, if all of the nominees now pending on the Senate floor are confirmed, the Senate will adjourn having confirmed 106 Article III judges.

Again, this will leave a judicial vacancy rate of only 5.6 percent. Keep in mind that the Clinton administration is on record as having stated that a vacancy rate of just over 7 percent is considered virtual full employment of the Federal judiciary.

I do not think anyone can legitimately argue that the Judiciary Committee has not done its job well. Yes, there have been some controversial Clinton nominees that have moved slowly or not at all, but sometimes nominees come to the committee with problems that prevent their nominations from going forth. I am pleased to say that although some thought the problems relating to Professor Fletcher's nomination could not be worked out, they ultimately have been. I fully expect that Professor Fletcher will be confirmed today and I will vote for him.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. How much time does the distinguished Senator from Washington desire? I yield 5 minutes or such time as he needs to the distinguished Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I share the background of the Senator from Alabama as attorney general of my State. I agree with much of the philosophic underpinning of his remarks directed at the judicial philosophy of Mr. Fletcher. I disagree, however, as to the conclusion, and intend to vote for his confirmation.

The Constitution of the United States says that the President shall nominate and by and with the advice of the Senate shall appoint judges to positions like the one we are debating here today.

In my view—I have some differences even with my good friend from Utah on this subject—I believe that does permit a Senator to vote against a judicial nominee on the grounds that the Senator disagrees with the fundamental legal philosophy of that nominee. I also believe, however, that when the President has sought the advice as well as the consent of the Senate, and when that advice has been heated, at least to the extent of being given significant weight, it is then appropriate to vote for the confirmation of a judicial nominee, even though one, as an individual Senator, might well not have nominated that individual had he, the Senator, been President of the United States.

That is the situation in which I find myself here. I have met with and talked about Mr. Fletcher's ambitions on two or three occasions at some length. I have found him to be a thoughtful, intelligent, hard-working individual dedicated to the law as he sees it, and, perhaps even more importantly than that, as the Constitution and the statutes of the United States lay it out.

He would certainly not have been my first choice had I been the nominating authority in this case. But, I am not. I am an individual Senator. At the same time, the President of the United States and his officers have, in fact, sought my advice as well as my consent on judicial nominees, both to the district courts in the State of Washington, and to the Ninth Circuit Court of Appeals when those nominees come from the State of Washington.

While again I have not necessarily gotten my first choices for those positions, I believe that in a constitutional sense my advice has been sought and my advice has been given considerable weight by the President of the United States.

As a consequence, the combination of the punctual adherence to constitutional requirements with my own belief that Mr. Fletcher will fill the position of a judge on the Ninth Circuit honorably, and in accordance with the Constitution and laws of the United States, causes me to feel that he is a qualified nominee and that he should be confirmed by the Members of the Senate to the office to which the President has nominated him.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. Mr. President, I yield to the distinguished Senator from California. She requires how much time?

Mrs. FEINSTEIN. I thank the distinguished manager. May I have 10 minutes?

Mr. LEAHY. I yield 10 minutes to the distinguished Senator from California.

Mrs. FEINSTEIN. I thank the Senator from Vermont.

Mr. President, I rise to voice my strong support for the nomination of Professor William Alan Fletcher to the Ninth Circuit Court. I very much appreciate the views of the chairman of the committee, the distinguished Senator from Utah, on this, and his considered judgment that Mr. Fletcher deserves approval by this body. And I hope, indeed, that will be the case.

Mr. Fletcher has been before this body for over 3 years now. He has had two Judiciary Committee hearings. I had the pleasure of attending both and listening to him. His responses at these hearings were crisp, to the point, direct, and showed a depth and breadth of knowledge of the law that I think is among the top one percent of those nominees who came before the committee.

His credentials are impeccable. As the chairman pointed out, they include: magna cum laude graduate of Harvard; Rhodes scholar; law degree from Yale; service in the Navy; law clerk for U.S. Supreme Court Justice William Brennan; and a clerkship for District Court Judge Stanley Weigel.

Since 1977, he has been a distinguished professor at the Boalt Hall School of Law at the University of California, where he won the 1993 Distinguished Teacher Award and has come to be regarded as one of the most foremost experts on the Federal court and the Constitution.

Mr. President, since the distinguished Senator from Alabama raised some concerns about this nominee, I would like to respond to some of those concerns. We asked Mr. Fletcher to respond, and, in fact, he provided us with a response on a number of items that have been raised by Mr. Thomas Jipping, of the Judicial Selection Monitoring Project, and subsequently repeated.

The first allegation is what was called the "discretionary Constitution." Mr. Jipping attributes to Professor Fletcher the conclusion:

> When judges think that the political branches are not doing what they should, judges have the discretionary power to do it for them.

And he states:

Mr. Fletcher writes that this virtually unlimited judicial discretion is a "legitimate substitute for political discretion" when the political branches are "in default."

I would like to give you directly the statement from Mr. Fletcher.

The article says quite the opposite of what Mr. Jipping wrote. I do not believe in a "discretionary Constitution." As the article makes plain, I view judicial discretion as a problem rather than a solution. Further, I did not write that judicial discretion is legitimate when political branches are "in default." Rather, I wrote that the exercise of judicial discretion in curing constitutional violations in institutional suits is "*presumptively illegitimate*" unless the political bodies that should cure those violations are in "serious and chronic default."

I would like to put all of this in the RECORD.

On the second point that has been raised critically, on standing, Mr. Fletcher writes:

> Contrary to what Mr. Jipping wrote, I do not believe Congress can write statutes that allow anyone or anything to sue. Indeed, in some cases I take a narrower view of standing than the Supreme Court. For example, I argued that the Court should not have granted standing in Buckley v. Valeo. My position on standing would not drastically expand caseloads. Further, rather than inviting judges to legislate from the bench, I am particularly anxious that the Federal courts not perform as a "super-legislature."

The third point that he has been criticized for is the unconstitutionality of statutes. The critic writes:

> Mr. Fletcher believes that judges can declare unconstitutional legislation they believe was inadequately considered by Congress. He argues that a statute effectively terminating lawsuits against defense contractors by substituting the United States as the defendant was passed without hearings and based on what he believes are misrepresentations about its operation. That alone would be sufficient to strike down the statute.

Now, this is Mr. Fletcher's response:

> I believe no such thing. I argued that the presumption of constitutionality normally accorded to a statute should not be accorded to the Warner Amendment, based on the following factors: (1) The only body in Congress that considered the amendment was a subcommittee of the House Judiciary Committee, which held hearings and concluded that it was unconstitutional; (2) When the amendment was later attached as a rider to an unrelated defense appropriations bill, it was consistently described as doing the opposite of what it actually did.

And so, if I might, to clear these things up, Mr. Fletcher has submitted to us a draft response, and I ask unanimous consent to have printed in the RECORD both the allegations and the responses.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEAR SENATOR FEINSTEIN: I write to correct some mischaracterizations of my writing that have been put forward by Mr. Thomas Jipping.

The most extensive misrepresentations are contained in Mr. Jipping's May 10, 1996, op-ed piece in The Washington Times. I will take them in order.

(1) JUDICIAL DISCRETION

Mr. Jipping wrote: "First, Mr. Fletcher believes in what he has called a "discretionary Constitution." In fact, that was the title of his first law review article. When judges think the political branches are not doing what they should, judges have the discretionary power to do it for them. Mr. Fletcher writes that this virtually unlimited judicial discretion is a "legitimate substitute for political discretion" when the political branches are "in default." Not surprisingly, judges get to determine when the political process has defaulted. Today courts are running prison systems, school districts and even mental institutions in the name of such discretion." The article Mr. Jipping refers to is "The Discretionary Constitution: Institutional Remedies and Judicial Legitimacy," 91 Yale L.J. 635 (1982).

Brief statement: The article says quite the opposite of what Mr. Jipping wrote. I do not believe in a "discretionary Constitution." As the article makes plain, *I view judicial discretion as a problem rather than a solution.* Further, I did not write that judicial discretion is legitimate when political branches are "in default." Rather, I wrote that the exercise of judicial discretion in curing constitutional violations in institutional suits is "*presumptively illegitimate*" unless the political bodies that should cure those violations are in "*serious and chronic default.*" at pp. 637, 695 (emph. added).

Extended analysis: The article analyzed institutional injunctions where there has already been a finding of unconstitutionality in the operation of a prison or mental hospital, in the apportionment of a legislature, or in the racial segregation of public schools. After there has been a finding of a constitutional violation, the question arises: Who should decide how that violation should be cured? Even where there has been a constitutional violation, I argue that the role of the federal courts should be severely circumscribed, and that judicially formulated injunctions should be regarded as presumptively illegitimate.

Constitutional violations in institutional cases can be cured in many ways. For example, in a prison case where conditions of confinement violate the Eighth Amendment, a prison administrator can do a number of different things to bring the prison into compliance with the Constitution. Or in a reapportionment case a state legislature can draw district lines in a number of different ways to bring the districts into compliance with the Fourteenth Amendment. Choices among the possible remedies inescapably involved the exercise of discretion, and should be regarded as presumptively illegitimate if made by a judge rather than a political entity. I wrote: "Trial court remedial discretion [in institutional suits] can to some degree be controlled in the manner of its exercise; in some cases it may even be eliminated without sacrificing unduly the constitutional or other values at stake. But there comes a point where certain governmental tasks, whether undertaken by the political branches or the judiciary, simply cannot be performed effectively without a substantial mount of discretion. * * * The practical inevitability of remedial discretion in performing those tasks defines the legitimate role of the federal courts. * * * *[S]ince trial court remedial discretion in institutional suits is inevitably political in nature, it must be regarded as presumptively illegitimate.*" at pp. 636–37 (emph. added).

In *Swann* v. *Mecklenberg Board of Education*, 402 U.S. 1, 16 (1971), Chief Justice Burger wrote for the Court that the district court has the power to fashion an institutional injunction only "*[i]n default by the school authorities* of their obligation to proffer acceptable remedies" (emph. added). I argued that "default" by the political authorities—which in the view of the Supreme Court justified a judicially fashioned injunction—should be found only as a last resort. I wrote, "Political bodies and courts respond to different institutional imperatives. * * * As a matter of fundamental structure, even where a constitutional violation has been found, a court cannot legitimately resolve such a problem *unless the political bodies that ordinarily should do so are in such serious and chronic default that here is realistically no other choice.*" at p. 695 (emph. added).

My argument is neither liberal not activist. Indeed, my formulation is more conservative and restrained than Chief Justice Burger's in Charlotte-Mecklenberg, where he required that school authorities simply be "in default." I recommended increasing the threshold for judicial action by requiring that the political body be in "such serious and chronic default that there is realistically no other choice."

Throughout the article, I emphasized the danger in judicial overreaching: "[A] federal court is not, and should not permit itself the illusion that it can be, anything more than a temporarily legitimate substitute for a political body that has failed to serve its function. " at 969.

(2) STANDING

Mr. Jipping wrote: "Second, the Constitution limits court jurisdiction to 'cases' and 'controversies.' One way to assure this jurisdiction is to demand that plaintiffs concretely trace their injury to the defendant's action, preventing judges from reaching out to decide issues and make law in the abstract. In a 1988 article, Mr. Fletcher argues that standing is merely a way of looking at the merits of a case rather than assuring a court's jurisdiction. As such, he believes that Congress can write statues that allow anyone or anything to sue, regardless of whether plaintiffs have suffered any harm at all. This view would drastically expand federal court caseloads and give judges innumerable opportunities to legislate from the bench." The article Mr. Jipping refers to is "The Structure of Standing," 98 Yale L.J. 221 (1988).

Brief statement: Contrary to what Mr. Jipping wrote, I do not believe Congress can write statutes that allow anyone or anything to sue. Indeed, in some cases I take a narrower view of standing than the Supreme Court. For example, I argued that the Court should not have granted standing in *Buckley* v. *Valeo*, 424 U.S. 1 (1976). My position on standing would not drastically expand caseloads. Further, rather than inviting judges to legislate from the bench, I am particularly anxious that the federal courts not perform as a "super-legislature."

Extended analysis: The article sought to bring some intellectual order to an area of doctrine long criticized as incoherent. I agreed with Justice Harlan that standing as presently articulated is "a word game played by secret rules." *Flast* v. *Cohen*, 392 U.S. 83, 129 (1968) (Harlan, J., dissenting) at 221. My concern was not to argue for different results in standing cases, but rather to provide a coherent intellectual structure that would support those results. As I wrote, "*[W]e mistake the nature of the problem if we condemn the results in standing cases.*" at 223 (emph added).

In my view, Justice Douglas' opinion in *Association of Data Processing Service Org.* v. *Camp*, 397 U.S. 150 (1970), is the source of much of the analytical difficulty. I stated, "More damage to the intellectual structure of the law of standing can be traced to Data Processing than to any other single decision." at 229. In essence, I argued that standing doctrine should return to what it had been at the beginning of this century, when a plaintiff in federal court has to state a cause of action, and the focus was on the particular statutory or constitutional provision invoked by plaintiff. Under this earlier approach, a plaintiff has to show that he was entitled to relief "on the merits," in the sense not only that defendant violated a legal duty but also that plaintiff had a legal right to judicial enforcement of that duty.

In a few cases, I disagreed with results reached by the Supreme Court. In those few cases, I generally viewed standing more narrowly than the Court and would have denied standing. The most important such case is *Buckley* v. *Valeo*, 424 U.S. 1 (1976). I did not criticize the substance of the Court's decision, but I did criticize its grant of standing.

In *Buckley*, the Court sustained a statutory grant of standing to any person eligible to vote for President to challenge on any constitutional ground the Federal Election Campaign Act of 1971. Plaintiffs included Senator Buckley who had introduced the standing provision in the Senate. They challenged the Act under the statutory grant of standing; the District Court certified twenty-two constitutional questions to the Supreme Court; and the Court answered all of them. I wrote: "[I]f the twenty-two certified questions answered in *Buckley* had been sent to the Court in a letter from the Senate floor, as the twenty-nine questions in *Correspondence of the Justices* were sent to the Court in a letter from Secretary of State Jefferson[, i]t is unthinkable that the Court would have answered them. Yet when Congress cast the questions in the form of a lawsuit granting standing to one of its members, the Court in *Buckley* willingly provided the answers, *performing*, in Judge Leventhal's words, *in a "role resembling that of a super-legislature."* The lessons of *Buckley* are sobering. Not only will the Court answer questions that have proven particularly difficult for Congress. It will also answer them in the highly abstract form traditionally thought particularly ill-suited for judicial resolution." at 286 (emph. added). My approach to standing could hardly be clearer: I argued that the Court should not have granted standing and should not have acted as a "super-legislature."

(3) UNCONSTITUTIONALITY OF STATUTES

Mr. Jipping wrote: "Third, Mr. Fletcher believes that judges can declare unconstitutional legislation they believe was inadequately considered by Congress. He argues that a statute effectively terminating lawsuits against defense contractors by substituting the United States as the defendant was passed without hearings and based on what he believes are misrepresentations about its operation. That alone would be sufficient to strike down the statute." The article Mr. Jipping refers to is "Atomic Bomb Testing and the Warner Amendment: A Violation of the Separation of Powers," 65 Wash. L. Rev. 285 (1990).

Brief statement: I believe no such thing. I argued that the presumption of constitutionality normally accorded to a statute should not be accorded to the Warner Amendment, based on the following factors: (1) The only body in Congress that considered the Amendment was a subcommittee of the House Judiciary Committee, which held hearings and concluded that it was unconstitutional; (2) when the Amendment was later attached as a rider to an unrelated defense appropriations bill, it was consistently described as doing the opposite of what it actually did.

Elimination of the presumption does not mean that a statute is unconstitutional. A statute is unconstitutional only if it independently violates some provision of the Constitution. I did not argue—and do not believe—that inadequate consideration by Congress "alone would be sufficient to strike down a statute."

Extended analysis: At the outset, I note that I wrote the article as an advocate for the American military veterans and civilian downwinders. My involvement as advocate is indicated at the beginning of the article at 285, *fn.

Between 1946 and 1963, the United States conducted a little over 300 atmospheric tests of atomic bomb, about 200 of them in Nevada. Over 200,000 soldiers and an undetermined number of civilians were exposed to significant amounts of radiation during the tests. Atmospheric tests were discontinued in 1963 after the United States signed a test ban treaty. In the 1980s, a number of suits were filed against the private contractors who had assisted the government in the tests. Seeking to short-circuit the suits, the contractors sought a statute that would protect them. Joined by the executive branch, they sought a statute that would substitute the United States as a defendant in their place, and would then permit the United States to obtain a dismissal on grounds of sovereign immunity.

In 1983, a subcommittee of the House Judiciary Committee held hearings on the proposed statute and issued a written report concluding that it would be unconstitutional. The following year, Senator Warner attached the proposed statute as a rider to a defense appropriation bill. The conference committee report said that the amendment "would provide remedy against the United States," even though it was clear that the intent, and ultimate effect, would be to deprive the plaintiffs of any remedy at all. After the passage of the Amendment, the District Court substituted the United States as a defendant and dismissed the suits. *In re Consolidated United States Atmospheric Testing Litigation*, 616 F.Supp. 759 (N.D. Calif. 1985), aff'd sub nom. *Konizeski* v. *Livermore Labs*, 820 F.2d 982 (9th Cir. 1987), cert. den., 485 U.S. 905 (1988).

I argued that the Warner Amendment violated separation of powers by interfering with the judicial function in violation of *United States* v. *Klein*, 80 U.S. 128 (1872). I contended the Warner Amendment should not enjoy the normal presumption of constitutionality: "[C]ourts ordinarily accord a strong presumption of constitutionality to any legislation that is enacted in accordance with the formally required process. *We should be very reluctant to abandon the presumption when a statute has fulfilled the formal prerequisites*, but in certain circumstances such an abandonment may be justified. . . . [In the case of the Warner Amendment] we have . . . affirmative evidence that *the one body in Congress that seriously considered the amendment found it unconstitutional.* Moreover, we know that the bill was passed thereafter only by avoiding hearings and misrepresenting the bill's character. Under such circumstances, the Warner Amendment can hardly lay claim to the traditional presumption in favor of a statute's constitutionality." at 320 (emph. added).

(4) SEPARATION OF POWERS

Mr. Jipping wrote: "Finally, Mr. Fletcher rejects perhaps the most important limitation on government power established by the Constitution's framers, the separation of powers. The Supreme Court has said what the Framers said, namely, that each branch has relatively defined and exclusive areas of authority and power. In a 1987 article, Mr. Fletcher condemned these decisions as 'fundamentally misguided'. Why? The Court 'read the Constitution in a literalistic way to upset what the other two branches had decided, under the political circumstances, was the most workable arrangement.' In other words, political circumstances can trump constitutional principles." The article Mr. Jipping refers to is a review of Chief Justice Rehnquists's book, The Supreme Court: How It Was, How It Is, 75 Calif.L.Rev. 1891 (1987).

Brief statement: I do not reject separation of powers. Indeed, I relied on separation of powers to argue the unconstitutionality of the Warner Amendment, calling it a "vital check against tyranny." 65 Wash.L.Rev. at 310. In the review I criticized two separation of powers decisions by the Supreme Court, *Immigration and Naturalization Service* v. *Chadha*, 462 U.S. 919 (1983), and *Bowsher* v. *Synar*, 478 U.S. 385 (1986), in which the Court found unconstitutional two Acts of Congress. Believing in judicial restraint, Justice White dissented because he found no clear constitutional text invalidating what Congress had done. I agreed with Justice White.

Extended analysis: In *Immigration and Naturalization Service* v. *Chadha*, the Supreme Court struck down the use of the one-house veto by Congress. In *Bowsher* v. *Synar*, the Court struck down the Gramm-Rudman-Hollings Act providing for federal deficit reduction. I wrote: "I think both decisions fundamentally misguided, for essentially the reasons given by Justice White in his dissenting opinions. . . . Justice White pointed out that [*Chadha*] invalidated, at one stroke, almost 200 statutes on the basis of a highly debatable reading of the Constitution. Invoking Justice Jackson's emphasis on a 'workable government' in his concurrence in the *Steel Seizure Case*, Justice White reminded the Court that the 'wisdom of the Framers was to anticipate that . . . new problems of governance would require different solutions.' . . . Justice White, [dissenting in *Bowsher*], again invoked Justice Jackson's view of the Constitution as a charter for a 'workable government,' and objected to what he saw as the Court's 'distressingly formalistic view' in attaching dispositive significance to what should be regarded as a triviality.'" at 1894.

Justices White and Jackson firmly believed in a non-activist judiciary. As a matter of interpretive principle, they deferred to the judgment of the political branches unless the clear text of the Constitution commanded otherwise. I agree with them.

I thank you for the opportunity to correct these mischaracterizations.

Very truly yours,

WILLIAM A. FLETCHER.

Mrs. FEINSTEIN. Mr. President, University of California Law Professor Charles Alan Wright, one of the Nation's leading conservative constitutional scholars, had this to say about Dr. Fletcher:

> Too many scholars approach a new issue with preconceptions of how it should come out and they force the data that their research uncovers to support the conclusion

> that they had formed before they did the research. I think that is reprehensible for a scholar and it is dangerous for a judge.
>
> I am completely confident that when Fletcher finishes his service on the ninth circuit we will say not that he has been a liberal judge or a conservative judge but that he has been an excellent judge, one who has brought a brilliant mind, greater powers of analysis, and total objectivity to the cases that came before him.
>
> I believe that the nomination of William Fletcher will add strength to the ninth circuit and I hope very much that he is confirmed.

I would like to also quote Stephen Burbank of the University of Pennsylvania Law School:

> His work is both analytically acute and painstaking in its regard for history. Indeed, love of and respect for history shine through all his work, as the history itself illuminates the various corners of the law he enters.

Interestingly enough, the New Republic wrote in an editorial in 1995:

> Fletcher is the most impressive scholar of Federal jurisdiction in the country. His path-breaking articles on sovereign immunity and Federal common law have transformed the debates in these fields; and his work is marked by the kind of careful historical and textual analysis that should serve as a model for liberals and conservatives alike. If confirmed, Fletcher will join his mother—

And as we know now his mother is going to take senior status—

> but his judicial philosophy is more constrained than hers. We hope he is confirmed as swiftly as possible.

That was back in 1995 when he was nominated. It is now almost the end of 1998, and as this man has gone through the scrutiny of 3 years of delay, I must say I very much hope that this body will confirm him this afternoon. I believe, as another has said, that he will, in fact, be an excellent, thoughtful and commonsense judge.

I thank the Chair. I yield the floor.

Mrs. BOXER. Mr. President, I am very happy to finally have the opportunity to come to the floor today and vote on the nomination of Professor William Fletcher to the U.S. Court of Appeals in the Ninth Circuit. I urge my colleagues in the Senate to vote for Professor Fletcher, who is eminently qualified to serve on the Federal appeals court. Professor Fletcher was first nominated on April 26, 1995. He had a hearing and was reported out in May of 1996, and has been patiently waiting for a debate and vote on his nomination ever since.

Some Members of the Senate oppose this nomination because his mother sits on this court. However, his mother, the Honorable Betty Fletcher, has already agreed to take senior status and not sit on panels with her son if he is confirmed. So, again, I am very happy to once again exercise my duties as a U.S. Senator and cast a vote on the nomination of a Federal judge.

To give a little history, the 104th Congress never acted on Professor Fletcher's nomination the first time, so he had to be renominated on January 7, 1997. He waited more than a year for a second hearing, and has continued to wait for a confirmation vote, until today. One look at his record, and I am sure my colleagues will see that Professor Fletcher is eminently qualified to sit on the Federal bench, and deserves swift Senate confirmation.

In 1968, Professor William Fletcher received his undergraduate degree, magna cum laude, from Harvard College. He spent the next 2 years at Oxford University on a Rhodes Scholarship, receiving another B.A. in 1970. After Oxford, he spent the following 2 years on active duty military service in the United States Navy. He was honorably discharged as a lieutenant in 1972. Professor Fletcher then attended Yale Law School, graduating in 1975. While at Yale, he was a member of the Yale Law Journal.

After graduating from law school, Professor Fletcher clerked for a year for U.S. District Judge Stanely A. Weigel in the Northern District of California, and another year for U.S. Supreme Court Justice William J. Brennan, Jr. He began teaching at the University of California, Berkeley, School of Law, also known as Boalt Hall, in the fall of 1977, immediately after his second clerkship. While at Boalt Hall, Professor Fletcher has been teaching a broad range of courses, including Property, Administrative Law, Conflicts, Remedies, and Constitutional Law.

Professor Fletcher is widely praised by his students and his fellow academics for his fair-minded and balanced approach to legal problems. He promises to bring the same careful fair-mindedness to the federal bench.

I believe professor Fletcher will make an exceptional addition to the Federal bench. I believe his intelligence, broad experience, and professional service qualify him to sit on the federal bench with great distinction. I am sure my Senate colleagues will be equally impressed, and I urge my colleagues to vote for his confirmation.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. I yield up to 10 minutes to the distinguished Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. DEWINE. Mr. President, I rise this afternoon to oppose the nomination of William Fletcher to be a U.S. Circuit Court Judge for the Ninth Circuit. On May 21, 1998, the Senate Judiciary Committee favorably reported out this nominee by a vote of 12 to 6.

I voted against the nominee. I would like to take a moment this afternoon to explain to my colleagues in the Senate why I voted no on that date and why I intend to vote no today. I intend to vote no today, Mr. President, and I base my opposition on the fact that Mr. Fletcher's writings and statements simply do not convince me that he will help to move the Ninth Circuit closer to the mainstream of judicial thought. And that is the criteria that I applied and will continue to apply in regard to the Ninth Circuit.

Although some Senators oppose this nominee because of their reading of the antinepotism statute and their concerns in that area, the fact that Mr. Fletcher's mother also serves on the Ninth Circuit, who, as my colleague pointed out, will take senior status, does not trouble me. As I said in the Judiciary Committee, I am not in favor of legislation that, based on family relationships, restricts the power of the President or the power of the Senate to either nominate or confirm judges.

Having said that, Mr. President, let me restate what does concern me about this nomination. All of us—all of us—should be concerned about what has been going on in the Ninth Circuit over the last few years. Based on the alarming reversal rate of the Ninth Circuit, I have said before and I will say it again for the RECORD today, I feel compelled to apply a higher standard of scrutiny for Ninth Circuit nominees than I do for nominations to any other circuit.

Mr. President, I will only support nominees to the Ninth Circuit who possess the qualifications and whose background shows that they have the ability and the inclination to move the circuit back toward the mainstream of judicial thought in this country. Before we consider future Ninth Circuit nominees, I urge my colleagues to take a close look at the evidence, evidence that shows that we have a judicial circuit today that each year continues to move away from the mainstream.

I believe the President of the United States has very broad discretion to nominate to the Federal bench whomever he chooses, and the Senate should give him due deference when he nominates someone for a Federal judgeship. However, having said that, the Senate does have a constitutional duty to offer its advice and consent on judicial nominations. Each Senator, of course, has his or her own criteria for offering this advice and consent. However, given that these nominations are lifetime appointments, all of us take our advice and consent responsibility very seriously.

We should keep in mind that the Supreme Court of our country has time to review only a small number of decisions from any circuit. That certainly is true with the Ninth Circuit as well. This means that each circuit, the Ninth Circuit in this case, in reality is the court of last resort. In the case of the Ninth Circuit, they are the court of last resort for the 45 million Americans who reside within that circuit. To preserve the integrity of the judicial system for so many people, I believe we need to take a more careful look at who we are sending to a circuit that increasingly—increasingly—chooses to disregard precedent and ultimately just plain gets it wrong so much of the time.

Consistent with our constitutional duties, the Senate has to take responsibility for correcting this disturbing reversal rate of the Ninth Circuit. I think we have an affirmative obligation to do that. And that is why I will only support those nominees to the Ninth Circuit who possess the qualifications and who have clearly demonstrated the inclination to move the circuit back towards the mainstream.

Mr. President, I will want to apply a higher standard of scrutiny to future Ninth Circuit nominees to help ensure that the 45 million people in that circuit receive justice, and justice that is consistent with the rest of the Nation, justice that is predictable and not arbitrary nor dependent on the few times the Supreme Court reviews and ultimately reverses an erroneous Ninth Circuit decision.

I yield the floor.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Vermont.

Mr. LEAHY. Mr. President, I reserve our time on this side. I know on the other side the Senator from Missouri, I assume, will speak on their time. I will withhold my statement. I am kind of stuck here anyway. I yield to the Senator from Missouri, on their time.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Mr. President, with the permission of the Senator from Alabama, I yield myself as much time as I might consume in opposition to the nomination.

The PRESIDING OFFICER. The Senator is recognized.

Mr. ASHCROFT. Mr. President, the Ninth Circuit Court of Appeals is in serious need of improvement. The court is the epicenter of judicial activism in this country. The Ninth Circuit's unique blend of distortion of text, novel innovation, and disregard for precedent caused it to be reversed by the U.S. Supreme Court 27 out of 28 cases in the term before last. That is something very, very serious. When this court's cases were considered by the U.S. Supreme Court in the term before last, 27 out of 28 decisions were considered to be wrong.

If the people of this country found out that 27 out of 28 decisions of the Senate were considered to be wrong, Senators would not last very long. No tolerance would be provided for virtually any institution that was wrong that much of the time. The Ninth Circuit Court's record improved last year, but barely. According to the National Law Journal, the court was reversed in whole or in part in 14 out of 17 cases last year. Over the last 2 years, that amounts to a reversal rate of 90 percent. In the last 2 terms, 9 out of 10 times the Ninth Circuit has been wrong.

The Ninth Circuit's disastrous record before the Supreme Court has not been lost on the Justices of the Supreme Court. In a letter sent last month supporting a breakup of the Ninth Circuit, Justice Scalia cited the circuit's "notoriously poor record on appeal." Justice Scalia explained, "A disproportionate number of cases from the Ninth Circuit are regularly taken by this court for review, and a disproportionate number reversed."

The Ninth Circuit's abysmal record cannot be dismissed or minimized because the Supreme Court is there to correct the Ninth Circuit's mistakes. In a typical year, the Ninth Circuit disposes of over 8,500 cases. In about 10 percent of those cases, over 850 cases, the losing party seeks to have a review in the Supreme Court. Although appeals from the Ninth Circuit occupy a disproportionate share of the docket, the Supreme Court grants only between 20 and 30 petitions from the Ninth Circuit in a given year. If they are reversed 90 percent of the time because they are wrong in those cases that have been accepted, I do not know what the error rate would be in the other 8,500 cases that they litigate or consider on appeal, or what would be the error rate in the 850 cases that are sent, begging the Supreme Court to review the cases. But it is very likely, in my judgment, if their error rate is 90 percent in those cases that are accepted by the Supreme Court, that there are a lot of other individuals simply denied justice because of the extremely poor quality of the Ninth Circuit Court of Appeals.

This really places upon those of us in the U.S. Senate a very serious responsibility, a responsibility of seeking to improve the quality of justice that people who live in the Ninth Circuit receive. Accordingly, of the 8,500 cases decided by the Ninth Circuit in a year, only 20 or 30, or about three-tenths of 1 percent, are reviewed by the Supreme Court. So, if there are errors in the other cases, they are just going to remain there.

Only three-tenths of 1 percent of the cases decided by the court are reviewed by the Supreme Court. So if we say it is OK for that circuit to be full of error, it is OK for that circuit to be absent the quality and the kind of correctness that is appropriate in the law, if we predicate our approval on the basis that there can be an appeal, the truth of the matter is, the Supreme Court takes only about three-tenths of 1 percent of the cases for appeal.

The Supreme Court, moreover, selects cases for review predominantly to resolve splits among the circuits, not to correct the most egregious errors. So some of the cases the Supreme Court does not even take may be more blatant injustices than the ones that the Supreme Court does take, because the Supreme Court is trying to resolve differences between the Ninth Circuit and the Second Circuit, or the Eighth Circuit and the Ninth Circuit, or something like that. So we have a real shortfall of justice that exists as a potential whenever we have a court that is so error ridden, and its error-ridden nature is demonstrated because of the correction responsibility that has to be exercised by the U.S. Supreme Court.

The truth of the matter is, for virtually all litigants within the Ninth Circuit, the decisions of the Ninth Circuit are the final word. How would you like knowing that you were going to court and that the appellate court which would oversee your day in court was reversed 90 percent of the time when it was considered by the Supreme Court, but you only had a three-tenths of 1 percent chance of getting an injustice in your case reversed because the Supreme Court only takes three-tenths of 1 percent of the cases? I think America deserves to have more confidence in its judicial system than that.

The Ninth Circuit is an activist court in desperate need of therapy and help. After a thorough review of its record, it is my judgment that Professor Fletcher would do more harm than good in the Ninth Circuit, would move that court further outside the judicial mainstream.

There has been a great deal of discussion about the applicability of Federal antinepotism statutes to this nominee. I commend individuals for raising this issue. It is critical to the respect for law.

I have heard some people say they do not really care whether this is against the law or not. Frankly, I think we ought to care. I think a disregard for the law, especially as it relates to the appointment of judges, is a very, very serious matter. It is critical to the respect for law in a society as a whole that we in the Senate respect the laws that apply to us.

However, one of the principles of judicial restraint identified by Justice Brandeis many years ago is that a court should not decide a difficult constitutional or statutory question if there is another straightforward basis for resolving the case. Applying that principle to this nomination, I have concluded that whether or not the statute precludes confirmation of Professor Fletcher, there is ample basis in the record to suggest that Professor Fletcher would exacerbate the Ninth Circuit's activism and I plan to oppose his nomination on that basis.

A number of Professor Fletcher's writings suggest a troubling tendency toward judicial activism. For example, Professor Fletcher has written in praise of Justice Brennan's mode of constitutional interpretation. He also has criticized the Supreme Court for reading the Constitution in a literalistic way. This is troubling, to say the least. Justice Brennan, as even his admirers would admit, is the godfather of the evolving Constitution and the primary critic of the literal reading of the constitutional text.

You know, there are those who believe the Constitution can be stretched, and grows, and amends itself to mean what someone wants it to mean at the time a crisis arises. I reject that. I reject Brennan's approach. Professor Fletcher embraces it. Those who believe that the Constitution can be an evolutionary document really are those who would be able to put their stamp of meaning anywhere they want anytime they choose.

The debate over whether evolving standards of decency or the text should guide judicial decisions is at the heart—the very heart—of my concern over judicial activism. Nowhere in the country is the Constitution "evolving" more rapidly than in the Ninth Circuit. We cannot afford to send another activist to this court.

Although a number of Professor Fletcher's writings focus on relatively esoteric subjects, they display a disturbing tendency toward activism on the issues addressed.

He has criticized the current limitations on standing and has advocated an approach that would focus more on the legislative intent—an inherently dubious guide—and would afford standing to plaintiffs excluded by the current doctrine.

Likewise, he has written that the procedural history of an amendment's enactment can lessen the presumption of constitutionality that would otherwise attach to the enactment. Frankly, we ought to be evaluating the constitutionality on the basis of the Constitution, not the procedural history. This is particularly disturbing in light of the Ninth Circuit's apparent tendency to apply a presumption of unconstitutionality to popular initiatives and other legislation the judges dislike on policy grounds.

In an opinion piece written in the midst of Justice Thomas' confirmation process, Professor Fletcher wrote that "the Senate must insist nominees articulate their constitutional views as a condition of their confirmation."

Professor Fletcher's articles and answers to written questions "articulate" his view of the Constitution. Let's look at them. It is a view with which I disagree and which, in my judgment, will only exacerbate the problems of the Ninth Circuit.

Finally, I want to acknowledge that I realize we do not appear to have the votes to defeat this nomination. Nonetheless, I believe it is important to come to the floor and debate this nomination, rather than approve it in a midnight session.

Those of us on the Judiciary Committee have had the opportunity to reflect on the problems of the Ninth Circuit—the shortfall and the injustice for people who live in the Ninth Circuit, the likelihood that they get bad decisions and only three-tenths of 1 percent of them will ever be considered by the U.S. Supreme Court. This nominee would only make that problem worse. I urge my colleagues to oppose the nomination on that basis.

I yield the floor and reserve the remainder of the time for those opposing the nomination.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. SPECTER. Mr. President, I ask unanimous consent that I may speak for up to 5 minutes on the serious question of steel imports and introduce a piece of legislation.

Mr. LEAHY. Mr. President, does the Senator ask for that time outside the time of the Fletcher matter?

Mr. SPECTER. Mr. President, I do.

The PRESIDING OFFICER (Mr. Ashcroft). Without objection, it is so ordered. The Senator from Pennsylvania is recognized.

Mr. SPECTER. I thank the Chair.

(The remarks of Mr. Specter pertaining to the introduction of S. 2580 are located in today's Record under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senate will now resume debate of the nomination of Judge Fletcher.

Mr. LEAHY. Mr. President, I ask the Chair, how much time is available to this side, the proponents of the Fletcher nomination?

The PRESIDING OFFICER (Mr. Smith of Oregon). Twenty-three minutes 16 seconds.

Mr. LEAHY. I yield myself such time as I may need.

We heard discussion about the Ninth Circuit. There was a suggestion that it is reversed all the time.

In the year ending March 31, 1997, they decided 8,701 matters; the year ending March 31, 1996, 7,813 matters; in 1995, 7,955 matters. Well, 99.7 percent of those matters were not overturned.

I ask unanimous consent that an article by Judge Jerome Farris of the U.S. Court of Appeals for the Ninth Circuit be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

The Ninth Circuit—Most Maligned Circuit in the Country—Fact or Fiction?

(By Hon. Jerome Farris*)

*Footnotes at end of article.

The Honorable Jerome Farris argues that the reason the Supreme Court overturns such a high percentage of Ninth Circuit cases accepted for review is not because the Circuit is "too liberal." Rather, Judge Farris emphasizes the high volume of cases heard by the Ninth Circuit and its willingness to take on controversial issues. He suggests that any objective observer would conclude that the Ninth Circuit is functioning well and that the system is working precisely as the Framers of the United States Constitution intended.

The shell game has survived over the centuries because there are always those who are not merely willing, but delighted, to be deceived. If the game is played often enough and mindlessly enough, one can come very close to fooling "all of the people all of the time."

The Ninth Circuit—most maligned circuit in the country—fact or fiction? It is absolutely true that the United States Supreme Court accepted twenty-nine cases from the Ninth Circuit for review in 1997 and reversed twenty-eight of those decisions, affirming only one. The prior year, the Supreme Court reviewed twelve Ninth Circuit cases and reversed ten. In 1995, the Supreme Court reviewed fourteen Ninth Circuit decisions and reversed ten. During that period, no other circuit had so many decisions reversed or so high a percentage of reversals of cases accepted for review.[1]

According to these statistics, the Supreme Court reversed ninety-six percent of the Ninth Circuit cases it reviewed in 1997, an all time high.[2]

In the year ending March 31, 1997, the Ninth Circuit decided 8701 matters. In the same period ending in 1996, the Ninth Circuit decided 7813 matters. In 1995, the Ninth Circuit decided 7955 matters. If one considers the number of Ninth Circuit decisions reversed by the Supreme Court against the total number of cases decided by the Ninth Circuit, an entirely different picture emerges. Under this analysis, the Supreme Court let stand as final 99.7 percent of the Ninth Circuit's 1996 cases. No circuit in history has decided so many cases, and no circuit in history has had so low a percentage of cases reversed.

The point is not that one statistic is right and that the other statistic is wrong, but that statistics can be deceiving and can be used to paint almost any picture one wants. Courts issue "opinions"; they do not decide right and wrong in an absolute sense. Courts cannot determine right and wrong in an absolute sense because the law is not absolute. Deciding a legal rule is not like figuring out an immutable law of physics—a court always strives for "the right answer," but because the law has a life of its own, time determines what is correct. Courts on occasion reverse themselves for just that reason.

Any Ninth Circuit judge worthy of the title would want to revisit the decisions that were taken for review to determine whether in any single instance Supreme Court precedent was ignored. One cannot expect newspaper reporters to make that kind of review. News articles report the facts and others analyze the facts. It is my view that no responsible "expert" would comment before making such a review. What the review would reveal is no mystery because all decisions are in the domain of the public.

In 1997, the Supreme Court unanimously reversed twenty-one cases (eight of those decisions were per curiam). In the one Ninth Circuit case that the Supreme Court affirmed (the vote was eight to one), the majority held that the opinion properly followed Supreme Court precedent.[3] In one case that the Supreme Court unanimously reversed, the Ninth Circuit followed a Tenth Circuit decision. The Eighth Circuit, however, decided the issue a different way and the Supreme Court resolved the split.[4]

In *Saratoga Fishing Co.* v. *J.M. Martinac & Co.*, [5] a six to three reversal, Justice Scalia, joined by Justice Thomas, noted in dissent that "an impressive line of lower court decisions applying both federal and state law"[6] has, like the Ninth Circuit, precluded liability in analogous situations.[7]

In eight of the reversed Ninth Circuit cases, the Supreme Court resolved conflicts between the circuits: *Old Chief v. United States*;[8] *California Division of Labor Standards Enforcement v. Dillingham Construction*;[9] *United States v. Brockamp*;[10] *Regents of the University of California v. Doe*;[11] *Inter-Modal Rail Employees Ass'n v. Atchison, Topeka, & Santa Fe Railway*;[12] *United States v. Hyde*;[13] *Glickman v. Wileman Bros. & Elliott*;[14] *Quality King Distributors, Inc. v. L'anza Research International, Inc.*[15] Thus, in many of the cases that were reversed, the Ninth Circuit was not alone in concluding a different result than the result the Supreme Court reached. Make no mistake, however, the Supreme Court *did* critcize the Ninth Circuit in some of its reversals. In one reversal, the Supreme Court stated that the Ninth Circuit failed to follow Supreme Court precedent.[16]

Courts are bound to follow Supreme Court precedent. However, what we write are opinions. The sin is not being wrong, but being wrong when the guidance was clear and when there was a deliberate failure to follow the guidance.

Two cases illustrate the dilemma of circuit courts: *Washington v. Glucksberg*,[17] regarding physician-assisted suicide, and *Printz v. United States*,[18] regarding the Brady Handgun Violence Prevention Act.[19] The Supreme Court reversed both of these Ninth Circuit decisions.

The Brady Act was widely discussed publicly and received much political interest. At issue in *Printz v. United States* was whether the Brady Handgun Act violated Article I, §8 and the Tenth Amendment of the United States Constitution by commanding chief law enforcement officers to conduct background checks of handgun purchasers. In a two to one decision, the Ninth Circuit found no constitutional violation. The Supreme Court, by a vote of five to four, reversed. Justice Scalia delivered the opinion of the Court in which Rehnquist, O'Connor, Kennedy, and Thomas joined; O'Connor filed a concurring opinion; Thomas filed a concurring opinion; Stevens filed a dissenting opinion, in which Souter, Ginsburg, and Breyer joined; Souter filed a separate dissenting opinion; and Breyer filed a dissenting opinion, in which Stevens joined. One might reasonably conclude that the solution was less than obvious.

Physician-assisted suicide has also been soundly debated in both public and political arenas. The question for decision in *Glucksberg* was whether a Washington statue that imposes a criminal penalty on anyone who "aids another person to attempt suicide" denies the Fourteenth Amendment's Due Process Clause liberty interest of mentally competent, terminally ill adults to choose their time and manner of death. The Ninth Circuit, in an eight to three en banc panel decision, found a liberty interest in the right to die and then weighed the individual's compelling liberty interest against the state's interest. The Ninth Circuit found the statute unconstitutional. The Supreme Court unanimously reversed the Ninth Circuit decision with five separate concurring opinions.

Was the Ninth Circuit "wrong" in either of these cases? The Circuit would have been, in my opinion, if it had not resolved each of the complex issues and given them full, careful, and decisive consideration. The Supreme Court reversed these decisions, but who would say that the system is not functioning as it was intended to function? Everyone is entitled to their own views, but the conclusion, in my view, is that the system envisioned by the Framers of the Constitution continues to function properly.

The decisions of the Supreme Court become the law of the land because our system of government requires settled law. It is therefore necessary that one court make a final decision, and, right or wrong, that decision governs our society.

That the Supreme Court can be "wrong" is evident to any student of American law, history, politics, or society. This county's jurisprudential history is filled with famous cases, affecting our entire society, in which the Supreme Court decided that it had previously reached an erroneous result: *Brown v. Board of Education of Topeka*;[20] *Bunting v. Oregon*;[21] *Garcia v. San Antonio Metropolitan Transit Authority*;[22] and twice reversing itself on death penalty cases in the 1970s, to name a few.

The Supreme Court also reverses itself in many less well-known cases. This term it reversed a decision regarding public school teachers in parochial schools.[23] The term before that it reversed itself in *Seminole Tribe of Florida v. Florida*,[24] and the year before that in *Hubbard v. United States*.[25] Justice Brandeis's dissent in the 1932 case, *Burnet v. Coronado Oil & Gas Co.*,[26] argued that the Supreme Court should overrule an earlier decision[27] and cites thirty-five cases in which the Supreme Court overruled or qualified its earlier decisions.

This list of Supreme Court reversals—in no way meant to be comprehensive—actually constitutes a high reversal rate considering that the Supreme Court currently averages about eighty to ninety decisions a year, or one percent of the number of cases that the Ninth Circuit hears. This comparison suggests that the Supreme Court would have to reverse one hundred Ninth Circuit cases a year in order to reverse the Ninth Circuit at as high a rate as the Supreme Court reverses itself (which it does about once a year).

In other instances, Congress has decided that the Supreme Court had the wrong answer and enacted legislation to effectively overrule the decision, such as the Religious Freedom Restoration Act of 1993 (RFRA)[28] and the 1982 Voting Rights Act Amendments.[29] The Supreme Court upheld the constitutionality of the 1982 Voting Rights Act Amendments[30] and it found RFRA unconstitutional.[31]

Do these results prove that Congress was right and that the Supreme Court was wrong? Or do these results prove that the Supreme Court was right and that Congress was wrong? Of course not. Rather, the results provide examples of the checks and balances designed in the Constitution to make our government run properly. Similarly, when the Supreme Court reverses an appellate court decision, it does not mean that the decision was wrong in an absolute sense, and more importantly, it does not mean that the appellate court was not functioning properly in its role in the judiciary and in the United States government.

Part of the cause of the misperception about right and wrong is created in the training of lawyers at law school. Most law schools begin teaching law in a formalistic manner: the student learns the law, and there is only one correct law. This formalism gets carried on as law students enter the legal profession. Lawyers often argue before me that there is only one possible result ("The law dictates this result!"). This is rarely true, and is never true in complicated cases. There are always some arguments for each side, otherwise the case would be frivolous. The bottom line is that reasonable minds can differ and can each still be reasonable.

The Ninth Circuit deals with more cases than any other circuit. It is not surprising, then, that the Ninth Circuit would deal with more complicated and important issues than any other circuit. Both of these factors contribute to the Supreme Court's review and reversal of more Ninth Circuit cases than cases from other circuits.

Some observers contend that the Ninth Circuit is reversed so often because it is the most liberal circuit in the country and because the Supreme Court is currently conservative. This hypothesis also provides ammunition to those now arguing that the Ninth Circuit should be split (a topic for another article).[32] However, these observers have failed to review the facts. Of the opinions signed by Ninth Circuit judges that were reversed this year by the Supreme Court, eleven were authored by Democratic presidential appointees, and nine were authored by Republican presidential appointees. Apparently the Supreme Court is an equal opportunity reverser.

To function properly, each court must do its duty to the best of its ability. Parties must be able to rely on the full resolution of cutting edge issues in each court to which the issues are submitted. There is always the risk of reversal, but that risk should not—cannot—drive the system. The Supreme Court was better able to treat the question of physician-assisted suicide and the issue of the Brady Act because it had decisive opinions to review. One could assume that these issues are closed, and they certainly may be for the immediate future. History reminds us, though, that serious controversial issues are revisited from time to time. This comment is written by a circuit judge whose life would certainly have been different had the *Dred Scott*[33] decision not been revisited.

I make no prediction for the future of any of the Ninth Circuit reversals, but one commentator was not so cautious. Writing while *Glucksberg*[34] was pending before the Supreme Court, Roger S. Magnusson[35] in the *Pacific Rim Law and Policy Journal*, predicted:

> Although an adverse Supreme Court opinion could potentially retard the process of pro-euthanasia law reform, this would be a temporary delay only which could not survive generational change. In the United States and beyond, the development of a legal right to die with medical assistance, appears inevitable.[36]

What is important to remember is that opinions, unlike arithmetic solutions, may vary. Our system under the Constitution is designed to put an end to variations because the Supreme Court makes the final decision. The danger is not that an appellate court gets reversed, but that a court might let possible reversal deter decisive, full, and reasoned consideration of important issues. An even greater danger is that the high regard in which all courts must be held if our system is to be a rule of law, not of judges, is threatened if those who are personally ambitious can dismiss a reasoned decision of any court with the throwaway phrase—"Oh well, that decision is just the irresponsible act of a coterie of liberal judges." All tyrants first seek to malign the rule of law.

FOOTNOTES

*Judge, United States Court of Appeals for the Ninth Circuit.

[1] The Supreme Court decided a total of ninety-one cases in the 1996 term, reversing sixty-five, affirming twenty-three, and otherwise disposing of three. *See* Thomas C. Goldstein, *Statistics for the Supreme Court's October Term 1996*, 66 U.S.L.W. 3068 (U.S. July 15, 1997).

[2] All other circuits outside of the Ninth Circuit suffered a combined reversal rate of sixty-one percent. *See* Bill Kusliak, *Reversal Rate Keeps Getting Uglier*, San Francisco Recorder, July 2, 1997, at 1.

[3] *See* Babbitt v. Youpee, 117 S. Ct. 727, 732 (1997). In *Babbitt*, the Supreme Court affirmed the Ninth Circuit's holding that a provision of the Indian Land Consolidation Act worked an unconstitutional taking by requiring escheat to the tribe of certain fractional interests in allotment upon the owner's death. *See id.*

[4] *See* California Div. of Labor Standards Enforcement v. Dillingham Constr., 117 S. Ct. 832 (1997). The Ninth Circuit held that a California prevailing wage law governing wages of apprentices was preempted by ERISA. *See* Dillingham Constr. v. County of Sonoma, 57 F.3d 712, 722 (9th Cir. 1995). In reversing, the Supreme Court found that the law at issue neither referred to nor was connected with ERISA. *See Dillingham Constr.*, 117 S. Ct. at 834. Thus, the Court held that the law did not "relate to" an ERISA plan for purposes of preemption. *See id.*

[5] 117 S. Ct. 1783 (1997).

[6] *Saratoga Fishing*, 117 S. Ct. at 1791.

[7] The Ninth Circuit decision employed the *East River* doctrine, *see* East River S.S. Corp. v. Transamerica Delaval, Inc., 476 U.S. 858, 870 (1986), to preclude liability for property damage sustained on a vessel. *See* Saratoga Fishing Co. v. Marco Seattle, Inc., 69 F.3d 1432, 1446 (9th Cir. 1995). The Ninth Circuit found that equipment added to a vessel after purchase was part of the "product itself." *See id.* In reversing, the Supreme Court concluded that the after-acquired equipment constituted "other property," and was not a part of the "product itself." *See Saratoga Fishing*, 117 S. Ct. at 1784.

[8] 117 S. Ct. 644 (1997). In *United States* v. *Old Chief*, the Ninth Circuit found that, despite a defendant's offer to stipulate, the government was entitled to present evidence of a prior felony to prove the current charge of felon in possession of a firearm. *See* No. 94-30277, 1995 WL 325745 (9th Cir. Apr. 14, 1995) (basing the decision on 18 U.S.C. §922(g)(1)). The Supreme Court disagreed, finding that the rejection of a defendant's offer to stipulate to a felony conviction constituted an abuse of discretion where the name or nature of the underlying conviction raised the risk of tainting the jury's verdict. *See Old Chief*, 117 S. Ct. at 645.

[9] 117 S. Ct. 832 (1997). *See supra* note 4 and accompanying text.

[10] 117 S. Ct. 849 (1997). In *Brockamp*, the Supreme Court reversed the Ninth Circuit holding which allowed equitable tolling of the statutory limitations period for tax refund claims. The Supreme Court concluded that the strong language of the statute precluded the Ninth Circuit's application of the presumption favoring equitable tolling. *See id.* at 851.

[11] 117 S. Ct. 900 (1997). In *Doe v. Lawrence Livermore National Laboratory*, 65 F.3d 771, 776 (9th Cir. 1995), the Ninth Circuit held that the University of California's right to indemnification from the Federal Government divested the university of Eleventh Amendment immunity. The Supreme Court reversed, holding that a state entity's potential legal liability, rather than financial responsibility for judgments, triggered the application of the Eleventh Amendment. *See Regents of the Univ. of Cal.*, 117 S. Ct. at 904.

[12] 117 S. Ct. 1513 (1997). In this action, the Supreme Court held that an ERISA provision prohibiting interference with protected rights applied to welfare plans. *See id.* at 1515. The Ninth Circuit found that the provision applied only to interference with the attainment of rights capable of vesting. *See* Inter-Modal Rail Employees Ass'n v. Atchison, Topeka, & Santa Fe Ry. Co., 80 F 3d 348, 351 (9th Cir. 1996).

[13] 117 S. Ct. 1630 (1997). In *Hyde*, a criminal defendant attempted to withdraw his guilty plea after the plea was accepted, but prior to acceptance of the plea agreement. The Ninth Circuit reversed the district court's refusal to allow withdrawal without a showing by defendant of a "fair and just reason." *See* Hyde v. United States, 92 F.3d 779, 781 (9th Cir. 1996). The Supreme Court held that a showing of "fair and just reason" by defendant was necessary. *See Hyde*, 117 S. Ct. at 1631.

[14] 117 S. Ct. 2130 (1997). In *Clickman*, the Court reversed the Ninth Circuit determination that mandatory assessments on growers, handlers, and processors of California tree fruits to pay for generic advertising violated the First Amendment. *See id.* at 2142. The Supreme Court rejected the use of a heightened First Amendment scrutiny and the Ninth Circuit's finding that the law compelled financial support of others' speech, SEE ID. at 2138-39.

[15] 117 S. Ct. 2406 (1997) (mem.).

[16] *See* Suitum v. Tahoe Reg'l Planning Agency, 117 S. Ct. 1659, 1665 (1997).

[17] 117 S. Ct. 2258 (1997).

[18] 117 S. Ct. 2365 (1997).

[19] 18 U.S.C. §922 (1994).

[20] 347 U.S. 483 (19954) (overruling Plessy v. Ferguson, 163 U.S. 537 (1896)).

[21] 243 U.S. 426 (1917) (overruling Lochner v. New York, 198 U.S. 45 (1995)).

[22] 469 U.S. (1985) (overruling National League of Cities v. Usery, 426 U.S. 833 (1976)).

[23] *See* Agostini v. Felton, 117 S. Ct. 1997 (1997) (overruling Aguilar v. Felton, 473 U.S. 402 (1985), and School Dist. of Grand Rapids v. Ball, 473 U.S. 373 (1985) (overruled as to the portion addressing the "Shared Time" Program).

[24] 4116 S. Ct. 114 (1996) (overruling Pennsylvania v. Union Gas Co., 491 U.S. 1 (1989)).

[25] 514 U.S. 695 (1995) (overruling United States v. Branblett, 348 U.S. 503 (1995)).

[26] 285 U.S.C. 393 (1932), *overruled by* Helving v. Mountain Producers Corp., 303 U.S. 376 (1938).

[27] *See* Gillespie v. Okla, 257 U.S. 501 (1922) *overruled by Helvering, 303 U.S. at 376.*

[28] 42 U.S.C. §2000bb (1994).

[29] 42 U.S.C. §1973b (1994).

[30] *See* Reno v. Bossier Parish School Bd. 117 S. Ct. 1491 (1997).

[31] *See* Boerne v. Flores, 117 S. Ct. (1997).

[32] This argument, like most of the arguments for splitting the circuit, has never made sense to me. Accepting *arguendo*, the hypothesis that the Ninth Circuit is reversed often because it is to "too" liberal or "too" often wrong, a split will still leave at least one, and perhaps two, circuits that are too liberal or too often wrong.

[33] Dred Scott v. Sandford, 60 U.S. 393 (1856) (superseded by the adoption of the 13th and 14th Amendments of the U.S. Constitution after the Civil War).

[34] 117 S. Ct. 2258 (1997).

[35] Lecturer, University of Sydney School of Law; B.A. LL. B. (Hons) (A.N.U.) (1988), Ph.D. (Melb), (1994).

[36] Roger S. Magnusson, *The Sanctity of Life and the Right to Die: Social and Jurisprudential Aspects of the Euthanasia Debate in Australia and the United States*, 6 Pac. RIM & POL'Y J. 1, 5 (1997).

Mr. LEAHY. Mr. President, it has been suggested that if a court is overturned by the Supreme Court, that people ought to start asking whether those judges should be thrown out. And one Senator said, "Suppose we were overturned like that, how long would we last here in the Senate?" Well, it seems to me that the U.S. Senate voted very strongly—84 Senators voted for the so-called Communications Decency Act even though it was obviously unconstitutional. That went to the Supreme Court and was overturned.

A majority of the U.S. Senators voted for the line-item veto—again, blatantly unconstitutional but popular back home. That was overturned by the U.S. Supreme Court.

Eighty-five percent of the people, according to a poll, said they wanted some form of the Brady bill. This Senate voted for that overwhelmingly, knowing that it was probably unconstitutional. That was overturned by the Supreme Court.

I can think, since I have been here, of a number of times when this body went pell-mell forward on a number of bills because it was so popular to vote for them. Many times I found myself as a lone dissenter on matters that went to the U.S. Supreme Court and were then overturned as unconstitutional.

The same Senators who criticize judges who from time to time have an opinion reversed by a higher court ought to be careful with respect to what they advocate. If that standard were applied to Senators should all Senators who voted for a bill that gets overturned as unconstitutional have to resign? Maybe not the first time they vote for something declared unconstitutional; maybe they shouldn't have to leave the first time, because everybody is allowed a mistake. If they did it a second time, do they have to go then? I come from a tolerant State. I belong to a religion that believes in redemption and forgiveness. So we will let them get away with two.

We are in the baseball season. Suppose they voted for three unconstitutional bills because they were popular but they get overturned as unconstitutional. Well, we are now considering perspectives beyond religion and politics, we are going to baseball. Three times, three strikes—are you out? Let's be a little careful when we use some of these analogies about who should or should not serve on a court depending on how many times they get reversed.

Senators may not want to go back and ask how many times they voted for something, how many times they gave wonderful speeches in favor of something, how many times they sent out press releases, sent feeds back to their TV station, maybe used them in their reelection ads, and then, guess what? The U.S. Supreme Court overturned that legislation as unconstitutional.

Especially, I say to some of my friends on the other side, when the majority of those voting to declare those laws unconstitutional were Republican members of the U.S. Supreme Court, reported by Republican Presidents, and extolled as great conservatives. In each one of the cases I have referenced, I agreed with them. They were the true conservatives. What they wanted to conserve was the Constitution of the United States.

Sometimes when we want to stand up here and tell how conservative we are, we ought to say: Are we conservative with regard to the Constitution of the United States? Are we prepared to conserve the U.S. Constitution?

I recall one day on a court-stripping bill on this floor years ago an effort was made to pass a court-stripping bill, a bill to withdraw jurisdiction from the courts over certain matters of constitutional remedies, because the polls showed how popular it would be. One Friday afternoon, three Senators stood on this floor and talked that bill into the ground.

I was proud to be one of those three Senators. As I walked out with the other two—one, the Senator from Connecticut, then an independent, Senator Lowell Weicker; the third Senator who had joined with us to talk down that court-stripping bill, my good friend, now deceased, Senator Barry Goldwater of Arizona. Senator Goldwater put his arms around the shoulders of both of us, and we were both a little bit taller than he, and said, "I think we are the only three conservatives in the place."

I can't speak for Senator Weicker, how he might have felt about that; I took it as a heck of a compliment—not because I go back and claim to be a conservative in my politics back home. I only claim to be a Vermonter, doing the best I can for my State. When I stand up for the U.S. Constitution, as I have so many times for the first amendment, I do it because I try to conserve what is best in our country.

Professor William Fletcher is a fine nominee. He is a decent man. He was first nominated to the U.S. Court of Appeals for the Ninth Circuit, May 7, 1995, over 3 years ago. I don't know of any judicial nominee who has had to endure the delay and show the patience of this nominee. He was nominated May 7, 1995. We are only a few months away from 1999.

I have spoken on many occasions about how the Republican Senate is rewriting the record books in terms of delaying action on judicial nominees, but Professor Fletcher's 41 months exceeds the 33-month delay in the consideration of the nomination of Judge Richard Paez and Anabelle Rodriguez; or the 26 months it took to confirm Ann Aiken; or the 24 months it took to confirm Margaret McKeown; or the 21-month delay before confirmation of Margaret Morrow and Hilda Tagle who found, unfortunately, in this Senate, that if you are either a woman or a minority, you seem to take a lot longer to get through the Senate confirmation process.

In the annual report on the judiciary, the Chief Justice of the Supreme Court observed:

> Some current nominees have been waiting a considerable time for a Senate Judiciary Committee vote or a final floor vote. The Senate confirmed only 17 judges in 1996 and 36 in 1997, well under the 101 judges it confirmed in 1994.

He went on to note:

> The Senate is surely under no obligation to confirm any particular nominee, but after the necessary time for inquiry it should vote him up or vote him down.

Mr. President, 3½ years is a long time to examine a nomination and to leave a judgeship vacant. Even at the pace of the U.S. Senate, 3½ years is long enough for us to make up our mind.

Around Mother's Day in 1996, the Judiciary Committee did report the nomination of Professor Fletcher to the Senate, but that year the majority, Republican majority, decided not to vote on any nominees to courts of appeals, so the nomination was not considered by the Senate. The committee vote, though, in 1996 was more than 2-1 in favor, including Senator HATCH, Senator SPECTER, Senator DEWINE, and Senator SIMPSON. This year, the vote was delayed until past Mother's Day. The vote was taken May 21, 1998. The committee's second consideration of the nominee resulted in a vote of 2-1.

I know some do not like Judge Betty Binn Fletcher. They do not agree with her decisions. In our Federal judicial system, there are mechanisms for holding judges accountable. There are panels of judges at the courts of appeals. There are en banc considerations. There is ultimately the controlling authority of the U.S. Supreme Court. Judge Fletcher's decisions are subject to review and reversal, just like every other judge.

No one should turn their anger with Judge Betty Fletcher into a reason to delay or oppose the appointment of Professor William A. Fletcher. No one should try to get back at Judge Betty B. Fletcher through delay of the confirmation of her son.

Senate Republicans have continued their attacks against an independent Federal judiciary and delayed in filling longstanding vacancies with qualified persons being nominated by the President. Professor Fletcher's nomination has been a casualty of their efforts. Forty-one months—41 months—and two confirmation hearings have been enough time for examination to bring the Fletcher nomination to a vote. Professor Fletcher is a fine person and an outstanding nominee who has had to endure years of delay and demagoguery as some chose to play politics with our independent judiciary.

Professor Fletcher has the support of both Senators from California. The ABA gave him the highest rating. He is supported by many judges and lawyers and scholars from around the State, the Ninth Circuit, and the country. I commend the distinguished chairman of the Senate Judiciary Committee, the senior Senator from Utah, Senator HATCH, and many other Republican Senators who have continued to support this fair-minded nominee.

I look forward to Senate action this afternoon and I look forward to the fact that he will be confirmed.

Mr. President, I withhold the remainder of my time.

I yield the floor.

Mr. THURMOND. Mr. President, I rise today in opposition to the nomination of William Fletcher for the Ninth Circuit Court of Appeals.

When this nomination was first considered in the Judiciary Committee in 1996, I opposed it because I believed that the anti-nepotism statute, 28 U.S.C. 458, prohibited him from serving on the Ninth Circuit based on the fact that his mother, Betty Fletcher, is a judge on the same court. There has been some dispute about whether this statute applies to judges rather than only inferior court employees, and the Senate yesterday passed legislation by Senator Kyl to clarify that the statute does apply to judges. However, the provision is prospective in nature and does not apply to Professor Fletcher. In my view, Professor Fletcher's nomination violates the statute as it existed before the Senate's clarification. Thus, I must oppose this nomination because I believe it violates the anti-nepotism laws.

Moreover, I have serious reservations about Professor Fletcher's judicial philosophy. I believe we have a duty to oppose nominees who do not have a proper respect for the limited role of a judge in our system of government.

One of the strongest and most influential advocates for an activist Federal judiciary in this century was Supreme Court Justice William Brennan. He believed that the Constitution was a living document and that judges should interpret the Constitution as though its words change and adapt over time. I have always believed that this view of the Constitution is not only wrong but dangerous to our system of government. The words of the Constitution do not change. They have an established meaning that should not change based on the views of a judge. They should change only through an amendment to the Constitution. It is through the amendment process that the people can determine for themselves what the Constitution says, rather than unaccountable, unelected judges making the decisions for them.

Professor Fletcher has written in strong support of Justice Brennan and his activist judicial philosophy. In a 1991 law review article, he praised Justice Brennan for his, quote, "sense that the Constitution has meaning beyond the bare words of the text." He stated that some parts of the Constitution are, quote, "almost constitutional truths in search of a text." He even approvingly quoted Justice Brennan's famous statement regarding Constitutional interpretation that, quote, "the ultimate question must be what do the words of the text mean in our time."

I firmly believe that the role of the judge is to interpret the law as the legislature intended, not to interpret the law consistent with the judge's public policy objectives. A judge does not make the law and is not a public policy maker. Professor Fletcher has been critical of the modern Supreme Court for its lack of political and governmental experience. In a 1987 law review article, he criticized recent landmark Supreme Court decisions on the separation of powers, saying the Court, quote, "read the Constitution in a literalistic way to upset what the other two branches had decided, under the political circumstances, was the most workable arrangement." What is convenient in a political sense is irrelevant to a proper interpretation of the Constitution.

Moreover, Professor Fletcher has been nominated to the Ninth Circuit, and the Supreme Court routinely finds it necessary to reverse the Ninth Circuit. Indeed, in recent years, the Ninth Circuit has been reversed far more often than any other circuit. This trend will be corrected only if we confirm sound, mainstream judges to this critical circuit. I do not see that problem abating with nominees such as the one here, who even characterizes himself as being in his words, quote, "fairly close to the mainstream."

If Professor Fletcher is confirmed, I sincerely hope that he turns out to be a sound, mainstream judge and not a judicial activist from the left. I hope he helps to improve the dismal reversal rate of the Ninth Circuit.

However, we must evaluate judges based on the record we have before us. As I read Professor Fletcher's record, it does not convince me that he is an appropriate addition to the Court of Appeals. Therefore, because of my interpretation of the anti-nepotism statute and my concerns about judicial activism, I cannot support this nominee.

Mr. BAUCUS. Mr. President, I rise today to express my strong support for the nomination of William A. Fletcher to the U.S. Court of Appeals for the Ninth Circuit. Mr. Fletcher has proven himself superbly qualified for this position. A man of deep personal integrity, of sound judgement and a well respected legal scholar, Mr. Fletcher's nomination is certainly deserved and given that five judgeships remain vacant on the Ninth Circuit, his confirmation is well past due.

Mr. Fletcher's qualifications for this position are truly remarkable, Mr. President. He is a graduate of Harvard University and a Rhodes Scholar. William Fletcher earned his law degree from Yale, clerked at the United States Supreme Court, and has dedicated himself to a career of exploring legal theories as a professor and as an esteemed author.

Fletcher has been a professor at Boalt Hall since 1977 where he was awarded the Distinguished Teaching Award in 1993, an honor bestowed annually upon the five finest faculty members on the Berkley campus. Fletcher has also served as a visiting professor at the University of Michigan, Stanford Law School, Hastings College of Law, and the University of Cologne, and he has served as an instructor at the Salzburg Seminars.

Professor Fletcher's scholarly works include influential law review articles that have been immensely useful to both academics and practitioners. His works include published articles relating to the topics of civil procedure and federal courts, such as standing and the Eleventh Amendment, sovereign immunity and federal common law. In exploring the law and authoring these esteemed articles, Fletcher demonstrates his uncanny powers of analysis and steadfast objectivity.

In addition to my support Mr. President, William Fletcher's nomination enjoys broad support across political and ideological spectrums. He has been endorsed not only by an extensive array of his peers throughout the country, but also by a number of non-partisan observers and the American Bar Association, all of whom comment on the centrist, pragmatic approach he brings to the law. I am completely confident that Mr. Fletcher is the best possible candidate to the U.S. Court of Appeals for the Ninth Circuit.

So again Mr. President I would like to express my unequivocal support for William A. Fletcher as a highly qualified nominee to the U.S. Court of Appeals for the Ninth Circuit. I will conclude by quoting one of Mr. Fletcher's colleagues in saying "If Willy Fletcher presents a problem [for the Judiciary Committee], there is no academic in America who should get a court appointment."

Mr. SESSIONS. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Alabama has 6 minutes 40 seconds.

Mr. SESSIONS. Mr. President, there have been several speakers, including the Senator from Ohio and the Senator from Missouri, who have talked about the unique circumstances that are at foot here in dealing with the Ninth Circuit, and that we have a responsibility and a duty to make sure that we use our advise and consent authority wisely to improve the courts in America, and the Ninth Circuit is in need of, severe need of reform. It has been reversed in nearly 90 percent of its cases in the last 2 years—an unprecedented record that no circuit, to my knowledge, has even been suggested to have approached. The New York Times has referred to the Ninth Circuit Court of Appeals—which includes California and most of the west coast—and they said that a majority of the Supreme Court considers the Ninth Circuit a rogue circuit.

Now, some Senators suggest this is politics. Mr. President, I was elected by the people of my State to come here, and one of my duties is to evaluate Federal judges. I have affirmed and voted for the overwhelming majority of the Clinton nominees. I am willing to vote on this one. I have agreed to this nomination to come up and be voted on. But I want to have my say. I am concerned about this. I don't think that is politics.

As a matter of fact, let me quote to you from an article that Mr. Fletcher, the nominee, wrote a few years ago referring to the confirmation process involving Justice Clarence Thomas. What he said about the role of the Senate was this:

> Does the Senate have the political will—

That is us, me—

> to come down here and do the unpleasant duty of standing up and—

And talk about a gentleman who is charming, I am sure, and a nice fellow—

> talking about the unpleasant fact that he may not be the right nominee for the court?

He said:

> Does the Senate have the political will to insist that its constitutional advise and consent role become a working reality?

Mr. President, I have been here 2 years. One nominee withdrew before a vote, and we hadn't voted on any nominees. So we are not abusing our advise and consent power. As a matter of fact, I don't think we have been aggressive enough in utilizing it to ensure that the nominees to the Federal bench are mainstream nominees.

That is what we are talking about. He said, "The Senate must be prepared to persuade. * * *" This is Mr. Fletcher, who wrote this article. He is an academic, a professor, so he can sit around and find time to write these articles. We are not dealing with a proven practitioner, a person who served as a State or Federal judge, as we normally have. We are dealing with a nominee who has never practiced law in his life, has never tried a lawsuit, has never been in court and had to answer to a judge. Yet, he is going to be superintending the largest Federal circuit in the country. This is what he wrote:

> The Senate must be prepared to persuade the public that an insistence on full participation in choosing judges is not a usurpation of power.

That is all we are doing. We are telling the President of the United States—and it is going to get more serious with additional nominees to this circuit—that we have to have some mainstream nominees. We have to do something about the Ninth Circuit, where 27 out of 28 cases were reversed in the term before last, and 13 out of 17 were reversed in the last term. That has been going on for 15 or 20 years. It is not even a secret problem anymore. It is an open, acknowledged problem in American jurisprudence. The U.S. Supreme Court is trying to maintain uniformity of the law.

For example, this summer, the Ninth Circuit was the only circuit to rule that the Prison Litigation Reform Act—passed here to improve some of the horrendous problems we were having with litigation by prisoners—was unconstitutional. Every other circuit that addressed the issue upheld the constitutionality of this act, including the First, Fourth, Sixth, Eighth, and Eleventh Circuit have affirmed the constitutionality of the Prison Litigation Reform Act. But not the Ninth Circuit. It is out there again.

As a matter of fact, I have learned that they utilize an extraordinary amount of funds of the taxpayers on defense of criminal cases. In fact, they have approved one-half of the fees for court-appointed counsel in the entire United States. There are 11 circuits in

America. This one is the biggest, but certainly not more than 20, 25 percent of the country—probably less than that. They did half of the court-appointed attorney's fees because they are turning criminal cases into prolonged processes where there is no finality in the judgment—a problem that America is coming to grips with, the Supreme Court is coming to grips with, and the people of this country are coming to grips with. That is just an example of what it means to have a problem there.

Mr. President, I will just say this: This nominee was a law clerk, in addition to never having practiced, and he clerked for Justice Brennan, who was widely recognized as the epitome of judicial activism. His mother is on this court today, the Ninth Circuit, and she is recognized as the most liberal member of the court. Perhaps one other is more liberal. It is a problem we have to deal with.

I would like to mention this. In talking about the confirmation process, he made some unkind and unwise comments about Justice Thomas in a 1991 article. He questioned, I think fundamentally, the integrity of Justice Thomas. What kind of standard do we need to apply here? He believed a very high standard. This is what he said:

> Judge Clarence Thomas did have a record, although not distinguished enough to merit President Bush's accolades. But Thomas backed away from that record, pretending he meant none of what he had written, and said that he never talked about Roe v. Wade with anyone and, of course, he didn't talk dirty to Anita Hill either.

The PRESIDING OFFICER. All of the Senator's time has expired.

Mr. SESSIONS. Mr. President, I think that was an unkind comment. I don't believe he is the right person for this circuit, and I object to his nomination.

I yield the floor.

Mr. LEAHY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 11 minutes 4 seconds.

Mr. LEAHY. Mr. President, Mr. Fletcher has waited a long, long time—nearly 3½ years—for this moment. He has been voted out of the Senate Judiciary Committee by an overwhelming margin twice. He is strongly supported by both Republicans and Democrats in this body. He has waited long enough.

I yield back the remainder of my time so we can go to a vote on Professor Fletcher.

The PRESIDING OFFICER. The question is on agreeing to the nomination. Are the yeas and nays requested?

Mr. LEAHY. Mr. President, I think the other side has forgotten to ask for the yeas and nays.

To protect them, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of William A. Fletcher, of California, to be a United States Circuit Judge for the Ninth Circuit? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Ohio (Mr. GLENN) and the Senator from South Carolina (Mr. HOLLINGS) are necessarily absent.

The result was announced—yeas 57, nays 41, as follows:

[Rollcall Vote No. 309 Ex.]

YEAS—57

Akaka
Baucus
Bennett
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Chafee
Cleland
Collins
Conrad
D'Amato
Daschle
Dodd
Domenici
Dorgan
Durbin
Feingold
Feinstein
Ford
Gorton
Graham
Harkin
Hatch
Inouye
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lugar
Mack
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Roth
Sarbanes
Smith (OR)
Specter
Stevens
Torricelli
Wellstone
Wyden

NAYS—41

Abraham
Allard
Ashcroft
Bond
Brownback
Burns
Campbell
Coats
Cochran
Coverdell
Craig
DeWine
Enzi
Faircloth
Frist
Gramm
Grams
Grassley
Gregg
Hagel
Helms
Hutchinson
Hutchison
Inhofe
Kempthorne
Kyl
Lott
McCain
McConnell
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Snowe
Thomas
Thompson
Thurmond
Warner

NOT VOTING—2

Glenn
Hollings

The nomination was confirmed.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Virginia.

If the Senator will withhold for one moment.

EXECUTIVE CALENDAR

The PRESIDING OFFICER. Under the previous order, the Senate now confirms Executive Calendar Nos. 803, 804, 808, en bloc.

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

H. Dean Buttram, Jr., of Alabama, to be United States District Judge for the Northern District of Alabama.

Inge Prytz Johnson, of Alabama, to be United States District Judge for the Northern District of Alabama.

Robert Bruce King, of West Virginia, to be United States Circuit Judge for the Fourth Circuit.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I would like to address the Senate.

The PRESIDING OFFICER. The Senator from Virginia cannot be heard. Please come to order.

The Senator from Virginia.

Mr. WARNER. Mr. President, I see our distinguished colleague from West Virginia has risen.

May I retain the floor?

Mr. BYRD. Absolutely. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, has the motion been made to reconsider the vote by which the nominees were confirmed?

The PRESIDING OFFICER. By the agreement, that has been laid on the table and the President is to be immediately notified of the Senate's action.

Mr. BYRD. Very well, has the Senate returned to legislative session?

The PRESIDING OFFICER. It has not.

Mr. WARNER. Mr. President, I wish to address the Senate.

Mr. BYRD. Mr. President, somebody should ask the Senate return to legislative session.

Mr. WARNER. Mr. President, I wish to accommodate the Senate. I understand that there is a need to move to something very quickly to the House of Representatives. Am I correct? If so, I would be happy to yield the floor, with the understanding at the conclusion of that I could regain recognition.

Mr. BYRD. Is this a legislative matter or an executive matter?

LEGISLATIVE SESSION

Mr. BYRD. Mr. President, I ask the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Utah.

DIGITAL MILLENNIUM COPYRIGHT ACT—CONFERENCE REPORT

Mr. HATCH. Mr. President, I submit a report of the committee of conference on the bill (H.R. 2281) amend title 17, United States Code, to implement the World Intellectual Property Organization Copyright Treaty and Performance and Phonograms Treaty, and for other purposes, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

> The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2281), have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 8, 1998.)

Mr. KOHL. Mr. President, I rise to express my support for the Conference Report on the Digital Millennium Copyright Act (H.R. 2281). In my view, we need this measure to stop an epidemic of illegal copying of protected works—such as movies, books, musical recordings, and software—and to limit, in a balanced and thoughtful way, the infringement liability of online service providers. The copyright industry is one of our most thriving businesses. But we still lose more than $15 billion each year due to foreign copyright piracy, according to some estimates.

And foreign piracy is just out of control. For example, one of my staffers investigating video piracy on a trip to China walked into a Hong Kong arcade and bought 3 bootlegged computer games—including "Toy Story" and "NBA '97"—for just $10. These games, combined, normally sell for about $100. Indeed, the manager was so brazen about it, he even agreed to give out a receipt.

Illegal copying has been a longstanding concern to me. I introduced one of the precursors to this bill, the Motion Picture Anti-Piracy Act (in the 101st Congress), which in principle has been incorporated into this measure. And I was one of the cosponsors of the original proposed WIPO implementing legislation, the preliminary version of this proposal.

In my opinion, this bill achieves a fair balance by taking steps to effectively deter piracy, while still allowing fair use of protected materials. It is the product of intensive negotiations between all of the interested parties—including the copyright industry, telephone companies, libraries, universities and device manufacturers. And virtually every major concern raised during that process was addressed.

Unfortunately, however, the Conference dropped what I believe were crucial protections for databases. It is my understanding, though, that the Committee will be "fast tracking" consideration of database protection next Congress. I look forward to working with Chairman HATCH to move forward on this matter early next year.

In sum, Mr. President, I am confident that this bill will reduce piracy and strengthen one of our biggest export industries. It deserves our support and the President's signature.

Mr. ASHCROFT. Mr. President, I rise in support of the conference report on H.R. 2281, a bill to implement the World Intellectual Property Organization copyright treaties. I am pleased that the final product of the many months of negotiations has produced a bill of appropriate scope and balance, and reflects many of the priorities I established through the introduction of my own bill to implement the WIPO copyright treaties, to begin updating the Copyright Act for the digital era, and to address the potential problem of on-line servicer liability.

First, with respect to "fair use," the conferees adopted an alternative to section 1201(a)(1) that would authorize the Librarian of Congress to selectively waive the prohibition against the act of circumvention to prevent a diminution in the availability to individual users (including institutions) of a particular category of copyrighted materials. As originally proposed by the administration and adopted by the Senate, this section would have established a flat prohibition on the circumvention of technological protection measures to gain access to works for any purpose, and thus raised the specter of moving our Nation towards a "pay-per-use" society. Under the compromise embodied in the conference report, the Librarian of Congress would have authority to address the concerns of libraries, educational institutions, and other information consumers potentially threatened with a denial of access to categories of works in circumstances that otherwise would be lawful today. I trust that the Librarian of Congress will implement this provision in a way that will ensure information consumers may exercise their centuries-old fair use privilege to continue to gain access to copyrighted works.

Second, the conferees made an important contribution by clarifying the "no mandate" provision of the bill. Because the conference report is silent, I thought that I should explain this provision in some detail. As my colleagues may recall, I had been very concerned that S. 2037 could be interpreted as a mandate on product manufacturers to design products so as to affirmatively respond to or accommodate technological protection measures that copyright owners might use to deny access to or the copying of their works. To address this potential problem, I authored an amendment providing that nothing in the bill required that the design of, or design and selection of parts and components for, a consumer electronics, telecommunications, or computing product provide for a response to any particular technological protection measure. The amendment reflected my belief that product manufacturers should remain free to design and produce the best, most advanced consumer electronics, telecommunications, and computing products without the threat of incurring liability for their design decisions. Creative engineers—not risk-averse lawyers—should be principally responsible for product design. As important, the amendment reflected the working assumption of all of my colleagues that this bill is aimed fundamentally at so-called "black boxes" and not at legitimate products that have substantial noninfringing uses.

As my colleagues know, there had been some concern expressed that the "so long as" clause of section 1201(c)(3) made the provision appear to be circular in its logic. In other words, there was concern that the entire provision could be read to provide in essence that manufacturers were not under any design mandate to respond to technological measures, as long as they "otherwise" designed their devices to respond to existing technological measures. I never shared that perspective. To eliminate any uncertainty, the House Commerce Committee simply deleted the "so long as" clause. As I explained on the floor in September, that change merely confirmed my original conception of the amendment. Now that the conferees have adopted a provision requiring certain analog videocassette recorders to respond to certain existing analog protection measures, the "so long as" clause has a meaning that all should agree is logical: Manufacturers of consumer electronics, telecommunications, and computer products are not under a design mandate generally, but they are otherwise subject to a single, very limited, and carefully defined mandate to design certain analog videocassette recorders to respond to existing analog protection measures. Quite importantly from my perspective, this provision is limited so as not to impair the reasonable and accustomed home taping practices of consumers recognized in the Supreme Court's Betamax decision.

It thus should be about as clear as can be to a judge or jury that, unless otherwise specified, nothing in this legislation should be interpreted to limit manufacturers of legitimate products with substantial noninfringing uses—such as VCRs and personal computers—in making fundamental design decision or revisions, whether in selecting certain components over others or in choosing particular combinations of parts.

Third, I am pleased to see that the conferees have addressed the device "playability" problem. As I pointed out in my floor speech just prior to final passage of S. 2037, "playability" problems may arise at two levels. Technological measures may cause noticeable and recurring adverse effects on the normal operation of products, and thus adjustments may be necessary at the factory levels to ensure consumers get what they expect. In addition, adjustments to specific products may be necessary after sale to a consumer to maintain their normal, authorized functioning. Subsequently, I was pleased to see that the Commerce Committee's report explicitly reaffirmed my interpretation.

I also was pleased that the conferees shared my perspective on encouraging all interested parties to strive to work together through a consultative approach before new technological measures are introduced in the market. As the conferees pointed out, one of the benefits of such consultations is to allow the testing of proposed technologies to determine whether they create playability problems, and to have an opportunity to take steps to eliminate or substantially mitigate such adverse effects before new technologies are introduced. As the conferees recognized, however, persons may choose to implement a new technological measure (or copyright management information system) without vetting it through an inter-industry consultative process, or without regard to the input of the affected parties.

Whether introduced unilaterally or developed with the input of experts in the field, a new protection technology coming to market might materially degrade or otherwise cause recurring appreciable adverse effects on the authorized performance or display of works. Given the multiplicity of ways in which devices might be interconnected, some playability problems may not be foreseeable. I was thus pleased that the conference report unambiguously provides that manufacturers and persons servicing popular consumer electronics, telecommunications, or computing products who make product adjustments solely to mitigate a playability problem—whether or not taken in combination with other lawful product modifications—shall not be deemed to have violated either section 1201(a) or section 1201(b). Having heard directly from a major trade association representing professional servicers, I am pleased we could include such strong language so that they can go about their business without fear of facing crippling liability.

Fourth, the conferees adopted specific provisions making it clear that the bill is not intended to prohibit legitimate encryption research or security systems testing. As my colleagues know, Senators BURNS, LEAHY, and I have lead the effort in the Senate to ensure that U.S. business can develop and export world-class encryption products. by explicitly fashioning an affirmative encryption research defense, the conferees made an important contribution to our overall efforts to ensure that U.S. industry remains at the forefront in developing secure encryption methods. In addition, by including a security system testing amendment, the conferees have confirmed that professional consultants and other well-established, responsible corporate citizens can survey and test IT security systems for vulnerabilities.

Finally, the conferees built on my efforts to ensure that this legislation would not harm the efforts of consumers to protect their personal privacy by including two important amendments proposed by the House Commerce Committee. The first amendment would create incentives for website operators to disclose whenever they use technological measures that have the capability to gather personal data, and to give consumers a means of disabling them. The second amendment strengthened section 1202 of this legislation by making explicit that the term "copyright management information" does not include "any personally identifying information about a user of a work or a copy, phonorecord, performance, or display of a work." In my view, these amendments will help preserve the critical balance that we must maintain between the interests of copyright owners and the privacy interests of information users.

We should all be gratified that so much has been done to appropriately calibrate the WIPO copyright treaties implementing legislation. Each of us, working alone, would undoubtedly have produced a different bill. But we have a good bill, perhaps one more balanced and limited in scope than might have been thought possible at times throughout the debate. I therefore urge my colleagues to vote in favor of the conference report.

Mr. THURMOND. Mr. President, I wish to express my strong support for the Conference Report to the Digital Millennium Copyright Act. As one of the conferees, I believe this bill represents a fair compromise between the House and Senate versions of this most significant legislation.

Intellectual property is an increasingly important part of the American economy. This bill recognizes the significance of our copyright laws as America and the world have become increasingly computerized. The Internet is rapidly changing our lives, and our copyright laws must keep pace.

This legislation implements the WIPO treaties to help protect the property rights of the creative community in our global environment. It also clarifies the liability of on-line and Internet service providers regarding their liability for copyright infringement and permits fair use of works. Together, these provisions do a great deal to accommodate the interests of the owners of copyrighted works with those who use or facilitate the use of those works in the digital age.

A final title of the bill is the Vessel Hull Design Protection Act. Although it was not part of the Senate version of the legislation, it was accepted at conference. I share Senator HATCH's concerns about this controversial title. It contains not only industrial design protection, which itself has created controversy in the past because of its impact on consumers and others, but it protects functionality of vessel hulls in addition to aesthetic aspects. It is my understanding that functionality is protected from copying through patent, and this title is a significant departure from that principle, although for a specific narrow area.

Also, I wish to note that although data base protection is not included in this bill, I think it is important that we make every effort to address this significant issue next year.

In closing, I wish to thank the Chairman of the conference, Senator HATCH, and all of the other members of the conference for their cooperation in resolving this matter. I am very pleased with the outcome.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent the conference report be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the conference report be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The conference report was agreed to.

Mr. HATCH. Mr. President, in the wining days of a Congress, so many important measures need attention that the significance of individual bills is often not appreciated. This is even more true for a bill that has copyright as its subject matter, such as the Digital Millennium Copyright Act, the conference report which passed the Senate today by unanimous consent. But the DMCA is one of the most important bills passed this session, as the distinguished majority leader stated yesterday.

"Digital Millennium" may seem grandiose, but in fact it accurately describes the purpose of the bill—to set copyright law up to meet the promise and the challenge of the digital world in the new millennium. Digital "world" is appropriate here, because the Internet has made it possible for information—including valuable American copyrighted works—to flow around the globe in a matter of hours, and Internet end users can receive copies of movies, music, software, video games and literary and graphic works that are as good as the originals. Indeed, the initial impetus for the DMCA was the implementation of the World Intellectual Property Organization (WIPO) treaties on copyright and on performances and phonorecords.

The WIPO treaties and the DMCA will protect the property rights of Americans in their work as they move in the global, digital marketplace, and, by doing so, continue to encourage the creation of new works to inspire and delight us and to improve the quality of our lives.

In addition to securing copyright in the global, digital environment, the DMCA also clarifies the liability of on-line and Internet service providers—OSPs and ISPs—for copyright infringement liability. The OSPs and ISPs needed more certainty in this area in order to attract the substantial investments necessary to continue the expansion and upgrading of the Internet.

The final component of the DMCA is the Vessel Hull Design Protection, Act (VHDPA). This legislation was not part of the Senate-passed version of the DMCA; rather, it was accepted by the Senate conferees in deference to the House of Representatives. Although I support the idea of industrial design protection as a legal regime outside of patent law, I appreciate how controversial it is, and I think that the Senate should act circumspectly. Furthermore, I am concerned that this bill is not like traditional industrial design protection in that the VHDPA protects the functionality of vessel hulls, not only its aesthetic aspects.

But because the VHDPA is limited only to boat hulls, I felt that I could acquiesce in including it in the conference report as a limited experiment in design protection. In order to make it truly experimental, I suggested, and the conferees adopted, modifications that "sunset" the bill 2 years after enactment and that require two studies of its effect. Therefore, in the future, we will be able to re-evaluate the Act, and we will have the benefit of two studies—both of them conducted jointly by the Register of Copyrights and the Commissioner of Patents and Trademarks—to help us make the right decision.

In the nearer future—early in the next session—I intend to focus my attention on database protection legislation. The House bill on this issue, which was attached by the House to the WIPO implementation legislation, was a good start toward tackling the problem of database piracy. It was quite controversial, however, so I asked the parties to sit down with me to work out a compromise bill, so that disagreements on database protection would not jeopardize the DMCA. This effort resulted in a bill draft that attempted to accommodate the diverging interests. The scientific research community, in particular, favored my approach because it allayed many of their fears that recognizing a property right in databases would hamper scientific research.

Neither the House bill nor my proposal was accepted by the conferees, but I am determined to work on this issue in the next Congress. Indeed, I intend to introduce a bill based on my proposal, have a hearing on database protection, and move database legislation as quickly as possible. We need to encourage the substantial investment of money, time and labor that it takes to gather and organize information and at the same time address the reasonable concerns of information users. In our global, high tech era, information will be the coin of the realm, and I see database protection as the next step in moving the law into the digital millennium.

In closing, I would like to recognize the many people who brought this bill to a successful conclusion. First, I would like to thank my colleague, Senator PATRICK LEAHY, the distinguished ranking member of the Judiciary Committee, who was of invaluable assistance in getting this important piece of legislation passed. Two other distinguished colleagues, Senator STORM THURMOND and Senator JOHN ASHCROFT, participated in the refining process that made the DMCA a better bill.

Second, I want to thank the House conferees, especially Congressman HENRY HYDE, the distinguished chairman of the Judiciary Committee, Congressman HOWARD COBLE, the distinguished chairman of the Subcommittee on Courts and Intellectual Property, and Congressman TOM BLILEY, the distinguished chairman of the Commerce Committee for their willingness to consider the Senate's views objectively and dispassionately. They too wanted to get this done, and it was the spirit of cooperation on both sides that produced this admirable result.

Finally, I would like to acknowledge the hard work done by the Senate and House staffs. There were so many who worked on this bill that it would take a column of the CONGRESSIONAL RECORD to list them. But I would like to mention just a few. Manus Cooney, the staff director and chief counsel of the Senate Judiciary Committee, was the staff pilot for the DMCA. He was ably assisted by Edward Damich, Chief Intellectual Property Counsel of the Committee, and Staff Assistant Troy Dow. Senator THURMOND was ably assisted in the conference committee by his Judiciary Committee Counsel, Garry Malphus.

Bruce Cohen, Minority Chief Counsel and Staff Director of the Judiciary Committee, Beryl Howell, Minority General Counsel, and Marla Grossman, Minority Counsel, provided invaluable assistance on all levels. We had superb cooperation from the minority, and the DMCA is truly a bipartisan bill.

Turning to the House side, I want to express my appreciation for the contributions of Mitch Glazier, Chief Counsel of the Subcommittee on Courts and Intellectual Property, Debra Laman, Counsel of the Subcommittee, Robert Raben, Minority Counsel of the Subcommittee, Justin Lilley, General Counsel of the Commerce Committee, and Andrew Levin, Minority Counsel of that Committee.

Mr. President, this bill, the Digital Millennium Copyright Act, is one of the most important bills in this whole Congress. It has taken a tremendous amount of effort from all of us to be able to put this together. It is going to make a difference in so many ways—in the protection of copyrighted works, in digital communication and otherwise—throughout the world, that I feel very, very happy to be able to say that this is being enacted into law at this particular point.

I would like to state my agreement with certain important points that Senator LEAHY made in his remarks about Section 1201(k), "Certain Analog Devices and Certain Technological Measures." The Senator emphasized that that section establishes requirements only for analog videocassette recorders, analog videocassette camcorders and professional analog videocassette recorders. It is also my understanding that the intent of the conferees is that these provisions apply only to analog video recording devices.

In addition, because innovation and technological development thrive in unregulated environments, this section should not be misconstrued as providing any impetus or precedent for regulating or otherwise dictating to the computer software industry technological standards. I agree fully with the assessment of the conferees that technology develops best and most rapidly in response to marketplace forces. For these reasons, this section applies to analog technologies only, and it is entirely without prejudice to digital technologies.

Let me just say that I am disappointed that we were not able to include database protection in this bill this year. There are so many people who would like to have that done, on the floor and in the business world and elsewhere, but we were unable to get it done because of objections and because of some dissent. But I would like to put everybody on notice that, shortly after we get back next year, I will file a database protection bill. I believe my colleague from Vermont will join me in this. That, hopefully, will be a bill that everybody can support, because it is absolutely critical that we get this done.

It will be one of the highest orders of priority that we will have on the Senate Judiciary Committee next year. It was one of the things that I feel disappointed we were unable to get done on this particular bill. It just could not be done at this time. I know there are people who are disappointed, but we will get it done next year—we will do everything we can to get it done, and I hope we can call upon industry and everyone else interested in this issue throughout the country to help us in this matter. I hope our colleagues will, because it is very, very important.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from Vermont.

Mr. LEAHY. Mr. President, America's founders recognized and valued the creativity of this nation's citizens to such an extent that intellectual property rights are rooted in the Constitution. Article I, Section 8, Clause 8 of the Constitution states that

> The Congress shall have power . . . [t]o promote the progress of science and useful

> arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries.

The Continental Congress proclaimed,

> Nothing is more properly a man's own than the fruit of his study."

Protecting intellectual property rights is just as important today as it was when America was a fledgling nation.

It is for this reason I am pleased that the Senate has today passed the Conference Report on the Digital Millennium Copyright Act (DMCA), H.R. 2281.

Title I of the DMCA will implement the two World Intellectual Property Organization (WIPO) copyright treaties. These treaties will fortify intellectual property rights around the world and will help unleash the full potential of America's most creative industries, including the computer software, publishing, movie, recording and other copyrighted industries that are subject to online piracy. By insuring better protection of the creative works available online, the DMCA will also encourage the continued growth of the Internet and the global information infrastructure. It will encourage the ingenuity of the American people, and will send a powerful message to intellectual property pirates that we will not tolerate theft.

I should note that there are provisions in Title I that address certain technologies used to control copying of motion pictures in analog form on video cassette recorders which were not part of either the original Senate or House DMCA bills. These provisions establish certain requirements only for analog videocassette recorders, analog videocassette camcorders and professional analog videocassette recorders. It is my understanding that these provisions do not establish any obligations with respect to digital technologies, including computers or software.

It is also my understanding that the intent of the conferees is that these provisions neither establish, nor should be interpreted as establishing, a precedent for Congress to legislate specific standards or specific technologies to be used as technological protection measures, particularly with respect to computers and software. Generally, Congress should not establish technology specific rules; technology develops best and most rapidly in response to marketplace forces.

Title II of the DMCA will limit the infringement liability of online service providers. This title is intended to preserve incentives for online service providers and copyright owners to cooperate to detect and address copyright infringements that occur in the digital networked environment.

Title III will provide a minor, yet important, clarification in section 117 of the Copyright Act to ensure that the lawful owner or lessee of a computer machine may authorize an independent service provider, a person unaffiliated with either the owner or lessee of the machine, to activate the machine for the sole purpose of servicing its hardware components.

Title IV will begin to update our nation's copyright laws with respect to library, archives, and educational uses of copyrighted works in a digital environment. It includes provisions relating to the Commissioner of Patents and Trademarks and the Register of Copyrights, and clarifies the role of the Copyright Office. It also addresses the assumption of contractual obligations related to the transfer of rights in motion pictures. Finally, this title creates a fair and efficient licensing mechanism to address the complex issues facing copyright owners and users of copyrighted materials as a result of the rapid growth of digital audio services.

Title V, the "Vessel Hull Design Protection Act," creates a new form of sui generis intellectual property protection for vessel hull designs. By adoption of this title, however, the Conferees wisely took no position on the advisability or propriety of adopting broader design protection for other useful articles. Indeed, when broad industrial design legislation was considered by the Congress in the late 1980s and early 1990s, a number of legitimate concerns were raised about the effects such legislation would have, particularly on the cost of auto repairs. Establishing narrow protection for vessel hulls in the conference report should not be interpreted as signaling support, or setting a precedent, for broader design protection that could negatively affect the ability of consumers to obtain economical, quality auto repairs.

The Senate today is passing a balanced and important package. Certain issues that the House had included in the version it passed on August 4, 1998, were eliminated to allow consideration of the rest of the package in a timely manner.

One of the issues dropped was that of database protection. Title V of the House passed DMCA bill created a new federal prohibition against the misappropriation of databases that are the product of substantial investment, with both civil remedies and criminal penalties. The argument for enhanced database protection is that legal rulings and technological developments have eroded protections against database theft. Companies may be able to copy significant portions of established databases and sell them, avoiding the substantial cost of creating and verifying the databases themselves. I appreciate that the threat to U.S. databases has been magnified because database protection laws recently implemented in European Union countries will not be available to U.S. publishers unless comparable legislation is enacted in the U.S.

I have therefore been and continue to be supportive of legislation to provide database producers with adequate protection from database piracy.

I am also sensitive, however, to the concerns about the House-passed database bill that were raised by the administration, the libraries, certain educational institutions, and the scientific community. The Department of Justice, in a memorandum dated July 28, 1998, concluded that the House passed database bill, H.R. 2652, which was later incorporated in Title V of the House DMCA, raised difficult and novel constitutional questions.

The Department of Commerce has also advised me that while the administration supports legal protection against commercial misappropriation of collections of information, the administration has a number of concerns with H.R. 2652, including that the Constitution imposes significant constraints upon Congress' power to enact legislation of this sort.

Just this week, the Department of Commerce told me in a letter that:

> Given the critical importance of implementing the WIPO treaties, and the short time remaining in the Session, we urge the Conferees to focus on issues germane to these treaties, rather than unrelated matters.

Although there was not enough time before the end of this Congress to give this important issue due consideration, it is my hope that the Senate Judiciary Committee will promptly commence hearings on the issue and move expeditiously to enact further legislation on the matter at the beginning of the 106th Congress. The work that the Committee did this year on the issue should be viewed as a beginning, and we are committed to making more progress as quickly as possible.

The legislation that the Senate passed today is the culmination of several years' work, both domestically and internationally, to ensure that the appropriate copyright protections are in place around the world to foster the enormous growth of the Internet and other digital computer networks.

Much of the credit for this legislation is due to the hard work and dedication of the Chairman of the Senate Judiciary Committee, Senator HATCH. This is another example of when we work together, we get good things done. It was also a pleasure to serve on the Conference with Senator THURMOND, former Chairman the Senate Judiciary Committee and a force in his own right.

The Chairman and Ranking Member of the House Judiciary Committee—Chairman HYDE and Congressman CONYERS—and the Chairman and Ranking Member of the Subcommittee on Courts and Intellectual Property—Chairman COBLE and Congressman FRANK—deserve particular recognition and praise for their fine work. Although Congressman FRANK was not on the Conference Committee, his tremendous efforts on behalf of the WIPO implementing language as well as on the other matters in the DMCA are very much appreciated. Congressman GOODLATTE and BERMAN also contributed considerable time and talent to the benefit of all who participated in the process.

Although I had not previously had the pleasure of working on WIPO with the Chairman and Ranking Member of the House Commerce Committee—Chairman BLILEY and Congressman DINGELL—or the Chairman of the Telecommunications, Trade and Consumer Protection Subcommittee, Chairman TAUZIN, I would like to acknowledge their significant contributions to the final package.

The staff of all of the Conferees deserve special recognition. Manus Cooney, Edward Damich, Troy Dow, Garry Malphrus, Mitch Glazier, Debbie Laman, Robert Raben, Bari Schwartz, David Lehman, Ben Cline, Justin Lilley, Andy Levin, Mike O'Rielly, and Whitney Fox spent countless hours on this bill, when it was pending in Committee, on the floor and, finally, in conference. Without their labor and talent, we would not be here today considering the DMCA.

The DMCA also reflects the recommendations and hard work of the Copyright Office. Specifically, Marybeth Peters, Shira Perlmutter, David Carson, Jesse Feder, Carolina Saez, Sayuri Rajapakse, Rachel Goslins and Jule Sigall were invaluable on this legislation. The Copyright Office was there at every step along the way—from the negotiation of the WIPO treaties to the negotiations and the drafting of the implementing legislation and the other issues in the DMCA. Given their expertise in copyright law, they will play a significant role in the implementation of the legislation, particularly with regards to the rulemaking on the circumvention of technological measures that effectively control access to a copyrighted work and the studies mandated by the bill.

The Clinton administration deserves praise for the role it played in making this legislation a reality. I would especially like to thank Secretary Daley, Andy Pincus, Ellen Bloom, Jennifer Conovitz and Justin Hughes of the Department of Commerce, as well as Brian Kahin and Thomas Kalil for all of their hard work on the DMCA.

From my perspective, those who deserve the most thanks are my Judiciary Committee staff who have assisted me during the hearings, debates, negotiations, and conference on this bill. Bruce Cohen, Beryl Howell and Marla Grossman have worked tirelessly to ensure that this bill was well crafted and lived up to its promise.

This legislation is an important step for protecting American ingenuity and creative expression. It addresses the needs of creators, consumers and commerce in the digital age and well into the next century. I am proud that the Senate has passed this legislation today.

Mr. President, so Senators will know, the distinguished senior Senator from Utah and I spent enormous amounts of time on this piece of legislation working to get us to this point. We both share great concerns about the database part. We understood that we would not be able to get the bill passed had that stayed in the bill.

The distinguished Senator from Utah and I will work between the time we go out and the time we come back in January to put together database legislation. There will be a strong effort, I know, on my side of the aisle, as there will be on his. We hope the Senate will be able to vote on that and the House, too, early next year. I say this because I do not want anybody to think that this has now disappeared because the rest of the legislation has gone through.

With that, I yield the floor.

Mr. DEWINE. Mr. President, I rise today in support of the conference report to implement the WIPO treaties. I also strongly support the copyright term extension legislation that we recently passed by voice vote.

While I would like to congratulate the conferees and their staff for working out a consensus on so many controversial provisions, I feel it is necessary to express my disappointment that we are unable to pass some form of database protection this year. It is unfortunate that a consensus could not be reached on an issue that is so vital to so many people in our country. Agricultural databases, for example, are relied upon by our farmers and by others in our farming supply industry. While computers and the Internet make access to information available at our fingertips, we need to provide adequate protection for those who compile that information in such a user friendly format. Such easy access is essential to health care workers, for example, who need to have fast access to accurate information about which drugs have adverse reactions to other drugs or which antidotes are most effective in counteracting certain poisons.

I see my friend from Utah, Senator HATCH, the chairman of the Judiciary Committee, is on the floor, and I would like to ask if he would agree that Congress should pass database legislation as early as possible next year to ensure that those who invest their time, money and effort in compiling and updating databases are protected from having their work pirated both domestically and internationally? Would the Senator from Utah agree that without such protections, database creators may decide that the risk of loss from piracy outweighs any potential gains from creating or updating databases.

Mr. HATCH. Mr. President, as my colleague well knows, I have facilitated a number of meetings with interested parties from all sides of this issue to try to work out a consensus bill. Obviously more work needs to be done to pass a bill that is acceptable to all sides. This is an important issue, and I think everyone understands that. The Senator from Ohio has my assurance that I will continue to work with him on this issue.

Mr. DEWINE. I again commend the Senator from Utah and the other WIPO conferees and their staff, especially Senator LEAHY, for their tireless efforts to reach consensus on so many complex issues. I would simply like to ask my friend from Utah to work with those of us on the Judiciary Committee to introduce and seek passage of legislation early next year that protects our databases.

Mr. HATCH. Mr. President, let me assure my friend from Ohio that I have spoken to our colleagues on the House side, Congressmen HYDE and COBLE, and we have agreed to work together to introduce and seek passage of database protection legislation early next year. I will continue to work with the Senator from Ohio and our Senate and House colleagues and address this issue early next year.

Mr. DEWINE. I thank the Senator from Utah for his comments.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia has the floor.

Mr. HATCH. Will the Senator yield?

Mr. WARNER. Without losing my right to the floor.

Mr. HATCH. As I understand, the conference report has been agreed to. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. I thank my friend, the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. HATCH. Will my colleague yield for 1 other minute? I promised I would yield to the distinguished Senator from Arizona.

Mr. WARNER. I will be happy to yield to the distinguished Senator from Arizona, provided I do not lose my right of recognition.

The PRESIDING OFFICER. The Senator from Arizona.

MEDICARE BENEFICIARY FREEDOM TO CONTRACT ACT

Mr. KYL. I thank the Senator from Utah.

Mr. President, I rise with several of my fellow Senators in support of S. 1194, the Medicare Beneficiary Freedom to Contract Act. S. 1194 currently has 48 Senate and 192 House cosponsors.

We believe that Medicare beneficiaries should have the same right to obtain health care from the physician or provider of their choice as do Members of Congress and virtually all other Americans.

It is dangerous to have the Government control health care decisions in a free society.

What is the problem addressed by this legislation?

The problem is simply one of health care choice for seniors—a problem which has been brought to our attention by countless constituents all over America.

As I have mentioned on the Senate floor several times, this problem was first brought to my attention in a letter I received from Mr. and Mrs. C.B. Howard of Prescott.

Mary Ann Howard is a diabetic. The medicine she was taking was not working, and she wanted to change doctors to one who specialized in treating diabetics.

Her doctor told her that this was not possible. Amazed, Mary Ann asked why, and her original doctor replied that, due to the regulatory and administrative burdens of the Medicare system, the specialist cannot afford to take any more Medicare patients.

When Mary Ann—who had recently turned 65 and enrolled in Medicare—asked the specialist if she could pay for the treatment out of pocket, the specialist said no. "If I accept you as a patient, I would be accused of Medicare fraud."

Yes, it's true: Because of a flawed interpretation of the Medicare law, the Government has barred Medicare beneficiaries from using their own money to receive treatment from the doctor of their choice. It's Medicare or no care!

To end this unfairness, the Senate passed the Kyl amendment to the Balanced Budget Act of 1997 that would allow health care choice for seniors.

But the administration threatened to veto the entire budget over this provision, and forced the Senate-House conference committee to include a poison pill:

In order to enter into a private contract, a physician or other provider would have to sign out of Medicare for 2 years.

The two-year exclusion presents your doctor with a difficult choice: He can either treat you, his patient of 30 years, on a private contract basis, and drop his other Medicare patients for 2 years; or refuse to treat you in favor of his current Medicare patients.

Over 96 percent of doctors accept some Medicare patients and would not likely be willing to impose such a hardship on their current patients.

So your options will likely be reduced.

To remove this "2 year" limitation on patient-choice, House Ways and Means Chairman BILL ARCHER and I introduced the Medicare Beneficiaries Freedom to Contract Act.

The bill removes the two-year exclusion and ensure that any Medicare beneficiary can enter into an agreement with the provider of his or her choice for any health care service.

In his 1998 State of the Union Address, President Clinton said that all Americans "should have the right to choose the doctor they want for the care they need."

We could not agree more. But as of January 1 of this year, seniors no longer have this right because, as I mentioned, the President insisted last year's Balanced Budget Act be changed to effectively preclude seniors from going outside of Medicare—even if they are willing to pay for the care themselves.

S. 1194 could also be referred to as the Senior Citizens "Medicare Point of Service Option."

Just as with a Point of Service Option in a private plan, this "Medicare Point of Service Option" would allow seniors to go outside of the Medicare network to obtain care from the doctors of their choice.

The only real difference is that the senior-patient would pay 100 percent of the cost of exercising this right, whereas the private plan would subsidize this choice to some degree.

Sandra Butler, president of United Seniors Association, represents the organization's 640,000 members who strongly support this bill.

United Seniors Association members believe that the Government's view of private contracting "violates a basic—no, *the* basic—principle of American life: freedom."

In addition, a broad array of organizations have expressed support for the case to overturn current law.

This group includes the Christian Coalition, the American Civil Liberties Union, the Heritage Foundation, the American Enterprise Institute, National Right to Life Committee, the American Medical Association, the American Conservative Union, Citizens Against Government Waste, and the National Center for Policy Analysis.

Opponents of the bill make 3 basic arguments: the bill will increase fraud, will put seniors at the mercy of doctors and other providers, and will hurt Medicare.

1. With respect to fraud, the bill contains extensive anti-fraud measures, including the requirement of a written contract with clear terms, such as the fact that the service could be paid for by Medicare.

2. Others believe that unethical doctors would take advantage of vulnerable seniors.

Common experience with medical professionals who save lives without reimbursement in emergency situations, and seniors who read and question virtually every line in their Medicare bill, clearly refute this claim.

Further, a senior can for any reason terminate the contract prospectively and return to Medicare for the covered benefit.

3. Some believe private contracting will destroy Medicare.

However, private contracting will result in fewer claims being paid out of the near-bankrupt Medicare trust fund.

We believe that the right of seniors to choose the health care provider and benefits that suit their individual needs is essential to our Nation's concept of liberty.

In fact, there is no more fundamental principle at stake in any legislative issue before the Congress.

We must not be the Congress that denied seniors the right to spend money they may have saved for years on a medical procedure needed for themselves or a loved one.

Imagine a law that made it illegal for seniors to supplement their Social Security check with private funds!

In sum, Mr. President, we believe that the Congress should enact legislation that ensures that seniors have the right to see the physician or health-care provider they want, and not be limited in such right by the imposition of unreasonable conditions on providers who are willing to treat seniors on a private basis.

Even Great Britain's system of socialized medicine gives its beneficiaries this freedom.

Senators and their staffs have this freedom. Surely, America should do no less for its seniors.

Mr. President, I take this opportunity to express my appreciation for my colleagues' willingness to work with me to ensure seniors the critical right of health-care choice.

I am joined by many of my colleagues in the Senate to ask the Majority Leader, Senator LOTT, and Senate Finance Committee Chairman ROTH, to work with us and the numerous outside organizations to address this issue of Medicare freedom of health-care choice as soon as is reasonable in the 106th Congress.

As we know, President Clinton and some of our colleagues on both sides of the aisle want the Government to continue to control all medical decisions of seniors.

We must not rest until seniors are granted this basic civil right to choose the doctors and benefits that best address their particular health needs.

Mr. ROTH. Mr. President, I thank the majority leader and my colleagues for bringing the important issue of Medicare private contracting to my attention in this constructive way. The individual stories described today on the floor illustrate why private contracting has generating intense interest and deserves careful study. Organizations including the United Seniors

Association, American Civil Liberties Union, Christian Coalition, American Conservative Union, Heritage Foundation, National Right to Life Committee, CATO Institute, and Citizens Against Government Waste share the concerns with current law and the belief that Medicare beneficiaries should be provided more freedom-of-choice in Medicare. In the months ahead, I intend to work closely with my colleagues here in the Senate to review the private contracting provisions of the Balanced Budget Act of 1997.

(At the request of Mr. KYL, the following statement was ordered to be printed in the RECORD.)

• Mr. HOLLINGS. Mr. President, I want to express my continuing support for S. 1194, the Medicare Beneficiary Freedom to Contract Act.

It is ironic that the Balanced Budget Act—which purported to expand seniors' freedom of choice—took away most of the rights they already had to spend their own dollars to purchase health care of their choosing. Many senior citizens and disabled individuals in my state are outraged at this loss, and justifiably so. I must concur with the comments made recently by Art Spitzer, legal director of the American Civil Liberties Union of the National Capitol Area in an amici curiae brief in United Seniors Association vs. Donna Shalala:

> ". . . the Government should be able to say 'We are going to provide a certain amount of health care, and that is how much we will provide and we are not going to provide more than that.' But it seems quite outrageous to us . . . that the Government could say 'and you may not get any more health care than we are willing to provide you, even if you and your doctor agree that it would be good for you, even if you are able to pay for it with your own funds.' "

I ask that a letter I recently sent to the ranking member of the Senate Finance Committee be printed in the RECORD.

The letter follows:

U.S. SENATE,
Washington, DC, October 5, 1998.

Hon. DANIEL PATRICK MOYNIHAN,
Ranking Member, Senate Finance Committee,
Washington, DC.

DEAR PAT: As you know, the American Civil Liberties Union of the National Capital Area has joined as an amici curiae participant in the United Seniors Association vs Donna Shalala lawsuit to enjoin enforcement of Section 4507 of the Balanced Budget Act of 1997. I support the views expressed in this lawsuit that Congress made a mistake in the Balanced Budget Act by disallowing seniors from making the broadest array of physician and medical point-of-service choices in instances where they want or need services out of the Medicare system badly enough to spend their own money. It stepped far over the bounds of "protection" into erosion of freedom.

I strongly supported requirements that physicians file Medicare claims on behalf of beneficiaries. We've gotten the program so complicated that hardly anyone understands it, but doctors are better able to fight complex coding disputes and coverage rules than their patients. Also, not getting paid adds the incentive to resolve claim disputes while keeping money in beneficiaries' pockets. Little did I realize this protection would be used to restrict access to care. Section 4507 is an unwarranted intrusion on freedom of choice for physicians and Medicare beneficiaries and adds unnecessary costs to the Medicare that is already suffering financial problems that scream for resolution.

While most of us are able to find satisfactory care for which we are glad to have Medicare pay, many of my constituents have given reasons why an individual may choose to go outside the Medicare system from time to time. Take the example of a Federal employee who retired to the Charleston area after living sixty years in Washington. She wanted to return to have eye surgery at the Wilmer Eye Institute at Johns Hopkins but was prohibited from doing so because the surgeon did not accept Medicare patients. She wrote me that she is not wealthy and has chosen to live frugally so that she has something left over after living expenses to spend as she sees fit. "What right does the Government have to tell me I can't spend my own money to buy the health care that I think I need," she asks. I have to agree that the Federal Government telling us senior citizens what we can do with our own money is simply unacceptable.

A great deal of confusion about Section 4507 remains. I continue to believe we can reach a consensus that will permit private contracting for seniors who choose to do so while providing adequate protection for Medicare beneficiaries and request that you give this matter your much respected expert consideration early in the 106th Congress. If I can answer any questions or be of any help, please don't hesitate to call on me.

With kindest regards, I am,
Sincerely,
ERNEST F. HOLLINGS.

Mr. HOLLINGS. Mr. President, we clearly cannot move forward with Medicare+Choice until the confusion over Section 4507 is resolved, and I join my colleagues in urging your earliest consideration of this matter in the 106th Congress.•

Mr. GORTON. Mr. President, I speak today in defense of an essential freedom—the right to make health care decisions outside of the Governmental bureaucracy. Yet there is a segment of our population—our seniors—who have lost that freedom. At the administration's insistence a provision was included in the budget reconciliation bill of 1997 that prohibits physicians from participating in the Medicare Program for 2 years if they accept private payment for services normally covered under the Medicare Program from a patient who is eligible for Medicare—essentially trapping our seniors in a Government controlled health care program.

It is clear that the provisions included in the Balanced Budget Act are hurting seniors. One of my constituents stories was featured in the Reader's Digest. Ray Perry wanted to pay for routine screening tests for he and his wife because years before, prior to enrolling in Medicare, the Perry's had conducted a similar series of tests and were able to detect his wife's lymphatic leukemia very early when it was still treatable. Medicare decided not to pay for the tests because the Perrys didn't have certain symptoms that would indicate these tests were required. But, when the Perrys offered to pay out of their own pocket, the doctor still wouldn't order the tests for fear of being penalized by Medicare. While both the Perrys and their doctor wanted medical services that were clearly reasonable, and the Perrys were willing to pay for these services, the restrictions currently found in Medicare prevented them from getting the kind of health care they needed.

It is unconscionable that in a Nation founded on the principles of freedom that we would limit the freedom of the Perrys and millions of American seniors just like them.

Mr. CRAIG. Mr. President, I rise today to make a few remarks concerning the Medicare Beneficiary Freedom to Contract Act. Most Americans believe that should control their health care to the greatest extent possible. Others continue to favor comprehensive federal control of seniors, health care which results in rationing. All patients should be able to choose their own doctors and have complete freedom to supplement their insurance, including Medicare, as they see fit. The right of seniors to pay out of their own pocket for the health care of their choice is an essential element of our Nation's concept of liberty.

Under this Act, Medicare would pay the standard fee for the standard procedures by the standard practitioner with private contracting reserved for more specialized procedures. While it would be a right that—because of economics—would be exercised only in special circumstances, private contracting is a basic right every senior should have. And importantly, it would provide a safeguard from Government manipulation—something which under the Clinton administration is an all-too-real possibility.

Under this act, seniors would be even less likely to privately contract than they are to go to nonparticipating physician, because with private contracting they agree to pay the full cost of the service themselves (just as they historically have.) In fact, if the desire to pay out-of-pocket were widespread, seniors wouldn't join Part B (which is voluntary) at all. But seniors overwhelmingly choose Part B insurance—just as most other Americans do in choosing doctor-visit coverage in their health plans.

President Clinton said in the State of the Union that all Americans must have the right to doctor choice, and assess to specialists without referral. Why not seniors, too?

Mr. President, I believe that Americans are right when they tell me in letters and phone calls and personal visits that they do not want to be trapped by a one-tiered Medicare Program. I think I am correct in stating that senior citizens over age 64 are right in being angry at all members of Congress and the Clinton administration for denying them their right to make any medical choice for themselves, to see any physician they want for any service they want if they want to spend their own money. It is for this reason, that I ask all my colleagues to work with us to restore to seniors their right to privately contract for any medical service with physicians of their choice. I look forward to working with the distinguished Chairman of the Senate Finance Committee, Senator ROTH, and other Members of the Senate toward that goal.

Mr. NICKLES. Mr. President, I thank the Chairman for his work and support of this very important legislation.

I also thank Senator KYL for his dedicated work on this issue. I was pleased to join him as an original cosponsor of this bill, because I believe that this is a fundamental issue of freedom for all senior citizens. Every senior citizen should have the fundamental right to pay out of their own pocket for the health care they want from the physician they choose.

President Clinton has repeatedly stated, most recently in his State of the Union Address, that "all Americans should have the right to choose the doctor they want for the care they need." But apparently, the administration does not believe this should apply to Medicare beneficiaries. In fact, during the debate on the Balanced Budget Act (BBA) of 1997, the administration repeatedly stated their opposition to giving his unfettered freedom to senior citizens.

Finally, the administration agreed to drop their objections to this provision if the BBA would grant seniors only limited freedom with certain restrictions. In the spirit of compromise, the BBA included a limited provision to allow physicians to enter into private contracts for Medicare-covered services. Unfortunately, the provision in the BBA did not go far enough.

Under BBA 97, in order to enter into these contracts, a physician or other provider would have to opt out of Medicare for 2 years and sign an affidavit, approved by HCFA, to ensure that no Medicare patients were treated. But the two-year exclusion presents the doctor with a difficult choice: either treat the patient on a private contract and drop all other Medicare patients for 2 years; or refuse to treat the patient in favor of current Medicare patients. This is a difficult decision that neither a physician or beneficiary should be required to make.

Now, one can argue that the reforms in the BBA were a step forward for Medicare private contracting. If is true that HCFA had interpreted Medicare law, prior to the passage of BBA 97, as effectively prohibiting private contracts. In fact, HCFA had gone as far as threatening physicians and other providers with fines and exclusion from Medicare and even criminal prosecution. So if HCFA's interpretation was correct, perhaps the provisions included in BBA 97 were a step forward.

On the other hand, many respected Medicare experts have suggested that HCFA did, in fact, misinterpret the Medicare statute. In other words, Medicare law did not prohibit private contracts, but rather it was silent on the issue. As I read the Medicare law, prior to BBA, I see nothing that prohibits Medicare beneficiaries and providers from entering into these private arrangements. So if this interpretation is correct, the provisions included in BBA could be viewed as a step backward.

In either case, the right thing to do is to allow seniors unfettered, unrestricted access to the doctor of their choice. The Kyl legislation does just that. It would extend this right to Medicare beneficiaries with no limitation, allowing Medicare beneficiaries to be treated for Medicare-covered services by the physicians of their choice on a "case-by-case" and a "patient-by-patient" basis. No doctor who chooses to enter into a private contracting arrangement with a senior would be faced with fines or expulsion from the Medicare Program.

Opponents of private contracting make two primary arguments against this legislation: unethical doctors will take advantage of seniors to increase their income; and it will result in excessive fraud and abuse in the Medicare Program.

The argument that perplexes me the most is the concern that unethical doctors would take advantage of vulnerable seniors and use private contracts to increase their annual income. If I were a Medicare beneficiary I would be offended by the notion that I am unable to make my own financial and medical decision. Senior citizens are some of the most frugal and well informed health care shoppers in the country. Additionally, if I were a physician, I would be offended by the assumption that most doctors are unethical in their professional activities. Any physician that were to engage in unethical or coercive practices faces tremendous risks, including the loss of their medical license for ethical violations.

I assume that those who believe physicians will use the Kyl legislation to line their pockets would also be concerned with new Federal coverage mandates on private health insurance. Every Federal coverage mandate we place on health insurance providers increases the cost of health insurance and increases the revenues of physicians. But I haven't heard many Members who are concerned that Federal mandates which require insurance companies to pay for a variety of treatments may increase the profits of physicians. Do we assume that physicians and other practitioners will be ethical when an insurance company is paying the bill and unethical when a vulnerable senior is paying the bill? The fact is that the opponents of this legislation simply want more control over the health care of senior citizens.

The bill also contains strong consumer protection standards to ensure that Medicare beneficiaries are not exploited. Private contracts must be in writing, signed by the beneficiary, and identify the services covered by the contract. It prohibits private contracts in emergency situations, unless the contract was entered into before the onset of the emergency medical condition.

Private contracts may only be entered into on a prospective basis and may not apply to services rendered prior to the signing of the contract. Such contracts must also notify the beneficiary that Medicare is not responsible for the payment of any services covered under the contract and that the beneficiary has the right to have such services provided by other physicians or practitioners to whom Medicare payment would be made.

Other opponents of this legislation argue that private contracting will result in double billing and outright fraud. Perhaps the opponents haven't looked closely at the extensive antifraud measures included in this legislation. The legislation prohibits double payments by requiring physicians and practitioners entering into private contracts to submit to the Secretary such information as may be necessary to avoid any payment under Part A or Part B for services covered under the contract. Fraudulent billing would be detected and punished through existing fraud and abuse laws and standard auditing procedures used by Medicare and private plans. If Medicare did pay for a service, the patient would receive a statement and could easily notify Medicare of the payment error.

Mr. President, this legislation adequately addresses the concerns that have been raised by the opponents. The integrity of Medicare system is not at issue here. The defining issue is really quite simple. This is a fundamental issue of individual freedom. Do you support giving senior citizens the freedom to pay out of their own pocket for the health care they want from the physician they choose? Or do you support limiting that freedom and restricting the health care choices available to senior citizens? I hope my colleagues will join Senator KYL in supporting this legislation and supporting individual freedom for every senior citizen.

Mr. ALLARD. Mr. President, I rise today in support of Senator KYL's initiative to provide more choice for our nation's senior citizens. I encourage the majority leader and Senate Finance Committee Chairman ROTH to continue to work to address the issue of private contracting so that S. 1194 can be enacted into law.

I believe that our seniors should have the right to make their own decisions when it comes to matters of their health. Somewhere along the way, it has been mistakenly assumed that once a person reaches 65, they no longer are able to make their own decisions and do not desire the freedom of choice that others enjoy. Since when did the seniors of our Nation become so helpless? Shouldn't seniors be afforded the same rights that the rest of us enjoy—to determine what is in their best interest?

Current law does not permit seniors to purchase their own health care services if those services are covered under Medicare and provided by a physician who accepts Medicare payments. This is ludicrous. Not only does this law take away rights of senior citizens, but these types of regulations within the Medicare system also discourage the participation of doctors. If a physician decides to accept a private contracting fee, the doctor must give up all Medicare patients for 2 years. In effect, this law has the potential of limiting physicians who participate in the Medicare program. This could consequently decrease the quality of physicians in the Medicare system because doctors refuse to be part of such an oppressive system.

This issue is one of fundamental rights. No other Government program restricts the participants as does Medicare—including Medicaid and health programs for Government employees. Medicare beneficiaries should be given the right to pay out-of-pocket and to choose their own health care provider.

One of the guiding principles of this nation is individual freedom. Congress should not support measures that clearly restrict freedom. I urge the enactment of S. 1194, the Medicare Beneficiaries Freedom to Contract Act.

Mr. MACK. Mr. President, I am pleased to be a co-sponsor of the Medicare Beneficiary Freedom to Contract Act. I want to commend the efforts of Senator KYL, who introduced this important legislation and who has worked so hard to secure its passage.

The central questions with respect to the issue of Medicare private contracting are clear. It is the proper role of the Federal Government to deny Medicare beneficiaries the ability to use their own money to get the health care services they believe they need? Is it good public health policy to force doctors who treat Medicare beneficiaries on a private-pay basis out of Medicare for 2 years?

I think these questions must be answered with a resounding "no". If a Medicare patient—or any patient, for that matter—wants to spend his or her own money to pay for a health care service, it should be their decision and not the Government's decision. I also believe it is wrong to put a doctor in the position of having to decide between treating a Medicare patient who chooses to pay out-of-pocket, or stop treating all their other Medicare patients for 2 years.

The administration makes the argument that its opposition to this legislation is based upon its desire to "protect senior citizens". I certainly don't question the sincerity of their concern. However, judging from the response my office has received, seniors neither want nor need the Federal Government to "protect them" from themselves. Florida is home to the second largest Medicare beneficiary population in the nation. My office has been deluged with thousands of letters, telephone calls, faxes, postcards and telegrams from Medicare beneficiaries who are, quite frankly, outraged that the administration is opposed to this legislation.

The communications I have received from seniors in Florida all have common themes—How can something like this be happening in America? Is this not a profound assault on the freedom of American citizens? What right do you people in Washington have to tell me what I can and can't do with my own money when it comes to my own health care? Who asked you to make this decision for me?

I couldn't agree with them more. It is clearly wrong to take important health care decisions out of the hands of patients and put them into the hands of the Federal Government. Moreover, this policy results in a two-tiered system for those Americans who receive their health care from the Federal Government. Patients who are beneficiaries of Medicaid, CHAMPUS, the Indian Health Service and Federal workers who participate in the FEHBP, which includes most of us in Congress and our staffs, may legally enter into private contracts with physicians of our choice. But this is not the case for Medicare beneficiaries—because the Government supposedly knows what is best for them.

Isn't it also ironic that a citizen of Great Britain, with its socialized health care delivery system, has the ability to privately pay for medical services, but Medicare patients in the United States are denied the ability to make this decision for themselves unless their physician is willing to opt-out of Medicare for 2 years?

To me, this issue exemplifies one of the most fundamental differences I have with this administration when it comes to either health care policy or the proper role of the Federal Government in general. This absurd policy is simply another example of big government run amok, and it's time to put a stop to it. The Senate should pass the Medicare Beneficiary Freedom to Contract Act now.

Mr. GRASSLEY. Mr. President, the issue of private contracting in the Medicare Program is very important to my constituents in Iowa. I have received hundreds of letters asking Congress to repeal the provisions in the Balanced Budget Act of 1997 requiring physicians who enter into a private contract with beneficiaries to opt out of the Medicare Program for 2 years. Seniors in my state believe it is not the role of the Federal Government to interfere with relationship with their physician. They want to have as many choices and options as possible. I want to make sure their freedom is protected. That is why I want to thank the majority leader, Senator LOTT, and the chairman of the Senate Finance Committee, Senator ROTH, for recognizing the importance of this issue to our Nation's seniors and for agreeing to address this problem next Congress. I want to offer my support to help with these efforts as a cosponsor of Senator KYL'S legislation and as the Chairman of the Senate Special Committee on Aging and senior member of the Senate Finance Committee.

Mr. BENNETT. Mr. President, I rise to thank my colleague from Delaware, Mr. ROTH, for his commitment to look further into the issue of medicare private contracting and to thank the honorable Senator from Arizona, Mr. Kyl, for his leadership as the sponsor of S. 1194, the Medicare Beneficiaries Freedom to Contract Act. As one of 48 cosponsors of Mr. Kyl's bill, I believe that we need to take steps to maximize choice, access and care for Medicare patients, not restrict them in the name of patient protection. I have been contacted by hundreds of seniors from my state who understandably expressed outrage that Congress had passed a law that will inevitably restrict access to health care from the provider of their choice even when they are willing to pay for the care out of their own pocket. We have been told that this provision was included in the Balanced Budget Act as a protection for Medicare patients. However, I believe we can protect Medicare patients from fraud and abuse without restricting their access to desired care.

Mr. President, I thank my colleagues, once again, for their commitment and leadership and I look forward to working with them in the near future to address this important issue.

Mr. INHOFE. Mr. President, I, too, rise in support of S. 1194, the Medicare Beneficiaries Freedom to Contract Act.

You and I, Mr. President, and all other Americans not covered under Medicare, may obtain health services without informing the Federal Government. However, our nation's senior citizens must first seek out Washington's approval—even when they prefer to pay for those services out of their own pocket.

Congress intended to correct this situation by permitting private contracts. Unfortunately, the President insisted he would veto the entire 1997 Balanced Budget Act unless this fundamental right of all Americans was eliminated or severely limited for senior citizens.

Medicare beneficiaries should have the same freedom to obtain the health care they choose from the physician or provider of their choice—as do Members of Congress and virtually all other Americans. It's ridiculous that this right was taken away and unfortunate that it's taken so long to correct.

Mr. President, I thank the majority leader, Senator LOTT, and Senate Finance Committee Chairman ROTH for acknowledging the importance of this issue and for pledging to look into it further next year in the 106th Congress.

Mr. SHELBY. Mr. President, I thank my distinguished friend, Senator KYL, for introducing S. 1194—the Medicare Beneficiary Freedom to Contract Act and for his leadership on this issue.

I firmly believe it is my obligation, as an elected Member of the United States Senate, to defend the liberty of the constituents that put me in office. Freedom manifests itself in various ways, but one fundamental concept of importance in America is the protection of one's discretion over one's financial resources. I often raise this issue in the context of taxes, but in addition to allowing one to reap what one sows, it is equally important that people have the ability to spend their earnings as they see fit.

I want to be perfectly clear what I think the essence is of what we are discussing when the issue of Medicare private contracting arises. We are talking about allowing people to spend their money as they see fit. This is a very simple, yet important, freedom that people enjoy. We are not talking about letting people buy illegal products, but rather about the right of people to spend their money on health care. Only in Washington DC could such a notion be considered controversial. But to those who have little regard for individual freedom, and who have a vested interest in seeing the scope and power of Government grow, this is a controversial matter.

H.L. Menken once said that "the most dangerous man, to any Government, is the man who is able to think things out for himself." That is the threat, Mr. President. Those that favor the Medicare monopoly, often even to the detriment of Medicare beneficiaries, resist the freedom of people to make these private decisions, because it threatens the Government's control of health care delivery.

Unfortunately the era of big government is not over. In fact, it is alive and well and is embodied in Section 4507 of last year's Balanced Budget Act. Therefore, I want to request that Majority Leader LOTT and Finance Committee Chairman ROTH help us attach S. 1194 to the first appropriate legislative vehicle, so that we can repeal Section 4507. Mr. President, we must restore the right of our elderly to buy the health care they feel they need, without any "big government" constraints on their decisions. This effort is important not only to our ensuring quality health care to our elderly, but also to the larger battle of defending freedom in America.

Mr. KYL. Mr. President, I thank the majority leader, Senator LOTT, and Finance Committee chairman, Senator ROTH, for recognizing the problem of many seniors who are not afforded choice in determining where they get their health care and on agreeing to address this problem in the 106th Congress.

I also thank Senators HOLLINGS, ROTH, GORTON, CRAIG, NICKLES, ALLARD, MACK, GRASSLEY, BENNETT, INHOFE and SHELBY for participating with statements for the RECORD. We do intend to address this problem in the next session of the Congress because we could not get it done this session. I appreciate my colleagues' commitment to doing that and, again, thank the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia.

KOSOVO

Mr. WARNER. Mr. President, I wish to continue a series of remarks that I have placed before the Senate in the past several weeks regarding the increasing problems relating to Kosovo. Together, with other Senators, I have tried to avail myself of every opportunity to learn about this situation. Just weeks ago, I made a trip myself into the region, accompanied by two outstanding Ambassadors, Miles and Hill, and had an opportunity to get firsthand impressions. My trip included Bosnia, Belgrade, Macedonia, and Kosovo.

Those impressions, together with many years of really hard work studying the Balkan region, having first gone, in September 1992, into Sarajevo, I have even greater concern today about the implications of the problems unfolding in Kosovo and the necessity for the world to respond to stop the tragic killing that is taking place every day.

I commend the majority leader—indeed, I am sure there are others who have worked diligently on this—but he has, in this busiest of all weeks of the year in the Senate, found time to convene in his office and otherwise meet with people—and I have joined him on several occasions—about this situation. Indeed, a few days ago a group of us sent a letter to the President of the United States expressing our concerns. This was a letter that followed the briefing by the Secretaries of State and Defense, with the National Security Adviser and the Vice Chairman of the Joint Chiefs.

Mr. President, I will address particular parts of that letter to the President and his response. The response was quite comprehensive.

Further today, I, and I am sure other Members of the Senate, have received drafts of proposed resolutions put forth by a Member on that side of the aisle and a Member on this side of the aisle. Given that they are drafts, and I don't know what the ultimate intention of the drafters will be, I will not identify the persons who distributed the drafts as a senatorial courtesy, but I would like to address my concerns relevant to both drafts.

The purpose today is, again, to give my personal views regarding the plan of operation that has been laid before us publicly by this administration, by the NATO commanders and, indeed, by one or more of our allies, notably Great Britain.

I commend their Minister for National Security and Defense. He has spoken most forthrightly. Indeed, I think his views closely match my own, and that is, any planning to go forward to correct the problems that exist in Kosovo today has to be, in my judgment, and in his, twofold—ground as well as air.

One, a very decisive series of airstrikes, which I support. I believe, and others believe, that a necessary second component of any military action, to back up the airstrikes, has to be the quick placement of a stabilization ground force into Kosovo, into the region, primarily the capital, Pristina. If that is not done, Mr. President, the goals of the airstrikes can not have been fulfilled in my opinion.

In my judgment, the predominant number of military units involved in that airstrike would be American, because of our specialized aircraft and air-to-ground precision ordinance. Our Allies in NATO will provide other important air assets. I think in order to consolidate the gains that we can anticipate from those air strikes, a stabilization force has to be put in place on the ground.

The main urgency of the moment—is some approximately quarter of a million Kosovars, Albanians who have been driven from their homes and villages into the hills who are confronting now another enemy. Once it was the Milosevic police, the Milosevic regular army, but now it is weather that is forcing these tragic people to endure conditions which will be severely injurious to their health and safety.

Food, medicine, and shelter must be brought in beginning immediately, to alleviate that crisis. And secondly, we want to have a cessation to the conflicts that have gone on between these peoples for these many months which have resulted in some 2,000-plus deaths, largely again suffered by the Albanians, the 90 percent of the population. But, indeed, there are incidents where the KLA, the insurgent forces within the Albanian population, have got to answer, themselves, for their responsibility for certain tragic killings of Serbs in this area. There are not clean hands on either side.

But again, to summarize the objectives: Get immediate relief in for these refugees; and, secondly, stabilize the fighting among the minority Serbians and the majority Albanians.

If that is not done, if that stabilization force is not quickly put in, this situation could even escalate in terms of the killing, because you will have removed that military force, i.e., the Serbian paramilitary police, and indeed the regular army, and the remnants that will be left of the Serbian people, such police that are left, will then be faced with the preponderance of a 90 percent ethnic Albanian population coming down out of the hills. And I doubt that they will come down and shake hands with their former Serbian neighbors—finding their homes ravaged, destroyed, their livestock killed, their fields burned. It will not be, Mr. President, a very peaceful setting once the air seals off the flow of heavy armaments and military down from Belgrade.

Mr. President, herein is the problem as I see it. Our administration, regrettably—and I will refer to their letter momentarily—regrettably, has evaded, in my judgment, a full debate on the issue of the need for a stabilization force. They have focused the public attention in our country solely on the need for an airstrike, leaving out what I think should be responsible dialogue, beginning with the President and the Secretaries of State and Defense, on the need for a stabilization force.

Yesterday, I met with a senior officer from NATO, together with other Senators, and he clearly understood the necessity for that stabilization force. Indeed, I happen to know firsthand NATO has studied the need for it. NATO has contingency plans to address that. The plans range all the way from taking the indigenous KDOM, which is a very interesting creation in this conflict—it is a combination of military people from the United States, Canada, and certain other European nations, and indeed I think some Russians, together with diplomatic officials from those nations who go out into this region, unarmed, for the purpose of reporting back on what is taking place in terms of the ravaging of the countryside, the condition of those who have been driven into the hills. And it has been a very valuable source of information for the free world to have had the reports of KDOM. I traveled with them; they are a brave lot.

One option is to enlarge the KDOM. But again, KDOM is not there for military purposes. They are not trained as policemen. They are not trained as security forces. The individual military officers may have some training, but certainly by design and in terms of the logistic equipment, and the like, they are not prepared, in my judgment, to take on the potential parameters of conflicts that could break out following air strikes.

Next it is thought that one or more organizations, like the O.S.C.E. in Europe, could come in and take over this situation to provide a stabilizing force. But that organization has no history. It has no history of taking on an operation of this magnitude. It has no logistical support. It has no experience in coordinating, bringing in troops from other countries.

And so after dialogue with our guests yesterday, and dialogue with many others, it is my judgment that only NATO can provide such stabilization force as will be necessary in the immediate aftermath of a series of airstrikes—I repeat that—only NATO. I believe it unwise for the administration now to rule out U.S. ground forces as being a part of a stabilization force composed of several NATO members.

When we had the Secretary of Defense before the Armed Services Committee the other day, regrettably, he did not respond with the precision I would have liked regarding U.S. participation. Indeed, I think the record reflects statements to the effect that there will be no U.S. participation should a ground element for stabilization be necessary.

Mr. President, I do not think that we should embark—I want to repeat that—I do not think we should embark on these airstrikes without a resolution of how that stabilization force is to be constituted and whether or not the United States will be a part of that force, because we will have started a situation of hitting a sovereign country. We have done that twice already here in the past month or two—hitting a sovereign nation with predominantly U.S. air assets—with really no clear understanding of what is going to take place immediately afterwards on the ground in Kosovo.

We talk about a peace settlement. All of us would like to have a peace settlement, but I cannot believe that if you inflict severe air damage of the magnitude it will take to bring Milosevic, the principal wrongdoer in this whole situation—the principal wrongdoer for years and years, beginning back in Bosnia—you cannot suddenly expect him to come to the negotiating table in a matter of days. And it is within those days that the instability could grow in the Kosovo region. That is my concern.

This instability could spread over into Albania, which is already torn by civil strife. Refugees could begin to flow into Montenegro. Montenegro is now burdened, heavily burdened, with refugees from Albania. More refugees into Macedonia. This whole region could be destabilized unless a stabilization force is put into Kosovo in a timely way.

And further, in my judgment, the work that we have done, together with our allies over many years, to secure Bosnia, to the extent we achieved any results there—certainly relative peace compared to the war of several years ago—that could well be undermined, because if the insurgents down in Kosovo are not contained, that will spread into Bosnia and begin to undo what we have achieved, what little we have achieved thus far, toward the implementation of the Dayton accords.

So my purpose in addressing Kosovo, again, is twofold. These resolutions in draft form call for only U.S. participation in airstrikes. I mean, it is very clearly laid out in both these resolutions. One of them states that: Whereas the Secretary of Defense, William Cohen, opposes the deployment of ground forces in Kosovo, as reflected in his testimony before Congress on October 6, and clearly says that while we support the use of air, it will be air, and air alone.

That I think is an unwise position for the United States to take.

Let me give you an example. Should it be the consensus of NATO that you have to bring a NATO ground force into Kosovo for stabilization, which is my judgment, and you plant the NATO flag, and the U.S. flag is not on the staff, we are not represented there, the question arises why? I mean, we bring into question, who is the commander in chief of NATO? It is an American officer. An American officer is to command of a stabilization force put into a hostile region, and there is not a single additional American there in that force! We should not take that position now.

I fought for many years placing the ground troops in Bosnia. Year after year I voted against it. It was only on the last vote where I joined Senator Dole that I relented. I had no desire to see Americans go in there. I questioned, in some way, the vital security interests. But that's history; we are on the ground in Bosnia and our troops, with other SFOR elements are working to secure a lasting peace. NATO's credibility is on the line now in Kosovo, for only a credible threat to use force can move settlement talks in Belgrade.

If NATO leaders, upon failure of diplomacy, launch a NATO air operation, the credibility of NATO is on the line.

I think you should not start the air until we have fully answered the question: How do you secure the benefits flowing from the air operation and stabilize that region until the negotiators can come to the table and work out a cease fire.

The other resolution being circulated today, likewise, calls solely for air, very explicitly. It has another provision in here which troubles me a great deal; that is, you can only use air for 6 months unless there is further consideration by the Congress.

Mr. President, we have known for a long time that setting deadlines with regard to troops just does not work. Therefore, the placing of a deadline in connection with the use of air and limiting it to 6 months, to me, is not a wise way to proceed. Therefore, I have indicated I would not participate; indeed, I would vote against either of these resolutions should they come back in this form. Both resolutions limit the U.S. participation to air. The President is authorized to use the U.S. Armed Forces for the purpose only of conducting air operations and missile strikes against the Federal Republic of Yugoslavia.

Again, you cannot plan an air operation without a concomitant means to secure the ground.

Let me pose the hypothetical: Suppose you strike with air and you are successful in destroying certain targets, then is Milosevic likely to sit there and do nothing? He could counterattack. His only means of counterattack, in all probability, given his air capability is largely destroyed, his naval capability is hopefully bottled up in the caves or elsewhere, his only avenue to retaliate would be on the ground; perhaps, once again, send out his column of tanks and his column of heavy artillery. Bad weather and darkness of night travel could inhibit air operations.

Air could interdict, I am sure, much of it, but it might require a ground force at some point to interdict such actions as may be taken in retaliation by Milosevic.

I urge the Senate to be very, very cautious as we proceed. I hope to continue our debate with other Senators here as it relates to this situation.

I turn to the response of the President. As I said, it contained specific responses. This is the President speaking. On page 4 he states:

> Second, on the question of ground force, although NATO planners reviewed a broad range of options, some of which would involve grounding forces and hostile circumstances. I can assure you [this is written to all nine of us] the United States would not support these options and there is currently no sentiment in NATO for such a mission. The mission under consideration involves the use of graduated air power, not military forces on the ground.

Now, to me, that is just faulty planning.

I do support the use of force to stop the killing, to enable the NGOs and others to have an environment into which they can bring supplies to help these people. I do not give my support unless a convincing argument is put forth about a stabilizing force and the need to have that force in order to secure the Kosovo region.

We have to be very careful that the credibility of NATO is protected. It is on the line. We cannot allow the NATO force to be considered as acting in concert with the KLA. That is a tough call. Try and find a KLA leader. They are difficult to find. I am not talking about Rugova in Pristina. He has been accessible to all. These militants, the heads of the KLA troops, in this area of Kosovo are not well defined, not well known, and not well coordinated. It is a problem to contain them once we begin to use our air. We cannot seem to be coming in here with a military hand to support Kosovo gaining independence from the Federal Republic of Yugoslavia. That is not our goal.

Again, only a ground force containing this situation in Kosovo, until such time as a settlement can be worked out at the table, is the only way, in my judgment, that this matter can be resolved.

I hope other Senators will come forward and give their views because this could break in military action any day now. I don't predict in any way when the strike may begin. Hopefully, diplomatic efforts, which are still ongoing, can prevent the necessity of the use of force. It is only that credible determination to use force, as perceived in Belgrade, that will bring about successful diplomatic negotiations.

Mr. President, I ask unanimous consent to have the letter to the President and his response to the majority leader, which I referred to earlier, printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follos:

U.S. SENATE,
OFFICE OF THE MAJORITY LEADER,
Washington, DC, October 2, 1998.

Hon. WILLIAM JEFFERSON CLINTON,
The White House, Washington, DC

DEAR MR. PRESIDENT: We are writing to express our concerns about your administration's policy toward Kosovo. Since the Serbian military offensive began in Kosovo more than seven months ago, senior administration officials have repeatedly stated that Serbian actions would not be tolerated. For example, in March 1998, Secretary of State Albright stated, "We are not going to stand by and watch the Serbian authorities do in Kosovo what they can no longer get away with in Bosnia." The same month, your Special Representative threatened "the most dire consequences imaginable" in response to Serbian offensives. Since these statements, many of us indicated we would support military action to halt Serbian ethnic cleansing. However, it is now more difficult for us to have confidence that military action accomplish the stated goals. U.S. credibility has suffered great damage because U.S. threats have not been carried out. Milosevic has had the luxury of time to accomplish his goals in Kosovo.

We listened carefully as your senior national security officials briefed Senators yesterday. Clearly, we recognize the stakes involved in Kosovo, including the danger the conflict will spread to neighboring countries, the importance for our credibility and for that of the NATO alliance, and the ongoing human tragedy created by months of ruthless attacks by Serbian forces. We also recognize the seriousness of the action you are contemplating. It means, as Senator LUGAR stated yesterday, going to war with an attack on a sovereign country. We do not believe you have taken the necessary steps to prepare the Congress and the American people for such a weightily decision. In fact you have not even asked the Congress to authorize the use of military force.

We are troubled by a number of aspects of the plans and policies contemplated by your administration.

First, we cannot support military operations by U.S. Armed Forces in Kosovo unless and until you commit to request a significant increase in the defense budget to address the shortfalls in military readiness, personnel and modernization recently acknowledged by the Joint Chiefs of Staff. The crisis in military readiness that has only belatedly been acknowledged by your administration is grave. To support ongoing operations around the world, our men and women in uniform are deployed away from their homes and families for unprecedented lengths of time during peacetime. Morale among the troops is suffering, and recruiting and retention statistics are dangerously low. Modernization of the force is seriously underfunded across the services. Training in many of the combatant commands must halt well before the end of the fiscal year due to funding and supply shortages. Nearly 12,000 military families rely on food stamps. Failing to provide additional funding for a potentially costly military operation in Kosovo, while U.S. forces are about to complete 3 years in Bosnia at a cost of nearly $10 billion, will severely and perhaps irreparably exacerbate this critical readiness crisis.

Second, the issue of potential deployment of U.S. ground forces was not adequately addressed in yesterday's briefing. Press accounts report that detailed plans for nearly 50,000 ground troops in Kosovo have been developed. Yet Secretary of Defense Cohen stated that there has been no discussion of deploying U.S. ground forces in Kosovo. We believe that a ground force in Kosovo, which could be a likely 'follow-on to airstrikes, should be European, not American.

Third, we are concerned about the proposed use of NATO airpower. Press reports contain information about U.S. targeting plans that was not discussed in the briefing. To the extent we understand the proposed strikes, they appear to envision gradual and incremental measures. General Ralston discussed a "limited option" that may or may not achieve its stated objectives. A more "robust" option is under consideration but apparently has not yet been finalized. We believe any air attack should be sustained and overwhelming. Air attacks should be designed to decimate Milosevic's forces in Kosovo and in Serbia—in order to permanently end his ability to perpetuate the conflict in Kosovo.

Finally and most importantly, we are concerned that U.S. policy is not based on a coherent and convincing plan and neither protects our interests nor recognizes the danger of becoming involved in another open-ended military commitment in the Balkans. Your policy seems to recognize that Milosevic is the problem but also proposes to make him part of the solution. By so doing, your policy helps to perpetuate his hold on power, your administration has yet to formulate a policy for replacing Milosevic with a Democratic Government.

Yesterday, your officials stated that the credible threat of force was necessary to induce Milosevic to negotiate seriously. Yet in June, Secretary of State Albright stated, "The issue here is that we want a diplomatic solution. And I don't want to threaten strikes when what I'm trying to do is get a diplomatic solution." This is a disturbing and confusing inconsistency. A central question involves subsequent actions if any use of military force is not immediately successful in accomplishing its stated objective. If Milosevic does not accept U.S. or NATO demands either before or after the employment of military force, what is our next step? It is not sufficient to state, as Secretary of Defense Cohen did yesterday, that you have not reached that decision point.

Your policy apparently envisions a status of limited autonomy for Kosovo, a status that both parties have shed blood to reject. Independence has been the choice of the majority of inhabitants in Kosovo. Serb assaults since February have served to increase this sentiment. Your policy currently opposes independence for Kosovo but we are concerned that you do not have an achievable program to implement your policy.

Mr. President, we believe in bipartisanship in foreign policy. We will not support any plan that requires American military personnel alone to bear the burden of the sacrifice and risk involved. To the contrary, we expect other members of NATO and their military personnel to share the sacrifice and risk. We stand ready to work with you and your officials to protect American interests in southeastern Europe.

Sincerely,

Strom Thurmond, Chuck Hagel, Pete V. Domenici, Ted Stevens, Don Nickles, Trent Lott, John Warner, Richard G. Lugar, Jesse Helms.

The White House,
Washington, DC, October 6, 1998.

Hon. Trent Lott,
Majority Leader, U.S. Senate, Washington, DC

Dear Mr. Leader: Thank you for your letter about Kosovo. You have raised a number of critical issues. Before addressing your specific concerns, I believe it is appropriate to lead-off by describing our overall approach and the vital interests at stake.

We are entering a crucial period regarding the crisis in Kosovo. Serb repression and violence, clear evidence of atrocities, the uncertain fate of more than 250,000 displaced persons and the approach of winter have coalesced an international consensus behind U.S. efforts to resolve the conflict. In United Nations Security Council Resolution 1199, adopted on September 23, 1998, the international community reaffirmed in clear terms what steps Milosevic must take:

Immediately cease offensive operations;

Withdraw security forces;

Allow full access to international monitors and relief agencies; and

Negotiate a settlement with the Kosovar Albanians.

Since, as of now, Milosevic has not complied with these requirements, we and our NATO allies will soon consider the potential use of force. I want to provide you and others in the Congress our full thinking and strategy on this issue.

As your letter recognizes, the crisis in Kosovo began when Serbian special police launched an offensive against the Kosovo insurgents in February of this year. In the seven months that have followed, Serbian military and police have steadily escalated their systematic campaign of violence and expulsions designed to terrorize the local populations and suppress armed insurgent groups. The roots of the current crisis can be traced back to 1989, when Slobodan Milosevic revoked the autonomous status that Kosovo had enjoyed since 1974. My administration has long pressed Belgrade to restore the rights and freedoms of the Kosovar Albanians, making clear that this was a prerequisite to Serbia's reintegration into the international community. However, Belgrade resisted our support for building an effective dialogue with the Kosovars, instead escalating the fighting by targeting civilians with increasing brutality.

Over the past several months, we have endeavored to contain and ultimately resolve the conflict through extensive humanitarian and diplomatic efforts. On the humanitarian track, we have committed more than $45 million in emergency relief funds and other types of assistance and we have urged the UNHCR and other international agencies and donors to do the same. On the diplomatic front, Ambassador Chris Hill has had some success, pulling together a Kosovar Albanaian negotiating team under Ibrahim Rugova and obtaining Milosevic's acknowledgment of an "interim" agreement that would allow for self-government. Ambassador Hill has also worked with Contact Group countries to develop the text of a settlement that they now have endorsed. This settlement would allow the people of Kosovo to administer their own local affairs, including education, justice and a separate police force, while protecting the human rights and cultural sites of all ethnic groups, including the small Serb minority. It would do so while preserving the FRY's territorial integrity, we believe that an independent Kosovo could not survive as a viable state. Moreover, independence would send entirely the wrong signal to those in the region calling for a "greater Albania," and to minorities elsewhere in Europe, leading to greater instability. However, our humanitarian and diplomatic efforts have been thwarted by the tactics of Milosevic's security forces.

In recent days, the intensifying threat of NATO military action has caused Milosevic to throttle back the operations of his security forces; some withdrawals have begun to occur. However, he has not done enough to come into full compliance with UNSC Resolution 1199. We cannot accept hollow promises or half steps that leave open the prospect of renewed hostilities in the coming weeks, or after this winter.

It is important to focus on U.S. national interests that are at stake here.

First, Kosovo is a tinderbox that could ignite a wider European war with dangerous consequences for the United States. Throughout Balkan history, ethnic conflicts often have been used for political manipulation. The violence directed against ethnic Albanians in Kosovo already has exacerbated political tensions and civil disorder in neighboring Albania. Continuation of the fighting in Kosovo likely would trigger further refugee flows into Albania and the Former Yugoslav Republic of Macedonia, with dangerously destabilizing consequences. Wider instability and refugee flows further south would threaten the differing regional interests of NATO allies Greece and Turkey, exacerbating tensions in the Aegean. The radicalization of ethnic Albanians also could support radical Islamic fundamentalist efforts to establish a foothold in southeastern Europe, potentially creating new sources of instability and increasing the threat of terrorism to us and our allies in Europe.

Second, we are faced with a major humanitarian and human rights crisis that could soon become a catastrophe. Yesterday, the United Nations Secretary General's report on the crisis condemned the wanton killing and destruction perpetrated by security forces in Kosovo. These forces have destroyed at least one quarter of the homes in over 200 villages. They have committed atrocities, including the mutilation and execution of senior citizens, women and children. We must act to prevent widespread deaths with the onset of winter, to prevent further atrocities and to demonstrate that the international community will not tolerate such acts.

Third, it is important to sustain NATO's credibility as the principal peace and security instrument in Europe. Just as NATO's effective response in Bosnia has had a stabilizing influence throughout Europe, so too will NATO's efficacy in responding to Kosovo help achieve our long-term goals for Europe. Moreover, as the situation in Kosovo has deteriorated, the credibility of U.S. warnings to Milosevic first issued by President Bush in 1992, and reaffirmed by me, also are challenged.

We prefer to advance each of these interests through diplomacy that leads to a peaceful and principled settlement, as our negotiating efforts have sought to accomplish. But largely as a result of Milosevic's assault, those negotiating efforts are impossible to pursue under these circumstances. I believe the credible threat, and therefore the willingness to use force, has become necessary. It now appears that our NATO allies share this view.

I will now turn to the four specific issues raised in your letter.

First, I too am concerned about military readiness, as I discussed at length with the Chiefs and CINCs recently. As noted in my letters to Congress and Secretary Cohen, we have moved promptly to address these concerns, building on efforts initiated by my administration over the past several months to support military operations. For example, in FY 1998 we worked with Congress to secure a $1 billion reprogramming that reallocated funds to readiness programs and a $1.85 billion emergency funding package to cover the unanticipated costs of the Bosnia and Southwest Asia contingencies. For FY 1999, I have proposed a $1.9 billion emergency funding measure to cover the continuing costs of our Bosnia deployment. To preclude serious readiness problems in FY 1999, I again urge Congress to approve this measure.

In addition to these actions, I committed my administration to work with Congress to provide adequate resources for readiness and other defense programs in FY 1999 and beyond. For the short term, I proposed that members of my administration work with you prior to the Congressional adjournment to craft a $1 billion supplemental package that will augment FY 1999 funding for key readiness programs. For the longer term, the Office of Management and Budget and the National Security Council have been instructed to work with Secretary Cohen and the Joint Chiefs to develop a multi-year plan that provides the resources necessary to preserve military readiness, support our troops, and modernize aging weapons systems. This plan will be incorporated in my FY 2000 defense budget request to Congress. As I wrote you last month, the men and women of our armed forces will have the resources they need to do their job.

The cost of potential military operations in Kosovo would be a function of the scope and intensity of such operations. My administration will work with the Congress to ensure timely passage of appropriate funding measures and that this does not come at the expense of our defense program.

Second, on the question of ground forces, although NATO planners have reviewed a broad range of options, some of which would involve ground forces in hostile circumstances, I can assure you the United States would not support these options and there currently is no sentiment in NATO for such a mission. The mission under consideration involves the use of graduated air power, not military forces on the ground.

In the event that Milosevic agrees to comply with UNSCR 1199, and if there is a subsequent political settlement, some form of international presence may be needed. Whether this can be done entirely by international civilian personnel and whether Americans should participate are matters we will need to consider in the context of any such agreement and with full consultations with the Congress.

Third, regarding the nature of the air campaign in Kosovo, NATO has developed a clear military plan. It entails the graduated but effective use of air power harnessed to two achievable objectives. The primary objective is by threat of force, or its use, to persuade Milosevic to comply with the demands of United Nations Security Council Resolution 1199. If initial use of air power does not result in compliance, NATO's secondary objective is to strike Belgrade's military capabilities in ways that will damage his ability to conduct repressive operations in Kosovo, the same objective you identify in your letter.

Let me assure you that NATO planning provides for air power to be used effectively. There will be no "pin prick" strikes. Even the initial use of air power will send a very clear signal of our ability to disrupt operations by the FRY military and special police, and follow-on phases will progressively expand in their scale and scope. These operations are planned to involve virtually all NATO allies.

Finally, regarding your desire for a clear policy linked to our national interests and a defined end-state, NATO air power will be used as part of a broader political strategy to advance our overall objectives of promoting a political settlement and averting a humanitarian catastrophe. We are not replacing diplomacy with military force; rather we are combining the two to achieve our objectives. Secretary Albright recently dispatched Ambassador Holbrooke to the region to make crystal clear to Milosevic what steps he needs under UNSC 1199 to take to avoid NATO air strikes. Even if Milosevic gives NATO no choice but to execute air strikes, we will use them in a way designed to help bring an end to Serbian operations in Kosovo, voluntarily or involuntarily.

Our desired end-state in Kosovo is clear, comprising 3 parts. Our immediate objective is to achieve full compliance with UN Security Council resolution 1199, thus reducing the risk of wider conflict, averting a humanitarian catastrophe and lessening the chance of further atrocities. Our mid-term objective is to secure a political settlement that grants broad autonomy to the Kosovars, while keeping Kosovo within the FRY. In particular, the agreement should ensure that the Kosovars have their own bodies of Government and police. Our longer-term objective is a FRY that is democratic and on the path to European integration. This requires a responsible Government that is accountable to its own citizens, of all ethnic backgrounds, and that carries out its obligations abroad, including in Bosnia. In this regard, we continue to support opposition parties and free and independent media in the FRY. Further efforts in these areas are an important part of our broader strategy.

The United Nations, the Contact Group, NATO and my administration all agree that Milosevic bears primary responsibility for the current situation including the brutal tactics of his security forces. Not only has he displaced a quarter million of his own citizens, but he has also suppressed the human rights of all citizens of the FRY and forced them to bear the burden of the current conflict, of UN economic sanctions and of isolation from the rest of Europe.

While Milosevic bears primary responsibility for the current crisis, there are others whose actions could prolong and exacerbate it. I am referring in particular to the various armed insurgent groups in Kosovo, including the Kosovar Liberation Army, or UCK. Ambassador Holbrooke this week delivered a firm message to these groups to cooperate in bringing about a peaceful solution. Armed reprisals against Serb civilians, or the continued pursuit of independence by military means, will only shatter a cease-fire and the hopes of attaining a political settlement that gives Kosovo true autonomy. We have told them that failure to cooperate will cause us to reassess our operations against the Serbs.

Larry Eagleburger, our former ambassador to Yugoslavia, once said that the war in Yugoslavia began in Kosovo and will ultimately end there. His prediction was correct. Our job is to bring that war to an end, to keep it from destabilizing the region and to avert a humanitarian catastrophe. I appreciate your willingness to work with the administration to protect American interests in southeastern Europe. We will continue to consult closely with you in the critical days and weeks ahead.

Sincerely,

BILL CLINTON.

TRIBUTE TO ADMIRAL T. JOSEPH LOPEZ ON THE OCCASION OF HIS RETIREMENT

Mr. WARNER. Mr. President, I rise today to pay tribute to Admiral Joe Lopez on the occasion of his Change of Command as Commander of Allied Forces, Southern Europe and U.S. Naval Forces, Europe and his retirement from the United States Navy after 39 years of dedicated service to the Nation.

Joe Lopez joined the United States Navy to see the world—and see the world he did. A native of Powellton, West Virginia, he enlisted in the Navy in September 1959. In 1964, he was commissioned an Ensign via the Seaman-to-Admiral Program and upon commissioning, he was assigned first to the U.S.S. *Eugene A. Greene* (DD 711) and then to the U.S.S. *Lind* (DD 703). While onboard both of these destroyers, he saw action in Vietnam.

Admiral Lopez received his first command in September 1969, when he assumed the duties as Commander, River Assault Division 153, which operated in the Mekong Delta in Vietnam and as part of a counter-offensive into Cambodia in May 1970. Admiral Lopez was the only Navy commanding officer to lead a river assault into Cambodia.

Following tours of duty at the Naval Postgraduate School, the Armed Forces Staff College, and as Flag Secretary and Staff Officer for Commander, Cruiser-Destroyer Group Eight, Admiral Lopez served as the Executive Officer onboard the U.S.S. *Truett* (FF 1095) from 1977 to 1979. While he was XO, the *Truett* operated in the Mediterranean and Red Seas.

Admiral Lopez commanded the U.S.S. *Stump* (DD 978) from September 1982 to November 1984. As the CO of *Stump* he completed a Persian Gulf deployment. Admiral Lopez' next command tour was as Commander, Destroyer Squadron 32, which deployed to the Mediterranean Sea. He followed his Squadron Commander assignment with duties as Executive Assistant to the Deputy Chief of Naval Operations for Manpower, Personnel and Training and as Executive Assistant to the Vice Chief of Naval Operations.

Admiral Lopez was promoted to Rear Admiral in July 1989. He served as Defense Secretary Dick Cheney's senior military assistant from July 1990 to July 1992 including during the Persian Gulf Conflict. From July 1992 to December 1993, he commanded the United States Sixth Fleet and NATO's Striking and Support Forces, Southern Europe, homeported in Gaeta, Italy.

For the next 3 years he served as the Navy's senior acquisition official, the Deputy Chief of Naval Operations for Resources, Warfare Requirements and Assessments. He led the Navy's transition to a force that is able to operate effectively in the littorals. His accomplishments include helping to develop the next generation of nuclear-powered attack submarines, the recently named *Virginia* class of fast attack subs, which are being built jointly by Newport News Shipbuilding and Electric Boat.

Admiral Lopez became Commander in Chief, U.S. Naval Forces, Europe and Commander in Chief, Allied Forces, Southern Europe on 31 July 1996. As CINC AFSOUTH, he commanded the Peace Implementation Forces (IFOR) in Bosnia-Herzegovina from July 1996 to November 1996.

Tomorrow, at a ceremony at Headquarters AFSOUTH in Naples Italy, after more than 2 years as the senior military commander in NATO's southern region, Admiral Lopez will relinquish command to Admiral James O. Ellis, Jr. The ceremony will also mark the retirement of Admiral Joe Lopez after a 39-year Navy career.

Mr. President, Admiral Lopez has had a tremendous career and I wish to thank him for the superb job he has done as Commander in Chief of Allied Forces, Southern Europe and U.S. Naval Forces Europe. He demonstrated outstanding leadership as commander of the NATO forces in charge of enforcing the Dayton Peace Agreement. In my travels to that war-torn region of the world I have come to know Admiral Lopez well. We have traveled together on official business. On many occasions, I have visited Joe and his wife Vivian at their quarters in Naples, and have sought the Admiral's counsel, especially on the volatile situations in the Balkans. Admiral Joe Lopez is a man of vision and an astute realist. I will continue to seek his counsel during his retirement.

I congratulate Joe and Vivian Lopez upon the completion of their active duty Navy career and thank them for their service to the country. And finally, I want to thank Admiral Lopez for his friendship and honest counsel over the years. Since the closing days of World War II, 1945, I have known and served with many sailors. I rank him at the top, a "4.0 seaman patriot."

DEVELOPMENTS IN KOSOVO

Mr. WELLSTONE. Mr. President, I thank Senator WARNER for speaking about Kosovo. I am disappointed that the Senate has not brought a resolution to the floor and had a debate about what our response should be as a Nation to what is happening in Kosovo. I think it is a profound mistake on our part not to have this discussion given the fact that we are going to adjourn within the next couple of days.

Mr. President, I want to be held accountable. I think we should all be held accountable as to what our viewpoints are and what we think our country should or should not do.

Mr. President, while there have been some indications in recent days that the slaughter of innocent civilians has slowed—at least temporarily—we cannot afford to turn our attention away from the situation there.

President Milosevic claims to have ordered some units of his army back to their barracks, but it is too early to tell exactly what these actions mean and whether Milosevic actually intends to cease his brutal offensive against the Albanian Kosovars. There is considerable evidence that he may not be truly pulling back in accordance with Western demands, but rather taking halfway measures that would allow his troops and tanks to return to the fighting almost immediately. U.N. Secretary General Annan reported earlier this week that there is still a significant presence of Serb armed forces in Kosovo, and that some special police units are continuing punitive operations against the local population. I remain deeply skeptical about Milosevic's intentions.

We have had too much experience with Milosevic to take his statements at face value and to assume that the killing has really ended. We have seen his defiance of world opinion and international law for years. Recently we were all shocked by the horrific massacres of civilians—the massacre of women, elderly men, even young children and infants. These killings, attributed to Serb security forces, are an affront to the international community.

Now it looks as if Milosevic may have ordered a partial withdrawal of his attack forces, hoping to avoid imminent military action by NATO. He may believe that if the killings stop for a time, the attention of NATO and the United States will turn elsewhere. We must not allow that to happen. We must keep our focus on the crisis in Kosovo, and not become distracted by other issues.

Unless immediate action is taken to forestall a humanitarian tragedy, we may soon see even more disturbing and gruesome pictures from Kosovo. With an estimated 150,000 people in Kosovo living out in the open without any shelter and with winter approaching, international relief agencies now fear that tens of thousands of those displaced persons could face severe hardship and some even death from exposure unless they can return to their homes or be provided adequate shelter within the next couple of weeks.

The situation on the ground in Kosovo is heartbreaking. According to a report from a representative of the International Rescue Committee who recently visited the Kosovo countryside, young children are wandering around in the hills barefoot or in ripped sandals. Extended families of several generations are sleeping 15 to 20 to a tent. The tents are clear plastic supported only by bent saplings. Mothers are desperate to return home. Even if their houses are burned they would rather sleep in tents in their own yards then in the inhospitable hills. But they are afraid to return home, because every time they try to return snipers shoot at them.

As the IRC report relates, these displaced Kosovars are trying to survive in areas where there is no food, no shelter, no schools for the children, no latrine system, and no other basic infrastructure. They have only the clothes they were wearing when they fled in the summer. The children have diarrhea from the dirty water and lack of sanitation. Parents watch, worried, as their children vomit all night and become dehydrated. Soon they will also have to face snow and freezing cold.

These appalling conditions cannot continue. We must get aid to this terrorized population swiftly. But we can only get relief to them if Milosevic ceases his repression and allows relief agencies unfettered access.

The administration and our NATO allies must keep the pressure on Milosevic to put an end to Serb military action in Kosovo and to comply with the demands of the U.N. Security Council resolution of September 23. That resolution demands that both parties cease hostilities and maintain a cease-fire. The resolution also calls on Belgrade to (1) cease all action by the security forces affecting the civilian population and order the withdrawal of security forces used for civilian repression; (2) allow free access for international diplomatic monitors in Kosovo and unimpeded access for humanitarian organizations and supplies to Kosovo and; (3) make rapid progress on a clear timetable in conducting autonomy talks with the Kosovo Albanian community.

I have also been encouraged that NATO has instructed its military commanders to begin preparations for possible military action and that NATO members have informed NATO Command what forces and equipment they are prepared to supply for actions in the Kosovo region.

I have always been a Senator who insists that military actions abroad should always be a last resort. I still hope and pray, as a Senator from Minnesota, that in this situation we will not have to resort to force. I view it as a last option if we cannot resolve this situation by diplomatic means. But I also recognize that we cannot rule out the use of force, including the use of air strikes, in this situation. If the killing resumes or if Milosevic prevents relief from getting to the displaced Kosovars and fails to comply with the UN resolution and the demands of the international community, we may have to resort to military action.

I met with Milosevic once. I wanted to see firsthand the genocide of several years ago. He was the first and only person I have met that I would not shake hands with. I don't think he can be believed, and I think that we have to send him a forceful message.

To prepare for possible implementation of more forceful options developed by NATO planners, we should continue to move forward now, under NATO auspices, with pre-deployment in the region of appropriate levels of NATO military equipment and forces. This would include such actions as pre-positioning aircraft and naval vessels, and deployment of necessary materiel to support NATO troops.

These moves would be intended to send another clear message to Milosevic that he must comply with the UN Security Council Resolution immediately. If he does not respond we must be ready to take further steps to force compliance as necessary.

At the same time, we need to take other actions to keep the pressure on Milosevic. The United States should press forward on an intensified multilateral effort, at the United Nations and through regional bodies like the European Union, to firmly tighten the existing sanctions regime on Serbia, to re-impose other sanctions lifted after signing of the Dayton Peace Accord, and to otherwise increase pressure on Milosevic to comply.

We must also accelerate United States and NATO logistical support for the ongoing international humanitarian aid effort in Kosovo, including pre-deployment of humanitarian supplies in Kosovo in anticipation of winter distribution by non-governmental organizations, while ensuring the safety and security of those who will rely on such aid.

There must be no repeat of the disgraceful Bosnian "safe haven" disaster of Srebrenica.

The United States and NATO must also press for immediate and unrestricted access in Kosovo for internationally-recognized human rights monitoring organizations, including the Organization for Security and Cooperation in Europe, and increase aid and intelligence support to the International Criminal Tribunal for the Former Yugoslavia.

Mr. President, the United States and NATO are right to move forward now to send a clear and forceful message to Milosevic that he can no longer brazenly defy world opinion. The brutal slaughter of innocent noncombatants in Kosovo must stop now. If it continues, the West must have the resolve to do what is necessary to bring it to an end. And, if necessary, I want to say as a U.S. Senator, I think there should be airstrikes.

I wanted to speak out before we leave and I want the RECORD to show that I have spoken out. I wish that the U.S. Senate had brought this matter up. Other Senators would have very different points of view, and I understand that. But it really troubles me, saddens me, that the Senate as a body has not had a thorough discussion and debate about what is a life-or-death matter. I wanted to at least have a chance to speak out. I thank my colleague from Oklahoma for giving me some time.

Mr. SPECTER. Parliamentary inquiry: I have been asked to propound a unanimous consent request which relates to another bill. Would it be in order at this time to ask unanimous consent that it may be considered separately?

The PRESIDING OFFICER. The Senator may make the request.

OPERATION DESERT SHIELD AVIATION CONTINUATION PAY

Mr. SPECTER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 2584.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2584) to provide aviator continuation pay for military members killed in Operation Desert Shield.

There being no objection, the Senate proceeded to consider the bill.

Mr. SPECTER. Mr. President, this legislation is introduced to correct a legislative inequity that has adversely affected one of my constituents, Mrs. Vicki Reid of Dauphin, Pennsylvania.

At the time of his death in Operation Desert Shield, Captain Frederick Reid was serving as a United States Air Force pilot. The Air Force had authorized an Aviator Continuation Pay contract contingent upon his continuing to serve in the Air Force. Unfortunately, on October 10, 1990, Captain Reid was killed during a flight training operation.

The Defense Department policy at the time was that one's death precluded receiving the continuation pay. Congress responded by enacting the Mack amendment, under which families of pilots killed in action during Operation Desert Storm are entitled to the deceased pilot's Aviator Continuation Pay. This provision of the fiscal year 1992 Defense Appropriations Act (P.L. 102–172) stipulates that in order to collect the Aviator Continuation Pay, the pilot must have died during Operation Desert Storm (on or after January 17, 1991), but excludes those pilots killed in Operation Desert Shield.

By letter to me dated August 3, 1998 from Under Secretary Rudy De Leon, the Department of Defense has confirmed that Captain Reid was the only U.S. Air Force pilot killed in Operation Desert Shield who was entitled to Aviator Continuation Pay and that approximately $58,000 of Captain Reid's Aviator Continuation Pay was unpaid at the time of his death. In a September 11, 1998 letter to me, the Air Force has expressed its support for an extension of the Mack amendment to cover the Reid case.

While private relief legislation is a last resort to be used sparingly by the Congress, Captain Reid's service and dedication to his country are laudatory. Had he died only a few months later, his widow would have been justly compensated. Accordingly, I am introducing this bill today.

Mr. President, I ask unanimous consent that a letter from the Department of Defense and a letter from the Air Force be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF DEFENSE,
UNDER SECRETARY OF DEFENSE,
Washington, DC, August 3, 1998.

Hon. ARLEN SPECTER,
U.S. Senate,
Washington, DC.

DEAR SENATOR SPECTER: This responds to your letter of July 2, 1998, to Secretary Cohen concerning Aviation Continuation Pay (ACP) due to pilots at the time of their death while serving in Operation Desert Shield.

A review of files pertaining to the members who died while serving in Desert Shield indicate that, of the eight pilots who died during that operation, only Captain Reid was serving under an ACP bonus contract at the time of his death. Approximately $58,000 of that bonus was left unpaid due to Captain Reid's death and would be payable to his widow should legislation be enacted to extend the Mack amendment to P.L. 102–172 to cover members killed in Operation Desert Shield.

I appreciate the concern you have shown about this issue. Please contact me if you require any further information.

Sincerely,

RUDY DE LEON.

DEPARTMENT OF DEFENSE,
DEPARTMENT OF THE AIR FORCE,
Washington, DC, September 11, 1998.

Hon. ARLEN SPECTER,
U.S. Senator,
Philadelphia, PA.

DEAR MR. SPECTER: This responds to your inquiry for Ms. Vicki Reid and the possibility of receiving the remaining portion of her late husband's, Captain Frederick Reid, Aviator Continuation Pay (ACP).

As currently codified in Section 301b, Title 37, United States Code, ACP is paid upon the acceptance of a written agreement to remain on active duty. Members who do not complete the total period of service under the terms of that agreement, even as a result of death while in military service, are not entitled to the unearned portion of the compensation. Current law does not permit the Air Force to pay Ms. Reid the approximately $58,000 remaining on her husband's agreement.

Air Force officials are aware of the possibility of extending the Mack amendment to cover members killed in Operation Desert Shield and strongly support this initiative. The Air Force officials sincerely appreciate the dedication to duty exemplified by Captain Reid.

We trust you will find this information helpful.

Sincerely,

MARCIA ROSSI,
Lt. Col. USAF, Congressional Inquiry Division, Office of Legislative Liaison.

Mr. SPECTER. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

Mr. DORGAN. Mr. President, reserving the right to object—I will not object—I want to inquire, has that been cleared on this side?

Mr. SPECTER. It has been cleared on the other side of the aisle. It provides for Aviator Continuation Pay for Air Force personnel killed in Operation Desert Shield. It is for a Pennsylvania constituent, as I understand it, the only one who has not been so compensated.

Mr. DORGAN. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2584) was passed, as follows:

S. 2584

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. OPERATION DESERT SHIELD AVIATOR CONTINUATION PAY.

Section 8135(b) of the Department of Defense Appropriations Act, 1992 (Public Law 102–172; 105 Stat. 1212; 37 U.S.C. 301b note) is amended—

(1) by striking out "January 17, 1991" and inserting in lieu thereof "August 2, 1990"; and

(2) by inserting "(regardless of the date of the commencement of combatant activities in such zone as specified in that Executive Order)" after "as a combat zone".

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1999—CONFERENCE REPORT

Mr. NICKLES. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of the conference report to accompany H.R. 3694, the intelligence authorization bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report.

The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3694), have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 5, 1998.)

Mr. SHELBY. Mr. President, I rise today to ask that my colleagues support the Conference Report on the Intelligence Authorization Act for Fiscal Year 1999.

I want to thank Chairman YOUNG for his leadership in the Conference, and note for my colleagues that Chairman GOSS was unable to chair the conference due to a serious medical condition in his family. We all wish Mrs. Goss a speedy recovery.

I believe that the Conference Committee put together a solid package for consideration by the full Senate that fairly represents the intelligence priorities set forth in both the Senate and House versions of the Intelligence Authorization Act. I am pleased to report that the Conference Committee accomplished its task in a strong bipartisan manner, and I want to thank my colleague from Nebraska, Senator KERREY, for working so closely with me to produce this legislation.

I believe that the Conference Report embraces many of the key recommendations that the Senate adopted in its version of the bill.

We recommended significant increases in funding for high-priority projects aimed at better positioning the Intelligence Community for the Threats of the 21st Century, while at the same time reducing funds for programs and activities that were not adequately justified or redundant.

The Conference Report includes key initiatives that I believe are vital for the future of our Intelligence Community.

These initiatives include: bolstering advanced research and development across the Community, to facilitate, among other things, the modernization of NSA and CIA; strengthening efforts in counter-proliferation, counter-terrorism, counter-narcotics, counter-intelligence, and effective covert action; expanding the collection and exploitation of measurements and signatures intelligence, especially ballistic missile intelligence; developing reconnaissance systems based on new small satellite technologies that provide flexible, affordable collection from space with radars to detect moving targets; boosting education, recruiting, and technical training for Intelligence Community personnel; enhancing analytical capabilities; streamlining dissemination of intelligence products; and providing new tools for information operations.

The conferees have provided the funds and guidance to ensure that military commanders and national policymakers continue to receive timely, accurate information on threats to our security.

At the same time, we have found some critical areas within the Community that are in need of major improvements.

First, the CIA's foremost mission of providing timely intelligence based on human sources ("HUMINT") is in grave jeopardy. CIA case officers today do not have the training or the equipment needed to keep their true identities hidden, to communicate covertly with agents, or to plant sophisticated listening devices and other collection tools that will provide timely intelligence on an adversary's intentions.

Second, what many see as the "crown jewel" of U.S. Intelligence—the National Security Agency's signals intelligence capability—likewise is in dire need of modernization. The digital and fiber optic revolutions are here-and-now, but NSA is still predominantly oriented toward cold war-era threats.

The Director of NSA has recommended major changes in how NSA performs its mission—changes we endorse—but those recommendations were not adequately addressed in the President's budget.

Third, promising technologies and systems for detecting missiles and other threats were short-changed in the President's budget request. Likewise, robust funding for new tools for conducting information warfare, new sensors to detect and counter proliferation, and a demonstration of radar technology on small and affordable satellites were not adequately addressed in the budget request.

And fourth, the declining quality of analysis within the Intelligence Community is cause for great concern.

Responding to the failure to predict the Indian nuclear tests, the Director of Central Intelligence commissioned retired Admiral David Jeremiah to review what went wrong and why. Among other findings, Admiral Jeremiah concluded that Intelligence Community analysts were complacent; they based their analyses on faulty assumptions; and engaged in wishful thinking. It is my belief that such is the state of analysis as it relates to many issues and problems, including political-military developments in China, the ballistic missile threat, and more. We can and should expect more from the Intelligence Community.

And as we demand more from our Intelligence Community in a number of areas, we also demand fiscal responsibility. The Conference Report includes a number of reductions to programs that were not adequately justified or were redundant with other elements within the Intelligence Community.

The Conference Report also places some fiscal restraints on programs that have historically been allowed to grow unbounded. These programs are primarily in the area of technical satellite collection, and the conferees placed a cost cap on the National Reconnaissance Office's next generation imagery satellite constellation, called the Future Imagery Architecture. I believe that this action is necessary to ensure that the program stays on a solid fiscal footing from the start, and focuses on the key performance parameters generated by the Intelligence Community and the Department of Defense's Joint Requirements Oversight Council.

Finally, the Conference Report includes a provision to name the CIA Headquarters Compound after President George Bush. I am happy that we were able to recognize President Bush's service to this country as both Director of Central Intelligence and as President. As DCI, Mr. Bush brought innovation to the CIA, and dramatically improved the morale within the Agency.

He demonstrated leadership and integrity at a time when both were desperately needed to help restore confidence in the CIA and the other elements that make up the Intelligence Community. It is a fitting tribute that we designate CIA headquarters the George Bush Center for Intelligence.

Mr. President, the Conference Committee worked closely together, in a strong bipartisan fashion, to produce a comprehensive Intelligence Authorization Act, and I urge my colleagues to support its adoption.

Mr. KERREY. Mr. President, I urge my colleagues to vote for this conference report and I urge the President to sign this bill into law. This legislation is an essential part of Congress' annual duty to provide and direct the resources which safeguard the independence of the United States and the lives and livelihoods of the American people. Chairman SHELBY's leadership and sustained effort throughout this year come to fruition in this excellent bill and I congratulate him. I also appreciate the vision and hard work of Chairman GOSS and Ranking Member DICKS of the House Committee, together with the leadership of Chairman YOUNG at the conference.

This legislation, like the Intelligence Agencies it authorizes, seeks to maximize America's capabilities against today's threats while simultaneously building capability against the threats of 2010 and beyond. The Intelligence Community cannot be pulled back from its deployed status for retraining and retooling. It is operating tonight around the world, seeking to monitor every environment which could threaten America or our allies. But the Intelligence Community must also be able to master the steadily more complex technologies which will be tomorrow's threat environments. The outlines of the new century are apparent, as we see the continuing explosion of communications media, the global growth of strong encryption, and the increasing porosity of international borders, to mention just of the future that are already upon us. In response to challenges like these, the conference authorized the start or continuation of a number of new technology initiatives, including most of those the Senate supported previously.

The Committee's efforts to advance intelligence technology were greatly assisted by a group of outside experts who formed a Technical Advisory Group to the Committee. They helped the Committee focus on the future of signals intelligence and the necessity for the National Security Agency to modernize itself, as well as how technology could better support human intelligence. Their contribution of time and expertise is paying off already for the country, and they deserve the thanks of all of us.

Throughout the authorization process, the two intelligence committees have understood that their efforts to prepare U.S. intelligence to master the future must be bounded by budgetary realities. Most of the intelligence budget is dependent on a defense budget which, as we all know, is under severe pressure. The intelligence agencies have ambitious projects, and it is part of our job to set financial limits and time constraints and closely oversee the progress of these projects. The conferees placed a cost cap on the National Reconnaissance Office's Future Imagery Architecture for this reason.

The bill also encourages competitive analysis of important and difficult intelligence topics. The Jeremiah Report which reviewed intelligence community performance following this year's Indian nuclear test and the Rumsfeld panel report on the ballistic missile threat both stress the need to use competitive analysis drawing on experts from both within and outside the Government. This bill encourages that process.

Analysis will grow stronger in the coming year, not only because of this legislation, but because there is now in place, under the Director of Central Intelligence, an Assistant Director for Analysis and Production. This official has not been confirmed by the Senate, although he may well be in the coming year, but he is already using the Director's authorities to make analysis in the Intelligence community more effective and efficient. He and his counterpart, the Assistant Director for Collection Management, and their supervisor, the Deputy Director for Community Management, are already by their actions validating Congress' wisdom in creating these positions. As I go to briefings and learn how these officials are marshaling resources in times of crisis, setting priorities, and identifying gaps, I am pleased with the work we did 2 years ago.

Another aspect of the intelligence business should be praised, Mr. President, and that is the unparalleled level of cooperation between the agencies these days. The relationship between FBI and the CIA is particularly strong and it has paid off most recently in the investigation of the attacks on our Embassies in Kenya and Tanzania. Director Tenet and Director Freeh have overcome corporate cultures and bureaucratic impulses to forge a strong team for America and they deserve our thanks.

Team-building and sound oversight both depend on the flow of information. The Senate had gone on record 3 times in defense of a Federal employee's right to bring classified information on wrongdoing to the appropriate committees of Congress. The House had devised a process by which such information could come to Congress while insuring the employee's privacy, making the employee's agency aware the information was going to Congress, and insuring the protection of sources and methods. The conference modified the House provision and agreed to make the information process faster. As one who has argued several times on this floor for the right of Congress to be informed, I am pleased with the conference outcome on this provision and with the work of both bodies.

This legislation also recognizes the accomplishments of a great patriot, former President Bush, by naming the CIA Headquarters complex in his honor. From his initial service in World War II, President Bush has always stepped forward to do hard and sometimes dangerous work for his country. Leadership of the CIA has both characteristics. President Bush distinguished himself in that job, as in all his service, and I am pleased this legislation will honor him.

Mr. THURMOND. Mr. President, I rise to address an issue of serious consequence in the Intelligence Authorization Conference Report. Although I have signed the conference report and intend to support it on the Senate floor, I feel compelled to voice my concern over the manner in which the conference report deals with the Future Imagery Architecture, a program managed by the National Reconnaissance Office. I make these remarks with the complete understanding that conference is always difficult, and always improve compromises.

Although there are reasons to be concerned about cost growth in the FIA program, I am just as concerned that the intelligence conference report will have negative and unforeseen consequences for this important program. The conference report mandates fixed deployment dates, fixed costs, and fixed portions of the budget for subsidizing the commercial sector. Perhaps more troubling, the conference report fences 100 percent of the FIA budget for fiscal year 1999 pending the completion of several significant tasks, a number of which are outside the purview of the NRO. Since fiscal year 1999 has already commenced, this means that none of the FIA budget can be accessed for many months, even to support completion of the tasks that the conference report has mandated. In my view, imposing such limitations before a contract has even been awarded is an unprecedented and unwarranted degree of micromanagement.

Based on my concerns, I have requested the views of the Department of Defense and the Joint Chiefs of Staff. The preliminary report that I have received indicates that OSD and JCS have serious concerns similar to mine.

It has been asserted that the FIA program must live under a congressionally imposed cost cap in order to prevent it from "eating" the entire National Foreign Intelligence Program. Some who make this argument, however, also want to see FIA's capabilities to support military users reduced so that savings can be used to support other programs within the NFIP that have a more "national" orientation. The fact of the matter is, however, even though FIA is funded in the NFIP, by its nature and the mission of the NRO, it must provide robust support to military forces. The Intelligence Committees must ensure that their bill supports these military missions as well as the other programs and missions funded within the NFIP.

INTELLIGENCE COMMUNITY WHISTLEBLOWER PROTECTION ACT OF 1998

Mr. SHELBY. Mr. President, I want to take a moment to discuss language that has been added to the Intelligence Authorization Act for Fiscal Year 1999. The language, establishing the "Intelligence Community Whistleblower Act of 1998," creates a process by which employees of intelligence agencies can provide information to Congress about certain potential problems without fear of reprisal or threats or reprisal.

Some of these provisions create duties for the Inspectors General (IGs) of the Department of Defense and the Department of Justice, and modify the Inspector General Act of 1978. As a result, they fall squarely within the jurisdiction of the Committee on Governmental Affairs, which is the Senate's primary oversight committee for the IG community.

However, Senator THOMPSON, the chairman of the Governmental Affairs Committee, worked with me to ensure that the language comports with the overall framework of the Inspector General Act. I thank my colleague for his participation in this issue.

Mr. THOMPSON. Mr. President, I thank my colleague from Alabama for his cooperation on this matter. The Committee on Governmental Affairs, which I chair, has long been a supporter and friend of the Inspector General (IG) community. Twenty years ago, the Committee's leadership led to passage of the Inspector General Act, legislation which has served Congress, the executive branch, and the public well. As their primary committee of jurisdiction, the Committee has a longstanding and abiding interest in the IGs.

Thus, the Committee has an interest in any legislation that affects the duties of the IGs. Portions of the "Intelligence Community Whistleblower Protection Act of 1998" amend the IG Act by vesting the Defense Department and Justice Department IGs with authority to act upon allegations received from intelligence community whistleblowers who wish to complain to Congress about problems they see in certain sensitive areas. Recognizing the Committee's jurisdiction and interest in this matter, Senator SHELBY solicited my views on how the whistleblower provisions fit within the existing IG statute. I thank Senator SHELBY for offering me the opportunity to work with him on this important issue.

S.C. SECRECY REFORM ACT

Mr. MOYNIHAN. Mr. President, today the Senate Select Committee on Intelligence brings to the floor the conference report on the intelligence authorization bill. While I commend the Committee for bringing this legislation to the floor, I would like to take this opportunity to discuss a bill that the committee did not act on this year: the Government Secrecy Reform Act (S. 712).

This legislation stems from the unanimous recommendation of the Commission on Protecting and Reducing Government Secrecy. Senator JESSE HELMS and I, and Representatives LARRY COMBEST and LEE HAMILTON (all Commissioners), introduced the Government Secrecy Act in May 1997. The bill sets out a new legislative framework to govern our secrecy system. Our core objective is to ensure that secrecy proceed according to law. The proposed statute can help ensure that the present regulatory regime will not simply continue to flourish without any restraint and without meaningful oversight and accountability.

A trenchant example of the need for reform in this area came last week by way of the Assassination Records Review Board. The Board has now completed its congressionally mandated review and release of documents related to President Kennedy's assassination. It has assembled at the National Archives a thorough collection of documents and evidence that was previously secret and scattered about the Government. The Review Board found that while the public continues to search for answers over the past thirty-five years:

> [T]he official record on the assassination of President Kennedy remained shrouded in secrecy and mystery.
>
> The suspicions created by Government secrecy eroded confidence in the truthfulness of federal agencies in general and damaged their credibility.

Credibility eroded needlessly, as most of the documents which the Board reviewed were declassified. And at considerable cost, as it represents the best-known and most notorious conspiracy theory now extant: the unwillingness on the part of the vast majority of the American public to accept that President Kennedy was assassinated in 1963 by Lee Harvey Oswald, acting alone.

Conspiracy theories have been with us since the birth of the Republic. This one seems to have only grown. A poll taken in 1966, 2 years after release of the Warren Commission report concluding that Oswald had acted alone, found that 36 percent of respondents accepted this finding, while 50 percent believed others had been involved in a *conspiracy* to kill the President. By 1978 only 18 percent responded that they believed the assassination had been the act of one man; fully 75 percent believed there had been a broader plot. The numbers have remained relatively steady since; a 1993 poll also found that three-quarters of those surveyed believed (consistent with the film JFK, released that year) that there had been a conspiracy.

It so happens that I was in the White House at the hour of the President's death (I was an assistant labor secretary at the time). I feared what would become of him if he were not protected, and I pleaded that we must get custody of Oswald. But no one seemed to be able to hear. Presently Oswald was killed, significantly complicating matters.

I did not think there had been a conspiracy to kill the President, but I was convinced that the American people would sooner or later come to believe that there had been one unless we investigated the event with exactly that presumption in mind. The Warren Commission report and the other subsequent investigations, with their nearly universal reliance on secrecy, did not dispel any such fantasies.

In conducting this document-by-document review of classified information, the Board reports that "the Federal Government needlessly and wastefully classified and then withheld from public access countless important records that did not require such treatment." How to explain this?

Beginning with the concept that secrecy should be understood as a form of Government regulation. This was an insight of the Commission on Protecting and Reducing Government Secrecy, which I chaired, building on the work of the great German sociologist Max Weber, who wrote some eight decades ago:

> The pure interest of the bureaucracy in power, however, is efficacious far beyond those areas where purely functional interests make for secrecy. The concept of the 'official secret' is the specific invention of bureaucracy, and nothing is so fantastically defended by the bureaucracy as this attitude, which cannot be substantially defended beyond these specifically qualified areas.

What we traditionally think of in this country as regulation concerns how citizens are to behave. Whereas public regulation involves what the citizen may do, secrecy concerns what that citizen may know. And the citizen does not know what may not be known. As our Commission stated: "Americans are familiar with the tendency to overregulate in other areas. What is different with secrecy is that the public cannot know the extent or the content of the regulation."

Thus, secrecy is the ultimate mode of regulation; the citizen does not even know that he or she is being regulated! It is a parallel regulatory regime with a far greater potential for damage if it malfunctions. In our democracy, where the free exchange of ideas is so essential, it can be suffocating.

And so the Commission recommended that legislation must be enacted. The Majority and Minority Leaders have been persuaded on the necessity of such legislation and are cosponsors of the bill. On March 3, 1998, we engaged in a colleague on the bill with the two Leaders, along with myself, Senators HELMS, THOMPSON, GLENN, SHELBY, and KERREY. At that time we all agreed on the importance of considering the bill in this session. The Majority Leader stated, "I hope that this process of committee consideration can be completed this spring and that we can expeditiously schedule floor time for legislation addressing this important issue. The Senate Governmental Affairs Committee, chaired by Senator THOMPSON, considered the bill and approved it unanimously on July 22. In its report to accompany the bill, the Committee had this important insight:

Our liberties depend on the balanced structure created by James Madison and the other framers of the Constitution. The national security information system has not had a clear legislative foundation, but . . . has been developed through a series of executive orders. It is time to bring this executive monopoly over the issue to an end, and to begin to engage in the same sort of dialogue between Congress and the executive that characterizes the development of Government policy in all other means.

We are not proposing putting an end to Government secrecy. Far from it. It is at times terribly necessary and used for the most legitimate reasons—ranging from military operations to diplomatic endeavors. Indeed, much of our Commission's report is devoted to explaining the varied circumstances in which secrecy is most essential. Yet, the bureaucratic attachment to secrecy has become so warped that, in the words of Kermit Hall, a member of the Assassination Records Review Board, it has transformed into "a deeply ingrained commitment to secrecy as a form of patriotism."

Secrecy need not remain the only norm—particularly when one considers that the current badly overextended system frequently fails to protect its most important secrets adequately. We must develop what might be termed a competing "culture of openness"—fully consistent with our interests in protecting national security, but in which power and authority are no longer derived primarily from one's ability to withhold information from others in Government and the public at large.

Unfortunately, the Intelligence Committee did not take up this bill. Part of the delay was a result of the tardy administration response to the changes made by the Governmental Affairs Committee. A formal letter on the bill was not delivered until September 17. In addition, this letter sought the removal of the "balancing test" contained in the bill, a change that the administration had not previously sought.

Nevertheless, we were on the threshold of reaching agreement on the bill. The Intelligence Committee has been reviewing the bill informally, and I hope the Chairman will agree that the difference between us are not that great, and that we can pass the bill early in the 106th Congress.

I ask unanimous consent that the letter expressing the administration views on the bill be printed in the RECORD at this point, along with comments on the letter made in a joint letter by the National Security Archives and the Federation of American Scientists, and a letter by Representative LEE HAMILTON.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, October 2, 1998.

Mr. STEVEN AFTERGOOD,
Federation of American Scientists, 307 Massachusetts, Ave., NE., Washington, DC.

DEAR MR. AFTERGOOD, Thank you for your letter of September 24, 1998, concerning National Security Adviser Sandy Berger's letter to me with the administration's views on S. 712, The Government Secrecy Reform Act of 1998.

I agree with you. I think it is a serious mistake to accept the elimination of the public-interest balancing test as the price for administration support of the bill. To agree with the administration's proposed changes would amount to gutting the bill. It would amount to a codification of existing procedures in the Executive branch, and a rejection of the work of the Secrecy Commission. I want to work with the administration in support of secrecy reform, but I cannot accept a revised bill that does not change the unacceptable status quo on classification and declassification.

As I read it, secrecy reform is dead in the current Congress. In the absence of administration support, moving the bill forward just will not be possible.

On a personal note, I want to say that the efforts of you and your organization have been very helpful to me and to advocates of secrecy reform, and I wish you every success in the 106th Congress.

With best regards,
Sincerely,
LEE H. HAMILTON,
Ranking Democratic Member.

SEPTEMBER 24, 1998.

Re S. 712, the Government Secrecy Reform Act of 1998

Hon. DANIEL PATRICK MOYNIHAN,
United States Senate, Washington, DC.

DEAR SENATOR MOYNIHAN: As 3 public-interest organizations that have collectively spent more than 50 years battling excessive Government secrecy imposed in the name of national security, we write to applaud S. 712, the Government Secrecy Reform Act of 1998, as a truly important and unprecedented step towards reforming the Cold War secrecy system.

The bill includes the critical ingredient for any real reform, namely the public-interest balancing test and judicial review under the Freedom of Information Act applying that test. The public-interest balancing test—whereby classification standards must incorporate a weighing of the public interest in knowing the information against the harm to the national security from disclosure—was one of the key recommendations of the Commission on Protecting and Reducing Government Secrecy in 1997. And the experience of the past 20 years confirms that Congress was correct in 1974, when it recognized that an essential element for an effective Freedom of Information Act is judicial review of whether classification standards are being properly applied when Government agencies refuse to release information.

For these reasons, we are deeply disappointed that the administration objects to the bill's inclusion of the public-interest balancing test for declassification and the concomitant amendment to the Freedom of Information Act. (Letter from Samuel R. Berger to Lee Hamilton, September 17, 1998; secs 2(c) and (f) in S. 712 as reported out of the Senate Committee on Governmental Affairs.) The administration's demand to eliminate from the bill the balancing test and its enforcement under the FOIA threatens to eviscerate the bill and to gut any real reform. If the bill were to be passed without these provisions, we fear that secrecy reform would suffer a grievous setback. The historic opportunity carved out by the Commission to advance reform beyond the status quo will have been missed, and instead the Congress risks codifying a Cold War understanding of national security secrecy that ill serves democratic principles.

While we understand that the administration's objections may make it difficult to pass the bill as reported out of Committee in this session of Congress, we urge you to insist on keeping these provisions in the bill.

We believe that the administration's objections can be overridden, if not in this Congress, then in the next one. The objections are based on a dangerous and erroneous view that the President has absolute and unreviewable authority over national security information. This view of exclusive authority challenges not only the judiciary's constitutional role in enforcing the law but also Congress' shared responsibility for national security information. It is inconsistent with the Supreme Court precedent, (See, *EPA v. Mink*, 410 U.S. 73 (1973) and contradicts decades of congressional legislating. (Most recently, the Nazi War Crimes Disclosure Act, but also the JFK Assassinations Records Collection Act, the Foreign Relations Authorization Act of 1992 (concerning the Department of State's Foreign Relations of the United States series), and the Intelligence Oversight Act, among others.) Indeed, this same argument was rejected by the Congress in 1974 when it overrode President Ford's veto of the amendment to the Freedom of Information Act providing that federal courts should determine whether information is properly classified. In now objection to judicial review, the administration is seeking to repeal the most important element of the FOIA.

Moreover, the oft-cited specter of "judicial intrusion on the President's constitutional authority" is not grounded in any real historical experience. The bill would authorize judicial review to determine whether midlevel agency officials have correctly applied declassification standards. In reality, no federal court is ever going to release national security information over the objection of the President or even the head of an agency, and certainly no appeals court would uphold any such decision. At the same time, experience confirms that it is only the availability of judicial review that ensures that agencies do, in fact, live up to their legal obligations under the FOIA. For example, only when the CIA was forced to defend its withholding of the aggregate intelligence budget in 1997 in court did the agency finally release the information.

As you have written, "[s]ecrecy can be a source of dangerous ignorance. . . . It is time. . . . to assert certain American fundamentals, foremost of which is the right to know what Government is doing, and the corresponding ability to judge its performance." These key provisions of the bill are essential to allow the public to do just that—to participate effectively in the political process and to engage in democratic decision making on fundamental issues of foreign policy and national security.

Thank you for considering our views.
Sincerely yours,
KATE MARTIN,
Center for National Security Studies.
STEVEN AFTERGOOD,
Federation of American Scientists.
THOMAS BLANTON,
National Security Archive.

THE WHITE HOUSE,
Washington, September 17, 1998.
Hon. LEE HAMILTON,
Ranking Democratic Member,
Committee on International Relations,
House of Representatives,
Washington, DC.

DEAR LEE: Thank you for your letter inquiring about the administration's views on S. 712, the Government Secrecy Reform Act of 1998, which was reported out of the Senate Committee on Governmental Affairs in July. I wrote to Chairman Thompson on May 11, 1998, conveying administration views on this legislation; a copy of that letter is enclosed.

The amended version of S. 712 incorporates most of the administration's recommendations regarding the Office of National Classification and Declassification Oversight (NCDO); the use of classification and declassification guidance; and the need to ensure that declassification decisions are made only by the originating agency. The Committee also clearly tried to address our concerns about new rights of judicial review, but further clarification on this vital point is necessary.

The additional improvements in S. 712 that we believe are essential are discussed below. Based on recent discussions with staff of Chairman Thompson, Senator Moynihan, and the Senate Select Committee on Intelligence, I am hopeful that needed changes can be made that would enable the administration to endorse this legislation. For each of the key issues, our suggestions are included in a line-in/line-out version of S. 712 enclosed with this letter.

1. The bill must be modified to make it unambiguously clear that this legislation confers no new rights of judicial review. While the text of Section 6 attempts to limit judicial review, the interplay of other sections would create new substantive and procedural rights. Section 2(c), which requires a national security/public interest balancing test before classifying or declassifying any information, also sets forth specific standards for defining harm to national security and the public interest. Section 2(f), which amends the FOIA, clearly would make the application of a balancing test subject to judicial review under FOIA. Indeed, the Government Affairs Committee Report states that "the legislation necessarily imports into its new secrecy regime the judicial review available under the Freedom of Information Act (FOIA). For example, proper application of the public interest/national security balancing test would be within the scope of judicial review for Freedom of Information Act requests for classified information. * * *" Since the bill was reported, we have considered several approaches to revising the balancing test language or adding additional language to limit judicial review. None of these approaches completely addresses the concern that legislating a mandatory balancing test could encourage judicial intrusion on the President's constitutional authority and transform the nature of judicial review of classification and declassification decisions in FOIA litigation. We have concluded that the balancing test must be eliminated in order to protect essential Presidential authority and to ensure that the legislation introduces no new rights of judicial review.

2. Section 2(d) would forbid the classification of any information for more than 10 years, without the concurrence of the head of the NCDO and a written certification to the President. Since over half of all original classification decisions made under E.O. 12958 are properly designated for more than 10 years (down from 95% under the previous Executive Order), implementation of this requirement would be unworkable without the employment of a huge new bureaucracy at the NCDO and hundreds of new certification writers at the agencies. The standards for duration of classification must be rewritten to make them compatible with the E.O. 12958 standards.

3. Section 4 establishes a Classification and Declassification Review Board, consisting exclusively of non-Government employees, to decide appeals from the public or agencies of decisions made by agencies or the NCDO. Agencies may appeal decisions of this Board only to the President. Given the new oversight authority assigned to the Director of the NCDO, and the existing rights of FOIA or Executive Order appeal, this new entity is redundant and unnecessary, and it is likely to be quite costly to operate. At a minimum, the legislation must be amended to permit the President to appoint Review Board members of his choosing, including current Government employees.

4. S. 712 locates the NCDO within the EOP, which is highly problematic given the traditional constraints on the budget and staffing levels of the EOP. Therefore, we believe the best organizational placement for the NCDO is the National Archives and Records administration, which has a strong institutional commitment to declassifying public records as expeditiously as possible consistent with protecting national security interests. That said, we also would recommend the addition of language that would codify an ongoing NSC role in providing policy guidance to the NCDO and would enhance the prospects of adequate funding for the NCDO. With a continued NSC imprimatur and adequate assured funding, organizational placement outside the EOP would be a much less difficult issue.

5. Section 2(c)(4) requiring detailed written justifications for all classification decisions is the kind of administrative detail that should be left to the discretion of the executive branch. As drafted, this provision would increase paperwork and cost, without any assurance of improving classification decisions or the management of the program. However, we agree that it would make sense to require detailed justifications whenever classification decisions are incorporated into an agency's classification guide.

6. Section 3(d)(7) should be modified to limit NCDO access to the most sensitive records associated with a special access program. Limiting access to such records is consistent with E.O. 12958 but will not undermine the NCDO's ability to oversee special access programs.

I appreciate your continuing leadership on this matter. By working together on the difficult remaining issues, I think we have a chance to establish a statutory framework for the classification and declassification program that enhances the President's authority to manage the program effectively.

Sincerely,

SAMUEL R. BERGER,
Assistant to the President for
National Security Affairs.

Mr. NICKLES. I ask unanimous consent that the conference report be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the conference report be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The conference report was agreed to.

UNANIMOUS CONSENT AGREEMENT—CONFERENCE REPORT TO ACCOMPANY H.R. 1853

Mr. NICKLES. Mr. President, I ask unanimous consent that the majority leader, after consultation with the Democratic leader, may turn to the consideration of the conference report accompanying H.R. 1853, the Carl D. Perkins Vocational-Technical Education Act Amendments, and that the reading of the conference report be waived. I further ask unanimous consent that there be 30 minutes for debate equally divided between Senators JEFFORDS and KENNEDY, and that at the conclusion or yielding back of the time, the Senate proceed to vote on adoption of the conference report, without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—H.R. 2431

Mr. NICKLES. Mr. President, I ask unanimous consent the Senate turn to H.R. 2431, that the cloture motion be vitiated, and that Senator LOTT or his designee be recognized to offer a substitute amendment; that there be 2½ hours of debate on the substitute amendment to be equally divided between the majority and minority leaders or their designees; and that following the expiration or yielding back of time, the substitute amendment be agreed to, that the motion to reconsider be laid upon the table, and that an amendment to the title then be offered and agreed to, the motion to reconsider be laid upon the table, the bill be advanced to third reading, and the Senate vote on final passage of H.R. 2431, as amended, without any intervening action or debate.

Mr. SPECTER. Mr. President, reserving the right to object, and I shall not object. When this unanimous consent agreement was propounded initially, the distinguished assistant majority leader and I talked about including 20 minutes for me to speak. Will the Senator modify his request so that I may be recognized as soon as the Senator from Minnesota finishes his comments?

Mr. NICKLES. Mr. President, I so modify the request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, we are ready to begin consideration on the International Religious Freedom Act.

FREEDOM FROM RELIGIOUS PERSECUTION ACT OF 1998

The PRESIDING OFFICER. The clerk will report the bill.

The assistant legislative clerk read as follows:

A bill (H.R. 2431) to establish an Office of Religious Persecution Monitoring, to provide for the imposition of sanctions against countries engaged in a pattern of religious persecution, and for other purposes.

The Senate proceeded to consider the bill.

AMENDMENT NO. 3789

(Purpose: To express United States foreign policy with respect to, and to strengthen United States advocacy on behalf of, individuals persecuted in foreign countries on account of religion; to authorize United States actions in response to violations of the right to religious freedom in foreign countries; to establish an Ambassador at Large for International Religious Freedom within the Department of State, a Commission on International Religious Freedom, and a Special Adviser on International Religious Freedom within the National Security Council; and for other purposes)

Mr. NICKLES. I send a substitute amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES] proposes an amendment numbered 3789.

Mr. NICKLES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment (No. 3789) is printed in today's RECORD under "Amendments Submitted.")

Mr. NICKLES. Mr. President, I thank my colleagues for their participation and cooperation in making this act a reality, and particularly my colleague, Senator LIEBERMAN, for cosponsoring this. We have 29 cosponsors of this bill.

Certainly, one of the principal cosponsors and leaders on combating religious persecution and promoting religious freedom throughout the world has been Senator SPECTER, the original cosponsor of the Specter-Wolf bill which passed the House overwhelmingly. I commend Congressman WOLF for his leadership and for the enormous vote they had in the House. I commend Senator SPECTER for combating religious persecution and promoting religious freedom throughout the world.

I yield 20 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. At the outset, I congratulate my distinguished colleague from Oklahoma, Senator NICKLES, for his leadership on this important measure, along with Senator LIEBERMAN and Senator COATS.

This is a very important piece of legislation, which now appears to be near fruition, with joint action by the House of Representatives. This legislation, the International Religious Freedom Act, constitutes a very firm stand by the United States against religious persecution worldwide. A bipartisan group of Senators have spearheaded this effort, and the outcome is one in which the Senate can be proud.

The rockbed of America is religious freedom. That is the reason that the Pilgrims came to this country, to the settlements in Virginia in 1607 and in Massachusetts with the Pilgrims in 1620. That was also the reason that my father, Harry Specter, came to this country in 1911 at the age of 18, and my mother, Lillie Shanin Specter, came to this country at the age of 5 with her family which had lived in a small town on the Russian-Polish border. Freedom of religion is the heart of the first amendment, the provisions for religious freedom.

We have seen worldwide unspeakable religious persecution. We have seen Catholic clerics mistreated and tortured in China. We have seen Christians sold into slavery in the Sudan. We have seen the risk of the death penalty in Egypt and in Saudi Arabia for those of the Islam faith who seek to convert to Christianity.

This legislation is a very forceful statement by the United States of America that religious persecution is intolerable wherever it exists, whether it is against Christians, whether it is against Jews, or whether it is against those of the Islam faith, Buddhist, or whatever the religious persuasion may be, it is intolerable. This issue, as I have already noted, goes to my own personal roots. I was motivated to act for legislative relief by a distinguished American named Michael Horowitz, who came to see me in early 1997 and said that there had been enormous support from the International Christian Community to protect Soviet Jewry, and that there ought to be a firm, responsive action by those of the Jewish faith to try to help on the issue of persecution of Christians. It soon expanded beyond persecution of Christians to people of any religious persuasion.

I have been working in the Senate on the issue of religious persecution for several years now. At the end of the 104th Congress, I introduced Senate Resolution 283, which detailed the need for quick, decisive action and called upon the President to appoint a White House advisor on religious persecution. After that, I worked with Senators NICKLES, NUNN, and COATS on a broader Senate resolution, S. Con. Res. 71, which included my provisions on a White House Senior Advisor on religious persecution and expressed the sense of the Senate regarding persecution of Christians worldwide. S. Con. Res. 71, which I cosponsored, passed the Senate by voice vote but there was insufficient time remaining in the 104th Congress to secure passage in the House.

In collaboration with Congressman FRANK WOLF of Virginia, on May 21, 1997, I introduced legislation in the Senate, S. 772, and Congressman WOLF introduced companion legislation in the House of Representatives. We introduced a bill that directly confronted the horrendous situation in many countries. This legislation targeted those countries that engaged in the most egregious acts of persecution such as torture, slavery and forcible acts of conversion. The legislation was passed in the House of Representatives on May 14, 1998 by a vote of 375–41. The matter has been under consideration by the Senate. The provisions of Senate bill 772, which I introduced, had been criticized, or concerns were raised because of the sanctions which had been imposed.

There is a widespread concern in Congress—and in the Senate, at least among some Senators—that the sanctions are counterproductive and that they ought not to be entertained.

My own personal view is that the sanctions would have been appropriate. But I think it is worthwhile to take two-thirds of a loaf, 70 percent of a loaf, I think substantially more than half a loaf, in the accommodation which we are making here in the legislation which has been introduced today.

Margaret Chase Smith, a distinguished Senator from Maine, articulated a very important concept talking about the principle of compromise as opposed to the compromise of principle. And in the legislation which is being advanced today there is not a compromise of principle, but we are making accommodations to put this legislation through.

Over the past 2 years, I have conducted four hearings throughout Pennsylvania to hear from panelists who have witnessed or experienced personally the horrors of religious persecution. These hearings were held in the Pittsburgh area, the Harrisburg area, Allentown/Reading area and the Wilkes-Barre/Scranton area. In addition, I have had several meetings with evangelical leaders and leaders of missionary organizations who have been striving to expose those Governments and other organizations that tolerate or perpetuate serious, physical acts of religious persecution against their own population.

It is clear from my meetings with religious leaders in Pennsylvania that there are regions of the world where the situation is particularly abhorrent. In China, the Government distinguishes between "Patriotic" Catholic and Protestant churches that are endorsed by the Government and the more than 50 million "House" church Christian Churches. The Chinese Government recognizes officially only the Patriotic churches. Members of the House churches—those who refuse to register in a state religion, or who remain faithful to the Vatican—are regularly imprisoned for having bibles or holding worship services without permission.

Just over 2 years ago in August 1996, I traveled to China and met with Chinese Vice-Premier Qian Qichen to express my strong concerns about religious persecution in his country. The next month, however, the Chinese Government released a statement warning the Chinese people that open exercise of their religion could result in harsh retribution. This summer, when President Clinton traveled to China there was real hope that the Chinese Government would begin to reverse decades of religious intolerance and persecution. Sadly, recent reports indicate that the situation has improved little.

This past January, I traveled to the Mideast and Africa to gather evidence on such practices in Saudi Arabia, Sudan, Egypt and neighboring countries. I met with religious leaders and Governmental officials in Egypt, Saudi Arabia, Ethiopia, Eritrea and Yemen. I had wanted to visit Sudan to investigate persecution of Christians by the fundamentalist Islamic Sudanese Government, but was told by the State Department that Sudan was unsafe for American delegations. I did meet with the Sudanese Government-in-exile in neighboring Eritrea, and discussed reports of Sudanese persecution with His Holiness Abuna Paulos, the Patriarch of the Ethiopian Orthodox Church, and with the leadership of the Ethiopian Supreme Islamic Council in Addis Ababa. My fact finding corroborated the widespread reports of bias, mistreatment and persecution of religious minorities in these countries. It is now a well known fact that the Government of Sudan has supported a campaign of forced enslavement and conversion of the Christian population in southern Sudan. Literally thousands of Christian children have been taken as slaves in the last 6 years. The Government of Sudan permits the torture and forcible conversion of Christian worshipers.

I heard reports from Egyptian evangelicals who cited cases of eight and nine months in jail for Muslims who sought conversion to Christianity. Many of them complained about the long time it took to secure official permission to build churches. Eritrean Christians confirmed claims of Sudanese children being sold into slavery. They attributed it to profiteering by militia as part of the booty of war. One Eritrean Christian commented on Sudanese Government action in closing churches in 1997.

Egyptian President Mubarak and Saudi Arabian Intelligence Director Prince Turki told me that public intolerance toward non-Muslim religions springs from the Koran. Conversion from Islam to Christianity or any other religion carries the death penalty under Muslim laws that are based on teachings of the Koran.

In Egypt, I talked to the Copts, saw situations where religious persecution was present. Congressman WOLF and I have talked about being criticized in the Egyptian press for our advocacy of religious freedom around the world. As the saying goes, you can tell a man or woman by their friends. And you can tell a man or woman by their enemies as well. Perhaps it is a mark of distinction to have been criticized, as Congressman WOLF and I had been in the Egyptian press, for articulating and pushing the principles of religious freedom.

In Saudi Arabia, I talked to Christians and Jews who had been persecuted there, and was outraged to find that if you were a Christian in Saudi Arabia, you could not have a Christmas tree in your window, which could be viewed from the outside; that the Jewish men and women who are stationed there in the American forces did not want to wear their dog tags, their identification, because the indication of being Jewish was a source of possible reprisal.

I heard conflicting statements in Saudi Arabia about whether the death penalty is actually imposed on conversion. In some cases there is question about whether individuals are put to death solely because of their faith, or if other charges are involved. There is no doubt, however, that the religious police in Saudi Arabia are very repressive against Christians.

While in Saudi Arabia, I visited a tent city right in the center of the desert where we have 5,000 American soldiers who are there to protect the Saudis, living under I think intolerable conditions, where they cannot have an open exercise of their religious faith, be they Jewish or Christian.

From my discussions with foreign leaders and religious minorities, it was clear that the introduction of the Specter-Wolf bill has had a beneficial impact by raising the issue's visibility. For example, Archbishop Silvano Tomasi, Vatican Ambassador to Ethiopia, complimented the proposed legislation for raising the level of dialogue, adding that, if it were enacted with a "little bite," then so much the better.

I think this measure goes a long way in articulating the basic principles of religious freedom, which we prize so highly in America, and that we are exporting a fundamental American value. The bill I think would have been preferable to have sanctions. But it would be impossible to move it through the Senate. So we are taking a very substantial step forward in the legislation as it is currently framed. The legislation brings fair and honest fact finding to the situation of religious minorities around the world. It provides the necessary balance of respecting cultural differences and promoting religious tolerance throughout the world. The legislation provides for a strong, independent commission that can make recommendations based on honest facts.

I want to compliment and commend especially New York Times columnist A.M. Rosenthal, who has had a very profound influence on the formulation of this legislation. You see his articles from time to time, or you see a column from time to time, and there may be some impact. But Mr. Rosenthal has published column after column and has brought to the American people through the impressive op-ed page, or editorial page of the New York Times, discussions of the problems of religious persecution around the world. I think it has had significant effect in moving this legislation forward.

In our discussions, again, I compliment our distinguished colleague from Oklahoma, Senator NICKLES, for his leadership, along with Senator LIEBERMAN. Senator COATS has been a tower of strength. There have been a number of kudos and compliments to Senator COATS as he leaves the U.S. Senate. However many compliments there have been, they are insufficient, because he has made a tremendous contribution to the U.S. Senate. But I believe that this bill will be a tribute, in effect, to Senator DAN COATS and I think to all of those who have worked so hard for its enactment.

Mr. President, how much of my 20 minutes remains?

The PRESIDING OFFICER. The Senator has 16 minutes remaining.

Mr. SPECTER. Will the Chair doublecheck that? I have spoken very fast if I have said all of that in 4 minutes.

The PRESIDING OFFICER. The Senator has consumed 9 minutes. He has 11 minutes remaining.

Mr. SPECTER. I thank the Chair.

The PRESIDING OFFICER. You would have done better on the first one.

Mr. SPECTER. It all depends on what is "better," Mr. President.

Mr. SPECTER. Mr. President, I thank the Senator from Oklahoma for permitting me to speak at the outset.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I want to again thank my colleague from Pennsylvania for his support of this bill and for his leadership on the bill that passed the House of Representatives.

I will mention and compare a little bit between the House bill and the Senate bill.

The House bill passed with an overwhelming vote. It came down very hard with punitive actions against countries that had gross violations of religious freedom, or had a lot of punitive action toward those countries that participated in really the most atrocious type of religious persecution—death, torture, imprisonment.

Again, I compliment Representative WOLF and Senator SPECTER for bringing that issue to the attention of the

American people, maybe to the world's attention, because a lot of people didn't know that people were going to jail, that they were imprisoned for long periods of time, they might be tortured, they might be actually killed for their religious beliefs. This bill goes a little bit further than that. It might be a little milder on the sanctions side because it gives the President a lot of options, and I would agree and I happen to think that is the right action, but we also provide that we should recognize violations of religious freedom including violations such as assembling for peaceful religious activities, for speaking out on one's religion, for changing one's religious beliefs, for possessing or distributing religious materials or raising one's children in the religion of your choice.

In other words, we believe religious freedom should be a basic right for all Americans, for all people worldwide, and the United Nation's declaration includes such freedom. Countries that join the United Nations say, yes, we believe in religious freedom, but yet we find these things happening all the time.

As Members of the Senate and Members of the House, many of us have been engaged in trying to protect religious freedom when we find that maybe our constituents are denied access, denied the opportunity to worship, maybe put in prison because they share their faith or they wish to worship in a particular country and they find that it is not even available. So our bill goes a little bit further than the House bill in the fact that we include a lot of other violations of religious freedom.

I might mention a few other things, Mr. President, maybe outline some of the things that our bill does in comparison—not necessarily a comparison with what the House did but an explanation of what our bill does.

Mr. DORGAN. Mr. President, I wonder if the Senator from Oklahoma will yield for a question?

Mr. NICKLES. I would like to make a presentation of what is in the bill. I will be happy to yield.

Mr. DORGAN. I will wait until the gentleman is finished. I am going to ask a question about what is in the bill. I support the bill, but I want to have just a brief discussion of something.

Let me ask the Senator from Oklahoma to finish, and then if he will yield for a question, I would appreciate it.

Mr. NICKLES. I will be happy to.

Let me give a little rundown of what this bill does. And, again, I thank my colleague, Senator LIEBERMAN, for cosponsoring it and for his work. I will tell all my colleagues there has been a significant amount of work that has gone into this bill. Questions have been raised. We tried to alleviate some of those concerns.

I also wish to thank Senator BIDEN, Senator FEINSTEIN, Senator HAGEL, Senator GRAMM, and others who have raised questions and who have worked with us to try to solve some of those.

This bill creates a position with Ambassador rank called Ambassador at Large for International Religious Freedom. This Ambassador will serve as a full-time, high-level, single-issue diplomat working with the State Department, trying to find out what religious persecution is happening in various places around the world and to represent the administration.

We also set up a Commission on International Religious Liberty. This is a 10-member, bipartisan commission with appointments from Congress and the President. It will provide an outside independent voice investigating religious persecution incidents, raising the profile of religious persecution while making substantive policy recommendations to the Congress and the White House.

On this commission of 10-members, the Ambassador at Large will be a nonvoting member. The President or the executive branch will be entitled to 3 commissioners and in Congress the President's party in each House will be entitled to an additional position on both sides for a total of five, and the opposing party, in this case it would be the Republicans—Democrats control the White House—the Republicans would be entitled to two appointments from both the House and the Senate, for four.

This commission, being an independent commission, will have the authority to investigate, to conduct hearings to find out what is happening with religious freedom around the world, and be able to make a report to the administration on their recommendations on how to alleviate religious persecution.

I might mention our goal is not to punish any country that is violating or persecuting anybody because of their religious beliefs. The goal is not to punish anybody. Our goal is to change behavior. Our goal is to eliminate religious persecution. Our goal is to expand religious freedom worldwide, and we have gone to great lengths to do that.

Our bill says the commission will make its recommendations to the President and to Congress by May 1. There is also an additional report that is made by the State Department on the advice of the Ambassador at Large, and the State Department gives a country-by-country review of religious freedom. They report that yes, there has been progress in some countries or no, there has not been progress, but rather significant persecution in basically all countries with whom we have relations.

I might mention we have human rights reports right now, human rights reports that cover these countries. But for the most part, in many cases, we have been silent on religious freedom in those countries. So now we will be talking about an annual report on religious freedom and persecution.

And then we talk about responses, what can we do if we find that some countries are violating individuals' or people's religious freedom. Under the proposal, we have some positive things to promote religious freedom.

The International Religious Freedom Act has several measures to promote religious liberty abroad. We have USAID funding for legal protection of religious freedoms in restrictive countries. International broadcasting can be used to promote religious freedom. Fulbright exchanges, for example, of religious leaders and scholars and legal experts can be used. Religious freedom awards and performance pay for meritorious Foreign Service officers; equal access to embassies for U.S. citizens at the Embassy's discretion for nationals for religious activities on terms not less favorable for other nongovernmental activities; training for Foreign Service officers and refugee and asylum personnel to ensure the promotion of religious liberty, and accurate reporting of religious persecution and relief for victims of persecution.

We also have steps to directly target those agents and those countries that are responsible for religious persecution, and we have several of those. Some people have said, well, those are various sanctions. And these people, talking about sanctions, they usually think, well, we are going to have a wheat embargo. That is what happened during the Carter administration when the Soviet Union invaded Afghanistan. I don't see that happening.

There are several items, so-called sanctions. We have 1 through 15, and I might mention the first one is a private demarche. The second one is an official demarche. Those can be letters to the Embassy: We have reports of people being persecuted; we hope you don't do that anymore. It might be a call to the Ambassador. It might be a call to the Secretary of State or to the diplomatic personnel that there are reports of religious persecution; we want that to be changed. Or it could be more serious. We could cancel a scientific visit. We could have cancellation of a cultural exchange. We could deny one or more State visits. We can cancel State visits. We can do several things.

And then we go into the possible range of economic sanctions. Some people say, well, wait a minute, should you do this? Let's talk about it. These economic sanctions are only for the most egregious or the more, what we define under our bill as particularly severe violations of religious freedom. And particularly severe violations of religious freedom deals again with torture, imprisonment, deals with death, again the most egregious forms of religious persecution. And in those areas we have some economics—the withdrawal, limitation or suspension of development assistance. We have direction of the director of OPEC or TDA or EXIM not to approve guarantees, or we have the withdrawal, limitation or suspension of security assistance. I might mention it says "limitation." It wouldn't have to be 100 percent. It could be 5 percent or it could be a little bit more.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SHELBY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. NICKLES. I object.

The PRESIDING OFFICER. Objection is heard.

The bill clerk continued with the call of the roll.

Mr. LOTT. Mr. President, I ask——

Mr. GRAMM. I object.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. LOTT. So that everybody will relax, I understand when I make some remarks and schedule announcements we will go back in a quorum. Nobody is disadvantaged. Nothing is going to change.

I have requested this time for two purposes.

No. 1, to say that we do have a lot of work we need to do. One of the things I am considering doing here momentarily is going to a nomination so we will have time to work through and agree on a unanimous consent request.

But the other thing is, I think right now we are seeing the worst of the Senate, the worst of the Senate on all sides. We have work to do. We have about 48 hours left. We have several bills that people want to get done, vocational education, religious persecution—a number of other bills that have been worked on all over this Capitol. Many of them will be overwhelmingly or unanimously supported. And here we are, now, locked in a procedure where neither side will agree to anything. I just don't think it is in the best tradition of the Senate. I realize the Senate always works at the pleasure of any one Senator, but I think we also work because we always seek consensus.

I am for H.R. 10. I have been for that legislation from the beginning. I have given a lot of time to try to move it forward. I know there are people who have objections to it. As a matter of fact, some of the objections that they have, I agree with. It is not a perfect bill. But I think that we need to try to find a way to work through this, where we can continue to do business. I will do everything I can to make sure that neither side is disadvantaged. I have two of my very closest friends and colleagues that have major problems with this bill, but I am also very committed to dealing fairly with those who are for the bill. I want to try to continue to work to find a way to get it done. So I don't think it really serves either side to just shut us down here at 6:15, 2 days before we go out, and not allow us to get anything else done tonight.

So, I am going to appeal to both sides to work with me, to try to find a way to get this business done that we can do, some nominations that are not controversial on either side, and the religious persecution bill, and vocational education—and without disadvantages to anybody. So I ask Senators on both sides to do that. I appeal to them. And I will help try to make this happen.

But I want to go on the record saying that I think this spectacle that we are seeing right now is very unbecoming of the Senate, and rather than just steam about it, I thought I would say it publicly. I feel better now, Mr. President.

Momentarily I will move to a nomination or I will ask for a unanimous consent agreement that will allow us to complete action on the religious persecution bill. But I must say to both sides, I will not let either side gridlock the Senate. I will not do it. I will use every tool at my disposal and I will also do everything publicly I can to make sure people understand who is not being cooperative in this effort.

I observe the absence of a quorum.

Mr. NICKLES. Will the majority leader withhold that request? One of the things we probably should have done a little earlier—I didn't know we were going to get stuck in this mess—would the majority leader go ahead and propound the unanimous consent request that we go ahead and vote tomorrow morning at 9:30 on the Religious Freedom Act, because I don't think there is any objection to that. I don't know how long this little debate will go, but I want to make sure we get that request made.

Mr. LOTT. I ask unanimous consent that the recorded vote on religious persecution occur at 9:30 on Friday morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I suggest the absence of a quorum.

Mr. LEVIN. Will the majority leader withhold just for a moment?

Mr. LOTT. I will be glad to.

Mr. LEVIN. During this quorum call, would anyone be inconvenienced if some of us who want to speak as in morning business be allowed to speak?

Mr. LOTT. There is a problem with doing that until we get this agreement worked out. We would actually go to H.R. 10, as I understand it. I would like for us to use this time, but both sides are still apprehensive about it. I asked for this time as majority leader and got it but I think, beyond that—we cannot do it

Mr. LEVIN. Again, reserving the right to object, I obviously won't, would the majority leader then, in the uanimous consent that you are working on, make provision, then, for 30 minutes for morning business for me at the end of whatever else is going to be done here?

Mr. LOTT. I will be glad to do that. And I would like for other Senators who might have a need for morning business time to get that time. We will block that in before we finish up with the uanimous consent.

Mr. LEAHY. Mr. President, reserving the right to object, I will not, but will we also at sometime before the chariots suddenly disappear on Sunday or Monday or whenever it happens—will we go to some of the judges?

Mr. LOTT. We are working now to go to No. 597, which is a State Justice Institute Position. And we are working to try to go to the nomination of Mr. Paez. There are those who want time to talk about that. I hope we could do that tonight and tomorrow. But we will continue to try to get agreement on Paez. That is the one we are working on right now. We will either get to debate and vote on that tonight or, more likely, it looks like now, tomorrow.

Mr. LEAHY. If I may comment further, Mr. President, I will not delay this further. We have about 25 on the calendar itself—judges. I hope during the next few hours, or early tomorrow, the majority leader and I and a couple of others who are interested in this—Senator HATCH I am sure is—and others, that we might have a chance to talk about moving some of these other judges.

Mr. LOTT. Mr. President, I observe the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT

Mr. LOTT. Mr. President, I ask unanimous consent that H.R. 10 now be the pending business, and immediately following the reporting by the clerk, the Senate resume H.R. 2431—that is the religious persecution bill—and that following the conclusion or yielding back of the time, the previous consent governing H.R. 2431, commence. I further ask that following the disposition of time on H.R. 2431 this evening, the clerk then report H.R. 10, and the Senate then proceed immediately to a period for morning business.

Mr. SARBANES. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. I would like to inquire of the majority leader, I take it, then, that it is not the intention of the majority leader to file a cloture motion on H.R. 10 this evening.

Mr. LOTT. It is not my intention to do that.

Mr. SARBANES. It is, therefore, the intention of the majority leader to let this day pass and go over into another day; in other words, we lose a day on a cloture motion if one were to be filed.

Mr. LOTT. We do, because as I have assessed the situation, there are enough opportunities for cloture votes and delays that it would take us into next week. If you just look at the math, that is where it would go. You can go back and examine how we got in this position, and the answer is very simple: We have been trying to do other bills.

The only way we are going to get H.R. 10 now is by concession and by consensus, which is quite often the way the Senate works. We are going to have to see if we can find a way for Democrats who have worked on this bill and Republicans who have worked on it, some who have problems with it on both sides, can come together. There is also a concern from Secretary Rubin about a provision in the bill. But I would like to get it done. But we are not going to get it done by cloture motions. Therefore, I have no problem with going over another day and continuing to work and hope that we can find a way to come to an agreement on this bill.

Mr. SARBANES. I simply point out to the majority leader that the bill came out of the committee 16 to 2; that the relevant cloture vote we had where people differed was 88 to 11. There is extremely strong support for this legislation. It is obviously being frustrated and thwarted by a handful of people.

It was my concern that the opportunity to file this cloture motion not pass. In view of the statement of the majority leader that he has no intention to do that, to file the cloture motion, I am not going to object to the consent request, and then we move over until tomorrow. I wanted to keep this window of opportunity available, and now that I know that the majority leader has no intention of availing himself of it, I am prepared to agree to this consent request.

Mr. LOTT. If the Senator from Maryland is trying to get the majority leader to take full responsibility for not filing cloture today, I accept it. It is my goal to get a bill, and I concluded that another cloture motion at this time on this bill is fruitless. I am perfectly willing to accept that responsibility.

Mr. SARBANES. Let me also point out to the majority leader that the effort to try to develop accommodations has to be a broad-based effort.

Mr. LOTT. It surely does.

Mr. SARBANES. When we come in with 88 people on one side of the equation, if the 11 are going to hold us hostage or some of the 11 hostage—actually the word "extortion" was used in another context in the debate on the floor of the Senate.

Mr. LOTT. You wouldn't want to use that word. I think I have a card here I can call you on.

Mr. SARBANES. People are going to be highly resistant, I might say to the majority leader.

Mr. LOTT. I want to remind the Senator from Maryland, I was one of the 88, not one of the 11, but the 11 is on both sides of the aisle. We are never going to get an agreement until we get the 11 to feel comfortable that they have the opportunity that they are entitled to under the rules to make their point. It is the wonderful way the Senate works.

Mr. SARBANES. I know, but a lot of us have given at the committee over and over again to get the bill where it is.

Mr. LOTT. That is the price you pay for that wonderful assignment. It is a great committee to be on. You get all that good stuff. We did the credit union bill this year. A lot of credit goes to everybody for that.

Mr. SARBANES. We did the housing bill.

Mr. LOTT. Housing bill, you have done a lot of good stuff.

Mr. SARBANES. A lot of good work.

Mr. LOTT. I think I want on that committee next year.

Mr. SARBANES. We would welcome you. You would be a valuable addition to the committee, and you can see the inner dynamics of the committee that result in the kind of problem we are now facing on the floor of the Senate. It would be welcomed for you to be in that cockpit seeing what takes place.

Mr. LOTT. I appreciate that invitation, but I want to assure the Senator from Maryland that Senator DASCHLE and I get to see the dynamics of such meetings every day in more ways than you would ever want to know.

(Laughter.)

Mr. SARBANES. That may be, but I don't think unless you are actually there to see it firsthand you can fully appreciate exactly what takes place.

The PRESIDING OFFICER. Is there objection?

Mr. SARBANES. I withdraw my objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I thank my colleagues on both sides of the aisle. I say to Senator NICKLES, thanks for your diligent work. I say to Senator SARBANES, Senator GRAMM and Senator SHELBY thanks for your cooperation at this time. And we hope we will have it again tomorrow.

I yield the floor.

FINANCIAL SERVICES ACT OF 1998

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 10) to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, and other financial service providers, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing, and Urban Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; PURPOSES; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Financial Services Act of 1998".

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To enhance competition in the financial services industry, in order to foster innovation and efficiency.

(2) To ensure the continued safety and soundness of depository institutions.

(3) To provide necessary and appropriate protections for investors and ensure fair and honest markets in the delivery of financial services.

(4) To avoid duplicative, potentially conflicting, and overly burdensome regulatory requirements through the creation of a regulatory framework for financial holding companies that respects the divergent requirements of each of the component businesses of the holding company, and that is based upon principles of strong functional regulation and enhanced regulatory coordination.

(5) To reduce and, to the maximum extent practicable, to eliminate the legal barriers preventing affiliation among depository institutions, securities firms, insurance companies, and other financial service providers and to provide a prudential framework for achieving that result.

(6) To enhance the availability of financial services to citizens of all economic circumstances and in all geographic areas.

(7) To enhance the competitiveness of United States financial service providers internationally.

(8) To ensure compliance by depository institutions with the provisions of the Community Reinvestment Act of 1977 and enhance the ability of depository institutions to meet the capital and credit needs of all citizens and communities, including underserved communities and populations.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; purposes; table of contents.

TITLE I—FACILITATING AFFILIATION AMONG SECURITIES FIRMS, INSURANCE COMPANIES, AND DEPOSITORY INSTITUTIONS

Subtitle A—Affiliations

Sec. 101. Glass-Steagall Act reformed.
Sec. 102. Activity restrictions applicable to bank holding companies which are not financial holding companies.
Sec. 103. Financial holding companies.
Sec. 104. Operation of State law.
Sec. 105. Mutual bank holding companies authorized.
Sec. 106. Prohibition on deposit production offices.
Sec. 107. Clarification of branch closure requirements.

Sec. 108. Amendments relating to limited purpose banks.
Sec. 109. Reports on ongoing FTC study of consumer privacy issues.
Sec. 110. GAO study of economic impact on community banks and other small financial institutions.

Subtitle B—Streamlining Supervision of Financial Holding Companies

Sec. 111. Streamlining financial holding company supervision.
Sec. 112. Elimination of application requirement for financial holding companies.
Sec. 113. Authority of State insurance regulator and Securities and Exchange Commission.
Sec. 114. Prudential safeguards.
Sec. 115. Examination of investment companies.
Sec. 116. Limitation on rulemaking, prudential, supervisory, and enforcement authority of the Board.
Sec. 117. Interagency consultation.
Sec. 118. Equivalent regulation and supervision.
Sec. 119. Prohibition on FDIC assistance to affiliates and subsidiaries.

Subtitle C—Subsidiaries of National Banks

Sec. 121. Permissible activities for subsidiaries of national banks.
Sec. 122. Misrepresentations regarding depository institution liability for obligations of affiliates.
Sec. 123. Repeal of stock loan limit in Federal Reserve Act.

Subtitle D—Wholesale Financial Holding Companies; Wholesale Financial Institutions

CHAPTER 1—WHOLESALE FINANCIAL HOLDING COMPANIES

Sec. 131. Wholesale financial holding companies established.
Sec. 132. Authorization to release reports.
Sec. 133. Conforming amendments.

CHAPTER 2—WHOLESALE FINANCIAL INSTITUTIONS

Sec. 136. Wholesale financial institutions.

Subtitle E—Preservation of FTC Authority

Sec. 141. Amendment to the Bank Holding Company Act of 1956 to modify notification and post-approval waiting period for section 3 transactions.
Sec. 142. Interagency data sharing.
Sec. 143. Clarification of status of subsidiaries and affiliates.
Sec. 144. Annual GAO report.

Subtitle F—Applying the Principles of National Treatment and Equality of Competitive Opportunity to Foreign Banks and Foreign Financial Institutions

Sec. 151. Applying the principles of national treatment and equality of competitive opportunity to foreign banks that are financial holding companies.
Sec. 152. Applying the principles of national treatment and equality of competitive opportunity to foreign banks and foreign financial institutions that are wholesale financial institutions.
Sec. 153. Representative offices.

Subtitle G—Federal Home Loan Bank System Modernization

Sec. 161. Short title.
Sec. 162. Definitions.
Sec. 163. Savings association membership.
Sec. 164. Advances to members; collateral.
Sec. 165. Eligibility criteria.
Sec. 166. Management of banks.
Sec. 167. Resolution Funding Corporation.

Subtitle H—Direct Activities of Banks

Sec. 181. Authority of national banks to underwrite certain municipal bonds.

Subtitle I—Deposit Insurance Funds

Sec. 186. Study of safety and soundness of funds.

Subtitle J—Effective Date of Title

Sec. 191. Effective date.

TITLE II—FUNCTIONAL REGULATION

Subtitle A—Brokers and Dealers

Sec. 201. Definition of broker.
Sec. 202. Definition of dealer.
Sec. 203. Registration for sales of private securities offerings.
Sec. 204. Sales practices and complaint procedures.
Sec. 205. Information sharing.
Sec. 206. Definition and treatment of banking products.
Sec. 207. Derivative instrument and qualified investor defined.
Sec. 208. Government securities defined.
Sec. 209. Effective date.
Sec. 210. Rule of construction.

Subtitle B—Bank Investment Company Activities

Sec. 211. Custody of investment company assets by affiliated bank.
Sec. 212. Lending to an affiliated investment company.
Sec. 213. Independent directors.
Sec. 214. Additional SEC disclosure authority.
Sec. 215. Definition of broker under the Investment Company Act of 1940.
Sec. 216. Definition of dealer under the Investment Company Act of 1940.
Sec. 217. Removal of the exclusion from the definition of investment adviser for banks that advise investment companies.
Sec. 218. Definition of broker under the Investment Advisers Act of 1940.
Sec. 219. Definition of dealer under the Investment Advisers Act of 1940.
Sec. 220. Interagency consultation.
Sec. 221. Treatment of bank common trust funds.
Sec. 222. Investment advisers prohibited from having controlling interest in registered investment company.
Sec. 223. Conforming change in definition.
Sec. 224. Conforming amendment.
Sec. 225. Effective date.

Subtitle C—Securities and Exchange Commission Supervision of Investment Bank Holding Companies

Sec. 231. Supervision of investment bank holding companies by the Securities and Exchange Commission.

Subtitle D—Studies

Sec. 241. Study of methods to inform investors and consumers of uninsured products.
Sec. 242. Study of limitation on fees associated with acquiring financial products.

TITLE III—INSURANCE

Subtitle A—State Regulation of Insurance

Sec. 301. State regulation of the business of insurance.
Sec. 302. Mandatory insurance licensing requirements.
Sec. 303. Functional regulation of insurance.
Sec. 304. Insurance underwriting in national banks.
Sec. 305. Title insurance activities of national banks and their affiliates.
Sec. 306. Expedited and equalized dispute resolution for financial regulators.
Sec. 307. Consumer protection regulations.
Sec. 308. Certain State affiliation laws preempted for insurance companies and affiliates.

Subtitle B—National Association of Registered Agents and Brokers

Sec. 321. State flexibility in multistate licensing reforms.
Sec. 322. National Association of Registered Agents and Brokers.
Sec. 323. Purpose.
Sec. 324. Relationship to the Federal Government.
Sec. 325. Membership.
Sec. 326. Board of Directors.
Sec. 327. Officers.
Sec. 328. Bylaws, rules, and disciplinary action.
Sec. 329. Assessments.
Sec. 330. Functions of the NAIC.
Sec. 331. Liability of the Association and the directors, officers, and employees of the Association.
Sec. 332. Elimination of NAIC oversight.
Sec. 333. Relationship to State law.
Sec. 334. Coordination with other regulators.
Sec. 335. Judicial review.
Sec. 336. Definitions.

TITLE IV—UNITARY SAVINGS AND LOAN HOLDING COMPANIES

Sec. 401. Prevention of creation of new savings and loan holding companies with commercial affiliates.
Sec. 402. Optional conversion of Federal savings associations to national banks.
Sec. 403. Retention of "Federal" in name of converted Federal savings association.

TITLE V—FINANCIAL INFORMATION PRIVACY

Sec. 501. Financial information privacy.
Sec. 502. Report to Congress on financial privacy.

TITLE VI—MISCELLANEOUS

Sec. 601. Grand jury proceedings.
Sec. 602. Sense of the Committee on Banking, Housing, and Urban Affairs of the Senate.
Sec. 603. Investments in Government sponsored enterprises.
Sec. 604. Repeal of savings bank provisions in the Bank Holding Company Act of 1956.

TITLE I—FACILITATING AFFILIATION AMONG SECURITIES FIRMS, INSURANCE COMPANIES, AND DEPOSITORY INSTITUTIONS

Subtitle A—Affiliations

SEC. 101. GLASS-STEAGALL ACT REFORMED.

(a) SECTION 20 REPEALED.—Section 20 (12 U.S.C. 377) of the Banking Act of 1933 (commonly referred to as the "Glass-Steagall Act") is repealed.

(b) SECTION 32 REPEALED.—Section 32 (12 U.S.C. 78) of the Banking Act of 1933 is repealed.

SEC. 102. ACTIVITY RESTRICTIONS APPLICABLE TO BANK HOLDING COMPANIES WHICH ARE NOT FINANCIAL HOLDING COMPANIES.

(a) IN GENERAL.—Section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(8)) is amended to read as follows:

"(8) shares of any company the activities of which had been determined by the Board by regulation under this paragraph as of the day before the date of the enactment of the Financial Services Act of 1998, to be so closely related to banking as to be a proper incident thereto (subject to such terms and conditions contained in such regulation, unless modified by the Board);".

(b) CONFORMING CHANGES TO OTHER STATUTES.—

(1) AMENDMENT TO THE BANK HOLDING COMPANY ACT AMENDMENTS OF 1970.—Section 105 of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1850) is amended by striking ", to engage directly or indirectly in a nonbanking activity pursuant to section 4 of such Act,".

(2) AMENDMENT TO THE BANK SERVICE COMPANY ACT.—Section 4(f) of the Bank Service Company Act (12 U.S.C. 1864(f)) is amended by striking the period and adding at the end the following: "as of the day before the date of enactment of the Financial Services Act of 1998.".

SEC. 103. FINANCIAL HOLDING COMPANIES.

The Bank Holding Company Act of 1956 is amended by inserting after section 5 (12 U.S.C. 1844) the following new section:

"SEC. 6. FINANCIAL HOLDING COMPANIES.

"(a) FINANCIAL HOLDING COMPANY DEFINED.—For purposes of this section, the term 'financial holding company' means a bank holding company which meets the requirements of subsection (b).

"(b) ELIGIBILITY REQUIREMENTS FOR FINANCIAL HOLDING COMPANIES.—

"(1) IN GENERAL.—No bank holding company may engage in any activity or directly or indirectly acquire or retain shares of any company under this section unless the bank holding company meets the following requirements:

"(A) All of the subsidiary depository institutions of the bank holding company are well capitalized.

"(B) All of the subsidiary depository institutions of the bank holding company are well managed.

"(C) All of the subsidiary depository institutions of the bank holding company have achieved a rating of 'satisfactory record of meeting community credit needs', or better, at the most recent examination of each such institution under the Community Reinvestment Act of 1977.

"(D) The company has filed with the Board a declaration that the company elects to be a financial holding company and certifying that the company meets the requirements of subparagraphs (A) through (C).

"(2) FOREIGN BANKS AND COMPANIES.—For purposes of paragraph (1), the Board shall establish and apply comparable capital and other operating standards to a foreign bank that operates a branch or agency or owns or controls a bank or commercial lending company in the United States, and any company that owns or controls such foreign bank, giving due regard to the principle of national treatment and equality of competitive opportunity.

"(3) LIMITED EXCLUSIONS FROM COMMUNITY NEEDS REQUIREMENTS FOR NEWLY ACQUIRED DEPOSITORY INSTITUTIONS.—

"(A) IN GENERAL.—If the requirements of subparagraph (B) are met, any depository institution acquired by a bank holding company during the 24-month period preceding the submission of a declaration under paragraph (1)(E) and any depository institution acquired after the submission of such declaration may be excluded for purposes of paragraph (1)(C) until the later of—

"(i) the end of the 24-month period beginning on the date the acquisition of the depository institution by such company is consummated; or

"(ii) the date of completion of the first examination of such depository institution under the Community Reinvestment Act of 1977 which is conducted after the date of the acquisition of the depository institution.

"(B) REQUIREMENTS.—The requirements of this subparagraph are met with respect to any bank holding company referred to in subparagraph (A) if—

"(i) the bank holding company has submitted an affirmative plan to the appropriate Federal banking agency to take such action as may be necessary in order for such institution to achieve a rating of 'satisfactory record of meeting community credit needs', or better, at the next examination of the institution under the Community Reinvestment Act of 1977; and

"(ii) the plan has been approved by such agency.

"(c) ENGAGING IN ACTIVITIES THAT ARE FINANCIAL IN NATURE.—

"(1) FINANCIAL ACTIVITIES.—

"(A) IN GENERAL.—Notwithstanding section 4(a), a financial holding company and a wholesale financial holding company may engage in any activity, and acquire and retain the shares of any company engaged in any activity, that the Board has determined (by regulation or order) to be financial in nature or incidental to such financial activities.

"(B) COORDINATION BETWEEN THE BOARD AND THE DEPARTMENT OF THE TREASURY.—

"(i) PROPOSALS RAISED BEFORE THE BOARD.—

"(I) CONSULTATION.—The Board shall notify the Secretary of the Treasury of, and consult with the Secretary of the Treasury concerning, any request, proposal, or application under this subsection for a determination of whether an activity is financial in nature or incidental to such a financial activity.

"(II) TREASURY VIEW.—The Board shall not determine that any activity is financial in nature or incidental to a financial activity under this subsection if the Secretary of the Treasury notifies the Board in writing, not later than 30 days after the date of receipt of the notice described in subclause (I) (or such longer period as the Board determines to be appropriate in light of the circumstances) that the Secretary of the Treasury believes that the activity is not financial in nature or incidental to a financial activity.

"(ii) PROPOSALS RAISED BY THE TREASURY.—

"(I) TREASURY RECOMMENDATION.—The Secretary of the Treasury may, at any time, recommend in writing that the Board find an activity to be financial in nature or incidental to a financial activity.

"(II) TIME PERIOD FOR BOARD ACTION.—Not later than 30 days after the date of receipt of a written recommendation from the Secretary of the Treasury under subclause (I) (or such longer period as the Secretary of the Treasury and the Board determine to be appropriate in light of the circumstances), the Board shall determine whether to initiate a public rulemaking proposing that the subject recommended activity be found to be financial in nature or incidental to a financial activity under this subsection, and shall notify the Secretary of the Treasury in writing of the determination of the Board and, in the event that the Board determines not to seek public comment on the proposal, the reasons for that determination.

"(2) FACTORS TO BE CONSIDERED.—In determining whether an activity is financial in nature or incidental to financial activities, the Board shall take into account—

"(A) the purposes of this Act and the Financial Services Act of 1998;

"(B) changes or reasonably expected changes in the marketplace in which bank holding companies compete;

"(C) changes or reasonably expected changes in the technology for delivering financial services; and

"(D) whether such activity is necessary or appropriate to allow a bank holding company and the affiliates of a bank holding company to—

"(i) compete effectively with any company seeking to provide financial services in the United States;

"(ii) use any available or emerging technological means, including any application necessary to protect the security or efficacy of systems for the transmission of data or financial transactions, in providing financial services; and

"(iii) offer customers any available or emerging technological means for using financial services.

"(3) ACTIVITIES THAT ARE FINANCIAL IN NATURE.—The following activities shall be considered to be financial in nature:

"(A) Lending, exchanging, transferring, investing for others, or safeguarding money or securities.

"(B) Insuring, guaranteeing, or indemnifying against loss, harm, damage, illness, disability, or death, or providing and issuing annuities, and acting as principal, agent, or broker for purposes of the foregoing.

"(C) Providing financial, investment, or economic advisory services, including advising an investment company (as defined in section 3 of the Investment Company Act of 1940).

"(D) Issuing or selling instruments representing interests in pools of assets permissible for a bank to hold directly.

"(E) Underwriting, dealing in, or making a market in securities.

"(F) Engaging in any activity that the Board has determined, by order or regulation that is in effect on the date of enactment of the Financial Services Act of 1998, to be so closely related to banking or managing or controlling banks as to be a proper incident thereto (subject to the same terms and conditions contained in such order or regulation, unless modified by the Board).

"(G) Engaging, in the United States, in any activity that—

"(i) a bank holding company may engage in outside the United States; and

"(ii) the Board has determined, under regulations issued pursuant to section 4(c)(13) of this Act (as in effect on the day before the date of enactment of the Financial Services Act of 1998) to be usual in connection with the transaction of banking or other financial operations abroad.

"(H) Directly or indirectly acquiring or controlling, whether as principal, on behalf of 1 or more entities (including entities, other than a depository institution or subsidiary of a depository institution, that the bank holding company controls) or otherwise, shares, assets, or ownership interests (including without limitation debt or equity securities, partnership interests, trust certificates or other instruments representing ownership) of a company or other entity, whether or not constituting control of such company or entity, engaged in any activity not authorized pursuant to this section if—

"(i) the shares, assets, or ownership interests are not acquired or held by a depository institution or subsidiary of a depository institution;

"(ii) such shares, assets, or ownership interests are acquired and held by a securities affiliate or an affiliate thereof as part of a bona fide underwriting or merchant banking activity, including investment activities engaged in for the purpose of appreciation and ultimate resale or disposition of the investment;

"(iii) such shares, assets, or ownership interests, are held only for such a period of time as will permit the sale or disposition thereof on a reasonable basis consistent with the nature of the activities described in clause (ii); and

"(iv) during the period such shares, assets, or ownership interests are held, the bank holding company does not actively participate in the day to day management or operation of such company or entity, except insofar as necessary to achieve the objectives of clause (ii).

"(I) Directly or indirectly acquiring or controlling, whether as principal, on behalf of 1 or more entities (including entities, other than a depository institution or subsidiary of a depository institution, that the bank holding company controls) or otherwise, shares, assets, or ownership interests (including without limitation debt or equity securities, partnership interests, trust certificates or other instruments representing ownership) of a company or other entity, whether or not constituting control of such company or entity, engaged in any activity not authorized pursuant to this section if—

"(i) the shares, assets, or ownership interests are not acquired or held by a depository institution or a subsidiary of a depository institution;

"(ii) such shares, assets, or ownership interests are acquired and held by an insurance company that is predominantly engaged in underwriting life, accident and health, or property and casualty insurance (other than credit-related insurance);

"(iii) such shares, assets, or ownership interests represent an investment made in the ordinary course of business of such insurance company in accordance with relevant State law governing such investments; and

"(iv) during the period such shares, assets, or ownership interests are held, the bank holding company does not directly or indirectly participate in the day-to-day management or operation of the company or entity except insofar as necessary to achieve the objectives of clauses (ii) and (iii).

"(4) ACTIONS REQUIRED.—The Board shall, by regulation or order, define, consistent with the purposes of this Act, the following activities as, and the extent to which such activities are, financial in nature or incidental to activities which are financial in nature:

"(A) Lending, exchanging, transferring, investing for others, or safeguarding financial assets other than money or securities.

"(B) Providing any device or other instrumentality for transferring money or other financial assets.

"(C) Arranging, effecting, or facilitating financial transactions for the account of third parties.

"(5) POST-CONSUMMATION NOTIFICATION.—

"(A) IN GENERAL.—A financial holding company and a wholesale financial holding company that acquires any company, or commences any activity, pursuant to this subsection shall provide written notice to the Board describing the activity commenced or conducted by the company acquired no later than 30 calendar days after commencing the activity or consummating the acquisition.

"(B) APPROVAL NOT REQUIRED FOR CERTAIN FINANCIAL ACTIVITIES.—Except as provided in section 4(j) with regard to the acquisition of a savings association or in paragraph (6) of this subsection, a financial holding company and a wholesale financial holding company may commence any activity, or acquire any company, pursuant to paragraph (3) or any regulation prescribed or order issued under paragraph (4), without prior approval of the Board.

"(6) NOTICE REQUIRED FOR LARGE COMBINATIONS.—

"(A) IN GENERAL.—No financial holding company or wholesale financial holding company shall directly or indirectly acquire, and no company that becomes a financial holding company or a wholesale financial holding company shall directly or indirectly acquire control of, any company in the United States, including through merger, consolidation, or other type of business combination, that—

"(i) is engaged in activities permitted under this subsection or subsection (g); and

"(ii) has consolidated total assets in excess of $40,000,000,000,

unless such holding company has provided notice to the Board, not later than 60 days prior to such proposed acquisition or prior to becoming a financial holding company or wholesale financial holding company, and during that time period, or such longer time period not exceeding an additional 60 days, as established by the Board, the Board has not issued a notice disapproving the proposed acquisition or retention.

"(B) FACTORS FOR CONSIDERATION.—In reviewing any prior notice filed under this paragraph, the Board shall take into consideration—

"(i) whether the company is in compliance with all applicable criteria set forth in subsection (b) and the provisions of subsection (d);

"(ii) whether the proposed combination represents an undue aggregation of resources;

"(iii) whether the proposed combination poses a risk to the deposit insurance system;

"(iv) whether the proposed combination poses a risk to State insurance guaranty funds;

"(v) whether the proposed combination can reasonably be expected to be in the best interests of depositors or policyholders of the respective entities; and

"(vi) whether the proposed transaction can reasonably be expected to produce benefits to the public.

"(C) REQUIRED INFORMATION.—The Board may disapprove any prior notice filed under this paragraph if the company submitting such notice neglects, fails, or refuses to furnish to the Board all relevant information required by the Board.

"(D) SOLICITATION OF VIEWS OF OTHER SUPERVISORY AGENCIES.—

"(i) IN GENERAL.—Upon receiving a prior notice under this paragraph, in order to provide for the submission of their views and recommendations, the Board shall give notice of the proposal to—

"(I) the appropriate Federal banking agency of any bank involved;

"(II) the appropriate functional regulator of any functionally regulated nondepository institution (as defined in section 5(c)(1)(C)) involved; and

"(III) the Secretary of the Treasury, the Department of Justice, and the Federal Trade Commission.

"(ii) TIMING.—The views and recommendations of any agency provided notice under this paragraph shall be submitted to the Board not later than 30 calendar days after the date on which notice to the agency was given, unless the Board determines that another shorter time period is appropriate.

"(d) PROVISIONS APPLICABLE TO FINANCIAL HOLDING COMPANIES THAT FAIL TO MEET REQUIREMENTS.—

"(1) IN GENERAL.—If the Board finds that a financial holding company is not in compliance with the requirements of subparagraph (A), (B), (C), or (D) of subsection (b)(1), the Board shall give notice of such finding to the company.

"(2) AGREEMENT TO CORRECT CONDITIONS REQUIRED.—

"(A) IN GENERAL.—Not later than 45 days after receipt by a financial holding company of a notice given under paragraph (1) (or such additional period as the Board may permit), the company shall execute an agreement acceptable to the Board to comply with the requirements applicable to a financial holding company.

"(B) CERTAIN FAILURES TO COMPLY.—A financial holding company shall not be required to divest any company held, or terminate any activity conducted pursuant to, subsection (c) solely because of a failure to comply with subsection (b)(1)(C).

"(3) BOARD MAY IMPOSE LIMITATIONS.—Until the conditions described in a notice to a financial holding company under paragraph (1) are corrected, the Board may impose such limitations on the conduct or activities of the company or any affiliate of the company as the Board determines to be appropriate under the circumstances.

"(4) FAILURE TO CORRECT.—If, after receiving a notice under paragraph (1), a financial holding company does not—

"(A) execute and implement an agreement in accordance with paragraph (2);

"(B) comply with any limitations imposed under paragraph (3);

"(C) in the case of a notice of failure to comply with subsection (b)(1)(A), restore each depository institution subsidiary to well capitalized status before the end of the 180-day period beginning on the date such notice is received by the company (or such other period permitted by the Board); or

"(D) in the case of a notice of failure to comply with subparagraph (B) or (D) of subsection (b)(1), restore compliance with any such subparagraph on or before the date on which the next examination of the depository institution subsidiary is completed or by the end of such other period as the Board determines to be appropriate,

the Board may require such company, under such terms and conditions as may be imposed by the Board and subject to such extension of time as may be granted in the Board's discretion, to divest control of any depository institution subsidiary or, at the election of the financial holding company, instead to cease to engage in any activity conducted by such company or its subsidiaries pursuant to this section.

"(5) CONSULTATION.—In taking any action under this subsection, the Board shall consult with all relevant Federal and State regulatory agencies.

"(e) SAFEGUARDS FOR BANK SUBSIDIARIES.—A financial holding company shall assure that—

"(1) the procedures of the holding company for identifying and managing financial and operational risks within the company, and the subsidiaries of such company, adequately protect the subsidiaries of such company which are insured depository institutions from such risks;

"(2) the holding company has reasonable policies and procedures to preserve the separate corporate identity and limited liability of such company and the subsidiaries of such company, for the protection of the company's subsidiary insured depository institutions; and

"(3) the holding company complies with this section.

"(f) AUTHORITY TO RETAIN LIMITED NONFINANCIAL ACTIVITIES AND AFFILIATIONS.—

"(1) IN GENERAL.—Notwithstanding section 4(a), a company that is not a bank holding company or a foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978) and becomes a financial holding company after the date of the enactment of the Financial Services Act of 1998 may continue to engage in any activity and retain direct or indirect ownership or control of shares of a company engaged in any activity if—

"(A) the holding company lawfully was engaged in the activity or held the shares of such company on September 30, 1997;

"(B) the holding company is predominantly engaged in financial activities as defined in paragraph (2); and

"(C) the company engaged in such activity continues to engage only in the same activities that such company conducted on September 30, 1997, and other activities permissible under this Act.

"(2) PREDOMINANTLY FINANCIAL.—For purposes of this subsection, a company is predominantly engaged in financial activities if the annual gross revenues derived by the holding company and all subsidiaries of the holding company (excluding revenues derived from subsidiary depository institutions), on a consolidated basis, from engaging in activities that are financial in nature or are incidental to activities that are financial in nature under subsection (c) represent at least 85 percent of the consolidated annual gross revenues of the company.

"(3) NO EXPANSION OF GRANDFATHERED COMMERCIAL ACTIVITIES THROUGH MERGER OR CONSOLIDATION.—A financial holding company that engages in activities or holds shares pursuant to this subsection, or a subsidiary of such financial holding company, may not acquire, in any merger, consolidation, or other type of business combination, assets of any other company which is engaged in any activity which the

Board has not determined to be financial in nature or incidental to activities that are financial in nature under subsection (c).

"(4) CONTINUING REVENUE LIMITATION ON GRANDFATHERED COMMERCIAL ACTIVITIES.—Notwithstanding any other provision of this subsection, a financial holding company may continue to engage in activities or hold shares in companies pursuant to this subsection only to the extent that the aggregate annual gross revenues derived from all such activities and all such companies does not exceed 15 percent of the consolidated annual gross revenues of the financial holding company (excluding revenues derived from subsidiary depository institutions).

"(5) CROSS MARKETING RESTRICTIONS APPLICABLE TO COMMERCIAL ACTIVITIES.—A depository institution controlled by a financial holding company shall not—

"(A) offer or market, directly or through any arrangement, any product or service of a company whose activities are conducted or whose shares are owned or controlled by the financial holding company pursuant to this subsection or subparagraph (H) or (I) of subsection (c)(3); or

"(B) permit any of its products or services to be offered or marketed, directly or through any arrangement, by or through any company described in subparagraph (A).

"(6) TRANSACTIONS WITH NONFINANCIAL AFFILIATES.—An insured depository institution controlled by a financial holding company or wholesale financial holding company may not engage in a covered transaction (as defined by section 23A(b)(7) of the Federal Reserve Act) with any affiliate controlled by the company pursuant to section 10(c), this subsection, or subparagraph (H) or (I) of subsection (c)(3).

"(7) SUNSET OF GRANDFATHER.—A financial holding company engaged in any activity, or retaining direct or indirect ownership or control of shares of a company, pursuant to this subsection, shall terminate such activity and divest ownership or control of the shares of such company before the end of the 10-year period beginning on the date of the enactment of the Financial Services Act of 1998. The Board may, upon application by a financial holding company, extend such 10-year period by not to exceed an additional 5 years if such extension would not be detrimental to the public interest.

"(g) DEVELOPING ACTIVITIES.—A financial holding company and a wholesale financial holding company may engage directly or indirectly, or acquire shares of any company engaged, in any activity that the Board has not determined to be financial in nature or incidental to financial activities under subsection (c) if—

"(1) the holding company reasonably concludes that the activity is financial in nature or incidental to financial activities;

"(2) the gross revenues from all activities conducted under this subsection represent less than 5 percent of the consolidated gross revenues of the holding company;

"(3) the aggregate total assets of all companies the shares of which are held under this subsection do not exceed 5 percent of the holding company's consolidated total assets;

"(4) the total capital invested in activities conducted under this subsection represents less than 5 percent of the consolidated total capital of the holding company;

"(5) the Board has not determined that the activity is not financial in nature or incidental to financial activities under subsection (c);

"(6) the holding company is not required to provide prior written notice of the transaction to the Board under subsection (c)(6); and

"(7) the holding company provides written notification to the Board describing the activity commenced or conducted by the company acquired no later than 10 business days after commencing the activity or consummating the acquisition.".

SEC. 104. OPERATION OF STATE LAW.

(a) AFFILIATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), no State may, by statute, regulation, order, interpretation, or other action, prevent or restrict an insured depository institution or wholesale financial institution, or a subsidiary or affiliate thereof, from being affiliated directly or indirectly or associated with any person or entity, as authorized or permitted by this Act or any other provision of Federal law.

(2) INSURANCE.—With respect to affiliations between insured depository institutions or wholesale financial institutions, or any subsidiary or affiliate thereof, and persons or entities engaged in the business of insurance, paragraph (1) does not prohibit any State from—

(A) requiring any person or entity that proposes to acquire control of an entity that is engaged in the business of insurance and domiciled in that State (hereafter in this subparagraph referred to as the "insurer") to furnish to the insurance regulatory authority of that State, on or before the date on which notification is given under section 7(a) of the Clayton Act (15 U.S.C. 18(a))—

(i) the name and address of each person by whom, or on whose behalf, the affiliation referred to in this subparagraph is to be effected (hereafter in this subparagraph referred to as the "acquiring party");

(ii) if the acquiring party is an individual, his or her principal occupation and all offices and positions held during the 5 years preceding the date of notification, and any conviction of crimes other than minor traffic violations during the 10 years preceding the date of notification;

(iii) if the acquiring party is not an individual—

(I) a report of the nature of its business operations during the 5 years preceding the date of notification, or for such shorter period as such person and any predecessors thereof shall have been in existence;

(II) an informative description of the business intended to be done by the acquiring party and any subsidiary thereof; and

(III) a list of all individuals who are, or who have been selected to become, directors or executive officers of the acquiring party or who perform, or will perform, functions appropriate to such positions, including, for each such individual, the information required by clause (ii);

(iv) the source, nature, and amount of the consideration used, or to be used, in effecting the merger or other acquisition of control, a description of any transaction wherein funds were, or are to be, obtained for any such purpose, and the identity of persons furnishing such consideration, except that, if a source of such consideration is a loan made in the lender's ordinary course of business, the identity of the lender shall remain confidential if the person filing such statement so requests;

(v) fully audited financial information as to the earnings and financial condition of each acquiring party for the 5 fiscal years preceding the date of notification of each such acquiring party, or for such lesser period as such acquiring party and any predecessors thereof shall have been in existence, and similar unaudited information as of a date not earlier than 90 days before the date of notification, except that, in the case of an acquiring party that is an insurer actively engaged in the business of insurance, the financial statements of such insurer need not be audited, but such audit may be required if the need therefor is determined by the insurance regulatory authority of the State;

(vi) any plans or proposals that each acquiring party may have to liquidate such insurer, to sell its assets, or to merge or consolidate it with any person or to make any other material change in its business or corporate structure or management;

(vii) the number of shares of any security of the insurer that each acquiring party proposes to acquire, the terms of any offer, request, invitation, agreement, or acquisition, and a statement as to the method by which the fairness of the proposal was arrived at;

(viii) the amount of each class of any security of the insurer that is beneficially owned or concerning which there is a right to acquire beneficial ownership by each acquiring party;

(ix) a full description of any contracts, arrangements, or understandings with respect to any security of the insurer in which any acquiring party is involved, including transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies, and identification of the persons with whom such contracts, arrangements, or understandings have been entered into;

(x) a description of the purchase of any security of the insurer during the 12-month period preceding the date of notification by any acquiring party, including the dates of purchase, names of the purchasers, and consideration paid, or agreed to be paid, therefor;

(xi) a description of any recommendations to purchase any security of the insurer made during the 12-month period preceding the date of notification by any acquiring party or by any person based upon interviews or at the suggestion of such acquiring party;

(xii) copies of all tender offers for, requests or invitations for tenders of, exchange offers for and agreements to acquire or exchange any securities of the insurer and, if distributed, of additional soliciting material relating thereto; and

(xiii) the terms of any agreement, contract, or understanding made with any broker-dealer as to solicitation of securities of the insurer for tender and the amount of any fees, commissions, or other compensation to be paid to broker-dealers with regard thereto;

(B) requiring an entity that is acquiring control of an entity that is engaged in the business of insurance and domiciled in that State to maintain or restore the capital requirements of that insurance entity to the level required under the capital regulations of general applicability in that State to avoid the requirement of preparing and filing with the insurance regulatory authority of that State a plan to increase the capital of the entity, except that any determination by the State insurance regulatory authority with respect to such requirement shall be made not later than 60 days after the date of notification under subparagraph (A); or

(C) taking actions with respect to the receivership or conservatorship of any insurance company.

(b) ACTIVITIES.—

(1) IN GENERAL.—Except as provided in paragraph (3), and except with respect to insurance sales, solicitation, and cross marketing activities covered under paragraph (2), no State may, by statute, regulation, order, interpretation, or other action, prevent or restrict an insured depository institution, wholesale financial institution, or subsidiary or affiliate thereof from engaging directly or indirectly, either by itself or in conjunction with a subsidiary, affiliate, or any other entity or person, in any activity authorized or permitted under this Act.

(2) INSURANCE SALES.—

(A) IN GENERAL.—No State may, by statute, regulation, order, interpretation, or other action, prevent or significantly interfere with the ability of an insured depository institution or wholesale financial institution, or a subsidiary

or affiliate thereof, to engage, directly or indirectly, either by itself or in conjunction with a subsidiary, affiliate, or any other party, in any insurance sales, solicitation, or cross-marketing activity.

(B) CERTAIN STATE LAWS PRESERVED.—Notwithstanding subparagraph (A), a State may impose—

(i) restrictions prohibiting the rejection of an insurance policy solely because the policy has been issued or underwritten by any person who is not associated with such insured depository institution or wholesale financial institution, or any subsidiary or affiliate thereof, when such insurance is required in connection with a loan or extension of credit;

(ii) restrictions prohibiting a requirement for any debtor, insurer, or insurance agent or broker to pay a separate charge in connection with the handling of insurance that is required in connection with a loan or other extension of credit or the provision of another traditional banking product, unless such charge would be required when the insured depository institution or wholesale financial institution, or any subsidiary or affiliate thereof, is the licensed insurance agent or broker providing the insurance;

(iii) restrictions prohibiting the use of any advertisement or other insurance promotional material by an insured depository institution or wholesale financial institution, or any subsidiary or affiliate thereof, that would cause a reasonable person to believe mistakenly that—

(I) a State or the Federal Government is responsible for the insurance sales activities of, or stands behind the credit of, the institution, affiliate, or subsidiary; or

(II) a State, or the Federal Government guarantees any returns on insurance products, or is a source of payment on any insurance obligation of or sold by the institution, affiliate, or subsidiary;

(iv) restrictions prohibiting the payment or receipt of any commission or brokerage fee for services as a licensed agent or broker to or by any person, unless such person holds a valid State license regarding the applicable class of insurance at the time at which the services are performed, except that, in this clause, the term "services as a licensed agent or broker" does not include a referral by an unlicensed person of a customer or potential customer to a licensed insurance agent or broker that does not include a discussion of specific insurance policy terms and conditions;

(v) restrictions prohibiting any compensation paid to or received by any individual who is not licensed to sell insurance, for the referral of a customer that seeks to purchase, or seeks an opinion or advice on, any insurance product to a person that sells or provides opinions or advice on such product, based on the purchase of insurance by the customer;

(vi) restrictions prohibiting the release of the insurance information of a customer (defined as information concerning the premiums, terms, and conditions of insurance coverage, including expiration dates and rates, and insurance claims of a customer contained in the records of the insured depository institution or wholesale financial institution, or a subsidiary or affiliate thereof) to any person or entity other than an officer, director, employee, agent, subsidiary, or affiliate of an insured depository institution or a wholesale financial institution, for the purpose of soliciting or selling insurance, without the express consent of the customer, other than a provision that prohibits—

(I) a transfer of insurance information to an unaffiliated insurance company, agent, or broker in connection with transferring insurance in force on existing insureds of the insured depository institution or wholesale financial institution, or subsidiary or affiliate thereof, or in connection with a merger with or acquisition of an unaffiliated insurance company, agent, or broker; or

(II) the release of information as otherwise authorized by State or Federal law;

(vii) restrictions prohibiting the use of health information obtained from the insurance records of a customer for any purpose, other than for its activities as a licensed agent or broker, without the express consent of the customer;

(viii) restrictions prohibiting the extension of credit or any product or service that is equivalent to an extension of credit, or fixing or varying the consideration for any such extension of credit, on the condition or requirement that the customer obtain insurance from the insured depository institution, wholesale financial institution, a subsidiary or affiliate thereof, or a particular insurer, agent, or broker, other than a prohibition that would prevent any insured depository institution or wholesale financial institution, or any subsidiary or affiliate thereof—

(I) from engaging in any activity that would not violate section 106 of the Bank Holding Company Act Amendments of 1970, as interpreted by the Board of Governors of the Federal Reserve System; or

(II) from informing a customer or prospective customer that insurance is required in order to obtain a loan or credit, that loan or credit approval is contingent upon the procurement by the customer of acceptable insurance, or that insurance is available from the insured depository institution or wholesale financial institution, or any subsidiary or affiliate thereof;

(ix) restrictions requiring, when an application by a consumer for a loan or other extension of credit from an insured depository institution or wholesale financial institution is pending, and insurance is offered to the consumer or is required in connection with the loan or extension of credit by the insured depository institution or wholesale financial institution, that a written disclosure be provided to the consumer indicating that his or her choice of an insurance provider will not affect the credit decision or credit terms in any way, except that the insured depository institution or wholesale financial institution, or subsidiary or affiliate thereof, may impose reasonable requirements concerning the creditworthiness of the insurance provider and scope of coverage chosen;

(x) restrictions requiring clear and conspicuous disclosure, in writing, where practicable, to the customer prior to the sale of any insurance policy that such policy—

(I) is not a deposit;

(II) is not insured by the Federal Deposit Insurance Corporation;

(III) is not guaranteed by the insured depository institution or wholesale financial institution or, if appropriate, its subsidiaries or affiliates or any person soliciting the purchase of or selling insurance on the premises thereof; and

(IV) where appropriate, involves investment risk, including potential loss of principal;

(xi) restrictions requiring that, when a customer obtains insurance (other than credit insurance or flood insurance) and credit from an insured depository institution or wholesale financial institution, or any subsidiary or affiliate thereof, or any person soliciting the purchase of or selling insurance on the premises thereof, the credit and insurance transactions be completed through separate documents;

(xii) restrictions prohibiting, when a customer obtains insurance (other than credit insurance or flood insurance) and credit from an insured depository institution or wholesale financial institution or its subsidiaries or affiliates, or any person soliciting the purchase of or selling insurance on the premises thereof, inclusion of the expense of insurance premiums in the primary credit transaction without the express written consent of the customer; and

(xiii) restrictions requiring maintenance of separate and distinct books and records relating to insurance transactions, including all files relating to and reflecting consumer complaints, and requiring that such insurance books and records be made available to the appropriate State insurance regulator for inspection upon reasonable notice.

(C) LIMITATIONS.—

(i) OCC DEFERENCE.—Section 307(e) does not apply with respect to any State statute, regulation, order, interpretation, or other action regarding insurance sales, solicitation, or cross marketing activities described in subparagraph (A) that was issued, adopted, or enacted before September 3, 1998, and that is not described in subparagraph (B).

(ii) NONDISCRIMINATION.—Subsection (c) does not apply with respect to any State statute, regulation, order, interpretation, or other action regarding insurance sales, solicitation, or cross marketing activities described in subparagraph (A) that was issued, adopted, or enacted before September 3, 1998, and that is not described in subparagraph (B).

(iii) CONSTRUCTION.—Nothing in this paragraph shall be construed to limit the applicability of the decision of the Supreme Court in Barnett Bank of Marion County N.A. v. Nelson, 116 S. Ct. 1103 (1996) with respect to a State statute, regulation, order, interpretation, or other action that is not described in subparagraph (B).

(iv) LIMITATION ON INFERENCES.—Nothing in this paragraph shall be construed to create any inference with respect to any State statute, regulation, order, interpretation, or other action that is not referred to or described in this paragraph.

(3) INSURANCE ACTIVITIES OTHER THAN SALES.—State statutes, regulations, interpretations, orders, and other actions shall not be preempted under subsection (b)(1) to the extent that they—

(A) relate to, or are issued, adopted, or enacted for the purpose of regulating the business of insurance in accordance with the Act of March 9, 1945 (commonly known as the "McCarran-Ferguson Act");

(B) apply only to entities that are not insured depository institutions or wholesale financial institutions, but that are directly engaged in the business of insurance (except that they may apply to depository institutions engaged in providing savings bank life insurance as principal to the extent of regulating such insurance);

(C) do not relate to or directly or indirectly regulate insurance sales, solicitations, or cross-marketing activities; and

(D) are not prohibited under subsection (c).

(c) NONDISCRIMINATION.—Except as provided in any restrictions described in subsection (b)(2)(B), no State may, by statute, regulation, order, interpretation, or other action, regulate the insurance activities authorized or permitted under this Act or any other provision of Federal law of an insured depository institution or wholesale financial institution, or subsidiary or affiliate thereof, to the extent that such statute, regulation, order, interpretation, or other action—

(1) distinguishes by its terms between insured depository institutions or wholesale financial institutions, or subsidiaries or affiliates thereof, and other persons or entities engaged in such activities, in a manner that is in any way adverse to any such insured depository institution or wholesale financial institution, or subsidiary or affiliate thereof;

(2) as interpreted or applied, has or will have an impact on depository institutions or wholesale financial institutions, or subsidiaries or affiliates thereof, that is substantially more adverse than its impact on other persons or entities

providing the same products or services or engaged in the same activities that are not insured depository institutions, wholesale financial institutions, or subsidiaries or affiliates thereof, or persons or entities affiliated therewith;

(3) effectively prevents a depository institution or wholesale financial institution, or subsidiary or affiliate thereof, from engaging in insurance activities authorized or permitted by this Act or any other provision of Federal law; or

(4) conflicts with the intent of this Act generally to permit affiliations that are authorized or permitted by Federal law between insured depository institutions or wholesale financial institutions, or subsidiaries or affiliates thereof, and persons and entities engaged in the business of insurance.

(d) Definition.—For purposes of this section, the term "State" means any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

SEC. 105. MUTUAL BANK HOLDING COMPANIES AUTHORIZED.

Section 3(g)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(g)(2)) is amended to read as follows:

"(2) Regulations.—A bank holding company organized as a mutual holding company shall be regulated on terms, and shall be subject to limitations, comparable to those applicable to any other bank holding company.".

SEC. 106. PROHIBITION ON DEPOSIT PRODUCTION OFFICES.

(a) In General.—Section 109(d) of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (12 U.S.C. 1835a(d)) is amended—

(1) by inserting ", the Financial Services Act of 1998," after "pursuant to this title"; and

(2) by inserting "or such Act" after "made by this title".

(b) Technical and Conforming Amendment.—Section 109(e)(4) of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (12 U.S.C. 1835a(e)(4)) is amended by inserting "and any branch of a bank controlled by an out-of-State bank holding company (as defined in section 2(o)(7) of the Bank Holding Company Act of 1956)" before the period.

SEC. 107. CLARIFICATION OF BRANCH CLOSURE REQUIREMENTS.

Section 42(d)(4)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1831r–1(d)(4)(A)) is amended by inserting "and any bank controlled by an out-of-State bank holding company (as defined in section 2(o)(7) of the Bank Holding Company Act of 1956)" before the period.

SEC. 108. AMENDMENTS RELATING TO LIMITED PURPOSE BANKS.

(a) In General.—Section 4(f) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)) is amended—

(1) in paragraph (2)(A)(ii)—

(A) by striking "and" at the end of subclause (IX);

(B) by inserting "and" after the semicolon at the end of subclause (X); and

(C) by inserting after subclause (X) the following new subclause:

"(XI) consumer loan assets that are derived from or incidental to activities in which institutions described in subparagraph (F) or (H) of section 2(c)(2) are permitted to engage;";

(2) in paragraph (2), by striking subparagraph (B) and inserting the following new subparagraphs:

"(B) any bank subsidiary of such company engages in any activity in which the bank was not lawfully engaged as of March 5, 1987, unless the bank is well managed and well capitalized;

"(C) any bank subsidiary of such company both—

"(i) accepts demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties; and

"(ii) engages in the business of making commercial loans (and, for purposes of this clause, loans made in the ordinary course of a credit card operation shall not be treated as commercial loans); or

"(D) after the date of the enactment of the Competitive Equality Amendments of 1987, any bank subsidiary of such company permits any overdraft (including any intraday overdraft), or incurs any such overdraft in such bank's account at a Federal reserve bank, on behalf of an affiliate, other than an overdraft described in paragraph (3)."; and

(3) by striking paragraphs (3) and (4) and inserting the following new paragraphs:

"(3) Permissible Overdrafts Described.—For purposes of paragraph (2)(D), an overdraft is described in this paragraph if—

"(A) such overdraft results from an inadvertent computer or accounting error that is beyond the control of both the bank and the affiliate; or

"(B) such overdraft—

"(i) is permitted or incurred on behalf of an affiliate which is monitored by, reports to, and is recognized as a primary dealer by the Federal Reserve Bank of New York; and

"(ii) is fully secured, as required by the Board, by bonds, notes, or other obligations which are direct obligations of the United States or on which the principal and interest are fully guaranteed by the United States or by securities and obligations eligible for settlement on the Federal Reserve book entry system.

"(4) Divestiture in Case of Loss of Exemption.—If any company described in paragraph (1) fails to qualify for the exemption provided under such paragraph by operation of paragraph (2), such exemption shall cease to apply to such company and such company shall divest control of each bank it controls before the end of the 180-day period beginning on the date that the company receives notice from the Board that the company has failed to continue to qualify for such exemption, unless before the end of such 180-day period, the company has—

"(A) corrected the condition or ceased the activity that caused the company to fail to continue to qualify for the exemption; and

"(B) implemented procedures that are reasonably adapted to avoid the reoccurrence of such condition or activity.".

(b) Industrial Loan Companies Affiliate Overdrafts.—Section 2(c)(2)(H) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(H)) is amended by inserting before the period at the end ", or that is otherwise permissible for a bank controlled by a company described in section 4(f)(1)".

SEC. 109. REPORTS ON ONGOING FTC STUDY OF CONSUMER PRIVACY ISSUES.

With respect to the ongoing multistage study being conducted by the Federal Trade Commission on consumer privacy issues, the Commission shall submit to the Congress an interim report on the findings and conclusions of the Commission, together with such recommendations for legislative and administrative action as the Commission determines to be appropriate, at the conclusion of each stage of such study and a final report at the conclusion of the study.

SEC. 110. GAO STUDY OF ECONOMIC IMPACT ON COMMUNITY BANKS AND OTHER SMALL FINANCIAL INSTITUTIONS.

(a) Study Required.—The Comptroller General of the United States shall conduct a study of the projected economic impact that the enactment of this Act will have on financial institutions which have total assets of $100,000,000 or less.

(b) Report to the Congress.—The Comptroller General of the United States shall submit a report to the Congress before the end of the 6-month period beginning on the date of the date of the enactment of this Act containing the findings and conclusions of the Comptroller General with regard to the study required under subsection (a) and such recommendations for legislative or administrative action as the Comptroller General may determine to be appropriate.

Subtitle B—Streamlining Supervision of Financial Holding Companies

SEC. 111. STREAMLINING FINANCIAL HOLDING COMPANY SUPERVISION.

Section 5(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(c)) is amended to read as follows:

"(c) Reports and Examinations.—

"(1) Reports.—

"(A) In general.—The Board from time to time may require any bank holding company and any subsidiary of such company to submit reports under oath to keep the Board informed as to—

"(i) its financial condition, systems for monitoring and controlling financial and operating risks, and transactions with depository institution subsidiaries of the holding company; and

"(ii) compliance by the company or subsidiary with applicable provisions of this Act.

"(B) Use of existing reports.—

"(i) In general.—The Board shall, to the fullest extent possible, accept reports in fulfillment of the Board's reporting requirements under this paragraph that a bank holding company or any subsidiary of such company has provided or been required to provide to other Federal and State supervisors or to appropriate self-regulatory organizations.

"(ii) Availability.—A bank holding company or a subsidiary of such company shall provide to the Board, at the request of the Board, a report referred to in clause (i).

"(iii) Required use of publicly reported information.—The Board shall, to the fullest extent possible, accept in fulfillment of any reporting or recordkeeping requirements under this Act information that is otherwise required to be reported publicly and externally audited financial statements.

"(iv) Reports filed with other agencies.—In the event the Board requires a report from a functionally regulated nondepository institution subsidiary of a bank holding company of a kind that is not required by another Federal or State regulator or appropriate self-regulatory organization, the Board shall request that the appropriate regulator or self-regulatory organization obtain such report. If the report is not made available to the Board, and the report is necessary to assess a material risk to the bank holding company or its subsidiary depository institution or compliance with this Act, the Board may require such subsidiary to provide such a report to the Board.

"(C) Definition.—For purposes of this subsection, the term 'functionally regulated nondepository institution' means—

"(i) a broker or dealer registered under the Securities Exchange Act of 1934;

"(ii) an investment adviser registered under the Investment Advisers Act of 1940, or with any State, with respect to the investment advisory activities of such investment adviser and activities incidental to such investment advisory activities;

"(iii) an insurance company subject to supervision by a State insurance commission, agency, or similar authority; and

"(iv) an entity subject to regulation by the Commodity Futures Trading Commission, with respect to the commodities activities of such entity and activities incidental to such commodities activities.

"(2) EXAMINATIONS.—

"(A) EXAMINATION AUTHORITY.—

"(i) IN GENERAL.—The Board may make examinations of each bank holding company and each subsidiary of a bank holding company.

"(ii) FUNCTIONALLY REGULATED NONDEPOSITORY INSTITUTION SUBSIDIARIES.—Notwithstanding clause (i), the Board may make examinations of a functionally regulated nondepository institution subsidiary of a bank holding company only if—

"(I) the Board has reasonable cause to believe that such subsidiary is engaged in activities that pose a material risk to an affiliated depository institution, or

"(II) based on reports and other available information, the Board has reasonable cause to believe that a subsidiary is not in compliance with this Act or with provisions relating to transactions with an affiliated depository institution and the Board cannot make such determination through examination of the affiliated depository institution or bank holding company.

"(B) LIMITATIONS ON EXAMINATION AUTHORITY FOR BANK HOLDING COMPANIES AND SUBSIDIARIES.—Subject to subparagraph (A)(ii), the Board may make examinations under subparagraph (A)(i) of each bank holding company and each subsidiary of such holding company in order to—

"(i) inform the Board of the nature of the operations and financial condition of the holding company and such subsidiaries;

"(ii) inform the Board of—

"(I) the financial and operational risks within the holding company system that may pose a threat to the safety and soundness of any subsidiary depository institution of such holding company; and

"(II) the systems for monitoring and controlling such risks; and

"(iii) monitor compliance with the provisions of this Act and those governing transactions and relationships between any subsidiary depository institution and its affiliates.

"(C) RESTRICTED FOCUS OF EXAMINATIONS.—The Board shall, to the fullest extent possible, limit the focus and scope of any examination of a bank holding company to—

"(i) the bank holding company; and

"(ii) any subsidiary of the holding company that, because of—

"(I) the size, condition, or activities of the subsidiary;

"(II) the nature or size of transactions between such subsidiary and any depository institution which is also a subsidiary of such holding company; or

"(III) the centralization of functions within the holding company system,

could have a materially adverse effect on the safety and soundness of any depository institution affiliate of the holding company.

"(D) DEFERENCE TO BANK EXAMINATIONS.—The Board shall, to the fullest extent possible, use, for the purposes of this paragraph, the reports of examinations of depository institutions made by the appropriate Federal and State depository institution supervisory authority.

"(E) DEFERENCE TO OTHER EXAMINATIONS.—The Board shall, to the fullest extent possible, address the circumstances which might otherwise permit or require an examination by the Board by forgoing an examination and instead reviewing the reports of examination made of—

"(i) any registered broker or dealer by or on behalf of the Securities and Exchange Commission;

"(ii) any registered investment adviser properly registered by or on behalf of either the Securities and Exchange Commission or any State;

"(iii) any licensed insurance company by or on behalf of any state regulatory authority responsible for the supervision of insurance companies; and

"(iv) any other subsidiary that the Board finds to be comprehensively supervised by a Federal or State authority.

"(3) CAPITAL.—

"(A) IN GENERAL.—The Board shall not, by regulation, guideline, order or otherwise, prescribe or impose any capital or capital adequacy rules, guidelines, standards, or requirements on any subsidiary of a financial holding company that is not a depository institution and—

"(i) is in compliance with applicable capital requirements of another Federal regulatory authority (including the Securities and Exchange Commission) or State insurance authority; or

"(ii) is properly registered as an investment adviser under the Investment Advisers Act of 1940, or with any State.

"(B) RULE OF CONSTRUCTION.—Subparagraph (A) shall not be construed as preventing the Board from imposing capital or capital adequacy rules, guidelines, standards, or requirements with respect to activities of a registered investment adviser other than investment advisory activities or activities incidental to investment advisory activities.

"(C) LIMITATIONS ON INDIRECT ACTION.—In developing, establishing, or assessing holding company capital or capital adequacy rules, guidelines, standards, or requirements for purposes of this paragraph, the Board shall not take into account the activities, operations, or investments of an affiliated investment company registered under the Investment Company Act of 1940, if the investment company is not—

"(i) a bank holding company; or

"(ii) controlled by a bank holding company by reason of ownership by the bank holding company (including through all of its affiliates) of 25 percent or more of the shares of the investment company, where the shares owned by the bank holding company have a market value equal to more than $1,000,000.

"(4) TRANSFER OF BOARD AUTHORITY TO APPROPRIATE FEDERAL BANKING AGENCY.—

"(A) IN GENERAL.—In the case of any bank holding company which is not significantly engaged in nonbanking activities, the Board, in consultation with the appropriate Federal banking agency, may designate the appropriate Federal banking agency of the lead insured depository institution subsidiary of such holding company as the appropriate Federal banking agency for the bank holding company.

"(B) AUTHORITY TRANSFERRED.—An agency designated by the Board under subparagraph (A) shall have the same authority as the Board under this Act to—

"(i) examine and require reports from the bank holding company and any affiliate of such company (other than a depository institution) under section 5;

"(ii) approve or disapprove applications or transactions under section 3;

"(iii) take actions and impose penalties under subsections (e) and (f) of section 5 and section 8; and

"(iv) take actions regarding the holding company, any affiliate of the holding company (other than a depository institution), or any institution-affiliated party of such company or affiliate under the Federal Deposit Insurance Act and any other statute which the Board may designate.

"(C) AGENCY ORDERS.—Section 9 (of this Act) and section 105 of the Bank Holding Company Act Amendments of 1970 shall apply to orders issued by an agency designated under subparagraph (A) in the same manner such sections apply to orders issued by the Board.

"(5) FUNCTIONAL REGULATION OF SECURITIES AND INSURANCE ACTIVITIES.—The Board shall defer to—

"(A) the Securities and Exchange Commission with regard to all interpretations of, and the enforcement of, applicable Federal securities laws (and rules, regulations, orders, and other directives issued thereunder) relating to the activities, conduct, and operations of registered brokers, dealers, investment advisers, and investment companies;

"(B) the relevant State securities authorities with regard to all interpretations of, and the enforcement of, applicable State securities laws (and rules, regulations, orders, and other directives issued thereunder) relating to the activities, conduct, and operations of registered brokers, dealers, and investment advisers; and

"(C) the relevant State insurance authorities with regard to all interpretations of, and the enforcement of, applicable State insurance laws (and rules, regulations, orders, and other directives issued thereunder) relating to the activities, conduct, and operations of insurance companies and insurance agents.".

SEC. 112. ELIMINATION OF APPLICATION REQUIREMENT FOR FINANCIAL HOLDING COMPANIES.

(a) PREVENTION OF DUPLICATIVE FILINGS.—Section 5(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(a)) is amended by adding the following new sentence at the end: "A declaration filed in accordance with section 6(b)(1)(E) shall satisfy the requirements of this subsection with regard to the registration of a bank holding company but not any requirement to file an application to acquire a bank pursuant to section 3.".

(b) DIVESTITURE PROCEDURES.—Section 5(e)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(e)(1)) is amended—

(1) by striking "Financial Institutions Supervisory Act of 1966, order" and inserting "Financial Institutions Supervisory Act of 1966, at the election of the bank holding company—

"(A) order"; and

(2) by striking "shareholders of the bank holding company. Such distribution" and inserting "shareholders of the bank holding company; or

"(B) order the bank holding company, after due notice and opportunity for hearing, and after consultation with the primary supervisor for the bank, which shall be the Comptroller of the Currency in the case of a national bank, and the Federal Deposit Insurance Corporation and the appropriate State supervisor in the case of an insured nonmember bank, to terminate (within 120 days or such longer period as the Board may direct) the ownership or control of any such bank by such company.

"The distribution referred to in subparagraph (A)".

SEC. 113. AUTHORITY OF STATE INSURANCE REGULATOR AND SECURITIES AND EXCHANGE COMMISSION.

Section 5 of the Bank Holding Company Act of 1956 (12 U.S.C. 1844) is amended by adding at the end the following new subsection:

"(g) AUTHORITY OF STATE INSURANCE REGULATOR AND THE SECURITIES AND EXCHANGE COMMISSION.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, any regulation, order, or other action of the Board which requires a bank holding company to provide funds or other assets to a subsidiary insured depository institution shall not be effective nor enforceable if—

"(A) such funds or assets are to be provided by—

"(i) a bank holding company that is an insurance company or is a broker or dealer registered under the Securities Exchange Act of 1934; or

"(ii) an affiliate of the depository institution which is an insurance company or a broker or dealer registered under such Act; and

"(B) the State insurance authority for the insurance company or the Securities and Exchange Commission for the registered broker or

dealer, as the case may be, determines in writing sent to the holding company and the Board that the holding company shall not provide such funds or assets because such action would have a material adverse effect on the financial condition of the insurance company or the broker or dealer, as the case may be.

"(2) NOTICE TO STATE INSURANCE AUTHORITY OR SEC REQUIRED.—If the Board requires a bank holding company, or an affiliate of a bank holding company, which is an insurance company or a broker or dealer described in paragraph (1)(A) to provide funds or assets to an insured depository institution subsidiary of the holding company pursuant to any regulation, order, or other action of the Board referred to in paragraph (1), the Board shall promptly notify the State insurance authority for the insurance company or the Securities and Exchange Commission, as the case may be, of such requirement.

"(3) DIVESTITURE IN LIEU OF OTHER ACTION.—If the Board receives a notice described in paragraph (1)(B) from a State insurance authority or the Securities and Exchange Commission with regard to a bank holding company or affiliate referred to in that paragraph, the Board may order the bank holding company to divest the insured depository institution not later than 180 days after receiving the notice, or such longer period as the Board determines consistent with the safe and sound operation of the insured depository institution.

"(4) CONDITIONS BEFORE DIVESTITURE.—During the period beginning on the date an order to divest is issued by the Board under paragraph (3) to a bank holding company and ending on the date the divestiture is completed, the Board may impose any conditions or restrictions on the holding company's ownership or operation of the insured depository institution, including restricting or prohibiting transactions between the insured depository institution and any affiliate of the institution, as are appropriate under the circumstances.".

SEC. 114. PRUDENTIAL SAFEGUARDS.

Section 5 of the Bank Holding Company Act of 1956 (12 U.S.C. 1844) is amended by inserting after subsection (g) (as added by section 113 of this subtitle) the following new subsection:

"(h) PRUDENTIAL SAFEGUARDS.—

"(1) IN GENERAL.—The Board may, by regulation or order, impose restrictions or requirements on relationships or transactions between a depository institution subsidiary of a bank holding company and any affiliate of such depository institution (other than a subsidiary of such institution) which the Board finds is consistent with the public interest, the purposes of this Act, the Financial Services Act of 1998, the Federal Reserve Act, and other Federal law applicable to depository institution subsidiaries of bank holding companies and the standards in paragraph (2).

"(2) STANDARDS.—The Board may exercise authority under paragraph (1) if the Board finds that such action would—

"(A) avoid any significant risk to the safety and soundness of depository institutions or any Federal deposit insurance fund;

"(B) enhance the financial stability of bank holding companies;

"(C) avoid conflicts of interest or other abuses;

"(D) enhance the privacy of customers of depository institutions; or

"(E) promote the application of national treatment and equality of competitive opportunity between nonbank affiliates owned or controlled by domestic bank holding companies and nonbank affiliates owned or controlled by foreign banks operating in the United States.

"(3) REVIEW.—The Board shall regularly—

"(A) review all restrictions or requirements established pursuant to paragraph (1) to determine whether there is a continuing need for any such restriction or requirement to carry out the purposes of the Act, including any purpose described in paragraph (2); and

"(B) modify or eliminate any restriction or requirement the Board finds is no longer required for such purposes.

"(4) FOREIGN BANKS.—The Board may, by regulation or order, impose restrictions or requirements on relationships or transactions between a foreign bank and any affiliate in the United States of such foreign bank that the Board finds are consistent with the public interest, the purposes of this Act, the Financial Services Act of 1998, the Federal Reserve Act, and other Federal law applicable to foreign banks and their affiliates in the United States, and the standards in paragraphs (2) and (3).".

SEC. 115. EXAMINATION OF INVESTMENT COMPANIES.

(a) EXCLUSIVE COMMISSION AUTHORITY.—

(1) IN GENERAL.—The Commission shall be the sole Federal agency with authority to inspect and examine any registered investment company that is not a bank holding company.

(2) PROHIBITION ON BANKING AGENCIES.—A Federal banking agency may not inspect or examine any registered investment company that is not a bank holding company.

(b) EXAMINATION RESULTS AND OTHER INFORMATION.—The Commission shall provide to any Federal banking agency, upon request, the results of any examination, reports, records, or other information with respect to any registered investment company to the extent necessary for the agency to carry out its statutory responsibilities.

(c) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) BANK HOLDING COMPANY.—The term "bank holding company" has the same meaning as in section 2 of the Bank Holding Company Act of 1956.

(2) COMMISSION.—The term "Commission" means the Securities and Exchange Commission.

(3) FEDERAL BANKING AGENCY.—The term "Federal banking agency" has the same meaning as in section 3(z) of the Federal Deposit Insurance Act.

(4) REGISTERED INVESTMENT COMPANY.—The term "registered investment company" means an investment company which is registered with the Commission under the Investment Company Act of 1940.

SEC. 116. LIMITATION ON RULEMAKING, PRUDENTIAL, SUPERVISORY, AND ENFORCEMENT AUTHORITY OF THE BOARD.

The Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended by inserting after section 10 the following new section:

"SEC. 10A. LIMITATION ON RULEMAKING, PRUDENTIAL, SUPERVISORY, AND ENFORCEMENT AUTHORITY OF THE BOARD.

"(a) LIMITATION ON DIRECT ACTION.—

"(1) IN GENERAL.—The Board may not prescribe regulations, issue or seek entry of orders, impose restraints, restrictions, guidelines, requirements, safeguards, or standards, or otherwise take any action under or pursuant to any provision of this Act or section 8 of the Federal Deposit Insurance Act against or with respect to a regulated subsidiary of a bank holding company unless the action is necessary to prevent or redress an unsafe or unsound practice or breach of fiduciary duty by such subsidiary that poses a material risk to—

"(A) the financial safety, soundness, or stability of an affiliated depository institution; or

"(B) the domestic or international payment system.

"(2) CRITERIA FOR BOARD ACTION.—The Board shall not take action otherwise permitted under paragraph (1) unless the Board finds that it is not reasonably possible to effectively protect against the material risk at issue through action directed at or against the affiliated depository institution or against depository institutions generally.

"(b) LIMITATION ON INDIRECT ACTION.—The Board may not prescribe regulations, issue or seek entry of orders, impose restraints, restrictions, guidelines, requirements, safeguards, or standards, or otherwise take any action under or pursuant to any provision of this Act or section 8 of the Federal Deposit Insurance Act against or with respect to a financial holding company or a wholesale financial holding company where the purpose or effect of doing so would be to take action indirectly against or with respect to a regulated subsidiary that may not be taken directly against or with respect to such subsidiary in accordance with subsection (a).

"(c) ACTIONS SPECIFICALLY AUTHORIZED.—Notwithstanding subsection (a), the Board may take action under this Act or section 8 of the Federal Deposit Insurance Act to enforce compliance by a regulated subsidiary with Federal law that the Board has specific jurisdiction to enforce against such subsidiary.

"(d) REGULATED SUBSIDIARY DEFINED.—For purposes of this section, the term 'regulated subsidiary' means any company that is not a bank holding company and is—

"(1) a broker or dealer registered under the Securities Exchange Act of 1934;

"(2) a registered investment adviser, properly registered by or on behalf of either the Securities and Exchange Commission or any State, with respect to the investment advisory activities of such investment adviser and activities incidental to such investment advisory activities;

"(3) an investment company registered under the Investment Company Act of 1940;

"(4) an insurance company or an insurance agency subject to supervision by a State insurance commission, agency, or similar authority; or

"(5) an entity subject to regulation by the Commodity Futures Trading Commission, with respect to the commodities activities of such entity and activities incidental to such commodities activities.".

SEC. 117. INTERAGENCY CONSULTATION.

(a) PURPOSE.—It is the intention of Congress that the Board of Governors of the Federal Reserve System, as the umbrella supervisor for financial holding companies, and the State insurance regulators, as the functional regulators of companies engaged in insurance activities, coordinate efforts to supervise companies that control both a depository institution and a company engaged in insurance activities regulated under State law. In particular, Congress believes that the Board and the State insurance regulators should share, on a confidential basis, information relevant to the supervision of companies that control both a depository institution and a company engaged in insurance activities, including information regarding the financial health of the consolidated organization and information regarding transactions and relationships between insurance companies and affiliated depository institutions. The appropriate Federal banking agencies for depository institutions should also share, on a confidential basis, information with the relevant State insurance regulators regarding transactions and relationships between depository institutions and affiliated companies engaged in insurance activities. The purpose of this section is to encourage this coordination and confidential sharing of information, and to thereby improve both the efficiency and the quality of the supervision of financial holding companies and their affiliated depository institutions and companies engaged in insurance activities.

(b) EXAMINATION RESULTS AND OTHER INFORMATION.—

(1) INFORMATION OF THE BOARD.—Upon the request of the appropriate insurance regulator of any State, the Board may provide any information of the Board regarding the financial condition, risk management policies, and operations of any financial holding company that controls a company that is engaged in insurance activities and is regulated by such State insurance regulator, and regarding any transaction or relationship between such an insurance company and any affiliated depository institution. The Board may provide any other information to the appropriate State insurance regulator that the Board believes is necessary or appropriate to permit the State insurance regulator to administer and enforce applicable State insurance laws.

(2) BANKING AGENCY INFORMATION.—Upon the request of the appropriate insurance regulator of any State, the appropriate Federal banking agency may provide any information of the agency regarding any transaction or relationship between a depository institution supervised by such Federal banking agency and any affiliated company that is engaged in insurance activities regulated by such State insurance regulator. The appropriate Federal banking agency may provide any other information to the appropriate State insurance regulator that the agency believes is necessary or appropriate to permit the State insurance regulator to administer and enforce applicable State insurance laws.

(3) STATE INSURANCE REGULATOR INFORMATION.—Upon the request of the Board or the appropriate Federal banking agency, a State insurance regulator may provide any examination or other reports, records, or other information to which such insurance regulator may have access with respect to a company which—

(A) is engaged in insurance activities and regulated by such insurance regulator; and

(B) is an affiliate of an insured depository institution, wholesale financial institution, or financial holding company.

(c) CONSULTATION.—Before making any determination relating to the initial affiliation of, or the continuing affiliation of, an insured depository institution, wholesale financial institution, or financial holding company with a company engaged in insurance activities, the appropriate Federal banking agency shall consult with the appropriate State insurance regulator of such company and take the views of such insurance regulator into account in making such determination.

(d) EFFECT ON OTHER AUTHORITY.—Nothing in this section shall limit in any respect the authority of the appropriate Federal banking agency with respect to an insured depository institution, wholesale financial institution, or bank holding company or any affiliate thereof under any provision of law.

(e) CONFIDENTIALITY AND PRIVILEGE.—

(1) CONFIDENTIALITY.—The appropriate Federal banking agency shall not provide any information or material that is entitled to confidential treatment under applicable Federal banking agency regulations, or other applicable law, to a State insurance regulator unless such regulator agrees to maintain the information or material in confidence and to take all reasonable steps to oppose any effort to secure disclosure of the information or material by the regulator. The appropriate Federal banking agency shall treat as confidential any information or material obtained from a State insurance regulator that is entitled to confidential treatment under applicable State regulations, or other applicable law, and take all reasonable steps to oppose any effort to secure disclosure of the information or material by the Federal banking agency.

(2) PRIVILEGE.—The provision pursuant to this section of information or material by a Federal banking agency or State insurance regulator shall not constitute a waiver of, or otherwise affect, any privilege to which the information or material is otherwise subject.

(f) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) APPROPRIATE FEDERAL BANKING AGENCY; INSURED DEPOSITORY INSTITUTION.—The terms "appropriate Federal banking agency" and "insured depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

(2) BOARD; FINANCIAL HOLDING COMPANY; AND WHOLESALE FINANCIAL INSTITUTION.—The terms "Board", "financial holding company", and "wholesale financial institution" have the same meanings as in section 2 of the Bank Holding Company Act of 1956.

SEC. 118. EQUIVALENT REGULATION AND SUPERVISION.

Notwithstanding any other provision of law, the provisions of—

(1) section 5(c) of the Bank Holding Company Act of 1956 (as amended by this Act) that limit the authority of the Board of Governors of the Federal Reserve System to require reports from, to make examinations of, or to impose capital requirements on bank holding companies and their nonbank subsidiaries; and

(2) section 10A of the Bank Holding Company Act of 1956 (as added by this Act) that limit whatever authority the Board might otherwise have to take direct or indirect action with respect to bank holding companies and their nonbank subsidiaries,

shall also limit whatever authority that the Comptroller of the Currency and the Director of the Office of Thrift Supervision might otherwise have under any statute to require reports, make examinations, impose capital requirements or take any other direct or indirect action with respect to bank holding companies and their nonbank subsidiaries (including nonbank subsidiaries of depository institutions), subject to the same standards and requirements as are applicable to the Board under such provisions.

SEC. 119. PROHIBITION ON FDIC ASSISTANCE TO AFFILIATES AND SUBSIDIARIES.

Section 11(a)(4)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(4)(B)) is amended by striking "to benefit any shareholder of" and inserting "to benefit any shareholder, affiliate (other than an insured depository institution that receives assistance in accordance with the provision of this Act), or subsidiary of".

Subtitle C—Subsidiaries of National Banks

SEC. 121. PERMISSIBLE ACTIVITIES FOR SUBSIDIARIES OF NATIONAL BANKS.

(a) FINANCIAL SUBSIDIARIES OF NATIONAL BANKS.—Chapter one of title LXII of the Revised Statutes of United States (12 U.S.C. 21 et seq.) is amended—

(1) by redesignating section 5136A as section 5136C; and

(2) by inserting after section 5136 (12 U.S.C. 24) the following new section:

"SEC. 5136A. SUBSIDIARIES OF NATIONAL BANKS.

"(a) SUBSIDIARIES OF NATIONAL BANKS AUTHORIZED TO ENGAGE IN FINANCIAL ACTIVITIES.—

"(1) EXCLUSIVE AUTHORITY.—No provision of section 5136 or any other provision of this title LXII of the Revised Statutes shall be construed as authorizing a subsidiary of a national bank to engage in, or own any share of or any other interest in any company engaged in, any activity that—

"(A) is not permissible for a national bank to engage in directly; or

"(B) is conducted under terms or conditions other than those that would govern the conduct of such activity by a national bank, unless a national bank is specifically authorized by the express terms of a Federal statute and not by implication or interpretation to acquire shares of or an interest in, or to control, such subsidiary, such as by paragraph (2) of this subsection and section 25A of the Federal Reserve Act.

"(2) SPECIFIC AUTHORIZATION TO CONDUCT AGENCY ACTIVITIES WHICH ARE FINANCIAL IN NATURE.—A national bank may control a company that engages in agency activities that have been determined to be financial in nature or incidental to such financial activities pursuant to and in accordance with section 6(c) of the Bank Holding Company Act of 1956 if—

"(A) the company engages in such activities solely as agent and not directly or indirectly as principal;

"(B) the national bank is well capitalized and well managed, and has achieved a rating of satisfactory or better at the most recent examination of the bank under the Community Reinvestment Act of 1977;

"(C) all depository institution affiliates of the national bank are well capitalized and well managed, and have achieved a rating of satisfactory or better at the most recent examination of each such depository institution under the Community Reinvestment Act of 1977; and

"(D) the bank has received the approval of the Comptroller of the Currency.

"(3) RATING DOES NOT REQUIRE DIVESTITURE.—A national bank shall not be required to divest any subsidiary held pursuant to paragraph (2) solely based on a rating described in subparagraph (B) or (C) of paragraph (2), other than a rating described in paragraph (4)(C).

"(4) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(A) COMPANY; 'CONTROL; AFFILIATE; SUBSIDIARY.—The terms 'company', 'control', 'affiliate', and 'subsidiary' have the same meanings as in section 2 of the Bank Holding Company Act of 1956.

"(B) WELL CAPITALIZED.—The term 'well capitalized' has the same meaning as in section 38 of the Federal Deposit Insurance Act and, for purposes of this section, the Comptroller shall have exclusive jurisdiction to determine whether a national bank is well capitalized.

"(C) WELL MANAGED.—The term 'well managed' means—

"(i) in the case of a depository institution that has been examined, unless otherwise determined in writing by the appropriate Federal banking agency—

"(I) the achievement of a composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating under an equivalent rating system) in connection with the most recent examination or subsequent review of the depository institution; and

"(II) at least a rating of 2 for management, if that rating is given; or

"(ii) in the case of any depository institution that has not been examined, the existence and use of managerial resources that the appropriate Federal banking agency determines are satisfactory.

"(D) INCORPORATED DEFINITIONS.—The terms 'appropriate Federal banking agency' and 'depository institution' have the same meanings as in section 3 of the Federal Deposit Insurance Act.

"(b) LIMITED EXCLUSIONS FROM COMMUNITY NEEDS REQUIREMENTS FOR NEWLY ACQUIRED DEPOSITORY INSTITUTIONS.—Any depository institution which becomes affiliated with a national bank during the 24-month period preceding the submission of an application to acquire a subsidiary under subsection (a)(2), and any depository institution which becomes so affiliated after the approval of such application, may be excluded for purposes of subsection

(a)(2)(C) during the 24-month period beginning on the date of such acquisition if—

"(1) the depository institution has submitted an affirmative plan to the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) to take such action as may be necessary in order for such institution to achieve a 'satisfactory record of meeting community credit needs', or better, at the next examination of the institution under the Community Reinvestment Act of 1977; and

"(2) the plan has been approved by the appropriate Federal banking agency.".

(b) LIMITATION ON CERTAIN ACTIVITIES IN SUBSIDIARIES.—Section 21(a)(1) of the Banking Act of 1933 (12 U.S.C. 378(a)(1)) is amended—

(1) by inserting ", or to be a subsidiary of any person, firm, corporation, association, business trust, or similar organization engaged (unless such subsidiary (A) was engaged in such securities activities as of September 15, 1997, or (B) is a nondepository subsidiary of (i) a foreign bank and is not also a subsidiary of a domestic depository institution, or (ii) an unincorporated private bank that is not insured under the Federal Deposit Insurance Act)," after "to engage at the same time"; and

(2) by inserting "or any subsidiary of such bank, company, or institution" after "or private bankers".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) ANTITYING.—Section 106(a) of the Bank Holding Company Act Amendments of 1970 is amended by adding at the end the following new sentence: "For purposes of this section, a subsidiary of a national bank which engages in activities as an agent pursuant to section 5136A(a)(2) shall be deemed to be a subsidiary of a bank holding company, and not a subsidiary of a bank.".

(2) SECTION 23B.—Section 23B(a) of the Federal Reserve Act (12 U.S.C. 371c–1(a)) is amended by adding at the end the following new paragraph:

"(4) SUBSIDIARY OF NATIONAL BANK.—For purposes of this section, a subsidiary of a national bank which engages in activities as an agent pursuant to section 5136A(a)(2) shall be deemed to be an affiliate of the national bank and not a subsidiary of the bank.".

(d) CLERICAL AMENDMENT.—The table of sections for chapter one of title LXII of the Revised Statutes of the United States is amended—

(1) by redesignating the item relating to section 5136A as section 5136C; and

(2) by inserting after the item relating to section 5136 the following new item:

"5136A. Financial subsidiaries of national banks.".

SEC. 122. MISREPRESENTATIONS REGARDING DEPOSITORY INSTITUTION LIABILITY FOR OBLIGATIONS OF AFFILIATES.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by inserting after section 1007 the following new section:

"§1008. Misrepresentations regarding financial institution liability for obligations of affiliates

"(a) IN GENERAL.—No institution-affiliated party of an insured depository institution or institution-affiliated party of a subsidiary or affiliate of an insured depository institution shall fraudulently represent that the institution is or will be liable for any obligation of a subsidiary or other affiliate of the institution.

"(b) CRIMINAL PENALTY.—Whoever violates subsection (a) shall be fined under this title, imprisoned for not more than 1 year, or both.

"(c) INSTITUTION-AFFILIATED PARTY DEFINED.—For purposes of this section, the term 'institution-affiliated party' with respect to a subsidiary or affiliate has the same meaning as in section 3 of the Federal Deposit Insurance Act, except that references to an insured depository institution shall be deemed to be references to a subsidiary or affiliate of an insured depository institution.

"(d) OTHER DEFINITIONS.—For purposes of this section, the terms 'affiliate', 'insured depository institution', and 'subsidiary' have same meanings as in section 3 of the Federal Deposit Insurance Act.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1007 the following new item:

"1008. Misrepresentations regarding financial institution liability for obligations of affiliates.".

SEC. 123. REPEAL OF STOCK LOAN LIMIT IN FEDERAL RESERVE ACT.

Section 11 of the Federal Reserve Act (12 U.S.C. 248) is amended by striking the paragraph designated as "(m)" and inserting "(m) [Repealed]".

Subtitle D—Wholesale Financial Holding Companies; Wholesale Financial Institutions

CHAPTER 1—WHOLESALE FINANCIAL HOLDING COMPANIES

SEC. 131. WHOLESALE FINANCIAL HOLDING COMPANIES ESTABLISHED.

(a) DEFINITION AND SUPERVISION.—Section 10 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended to read as follows:

"SEC. 10. WHOLESALE FINANCIAL HOLDING COMPANIES.

"(a) COMPANIES THAT CONTROL WHOLESALE FINANCIAL INSTITUTIONS.—

"(1) WHOLESALE FINANCIAL HOLDING COMPANY DEFINED.—The term 'wholesale financial holding company' means any company that—

"(A) is registered as a bank holding company;

"(B) is predominantly engaged in financial activities as defined in section 6(g)(2);

"(C) controls 1 or more wholesale financial institutions;

"(D) does not control—

"(i) a bank other than a wholesale financial institution;

"(ii) an insured bank other than an institution permitted under subparagraph (D), (F), or (G) of section 2(c)(2); or

"(iii) a savings association; and

"(E) is not a foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978).

"(2) SAVINGS ASSOCIATION TRANSITION PERIOD.—Notwithstanding paragraph (1)(D)(iii), the Board may permit a company that controls a savings association and that otherwise meets the requirements of paragraph (1) to become supervised under paragraph (1), if the company divests control of any such savings association within such period, not to exceed 5 years after becoming supervised under paragraph (1), as permitted by the Board.

"(b) SUPERVISION BY THE BOARD.—

"(1) IN GENERAL.—The provisions of this section shall govern the reporting, examination, and capital requirements of wholesale financial holding companies.

"(2) REPORTS.—

"(A) IN GENERAL.—The Board from time to time may require any wholesale financial holding company and any subsidiary of such company to submit reports under oath to keep the Board informed as to—

"(i) the company's or subsidiary's activities, financial condition, policies, systems for monitoring and controlling financial and operational risks, and transactions with depository institution subsidiaries of the holding company; and

"(ii) the extent to which the company or subsidiary has complied with the provisions of this Act and regulations prescribed and orders issued under this Act.

"(B) USE OF EXISTING REPORTS.—

"(i) IN GENERAL.—The Board shall, to the fullest extent possible, accept reports in fulfillment of the Board's reporting requirements under this paragraph that the wholesale financial holding company or any subsidiary of such company has provided or been required to provide to other Federal and State supervisors or to appropriate self-regulatory organizations.

"(ii) AVAILABILITY.—A wholesale financial holding company or a subsidiary of such company shall provide to the Board, at the request of the Board, a report referred to in clause (i).

"(C) EXEMPTIONS FROM REPORTING REQUIREMENTS.—

"(i) IN GENERAL.—The Board may, by regulation or order, exempt any company or class of companies, under such terms and conditions and for such periods as the Board shall provide in such regulation or order, from the provisions of this paragraph and any regulation prescribed under this paragraph.

"(ii) CRITERIA FOR CONSIDERATION.—In making any determination under clause (i) with regard to any exemption under such clause, the Board shall consider, among such other factors as the Board may determine to be appropriate, the following factors:

"(I) Whether information of the type required under this paragraph is available from a supervisory agency (as defined in section 1101(7) of the Right to Financial Privacy Act of 1978) or a foreign regulatory authority of a similar type.

"(II) The primary business of the company.

"(III) The nature and extent of the domestic and foreign regulation of the activities of the company.

"(3) EXAMINATIONS.—

"(A) LIMITED USE OF EXAMINATION AUTHORITY.—The Board may make examinations of each wholesale financial holding company and each subsidiary of such company in order to—

"(i) inform the Board regarding the nature of the operations and financial condition of the wholesale financial holding company and its subsidiaries;

"(ii) inform the Board regarding—

"(I) the financial and operational risks within the wholesale financial holding company system that may affect any depository institution owned by such holding company; and

"(II) the systems of the holding company and its subsidiaries for monitoring and controlling those risks; and

"(iii) monitor compliance with the provisions of this Act and those governing transactions and relationships between any depository institution controlled by the wholesale financial holding company and any of the company's other subsidiaries.

"(B) RESTRICTED FOCUS OF EXAMINATIONS.—The Board shall, to the fullest extent possible, limit the focus and scope of any examination of a wholesale financial holding company under this paragraph to—

"(i) the holding company; and

"(ii) any subsidiary (other than an insured depository institution subsidiary) of the holding company that, because of the size, condition, or activities of the subsidiary, the nature or size of transactions between such subsidiary and any affiliated depository institution, or the centralization of functions within the holding company system, could have a materially adverse effect on the safety and soundness of any depository institution affiliate of the holding company.

"(C) DEFERENCE TO BANK EXAMINATIONS.—The Board shall, to the fullest extent possible, use the reports of examination of depository institutions made by the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Director of the Office of Thrift Supervision or the appropriate State depository institution supervisory authority for the purposes of this section.

"(D) DEFERENCE TO OTHER EXAMINATIONS.—The Board shall, to the fullest extent possible, address the circumstances which might otherwise permit or require an examination by the Board by forgoing an examination and by instead reviewing the reports of examination made of—

"(i) any registered broker or dealer or any registered investment adviser by or on behalf of the Commission; and

"(ii) any licensed insurance company by or on behalf of any State government insurance agency responsible for the supervision of the insurance company.

"(E) CONFIDENTIALITY OF REPORTED INFORMATION.—

"(i) IN GENERAL.—Notwithstanding any other provision of law, the Board shall not be compelled to disclose any nonpublic information required to be reported under this paragraph, or any information supplied to the Board by any domestic or foreign regulatory agency, that relates to the financial or operational condition of any wholesale financial holding company or any subsidiary of such company.

"(ii) COMPLIANCE WITH REQUESTS FOR INFORMATION.—No provision of this subparagraph shall be construed as authorizing the Board to withhold information from the Congress, or preventing the Board from complying with a request for information from any other Federal department or agency for purposes within the scope of such department's or agency's jurisdiction, or from complying with any order of a court of competent jurisdiction in an action brought by the United States or the Board.

"(iii) COORDINATION WITH OTHER LAW.—For purposes of section 552 of title 5, United States Code, this subparagraph shall be considered to be a statute described in subsection (b)(3)(B) of such section.

"(iv) DESIGNATION OF CONFIDENTIAL INFORMATION.—In prescribing regulations to carry out the requirements of this subsection, the Board shall designate information described in or obtained pursuant to this paragraph as confidential information.

"(F) COSTS.—The cost of any examination conducted by the Board under this section may be assessed against, and made payable by, the wholesale financial holding company.

"(4) CAPITAL ADEQUACY GUIDELINES.—

"(A) CAPITAL ADEQUACY PROVISIONS.—Subject to the requirements of, and solely in accordance with, the terms of this paragraph, the Board may adopt capital adequacy rules or guidelines for wholesale financial holding companies.

"(B) METHOD OF CALCULATION.—In developing rules or guidelines under this paragraph, the following provisions shall apply:

"(i) FOCUS ON DOUBLE LEVERAGE.—The Board shall focus on the use by wholesale financial holding companies of debt and other liabilities to fund capital investments in subsidiaries.

"(ii) NO UNWEIGHTED CAPITAL RATIO.—The Board shall not, by regulation, guideline, order, or otherwise, impose under this section a capital ratio that is not based on appropriate risk-weighting considerations.

"(iii) NO CAPITAL REQUIREMENT ON REGULATED ENTITIES.—The Board shall not, by regulation, guideline, order or otherwise, prescribe or impose any capital or capital adequacy rules, standards, guidelines, or requirements upon any subsidiary that—

"(I) is not a depository institution; and

"(II) is in compliance with applicable capital requirements of another Federal regulatory authority (including the Securities and Exchange Commission) or State insurance authority.

"(iv) CERTAIN SUBSIDIARIES.—The Board shall not, by regulation, guideline, order or otherwise, prescribe or impose any capital or capital adequacy rules, standards, guidelines, or requirements upon any subsidiary that is not a depository institution and that is registered as an investment adviser under the Investment Advisers Act of 1940, except that this clause shall not be construed as preventing the Board from imposing capital or capital adequacy rules, guidelines, standards, or requirements with respect to activities of a registered investment adviser other than investment advisory activities or activities incidental to investment advisory activities.

"(v) LIMITATIONS ON INDIRECT ACTION.—In developing, establishing, or assessing holding company capital or capital adequacy rules, guidelines, standards, or requirements for purposes of this paragraph, the Board shall not take into account the activities, operations, or investments of an affiliated investment company registered under the Investment Company Act of 1940, if the investment company is not—

"(I) a bank holding company; or

"(II) controlled by a bank holding company by reason of ownership by the bank holding company (including through all of its affiliates) of 25 percent or more of the shares of the investment company, where the shares owned by the bank holding company have a market value equal to more than $1,000,000.

"(vi) APPROPRIATE EXCLUSIONS.—The Board shall take full account of—

"(I) the capital requirements made applicable to any subsidiary that is not a depository institution by another Federal regulatory authority or State insurance authority; and

"(II) industry norms for capitalization of a company's unregulated subsidiaries and activities.

"(vii) INTERNAL RISK MANAGEMENT MODELS.—The Board may incorporate internal risk management models of wholesale financial holding companies into its capital adequacy guidelines or rules and may take account of the extent to which resources of a subsidiary depository institution may be used to service the debt or other liabilities of the wholesale financial holding company.

"(c) NONFINANCIAL ACTIVITIES AND INVESTMENTS.—

"(1) GRANDFATHERED ACTIVITIES.—

"(A) IN GENERAL.—Notwithstanding section 4(a), a company that becomes a wholesale financial holding company may continue to engage, directly or indirectly, in any activity and may retain ownership and control of shares of a company engaged in any activity if—

"(i) on the date of the enactment of the Financial Services Act of 1998, such wholesale financial holding company was lawfully engaged in that nonfinancial activity, held the shares of such company, or had entered into a contract to acquire shares of any company engaged in such activity; and

"(ii) the company engaged in such activity continues to engage only in the same activities that such company conducted on the date of the enactment of the Financial Services Act of 1998, and other activities permissible under this Act.

"(B) NO EXPANSION OF GRANDFATHERED COMMERCIAL ACTIVITIES THROUGH MERGER OR CONSOLIDATION.—A wholesale financial holding company that engages in activities or holds shares pursuant to this paragraph, or a subsidiary of such wholesale financial holding company, may not acquire, in any merger, consolidation, or other type of business combination, assets of any other company which is engaged in any activity which the Board has not determined to be financial in nature or incidental to activities that are financial in nature under section 6(c).

"(C) LIMITATION TO SINGLE EXEMPTION.—No company that engages in any activity or controls any shares under subsection (f) of section 6 may engage in any activity or own any shares pursuant to this paragraph.

"(2) COMMODITIES.—

"(A) IN GENERAL.—Notwithstanding section 4(a), a wholesale financial holding company which was predominately engaged as of January 1, 1997, in financial activities in the United States (or any successor to any such company) may engage in, or directly or indirectly own or control shares of a company engaged in, activities related to the trading, sale, or investment in commodities and underlying physical properties that were not permissible for bank holding companies to conduct in the United States as of January 1, 1997, if such wholesale financial holding company, or any subsidiary of such holding company, was engaged directly, indirectly, or through any such company in any of such activities as of January 1, 1997, in the United States.

"(B) LIMITATION.—The attributed aggregate consolidated assets of a wholesale financial holding company held under the authority granted under this paragraph and not otherwise permitted to be held by all wholesale financial holding companies under this section may not exceed 5 percent of the total consolidated assets of the wholesale financial holding company, except that the Board may increase such percentage of total consolidated assets by such amounts and under such circumstances as the Board considers appropriate, consistent with the purposes of this Act.

"(3) CROSS MARKETING RESTRICTIONS.—A wholesale financial holding company shall not permit—

"(A) any company whose shares it owns or controls pursuant to paragraph (1) or (2) to offer or market any product or service of an affiliated wholesale financial institution; or

"(B) any affiliated wholesale financial institution to offer or market any product or service of any company whose shares are owned or controlled by such wholesale financial holding company pursuant to such paragraphs.

"(d) QUALIFICATION OF FOREIGN BANK AS WHOLESALE FINANCIAL HOLDING COMPANY.—

"(1) IN GENERAL.—Any foreign bank, or any company that owns or controls a foreign bank, that operates a branch, agency, or commercial lending company in the United States, including a foreign bank or company that owns or controls a wholesale financial institution, may request a determination from the Board that such bank or company be treated as a wholesale financial holding company (other than for purposes of subsection (c)), subject to such conditions as the Board deems appropriate, giving due regard to the principle of national treatment and equality of competitive opportunity and the requirements imposed on domestic banks and companies.

"(2) CONDITIONS FOR TREATMENT AS A WHOLESALE FINANCIAL HOLDING COMPANY.—A foreign bank and a company that owns or controls a foreign bank may not be treated as a wholesale financial holding company unless the bank and company meet and continue to meet the following criteria:

"(A) NO INSURED DEPOSITS.—No deposits held directly by a foreign bank or through an affiliate (other than an institution described in subparagraph (D) or (F) of section 2(c)(2)) are insured under the Federal Deposit Insurance Act.

"(B) CAPITAL STANDARDS.—The foreign bank meets risk-based capital standards comparable to the capital standards required for a wholesale financial institution, giving due regard to the principle of national treatment and equality of competitive opportunity.

"(C) TRANSACTION WITH AFFILIATES.—Transactions between a branch, agency, or commercial lending company subsidiary of the foreign bank in the United States, and any securities affiliate or company in which the foreign bank

(or any company that owns or controls such foreign bank), that engages in any activity authorized only as a result of the application of subsection (c) or (g) of section 6, comply with the provisions of sections 23A and 23B of the Federal Reserve Act in the same manner and to the same extent as such transactions would be required to comply with such sections if the foreign bank were a member bank.

"(3) TREATMENT AS A WHOLESALE FINANCIAL INSTITUTION.—Any foreign bank which is, or is affiliated with a company which is, treated as a wholesale financial holding company under this subsection shall be treated as a wholesale financial institution for purposes of paragraphs (1)(C) and (3) of section 9B(c) of the Federal Reserve Act, and any such foreign bank or company shall be subject to paragraphs (3), (4), and (5) of section 9B(d) of the Federal Reserve Act, except that the Board may adopt such modifications, conditions, or exemptions as the Board deems appropriate, giving due regard to the principle of national treatment and equality of competitive opportunity.

"(4) SUPERVISION OF FOREIGN BANK WHICH MAINTAINS NO BANKING PRESENCE OTHER THAN CONTROL OF A WHOLESALE FINANCIAL INSTITUTION.—A foreign bank that owns or controls a wholesale financial institution but does not operate a branch, agency, or commercial lending company in the United States (and any company that owns or controls such foreign bank) may request a determination from the Board that such bank or company be treated as a wholesale financial holding company, except that such bank or company shall be subject to the restrictions of paragraphs (2)(A) and (3) of this subsection.

"(5) NO EFFECT ON OTHER PROVISIONS.—This section shall not be construed as limiting the authority of the Board under the International Banking Act of 1978 with respect to the regulation, supervision, or examination of foreign banks and their offices and affiliates in the United States.".

(b) UNINSURED STATE BANKS.—Section 9 of the Federal Reserve Act (U.S.C. 321 et seq.) is amended by adding at the end the following new paragraph:

"(24) ENFORCEMENT AUTHORITY OVER UNINSURED STATE MEMBER BANKS.—Section 3(u) of the Federal Deposit Insurance Act, subsections (j) and (k) of section 7 of such Act, and subsections (b) through (n), (s), (u), and (v) of section 8 of such Act shall apply to an uninsured State member bank in the same manner and to the same extent such provisions apply to an insured State member bank and any reference in any such provision to 'insured depository institution' shall be deemed to be a reference to 'uninsured State member bank' for purposes of this paragraph.".

SEC. 132. AUTHORIZATION TO RELEASE REPORTS.

(a) FEDERAL RESERVE ACT.—The last sentence of the eighth undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 326) is amended to read as follows: "The Board of Governors of the Federal Reserve System, at its discretion, may furnish reports of examination or other confidential supervisory information concerning State member banks or any other entities examined under any other authority of the Board to any Federal or State authorities with supervisory or regulatory authority over the examined entity, to officers, directors, or receivers of the examined entity, and to any other person that the Board determines to be proper.".

(b) COMMODITY FUTURES TRADING COMMISSION.—The Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et seq.) is amended—

(1) in section 1101(7) (12 U.S.C. 3401(7))—

(A) by redesignating subparagraphs (G) and (H) as subparagraphs (H) and (I), respectively; and

(B) by inserting after subparagraph (F) the following new subparagraph:

"(G) the Commodity Futures Trading Commission; or"; and

(2) in section 1112(e) (12 U.S.C. 3412(e)), by striking "and the Securities and Exchange Commission" and inserting ", the Securities and Exchange Commission, and the Commodity Futures Trading Commission".

SEC. 133. CONFORMING AMENDMENTS.

(a) BANK HOLDING COMPANY ACT OF 1956.—

(1) DEFINITIONS.—Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended by adding at the end the following new subsections:

"(p) WHOLESALE FINANCIAL INSTITUTION.—The term 'wholesale financial institution' means a wholesale financial institution subject to section 9B of the Federal Reserve Act.

"(q) COMMISSION.—The term 'Commission' means the Securities and Exchange Commission.

"(r) DEPOSITORY INSTITUTION.—The term 'depository institution'—

"(1) has the same meaning as in section 3 of the Federal Deposit Insurance Act; and

"(2) includes a wholesale financial institution.".

(2) DEFINITION OF BANK INCLUDES WHOLESALE FINANCIAL INSTITUTION.—Section 2(c)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(1)) is amended by adding at the end the following new subparagraph:

"(C) A wholesale financial institution.".

(3) INCORPORATED DEFINITIONS.—Section 2(n) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(n)) is amended by inserting "'insured bank'," after "'in danger of default',".

(4) EXCEPTION TO DEPOSIT INSURANCE REQUIREMENT.—Section 3(e) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(e)) is amended by adding at the end the following: "This subsection shall not apply to a wholesale financial institution.".

(b) FEDERAL DEPOSIT INSURANCE ACT.—Section 3(q)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)(2)(A)) is amended to read as follows:

"(A) any State member insured bank (except a District bank) and any wholesale financial institution as authorized pursuant to section 9B of the Federal Reserve Act;".

CHAPTER 2—WHOLESALE FINANCIAL INSTITUTIONS

SEC. 136. WHOLESALE FINANCIAL INSTITUTIONS.

(a) NATIONAL WHOLESALE FINANCIAL INSTITUTIONS.—

(1) IN GENERAL.—Chapter one of title LXII of the Revised Statutes of the United States (12 U.S.C. 21 et seq.) is amended by inserting after section 5136A (as added by section 121(a) of this title) the following new section:

"SEC. 5136B. NATIONAL WHOLESALE FINANCIAL INSTITUTIONS.

"(a) AUTHORIZATION OF THE COMPTROLLER REQUIRED.—A national bank may apply to the Comptroller on such forms and in accordance with such regulations as the Comptroller may prescribe, for permission to operate as a national wholesale financial institution.

"(b) REGULATION.—A national wholesale financial institution may exercise, in accordance with such institution's articles of incorporation and regulations issued by the Comptroller, all the powers and privileges of a national bank formed in accordance with section 5133 of the Revised Statutes of the United States, subject to section 9B of the Federal Reserve Act and the limitations and restrictions contained therein.

"(c) COMMUNITY REINVESTMENT ACT OF 1977.—A national wholesale financial institution shall be subject to the Community Reinvestment Act of 1977, only if the wholesale financial institution has an affiliate that is an insured depository institution or that operates an insured branch, as those terms are defined in section 3 of the Federal Deposit Insurance Act.".

(2) CLERICAL AMENDMENT.—The table of sections for chapter one of title LXII of the Revised Statutes of the United States is amended by inserting after the item relating to section 5136A (as added by section 121(d) of this title) the following new item:

"5136B. National wholesale financial institutions.".

(b) STATE WHOLESALE FINANCIAL INSTITUTIONS.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended by inserting after section 9A the following new section:

"SEC. 9B. WHOLESALE FINANCIAL INSTITUTIONS.

"(a) APPLICATION FOR MEMBERSHIP AS WHOLESALE FINANCIAL INSTITUTION.—

"(1) APPLICATION REQUIRED.—

"(A) IN GENERAL.—Any bank may apply to the Board of Governors of the Federal Reserve System to become a wholesale financial institution and, as a wholesale financial institution, to subscribe to the stock of the Federal reserve bank organized within the district where the applying bank is located.

"(B) TREATMENT AS MEMBER BANK.—Any application under subparagraph (A) shall be treated as an application under, and shall be subject to the provisions of section 9.

"(2) INSURANCE TERMINATION.—No bank the deposits of which are insured under the Federal Deposit Insurance Act may become a wholesale financial institution unless it has met all requirements under that Act for voluntary termination of deposit insurance.

"(b) GENERAL REQUIREMENTS APPLICABLE TO WHOLESALE FINANCIAL INSTITUTIONS.—

"(1) FEDERAL RESERVE ACT.—Except as otherwise provided in this section, wholesale financial institutions shall be member banks and shall be subject to the provisions of this Act that apply to member banks to the same extent and in the same manner as State member insured banks, except that a wholesale financial institution may terminate membership under this Act only with the prior written approval of the Board and on terms and conditions that the Board determines are appropriate to carry out the purposes of this Act.

"(2) PROMPT CORRECTIVE ACTION.—A wholesale financial institution shall be deemed to be an insured depository institution for purposes of section 38 of the Federal Deposit Insurance Act except that—

"(A) the relevant capital levels and capital measures for each capital category shall be the levels specified by the Board for wholesale financial institutions; and

"(B) all references to the appropriate Federal banking agency or to the Corporation in that section shall be deemed to be references to the Board.

"(3) ENFORCEMENT AUTHORITY.—Subsections (j) and (k) of section 7, subsections (b) through (n), (s), and (v) of section 8, and section 19 of the Federal Deposit Insurance Act shall apply to a wholesale financial institution in the same manner and to the same extent as such provisions apply to State member insured banks and any reference in such sections to an insured depository institution shall be deemed to include a reference to a wholesale financial institution.

"(4) CERTAIN OTHER STATUTES APPLICABLE.—A wholesale financial institution shall be deemed to be a banking institution, and the Board shall be the appropriate Federal banking agency for such bank and all such bank's affiliates, for purposes of the International Lending Supervision Act.

"(5) BANK MERGER ACT.—A wholesale financial institution shall be subject to sections 18(c) and 44 of the Federal Deposit Insurance Act in the same manner and to the same extent the *wholesale financial institution would be subject to such sections if the institution were a State member insured bank.*

"(6) BRANCHING.—Notwithstanding any other provision of law, a wholesale financial institution may establish and operate a branch at any location on such terms and conditions as established by the Board and, in the case of a State-chartered wholesale financial institution, with the approval of the Board, and, in the case of a national bank wholesale financial institution, with the approval of the Comptroller of the Currency.

"(7) ACTIVITIES OF OUT-OF-STATE BRANCHES OF WHOLESALE FINANCIAL INSTITUTIONS.—

"(A) GENERAL.—A State-chartered wholesale financial institution shall be deemed to be a State bank and an insured State bank for purposes of paragraphs (1), (2), and (3) of section 24(j) of the Federal Deposit Insurance Act, and a national wholesale financial institution shall be deemed to be a national bank for purposes of section 5155(f) of the Revised Statutes of the United States.

"(B) DEFINITIONS.—The following definitions shall apply solely for purposes of applying paragraph (1):

"(i) HOME STATE.—The term 'home State' means—

"(I) with respect to a national wholesale financial institution, the State in which the main office of the institution is located; and

"(II) with respect to a State-chartered wholesale financial institution, the State by which the institution is chartered.

"(ii) HOST STATE.—The term 'host State' means a State, other than the home State of the wholesale financial institution, in which the institution maintains, or seeks to establish and maintain, a branch.

"(iii) OUT-OF-STATE BANK.—The term 'out-of-State bank' means, with respect to any State, a wholesale financial institution whose home State is another State.

"(8) DISCRIMINATION REGARDING INTEREST RATES.—Section 27 of the Federal Deposit Insurance Act shall apply to State-chartered wholesale financial institutions in the same manner and to the same extent as such provisions apply to State member insured banks and any reference in such section to a State-chartered insured depository institution shall be deemed to include a reference to a State-chartered wholesale financial institution.

"(9) PREEMPTION OF STATE LAWS REQUIRING DEPOSIT INSURANCE FOR WHOLESALE FINANCIAL INSTITUTIONS.—The appropriate State banking authority may grant a charter to a wholesale financial institution notwithstanding any State constitution or statute requiring that the institution obtain insurance of its deposits and any such State constitution or statute is hereby preempted solely for purposes of this paragraph.

"(10) PARITY FOR WHOLESALE FINANCIAL INSTITUTIONS.—A State bank that is a wholesale financial institution under this section shall have all of the rights, powers, privileges, and immunities (including those derived from status as a federally chartered institution) of and as if it were a national bank, subject to such terms and conditions as established by the Board.

"(11) COMMUNITY REINVESTMENT ACT OF 1977.—A State wholesale financial institution shall be subject to the Community Reinvestment Act of 1977, only if the wholesale financial institution has an affiliate that is an insured depository institution or that operates an insured branch, as those terms are defined in section 3 of the Federal Deposit Insurance Act.

"(c) SPECIFIC REQUIREMENTS APPLICABLE TO WHOLESALE FINANCIAL INSTITUTIONS.—

"(1) LIMITATIONS ON DEPOSITS.—

"(A) MINIMUM AMOUNT.—

"(i) IN GENERAL.—No wholesale financial institution may receive initial deposits of $100,000 or less, other than on an incidental and occasional basis.

"(ii) LIMITATION ON DEPOSITS OF LESS THAN $100,000.—No wholesale financial institution may receive initial deposits of $100,000 or less if such deposits constitute more than 5 percent of the institution's total deposits.

"(B) NO DEPOSIT INSURANCE.—Except as otherwise provided in section 8A(f) of the Federal Deposit Insurance Act, no deposits held by a wholesale financial institution shall be insured deposits under the Federal Deposit Insurance Act.

"(C) ADVERTISING AND DISCLOSURE.—The Board shall prescribe regulations pertaining to advertising and disclosure by wholesale financial institutions to ensure that each depositor is notified that deposits at the wholesale financial institution are not federally insured or otherwise guaranteed by the United States Government.

"(2) MINIMUM CAPITAL LEVELS APPLICABLE TO WHOLESALE FINANCIAL INSTITUTIONS.—The Board shall, by regulation, adopt capital requirements for wholesale financial institutions—

"(A) to account for the status of wholesale financial institutions as institutions that accept deposits that are not insured under the Federal Deposit Insurance Act; and

"(B) to provide for the safe and sound operation of the wholesale financial institution without undue risk to creditors or other persons, including Federal reserve banks, engaged in transactions with the bank.

"(3) ADDITIONAL REQUIREMENTS APPLICABLE TO WHOLESALE FINANCIAL INSTITUTIONS.—In addition to any requirement otherwise applicable to State member insured banks or applicable, under this section, to wholesale financial institutions, the Board may impose, by regulation or order, upon wholesale financial institutions—

"(A) limitations on transactions, direct or indirect, with affiliates to prevent—

"(i) the transfer of risk to the deposit insurance funds; or

"(ii) an affiliate from gaining access to, or the benefits of, credit from a Federal reserve bank, including overdrafts at a Federal reserve bank;

"(B) special clearing balance requirements; and

"(C) any additional requirements that the Board determines to be appropriate or necessary to—

"(i) promote the safety and soundness of the wholesale financial institution or any insured depository institution affiliate of the wholesale financial institution;

"(ii) prevent the transfer of risk to the deposit insurance funds; or

"(iii) protect creditors and other persons, including Federal reserve banks, engaged in transactions with the wholesale financial institution.

"(4) EXEMPTIONS FOR WHOLESALE FINANCIAL INSTITUTIONS.—The Board may, by regulation or order, exempt any wholesale financial institution from any provision applicable to a member bank that is not a wholesale financial institution, if the Board finds that such exemption is not inconsistent with—

"(A) the promotion of the safety and soundness of the wholesale financial institution or any insured depository institution affiliate of the wholesale financial institution;

"(B) the protection of the deposit insurance funds; and

"(C) the protection of creditors and other persons, including Federal reserve banks, engaged in transactions with the wholesale financial institution.

"(5) LIMITATION ON TRANSACTIONS BETWEEN A WHOLESALE FINANCIAL INSTITUTION AND AN INSURED BANK.—For purposes of section 23A(d)(1) of the Federal Reserve Act, a wholesale financial institution that is affiliated with an insured bank shall not be a bank.

"(6) NO EFFECT ON OTHER PROVISIONS.—This section shall not be construed as limiting the Board's authority over member banks under any other provision of law, or to create any obligation for any Federal reserve bank to make, increase, renew, or extend any advance or discount under this Act to any member bank or other depository institution.

"(d) CAPITAL AND MANAGERIAL REQUIREMENTS.—

"(1) IN GENERAL.—A wholesale financial institution shall be well capitalized and well managed.

"(2) NOTICE TO COMPANY.—The Board shall promptly provide notice to a company that controls a wholesale financial institution whenever such wholesale financial institution is not well capitalized or well managed.

"(3) AGREEMENT TO RESTORE INSTITUTION.—Not later than 45 days after the date of receipt of a notice under paragraph (2) (or such additional period not to exceed 90 days as the Board may permit), the company shall execute an agreement acceptable to the Board to restore the wholesale financial institution to compliance with all of the requirements of paragraph (1).

"(4) LIMITATIONS UNTIL INSTITUTION RESTORED.—Until the wholesale financial institution is restored to compliance with all of the requirements of paragraph (1), the Board may impose such limitations on the conduct or activities of the company or any affiliate of the company as the Board determines to be appropriate under the circumstances.

"(5) FAILURE TO RESTORE.—If the company does not execute and implement an agreement in accordance with paragraph (3), comply with any limitation imposed under paragraph (4), restore the wholesale financial institution to well capitalized status not later than 180 days after the date of receipt by the company of the notice described in paragraph (2), or restore the wholesale financial institution to well managed status within such period as the Board may permit, the company shall, under such terms and conditions as may be imposed by the Board and subject to such extension of time as may be granted in the Board's discretion, divest control of its subsidiary depository institutions.

"(6) WELL MANAGED DEFINED.—For purposes of this subsection, the term 'well managed' has the same meaning as in section 2 of the Bank Holding Company Act of 1956.

"(e) RESOLUTION OF WHOLESALE FINANCIAL INSTITUTIONS.—

"(1) CONSERVATORSHIP OR RECEIVERSHIP.—

"(A) APPOINTMENT.—The Board may appoint a conservator or receiver for a wholesale financial institution to the same extent and in the same manner as the Comptroller of the Currency may appoint a conservator or receiver for a national bank.

"(B) POWERS.—The conservator or receiver for a wholesale financial institution shall exercise the same powers, functions, and duties, subject to the same limitations, as a conservator or receiver for a national bank.

"(2) BOARD AUTHORITY.—The Board shall have the same authority with respect to any conservator or receiver appointed for a wholesale financial institution under paragraph (1), and the wholesale financial institution for which it has been appointed, as the Comptroller of the Currency has with respect to a conservator or receiver for a national bank and the national bank for which the conservator or receiver has been appointed.

"(3) BANKRUPTCY PROCEEDINGS.—The Comptroller of the Currency (in the case of a national wholesale financial institution) and the Board may direct the conservator or receiver of a wholesale financial institution to file a petition

pursuant to title 11, United States Code, in which case, title 11, United States Code, shall apply to the wholesale financial institution in lieu of otherwise applicable Federal or State insolvency law.

"(f) EXCLUSIVE JURISDICTION.—Subsections (c) and (e) of section 43 of the Federal Deposit Insurance Act shall not apply to any wholesale financial institution.".

(c) VOLUNTARY TERMINATION OF INSURED STATUS BY CERTAIN INSTITUTIONS.—

(1) SECTION 8 DESIGNATIONS.—Section 8(a) of the Federal Deposit Insurance Act (12 U.S.C. 1818(a)) is amended—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (10) as paragraphs (1) through (9), respectively.

(2) VOLUNTARY TERMINATION OF INSURED STATUS.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 8 the following new section:

"SEC. 8A. VOLUNTARY TERMINATION OF STATUS AS INSURED DEPOSITORY INSTITUTION.

"(a) IN GENERAL.—Except as provided in subsection (b), an insured State bank or a national bank may voluntarily terminate such bank's status as an insured depository institution in accordance with regulations of the Corporation if—

"(1) the bank provides written notice of the bank's intent to terminate such insured status—

"(A) to the Corporation and the Board of Governors of the Federal Reserve System not less than 6 months before the effective date of such termination; and

"(B) to all depositors at such bank, not less than 6 months before the effective date of the termination of such status; and

"(2) either—

"(A) the deposit insurance fund of which such bank is a member equals or exceeds the fund's designated reserve ratio as of the date the bank provides a written notice under paragraph (1) and the Corporation determines that the fund will equal or exceed the applicable designated reserve ratio for the 2 semiannual assessment periods immediately following such date; or

"(B) the Corporation and the Board of Governors of the Federal Reserve System approved the termination of the bank's insured status and the bank pays an exit fee in accordance with subsection (e).

"(b) EXCEPTION.—Subsection (a) shall not apply with respect to—

"(1) an insured savings association; or

"(2) an insured branch that is required to be insured under subsection (a) or (b) of section 6 of the International Banking Act of 1978.

"(c) ELIGIBILITY FOR INSURANCE TERMINATED.—Any bank that voluntarily elects to terminate the bank's insured status under subsection (a) shall not be eligible for insurance on any deposits or any assistance authorized under this Act after the period specified in subsection (f)(1).

"(d) INSTITUTION MUST BECOME WHOLESALE FINANCIAL INSTITUTION OR TERMINATE DEPOSIT-TAKING ACTIVITIES.—Any depository institution which voluntarily terminates such institution's status as an insured depository institution under this section may not, upon termination of insurance, accept any deposits unless the institution is a wholesale financial institution subject to section 9B of the Federal Reserve Act.

"(e) EXIT FEES.—

"(1) IN GENERAL.—Any bank that voluntarily terminates such bank's status as an insured depository institution under this section shall pay an exit fee in an amount that the Corporation determines is sufficient to account for the institution's pro rata share of the amount (if any) which would be required to restore the relevant deposit insurance fund to the fund's designated reserve ratio as of the date the bank provides a written notice under subsection (a)(1).

"(2) PROCEDURES.—The Corporation shall prescribe, by regulation, procedures for assessing any exit fee under this subsection.

"(f) TEMPORARY INSURANCE OF DEPOSITS INSURED AS OF TERMINATION.—

"(1) TRANSITION PERIOD.—The insured deposits of each depositor in a State bank or a national bank on the effective date of the voluntary termination of the bank's insured status, less all subsequent withdrawals from any deposits of such depositor, shall continue to be insured for a period of not less than 6 months and not more than 2 years, as determined by the Corporation. During such period, no additions to any such deposits, and no new deposits in the depository institution made after the effective date of such termination shall be insured by the Corporation.

"(2) TEMPORARY ASSESSMENTS; OBLIGATIONS AND DUTIES.—During the period specified in paragraph (1) with respect to any bank, the bank shall continue to pay assessments under section 7 as if the bank were an insured depository institution. The bank shall, in all other respects, be subject to the authority of the Corporation and the duties and obligations of an insured depository institution under this Act during such period, and in the event that the bank is closed due to an inability to meet the demands of the bank's depositors during such period, the Corporation shall have the same powers and rights with respect to such bank as in the case of an insured depository institution.

"(g) ADVERTISEMENTS.—

"(1) IN GENERAL.—A bank that voluntarily terminates the bank's insured status under this section shall not advertise or hold itself out as having insured deposits, except that the bank may advertise the temporary insurance of deposits under subsection (f) if, in connection with any such advertisement, the advertisement also states with equal prominence that additions to deposits and new deposits made after the effective date of the termination are not insured.

"(2) CERTIFICATES OF DEPOSIT, OBLIGATIONS, AND SECURITIES.—Any certificate of deposit or other obligation or security issued by a State bank or a national bank after the effective date of the voluntary termination of the bank's insured status under this section shall be accompanied by a conspicuous, prominently displayed notice that such certificate of deposit or other obligation or security is not insured under this Act.

"(h) NOTICE REQUIREMENTS.—

"(1) NOTICE TO THE CORPORATION.—The notice required under subsection (a)(1)(A) shall be in such form as the Corporation may require.

"(2) NOTICE TO DEPOSITORS.—The notice required under subsection (a)(1)(B) shall be—

"(A) sent to each depositor's last address of record with the bank; and

"(B) in such manner and form as the Corporation finds to be necessary and appropriate for the protection of depositors.".

(3) DEFINITION.—Section 19(b)(1)(A)(i) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)(i)) is amended by inserting ", or any wholesale financial institution subject to section 9B of this Act" after "such Act".

(d) TECHNICAL AND CONFORMING AMENDMENTS TO THE BANKRUPTCY CODE.—

(1) BANKRUPTCY CODE DEBTORS.—Section 109(b)(2) of title 11, United States Code, is amended by striking "; or" and inserting the following: ", except that—

"(A) a wholesale financial institution established under section 5136B of the Revised Statutes of the United States or section 9B of the Federal Reserve Act may be a debtor if a petition is filed at the direction of the Comptroller of the Currency (in the case of a wholesale financial institution established under section 5136B of the Revised Statutes of the United States) or the Board of Governors of the Federal Reserve System (in the case of any wholesale financial institution); and

"(B) a corporation organized under section 25A of the Federal Reserve Act may be a debtor if a petition is filed at the direction of the Board of Governors of the Federal Reserve System; or".

(2) CHAPTER 7 DEBTORS.—Section 109(d) of title 11, United States Code, is amended to read as follows:

"(d) Only a railroad and a person that may be a debtor under chapter 7 of this title, except that a stockbroker, a wholesale financial institution established under section 5136B of the Revised Statutes of the United States or section 9B of the Federal Reserve Act, a corporation organized under section 25A of the Federal Reserve Act, or a commodity broker, may be a debtor under chapter 11 of this title.".

(3) DEFINITION OF FINANCIAL INSTITUTION.—Section 101(22) of title 11, United States Code, is amended to read as follows:

"(22) 'financial institution' means a person that is a commercial or savings bank, industrial savings bank, savings and loan association, trust company, wholesale financial institution established under section 5136B of the Revised Statutes of the United States or section 9B of the Federal Reserve Act, or corporation organized under section 25A of the Federal Reserve Act and, when any such person is acting as agent or custodian for a customer in connection with a securities contract, as defined in section 741 of this title, such customer,".

(4) SUBCHAPTER V OF CHAPTER 7.—

(A) IN GENERAL.—Section 103 of title 11, United States Code, is amended—

(i) by redesignating subsections (e) through (i) as subsections (f) through (j), respectively; and

(ii) by inserting after subsection (d) the following:

"(e) Subchapter V of chapter 7 of this title applies only in a case under such chapter concerning the liquidation of a wholesale financial institution established under section 5136B of the Revised Statutes of the United States or section 9B of the Federal Reserve Act, or a corporation organized under section 25A of the Federal Reserve Act.".

(B) WHOLESALE BANK LIQUIDATION.—Chapter 7 of title 11, United States Code, is amended by adding at the end the following:

"SUBCHAPTER V—WHOLESALE BANK LIQUIDATION

"§ 781. Definitions for subchapter

"In this subchapter—

"(1) the term 'Board' means the Board of Governors of the Federal Reserve System;

"(2) the term 'depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act, and includes any wholesale bank;

"(3) the term 'national wholesale financial institution' means a wholesale financial institution established under section 5136B of the Revised Statutes of the United States; and

"(4) the term 'wholesale bank' means a national wholesale financial institution, a wholesale financial institution established under section 9B of the Federal Reserve Act, or a corporation organized under section 25A of the Federal Reserve Act.

"§ 782. Selection of trustee

"Notwithstanding any other provision of this title, the conservator or receiver who files the petition shall be the trustee under this chapter, unless the Comptroller of the Currency (in the case of a national wholesale financial institution for which it appointed the conservator or receiver) or the Board (in the case of any wholesale bank for which it appointed the conservator or receiver) designates an alternative trustee. The Comptroller of the Currency or the Board (as applicable) may designate a successor trustee, if required.

"§ 783. Additional powers of trustee

"(a) The trustee under this subchapter has power, with permission of the court—

"(1) to sell the wholesale bank to a depository institution or consortium of depository institutions (which consortium may agree on the allocation of the wholesale bank among the consortium);

"(2) to merge the wholesale bank with a depository institution;

"(3) to transfer contracts to the same extent as could a receiver for a depository institution under paragraphs (9) and (10) of section 11(e) of the Federal Deposit Insurance Act;

"(4) to transfer assets or liabilities to a depository institution;

"(5) to distribute property not of the estate, including distributions to customers that are mandated by subchapters III and IV of this chapter; or

"(6) to transfer assets and liabilities to a bridge bank as provided in paragraphs (1), (3)(A), (5), (6), and (9) through (13), and subparagraphs (A) through (H) and (K) of paragraph (4) of section 11(n) of the Federal Deposit Insurance Act, except that—

"(A) the bridge bank shall be treated as a wholesale bank for the purpose of this subsection; and

"(B) any references in any such provision of law to the Federal Deposit Insurance Corporation shall be construed to be references to the appointing agency and that references to deposit insurance shall be omitted.

"(b) Any reference in this section to transfers of liabilities includes a ratable transfer of liabilities within a priority class.

"§ 784. Right to be heard

"The Comptroller of the Currency (in the case of a national wholesale financial institution), the Board (in the case of any wholesale bank), or a Federal Reserve bank (in the case of a wholesale bank that is a member of that bank) may raise and may appear and be heard on any issue in a case under this subchapter.

"§ 785. Expedited transfers

"The trustee may make a transfer pursuant to section 783 without prior judicial approval, if the Comptroller of the Currency (in the case of a national wholesale financial institution for which it appointed the conservator or receiver) or the Board (in the case of any wholesale bank for which it appointed the conservator or receiver) determines that the transfer would be necessary to avert serious adverse effects on economic conditions or financial stability.".

(C) CONFORMING AMENDMENT.—The table of sections for chapter 7 of title 11, United States Code, is amended by adding at the end the following:

"781. Definitions for subchapter.
"782. Selection of trustee.
"783. Additional powers of trustee.
"784. Right to be heard.
"785. Expedited transfers.".

(e) RESOLUTION OF EDGE CORPORATIONS.—Section 25A(16) of the Federal Reserve Act (12 U.S.C. 624(16)) is amended to read as follows:

"(16) APPOINTMENT OF RECEIVER OR CONSERVATOR.—

"(A) IN GENERAL.—The Board may appoint a conservator or receiver for a corporation organized under the provisions of this section to the same extent and in the same manner as the Comptroller of the Currency may appoint a conservator or receiver for a national bank, and the conservator or receiver for such corporation shall exercise the same powers, functions, and duties, subject to the same limitations, as a conservator or receiver for a national bank.

"(B) EQUIVALENT AUTHORITY.—The Board shall have the same authority with respect to any conservator or receiver appointed for a corporation organized under the provisions of this section under this paragraph and any such corporation as the Comptroller of the Currency has with respect to a conservator or receiver of a national bank and the national bank for which a conservator or receiver has been appointed.

"(C) TITLE 11 PETITIONS.—The Board may direct the conservator or receiver of a corporation organized under the provisions of this section to file a petition pursuant to title 11, United States Code, in which case, title 11, United States Code, shall apply to the corporation in lieu of otherwise applicable Federal or State insolvency law.".

Subtitle E—Preservation of FTC Authority

SEC. 141. AMENDMENT TO THE BANK HOLDING COMPANY ACT OF 1956 TO MODIFY NOTIFICATION AND POST-APPROVAL WAITING PERIOD FOR SECTION 3 TRANSACTIONS.

Section 11(b)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1849(b)(1)) is amended by inserting "and, if the transaction also involves an acquisition under section 4 or section 6, the Board shall also notify the Federal Trade Commission of such approval" before the period at the end of the first sentence.

SEC. 142. INTERAGENCY DATA SHARING.

To the extent not prohibited by other law, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and the Board of Governors of the Federal Reserve System shall make available to the Attorney General and the Federal Trade Commission any data in the possession of any such banking agency that the antitrust agency deems necessary for antitrust review of any transaction requiring notice to any such antitrust agency or the approval of such agency under section 3, 4, or 6 of the Bank Holding Company Act of 1956, section 18(c) of the Federal Deposit Insurance Act, the National Bank Consolidation and Merger Act, section 10 of the Home Owners' Loan Act, or the antitrust laws.

SEC. 143. CLARIFICATION OF STATUS OF SUBSIDIARIES AND AFFILIATES.

(a) CLARIFICATION OF FEDERAL TRADE COMMISSION JURISDICTION.—Any person which directly or indirectly controls, is controlled directly or indirectly by, or is directly or indirectly under common control with, any bank or savings association (as such terms are defined in section 3 of the Federal Deposit Insurance Act) and is not itself a bank or savings association shall not be deemed to be a bank or savings association for purposes of the Federal Trade Commission Act or any other law enforced by the Federal Trade Commission.

(b) SAVINGS PROVISION.—No provision of this section shall be construed as restricting the authority of any Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) under any Federal banking law, including section 8 of the Federal Deposit Insurance Act.

(c) HART-SCOTT-RODINO AMENDMENT.—Section 7A(c)(7) of the Clayton Act (15 U.S.C. 18a(c)(7)) is amended by inserting before the semicolon at the end thereof the following: ", except that a portion of a transaction is not exempt under this paragraph if such portion of the transaction (A) requires notice under section 6 of the Bank Holding Company Act of 1956; and (B) does not require approval under section 3 or 4 of the Bank Holding Company Act of 1956".

SEC. 144. ANNUAL GAO REPORT.

(a) IN GENERAL.—By the end of the 1-year period beginning on the date of the enactment of this Act and annually thereafter, the Comptroller General of the United States shall submit a report to the Congress on market concentration in the financial services industry and its impact on consumers.

(b) ANALYSIS.—Each report submitted under subsection (a) shall contain an analysis of—

(1) the positive and negative effects of affiliations between various types of financial companies, and of acquisitions pursuant to this Act and the amendments made by this Act to other provisions of law, including any positive or negative effects on consumers, area markets, and submarkets thereof or on registered securities brokers and dealers which have been purchased by depository institutions or depository institution holding companies;

(2) the changes in business practices and the effects of any such changes on the availability of venture capital, consumer credit, and other financial services or products and the availability of capital and credit for small businesses; and

(3) the acquisition patterns among depository institutions, depository institution holding companies, securities firms, and insurance companies including acquisitions among the largest 20 percent of firms and acquisitions within regions or other limited geographical areas.

Subtitle F—Applying the Principles of National Treatment and Equality of Competitive Opportunity to Foreign Banks and Foreign Financial Institutions

SEC. 151. APPLYING THE PRINCIPLES OF NATIONAL TREATMENT AND EQUALITY OF COMPETITIVE OPPORTUNITY TO FOREIGN BANKS THAT ARE FINANCIAL HOLDING COMPANIES.

Section 8(c) of the International Banking Act of 1978 (12 U.S.C. 3106(c)) is amended by adding at the end the following new paragraph:

"(3) TERMINATION OF GRANDFATHERED RIGHTS.—

"(A) IN GENERAL.—If any foreign bank or foreign company files a declaration under section 6(b)(1)(E) or which receives a determination under section 10(d)(1) of the Bank Holding Company Act of 1956, any authority conferred by this subsection on any foreign bank or company to engage in any activity which the Board has determined to be permissible for financial holding companies under section 6 of such Act shall terminate immediately.

"(B) RESTRICTIONS AND REQUIREMENTS AUTHORIZED.—If a foreign bank or company that engages, directly or through an affiliate pursuant to paragraph (1), in an activity which the Board has determined to be permissible for financial holding companies under section 6 of the Bank Holding Company Act of 1956 has not filed a declaration with the Board of its status as a financial holding company under such section or received a determination under section 10(d)(1) by the end of the 2-year period beginning on the date of enactment of the Financial Services Act of 1998, the Board, giving due regard to the principle of national treatment and equality of competitive opportunity, may impose such restrictions and requirements on the conduct of such activities by such foreign bank or company as are comparable to those imposed on a financial holding company organized under the laws of the United States, including a requirement to conduct such activities in compliance with any prudential safeguards established under section 5(h) of the Bank Holding Company Act of 1956.".

SEC. 152. APPLYING THE PRINCIPLES OF NATIONAL TREATMENT AND EQUALITY OF COMPETITIVE OPPORTUNITY TO FOREIGN BANKS AND FOREIGN FINANCIAL INSTITUTIONS THAT ARE WHOLESALE FINANCIAL INSTITUTIONS.

Section 8A of the Federal Deposit Insurance Act (as added by section 136(c)(2) of this Act) is *amended by adding at the end the following new subsection:*

"(i) VOLUNTARY TERMINATION OF DEPOSIT INSURANCE.—The provisions on voluntary termination of insurance in this section shall apply to an insured branch of a foreign bank (including a Federal branch) in the same manner and to the same extent as they apply to an insured State bank or a national bank.".

SEC. 153. REPRESENTATIVE OFFICES.

(a) DEFINITION OF "REPRESENTATIVE OFFICE".—Section 1(b)(15) of the International Banking Act of 1978 (12 U.S.C. 3101(15)) is amended by striking "State agency, or subsidiary of a foreign bank" and inserting "or State agency".

(b) EXAMINATIONS.—Section 10(c) of the International Banking Act of 1978 (12 U.S.C. 3107(c)) is amended by adding at the end the following: "The Board may also make examinations of any affiliate of a foreign bank conducting business in any State in which the Board deems it necessary to determine and enforce compliance with this Act, the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), or other applicable Federal banking law.".

Subtitle G—Federal Home Loan Bank System Modernization

SEC. 161. SHORT TITLE.

This subtitle may be cited as the "Federal Home Loan Bank System Modernization Act of 1998".

SEC. 162. DEFINITIONS.

Section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422) is amended—

(1) in paragraph (1), by striking "term 'Board' means" and inserting "terms 'Finance Board' and 'Board' mean";

(2) by striking paragraph (3) and inserting the following:

"(3) STATE.—The term 'State', in addition to the States of the United States, includes the District of Columbia, Guam, Puerto Rico, the United States Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands."; and

(3) by adding at the end the following new paragraph:

"(13) COMMUNITY FINANCIAL INSTITUTION.—

"(A) IN GENERAL.—The term 'community financial institution' means a member—

"(i) the deposits of which are insured under the Federal Deposit Insurance Act; and

"(ii) that has, as of the date of the transaction at issue, less than $500,000,000 in average total assets, based on an average of total assets over the 3 years preceding that date.

"(B) ADJUSTMENTS.—The $500,000,000 limit referred to in subparagraph (A)(ii) shall be adjusted annually by the Finance Board, based on the annual percentage increase, if any, in the Consumer Price Index for all urban consumers, as published by the Department of Labor.".

SEC. 163. SAVINGS ASSOCIATION MEMBERSHIP.

(a) FEDERAL HOME LOAN BANK MEMBERSHIP.—Section 5(f) of the Home Owners' Loan Act (12 U.S.C. 1464(f)) is amended to read as follows:

"(f) FEDERAL HOME LOAN BANK MEMBERSHIP.—On and after January 1, 1999, a Federal savings association may become a member of the Federal Home Loan Bank System, and shall qualify for such membership in the manner provided by the Federal Home Loan Bank Act.".

(b) WITHDRAWAL.—Section 6(e) of the Federal Home Loan Bank Act (12 U.S.C. 1426(e)) is amended by striking "Any member other than a Federal savings and loan association may withdraw" and inserting "Any member may withdraw".

SEC. 164. ADVANCES TO MEMBERS; COLLATERAL.

(a) IN GENERAL.—Section 10(a) of the Federal Home Loan Bank Act (12 U.S.C. 1430(a)) is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and indenting appropriately;

(2) by striking "(a) Each" and inserting the following:

"(a) IN GENERAL.—

"(1) ALL ADVANCES.—Each";

(3) by striking the second sentence and inserting the following:

"(2) PURPOSES OF ADVANCES.—A long-term advance may only be made for the purposes of—

"(A) providing funds to any member for residential housing finance; and

"(B) providing funds to any community financial institution for small businesses, agricultural, rural development, or low-income community development lending.";

(4) by striking "A Bank" and inserting the following:

"(3) COLLATERAL.—A Bank";

(5) in paragraph (3) (as so designated by paragraph (4) of this subsection)—

(A) in subparagraph (C) (as so redesignated by paragraph (1) of this subsection) by striking "Deposits" and inserting "Cash or deposits";

(B) in subparagraph (D) (as so redesignated by paragraph (1) of this subsection), by striking the second sentence; and

(C) by inserting after subparagraph (D) (as so redesignated by paragraph (1) of this subsection) the following new subparagraph:

"(E) Secured loans for small business, agriculture, rural development, or low-income community development, or securities representing a whole interest in such secured loans, in the case of any community financial institution.";

(6) in paragraph (5)—

(A) in the second sentence, by striking "and the Board";

(B) in the third sentence, by striking "Board" and inserting "Federal home loan bank"; and

(C) by striking "(5) Paragraphs (1) through (4)" and inserting the following:

"(4) ADDITIONAL BANK AUTHORITY.—Subparagraphs (A) through (E) of paragraph (3)"; and

(7) by adding at the end the following:

"(5) REVIEW OF CERTAIN COLLATERAL STANDARDS.—The Board may review the collateral standards applicable to each Federal home loan bank for the classes of collateral described in subparagraphs (D) and (E) of paragraph (3), and may, if necessary for safety and soundness purposes, require an increase in the collateral standards for any or all of those classes of collateral.

"(6) DEFINITIONS.—For purposes of this subsection, the terms 'small business', 'agriculture', 'rural development', and 'low-income community development' shall have the meanings given those terms by rule or regulation of the Finance Board.".

(b) CLERICAL AMENDMENT.—The section heading for section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430) is amended to read as follows:

"SEC. 10. ADVANCES TO MEMBERS.".

SEC. 165. ELIGIBILITY CRITERIA.

Section 4(a) of the Federal Home Loan Bank Act (12 U.S.C. 1424(a)) is amended—

(1) in paragraph (2)(A), by inserting, "(other than a community financial institution)" after "institution"; and

(2) by adding at the end the following new paragraph:

"(3) LIMITED EXEMPTION FOR COMMUNITY FINANCIAL INSTITUTIONS.—A community financial institution that otherwise meets the requirements of paragraph (2) may become a member without regard to the percentage of its total assets that is represented by residential mortgage loans, as described in subparagraph (A) of paragraph (2).".

SEC. 166. MANAGEMENT OF BANKS.

(a) BOARD OF DIRECTORS.—Section 7(d) of the Federal Home Loan Bank Act (12 U.S.C. 1427(d)) is amended—

(1) by striking "(d) The term" and inserting the following:

"(d) TERMS OF OFFICE.—The term"; and

(2) by striking "shall be two years".

(b) COMPENSATION.—Section 7(i) of the Federal Home Loan Bank Act (12 U.S.C. 1427(i)) is amended by striking ", subject to the approval of the board".

(c) REPEAL OF SECTIONS 22A AND 27.—The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended by striking sections 22A (12 U.S.C. 1442a) and 27 (12 U.S.C. 1447).

(d) SECTION 12.—Section 12 of the Federal Home Loan Bank Act (12 U.S.C. 1432) is amended—

(1) in subsection (a)—

(A) by striking ", but, except" and all that follows through "ten years";

(B) by striking ", subject to the approval of the Board" each place that term appears;

(C) by striking "and, by its Board of directors," and all that follows through "agent of such bank," and inserting "and, by the board of directors of the bank, to prescribe, amend, and repeal by-laws governing the manner in which its affairs may be administered, consistent with applicable laws and regulations, as administered by the Finance Board. No officer, employee, attorney, or agent of a Federal home loan bank"; and

(D) by striking "Board of directors" each place that term appears and inserting "board of directors"; and

(2) in subsection (b), by striking "loans banks" and inserting "loan banks".

(e) POWERS AND DUTIES OF FEDERAL HOUSING FINANCE BOARD.—

(1) ISSUANCE OF NOTICES OF VIOLATIONS.—Section 2B(a) of the Federal Home Loan Bank Act (12 U.S.C. 1422b(a)) is amended by adding at the end the following new paragraphs:

"(5) To issue and serve a notice of charges upon a Federal home loan bank or upon any executive officer or director of a Federal home loan bank if, in the determination of the Finance Board, the bank, executive officer, or director is engaging or has engaged in, or the Finance Board has reasonable cause to believe that the bank, executive officer, or director is about to engage in, any conduct that violates any provision of this Act or any law, order, rule, or regulation or any condition imposed in writing by the Finance Board in connection with the granting of any application or other request by the bank, or any written agreement entered into by the bank with the agency, in accordance with the procedures provided in section 1371(c) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992. Such authority includes the same authority to take affirmative action to correct conditions resulting from violations or practices or to limit activities of a bank or any executive officer or director of a bank as appropriate Federal banking agencies have to take with respect to insured depository institutions under paragraphs (6) and (7) of section 8(b) of the Federal Deposit Insurance Act, and to have all other powers, rights, and duties to enforce this Act with respect to the Federal home loan banks and their executive officers and directors as the Office of Federal Housing Enterprise Oversight has to enforce the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, the Federal National Mortgage Association Charter Act, or the Federal Home Loan Mortgage Corporation Act with respect to the Federal housing enterprises under the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

"(6) To address any insufficiencies in capital levels resulting from the application of section 5(f) of the Home Owners' Loan Act.

"(7) To sue and be sued, by and through its own attorneys.".

(2) TECHNICAL AMENDMENT.—Section 111 of Public Law 93–495 (12 U.S.C. 250) is amended by inserting "Federal Housing Finance Board," after "Director of the Office of Thrift Supervision,".

(f) ELIGIBILITY TO SECURE ADVANCES.—

(1) SECTION 9.—Section 9 of the Federal Home Loan Bank Act (12 U.S.C. 1429) is amended—

(A) in the second sentence, by striking "with the approval of the Board"; and

(B) in the third sentence, by striking ", subject to the approval of the Board,".

(2) SECTION 10.—Section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430) is amended—

(A) in subsection (c)—

(i) in the first sentence, by striking "Board" and inserting "Federal home loan bank"; and

(ii) in the second sentence, by striking "held by" and all that follows before the period;

(B) in subsection (d)—

(i) in the first sentence, by striking "and the approval of the Board"; and

(ii) by striking "Subject to the approval of the Board, any" and inserting "Any"; and

(C) in subsection (j)(1)—

(i) by striking "to subsidize the interest rate on advances" and inserting "to provide subsidies, including subsidized interest rates on advances";

(ii) by striking "Pursuant" and inserting the following:

"(A) ESTABLISHMENT.—Pursuant"; and

(iii) by adding at the end the following new subparagraph:

"(B) NONDELEGATION OF APPROVAL AUTHORITY.—Subject to such regulations as the Finance Board may prescribe, the board of directors of each Federal home loan bank may approve or disapprove requests from members for Affordable Housing Program subsidies, and may not delegate such authority.".

(g) SECTION 16.—Section 16(a) of the Federal Home Loan Bank Act (12 U.S.C. 1436(a)) is amended—

(1) in the third sentence—

(A) by striking "net earnings" and inserting "previously retained earnings or current net earnings"; and

(B) by striking ", and then only with the approval of the Federal Housing Finance Board"; and

(2) by striking the fourth sentence.

(h) SECTION 18.—Section 18(b) of the Federal Home Loan Bank Act (12 U.S.C. 1438(b)) is amended by striking paragraph (4).

SEC. 167. RESOLUTION FUNDING CORPORATION.

(a) IN GENERAL.—Section 21B(f)(2)(C) of the Federal Home Loan Bank Act (12 U.S.C. 1441b(f)(2)(C)) is amended to read as follows:

"(C) PAYMENTS BY FEDERAL HOME LOAN BANKS.—

"(i) IN GENERAL.—To the extent that the amounts available pursuant to subparagraphs (A) and (B) are insufficient to cover the amount of interest payments, each Federal home loan bank shall pay to the Funding Corporation in each calendar year, 20.75 percent of the net earnings of that bank (after deducting expenses relating to section 10(j) and operating expenses).

"(ii) ANNUAL DETERMINATION.—The Board annually shall determine the extent to which the value of the aggregate amounts paid by the Federal home loan banks exceeds or falls short of the value of an annuity of $300,000,000 per year that commences on the issuance date and ends on the final scheduled maturity date of the obligations, and shall select appropriate present value factors for making such determinations.

"(iii) PAYMENT TERM ALTERATIONS.—The Board shall extend or shorten the term of the payment obligations of a Federal home loan bank under this subparagraph as necessary to ensure that the value of all payments made by the banks is equivalent to the value of an annuity referred to in clause (ii).

"(iv) TERM BEYOND MATURITY.—If the Board extends the term of payments beyond the final scheduled maturity date for the obligations, each Federal home loan bank shall continue to pay 20.75 percent of its net earnings (after deducting expenses relating to section 10(j) and operating expenses) to the Treasury of the United States until the value of all such payments by the Federal home loan banks is equivalent to the value of an annuity referred to in clause (ii). In the final year in which the Federal home loan banks are required to make any payment to the Treasury under this subparagraph, if the dollar amount represented by 20.75 percent of the net earnings of the Federal home loan banks exceeds the remaining obligation of the banks to the Treasury, the Finance Board shall reduce the percentage pro rata to a level sufficient to pay the remaining obligation.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on January 1, 1999. Payments made by a Federal home loan bank before that effective date shall be counted toward the total obligation of that bank under section 21B(f)(2)(C) of the Federal Home Loan Bank Act, as amended by this section.

Subtitle H—Direct Activities of Banks

SEC. 181. AUTHORITY OF NATIONAL BANKS TO UNDERWRITE CERTAIN MUNICIPAL BONDS.

The paragraph designated the Seventh of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24(7)) is amended by adding at the end the following new sentence: "In addition to the provisions in this paragraph for dealing in, underwriting or purchasing securities, the limitations and restrictions contained in this paragraph as to dealing in, underwriting, and purchasing investment securities for the national bank's own account shall not apply to obligations (including limited obligation bonds, revenue bonds, and obligations that satisfy the requirements of section 142(b)(1) of the Internal Revenue Code of 1986) issued by or on behalf of any state or political subdivision of a state, including any municipal corporate instrumentality of 1 or more states, or any public agency or authority of any state or political subdivision of a state, if the national banking association is well capitalized (as defined in section 38 of the Federal Deposit Insurance Act).".

Subtitle I—Deposit Insurance Funds

SEC. 186. STUDY OF SAFETY AND SOUNDNESS OF FUNDS.

(a) STUDY REQUIRED.—The Board of Directors of the Federal Deposit Insurance Corporation shall conduct a study of the following issues with regard to the Bank Insurance Fund and the Savings Association Insurance Fund:

(1) SAFETY AND SOUNDNESS.—The safety and soundness of the funds and the adequacy of the reserve requirements applicable to the funds in light of—

(A) the size of the insured depository institutions which are resulting from mergers and consolidations since the effective date of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994; and

(B) the affiliation of insured depository institutions with other financial institutions pursuant to this Act and the amendments made by this Act.

(2) CONCENTRATION LEVELS.—The concentration levels of the funds, taking into account the number of members of each fund and the geographic distribution of such members, and the extent to which either fund is exposed to higher risks due to a regional concentration of members or an insufficient membership base relative to the size of member institutions.

(3) MERGER ISSUES.—Issues relating to the planned merger of the funds, including the cost of merging the funds and the manner in which such costs will be distributed among the members of the respective funds.

(b) REPORT REQUIRED.—

(1) IN GENERAL.—Before the end of the 9-month period beginning on the date of the enactment of this Act, the Board of Directors of the Federal Deposit Insurance Corporation shall submit a report to the Congress on the study conducted pursuant to subsection (a).

(2) CONTENTS OF REPORT.—The report shall include—

(A) detailed findings of the Board of Directors with regard to the issues described in subsection (a);

(B) a description of the plans developed by the Board of Directors for merging the Bank Insurance Fund and the Savings Association Insurance Fund, including an estimate of the amount of the cost of such merger which would be borne by Savings Association Insurance Fund members; and

(C) such recommendations for legislative and administrative action as the Board of Directors determines to be necessary or appropriate to preserve the safety and soundness of the deposit insurance funds, reduce the risks to such funds, provide for an efficient merger of such funds, and for other purposes.

(c) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) INSURED DEPOSITORY INSTITUTION.—The term "insured depository institution" has the same meaning as in section 3(c) of the Federal Deposit Insurance Act.

(2) BIF AND SAIF MEMBERS.—The terms "Bank Insurance Fund member" and "Savings Association Insurance Fund member" have the same meanings as in section 7(l) of the Federal Deposit Insurance Act.

Subtitle J—Effective Date of Title

SEC. 191. EFFECTIVE DATE.

Except with regard to any subtitle or other provision of this title for which a specific effective date is provided, this title and the amendments made by this title shall take effect at the end of the 270-day period beginning on the date of the enactment of this Act.

TITLE II—FUNCTIONAL REGULATION

Subtitle A—Brokers and Dealers

SEC. 201. DEFINITION OF BROKER.

Section 3(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4)) is amended to read as follows:

"(4) BROKER.—

"(A) IN GENERAL.—The term 'broker' means any person engaged in the business of effecting transactions in securities for the account of others.

"(B) EXCEPTION FOR CERTAIN BANK ACTIVITIES.—A bank shall not be considered to be a broker because the bank engages in any of the following activities under the conditions described:

"(i) THIRD PARTY BROKERAGE ARRANGEMENTS.—The bank enters into a contractual or other arrangement with a broker or dealer registered under this title under which the broker or dealer offers brokerage services on or off the premises of the bank if—

"(I) such broker or dealer is clearly identified as the person performing the brokerage services;

"(II) the broker or dealer performs brokerage services in an area that is clearly marked and, to the extent practicable, physically separate from the routine deposit-taking activities of the bank;

"(III) any materials used by the bank to advertise or promote generally the availability of brokerage services under the contractual or other arrangement clearly indicate that the brokerage services are being provided by the broker or dealer and not by the bank;

"(IV) any materials used by the bank to advertise or promote generally the availability of brokerage services under the contractual or other arrangement are in compliance with the Federal securities laws before distribution;

"(V) bank employees (other than associated persons of a broker or dealer who are qualified pursuant to the rules of a self-regulatory organization) perform only clerical or ministerial functions in connection with brokerage transactions including scheduling appointments with the associated persons of a broker or dealer, except that bank employees may forward customer funds or securities and may describe in general terms the range of investment vehicles available from the bank and the broker or dealer under the contractual or other arrangement;

"(VI) bank employees do not directly receive incentive compensation for any brokerage transaction unless such employees are associated persons of a broker or dealer and are qualified pursuant to the rules of a self-regulatory organization, except that the bank employees may receive compensation for the referral of any customer if the compensation is a nominal one-time cash fee of a fixed dollar amount and the payment of the fee is not contingent on whether the referral results in a transaction;

"(VII) such services are provided by the broker or dealer on a basis in which all customers which receive any services are fully disclosed to the broker or dealer;

"(VIII) the bank does not carry a securities account of the customer except in a customary custodian or trustee capacity; and

"(IX) the bank, broker, or dealer informs each customer that the brokerage services are provided by the broker or dealer and not by the bank and that the securities are not deposits or other obligations of the bank, are not guaranteed by the bank, and are not insured by the Federal Deposit Insurance Corporation.

"(ii) TRUST ACTIVITIES.—The bank effects transactions in a trustee capacity, or effects transactions in a fiduciary capacity in its trust department or other department that is regularly examined by bank examiners for compliance with fiduciary principles and standards, and (in either case)—

"(I) is primarily compensated for such transactions on the basis of an administration or annual fee (payable on a monthly, quarterly, or other basis), a percentage of assets under management, or a flat or capped per order processing fee equal to not more than the cost incurred by the bank in connection with executing securities transactions for trustee and fiduciary customers, or any combination of such fees, consistent with fiduciary principles and standards; and

"(II) does not publicly solicit brokerage business, other than by advertising that it effects transactions in securities in conjunction with advertising its other trust activities.

"(iii) PERMISSIBLE SECURITIES TRANSACTIONS.—The bank effects transactions in—

"(I) commercial paper, bankers acceptances, or commercial bills;

"(II) exempted securities;

"(III) qualified Canadian government obligations as defined in section 5136 of the Revised Statutes, in conformity with section 15C of this title and the rules and regulations thereunder, or obligations of the North American Development Bank; or

"(IV) any standardized, credit enhanced debt security issued by a foreign government pursuant to the March 1989 plan of then Secretary of the Treasury Brady, used by such foreign government to retire outstanding commercial bank loans.

"(iv) CERTAIN STOCK PURCHASE PLANS.—

"(I) EMPLOYEE BENEFIT PLANS.—The bank effects transactions, as part of its transfer agency activities, in the securities of an issuer as part of any pension, retirement, profit-sharing, bonus, thrift, savings, incentive, or other similar benefit plan for the employees of that issuer or its subsidiaries, if—

(aa) the bank does not solicit transactions or provide investment advice with respect to the purchase or sale of securities in connection with the plan; and

"(bb) the bank's compensation for such plan or program consists primarily of administration fees, or flat or capped per order processing fees, or both.

"(II) DIVIDEND REINVESTMENT PLANS.—The bank effects transactions, as part of its transfer agency activities, in the securities of an issuer as part of that issuer's dividend reinvestment plan, if—

"(aa) the bank does not solicit transactions or provide investment advice with respect to the purchase or sale of securities in connection with the plan;

"(bb) the bank does not net shareholders' buy and sell orders, other than for programs for odd-lot holders or plans registered with the Commission; and

"(cc) the bank's compensation for such plan or program consists primarily of administration fees, or flat or capped per order processing fees, or both.

"(III) ISSUER PLANS.—The bank effects transactions, as part of its transfer agency activities, in the securities of an issuer as part of a plan or program for the purchase or sale of that issuer's shares, if—

"(aa) the bank does not solicit transactions or provide investment advice with respect to the purchase or sale of securities in connection with the plan or program;

"(bb) the bank does not net shareholders' buy and sell orders, other than for programs for odd-lot holders or plans registered with the Commission; and

"(cc) the bank's compensation for such plan or program consists primarily of administration fees, or flat or capped per order processing fees, or both.

"(IV) PERMISSIBLE DELIVERY OF MATERIALS.—The exception to being considered a broker for a bank engaged in activities described in subclauses (I), (II), and (III) will not be affected by a bank's delivery of written or electronic plan materials to employees of the issuer, shareholders of the issuer, or members of affinity groups of the issuer, so long as such materials are—

"(aa) comparable in scope or nature to that permitted by the Commission as of the date of the enactment of the Financial Services Act of 1998; or

"(bb) otherwise permitted by the Commission.

"(v) SWEEP ACCOUNTS.—The bank effects transactions as part of a program for the investment or reinvestment of bank deposit funds into any no-load, open-end management investment company registered under the Investment Company Act of 1940 that holds itself out as a money market fund.

"(vi) AFFILIATE TRANSACTIONS.—The bank effects transactions for the account of any affiliate of the bank (as defined in section 2 of the Bank Holding Company Act of 1956) other than—

"(I) a registered broker or dealer; or

"(II) an affiliate that is engaged in merchant banking, as described in section 6(c)(3)(H) of the Bank Holding Company Act of 1956.

"(vii) PRIVATE SECURITIES OFFERINGS.—The bank—

"(I) effects sales as part of a primary offering of securities not involving a public offering, pursuant to section 3(b), 4(2), or 4(6) of the Securities Act of 1933 or the rules and regulations issued thereunder; and

"(II) effects transactions exclusively with qualified investors.

"(viii) SAFEKEEPING AND CUSTODY ACTIVITIES.—

"(I) IN GENERAL.—The bank, as part of customary banking activities—

"(aa) provides safekeeping or custody services with respect to securities, including the exercise of warrants and other rights on behalf of customers;

"(bb) facilitates the transfer of funds or securities, as a custodian or a clearing agency, in connection with the clearance and settlement of its customers' transactions in securities;

"(cc) effects securities lending or borrowing transactions with or on behalf of customers as part of services provided to customers pursuant to division (aa) or (bb) or invests cash collateral pledged in connection with such transactions; or

"(dd) holds securities pledged by a customer to another person or securities subject to purchase or resale agreements involving a customer, or facilitates the pledging or transfer of such securities by book entry or as otherwise provided under applicable law.

"(II) EXCEPTION FOR CARRYING BROKER ACTIVITIES.—The exception to being considered a broker for a bank engaged in activities described in subclause (I) shall not apply if the bank, in connection with such activities, acts in the United States as a carrying broker (as such term, and different formulations thereof, are used in section 15(c)(3) and the rules and regulations thereunder) for any broker or dealer, unless such carrying broker activities are engaged in with respect to government securities (as defined in paragraph (42) of this subsection).

"(ix) BANKING PRODUCTS.—The bank effects transactions in traditional banking products, as defined in section 206(a) of the Financial Services Act of 1998.

"(x) DE MINIMIS EXCEPTION.—The bank effects, other than in transactions referred to in clauses (i) through (ix), not more than 500 transactions in securities in any calendar year, and such transactions are not effected by an employee of the bank who is also an employee of a broker or dealer.

"(C) BROKER DEALER EXECUTION.—The exception to being considered a broker for a bank engaged in activities described in clauses (ii), (iv), and (viii) of subparagraph (B) shall not apply if the activities described in such provisions result in the trade in the United States of any security that is a publicly traded security in the United States, unless—

"(i) the bank directs such trade to a registered or broker dealer for execution;

"(ii) the trade is a cross trade or other substantially similar trade of a security that—

"(I) is made by the bank or between the bank and an affiliated fiduciary; and

"(II) is not in contravention of fiduciary principles established under applicable Federal or State law; or

"(iii) the trade is conducted in some other manner permitted under rules, regulations, or orders as the Commission may prescribe or issue.

"(D) NO EFFECT OF BANK EXEMPTIONS ON OTHER COMMISSION AUTHORITY.—The exception to being considered a broker for a bank engaged in activities described in subparagraphs (B) and (C) shall not affect the commission's authority under any other provision of this Act or any other securities law.

"(E) FIDUCIARY CAPACITY.—For purposes of subparagraph (B)(ii), the term 'fiduciary capacity' means—

"(i) in the capacity as trustee, executor, administrator, registrar of stocks and bonds, transfer agent, guardian, assignee, receiver, or custodian under a uniform gift to minor act, or as an investment adviser if the bank receives a fee for its investment advice;

"(ii) in any capacity in which the bank possesses investment discretion on behalf of another; or

"(iii) in any other similar capacity.

"(F) EXCEPTION FOR ENTITIES SUBJECT TO SECTION 15(e).—The term 'broker' does not include a bank that—

"(i) was, immediately prior to the enactment of the Financial Services Act of 1998, subject to section 15(e); and

"(ii) is subject to such restrictions and requirements as the Commission considers appropriate.".

SEC. 202. DEFINITION OF DEALER.

Section 3(a)(5) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(5)) is amended to read as follows:

"(5) DEALER.—

"(A) IN GENERAL.—The term 'dealer' means any person engaged in the business of buying and selling securities for such person's own account through a broker or otherwise.

"(B) EXCEPTION FOR PERSON NOT ENGAGED IN THE BUSINESS OF DEALING.—The term 'dealer' does not include a person that buys or sells securities for such person's own account, either individually or in a fiduciary capacity, but not as a part of a regular business.

"(C) EXCEPTION FOR CERTAIN BANK ACTIVITIES.—A bank shall not be considered to be a dealer because the bank engages in any of the following activities under the conditions described:

"(i) PERMISSIBLE SECURITIES TRANSACTIONS.—The bank buys or sells—

"(I) commercial paper, bankers acceptances, or commercial bills;

"(II) exempted securities;

"(III) qualified Canadian government obligations as defined in section 5136 of the Revised Statutes of the United States, in conformity with section 15C of this title and the rules and regulations thereunder, or obligations of the North American Development Bank; or

"(IV) any standardized, credit enhanced debt security issued by a foreign government pursuant to the March 1989 plan of then Secretary of the Treasury Brady, used by such foreign government to retire outstanding commercial bank loans.

"(ii) INVESTMENT, TRUSTEE, AND FIDUCIARY TRANSACTIONS.—The bank buys or sells securities for investment purposes—

"(I) for the bank; or

"(II) for accounts for which the bank acts as a trustee or fiduciary.

"(iii) ASSET-BACKED TRANSACTIONS.—The bank engages in the issuance or sale to qualified investors, through a grantor trust or otherwise, of securities backed by or representing an interest in notes, drafts, acceptances, loans, leases, receivables, other obligations, or pools of any such obligations predominantly originated by the bank, or a syndicate of banks of which the bank is a member, or an affiliate of any such bank other than a broker or dealer.

"(iv) BANKING PRODUCTS.—The bank buys or sells traditional banking products, as defined in section 206(a) of the Financial Services Act of 1998.

"(v) DERIVATIVE INSTRUMENTS.—The bank issues, buys, or sells any derivative instrument to which the bank is a party—

"(I) to or from a qualified investor, except that if the instrument provides for the delivery of one or more securities (other than a derivative instrument or government security), the transaction shall be effected with or through a registered broker or dealer;

"(II) to or from other persons, except that if the derivative instrument provides for the delivery of one or more securities (other than a derivative instrument or government security), or is a security (other than a government security), the transaction shall be effected with or through a registered broker or dealer; or

"(III) to or from any person if the instrument is neither a security nor provides for the delivery of one or more securities (other than a derivative instrument).".

SEC. 203. REGISTRATION FOR SALES OF PRIVATE SECURITIES OFFERINGS.

Section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3) is amended by inserting after subsection (i) the following new subsection:

"(j) REGISTRATION FOR SALES OF PRIVATE SECURITIES OFFERINGS.—A registered securities association shall create a limited qualification category for any associated person of a member who effects sales as part of a primary offering of securities not involving a public offering, pursuant to section 3(b), 4(2), or 4(6) of the Securities Act of 1933 and the rules and regulations thereunder, and shall deem qualified in such limited qualification category, without testing, any bank employee who, in the six month period preceding the date of enactment of this Act, engaged in effecting such sales.".

SEC. 204. SALES PRACTICES AND COMPLAINT PROCEDURES.

Section 18 of the Federal Deposit Insurance Act is amended by adding at the end the following new subsection:

"(s) SALES PRACTICES AND COMPLAINT PROCEDURES WITH RESPECT TO BANK SECURITIES ACTIVITIES.—

"(1) REGULATIONS REQUIRED.—Each Federal banking agency shall prescribe and publish in final form, not later than 6 months after the date of enactment of the Financial Services Act of 1998, regulations which apply to retail transactions, solicitations, advertising, or offers of any security by any insured depository institution or any affiliate thereof other than a registered broker or dealer or an individual acting on behalf of such a broker or dealer who is an associated person of such broker or dealer. Such regulations shall include—

"(A) requirements that sales practices comply with just and equitable principles of trade that are substantially similar to the Rules of Fair Practice of the National Association of Securities Dealers; and

"(B) requirements prohibiting (i) conditioning an extension of credit on the purchase or sale of a security; and (ii) any conduct leading a customer to believe that an extension of credit is conditioned upon the purchase or sale of a security.

"(2) PROCEDURES REQUIRED.—The appropriate Federal banking agencies shall jointly establish procedures and facilities for receiving and expeditiously processing complaints against any bank or employee of a bank arising in connection with the purchase or sale of a security by a customer, including a complaint alleging a violation of the regulations prescribed under paragraph (1), but excluding a complaint involving an individual acting on behalf of such a broker or dealer who is an associated person of such broker or dealer. The use of any such procedures and facilities by such a customer shall be at the election of the customer. Such procedures shall include provisions to refer a complaint alleging fraud to the Securities and Exchange Commission and appropriate State securities commissions.

"(3) REQUIRED ACTIONS.—The actions required by the Federal banking agencies under paragraph (2) shall include the following:

"(A) establishing a group, unit, or bureau within each such agency to receive such complaints;

"(B) developing and establishing procedures for investigating, and permitting customers to investigate, such complaints;

"(C) developing and establishing procedures for informing customers of the rights they may have in connection with such complaints;

"(D) developing and establishing procedures that allow customers a period of at least 6 years to make complaints and that do not require customers to pay the costs of the proceeding; and

"(E) developing and establishing procedures for resolving such complaints, including procedures for the recovery of losses to the extent appropriate.

"(4) CONSULTATION AND JOINT REGULATIONS.—The Federal banking agencies shall consult with each other and prescribe joint regulations pursuant to paragraphs (1) and (2), after consultation with the Securities and Exchange Commission.

"(5) PROCEDURES IN ADDITION TO OTHER REMEDIES.—The procedures and remedies provided under this subsection shall be in addition to, and not in lieu of, any other remedies available under law.

"(6) DEFINITION.—As used in this subsection—

"(A) the term 'security' has the same meaning as in section 3(a)(10) of the Securities Exchange Act of 1934;

"(B) the term 'registered broker or dealer' has the same meaning as in section 3(a)(48) of the Securities Exchange Act of 1934; and

"(C) the term 'associated person' has the same meaning as in section 3(a)(18) of the Securities Exchange Act of 1934.".

SEC. 205. INFORMATION SHARING.

Section 18 of the Federal Deposit Insurance Act is amended by adding at the end the following new subsection:

"(t) RECORDKEEPING REQUIREMENTS.—

"(1) REQUIREMENTS.—Each appropriate Federal banking agency, after consultation with and consideration of the views of the Commission, shall establish recordkeeping requirements for banks relying on exceptions contained in paragraphs (4) and (5) of section 3(a) of the Securities Exchange Act of 1934. Such recordkeeping requirements shall be sufficient to demonstrate compliance with the terms of such exceptions and be designed to facilitate compliance with such exceptions. Each appropriate Federal banking agency shall make any such information available to the Commission upon request.

"(2) DEFINITIONS.—As used in this subsection the term 'Commission' means the Securities and Exchange Commission.".

SEC. 206. DEFINITION AND TREATMENT OF BANKING PRODUCTS.

(a) DEFINITION OF TRADITIONAL BANKING PRODUCT.—For purposes of paragraphs (4) and (5) of section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a) (4), (5)), the term "traditional banking product" means—

(1) a deposit account, savings account, certificate of deposit, or other deposit instrument issued by a bank;

(2) a banker's acceptance;

(3) a letter of credit issued or loan made by a bank;

(4) a debit account at a bank arising from a credit card or similar arrangement;

(5) a participation in a loan which the bank or an affiliate of the bank (other than a broker or dealer) funds, participates in, or owns that is sold—

(A) to qualified investors; or

(B) to other persons that—

(i) have the opportunity to review and assess any material information, including information regarding the borrower's creditworthiness; and

(ii) based on such factors as financial sophistication, net worth, and knowledge and experience in financial matters, have the capability to evaluate the information available, as determined under generally applicable banking standards or guidelines;

(6) any derivative instrument, whether or not individually negotiated, involving or relating to—

(A) foreign currencies, except options on foreign currencies that trade on a national securities exchange;

(B) interest rates, except interest rate derivative instruments that—

(i) are based on a security or a group or index of securities (other than government securities or a group or index of government securities);

(ii) provide for the delivery of one or more securities (other than government securities); or

(iii) trade on a national securities exchange; or

(C) commodities, other rates, indices, or other assets, except derivative instruments that—

(i) are securities or that are based on a group or index of securities (other than government securities or a group or index of government securities);

(ii) provide for the delivery of one or more securities (other than government securities); or

(iii) trade on a national securities exchange; or

(7) any product or instrument that the Board of Governors of the Federal Reserve System (hereafter in this subsection referred to as the "Board"), after consultation with the Securities and Exchange Commission (hereafter in this section referred to as the "Commission") determines to be a new banking product, by regulation or order published in the Federal Register.

(b) OBJECTION BY THE SEC.—

(1) FILING OF PETITION FOR REVIEW.—The Commission may obtain review of any regulation or order described in subsection (a)(7) in the United States Court of Appeals for the District of Columbia Circuit by filing in such court, not later than 60 days after the date of publication of the regulation or order, a written petition requesting that the regulation or order be set aside.

(2) TRANSMITTAL OF PETITION AND RECORD.—A copy of a petition described in paragraph (1) shall be transmitted as soon as possible by the Clerk of the Court, to an officer or employee of the Board designated for that purpose. Upon receipt of the petition, the Board shall file in the court the regulation or order under review and any documents referred to therein, and any other relevant materials prescribed by the court.

(3) EXCLUSIVE JURISDICTION.—On the date of the filing of the petition under paragraph (1), the court has jurisdiction, which becomes exclusive on the filing of the materials set forth in paragraph (2), to affirm and enforce or to set aside the regulation or order.

(4) STANDARD OF REVIEW.—

(A) IN GENERAL.—The court shall determine to affirm and enforce or set aside the regulation or order of the Board, based on the determination of the court as to whether the subject product or instrument would be more appropriately regulated under the Federal banking laws or the Federal securities laws, giving equal deference to the views of the Board and the Commission.

(B) CONSIDERATIONS.—In making a determination under subparagraph (A), the court shall consider—

(i) the nature of the subject product or instrument;

(ii) the history, purpose, extent, and appropriateness of the regulation of the product or instrument under the Federal banking laws; and

(iii) the history, purpose, extent, and appropriateness of the regulation of the product or instrument under the Federal securities laws.

(5) JUDICIAL STAY.—The filing of a petition pursuant to paragraph (1) shall operate as a judicial stay of—

(A) any Commission requirement that a bank register as a broker or dealer under section 15 of the Securities Exchange Act of 1934, because the bank engages in any transaction in, or buys or sells, the product or instrument that is the subject of the petition; and

(B) any Commission action against a bank for a failure to comply with a requirement described in subparagraph (A).

(c) CLASSIFICATION LIMITED.—Classification of a particular product as a traditional banking product pursuant to this section shall not be construed as finding or implying that such product is or is not a security for any purpose under the securities laws, or is or is not an account, agreement, contract, or transaction for any purpose under the Commodity Exchange Act.

(d) NO LIMITATION ON OTHER AUTHORITY TO CHALLENGE.—Nothing in this section shall affect the right or authority that the Securities and Exchange Commission, any appropriate Federal banking agency, or any interested party has under any other provision of law to object to or seek judicial review as to whether a product or instrument is or is not appropriately classified as a "traditional banking product" under paragraphs (1) through (7) of subsection (a).

(e) DEFINITIONS.—For purposes of this section—

(1) the term "bank" has the same meaning as in section 3(a)(6) of the Securities Exchange Act of 1934;

(2) the term "qualified investor" has the same meaning as in section 3(a)(55) of the Securities Exchange Act of 1934;

(3) the term "government securities" has the same meaning as in section 3(a)(42) of the Securities Exchange Act of 1934, and, for purposes of this subsection, commercial paper, bankers acceptances, and commercial bills shall be treated in the same manner as government securities;

(4) the term "Federal banking agency" has the same meaning as in section 3(z) of the Federal Deposit Insurance Act; and

(5) the term "new banking product" means a product or instrument that—

(A) was not subject to regulation by the Securities and Exchange Commission as a security under the Securities Exchange Act of 1934, before the date of enactment of this Act; and

(B) is not a traditional banking product, as defined in subparagraphs (A) through (F) of paragraph (1).

SEC. 207. DERIVATIVE INSTRUMENT AND QUALIFIED INVESTOR DEFINED.

Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended by adding at the end the following new paragraphs:

"(54) DERIVATIVE INSTRUMENT.—

"(A) DEFINITION.—The term 'derivative instrument' means any individually negotiated contract, agreement, warrant, note, or option that is based, in whole or in part, on the value of, any interest in, or any quantitative measure or the occurrence of any event relating to, one or more commodities, securities, currencies, interest or other rates, indices, or other assets, but does not include a traditional banking product, as defined in section 206(a) of the Financial Services Act of 1998.

"(B) CLASSIFICATION LIMITED.—Classification of a particular contract as a derivative instrument pursuant to this paragraph shall not be construed as finding or implying that such instrument is or is not a security for any purpose under the securities laws, or is or is not an account, agreement, contract, or transaction for any purpose under the Commodity Exchange Act.

"(55) QUALIFIED INVESTOR.—

"(A) DEFINITION.—For purposes of this title and section 206(a)(1)(E) of the Financial Services Act of 1998, the term 'qualified investor' means—

"(i) any investment company registered with the Commission under section 8 of the Investment Company Act of 1940;

"(ii) any issuer eligible for an exclusion from the definition of investment company pursuant to section 3(c)(7) of the Investment Company Act of 1940;

"(iii) any bank (as defined in paragraph (6) of this subsection), savings and loan association (as defined in section 3(b) of the Federal Deposit Insurance Act), broker, dealer, insurance company (as defined in section 2(a)(13) of the Securities Act of 1933), or business development company (as defined in section 2(a)(48) of the Investment Company Act of 1940);

"(iv) any small business investment company licensed by the United States Small Business Administration under section 301(c) or (d) of the Small Business Investment Act of 1958;

"(v) any State sponsored employee benefit plan, or any other employee benefit plan, within the meaning of the Employee Retirement Income Security Act of 1974, other than an individual retirement account, if the investment decisions are made by a plan fiduciary, as defined in section 3(21) of that Act, which is either a bank, savings and loan association, insurance company, or registered investment adviser;

"(vi) any trust whose purchases of securities are directed by a person described in clauses (i) through (v) of this subparagraph;

"(vii) any market intermediary exempt under section 3(c)(2) of the Investment Company Act of 1940;

"(viii) any associated person of a broker or dealer other than a natural person;

"(ix) any foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978);

"(x) the government of any foreign country;

"(xi) any corporation, company, or partnership that owns and invests on a discretionary basis, not less than $10,000,000 in investments;

"(xii) any natural person who owns and invests on a discretionary basis, not less than $10,000,000 in investments;

"(xiii) any government or political subdivision, agency, or instrumentality of a government who owns and invests on a discretionary basis not less than $50,000,000 in investments; or

"(xiv) any multinational or supranational entity or any agency or instrumentality thereof.

"(B) ADDITIONAL AUTHORITY.—The Commission may, by rule or order, define a 'qualified investor' as any other person, taking into consideration such factors as the financial sophistication of the person, net worth, and knowledge and experience in financial matters.".

SEC. 208. GOVERNMENT SECURITIES DEFINED.

Section 3(a)(42) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(42)) is amended—

(1) by striking "or" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(E) for purposes of section 15C as applied to a bank, a qualified Canadian government obligation as defined in section 5136 of the Revised Statutes.".

SEC. 209. EFFECTIVE DATE.

This subtitle shall take effect at the end of the 270-day period beginning on the date of the enactment of this Act.

SEC. 210. RULE OF CONSTRUCTION.

Nothing in this Act shall supersede, affect, or otherwise limit the scope and applicability of the Commodity Exchange Act (7 U.S.C. 1 et seq.).

Subtitle B—Bank Investment Company Activities

SEC. 211. CUSTODY OF INVESTMENT COMPANY ASSETS BY AFFILIATED BANK.

(a) MANAGEMENT COMPANIES.—Section 17(f) of the Investment Company Act of 1940 (15 U.S.C. 80a–17(f)) is amended—

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) by striking "(f) Every registered" and inserting the following:

"(f) CUSTODY OF SECURITIES.—

"(1) Every registered";

(3) by redesignating the second, third, fourth, and fifth sentences of such subsection as paragraphs (2) through (5), respectively, and indenting the left margin of such paragraphs appropriately; and

(4) by adding at the end the following new paragraph:

"(6) SERVICES AS TRUSTEE OR CUSTODIAN.—The Commission may adopt rules and regulations, and issue orders, consistent with the protection of investors, prescribing the conditions under which a bank, or an affiliated person of a bank, either of which is an affiliated person, promoter, organizer, or sponsor of, or principal underwriter for, a registered management company may serve as custodian of that registered management company.".

(b) UNIT INVESTMENT TRUSTS.—Section 26 of the Investment Company Act of 1940 (15 U.S.C. 80a–26) is amended—

(1) by redesignating subsections (b) through (e) as subsections (c) through (f), respectively; and

(2) by inserting after subsection (a) the following new subsection:

"(b) The Commission may adopt rules and regulations, and issue orders, consistent with the protection of investors, prescribing the conditions under which a bank, or an affiliated person of a bank, either of which is an affiliated person of a principal underwriter for, or depositor of, a registered unit investment trust, may serve as trustee or custodian under subsection (a)(1).".

(c) FIDUCIARY DUTY OF CUSTODIAN.—Section 36(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–35(a)) is amended—

(1) in paragraph (1), by striking "or" at the end;

(2) in paragraph (2), by striking the period at the end and inserting "; or"; and

(3) by inserting after paragraph (2) the following:

"(3) as custodian.".

SEC. 212. LENDING TO AN AFFILIATED INVESTMENT COMPANY.

Section 17(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–17(a)) is amended—

(1) by striking "or" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(4) to loan money or other property to such registered company, or to any company controlled by such registered company, in contravention of such rules, regulations, or orders as the Commission may prescribe or issue consistent with the protection of investors.".

SEC. 213. INDEPENDENT DIRECTORS.

(a) IN GENERAL.—Section 2(a)(19)(A) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(19)(A)) is amended—

(1) by striking clause (v) and inserting the following new clause:

"(v) any person or any affiliated person of a person (other than a registered investment company) that, at any time during the 6-month period preceding the date of the determination of whether that person or affiliated person is an interested person, has executed any portfolio transactions for, engaged in any principal transactions with, or distributed shares for—

"(I) the investment company;

"(II) any other investment company having the same investment adviser as such investment company or holding itself out to investors as a related company for purposes of investment or investor services; or

"(III) any account over which the investment company's investment adviser has brokerage placement discretion,";

(2) by redesignating clause (vi) as clause (vii); and

(3) by inserting after clause (v) the following new clause:

"(vi) any person or any affiliated person of a person (other than a registered investment company) that, at any time during the 6-month period preceding the date of the determination of whether that person or affiliated person is an interested person, has loaned money or other property to—

"(I) the investment company;

"(II) any other investment company having the same investment adviser as such investment company or holding itself out to investors as a related company for purposes of investment or investor services; or

"(III) any account for which the investment company's investment adviser has borrowing authority,".

(b) CONFORMING AMENDMENT.—Section 2(a)(19)(B) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(19)(B)) is amended—

(1) by striking clause (v) and inserting the following new clause:

"(v) any person or any affiliated person of a person (other than a registered investment company) that, at any time during the 6-month period preceding the date of the determination of whether that person or affiliated person is an interested person, has executed any portfolio transactions for, engaged in any principal transactions with, or distributed shares for—

"(I) any investment company for which the investment adviser or principal underwriter serves as such;

"(II) any investment company holding itself out to investors, for purposes of investment or investor services, as a company related to any investment company for which the investment adviser or principal underwriter serves as such; or

"(III) any account over which the investment adviser has brokerage placement discretion,";

(2) by redesignating clause (vi) as clause (vii); and

(3) by inserting after clause (v) the following new clause:

"(vi) any person or any affiliated person of a person (other than a registered investment company) that, at any time during the 6-month period preceding the date of the determination of whether that person or affiliated person is an interested person, has loaned money or other property to—

"(I) any investment company for which the investment adviser or principal underwriter serves as such;

"(II) any investment company holding itself out to investors, for purposes of investment or investor services, as a company related to any investment company for which the investment adviser or principal underwriter serves as such; or

"(III) any account for which the investment adviser has borrowing authority,".

(c) AFFILIATION OF DIRECTORS.—Section 10(c) of the Investment Company Act of 1940 (15 U.S.C. 80a–10(c)) is amended by striking "bank, except" and inserting "bank (together with its affiliates and subsidiaries) or any one bank holding company (together with its affiliates and subsidiaries) (as such terms are defined in section 2 of the Bank Holding Company Act of 1956), except".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect at the end of the 1-year period beginning on the date of enactment of this subtitle.

SEC. 214. ADDITIONAL SEC DISCLOSURE AUTHORITY.

Section 35(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–34(a)) is amended to read as follows:

"(a) MISREPRESENTATION OF GUARANTEES.—

"(1) IN GENERAL.—It shall be unlawful for any person, issuing or selling any security of which a registered investment company is the issuer, to represent or imply in any manner whatsoever that such security or company—

"(A) has been guaranteed, sponsored, recommended, or approved by the United States, or any agency, instrumentality or officer of the United States;

"(B) has been insured by the Federal Deposit Insurance Corporation; or

"(C) is guaranteed by or is otherwise an obligation of any bank or insured depository institution.

"(2) DISCLOSURES.—Any person issuing or selling the securities of a registered investment company that is advised by, or sold through, a bank shall prominently disclose that an investment in the company is not insured by the Federal Deposit Insurance Corporation or any other government agency. The Commission may adopt rules and regulations, and issue orders, consistent with the protection of investors, prescribing the manner in which the disclosure under this paragraph shall be provided.

"(3) DEFINITIONS.—The terms 'insured depository institution' and 'appropriate Federal banking agency' have the same meanings as in section 3 of the Federal Deposit Insurance Act.".

SEC. 215. DEFINITION OF BROKER UNDER THE INVESTMENT COMPANY ACT OF 1940.

Section 2(a)(6) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(6)) is amended to read as follows:

"(6) The term 'broker' has the same meaning as in section 3 of the Securities Exchange Act of 1934, except that such term does not include any person solely by reason of the fact that such person is an underwriter for one or more investment companies.".

SEC. 216. DEFINITION OF DEALER UNDER THE INVESTMENT COMPANY ACT OF 1940.

Section 2(a)(11) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(11)) is amended to read as follows:

"(11) The term 'dealer' has the same meaning as in section 3 of the Securities Exchange Act of 1934, but does not include an insurance company or investment company.".

SEC. 217. REMOVAL OF THE EXCLUSION FROM THE DEFINITION OF INVESTMENT ADVISER FOR BANKS THAT ADVISE INVESTMENT COMPANIES.

(a) INVESTMENT ADVISER.—Section 202(a)(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(11)) is amended in subparagraph (A), by striking "investment company" and inserting "investment company, except that the term 'investment adviser' includes any bank or bank holding company to the extent that such bank or bank holding company serves or acts as an investment adviser to a registered investment company, but if, in the case of a bank, such services or actions are performed through a separately identifiable department or division, the department or division, and not the bank itself, shall be deemed to be the investment adviser".

(b) SEPARATELY IDENTIFIABLE DEPARTMENT OR DIVISION.—Section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)) is amended by adding at the end the following:

"(26) The term 'separately identifiable department or division' of a bank means a unit—

"(A) that is under the direct supervision of an officer or officers designated by the board of directors of the bank as responsible for the day-to-day conduct of the bank's investment adviser activities for one or more investment companies,

including the supervision of all bank employees engaged in the performance of such activities; and

"(B) for which all of the records relating to its investment adviser activities are separately maintained in or extractable from such unit's own facilities or the facilities of the bank, and such records are so maintained or otherwise accessible as to permit independent examination and enforcement by the Commission of this Act or the Investment Company Act of 1940 and rules and regulations promulgated under this Act or the Investment Company Act of 1940.".

SEC. 218. DEFINITION OF BROKER UNDER THE INVESTMENT ADVISERS ACT OF 1940.

Section 202(a)(3) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(3)) is amended to read as follows:

"(3) The term 'broker' has the same meaning as in section 3 of the Securities Exchange Act of 1934.".

SEC. 219. DEFINITION OF DEALER UNDER THE INVESTMENT ADVISERS ACT OF 1940.

Section 202(a)(7) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(7)) is amended to read as follows:

"(7) The term 'dealer' has the same meaning as in section 3 of the Securities Exchange Act of 1934, but does not include an insurance company or investment company.".

SEC. 220. INTERAGENCY CONSULTATION.

The Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) is amended by inserting after section 210 the following new section:

"SEC. 210A. CONSULTATION.

"(a) Examination Results and Other Information.—

"(1) The appropriate Federal banking agency shall provide the Commission upon request the results of any examination, reports, records, or other information to which such agency may have access with respect to the investment advisory activities—

"(A) of any—

"(i) bank holding company;

"(ii) bank; or

"(iii) separately identifiable department or division of a bank, that is registered under section 203 of this title; and

"(B) in the case of a bank holding company or bank that has a subsidiary or a separately identifiable department or division registered under that section, of such bank or bank holding company.

"(2) The Commission shall provide to the appropriate Federal banking agency upon request the results of any examination, reports, records, or other information with respect to the investment advisory activities of any bank holding company, bank, or separately identifiable department or division of a bank, any of which is registered under section 203 of this title.

"(b) Effect on Other Authority.—Nothing in this section shall limit in any respect the authority of the appropriate Federal banking agency with respect to such bank holding company, bank, or department or division under any provision of law.

"(c) Definition.—For purposes of this section, the term 'appropriate Federal banking agency' has the same meaning as in section 3 of the Federal Deposit Insurance Act.".

SEC. 221. TREATMENT OF BANK COMMON TRUST FUNDS.

(a) Securities Act of 1933.—Section 3(a)(2) of the Securities Act of 1933 (15 U.S.C. 77c(a)(2)) is amended by striking "or any interest or participation in any common trust fund or similar fund maintained by a bank exclusively for the collective investment and reinvestment of assets contributed thereto by such bank in its capacity as trustee, executor, administrator, or guardian" and inserting "or any interest or participation in any common trust fund or similar fund that is excluded from the definition of the term 'investment company' under section 3(c)(3) of the Investment Company Act of 1940".

(b) Securities Exchange Act of 1934.—Section 3(a)(12)(A)(iii) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)(A)(iii)) is amended to read as follows:

"(iii) any interest or participation in any common trust fund or similar fund that is excluded from the definition of the term 'investment company' under section 3(c)(3) of the Investment Company Act of 1940;".

(c) Investment Company Act of 1940.—Section 3(c)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(c)(3)) is amended by inserting before the period the following: ", if—

"(A) such fund is employed by the bank solely as an aid to the administration of trusts, estates, or other accounts created and maintained for a fiduciary purpose;

"(B) except in connection with the ordinary advertising of the bank's fiduciary services, interests in such fund are not—

"(i) advertised; or

"(ii) offered for sale to the general public; and

"(C) fees and expenses charged by such fund are not in contravention of fiduciary principles established under applicable Federal or State law".

SEC. 222. INVESTMENT ADVISERS PROHIBITED FROM HAVING CONTROLLING INTEREST IN REGISTERED INVESTMENT COMPANY.

Section 15 of the Investment Company Act of 1940 (15 U.S.C. 80a–15) is amended by adding at the end the following new subsection:

"(g) Controlling Interest in Investment Company Prohibited.—

"(1) In general.—If an investment adviser to a registered investment company, or an affiliated person of that investment adviser, holds a controlling interest in that registered investment company in a trustee or fiduciary capacity, such person shall—

"(A) if it holds the shares in a trustee or fiduciary capacity with respect to any employee benefit plan subject to the Employee Retirement Income Security Act of 1974, transfer the power to vote the shares of the investment company through to another person acting in a fiduciary capacity with respect to the plan who is not an affiliated person of that investment adviser or any affiliated person thereof; or

"(B) if it holds the shares in a trustee or fiduciary capacity with respect to any person or entity other than an employee benefit plan subject to the Employee Retirement Income Security Act of 1974—

"(i) transfer the power to vote the shares of the investment company through to—

"(I) the beneficial owners of the shares;

"(II) another person acting in a fiduciary capacity who is not an affiliated person of that investment adviser or any affiliated person thereof; or

"(III) any person authorized to receive statements and information with respect to the trust who is not an affiliated person of that investment adviser or any affiliated person thereof;

"(ii) vote the shares of the investment company held by it in the same proportion as shares held by all other shareholders of the investment company; or

"(iii) vote the shares of the investment company as otherwise permitted under such rules, regulations, or orders as the Commission may prescribe or issue consistent with the protection of investors.

"(2) Exemption.—Paragraph (1) shall not apply to any investment adviser to a registered investment company, or any affiliated person of that investment adviser, that holds shares of the investment company in a trustee or fiduciary capacity if that registered investment company consists solely of assets held in such capacities.

"(3) Safe harbor.—No investment adviser to a registered investment company or any affiliated person of such investment adviser shall be deemed to have acted unlawfully or to have breached a fiduciary duty under State or Federal law solely by reason of acting in accordance with clause (i), (ii), or (iii) of paragraph (1)(B).".

SEC. 223. CONFORMING CHANGE IN DEFINITION.

Section 2(a)(5) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(5)) is amended by striking "(A) a banking institution organized under the laws of the United States" and inserting "(A) a depository institution (as defined in section 3 of the Federal Deposit Insurance Act) or a branch or agency of a foreign bank (as such terms are defined in section 1(b) of the International Banking Act of 1978)".

SEC. 224. CONFORMING AMENDMENT.

Section 202 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2) is amended by adding at the end the following new subsection:

"(c) Consideration of Promotion of Efficiency, Competition, and Capital Formation.—Whenever pursuant to this title the Commission is engaged in rulemaking and is required to consider or determine whether an action is necessary or appropriate in the public interest, the Commission shall also consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation.".

SEC. 225. EFFECTIVE DATE.

This subtitle shall take effect 90 days after the date of the enactment of this Act.

Subtitle C—Securities and Exchange Commission Supervision of Investment Bank Holding Companies

SEC. 231. SUPERVISION OF INVESTMENT BANK HOLDING COMPANIES BY THE SECURITIES AND EXCHANGE COMMISSION.

(a) Amendment.—Section 17 of the Securities Exchange Act of 1934 (15 U.S.C. 78q) is amended—

(1) by redesignating subsection (i) as subsection (l); and

(2) by inserting after subsection (h) the following new subsections:

"(i) Investment Bank Holding Companies.—

"(1) ELECTIVE SUPERVISION OF AN INVESTMENT BANK HOLDING COMPANY NOT HAVING A BANK OR SAVINGS ASSOCIATION AFFILIATE.—

"(A) In general.—An investment bank holding company that is not—

"(i) an affiliate of a wholesale financial institution, an insured bank (other than an institution described in subparagraph (D), (F), or (G) of section 2(c)(2), or held under section 4(f), of the Bank Holding Company Act of 1956), or a savings association;

"(ii) a foreign bank, foreign company, or company that is described in section 8(a) of the International Banking Act of 1978; or

"(iii) a foreign bank that controls, directly or indirectly, a corporation chartered under section 25A of the Federal Reserve Act,

may elect to become supervised by filing with the Commission a notice of intention to become supervised, pursuant to subparagraph (B) of this paragraph. Any investment bank holding company filing such a notice shall be supervised in accordance with this section and comply with the rules promulgated by the Commission applicable to supervised investment bank holding companies.

"(B) NOTIFICATION OF STATUS AS A SUPERVISED INVESTMENT BANK HOLDING COMPANY.—An investment bank holding company that elects under subparagraph (A) to become supervised by the Commission shall file with the Commission a written notice of intention to become supervised by the Commission in such form and *containing such information and documents concerning such investment bank holding company as the Commission, by rule, may prescribe as necessary or appropriate in furtherance of the purposes of this section. Unless the Commission finds that such supervision is not necessary or appropriate in furtherance of the purposes of this section, such supervision shall become effective 45 days after the date of receipt of such written notice by the Commission, or within such shorter time period as the Commission, by rule or order, may determine.*

"(2) ELECTION NOT TO BE SUPERVISED BY THE COMMISSION AS AN INVESTMENT BANK HOLDING COMPANY.—

"(A) VOLUNTARY WITHDRAWAL.—A supervised investment bank holding company that is supervised pursuant to paragraph (1) may, upon such terms and conditions as the Commission deems necessary or appropriate, elect not to be supervised by the Commission by filing a written notice of withdrawal from Commission supervision. Such notice shall not become effective until one year after receipt by the Commission, or such shorter or longer period as the Commission deems necessary or appropriate to ensure effective supervision of the material risks to the supervised investment bank holding company and to the affiliated broker or dealer, or to prevent evasion of the purposes of this section.

"(B) DISCONTINUATION OF COMMISSION SUPERVISION.—If the Commission finds that any supervised investment bank holding company that is supervised pursuant to paragraph (1) is no longer in existence or has ceased to be an investment bank holding company, or if the Commission finds that continued supervision of such a supervised investment bank holding company is not consistent with the purposes of this section, the Commission may discontinue the supervision pursuant to a rule or order, if any, promulgated by the Commission under this section.

"(3) SUPERVISION OF INVESTMENT BANK HOLDING COMPANIES.—

"(A) RECORDKEEPING AND REPORTING.—

"(i) IN GENERAL.—Every supervised investment bank holding company and each affiliate thereof shall make and keep for prescribed periods such records, furnish copies thereof, and make such reports, as the Commission may require by rule, in order to keep the Commission informed as to—

"(I) the company's or affiliate's activities, financial condition, policies, systems for monitoring and controlling financial and operational risks, and transactions and relationships between any broker or dealer affiliate of the supervised investment bank holding company; and

"(II) the extent to which the company or affiliate has complied with the provisions of this Act and regulations prescribed and orders issued under this Act.

"(ii) FORM AND CONTENTS.—Such records and reports shall be prepared in such form and according to such specifications (including certification by an independent public accountant), as the Commission may require and shall be provided promptly at any time upon request by the Commission. Such records and reports may include—

"(I) a balance sheet and income statement;

"(II) an assessment of the consolidated capital of the supervised investment bank holding company;

"(III) an independent auditor's report attesting to the supervised investment bank holding company's compliance with its internal risk management and internal control objectives; and

"(IV) reports concerning the extent to which the company or affiliate has complied with the provisions of this title and any regulations prescribed and orders issued under this title.

"(B) USE OF EXISTING REPORTS.—

"(i) IN GENERAL.—The Commission shall, to the fullest extent possible, accept reports in fulfillment of the requirements under this paragraph that the supervised investment bank holding company or its affiliates have been required to provide to another appropriate regulatory agency or self-regulatory organization.

"(ii) AVAILABILITY.—A supervised investment bank holding company or an affiliate of such company shall provide to the Commission, at the request of the Commission, any report referred to in clause (i).

"(C) EXAMINATION AUTHORITY.—

"(i) FOCUS OF EXAMINATION AUTHORITY.—The Commission may make examinations of any supervised investment bank holding company and any affiliate of such company in order to—

"(I) inform the Commission regarding—

"(aa) the nature of the operations and financial condition of the supervised investment bank holding company and its affiliates;

"(bb) the financial and operational risks within the supervised investment bank holding company that may affect any broker or dealer controlled by such supervised investment bank holding company; and

"(cc) the systems of the supervised investment bank holding company and its affiliates for monitoring and controlling those risks; and

"(II) monitor compliance with the provisions of this subsection, provisions governing transactions and relationships between any broker or dealer affiliated with the supervised investment bank holding company and any of the company's other affiliates, and applicable provisions of subchapter II of chapter 53, title 31, United States Code (commonly referred to as the 'Bank Secrecy Act') and regulations thereunder.

"(ii) RESTRICTED FOCUS OF EXAMINATIONS.—The Commission shall limit the focus and scope of any examination of a supervised investment bank holding company to—

"(I) the company; and

"(II) any affiliate of the company that, because of its size, condition, or activities, the nature or size of the transactions between such affiliate and any affiliated broker or dealer, or the centralization of functions within the holding company system, could, in the discretion of the Commission, have a materially adverse effect on the operational or financial condition of the broker or dealer.

"(iii) DEFERENCE TO OTHER EXAMINATIONS.—For purposes of this subparagraph, the Commission shall, to the fullest extent possible, use the reports of examination of an institution described in subparagraph (D), (F), or (G) of section 2(c)(2), or held under section 4(f), of the Bank Holding Company Act of 1956 made by the appropriate regulatory agency, or of a licensed insurance company made by the appropriate State insurance regulator.

"(4) HOLDING COMPANY CAPITAL.—

"(A) AUTHORITY.—If the Commission finds that it is necessary to adequately supervise investment bank holding companies and their broker or dealer affiliates consistent with the purposes of this subsection, the Commission may adopt capital adequacy rules for supervised investment bank holding companies.

"(B) METHOD OF CALCULATION.—In developing rules under this paragraph:

"(i) DOUBLE LEVERAGE.—The Commission shall consider the use by the supervised investment bank holding company of debt and other liabilities to fund capital investments in affiliates.

"(ii) NO UNWEIGHTED CAPITAL RATIO.—The Commission shall not impose under this section a capital ratio that is not based on appropriate risk-weighting considerations.

"(iii) NO CAPITAL REQUIREMENT ON REGULATED ENTITIES.—The Commission shall not, by rule, regulation, guideline, order or otherwise, impose any capital adequacy provision on a nonbanking affiliate (other than a broker or dealer) that is in compliance with applicable capital requirements of another Federal regulatory authority or State insurance authority.

"(iv) APPROPRIATE EXCLUSIONS.—The Commission shall take full account of the applicable capital requirements of another Federal regulatory authority or State insurance regulator.

"(C) INTERNAL RISK MANAGEMENT MODELS.—The Commission may incorporate internal risk management models into its capital adequacy rules for supervised investment bank holding companies.

"(5) FUNCTIONAL REGULATION OF BANKING AND INSURANCE ACTIVITIES OF SUPERVISED INVESTMENT BANK HOLDING COMPANIES.—The Commission shall defer to—

"(A) the appropriate regulatory agency with regard to all interpretations of, and the enforcement of, applicable banking laws relating to the activities, conduct, ownership, and operations of banks, and institutions described in subparagraph (D), (F), and (G) of section 2(c)(2), or held under section 4(f), of the Bank Holding Company Act of 1956; and

"(B) the appropriate State insurance regulators with regard to all interpretations of, and the enforcement of, applicable State insurance laws relating to the activities, conduct, and operations of insurance companies and insurance agents.

"(6) DEFINITIONS.—For purposes of this subsection and subsection (j)—

"(A) the term 'investment bank holding company' means—

"(i) any person other than a natural person that owns or controls one or more brokers or dealers; and

"(ii) the associated persons of the investment bank holding company;

"(B) the term 'supervised investment bank holding company' means any investment bank holding company that is supervised by the Commission pursuant to this subsection;

"(C) the terms 'affiliate', 'bank', 'bank holding company', 'company', 'control', and 'savings association' have the same meanings as in section 2 of the Bank Holding Company Act of 1956;

"(D) the term 'insured bank' has the same meaning as in section 3 of the Federal Deposit Insurance Act;

"(E) the term 'foreign bank' has the same meaning as in section 1(b)(7) of the International Banking Act of 1978; and

"(F) the terms 'person associated with an investment bank holding company' and 'associated person of an investment bank holding company' mean any person directly or indirectly controlling, controlled by, or under common control with, an investment bank holding company.

"(j) COMMISSION BACKUP AUTHORITY.—

"(1) AUTHORITY.—The Commission may make inspections of any wholesale financial holding company that—

"(A) controls a wholesale financial institution;

"(B) is not a foreign bank; and

"(C) does not control an insured bank (other than an institution permitted under subparagraph (D), (F), or (G) of section 2(c)(2), or held under section 4(f), of the Bank Holding Company Act of 1956) or a savings association,

and any affiliate of such company, for the purpose of monitoring and enforcing compliance by the wholesale financial holding company with the Federal securities laws.

"(2) LIMITATION.—The Commission shall limit the focus and scope of any inspection under paragraph (1) to those transactions, policies, procedures, or records that are reasonably necessary to monitor and enforce compliance by the

wholesale financial holding company or any affiliate with the Federal securities laws.

"(3) DEFERENCE TO EXAMINATIONS.—To the fullest extent possible, the Commission shall use, for the purposes of this subsection, the reports of examinations—

"(A) made by the Board of Governors of the Federal Reserve System of any wholesale financial holding company that is supervised by the Board;

"(B) made by or on behalf of any State regulatory agency responsible for the supervision of an insurance company of any licensed insurance company; and

"(C) made by any Federal or State banking agency of any bank or institution described in subparagraph (D), (F), or (G) of section 2(c)(2), or held under section 4(f), of the Bank Holding Company Act of 1956.

"(4) NOTICE.—To the fullest extent possible, the Commission shall notify the appropriate regulatory agency prior to conducting an inspection of a wholesale financial institution or institution described in subparagraph (D), (F), or (G) of section 2(c)(2), or held under section 4(f), of the Bank Holding Company Act of 1956.

"(k) AUTHORITY TO LIMIT DISCLOSURE OF INFORMATION.—Notwithstanding any other provision of law, the Commission shall not be compelled to disclose any information required to be reported under subsection (h) or (i) or any information supplied to the Commission by any domestic or foreign regulatory agency that relates to the financial or operational condition of any associated person of a broker or dealer, investment bank holding company, or any affiliate of an investment bank holding company. Nothing in this subsection shall authorize the Commission to withhold information from Congress, or prevent the Commission from complying with a request for information from any other Federal department or agency or any self-regulatory organization requesting the information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the United States or the Commission. For purposes of section 552 of title 5, United States Code, this subsection shall be considered a statute described in subsection (b)(3)(B) of such section 552. In prescribing regulations to carry out the requirements of this subsection, the Commission shall designate information described in or obtained pursuant to subparagraphs (A), (B), and (C) of subsection (i)(5) as confidential information for purposes of section 24(b)(2) of this title.".

(b) CONFORMING AMENDMENTS.—

(1) Section 3(a)(34) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(34)) is amended by adding at the end the following new subparagraphs:

"(H) When used with respect to an institution described in subparagraph (D), (F), or (G) of section 2(c)(2), or held under section 4(f), of the Bank Holding Company Act of 1956—

"(i) the Comptroller of the Currency, in the case of a national bank or a bank in the District of Columbia examined by the Comptroller of the Currency;

"(ii) the Board of Governors of the Federal Reserve System, in the case of a State member bank of the Federal Reserve System or any corporation chartered under section 25A of the Federal Reserve Act;

"(iii) the Federal Deposit Insurance Corporation, in the case of any other bank the deposits of which are insured in accordance with the Federal Deposit Insurance Act; or

"(iv) the Commission in the case of all other such institutions.".

(2) Section 1112(e) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412(e)) is amended—

(A) by striking "this title" and inserting "law"; and

(B) by inserting ", examination reports" after "financial records".

Subtitle D—Studies

SEC. 241. STUDY OF METHODS TO INFORM INVESTORS AND CONSUMERS OF UNINSURED PRODUCTS.

Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Congress regarding the efficacy, costs, and benefits of requiring that any depository institution that accepts federally insured deposits and that, directly or through a contractual or other arrangement with a broker, dealer, or agent, buys from, sells to, or effects transactions for retail investors in securities or consumers of insurance to inform such investors and consumers through the use of a logo or seal that the security or insurance is not insured by the Federal Deposit Insurance Corporation.

SEC. 242. STUDY OF LIMITATION ON FEES ASSOCIATED WITH ACQUIRING FINANCIAL PRODUCTS.

Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Congress regarding the efficacy and benefits of uniformly limiting any commissions, fees, markups, or other costs incurred by customers in the acquisition of financial products.

TITLE III—INSURANCE

Subtitle A—State Regulation of Insurance

SEC. 301. STATE REGULATION OF THE BUSINESS OF INSURANCE.

The Act entitled "An Act to express the intent of the Congress with reference to the regulation of the business of insurance" and approved March 9, 1945 (15 U.S.C. 1011 et seq.), commonly referred to as the "McCarran-Ferguson Act") remains the law of the United States.

SEC. 302. MANDATORY INSURANCE LICENSING REQUIREMENTS.

No person or entity shall provide insurance in a State as principal or agent unless such person or entity is licensed as required by the appropriate insurance regulator of such State in accordance with the relevant State insurance law, subject to section 104 of this Act.

SEC. 303. FUNCTIONAL REGULATION OF INSURANCE.

The insurance sales activity of any person or entity shall be functionally regulated by the States, subject to section 104 of this Act.

SEC. 304. INSURANCE UNDERWRITING IN NATIONAL BANKS.

(a) IN GENERAL.—Except as provided in section 306, a national bank and the subsidiaries of a national bank may not provide insurance in a State as principal except that this prohibition shall not apply to authorized products.

(b) AUTHORIZED PRODUCTS.—For the purposes of this section, a product is authorized if—

(1) as of January 1, 1997, the Comptroller of the Currency had determined in writing that national banks may provide such product as principal, or national banks were in fact lawfully providing such product as principal;

(2) no court of relevant jurisdiction had, by final judgment, overturned a determination of the Comptroller of the Currency that national banks may provide such product as principal; and

(3) the product is not title insurance, or an annuity contract the income of which is subject to tax treatment under section 72 of the Internal Revenue Code of 1986.

(c) DEFINITION.—For purposes of this section, the term "insurance" means—

(1) any product regulated as insurance as of January 1, 1997, in accordance with the relevant State insurance law, in the State in which the product is provided;

(2) any product first offered after January 1, 1997, which—

(A) a State insurance regulator determines shall be regulated as insurance in the State in which the product is provided because the product insures, guarantees, or indemnifies against liability, loss of life, loss of health, or loss through damage to or destruction of property, including, but not limited to, surety bonds, life insurance, health insurance, title insurance, and property and casualty insurance (such as private passenger or commercial automobile, homeowners, mortgage, commercial multiperil, general liability, professional liability, workers' compensation, fire and allied lines, farm owners multiperil, aircraft, fidelity, surety, medical malpractice, ocean marine, inland marine, and boiler and machinery insurance); and

(B) is not a product or service of a bank that is—

(i) a deposit product;

(ii) a loan, discount, letter of credit, or other extension of credit;

(iii) a trust or other fiduciary service;

(iv) a qualified financial contract (as defined in or determined pursuant to section 11(e)(8)(D)(i) of the Federal Deposit Insurance Act); or

(v) a financial guaranty, except that this subparagraph (B) shall not apply to a product that includes an insurance component such that if the product is offered or proposed to be offered by the bank as principal—

(I) it would be treated as a life insurance contract under section 7702 of the Internal Revenue Code of 1986; or

(II) in the event that the product is not a letter of credit or other similar extension of credit, a qualified financial contract, or a financial guaranty, it would qualify for treatment for losses incurred with respect to such product under section 832(b)(5) of the Internal Revenue Code of 1986, if the bank were subject to tax as an insurance company under section 831 of that Code; or

(3) any annuity contract, the income on which is subject to tax treatment under section 72 of the Internal Revenue Code of 1986.

SEC. 305. TITLE INSURANCE ACTIVITIES OF NATIONAL BANKS AND THEIR AFFILIATES.

(a) AUTHORITY.—Notwithstanding any other provision of this Act or any other law, no national bank, and no subsidiary of a national bank, may engage in any activity involving the underwriting of title insurance, other than title insurance underwriting activities in which such national bank or subsidiary was actively and lawfully engaged before the date of the enactment of this Act.

(b) INSURANCE AFFILIATE.—In the case of a national bank which has an affiliate which provides insurance as principal and is not a subsidiary of the bank, the national bank and any subsidiary of the national bank may not engage in any activity involving the underwriting of title insurance pursuant to subsection (a).

(c) INSURANCE SUBSIDIARY.—In the case of a national bank which has a subsidiary which provides insurance as principal and has no affiliate which provides insurance as principal and is not a subsidiary, the national bank may not engage in any activity involving the underwriting of title insurance pursuant to subsection (a).

(d) "AFFILIATE" AND "SUBSIDIARY" DEFINED.—For purposes of this section, the terms "affiliate" and "subsidiary" have the same meanings as in section 2 of the Bank Holding Company Act of 1956.

SEC. 306. EXPEDITED AND EQUALIZED DISPUTE RESOLUTION FOR FINANCIAL REGULATORS.

(a) FILING IN COURT OF APPEAL.—In the case of a regulatory conflict between a State insurance regulator and a Federal regulator as to *whether any product is or is not insurance as defined in section 304(c) of this Act, or whether a State statute, regulation, order, or interpretation regarding any insurance sales or solicitation activity is properly treated as preempted under Federal law, either regulator may seek expedited judicial review of such determination by the United States Court of Appeals for the circuit in which the State is located or in the United States Court of Appeals for the District of Columbia Circuit by filing a petition for review in such court.*

(b) Expedited Review.—The United States court of appeals in which a petition for review is filed in accordance with paragraph (1) shall complete all action on such petition, including rendering a judgment, before the end of the 60-day period beginning on the date such petition is filed, unless all parties to such proceeding agree to any extension of such period.

(c) Supreme Court Review.—Any request for certiorari to the Supreme Court of the United States of any judgment of a United States court of appeals with respect to a petition for review under this section shall be filed with the United States Supreme Court as soon as practicable after such judgment is issued.

(d) Statute of Limitation.—No action may be filed under this section challenging an order, ruling, determination, or other action of a Federal financial regulator or State insurance regulator after the later of—

(1) the end of the 12-month period beginning on the date the first public notice is made of such order, ruling, or determination in its final form; or

(2) the end of the 6-month period beginning on the date such order, ruling, or determination takes effect.

(e) Standard of Review.—The court shall decide an action filed under this section based on its review on the merits of all questions presented under State and Federal law, including the nature of the product or activity and the history and purpose of its regulation under State and Federal law, without unequal deference.

SEC. 307. CONSUMER PROTECTION REGULATIONS.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 45. CONSUMER PROTECTION REGULATIONS.

"(a) Regulations Required.—

"(1) In general.—The Federal banking agencies shall prescribe and publish in final form, before the end of the 1-year period beginning on the date of the enactment of this Act, consumer protection regulations (which the agencies jointly determine to be appropriate) that—

"(A) apply to retail sales practices, solicitations, advertising, or offers of any insurance product by any insured depository institution or wholesale financial institution or any person who is engaged in such activities at an office of the institution or on behalf of the institution; and

"(B) are consistent with the requirements of this Act and provide such additional protections for consumers to whom such sales, solicitations, advertising, or offers are directed as the agency determines to be appropriate.

"(2) Applicability to subsidiaries.—The regulations prescribed pursuant to paragraph (1) shall extend such protections to any subsidiaries of an insured depository institution, as deemed appropriate by the regulators referred to in paragraph (3), where such extension is determined to be necessary to ensure the consumer protections provided by this section.

"(3) Consultation and joint regulations.—The Federal banking agencies shall consult with each other and prescribe joint regulations pursuant to paragraph (1), after consultation with the State insurance regulators, as appropriate.

"(b) Sales Practices.—The regulations prescribed pursuant to subsection (a) shall include anticoercion rules applicable to the sale of insurance products which prohibit an insured depository institution from engaging in any practice that would lead a consumer to believe an extension of credit, in violation of section 106(b) of the Bank Holding Company Act Amendments of 1970, is conditional upon—

"(1) the purchase of an insurance product from the institution or any of its affiliates or subsidiaries; or

"(2) an agreement by the consumer not to obtain, or a prohibition on the consumer from obtaining, an insurance product from an unaffiliated entity.

"(c) Disclosures and Advertising.—The regulations prescribed pursuant to subsection (a) shall include the following provisions relating to disclosures and advertising in connection with the initial purchase of an insurance product:

"(1) Disclosures.—

"(A) In general.—Requirements that the following disclosures be made orally and in writing before the completion of the initial sale and, in the case of clause (iv), at the time of application for an extension of credit:

"(i) Uninsured status.—As appropriate, the product is not insured by the Federal Deposit Insurance Corporation, the United States Government, or the insured depository institution.

"(ii) Investment risk.—In the case of a variable annuity or other insurance product which involves an investment risk, that there is an investment risk associated with the product, including possible loss of value.

"(iii) Coercion.—The approval of an extension of credit may not be conditioned on—

"(I) the purchase of an insurance product from the institution in which the application for credit is pending or any of its affiliates or subsidiaries; or

"(II) an agreement by the consumer not to obtain, or a prohibition on the consumer from obtaining, an insurance product from an unaffiliated entity.

"(B) Making disclosure readily understandable.—Regulations prescribed under subparagraph (A) shall encourage the use of disclosure that is conspicuous, simple, direct, and readily understandable, such as the following:

"(i) 'NOT FDIC–INSURED'.

"(ii) 'NOT GUARANTEED BY THE BANK'.

"(iii) 'MAY GO DOWN IN VALUE'.

"(C) Adjustments for alternative methods of purchase.—In prescribing the requirements under subparagraphs (A) and (D), necessary adjustments shall be made for purchase in person, by telephone, or by electronic media to provide for the most appropriate and complete form of disclosure and acknowledgments.

"(D) Consumer acknowledgment.—A requirement that an insured depository institution shall require any person selling an insurance product at any office of, or on behalf of, the institution to obtain, at the time a consumer receives the disclosures required under this paragraph or at the time of the initial purchase by the consumer of such product, an acknowledgment by such consumer of the receipt of the disclosure required under this subsection with respect to such product.

"(2) Prohibition on misrepresentations.—A prohibition on any practice, or any advertising, at any office of, or on behalf of, the insured depository institution, or any subsidiary as appropriate, which could mislead any person or otherwise cause a reasonable person to reach an erroneous belief with respect to—

"(A) the uninsured nature of any insurance product sold, or offered for sale, by the institution or any subsidiary of the institution; or

"(B) in the case of a variable annuity or other insurance product that involves an investment risk, the investment risk associated with any such product.

"(d) Separation of Banking and Nonbanking Activities.—

"(1) Regulations required.—The regulations prescribed pursuant to subsection (a) shall include such provisions as the Federal banking agencies consider appropriate to ensure that the routine acceptance of deposits is kept, to the extent practicable, physically segregated from insurance product activity.

"(2) Requirements.—Regulations prescribed pursuant to paragraph (1) shall include the following requirements:

"(A) Separate setting.—A clear delineation of the setting in which, and the circumstances under which, transactions involving insurance products should be conducted in a location physically segregated from an area where retail deposits are routinely accepted.

"(B) Referrals.—Standards which permit any person accepting deposits from the public in an area where such transactions are routinely conducted in an insured depository institution to refer a customer who seeks to purchase any insurance product to a qualified person who sells such product, only if the person making the referral receives no more than a one-time nominal fee of a fixed dollar amount for each referral that does not depend on whether the referral results in a transaction.

"(C) Qualification and licensing requirements.—Standards prohibiting any insured depository institution from permitting any person to sell or offer for sale any insurance product in any part of any office of the institution, or on behalf of the institution, unless such person is appropriately qualified and licensed.

"(e) Domestic Violence Discrimination Prohibition.—

"(1) In general.—In the case of an applicant for, or an insured under, any insurance product described in paragraph (2), the status of the applicant or insured as a victim of domestic violence, or as a provider of services to victims of domestic violence, shall not be considered as a criterion in any decision with regard to insurance underwriting, pricing, renewal, or scope of coverage of insurance policies, or payment of insurance claims, except as required or expressly permitted under State law.

"(2) Scope of application.—The prohibition contained in paragraph (1) shall apply to any insurance product which is sold or offered for sale, as principal, agent, or broker, by any insured depository institution or any person who is engaged in such activities at an office of the institution or on behalf of the institution.

"(3) Sense of the Congress.—It is the sense of the Congress that, by the end of the 30-month period beginning on the date of the enactment of this Act, the States should enact prohibitions against discrimination with respect to insurance products that are at least as strict as the prohibitions contained in paragraph (1).

"(4) Domestic violence defined.—For purposes of this subsection, the term 'domestic violence' means the occurrence of 1 or more of the following acts by a current or former family member, household member, intimate partner, or caretaker:

"(A) Attempting to cause or causing or threatening another person physical harm, severe emotional distress, psychological trauma, rape, or sexual assault.

"(B) Engaging in a course of conduct or repeatedly committing acts toward another person, including following the person without proper authority, under circumstances that place the person in reasonable fear of bodily injury or physical harm.

"(C) Subjecting another person to false imprisonment.

"(D) Attempting to cause or cause damage to property so as to intimidate or attempt to control the behavior of another person.

"(f) CONSUMER GRIEVANCE PROCESS.—The Federal banking agencies shall jointly establish a consumer complaint mechanism, for receiving and expeditiously addressing consumer complaints alleging a violation of regulations issued under the section, which shall—

"(1) establish a group within each regulatory agency to receive such complaints;

"(2) develop procedures for investigating such complaints;

"(3) develop procedures for informing consumers of rights they may have in connection with such complaints; and

"(4) develop procedures for addressing concerns raised by such complaints, as appropriate, including procedures for the recovery of losses to the extent appropriate.

"(g) EFFECT ON OTHER AUTHORITY.—

"(1) IN GENERAL.—No provision of this section shall be construed as granting, limiting, or otherwise affecting—

"(A) any authority of the Securities and Exchange Commission, any self-regulatory organization, the Municipal Securities Rulemaking Board, or the Secretary of the Treasury under any Federal securities law; or

"(B) except as provided in paragraph (2), any authority of any State insurance commissioner or other State authority under any State law.

"(2) COORDINATION WITH STATE LAW.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), regulations prescribed by a Federal banking agency under this section shall not apply to retail sales, solicitations, advertising, or offers of any insurance product by any insured depository institution or wholesale financial institution or to any person who is engaged in such activities at an office of such institution or on behalf of the institution, in a State where the State has in effect statutes, regulations, orders, or interpretations, that are inconsistent with or contrary to the regulations prescribed by the Federal banking agencies.

"(B) PREEMPTION.—If, with respect to any provision of the regulations prescribed under this section, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Board of Directors of the Federal Deposit Insurance Corporation determine jointly that the protection afforded by such provision for consumers is greater than the protection provided by a comparable provision of the statutes, regulations, orders, or interpretations referred to in subparagraph (A) of any State, such provision of the regulations prescribed under this section shall supersede the comparable provision of such State statute, regulation, order, or interpretation.

"(h) INSURANCE PRODUCT DEFINED.—For purposes of this section, the term 'insurance product' includes an annuity contract the income of which is subject to tax treatment under section 72 of the Internal Revenue Code of 1986.".

SEC. 308. CERTAIN STATE AFFILIATION LAWS PREEMPTED FOR INSURANCE COMPANIES AND AFFILIATES.

Except as provided in section 104(a)(2), no State may, by law, regulation, order, interpretation, or otherwise—

(1) prevent or significantly interfere with the ability of any insurer, or any affiliate of an insurer (whether such affiliate is organized as a stock company, mutual holding company, or otherwise), to become a financial holding company or to acquire control of an insured depository institution;

(2) limit the amount of an insurer's assets that may be invested in the voting securities of an insured depository institution (or any company which controls such institution), except that the laws of an insurer's State of domicile may limit the amount of such investment to an amount that is not less than 5 percent of the insurer's admitted assets; or

(3) prevent, significantly interfere with, or have the authority to review, approve, or disapprove a plan of reorganization by which an insurer proposes to reorganize from mutual form to become a stock insurer (whether as a direct or indirect subsidiary of a mutual holding company or otherwise) unless such State is the State of domicile of the insurer.

Subtitle B—National Association of Registered Agents and Brokers

SEC. 321. STATE FLEXIBILITY IN MULTISTATE LICENSING REFORMS.

(a) IN GENERAL.—The provisions of this subtitle shall take effect unless, not later than 3 years after the date of enactment of this Act, at least a majority of the States—

(1) have enacted uniform laws and regulations governing the licensure of individuals and entities authorized to sell and solicit the purchase of insurance within the State; or

(2) have enacted reciprocity laws and regulations governing the licensure of nonresident individuals and entities authorized to sell and solicit insurance within those States.

(b) UNIFORMITY REQUIRED.—States shall be deemed to have established the uniformity necessary to satisfy subsection (a)(1) if the States—

(1) establish uniform criteria regarding the integrity, personal qualifications, education, training, and experience of licensed insurance producers, including the qualification and training of sales personnel in ascertaining the appropriateness of a particular insurance product for a prospective customer;

(2) establish uniform continuing education requirements for licensed insurance producers;

(3) establish uniform ethics course requirements for licensed insurance producers in conjunction with the continuing education requirements under paragraph (2);

(4) establish uniform criteria to ensure that an insurance product, including any annuity contract, sold to a consumer is suitable and appropriate for the consumer based on financial information disclosed by the consumer; and

(5) do not impose any requirement upon any insurance producer to be licensed or otherwise qualified to do business as a nonresident that has the effect of limiting or conditioning that producer's activities because of its residence or place of operations, except that counter-signature requirements imposed on nonresident producers shall not be deemed to have the effect of limiting or conditioning a producer's activities because of its residence or place of operations under this section.

(c) RECIPROCITY REQUIRED.—States shall be deemed to have established the reciprocity required to satisfy subsection (a)(2) if the following conditions are met:

(1) ADMINISTRATIVE LICENSING PROCEDURES.—At least a majority of the States permit a producer that has a resident license for selling or soliciting the purchase of insurance in its home State to receive a license to sell or solicit the purchase of insurance in such majority of States as a nonresident to the same extent that such producer is permitted to sell or solicit the purchase of insurance in its State, if the producer's home State also awards such licenses on such a reciprocal basis, without satisfying any additional requirements other than submitting—

(A) a request for licensure;

(B) the application for licensure that the producer submitted to its home State;

(C) proof that the producer is licensed and in good standing in its home State; and

(D) the payment of any requisite fee to the appropriate authority.

(2) CONTINUING EDUCATION REQUIREMENTS.—A majority of the States accept an insurance producer's satisfaction of its home State's continuing education requirements for licensed insurance producers to satisfy the States' own continuing education requirements if the producer's home State also recognizes the satisfaction of continuing education requirements on such a reciprocal basis.

(3) NO LIMITING NONRESIDENT REQUIREMENTS.—A majority of the States do not impose any requirement upon any insurance producer to be licensed or otherwise qualified to do business as a nonresident that has the effect of limiting or conditioning that producer's activities because of its residence or place of operations, except that countersignature requirements imposed on nonresident producers shall not be deemed to have the effect of limiting or conditioning a producer's activities because of its residence or place of operations under this section.

(4) RECIPROCAL RECIPROCITY.—Each of the States that satisfies paragraphs (1), (2), and (3) grants reciprocity to residents of all of the other States that satisfy such paragraphs.

(d) DETERMINATION.—

(1) NAIC DETERMINATION.—At the end of the 3-year period beginning on the date of the enactment of this Act, the National Association of Insurance Commissioners shall determine, in consultation with the insurance commissioners or chief insurance regulatory officials of the States, whether the uniformity or reciprocity required by subsections (b) and (c) has been achieved.

(2) JUDICIAL REVIEW.—The appropriate United States district court shall have exclusive jurisdiction over any challenge to the National Association of Insurance Commissioners' determination under this section and such court shall apply the standards set forth in section 706 of title 5, United States Code, when reviewing any such challenge.

(e) CONTINUED APPLICATION.—If, at any time, the uniformity or reciprocity required by subsections (b) and (c) no longer exists, the provisions of this subtitle shall take effect 2 years after that date, unless the uniformity or reciprocity required by those provisions is satisfied before the expiration of that 2-year period.

(f) SAVINGS PROVISION.—No provision of this section shall be construed as requiring that any law, regulation, provision, or action of any State which purports to regulate insurance producers, including any such law, regulation, provision, or action which purports to regulate unfair trade practices or establish consumer protections, including countersignature laws, be altered or amended in order to satisfy the uniformity or reciprocity required by subsections (b) and (c), unless any such law, regulation, provision, or action is inconsistent with a specific requirement of any such subsection and then only to the extent of such inconsistency.

(g) UNIFORM LICENSING.—Nothing in this section shall be construed to require any State to adopt new or additional licensing requirements to achieve the uniformity necessary to satisfy subsection (a)(1).

SEC. 322. NATIONAL ASSOCIATION OF REGISTERED AGENTS AND BROKERS.

(a) ESTABLISHMENT.—There is established the National Association of Registered Agents and Brokers (hereafter in this subtitle referred to as the "Association").

(b) STATUS.—The Association shall—

(1) be a nonprofit corporation;

(2) have succession until dissolved by an Act of Congress;

(3) not be an agent or instrumentality of the United States Government; and

(4) except as otherwise provided in this Act, be subject to, and have all the powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29y–1001 et seq.).

SEC. 323. PURPOSE.

The purpose of the Association shall be to provide a mechanism through which uniform licensing, appointment, continuing education, and other insurance producer sales qualification requirements and conditions can be adopted and applied on a multistate basis, while preserving the right of States to license, supervise, and discipline insurance producers and to prescribe and enforce laws and regulations with regard to insurance-related consumer protection and unfair trade practices.

SEC. 324. RELATIONSHIP TO THE FEDERAL GOVERNMENT.

The Association shall be subject to the supervision and oversight of the National Association of Insurance Commissioners (hereafter in this subtitle referred to as the "NAIC").

SEC. 325. MEMBERSHIP.

(a) ELIGIBILITY.—

(1) IN GENERAL.—Any State-licensed insurance producer shall be eligible to become a member in the Association.

(2) INELIGIBILITY FOR SUSPENSION OR REVOCATION OF LICENSE.—Notwithstanding paragraph (1), a State-licensed insurance producer shall not be eligible to become a member if a State insurance regulator has suspended or revoked such producer's license in that State during the 3-year period preceding the date on which such producer applies for membership.

(3) RESUMPTION OF ELIGIBILITY.—Paragraph (2) shall cease to apply to any insurance producer if—

(A) the State insurance regulator renews the license of such producer in the State in which the license was suspended or revoked; or

(B) the suspension or revocation is subsequently overturned.

(b) AUTHORITY TO ESTABLISH MEMBERSHIP CRITERIA.—The Association shall have the authority to establish membership criteria that—

(1) bear a reasonable relationship to the purposes for which the Association was established; and

(2) do not unfairly limit the access of smaller agencies to the Association membership.

(c) ESTABLISHMENT OF CLASSES AND CATEGORIES.—

(1) CLASSES OF MEMBERSHIP.—The Association may establish separate classes of membership, with separate criteria, if the Association reasonably determines that performance of different duties requires different levels of education, training, or experience.

(2) CATEGORIES.—The Association may establish separate categories of membership for individuals and for other persons. The establishment of any such categories of membership shall be based either on the types of licensing categories that exist under State laws or on the aggregate amount of business handled by an insurance producer. No special categories of membership, and no distinct membership criteria, shall be established for members which are insured depository institutions or wholesale financial institutions or for their employees, agents, or affiliates.

(d) MEMBERSHIP CRITERIA.—

(1) IN GENERAL.—The Association may establish criteria for membership which shall include standards for integrity, personal qualifications, education, training, and experience.

(2) MINIMUM STANDARD.—In establishing criteria under paragraph (1), the Association shall consider the highest levels of insurance producer qualifications established under the licensing laws of the States.

(e) EFFECT OF MEMBERSHIP.—Membership in the Association shall entitle the member to licensure in each State for which the member pays the requisite fees, including licensing fees and, where applicable, bonding requirements, set by such State.

(f) ANNUAL RENEWAL.—Membership in the Association shall be renewed on an annual basis.

(g) CONTINUING EDUCATION.—The Association shall establish, as a condition of membership, continuing education requirements which shall be comparable to or greater than the continuing education requirements under the licensing laws of a majority of the States.

(h) SUSPENSION AND REVOCATION.—The Association may—

(1) inspect and examine the records and offices of the members of the Association to determine compliance with the criteria for membership established by the Association; and

(2) suspend or revoke the membership of an insurance producer if—

(A) the producer fails to meet the applicable membership criteria of the Association; or

(B) the producer has been subject to disciplinary action pursuant to a final adjudicatory proceeding under the jurisdiction of a State insurance regulator, and the Association concludes that retention of membership in the Association would not be in the public interest.

(i) OFFICE OF CONSUMER COMPLAINTS.—

(1) IN GENERAL.—The Association shall establish an office of consumer complaints that shall—

(A) receive and investigate complaints from both consumers and State insurance regulators related to members of the Association; and

(B) recommend to the Association any disciplinary actions that the office considers appropriate, to the extent that any such recommendation is not inconsistent with State law.

(2) RECORDS AND REFERRALS.—The office of consumer complaints of the Association shall—

(A) maintain records of all complaints received in accordance with paragraph (1) and make such records available to the NAIC and to each State insurance regulator for the State of residence of the consumer who filed the complaint; and

(B) refer, when appropriate, any such complaint to any appropriate State insurance regulator.

(3) TELEPHONE AND OTHER ACCESS.—The office of consumer complaints shall maintain a toll-free telephone number for the purpose of this subsection and, as practicable, other alternative means of communication with consumers, such as an Internet home page.

SEC. 326. BOARD OF DIRECTORS.

(a) ESTABLISHMENT.—There is established the board of directors of the Association (hereafter in this subtitle referred to as the "Board") for the purpose of governing and supervising the activities of the Association and the members of the Association.

(b) POWERS.—The Board shall have such powers and authority as may be specified in the bylaws of the Association.

(c) COMPOSITION.—

(1) MEMBERS.—The Board shall be composed of 7 members appointed by the NAIC.

(2) REQUIREMENT.—At least 4 of the members of the Board shall have significant experience with the regulation of commercial lines of insurance in at least 1 of the 20 States in which the greatest total dollar amount of commercial-lines insurance is placed in the United States.

(3) INITIAL BOARD MEMBERSHIP.—

(A) IN GENERAL.—If, by the end of the 2-year period beginning on the date of enactment of this Act, the NAIC has not appointed the initial 7 members of the Board of the Association, the initial Board shall consist of the 7 State insurance regulators of the 7 States with the greatest total dollar amount of commercial-lines insurance in place as of the end of such period.

(B) ALTERNATE COMPOSITION.—If any of the State insurance regulators described in subparagraph (A) declines to serve on the Board, the State insurance regulator with the next greatest total dollar amount of commercial-lines insurance in place, as determined by the NAIC as of the end of such period, shall serve as a member of the Board.

(C) INOPERABILITY.—If fewer than 7 State insurance regulators accept appointment to the Board, the Association shall be established without NAIC oversight pursuant to section 332.

(d) TERMS.—The term of each director shall, after the initial appointment of the members of the Board, be for 3 years, with ⅓ of the directors to be appointed each year.

(e) BOARD VACANCIES.—A vacancy on the Board shall be filled in the same manner as the original appointment of the initial Board for the remainder of the term of the vacating member.

(f) MEETINGS.—The Board shall meet at the call of the chairperson, or as otherwise provided by the bylaws of the Association.

SEC. 327. OFFICERS.

(a) IN GENERAL.—

(1) POSITIONS.—The officers of the Association shall consist of a chairperson and a vice chairperson of the Board, a president, secretary, and treasurer of the Association, and such other officers and assistant officers as may be deemed necessary.

(2) MANNER OF SELECTION.—Each officer of the Board and the Association shall be elected or appointed at such time and in such manner and for such terms not exceeding 3 years as may be prescribed in the bylaws of the Association.

(b) CRITERIA FOR CHAIRPERSON.—Only individuals who are members of the NAIC shall be eligible to serve as the chairperson of the board of directors.

SEC. 328. BYLAWS, RULES, AND DISCIPLINARY ACTION.

(a) ADOPTION AND AMENDMENT OF BYLAWS.—

(1) COPY REQUIRED TO BE FILED WITH THE NAIC.—The board of directors of the Association shall file with the NAIC a copy of the proposed bylaws or any proposed amendment to the bylaws, accompanied by a concise general statement of the basis and purpose of such proposal.

(2) EFFECTIVE DATE.—Except as provided in paragraph (3), any proposed bylaw or proposed amendment shall take effect—

(A) 30 days after the date of the filing of a copy with the NAIC;

(B) upon such later date as the Association may designate; or

(C) such earlier date as the NAIC may determine.

(3) DISAPPROVAL BY THE NAIC.—Notwithstanding paragraph (2), a proposed bylaw or amendment shall not take effect if, after public notice and opportunity to participate in a public hearing—

(A) the NAIC disapproves such proposal as being contrary to the public interest or contrary to the purposes of this subtitle and provides notice to the Association setting forth the reasons for such disapproval; or

(B) the NAIC finds that such proposal involves a matter of such significant public interest that public comment should be obtained, in which case it may, after notifying the Association in writing of such finding, require that the procedures set forth in subsection (b) be followed with respect to such proposal, in the same manner as if such proposed bylaw change were a proposed rule change within the meaning of such paragraph.

(b) ADOPTION AND AMENDMENT OF RULES.—

(1) FILING PROPOSED REGULATIONS WITH THE NAIC.—

(A) IN GENERAL.—The board of directors of the Association shall file with the NAIC a copy of any proposed rule or any proposed amendment to a rule of the Association which shall be accompanied by a concise general statement of the basis and purpose of such proposal.

(B) OTHER RULES AND AMENDMENTS INEFFECTIVE.—No proposed rule or amendment shall

take effect unless approved by the NAIC or otherwise permitted in accordance with this paragraph.

(2) INITIAL CONSIDERATION BY THE NAIC.—Not later than 35 days after the date of publication of notice of filing of a proposal, or before the end of such longer period not to exceed 90 days as the NAIC may designate after such date, if the NAIC finds such longer period to be appropriate and sets forth its reasons for so finding, or as to which the Association consents, the NAIC shall—

(A) by order approve such proposed rule or amendment; or

(B) institute proceedings to determine whether such proposed rule or amendment should be modified or disapproved.

(3) NAIC PROCEEDINGS.—

(A) IN GENERAL.—Proceedings instituted by the NAIC with respect to a proposed rule or amendment pursuant to paragraph (2) shall—

(i) include notice of the grounds for disapproval under consideration;

(ii) provide opportunity for hearing; and

(iii) be concluded not later than 180 days after the date of the Association's filing of such proposed rule or amendment.

(B) DISPOSITION OF PROPOSAL.—At the conclusion of any proceeding under subparagraph (A), the NAIC shall, by order, approve or disapprove the proposed rule or amendment.

(C) EXTENSION OF TIME FOR CONSIDERATION.—The NAIC may extend the time for concluding any proceeding under subparagraph (A) for—

(i) not more than 60 days if the NAIC finds good cause for such extension and sets forth its reasons for so finding; or

(ii) for such longer period as to which the Association consents.

(4) STANDARDS FOR REVIEW.—

(A) GROUNDS FOR APPROVAL.—The NAIC shall approve a proposed rule or amendment if the NAIC finds that the rule or amendment is in the public interest and is consistent with the purposes of this Act.

(B) APPROVAL BEFORE END OF NOTICE PERIOD.—The NAIC shall not approve any proposed rule before the end of the 30-day period beginning on the date on which the Association files proposed rules or amendments in accordance with paragraph (1), unless the NAIC finds good cause for so doing and sets forth the reasons for so finding.

(5) ALTERNATE PROCEDURE.—

(A) IN GENERAL.—Notwithstanding any provision of this subsection other than subparagraph (B), a proposed rule or amendment relating to the administration or organization of the Association may take effect—

(i) upon the date of filing with the NAIC, if such proposed rule or amendment is designated by the Association as relating solely to matters which the NAIC, consistent with the public interest and the purposes of this subsection, determines by rule do not require the procedures set forth in this paragraph; or

(ii) upon such date as the NAIC shall for good cause determine.

(B) ABROGATION BY THE NAIC.—

(i) IN GENERAL.—At any time within 60 days after the date of filing of any proposed rule or amendment under subparagraph (A)(i) or clause (ii) of this subparagraph, the NAIC may repeal such rule or amendment and require that the rule or amendment be refiled and reviewed in accordance with this paragraph, if the NAIC finds that such action is necessary or appropriate in the public interest, for the protection of insurance producers or policyholders, or otherwise in furtherance of the purposes of this subtitle.

(ii) EFFECT OF RECONSIDERATION BY THE NAIC.—Any action of the NAIC pursuant to clause (i) shall—

(I) not affect the validity or force of a rule change during the period such rule or amendment was in effect; and

(II) not be considered to be a final action.

(c) ACTION REQUIRED BY THE NAIC.—The NAIC may, in accordance with such rules as the NAIC determines to be necessary or appropriate to the public interest or to carry out the purposes of this subtitle, require the Association to adopt, amend, or repeal any bylaw, rule or amendment of the Association, whenever adopted.

(d) DISCIPLINARY ACTION BY THE ASSOCIATION.—

(1) SPECIFICATION OF CHARGES.—In any proceeding to determine whether membership shall be denied, suspended, revoked, and not renewed (hereafter in this section referred to as a "disciplinary action"), the Association shall bring specific charges, notify such member of such charges, give the member an opportunity to defend against the charges, and keep a record.

(2) SUPPORTING STATEMENT.—A determination to take disciplinary action shall be supported by a statement setting forth—

(A) any act or practice in which such member has been found to have been engaged;

(B) the specific provision of this subtitle, the rules or regulations under this subtitle, or the rules of the Association which any such act or practice is deemed to violate; and

(C) the sanction imposed and the reason for such sanction.

(e) NAIC REVIEW OF DISCIPLINARY ACTION.—

(1) NOTICE TO THE NAIC.—If the Association orders any disciplinary action, the Association shall promptly notify the NAIC of such action.

(2) REVIEW BY THE NAIC.—Any disciplinary action taken by the Association shall be subject to review by the NAIC—

(A) on the NAIC's own motion; or

(B) upon application by any person aggrieved by such action if such application is filed with the NAIC not more than 30 days after the later of—

(i) the date the notice was filed with the NAIC pursuant to paragraph (1); or

(ii) the date the notice of the disciplinary action was received by such aggrieved person.

(f) EFFECT OF REVIEW.—The filing of an application to the NAIC for review of a disciplinary action, or the institution of review by the NAIC on the NAIC's own motion, shall not operate as a stay of disciplinary action unless the NAIC otherwise orders.

(g) SCOPE OF REVIEW.—

(1) IN GENERAL.—In any proceeding to review such action, after notice and the opportunity for hearing, the NAIG shall—

(A) determine whether the action should be taken;

(B) affirm, modify, or rescind the disciplinary sanction; or

(C) remand to the Association for further proceedings.

(2) DISMISSAL OF REVIEW.—The NAIC may dismiss a proceeding to review disciplinary action if the NAIC finds that—

(A) the specific grounds on which the action is based exist in fact;

(B) the action is in accordance with applicable rules and regulations; and

(C) such rules and regulations are, and were, applied in a manner consistent with the purposes of this subtitle.

SEC. 329. ASSESSMENTS.

(a) INSURANCE PRODUCERS SUBJECT TO ASSESSMENT.—The Association may establish such application and membership fees as the Association finds necessary to cover the costs of its operations, including fees made reimbursable to the NAIC under subsection (b), except that, in setting such fees, the Association may not discriminate against smaller insurance producers.

(b) NAIC ASSESSMENTS.—The NAIC may assess the Association for any costs that the NAIC incurs under this subtitle.

SEC. 330. FUNCTIONS OF THE NAIC.

(a) ADMINISTRATIVE PROCEDURE.—Determinations of the NAIC, for purposes of making rules pursuant to section 328, shall be made after appropriate notice and opportunity for a hearing and for submission of views of interested persons.

(b) EXAMINATIONS AND REPORTS.—

(1) The NAIC may make such examinations and inspections of the Association and require the Association to furnish to the NAIC such reports and records or copies thereof as the NAIC may consider necessary or appropriate in the public interest or to effectuate the purposes of this subtitle.

(2) As soon as practicable after the close of each fiscal year, the Association shall submit to the NAIC a written report regarding the conduct of its business, and the exercise of the other rights and powers granted by this subtitle, during such fiscal year. Such report shall include financial statements setting forth the financial position of the Association at the end of such fiscal year and the results of its operations (including the source and application of its funds) for such fiscal year. The NAIC shall transmit such report to the President and the Congress with such comment thereon as the NAIC determines to be appropriate.

SEC. 331. LIABILITY OF THE ASSOCIATION AND THE DIRECTORS, OFFICERS, AND EMPLOYEES OF THE ASSOCIATION.

(a) IN GENERAL.—The Association shall not be deemed to be an insurer or insurance producer within the meaning of any State law, rule, regulation, or order regulating or taxing insurers, insurance producers, or other entities engaged in the business of insurance, including provisions imposing premium taxes, regulating insurer solvency or financial condition, establishing guaranty funds and levying assessments, or requiring claims settlement practices.

(b) LIABILITY OF THE ASSOCIATION, ITS DIRECTORS, OFFICERS, AND EMPLOYEES.—Neither the Association nor any of its directors, officers, or employees shall have any liability to any person for any action taken or omitted in good faith under or in connection with any matter subject to this subtitle.

SEC. 332. ELIMINATION OF NAIC OVERSIGHT.

(a) IN GENERAL.—The Association shall be established without NAIC oversight and the provisions set forth in section 324, subsections (a), (b), (c), and (e) of section 328, and sections 329(b) and 330 of this subtitle shall cease to be effective if, at the end of the 2-year period beginning on the date on which the provisions of this subtitle take effect pursuant to section 321—

(1) at least a majority of the States representing at least 50 percent of the total United States commercial-lines insurance premiums have not satisfied the uniformity or reciprocity requirements of subsections (a) and (b) of section 321; and

(2) the NAIC has not approved the Association's bylaws as required by section 328 or is unable to operate or supervise the Association, or the Association is not conducting its activities as required under this Act.

(b) BOARD APPOINTMENTS.—If the repeals required by subsection (a) are implemented, the following shall apply:

(1) GENERAL APPOINTMENT POWER.—The President, with the advice and consent of the United States Senate, shall appoint the members of the Association's Board established under section 326 from lists of candidates recommended to the President by the National Association of Insurance Commissioners.

(2) PROCEDURES FOR OBTAINING NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS APPOINTMENT RECOMMENDATIONS.—

(A) Initial determination and recommendations.—After the date on which the provisions of subsection (a) take effect, the NAIC shall, not later than 60 days thereafter, provide a list of recommended candidates to the President. If the NAIC fails to provide a list by that date, or if any list that is provided does not include at least 14 recommended candidates or comply with the requirements of section 326(c), the President shall, with the advice and consent of the United States Senate, make the requisite appointments without considering the views of the NAIC.

(B) Subsequent appointments.—After the initial appointments, the NAIC shall provide a list of at least 6 recommended candidates for the Board to the President by January 15 of each subsequent year. If the NAIC fails to provide a list by that date, or if any list that is provided does not include at least 6 recommended candidates or comply with the requirements of section 326(c), the President, with the advice and consent of the Senate, shall make the requisite appointments without considering the views of the NAIC.

(C) Presidential oversight.—

(i) Removal.—If the President determines that the Association is not acting in the interests of the public, the President may remove the entire existing Board for the remainder of the term to which the members of the Board were appointed and appoint, with the advice and consent of the Senate, new members to fill the vacancies on the Board for the remainder of such terms.

(ii) Suspension of rules or actions.—The President, or a person designated by the President for such purpose, may suspend the effectiveness of any rule, or prohibit any action, of the Association which the President or the designee determines is contrary to the public interest.

(c) Annual Report.—As soon as practicable after the close of each fiscal year, the Association shall submit to the President and to the Congress a written report relative to the conduct of its business, and the exercise of the other rights and powers granted by this subtitle, during such fiscal year. Such report shall include financial statements setting forth the financial position of the Association at the end of such fiscal year and the results of its operations (including the source and application of its funds) for such fiscal year.

SEC. 333. RELATIONSHIP TO STATE LAW.

(a) Preemption of State Laws.—State laws, regulations, provisions, or other actions purporting to regulate insurance producers shall be preempted as provided in subsection (b).

(b) Prohibited Actions.—No State shall—

(1) impede the activities of, take any action against, or apply any provision of law or regulation to, any insurance producer because that insurance producer or any affiliate plans to become, has applied to become, or is a member of the Association;

(2) impose any requirement upon a member of the Association that it pay different fees to be licensed or otherwise qualified to do business in that State, including bonding requirements, based on its residency;

(3) impose any licensing, appointment, integrity, personal or corporate qualifications, education, training, experience, residency, or continuing education requirement upon a member of the Association that is different from the criteria for membership in the Association or renewal of such membership, except that countersignature requirements imposed on nonresident producers shall not be deemed to have the effect of limiting or conditioning a producer's activities because of its residence or place of operations under this section; or

(4) implement the procedures of such State's system of licensing or renewing the licenses of insurance producers in a manner different from the authority of the Association under section 325.

(c) Savings Provision.—Except as provided in subsections (a) and (b), no provision of this section shall be construed as altering or affecting the continuing effectiveness of any law, regulation, provision, or other action of any State which purports to regulate insurance producers, including any such law, regulation, provision, or action which purports to regulate unfair trade practices or establish consumer protections, including countersignature laws.

SEC. 334. COORDINATION WITH OTHER REGULATORS.

(a) Coordination With State Insurance Regulators.—The Association shall have the authority to—

(1) issue uniform insurance producer applications and renewal applications that may be used to apply for the issuance or removal of State licenses, while preserving the ability of each State to impose such conditions on the issuance or renewal of a license as are consistent with section 333;

(2) establish a central clearinghouse through which members of the Association may apply for the issuance or renewal of licenses in multiple States; and

(3) establish or utilize a national database for the collection of regulatory information concerning the activities of insurance producers.

(b) Coordination With the National Association of Securities Dealers.—The Association shall coordinate with the National Association of Securities Dealers in order to ease any administrative burdens that fall on persons that are members of both associations, consistent with the purposes of this subtitle and the Federal securities laws.

SEC. 335. JUDICIAL REVIEW.

(a) Jurisdiction.—The appropriate United States district court shall have exclusive jurisdiction over litigation involving the Association, including disputes between the Association and its members that arise under this subtitle. Suits brought in State court involving the Association shall be deemed to have arisen under Federal law and therefore be subject to jurisdiction in the appropriate United States district court.

(b) Exhaustion of Remedies.—An aggrieved person shall be required to exhaust all available administrative remedies before the Association and the NAIC before it may seek judicial review of an Association decision.

(c) Standards of Review.—The standards set forth in section 553 of title 5, United States Code, shall be applied whenever a rule or bylaw of the Association is under judicial review, and the standards set forth in section 554 of title 5, United States Code, shall be applied whenever a disciplinary action of the Association is judicially reviewed.

SEC. 336. DEFINITIONS.

For purposes of this subtitle, the following definitions shall apply:

(1) Home state.—The term "home State" means the State in which the insurance producer maintains its principal place of residence and is licensed to act as an insurance producer.

(2) Insurance.—The term "insurance" means any product, other than title insurance, defined or regulated as insurance by the appropriate State insurance regulatory authority.

(3) Insurance producer.—The term "insurance producer" means any insurance agent or broker, surplus lines broker, insurance consultant, limited insurance representative, and any other person that solicits, negotiates, effects, procures, delivers, renews, continues or binds policies of insurance or offers advice, counsel, opinions or services related to insurance.

(4) State.—The term "State" includes any State, the District of Columbia, American Samoa, Guam, Puerto Rico, and the United States Virgin Islands.

(5) State law.—The term "State law" includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

TITLE IV—UNITARY SAVINGS AND LOAN HOLDING COMPANIES

SEC. 401. PREVENTION OF CREATION OF NEW S&L HOLDING COMPANIES WITH COMMERCIAL AFFILIATES.

Section 10(c) of the Home Owners' Loan Act (12 U.S.C. 1467a(c)) is amended by adding at the end the following new paragraph:

"(9) Prevention of new affiliations between S&L holding companies and commercial firms.—

"(A) In general.—Notwithstanding paragraph (3), no company may directly or indirectly, including through any merger, consolidation, or other type of business combination, acquire control of a savings association after September 3, 1998, unless the company is engaged, directly or indirectly (including through a subsidiary other than a savings association), only in activities that are permitted—

"(i) under paragraph (1)(C) or (2); or

"(ii) for financial holding companies under section 6(c) of the Bank Holding Company Act of 1956.

"(B) Prevention of new commercial affiliations.—Notwithstanding paragraph (3), no savings and loan holding company may engage directly or indirectly (including through a subsidiary other than a savings association) in any activity other than as described in clauses (i) and (ii) of subparagraph (A).

"(C) Preservation of authority of existing unitary S&L holding companies.—Subparagraphs (A) and (B) do not apply with respect to any company that was a savings and loan holding company on September 3, 1998, or that becomes a savings and loan holding company pursuant to an application pending before the Office of Thrift Supervision on or before that date, and that—

"(i) meets and continues to meet the requirements of paragraph (3); and

"(ii) continues to control not fewer than 1 savings association that it controlled on September 3, 1998, or that it acquired pursuant to an application pending before the Office of Thrift Supervision on or before that date, or the successor to such savings association.

"(D) Corporate reorganizations permitted.—This paragraph does not prevent a transaction that—

"(i) involves solely a company under common control with a savings and loan holding company from acquiring, directly or indirectly, control of the savings and loan holding company or any savings association that is already a subsidiary of the savings and loan holding company; or

"(ii) involves solely a merger, consolidation, or other type of business combination as a result of which a company under common control with the savings and loan holding company acquires, directly or indirectly, control of the savings and loan holding company or any savings association that is already a subsidiary of the savings and loan holding company.

"(E) Authority to prevent evasions.—The Director may issue interpretations, regulations, or orders that the Director determines necessary to administer and carry out the purpose and prevent evasions of this paragraph, including a determination that, notwithstanding the form of a transaction, the transaction would in substance result in a company acquiring control of a savings association.".

SEC. 402. OPTIONAL CONVERSION OF FEDERAL SAVINGS ASSOCIATIONS TO NATIONAL BANKS.

Section 5(i) of the Home Owners' Loan Act (12 U.S.C. 1464(i)) is amended by adding at the end the following new paragraph:

"(5) CONVERSION TO A NATIONAL BANK.—Notwithstanding any other provision of law, any Federal savings association chartered and in operation before the date of enactment of the Financial Services Act of 1998, with branches in 1 or more States, may convert, with the approval of the Comptroller of the Currency, into 1 or more national banks, each of which may encompass one or more of the branches of the Federal savings association in 1 or more States, but only if the resulting national bank or banks will meet any and all financial, management, and capital requirements applicable to a national bank.".

SEC. 403. RETENTION OF "FEDERAL" IN NAME OF CONVERTED FEDERAL SAVINGS ASSOCIATION.

Section 2 of the Act entitled "An Act to enable national banking associations to increase their capital stock and to change their names or locations", approved May 1, 1886 (12 U.S.C. 30), is amended by adding at the end the following new subsection:

"(d) RETENTION OF 'FEDERAL' IN NAME OF CONVERTED FEDERAL SAVINGS ASSOCIATION.—

"(1) IN GENERAL.—Notwithstanding subsection (a) or any other provision of law, any depository institution the charter of which is converted from that of a Federal savings association to a national bank or a State bank after the date of the enactment of the Financial Services Act of 1998 may retain the term 'Federal' in the name of such institution if such depository institution remains an insured depository institution.

"(2) DEFINITIONS.—For purposes of this subsection, the terms 'depository institution', 'insured depository institution', 'national bank', and 'State bank' have the same meanings as in section 3 of the Federal Deposit Insurance Act.".

TITLE V—FINANCIAL INFORMATION PRIVACY

SEC. 501. FINANCIAL INFORMATION PRIVACY.

The Consumer Credit Protection Act (15 U.S.C. 1601 et seq.) is amended by adding at the end the following:

"TITLE X—FINANCIAL INFORMATION PRIVACY PROTECTION

"SEC. 1001. SHORT TITLE; TABLE OF CONTENTS.

"(a) SHORT TITLE.—This title may be cited as the 'Financial Information Privacy Act of 1998'.

"(b) TABLE OF CONTENTS.—The table of contents for this title is as follows:

"TITLE X—FINANCIAL INFORMATION PRIVACY PROTECTION

"Sec. 1001. Short title; table of contents.
"Sec. 1002. Definitions.
"Sec. 1003. Privacy protection for customer information of financial institutions.
"Sec. 1004. Administrative enforcement.
"Sec. 1005. Civil liability.
"Sec. 1006. Criminal penalty.
"Sec. 1007. Relation to State laws.
"Sec. 1008. Agency guidance.

"SEC. 1002. DEFINITIONS.

"For purposes of this title, the following definitions shall apply:

"(1) CUSTOMER.—The term 'customer' means, with respect to a financial institution, any person (or authorized representative of a person) to whom the financial institution provides a product or service, including that of acting as a fiduciary.

"(2) CUSTOMER INFORMATION OF A FINANCIAL INSTITUTION.—The term 'customer information of a financial institution' means any information maintained by a financial institution which is derived from the relationship between the financial institution and a customer of the financial institution and is identified with the customer.

"(3) DOCUMENT.—The term 'document' means any information in any form.

"(4) FINANCIAL INSTITUTION.—

"(A) IN GENERAL.—The term 'financial institution' means any institution engaged in the business of providing financial services to customers who maintain a credit, deposit, trust, or other financial account or relationship with the institution.

"(B) CERTAIN FINANCIAL INSTITUTIONS SPECIFICALLY INCLUDED.—The term 'financial institution' includes any depository institution (as defined in section 19(b)(1)(A) of the Federal Reserve Act), any loan or finance company, any credit card issuer or operator of a credit card system, and any consumer reporting agency that compiles and maintains files on consumers on a nationwide basis (as defined in section 603(p)).

"(C) FURTHER DEFINITION BY REGULATION.—The Board of Governors of the Federal Reserve System may prescribe regulations further defining the term 'financial institution', in accordance with subparagraph (A), for purposes of this title.

"SEC. 1003. PRIVACY PROTECTION FOR CUSTOMER INFORMATION OF FINANCIAL INSTITUTIONS.

"(a) PROHIBITION ON OBTAINING CUSTOMER INFORMATION BY FALSE PRETENSES.—It shall be a violation of this title for any person to obtain or attempt to obtain, or cause to be disclosed or attempt to cause to be disclosed to any person, customer information of a financial institution relating to another person—

"(1) by knowingly making a false, fictitious, or fraudulent statement or representation to an officer, employee, or agent of a financial institution with the intent to deceive the officer, employee, or agent into relying on that statement or representation for purposes of releasing the customer information;

"(2) by knowingly making a false, fictitious, or fraudulent statement or representation to a customer of a financial institution with the intent to deceive the customer into relying on that statement or representation for purposes of releasing the customer information or authorizing the release of such information; or

"(3) by knowingly providing any document to an officer, employee, or agent of a financial institution, knowing that the document is forged, counterfeit, lost, or stolen, was fraudulently obtained, or contains a false, fictitious, or fraudulent statement or representation, if the document is provided with the intent to deceive the officer, employee, or agent into relying on that document for purposes of releasing the customer information.

"(b) PROHIBITION ON SOLICITATION OF A PERSON TO OBTAIN CUSTOMER INFORMATION FROM FINANCIAL INSTITUTION UNDER FALSE PRETENSES.—It shall be a violation of this title to request a person to obtain customer information of a financial institution, knowing or consciously avoiding knowing that the person will obtain, or attempt to obtain, the information from the institution in any manner described in subsection (a).

"(c) NONAPPLICABILITY TO LAW ENFORCEMENT AGENCIES.—No provision of this section shall be construed so as to prevent any action by a law enforcement agency, or any officer, employee, or agent of such agency, to obtain customer information of a financial institution in connection with the performance of the official duties of the agency.

"(d) NONAPPLICABILITY TO FINANCIAL INSTITUTIONS IN CERTAIN CASES.—No provision of this section shall be construed to prevent any financial institution, or any officer, employee, or agent of a financial institution, from obtaining customer information of such financial institution in the course of—

"(1) testing the security procedures or systems of such institution for maintaining the confidentiality of customer information;

"(2) investigating allegations of misconduct or negligence on the part of any officer, employee, or agent of the financial institution; or

"(3) recovering customer information of the financial institution which was obtained or received by another person in any manner described in subsection (a) or (b).

"(e) NONAPPLICABILITY TO CERTAIN TYPES OF CUSTOMER INFORMATION OF FINANCIAL INSTITUTIONS.—No provision of this section shall be construed to prevent any person from obtaining customer information of a financial institution that otherwise is available as a public record filed pursuant to the securities laws (as defined in section 3(a)(47) of the Securities Exchange Act of 1934).

"SEC. 1004. ADMINISTRATIVE ENFORCEMENT.

"(a) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—Except as provided in subsection (b), compliance with this title shall be enforced by the Federal Trade Commission in the same manner and with the same power and authority as the Commission has under the Fair Debt Collection Practices Act to enforce compliance with that title.

"(b) ENFORCEMENT BY OTHER AGENCIES IN CERTAIN CASES.—

"(1) IN GENERAL.—Compliance with this title shall be enforced under—

"(A) section 8 of the Federal Deposit Insurance Act, in the case of—

"(i) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

"(ii) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act, by the Board;

"(iii) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System and national nonmember banks) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation; and

"(iv) savings associations the deposits of which are insured by the Federal Deposit Insurance Corporation, by the Director of the Office of Thrift Supervision; and

"(B) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any Federal credit union.

"(2) VIOLATIONS OF THIS TITLE TREATED AS VIOLATIONS OF OTHER LAWS.—For the purpose of the exercise by any agency referred to in paragraph (1) of its powers under any Act referred to in that paragraph, a violation of this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in paragraph (1), each of the agencies referred to in that paragraph may exercise, for the purpose of enforcing compliance with this title, any other authority conferred on such agency by law.

"(c) STATE ACTION FOR VIOLATIONS.—

"(1) AUTHORITY OF STATES.—In addition to such other remedies as are provided under State law, if the chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating this title, the State—

"(A) may bring an action to enjoin such violation in any appropriate United States district court or in any other court of competent jurisdiction;

"(B) may bring an action on behalf of the residents of the State to recover damages of not more than $1,000 for each violation; and

"(C) in the case of any successful action under subparagraph (A) or (B), shall be awarded the costs of the action and reasonable attorney fees as determined by the court.

"(2) RIGHTS OF FEDERAL REGULATORS.—

"(A) PRIOR NOTICE.—The State shall serve prior written notice of any action under paragraph (1) upon the Federal Trade Commission and, in the case of an action which involves a financial institution described in section 1004(b)(1), the agency referred to in such section with respect to such institution and provide the Federal Trade Commission and any such agency with a copy of its complaint, except in any case in which such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action.

"(B) RIGHT TO INTERVENE.—The Federal Trade Commission or an agency described in subsection (b) shall have the right—

"(i) to intervene in an action under paragraph (1);

"(ii) upon so intervening, to be heard on all matters arising therein;

"(iii) to remove the action to the appropriate United States district court; and

"(iv) to file petitions for appeal.

"(3) INVESTIGATORY POWERS.—For purposes of bringing any action under this subsection, no provision of this subsection shall be construed as preventing the chief law enforcement officer, or an official or agency designated by a State, from exercising the powers conferred on the chief law enforcement officer or such official by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

"(4) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION PENDING.—If the Federal Trade Commission or any agency described in subsection (b) has instituted a civil action for a violation of this title, no State may, during the pendency of such action, bring an action under this section against any defendant named in the complaint of the Federal Trade Commission or such agency for any violation of this title that is alleged in that complaint.

"SEC. 1005. CIVIL LIABILITY.

"Any person, other than a financial institution, who fails to comply with any provision of this title with respect to any financial institution or any customer information of a financial institution shall be liable to such financial institution or the customer to whom such information relates in an amount equal to the sum of the amounts determined under each of the following paragraphs:

"(1) ACTUAL DAMAGES.—The greater of—

"(A) the amount of any actual damage sustained by the financial institution or customer as a result of such failure; or

"(B) any amount received by the person who failed to comply with this title, including an amount equal to the value of any nonmonetary consideration, as a result of the action which constitutes such failure.

"(2) ADDITIONAL DAMAGES.—Such additional amount as the court may allow.

"(3) ATTORNEYS' FEES.—In the case of any successful action to enforce any liability under paragraph (1) or (2), the costs of the action, together with reasonable attorneys' fees.

"SEC. 1006. CRIMINAL PENALTY.

"(a) IN GENERAL.—Whoever violates, or attempts to violate, section 1003 shall be fined in accordance with title 18, United States Code, or imprisoned for not more than 5 years, or both.

"(b) ENHANCED PENALTY FOR AGGRAVATED CASES.—Whoever violates, or attempts to violate, section 1003 while violating another law of the United States or as part of a pattern of any illegal activity involving more than $100,000 in a 12-month period shall be fined twice the amount provided in subsection (b)(3) or (c)(3) (as the case may be) of section 3571 of title 18, United States Code, imprisoned for not more than 10 years, or both.

"SEC. 1007. RELATION TO STATE LAWS.

"(a) IN GENERAL.—This title shall not be construed as superseding, altering, or affecting the statutes, regulations, orders, or interpretations in effect in any State, except to the extent that such statutes, regulations, orders, or interpretations are inconsistent with the provisions of this title, and then only to the extent of the inconsistency.

"(b) GREATER PROTECTION UNDER STATE LAW.—For purposes of this section, a State statute, regulation, order, or interpretation is not inconsistent with the provisions of this title if the protection such statute, regulation, order, or interpretation affords any person is greater than the protection provided under this title.

"SEC. 1008. AGENCY GUIDANCE.

"In furtherance of the objectives of this title, each Federal banking agency (as defined in section 3(z) of the Federal Deposit Insurance Act) shall issue advisories to depository institutions under the jurisdiction of the agency, in order to assist such depository institutions in deterring and detecting activities proscribed under section 1003.".

SEC. 502. REPORT TO CONGRESS ON FINANCIAL PRIVACY.

Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States, in consultation with the Federal Trade Commission, the Federal banking agencies, and other appropriate Federal law enforcement agencies, shall submit to the Congress a report on—

(1) the efficacy and adequacy of the remedies provided in the amendments made by section 501 in addressing attempts to obtain financial information by fraudulent means or by false pretenses; and

(2) any recommendations for additional legislative or regulatory action to address threats to the privacy of financial information created by attempts to obtain information by fraudulent means or false pretenses.

TITLE VI—MISCELLANEOUS

SEC. 601. GRAND JURY PROCEEDINGS.

Section 3322(b) of title 18, United States Code, is amended—

(1) in paragraph (1), by inserting "Federal or State" before "financial institution"; and

(2) in paragraph (2), by inserting "at any time during or after the completion of the investigation of the grand jury," before "upon".

SEC. 602. SENSE OF THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS OF THE SENATE.

(a) FINDINGS.—The Committee on Banking, Housing, and Urban Affairs of the Senate finds that—

(1) financial modernization legislation should benefit small institutions as well as large institutions;

(2) the Congress made the subchapter S election of the Internal Revenue Code of 1986, available to banks in 1996, reflecting a desire by the Congress to reduce the tax burden on community banks;

(3) large numbers of community banks have elected or expressed interest in the subchapter S election; and

(4) the Committee on Banking, Housing, and Urban Affairs of the Senate recognizes that some obstacles remain for community banks wishing to make the subchapter S election.

(b) SENSE OF THE COMMITTEE.—It is the sense of the Committee on Banking, Housing, and Urban Affairs of the Senate that—

(1) the small business tax provisions of the Internal Revenue Code of 1986, should be more widely available to community banks;

(2) legislation should be passed to amend the Internal Revenue Code of 1986, to—

(A) increase the allowed number of S corporation shareholders;

(B) permit S corporation stock to be held in individual retirement accounts;

(C) clarify that interest on investments held for safety, soundness, and liquidity purposes should not be considered to be passive income;

(D) provide that bank director stock is not treated as a disqualifying second class of stock for S corporations; and

(E) improve the tax treatment of bad debt and interest deductions; and

(3) the legislation described in paragraph (2) should be adopted by the Congress in conjunction with any financial modernization legislation.

SEC. 603. INVESTMENTS IN GOVERNMENT SPONSORED ENTERPRISES.

Section 18(s) of the Federal Deposit Insurance Act (12 U.S.C. 1828(s)) is amended—

(1) by redesignating paragraph (4) as paragraph (6); and

(2) by inserting after paragraph (3) the following:

"(4) CERTAIN INVESTMENTS.—Paragraph (1) shall not apply with respect to investments lawfully made before April 11, 1996, by a depository institution in any Government sponsored enterprise.

"(5) STUDENT LOANS.—

"(A) IN GENERAL.—This subsection does not apply to any arrangement between a Holding Company (or any subsidiary of the Holding Company other than the Student Loan Marketing Association) and a depository institution, if the Secretary approves the affiliation and determines that—

"(i) the wind-down of the Association in accordance with the requirements of section 440 of the Higher Education Act of 1965, will not be adversely affected by the arrangement;

"(ii) the Association will not extend credit to, or guarantee or provide credit enhancement to any obligation of, the depository institution; and

"(iii) the operations of the Association will be separate from the operations of the depository institution.

"(B) TERMS AND CONDITIONS.—In approving an affiliation referred to in subparagraph (A), the Secretary may impose any terms and conditions on such affiliation that the Secretary considers appropriate, including—

"(i) requiring the Association to provide a binding plan to dissolve before September 30, 2008;

"(ii) imposing additional restrictions on the issuance of debt obligations by the Association; or

"(iii) restricting the use of proceeds from the issuance of such debt.

"(C) ENFORCEMENT.—Terms and conditions imposed under subparagraph (B) may be enforced by the Secretary in accordance with section 440 of the Higher Education Act of 1965.

"(D) DEFINITIONS.—In this paragraph—

"(i) the terms 'Association' and 'Holding Company' have the same meanings as in section 440(i) of the Higher Education Act of 1965; and

"(ii) the term 'Secretary' means the Secretary of the Treasury.".

SEC. 604. REPEAL OF SAVINGS BANK PROVISIONS IN THE BANK HOLDING COMPANY ACT OF 1956.

Section 3(f) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(f)) is amended to read as follows:

"(f) [Reserved].".

FREEDOM FROM RELIGIOUS PERSECUTION ACT OF 1998

The PRESIDING OFFICER. The clerk will report H.R. 2431.

The legislative clerk read as follows:

A bill (H.R. 2431) to establish an Office of Religious Persecution Monitoring, to provide for the imposition of sanctions against countries engaged in a pattern of religious persecution, and for other purposes.

The Senate continued with the consideration of the bill.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. GRAMM. Would the Senator yield?

Mr. NICKLES. Mr. President, I will be happy to yield.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I just simply want to say to my colleague, Senator SARBANES, and to others who support this bill, that I am willing, and have continued to be willing, to sit down and try to work something out. It may be that nothing can be worked out, but I just want to reaffirm my willingness to sit down with Senator SARBANES, or any other person, who is in a position to work anything out—certainly Senator SARBANES is—and see if we could find some common ground. Maybe we cannot. But I just want to reaffirm my willingness to do it. I have sat down and discussed this with Senator DODD. And I am willing to do it again.

So it may be that there is no way we can accommodate the different views we have, but I wanted to reaffirm my willingness to make an effort again. Though it may or may not prove fruitless, I am willing to do it. And I would like to work something out because, save the so-called CRA provisions, I am for this bill.

Mr. DODD. Mr. President, I know the distinguished Senator from Oklahoma wants to be heard, but I would just like to pick up on this last point, if I could, if my colleague from Texas would yield—

Mr. GRAMM. I do not have the floor.

Mr. DODD. To say to my colleague from Texas, and others, I didn't have the benefit of hearing my friend's comments from Maryland, but I fervently hope—it has taken almost 20 years for us to come to the point where we are with financial services modernization. And my colleague from Texas has been on that committee for a long time, the distinguished Senator from Maryland even longer and knows the agony we have gone through, Mr. President, over the years of coming close and failing, for a variety of reasons, to be able to put through a modernization bill that would enjoy the kind of support this bill does.

And here we have the world looking to us. You have news today of the yen now having, compared to the dollar in exchange rates, in the last 48 hours, dropped to a lower rate than it has in 50 years—50 years. We have a problem in Brazil of significant magnitude.

It is no secret here that the world looks to us for a sense of confidence. And here we are within hours of leaving this session of Congress with a strong bipartisan bill, led by the Senator from Maryland, the Senator from New York, Senator D'AMATO, the chairman of the committee, with a 16-2 vote coming out of that committee, and 88-11 on a cloture motion.

My colleague from Texas feels strongly about the CRA provisions, and I respect that. But I would strongly argue that there is going to be ample time for us, whether today or tomorrow, if we can get it done, but if not certainly the next Congress to deal with the CRA provisions.

There may not be another opportunity that comes along to deal with this issue, I say to my friend from Texas. As he knows, we have spent so many years trying to put together—here we are on the threshold of doing something truly significant in this Congress, and as strongly as people feel about CRA, we should never allow that issue here to deprive us the opportunity to send a message not only here at home, but abroad that this country, that this Congress can modernize its financial institutions to such a degree that we send that message of confidence at this critical hour, a message of confidence.

The Democrats and Republicans have been able to come together on an issue that has divided us over the years. So I fervently hope that we will not allow that one issue to outweigh the enormous benefits that this bill offers people at home and abroad when the world financial crisis is literally on our doorstep.

So I hope that either something gets worked out or that those who are for it would be willing to put aside their feelings on the CRA issue until another day when there will literally be dozens of vehicles when that issue can be addressed. Mr. President, I tell you today, there will not be the dozens of vehicles available to us to do what we on the Banking Committee were able to present to all of our colleagues here for the first time in more than 2 decades, some would argue more than three decades. So the opportunity is here. I just hope we do not miss this.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma has the floor.

Mr. NICKLES. I had the floor, and I think time is running. And we want to get back to our bill. I appreciate the comments that were made by the Senator from Texas, the Senator from Connecticut. And I echo those comments. I hope we can come to a compromise. I hope people do not draw the lines too firm in the sand and not allow us to make some minor adjustments to save a bill that is very important.

Mr. GRAMM. At the risk of overdoing it, could I have 30 seconds?

Mr. NICKLES. I yield to the Senator 30 seconds, but it is my intention to go back to the Religious Freedom Act.

Mr. GRAMM. It is interesting. I know what happens in these debates is we end up talking past each other. But the Senator's statement about "let's leave CRA to deal with next year" is precisely my position. The problem is, the bill has six new CRA provisions. So if we were leaving CRA to be dealt with next year, we would have no dispute; we could debate it next year.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. I will yield to my colleague from Maryland for 1 minute and then I am going to return to debate on the Religious Freedom Act.

The PRESIDING OFFICER. The Chair must ask if there is unanimous consent for the Senator to yield, because questions have not been asked. And under the rules the Senator cannot——

Mr. NICKLES. I will be happy to yield to my colleague for a question.

Mr. SARBANES. I simply want to say to my colleague that I listened carefully to the distinguished Senator from Texas and this offer to try to work this out. The fact of the matter is, that colleagues have been buzzing around the Senator from Texas all week, like bees around a honeypot, although I am not sure describing the Senator from Texas as a honeypot is necessarily a very accurate description.

Mr. GRAMM. I like it.

Mr. SARBANES. I think there have been very reasonable efforts to reach an accommodation. They have not really gotten anywhere. If the Senator intends, in the name of accommodation, to make very substantial and substantive changes, then obviously a lot of people are going to have great difficulty with that. We have worked through this issue, and we reached an overwhelming consensus about it. And it seems to me that the effort now to sort of significantly rewrite these provisions is just not going to happen.

Mr. NICKLES. Mr. President, I am going to return to debate. And I ask unanimous consent that the hour and 40 minutes that intervened since my previous comments and the time allotted in the discussions and the quorum calls be outside the debate on the entire debate that we have on the religious freedom issue.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, I was running through the potential sanctions, sanctions that would only apply for countries that were guilty of particularly severe violations of religious freedom. And particularly severe violations of religious freedom under our bill means: "Systematic, ongoing, egregious violations of religious freedom, including violations such as torture, cruel, inhuman, degrading treatment or punishment, prolonged detention without charges, causing the disappearance of persons by the abduction or clandestine detention of those persons, and other flagrant denials of the right to life, liberty or the security of persons."

And so, Mr. President, we define that. That is really bad the actors. In those cases, our bill says that we would have economic sanctions. I was just discussing those. That would include the withdrawal, limitation or suspension of development assistance. It says "limitation." It didn't say "automatically all of it be limited, but at least some withdrawal or some limitation.

It gives the President the flexibility—a whole range of options. Also it would direct the director of OPEC or TDA or EXIM not to approve guarantees, extensions or credits to the Governments involving gross violations to religious freedom.

It also would have a sanction that would allow the withdrawal, limitation or suspension of security assistance. Again, it could be suspension. It could be limitation.

Also, another option would be instructing U.S. directors of international financial institutions to vote against loans to Governments involving gross violations of religious freedom.

Another sanction option would be to prohibit the licenses or authority to export goods or technology to Governments determined to be responsible for such persecution involving gross violations of religious freedom; another prohibiting any U.S. financial institution from providing credits totaling more than $10 million in any year to Governments involving gross violation as to religious freedom; and one final one prohibiting the U.S. Government from procuring goods or services from foreign Governments involved in gross violations.

We have given the President a multitude of options, a range, which could reduce economic assistance or economic loans to those countries. Also, I might mention, we give the President the option to waive these sanctions. We have modified that to accommodate some of the concerns that some of our people have. The sanctions can be waived to further the purposes of the act.

If persons involved—maybe the commission that studied this, maybe it is the Ambassador, maybe the State Department—said, "Wait a minute, some of these sanctions might do more harm than good," the sanctions could be waived. It might result in greater persecution of individual beliefs by some Governments. Our Government would have the option to waive these sanctions. Or we modify it to include that the sanctions could be waived for national security interests. We modified that to say "for important national interests" the sanctions could be waived.

We have in this bill an ambassador-at-large for international religious freedom; we have a commission of high-level people appointed by Congress and by the President to study and to make recommendations to the Congress and to the President, the Commission on International Religious Liberty, to make recommendations on what can be done to promote religious liberty worldwide; and we have given some tools and options to encourage positive behavior, positive efforts as well as some punitive efforts to try to modify behavior.

Our purpose in this bill is not to punish any country. Our purpose is to modify behavior to improve religious liberty worldwide. We don't want to be picking up the paper as we did earlier this year when the New York Times, for example, on May 11, had an article that said a Pakistani Catholic cleric was buried. It said a Roman Catholic bishop committed suicide last week apparently to protest religious discrimination. Religious discrimination and persecution must be pretty severe if a bishop would commit suicide to protest the degree of persecution.

Other people have talked about Christians being sold into slavery in Sudan, or other countries where Christians, Jews, or other individuals were placed in prison merely for practicing their faith.

I want to thank again my colleagues who worked with me on this legislation. I mentioned Senator SPECTER earlier. I mentioned Senator LIEBERMAN who has worked with me in countless meetings for hours trying to work out this legislation. Senator COATS from Indiana is on the floor and will be called upon momentarily. No one has worked harder. I told him some time ago I feel that he is one of the best Senators I have had the opportunity to work with, and I mean that in all sincerity. He is a person with very strong religious beliefs and convictions, and his efforts to see this bill pass to make sure that we improve religious liberty worldwide are very much recognized, very much appreciated by this Senator, and I think by all Senators. I also would like to thank my colleagues, Senator BIDEN and Senator FEINSTEIN, who have also worked with us in putting this legislation together.

I want to thank a couple of other people who have also worked in this effort. Steve Moffitt of my staff put in a lot of energy and a lot of the effort. John Hanford has put in years trying to enact measures to protect people who have been persecuted worldwide for religious beliefs. Also, on Senator LIEBERMAN's staff, Cecile Shea has worked countless hours on this. I thank them for their efforts.

I see my colleague from Indiana is on the floor. I am happy to yield him such time as he desires on this legislation.

How much time remains?

The PRESIDING OFFICER. The Senator from Oklahoma has 41 minutes 49 seconds.

Mr. NICKLES. I yield my colleague as much time as he desires.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, first of all, I begin by thanking my colleague and my friend from Oklahoma, Senator NICKLES, for his friendship over the years as a Member of the Congress, in the last 10 years as a Member of the Senate, for his tireless work on a number of important issues facing this country, and for his willingness to take on this issue, as difficult as the negotiations have been, to persevere, to bring it to this particular point. Senator NICKLES has provided effective leadership and perseverance in resolving what I think is one of the most important issues that this Senate will be dealing with in this session of Congress.

There are many others and I will mention some of those names at a later point.

The United States, which we are privileged and pleased to be citizens of, has long been considered a pillar of freedom around the world. Our Nation was founded by individuals fleeing persecution and discrimination throughout Europe. The Founding documents of our country enshrine the value and principle of religious freedom. The very first clause of the first amendment guarantees each of us the right of free exercise of religion and prohibits our Government from dictating or establishing how we will worship and what we will believe.

Freedom of religion is enshrined in our founding documents because freedom of religion is a basic human right. In our country, this freedom is acknowledged as a right endowed not by man, not by those who wrote those documents, but by our Creator. Therefore, they are unalienable and cannot be removed.

Religious freedom is also recognized in the Universal Declaration of Human Rights adopted by the United Nations in 1948. That declaration guarantees freedom of religion, including the freedom to choose one's own religious belief, to worship, to observe and practice one's belief individually or corporately. The freedom to practice one's religion without fear of outside intervention is the most fundamental liberty that any human being can possess.

We have a history as a country of concern not only for our own religious freedom but also for religious freedom in other countries. We want to stand as a beacon for religious freedom because we believe it goes to the most basic and most essential of all human freedoms and all human rights.

The cold war brought considerable national attention to the plight of Soviet Jews who faced extreme religious intolerance and persecution. United States concerns ultimately translated into national policy, including the enactment of the Jackson-Vanik law which tied trade with the Soviet Union and other Communist nations to their allowing Jews to emigrate—just one example of how this Nation has translated into policy these basic fundamental beliefs.

By contrast, there has been little focus lately, unfortunately, on some of the increasing persecution of Christians and some of the horrific persecution of Christians and other peoples of faith around the world. As a nation, we have assumed a responsibility, a moral imperative, to raise the basic human rights issues, the basic examples of persecution, to use the tools available to us to motivate change toward these individuals in various countries around the world practicing various faiths. Individuals are persecuted for that belief and that practice.

It is evident that many people—not just Christians, but several faiths—suffer because of their faith. The form that these attacks take can be everything from discrimination in employment, denial of participation in the political process, denial of common rights of citizenship. But these attacks can also take the form of extreme physical harm, torture, imprisonment, slavery, and even death. A fact of our time, the fact of the history of mankind, is that people have been persecuted and are being persecuted for their religious belief and for their faith. There are abuses in many places around the world of people persecuted simply because of what they believe.

Paul Marshall, in his book, "Their Blood Cries Out," effectively chronicles where persecution is occurring. In great detail, he presents a comprehensive view of this problem throughout the world. His exhaustive survey simply cannot be ignored. It is a powerful and persuasive analysis which ultimately begs the question: What will we do? How will we respond? Will we respond? Is there action that we can take?

He talks about offenses in countries around the world—these have been documented—in Sudan, Pakistan, Vietnam, Cuba, Iran, Saudi Arabia, China, and others.

In the Sudan, possibly the worst of the offenders, it is not just Christians who have faced persecution, but Muslims and Animists, who have opposed the repressive tactics of the Islamic military regime which took power in 1989. Many Arab Muslims from the north have been arrested, imprisoned, tortured and killed. Christians driven from their homelands to government-controlled areas of the country are forced to renounce their faith in order to receive basic food. Others, including black Africans, are forced to convert to Islam and are even enslaved. All told, 1.5 million people have been killed by this totalitarian regime and another 5 million have been displaced from their homes.

In Pakistan, Paul Marshall describes the problem not as one of state-directed intolerance, but as one due to the growth of militant Islamic forces attacking Christians. Christian Pakistanis often become the victims of murder. The blasphemy law, passed in 1986, requires death sentences to any who blasphemes against the Prophet Mohammed or the Qu'ran. This law has given way to a wave of terror against Christians and other religious minorities.

Buddhist and Christians in Vietnam are subject to arrest and harassment if they are not part of the officially recognized churches. As in China, Government control over religion seems due to fear of loss of control over the people. Paul Marshall writes that "priests and pastors are assaulted, harassed, fined, sentenced to re-education camps and imprisoned. Many die in prison, some of them after torture."

In Cuba as well, the Government attempts to rigidly control religion. Churches cannot run schools or use mass communications. They are prohibited from performing missionary work and the distribution of religious material is controlled. There has, however, been tremendous growth in churches in Cuba, primarily in the form of house churches. The Cuban Government has also sought to restrict religion by imposing a ban on the sale of paper, ink, typewriters, computers and other printing device to any religious organization.

In Iran, those who believe in the Baha'i faith are forcibly repressed by the Iranian Government. They are denied the right to assemble and elect their religious officials, their property is confiscated and they are denied basic civil and legal rights. More than 200 Baha'is have been killed in Iran since 1989. Christians and Jews likewise face persecution in Iran, including discrimination, imprisonment, and death. One Christian human rights groups describes the treatment of Christians and Jews as "Religious apartheid."

In Saudi Arabia, only the practice of the Sunni form of Islam is permitted. No public expression of Christianity is allowed. Those found with Bibles or crosses can be tortured and arrested. The Saudi Government even went so far as to demand that a Christian group meeting in the American Consulate be disbanded. Unfortunately, our Consulate obliged them by closing worship service, this in an American Embassy.

In China, the Christian home churches are flourishing despite the Communist Government moves to strictly control churches. I trust we are familiar with the accounts of thousands of Catholic and Protestant Chinese who have been imprisoned for worshiping, preaching and distributing Bibles.

This is but a handful of examples of where intolerance occurs around the world. Clearly, we cannot hold each nation and people to the same standard we have in the United States. But neither can we ignore the dramatic, reprehensible, and documented accounts of what is happening.

Yet it is clear we cannot oversimplify the problem of religious intolerance in these and other countries. While persecution in some countries is the direct result of official Government policy, in others, persecution is undertaken by groups and individuals, with no attempt by the governing officials to intervene. Further, while some religious persecution is simply part of an overall repressive regime eager to control the lives of the people, other persecution is specifically targeted at religious freedoms.

In addition, the promotion of human rights, including religious freedom, is only one interest of the United States in conducting foreign policy. We also must promote strong relations with countries vital to our national security and pursue policies designed to promote our economic interests.

Yet as a Nation, especially a Nation with our heritage, we cannot close our eyes to real abuses and persecutions taking place. We cannot stand idly by, complacent, apathetic, pretending to be ignorant. Because we are not ignorant. We must act wisely, but we must act. We need a comprehensive policy which draws greater attention to specific problems and works to change behavior. We must have a balance, always keeping in mind the plight of individuals and the role the United States can play in changing the behavior of other Governments. Religious liberty has been our gift from the Founders of this country; it is also our responsibility, and our torch to bear.

The Secretary of State's Advisory Committee on Religious Freedom Abroad issued an interim report in January 1998. That report described our policy goals in this way:

> The aim of U.S. foreign policy in this area should be to influence Governments, with both positive and negative inducements and through public and private diplomacy, to live up to international standards of religious freedom.

This legislation can, first of all, alert us to the situations as they exist around the world, and then provide us a road map in terms of how we can most effectively address them.

The bill before us, introduced by Senators NICKEL, SPECTER and LIEBERMAN, is designed to promote and elevate religious freedom in our Nation's conduct of foreign policy. My friends on the House side, led by Congressman FRANK WOLF of Virginia, have been tireless in pressing for this issue. I would like to take a moment to give credit to Congressman WOLF who has, without a doubt, been the most persistent and relentless advocate of our taking action to address the problem of religious freedom, together with CHRIS SMITH, and others in the House of Representatives. They have provided the impetus for this action and they have, through persuasion and education of Members of the House, alerted them to the problem that exists and achieved a very significant vote in favor of what was then the Wolf-Specter bill. That bill has passed the House of Representatives and now, in the waning hours of the 105th Congress, the Senate, after exhaustive negotiations, after a process that has gone on for an extraordinary amount of time, finds itself at this place.

Mr. President, a great number of people deserve credit for this work, including John Hanford of Senator LUGAR's staff, Steve Moffitt, and my own very able legislative assistant, Pam Sellars, and others on Senator NICKLES' staff and Senator LIEBERMAN's staff, have worked tirelessly to fashion legislation that will survive the myriad of procedural processes that we have to go through here in order to bring a bill to the floor, particularly in the waning hours. A great deal of effort and work has been put into making this a reality. I am so pleased that we stand here this evening on the verge of passage of what I think is an extraordinarily important piece of legislation.

This presents a viable policy to strengthen religious freedoms abroad. The bill is balanced in its approach, it is comprehensive in its treatment, and it enables our Nation to custom-tailor our response to religious persecution in other lands. It puts in place measures which institutionalize our Nation's historic principles and religious liberty in our relations with other nations.

We establish an ambassador for international religious freedom to help the State Department in assessing nations which engage or tolerate religious persecution and to help promote religious freedom. We set up a process to ensure that the State Department is adequately focusing on religious freedom issues by requiring them to report to the Congress. Each year, State will issue a country-wide assessment of religious freedom abroad with specific summaries of which countries are improving their records and in what ways our Government is actively engaging to change behavior that is not acceptable.

Most important, this bill establishes an independent commission of experts, appointed by the White House, the House of Representatives, and the Senate, to monitor religious freedom on an ongoing basis and to make recommendations to Congress on actions the U.S. can take in countries when persecution occurs. This is important because this is information that we need. We no longer will be able to simply consign religious persecution and religious freedom to some clip we might read in the paper, or to some report that might come across our desk. We will have a commission constituted of reputable individuals, knowledgeable individuals, who will be able to present to us, on an annual basis, a detailed report of exactly what we are facing around the world. That can be the basis for this Congress and that can be the basis for the State Department and the administration—whichever administration is in power—to take significant action and specific action to address these problems. I think that is the most important part of this bill and the one that will provide the impetus for our taking effective action.

There are a number of other provisions, and Senator NICKLES has laid some of them out—and others will discuss those—each of which is important to the success of this legislation.

On May 14, 1998, the House passed Congressman WOLF's legislation—the Freedom From Religious Persecution Act—by an overwhelming margin of 375–41. Again, I commend my colleague, FRANK WOLF, for his leadership on this issue. His efforts, along with a number of others, have brought recognition of the plight of people of faith throughout the world to our attention.

It is now time for us to act. It is time for us to establish an effective foreign policy which can respond to religious persecution that we find around the world and which seeks to change the behavior of those responsible. I trust that the Senate will follow what the House has done and demonstrate a strong, if not unanimous, vote for this bill.

Mr. President, in closing, I want to quote from the Statement of Conscience, issued by the National Evangelical Association on January 23, 1996:

> Religious liberty is not a privilege to be granted or denied by an all-powerful state, but a God-given human right. Indeed, religious liberty is the bedrock principle that animates our Republic and defines us as a people. We must share our love of religious liberty with other peoples, who in the eyes of God are our neighbors. Hence, it is our responsibility and that of the Government that represents us, to do everything we can to secure the blessing of religious liberty to all those suffering from religious persecution.

Mr. President, we in this country cannot begin to comprehend what people of faith in other nations have had to endure. They have had to put their health, their wealth, their family, their fortunes, and their very lives on the line. Many lives have been sacrificed in the name of religious expression, religious belief. The persecution, which takes place in many countries around this world, is almost too horrible to describe. As a Nation, as a people who have been so blessed with the freedom of religious belief, the least we can do is to hold ourselves out as an example and model to many nations around the world, but, more importantly, demonstrate through our policy that this violent human rights issue is an issue that cannot be ignored, sacrificed to trade, sacrificed to diplomatic relations, or to anything.

The basic human right, endowed by our Creator, for freedom of worship, freedom of belief, is something that the world desperately needs, something that we can promote. This legislation is designed to do that. I urge my colleagues to support this bill. I cannot emphasize enough my deep conviction that we must act swiftly on this issue on which our country has, unfortunately, been silent on too long. We are now acting. We have come to that point. It is with great joy, I believe, in our hearts and in the hearts of people of faith throughout the world that the Senate will enact this. Our deep hope and belief is that the President of the United States will sign it and it will become the official policy of the United States.

I yield the floor.

Mr. NICKLES. Mr. President, my colleague, Senator LIEBERMAN, who will be managing this bill for the other side of the aisle, is not present. I yield 10 minutes to my colleague from Kansas.

Mr. BROWNBACK. Mr. President, tomorrow, our Founding Fathers are going to be proud of us. Tomorrow as we pass, hopefully, this International Religious Freedom Act, they will be proud of the tradition that we have carried on, a tradition that finds its wording above our mantels here in this hall and says "In God We Trust," a tradition that finds itself rooted in freedom, particularly religious freedom and religious expression of freedom. They will be proud that we passed this act and that we stand—and stand strong—around the world for religious freedom, freedom from persecution, and allow people of conscience to express their conscience and their desires as they see them fit before God.

Today, I stand to support the International Religious Freedom Act which addresses religious persecution worldwide. It is a noble and significant effort to confront an ancient prejudice which permeates societies and produces deep suffering.

I fervently hope that this legislation will be passed for many reasons. This legislation is an expression of solidarity with embattled minority faith communities worldwide. It supports those who simply and humbly seek to practice their religion in peace without crushing governmental interference. It supports those who were commanded to stop worshiping their God and refused. It supports those who fear for safety and even life, yet continue against the odds.

This is a legislative memorial to anyone who has been unjustly imprisoned for their faith, especially for the ones who refused to recant on principle and remained incarcerated for years, even decades. This is a memorial to peaceful believers who presently sit in jails throughout the world for the crime of daring to express their love of God. We put it above our doors in the U.S. Senate. We have written "In God We Trust." Other people around the world sit in jail for uttering that same phrase.

This is a memorial to all persecuted believers who strain toward justice and freedom, and have no advocates.

I admire this bill particularly because it addresses the problem of state-sponsored persecution of peaceful religious groups. This is the most insidious form of persecution. How do sincere people of faith stand against the crushing onslaught of a hostile Government? How does an individual, or a small faith community, stand against a national security force? Imagine countries where entire divisions of the national police are dedicated to stalking peaceful people of faith. Now imagine being the victim of this onslaught without any defense or advocates, whatsoever. This is true in communist Nations, in developing Nations, in ultra-nationalist Nations. Bottom line—any individual who dares to stand alone, to stand against a hostile National Government for their peaceful faith convictions deserves our advocacy. And this legislation provides tools for that advocacy.

In his 14th-century epic poem, "The Divine Comedy," Dante believes a place reserved in the Inferno for those who refused to take a stand on the great moral issues of the day. I believe that religious freedom is one of those great moral issues. It is abundantly clear that in some parts of the world, your religious identity is your death-warrant. This is simply wrong and should not be. Knowing the generosity of the American spirit, I believe that we all agree that religious liberty is worth our defense, that our Nation was founded on this principle, and that it is central to the core of our American character. This legislation powerfully expresses our national concern for the sanctity of this fundamental right, internationally.

Is religious persecution advocacy our responsibility? It is certainly no less justified than our support for democracy dissidents in China or for Sakharov and Soltzenitsyn during the earlier days of Soviet Russia. There are striking parallels between both movements. Both, upon principle, refuse to bow their knee to the crushing dictates of hostile National Governments. I am compelled by the stark image of a lone person refusing to recant a precious belief, and consequently incarcerated for the practice of fundamental rights, including free speech, assembly and association.

This occurs routinely in communist countries and other fundamentalist regimes. There are countless Chinese Christians who have been incarcerated for 20 years and more for their faith. Jail is known as "Chinese seminary" because the Government incarcerates so many people for the crime of illegally sharing their faith. In North Vietnam, it's even worse where, routinely, people of faith are incarcerated for 10 or 15 years. But the Government does not stop there. Extended family members are also imprisoned, from grandparents and parents, to siblings and children—three generations because of one religious believer.

If we freedom-loving people do not stand for this fundamental principle who will? It is my honor to continue to advance the elementary notion that this is an inalienable right, which no one can dictate, not even a Government. It is a higher principle, protected, divine, precious, fundamental, universal and vastly personal. And it deserves our protest on shear principle, so I am grateful for the advocacy tools provided by this legislation.

Throughout the centuries, many have fought for religious liberty at great personal cost. There is a magnificent cloud of witnesses who look down upon us, their scars bearing testimony to their commitment even to death for religious freedom.

Countless, nameless believers have engaged in tremendous feats of faith and self-sacrifice in the name of religious freedom and conviction. The 6 million Jews of Nazi Europe bear witness in an unmatched way for the sacrifice they made, as a people for their religious identity. There are over 200 million Christian believers worldwide who presently live in Nations which are so hostile to their faith that they are in physical jeopardy. The Bahai of Iran, one of the most devotedly peaceful faith communities in the world was racked in Iran with yet another execution last month and 15 more Bahai are sitting on death row presently. The Tibetan Buddhists had thousands of monasteries destroyed, their nuns raped, their Dalai Lama forced into exile, their religion outlawed. The list is long, the suffering is great, and the goodness of their cause resonates throughout these great halls of freedom today.

Religious freedom is a fundamental, universal right protected by treaties and constitutions worldwide. I will continue to stand for this principle as long as people suffer for it, along with the many other Members of Congress who share this conviction. In the face of crushing persecution, in apparent defeat, there is a light that continues to pierce the darkness and it will not be extinguished. If we stand for anything, let us stand with those whose courage is a living testimony to the fundamental freedoms we love so deeply in America. Let us vote "yes" on this legislation.

I urge my colleagues to do so.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. HELMS. Mr. President, we would not be here today were it not for the tireless efforts of Senator DON NICKLES. Twenty-eight other Republican and Democratic Senators who co-sponsored S. 1868 (which is essentially the pending substitute amendment) and, for that matter all Americans, owe Senator NICKLES and his able staff a debt of gratitude.

Now then, the pending amendment is a modification of S. 1868. I am a co-sponsor of S. 1868, and while I will vote for the pending compromise language, I confess that it does not go far enough for my taste.

To be sure, these compromises were forced upon the sponsors by a White House and State Department who fought us at every step and habitually moved the goal posts during negotiations. The Clinton administration may prefer that we do nothing, but doing nothing isn't an option.

As you know, Mr. President, the Foreign Relations Committee has taken the lead in several historic steps by the Senate in recent months to advance U.S. foreign policy interests—including passage of a far-reaching State Department reorganization and United Nations reform package and the NATO Expansion Treaty.

Nevertheless, I believe it is obvious that neither initiative has stirred the hearts and souls of the folks back home in churches and synagogues to the same degree as the growing persistent torture and abuse of Christians, Jews and other religious minorities at the hands of intolerant foreign governments.

Americans are eager for their Government to help ease the suffering of their brothers and sisters overseas. They are not at all satisfied with the inaction they have gotten to date.

I am sure these people—who are the backbone of this Nation—have no quarrel with establishing special committees, or issuing reports, or having high level meetings with church groups. But Americans are looking for concrete action from the State Department and the White House—and certainly, people persecuted because of their faith in foreign lands deserve more than kind words and gestures.

It is important to emphasize that this issue, and the growing concern of

Americans, have not fallen on deaf ears in the Senate. The Foreign Relations Committee held five hearings on this issue during the 105th Congress—2 specifically on Senator NICKLES proposal. I especially want to thank Senators BROWNBACK and ASHCROFT for using their subcommittees to focus attention on this issue.

I hope every Senator will review the video tape of Senator ASHCROFT's moving hearing on the tragic plight of Christians in southern Sudan. (These innocent people have been brutally tortured, sold into slavery and, in some instances, literally crucified by the radical Islamic Government simply because of their faith in Christ.)

The point is this: the vote we are about to take is a test to see whether Senators finally realize that we, as a people and a Government, must do more to advance the cause of religious freedom across the globe.

Finally, Mr. President, it is often pointed out—and I believe it with all my heart—that no matter what laws are enacted, religious intolerance will never be erased from the earth. I also believe that the prayers of millions of Americans and other believers around the world will accomplish more than any Act of Congress.

That does not mean we should not try. I hope the President will join with us as we attempt to strengthen U.S. leadership in this area.

Mr. HAGEL. Mr. President, the Senate is debating the International Religious Freedom Act of 1998. In its current form, this bill is a careful compromise that has been months in the making. I had serious concerns about earlier versions of this legislation, but I am a cosponsor of today's compromise.

I am confident that we have crafted the right balance among different facets of American foreign policy. Economic freedom and individual liberties are not competitors—they go hand-in-hand! We want Nations that are free, that respect rights and liberties, and that have free trade and market economies.

This is a bill that will focus America's attention on the desire to advance religious freedom around the world while doing no harm to America's national security, diplomatic or economic interests abroad. This is a bill that will give the President flexibility to craft a complete foreign policy—a foreign policy that does not elevate one facet of our foreign relations above all others.

Religious freedom and tolerance have always been America's creed. Freedom of religion is the first freedom guaranteed in our Bill of Rights. No person anywhere in the world—no Christian, no Jew, no Hindu, no Muslim, no Buddhist, no Baha'i . . . no one—should suffer at the hand of the State for worshiping as he or she sees fit. As a beacon of liberty and freedom, America has a moral duty to speak out against religious persecution around the world and to defend for people everywhere the fundamental right of freedom of worship.

At the same time, this bill recognizes that America bears a heavy and complicated burden of international leadership. Our relationships with other Nations are complex, and our policies must reflect those complexities. American leadership is essential for international peace and security, free and open trade, a stable international economy and many other vital matters. Like all leaders, America must balance competing needs, interests and ideals.

This bill gives the President flexibility to use the full power of American engagement to promote religious liberties abroad. America's strong commercial and diplomatic ties with other Nations remain our most effective leverage to alter the behavior of authoritarian Governments. American engagement abroad acts as a catalyst for change. The United States Government cannot mandate religious freedom around the world, but America can lead the world in spreading respect for religious beliefs—just as we used the power of our example and determination to spread liberty, democracy and economic freedom around the globe.

This bill will focus U.S. Government attention on religious persecution. It will make religious freedom part of American diplomacy from the training of foreign service officers to the granting of visa requests to the use of our Embassy facilities.

This bill also will shine the light of day on countries, or entities within countries, that engage in religious persecution. It will require annual reporting on the state of religious freedom in every country, as well as annual publication of all actions the United States Government is taking around the world to promote religious liberty.

And, this bill establishes an orderly procedure for the President to consider taking targeted, calibrated actions against the most severe violators of religious liberty.

This compromise gives the President the flexibility he needs to conduct a balanced foreign policy.

The President will have substantial flexibility to calibrate the most appropriate action to help change the behavior of the worst violators of religious freedom, including broad waiver authority and broad latitude to take actions other than sanctions.

Congress will not be required to undertake a new series of counterproductive "mini-MFN" or "mini-drug decertification" debates about religious persecution around the world.

The Commission on International Religious Freedom established by the bill will make recommendations but will have no official role in shaping U.S. foreign policy.

And the President will have substantial flexibility in deciding when and how to identify countries that will be subject to action under this bill. There will be no diplomatically damaging "list" of countries that violate religious freedoms.

Mr. President, this is not a perfect bill. But it is a good bill. Congress cannot, by passing a law, put an end to religious persecution outside our borders. But we can ensure that America speaks out with one voice, with a strong voice, to make clear that we will not stand idle while people suffer because of their faith.

This bill will amplify America's voice for freedom. It will strengthen the President's ability to craft a complete foreign policy in which the whole of America's national interests is not held captive to any single dynamic. Security, economics, diplomacy, trade, human rights, individual liberties—these are all part of America's national interests around the world. We can, we must, promote them all—we cannot afford to sacrifice any interest for any other interest.

When Congress returns next year, we should continue the effort to expand American engagement abroad—by passing fast track trade negotiating authority, by reforming outdated and counterproductive sanctions regimes, by reviewing every international institution in which America participates to ensure they are relevant to today's challenges. And we must strengthen our military, which is the guarantor of our foreign policy. American leadership in all those areas is essential if we are to effectively promote individual liberties—including religious liberties—around the world.

We should pass this bill. And then Congress should resist the temptation to legislate further on this matter in the months and years ahead, and give this comprehensive new framework for religious freedom a chance to work.

Thank you, Mr. President. I yield the floor.

Mr. MACK. Mr. President, last week, as many of our friends and colleagues began the Jewish New Year with the Yom Kippur day of atonement—in freedom and in peace—millions of men and women elsewhere in the world were suffering for their faith. Mr. President, I believe that our freedom to pray is not complete until all people are free to pray.

I am told of some specific examples which make me appreciate my freedom and move me to come to the floor today. In Pakistan, a young man faces a death sentence based on trumped-up blasphemy charges. In Laos, 10 courageous men and women of faith serve out harsh prison sentences for the crime of meeting for Bible study, an act which many of us take part in regularly. In China, millions of Catholics and Protestants are forced to worship in secret, paying the price of prison, fines, and even torture if they are discovered. Muslims and Tibetan monks in China suffer a similar fate. In the Sudan, Christians and animists are sold into slavery or brutally murdered by an extremist Muslim Government.

These things ought not to be, and I believe that silence is no longer an option. We must act, and we must act wisely. For this reason, I join my colleague from Oklahoma, Senator NICKLES, in introducing S. 1868, the International Religious Freedom Act of 1998. This bill presents a responsible, flexible structure for responding to violations of religious freedom around the world. It allows for action that is comprehensive but calibrated. It requires consultation with those who best know the country in order to devise the most effective policy. It ensures that the action we take truly benefits the people who are suffering. The only option this bill does not allow is silence.

The International Religious Freedom Act is not merely a short-term reaction to religious persecution. It has been carefully researched and crafted to promote long-term change, not simply to punish. There are numerous provisions for training our front lines in human rights policy—Foreign Service officers, ambassadors and refugee and asylum personnel. It incorporates religious freedom into numerous long-term avenues for change, such as broadcasting, Fulbright exchanges and legal protections for religious freedom.

This bill has strong support from a broad base of religious and grassroots organizations. With my colleague DON NICKLES, we have listened to all who desired to contribute, and have worked with both sides of the aisle to address areas of concern. This bill is truly a collaborative product of countless hours of work among Members of the Congress and the administration.

As Americans, we prize the right to freedom of religion. Our Founding Fathers sought to establish, as George Washington, said, "effectual barriers against the horrors of spiritual tyranny, and every species of religious persecution."

We now have an historic opportunity to act on behalf of millions of religious believers around the world who cannot speak for themselves. We have a solemn responsibility to stand by those suffering for their faith. I urge my colleagues to vote for this bill. It is the right thing to do.

Mr. ENZI. Mr. President, I rise to speak in favor of the bill, as modified, before us. I cosponsored S. 1868, the "International Religious Freedom Act", sponsored by the honorable Senator from Oklahoma because I have become concerned with the trends or continued policies of religious discrimination and persecution in certain countries. I applaud his efforts to work with all interested parties in forming a consensus bill with 29 cosponsors—one that even prior opponents can support. He has been persistent in his efforts to form a bill that addresses the legitimate concerns of most of the bill's previous detractors, including the administration. I must also commend the senior Senator from Pennsylvania for focusing Congress' attention on this important issue.

I feel it is extremely important, as a Nation that firmly believes in the freedom of an individual to practice his or her religious belief, that our foreign policy reflect and promote this basic right of individuals. The manner in which we deal with other Nations should include, but not be exclusive to, the way these Nations honor the religious liberty of their citizens and visitors. I believe this bill as amended, strikes a responsible balance between the national security or economic interests, and the importance America places in the freedom of religious thought and practice for all throughout the world. The goal of promoting religious liberty in other countries is entirely consistent with the United States' policies of promoting human rights and democracy throughout the world.

Many Europeans first settled this continent for the very reason of gaining freedom of religious thought and practice. We can look to William Penn as just one example of an individual in American history that strove to promote the rights of individuals to practice their religion without interference. His goal was to create a land of religious toleration—that land was called Pennsylvania. He even drew up Pennsylvania's Colonial Constitution, which included in its first article the protection of the freedom to worship according to one's own conscience. To this day, America continues to be a beacon to the world, guaranteeing the freedom to worship as one desires.

As a Nation founded on Judeo-Christian principles, it especially saddens me when I learn about the increase in the persecution of Christian individuals worldwide. However, it is not just Christians in certain parts of the world that are being punished simply because of their beliefs—it is also those who practice Islam, Judaism, and just about every other religion or belief. Our Founding Fathers made it clear in the Declaration of Independence that the basic Laws of Nature and of Nature's God are entitled to all individuals. This guiding document, a unanimous Declaration of the 13 United States of America, says that:

> . . . all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness.

The ability to practice ones religious beliefs without undue Government interference is a fundamental right—an unalienable right. The American Founders believed in this right so much that they included the freedom to exercise one's religion in the First Amendment to the Constitution of the United States of America. The basic right to the freedom of thought, conscience and religion has also been declared by many other countries, as evidenced by the member signatories of the Helsinki Accords and the Universal Declaration on Human Rights and the International Covenant on Civil and Political Rights.

I believe this legislation will promote ideals that America stands for—specifically the freedom of religion—in the international community. This bill is especially important because religious persecution takes many forms and even seems to be on the rise in some parts of the world. The bill before us will deal with countries that disregard the basic right of individuals to believe as they choose in a manner that is consistent, yet flexible—one that allows the President to choose from a variety of measures to address the injustices of the violating country. It allows a flexible response from the administration, which recognizes that religious persecution takes many different forms, with varying degrees of severity. The bill's flexibility also recognizes the importance of a foreign policy that can be both pro-active and reactive to our national security and economic interests. The one action in dealing with violators of religious freedom that would not be allowed by this bill would be that of inaction or silence. If we, as defenders of freedom, are silent in matters so fundamental to our political belief system as religious liberty, then we are no better than the perpetrators of this unjust persecution and discrimination. This bill would help create a consistent U.S. foreign policy with respect to how we deal with countries that do not respect individuals' freedom of thought and conscience. I urge my colleagues to join with me and the 28 other cosponsors to vote in favor of this bill.

Mr. NICKLES. Mr. President, I yield my colleague from Minnesota 10 minutes.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. GRAMS. Thank you very much, Mr. President, and I thank Senator NICKLES also.

Mr. President, I rise to support the International Religious Freedom Act of 1998. While I continue to have serious questions about the general concept that threatening to impose sanctions on a country considered a "country of particular concern" will enable us to make progress toward ending religious persecution, I have co-sponsored this legislation, considerable progress has been made to redraft the legislation in a far more positive manner. Since it has significant support, it was important to ensure we will pass a version that had a better chance to work—not one that could have been counterproductive.

The Nickles compromise to the Wolf-Specter version I believe is far superior, and has addressed the concerns of many religious leaders. There was a fear the original legislation could have actually harmed believers in other countries. Let me repeat—those who served as missionaries and promoters of religious freedom abroad told me this legislation could actually have been counterproductive. In fact, some of them questioned a Government involvement in this debate at all, other than through normal diplomatic efforts—or, even better than the efforts of religious leaders and missionaries themselves, who have been able to make progress on their own.

Yet, many Washington stakeholders, supported an approach, to publicly humiliate and punish countries which meet our definition of "a country of particular concern" that is engaging in "particularly severe violations" of religious persecution by publishing a list of them and imposing automatic sanctions.

Mr. President, I didn't believe this approach would work. I didn't believe that this was the right way to address religious persecution. Fortunately, many religious leaders have stepped forward, often severely criticized, to tell us they did not believe the original approach was the right approach.

Senator HAGEL and I asked the Foreign Relations Committee to hold a hearing on the legislation, a hearing that would allow some of those who believed the legislation could have been counterproductive to testify. It is ironic that when we sought changes to the legislation, again changes suggested by those who had served abroad, I was publicly attacked by some individuals claiming to understand how best to address religious persecution. And some of these individuals, I believe, may have placed their own personal agendas ahead of the very people that we, through this bill and this legislation, want to help in these countries.

Mr. President, I strongly commend my colleague, Senator NICKLES, for his understanding, his patience and his dedication to work with us on this legislation. I know he made many revisions to the bill which were recommended by myself and others that we thought would help change the focus from an approach that was more negative to one that was very positive and had a better opportunity to work.

There is far more emphasis now on working with countries, working with them quietly to try to end those violations of religious freedom, and to working with our allies in order to try to reach multilateral solutions rather than a far less effective unilateral approach and solution.

The revised Nickles substitute before us, I think, gives the President more flexibility regarding how efforts to achieve religious freedom are reported and that we talk not only about the progress that must be made, but also the progress that has been made. The report that discusses the progress that needs to be made is less inflammatory and it does not link any suggested sanctions to each country of particular concern.

The President's waiver authority has been also expanded to permit a waiver if an action, including sanctions, would be counterproductive. And just this week the waiver authority has been further expanded to a national interest waiver which is significant progress, I believe, to improve this bill. A waiver could be communicated to Congress the same day it is exercised rather than the earlier notice requirement.

One concern of mine, however, does still remain, and it relates to the commission which provides its own report on religious freedom. While the commission should be advisory using, I believe, detailed employees from the Government, language was added late in the negotiations that awarded the commission $3 million for each of the 2 years for its own staff. That is a lot of staff when "free" staff was available.

Now, I agree that the commission needs some autonomy, but in my judgment this could further politicize the commission, which would make it less effective. But I am pleased that Senator NICKLES added my requirement that commission members must have some direct experience abroad in order to be appointed to the commission. We must have a commission with members who have direct knowledge of religious freedom issues in targeted countries, those who have been there, those who know the problems that these people could face in the form of any kind of retribution toward any U.S. Government action taken.

I was also pleased that language was added to track some of Senator LUGAR's Sanctions Reform Act in several sections of the bill. Those were the provisions that would require consultation with interested parties in order to achieve a multilateral solution as well as an analysis of whether an action would achieve the purpose of promoting religious freedom, whether it would be counterproductive, and what the cost would be of that action to the rest of the economy.

Because so many changes were made to improve this legislation and because so many wanted to support some kind of bill, I worked very hard with Senator NICKLES and others to improve the bill. I now believe that we must also exercise our oversight function over the commission as well as the overall approach of this legislation in the years ahead. We must continue to ask ourselves whether this kind of public approach really works. We must consider whether we want a commission or our Government deciding what religious persecution is, which religions are we going to help, and which ones will we ignore, and which countries we will label a "country of particular concern," and which will escape that designation for some foreign policy reason. Where will we draw the line? Will we factor in every kind of discrimination against religion, including many we may have questions about? Will we be drawn into disputes with other countries that question why they were named and not other equally violative countries?

Mr. President, we will need to monitor its results, and we need to do that in order to make sure that it accomplishes its purpose. There may be some fine tuning that we need to do to the bill to improve it to make it work better.

This is a dangerous area in which we are treading. It is full of pitfalls, I believe, but I think we can overcome them if we are ready and willing to have oversight authority. My support of the revised Nickles bill is based on that willingness to see how this approach works, but we must pay attention to how it is working and to have the good sense to end it if it is not.

As we exercise our oversight over this legislation, I ask my colleagues also to listen to the advice of The Reverend John N. Akers, of the Billy Graham Evangelistic Association and Chairman of the East Gates Ministry International. He has been very helpful in forwarding concerns of missionaries serving abroad. Dr. Akers, who also testified before the Foreign Relations Committee, requested in a September 28 letter to my office, "Do all you can to ensure that the final version will help religious believers in other countries and not actually, if unintentionally, make their situation worse."

Mr. President, this is good advice, and it shall dictate how I personally analyze the success or failure of this legislation.

But tonight I want to urge all my colleagues to strongly support this as a beginning. Again, I thank Senator NICKLES for all the hard work to get us to this point on this legislation.

I thank the Chair. I yield the floor.

Mr. NICKLES. Mr. President, I thank my colleague from Minnesota for his leadership on this, for his willingness to meet with us for hours to work out some of the concerns that he had, the latest concern he mentioned being where some people who are in foreign countries who are missionaries wanted to make sure this wouldn't have a counterproductive effect. We actually put in a waiver of any sanction that could be imposed if the administration felt like it would be counterproductive to the goals and purposes of the act.

Again, I thank my colleague, Senator GRAMS from Minnesota, for his willingness to work with us, to cosponsor this legislation.

Mr. President, I did not do this at the beginning of the debate and I should have. I ask unanimous consent to, in addition to myself and Senator LIEBERMAN, have the following Senators be included as original cosponsors of this bill: Senators MACK, KEMPTHORNE, CRAIG, HUTCHINSON, ENZI, HELMS, SESSIONS, FAIRCLOTH, ALLARD, DEWINE, BROWNBACK, INHOFE, COATS, COLLINS, HUTCHISON, LOTT, COVERDELL, AKAKA, ASHCROFT, SANTORUM, BREAUX, HAGEL, GRAMS, SPECTER, MCCONNELL, D'AMATO, HOLLINGS, and Senator SMITH from New Hampshire.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, I also have a list of organizations, religious organizations that have been supporting this bill and endorse this bill. I will name those for the record: Religious Liberty Commission of the Southern Baptist Convention, the National Association of Evangelicals, the International Fellowship of Jews and Christians, the Christian Coalition, the Anti-Defamation League, the National Jewish Coalition, the American Jewish Community, the Catholic Conference, Evangelical Lutheran Church of America, the Catholic Conference of Major Superiors of Men's Institutes, the Jewish Council for Public Affairs, the Union of American Hebrew Congregations, the Union of Orthodox Jewish Congregations of America, the National Conference on Soviet Jewry, United Methodist Church Women's Division, American Coptic Association, Episcopal Church, Advocates International, Traditional Values Coalition, Justice Fellowship, and B'nai B'rith International.

Mr. President, how much time remains on both sides on the bill?

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Oklahoma has 7½ minutes and the opposition has 75.

Mr. NICKLES. Mr. President, several colleagues have requested time to speak. I also know we went a little bit later than anticipated. Most of the colleagues on my side of the aisle have spoken. I know Senator LIEBERMAN is returning to the floor momentarily and wishes to speak. So I reserve the remainder of time on our side and ask colleagues, if they wish to speak, to please come to the floor and do so. If not, we will be happy to accommodate requests of other colleagues who wish to speak as in morning business.

Mr. President, I also ask unanimous consent we, Senator LIEBERMAN and I, have 5 minutes to speak prior to the vote tomorrow morning. That will be at 9:25.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMS. Mr. President, I ask unanimous consent I be allowed to speak as in morning business for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUPPORT OF THE AGRICULTURE APPROPRIATIONS BILL

Mr. GRAMS. Mr. President, I rise tonight to express my grave disappointment of President Clinton's decision to veto the 1998 Agriculture Appropriations conference report, which includes emergency relief for farmers around the country, like those farmers in the Red River Valley area of my home State of Minnesota, who are struggling against a combination of devastating factors.

Inclement weather, low prices, high market yields generally, and multiple years of wheat scab disease have converged to produce an atmosphere where even the best, most competitive farmers in Northwestern Minnesota are suffering.

This, despite the fact that the Market Transition Payments in the FAIR Act have provided our Nation's producers with a much greater safety net than the deficiency payments they would have received under the old program—about $7.5 billion more under the new farm bill than the old.

Yet the President's actions will delay this important relief. This bill provides twice as much assistance as he originally requested, yet he has now joined the bidding war, changed his mind and now jeopardizes this needed assistance to our farmers.

It is crucial for farmers in Minnesota, as well as other States, that the Agriculture Appropriations bill be signed by the President and not used as a pawn in a political debate. The bill funds all of our agriculture programs including $675 million to Plains farmers to help offset crop failures, like those caused by the wheat scab epidemic.

It also includes $1.65 billion which is to be added to the annual market transition payments—this money will help to address depressed commodity prices.

The conference report funds $56 billion to fund needed agriculture programs. This includes funds for many crucial tools to help our farmers promote their commodities at home and throughout the world.

The bill funds the Farm Service Offices in our States to aid farmers in making the adjustment to Freedom to Farm.

It also funds the Foreign Agricultural Service, which promotes U.S. agriculture products abroad. The Service coordinates CCC Export Credit Guarantee Programs; PL–480; Export Enhancement; and the Market Access Program.

The bill will continue and expand needed assistance to farmers in the long term, as well as the short term. It is a good compromise. I voted for the conference report although there are sections that I, like many, oppose, such as language from an earlier House version which would create a backdoor extension of the Northeast Interstate Dairy Compact. I raised some strong objections to this political maneuvering on the Senate floor last week.

It will allow an unjustifiable, reprehensible program to continue for another 6 months.

While I have deep reservations, this compromise is one we should continue to support and one the President should sign.

Some say this compromise does not include enough to address the farm crisis. Yet, this conference report provides over $4.2 billion in farm relief money. This is money that will be available immediately to farmers.

This is in addition to the regular AMTA payments—that is the marketing transition support payments which have provided roughly $17.5 billion to farmers over the last 2 years. This is also in addition to approximately $4 billion that producers will receive in loan deficiency payments this year.

Both Democrat and Republican plans were debated thoroughly in Committee, and the plan before the President is the one that the Members decided to support. The concept behind this agreement is that it continues to support farmers through the transition from the old failed system of our farm program to the new Freedom to Farm legislation, as well as to address needs created by weather and disease disasters.

It does not attempt to throw another net of Washington programs over our farmers.

Despite the partisan grandstanding you have heard, the plan before us will provide the transition assistance that our farmers need. And it will not undo the Freedom to Farm policy that we worked so hard to achieve.

Farmers in Minnesota have made it clear to me that they do not want welfare. The relief plan currently in the Agriculture Appropriations report avoids going in that direction. It is a one-time support package, as opposed to returning to our failed agriculture policies of the past. It also avoids the flaw of lifting the loan caps, a move that would both exacerbate the current grain glut and also distort market signals, encouraging excess production, which would continue low prices.

It is painfully clear by this point that the only purpose served by promoting "lifting the loan caps" is one of grandstanding, and we all know that a higher loan rate leads both to increased production, larger surpluses along with lower prices.

This option again was rejected by the Senate, Senate twice, yet it keeps coming back, rearing its ugly head.

There is simply no justifiable basis for a Presidential veto of the Agriculture Appropriations bill.

As we have heard Chairman COCHRAN explain here on the floor, it contains a lot of money for production agriculture. So a threatened veto is certainly not about money—it is about politics.

I remind my colleagues the President's original request for farmer relief—the original request—was $2.3 billion. The current package contains more than $4 billion. Now, however, he wants to veto legislation providing more money than his request. He has changed his mind and now wants $3 billion more.

This is simply a half-hearted attempt by the President to back a Democrat effort to revisit the Freedom to Farm bill. This is legislation that only 2 years ago, the Congress and President Clinton himself agreed it was needed to move the business of agriculture out of the grip of Government control.

It is disturbing to me that when the White House does not get its way, it vetoes legislation or takes it to the courts, and if rejected there, appeals to the higher courts. The bottom line is that it continues to try and go around Congress, rejecting decisions made by a majority of Congress.

Minnesota farmers should not be used as pawns in an election-year drama. The President should help farmers by signing this significant, emergency legislation, rather than joining those here who seek to undo the progress that has been made on agriculture policy.

The solution is here before us, and delays will be laid right at the President's feet. For the sake of our Nation's farmers, let's end the bidding war. Let's end it now. I strongly urge the President to reconsider his decision as he reviews this crucial legislation again in the Omnibus Appropriations bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I thank my colleague, Senator GRAMS from Minnesota, for his speech, but also for the homework and dedication that he had on this piece of legislation. He had some concerns about it. He raised those concerns. He was an effective Senator. We worked to alleviate some of those concerns and we wanted to make sure that no person who is in a foreign field—that these actions would cause them greater pain or greater discrimination. So I thank him for his efforts on the Religious Freedom Act, and I also thank him for his statement that he just made on the ag bill. I happen to agree with his statements wholeheartedly.

FREEDOM FROM RELIGIOUS PERSECUTION ACT OF 1998

The Senate continued with the consideration of the bill.

Mr. NICKLES. Mr. President, I ask unanimous consent that Senator FEINSTEIN be included as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Mr. President, I rise to express my support for the International Religious Freedom Act of 1998, which is the substitute amendment to H.R. 2431 being offered by the Senator from Oklahoma.

At the outset, I would like to express my appreciation and respect for the distinguished Assistant Majority Leader, Senator NICKLES, and the distinguished Senator from Connecticut, Senator LIEBERMAN. I want to salute their deeply held commitment to religious freedom for all people. I am aware that they and their staffs have been negotiating this bill for many months. They have been through draft after draft, talking with the administration, a large number of Senators with different interests, and a wide range of concerned outside organizations.

Their mission has been to produce a bill that would make a meaningful contribution to combating the problem of religious persecution in foreign countries, one that would pass with broad support in the Senate, and a bill that the President would sign. I know how long and hard they have been working on this effort.

Earlier this week, they had hoped to move the bill forward. There were still a number of provisions which I was concerned about, and I felt that since the bill had not come through the Foreign Relations Committee, on which I sit, and would not be open to amendment on the floor, I wanted a chance to address those concerns.

Despite the marathon talks the assistant majority leader and the Senator from Connecticut had already engaged in on this bill with so many others, and despite my late entry into the fray, they graciously and without hesitation agreed to sit down with me to see if we could come to common agreement. We were also joined by Undersecretary of State Stuart Eizenstat.

I am happy to report that, as a result of these discussions, with good will by all sides, we were able to reach agreement on each of the provisions that was of concern to me, and I think the bill is better for it. Let me explain what we agreed upon.

First, I have come to the conclusion that when the Congress legislates sanctions, we need to provide the President with a reasonable amount of flexibility in the implementation, both to respond to changing conditions, and to protect other American interests.

Normally, we provide the President with a waiver authority for sanctions, but the standard of that waiver is critical. The State Department believes, and I agree, that the "national security" waiver standard in the most recent draft was too high—it would be difficult for the President to waive the sanctions required under this act except in extraordinary circumstances. A waiver of "national interest" was deemed by the sponsors to be too low. So we compromised: the President can now waive the sanctions in this bill if the "important national interest" requires it.

Second, the definition of what constitutes a "particularly severe violation" of religious freedom was originally drafted in such a way that it could have inadvertently triggered other sanctions—those required for gross violations of human rights—under sections 116 and 502B of the Foreign Assistance Act. There was no intent on the part of the sponsors to trigger two sets of sanctions, so it was simply a matter of ensuring that a different standard was required for each trigger.

The standard we agreed upon was proposed by Senator LIEBERMAN. Particularly severe violations of religious freedom are now defined as "systematic, ongoing, egregious violations of religious freedom." To my mind, this is neither a higher nor lower standard than the "consistent pattern of gross violations of human rights" that requires a separate set of sanctions under the Foreign Assistance Act, but it is a sufficiently different standard that it a finding under one act should not automatically trigger sanctions under both acts. I think this is an important improvement in the bill.

Third, we were concerned that there could be situations in which the President has already taken significant action against a country, in large part to respond to human rights abuses, and then a finding of particularly severe violations of religious freedom would require additional actions under this act. In the case of a country like Sudan, where we have already imposed extensive sanctions, it makes sense for the President to be able to cite an existing sanction as fulfilling the requirements of the International Religious Freedom Act.

Again, to the best of my knowledge, the sponsors of the bill had no desire to force the President to impose redundant sanctions on a country. So, in section 402(C)(4) we have developed language that allows the President to cite an existing sanction as fulfilling the requirements of this act. I think this change also makes the bill better.

We are all aware that there are people of faith who are suffering for their beliefs in many parts of the world. As a Nation founded on the precious principle of religious freedom, a principle which is enshrined in the Bill of Rights, we cannot and must not turn a deaf ear to the cries of the oppressed. Making the protection of religious freedom a high priority in our foreign policy is the right thing to do.

The challenge is to create mechanisms to promote religious freedom and protect persecuted believers that: provide enough flexibility to respond to different conditions at different times and places; avoid unintentionally making life harder for those we seek to help; and, make a meaningful contribution to the cause of religious freedom without unduly jeopardizing other important national interests.

That is why I have so much respect for what the distinguished assistant majority leader and the distinguished Senator from Connecticut have been trying to do these many months. They have worked hard to listen to the concerns of the administration, other Senators, religious organizations of every denomination, the business community, and other interested parties. They have tried to develop a bill that will help the United States protect those in danger of persecution for their faith, while taking into account the broad and deep requirements of U.S. foreign policy interests. I think they have succeeded.

Evidence of their success is in the broad and diverse coalition of religious organizations and human rights groups who have worked tirelessly to support the bill. Further evidence of this success, I believe, will be evident by the overwhelming support I expect the Senate will demonstrate when it votes shortly. And perhaps the most impressive evidence of their success is that earlier today, National Security Adviser Sandy Berger informed the minority leader that the administration now supports the bill as drafted. After so many months, we know that the President will sign this bill, and it will become law.

I yield the floor.

Mr. NICKLES. Mr. President, I know the Senator from Connecticut will be here shortly. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Senator from Indiana.

Mr. COATS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COATS. Mr. President, I know our colleague, Senator LIEBERMAN, is on his way over to speak on this bill. I want to take this opportunity to say how much his presence and his involvement on this issue was necessary to our forging a bipartisan consensus on this.

I think it is important that we speak with one voice as a Nation on an issue as critical as religious persecution. It was the work of Senator LIEBERMAN, primarily on the other side of the aisle, that allowed us to address some of the concerns of some of our colleagues—many of them legitimate concerns—and to work through the process, convince his colleagues that what we were attempting to do was done in a way that addressed their concerns. Really, without his help we could not have forged this bipartisan consensus. So while he is not here for me to praise him personally, I just want to let the record show that the combination of Republicans and Democrats, Liberals and Conservatives, and everybody in between, resulted in a consensus bill that I think sends a very, very important message and, really, a beacon of hope and light.

I am hoping the vote tomorrow will be unanimous, and I think it may be. A lot of that credit goes to Senator LIEBERMAN and also, as I said earlier, a lot of that credit goes to the bill's chief sponsor here in the Senate, Senator NICKLES, who patiently worked through trials and tribulations, weeping and wailing and gnashing of teeth, in order to pull this together and get everybody on board. That appears to be what we have, and we are looking forward to a solid vote tomorrow. Again, my compliments to all of those who played such an important role in that.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I thank my colleague from Indiana for his compliments. I want to reiterate my statement that Senator COATS was there from the beginning, and he was there at almost every meeting saying, "Let's get this done," and, "Let's forge the consensus," "Let's make the compromise," and he helped make it happen.

He is also very correct in complimenting Senator LIEBERMAN for making it happen. I mentioned that earlier. Senator LIEBERMAN has been with us on this bill for a long time. He has worked with us. He has helped us craft the bill and helped make compromises to make sure it is enacted.

I also thank our colleague from California, Senator FEINSTEIN, whom we met with last night at length to be sure, again, that this bill would be acceptable and we could get it through. We did. We made a change. We changed the waiver provision from "national security" to "important national interests," which, again, is something the administration wanted.

I think it is still compatible with our goals and objectives of passing a good bill that will help move countries, that have been persecuting people because of their religious beliefs, away from that behavior.

I thank my colleague from California for her work, and also the Senator from Delaware, Senator BIDEN, who worked with us, as well, in negotiating with us, and helped us craft a package that I am confident we will pass tomorrow with an overwhelming vote.

I am confident the House, likewise, will pass the bill, as we will pass it in the Senate, and this bill will be on the President's desk and will become law. As a result, I think it will save lives and it will help alleviate persecution of individuals because they are practicing their faith.

Again, I thank all of our colleagues on both sides of the aisle for making this happen.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, as I indicated before to the majority leader, I have about a 30-minute speech for morning business. He indicated that I could do this at the end of the proceedings tonight. But since the floor is now not occupied—I understand Senator LIEBERMAN may be on his way—I thought I would proceed now, and it is my intention to do so. If Senator LIEBERMAN comes, then we will try to make whatever accommodation we can.

The PRESIDING OFFICER. Without objection, it is so ordered.

INDEPENDENT COUNSEL LAW AND KENNETH STARR'S INVESTIGATION

Mr. LEVIN. Mr. President, as one who 3 times in the last 15 years helped to reauthorize the independent counsel law, I have been giving a great deal of thought to the way in which the independent counsel statute has functioned in Kenneth Starr's investigation of President Clinton.

The important purpose behind the statute was to have an objective person investigate credible allegations of violations of criminal law against top administration officials in order to give confidence to the public that the Attorney General, an appointee of the President, was not put in the position of investigating those allegations.

But what if the person selected to investigate those allegations by the special court, the three-judge court that appoints independent counsels, violates the restrictions in the very act creating him? What could be done to rein in such an independent counsel?

Some will dismiss these questions and more specific ones related to Mr. Starr's investigation of the President as defending the President's actions,

actions which were irresponsible and immoral, and which by the President's own acknowledgment, hurt those closest to him and which damaged the body politic of the Nation. But dismissing such questions would be wrong, because the actions of the independent counsel in this case, and the implications his actions have on the future of the independent counsel law and, indeed, upon the rule of law, demand our attention as well.

The authors of the law in 1978 attempted to put limits on the independent counsel in the law itself and provided, for instance, that the independent counsel must follow the policies of the Justice Department and that the Attorney General could fire an independent counsel for cause.

The Supreme Court in *Morrison* v. *Olson* upheld the constitutionality of the independent counsel law in large part because of those provisions, stating that:

> . . .the Act does give the Attorney General several means of supervising or controlling the prosecutorial powers that may be wielded by an independent counsel. Most importantly, the Attorney General retains the power to remove the counsel for "good cause," a power that we have already concluded provides the Executive with substantial ability to ensure that the laws are "faithfully executed" by an independent counsel. . . . In addition . . . the Act requires that the counsel abide by Justice Department policy unless it is not "possible" to do so.

During each of the reauthorizations of the law, in 1983, 1987, and 1994, Congress was concerned about the potential for an open-ended, unlimited investigation by an independent counsel, and we adopted various restrictions in an effort to prevent that. We added, for example, a number of budgetary restrictions, reporting requirements, and a biannual GAO audit. And, we gave the Special Court the authority to terminate an independent counsel if it found the independent counsel's work to be "substantially completed."

Those of us involved in those reauthorizations worked in a bipartisan manner to put additional checks and limits on these investigations. We did so in the hope that we could preserve the core principle of the law—that someone outside of the Department of Justice could investigate credible allegations of criminal violations by high level executive branch officials.

Our goal has always been to have independent counsels be like ordinary prosecutors, treating high-level Government officials no better and no worse than a U.S. attorney would treat a private citizen. The specific questions that need to be addressed are whether Mr. Starr has met that standard or whether he has violated important requirements of the independent counsel law, whether he has ignored his responsibility not to abuse the grand jury process and whether he has carried out the duty of all prosecutors as established by the Supreme Court not just to prosecute but to prosecute fairly.

ROLE OF PROSECUTOR

A prosecutor's responsibility is unique in our criminal justice system. As articulated by Justice Sutherland in the 1935 Supreme Court case of *Berger* v. *the United States*,. a prosecutor's responsibility is not to do whatever it takes to get a conviction, but to "do justice." Justice Sutherland wrote:

> The United States Attorney is the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done. . .He may prosecute with earnestness and vigor—indeed, he should do so. But, while he may strike hard blows, he is not at liberty to strike foul ones.

THE STARR REPORT

Let me address first Mr. Starr's decision to include in his report graphic details of the sexual encounters between the President and Ms. Lewinsky. Mr. Starr argues that he had to be so graphic in order to rebut the President's contention that the President didn't have "sexual relations" with Ms. Lewinsky as defined in the *Paula Jones* case. But that claim is a pretext, not a reason. There is no justification for Mr. Starr's inclusion of each and every detail of these sexual encounters in the report. He could have easily referred the readers to pages in the record to support his assertions. I've never read a document by a prosecutor that is so needlessly salacious.

Mr. Starr's report also violated the fairness expected by the American people by presenting information on possible impeachable offenses in a biased and prejudicial manner. Under the Constitution, the House has sole responsibility to decide whether or not the President should be impeached. The independent counsel does not have a statutory responsibility to argue for impeachment. His responsibility is to forward "information" to the Congress that "may constitute grounds for an impeachment." The independent counsel law says:

> An independent counsel shall advise the House of Representatives of any substantial and credible information which such independent counsel receives, in carrying out the independent counsel's responsibilities under (the independent counsel law) that may constitute grounds for an impeachment.

That's it. That's the extent of the independent counsel's responsibility. The law doesn't give an independent counsel the responsibility to argue for impeachment. But the report in effect did that. The independent counsel law doesn't give the independent counsel the responsibility to draw conclusions from the information he presents to Congress. But the report did that as well. For example, in the introduction to the report, Mr. Starr states unequivocally that "(t)he information reveals that President Clinton", and then it lists seven conclusions such as: "lied under oath. . ."; "attempted to obstruct justice. . ."; "lied to potential grand jury witnesses."

In other parts of the report, Mr. Starr makes conclusory statements such as these: "the President's testimony strains credulity"; "the President's denials—semantic and factual—do not withstand scrutiny"; "the President's claim . . . is belied by the fact . . ."; "the President could not have believed that he was 'telling the truth. . .;'" "the President lied under oath three times."

The report not only is full of conclusions and arguments, it is also biased in its presentation because it omits exculpatory evidence. For instance, the report omits Ms. Lewinsky's clear statement before the grand jury that "no one ever asked [her] to lie" and she "was never promised a job" for [her] silence. (Appendices, Part 1, page 1161.) The report doesn't mention that Ms. Lewinsky testified that when she asked President Clinton whether she should get rid of his gifts to her in light of the Jones subpoena, his response was, "I don't know, "and that she left his office without "any notion" of what she should do with the gifts. (Appendices, Part 1, page 1122.) The report omits Ms. Lewinsky's statement that when she asked the President if he wanted to see her affidavit in the *Paula Jones* case before she filed it, he said he didn't want to see it. (Appendices, Part 1, page 1558)

GRAND JURY REPORT IN WATERGATE

Contrast the Starr report with the grand jury report in the *Watergate* case in 1974 to the House Judiciary Committee which was then investigating the possible impeachment of Richard Nixon. Judge Sirica was asked to rule on whether the grand jury's evidence in the *Watergate* matter could be forwarded to the House of Representatives since it was engaged in impeachment proceedings. Judge Sirica approved the transmittal of the grand jury report in the *Watergate* matter, because he determined that:

> It draws no accusatory conclusions. . . It contains no recommendations, advice or statements that infringe on the prerogatives of other branches of Government. . ..It renders no moral or social judgments. The Report is a simple and straightforward compilation of information gathered by the Grand Jury, and no more. . . The Grand Jury has obviously taken care to assure that its Report contains no objectionable features, and has throughout acted in the interests of fairness. The Grand Jury having thus respected its own limitations and the rights of others, the Court ought to respect the Jury's exercise of its prerogatives. (In re Report and Recommendation of June 5, 1972, Grand Jury Concerning Transmission of Evidence to the House of Representatives, U.S. District Court, District of Columbia, March 18, 1974.)

What a far cry the *Watergate* grand jury report was from Mr. Starr's. The

Starr Report violates almost every one of the standards laid out by Judge Sirica in the *Watergate* case.

Even prior to the report Mr. Starr acted in other ways inconsistent with the independent counsel law and the rules governing the grand jury.

VIOLATIONS OF THE INDEPENDENT COUNSEL LAW

No person is above the law. That principle is the touchstone of our system of Government. And the rule of law holds true for both the prosecutor and the prosecuted. Kenneth Starr has placed himself above the law in a number of ways even before he sent his report to Congress.

EXCEEDING LIMITED JURISDICTION

The Supreme Court was clear in 1988 when it reviewed the constitutionality of the independent counsel law that the specific and narrow jurisdiction granted to each independent counsel by the appointing court is key to the law's constitutionality. The Supreme Court in *Morrison* v. *Olson* held that, "the independent counsel is an inferior officer under the Appointments Clause, with limited jurisdiction and tenure and lacking policymaking or significant administrative authority." "Limited jurisdiction." "Lacking policymaking authority." Did Kenneth Starr respect this limitation in the law that created his office? I believe not.

Again, the most fundamental limit in the law is that an independent counsel can investigate only that which is within the scope of jurisdiction granted by the court that appoints him.

Mr. Starr was appointed to office in August 1994 to investigate Whitewater. Three months earlier, in May of 1994, *Paula Jones* had filed her civil law suit against the President accusing him of sexual harassment. Mr. Starr's grant of authority was completely unrelated to the *Paula Jones* case and made no reference to it.

But in April of 1997, according to a June 25, 1997, article by Bob Woodward and Susan Schmidt in the Washington Post, FBI agents and prosecutors working for independent counsel Starr questioned Arkansas state troopers about their knowledge of any extramarital relationships Mr. Clinton may have had while Governor and questioned a "number of women whose names have been mentioned in connection with President Clinton in the past." The two troopers who served on the Governor's personal security detail, Roger Perry and Ronald Anderson, are quoted in the article as follows:

> "In the past, I thought they were trying to get to the bottom of Whitewater," Perry said in an interview with The Washington Post. "This last time, I was left with the impression that they wanted to show he was a womanizer. . ..All they wanted to talk about was women." He said he was interviewed in April (1997) for more than 1½ hours by an attorney in Starr's office and an FBI agent.
>
> Perry, a 21-year veteran of the Arkansas state force, said he was asked about the most intimate details of Clinton's life. "They asked me if I had ever seen Bill Clinton perform a sexual act," Perry said. "The answer is no.' "
>
> . . .. . ."They asked me about *Paula Jones*, all kinds of questions about *Paula Jones*, whether I saw Clinton and Paula together and how many times," Perry said.
>
> . . ..Anderson said he refused to answer the questions about personal relationships Clinton may have had with women. "I said, 'If he's done something illegal, I will tell you. But I'm not going to answer a question about women that he knew because I just don't feel like it's anybody's business. . .' "

What justification did Mr. Starr provide to support these inquiries in April of 1997? The Washington Post said deputy Whitewater counsel John Bates defended Mr. Starr's action by saying that the purpose, as restated by the Post, "is to ensure that a full and thorough investigation is conducted that leaves no avenue unexplored."

Mr. Starr's appointment was completely unrelated to the *Paula Jones* case. Yet here he was inquiring in significant detail in April 1997, leaving "no avenue unexplored," about possible relationships Mr. Clinton had with various women, including *Paula Jones*. And the New York Times reported on Sunday, October 4th, that contrary to Mr. Starr's statements in his report to the House that his office first learned of the Lewinsky affair from Linda Tripp on January 12th, the Starr office had been contacted by Jerome Marcus, a Philadelphia lawyer with ties to the *Paula Jones* legal team, at least a week earlier. The earlier contact between Mr. Marcus and Mr. Starr's office has now been confirmed by Mr. Starr's spokesman. The call from Mr. Marcus and his relationship to the Jones case was not, according to the New York Times, disclosed to the Justice Department when Mr. Starr sought to expand his jurisdiction.

So when, on January 12, 1998, Linda Tripp, who had been subpoenaed in the *Paula Jones* lawsuit, contacted Mr. Starr's office and told the office she had tapes of Monica Lewinsky describing an affair with President Clinton, the Starr office had already gone beyond its jurisdiction into the *Paula Jones* case.

Ms. Tripp apparently told Mr. Starr's office on January 12, 1998, that she had tapes of several recorded telephone conversations containing allegations that the President had told Ms. Lewinsky to lie in the *Paula Jones* case. (Ms. Lewinsky later testified before the grand jury that she was lying to Ms. Tripp when she had said that on the tape.) Because secretly tape-recording phone conversations is a felony under Maryland law (Md. Code Ann. Section 10–402), Ms. Tripp discussed immunity from prosecution for her own actions. According to the FBI summary of Ms. Tripp's interview with Starr's office on January 12th, independent counsel Starr not only discussed with Ms. Tripp a grant of immunity under Federal law and promised Ms. Tripp that his office "would do what it could to persuade the State of Maryland from prosecuting Ms. Tripp for any violations of that State wiretapping law" (Page 223 of the Appendices to the Starr Report), Starr's office actually promised Ms. Tripp immunity. "OIC attorneys. * * * advised Tripp she would be granted Federal immunity by the OIC for the act of producing the tapes to the OIC." (FBI 302, interview with Linda Tripp, 1/12/98)

Again, with no jurisdiction to investigate matters involving the Jones case, Mr. Starr instructed FBI agents to equip Ms. Tripp with a hidden microphone and surreptitiously record a 4-hour conversation with Ms. Lewinsky the following day, January 13th.

Where did Mr. Starr get the authority to enter into immunity negotiations with Ms. Tripp on January 12th? Where did Mr. Starr get the authority to instruct FBI agents to wire Ms. Tripp and tape her conversation with Ms. Lewinsky? Mr. Starr didn't have the authority and he didn't have the jurisdiction on January 12th. (He didn't receive the authority and jurisdiction until days later when he went to the Attorney General to obtain it.) He thereby ignored the statutory limitations on his authority—the limits that confined him to matters involving Whitewater and investigations into the White House use of FBI files and the White House Travel Office which by that time the court had also authorized. In doing so, he used some of the most powerful tools given to a prosecutor—immunity from criminal prosecution and electronic surveillance by the FBI—to expand his reach beyond what the law permitted him to do.

It was only after he gave immunity to Ms. Tripp and used FBI agents to monitor 4 hours of conversation between Ms. Tripp and Ms. Lewinsky on January 13th that independent counsel Starr sought authority to expand his jurisdiction. On Thursday, January 15, he contacted Attorney General Reno's Office on an emergency, expedited basis to get her to request the special court to authorize the added jurisdiction. The emergency was apparently caused by the threat of a story about the Lewinsky affair becoming public in an upcoming "Newsweek" article.

A letter by Mr. Starr to Steve Brill, publisher of "Brill's Content," in March 1998 suggests that Mr. Starr based his request for expanded jurisdiction primarily on the FBI tape between Ms. Lewinsky and Ms. Tripp (again, a tape that the Starr office had no authority to obtain). The special court granted Mr. Starr jurisdiction in the Lewinsky matter on January 16th.

(2) Failure to Follow Justice Department Policies.

Mr. Starr also violated the independent counsel law's requirement that he follow the policies of the Department of Justice. 28 U.S.C. 594(f)(1) states that independent counsels "shall" comply with the "written or other established policies of the Department of Justice." The only exception to this rule is where compliance with Departmental policies would be "inconsistent with the purposes of the statute" such as, for example, compliance with a policy requiring the permission of the Attorney General personally to take a specific act. Barring this exception, the law is clear that independent counsels must comply with Justice Department policies.

The Supreme Court placed great emphasis on the law's requirement that an independent counsel is bound by the policies of the Department of Justice and that the independent counsel law "does not include any authority to formulate policy for the Government or the Executive branch."

Yet there are at least five instances in which Mr. Starr appears to have failed to follow Justice Department policy: discussing immunity with Ms. Lewinsky without contacting her attorney of record; subpoenaing the Secret Service; subpoenaing news organizations; subpoenaing Ms. Lewinsky's mother; and subpoenaing the notes of the attorney for the late Vince Foster (arguing that the attorney-client privilege terminates upon the death of the client).

First, when Mr. Starr confronted Monica Lewinsky on the afternoon of January 16th he acted inconsistently with Justice Department policy. 28 CFR 77.8 explicitly prohibits Federal prosecutors from offering an immunity deal to a target without the consent of the target's legal counsel. Yet Mr. Starr's staff, knowing she was represented by counsel, confronted Monica Lewinsky in their first contact with her, outside the presence of her counsel, for the express purpose of offering her an immunity deal. Indeed, the independent counsel's office made immunity contingent upon her not contacting her counsel. (Appendicies, Part 1, pages 1143–1154)

Until recently, our understanding of what happened on January 16th when Ms. Lewinsky was first confronted by Mr. Starr's office was based on speculation, but now we have a description of what happened under oath from Ms. Lewinsky herself. It's a description of the intimidation of a woman whose crime was having a consensual affair with the President and trying to cover it up. I want to read from the grand jury transcript, because Ms. Lewinsky's description is so chilling and speaks for itself.

Lewinsky Transcript

Juror: . . .I guess the other thing that we wanted to ask you a little bit about is when you were first approached by Mr. Emmick and his colleagues at the OIC. Can you tell us a little bit about how that happened?. . .

Mr. Emmick: Maybe if I could ask, what areas do you want to get into? Because there's—you know—many hours of activity—

Juror: Well, one specific—okay. One specific question that people have is when did you first learn that Linda Tripp had been taping your phone conversations? [Ms. Lewinsky answers that she learned when she was, and these are her words, "first apprehended." The transcript continues.]

Mr. Emmick: Any other specific questions about that day? I just—this was a long day. There were a lot of things that—

A Juror: We want to know about that day.

A Juror: That day.

A Juror: The first question.

A Juror: Yes.

A Juror: We really want to know about that day.

Mr. Emmick: All right. . . [Ms. Lewinsky then describes meeting Ms. Tripp at the Ritz Carlton.]

Ms. Lewinsky: She was late. I saw her come down the escalator. And as I—as I walked toward her, she kind of motioned behind her and Agent——and Agent——presented themselves to me and——

A Juror: Do you want to take a minute?

Ms. Lewinsky: And flashed their badges at me. They told me that I was under some kind of investigation, something to do with the *Paula Jones* case, that they—that they wanted to talk to me and give me a chance, I think, to cooperate, maybe. . . I told them I wasn't speaking to them without my attorney. They told me that that was fine, but I should know I won't be given as much information and won't be able to help myself as much with my attorney there. So I agreed to go. I was so scared.

(The witness begins crying.) [Then Ms. Lewinsky becomes so upset with Mr. Emmick, an attorney with Mr. Starr who was present when Ms. Lewinsky was confronted by Mr. Starr's office on January 16th, that she asks him to step out of the grand jury room, which it appears he finally does. Ms. Immergut, another attorney with Mr. Starr's office then takes over the questioning of Ms. Lewinsky and it turns into a question/answer format.]

Q: Okay. Did you go to a room with them at the hotel?

A: Yes.

Q: And what did you do then? Did you ever tell them that you wanted to call your mother?

A: I told them I wanted to talk to my attorney.

Q: Okay. So what happened?

A: And they told me—Mike (Emmick) came out and introduced himself to me and told me that—that Janet Reno had sanctioned Ken Starr to investigate my actions in the *Paula Jones* case, that they—that they knew that I had signed a false affidavit, they had me on tape saying I had committed perjury, that they were going to—that I could go to jail for 27 years, they were going to charge me with perjury and obstruction of justice and subornation of perjury and witness tampering and something else.

Q: And you're saying "they", at that point, who was talking to you about that stuff?

A: Mike Emmick and the two FBI guys. And I made Linda stay in the room. And I just—I felt so bad. [She then discusses why she feels bad and the question/answer session continues.]

Q: I guess later just to sort of finish up. I guess, with the facts of that day, was there a time then that you were—you just waited with the prosecutors until your mother came down?

A: No.

Q: Okay.

A: I mean, there was, but they—they told me they wanted me to cooperate. I asked them what cooperating meant it entailed, and they told me that—they had—first they had told me before about that—that they had had me on tape saying things from the lunch that I had had with Linda at the Ritz Carlton the other day and they—then they told me that I—that I'd have to agree to be debriefed and that I'd have to place calls or wear a wire to see—to call Betty and Mr. Jordan and possibly the President. And—

Q: And did you tell them you didn't want to do that?

A: Yes. I—I—I remember going through my mind, I thought, well, what if—you know, what if I did that and I messed up, if I on purpose—you know, I envisioned myself in Mr. Jordan's office and sort of trying to motion to him that something had gone wrong. They said that they would be watching to see if it had been an intentional mistake. Then I wanted to call my mom and they kept telling me that they didn't—that I couldn't tell anybody about this, they didn't want anyone to find out and that they didn't want—that was the reason I couldn't call Mr. Carter [Ms. Lewinsky's attorney of record at the time], was because they were afraid that he might tell the person who took me to Mr. Carter. They told me that I could call this number and get another criminal attorney, but I didn't want that and I didn't trust them. Then I just cried for a long time.

A Juror: All while you were crying, did they keep asking you questions? What were you doing?

Mr. Lewinsky: No, they just sat there and then—they just sort of sat there.

A Juror: How many hours did this go on?

Ms. Lewinsky: Maybe around two hours or so. And then they were—they kept saying there was this time constraint, there was a time constraint, I had to make a decision. And then Bruce Udolf came in at some point and then—then Jackie Bennett came in and there were a whole bunch of other people and the room was crowded and he was saying to me, you know, you have to make a decision. I had wanted to call my mom, they weren't going to let me call my attorney, so I just—I wanted to call my mom and they—Then Jackie Bennett said, "You're 24, you're smart, you're old enough, you don't need to call your mommy." And then I said, "Well, I'm letting you know that I'm leaning towards not cooperating." you know. And they had told me before that I could leave whenever I wanted, but it wasn't—you know, I didn't—I didn't really know—I didn't know what that meant. I mean, I thought if I left then that they were just going to arrest me. And so then they told me that I should know that they were planning to prosecute my mom for the things that I had said that she had done.

(Ms. Lewinsky begins crying; Ms. Immergut asks if Ms. Lewinsky wants to take a break, and she says she does. The questioning then resumes.)

A Juror: Monica, I have a question. A minute ago you explained that the reason why you couldn't call Mr. Carter was that something might be disclosed. Is that right?

Ms. Lewinsky: It was—they sort of said that—you know, I—I—I could call Frank Carter, but that they may not—I think it was that—you know, the first time or the second time?

A Juror: Any time.

Ms. Lewinsky: Well, the first time when I asked that I said I wasn't going to talk to them without my lawyer, they told me that if my lawyer was there they wouldn't give me as much information and I couldn't help myself as much, so that—

A Juror: Did they ever tell you that you could not call Mr. Carter?

Ms. Lewinsky: No. What they told me was that if I called Mr. Carter, I wouldn't necessarily still be offered an immunity agreement.

A Juror: And did you feel threatened by that?

Ms. Lewinsky: Yes.

What could be clearer than that? If Ms. Lewinsky called her lawyer, she wouldn't necessarily still be offered an immunity agreement and she felt "threatened." That's what Monica Lewinsky testified to under oath about what happened on January 16th when she was confronted by independent counsel Starr's office.

Look how Mr. Starr described the same event in his June 16th letter to Steven Brill months before Ms. Lewinsky's grand jury testimony was publicly released:

> "Ms. Lewinsky was asked to cooperate with the investigation. She telephoned her mother, Marcia Lewis, who took a train from New York City to confer with her daughter. During the five hours while awaiting her mother's arrival, Ms. Lewinsky drank juice and coffee, ate dinner at a restaurant, strolled around the Pentagon City mall, and watched television. She was repeatedly informed that she was free to leave, and she did leave several times to make calls from pay telephones. After her mother arrived, discussions resumed with agents and attorneys. Ms. Lewinsky, after talking with another family member by phone, chose to retain William Ginsburg, a longtime family friend who specializes in medical malpractice law in Southern California. As they left the Ritz Carlton, both Ms. Lewinsky and Ms. Lewis thanked the FBI agents and attorneys for their courtesy. Recent media statements by one of her attorneys alleging that she was mistreated are wholly erroneous."

That's what Mr. Starr says happened. The discrepancy is enormous. Ms. Lewinsky "was so scared"; she was told she faced 27 years in prison; at one point she was told she couldn't call her own attorney; at another point she was told that if she called her lawyer, an immunity offer would not be likely; she cried for long time; she felt if she left the room she would be arrested; and she felt "threatened." All of this occurred without the knowledge or presence of her attorney of record in apparent violation of Justice Department policy.

Consider also what Mr. Starr's office was trying to get Ms. Lewinsky to do. She says under oath, before the grand jury, that they wanted her "to agree to be debriefed and that [she'd] have to place calls or wear a wire to . . . call Betty and Mr. Jordan and possibly the President." In a letter from Mr. Starr to Steven Brill, Mr. Starr said, "This is false. This Office never asked Ms. Lewinsky to agree to wire herself for a conversation with Mr. Jordan or the President." Mr. Starr goes on to criticize Mr. Brill for making such a claim by saying, "You cite no source at all; nor could you, as we had no such plans."

But a memo from Starr's office itself of an interview with Ms. Lewinsky provides confirmation that Ms. Lewinsky was asked on January 16th to wear a wire. The relevant part of the interview summary says:

> "Lewinsky, who was 24 years of age when approached by the OIC on January 16, 1998, was not prepared to wear a wire and/or record telephone conversations. The request to do so was a lot to handle that day and Lewinsky relied on her advisors, who included her parents and Bill Ginsberg." (Appendices, Part 1, page 1555)

In Mr. Starr's report to the House of Representatives he states, "In the evaluation of experienced prosecutors and investigators, Ms. Lewinsky has provided truthful information." If Ms. Lewinsky is telling the truth when she swore that Mr. Starr's office tried to get her to tape phone conversations with Mr. Jordan or the President, then Mr. Starr was not speaking truthfully in his letter. And if Ms. Lewinsky is telling the truth that would mean Mr. Starr intended to surreptitiously record the President of the United States in order to develop evidence against him. The second example of Mr. Starr acting inconsistently with Department of Justice policy involves the testimony of the Secret Service in the Lewinsky matter. Over the strong objection of the Justice Department and for the first time in the Nation's history, Mr. Starr asked a Federal court to force Secret Service personnel to disclose how they operate and what they have observed of the President in the course of protecting him. No Federal prosecutor had ever before asked a court to compel such testimony from a Secret Service agent, according to the Justice Department.

Discounting arguments regarding the safety of the President and effective operation of Secret Service personnel, Mr. Starr issued subpoenas which were in violation of Justice Department policy and in violation of Mr. Starr's legal obligation to comply with Justice Department policy. Moreover, Mr. Starr argued in his report to the House that the President's "acquiescence" in the Justice Department's opposition to the Secret Service subpoenas was evidence of obstruction of justice on the part of the President presumably because, Mr. Starr argues, the Justice Department's opposition to the Secret Service subpoena was "interposed to prevent the grand jury from gathering relevant information." This claim by Mr. Starr is so preposterous, particularly in light of the letter of support for the position of the Secret Service from former President Bush, that it lays bare the excessive zeal of this investigation.

The fact that the court eventually upheld the subpoenas issued by Mr. Starr does not vindicate his position. His pursuit of subpoenas of Secret Service agents may not have violated the law, but it violated the policy of the Justice Department which Mr. Starr is bound to follow under the clear requirements of the independent counsel law.

Third, Mr. Starr issued subpoenas to news organizations to obtain nonpublic information from their news gathering efforts despite Justice Department regulations which caution Federal prosecutors to take a number of steps before subpoenas are issued in order to safeguard freedom of the press. The regulations require trying elsewhere for the information, negotiating voluntary agreements to provide the information first, and, in a final provision that one court held was not binding on Mr. Starr, obtaining the Attorney General's permission prior to issuing a subpoena. Despite the established policy discouraging media subpoenas, independent counsel Starr issued subpoenas to news organizations on several occasions. When ABC News objected to one such subpoena, Mr. Starr stated in a court pleading that the Justice Department's "regulations of this type do not govern an Independent Counsel."

The fourth example of Mr. Starr not following Justice Department policy is the subpoena to Monica Lewinsky's mother. He issued this subpoena despite the U.S. Attorneys' Manual policy that "the Department will ordinarily avoid seeking to compel the testimony of a witness who is a close family relative of . . . the person upon whose conduct grand jury scrutiny is focusing."

And fifth, in this same vein, but not related to the Lewinsky matter, Mr. Starr subpoenaed the notes of the late Vince Foster, arguing in an unprecedented case before the Supreme Court that the attorney-client privilege expires upon the death of the client. The Justice Department's general policy is that Federal prosecutors "will respect bona fide attorney-client relationships, where possible, consistent with its law enforcement responsibilities and duties." The Supreme Court rejected Mr. Starr's policy-setting position.

Violating the independent counsel law's limited grant of authority, ignoring established Justice Department policies (indeed making the claim that the independent counsel isn't governed by the Justice Department policies even though the independent counsel law says he is), Mr. Starr has made a mockery of the independent counsel process and the statutory constraints designed to insure that the independent counsels obey the same rules that apply to all other Federal prosecutors.

USE OF THE GRAND JURY

I also have concerns about Mr. Starr's use of the grand jury. Was Mr. Starr properly using the grand jury when he subpoenaed a Federal employee who was on his personal time when he called friends in Maryland from his home to congratulate them on demanding an investigation of Linda Tripp for possible illegal taping of telephone conversations with Ms. Lewinsky? Robert Weiner was subpoenaed within 24 hours of the calls and wasn't even interviewed first or contacted by the independent counsel as an initial step. Among other questions, prosecutors asked him to reveal the future plans of Maryland Democrats. How could that possibly be an appropriate use of the grand jury?

Was Mr. Starr properly using the grand jury when he subpoenaed Sydney Blumenthal to testify before the grand jury on what he was telling reporters about Mr. Starr's office because Mr. Starr believed Mr. Blumenthal was trying to intimidate his staff? The answer is, "no." A person should be able to criticize a prosecutor to the press without fearing a grand jury subpoena.

There are numerous allegations that Mr. Starr and his staff inappropriately revealed grand jury information to third parties in violation of rules governing grand jury secrecy. Rule 6(e) of the rules of Federal criminal procedure prohibit prosecutors and grand jurors from discussing the proceedings before the grand jury.

Mr. Starr has explained communicating with the press in the August 1998 edition of "Brill's Content" as "countering misinformation that is being spread about our investigation in order to discredit our office and our dedicated career prosecutors." Mr. Brill also quotes Mr. Starr as saying that as long as the independent counsel is providing reporters with information about "what witnesses tell FBI agents" or the independent counsel's office "before they testify before the grand jury" it is not subject to Rule 6(e). If such a standard were adopted, there would be little practical restraint on the grand jury information a prosecutor could discuss with the press.

Allegations of improper leaks by the Starr office were presented to Judge Norma Holloway Johnson, and the Associated Press reported in August of this year that Judge Johnson ruled that there is a prima facie case of violations of the grand jury secrecy rules. The Associated Press further reported that "the U.S. Court of Appeals rejected Starr's efforts to stop Johnson's investigation, allowing her to continue to collect evidence and hold a hearing to determine if Starr's office should be punished."

CONFLICTS OF INTEREST

Finally, there are the apparent and real conflicts of interest Mr. Starr has created in the operations of his office. It started at the time of his appointment. Mr. Starr was an active partisan who had served as Finance Chair for a Republican Congressional Campaign in Virginia and who had himself recently contemplated a run for the Republican nomination to the U.S. Senate in Virginia. Within weeks of the filing of the *Paula Jones* civil suit in May 1994, Mr. Starr appeared on television and espoused a legal position against the President. (He also began discussions with the Independent Women's Forum about filing a legal brief on *Paula Jones'* behalf in opposition to efforts by the President to have the litigation postponed.)

The appointing court informed my staff it was not aware at the time of the appointment that Mr. Starr had expressed a position against the President in the *Paula Jones* case. As senior Democrat on the Senate subcommittee charged with oversight of the independent counsel law, I urged the court shortly after Mr. Starr's appointment to make a fuller inquiry into Starr's apparent lack of objectivity about the President and based upon what the court learned, reconsider Mr. Starr's appointment. The court issued an order stating that, once it had exercised its appointment authority, it was without power to reconsider appointment of an independent counsel. The New York Times called on Mr. Starr to withdraw, while five past presidents of the American Bar Association warned the court that it needed to repair its appointment procedures to ensure a selection process with the reality and appearance of objectivity.

While in office, Mr. Starr only reinforced the initial concerns about his impartiality and judgment. For example, 1 month before the 1996 election, he accepted a speaking engagement at Pat Robertson's University at the request of Pat Robertson, including a press conference with Mr. Robertson, a visible and vocal opponent of the President with a history of public statements raising questions about Vincent Foster's death, then being investigated by Mr. Starr. In 1997, Mr. Starr announced his intention to accept a position at Pepperdine University at a program funded with millions of dollars provided by Richard Scaife, another declared opponent of the President and a chief funder of several organizations working on investigations into President Clinton, including the *Paula Jones* case. (He subsequently reversed course and stayed in office.)

During his employment with the Federal Government as independent counsel, Mr. Starr continued his law practice at the firm of Kirkland and Ellis. He continued to receive his full annual remuneration as a partner and continued to handle a number of very high profile cases, a number of which involved issues where Mr. Starr represented the position directly contrary to the Clinton administration position.

In February 1998, Mr. Starr's law firm apparently sent the Chicago Tribune copy of an affidavit of a witness in the *Paula Jones* case that was to be filed in that case—before the affidavit had been filed in court. While Mr. Starr's firm denied assisting Jones' legal team, it also resisted responding to a subpoena issued by the President's counsel relative to the sending of that affidavit. Also, the press reported that a former counsel to *Paula Jones*, Joseph Cammarata, admitted that he had sought legal advice on several occasions from one of the firm's partners, Robert Porter. So while Mr. Starr was working as independent counsel and continuing to serve as a partner at Kirkland and Ellis, one of his law partners allegedly was providing legal advice to the counsel in the *Paula Jones* case, in possible violation of the independent counsel law which prohibits "any person associated with a firm with which (an) independent counsel is associated" from representing "any person involved in" any investigation conducted by such independent counsel.

CONCLUSION

The position that Mr. Starr occupies is a position of public trust and duty, designed to be free from politics and partisanship, a position with powerful tools for investigation, unlimited but for the parameters of the independent counsel law and for the common sense and good judgment of the person holding the office.

Kenneth Starr has acted with no effective limits, because although he is subject to the ultimate authority of the Attorney General, given her power to fire him for cause, she is effectively powerless to rein in his excesses because her discharge of him would be so reminiscent of the "Saturday Night Massacre" in which Archibold Cox, the prosecutor investigating Richard Nixon, was fired. (In fact, the Attorney General has already been threatened with impeachment simply because she has taken a stand to protect her ongoing criminal investigations and prosecutions with respect to campaign finance abuses.)

I have urged the Attorney General, by letter, to go to court to enforce the requirement that Mr. Starr abide by the policies of the Department of Justice. She has not responded and perhaps could not because, I am speculating here, it could make it even more difficult for her to finally act to restrain Mr. Starr should she decide to do so, as it might appear that she was doing so under pressure.

Some Democrats are reluctant to speak out against Mr. Starr's abuses of power out of fear that they will be perceived as defending the President's actions. Some Republicans I have spoken with, who feel Mr. Starr has gone too far, won't say so publicly because of the negative reaction it might engender in some circles in which they must function.

It will be difficult in this environment to salvage the legitimate goal of the independent counsel law when it expires next year.

Any hope of achieving the radical surgery needed to prevent a prosecutor from abusing the powerful tools provided an independent counsel will depend on Democrats and Republicans who still believe in the legitimate purpose of the independent counsel law working together. Only such a bipartisan effort has a chance of stitching into the independent counsel law's fabric, now stretched beyond recognition, limits on the exercise of an independent counsel's power which are so essential in our constitutional design of checks and balances to prevent abuses in the exercise of governmental power.

Mr. President, I yield the floor. I note the absence of a quorum.

The PRESIDING OFFICER (Mr. ABRAHAM). The clerk will call the roll.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I ask unanimous consent to speak as if in morning business for approximately 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE INDEPENDENT COUNSEL

Mr. SESSIONS. Mr. President, I just had the opportunity to hear the remarks of the distinguished Senator from Michigan concerning the independent counsel.

I must say that those remarks are troubling to me and I do not believe contribute to really the kind of bipartisan effort that we need to make here in this body with regard to the delicate problem of the President's troubles.

It was raised under the pretension or the suggestion as part of an evaluation of the independent counsel but really amounted to, I think, an unfair restatement of many charges that have been made against the independent counsel, most of which I believe have already been answered, or could be answered pretty easily.

I served as a prosecutor for a number of years, and I would like just to share some thoughts.

I prosecuted a number of Government officials. And it was my experience during that process that Government officials, more than any other person I had the occasion to investigate, were the most aggressive and most impossible to the prosecutor. It is part of their team effort with their attorneys to attack the person who is out speaking the truth.

It is not an easy job for this independent counsel to obtain the truth. These officials don't want it out. It is not their choice. It is not their preference, or their desire, that what they may have done is revealed, particularly if what they have done may involve perjury or some illegality.

So it is not an easy thing to do. And when the independent counsel was charged with going out and finding the truth, he faced a systematic effort to obfuscate that truth. I wish it weren't so, but that is what appears to be.

So now when we get through this process—it took several years to finally get this information that we now have—we have Members of the other party wanting to come in here and attack the man who ultimately produced what appears to be the truth. At least I have not heard it substantially disputed. And he submitted a report. They said, "Oh, well." Judge Sirica, he said, wanted to review the grand jury testimony. That was before the independent counsel law. That was an unprecedented thing, I suppose, for Judge Sirica to report grand jury testimony. There was no law.

But now, under the independent counsel law, the independent counsel is required to submit the information that he finds to the Congress, to the House of Representatives. That is what his duty was—to find out the truth and to submit it. And it was not easy to find the truth. It often is not. It was particularly difficult with the clever people he was dealing with in this instance.

So it just disturbs me, I must say. And if it is true, if he has so violated his oath, the Attorney General can remove him from office. If she has a basis for it, she ought to do it. And she will not be criticized by this Senator.

So they say, "Well, his duty is to prosecute fairly." Well, you don't prosecute until you get the truth. You don't prosecute until you get the facts. And his responsibility was to find those facts.

They say graphic details were not necessary. Well, I am glad that we have some fastidious concern. I think we do have too much unhealthy sex and stuff in this country today. But we have a denial. We had a suggestion that, "What I did was not really sex."

So I suppose the details of what the President may have done are relevant to whether or not he had sex or not, and I am certain that is why the independent counsel felt it was his obligation to do so. And his goal is to report that information.

They say, "Well, he shouldn't have suggested in his report that the President lied under oath." That is one of the words that was said he used. But he was required to report on matters that may lead to impeachment charges.

So by nature his summary report was his opinion as to whether or not there was evidence accumulated sufficient to lead to impeachment. He is required to give his opinion and his summary of the evidence as to whether or not it required impeachment, and he concluded, based on all the studies, that the President lied under oath, apparently, and he put that in his report.

I submit he was required to do so.

Oh, they say, you didn't get all the exculpatory evidence, that that didn't all come out, and that she said, Miss Lewinsky said, "No one ever asked me to lie." Well, I am not sure and therefore—but from what I read in the report, it would suggest to me that the Starr report didn't say anybody ever said she was asked to lie. The Starr report simply said that there were circumstances that led to that, apparently. But it did not use those words and he would not have been required to put forth her statement in that regard.

So Judge Sirica's circumstances are not quite the same, is all I am saying. And I respect the distinguished Senator and his comments and his concern, and we ought to hold every public official accountable. We ought to scrutinize all of our behavior here and we ought to be prepared to stand the heat. I am sure Mr. Starr has got to stand the heat like everybody else if he is going to be in the kitchen. If you recall, we have a word in the criminal lexicon today called "Sirica." And what happened was, if you will recall, some of those burglars who said, oh, this is just a two-bit burglary—do you remember that? Judge Sirica gave them the maximum sentence, the maximum "John," and that is when they testified.

So I am sure these things are tough for Miss Lewinsky or anyone else. She had a choice whether she was going to cooperate and tell the truth or continue to hold fast to her previous story, and it does appear that she did for a while adhere to one story and then changed it.

So I don't believe the independent counsel has placed himself above the law. I don't believe he has abused his office. And I don't believe most of the other complaints that have been made about the independent counsel, once the full facts are out, are going to suggest any problems. No doubt, there are so many complex rules over the period of an investigation, somebody will say you should have done this under this circumstance and you should not have done this under that circumstance.

Normally what happens is any evidence obtained from an improper source gets excluded from the trial and can't be used, but it doesn't undermine the overall integrity of the investigation if that was obtained properly.

So I don't know what the end of this will all be. It would please me if things get settled and that is the end of it and this body isn't involved. I don't think we need to be debating these issues on this floor, and the only reason I have spoken on this floor fundamentally is because others have made statements related to those issues, so I felt I ought to suggest there might be another interpretation that could be given to those issues.

So, to me, the issues are complex. The House is dealing with this matter.

Let's let the House deal with it. Let's try to make sure we have a bipartisan effort, or a nonpartisan effort, that no partisanship should be involved in this. Let's let the process work its way. My understanding of the reputation of Judge Starr is it is very good, and it remains to be seen whether he committed any error. If he did, that will come out. That does not undermine the basic facts we are dealing with here.

Mr. President, I thank this body for allowing me to make these comments. I have some other things I could say but I will not. I just believe that we need to be careful. Let's let the House do their business. They have had votes over there. It is their business, not our business. And I think we would be better off if we left it there. I thank you.

I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. The Senate is in morning business.

Mr. BYRD. I thank the Chair. Is there a limitation on time?

The PRESIDING OFFICER. There is not any limitation.

Mr. BYRD. I thank the Chair.

A HERO MOVES ON

Mr. BYRD. Mr. President, the Random House College Dictionary defines the term "hero" first as "a man of distinguished courage or ability, admired for his brave deeds and noble qualities," and second as "a small loaf of Italian bread."

There is, of course, a wide disparity in these two definitions. I think I shall appropriately use the initial definition to describe the hero of whom I am about to speak, Senator JOHN HERSCHEL GLENN, Jr. I have had the honor of serving with him in the Senate for the last 24 years.

He is a gentleman. He is a great public servant to all the Ohioans whose beliefs and values he has so ably represented in this body.

As Senator GLENN prepares to officially retire from the Senate and take up his wings of flight once again, I shall take a few minutes to thank this distinguished Senator from Ohio for all that he has done for our Republic as a United States Senator and as a hero.

I thank him for his achievements as a Senator. I thank him for his dedication to the Senate Governmental Affairs Committee, on which he has served since 1975.

Following his personal motto: "You Keep Climbing," Senator GLENN has moved up in the ranks.

From 1987 to 1995 he served as the chairman of the committee, and then as the ranking Democratic member until the present time.

As a member of the committee, Senator GLENN has worked to protect our Nation and its people, using his expert knowledge to combat the issue of nuclear proliferation, to protect our fellow Americans from all the environmental dangers that are associated with the byproducts of nuclear weapons, and is making the Government more accountable for waste and fraud.

As a member of the Senate Committee on Armed Services, on which I am pleased to serve with him, Senator GLENN has worked to ensure that the United States military remained ready and strong in the perilous aftermath of the cold war.

He has shared a concern over the dangers of chemical weapons. He has joined with others of us in attempting to ensure that our military has absorbed the lessons of the gulf war and is prepared to protect our troops from low levels of chemical weapons.

On these two committees, Senator GLENN has served as a voice of reason and common sense.

Senator GLENN is a hero for all of us to emulate as a result of his honor and dedication to his country, his family, and his own high standards.

I have asked this question in the Senate before: "Where have all the heros gone?"

To this question I have no definitive answer, but I do know where this hero is going to go * * * again.

Senator JOHN GLENN is a steam engine in britches; he is atomic energy in the flesh.

The senior Senator from Ohio has been a daredevil virtually all of his life.

Not one to know when to slow down, Senator GLENN has risked life and limb, both on the Earth's surface and in the vastness of space which encompasses it, for one thing, and one thing only—the United States of America.

JOHN GLENN has been uniquely blessed to have had the opportunity to soar above this Earth of ours, soar like an eagle, surveying the beauty of creation that is God's Green Earth.

To quote William Shakespeare in "twelfth night,"

> Some are born great, some achieve greatness, and some have greatness thrust upon them.

Senator GLENN is one who has achieved greatness through his service to his country; he is truly a great American hero.

Not only a veteran of World War II, having served in combat in the South Pacific after he was commissioned in the Marine Corps in 1943, JOHN GLENN is also a veteran of the Korean war.

Having survived 149 combat missions as a Marine, our hero—our hero, my hero, your hero—our hero wanted to move on to a more challenging career as a test pilot of fighter and attack aircraft for the Navy and Marine Corps. And then, looking for new and extreme ways to test his mortality, on February 20, 1962, Astronaut JOHN GLENN gently squeezed his body into the *Friendship 7* rocket and became the first American to orbit the Earth at almost 18,000 miles per hour.

Think of that. When I was young, I read a book by Jules Verne titled, "Around the World in 80 Days." JOHN GLENN went around the world in 89 minutes.

This may well have been the pinnacle of JOHN GLENN's life and career.

On that fateful Tuesday in 1962, not only was America waiting with nervously clenched fists for news on Lt. Col. JOHN GLENN's condition after his return to Earth, but the whole world was watching.

People from all Nations prayed for the safe return of this brave man.

Mr. President, I quote from an article entitled "Man's 'Finest Hour.'" I have been saving this article, now, for almost 37 years—"Man's 'Finest Hour'," by the late David Lawrence, which was originally published in the March 5, 1962, edition of U.S. News & World Report:

> Miracles do happen when the world shows its humility in prayer.
>
> The voices that besought Almighty God to save the life of Colonel Glenn can speak again, as even more of us petition him to save humanity from nuclear war.
>
> For those prolonged minutes of prayer on Tuesday, Feb. 20, constituted man's "finest hour".

Now, if the Good Lord is willing, on October 29, our friend and colleague—and hero—JOHN GLENN, still brimming with vital energy, will be leaving the relative comfort of Mother Earth far behind.

It is always a melancholy time when the institution of the United States Senate has one of its finest Members move on. But it is a glad time when one of its Members moves on to something greater.

"Excelsior, ever upward." That is the motto of JOHN GLENN. He has bigger fish to fry, so he is ready to get away from Washington, DC—far, far away.

Senator GLENN's return to space aboard shuttle *Discovery* will add another significant page to the annals of history.

The capacity in which Senator GLENN will be operating on the *Discovery* is representative of the way in which he had lived the last three decades of his life, despite his global fame—modestly and without great fanfare.

I am certain that he will perform his mission on *Discovery* with the same diligence and sense of duty that he has shown in serving his great State of Ohio in the United States Senate.

The world in 1998 is a lot different from that world of 1962, when JOHN GLENN was first catapulted into space. Similarly, the space shuttle *Discovery* is about as close in design to the *Friendship 7* rocket as an old Oliver typewriter—I was trying to remember the name of an old typewriter I had around the house when I was a boy—

about as close in design to the *Friendship 7* rocket as an old Oliver typewriter is to a home computer.

The one thing that shall remain constant in this most recent launch is that the world will once again be watching, gripping chairs, biting fingernails, and saying its prayers for the Glenn family. For JOHN GLENN, and for all the crew members of *Discovery*, and for Annie, that sweet little wife of JOHNS.

It is hard to relate, to those Americans who were not yet born in 1962, the thoughts and emotions of the world on Tuesday, February 20, of that year.

Technology has become so advanced that flights into space are routine.

Men and women are able to live for months at a time in floating space stations.

America tends to take for granted the risks that our Nation's astronauts take to perform scientific experiments, carefully placing communications satellites into orbit, and repairing important instruments of observation—all of which make life on Earth much more enjoyable.

In 1962, the risks were greater and there were many unknown factors that experience has now brought to light and revealed and smoothed over.

Senator GLENN's return to space brings that all back, and reminds us of the tremendous changes wrought by Americans within the career of one man.

So, this evening I take this opportunity to wish the best of luck to JOHN GLENN and to Annie and to others of his family.

I anxiously anticipate *Discovery's* safe return to Earth, and I extend my best wishes, and those of my wife Erma, to Senator GLENN and to Annie for many years of health and happiness after he returns to Earth and leaves the Halls of the Capitol behind.

Thank you, thank you, thank you, Senator GLENN.

Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SESSIONS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO SENATOR DIRK KEMPTHORNE

Mr. NICKLES. Mr. President, it is almost kind of sad in a way to think that DIRK KEMPTHORNE will be leaving the Senate after only one term in the U.S. Senate. It has been a pleasure to work with DIRK, to be with him, to get to know him, to get to know his family, his wife Pat. But I will just say DIRK KEMPTHORNE is a Senator's Senator. He is a person who comes from the great State of Idaho.

He brought a great deal of, I must say, refreshing energy to the Senate. He served as mayor of Boise City for 7 years. He was elected to the U.S. Senate in 1992 and proved something unconventional: He could get a lot done in his first term in the Senate. Most people have the idea you have to be in the Senate a long time before you can get anything accomplished, but he proved quite the opposite.

He proved to be a very effective legislator. He proved to be a person who could work on both sides of the aisle, that he could work with Democrats and Republicans and make things happen.

He was the principal sponsor of a bill that most of us have claimed some part to, the unfunded mandates bill that President Clinton signed and it became law. It was strongly supported by States, Governors, mayors and commissioners and others who said, "Let's quit passing unfunded mandates on to the States, cities and counties."

He has been instrumental in leading the fight in needed reform in the Endangered Species Act. He has been a tireless worker on the Armed Services Committee.

He has always kept his priorities straight. His family has always been first and foremost. His love for his State is very evident.

Now he will return to the State of Idaho. He is running for Governor. I am very confident he will be elected Governor, and I am quite confident he will be one of the outstanding Governors in the country. I appreciate his service and his friendship. He has been an outstanding Senator. I hate to see him leave the U.S. Senate, but I do wish him, his wife and his family best wishes as he leaves the Senate and returns to his State and continues his public service in a different capacity, and that will be as Governor of the great State of Idaho.

TRIBUTE TO SENATOR DAN COATS

Mr. NICKLES. Mr. President, I also wish to pay my compliments and accolades to Senator DAN COATS of Indiana. I have had the pleasure of knowing DAN COATS. He actually was elected to the House of Representatives in 1980, the same year I was elected to serve in the U.S. Senate. He had something unusual happen.

When Dan Quayle was selected as Vice President and elected in 1988, DAN COATS was appointed to take his place in 1988.

That almost sounds like it was easy, but it turned out he had to run for reelection in 1990; and he won. But that was only for a partial term, and so he also had to run for reelection in 1992. So he had the unenviable task of having really challenging races both in 1990 and in 1992 for the U.S. Senate. He won both, and deservedly so, because he has been an outstanding U.S. Senator.

I remember Dan Quayle telling me, "You're really going to like DAN COATS." Dan Quayle and I were good friends. And DAN COATS and I have become very good friends. And he was exactly right. DAN COATS and his wife, Marcia, his family, are not only good friends of our family, but I would say anybody serving in this body—anybody—whether they be on the House side or the Senate side, cannot help but like DAN and Marcia COATS. They are a couple—they are a couple—in the greatest tradition of the Senate.

His wife Marcia has been active in the Senate wives' groups and active with the prayer groups that many of our wives are involved with. They go to functions together. They are athletically involved. They both play tennis. They both play golf. They both have a good time. They keep their priorities straight. They both have a very strong belief in God and in their families, and work comes down somewhere below that.

He has done an outstanding job as a Senator for the great State of Indiana. I would say he has done an outstanding job as a Senator for all of us in America, whether it be his work on the Armed Services Committee, whether it be his tireless efforts on welfare reform in the Labor Committee, his efforts to try to reduce poverty, his efforts to alleviate suffering amongst kids.

Many of our colleagues are not aware of it, but he is national president of the Big Brothers Program, which could probably be a full-time job for anybody, but he is able to do that. He has been a Big Brother. He actually was a Big Brother in a town for a youngster who did not have a dad, did not have a mentor. DAN COATS became his mentor—as a matter of fact, became his best man at his wedding.

What a great compliment for an individual who, of course, had unlimited demands on his time, was willing to take time out and serve as a Big Brother to a youngster who did not have a dad, and he did it for years. Ultimately this young man became quite a success, a success in his own right, and I think in large part because of the time and attention and love that DAN COATS gave to him. He selected DAN COATS as his best man at his wedding, which is quite a compliment.

DAN COATS was recently selected as Christian Statesman of the Year by a national organization. They had a big banquet honoring him, and it was well deserved. I have the pleasure of knowing DAN COATS in many respects. His belief in God, it is sincere, it is real. He is the embodiment of a Christian statesman. And so that award was well deserved.

He has been leader, as many of us know, of the Senate Prayer Breakfast that we have ongoing in the Senate that goes back for years and years. He has been chairman or president of that group for us for the last year or so and has done a good job—done an outstanding job in every respect.

So he is absolutely a dear friend, and I hate to see him leave the Senate. He has served now in the Senate since 1988, so only for 10 years. But he also served 8 years in the House, and before that he served a couple years in the Army. So he has given a lot of years in public service, and he deserves, I guess, a chance to do something else.

But I am confident—absolutely confident—that whatever he does will be a great service to this country. He has been a real blessing to this body. He and his wife have been a real blessing to this country. And it is with great regret that I see DAN COATS join the group of retiring Senators. But I do wish every best wish to him and his family, and I compliment them for their outstanding service to their State, to their country, to God, and to their family.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FREEDOM FROM RELIGIOUS PERSECUTION ACT OF 1998

The Senate continued with the consideration of the bill.

Mr. NICKLES. Mr. President, I believe there is still some remaining time on both sides on the international religious freedom bill. I now yield back all time remaining for tonight's debate on that bill.

The PRESIDING OFFICER. Under the previous order, the substitute amendment is agreed to.

The substitute amendment (No. 3789) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

FINANCIAL SERVICES ACT OF 1998

The PRESIDING OFFICER. Under the previous order, the clerk will report H.R. 10.

The legislative clerk read as follows:

> A bill (H.R. 10) to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, and other financial service providers, and for other purposes.

The Senate continued with the consideration of the bill.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate is now in a period of morning business.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

TRIBUTE TO DOUGLASS FONTAINE

Mr. LOTT. Mr. President, I rise today to honor a fellow Pascagoulian and personal friend, Mr. Douglass Fontaine. Doug has devoted his life to an industry for which Mississippians are proud to be recognized—hospitality.

A third generation hotelier, Doug grew up surrounded by the hotel industry. Both Doug's parents and grandparents managed the historic Allison's Wells Spa in Way, Mississippi. He too took his turn at managing Allison's Wells after returning from Germany, where he managed an R & R hotel. He then eventually relocated to Pascagoula, and for more than 35 years has owned La Font Inn. Doug has not only brought a friendly and welcoming smile to patrons, but a legacy for hotels around the United States, Europe, and the Caribbean.

While being the only Mississippian to serve as President and Chairman of the Board of the American Hotel and Motel Association, Doug implemented his world renowned program "Quest for Quality." This has not been Doug's only contribution to society. He has held many positions of leadership, including residing over such community service organizations as the Jackson County Heart Fund, Rotary Club, United Way of Jackson County, and many others.

Doug has dedicated himself to economically develop his Gulf Coast community by working to establish the Mobile-Pascagoula Airport, Naval Station Pascagoula, the Sunplex Industrial Center, and again many others. He also chaired the committee to "Save the Homeport" from base closures for many years. Currently, Doug is serving on the Board of Directors of the Hancock Band, a position he has held for more than 27 years, and serves as a lifetime Director of the American Hotel and Motel Association.

On October 23, 1998, the Mississippi Hotel and Motel Association will establish a Hotel and Restaurant Scholarship in his name. This great honor could not be bestowed upon a finer person. An opportunity for future members of the industry, this serves as a deserving tribute to Doug, his wife Lou, and their children and grandchildren. I am proud to congratulate this great Mississippian.

COMMEMORATING THE 100TH ANNIVERSARY OF THE NATIONAL COMMUNITY PHARMACISTS ASSOCIATION

Mr. DASCHLE. Mr. President, today I want to congratulate the National Community Pharmacists Association (NCPA) as its 100th anniversary approaches. One of the Nation's leading membership organizations—representing some 30,000 independent pharmacies across the United States—NCPA will celebrate its 100th anniversary on October 17th. It is an honor to celebrate this landmark with NCPA and recognize professionals who truly exemplify high quality, patient-focused health care.

Throughout its 100 years of service, NCPA has been a respected voice in the public policy arena—not only as a highly effective advocate for community pharmacists, but as the link to individual pharmacists with the demonstrated expertise and front-line experience required to help evaluate policy options.

I'd like to take a few moments to recognize the enormous contributions of the men and women NCPA represents: local, community pharmacists. They play a critical role in our Nation's health care delivery system through careful drug monitoring services, personalized service, coordination with other health providers and services, and community-oriented care.

Each year, millions of Americans purchase prescription and nonprescription medications at their local pharmacy, where an on-site pharmacist can help them select the medication that is most appropriate and prevent harmful drug interactions. Pharmacists have the experience and expertise to help consumers face an intimidating array of medication options. They prevent the wasteful spending and pain and suffering associated with drug complications.

Community pharmacists provide personalized care, and offer a friendly, neighborhood presence for individuals facing illness and disease. An NCPA membership survey shows that 98 percent of independent pharmacists counsel patients face-to-face on prescription medications and make recommendations on over-the-counter drugs and general health care issues, and 97 percent maintain patient profiles. As more drugs are offered through the mail and without the opportunity to meet personally with a pharmacist, community pharmacists provide reassurance and inspire the confidence of those they serve.

Community pharmacists play a crucial role in local health care delivery systems, by coordinating with other health professionals, promoting public health, and educating consumers on pharmaceutical and health issues. Many independent pharmacists report meeting regularly with local physicians on drug therapy and pharmacy services. In addition, they educate and assist their customers with the management of ongoing and chronic conditions such as diabetes and hypertension.

Independent community pharmacies are primarily family businesses, and they have roots in America's communities. They are owned by civic leaders who are actively involved in a variety of community-oriented public health, civic, and volunteer projects. Many hold local elected or appointed offices. Public service and commitment to community are hallmarks of independent pharmacy.

For all of these reasons, it is my pleasure to pay tribute to independent, community pharmacists and the organization that represents them. Through integrity, expertise and tenacity in the face of dramatic changes in our health care system, community pharmacists have inspired the confidence and trust of millions of Americans. Our Nation is truly well served by them.

THE APPROPRIATIONS PROCESS

Mr. SPECTER. Mr. President, I would like to make a brief comment, on the appropriations process, and to express some concerns which I have about the procedures where some of the legislative proposals have not been considered in regular order and in due course—specifically, the legislation on the appropriations bill for Labor, Health and Human Services, and Education.

In articulating these concerns, I understand the tremendous pressures which have been presented to leadership to conclude our session with the target date of October 9.

The Constitution gives to the Congress the authority and responsibility of the appropriations process. And that customarily proceeds with action in the appropriations subcommittee, then the appropriations full committee, then the full body of the Senate, where Senators have an opportunity to comment on the legislation and to offer amendments, and then, when acted upon, goes to a conference in the House of Representatives, which has followed the same pattern—consideration of the subcommittee, full committee, and by the House, and then the conference committee.

That process has been short-circuited this year without having the legislation, the appropriations bill on Labor, Health and Human Services, and Education, come to the Senate floor. We have sought a conference with our distinguished House Members—Congressman PORTER, who chairs the House equivalent of the subcommittee, and Congressman OBEY, the ranking minority leader—along with Senator TOM HARKIN, my distinguished ranking member of the subcommittee.

It would be my hope that as we proceed with the business of the Senate in future years, we would be able to proceed in regular order so that the Senate has an opportunity to consider the measure, Senators offer amendments, and go through the regular procedure on the House-Senate conference.

CHRISTOPHER HAYES HONORED BY NATIONAL CRIME PREVENTION COUNCIL

Mr. KENNEDY. Mr. President, next week, on October 14th, the National Crime Prevention Council will honor Christopher F. Hayes of Boston as one of the seven recipients of this year's Ameritech Award of Excellence in Crime Prevention. The award recognizes individuals who demonstrate outstanding leadership, courage, and dedication to crime prevention in their neighborhoods, States, or nationally.

This honor is a well-deserved tribute to Christopher Hayes and his 13-year career as Founder and Director of the Neighborhood Crime Watch Unit of the Boston Police Department.

Mr. Hayes founded the Neighborhood Crime Watch Unit in 1985 as a one-person organization based on the philosophy that the key to crime prevention is to rely on connections from neighbor to neighbor. He urged people to work together and with the police to create innovative solutions for reducing local crimes. The initial model for his crime watch group was simple phone tree and whistle alert system that allowed neighbors to keep in touch with each other.

Today, the Neighborhood Crime Watch Unit offers support and training for such neighborhood groups, which now total 962 in Boston and account for a third of all streets in the city. The successes have been impressive. Entrenched drug dealers have been exposed and forced out. Muggings have been averted. Suspects have been arrested. Drugs have been seized. Vacant lots have been reclaimed. Neighborhoods have been reborn. Neighborhood watch units have been a vital part of the effort to reduce the crime rate in Boston to the record lows the city is now enjoying.

I commend Christopher Hayes for his innovative leadership and his extraordinary contribution to our city.

CONGRATULATIONS TO DR. SHUKRI F. KHURI OF MASSACHUSETTS WINNER OF THE BERRY PRIZE IN FEDERAL MEDICINE

Mr. KENNEDY. Mr. President. It is an honor to call to the attention of my colleagues that Dr. Shukri F. Khuri of the Brockton/West Roxbury, Massachusetts Veterans Affairs Medical Center, has been awarded the 1998 Frank Brown Berry Prize in Federal Medicine. This high honor is bestowed each year in memory of Dr. Frank Brown Berry, a thoracic surgeon and brigadier general who served in both World War I and World War II, and who served for 7 years as the top medical officer in the Department of Defense. The award is presented jointly by U.S. Medicine newspaper and the Science Applications International Cooperation.

Dr. Khuri was chosen for this high honor from a large pool of nominees by a committee of representatives from the National Institutes of Health, the Department of Defense, the Veterans Health Administration, and the staff of U.S. Medicine.

Dr. Khuri received his medical education at the American University of Beirut before coming to the United States in 1972. Many of us know AUB well as one of the premier institutions of higher education in the Middle East, and as one of the strongest bulwarks of American ideals and values in that part of the world. Dr. Khuri's recognition as one of the leading medical practitioner-scientists in the United States reminds us of another important fact about AUB. Many of its graduates—5,000 distinguished alumni—live here in the United States and make major contributions to life and society in America. In fact, Dr Khuri serves as President of AUB's Alumni Association of North America.

Dr. Khuri is now Chief of Surgical Services and Chief of Cardiothoracic Surgery at Brockton/West Roxbury VA Medical Center, the largest open-heart surgery program in the VA health care system. He also serves as the Vice-Chairman of the Department of Surgery at Brigham and Women's Hospital and is a Professor of Surgery at the Harvard Medical School.

Dr. Khuri was honored with the Berry Prize for his accomplishments in three important areas of medical research and innovation. First, he developed a device that monitors on-line myocardial protection during open heart surgery, a device which enables surgeons to monitor the effect of open heart surgery on the patient and to reduce the chance that the surgery will cause irreversible damage. Dr. Khuri's device is a major innovation, and it seems likely to become a standard piece of equipment in all cardiac surgeries.

Second, in cooperation with the Navy, Dr. Khuri devised strategies to increase the conservation of blood during open-heart surgery. Third, he directed the creation of a model system to assess the quality of care that patients receive by using risk adjustment outcomes. These innovations have significantly affected the practice of medicine in the United States.

I congratulate Dr. Khuri on the Berry Award and for his important contributions to American medicine. I ask unanimous consent to insert at this point in the RECORD an article from the

August 1998 issue of U.S. Medicine, which describes Dr. Khuri's accomplishments in greater detail.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[FROM THE U.S. MEDICINE, AUGUST 1998]

THE FRANK BROWN BERRY PRIZE FOR 1998;
CARDIAC SURGERY, QUALITY ASSESSMENT

Name: Shukri F. Khuri, M.D.

Title: Chief of Surgical Services and Chief of Cardiothoracic Surgery, Brockton-West Roxbury VA Medical Center; Vice Chairman, Department of Surgery, Brigham and Women's Hospital; Professor of Surgery, Harvard Medical School.

Summary Of Accomplishment: Three disparate areas of achievement:

Directing the creation of a model system to assess quality of care using risk adjustment outcomes.

Developing a device that monitors online myocardial protection during open heart surgery.

Through a collaboration with the Navy, devising strategies to better conserve blood during cardiac surgery.

Path To Accomplishment.

Research-Clinical Link: Dr. Khuri chairs the largest open heart surgery program in the health care system, and his medical contributions promise to have a far-reaching impact on medicine.

A native of Palestine, Dr. Khuri received his medical degree with distinction from the American University of Beirut in Lebanon. Following his residency there, he received further training in the 1970s at Johns Hopkins University and at the Mayo Clinic.

Today, his curriculum vitae reads like a book.

When he first arrived in the U.S. in 1972, he relates, his intention was to return to Lebanon eventually, but unfortunately it was 1976 and the strife there was at its height. He could not think of returning.

Harvard University recruited Dr. Khuri to come to West Roxbury VAMC. Again, he planned to stay only a few years, but instead has remained for 22 years.

The West Roxbury VAMC has the oldest and the largest open heart surgery program in the VA system and have been designated by the agency as a Center of Excellence in cardiac surgery, West Roxbury VAMC proudly states.

"I've been chief of cardiac surgery [at West Roxbury] since 1977," he relates, emphasizing that one of the facility's major strengths is offering the ability to combine investigative research with clinical practice.

"I feel we can only improve the way we deliver care by simultaneously conducting practical research that will answer the frustrations that we meet in our daily work. VA is an ideal environment that allowed me to combine both research as well as clinical care."

For example, shortly after arriving he was allowed to pursue his interest in medical informatics. The result was the first automated ICU in the VA system. Subsequently, he chaired the surgery SIUG (Special Interest User Group), and was instrumental in developing software that is in current use in all VA surgical services.

pH In Heart Surgery: Almost all his achievements, Dr. Khuri explains, "have been bome out of some frustration with certain limitations of our current clinical efforts."

During open heart procedures, cardiac surgeons must cross-clamp the aorta and totally interrupt the blood supply to the heart in order to arrest it. However, to avoid irreversible tissue damage to the heart, they also must employ myocardial protection techniques, comprised of administering solutions to the heart. Without such fluids, he explains, surgeon would be able to safely cut off the blood flow to the hear only for 15 to 20 minutes.

This is not enough time; cardiac surgery takes a lot longer, he emphasizes.

"What was frustrating to me was that when we arrested the heart, we had no way of assessing how well we were protecting the heart during this period. There is no way today of knowing while you are operating on the heart how well you are protecting it from irreversible damage.

"This is why we felt it was important in our research to try to come up with a methodology or a technology that would allow us, in an online manner, to monitor the adequacy of the protection of the heart," he explains.

Based on animal experiments, which he had conducted to the John's Hopkins Hospital and West Roxbury. Dr. Khuri proposed in 1983 a novel approach monitoring myocardial tissue and acid-balance as a valuable way to evaluate how successfully the surgeons were protecting the heart during surgery. In a large series of basic animal experiments, which he subsequently conducted both at the West Roxbury VAMC and the NMR Magnel Laboratory at MIT, Dr. Khuri demonstrated that the rise in myocardial tissue hydrogen ion concentration (or fall in myocardial tissue pH, measured with a glass electrode which he had developed in conjunction with Vascular Technology, Inc., based in Chelmsford, Mass., provided an accurate metabolic measure of the magnitude of regional myocardial ischemia (i.e., the damage caused by the lack of adequate nutritive supply).

The electrode which he developed for this purpose is made of special 1 mm in diameter pH-sensitive glass containing silver-silver chloride. Although the full 10 mm length of the electrode is inserted perpendicularly into the heart muscles, is sensing surface is limited to its distal 4 mm tip, allowing assessment of the acid-base balance of the deeper and more vulnerable tissues of the heart.

The most recent prototype of the electrode also allows for the simultaneous measurement of the temperature of the tissues at the same site of electrode insertion. The electrode is attached to a computerized monitor which corrects for the changes in temperature and provides online readings of both the pH and the hydrogen ion concentration in the heart.

Dr. Khuri's research group conducted animal studies which also demonstrated the utility of the electrode and monitor to measure regional pH changes in tissues other than the hearts, specifically in transposed musculocutaneous flaps and the intestinal wall.

The first myocardial pH measurements in man were reported by Dr. Khuri's group in 1983. Since then, his group has measured pH in more than 600 patients undergoing cardiac surgery. Based on the observations, a new concept of "pH-Guided Myocardial Management" has been formulated by Dr. Khuri and his group.

FDA approval for the Khuri pH Electrode and Monitor was obtained in 1987. At that time, however, "we were reluctant to distribute it nationwide, mainly because there was a lot more that we needed to understand about myocardial tissue pH and what it meant. Most importantly, the thing that really took a great deal of time after we developed the technology was to figure out what maneuvers to employ to maintain normal pH levels in the heart and to reverse a fall in pH.

"That was the key question that we addressed in our clinical and laboratory studies since 1987," Dr. Khuri explains.

The final results of these studies was the development of a set of maneuvers that formed the basis of pH-Guided Myocardial Management.

"The underlying hypotheses behind all of this, which we ultimately have verified, is that acidosis, particularly when severe is bad for the heart." So if a surgeon can prevent myocardial acidosis during surgery chances are it will improve the protection of the heart and ultimately improve the outcome of the patients.

Dr. Khuri is optimistic that the impact of pH-guided myocardial management will be two-fold: surgeons will improve on the adequacy to protect the heart and therefore improve the outcomes of these patients, and also they will have a tool which allows them to assess, in coronary bypass operations exactly how well they have improved the blood supply to the heart.

His data are very compelling and have been shared with leading experts, who "feel that it is a very promising and valuable tool in cardiac surgery," he relates. One leading expert has compared it to the now standard Swan-Ganz catheter developed some 30 years ago. The monitor, which he emphasizes has no known dangers or "downside." might one day become a routine piece of cardiac surgery equipment.

Once it becomes widely available commercially he is confident the Veterans Health Administration will make it a standard operating room device. "The VA [medical] facilities, particularly in cardiac surgery, have a wonderful tract record in the use of innovative technology from the pacemaker onwards" he relates. Once the device is available commercially, then "I'm almost certain that it would be applied within the VA."

"But these things do take time. There are many skeptics out there" he notes. "There are many surgeons who believe they already know how to protect the heart and do not need anything new."

Defeating The Bleeding: In 1983, Dr Khuri formed a collaboration with colleagues at the Naval Blood Research Laboratory (NBRL) in Boston. "one of the most outstanding naval research institutes in the country,." to tackle another frustration of cardiac surgeons—unavoidable bleeding following open heart surgery.

All cardiac surgeons, he explains, are seeking methods to decrease this bleeding which sometimes can be substantial. Through "a very fruitful collaboration" with Dr. C. Robert Valeri and his team at the NBRL, Dr. Khuri has gained a better understanding of this postoperative bleeding.

Through his years of research trying to alleviate this frustration, he has come to understand the exact role of the platelets in bleeding diatheses and has identified a host of factors associated with the platelet which resulted in platelet-dysfunction during cardiopulmonary bypass. These include hypothermia, heparinia, and hemodilution.

In addition,"we have demonstrated, for the first time, the value of using frozen platelets as an alternative to using fresh platelets" and have shown, "I think unequivocally that you can use heparin-coated circuits with low-dose heparin to a big advantage during cardiopulmonary bypass."

"We are advocating a compendium of techniques and maneuvers that, in our hands at least, have decreased the magnitude of postoperative bleeding" by almost 80 percent, he relates.

"Our blood loss postoperatively now is really minimal in these patients." His unit has not taken a patient back to the operating room for bleeding in several months, a step which was commonplace previously.

Part of the technique he advocates is the use of heparin-coated circuits with low-dose heparin, which decreases the need for heparin and protamine during cardiopulmonary bypass. Not many institutions are using this technique—including VHA facilities, he points out.

The cardiac surgery unit at Boston University, where the technique also is used, he states, "has had just as dramatic an experience in reducing their blood loss as we have here."

Part of this work has been published, and one paper explaining his work on cryopreserved platelets has been accepted for publication in the Journal of Thoracic and Cardiovascular Surgery, which he hopes will add "academic credibility" to his strategy. Dr. Khuri suspects that, following publication, a number of institutions will adopt these procedures to reduce bleeding.

Again, in describing the medical community's reaction, he explains that it often takes time for professionals to adapt a new method or theory. "It's exciting in a way that we are at the cutting edge, but it's also disappointing that it takes time to get this thing to people."

Science is cautiously slow, he concedes.

National Outcome Assessment: Dr. Khuri, as chief of surgery, has found another frustration to consume his time.

"I am someone that believes very, very strongly that VA results have always been excellent in surgery. We have very good surgical centers at the Veterans Health Administration, particularly those that are affiliated with major institutions," he asserts, noting that he is a full professor at Harvard Medical School and all his staff have academic appointments at Harvard.

Unfortunately, the VA has been often criticized for having high mortality rates after surgery. In fact, in the mid '80s, "a very concentrated attack" by the media attempted to "discredit" VA by publishing surgical outcomes, which various periodicals claimed were evidence of higher mortality rates than in the private sector.

"I felt very frustrated by this," he relates. "We were all convinced we were doing a good job and that our results were the same as [his affiliated hospital at] the Brigham."

The difference, he points out, is that VA patients are sicker patients and therefore are at higher risk of dying as a result of surgery. "No one would dispute this," he stresses.

This debate over higher VA mortality rates reached a climax in 1986, Dr. Khuri relates, prompting Congress to pass a mandate that VA must report its surgical outcomes in comparison to national averages and risk-adjusted for the patients' severity of illnesses. VA also was to report to Congress every two years on how it addressed this mandate.

In 1987, VA asked him to chair a committee to fulfill this task. "It became very evident to us when we met as a group that the congressional mandate was untenable because there were no national standards for surgical outcomes anywhere in the world." There were no models for risk-adjusted outcomes either.

Dr. Khuri's committee advised VA to explain to Congress the lack of national standards and pointed out that the agency was in the unique position not only to develop these national standards, but also to develop risk-adjusted outcomes with which it could compare one VA medical facility to another and to the private sector.

It took almost three years to convince VA to make this claim to Congress and to agree to fund an initiative to address these issues.

The committee he chaired put together a study to examine the unadjusted outcomes in the VA surgical services. In 1991, it launched the National VA Surgical Risk Study in 44 VA medical centers and assigned clinical nurses to collect preoperative, intraoperative, and outcomes data—both deaths and complications on all major operations.

From the inception of the study, an advisory board comprised of leading outside experts advised the study how to proceed and conduct analyses. Dr. Khuri also recruited Dr. Jennifer Daley, an expert in health science research, as his co-chair of the risk study. The results of this prospective analysis ultimately lead to the development of national models that allowed VA to report its outcomes adjusted for the severity of illness of its patients.

O/E Ratio: An assessment system was developed that enabled a particular surgical service to calculate the expected mortality or complications rate for patients undergoing surgery over a certain period of time in that hospital, based on the preoperative severity of their illnesses.

Then using the observed mortality rate for the same period, an observed to expected ration, or "O/E Ratio" could be generated, he explains.

If the observed ratio is much higher than that expected, based on the severity of the illness of the patients, he explains, the assumption is that there are other factors that have contributed to the high mortality rate of that population, probably related to the quality of care in that institution.

A study was performed to validate the O/E Ratio as a measure of quality of care, and by January 1995, "we had developed for the first time models that would allow for risk adjustment, not only in cardiac surgery, but in almost every major field of non-cardiac surgery."

VA recognized the value of this as a way to continuously monitor the quality of surgical care, Dr. Khuri notes.

"The VA leadership was insightful enough to go along with our recommendation that the models that had been developed should be applied to all the VA's that were doing surgery." The result was the National Surgical Quality Improvement Program (NSQIP), which Dr. Khuri chairs and which basically expanded the methodology employed in the National VA Surgical Risk Study of all 123 VA medical centers performing surgery.

The program uses 88 full-time nurses to collect data on all major surgery in the VA, which is transmitted to the program database in Chicago. The "very rich database" contains more than 500,000 cases, he relates, and generates annually a detailed report for each surgical service at the VA.

The program has published more than 17 publications about the NSQIP data and, within the coming year the program will be accessed through the Internet.

VHA had certain advantages as it implemented the outcome assessment program, he explains. First, the agency's uniform clinical and administrative database and software program—the Decentralized Hospital Computer Program, now known as VISTA—has permitted the NSQIP to access a consistent surgical scheduling module and operating room log in every VAMC to identify all operations performed in operating rooms throughout the country and to centralize the data so that the surgical nurse reviewers enter uniform data.

However, the NSQIP risk models and outcomes may have a few limitations, he cautions, because they may not be generalizable to populations dissimilar to veterans. Further, to reduce the data collection burden for the nurse reviewers, operation- and subspecialty-specific patient risk factors are not collected for non-cardiac surgery.

A final limitation, Dr. Khuri notes, is that the outcomes measured in the NSQIP currently are restricted to the adverse occurrences of postsurgical mortality and morbidity, and length of stay.

"There is a lot of interest now, not just among the VA surgeons, but among the surgical community outside of VA." Dr. Khuri contends, especially with modern medicine's current emphasis on managed care and cost containment.

"VA has completely adopted this," Dr. Khuri proudly notes, and "it is leading the world in the use of risk-adjusted outcomes.

"We think that the NSQIP is providing models that are leading the way towards the qualification of quality of surgery and the ability to compare the quality of care at various institutions using risk adjusted outcomes," Dr. Khuri declares.

Results of the National VA Surgical Risk Study were published as to lead three articles in the October 1997 issue of the Journal of the American College of Surgeons, and a full description of the NSQIP will be published in the upcoming October issue of the Annals of Surgery.

TRIBUTE TO BILL SHIELDS FOR HIS DISTINGUISHED SERVICE TO THE CONGRESS AND THE NATION

Mr. KENNEDY. Mr. President, it is a privilege to pay tribute to Bill Shields of the Department of Defense, who is retiring after two decades of impressive service to the Nation. He is an outstanding attorney whose intellectual skills and dedication have helped to maintain and improve our country's military.

Bill is a native of Buffalo, New York. He received his BA and JD degrees from the University of Buffalo, and a L.LM from the National Law Center at George Washington University.

Bill then served in a number of legal positions in the Department of Defense, including assistant in charge of a legal office in Florida, counsel for an air station in Maine, and international law attorney in Japan.

I first met Bill in 1987, when he joined my staff as a Congressional Fellow with the Senate Committee on Labor and Human Resources. As Chairman of that Committee I was extremely impressed with Bill's work on the Polygraph Protection Act and the Minimum Wage Act. He spent endless hours researching these issues, drafting the statutory language, and preparing witnesses and Senators for hearings. His efforts were indispensable in obtaining enactment of those two critical pieces of legislation.

After leaving the Committee, Bill served as Deputy Assistant for Civil Affairs and as Deputy Director of the Appellate Government Division in the Department of the Navy, and excelled in both assignments.

In 1993, he became Legislative Counsel in the Secretary of the Navy's Office of Legislative Affairs. In that position, he worked closely with us on the Senate Armed Services Committee on key issues such as acquisition reform, the A-12 aircraft contract termination, and the Seawolf submarine.

In 1994, Bill was appointed as Counsel and Special Assistant for Legislative Affairs in the Office of the Secretary of Defense. In that position, he has been deeply involved in issues such as research and development, test and evaluation, acquisition policy, major weapons systems, and intelligence. Bill was primary liaison with Congress for the Under Secretary of Defense for Acquisition and Technology, the Director of Defense Research and Engineering, the Director of Test Systems Engineering and Evaluation and the Director of the Defense Advanced Research Projects Agency.

In this capacity, Bill worked with Senators and staff on a daily basis to ensure the effective use of scarce defense resources during a period of major defense restructuring. He was responsible for overseeing the authorization of $67 billion of the annual DOD budget for such projects as the F/A-18, F-22 and Joint Strike Fighter aircraft, the New Attack Submarine, the Commanche helicopter, numerous medical research projects and the Technology Reinvestment Program. On all of these issues, Bill's leadership, intelligence, and integrity have contributed significantly to the readiness and ability of our troops in the field.

Congress and the Nation owe a debt of gratitude to Bill Shields. His skillful leadership will continue to have a lasting impact on our national security for years to come. It has been an honor to be associated with this exceptional public servant. His distinguished service will genuinely be missed, both in the Pentagon and in Congress.

All of us who know Bill are grateful for his leadership and his friendship. We wish him every success in his new position as General Counsel for the American College of Radiology. We know that his wife Maryann, and his three children, Andrew, Molly and Brian, are proud of him as he reaches this special milestone, and all of us in Congress are proud of him too.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, October 7, 1998, the Federal debt stood at $5,533,657,715,092.27 (Five trillion, five hundred thirty-three billion, six hundred fifty-seven million, seven hundred fifteen thousand, ninety-two dollars and twenty-seven cents).

One year ago, October 7, 1997, the Federal debt stood at $5,413,433,000,000 (Five trillion, four hundred thirteen billion, four hundred thirty-three million).

Five years ago, October 7, 1993, the Federal debt stood at $4,399,633,000,000 (Four trillion, three hundred ninety-nine billion, six hundred thirty-three million).

Ten years ago, October 7, 1988, the Federal debt stood at $2,617,036,000,000 (Two trillion, six hundred seventeen billion, thirty-six million).

Fifteen years ago, October 7, 1983, the Federal debt stood at $1,384,688,000,000 (One trillion, three hundred eighty-four billion, six hundred eighty-eight million) which reflects a debt increase of more than $4 trillion—$4,148,969,715,092.27 (Four trillion, one hundred forty-eight billion, nine hundred sixty-nine million, seven hundred fifteen thousand, ninety-two dollars and twenty-seven cents) during the past 15 years.

HONESTY IN SWEEPSTAKES

Mr. CAMPBELL. Mr. President, today I want to take a few moments to let my colleagues in the Senate and House of Representatives know about the progress we have made in promoting Honesty in Sweepstakes during the 105th Congress.

Over the past month, the Honesty in Sweepstakes Act of 1998, S. 2141, made excellent progress as it was refined and polished. These refinements reflect the valuable input I received from witness testimony and my fellow Senators during a Governmental Affairs Subcommittee hearing on S. 2141. The newest Honesty in Sweepstakes language also reflects the results of numerous productive discussions and negotiations with interested parties, including the Postal Service, the industry, the AARP and consumer protection groups.

I want to thank my colleagues, Senator THOMPSON and Senator COCHRAN, who as the respective Chairmen of the Governmental Affairs Committee and the International Security, Proliferation and Federal Services Subcommittee, have been helpful and gracious in their efforts to help me move this sweepstakes reform legislation during the 105th Congress. I also want to thank my good friend, Senator COLLINS, who cosponsored my original Honesty in Sweepstakes bill and provided valuable input that is reflected in the new language I am talking about today.

This revised Honesty in Sweepstakes legislation would go a long way toward protecting our Nation's seniors and other vulnerable consumers from misleading and deceptive sweepstakes promotions. This is something we should do this year to protect consumers. I urge my colleagues to pass this legislation before the 105th Congress concludes.

For my colleagues' reference, I ask unanimous consent that this new Honesty in Sweepstakes language be printed in the RECORD.

There being no objection, the language was ordered to be printed in the RECORD, as follows:

S.—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. HONESTY IN SWEEPSTAKES ACT OF 1998.

(a) SHORT TITLE.—This Act may be cited as the "Honest in Sweepstakes Act of 1998".

(b) UNMAILABLE MATTER.—Section 3001 of title 39. United States Code, is amended by—

(1) redesignating subsections (j) and (k) as subsections (l) and (m), respectively; and

(2) inserting after subsection (i) the following:

"(j)(1) Matter otherwise legally acceptable in the mails that—

"(A) constitutes a solicitation or offer in connection with the sales promotion for a product or service (including any sweepstakes) that includes the chance or opportunity to win anything of value; and

"(B) contains words or symbols that suggest that—

"(i) the recipient has or will receive anything of value if that recipient has in fact not won that thing of value; or

"(ii) the recipient is likely to receive anything of value if statistically the recipient is not likely to receive anything of value.

shall not be carried or delivered by mail, and may be disposed of as the Postal Service directs, unless such matter bears the notice described in paragraph (2).

"(2) (A) The notice referred to in paragraph (1) is the following notice:

"(i) This is a game of chance (or sweepstakes, if applicable). You have not automatically won. Your chances of winning are (inserting corresponding mathematical probability for each prize shown). No purchase is required either to win a prize or enhance your chances of winning a prize; or a notice to the same effect in words which the Postal Service may prescribe; or

"(ii) a standardized Postal Service designed warning label to the same effect as the Postal Service may prescribe.

"(B) The notice described in subparagraph (A) shall be in conspicuous and legible type in contrast by typography, layout, or color with other printing on its face, in accordance with regulations that the Postal Service shall prescribe and be prominently displayed on the first page of the enclosed printed material and on any other pages enclosed.

"(C) If the matter described in paragraph (1) is an envelope, the face of the envelope shall bear the notice described in subparagraph (A).

"(D) If the matter described in paragraph (1) is an order entry device, the face of the order entry device shall bear the following notice:

"'This is a game of chance (or sweepstakes, if applicable). No purchase is required either to win a prize or enhance your chances of winning a prize; or a notice to the same effect in words which the Postal Service may prescribe.'

"(k) Matter otherwise legally acceptable in the mails that constitutes a solicitation or offer in connection with the sales promotion for a product or service that uses any matter resembling a negotiable instrument shall not be carried or delivered by mail, and may be disposal of as the Postal Service directs, unless such matter bears on the face of the negotiable instrument in conspicuous and legible type in contrast by typography, layout, or color with other printing on its face, in accordance with regulations which the Postal Service shall prescribe the following notice: 'This is not a check (or negotiable instrument). This has no cash value.'. or a notice to the same effect in words which the Postal Service may prescribe."

(c) TECHNICAL AMENDMENT.—Section 3005(a) of title 39. United States Code, is amended by—

(1) striking "or" after "(h)." both places it appears; and

(2) inserting ". (j). or (k)" after "(i)".

(d) PENALTIES.—

(1) IN GENERAL.—Section 3012 of title 39. United States Code, is amended—

(A) by redesignating subsections (b), (c), and (d), as subsections (c), (d), and (e), respectively;

(B) by inserting after subsection (a) the following:

"(b) Any person who, through use of the mail, sends any matter which is nonmailable under sections 3001 (a) through (k), 3014, or 2015 of this title, shall be liable to the United States for a civil penalty in accordance with regulations the Postal Service shall prescribe. The civil penalty shall not exceed $50,000 for each mailing of less than 50,000 pieces; $100,000 for each mailing of 50,000 to 100,000 pieces; with an additional $10,000 for each additional 10,000 pieces above 100,000, not to exceed $2,000,000.";

(C) in subsection (c)(1) and (2), as redesignated, by inserting after "of section (a)" the following: "or subsection (b),"; and

(D) in subsection (d), as redesignated, by striking "Treasury of the United States" and inserting "Postal Service Fund established by section 2003 of title title".

(2) ALLOCATION OF FUNDS.—It is the sense of Congress that civil penalties collected through the enforcement of the amendment made by paragraph (1) should be allocated by the Postal Service to increase consumer awareness of misleading solicitations received through the mail, including releasing an annual listing of the top 10 offenders of the Honesty in sweepstakes Act of 1998.

(e) NO PREEMPTION.—Nothing in this Act shall preempt any State law that regulates advertising or sales promotions or goods and services that includes the chance or opportunity to win anything of value.

Ms. COLLINS. Mr. President, I want to take this opportunity to commend Senator CAMPBELL for his efforts to protect consumers from con artists who try to cheat Americans using deceptive mailings. I am pleased to join in support of his legislation.

Senator CAMPBELL's bill would require a disclosure on mailings to inform individuals that they have not automatically won a prize and that a purchase is not necessary to participate in a sweepstakes contest. New civil penalties could be imposed on violations of the provisions against sending deceptive mail.

Senator CAMPBELL has been a strong leader and forceful advocate for curtailing abuses by sweepstakes firms who send misleading mailings that suggest that people have won hundreds of thousands, or even millions, of dollars. Such deceptive mailings have caused people across the country to buy unnecessary products or to send money in the hope of winning a large prize. One scam even prompted some individuals to fly to Florida thinking they had won the grand prize in a major sweepstakes.

Millions of Americans have received sweepstakes letters that use deceptive marketing ploys to encourage the purchase of magazines and other products. A common tactic is a promise of winnings printed in large type, such as: "You Were Declared One of Our Latest Sweepstakes Winners And You're About to Be Paid $833,337 in Cash!" Of course, the recipient isn't really a winner, as the fine print said the money is won only "If you have and return the grand prize winning number in time."

Another problem is what I call "government look-alike mailings," which look deceptively like mailings from Federal agencies. An example of such a deceptive mailing was sent to be by a woman from Machiasport, Maine. The letter was marked "Urgent Delivery, A Special Notification of Cash Currently Being Held by the U.S. Government is ready for shipment to you." A postcard asks the consumer to send $9.97 to learn how to receive this cash. Of course, this was not a legitimate mailing from the Federal Government, but simply a ploy used by an unscrupulous individual to trick an unsuspecting consumer into sending money.

The experience of my constituents, as well as testimony presented by Senator CAMPBELL and others at the hearing chaired by our colleague, Senator COCHRAN, convinced me that Congress must pass strong legislation to stop sweepstakes fraud and deceptive mailings.

As Chairman of the Permanent Subcommittee on Investigations, I have focused our agenda on a number of consumer frauds, and I will be working with Senator COCHRAN to further examine the issue of deceptive mailings in the coming months. I commend Senator CAMPBELL for his leadership and look forward to working with him on this issue next year.

PROSTATE CANCER RESEARCH

Mr. COVERDELL. Mr. President, I rise today to express my support for prostate cancer research, and to thank Senator STEVENS and my other colleagues for their leadership on this important issue. While I am pleased with the strides this Congress has made in funding research at the National Institutes of Health (NIH), I share the concern that the allocation of NIH funds may be done in a manner disproportionate to a disease's severity and occurrence. I understand that prostate cancer research is one of those areas. Without discounting the NIH's other meritorious pursuits, I nevertheless wish to offer my support for assuring a larger allocation of NIH funding to prostate cancer research. It is my hope that as the appropriations process continues, the negotiators will give fair and appropriate consideration to the Senate's $175 million earmark for prostate cancer research.

TRIBUTE TO SENATOR DALE BUMPERS

Mr. NICKLES. Mr. President, I would like to pay a brief tribute to my friend and colleague and neighbor from the State of Arkansas for his 24 years of service in the Senate.

I have had the pleasure of working with Senator DALE BUMPERS since I was elected to the Senate 18 years ago. So I am completing three terms. He is just completing four terms. Twenty-four years in the Senate is a long time. But I think the Senate has been blessed by his humor, his levity. The camaraderie that Senator BUMPERS has brought to the Senate floor and to the Senate group has been enjoyable, educational, and humorous, to say the least.

I have had the pleasure of serving with Senator BUMPERS on the Energy Committee where he has been ranking member for the last several years. We have worked together on a lot of legislation. We passed some good legislation, I might add, as well. So I compliment him for his years of service.

He served 4 years as Governor of Arkansas; I think he was elected in 1970; and elected to the U.S. Senate in 1974. It seems like he has been in the same chair for years. He has been the same Senator who will still get excited on a speech and pull his microphone cord to the limit. Maybe he might test the limit of the cord as much as anybody I know in the Senate—a very good speaker, a very good friend who has served his State very well.

We worked together on several pieces of legislation, including legislation that dealt with the exchange of lands, both for the Forest Service and for protecting lands in both Arkansas and Oklahoma, that would not have happened if it had not been for his good work and leadership. And frankly, he was a pleasure to work with on that bill, and many other pieces of legislation throughout our careers.

So I certainly wish DALE BUMPERS and his wife Betty every best wish in their days ahead. He has made a valuable contribution as a Member of the U.S. Senate and as a Member of our Senate family.

Mr. President, I yield the floor.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Let me first join my good friend from Oklahoma in his accolades for Senator BUMPERS. I expect that I, as a Republican, probably supported some of Senator BUMPERS' pieces of legislation more than any other Republican. And I had an opportunity to work with him on many that were not popular with some of the people, especially in the far West. But I point out that I have enjoyed so much working with him, especially on things which most all of us agreed on, as the preservation of Civil War sites and other of our historical aspects which are so important to this Nation.

I am going to be so sorry to see him leave. We had many wonderful times together. And I expect we will have some more out in his great State.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting one withdrawal and sundry nominations which were referred to the approrpriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:04 a.m., a message from the House of Representatives, delivered by Mr. Hayes, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4104) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1999, and for other purposes.

ENROLLED BILL SIGNED

The message also announced that Speaker has signed the following enrolled bill:

S. 2392. An act to encourage the disclosure and exchange of information about computer processing problems, solutions, test practices and test results, and related matters in connection with the transition to the year 2000.

Under the authority of the order of today, October 8, 1998, the enrolled bill was signed subsequently by the Acting President pro tempore (Mr. DEWINE).

At 1:50 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 804. An act to amend part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 to ensure that Federal funds made available to hire or rehire law enforcement officers are used in a manner that produces a net gain of the number of law enforcement officers who perform nonadministrative public safety services.

H.R. 2348. An act to redesignate the Federal building located at 701 South Santa Fe Avenue in Compton, California, and known as the Compton Main Post Office, as the "Mervyn Dymally Post Office Building."

H.R. 2921. An act to promote the competitive viability of direct-to-home satellite television service.

H.R. 3783. An act to amend the Communications Act of 1934 to require persons who are engaged in the business of distributing, by means of the World Wide Web, material that is harmful to minors to restrict access to such material by minors, and for other purposes.

H.R. 4151. An act to amend chapter 47 of title 18, United States Code, relating to identify fraud, and for other purposes.

H.R. 4293. An act to establish a cultural training program for disadvantaged individuals to assist the Irish peace process.

H.R. 4616. An act to designate the United States Post Office located at 3813 Main Street in East Chicago, Indiana, as the "Corporal Harold Gomez Post Office."

H.R. 4679. An act to amend the Federal Food, Drug, and Cosmetic Act to clarify the circumstances in which a substance is considered to be a pesticide chemical for purposes of such Act, and for other purposes.

The message also announced that the House has passed the following bills, without amendment:

S. 53. An act to require the general application of the antitrust laws to major league baseball, and for other purposes.

S. 505. An act to amend the provisions of title 17, United States Code, with respect to the duration of copyright, and for other purposes.

S. 1892. An act to provide that a person closely related to a judge of a court exercising judicial power under article III of the United States Constitution (other than the Supreme Court) may not be appointed as a judge of the same court, and for other purposes.

S. 1976. An act to increase public awareness of the plight of victims of crime with developmental disabilities, to collect data to measure the magnitude of the problem, and to develop strategies to address the safety and justice needs of victims of crime with developmental disabilities.

The message further announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 2022. An act to provide for the improvement of interstate criminal justice identification, information, communications, and forensics.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 8) to amend the Clean Air Act to deny entry into the United States of certain foreign motor vehicles that do not comply with State laws governing motor vehicles emissions, and for other purposes.

At 3:48 p.m., a message from the House of Representatives, delivered by Mr. Hanrahan, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 131. Joint resolution waiving certain enrollment requirements for the remainder of the One Hundred Fifth Congress with respect to any bill or joint resolution making general or continuing appropriations for fiscal year 1999.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 2921. An act to promote the competitive viability of direct-to-home satellite television service; to the Committee on the Judiciary.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on October 8, 1998 he had presented to the President of the United States, the following enrolled bills:

S. 314. An act to provide a process for identifying the functions of the Federal Government that are not inherently governmental functions, and for other purposes.

S. 2392. An act to encourage the disclosure and exchange of information about computer processing problems, solutions, test practices and test results, and related matters in connection with the transition to the year 2000.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-7363. A communication from the Director of Defense Procurement, Office of the Under Secretary of Defense for Acquisition and Technology, transmitting, pursuant to law, the report of a rule entitled "Defense Federal Acquisition Regulation Supplement; Contracting by Negotiation; Part 215 Rewrite" (Case 97-D018) received on October 5, 1998; to the Committee on Armed Services.

EC-7364. A communication from the Director of the Executive Office of the President, Office of Management and Budget, transmitting, pursuant to law, a report on appropriations legislation within seven days of enactment (H.R. 4059) dated October 2, 1998; to the Committee on the Budget.

EC-7365. A communication from the General Counsel of the Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Empowerment Zones: Rule for Second Round Designations; Final Rule" (FR 4281-F-07) received on October 6, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC-7366. A communication from the Director of the Office of Regulations Management, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "Eligibility Reporting Requirements" (RIN: 2900-AJ09) received on October 5, 1998; to the Committee on Veterans Affairs.

EC-7367. A communication from the Interim District of Columbia Auditor, transmitting, pursuant to law, the Auditor's report entitled "Audit of the Financial Accounts and Operations of ANC 5B for Fiscal

Years 1991 through 1997"; to the Committee on Governmental Affairs.

EC–7368. A communication from the General Counsel, Executive Office for Immigration Review, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Suspension of Deportation and Cancellation of Removal" (RIN: 1125–AA25) received on October 6, 1998; to the Committee on the Judiciary.

EC–7369. A communication from the Director of the Executive Office for Immigration Review, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Executive Office for Immigration Review, Board of Immigration Appeals; 18 Board Members" (RIN: 1125–AA24) received on October 6, 1998; to the Committee on the Judiciary.

EC–7370. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Indirect Food Additives: Adhesives and Components of Coatings" (Docket 98F–0183) received on October 5, 1998; to the Committee on Labor and Human Resources.

EC–7371. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Orthopedic Devices: Classification and Reclassification of Pedicle Screw Spinal Systems" (RIN: 0910–ZA12) received on August 17, 1998; to the Committee on Labor and Human Resources.

EC–7372. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Performance Partnership Grants for State and Tribal Environmental Programs; Revised Interim Guidance" (FR L6171–7) received on October 5, 1998; to the Committee on Environment and Public Works.

EC–7373. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Designation of Rural Empowerment Zones and Enterprise Communities" (RIN: 0503–AA18) received on October 5, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7374. A communication from the Inspector General of the Department of Agriculture, transmitting pursuant to law, a report entitled "Evaluation of the Office of Civil Rights' Effort to Reduce the Backlog of Program Complaints"; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7375. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Mediterranean Fruit Fly; Removal of Quarantined Areas" (Docket 97–056–17) received on October 5, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7376. A communication from the Administrator of the Rural Utilities Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Year 2000 Compliance: Electric Program" received on October 6, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7377. A communication from the Administrator of the Rural Utilities Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Long Range Financial Forecasts of Electric Borrowers" (RIN: 0572–AA89) received on October 6, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7378. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Processed Fruits and Vegetables" (Docket FV–98–327) received on October 5, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7379. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Dried Prunes Produced in California; Increased Assessment Rate" (Docket FV98–993–2FR) received on October 5, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7380. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Egg, Poultry, and Rabbit Grading Increase in Fees and Charges" (Docket PY–98–002) received on October 5, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7381. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding a Virginia State Air Quality Plan to control total sulfur emissions from existing kraft pulp mills (FR L6174–7) received on October 5, 1998; to the Committee on Environment and Public Works.

EC–7382. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Department's report entitled "Hazardous Materials Emergency Preparedness Grants Program" for fiscal year 1993 through 1996; to the Committee on Commerce, Science, and Transportation.

EC–7383. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Department's report entitled "Status of the Public Ports of the United States" for calendar year 1996 and 1997; to the Committee on Commerce, Science, and Transportation.

EC–7384. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Shortraker/Rougheye Rockfish in the Eastern Regulatory Area of the Gulf of Alaska" (I.D. 092998C) received on October 6, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7385. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "North Atlantic Swordfish Fishery; Closure" (I.D. 072398A) received on October 6, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7386. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Trip Limit Changes" (I.D. 092898D) received on October 6, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7387. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone off Alaska; Pacific Cod in the Central Regulatory Area of the Gulf of Alaska" (I.D. 092298A) received on October 6, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7388. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Ocean Recreational Salmon Fisheries; Closure and Reopening; Queets River, Washington, to Cape Falcon, Oregon" (I.D. 091198B) received on October 6, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7389. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Reports of Motor Carriers; Redesignation of Regulations Pursuant to the ICC Termination Act of 1995" (RIN: 2139–AA06) received on October 5, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7390. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Anthropomorphic Test Dummy; Occupant Crash Protection" (RIN: 2127–AG39) received on October 5, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7391. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Colusa, CA" (Docket 98–AWP–1/10–2) received on October 5, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7392. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Licensing and Training of Pilots, Flight Instructors, and Ground Instructors Outside the United States" (RIN: 2120–AG66) received on October 5, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7393. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Rolls-Royce, plc RB211 Trent 800 Series Turbofan Engines; Correction" (Docket 98–ANE–33–AD) received on October 5, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7394. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Cambridge, NE; Correction" (Docket 98–ACE–11) received on October 5, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7395. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Scottsbluff, NE" (Docket 98–ACE–18) received on October 5, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7396. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class

E Airspace; Newton, IA" (Docket 98–ACE–24) received on October 5, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7397. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Fort Drum, NY" (Docket 98–AEA–15) received on October 5, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7398. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Berkley Springs, WV" (Docket 98–AEA–16) received on October 5, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7399. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Boeing Model 747–100, –200, and –300 Series Airplanes" (Docket 97–NM–85–AD) received on October 5, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7400. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Aviat Aircraft, Inc. Models S–1S, S–1T, S–2, S–2A, S–2S, and S–2B Airplanes" (Docket 96–CE–23–AD) received on October 5, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7401. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Mitsubishi Heavy Industries, Ltd. MU–2B Series Airplanes" (Docket 98–CE–39–AD) received on October 5, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7402. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Airbus Model A300 B2 and B4 Series Airplanes" (Docket 95–NM–109–AD) received on October 5, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7403. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Realignment of Federal Airways and Jet Routes; TX" (Docket 97–ASW–18) received on October 5, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7404. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Baltimore, MD" (Docket 98–AEA–17) received on October 5, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7405. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Ellenville, NY" (Docket 98–AEA–20) received on October 5, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7406. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Saab Model 2000 Series Airplanes" (Docket 98–NM–287–AD) received on October 5, 1998; to the Committee on Commerce, Science, and Transportation.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–550. A petition from a citizen of the State of Texas relative to currency denominations; to the Committee on Banking, Housing, and Urban Affairs.

POM–551. A joint resolution adopted by the Legislature of the Commonwealth of the Northern Marianas Islands; to the Committee on Energy and Natural Resources.

H.J. RES. NO. 11–25

"Whereas, the covenant negotiating history makes it clear that Section 901 does not preclude the Government of the Northern Marianas from requesting that a Delegate from the Northern Mariana Islands be established in the Congress of the United States; and

"Whereas, the current status of Commonwealth-Federal relations, which has been marred by miscommunication, misinterpretation, and misinformation is further exacerbated by the lack of a constant and vigilant Commonwealth voice and presence in the U.S. House of Representatives and its various committees and subcommittees; and

"Whereas, the Northern Marianas Commonwealth Legislature has overwhelmingly approved resolutions in the last three years, urging the Congress of the United States to establish a Delegate from the Northern Marians within the U.S. House of Representatives; and

"Whereas, the Eleventh Northern Marianas Commonwealth Legislature express its gratitude that on August 5, 1998, Guam Delegate Robert Underwood introduced a House Resolution in the 105th Congress, to provide a non-voting delegate to the U.S. House of Representatives to represent the Commonwealth of the Northern Mariana Islands; and

"Whereas, we believe fervently that the pursuit of the delegate seat is imperative in attaining full status as a member of the American political family in which, thus far, the Northern Mariana Islands remains the only U.S. Insular area not to be represented in the United States Congress; and

"Whereas, the non-voting delegate status would neither diminish the full force and effect of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, nor in any sense abrogate, qualify, or release rightful claims to local self-government contained in Article I, Section 103 of the Covenant; now, therefore be it

"*Resolved, by the House of Representatives, Eleventh Northern Marianas Commonwealth Legislature, the Senate concurring,* That the United States of America is hereby requested to—

"(1) establish the status of non-voting delegate in the United States Congress; and

"(2) provide that the Delegate from the Northern Mariana Islands receive the same compensation, allowance, and benefits as a Member of the United States House of Representatives, and be entitled to at least those same privileges and immunities granted to any other non-voting Delegate to the House of Representatives; and be it further

"*Resolved*, That the Speaker of the House and the President of the Senate shall certify and the House Clerk and the Senate Legislative Secretary shall attest to the adoption of this Resolution and thereafter transmit certified copies to: the Honorable William Jefferson Clinton, President of the United States; to the Honorable Pedro P. Tenorio, Governor of the Commonwealth of the Northern Mariana Islands; the Honorable Newt Gingrich, Speaker of the U.S. House of Representatives; the Honorable Richard Armey, Majority Leader of the U.S. House of Representatives; the Honorable Richard Gephardt, Minority Leader of the U.S. House of Representatives; the Honorable Don Young, U.S. House of Representatives; the Honorable Elton Gallegly, U.S. House of Representatives; the Honorable George Miller, U.S. House of Representatives; the Honorable Robert Underwood, U.S. House of Representatives; the Honorable Albert Gore Jr., Vice President of the United States of America and President of the U.S. Senate; the Honorable Trent Lott, Majority Leader of the U.S. Senate; the Honorable Tom Daschle, Minority Leader of the U.S. Senate; the Honorable Frank Murkowski, U.S. Senate; the Honorable Strom Thurmond, President Pro Tempore, U.S. Senate; the Honorable Daniel Inouye, U.S. Senate; the Honorable Daniel Akaka, U.S. Senate.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CAMPBELL, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 109: A bill to provide Federal housing assistance to Native Hawaiians (Rept. No. 105–380).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources:

Report to accompany the bill (S. 777) to authorize the construction of the Lewis and Clark Rural Water System and to authorize assistance to the Lewis and Clark Rural Water System, Inc., a nonprofit corporation, for planning and construction of the water supply system, and for other purposes (Rept. No. 105–381).

By Mr. STEVENS, from the Committee on Appropriations:

Special Report entitled "Revised Allocation to Subcommittees of Budget Totals for Fiscal Year 1999" (Rept. No. 105–382).

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 260: A resolution expressing the sense of Senate that October 11, 1998, should be designated as "National Children's Day".

S. Res. 271: A resolution designating October 16, 1998, as "National Mammography Day."

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 2024: A bill to increase the penalties for trafficking in methamphetamine in order to equalize those penalties with the penalties for trafficking in crack cocaine.

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

S. Con. Res. 83: A concurrent resolution remembering the life of George Washington and his contributions to the Nation.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on Armed Services:

The following Air National Guard of the United States officer for appointment in the Reserve of the Air Force, to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. James C. Burdick, 9214

The following Air National Guard of the United States officers for appointment in the Reserve of the Air Force, to the grades indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. Walter R. Ernst, II, 0750
Brig. Gen. Bruce W. MacLane, 2001
Brig. Gen. Paul A. Pochmara, 3419
Brig. Gen. Mason C. Whitney, 9168

To be brigadier general

Col. John H. Bubar, 0916
Col. Verna D. Fairchild, 1283
Col. Robert I. Gruber, 3888
Col. Michael J. Haugen, 7541
Col. Walter L. Hodgen, 6504
Col. Larry V. Lunt, 4398
Col. William J. Lutz, 6187
Col. Stanley L. Pruett, 1176
Col. William K. Richardson, 5912
Col. Ravindraa F. Shah, 0480
Col. Harry A. Sieben, Jr., 3654
Col. Edward N. Stevens, 3837
Col. Merle S. Thomas, 9608
Col. Steven W. Thu, 9509
Col. Frank E. Tobel, 1101

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Col. Harry A. Curry, 6275

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Michael A. Canavan, 1461

The following named officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. John M. Schuster, 8090

The following named officer for appointment in the United States Army to the grade indicated while serving as the Director, National Imagery and Mapping Agency designated as a position of importance and responsibility under title 10, U.S.C., sections 441 and 601:

To be lieutenant general

Maj. Gen. James C. King, 5053

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Edwin P. Smith, 3610

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brig. Gen. Anthony R. Jones, 7571

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Michael L. Dodson, 5712

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Randall L. Rigby, Jr., 5714

The following named officers for appointment in the Reserve of the Army to the grades indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. Jerald N. Albrecht, 2703
Brig. Gen. Wesley A. Beal, 2495
Brig. Gen. William N. Kiefer, 7616
Brig. Gen. William B. Raines, Jr., 2267
Brig. Gen. John L. Scott, 1830
Brig. Gen. Richard O. Wightman, Jr., 6480

To be brigadier general

Col. Antony D. DiCorleto, 2049
Col. Gerald D. Griffin, 1832
Col. Timothy M. Haake, 0668
Col. Joseph C. Joyce, 7896
Col. Carlos D. Pair, 7262
Col. Paul D. Patrick, 6446
Col. George W. Petty, Jr., 8842
Col. George W. S. Read, 1278
Col. John W. Weiss, 3981

The following named officer for appointment in the United States Naval Reserve to the grade indicated under title 10, U.S.C., section 12203:

To be rear admiral (lower half)

Capt. Marianne B. Drew, 3561

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. Scott A. Fry, 5541

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Vice Adm. Patricia A. Tracey, 3579

(The above nominations were reported with the recommendation that they be confirmed.)

Mr. THURMOND. Madam President, for the Committee on Armed Services, I also report favorably nominations which were printed in full in the RECORDS of September 11, 1998, September 16, 1998, September 23, 1998, September 29, 1998 and September 30, 1998, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of September 11, 1998, September 16, 1998, September 23, 1998, September 29, 1998 and September 30, 1998, at the end of the Senate proceedings.)

In the Navy nomination of Michael C. Gard, which was received by the Senate and appeared in the Congressional Record of September 11, 1998

In the Navy nomination of Thomas E. Katana, which was received by the Senate and appeared in the Congressional Record of September 16, 1998

In the Army nominations beginning Michael C Aaron, and ending Richard G. * Zoller, which nominations were received by the Senate and appeared in the Congressional Record of September 23, 1998

In the Marine Corps nomination of Jeffrey M. Dunn, which was received by the Senate and appeared in the Congressional Record of September 29, 1998

In the Army nominations beginning Matthew L. Kambic, and ending James G. Pierce, which nominations were received by the Senate and appeared in the Congressional Record of September 30, 1998

By Mr. HATCH, from the Committee on the Judiciary:

Lawrence Baskir, of Maryland, to be a Judge of the United States Court of Federal Claims for a term of fifteen years.

Robert S. Lasnik, of Washington, to be United States District Judge for the Western District of Washington.

Yvette Kane, of Pennsylvania, to be United States District Judge for the Middle District of Pennsylvania.

James M. Munley, of Pennsylvania, to be United States District Judge for the Middle District of Pennsylvania.

Lynn Jeanne Bush, of the District of Columbia, to be a Judge of the United States Court of Federal Claims for a term of fifteen years.

David O. Carter, of California, to be United States District Judge for the Central District of California.

Francis M. Allegra, of Virginia, to be Judge of the United States Court of Federal Claims for a term of fifteen years.

Margaret B. Seymour, of South Carolina, to be United States District Judge for the District of South Carolina.

William J. Hibbler, of Illinois, to be United States District Judge for the Northern District of Illinois.

Aleta A. Trauger, of Tennessee, to be United States District Judge for the Middle District of Tennessee.

Alex R. Munson, of the Northern Mariana Islands, to be Judge for the District Court for the Northern Mariana Islands for a term of ten years. (Reappointment)

Edward J. Damich, of Virginia, to be a Judge of the United States Court of Federal Claims for term of fifteen years.

Nancy B. Firestone, of Virginia, to be a Judge of the United States Court of Federal Claims for a term of fifteen years.

Emily Clark Hewitt, of Massachusetts, to be a Judge of the United States Court of Federal Claims for a term of fifteen years.

Norman A. Mordue, of New York, to be United States District Judge for the Northern District of New York.

Donnie R. Marshall, of Texas, to be Deputy Administrator of Drug Enforcement.

Harry Litman, of Pennsylvania, to be United States Attorney for the Western District of Pennsylvania for the term of four years.

Denise E. O'Donnell, of New York, to be United States Attorney for the Western District of New York for the term of four years.

Margaret Ellen Curran, of Rhode Island, to be United States Attorney for the District of Rhode Island for the term of four years.

Byron Todd Jones, of Minnesota, to be United States Attorney for the District of Minnesota for the term of four years.

(The above nominations were reported with the recommendation that they be confirmed.)

By Mr. CHAFEE, from the Committee on Environment and Public Works:

Robert W. Perciasepe, of Maryland, to be an Assistant Administrator of the Environmental Protection Agency. (Reappointment)

William Clifford Smith, of Louisiana, to be a Member of the Mississippi River Commission for a term expiring October 21, 2005.

Isadore Rosental, of Pennsylvania, to be a Member of the Chemical Safety and Hazard Investigation Board for a term of five years. (New Position)

Andrea Kidd Taylor, of Michigan, to be a Member of the Chemical Safety and Hazard Investigation Board for a term of five years. (New Position)

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. D'AMATO, from the Committee on Banking, Housing, and Urban Affairs:

Ira G. Peppercorn, of Indiana, to be Director of the Office of Multifamily Housing Assistance Restructuring. (New Position)

William C. Apgar, Jr., of Massachusetts, to be an Assistant Secretary of Housing and Urban Development.

Saul N. Ramirez, Jr., of Texas, to be Deputy Secretary of Housing, and Urban Development.

Cardell Cooper, of New Jersey, to be an Assistant Secretary of Housing and Urban Development.

Harold Lucas, of New Jersey, to be an Assistant Secretary of Housing and Urban Development.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. KERRY:

S. 2577. A bill to amend section 313 of the Tariff Act of 1930 to allow duty drawback for grape juice concentrates, regardless of color or variety; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 2578. A bill to assist in the development and implementation of projects to provide for the control of drainage, storm, flood and other waters as part of water-related integrated resource management, environmental infrastructure, and resource protection and developement projects in the Colusa Basin Watershed, California; to the Committee on Energy and Natural Resources.

By Mr. SPECTER:

S. 2579. A bill to amend the Fair Labor Standards Act of 1938 to permit certain youth to perform certain work with wood products; to the Committee on Labor and Human Resources.

By Mr. SPECTER (for himself, Mr. Rockefeller, Mr. Santorum, Mr. Hollings, and Mr. Durbin):

S. 2580. A bill to amend the Trade Act of 1974, and for other purposes; to the Committee on Finance.

By Mr. McCAIN (for himself and Mr. Hollings):

S. 2581. A bill to authorize appropriations for the motor vehicle safety and information programs of the National Highway Traffic Safety Administration for fiscal years 1999-2001; to the Committee on Commerce, Science, and Transportation.

By Mr. BREAUX (for himself and Mr. Mack):

S. 2582. A bill to amend title XVIII of the Social Security Act to provide for a prospective payment system for services furnished by psychiatric hospitals under the Medicare Program; to the Committee on Finance.

By Mr. BINGAMAN (for himself and Mr. Cochran):

S. 2583. A bill to provide disadvantaged children with access to dental services; to the Committee on Labor and Human Resources.

By Mr. SPECTER (for himself and Mr. Santorum):

S. 2584. A bill to provide aviator continuation pay for military members killed in Operation Desert Shield; considered and passed.

By Mr. DASCHLE (for himself and Mr. Johnson):

S. 2585. A bill to amend the Public Health Service Act to eliminate a threshold requirement relating to unreimbursable expenses for compensation under the National Vaccine Injury Compensation Program; to the Committee on Finance.

By Mr. KOHL:

S. 2586. A bill to amend parts A and D of title IV of the Social Security Act to require States to pass through directly to a family receiving assistance under the temporary assistance to needy families program all child support collected by the State and to disregard any child support that the family receives in determining the family's level of assistance under that program; to the Committee on Finance.

By Mr. WYDEN:

S. 2587. A bill to protect the public, especially seniors, against telemarketing fraud and telemarketing fraud over the Internet and to authorize an educational campaign to improve senior citizens' ability to protect themselves against telemarketing fraud over the Internet; to the Committee on Commerce, Science, and Transportation.

By Mr. CONRAD (for himself, Mr. Nickles, and Mr. Inouye):

S. 2588. A bill to provide for the review and classification of physician assistant positions in the Federal Government, and for other purposes; to the Committee on Governmental Affairs.

By Mr. MURKOWSKI:

S. 2589. A bill to provide for the collection and interpretation of state-of-the-art, nonintrusive 3-dimensional seismic data on certain Federal lands in Alaska, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. FAIRCLOTH (for himself, Mr. Grams, and Mr. Gorton):

S. 2590. A bill to enhance competition in financial services; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. KERREY:

S. 2591. A bill to provide certain secondary school students with eligibility for certain campus-based assistance under title IV of the Higher Education Act of 1965; to the Committee on Labor and Human Resources.

By Mr. DORGAN (for himself, Mr. Johnson, Mr. Baucus, and Mr. Conrad):

S. 2592. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to permit a State to register a Canadian pesticide for distribution and use within that State; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. GRAHAM:

S. 2593. A bill to amend the Internal Revenue Code of 1986 to provide a credit against tax for employers who provide child care assistance for dependents of their employees, and for other purposes; to the Committee on Finance.

By Mr. HARKIN:

S. 2594. A bill to establish a Food Safety Research Institute to coordinate the development of a Federal Governmentwide, interagency food safety research agenda to ensure the efficient use of food safety research resources and prevent duplication of efforts; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DASCHLE (for himself and Mr. Murkowski):

S. 2595. A bill to amend the Housing and Community Development Act of 1974 to provide affordable housing and community development assistance to rural areas with excessively high rates of outmigration and low per capita income levels; to the Committee on Banking, Housing, and Urban Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. MOSELEY-BRAUN:

S. Res. 292. A resolution expressing the sense of the Senate regarding tactile currency for the blind and visually impaired; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ROBB (for himself, Mr. Graham, Mr. Warner, and Mrs. Feinstein):

S. Res. 293. A resolution expressing the sense of the Senate that Nadia Dabbagh should be returned home to her mother, Ms. Maureen Dabbagh; to the Committee on Foreign Relations.

By Mr. INHOFE (for himself, Mr. Lott, Mr. Helms, Mrs. Hutchison, Mr. Burns, Mr. Stevens, Mr. Thomas, Mr. Hutchinson, Mr. Smith of New Hampshire, Mr. Murkowski, Mr. Bennett, Mr. Allard, Mr. Campbell, Mr. Mack, Mr. Craig, Mr. Grams, Mr. Faircloth, Mr. Sessions, Mr. Enzi, and Mr. Hatch):

S. Con. Res. 125. A concurrent resolution expressing the opposition of Congress to any deployment of United States ground forces in Kosovo, a province in southern Serbia, for peacemaking or peacekeeping purposes; to the Committee on Foreign Relations.

By Mr. D'AMATO (for himself and Mr. Wyden):

S. Con. Res. 126. A concurrent resolution expressing the sense of Congress that the President should reassert the traditional opposition of the United States to the unilateral declaration of a Palestinian State; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPECTER:

S. 2579. A bill to amend the Fair Labor Standards Act of 1938 to permit certain youth to perform certain work with wood products; to the Committee on Labor and Human Resources.

LEGISLATION AMENDING THE FAIR LABOR STANDARDS ACT

Mr. SPECTER. Mr. President, I have sought recognition today to introduce legislation designed to permit certain youths (those exempt from attending school) between the ages of 14 and 18 to work in sawmills under special safety conditions and close adult supervision. While I realize that this legislation cannot be enacted so late in the session, I believe it is important to introduce the bill and promote a serious discussion on this issue.

As Chairman of the Labor, Health and Human Services and Education Appropriations Subcommittee, I have strongly supported increased funding for the enforcement of the important child safety protections contained in the Fair Labor Standards Act. I also believe, however, that accommodation must be made for youths who are exempt from compulsory school-attendance laws after the eighth grade. It is extremely important that youths who are exempt from attending school be provided with access to jobs and apprenticeships in areas that offer employment where they live.

The need for access to popular trades is demonstrated by the Amish community. Earlier this week I toured an Amish sawmill in Lancaster County, Pennsylvania, and had the opportunity to meet with some of my Amish constituency. They explained that while the Amish once made their living almost entirely by farming, they have increasingly had to expand into other occupations as farmland disappears in many areas due to pressure from development. As a result, many of the Amish have come to rely more and more on work in sawmills to make their living. The Amish culture expects youth upon the completion of their education at the age of 14 to begin to learn a trade that will enable them to become productive members of society. In many areas work in sawmills is one of the major occupations available for the Amish, whose belief system limits the types of jobs they may hold. Unfortunately, these youths are currently prohibited by law from employment in this industry until they reach the age of 18. This prohibition threatens both the religion and lifestyle of the Amish.

The House has already passed by a voice vote H.R. 4257, introduced by my distinguished colleague, Representative JOSEPH R. PITTS, which is similar to the bill I am introducing today. I am aware that concerns to H.R. 4257 exist: safety issues have been raised by the Department of Labor and Constitutional issues have been raised by the Department of Justice. I have addressed these concerns in my legislation.

Under my legislation youths would not be allowed to operate power machinery, but would be restricted to performing activities such as sweeping, stacking wood, and writing orders. My legislation requires that the youths must be protected from wood particles or flying debris and wear protective equipment, all while under strict adult supervision. The Department of Labor must monitor these safeguards to insure that they are enforced.

The Department of Justice has stated that H.R. 4257 would "raise serious concerns" under the Establishment Clause. The House measure confers benefits only to a youth who is a "member of a religious sect or division thereof whose established teachings do not permit formal education beyond the eighth grade." By conferring the "benefit" of working in a sawmill only to the adherents of certain religions, the Department argues that the bill appears to impermissibly favor religion to "irreligion." In drafting my legislation, I attempted to overcome such an objection by conferring permission to work in sawmills to all youths who "are exempted from compulsory education laws after the eighth grade." Indeed, I think a broader focus is necessary to create a sufficient range of vocational opportunities for all youth who are legally out of school and in need of vocational opportunities.

I also believe that the logic of the Supreme Court's 1972 decision in *Wisconsin* v. *Yoder* supports my bill. Yoder held that Wisconsin's compulsory school attendance law requiring children to attend school until the age of 16 violated the Free Exercise clause. The Court found that the Wisconsin law imposed a substantial burden on the free exercise of religion by the Amish since attending school beyond the eighth grade "contravenes the basic religious tenets and practices of the Amish faith." I believe a similar argument can be made with respect to Amish youth working in sawmills. As their population grows and their subsistence through an agricultural way of life decreases, trades such as sawmills become more and more crucial to the continuation of their lifestyle. Barring youths from the sawmills denies these youths the very vocational training and path to self-reliance that was central to the Yoder Court's holding that the Amish do not need the final 2 years of public education.

At this stage in the legislative process, so close to the end of the 105th Congress, passage of my bill requires a unanimous consent agreement. I have already been notified that there are Senators who would object to such an agreement, and I do understand that a measure of this nature cannot be rushed through the Senate. Nevertheless, I offer my legislation in the hope of beginning a dialogue on this important issue.

By Mr. SPECTER (for himself, Mr. ROCKEFELLER, Mr. SANTORUM, Mr. HOLLINGS, and Mr. DURBIN):

S. 2580. A bill to amend the Trade Act of 1974, and for other purposes; to the Committee on Finance.

THE TRADE FAIRNESS ACT OF 1998

Mr. SPECTER. Mr. President, I have sought recognition today to introduce legislation responding to the critical steel import crisis along with my colleague from West Virginia, Senator ROCKEFELLER, who serves with me as co-chairman of the Senate Steel Caucus, Senator HOLLINGS, and Senator SANTORUM. Our bill is entitled the "Trade Fairness Act of 1998" because it would amend the Trade Act of 1974 to remove statutory provisions which put our domestic industry at a significant disadvantage compared to their foreign competitors. Specifically, this bill makes technical corrections to the so-called "Section 201" provisions of the Trade Act of 1974 to harmonize our laws with international laws administered by the World Trade Organization.

While I know it is very late in the 105th legislative session, we intend that the introduction of this legislation will demonstrate our bipartisan commitment to responding to the current steel import crisis. Further, this should send a strong signal to the administration that it is high time that we respond.

Yesterday, Senator JOHN D. ROCKEFELLER, Congressman RALPH REGULA and Congressman JIM OBERSTAR, and I met with representatives of the Clinton administration, specifically Treasury Secretary Robert Rubin, Commerce Secretary William Daley, United States Trade Representative Ambassador Charlene Barshefsky and National Economic Council Advisor Gene Sperling, to discuss the steel import issue. At that meeting, representatives of the Clinton administration assured us that they are looking into actions that the administration can take to respond to the illegal dumping of foreign steel on the U.S. market but have yet to make a final decision on their response.

While I appreciate their efforts to take a closer look at the problem, I am disturbed by the administration's failure to take immediate action up to this time to prevent more cheap steel from flooding the American market. I am further disturbed by the fact that senior administration officials could not give me a specific date or timetable as to when we could expect a response from the administration on this crucial and pressing issue.

The urgency of this crisis and the failure of the administration to take action was evident from testimony presented on September 10, 1998, where, as Chairman of the Senate Steel Caucus, I joined House Chairman REGULA in convening a joint meeting of the Senate and House Steel Caucuses to hear from executives from the United Steelworkers of America and a number of the Nation's largest steel manufacturers about the current influx of imported steel into the United States. At that meeting, I expressed my profound concern regarding the impact on our steel companies and Steelworkers of the current financial crises in Asia and Russia, which have generated surges in U.S. imports of Asian and Russian steel.

The past 3 months have been the highest monthly import volumes in U.S. history and, with Asia and Russia in economic crisis and with other major industrial Nations not accepting their fair share of the adjustment burden, U.S. steel companies and employees are being damaged by this injurious unfair trade.

The United States has become the dumping ground for foreign steel. Russia has become the world's number one steel exporting Nation and China is now the world's number one steel-producing Nation, while enormous subsidies to foreign steel producers have continued. In fact, the Commerce Department recently revealed that Russia, one of the world's least efficient producers, was selling steel plate in the United States at more than 50 percent, or $110 per ton, below the constructed cost to make steel plate. The dumping of this cheap steel on the American market ultimately costs our steel companies in lost sales and results in fewer jobs for American workers.

Specifically, in the first half of 1998, total U.S. steel imports were 18.2 million net tons, which is a 12.4 percent increase over 1997's record level of 16.2 million net tons for the same period. For the month of June 1998, total U.S. imports of steel mill products totaled over 3.7 million net tons, which is up 39.2 percent from the June, 1997 level of 2.6 million net tons. In June 1998, U.S. imports of finished steel imports were a record 3 million net tons, a 41.6 percent increase over the June 1997 2.1 million net tons.

Also in the first half of 1998, compared to the same period in 1997, steel imports from Japan are up 114 percent, steel imports from Korea are up 90 percent, and imports from Indonesia are up 309 percent. Most significantly, the U.S. steel industry currently employs 163,000 people down from 500,000 people in the 1980's. This situation is untenable for the American steelworkers, steel manufacturers, their customers, and the American people in general.

I believe that the growing coalition of steel manufacturers, steelworkers, and Congress must work together to remedy this import crisis before it is too late and the U.S. steel industry is forced to endure an excruciatingly painful economic downturn. The United States has many of the tools at its disposal to protect our steel industry from unfair and illegally dumped steel; therefore, I submitted Senate Concurrent Resolution 121 on September 29, 1998, to call on the President to take all necessary measures to respond to the surge of steel imports resulting from the Asian and Russian financial crises. Specifically, the resolution called on the President to: pursue enhanced enforcement of the U.S. trade laws; pursue all tools available to ensure that other Nations accept a more equitable sharing of these steel imports; establish a task force to closely monitor U.S. imports of steel; and, report to Congress by January 5, 1999, on a comprehensive plan to respond to this surge of steel imports. I am pleased to state that as of today's date, 29 of my Senate colleagues have joined me in sponsoring this resolution.

While this resolution is an appropriate way for Congress to express our concerns and request immediate actions by the administration to respond to the steel import crisis, I think it is also important to give the administration all the necessary tools to fight the surges of foreign steel. After reviewing the U.S. trade laws with Senator ROCKEFELLER, we discovered that our laws regarding safeguard actions actually put the United States at a disadvantage in the international trade arena. Safeguard actions, or section 201 of the 1974 Trade Act, provide a procedure whereby the President has the discretion to grant temporary import relief to a domestic industry seriously injured by increased imports. Our laws in this area are actually more strict than those agreements made during the Uruguay Round negotiations on the General Agreement on Tariffs and Trade (GATT). That agreement, which the Senate considered and passed on December 1, 1994, established the World Trade Organization (WTO) to administer these trade agreements.

One such trade agreement established rules for the application of safeguard measures. The agreement provides that a member of the WTO may apply a safeguard measure to a product if the member has determined that such product is being imported into its territory in such increased quantities, absolute or relative to domestic production, and under such conditions as to cause or threaten to cause serious injury to the domestic industry that produces like or directly competitive products. The comparable U.S. statute, referred to as section 201, goes further than this agreement by requiring that foreign imports are the substantial cause of the injury. It just does not make sense to hinder the administration by placing this additional burden on it in evaluating a claim of injury due to surges of imports. We need to level the playing field so that all countries are playing by the same rules. This oversight is one example of the technical corrections that must be made to U.S. trade laws to bring them in line with WTO's rules.

Specifically, the bill that Senator ROCKEFELLER and I are introducing today, the Trade Fairness Act of 1998, makes three technical changes. First, it removes the requirement that imports must be a "substantial" cause of the serious injury by deleting the word "substantial." The WTO's Safeguards Agreement does not require that increased imports be a "substantial" cause of serious injury. This change will lower the threshold to prove that the influx of imports were the cause of injury to the affected industry and will make U.S. law consistent with the WTO rules.

Second, the legislation clarifies that the International Trade Commission (ITC) shall not attribute to imports injury caused by other factors in making a determination that imports are a cause of serious injury. This provision will require the ITC to evaluate causation to determine which factors are causing injury. If serious injury is being caused by increased imports, whether or not other factors are also causing injury, safeguard relief is justified. This provision is a more faithful implementation of the GATT Agreement and will prevent circumstances such as a recession from blocking invocation of section 201 by the administration.

Finally, this legislation brings the definition of "serious injury" in line with the definition codified in the GATT Agreement. The bill strikes the definition of serious injury and replaces it with the WTO's language regarding evaluation of whether increased imports have caused serious injury to a domestic industry. Specifically, it states "with respect to serious injury", the ITC should consider "the rate and amount of the increase in imports of the product concerned in absolute and relative terms; the share of the domestic market taken by increased imports; changes in the levels of sales; production; productivity; capacity utilization; profits and losses; and, employment." These factors are important guidance to the ITC in evaluating a petition of serious injury. Again, I think it is appropriate to be consistent with the WTO language as America increasingly interacts on a global scale.

The U.S. steel industry has become a world class industry with a very high-quality product. This has been achieved at a great cost: $50 billion in new investment to restructure and modernize; 40 million tons of capacity taken out of the industry; and a work force dramatically downsized from 500,000 to 170,000. With these technical changes, the administration will be armed with ammunition to bring a self-initiated section 201 action on behalf of the steel industry that has been harmed not only by the onslaught of cheap imports on a daily basis but by U.S. law that has prevented swift and immediate action by the U.S. Government. This legislation is essential to allow the President to respond promptly to the current steel import crisis. It will allow steel companies to compete in a more fair trade environment, preventing bankruptcies that would cause the loss of thousands of high-paying jobs in the steel industry. Too many steelworkers have lost their jobs due to unfair cheap imports.

Mr. President, to summarize, I have sought recognition to introduce legislation on behalf of Senator ROCKEFELLER, Senator SANTORUM, Senator HOLLINGS and myself, to try to deal with a very serious surge of steel imports into the United States, which is threatening to decimate the steel industry and take thousands of jobs from American steelworkers in a way which is patently unfair and in violation of free trade practices.

It is obvious that the matter is a sensitive one where imports are coming from Russia illustratively. The Russians are having enormous economic problems, and they are dumping steel in the United States far below cost to try to remedy their economic situation. Sympathetic as we may be to the problems of the Russians, when they dump, unload steel in the United States far under their cost, it violates international trade laws and it violates the trade laws of the United States.

To reiterate our meeting yesterday was one where those of us in Congress on the steel caucus asked the administration to take administrative action. We have requested a meeting with the President for tomorrow before the session ends to try to persuade him to take this action. Our requests are not protectionism. They are not protectionism because they come within the definition of "free trade" where our laws are defined consistent with GATT and the World Trade Organization to prohibit subsidized goods and dumped goods from coming into this country.

Again, the legislation we are proposing today would remove the requirement that imports must be a substantial cause of the serious injury and only require that the damages be caused by the imports, by striking the word "substantial," which is consistent with GATT, and with the World Trade Organization. We have a higher standard than we have to. Our laws ought to be changed to eliminate "substantial cause" to "cause in fact."

Secondly, this bill would change the existing law by not seeking an excuse where there are other factors which may result in the imports.

A third part of the bill changes the definition of "serious injury" to include a consideration by the International Trade Commission of factors such as the rate and amount of increase of imports of the product, the market share taken by the increased imports, changes in level of sales, profits, losses, production, productivity, capacity, utilization, and employment.

Stated succinctly, what we are seeking to do is to amend existing trade laws to conform to international rules of the World Trade Organization and GATT so that we may see to it that our own steel industry is not victimized by foreign imports and is not victimized by standards under our own trade laws, which are tougher and more stringent than international trade laws.

We realize that in introducing this legislation today that it cannot be enacted before the end of the session. But we do want to make a point with the administration as to where we are heading in the future—a resolution which was introduced which has some 29 cosponsors in the U.S. Senate.

The House of Representatives has a similar resolution. There are more than 100 cosponsors in the House of Representatives. It is our hope that the administration will provide some relief which will be fair, equitable, and just.

In the absence of relief by the administration, then it will be necessary for the Congress to move ahead in a more forceful manner.

I have introduced legislation over the past decade which calls for a private right of action, which I believe is the realistic answer, where an injured party could go into the Federal court and get injunctive relief which would be immediate.

Under the trade actions which have been filed by the United Steelworkers and by quite a number of companies, filed on September 30, it is possible under a complicated timetable to grant relief effective as of November 20 where duties would be imposed to try to stop this flooding and this dumping in U.S. markets.

In the interim, the President could act, and in the interim, the Congress ought to consider ways to amend our trade laws so that we are not at a disadvantage in dealing with this very serious problem to our steel industry, which is so important for national defense and domestic purposes, and so important for the steelworkers themselves where the number of steelworkers has declined from some 500,000 to 163,000 at the present time.

It is an urgent matter. The Congress ought to consider it. The administration ought to act on it. For these reasons, I urge my colleagues to join me in supporting the adoption of legislation to bring fairness to our trade laws.

Mr. ROCKEFELLER. Mr. President, I rise today to introduce legislation which will help the President deal with the flood of dirt-cheap steel imports from our trading partners. The section 201 reform bill I am proposing with my colleague and Senate steel caucus cochair, Senator SPECTER, will strengthen the President's ability to help domestic industries receive the relief they need and deserve when imports are a cause of serious injury.

Import relief is what the U.S. steel industry desperately needs right now. West Virginia steel makers deserve help now, before this crisis worsens, as I fear it will. All U.S. steel manufacturers deserve that assistance. That's why I am introducing this legislation before Congress recesses. I intend to push to improve our ability to remedy harm against domestic industries and at the same time remain consistent with rules we expect our world trading partners to live by. We can be tough and fair on trade at the same time and the bill I am introducing today proves it.

In my State of West Virginia, our two largest steel manufacturers, Weirton Steel and Wheeling Pittsburgh Steel have both already begun to suffer the effects of the steel import crisis. Weirton has laid off 200 workers and reports that their fourth quarter earnings and lack of pending orders could force the companies to consider additional lay offs in the near future. Wheeling Pittsburgh is also worried about the affect of the crisis on their bottomline. Laying off workers is never easy, but this crisis is forcing such hard decisions. West Virginia steel makers are producing world-class products as efficiently as any foreign competitors, but when foreign competitors are blatantly dumping their product at prices which are sometimes actually below the cost of production, it cuts the legs out from under American companies—but such unfair practices are absolutely unacceptable. U.S. industry, the U.S. steel industry and other industries, deserve just remedies when competitors unfairly dump their product on the U.S. market. We want to give the President the policy tools he needs to deal with unfair import competition.

Import data tells the story of a worsening steel crisis—the first two quarters of 1998 have shown a 27 percent increase in imports of hot-rolled steel. Japanese imports increased by an astounding 114 percent in that same time frame. Steel imports from South Korea increased 90 percent. There is no end in sight. Russia and Brazil are Nations who are other prime offenders.

The tragedy of this crisis is that the U.S. steel industry has spent over a decade reinventing itself, adjusting and modernizing, in order to become a topnotch competitor as we approach the 21st century. This industry is a true success story—productivity has shot up and we can beat any producer in the world on price and quality when provided with a level playing field. For decades, I have worked with leaders in the steel industry at Weirton Steel, Wheeling-Pittsburgh, Wheeling-Nisshin, and others. I have watched and encouraged these steelmakers and unions working together to make the tough, necessary decision to modernize.

Unfortunately, just as United States steel manufacturers are realizing the gains of such investments, they are facing a flood of imported steel being sold at rock bottom prices—again, below the cost of production in some instances. We cannot compete against that kind of unfair competition. The legislation Senator SPECTER and I are introducing today will give the President an improved tool to ensure that when there is serious injury as a result of imports, the United States can respond.

Specifically, our legislation will reform Section 201 which permits the President to grant domestic industries import relief in circumstances where imports are the substantial cause of serious injury.

Under current law, domestic industries must show that increased imports are the "substantial cause" of serious injury—which means a cause that is important and not less than any other cause. This imposes an unfair, higher burden of proof on domestic industries than is required to prove injury under World Trade Organization standards. The Safeguards Code of the World Trade Organization was established to make sure that fair trade did not mean countries had to put up with unfair practices. The WTO standard requires only that there be a causal link between increased imports and serious injury. I believe that U.S. law should not impose a tougher standard for American companies of harm than the WTO uses for the international community. Applying the WTO standard is responsible and reasonable. In this bill, we propose to establish the same standard for the United States as is used by the WTO. Free trade must mean Fair trade.

In addition, in this bill we also intend to conform U.S. law to the standard in the WTO Safeguards Code when considering the overall test for judging when there has been serious harm to a domestic industry. We clarify that the International Trade Commission (ITC) should review the overall condition of the domestic industry in determining the degree of that injury by making it clear that it is the effect of the imports on the overall state of the industry that counts, not solely the effect on any one of the particular criteria used in the evaluation.

It is our sincere hope that Congress will act on this legislation and send the message that the United States will fight for the right of its industries to complete on a level playing field in world trade. If imports flood our markets, we will act to protect American industries against the consequences.

I am someone who adamantly believes the promotion of Free trade is essential to our country's continued economic growth. If we are to continue to expand the trade base of our economy we need U.S. industry to know that we will keep it fair. American industry and American workers can deal with Fair trade, but they shouldn't be asked to sit still for unfair trade practices that hurt workers and their families, while robbing the profit-margins of United States companies.

I intend to work in Congress, with my colleagues on the Finance Committee and those in the administration responsible for trade policy to give the President better, more effective tools to ensure that our country can insist trade be free and fair. Our steel industry, indeed all U.S. industries, deserve no less. I will carefully monitor the steel import crisis and consider other appropriate actions as we see how this situation develops.

By Mr. McCAIN (for himself and Mr. HOLLINGS):

S. 2581. A bill to authorize appropriations for the motor vehicle safety and information programs of the National Highway Traffic Safety Administration for fiscal years 1999–2001; to the Committee on Commerce, Science, and Transportation.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION AUTHORIZATION ACT

• Mr. McCAIN. Mr. President, my purpose today is to introduce legislation that would increase the authorization level of the National Highway Traffic Safety Administration. The recently passed TEA–21 legislation authorized NHTSA at its requested level, approximately $87.4 million. The Office of Management and Budget recently asked that NHTSA receive $99.9 million in the budget request.

Although the Department of Transportation had requested $87.4 million, we are now informed by Secretary Slater that this authorization level will not permit the funding of "key safety initiatives."

I know that no one in this body wants a situation where highway safety is degraded in any way. I also know that there is no opportunity that this legislation can be passed yet this Congress. This is an issue that we will address in the next Congress. I look forward to working with my colleagues to address this important issue of highway safety in a manner that provides an appropriate funding level to meet safety needs while also meeting our budget obligations and the consensus of the Appropriations Committee.•

By Mr. BREAUX (for himself and Mr. MACK):

S. 2582. A bill to amend title XVIII of the Social Security Act to provide for a prospective payment system for services furnished by psychiatric hospitals under the Medicare Program; to the Committee on Finance.

MEDICARE PSYCHIATRIC HOSPITAL PROSPECTIVE PAYMENT SYSTEM ACT OF 1998

• Mr. BREAUX. Mr. President, today my colleague CONNIE MACK and I are introducing legislation that would improve Medicare inpatient psychiatric care by reforming how Medicare pays for services provided in free-standing psychiatric hospitals and distinct-part psychiatric units of general hospitals. The Medicare Psychiatric Hospital Prospective Payment System Act of 1998 would establish over time a prospective payment system (PPS) for these providers. Currently psychiatric hospitals and units are exempt from PPS. Their costs are reimbursed under provisions in the 1982 Tax Equity and Fiscal Responsibility Act, or TEFRA.

The Balanced Budget Act (BBA) of 1997 made significant changes to the TEFRA payment system by reducing incentive payments and imposing a limit on what Medicare will pay for services provided in psychiatric facilities, regardless of a facility's costs. The result is that many of these providers will be hit hard by deep and sudden cuts, with no transition period to adjust to the changes. I believe that moving psychiatric hospitals to a prospective payment system will ensure that these changes do not reduce patient access to psychiatric care.

Our legislation proposes to transition psychiatric inpatient hospitals to a prospective payment system—a system that will be more efficient, allow for better planning, and lead to improved patient care. This legislation also addresses the short-term viability of many of these facilities to enable patients to continue receiving the specialized care these providers offer. For that reason, our legislation includes immediate financial relief to those psychiatric facilities hardest hit by the BBA: Twenty-five percent of facilities in the first year, about 13 percent in year two, and approximately 10 percent in year three. The relief will then be paid back when a prospective payment is implemented in year four to ensure that this bill is budget neutral by the end of year 5. Specifically, the Breaux-Mack bill would limit an individual facility's payment reductions to no more than five percent in the first year, 7½ percent in the second year, and 10 percent in year three. After the third year, a PPS based on per diems would be phased in. In the first 2 years of the new PPS, the per-diem rates would be adjusted downward to pay back the savings lost to the Medicare Program as a result of the "hold harmless" provisions of the bill. Consequently, our bill is budget-neutral over 5 years, yet it provides some measure of relief to those Medicare providers most severely affected by the BBA and guarantees that beneficiaries will not lose vital services. But perhaps the most important feature of our bill is that it moves the last of the TEFRA providers—psychiatric facilities—out of a cost-based payment system and into a system where they will be paid prospectively, like most other Medicare providers.

I urge my colleagues to join me in cosponsoring this important piece of legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2582

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare Psychiatric Hospital Prospective Payment System Act of 1998".

SEC. 2. MEDICARE PROSPECTIVE PAYMENT SYSTEM FOR PSYCHIATRIC FACILITIES.

(a) Establishment of Prospective Payment System.—Section 1886 of the Social Security Act (42 U.S.C. 1395ww) is amended by adding at the end the following:

"(l) Prospective Payment System for Inpatient Psychiatric Services.—

"(1) Amount of payment.—

"(A) During transition period.—Notwithstanding section 1814(b), but subject to the provisions of section 1813, the amount of payment with respect to the operating and capital-related costs of inpatient hospital services of a psychiatric facility (as defined in paragraph (7)(C)) for each day of services furnished in a cost reporting period beginning on or after October 1, 2000, and before October 1, 2003, is equal to the sum of—

"(i) the TEFRA percentage (as defined in paragraph (7)(D)) of the facility-specific per diem rate (determined under paragraph (2)); and

"(ii) the PPS percentage (as defined in paragraph (7)(B)) of the applicable Federal per diem rate (determined under paragraph (3)).

"(B) Under fully implemented system.—Notwithstanding section 1814(b), but subject to the provisions of section 1813, the amount of payment with respect to the operating and capital-related costs of inpatient hospital services of a psychiatric facility for each day of services furnished in a cost reporting period beginning on or after October 1, 2003, is equal to the applicable Federal per diem rate determined under paragraph (3) for the facility for the fiscal year in which the day of services occurs.

"(C) New facilities.—In the case of a psychiatric facility that does not have a base fiscal year (as defined in paragraph (7)(A)), payment for the operating and capital-related costs of inpatient hospital services shall be made under this subsection using the applicable Federal per diem rate.

"(2) Determination of facility-specific per diem rates.—

"(A) Base year.—The Secretary shall determine, on a per diem basis, the allowable operating and capital-related costs of inpatient hospital services for each psychiatric facility for its cost reporting period (if any) beginning in the base fiscal year (as defined in paragraph (7)(A)), such costs determined as if subsection (b)(8) did not apply.

"(B) Updating.—The Secretary shall update the amount determined under subparagraph (A) for each cost reporting period after the cost reporting period beginning in the base fiscal year and before October 1, 2003, by a factor equal to the market basket percentage increase.

"(3) Determination of the federal per diem rate.—

"(A) Base year.—The Secretary shall determine, on a per diem basis, the allowable operating and capital-related costs of inpatient hospital services for each psychiatric facility for its cost reporting period (if any) beginning in the base fiscal year (as defined in paragraph (7)(A)), such costs determined as if subsection (b)(8) did not apply.

"(B) Updating to first fiscal year.—The Secretary shall update the amount determined under subparagraph (A) for each cost reporting period up to the first cost reporting period to which this subsection applies by a factor equal to the market basket percentage increase.

"(C) Computation of standardized per diem rate.—The Secretary shall standardize the amount determined under subparagraph (B) for each facility by—

"(i) adjusting for variations among facilities by area in the average facility wage level per diem; and

"(ii) adjusting for variations in case mix per diem among facilities (based on the patient classification system established by the Secretary under paragraph (4)).

"(D) Computation of weighted average per diem rates.—

"(i) Separate rates for urban and rural areas.—Based on the standardized amounts determined under subparagraph (C) for each facility, the Secretary shall compute a separate weighted average per diem rate—

"(I) for all psychiatric facilities located in an urban area (as defined in subsection (d)(2)(D)); and

"(II) for all psychiatric facilities located in a rural area (as defined in subsection (d)(2)(D)).

"(ii) For hospitals and units.—Subject to paragraph (7)(C), in the areas referred to in clause (i) the Secretary may compute a separate weighted average per diem rate for—

"(I) psychiatric hospitals; and

"(II) psychiatric units described in the matter following clause (v) of subsection (d)(1)(B).

If the Secretary establishes separate average weighted per diem rates under this clause, the Secretary shall also establish separate average per diem rates for facilities in such categories that are owned and operated by an agency or instrumentality of Federal, State, or local government and for facilities other than such facilities.

"(iii) Weighted average.—In computing the weighted averages under clauses (i) and (ii), the standardized per diem amount for each facility shall be weighted for each facility by the number of days of inpatient hospital services furnished during its cost reporting period beginning in the base fiscal year.

"(E) Updating.—The weighted average per diem rates determined under subparagraph (D) shall be updated for each fiscal year after the first fiscal year to which this subsection applies by a factor equal to the market basket percentage increase.

"(F) Determination of Federal per diem rate.—

"(i) In general.—The Secretary shall compute for each psychiatric facility for each fiscal year (beginning with fiscal year 2001) a Federal per diem rate equal to the applicable weighted average per diem rate determined under subparagraph (E), adjusted for—

"(I) variations among facilities by area in the average facility wage level per diem;

"(II) variations in case mix per diem among facilities (based on the patient classification system established by the Secretary under paragraph (4)); and

"(III) variations among facilities in the proportion of low-income patients served by the facility.

"(ii) Other adjustments.—In computing the Federal per diem rates under this subparagraph, the Secretary may adjust for outlier cases, the indirect costs of medical education, and such other factors as the Secretary determines to be appropriate.

"(iii) Budget neutrality.—The adjustments specified in clauses (i)(I), (i)(III), and (ii) shall be implemented in a manner that does not result in aggregate payments under this subsection that are greater or less than those aggregate payments that otherwise would have been made if such adjustments did not apply.

"(4) Establishment of patient classification system.—

"(A) In general.—The Secretary shall establish—

"(i) classes of patients of psychiatric facilities (in this paragraph referred to as 'case mix groups'), based on such factors as the Secretary determines to be appropriate; and

"(ii) a method of classifying specific patients in psychiatric facilities within these groups.

"(B) Weighting factors.—For each case mix group, the Secretary shall assign an appropriate weighting factor that reflects the relative facility resources used with respect to patients classified within that group compared to patients classified within other such groups.

"(5) Data collection; utilization monitoring.—

"(A) Data collection.—The Secretary may require psychiatric facilities to submit such data as is necessary to implement the system established under this subsection.

"(B) Utilization monitoring.—The Secretary shall monitor changes in the utilization of inpatient hospital services furnished by psychiatric facilities under the system established under this subsection and report to the appropriate committees of Congress on such changes, together with recommendations for legislation (if any) that is needed to address unwarranted changes in such utilization.

"(6) Special adjustments.—Notwithstanding the preceding provisions of this subsection, the Secretary shall reduce aggregate payment amounts that would otherwise be payable under this subsection for inpatient hospital services furnished by a psychiatric facility during cost reporting periods beginning in fiscal years 2001 and 2002 by such uniform percentage as is necessary to assure that payments under this subsection for such cost reporting periods are reduced by an amount that is equal to the sum of—

"(A) the aggregate increase in payments under this title during fiscal years 1998, 1999, and 2000, that is attributable to the operation of subsection (b)(8); and

"(B) the aggregate increase in payments under this title during fiscal years 2001 and 2002 that is attributable to the application of the market basket percentage increase under paragraphs (2)(B) and (3)(E) of this subsection in lieu of the provisions of subclauses (VI) and (VII) of subsection (b)(3)(B)(ii).

Reductions under this paragraph shall not affect computation of the amounts payable under this subsection for cost reporting periods beginning in fiscal years after fiscal year 2002.

"(7) Definitions.—For purposes of this subsection:

"(A) The term 'base fiscal year' means, with respect to a hospital, the most recent fiscal year ending before the date of the enactment of this subsection for which audited cost report data are available.

"(B) The term 'PPS percentage' means—

"(i) with respect to cost reporting periods beginning on or after October 1, 2000, and before October 1, 2001, 25 percent;

"(ii) with respect to cost reporting periods beginning on or after October 1, 2001, and before October 1, 2002, 50 percent; and

"(iii) with respect to cost reporting periods beginning on or after October 1, 2002, and before October 1, 2003, 75 percent.

"(C) The term 'psychiatric facility' means—

"(i) a psychiatric hospital; and

"(ii) a psychiatric unit described in the matter following clause (v) of subsection (d)(1)(B).

"(D) The term 'TEFRA percentage' means—

"(i) with respect to cost reporting periods beginning on or after October 1, 2000, and before October 1, 2001, 75 percent;

"(ii) with respect to cost reporting periods beginning on or after October 1, 2001, and before October 1, 2002, 50 percent; and

"(iii) with respect to cost reporting periods beginning on or after October 1, 2002, and before October 1, 2003, 25 percent.".

(b) LIMIT ON REDUCTIONS UNDER BALANCED BUDGET ACT.—Section 1886(b) of the Social Security Act (42 U.S.C. 1395ww(b)) is amended by adding at the end the following:

"(8)(A) Notwithstanding the amendments made by sections 4411, 4414, 4415, and 4416 of the Balanced Budget Act of 1997, in the case of a psychiatric facility (as defined in subparagraph (B)(ii)), the amount of payment for the operating costs of inpatient hospital services for cost reporting periods beginning on or after October 1, 1997, and before October 1, 2000, shall not be less than the applicable percentage (as defined in subparagraph (B)(i)) of the amount that would have been paid for such costs if such amendments did not apply.

"(B) For purposes of this paragraph:

"(i) The term 'applicable percentage' means—

"(I) 95 percent for cost reporting periods beginning on or after October 1, 1997, and before October 1, 1998;

"(II) 92.5 percent for cost reporting periods beginning on or after October 1, 1998, and before October 1, 1999; and

"(III) 90 percent for cost reporting periods beginning on or after October 1, 1999, and before October 1, 2000.

"(ii) The term 'psychiatric facility' means—

"(I) a psychiatric hospital; and

"(II) a psychiatric unit described in the matter following clause (v) of subsection (d)(1)(B).".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply as if included in the enactment of the Balanced Budget Act of 1997.•

• Mr. MACK. Mr. President, today, I am pleased to join my colleague JOHN BREAUX in sponsoring the Medicare Psychiatric Hospital Prospective Payment System Act of 1998. This legislation maintains the integrity and availability of Medicare inpatient psychiatric care by changing how Medicare currently pays for services provided to beneficiaries in free standing psychiatric hospitals and distinct-part psychiatric units of general hospitals. This bill eases the transition of psychiatric facilities to a prospective payment system (PPS) while phasing in substantial cuts in payments to these providers as required by the Balanced Budget Act of 1997.

Currently, psychiatric hospitals and units are exempt from PPS. This bill is budget neutral over five years, and ensures that until PPS is established, inpatient psychiatric care will not be compromised or disrupted because of major budget reductions. Finally, this legislation prevents the type of dislocations we now face in the Home Health Care industry.

The purpose of this bill is to give psychiatric facilities a period of adjustment to the mandates of BBA while not jeopardizing patient care. It provides for a transition period that will help providers adjust to a prospective payment system that will be installed in three years. At the end of this time period psychiatric facilities will be paid on a prospective payment basis like other hospital providers in the Medicare program. Psychiatric hospital managers understand that the financial limitations imposed by BBA on their facilities must be met, and this bill smooths out the requirements for accomplishing this in such a way that the integrity of patient care is maintained. I urge my colleagues to join me in co-sponsoring this important piece of legislation.•

By Mr. BINGAMAN (for himself and Mr. COCHRAN):

S. 2583. A bill to provide disadvantaged children with access to dental services; to the Committee on Labor and Human Resources.

• Mr. BINGAMAN. Mr. President today I introduce with my friend and colleague, Senator THAD COCHRAN, the Childrens Dental Health Improvement Act of 1998. The bill is designed to increase access to dental services for our disadvantaged children.

Medicaid's Early and Periodic Screening Diagnosis and Treatment or "EPSDT" program requires states to not only pay for a comprehensive set of child health services, including dental services, but to assure delivery of those services. Unfortunately, low income children do not get the dental service they need. Despite the design of the Medicaid Program to reach children and ensure access to routine dental care, the Inspector General of the Department of Health and Human Services reported in 1996 that only 18 percent of children eligible for Medicaid received even a single preventive dental service. The same report shows that no State provides preventive services to more than 50 percent of eligible children. Dentist participation is too low to assure access. We are falling short of our obligation to these children.

In the past few months, I have had the opportunity to speak to many of New Mexico's rural health providers and have learned that for New Mexico, the problem is of crisis proportions. Less than 1 percent of New Mexico's Medicaid dollars are used for children's oral health care needs. My State alone projects a shortage of 157 dentists and 229 dental hygienists. Children in New Mexico and elsewhere are showing up in emergency rooms for treatment of tooth abscesses instead of getting their cavities filled early on or having dental decay prevented in the first place.

Some will say: "Why care about a few cavities in kids?" In reality, this is a complex children's health issue. Chronically poor oral health is associated with growth and development problems in toddlers and compromises children's nutritional status. These children suffer from pain and cannot play or learn. Their personal suffering is real. In reality, untreated dental problems get progressively worse and ultimately require more expensive interventions. Many of these children come to emergency rooms and ultimately must be treated in the operating room.

Tooth decay remains the single most common chronic disease of childhood and according to the Children's Dental Health Project, it affects more than half of all children by second grade. Tooth decay in children six year olds is 5 to 8 more common than asthma which is often cited as the most common chronic disease of childhood.

National data confirm that pediatric oral health in the U.S. is backsliding. Healthy People 2000 goals for dental needs of children will not be met. As this chart shows:

52% of our 6 to 8 year olds have dental caries, or cavities compared to 54% in 1986. Our goal was to decrease this to 35% by the year 2000; we have only succeeded in a 2% change in this area.

Additionally, we have slid backwards in some areas. The Healthy People 2000 oral health indicators show an increase in the percentage of children with untreated cavities. In 1986, 28% of our 6 to 8 year olds had untreated cavities compared to now where we find 31% of these children have untreated cavities.

Tooth decay is increasingly a disease of low and modest income children. A substantial portion of decay in young children goes untreated. In fact, forty seven percent of decay in children aged 2 through 9 is untreated.

The Children's Dental Health Improvement Act is designed to attack the problem from many fronts. First, our bill addresses the issue of provider shortage by expanding opportunities for training pediatric dental health care providers. Next, we will work toward increasing the actual care provided under the Medicaid program. Additionally, we have looked at the need for pediatric dental research to facilitate better approaches for care. Finally, we have put into place greater measures for surveillance of the problem and have looked at the need to increase accountability in the area of actual treatment once a problem is identified.

I am committed to solving the problem of adequate access to dental care for our children and view this as a public health issue that has gone unnoticed for too long. I will welcome my colleagues to work with me to ensure that these children have healthy smiles vs. chronic pain from untreated problems.

Mr. President, I ask unanimous consent to have the text of the Children's Dental Health Improvement Act of 1998 printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2583

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Children's Dental Health Improvement Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.

TITLE I—EXPANDED OPPORTUNITIES FOR TRAINING PEDIATRIC DENTAL HEALTH CARE PROVIDERS

Sec. 101. Children's dental health training and demonstration programs.
Sec. 102. Increase in National Health Service Corps dental training positions.
Sec. 103. Maternal and child health centers for leadership in pediatric dentistry education.
Sec. 104. Dental officer multiyear retention bonus for the Indian Health Service.
Sec. 105. Medicare payments to approved nonhospital dentistry residency training programs; permanent dental exemption from voluntary residency reduction programs.
Sec. 106. Dental health professional shortage areas.

TITLE II—ENSURING DELIVERY OF PEDIATRIC DENTAL SERVICES UNDER THE MEDICAID AND SCHIP PROGRAMS

Sec. 201. Increased FMAP and fee schedule for dental services provided to children under the medicaid program.
Sec. 202. Required minimum medicaid expenditures for dental health services.
Sec. 203. Requirement to verify sufficient numbers of participating dentists under the medicaid program.
Sec. 204. Inclusion of recommended age for first dental visit in definition of EPSDT services.
Sec. 205. Approval of final regulations implementing changes to EPSDT services.
Sec. 206. Use of SCHIP funds to treat children with special dental health needs.
Sec. 207. Grants to supplement fees for the treatment of children with special dental health needs.
Sec. 208. Demonstration projects to increase access to pediatric dental services in underserved areas.

TITLE III—PEDIATRIC DENTAL RESEARCH

Sec. 301. Identification of interventions that reduce transmission of dental diseases in high risk populations; development of approaches for pediatric dental assessment.
Sec. 302. Agency for Health Care Policy and Research.
Sec. 303. Consensus development conference.

TITLE IV—SURVEILLANCE AND ACCOUNTABILITY

Sec. 401. CDC reports.
Sec. 402. Reporting requirements under the medicaid program.
Sec. 403. Administration on Children, Youth, and Families.

TITLE V—MISCELLANEOUS

Sec. 501. Effective date.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Children's oral health impacts upon and reflects children's general health.

(2) Tooth decay is the most prevalent preventable chronic disease of childhood and only the common cold, the flu, and otitis media occur more often among young children.

(3) Despite the design of the medicaid program to reach children and ensure access to routine dental care, in 1996, the Inspector General of the Department of Health and Human Services reported that only 18 percent of children eligible for medicaid received even a single preventive dental service.

(4) The United States is facing a major dental health care crisis that primarily affects the poor children of our country, with 80 percent of all dental caries in children found in the 20 percent of the population.

(5) Low income children eligible for the medicaid program and the State children's health insurance program experience disproportionately high levels of oral disease.

(6) The United States is not training enough pediatric dental health care providers to meet the increasing need for pediatric dental services.

(7) The United States needs to increase access to health promotion and disease prevention activities in the area of oral health for children by increasing access to pediatric dental health providers.

TITLE I—EXPANDED OPPORTUNITIES FOR TRAINING PEDIATRIC DENTAL HEALTH CARE PROVIDERS

SEC. 101. CHILDREN'S DENTAL HEALTH TRAINING AND DEMONSTRATION PROGRAMS.

Part E of title VII of the Public Health Service Act (42 U.S.C. 294o et seq.) is amended by adding at the end the following:

"SEC. 779. CHILDREN'S DENTAL HEALTH PROGRAMS.

"(a) TRAINING PROGRAM.—

"(1) IN GENERAL.—The Secretary, acting through the Bureau of Health Professions, shall develop training materials to be used by health professionals to promote oral health through health education.

"(2) DESIGN.—The materials developed under paragraph (1) shall be designed to enable health care professionals to—

"(A) provide information to individuals concerning the importance of oral health;

"(B) recognize oral disease in individuals; and

"(C) make appropriate referrals of individuals for dental treatment.

"(3) DISTRIBUTION.—The materials developed under paragraph (1) shall be distributed to—

"(A) accredited schools of the health sciences (including schools for physician assistants, schools of medicine, osteopathic medicine, dental hygiene, public health, nursing, pharmacy, and dentistry), and public or private institutions accredited for the provision of graduate or specialized training programs in all aspects of health; and

"(B) health professionals and community-based health care workers.

"(b) DEMONSTRATION PROGRAM.—

"(1) IN GENERAL.—The Secretary shall make grants to schools that train pediatric dental health providers to meet the costs of projects—

"(A) to plan and develop new training programs and to maintain or improve existing training programs in providing dental health services to children; and

"(B) to assist dental health providers in managing complex dental problems in children.

"(2) ADMINISTRATION.—

"(A) AMOUNT.—The amount of any grant under paragraph (1) shall be determined by the Secretary.

"(B) APPLICATION.—No grant may be made under paragraph (1) unless an application therefore is submitted to and approved by the Secretary. Such an application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

"(C) ELIGIBILITY.—To be eligible for a grant under subsection (a), the applicant must demonstrate to the Secretary that it has or will have available full-time faculty and staff members with training and experience in the field of pediatric dentistry and support from other faculty and staff members trained in pediatric dentistry and other relevant specialties and disciplines such as dental public health and pediatrics, as well as research.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section.".

SEC. 102. INCREASE IN NATIONAL HEALTH SERVICE CORPS DENTAL TRAINING POSITIONS.

The Secretary of Health and Human Services shall increase the number of dental health providers skilled in treating children who become members of the National Health Service Corps under subpart II of part D of title III of the Public Health Service Act (42 U.S.C. 254d et seq.) so that there are at least 100 additional dentists and dental hygienists in the Corps by 2000, at least 150 additional dentists and dental hygienists in the Corps by 2001, and at least 300 additional dentists and dental hygienists in the Corps by 2002. The Secretary shall ensure that at least 20 percent of the dentists in the Corps are pediatric dentists and that another 20 percent of the dentists in the Corps have general practice residency training.

SEC. 103. MATERNAL AND CHILD HEALTH CENTERS FOR LEADERSHIP IN PEDIATRIC DENTISTRY EDUCATION.

(a) EXPANSION OF TRAINING PROGRAMS.—The Secretary of Health and Human Services shall, through the Maternal and Child Health Bureau, establish not less than 36 additional training positions annually for pediatric dentists at centers of excellence. The Secretary shall ensure that such training programs are established in geographically diverse areas.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, such sums as may be necessary to carry out this section.

SEC. 104. DENTAL OFFICER MULTIYEAR RETENTION BONUS FOR THE INDIAN HEALTH SERVICE.

(a) TERMS AND DEFINITIONS.—In this section:

(1) DENTAL OFFICER.—The term "dental officer" means an officer of the Indian Health Service designated as a dental officer.

(2) DIRECTOR.—The term "Director" means the Director of the Indian Health Service.

(3) CREDITABLE SERVICE.—The term "creditable service" includes all periods that a dental officer spent in graduate dental educational (GDE) training programs while not on active duty in the Indian Health Service and all periods of active duty in the Indian Health Service as a dental officer.

(4) RESIDENCY.—The term "residency" means a graduate dental educational (GDE) training program of at least 12 months, excluding general practice residency (GPR) or a 12-month advanced education general dentistry (AEGD).

(5) SPECIALTY.—The term "specialty" means a dental specialty for which there is an Indian Health Service specialty code number.

(b) REQUIREMENTS FOR BONUS.—

(1) IN GENERAL.—An eligible dental officer of the Indian Health Service who executes a written agreement to remain on active duty for 2, 3, or 4 years after the completion of any other active duty service commitment to the Indian Health Service may, upon acceptance of the written agreement by the Director, be authorized to receive a dental officer multiyear retention bonus under this section. The Director may, based on requirements of the Indian Health Service, decline to offer a such a retention bonus to any specialty that is otherwise eligible, or to restrict the length of a such a retention bonus contract for a specialty to less than 4 years.

(2) LIMITATIONS.—Each annual dental officer multiyear retention bonus authorized under this section shall not exceed the following:

(A) $14,000 for a 4-year written agreement.

(B) $8,000 for a 3-year written agreement.

(C) $4,000 for a 2-year written agreement.

(c) ELIGIBILITY.—

(1) IN GENERAL.—In order to be eligible to receive a dental officer multiyear retention bonus under the section, a dental officer shall—

(A) be at or below such grade as the Director shall determine;

(B) have at least 8 years of creditable service, or have completed any active duty service commitment of the Indian Health Service incurred for dental education and training;

(C) have completed initial residency training, or be scheduled to complete initial residency training before September 30 of the fiscal year in which the officer enters into a dental officer multiyear retention bonus written service agreement under this section; and

(D) have a dental specialty in pediatric dentistry or oral and maxillofacial surgery.

(2) EXTENSION TO OTHER OFFICERS.—The Director may extend the retention bonus to dental officers other than officers with a dental specialty in pediatric dentistry based on demonstrated need. The criteria used as the basis for such an extension shall be equitably determined and consistently applied.

(d) TERMINATION OF ENTITLEMENT TO SPECIAL PAY.—The Director may terminate at any time a dental officer's multiyear retention bonus contract under this section. If such a contract is terminated, the unserved portion of the retention bonus contract shall be recouped on a pro rata basis. The Director shall establish regulations that specify the conditions and procedures under which termination may take place. The regulations and conditions for termination shall be included in the written service contract for a dental officer multiyear retention bonus under this section.

(e) REFUNDS.—

(1) IN GENERAL.—Prorated refunds shall be required for sums paid under a retention bonus contract under this section if a dental officer who has received the retention bonus fails to complete the total period of service specified in the contract, as conditions and circumstances warrant.

(2) DEBT TO UNITED STATES.—An obligation to reimburse the United States imposed under paragraph (1) is a debt owed to the United States.

(3) NO DISCHARGE IN BANKRUPTCY.—Notwithstanding any other provision of law, a discharge in bankruptcy under title 11, United States Code, that is entered less than 5 years after the termination of a retention bonus contract under this section does not discharge the dental officer who signed such a contract from a debt arising under the contract or paragraph (1).

SEC. 105. MEDICARE PAYMENTS TO APPROVED NONHOSPITAL DENTISTRY RESIDENCY TRAINING PROGRAMS; PERMANENT DENTAL EXEMPTION FROM VOLUNTARY RESIDENCY REDUCTION PROGRAMS.

(a) MEDICARE PAYMENTS TO APPROVED NONHOSPITAL DENTISTRY TRAINING PROGRAMS.—Section 1886 of the Social Security Act (42 U.S.C. 1395ww) is amended by adding at the end the following:

"(l) PAYMENTS FOR NONHOSPITAL BASED DENTAL RESIDENCY TRAINING PROGRAMS.—

"(1) IN GENERAL.—Beginning January 1, 1999, the Secretary shall make payments under this paragraph to approved nonhospital based dentistry residency training programs providing oral health care to children for the direct and indirect expenses associated with operating such training programs.

"(2) PAYMENT AMOUNT.—

"(A) METHODOLOGY.—The Secretary shall establish procedures for making payments under this subsection.

"(B) TOTAL AMOUNT OF PAYMENTS.—In making payments to approved non-hospital based dentistry residency training programs under this subsection, the Secretary shall ensure that the total amount of such payments will not result in a reduction of payments that would otherwise be made under subsection (h) or (k) to hospitals for dental residency training programs.

"(C) APPROVED PROGRAMS.—The Secretary shall establish procedures for the approval of nonhospital based dentistry residency training programs under this subsection.".

(b) PERMANENT DENTAL EXEMPTION FROM VOLUNTARY RESIDENCY REDUCTION PROGRAMS.—

(1) IN GENERAL.—Section 1886(h)(6)(C) of the Social Security Act (42 U.S.C. 1395ww(h)(6)(C)) is amended—

(A) by redesignating clauses (i) through (iii) as subclauses (I) through (III), respectively, and indenting such subclauses (as so redesignated) appropriately;

(B) by striking "For purposes" and inserting the following:

"(i) IN GENERAL.—Subject to clause (ii), for purposes"; and

(C) by adding at the end the following:

"(ii) DEFINITION OF 'APPROVED MEDICAL RESIDENCY TRAINING PROGRAM'.—In this subparagraph, the term 'approved medical residency training program' means only such programs in allopathic or osteopathic medicine.".

(2) APPLICATION TO DEMONSTRATION PROJECTS AND AUTHORITY.—Section 4626(b)(3) of the Balanced Budget Act of 1997 (42 U.S.C. 1395ww note) is amended by inserting "in allopathic or osteopathic medicine" before the period.

(c) EFFECTIVE DATE.—

(1) SUBSECTION (A).—The amendment made by subsection (a) takes effect on the date of enactment of this Act.

(2) SUBSECTION (B).—The amendments made by subsection (b) shall take effect as if included in the enactment of the Balanced Budget Act of 1997.

SEC. 106. DENTAL HEALTH PROFESSIONAL SHORTAGE AREAS.

(a) DESIGNATION.—Section 332(a) of the Public Health Service Act (42 U.S.C. 254e(a)) is amended by adding at the end the following:

"(4)(A) In designating health professional shortage areas under this section, the Secretary may designate certain areas as dental health professional shortage areas if the Secretary determines that such areas have a severe shortage of dental health professionals. The Secretary shall develop, publish and periodically update criteria to be used in designating dental health professional shortage areas.

"(B) For purposes of this title, a dental health professional shortage area shall be considered to be a health professional shortage area.".

(b) LOAN REPAYMENT PROGRAM.—Section 338B(b)(1)(A) of the Public Health Service Act (42 U.S.C. 254l-1(b)(1)(A)) is amended by inserting "(including dental hygienists)" after "profession".

(c) TECHNICAL AMENDMENT.—Section 331(a)(2) of the Public Health Service Act (42 U.S.C. 254d(a)(2)) is amended by inserting "(including dental health services)" after "services".

TITLE II—ENSURING DELIVERY OF PEDIATRIC DENTAL SERVICES UNDER THE MEDICAID AND SCHIP PROGRAMS

SEC. 201. INCREASED FMAP AND FEE SCHEDULE FOR DENTAL SERVICES PROVIDED TO CHILDREN UNDER THE MEDICAID PROGRAM.

(a) INCREASED FMAP.—Section 1903(a)(5) of the Social Security Act (42 U.S.C. 1396b(a)(5)) is amended—

(1) by striking "equal to 90 per centum" and inserting "equal to—

"(A) 90 per centum";

(2) by inserting "and" after the semicolon; and

(3) by adding at the end the following:

"(B) the greater of the Federal medical assistance percentage or 75 per centum of the sums expended during such quarter which are attributable to dental services for children;".

(b) FEE SCHEDULE.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(1) in paragraph (65), by striking the period and inserting "; and"; and

(2) by inserting after paragraph (65) the following:

"(66) provide for payment under the State plan for dental services for children at a rate that is designed to create an incentive for providers of such services to treat children in need of dental services (but that does not result in a reduction or other adverse impact on the extent to which the State provides dental services to adults).".

SEC. 202. REQUIRED MINIMUM MEDICAID EXPENDITURES FOR DENTAL HEALTH SERVICES.

Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)), as amended by section 201(b), is amended—

(1) in paragraph (65), by striking "and" at the end;

(2) in paragraph (66), by striking the period and inserting "; and"; and

(3) by inserting after paragraph (66) the following:

"(67) provide that, beginning with fiscal year 1999—

"(A) not less than an amount equal to 7 percent of the total annual expenditures under the State plan for medical assistance provided to children will be expended during each fiscal year for dental services for children (including the prevention, screening, diagnosis, and treatment of dental conditions); and

"(B) the State will not reduce or otherwise adversely impact the extent to which the State provides dental services to adults in order to meet the requirement of subparagraph (A).".

SEC. 203. REQUIREMENT TO VERIFY SUFFICIENT NUMBERS OF PARTICIPATING DENTISTS UNDER THE MEDICAID PROGRAM.

Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)), as amended by section 202, is amended—

(1) in paragraph (66), by striking "and" at the end;

(2) in paragraph (67), by striking the period and inserting "; and"; and

(3) by inserting after paragraph (67) the following:

"(68) provide that the State will annually verify that the number of dentists participating under the State plan—

"(A) satisfies the minimum established degree of participation of dentists to the population of children in the State, as determined by the Secretary in accordance with the criteria used by the Secretary under section 332(a)(4) of the Public Health Service Act (42 U.S.C. 254e(a)(4)) to designate a dental health professional shortage area; and

"(B) is sufficient to ensure that children enrolled in the State plan have the same level of access to dental services as the children residing in the State who are not eligible for medical assistance under the State plan.".

SEC. 204. INCLUSION OF RECOMMENDED AGE FOR FIRST DENTAL VISIT IN DEFINITION OF EPSDT SERVICES.

Section 1905(r)(1)(A)(i) of the Social Security Act (42 U.S.C. 1396d(r)(1)(A)(i)) is amended by inserting "and, with respect to dental services under paragraph (3), in accordance with guidelines for the age of a first dental visit that are consistent with guidelines of the American Dental Association, the American Academy of Pediatric Dentistry, and the Bright Futures program of the Health Resources and Services Administration of the Department of Health and Human Services," after "vaccines,".

SEC. 205. APPROVAL OF FINAL REGULATIONS IMPLEMENTING CHANGES TO EPSDT SERVICES.

Not later than 30 days after the date of enactment of this Act, the Secretary of Health and Human Services shall issue final regulations implementing the proposed regulations based on section 6403 of the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239; 103 Stat. 2262) that were contained in the Federal Register issued for October 1, 1993.

SEC. 206. USE OF SCHIP FUNDS TO TREAT CHILDREN WITH SPECIAL DENTAL HEALTH NEEDS.

(a) In General.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended—

(1) in subsection (b), by striking "or subsection (u)(3)" and inserting "subsection (u)(3), or subsection (u)(4)"; and

(2) in subsection (u)—

(A) by redesignating paragraph (4) as paragraph (5); and

(B) by inserting after paragraph (3) the following new paragraph:

"(4)(A) For purposes of subsection (b), the expenditures described in this paragraph are expenditures for medical assistance described in subparagraph (B) for a low-income child described in subparagraph (C), but only in the case of such a child who resides in a State described in subparagraph (D).

"(B) For purposes of subparagraph (A), the medical assistance described in this subparagraph consists of the following:

"(i) Dental services provided to children with special oral health needs, including advanced oral, dental, and craniofacial diseases and conditions.

"(ii) Outreach conducted to identify and treat children with such special dental health needs.

"(C) For purposes of subparagraph (A), a low-income child described in this subparagraph is a child whose family income does not exceed 50 percentage points above the medicaid applicable income level (as defined in section 2110(b)(4)).

"(D) A State described in this subparagraph is a State that, as of August 5, 1997, has under a waiver authorized by the Secretary or under section 1902(r)(2), established a medicaid applicable income level (as defined in section 2110(b)(4)) for children under 19 years of age residing in the State that is at or above 185 percent of the poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2), including any revision required by such section for a family of the size involved).".

(b) Effective Date.—The amendments made by this section shall take effect as if included in the enactment of section 4911 of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 570).

SEC. 207. GRANTS TO SUPPLEMENT FEES FOR THE TREATMENT OF CHILDREN WITH SPECIAL DENTAL HEALTH NEEDS.

Title V of the Social Security Act (42 U.S.C. 701 et seq.) is amended by adding at the end the following:

"SEC. 511. GRANTS TO SUPPLEMENT FEES FOR THE TREATMENT OF CHILDREN WITH SPECIAL DENTAL HEALTH NEEDS.

"(a) Authority to Make Grants.—

"(1) In general.—In addition to any other payments made under this title to a State, the Secretary shall award grants to States to supplement payments made under the State programs established under titles XIX and XXI for the treatment of children with special oral health care needs.

"(2) Definition of children with special oral, dental, and craniofacial health care needs.—In this section the term 'children with special oral health care needs' means children with advanced oral, dental and craniofacial conditions or disorders, and other chronic medical, genetic, and behavioral disorders with dental manifestations.

"(b) Application of Other Provisions of Title.—

"(1) In general.—Except as provided in paragraph (2), the other provisions of this title shall not apply to a grant made, or activities of the Secretary, under this section.

"(2) Exceptions.—The following provisions of this title shall apply to a grant made under subsection (a) to the same extent and in the same manner as such provisions apply to allotments made under section 502(c):

"(A) Section 504(b)(4) (relating to expenditures of funds as a condition of receipt of Federal funds).

"(B) Section 504(b)(6) (relating to prohibition on payments to excluded individuals and entities).

"(C) Section 506 (relating to reports and audits, but only to the extent determined by the Secretary to be appropriate for grants made under this section).

"(D) Section 508 (relating to nondiscrimination).

"(c) Authorization of Appropriations.—There is authorized to be appropriated such sums as may be necessary to carry out this section.".

SEC. 208. DEMONSTRATION PROJECTS TO INCREASE ACCESS TO PEDIATRIC DENTAL SERVICES IN UNDERSERVED AREAS.

(a) Authority to Conduct Projects.—The Secretary of Health and Human Services, through the Administrator of the Health Care Financing Administration, the Administrator of the Health Resources and Services Administration, the Director of the Indian Health Service, and the Director of the Centers for Disease Control and Prevention shall establish demonstration projects that are designed to increase access to dental services for children in underserved areas, as determined by the Secretary.

(b) Authorization of Appropriations.—There is authorized to be appropriated such sums as may be necessary to carry out this section.

TITLE III—PEDIATRIC DENTAL RESEARCH

SEC. 301. IDENTIFICATION OF INTERVENTIONS THAT REDUCE THE BURDEN AND TRANSMISSION OF ORAL, DENTAL, AND CRANIOFACIAL DISEASES IN HIGH RISK POPULATIONS; DEVELOPMENT OF APPROACHES FOR PEDIATRIC ORAL AND CRANIOFACIAL ASSESSMENT.

(a) In General.—The Secretary of Health and Human Services, through the Maternal and Child Health Bureau, the Indian Health Service, and in consultation with the Agency for Health Care Policy and Research and the National Institutes of Health, shall—

(1) support community based research that is designed to improve our understanding of the etiology, pathogenesis, diagnosis, prevention, and treatment of pediatric oral, dental, craniofacial diseases and conditions and their sequelae in high risk populations; and

(2) develop clinical approaches for pediatric dental disease risk assessment.

(b) Authorization of Appropriations.—There is authorized to be appropriated, such sums as may be necessary to carry out this section.

SEC. 302. AGENCY FOR HEALTH CARE POLICY AND RESEARCH.

Section 902(a) of the Public Health Service Act (42 U.S.C. 299a(a)) is amended—

(1) in paragraph (7), by striking "and" at the end;

(2) in paragraph (8), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(9) the barriers that exist to dental care for children and the establishment of measures of oral health quality, including access to oral health care for children.".

SEC. 303. CONSENSUS DEVELOPMENT CONFERENCE.

(a) In General.—Not later than January 1, 2000, the Secretary of Health and Human Services, acting through the National Institute of Child Health and Human Development and the National Institute of Dental Research, shall convene a conference (to be known as the "Consensus Development Conference") to examine the management of early childhood caries and to support the design and conduct of research on the biology and physiologic dynamics of infectious transmission of dental caries. The Secretary shall ensure that representatives of interested consumers and other professional organizations participate in the Consensus Development Conference.

(b) EXPERTS.—In administering the conference under subsection (a), the Secretary of Health and Human Services shall solicit the participation of experts in dentistry, including pediatric dentistry, public health, and other appropriate medical and child health professionals.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section.

TITLE IV—SURVEILLANCE AND ACCOUNTABILITY

SEC. 401. CDC REPORTS.

(a) COLLECTION OF DATA.—The Director of the Centers for Disease Control and Prevention in collaboration with other organizations and agencies shall annually collect data describing the dental, craniofacial, and oral health of residents of at least 1 State from each region of the Department of Health and Human Services.

(b) REPORTS.—The Director shall compile and analyze data collected under subsection (a) and annually prepare and submit to the appropriate committees of Congress a report concerning the oral health of certain States.

SEC. 402. REPORTING REQUIREMENTS UNDER THE MEDICAID PROGRAM.

Section 1902(a)(43)(D) of the Social Security Act (42 U.S.C. 1396a(43)(D)) is amended—

(1) in clause (iii), by striking "and" and inserting "with the specific dental condition and treatment provided identified,";

(2) in clause (iv), by striking the semicolon and inserting a comma; and

(3) by adding at the end the following:

"(v) the percentage of expenditures for such services that were for dental services, and

"(vi) the percentage of general and pediatric dentists who are licensed in the State and provide services commensurate with eligibility under the State plan;".

SEC. 403. ADMINISTRATION ON CHILDREN, YOUTH, AND FAMILIES.

The Administrator of the Administration on Children, Youth, and Families shall annually prepare and submit to the appropriate committees of Congress a report concerning the percentage of children enrolled in a Head Start or Early Start program who have access to and who obtain dental care, including children with special oral, dental, and craniofacial health needs.

TITLE V—MISCELLANEOUS

SEC. 501. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in this Act, this Act and the amendments made by this Act take effect on the date of enactment of this Act.

(b) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—In the case of a State plan under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this Act, the State plan shall not be regarded as failing to comply with the requirements of such amendments solely on the basis of its failure to meet the additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.●

By Mr. DASCHLE (for himself and Mr. JOHNSON):

S. 2585. A bill to amend the Public Health Service Act to eliminate a threshold requirement relating to unreimbursable expenses for compensation under the National Vaccine Injury Compensation Program; to the Committee on Finance.

AMENDMENT TO THE NATIONAL VACCINE INJURY COMPENSATION PROGRAM

Mr. DASCHLE. Mr. President, I am pleased to introduce, with my friend and colleague from South Dakota, TIM JOHNSON, legislation to make several common-sense changes to the National Vaccine Injury Compensation Program. This bill removes an unintended and unjustified barrier blocking certain children from qualifying for the compensation program. It also makes the necessary changes to allow new drugs to be incorporated into the program, including the newly-approved rotavirus vaccine.

The Vaccine Act dates back to 1986, when Congress determined that a no-fault alternative to the tort system would best accommodate the dual objectives of ensuring proper compensation to victims of vaccine injuries and fostering continued development and broad-scale availability of lifesaving vaccines.

Through the Vaccine Act, children seriously injured by a childhood vaccine can receive compensation for medical care, custodial or residential care, lifetime lost earnings, pain and suffering, and emotional distress—benefits comparable to those awarded through the judicial tort system.

Tragically, some children have been unfairly denied the right to petition for benefits under the program because they did not incur $1,000 or more in out-of-pocket medical expenses.

At first glance, the eligibility requirement of at least $1,000 in out-of-pocket medical expenses may seem like a reasonable way of deterring individuals from petitioning for benefits if they lack a material claim to compensation. In reality, however, the absence of out-of-pocket health care expenses does not mean a child has not been seriously injured, nor does it suggest they have access to other sources for recoupment of the losses their injury has exacted.

Many children, including the children of military personnel, Native American children covered by the Indian Health Service, children with Medicaid coverage, and children covered under employer-sponsored health plans with minimal cost-sharing requirements, do not have high out-of-pocket health care costs.

While health insurance may remove the burden of high medical bills, it does not replace lost income or cover custodial and residential care. It cannot compensate for the toll these injuries have taken and will take on the lives of these children. Health care costs are just one component of the compensation for which a seriously injured child is eligible.

I know of a Native American child in my own State who was profoundly injured after receiving a diptheria-pertussis-tetanus vaccination. Within hours of receiving the shot, this 5-month-old child had a seizure and suffered severe brain damage because of the defective pertussis component of the shot.

The doctors tell us that his disabilities will, throughout his lifetime, preclude this little boy from having a normal life. He will never live or work independently. But, because he receives health care from the Indian Health Service (IHS), he is not eligible for any benefits under the Vaccine Compensation Program. Not only is this child barred from compensation for lost income and emotional trauma, he is denied financial support for his injury-related assisted living needs.

Through legislation intended to foster continued improvements in public health, the Federal Government has obstructed this child's right to sue vaccine manufacturers. But the program's gate-keeping mechanism is off the mark. What we are saying—however unintentionally—to this particular child and others like him is: "Fend for yourself." To deny this child the benefits available to other injured children is indefensible.

The Vaccine Act contains other safeguards to prevent unjustified requests for compensation. For example, no benefits claim is accepted without a thorough review and significant medical proof of severe injury directly related to a childhood vaccination. The $1,000 threshold is unnecessary.

Senator JOHNSON and I certainly are not alone in calling for the repeal of the $1,000 threshold. In fact, we are in very good company. The Advisory Commission on Childhood Vaccines voted unanimously to recommend elimination of the $1,000 threshold.

I hope this Congress will seize the opportunity to reconcile the intended and actual standards of fairness by which the National Vaccine Compensation Program fulfills its role in the public health system. In so doing, we will make a tremendous difference in the lives of children in desperate need of our support.

There is also a disconnect between the Act's intended consequences and its actual effect in regard to enrollment of new vaccines. Several vaccines that have been approved by the Food and Drug Administration and have met the standards established in the Vaccine Act are still not fully integrated into the program.

There are currently several vaccines Congress has approved for taxation and inclusion in the Vaccine Compensation Program that, because of a technical error in the legislation, were not authorized as compensable. This bill will fully integrate those vaccines into the program, and it will ensure that all new vaccines will be automatically compensable once the tax is levied.

In addition, it initiates the 75 cents-per-vaccination tax on the rotavirus vaccine, which will ensure compensation for recipients of that vaccine. The rotavirus vaccine was approved by the FDA in August of this year to protect against rotavirus gastroenteritis, which causes about 125 deaths and 50,000 hospitalizations per year among infants in the United States. Initiation of the excise tax will help protect the 4 million children who are expected to receive the vaccine annually.

The changes proposed in this bill are not controversial. They are common-sense, and they are overdue. When Congress established the Vaccine Compensation Program, its intent was to protect the rights of victims without jeopardizing an invaluable weapon against childhood illnesses. The underpinning of this program is fairness, a standard that cannot be met until Congress makes these important changes.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2585

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Vaccine Injury Compensation Program Modification Act".

SEC. 2. ELIMINATION OF THRESHOLD REQUIREMENT OF UNREIMBURSABLE EXPENSES.

Section 2111(c)(1)(D)(i) of the Public Health Service Act (42 U.S.C. 300aa-11(c)(1)(D)(i)) is amended by striking "and incurred unreimbursable expenses due in whole or in part to such illness, disability, injury, or condition in an amount greater than $1,000".

SEC. 3. INCLUSION OF ROTAVIRUS GASTROENTERITIS AS A TAXABLE VACCINE.

(a) IN GENERAL.—Section 4132(1) of the Internal Revenue Code of 1986 (defining taxable vaccine) is amended by adding at the end the following new subparagraph:

"(K) Any vaccine against rotavirus gastroenteritis.".

(b) EFFECTIVE DATE.—

(1) SALES.—The amendment made by this section shall apply to sales after the date of the enactment of this Act.

(2) DELIVERIES.—For purposes of paragraph (1), in the case of sales on or before the date of the enactment of this Act for which delivery is made after such date, the delivery date shall be considered the sale date.

SEC. 4. VACCINE INJURY COMPENSATION TRUST FUND.

(a) AMENDMENTS RELATED TO SECTION 904 OF 1997 ACT.—

(1) Paragraph (1) of section 9510(c) of the 1986 Code is amended to read as follows:

"(1) IN GENERAL.—Amounts in the Vaccine Injury Compensation Trust Fund shall be available, as provided in appropriation Acts, only for—

"(A) the payment of compensation under subtitle 2 of title XXI of the Public Health Service Act (as in effect on August 6, 1997) for vaccine-related injury or death with respect to any vaccine—

"(i) which is administered after September 30, 1988, and

"(ii) which is a taxable vaccine (as defined in section 4132(a)(1)) at the time the vaccine was administered, or

"(B) the payment of all expenses of administration incurred by the Federal Government in administering such subtitle.".

(2) Section 9510(b) of the 1986 Code is amended by adding at the end the following new paragraph:

"(3) LIMITATION ON TRANSFERS TO VACCINE INJURY COMPENSATION TRUST FUND.—No amount may be appropriated to the Vaccine Injury Compensation Trust Fund on and after the date of any expenditure from the Trust Fund which is not permitted by this section. The determination of whether an expenditure is so permitted shall be made without regard to—

"(A) any provision of law which is not contained or referenced in this title or in a revenue Act, and

"(B) whether such provision of law is a subsequently enacted provision or directly or indirectly seeks to waive the application of this paragraph.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Taxpayer Relief Act of 1997 to which they relate.

By Mr. KOHL:

S. 2586. A bill to amend parts A and D of title IV of the Social Security Act to require States to pass through directly to a family receiving assistance under the temporary assistance to needy families program all child support collected by the State and to disregard any child support that the family receives in determining the family's level of assistance under that program; to the Committee on Finance.

CHILDREN FIRST CHILD SUPPORT REFORM ACT OF 1998

● Mr. KOHL. Mr. President, today I introduce legislation to put America's children first by putting more resources into the hands of families and encouraging more parents to live up to their child support obligations. My legislation, the Children First Child Support Reform Act, would direct that all child support collected through the Federal-State Child Support Enforcement Program be passed through, or paid, directly to the children and families to whom it is owed and disregarded in the calculation of public assistance benefits. My legislation will assure non-custodial parents that the child support they pay will actually contribute to the well-being of their child, rather than the Government, and will also reduce administrative burdens on the state.

As my colleagues know, since its inception in 1975, our Federal-State Child Support Enforcement Program has been tasked with collecting child support for families receiving public assistance and other families that request help in enforcing child support. Towards this end, the program works to establish paternity and legally-binding support orders, while collecting and disbursing funds on behalf of families so that children receive the support they need to grow up in healthy, nurturing surroundings.

But on one crucial point, the current program does not truly work on behalf of families and, perhaps more importantly, may actually work against families by discouraging non-custodial parents from meeting their child support obligations.

If the family was never on public assistance, the support is collected by the Child Support Enforcement Program and sent directly to the family. However, under current law, most child support collected on behalf of families receiving public assistance is retained by the state and Federal Governments as reimbursement for welfare expenditures. In addition to this cost recoupment function, collections made on behalf of welfare families are used to fund the child support program in many States.

Thus, under current law, we have a system where the vast majority of children on public assistance never actually receive the child support that is paid on their behalf. The Government keeps the money. The research shows that many noncustodial parents who pay support do not believe that their payment actually benefits their children. They realize and resent that they are paying the Government. Worse yet, some noncustodial parents may decide not to pay support because it does not go to their children. Some custodial parents also are skeptical about working with the child support agency to secure payments since the funds are generally not forwarded to them.

Mr. President, we know that an estimated 800,000 families would not need public assistance if they could count on the child support owed to them. In addition, we know that 23 million children are owed more than $40 billion in outstanding support. Clearly, the vital importance of child support in keeping families off of assistance remains as true today as when the program began. In a world with TANF time limits, it has never been more important. And with these figures in mind, it is not unthinkable that some policymakers may have or might still consider this program as a means of recovering welfare expenditures.

But I am convinced that that thinking must change, if not cast off entirely, because, simply put, times have changed. The welfare reform law of 1996, which I supported, paved the way for time limits and work requirements that provide clear and compelling incentives for families to enter the workforce and find a way to stay there. Open ended, unconditional public support is no longer a reality, and our goal and responsibility as policymakers, now more than ever before, is to give families the tools and resources they need to prepare for and ultimately survive the day when they are without public assistance.

We fundamentally changed welfare, now we must fundamentally reexamine the central role of child support in helping families as they struggle to become and remain self-sufficient. And I say we go down the road of putting children first, a path on which we have already made some progress. Under the welfare reform law, States will eventually be required to distribute State-collected child support arrears owed to the family before paying off arrears owed to the State and Federal Governments for welfare expenditures. In addition, States were given the option of continuing to passthrough directly the first $50 of child support to the family.

One State, my State of Wisconsin, has opted to pass through all child support collected on behalf of participating families to those families. As you know, Wisconsin has been a leader and national model in the area of welfare reform. Under Wisconsin's welfare program, child support counts as income in determining financial eligibility for welfare assistance, but once eligibility is established, the child support income is disregarded in calculating program benefits. In other words, families are allowed to keep their own money. Non-custodial parents can be assured that their contribution counts and that their child support payments go to their children. And both parents are presented with a realistic picture of what that support means in the life of their child. I believe we, as a Nation, should follow Wisconsin's example.

The full passthrough and disregard approach also has significant benefits on the administrative side. The current distribution requirements place significant computer, accounting and paperwork burdens on the States. They are also costly. Data from the Federal Office of Child Support demonstrates that nearly 20 percent of program expenditures are spent simply processing payments. States are required to maintain a complicated set of accounts to determine whether support collected should be paid to the family or kept by the Government. These complex accounting rules depend on whether the family ever received public assistance, the date a family begins and ends assistance, whether the noncustodial parent is current on payments or owes arrears, the method of collection and other factors.

We know that we have already asked much of the states in the realm of automation, systems integration and welfare law child support enforcement adjustments. We hope and believe these improvements will lead to better collection rates. Now we have a chance to simplify and improve distribution of support. What could be simpler than a distribution system in which all child support collected would be delivered to the children to whom it is owed? A distribution system in which child support agencies would distribute current support and arrears to both welfare and non-welfare families in exactly the same way?

Mr. President, I am raising these points and introducing this legislation today, in the final week of the 105th Congress, as a marker, as a starting point to this discussion. Child support financing must be addressed. First, our current distribution scheme is out of step with the philosophy of current welfare policy. We must move the child support program from cost-recovery to service delivery for all families. Second, the current financing scheme is no longer workable. TANF caseloads are decreasing dramatically, even as overall child support caseloads are increasing. Therefore, while the system needs additional resources, the portion of the caseload that produces those resources is decreasing. We must put the child support program on a sound financial footing that confirms a strong Federal and state commitment to the program.

So, I believe it is time to begin a discussion on the issue of child support financing and the vital role of the child support program in helping families help themselves. The Administration has already begun to meet with policymakers, state administrators, and children's advocates to discuss the future of child support financing. I want to begin today, and ultimately end the debate, by pushing for a financing system that puts more resources into the hands of children, that lets our Nation's families keep more of their own money.

But let me strongly affirm that adopting a children first policy is only one of my goals. At this time, my proposal addresses only one half of the financing issue. Yes, we should put children first, but let me stress that I have every intention of continuing to refine this proposal so that it addresses the second point as well—finding alternative financing mechanisms so that states can maintain and strengthen their child support programs. Without adequate funding, state child support programs cannot deliver effective child support services to the families that so desperately need them. I want to continue working with my colleagues, Wisconsin and the other states, advocates and families to sort out the rest of the financing question. By advocating a full passthrough and disregard approach, I am absolutely not advocating a disinvestment in our child support system by either the Federal Government or the States. Our commitment to this program must remain strong and steadfast.

But it is time for us to create a system that truly serves families by giving them the tools to survive in a world without public support. It is time for a child support financing system that truly puts families, and not the Government, first.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2586

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Children First Child Support Reform Act of 1998".

SEC. 2. DISTRIBUTION AND TREATMENT OF CHILD SUPPORT COLLECTED BY OR ON BEHALF OF FAMILIES RECEIVING ASSISTANCE UNDER TANF.

(a) REQUIREMENT TO PASS ALL CHILD SUPPORT COLLECTED DIRECTLY TO THE FAMILY.—

(1) IN GENERAL.—Section 457 of the Social Security Act (42 U.S.C. 657) is amended—

(A) by striking all that precedes subsection (f) and inserting the following:

"SEC. 457. DISTRIBUTION OF COLLECTED SUPPORT.

"(a) DISTRIBUTION TO FAMILY.—

"(1) IN GENERAL.—Subject to paragraph (2) and subsection (f), any amount collected on behalf of a family as support by a State pursuant to a plan approved under this part shall be distributed to the family.

"(2) FAMILIES UNDER CERTAIN AGREEMENTS.—In the case of an amount collected for a family in accordance with a cooperative agreement under section 454(33), the State shall distribute the amount so collected pursuant to the terms of the agreement.

"(b) HOLD HARMLESS PROVISION.—If the amounts collected which could be retained by the State in the fiscal year (to the extent necessary to reimburse the State for amounts paid to families as assistance by the State) are less than the State share of the amounts collected in fiscal year 1995, the State share for the fiscal year shall be an amount equal to the State share in fiscal year 1995.";

(B) by redesignating subsection (f) as subsection (c); and

(C) in subsection (c) (as so redesignated), by striking "Notwithstanding" and inserting "AMOUNTS COLLECTED ON BEHALF OF CHILDREN IN FOSTER CARE.—Notwithstanding".

(2) CONFORMING AMENDMENTS.—

(A) Section 409(a)(7)(B)(i)(I))(aa) of the Social Security Act (42 U.S.C. 609(a)(7)(B)(i)(I)(aa)) is amended by striking "457(a)(1)(B)" and inserting "457".

(B) Section 454B(c) of such Act (42 U.S.C. 654b(c)) is amended by striking "457(a)" and inserting "457".

(b) DISREGARD OF CHILD SUPPORT COLLECTED FOR PURPOSES OF DETERMINING

AMOUNT OF TANF ASSISTANCE.—Section 408(a) of the Social Security Act (42 U.S.C. 608(a)) is amended by adding at the end the following:

"(12) REQUIREMENT TO DISREGARD CHILD SUPPORT IN DETERMINING AMOUNT OF ASSISTANCE.—

"(A) IN GENERAL.—A State to which a grant is made under section 403 shall disregard any amount received by a family as a result of a child support obligation in determining the amount or level of assistance that the State will provide to the family under the State program funded under this part.

"(B) OPTION TO INCLUDE CHILD SUPPORT FOR PURPOSES OF DETERMINING ELIGIBILITY.—A State may include any amount received by a family as a result of a child support obligation in determining the family's income for purposes of determining the family's eligibility for assistance under the State program funded under this part.".

(c) ELIMINATION OF TANF REQUIREMENT TO ASSIGN SUPPORT TO THE STATE.—

(1) IN GENERAL.—Section 408(a) of the Social Security Act (42 U.S.C. 608(a)) is amended by striking paragraph (3).

(2) CONFORMING AMENDMENTS.—

(A) Section 452 of the Social Security Act (42 U.S.C. 652) is amended—

(i) in subsection (a)(10)(C), by striking "section 408(a)(3) or under"; and

(ii) in subsection (h), by striking "or with respect to whom an assignment pursuant to section 408(a)(3) is in effect".

(B) Section 454(5) of such Act (42 U.S.C. 654(5)) is amended by striking "(A) in any case" and all that follows through "the support payments collected, and (B)".

(C) Section 456(a) of such Act (42 U.S.C. 656(a)) is amended—

(i) in paragraph (1), by striking "assigned to the State pursuant to section 408(a)(3) or"; and

(ii) in paragraph (2)(A), by striking "assigned".

(D) Section 464(a)(1) of such Act (42 U.S.C. 654(a)(1)) is amended by striking "section 408(a)(3) or ".

(E) Section 466(a)(3)(B) of such Act (42 U.S.C. 666(a)(3)(B)) is amended by striking "408(a)(3) or ".

(F) Section 458A(b)(5)(C)(i)(I) of the Social Security Act (42 U.S.C. 658a(b)(5)(C)(i)(I)), as added by the Child Support Performance and Incentive Act of 1998 (Public Law 105-200; 112 Stat. 645) is amended by striking "A or".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section take effect on October 1, 1998.

(2) CHILD SUPPORT PERFORMANCE AND INCENTIVE ACT CONFORMING AMENDMENT.—The amendment made by subsection (c)(2)(F) shall take effect on October 2, 1999.●

By Mr. WYDEN:

S. 2587. A bill to protect the public, especially seniors, against telemarketing fraud and telemarketing fraud over the Internet and to authorize an educational campaign to improve senior citizens' ability to protect themselves against telemarketing fraud over the Internet; to the Committee on Commerce, Science, and Transportation.

TELEMARKETING FRAUD AND SENIORS PROTECTION ACT

Mr. WYDEN. Mr. President, online consumer purchases are poised to explode to more than $300 billion early in the next century. But the goldrush in cyberbuying is likely to carry along with it a boom in cyberfraud. Congress can help head-off this cybercrime by extending our current telemarketing laws to encompass fraud on the Net.

In response to the staggering $40 billion consumers lose in telephone fraud each year, Congress earlier this summer passed the 1998 Telemarketing Fraud Prevention Act. I strongly supported that effort. The new law builds upon the four Federal laws enacted since the early 1990's that deal directly with telemarketing fraud. The 1998 law stiffens penalties for telemarketing fraud by toughening the sentencing guidelines—especially for crimes against the elderly, requires criminal forfeiture to ensure the booty of telemarketing crime is not used to commit further fraud, mandates victim restitution to ensure victims are the first ones compensated, adds conspiracy language to the list of telemarketing fraud penalties so that prosecutors can find the masterminds behind the boiler rooms, and will help law enforcement zero in on quick-strike fraud operations by giving them the authority to move more quickly against suspected fraud.

The 1998 law is a good step forward but it's not enough to deal with today's digital economy. As more Americans go online, cyberscams are bound to proliferate. The congressional crackdown on telemarketing fraud will only encourage cyberscammers to migrate to the Net unless the law gets there first. That is the purpose of the legislation I am introducing today.

The Telemarketing Fraud and Seniors Protection Act simply extends current law against telemarketing fraud to include the same crimes committed over the Internet. The approach expands the existing law applicable to mail, telephone, wire, and television fraud to fraud over the Internet, and its enforcement would follow the same division of labor there is today between the Federal Trade Commission and the Department of Justice. The bill would apply the same tough penalties that Congress enacted earlier this year to cyberscams. The growth of Internet telephony makes it more attractive for cyberscammers to set up shop offshore, beyond the reach of U.S. law. My bill would address this problem by allowing law enforcement to freeze the assets and deny entry to the United States of those convicted of cyberfraud.

The bill takes special aim against those attempt to defraud one of our most vulnerable groups—our senior citizens. Seniors are the target for more than 50 percent of telemarketing fraud. Although telemarketers convicted of fraud face stiff penalties—a minimum of 5-10 years in jail and restitution payments to their victims, we also need to better educate and inform senior citizens on how to avoid becoming victims of telemarketing fraud in the first place, and how to assist law enforcement in catching the perpetrators.

The legislation would also authorize the Administration on Aging, through its network of area agencies of aging, to conduct an outreach program to senior citizens on telemarketing fraud. Seniors would be advised against providing their credit card number, bank account or other personal information unless they had initiated the call unsolicited. They would also be informed of their consumer protection rights and any toll-free numbers and other resources to report suspected illegal telemarketing.

Mr. President, the Federal Trade Commission is off to a good start against cyberscammers. Some of the operations the FTC has targeted are not companies at all, but merely websites that promise consumers everything from huge new consulting contracts to the elimination of bad credit reports. They may use scare tactics to frighten consumers into sending important personal financial information and hundreds of dollars for services the consumer will never see, or attempt to lure consumers with the promise of help them cash in on the Internet explosion. The FTC also has a strong operation going against junk emailers. My legislation will complement and strengthen the FTC's effort to target telemarketing fraud over the Internet and especially when such fraud is aimed at seniors.

I urge my colleagues to join me in this important legislation, and ask unanimous consent that a copy of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2587

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—TELEMARKETING FRAUD OVER THE INTERNET

SECTION 101. EXTENSION OF CRIMINAL FRAUD STATUTE TO INTERNET.

Section 1343 of title 18, United States Code, is amended by——

(1) striking "or television communication" and inserting "television communication or the Internet"; and

(2) adding at the end thereof the following: "For purposes of this section, the term 'Internet' means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.".

SEC. 102. FEDERAL TRADE COMMISSION SANCTIONS.

The Federal Trade Commission shall initiate a rulemaking proceeding to set forth the application of section 5 of the Federal Trade Commission Act (15 U.S.C. 45) and other statutory provisions within its jurisdiction to deceptive acts or practices in or affecting the commerce of the United States in connection with the promotion, advertisement, offering for sale, or sale of goods or services through use of the Internet, including the initiation, transmission, and receipt of unsolicited commercial electronic mail. For purposes of this section, the term 'Internet' means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected worldwide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

TITLE II—SPECIAL PROTECTION FOR SENIOR CITIZENS

SEC. 201. FINDINGS.

The Congress finds that——

(1) telemarketing fraud costs consumers nearly $40,000,000,000 each year;

(2) senior citizens are often the target of telemarketing fraud;

(3) fraudulent telemarketers compile into "mooch lists" the names of potentially vulnerable consumers;

(4) according to the American Association of Retired Persons, 56 percent of the names on "mooch lists" are individuals age 50 or older;

(5) the Department of Justice has undertaken successful investigations and prosecutions of telemarketing fraud through various operations, including "Operation Disconnect", "Operation Senior Sentinel", and "Operation Upload";

(6) the Federal Bureau of Investigation has helped provide resources to assist organizations such as the American Association of Retired Persons to operate outreach programs designed to warn senior citizens whose names appear on confiscated "mooch lists";

(7) the Administration on Aging was formed, in part, to provide senior citizens with the resources, information, and assistance their special circumstances require;

(8) the Administration on Aging has a system in place to effectively inform senior citizens of the dangers of telemarketing fraud; and

(9) senior citizens need to be warned of the dangers of telemarketing fraud and fraud over the Internet before they become victims.

SEC. 202. PURPOSE.

It is the purpose of this title through education and outreach to protect senior citizens from the dangers of telemarketing fraud and fraud over the Internet and to facilitate the investigation and prosecution of fraudulent telemarketers.

SEC. 203. DISSEMINATION OF INFORMATION.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Assistant Secretary for Aging, shall publicly disseminate in each State information designed to educate senior citizens and raise awareness about the dangers of telemarketing fraud and fraud over the Internet.

(b) INFORMATION.—In carrying out subsection (a), the Secretary shall——

(1) inform senior citizens of the prevalence of telemarketing fraud and fraud over the Internet targeted against them;

(2) inform senior citizens of how telemarketing fraud and fraud over the Internet works;

(3) inform senior citizens of how to identify telemarketing fraud and fraud over the Internet;

(4) inform senior citizens of how to protect themselves against telemarketing fraud and fraud over the Internet, including an explanation of the dangers of providing bank account, credit card, or other financial or personal information over the telephone to unsolicited callers;

(5) inform senior citizens of how to report suspected attempts at telemarketing fraud and fraud over the Internet;

(6) inform senior citizens of their consumer protection rights under Federal law; and

(7) provide such other information as the Secretary considers necessary to protect senior citizens against fraudulent telemarketing over the Internet.

(c) MEANS OF DISSEMINATION.—The Secretary shall determine the means to disseminate information under this section. In making such determination, the Secretary shall consider——

(1) public service announcements;

(2) a printed manual or pamphlet;

(3) an Internet website; and

(4) telephone outreach to individuals whose names appear on "mooch lists" confiscated from fraudulent telemarketers.

(d) PRIORITY.—In disseminating information under this section, the Secretary shall give priority to areas with high concentrations of senior citizens.

SEC. 204. AUTHORITY TO ACCEPT GIFTS.

The Secretary may accept, use, and dispose of unconditional gifts, bequests, or devises of services or property, both real and personal, in order to carry out this title.

SEC. 205. DEFINITION.

For purposes of this title, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

By Mr. CONRAD (for himself, Mr. NICKLES, and Mr. INOUYE):

S. 2588. A bill to provide for the review and classification of physician assistant positions in the Federal Government, and for other purposes; to the Committee on Governmental Affairs.

OFFICE OF PERSONNEL MANAGEMENT LEGISLATION

• Mr. CONRAD. Mr. President, today, I am pleased to be joined by Senator NICKLES and Senator INOUYE to introduce legislation that directs the Office of Personnel and Management (OPM) to develop a classification standard appropriate to the occupation of physician assistant.

Physician assistants are a part of a growing field of health care professionals that make quality health care available and affordable in underserved areas throughout our country. Because the physician assistant profession was very young when OPM first developed employment criteria in 1970, the agency adapted the nursing classification system for physician assistants. Today, this is no longer appropriate. Physician assistants have different education and training requirements than nurses and they are licensed and evaluated according to differnt criteria.

The inaccurate classification of physician assistant has led to recruitment and retention problems of physician assistants in Federal agencies, usually caused by low starting salaries and low salary caps. Because it is recognized that physician assistants provide cost-effective health care, this is an important problem to resolve.

This legislation mandates that OPM review this classification in consultation with physician assistants and the organizations that represent physician assistants. The bill specifically states that OPM should consider the educational and practice qualifications of the position as well as the treatment of physician assistants in the private sector in this review.

Mr. President, I believe that this legislation will make an important correction that will help Federal agencies make better use of these providers of cost-effective, high quality health care.•

By Mr. MURKOSWKI:

S. 2589. A bill to provide for the collection and interpretation of state of the art, nonintrusive 3-dimensional seismic data on certain Federal lands in Alasks, and for other purposes; to the Committee on Energy and Natural Resources.

LEGISLATION AUTHORIZING 3-D SEISMIC TESTING IN ALASKA

• Mr. MURKOWSKI. Mr. President, today I introduce legislation to ensure that when Congress looks at ways to reduce the United States' dependence on foreign oil, it does so with the best science available.

The legislation I introduce today would require the Secretary of the Interior to conduct 3-dimensional (3-D) seismic testing on the Arctic Coastal Plain of Alaska.

This testing leaves no footprint. In fact, just last year the U.S. Fish and Wildlife Service allowed such testing to be done in the Kenai National Wildlife Refuge, declaring such testing would have no significant impact.

It would have even less impact on the frozen tundra in ANWR.

It is also a possibility that the oil industry would be willing to share in the cost of such testing. Let's at least find out what kind of resource we are talking about.

Mr. President, I think it is important that we look at some of the history of his area and the testing that has occurred there.

In May of this year, the U.S. Geological Survey estimated that a mean of 7.7 billion barrels of producible oil may reside in the 1002 Area of the Arctic Oil Reserve.

This estimate was in stark contrast to a declaration by Secretary Babbitt in 1995 when he pronounced the Arctic Oil Reserve's oil possibilities to be about 898 million barrels.

In the interest of looking at this amazing leap in the estimate of the AOR's producible oil, I chaired a hearing of the Senate Energy and Natural Resources Committee last week, and invited the U.S. Geological Survey to participate.

Three things rang clear at that hearing:

First, while these estimates were the highest ever and proved the 1002 area of the AOR has the greatest potential of securing our Nation's energy needs—they were extremely conservative.

For instance, these estimates were based on a minimum economic field size of 512 million barrels. When in practice the minimum economic field size in Alaska is much lower than that. Consider the following examples of current economic fields in Alaska:

Northstar: 145 mm/bb (With a sub-sea pipeline) is deemed economic. Badami: 120 mm/bb is deemed economic. Liberty: 120 mm/bb is deemed economic. Sourdough: 100+ mm/bb (adjacent to Aor) is deemed economic.

The second fact that rang clear is while these new estimates show a clearer picture of the Western portion of the AOR, much remains unclear about the oil and gas potential of the massive structures present in the Eastern portion.

The USGS has slightly downgraded the potential of the Eastern portion because they do not have similar data that was available to them on the Western portion.

Third, technology has increased so dramatically that we can now extract greater amounts of oil from wells with far less impact on the environment at a cost of 30 percent less than 10 years ago.

Consider this, Mr. President: In June of 1994, Amerada Hess concluded the Northstar field in Alaska was uneconomic because development would exceed $1.2 billion and eventually sold the field to BP.

Today, BP expects to begin production of that field's 145 million barrels of reserves in 2000. Estimated development costs: $350 million—a 70 percent reduction from just 4 years ago!

Mr. President, all these factors point toward the logical conclusion that underlying the 1.5 million-acre oil reserve in Alaska lies greater reserves than recently estimated, and we need to confirm them with better science.

Dr. Thomas J. Casadevall, acting director of the USGS, was very clear in his explanation that if the newer three dimensional (3-D) seismic data were available from the Arctic Oil Reserve, their high May estimates of producible oil could increase significantly.

Casadevall explained that their new estimates, while supported by sound science and peer review, were still based on 2-D seismic tests done more than a decade ago.

Kenneth A. Boyd, director, Division of Oil and Gas of the Alaska Department of Natural Resources, likened the advance of the new testing to the difference between an x-ray and a CAT-scan.

He said the available information from 2-D seismic as opposed to 3-D seismic is that the former produces a line of data while the latter produces a cube of data. The cube can be turned and examined from all sides and the geologic information proves invaluable for exploration.

This data has revolutionized exploration and development of the North Slope of Alaska. Modern 3-D data provides enhanced and incredibly accurate imaging of potential subsurface reservoirs.

This in turn reduces exploration and development risk, reduces the number of drilled wells, and in turn reduces both overall costs and environmental impacts.

Of course there is little pressure to allow testing or exploration of the Coastal Plain with gas prices at a 30-year low. However, the Department of Energy's Information Administration predicts, in 10 years, America will be at least 64 percent dependent on foreign oil. It would take that same 10-year period to develop any oil production in AOR.

It seems prudent to plan ahead to protect our future energy security.

If the Nation were to be crunched in an energy crisis—like the Gulf war that would require the speedup of development; that development could impact the environment negatively because it would not have the benefit of thoughtful planning.

I believe it is as criminal as stealing gold to refuse to acknowledge the potential for producible oil in the Coastal Plain of the AOR. If we don't know what the resource is, how can we protect it or make an informed decision about the use of the area?

And how can those in this administration or the environmental community argue it is a bad idea to seek a greater understanding of these public lands? Particularly, when the Congress set aside the area under a special designation for future Congresses to determine whether it contains the quantities of oil that, if produced, would significantly enhance our national energy security.

Mr. President, this legislation will also better enable the Secretary of the Interior to protect the Federal petroleum resources underlying the Coastal Plain. However, without knowing what those Federal resources are however, there is no way to protect them.

Just last year a major oil discovery was announced on State lands immediately adjacent to the Federal border. Production from this well could drain portions of the Federal reserve without adequate compensation to the Federal treasury.

The Secretary has an obligation to protect the Federal resource underlying ANWR and this legislation will provide him the tools to do so.

Finally, Mr. President, I want to make it perfectly clear that this bill is being pushed by those of us in Congress who believe that if you are to make a decision about the best use of our public lands that you should do so with the benefit of the best available science.

It is not, as Secretary Babbitt has suggested, an effort being pushed by the petroleum industry.●

By Mr. KERRY:

S. 2591. A bill to provide certain secondary school students with eligibility for certain campus-based assistance under title IV of the Higher Education Act of 1965; to the Committee on Labor and Human Resources.

TECH-PREP OPPORTUNITIES ACT

● Mr. KERREY. Mr. President, today I introduce a piece of legislation that, I believe, takes an important step toward giving more individuals the ability to earn good wages so that they can support themselves and their families. This bill will allow community colleges to use their campus-based student aid to assist students who are concurrently enrolled in a high school and in a vocational-technical program in a community college. This legislation helps us solve a national problem, but it also helps more young people achieve the American Dream.

We must recognize that a degree from a 4-year college or university is not the only ticket to a successful, productive life. Only 60 percent of high school graduates enroll in college, and only 20 percent end up with a four-year degree. Community colleges are playing an increasingly important role in helping the other 80 percent of our students obtain the advanced technical training that is vital to our economy and to their futures.

Today the Senate also passed the conference report that will reauthorize vocational education. I am pleased to have played a role in this process. At my request the conferees have included language that will encourage institutions to investigate opportunities for tech-prep secondary students to enroll concurrently in secondary and postsecondary coursework. The bill that I am introducing today builds upon this concept in a tangible way.

As we address the need for highly skilled workers in Nebraska and throughout the Nation, we must change the way that we think about our education system, and especially the way that we think about those students who are on the verge of graduation. We must make certain that a high school diploma has real value, that it says to an employer, "I have the skills and the knowledge to make a valuable contribution to your business."

This legislation allows community colleges to offer a helping hand to students who are still in high school but have exhausted the vocational-technical offerings and are ready and able to enroll in such programs at a community college. Throughout the Nation many students are already dually enrolled, but either the school district pays the tuition or the student must pay it. In Nebraska, more than 100 students in Omaha Public Schools are dually enrolled. And more than 50 in Bellevue Public Schools are dually enrolled. Some students have the ability to enroll in a vocational-technical program, but they do not have the financial means. By making this change in law, community colleges can assist those students if they choose to do so.

With a Federal commitment of $7,400,000 last year, Nebraska provided vocational and applied technology education to approximately 70,000 secondary students and 47,800 postsecondary students. This money is a wise investment, but we need to do more.

I look forward to working with my colleagues in Congress next year to further our commitment to preparing our young people to achieve the American Dream.●

By Mr. DORGAN (for himself, Mr. JOHNSON, Mr. BAUCUS, and Mr. CONRAD):

S. 2592. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to permit a State to register a Canadian pesticide for distribution and use within that State; to the Committee on Agriculture, Nutrition, and Forestry.

CANADIAN CROSS-BORDER CHEMICAL LEGISLATION

● Mr. DORGAN. Mr. President, today, I introduce the first in what will be a number of bills addressing the inequalities in the availability and pricing of agricultural chemicals between the United States and Canada. This bill focuses on the differences in prices between identical or nearly identical chemicals. The need for this bill is created by chemical companies who use our chemical labeling laws to protect their pricing and marketing system. By labeling similar products only for use in different States or countries or only for use on certain plants, chemical companies are able to extract unreasonable profits from farmers who desperately need their products.

A second part of my effort to correct differences between agricultural chemicals used in Canada and the United States is a study by the General Accounting Office (GAO). I am now finalizing discussions with GAO as to the specific areas to be studied and the scope of the study. It is my expectation that I will introduce legislation in the next session of Congress to correct the remaining deficiencies.

Of particular concern lately has been the significant difference in farm chemical prices between Canada and the United States. Because our farmers are engaged in a difficult trade battle with Canada, differences in agricultural chemical prices between Canada and the United States place our farmers at a disadvantage with their Canadian competition. This bill is drafted to correct

As introduced today, the bill sets up a procedure by which states may apply for, and receive, an Environmental Protection Agency label for agricultural chemicals sold in Canada which are identical or substantially similar to agricultural chemicals used in the United States. Initially, this bill will allow the cross border movement of similar chemicals. Eventually, it is my expectation that this bill, along with the GAO study, will lead to an equalization of farm chemical availability and prices across the border.

I request my colleagues' support in this effort to bring fairness to cross-border chemical pricing.●

By Mr. GRAHAM:

S. 2593. A bill to amend the Internal Revenue Code of 1986 to provide a credit against tax for employers who provide child care assistance for dependents of their employees, and for other purposes; to the Committee on Finance.

THE WORKSITE CHILD CARE DEVELOPMENT CENTER ACT OF 1998

Mr. GRAHAM. Mr. President, I rise today to introduce legislation designed to aid millions of American families with one of their most pressing needs—child care. This legislation would make child care more accessible to millions of families who find it not only important, but necessary, to work.

In the ideal world, most parents, I believe, would prefer to have their children raised by at least one parent at home. However, for a vast majority of families in America, this ideal is not possible. And for the working poor and many in the middle class of our society, this ideal is a luxury that they cannot afford.

The legislation which I am introducing today would not solve the child care needs of American parents. However, it would serve to provide a much needed incentive—a jump start—to promote employer provided child care, particularly among our Nation's small businesses.

The legislation I am introducing today would offer a tax credit to those employers who undertake the responsibility of assisting their employees with child care expenses. This bill—the Worksite Child Care Development Center Act of 1998—would modify that part of the Internal Revenue Code of 1986 which relates to business tax credits. It would do so by providing child care tax credits to employers for—

A one-time 50 percent tax credit, not to exceed $100,000, specifically for facilities start-up expenses, which includes expansion and renovations of an employer-sponsored child care facility;

A 50 percent tax credit, not to exceed $25,000 annually, for those expenses related to the operating costs of maintaining a child care facility; and

A 50 percent tax credit, not to exceed $50,000 annually, specifically for those employers who provide payments or reimbursements for their employees' child care expenses.

One may ask, "Why is this legislation important to American employers and employees?" Mr. President, I submit to you that there are four compelling reasons for the Congress to pass this legislation.

First, child care is a major concern for American families. We should be concerned about child care because it has become one of today's most pressing social issues. Ask working parents today to identify their top daily concerns, and a large proportion will most certainly identify quality, affordable child care as one of them.

On June 1st of this year, I hosted a Florida statewide summit on child care, which was attended by over 500 residents of my State who shared with me their concerns, and sometimes their frustrations, about this issue. The feedback that I received from my constituents covered a myriad of issues reflecting the high level of concern that parents have regarding access, quality, and the level of investment we are making in child care. We had five panel sessions moderated and staffed by 25 of Florida's most distinguished professionals in the field of child development and human services and education. The panels covered a wide range of issues from affordability and access, to quality of care, to public-private partnerships between Government and businesses.

I am pleased that I was able to hear from my constituents and from experts regarding the extent and nature of the problem. One participant summed it up well, "The issues addressed in the summit today are concerns that need to continue to be addressed until the needs are met; however, the needs are going to continue to grow as our preschoolers and school-agers go into middle schools."

Mr. President, it's no wonder that there is so much interest in the issue of child care. Child care, when it is available, is provided to a child at one of the most important times in that child's life. Indeed, recent research has confirmed what many of us had always believed—that quality child care can positively influence cognitive and social development. Current scientific research tells us that the most crucial period in children's brain development and brain readiness—which determines so much of the course for the rest of their lives—is that time between birth and the age of 3.

Second, America's workforce is changing. The work place has changed dramatically over the past 50 years. In 1947, just over one-quarter of all mothers with children between 6 and 17 years of age were in the labor force. By 1996, the labor force participation rate of working mothers had tripled. The Bureau of Labor Statistics reports that 65 percent of all women with children under 18 years of age are now working. This percentage is not expected to decrease—it is expected to grow. As we enter the 21st century, women will comprise 60 percent of all new entrants into the labor market. A large proportion of these women are expected to be mothers of children under the age of 6.

The implications for employers are clear. Employers understand well that our Nation's workforce is changing rapidly. Those employers who can attract and hold onto the best employees are likely to be among the most competitive.

Many of our larger corporations and Government agencies have recognized this and are already moving in that direction. For example, our Nation's military is often cited as having a model child care program for its personnel. Military leaders know well the relationship between a parent's peace of mind and satisfaction with good child care and job performance.

In my State of Florida, several major firms have taken similar steps to invest in their employees. I recently visited Ryder Corporation's Kids' Corner child care center in Miami where more than 100 children are cared for in a top-notch day care program. Ryder has received many accolades, including being recognized as the Best Employer of Women in the State of Florida by the Florida Commission on the Status of Women. Ryder now plans on extending the care that it provides to the children of employees by establishing a charter school on-site.

Similarly, NationsBank, formerly Barnett Bank, in Jacksonville, operates a state of the art child care facility for its employees. According to Ms. Mari White, the Senior Vice President of Work Environment Integration at NationsBank—and a member of my informal Advisory Committee on Child Care—this program makes good business sense. She views the availability of child care at the work site as a workforce retention tool for NationsBank as well as a great recruitment tool for new employees. In addition to its day care center, NationsBank also operates a Satellite Learning Center—a charter school for employees' children.

I commend Ryder Corporation, NationsBank, and the many other corporations in Florida and throughout the Nation, which have taken the important step forward in providing child care for its employees. I submit to you that small businesses, which do not have the resources to undertake such efforts, ought to have the ability to offer similar benefits to its employees. My legislation is intended to make it easier for them to do so.

Third, child care is important for the success of Welfare Reform. This legislation is an important component to our national welfare policy. While most American families struggle with child care, this problem is most acute among the working poor and the middle class.

In 1996, Congress and the President changed welfare as we knew it. We made fundamental changes to the policies, and the social expectations, relating to work and welfare. The Federal Government has asked our business community and governmental agencies to work in partnership in keeping the working poor off of the welfare rolls. If we are to see the reforms of 1996 succeed, we must ensure that the means to succeed are provided.

The working poor—particularly those formerly on welfare—face major challenges associated with staying off of welfare. These challenges include their ability to:

(1) get to and from work;

(2) obtain the job training they need to get and hold onto their job; and

(3) access to affordable and quality child care.

Although States spend millions of dollars each year on subsidized child care, at any given time there may be up to twice as many children eligible who are not enrolled in the system. These children are on child care waiting lists. In the State of Florida for example, as of July of this year, there were 29,744 children on the State's wait list for these services. Many of these families on waiting lists do not receive temporary cash assistance because they work in low-wage jobs, such as in the retail sector, hotel and motel business, fast food restaurants, nursing homes, and child care centers. They earn too much money to qualify for many government programs, yet they earn too little money to have real choices about their child care.

This is not an issue of whether they should stay at home or work—they must work. In other words, for them child care is not an option, it is a necessity. I am reminded of a letter that I recently received from Ms. Ruth Pasarell-Valencia, the Commissioner at the Housing Authority of the City of Miami Beach, in which she states, "We need to wake up from the nightmare of child care neglect. In this era of Welfare Reform and cuts in many public assistance benefits, we have to be very careful not to hurt our children in the process of making adults self-sufficient."

By addressing our citizens' child care needs, particularly that of our working poor, the Federal Government has an opportunity to contribute to the success of welfare reform. This legislation offered today would be one part of the Federal Government's response to this need.

Fourth, small businesses need this support.

Mr. President, I believe that the provisions contained in my legislation will be a boon for American small businesses. According to the Small Business Administration, small businesses in America employ:

Fifty two percent of all private workers;

Sixty one percent of private workers on public assistance; and

Thirty eight percent of private workers in high-tech occupations.

Small businesses have contributed virtually all of the net new jobs which have been created during these recent years of job growth. And small businesses represent 96 percent of all exporters of goods leaving the United States. Small businesses are truly a big piston in the engine of our Nation's economy.

Yet, we know that the owners of small businesses struggle to make ends meet. That is why initiatives like the one I propose are important for strengthening the vitality of our small business community. For small businesses, resources are limited and survival in a competitive world market is difficult. Think of the impact on a small business when one of its employees is absent for the day to care for his or her child because that employee's day care worker is sick that day with the flu.

According to the U.S. Department of the Treasury, employers surveyed reported positive benefits associated with providing child care to its employees. The Treasury Department's data indicates:

Sixty two percent reported higher morale;

Fifty four percent reported reduced absenteeism;

Fifty two percent reported increased productivity; and

Thirty seven percent reported lower job turnover.

Providing child care to employees can be a major step-up for small businesses. My legislation would provide tax credits to the employers who make investments to help their businesses and their employees with child care, or back-up child care when their regular services are not available.

Mr. President, in concluding, I would like to thank the 30 members of my Informal Children's Development Advisory Committee in Florida which has provided invaluable support to me, my staff, and Floridians throughout the state. This group of dedicated individuals, who hail from a wide variety of professions, were instrumental in organizing the Child Care Summit which we held in South Florida in June of this year. They have worked with child care professionals, parents, and business groups to raise awareness on this issue, and have supported my efforts to draft this important legislative proposal.

To them, I offer my deepest thanks for the assistance they have provided me and for all of their hard work on behalf of the welfare of children in Florida.

I would like to quote Ms. Janet Ndah, the Dean of Students at the Punta Gorda Middle School in Punta Gorda, Florida, who says of my legislation: "As an educator and a working parent, care for children is definitely a priority and a challenge. Therefore, I am extremely supportive of this child care act and in particular, the tax credits that employers would receive as they begin a site-based child care facility."

Ms. Phyllis J. Siderits, who works at the Florida Department of Health—and who has served as a member of my Advisory Committee—also has written to me of the benefits of this proposal: "This Act is of benefit to employers as well as employees. For too long, I have witnessed the inability to maintain qualified and competent employees because of child care issues, whether those issues were ones of compensation, scheduling and work time difficulties, or caretaker concerns. It is especially gratifying to know that this act would be of benefit to employees who have children with special needs and allow the employees to have closer contact with their children during the day where employer-sponsored child care facilities exist. We have not supported single-parent or dual-parent families who work and have tremendous difficulties obtaining child care. The ideal solution is an employer-sponsored child care facility. I think this proposed legislation offers all of the incentives to create a win-win solution for employers and employees."

Mr. President, I am disappointed that it seems that the administration's child care initiatives will not pass Congress this year. That comprehensive proposal outlined by the President at the start of this year would have provided much needed support to American families in this vital area. However, I believe that the legislation which I am introducing today would make a valuable contribution to the quality of life and care for families; the success of Welfare Reform; and the strengthening of our small business community.

On July 30, 1998, I introduced, with 20 of my colleagues, a Senate Resolution which would designate October 11, 1998 as National Children's Day. That legislation now has 52 cosponsors and is awaiting passage by this Congress. It is only fitting that I am introducing this child care legislation just days prior to that date which the United States Senate is designating as "National Children's Day."

Mr. President, it is in recognition of our commitment to the children of our Nation that I introduce the Worksite Child Care Development Center Act of 1998. Our children and their families deserve our support. Mr. President, I ask unanimous consent that the text of S. Res. 260 and a list of the members of the Advisory Committee be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

S. RES. 260

Whereas the people of the United States should celebrate children as the most valuable asset of the Nation;

Whereas children represent the future, hope, and inspiration of the United States;

Whereas the children of the United States should be allowed to feel that their ideas and dreams will be respected because adults in the United States take time to listen;

Whereas many children of the United States face crises of grave proportions, especially as they enter adolescent years;

Whereas it is important for parents to spend time listening to their children on a daily basis;

Whereas modern societal and economic demands often pull the family apart;

Whereas encouragement should be given to families to set aside a special time for all family members to engage together in family activities;

Whereas adults in the United States should have an opportunity to reminisce on their youth and to recapture some of the fresh insight, innocence, and dreams that they may have lost through the years;

Whereas the designation of a day to commemorate the children of the United States will provide an opportunity to emphasize to children the importance of developing an ability to make the choices necessary to distance themselves from impropriety and to contribute to their communities;

Whereas the designation of a day to commemorate the children of the Nation will emphasize to the people of the United States the importance of the role of the child within the family and society;

Whereas the people of the United States should emphasize to children the importance of family life, education, and spiritual qualities; and

Whereas children are the responsibility of all Americans and everyone should celebrate the children of the United States, whose questions, laughter, and tears are important to the existence of the United States: Now, therefore, be it

Resolved, That—

(1) it is the sense of the Senate that October 11, 1998, should be designated as "National Children's Day"; and

(2) the President is requested to issue a proclamation calling upon the people of the United States to observe "National Children's Day" with appropriate ceremonies and activities.

SENATOR GRAHAM'S APPOINTEES TO THE INFORMAL FLORIDA STATEWIDE CHILDREN'S DEVELOPMENT ADVISORY COMMITTEE

1997–1998 MEMBERS

Ms. Mary Bryant, Children's Coordinator, Executive Office of the Governor, Tallahassee; Ms. Gloria Dean, ESOL Instructor, Neptune Beach Elementary School, Jacksonville; Ms. Tana Ebbole, Executive Director, Children's Services Council, West Palm Beach; Dr. Rebecca Fewell, Director, Debbie Institute, University of Miami School of Medicine, Miami; Mr. William S. Fillmore, President, Florida Head Start Directors Association, Pinellas Park.

Dr. Steve Freedman, Director, Institute for Child Health Policy, University of Florida, Gainesville; Ms. Jane Goodman, Executive Director, Guard Ad Litem-Miami, Miami; Dr. Mimi Graham, Director, Center for Prevention and Early Intervention Policy, Florida State University, Tallahassee; Mr. Ted Granger, President, United Way of Florida, Tallahassee; Ms. Mary Frances Hanline, Associate Professor, Department of Special Education, Florida State University, Tallahassee.

Dr. Delores Jeffers, Executive Director, Lawton and Rhea Chiles Center for Healthy Mothers and Babies, Department of Community and Family Health, University of South Florida, Tampa; Ms. Katherine Kamiya, Chairwoman, Florida Interagency Coordinating Council for Infants and Toddlers, Lawton and Rhea Chiles Center for Healthy Mothers and Babies, Tallahassee; Ms. Daniella Levine, Executive Director, Human Services Coalition of Dade County, Inc., Coral Gables; Dr. Ann Levy, Director, Educational Research Center for Childhood Development, Florida State University, Tallahassee; Ms. Barbara Mainster, Executive Director, Redlands Christian Migrant Association, Immokalee.

Ms. Esmin Master, Executive Director, First Coast Developmental Academy, Jacksonville; Mr. James E. Mills, Executive Director, Juvenile Welfare Board of Pinellas County, Pinellas Park; Mr. James J. Mooney, Director, Metro-Dade Office of Youth and Family Development, Miami; Ms. Susan Muenchow, Executive Director, Florida Children's Forum, Tallahassee; Ms. Joan Nabors, Executive Director, Florida Initiatives, Inc., Tallahassee.

Ms. Rose Naff, Executive Director, Florida Healthy Kids Corporation, Tallahassee; Ms. Janet Ndah, Dean of Students, Punta Gorda Middle School, Punta Gorda; Dr. Pam Phelps, Vice President, Creative Center for Childhood Research and Training, Tallahassee; Ms. Patricia Pierce, Associate Executive Director, Institute for Child Health Policy, Gulfport; Mr. Larry Pintacuda, Chief of Child Care, Florida Department of Children and Families, Tallahassee.

Mr. Peter Roulhac, Vice President, First Union National Bank of Florida, Miami; Ms. Phyliss Siderits, Assistant Division Director, Children's Medical Services, Tallahassee; Dr. Linda Stone, Program Director, Lawton and Rhea Chiles Center for Healthy Mothers and Babies, University of South Florida, Winter Park; Dr. Barbara Weinstein, President/CEO, Family Central, Fort Lauderdale; Dr. Anita Zervigon-Hakes, Interagency Coordinator, Maternal and Child Health, Lawton and Rhea Chiles Center for Healthy Mothers and Babies Tallahassee.

By Mr. DASCHLE (for himself and Mr. MURKOWSKI):

S. 2595. A bill to amend the Housing and Community Development Act of 1974 to provide affordable housing and community development assistance to rural areas with excessively high rates of outmigration and low per capita income levels; to the Committee on Banking, Housing, and Urban Affairs.

THE RURAL RECOVERY ACT OF 1998

Mr. DASCHLE. Mr. President, today I am introducing legislation that will help rural areas affected by severe population loss improve their economic conditions and create high-paying jobs. We are experiencing first-hand the challenge of retaining entire generations in many parts of rural South Dakota as the agricultural crisis deepens and fewer and fewer young people can find economically-rewarding opportunities that give them reason to stay.

As a result, young people are being forced to leave the towns in which they grew up for better jobs in urban areas, causing a depressing loss of generational continuity and a foreboding sign for the future of these rural communities.

Too often we forget that while the economic growth experienced in our urban areas is a necessary element of a sound national economy, the health and vitality of our rural areas are just as critical to our Nation's economic future, and to its character. If nothing is done to address the out-migration that is currently being experienced by our most rural communities, we will continue to jeopardize the future of rural America.

That is why I am introducing legislation to provide these critical rural areas with the resources necessary to create the good jobs that will help young families remain active residents of the rural communities in which they choose to live. The Rural Recovery Act of 1998 would provide a minimum of $250,000 per year to counties and tribes with out-migration levels of 15 percent or higher, per-capita income levels that are below the national average, and whose exterior borders are not adjacent to a metropolitan area.

The legislation authorizes the United States Department of Housing and Urban Development to set aside $50 million in Community Development Block Grant funding. The money, which is already included in the agency's budget, will be allocated on a formula basis to rural counties and tribes suffering from out migration and low per-capita income levels.

County and tribal governments will be able to use this Federal funding to improve their industrial parks, purchase land for development, build affordable housing and develop economic recovery strategies. All of these important steps will help rural communities address their economic challenges and plan for stable long-term growth and development.

While Federal agencies such as the United States Department of Agriculture's Office of Rural Development and the Economic Development Administration do provide aid for rural development purposes, there are no Federal programs that provide a steady source of funding for rural areas most affected by severe out migration and low per-capita income. For these areas, the process of encouraging economic growth is arduous. I strongly believe the Rural Recovery Act of 1998 will provide the long term assistance required to aid the coordinated efforts of local community leaders as they begin economic recovery efforts that will ensure a bright future for rural America.

In August, Senator MURKOWSKI and I introduced legislation to provide assistance to rural communities that experience extremely high electric power rates. Today, I am pleased that he has agreed to join me in cosponsoring this legislation to assist rural areas with high out-migration and low per-capita incomes. It is important that Congress do whatever it can to assist these economically-challenged rural areas to remain vibrant participants in the American Dream. Senator MURKOWSKI and I expect to combine these bills and introduce them as a single piece of legislation next year.

I hope that my colleagues will join Senator MURKOWSKI and I during the 106th Congress to enact these important new policies. I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2596

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rural Recovery Act of 1998".

SEC. 2. RURAL RECOVERY COMMUNITY DEVELOPMENT BLOCK GRANTS.

Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) is amended by adding at the end the following:

"SEC. 123. RURAL RECOVERY COMMUNITY DEVELOPMENT BLOCK GRANTS.

"(a) FINDINGS; PURPOSE.—

"(1) FINDINGS.—Congress finds that—

"(A) a modern infrastructure, including affordable housing, wastewater and water service, and advanced technology capabilities is a necessary ingredient of a modern society and development of a prosperous economy with minimal environmental impacts;

"(B) the Nation's rural areas face critical social, economic, and environmental problems, arising in significant measure from the growing cost of infrastructure development in rural areas that suffer from low per capita income and high rates of outmigration and are not adequately addressed by existing Federal assistance programs; and

"(C) the future welfare of the Nation and the well-being of its citizens depend on the establishment and maintenance of viable rural areas as social, economic, and political entities.

"(2) PURPOSE.—The purpose of this section is to provide for the development and maintenance of viable rural areas through the provision of affordable housing and community development assistance to eligible units of general local government and eligible Indian tribes in rural areas with excessively high rates of outmigration and low per capita income levels.

"(b) DEFINITIONS.—In this section:

"(1) ELIGIBLE UNIT OF GENERAL LOCAL GOVERNMENT.—The term 'eligible unit of general local government' means a unit of general local government that is the governing body of a rural recovery area.

"(2) ELIGIBLE INDIAN TRIBE.—The term 'eligible Indian tribe' means the governing body of an Indian tribe that is located in a rural recovery area.

"(3) GRANTEE.—The term 'grantee' means an eligible unit of general local government or eligible Indian tribe that receives a grant under this section.

"(4) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, group, and nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaskan Native Village, of the United States, which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (Public Law 93-638) or was considered an eligible recipient under chapter 67 of title 31, United States Code, prior to the repeal of such chapter.

"(5) RURAL RECOVERY AREA.—The term 'rural recovery area' means any geographic area represented by a unit of general local government or an Indian tribe—

"(A) the borders of which are not adjacent to a metropolitan area;

"(B) in which—

"(i) the annual population outmigration level equals or exceeds 15 percent, as determined by Secretary of Agriculture; and

"(ii) the per capita income is less than that of the national nonmetropolitan average; and

"(C) that does not include a city with a population of more than 2,500.

"(6) UNIT OF GENERAL LOCAL GOVERNMENT.—

"(A) IN GENERAL.—The term 'unit of general local government' means any city, county, town, township, parish, village, borough (organized or unorganized), or other general purpose political subdivision of a State; Guam, the Northern Mariana Islands, the Virgin Islands, Puerto Rico, and American Samoa, or a general purpose political subdivision thereof; a combination of such political subdivisions that, except as provided in section 106(d)(4), is recognized by the Secretary; the District of Columbia; and the Trust Territory of the Pacific Islands.

"(B) OTHER ENTITIES INCLUDED.—The term also includes a State or a local public body or agency (as defined in section 711 of the Housing and Urban Development Act of 1970), community association, or other entity, that is approved by the Secretary for the purpose of providing public facilities or services to a new community as part of a program meeting the eligibility standards of section 712 of the Housing and Urban Development Act of 1970 or title IV of the Housing and Urban Development Act of 1968.

"(c) GRANT AUTHORITY.—The Secretary may make grants in accordance with this section to eligible units of general local government and eligible Indian tribes that meet the requirements of subsection (d) to carry out eligible activities described in subsection (f).

"(d) ELIGIBILITY REQUIREMENTS.—

"(1) STATEMENT OF RURAL DEVELOPMENT OBJECTIVES.—In order to receive a grant under this section for a fiscal year, an eligible unit of general local government or eligible Indian tribe—

"(A) shall—

"(i) publish a proposed statement of rural development objectives and a description of the proposed eligible activities described in subsection (f) for which the grant will be used; and

"(ii) afford residents of the rural recovery area served by the eligible unit of general local government or eligible Indian tribe with an opportunity to examine the contents of the proposed statement and the proposed eligible activities published under clause (i), and to submit comments to the eligible unit of general local government or eligible Indian tribe, as applicable, on—

"(I) the proposed statement and the proposed eligible activities; and

"(II) the overall community development performance of the eligible unit of general local government or eligible Indian tribe, as applicable; and

“(B) based on any comments received under subparagraph (A)(ii), prepare and submit to the Secretary—

“(i) a final statement of rural development objectives;

“(ii) a description of the eligible activities described in subsection (f) for which a grant received under this section will be used; and

“(iii) a certification that the eligible unit of general local government or eligible Indian tribe, as applicable, will comply with the requirements of paragraph (2).

“(2) Public Notice and Comment.—In order to enhance public accountability and facilitate the coordination of activities among different levels of government, an eligible unit of general local government or eligible Indian tribe that receives a grant under this section shall, as soon as practicable after such receipt, provide the residents of the rural recovery area served by the eligible unit of general local government or eligible Indian tribe, as applicable, with—

“(A) a copy of the final statement submitted under paragraph (1)(B);

“(B) information concerning the amount made available under this section and the eligible activities to be undertaken with that amount;

“(C) reasonable access to records regarding the use of any amounts received by the eligible unit of general local government or eligible Indian tribe under this section in any preceding fiscal year; and

“(D) reasonable notice of, and opportunity to comment on, any substantial change proposed to be made in the use of amounts received under this section from 1 eligible activity to another.

“(e) Distribution of Grants.—

“(1) In General.—In each fiscal year, the Secretary shall distribute to each eligible unit of general local government and eligible Indian tribe that meets the requirements of subsection (d)(1) a grant in an amount described in paragraph (2).

“(2) Amount.—Of the total amount made available to carry out this section in each fiscal year, the Secretary shall distribute to each grantee the amount equal to the greater of—

“(A) the pro rata share of the grantee, as determined by the Secretary, based on the combined annual population outmigration level (as determined by Secretary of Agriculture) and the per capita income for the rural recovery area served by the grantee; and

“(B) $250,000.

“(f) Eligible Activities.—Each grantee shall use amounts received under this section for 1 or more of the following eligible activities, which may be undertaken either directly by the grantee, or by any local economic development corporation, regional planning district, nonprofit community development corporation, or statewide development organization authorized by the grantee:

“(1) The acquisition, construction, repair, reconstruction, operation, maintenance, or installation of facilities for water and wastewater service or any other infrastructure needs determined to be critical to the further development or improvement of a designated industrial park.

“(2) The acquisition or disposition of real property (including air rights, water rights, and other interests therein) for rural community development activities.

“(3) The development of telecommunications infrastructure within a designated industrial park that encourages high technology business development in rural areas.

“(4) Activities necessary to develop and implement a comprehensive rural development plan, including payment of reasonable administrative costs related to planning and execution of rural development activities.

“(5) Affordable housing initiatives.

“(g) Performance and Evaluation Report.—

“(1) In General.—Each grantee shall annually submit to the Secretary a performance and evaluation report, concerning the use of amounts received under this section.

“(2) Contents.—Each report submitted under paragraph (1) shall include a description of—

“(i) publish a proposed statement of rural development objectives and a description of the proposed eligible activities described in subsection (f) for which the grant will be used; and

“(A) the eligible activities carried out by the grantee with amounts received under this section, and the degree to which the grantee has achieved the rural development objectives included in the final statement submitted under subsection (d)(1);

“(B) the nature of and reasons for any change in the rural development objectives or the eligible activities of the grantee after submission of the final statement under subsection (d)(1); and

“(C) any manner in which the grantee would change the rural development objectives of the grantee as a result of the experience of the grantee in administering amounts received under this section.

“(h) Retention of Income.—A grantee may retain any income that is realized from the grant, if—

“(1) the income was realized after the initial disbursement of amounts to the grantee under this section; and

“(2) the—

“(A) grantee agrees to utilize the income for 1 or more eligible activities; or

“(B) amount of the income is determined by the Secretary to be so small that compliance with subparagraph (A) would create an unreasonable administrative burden on the grantee.

“(i) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $50,000,000 for each of fiscal years 1999 through 2005.”.

ADDITIONAL COSPONSORS

S. 520

At the request of Mr. FEINGOLD, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 520, a bill to terminate the F/A-18 E/F aircraft program.

S. 609

At the request of Mr. KENNEDY, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 609, a bill to amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for reconstructive breast surgery if they provide coverage for mastectomies.

S. 1072

At the request of Mr. SMITH, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 1072, a bill to amend title 35, United States Code, to protect patent owners against the unauthorized sale of plant parts taken from plants illegally reproduced, and for other purposes.

S. 1097

At the request of Mr. MOYNIHAN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1097, a bill to reduce acid deposition under the Clean Air Act, and for other purposes.

S. 1251

At the request of Mr. D'AMATO, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 1251, a bill to amend the Internal Revenue Code of 1986 to increase the amount of private activity bonds which may be issued in each State, and to index such amount for inflation.

S. 1252

At the request of Mr. D'AMATO, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 1252, a bill to amend the Internal Revenue Code of 1986 to increase the amount of low-income housing credits which may be allocated in each State, and to index such amount for inflation.

S. 1255

At the request of Mr. COATS, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 1255, a bill to provide for the establishment of demonstration projects designed to determine the social, civic, psychological, and economic effects of providing to individuals and families with limited means an opportunity to accumulate assets, and to determine the extent to which an asset-based policy may be used to enable individuals and families with limited means to achieve economic self-sufficiency.

S. 2148

At the request of Mr. KENNEDY, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 2148, a bill to protect religious liberty.

S. 2200

At the request of Mr. D'AMATO, the name of the Senator from Illinois (Ms. MOSELEY-BRAUN) was added as a cosponsor of S. 2200, a bill to amend the Internal Revenue Code of 1986 to make the exclusion for amounts received under group legal services plans permanent.

S. 2208

At the request of Mr. FRIST, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 2208, a bill to amend title IX of the Public Health Service Act to revise and extend the Agency for Healthcare Policy and Research.

S. 2213

At the request of Mr. FRIST, the name of the Senator from Utah (Mr.

HATCH) was added as a cosponsor of S. 2213, a bill to allow all States to participate in activities under the Education Flexibility Partnership Demonstration Act.

S. 2329

At the request of Mr. JEFFORDS, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2329, a bill to amend the Internal Revenue Code of 1986 to enhance the portability of retirement benefits, and for other purposes.

S. 2343

At the request of Mr. BINGAMAN, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 2343, a bill to amend the Radiation Exposure Compensation Act to provide for partial restitution to individuals who worked in uranium mines, or transport which provided uranium for the use and benefit of the United States Government, and for other purposes.

S. 2358

At the request of Ms. SNOWE, her name was added as a cosponsor of S. 2358, a bill to provide for the establishment of a service- connection for illnesses associated with service in the Persian Gulf War, to extend and enhance certain health care authorities relating to such service, and for other purposes.

S. 2364

At the request of Mr. CHAFEE, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 2364, a bill to reauthorize and make reforms to programs authorized by the Public Works and Economic Development Act of 1965.

S. 2372

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 2372, a bill to provide for a pilot loan guarantee program to address Year 2000 problems of small business concerns, and for other purposes.

S. 2441

At the request of Mr. DURBIN, the name of the Senator from Illinois (Ms. MOSELEY-BRAUN) was added as a cosponsor of S. 2441, a bill to amend the Nicaraguan Adjustment and Central American Relief Act to provide to nationals of El Salvador, Guatemala, Honduras, and Haiti an opportunity to apply for adjustment of status under that Act, and for other purposes.

S. 2522

At the request of Mr. DEWINE, the names of the Senator from Washington (Mr. GORTON) and the Senator from Pennsylvania (Mr. SANTORUM) were added as cosponsors of S. 2522, a bill to support enhanced drug interdiction efforts in the major transit countries and support a comprehensive supply eradication and crop substitution program in source countries.

S. 2539

At the request of Ms. SNOWE, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 2539, a bill to authorize and facilitate a program to enhance training, research and development, energy conservation and efficiency, and consumer education in the oilheat industry for the benefit of oilheat consumers and the public, and for other purposes.

S. 2565

At the request of Mr. DURBIN, the names of the Senator from North Carolina (Mr. HELMS) and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of S. 2565, a bill to amend the Federal Food, Drug, and Cosmetic Act to clarify the circumstances in which a substance is considered to be a pesticide chemical for purposes of such Act, and for other purposes.

SENATE JOINT RESOLUTION 56

At the request of Mr. GRASSLEY, the names of the Senator from Indiana (Mr. LUGAR) and the Senator from Colorado (Mr. ALLARD) were added as cosponsors of Senate Joint Resolution 56, a joint resolution expressing the sense of Congress in support of the existing Federal legal process for determining the safety and efficacy of drugs, including marijuana and other Schedule I drugs, for medicinal use.

SENATE CONCURRENT RESOLUTION 119

At the request of Mr. FRIST, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of Senate Concurrent Resolution 119, a concurrent resolution recognizing the 50th anniversary of the American Red Cross Blood Services.

SENATE CONCURRENT RESOLUTION 121

At the request of Mr. SPECTER, the names of the Senator from Georgia (Mr. CLELAND), the Senator from Wisconsin (Mr. FEINGOLD), and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of Senate Concurrent Resolution 121, a concurrent resolution expressing the sense of Congress that the President should take all necessary measures to respond to the increase in steel imports resulting from the financial crises in Asia, the independent States of the former Soviet Union, Russia, and other areas of the world, and for other purposes.

SENATE RESOLUTION 56

At the request of Mr. GRASSLEY, the names of the Senator from Indiana (Mr. LUGAR), and the Senator from Colorado (Mr. ALLARD) were withdrawn as cosponsors of Senate Resolution 56, a resolution designating March 25, 1997 as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

SENATE RESOLUTION 292—EXPRESSING THE SENSE OF THE SENATE REGARDING TACTILE CURRENCY FOR THE BLIND AND VISUALLY IMPAIRED

Ms. MOSELEY-BRAUN submitted the following resolution; which was referred to the Committee on Banking, Housing, and Urban Affairs.

S. RES. 292

Whereas currency is used by virtually everyone in everyday life, including blind and visually impaired persons;

Whereas the Federal reserve notes of the United States are inaccessible to individuals with visual disabilities;

Whereas the Americans with Disabilities Act enhances the economic independence and equal opportunity for full participation in society for individuals with disabilities;

Whereas most blind and visually impaired persons are therefore required to rely upon others to determine denominations of such currency;

Whereas this constitutes a serious impediment to independence in everyday living:

Whereas electronic means of bill identification will always be more fallible than purely tactile means;

Whereas tactile currency already exists in 23 countries worldwide; and

Whereas the currency of the United States is presently undergoing significant changes for security purposes: Now, therefore, be it

Resolved, That the Senate—

(1) endorses the efforts recently begun by the Bureau of Engraving and Printing to upgrade the currency for security reasons; and

(2) strongly encourages the Secretary of the Treasury and the Bureau of Engraving and Printing to incorporate cost-effective, tactile features into the design changes, thereby including the blind and visually impaired community in independent currency usage.

• Ms. MOSELEY-BRAUN. Mr. President, today I am submitting a resolution that encourages the Bureau of Printing and Engraving to incorporate tactile features on the currency to aid the blind. This resolution enjoys considerable bipartisan support, and was passed by voice vote in the House of Representatives.

Four years ago, Mary Scroggs, a constituent of mine, was hit by a drunk driver on the sidewalk in front of her office as she walked to lunch. As a result, she was left visually-impaired. Since this time, she has tirelessly pursued opportunities to improve the ability of the visually-impaired to live independently. It was her voice on this issue which brings me to introduce this important legislation.

In March 1994, the Bureau of Engraving and Printing commissioned the National Academy of Science to execute a study entitled "Current Features for Visually Impaired People." This report explored the methods of making currency more accessible for all Americans.

In 1997, the Bureau of Engraving and Printing began implementing significant changes to simplify the identification of currency, such as larger numbers and higher color contrast, to ease identification of counterfeit currency. This resolution simply endorses the efforts of the Bureau of Printing and Engraving to study the cost-effective tactile changes to aid those afflicted with low vision or blindness and encourages those changes in the national currency.

This minor change in currency will have a significant impact on the independence of visually impaired Americans. Moreover, incorporating tactual features can serve other purposes, such as being an additional counterfeit deterrent.

Visually impaired individuals are capable, independent people whose valuable contributions touch all of our lives. It is important that all Americans are afforded equal opportunities to perform at the best of their abilities. I hope all of my colleagues will join me in supporting this resolution.•

SENATE RESOLUTION 293—EXPRESSING THE SENSE OF THE SENATE THAT NADIA DABBAGH SHOULD BE RETURNED HOME TO HER MOTHER, MS. MAUREEN DABBAGH

Mr. ROBB (for himself, Mr. GRAHAM, Mr. WARNER, and Ms. FEINSTEIN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 293

Whereas Mr. Mohamad Hisham Dabbagh and Mrs. Maureen Dabbagh had a daughter, Nadia Dabbagh, in 1990.

Whereas Maureen Dabbagh and Mohamad Hisham Dabbagh were divorced in February 1992.

Whereas in 1993, Nadia was abducted by her farther.

Whereas Mohamad Dabbagh later fled the country with Nadia.

Whereas the governments of Syria and the United States have granted child custody to Maureen Dabbagh and both have issued arrest warrants for Mohamad Dabbagh.

Whereas Mohamad Dabbagh has escaped to Saudi Arabia.

Whereas the United States Department of State believes Nadia now resides in Syria.

Whereas Maureen Dabbagh, with the assistance of missing children organizations, has been unable to reunite with her daughter.

Whereas the Department of State, the Federal Bureau of Investigation and Interpol have been unsuccessful in her attempts to bring Nadia back to the United States.

Whereas Maureen Dabbagh has not seen her daughter in over five years.

Whereas it will take the continued effort and pressure on the part of Syrian officials to bring this case to a successful conclusion: Now, therefore, be it

Resolved, That it is the Sense of the Senate that the governments of the United States and Syria immediately locate Nadia and deliver her safely to her mother.

Mr. ROBB. Mr. President, I am submitting a resolution today expressing the Sense of the Senate regarding a heinous crime affecting a family in Virginia and a growing problem in this country.

According to Department of Justice statistics, 114,600 children are the subject of an abduction attempt by a stranger each year, and 12 children are actually abducted by a stranger every day. The statistics on child abductions by non-custodial parents is even more alarming, with 983 abductions each and every day.

I believe that we, as Members of Congress, as parents, and as concerned citizens of this country, should use all available resources in an exhaustive effort to locate missing and abducted children.

Today, through this Sense of the Senate resolution, I seek to bring to your attention the plight of Ms. Maureen Dabbagh of Virginia Beach. Ms. Dabbagh has not seen her daughter, Nadia, in 5 years. At the age of 3, Mr. Mohamad Hisham Dabbagh illegally abducted Nadia and fled the United States. He is wanted on State and Federal warrants in connection with this abduction and he has been the subject of an international "wanted" notice since 1996. Since the abduction, Ms. Dabbagh has not seen or heard from her child. She has been aided in her ordeal by many caring people, groups and government agencies, however, to this day, Nadia still has not been returned to her mother.

Mr. President, I greatly sympathize with the plight of Maureen Dabbagh and other parents facing similar situations. I wish to redouble all efforts to bring Nadia home.

SENATE CONCURRENT RESOLUTION 125—EXPRESSING THE OPPOSITION OF CONGRESS TO ANY DEPLOYMENT OF UNITED STATES GROUND FORCES IN KOSOVO

Mr. INHOFE (for himself, Mr. LOTT, Mr. HELMS, Mrs. HUTCHISON, Mr. BURNS, Mr. STEVENS, Mr. THOMAS, Mr. HUTCHINSON, Mr. SMITH of New Hampshire, Mr. MURKOWSKI, Mr. BENNETT, Mr. ALLARD, Mr. CAMPBELL, Mr. MACK, Mr. CRAIG, Mr. GRAMS, Mr. FAIRCLOTH, Mr. SESSIONS, Mr. ENZI, and Mr. HATCH) submitted the following concurrent resolution which was referred to the Committee on Foreign Relations:

S. CON. RES. 125

Whereas Kosovo, unlike Bosnia, is a province of the sovereign Nation of Serbia;

Whereas there is no vital United States national security interest at stake in the current violence taking place in Kosovo;

Whereas an Act of Congress is necessary for the introduction of the Armed Forces of the United States into hostilities or situations where imminent involvement in hostilities is clearly indicated by the circumstances, when such action is not required for the defense of the United States, its Armed Forces, or its nationals;

Whereas President Clinton is contemplating ordering such a deployment to Kosovo in the near future in conjunction with NATO;

Whereas the Secretary of Defense, William Cohen, opposes the deployment of ground forces in Kosovo, as reflected in his testimony before Congress on October 6, 1998;

Whereas the lessons of United States military involvement in Bosnia clearly argue that the costs and duration of any such deployment for peacekeeping purposes will be much heavier and much longer than initially foreseen; and

Whereas the substantial drain on military readiness of a deployment in Kosovo would be inconsistent with the need, recently acknowledged by the Joint Chiefs of Staff, to reverse the trends which are decimating the ability of the Armed Forces of the United States to carry out the basic National Military Strategy of the United States: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress hereby expresses its opposition to any deployment of United States ground forces into the Serbian province of Kosovo for peacemaking or peacekeeping purposes.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President.

SENATE CONCURRENT RESOLUTION 126—EXPRESSING THE SENSE OF CONGRESS THAT THE PRESIDENT SHOULD REASSERT THE TRADITIONAL OPPOSITION OF THE UNITED STATES TO THE UNILATERAL DECLARATION OF A PALESTINIAN STATE

Mr. D'AMATO (for himself and Mr. WYDEN) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 126

Resolved by the Senate (the House of Representatives concurring),

Whereas the United States has never endorsed the creation of an independent Palestinian State;

Whereas the United States has traditionally opposed the unilateral declaration of a Palestinian State because of concerns that such a state could pose a threat to Israel and would likely have a destabilizing effect on the entire Middle East;

Whereas the United States stated its position, after Israel and the Palestinians signed the Oslo Accords, that all questions of Palestinian sovereignty and statehood are matters which must be mutually agreed upon by the parties;

Whereas, the administration's recent statements on a unilateral declaration of a Palestinian State have been contradictory and confusing;

Whereas a unilateral declaration of Palestinian statehood would be a grievous violation of the Oslo Accords;

Whereas despite the Oslo Accords, Chairman Arafat, his cabinet, and the Palestinian National Council, have threatened to unilaterally proclaim the establishment of a Palestinian State in May, 1999;

Whereas the Palestinian cabinet, on September 24, 1998 stated that "at the end of the interim period, it (the Palestinian government) shall declare the establishment of a Palestinian State on all Palestinian land occupied since 1967, with Jerusalem as the eternal capital of the Palestinian State";

Whereas Chairman Arafat in speaking to the United Nations on September 28, 1998, called on world leaders to support an independent Palestinian state;

Whereas Chairman Arafat stated on July 15, 1998, that "[t]here is a transition period of 5 years and after 5 years we have the right to declare an independent Palestinian state.";

Whereas Palestinian National Council Speaker Salim al-Za'nun stated on June 15, 1998, that: "If following our declaration of a state, Israel renews its occupation of East Jerusalem, the West Bank, and the Gaza Strip, the Palestinian people will struggle and resist the occupier with all means possible, including armed struggle": Now, therefore, be it

Resolved by the Senate (the House of Representative concurring), That it is the sense of the Congress that—

(1) Israel, and Israel alone, can determine its security needs; and

(2) The final political status of the Palestinian entity can only be determined through bilateral negotiations and agreement between Israel and the Palestinian Authority; and

(3) Any such unilateral declaration of a Palestinian state would be a grievous violation of the Oslo Accords, would seriously impede any possibility of advancing the peace process, and would have severe negative consequences for Palestinian relations with the United States; and

(4) The President should now publicly and unequivocally state that the United States will actively oppose such a unilateral declaration and will not extend recognition to any unilaterally declared Palestinian state.

Mr. D'AMATO. Mr. President, today, along with my colleague from Oregon, Senator Ron WYDEN, I submit a Concurrent Resolution opposing the unilateral declaration of a Palestinian State. The House version of this resolution is being introduced by Rep. JIM SAXTON, my colleague from New Jersey.

Mr. President, Yasir Arafat seeks to abandon the Oslo process and unilaterally declare a Palestinian state at the conclusion of the transition period of five years, in May 1999. He has even gone as far as calling upon world leaders to support an independent Palestinian state. This is wholly unacceptable.

I have in the past questioned Arafat's motives and his sincerity and I do so again. This act on his part will be a clear abrogation of the Peace Process and a slap in the face to Israel which has adhered to the process, despite continual noncompliance by the Palestinians. But then, we should not be surprised. This is the same group that harbors and praises those who kill innocent men, women and children in bus bombings that kill Israelis and Americans alike.

Five years ago, the world was provided with a glimmer of hope that the leopard had changed its spots, but that hope was never realized. Not only did the leopard not change his spots, he has grown bigger and bolder. The Palestinian Authority, which Arafat now heads, has been legitimized and now carries out its aggressive policies, not under the cover of darkness like the PLO used to do, but in broad daylight for all to see. In no way can the United States lend further credence to this terrorist force.

The purpose of this resolution is to send the message that the United States cannot and should not extend recognition to a unilaterally declared Palestinian state. Moreover, the President should publicly and unequivocally state that the United States will actively oppose such a declaration. If Israel were to take a unilateral action in defiance of Oslo, the Palestinians would express outrage over the violations. The Palestinians view themselves as different however. Such a move by the Palestinians cannot be allowed. The final political status of the Palestinians can only be determined through bilateral negotiation and agreement between Israel and the Palestinian Authority, not by a unilateral act in defiance of the very agreement the Palestinians signed with Israel.

Mr. President, my colleagues and I are serious. The administration must understand that such a move by the Palestinians is an insult to all those who were patient in light of all of the Palestinian violations of the peace. Moreover, the administration in legitimizing these acts, would be humiliating Israel which is the only true democracy in the Middle East and our close ally. The administration's confusion on the issue in recent months has not helped matters and the extension of diplomatic recognition would severely harm the U.S. ability to act as an impartial mediator between the two parties. Simply put, U.S. recognition of a Palestinian declaration of statehood would be the acceptance and acquiescence of the Palestinians' violation of its commitments under Oslo. We would be rewarding them for their flagrant violations of the Peace Process. This would be an error of historical proportion. I can only hope we do not make this mistake.

Mr. President, I urge my colleagues to support this resolution and urge its speedy passage.

AMENDMENTS SUBMITTED

ADVISORY COUNCIL ON CALIFORNIA INDIAN POLICY EXTENSION ACT OF 1998

CAMPBELL AMENDMENT NO. 3788

(Ordered to lie on the table.)

Mr. CAMPBELL submitted an amendment intended to be proposed by him to the bill (H.R. 3069) to extend the Advisory Council on California Indian Policy to allow the Advisory Council to advise Congress on the implementation of the proposals and recommendations of the Advisory Council; as follows:

Strike section 4.

FREEDOM FROM RELIGIOUS PERSECUTION ACT OF 1998

NICKLES AMENDMENT NO. 3789

Mr. NICKLES proposed an amendment to the bill (H.R. 2431) to establish an Office of Religious Persecution Monitoring, to provide for the imposition of sanctions against countries engaged in a pattern of religious persecution, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "International Religious Freedom Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings; policy.
Sec. 3. Definitions.

TITLE I—DEPARTMENT OF STATE ACTIVITIES

Sec. 101. Office on International Religious Freedom; Ambassador at Large for International Religious Freedom.
Sec. 102. Reports.
Sec. 103. Establishment of a religious freedom Internet site.
Sec. 104. Training for Foreign Service officers.
Sec. 105. High-level contacts with non-governmental organizations.
Sec. 106. Programs and allocations of funds by United States missions abroad.
Sec. 107. Equal access to United States missions abroad for conducting religious activities.
Sec. 108. Prisoner lists and issue briefs on religious freedom concerns.

TITLE II—COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

Sec. 201. Establishment and composition.
Sec. 202. Duties of the Commission.
Sec. 203. Report of the Commission.
Sec. 204. Applicability of other laws.
Sec. 205. Authorization of appropriations.
Sec. 206. Termination.

TITLE III—NATIONAL SECURITY COUNCIL

Sec. 301. Special Adviser on International Religious Freedom.

TITLE IV—PRESIDENTIAL ACTIONS

Subtitle I—Targeted Responses to Violations of Religious Freedom Abroad

Sec. 401. Presidential actions in response to violations of religious freedom.
Sec. 402. Presidential actions in response to particularly severe violations of religious freedom.
Sec. 403. Consultations.
Sec. 404. Report to Congress.
Sec. 405. Description of Presidential actions.
Sec. 406. Effects on existing contracts.
Sec. 407. Presidential waiver.
Sec. 408. Publication in Federal Register.
Sec. 409. Termination of Presidential actions.
Sec. 410. Preclusion of judicial review.

Subtitle II—Strengthening Existing Law

Sec. 421. United States assistance.
Sec. 422. Multilateral assistance.
Sec. 423. Exports of certain items used in particularly severe violations of religious freedom.

TITLE V—PROMOTION OF RELIGIOUS FREEDOM

Sec. 501. Assistance for promoting religious freedom.
Sec. 502. International broadcasting.
Sec. 503. International exchanges.
Sec. 504. Foreign Service awards.

TITLE VI—REFUGEE, ASYLUM, AND CONSULAR MATTERS

Sec. 601. Use of Annual Report.

Sec. 602. Reform of refugee policy.
Sec. 603. Reform of asylum policy.
Sec. 604. Inadmissibility of foreign government officials who have engaged in particularly severe violations of religious freedom.
Sec. 605. Studies on the effect of expedited removal provisions on asylum claims.
TITLE VII—MISCELLANEOUS PROVISIONS
Sec. 701. Business codes of conduct.

SEC. 2. FINDINGS; POLICY.

(a) FINDINGS.—Congress makes the following findings:

(1) The right to freedom of religion undergirds the very origin and existence of the United States. Many of our Nation's founders fled religious persecution abroad, cherishing in their hearts and minds the ideal of religious freedom. They established in law, as a fundamental right and as a pillar of our Nation, the right to freedom of religion. From its birth to this day, the United States has prized this legacy of religious freedom and honored this heritage by standing for religious freedom and offering refuge to those suffering religious persecution.

(2) Freedom of religious belief and practice is a universal human right and fundamental freedom articulated in numerous international instruments, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Helsinki Accords, the Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief, the United Nations Charter, and the European Convention for the Protection of Human Rights and Fundamental Freedoms.

(3) Article 18 of the Universal Declaration of Human Rights recognizes that "Everyone has the right to freedom of thought, conscience, and religion. This right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship, and observance.". Article 18(1) of the International Covenant on Civil and Political Rights recognizes that "Everyone shall have the right to freedom of thought, conscience, and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice, and teaching". Governments have the responsibility to protect the fundamental rights of their citizens and to pursue justice for all. Religious freedom is a fundamental right of every individual, regardless of race, sex, country, creed, or nationality, and should never be arbitrarily abridged by any government.

(4) The right to freedom of religion is under renewed and, in some cases, increasing assault in many countries around the world. More than one-half of the world's population lives under regimes that severely restrict or prohibit the freedom of their citizens to study, believe, observe, and freely practice the religious faith of their choice. Religious believers and communities suffer both government-sponsored and government-tolerated violations of their rights to religious freedom. Among the many forms of such violations are state-sponsored slander campaigns, confiscations of property, surveillance by security police, including by special divisions of "religious police", severe prohibitions against construction and repair of places of worship, denial of the right to assemble and relegation of religious communities to illegal status through arbitrary registration laws, prohibitions against the pursuit of education or public office, and prohibitions against publishing, distributing, or possessing religious literature and materials.

(5) Even more abhorrent, religious believers in many countries face such severe and violent forms of religious persecution as detention, torture, beatings, forced marriage, rape, imprisonment, enslavement, mass resettlement, and death merely for the peaceful belief in, change of or practice of their faith. In many countries, religious believers are forced to meet secretly, and religious leaders are targeted by national security forces and hostile mobs.

(6) Though not confined to a particular region or regime, religious persecution is often particularly widespread, systematic, and heinous under totalitarian governments and in countries with militant, politicized religious majorities.

(7) Congress has recognized and denounced acts of religious persecution through the adoption of the following resolutions:

(A) House Resolution 515 of the One Hundred Fourth Congress, expressing the sense of the House of Representatives with respect to the persecution of Christians worldwide.

(B) Senate Concurrent Resolution 71 of the One Hundred Fourth Congress, expressing the sense of the Senate regarding persecution of Christians worldwide.

(C) House Concurrent Resolution 102 of the One Hundred Fourth Congress, expressing the sense of the House of Representatives concerning the emancipation of the Iranian Baha'i community.

(b) POLICY.—It shall be the policy of the United States, as follows:

(1) To condemn violations of religious freedom, and to promote, and to assist other governments in the promotion of, the fundamental right to freedom of religion.

(2) To seek to channel United States security and development assistance to governments other than those found to be engaged in gross violations of the right to freedom of religion, as set forth in the Foreign Assistance Act of 1961, in the International Financial Institutions Act of 1977, and in other formulations of United States human rights policy.

(3) To be vigorous and flexible, reflecting both the unwavering commitment of the United States to religious freedom and the desire of the United States for the most effective and principled response, in light of the range of violations of religious freedom by a variety of persecuting regimes, and the status of the relations of the United States with different Nations.

(4) To work with foreign governments that affirm and protect religious freedom, in order to develop multilateral documents and initiatives to combat violations of religious freedom and promote the right to religious freedom abroad.

(5) Standing for liberty and standing with the persecuted, to use and implement appropriate tools in the United States foreign policy apparatus, including diplomatic, political, commercial, charitable, educational, and cultural channels, to promote respect for religious freedom by all governments and peoples.

SEC. 3. DEFINITIONS.

In this Act:

(1) AMBASSADOR AT LARGE.—The term "Ambassador at Large" means the Ambassador at Large for International Religious Freedom appointed under section 101(b).

(2) ANNUAL REPORT.—The term "Annual Report" means the Annual Report on International Religious Freedom described in section 102(b).

(3) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means—

(A) the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives; and

(B) in the case of any determination made with respect to the taking of President action under paragraphs (9) through (15) of section 405(a), the term includes the committees described in subparagraph (A) and, where appropriate, the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(4) COMMENSURATE ACTION.—The term "commensurate action" means action taken by the President under section 405(b).

(5) COMMISSION.—The term "Commission" means the United States Commission on International Religious Freedom established in section 201(a).

(6) COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES.—The term "Country Reports on Human Rights Practices" means the annual reports required to be submitted by the Department of State to Congress under sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961.

(7) EXECUTIVE SUMMARY.—The term "Executive Summary" means the Executive Summary to the Annual Report, as described in section 102(b)(1)(F).

(8) GOVERNMENT OR FOREIGN GOVERNMENT.—The term "government" or "foreign government" includes any agency or instrumentality of the government.

(9) HUMAN RIGHTS REPORTS.—The term "Human Rights Reports" means all reports submitted by the Department of State to Congress under sections 116 and 502B of the Foreign Assistance Act of 1961.

(10) OFFICE.—The term "Office" means the Office on International Religious Freedom established in section 101(a).

(11) PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.—The term "particularly severe violations of religious freedom" means systematic, ongoing, egregious violations of religious freedom, including violations such as—

(A) torture or cruel, inhuman, or degrading treatment or punishment;

(B) prolonged detention without charges;

(C) causing the disappearance of persons by the abduction or clandestine detention of those persons; or

(D) other flagrant denial of the right to life, liberty, or the security of persons.

(12) SPECIAL ADVISER.—The term "Special Adviser" means the Special Adviser to the President on International Religious Freedom described in section 101(i) of the National Security Act of 1947, as added by section 301 of this Act.

(13) VIOLATIONS OF RELIGIOUS FREEDOM.—The term "violations of religious freedom" means violations of the internationally recognized right to freedom of religion and religious belief and practice, as set forth in the international instruments referred to in section 2(a)(2) and as described in section 2(a)(3), including violations such as—

(A) arbitrary prohibitions on, restrictions of, or punishment for—

(i) assembling for peaceful religious activities such as worship, preaching, and prayer, including arbitrary registration requirements,

(ii) speaking freely about one's religious beliefs,

(iii) changing one's religious beliefs and affiliation,

(iv) possession and distribution of religious literature, including Bibles, or

(v) raising one's children in the religious teachings and practices of one's choice, or

(B) any of the following acts if committed on account of an individual's religious belief or practice: detention, interrogation, imposition of an onerous financial penalty, forced labor, forced mass resettlement, imprisonment, forced religious conversion, beating, torture, mutilation, rape, enslavement, murder, and execution.

TITLE I—DEPARTMENT OF STATE ACTIVITIES

SEC. 101. OFFICE ON INTERNATIONAL RELIGIOUS FREEDOM; AMBASSADOR AT LARGE FOR INTERNATIONAL RELIGIOUS FREEDOM.

(a) ESTABLISHMENT OF OFFICE.—There is established within the Department of State an Office on International Religious Freedom that shall be headed by the Ambassador at Large for International Religious Freedom appointed under subsection (b).

(b) APPOINTMENT.—The Ambassador at Large shall be appointed by the President, by and with the advice and consent of the Senate.

(c) DUTIES.—The Ambassador at Large shall have the following responsibilities:

(1) IN GENERAL.—The primary responsibility of the Ambassador at Large shall be to advance the right to freedom of religion abroad, to denounce the violation of that right, and to recommend appropriate responses by the United States Government when this right is violated.

(2) ADVISORY ROLE.—The Ambassador at Large shall be a principal adviser to the President and the Secretary of State regarding matters affecting religious freedom abroad and, with advice from the Commission on International Religious Freedom, shall make recommendations regarding—

(A) the policies of the United States Government toward governments that violate the freedom of religion or that fail to ensure the individual's right to religious belief and practice; and

(B) policies to advance the right to religious freedom abroad.

(3) DIPLOMATIC REPRESENTATION.—Subject to the direction of the President and the Secretary of State, the Ambassador at Large is authorized to represent the United States in matters and cases relevant to religious freedom abroad in—

(A) contacts with foreign governments, intergovernmental organizations, and specialized agencies of the United Nations, the Organization on Security and Cooperation in Europe, and other international organizations of which the United States is a member; and

(B) multilateral conferences and meetings relevant to religious freedom abroad.

(4) REPORTING RESPONSIBILITIES.—The Ambassador at Large shall have the reporting responsibilities described in section 102.

(d) FUNDING.—The Secretary of State shall provide the Ambassador at Large with such funds as may be necessary for the hiring of staff for the Office, for the conduct of investigations by the Office, and for necessary travel to carry out the provisions of this section.

SEC. 102. REPORTS.

(a) PORTIONS OF ANNUAL HUMAN RIGHTS REPORTS.—The Ambassador at Large shall assist the Secretary of State in preparing those portions of the Human Rights Reports that relate to freedom of religion and freedom from discrimination based on religion and those portions of other information provided Congress under sections 116 and 502B of the Foreign Assistance Act of 1961 (22 U.S.C. 2151m, 2304) that relate to the right to freedom of religion.

(b) ANNUAL REPORT ON INTERNATIONAL RELIGIOUS FREEDOM.—

(1) DEADLINE FOR SUBMISSION.—On September 1 of each year or the first day thereafter on which the appropriate House of Congress is in session, the Secretary of State, with the assistance of the Ambassador at Large, and taking into consideration the recommendations of the Commission, shall prepare and transmit to Congress an Annual Report on International Religious Freedom supplementing the most recent Human Rights Reports by providing additional detailed information with respect to matters involving international religious freedom. Each Annual Report shall contain the following:

(A) STATUS OF RELIGIOUS FREEDOM.—A description of the status of religious freedom in each foreign country, including—

(i) trends toward improvement in the respect and protection of the right to religious freedom and trends toward deterioration of such right;

(ii) violations of religious freedom engaged in or tolerated by the government of that country; and

(iii) particularly severe violations of religious freedom engaged in or tolerated by the government of that country.

(B) VIOLATIONS OF RELIGIOUS FREEDOM.—An assessment and description of the nature and extent of violations of religious freedom in each foreign country, including persecution of one religious group by another religious group, religious persecution by governmental and nongovernmental entities, persecution targeted at individuals or particular denominations or entire religions, the existence of government policies violating religious freedom, and the existence of government policies concerning—

(i) limitations or prohibitions on, or lack of availability of, openly conducted, organized religious services outside of the premises of foreign diplomatic missions or consular posts; and

(ii) the forced religious conversion of minor United States citizens who have been abducted or illegally removed from the United States, and the refusal to allow such citizens to be returned to the United States.

(C) UNITED STATES POLICIES.—A description of United States actions and policies in support of religious freedom in each foreign country engaging in or tolerating violations of religious freedom, including a description of the measures and policies implemented during the preceding 12 months by the United States under titles I, IV, and V of this Act in opposition to violations of religious freedom and in support of international religious freedom.

(D) INTERNATIONAL AGREEMENTS IN EFFECT.—A description of any binding agreement with a foreign government entered into by the United States under section 401(b) or 402(c).

(E) TRAINING AND GUIDELINES OF GOVERNMENT PERSONNEL.—A description of—

(i) the training described in section 602 (a) and (b) and section 603 (b) and (c) on violations of religious freedom provided to immigration judges and consular, refugee, immigration, and asylum officers; and

(ii) the development and implementation of the guidelines described in sections 602(c) and 603(a).

(F) EXECUTIVE SUMMARY.—An Executive Summary to the Annual Report highlighting the status of religious freedom in certain foreign countries and including the following:

(i) COUNTRIES IN WHICH THE UNITED STATES IS ACTIVELY PROMOTING RELIGIOUS FREEDOM.—An identification of foreign countries in which the United States is actively promoting religious freedom. This section of the report shall include a description of United States actions taken to promote the internationally recognized right to freedom of religion and oppose violations of such right under title IV and title V of this Act during the period covered by the Annual Report. Any country designated as a country of particular concern for religious freedom under section 402(b)(1) shall be included in this section of the report.

(ii) COUNTRIES OF SIGNIFICANT IMPROVEMENT IN RELIGIOUS FREEDOM.—An identification of foreign countries the governments of which have demonstrated significant improvement in the protection and promotion of the internationally recognized right to freedom of religion during the period covered by the Annual Report. This section of the report shall include a description of the nature of the improvement and an analysis of the factors contributing to such improvement, including actions taken by the United States under this Act.

(2) CLASSIFIED ADDENDUM.—If the Secretary of State determines that it is in the national security interests of the United States or is necessary for the safety of individuals to be identified in the Annual Report or is necessary to further the purposes of this Act, any information required by paragraph (1), including measures or actions taken by the United States, may be summarized in the Annual Report or the Executive Summary and submitted in more detail in a classified addendum to the Annual Report or the Executive Summary.

(c) PREPARATION OF REPORTS REGARDING VIOLATIONS OF RELIGIOUS FREEDOM.—

(1) STANDARDS AND INVESTIGATIONS.—The Secretary of State shall ensure that United States missions abroad maintain a consistent reporting standard and thoroughly investigate reports of violations of the internationally recognized right to freedom of religion.

(2) CONTACTS WITH NONGOVERNMENTAL ORGANIZATIONS.—In compiling data and assessing the respect of the right to religious freedom for the Human Rights Reports, the Annual Report on International Religious Freedom, and the Executive Summary, United States mission personnel shall, as appropriate, seek out and maintain contacts with religious and human rights nongovernmental organizations, with the consent of those organizations, including receiving reports and updates from such organizations and, when appropriate, investigating such reports.

(d) AMENDMENTS TO THE FOREIGN ASSISTANCE ACT.—

(1) CONTENT OF HUMAN RIGHTS REPORTS FOR COUNTRIES RECEIVING ECONOMIC ASSISTANCE.—Section 116(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d)) is amended—

(A) by striking "and" at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting "; and "; and

(C) by adding at the end the following:

"(6) wherever applicable, violations of religious freedom, including particularly severe violations of religious freedom (as defined in section 3 of the International Religious Freedom Act of 1998).''.

(2) CONTENTS OF HUMAN RIGHTS REPORTS FOR COUNTRIES RECEIVING SECURITY ASSISTANCE.—Section 502B(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(b)) is amended—

(A) by inserting ''and with the assistance of the Ambassador at Large for International Religious Freedom'' after ''Labor''; and

(B) by inserting after the second sentence the following new sentence: ''Such report shall also include, wherever applicable, information on violations of religious freedom, including particularly severe violations of religious freedom (as defined in section 3 of the International Religious Freedom Act of 1998).''.

SEC. 103. ESTABLISHMENT OF A RELIGIOUS FREEDOM INTERNET SITE.

In order to facilitate access by nongovernmental organizations (NGOs) and by the public around the world to international documents on the protection of religious freedom, the Secretary of State, with the assistance of the Ambassador at Large, shall establish and maintain an Internet site containing major international documents relating to religious freedom, the Annual Report, the Executive Summary, and any other documentation or references to other sites as deemed appropriate or relevant by the Ambassador at Large.

SEC. 104. TRAINING FOR FOREIGN SERVICE OFFICERS.

Chapter 2 of title I of the Foreign Service Act of 1980 is amended by adding at the end the following new section:

"SEC. 708. TRAINING FOR FOREIGN SERVICE OFFICERS.

''The Secretary of State, with the assistance of other relevant officials, such as the Ambassador at Large for International Religious Freedom appointed under section 101(b) of the International Religious Freedom Act of 1998 and the director of the National Foreign Affairs Training Center, shall establish as part of the standard training provided after January 1, 1999, for officers of the Service, including chiefs of mission, instruction in the field of internationally recognized human rights. Such training shall include—

''(1) instruction on international documents and United States policy in human rights, which shall be mandatory for all members of the Service having reporting responsibilities relating to human rights and for chiefs of mission; and

''(2) instruction on the internationally recognized right to freedom of religion, the nature, activities, and beliefs of different religions, and the various aspects and manifestations of violations of religious freedom.''.

SEC. 105. HIGH-LEVEL CONTACTS WITH NONGOVERNMENTAL ORGANIZATIONS.

United States chiefs of mission shall seek out and contact religious nongovernmental organizations to provide high-level meetings with religious nongovernmental organizations where appropriate and beneficial. United States chiefs of mission and Foreign Service officers abroad shall seek to meet with imprisoned religious leaders where appropriate and beneficial.

SEC. 106. PROGRAMS AND ALLOCATIONS OF FUNDS BY UNITED STATES MISSIONS ABROAD.

It is the sense of Congress that—

(1) United States diplomatic missions in countries the governments of which engage in or tolerate violations of the internationally recognized right to freedom of religion should develop, as part of annual program planning, a strategy to promote respect for the internationally recognized right to freedom of religion; and

(2) in allocating or recommending the allocation of funds or the recommendation of candidates for programs and grants funded by the United States Government, United States diplomatic missions should give particular consideration to those programs and candidates deemed to assist in the promotion of the right to religious freedom.

SEC. 107. EQUAL ACCESS TO UNITED STATES MISSIONS ABROAD FOR CONDUCTING RELIGIOUS ACTIVITIES.

(a) IN GENERAL.—Subject to this section, the Secretary of State shall permit, on terms no less favorable than that accorded other nongovernmental activities unrelated to the conduct of the diplomatic mission, access to the premises of any United States diplomatic mission or consular post by any United States citizen seeking to conduct an activity for religious purposes.

(b) TIMING AND LOCATION.—The Secretary of State shall make reasonable accommodations with respect to the timing and location of such access in light of—

(1) the number of United States citizens requesting the access (including any particular religious concerns regarding the time of day, date, or physical setting for services);

(2) conflicts with official activities and other nonofficial United States citizen requests;

(3) the availability of openly conducted, organized religious services outside the premises of the mission or post;

(4) availability of space and resources; and

(5) necessary security precautions.

(c) DISCRETIONARY ACCESS FOR FOREIGN NATIONALS.—The Secretary of State may permit access to the premises of a United States diplomatic mission or consular post to foreign nationals for the purpose of attending or participating in religious activities conducted pursuant to this section.

SEC. 108. PRISONER LISTS AND ISSUE BRIEFS ON RELIGIOUS FREEDOM CONCERNS.

(a) SENSE OF CONGRESS.—To encourage involvement with religious freedom concerns at every possible opportunity and by all appropriate representatives of the United States Government, it is the sense of Congress that officials of the executive branch of Government should promote increased advocacy on such issues during meetings between foreign dignitaries and executive branch officials or Members of Congress.

(b) PRISONER LISTS AND ISSUE BRIEFS ON RELIGIOUS FREEDOM CONCERNS.—The Secretary of State, in consultation with the Ambassador at Large, the Assistant Secretary of State for Democracy, Human Rights and Labor, United States chiefs of mission abroad, regional experts, and nongovernmental human rights and religious groups, shall prepare and maintain issue briefs on religious freedom, on a country-by-country basis, consisting of lists of persons believed to be imprisoned, detained, or placed under house arrest for their religious faith, together with brief evaluations and critiques of the policies of the respective country restricting religious freedom. In considering the inclusion of names of prisoners on such lists, the Secretary of State shall exercise appropriate discretion, including concerns regarding the safety, security, and benefit to such prisoners.

(c) AVAILABILITY OF INFORMATION.—The Secretary shall, as appropriate, provide religious freedom issue briefs under subsection (b) to executive branch officials and Members of Congress in anticipation of bilateral contacts with foreign leaders, both in the United States and abroad.

TITLE II—COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

SEC. 201. ESTABLISHMENT AND COMPOSITION.

(a) GENERALLY.—There is established the United States Commission on International Religious Freedom.

(b) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of—

(A) the Ambassador at Large, who shall serve ex officio as a nonvoting member of the Commission; and

(B) 9 other members, who shall be United States citizens who are not being paid as officers or employees of the United States, and who shall be appointed as follows:

(i) 3 members of the Commission shall be appointed by the President.

(ii) 3 members of the Commission shall be appointed by the President pro tempore of the Senate, of which 2 of the members shall be appointed upon the recommendation of the leader in the Senate of the political party that is not the political party of the President, and of which 1 of the members shall be appointed upon the recommendation of the leader in the Senate of the other political party.

(iii) 3 members of the Commission shall be appointed by the Speaker of the House of Representatives, of which 2 of the members shall be appointed upon the recommendation of the leader in the House of the political party that is not the political party of the President, and of which 1 of the members shall be appointed upon the recommendation of the leader in the House of the other political party.

(2) SELECTION.—

(A) IN GENERAL.—Members of the Commission shall be selected among distinguished individuals noted for their knowledge and experience in fields relevant to the issue of international religious freedom, including foreign affairs, direct experience abroad, human rights, and international law.

(B) SECURITY CLEARANCES.—Each Member of the Commission shall be required to obtain a security clearance.

(3) TIME OF APPOINTMENT.—The appointments required by paragraph (1) shall be made not later than 120 days after the date of enactment of this Act.

(c) TERMS.—The term of office of each member of the Commission shall be 2 years. Members of the Commission shall be eligible for reappointment to a second term.

(d) ELECTION OF CHAIR.—At the first meeting of the Commission in each calendar year, a majority of the members of the Commission present and voting shall elect the Chair of the Commission.

(e) QUORUM.—Six voting members of the Commission shall constitute a quorum for purposes of transacting business.

(f) MEETINGS.—Each year, within 15 days, or as soon as practicable, after the issuance of the Country Report on Human Rights Practices, the Commission shall convene. The Commission shall otherwise meet at the call of the Chair or, if no Chair has been elected for that calendar year, at the call of six voting members of the Commission.

(g) VACANCIES.—Any vacancy of the Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

(h) ADMINISTRATIVE SUPPORT.—The Secretary of State shall assist the Commission by providing to the Commission such staff and administrative services of the Office as may be necessary and appropriate for the

Commission to perform its functions. Any employee of the executive branch of Government may be detailed to the Commission without reimbursement to the agency of that employee and such detail shall be without interruption or loss of civil service status or privilege.

(i) FUNDING.—Members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

SEC. 202. DUTIES OF THE COMMISSION.

(a) IN GENERAL.—The Commission shall have as its primary responsibility—

(1) the annual and ongoing review of the facts and circumstances of violations of religious freedom presented in the Country Reports on Human Rights Practices, the Annual Report, and the Executive Summary, as well as information from other sources as appropriate; and

(2) the making of policy recommendations to the President, the Secretary of State, and Congress with respect to matters involving international religious freedom.

(b) POLICY REVIEW AND RECOMMENDATIONS IN RESPONSE TO VIOLATIONS.—The Commission, in evaluating United States Government policies in response to violations of religious freedom, shall consider and recommend options for policies of the United States Government with respect to each foreign country the government of which has engaged in or tolerated violations of religious freedom, including particularly severe violations of religious freedom, including diplomatic inquiries, diplomatic protest, official public protest demarche of protest, condemnation within multilateral fora, delay or cancellation of cultural or scientific exchanges, delay or cancellation of working, official, or state visits, reduction of certain assistance funds, termination of certain assistance funds, imposition of targeted trade sanctions, imposition of broad trade sanctions, and withdrawal of the chief of mission.

(c) POLICY REVIEW AND RECOMMENDATIONS IN RESPONSE TO PROGRESS.—The Commission, in evaluating the United States Government policies with respect to countries found to be taking deliberate steps and making significant improvement in respect for the right of religious freedom, shall consider and recommend policy options, including private commendation, diplomatic commendation, official public commendation, commendation within multilateral fora, an increase in cultural or scientific exchanges, or both, termination or reduction of existing Presidential actions, an increase in certain assistance funds, and invitations for working, official, or state visits.

(d) EFFECTS ON RELIGIOUS COMMUNITIES AND INDIVIDUALS.—Together with specific policy recommendations provided under subsections (b) and (c), the Commission shall also indicate its evaluation of the potential effects of such policies, if implemented, on the religious communities and individuals whose rights are found to be violated in the country in question.

(e) MONITORING.—The Commission shall, on an ongoing basis, monitor facts and circumstances of violations of religious freedom, in consultation with independent human rights groups and nongovernmental organizations, including churches and other religious communities, and make such recommendations as may be necessary to the appropriate officials and offices in the United States Government.

(f) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out its duties under this title, hold hearings, sit and act at times and places in the United States, take testimony, and receive evidence as the Commission considers advisable to carry out the purposes of this Act.

SEC. 203. REPORT OF THE COMMISSION.

(a) IN GENERAL.—Not later than May 1 of each year, the Commission shall submit a report to the President, the Secretary of State, and Congress setting forth its recommendations for United States policy options based on its evaluations under section 202.

(b) CLASSIFIED FORM OF REPORT.—The report may be submitted in classified form, together with a public summary of recommendations, if the classification of information would further the purposes of this Act.

(c) INDIVIDUAL OR DISSENTING VIEWS.—Each member of the Commission may include the individual or dissenting views of the member.

SEC. 204. APPLICABILITY OF OTHER LAWS.

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

SEC. 205. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the Commission $3,000,000 for each of the fiscal years 1999 and 2000 to carry out the provisions of this title.

(b) AVAILABILITY OF FUNDS.—Amounts authorized to be appropriated under subparagraph (a) are authorized to remain available until expended but not later than the date of termination of the Commission.

SEC. 206. TERMINATION.

The Commission shall terminate 4 years after the initial appointment of all of the Commissioners.

TITLE III—NATIONAL SECURITY COUNCIL

SEC. 301. SPECIAL ADVISER ON INTERNATIONAL RELIGIOUS FREEDOM.

Section 101 of the National Security Act of 1947 (50 U.S.C. 402) is amended by adding at the end the following new subsection:

"(i) It is the sense of the Congress that there should be within the staff of the National Security Council a Special Adviser to the President on International Religious Freedom, whose position should be comparable to that of a director within the Executive Office of the President. The Special Adviser should serve as a resource for executive branch officials, compiling and maintaining information on the facts and circumstances of violations of religious freedom (as defined in section 3 of the International Religious Freedom Act of 1998), and making policy recommendations. The Special Adviser should serve as liaison with the Ambassador at Large for International Religious Freedom, the United States Commission on International Religious Freedom, Congress and, as advisable, religious nongovernmental organizations.".

TITLE IV—PRESIDENTIAL ACTIONS

Subtitle I—Targeted Responses to Violations of Religious Freedom Abroad

SEC. 401. PRESIDENTIAL ACTIONS IN RESPONSE TO VIOLATIONS OF RELIGIOUS FREEDOM.

(a) RESPONSE TO VIOLATIONS OF RELIGIOUS FREEDOM.—

(1) IN GENERAL.—

(A) UNITED STATES POLICY.—It shall be the policy of the United States—

(i) to oppose violations of religious freedom that are or have been engaged in or tolerated by the governments of foreign countries; and

(ii) to promote the right to freedom of religion in those countries through the actions described in subsection (b).

(B) REQUIREMENT OF PRESIDENTIAL ACTION.—For each foreign country the government of which engages in or tolerates violations of religious freedom, the President shall oppose such violations and promote the right to freedom of religion in that country through the actions described in subsection (b).

(2) BASIS OF ACTIONS.—Each action taken under paragraph (1)(B) shall be based upon information regarding violations of religious freedom, as described in the latest Country Reports on Human Rights Practices, the Annual Report and Executive Summary, and on any other evidence available, and shall take into account any findings or recommendations by the Commission with respect to the foreign country.

(b) PRESIDENTIAL ACTIONS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the President, in consultation with the Secretary of State, the Ambassador at Large, the Special Adviser, and the Commission, shall, as expeditiously as practicable in response to the violations described in subsection (a) by the government of a foreign country—

(A) take one or more of the actions described in paragraphs (1) through (15) of section 405(a) (or commensurate action in substitution thereto) with respect to such country; or

(B) negotiate and enter into a binding agreement with the government of such country, as described in section 405(c).

(2) DEADLINE FOR ACTIONS.—Not later than September 1 of each year, the President shall take action under any of the paragraphs (1) through (15) of section 405(a) (or commensurate action in substitution thereto) with respect to each foreign country the government of which has engaged in or tolerated violations of religious freedom at any time since September 1 of the preceding year, except that in the case of action under any of the paragraphs (9) through (15) of section 405(a) (or commensurate action in substitution thereto)—

(A) the action may only be taken after the requirements of sections 403 and 404 have been satisfied; and

(B) the September 1 limitation shall not apply.

(3) AUTHORITY FOR DELAY OF PRESIDENTIAL ACTIONS.—The President may delay action under paragraph (2) described in any of the paragraphs (9) through (15) of section 405(a) (or commensurate action in substitution thereto) if he determines and certifies to Congress that a single, additional period of time, not to exceed 90 days, is necessary pursuant to the same provisions applying to countries of particular concern for religious freedom under section 402(c)(3).

(c) IMPLEMENTATION.—

(1) IN GENERAL.—In carrying out subsection (b), the President shall—

(A) take the action or actions that most appropriately respond to the nature and severity of the violations of religious freedom;

(B) seek to the fullest extent possible to target action as narrowly as practicable with respect to the agency or instrumentality of the foreign government, or specific officials thereof, that are responsible for such violations; and

(C) when appropriate, make every reasonable effort to conclude a binding agreement concerning the cessation of such violations in countries with which the United States has diplomatic relations.

(2) Guidelines for presidential actions.—In addition to the guidelines under paragraph (1), the President, in determining whether to take a Presidential action under paragraphs (9) through (15) of section 405(a) (or commensurate action in substitution thereto), shall seek to minimize any adverse impact on—

(A) the population of the country whose government is targeted by the Presidential action or actions; and

(B) the humanitarian activities of United States and foreign nongovernmental organizations in such country.

SEC. 402. PRESIDENTIAL ACTIONS IN RESPONSE TO PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.

(a) Response to Particularly Severe Violations of Religious Freedom.—

(1) United states policy.—It shall be the policy of the United States—

(A) to oppose particularly severe violations of religious freedom that are or have been engaged in or tolerated by the governments of foreign countries; and

(B) to promote the right to freedom of religion in those countries through the actions described in subsection (c).

(2) Requirement of presidential action.—Whenever the President determines that the government of a foreign country has engaged in or tolerated particularly severe violations of religious freedom, the President shall oppose such violations and promote the right to religious freedom through one or more of the actions described in subsection (c).

(b) Designations of Countries of Particular Concern for Religious Freedom.—

(1) Annual review.—

(A) In general.—Not later than September 1 of each year, the President shall review the status of religious freedom in each foreign country to determine whether the government of that country has engaged in or tolerated particularly severe violations of religious freedom in that country during the preceding 12 months or since the date of the last review of that country under this subparagraph, whichever period is longer. The President shall designate each country the government of which has engaged in or tolerated violations described in this subparagraph as a country of particular concern for religious freedom.

(B) Basis of review.—Each review conducted under subparagraph (A) shall be based upon information contained in the latest Country Reports on Human Rights Practices, the Annual Report, and on any other evidence available and shall take into account any findings or recommendations by the Commission with respect to the foreign country.

(C) Implementation.—Any review under subparagraph (A) of a foreign country may take place singly or jointly with the review of one or more countries and may take place at any time prior to September 1 of the respective year.

(2) Determinations of responsible parties.—For the government of each country designated as a country of particular concern for religious freedom under paragraph (1)(A), the President shall seek to determine the agency or instrumentality thereof and the specific officials thereof that are responsible for the particularly severe violations of religious freedom engaged in or tolerated by that government in order to appropriately target Presidential actions under this section in response.

(3) Congressional notification.—Whenever the President designates a country as a country of particular concern for religious freedom under paragraph (1)(A), the President shall, as soon as practicable after the designation is made, transmit to the appropriate congressional committees—

(A) the designation of the country, signed by the President; and

(B) the identification, if any, of responsible parties determined under paragraph (2).

(c) Presidential Actions With Respect to Countries of Particular Concern for Religious Freedom.—

(1) In general.—Subject to paragraphs (2), (3), and (4) with respect to each country of particular concern for religious freedom designated under subsection (b)(1)(A), the President shall, after the requirements of sections 403 and 404 have been satisfied, but not later than 90 days (or 180 days in case of a delay under paragraph (3)) after the date of designation of the country under that subsection, carry out one or more of the following actions under subparagraph (A) or subparagraph (B):

(A) Presidential actions.—One or more of the Presidential actions described in paragraphs (9) through (15) of section 405(a), as determined by the President.

(B) Commensurate actions.—Commensurate action in substitution to any action described in subparagraph (A).

(2) Substitution of binding agreements.—

(A) In general.—In lieu of carrying out action under paragraph (1), the President may conclude a binding agreement with the respective foreign government as described in section 405(c). The existence of a binding agreement under this paragraph with a foreign government may be considered by the President prior to making any determination or taking any action under this title.

(B) Statutory construction.—Nothing in this paragraph may be construed to authorize the entry of the United States into an agreement covering matters outside the scope of violations of religious freedom.

(3) Authority for delay of presidential actions.—If, on or before the date that the President is required (but for this paragraph) to take action under paragraph (1), the President determines and certifies to Congress that a single, additional period of time not to exceed 90 days is necessary—

(A) for a continuation of negotiations that have been commenced with the government of that country to bring about a cessation of the violations by the foreign country;

(B) for a continuation of multilateral negotiations into which the United States has entered to bring about a cessation of the violations by the foreign country;

(C)(i) for a review of corrective action taken by the foreign country after designation of such country as a country of particular concern; or

(ii) in anticipation that corrective action will be taken by the foreign country during the 90-day period,

then the President shall not be required to take action until the expiration of that period of time.

(4) Exception for ongoing presidential action.—The President shall not be required to take action pursuant to this subsection in the case of a country of particular concern for religious freedom, if with respect to such country—

(A) the President has taken action pursuant to this Act in a preceding year;

(B) such action is in effect at the time the country is designated as a country of particular concern for religious freedom under this section; and

(C) the President reports to Congress the information described in section 404(a) (1), (2), (3), and (4) regarding the actions in effect with respect to the country.

(D) At the time the President determines a country to be a country of particular concern, if that country is already subject to multiple, broad-based sanctions imposed in significant part in response to human rights abuses, and such sanctions are ongoing, the President may determine that one or more of these sanctions also satisfies the requirements of this subsection. In a report to Congress pursuant to section 404(a)(1),(2),(3), and (4), as applicable, to section 408, the President must designate the specific sanction or sanctions which he determines satisfy the requirements of this subsection. The sanctions so designated shall remain in effect subject to Section 409 of this Act.

(d) Statutory Construction.—A determination under this Act, or any amendment made by this Act, that a foreign country has engaged in or tolerated particularly severe violations of religious freedom shall not be construed to require the termination of assistance or other activities with respect to that country under any other provision of law, including section 116 or 502B of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n, 2304).

SEC. 403. CONSULTATIONS.

(a) In General.—As soon as practicable after the President decides to take action under section 401 in response to violations of religious freedom and the President decides to take action under paragraphs (9) through (15) of section 405(a) (or commensurate action in substitution thereto) with respect to that country, or not later than 90 days after the President designates a country as a country of particular concern for religious freedom under section 402, as the case may be, the President shall carry out the consultations required in this section.

(b) Duty To Consult With Foreign Governments Prior To Taking Presidential Actions.—

(1) In general.—The President shall—

(A) request consultation with the government of such country regarding the violations giving rise to designation of that country as a country of particular concern for religious freedom or to Presidential action under section 401; and

(B) if agreed to, enter into such consultations, privately or publicly.

(2) Use of multilateral fora.—If the President determines it to be appropriate, such consultations may be sought and may occur in a multilateral forum, but, in any event, the President shall consult with appropriate foreign governments for the purposes of achieving a coordinated international policy on actions that may be taken with respect to a country described in subsection (a), prior to implementing any such action.

(3) Election of nondisclosure of negotiations to public.—If negotiations are undertaken or an agreement is concluded with a foreign government regarding steps to cease the pattern of violations by that government, and if public disclosure of such negotiations or agreement would jeopardize the negotiations or the implementation of such agreement, as the case may be, the President may refrain from disclosing such negotiations and such agreement to the public, except that the President shall inform the appropriate congressional committees of the nature and extent of such negotiations and any agreement reached.

(c) Duty To Consult With Humanitarian Organizations.—The President should consult with appropriate humanitarian and religious organizations concerning the potential impact of United States policies to promote freedom of religion in countries described in subsection (a).

(d) DUTY TO CONSULT WITH UNITED STATES INTERESTED PARTIES.—The President shall, as appropriate, consult with United States interested parties as to the potential impact of intended Presidential action or actions in countries described in subsection (a) on economic or other interests of the United States.

SEC. 404. REPORT TO CONGRESS.

(a) IN GENERAL.—Subject to subsection (b), not later than 90 days after the President decides to take action under section 401 in response to violations of religious freedom and the President decides to take action under paragraphs (9) through (15) of section 405(a) (or commensurate action in substitution thereto) with respect to that country, or not later than 90 days after the President designates a country as a country of particular concern for religious freedom under section 402, as the case may be, the President shall submit a report to Congress containing the following:

(1) IDENTIFICATION OF PRESIDENTIAL ACTIONS.—An identification of the Presidential action or actions described in paragraphs (9) through (15) of section 405(a) (or commensurate action in substitution thereto) to be taken with respect to the foreign country.

(2) DESCRIPTION OF VIOLATIONS.—A description of the violations giving rise to the Presidential action or actions to be taken.

(3) PURPOSE OF PRESIDENTIAL ACTIONS.—A description of the purpose of the Presidential action or actions.

(4) EVALUATION.—

(A) DESCRIPTION.—An evaluation, in consultation with the Secretary of State, the Ambassador at Large, the Commission, the Special Adviser, the parties described in section 403 (c) and (d), and whoever else the President deems appropriate, of—

(i) the impact upon the foreign government;

(ii) the impact upon the population of the country; and

(iii) the impact upon the United States economy and other interested parties.

(B) AUTHORITY TO WITHHOLD DISCLOSURE.—The President may withhold part or all of such evaluation from the public but shall provide the entire evaluation to Congress.

(5) STATEMENT OF POLICY OPTIONS.—A statement that noneconomic policy options designed to bring about cessation of the particularly severe violations of religious freedom have reasonably been exhausted, including the consultations required in section 403.

(6) DESCRIPTION OF MULTILATERAL NEGOTIATIONS.—A description of multilateral negotiations sought or carried out, if appropriate and applicable.

(b) DELAY IN TRANSMITTAL OF REPORT.—If, on or before the date that the President is required (but for this subsection) to submit a report under subsection (a) to Congress, the President determines and certifies to Congress that a single, additional period of time not to exceed 90 days is necessary pursuant to section 401(b)(3) or section 402(c)(3), then the President shall not be required to submit the report to Congress until the expiration of that period of time.

SEC. 405. DESCRIPTION OF PRESIDENTIAL ACTIONS.

(a) DESCRIPTION OF PRESIDENTIAL ACTIONS.—Except as provided in subsection (d), the Presidential actions referred to in this subsection are the following:

(1) A private demarche.

(2) An official public demarche.

(3) A public condemnation.

(4) A public condemnation within one or more multilateral fora.

(5) The delay or cancellation of one or more scientific exchanges.

(6) The delay or cancellation of one or more cultural exchanges.

(7) The denial of one or more working, official, or state visits.

(8) The delay or cancellation of one or more working, official, or state visits.

(9) The withdrawal, limitation, or suspension of United States development assistance in accordance with section 116 of the Foreign Assistance Act of 1961.

(10) Directing the Export-Import Bank of the United States, the Overseas Private Investment Corporation, or the Trade and Development Agency not to approve the issuance of any (or a specified number of) guarantees, insurance, extensions of credit, or participations in the extension of credit with respect to the specific government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 401 or 402.

(11) The withdrawal, limitation, or suspension of United States security assistance in accordance with section 502B of the Foreign Assistance Act of 1961.

(12) Consistent with section 701 of the International Financial Institutions Act of 1977, directing the United States executive directors of international financial institutions to oppose and vote against loans primarily benefiting the specific foreign government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 401 or 402.

(13) Ordering the heads of the appropriate United States agencies not to issue any (or a specified number of) specific licenses, and not to grant any other specific authority (or a specified number of authorities), to export any goods or technology to the specific foreign government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 401 or 402, under—

(A) the Export Administration Act of 1979;

(B) the Arms Export Control Act;

(C) the Atomic Energy Act of 1954; or

(D) any other statute that requires the prior review and approval of the United States Government as a condition for the export or reexport of goods or services.

(14) Prohibiting any United States financial institution from making loans or providing credits totaling more than $10,000,000 in any 12-month period to the specific foreign government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 401 or 402.

(15) Prohibiting the United States Government from procuring, or entering into any contract for the procurement of, any goods or services from the foreign government, entities, or officials found or determined by the President to be responsible for violations under section 401 or 402.

(b) COMMENSURATE ACTION.—Except as provided in subsection (d), the President may substitute any other action authorized by law for any action described in paragraphs (1) through (15) of subsection (a) if such action is commensurate in effect to the action substituted and if the action would further the policy of the United States set forth in section 2(b) of this Act. The President shall seek to take all appropriate and feasible actions authorized by law to obtain the cessation of the violations. If commensurate action is taken, the President shall report such action, together with an explanation for taking such action, to the appropriate congressional committees.

(c) BINDING AGREEMENTS.—The President may negotiate and enter into a binding agreement with a foreign government that obligates such government to cease, or take substantial steps to address and phase out, the act, policy, or practice constituting the violation of religious freedom. The entry into force of a binding agreement for the cessation of the violations shall be a primary objective for the President in responding to a foreign government that has engaged in or tolerated particularly severe violations of religious freedom.

(d) EXCEPTIONS.—Any action taken pursuant to subsection (a) or (b) may not prohibit or restrict the provision of medicine, medical equipment or supplies, food, or other humanitarian assistance.

SEC. 406. EFFECTS ON EXISTING CONTRACTS.

The President shall not be required to apply or maintain any Presidential action under this subtitle—

(1) in the case of procurement of defense articles or defense services—

(A) under existing contracts or subcontracts, including the exercise of options for production quantities, to satisfy requirements essential to the national security of the United States;

(B) if the President determines in writing and so reports to Congress that the person or other entity to which the Presidential action would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

(C) if the President determines in writing and so reports to Congress that such articles or services are essential to the national security under defense coproduction agreements; or

(2) to products or services provided under contracts entered into before the date on which the President publishes his intention to take the Presidential action.

SEC. 407. PRESIDENTIAL WAIVER.

(a) IN GENERAL.—Subject to subsection (b), the President may waive the application of any of the actions described in paragraphs (9) through (15) of section 405(a) (or commensurate action in substitution thereto) with respect to a country, if the President determines and so reports to the appropriate congressional committees that—

(1) the respective foreign government has ceased the violations giving rise to the Presidential action;

(2) the exercise of such waiver authority would further the purposes of this Act; or

(3) the important national interest of the United States requires the exercise of such waiver authority.

(b) CONGRESSIONAL NOTIFICATION.—Not later than the date of the exercise of a waiver under subsection (a), the President shall notify the appropriate congressional committees of the waiver or the intention to exercise the waiver, together with a detailed justification thereof.

SEC. 408. PUBLICATION IN FEDERAL REGISTER.

(a) IN GENERAL.—Subject to subsection (b), the President shall cause to be published in the Federal Register the following:

(1) DETERMINATIONS OF GOVERNMENTS, OFFICIALS, AND ENTITIES OF PARTICULAR CONCERN.—Any designation of a country of particular concern for religious freedom under section 402(b)(1), together with, when applicable and to the extent practicable, the identities of the officials or entities determined

to be responsible for the violations under section 402(b)(2).

(2) Presidential actions.—A description of any Presidential action under paragraphs (9) through (15) of section 405(a) (or commensurate action in substitution thereto) and the effective date of the Presidential action.

(3) Delays in transmittal of presidential action reports.—Any delay in transmittal of a Presidential action report, as described in section 404(b).

(4) Waivers.—Any waiver under section 407.

(b) Limited Disclosure of Information.—The President may limit publication of information under this section in the same manner and to the same extent as the President may limit the publication of findings and determinations described in section 654(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2414(c)), if the President determines that the publication of information under this section—

(1) would be harmful to the national security of the United States; or

(2) would not further the purposes of this Act.

SEC. 409. TERMINATION OF PRESIDENTIAL ACTIONS.

Any Presidential action taken under this Act with respect to a foreign country shall terminate on the earlier of the following dates:

(1) Termination date.—Within 2 years of the effective date of the Presidential action unless expressly reauthorized by law.

(2) Foreign government actions.—Upon the determination by the President, in consultation with the Commission, and certification to Congress that the foreign government has ceased or taken substantial and verifiable steps to cease the particularly severe violations of religious freedom.

SEC. 410. PRECLUSION OF JUDICIAL REVIEW.

No court shall have jurisdiction to review any Presidential determination or agency action under this Act or any amendment made by this Act.

Subtitle II—Strengthening Existing Law

SEC. 421. UNITED STATES ASSISTANCE.

(a) Implementation of Prohibition on Economic Assistance.—Section 116(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(c)) is amended—

(1) in the text above paragraph (1), by inserting "and in consultation with the Ambassador at Large for International Religious Freedom" after "Labor".

(2) by striking "and" at the end of paragraph (1);

(3) by striking the period at the end of paragraph (2) and inserting "; and"; and

(4) by adding at the end the following new paragraph:

"(3) whether the government—

"(A) has engaged in or tolerated particularly severe violations of religious freedom, as defined in section 3 of the International Religious Freedom Act of 1998; or

"(B) has failed to undertake serious and sustained efforts to combat particularly severe violations of religious freedom (as defined in section 3 of the International Religious Freedom Act of 1998), when such efforts could have been reasonably undertaken.".

(b) Implementation of Prohibition on Military Assistance.—Section 502B(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(a)) is amended by adding at the end the following new paragraph:

"(4) In determining whether the government of a country engages in a consistent pattern of gross violations of internationally recognized human rights, the President shall give particular consideration to whether the government—

"(A) has engaged in or tolerated particularly severe violations of religious freedom, as defined in section 3 of the International Religious Freedom Act of 1998; or

"(B) has failed to undertake serious and sustained efforts to combat particularly severe violations of religious freedom when such efforts could have been reasonably undertaken.".

SEC. 422. MULTILATERAL ASSISTANCE.

Section 701 of the International Financial Institutions Act (22 U.S.C. 262d) is amended by adding at the end the following new subsection:

"(g) In determining whether the government of a country engages in a pattern of gross violations of internationally recognized human rights, as described in subsection (a), the President shall give particular consideration to whether a foreign government—

"(1) has engaged in or tolerated particularly severe violations of religious freedom, as defined in section 3 of the International Religious Freedom Act of 1998; or

"(2) has failed to undertake serious and sustained efforts to combat particularly severe violations of religious freedom when such efforts could have been reasonably undertaken.".

SEC. 423. EXPORTS OF CERTAIN ITEMS USED IN PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.

(a) Mandatory Licensing.—Notwithstanding any other provision of law, the Secretary of Commerce, with the concurrence of the Secretary of State, shall include on the list of crime control and detection instruments or equipment controlled for export and reexport under section 6(n) of the Export Administration Act of 1979 (22 U.S.C. App. 2405(n)), or under any other provision of law, items being exported or reexported to countries of particular concern for religious freedom that the Secretary of Commerce, with the concurrence of the Secretary of State, and in consultation with appropriate officials including the Assistant Secretary of State for Democracy, Human Rights and Labor and the Ambassador at Large, determines are being used or are intended for use directly and in significant measure to carry out particularly severe violations of religious freedom.

(b) Licensing Ban.—The prohibition on the issuance of a license for export of crime control and detection instruments or equipment under section 502B(a)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(a)(2)) shall apply to the export and reexport of any item included pursuant to subsection (a) on the list of crime control instruments.

TITLE V—PROMOTION OF RELIGIOUS FREEDOM

SEC. 501. ASSISTANCE FOR PROMOTING RELIGIOUS FREEDOM.

(a) Findings.—Congress makes the following findings:

(1) In many Nations where severe violations of religious freedom occur, there is not sufficient statutory legal protection for religious minorities or there is not sufficient cultural and social understanding of international norms of religious freedom.

(2) Accordingly, in the provision of foreign assistance, the United States should make a priority of promoting and developing legal protections and cultural respect for religious freedom.

(b) Allocation of Funds for Increased Promotion of Religious Freedoms.—Section 116(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(e)) is amended by inserting ", including the right to free religious belief and practice" after "adherence to civil and political rights".

SEC. 502. INTERNATIONAL BROADCASTING.

Section 303(a) of the United States International Broadcasting Act of 1994 (22 U.S.C. 6202(a)) is amended—

(1) by striking "and" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "; and"; and

(3) by adding at the end the following:

"(8) promote respect for human rights, including freedom of religion.".

SEC. 503. INTERNATIONAL EXCHANGES.

Section 102(b) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2452(b)) is amended—

(1) by striking "and" after paragraph (10);

(2) by striking the period at the end of paragraph (11) and inserting "; and"; and

(3) by adding at the end the following:

"(12) promoting respect for and guarantees of religious freedom abroad by interchanges and visits between the United States and other Nations of religious leaders, scholars, and religious and legal experts in the field of religious freedom.".

SEC. 504. FOREIGN SERVICE AWARDS.

(a) Performance Pay.—Section 405(d) of the Foreign Service Act of 1980 (22 U.S.C. 3965(d)) is amended by inserting after the first sentence the following: "Such service in the promotion of internationally recognized human rights, including the right to freedom of religion, shall serve as a basis for granting awards under this section.".

(b) Foreign Service Awards.—Section 614 of the Foreign Service Act of 1980 (22 U.S.C. 4013) is amended by adding at the end the following new sentence: "Distinguished, meritorious service in the promotion of internationally recognized human rights, including the right to freedom of religion, shall serve as a basis for granting awards under this section.".

TITLE VI—REFUGEE, ASYLUM, AND CONSULAR MATTERS

SEC. 601. USE OF ANNUAL REPORT.

The Annual Report, together with other relevant documentation, shall serve as a resource for immigration judges and consular, refugee, and asylum officers in cases involving claims of persecution on the grounds of religion. Absence of reference by the Annual Report to conditions described by the alien shall not constitute the sole grounds for a denial of the alien's claim.

SEC. 602. REFORM OF REFUGEE POLICY.

(a) Training.—Section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) is amended by adding at the end the following new subsection:

"(f)(1) The Attorney General, in consultation with the Secretary of State, shall provide all United States officials adjudicating refugee cases under this section with the same training as that provided to officers adjudicating asylum cases under section 208.

"(2) Such training shall include country-specific conditions, instruction on the internationally recognized right to freedom of religion, instruction on methods of religious persecution practiced in foreign countries, and applicable distinctions within a country between the nature of and treatment of various religious practices and believers.".

(b) Training for Foreign Service Officers.—Section 708 of the Foreign Service Act of 1980, as added by section 104 of this Act, is further amended—

(1) by inserting "(a)" before "The Secretary of State"; and

(2) by adding at the end the following:

"(b) The Secretary of State shall provide sessions on refugee law and adjudications and on religious persecution to each individual seeking a commission as a United States consular officer. The Secretary shall also ensure that any member of the Service who is assigned to a position that may be called upon to assess requests for consideration for refugee admissions, including any consular officer, has completed training on refugee law and refugee adjudications in addition to the training required in this section.".

(c) GUIDELINES FOR REFUGEE-PROCESSING POSTS.—

(1) GUIDELINES FOR ADDRESSING HOSTILE BIASES.—The Attorney General and the Secretary of State shall develop and implement guidelines that address potential biases in personnel of the Immigration and Naturalization Service that are hired abroad and involved with duties which could constitute an effective barrier to a refugee claim if such personnel carries a bias against the claimant on the grounds of religion, race, nationality, membership in a particular social group, or political opinion. The subject matter of this training should be culturally sensitive and tailored to provide a nonbiased, nonadversarial atmosphere for the purpose of refugee adjudications.

(2) GUIDELINES FOR REFUGEE-PROCESSING POSTS IN ESTABLISHING AGREEMENTS WITH UNITED STATES GOVERNMENT-DESIGNATED REFUGEE PROCESSING ENTITIES.—The Attorney General and the Secretary of State shall develop and implement guidelines to ensure uniform procedures for establishing agreements with United States Government-designated refugee processing entities and personnel, and uniform procedures for such entities and personnel responsible for preparing refugee case files for use by the Immigration and Naturalization Service during refugee adjudications. These procedures should ensure, to the extent practicable, that case files prepared by such entities accurately reflect information provided by the refugee applicants and that genuine refugee applicants are not disadvantaged or denied refugee status due to faulty case file preparation.

(d) ANNUAL CONSULTATION.—The President shall include in each annual report on proposed refugee admissions under section 207(d) of the Immigration and Nationality Act (8 U.S.C. 1157(d)) information about religious persecution of refugee populations eligible for consideration for admission to the United States. The Secretary of State shall include information on religious persecution of refugee populations in the formal testimony presented to the Committees on the Judiciary of the House of Representatives and the Senate during the consultation process under section 207(e) of the Immigration and Nationality Act (8 U.S.C. 1157(e)).

SEC. 603. REFORM OF ASYLUM POLICY.

(a) GUIDELINES.—The Attorney General and the Secretary of State shall develop guidelines to ensure that persons with potential biases against individuals on the grounds of religion, race, nationality, membership in a particular social group, or political opinion, including interpreters and personnel of airlines owned by governments known to be involved in practices which would meet the definition of persecution under international refugee law, shall not in any manner be used to interpret conversations between aliens and inspection or asylum officers.

(b) TRAINING FOR ASYLUM AND IMMIGRATION OFFICERS.—The Attorney General, in consultation with the Secretary of State, the Ambassador at Large, and other relevant officials such as the Director of the National Foreign Affairs Training Center, shall provide training to all officers adjudicating asylum cases, and to immigration officers performing duties under section 235(b) of the Immigration and Nationality Act (8 U.S.C. 1225(b)), on the nature of religious persecution abroad, including country-specific conditions, instruction on the internationally recognized right to freedom of religion, instruction on methods of religious persecution practiced in foreign countries, and applicable distinctions within a country in the treatment of various religious practices and believers.

(c) TRAINING FOR IMMIGRATION JUDGES.—The Executive Office of Immigration Review of the Department of Justice shall incorporate into its initial and ongoing training of immigration judges training on the extent and nature of religious persecution internationally, including country-specific conditions, and including use of the Annual Report. Such training shall include governmental and nongovernmental methods of persecution employed, and differences in the treatment of religious groups by such persecuting entities.

SEC. 604. INADMISSIBILITY OF FOREIGN GOVERNMENT OFFICIALS WHO HAVE ENGAGED IN PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.

(a) INELIGIBILITY FOR VISAS OR ADMISSION.—Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)) is amended by adding at the end the following new subparagraph:

"(G) FOREIGN GOVERNMENT OFFICIALS WHO HAVE ENGAGED IN PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.—Any alien who, while serving as a foreign government official, was responsible for or directly carried out, at any time during the preceding 24-month period, particularly severe violations of religious freedom, as defined in section 3 of the International Religious Freedom Act of 1998, and the spouse and children, if any, are inadmissible.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to aliens seeking to enter the United States on or after the date of enactment of this Act.

SEC. 605. STUDIES ON THE EFFECT OF EXPEDITED REMOVAL PROVISIONS ON ASYLUM CLAIMS.

(a) STUDIES.—

(1) COMMISSION REQUEST FOR PARTICIPATION BY EXPERTS ON REFUGEE AND ASYLUM ISSUES.—If the Commission so requests, the Attorney General shall invite experts designated by the Commission, who are recognized for their expertise and knowledge of refugee and asylum issues, to conduct a study, in cooperation with the Comptroller General of the United States, to determine whether immigration officers described in paragraph (2) are engaging in any of the conduct described in such paragraph.

(2) DUTIES OF COMPTROLLER GENERAL.—The Comptroller General of the United States shall conduct a study alone or, upon request by the Commission, in cooperation with experts designated by the Commission, to determine whether immigration officers performing duties under section 235(b) of the Immigration and Nationality Act (8 U.S.C. 1225(b)) with respect to aliens who may be eligible to be granted asylum are engaging in any of the following conduct:

(A) Improperly encouraging such aliens to withdraw their applications for admission.

(B) Incorrectly failing to refer such aliens for an interview by an asylum officer for a determination of whether they have a credible fear of persecution (within the meaning of section 235(b)(1)(B)(v) of such Act).

(C) Incorrectly removing such aliens to a country where they may be persecuted.

(D) Detaining such aliens improperly or in inappropriate conditions.

(b) REPORTS.—

(1) PARTICIPATION BY EXPERTS.—In the case of a Commission request under subsection (a), the experts designated by the Commission under that subsection may submit a report to the committees described in paragraph (2). Such report may be submitted with the Comptroller General's report under subsection (a)(2) or independently.

(2) DUTIES OF COMPTROLLER GENERAL.—Not later than September 1, 2000, the Comptroller General of the United States shall submit to the Committees on the Judiciary of the House of Representatives and the Senate, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate a report containing the results of the study conducted under subsection (a)(2). If the Commission requests designated experts to participate with the Comptroller General in the preparation and submission of the report, the Comptroller General shall grant the request.

(c) ACCESS TO PROCEEDINGS.—

(1) IN GENERAL.—Except as provided in paragraph (2), to facilitate the studies and reports, the Attorney General shall permit the Comptroller General of the United States and, in the case of a Commission request under subsection (a), the experts designated under subsection (a) to have unrestricted access to all stages of all proceedings conducted under section 235(b) of the Immigration and Nationality Act.

(2) EXCEPTIONS.—Paragraph (1) shall not apply in cases in which the alien objects to such access, or the Attorney General determines that the security of a particular proceeding would be threatened by such access, so long as any restrictions on the access of experts designated by the Commission under subsection (a) do not contravene international law.

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. BUSINESS CODES OF CONDUCT.

(a) CONGRESSIONAL FINDING.—Congress recognizes the increasing importance of transnational corporations as global actors, and their potential for providing positive leadership in their host countries in the area of human rights.

(b) SENSE OF CONGRESS.—It is the sense of Congress that transnational corporations operating overseas, particularly those corporations operating in countries the governments of which have engaged in or tolerated violations of religious freedom, as identified in the Annual Report, should adopt codes of conduct—

(1) upholding the right to freedom of religion of their employees; and

(2) ensuring that a worker's religious views and peaceful practices of belief in no way affect, or be allowed to affect, the status or terms of his or her employment.

Amend the title so as to read: "An act to express United States foreign policy with respect to, and to strengthen United States advocacy on behalf of, individuals persecuted in foreign countries on account of religion; to authorize United States actions in response to violations of religious freedom in foreign countries; to establish an Ambassador at Large for International Religious Freedom within the Department of State, a Commission on International Religious Freedom, and a Special Adviser on International

Religious Freedom within the National Security Council; and for other purposes.''.

OREGON PUBLIC LAND TRANSFER AND PROTECTION ACT OF 1998

WYDEN (AND SMITH) AMENDMENTS NOS. 3790–3791

(Ordered to lie on the table.)

Mr. WYDEN (for himself and Mr. SMITH of Oregon) submitted two amendments intended to be proposed by them to the bill (S. 2513) to transfer administrative jurisdiction over certain Federal land located within or adjacent to Rogue River National Forest and to clarify the authority of the Bureau of Land Management to sell and exchange other Federal land in Oregon; as follows:

AMENDMENT NO. 3790

On page 2, before line 3, insert the following:

TITLE III—CONVEYANCE TO DESCHUTES COUNTY, OREGON

Sec. 301. Conveyance to Deschutes County, Oregon.

On page 2, strike lines 11 through 13 and insert the following:

depicted on the map entitled ''BLM/Rogue River NF Administrative Jurisdiction Transfer, North Half'' and dated April 28, 1998, and the map entitled ''BLM/Rogue River NF Administrative Jurisdiction Transfer, South Half'' and dated April 28, 1998, consisting of approximately

On page 3, strike lines 13 through 16 and insert the following:

(1) LAND TRANSFER.—The Federal land depicted on the maps described in subsection (a)(1), consisting of approximately 1,632

On page 4, strike lines 9 through 11 and insert the following:

Federal land depicted on the maps described in subsection (a)(1), consisting of

On page 5, strike lines 9 through 11 and insert the following:

maps described in subsection (a)(1), consisting of approximately 960 acres within

On page 6, strike lines 15 and 16 and insert the following:

on the map entitled ''BLM/Rogue River NF Boundary Adjustment, North Half'' and dated April 28, 1998, and the map entitled ''BLM/Rogue River NF Boundary Adjustment, South Half'' and dated April 28, 1998.

On page 10, after line 3, add the following:

TITLE III—CONVEYANCE TO DESCHUTES COUNTY, OREGON

SEC. 301. CONVEYANCE TO DESCHUTES COUNTY, OREGON.

(a) PURPOSES.—The purposes of this section are to authorize the Secretary of the Interior to sell at fair market value to Deschutes County, Oregon, certain land to be used to protect the public's interest in clean water in the aquifer that provides drinking water for residents and to promote the public interest in the efficient delivery of social services and public amenities in southern Deschutes County, Oregon, by—

(1) providing land for private residential development to compensate for development prohibitions on private land currently zoned for residential development the development of which would cause increased pollution of ground and surface water;

(2) providing for the streamlined and low-cost acquisition of land by nonprofit and governmental social service entities that offer needed community services to residents of the area;

(3) allowing the County to provide land for community amenities and services such as open space, parks, roads, and other public spaces and uses to area residents at little or no cost to the public; and

(4) otherwise assist in the implementation of the Deschutes County Regional Problem Solving Project.

(b) SALE OF LAND.—

(1) IN GENERAL.—The Secretary of the Interior, acting through the Director of the Bureau of Land Management (referred to in this section as the ''Secretary'') may make available for sale at fair market value to Deschutes County, Oregon, the land in Deschutes County, Oregon (referred to in this section as the ''County''), comprising approximately 544 acres and lying in Township 22, S., Range 10 E. Willamette Meridian, described as follows:

(A) Sec. 1:

(i) Government Lot 3, the portion west of Highway 97;

(ii) Government Lot 4;

(iii) SENW, the portion west of Highway 97; SWNW, the portion west of Highway 97, NWSW, the portion west of Highway 97; SWSW, the portion west of Highway 97;

(B) Sec. 2:

(i) Government Lot 1;

(ii) SENE, SESW, the portion east of Huntington Road; NESE; NWSE; SWSE; SESE, the portion west of Highway 97;

(C) Sec. 11:

(i) Government Lot 10;

(ii) NENE, the portion west of Highway 97; NWNE; SWNE, the portion west of Highway 97; NENW, the portion east of Huntington Road; SWNW, the portion east of Huntington Road; SENW.

(2) SUITABILITY FOR SALE.—The Secretary shall convey the land under paragraph (1) only if the Secretary determines that the land is suitable for sale through the land use planning process.

(c) SPECIAL ACCOUNT.—The amount paid by the County for the conveyance of land under subsection (b)—

(1) shall be deposited in a special account in the Treasury of the United States; and

(2) may be used by the Secretary for the purchase of environmentally sensitive land east of Range Nine East in the State of Oregon that is consistent with the goals and objectives of the land use planning process of the Bureau of Land Management.

AMENDMENT NO. 3791

On page 2, before line 3, insert the following:

TITLE III—CONVEYANCE TO DESCHUTES COUNTY, OREGON

Sec. 301. Conveyance to Deschutes County, Oregon.

On page 2, strike lines 11 through 13 and insert the following:

depicted on the map entitled ''BLM/Rogue River NF Administrative Jurisdiction Transfer, North Half'' and dated April 28, 1998, and the map entitled ''BLM/Rogue River NF Administrative Jurisdiction Transfer, South Half'' and dated April 28, 1998, consisting of approximately

On page 3, strike lines 13 through 16 and insert the following:

(1) LAND TRANSFER.—The Federal land depicted on the maps described in subsection (a)(1), consisting of approximately 1,632

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Federal land depicted on the maps described in subsection (a)(1), consisting of

On page 5, strike lines 9 through 11 and insert the following:

maps described in subsection (a)(1), consisting of approximately 960 acres within

On page 6, strike lines 15 and 16 and insert the following:

on the map entitled ''BLM/Rogue River NF Boundary Adjustment, North Half'' and dated April 28, 1998, and the map entitled ''BLM/Rogue River NF Boundary Adjustment, South Half'' and dated April 28, 1998.

On page 10, after line 3, add the following:

TITLE III—CONVEYANCE TO DESCHUTES COUNTY, OREGON

SEC. 301. CONVEYANCE TO DESCHUTES COUNTY, OREGON.

(a) PURPOSES.—The purposes of this section are to authorize the Secretary of the Interior to sell at fair market value to Deschutes County, Oregon, certain land to be used to protect the public's interest in clean water in the aquifer that provides drinking water for residents and to promote the public interest in the efficient delivery of social services and public amenities in southern Deschutes County, Oregon, by—

(1) providing land for private residential development to compensate for development prohibitions on private land currently zoned for residential development the development of which would cause increased pollution of ground and surface water;

(2) providing for the streamlined and low-cost acquisition of land by nonprofit and governmental social service entities that offer needed community services to residents of the area;

(3) allowing the County to provide land for community amenities and services such as open space, parks, roads, and other public spaces and uses to area residents at little or no cost to the public; and

(4) otherwise assist in the implementation of the Deschutes County Regional Problem Solving Project.

(b) SALE OF LAND.—

(1) IN GENERAL.—The Secretary of the Interior, acting through the Director of the Bureau of Land Management (referred to in this section as the ''Secretary'') may make available for sale at fair market value to Deschutes County, Oregon, the land in Deschutes County, Oregon (referred to in this section as the ''County''), comprising approximately 544 acres and lying in Township 22, S., Range 10 E. Willamette Meridian, described as follows:

(A) Sec. 1:

(i) Government Lot 3, the portion west of Highway 97;

(ii) Government Lot 4;

(iii) SENW, the portion west of Highway 97; SWNW, the portion west of Highway 97, NWSW, the portion west of Highway 97; SWSW, the portion west of Highway 97;

(B) Sec. 2:

(i) Government Lot 1;

(ii) SENE, SESW, the portion east of Huntington Road; NESE; NWSE; SWSE; SESE, the portion west of Highway 97;

(C) Sec. 11:

(i) Government Lot 10;

(ii) NENE, the portion west of Highway 97; NWNE; SWNE, the portion west of Highway 97; NENW, the portion east of Huntington Road; SWNW, the portion east of Huntington Road; SENW.

(2) SUITABILITY FOR SALE.—The Secretary shall convey the land under paragraph (1)

only if the Secretary determines that the land is suitable for sale through the land use planning process.

(c) SPECIAL ACCOUNT.—The amount paid by the County for the conveyance of land under subsection (b)—

(1) shall be deposited in a special account in the Treasury of the United States; and

(2) may be used by the Secretary for the purchase of environmentally sensitive land east of Range Nine East in the State of Oregon that is consistent with the goals and objectives of the land use planning process of the Bureau of Land Management.

TORTURE VICTIMS RELIEF ACT OF 1998

GRAMS AMENDMENT NO. 3792

Mr. JEFFORDS (for Mr. GRAMS) proposed an amendment to the bill (H.R. 4309) to provide a comprehensive program of support for victims of torture; as follows:

Substitute language in Sec. 5 (b)(1) and (2) with the following:

(b) FUNDING.—(a) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated for the Department of Health and Human Services for fiscal years 1999 and 2000, there are authorized to be appropriated to carry out subsection (a) (relating to assistance for domestic centers and programs for the treatment of victims of torture) $5,000,000 for fiscal year 1999, and $7,500,000 for fiscal year 2000.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to this subsection shall remain available until expended.

ENERGY CONSERVATION REAUTHORIZATION ACT OF 1998

MURKOWSKI (AND AKAKA) AMENDMENT NO. 3793

Mr. JEFFORDS (for Mr. MURKOWSKI, for himself, and Mr. AKAKA) proposed an amendment to the bill (S. 417) to extend energy conservation programs under the Energy Policy and Conservation Act through September 30, 2002; as follows:

At the end, insert the following:

SEC. 9. PURCHASES FROM STRATEGIC PETROLEUM RESERVE BY ENTITIES IN INSULAR AREAS OF UNITED STATES AND FREELY ASSOCIATED STATES.

(a) Section 161 of the Energy Policy and Conservation Act (42 U.S.C. 6241) is amended by adding at the end the following:

"(j) PURCHASES FROM STRATEGIC PETROLEUM RESERVE BY ENTITIES IN INSULAR AREAS OF UNITED STATES AND FREELY ASSOCIATED STATES.—

"(1) DEFINITIONS.—In this subsection:

"(A) BINDING OFFER.—The term 'binding offer' means a bid submitted by the State of Hawaii for an assured award of a specific quantity of petroleum product, with a price to be calculated pursuant to paragraph (2) of this subsection, that obligates the offeror to take title to the petroleum product without further negotiation or recourse to withdraw the offer.

"(B) CATEGORY OF PETROLEUM PRODUCT.—The term 'category of petroleum product' means a master line item within a notice of sale.

"(C) ELIGIBLE ENTITY.—The term 'eligible entity' means an entity that owns or controls a refinery that is located within the State of Hawaii.

"(D) FULL TANKER LOAD.—The term 'full tanker load' means a tanker of approximately 700,000 barrels of capacity, or such lesser tanker capacity as may be designated by the State of Hawaii.

"(E) INSULAR AREA.—The term 'insular area' means the Commonwealth of Puerto Rico, The Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, the Freely Associated States of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

"(F) OFFERING.—The term 'offering' means a solicitation for bids for a quantity or quantities of petroleum product from the Strategic Petroleum Reserve as specified in the notice of sale.

"(G) NOTICE OF SALE.—The term 'notice of sale' means the document that announces—

"(i) the sale of Strategic Petroleum Reserve products;

"(ii) the quantity, characteristics, and location of the petroleum product being sold;

"(iii) the delivery period for the sale; and

"(iv) the procedures for submitting offers.

"(2) IN GENERAL.—In the case of an offering of a quantity of petroleum product during a drawdown of the Strategic Petroleum Reserve—

"(A) the State of Hawaii, in addition to having the opportunity to submit a competitive bid, may—

"(i) submit a binding offer, and shall on submission of the offer, be entitled to purchase a category of a petroleum product specified in a notice of sale at a price equal to the volumetrically weighted average of the successful bids made for the remaining quantity of the petroleum product within the category that is the subject of the offering; and

"(ii) submit 1 or more alternative offers, for other categories of the petroleum product, that will be binding if no price competitive contract is awarded for the category of petroleum product on which a binding offer is submitted under clause (i); and

"(B) at the request of the Governor of the State of Hawaii, a petroleum product purchased by the State of Hawaii at a competitive sale or through a binding offer shall have first preference in scheduling for lifting.

"(3) LIMITATION ON QUANTITY.—

"(A) IN GENERAL.—In administering this subsection, in the case of each offering, the Secretary may impose the limitation described in subparagraph (B) or (C) that results in the purchase of the lesser quantity of petroleum product.

"(B) PORTION OF QUANTITY OF PREVIOUS IMPORTS.—The Secretary may limit the quantity of a petroleum product that the State of Hawaii may purchase through a binding offer at any offering to 1/12 of the total quantity of imports of the petroleum product brought into the State during the previous year (or other period determined by the Secretary to be representative).

"(C) PERCENTAGE OF OFFERING.—The Secretary may limit the quantity that may be purchased through binding offers at any offering to 3 percent of the offering.

"(4) ADJUSTMENTS.—

"(A) IN GENERAL.—Notwithstanding any limitation imposed under paragraph (3), in administering this subsection, in the case of each offering, the Secretary shall, at the request of the Governor of the State of Hawaii, or an eligible entity certified under paragraph (7), adjust the quantity to be sold to the State of Hawaii in accordance with this paragraph.

"(B) UPWARD ADJUSTMENT.—The Secretary shall adjust upward to the next whole number increment of a full tanker load if the quantity to be sold is—

"(i) less than 1 full tanker load; or

"(ii) greater than or equal to 50 percent of a full tanker load more than a hole number increment of a full tanker load.

"(C) DOWNWARD ADJUSTMENT.—The Secretary shall adjust downward to the next whole number increment of a full tanker load if the quantity to be sold is less than 50 percent of a full tanker load more than a whole number increment of a full tanker load.

"(5) DELIVERY TO OTHER LOCATIONS.—The State of Hawaii may enter into an exchange or a processing agreement that requires delivery to other locations, if a petroleum product of similar value or quantity is delivered to the State of Hawaii.

"(6) STANDARD SALES PROVISIONS.—Except as otherwise provided in this Act, the Secretary may require the State of Hawaii to comply with the standard sales provisions applicable to purchasers of petroleum product at competitive sales.

"(7) ELIGIBLE ENTITIES—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C) and notwithstanding any other provision of this paragraph, if the Governor of the State of Hawaii certifies to the Secretary that the State has entered into an agreement with an eligible entity to carry out this Act, the eligible entity may act on behalf of the State of Hawaii to carry out this subsection.

"(B) LIMITATION.—The Governor of the State of Hawaii shall not certify more than 1 eligible entity under this paragraph for each notice of sale.

"(C) BARRED COMPANY.—If the Secretary has notified the Governor of the State of Hawaii that a company has been barred from bidding (either prior to, or at the time that a notice of sale is issued), the Governor shall not certify the company under this paragraph.

"(7) SUPPLIES OF PETROLEUM PRODUCTS.—At the request of the governor of an insular area, the Secretary shall, for a period not to exceed 180 days following a drawdown of the Strategic Petroleum Reserve, assist the insular area or the President of a Freely Associated State in its efforts to maintain adequate supplies of petroleum products from traditional and nontraditional suppliers.".

(b) REGULATIONS.—

(1) IN GENERAL.—The Secretary of Energy shall issue such regulations as are necessary to carry out the amendment made by subsection (a).

(2) ADMINISTRATIVE PROCEDURE.—Regulations issued to carry out the amendment made by subsection (a) shall not be subject to—

(A) section 523 of the Energy Policy and Conservation Act (42 U.S.C. 6393); or

(B) section 501 of the Department of Energy Organization Act (42 U.S.C. 7191).

(c) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on the earlier of—

(1) the date that is 180 days after the date of enactment of this Act; or

(2) the date that final regulations are issued under subsection (a).

SEC. 10. INDIAN ENERGY RESOURCE DEVELOPMENT.

Section 2603 of the Energy Policy Act of 1992 (25 U.S.C. 3503) is amended in subsection

(c) by striking "and 1997" each place it appears and inserting "1999, 2000, 2001, 2002 and 2003" in lieu thereof.

SEC. 11. REMEDIAL ACTION.

(a) Section 1001(b)(2)(C) of the Energy Policy Act of 1992 (42 U.S.C. 2296a) is amended by striking "$65,000,000" and inserting "$140,000,000".

(b) Section 1003(a) of such Act (42 U.S .C. 2296a–2) is amended by striking "$415,000,000" and inserting "$490,000,000".

(c) Section 1802(a) of the Atomic Energy Act of 1954 (42 U.S.C. 2297g–1) is amended by striking "$480,000,000" and inserting "$488,333,333".

GLACIER BAY NATIONAL PARK BOUNDARY ADJUSTMENT ACT OF 1998

MURKOWSKI AMENDMENT NO. 3794

Mr. JEFFORDS (for Mr. MURKOWSKI) proposed an amendment to the bill (H.R. 3903) to provide for an exchange of lands located near Gustavus, Alaska, and for other purposes, as follows:

On page 2 line 8 strike "paragraph [4]" and insert "paragraph [2]".

On page 2 line 9 strike "paragraph [3]" and insert "paragraph [4]".

On page 4 line 1 strike "838.66" and insert "1191.75".

On page 11 line 9 strike "units" and insert "units resulting from this Act".

On page 11 line 20 strike "considered in applying" and insert "charged against".

On page 12 line 1 strike "units" and insert "units resulting from this Act".

On page 12 beginning on line 1 strike "be considered in applying" and insert "be charged against".

CHARTER SCHOOLS AMENDMENTS ACT OF 1998

COATS (AND OTHERS) AMENDMENT NO. 3795

Mr. JEFFORDS (for Mr. COATS for himself, Mr. LIEBERMAN, Mr. D'AMATO, Mr. KERREY, Ms. LANDRIEU, and Mr. MCCAIN) proposed an amendment to the bill (H.R. 2616) to amend titles VI and X of the Elementary and Secondary Education Act of 1965 to improve and expand charter schools; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Charter School Expansion Act of 1998".

SEC. 2. INNOVATIVE CHARTER SCHOOLS.

Title VI of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7301 et seq.) is amended—

(1) in section 6201(a) (20 U.S.C. 7331(a))—

(A) in paragraph (1)(C), by striking "and" after the semicolon;

(B) by redesignating paragraph (2) as paragraph (3); and

(C) by inserting after paragraph (1) the following:

"(2) support for planning, designing, and initial implementation of charter schools as described in part C of title X; and"; and

(2) in section 6301(b) (20 U.S.C. 7351(b))—

(A) in paragraph (7), by striking "and" after the semicolon;

(B) by redesignating paragraph (8) as paragraph (9); and

(C) by inserting after paragraph (7) the following:

"(8) planning, designing, and initial implementation of charter schools as described in part C of title X; and".

SEC. 3. CHARTER SCHOOLS.

(a) PURPOSE.—Section 10301(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8061(b)) is amended—

(1) in paragraph (1)—

(A) by inserting "planning, program" before "design"; and

(B) by striking "and" after the semicolon;

(2) in paragraph (2), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(3) expanding the number of high-quality charter schools available to students across the Nation.".

(b) CRITERIA FOR PRIORITY TREATMENT.—Section 10302 of such Act of 1965 (20 U.S.C. 8062) is amended—

(1) in subsection (c)(2)—

(A) in subparagraph (A), by striking "and" after the semicolon;

(B) in subparagraph (B), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(C) not more than 2 years to carry out dissemination activities described in section 10304(f)(6)(B).";

(2) by amending subsection (d) to read as follows:

"(d) LIMITATION.—A charter school may not receive—

"(1) more than 1 grant for activities described in subparagraphs (A) and (B) of subsection (c)(2); or

"(2) more than 1 grant for activities under subparagraph (C) of subsection (c)(2)."; and

(3) by adding at the end the following:

"(e) PRIORITY TREATMENT.—

"(1) IN GENERAL.—

"(A) FISCAL YEARS 1999, 2000, AND 2001.—In awarding grants under this part for any of the fiscal years 1999, 2000, and 2001 from funds appropriated under section 10311 that are in excess of $51,000,000 for the fiscal year, the Secretary shall give priority to States to the extent that the States meet the criteria described in paragraph (2) and 1 or more of the criteria described in subparagraph (A), (B), or (C) of paragraph (3).

"(B) SUCCEEDING FISCAL YEARS.—In awarding grants under this part for fiscal year 2002 or any succeeding fiscal year from any funds appropriated under section 10311, the Secretary shall give priority to States to the extent that the States meet the criteria described in paragraph (2) and 1 or more of the criteria described in subparagraph (A), (B), or (C) of paragraph (3).

"(2) REVIEW AND EVALUATION PRIORITY CRITERIA.—The criteria referred to in paragraph (1) is that the State provides for periodic review and evaluation by the authorized public chartering agency of each charter school, at least once every 5 years unless required more frequently by State law, to determine whether the charter school is meeting the terms of the school's charter, and is meeting or exceeding the academic performance requirements and goals for charter schools as set forth under State law or the school's charter.

"(3) PRIORITY CRITERIA.—The criteria referred to in paragraph (1) are the following:

"(A) The State has demonstrated progress, in increasing the number of high quality charter schools that are held accountable in the terms of the schools' charters for meeting clear and measurable objectives for the educational progress of the students attending the schools, in the period prior to the period for which a State educational agency or eligible applicant applies for a grant under this part.

"(B) The State—

"(i) provides for 1 authorized public chartering agency that is not a local educational agency, such as a State chartering board, for each individual or entity seeking to operate a charter school pursuant to such State law; or

"(ii) in the case of a State in which local educational agencies are the only authorized public chartering agencies, allows for an appeals process for the denial of an application for a charter school.

"(C) The State ensures that each charter school has a high degree of autonomy over the charter school's budgets and expenditures.

"(f) AMOUNT CRITERIA.—In determining the amount of a grant to be awarded under this part to a State educational agency, the Secretary shall take into consideration the number of charter schools that are operating, or are approved to open, in the State.".

(c) APPLICATIONS.—Section 10303 of such Act (20 U.S.C. 8063) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by inserting "and" after the semicolon;

(B) by redesignating paragraph (2) as paragraph (3);

(C) by inserting after paragraph (1) the following:

"(2) describe how the State educational agency—

"(A) will inform each charter school in the State regarding—

"(i) Federal funds that the charter school is eligible to receive; and

"(ii) Federal programs in which the charter school may participate;

"(B) will ensure that each charter school in the State receives the charter school's commensurate share of Federal education funds that are allocated by formula each year, including during the first year of operation of the charter school; and

"(C) will disseminate best or promising practices of charter schools to each local educational agency in the State; and"; and

(D) in paragraph (3) (as redesignated by subparagraph (B))—

(i) in subparagraph (E), insert "planning, program" before "design";

(ii) in subparagraph (K), by striking "and" after the semicolon;

(iii) by redesignating subparagraph (L) as subparagraph (N); and

(iv) by inserting after subparagraph (K) the following:

"(L) a description of how a charter school that is considered a local educational agency under State law, or a local educational agency serving a school district in which a charter school is located, will comply with sections 613(a)(5) and 613(e)(1)(B) of the Individuals with Disabilities Education Act;

"(M) if the eligible applicant desires to use subgrant funds for dissemination activities under section 10302(c)(2)(C), a description of those activities and how those activities will involve charter schools, other public schools, local educational agencies, developers, or potential developers; and"; and

(2) in subsection (c), by striking "10302(e)(1) or"; and

(3) in subsection (d)(1)—

(A) by striking "subparagraphs (A) through (L)" and inserting "subparagraphs (A) through (N)"; and

(B) by striking "subparagraphs (I), (J), and (K)" and inserting "subparagraphs (J), (K), and (N)".

(d) ADMINISTRATION.—Section 10304 of such Act (20 U.S.C. 8064) is amended—

(1) in subsection (a)—

(A) in paragraph (4), by striking "and" after the semicolon;

(B) in paragraph (5), by striking the period and inserting a semicolon; and

(C) by adding at the end the following:

"(6) the number of high quality charter schools created under this part in the State; and

"(7) in the case of State educational agencies that propose to use grant funds to support dissemination activities under section 10302(c)(2)(C), the quality of those activities and the likelihood that those activities will improve student achievement.";

(2) in subsection (b)—

(A) in paragraph (5), by striking "and" after the semicolon;

(B) in paragraph (6), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(7) in the case of an eligible applicant that proposes to use grant funds to support dissemination activities under section 10302(c)(2)(C), the quality of those activities and the likelihood that those activities will improve student achievement.";

(3) in subsection (f)—

(A) in paragraph (1), by inserting before the period the following: ", except that the State educational agency may reserve not more than 10 percent of the grant funds to support dissemination activities described in paragraph (6)";

(B) in paragraph (2), by inserting ", or to disseminate information about the charter school and successful practices in the charter school," after "charter school";

(C) in paragraph (5), by striking "20 percent" and inserting "10 percent"; and

(D) by adding at the end the following:

"(6) DISSEMINATION.—

"(A) IN GENERAL.—A charter school may apply for funds under this part, whether or not the charter school has applied for or received funds under this part for planning, program design, or implementation, to carry out the activities described in subparagraph (B) if the charter school has been in operation for at least 3 consecutive years and has demonstrated overall success, including—

"(i) substantial progress in improving student achievement;

"(ii) high levels of parent satisfaction; and

"(iii) the management and leadership necessary to overcome initial start-up problems and establish a thriving, financially viable charter school.

"(B) ACTIVITIES.—A charter school described in subparagraph (A) may use funds reserved under paragraph (1) to assist other schools in adapting the charter school's program (or certain aspects of the charter school's program), or to disseminate information about the charter school, through such activities as—

"(i) assisting other individuals with the planning and start-up of 1 or more new public schools, including charter schools, that are independent of the assisting charter school and the assisting charter school's developers, and that agree to be held to at least as high a level of accountability as the assisting charter school;

"(ii) developing partnerships with other public schools, including charter schools, designed to improve student performance in each of the schools participating in the partnership;

"(iii) developing curriculum materials, assessments, and other materials that promote increased student achievement and are based on successful practices within the assisting charter school; and

"(iv) conducting evaluations and developing materials that document the successful practices of the assisting charter school and that are designed to improve student performance in other schools.".

(f) NATIONAL ACTIVITIES.—Section 10305 of such Act (20 U.S.C. 8065) is amended to read as follows:

"SEC. 10305. NATIONAL ACTIVITIES.

"(a) IN GENERAL.—The Secretary shall reserve for each fiscal year the greater of 5 percent or $5,000,000 of the amount appropriated to carry out this part, except that in no fiscal year shall the total amount so reserved exceed $8,000,000, to carry out the following activities:

"(1) To provide charter schools, either directly or through State educational agencies, with—

"(A) information regarding—

"(i) Federal funds that charter schools are eligible to receive; and

"(ii) other Federal programs in which charter schools may participate; and

"(B) assistance in applying for Federal education funds that are allocated by formula, including assistance with filing deadlines and submission of applications.

"(2) To provide for the completion of the 4-year national study (which began in 1995) of charter schools.

"(3) To provide for other evaluations or studies that include the evaluation of the impact of charter schools on student achievement, including information regarding—

"(A) students attending charter schools reported on the basis of race, age, disability, gender, limited English proficiency, and previous enrollment in public school; and

"(B) the professional qualifications of teachers within a charter school and the turnover of the teaching force.

"(4) To provide—

"(A) information to applicants for assistance under this part;

"(B) assistance to applicants for assistance under this part with the preparation of applications under section 10303;

"(C) assistance in the planning and startup of charter schools;

"(D) training and technical assistance to existing charter schools; and

"(E) for the dissemination to other public schools of best or promising practices in charter schools.

"(5) To provide (including through the use of 1 or more contracts that use a competitive bidding process) for the collection of information regarding the financial resources available to charter schools, including access to private capital, and to widely disseminate to charter schools any such relevant information and model descriptions of successful programs.

"(b) CONSTRUCTION.—Nothing in this section shall be construed to require charter schools to collect any data described in subsection (a).".

(g) COMMENSURATE TREATMENT; RECORDS TRANSFER; PAPERWORK REDUCTION.—Part C of title X of such Act (20 U.S.C. 8061 et seq.) is amended—

(1) by redesignating sections 10306 and 10307 as sections 10310 and 10311, respectively; and

(2) by inserting after section 10305 the following:

"SEC. 10306. FEDERAL FORMULA ALLOCATION DURING FIRST YEAR AND FOR SUCCESSIVE ENROLLMENT EXPANSIONS.

"(a) IN GENERAL.—For purposes of the allocation to schools by the States or their agencies of funds under part A of title I, and any other Federal funds which the Secretary allocates to States on a formula basis, the Secretary and each State educational agency shall take such measures not later than 6 months after the date of enactment of the Charter School Expansion Act of 1998 as are necessary to ensure that every charter school receives the Federal funding for which the charter school is eligible not later than 5 months after the charter school first opens, notwithstanding the fact that the identity and characteristics of the students enrolling in that charter school are not fully and completely determined until that charter school actually opens. The measures similarly shall ensure that every charter school expanding its enrollment in any subsequent year of operation receives the Federal funding for which the charter school is eligible not later than 5 months after such expansion.

"(b) ADJUSTMENT AND LATE OPENINGS.—

"(1) IN GENERAL.—The measures described in subsection (a) shall include provision for appropriate adjustments, through recovery of funds or reduction of payments for the succeeding year, in cases where payments made to a charter school on the basis of estimated or projected enrollment data exceed the amounts that the school is eligible to receive on the basis of actual or final enrollment data.

"(2) RULE.—For charter schools that first open after November 1 of any academic year, the State, in accordance with guidance provided by the Secretary and applicable Federal statutes and regulations, shall ensure that such charter schools that are eligible for the funds described in subsection (a) for such academic year have a full and fair opportunity to receive those funds during the charter schools' first year of operation.

"SEC. 10307. SOLICITATION OF INPUT FROM CHARTER SCHOOL OPERATORS.

"To the extent practicable, the Secretary shall ensure that administrators, teachers, and other individuals directly involved in the operation of charter schools are consulted in the development of any rules or regulations required to implement this part, as well as in the development of any rules or regulations relevant to charter schools that are required to implement part A of title I, the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), or any other program administered by the Secretary that provides education funds to charter schools or regulates the activities of charter schools.

"SEC. 10308. RECORDS TRANSFER.

"State educational agencies and local educational agencies, to the extent practicable, shall ensure that a student's records and, if applicable, a student's individualized education program as defined in section 602(11) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(11)), are transferred to a charter school upon the transfer of the student to the charter school, and to another public school upon the transfer of the student from a charter school to another public school, in accordance with applicable State law.

"SEC. 10309. PAPERWORK REDUCTION.

"To the extent practicable, the Secretary and each authorized public chartering agency shall ensure that implementation of this part results in a minimum of paperwork for any eligible applicant or charter school.".

(h) PART C DEFINITIONS.—Section 10310(1) of such Act (as redesignated by subsection (e)(1)) (20 U.S.C. 8066(1)) is amended—

(1) in subparagraph (A), by striking "an enabling statute" and inserting "a specific State statute authorizing the granting of charters to schools";

(2) in subparagraph (H), by inserting "is a school to which parents choose to send their children, and that" before "admits";

(3) in subparagraph (J), by striking "and" after the semicolon;

(4) in subparagraph (K), by striking the period and inserting "; and"; and

(5) by adding at the end the following:

"(L) has a written performance contract with the authorized public chartering agency in the State that includes a description of how student performance will be measured in charter schools pursuant to State assessments that are required of other schools and pursuant to any other assessments mutually agreeable to the authorized public chartering agency and the charter school.".

(i) AUTHORIZATION OF APPROPRIATIONS.—Section 10311 of such Act (as redesignated by subsection (e)(1)) (20 U.S.C. 8067) is amended by striking "$15,000,000 for fiscal year 1995" and inserting "$100,000,000 for fiscal year 1999".

(j) TITLE XIV DEFINITIONS.—Section 14101 of such Act (20 U.S.C. 8801) is amended—

(1) in paragraph (14), by inserting ", including a public elementary charter school," after "residential school"; and

(2) in paragraph (25), by inserting ", including a public secondary charter school," after "residential school".

(k) CONFORMING AMENDMENT.—The matter preceding paragraph (1) of section 10304(e) of such Act (20 U.S.C. 8064(e)) is amended by striking "10306(1)" and inserting "10310(1)".

BUSINESS AND EDUCATION SHARING TECHNOLOGY ACT (BEST)

CHAFEE AMENDMENT NO. 3796

Mr. JEFFORDS (for Mr. CHAFEE) proposed an amendment to the bill (S. 2427) to recognize businesses which show an exemplary commitment to participating with schools to enhance educators' technology capabilities and to make every student technologically literate; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Neotropical Migratory Bird Conservation Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) of the nearly 800 bird species known to occur in the United States, approximately 500 migrate among countries, and the large majority of those species, the neotropical migrants, winter in Latin America and the Caribbean;

(2) neotropical migratory bird species provide invaluable environmental, economic, recreational, and aesthetic benefits to the United States, as well as to the Western Hemisphere;

(3)(A) many neotropical migratory bird populations, once considered common, are in decline, and some have declined to the point that their long-term survival in the wild is in jeopardy; and

(B) the primary reason for the decline in the populations of those species is habitat loss and degradation (including pollution and contamination) across the species' range; and

(4)(A) because neotropical migratory birds range across numerous international borders each year, their conservation requires the commitment and effort of all countries along their migration routes; and

(B) although numerous initiatives exist to conserve migratory birds and their habitat, those initiatives can be significantly strengthened and enhanced by increased coordination.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to perpetuate healthy populations of neotropical migratory birds;

(2) to assist in the conservation of neotropical migratory birds by supporting conservation initiatives in the United States, Latin America, and the Caribbean; and

(3) to provide financial resources and to foster international cooperation for those initiatives.

SEC. 4. DEFINITIONS.

In this Act:

(1) ACCOUNT.—The term "Account" means the Neotropical Migratory Bird Conservation Account established by section 9(a).

(2) CONSERVATION.—The term "conservation" means the use of methods and procedures necessary to bring a species of neotropical migratory bird to the point at which there are sufficient populations in the wild to ensure the long-term viability of the species, including—

(A) protection and management of neotropical migratory bird populations;

(B) maintenance, management, protection, and restoration of neotropical migratory bird habitat;

(C) research and monitoring;

(D) law enforcement; and

(E) community outreach and education.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 5. FINANCIAL ASSISTANCE.

(a) IN GENERAL.—The Secretary shall establish a program to provide financial assistance for projects to promote the conservation of neotropical migratory birds.

(b) PROJECT APPLICANTS.—A project proposal may be submitted by—

(1) an individual, corporation, partnership, trust, association, or other private entity;

(2) an officer, employee, agent, department, or instrumentality of the Federal Government, of any State, municipality, or political subdivision of a State, or of any foreign government;

(3) a State, municipality, or political subdivision of a State;

(4) any other entity subject to the jurisdiction of the United States or of any foreign country; and

(5) an international organization (as defined in section 1 of the International Organizations Immunities Act (22 U.S.C. 288)).

(c) PROJECT PROPOSALS.—To be considered for financial assistance for a project under this Act, an applicant shall submit a project proposal that—

(1) includes—

(A) the name of the individual responsible for the project;

(B) a succinct statement of the purposes of the project;

(C) a description of the qualifications of individuals conducting the project; and

(D) an estimate of the funds and time necessary to complete the project, including sources and amounts of matching funds;

(2) demonstrates that the project will enhance the conservation of neotropical migratory bird species in Latin America, the Caribbean, or the United States;

(3) includes mechanisms to ensure adequate local public participation in project development and implementation;

(4) contains assurances that the project will be implemented in consultation with relevant wildlife management authorities and other appropriate government officials with jurisdiction over the resources addressed by the project;

(5) demonstrates sensitivity to local historic and cultural resources and complies with applicable laws;

(6) describes how the project will promote sustainable, effective, long-term programs to conserve neotropical migratory birds; and

(7) provides any other information that the Secretary considers to be necessary for evaluating the proposal.

(d) PROJECT REPORTING.—Each recipient of assistance for a project under this Act shall submit to the Secretary such periodic reports as the Secretary considers to be necessary. Each report shall include all information required by the Secretary for evaluating the progress and outcome of the project.

(e) COST SHARING.—

(1) FEDERAL SHARE.—The Federal share of the cost of each project shall be not greater than 33 percent.

(2) NON-FEDERAL SHARE.—

(A) SOURCE.—The non-Federal share required to be paid for a project shall not be derived from any Federal grant program.

(B) FORM OF PAYMENT.—

(i) PROJECTS IN THE UNITED STATES.—The non-Federal share required to be paid for a project carried out in the United States shall be paid in cash.

(ii) PROJECTS IN FOREIGN COUNTRIES.—The non-Federal share required to be paid for a project carried out in a foreign country may be paid in cash or in kind.

SEC. 6. DUTIES OF THE SECRETARY.

In carrying out this Act, the Secretary shall—

(1) develop guidelines for the solicitation of proposals for projects eligible for financial assistance under section 5;

(2) encourage submission of proposals for projects eligible for financial assistance under section 5, particularly proposals from relevant wildlife management authorities;

(3) select proposals for financial assistance that satisfy the requirements of section 5, giving preference to proposals that address conservation needs not adequately addressed by existing efforts and that are supported by relevant wildlife management authorities; and

(4) generally implement this Act in accordance with its purposes.

SEC. 7. COOPERATION.

(a) IN GENERAL.—In carrying out this Act, the Secretary shall—

(1) support and coordinate existing efforts to conserve neotropical migratory bird species, through—

(A) facilitating meetings among persons involved in such efforts;

(B) promoting the exchange of information among such persons;

(C) developing and entering into agreements with other Federal agencies, foreign, State, and local governmental agencies, and nongovernmental organizations; and

(D) conducting such other activities as the Secretary considers to be appropriate; and

(2) coordinate activities and projects under this Act with existing efforts in order to enhance conservation of neotropical migratory bird species.

(b) ADVISORY GROUP.—

(1) IN GENERAL.—To assist in carrying out this Act, the Secretary may convene an advisory group consisting of individuals representing public and private organizations actively involved in the conservation of neotropical migratory birds.

(2) PUBLIC PARTICIPATION.—

(A) MEETINGS.—The advisory group shall—

(i) ensure that each meeting of the advisory group is open to the public; and

(ii) provide, at each meeting, an opportunity for interested persons to present oral or written statements concerning items on the agenda.

(B) NOTICE.—The Secretary shall provide to the public timely notice of each meeting of the advisory group.

(C) MINUTES.—Minutes of each meeting of the advisory group shall be kept by the Secretary and shall be made available to the public.

(3) EXEMPTION FROM FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory group.

SEC. 8. REPORT TO CONGRESS.

Not later than October 1, 2002, the Secretary shall submit to Congress a report on the results and effectiveness of the program carried out under this Act, including recommendations concerning how the Act might be improved and whether the program should be continued.

SEC. 9. NEOTROPICAL MIGRATORY BIRD CONSERVATION ACCOUNT.

(a) ESTABLISHMENT.—There is established in the Multinational Species Conservation Fund of the Treasury a separate account to be known as the "Neotropical Migratory Bird Conservation Account", which shall consist of amounts deposited into the Account by the Secretary of the Treasury under subsection (b).

(b) DEPOSITS INTO THE ACCOUNT.—The Secretary of the Treasury shall deposit into the Account—

(1) all amounts received by the Secretary in the form of donations under subsection (d); and

(2) other amounts appropriated to the Account.

(c) USE.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may use amounts in the Account, without further Act of appropriation, to carry out this Act.

(2) ADMINISTRATIVE EXPENSES.—Of amounts in the Account available for each fiscal year, the Secretary may expend not more than 6 percent to pay the administrative expenses necessary to carry out this Act.

(d) ACCEPTANCE AND USE OF DONATIONS.—The Secretary may accept and use donations to carry out this Act. Amounts received by the Secretary in the form of donations shall be transferred to the Secretary of the Treasury for deposit into the Account.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Account to carry out this Act $8,000,000 for each of fiscal years 1999 through 2002, to remain available until expended, of which not less than 50 percent of the amounts made available for each fiscal year shall be expended for projects carried out outside the United States.

RHINOCEROS AND TIGER CONSERVATION ACT OF 1998

CHAFEE AMENDMENT NO. 3797

Mr. JEFFORDS (for Mr. CHAFEE) proposed an amendment to the bill (S. 361) to amend the Endangered Species Act of 1973 to prohibit the sale, import, and export of products labeled as containing endangered species, and for other purposes; as follows:

On page 5, line 23, insert "or advertised" after "labeled".

On page 6, line 4, insert ", or labeled or advertised as containing," after "containing".

On page 6, line 9, insert ", or labeled or advertised as containing," after "containing".

On page 7, line 20, insert "**OR ADVERTISED**" after "**LABELED**".

On page 8, line 2, insert "**OR ADVERTISED**" after "**LABELED**".

On page 10, line 17, insert "**OR ADVERTISED**" after "**LABELED**".

WATER RESOURCES DEVELOPMENT ACT OF 1998

CHAFEE AMENDMENT NO. 3798

Mr. JEFFORDS (for Mr. CHAFEE) proposed an amendment to the bill (S. 2131) to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes; as follows:

On page 31, line 3, strike "**DEFINITIONS**" and insert "**DEFINITION**".

On page 34, lines 3 and 4, strike "The Secretary may complete" and insert "The project for completion of".

On page 34, line 8, strike "(16 U.S.C. 1005)" and insert "(16 U.S.C. 1005),".

On page 34, line 25, after "navigation" insert "at".

On page 37, line 8, strike "restoration" and insert "restoration,".

On page 37, line 23, strike "California at a total cost of $25,850,000" and insert "California, at a total cost of $25,850,000,".

On page 38, line 21, strike "Delaware" and insert "Delaware,".

On page 39, line 12, strike "Delaware" and insert "Delaware,".

On page 40, line 5, strike "Delaware" and insert "Delaware,".

On page 40, line 15, strike "Florida" and insert "Florida,".

On page 40, line 22, strike "Florida" and insert "Florida,".

On page 41, line 3, strike "Florida" and insert "Florida,".

On page 41, line 9, strike "Florida" and insert "Florida,".

On page 41, line 14, strike "Deepening, Georgia" and insert "deepening, Georgia,".

On page 41, line 25, strike "Dakota and East Grand Forks, Minnesota" and insert "Dakota, and East Grand Forks, Minnesota,".

On page 42, lines 6 and 7, strike "Extension, Pascagoula Harbor, Pascagoula, Mississippi" and insert "extension, Pascagoula Harbor, Pascagoula, Mississippi,".

On page 42, line 14, strike "Missouri and Kansas City, Kansas" and insert "Missouri, and Kansas City, Kansas,".

On page 42, lines 21 and 22, strike "restoration" and insert "restoration,".

On page 42, line 24, strike "New Jersey" and insert "New Jersey,".

On page 43, line 14, strike "Protection," and insert "protection,".

On page 43, line 16, strike "New Jersey" and insert "New Jersey,".

On page 44, line 6, strike "Protection," and insert "protection,".

On page 44, line 7, strike "New Jersey" and insert "New Jersey,".

On page 44, line 20, strike "River" and insert "River,".

On page 45, line 4, strike "3709)" and insert "3709),".

On page 45, line 6, strike "California" and insert "California,"

On page 45, lines 13 and 14, strike "Public Law 104–303" and insert "the Water Resources Development Act of 1996".

On page 46, line 12, strike "sponsor" and insert "interests".

On page 46, line 22, strike "by Public Law" and insert "by the first section of Public Law".

On page 47, line 8, strike "California" and insert "California,"

On page 47, lines 18 and 19, strike "(100 Stat. 4098)" and insert "(100 Stat. 4098),".

On page 48, lines 3 and 4, strike "(110 Stat. 3711)" and insert "(110 Stat. 3711),".

On page 49, line 16, strike "1944," and insert "1944 (58 Stat. 891),".

On page 50, lines 8 and 9, strike "relocated" and insert "relocated,".

On page 50, line 10, strike "measures" and insert "measures,".

On page 50, line 21, strike "agencies, and" and insert "agencies,".

On page 50, line 23, strike "Such" and insert "The".

On page 52, line 6, strike "sponsor" and insert "interests".

On page 52, lines 13 and 14, strike "Connecticut" and insert "Connecticut,".

On page 52, line 16, strike "anchorage" and insert "anchorage area".

On page 53, line 8, strike "point" and insert "point,".

On page 54, strike line 11 and insert the following: authorized by the first section of the Act entitled 'An

On page 54, strike line 14 and insert the following: ers and harbors, and for other purposes', approved

On page 54, line 21, strike "reports" and insert "reports,".

On page 56, line 14, strike "which" and insert "that".

On page 57, line 2, strike "Florida" and insert "Florida,".

On page 57, line 12, strike "sponsor" and insert "interests".

On page 57, line 18, strike "Florida" and insert "Florida,".

On page 58, line 3, strike "sponsor" and insert "interests".

On page 58, line 9, strike "Florida" and insert "Florida,".

On page 58, line 13, strike "Navigational" and insert "Navigation".

On page 58, line 23, strike "project" and insert "Project, Louisiana".

On page 59, line 11, strike "this" and insert "that".

On page 59, line 16, strike "project" and insert "Project".

On page 59, line 19, strike "Orleans, Parish," and insert "Orleans Parish, Louisiana,".

On page 60, line 9, strike "sponsor" and insert "interests".

On page 63, line 13, strike "reports" and insert "report".

On page 64, line 9, strike "the" and insert "a".

On page 64, line 24, strike "through the year 2020" and insert "through 2020".

On page 66, line 19, strike "(100 Stat. 4088; 110 Stat. 3677)" and insert "(33 U.S.C. 2215)".

On page 67, line 24, strike "as a" and insert "as".

On page 68, line 7, strike "the Environment" and insert "Environment".

On page 69, line 14, strike "(100 Stat. 4085)" and insert "(33 U.S.C. 2213(d))".

On page 70, line 22, strike "The third sentence of section" and insert "Section".

On page 70, line 23, strike "amended by" and insert "amended in the third sentence by".

On page 71, line 11, strike "(110 Stat. 3679)" and insert "(33 U.S.C. 2330(c))".

On page 71, line 18, strike "1962d–5b(b)), for any project undertaken" and insert "1962d–5b), for any project carried out".

On page 71, line 20, strike "entity" and insert "entity,".

On page 71, line 24, strike "(106 Stat. 4826; 110 Stat. 3680)" and insert "(33 U.S.C. 2326)".

On page 72, line 1, strike "ENTITIES" and insert "Entities".

On page 72, lines 2 and 3, strike "(42 U.S.C. 1962d–5b(b))" and insert "(42 U.S.C. 1962d–5b)".

On page 72, lines 8 and 9, strike "Flood Control Act of 1936 (33 U.S.C. 701h)" and insert "Act of June 22, 1936 (33 U.S.C. 701h),".

On page 79, line 8, strike "Sponsor" and insert "Interests".

On page 79, line 10, strike "sponsor" and insert "interests".

On page 79, line 21, strike "**BENEFIT COST**" and insert "**BENEFIT-COST**".

On page 80, line 17, strike "amended—" and insert "amended by adding at the end the following:".

On page 80, strike line 18 through 20.

On page 80, line 21, strike "(1)" and insert "(19)".

On page 81, line 1, strike "(2)" and insert "(20)".

On page 81, strike lines 4 and 5 and insert the following:

"(21) San Ramon, California.—San Ramon Valley recycled water project, San Ramon, California.".

On page 81, strike lines 24 and 25 and insert the following:

(1) in paragraph (15), by striking "and" at the end;

On page 82, lines 1 and 2, strike "by striking the period at the end of paragraph (16)" and insert "in paragraph (16), by striking the period at the end".

On page 82, line 6, after "program" insert a semicolon.

On page 84, line 5, strike "(60 Stat. 653)" and insert "(33 U.S.C. 701r)".

On page 84, line 9, strike "1990 (100 Stat. 4251) and insert "1986 (33 U.S.C. 2309a)".

On page 84, line 11, strike "quality, flows" insert "quality, water flows,".

On page 84, line 19, strike "areas" and insert "areas,".

On page 85, line 6, strike "Arkansas" and insert "Arkansas,".

On page 85, line 11, strike "Preferences.—" and insert "References.—".

On page 87, strike line 2 and insert the following: the restoration project under subsection (a)—

(1) may provide all

On page 87, strike line 4 and insert the following: the form of in-kind services; and

(2) shall receive credit toward

On page 87, line 16, strike "(a) Project Purpose.—".

Beginning on page 87, strike line 21 and all that follows through page 88, line 6, and insert the following:

"(4) Practical end-use products.—Technologies selected for demonstration at the pilot scale shall result in practical end-use products.

"(5) Assistance by the secretary.—The Secretary shall assist the project to ensure expeditious completion by providing sufficient quantities of contaminated dredged material to conduct the full-scale demonstrations to stated capacity."; and

On page 88, lines 12 and 13, strike "New York-New Jersey" and insert "New York/New Jersey".

On page 88, line 17, strike "following;" and insert "following:".

On page 89, line 6, strike "(aa)" and insert "(a)".

On page 90, lines 10 and 11, strike "on waterway systems" and insert "on the waterway system".

On page 96, line 19, strike "(110 Stat. 3684)" and insert "(33 U.S.C. 701b–13)".

On page 97, line 5, strike "(16 U.S.C. 3301 note)" and insert "(16 U.S.C. 3301 note; Public Law 104–303)".

On page 99, line 3, strike "transmit" and insert "submit".

On page 99, lines 14 and 15, strike "Engineers operated" and insert "Engineers-operated".

On page 99, line 17, strike the quotation marks each place they appear.

On page 99, line 25, strike "and Secretary" and insert "and the Secretary".

On page 114, line 13, strike "section 202;" and insert "section 202; and".

On page 116, line 1, strike "et seq.)" and insert "et seq.),".

On page 119, line 14, strike "et seq.)" and insert "et seq.),".

On page 125, lines 8 and 9, strike "any provision" and insert "any other provision".

On page 125, lines 11 and 12, strike "Flood Control Act of 1944 (33 U.S.C. 701–1 et seq.)" and insert "Act of December 22, 1944 (58 Stat. 887, chapter 665; 33 U.S.C. 701–1 et seq.)".

CHAFEE (AND OTHERS) AMENDMENT NO. 3799

Mr. JEFFORDS (for Mr. Chafee for himself, Mr. Baucus, and Mr. Warner) proposed an amendment to the bill, S. 2131, supra; as follows:

On page 31, between lines 12 and 13, insert the following:

(1) Rio Salado (Salt River), Arizona.—The project for environmental restoration, Rio Salado (Salt River), Arizona: Report of the Chief of Engineers, dated August 20, 1998, at a total cost of $85,900,000, with an estimated Federal cost of $54,980,000 and an estimated non-Federal cost of $30,920,000.

On page 31, line 13, strike "(1)" and insert "(2)".

On page 32, line 3, strike "of this subsection".

On page 32, line 6, strike "in" and insert "by".

On page 32, line 21, strike "such" and insert "the".

On page 33, line 2, strike "Implementation" and insert the following:

(I) In general.—Implementation

On page 33, line 16, strike "subparagraph (B)(ii)" and insert "clause (ii)".

On page 33, line 17, strike "The review" and insert the following:

(II) Principles and guidelines.—The review

On page 34, line 3, strike "(2)" and insert "(3)".

On page 34, lines 4 and 5, strike "National Resources Conservation Services" and insert "Natural Resources Conservation Service".

On page 34, between lines 13 and 14, insert the following:

(4) Upper Guadalupe River, California.—The Secretary may construct the locally preferred plan for flood damage reduction and recreation, Upper Guadalupe River, California, described as the Bypass Channel Plan of the Chief of Engineers dated August 18, 1998, at a total cost of $132,836,000, with an estimated Federal cost of $42,869,000 and an estimated non-Federal cost of $89,967,000.

(5) Delaware Bay Coastline: Delaware and New Jersey-Broadkill Beach, Delaware.—

(A) In general.—The shore protection project for hurricane and storm damage reduction, Delaware Bay Coastline: Delaware and New Jersey-Broadkill Beach, Delaware, Report of the Chief of Engineers dated August 17, 1998, at a total cost of $8,871,000, with an estimated Federal cost of $5,593,000 and an estimated non-Federal cost of $3,278,000.

(B) Periodic nourishment.—Periodic nourishment is authorized for a 50-year period at an estimated average annual cost of $651,000, with an estimated annual Federal cost of $410,000 and an estimated annual non-Federal cost of $241,000.

On page 34, line 14, strike "(3)" and insert "(6)".

On page 34, between lines 22 and 23, insert the following:

(7) Indian River County, Florida.—Notwithstanding section 1001(a) of the Water Resources Development Act of 1986 (33 U.S.C. 579a(a)), the project for shoreline protection, Indian River County, Florida, authorized by section 501(a) of that Act (100 Stat. 4134), shall remain authorized for construction through December 31, 2002.

(8) Lido Key Beach, Sarasota, Florida.—

(A) In general.—The project for shore protection at Lido Key Beach, Sarasota, Florida, authorized by section 101 of the River and Harbor Act of 1970 (84 Stat. 1819) and deauthorized by operation of section 1001(b) of the Water Resources Development Act of 1986 (33 U.S.C. 579a(b)), is authorized to be carried out by the Secretary at a total cost of $5,200,000, with an estimated Federal cost of $3,380,000 and an estimated non-Federal cost of $1,820,000.

(B) Periodic nourishment.—Periodic nourishment is authorized for a 50-year period at an estimated average annual cost of $602,000, with an estimated annual Federal cost of $391,000 and an estimated annual non-Federal cost of $211,000.

(9) Amite River and Tributaries, Louisiana, East Baton Rouge Parish Watershed.—The project for flood damage reduction and recreation, Amite River and Tributaries, Louisiana, East Baton Rouge Parish Watershed: Report of the Chief of Engineers, dated December 23, 1996, at a total cost of $110,045,000, with an estimated Federal cost of $71,343,000 and an estimated non-Federal cost of $38,702,000.

On page 34, line 23, strike "(4)" and insert "(10)".

On page 35, line 4, strike "$19,126,000" and insert "$18,510,000".

On page 35, line 5, strike "$8,566,000" and insert "$9,182,000".

On page 35, line 6, strike "(5)" and insert "(11)".

On page 35, line 13, strike "(6)" and insert "(12)".

On page 35, lines 21 and 22, strike "is authorized to be carried out by the Secretary".

On page 36, between lines 13 and 14, insert the following:

(1) NOME HARBOR IMPROVEMENTS, ALASKA.—The project for navigation, Nome Harbor Improvements, Alaska, at a total cost of $24,280,000, with an estimated first Federal cost of $19,162,000 and an estimated first non-Federal cost of $5,118,000.

(2) SAND POINT HARBOR, ALASKA.—The project for navigation, Sand Point Harbor, Alaska, at a total cost of $11,463,000, with an estimated Federal cost of $6,718,000 and an estimated first non-Federal cost of $4,745,000.

(3) SEWARD HARBOR, ALASKA.—The project for navigation, Seward Harbor, Alaska, at a total cost of $11,930,000, with an estimated first Federal cost of $3,816,000 and an estimated first non-Federal cost of $8,114,000.

On page 36, line 14, strike "(1)" and insert "(4)".

On page 36, line 17, strike "$39,000,000" and insert "$55,100,000".

On page 36, line 18, strike "$29,000,000" and insert "$41,300,000".

On page 36, line 19, strike "$10,000,000" and insert "$13,800,000".

On page 36, line 20, strike "(2)" and insert "(5)".

On page 36, line 23, strike "$202,000,000" and insert "$214,900,000".

On page 36, line 24, strike "$120,000,000" and insert "$128,600,000".

On page 36, line 25, strike "$82,000,000" and insert "$86,300,000".

On page 37, line 5, strike "$43,000,000" and insert "$38,200,000".

On page 37, line 6, strike "(3)" and insert "(6)".

On page 37, line 10, strike "$64,770,000," and insert "$65,410,000,".

On page 37, line 11, strike "$38,840,000" and insert "$39,104,000".

On page 37, line 12, strike "$25,930,000" and insert "$26,306,000".

On page 37, strike lines 13 through 20.

On page 37, line 21, strike "(5)" and insert "(7)".

On page 38, strike lines 1 through 15.

On page 38, line 16, strike "(7)" and insert "(8)".

On page 39, line 5, strike "(8)" and insert "(9)".

On page 39, line 15, strike "$2,647,000" and insert "$757,000".

On page 39, line 21, strike "$47,600" and insert "$48,000".

On page 39, line 22, strike "(9)" and insert "(10)".

On page 40, line 7, strike "$7,773,000" and insert "$7,733,000".

On page 40, line 14, strike "(10)" and insert "(11)".

On page 40, line 19, strike "(11)" and insert "(12)".

On page 41, line 1, strike "(12)" and insert "(13)".

On page 41, line 7, strike "(13)" and insert "(14)".

On page 41, line 12, strike "(14)" and insert "(15)".

On page 41, strike lines 17 through 21 and insert the following:

(16) SAVANNAH HARBOR EXPANSION, GEORGIA.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary may carry out the project for navigation, Savannah Harbor expansion, Georgia, substantially in accordance with the plans, and subject to the conditions, recommended in a final report of the Chief of Engineers, with such modifications as the Secretary deems appropriate, at a total cost of $223,887,000 (of which amount a portion is authorized for implementation of the mitigation plan), with an estimated Federal cost of $141,482,000 and an estimated non-Federal cost of $82,405,000, if the final report of the Chief of Engineers is completed by December 31, 1998.

(B) CONDITIONS.—The project authorized by subparagraph (A) may be carried out only after—

(i) the Secretary, in consultation with affected Federal, State, regional, and local entities, has reviewed and approved an Environmental Impact Statement that includes—

(I) an analysis of the impacts of project depth alternatives ranging from 42 feet through 48 feet; and

(II) a selected plan for navigation and associated mitigation plan as required by section 906(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2283); and

(ii) the Secretary of the Interior, the Secretary of Commerce, and the Administrator of the Environmental Protection Agency, with the Secretary, have approved the selected plan and have determined that the mitigation plan adequately addresses the potential environmental impacts of the project.

(C) MITIGATION REQUIREMENTS.—The mitigation plan shall be implemented in advance of or concurrently with construction of the project.

On page 41, line 22, strike "(16)" and insert "(17)".

On page 42, line 1, strike "$281,754,000" and insert "$307,750,000".

On page 42, line 2, strike "$140,877,000" and insert "$154,360,000".

On page 42, line 3, strike "$140,877,000" and insert "$153,390,000".

On page 42, line 4, strike "(17)" and insert "(18)".

On page 42, line 9, strike "$4,300,000" and insert "$3,705,000".

On page 42, line 10, strike "$1,400,000" and insert "$1,995,000".

On page 42, line 11, strike "(18)" and insert "(19)".

On page 42, line 15, strike "$38,594,000" and insert "$43,288,000".

On page 42, line 16, strike "$22,912,000" and insert "$25,840,000".

On page 42, line 17, strike "$15,682,000" and insert "$17,448,000".

On page 42, line 18, strike "(19)" and insert "(20)".

On page 43, line 9, strike "(20)" and insert "(21)".

On page 43, line 22, strike "$2,600,000" and insert "$454,000".

On page 43, line 23, strike "$1,700,000" and insert "$295,000".

On page 43, line 24, strike "$900,000" and insert "$159,000".

On page 44, line 1, strike "(21)" and insert "(22)".

On page 44, line 7, strike "$55,203,000" and insert "$55,204,000".

On page 44, line 8, strike "$35,882,000" and insert "$35,883,000".

On page 44, between lines 16 and 17, insert the following:

(23) MEMPHIS HARBOR, MEMPHIS, TENNESSEE.—

(A) IN GENERAL.—Subject to subparagraph (B), the project for navigation, Memphis Harbor, Memphis, Tennessee, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4145) and deauthorized under section 1001(a) of that Act (33 U.S.C. 579a(a)) is authorized to be carried out by the Secretary.

(B) CONDITION.—No construction may be initiated unless the Secretary determines through a general reevaluation report using current data, that the project is technically sound, environmentally acceptable, and economically justified.

(24) METRO CENTER LEVEE, CUMBERLAND RIVER, NASHVILLE, TENNESSEE.—The project for flood damage reduction and recreation, Metro Certer Levee, Cumberland River, Nashville, Tennessee, at a total cost of $5,931,000, with an estimated Federal cost of $3,753,000 and an estimated non-Federal cost of $2,178,000.

(25) HOWARD HANSON DAM, WASHINGTON.—The project for water supply and ecosystem restoration, Howard Hanson Dam, Washington, at a total cost of $74,908,000, with an estimated Federal cost of $36,284,000 and an estimated non-Federal cost of $38,624,000.

On page 44, line 22, strike "of floods" and insert "of the floods".

On page 44, line 23, after "Sacramento River,", insert "California,".

On page 46, line 10, strike "101(h)(13)" and insert "101(b)(13)".

On page 47, line 11, strike "$32,900,000" and insert "$32,600,000".

On page 47, line 12, strike "$24,700,000" and insert "$24,500,000".

On page 47, line 13, strike "$8,200,000" and insert "$8,100,000".

On page 47, between lines 13 and 14, insert the following:

(2) THORNTON RESERVOIR, COOK COUNTY, ILLINOIS.—

(A) IN GENERAL.—The Thornton Reservoir project, an element of the project for flood control, Chicagoland Underflow Plan, Illinois, authorized by section 3(a)(5) of the Water Resources Development Act of 1988 (102 Stat. 4013), is modified to authorize the Secretary to include additional permanent flood control storage attributable to the Thorn Creek Reservoir project, Little Calumet River Watershed, Illinois, approved under the Watershed Protection and Flood Prevention Act (16 U.S.C. 1001 et seq.).

(B) COST SHARING.—Costs for the Thornton Reservoir project shall be shared in accordance with section 103 of the Water Resources Development Act of 1986 (33 U.S.C. 2213).

(C) TRANSITIONAL STORAGE.—The Secretary of Agriculture may cooperate with non-Federal interests to provide, on a transitional basis, flood control storage for the Thorn Creek Reservoir project in the west lobe of the Thornton quarry.

(D) CREDITING.—The Secretary may credit against the non-Federal share of the Thornton Reservoir project all design and construction costs incurred by the non-Federal interests before the date of enactment of this Act.

(E) REEVALUATION REPORT.—The Secretary shall determine the credits authorized by subparagraph (D) that are integral to the Thornton Reservoir project and the current total project costs based on a limited reevaluation report.

(3) WELLS HARBOR, WELLS, MAINE.—

(A) IN GENERAL.—The project for navigation, Wells Harbor, Maine, authorized by section 101 of the River and Harbor Act of 1960 (74 Stat. 480), is modified to authorize the Secretary to realign the channel and anchorage areas based on a harbor design capacity of 150 craft.

(B) DEAUTHORIZATION OF CERTAIN PORTIONS.—The following portions of the project are not authorized after the date of enactment of this Act:

(i) The portion of the 6-foot channel the boundaries of which begin at a point with coordinates N177,992.00, E394,831.00, thence running south 83 degrees 58 minutes 14.8 seconds west 10.38 feet to a point N177,990.91, E394,820.68, thence running south 11 degrees 46 minutes 47.7 seconds west 991.76 feet to a point N177,020.04, E394,618.21, thence running south 78 degrees 13 minutes 45.7 seconds east 10.00 feet to a point N177,018.00, E394,628.00, thence running north 11 degrees 46 minutes 22.8 seconds east 994.93 feet to the point of origin.

(ii) The portion of the 6-foot anchorage the boundaries of which begin at a point with coordinates N177,778.07, E394,336.96, thence running south 51 degrees 58 minutes 32.7 seconds west 15.49 feet to a point N177,768.53, E394,324.76, thence running south 11 degrees 46 minutes 26.5 seconds west 672.87 feet to a point N177,109.82, E394,187.46, thence running south 78 degrees 13 minutes 45.7 seconds east 10.00 feet to a point N177,107.78, E394,197.25, thence running north 11 degrees 46 minutes 25.4 seconds east 684.70 feet to the point of origin.

(iii) The portion of the 10-foot settling basin the boundaries of which begin at a point with coordinates N177,107.78, E394,197.25, thence running north 78 degrees 13 minutes 45.7 seconds west 10.00 feet to a point N177,109.82, E394,187.46, thence running south 11 degrees 46 minutes 15.7 seconds west 300.00 feet to a point N176,816.13, E394,126.26, thence running south 78 degrees 12 minutes 21.4 seconds east 9.98 feet to a point N176,814.09, E394,136.03, thence running north 11 degrees 46 minutes 29.1 seconds east 300.00 feet to the point of origin.

(iv) The portion of the 10-foot settling basin the boundaries of which begin at a point with coordinates N177,018.00, E394,628.00, thence running north 78 degrees 13 minutes 45.7 seconds west 10.00 feet to a point N177,020.04, E394,618.21, thence running south 11 degrees 46 minutes 44.0 seconds west 300.00 feet to a point N176,726.36, E394,556.97, thence running south 78 degrees 12 minutes 30.3 seconds east 10.03 feet to a point N176,724.31, E394,566.79, thence running north 11 degrees 46 minutes 22.4 seconds east 300.00 feet to the point of origin.

(C) Redesignations.—The following portions of the project shall be redesignated as part of the 6-foot anchorage:

(i) The portion of the 6-foot channel the boundaries of which begin at a point with coordinates N177,990.91, E394,820.68, thence running south 83 degrees 58 minutes 40.8 seconds west 94.65 feet to a point N177,980.98, E394,726.55, thence running south 11 degrees 46 minutes 22.4 seconds west 962.83 feet to a point N177,038.40, E394,530.10, thence running south 78 degrees 13 minutes 45.7 seconds east 90.00 feet to a point N177,020.04, E394,618.21, thence running north 11 degrees 46 minutes 47.7 seconds east 991.76 feet to the point of origin.

(ii) The portion of the 10-foot inner harbor settling basin the boundaries of which begin at a point with coordinates N177,020.04, E394,618.21, thence running north 78 degrees 13 minutes 30.5 seconds west 160.00 feet to a point N177,052.69, E394,461.58, thence running south 11 degrees 46 minutes 45.4 seconds west 299.99 feet to a point N176,759.02, E394,400.34, thence running south 78 degrees 13 minutes 17.9 seconds east 160 feet to a point N176,726.36, E394,556.97, thence running north 11 degrees 46 minutes 44.0 seconds east 300.00 feet to the point of origin.

(iii) The portion of the 6-foot anchorage the boundaries of which begin at a point with coordinates N178,102.26, E394,751.83, thence running south 51 degrees 59 minutes 42.1 seconds west 526.51 feet to a point N177,778.07, E394,336.96, thence running south 11 degrees 46 minutes 26.6 seconds west 511.83 feet to a point N177,277.01, E394,232.52, thence running south 78 degrees 13 minutes 17.9 seconds east 80.00 feet to a point N177,260.68, E394,310.84, thence running north 11 degrees 46 minutes 24.8 seconds east 482.54 feet to a point N177,733.07, E394,409.30, thence running north 51 degrees 59 minutes 41.0 seconds east 402.63 feet to a point N177,980.98, E394,726.55, thence running north 11 degrees 46 minutes 27.6 seconds east 123.89 feet to the point of origin.

(D) Realignment.—The 6-foot anchorage area described in subparagraph (C)(iii) shall be realigned to include the area located south of the inner harbor settling basin in existence on the date of enactment of this Act beginning at a point with coordinates N176,726.36, E394,556.97, thence running north 78 degrees 13 minutes 17.9 seconds west 160.00 feet to a point N176,759.02, E394,400.34, thence running south 11 degrees 47 minutes 03.8 seconds west 45 feet to a point N176,714.97, E394,391.15, thence running south 78 degrees 13 minutes 17.9 seconds 160.00 feet to a point N176,682.31, E394,547.78, thence running north 11 degrees 47 minutes 03.8 seconds east 45 feet to the point of origin.

(E) Relocation.—The Secretary may relocate the settling basin feature of the project to the outer harbor between the jetties.

On page 47, line 14, strike "(2)" and insert "(4)".

On page 47, strike lines 23 and 24 and insert the following:

(5) Arthur Kill, New York and New Jersey.—

(A) In general.—The project for navigation, Arthur Kill, New

On page 48, line 6, strike "$260,899,000" and insert "$269,672,000".

On page 48, line 7, strike "$195,705,000" and insert "$178,400,000".

On page 48, line 8, strike "$65,194,000" and insert "$91,272,000".

On page 48, between lines 8 and 9, insert the following:

(B) Berthing areas and other local service facilities.—The non-Federal interests shall provide berthing areas and other local service facilities necessary for the project at an estimated cost of $37,936,000.

On page 49, between lines 4 and 5, insert the following:

(f) Rediversion Project, Cooper River, Charleston Harbor, South Carolina.—

(1) In general.—The rediversion project, Cooper River, Charleston Harbor, South Carolina, authorized by section 101 of the River and Harbor Act of 1968 (82 Stat. 731) and modified by title I of the Energy and Water Development Appropriations Act, 1992 (105 Stat. 517), is modified to authorize the Secretary to pay the State of South Carolina not more than $3,750,000, if the State enters into an agreement with the Secretary providing that the State shall perform all future operation of the St. Stephen, South Carolina, fish lift (including associated studies to assess the efficacy of the fish lift).

(2) Contents.—The agreement shall specify the terms and conditions under which payment will be made and the rights of, and remedies available to, the Secretary to recover all or a portion of the payment if the State suspends or terminates operation of the fish lift or fails to perform the operation in a manner satisfactory to the Secretary.

(3) Maintenance.—Maintenance of the fish lift shall remain a Federal responsibility.

On page 49, line 5, strike "(f)" and insert "(g)".

On page 49, line 15, strike "and other" and insert "and for other".

On page 49, line 24, strike "this authority" and insert "subparagraph (A)".

On page 49, line 25, strike "will" and insert "shall".

On page 51, between lines 3 and 4, insert the following:

(h) Trinity River and Tributaries, Texas.—The project for flood control and navigation, Trinity River and tributaries, Texas, authorized by section 301 of the River and Harbor Act of 1965 (79 Stat. 1091), is modified to add environmental restoration as a project purpose.

On page 51, line 4, strike "(g)" and insert "(i)".

On page 51, line 22, strike "(h)" and insert "(j)".

On page 52, line 5, strike "(i)" and insert "(k)".

On page 52, between lines 10 and 11, insert the following:

(l) Miami Dade Agricultural and Rural Land Retention Plan and South Biscayne, Florida.—Section 528(b)(3) of the Water Resources Development Act of 1996 (110 Stat. 3768) is amended by adding at the end the following:

"(D) Credit and reimbursement of past and future activities.—The Secretary may afford credit to or reimburse the non-Federal sponsors (using funds authorized by subparagraph (C)) for the reasonable costs of any work that has been performed or will be performed in connection with a study or activity meeting the requirements of subparagraph (A) if—

"(i) the Secretary determines that—

"(I) the work performed by the non-Federal sponsors will substantially expedite completion of a critical restoration project; and

"(II) the work is necessary for a critical restoration project; and

"(ii) the credit or reimbursement is granted pursuant to a project-specific agreement that prescribes the terms and conditions of the credit or reimbursement.".

(m) Lake Michigan, Illinois.—

(1) In general.—The project for storm damage reduction and shoreline protection, Lake Michigan; Illinois, from Wilmette, Illinois, to the Illinois-Indiana State line, authorized by section 101(a)(12) of the Water Resources Development Act of 1996 (110 Stat. 3664), is modified to provide for reimbursement for additional project work undertaken by the non-Federal interest.

(2) Credit or reimbursement.—The Secretary shall credit or reimburse the non-Federal interest for the Federal share of project costs incurred by the non-Federal interest in designing, constructing, or reconstructing reach 2F (700 feet south of Fullerton Avenue and 500 feet north of Fullerton Avenue), reach 3M (Meigs Field), and segments 7 and 8 of reach 4 (43rd Street to 57th Street), if the non-Federal interest carries out the work in accordance with plans approved by the Secretary, at an estimated total cost of $83,300,000.

(3) Reimbursement.—The Secretary shall reimburse the non-Federal interest for the Federal share of project costs incurred by the non-Federal interest in reconstructing the revetment structures protecting Solidarity Drive in Chicago, Illinois, before the signing of the project cooperation agreement, at an estimated total cost of $7,600,000.

(n) Measurements of Lake Michigan Diversions, Illinois.—Section 1142(b) of the Water Resources Development Act of 1986 (100 Stat. 4253) is amended by striking "$250,000 per fiscal year for each fiscal year beginning after September 30, 1986" and inserting "a total of $1,250,000 for each of fiscal years 1999 through 2003".

(o) Project for Navigation, Dubuque, Iowa.—The project for navigation at Dubuque, Iowa, authorized by section 101 of the River and Harbor Act of 1960 (74 Stat. 482), is modified to authorize the development of a wetland demonstration area of approximately 1.5 acres to be developed and operated by the Dubuque County Historical Society or a successor nonprofit organization.

(p) LOUISIANA STATE PENITENTIARY LEVEE.—The Secretary may credit against the non-Federal share work performed in the project area of the Louisiana State Penitentiary Levee, Mississippi River, Louisiana, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4117).

(q) JACKSON COUNTY, MISSISSIPPI.—The project for environmental infrastructure, Jackson County, Mississippi, authorized by section 219(c)(5) of the Water Resources Development Act of 1992 (106 Stat. 4835) and modified by section 504 of the Water Resources Development Act of 1996 (110 Stat. 3757), is modified to direct the Secretary to provide a credit, not to exceed $5,000,000, against the non-Federal share of the cost of the project for the costs incurred by the Jackson County Board of Supervisors since February 8, 1994, in constructing the project, if the Secretary determines that such costs are for work that the Secretary determines was compatible with and integral to the project.

(r) RICHARD B. RUSSELL DAM AND LAKE, SOUTH CAROLINA.—

(1) IN GENERAL.—Except as otherwise provided in this paragraph, the Secretary shall convey to the State of South Carolina all right, title, and interest of the United States in the parcels of land described in subparagraph (B) that are currently being managed by the South Carolina Department of Natural Resources for fish and wildlife mitigation purposes for the Richard B. Russell Dam and Lake, South Carolina, project authorized by the Flood Control Act of 1966 and modified by the Water Resources Development Act of 1986.

(2) LAND DESCRIPTION.—

(A) IN GENERAL.—The parcels of land to be conveyed are described in Exhibits A, F, and H of Army Lease No. DACW21–1–93–0910 and associated supplemental agreements or are designated in red in Exhibit A of Army License No. DACW21–3–85–1904, excluding all designated parcels in the license that are below elevation 346 feet mean sea level or that are less than 300 feet measured horizontally from the top of the power pool.

(B) MANAGEMENT OF EXCLUDED PARCELS.—Management of the excluded parcels shall continue in accordance with the terms of Army License No. DACW21–3–85–1904 until the Secretary and the State enter into an agreement under subparagraph (F).

(C) SURVEY.—The exact acreage and legal description of the land shall be determined by a survey satisfactory to the Secretary, with the cost of the survey borne by the State.

(3) COSTS OF CONVEYANCE.—The State shall be responsible for all costs, including real estate transaction and environmental compliance costs, associated with the conveyance.

(4) PERPETUAL STATUS.—

(A) IN GENERAL.—All land conveyed under this paragraph shall be retained in public ownership and shall be managed in perpetuity for fish and wildlife mitigation purposes in accordance with a plan approved by the Secretary.

(B) REVERSION.—If any parcel of land is not managed for fish and wildlife mitigation purposes in accordance with such plan, title to the parcel shall revert to the United States.

(5) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance as the Secretary considers appropriate to protect the interests of the United States.

(6) FISH AND WILDLIFE MITIGATION AGREEMENT.—

(A) IN GENERAL.—The Secretary may pay the State of South Carolina not more than $4,850,000 subject to the Secretary and the State entering into a binding agreement for the State to manage for fish and wildlife mitigation purposes in perpetuity the lands conveyed under this paragraph and excluded parcels designated in Exhibit A of Army License No. DACW21–3–85–1904.

(B) FAILURE OF PERFORMANCE.—The agreement shall specify the terms and conditions under which payment will be made and the rights of, and remedies available to, the Federal Government to recover all or a portion of the payment if the State fails to manage any parcel in a manner satisfactory to the Secretary.

(s) LAND CONVEYANCE, CLARKSTON, WASHINGTON.—

(1) IN GENERAL.—The Secretary shall convey to the Port of Clarkston, Washington, all right, title, and interest of the United States in and to a portion of the land described in the Department of the Army lease No. DACW68–1–97–22, consisting of approximately 31 acres, the exact boundaries of which shall be determined by the Secretary and the Port of Clarkston.

(2) The Secretary may convey to the Port of Clarkston, Washington, at fair market value as determined by the Secretary, such additional land located in the vicinity of Clarkston, Washington, as the Secretary determines to be excess to the needs of the Columbia River Project and appropriate for conveyance.

(3) TERMS AND CONDITIONS.—The conveyances made under subsections (a) and (b) shall be subject to such terms and conditions as the Secretary determines to be necessary to protect the interests of the United States, including a requirement that the Port of Clarkston pay all administrative costs associated with the conveyances, including the cost of land surveys and appraisals and costs associated with compliance with applicable environmental laws and regulations.

(4) USE OF LAND.—The Port of Clarkston shall be required to pay the fair market value, as determined by the Secretary, of any land conveyed pursuant to subsection (a) that is not retained in public ownership or is used for other than public park or recreation purposes, except that the Secretary shall have a right of reverter to reclaim possession and title to any such land.

(t) WHITE RIVER, INDIANA.—The project for flood control, Indianapolis on West Fork of the White River, Indiana, authorized by section 5 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and other purposes", approved June 22, 1936 (49 Stat. 1586, chapter 688), as modified by section 323 of the Water Resources Development Act of 1996 (110 Stat. 3716), is modified to authorize the Secretary to undertake the riverfront alterations described in the Central Indianapolis Waterfront Concept Plan, dated February 1994, for the Canal Development (Upper Canal feature) and the Beveridge Paper feature, at a total cost not to exceed $25,000,000, of which $12,500,000 is the estimated Federal cost and $12,500,000 is the estimated non-Federal cost, except that no such alterations may be undertaken unless the Secretary determines that the alterations authorized by this subsection, in combination with the alterations undertaken under section 323 of the Water Resources Development Act of 1996 (110 Stat. 3716), are economically justified.

(u) FOX POINT HURRICANE BARRIER, PROVIDENCE, RHODE ISLAND.—The project for hurricane-flood protection, Fox Point, Providence, Rhode Island, authorized by section 203 of the Flood Control Act of 1958 (72 Stat. 306) is modified to direct the Secretary to undertake the necessary repairs to the barrier, as identified in the Condition Survey and Technical Assessment dated April 1998 with Supplement dated August 1998, at a total cost of $3,000,000, with an estimated Federal cost of $1,950,000 and an estimated non-Federal cost of $1,050,000.

On page 54, between lines 4 and 5, insert the following:

(c) BOOTHBAY HARBOR, MAINE.—The project for navigation, Boothbay Harbor, Maine, authorized by the Act of July 25, 1912 (37 Stat. 201, chapter 253), is not authorized after the date of enactment of this Act.

On page 54, line 5, strike "(c)" and insert "(d)".

On page 55, between lines 21 and 22, insert the following:

(c) CADDO LEVEE, RED RIVER BELOW DENISON DAM, ARIZONA, LOUISIANA, OKLAHOMA, AND TEXAS.—The Secretary shall conduct a study to determine the feasibility of undertaking a project for flood control, Caddo Levee, Red River Below Denison Dam, Arizona, Louisiana, Oklahoma, and Texas, including incorporating the existing levee, along Twelve Mile Bayou from its juncture with the existing Red River Below Denison Dam Levee approximately 26 miles upstream to its terminus at high ground in the vicinity of Black Bayou, Louisiana.

(d) FIELDS LANDING CHANNEL, HUMBOLDT HARBOR, CALIFORNIA.—The Secretary—

(1) shall conduct a study for the project for navigation, Fields Landing Channel, Humboldt Harbor and Bay, California, to a depth of minus 35 feet (MLLW), and for that purpose may use any feasibility report prepared by the non-Federal sponsor under section 203 of the Water Resources Development Act of 1986 (33 U.S.C. 2231) for which reimbursement of the Federal share of the study is authorized subject to the availability of appropriations; and

(2) may carry out the project under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577), if the Secretary determines that the project is feasible.

On page 55, line 22, strike "(c)" and insert "(e)".

On page 55, line 25, strike "to determine" and insert "and".

On page 56, line 3, strike "(d)" and insert "(f)".

On page 56, line 8, strike "(e)" and insert "(g)".

On page 56, line 16, strike "(f)" and insert "(h)".

On page 56, line 20, strike "(g)" and insert "(i)".

On page 57, line 3, strike "(h)" and insert "(j)".

On page 57, line 13, strike "(i)" and insert "(k)".

On page 57, line 22, strike "(j)" and insert "(l)".

On page 58, line 4, strike "(k)" and insert "(m)".

On page 58, between lines 9 and 10, insert the following:

(n) SAINT JOSEPH RIVER, SOUTH BEND, INDIANA.—The Secretary shall conduct a study to determine the feasibility of undertaking erosion control, bank stabilization, and flood control along the Saint Joseph River, Indiana, including the South Bend Dam and the banks of the East Bank and Island Park.

On page 58, line 10, strike "(l)" and insert "(o)".

On page 58, between lines 14 and 15, insert the following:

(p) Cameron Parish West of Calcasieu River, Louisiana.—The Secretary shall conduct a study to determine the feasibility of a storm damage reduction and ecosystem restoration project for Cameron Parish west of Calcasieu River, Louisiana.

(q) Beneficial Use of Dredged Material, Coastal Louisiana.—The Secretary shall conduct a study to determine the feasibility of using dredged material from maintenance activities at Federal navigation projects in coastal Louisiana to benefit coastal areas in the State.

On page 58, line 15, strike "(m)" and insert "(r)".

On page 58, line 19, strike "(n)" and insert "(s)".

On page 59, line 1, strike "(o)" and insert "(t)".

On page 59, line 13, strike "(p)" and insert "(u)".

On page 59, line 21, strike "(q)" and insert "(v)".

On page 60, line 7, strike "(r)" and insert "(w)".

On page 60, between lines 10 and 11, insert the following:

(x) Detroit River, Michigan, Greenway Corridor Study.—

(1) In general.—The Secretary shall conduct a study to determine the feasibility of a project for shoreline protection, frontal erosion, and associated purposes in the Detroit River shoreline area from the Belle Isle Bridge to the Ambassador Bridge in Detroit, Michigan.

(2) Potential modifications.—As a part of the study, the Secretary shall review potential project modifications to any existing Corps projects within the same area.

(y) St. Clair Shores Flood Control, Michigan.—The Secretary shall conduct a study to determine the feasibility of constructing a flood control project at St. Clair Shores, Michigan.

On page 60, line 11, strike "(s)" and insert "(z)".

On page 60, line 22, strike "(t)" and insert "(aa)".

On page 61, line 7, strike "use" and insert "shall use".

On page 61, line 13, strike "(u)" and insert "(bb)".

Sec. bb. Irrigation Diversion Protection and Fisheries Enhancement Assistance.—The Secretary may provide technical planning and design assistance to non-Federal interests and may conduct other site-specific studies to formulate and evaluate fish screens, fish passages devices and other measures to decrease the incidence of juvenile and adult fish inadvertently entering into irrigation systems. Measures shall be developed in cooperation with Federal and State resource agencies and not impair the continued withdrawal of water for irrigation purposes. In providing such assistance priority shall be given based on the objectives of the Endangered Species Act, cost-effectiveness, and the potential for reducing fish mortality. Non-Federal interests shall agree by contract to contribute 50 percent of the cost of such assistance. Not more than one-half of such non-Federal contribution may be made by the provision of services, materials, supplies, or other in-kind services. No construction activities are authorized by this section. Not later than two years after the date of enactment of this section, the Secretary shall report to Congress on fish mortality caused by irrigation water intake devices, appropriate measures to reduce mortality, the extent to which such measures are currently being employed in the arid States, the construction costs associated with such measures, and the appropriate Federal role, if any, to encourage the use of such measures.

On page 61, lines 22 and 23, strike "Resource" and insert "Resources".

On page 61, line 24, strike "Montana, tribal" and insert "Montana and tribal".

On page 62, line 4, strike "(v)" and insert "(cc)".

On page 62, line 12, strike "(w)" and insert "(dd)".

On page 62, line 20, strike "(x)" and insert "(ee)".

On page 62, line 24, strike "(y)" and insert "(ff)".

On page 63, line 11, strike "REMEDIATION" and insert "RESTORATION".

On page 63, line 18, insert "the" before "Federal".

On page 63, strike lines 20 through 23 and insert the following:

(3) Report.—The Secretary may use funds from the ongoing navigation study for New York and New Jersey Harbor to complete a reconnaissance report for environmental restoration by December 31, 1999. The navigation study to deepen New York and New Jersey Harbor shall consider beneficial use of dredged material.

(gg) Bank Stabilization, Missouri River, North Dakota.—

(1) Study.—

(A) In general.—The Secretary shall conduct a study to determine the feasibility of bank stabilization on the Missouri River between the Garrison Dam and Lake Oahe in North Dakota.

(B) Elements.—In conducting the study, the Secretary shall study—

(i) options for stabilizing the erosion sites on the banks of the Missouri River between the Garrison Dam and Lake Oahe identified in the report developed by the North Dakota State Water Commission, dated December 1997, including stabilization through nontraditional measures;

(ii) the cumulative impact of bank stabilization measures between the Garrison Dam and Lake Oahe on fish and wildlife habitat and the potential impact of additional stabilization measures, including the impact of nontraditional stabilization measures;

(iii) the current and future effects, including economic and fish and wildlife habitat effects, that bank erosion is having on creating the delta at the beginning of Lake Oahe; and

(iv) the impact of taking no additional measures to stabilize the banks of the Missouri River between the Garrison Dam and Lake Oahe.

(C) Interested parties.—In conducting the study, the Secretary shall, to the maximum extent practicable, seek the participation and views of interested Federal, State, and local agencies, landowners, conservation organizations, and other persons.

(D) Report.—

(i) In general.—The Secretary shall report to Congress on the results of the study not later than 1 year after the date of enactment of this Act.

(ii) Status.—If the Secretary cannot complete the study and report to Congress by the day that is 1 year after the date of enactment of this Act, the Secretary shall, by that day, report to Congress on the status of the study and report, including an estimate of the date of completion.

(2) Effect on existing projects.—This subsection does not preclude the Secretary from establishing or carrying out a stabilization project that is authorized by law.

(hh) Santee Delta Wetland Habitat, South Carolina.—Not later than 18 months after the date of enactment of this Act, the Secretary shall complete a comprehensive study of the ecosystem in the Santee Delta focus area of South Carolina to determine the feasibility of undertaking measures to enhance the wetland habitat in the area.

(ii) Waccamaw River, South Carolina.—The Secretary shall conduct a study to determine the feasibility of a flood control project for the Waccamaw River in Horry County, South Carolina.

On page 63, between lines 23 and 24, insert the following:

(jj) Upper Susquehanna-Lackawanna, Pennsylvania, Watershed Management and Restoration Study.—

(1) In general.—The Secretary shall conduct a study to determine the feasibility of a comprehensive flood plain management and watershed restoration project for the Upper Susquehanna-Lackawanna Watershed, Pennsylvania.

(2) Geographic information system.—In conducting the study, the Secretary shall use a geographic information system.

(3) Plans.—The study shall formulate plans for comprehensive flood plain management and environmental restoration.

(4) Crediting.—Non-Federal interests may receive credit for in-kind services and materials that contribute to the study. The Secretary may credit non-Corps Federal assistance provided to the non-Federal interest toward the non-Federal share of study costs to the maximum extent authorized by law.

On page 63, line 24, strike "(z)" and insert "(kk)".

On page 64, between lines 6 and 7, insert the following:

(ll) Santa Clara River, Utah.—

(1) In general.—The Secretary shall conduct a study to determine the feasibility of undertaking measures to alleviate damage caused by flooding, bank erosion, and sedimentation along the watershed of the Santa Clara River, Utah, above the Gunlock Reservoir.

(2) Contents.—The study shall include an analysis of watershed conditions and water quality, as related to flooding and bank erosion, along the Santa Clara River in the vicinity of the town of Gunlock, Utah.

On page 64, line 7, strike "(aa)" and insert "(mm)".

On page 64, between lines 12 and 13, insert the following:

(nn) Agat Small Boat Harbor, Guam.—The Secretary shall conduct a study to determine the feasibility of undertaking the repair and reconstruction of Agat Small Boat Harbor, Guam, including the repair of existing shore protection measures and construction or a revetment of the breakwater seawall.

(oo) Apra Harbor Seawall, Guam.—The Secretary shall conduct a study to determine the feasibility of undertaking measures to repair, upgrade, and extend the seawall protecting Apra Harbor, Guam, and to ensure continued access to the harbor via Route 11B.

(pp) Apra Harbor Fuel Piers, Guam.—The Secretary shall conduct a study to determine the feasibility of undertaking measures to upgrade the piers and fuel transmission lines at the fuel piers in the Apra Harbor, Guam, and measures to provide for erosion control and protection against storm damage.

(qq) MAINTENANCE DREDGING OF HARBOR PIERS, GUAM.—The Secretary shall conduct a study to determine the feasibility of Federal maintenance of areas adjacent to piers at harbors in Guam, including Apra Harbor, Agat Harbor, and Agana Marina.

On page 64, line 13, strike "(bb)" and insert "(rr)".

On page 65, line 2, strike "may be" and insert "are".

On page 65, lines 19 and 20, strike "undertake" and insert "carry out".

On page 66, line 4, strike "this authority" and insert "the program".

On page 66, line 16, strike "IN GENERAL.—" and insert "STUDIES.—".

On page 66, line 20, strike "PAYMENT PERCENTAGE.—" and insert "PROJECTS.—".

On page 67, line 1, strike "projects, and the" and insert "projects. The".

On page 67, line 9, strike "authority" and insert "section".

On page 68, line 18, strike "Saint Genevieve" and insert "LeMay".

On page 69, line 15, strike "construction" and insert "constructing".

On page 69, line 17, strike "construction" and insert "constructing".

On page 70, line 11, strike "projects" and insert "authority".

On page 74, strike lines 23 and 24.

On page 77, line 21, strike "under subsection (b)".

On page 77, line 22, strike "(c)" and insert "(b)".

On page 79, line 4, after "amended", insert "in the second sentence".

On page 80, line 2, strike "and".

On page 80, line 8, strike the final period and insert "; and".

On page 80, between lines 8 and 9, insert the following:

(4) in the first sentence of subsection (e) (as redesignated by paragraph (2)), by striking "(b)" and inserting "(d)".

On page 81, strike lines 8 through 10 and insert the following:

Section 503 of the Water Resources Development Act of 1996 (110 Stat. 3756) is amended—

(1) in subsection (d)—

(A) by striking paragraph (10) and inserting the following:

"(10) Regional Atlanta Watershed, Atlanta, Georgia, and Lake Lanier of Forsyth and Hall Counties, Georgia."; and

(B) by adding at the end the following:

On page 81, line 20, strike the quotation marks and the final period.

On page 81, between lines 20 and 21, insert the following:

"(22) Bronx River watershed, New York.

"(23) Catawba River watershed, North Carolina.";

(2) by redesignating subsection (e) as subsection (f); and

(3) by inserting after subsection (d) the following:

"(e) NONPROFIT ENTITIES.—Notwithstanding section 221(b) of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b(b)), for any project undertaken under this section, with the consent of the affected local government, a non-Federal interest may include a nonprofit entity.".

On page 81, line 22, after "Resources" insert "Development".

On page 82, between lines 6 and 7, insert the following:

"(18) Flints Pond, Hollis, New Hampshire, removal of excessive aquatic vegetation.

On page 82, line 7, strike "(18)" and insert "(19)".

On page 82, line 21, after "estimated" insert "Federal".

On page 82, lines 22 and 23, strike "**Repaupo Creek and Delaware River, Gloucester County, New Jersey.**" and insert "**small flood control projects.**".

On page 83, line 2, strike "(17) through (24)" and insert "(16) through (23)".

On page 83, line 3, strike "and".

On page 83, strike lines 9 and 10 and insert the following:

and the Delaware River, Gloucester County, New Jersey; and

(3) by adding at the end the following:

"(24) IRONDEQUOIT CREEK, NEW YORK.—Project for flood control, Irondequoit Creek watershed, New York.

On page 83, line 11, strike "(16)" and insert "(25)".

On page 83, line 22, strike "Fortesque" and insert "Fortescue".

On page 84, between lines 1 and 2, insert the following:

(a) ARCTIC OCEAN, BARROW, ALASKA.—The Secretary shall evaluate and, if justified under section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r), carry out storm damage reduction and coastal erosion measures at the town of Barrow, Alaska.

(b) SAGINAW RIVER, BAY CITY, MICHIGAN.—The Secretary may construct appropriate control structures in areas along the Saginaw River in the city of Bay City, Michigan, under authority of section 14 of the Flood Control Act of 1946 (33 Stat. 701s).

On page 84, line 2, strike "The" and insert "(c) YELLOWSTONE RIVER, BILLINGS, MONTANA.—The".

On page 84, between lines 5 and 6, insert the following:

(d) MONONGAHELA RIVER, POINT MARION, PENNSYLVANIA.—The Secretary shall evaluate and, if justified under section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r), carry out streambank erosion control measures along the Monongahela River at the borough of Point Marion, Pennsylvania.

On page 84, line 16, strike "Army".

On page 85, lines 3 and 4, strike "**, arkansas floodway ditch no. 5**" and insert "**floodway ditch**"

On page 85, line 10, strike ", Arkansas Floodway Ditch No. 5" and insert "Floodway Ditch".

On page 85, line 15, strike ", Arkansas Floodway Ditch No. 5" and insert "Floodway Ditch".

Beginning on page 85, strike line 16 and all that follows through page 86, line 5.

Beginning on page 92, strike line 1 and all that follows through page 96, line 16, and insert the following:

SEC. 142. UPPER MISSISSIPPI RIVER MANAGEMENT.

Section 1103 of the Water Resources Development Act of 1986 (33 U.S.C. 652) is amended—

(1) in subsection (e)—

(A) by striking "(e)" and all that follows through the end of paragraph (2) and inserting the following:

"(e) UNDERTAKINGS.—

"(1) IN GENERAL.—

"(A) AUTHORITY.—The Secretary, in consultation with the Secretary of the Interior and the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, is authorized to undertake—

"(i) a program for the planning, construction, and evaluation of measures for fish and wildlife habitat rehabilitation and enhancement; and

"(ii) implementation of a program of long-term resource monitoring, computerized data inventory and analysis, and applied research.

"(B) REQUIREMENTS FOR PROJECTS.—Each project carried out under subparagraph (A)(i) shall—

"(i) to the maximum extent practicable, simulate natural river processes;

"(ii) include an outreach and education component; and

"(iii) on completion of the assessment under subparagraph (D), address identified habitat and natural resource needs.

"(C) ADVISORY COMMITTEE.—In carrying out subparagraph (A), the Secretary shall create an independent technical advisory committee to review projects, monitoring plans, and habitat and natural resource needs assessments.

"(D) HABITAT AND NATURAL RESOURCE NEEDS ASSESSMENT.—

"(i) AUTHORITY.—The Secretary is authorized to undertake a systemic, river reach, and pool scale assessment of habitat and natural resource needs to serve as a blueprint to guide habitat rehabilitation and long-term resource monitoring.

"(ii) DATA.—The habitat and natural resource needs assessment shall, to the maximum extent practicable, use data in existence at the time of the assessment.

"(iii) TIMING.—The Secretary shall complete a habitat and natural resource needs assessment not later than 3 years after the date of enactment of this subparagraph.

"(2) REPORTS.—On December 31, 2005, in consultation with the Secretary of the Interior and the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, the Secretary shall prepare and submit to Congress a report that—

"(A) contains an evaluation of the programs described in paragraph (1);

"(B) describes the accomplishments of each program;

"(C) includes results of a habitat and natural resource needs assessment; and

"(D) identifies any needed adjustments in the authorization under paragraph (1) or the authorized appropriations under paragraphs (3), (4), and (5).";

(B) in paragraph (3)—

(i) by striking "paragraph (1)(A)" and inserting "paragraph (1)(A)(i)"; and

(ii) by striking "Secretary not to exceed" and all that follows and inserting "Secretary not to exceed $22,750,000 for each of fiscal years 1999 through 2009.";

(C) in paragraph (4)—

(i) by striking "paragraph (1)(B)" and inserting "paragraph (1)(A)(ii)"; and

(ii) by striking "$7,680,000" and all that follows and inserting "$10,420,000 for each of fiscal years 1999 through 2009.";

(D) by striking paragraphs (5) and (6) and inserting the following:

"(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out paragraph (1)(C) not to exceed $350,000 for each of fiscal years 1999 through 2009.

"(6) TRANSFER OF AMOUNTS.—

"(A) IN GENERAL.—For each fiscal year beginning after September 30, 1992, the Secretary, in consultation with the Secretary of the Interior and the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, may transfer appropriated amounts between the programs under clauses (i) and (ii) of paragraph (1)(A) and paragraph (1)(C).

"(B) APPORTIONMENT OF COSTS.—In carrying out paragraph (1)(D), the Secretary may apportion the costs equally between the programs authorized by paragraph (1)(A).''; and

(E) in paragraph (7)—

(i) in subparagraph (A)—

(I) by inserting ''(i)'' after ''paragraph (1)(A)''; and

(II) by inserting before the period at the end the following: ''and, in the case of any project requiring non-Federal cost sharing, the non-Federal share of the cost of the project shall be 35 percent''; and

(ii) in subparagraph (B), by striking ''paragraphs (1)(B) and (1)(C) of this subsection'' and inserting ''paragraph (1)(A)(ii)'';

(2) in subsection (f)(2)—

(A) in subparagraph (A), by striking ''(A)''; and

(B) by striking subparagraph (B); and

(3) by adding at the end the following:

''(k) ST. LOUIS AREA URBAN WILDLIFE HABITAT.—The Secretary shall investigate and, if appropriate, carry out restoration of urban wildlife habitat, with a special emphasis on the establishment of greenways in the St. Louis, Missouri, area and surrounding communities.''.

On page 99, line 2, strike ''Act'' and insert ''section''.

On page 100, between lines 14 and 15, insert the following:

SEC. 145. NINE MILE RUN HABITAT RESTORATION, PENNSYLVANIA.

The Secretary may credit against the non-Federal share such costs as are incurred by the non-Federal interests in preparing environmental and other preconstruction documentation for the habitat restoration project, Nine Mile Run, Pennsylvania, if the Secretary determines that the documentation is integral to the project.

SEC. 146. SHORE DAMAGE PREVENTION OR MITIGATION.

Section 111 of the River and Harbor Act of 1968 (33 U.S.C. 426(i)) is amended—

(1) in the first sentence, by striking ''The Secretary'' and inserting ''(a) IN GENERAL.—The Secretary'';

(2) in the second sentence, by striking ''The costs'' and inserting the following:

''(b) COST SHARING.—The costs'';

(3) in the third sentence—

(A) by striking ''No such'' and inserting the following:

''(c) REQUIREMENT FOR SPECIFIC AUTHORIZATION.—No such''; and

(B) by striking ''$2,000,000'' and inserting ''$5,000,000''; and

(4) by adding at the end the following:

''(d) COORDINATION.—The Secretary shall—

''(1) coordinate the implementation of the measures under this section with other Federal and non-Federal shore protection projects in the same geographic area; and

''(2) to the extent practicable, combine mitigation projects with other shore protection projects in the same area into a comprehensive regional project.''.

SEC. 147. LARKSPUR FERRY CHANNEL, CALIFORNIA.

The Secretary shall work with the Secretary of Transportation on a proposed solution to carry out the project to maintain the Larkspur Ferry Channel, Larkspur, California, authorized by section 601(d) of the Water Resources Development Act of 1986 (100 Stat. 4148).

SEC. 148. COMPREHENSIVE FLOOD IMPACT-RESPONSE MODELING SYSTEM.

(a) IN GENERAL.—The Secretary may study and implement a Comprehensive Flood Impact-Response Modeling System for the Coralville Reservoir and the Iowa River watershed, Iowa.

(b) STUDY.—The study shall include—

(1) an evaluation of the combined hydrologic, geomorphic, environmental, economic, social, and recreational impacts of operating strategies within the watershed;

(2) creation of an integrated, dynamic flood impact model; and

(3) the development of a rapid response system to be used during flood and emergency situations.

(c) REPORT TO CONGRESS.—Not later than 5 years after the date of enactment of this Act, the Secretary shall transmit a report to Congress on the results of the study and modeling system and such recommendations as the Secretary determines to be appropriate.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated a total of $2,250,000 to carry out this section.

SEC. 149. STUDY REGARDING INNOVATIVE FINANCING FOR SMALL AND MEDIUM-SIZED PORTS.

(a) STUDY.—The Comptroller General of the United States shall conduct a study and analysis of various alternatives for innovative financing of future construction, operation, and maintenance of projects in small and medium-sized ports.

(b) REPORT.—Not later than 270 days after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Environment and Public Works of the Senate and Committee on Transportation and Infrastructure of the House of Representatives and the results of the study and any related legislative recommendations for consideration by Congress.

SEC. 150. CANDY LAKE PROJECT, OSAGE COUNTY, OKLAHOMA.

(a) DEFINITIONS.—In this section:

(1) FAIR MARKET VALUE.—The term ''fair market value'' means the amount for which a willing buyer would purchase and a willing seller would sell a parcel of land, as determined by a qualified, independent land appraiser.

(2) PREVIOUS OWNER OF LAND.—The term ''previous owner of land'' means a person (including a corporation) that conveyed, or a descendant of a deceased individual who conveyed, land to the Army Corps of Engineers for use in the Candy Lake project in Osage County, Oklahoma.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Army.

(b) LAND CONVEYANCES.—

(1) IN GENERAL.—The Secretary shall convey, in accordance with this section, all right, title, and interest of the United States in and to the land acquired by the United States for the Candy Lake project in Osage County, Oklahoma.

(2) PREVIOUS OWNERS OF LAND.—

(A) IN GENERAL.—The Secretary shall give a previous owner of land first option to purchase the land described in paragraph (1).

(B) APPLICATION.—

(i) IN GENERAL.—A previous owner of land that desires to purchase the land described in paragraph (1) that was owned by the previous owner of land, or by the individual from whom the previous owner of land is descended, shall file an application to purchase the land with the Secretary not later than 180 days after the official date of notice to the previous owner of land under subsection (c).

(ii) FIRST TO FILE HAS FIRST OPTION.—If more than 1 application is filed for a parcel of land described in paragraph (1), first options to purchase the parcel of land shall be allotted in the order in which applications for the parcel of land were filed.

(C) IDENTIFICATION OF PREVIOUS OWNERS OF LAND.—As soon as practicable after the date of enactment of this Act, the Secretary shall, to the extent practicable, identify each previous owner of land.

(D) CONSIDERATION.—Consideration for land conveyed under this subsection shall be the fair market value of the land.

(3) DISPOSAL.—Any land described in paragraph (1) for which an application has not been filed under paragraph (2)(B) within the applicable time period shall be disposed of in accordance with law.

(4) EXTINGUISHMENT OF EASEMENTS.—All flowage easements acquired by the United States for use in the Candy Lake project in Osage County, Oklahoma, are extinguished.

(c) NOTICE.—

(1) IN GENERAL.—The Secretary shall notify—

(A) each person identified as a previous owner of land under subsection (b)(2)(C), not later than 90 days after identification, by United States mail; and

(B) the general public, not later than 90 days after the date of enactment of this Act, by publication in the Federal Register.

(2) CONTENTS OF NOTICE.—Notice under this subsection shall include—

(A) a copy of this section;

(B) information sufficient to separately identify each parcel of land subject to this section; and

(C) specification of the fair market value of each parcel of land subject to this section.

(3) OFFICIAL DATE OF NOTICE.—The official date of notice under this subsection shall be the later of—

(A) the date on which actual notice is mailed; or

(B) the date of publication of the notice in the Federal Register.

SEC. 151. SALCHA RIVER AND PILEDRIVER SLOUGH, FAIRBANKS, ALASKA.

The Secretary shall evaluate and, if justified under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s), carry out flood damage reduction measures along the lower Salcha River and on Piledriver Slough, from its headwaters at the mouth of the Salcha River to the Chena Lakes Flood Control Project, in the vicinity of Fairbanks, Alaska, to protect against surface water flooding.

SEC. 152. EYAK RIVER, CORDOVA, ALASKA.

The Secretary shall evaluate and, if justified under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s), carry out flood damage reduction measures along the Eyak River at the town of Cordova, Alaska.

SEC. 153. NORTH PADRE ISLAND STORM DAMAGE REDUCTION AND ENVIRONMENTAL RESTORATION PROJECT.

The Secretary shall carry out a project for ecosystem restoration and storm damage reduction at North Padre Island, Corpus Christi Bay, Texas, at a total estimated cost of $30,000,000, with an estimated Federal cost of $19,500,000 and an estimated non-Federal cost of $10,500,000, if the Secretary finds that the work is technically sound, environmentally acceptable, and economically justified.

SEC. 154. KANOPOLIS LAKE, KANSAS.

(a) WATER SUPPLY.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, in cooperation with the State of Kansas or another non-Federal interest, shall complete a water supply reallocation study at the project for flood control, Kanopolis Lake, Kansas, as a basis on which the Secretary shall enter into negotiations with the State of Kansas or another non-Federal interest for the terms and conditions of a reallocation of the water supply.

(2) OPTIONS.—The negotiations for storage reallocation shall include the following options for evaluation by all parties:

(A) Financial terms of storage reallocation.

(B) Protection of future Federal water releases from Kanopolis Dam, consistent with State water law, to ensure that the benefits expected from releases are provided.

(C) Potential establishment of a water assurance district consistent with other such districts established by the State of Kansas.

(D) Protection of existing project purposes at Kanopolis Dam to include flood control, recreation, and fish and wildlife.

(b) IN-KIND CREDIT.—

(1) IN GENERAL.—The Secretary may negotiate a credit for a portion of the financial repayment to the Federal Government for work performed by the State of Kansas, or another non-Federal interest, on land adjacent or in close proximity to the project, if the work provides a benefit to the project.

(2) WORK INCLUDED.—The work for which credit may be granted may include watershed protection and enhancement, including wetland construction and ecosystem restoration.

SEC. 155. NEW YORK CITY WATERSHED.

Section 552(d) of the Water Resources Development Act of 1996 (110 Stat. 3780) is amended by striking "for the project to be carried out with such assistance" and inserting ", or a public entity designated by the State director, to carry out the project with such assistance, subject to the project's meeting the certification requirement of subsection (c)(1)".

SEC. 156. CITY OF CHARLEVOIX REIMBURSEMENT, MICHIGAN.

The Secretary shall review and, if consistent with authorized project purposes, reimburse the city of Charlevoix, Michigan, for the Federal share of costs associated with construction of the new revetment connection to the Federal navigation project at Charlevoix Harbor, Michigan.

SEC. 157. HAMILTON DAM FLOOD CONTROL PROJECT, MICHIGAN.

The Secretary may construct the Hamilton Dam flood control project, Michigan, under authority of section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s).

SEC. 158. NATIONAL CONTAMINATED SEDIMENT TASK FORCE.

(a) DEFINITION OF TASK FORCE.—In this section, the term "Task Force" means the National Contaminated Sediment Task Force established by section 502 of the National Contaminated Sediment Assessment and Management Act (33 U.S.C. 1271 note; Public Law 102–580).

(b) CONVENING.—The Secretary and the Administrator shall convene the Task Force not later than 90 days after the date of enactment of this Act.

(c) REPORTING ON REMEDIAL ACTION.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Task Force shall submit to Congress a report on the status of remedial actions at aquatic sites in the areas described in paragraph (2).

(2) AREAS.—The report under paragraph (1) shall address remedial actions in—

(A) areas of probable concern identified in the survey of data regarding aquatic sediment quality required by section 503(a) of the National Contaminated Sediment Assessment and Management Act (33 U.S.C. 1271);

(B) areas of concern within the Great Lakes, as identified under section 118(f) of the Federal Water Pollution Control Act (33 U.S.C. 1268(f));

(C) estuaries of national significance identified under section 320 of the Federal Water Pollution Control Act (33 U.S.C. 1330);

(D) areas for which remedial action has been authorized under any of the Water Resources Development Acts; and

(E) as appropriate, any other areas where sediment contamination is identified by the Task Force.

(3) ACTIVITIES.—Remedial actions subject to reporting under this subsection include remedial actions under—

(A) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) or other Federal or State law containing environmental remediation authority;

(B) any of the Water Resources Development Acts;

(C) section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344); or

(D) section 10 of the Act of March 3, 1899 (30 Stat. 1151, chapter 425).

(4) CONTENTS.—The report under paragraph (1) shall provide, with respect to each remedial action described in the report, a description of—

(A) the authorities and sources of funding for conducting the remedial action;

(B) the nature and sources of the sediment contamination, including volume and concentration, where appropriate;

(C) the testing conducted to determine the nature and extent of sediment contamination and to determine whether the remedial action is necessary;

(D) the action levels or other factors used to determine that the remedial action is necessary;

(E) the nature of the remedial action planned or undertaken, including the levels of protection of public health and the environment to be achieved by the remedial action;

(F) the ultimate disposition of any material dredged as part of the remedial action;

(G) the status of projects and the obstacles or barriers to prompt conduct of the remedial action; and

(H) contacts and sources of further information concerning the remedial action.

SEC. 159. GREAT LAKES BASIN PROGRAM.

(a) STRATEGIC PLANS.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, and every 2 years thereafter, the Secretary shall report to Congress on a plan for programs of the Army Corps of Engineers in the Great Lakes basin.

(2) CONTENTS.—The plan shall include details of the projected environmental and navigational projects in the Great Lakes basin, including—

(A) navigational maintenance and operations for commercial and recreational vessels;

(B) environmental restoration activities;

(C) water level maintenance activities;

(D) technical and planning assistance to States and remedial action planning committees;

(E) sediment transport analysis, sediment management planning, and activities to support prevention of excess sediment loadings;

(F) flood damage reduction and shoreline erosion prevention;

(G) all other activities of the Army Corps of Engineers; and

(H) an analysis of factors limiting use of programs and authorities of the Army Corps of Engineers in existence on the date of enactment of this Act in the Great Lakes basin, including the need for new or modified authorities.

(b) GREAT LAKES BIOHYDROLOGICAL INFORMATION.—

(1) INVENTORY.—

(A) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall request each Federal agency that may possess information relevant to the Great Lakes biohydrological system to provide an inventory of all such information in the possession of the agency.

(B) RELEVANT INFORMATION.—For the purpose of subparagraph (A), relevant information includes information on—

(i) ground and surface water hydrology;

(ii) natural and altered tributary dynamics;

(iii) biological aspects of the system influenced by and influencing water quantity and water movement;

(iv) meteorological projections and weather impacts on Great Lakes water levels; and

(v) other Great Lakes biohydrological system data relevant to sustainable water use management.

(2) REPORT.—

(A) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary, in consultation with the States, Indian tribes, and Federal agencies, and after requesting information from the provinces and the Federal Government of Canada, shall—

(i) compile the inventories of information;

(ii) analyze the information for consistency and gaps; and

(iii) submit to Congress, the International Joint Commission, and the Great Lakes States a report that includes recommendations on ways to improve the information base on the biohydrological dynamics of the Great Lakes ecosystem as a whole, so as to support environmentally sound decisions regarding diversions and consumptive uses of Great Lakes water.

(B) RECOMMENDATIONS.—The recommendations in the report under subparagraph (A) shall include recommendations relating to the resources and funds necessary for implementing improvement of the information base.

(C) CONSIDERATIONS.—In developing the report under subparagraph (A), the Secretary, in cooperation with the Secretary of State, the Secretary of Transportation, and other relevant agencies as appropriate, shall consider and report on the status of the issues described and recommendations made in—

(i) the Report of the International Joint Commission to the Governments of the United States and Canada under the 1977 reference issued in 1985; and

(ii) the 1993 Report of the International Joint Commission to the Governments of Canada and the United States on Methods of Alleviating Adverse Consequences of Fluctuating Water Levels in the Great Lakes St. Lawrence Basin.

(c) GREAT LAKES RECREATIONAL BOATING.—Not later than 18 months after the date of enactment of this Act, the Secretary shall, using information and studies in existence on the date of enactment of this Act to the maximum extent practicable, and in cooperation with the Great Lakes States, submit to Congress a report detailing the economic benefits of recreational boating in the Great Lakes basin, particularly at harbors benefiting from operation and maintenance projects of the Army Corps of Engineers.

(d) COOPERATION.—In undertaking activities under this section, the Secretary shall—

(1) encourage public participation; and

(2) cooperate, and, as appropriate, collaborate, with Great Lakes States, tribal governments, and Canadian federal, provincial, tribal governments.

(e) WATER USE ACTIVITIES AND POLICIES.—The Secretary may provide technical assistance to the Great Lakes States to develop interstate guidelines to improve the consistency and efficiency of State-level water use activities and policies in the Great Lakes basin.

(f) COST SHARING.—The Secretary may seek and accept funds from non-Federal entities to be used to pay up to 25 percent of the cost of carrying out subsections (b), (c), (d), and (e).

SEC. 160. PROJECTS FOR IMPROVEMENT OF THE ENVIRONMENT.

Section 1135(c) of the Water Resources Development Act of 1986 (33 U.S.C. 2309a(c)) is amended—

(1) by striking "If the Secretary" and inserting the following:

"(1) IN GENERAL.—If the Secretary"; and

(2) by adding at the end the following:

"(2) CONTROL OF SEA LAMPREY.—Congress finds that—

"(A) the Great Lakes navigation system has been instrumental in the spread of sea lamprey and the associated impacts to its fishery; and

"(B) the use of the authority under this subsection for control of sea lamprey at any Great Lakes basin location is appropriate.".

SEC. 161. WATER QUALITY, ENVIRONMENTAL QUALITY, RECREATION, FISH AND WILDLIFE, FLOOD CONTROL, AND NAVIGATION.

(a) IN GENERAL.—The Secretary may investigate, study, evaluate, and report on—

(1) water quality, environmental quality, recreation, fish and wildlife, flood control, and navigation in the western Lake Erie watershed, including the watersheds of the Maumee River, Ottawa River, and Portage River in the States of Indiana, Ohio, and Michigan; and

(2) measures to improve water quality, environmental quality, recreation, fish and wildlife, flood control, and navigation in the western Lake Erie basin.

(b) COOPERATION.—In carrying out studies and investigations under subsection (a), the Secretary shall cooperate with Federal, State, and local agencies and nongovernmental organizations to ensure full consideration of all views and requirements of all interrelated programs that those agencies may develop independently or in coordination with the Army Corps of Engineers.

On page 101, lines 2 and 3, strike ", acting through the Assistant Secretary for Civil Works".

On page 102, strike lines 10 through 14 and insert the following:

and submit the plan, with any comments, to the appropriate committees of the Senate and the House of Representatives.

On page 102, line 21, strike "(2)" and insert "(3)".

On page 103, line 14, strike "(2)" and insert "(3)".

On page 113, line 24, strike "States" and insert "sites".

On page 115, line 8, strike "The Secretary" and insert the following:

(A) IN GENERAL.—The Secretary

On page 115, between lines 14 and 15, insert the following:

(B) PERMITS, RIGHTS-OF-WAY, AND EASEMENTS.—All permits, rights-of-way, and easements granted by the Secretary of the Army to the Oglala Sioux Tribe for land on the west side of the Missouri River between the Oahe Dam and Highway 14, and all permits, rights-of-way, and easements on any other land administered by the Secretary and used by the Oglala Sioux Rural Water Supply System, are granted to the Oglala Sioux Tribe in perpetuity to be held in trust under section 3(e) of the Mni Wiconi Project Act of 1988 (102 Stat. 2568).

On page 115, line 16, strike "and" and insert "outside the".

On page 116, line 12, insert a comma after "Oahe".

On page 116, lines 12 and 13, strike "Garvin's" and insert "Gavin's".

On page 117, line 4, strike "and".

On page 117, line 5, strike the period and insert "; and".

On page 117, between lines 5 and 6, insert the following:

(4) is not the recreation area known as "Cottonwood", "Training Dike", or "Tailwaters"; and

(5) is located below Gavin's Point Dam in the State of South Dakota in accordance with boundary agreements and reciprocal fishing agreements between the State of South Dakota and the State of Nebraska in effect on the date of enactment of this Act, which agreements shall continue to be honored by the State of South Dakota as the agreements apply to any land or recreation areas transferred under this title to the State of South Dakota below Gavin's Point Dam and on the waters of the Missouri River.

On page 117, lines 23 and 24, strike "South Dakota Game, Fish, and Parks".

On page 118, lines 5 and 6, strike "respective Trust Fund described in section 204" and insert "Trust Fund described in section 203".

On page 118, line 23, strike "Nothing" and insert the following:

(1) IN GENERAL.—Nothing

On page 118, lines 24 and 25, strike "hunting and fishing on the waters of the Missouri River" and insert "the land and water below the exclusive flood pool of the Missouri River within the State of South Dakota, including affected Indian reservations".

On page 119, line 2, after "continue" insert "in perpetuity".

On page 119, between lines 3 and 4, insert the following:

(2) NO EFFECT ON RESPECTIVE JURISDICTIONS.—The Secretary may not adopt any regulation or otherwise affect the respective jurisdictions of the State of South Dakota, the Lower Brule River Sioux Tribe, or the Cheyenne River Sioux Tribe described in paragraph (1).

(h) APPLICABILITY OF LAW.—Notwithstanding any other provision of this Act, the following provisions of law shall apply to land transferred under this section:

(1) The National Historic Preservation Act (16 U.S.C. 470 et seq.), including sections 106 and 304 of that Act (16 U.S.C. 470f, 470w–3).

(2) The Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.), including sections 4, 6, 7, and 9 of that Act (16 U.S.C. 470cc, 470ee, 470ff, 470hh).

(3) The Native American Graves Protection Act and Repatriation Act (25 U.S.C. 3001 et seq.), including subsections (a) and (d) of section 3 of that Act (25 U.S.C. 3003).

On page 119, line 18, strike "Tribes" and insert "Secretary of the Interior".

On page 120, line 9, after "of", insert "the reservation of".

On page 121, line 21, strike "respective" and insert "State and tribal".

On page 122, line 10, strike "JURISDICTION.—" and insert "HUNTING AND FISHING.—".

On page 122, lines 14 through 16, strike "Jurisdiction over the land and waters shall continue in accordance with the Flood Control Act of 1944 (33 U.S.C. 701–1 et seq.)." and insert "The State of South Dakota, the Lower Brule Sioux Tribe, and the Cheyenne River Sioux Tribe shall continue to exercise, in perpetuity, the jurisdiction they possess on the date of enactment of this Act with regard to those lands and waters. The Secretary may not adopt any regulation or otherwise affect the respective jurisdictions of the State of South Dakota, the Lower Brule River Sioux Tribe, or the Cheyenne River Sioux Tribe described in the preceding sentence.".

On page 122, line 18, after "as" insert "that over".

On page 123, line 14, strike "valid, existing".

On page 125, line 5, strike "Act shall relieve" and insert "title relieves".

On page 125, strike line 13 and insert the following:

SEC. 208. STUDY.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Army shall arrange for the United States Geological Survey, in consultation with the Bureau of Indian Affairs and other appropriate Federal agencies, to conduct a comprehensive study of the potential impacts of the transfer of land under sections 205(b) and 206(b), including potential impacts on South Dakota Sioux Tribes having water claims within the Missouri River Basin, on water flows in the Missouri River.

(b) NO TRANSFER PENDING DETERMINATION.—No transfer of land under section 205(b) or 206(b) shall occur until the Secretary determines, based on the study, that the transfer of land under either section will not significantly reduce the amount of water flow to the downstream States of the Missouri River.

SEC. 209. AUTHORIZATION OF APPROPRIATIONS.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. McCAIN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, October 8, 1998, at 3:30 p.m. in open session, to review the recommendation to elevate the position of the Director, Office of Non-Proliferation and National Security of the Department of Energy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. McCAIN. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, October 8, 1998, at 9:30 a.m. on the nominations of Ashish Sen to be Director of the Bureau of Transportation Statistics, Department of Transportation and Albert S. Jacquez to be Administrator of the Saint Lawrence Seaway Development Corporation in room SR–253 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. McCAIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the

Senate on Thursday, October 8, 1998, at 10:00 a.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. McCAIN. Mr. President, I ask unanimous consent that the Committee on the Judiciary, be authorized to hold an executive business meeting during the session of the Senate on Thursday, October 8, 1998, at 10:00 a.m. in room SD–226 of the Senate Dirksen Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. McCAIN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, October 8, 1998, at 2:30 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON DRINKING WATER, FISHERIES, AND WILDLIFE

Mr. McCAIN. Mr. President, I ask unanimous consent that the Subcommittee on Drinking Water, Fisheries, and Wildlife be granted permission to conduct an oversight hearing on scientific and engineering issues relating to Columbia/Snake River system salmon recovery Thursday, October 8, 1998, 9:30 a.m., Hearing Room (SD–406).

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TECHNOLOGY, TERRORISM, AND GOVERNMENT

Mr. McCAIN. Mr. President, I ask unanimous consent that the Subcommittee on Technology, Terrorism, and Government Information, of the Senate Judiciary Committee be authorized to hold a hearing during the session of the Senate on Thursday, October 8, 1998, at 8:00 a.m. in room 215, Senate Dirksen Office Building, on: "National Security Considerations in Asylum Applications: A Case Study of 6 Iraqis."

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

CAMPAIGN FINANCE REFORM

• Mr. ALLARD. Mr. President, now that it seems the debate on campaign finance is over for this session, I wanted to make a few comments concerning the current approach to reform and what I believe would be the best approach. I agree that something needs to be done in fixing the system, but the problem is that the approaches debated this year raise constitutional issues.

I have supported congressional reform since entering Congress in 1990, especially term limits. If we want to end the so-called money chase, then lets end the life terms in Congress. Many outside groups who favor campaign finance reform are against term limits for they believe it to be undemocratic. I find quieting peoples voices and stopping them from participating in the electoral process to be even more undemocratic, and probably unconstitutional.

We have heard that people have become disenchanted with the process. I believe this disenchantment has less to do with the fact that campaigns have become expensive, than they are tired of campaign laws being broken. Let's enforce the laws on the books before we pass more laws and make it even more difficult for citizens to participate. Let's not penalize law abiding citizens because some elected officials will not follow current laws.

Regarding expensive campaigns, lets take a look at some numbers. When I first came to Congress in 1990, there were 1,759 federal election candidates in the United States, who raised 471.7 million dollars and spent 446.3 million dollars. This roughly averages to 268,168 dollars raised and 253,753 dollars spent by each federal candidate in the United States.

By comparison, in 1996 there were 2,605 federal election candidates which raised 790.5 million dollars and spent 765.3 million dollars. This means that each candidate raised 303,454 dollars and spent 293,781 dollars.

We can see that spending on campaigns has increased but so has the number of candidates. This influx of new candidates could make some incumbents nervous. But, I say that competition is a positive thing for the electoral system. So, when we hear that there are fewer people who want to run because of the cost of campaigns, we know that this is incorrect according to the Federal Election Commission.

Yes, fewer incumbents are running for reelection, but more people are trying to replace them in representing their States or districts.

With overall campaign spending going up, I can understand how some in this body and around the United States find that the cost of campaigns are just too high. However, during my 63 town meetings in 1998, this topic has come up only a few times. But, more and more people are complaining abut taxes being too high.

Last year, as a percentage of GDP, federal tax revenue reached its highest level since World War II to 19.8 percent and rising to 19.9 percent this year. I am much more worried about the working man and woman who must work long hard hours to make ends meet only to find that nearly 40 percent of their hard earned money must be given to the local, State, and Federal Government. I think we should give the American people a tax cut.

My town meetings also indicated that Coloradans are concerned about the national debt and the interest their children and grandchildren will pay. I don't see this getting much attention by the so-called "good government" groups. I am more concerned about the abusive $5.5 trillion debt that we have levied on this Nation. Let's pass my bill, S. 1608, the American Debt Repayment Act, and get this burden off the American people's back.

In regards to campaign finance reform, I believe that reform should pass three tests. First, it should be voluntary; Second, it should be inclusive, not exclusive; And third, it should be constitutional.

The United States is based on freedom and we have become the model for freedom around the world. However, with freedom comes rights and responsibilities. One of these rights is the ability to join or not to join, to participate or not to participate, to speak or not to speak. The decision to participate should be made by the individual and Congress has the responsibility to preserve this right for all Americans.

When I ran for the Senate, people participated in my campaign only if they wanted to. They could give either their time or their money. I had to assume that if they did, they did so because they believed in me and the ideas that I stressed. I never forced any person to put out a sign, wear a button, or give a contribution to my campaign, it was always voluntary.

We need to ensure that any campaign finance reform makes participation a voluntary activity for all individuals. If someone doesn't want to give, they have the right to say no or at least should be able to provide their consent.

That is why it is important to include the Paycheck Protection Act in any campaign finance reform. I find it confusing at best that we allow labor unions to take money out of a paycheck and use it on political matters without their members expressed written consent.

According to the Department of Labor, 80 percent, or 8.1 million, of all private sector workers covered by a union contract are required under that contract to pay union dues as a condition of employment, American workers should not have to choose between their jobs which provide the food and clothing or political activity with which they may disagree. I have yet to hear a solid reason how asking people to give their consent to use their required dues for political purposes would hinder a group's ability to participate.

When I was a small business owner, I was a member of a few groups, but I joined each one voluntarily. I could have removed my name at any time without any threat to my job or well being. Whenever a person is forced to join a group, like those in a closed shop, their dues should never be used for political purposes unless they first state that it is OK to do so. To do less would be deceptive.

Another problem area is the possibility that the FCC may require free TV time to be provided to federal candidates.

First, I have never believed that a regulatory agency should act without the authorization of Congress. The Constitution states that "all legislative powers herein granted shall be vested in a Congress of the United States * * *." Regulatory agencies only enforce the laws as set by Congress, not make them.

Second, the American media is a large, vast enterprise. I understand that the broadcasting medium is unique, but I am afraid that this may take us down a slippery slope. How long will it take before we order free space in newspapers and magazines, or free time on cable, or free web sites on the Internet, or free postage for our mailings, just in the name of clean campaigns?

Lastly, for the States without any major media outlets, such as New Jersey and Delaware, their neighboring States which supply the broadcasting signal will be subsidizing not only their own federal candidates but also the federal candidates of the States that depend on them for the broadcast. Not only do I believe it is wrong for the FCC to implement this without Congressional authorization, but it would force the media to be unwitting volunteers for candidates.

Freedom must be preserved for all individuals to choose the ideas that they support or oppose. Thomas Jefferson said it best, "To compel a man to furnish contributions of money for the propagation of opinions which he disbelieves, is sinful and tyrannical."

The Supreme Court has been very clear in its decisions regarding the First Amendment and campaign finance laws. Since the post-Watergate changes to the Federal Election Campaign Act of 1971, 24 Congressional actions have been declared unconstitutional, with nine rejections based on the first amendment. Out of those 9, four dealt directly with campaign finance reform laws. In each case, the Supreme Court has ruled that political spending equals political speech. This Senate attempted to change this through a constitutional amendment limiting the amount one can spend in a campaign, which only tells me that this fact is undeniably recognized by this body.

The first amendment is not there to hinder Americans from speaking their ideas, but to ensure that their ideas can be spoken. One way Congress and outside groups speak is through political campaigns, and it is a fact of life that it takes money. After deciding the *Valeo* v. *Buckley* case, former Supreme Court Justice Thurgood Marshall stated that, "One of the points of which all Members of the Court agree is that money is essential for effective communication in a political campaign."

When we pull the rug out from underneath people who want to speak their mind, whether they have little or lots of money, we pull the rug out from underneath their basic right to freedom of speech.

From the much quoted Buckley case, this fact is placed into its proper context. It states, "A restriction on the amount of money a person or group can spend on political communication during a campaign necessarily reduces the quantity of expression by restricting the number of issues discussed, the depth of exploration, and the size of audience reached. This is because virtually every means of communicating ideas in today's mass society requires the expenditure of money." This encompasses the "distribution of the humblest handbill" to the more "expensive modes of communication" such as radio and television.

The Court ensures that "a major purpose of the [First] Amendment was to protect the free discussion of governmental affairs" and that any limitations of contributions and/or expenditures "operate in an area of the most fundamental First Amendment activities." While, the Court found that contribution limits were constitutional up to a certain point, expenditure limits were not.

The Buckley decision also stated that "* * * the mere growth in the cost of Federal election campaigns in and of itself provides no basis for Government restrictions on the quantity of campaign spending." They went further to say, "the First Amendment denies Government the power to determine that spending to promote one's political views is wasteful, excessive, or unwise. In the free society ordained by our Constitution, it is not the Government, but the people—individually as citizens and candidates and collectively as associations and political committees—who must retain control over the quantity and range of debate on public issues in a political campaign."

Simply stated, the Government can not ration or regulate the political speech of a citizen through spending limits or limit its quantity any more than it can regulate what newspapers publishes, its circulation, or when it can be printed.

Which brings me to another point concerning who and how one can spend their money. Our system should not exclude people from expressing their ideas. In the much debated McCain-Feingold bill, there is a provision which would not allow groups to issue ads 60 days before an election. A person or a group's speech is just as valid the day before an election as it is 61 days before. We all have experienced attack ads during a campaign and many times they are very difficult to take. But to quiet them so that a candidate can have an easier time during an election is just flat wrong. Every American should have the opportunity to speak in favor or against any elected official whenever they choose.

So how can I support legislation which I believe would make our system exclusive, when our political process should be inclusive for all citizens who want to speak their minds? I truly do believe it is wrong for me to try and silence people who want to criticize my voting record. That is their right and they should be able to do so whenever they choose and I should be able to defend it whenever I choose and groups that support positions I take should be able to support my position whenever they choose.

From the beginning, I have believed the 60 day blackout provision to be unconstitutional and a recent case in Michigan shows this to be right. In August, a federal court struck down, on first amendment grounds, a Michigan election rule prohibited incorporated groups and labor unions from using the names and likeness of political candidates for 45 days before the election. The State argued that the ban should be allowed because it applied "only" to a limited time period and did not apply to PACs and that "the rule does not suffer from constitutional overbreadth because it is content neutral, and is narrowly tailored to serve a compelling State interest in the integrity of the electoral process." However, the United States District Judge Robert Holmes Bell ruled that the ban violated the first amendment.

Judge Bell ruled that "[I]n this case the censorial effect of the Rule on issue advocacy is neither speculative nor insubstantial." He also stated that "[W]hile the time period is short, it could involve a critical time period for communications. . . . A 45-day blackout on using names would protect incumbents seeking re-election from grassroots lobbying efforts on pending legislation, and incumbents would soon learn to schedule votes on controversial legislation during this time period and thus avoid unwanted publicity and attention. . . . The ban on the use of candidates' names is a heavy burden on highly protected First Amendment expression. Voters have an interest in knowing what legislators are associated with pending litigation, an organization's ability to educate the public on pending legislation is unduly hampered if they are unable to name the legislators involved."

In conclusion, Judge Bell said, "The mere fact that we are dealing with a corporation rather than an individual does not remove its speech from the ambit of the first amendment. . . . Because the rule not only prohibits expenditures in support of or in opposition to a candidate, but also prohibits the use of corporate treasury funds for communications containing the name or likeness of a candidate, without regard to whether the communication can be understood as supporting or opposing the candidate, there is a realistic danger that the Rule will significantly compromise the First Amendment protections of not only the Plaintiff, but many other organizations which seek to have a voice in political issue advocacy."

I believe Judge Bell's ruling will stand the test of appeal for he stated that any decision regarding the "constitutionality of campaign finance must begin with and usually ends" with the Buckley case. And again, the Buckley decision clearly states that, ". . . the distinction between discussion of issues and candidates and advocacy of election or defeat of candidates may often dissolve in practical application. Candidates, especially incumbents, are intimately tied to public issues involving legislative proposals and governmental actions. Not only do candidates campaign on the basis of their positions on various public issues, but campaigns themselves generate issues of public interest."

This clearly states that it is a constitutional right to criticize an elected official and their record, and that no citizen needs to ask permission from the Government when and how this can be done. Believe me, I can understand wanting to control the debate of a campaign and silence some of the critics, but I cannot constitutionally, or in good conscience, do that. For every citizen has the right to be a part of the debate. I believe that placing a road block to the First Amendment only closes doors to the system not opens them.

We will always hear that money is the reason why people don't run or get involved. I can say that I am not a wealthy man. I started a veterinarian hospital with sweat and hard work. When I decided to run for Congress, I didn't have a lot of money, but worked hard to make myself known. When I ran for the Senate, I still wasn't wealthy, but I did run against a wealthy man. When the campaign was over, I had more votes and no campaign debt despite the fact that I was outspent by 750,000 dollars, three-quarter of a million dollars. You don't have to have a lot of money to win a race, just the right message. I will not vote for legislation that I believe would stop someone from speaking their message, even if it's my opponent.

While I do not believe closing the door on the First Amendment is the right approach, I do believe that opening up the system to fuller and more timely disclosure would provide for a much more robust campaign system.

This is why I introduced my own bill, the Campaign Finance Integrity Act, S. 1190. My bill does not restrict one from exercising their political speech rights, but asks for complete and honest disclosure of all campaign spending. While this statement is not one of endorsement concerning my legislation, the American Civil Liberties Union did state in a review of the McCain-Feingold bill that, "Disclosure, rather than limitation, of large soft money contributions to political parties, is the more appropriate and less restrictive alternative." My bill does just that. As a matter of fact, I believe my bill has some of the strongest disclosure requirements of any bill introduced.

My bill also:

Requires candidates to raise at least 50 percent of their contributions from individuals in the State or district in which they are running.

Equalize contributions from individuals and political action committees (PACs) by raising the individual limit from $1,000 to $2,500 and reducing the PAC limit from $5,000 to $2,500.

Indexes individual and PAC contribution limits for inflation.

Reduces the influence of a candidate's personal wealth by allowing political party committees to match dollar for dollar the personal contribution of a candidate above $5,000, by using only hard money.

Requires organizations, groups, and political party committees to disclose within 24 hours the amount and type of independent expenditures over $1,000 in support of or against a candidate. Only the organization discloses it expenditures, not the names of the individual donors.

Requires corporations and labor organizations to seek separate, voluntary authorization of the use of any dues, initiation fees or payment as a condition of employment for political activity, and requires annual full disclosure of those activities to union members and shareholders.

Prohibits depositing of an individual contribution by a campaign unless the individual's profession and employer are reported.

Encourages the Federal Election Commission to allow filing of reports by computers and other emerging technologies and to make that information accessible to the public on the Internet less than 24 hours of receipt.

Completely bans the use of taxpayer financed mass mailings.

Lastly, S. 1190 creates a tax deduction for political contributions up to $100 for individuals and $200 for a joint return to encourage small donations.

Another way to "clean up" the campaign finance system and reduce the so-called special interest money is to reduce the size and scope of the Federal Government and I am not alone in believing this. Last year, Rasmussen Research did a survey showing that 62 percent of Americans think that reducing Government spending would reduce corruption in Government. The same survey showed that 44 percent think that cutting Government spending would do more to reduce corruption than campaign finance reform, while 42 percent think campaign finance reform would reduce corruption more than cutting Government spending. I have said many times, if the Government rids itself of special interest funding and corporate welfare, then there would be little influence left for these large donors.

I know that no one in this chamber takes the first amendment lightly. It is the cornerstone by which many of the rights we enjoy today are set. It is there to ensure that the Government does not control us, but that the Government is under control. In 1808, Thomas Jefferson stated what the first amendment should and would mean to each of us—"The liberty of speaking and writing guards our other liberties." And again in 1828, he said, "The force of public opinion cannot be resisted when permitted to freely be expressed. The agitation it produces must be submitted to." This is why any campaign finance reform should be reform that preserves the right of free speech and which allows all Americans to voice their opinion.•

INTERNATIONAL MONETARY FUND

• Mrs. BOXER. Mr. President, a little more than a year ago serious financial problems began to arise in Thailand. What began in Thailand, however, quickly spread to other Asian financial markets like Indonesia, South Korea, and even Hong Kong and Japan. In recent months, we have seen this financial crisis creep into other economies around the world, most notably, perhaps, Russia and Brazil. This crisis is not just about Asia, Russia or Latin America, however; it's about the United States as well.

In today's increasingly intertwined global economy, the United States has an important national interest in working to stabilize the economies of its trading partners around the world. It is the United States that ultimately stands to lose if other economies fail—economies that are markets for our products. Reductions in Asian purchasing power or Latin American purchasing power mean lower profits for U.S. companies operating in those markets and fewer high-paying jobs in U.S. export industries.

East Asian nations, for example, are important trading partners for the United States. U.S. exports to East Asia accounted for 28 percent of all American merchandise exports in 1996. This number far exceeds the 9.2 percent of exports that went to Mexico, and even the 21.4 percent that went to Canada.

Brazil, Latin America's largest economy, is also an important market for the U.S. Brazil is the U.S.' 11th-largest export market with $16 billion in sales last year. Moreover, and perhaps more important, Brazil is one of the few major trading partners with whom the United States has a positive balance of trade. U.S. companies' exports to Brazil grew 25 percent last year and are now roughly five times the value of Russia's before Russia's crash.

I want to elaborate a little on the importance of the stability of the Brazilian economy to the United States. And in do doing, I think it is important to remember that the United States is not an economic island unto itself. We are truly part of an interdependent global economy.

Capital flows freely, without regard to geographical boundaries and to places we couldn't have imagined even 5 or 10 years ago. One of the places where a substantial amount of that capital has been flowing over the past 5 years or so is Brazil. In fact, U.S. investments in Brazil now exceed the U.S. investments in Mexico.

Largely as a result of the reforms adopted during the administration of President Fernando Henrique Cardoso, Brazil has emerged from its so-called "Lost Decade" of the eighties. During that decade, Brazil's economy languished in inflation and stagnation. That inflation and stagnation continued into the mid-nineties, and reached as high as 2,700 percent in 1994.

Since then, however, key infrastructure industries such as energy, telecommunications, and ports have begun modernizing and expanding. Moreover, State monopolies in oil, electricity, and telecommunications have ended, and many businesses have now been privatized. Such privatization can only mean good things for U.S. companies seeking to expand their markets.

As the Brazilian Finance Minister in 1993 and 1994, Mr. Cardoso, along with other liberal economists, developed the "Real Plan." This plan opened Brazil to foreign investment and pegged the Real—the Brazilian currency—to the U.S. dollar. This plan has been credited with lowering inflation from its high in 1994 to single digits this year.

Yet, since mid-August, the economic debacles in Asia and Russia have pushed Brazil to the precipice of economic and financial collapse. The stakes for America and Americans are considerable. If the Brazilian economy fails, the financial crisis now gripping large parts of the rest of the world will be on America's doorstep.

The huge Brazilian economy, the ninth largest in the world, is the backbone of Latin America. Economists warn that if Brazil's economy collapses, the economies of Argentina, Chile, and the rest of Latin America will be in serious peril.

Almost 20 percent of our exports are purchased by Latin America and it is host to an increasing number of American-owned factories whose sales and profits are important contributors to the balance sheets of corporate America. A sharp reduction in the flow of this income, combined with the sharp reductions which have already occurred in Asia, would seriously imperil economic growth here in the United States. As an economist at Salomon Smith Barney stated, "there is just no way we can allow Brazil to fail."

The economic crises in Asia, Brazil and other parts of the world, are potentially particularly problematic for my home State of California. California is the world's seventh largest economy, it has a gross State product of more than $1 trillion, and is by far the nation's largest State market. It exports more than any other State in the country; and thus, not surprisingly sensitive to the financial crises faced by our trading partners.

The Asian financial crisis is illustrative of this point. Because of California's geographical proximity to Asia, and what had been Asia's rapidly expanding economies, a growing number of California's exports were, and are, going to Asia.

Of California's top 10 export markets, 6 are Asian. Moreover, forty-four percent of all California exports are to Asia and approximately 725,000 California jobs are supported by exports to Asia. During the first quarter of 1998, however, California's exports to Japan decreased by 12 percent, exports to Singapore decreased by 14 percent, to Indonesia by almost 25 percent, and to South Korea by 40 percent.

Although Brazil ranked 17th among California's export markets in 1997, Brazil's financial troubles do present added risks to California's ability to export goods and services. California's high technology companies have reportedly been building a presence in Brazil and a consumer class has emerged. Moreover, California's trade officials, and many California exporters, have said they had begun to look to the Latin American markets to offset the slowdown in Asia and help keep the State's exports growing—exports which are so vital to the California economy.

Given this global economic interdependence, the question is—what can we, as legislators, do to help, aid, or assist in getting these distressed economies back on track?

While there are some things we cannot do, like dictate or direct that countries follow economic practices and policies set forth by the United States, there are things we can do. One of the things we can do, and I believe we must do, is provide technical and financial assistance to economically distressed countries through our participation in the International Monetary Fund—the IMF.

Last September, while the Asian financial crisis was still unfolding, the IMF Executive Board agreed on quota increases for its members. The request for U.S. commitments to the IMF consists of: (1) $14.5 billion for our share of the increase in normal quota resources, and (2) $3.5 billion for United States participation in the New Arrangements to Borrow, an addition to the Fund's emergency credit lines for use in systemic financial crises.

In late March, the Senate, with strong bipartisan support, voted to include the Administration's full IMF funding request, of approximately $18 billion, in its 1998 supplemental appropriations bill. The House, however, refused to include this funding in its supplemental appropriations bill.

Although the House did agree to provide the IMF $3.4 billion in funding on September 17, that amount is far short of the $18 billion requested by the administration, approved by the Senate and needed to help curb the economic crisis which threatens several regions around the globe. The House and Senate are now debating this important issue, and I support and encourage Chairman Stevens' steadfast insistence that the House recede to the Senate on the issue of full IMF funding.

The IMF is the world's largest lender of last resort and is designed to foster trade and economic growth by helping maintain stability in the international monetary system. Countries join the Fund by agreeing to a capital subscription and abiding by rules set up in the Articles of Agreement.

The 182 member countries may borrow money from the IMF to finance short-term balance of payment deficits and to help manage more serious longer-term financial imbalances. In return, borrowing countries must adopt economic policies negotiated with IMF economists, and approved by the Executive Board, designed to ensure the underlying problems which caused the crisis are corrected.

These policies, or conditions, are market-oriented measures that vary depending on the situation, but often focus on reducing Government spending, implementing banking and financial industry reforms, and taking often painful steps to control inflation. IMF loans to its members are repaid with interest. Although, the IMF has had to restructure some of the outstanding loan balances of the poorest countries, no country has ever defaulted on its IMF loan.

It is important to note that in addition to U.S. economic interests, U.S. national security interests are also at risk as a result of the Asian economic crisis, as well as the economic crises in Russia and in other parts of the world. Many of the countries affected by the crisis are key strategic allies.

The United States has 100,000 troops based in Asia, 37,000 on the Korean Peninsula alone. History has shown that economic distress and financial instability can threaten political stability and security.

Mr. President, in closing I want to note my agreement with many of my colleagues who believe the IMF needs to make some reforms. I do not disagree. Chairman Greenspan said during his September 16 testimony before the House Banking Committee, "I think that the IMF requires a fundamental review in all of its aspects, but not now, we need the structure of the IMF and its funding procedures and its conditionality, because that's all we've got."

I hope the House of Representatives will heed the words of Chairman Greenspan, and agree, as the Senate has already done, that it is in our national economic interest and our national security interest to provide full funding to the IMF.•

RECOGNIZING "CHARACTER COUNTS!"

• Mr. ABRAHAM. Mr. President, I rise today to recognize a very important organization in the State of Michigan. The CHARACTER COUNTS!^{sm} coalition, a national grassroots organization which promotes character education with a program utilizing six components: respect, responsibility, fairness, caring, citizenship and trustworthiness.

Across the country, individuals, organizations, and entire communities are coming together on a united front dedicated to enforcing a set of ethical values which are the very foundation of a free, democratic society. My colleagues and I truly appreciate their dedication to educate and improve the character of our nation's youth .

As the Honorary Chairman for CHARACTER COUNTS!^{sm} in Michigan and in light of National CHARACTER COUNTS!^{sm} week, I extend my best wishes to Pat Malijewski the CHARACTER COUNTS!^{sm} in Michigan Project Coordinator and everyone involved in making CHARACTER COUNTS!^{sm} a tremendous success in Michigan and across this great country.•

TRIBUTE TO CARL YOUNGBLOM

• Mr. WELLSTONE. Mr. President, I rise today to pay tribute to Carl Youngblom, a great American from my State, who unexpectedly passed away earlier this year.

Carl proudly served his Nation as a Korean War veteran. He proudly served his community as former president of the St. Peter Rotary International. And he proudly served disabled veterans as a past Minnesota Department Commander of the Disabled American Veterans (DAV).

In fact, I got to know Carl after he was elected DAV Department Commander in 1995. I can tell you from personal experience that he was a staunch advocate for disabled veterans and their families, often urging us in Congress to do well for our veterans, and I deeply respected him for that. According to his wife Val, he became such a strong veterans advocate out of love for his older brother, whose life was changed from being wounded in combat during World War II.

Carl also had a strong connection to agriculture, starting as a family farmer and then moving to a career in agriculture finance. He was a fine athlete who loved to swim, cross country ski, and run. But perhaps most impressive was how his kindness touched people and how his compassion helped build consensus during times of conflict. We will miss him dearly.

Mr. President, I conclude by asking my colleagues to join me in expressing to his loving wife Val and their children and grandchildren our Nation's eternal gratitude for Carl Youngblom's significant and myriad contributions.•

CLARIFICATION OF VOTE—AMENDMENT NO. 3719, AS AMENDED, AS MODIFIED

• Mr. THOMAS. Mr. President, on Rollcall vote No. 306, I inadvertently voted aye when I meant to vote no. I wish to clarify in the RECORD my opposition to the motion to table the McCain amendment number 3719 (as amended and modified).•

WORLD FOOD DAY AND THE U.N. WORLD FOOD PROGRAMME

• Mr. DURBIN. Mr. President, I rise today to call attention to the celebration of World Food Day on October 16th. I also rise to recognize the many successes achieved by the U.N. World Food Programme (WFP), the world's largest international food aid organization, over the past 18 years.

The WFP provides humanitarian relief to the world's poorest and most downtrodden people by distributing food to those individuals who are the most vulnerable to malnutrition and famine, particularly women and children. Last year alone, the WFP fed over 52.9 million people, by transporting food to needy and malnourished families in 84 countries. The WFP also provides much needed assistance to the tens of millions of victims world-wide who have suffered through natural disasters, such as earthquakes, severe floods and drought. Moreover, the WFP has committed itself to ensuring peace and stability around the world by providing food to people in war-torn countries like Sudan and Rwanda. Finally, the WFP uses donated food for development activities such as paying individuals that replant forests in Ethiopia and providing nourishment to workers repairing dikes in Vietnam. These activities help developing countries build strong infrastructures and promote economic stability.

With nowhere else to turn, the poorest of the world's poor have been able to find solace in the hard work and dedication of the WFP's many volunteers and employees.

American citizens have a particular reason to be proud on World Food Day. The United States has committed itself to be a world leader in the global battle against hunger. The United States was a primary founder of the WFP and has consistently been the world's single largest donor of food to the world's poor.

As World Food Day is celebrated this year, we can applaud the progress the U.N. World Food Programme has achieved and the compassion that has been shown. We all must be reminded, however, that substantial work remains to be undertaken and completed. In recognition of this special day, I ask that we all carry with us the vision of a new day when abundant food is available to each and every human being and that we renew our collective commitment to achieve that vision.•

REINVESTMENT AND ENVIRONMENTAL RESTORATION ACT OF 1998

• Mr. CHAFEE. Mr. President, I would like to commend my colleague from Louisiana, Senator LANDRIEU, for her herculean efforts in developing this legislation. She has worked tirelessly with other Senators, the House, and numerous stakeholders, including industry groups and environmental groups alike. The bill she introduces today reflects her tremendous dedication to this issue.

I also applaud Senator LANDRIEU's efforts to shape this legislation into a significant conservation initiative. Her legislation includes two titles devoted to environmental protection—title II for funding the Land and Water Conservation Fund (LWCF), and title III for funding non-game species protection by the States, known as Teaming With Wildlife. These worthwhile programs have not received the attention or funding they deserve on their own, and the inclusion in this legislation gives them an opportunity to fulfill their potential. In particular, the LWCF was created in 1964 with the principle that revenues from a resource extraction activity—offshore oil drilling—should be reinvested in the acquisition and protection of other natural resources with lasting value. Senator LANDRIEU's bill remains true to this principle.

S. 2566 is a major piece of legislation, with much promise. It deserves careful consideration. I intend to give the bill this consideration during recess. I intend to consult with different groups here, and with constituents in my home State of Rhode Island. Some groups have raised concerns that this bill will encourage offshore drilling, despite the Senator's strong statement that this bill is "drilling-neutral." I would like to reach my own conclusion on this score. Different interest groups have made suggestions to improve the provisions in all three titles, and I would like to explore those as well during recess.

Senator LANDRIEU has expressed a genuine openness to consider new ideas, and a genuine willingness to incorporate good ideas into her legislation. I look forward to working with my colleague from Louisiana during the coming months on this initiative, and again, I wholeheartedly congratulate her on how far she has come already.●

U.S. ROLE IN ERADICATING POLIO

● Mr. BUMPERS. Mr. President, there are fewer than 800 days left before we reach the goal of eliminating polio throughout the world by the end of the year 2000. That victory will mark the second time in history we have been able to eradicate an infectious disease. The first was the eradication of smallpox, a disease that claimed millions of lives through the centuries. As recently as the 1950's, smallpox was killing over 2 million people each year, despite the fact that an effective vaccine for the disease had been in use since 1796. Smallpox eradication began in 1967. The campaign required 11 years to complete and cost nearly $300 million—$200 million from countries with endemic smallpox and an additional $100 million from international donors. The United States was the largest international contributor with a total investment of $32 million. And that investment has repaid itself many times over. Beyond the humanitarian benefits of eliminating this vicious killer, we have enjoyed tremendous economic benefits. The United States alone has recouped the equivalent of its entire investment every 26 days since the disease was eradicated.

The polio effort began in 1988 when the World Health Assembly endorsed the program and set the year 2000 as the target date for global eradication. Thus far, the campaign has been a dramatic success story. Today, four out of every five of the world's children receive polio vaccine. Over the past 10 years, polio cases have been reduced by over 90 percent and today more than 150 nations report no polio. All countries in the Western Hemisphere have been polio-free since 1991, and all countries in Europe and the Western Pacific Region—including China, Vietnam and Cambodia—have been polio free for 1 or more years.

In my view, the program's achievements are the result of a model public-private partnership. Rotary International began working on immunization programs in the early 1980's and when the World Health Assembly endorsed the polio eradication program in 1988, Rotary became the primary private-sector partner in the campaign. We estimate that Rotary International will have contributed $450 million by the end of the year 2000—the largest private contribution to a public health initiative in history.

In a combined effort with the health ministries in each country, Rotary, UNICEF, WHO and CDC have mobilized thousands of volunteers to recruit, educate, transport and vaccinate children in a mass campaign strategy. The scope of the program is enormous. In 1997 alone, more than 450 million children in 80 countries were vaccinated against polio through the use of mass campaigns. And the partners have enjoyed unparalleled success in densely populated areas where the risk of disease has been high. During India's first campaign in 1996, more than 87 million children were vaccinated by 100,000 volunteers over a 3-day period.

The last frontier for the program is Africa, where the polio campaign faces formidable challenges. Efforts there have been hindered by poverty, civil conflicts and logistical problems in vaccine delivery. Even with these barriers, the program has enjoyed significant success in many areas of the continent. National Immunization Days have been conducted in over 35 African countries and have put a real dent in the number of polio cases.

Experts in the field, including my wife Betty who participated in a mass campaign in West Africa earlier this year, have all returned with the same message—We can win the war against polio and Africa can put us over the top by the year 2000, but only if we intensify our efforts in Africa over the next 2 years. This means more funding from all the donors and more logistical support for programs that are conducted in countries racked by civil conflict and supply shortages.

As was the case with smallpox, the rewards will far exceed the costs. The United States alone will reap annual savings of over $230 million and worldwide savings will exceed $1.5 billion each year. More importantly, we will have conquered a disease responsible for crippling millions of children over our history. Finally, we will have set the stage for our next campaign—the eradication of measles. Regional efforts to eliminate measles have already begun and an international effort is on the horizon. Historically, measles has killed more children than any other infectious disease. Even today, it is responsible for one out of every 10 deaths in children under age 5. Many leaders in the public health field believe that we should begin planning an international strategy over the next 2 years so that resources can be easily shifted from the polio effort to a measles campaign once polio is eradicated.

I would like to conclude by paraphrasing the testimony of several witnesses at a recent Appropriations Committee hearing on measles and polio eradication. We live in a time when Government and politicians are the targets of great criticism. At the same time, there are few instances of social justice by groups other than Government. No social club, no church group, no other organization represents all of us. Only Government does that.

Our immunization successes in this country have resulted from Government at its best—Government was an aim to protect every child individually and society collectively. It is the product of politics at its best.

Likewise, while the United States effort to support smallpox eradication, polio eradication, child health and child immunization is a consequence of enlightened self interest, it also expresses our understanding, as Americans, of a responsibility to the world and to the future. It is the U.S. Government at its very best.●

IOWA NORTHLAND REGIONAL COUNCIL OF GOVERNMENTS

● Mr. GRASSLEY. Mr. President, on the occasion of its 25th anniversary, I would like to congratulate the Iowa Northland Regional Council of Governments (INRCOG). Organized January 1973, INRCOG was the first council of Governments formed in the State of Iowa.

As a voluntary association of local governments serving the member jurisdictions in Black Hawk, Bremer, Buchanan, Butler, Chicksaw and Grundy Counties, INRCOG has long been recognized as a leader among service and planning organizations. Responsible for coordinating, assisting, and facilitating programs in community and economic development, transportation, housing, environment, safety, planning, administration and transit, INRCOG's services have benefitted all governmental bodies in the INRCOG region and the State of Iowa.

Through INRCOG's intergovernmental communication and cooperation have flourished and public-private partnerships have been enhanced. The ability of Iowa communities to plan for their own future has been enriched. I wish them many more years of successful service for the success of Iowa's communities, for their efforts will continue to strengthen the backbone of America's governmental system, thus enriching the lives of our citizens.●

REMEMBERING VETERANS

● Mrs. FEINSTEIN. Mr. President, I rise today to make a few remarks about the distinguished service of United States veterans. As Veterans

Day approaches, we look forward to honoring the men and women who have served this country with bravery, honor, and valor. I am submitting, for my colleagues, a May 28, 1998 article from the Los Angeles Times written by Patty Andrews, one of the Andrews Sisters. The Andrews Sisters spent much of World War II entertaining the young men who fought so courageously in Europe, the Pacific, Africa, and other parts of the world. In this stirring piece, Ms. Andrews details the service and sacrifices of all of those who contributed to the war effort, and describes how she and her sisters helped to build morale and comforted the wounded.

The article follows:

[From the Los Angeles Times, May 25, 1998]

BUGLE BOYS OF COMPANY B DIED TO KEEP AMERICA FREE

(By Patty Andrews)

My sisters and I probably met face to face with more soldiers in World War II than any general or field marshal. The Andrews Sisters entertained tens of thousands of GIs at bases here and abroad throughout the war and I can still see so many of their smiling American faces. I sometimes wonder how many of those faces made it home safely and how many are now just faint memories. I'll carry their memory for as long as I live. But then what? With nothing to publicly commemorate those GIs, their deeds will be forgotten.

The faces of the survivors are now creased and seasoned by the years—but they still smile when they see me. And I see them all the time, in airports and shopping malls. The veterans of global war are living their autumn years happily, oblivious to the fact that they are walking history.

We have a common bond. We were all soldiers in the greatest war ever. And we share a knowing wink—if you weren't there you'd never understand the terror of total war or exhilaration of saving the world from evil incarnate. I guess I remind the veterans that it all really happened, that it wasn't some hazy memory, that they answered the call and succeeded beyond all expectation. They won a victory so complete that we hardly remember a time when America wasn't a superpower or the most prosperous nation on Earth or one of the few remaining democracies standing against a global gang of dictators. Today we take it all for granted.

Those who died to make it possible for us to forget that brutal era would no doubt be satisfied that their sacrifice was worth it. But they were so young. The soldiers were in their late teens and early 20s. So young that the shows had the flavor of a huge high school football game or a Boy Scout jamboree. Nearly half a million of these brave kids would never know if we won or lost the war or how 50 years of peace and prosperity would transform their country. Their faces will always be innocent and brave, but unknowing.

My sisters and I were innocent too, but not for long. We cheered the boys as they left for war but we also welcomed back the wounded and shattered. Those are some of the faces I will never forget. In one San Francisco hospital ward we were briefed about what we were about to see, and we were told not to show too much emotion. Behind the doors of that dire ward were young faces contorted with pain or frozen and mute. The sight of these boys—no different than the thousands of others we entertained except that they had been chewed up and spat out by the maw of war—brought home to me the absolute horror of war and the enormity of our debt to them.

In that frightful infirmary we talked, sang and tried to do something—anything—to bring a moment of pleasure, maybe a smile or a look of hope that life will somehow be better. I tried but could not begin to match their contribution. None of us can ever fully repay those boys who sacrificed their youth so we could forget such horror existed. But we need to try.

Today, before the memories fade and before the last veteran dies, we need to enshrine their courage. We need a permanent place to honor the generation that gave so much so long ago. We need a memorial that matches their monumental sacrifice and their towering devotion to freedom. In short, we need an official World War II Memorial on the National Mall in Washington. The site has already been selected—all we need now is the will to build it.

Helping to build morale and comfort the wounded through our music changed and fulfilled my life, as it did the lives of my sisters, Laverne and Maxene. We were privileged to know so many courageous men and women willing to give their lives for freedom. It's ironic that because of their sacrifice, we can use words like "freedom" and "democracy" today without having to measure their cost. We must honor those brave young people who paid the price.●

RECOGNIZING OMER O'NEIL

● Mr. ABRAHAM. Mr. President, I rise today to recognize Omer O'Neil of the Southern Wayne County Chamber of Commerce. He has announced his retirement after serving as President of the Southern Wayne County Chamber of Commerce since 1987.

Omer O'Neil has been a true leader with the Southern Wayne County Chamber of Commerce and in the Downriver communities of Metropolitan Detroit. During his tenure as President, the Chamber saw a growth in its membership as well as its leadership role in the communities it serves. The Southern Wayne County Chamber of Commerce represents over 1,200 member businesses and has become a leader in redefining the economic landscape of the Downriver area.

Omer O'Neil's service expands beyond his role with the Chamber. He served on the Allen Park City Council and was twice elected Mayor Pro-Tempore and has volunteered numerable hours to local charitable organizations and causes, including Right to Life of Michigan.

I want to once again express my sincerest appreciation and congratulations to Omer O'Neil for the service and leadership he has provided the Southern Wayne County Chamber of Commerce and the Downriver communities. I wish Omer well in his retirement years.●

CLASS ACTION REFORM

● Mr. KOHL. Mr. President, I rise to express my continued strong interest in meaningful class action reform—and to announce that, although we do not have the time necessary to move legislation any further this year, class action reform remains one of my highest priorities. Although many class action lawsuits do result in significant and important benefits for class members and society, too many class lawyers put their self-interest above the best interests of their clients—resulting in unfair and abusive settlements that shortchange class members while their lawyers line their pockets with high fees.

To address this growing problem, Senator GRASSLEY and I introduced the Class Action Fairness Act of 1998 (S. 2083). The bill is a moderate approach to weed out the worst abuses, while preserving the benefits of class actions. It encourages closer scrutiny of class actions through several provisions. It requires that proposed class action settlements be in plain, easily understandable English and be sent to State attorneys general, so they have an opportunity to weigh in with any objections. It requires courts to determine what damages will actually be paid to class members before awarding attorneys' fees, rather than calculating fees based on overvalued estimates of meaningless coupon settlements. And it moves more class actions to Federal courts, which generally give closer scrutiny than State courts and can promote efficiency and avoid a collusive "race to settlement" by consolidating overlapping cases.

These proposals have earned a broad range of support. Even Judge Paul Niemeyer, the Chair of the Judicial Conference's Advisory Committee on Civil Rules, who has studied class actions closely and testified before Congress on this issue, expressed his support for this "modest" measure, noting in particular that increasing Federal jurisdiction over class actions will be a positive "meaningful step."

This year, our bipartisan measure was reported favorably by the Judiciary Subcommittee on Administrative Oversight and the Courts. Unfortunately, as the term has winded down, we have been too busy with other pressing issues to give this proposal the full consideration it deserves. Still, we already have made several revisions to improve the bill and address concerns that have been raised, and in my view any remaining concerns can be worked out.

So next year, class action reform will be one of my highest priorities. I look forward to working with my colleagues to ensure that we eliminate those abuses that too often give class actions a bad name.●

TRIBUTE TO DR. STEVEN DeKOSKY

● Mr. SPECTER. Mr. President, next month our Nation acknowledges the more than 4 million Americans who suffer from Alzheimer's disease and the 19 million who are their caregivers. National Alzheimer's month is a time to reflect on those who are afflicted as well as those who are dedicating their lives to eradicating this disease.

I bring to your attention one of those who is committed to creating a world without Alzheimer's. His name is Dr. Steven DeKosky and since 1990, he has been an the faculty of the University of Pittsburgh School of Medicine where among other things, he directs the Alzheimer's Disease Research Center funded by the National Institute on Aging. Dr. DeKosky's accomplishments are enormous as reflected in his curriculum vitae, which is some 36 pages long. If I tried to list all of his achievements it would fill dozens of pages of the CONGRESSIONAL RECORD. In the interests of the taxpayers, I'll mention only a few of Dr. DeKosky's contributions.

As a renowned Alzheimer researcher, clinician and teacher, Dr. DeKosky is dedicated to finding answers to the Alzheimer's puzzle. To this end, he is active in basic and clinical research. His basic research is on the structural and neurochemical changes in human brains with dementia. His clinical research focuses on four key areas. One is to find ways of diagnosing the disease more effectively and differentiating it from other related diseases. A second area involves neuroimaging, which helps to confirm other diagnostic techniques, but also opens "windows" to the brain to enable scientists to understand the disease better. A third area of study, and one that is offering very exciting possibilities for treatment, is the assessment of genetic risk factors in Alzheimer's. Finally, he is involved in clinical trials to assess new medications for Alzheimer's disease.

Dr. DeKosky is active in the American Academy of Neurology and the American Neurological Association. The latter organization honored him with its "Presidential Award" in 1988. He is listed in "The Best Doctors in America." He serves on the editorial boards of the "Archives of Neurology" and the "Alzheimer Disease and Associated Disorders: An International Journal." He also received a Teacher Investigator Development Award from the National Institute of Neurological Disorders and Stroke.

Despite his involvement in dozens of research projects and other academic pursuits, Dr. DeKosky contributes vast amounts of time as a volunteer to the Alzheimer cause. He currently chairs the national Alzheimer's Association's Medical and Scientific Advisory Council and is a member of the board of the Alzheimer's Association. He chairs the Professional Advisory Board of the Greater Pittsburgh Chapter of the Alzheimer's Association and was a founding member of the Lexington-Blue Grass Chapter of the Alzheimer's Association.

Dr. DeKosky has a special gift as a communicator of science. Whether in the classroom or speaking to groups of family members in the community, Dr. DeKosky has a knack for making the complex seem simple. He expresses the enthusiasm and hope created by scientific research in Alzheimer's, which is offering promise to Americans of all ages that their future may not be blighted by this dread disease. And, he has a sense of humor and a healthy dose of humility, which allows him to "connect" to those to whom he speaks.

Mr. President, I believe it is important to acknowledge the unsung heroes who are working tirelessly in laboratories and in the clinic to make our world less disease-prone. Dr. Steven DeKosky is one of those exemplary citizens who through his daily efforts is bringing about a better tomorrow.•

THE YEAR 2000 PROBLEM

• Mr. LAUTENBERG. Mr. President, I rise today to express my great concern about the year 2000 Computer Problem, and to urge that funding be approved on an emergency basis to address this problem.

Mr. President, in less than 500 days, an unknown number of computers around the world will fail because they can't tell the difference between the year 1900 and the year 2000. Although this may seem like a minor problem that could be easily fixed, it is not. It's time consuming, difficult, and expensive to address. And the implications of failure are enormous.

We have known about the Year 2000 problem for some time, Mr. President, but many have failed to appreciate its severity. Throughout the private and public sectors, top officials assumed that someone else would find a solution. Or they simply did not appreciate the importance of making this problem a priority.

Fortunately, Mr. President, many in the private sector are now taking this threat seriously. One Federal Reserve official speculated that private sector spending on the problem could exceed $50 billion. While many small businesses are just beginning to face the problem, most major large businesses are acting aggressively. Banks, utilities, hospitals, factories, insurance companies, and railroads are scrambling to ensure that they will be ready. Many understand that this truly is an emergency, and they're treating it that way.

Still, I am afraid that most Americans still do not appreciate the severity of the Y2K problem. And I would urge all those listening to educate themselves about it. Admittedly, it is very difficult for most of us to evaluate the risks. But many credible experts have discussed scenarios that are truly alarming.

Consider, for example, the impact of the Y2K problem on public utilities. Senators BENNETT and DODD, the co-chairs of the Senate Special Committee on the Year 2000 Technology Problem, have held a hearing on this, and I commend both of them for their leadership. Their Committee surveyed major utilities and found that many are far from ready for the year 2000. The Committee's work raises very serious questions about the risks of major power outages throughout our country, and the impact of such outages on our financial and telecommunications systems. Indeed, the essential infrastructure of our Nation could be at risk.

Largely because of such threats, some economists have argued that the Year 2000 Problem is likely to lead to a severe recession. Some see a parallel to the downturn of the 1970's when oil supplies were disrupted. In fact, quick and reliable computing may be even more important to our economy than oil was two decades ago. Without reliable computer information, as without oil, production and distribution systems could break down. And that could dramatically increase unemployment, interest rates and inflation, all at the same time.

Now; Mr. President, I'm not saying that this is bound to happen. Experts disagree about the likelihood of major economic and social dislocations. However, even if the odds of a significant breakdown are modest, the potential enormity of the problem demands that we take it seriously.

I do know from my own experience that software problems can be terribly serious and difficult to address. Before I came to public life, I was an executive in a computer services firm, a firm that has been quite successful. I can tell you that nothing is more vexing than a seemingly insignificant software glitch that grinds an entire program to a halt. Fixing such a glitch can require laborious, line-by-line examination of impenetrable computer code. Meanwhile, everything is often brought to a standstill.

While analysts may disagree about the scope of the Y2K problem, Mr. President, it does seem clear that some things will go wrong on January 1, 2000. We just can't say exactly which, or how many. Compounding matters, even if one system has had its Y2K problems fixed, it still can be corrupted by interacting with other systems that are flawed. We have a systemic problem—and it will only be solved if all of us work together.

What is the Government's role in all this? Well, our first responsibility is to put our own house in order.

As the General Accounting Office has reported, Y2K could have a devastating impact on the provision of public services. These include air traffic control, Social Security and Medicare payments, supervision of the financial system, monitoring of nuclear facilities, and a wide variety of other services. And let's not forget the Nation's defense. We are all proud of our modern military with its smart weapons and computerized battlefields. But a technology-dependent military is subject to the same computer hazards as everyone else.

Unfortunately, Mr. President, many agencies are way behind schedule in fixing the Y2K problem. According to GAO, "unless agency progress improves dramatically, a substantial number of mission-critical systems will not be compliant in time."

So, Mr. President, this is truly an emergency, and it's critical that we act as soon as possible. Unlike many problems we face in the Congress, this one can't be delayed or postponed. We can't set up a commission. We can't put it off until the next Congress. On January 1, 2000, the problem will hit, whether we like it or not. And we have to do everything we can to prepare.

Mr. President, let me commend my colleagues on the Appropriations Committee, and throughout the Senate, for approving emergency funding to address the Y2K problem. I wish we had done so earlier. Unfortunately, there are many Members in the House of Representatives who strongly oppose treating this funding as an emergency. And they have created serious obstacles to allocating the funding. I urge them to reconsider their opposition, and am hopeful they will.

Beyond increasing funding, Mr. President, there are other steps that the Federal Government must consider to address the Y2K problem. For example, we need to reform laws that discourage businesses from sharing relevant information with each other. We need to ensure that businesses accurately report on their compliance efforts to the SEC and investors. We need to support small businesses' efforts to fix their computers. I have actively supported these types of legislative initiatives. But I recognize that they are not sufficient. We also need to communicate better with our constituents about the problem, so that all Americans can prepare.

Mr. President, given differing views on the actual risks, the only wise thing is to prepare for the worst. When a hurricane approaches, we never know exactly where it will hit, or how destructive it will be. But that doesn't stop us from evacuating and boarding up our homes in expectation of the worst case scenario. Sometimes, those preparations prove unnecessary. And, if the hurricane does hit, there will also be cleanup costs later. But the better one prepares, the more efficient, and less expensive, the cleanup will be. And the same is true for Y2K.

So, Mr. President, I would strongly urge this Congress to focus serious attention on Y2K, and to strongly support all funding needed to solve the problem. This is an emergency, and the time to act is now. We shouldn't panic. But we must prepare. Even if nobody knows the exact dimensions of the problem, this is one threat that we ignore at our peril.•

CORRECTION TO THE LIST OF OBJECTIONABLE PROVISIONS IN THE FISCAL YEAR 1999 INTERIOR APPROPRIATIONS BILL

• Mr. McCAIN. Mr. President, I wish to make a clarification to my list of objectionable provisions to the Senate passed version of the FY'99 Interior Appropriations bill.

I was pleased to learn that the Indian health facility that is designated to be constructed on the Hopi reservation in Arizona was requested for funding in this year's budget. I had previously objected to this item in my pork list, not based on the merits of the project, but what appeared to be an unrequested, directed earmark.

The Hopi Health Center in Polacca, Arizona is requested for funding at the level of $14,400,000 for construction of Indian health facilities, which is consistent with the budget request. I will remove this item as an objectionable provision.

I assure Chairman Wayne Taylor and the Hopi Tribe that I continue to be supportive of establishing an Indian health center for the Hopi community.

TAIWAN'S NATIONAL DAY

• Mr. ROCKEFELLER. Mr. President, I rise today to offer my congratulations to President Lee Teng-hui and the people of the Republic of China on Taiwan on the occasion of their National Day which will occur October 10. It is a deep honor for me to join in the celebration of this momentous occasion.

The remarkable achievements of Taiwan continue to tell a powerful story of how democracy can grow in Asia, and that it is compatible with a commitment to capitalism. Taiwan's ability to survive the Asian financial crisis better than any other free economy in the region is just another example of the significance of Taiwan's leadership. Quite simply, Taiwan's economic and political miracles never cease to amaze me.

It is a true honor for me to have a long-standing, very personal friendship with Taiwan. My own State of West Virginia has benefitted from Taiwan's commitment to the United States in profound and long-lasting ways. I am more committed than ever to the people of Taiwan to keep building on a relationship that holds so much more promise in the years ahead. I know that we will continue to look to Taiwan to continue setting an example in their commitment to democracy, to vibrant economic ties with the United States and the rest of the world, and to peace.•

ELLEN BERLINER

• Mr. SPECTER. Mr. President, with more that 4 million Americans suffering from Alzheimer's disease at a cost to our society of more than $100 billion annually, it is time we take a moment to reflect on the work of those who are dedicating their energies to helping do something about this terrible disease.

One of those people is Ellen Berliner. Ms. Berliner, who lives in Pittsburgh, Pennsylvania, took care of her husband with Alzheimer's disease for 13 years. For those of us who have not been a caregiver for an Alzheimer patient, it is difficult to comprehend what the experience is like. It has been described as the "36 hour day" or the "endless funeral" because the demands are greater and more stressful than what most of us can deal with in a normal 24 hour day, and the losses and emotional strain are enormous. Ms. Berliner, like so many other Americans, stepped up to the challenge of caregiving and performed courageously out of love for her husband and her family.

But, Ms. Berliner didn't stop there. Drawing on her pain and struggles as a caregiver, she decided to do something to help others. In 1988, she helped create the Greater Pittsburgh chapter of the Alzheimer's Association and became its founding Board President. In the past 10 years, she has contributed more than 16,000 hours of volunteer service to the chapter and to the families in the greater Pittsburgh area. She has developed support groups and services to help families. She has been active in advocacy to help improve the policies that affect the lives of families and people suffering from Alzheimer's. And, she has stuffed envelopes and made phone calls to help raise the necessary funds to support the work of this important charity.

Ms. Berliner has a long history of community service. In 1974 she cofounded the Women's Center and Shelter of Greater Pittsburgh. The center, which provides a safe haven for battered women, was one of the first in the Nation. For her work with battered women and for other community services, Ms. Berliner was nominated for the Jefferson Award of the American Institute for Public Service in 1992. In 1996, Ms. Berliner received the "New Person Award" given by the Thomas Merton Center for People Over 70. The award is given in appreciation of lifelong works for peace and social justice.

Mr. President, I bring Ms. Berliner to the attention of this body because I believe we should shine a light on the good works of our citizens, heroic work really, that is done without personal gain and with no desire for public recognition. Our Nation has grown strong because of people like Ellen Berliner who use their own time and resources to make life a little better for the rest of us.

So, I say "thank you" to Ms. Ellen Berliner for helping the people of Pittsburgh deal with the devastation caused by Alzheimer's disease, and for being a role model to her peers and to future generations.•

BIG SKY AIRLINES TWENTIETH ANNIVERSARY

• Mr. BAUCUS. Mr. President, I rise today to congratulate a small business in my State, Big Sky Airlines, on their 20th Anniversary.

Big Sky Airlines commenced scheduled passenger service on September 11, 1978. The initial flight flew from Billings to Helena with continuing service to Kalispell. The aircraft was a Hadley-Paige Jetstream with a seating capacity of 19.

Today, Big Sky operates a fleet of 6 19-passenger Metro III aircraft, with service to 12 cities in Montana and Spokane, Washington. The company operates out of its hub in Billings and provides connecting opportunities from Eastern and Central Montana to it's markets in the west. The Montana cities are Glasgow, Glendive, Miles City, Wolf Point and Sidney in the east. Havre and Lewistown in central Montana and Great Falls, Helena, Missoula, Kalispell and Spokane in the west. All of the eastern and central Montana service is operated under the Essential Air Service subsidy contract with the Department of Transportation.

Big Sky Airlines has been through a lot in their 20 years of providing service in Montana. They've had their good times and bad. However, through it all they continued to provide service to remote areas that would have been further isolated from the Nation's economic centers without them. The Essential Air Service Program is critical to these communities. Without this service, these communities would be seriously hampered in their efforts to attract new business or even to retain those they now have, resulting in further strain on local economies and loss of jobs.

In my visits to the State, I frequently fly on Big Sky Airlines. In our State, to many cities, it's the ONLY way to fly. I've had lots of experiences, I could tell you about. However, I'd rather talk about the many families I've seen reunited as the Big Sky plane lands in those rural communities.

I'd like to congratulate the Board of Big Sky Airlines and their chairman, Jon Marchi for their foresight and perseverance. I'd also like to congratulate the officers of the company: Kim Champney, the President and CEO, and Craig Denney, the Executive Vice President and Chief Operating officer. Kim has only been there a short time, but is moving the company in exciting new directions. I've personally seen Craig load the luggage, check in the passengers and send the airplane on it's way. He knows how to do every job in the company and do it well.

I'd also like to congratulate John Rabenberg and the other members of the Essential Air Service task force for the hard work they do in their communities for this program.

Big Sky Airlines currently employs 103 people throughout its system (all in Montana). And you can tell it's a good company to work for. Whether you are checking in at the counter, or watching the pilots get ready to take-off, they are very customer service oriented. It's a pleasure to fly with them, and Mr. President, it's a pleasure for me today to congratulate them on their 20th Anniversary and to wish them many more years of flying the big sky of Montana.•

DOMESTIC VIOLENCE

• Mr. FRIST. Mr. President, I rise today to raise awareness of a startlingly common problem occurring every 15 seconds across our Nation—and that is the issue of domestic violence. October is Domestic Violence Awareness Month, and I would like to take this opportunity to discuss the devastating impact of domestic violence on individuals, families and our communities.

Few people want to tell the dark secrets of their family. Though many keep incidents of domestic violence secret, it is a sad part of our national landscape. Through the efforts of medical researchers, law enforcement officers, advocates, and victims, more attention is now being paid. In the last two years alone, according to the National Library of Medicine, approximately 500 articles have been written on domestic violence in prominent journals and periodicals.

Despite these efforts, many remain uncomfortable talking about domestic violence. According to the Department of Justice Violence Against Women Office, domestic violence is a crime that is frequently underreported to law enforcement authorities. Victims often live in fear and do not share their troubled secrets. They fear threats, additional violence and more pain.

The U.S. Department of Justice estimates that 3 to 4 million women are battered each year by their husbands or boyfriends. Data published by the Commonwealth Fund shows that women are more often the victims of domestic violence than victims of burglary, muggings or other physical crimes combined. The National Crime Victimization Survey indicates that from 1991 to 1996, approximately half of female victims of domestic violence were physically injured.

Unfortunately, only 1 in 5 of those injured victims sought treatment at a medical facility. As a physician, I know that our health care delivery systems can be critical links in identifying cases of domestic violence. In a 1990 study published in the Journal of the American Medical Association, 22 to 35 percent of women treated in emergency rooms were there for injuries related to ongoing abuse. Health care providers can have a significant impact in identifying such cases, and we must give them the tools to help us address the problem.

Another sad truth is that domestic violence crosses all racial, gender, age and economic boundaries. Children, men and the elderly are also victims. Child abuse is 15 times more likely to occur in families where domestic violence is present. In the late 1980's, reports of elder abuse increased by almost 20 percent nationally. With these staggering numbers before us, it is apparent that domestic violence necessitates a coordinated community response with partners at the local, State and Federal levels.

That's why I am particularly heartened by efforts in Tennessee to address the issue. The Tennessee Task Force Against Domestic Violence is dedicated to ending violence in the lives of women and children through their network of coalitions and shelters. The Task Force has partnered with the Tennessee Medical Association to educate health care providers. They also work closely with law enforcement authorities. My home town of Nashville, for example, has the largest domestic violence division of any police department in the country. Working together with the Task Force, the city's police department has seen an increase in the number of calls from victims who now have more confidence in the system. Knoxville, Chattanooga and Memphis have similar efforts underway. I am proud of my fellow Tennesseans for the example they are setting and the models they are creating. They are sending a clear message that domestic violence is wrong and has no place in our society.

We are working to send a similar message at the Federal level. I have authored three bills which contain provisions to address domestic violence. S. 1754, the "Health Professions Education Partnerships Act of 1998," passed the Senate by unanimous consent in July. Among other things, it requests that the Institute of Medicine examine and make recommendations regarding the training needs of health professionals with respect to detection and referral of victims. In S. 1722, the "Women's Health Research and Prevention Amendments of 1998," and in S. 2330, the "Patients' Bill of Rights," we authorize Federal funding for community programs on domestic violence through the Family Violence Prevention and Services Act. I have recently joined my colleagues Senators DOMENICI and STEVENS to cosponsor S. 2395, the "Prescription for Abuse Act," which will help health care providers to identify, address and prevent domestic violence.

Domestic violence warrants our full and responsive consideration. I urge my colleagues to take time during October—Domestic Violence Awareness Month—to determine what more we can do to address this challenge. Together we can send a clear message that domestic violence must continue to be addressed comprehensively, creatively, and compassionately.•

SAFE AND SOUND COMMUNITIES ACT

• Mr. KOHL. Mr. President, I rise to outline my proposal for reducing juvenile crime—the "Safe and Sound Communities Act," which I will make available as a discussion draft today. In the past few years, we have begun to make real advances in fighting juvenile crime. And in cities across the country, juvenile crime has started to fall. For example, after Boston implemented a city-wide anticrime plan, the number of juveniles murdered declined 80 percent, and in more than 2 years not a single child was killed by a gun. Not one child. And in three "Weed & Seed" neighborhoods in Milwaukee, violent felonies dropped 46 percent, gun crimes fell 46 percent, and crime overall was down 21 percent. Now we need to build on what works, in order to protect our children and to make our communities "safe and sound." This measure will be an important step in the right direction.

Indeed, we do not have to reinvent the wheel to reduce juvenile crime. The lesson from Boston, Milwaukee and other cities is clear. There is no one magic solution. But a number of steps, taken together, can and will make a difference: put dangerous criminals behind bars; keep guns out of the hands of juveniles; and give children after-school alternatives to gangs and drugs. That's what works in Boston and Milwaukee and the rest of America. And that's what this proposal is all about. It builds on each of these three basic strategies and expands them to more cities and more rural communities across the nation. Let me explain.

PUT DANGEROUS CRIMINALS BEHIND BARS

First, this proposal makes it easier to lock up dangerous juveniles. We can't even begin to stop violent kids unless we have police officers on the street to catch them, and State and local prosecutors to try them. So this measure extends the highly successful COPS Program, which is due to expire in 2 years, through the year 2003. And it provides $100 million per year for State and local prosecutors to go after juvenile criminals.

Of course, we can't keep criminals off the streets unless we have a place to send them. Unfortunately, although we provide States with hundreds of millions of dollars each year to build new prisons, most States use all of these funds for adult prisons only. So this measure requires States to set aside 10 percent of Federal prison funding to juvenile prisons or alternative placements of delinquent children. This commitment is consistent with the Senate-passed 1994 crime bill, which set the stage for spending billions of dollars on prisons through the 1994 Crime Act.

This proposal also helps rural communities keep dangerous kids behind bars. Now, although the closest juvenile facility may be hundreds of miles away, Federal law prohibits rural police from locking up juveniles in adult jails for more than 24 hours. This means that State law enforcement officials either have to waste the time and resources to criss-cross the State even for initial court appearances, or simply let dangerous teens go free. In my view, that's a no-win situation. This measure gives rural police the flexibility they need by letting them detain juveniles in adult jails for up to 72 hours.

And this measure will help lock up violent gun-toting kids—and the people who illegally supply them with weapons. It builds on my 1994 Youth Handgun Safety Act by turning illegal possession of a handgun by a minor into a felony. And the same goes for anyone who illegally sells handguns to kids. Kids and handguns don't mix, and our law needs to make clear that this is a serious crime.

KEEP GUNS OUT OF THE HANDS OF CHILDREN

Second, this proposal will help keep firearms out of the hands of young people. It promotes gun safety by requiring the sale of child safety locks with every new handgun. Child safety locks can help save many of the 500 children and teenagers killed each year in firearms accidents, and the 1,500 kids each year who use guns to commit suicide. Just as importantly, they can help prevent some of the 7,000 violent juvenile crimes committed every year with guns children took from their own homes.

It also helps identify who is supplying kids with guns, so we can put them out of business and behind bars. The Bureau of Alcohol, Tobacco and Firearms has been working closely with cities like Milwaukee and Boston to trace guns used by young people back to the source. Using ATF's national database, police and prosecutors can target illegal suppliers of firearms and help stop the flow of firearms into our communities. This measure will expand the program to other cities and, with the increased penalties outlined above, it will help cut down illegal gun trafficking.

In addition, this measure closes a loophole that allows violent young offenders to buy guns legally when they turn 18. Under current law, violent adult offenders can't buy firearms, but violent juveniles can—even the kids convicted of the schoolyard killings in Jonesboro, Arkansas—at least once they are released at age 18. This has to stop. So this measure declares that all violent felons are disqualified from buying firearms, regardless of whether they were 14 or 24, or a day short of their 18th or 28th birthday, at the time of their offense.

CRIME PREVENTION AND AFTER-SCHOOL ALTERNATIVES TO GANGS AND DRUGS

Third, a balanced approach also requires a significant investment in crime prevention, so we can stop crime before it's too late. Even law enforcement officials agree that we need a bigger investment in prevention. For example, more than 400 police chiefs, sheriffs and prosecutors nationwide have endorsed a call for after-school programs for all children. And in my home State of Wisconsin, 90 percent of police chiefs and sheriffs surveyed agreed that we need to increase Federal prevention spending.

This proposal promotes prevention by concentrating funding in programs that already have a record of success, like Weed & Seed, and those that rely on proven strategies, like programs that give children a safe place to go in the after-school hours between 3 and 8 p.m., when juvenile crime peaks.

For example, it expands the Weed & Seed Program, a Republican program which combines aggressive enforcement and safe havens for at-risk kids. The measure also gives more schools the resources necessary to stay open after school, through expansion of the 21st Century Learning Center Program. It promotes innovative locally-tailored prevention initiatives by reauthorizing and expanding the Title V At-Risk Children Challenge Grant Program, which I authored. It builds on our support for the valuable work of Boys & Girls Clubs, by extending that Program and expanding it to support other successful organizations like the YMCA. And it requires that at least 20 percent of the new juvenile crime funds—namely the recently-initiated $500 million juvenile accountability block grant—be dedicated to prevention.

Of course, we shouldn't blindly invest in prevention programs, just because they sound good. Quality, not quantity, matters. That's why my measure cuts $1.6 billion in prevention programs authorized by the Crime Act—so we don't waste money on redundant programs which don't have records of success or bipartisan support. And that's why my measure requires 5 to 10 percent of all prevention funds to be set aside for rigorous evaluations—so we can keep funding the programs that work, and eliminate the programs that don't. We also reward cities that adopt comprehensive antijuvenile crime strategies, like Boston's and Milwaukee's—so prevention is part of a balanced, coordinated overall plan.

This combination of tough enforcement, reducing youth access to guns, and effective prevention will help stem juvenile crime. In addition, several other necessary reforms in this proposal will make a difference. It strongly encourages States to share the records of violent juvenile offenders, and provides the funding necessary for improved record-keeping. The fact is that law enforcement officials need full disclosure in order to make informed judgments about how to treat—and whether to incarcerate—a child.

The measure also addresses the dangerous problem of school violence. It increases school security by encouraging States to use COPS funding to place police officers on school grounds. It encourages the development of initiatives to prevent school violence. And because understanding the problem is essential to any comprehensive solution, it requires better reporting of firearms-related incidents in public schools. Unfortunately, many States do not report guns seized on school grounds.

Mr. President, the question about how to reduce juvenile crime is no longer a mystery. We have a good idea about what works. The real question is this: When will we act? As the chances for a juvenile crime bill this year look increasingly slim, I recommend this framework as a good starting point for next year. Let's build on what works so we can make our communities safer and sounder places to live. I ask unanimous consent that a summary of this proposal be printed in the RECORD.

The summary follows:

SUMMARY OF SEN. HERB KOHL'S SAFE AND SOUND COMMUNITIES ACT

TITLE I: INCREASED PLACEMENT OF JUVENILES IN APPROPRIATE CORRECTIONAL FACILITIES

States must dedicate 10 percent of all prison funding from the 1994 Crime Act to juvenile facilities or alternative placements for delinquent juveniles. Expands ability to detain juveniles temporarily in rural adult jails by permitting detention for up to 72 hours and ending requirement of separate staff to oversee juveniles and adults.

TITLE II: REDUCING YOUTH ACCESS TO FIREARMS

Limits access of juveniles and juvenile offenders to firearms. Requires the sale of child safety locks with all handguns. Expands Department of the Treasury's youth crime gun tracing program to identify more illegal gun traffickers who are supplying guns to children. Increases jail time for individuals who transfer handguns to juveniles and for juveniles who illegally possess handguns. Prohibits the sale of firearms to violent juvenile offenders after they become eighteen years old.

TITLE III: CONSOLIDATION OF PREVENTION PROGRAMS

Repeals over $1.6 billion in authorized prevention programs from the 1994 Crime Act. Expands Weed & Seed to $200 million per year (from $33.5 million in 1998), the Title V At-Risk Children Challenge Grants to $200 million per year (from $20 million), and the 21st Century Learning Centers to $200 million per year (from $40 million), and extends Boys & Girls Club funding for five more years, increasing funding to $75 million per year (from $20 million) and expanding the program to support other successful community organizations like the YMCA. Consolidates several gang prevention programs into one $25 million program. Rewards cities that adopt a comprehensive anti-juvenile crime strategy based on the Boston model. Sets aside five to ten percent of prevention funding for evaluation, implementing the proposal of the DOJ-sponsored University of Maryland report.

TITLE IV: JUVENILE CRIME CONTROL AND ACCOUNTABILITY BLOCK GRANT

Promotes funding for prosecutors, improved-record keeping, juvenile prisons, and prevention through $500 million block grant. Qualifying States must trace all firearms recovered from individuals under age 21 to identify illegal firearm traffickers, and must share criminal records of all juvenile violent offenders with other jurisdictions. $100 million of this grant program must be dedicated to both prevention and to hiring more prosecutors.

TITLE V—SCHOOL VIOLENCE PREVENTION

Expands role of police officers on school campuses through COPS program. Encourages better reporting of incidents of firearms violence in schools, including gun tracing to identify suppliers of firearms recovered on school property. Complements expansion of school violence prevention programs in Title IV block grant.

TITLE VI—EXTENSION OF COPS AND JUVENILE JUSTICE PROGRAMS

Extends program to hire new community police officers. Reauthorizes Office of Juvenile Justice and Delinquency Prevention.

TITLE VII—EXTENSION OF VIOLENT CRIME REDUCTION TRUST FUND

Extends trust fund established by 1994 Crime Act to pay for anti-crime programs with savings from reduction of Federal workforce.●

20TH ANNIVERSARY OF THE RUTH AND MAX ALPERIN SCHECHTER DAY SCHOOL

● Mr. CHAFEE. Mr. President, next month a very special school will be celebrating its 20th anniversary. On November 15th, 1978, the Ruth and Max Alperin Schechter Day School in Providence, Rhode Island opened its doors to 10 students. Today, its classrooms are filled with over 230 students, and it is one of the fastest growing Jewish institutions in Rhode Island.

The Ruth and Max Alperin Schechter Day School is a State accredited, egalitarian, conservative Jewish Day School serving children from kindergarten through grade eight. In addition to having a fine reputation for providing its students with a well-rounded education, the Alperin Schechter Day School also focuses on academic growth, ethical values, and Jewish identity. Its academic programs are both rich and challenging in general and Judaic studies.

Recognizing that a partnership with parents is essential to the education of our youngsters, the Alperin Schechter Day School continues to promote open communication with families. As a community of learners, the entire school body works together to create a community of successful, well-rounded members while encouraging continued learning and increased participation in school activities.

In fact, students from the Alperin Schechter Day School continue to build on their education, even after graduating. As academic advisors work with families and students to ensure future success, Alperin Schechter Day School graduates have gone on to attend a variety of colleges and universities including, Yale University, Harvard University, University of Rhode Island, Georgetown University, Rhode Island School of Design, and many, many other fine institutions of higher learning. In addition, students have had the opportunity to serve as interns in our Nation's capital, build houses with Habitat for Humanity, and work with disabled children.

In closing, I want to congratulate the Ruth and Max Alperin Schechter Day School on its 20th anniversary and hope for its continued success in providing academic excellence to our youngsters.●

DETROIT ATHLETIC CLUB HONORS CHUCK DAVEY

Mr. ABRAHAM. Mr. President, I rise today to honor Mr. Charles "Chuck" Davey on the occasion of the Detroit Athletic Club's Fall Boxing Classic.

This year's honoree began his impressive boxing career while at Michigan State University. Remarkably, Chuck won his first NCAA Championship at age 17, a collegiate record, and was the NCAA's only four time boxing champion in four different weight classes. He also served as Captain and was recognized as an Outstanding Boxer from 1947–1949. Deservedly, he is viewed to be the greatest collegiate boxer of all time.

He was a member of the 1948 Olympic Team and is one of the finest professional boxers ever to come out of Detroit. From October 1949 to January of 1953, Chuck went through 39 bouts without a loss, scoring 25 kayos, taking 12 decisions and participating in 2 draws.

When Chuck turned professional as a welterweight, Davey defeated champions Rocky Graziano, Johnny Saxton, Carmen Bassilio and Ike Williams. At Chicago Stadium in 1953, before the largest ever paid indoor attendance in boxing history, Davey fought world champion "Kid" Gavilan. Chuck proved to be a true sports hero.

Since retiring from boxing in 1955, he was a color broadcaster on WCAR with Bruce Martin for MSU football games. He also served as Michigan's Boxing Commissioner from 1965 to 1980 and was one of the founders and the first President of the United States Boxing Association. In addition, he served four terms as Vice President of the World Boxing Association.

For his lifetime of accomplishments in the sport of boxing, he was elected to the Michigan Sports Hall of Fame in 1980 and just this year was elected to the World Boxing Hall of Fame.

Throughout his life, Chuck has been a dedicated family man and grandfather. He is married to Patricia and they are the proud parents of 9 children and enjoy 19 grandchildren.

I want to express my congratulations to Chuck Davey for his impressive achievements both inside and outside of the ring. He is truly an inspiration.

POMC 8TH ANNUAL LOVE FOR LIFE BENEFIT

• Mr. ABRAHAM. Mr. President, I rise today to honor the organization Parents of Murdered Children, Inc., Metro Detroit Chapter, on the occasion of their 8th Annual Love for Life Benefit.

The POMC was founded in Cincinnati, Ohio, 18 years ago by Charlotte and Bob Hullinger after their daughter was murdered in Germany by a former boyfriend, who traveled there and stalked her. They sought out other families who were dealing with the violent death of a loved one, to gain mutual support. This is the only organization in the United States to support surviving family members and friends of all homicide victims who are in need of such assistance.

The Metro Detroit Chapter is celebrating its 16th anniversary this year. They have tirelessly helped hundreds of families and friends in Michigan. They also reach out to families and friends outside of Michigan whose loved ones were murdered here. The Nation's second Sibling Group was founded by the Metro Detroit Chapter for the unique needs of brothers and sisters who suffer the violent death of a sibling.

POMC's dedication to help the families and friends of those who have died by violence is commendable. POMC has made a significant impact in easing the difficult times many people have encountered while improving the legal system and the rights of the victims of crime.

I want to express my congratulations to POMC, Inc. Metro Detroit Chapter for their tremendous accomplishments. I also wish them much success in their continued work on behalf of our families and our communities.•

WATERFORD SENIOR CENTER 25TH ANNIVERSARY

• Mr. ABRAHAM. Mr. President, I rise today to honor the Waterford Senior Center which is celebrating its 25th anniversary of serving the local senior population on Thursday, October 22, 1998.

The mission of the center has been to offer services, administer programs, and sponsor activities for older adults which are designed to enhance the independence and dignity of their lives.

The center has served as a focal point for older adults in the community and has proven that it will continue its tireless dedication to the Waterford area seniors for many years to come.

I want to express to the Waterford Senior Center my congratulations and best wishes on their 25th anniversary. I wish them many more years of success.•

CLOVER TECHNOLOGIES GRAND OPENING

• Mr. ABRAHAM. Mr. President, I rise today to honor Clover Technologies as they celebrate the Grand Opening Ceremonies for their new 93,000 square foot headquarters in Wixom, Michigan.

Established in 1952, Clover Technologies' new headquarters makes Clover one of the largest employers in Wixom with over 400 employees.

With the high-tech industry playing an increasingly important role in the Michigan economy, expansions such as this serve as a testament to the competitiveness of Michigan-based industries in the global market. Clover Technologies has proven that the right combination of quality and dedication can lead to a prosperous future.

The vision and leadership of Clover have made them an industry leader, and have enabled them, the employees of Clover, and others in the community to continue sharing in the American Dream.

Their worldwide commitment to excellence in the automotive industry and customer service is to be commended.

I want to express my congratulations to Clover Technologies on the dedication of their new headquarters, and wish them the best in their future endeavors.•

STANBRIDGE 50TH WEDDING ANNIVERSARY

• Mr. ABRAHAM. Mr. President, I rise today to honor Donald and Shirley Stanbridge on the occasion of their 50th Wedding Anniversary. They were married on November 5, 1948.

Don and Shirley were introduced by Shirley's mother in 1945 and began dating shortly thereafter. Don entered the service in 1946 and asked for Shirley's hand in marriage in 1947. They have resided in St. Clair Shores, Michigan, for 45 years where they raised two children, and now enjoy three grandchildren.

Throughout their 50 years together they have dedicated themselves to their family, their church—Bethlehem Lutheran Church in Eastpointe and now St. Thomas Lutheran Church in Roseville, and their local community.

A long and successful marriage is truly a cause for celebration, well worthy of recognition by the United States Senate. The Stanbridge's commitment to each other and their family is commendable and a great contribution to the tradition of strong American families.

Martin Luther once wrote: There is no more lovely, friendly and charming relationship, communion or company than a good marriage." They are blessed to enjoy the special bond of a strong, enduring marriage.

I want to express my congratulations and happy anniversary to Donald and Shirley Stanbridge on this day, November 5, 1998, and I wish them many more years of joy in marriage.•

REINVESTMENT AND ENVIRONMENTAL RESTORATION ACT OF 1998—S. 2566

The text of the bill (S. 2566), introduced on October 7, 1998, is as follows:

Be it enacted by the Senate and House of Representatives of the Untied States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Reinvestment and Environmental Restoration Act of 1998."

TITLE I—COASTAL IMPACT ASSISTANCE

SECTION 101. SHORT TITLE.

This title may be cited as the "Coastal Conservation and Impact Assistance Act of 1998".

SEC. 102. AMENDMENT TO OUTER CONTINENTAL SHELF LANDS ACT.

The Outer Continental Shelf Lands Act Amendments of 1978 (92 Stat. 629), as amended, is amended to add at the end thereof a new Title VII as follows:

"SEC. 701. FINDINGS.

"The Congress finds and declares that—

"(1) The Nation owns valuable mineral resources that are located both onshore and in the Federal Outer Continental Shelf, and the Federal Government develops these resources for the benefit of the Nation, under certain restrictions designed to prevent environmental damage and other adverse impacts.

"(2) Nonetheless, the development of these mineral resources of the Nation is accompanied by unavoidable environmental impacts and public service impacts in the States that host this development, whether the development occurs onshore or on the Federal Outer Continental Shelf.

"(3) The Federal Government has a responsibility to the States affected by development of Federal mineral resources to mitigate adverse environmental and public service impacts incurred due to that development.

"(4) The Federal Government discharges its responsibility to States where onshore Federal mineral development occurs by sharing 50 percent of the revenue derived from the Federal mineral development in that State pursuant to section 35 of the Mineral Leasing Act.

"(5) Federal mineral development is occurring as far as 200 miles offshore and occurs off the coast of only 6 States, yet section 8(g) of the Outer Continental Shelf Lands Act does not adequately compensate these States for the onshore impacts of the offshore Federal mineral development.

"(6) Federal Outer Continental Shelf mineral development is an important and secure source of our Nation's supply of oil and natural gas.

"(7) Further technological advancements in oil and natural gas exploration and production need to be pursued and encouraged.

"(8) These technological achievements have and will continue to result in new Outer Continental Shelf production having an unparalleled record of excellence on environmental safety issues.

"(9) Additional technological advances with appropriate incentives will further improve new resource recovery and therefore increase revenues to the Treasury for the benefit of all Americans who enjoy programs funded by Outer Continental Shelf moneys.

"(10) The Outer Continental Shelf Advisory Committee of the Department of the Interior, consisting of representatives of coastal States, recommended in October 1997 that Federal mineral revenue derived from the entire Outer Continental Shelf be shared with all coastal States and territories to mitigate onshore impacts from Federal offshore mineral development and for other environmental mitigation; and

"(11) The Nation's Federal mineral resources are a nonrenewable, capital asset of the Nation, with the production and sale of this resource producing revenue for the Nation, a portion of the revenue derived from the production and sale of Federal mineral resources should be reinvested in the Nation through environmental mitigation and public service improvements.

"SEC. 702. DEFINITIONS.

"For purposes of this Act:

"(1) The term 'allocable share' means, for a coastal State, that portion of revenue that is available to be distributed to that coastal State under this title. For an eligible political subdivision of a coastal State, such term means that portion of revenue that is available to be distributed to that political subdivision under this title.

"(2) The term 'coastal State' means the population of political subdivisions, as determined by the most recent official data of the Census Bureau, contained in whole or in part within the designated coastal boundary of a State as defined in a State's coastal zone management program under the Coastal Zone Management Act (16 U.S.C. §1455).

"(3) The term 'coastline' has the same meaning that is has in the Submerged Lands Act (43 U.S.C. §1301 et seq.).

"(4) The term 'eligible political subdivision' means a coastal political subdivision of a coastal State which political subdivision has a seaward boundary that lies within a distance of 200 miles from the geographic center of any leased tract. The Secretary shall annually provide a list of all eligible political subdivisions of each coastal State to the Governor of such State.

"(5) The term 'political subdivision' means the local political jurisdiction immediately below the level of State Government, including counties, parishes, and boroughs. If State law recognizes an entity of general Government that functions in lieu of, and is not within, a county, parish, or borough, the Secretary may recognize an area under the jurisdiction of such other entities of general Government as a political subdivision for purposes of this Act.

"(6) The term 'coastal State' means any State of the United States bordering on the Atlantic Ocean, the Pacific Ocean, the Arctic Ocean, the Bering Sea, the Gulf of Mexico, or any of the Great Lakes, Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

"(7) The term 'distance' means minimum great circle distance, measured in statute miles.

"(8) The term 'fiscal year' means the Federal Government's accounting period which begins on October 1st and ends on September 30th, and is designated by the calendar year in which it ends.

"(9) The term 'Governor' means the highest elected official of a coastal State.

"(10) The term 'leased tract' means a tract, leased under section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. §1337) for the purpose of drilling for, developing and producing oil and natural gas resources, which is a unit consisting of either a block, a portion of a block, a combination of blocks and/or portions of blocks, as specified in the lease, and as depicted on an Outer Continental Shelf Official Protraction Diagram.

"(11) The term 'revenues' means all moneys received by the United States as bonus bids, rents, royalties (including payments for royalty taken in kind and sold), net profit share payments, and related late-payment interest from natural gas and oil leases issued pursuant to the Outer Continental Shelf Lands Act.

"(12) The term 'Outer Continental Shelf' means all submerged lands lying seaward and outside of the area of 'lands beneath navigable waters' as defined in section 2(a) of the Submerged Lands Act (43 U.S.C. §1301(a)), and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

"(13) The term 'Secretary' means the Secretary of the Interior or the Secretary's designee.

"SEC. 702. IMPACT ASSISTANCE FORMULA AND PAYMENTS.

"(a) ESTABLISHMENT OF FUND.—(1) There is established in the Treasury of the United States a fund which shall be known as the 'Outer Continental Shelf Impact Assistance Fund' (referred to in this Act as 'the Fund'). The Secretary shall deposit in the Fund 27 percent of the revenues from each leased tract or portion of a leased tract lying seaward of the zone defined and governed by section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. §1337(g)), or lying within such zone but to which section 8(g) does not apply, the geographic center of which lies within a distance of 200 miles from any part of the coastline of any coastal State.

"(2) The Secretary of the Treasury shall invest moneys in the Fund that are excess to expenditures at the written request of the Secretary, in public debt securities with maturities suitable to the needs of the Fund, as determined by the Secretary, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity.

"(b) PAYMENT TO STATES.—Notwithstanding section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. §1338), the Secretary shall, without further appropriation, make payments in each fiscal year to coastal States and to eligible political subdivisions equal to the amount deposited in the Fund for the prior fiscal year, together with the portion of interest earned from investment of the funds which corresponds to that amount (reduced by any refunds paid under section 705(c)). Such payments shall be allocated among the coastal States and eligible political subdivisions as provided in this section.

"(c) DETERMINATION OF STATES' ALLOCABLE SHARES.—

"(1) ALLOCABLE SHARE FOR EACH STATE.—For each coastal State, the Secretary shall determine the State's allocable share of the total amount of the revenues deposited in the Fund for each fiscal year using the following weighted formula:

"(A) 25 percent of the State's allocable share shall be based on the ratio of such State's shoreline miles to the shoreline miles of all coastal States.

"(B) 25 percent of the State's allocable share shall be based on the ratio of such State's coastal population to the coastal population of all coastal States.

"(C) 50 percent of the State's allocable share shall be computed based upon Outer Continental Shelf production. If any portion of a coastal State lies within a distance of 200 miles from the geographic center of any leased tract, such State shall receive 50 percent of its allocable share based on the Outer Continental Shelf oil and gas production offshore of such State. Such part of its allocable share shall be inversely proportional to the distance between the nearest point on the coastline of such State and the geographic center of each leased tract or portion of the leased tract (to the nearest whole mile), as determined by the Secretary.

"(2) MINIMUM STATE SHARE.—

"(A) IN GENERAL.—The allocable share of revenues determined by the Secretary under this subsection for each coastal State with an approved coastal management program (as defined by the Coastal zone Management Act (16 U.S.C. §1451) or which is making satisfactory progress toward one shall not be less than 0.50 percent of the total amount of the revenues deposited in the Fund for each fiscal year. For any other coastal State the allocable share of such revenues shall not be less than 0.25 percent of such revenues.

"(B) RECOMPUTATION.—Where one or more coastal States' allocable shares, as compared under paragraph (1), are increased by any amount under this paragraph, the allocable share for all other coastal States shall be recomputed and reduced by the same amount so that not more than 100 percent of the amount deposited in the fund is allocated to all coastal States. The reduction shall be divided pro rata among such other coastal States.

"(d) PAYMENTS TO STATES AND POLITICAL SUBDIVISIONS.—Each coastal State's allocable share shall be divided between the State and political subdivision in that State as follows:

"(1) 40 percent of each State's allocable share, as determined under subsection (c), shall be paid to the State;

"(2) 40 percent of each State's allocable share, as determined under subsection (c), shall be paid to the eligible political subdivisions in such State, with the funds to be allocated among the eligible political subdivisions using the following weighted formula:

"(A) 50 percent of an eligible political subdivision's allocable share shall be based on the ratio of that eligible political subdivision's acreage within the State's coastal zone, as defined in an approved State coastal management program (as defined by the Coastal Zone Management Act (16 U.S.C. §1451)), to the entire acreage within the coastal zone in such State: *Provided, however*, That if the State in which the eligible subdivision is located does not have an approved coastal management program, then the allocable share shall be based on the ratio of that eligible political subdivision's shoreline miles to the total shoreline miles in that coastal State.

"(B) 25 percent of an eligible political subdivision's allocable share shall be based on the ratio of such eligible political subdivision's coastal population to the coastal population of all eligible political subdivisions in that State.

"(C) 25 percent of an eligible political subdivision's allocable share shall be based on ratios that are inversely proportional to the distance between the nearest point on the seaward boundary of each such eligible political subdivision and the geographic center of each leased tract or portion of the leased tract (to the nearest whole mile), as determined by the Secretary.

"(3) 20 percent of each State's allocable share, as determined under subsection (c), shall be allocated to political subdivisions in the coastal State that do not qualify as eligible political subdivisions but which are determined by the Governor or the Secretary to have impacts from Outer Continental Shelf related activities and which have an approved plan under this subsection.

"(4) PROJECT SUBMISSION.—Prior to the receipt of funds pursuant to this subsection for any fiscal year, a political subdivision must submit to the Governor of the State in which it is located a plan setting forth the projects and activities for which the political subdivision proposes to expend such funds. Such plan shall state the amounts proposed to be expended for each project or activity during the upcoming fiscal year.

"(5) PROJECT APPROVAL.—(A) Prior to the payment of funds pursuant to this subsection to any political subdivision for any fiscal year, the Governor must approve the plan submitted by the political subdivision pursuant to this subsection and notify the Secretary of such approval. State approval of any such plan shall be consistent with all applicable State and Federal law. In the event the Governor disapproves any such plan, the funds that would otherwise be paid to the political subdivision shall be placed in escrow by the Secretary pending modification and approval of such plan, at which time such funds together with interest thereon shall be paid to the political subdivision.

"(B) A political subdivision that fails to receive approval from the Governor for a plan may appeal to the Secretary and the Secretary may approve or disapprove such plan based on the criteria set forth in section 704: *Provided, however*, That the Secretary shall have no authority to consider an appeal of a political subdivision if the Governor of the State has certified in writing to the Secretary that the State has adopted a State program that by its express terms addresses the allocation of revenues to political subdivisions.

"(e) TIME OF PAYMENT.—(1) Payments to coastal States and political subdivisions under this section shall be made not later than December 31 of each year from revenues received and interest earned thereon during the immediately preceding fiscal year. Payment shall not commence before the date 12 months following the date of enactment of this Act.

"(2) Any amount in the Fund not paid to coastal States and political subdivisions under this section in any fiscal year shall be disposed of according to the law otherwise applicable to revenues from leases on the Outer Continental Shelf.

"SEC. 704. USES OF FUNDS.

"Funds received pursuant to this Act shall be used by the coastal States and political subdivisions for projects and activities, including but not limited to the following:

"(a) air quality, water quality, fish and wildlife, wetlands, or other coastal resources, including shoreline protection and coastal restoration;

"(b) other activities of such State or political subdivision, authorized by the Coastal Zone Management Act of 1972 (16 U.S.C. §1451 et seq.), the provisions of subtitle B of title IV of the Oil Pollution Act of 1990 (104 Stat. 523), or the Federal Water Pollution Control Act (33 U.S.C. §1251 et seq.);

"(c) administrative costs of complying with the provisions of this subtitle;

"(d) uses related to the Outer Continental Shelf Lands Act; and

"(e) mitigating impacts of Outer Continental Shelf activities, including onshore infrastructure and public service needs.

"SEC. 705. CERTIFICATION; ANNUAL REPORT; REFUNDS.

"(a) CERTIFICATION.—Not later than 60 days after the end of the fiscal year, any political subdivision receiving moneys from the Fund must certify to the Governor—

"(1) the amount of such funds expended by the political subdivision during the previous fiscal year;

"(2) the amounts expended on each project or activity;

"(3) a general description of how the funds were expended; and

"(4) the status of each project or activity.

"(b) REPORT.—On June 15 of each year, the Governor of each State receiving moneys from the Fund shall account for all moneys so received for the previous fiscal year in a written report to the Secretary and the Congress. This report shall include a description of all projects and activities receiving funds under this Act, including all information required under subsection (a).

"(c) REFUNDS.—In those instances where through judicial decision, administrative review, arbitration, or other means there are royalty refunds owed to entities generating revenues under this Act, 27 percent of such refunds shall be paid from amounts available in the Fund."

SEC. 103. AMENDMENT TO SECTION 8 OF THE OUTER CONTINENTAL SHELF LANDS ACT.

The first sentence of section 8(g)(2) of the Outer Continental Shelf Lands Act (43 U.S.C. §1337(g)(2)) is amended by inserting after "three nautical miles" each place it appears the following: "(or in the case of Alabama, nine nautical miles)".

TITLE II—LAND AND WATER CONSERVATION FUND REFORM

SECTION. 201. SHORT TITLE.

This title may be cited as the "Land and Water Conservation Fund Reform Act of 1998".

SEC. 202. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) The Land and Water Conservation Fund Act of 1965 embodied a visionary concept—that a portion of the proceeds from Outer Continental Shelf mineral leasing revenues and the depletion of a nonrenewable natural resource should result in a legacy of public places accessible for public recreation and benefit from resources belonging to all people, of all generations, and the enhancement of the most precious and most renewable natural resource of any nation, healthy and active citizens.

(2) The States and local Governments were to occupy a pivotal role in accomplishing the purposes of the Land and Water Conservation Fund Act of 1965 and the Act originally provided an equitable portion of funds to the States, and through them, to local governments.

(3) However, because of competition for limited Federal moneys and the need for an annual appropriation, this original intention has been abandoned and, in recent years, the States have not received an equitable proportion of funds.

(4) Nonetheless, with population growth and urban sprawl, the demand for recreation and conservation areas, at the State and local level, including urban localities, remains a high priority for our citizens.

(5) In addition to the demand at the State and local level, there has been an increasing unmet need for Federal moneys to be made available for Federal purposes, with lands identified as important for Federal acquisition not being acquired for several years due to insufficient funds.

(6) A new vision is called for—a vision that encompasses a multilevel national network of parks, recreation and conservation areas that reaches across the country to touch all communities. National parks are not enough; the Federal Government alone cannot accomplish this. A national vision, backed by realistic national funding support, to stimulate State, local and private sector, as well as Federal efforts, is the only way to effectively address our ongoing outdoor recreation and conservation needs.

(b) PURPOSE.—The purpose of this title is to provide a secure source of funds available for Federal purposes authorized by the Land and Water Conservation Fund Act of 1965 and to revitalize and complement State, local and private commitments envisioned in the Land and Water Conservation Fund Act of 1965 and the Urban Park and Recreation Recovery Act of 1978 by providing grants for State, local and urban recreation and conservation needs.

SEC. 203. LAND AND WATER CONSERVATION FUND AMENDMENTS.

(a) REVENUES.—Section 2(c)(1) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. §460*l*–5(c)(1)) is amended as follows:

(1) By inserting "(A)" after "(c)(1)".

(2) By striking "there are authorized" and all that follows and inserting "from 16 percent of the revenues, as that term is defined in the Reinvestment and Environmental Restoration Act of 1998, shall be deposited in the Land and Water Conservation Fund in the Treasury and shall be available, without further appropriation, to carry out this Act for each fiscal year thereafter through September 30, 2015."

(3) By adding at the end the following new subparagraph:

"(B) In those instances where through judicial decision, administrative review, arbitration, or other means there are royalty refunds owed to entities generating revenues available for purposes of this Act, 16 percent of such refunds shall be paid from amounts available under this subsection.".

(b) AUTHORIZATION.—Section 2(c)(2) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. §460*l*–5(c)(2)) is amended by striking "equivalent amounts provided in clause (1)" and inserting "$900,000,000".

(c) APPROPRIATION.—Section 3 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. §460*l*–6) is amended by striking "Moneys" and inserting "Except as provided under section 460*l*–5(c)(1), moneys".

(d) ALLOCATION OF FUNDS.—Section 5 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. §460*l*–7) is amended as follows:

(1) by inserting "(a)" at the beginning;

(2) by striking "Those appropriations from the fund" and all that follows; and

(3) by adding at the end the following new subsection:

"(b) Moneys credited to the fund under section 2(c)(1) of this Act (16 U.S.C. §460*l*–5(c)(1)) for obligation or expenditure may be obligated or expended only as follows—

"(1) 45 percent shall be available for Federal purposes. Notwithstanding section 7 of this Act (16 U.S.C. §460*l*–9), 25 percent of such moneys shall be made available to the Secretary of Agriculture for the acquisition of lands, waters, or interests, in land or water within the exterior boundaries of areas of the National Forest System or any other land management unit established by an Act of Congress and managed by the Secretary of Agriculture and 75 percent of such moneys shall be available to the Secretary of the Interior for the acquisition of lands, waters, or interests in land or water within the exterior boundaries of areas of the National Park System, National Wildlife Refuge System, or other land management unit established by an Act of Congress: *Provided*, That at least two-thirds of the moneys available under this paragraph for Federal purposes shall be spent east of the 100th meridian.

"(2) 45 percent shall be available for financial assistance to the States under section 6 of this Act (16 U.S.C. §460*l*–8) distributed according to the following allocation formula;

"(A) 60 percent shall be apportioned equally among the several States;

"(B) 20 percent shall be apportioned on the basis of the ratio which the population of each State bears to the total population of the United States;

"(C) 20 percent shall be apportioned on the basis of the urban population in each State (as defined by Metropolitan Statistical Areas).

"(3) 10 percent shall be available to local governments through the Urban Parks and Recreation Recovery Program (16 U.S.C. §§2501–2514) of the Department of the Interior.

So much, not to exceed 2 percent, of the total of such moneys credited to the fund under section 2(c)(1) of this Act (16 U.S.C. §460*l*–5(c)) in each fiscal year as the Secretary of the Interior may estimate to be necessary for expenses in the administration and execution of this subsection shall be deducted for that purpose, and such sum is authorized to be made available therefor until the expiration of the next succeeding fiscal year, and within 60 days after the close of such fiscal year the Secretary shall apportion such part thereof as remains unexpended, if any, on the same basis and in the same manner as is provided under paragraphs (1), (2) and (3).".

(e) Tribes and Alaska Native Village Corporations.—Subsection 6(b)(5) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. §460*l*–8(b)(5)) is amended as follows:

(1) By inserting "(A)" after "(5)".

(2) By adding at the end the following new subparagraph:

"(B) For the purposes of paragraph (1), all federally recognized Indian tribes and Alaska Native Village Corporations (as defined in section 3(j) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(j)) shall be treated collectively as 1 State, and shall receive shares of the apportionment under paragraph (1) in accordance with a competitive grant program established by the Secretary by rule. Such rule shall ensure that in each fiscal year no single tribe or Village Corporation receives more than 10 percent of the total amount made available to all tribes and Village Corporations pursuant to the apportionment under paragraph (1). Funds received by an Indian tribe or Village Corporation under this subparagraph may be expended only for the purposes specified in paragraphs (1) and (3) of subsection (b)."

(f) Local Allocation.—Subsection 6(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. §460*l*–8(b)(5)) is amended by adding at the end the following new paragraph:

"(6) Absent some compelling and annually documented reason to the contrary acceptable to the Secretary, each State (other than an area treated as a State under paragraph (5)) shall make available as grants to local governments at least 50 percent of the annual State apportionment, or an equivalent amount made available from other sources."

(g) Match.—Subsection 6(c) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. §460*l*–8(c)) is amended to read as follows:

"(c) Matching Requirements.—Payments to any State shall cover not more than 50 percent of the cost of outdoor recreation and conservation planning, acquisition or development projects that are undertaken by the State."

(h) State Action Agenda.—Subsection 6(d) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. §460*l*–8(d)) is amended to read as follows:

"(d) State Action Agenda Required.—Each State may define its own priorities and criteria for selection of outdoor recreation and conservation acquisition and development projects eligible for grants under this Act so long as it provides for public involvement in this process and publishes an accurate and current State Action Agenda for Community Recreation and Conservation indicating the needs it has identified and the priorities and criteria it has established. In order to assess its needs and establish its overall priorities, each State, in partnership with its local governments and Federal agencies, and in consultation with its citizens, shall develop a State Action Agenda for Community Recreation and Conservation, within five years of enactment, that meets the following requirements:

"(1) The agenda must be strategic, originating in broad-based and long-term needs, but focused on actions that can be funded over the next 4 years.

"(2) The agenda must be updated at least once every 4 years and certified by the Governor that the State Action Agenda for Community Recreation and Conservation conclusions and proposed actions have been considered in an active public involvement process.

State Action Agendas for Community Recreation and Conservation shall take into account all providers of recreation and conservation lands within each State, including Federal, regional and local government resources and shall be correlated whenever possible with other State, regional, and local plans for parks, recreation, open space and wetlands conservation.

"Each State Action Agenda for Community Recreation and Conservation shall specifically address wetlands within that State as important outdoor recreation and conservation resources. Each State Action Agenda for Community Recreation and Conservation shall incorporate a wetlands priority plan developed in consultation with the State agency with responsibility for fish and wildlife resources which is consistent with that national wetlands priority conservation plan developed under section 301 of the Emergency Wetlands Resources Act.

"Recovery action programs developed by urban localities under section 1007 of the Urban Park and Recreation Recovery Act of 1978 shall be used by a State as one guide to the conclusions, priorities and action schedules contained in the State Action Agenda for Community Recreation and Conservation. Each State shall assure that any requirements for local outdoor recreation and conservation planning that are promulgated as conditions for grants minimize redundancy of local efforts by allowing, wherever possible, use of the findings, priorities, and implementation schedules of recovery action programs to meet such requirements."

(i) Comprehensive State Plans developed by any State under section 6(d) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. §460*l*–8(d)) before the enactment of this Act shall remain in effect in that State until or State Action Agenda for Community Recreation and Conservation has been adopted pursuant to the amendment made by this subsection, but no later than 5 years after the enactment of this Act.

(j) State Plans.—Subsection 6(e) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. §460*l*–8(e)) is amended—

(1) by striking "State comprehensive plan" at the end of the first paragraph and inserting "State Action Agenda for Community Recreation and Conservation";

(2) by striking "State comprehensive plan" in paragraph (1) and inserting "State Action Agenda for Community Recreation and Conservation"; and

(3) by striking "but not including incidental costs related to acquisition" at the end of paragraph (1).

(k) Conversion.—Paragraph 6(f)(3) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. §460*l*–8(f)(3)) is amended by striking the second sentence and inserting: "With the exception of those properties that are no longer viable as an outdoor recreation and conservation facility due to changes in demographics or must be abandoned because of environmental contamination which endanger public health and safety, the Secretary shall approve such conversion only if the State demonstrates no prudent or feasible alternative exists. Any conversion must satisfy any conditions the Secretary deems necessary to assure the substitution of other recreation and conservation properties of at least equal fair market value, or reasonably equivalent usefulness and location and which are in accord with the existing State Action Agenda for Community Recreation and Conservation: *Provided*, That wetland areas and interests therein as identified in the wetlands provisions of the action agenda and proposed to be acquired as suitable replacement property within that same State that is otherwise acceptable to the Secretary shall be considered to be of reasonably equivalent usefulness with the property proposed for conversion."

SEC. 204. URBAN PARK AND RECREATION RECOVERY ACT OF 1978 AMENDMENTS.

(a) Grants.—Section 1004 of the Urban Park and Recreation Recovery Act (16 U.S.C. §2503) is amended by redesignating subsections (d), (e), and (f) as subsections (f), (g), and (h) respectively, and by inserting the following after subsection (c):

"(d) 'development grants' means matching capital grants to local units of Government to cover costs of development and construction on existing or new neighborhood recreation sites, including indoor and outdoor recreation facilities, support facilities, and landscaping, but excluding routine maintenance and upkeep activities;";

"(e) 'acquisition grants' means matching capital grants to local units of Government to cover the direct and incidental costs of purchasing new parkland to be permanently dedicated and made accessible for public recreation use;".

(b) ELIGIBILITY.—Subsection 1005(a) of the Urban Park and Recreation Recovery Act (16 U.S.C. §2504) is amended to read as follows:

"(a) Eligibility of general purpose local governments to compete for assistance under this title shall be based upon needed as determined by the Secretary. Generally, the list of eligible Governments shall include the following:

"(1) All central cities of Metropolitan, Primary or Consolidated Statistical Areas as currently defined by the census.

"(2) All political subdivisions included in Metropolitan, Primary or Consolidated Statistical Areas as currently defined by the census.

"(3) Any other city or town within a Metropolitan Area with a total population of 50,000 or more in the census of 1970, 1980 or 1990.

"(4) Any other county, parish or township with a total population of 250,000 or more in the census of 1970, 1980 or 1990.".

(c) MATCHING GRANTS.—Subsection 1006(a) of the Urban Park and Recreation Recovery Act (16 U.S.C. §2505(a)) is amended by striking all through paragraph (3) and inserting the following:

"SEC. 1006.(a) The Secretary is authorized to provide 70 percent matching grants for rehabilitation, innovation, development or acquisition purposes to eligible general purpose local governments upon his approval of applications therefor by the chief executives of such Governments.

"(1) At the discretion of such applicants, and if consistent with an approved application, rehabilitation, innovation, development or acquisition grants may be transferred in whole or in part to independent special purpose local governments, private nonprofit agencies or country or regional park authorities; except that, such grantees shall provide assurance to the Secretary that they will maintain public recreation opportunities at assisted areas and facilities owned or managed by them in accordance with section 1010 of this Act.

"(2) Payments may be made only for those rehabilitation, innovation, development, or acquisition projects which have been approved by the Secretary. Such payments may be made from time to time in keeping with the rate of progress toward completion of a project, on a reimbursable basis.".

(d) COORDINATION.—Section 1008 of the Urban Park and Recreation Recovery Act (16 U.S.C. §2507) is amended by striking the last sentence and inserting the following: "The Secretary and general purpose local governments are encouraged to coordinate preparation of recovery action programs required by this title with State Action Agendas for Community Recreation and Conservation required by section 6 of the Land and Water Conservation Fund Act of 1965, including the allowance of flexibility in local preparation of recovery action programs so that they may be used to meet State or local qualifications for local receipt of Land and Water Conservation Fund grants or State grants for similar purposes or for other recreation or conservation purposes. The Secretary shall also encourage States to consider the findings, priorities, strategies and schedules included in the recovery action program of their urban localities in preparation and updating of the State Action Agendas for Community Recreation and Conservation, in accordance with the public coordination and citizen consultation requirements of subsection 6(d) of the Land and Water Conservation Fund Act of 1965."

(e) CONVERSION.—Section 1010 of the Urban Park and Recreation Recovery Act (16 U.S.C. §2509) is amended by striking the first sentence and inserting the following: "No property acquired or improved or developed under this title shall, without the approval of the Secretary, be converted to other than public recreation uses. The Secretary shall approve such conversion only if the grantee demonstrates no prudent or feasible alternative exists (with the exception of those properties that are no longer a viable recreation facility due to changes in demographics or must be abandoned because of environmental contamination which endanger public health and safety). Any conversion must satisfy any conditions the Secretary deems necessary to assure the substitution of other recreation properties of at least equal fair market value, or reasonably equivalent usefulness and location and which are in accord with the current recreation recovery action program."

(f) REPEAL.—Section 1014 of the Urban Park and Recreation Recovery Act (16 U.S.C. 2513) is repealed.

TITLE III—WILDLIFE CONSERVATION AND RESTORATION

SEC. 301. SHORT TITLE.

This title may be cited as the "Wildlife Conservation and Restoration Act of 1998".

SEC. 302. FINDINGS.

The Congress finds and declares that—

(1) a diverse array of species of fish and wildlife is of significant value to the Nation for many reasons: aesthetic, ecological, educational, cultural, recreational, economic, and scientific;

(2) it should be the objective of the United States to retain for present and future generations the opportunity to observe, understand, and appreciate a wide variety of wildlife;

(3) millions of citizens participate in outdoor recreation through hunting, fishing, and wildlife observation, all of which have significant value to the citizens who engage in these activities;

(4) providing sufficient and properly maintained wildlife associated recreational opportunities is important to enhancing public appreciation of a diversity of wildlife and the habitats upon which they depend;

(5) lands and waters which contain species classified neither as game nor identified as endangered or threatened also can provide opportunities for wildlife associated recreation and education such as hunting and fishing permitted by applicable State or Federal law;

(6) hunters and anglers have for more than 60 years willingly paid user fees in the form of Federal excise taxes on hunting and fishing equipment to support wildlife diversity and abundance, through enactment of the Federal Aid in Wildlife Restoration Act (commonly referred to as the Pittman-Robertson Act) and the Federal Aid in Sport Fish Restoration Act (commonly referred to as the Dingell-Johnson/Wallop-Breaux Act);

(7) State programs, adequately funded to conserve a broader array of wildlife in an individual State and conducted in coordination with Federal, State, tribal, and private landowners and interested organizations, would continue to serve as a vital link in a nationwide effort to restore game and nongame wildlife, and the essential elements of such programs should include conservation measures which manage for a diverse variety of populations of wildlife; and

(8) It is proper for Congress to bolster and extend this highly successful program to aid game and nongame wildlife in supporting the health and diversity of habitat, as well as providing funds for conservation education.

SEC. 303. PURPOSES.

The purposes of this title are—

(1) to extend financial and technical assistance to the States under the Federal Aid to Wildlife Restoration Act for the benefit of a diverse array of wildlife and associated habitats, including species that are not hunted or fished, to fulfill unmet needs of wildlife within the States while recognizing the mandate of the States to conserve all wildlife;

(2) to assure sound conservation policies through the development, revision and implementation of wildlife associated recreation and wildlife associated education and wildlife conservation law enforcement;

(3) to encourage State fish and wildlife agencies to create partnerships between the Federal Government, other State agencies, wildlife conservation organizations, and outdoor recreation and conservation interests through cooperative planning and implementation of this title; and

(4) to encourage State fish and wildlife agencies to provide for public involvement in the process of development and implementation of a wildlife conservation and restoration program.

SEC. 304. DEFINITIONS.

(a) REFERENCE TO LAW.—In this title, the term "Federal Aid in Wildlife Restoration Act" means the Act of September 2, 1937 (16 U.S.C. 669 et seq.), commonly referred to as the Federal Aid in Wildlife Restoration Act or the Pittman-Robertson Act.

(b) WILDLIFE CONSERVATION AND RESTORATION PROGRAM.—Section 2 of the Federal Aid in Wildlife Restoration Act (16 U.S.C. 669a) is amended by inserting after "shall be construed" in the first place it appears the following: "to include the wildlife conservation and restoration program and".

(c) STATE AGENCIES.—Section 2 of the Federal Aid in Wildlife Restoration Act (16 U.S.C. 669a) is amended by inserting "or State fish and wildlife department" after "State fish and game department".

(d) CONSERVATION.—Section 2 is amended by striking the period at the end thereof, substituting a semicolon, and adding the following: "the term 'conservation' shall be construed to mean the use of methods and procedures necessary or desirable to sustain healthy populations of wildlife including all activities associated with scientific resources management such as research, census, monitoring of populations, acquisition, improvement and management of habitat, live trapping and transplantation, wildlife damage management, and periodic or total protection of a species or population as well as the taking of individuals within wildlife stock or population if permitted by applicable State and Federal law; the term 'wildlife conservation and restoration program' shall be construed to mean a program developed by a State fish and wildlife department that the Secretary determines meets the criteria in section 6(d), the projects that constitute such a program, which may be implemented in whole or part through grants and contracts by a State to other State, Federal, or local agencies wildlife conservation organizations and outdoor recreation and conservation education entities from funds apportioned under this title, and maintenance of such projects; the term 'wildlife' shall be construed to mean any species of wild, free-ranging fauna including fish, and also fauna in captive breeding programs the object of which is to reintroduce individuals of a depleted indigenous species into previously occupied range; the term 'wildlife-associated recreation' shall be construed to mean projects intended to meet the demand for outdoor activities associated with wildlife including, but not limited to, hunting and fishing, such projects as construction or restoration of wildlife viewing areas, observation towers, blinds, platforms, land and water trails, water access, trailheads, and access for such projects; and the term 'wildlife conservation education' shall be construed to mean projects, including public outreach, intended to foster responsible natural resource stewardship.".

(3) 7 PERCENT.—Subsection 3(a) of the Federal Aid in Wildlife Restoration Act (16 U.S.C. 669b(a)) is amended in the first sentence by—

(1) inserting "(1)" after "(beginning with the fiscal year 1975)"; and

(2) inserting after "Internal Revenue Code of 1954" the following: ", and (2) from 7 percent of the revenues, as that term is defined in the Reinvestment Act and Environmental Restoration Act of 1998,".

SEC. 305. SUBACCOUNTS AND REFUNDS.

Section 3 of the Federal Aid in Wildlife Restoration Act (16 U.S.C. 669b) is amended by adding at the end the following new subsections:

"(c) A subaccount shall be established in the Federal aid to wildlife restoration fund in the Treasury to be known as the 'wildlife conservation and restoration account' and the credits to such account shall be equal to the 7 percent of revenues referred to in subsection (a)(2). Amounts in such account shall be invested by the Secretary of the Treasury as set forth in subsection (b) and shall be made available without further appropriation, together with interest, for apportionment at the beginning of fiscal year 2000 and each fiscal year thereafter to carry out State wildlife conservation and restoration programs.

"(d) Funds covered into the wildlife conservation and restoration account shall supplement, but not replace, existing funds available to the States from the sport fish restoration and wildlife restoration accounts and shall be used for the development, revision, and implementation of wildlife conservation and restoration programs and should be used to address the unmet needs for a diverse array of wildlife and associated habitats, including species that are not hunted or fished, for wildlife conservation, wildlife conservation education, and wildlife-associated recreation projects: *Provided*, such funds may be used for new programs and projects as well as to enhance existing programs and projects.

"(e) Notwithstanding subsections (a) and (b) of this Act, with respect to the wildlife conservation and restoration account so much of the appropriation apportioned to any State for any fiscal year as remains unexpended at the close thereof is authorized to be made available for expenditure in that State until the close of the fourth succeeding fiscal year. Any amount apportioned to any State under this subsection that is unexpended or unobligated at the end of the period during which it is available for expenditure on any project is authorized to be reapportioned to all States during the succeeding fiscal year.

"(f) In those instances where through judicial decision, administrative review, arbitration, or other means there are royalty refunds owed to entities generating revenues available for purposes of this Act, 7 percent of such refunds shall be paid from amounts available under subsection (a)(2).".

SEC. 306. ALLOCATION OF SUBACCOUNT RECEIPTS.

Section 4 of the Federal Aid in Wildlife Restoration Act (16 U.S.C. 669c) is amended by adding the following new subsection:

"(c)(1) Notwithstanding subsection (a), so much, not to exceed 2 percent, of the revenues covered into the wildlife conservation and restoration account in each fiscal year as the Secretary of the Interior may estimate to be necessary for expenses in the administration and execution of programs carried out under the wildlife conservation and restoration account shall be deducted for that purpose, and such sum is authorized to be made available therefor until the expiration of the next succeeding fiscal year, and within 60 days after the close of such fiscal year the Secretary of the Interior shall apportion such part thereof as remains unexpended, if any, on the same basis and in the same manner as is provided under paragraphs (2) and (3).

"(2) The Secretary of the Interior, after making the deduction under paragraph (1), shall make the following apportionment from the amount remaining in the wildlife conservation and restoration account:

"(A) to the District of Columbia and to the Commonwealth of Puerto Rico, each a sum equal to not more than ½ of 1 percent thereof; and

"(B) to Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands, each a sum equal to not more than ⅙ of 1 percent thereof.

"(3) The Secretary of the Interior, after making the deduction under paragraph (1) and the apportionment under paragraph (2), shall apportion the remaining amount in the wildlife conservation and restoration account for each year among the States in the following manner:

"(A) ⅓ which is based on the ratio to which the land area of such State bears to the total land area of all such States; and

"(B) ⅔ of which is based on the ratio to which the population of such State bears to the total population of all such States.

The amounts apportioned under this paragraph shall be adjusted equitably so that no such State shall be apportioned a sum which is less than ½ of 1 percent of the amount available for apportionment under this paragraph for any fiscal year or more than 5 percent of such amount.".

"(d) WILDLIFE CONSERVATION AND RESTORATION PROGRAMS.—Any State, through its fish and wildlife department, may apply to the Secretary for approval of a wildlife conservation and restoration program or for funds to develop a program, which shall—

"(1) contain provision for vesting in the fish and wildlife department of overall responsibility and accountability for development and implementation of the program; and

"(2) contain provision for development and implementation of—

"(A) wildlife conservation projects which expand and support existing wildlife programs to meet the needs of a diverse array of wildlife species,

"(B) wildlife associated recreation programs, and

"(C) wildlife conservation education projects.

If the Secretary of the Interior finds that an application for such program contains the elements specified in paragraphs (1) and (2), the Secretary shall approve such application and set aside from the apportionment to the State made pursuant to section 4(c) an amount that shall not exceed 90 percent of the estimated cost of developing and implementing segments of the program for the first 5 fiscal years following enactment of this subsection and not to exceed 75 percent thereafter. Not more than 10 percent of the amounts apportioned to each State from this subaccount for the State's wildlife conservation and restoration program may be used for law enforcement. Following approval, the Secretary may make payments on a project that is a segment of the State's wildlife conservation and restoration program as the project progresses but such payments, including previous payments on the project, if any, shall not be more than the United States pro rata share of such project. The Secretary, under such regulations as he may prescribe, may advance funds representing the United States pro rata share of a project that is a segment of a wildlife conservation and restoration program, including funds to develop such program. For purposes of this subsection, the term 'State' shall include the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.".

(b) FACA.—Coordination with State fish and wildlife department personnel or with personnel of other State agencies pursuant to the Federal Aid in Wildlife Restoration Act or the Federal Aid in Sport Fish Restoration Act shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.). Except for the preceding sentence, the provisions of this title relate solely to wildlife conservation and restoration programs as defined in this title and shall not be construed to affect the provisions of the Federal Aid in Wildlife Restoration Act relating to wildlife restoration projects or the provisions of the Federal Aid in Sport Fish Restoration Act relating to fish restoration and management projects.

SEC. 307. LAW ENFORCEMENT AND PUBLIC RELATIONS.

The third sentence of subsection (a) of section 8 of the Federal Aid in Wildlife Restoration Act (16 U.S.C. 669g) is amended by inserting before the period at the end thereof: ", except that funds available from this subaccount for a State wildlife conservation and restoration program may be used for law enforcement and public relations".

SEC. 308. PROHIBITION AGAINST DIVERSION.

No designated State agency shall be eligible to receive matching funds under this Act if sources of revenue available to it on January 1, 1998, for conservation of wildlife are diverted for any purpose other than the administration of the designated State agency, it being the intention of Congress that funds available to States under this Act be added to revenues from existing State sources and not serve as a substitute for revenues from such sources. Such revenues shall include interest, dividends, or other income earned on the foregoing.

LONG-TERM CARE PATIENT PROTECTION ACT OF 1998—S. 2570

The text of the bill (S. 2570), introduced on October 7, 1998, is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. ESTABLISHMENT OF PROGRAM TO PREVENT ABUSE OF NURSING FACILITY RESIDENTS.

(a) NURSING FACILITY AND SKILLED NURSING FACILITY REQUIREMENTS.—

(1) MEDICAID PROGRAM.—Section 1919(b), as amended by section 2(a), is amended by adding after paragraph (8) the following new paragraph:

"(9) SCREENING OF NURSING FACILITY WORKERS.—

"(A) BACKGROUND CHECKS ON APPLICANTS.—Subject to subparagraph (B)(ii), before hiring an individual, a nursing facility shall—

"(i) give the individual written notice that the facility is required to perform background checks with respect to applicants;

"(ii) require, as a condition of employment, that such individual—

"(I) provide a written statement disclosing any conviction for a relevant crime or finding of patient or resident abuse;

"(II) provide a statement signed by the individual authorizing the facility to request the search and exchange of criminal records;

"(III) provide in person a copy of the individual's fingerprints; and

"(IV) provide any other identification information the Secretary may specify in regulation;

"(iii) initiate a check of the registry under section 1128F in accordance with regulations promulgated by the Secretary to determine whether such registry contains any disqualifying information with respect to such individual; and

"(iv) if such registry does not contain any such disqualifying information—

"(I) request that the State initiate a State and national criminal background check on such individual in accordance with the provisions of subsection (e)(9); and

"(II) furnish to the State the information described in subclauses (II) through (IV) of clause (ii) not more than 7 days (excluding Saturdays, Sundays, and legal public holidays under section 6103(a) of title 5, United States Code) after completion of the check against the registry initiated under clause (iii).

"(B) PROHIBITION ON HIRING OF ABUSIVE WORKERS.—

"(i) IN GENERAL.—A nursing facility may not knowingly employ any individual who has any conviction for a relevant crime or with respect to whom a finding of patient or resident abuse has been made.

"(ii) PROBATIONARY EMPLOYMENT.—After complying with the requirements of clauses (i), (ii), and (iii) of subparagraph (A), a nursing facility may provide for a probationary period of employment (not to exceed 90 days) for an individual pending completion of the check against the registry described under subparagraph (A)(iii) and the background check described under subparagraph (A)(iv). Such facility shall maintain supervision of the individual during the individual's probationary period of employment.

"(C) REPORTING REQUIREMENTS.—A nursing facility shall report to the State any instance in which the facility determines that an individual has committed an act of resident neglect or abuse or misappropriation of resident property in the course of employment by the facility.

"(D) USE OF INFORMATION.—

"(i) IN GENERAL.—A nursing facility that obtains information about an individual pursuant to clauses (iii) and (iv) of subparagraph (A) may use such information only for the purpose of determining the suitability of the individual for employment.

"(ii) IMMUNITY FROM LIABILITY.—A nursing facility that, in denying employment for an applicant, reasonably relies upon information about an individual provided by the State pursuant to subsection (e)(9) shall not be liable in any action brought by the individual based on the employment determination resulting from the incompleteness or inaccuracy of the information.

"(iii) CRIMINAL PENALTY.—Whoever knowingly violates the provisions of subparagraph (D)(i) shall be fined in accordance with title 18, United States Code, imprisoned for not more than 2 years, or both.

"(E) DEFINTIONS.—As used in this paragraph—

"(i) the term 'conviction for a relevant crime' means any State or Federal criminal conviction for—

"(I) any offense described in paragraphs (1) through (4) of section 1128(a); and

"(II) such other types of offenses as the Secretary may specify in regulations;

"(ii) the term 'finding of patient or resident abuse' means any substantiated finding by a State agency under subsection (g)(1)(C) or a Federal agency that an individual has committed—

"(I) an act of patient or resident abuse or neglect or a misappropriation of patient or resident property; or

"(II) such other types of acts as the Secretary may specify in regulations; and

"(iii) the term 'disqualifying information' means information about a conviction for a relevant crime or a finding of patient or resident abuse.".

(2) MEDICARE PROGRAM.—Section 1819(b), as amended by section 2(b), is amended by adding after paragraph (8) the following new paragraph:

"(9) SCREENING OF NURSING FACILITY WORKERS.—

"(A) BACKGROUND CHECKS ON APPLICANTS.—Subject to subparagraph (B)(ii), before hiring an individual, a skilled nursing facility shall—

"(i) give the individual written notice that the facility is required to perform background checks with respect to applicants;

"(ii) require, as a condition of employment, that such individual—

"(I) provide a written statement disclosing any conviction for a relevant crime or finding of patient or resident abuse;

"(II) provide a statement signed by the individual authorizing the facility to request the search and exchange of criminal records;

"(III) provide in person a copy of the individual's fingerprints; and

"(IV) provide any other identification information the Secretary may specify in regulation;

"(iii) initiate a check of the registry under section 1128F in accordance with regulations promulgated by the Secretary to determine whether such registry contains any disqualifying information with respect to such individual; and

"(iv) if such registry does not contain any such disqualifying information—

"(I) request that the State initiate a State and national criminal background check on such individual in accordance with the provisions of subsection (e)(7); and

"(II) furnish to the State the information described in subclauses (II) through (IV) of clause (ii) not more than 7 days (excluding Saturdays, Sundays, and legal public holidays under section 6103(a) of title 5, United States Code) after completion of the check against the registry initiated under clause (iii).

"(B) PROHIBITION ON HIRING OF ABUSIVE WORKERS.—

"(i) IN GENERAL.—A skilled nursing facility may not knowingly employ any individual who has any conviction for a relevant crime or with respect to whom a finding of patient or resident abuse has been made.

"(ii) PROBATIONARY EMPLOYMENT.—After complying with the requirements of clauses (i), (ii), and (iii) of subparagraph (A), a skilled nursing facility may provide for a probationary period of employment (not to exceed 90 days) for an individual pending completion of the check against the registry described under subparagraph (A)(iii) and the background check described under subparagraph (A)(iv). Such facility shall maintain supervision of the individual during the individual's probationary period of employment.

"(C) REPORTING REQUIREMENTS.—A skilled nursing facility shall report to the State any instance in which the facility determines that an individual has committed an act of resident neglect or abuse or misappropriation of resident property in the course of employment by the facility.

"(D) USE OF INFORMATION.—

"(i) IN GENERAL.—A skilled nursing facility that obtains information about an individual pursuant to clauses (iii) and (iv) of subparagraph (A) may use such information only for the purpose of determining the suitability of the individual for employment.

"(ii) IMMUNITY FROM LIABILITY.—A skilled nursing facility that, in denying employment for an applicant, reasonably relies upon information about an individual provided by the State pursuant to subsection (e)(9) shall not be liable in any action brought by the individual based on the employment determination resulting from the incompleteness or inaccuracy of the information.

"(iii) CRIMINAL PENALTY.—Whoever knowingly violates the provisions of subparagraph (D)(i) shall be fined in accordance with title 18, United States Code, imprisoned for not more than 2 years, or both.

"(E) DEFINITIONS.—As used in this paragraph—

"(i) the term 'conviction for a relevant crime' means any State or Federal criminal conviction for—

"(I) any offense described in paragraphs (1) through (4) of section 1128(a); and

"(II) such other types of offenses as the Secretary may specify in regulations;

"(ii) the term 'finding of patient or resident abuse' means any substantiated finding by a State agency under subsection (g)(1)(C) or a Federal agency that an individual has committed—

"(I) an act of patient or resident abuse or neglect or a misappropriation of patient or resident property; or

"(II) such other types of acts as the Secretary may specify in regulations; and

"(iii) the term 'disqualifying information' means information about a conviction for a relevant crime or a finding of patient or resident abuse.".

"(b) STATE REQUIREMENTS.—

"(1) MEDICAID PROGRAMS.—

"(A) EXPANSION OF STATE REGISTRY TO COLLECT INFORMATION ABOUT NURSING FACILITY EMPLOYEES OTHER THAN NURSE AIDES.—Section 1919, as amended by section 2(a), is amended—

"(i) in subsection (e)(2)—

"(I) in the paragraph heading, by striking "NURSE AIDE REGISTRY". and inserting "NURSING FACILITY EMPLOYEE REGISTRY""

"(II) in subparagraph (A)—

"(aa) by striking "By not later than January 1, 1989, the" and inserting "The";

"(bb) by striking "a registry of all individuals" and inserting "a registry of (I) all individuals"; and

"(cc) by inserting before the period ", and (II) all other nursing facility employees with respect to whom the State has made a finding described in subparagraph (B)";

"(III) in subparagraph (B), by striking "involving an individual listed in the registry" and inserting "involving a nursing facility employee"; and

"(IV) in subparagraph (C), by striking "nurse aide" and inserting "nursing facility employee or applicant for employment"; and "(ii) in subsection (g)(1)—

"(I) in subparagraph (C)—

"(aa) in the first sentence, by striking "nurse aide" and inserting "nursing facility employee"; and

"(bb) in the third sentence, by striking "nurse aide" each place it appears and inserting "nursing facility employee"; and

"(II) in subparagraph (D), by striking "nurse aide" each place it appears and inserting "nursing facility employee".

"(B) STATE AND FEDERAL REQUIREMENT TO CONDUCT BACKGROUND CHECKS.—Section 1919(e), as amended by section 2(a), is amended by adding at the end the following new paragraph:

"(9) STATE AND FEDERAL REQUIREMENTS CONCERNING CRIMINAL BACKGROUND CHECKS ON NURSING FACILITY EMPLOYEES.—

"(A) IN GENERAL.—Upon receipt of a request by a nursing facility pursuant to subsection (b)(9) that is accompanied by the information described in subclauses (II) through (IV) of subsection (b)(9)(A)(ii), a State, after checking appropriate State records and finding no disqualifying information (as defined in subsection (b)(9)(E)), shall submit such request and information to the Attorney General and shall request the Attorney General to conduct a search and exchange of records with respect to the individual as described in subparagraph (B).

"(B) SEARCH AND EXCHANGE OF RECORDS BY ATTORNEY GENERAL.—Upon receipt of a submission pursuant to subparagraph (A), the Attorney General shall direct a search of the records of the Federal Bureau of Investigation for any criminal history records corresponding to the fingerprints or other positive identification information submitted. The Attorney General shall provide any corresponding information resulting from the search to the State.

"(C) STATE REPORTING OF INFORMATION TO NURSING FACILITY.—Upon receipt of the information provided by the Attorney General pursuant to subparagraph (B), the State shall—

"(i) review the information to determine whether the individual has any conviction for a relevant crime (as defined in subsection (b)(9)(E)); and

"(iii) report to the nursing facility the results of such review.

"(D) FEES FOR PERFORMANCE OF CRIMINAL BACKGROUND CHECKS.—

"(i) AUTHORITY TO CHARGE FEES.—

"(I) ATTORNEY GENERAL.—The Attorney General may charge a fee to any State requesting a search and exchange of records pursuant to this paragraph and subsection (b)(9) for conducting the search and providing the records. The amount of such fee shall not exceed the lesser of the actual cost of such activities or $50. Such fees shall be available to the Attorney General, or, in the Attorney General's discretion, to the Federal Bureau of Investigation, until expended.

"(II) STATE.—A State may charge a nursing facility a fee for initiating the criminal background check under this paragraph and subsection (b)(9), including fees charged by the Attorney General, and for performing the review and report required by subparagraph (C). The amount of such fee shall not exceed the actual cost of such activities.

"(ii) TREATMENT OF FEES FOR PURPOSES OF COST REPORTS.—An entity may not include a fee assessed pursuant to this subparagraph as an allowable item on a cost report under this title or title XVIII.

"(iii) PROHIBITION ON CHARGING APPLICANTS OR EMPLOYEES.—An entity may not impose on an applicant for employment or an employee any charges relating to the performance of a background check under this paragraph.

"(E) REGULATIONS.—In addition to the Secretary's authority to promulgate regulations under this title, the Attorney General, in consultation with the Secretary, may promulgate such regulations as are necessary to carry out the Attorney General's responsibilities under this paragraph and subsection (b)(9), including regulations regarding the security, confidentiality, accuracy, use, destruction, and dissemination of information, audits and recordkeeping and the imposition of fees.

"(F) REPORT.—Not later than 2 years after the date of enactment of the "Long-Term Care Patient Protection Act of 1998", the Attorney General shall submit a report to Congress on the number of requests for searches and exchanges of records made under this section and the disposition of such requests.".

(2) MEDICARE PROGRAM.—

(A) EXPANSION OF STATE REGISTRY TO COLLECT INFORMATION ABOUT SKILLED NURSING FACILITY EMPLOYEES OTHER THAN NURSE AIDES.—Section 1819, as amended by section 2(b), is amended—

(i) in subsection (e)(2)—

(I) in the paragraph heading, by striking "NURSE AIDE REGISTRY" and inserting "SKILLED NURSING CARE EMPLOYEE REGISTRY";

(II) in subparagraph (A)—

(aa) by striking "By not later than January 1, 1989, the" and inserting "The";

(bb) by striking "a registry of all individuals" and inserting "a registry of (I) all individuals"; and

(cc) by inserting before the period ", and (II) all other skilled nursing facility employees with respect to whom the State has made a finding described in subparagraph (B)";

(III) in subparagraph (B), by striking "involving an individual listed in the registry" and inserting "involving a skilled nursing facility employee"; and

(IV) in subparagraph (C), by striking "nurse aide" and inserting "skilled nursing facility employee or applicant for employment"; and

(ii) in subsection (g)(1)—

(I) in subparagraph (C)—

(aa) in the first sentence, by striking "nurse aide" and inserting "skilled nursing facility employee"; and

(bb) in the third sentence, by striking "nurse aide" each place it appears and inserting "skilled nursing facility employee"; and

(II) in subparagraph (D), by striking "nurse aide" each place it appears and inserting "skilled nursing facility employee".

(B) STATE AND FEDERAL REQUIREMENT TO CONDUCT BACKGROUND CHECKS.—Section 1819(e), as amended by section 2(b), is amended by adding at the end the following new paragraph:

"(7) STATE AND FEDERAL REQUIREMENTS CONCERNING CRIMINAL BACKGROUND CHECKS ON SKILLED NURSING FACILITY EMPLOYEES.—

"(A) IN GENERAL.—Upon receipt of a request by a skilled nursing facility pursuant to subsection (b)(9) that is accompanied by the information described in subclauses (II) through (IV) of subsection (b)(9)(A)(ii), a State, after checking appropriate State records and finding no disqualifying information (as defined in subsection (b)(9)(E)), shall submit such request and information to the Attorney General and shall request the Attorney General to conduct a search and exchange of records with respect to the individual as described in subparagraph (B).

"(B) SEARCH AND EXCHANGE OF RECORDS BY ATTORNEY GENERAL.—Upon receipt of a submission pursuant to subparagraph (A), the Attorney General shall direct a search of the records of the Federal Bureau of Investigation for any criminal history records corresponding to the fingerprints or other positive identification information submitted. The Attorney General shall provide any corresponding information resulting from the search to the State.

"(C) STATE REPORTING OF INFORMATION TO NURSING FACILITY.—Upon receipt of the information provided by the Attorney General pursuant to subparagraph (B), the State shall—

"(i) review the information to determine whether the individual has any conviction for a relevant crime (as defined in subsection (b)(9)(E)); and

"(ii) report to the skilled nursing facility the results of such review.

"(D) FEES FOR PERFORMANCE OF CRIMINAL BACKGROUND CHECKS.—

"(i) AUTHORITY TO CHARGE FEES.—

"(I) ATTORNEY GENERAL.—The Attorney General may charge a fee to any State requesting a search and exchange of records pursuant to this paragraph and subsection (b)(9) for conducting the search and providing the records. The amount of such fee shall not exceed the lesser of the actual cost of such activities or $50. Such fees shall be available to the Attorney General, or, in the Attorney General's discretion, to the Federal Bureau of Investigation until expended.

"(II) STATE.—A State may charge a skilled nursing facility a fee for initiating the criminal background check under this paragraph and subsection (b)(9), including fees charged by the Attorney General, and for performing the review and report required by subparagraph (C). The amount of such fee shall not exceed the actual cost of such activities.

"(ii) TREATMENT OF FEES FOR PURPOSES OF COST REPORTS.—An entity may not include a fee assessed pursuant to this subparagraph as an allowable item on a cost report under this title or title XIX.

"(iii) PROHIBITION ON CHARGING APPLICANTS OR EMPLOYESS.—An entity may not impose on an applicant for employment or an employee any charges relating to the performance of a background check under this paragraph.

"(E) REGULATIONS.—In addition to the Secretary's authority to promulgate regulations under this title, the Attorney General, consultation with the Secretary, may promulgate such regulations as are necessary to carry out the Attorney General's responsibilities under this paragraph and subsection (b)(9), including regulations regarding the Security confidentiality, accuracy, use, destruction, and dissemination of information, audits and recordkeeping, and the imposition of fees.

"(F) REPORT.—Not later than 2 years after the date of enactment of the "Long-Term Care Patient Protection Act of 1998", the Attorney General shall submit a report to Congress on the number of requests for searches and exchanges of records made under this section and the disposition of such requests.".

"(c) ESTABLISHMENT OF NATIONAL REGISTRY OF ABUSIVE NURSING FACILITY WORKERS.—Title XI of the Social Security Act is amended by adding after section 1128E the following new section:

"NATIONAL REGISTRY OF ABUSIVE NURSING FACILITY WORKERS

"Sec. 1128F. (a) In General.—The Secretary shall establish a national data collection program for the reporting of information described in subsection (b), with access as set forth in subsection (c), and shall maintain a database of the information collected under the section.

"(b) Reporting of Information.—Each State shall report the information collected pursuant to sections 1819(e)(2)(B) and 1919(e)(2)(B) in such form and manner as the Secretary may prescribe by regulation.

"(c) Access to Reported Information.—

"(1) Availability.—The information in the database maintained under this section shall be available, pursuant to producers maintained under this section, to—

"(A) Federal and State Government agencies;

"(B) nursing facilities participating in the program under title XIX and skilled nursing facilities participating in a program under title XVIII; and

"(C) such other persons as the Secretary may specify by regulations,

but only for the purpose of determining the suitability for employment in a nursing facility or skilled nursing facility.

"(2) Information.—The information in the database shall be exempt from disclosure under 5 U.S.C. 552.

"(3) Fees for Disclosure.—

"(A) In general.—The Secretary may establish or approve reasonable fees for the disclosure of information in such data base. The amount of such a fee shall be sufficient to recover the full costs of operating the database. Such fees shall be available to the Secretary or, in the Secretary's discretion, to the agency designated under this section to cover such costs.

"(B) Availability of fees.—Fees collected pursuant to this subsection shall remain available until expended, in the amounts provided in appropriation acts, for necessary expenses related to the purposes for which the fees were assessed.

"(C) Treatment of fees for purposes of cost reports.—An entity may not include a fee assessed pursuant to this subsection as an allowable item on a cost report under this title or title XIX.

"(D) Prohibition on charging applicants or employees.—An entity may not impose on an applicant for employment or an employee any charges relating to the registry established and maintained under this section.".

SEC. 2. EFFECTIVE DATA.

The provisions of and amendments made by the Act shall be effective on and after the date of enactment, without regard to whether implementing regulations are in effect.

CARL D. PERKINS VOCATIONAL-TECHNICAL EDUCATION ACT AMENDMENTS—CONFERENCE REPORT

Mr. JEFFORDS. Mr. President, I submit a report of the committee of conference on the bill (H.R. 1853) to amend the Carl D. Perkins Vocational and Applied Technology Education Act, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1853), have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the Record of October 8, 1998.)

Mr. JEFFORDS. Mr. President, I will make a few comments on the vocational education bill at this time.

Today we are considering the reauthorization of the Carl D. Perkins Vocational and Applied Technology Education Act.

This is one of the most important proposals we will consider in the 105th Congress. In July, we passed the Workforce Investment Act. The reauthorization of vocational education is an important partner to the Workforce Investment Act.

There are presently between 200,000 and 300,000 unfilled positions in the technology field. The reason for the difficulty in filling these positions is not because of low unemployment numbers, but because of the lack of skilled workers. Many of these jobs do not require four years and plus of postsecondary education. They do require an excellent vocational education system and the ability to pursue further technical education following high school education.

One of the most fascinating facts to come out of the Senate Labor Committee's hearings on vocational education, was that Malaysia has replicated our Tech Prep model. Tech Prep was created in this country and we have many model Tech Prep Programs, but not as many as we should have. Malaysia realized Tech Prep was a key answer to improving their skilled workforce and they have put the resources behind it to make it very successful.

The 1998 vocational education reauthorization strengthens the Tech Prep program by emphasizing the importance of the business community as a partner with the education sector.

The United States is the most productive country in the world, but we are losing our edge to other industrialized nations such as Japan and Germany as well as other rapidly developing countries such as Taiwan, Korea, and China.

Over the past 25 years, the standard of living for those Americans without at least a 4 year postsecondary degree has plunged. In the next decade, we are in danger of being surpassed as the world's foremost economic power if we don't begin to redefine our priorities at the national, State, and local levels.

Our international competitors have been leaders in making the important connection between education and work.

Last year, a report released by the National Center for Research in Vocational Education, a report which I requested as part of the 1990 vocational education reauthorization, highlighted the importance of a cohesive partnership between educators and employers. Employers are active participants in the governance of work-related education and training in Australia, Great Britain, France, and Germany.

Another significant finding of the report was that European nations, such as the Netherlands and Denmark, are attempting to develop a technical education system that can serve as either a bridge to additional vocational training or pursuing college level courses.

This reauthorization package emphasizes the important balance between a strong academic background and a vocational and technical education system that reflects today's global economy.

The 1998 reauthorization also requires the States and local communities to set-up an accountability system which will give us a visual picture of how States and local communities are implementing vocational and technical education programs. Most importantly, how these programs are impacting vocational and technical education students.

I would like to thank my colleagues on the Senate Labor Committee and the staff, especially the Congressional Research Staff and the legislative counsel staff who have all put in countless hours on this bill which is an excellent foundation for the 21st century workforce.

I thank my colleagues on the Senate Labor Committee and the staff, especially the Congressional Research staff and the legislative counsel staff who all put in countless hours on this bill which is an excellent foundation for the 21st century workforce. I also commend the members of my committee, certainly, but also the Members of the House. We are bringing this to a close just at the end of the session. For a long period of time, it looked like we would not be here, but we are. I thank Chairman Goodling, in particular, and Congressman Buck McKeon for their tremendous help in bringing this to fruition.

Mr. KENNEDY. Mr. President, I strongly support this reauthorization of the Vocational Education Act, the Carl Perkins Vocational and Applied Technology Education Amendments of 1998. This bill, along with the Workforce Investment Act passed earlier this year, are important steps to improve the quality of the Nation's workforce. Well-educated and well-trained workers are essential for the Nation's future. As students prepare to enter the workforce, they should have a variety of choices, and this bill gives it to them.

It encourages more effective integration of academic skills and job skills. It helps school districts form partnerships with community colleges, area technical schools, and businesses of all sizes to combine quality academic instruction with real-world work experiences. These partnerships will provide internships, apprenticeships, and practical job experience that will teach students about many difficult aspects of the world of work.

It also encourages schools to use state-of-the-art techniques and equipment in teaching, so that students are offered challenging courses, and so that graduates can continue their education or enter the workforce better prepared for good careers.

States are also guaranteed a greater flexibility in providing funds to local schools to improve their vocational and technical education programs.

The Perkins Act has had a highly positive effect on the quality of vocational education across the Nation. Its goal is to encourage innovation and ensure fairer opportunities for all students—especially those who have historically been denied access to high-level careers, and have suffered the most from the inequities in the job market.

The bill also recognizes the importance of preparing students and trainees for nontraditional employment. Supporting these underserved populations is increasingly important if we are to meet the demands of the 21st century economy.

Finally, this legislation retains our commitment to the important role of gender equity in vocational education. Gender equity issues must continue to be part of every State's priority. Every student should be convinced that good careers are not out of reach because of such discrimination. Vocational education must expand opportunities, not restrict them.

Overall, this legislation enables the Nation to move forward in all of these important ways. I urge the Senate to support it, and I'm confident it will be effective in bringing us closer to the goals we share for vocational education in the years ahead.

Mr. JEFFORDS. I ask unanimous consent that all time be yielded back on the conference report to accompany H.R. 1853, the vocational education bill. I further ask that the conference report be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the conference report appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The conference report was agreed to.

REDESIGNATING THE UNITED STATES CAPITOL POLICE HEADQUARTERS BUILDING THE "ENEY, CHESTNUT, GIBSON MEMORIAL BUILDING"

Mr. JEFFORDS. I ask unanimous consent that the Rules Committee be discharged from further consideration S. Con. Res. 120, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 120) to redesignate the United States Capitol Police headquarters building located at 119 D Street, Northeast, Washington, DC, as the "Eney, Chestnut, Gibson Memorial Building."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. JEFFORDS. I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, that the motion to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 120) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, is as follows:

S. CON. RES. 120

Whereas the United States Capitol Police force has protected the Capitol and upheld the beacon of democracy in America;

Whereas 3 officers of the United States Capitol Police have lost their lives in the line of duty;

Whereas Sgt. Christopher Eney was killed on August 24, 1984, during a training exercise;

Whereas officer Jacob "J.J." Chestnut was killed on July 24, 1998, while guarding his post at the Capitol; and

Whereas Detective John Gibson was killed on July 24, 1998, while protecting the lives of visitors, staff, and the Office of the Majority Whip of the House of Representatives: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the United States Capitol Police headquarters building located at 119 D Street, Northeast, Washington, D.C., shall be known and designated as the "Eney, Chestnut, Gibson Memorial Building".

VITIATION OF PASSAGE OF S. 777

Mr. JEFFORDS. I ask unanimous consent that Senate passage of S. 777 be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be returned to the calendar.

NONCITIZEN BENEFIT CLARIFICATION AND OTHER TECHNICAL AMENDMENTS ACT OF 1998

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4558, just received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4558) to make technical amendments to clarify the provision of benefits for noncitizens, and to improve the provision of unemployment insurance, child support, and supplemental security income benefits.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. ROTH. Mr. President, the bill now before the Senate contains seven technical amendments. Although each provision may seem minor, every one serves a larger, more important purpose. Also, as I will describe, the legislation is time sensitive, which is why the Senate is considering this bill in an expedited manner. Let me also note that the bill has bipartisan support and passed the House on a voice vote on September 23rd. Also, the small cost of the bill is fully paid for.

The first provision would ensure that every elderly or disabled noncitizen dependent on SSI and Medicaid benefits when welfare reform was enacted in August 1996 will remain eligible. The Balanced Budget Act of 1997 grandfathered most legal aliens receiving SSI. However, at that time, a small number—about 22,000—received only a temporary extension, until September 30, 1998, pending a study of their legal status. That issue has been largely resolved, and this provision would complete the work of BBA.

The bill also makes a number of common sense changes that encourage work and personal responsibility in several programs under the jurisdiction of the Finance Committee.

Finally, I would like to highlight an important humanitarian provision in this legislation. Many Members are undoubtedly aware of the Make-A-Wish Foundation and similar organizations that help fulfill the dreams of children with life-threatening or terminal illnesses. For example, the child with cancer who gets a trip to Disney World. Yet, a sick child could lose SSI and Medicaid benefits if the cash value of their "wish" exceed current law income limits. This bill would fix that problem.

I urge the support of all Members of this legislation.

Mr JEFFORDS. I ask unanimous consent the bill be considered read the third time and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4558) was deemed read the third time and passed.

CRIME IDENTIFICATION TECHNOLOGY ACT OF 1998

Mr. JEFFORDS. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on the bill (S. 2022) to provide for the improvement of interstate criminal justice identification, information, communications, and forensics.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2022) entitled "An Act to provide for the improvement of interstate criminal justice identification, information, communications, and forensics", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Table of contents.

TITLE I—CRIME IDENTIFICATION TECHNOLOGY ACT OF 1998

Sec. 101. Short title.
Sec. 102. State grant program for criminal justice identification, information, and communication.

TITLE II—NATIONAL CRIMINAL HISTORY ACCESS AND CHILD PROTECTION ACT

Sec. 201. Short title.

Subtitle A—Exchange of Criminal History Records for Noncriminal Justice Purposes

Sec. 211. Short title.
Sec. 212. Findings.
Sec. 213. Definitions.
Sec. 214. Enactment and consent of the United States.
Sec. 215. Effect on other laws.
Sec. 216. Enforcement and implementation.
Sec. 217. National Crime Prevention and Privacy Compact.

OVERVIEW

ARTICLE I—DEFINITIONS

ARTICLE II—PURPOSES

ARTICLE III—RESPONSIBILITIES OF COMPACT PARTIES

ARTICLE IV—AUTHORIZED RECORD DISCLOSURES

ARTICLE V—RECORD REQUEST PROCEDURES

ARTICLE VI—ESTABLISHMENT OF COMPACT COUNCIL

ARTICLE VII—RATIFICATION OF COMPACT

ARTICLE VIII—MISCELLANEOUS PROVISIONS

ARTICLE IX—RENUNCIATION

ARTICLE X—SEVERABILITY

ARTICLE XI—ADJUDICATION OF DISPUTES

Subtitle B—Volunteers for Children Act

Sec. 221. Short title.
Sec. 222. Facilitation of fingerprint checks.

TITLE I—CRIME IDENTIFICATION TECHNOLOGY ACT OF 1998

SEC. 101. SHORT TITLE.

This title may be cited as the "Crime Identification Technology Act of 1998".

SEC. 102. STATE GRANT PROGRAM FOR CRIMINAL JUSTICE IDENTIFICATION, INFORMATION, AND COMMUNICATION.

(a) In General.—Subject to the availability of amounts provided in advance in appropriations Acts, the Office of Justice Programs relying principally on the expertise of the Bureau of Justice Statistics shall make a grant to each State, in a manner consistent with the national criminal history improvement program, which shall be used by the State, in conjunction with units of local government, State and local courts, other States, or combinations thereof, to establish or upgrade an integrated approach to develop information and identification technologies and systems to—

(1) upgrade criminal history and criminal justice record systems, including systems operated by law enforcement agencies and courts;

(2) improve criminal justice identification;

(3) promote compatibility and integration of national, State, and local systems for—

(A) criminal justice purposes;

(B) firearms eligibility determinations;

(C) identification of sexual offenders;

(D) identification of domestic violence offenders; and

(E) background checks for other authorized purposes unrelated to criminal justice; and

(4) capture information for statistical and research purposes to improve the administration of criminal justice.

(b) Use of Grant Amounts.—Grants under this section may be used for programs to establish, develop, update, or upgrade—

(1) State centralized, automated, adult and juvenile criminal history record information systems, including arrest and disposition reporting;

(2) automated fingerprint identification systems that are compatible with standards established by the National Institute of Standards and Technology and interoperable with the Integrated Automated Fingerprint Identification System (IAFIS) of the Federal Bureau of Investigation;

(3) finger imaging, live scan, and other automated systems to digitize fingerprints and to communicate prints in a manner that is compatible with standards established by the National Institute of Standards and Technology and interoperable with systems operated by States and by the Federal Bureau of Investigation;

(4) programs and systems to facilitate full participation in the Interstate Identification Index of the National Crime Information Center;

(5) systems to facilitate full participation in any compact relating to the Interstate Identification Index of the National Crime Information Center;

(6) systems to facilitate full participation in the national instant criminal background check system established under section 103(b) of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note) for firearms eligibility determinations;

(7) integrated criminal justice information systems to manage and communicate criminal justice information among law enforcement agencies, courts, prosecutors, and corrections agencies;

(8) noncriminal history record information systems relevant to firearms eligibility determinations for availability and accessibility to the national instant criminal background check system established under section 103(b) of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note);

(9) court-based criminal justice information systems that promote—

(A) reporting of dispositions to central State repositories and to the Federal Bureau of Investigation; and

(B) compatibility with, and integration of, court systems with other criminal justice information systems;

(10) ballistics identification and information programs that are compatible and integrated with the National Integrated Ballistics Network (NIBN);

(11) the capabilities of forensic science programs and medical examiner programs related to the administration of criminal justice, including programs leading to accreditation or certification of individuals or departments, agencies, or laboratories, and programs relating to the identification and analysis of deoxyribonucleic acid;

(12) sexual offender identification and registration systems;

(13) domestic violence offender identification and information systems;

(14) programs for fingerprint-supported background checks capability for noncriminal justice purposes, including youth service employees and volunteers and other individuals in positions of responsibility, if authorized by Federal or State law and administered by a Government agency;

(15) criminal justice information systems with a capacity to provide statistical and research products including incident-based reporting systems that are compatible with the National Incident-Based Reporting System (NIBRS) and uniform crime reports; and

(16) multiagency, multijurisdictional communications systems among the States to share routine and emergency information among Federal, State, and local law enforcement agencies.

(c) Assurances.—

(1) In General.—To be eligible to receive a grant under this section, a State shall provide assurances to the Attorney General that the State has the capability to contribute pertinent information to the national instant criminal background check system established under section 103(b) of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note).

(2) Information Sharing.—Such assurances shall include a provision that ensures that a statewide strategy for information sharing systems is underway, or will be initiated, to improve the functioning of the criminal justice system, with an emphasis on integration of all criminal justice components, law enforcement, courts, prosecution, corrections, and probation and parole. The strategy shall be prepared after consultation with State and local officials with emphasis on the recommendation of officials whose duty it is to oversee, plan, and implement integrated information technology systems, and shall contain—

(A) a definition and analysis of "integration" in the State and localities developing integrated information sharing systems;

(B) an assessment of the criminal justice resources being devoted to information technology;

(C) Federal, State, regional, and local information technology coordination requirements;

(D) an assurance that the individuals who developed the grant application took into consideration the needs of all branches of the State Government and specifically sought the advice of the chief of the highest court of the State with respect to the application;

(E) State and local resource needs;

(F) the establishment of statewide priorities for planning and implementation of information technology systems; and

(G) a plan for coordinating the programs funded under this title with other federally funded information technology programs, including directly funded local programs such as the Local Law Enforcement Block Grant program (described under the heading 'Violent Crime Reduction Programs, State and Local Law Enforcement Assistance' of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (Public Law 105–119)) and the M.O.R.E. program established pursuant to part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968.

(d) Matching Funds.—The Federal share of a grant received under this title may not exceed 90 percent of the costs of a program or proposal funded under this title unless the Attorney General waives, wholly or in part, the requirements of this subsection.

(e) Authorization of Appropriations.—

(1) In General.—There is authorized to be appropriated to carry out this section $250,000,000 for each of fiscal years 1999 through 2003.

(2) Limitations.—Of the amount made available to carry out this section in any fiscal year—

(A) not more than 3 percent may be used by the Attorney General for salaries and administrative expenses;

(B) not more than 5 percent may be used for technical assistance, training and evaluations, and studies commissioned by Bureau of Justice Statistics of the Department of Justice (through discretionary grants or otherwise) in furtherance of the purposes of this section;

(C) not less than 20 percent shall be used by the Attorney General for the purposes described in paragraph (11) of subsection (b); and

(D) the Attorney General shall ensure the amounts are distributed on an equitable geographic basis.

(f) GRANTS TO INDIAN TRIBES.—Notwithstanding any other provision of this section, the Attorney General may use amounts made available under this section to make grants to Indian tribes for use in accordance with this section.

TITLE II—NATIONAL CRIMINAL HISTORY ACCESS AND CHILD PROTECTION ACT

SEC. 201. SHORT TITLE.

This title may be cited as the "National Criminal History Access and Child Protection Act".

Subtitle A—Exchange of Criminal History Records for Noncriminal Justice Purposes

SEC. 211. SHORT TITLE.

This subtitle may be cited as the "National Crime Prevention and Privacy Compact Act of 1998".

SEC. 212. FINDINGS.

Congress finds that—

(1) both the Federal Bureau of Investigation and State criminal history record repositories maintain fingerprint-based criminal history records;

(2) these criminal history records are shared and exchanged for criminal justice purposes through a Federal-State program known as the Interstate Identification Index System;

(3) although these records are also exchanged for legally authorized, noncriminal justice uses, such as governmental licensing and employment background checks, the purposes for and procedures by which they are exchanged vary widely from State to State;

(4) an interstate and Federal-State compact is necessary to facilitate authorized interstate criminal history record exchanges for noncriminal justice purposes on a uniform basis, while permitting each State to effectuate its own dissemination policy within its own borders; and

(5) such a compact will allow Federal and State records to be provided expeditiously to governmental and nongovernmental agencies that use such records in accordance with pertinent Federal and State law, while simultaneously enhancing the accuracy of the records and safeguarding the information contained therein from unauthorized disclosure or use.

SEC. 213. DEFINITIONS.

In this subtitle:

(1) ATTORNEY GENERAL.—The term "Attorney General" means the Attorney General of the United States.

(2) COMPACT.—The term "Compact" means the National Crime Prevention and Privacy Compact set forth in section 217.

(3) COUNCIL.—The term "Council" means the Compact Council established under Article VI of the Compact.

(4) FBI.—The term "FBI" means the Federal Bureau of Investigation.

(5) PARTY STATE.—The term "Party State" means a State that has ratified the Compact.

(6) STATE.—The term "State" means any State, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 214. ENACTMENT AND CONSENT OF THE UNITED STATES.

The National Crime Prevention and Privacy Compact, as set forth in section 217, is enacted into law and entered into by the Federal Government. The consent of Congress is given to States to enter into the Compact.

SEC. 215. EFFECT ON OTHER LAWS.

(a) PRIVACY ACT OF 1974.—Nothing in the Compact shall affect the obligations and responsibilities of the FBI under section 552a of title 5, United States Code (commonly known as the "Privacy Act of 1974").

(b) ACCESS TO CERTAIN RECORDS NOT AFFECTED.—Nothing in the Compact shall interfere in any manner with—

(1) access, direct or otherwise, to records pursuant to—

(A) section 9101 of title 5, United States Code;

(B) the National Child Protection Act;

(C) the Brady Handgun Violence Prevention Act (Public Law 103–159; 107 Stat. 1536);

(D) the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322; 108 Stat. 2074) or any amendment made by that Act;

(E) the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.); or

(F) the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.); or

(2) any direct access to Federal criminal history records authorized by law.

(c) AUTHORITY OF FBI UNDER DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATION ACT, 1973.—Nothing in the Compact shall be construed to affect the authority of the FBI under the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973 (Public Law 92–544 (86 Stat. 1115)).

(d) FEDERAL ADVISORY COMMITTEE ACT.—The Council shall not be considered to be a Federal advisory committee for purposes of the Federal Advisory Committee Act (5 U.S.C. App.).

(e) MEMBERS OF COUNCIL NOT FEDERAL OFFICERS OR EMPLOYEES.—Members of the Council (other than a member from the FBI or any at-large member who may be a Federal official or employee) shall not, by virtue of such membership, be deemed—

(1) to be, for any purpose other than to effect the Compact, officers or employees of the United States (as defined in sections 2104 and 2105 of title 5, United States Code); or

(2) to become entitled by reason of Council membership to any compensation or benefit payable or made available by the Federal Government to its officers or employees.

SEC. 216. ENFORCEMENT AND IMPLEMENTATION.

All departments, agencies, officers, and employees of the United States shall enforce the Compact and cooperate with one another and with all Party States in enforcing the Compact and effectuating its purposes. For the Federal Government, the Attorney General shall make such rules, prescribe such instructions, and take such other actions as may be necessary to carry out the Compact and this subtitle.

SEC. 217. NATIONAL CRIME PREVENTION AND PRIVACY COMPACT.

The Contracting Parties agree to the following:

OVERVIEW

(a) IN GENERAL.—This Compact organizes an electronic information sharing system among the Federal Government and the States to exchange criminal history records for noncriminal justice purposes authorized by Federal or State law, such as background checks for governmental licensing and employment.

(b) OBLIGATIONS OF PARTIES.—Under this Compact, the FBI and the Party States agree to maintain detailed databases of their respective criminal history records, including arrests and dispositions, and to make them available to the Federal Government and to Party States for authorized purposes. The FBI shall also manage the Federal data facilities that provide a significant part of the infrastructure for the system.

ARTICLE I—DEFINITIONS

In this Compact:

(1) ATTORNEY GENERAL.—The term "Attorney General" means the Attorney General of the United States;

(2) COMPACT OFFICER.—The term "Compact officer" means—

(A) with respect to the Federal Government, an official so designated by the Director of the FBI; and

(B) with respect to a Party State, the chief administrator of the State's criminal history record repository or a designee of the chief administrator who is a regular full-time employee of the repository.

(3) COUNCIL.—The term "Council" means the Compact Council established under Article VI.

(4) CRIMINAL HISTORY RECORDS.—The term "criminal history records"—

(A) means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, or other formal criminal charges, and any disposition arising therefrom, including acquittal, sentencing, correctional supervision, or release; and

(B) does not include identification information such as fingerprint records if such information does not indicate involvement of the individual with the criminal justice system.

(5) CRIMINAL HISTORY RECORD REPOSITORY.—The term "criminal history record repository" means the State agency designated by the Governor or other appropriate executive official or the legislature of a State to perform centralized recordkeeping functions for criminal history records and services in the State.

(6) CRIMINAL JUSTICE.—The term "criminal justice" includes activities relating to the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice includes criminal identification activities and the collection, storage, and dissemination of criminal history records.

(7) CRIMINAL JUSTICE AGENCY.—The term "criminal justice agency"—

(A) means—

(i) courts; and

(ii) a governmental agency or any subunit thereof that—

(I) performs the administration of criminal justice pursuant to a statute or Executive order; and

(II) allocates a substantial part of its annual budget to the administration of criminal justice; and

(B) includes Federal and State inspectors general offices.

(8) CRIMINAL JUSTICE SERVICES.—The term "criminal justice services" means services provided by the FBI to criminal justice agencies in response to a request for information about a particular individual or as an update to information previously provided for criminal justice purposes.

(9) CRITERION OFFENSE.—The term "criterion offense" means any felony or misdemeanor offense not included on the list of nonserious offenses published periodically by the FBI.

(10) DIRECT ACCESS.—The term "direct access" means access to the National Identification Index by computer terminal or other automated means not requiring the assistance of or intervention by any other party or agency.

(11) EXECUTIVE ORDER.—The term "Executive order" means an order of the President of the United States or the chief executive officer of a State that has the force of law and that is promulgated in accordance with applicable law.

(12) FBI.—The term "FBI" means the Federal Bureau of Investigation.

(13) INTERSTATE IDENTIFICATION SYSTEM.—The term "Interstate Identification Index System" or "III System"—

(A) means the cooperative Federal-State system for the exchange of criminal history records; and

(B) includes the National Identification Index, the National Fingerprint File and, to the extent of their participation in such system, the criminal history record repositories of the States and the FBI.

(14) NATIONAL FINGERPRINT FILE.—The term "National Fingerprint File" means a database of fingerprints, or other uniquely personal identifying information, relating to an arrested or charged individual maintained by the FBI to provide positive identification of record subjects indexed in the III System.

(15) NATIONAL IDENTIFICATION INDEX.—The term "National Identification Index" means an index maintained by the FBI consisting of names, identifying numbers, and other descriptive information relating to record subjects about whom there are criminal history records in the III System.

(16) NATIONAL INDICES.—The term "National indices" means the National Identification Index and the National Fingerprint File.

(17) NONPARTY STATE.—The term "Nonparty State" means a State that has not ratified this Compact.

(18) NONCRIMINAL JUSTICE PURPOSES.—The term "noncriminal justice purposes" means uses of criminal history records for purposes authorized by Federal or State law other than purposes relating to criminal justice activities, including employment suitability, licensing determinations, immigration and naturalization matters, and national security clearances.

(19) PARTY STATE.—The term "Party State" means a State that has ratified this Compact.

(20) POSITIVE IDENTIFICATION.—The term "positive identification" means a determination, based upon a comparison of fingerprints or other equally reliable biometric identification techniques, that the subject of a record search is the same person as the subject of a criminal history record or records indexed in the III System. Identifications based solely upon a comparison of subjects' names or other nonunique identification characteristics or numbers, or combinations thereof, shall not constitute positive identification.

(21) SEALED RECORD INFORMATION.—The term "sealed record information" means—

(A) with respect to adults, that portion of a record that is—

(i) not available for criminal justice uses;

(ii) not supported by fingerprints or other accepted means of positive identification; or

(iii) subject to restrictions on dissemination for noncriminal justice purposes pursuant to a court order related to a particular subject or pursuant to a Federal or State statute that requires action on a sealing petition filed by a particular record subject; and

(B) with respect to juveniles, whatever each State determines is a sealed record under its own law and procedure.

(22) STATE.—The term "State" means any State, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

ARTICLE II—PURPOSES

The purposes of this Compact are to—

(1) provide a legal framework for the establishment of a cooperative Federal-State system for the interstate and Federal-State exchange of criminal history records for noncriminal justice uses;

(2) require the FBI to permit use of the National Identification Index and the National Fingerprint File by each Party State, and to provide, in a timely fashion, Federal and State criminal history records to requesting States, in accordance with the terms of this Compact and with rules, procedures, and standards established by the Council under Article VI;

(3) require Party States to provide information and records for the National Identification Index and the National Fingerprint File and to provide criminal history records, in a timely fashion, to criminal history record repositories of other States and the Federal Government for noncriminal justice purposes, in accordance with the terms of this Compact and with rules, procedures, and standards established by the Council under Article VI;

(4) provide for the establishment of a Council to monitor III System operations and to prescribe system rules and procedures for the effective and proper operation of the III System for noncriminal justice purposes; and

(5) require the FBI and each Party State to adhere to III System standards concerning record dissemination and use, response times, system security, data quality, and other duly established standards, including those that enhance the accuracy and privacy of such records.

ARTICLE III—RESPONSIBILITIES OF COMPACT PARTIES

(a) FBI RESPONSIBILITIES.—The Director of the FBI shall—

(1) appoint an FBI Compact officer who shall—

(A) administer this Compact within the Department of Justice and among Federal agencies and other agencies and organizations that submit search requests to the FBI pursuant to Article V(c);

(B) ensure that Compact provisions and rules, procedures, and standards prescribed by the Council under Article VI are complied with by the Department of Justice and the Federal agencies and other agencies and organizations referred to in Article III(1)(A); and

(C) regulate the use of records received by means of the III System from Party States when such records are supplied by the FBI directly to other Federal agencies;

(2) provide to Federal agencies and to State criminal history record repositories, criminal history records maintained in its database for the noncriminal justice purposes described in Article IV, including—

(A) information from Nonparty States; and

(B) information from Party States that is available from the FBI through the III System, but is not available from the Party State through the III System;

(3) provide a telecommunications network and maintain centralized facilities for the exchange of criminal history records for both criminal justice purposes and the noncriminal justice purposes described in Article IV, and ensure that the exchange of such records for criminal justice purposes has priority over exchange for noncriminal justice purposes; and

(4) modify or enter into user agreements with Nonparty State criminal history record repositories to require them to establish record request procedures conforming to those prescribed in Article V.

(b) STATE RESPONSIBILITIES.—Each Party State shall—

(1) appoint a Compact officer who shall—

(A) administer this Compact within that State;

(B) ensure that Compact provisions and rules, procedures, and standards established by the Council under Article VI are complied with in the State; and

(C) regulate the in-State use of records received by means of the III System from the FBI or from other Party States;

(2) establish and maintain a criminal history record repository, which shall provide—

(A) information and records for the National Identification Index and the National Fingerprint File; and

(B) the State's III System-indexed criminal history records for noncriminal justice purposes described in Article IV;

(3) participate in the National Fingerprint File; and

(4) provide and maintain telecommunications links and related equipment necessary to support the services set forth in this Compact.

(c) COMPLIANCE WITH III SYSTEM STANDARDS.—In carrying out their responsibilities under this Compact, the FBI and each Party State shall comply with III System rules, procedures, and standards duly established by the Council concerning record dissemination and use, response times, data quality, system security, accuracy, privacy protection, and other aspects of III System operation.

(d) MAINTENANCE OF RECORD SERVICES.—

(1) Use of the III System for noncriminal justice purposes authorized in this Compact shall be managed so as not to diminish the level of services provided in support of criminal justice purposes.

(2) Administration of Compact provisions shall not reduce the level of service available to authorized noncriminal justice users on the effective date of this Compact.

ARTICLE IV—AUTHORIZED RECORD DISCLOSURES

(a) STATE CRIMINAL HISTORY RECORD REPOSITORIES.—To the extent authorized by section 552a of title 5, United States Code (commonly known as the "Privacy Act of 1974"), the FBI shall provide on request criminal history records (excluding sealed records) to State criminal history record repositories for noncriminal justice purposes allowed by Federal statute, Federal Executive order, or a State statute that has been approved by the Attorney General and that authorizes national indices checks.

(b) CRIMINAL JUSTICE AGENCIES AND OTHER GOVERNMENTAL OR NONGOVERNMENTAL AGENCIES.—The FBI, to the extent authorized by section 552a of title 5, United States Code (commonly known as the "Privacy Act of 1974"), and State criminal history record repositories shall provide criminal history records (excluding sealed records) to criminal justice agencies and other governmental or nongovernmental agencies for noncriminal justice purposes allowed by Federal statute, Federal Executive order, or a State statute that has been approved by the Attorney General, that authorizes national indices checks.

(c) PROCEDURES.—Any record obtained under this Compact may be used only for the official purposes for which the record was requested. Each Compact officer shall establish procedures, consistent with this Compact, and with rules, procedures, and standards established by the Council under Article VI, which procedures shall protect the accuracy and privacy of the records, and shall—

(1) ensure that records obtained under this Compact are used only by authorized officials for authorized purposes;

(2) require that subsequent record checks are requested to obtain current information whenever a new need arises; and

(3) ensure that record entries that may not legally be used for a particular noncriminal justice purpose are deleted from the response and, if no information authorized for release remains, an appropriate "no record" response is communicated to the requesting official.

ARTICLE V—RECORD REQUEST PROCEDURES

(a) POSITIVE IDENTIFICATION.—Subject fingerprints or other approved forms of positive identification shall be submitted with all requests for

criminal history record checks for noncriminal justice purposes.

(b) Submission of State Requests.—Each request for a criminal history record check utilizing the national indices made under any approved State statute shall be submitted through that State's criminal history record repository. A State criminal history record repository shall process an interstate request for noncriminal justice purposes through the national indices only if such request is transmitted through another State criminal history record repository or the FBI.

(c) Submission of Federal Requests.—Each request for criminal history record checks utilizing the national indices made under Federal authority shall be submitted through the FBI or, if the State criminal history record repository consents to process fingerprint submissions, through the criminal history record repository in the State in which such request originated. Direct access to the National Identification Index by entities other than the FBI and State criminal history records repositories shall not be permitted for noncriminal justice purposes.

(d) Fees.—A State criminal history record repository or the FBI—

(1) may charge a fee, in accordance with applicable law, for handling a request involving fingerprint processing for noncriminal justice purposes; and

(2) may not charge a fee for providing criminal history records in response to an electronic request for a record that does not involve a request to process fingerprints.

(e) Additional Search.—

(1) If a State criminal history record repository cannot positively identify the subject of a record request made for noncriminal justice purposes, the request, together with fingerprints or other approved identifying information, shall be forwarded to the FBI for a search of the national indices.

(2) If, with respect to an request forwarded by a State criminal history record repository under paragraph (1), the FBI positively identifies the subject as having a III System-indexed record or records—

(A) the FBI shall so advise the State criminal history record repository; and

(B) the State criminal history record repository shall be entitled to obtain the additional criminal history record information from the FBI or other State criminal history record repositories.

ARTICLE VI—ESTABLISHMENT OF COMPACT COUNCIL

(a) Establishment.—

(1) In general.—There is established a council to be known as the "Compact Council", which shall have the authority to promulgate rules and procedures governing the use of the III System for noncriminal justice purposes, not to conflict with FBI administration of the III System for criminal justice purposes.

(2) Organization.—The Council shall—

(A) continue in existence as long as this Compact remains in effect;

(B) be located, for administrative purposes, within the FBI; and

(C) be organized and hold its first meeting as soon as practicable after the effective date of this Compact.

(b) Membership.—The Council shall be composed of 15 members, each of whom shall be appointed by the Attorney General, as follows:

(1) Nine members, each of whom shall serve a 2-year term, who shall be selected from among the Compact officers of Party States based on the recommendation of the Compact officers of all Party States, except that, in the absence of the requisite number of Compact officers available to serve, the chief administrators of the criminal history record repositories of Nonparty States shall be eligible to serve on an interim basis.

(2) Two at-large members, nominated by the Director of the FBI, each of whom shall serve a 3-year term, of whom—

(A) 1 shall be a representative of the criminal justice agencies of the Federal Government and may not be an employee of the FBI; and

(B) 1 shall be a representative of the noncriminal justice agencies of the Federal Government.

(3) Two at-large members, nominated by the Chairman of the Council, once the Chairman is elected pursuant to Article VI(c), each of whom shall serve a 3-year term, of whom—

(A) 1 shall be a representative of State or local criminal justice agencies; and

(B) 1 shall be a representative of State or local noncriminal justice agencies.

(4) One member, who shall serve a 3-year term, and who shall simultaneously be a member of the FBI's advisory policy board on criminal justice information services, nominated by the membership of that policy board.

(5) One member, nominated by the Director of the FBI, who shall serve a 3-year term, and who shall be an employee of the FBI.

(c) Chairman and Vice Chairman.—

(1) In general.—From its membership, the Council shall elect a Chairman and a Vice Chairman of the Council, respectively. Both the Chairman and Vice Chairman of the Council—

(A) shall be a Compact officer, unless there is no Compact officer on the Council who is willing to serve, in which case the Chairman may be an at-large member; and

(B) shall serve a 2-year term and may be reelected to only 1 additional 2-year term.

(2) Duties of Vice Chairman.—The Vice Chairman of the Council shall serve as the Chairman of the Council in the absence of the Chairman.

(d) Meetings.—

(1) In general.—The Council shall meet a least once each year at the call of the Chairman. Each meeting of the Council shall be open to the public. The Council shall provide prior public notice in the Federal Register of each meeting of the Council, including the matters to be addressed at such meeting.

(2) Quorum.—A majority of the Council or any committee of the Council shall constitute a quorum of the Council or of such committee, respectively, for the conduct of business. A lesser number may meet to hold hearings, take testimony, or conduct any business not requiring a vote.

(e) Rules, Procedures, and Standards.—The Council shall make available for public inspection and copying at the Council office within the FBI, and shall publish in the Federal Register, any rules, procedures, or standards established by the Council.

(f) Assistance From FBI.—The Council may request from the FBI such reports, studies, statistics, or other information or materials as the Council determines to be necessary to enable the Council to perform its duties under this Compact. The FBI, to the extent authorized by law, may provide such assistance or information upon such a request.

(g) Committees.—The Chairman may establish committees as necessary to carry out this Compact and may prescribe their membership, responsibilities, and duration.

ARTICLE VII—RATIFICATION OF COMPACT

This Compact shall take effect upon being entered into by 2 or more States as between those States and the Federal Government. Upon subsequent entering into this Compact by additional States, it shall become effective among those States and the Federal Government and each Party State that has previously ratified it. When ratified, this Compact shall have the full force and effect of law within the ratifying jurisdictions. The form of ratification shall be in accordance with the laws of the executing State.

ARTICLE VIII—MISCELLANEOUS PROVISIONS

(a) Relation of Compact to Certain FBI Activities.—Administration of this Compact shall not interfere with the management and control of the Director of the FBI over the FBI's collection and dissemination of criminal history records and the advisory function of the FBI's advisory policy board chartered under the Federal Advisory Committee Act (5 U.S.C. App.) for all purposes other than noncriminal justice.

(b) No Authority for Nonappropriated Expenditures.—Nothing in this Compact shall require the FBI to obligate or expend funds beyond those appropriated to the FBI.

(c) Relating to Public Law 92–544.—Nothing in this Compact shall diminish or lessen the obligations, responsibilities, and authorities of any State, whether a Party State or a Nonparty State, or of any criminal history record repository or other subdivision or component thereof, under the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973 (Public Law 92–544), or regulations and guidelines promulgated thereunder, including the rules and procedures promulgated by the Council under Article VI(a), regarding the use and dissemination of criminal history records and information.

ARTICLE IX—RENUNCIATION

(a) In General.—This Compact shall bind each Party State until renounced by the Party State.

(b) Effect.—Any renunciation of this Compact by a Party State shall—

(1) be effected in the same manner by which the Party State ratified this Compact; and

(2) become effective 180 days after written notice of renunciation is provided by the Party State to each other Party State and to the Federal Government.

ARTICLE X—SEVERABILITY

The provisions of this Compact shall be severable, and if any phrase, clause, sentence, or provision of this Compact is declared to be contrary to the constitution of any participating State, or to the Constitution of the United States, or the applicability thereof to any Government, agency, person, or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any Government, agency, person, or circumstance shall not be affected thereby. If a portion of this Compact is held contrary to the constitution of any Party State, all other portions of this Compact shall remain in full force and effect as to the remaining Party States and in full force and effect as to the Party State affected, as to all other provisions.

ARTICLE XI—ADJUDICATION OF DISPUTES

(a) In General.—The Council shall—

(1) have initial authority to make determinations with respect to any dispute regarding—

(A) interpretation of this Compact;

(B) any rule or standard established by the Council pursuant to Article V; and

(C) any dispute or controversy between any parties to this Compact; and

(2) hold a hearing concerning any dispute described in paragraph (1) at a regularly scheduled meeting of the Council and only render a decision based upon a majority vote of the members of the Council. Such decision shall be published pursuant to the requirements of Article VI(e).

(b) Duties of FBI.—The FBI shall exercise immediate and necessary action to preserve the integrity of the III System, maintain system policy and standards, protect the accuracy and privacy of records, and to prevent abuses, until the Council holds a hearing on such matters.

(c) RIGHT OF APPEAL.—The FBI or a Party State may appeal any decision of the Council to the Attorney General, and thereafter may file suit in the appropriate district court of the United States, which shall have original jurisdiction of all cases or controversies arising under this Compact. Any suit arising under this Compact and initiated in a State court shall be removed to the appropriate district court of the United States in the manner provided by section 1446 of title 28, United States Code, or other statutory authority.

Subtitle B—Volunteers for Children Act

SEC. 221. SHORT TITLE.

This subtitle may be cited as the "Volunteers for Children Act".

SEC. 222. FACILITATION OF FINGERPRINT CHECKS.

(a) STATE AGENCY.—Section 3(a) of the National Child Protection Act of 1993 (42 U.S.C. 5119a(a)) is amended by adding at the end the following:

"(3) In the absence of State procedures referred to in paragraph (1), a qualified entity designated under paragraph (1) may contact an authorized agency of the State to request national criminal fingerprint background checks. Qualified entities requesting background checks under this paragraph shall comply with the guidelines set forth in subsection (b) and with procedures for requesting national criminal fingerprint background checks, if any, established by the State.".

(b) FEDERAL LAW.—Section 3(b)(5) of the National Child Protection Act of 1993 (42 U.S.C. 5119a(b)(5)) is amended by inserting before the period at the end the following: ", except that this paragraph does not apply to any request by a qualified entity for a national criminal fingerprint background check pursuant to subsection (a)(3)".

(c) AUTHORIZATION.—Section 4(b)(2) of the National Child Protection Act of 1993 (42 U.S.C. 5119b(b)(2)) is amended by striking "1994, 1995, 1996, and 1997" and inserting "1999, 2000, 2001, and 2002".

Mr. DEWINE. Mr. President, final passage of this bill—S. 2022, comprising the Crime Identification Technology Act of 1998 and the National Criminal History Access and Child Protection Act of 1998—is truly a historic achievement. I want to thank my colleagues on both sides of the aisle, and in both Houses of Congress, for their hard work on this legislation. S. 2022 is based on the principle that technology is the future of police work. It is the number one edge our law enforcement officers are going to have in the struggle against criminals, well into the 21st century.

The Crime Identification Technology Act (CETA) authorizes $1.25 billion over the next 5 years in grants administered by the Office of Justice Programs (OJP) in the Department of Justice, with reliance upon the expertise of the Bureau of Justice Statistics (BJS), also in the Department of Justice, to help every State to establish or upgrade its use of information and identification and forensics technologies across the entire criminal justice system. Title II of the Act, the National Criminal History Access and Child Protection Act, establishes an Interstate Compact which binds the Federal Bureau of Investigation and, upon approval by the State legislatures, the states to participate in the non-criminal justice access program of the Interstate Identification Index (III) in accordance with the Compact and established system policies.

I would like, first, to address Title I of this legislation.

NATIONAL CRIMINAL HISTORY IMPROVEMENT PROGRAM

In a certain sense, Title I of the Act, The Crime Identification Technology Act, replaces the National Criminal History Improvement Program (NCHIP) which expired at the end of fiscal year 1998. NCHIP monies, totaling almost $200 million were provided to the States by BJS and the Department of Justice and have been enormously successful in helping States to enhance their automated criminal history records and to identify and develop other relevant information systems for instantaneous firearms eligibility determinations. Because more needs to be done and because it is important not to lose momentum in building a fast, comprehensive and reliable National Instant Check System for firearms eligibility, S. 2022 will permit the Federal Government and the States to continue to build upon this important work.

SYSTEMS INTEGRATION

S. 2022, however, does much more. In particular, Title I provides for systems integration, permitting all components of criminal justice (law enforcement, courts, correction and prosecution) to share information and communicate more effectively and on a real-time basis. Revolutionary improvements in information and identification and communications technologies have created opportunities and, indeed, responsibilities, for all of our Nation's criminal justice agencies to build integrated information and identification systems. This bill will provide leadership and, in partnership with State and local governments, the resources necessary to build these important systems. S. 2022 will also support the courts and their use of information and identification technology. The courts are a critical part of the criminal justice information system. Not only are the courts a supplier of information on disposition, they are also an all-important consumer of information on arrest and conviction. The courts require state-of-the-art, integrated information identification systems for both functions. Until now, the courts have lagged behind in their use of technology—and this bill will help them to catch up.

INTERSTATE IDENTIFICATION INDEX

S. 2022 addresses virtually every technology-based, information identification and forensics need of State and local criminal justice agencies. Title I of S. 2022, for example, will support participation by all States in the Interstate Identification Index, which is the decentralized Federal system that permits State, local and Federal criminal justice agencies to exchange arrest and conviction information on a reliable, national and real-time basis.

IAFIS AND NCIC 2000

S. 2022 will also help State and local agencies to take advantage of two important FBI initiatives which are nearing completion. The FBI's Integrated Automated Fingerprint Identification System (IAFIS) and the FBI's NCIC 2000 (National Criminal Information Center) will create a platform for the FBI to use state-of-the-art identification and information and technology, both internally and to communicate with State and local agencies. Obviously, State and local agencies must also be able to upgrade their information identification technologies in a way that is compatible with the FBI's new systems if the FBI and the Nation are to obtain full benefit from these FBI initiatives for which the Congress has appropriated several hundred million dollars over the last few years.

EMPLOYMENT AND LICENSING

S. 2022 will also support faster, more complete and more reliable State and local responses to employment and licensing background check requests. Over the last decade, employers and noncriminal justice government agencies have emerged as the largest group of consumers of arrest and conviction record information for background checks for child care workers, school bus drivers, private security guards and a host of other individuals seeking employment and licensing in sensitive positions of trust. We simply must do a better job of providing appropriate arrest and conviction information on a fast and reliable basis. S. 2022 will go a long way toward helping our State and local law enforcement agencies to achieve this capability.

AGGREGATE STATISTICAL DATA

S. 2022 will also support statistical and research systems, which can together provide community-relevant information to support smarter decisions and more cost efficient and effective administration of criminal justice resources.

SEX OFFENDER REGISTRIES

S. 2022 will permit State and local criminal justice agencies to continue to build more useful and effective sexual offender identification registration systems, as well as domestic violence identification and information systems.

COMMUNICATIONS TECHNOLOGIES

S. 2022 will also help our criminal justice agencies to acquire and implement communications systems which are compatible with neighboring police systems, compatible with systems operated by other components of the criminal justice system and compatible among Federal, State and local criminal justice agencies. Every criminal justice agency should be able to communicate with other criminal justice agencies in an instantaneous and reliable way in order to respond to emergency situations and to promote the routine and appropriate sharing of information.

FORENSICS

Finally, S. 2022 provides a 20 percent set-aside for forensic science and Medical Examiner programs. New forensics technologies are creating a truly remarkable potential to solve crimes that previously could not have been solved and to convict offenders who previously could not have been convicted. Implementing and using this technology across the Nation takes leadership and resources. S. 2022 will provide both. The 20 percent set-aside applies to the amount actually funded under S. 2022 and is not a requirement which is made mandatory for each State. In other words, a State which does not wish to draw down 20 percent of its funding under this Act for forensic science and medical examiner purposes is not required to do so. We will be monitoring the States' use of funding for forensic science and Medical Examiner purposes, with an eye to re-examining whether this kind of earmark is necessary and, if so, at what level.

OVERALL IMPACT

The Crime Identification Technology Act does more than provide support for critical information, identification, communications and forensic technology applications. S. 2022 creates a vision and makes a commitment. The Act envisions a criminal justice system in which all parts of the system—law enforcement, courts, prosecution and correction—use state-of-the-art, information, identification, communication and forensics technologies in a compatible and integrated manner, so as to mount the most effective and cost efficient challenge yet to crime. The Act also represents a Federal commitment that every criminal justice agency in this country should have the resources, in partnership with State and local funding, to obtain and use state-of-the-art technology in the war against crime.

MATCHING REQUIREMENT

In this regard, the Act requires a 10 percent match to be borne by the States. As a practical matter, we expect that the States will spend State monies far in excess of 10 percent of the funding under this Act in the acquisition, implementation and use of crime fighting technologies. Because of this, it is expected that OJP will take into account all relevant costs borne by the State, regardless of the nature or character of these costs, so long as they truly support the application of technology for the administration of criminal justice. Furthermore, it is expected that OJP, working through the Bureau of Justice Statistics, will publish guidelines regarding the criteria for waiving a match, which will assure that States or components of the criminal justice system within a State which are deserving of a grant but which cannot meet the match requirement, are not disadvantaged. It is further expected that the match will not apply to grants made pursuant to Subparagraph (2)(B) of Subsection (d) which provides grants and funding for technical assistance, training, evaluations and other support for this technology initiative.

BJS EXPERTISE

Title I, while vesting grant administration authority in the Office of Justice Programs, directs the Office to rely principally upon the expertise of BJS in administering the program. This is important because the structure of the grant program is modeled after the National Criminal History Improvement Program, which was very successfully administered by BJS. Under that program, every State was required to receive a grant. Moreover, while the program was discretionary, it was administered by BJS in a manner that has permitted the States wide discretion in the purposes for which NCHIP grant monies were applied. A similar approach should be taken in the S. 2022 grant program. The identification, information, communications and forensics programs which are identified in S. 2022 are purposefully broad, so that each State can use grant monies for its own particular technology needs.

At the same time, the discretionary approach and requirements in the bill that each State develop a statewide strategy for information sharing, with an emphasis on the integration of all criminal justice components, assures that the needs of all components of criminal justice, including the courts, are taken into account and assures that adequate planning and implementation strategies have been developed so that the use of technology is compatible and integrated.

OJP's role is important because the Department of Justice administers several justice assistance programs which can be and are being used for important, criminal justice identification, information and communications purposes. None of these programs are repealed, and funding should and will continue under these programs. Accordingly, coordination is important and OJP is expected to provide that coordination.

CONTRIBUTIONS TO NICS

S. 2022 also requires, by way of assurances, that States assure the Attorney General that the State "has the capability to contribute pertinent information to the National Instant Criminal Background Check System." This language does not mean that States are required to operate their own Instant Check Systems or to otherwise be a "point-of-contact" or intermediary between licensed firearms dealers and the FBI's National Instant Background Check System. Rather, this assurance requires that States are contributing criminal history information and, if practicable and required by the FBI, other pertinent information to the national system. States which are participating in III or working actively toward participating in III are presumed to meet this assurance.

INTERSTATE IDENTIFICATION INDEX SYSTEM COMPACT

Finally, Title II, the National Crime Prevention and Privacy Compact of 1998, establishes a uniform standard for the interstate and Federal-State exchange of criminal history records for noncriminal justice purposes. In addition, Title II permits each State to continue to enforce its own record dissemination laws within its own borders. The Compact facilitates the interstate and Federal-state exchange of criminal history information by clarifying the obligations and responsibilities of participating parties, streamlining the processing of background search applications, and eliminating record maintenance duplication at Federal and State levels. Finally, the Compact provides a mechanism for establishing and enforcing uniform standards for record accuracy and for the confidentiality and privacy interests of record subjects.

This is a landmark piece of legislation, and I thank my colleagues for helping to move it toward enactment.

Mr. LEAHY. Mr. President, I am delighted that the Senate will pass the Crime Identification Technology Act of 1998, S. 2022, sending it to the President for his signature into law.

I am proud to join Senator DEWINE in supporting our bipartisan legislation to authorize comprehensive Department of Justice grants to every State for criminal justice identification, information and communications technologies and systems. I applaud the Senator from Ohio, Senator DEWINE, for his leadership. I also commend the Chairman of the Judiciary Committee and the Democratic Leader for their strong support of the Crime Identification Technology Act.

I know from my experience in law enforcement in Vermont over the last 30 years that access to quality, accurate information in a timely fashion is of vital importance. As we prepare to enter the 21st century, we must provide our State and local law enforcement officers with the resources to develop the latest technological tools and communications systems to solve and prevent crime. I believe this bill accomplishes that goal.

The Crime Identification Technology Act authorizes $250 million for each of the next 5 years in grants to States for crime information and identification systems. The Attorney General is directed to make grants to each State to be used in conjunction with units of local government, and other States, to use information and identification technologies and systems to upgrade criminal history and criminal justice record systems.

Grants made under our legislation may include programs to establish, develop, update or upgrade——

State, centralized, automated criminal history record information systems, including arrest and disposition reporting;

Automated fingerprint identification systems that are compatible with the Integrated Automated Fingerprint Identification System (IAFIS) of the Federal Bureau of Investigation;

Finger imaging, live scan and other automated systems to digitize fingerprints and to communicate prints in a manner that is compatible with systems operated by States and the Federal Bureau of Investigation;

Systems to facilitate full participation in the Interstate Identification Index (III);

Programs and systems to facilitate full participation in the Interstate Identification Index National Crime Prevention and Privacy Compact;

Systems to facilitate full participation in the National Instant Criminal Background Check System (NICS) for firearms eligibility determinations;

Integrated criminal justice information systems to manage and communicate criminal justice information among law enforcement, courts, prosecution, and corrections;

Non-criminal history record information systems relevant to firearms eligibility determinations for availability and accessibility to the NICs;

Court-based criminal justice information systems to promote reporting of dispositions to central State repositories and to the FBI and to promote the compatibility with, and integration of, court systems with other criminal justice information systems;

Ballistics identification programs that are compatible and integrated with the ballistics programs of the National Integrated Ballistics Network (NIBN);

Information, identification and communications programs for forensic purposes;

DNA programs for forensic and identification purposes; Sexual offender identification and registration systems; Domestic violence offender identification and information systems;

Programs for fingerprint-supported background checks for non-criminal justice purposes including youth service employees and volunteers and other individuals in positions of trust, if authorized by Federal or State law and administered by a government agency;

Criminal justice information systems with a capacity to provide statistical and research products including incident-based reporting systems and uniform crime reports;

Online and other state-of-the-art communications technologies and programs; and

Multiagency, multijurisdictional communications systems to share routine and emergency information among Federal, State and local law enforcement agencies.

Let me just give a couple of examples from my home State of Vermont that illustrate how our comprehensive legislation will aid State and local law enforcement agencies across the country.

The future of law enforcement must focus on working together to harness the power of today's information age to prevent crime and catch criminals. One way to work together is for State and local law enforcement agencies to band together to create efficiencies of scale. For example, together with New Hampshire and Maine, the State of Vermont has pooled its resources together to build a triState IAFIS system to identify fingerprints. Our bipartisan legislation would foster these partnerships by allowing groups of States to apply together for grants.

Another challenge for law enforcement agencies across the country is communication difficulties between Federal, State, and local law enforcement officials. In a recent report, the Department of Justice's National Institute of Justice concluded that law enforcement agencies throughout the Nation lack adequate communications systems to respond to crimes that cross State and local jurisdictions.

A 1997 incident along the Vermont and New Hampshire border underscored this problem. During a cross border shooting spree that left four people dead including two New Hampshire State Troopers, Vermont and New Hampshire officers were forced to park two police cruisers next to one another to coordinate activities between Federal, State, and local law enforcement officers because the two States' police radios could not communicate with one another.

The Vermont Department of Public Safety, the Vermont U.S. attorney's office and others have reacted to these communication problems by developing the Northern Lights proposal. This project will allow the northern borders States of Vermont, New York, New Hampshire, and Maine to integrate their law enforcement communications systems to better coordinate interdiction efforts and share intelligence data seamlessly.

Our legislation would provide grants for the development of integrated Federal, State, and local law enforcement communications systems to foster cutting edge efforts like the Northern Lights project.

In addition, our bipartisan legislation will help each of our States meet its obligations under national anti-crime initiatives. For instance, the FBI will soon bring online NCIC 2000 and IAFIS which will require States to update their criminal justice systems for the country to benefit. States are also being asked to participate in several other national programs such as sexual offender registries, national domestic violence legislation, Brady Act, and National Child Protection Act.

Currently, there are no comprehensive programs to support these national crime-fighting systems. Our legislation will fill this void by helping each State meet its obligations under these Federal laws.

The Crime Identification Technology Act provides a helping hand without the heavy hand of a top-down, Washington-knows-best approach. Unfortunately, some in Congress have pushed legislation mandating minute detail changes that States must make in their laws to qualify for Federal funds. Our bill rejects this approach. Instead, we provide the States with Federal support to improve their criminal justice identification, information and communication systems without prescriping new Federal mandates.

Mr. President, I am also pleased we are passing, as title II of this bill, the Federal-State "III" Compact for exchange of criminal history records for noncriminal justice purposes. This Compact is the product of a decade-long effort by Federal and State law enforcement officials to establish a legal framework for the exchange of criminal history records for authorized noncriminal justice purposes, such as security clearances, employment or licensing background checks.

Since 1924, the FBI has collected and maintained duplicate State and local fingerprint cards, along with arrest and disposition records. Today, the FBI has over 200 million fingerprint cards in its system. These FBI records are accessible to authorized Government entities for both criminal and authorized noncriminal justice purposes.

Maintaining duplicate files at the FBI is costly and leads to inaccuracies in the criminal history records, since follow-up disposition information from the States is often incomplete. Such a large central database of routinely incomplete criminal history records raises significant privacy concerns.

In addition, the FBI releases these records for noncriminal justice purposes (as authorized by Federal law), to State agencies upon request, even if the State from which the records originated or the receiving State more narrowly restricts the dissemination of such records for noncriminal justice purposes.

The Compact is an effort to get the FBI out of the business of holding a duplicate copy of every State and local criminal history record, and instead to keep those records at the State level. Once fully implemented, the FBI will only need to hold the Interstate Identification Index (III), consisting of the national fingerprint file and a pointer index to direct the requestor to the correct State records repository. The Compact would eliminate the necessity for duplicate records at the FBI for those States participating in the Compact.

Eventually, when all the States become full participants in the Compact, the FBI's centralized files of State offender records will be discontinued and users of such records will obtain those records from the appropriate State's central repository (or from the FBI if the offender has a Federal record).

The Compact would establish both a framework for this cooperative exchange of criminal history records for noncriminal justice purposes, and create a Compact Council with representatives from the FBI and the States to monitor system operations and issue necessary rules and procedures for the integrity and accuracy of the records and compliance with privacy standards. Importantly, this Compact would not in any way expand or diminish noncriminal justice purposes for which criminal history records may be used under existing State or Federal law.

Overall, I believe that the Compact would increase the accuracy, completeness and privacy protection for criminal history records.

In addition, the Compact would result in important cost savings from establishing a decentralized system. Under the system envisioned by the Compact, the FBI would hold only an "index and pointer" to the records maintained at the originating State. The FBI would no longer have to maintain duplicate State records. Moreover, States would no longer have the burden and costs of submitting arrest fingerprints and charge/disposition data to the FBI for all arrests. Instead, the State would only have to submit to the FBI the fingerprints and textual identification data for a person's first arrest.

With this system, criminal history records would be more up-to-date, or complete, because a decentralized system will keep the records closer to their point of origin in State repositories, eliminating the need for the States to keep sending updated disposition information to the FBI. To ensure further accuracy, the Compact would require requests for criminal history checks for noncriminal justice purposes to be submitted with fingerprints or some other form of positive identification, to avoid mistaken release of records.

Furthermore, under the Compact, the newly-created Council must establish procedures to require that the most current records are requested and that when a new need arises, a new record check is conducted.

Significantly, the newly-created Council must establish privacy enhancing procedures to ensure that requested criminal history records are only used by authorized officials for authorized purposes. Furthermore, the Compact makes clear that only the FBI and authorized representatives from the State repository may have direct access to the FBI index.

The Council must also ensure that only legally appropriate information is released and, specifically, that record entries that may not be used for noncriminal justice purposes are deleted from the response.

Thus, while the Compact would require the release of arrest records to a requesting State, the Compact would also ensure that if disposition records are available that the complete record be released. Also, the Compact would require States receiving records under the Compact to ensure that the records are disseminated in compliance with the authorized uses in that State. Consequently, under the Compact, a State that receives arrest-only information would have to give effect to disposition-only policies in that State and not release that information for noncriminal justice purposes. Thus, in my view, the impact of the Compact for the privacy and accuracy of the records would be positive.

I am pleased to have joined with Senators HATCH and DEWINE to make a number of refinements to the Compact as transmitted by to us by the administration. Specifically, we have worked to clarify that (1) the work of the Council includes establishing standards to protect the privacy of the records; (2) sealed criminal history records are not covered or subject to release for noncriminal justice purposes under the Compact; (3) the meetings of the Council are open to the public, and (4) the Council's decisions, rules and procedures are available for public inspection and copying and published in the Federal Register.

Commissioner Walton of the Vermont Department of Public Safety supports this Compact. He hopes that passage of the Compact will encourage Vermont to become a full participant in III for both criminal and noncriminal justice purposes, so that Vermont can "reap the benefits of cost savings and improved data quality." The Compact is also strongly supported by the FBI and SEARCH.

We all have an interest in making sure that the criminal history records maintained by our law enforcement agencies at the local, State and Federal levels, are complete, accurate and accessible only to authorized personnel for legally authorized purposes. This Compact is a significant step in the process of achieving that goal.

I know that the Justice Department, under Attorney General Reno's leadership, has made it a priority to modernize and automate criminal history records. Our legislation will continue that leadership by providing each State with the necessary resources to continue to make important efforts to bring their criminal justice systems up to date.

Mr. President, the Crime Identification Technology Act will ensure that each State has the resources to capture the power of emerging information, communications and record-keeping technologies to serve and protect all of our citizens.

Mr. JEFFPRDS. Mr. President, I ask unanimous consent that a section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL CRIME PREVENTION AND PRIVACY COMPACT OF THE NATIONAL CRIMINAL HISTORY ACCESS AND CHILD PROTECTION ACT

SECTION-BY-SECTION ANALYSIS

Section 211.—This section provides the short title of the Act.

Section 212.—This section sets forth the congressional findings upon which the Act is predicated. The section reflects congressional determinations that both the FBI and the States maintain fingerprint-based criminal history records and exchange them for criminal justice purposes and also, to the extent authorized by Federal law and the laws of the various States, use the information contained in these records for certain noncriminal justice purposes. Although this system has operated for years on a reciprocal, voluntary basis, the exchange of records for noncriminal justice purposes has been hampered by the fact that the laws and policies of the States governing the noncriminal justice use of criminal history records and the procedures by which they are exchanged vary widely. A compact will establish a uniform standard for the interstate and Federal-State exchange. of criminal history records for noncriminal justice purposes, while permitting each State to continue to enforce its own record dissemination laws within its own borders. A compact will also facilitate the interstate and Federal-State exchange of information by clarifying the obligations and responsibilities of the respective parties, streamlining the processing of background search applications and eliminating record maintenance duplication at the Federal and State levels. Finally, the compact will provide a mechanism for establishing and enforcing uniform standards governing record accuracy and protecting the confidentiality and privacy interests of record subjects.

Section 213.—This section sets out definitions of key terms used in this subtitle. Definitions of key terms used in the compact are set out in Article I of the compact.

Section 214.—This section formally enacts the compact into Federal law, makes the United States a party, and consents to entry into the Compact by the States.

Section 215.—This section outlines the effect of the Compact's enactment on certain other laws. First, subsection (a) provides that the Compact is deemed to have no effect on the FBI's obligations and responsibilities under the Privacy Act. The Privacy Act became effective in 1975, and can generally be characterized as a Federal code of fair information practices regarding individuals. The Privacy Act regulates the collection, maintenance, use, and dissemination of personal information by the Federal Government. This Section makes clear that the Compact will neither expand nor diminish the obligations imposed on the FBI by the Privacy

Act. All requirements relating to collection, disclosure and administrative matters remain in effect, including standards relating to notice, accuracy and security measures.

Second, enactment of the Compact will neither expand nor diminish the responsibility of the FBI and the State criminal history record repositories to permit access, direct or otherwise, to criminal history records under the authority of certain other Federal laws (enumerated in subsection (b)(1)). These laws include the following:

The Security Clearance Information Act (Section 9101 of Title 5, United States Code) requires State and local criminal justice agencies to release criminal history record information to certain Federal agencies for national security background checks.

The Brady Handgun Violence Prevention Act prescribes a waiting period before the purchase of a handgun may be consummated in order for a criminal history records check on the purchaser to be completed, and also establishes a national instant background check system to facilitate criminal history checks of firearms purchasers. Under this system, licensed firearms dealers are authorized access to the national instant background check system for purposes of complying with the background check requirement.

The National Child Protection Act of 1993 (42 U.S.C. § 5119a) authorizes States with appropriate State statutes to access and review State and Federal criminal history records through the national criminal history background check system for the purpose of determining whether care providers for children, the elderly and the disabled have criminal histories bearing upon their fitness to assume such responsibilities.

The Violent Crime Control and Law Enforcement Act of 1994 authorizes Federal and State civil courts to have access to FBI databases containing criminal history records, missing person records and court protection orders for use in connection with stalking and domestic violence cases.

The United States Housing Act of 1937, as amended by the Housing Opportunity Program Extension Act of 1996, authorizes public housing authorities to obtain Federal and State criminal conviction records relating to public hosing applicants or tenants for purposes of applicant screening, lease enforcement and eviction.

The Native American Housing Assistance and Self-Determination Act authorizes Indian tribes or tribally designated housing entities to obtain Federal and State conviction records relating to applicants for or tenants of federally assisted housing for purposes of applicant screening, lease enforcement and eviction. Nothing in the Compact would alter any rights of access provided under these laws.

Subsection (b)(2) provides that the compact shall not affect any direct access to Federal criminal history records authorized by law. Under existing legal authority, the FBI has provided direct terminal access to certain Federal agencies, including the Office of Management and Budget and the Immigration and Naturalization Service, to facilitate the processing of large numbers of background search requests by these agencies for such purposes as Federal employment, immigration and naturalization matters, and the issuance of security clearances. This access will not be affected by the compact.

Subsection (c) provides that the Compact's enactment will not affect the FBI's authority to use its criminal history records for noncriminal justice purposes under Public Law 92-544—the State, Justice, Commerce Appropriations Act of 1973. This law restored the Bureau's authority to exchange its identification records with the States and certain other organizations or entities, such as Federally chartered or insured banking institutions, for employment and licensing purposes, after a Federal district court had declared the FBI's practice of doing so to be without foundation. (See *Menard* v. *Mitchell*, 328 F. Supp. 718 (D.D.C. 1971).

Subsection (d) provides that the Council created by the Compact to facilitate its administration is deemed not to be a Federal advisory committee as defined under the Federal Advisory Committee Act. This provision is necessary since nonfederal employees will sit on the Compact Council together with Federal personnel and the Council may from time to time be called upon to provide the Director of the FBI or the Attorney General with collective advice on the administration of the Compact. Without this stipulation, such features might cause the Council to be considered an advisory committee within the meaning of the Federal Advisory Committee Act. Even though the Council will not be considered an advisory committee for purposes of the Act, it will hold public meetings.

Similarly, to avoid any question on the subject, Subsection (e) provides that members of the Compact Council will not be deemed to be Federal employees or officers by virtue of their Council membership for any purpose other than to effect the Compact. Thus, State officials and other nonfederal personnel who are appointed to the Council will be considered Federal officials only to the extent of their roles as Council members. They will not be entitled to compensation or benefits accruing to Federal employees or officers, but they could receive reimbursement from Federal funds for travel and subsistence expenses incurred in attending council meetings.

Section 216.—This Section admonishes all Federal personnel to enforce the Compact and to cooperate in its implementation. It also directs the U.S. Attorney General to take such action as may be necessary to implement the Compact within the Federal Government, including the promulgation of regulations.

Section 217.—This is the core of the subtitle and sets forth the text of the Compact:

OVERVIEW

This briefly describes what the Compact is and how it is meant to work. Under the Compact, the FBI and the States agree to maintain their respective databases of criminal history records and to make them available to Compact parties for authorized purposes by means of an electronic information sharing system established cooperatively by the Federal Government and the States.

ARTICLE I—DEFINITIONS

This article sets out definitions for key terms used in the Compact. Most of the definitions are substantially identical to definitions commonly used in Federal and State laws and regulations relating to criminal history records and need no explanation. However, the following definitions merit comment:

(20) Positive identification

This term refers, in brief, to association of a person with his or her criminal history record through a comparison of fingerprints or other equally reliable biometric identification techniques. Such techniques eliminate or substantially reduce the risks of associating a person with someone else's record or failing to find a record of a person who uses a false name. At present, the method of establishing positive identification in use in criminal justice agencies throughout the United States is based upon comparison of fingerprint patterns, which are essentially unique and unchanging and thus provide a highly reliable basis for identification. It is anticipated that this method of positive identification will remain in use for many years to come, particularly since Federal and State agencies are investing substantial amounts of money to acquire automated fingerprint identification equipment and related devices which facilitate the capturing and transmission of fingerprint images and provide searching and matching methods that are efficient and highly accurate. However, there are other biometric identification techniques, including retinal scanning, voice-print analysis and DNA typing, which might be adapted for criminal record identification purposes. The wording of the definition contemplates that at some future time the Compact Council might authorize the use of one or more of these techniques for establishing positive identification, if it determines that the reliability of such technique(s) is at least equal to the reliability of fingerprint comparison.

(21) Sealed record information

Article IV, paragraph (b), permits the FBI and State criminal history record repositories to delete sealed record information when responding to an interstate record request pursuant to the Compact. Thus, the definition of "sealed" becomes important, particularly since State sealing laws vary considerably, ranging from laws that are quite restrictive in their application to others that are very broad. The definition set out here is intended to be a narrow one in keeping with a basic tenet of the Compact—that State repositories shall release as much information as possible for interstate exchange purposes, with issues concerning the use of particular information for particular purposes to be decided under the laws of the receiving States. Consistent with the definition, an adult record, or a portion of it, may be considered sealed only if its release for noncriminal justice purposes has been prohibited by a court order or by action of a designated official or board, such as a State Attorney General or a Criminal Record Privacy Board, acting pursuant to a Federal or State law. Further, to qualify under the definition, a court order, whether issued in response to a petition or on the court's own motion, must apply only to a particular record subject or subjects referred to by name in the order. So-called "blanket" court orders applicable to multiple unnamed record subjects who fall into particular classifications or circumstances, such as first-time non-serious drug offenders, do not fit the definition. Similarly, sealing orders issued by designated officials or boards acting pursuant to statutory authority meet the definition only if such orders are issued in response to petitions filed by individual record subjects who are referred to by name in the orders. So-called "automatic" sealing laws, which restrict the noncriminal justice use of the records of certain defined classes of individuals, such as first-time offenders who successfully complete probation terms, do not satisfy the definition, because they do not require the filing of individual petitions and the issuance of individualized sealing orders.

Concerning juvenile records, each State is free to adopt whatever definition of sealing it prefers.

ARTICLE II—PURPOSES

Five purposes are listed: creation of a legal framework for establishment of the Compact; delineation of the FBI's obligations under the Compact; delineation of the obligations of party States; creation of a Compact Council to monitor system operations and promulgate necessary rules and procedures; and, establishment of an obligation by the parties to adhere to the Compact and its related rules and standards.

ARTICLE III—RESPONSIBILITIES OF COMPACT PARTIES

This article details FBI and State responsibilities under the Compact and provides for the appointment of Compact Officers by the FBI and by party States. Compact officers shall have primary responsibility for ensuring the proper administration of the Compact within their jurisdictions.

The FBI is required to provide criminal history records maintained in its automated database for noncriminal justice purposes described in Article IV of the Compact. These responses will include Federal criminal history records and, to the extent that the FBI has such data in its files, information from non-Compact States and information from Compact States relating to records which such States cannot provide through the III System. The FBI is also responsible for providing and maintaining the centralized system and equipment necessary for the Compact's success and ensuring that requests made for criminal justice purposes will have priority over requests made for noncriminal justice purposes.

State responsibilities are similar. Each Party State must grant other States access to its III system-indexed criminal history records for authorized noncriminal justice purposes and must submit to the FBI fingerprint records and subject identification information that are necessary to maintain the national indices. Each State must comply with duly established system rules, procedures, and standards. Finally, each State is responsible for providing and maintaining the telecommunications links and equipment necessary to support system operations within that State.

Administration of Compact provisions will not be permitted to reduce the level of service available to authorized criminal justice and noncriminal justice users on the effective date of the Compact.

ARTICLE IV—AUTHORIZED RECORD DISCLOSURES

This article requires the FBI, to the extent authorized by the Privacy Act, and the State criminal history record repositories to provide criminal history records to one another for use by governmental or nongovernmental agencies for noncriminal justice purposes that are authorized by Federal statute, by Federal executive order, or by a State statute that has been approved by the U.S. Attorney General. Compact parties will be required to provide criminal history records to other compact parties for noncriminal justice uses that are authorized by law in the requesting jurisdiction even though the law of the responding jurisdiction does not authorize such uses within its borders. Further, the responding party must provide all of the criminal history record information it holds on the individual who is the subject of the request (deleting only sealed record information) and the law of the requesting jurisdiction will determine how much of the information will actually be released to the noncriminal justice agency on behalf of which the request was made. This approach provides a uniform dissemination standard for interstate exchanges, while permitting each compact party to enforce its own record dissemination laws within its borders.

To provide uniformity of interpretation, State laws authorizing noncriminal justice uses of criminal history records under this article must be reviewed by the U.S. Attorney General to ensure that the laws explicitly authorize searches of the national indices.

Records provided through the III System pursuant to the Compact may be used only by authorized officials for authorized purposes. Compact officers must establish procedures to ensure compliance with this limitation as well as procedures to ensure that criminal history record information provided for noncriminal justice purposes is current and accurate and is protected from unauthorized release. Further, procedures must be established to ensure that records received from other compact parties are screened to ensure that only legally authorized information is released. For example, if the law of the receiving jurisdiction provides that only conviction records may be released for a particular noncriminal justice purpose, all other entries, such as acquittal or dismissal notations or arrest notations with no accompanying disposition notation, must be deleted.

ARTICLE V—RECORD REQUEST PROCEDURES

This article provides that direct access to the National Identification Index and the National Fingerprint File for purposes of conducting criminal history record searches for noncriminal justice purposes shall be limited to the FBI and the State criminal history record repositories. A noncriminal justice agency authorized to obtain national searches pursuant to an approved State statute must submit the search application through the State repository in the State in which the agency is located. A State repository receiving a search application directly from a noncriminal justice agency in another State may process the application through its own criminal history record system, if it has legal authority to do so, but it may not conduct a search of the national indices on behalf of such an out-of-state agency nor may it obtain out-of-state or Federal records for such an agency through the III System.

Noncriminal justice agencies authorized to obtain national record checks under Federal law or Federal executive order, including Federal agencies, federally chartered or insured financial institutions and certain securities and commodities establishments, must submit search applications through the FBI or, if the repository consents to process the application, through the State repository in the State in which the agency is located.

All noncriminal justice search applications submitted to the FBI or to the State repositories must be accompanied by fingerprints or some other approved form of positive identification. If, a State repository positively identifies the subject of such a search application as having a III System-indexed record maintained by another State repository or the FBI, the State repository shall be entitled to obtain such records from such other State repositories or the FBI. If a State repository cannot positively identify the subject of a noncriminal justice search application, the repository shall forward the application, together with fingerprints or other approved identifying information, to the FBI. If the FBI positively identifies the search application subject as having a III System-indexed record or records, it shall notify the State repository which submitted the application and that repository shall be entitled to obtain any III System-indexed record or records relating to the search subject maintained by any other State repository on the FBI.

The FBI and State repositories may charge fees for processing noncriminal justice search applications, but may not charge fees for providing criminal history records by electronic means in response to authorized III System record requests.

ARTICLE VI—ESTABLISHMENT OF COMPACT COUNCIL

This article establishes a Compact Council to promulgate rules and procedures governing the use of the III System for noncriminal justice purposes. Such rules cannot conflict with the FBI's administration of the III System for criminal justice purposes. Issues concerning whether particular rules or procedures promulgated by the Council conflict with FBI authority under this article shall be adjudicated pursuant to Article XI.

The Council shall consist of 15 members from compact States and Federal and local criminal justice and noncriminal justice agencies. All members shall be appointed by the U.S. Attorney General. Council members shall elect a Council Chairman and Vice Chairman, both of whom shall be compact officers unless there are no compact officers on the Council who are willing to serve, in which case at-large members may be elected to these offices.

The 15 Council members include nine members who must be State compact officers or State repository administrators, four at-large members representing Federal, State and local criminal justice and noncriminal justice interests, one member from the FBI's advisory policy board on criminal justice information services and one member who is an FBI employee. Although, as noted, all members will be appointed by the U.S. Attorney General, they will be nominated by other persons, as specified in the Compact. If the Attorney General declines to appoint any person so nominated, the Attorney General shall request another nomination from the person or persons who nominated the rejected person. Similarly, if a Council membership vacancy occurs, for any reason, the Attorney General shall request a replacement nomination from the person or persons who made the original nomination.

Persons who are appointed to the Council who are not already Federal officials or employees shall, by virtue of their appointment by the Attorney General, become Federal officials to the extent of their duties and responsibilities as Council members. They shall, therefore, have authority to participate in the development and issuance of rules and procedures, and to participate in other actions within the scope of their duties as Council members, which may be binding upon Federal officers and employees or otherwise affect Federal interests.

The Council shall be located for administrative purposes within the FBI and shall have authority to request relevant assistance and information from the FBI. Although the Council will not be considered a Federal Advisory Committee (see Section 215(d)), it will hold public meetings and will publish its rules and procedures in the Federal Register and make them available for public inspection and copying at a Council office within the FBI.

ARTICLE VII—RATIFICATION OF COMPACT

This article states that the Compact will become effective immediately upon its execution by 2 or more States and the United

States Government and will have the full force and effect of law within the ratifying jurisdictions. Each State will follow its own laws in effecting ratification.

ARTICLE VIII—MISCELLANEOUS PROVISIONS

This article makes clear that administration of the Compact shall not interfere with the authority of the FBI Director over the management and control of the FBI's collection and dissemination of criminal history records for any purpose other than noncriminal justice. Similarly, nothing in the Compact diminishes a State's obligations and authority under Public Law 92-544 regarding the dissemination or use of criminal history record information (see analysis of Section 214, above). The Compact does not require the FBI to obligate or expend funds beyond its appropriations.

ARTICLE IX—RENUNCIATION

This article provides that a State wishing to end its obligations by renouncing the Compact shall do so in the same manner by which it ratified the Compact and shall provide six months' advance notice to other compact parties.

ARTICLE X—SEVERABILITY

This article provides that the remaining provisions of the Compact shall not be affected if a particular provision is found to be in violation of the Federal Constitution or the constitution of a party State. Similarly, a finding in 1 State that a portion of the Compact is legally objectionable will have no effect on the viability of the Compact in other Party States.

ARTICLE XI—ADJUDICATION OF DISPUTES

This article vests initial authority in the Compact Council to interpret its own rules and standards and to resolve disputes among parties to the Compact. Decisions are to be rendered upon a majority vote of Council members after a hearing on the issue. Any Compact party may appeal any such Council decision to the U.S. Attorney General and thereafter may file suit in the appropriate United States district court. Any suit concerning the compact filed in any State court shall be removed to the appropriate Federal district court.

I ask unanimous consent that the Senate agree to the amendment of the House.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMEMORATING THE 20TH ANNIVERSARY OF THE FOUNDING OF THE VIETNAM VETERANS OF AMERICA

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 476, S. Res. 207.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 207) commemorating the 20th anniversary of the founding of the Vietnam Veterans of America.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. JEFFORDS. Mr. President, I was proud to submit S. Res. 207 on April 2nd of this year, and I am very pleased to mark its adoption tonight.

Tonight's action by the Senate is but one small step to redress the very reason why the founders of the Vietnam Veterans of America (VVA) felt compelled to take action 20 years ago. In 1978, Vietnam Veterans were suffering under the wave of anti-Vietnam sentiment that had swept the Nation. Little recognition was given to their sacrifices during the war. And in fact, there was even a great deal of official denial about the extent of the price that had been paid by these veterans, both physical and emotional. For instance, it would be years before Post-Traumatic Stress Disorder was a recognized condition for many veterans and before the Federal Government admitted that our use of Agent Orange had left a terrible legacy of continued suffering for our veterans. The founders of the VVA felt that they needed an organization to speak directly to those needs. The outpouring of enthusiasm from the veterans themselves demonstrated the depth of these feelings.

I am also very proud that Chapter One was founded in my home town of Rutland, Vermont. Vermonters have maintained a prominent voice in the organization, and are active in defining its future direction.

The VVA is not focused just on the three decades behind us. It continues to look to the large challenges ahead both for veterans as a group and Vietnam Veterans in particular. Just as the Vietnam Veterans Memorial is a permanent reminder of the sacrifices of the past, the VVA will be a continual voice for pragmatism and commitment to the needs of the veteran.

I ask unanimous consent the resolution be agreed to, the preamble be agreed to, a motion to reconsider be laid upon the table, and a statement of explanation appear in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 207) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 207

Whereas the year 1998 marks the 20th anniversary of the founding of the Vietnam Veterans of America;

Whereas the history of the Vietnam Veterans of America organization is a story of America's gradual recognition of the tremendous sacrifices of its Vietnam-era veterans and their families;

Whereas the Vietnam Veterans of America is dedicated to serving its membership through advocacy for its membership;

Whereas the Vietnam Veterans of America provides public and member awareness of critical issues affecting Vietnam-era veterans and their families;

Whereas the local grassroots efforts of Vietnam Veterans of America chapters like Chapter One in Rutland, Vermont, which was founded 18 years ago in April 1980, have greatly contributed to the quality of lives of veterans in our Nation's communities;

Whereas the Vietnam Veterans of America promotes its principles through volunteerism, professional advocacy, and claims work; and

Whereas the future of the Vietnam Veterans of America relies not only on its past accomplishments, but on future accomplishments of its membership that will ensure the Vietnam Veterans of America remains a leader among veterans advocacy organizations: Now, therefore, be it

Resolved, That the Senate—

(1) commemorates the 20th anniversary of the founding of the Vietnam Veterans of America and commends it for its advancement of veterans rights which set the standard for other veterans organizations around the country;

(2) asks all Americans to join in the celebration of the 20th birthday of the Vietnam Veterans of America and 20 years of advocacy for Vietnam veterans; and

(3) encourages the Vietnam Veterans of America to continue into the next millennium to represent and promote the goals of its organization in the veterans community and on Capitol Hill, and to continue organizing to keep its national membership of 51,000 members and 500 chapters strong.

TORTURE VICTIMS RELIEF ACT OF 1998

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of H.R. 4309, which is at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4309) to provide a comprehensive program of support for victims of torture.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3792

Mr. JEFFORDS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS], for Mr. GRAMS, proposes an amendment numbered 3792.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Substitute language in Sec. 5 (b)(1) and (2) with the following:

(b) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated for the Department of Health and Human Services for fiscal years 1999 and 2000, there are authorized to be appropriated to carry out subsection (a) (relating to assistance for domestic centers and programs for the treatment of victims of torture) $5,000,000 for fiscal year 1999, and $7,5000,000 for fiscal year 2000.

(2) AVAILABILTY OF FUNDS.—Amounts appropriated pursuant to this subsection shall remain available until expended.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the amendment be agreed to, that the bill be considered read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3792) was agreed to.

The bill (H.R. 4309), as amended, was considered read the third time, and passed.

PERSIAN GULF WAR VETERANS ACT OF 1998

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar No. 686, S. 2358.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A bill (S. 2358) to provide for the establishment of a service-connection for illnesses associated with service in the Persian Gulf war, to extend and enhance certain health care authorities relating to such service, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Veteran's Affairs, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 2358

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Persian Gulf War Veterans Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—SERVICE CONNECTION FOR *PERSIAN* GULF WAR ILLNESSES

Sec. 101. Presumption of service connection for illnesses associated with service in the Persian Gulf during the Persian Gulf War.
Sec. 102. Agreement with National Academy of Sciences.
Sec. 103. Monitoring of health status and health care of Persian Gulf War veterans.
Sec. 104. Reports on recommendations for additional scientific research.
Sec. 105. Outreach.
Sec. 106. Definitions.

TITLE II—EXTENSION AND ENHANCEMENT OF *PERSIAN* GULF WAR HEALTH CARE AUTHORITIES

Sec. 201. Extension of authority to provide health care for Persian Gulf War veterans.
Sec. 202. Extension and improvement of evaluation of health status of spouses and children of Persian Gulf War veterans.

TITLE III—MISCELLANEOUS

Sec. 301. Assessment of establishment of independent entity to evaluate post-conflict illnesses among members of the Armed Forces and health care provided by DoD and VA before and after deployment of such members.

TITLE I—SERVICE CONNECTION FOR *PERSIAN* GULF WAR ILLNESSES

SEC. 101. PRESUMPTION OF SERVICE CONNECTION FOR ILLNESSES ASSOCIATED WITH SERVICE IN THE PERSIAN GULF DURING THE PERSIAN GULF WAR.

(a) IN GENERAL.—(1) Subchapter II of chapter 11 of title 38, United States Code, is amended by adding at the end the following:

"§ 1118. Presumptions of service connection for illnesses associated with service in the Persian Gulf during the Persian Gulf War

"(a)(1) For purposes of section 1110 of this title, and subject to section 1113 of this title, each illness, if any, described in paragraph (2) shall be considered to have been incurred in or aggravated by service referred to in that paragraph, notwithstanding that there is no record of evidence of such illness during the period of such service.

"(2) An illness referred to in paragraph (1) is any diagnosed or undiagnosed illness that—

"(A) the Secretary determines in regulations prescribed under this section to warrant a presumption of service connection by reason of having a positive association with exposure to a biological, chemical, or other toxic agent, environmental or wartime hazard, or preventive medicine or vaccine known or presumed to be associated with service in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War; and

"(B) becomes manifest within the period, if any, prescribed in such regulations in a veteran who served on active duty in that theater of operations during that war and by reason of such service was exposed to such agent, hazard, or medicine or vaccine.

"(3) For purposes of this subsection, a veteran who served on active duty in the Southwest Asia theater of operations during the Persian Gulf War and has an illness described in paragraph (2) shall be presumed to have been exposed by reason of such service to the agent, hazard, or medicine or vaccine associated with the illness in the regulations prescribed under this section unless there is conclusive evidence to establish that the veteran was not exposed to the agent, hazard, or medicine or vaccine by reason of such service.

"(b)(1)(A) Whenever the Secretary makes a determination described in subparagraph (B), the Secretary shall prescribe regulations providing that a presumption of service connection is warranted for the illness covered by that determination for purposes of this section.

"(B) A determination referred to in subparagraph (A) is a determination based on sound medical and scientific evidence that a positive association exists between—

"(i) the exposure of humans or animals to a biological, chemical, or other toxic agent, environmental or wartime hazard, or preventive medicine or vaccine known or presumed to be associated with service in the Southwest Asia theater of operations during the Persian Gulf War; and

"(ii) the occurrence of a diagnosed or undiagnosed illness in humans or animals.

"(2)(A) In making determinations for purposes of paragraph (1), the Secretary shall take into account—

"(i) the reports submitted to the Secretary by the National Academy of Sciences under section 102 of the Persian Gulf War Veterans Act of 1998; and

"(ii) all other sound medical and scientific information and analyses available to the Secretary.

"(B) In evaluating any report, information, or analysis for purposes of making such determinations, the Secretary shall take into consideration whether the results are statistically significant, are capable of replication, and withstand peer review.

"(3) An association between the occurrence of an illness in humans or animals and exposure to an agent, hazard, or medicine or vaccine shall be considered to be positive for purposes of this subsection if the credible evidence for the association is equal to or outweighs the credible evidence against the association.

"(c)(1) Not later than 60 days after the date on which the Secretary receives a report from the National Academy of Sciences under section 102 of the Persian Gulf War Veterans Act of 1998, the Secretary shall determine whether or not a presumption of service connection is warranted for each illness, if any, covered by the report.

"(2) If the Secretary determines under this subsection that a presumption of service connection is warranted, the Secretary shall, not later than 60 days after making the determination, issue proposed regulations setting forth the Secretary's determination.

"(3)(A) If the Secretary determines under this subsection that a presumption of service connection is not warranted, the Secretary shall, not later than 60 days after making the determination, publish in the Federal Register a notice of the determination. The notice shall include an explanation of the scientific basis for the determination.

"(B) If an illness already presumed to be service connected under this section is subject to a determination under subparagraph (A), the Secretary shall, not later than 60 days after publication of the notice under that subparagraph, issue proposed regulations removing the presumption of service connection for the illness.

"(4) Not later than 90 days after the date on which the Secretary issues any proposed regulations under this subsection, the Secretary shall issue final regulations. Such regulations shall be effective on the date of issuance.

"(d) Whenever the presumption of service connection for an illness under this section is removed under subsection (c)—

"(1) a veteran who was awarded compensation for the illness on the basis of the presumption before the effective date of the removal of the presumption shall continue to be entitled to receive compensation on that basis; and

"(2) a survivor of a veteran who was awarded dependency and indemnity compensation for the death of a veteran resulting from the illness on the basis of the presumption before that date shall continue to be entitled to receive dependency and indemnity compensation on that basis.

"(e) Subsections (b) through (d) shall cease to be effective 10 years after the first day of the fiscal year in which the National Academy of Sciences submits to the Secretary the first report under section 102 of the Persian Gulf War Veterans Act of 1998.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1117 the following new item:

"1118. Presumptions of service connection for illnesses associated with service in the Persian Gulf during the Persian Gulf War.".

(b) Conforming Amendments.—Section 1113 of title 38, United States Code, is amended—

(1) by striking out "or 1117" each place it appears and inserting in lieu thereof "1117, or 1118"; and

(2) in subsection (a), by striking out "or 1116" and inserting in lieu thereof ", 1116, or 1118".

(c) Compensation for Undiagnosed Gulf War Illnesses.—Section 1117 of title 38, United States Code, is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and

(2) by inserting after subsection (b) the following new subsection (c):

"(c)(1) Whenever the Secretary determines under section 1118(c) of this title that a presumption of service connection for an undiagnosed illness (or combination of undiagnosed illnesses) previously established under this section is no longer warranted—

"(A) a veteran who was awarded compensation under this section for such illness (or combination of illnesses) on the basis of the presumption shall continue to be entitled to receive compensation under this section on that basis; and

"(B) a survivor of a veteran who was awarded dependency and indemnity compensation for the death of a veteran resulting from the disease on the basis of the presumption before that date shall continue to be entitled to receive dependency and indemnity compensation on that basis.

"(2) This subsection shall cease to be effective 10 years after the first day of the fiscal year in which the National Academy of Sciences submits to the Secretary the first report under section 102 of the Persian Gulf War Veterans Act of 1998.".

SEC. 102. AGREEMENT WITH NATIONAL ACADEMY OF SCIENCES.

(a) Purpose.—The purpose of this section is to provide for the National Academy of Sciences, an independent nonprofit scientific organization with appropriate expertise, to review and evaluate the available scientific evidence regarding associations between illnesses and exposure to toxic agents, environmental or wartime hazards, or preventive medicines or vaccines associated with Gulf War service.

(b) Agreement.—The Secretary of Veterans Affairs shall seek to enter into an agreement with the National Academy of Sciences for the Academy to perform the activities covered by this section and [sections 103(a)(6) and 104(d)] *section 103(a)(6)*. The Secretary shall seek to enter into the agreement not later than two months after the date of enactment of this Act.

(c) Identification of Agents and Illnesses.—(1) Under the agreement under subsection (b), the National Academy of Sciences shall—

(A) identify the biological, chemical, or other toxic agents, environmental or wartime hazards, or preventive medicines or vaccines to which members of the Armed Forces who served in the Southwest Asia theater of operations during the Persian Gulf War may have been exposed by reason of such service; and

(B) identify the illnesses (including diagnosed illnesses and undiagnosed illnesses) that are manifest in such members.

(2) In identifying illnesses under paragraph (1)(B), the Academy shall review and summarize the relevant scientific evidence regarding *chronic* illnesses among the members described in paragraph (1)(A) and among other appropriate populations of individuals, including mortality, symptoms, and adverse reproductive health outcomes among such members and individuals.

(d) Initial Consideration of Specific Agents.—(1) In identifying under subsection (c) the agents, hazards, or preventive medicines or vaccines to which members of the Armed Forces may have been exposed for purposes of the first report under subsection (i), the National Academy of Sciences shall consider, within the first six months after the date of enactment of this Act, the following:

(A) The following organophosphorous pesticides:

(i) Chlorpyrifos.

(ii) Diazinon.

(iii) Dichlorvos.

(iv) Malathion.

(B) The following carbamate pesticides:

(i) Proxpur.

(ii) Carbaryl.

(iii) Methomyl.

(C) The carbamate pyridostigmine bromide used as nerve agent prophylaxis.

(D) The following chlorinated dydrocarbon and other pesticides and repellents:

(i) Lindane.

(ii) Pyrethrins.

(iii) Permethrins.

(iv) Rodenticides (bait).

(v) Repellent (DEET).

(E) The following low-level nerve agents and precursor compounds at exposure levels below those which produce immediately apparent incapacitating symptoms:

(i) Sarin.

(ii) Tabun.

(F) The following synthetic chemical compounds:

(i) Mustard agents at levels below those which cause immediate blistering.

(ii) Volatile organic compounds.

(iii) Hydrazine.

(iv) Red fuming nitric acid.

(v) Solvents.

[(vi) Uranium.]

(G) The following [ionizing] *sources of* radiation:

(i) Depleted uranium.

(ii) Microwave radiation.

(iii) Radio frequency radiation.

(H) The following environmental particulates and pollutants:

(i) Hydrogen sulfide.

(ii) Oil fire byproducts.

(iii) Diesel heater fumes.

(iv) Sand micro-particles.

(I) Diseases endemic to the region (including the following):

(i) Leishmaniasis.

(ii) Sandfly fever.

(iii) Pathogenic escherechia coli.

(iv) Shigellosis.

(J) Time compressed administration of multiple live, "attenuated", and toxoid vaccines.

(2) The consideration of agents, hazards, and medicines and vaccines under paragraph (1) shall not preclude the Academy from identifying other agents, hazards, or medicines or vaccines to which members of the Armed Forces may have been exposed for purposes of any report under subsection (i).

(3) Not later than six months after the date of enactment of this Act, the National Academy of Science shall submit to the designated congressional committees a report specifying the agents, hazards, and medicines and vaccines considered under paragraph (1).

(e) Determinations of Associations Between Agents and Illnesses.—(1) For each agent, hazard, or medicine or vaccine and illness identified under subsection (c), the National Academy of Sciences shall determine, to the extent that available scientific data permit meaningful determinations—

(A) whether a statistical association exists between exposure to the agent, hazard, or medicine or vaccine and the illness, taking into account the strength of the scientific evidence and the appropriateness of the scientific methodology used to detect the association;

(B) the increased risk of the illness among human or animal populations exposed to the agent, hazard, or medicine or vaccine; and

(C) whether a plausible biological mechanism or other evidence of a causal relationship exists between exposure to the agent, hazard, or medicine or vaccine and the illness.

(2) The Academy shall include in its reports under subsection (i) a full discussion of the scientific evidence and reasoning that led to its conclusions under this subsection.

(f) Review of Potential Treatment Models for Certain Illnesses.—Under the agreement under subsection (b), the National Academy of Sciences shall separately review, for each chronic undiagnosed illness identified under subsection (c)(1)(B) and for any other chronic illness that the Academy determines to warrant such review, the available scientific data in order to identify empirically valid models of treatment for such illnesses which employ successful treatment modalities for populations with similar symptoms.

(g) Recommendations for Additional Scientific Studies.—(1) Under the agreement under subsection (b), the National Academy of Sciences shall make any recommendations that it considers appropriate for additional scientific studies (including studies relating to treatment models) to resolve areas of continuing scientific uncertainty relating to the health consequences of exposure to toxic agents, environmental or wartime hazards, or preventive medicines or vaccines associated with Gulf War service.

(2) In making recommendations for additional studies, the Academy shall consider the available scientific data, the value and relevance of the information that could result from such studies, and the cost and feasibility of carrying out such studies.

(h) Subsequent Reviews.—(1) Under the agreement under subsection (b), the National Academy of Sciences shall conduct on a periodic and ongoing basis additional reviews of the evidence and data relating to its activities under this section.

(2) As part of each review under this subsection, the Academy shall—

(A) conduct as comprehensive a review as is practicable of the evidence referred to in subsection (c) and the data referred to in subsections (e), (f), and (g) that became available since the last review of such evidence and data under this section; and

(B) make determinations under the subsections referred to in subparagraph (A) on the basis of the results of such review and all other reviews previously conducted for purposes of this section.

(i) Reports.—(1) Under the agreement under subsection (b), the National Academy of Sciences shall submit to the committees and officials referred to in paragraph (5) periodic written reports regarding the Academy's activities under the agreement.

(2) The first report under paragraph (1) shall be submitted not later than 18 months

after the date of enactment of this Act. That report shall include—

(A) the determinations and discussion referred to in subsection (e);

(B) the results of the review of models of treatment under subsection (f); and

(C) any recommendations of the Academy under subsection (g).

(3) Reports shall be submitted under this subsection at least once every two years, as measured from the date of the report under paragraph (2).

(4) In any report under this subsection (other than the report under paragraph (2)), the Academy may specify an absence of meaningful developments in the scientific or medical community with respect to the activities of the Academy under this section during the 2-year period ending on the date of such report.

(5) Reports under this subsection shall be submitted to the following:

(A) The designated congressional committees.

(B) The Secretary of Veterans Affairs.

(C) The Secretary of Defense.

(j) SUNSET.—This section shall cease to be effective 10 years after the last day of the fiscal year in which the National Academy of Sciences submits the first report under subsection (i).

(k) ALTERNATIVE CONTRACT SCIENTIFIC ORGANIZATION.—(1) If the Secretary is unable within the time period set forth in subsection (b) to enter into an agreement with the National Academy of Sciences for the purposes of this section on terms acceptable to the Secretary, the Secretary shall seek to enter into an agreement for purposes of this section with another appropriate scientific organization that is not part of the Government, operates as a not-for-profit entity, and has expertise and objectivity comparable to that of the National Academy of Sciences.

(2) If the Secretary enters into an agreement with another organization under this subsection, any reference in this section, sections 103 and 104, and section 1118 of title 38, United States Code (as added by section 101), to the National Academy of Sciences shall be treated as a reference to such other organization.

SEC. 103. MONITORING OF HEALTH STATUS AND HEALTH CARE OF PERSIAN GULF WAR VETERANS.

(a) INFORMATION DATA BASE.—(1) The Secretary of Veterans Affairs shall, in consultation with the Secretary of Defense, develop a plan for the establishment and operation of a single computerized information data base for the collection, storage, and analysis of information on—

(A) the diagnosed illnesses and undiagnosed illnesses suffered by current and former members of the Armed Forces who served in the Southwest Asia theater of operations during the Persian Gulf War; and

(B) the health care utilization patterns of such members with—

(i) any chronic undiagnosed illnesses; and

(ii) any chronic illnesses for which the National Academy of Sciences has identified a valid model of treatment pursuant to its review under section 102(f).

(2) The plan shall provide for the commencement of the operation of the data base not later than 18 months after the date of enactment of this Act.

(3) The Secretary shall ensure in the plan that the data base provides the capability of monitoring and analyzing information on—

(A) the illnesses covered by paragraph (1)(A);

(B) the health care utilization patterns referred to in paragraph (1)(B); and

(C) the changes in health status of veterans covered by paragraph (1).

(4) In order to meet the requirement under paragraph (3), the plan shall ensure that the data base includes the following:

(A) Information in the Persian Gulf War Veterans Health Registry established under section 702 of the Persian Gulf War Veterans' Health Status Act (title VII of Public Law 102-585; 38 U.S.C. 527 note).

(B) Information in the Comprehensive Clinical Evaluation Program for Veterans established under section 734 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (10 U.S.C. 1074 note).

(C) Information derived from other examinations and treatment provided by Department of Veterans Affairs health care facilities to veterans who served in the Southwest Asia theater of operations during the Persian Gulf War.

(D) Information derived from other examinations and treatment provided by military health care facilities to current members of the Armed Forces (including members of the active components and members of the reserve components) who served in that theater of operations during that war.

(E) Such other information as the Secretary of Veterans Affairs and the Secretary of Defense consider appropriate.

(5) Not later than one year after the date of enactment of this Act, the Secretary shall submit the plan developed under paragraph (1) to the following:

(A) The designated congressional committees.

(B) The Secretary of Veterans Affairs.

(C) The Secretary of Defense.

(D) The National Academy of Sciences.

(6)(A) The agreement under section 102 shall require the evaluation of the plan developed under paragraph (1) by the National Academy of Sciences. The Academy shall complete the evaluation of the plan not later than 90 days after the date of its submittal to the Academy under paragraph (5).

(B) Upon completion of the evaluation, the Academy shall submit a report on the evaluation to the committees and individuals referred to in paragraph (5).

(7) Not later than 90 days after receipt of the report under paragraph (6), the Secretary shall—

(A) modify the plan in light of the evaluation of the Academy in the report; and

(B) commence implementation of the plan as so modified.

(b) ANNUAL REPORT.—Not later than April 1 each year after the year in which operation of the data base under subsection (a) commences, the Secretary of Veterans Affairs and the Secretary of Defense shall jointly submit to the designated congressional committees a report containing—

(1) with respect to the data compiled under this section during the preceding year—

(A) an analysis of the data;

(B) a discussion of the types, incidences, and prevalence of the illnesses identified through such data;

(C) an explanation for the incidence and prevalence of such illnesses; and

(D) other reasonable explanations for the incidence and prevalence of such illnesses; and

(2) with respect to the most current information received under section 102(i) regarding treatment models reviewed under section 102(f)—

(A) an analysis of the information;

(B) the results of any consultation between such Secretaries regarding the implementation of such treatment models in the health care systems of the Department of Veterans Affairs and the Department of Defense; and

(C) in the event either such Secretary determines not to implement such treatment models, an explanation for such determination.

SEC. 104. REPORTS ON RECOMMENDATIONS FOR ADDITIONAL SCIENTIFIC RESEARCH.

(a) REPORTS.—Not later than 90 days after the date on which the Secretary of Veterans Affairs receives any recommendations from the National Academy of Sciences for additional scientific studies under section 102(g), the Secretary of Veterans Affairs, Secretary of Defense, and Secretary of Health and Human Services shall jointly submit to the designated congressional committees a report on such recommendations, including whether or not the Secretaries intend to carry out any recommended studies.

(b) ELEMENTS.—In each report under subsection (a), the Secretaries shall—

(1) set forth a plan for each study, if any, that the Secretaries intend to carry out; or

(2) in case of each study that the Secretaries intend not to carry out, set forth a justification for the intention not to carry out such study.

SEC. 105. OUTREACH.

(a) OUTREACH BY SECRETARY OF VETERANS AFFAIRS.—The Secretary of Veterans Affairs shall, in consultation with the Secretary of Defense and the Secretary of Health and Human Services, carry out an ongoing program to provide veterans who served in the Southwest Asia theater of operations during the Persian Gulf War the information described in subsection (c).

(b) OUTREACH BY SECRETARY OF DEFENSE.—The Secretary of Defense shall, in consultation with the Secretary of Veterans Affairs and the Secretary of Health and Human Services, carry out an ongoing program to provide current members of the Armed Forces (including members of the active components and members of the reserve components) who served in that theater of operations during that war the information described in subsection (c).

(c) COVERED INFORMATION.—Information under this subsection is information relating to—

(1) the health risks, if any, resulting from exposure to toxic agents, environmental or wartime hazards, or preventive medicines or vaccines associated with Gulf War service; and

(2) any services or benefits available with respect to such health risks.

SEC. 106. DEFINITIONS.

In this title:

(1) The term "toxic agent, environmental or wartime hazard, or preventive medicine or vaccine associated with Gulf War service" means a biological, chemical, or other toxic agent, environmental or wartime hazard, or preventive medicine or vaccine that is known or presumed to be associated with service in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War, whether such association arises as a result of single, repeated, or sustained exposure and whether such association arises through exposure singularly or in combination.

(2) The term "designated congressional committees" means the following:

(A) The Committees on Veterans' Affairs and Armed Services of the Senate.

(B) The Committees on Veterans' Affairs and National Security of the House of Representatives.

(3) The term "Persian Gulf War" has the meaning given that term in section 101(33) of title 38, United States Code.

TITLE II—EXTENSION AND ENHANCEMENT OF *PERSIAN* GULF WAR HEALTH CARE AUTHORITIES

SEC. 201. EXTENSION OF AUTHORITY TO PROVIDE HEALTH CARE FOR PERSIAN GULF WAR VETERANS.

Section 1710(e)(3)(B) of title 38, United States Code, is amended by striking out "December 31, 1998" and inserting in lieu thereof "December 31, 2001".

SEC. 202. EXTENSION AND IMPROVEMENT OF EVALUATION OF HEALTH STATUS OF SPOUSES AND CHILDREN OF PERSIAN GULF WAR VETERANS.

(a) EXTENSION.—Subsection (b) of section 107 of the Persian Gulf War Veterans' Benefits Act (title I of Public Law 103–446; 38 U.S.C. 1117 note) is amended by striking out "ending on December 31, 1998." and inserting in lieu thereof "ending on the earlier of—

"(1) the date of the completion of expenditure of funds available for the program under subsection (c); or

"(2) December 31, 2001.".

(b) TERMINATION OF CERTAIN TESTING AND EVALUATION REQUIREMENTS.—Subsection (a) of that section is amended by striking out the flush matter following paragraph (3).

(c) OUTREACH.—Subsection (g) of that section is amended—

(1) by inserting "(1)" before "The Secretary";

(2) by redesignating paragraphs (1) and (2) of paragraph (1), as designated by paragraph (1) of this subsection, as subparagraphs (A) and (B) of that paragraph; and

(3) by adding at the end the following new paragraphs:

"(2) In addition to the outreach activities under paragraph (1), the Secretary shall also provide outreach with respect to the following:

"(A) The existence of the program under this section.

"(B) The purpose of the program.

"(C) The availability under the program of medical examinations and tests, and not medical treatment.

"(D) The findings of any published, peer-reviewed research with respect to any associations (or lack thereof) between the service of veterans in the Southwest Asia theater of operations and particular illnesses or disorders of their spouses or children.

"(3) Outreach under this subsection shall be provided any veteran who served as a member of the Armed Forces in the Southwest Asia theater of operations and who—

"(A) seeks health care or services at medical facilities of the Department of Veterans Affairs; or

"(B) is or seeks to be listed in the Persian Gulf War Veterans Registry.".

(d) ENHANCED FLEXIBILITY IN EXAMINATIONS.—That section is further amended—

(1) by redesignating subsections (i) and (j) as subsections (k) and (*l*), respectively; and

(2) by inserting after subsection (h) the following new subsection (i):

"(i) ENHANCED FLEXIBILITY IN EXAMINATIONS.—In order to increase the number of diagnostic tests and medical examinations under the program under this section, the Secretary may—

"(1) reimburse the primary physicians of spouses and children covered by that subsection for the costs of conducting such tests or examinations, with such rates of reimbursement not to exceed the rates paid contract entities under subsection (d) for conducting tests or examinations under the program;

"(2) conduct such tests or examinations of spouses covered by that subsection in medical facilities of the Department; and

"(3) in the event travel is required in order to facilitate such tests or examinations by contract entities referred to in paragraph (1), reimburse the spouses and children concerned for the costs of such travel and of related lodging.".

(e) ENHANCED MONITORING OF PROGRAM.—That section is further amended by inserting after subsection (i), as amended by subsection (d) of this section, the following new subsection (j):

"(j) ENHANCED MONITORING OF PROGRAM.—In order to enhance monitoring of the program under this section, the Secretary shall provide for monthly reports to the Central Office of the Department on activities with respect to the program by elements of the Department and contract entities under subsection (d).".

TITLE III—MISCELLANEOUS

SEC. 301. ASSESSMENT OF ESTABLISHMENT OF INDEPENDENT ENTITY TO EVALUATE POST-CONFLICT ILLNESSES AMONG MEMBERS OF THE ARMED FORCES AND HEALTH CARE PROVIDED BY DOD AND VA BEFORE AND AFTER DEPLOYMENT OF SUCH MEMBERS.

(a) AGREEMENT FOR ASSESSMENT.—The Secretary of Veterans Affairs shall seek to enter into an agreement with the National Academy of Sciences, or other appropriate independent organization, under which agreement the Academy shall carry out the assessment referred to in subsection (b).

(b) ASSESSMENT.—(1) Under the agreement, the Academy shall assess the need for and feasibility of establishing an independent entity to—

(A) evaluate and monitor interagency coordination on issues relating to the post-deployment health concerns of members of the Armed Forces, including coordination relating to outreach and risk communication, recordkeeping, research, utilization of new technologies, international cooperation and research, health surveillance, and other health-related activities;

(B) evaluate the health care (including preventive care and responsive care) provided to members of the Armed Forces both before and after their deployment on military operations;

(C) monitor and direct Government efforts to evaluate the health of members of the Armed Forces upon their return from deployment on military operations for purposes of ensuring the rapid identification of any trends in diseases or injuries among such members as a result of such operations;

(D) provide and direct the provision of ongoing training of health care personnel of the Department of Defense and the Department of Veterans Affairs in the evaluation and treatment of post-deployment diseases and health conditions, including nonspecific and unexplained illnesses; and

(E) make recommendations to the Department of Defense and the Department of Veterans Affairs regarding improvements in the provision of health care referred to in subparagraph (B), including improvements in the monitoring and treatment of members referred to in that subparagraph.

(2) The assessment shall cover the health care provided by the Department of Defense and, where applicable, by the Department of Veterans Affairs.

(c) REPORT.—(1) The agreement shall require the Academy to submit to the committees referred to in paragraph (3) a report on the results of the assessment under this section not later than one year after the date of enactment of this Act.

(2) The report shall include the following:

(A) The recommendation of the Academy as to the need for and feasibility of establishing an independent entity as described in subsection (b) and a justification of such recommendation.

(B) If the Academy recommends that an entity be established, the recommendations of the Academy as to—

(i) the organizational placement of the entity;

(ii) the personnel and other resources to be allocated to the entity;

(iii) the scope and nature of the activities and responsibilities of the entity; and

(iv) mechanisms for ensuring that any recommendations of the entity are carried out by the Department of Defense and the Department of Veterans Affairs.

(3) The report shall be submitted to the following:

(A) The Committee on Veterans' Affairs and the Committee on Armed Services of the Senate.

(B) The Committee on Veterans' Affairs and the Committee on National Security of the House of Representatives.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the committee amendments be agreed to, the bill be read the third time and passed, the amendment to the title and the title, as amended, be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to.

The bill (S. 2358), as amended, was considered read the third time, and passed, as follows:

S. 2358

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Persian Gulf War Veterans Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—SERVICE CONNECTION FOR PERSIAN GULF WAR ILLNESSES

Sec. 101. Presumption of service connection for illnesses associated with service in the Persian Gulf during the Persian Gulf War.
Sec. 102. Agreement with National Academy of Sciences.
Sec. 103. Monitoring of health status and health care of Persian Gulf War veterans.
Sec. 104. Reports on recommendations for additional scientific research.
Sec. 105. Outreach.
Sec. 106. Definitions.

TITLE II—EXTENSION AND ENHANCEMENT OF PERSIAN GULF WAR HEALTH CARE AUTHORITIES

Sec. 201. Extension of authority to provide health care for Persian Gulf War veterans.
Sec. 202. Extension and improvement of evaluation of health status of spouses and children of Persian Gulf War veterans.

TITLE III—MISCELLANEOUS

Sec. 301. Assessment of establishment of independent entity to evaluate post-conflict illnesses among members of the Armed Forces and health care provided by DoD and VA before and after deployment of such members.

TITLE I—SERVICE CONNECTION FOR PERSIAN GULF WAR ILLNESSES

SEC. 101. PRESUMPTION OF SERVICE CONNECTION FOR ILLNESSES ASSOCIATED WITH SERVICE IN THE PERSIAN GULF DURING THE PERSIAN GULF WAR.

(a) IN GENERAL.—(1) Subchapter II of chapter 11 of title 38, United States Code, is amended by adding at the end the following:

"§ 1118. Presumptions of service connection for illnesses associated with service in the Persian Gulf during the Persian Gulf War

"(a)(1) For purposes of section 1110 of this title, and subject to section 1113 of this title, each illness, if any, described in paragraph (2) shall be considered to have been incurred in or aggravated by service referred to in that paragraph, notwithstanding that there is no record of evidence of such illness during the period of such service.

"(2) An illness referred to in paragraph (1) is any diagnosed or undiagnosed illness that—

"(A) the Secretary determines in regulations prescribed under this section to warrant a presumption of service connection by reason of having a positive association with exposure to a biological, chemical, or other toxic agent, environmental or wartime hazard, or preventive medicine or vaccine known or presumed to be associated with service in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War; and

"(B) becomes manifest within the period, if any, prescribed in such regulations in a veteran who served on active duty in that theater of operations during that war and by reason of such service was exposed to such agent, hazard, or medicine or vaccine.

"(3) For purposes of this subsection, a veteran who served on active duty in the Southwest Asia theater of operations during the Persian Gulf War and has an illness described in paragraph (2) shall be presumed to have been exposed by reason of such service to the agent, hazard, or medicine or vaccine associated with the illness in the regulations prescribed under this section unless there is conclusive evidence to establish that the veteran was not exposed to the agent, hazard, or medicine or vaccine by reason of such service.

"(b)(1)(A) Whenever the Secretary makes a determination described in subparagraph (B), the Secretary shall prescribe regulations providing that a presumption of service connection is warranted for the illness covered by that determination for purposes of this section.

"(B) A determination referred to in subparagraph (A) is a determination based on sound medical and scientific evidence that a positive association exists between—

"(i) the exposure of humans or animals to a biological, chemical, or other toxic agent, environmental or wartime hazard, or preventive medicine or vaccine known or presumed to be associated with service in the Southwest Asia theater of operations during the Persian Gulf War; and

"(ii) the occurrence of a diagnosed or undiagnosed illness in humans or animals.

"(2)(A) In making determinations for purposes of paragraph (1), the Secretary shall take into account—

"(i) the reports submitted to the Secretary by the National Academy of Sciences under section 102 of the Persian Gulf War Veterans Act of 1998; and

"(ii) all other sound medical and scientific information and analyses available to the Secretary.

"(B) In evaluating any report, information, or analysis for purposes of making such determinations, the Secretary shall take into consideration whether the results are statistically significant, are capable of replication, and withstand peer review.

"(3) An association between the occurrence of an illness in humans or animals and exposure to an agent, hazard, or medicine or vaccine shall be considered to be positive for purposes of this subsection if the credible evidence for the association is equal to or outweighs the credible evidence against the association.

"(c)(1) Not later than 60 days after the date on which the Secretary receives a report from the National Academy of Sciences under section 102 of the Persian Gulf War Veterans Act of 1998, the Secretary shall determine whether or not a presumption of service connection is warranted for each illness, if any, covered by the report.

"(2) If the Secretary determines under this subsection that a presumption of service connection is warranted, the Secretary shall, not later than 60 days after making the determination, issue proposed regulations setting forth the Secretary's determination.

"(3)(A) If the Secretary determines under this subsection that a presumption of service connection is not warranted, the Secretary shall, not later than 60 days after making the determination, publish in the Federal Register a notice of the determination. The notice shall include an explanation of the scientific basis for the determination.

"(B) If an illness already presumed to be service connected under this section is subject to a determination under subparagraph (A), the Secretary shall, not later than 60 days after publication of the notice under that subparagraph, issue proposed regulations removing the presumption of service connection for the illness.

"(4) Not later than 90 days after the date on which the Secretary issues any proposed regulations under this subsection, the Secretary shall issue final regulations. Such regulations shall be effective on the date of issuance.

"(d) Whenever the presumption of service connection for an illness under this section is removed under subsection (c)—

"(1) a veteran who was awarded compensation for the illness on the basis of the presumption before the effective date of the removal of the presumption shall continue to be entitled to receive compensation on that basis; and

"(2) a survivor of a veteran who was awarded dependency and indemnity compensation for the death of a veteran resulting from the illness on the basis of the presumption before that date shall continue to be entitled to receive dependency and indemnity compensation on that basis.

"(e) Subsections (b) through (d) shall cease to be effective 10 years after the first day of the fiscal year in which the National Academy of Sciences submits to the Secretary the first report under section 102 of the Persian Gulf War Veterans Act of 1998.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1117 the following new item:

"1118. Presumptions of service connection for illnesses associated with service in the Persian Gulf during the Persian Gulf War.".

(b) CONFORMING AMENDMENTS.—Section 1113 of title 38, United States Code, is amended—

(1) by striking out "or 1117" each place it appears and inserting in lieu thereof "1117, or 1118"; and

(2) in subsection (a), by striking out "or 1116" and inserting in lieu thereof ", 1116, or 1118".

(c) COMPENSATION FOR UNDIAGNOSED GULF WAR ILLNESSES.—Section 1117 of title 38, United States Code, is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and

(2) by inserting after subsection (b) the following new subsection (c):

"(c)(1) Whenever the Secretary determines under section 1118(c) of this title that a presumption of service connection for an undiagnosed illness (or combination of undiagnosed illnesses) previously established under this section is no longer warranted—

"(A) a veteran who was awarded compensation under this section for such illness (or combination of illnesses) on the basis of the presumption shall continue to be entitled to receive compensation under this section on that basis; and

"(B) a survivor of a veteran who was awarded dependency and indemnity compensation for the death of a veteran resulting from the disease on the basis of the presumption before that date shall continue to be entitled to receive dependency and indemnity compensation on that basis.

"(2) This subsection shall cease to be effective 10 years after the first day of the fiscal year in which the National Academy of Sciences submits to the Secretary the first report under section 102 of the Persian Gulf War Veterans Act of 1998.".

SEC. 102. AGREEMENT WITH NATIONAL ACADEMY OF SCIENCES.

(a) PURPOSE.—The purpose of this section is to provide for the National Academy of Sciences, an independent nonprofit scientific organization with appropriate expertise, to review and evaluate the available scientific evidence regarding associations between illnesses and exposure to toxic agents, environmental or wartime hazards, or preventive medicines or vaccines associated with Gulf War service.

(b) AGREEMENT.—The Secretary of Veterans Affairs shall seek to enter into an agreement with the National Academy of Sciences for the Academy to perform the activities covered by this section and section 103(a)(6). The Secretary shall seek to enter into the agreement not later than two months after the date of enactment of this Act.

(c) IDENTIFICATION OF AGENTS AND ILLNESSES.—(1) Under the agreement under subsection (b), the National Academy of Sciences shall—

(A) identify the biological, chemical, or other toxic agents, environmental or wartime hazards, or preventive medicines or vaccines to which members of the Armed Forces who served in the Southwest Asia theater of operations during the Persian Gulf War may have been exposed by reason of such service; and

(B) identify the illnesses (including diagnosed illnesses and undiagnosed illnesses) that are manifest in such members.

(2) In identifying illnesses under paragraph (1)(B), the Academy shall review and summarize the relevant scientific evidence regarding chronic illnesses among the members described in paragraph (1)(A) and among other appropriate populations of individuals, including mortality, symptoms, and adverse reproductive health outcomes among such members and individuals.

(d) Initial Consideration of Specific Agents.—(1) In identifying under subsection (c) the agents, hazards, or preventive medicines or vaccines to which members of the Armed Forces may have been exposed for purposes of the first report under subsection (i), the National Academy of Sciences shall consider, within the first six months after the date of enactment of this Act, the following:

(A) The following organophosphorous pesticides:

(i) Chlorpyrifos.

(ii) Diazinon.

(iii) Dichlorvos.

(iv) Malathion.

(B) The following carbamate pesticides:

(i) Proxpur.

(ii) Carbaryl.

(iii) Methomyl.

(C) The carbamate pyridostigmine bromide used as nerve agent prophylaxis.

(D) The following chlorinated dydrocarbon and other pesticides and repellents:

(i) Lindane.

(ii) Pyrethrins.

(iii) Permethrins.

(iv) Rodenticides (bait).

(v) Repellent (DEET).

(E) The following low-level nerve agents and precursor compounds at exposure levels below those which produce immediately apparent incapacitating symptoms:

(i) Sarin.

(ii) Tabun.

(F) The following synthetic chemical compounds:

(i) Mustard agents at levels below those which cause immediate blistering.

(ii) Volatile organic compounds.

(iii) Hydrazine.

(iv) Red fuming nitric acid.

(v) Solvents.

(G) The following sources of radiation:

(i) Depleted uranium.

(ii) Microwave radiation.

(iii) Radio frequency radiation.

(H) The following environmental particulates and pollutants:

(i) Hydrogen sulfide.

(ii) Oil fire byproducts.

(iii) Diesel heater fumes.

(iv) Sand micro-particles.

(I) Diseases endemic to the region (including the following):

(i) Leishmaniasis.

(ii) Sandfly fever.

(iii) Pathogenic escherechia coli.

(iv) Shigellosis.

(J) Time compressed administration of multiple live, "attenuated", and toxoid vaccines.

(2) The consideration of agents, hazards, and medicines and vaccines under paragraph (1) shall not preclude the Academy from identifying other agents, hazards, or medicines or vaccines to which members of the Armed Forces may have been exposed for purposes of any report under subsection (i).

(3) Not later than six months after the date of enactment of this Act, the National Academy of Science shall submit to the designated congressional committees a report specifying the agents, hazards, and medicines and vaccines considered under paragraph (1).

(e) Determinations of Associations Between Agents and Illnesses.—(1) For each agent, hazard, or medicine or vaccine and illness identified under subsection (c), the National Academy of Sciences shall determine, to the extent that available scientific data permit meaningful determinations—

(A) whether a statistical association exists between exposure to the agent, hazard, or medicine or vaccine and the illness, taking into account the strength of the scientific evidence and the appropriateness of the scientific methodology used to detect the association;

(B) the increased risk of the illness among human or animal populations exposed to the agent, hazard, or medicine or vaccine; and

(C) whether a plausible biological mechanism or other evidence of a causal relationship exists between exposure to the agent, hazard, or medicine or vaccine and the illness.

(2) The Academy shall include in its reports under subsection (i) a full discussion of the scientific evidence and reasoning that led to its conclusions under this subsection.

(f) Review of Potential Treatment Models for Certain Illnesses.—Under the agreement under subsection (b), the National Academy of Sciences shall separately review, for each chronic undiagnosed illness identified under subsection (c)(1)(B) and for any other chronic illness that the Academy determines to warrant such review, the available scientific data in order to identify empirically valid models of treatment for such illnesses which employ successful treatment modalities for populations with similar symptoms.

(g) Recommendations for Additional Scientific Studies.—(1) Under the agreement under subsection (b), the National Academy of Sciences shall make any recommendations that it considers appropriate for additional scientific studies (including studies relating to treatment models) to resolve areas of continuing scientific uncertainty relating to the health consequences of exposure to toxic agents, environmental or wartime hazards, or preventive medicines or vaccines associated with Gulf War service.

(2) In making recommendations for additional studies, the Academy shall consider the available scientific data, the value and relevance of the information that could result from such studies, and the cost and feasibility of carrying out such studies.

(h) Subsequent Reviews.—(1) Under the agreement under subsection (b), the National Academy of Sciences shall conduct on a periodic and ongoing basis additional reviews of the evidence and data relating to its activities under this section.

(2) As part of each review under this subsection, the Academy shall—

(A) conduct as comprehensive a review as is practicable of the evidence referred to in subsection (c) and the data referred to in subsections (e), (f), and (g) that became available since the last review of such evidence and data under this section; and

(B) make determinations under the subsections referred to in subparagraph (A) on the basis of the results of such review and all other reviews previously conducted for purposes of this section.

(i) Reports.—(1) Under the agreement under subsection (b), the National Academy of Sciences shall submit to the committees and officials referred to in paragraph (5) periodic written reports regarding the Academy's activities under the agreement.

(2) The first report under paragraph (1) shall be submitted not later than 18 months after the date of enactment of this Act. That report shall include—

(A) the determinations and discussion referred to in subsection (e);

(B) the results of the review of models of treatment under subsection (f); and

(C) any recommendations of the Academy under subsection (g).

(3) Reports shall be submitted under this subsection at least once every two years, as measured from the date of the report under paragraph (2).

(4) In any report under this subsection (other than the report under paragraph (2)), the Academy may specify an absence of meaningful developments in the scientific or medical community with respect to the activities of the Academy under this section during the 2-year period ending on the date of such report.

(5) Reports under this subsection shall be submitted to the following:

(A) The designated congressional committees.

(B) The Secretary of Veterans Affairs.

(C) The Secretary of Defense.

(j) Sunset.—This section shall cease to be effective 10 years after the last day of the fiscal year in which the National Academy of Sciences submits the first report under subsection (i).

(k) Alternative Contract Scientific Organization.—(1) If the Secretary is unable within the time period set forth in subsection (b) to enter into an agreement with the National Academy of Sciences for the purposes of this section on terms acceptable to the Secretary, the Secretary shall seek to enter into an agreement for purposes of this section with another appropriate scientific organization that is not part of the Government, operates as a not-for-profit entity, and has expertise and objectivity comparable to that of the National Academy of Sciences.

(2) If the Secretary enters into an agreement with another organization under this subsection, any reference in this section, sections 103 and 104, and section 1118 of title 38, United States Code (as added by section 101), to the National Academy of Sciences shall be treated as a reference to such other organization.

SEC. 103. MONITORING OF HEALTH STATUS AND HEALTH CARE OF PERSIAN GULF WAR VETERANS.

(a) Information Data Base.—(1) The Secretary of Veterans Affairs shall, in consultation with the Secretary of Defense, develop a plan for the establishment and operation of a single computerized information data base for the collection, storage, and analysis of information on—

(A) the diagnosed illnesses and undiagnosed illnesses suffered by current and former members of the Armed Forces who served in the Southwest Asia theater of operations during the Persian Gulf War; and

(B) the health care utilization patterns of such members with—

(i) any chronic undiagnosed illnesses; and

(ii) any chronic illnesses for which the National Academy of Sciences has identified a valid model of treatment pursuant to its review under section 102(f).

(2) The plan shall provide for the commencement of the operation of the data base not later than 18 months after the date of enactment of this Act.

(3) The Secretary shall ensure in the plan that the data base provides the capability of monitoring and analyzing information on—

(A) the illnesses covered by paragraph (1)(A);

(B) the health care utilization patterns referred to in paragraph (1)(B); and

(C) the changes in health status of veterans covered by paragraph (1).

(4) In order to meet the requirement under paragraph (3), the plan shall ensure that the data base includes the following:

(A) Information in the Persian Gulf War Veterans Health Registry established under section 702 of the Persian Gulf War Veterans' Health Status Act (title VII of Public Law 102–585; 38 U.S.C. 527 note).

(B) Information in the Comprehensive Clinical Evaluation Program for Veterans established under section 734 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (10 U.S.C. 1074 note).

(C) Information derived from other examinations and treatment provided by Department of Veterans Affairs health care facilities to veterans who served in the Southwest Asia theater of operations during the Persian Gulf War.

(D) Information derived from other examinations and treatment provided by military health care facilities to current members of the Armed Forces (including members of the active components and members of the reserve components) who served in that theater of operations during that war.

(E) Such other information as the Secretary of Veterans Affairs and the Secretary of Defense consider appropriate.

(5) Not later than one year after the date of enactment of this Act, the Secretary shall submit the plan developed under paragraph (1) to the following:

(A) The designated congressional committees.

(B) The Secretary of Veterans Affairs.

(C) The Secretary of Defense.

(D) The National Academy of Sciences.

(6)(A) The agreement under section 102 shall require the evaluation of the plan developed under paragraph (1) by the National Academy of Sciences. The Academy shall complete the evaluation of the plan not later than 90 days after the date of its submittal to the Academy under paragraph (5).

(B) Upon completion of the evaluation, the Academy shall submit a report on the evaluation to the committees and individuals referred to in paragraph (5).

(7) Not later than 90 days after receipt of the report under paragraph (6), the Secretary shall—

(A) modify the plan in light of the evaluation of the Academy in the report; and

(B) commence implementation of the plan as so modified.

(b) ANNUAL REPORT.—Not later than April 1 each year after the year in which operation of the data base under subsection (a) commences, the Secretary of Veterans Affairs and the Secretary of Defense shall jointly submit to the designated congressional committees a report containing—

(1) with respect to the data compiled under this section during the preceding year—

(A) an analysis of the data;

(B) a discussion of the types, incidences, and prevalence of the illnesses identified through such data;

(C) an explanation for the incidence and prevalence of such illnesses; and

(D) other reasonable explanations for the incidence and prevalence of such illnesses; and

(2) with respect to the most current information received under section 102(i) regarding treatment models reviewed under section 102(f)—

(A) an analysis of the information;

(B) the results of any consultation between such Secretaries regarding the implementation of such treatment models in the health care systems of the Department of Veterans Affairs and the Department of Defense; and

(C) in the event either such Secretary determines not to implement such treatment models, an explanation for such determination.

SEC. 104. REPORTS ON RECOMMENDATIONS FOR ADDITIONAL SCIENTIFIC RESEARCH.

(a) REPORTS.—Not later than 90 days after the date on which the Secretary of Veterans Affairs receives any recommendations from the National Academy of Sciences for additional scientific studies under section 102(g), the Secretary of Veterans Affairs, Secretary of Defense, and Secretary of Health and Human Services shall jointly submit to the designated congressional committees a report on such recommendations, including whether or not the Secretaries intend to carry out any recommended studies.

(b) ELEMENTS.—In each report under subsection (a), the Secretaries shall—

(1) set forth a plan for each study, if any, that the Secretaries intend to carry out; or

(2) in case of each study that the Secretaries intend not to carry out, set forth a justification for the intention not to carry out such study.

SEC. 105. OUTREACH.

(a) OUTREACH BY SECRETARY OF VETERANS AFFAIRS.—The Secretary of Veterans Affairs shall, in consultation with the Secretary of Defense and the Secretary of Health and Human Services, carry out an ongoing program to provide veterans who served in the Southwest Asia theater of operations during the Persian Gulf War the information described in subsection (c).

(b) OUTREACH BY SECRETARY OF DEFENSE.—The Secretary of Defense shall, in consultation with the Secretary of Veterans Affairs and the Secretary of Health and Human Services, carry out an ongoing program to provide current members of the Armed Forces (including members of the active components and members of the reserve components) who served in that theater of operations during that war the information described in subsection (c).

(c) COVERED INFORMATION.—Information under this subsection is information relating to—

(1) the health risks, if any, resulting from exposure to toxic agents, environmental or wartime hazards, or preventive medicines or vaccines associated with Gulf War service; and

(2) any services or benefits available with respect to such health risks.

SEC. 106. DEFINITIONS.

In this title:

(1) The term "toxic agent, environmental or wartime hazard, or preventive medicine or vaccine associated with Gulf War service" means a biological, chemical, or other toxic agent, environmental or wartime hazard, or preventive medicine or vaccine that is known or presumed to be associated with service in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War, whether such association arises as a result of single, repeated, or sustained exposure and whether such association arises through exposure singularly or in combination.

(2) The term "designated congressional committees" means the following:

(A) The Committees on Veterans' Affairs and Armed Services of the Senate.

(B) The Committees on Veterans' Affairs and National Security of the House of Representatives.

(3) The term "Persian Gulf War" has the meaning given that term in section 101(33) of title 38, United States Code.

TITLE II—EXTENSION AND ENHANCEMENT OF PERSIAN GULF WAR HEALTH CARE AUTHORITIES

SEC. 201. EXTENSION OF AUTHORITY TO PROVIDE HEALTH CARE FOR PERSIAN GULF WAR VETERANS.

Section 1710(e)(3)(B) of title 38, United States Code, is amended by striking out "December 31, 1998" and inserting in lieu thereof "December 31, 2001".

SEC. 202. EXTENSION AND IMPROVEMENT OF EVALUATION OF HEALTH STATUS OF SPOUSES AND CHILDREN OF PERSIAN GULF WAR VETERANS.

(a) EXTENSION.—Subsection (b) of section 107 of the Persian Gulf War Veterans' Benefits Act (title I of Public Law 103–446; 38 U.S.C. 1117 note) is amended by striking out "ending on December 31, 1998." and inserting in lieu thereof "ending on the earlier of—

"(1) the date of the completion of expenditure of funds available for the program under subsection (c); or

"(2) December 31, 2001.".

(b) TERMINATION OF CERTAIN TESTING AND EVALUATION REQUIREMENTS.—Subsection (a) of that section is amended by striking out the flush matter following paragraph (3).

(c) OUTREACH.—Subsection (g) of that section is amended—

(1) by inserting "(1)" before "The Secretary";

(2) by redesignating paragraphs (1) and (2) of paragraph (1), as designated by paragraph (1) of this subsection, as subparagraphs (A) and (B) of that paragraph; and

(3) by adding at the end the following new paragraphs:

"(2) In addition to the outreach activities under paragraph (1), the Secretary shall also provide outreach with respect to the following:

"(A) The existence of the program under this section.

"(B) The purpose of the program.

"(C) The availability under the program of medical examinations and tests, and not medical treatment.

"(D) The findings of any published, peer-reviewed research with respect to any associations (or lack thereof) between the service of veterans in the Southwest Asia theater of operations and particular illnesses or disorders of their spouses or children.

"(3) Outreach under this subsection shall be provided any veteran who served as a member of the Armed Forces in the Southwest Asia theater of operations and who—

"(A) seeks health care or services at medical facilities of the Department of Veterans Affairs; or

"(B) is or seeks to be listed in the Persian Gulf War Veterans Registry.".

(d) ENHANCED FLEXIBILITY IN EXAMINATIONS.—That section is further amended—

(1) by redesignating subsections (i) and (j) as subsections (k) and (l), respectively; and

(2) by inserting after subsection (h) the following new subsection (i):

"(i) ENHANCED FLEXIBILITY IN EXAMINATIONS.—In order to increase the number of diagnostic tests and medical examinations under the program under this section, the Secretary may—

"(1) reimburse the primary physicians of spouses and children covered by that subsection for the costs of conducting such tests or examinations, with such rates of reimbursement not to exceed the rates paid contract entities under subsection (d) for conducting tests or examinations under the program;

"(2) conduct such tests or examinations of spouses covered by that subsection in medical facilities of the Department; and

"(3) in the event travel is required in order to facilitate such tests or examinations by contract entities referred to in paragraph (1), reimburse the spouses and children concerned for the costs of such travel and of related lodging.".

(e) ENHANCED MONITORING OF PROGRAM.—That section is further amended by inserting after subsection (i), as amended by subsection (d) of this section, the following new subsection (j):

"(j) ENHANCED MONITORING OF PROGRAM.—In order to enhance monitoring of the program under this section, the Secretary shall provide for monthly reports to the Central Office of the Department on activities with respect to the program by elements of the Department and contract entities under subsection (d).".

TITLE III—MISCELLANEOUS

SEC. 301. ASSESSMENT OF ESTABLISHMENT OF INDEPENDENT ENTITY TO EVALUATE POST-CONFLICT ILLNESSES AMONG MEMBERS OF THE ARMED FORCES AND HEALTH CARE PROVIDED BY DOD AND VA BEFORE AND AFTER DEPLOYMENT OF SUCH MEMBERS.

(a) AGREEMENT FOR ASSESSMENT.—The Secretary of Veterans Affairs shall seek to enter into an agreement with the National Academy of Sciences, or other appropriate independent organization, under which agreement the Academy shall carry out the assessment referred to in subsection (b).

(b) ASSESSMENT.—(1) Under the agreement, the Academy shall assess the need for and feasibility of establishing an independent entity to—

(A) evaluate and monitor interagency coordination on issues relating to the post-deployment health concerns of members of the Armed Forces, including coordination relating to outreach and risk communication, recordkeeping, research, utilization of new technologies, international cooperation and research, health surveillance, and other health-related activities;

(B) evaluate the health care (including preventive care and responsive care) provided to members of the Armed Forces both before and after their deployment on military operations;

(C) monitor and direct Government efforts to evaluate the health of members of the Armed Forces upon their return from deployment on military operations for purposes of ensuring the rapid identification of any trends in diseases or injuries among such members as a result of such operations;

(D) provide and direct the provision of ongoing training of health care personnel of the Department of Defense and the Department of Veterans Affairs in the evaluation and treatment of post-deployment diseases and health conditions, including nonspecific and unexplained illnesses; and

(E) make recommendations to the Department of Defense and the Department of Veterans Affairs regarding improvements in the provision of health care referred to in subparagraph (B), including improvements in the monitoring and treatment of members referred to in that subparagraph.

(2) The assessment shall cover the health care provided by the Department of Defense and, where applicable, by the Department of Veterans Affairs.

(c) REPORT.—(1) The agreement shall require the Academy to submit to the committees referred to in paragraph (3) a report on the results of the assessment under this section not later than one year after the date of enactment of this Act.

(2) The report shall include the following:

(A) The recommendation of the Academy as to the need for and feasibility of establishing an independent entity as described in subsection (b) and a justification of such recommendation.

(B) If the Academy recommends that an entity be established, the recommendations of the Academy as to—

(i) the organizational placement of the entity;

(ii) the personnel and other resources to be allocated to the entity;

(iii) the scope and nature of the activities and responsibilities of the entity; and

(iv) mechanisms for ensuring that any recommendations of the entity are carried out by the Department of Defense and the Department of Veterans Affairs.

(3) The report shall be submitted to the following:

(A) The Committee on Veterans' Affairs and the Committee on Armed Services of the Senate.

(B) The Committee on Veterans' Affairs and the Committee on National Security of the House of Representatives.

The title was amended so as to read:

A bill to provide for the establishment of a presumption of service-connection for illnesses associated with service in the Persian Gulf War, to extend and enhance certain health care authorities relating to such service, and for other purposes.

NEXT GENERATION INTERNET RESEARCH ACT OF 1998

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of H.R. 3332, and the Senate then proceeded to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A bill to amend the High-Performance Computing Act of 1991 to authorize appropriations for fiscal years 1999 and 2000 for the Next Generation Internet program, to require the Advisory Committee on High-Performance Computing, and Communications, Information Technology, and the Next Generation Internet to monitor and give advice concerning the development and implementation of the Next Generation Internet program and report to the President and the Congress on its activities, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3332) was read the third time, and passed.

FEDERAL RESEARCH INVESTMENT ACT

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar No. 697, S. 2217.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2217) to provide for continuation of the Federal research investment in a fiscally sustainable way, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Research Investment Act".

SEC. 2. GENERAL FINDINGS REGARDING FEDERAL INVESTMENT IN RESEARCH.

(a) VALUE OF RESEARCH AND DEVELOPMENT.—The Congress makes the following findings with respect to the value of research and development to the United States:

(1) Federal investment in research has resulted in the development of technology that saved lives in the United States and around the world.

(2) Research and development investment across all Federal agencies has been effective in creating technology that has enhanced the American quality of life.

(3) The Federal investment in research and development conducted or underwritten by both military and civilian agencies has produced benefits that have been felt in both the private and public sector.

(4) Discoveries across the spectrum of scientific inquiry have the potential to raise the standard of living and the quality of life for all Americans.

(5) Science, engineering, and technology play a critical role in shaping the modern world.

(6) Studies show that about half of all United States post-World War II economic growth is a direct result of technical innovation; and science, engineering, and technology contribute to the creation of new goods and services, new jobs and new capital.

(7) Technical innovation is the principal driving force behind the long-term economic growth and increased standards of living of the world's modern industrial societies. Other Nations are well aware of the pivotal role of science, engineering, and technology, and they are seeking to exploit it wherever possible to advance their own global competitiveness.

(8) Federal programs for investment in research, which lead to technological innovation and result in economic growth, should be structured to address current funding disparities and develop enhanced capability in States and regions that currently underparticipate in the national science and technology enterprise.

(b) STATUS OF THE FEDERAL INVESTMENT.—The Congress makes the following findings with respect to the status of the Federal Investment in research and development activities:

(1) Federal investment of approximately 13 to 14 percent of the Federal discretionary budget in research and development over the past 11 years has resulted in a doubling of the nominal amount of Federal funding.

(2) Fiscal realities now challenge Congress to steer the Federal Government's role in science, engineering, and technology in a manner that ensures a prudent use of limited public resources. There is both a long-term problem—addressing the ever-increasing level of mandatory spending—and a near-term challenge—apportioning a dwindling amount of discretionary funding to an increasing range of targets in science, engineering, and technology. This confluence of increased national dependency on technology, increased targets of opportunity, and decreased fiscal flexibility has created a problem of national urgency. Many indicators show that more funding for science, engineering, and technology is needed but, even with increased funding, priorities must be established among different programs. The United States cannot afford the luxury of fully funding all deserving programs.

(3) Current projections of Federal research funding show a downward trend.

SEC. 3. ADDITIONAL FINDINGS REGARDING THE LINK BETWEEN THE RESEARCH PROCESS AND USEFUL TECHNOLOGY.

The Congress makes the following findings:

(1) FLOW OF SCIENCE, ENGINEERING, AND TECHNOLOGY.—The process of science, engineering, and technology involves many steps. The present Federal science, engineering, and technology structure reinforces the increasingly artificial distinctions between basic and applied activities. The result too often is a set of discrete programs that each support a narrow phase of research or development and are not coordinated with one another. The Government should maximize its investment by encouraging the progression of science, engineering, and technology from the earliest stages of research up to a pre-commercialization stage, through funding agencies and vehicles appropriate for each stage. This creates a flow of technology, subject to merit review at each stage, so that promising technology is not lost in a bureaucratic maze.

(2) EXCELLENCE IN THE AMERICAN RESEARCH INFRASTRUCTURE.—Federal investment in science, engineering, and technology programs must foster a close relationship between research and education. Investment in research at the university level creates more than simply world-class research. It creates world-class researchers as well. The Federal strategy must continue to reflect this commitment to a strong geographically-diverse research infrastructure. Furthermore, the United States must find ways to extend the excellence of its university system to primary and secondary educational institutions and to better utilize the community college system to prepare many students for vocational opportunities in an increasingly technical workplace.

(3) COMMITMENT TO A BROAD RANGE OF RESEARCH INITIATIVES.—An increasingly common theme in many recent technical breakthroughs has been the importance of revolutionary innovations that were sparked by overlapping of research disciplines. The United States must continue to encourage this trend by providing and encouraging opportunities for interdisciplinary projects that foster collaboration among fields of research.

(4) PARTNERSHIPS AMONG INDUSTRY, UNIVERSITIES, AND FEDERAL LABORATORIES.—Each of these contributors to the national science and technology delivery system has special talents and abilities that complement the others. In addition, each has a central mission that must provide their focus and each has limited resources. The Nation's investment in science, engineering, and technology can be optimized by seeking opportunities for leveraging the resources and talents of these three major players through partnerships that do not distort the missions of each partner. For that reason, Federal dollars are wisely spent forming such partnerships.

SEC. 4. MAINTENANCE OF FEDERAL RESEARCH EFFORT; GUIDING PRINCIPLES.

(a) MAINTAINING UNITED STATES LEADERSHIP IN SCIENCE, ENGINEERING, AND TECHNOLOGY.—It is imperative for the United States to nurture its superb resources in science, engineering, and technology carefully in order to maintain its own globally competitive position.

(b) GUIDING PRINCIPLES.—Federal research and development programs should be conducted in accordance with the following guiding principles:

(1) GOOD SCIENCE.—Federal science, engineering, and technology programs include both knowledge-driven science together with its applications, and mission-driven, science-based requirements. In general, both types of programs must be focused, peer- and merit-reviewed, and not unnecessarily duplicative, although the details of these attributes must vary with different program objectives.

(2) FISCAL ACCOUNTABILITY.—The Congress must exercise oversight to ensure that programs funded with scarce Federal dollars are well managed. The United States cannot tolerate waste of money through inefficient management techniques, whether by Government agencies, by contractors, or by Congress itself. Fiscal resources would be better utilized if program and project funding levels were predictable across several years to enable better project planning; a benefit of such predictability would be that agencies and Congress can better exercise oversight responsibilities through comparisons of a project's and program's progress against carefully planned milestones.

(3) PROGRAM EFFECTIVENESS.—The United States needs to make sure that Government programs achieve their goals. As the Congress crafts science, engineering, and technology legislation, it must include a process for gauging program effectiveness, selecting criteria based on sound scientific judgment and avoiding unnecessary bureaucracy. The Congress should also avoid the trap of measuring the effectiveness of a broad science, engineering, and technology program by passing judgment on individual projects. Lastly, the Congress must recognize that a negative result in a well-conceived and executed project or program may still be critically important to the funding agency.

(4) CRITERIA FOR GOVERNMENT FUNDING.—Program selection for Federal funding should continue to reflect the Nation's 2 traditional research and development priorities: (A) basic, scientific, and technological research that represents investments in the Nation's long-term future scientific and technological capacity, for which Government has traditionally served as the principle resource; and (B) mission research investments, that is, investments in research that derive from necessary public functions, such as defense, health, education, environmental protection, and raising the standard of living, which may include pre-commercial, pre-competitive engineering research and technology development. Additionally, Government funding should not compete with or displace the short-term, market-driven, and typically more specific nature of private-sector funding. Government funding should be restricted to pre-competitive activities, leaving competitive activities solely for the private sector. As a rule, the Government should not invest in commercial technology that is in the product development stage, very close to the broad commercial marketplace, except to meet a specific agency goal. When the Government provides funding for any science, engineering, and technology investment program, it must take reasonable steps to ensure that the potential benefits derived from the program will accrue broadly.

SEC. 5. POLICY STATEMENT.

(a) POLICY.—This Act is intended—

(1) to encourage, as an overall goal, the doubling of the annual authorized amount of Federal funding for basic scientific, medical, and pre-competitive engineering research over the 12-year period following the date of enactment of this Act;

(2) to invest in the future of the United States and the people of the United States by expanding the research activities referred to in paragraph (1);

(3) to enhance the quality of life for all people of the United States;

(4) to guarantee the leadership of the United States in science, engineering, medicine, and technology; and

(5) to ensure that the opportunity and the support for undertaking good science is widely available throughout the States by supporting a geographically-diverse research and development enterprise.

(b) AGENCIES COVERED.—The agencies intended to be covered to the extent that they are engaged in science, engineering, and technology activities for basic scientific, medical, or pre-competitive engineering research by this Act are—

(1) the National Institutes of Health, within the Department of Health and Human Services;

(2) the National Science Foundation;

(3) the National Institute for Standards and Technology, within the Department of Commerce;

(4) the National Aeronautics and Space Administration;

(5) the National Oceanic and Atmospheric Administration, within the Department of Commerce;

(6) the Centers for Disease Control, within the Department of Health and Human Services;

(7) the Department of Energy (to the extent that it is not engaged in defense-related activities);

(8) the Department of Agriculture;

(9) the Department of Transportation;

(10) the Department of the Interior;

(11) the Department of Veterans Affairs;

(12) the Smithsonian Institution;

(13) the Department of Education; and

(14) the Environmental Protection Agency.

(c) CURRENT INVESTMENT.—The investment in civilian research and development efforts for fiscal year 1998 is 2.1 percent of the overall Federal budget.

(d) DAMAGE TO RESEARCH INFRASTRUCTURE.—A continued trend of funding appropriations equal to or lower than current budgetary levels will lead to permanent damage to the United States research infrastructure. This could threaten American dominance of high-technology industrial leadership.

(e) INCREASE FUNDING.—In order to maintain and enhance the economic strength of the United States in the world market, funding levels for fundamental, scientific, and pre-competitive engineering research should be increased to equal approximately 2.6 percent of the total annual budget.

(f) FUTURE FISCAL YEAR ALLOCATIONS.—

(1) GOALS.—The long-term strategy for research and development funding under this section would be achieved by a steady 2.5 percent annual increase above the rate of inflation throughout a 12-year period.

(2) INFLATION ASSUMPTION.—The authorizations contained in paragraph (3) assume that the rate of inflation for each year will be 3 percent.

(3) AUTHORIZATION.—There are authorized to be appropriated for civilian research and development in the agencies listed in subsection (b)—

(A) $37,720,000,000 for fiscal year 1999;

(B) $39,790,000,000 for fiscal year 2000;

(C) $41,980,000,000 for fiscal year 2001;
(D) $42,290,000,000 for fiscal year 2002;
(E) $46,720,000,000 for fiscal year 2003;
(F) $49,290,000,000 for fiscal year 2004;
(G) $52,000,000,000 for fiscal year 2005;
(H) $54,870,000,000 for fiscal year 2006;
(I) $57,880,000,000 for fiscal year 2007;
(J) $61,070,000,000 for fiscal year 2008;
(K) $64,420,000,000 for fiscal year 2009; and
(L) $67,970,000,000 for fiscal year 2010.

(g) CONFORMANCE WITH BUDGETARY CAPS.—Notwithstanding any other provision of law, no funds may be made available under this Act in a manner that does not conform with the discretionary spending caps provided in the most recently adopted concurrent resolution on the budget or threatens the economic stability of the annual budget.

(h) BALANCED RESEARCH PORTFOLIO.—Because of the interdependent nature of the scientific and engineering disciplines, the aggregate funding levels authorized by the section assume that the Federal research portfolio will be well-balanced among the various scientific and engineering disciplines, and geographically dispersed throughout the States.

SEC. 6. PRESIDENT'S ANNUAL BUDGET REQUEST.

The President of the United States shall, in coordination with the President's annual budget request, include a report that parallels Congress' commitment to support Federally-funded research and development by providing—

(1) a detailed summary of the total level of funding for research and development programs throughout all civilian agencies;

(2) a focused strategy that reflects the funding projections of this Act for each future fiscal year until 2010, including specific targets for each agency that funds civilian research and development;

(3) an analysis which details funding levels across Federal agencies by methodology of funding, including grant agreements, procurement contracts, and cooperative agreements (within the meaning given those terms in chapter 63 of title 31, United States Code); and

(4) specific proposals for infrastructure development and research and development capacity building in States with less concentrated research and development resources in order to create a nationwide research and development community.

SEC. 7. COMPREHENSIVE ACCOUNTABILITY STUDY FOR FEDERALLY-FUNDED RESEARCH.

(a) STUDY.—The Director of the Office of Science and Technology Policy, in consultation with the Director of the Office of Management and Budget, shall enter into agreement with the National Academy of Sciences for the Academy to conduct a comprehensive study to develop methods for evaluating Federally-funded research and development programs. This study shall—

(1) recommend processes to determine an acceptable level of success for Federally-funded research and development programs by—

(A) describing the research process in the various scientific and engineering disciplines;

(B) describing in the different sciences what measures and what criteria each community uses to evaluate the success or failure of a program, and on what time scales these measures are considered reliable—both for exploratory long-range work and for short-range goals; and

(C) recommending how these measures may be adapted for use by the Federal Government to evaluate Federally-funded research and development programs;

(2) assess the extent to which agencies incorporate independent merit-based review into the formulation of the strategic plans of funding agencies and if the quantity or quality of this type of input is unsatisfactory;

(3) recommend mechanisms for identifying Federally-funded research and development programs which are unsuccessful or unproductive;

(4) evaluate the extent to which independent, merit-based evaluation of Federally-funded research and development programs and projects achieves the goal of eliminating unsuccessful or unproductive programs and projects; and

(5) investigate and report on the validity of using quantitative performance goals for aspects of programs which relate to administrative management of the program and for which such goals would be appropriate, including aspects related to—

(A) administrative burden on contractors and recipients of financial assistance awards;

(B) administrative burdens on external participants in independent, merit-based evaluations;

(C) cost and schedule control for construction projects funded by the program;

(D) the ratio of overhead costs of the program relative to the amounts expended through the program for equipment and direct funding of research; and

(E) the timeliness of program responses to requests for funding, participation, or equipment use.

(6) examine the extent to which program selection for Federal funding across all agencies exemplifies our Nation's historical research and development priorities—

(A) basic, scientific, and technological research in the long-term future scientific and technological capacity of the Nation; and

(B) mission research derived from a high-priority public function.

(b) ALTERNATIVE FORMS FOR PERFORMANCE GOALS.—Not later than 6 months after transmitting the report under subsection (a) to Congress, the Director of the Office of Management and Budget, after public notice, public comment, and approval by the Director of the Office of Science and Technology Policy and in consultation with the National Science and Technology Council shall promulgate one or more alternative forms for performance goals under section 1115(b)(10)(B) of title 31, United States Code, based on the recommendations of the study under subsection (a) of this section. The head of each agency containing a program activity that is a research and development program may apply an alternative form promulgated under this section for a performance goal to such a program activity without further authorization by the Director of the Office of Management and Budget.

(c) STRATEGIC PLANS.—Not later than one year after promulgation of the alternative performance goals in subsection (b) of this section, the head of each agency carrying out research and development activities, upon updating or revising a strategic plan under subsection 306(b) of title 5, United States Code, shall describe the current and future use of methods for determining an acceptable level of success as recommended by the study under subsection (a).

(d) DEFINITIONS.—In this section:

(1) DIRECTOR.—The term "Director" means the Director of the Office of Science and Technology Policy.

(2) PROGRAM ACTIVITY.— The term "program activity" has the meaning given that term by section 1115(f)(6) of title 31, United States Code.

(3) INDEPENDENT MERIT-BASED EVALUATION.—The term "independent merit-based evaluation" means review of the scientific or technical quality of research or development, conducted by experts who are chosen for their knowledge of scientific and technical fields relevant to the evaluation and who—

(A) in the case of the review of a program activity, do not derive long-term support from the program activity; or

(B) in the case of the review of a project proposal, are not seeking funds in competition with the proposal.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the study required by subsection (a) $600,000 for the 18-month period beginning October 1, 1998.

SEC. 8. EFFECTIVE PERFORMANCE ASSESSMENT PROGRAM FOR FEDERALLY-FUNDED RESEARCH.

(a) IN GENERAL.—Chapter 11 of title 31, United States Code, is amended by adding at the end thereof the following:

"§ 1120. Accountability for research and development programs

"(a) IDENTIFICATION OF UNSUCCESSFUL PROGRAMS.—Based upon program performance reports for each fiscal year submitted to the President under section 1116, the Director of the Office of Management and Budget shall identify the civilian research and development program activities, or components thereof, which do not meet an acceptable level of success as defined in section 1115(b)(1)(B). Not later than 30 days after the submission of the reports under section 1116, the Director shall furnish a copy of a report listing the program activities or component identified under this subsection to the President and the Congress.

"(b) ACCOUNTABILITY IF NO IMPROVEMENT SHOWN.—For each program activity or component that is identified by the Director under subsection (a) as being below the acceptable level of success for 2 fiscal years in a row, the head of the agency shall no later than 30 days after the Director submits the second report so identifying the program, submit to the appropriate congressional committees of jurisdiction:

"(1) a concise statement of the steps that will be taken—

"(A) to bring such program into compliance with performance goals; or

"(B) to terminate such program should compliance efforts have failed; and

"(2) any legislative changes needed to put the steps contained in such statement into effect.".

(b) CONFORMING AMENDMENTS.—

(1) The chapter analysis for chapter 11 of title 31, United States Code, is amended by adding at the end thereof the following:

"1120. Accountability for research and development programs".

(2) Section 1115(f) of title 31, United States Code, is amended by striking "through 1119," and inserting "through 1120".

Mr. DOMENICI. Mr. President, I'm pleased to see the Federal Research Investment Act presented for approval to the Senate. This bill, S. 2217, is one that I've supported through-out its history, because it addresses the health of our Nation's science and technology base.

Our science and technology base is vital to the Nation's future. Any number of studies have confirmed its importance. As one excellent example, the National Innovation Summit, organized by MIT with the Council on Competitiveness, confirmed that the integrity of that base is one of the cornerstones to our future economic prosperity. At that Summit, many of the Nation's top CEOs emphasized that the Nation's climate for innovation is a major determinant of our ability to maintain and advance our high standard of living and strong economy.

Advanced technologies are responsible for driving half of our economic growth since World War II, and that growth has developed our economy into the envy of the world. We need to continually refresh our stock of new products and processes that enable good jobs for our citizens in the face of increasing global challenges to all our principal industries.

The Federal Research Investment Act continues the goal first expressed in S. 1305, that I co-sponsored with Senators GRAMM, LIEBERMAN, and BINGAMAN, to double the Nation's investment in science and technology. Among other improvements, S. 2217 proposes a more realistic time scale for achieving this expanded support.

This doubling must be accomplished within a balanced budget that avoids deficits, thus a longer period is a better choice. That balanced budget is essential, it enables the economic health that is fundamental to our ability to really use advanced technologies.

The new bill continues to emphasizes a broad range of research targets, from fundamental and frontier exploration, through pre-competitive engineering research. This emphasis on a spectrum of research maturity is absolutely critical. The Nation is not well served by a focus on so-called "basic" research that can open new fields, but then leave those fields wanting for resources to develop these new ideas to a pre-competitive stage applicable to future commercial products and processes.

The new bill addresses a spectrum of research fields with its emphasis on expanding S&T funding in many agencies. We need technical advances in many fields simultaneously. In more and more cases, the best new ideas are not flowing from explorations in a single narrow field, but instead are coming from inter-disciplinary studies that bring experts from diverse fields together for fruitful collaboration. This is especially evident in medical and health fields, where combinations of medical science with many other specialities are critical to the latest health care advances.

This new bill has additional features that weren't part of the earlier one. It proposes to utilize the National Academy of Science in developing approaches to evaluation of program and project performance. This should lead to better understanding of how GPRA goals and scientific programs can be best coordinated. The new role for the National Academy can help define criteria to guide decisions on continued and future funding. The bill also sets up procedures to use these evaluations to terminate Federal programs that are not performing at acceptable levels.

The new bill incorporates a set of well-developed principles for Federal funding of science and technology. These principles were developed by the Senate Science and Technology Caucus. Those principles, when carefully applied, can lead to better choices among the many opportunities for Federal S&T funding. The new bill also incorporates recommendations for independent merit-based review of Federal S&T programs, which should further strengthen them.

Many aspects of the Federal Research Investment Act support and compliment key points in the new study released by Representative Vern Ehlers just recently. His study, "Unlocking our Future," will serve as an important focal point for continuing discussions on the critical goal of strengthening our Nation's science and technology base. I've certainly appreciated interactions with Representative Ehlers as he developed his study and as S. 2217 was developed.

The new Federal Research Investment Act builds and improves on the goals of the previous bill. With S. 2217, we will build stronger Federal Science and Technology programs that will underpin our Nation's ability to compete effectively in the global marketplace of the 21st century.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the committee substitute be agreed to, the bill be considered read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment was agreed to.

The bill (S. 2217), as amended, was considered read the third time, and passed.

MUHAMMAD ALI BOXING REFORM ACT

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar 705, S. 2238.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

A bill (S. 2238) to reform unfair and anti-competitive practices in the professional boxing industry.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Muhammad Ali Boxing Reform Act".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) Professional boxing differs from other major, interstate professional sports industries in the United States in that it operates without any private sector association, league, or centralized industry organization to establish uniform and appropriate business practices and ethical standards. This has led to repeated occurrences of disreputable and coercive business practices in the boxing industry, to the detriment of professional boxers nationwide.

(2) Professional boxers are vulnerable to exploitative business practices engaged in by certain promoters and sanctioning bodies which dominate the sport. Boxers do not have an established representative group to advocate for their interests and rights in the industry.

(3) State officials are the proper regulators of professional boxing events, and must protect the welfare of professional boxers and serve the public interest by closely supervising boxing activity in their jurisdiction. State boxing commissions do not currently receive adequate information to determine whether boxers competing in their jurisdiction are being subjected to contract terms and business practices which may be violative of State regulations, or are onerous and confiscatory.

(4) Promoters who engage in illegal, coercive, or unethical business practices can take advantage of the lack of equitable business standards in the sport by holding boxing events in States with weaker regulatory oversight.

(5) The sanctioning organizations which have proliferated in the boxing industry have not established credible and objective criteria to rate professional boxers, and operate with virtually no industry or public oversight. Their ratings are susceptible to manipulation, have deprived boxers of fair opportunities for advancement, and have undermined public confidence in the integrity of the sport.

(6) Open competition in the professional boxing industry has been significantly interfered with by restrictive and anti-competitive business practices of certain promoters and sanctioning bodies, to the detriment of the athletes and the ticket-buying public. Common practices of promoters and sanctioning organizations represent restraints of interstate trade in the United States.

(7) It is necessary and appropriate to establish national contracting reforms to protect professional boxers and prevent exploitative business practices, and to require enhanced financial disclosures to State athletic commissions to improve the public oversight of the sport.

(8) Whereas the Congress seeks to improve the integrity and ensure fair practices of the professional boxing industry on a nationwide basis, it deems it appropriate to name this reform in honor of Muhammad Ali, whose career achievements and personal contributions to the sport, and positive impact on our society, are unsurpassed in the history of boxing.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to protect the rights and welfare of professional boxers by preventing certain exploitative, oppressive, and unethical business practices they may be subject to on an interstate basis;

(2) to assist State boxing commissions in their efforts to provide more effective public oversight of the sport; and

(3) to promoting honorable competition in professional boxing and enhance the overall integrity of the industry.

SEC 4. PROTECTING BOXERS FROM EXPLOITATION.

The Professional Boxing Safety Act of 1996 (15 U.S.C. 6301 et seq.) is amended by—

(1) redesignating section 15 as 16; and

(2) inserting after section 14 the following:

"SEC. 15. PROTECTION FROM EXPLOITATION.

"(a) CONTRACT REQUIREMENTS.—

"(1) IN GENERAL.—Any contract between a boxer and a promoter or manager shall—

"(A) include mutual obligations between the parties;

"(B) specify a minimum number of professional boxing matches per year for the boxer; and

"(C) set forth a specific period of time during which the contract will be in effect, including any provision for extension of that period due to the boxer's temporary inability to compete because of an injury or other cause.

"(2) 1-YEAR LIMIT ON COERCIVE PROMOTIONAL RIGHTS.—

"(A) The period of time for which promotional rights to promote a boxer may be granted under a contract between the boxer and a promoter, or between promoters with respect to a boxer, may not be greater than 12 months in length if the boxer is required to grant such rights, or a boxer's promoter is required to grant such rights with respect to a boxer, as a condition precedent to the boxer's participation in a professional boxing match against another boxer who is under contract to the promoter.

"(B) A promoter exercising promotional rights with respect to such boxer during the 12-month period beginning on the day after the last day of the promotional right period described in subparagraph (A) may not secure exclusive promotional rights from the boxer's opponents as a condition of participating in a professional boxing match against the boxer, and any contract to the contrary—

"(i) shall be considered to be in restraint of trade and contrary to public policy; and

"(ii) unenforceable.

"(C) Nothing in this paragraph shall be construed as pre-empting any State law concerning interference with contracts.

"(3) PROMOTIONAL RIGHTS UNDER MANDATORY BOUT CONTRACTS.—Neither a promoter nor a sanctioning organization may require a boxer, in a contract arising from a professional boxing match that is a mandatory bout under the rules of the sanctioning organization, to grant promotional rights to any promoter for a future professional boxing match.

"(b) EMPLOYMENT AS CONDITION OF PROMOTING, ETC.—No person who is a licensee, manager, matchmaker, or promoter may require a boxer to employ, retain, or provide compensation to any individual or business enterprise (whether operating in corporate form or not) recommended or designated by that person as a condition of—

"(1) such person's working with the boxer as a licensee, manager, matchmaker, or promoter;

"(2) such person's arranging for the boxer to participate in a professional boxing match; or

"(3) such boxer's participation in a professional boxing match.

"(c) ENFORCEMENT.—

"(1) PROMOTION AGREEMENT.—A provision in a contract between a promoter and a boxer, or between promoters with respect to a boxer, that violates subsection (a) is contrary to public policy and unenforceable at law.

"(2) EMPLOYMENT AGREEMENT.—In any action brought against a boxer to recover money (whether as damages or as money owed) for acting as a licensee, manager, matchmaker, or promoter for the boxer, the court, arbitrator, or administrative body before which the action is brought may deny recovery in whole or in part under the contract as contrary to public policy if the employment, retention, or compensation that is the subject of the action was obtained in violation of subsection (b).".

(b) CONFLICTS OF INTEREST.—Section 9 of such Act (15 U.S.C. 6308) is amended by—

(1) striking "No member" and inserting "(a) REGULATORY PERSONNEL.—No member"; and

(2) adding at the end thereof the following:

"(b) FIREWALL BETWEEN PROMOTERS AND MANAGERS.—

"(1) IN GENERAL.—It is unlawful for—

"(A) a promoter to have a direct or indirect financial interest in the management of a boxer; or

"(B) a manager—

"(i) to have a direct or indirect financial interest in the promotion of a boxer; or

"(ii) to be employed by or receive compensation or other benefits from a promoter,

except for amounts received as consideration under the manager's contract with the boxer.

"(2) EXCEPTION FOR SELF-PROMOTION AND MANAGEMENT.—Paragraph (1) does not prohibit a boxer from acting as his own promoter or manager.".

SEC. 5. SANCTIONING ORGANIZATION INTEGRITY REFORMS.

(a) IN GENERAL.—The Professional Boxing Safety Act of 1996 (15 U.S.C. 6301 et seq.), as amended by section 4 of this Act, is amended by—

(1) redesignating section 16, as redesignated by section 4 of this Act, as section 17; and

(2) by inserting after section 15 the following:

"SEC. 16. SANCTIONING ORGANIZATIONS.

"(a) OBJECTIVE CRITERIA.—A sanctioning organization that sanctions professional boxing matches on an interstate basis shall establish objective and consistent written criteria for the ratings of professional boxers.

"(b) APPEALS PROCESS.—A sanctioning organization shall establish and publish an appeals procedure that affords a boxer rated by that organization a reasonable opportunity, without the payment of any fee, to submit information to contest its rating of the boxer. Under the procedure, the sanctioning organization shall, within 14 days after receiving a request from a boxer questioning that organization's rating of the boxer—

"(1) provide to the boxer a written explanation of the organization's criteria, its rating of the boxer, and the rationale or basis for its rating (including a response to any specific questions submitted by the boxer); and

"(2) submit a copy of its explanation to the President of the Association of Boxing Commissions of the United States and to the boxing commission of the boxer's domiciliary State.

"(c) NOTIFICATION OF CHANGE IN RATING.—If a sanctioning organization changes its rating of a boxer who is included, before the change, in the top 10 boxers rated by that organization, then, within 14 days after changing the boxer's rating, the organization shall—

(1) mail notice of the change and a written explanation of the reasons for its change in that boxer's rating to the boxer at the boxer's last known address;

(2) post a copy, within the 14-day period, of the notice and the explanation on its Internet website or homepage, if any, for a period of not less than 30 days; and

(3) mail a copy of the notice and the explanation to the President of the Association of Boxing Commissions.

"(d) PUBLIC DISCLOSURE.—

"(1) FTC FILING.—Not later than January 31st of each year, a sanctioning organization shall submit to the Federal Trade Commission—

"(A) a complete description of the organization's ratings criteria, policies, and general sanctioning fee schedule;

"(B) the bylaws of the organization;

"(C) the appeals procedure of the organization; and

"(D) a list and business address of the organization's officials who vote on the ratings of boxers.

"(2) FORMAT; UPDATES.—A sanctioning organization shall—

"(A) provide the information required under paragraph (1) in writing, and, for any document greater than 2 pages in length, also in electronic form; and

"(B) promptly notify the Federal Trade Commission of any material change in the information submitted.

"(3) FTC TO MAKE INFORMATION AVAILABLE TO PUBLIC.—The Federal Trade Commission shall make information received under this subsection available to the public. The Commission may assess sanctioning organizations a fee to offset the costs it incurs in processing the information and making it available to the public.

"(4) INTERNET ALTERNATIVE.—In lieu of submitting the information required by paragraph (1) to the Federal Trade Commission, a sanctioning organization may provide the information to the public by maintaining a website on the Internet that—

"(A) is readily accessible by the general public using generally available search engines and does not require a password or payment of a fee for full access to all the information;

"(B) contains all the information required to be submitted to the Federal Trade Commission by paragraph (1) in a easy to search and use format; and

"(C) is updated whenever there is a material change in the information.".

(b) CONFLICT OF INTEREST.—Section 9 of such Act (15 U.S.C. 6308), as amended by section 4 of this Act, is amended by adding at the end thereof the following:

"(c) SANCTIONING ORGANIZATIONS.—

"(1) PROHIBITION ON RECEIPTS.—Except as provided in paragraph (2), no officer or employee of a sanctioning organization may receive any compensation, gift, or benefit directly or indirectly from a promoter, boxer, or manager.

"(2) EXCEPTIONS.—Paragraph (1) does not apply to—

"(A) the receipt of payment by a promoter, boxer, or manager of a sanctioning organization's published fee for sanctioning a professional boxing match or reasonable expenses in connection therewith if the payment is reported to the responsible boxing commission under section 17; or

"(B) the receipt of a gift or benefit of de minimis value.".

(c) SANCTIONING ORGANIZATION DEFINED.—Section 2 of the Professional Boxing Safety Act of 1996 (15 U.S.C. 6301) is amended by adding at the end thereof the following:

"(11) SANCTIONING ORGANIZATION.—The term 'sanctioning organization' means an organization that sanctions professional boxing matches in the United States—

"(A) between boxers who are residents of different States; or

"(B) that are advertised, otherwise promoted, or broadcast (including closed circuit television) in interstate commerce.".

SEC. 6. PUBLIC INTEREST DISCLOSURES TO STATE BOXING COMMISSIONS.

(a) IN GENERAL.—The Professional Boxing Safety Act of 1996 (15 U.S.C. 6301 et seq.), as amended by section 5 of this Act, is amended by—

(1) redesignating section 17, as redesignated by section 5 of this Act, as section 18; and

(2) by inserting after section 16 the following:

"SEC. 17. REQUIRED DISCLOSURES TO STATE BOXING COMMISSIONS.

"(a) SANCTIONING ORGANIZATIONS.—Before sanctioning a professional boxing match in a State, a sanctioning organization shall provide to the boxing commission of, or responsible for sanctioning matches in, that State a written statement of—

"(1) all charges, fees, and costs the organization will assess any boxer participating in that match;

"(2) all payments, benefits, complimentary benefits, and fees the organization will receive for its affiliation with the event, from the promoter, host of the event, and all other sources; and

"(3) such additional information as the commission may require.

"(b) PROMOTERS.—Before a professional boxing match organized, promoted, or produced by a promoter is held in a State, the promoter shall provide a statement in writing to the boxing commission of, or responsible for sanctioning matches in, that State—

"(1) a copy of any agreement in writing to which the promoter is a party with any boxer participating in the match;

"(2) a statement made under penalty of perjury that there are no other agreements, written or oral, between the promoter and the boxer with respect to that match; and

"(3) a statement in writing of—

"(A) all fees, charges, and expenses that will be assessed by or through the promoter on the boxer pertaining to the event, including any portion of the boxer's purse that the promoter will receive, and training expenses; and

"(B) all payments, gifts, or benefits the promoter is providing to any sanctioning organization affiliated with the event.

"(c) INFORMATION TO BE AVAILABLE TO STATE ATTORNEY GENERAL.—A promoter shall make information received under this section available to the chief law enforcement officer of the State in which the match is to be held upon request.

"(d) EXCEPTION.—The requirements of this section do not apply in connection with a professional boxing match scheduled to last less than 10 rounds.".

SEC. 7. ENFORCEMENT.

Section 10 of the Professional Boxing Safety Act of 1996 (15 U.S.C. 6309) is amended by—

(1) inserting a comma and "other than section 9(b), 15, 16, or 17," after "this Act" in subsection (b)(1);

(2) redesignating paragraphs (2) and (3) of subsection (b) as paragraphs (3) and (4), respectively, and inserting after paragraph (1) the following:

"(2) VIOLATION OF ANTI-EXPLOITATION, SANCTIONING ORGANIZATION, OR DISCLOSURE PROVISIONS.—Any person who knowingly violates any provision of section 9(b), 15, 16, or 17 of this Act shall, upon conviction, be imprisoned for not more than 1 year or fined not more than—

"(A) $100,000; and

"(B) if the violations occur in connection with a professional boxing match the gross revenues for which exceed $2,000,000, such additional amount as the court finds appropriate,

or both."; and

(3) adding at the end thereof the following:

"(c) ACTIONS BY STATES.—Whenever the chief law enforcement officer of any State has reason to believe that a person or organization is engaging in practices which violate any requirement of this Act, the State, as parens patriae, may bring a civil action on behalf of its residents in an appropriate district court of the United States—

"(1) to enjoin the holding of any professional boxing match which the practice involves;

"(2) to enforce compliance with this Act;

"(3) to obtain the fines provided under subsection (b) or appropriate restitution; or

"(4) to obtain such other relief as the court may deem appropriate.

"(d) PRIVATE RIGHT OF ACTION.—Any boxer who suffers economic injury as a result of a violation of any provision of this Act may bring an action in the appropriate Federal or State court and recover the damages suffered, court costs, and reasonable attorneys fees and expenses.".

SEC. 8. PROFESSIONAL BOXING SAFETY ACT AMENDMENTS.

(a) DEFINITIONS.—Section 2 of the Professional Boxing Safety Act of 1966 (15 U.S.C. 6301), as amended by section 5(c) of this Act, is amended by adding at the end thereof the following:

"(12) SUSPENSION.—The term 'suspension' includes within its meaning the revocation of a boxing license.".

(b) STATE BOXING COMMISSION PROCEDURES.—Section 7(a)(2) of such Act (15 U.S.C. 6306(a)(2)) is amended—

(1) by striking "or" in subparagraph (C);

(2) by striking "documents." at the end of subparagraph (D) and inserting "documents; or"; and

(3) adding at the end thereof the following:

"(E) unsportsmanlike conduct or other inappropriate behavior inconsistent with generally accepted methods of competition in a professional boxing match.".

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the committee substitute be agreed to, the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment was agreed to.

The bill (S. 2238), as amended, was read the third time, and passed.

EXTENDING THE DATE BY WHICH AN AUTOMATED ENTRY-EXIT CONTROL SYSTEM MUST BE DEVELOPED

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 4658, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4658) to extend the date by which an automated entry-exit control system must be developed.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the bill be considered read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4658) was considered read the third time, and passed.

DRUG FREE BORDERS ACT OF 1998

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar No. 681, H.R. 3809.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3809) to authorize appropriations for the United States Customs Service for fiscal years 1999 and 2000, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Finance, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Drug Free Borders Act of 1998".

TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR UNITED STATES CUSTOMS SERVICE FOR ENHANCED INSPECTION, TRADE FACILITATION, AND DRUG INTERDICTION

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

(a) DRUG ENFORCEMENT AND OTHER NONCOMMERCIAL OPERATIONS.—Subparagraphs (A) and (B) of section 301(b)(1) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A) and (B)) are amended to read as follows:

"(A) $997,300,584 for fiscal year 2000.

"(B) $1,100,818,328 for fiscal year 2001.".

(b) COMMERCIAL OPERATIONS.—Clauses (i) and (ii) of section 301(b)(2)(A) of such Act (19 U.S.C. 2075(b)(2)(A)(i) and (ii)) are amended to read as follows:

"(i) $990,030,000 for fiscal year 2000.

"(ii) $1,009,312,000 for fiscal year 2001.".

(c) AIR AND MARINE INTERDICTION.—Subparagraphs (A) and (B) of section 301(b)(3) of such Act (19 U.S.C. 2075(b)(3)(A) and (B)) are amended to read as follows:

"(A) $229,001,000 for fiscal year 2000.

"(B) $176,967,000 for fiscal year 2001.".

(d) SUBMISSION OF OUT-YEAR BUDGET PROJECTIONS.—Section 301(a) of such Act (19 U.S.C. 2075(a)) is amended by adding at the end the following:

"(3) By no later than the date on which the President submits to the Congress the budget of the United States Government for a fiscal year, the Commissioner of Customs shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the projected amount of funds for the succeeding fiscal year that will be necessary for the operations of the Customs Service as provided for in subsection (b).".

SEC. 102. CARGO INSPECTION AND NARCOTICS DETECTION EQUIPMENT FOR THE UNITED STATES-MEXICO BORDER, UNITED STATES-CANADA BORDER, AND FLORIDA AND GULF COAST SEAPORTS.

(a) FISCAL YEAR 2000.—Of the amounts made available for fiscal year 2000 under section 301(b)(1)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A)), as amended by section 101(a) of this Act, $100,036,000 shall be available until expended for acquisition and other expenses associated with implementation and deployment of narcotics detection equipment along the United States-Mexico border, the United States-Canada border, and Florida and the Gulf Coast seaports, as follows:

(1) UNITED STATES-MEXICO BORDER.—For the United States-Mexico border, the following:

(A) $6,000,000 for 8 Vehicle and Container Inspection Systems (VACIS).

(B) $11,000,000 for 5 mobile truck x-rays with transmission and backscatter imaging.

(C) $12,000,000 for the upgrade of 8 fixed-site truck x-rays from the present energy level of 450,000 electron volts to 1,000,000 electron volts (1–MeV).

(D) $7,200,000 for 8 1–MeV pallet x-rays.

(E) $1,000,000 for 200 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate.

(F) $600,000 for 50 contraband detection kits to be distributed among all southwest border ports based on traffic volume.

(G) $500,000 for 25 ultrasonic container inspection units to be distributed among all ports receiving liquid-filled cargo and to ports with a hazardous material inspection facility.

(H) $2,450,000 for 7 automated targeting systems.

(I) $360,000 for 30 rapid tire deflator systems to be distributed to those ports where port runners are a threat.

(J) $480,000 for 20 portable Treasury Enforcement Communications Systems (TECS) terminals to be moved among ports as needed.

(K) $1,000,000 for 20 remote watch surveillance camera systems at ports where there are suspicious activities at loading docks, vehicle queues, secondary inspection lanes, or areas where visual surveillance or observation is obscured.

(L) $1,254,000 for 57 weigh-in-motion sensors to be distributed among the ports with the greatest volume of outbound traffic.

(M) $180,000 for 36 AM traffic information radio stations, with 1 station to be located at each border crossing.

(N) $1,040,000 for 260 inbound vehicle counters to be installed at every inbound vehicle lane.

(O) $950,000 for 38 spotter camera systems to counter the surveillance of customs inspection activities by persons outside the boundaries of ports where such surveillance activities are occurring.

(P) $390,000 for 60 inbound commercial truck transponders to be distributed to all ports of entry.

(Q) $1,600,000 for 40 narcotics vapor and particle detectors to be distributed to each border crossing.

(R) $400,000 for license plate reader automatic targeting software to be installed at each port to target inbound vehicles.

(S) $1,000,000 for a demonstration site for a high-energy relocatable rail car inspection system with an x-ray source switchable from 2,000,000 electron volts (2–MeV) to 6,000,000 electron volts (6–MeV) at a shared Department of Defense testing facility for a two-month testing period.

(2) UNITED STATES-CANADA BORDER.—For the United States-Canada border, the following:

(A) $3,000,000 for 4 Vehicle and Container Inspection Systems (VACIS).

(B) $8,800,000 for 4 mobile truck x-rays with transmission and backscatter imaging.

(C) $3,600,000 for 4 1–MeV pallet x-rays.

(D) $250,000 for 50 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate.

(E) $300,000 for 25 contraband detection kits to be distributed among ports based on traffic volume.

(F) $240,000 for 10 portable Treasury Enforcement Communications Systems (TECS) terminals to be moved among ports as needed.

(G) $400,000 for 10 narcotics vapor and particle detectors to be distributed to each border crossing based on traffic volume.

(H) $600,000 for 30 fiber optic scopes.

(I) $250,000 for 50 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate;

(J) $3,000,000 for 10 x-ray vans with particle detectors.

(K) $40,000 for 8 AM loop radio systems.

(L) $400,000 for 100 vehicle counters.

(M) $1,200,000 for 12 examination tool trucks.

(N) $2,400,000 for 3 dedicated commuter lanes.

(O) $1,050,000 for 3 automated targeting systems.

(P) $572,000 for 26 weigh-in-motion sensors.

(Q) $480,000 for 20 portable Treasury Enforcement Communication Systems (TECS).

(3) FLORIDA AND GULF COAST SEAPORTS.—For Florida and the Gulf Coast seaports, the following:

(A) $4,500,000 for 6 Vehicle and Container Inspection Systems (VACIS).

(B) $11,800,000 for 5 mobile truck x-rays with transmission and backscatter imaging.

(C) $7,200,000 for 8 1–MeV pallet x-rays.

(D) $250,000 for 50 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate.

(E) $300,000 for 25 contraband detection kits to be distributed among ports based on traffic volume.

(b) FISCAL YEAR 2001.—Of the amounts made available for fiscal year 2001 under section 301(b)(1)(B) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(B)), as amended by section 101(a) of this Act, $9,923,500 shall be for the maintenance and support of the equipment and training of personnel to maintain and support the equipment described in subsection (a).

(c) ACQUISITION OF TECHNOLOGICALLY SUPERIOR EQUIPMENT; TRANSFER OF FUNDS.—

(1) IN GENERAL.—The Commissioner of Customs may use amounts made available for fiscal year 2000 under section 301(b)(1)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A)), as amended by section 101(a) of this Act, for the acquisition of equipment other than the equipment described in subsection (a) if such other equipment—

(A)(i) is technologically superior to the equipment described in subsection (a); and

(ii) will achieve at least the same results at a cost that is the same or less than the equipment described in subsection (a); or

(B) can be obtained at a lower cost than the equipment described in subsection (a).

(2) TRANSFER OF FUNDS.—Notwithstanding any other provision of this section, the Commissioner of Customs may reallocate an amount not to exceed 10 percent of—

(A) the amount specified in any of subparagraphs (A) through (R) of subsection (a)(1) for equipment specified in any other of such subparagraphs (A) through (R);

(B) the amount specified in any of subparagraphs (A) through (Q) of subsection (a)(2) for equipment specified in any other of such subparagraphs (A) through (Q); and

(C) the amount specified in any of subparagraphs (A) through (E) of subsection (a)(3) for equipment specified in any other of such subparagraphs (A) through (E).

SEC. 103. PEAK HOURS AND INVESTIGATIVE RESOURCE ENHANCEMENT FOR THE UNITED STATES-MEXICO AND UNITED STATES-CANADA BORDERS, FLORIDA AND GULF COAST SEAPORTS, AND THE BAHAMAS.

Of the amounts made available for fiscal years 2000 and 2001 under subparagraphs (A) and (B) of section 301(b)(1) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A) and (B)); as amended by section 101(a) of this Act, $159,557,000, including $5,673,600, until expended, for investigative equipment, for fiscal year 2000 and $220,351,000 for fiscal year 2001 shall be available for the following:

(1) A net increase of 535 inspectors, 120 special agents, and 10 intelligence analysts for the United States-Mexico border and 375 inspectors for the United States-Canada border, in order to open all primary lanes on such borders during peak hours and enhance investigative resources.

(2) A net increase of 285 inspectors and canine enforcement officers to be distributed at large cargo facilities as needed to process and screen cargo (including rail cargo) and reduce commercial waiting times on the United States-Mexico border and a net increase of 125 inspectors to be distributed at large cargo facilities as needed to process and screen cargo (including rail cargo) and reduce commercial waiting times on the United States-Canada border.

(3) A net increase of 40 inspectors at sea ports in southeast Florida to process and screen cargo.

(4) A net increase of 70 special agent positions, 23 intelligence analyst positions, 9 support staff, and the necessary equipment to enhance investigation efforts targeted at internal conspiracies at the Nation's seaports.

(5) A net increase of 360 special agents, 30 intelligence analysts, and additional resources to be distributed among offices that have jurisdiction over major metropolitan drug or narcotics distribution and transportation centers for intensification of efforts against drug smuggling and money-laundering organizations.

(6) A net increase of 2 special agent positions to re-establish a Customs Attache office in Nassau.

(7) A net increase of 62 special agent positions and 8 intelligence analyst positions for maritime smuggling investigations and interdiction operations.

(8) A net increase of 50 positions and additional resources to the Office of Internal Affairs to enhance investigative resources for anticorruption efforts.

(9) The costs incurred as a result of the increase in personnel hired pursuant to this section.

SEC. 104. AIR AND MARINE OPERATION AND MAINTENANCE FUNDING.

(a) FISCAL YEAR 2000.—Of the amounts made available for fiscal year 2000 under subparagraphs (A) and (B) of section 301(b)(3) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(3) (A) and (B)) as amended by section 101(c) of this Act, $130,513,000 shall be available until expended for the following:

(1) $96,500,000 for Customs aircraft restoration and replacement initiative.

(2) $15,000,000 for increased air interdiction and investigative support activities.

(3) $19,013,000 for marine vessel replacement and related equipment.

(b) FISCAL YEAR 2001.—Of the amounts made available for fiscal year 2001 under subparagraphs (A) and (B) of section 301(b)(3) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(3) (A) and (B)) as amended by section 101(c) of this Act, $75,524,000 shall be available until expended for the following:

(1) $36,500,000 for Customs Service aircraft restoration and replacement.

(2) $15,000,000 for increased air interdiction and investigative support activities.

(3) $24,024,000 for marine vessel replacement and related equipment.

SEC. 105. COMPLIANCE WITH PERFORMANCE PLAN REQUIREMENTS.

As part of the annual performance plan for each of the fiscal years 2000 and 2001 covering each program activity set forth in the budget of the United States Customs Service, as required under section 1115 of title 31, United States Code, the Commissioner of Customs shall establish performance goals and performance indicators, and comply with all other requirements contained in paragraphs (1) through (6) of subsection (a) of such section with respect to each of the activities to be carried out pursuant to sections 102 and 103 of this Act.

SEC. 106. COMMISSIONER OF CUSTOMS SALARY.

(a) IN GENERAL.—

(1) Section 5315 of title 5, United States Code, is amended by striking the following item:

"Commissioner of Customs, Department of Treasury.".

(2) Section 5314 of title 5, United States Code, is amended by inserting the following item:

"Commissioner of Customs, Department of Treasury.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to fiscal year 1999 and thereafter.

SEC. 107. PASSENGER PRECLEARANCE SERVICES.

(a) CONTINUATION OF PRECLEARANCE SERVICES.—Notwithstanding section 13031(f) of the

Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)) or any other provision of law, the Customs Service shall, without regard to whether a passenger processing fee is collected from a person departing for the United States from Canada and without regard to whether funds are appropriated pursuant to subsection (b), provide the same level of enhanced preclearance customs services for passengers arriving in the United States aboard commercial aircraft originating in Canada as the Customs Service provided for such passengers during fiscal year 1997.

(b) AUTHORIZATION OF APPROPRIATIONS FOR PRECLEARANCE SERVICES.—Notwithstanding section 13031(f) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)) or any other provision of law, there are authorized to be appropriated, from the date of enactment of this Act through September 30, 2001, such sums as may be necessary for the Customs Service to ensure that it will continue to provide the same, and where necessary increased, levels of enhanced preclearance customs services as the Customs Service provided during fiscal year 1997, in connection with the arrival in the United States of passengers aboard commercial aircraft whose flights originated in Canada.

TITLE II—CUSTOMS PERFORMANCE REPORT

SEC. 201. CUSTOMS PERFORMANCE REPORT.

(a) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Commissioner of Customs shall prepare and submit to the appropriate committees the report described in subsection (b).

(b) REPORT DESCRIBED.—The report described in this subsection shall include the following:

(1) IDENTIFICATION OF OBJECTIVES; ESTABLISHMENT OF PRIORITIES.—

(A) An outline of the means the Customs Service intends to use to identify enforcement priorities and trade facilitation objectives.

(B) The reasons for selecting the objectives contained in the most recent plan submitted by the Customs Service pursuant to section 1115 of title 31, United States Code.

(C) The performance standards against which the appropriate committees can assess the efforts of the Customs Service in reaching the goals outlined in the plan described in subparagraph (B).

(2) IMPLEMENTATION OF THE CUSTOMS MODERNIZATION ACT.—

(A) A review of the Customs Service's implementation of title VI of the North American Free Trade Agreement Implementation Act, commonly known as the "Customs Modernization Act", and the reasons why elements of that Act, if any, have not been implemented.

(B) A review of the effectiveness of the informed compliance strategy in obtaining higher levels of compliance, particularly compliance by those industries that have been the focus of the most intense efforts by the Customs Service to ensure compliance with the Customs Modernization Act.

(C) A summary of the results of the reviews of the initial industry-wide compliance assessments conducted by the Customs Service as part of the agency's informed compliance initiative.

(3) IMPROVEMENT OF COMMERCIAL OPERATIONS.—

(A) Identification of standards to be used in assessing the performance and efficiency of the commercial operations of the Customs Service, including entry and inspection procedures, classification, valuation, country-of-origin determinations, and duty drawback determinations.

(B) Proposals for—

(i) improving the performance of the commercial operations of the Customs Service, particularly the functions described in subparagraph (A), and

(ii) eliminating lengthy delays in obtaining rulings and other forms of guidance on United States customs law, regulations, procedures, or policies.

(C) Alternative strategies for ensuring that United States importers, exporters, customs brokers, and other members of the trade community have the information necessary to comply with the customs laws of the United States and to conduct their business operations accordingly.

(4) REVIEW OF ENFORCEMENT RESPONSIBILITIES.—

(A) A review of the enforcement responsibilities of the Customs Service.

(B) An assessment of the degree to which the current functions of the Customs Service overlap with the functions of other agencies and an identification of ways in which the Customs Service can avoid duplication of effort.

(C) A description of the methods used to ensure against misuse of personal search authority with respect to persons entering the United States at authorized ports of entry.

(5) STRATEGY FOR COMPREHENSIVE DRUG INTERDICTION.—

(A) A comprehensive strategy for the Customs Service's role in United States drug interdiction efforts.

(B) Identification of the respective roles of cooperating agencies, such as the Drug Enforcement Administration, the Federal Bureau of Investigation, the Coast Guard, and the intelligence community, including—

(i) identification of the functions that can best be performed by the Customs Service and the functions that can best be performed by agencies other than the Customs Service; and

(ii) a description of how the Customs Service plans to allocate the additional drug interdiction resources authorized by the Drug Free Borders Act of 1998.

(6) ENHANCEMENT OF COOPERATION WITH THE TRADE COMMUNITY.—

(A) Identification of ways to expand cooperation with United States importers and customs brokers, United States and foreign carriers, and other members of the international trade and transportation communities to improve the detection of contraband before it leaves a foreign port destined for the United States.

(B) Identification of ways to enhance the flow of information between the Customs Service and industry in order to—

(i) achieve greater awareness of potential compliance threats;

(ii) improve the design and efficiency of the commercial operations of the Customs Service;

(iii) foster account-based management;

(iv) eliminate unnecessary and burdensome regulations; and

(v) establish standards for industry compliance with customs laws.

(7) ALLOCATION OF RESOURCES.—

(A) An outline of the basis for the current allocation of inspection and investigative personnel by the Customs Service.

(B) Identification of the steps to be taken to ensure that the Customs Service can detect any misallocation of the resources described in subparagraph (A) among various ports and a description of what means the Customs Service has for reallocating resources within the agency to meet particular enforcement demands or commercial operations needs.

(8) AUTOMATION AND INFORMATION TECHNOLOGY.—

(A) Identification of the automation needs of the Customs Service and an explanation of the current State of the Automated Commercial System and the status of implementing a replacement for that system.

(B) A comprehensive strategy for reaching the technology goals of the Customs Service, including—

(i) an explanation of the proposed architecture of any replacement for the Automated Commercial System and how the architecture of the proposed replacement system best serves the core functions of the Customs Service;

(ii) identification of public and private sector automation projects that are comparable and that can be used as a benchmark against which to judge the progress of the Customs Service in meeting its technology goals;

(iii) an estimate of the total cost for each automation project currently underway at the Customs Service and a timetable for the implementation of each project; and

(iv) a summary of the options for financing each automation project.

(9) PERSONNEL POLICIES.—

(A) An overview of current personnel practices, including a description of—

(i) performance standards;

(ii) the criteria for promotion and termination;

(iii) the process for investigating complaints of bias and sexual harassment;

(iv) the criteria used for conducting internal investigations;

(v) the protection, if any, that is provided for whistleblowers; and

(vi) the methods used to discover and eliminate corruption within the Customs Service.

(B) Identification of workforce needs for the future and training needed to ensure Customs Service personnel stay abreast of developments in international business operations and international trade that affect the operations of the Customs Service, including identification of any situations in which current personnel policies or practices may impede achievement of the goals of the Customs Service with respect to both enforcement and commercial operations.

(c) APPROPRIATE COMMITTEES.—For purposes of this section, the term "appropriate committees" means the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the substitute amendment be agreed to, the bill be read the third time and passed, the motion to reconsider be laid upon the table, the title amendment to be agreed to, the title, as amended, be agreed to, and that any statements relating to the bill appear in the RECORD.

The committee amendment was agreed to.

The bill (H.R. 3809), as amended, was read the third time, and passed.

The title amendment was agreed to.

The title was amended so as to read: "An Act to authorize appropriations for the United States Customs Service for fiscal years 2000 and 2001."

ENERGY CONSERVATION REAUTHORIZATION ACT OF 1998

Mr. JEFFORDS. Mr. President, I ask the Chair lay before the Senate message from the House of Representatives on the bill (S. 417) to extend energy conservation programs under the Energy Policy and Conservation Act through September 30, 2002.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 417) entitled "An Act to extend energy conservation programs under the Energy Policy and Conservation Act through September 30, 2002", do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Energy Conservation Reauthorization Act of 1998".

SEC. 2. ENERGY POLICY AND CONSERVATION ACT AMENDMENTS.

(a) State Energy Conservation Program.—Section 365(f) of the Energy Policy and Conservation Act (42 U.S.C. 6325(f)) is amended to read as follows:

"(f) For the purpose of carrying out this part, there are authorized to be appropriated for fiscal years 1999 through 2003 such sums as may be necessary.".

(b) Schools and Hospitals.—Section 397 the Energy Policy and Conservation Act (42 U.S.C. 6371f) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 397. For the purpose of carrying out this part, there are authorized to be appropriated for fiscal years 1999 through 2003 such sums as may be necessary.".

SEC. 3. ENERGY CONSERVATION AND PRODUCTION ACT AMENDMENT.

Section 422 of the Energy Conservation and Production Act (42 U.S.C. 6872) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 422. For the purpose of carrying out the weatherization program under this part, there are authorized to be appropriated for fiscal years 1999 through 2003 such sums as may be necessary.".

SEC. 4. ENERGY SAVINGS PERFORMANCE CONTRACTS.

(a) Sunset.—Section 801(c) of the National Energy Conservation Policy Act (42 U.S.C. 8287(c)) is amended by striking "five years after" and all that follows through "subsection (b)" and inserting "on October 1, 2003".

(b) Definition.—Section 804(1) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(1)) is amended to read as follows:

"(1) The term 'Federal agency' means each authority of the Government of the United States, whether or not it is within or subject to review by another agency.".

SEC. 5. TECHNICAL AMENDMENTS.

(a) Energy Policy and Conservation Act.—The Energy Policy and Conservation Act is amended—

(1) in the table of contents—

(A) by striking "Sec. 301." and all that follows through "Reports to Congress.'.";

(B) by striking "efficiency" and inserting "conservation" in the item relating to section 325;

(C) by striking "and private labelers" in the item relating to section 326;

(D) by striking the items relating to part E of title III;

(E) by inserting after the items relating to part I of title III the following:

"Part J—Encouraging the Use of Alternative Fuels

"Sec. 400AA. Alternative fuel use by light duty Federal vehicles.
"Sec. 400BB. Alternative fuels truck commercial application program.
"Sec. 400CC. Alternative fuels bus program.
"Sec. 400DD. Interagency Commission on Alternative Motor Fuels.
"Sec. 400EE. Studies and reports.";

(F) by inserting "Environmental" after "Energy Supply and" in the item relating to section 505; and

(G) by striking the item relating to section 527;

(2) in section 321(1) (42 U.S.C. 6291(1))—

(A) by striking "section 501(1) of the Motor Vehicle Information and Cost Savings Act" and inserting "section 32901(a)(3) of title 49, United States Code"; and

(B) by striking the second period at the end thereof;

(3) in section 322(b)(2)(A) (42 U.S.C. 6292(b)(2)(A)) by inserting close quotation marks after "type of product";

(4) in section 324(a)(2)(C)(ii) (42 U.S.C. 6294(a)(2)(C)(ii)) by striking "section 325(j)" and inserting "section 325(i)";

(5) in section 325 (42 U.S.C. 6295)—

(A) by striking "paragraphs" in subsection (e)(4)(A) and inserting "paragraph"; and

(B) by striking "Ballasts;" in the heading of subsection (g) and inserting "Ballasts";

(6) in section 336(c)(2) (42 U.S.C. 6306(c)(2)) by striking "section 325(k)" and inserting "section 325(n)";

(7) in section 345(c) (42 U.S.C. 6316(c)) by inserting "standard" after "meets the applicable";

(8) in section 362 (42 U.S.C. 6322)—

(A) by inserting "of" after "of the implementation" in subsection (a)(1); and

(B) by striking "subsection (g)" and inserting "subsection (f)(2)" in subsection (d)(12);

(9) in section 391(2)(B) (42 U.S.C. 6371(2)(B)) by striking the period at the end and inserting a semicolon;

(10) in section 394(a) (42 U.S.C. 6371c(a))—

(A) by striking the commas at the end of paragraphs (1), (3), and (5) and inserting semicolons;

(B) by striking the period at the end of paragraph (2) and inserting a semicolon; and

(C) by striking the colon at the end of paragraph (6) and inserting a semicolon;

(11) in section 400 (42 U.S.C. 6371i) by striking "(a)";

(12) in section 400D(a) (42 U.S.C. 6372c(a)) by striking the commas at the end of paragraphs (1), (2), and (3) and inserting semicolons;

(13) in section 400I(b) (42 U.S.C. 6372h(b)) by striking "Secretary shall," and inserting "Secretary shall";

(14) in section 400AA (42 U.S.C. 6374) by redesignating subsection (i) as subsection (h);

(15) in section 503 (42 U.S.C. 6383)—

(A) by striking "with repect to" and inserting "with respect to" in subsection (b); and

(B) by striking "controlling" and inserting ", controlling," in subsection (c)(1); and

(16) in section 552(d)(5)(A) (42 U.S.C. 6422(d)(5)(A)) by striking "notion" and inserting "motion".

(b) Energy Conservation and Production Act.—The Energy Conservation and Production Act is amended—

(1) in the table of contents—

(A) by striking "rules and regulations" and inserting "regulations and rulings" in the item relating to section 106; and

(B) by striking the item relating to section 207 and inserting the following:

"Sec. 207. State utility regulatory assistance.
"Sec. 208. Authorization of appropriations.";

and

(2) in section 202 (42 U.S.C. 6802) by striking "(b) Definitions.—".

(c) National Energy Conservation Policy Act.—The National Energy Conservation Policy Act is amended—

(1) in the table of contents—

(A) by striking ", installation, and financing" and inserting "and installation" in the item relating to section 216;

(B) by striking "Ratings" and inserting "Rating Guidelines" in the item relating to part 6 of title II;

(C) by striking the item relating to section 304; and

(D) by striking "goals" and inserting "requirements" in the item relating to section 543;

(2) in section 216(d)(1)(C) (42 U.S.C. 8217(d)(1)(C)) by striking "explictly" and inserting "explicitly";

(3) in section 251(b)(1) (42 U.S.C. 8231(b)(1))—

(A) by striking "National Housing Act to projects" and inserting "National Housing Act) to projects"; and

(B) by striking "accure" and inserting "accrue";

(4) in section 266 (42 U.S.C. 8235e) by striking "(17 U.S.C." and inserting "(15 U.S.C."; and

(5) in section 551(8) (42 U.S.C. 8259(8)) by striking "goethermal" and inserting "geothermal".

SEC. 6. MATERIALS ALLOCATION AUTHORITY EXTENSION.

Section 104(b) of the Energy Policy and Conservation Act is amended by striking "(1) The authority" and all that follows through "(2)".

SEC. 7. BIODIESEL FUEL USE CREDITS.

(a) Amendment.—Title III of the Energy Policy Act of 1992 (42 U.S.C. 13211–13219) is amended by adding at the end the following new section:

"SEC. 312. BIODIESEL FUEL USE CREDITS.

"(a) Allocation of Credits.—

"(1) In general.—The Secretary shall allocate one credit under this section to a fleet or covered person for each qualifying volume of the biodiesel component of fuel containing at least 20 percent biodiesel by volume purchased after the date of the enactment of this section for use by the fleet or covered person in vehicles owned or operated by the fleet or covered person that weigh more than 8,500 pounds gross vehicle weight rating.

"(2) Exceptions.—No credits shall be allocated under paragraph (1) for a purchase of biodiesel—

"(A) for use in alternative fueled vehicles; or

"(B) that is required by Federal or State law.

"(3) Authority to modify percentage.—The Secretary may, by rule, lower the 20 percent biodiesel volume requirement in paragraph (1) for reasons related to cold start, safety, or vehicle function considerations.

"(4) Documentation.—A fleet or covered person seeking a credit under this section shall provide written documentation to the Secretary supporting the allocation of a credit to such fleet or covered person under paragraph (1).

"(b) Use of Credits.—

"(1) In general.—At the request of a fleet or covered person allocated a credit under subsection (a), the Secretary shall, for the year in which the purchase of a qualifying volume is made, treat that purchase as the acquisition of one alternative fueled vehicle the fleet or covered person is required to acquire under this title, title IV, or title V.

"(2) Limitation.—Credits allocated under subsection (a) may not be used to satisfy more than 50 percent of the alternative fueled vehicle requirements of a fleet or covered person under this title, title IV, and title V. This paragraph shall not apply to a fleet or covered person that is a biodiesel alternative fuel provider described in section 501(a)(2)(A).

"(c) Credit Not a Section 508 Credit.—A credit under this section shall not be considered a credit under section 508.

"(d) Issuance of Rule.—The Secretary shall, before January 1, 1999, issue a rule establishing procedures for the implementation of this section.

"(e) Collection of Data.—The Secretary shall collect such data as are required to make a determination described in subsection (f)(2)(B).

"(f) Definitions.—For purposes of this section—

"(1) the term 'biodiesel' means a diesel fuel substitute produced from nonpetroleum renewable resources that meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act; and

"(2) the term 'qualifying volume' means—

"(A) 450 gallons; or

"(B) if the Secretary determines by rule that the average annual alternative fuel use in light duty vehicles by fleets and covered persons exceeds 450 gallons or gallon equivalents, the amount of such average annual alternative fuel use.".

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Energy Policy Act of 1992 is amended by adding at the end of the items relating to title III the following new item:

"Sec. 312. Biodiesel fuel use credits.".

SEC. 8. REPORT CONCERNING COMPLIANCE WITH ALTERNATIVE FUEL VEHICLE PURCHASING REQUIREMENTS.

(a) IN GENERAL.—Section 310 of the Energy Policy Act of 1992 (42 U.S.C. 13218) is amended—

(1) by striking the heading and inserting the following:

"SEC. 310. REPORTS.";

(2) by inserting "(a) GENERAL SERVICE ADMINISTRATION PROGRAM REPORT.—" before "Not later than"; and

(3) by adding at the end the following:

"(b) COMPLIANCE REPORT.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, and annually thereafter for the next 14 years, the head of each Federal agency which is subject to this Act and Executive Order No. 13031 shall prepare, and submit to Congress, a report that—

"(A) summarizes the compliance by such Federal agency with the alternative fuel purchasing requirements for Federal fleets under this Act and Executive Order No. 13031; and

"(B) includes a plan of compliance that contains specific dates for achieving compliance using reasonable means.

"(2) CONTENTS.—

"(A) IN GENERAL.—Each report submitted under paragraph (1) shall include—

"(i) any information on any failure to meet statutory requirements or requirements under Executive Order No. 13031;

"(ii)(I) any plan of compliance that the agency head is required to submit under Executive Order No. 13031; or

"(II) if a plan of compliance referred to in subclause (I) does not contain specific dates by which the Federal agency is to achieve compliance, a revised plan of compliance that contains specific dates for achieving compliance; and

"(iii) any related information the agency head is required to submit to the Director of the Office of Management and Budget under Executive Order No. 13031.

"(B) PENULTIMATE REPORT.—The penultimate report submitted under paragraph (1) shall include an announcement that the report for the next year shall be the final report submitted under paragraph (1).

"(3) PUBLIC DISSEMINATION OF REPORT.—Each report submitted under paragraph (1) shall be made public, including—

"(A) placing such report on a publicly available website on the Internet; and

"(B) publishing the availability of the report, including such website address, in the Federal Register.".

(b) CLERICAL AMENDMENT.—The table of contents for the Energy Policy Act of 1992 contained in section 1(b) of that Act (106 Stat. 2776 et. seq.) is amended by striking the item relating to section 310 and inserting the following:

"Sec. 310. Reports.".

Amend the title so as to read: "An Act to extend certain programs under the Energy Policy and Conservation Act and the Energy Conservation and Production Act, and for other purposes.".

AMENDMENT NO. 3793

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate concur in the House amendments, with a further amendment which is at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:.

The Senator from Vermont [Mr. JEFFORDS], for Mr. MURKOWSKI, for himself and Mr. AKAKA, proposed an amendment numbered 3793.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end, insert the following:

SEC. 9. PURCHASES FROM STRATEGIC PETROLEUM RESERVE BY ENTITIES IN INSULAR AREAS OF UNITED STATES AND FREELY ASSOCIATED STATES.

(a) Section 161 of the Energy Policy and Conservation Act (42 U.S.C. 6241) is amended by adding at the end the following:

"(j) PURCHASES FROM STRATEGIC PETROLEUM RESERVE BY ENTITIES IN INSULAR AREAS OF UNITED STATES AND FREELY ASSOCIATED STATES.—

"(1) DEFINITIONS.—In this subsection:

"(A) BINDING OFFER.—The term 'binding offer' means a bid submitted by the State of Hawaii for an assured award of a specific quantity of petroleum product, with a price to be calculated pursuant to paragraph (2) of this subsection, that obligates the offeror to take title to the petroleum product without further negotiation or recourse to withdraw the offer.

"(B) CATEGORY OF PETROLEUM PRODUCT.—The term 'category of petroleum product' means a master line item within a notice of sale.

"(C) ELIGIBLE ENTITY.—The term 'eligible entity' means an entity that owns or controls a refinery that is located within the State of Hawaii.

"(D) FULL TANKER LOAD.—The term 'full tanker load' means a tanker of approximately 700,000 barrels of capacity, or such lesser tanker capacity as may be designated by the State of Hawaii.

"(E) INSULAR AREA.—The term 'insular area' means the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, the Freely Associated States of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

"(F) OFFERING.—The term 'offering' means a solicitation for bids for a quantity or quantities of petroleum product from the Strategic Petroleum Reserve as specified in the notice of sale.

"(G) NOTICE OF SALE.—The term 'notice of sale' means the document that announces—

"(i) the sale of Strategic Petroleum Reserve products;

"(ii) the quantity, characteristics, and location of the petroleum product being sold;

"(iii) the delivery period for the sale; and

"(iv) the procedures for submitting offers.

"(2) IN GENERAL.—In the case of an offering of a quantity of petroleum product during a drawdown of the Strategic Petroleum Reserve—

"(A) the State of Hawaii, in addition to having the opportunity to submit a competitive bid, may—

"(i) submit a binding offer, and shall on submission of the offer, be entitled to purchase a category of a petroleum product specified in a notice of sale at a price equal to the volumetrically weighted average of the successful bids made for the remaining quantity of the petroleum product within the category that is the subject of the offering; and

"(ii) submit 1 or more alternative offers, for other categories of the petroleum product, that will be binding if no price competitive contract is awarded for the category of petroleum product on which a binding offer is submitted under clause (i); and

"(B) at the request of the Governor of the State of Hawaii, a petroleum product purchased by the State of Hawaii at a competitive sale or through a binding offer shall have first preference in scheduling for lifting.

"(3) LIMITATION ON QUANTITY.—

"(A) IN GENERAL.—In administering this subsection, in the case of each offering, the Secretary may impose the limitation described in subparagraph (B) or (C) that results in the purchase of the lesser quantity of petroleum product.

"(B) PORTION OF QUANTITY OF PREVIOUS IMPORTS.—The Secretary may limit the quantity of a petroleum product that the State of Hawaii may purchase through a binding offer at any offering to 1/12 of the total quantity of imports of the petroleum product brought into the State during the previous year (or other period determined by the Secretary to be representative).

"(C) PERCENTAGE OF OFFERING.—The Secretary may limit the quantity that may be purchased through binding offers at any offering to 3 percent of the offering.

"(4) ADJUSTMENTS.—

"(A) IN GENERAL.—Notwithstanding any limitation imposed under paragraph (3), in administering this subsection, in the case of each offering, the Secretary shall, at the request of the Governor of the State of Hawaii, or an eligible .entity certified under paragraph (7), adjust the quantity to be sold to the State of Hawaii in accordance with this paragraph.

"(B) UPWARD ADJUSTMENT.—The Secretary shall adjust upward to the next whole number increment of a full tanker load if the quantity to be sold is—

"(i) less than 1 full tanker load; or

"(ii) greater than or equal to 50 percent of a full tanker load more than a whole number increment of a full tanker load

"(C) DOWNWARD ADJUSTMENT.—The Secretary shall adjust downward to the next whole number increment of a full tanker load if the quantity to be sold is less than 50 percent of a full tanker load more than a whole number increment of a full tanker load.

"(5) DELIVERY TO OTHER LOCATIONS.—The State of Hawaii may enter into an exchange or a processing agreement that requires delivery to other locations, if a petroleum product of similar value or quantity is delivered to the State of Hawaii.

"(6) STANDARD SALES PROVISIONS.—Except as otherwise provided in this Act, the Secretary may require the State of Hawaii to comply with the standard sales provisions applicable to purchasers of petroleum product at competitive sales.

"(7) ELIGIBLE ENTITIES.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C) and notwithstanding any other provision of this paragraph, if the Governor of the State of Hawaii certifies to the Secretary that the State has entered into an agreement with an eligible entity to carry out this Act, the eligible entity may act on behalf of the State of Hawaii to carry out this subsection.

"(B) LIMITATION.—The Governor of the State of Hawaii shall not certify more than I eligible entity under this paragraph for each notice of sale.

"(C) BARRED COMPANY.—If the Secretary has notified the Governor of the State of Hawaii that a company has been barred from bidding (either prior to, or at the time that a notice of sale is issued), the Governor shall not certify the company under this paragraph.

"(7) SUPPLIES OF PETROLEUM PRODUCTS.—At the request of the governor of an insular area, the Secretary shall, for a period not to exceed 180 days following a drawdown of the Strategic Petroleum Reserve, assist the insular area or the President of a Freely Associated State in its efforts to maintain adequate supplies of petroleum products from traditional and non-traditional suppliers.".

(b) REGULATIONS.—

(1) IN GENERAL.—The Secretary of Energy shall issue such regulations as are necessary to carry out the amendment made by subsection (a).

(2) ADMINISTRATIVE PROCEDURE.—Regulations issued to carry out the amendment made by subsection (a) shall not be subject to—

(A) section 523 of the Energy Policy and Conservation Act (42 U.S.C. 6393); or

(B) section 501 of the Department of Energy Organization Act (42 U.S.C. 7191).

(c) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on the earlier of—

(1) the date that is 180 days after the date of enactment of this Act; or

(2) the date that final regulations are issued under subsection (a).

SEC. 10. INDIAN ENERGY RESOURCE DEVELOPMENT.

Section 2603 of the Energy Policy Act of 1992 (25 U.S.C. 3503) is amended in subsection (c) by striking "and 1997" each place it appears and inserting "1999, 2000, 2001, 2002 and 2003" in lieu thereof.

SEC. 11. REMEDIAL ACTION.

(a) Section 1001(b)(2)(C) of the Energy Policy Act of 1992 (42 U.S.C. 2296a) is amended by striking "$65,000,000" and inserting "$140,000,000".

(b) Section 1003(a) of such Act (42 U.S.C. 2296a–2) is amended by striking "$415,000,000" and inserting "$490,000,000".

(c) Section 1802(a) of the Atomic Energy Act of 1954 (42 U.S.C. 2297g–1) is amended by striking "$480,000,000" and inserting "$488,333,333".

VITIATION OF PASSAGE OF H.R. 3903

Mr. JEFFORDS. I ask unanimous consent that passage of H.R. 3903 be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

GLACIER BAY NATIONAL PARK BOUNDARY ADJUSTMENT ACT OF 1998

Mr. JEFFORDS. Mr. President, I now ask unanimous consent that the Senate proceed to the consideration of H.R. 3903.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

A bill (H.R. 3903) to provide for an exchange of lands near Gustavus, Alaska, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3794

(Purpose: To make technical and clarifying changes)

Mr. JEFFORDS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS], for Mr. MURKOWSKI, proposes an amendment numbered 3794.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2 line 8 strike "paragraph [4]" and insert "paragraph [2]".

On page 2 line 9 strike "paragraph [3]" and insert "paragraph [4]".

On page 4 line 1 strike "838.66" and insert "1191.75".

On page 11 line 19 strike "units" and insert "units resulting from this Act".

On page 11 line 20 strike "considered in applying" and insert "charged against".

On page 12 line 1 strike "units" and insert "units resulting from this Act".

On page 12 beginning on line 1 strike "be considered in applying" and insert "be charged against".

Mr. JEFFORDS. Mr. President, I ask that the amendment be agreed to, the bill be read the third time and passed, and the motion to reconsider laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3794) was agreed to.

The bill (H.R. 3903) was read the third time, and passed.

MAHATMA GANDHI MEMORIAL

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Energy Committee be discharged from further consideration of H.R. 4284, and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4284) to authorize the government of India to establish a memorial to honor Mahatma Gandhi in the District of Columbia.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MACK. Mr. President, last year I joined the distinguished senior Senator from New York, Mr. MOYNIHAN, in introducing a bill to authorize the placement of a memorial to Mohandas K.—Mahatma—Gandhi, on Federal land in the District of Columbia in the vicinity of the Indian Embassy. A similar bill was introduced in the House of Representatives.

I am pleased to report that the House unanimously passed their version of this bill on September 15 and it now rests here in the Senate awaiting our action. It is my hope that the Senate will pass this bill and it is for this reason that I rise today.

The proposed memorial will comply with the Commemorative Works Act and will be placed at no cost to the U.S. Government; the Indian Government will be responsible for the construction and maintenance of the memorial. In addition, the National Capital Memorial Commission and the National Park Service have designated and approved the site.

At midnight on August 15, 1947, 400 million people received their independence and an institution in world history came to an end. This is the date that India became a free nation, and the mighty British empire, in effect, ceased to exist. One man more than any other is credited with bringing this profound change to the world. Dressed in white homespun cloth, with only a handful of worldly possessions, Mohandas Gandhi—known as Mahatma, or "Great Soul"—showed the world that dedication to principles, and belief in reconciliation, can prevail over otherwise insurmountable odds. Best known for his civil disobedience characterized by nonviolence and passive resistance, Mahatma Gandhi is revered by millions throughout the world for his dedication to personal freedom, justice, and human rights.

Gandhi is not only the father of modern India, but a leader whose impact changed the world forever. Gandhi influenced great champions of freedom throughout the world including Lech Walesa of Poland, the Dalai Lama of Tibet and Aung San Suu Kyi of Burma. Albert Einstein said of Gandhi, "Generations to come will scarcely believe that such a one as this walked the Earth in flesh and blood." Dr. Martin Luther King, Jr., said of Gandhi's importance to the world, "We may ignore Gandhi at our own risk." And Gandhi himself had strong ties to the United States. He acknowledged being influenced in his own thinking by Henry David Thoreau, as well as by the U.S. Constitution.

Mr. President, the story of India's recent history is the story of people struggling for freedom—and this struggle is universal. Gandhi has made us all richer in our freedom through his life's work and sacrifice. The right thing for this body to do is to support the Indian government's efforts to erect this memorial; it will be a gift to the American people symbolic of the greater gift we received more than 50 years ago from Mahatma Gandhi.

Mr. MOYNIHAN. Mr. President, today the United States Congress acts to authorize the placement of a statute of Mohandas Karamchand Gandhi—Mahatma Gandi—on Federal land across the street from the Indian Embassy in Washington D.C. Such a tribute to Mahatma Gandhi, often called the father of the Indian nation, would serve as a fitting tribute to Indian democracy which has survived—in fact, thrived—despite enormous challenges. It will stand as a symbol of the growing strength of the bonds between our two countries.

The Government of India has offered a statute of Gandhi as a gift to the United States. In order to place it on Federal land, an act of Congress is required. This bill will fulfill just that purpose, and I thank the Senator from Florida, Mr. MACK and the Senator from Maryland, Mr. SARBANES for joining me in this endeavor.

It is particularly appropriate that a statute of Mahatma Gandhi be selected as a symbol of our ties. The effects of Gandhi's nonviolent actions and the philosophy that guided him, were not limited to his country, or his time. Perhaps less known is that Gandhi drew inspiration from an American. While in South Africa, Gandhi read Thoreau's essay "Civil Disobedience," which confirmed his view that an honest man is duty-bound to violate unjust laws. He took this view home with him, and in the end the British raj gave way to an independent Republic of India. Then Dr. Martin Luther King, Jr. repatriated the idea, and so began the great American civil rights movement of this century.

Dr. Martin Luther King, Jr. has written of the singular influence Gandhi's message of nonviolent resistance had on him when he first learned of it while studying at Crozier Theological Seminary in Philadelphia. He would later describe Gandhi's influence on him in, "Stride Toward Freedom":

> As I read I became deeply fascinated by [Gandhi's] philosphy of nonviolent resistance . . . as I delved deeper into the philosophy of Gandhi, my skepticism concerning the power of love gradually diminished, and I came to see its potency in the area of social reform . . . prior to reading Gandhi, I had concluded that the love ethics of Jesus were only effective in individual relationships . . . but after reading Gandhi, I saw how utterly mistaken I was.
>
> . . . It was in this Gandhian emphasis on love and non-violence that I discovered the method for social reform that I had been seeking for so many months . . . I came to feel that this was the only morally and practically sound method open to oppressed people in their struggle for freedom . . . this principle became the guiding light of our movement. Christ furnished the spirit and motivation and Gandhi furnished the method.

Dr. Martin Luther King, Jr. believed that Gandhi's philosophy of non-violent resistance was the "guiding light" of the American civil rights movement. As Dr. King explained, "Gandhi furnished the message." A statue of Gandhi, given as a gift from the Government of India, on a small plot of Federal land along Massachusetts Avenue in front of the Indian Embassy, will stand not only as a tribute to the shared values of the two largest democracies in the world, but will also pay tribute to the lasting influence of Gandhian thought on the United States.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4284) was read the third time, and passed.

PATRIOTIC AND NATIONAL OBSERVANCES, CEREMONIES, AND ORGANIZATIONS

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 680, S. 2524.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2524) to codify without substantive change laws related to Patriotic and National Observances, Ceremonies, and Organizations and to improve the United States Code.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. JEFFORDS. I ask unanimous consent that the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2524) was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 2524

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TITLE 36, UNITED STATES CODE.

Title 36, United States Code, is amended as follows:

(1) In section 902, strike subsections (b) and (c) and substitute the following:

"(b) REQUIRED DISPLAY.—The POW/MIA flag shall be displayed at the locations specified in subsection (d) of this section on POW/MIA flag display days. The display serves—

"(1) as the symbol of the Nation's concern and commitment to achieving the fullest possible accounting of Americans who, having been prisoners of war or missing in action, still remain unaccounted for; and

"(2) as the symbol of the Nation's commitment to achieving the fullest possible accounting for Americans who in the future may become prisoners of war, missing in action, or otherwise unaccounted for as a result of hostile action.

"(c) DAYS FOR FLAG DISPLAY.—(1) For purposes of this section, POW/MIA flag display days are the following:

"(A) Armed Forces Day, the third Saturday in May.

"(B) Memorial Day, the last Monday in May.

"(C) Flag Day, June 14.

"(D) Independence Day, July 4.

"(E) National POW/MIA Recognition Day.

"(F) Veterans Day, November 11.

"(2) In addition to the days specified in paragraph (1) of this subsection, POW/MIA flag display days include—

"(A) in the case of display at medical centers of the Department of Veterans Affairs (required by subsection (d)(7) of this section), any day on which the flag of the United States is displayed; and

"(B) in the case of display at United States Postal Service post offices (required by subsection (d)(8) of this section), the last business day before a day specified in paragraph (1) that in any year is not itself a business day.

"(d) LOCATIONS FOR FLAG DISPLAY.—The locations for the display of the POW/MIA flag under subsection (b) of this section are the following:

"(1) The Capitol.

"(2) The White House.

"(3) The Korean War Veterans Memorial and the Vietnam Veterans Memorial.

"(4) Each national cemetery.

"(5) The buildings containing the official office of—

"(A) the Secretary of State;

"(B) the Secretary of Defense;

"(C) the Secretary of Veterans Affairs; and

"(D) the Director of the Selective Service System.

"(6) Each major military installation, as designated by the Secretary of Defense.

"(7) Each medical center of the Department of Veterans Affairs.

"(8) Each United States Postal Service post office.

"(e) COORDINATION WITH OTHER DISPLAY REQUIREMENT.—Display of the POW/MIA flag at the Capitol pursuant to subsection (d)(1) of this section is in addition to the display of that flag in the Rotunda of the Capitol pursuant to Senate Concurrent Resolution 5 of the 101st Congress, agreed to on February 22, 1989 (103 Stat. 2533).

"(f) DISPLAY TO BE IN A MANNER VISIBLE TO THE PUBLIC.—Display of the POW/MIA flag pursuant to this section shall be in a manner designed to ensure visibility to the public.

"(g) LIMITATION.—This section may not be construed or applied so as to require any employee to report to work solely for the purpose of providing for the display of the POW/MIA flag.".

(2) In section 2102(b), strike "designated personnel" and substitute "personnel made available to the Commission".

(3) In section 2501(2), insert "solicit," before "accept,".

(4)(A) Insert after chapter 201 the following:

"CHAPTER 202—AIR FORCE SERGEANTS ASSOCIATION

"Sec.
"20201. Definition.
"20202. Organization.
"20203. Purposes.
"20204. Membership.

"20205. Governing body.
"20206. Powers.
"20207. Restrictions.
"20208. Duty to maintain corporate and tax-exempt status.
"20209. Records and inspection.
"20210. Service of process.
"20211. Liability for acts of officers and agents.
"20212. Annual report.

"§ 20201. Definition

"For purposes of this chapter, 'State' includes the District of Columbia and the territories and possessions of the United States.

"§ 20202. Organization

"(a) Federal Charter.—Air Force Sergeants Association (in this chapter, the 'corporation'), a nonprofit corporation incorporated in the District of Columbia, is a federally chartered corporation.

"(b) Expiration of Charter.—If the corporation does not comply with any provision of this chapter, the charter granted by this chapter expires.

"§ 20203. Purposes

"(a) General.—The purposes of the corporation are as provided in its bylaws and articles of incorporation and include—

"(1) helping to maintain a highly dedicated and professional corps of enlisted personnel within the United States Air Force, including the United States Air Force Reserve, and the Air National Guard;

"(2) supporting fair and equitable legislation and Department of the Air Force policies and influencing by lawful means departmental plans, programs, policies, and legislative proposals that affect enlisted personnel of the Regular Air Force, the Air Force Reserve, and the Air National Guard, its retirees, and other veterans of enlisted services in the Air Force;

"(3) actively publicizing the roles of enlisted personnel in the United States Air Force;

"(4) participating in civil and military activities, youth programs, and fundraising campaigns that benefit the United States Air Force;

"(5) providing for the mutual welfare of members of the corporation and their families;

"(6) assisting in recruiting for the United States Air Force;

"(7) assembling together for social activities;

"(8) maintaining an adequate Air Force for our beloved country;

"(9) fostering among the members of the corporation a devotion to fellow airmen; and

"(10) serving the United States and the United States Air Force loyally, and doing all else necessary to uphold and defend the Constitution of the United States.

"(b) Corporate Function.—The corporation shall function as an educational, patriotic, civic, historical, and research organization under the laws of the District of Columbia.

"§ 20204. Membership

"(a) Eligibility.—Except as provided in this chapter, eligibility for membership in the corporation and the rights and privileges of members are as provided in the bylaws and articles of incorporation.

"(b) Nondiscrimination.—The terms of membership may not discriminate on the basis of race, color, religion, sex, disability, age, or national origin.

"§ 20205. Governing body

"(a) Board of Directors.—The board of directors and the responsibilities of the board are as provided in the bylaws and articles of incorporation.

"(b) Officers.—The officers and the election of officers are as provided in the bylaws and articles of incorporation.

"(c) Nondiscrimination.—The requirements for servicing as a director or officer may not discriminate on the basis of race, color, religion, sex, disability, age, or national origin.

"§ 20206. Powers

"The corporation has only the powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

"§ 20207. Restrictions

"(a) Stock and Dividends.—The corporation may not issue stock or declare or pay a dividend.

"(b) Distribution of Income or Assets.—The income or assets of the corporation may not inure to he benefit of, or be distributed to, a director, officer, or member during the life of the charter granted by this chapter. This subsection does not prevent the payment of reasonable compensation to an officer or employee or reimbursement for actual necessary expenses in amounts approved by the board of directors.

"(c) Loans.—The corporation may not make a loan to a director, officer, employee, or member.

"(d) Claim of Governmental Approval or Authority.—The corporation may not claim congressional approval or the authority of the United States Government for any of its activities.

"§ 20208. Duty to maintain corporate and tax-exempt status

"(a) Corporate Status.—The corporation shall maintain its status as a corporation incorporated under the laws of the District of Columbia.

"(b) Tax Exempt Status.—The corporation shall maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

"§ 20209. Records and inspection

"(a) Records.—The corporation shall keep—

"(1) correct and complete records of account;

"(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

"(3) at its principal office, a record of the names and addresses of its members entitled to vote.

"(b) Inspection.—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

"§ 20210. Service of process

"The corporation shall comply with the law on service of process of each State in which it is incorporated and each State in which it carries on activities.

"§ 20211. Liability for acts of officers and agents

"The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

"§ 20212. Annual report

"The corporation shall submit an annual report to Congress on the activities of the corporation during the prior fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101 of this title. The report may not be printed as a public document.".

(B) In the table of chapters at the beginning of subtitle II, insert after the item related to chapter 201:

"202. AIR FORCE SERGEANTS ASSOCIATION .... 20201".

(5)(A) Insert after chapter 209 the following:

"CHAPTER 210—AMERICAN GI FORUM OF THE UNITED STATES

"Sec.
"21001. Definition.
"21002. Organization.
"21003. Purposes.
"21004. Membership.
"21005. Governing body.
"21006. Powers.
"21007. Restrictions.
"21008. Duty to maintain corporate and tax-exempt status.
"21009. Records and inspection.
"21010. Service of process.
"21011. Liability for acts of officers and agents.
"21012. Annual report.

"§ 21001. Definition

"For purposes of this chapter, 'State' includes the District of Columbia and the territories and possessions of the United States.

"§ 21002. Organization

"(a) Federal Charter.—American GI Forum of the United States (in this chapter, the 'corporation'), a nonprofit corporation incorporated in Texas, is a federally chartered corporation.

"(b) Expiration of Charter.—If the corporation does not comply with any provision of this chapter, the charter granted by this chapter expires.

"§ 21003. Purposes

"(a) General.—The purposes of the corporation are as provided in its bylaws and articles of incorporation and include—

"(1) securing the blessing of American democracy at every level of local, State, and national life for all United States citizens;

"(2) upholding and defending the Constitution and the United States flag;

"(3) fostering and perpetuating the principles of American democracy based on religious and political freedom for the individual and equal opportunity for all;

"(4) fostering and enlarging equal educational opportunities, equal economic opportunities, equal justice under the law, and equal political opportunities for all United States citizens, regardless of race, color, religion, sex, or national origin;

"(5) encouraging greater participation of the ethnic minority represented by the corporation in the policy-making and administrative activities of all departments, agencies, and other government units of local and State governments and the United States Government;

"(6) combating all practices of a prejudicial or discriminatory nature in local, State, or national life which curtail, hinder, or deny to any United States citizen an equal opportunity to develop full potential as an individual; and

"(7) fostering and promoting the broader knowledge and appreciation by all United States citizens of their cultural heritage and language.

"(b) Corporate Function.—The corporation shall function as an educational, patriotic, civic, historical, and research organization under the laws of Texas.

"§ 21004. Membership

"(a) Eligibility.—Except as provided in this chapter, eligibility for membership in the corporation and the rights and privileges of members are as provided in the bylaws and articles of incorporation.

"(b) NONDISCRIMINATION.—The terms of membership may not discriminate on the basis of race, color, religion, sex, disability, age, or national origin.

"§ 21005. Governing body

"(a) BOARD OF DIRECTORS.—The board of directors and the responsibilities of the board are as provided in the bylaws and articles of incorporation.

"(b) OFFICERS.—The officers and the election of officers are as provided in the bylaws and articles of incorporation.

"(c) NONDISCRIMINATION.—The requirements for serving as a director or officer may not discriminate on the basis of race, color, religion, sex, disability, age, or national origin.

"§ 21006. Powers

"The corporation has only the powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

"§ 21007. Restrictions

"(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

"(b) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member during the life of the charter granted by this chapter. This subsection does not prevent the payment of reasonable compensation to an officer or employee or reimbursement for actual necessary expenses in amounts approved by the board of directors.

"(c) LOANS.—The corporation may not make a loan to a director, officer, employee, or member.

"(d) CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORITY.—The corporation may not claim congressional approval or the authority of the United States Government for any of its activities.

"§ 21008. Duty to maintain corporate and tax-exempt status

"(a) CORPORATE STATUS.—The corporation shall maintain its status as a corporation incorporated under the laws of Texas.

"(b) TAX-EXEMPT STATUS.—The corporation shall maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

"§ 21009. Records and inspection

"(a) RECORDS.—The corporation shall keep—

"(1) correct and complete records of account;

"(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

"(3) at its principal office, a record of the names and addresses of its members entitled to vote.

"(b) INSPECTION.—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

"§ 21010. Service of process

"The corporation shall comply with the law on service of process of each State in which it is incorporated and each State in which it carries on activities.

"§ 21011. Liability for acts of officers and agents

"The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

"§ 21012. Annual report

"The corporation shall submit an annual report to Congress on the activities of the corporation during the prior fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101 of this title. The report may not be printed as a public document.".

(B) In the table of chapters at the beginning of subtitle II, insert after the item related to chapter 209:

"210. AMERICAN GI FORUM OF THE UNITED STATES .... 21001".

(6) In section 21703(1)(A)(iv), strike "December 22, 1961" and substitute "February 28, 1961".

(7) In section 70103(b), strike "the State of".

(8) In section 151303, subsections (f) and (g) are amended to read as follows:

"(f) STATUS.—Appointment to the board does not constitute appointment as an officer or employee of the United States Government for the purpose of any law of the United States.

"(g) COMPENSATION.—Members of the board serve without compensation.

"(h) LIABILITY.—Members of the board are not personally liable, except for gross negligence.".

(9) In section 151305(b), strike "the State of".

(10) In section 152903(8), strike "Corporation" and substitute "corporation".

SEC. 2. TECHNICAL AMENDMENTS TO OTHER LAWS.

(a) The provisos in the paragraph under the heading "AMERICAN BATTLE MONUMENTS COMMISSION" in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998 (Public Law 105-65, Oct. 27, 1997, 111 Stat. 1368, 36 App. U.S.C. 121b, 122, and 122a) are repealed.

(b) Paragraph (3) of section 198(s) of the National and Community Service Act of 1990 (42 U.S.C. 12653(s)(3)) is repealed.

(c) Effective August 12, 1998, Public Law 105-225 (Aug. 12, 1998, 112 Stat. 1253) is amended as follows:

(1) Section 4(b) is amended by striking "2320(d)" and substituting "2320(e)".

(2) Section 7(a), and the amendment made by section 7(a), are repealed.

SEC. 3. EFFECTIVE DATE.

The amendment made by section 1(8) of this Act shall take effect as if included in the provisions of Public Law 105-225, as of the date of enactment of Public Law 105-225.

SEC. 4. LEGISLATIVE PURPOSE AND CONSTRUCTION.

(a) NO SUBSTANTIVE CHANGE.—(1) Section 1 of this Act restates, without substantive change, laws enacted before September 5, 1998, that were replaced by section 1. Section 1 may not be construed as making a substantive change in the laws replaced.

(2) Laws enacted after September 4, 1998, that are inconsistent with this Act supersede this Act to the extent of the inconsistency.

(b) REFERENCES.—A reference to a law replaced by this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act.

(c) CONTINUING EFFECT.—An order, rule, or regulation in effect under a law replaced by this Act continues in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

(d) ACTIONS AND OFFENSES UNDER PRIOR LAW.—An action taken or an offense committed under a law replaced by this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.

(e) INFERENCES.—An inference of a legislative construction is not to be drawn by reason of the location in the United States Code of a provision enacted by this Act or by reason of a heading of the provision.

(f) SEVERABILITY.—If a provision enacted by this Act is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision enacted by this Act is held invalid in any of its applications, the provision remains valid for all valid applications that are severable from any of the invalid applications.

SEC. 5. REPEALS.

(a) INFERENCES OF REPEAL.—The repeal of a law by this Act may not be construed as a legislative inference that the provision was or was not in effect before its repeal.

(b) REPEALER SCHEDULE.—The laws specified in the following schedule are repealed, except for rights and duties that matured, penalties that were incurred, and proceedings that were begun before the date of enactment of this Act:

Schedule of Laws Repealed

Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large		U.S.C. Code	
			Volume	Page	Title	Section
1997 Nov. 18	105–85	1082, 1501–1516	111	1917, 1963	36 App.	189a, 1101, 5801–5815
Nov. 20	105–110		111	2270	36 App.	45
1998 Aug. 7	105–220	413	112	1241	36 App.	155b
Aug. 13	105–231	1–16	112	1530	36 App.	1101, 5901–5915

COMMERCIAL SPACE ACT OF 1998

Mr. JEFFORDS. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on the bill (H.R. 1702) to encourage the development of commercial space industry in the United States, and for other purpsoes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 1702) entitled "An Act to encourage the development of a commercial space industry in the United States, and for other purposes", with the following amendment:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Commercial Space Act of 1998".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—PROMOTION OF COMMERCIAL SPACE OPPORTUNITIES

Sec. 101. Commercialization of Space Station.
Sec. 102. Commercial space launch amendments.
Sec. 103. Launch voucher demonstration program.
Sec. 104. Promotion of United States Global Positioning System standards.
Sec. 105. Acquisition of space science data.
Sec. 106. Administration of Commercial Space Centers.
Sec. 107. Sources of Earth science data.

TITLE II—FEDERAL ACQUISITION OF SPACE TRANSPORTATION SERVICES

Sec. 201. Requirement to procure commercial space transportation services.
Sec. 202. Acquisition of commercial space transportation services.
Sec. 203. Launch Services Purchase Act of 1990 amendments.
Sec. 204. Shuttle privatization.
Sec. 205. Use of excess intercontinental ballistic missiles.
Sec. 206. National launch capability study.

SEC. 2. DEFINITIONS.

For purposes of this Act—

(1) the term "Administrator" means the Administrator of the National Aeronautics and Space Administration;

(2) the term "commercial provider" means any person providing space transportation services or other space-related activities, primary control of which is held by persons other than Federal, State, local, and foreign governments;

(3) the term "payload" means anything that a person undertakes to transport to, from, or within outer space, or in suborbital trajectory, by means of a space transportation vehicle, but does not include the space transportation vehicle itself except for its components which are specifically designed or adapted for that payload;

(4) the term "space-related activities" includes research and development, manufacturing, processing, service, and other associated and support activities;

(5) the term "space transportation services" means the preparation of a space transportation vehicle and its payloads for transportation to, from, or within outer space, or in suborbital trajectory, and the conduct of transporting a payload to, from, or within outer space, or in suborbital trajectory;

(6) the term "space transportation vehicle" means any vehicle constructed for the purpose of operating in, or transporting a payload to, from, or within, outer space, or in suborbital trajectory, and includes any component of such vehicle not specifically designed or adapted for a payload;

(7) the term "State" means each of the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other commonwealth, territory, or possession of the United States; and

(8) the term "United States commercial provider" means a commercial provider, organized under the laws of the United States or of a State, which is—

(A) more than 50 percent owned by United States nationals; or

(B) a subsidiary of a foreign company and the Secretary of Transportation finds that—

(i) such subsidiary has in the past evidenced a substantial commitment to the United States market through—

(I) investments in the United States in long-term research, development, and manufacturing (including the manufacture of major components and subassemblies); and

(II) significant contributions to employment in the United States; and

(ii) the country or countries in which such foreign company is incorporated or organized, and, if appropriate, in which it principally conducts its business, affords reciprocal treatment to companies described in subparagraph (A) comparable to that afforded to such foreign company's subsidiary in the United States, as evidenced by—

(I) providing comparable opportunities for companies described in subparagraph (A) to participate in Government sponsored research and development similar to that authorized under this Act;

(II) providing no barriers, to companies described in subparagraph (A) with respect to local investment opportunities, that are not provided to foreign companies in the United States; and

(III) providing adequate and effective protection for the intellectual property rights of companies described in subparagraph (A).

TITLE I—PROMOTION OF COMMERCIAL SPACE OPPORTUNITIES

SEC. 101. COMMERCIALIZATION OF SPACE STATION.

(a) POLICY.—The Congress declares that a priority goal of constructing the International Space Station is the economic development of Earth orbital space. The Congress further declares that free and competitive markets create the most efficient conditions for promoting economic development, and should therefore govern the economic development of Earth orbital space. The Congress further declares that the use of free market principles in operating, servicing, allocating the use of, and adding capabilities to the Space Station, and the resulting fullest possible engagement of commercial providers and participation of commercial users, will reduce Space Station operational costs for all partners and the Federal Government's share of the United States burden to fund operations.

(b) REPORTS.—(1) The Administrator shall deliver to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, within 90 days after the date of the enactment of this Act, a study that identifies and examines—

(A) the opportunities for commercial providers to play a role in International Space Station activities, including operation, use, servicing, and augmentation;

(B) the potential cost savings to be derived from commercial providers playing a role in each of these activities;

(C) which of the opportunities described in subparagraph (A) the Administrator plans to make available to commercial providers in fiscal years 1999 and 2000;

(D) the specific policies and initiatives the Administrator is advancing to encourage and facilitate these commercial opportunities; and

(E) the revenues and cost reimbursements to the Federal Government from commercial users of the Space Station.

(2) The Administrator shall deliver to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, within 180 days after the date of the enactment of this Act, an independently-conducted market study that examines and evaluates potential industry interest in providing commercial goods and services for the operation, servicing, and augmentation of the International Space Station, and in the commercial use of the International Space Station. This study shall also include updates to the cost savings and revenue estimates made in the study described in paragraph (1) based on the external market assessment.

(3) The Administrator shall deliver to the Congress, no later than the submission of the President's annual budget request for fiscal year 2000, a report detailing how many proposals (whether solicited or not) the National Aeronautics and Space Administration received during calendar years 1997 and 1998 regarding commercial operation, servicing, utilization, or augmentation of the International Space Station, broken down by each of these four categories, and specifying how many agreements the National Aeronautics and Space Administration has entered into in response to these proposals, also broken down by these four categories.

(4) Each of the studies and reports required by paragraphs (1), (2), and (3) shall include consideration of the potential role of State governments as brokers in promoting commercial participation in the International Space Station program.

SEC. 102. COMMERCIAL SPACE LAUNCH AMENDMENTS.

(a) AMENDMENTS.—Chapter 701 of title 49, United States Code, is amended—

(1) in the table of sections—

(A) by amending the item relating to section 70104 to read as follows:

"70104. Restrictions on launches, operations, and reentries.";

(B) by amending the item relating to section 70108 to read as follows:

"70108. Prohibition, suspension, and end of launches, operation of launch sites and reentry sites; and reentries.";

(C) by amending the item relating to section 70109 to read as follows:

"70109. Preemption of scheduled launches or reentries.";

and

(D) by adding at the end the following new items:

"70120. Regulations.

"70121. Report to Congress.".

(2) in section 70101—

(A) by inserting "microgravity research," after "information services," in subsection (a)(3);

(B) by inserting ", reentry," after "launching" both places it appears in subsection (a)(4);

(C) by inserting ", reentry vehicles," after "launch vehicles" in subsection (a)(5);

(D) by inserting "and reentry services" after "launch services" in subsection (a)(6);

(E) by inserting ", reentries," after "launches" both places it appears in subsection (a)(7);

(F) by inserting ", reentry sites," after "launch sites" in subsection (a)(8);

(G) by inserting "and reentry services" after "launch services" in subsection (a)(8);

(H) by inserting "reentry sites," after "launch sites," in subsection (a)(9);

(I) by inserting "and reentry site" after "launch site" in subsection (a)(9);

(J) by inserting ", reentry vehicles," after "launch vehicles" in subsection (b)(2);

(K) by striking "launch" in subsection (b)(2)(A);

(L) by inserting "and reentry" after "conduct of commercial launch" in subsection (b)(3);

(M) by striking "launch" after "and transfer commercial" in subsection (b)(3); and

(N) by inserting "and development of reentry sites," after "launch-site support facilities," in subsection (b)(4);

(3) in section 70102—

(A) in paragraph (3)—

(i) by striking "and any payload" and inserting in lieu thereof "or reentry vehicle and any payload from Earth";

(ii) by striking the period at the end of subparagraph (C) and inserting in lieu thereof a comma; and

(iii) by adding after subparagraph (C) the following:

"including activities involved in the preparation of a launch vehicle or payload for launch, when those activities take place at a launch site in the United States.";

(B) by inserting "or reentry vehicle" after "means of a launch vehicle" in paragraph (8);

(C) by redesignating paragraphs (10), (11), and (12) as paragraphs (14), (15), and (16), respectively;

(D) by inserting after paragraph (9) the following new paragraphs:

"(10) 'reenter' and 'reentry' mean to return or attempt to return, purposefully, a reentry vehicle and its payload, if any, from Earth orbit or from outer space to Earth.

"(11) 'reentry services' means—

"(A) activities involved in the preparation of a reentry vehicle and its payload, if any, for reentry; and

"(B) the conduct of a reentry.

"(12) 'reentry site' means the location on Earth to which a reentry vehicle is intended to return (as defined in a license the Secretary issues or transfers under this chapter).

"(13) 'reentry vehicle' means a vehicle designed to return from Earth orbit or outer space to Earth, or a reusable launch vehicle designed to return from Earth orbit or outer space to Earth, substantially intact."; and

(E) by inserting "or reentry services" after "launch services" each place it appears in paragraph (15), as so redesignated by subparagraph (C) of this paragraph;

(4) in section 70103(b)—

(A) by inserting "AND REENTRIES" after "LAUNCHES" in the subsection heading;

(B) by inserting "and reentries" after "commercial space launches" in paragraph (1); and

(C) by inserting "and reentry" after "space launch" in paragraph (2);

(5) in section 70104—

(A) by amending the section designation and heading to read as follows:

"§ 70104. Restrictions on launches, operations, and reentries";

(B) by inserting "or reentry site, or to reenter a reentry vehicle," after "operate a launch site" each place it appears in subsection (a);

(C) by inserting "or reentry" after "launch or operation" in subsection (a)(3) and (4);

(D) in subsection (b)—

(i) by striking "launch license" and inserting in lieu thereof "license";

(ii) by inserting "or reenter" after "may launch"; and

(iii) by inserting "or reentering" after "related to launching"; and

(E) in subsection (c)—

(i) by amending the subsection heading to read as follows: "PREVENTING LAUNCHES AND REENTRIES.—";

(ii) by inserting "or reentry" after "prevent the launch"; and

(iii) by inserting "or reentry" after "decides the launch";

(6) in section 70105—

(A) by inserting "(1)" before "A person may apply" in subsection (a);

(B) by striking "receiving an application" both places it appears in subsection (a) and inserting in lieu thereof "accepting an application in accordance with criteria established pursuant to subsection (b)(2)(D)";

(C) by adding at the end of subsection (a) the following: "The Secretary shall transmit to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a written notice not later than 30 days after any occurrence when a license is not issued within the deadline established by this subsection.

"(2) In carrying out paragraph (1), the Secretary may establish procedures for safety approvals of launch vehicles, reentry vehicles, safety systems, processes, services, or personnel that may be used in conducting licensed commercial space launch or reentry activities.";

(D) by inserting "or a reentry site, or the reentry of a reentry vehicle," after "operation of a launch site" in subsection (b)(1);

(E) by striking "or operation" and inserting in lieu thereof ", operation, or reentry" in subsection (b)(2)(A);

(F) by striking "and" at the end of subsection (b)(2)(B);

(G) by striking the period at the end of subsection (b)(2)(C) and inserting in lieu thereof "; and";

(H) by adding at the end of subsection (b)(2) the following new subparagraph:

"(D) regulations establishing criteria for accepting or rejecting an application for a license under this chapter within 60 days after receipt of such application."; and

(I) by inserting ", including the requirement to obtain a license," after "waive a requirement" in subsection (b)(3);

(7) in section 70106(a)—

(A) by inserting "or reentry site" after "observer at a launch site";

(B) by inserting "or reentry vehicle" after "assemble a launch vehicle"; and

(C) by inserting "or reentry vehicle" after "with a launch vehicle";

(8) in section 70108—

(A) by amending the section designation and heading to read as follows:

"§ 70108. Prohibition, suspension, and end of launches, operation of launch sites and reentry sites, and reentries";

and

(B) in subsection (a)—

(i) by inserting "or reentry site, or reentry of a reentry vehicle," after "operation of a launch site"; and

(ii) by inserting "or reentry" after "launch or operation";

(9) in section 70109—

(A) by amending the section designation and heading to read as follows:

"§ 70109. Preemption of scheduled launches or reentries";

(B) in subsection (a)—

(i) by inserting "or reentry" after "ensure that a launch";

(ii) by inserting ", reentry site," after "United States Government launch site";

(iii) by inserting "or reentry date commitment" after "launch date commitment";

(iv) by inserting "or reentry" after "obtained for a launch";

(v) by inserting ", reentry site," after "access to a launch site";

(vi) by inserting ", or services related to a reentry," after "amount for launch services"; and

(vii) by inserting "or reentry" after "the scheduled launch"; and

(C) in subsection (c), by inserting "or reentry" after "prompt launching";

(10) in section 70110—

(A) by inserting "or reentry" after "prevent the launch" in subsection (a)(2); and

(B) by inserting "or reentry site, or reentry of a reentry vehicle," after "operation of a launch site" in subsection (a)(3)(B);

(11) in section 70111—

(A) by inserting "or reentry" after "launch" in subsection (a)(1)(A);

(B) by inserting "and reentry services" after "launch services" in subsection (a)(1)(B);

(C) by inserting "or reentry services" after "or launch services" in subsection (a)(2);

(D) by striking "source." in subsection (a)(2) and inserting "source, whether such source is located on or off a Federal range.";

(E) by inserting "or reentry" after "commercial launch" both places it appears in subsection (b)(1);

(F) by inserting "or reentry services" after "launch services" in subsection (b)(2)(C);

(G) by inserting after subsection (b)(2) the following new paragraph:

"(3) The Secretary shall ensure the establishment of uniform guidelines for, and consistent implementation of, this section by all Federal agencies.";

(H) by striking "or its payload for launch" in subsection (d) and inserting in lieu thereof "or reentry vehicle, or the payload of either, for launch or reentry"; and

(I) by inserting ", reentry vehicle," after "manufacturer of the launch vehicle" in subsection (d);

(12) in section 70112—

(A) in subsection (a)(1), by inserting "launch or reentry" after "(1) When a";

(B) by inserting "or reentry" after "one launch" in subsection (a)(3);

(C) by inserting "or reentry services" after "launch services" in subsection (a)(4);

(D) in subsection (b)(1), by inserting "launch or reentry" after "(1) A";

(E) by inserting "or reentry services" after "launch services" each place it appears in subsection (b);

(F) by inserting "applicable" after "carried out under the" in paragraphs (1) and (2) of subsection (b);

(G) by inserting "OR REENTRIES" after "LAUNCHES" in the heading for subsection (e);

(H) by inserting "or reentry site or a reentry" after "launch site" in subsection (e); and

(I) in subsection (f), by inserting "launch or reentry" after "carried out under a";

(13) in section 70113(a)(1) and (d)(1) and (2), by inserting "or reentry" after "one launch" each place it appears;

(14) in section 70115(b)(1)(D)(i)—

(A) by inserting "reentry site," after "launch site,"; and

(B) by inserting "or reentry vehicle" after "launch vehicle" both places it appears;

(15) in section 70117—

(A) by inserting "or reentry site, or to reenter a reentry vehicle" after "operate a launch site" in subsection (a);

(B) by inserting "or reentry" after "approval of a space launch" in subsection (d);

(C) by amending subsection (f) to read as follows:

"(f) LAUNCH NOT AN EXPORT; REENTRY NOT AN IMPORT.—A launch vehicle, reentry vehicle, or payload that is launched or reentered is not, because of the launch or reentry, an export or import, respectively, for purposes of a law controlling exports or imports, except that payloads

launched pursuant to foreign trade zone procedures as provided for under the Foreign Trade Zones Act (19 U.S.C. 81a–81u) shall be considered exports with regard to customs entry."; and

(D) in subsection (g)—

(i) by striking "operation of a launch vehicle or launch site," in paragraph (1) and inserting in lieu thereof "reentry, operation of a launch vehicle or reentry vehicle, operation of a launch site or reentry site,"; and

(ii) by inserting "reentry," after "launch," in paragraph (2); and

(16) by adding at the end the following new sections:

"§ 70120. Regulations

"(a) IN GENERAL.—The Secretary of Transportation, within 9 months after the date of the enactment of this section, shall issue regulations to carry out this chapter that include—

"(1) guidelines for industry and State governments to obtain sufficient insurance coverage for potential damages to third parties;

"(2) procedures for requesting and obtaining licenses to launch a commercial launch vehicle;

"(3) procedures for requesting and obtaining operator licenses for launch;

"(4) procedures for requesting and obtaining launch site operator licenses; and

"(5) procedures for the application of government indemnification.

"(b) REENTRY.—The Secretary of Transportation, within 6 months after the date of the enactment of this section, shall issue a notice of proposed rulemaking to carry out this chapter that includes—

"(1) procedures for requesting and obtaining licenses to reenter a reentry vehicle;

"(2) procedures for requesting and obtaining operator licenses for reentry; and

"(3) procedures for requesting and obtaining reentry site operator licenses.

"§ 70121. Report to Congress

"The Secretary of Transportation shall submit to Congress an annual report to accompany the President's budget request that—

"(1) describes all activities undertaken under this chapter, including a description of the process for the application for and approval of licenses under this chapter and recommendations for legislation that may further commercial launches and reentries; and

"(2) reviews the performance of the regulatory activities and the effectiveness of the Office of Commercial Space Transportation.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 70119 of title 49, United States Code, is amended to read as follows:

"§ 70119. Authorization of appropriations

"There are authorized to be appropriated to the Secretary of Transportation for the activities of the Office of the Associate Administrator for Commercial Space Transportation—

"(1) $6,275,000 for the fiscal year ending September 30, 1999; and

"(2) $6,600,000 for the fiscal year ending September 30, 2000.".

(c) EFFECTIVE DATE.—The amendments made by subsection (a)(6)(B) shall take effect upon the effective date of final regulations issued pursuant to section 70105(b)(2)(D) of title 49, United States Code, as added by subsection (a)(6)(H).

SEC. 103. LAUNCH VOUCHER DEMONSTRATION PROGRAM.

Section 504 of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1993 (15 U.S.C. 5803) is amended—

(1) in subsection (a)—

(A) by striking "the Office of Commercial Programs within"; and

(B) by striking "Such program shall not be effective after September 30, 1995.";

(2) by striking subsection (c); and

(3) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

SEC. 104. PROMOTION OF UNITED STATES GLOBAL POSITIONING SYSTEM STANDARDS.

(a) FINDING.—The Congress finds that the Global Positioning System, including satellites, signal equipment, ground stations, data links, and associated command and control facilities, has become an essential element in civil, scientific, and military space development because of the emergence of a United States commercial industry which provides Global Positioning System equipment and related services.

(b) INTERNATIONAL COOPERATION.—In order to support and sustain the Global Positioning System in a manner that will most effectively contribute to the national security, public safety, scientific, and economic interests of the United States, the Congress encourages the President to—

(1) ensure the operation of the Global Positioning System on a continuous worldwide basis free of direct user fees;

(2) enter into international agreements that promote cooperation with foreign governments and international organizations to—

(A) establish the Global Positioning System and its augmentations as an acceptable international standard; and

(B) eliminate any foreign barriers to applications of the Global Positioning System worldwide; and

(3) provide clear direction and adequate resources to the Assistant Secretary of Commerce for Communications and Information so that on an international basis the Assistant Secretary can—

(A) achieve and sustain efficient management of the electromagnetic spectrum used by the Global Positioning System; and

(B) protect that spectrum from disruption and interference.

SEC. 105. ACQUISITION OF SPACE SCIENCE DATA.

(a) ACQUISITION FROM COMMERCIAL PROVIDERS.—The Administrator shall, to the extent possible and while satisfying the scientific or educational requirements of the National Aeronautics and Space Administration, and where appropriate, of other Federal agencies and scientific researchers, acquire, where cost effective, space science data from a commercial provider.

(b) TREATMENT OF SPACE SCIENCE DATA AS COMMERCIAL ITEM UNDER ACQUISITION LAWS.—Acquisitions of space science data by the Administrator shall be carried out in accordance with applicable acquisition laws and regulations (including chapters 137 and 140 of title 10, United States Code). For purposes of such law and regulations, space science data shall be considered to be a commercial item. Nothing in this subsection shall be construed to preclude the United States from acquiring, through contracts with commercial providers, sufficient rights in data to meet the needs of the scientific and educational community or the needs of other government activities.

(c) DEFINITION.—For purposes of this section, the term "space science data" includes scientific data concerning—

(1) the elemental and mineralogical resources of the moon, asteroids, planets and their moons, and comets;

(2) microgravity acceleration; and

(3) solar storm monitoring.

(d) SAFETY STANDARDS.—Nothing in this section shall be construed to prohibit the Federal Government from requiring compliance with applicable safety standards.

(e) LIMITATION.—This section does not authorize the National Aeronautics and Space Administration to provide financial assistance for the development of commercial systems for the collection of space science data.

SEC. 106. ADMINISTRATION OF COMMERCIAL SPACE CENTERS.

The Administrator shall administer the Commercial Space Center program in a coordinated manner from National Aeronautics and Space Administration headquarters in Washington, D.C.

SEC. 107. SOURCES OF EARTH SCIENCE DATA.

(a) ACQUISITION.—The Administrator shall, to the extent possible and while satisfying the scientific or educational requirements of the National Aeronautics and Space Administration, and where appropriate, of other Federal agencies and scientific researchers, acquire, where cost-effective, space-based and airborne Earth remote sensing data, services, distribution, and applications from a commercial provider.

(b) TREATMENT AS COMMERCIAL ITEM UNDER ACQUISITION LAWS.—Acquisitions by the Administrator of the data, services, distribution, and applications referred to in subsection (a) shall be carried out in accordance with applicable acquisition laws and regulations (including chapters 137 and 140 of title 10, United States Code). For purposes of such law and regulations, such data, services, distribution, and applications shall be considered to be a commercial item. Nothing in this subsection shall be construed to preclude the United States from acquiring, through contracts with commercial providers, sufficient rights in data to meet the needs of the scientific and educational community or the needs of other government activities.

(c) STUDY.—(1) The Administrator shall conduct a study to determine the extent to which the baseline scientific requirements of Earth Science can be met by commercial providers, and how the National Aeronautics and Space Administration will meet such requirements which cannot be met by commercial providers.

(2) The study conducted under this subsection shall—

(A) make recommendations to promote the availability of information from the National Aeronautics and Space Administration to commercial providers to enable commercial providers to better meet the baseline scientific requirements of Earth Science;

(B) make recommendations to promote the dissemination to commercial providers of information on advanced technology research and development performed by or for the National Aeronautics and Space Administration; and

(C) identify policy, regulatory, and legislative barriers to the implementation of the recommendations made under this subsection.

(3) The results of the study conducted under this subsection shall be transmitted to the Congress within 6 months after the date of the enactment of this Act.

(d) SAFETY STANDARDS.—Nothing in this section shall be construed to prohibit the Federal Government from requiring compliance with applicable safety standards.

(e) ADMINISTRATION AND EXECUTION.—This section shall be carried out as part of the Commercial Remote Sensing Program at the Stennis Space Center.

(f) REMOTE SENSING.—

(1) APPLICATION CONTENTS.—Section 201(b) of the Land Remote Sensing Policy Act of 1992 (15 U.S.C. 5621(b)) is amended—

(A) by inserting "(1)" after "NATIONAL SECURITY.—"; and

(B) by adding at the end the following new paragraph:

"(2) The Secretary, within 6 months after the date of the enactment of the Commercial Space Act of 1998, shall publish in the Federal Register a complete and specific list of all information required to comprise a complete application for a license under this title. An application shall be considered complete when the applicant has provided all information required by the list

most recently published in the Federal Register before the date the application was first submitted. Unless the Secretary has, within 30 days after receipt of an application, notified the applicant of information necessary to complete an application, the Secretary may not deny the application on the basis of the absence of any such information.".

(2) NOTIFICATION OF AGREEMENTS.—Section 202(b)(6) of the Land Remote Sensing Policy Act of 1992 (15 U.S.C. 5622(b)(6)) is amended by inserting "significant or substantial" after "Secretary of any".

TITLE II—FEDERAL ACQUISITION OF SPACE TRANSPORTATION SERVICES

SEC. 201. REQUIREMENT TO PROCURE COMMERCIAL SPACE TRANSPORTATION SERVICES.

(a) IN GENERAL.—Except as otherwise provided in this section, the Federal Government shall acquire space transportation services from United States commercial providers whenever such services are required in the course of its activities. To the maximum extent practicable, the Federal Government shall plan missions to accommodate the space transportation services capabilities of United States commercial providers.

(b) EXCEPTIONS.—The Federal Government shall not be required to acquire space transportation services under subsection (a) if, on a case-by-case basis, the Administrator or, in the case of a national security issue, the Secretary of the Air Force, determines that—

(1) a payload requires the unique capabilities of the Space Shuttle;

(2) cost effective space transportation services that meet specific mission requirements would not be reasonably available from United States commercial providers when required;

(3) the use of space transportation services from United States commercial providers poses an unacceptable risk of loss of a unique scientific opportunity;

(4) the use of space transportation services from United States commercial providers is inconsistent with national security objectives;

(5) the use of space transportation services from United States commercial providers is inconsistent with international agreements for international collaborative efforts relating to science and technology;

(6) it is more cost effective to transport a payload in conjunction with a test or demonstration of a space transportation vehicle owned by the Federal Government; or

(7) a payload can make use of the available cargo space on a Space Shuttle mission as a secondary payload, and such payload is consistent with the requirements of research, development, demonstration, scientific, commercial, and educational programs authorized by the Administrator.

Nothing in this section shall prevent the Administrator from planning or negotiating agreements with foreign entities for the launch of Federal Government payloads for international collaborative efforts relating to science and technology.

(c) DELAYED EFFECT.—Subsection (a) shall not apply to space transportation services and space transportation vehicles acquired or owned by the Federal Government before the date of the enactment of this Act, or with respect to which a contract for such acquisition or ownership has been entered into before such date.

(d) HISTORICAL PURPOSES.—This section shall not be construed to prohibit the Federal Government from acquiring, owning, or maintaining space transportation vehicles solely for historical display purposes.

SEC. 202. ACQUISITION OF COMMERCIAL SPACE TRANSPORTATION SERVICES.

(a) TREATMENT OF COMMERCIAL SPACE TRANSPORTATION SERVICES AS COMMERCIAL ITEM UNDER ACQUISITION LAWS.—Acquisitions of space transportation services by the Federal Government shall be carried out in accordance with applicable acquisition laws and regulations (including chapters 137 and 140 of title 10, United States Code). For purposes of such law and regulations, space transportation services shall be considered to be a commercial item.

(b) SAFETY STANDARDS.—Nothing in this section shall be construed to prohibit the Federal Government from requiring compliance with applicable safety standards.

SEC. 203. LAUNCH SERVICES PURCHASE ACT OF 1990 AMENDMENTS.

The Launch Services Purchase Act of 1990 (42 U.S.C. 2465b et seq.) is amended—

(1) by striking section 202;

(2) in section 203—

(A) by striking paragraphs (1) and (2); and

(B) by redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively;

(3) by striking sections 204 and 205; and

(4) in section 206—

(A) by striking "(a) COMMERCIAL PAYLOADS ON THE SPACE SHUTTLE.—"; and

(B) by striking subsection (b).

SEC. 204. SHUTTLE PRIVATIZATION.

(a) POLICY AND PREPARATION.—The Administrator shall prepare for an orderly transition from the Federal operation, or Federal management of contracted operation, of space transportation systems to the Federal purchase of commercial space transportation services for all nonemergency space transportation requirements for transportation to and from Earth orbit, including human, cargo, and mixed payloads. In those preparations, the Administrator shall take into account the need for short-term economies, as well as the goal of restoring the National Aeronautics and Space Administration's research focus and its mandate to promote the fullest possible commercial use of space. As part of those preparations, the Administrator shall plan for the potential privatization of the Space Shuttle program. Such plan shall keep safety and cost effectiveness as high priorities. Nothing in this section shall prohibit the National Aeronautics and Space Administration from studying, designing, developing, or funding upgrades or modifications essential to the safe and economical operation of the Space Shuttle fleet.

(b) FEASIBILITY STUDY.—The Administrator shall conduct a study of the feasibility of implementing the recommendation of the Independent Shuttle Management Review Team that the National Aeronautics and Space Administration transition toward the privatization of the Space Shuttle. The study shall identify, discuss, and, where possible, present options for resolving, the major policy and legal issues that must be addressed before the Space Shuttle is privatized, including—

(1) whether the Federal Government or the Space Shuttle contractor should own the Space Shuttle orbiters and ground facilities;

(2) whether the Federal Government should indemnify the contractor for any third party liability arising from Space Shuttle operations, and, if so, under what terms and conditions;

(3) whether payloads other than National Aeronautics and Space Administration payloads should be allowed to be launched on the Space Shuttle, how missions will be prioritized, and who will decide which mission flies and when;

(4) whether commercial payloads should be allowed to be launched on the Space Shuttle and whether any classes of payloads should be made ineligible for launch consideration;

(5) whether National Aeronautics and Space Administration and other Federal Government payloads should have priority over non-Federal payloads in the Space Shuttle launch assignments, and what policies should be developed to prioritize among payloads generally;

(6) whether the public interest requires that certain Space Shuttle functions continue to be performed by the Federal Government; and

(7) how much cost savings, if any, will be generated by privatization of the Space Shuttle.

(c) REPORT TO CONGRESS.—Within 60 days after the date of the enactment of this Act, the National Aeronautics and Space Administration shall complete the study required under subsection (b) and shall submit a report on the study to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives.

SEC. 205. USE OF EXCESS INTERCONTINENTAL BALLISTIC MISSILES.

(a) IN GENERAL.—The Federal Government shall not—

(1) convert any missile described in subsection (c) to a space transportation vehicle configuration; or

(2) transfer ownership of any such missile to another person, except as provided in subsection (b).

(b) AUTHORIZED FEDERAL USES.—(1) A missile described in subsection (c) may be converted for use as a space transportation vehicle by the Federal Government if, except as provided in paragraph (2) and at least 30 days before such conversion, the agency seeking to use the missile as a space transportation vehicle transmits to the Committee on National Security and the Committee on Science of the House of Representatives, and to the Committee on Armed Services and the Committee on Commerce, Science, and Transportation of the Senate, a certification that the use of such missile—

(A) would result in cost savings to the Federal Government when compared to the cost of acquiring space transportation services from United States commercial providers;

(B) meets all mission requirements of the agency, including performance, schedule, and risk requirements;

(C) is consistent with international obligations of the United States; and

(D) is approved by the Secretary of Defense or his designee.

(2) The requirement under paragraph (1) that the certification described in that paragraph must be transmitted at least 30 days before conversion of the missile shall not apply if the Secretary of Defense determines that compliance with that requirement would be inconsistent with meeting immediate national security requirements.

(c) MISSILES REFERRED TO.—The missiles referred to in this section are missiles owned by the United States that—

(1) were formerly used by the Department of Defense for national defense purposes as intercontinental ballistic missiles; and

(2) have been declared excess to United States national defense needs and are in compliance with international obligations of the United States.

SEC. 206. NATIONAL LAUNCH CAPABILITY STUDY.

(a) FINDINGS.—Congress finds that a robust satellite and launch industry in the United States serves the interest of the United States by—

(1) contributing to the economy of the United States;

(2) strengthening employment, technological, and scientific interests of the United States; and

(3) serving the foreign policy and national security interests of the United States.

(b) DEFINITIONS.—In this section:

(1) SECRETARY.—The term "Secretary" means the Secretary of Defense.

(2) TOTAL POTENTIAL NATIONAL MISSION MODEL.—The term "total potential national mission model" means a model that—

(A) is determined by the Secretary, in consultation with the Administrator, to assess the

total potential space missions to be conducted in the United States during a specified period of time; and

(B) includes all launches in the United States (including launches conducted on or off a Federal range).

(c) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall, in consultation with the Administrator and appropriate representatives of the satellite and launch industry and the governments of States and political subdivisions thereof—

(A) prepare a report that meets the requirements of this subsection; and

(B) submit that report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives.

(2) REQUIREMENTS FOR REPORT.—The report prepared under this subsection shall—

(A) identify the total potential national mission model for the period beginning on the date of the report and ending on December 31, 2007;

(B) identify the resources that are necessary or available to carry out the total potential national mission model described in subparagraph (A), including—

(i) launch property and services of the Department of Defense, the National Aeronautics and Space Administration, and non-Federal facilities; and

(ii) the ability to support commercial launch-on-demand on short notification, taking into account Federal requirements, at launch sites or test ranges in the United States;

(C) identify each deficiency in the resources referred to in subparagraph (B); and

(D) with respect to the deficiencies identified under subparagraph (C), include estimates of the level of funding necessary to address those deficiencies for the period described in subparagraph (A).

(d) RECOMMENDATIONS.—Based on the reports under subsection (c), the Secretary, after consultation with the Secretary of Transportation, the Secretary of Commerce, and representatives from interested private sector entities, States, and local governments, shall—

(1) identify opportunities for investment by non-Federal entities (including States and political subdivisions thereof and private sector entities) to assist the Federal Government in providing launch capabilities for the commercial space industry in the United States;

(2) identify one or more methods by which, if sufficient resources referred to in subsection (c)(2)(D) are not available to the Department of Defense and the National Aeronautics and Space Administration, the control of the launch property and launch services of the Department of Defense and the National Aeronautics and Space Administration may be transferred from the Department of Defense and the National Aeronautics and Space Administration to—

(A) one or more other Federal agencies;

(B) one or more States (or subdivisions thereof);

(C) one or more private sector entities; or

(D) any combination of the entities described in subparagraphs (A) through (C); and

(3) identify the technical, structural, and legal impediments associated with making launch sites or test ranges in the United States viable and competitive.

Mr. JEFFORDS. I ask unanimous consent that the Senate agree to the House amendment to the Senate amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHARTER SCHOOLS AMENDMENTS ACT OF 1997

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Labor Committee be discharged from further consideration of H.R. 2616, and the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2616) to amend titles 6 and 10 of the Elementary and Secondary Education Act of 1965 to improve and expand chartered schools.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3795

(Purpose: To provide a manager's amendment)

Mr. JEFFORDS. Senator COATS has a substitute amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont (Mr. JEFFORDS), for Mr. COATS, Mr. LIEBERMAN, Mr. D'AMATO, Mr. KERREY, Ms. LANDRIEU and Mr. McCAIN, proposes an amendment numbered 3795.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. KENNEDY. Mr. President, I strongly support the Charter School Expansion Act, and I commend Senator COATS for his leadership in bringing it before the Senate. The legislation builds on the current Charter School Program to ensure that these schools are given the greater flexibility that they have been promised, and to reaffirm that they must be accountable to the same high standards that we expect of all public schools.

In recent years, in response to the widespread movement to improve the quality of education in the Nation's public schools, the innovative idea of charter schools began to develop broad bipartisan support. Educators and community leaders took active parts in designing new schools that would receive public funds, like traditional public schools, but that would be free of many local regulations, and would also be held accountable for achieving the goals of their charter.

States have the primary role in defining the role of charter schools—34 States have now passed enabling legislation, and they vary widely in their applications of this innovative idea. The Charter School Expansion Act continues to use Federal start-up grants as an incentive for local communities to design charter schools that provide significant options for parents within the public school system. The Act encourages the sharing of ideas and practices between charter schools and other public schools, so that schools benefit from the best lessons of each.

The pending legislation strengthens the accountability provisions for charter schools by giving funding preferences to States that review and evaluate the performance of their charter schools at least once every five years. Charter schools must continue to be open to all students. President Clinton has set a goal of having 3,000 charter schools in operation nationwide by the year 2002.

The Department of Education is conducting an ongoing study of charter school and the degree to which they are successful in improving student achievement. The results of that study will be very important in guiding the future of these schools.

The Charter School Expansion Act is an essential part of our overall effort to improve public schools, and I urge the Senate to approve it. We must continue to do all we can to ensure that all public schools get the support they need to provide every child a good education.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the amendment be agreed to, the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3795) was agreed to.

The bill (H.R. 2616), as amended, was passed.

NEOTROPICAL MIGRATORY BIRD CONSERVATION ACT

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 521, S. 1970.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1970) to require the Secretary of the Interior to establish a program to provide assistance in the conservation of neotropical migratory birds.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Environment and Public Works, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 1970

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Neotropical Migratory Bird Conservation Act".

SEC. 2. FINDINGS.

Congress finds that—

(1)(A) birds constitute one of the most widely recognized and appreciated components of North American wildlife;

(B) approximately 25,000,000 Americans travel to observe birds; and

(C) more than 60,000,000 adult Americans watch and feed birds at home;

(2) birds—

(A) are key indicators of environmental health;

(B) play important roles in plant pollination and seed dispersal;

(C) serve as critical links in the food web; and

(D) maintain the health of the environment.

(3)(A) healthy bird populations provide important economic benefits, such as control of noxious insects on agricultural crops, thereby preventing hundreds of millions of dollars in economic losses each year to farming and timber interests; and

(B) more than $20,000,000,000 is spent in the United States each year on watching and feeding birds;

(4)(A) despite their irreplaceable value, many North American bird species, once considered common, are in decline;

(B) 90 North American bird species are listed as endangered or threatened in the United States;

(C) another 124 North American bird species are of high conservation concern; and

(D) Mexico's Secretariat of Environment, Natural Resources and Fisheries lists approximately 390 bird species as being endangered, threatened, vulnerable, or rare;

(5)(A) of the nearly 800 bird species known to occur in the United States, approximately 500 migrate among nations;

(B) the large majority of those species, the neotropical migrants, winter in Latin America and the Caribbean; and

(C) neotropical migrants in particular have received much attention because of their population declines;

(6)(A) the primary reason for the declines is habitat loss and degradation (including pollution and contamination);

(B) because neotropical migrants range across numerous international borders each year, their conservation requires that safeguards be established at both ends of the migration routes, as well as at critical stopover areas along the way; and

(C) establishing such safeguards necessitates the joint commitment and effort of all nations that support those species, as well as all levels of society; [and]

(7)(A)numerous initiatives exist to conserve migratory birds, including Partners in Flight, the Western Hemisphere Shorebird Reserve Network, the North American Waterfowl Management Plan, and monitoring action plans and conservation plans for water birds, marsh birds, and raptors; and

(B) those initiatives can be significantly strengthened and enhanced by coordination of their efforts to protect habitat shared by migratory birds; and

[(7)] *(8)* this Act constitutes an effort on the part of the United States to adopt appropriate measures for the protection of migratory birds in collaboration with—

(A) neighboring nations that are parties to the Convention Respecting Nature Protection and Wildlife Preservation in the Western Hemisphere, done at the Pan American Union, Washington, October 12, 1940 (56 Stat. 1354); [and]

(B) States, conservation organizations, corporations and business interests, and other private entities[.]*; and*

(C) other initiatives to conserve migratory birds throughout the Americas, by serving as a link among those initiatives.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to assist in the conservation of neotropical migratory birds by supporting neotropical migratory bird conservation programs in [Latin America and the Caribbean] *Latin America, the Caribbean, and the United States* with a focus on reversing habitat loss and degradation;

(2) to promote partnerships between Federal, State, and nongovernmental entities in the United States in the conservation of neotropical migratory birds;

(3) to foster active governmental and nongovernmental participation in neotropical migratory bird conservation by cooperating countries throughout Latin America and the Caribbean;

(4) to promote circumstances under which the conservation of neotropical migratory birds in Latin America and the Caribbean may be carried out [entirely] by local entities;

(5) to provide financial resources for projects that support neotropical migratory bird conservation; and

(6) to promote the effective conservation of neotropical migratory birds in the Western Hemisphere through collaboration at all levels of society.

SEC. 4. CONSERVATION ASSISTANCE.

(a) IN GENERAL.—The Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service (referred to in this Act as the "Secretary"), shall establish a program to provide financial assistance for projects to promote the conservation of neotropical migratory birds.

(b) PROJECT APPLICANTS.—An entity that is eligible to receive financial assistance for a project under this Act is an entity that—

(1) is—

(A) a Federal, State, or local governmental entity of the United States;

(B) a United States nongovernmental organization, corporation or business interest, or other private entity;

(C) a governmental or nongovernmental organization, corporation or business interest, or other private entity in Latin America or the Caribbean; or

(D) an international organization that is dedicated to achieving the purposes of this Act; and

(2) submits a project proposal to the Secretary.

(c) PROJECT PROPOSALS.—Each project proposal shall—

(1) demonstrate that the project will enhance the conservation of neotropical migratory birds in [Latin America or the Caribbean] *Latin America, the Caribbean, or the United States* by focusing on reversing habitat loss and degradation;

(2) include mechanisms to ensure adequate local public participation in project development and implementation;

(3) contain assurances that the project will be implemented in consultation with appropriate local and other government officials with jurisdiction over the resources addressed by the project;

(4) demonstrate sensitivity to local historic and cultural resources and comply with applicable laws; and

(5) provide any other information that the Secretary considers to be necessary for evaluating the proposal.

(d) PROJECT SUSTAINABILITY.—To the maximum extent practicable, each project shall aim to support or establish such structures as are necessary to ensure achievement of conservation objectives specified in this Act, including the long-term operation and maintenance of the project by local entities in the country in which the project is carried out.

(e) COST SHARING.—

(1) FEDERAL SHARE.—The Federal share of the cost of each project shall be not greater than 33 percent.

(2) NON-FEDERAL SHARE.—

(A) PAYMENT BY UNITED STATES AND INTERNATIONAL ENTITIES.—Not less than 50 percent of the non-Federal share required to be paid for each project shall be paid, in cash, by—

(i) United States nongovernmental organizations;

(ii) international nongovernmental organizations;

(iii) States of the United States and other United States non-Federal entities; and

(iv) corporations, business interests, and other private entities.

[(B) PAYMENT BY LOCAL ENTITIES.—In addition to funds paid under subparagraph (A), the entity submitting the proposal for a project to be assisted under this Act shall seek matching funds, in the form of cash or in-kind contributions, from local entities in the country in which the project is carried out, including corporations and business interests.]

(B) PAYMENT BY LOCAL ENTITIES IN FOREIGN COUNTRIES.—A local entity in a foreign country in which a project is carried out may provide the non-Federal share required under this subsection in cash or in-kind contributions from local sources in the country.

SEC. 5. NEOTROPICAL MIGRATORY BIRD ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is established a Neotropical Migratory Bird Advisory Committee (referred to in this Act as the "Committee") to assist in carrying out this Act.

(b) MEMBERSHIP.—

(1) PERMANENT MEMBERS.—The [4] *9* permanent members of the Committee shall be—

(A) [2 representatives] *1 representative* of the United States Fish and Wildlife Service, [1 of whom] *who* shall chair the Committee;

(B) 1 representative appointed by the International Association of Fish and Wildlife Agencies, who shall not be required to be an officer or employee of the Association; [and]

(C) 1 representative appointed by the National Fish and Wildlife Foundation established by the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3701 et seq.), who shall not be required to be an officer or employee of the Foundation.*;*

(D) 1 representative of the Department of State;

(E) 1 representative of the United States Agency for International Development; and

(F) 4 individuals, appointed by the Secretary of the Interior, each of whom—

(i) shall represent an entity (other than an entity specified in any of subparagraphs (A) through (E)) that has strong interest and involvement in neotropical bird conservation; and

(ii) shall serve for a 2-year term.

(2) NONVOTING [MEMBER] *MEMBERS.*—

(A) IN GENERAL.—The Committee shall include [1 nonvoting member who] *3 nonvoting members, each of whom*—

(i) is a native and resident of Latin America or the Caribbean; and

(ii) is actively involved in local conservation efforts in Latin America or the Caribbean.

(B) CONDITIONS OF SERVICE AS MEMBER.—[The] *Each* member described in subparagraph (A) shall serve in an advisory capacity and for a 2-year term.

(c) DUTIES.—The Committee shall—

(1) assist in the development of guidelines for the solicitation of proposals for projects eligible for financial assistance under section 4;

(2) promote participation in the program established under section 4 by public and private non-Federal entities; [and]

(3) review and recommend to the Secretary proposals for financial assistance that meet the requirements specified in section [4 and any other criteria established by the Committee.] *4; and*

(4) coordinate and facilitate grant processes among entities involved in neotropical bird conservation.

(d) Meetings.—The Committee shall hold such meetings as are necessary to carry out the duties of the Committee.

(e) Compensation.—

(1) In general.—Subject to paragraph (2), a member of the Committee shall not receive any compensation for the service of the member on the Committee.

(2) Travel expenses.—A member of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of services for the Committee.

(f) Eligibility for Financial Assistance.—An entity represented by a member of the Committee shall not be eligible to receive financial assistance under this Act.

SEC. 6. DUTIES OF SECRETARY.

(a) Assistance to Committee.—The Secretary shall facilitate consideration of projects described in section 4(a) by the Committee and otherwise assist the Committee in carrying out its duties under this Act.

(b) Other Duties.—In carrying out this Act, the Secretary shall—

(1) select proposals for financial assistance;

[(1)] *(2)* develop and oversee agreements to provide financial assistance under section 4;

[(2)] *(3)* seek cooperators described in section 7;

[(3)] *(4)* translate documents into Spanish as necessary; and

[(4)] *(5)* generally manage implementation of this Act.

(c) Funding.—The Secretary may use funds described in section 9(b) to carry out this section.

SEC. 7. COOPERATION.

In carrying out this Act, the Secretary shall cooperate with appropriate entities, including—

(1) appropriate officials in countries where projects authorized by this Act are proposed to be carried out or are being carried out;

(2) the heads of other Federal agencies; and

(3) entities carrying out, as of the date of enactment of this Act, initiatives that support bird conservation in Latin America and the Caribbean, such as Partners in Flight, the North American Waterfowl Management Plan, the Western Hemisphere Shorebird Reserve Network, Winged Ambassadors, the Latin America small grants program of the American Bird Conservancy, and Wings of the Americas.

SEC. 8. REPORT TO CONGRESS.

Not later than December 31, 2002, the Secretary shall submit to Congress a report on the results and effectiveness of the program carried out under this Act, including recommendations concerning how the Act might be improved and whether the program should be continued.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

[(a) In General.—There is authorized to be appropriated to carry out this Act $4,000,000 for each of fiscal years 1999 through 2001, to remain available until expended.]

(a) In General.—There is authorized to be appropriated to the Secretary of the Interior to carry out this Act $8,000,000 for each of fiscal years 1999 through 2001, to remain available until expended, of which not less than 50 percent and not more than 70 percent of the amounts made available for each fiscal year shall be expended for projects carried out outside the United States.

(b) Administrative Expenses.—For each fiscal year, of the amounts made available to carry out this Act under subsection (a), the Secretary may use not more than [10] *6* percent to pay administrative expenses incurred in carrying out this Act.

AMENDMENT NO. 3796

(Purpose: To provide a complete substitute)

Mr. JEFFORDS. I ask unanimous consent the committee amendments be withdrawn. Senator Chafee has a substitute at the desk, and I ask for its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont (Mr. Jeffords), for Mr. Chafee, proposes an amendment numbered 3796.

(The text of the amendment is printed in today's Record under "Amendments Submitted.")

Mr. CHAFEE. Mr. President, I am pleased that the Senate is considering S. 1970, the Neotropical Migratory Bird Conservation Act of 1998, introduced by Senator Abraham. I am also pleased to be a cosponsor of this legislation. The bill would establish a program to provide financial assistance for projects to promote the conservation of neotropical migratory birds in the United States, Latin America and the Caribbean.

Each autumn, some 5 billion birds from 500 species migrate between their breeding grounds in North America and tropical habitats in the Caribbean, Central and South America. These neotropical migrants—or New World tropical migrants—are birds that migrate between the biogeographic region stretching across Mexico, Central America, much of the Caribbean, and the northern part of South America.

The natural challenges facing these migratory birds are profound. These challenges have been exacerbated by human-induced impacts, particularly the continuing loss of habitat in the Caribbean and Latin America. As a result, populations of migratory birds have declined generally in recent years.

While there are numerous efforts underway to protect these species and their habitat, they generally focus on specific groups of migratory birds or specific regions in the Americas. There is a need for a more comprehensive program to address the varied and significant threats facing the numerous species of migratory birds across their range.

Frequently there is little, if any, coordination among the existing programs, nor is there any one program that serves as a link among them. A broader, more holistic approach would bolster existing conservation efforts and programs, fill the gaps between these programs, and promote new initiatives.

S. 1970 encompasses this new approach. Today, I am offering an amendment in the nature of a substitute to the bill. This amendment makes numerous changes to the bill as approved by the EPW Committee. These changes have been incorporated based on very constructive, bipartisan negotiations with the sponsors of the bill, the House Resources Committee, the administration, and the EPW Committee.

One major change between this amendment and the reported bill relates to the advisory group. Formation of the group is now discretionary on the part of the Secretary. I urge, however, that the Secretary convene a group to assist in implementing the legislation. The success of this initiative will depend on close collaboration with public and private organizations involved in the conservation of migratory birds.

Another significant change applies to the funding levels. While the Federal share remains no more than 33 percent, the non-Federal share has been changed so that for projects in the United States, the non-Federal share must be paid in cash, while in projects outside the United States, the non-Federal share may be entirely in-kind contributions. This change is intended to create an incentive, and provide flexibility, for undertaking projects outside the United States. To complement this change, the substitute amendment eliminates the limitation that no more than 70 percent of appropriated funds may be used for projects outside the United States.

Other changes include a clarification of the purposes section, inclusion of a definitions section, and changes to the section enumerating duties of the Secretary, given the elimination of the advisory committee. In addition, several changes were made to reflect a desire that projects be developed with the support of the relevant wildlife management authorities of the country. This change recognizes the need to collaborate conservation efforts among both public and private sectors, and at local and national levels.

I believe that this amendment greatly improves the bill, and I am very pleased with the legislation. I urge my colleagues to support, and urge its speedy enactment.

Thank you, Mr. President. I yield the floor.

Mr. ABRAHAM. Mr. President, the Senate today will pass compromise legislation worked out between the House and Senate, and between Congress and the President, regarding migratory birds.

I thank Senator DASCHLE, who is an original cosponsor of this legislation, along with Senator CHAFEE, for their support and assistance in formulating legislation which I have been told the President will sign.

Mr. President, the "Neotropical Migratory Bird Conservation Act of 1998" is designed to protect over 90 endangered species of bird spending certain seasons in the United States and the rest of the year in other nations of the Western Hemisphere. In doing so, it will protect the environmental, economic, recreational, and aesthetic benefits these birds provide to the United States and to the Western Hemisphere as a whole.

Every year approximately 25 million Americans travel to observe birds, and 60 million American adults watch and feed birds at home.

Bird-watching is a source of great pleasure to many Americans, as well as a source of important revenue to States, like my own State of Michigan, which attract tourists to their scenes of natural beauty. Bird-watching and feeding generates fully $20 billion every year in revenue across America.

Healthy bird populations also prevent hundreds of millions of dollars in economic losses each year to farming and timber interests. They help control insect populations, thereby preventing crop failures and infestations.

Despite the enormous benefits we derive from our bird populations, many of them are struggling to survive. Ninety species are listed as endangered or threatened in the United States. Another 124 species are of high conservation concern. The primary reason for these declines is the degradation and loss of bird habitat.

What makes this all the more troubling is that efforts in the United States to protect these birds' habitats can be of only limited utility.

Among bird watchers' favorites, many neotropical birds are endangered or of high conservation concern.

And several of the most popular neotropical species, including bluebirds, robins, goldfinches, and orioles, migrate to and from the Caribbean and Latin America.

Because neotropical migratory birds range across a number of international borders every year, we must work to establish safeguards at both ends of their migration routes, as well as at critical stopover areas along their way. Only in this way can conservation efforts prove successful.

Mr. President, this is the motivation behind the "Neotropical Migratory Bird Conservation Act." This legislation will protect bird habitats across international boundaries by establishing partnerships between the business community, nongovernmental organizations and foreign nations.

By teaming businesses with international organizations concerned to protect the environment we can combine capital with know-how. By partnering these entities with local organizations in countries where bird habitat is endangered we can see to it that local people receive the training they need to preserve this habitat and maintain this critical natural resource.

This act establishes an account with $8 million appropriated from the treasury, to be supplemented by donations from private or public sources, to help establish programs in the United States, Latin America, and the Caribbean.

These programs will manage and conserve neotropical migratory bird populations.

Those eligible to participate will include national and international governmental and nongovernmental organizations and business interests, as well as U.S. Government entities.

This act was formulated with the understanding that the key to environmental success is cooperation among nongovernmental organizations. Thus the Federal share of each project's cost will never exceed 33 percent. In order to foster support in communities here and abroad, the non-Federal share for projects may be in cash or inkind contributions.

The approach taken by this legislation is different from all-too many existing programs. It is proactive, and it avoids a crisis management approach. I am convinced that it will prove significantly more cost effective than current programs.

In addition, Mr. President, this legislation will bring needed attention and expertise to areas now receiving relatively little attention in the area of environmental degradation.

By establishing partnerships between business, government and nongovernmental organizations both here and abroad we can greatly enhance the protection of migratory bird habitat throughout our Hemisphere.

Mr. President, this bill is a major step forward for us, and I think it will be seen as one of the key environmental measures passed by this Congress. I thank my colleagues for the support of this legislation that I have received.

Mr. JEFFORDS. I ask unanimous consent that the amendment be agreed to, the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3796) was agreed to.

The bill (S. 1970), as amended, was agreed to.

S. 1970

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Neotropical Migratory Bird Conservation Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) of the nearly 800 bird species known to occur in the United States, approximately 500 migrate among countries, and the large majority of those species, the neotropical migrants, winter in Latin America and the Caribbean;

(2) neotropical migratory bird species provide invaluable environmental, economic, recreational, and aesthetic benefits to the United States, as well as to the Western Hemisphere;

(3)(A) many neotropical migratory bird populations, once considered common, are in decline, and some have declined to the point that their long-term survival in the wild is in jeopardy; and

(B) the primary reason for the decline in the populations of those species is habitat loss and degradation (including pollution and contamination) across the species' range; and

(4)(A) because neotropical migratory birds range across numerous international borders each year, their conservation requires the commitment and effort of all countries along their migration routes; and

(B) although numerous initiatives exist to conserve migratory birds and their habitat, those initiatives can be significantly strengthened and enhanced by increased coordination.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to perpetuate healthy populations of neotropical migratory birds;

(2) to assist in the conservation of neotropical migratory birds by supporting conservation initiatives in the United States, Latin America, and the Caribbean; and

(3) to provide financial resources and to foster international cooperation for those initiatives.

SEC. 4. DEFINITIONS.

In this Act:

(1) ACCOUNT.—The term "Account" means the Neotropical Migratory Bird Conservation Account established by section 9(a).

(2) CONSERVATION.—The term "conservation" means the use of methods and procedures necessary to bring a species of neotropical migratory bird to the point at which there are sufficient populations in the wild to ensure the long-term viability of the species, including—

(A) protection and management of neotropical migratory bird populations;

(B) maintenance, management, protection, and restoration of neotropical migratory bird habitat;

(C) research and monitoring;

(D) law enforcement; and

(E) community outreach and education.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 5. FINANCIAL ASSISTANCE.

(a) IN GENERAL.—The Secretary shall establish a program to provide financial assistance for projects to promote the conservation of neotropical migratory birds.

(b) PROJECT APPLICANTS.—A project proposal may be submitted by—

(1) an individual, corporation, partnership, trust, association, or other private entity;

(2) an officer, employee, agent, department, or instrumentality of the Federal Government, of any State, municipality, or political subdivision of a State, or of any foreign government;

(3) a State, municipality, or political subdivision of a State;

(4) any other entity subject to the jurisdiction of the United States or of any foreign country; and

(5) an international organization (as defined in section 1 of the International Organizations Immunities Act (22 U.S.C. 288)).

(c) PROJECT PROPOSALS.—To be considered for financial assistance for a project under this Act, an applicant shall submit a project proposal that—

(1) includes—

(A) the name of the individual responsible for the project;

(B) a succinct statement of the purposes of the project;

(C) a description of the qualifications of individuals conducting the project; and

(D) an estimate of the funds and time necessary to complete the project, including sources and amounts of matching funds;

(2) demonstrates that the project will enhance the conservation of neotropical migratory bird species in Latin America, the Caribbean, or the United States;

(3) includes mechanisms to ensure adequate local public participation in project development and implementation;

(4) contains assurances that the project will be implemented in consultation with relevant wildlife management authorities and other appropriate government officials with jurisdiction over the resources addressed by the project;

(5) demonstrates sensitivity to local historic and cultural resources and complies with applicable laws;

(6) describes how the project will promote sustainable, effective, long-term programs to conserve neotropical migratory birds; and

(7) provides any other information that the Secretary considers to be necessary for evaluating the proposal.

(d) PROJECT REPORTING.—Each recipient of assistance for a project under this Act shall submit to the Secretary such periodic reports as the Secretary considers to be necessary. Each report shall include all information required by the Secretary for evaluating the progress and outcome of the project.

(e) COST SHARING.—

(1) FEDERAL SHARE.—The Federal share of the cost of each project shall be not greater than 33 percent.

(2) NON-FEDERAL SHARE.—

(A) SOURCE.—The non-Federal share required to be paid for a project shall not be derived from any Federal grant program.

(B) FORM OF PAYMENT.—

(i) PROJECTS IN THE UNITED STATES.—The non-Federal share required to be paid for a project carried out in the United States shall be paid in cash.

(ii) PROJECTS IN FOREIGN COUNTRIES.—The non-Federal share required to be paid for a project carried out in a foreign country may be paid in cash or in kind.

SEC. 6. DUTIES OF THE SECRETARY.

In carrying out this Act, the Secretary shall—

(1) develop guidelines for the solicitation of proposals for projects eligible for financial assistance under section 5;

(2) encourage submission of proposals for projects eligible for financial assistance under section 5, particularly proposals from relevant wildlife management authorities;

(3) select proposals for financial assistance that satisfy the requirements of section 5, giving preference to proposals that address conservation needs not adequately addressed by existing efforts and that are supported by relevant wildlife management authorities; and

(4) generally implement this Act in accordance with its purposes.

SEC. 7. COOPERATION.

(a) IN GENERAL.—In carrying out this Act, the Secretary shall—

(1) support and coordinate existing efforts to conserve neotropical migratory bird species, through—

(A) facilitating meetings among persons involved in such efforts;

(B) promoting the exchange of information among such persons;

(C) developing and entering into agreements with other Federal agencies, foreign, State, and local governmental agencies, and nongovernmental organizations; and

(D) conducting such other activities as the Secretary considers to be appropriate; and

(2) coordinate activities and projects under this Act with existing efforts in order to enhance conservation of neotropical migratory bird species.

(b) ADVISORY GROUP.—

(1) IN GENERAL.—To assist in carrying out this Act, the Secretary may convene an advisory group consisting of individuals representing public and private organizations actively involved in the conservation of neotropical migratory birds.

(2) PUBLIC PARTICIPATION.—

(A) MEETINGS.—The advisory group shall—

(i) ensure that each meeting of the advisory group is open to the public; and

(ii) provide, at each meeting, an opportunity for interested persons to present oral or written statements concerning items on the agenda.

(B) NOTICE.—The Secretary shall provide to the public timely notice of each meeting of the advisory group.

(C) MINUTES.—Minutes of each meeting of the advisory group shall be kept by the Secretary and shall be made available to the public.

(3) EXEMPTION FROM FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory group.

SEC. 8. REPORT TO CONGRESS.

Not later than October 1, 2002, the Secretary shall submit to Congress a report on the results and effectiveness of the program carried out under this Act, including recommendations concerning how the Act might be improved and whether the program should be continued.

SEC. 9. NEOTROPICAL MIGRATORY BIRD CONSERVATION ACCOUNT.

(a) ESTABLISHMENT.—There is established in the Multinational Species Conservation Fund of the Treasury a separate account to be known as the "Neotropical Migratory Bird Conservation Account", which shall consist of amounts deposited into the Account by the Secretary of the Treasury under subsection (b).

(b) DEPOSITS INTO THE ACCOUNT.—The Secretary of the Treasury shall deposit into the Account—

(1) all amounts received by the Secretary in the form of donations under subsection (d); and

(2) other amounts appropriated to the Account.

(c) USE.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may use amounts in the Account, without further Act of appropriation, to carry out this Act.

(2) ADMINISTRATIVE EXPENSES.—Of amounts in the Account available for each fiscal year, the Secretary may expend not more than 6 percent to pay the administrative expenses necessary to carry out this Act.

(d) ACCEPTANCE AND USE OF DONATIONS.—The Secretary may accept and use donations to carry out this Act. Amounts received by the Secretary in the form of donations shall be transferred to the Secretary of the Treasury for deposit into the Account.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Account to carry out this Act $8,000,000 for each of fiscal years 1999 through 2002, to remain available until expended, of which not less than 50 percent of the amounts made available for each fiscal year shall be expended for projects carried out outside the United States.

AMENDING THE OMNIBUS PARKS AND PUBLIC LANDS MANAGEMENT ACT OF 1996

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Energy Committee be discharged from further consideration of S. 2427, and the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A bill (S. 2427) to amend the Omnibus Parks and Public Lands Management Act of 1996 to extend legislative authority for the Black Patriots Foundation to establish a commemorative work.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 2427

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BLACK REVOLUTIONARY WAR PATRIOTS MEMORIAL.

Section 506 of the Omnibus Parks and Public Lands Management Act of 1996 (40 U.S.C. 1003 note; 110 Stat. 4155) is amended by striking "1998" and inserting "2000".

REFERRAL OF THE NOMINATION OF DAVID C. WILLIAMS

Mr. JEFFORDS. I ask unanimous consent that when the Finance Committee favorably reports the nomination of David C. Williams to be Inspector General at the Department of the Treasury on October 9, 1998, the nomination will be immediately referred to the Committee on Governmental Affairs for a period not to exceed 20 days.

The PRESIDING OFFICER. Without objection, it is so ordered.

WATER RESOURCES DEVELOPMENT ACT 1998

Mr. JEFFORDS. I ask unanimous consent that the Senate now turn to the consideration of Calendar No. 523, S. 2131.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2131) to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Environment and Public Works, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Water Resources Development Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—WATER RESOURCES DEVELOPMENT

Sec. 101. Definitions.
Sec. 102. Project authorizations.
Sec. 103. Project modifications.
Sec. 104. Project deauthorizations.
Sec. 105. Studies.
Sec. 106. Flood hazard mitigation and riverine ecosystem restoration program.
Sec. 107. Shore protection.
Sec. 108. Small flood control projects.
Sec. 109. Use of non-Federal funds for compiling and disseminating information on floods and flood damages.
Sec. 110. Everglades and south Florida ecosystem restoration.
Sec. 111. Aquatic ecosystem restoration.
Sec. 112. Beneficial uses of dredged material.
Sec. 113. Voluntary contributions by States and political subdivisions.
Sec. 114. Recreation user fees.
Sec. 115. Water resources development studies for the Pacific region.
Sec. 116. Missouri and Middle Mississippi Rivers enhancement project.
Sec. 117. Outer Continental Shelf.
Sec. 118. Environmental dredging.
Sec. 119. Benefit of primary flood damages avoided included in benefit cost analysis.
Sec. 120. Control of aquatic plant growth.
Sec. 121. Environmental infrastructure.
Sec. 122. Watershed management, restoration, and development.
Sec. 123. Lakes program.
Sec. 124. Dredging of salt ponds in the State of Rhode Island.
Sec. 125. Upper Susquehanna River basin, Pennsylvania and New York.
Sec. 126. Repaupo Creek and Delaware River, Gloucester County, New Jersey.
Sec. 127. Small navigation projects.
Sec. 128. Streambank protection projects.
Sec. 129. Aquatic ecosystem restoration, Springfield, Oregon.
Sec. 130. Guilford and New Haven, Connecticut.
Sec. 131. Francis Bland, Arkansas Floodway Ditch No. 5.
Sec. 132. Point Judith breakwater.
Sec. 133. Caloosahatchee River basin, Florida.
Sec. 134. Cumberland, Maryland, flood project mitigation.
Sec. 135. Sediments decontamination policy.
Sec. 136. City of Miami Beach, Florida.
Sec. 137. Small storm damage reduction projects.
Sec. 138. Sardis Reservoir, Oklahoma.
Sec. 139. Upper Mississippi River and Illinois waterway system navigation modernization.
Sec. 140. Disposal of dredged material on beaches.
Sec. 141. Fish and wildlife mitigation.
Sec. 142. Upper Mississippi River management.
Sec. 143. Reimbursement of non-Federal interest.
Sec. 144. Research and development program for Columbia and Snake Rivers salmon survival.

TITLE II—CHEYENNE RIVER SIOUX TRIBE, LOWER BRULE SIOUX TRIBE, AND STATE OF SOUTH DAKOTA TERRESTRIAL WILDLIFE HABITAT RESTORATION

Sec. 201. Definitions.
Sec. 202. Terrestrial wildlife habitat restoration.
Sec. 203. South Dakota Terrestrial Wildlife Habitat Restoration Trust Fund.
Sec. 204. Cheyenne River Sioux Tribe and Lower Brule Sioux Tribe Terrestrial Wildlife Habitat Restoration Trust Funds.
Sec. 205. Transfer of Federal land to State of South Dakota.
Sec. 206. Transfer of Corps of Engineers land for Indian Tribes.
Sec. 207. Administration.
Sec. 208. Authorization of appropriations.

TITLE I—WATER RESOURCES DEVELOPMENT

SEC. 101. DEFINITIONS.

In this title, the term "Secretary" means the Secretary of the Army.

SEC. 102. PROJECT AUTHORIZATIONS.

(a) PROJECTS WITH REPORTS.—The following projects for water resources development and conservation and other purposes are authorized to be carried out by the Secretary substantially in accordance with the plans, and subject to the conditions, described in the respective reports designated in this section:

(1) AMERICAN RIVER WATERSHED, CALIFORNIA.—

(A) IN GENERAL.—The project for flood damage reduction described as the Folsom Stepped Release Plan in the United States Army Corps of Engineers Supplemental Information Report for the American River Watershed Project, California, dated March 1996, at a total cost of $464,600,000, with an estimated Federal cost of $302,000,000 and an estimated non-Federal cost of $162,600,000.

(B) IMPLEMENTATION.—

(i) IN GENERAL.—Implementation of the measures by the Secretary pursuant to subparagraph (A) of this subsection shall be undertaken after completion of the levee stabilization and strengthening and flood warning features authorized in section 101(a)(1) of the Water Resources Development Act of 1996 (110 Stat. 3662).

(ii) FOLSOM DAM AND RESERVOIR.—The Secretary may undertake measures at the Folsom Dam and Reservoir authorized under subparagraph (A) only after reviewing the design of such measures to determine if modifications are necessary to account for changed hydrologic conditions and any other changed conditions in the project area, including operational and construction impacts that have occurred since completion of the report referred to in subparagraph (A). The Secretary shall conduct the review and develop such modifications to the Folsom Dam and Reservoir with the full participation of the Secretary of the Interior.

(iii) REMAINING DOWNSTREAM ELEMENTS.—Implementation of the remaining downstream elements authorized pursuant to subparagraph (A) may be undertaken only after the Secretary, in consultation with affected Federal, State, regional, and local entities, has reviewed the elements to determine if modifications are necessary to address changes in the hydrologic conditions, any other changed conditions in the project area that have occurred since completion of the report referred to in subparagraph (A) and any design modifications for the Folsom Dam and Reservoir made by the Secretary in implementing the measures referred to in subparagraph (B)(ii), and has issued a report on the review. The review shall be prepared in accordance with the economic and environmental principles and guidelines for water and related land resources implementation studies, and no construction may be initiated unless the Secretary determines that the remaining downstream elements are technically sound, environmentally acceptable, and economically justified.

(2) LLAGAS CREEK, CALIFORNIA.—The Secretary may complete the remaining reaches of the National Resources Conservation Services flood control project at Llagas Creek, California, undertaken pursuant to section 5 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1005) substantially in accordance with the requirements of local cooperation as specified in section 4 of that Act (16 U.S.C. 1004) at a total cost of $34,300,000, with an estimated Federal cost of $16,600,000 and an estimated non-Federal share of $17,700,000.

(3) HILLSBORO AND OKEECHOBEE AQUIFER STORAGE AND RECOVERY PROJECT, FLORIDA.—The project for aquifer storage and recovery described in the United States Army Corps of Engineers Central and Southern Florida Water Supply Study, Florida, dated April 1989, and in House Document 369, dated July 30, 1968, at a total cost of $27,000,000, with an estimated Federal cost of $13,500,000 and an estimated non-Federal cost of $13,500,000.

(4) BALTIMORE HARBOR ANCHORAGES AND CHANNELS, MARYLAND AND VIRGINIA.—The project for navigation Baltimore Harbor Anchorages and Channels, Maryland and Virginia: Report of the Chief of Engineers, dated June 8, 1998, at a total cost of $27,692,000, with an estimated Federal cost of $19,126,000 and an estimated non-Federal cost of $8,566,000.

(5) RED LAKE RIVER AT CROOKSTON, MINNESOTA.—The project for flood damage reduction, Red Lake River at Crookston, Minnesota: Report of the Chief of Engineers, dated April 20, 1998, at a total cost of $8,720,000, with an estimated Federal cost of $5,567,000 and an estimated non-Federal cost of $3,153,000.

(6) PARK RIVER, NORTH DAKOTA.—

(A) IN GENERAL.—Subject to the condition stated in subparagraph (B), the project for flood control, Park River, Grafton, North Dakota, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4121) and deauthorized under section 1001(a) of the Water Resources Development Act of 1986 (33 U.S.C. 579a), is authorized to be carried out by the Secretary at a total cost of $27,300,000, with an estimated Federal cost of $17,745,000 and an estimated non-Federal cost of $9,555,000.

(B) CONDITION.—No construction may be initiated unless the Secretary determines through a general reevaluation report using current data, that the project is technically sound, environmentally acceptable, and economically justified.

(b) PROJECTS SUBJECT TO A FINAL REPORT.—The following projects for water resources development and conservation and other purposes are authorized to be carried out by the Secretary substantially in accordance with the plans, and subject to the conditions recommended in a final report of the Chief of Engineers as approved by the Secretary, if the report of the Chief is completed not later than December 31, 1998.

(1) HAMILTON AIRFIELD WETLAND RESTORATION, CALIFORNIA.—The project for environmental restoration at Hamilton Airfield, California, at a total cost of $39,000,000, with an estimated Federal cost of $29,000,000 and an estimated non-Federal cost of $10,000,000.

(2) OAKLAND, CALIFORNIA.—

(A) IN GENERAL.—The project for navigation and environmental restoration, Oakland, California, at a total cost of $202,000,000, with an estimated Federal cost of $120,000,000 and an estimated non-Federal cost of $82,000,000.

(B) BERTHING AREAS AND OTHER LOCAL SERVICE FACILITIES.—The non-Federal interests shall provide berthing areas and other local service facilities necessary for the project at an estimated cost of $43,000,000.

(3) SOUTH SACRAMENTO COUNTY STREAMS, CALIFORNIA.—The project for flood damage reduction, environmental restoration and recreation, South Sacramento County Streams, California at a total cost of $64,770,000, with an estimated Federal cost of $38,840,000 and an estimated non-Federal cost of $25,930,000.

(4) UPPER GUADALUPE RIVER, CALIFORNIA.—The Secretary may construct the locally preferred plan for flood damage reduction and recreation, Upper Guadalupe River, California, described as the Bypass Channel Plan of the Chief of Engineers, at a total cost of $132,836,000, with an estimated Federal cost of $42,869,000 and an estimated non-Federal cost of $89,967,000.

(5) YUBA RIVER BASIN, CALIFORNIA.—The project for flood damage reduction, Yuba River Basin, California at a total cost of $25,850,000 with an estimated Federal cost of $16,775,000 and an estimated non-Federal cost of $9,075,000.

(6) DELAWARE BAY COASTLINE: DELAWARE AND NEW JERSEY-BROADKILL BEACH, DELAWARE.—

(A) IN GENERAL.—The shore protection project for hurricane and storm damage reduction, Delaware Bay Coastline: Delaware and New Jersey-Broadkill Beach, Delaware at a total cost of $8,871,000, with an estimated Federal cost of $5,593,000 and an estimated non-Federal cost of $3,278,000.

(B) PERIODIC NOURISHMENT.—Periodic nourishment is authorized for a 50-year period at an estimated average annual cost of $651,000, with an estimated annual Federal cost of $410,000 and an estimated annual non-Federal cost of $241,000.

(7) DELAWARE BAY COASTLINE: DELAWARE AND NEW JERSEY-PORT MAHON, DELAWARE.—

(A) IN GENERAL.—The shore protection project for ecosystem restoration, Delaware Bay Coastline: Delaware and New Jersey-Port Mahon, Delaware at a total cost of $7,563,000, with an estimated Federal cost of $4,916,000 and an estimated non-Federal cost of $2,647,000.

(B) PERIODIC NOURISHMENT.—Periodic nourishment is authorized for a 50-year period at an estimated average annual cost of $238,000, with an estimated annual Federal cost of $155,000 and an estimated annual non-Federal cost of $83,000.

(8) DELAWARE BAY COASTLINE: DELAWARE AND NEW JERSEY-ROOSEVELT INLET-LEWES BEACH, DELAWARE.—

(A) IN GENERAL.—The shore protection project for navigation mitigation and hurricane and storm damage reduction, Delaware Bay Coastline: Delaware and New Jersey-Roosevelt Inlet-Lewes Beach, Delaware at a total cost of $3,326,000, with an estimated Federal cost of $2,569,000 and an estimated non-Federal cost of $2,647,000.

(B) PERIODIC NOURISHMENT.—Periodic nourishment is authorized for a 50-year period at an estimated average annual cost of $207,000, with an estimated annual Federal cost of $159,000 and an estimated annual non-Federal cost of $47,600.

(9) DELAWARE COAST FROM CAPE HENELOPEN TO FENWICK ISLAND, BETHANY BEACH/SOUTH BETHANY BEACH, DELAWARE.—

(A) IN GENERAL.—The shore protection project for hurricane storm damage reduction, Delaware Coast from Cape Henelopen to Fenwick Island, Bethany Beach/South Bethany Beach, Delaware at a total cost of $22,094,000, with an estimated Federal cost of $14,361,000 and an estimated non-Federal cost of $7,773,000.

(B) PERIODIC NOURISHMENT.—Periodic nourishment is authorized for a 50-year period at an estimated average annual cost of $1,573,000, with an estimated annual Federal cost of $1,022,000 and an estimated annual non-Federal cost of $551,000.

(10) JACKSONVILLE HARBOR, FLORIDA.—The project for navigation, Jacksonville Harbor, Florida at a total cost of $27,758,000, with an estimated Federal cost of $9,632,000 and an estimated non-Federal cost of $18,126,000.

(11) LITTLE TALBOT ISLAND, DUVAL COUNTY, FLORIDA.—The shore protection project for hurricane and storm damage prevention, Little Talbot Island, Duval County, Florida at a total cost of $5,802,000, with an estimated Federal cost of $3,771,000 and an estimated non-Federal cost of $2,031,000.

(12) PONCE DE LEON INLET, VOLUSIA COUNTY, FLORIDA.—The project for navigation and recreation, Ponce de Leon Inlet, Volusia County, Florida at a total cost of $5,533,000, with an estimated Federal cost of $3,408,000 and an estimated non-Federal cost of $2,125,000.

(13) TAMPA HARBOR-BIG BEND CHANNEL, FLORIDA.—The project for navigation, Tampa Harbor-Big Bend Channel, Florida at a total cost of $11,348,000, with an estimated Federal cost of $5,747,000 and an estimated non-Federal cost of $5,601,000.

(14) BRUNSWICK HARBOR DEEPENING, GEORGIA.—The project for navigation, Brunswick Harbor Deepening, Georgia at a total cost of $49,433,000, with an estimated Federal cost of $32,083,000 and an estimated non-Federal cost of $17,350,000.

(15) SAVANNAH HARBOR EXPANSION, GEORGIA.—The project for navigation, Savannah Harbor Expansion, Georgia at a total cost of $195,302,000, with an estimated Federal cost of $84,423,000 and an estimated non-Federal cost of $110,879,000.

(16) GRAND FORKS, NORTH DAKOTA, AND EAST GRAND FORKS, MINNESOTA.—The project for flood damage reduction and recreation, Grand Forks, North Dakota and East Grand Forks, Minnesota at a total cost of $281,754,000, with an estimated Federal cost of $140,877,000 and an estimated non-Federal cost of $140,877,000.

(17) BAYOU CASSOTTE EXTENSION, PASCAGOULA HARBOR, PASCAGOULA, MISSISSIPPI.—The project for navigation, Bayou Cassotte Extension, Pascagoula Harbor, Pascagoula, Mississippi at a total cost of $5,700,000, with an estimated Federal cost of $4,300,000 and an estimated non-Federal cost of $1,400,000.

(18) TURKEY CREEK BASIN, KANSAS CITY, MISSOURI AND KANSAS CITY, KANSAS.—The project for flood damage reduction, Turkey Creek Basin, Kansas City, Missouri and Kansas City, Kansas at a total cost of $38,594,000 with an estimated Federal cost of $22,912,000 and an estimated non-Federal cost of $15,682,000.

(19) LOWER CAPE MAY MEADOWS, CAPE MAY POINT, NEW JERSEY.—

(A) IN GENERAL.—The shore protection project for navigation mitigation, ecosystem restoration and hurricane and storm damage reduction, Lower Cape May Meadows, Cape May Point, New Jersey at a total cost of $14,885,000, with an estimated Federal cost of $11,390,000 and an estimated non-Federal cost of $3,495,000.

(B) PERIODIC NOURISHMENT.—Periodic nourishment is authorized for a 50-year period at an estimated average annual cost of $4,565,000, with an estimated annual Federal cost of $3,674,000 and an estimated annual non-Federal cost of $891,000.

(20) NEW JERSEY SHORE PROTECTION, BRIGANTINE INLET TO GREAT EGG HARBOR, BRIGANTINE ISLAND, NEW JERSEY.—

(A) IN GENERAL.—The shore protection project for hurricane and storm damage reduction, New Jersey Shore Protection, Brigantine Inlet to Great Egg Harbor, Brigantine Island, New Jersey at a total cost of $4,861,000, with an estimated Federal cost of $3,160,000 and an estimated non-Federal cost of $1,701,000.

(B) PERIODIC NOURISHMENT.—Periodic nourishment is authorized for a 50-year period at an estimated average annual cost of $2,600,000, with an estimated annual Federal cost of $1,700,000 and an estimated annual non-Federal cost of $900,000.

(21) NEW JERSEY SHORE PROTECTION, TOWNSENDS INLET TO CAPE MAY INLET, NEW JERSEY.—

(A) IN GENERAL.—The shore protection project for hurricane and storm damage reduction and ecosystem restoration, New Jersey Shore Protection, Townsends Inlet to Cape May Inlet, New Jersey at a total cost of $55,203,000, with an estimated Federal cost of $35,882,000 and an estimated non-Federal cost of $19,321,000.

(B) PERIODIC NOURISHMENT.—Periodic nourishment is authorized for a 50-year period at an estimated average annual cost of $6,319,000, with an estimated annual Federal cost of $4,107,000 and an estimated annual non-Federal cost of $2,212,000.

SEC. 103. PROJECT MODIFICATIONS.

(a) PROJECTS WITH REPORTS.—

(1) GLENN-COLUSA, CALIFORNIA.—The project for flood control, Sacramento River California, authorized by section 2 of the Act entitled "An Act to provide for the control of floods of the Mississippi River and of the Sacramento River, and for other purposes", approved March 1, 1917 (39 Stat. 949), and modified by section 102 of the Energy and Water Development Appropriations Act, 1990 (103 Stat. 649), and further modified by section 301(b)(3) of the Water Resources Development Act of 1996 (110 Stat. 3709) is further modified to authorize the Secretary to carry out the portion of the project in Glenn-Colusa, California in accordance with the Corps of Engineers report dated May 22, 1998, at a total cost of $20,700,000, with an estimated Federal cost of $15,570,000 and an estimated non-Federal cost of $5,130,000.

(2) SAN LORENZO RIVER, CALIFORNIA.—The project for flood control, San Lorenzo River, California, authorized by section 101(a)(5) of Public Law 104–303 (110 Stat. 3663), is modified to authorize the Secretary to include as a part of the project streambank erosion control measures to be undertaken substantially in accordance with the report entitled "Bank Stabilization Concept, Laurel Street Extension", dated April 23, 1998, at a total cost of $4,000,000, with an estimated Federal cost of $2,600,000 and an estimated non-Federal cost of $1,400,000.

(3) WOOD RIVER, GRAND ISLAND, NEBRASKA.—The project for flood control, Wood River, Grand Island, Nebraska, authorized by section 101(a)(19) of the Water Resources Development Act of 1996 (110 Stat. 3665) is modified to authorize the Secretary to construct the project in accordance with the Corps of Engineers report dated June 29, 1998, at a total cost of $16,632,000, with an estimated Federal cost of $9,508,000 and an estimated non-Federal cost of $7,124,000.

(4) ABSECON ISLAND, NEW JERSEY.—The project for Absecon Island, New Jersey, authorized by section 101(h)(13) of the Water Resources Development Act of 1996 (110 Stat. 3668) is amended to authorize the Secretary to reimburse the non-Federal sponsor for all work performed, consistent with the authorized project.

(5) WAURIKA LAKE, OKLAHOMA, WATER CONVEYANCE FACILITIES.—The requirement for the Waurika Project Master Conservancy District to repay the $2,900,000 in costs (including interest) resulting from the October 1991 settlement of the claim of the Travelers Insurance Company before the United States Claims Court related to

construction of the water conveyance facilities authorized by Public Law 88–253 (77 Stat. 841) is waived.

(b) PROJECTS SUBJECT TO REPORTS.—The following projects are modified as follows, except that no funds may be obligated to carry out work under such modifications until completion of a final report by the Chief of Engineers, as approved by the Secretary, finding that such work is technically sound, environmentally acceptable, and economically justified, as applicable:

(1) SACRAMENTO METRO AREA, CALIFORNIA.—The project for flood control, Sacramento Metro Area, California authorized by section 101(4) of the Water Resources Development Act of 1992 (106 Stat. 4801) is modified to authorize the Secretary to construct the project at a total cost of $32,900,000, with an estimated Federal cost of $24,700,000 and an estimated non-Federal cost of $8,200,000.

(2) NEW YORK HARBOR AND ADJACENT CHANNELS, PORT JERSEY, NEW JERSEY.—The project for navigation, New York Harbor and Adjacent Channels, Port Jersey, New Jersey, authorized by section 202(b) of the Water Resources Development Act of 1986 (100 Stat. 4098) is modified to authorize the Secretary to construct the project at a total cost of $100,689,000, with an estimated Federal cost of $74,998,000 and an estimated non-Federal cost of $25,701,000.

(3) ARTHUR KILL, NEW YORK AND NEW JERSEY.—The project for navigation, Arthur Kill, New York and New Jersey, authorized by section 202(b) of the Water Resources Development Act of 1986 (100 Stat. 4098) and modified by section 301(b)(11) of the Water Resources Development Act of 1996 (110 Stat. 3711) is further modified to authorize the Secretary to construct the project at a total cost of $260,899,000, with an estimated Federal cost of $195,705,000 and an estimated non-Federal cost of $65,194,000.

(c) BEAVER LAKE, ARKANSAS, WATER SUPPLY STORAGE REALLOCATION.—The Secretary shall reallocate approximately 31,000 additional acre-feet at Beaver Lake, Arkansas, to water supply storage at no cost to the Beaver Water District or the Carroll-Boone Water District, except that at no time shall the bottom of the conservation pool be at an elevation that is less than 1,076 feet, NGVD.

(d) TOLCHESTER CHANNEL S-TURN, BALTIMORE, MARYLAND.—The project for navigation, Baltimore Harbor and Channels, Maryland, authorized by section 101 of the River and Harbor Act of 1958 (72 Stat. 297), is modified to direct the Secretary to straighten the Tolchester Channel S-turn as part of project maintenance.

(e) TROPICANA WASH AND FLAMINGO WASH, NEVADA.—Any Federal costs associated with the Tropicana and Flamingo Washes, Nevada, authorized by section 101(13) of the Water Resources Development Act of 1992 (106 Stat. 4803), incurred by the non-Federal interest to accelerate or modify construction of the project, in cooperation with the Corps of Engineers, shall be considered to be eligible for reimbursement by the Secretary.

(f) FLOOD MITIGATION NEAR PIERRE, SOUTH DAKOTA.—

(1) IN GENERAL.—

(A) LAND ACQUISITION.—To provide full operational capability to carry out the authorized purposes of the Missouri River Main Stem dams that are part of the Pick-Sloan Missouri River Basin Program authorized by section 9 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and other purposes" approved December 22, 1944, the Secretary may acquire from willing sellers such land and property in the vicinity of Pierre, South Dakota, or floodproof or relocate such property within the project area, as the Secretary determines is adversely affected by the full wintertime Oahe Powerplant releases.

(B) OWNERSHIP AND USE.—Any land that is acquired under this authority shall be kept in public ownership and will be dedicated and maintained in perpetuity for a use that is compatible with any remaining flood threat.

(C) REPORT.—

(i) IN GENERAL.—The Secretary shall not obligate funds to implement this paragraph until the Secretary has completed a report addressing the criteria for selecting which properties are to be acquired, relocated or floodproofed, and a plan for implementing such measures and has made a determination that the measures are economically justified.

(ii) DEADLINE.—The report shall be completed not later than 180 days after funding is made available.

(D) COORDINATION AND COOPERATION.—The report and implementation plan—

(i) shall be coordinated with the Federal Emergency Management Agency; and

(ii) shall be prepared in consultation with other Federal agencies, and State and local officials, and residents.

(E) CONSIDERATIONS.—Such report should take into account information from prior and ongoing studies.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $35,000,000.

(g) BEACH EROSION CONTROL AND HURRICANE PROTECTION, VIRGINIA BEACH, VIRGINIA.—

(1) ACCEPTANCE OF FUNDS.—In any fiscal year that the Corps of Engineers does not receive appropriations sufficient to meet expected project expenditures for that year, the Secretary shall accept from the city of Virginia Beach, Virginia, for purposes of the project for beach erosion control and hurricane protection, Virginia Beach, Virginia, authorized by section 501(a) of the Water Resources Development Act of 1986 (100 Stat. 4136), such funds as the city may advance for the project.

(2) REPAYMENT.—Subject to the availability of appropriations, the Secretary shall repay, without interest, the amount of any advance made under paragraph (1), from appropriations that may be provided by Congress for river and harbor, flood control, shore protection, and related projects.

(h) ELIZABETH RIVER, CHESAPEAKE, VIRGINIA.—Notwithstanding any other provision of law, after the date of enactment of this Act, the city of Chesapeake, Virginia, shall not be obligated to make the annual cash contribution required under paragraph 1(9) of the Local Cooperation Agreement dated December 12, 1978, between the Government and the city for the project for navigation, southern branch of Elizabeth River, Chesapeake, Virginia.

(i) PAYMENT OPTION, MOOREFIELD, WEST VIRGINIA.—The Secretary may permit the non-Federal sponsor for the project for flood control, Moorefield, West Virginia, to pay without interest the remaining non-Federal cost over a period not to exceed 30 years, to be determined by the Secretary.

SEC. 104. PROJECT DEAUTHORIZATIONS.

(a) BRIDGEPORT HARBOR, CONNECTICUT.—The portion of the project for navigation, Bridgeport Harbor, Connecticut authorized by section 101 of the River and Harbor Act of 1958 (72 Stat. 297), consisting of a 2.4-acre anchorage area 9 feet deep and an adjacent 0.60-acre anchorage 6 feet deep, located on the west side of Johnsons River, Connecticut, is not authorized after the date of enactment of this Act.

(b) BASS HARBOR, MAINE.—

(1) DEAUTHORIZATION.—The portions of the project for navigation, Bass Harbor, Maine, authorized on May 7, 1962, under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577) described in paragraph (2) are not authorized after the date of enactment of this Act.

(2) DESCRIPTION.—The portions of the project referred to in paragraph (1) are described as follows:

(A) Beginning at a bend in the project, N149040.00, E538505.00, thence running easterly about 50.00 feet along the northern limit of the project to a point N149061.55, E538550.11, thence running southerly about 642.08 feet to a point, N148477.64, E538817.18, thence running southwesterly about 156.27 feet to a point on the westerly limit of the project, N148348.50, E538737.02, thence running northerly about 149.00 feet along the westerly limit of the project to a bend in the project, N148489.22, E538768.09, thence running northwesterly about 610.39 feet along the westerly limit of the project to the point of origin.

(B) Beginning at a point on the westerly limit of the project, N148118.55, E538689.05, thence running southeasterly about 91.92 feet to a point, N148041.43, E538739.07, thence running southerly about 65.00 feet to a point, N147977.86, E538725.51, thence running southwesterly about 91.92 feet to a point on the westerly limit of the project, N147927.84, E538648.39, thence running northerly about 195.00 feet along the westerly limit of the project to the point of origin.

(c) EAST BOOTHBAY HARBOR, MAINE.—Section 364 of the Water Resources Development Act of 1996 (110 Stat. 3731) is amended by striking paragraph (9) and inserting the following:

"(9) EAST BOOTHBAY HARBOR, MAINE.—The project for navigation, East Boothbay Harbor, Maine, authorized by the first section of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved June 25, 1910 (36 Stat. 657).".

SEC. 105. STUDIES.

(a) BALDWIN COUNTY, ALABAMA, WATERSHEDS.—The Secretary of the Army shall review the report of the Chief of Engineers on the Alabama Coast published as House Document 108, 90th Congress, 1st Session, and other pertinent reports with a view to determining whether modifications of the recommendations contained in the House Document are advisable at this time in the interest of flood damage reduction, environmental restoration and protection, water quality, and other purposes, with a special emphasis on determining the advisability of developing a comprehensive coordinated watershed management plan for the development, conservation, and utilization of water and related land resources in the watersheds in Baldwin County, Alabama.

(b) ESCAMBIA RIVER, ALABAMA AND FLORIDA.—

(1) IN GENERAL.—The Secretary shall review the report of the Chief of Engineers on the Escambia River, Alabama and Florida, published as House Document 350, 71st Congress, 2d Session, and other pertinent reports, to determine whether modifications of any of the recommendations contained in the House Document are advisable at this time with particular reference to Burnt Corn Creek and Murder Creek in the vicinity of Brewton, and East Brewton, Alabama, and the need for flood control, floodplain evacuation, flood warning and preparedness, environmental restoration and protection, and bank stabilization in those areas.

(2) COORDINATION.—The review shall be coordinated with plans of other local and Federal agencies.

(c) STRAWBERRY CREEK, BERKELEY, CALIFORNIA.—The Secretary shall conduct a study to determine the feasibility of restoring Strawberry Creek, Berkeley, California, to determine the Federal interest in environmental restoration,

conservation of fish and wildlife resources, recreation, and water quality.

(d) WEST SIDE STORM WATER RETENTION FACILITY, CITY OF LANCASTER, CALIFORNIA.—The Secretary shall conduct a study to determine the feasibility of undertaking measures to construct the West Side Storm Water Retention Facility in the city of Lancaster, California.

(e) APALACHICOLA RIVER, FLORIDA.—The Secretary shall conduct a study for the purpose of identifying—

(1) alternatives for the management of material dredged in connection with operation and maintenance of the Apalachicola River Navigation Project; and

(2) alternatives which reduce the requirements for such dredging.

(f) BROWARD COUNTY, SAND BYPASSING AT PORT EVERGLADES, FLORIDA.—The Secretary shall conduct a study to determine the feasibility of constructing a sand bypassing project at the Port Everglades Inlet, Florida.

(g) CITY OF DESTIN-NORIEGA POINT BREAKWATER, FLORIDA.—The Secretary shall conduct a study to determine the feasibility of—

(1) restoring Noriega Point, Florida, to serve as a breakwater for Destin Harbor; and

(2) including Noriega Point as part of the East Pass, Florida navigation project.

(h) GATEWAY TRIANGLE REDEVELOPMENT AREA, FLORIDA.—

(1) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility of undertaking measures to reduce the flooding problems in the vicinity of Gateway Triangle Redevelopment Area, Florida.

(2) STUDIES AND REPORTS.—The study shall include a review and consideration of studies and reports completed by the non-Federal sponsor.

(i) HILLSBOROUGH RIVER, WITHLACOOCHEE RIVER BASINS, FLORIDA.—The Secretary shall conduct a study to identify appropriate measures that can be undertaken in the Green Swamp, Withlacoochee River, and the Hillsborough River, the Water Triangle of west central Florida to address comprehensive watershed planning for water conservation, water supply, restoration and protection of environmental resources, and other water resource-related problems in the area.

(j) CITY OF PLANT CITY, FLORIDA.—

(1) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility of a flood control project in the city of Plant City, Florida.

(2) STUDIES AND REPORTS.—In conducting the study, the Secretary shall review and consider studies and reports completed by the non-Federal sponsor.

(k) ST. LUCIE COUNTY, FLORIDA, SHORE PROTECTION.—The Secretary shall conduct a study to determine the feasibility of a shore protection and hurricane and storm damage reduction project to the shoreline areas in St. Lucie County from the current project for Fort Pierce Beach, Florida southward to the Martin County line.

(l) ACADIANA NAVIGATION CHANNEL, LOUISIANA.—The Secretary shall conduct a study to determine the feasibility of assuming operations and maintenance for the Acadiana Navigational Channel located in Iberia and Vermillion Parishes, Louisiana.

(m) CONTRABAND BAYOU NAVIGATION CHANNEL, LOUISIANA.—The Secretary shall conduct a study to determine the feasibility of assuming the maintenance at Contraband Bayou, Calcasieu River Ship Canal, Louisiana.

(n) GOLDEN MEADOW LOCK, LOUISIANA.—The Secretary shall conduct a study to determine the feasibility of converting the Golden Meadow floodgate into a navigation lock to be included in the Larose to Golden Meadow Hurricane Protection project.

(o) GULF INTRACOASTAL WATERWAY ECOSYSTEM PROTECTION, CHEF MENTEUR TO SABINE RIVER, LOUISIANA.—

(1) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility of undertaking ecosystem restoration and protection measures along the Gulf Intracoastal Waterway from Chef Menteur to Sabine River, Louisiana.

(2) MATTERS TO BE ADDRESSED.—The study shall address saltwater intrusion, tidal scour, erosion, and other water resources related problems in this area.

(p) LAKE PONTCHARTRAIN, LOUISIANA, AND VICINITY, ST. CHARLES PARISH PUMPS.—The Secretary shall conduct a study to determine the feasibility of modifying the Lake Pontchartrain Hurricane Protection project to include the St. Charles Parish Pumps and the modification of the seawall fronting protection along Lake Pontchartrain in Orleans, Parish, from New Basin Canal on the west to the Inner Harbor Navigation Canal on the east.

(q) LAKE PONTCHARTRAIN AND VICINITY SEAWALL RESTORATION, LOUISIANA.—The Secretary shall conduct a study to determine the feasibility of undertaking structural modifications of that portion of the seawall fronting protection along the south shore of Lake Pontchartrain in Orleans Parish, Louisiana, extending approximately 5 miles from the new basin Canal on the west to the Inner Harbor Navigation Canal on the east as a part of the Lake Pontchartrain and Vicinity Hurricane Protection Project, authorized by section 204 of the Flood Control Act of 1965 (79 Stat. 1077).

(r) LOUISIANA STATE PENITENTIARY LEVEE.—The Secretary shall conduct a study of the impacts of crediting the non-Federal sponsor for work performed in the project area of the Louisiana State Penitentiary Levee.

(s) TUNICA LAKE WEIR, MISSISSIPPI.—

(1) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility of constructing an outlet weir at Tunica Lake, Tunica County, Mississippi, and Lee County, Arkansas, for the purpose of stabilizing water levels in the Lake.

(2) ECONOMIC ANALYSIS.—In carrying out the study, the Secretary shall include as a part of the economic analysis the benefits derived from recreation uses at the Lake and economic benefits associated with restoration of fish and wildlife habitat.

(t) PROTECTIVE FACILITIES FOR THE ST. LOUIS, MISSOURI, RIVERFRONT AREA.—

(1) STUDY.—The Secretary shall conduct a study to determine the optimal plan to protect facilities that are located on the Mississippi River riverfront within the boundaries of St. Louis, Missouri.

(2) REQUIREMENTS.—In conducting the study, the Secretary—

(A) shall evaluate alternatives to offer safety and security to facilities; and

(B) use state-of-the-art techniques to best evaluate the current situation, probable solutions, and estimated costs.

(3) REPORT.—Not later than April 15, 1999, the Secretary shall submit to Congress a report on the results of the study.

(u) YELLOWSTONE RIVER, MONTANA.—

(1) STUDY.—The Secretary shall conduct a comprehensive study of the Yellowstone River from Gardiner, Montana to the confluence of the Missouri River to determine the hydrologic, biological, and socioeconomic cumulative impacts on the river.

(2) CONSULTATION AND COORDINATION.—The Secretary shall conduct the study in consultation with the United States Fish and Wildlife Service, the United States Geological Survey, and the Natural Resource Conservation Service and with the full participation of the State of Montana, tribal and local entities, and provide for public participation.

(3) REPORT.—Not later than 5 years after the date of enactment of this Act, the Secretary shall submit a report to Congress on the results of the study.

(v) LAS VEGAS VALLEY, NEVADA.—

(1) IN GENERAL.—The Secretary shall conduct a comprehensive study of water resources located in the Las Vegas Valley, Nevada.

(2) OBJECTIVES.—The study shall identify problems and opportunities related to ecosystem restoration, water quality, particularly the quality of surface runoff, water supply, and flood control.

(w) CAMDEN AND GLOUCESTER COUNTIES, NEW JERSEY, STREAMS AND WATERSHEDS.—The Secretary shall conduct a study to determine the feasibility of undertaking ecosystem restoration, floodplain management, flood control, water quality control, comprehensive watershed management, and other allied purposes along tributaries of the Delaware River, Camden County and Gloucester County, New Jersey.

(x) OSWEGO RIVER BASIN, NEW YORK.—The Secretary shall conduct a study to determine the feasibility of establishing a flood forecasting system within the Oswego River basin, New York.

(y) PORT OF NEW YORK-NEW JERSEY NAVIGATION STUDY AND ENVIRONMENTAL RESTORATION STUDY.—

(1) NAVIGATION STUDY.—The Secretary shall conduct a comprehensive study of navigation needs at the Port of New York-New Jersey (including the South Brooklyn Marine and Red Hook Container Terminals, Staten Island, and adjacent areas) to address improvements, including deepening of existing channels to depths of 50 feet or greater, that are required to provide economically efficient and environmentally sound navigation to meet current and future requirements.

(2) ENVIRONMENTAL REMEDIATION STUDY.—The Secretary, acting through the Chief of Engineers, shall review the reports of the Chief of Engineers on the New York Harbor, printed in the House Management Plan of the Harbor Estuary Program, and other pertinent reports concerning the New York Harbor Region and the Port of New York-New Jersey, to determine Federal interest in advancing harbor environmental restoration.

(3) REPORT.—Both studies shall be completed by December, 1999, to identify opportunities to link navigation improvements with possible environmental restoration projects.

(z) NIOBRARA RIVER AND MISSOURI RIVER SEDIMENTATION STUDY, SOUTH DAKOTA.—The Secretary shall conduct a study of the Niobrara River watershed and the operations of Fort Randall Dam and Gavins Point Dam on the Missouri River to determine the feasibility of alleviating the bank erosion, sedimentation, and related problems in the lower Niobrara River and the Missouri River below Fort Randall Dam.

(aa) CITY OF OCEAN SHORES SHORE PROTECTION PROJECT, WASHINGTON.—The Secretary shall conduct a study to determine the feasibility of undertaking the project for beach erosion and flood control, including relocation of a primary dune and periodic nourishment, at Ocean Shores, Washington.

(bb) ALTERNATIVE WATER SOURCES STUDY.—

(1) IN GENERAL.—The Administrator of the Environmental Protection Agency shall conduct a study of the water supply needs of States that are not currently eligible for assistance under title XVI of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. 390h et seq.).

(2) REQUIREMENTS.—The study shall—

(A) identify the water supply needs (including potable, commercial, industrial, recreational and agricultural needs) of each State described

in paragraph (1) through the year 2020, making use of such State, regional, and local plans, studies, and reports as may be available;

(B) evaluate the feasibility of various alternative water source technologies such as reuse and reclamation of wastewater and stormwater (including indirect potable reuse), aquifer storage and recovery, and desalination to meet the anticipated water supply needs of the States; and

(C) assess how alternative water sources technologies can be utilized to meet the identified needs.

(3) REPORT.—The Administrator shall report to Congress on the results of the study not more than 180 days after the date of enactment of this Act.

SEC. 106. FLOOD HAZARD MITIGATION AND RIVERINE ECOSYSTEM RESTORATION PROGRAM.

(a) IN GENERAL.—

(1) AUTHORIZATION.—The Secretary may undertake a program to reduce flood hazards and restore the natural functions and values of riverine ecosystems throughout the United States.

(2) STUDIES.—In carrying out the program, the Secretary shall conduct studies to identify appropriate flood damage reduction, conservation, and restoration measures and may design and implement watershed management and restoration projects.

(3) PARTICIPATION.—The studies and projects carried out under this authority shall be conducted, to the extent practicable, with the full participation of the appropriate Federal agencies, including the Department of Agriculture, the Federal Emergency Management Agency, the Department of the Interior, the Environmental Protection Agency, and the Department of Commerce.

(4) NONSTRUCTURAL APPROACHES.—The studies and projects shall, to the extent practicable, emphasize nonstructural approaches to preventing or reducing flood damages.

(b) COST-SHARING REQUIREMENTS.—

(1) IN GENERAL.—The cost of studies conducted under subsection (a) shall be shared in accordance with section 105 of the Water Resources Development Act of 1986 (100 Stat. 4088; 110 Stat. 3677).

(2) PAYMENT PERCENTAGE.—The non-Federal interests shall pay 35 percent of the cost of any project carried out under this section.

(3) IN-KIND CONTRIBUTIONS.—The non-Federal interests shall provide all land, easements, rights-of-way, dredged material disposal areas, and relocations necessary for the projects, and the value of the land, easements, rights-of-way, dredged material disposal areas, and relocations shall be credited toward the payment required under this subsection.

(4) RESPONSIBILITIES OF THE NON-FEDERAL INTERESTS.—The non-Federal interests shall be responsible for all costs associated with operating, maintaining, replacing, repairing, and rehabilitating all projects carried out under this authority.

(c) PROJECT JUSTIFICATION.—

(1) IN GENERAL.—The Secretary may implement a project under this section if the Secretary determines that the project—

(A) will significantly reduce potential flood damages;

(B) will improve the quality of the environment; and

(C) is justified considering all costs and beneficial outputs of the project.

(2) SELECTION CRITERIA; POLICIES AND PROCEDURES.—Not later than 180 days after the date of enactment of this Act, the Secretary shall—

(A) develop criteria for selecting and rating the projects to be carried out as a part of the program authorized by this section; and

(B) establish policies and procedures for carrying out the studies and projects undertaken under this section.

(d) REPORTING REQUIREMENT.—The Secretary may not implement a project under this section until—

(1) the Secretary provides to the Committee on the Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a written notification describing the project and the determinations made under subsection (c); and

(2) a period of 21 calendar days has expired following the date on which the notification was received by the Committees.

(e) PRIORITY AREAS.—In carrying out this section, the Secretary shall examine the potential for flood damage reductions at appropriate locations, including—

(1) Saint Genevieve, Missouri;
(2) upper Delaware River basin, New York;
(3) Tillamook County, Oregon;
(4) Providence County, Rhode Island; and
(5) Willamette River basin, Oregon.

(f) PER-PROJECT LIMITATION.—Not more than $25,000,000 in Army Civil Works appropriations may be expended on any single project undertaken under this section.

(g) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $75,000,000 for the period of fiscal years 2000 and 2001.

(2) PROGRAM FUNDING LEVELS.—All studies and projects undertaken under this authority from Army Civil Works appropriations shall be fully funded within the program funding levels provided in this subsection.

SEC. 107. SHORE PROTECTION.

Section 103(d) of the Water Resources Development Act of 1986 (100 Stat. 4085) is amended—

(1) by striking "Costs of construction" and inserting the following:

"(1) CONSTRUCTION.—Costs of construction"; and

(2) by adding at the end the following:

"(2) PERIODIC NOURISHMENT.—In the case of a project authorized for construction after December 31, 1998, or for which a feasibility study is completed after that date, the non-Federal cost of the periodic nourishment of projects or measures for shore protection or beach erosion control shall be 50 percent, except that—

"(A) all costs assigned to benefits to privately owned shores (where use of such shores is limited to private interests) or to prevention of losses of private land shall be borne by non-Federal interests; and

"(B) all costs assigned to the protection of federally owned shores shall be borne by the United States.".

SEC. 108. SMALL FLOOD CONTROL PROJECTS.

Section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s) is amended—

(1) in the first sentence, by striking "construction of small projects" and inserting "implementation of small structural and nonstructural projects"; and

(2) in the third sentence, by striking "$5,000,000" and inserting "$7,000,000".

SEC. 109. USE OF NON-FEDERAL FUNDS FOR COMPILING AND DISSEMINATING INFORMATION ON FLOODS AND FLOOD DAMAGES.

The third sentence of section 206(b) of the Flood Control Act of 1960 (33 U.S.C. 709a(b)) is amended by inserting before the period at the end the following: ", but the Secretary of the Army may accept funds voluntarily contributed by such entities for the purpose of expanding the scope of the services requested by the entities".

SEC. 110. EVERGLADES AND SOUTH FLORIDA ECOSYSTEM RESTORATION.

Subparagraphs (B) and (C)(i) of section 528(b)(3) of the Water Resources Development Act of 1996 (110 Stat. 3769) are amended by striking "1999" and inserting "2000".

SEC. 111. AQUATIC ECOSYSTEM RESTORATION.

Section 206(c) of the Water Resources Development Act of 1996 (110 Stat. 3679) is amended—

(1) by striking "Construction" and inserting the following:

"(1) IN GENERAL.—Construction"; and

(2) by adding at the end the following:

"(2) NONPROFIT ENTITIES.—Notwithstanding section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b(b)), for any project undertaken under this section, a non-Federal interest may include a nonprofit entity with the consent of the affected local government.".

SEC. 112. BENEFICIAL USES OF DREDGED MATERIAL.

Section 204 of the Water Resources Development Act of 1992 (106 Stat. 4826; 110 Stat. 3680) is amended by adding at the end the following:

"(g) NONPROFIT ENTITIES.—Notwithstanding section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b(b)), for any project carried out under this section, a non-Federal interest may include a nonprofit entity, with the consent of the affected local government.".

SEC. 113. VOLUNTARY CONTRIBUTIONS BY STATES AND POLITICAL SUBDIVISIONS.

Section 5 of the Flood Control Act of 1936 (33 U.S.C. 701h) is amended by inserting "or environmental restoration" after "flood control".

SEC. 114. RECREATION USER FEES.

(a) WITHHOLDING OF AMOUNTS.—

(1) IN GENERAL.—During fiscal years 1999 through 2002, the Secretary may withhold from the special account established under section 4(i)(1)(A) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(i)(1)(A)) 100 percent of the amount of receipts above a baseline of $34,000,000 per each fiscal year received from fees imposed at recreation sites under the administrative jurisdiction of the Department of the Army under section 4(b) of that Act (16 U.S.C. 460l–6a(b)).

(2) USE.—The amounts withheld shall be retained by the Secretary and shall be available, without further Act of appropriation, for expenditure by the Secretary in accordance with subsection (b).

(3) AVAILABILITY.—The amounts withheld shall remain available until September 30, 2005.

(b) USE OF AMOUNTS WITHHELD.—In order to increase the quality of the visitor experience at public recreational areas and to enhance the protection of resources, the amounts withheld under subsection (a) may be used only for—

(1) repair and maintenance projects (including projects relating to health and safety);
(2) interpretation;
(3) signage;
(4) habitat or facility enhancement;
(5) resource preservation;
(6) annual operation (including fee collection);
(7) maintenance; and
(8) law enforcement related to public use.

(c) AVAILABILITY.—Each amount withheld by the Secretary shall be available for expenditure, without further Act of appropriation, at the specific project from which the amount, above baseline, is collected.

SEC. 115. WATER RESOURCES DEVELOPMENT STUDIES FOR THE PACIFIC REGION.

Section 444 of the Water Resources Development Act of 1996 (110 Stat. 3747) is amended by striking "interest of navigation" and inserting "interests of water resources development (including navigation, flood damage reduction, and environmental restoration)".

SEC. 116. MISSOURI AND MIDDLE MISSISSIPPI RIVERS ENHANCEMENT PROJECT.

(a) DEFINITIONS.—In this section:

(1) MIDDLE MISSISSIPPI RIVER.—The term "middle Mississippi River" means the reach of

the Mississippi River from the mouth of the Ohio River (river mile 0, upper Mississippi River) to the mouth of the Missouri River (river mile 195).

(2) MISSOURI RIVER.—The term "Missouri River" means the main stem and floodplain of the Missouri River (including reservoirs) from its confluence with the Mississippi River at St. Louis, Missouri, to its headwaters near Three Forks, Montana.

(3) PROJECT.—The term "project" means the project authorized by this section.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Army.

(b) PROTECTION AND ENHANCEMENT ACTIVITIES.—

(1) PLAN.—

(A) DEVELOPMENT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall develop a plan for a project to protect and enhance fish and wildlife habitat of the Missouri River and the middle Mississippi River.

(B) ACTIVITIES.—

(i) IN GENERAL.—The plan shall provide for such activities as are necessary to protect and enhance fish and wildlife habitat without adversely affecting—

(I) the water-related needs of the region surrounding the Missouri River and the middle Mississippi River, including flood control, navigation, recreation, and enhancement of water supply; and

(II) private property rights.

(ii) REQUIRED ACTIVITIES.—The plan shall include—

(I) modification and improvement of navigation training structures to protect and enhance fish and wildlife habitat;

(II) modification and creation of side channels to protect and enhance fish and wildlife habitat;

(III) restoration and creation of island fish and wildlife habitat;

(IV) creation of riverine fish and wildlife habitat;

(V) establishment of criteria for prioritizing the type and sequencing of activities based on cost-effectiveness and likelihood of success; and

(VI) physical and biological monitoring for evaluating the success of the project, to be performed by the River Studies Center of the United States Geological Survey in Columbia, Missouri.

(2) IMPLEMENTATION OF ACTIVITIES.—

(A) IN GENERAL.—Using funds made available to carry out this section, the Secretary shall carry out the activities described in the plan.

(B) USE OF EXISTING AUTHORITY FOR UNCONSTRUCTED FEATURES OF THE PROJECT.—Using funds made available to the Secretary under other law, the Secretary shall design and construct any feature of the project that may be carried out using the authority of the Secretary to modify an authorized project, if the Secretary determines that the design and construction will—

(i) accelerate the completion of activities to protect and enhance fish and wildlife habitat of the Missouri River or the middle Mississippi River; and

(ii) be compatible with the project purposes described in this section.

(c) INTEGRATION OF OTHER ACTIVITIES.—

(1) IN GENERAL.—In carrying out the activities described in subsection (b), the Secretary shall integrate the activities with other Federal, State, and tribal activities.

(2) NEW AUTHORITY.—Nothing in this section confers any new regulatory authority on any Federal or non-Federal entity that carries out any activity authorized by this section.

(d) PUBLIC PARTICIPATION.—In developing and carrying out the plan under subsection (b) and the activities described in subsection (c), the Secretary shall provide for public review and comment in accordance with applicable Federal law, including—

(1) providing advance notice of meetings;

(2) providing adequate opportunity for public input and comment;

(3) maintaining appropriate records; and

(4) compiling a record of the proceedings of meetings.

(e) COMPLIANCE WITH APPLICABLE LAW.—In carrying out the activities described in subsections (b) and (c), the Secretary shall comply with any applicable Federal law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(f) COST SHARING.—

(1) NON-FEDERAL SHARE.—The non-Federal share of the cost of the project shall be 35 percent.

(2) FEDERAL SHARE.—The Federal share of the cost of any 1 activity described in subsection (b) shall not exceed $5,000,000.

(3) OPERATION AND MAINTENANCE.—The operation and maintenance of the project shall be a non-Federal responsibility.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to pay the Federal share of the cost of carrying out activities under this section $30,000,000 for the period of fiscal years 2000 and 2001.

SEC. 117. OUTER CONTINENTAL SHELF.

(a) SAND, GRAVEL, AND SHELL.—Section 8(k)(2)(B) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(k)(2)(B)) is amended by inserting before the period at the end the following: "or any other non-Federal interest subject to an agreement entered into under section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b)".

(b) REIMBURSEMENT FOR LOCAL SPONSOR AT SANDBRIDGE BEACH, VIRGINIA BEACH, VIRGINIA.—Any amounts paid by the non-Federal sponsor for beach erosion control and hurricane protection, Sandbridge Beach, Virginia Beach, Virginia, as a result of an assessment under section 8(k) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(k)) shall be fully reimbursed.

SEC. 118. ENVIRONMENTAL DREDGING.

Section 312(f) of the Water Resources Development Act of 1990 (33 U.S.C. 1272(f)) is amended by adding at the end the following:

"(6) Snake Creek, Bixby, Oklahoma.".

SEC. 119. BENEFIT OF PRIMARY FLOOD DAMAGES AVOIDED INCLUDED IN BENEFIT COST ANALYSIS.

Section 308 of the Water Resources Development Act of 1990 (33 U.S.C. 2318) is amended—

(1) in the heading of subsection (a), by striking "BENEFIT-COST ANALYSIS" and inserting "ELEMENTS EXCLUDED FROM COST-BENEFIT ANALYSIS";

(2) by redesignating subsections (b) through (e) as subsections (c) through (f), respectively; and

(3) by inserting after subsection (a) the following:

"(b) ELEMENTS INCLUDED IN COST-BENEFIT ANALYSIS.—The Secretary shall include primary flood damages avoided in the benefit base for justifying Federal nonstructural flood damage reduction projects.".

SEC. 120. CONTROL OF AQUATIC PLANT GROWTH.

Section 104(a) of the River and Harbor Act of 1958 (33 U.S.C. 610(a)) is amended—

(1) by inserting "Arundo dona," after "water-hyacinth,"; and

(2) by inserting "tarmarix" after "melaleuca".

SEC. 121. ENVIRONMENTAL INFRASTRUCTURE.

Section 219(c) of the Water Resources Development Act of 1992 (106 Stat. 4835) is amended—

(1) by redesignating paragraphs (1) through (19) as paragraphs (3) through (23), respectively; and

(2) by inserting after "as follows:" the following:

"(1) LAKE TAHOE, CALIFORNIA AND NEVADA.—Regional water system for Lake Tahoe, California and Nevada.

"(2) LANCASTER, CALIFORNIA.—Fox Field Industrial Corridor water facilities, Lancaster, California.

"(3) SAN RAMON, CALIFORNIA.—San Ramon Valley recycled water project, San Ramon, California.

SEC. 122. WATERSHED MANAGEMENT, RESTORATION, AND DEVELOPMENT.

Section 503(d) of the Water Resources Development Act of 1996 (110 Stat. 3756) is amended by adding at the end the following:

"(14) Clear Lake watershed, California.

"(15) Fresno Slough watershed, California.

"(16) Hayward Marsh, Southern San Francisco Bay watershed, California.

"(17) Kaweah River watershed, California.

"(18) Lake Tahoe watershed, California and Nevada.

"(19) Malibu Creek watershed, California.

"(20) Truckee River basin, Nevada.

"(21) Walker River basin, Nevada.".

SEC. 123. LAKES PROGRAM.

Section 602(a) of the Water Resources Act of 1986 (100 Stat. 4148) is amended—

(1) by striking "and" at the end of paragraph (15);

(2) by striking the period at the end of paragraph (16) and inserting a semicolon; and

(3) by adding at the end the following:

"(17) Clear Lake, Lake County, California, removal of silt and aquatic growth and development of a sustainable weed and algae management program.

"(18) Osgood Pond, Milford, New Hampshire, removal of excessive aquatic vegetation.".

SEC. 124. DREDGING OF SALT PONDS IN THE STATE OF RHODE ISLAND.

The Secretary may acquire for the State of Rhode Island a dredge and associated equipment with the capacity to dredge approximately 100 cubic yards per hour for use by the State in dredging salt ponds in the State.

SEC. 125. UPPER SUSQUEHANNA RIVER BASIN, PENNSYLVANIA AND NEW YORK.

Section 567(a) of the Water Resources Development Act of 1996 (110 Stat. 3787) is amended by adding at the end the following:

"(3) The Chemung River watershed, New York, at an estimated cost of $5,000,000.".

SEC. 126. REPAUPO CREEK AND DELAWARE RIVER, GLOUCESTER COUNTY, NEW JERSEY.

Section 102 of the Water Resources Development Act of 1996 (110 Stat. 3668) is amended—

(1) by redesignating paragraphs (15) through (22) as paragraphs (17) through (24), respectively; and

(2) by inserting after paragraph (14) the following:

"(15) REPAUPO CREEK AND DELAWARE RIVER, GLOUCESTER COUNTY, NEW JERSEY.—Project for tidegate and levee improvements for Repaupo Creek and the Delaware River, Gloucester County, New Jersey.

"(16) TIOGA COUNTY, PENNSYLVANIA.—Project for flood control, Tioga River and Cowanesque River and their tributaries, Tioga County, Pennsylvania.".

SEC. 127. SMALL NAVIGATION PROJECTS.

Section 104 of the Water Resources Development Act of 1996 (110 Stat. 3669) is amended—

(1) by redesignating paragraphs (9) through (12) as paragraphs (10) through (13), respectively; and

(2) by inserting after paragraph (8) the following:

"(9) FORTESCUE INLET, DELAWARE BAY, NEW JERSEY.—Project for navigation for Fortesque Inlet, Delaware Bay, New Jersey.".

SEC. 128. STREAMBANK PROTECTION PROJECTS.

The streambank protection project at Coulson Park, along the Yellowstone River, Billings, Montana, shall be eligible for assistance under section 14 of the Flood Control Act of 1946 (60 Stat. 653).

SEC. 129. AQUATIC ECOSYSTEM RESTORATION, SPRINGFIELD, OREGON.

(a) IN GENERAL.—Under section 1135 of the Water Resources Development Act of 1990 (100 Stat. 4251) or other applicable authority, the Secretary shall conduct measures to address water quality, flows and fish habitat restoration in the historic Springfield, Oregon, millrace through the reconfiguration of the existing millpond, if the Secretary determines that harmful impacts have occurred as the result of a previously constructed flood control project by the Army Corps of Engineers.

(b) NON-FEDERAL SHARE.—The non-Federal share, excluding lands, easements, rights-of-way, dredged material disposal areas and relocations, shall be 25 percent.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,500,000.

SEC. 130. GUILFORD AND NEW HAVEN, CONNECTICUT.

The Secretary shall expeditiously complete the activities authorized under section 346 of the Water Resources Development Act of 1992 (106 Stat. 4858), including activities associated with Sluice Creek in Guilford, Connecticut, and Lighthouse Point Park in New Haven, Connecticut.

SEC. 131. FRANCIS BLAND, ARKANSAS FLOODWAY DITCH NO. 5.

(a) REDESIGNATION.—The project for flood control, Eight Mile Creek, Paragould, Arkansas authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4112) and known as "Eight Mile Creek, Paragould, Arkansas", shall be known and designated as the "Francis Bland, Arkansas Floodway Ditch No. 5".

(b) LEGAL PREFERENCES.—Any reference in any law, map, regulation, document, paper, or other record of the United States to the project and creek referred to in subsection (a) shall be deemed to be a reference to the Francis Bland, Arkansas Floodway Ditch No. 5.

SEC. 132. POINT JUDITH BREAKWATER.

(a) IN GENERAL.—The Secretary shall restore the integrity of the breakwater located at Point Judith, Rhode Island, authorized by the first section of the Act of March 2, 1907 (commonly known as the "River and Harbor Appropriations Act of 1907") (34 Stat. 1075, chapter 2509) and the first section of the Act of June 25, 1910 (commonly known as the "River and Harbor Appropriations Act of 1910") (36 Stat. 632, chapter 382), at a total cost of $10,000,000 with an estimated Federal cost of $6,500,000 and an estimated non-Federal cost of $3,500,000.

(b) NON-FEDERAL RESPONSIBILITY.—Operation, maintenance, repair, replacement, and rehabilitation of the restored breakwater shall be a non-Federal responsibility.

SEC. 133. CALOOSAHATCHEE RIVER BASIN, FLORIDA.

Section 528(e)(4) of the Water Resources Development Act of 1996 (110 Stat. 3770) is amended in the first sentence by inserting before the period at the end the following: ", including potential land acquisition in the Caloosahatchee River basin or other areas".

SEC. 134. CUMBERLAND, MARYLAND, FLOOD PROJECT MITIGATION.

(a) IN GENERAL.—The project for flood control and other purposes, Cumberland, Maryland, authorized by section 5 of the Act of June 22, 1936 (commonly known as the "Flood Control Act of 1936") (49 Stat. 1574, chapter 688), is modified to authorize the Secretary to undertake, as a separate part of the project, restoration of the historic Chesapeake and Ohio Canal substantially in accordance with the Chesapeake and Ohio Canal National Historic Park, Cumberland, Maryland, Rewatering Design Analysis, dated February 1998, at a total cost of $15,000,000, with an estimated Federal cost of $9,750,000 and an estimated non-Federal cost of $5,250,000.

(b) IN-KIND SERVICES.—The non-Federal interest for the restoration project under subsection (a) may provide all or a portion of the non-Federal share of project costs in the form of in-kind services and shall receive credit toward the non-Federal share of project costs for design and construction work performed by the non-Federal interest before execution of a project cooperation agreement and for land, easements, and rights-of-way required for the restoration and acquired by the non-Federal interest before execution of such an agreement.

(c) OPERATION AND MAINTENANCE.—The operation and maintenance of the restoration project under subsection (a) shall be the full responsibility of the National Park Service.

SEC. 135. SEDIMENTS DECONTAMINATION POLICY.

(a) PROJECT PURPOSE.—Section 405 of the Water Resources Development Act of 1992 (33 U.S.C. 2239 note; Public Law 102–580) is amended—

(1) in subsection (a), by adding at the end the following:

"(4) PRACTICAL END-USE PRODUCTS.—Technologies selected for demonstration at the pilot scale shall result in practical end-use products.

"(5) ASSISTANCE BY THE SECRETARY.—The Secretary shall assist the project to ensure expeditious completion by providing sufficient quantities of contaminated dredged material to conduct the full-scale demonstrations to stated capacity."; and

(2) in subsection (c), by striking the first sentence and inserting the following: "There is authorized to be appropriated to carry out this section a total of $22,000,000 to complete technology testing, technology commercialization, and the development of full scale processing facilities within the New York-New Jersey Harbor.".

SEC. 136. CITY OF MIAMI BEACH, FLORIDA.

Section 5(b)(3)(C)(i) of the Act of August 13, 1946 (33 U.S.C. 426h), is amended by inserting before the semicolon the following; ", including the city of Miami Beach, Florida".

SEC. 137. SMALL STORM DAMAGE REDUCTION PROJECTS.

Section 3 of the Act of August 13, 1946 (33 U.S.C. 426g), is amended by striking "$2,000,000" and inserting "$3,000,000".

SEC. 138. SARDIS RESERVOIR, OKLAHOMA.

(a) IN GENERAL.—The Secretary shall accept from the State of Oklahoma or an agent of the State an amount, as determined under subsection (b), as prepayment of 100 percent of the water supply cost obligation of the State under Contract No. DACW56–74–JC–0314 for water supply storage at Sardis Reservoir, Oklahoma.

(b) DETERMINATION OF AMOUNT.—The amount to be paid by the State of Oklahoma under subsection (aa) shall be subject to adjustment in accordance with accepted discount purchase methods for Government properties as determined by an independent accounting firm designated by the Director of the Office of Management and Budget.

(c) EFFECT.—Nothing in this section shall otherwise affect any of the rights or obligations of the parties to the contract referred to in subsection (a).

SEC. 139. UPPER MISSISSIPPI RIVER AND ILLINOIS WATERWAY SYSTEM NAVIGATION MODERNIZATION.

(a) FINDINGS.—Congress finds that—

(1) exports are necessary to ensure job creation and an improved standard of living for the people of the United States;

(2) the ability of producers of goods in the United States to compete in the international marketplace depends on a modern and efficient transportation network;

(3) a modern and efficient waterway system is a transportation option necessary to provide United States shippers a safe, reliable, and competitive means to win foreign markets in an increasingly competitive international marketplace;

(4) the need to modernize is heightened because the United States is at risk of losing its competitive edge as a result of the priority that foreign competitors are placing on modernizing their own waterway systems;

(5) growing export demand projected over the coming decades will force greater demands on waterway systems of the United States and increase the cost to the economy if the system proves inadequate to satisfy growing export opportunities;

(6) the locks and dams on the upper Mississippi River and Illinois River waterway system were built in the 1930s and have some of the highest average delays to commercial tows in the country;

(7) inland barges carry freight at the lowest unit cost while offering an alternative to truck and rail transportation that is environmentally sound, is energy efficient, is safe, causes little congestion, produces little air or noise pollution, and has minimal social impact; and

(8) it should be the policy of the Corps of Engineers to pursue aggressively modernization of the waterway system authorized by Congress to promote the relative competitive position of the United States in the international marketplace.

(b) PRECONSTRUCTION ENGINEERING AND DESIGN.—In accordance with the Upper Mississippi River-Illinois Waterway System Navigation Study, the Secretary shall proceed immediately to prepare engineering design, plans, and specifications for extension of locks 20, 21, 22, 24, 25 on the Mississippi River and the LaGrange and Peoria Locks on the Illinois River, to provide lock chambers 110 feet in width and 1,200 feet in length, so that construction can proceed immediately upon completion of studies and authorization of projects by Congress.

SEC. 140. DISPOSAL OF DREDGED MATERIAL ON BEACHES.

Section 145 of the Water Resources Development Act of 1976 (33 U.S.C. 426j) is amended in the first sentence by striking "50" and inserting "35".

SEC. 141. FISH AND WILDLIFE MITIGATION.

Section 906(e) of the Water Resources Development Act of 1986 (33 U.S.C. 2283(e)) is amended by inserting after the second sentence the following: "Not more than 80 percent of the non-Federal share of such first costs may be in kind, including a facility, supply, or service that is necessary to carry out the enhancement project.".

SEC. 142. UPPER MISSISSIPPI RIVER MANAGEMENT.

Section 1103 of the Water Resources Development Act of 1986 (33 U.S.C. 652) is amended—

(1) in subsection (e)—

(A) by striking "(e)" and all that follows through the end of paragraph (2) and inserting the following:

"(e) UNDERTAKINGS.—

"(1) IN GENERAL.—

"(A) AUTHORITY.—The Secretary, in consultation with the Secretary of the Interior and the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, may undertake, as identified in the master plan—

"(i) a program for the planning, construction, and evaluation of measures for fish and wildlife habitat rehabilitation and enhancement;

"(ii) implementation of a long-term resource monitoring, computerized data inventory and analysis, and applied research program; and

"(iii) for each pool and the open reach, a natural resource blueprint to guide habitat rehabilitation and long-term resource monitoring.

"(B) REQUIREMENTS FOR PROJECTS.—Each project carried out under subparagraph (A) shall—

"(i) to the maximum extent practicable, simulate natural river processes; and

"(ii) include an outreach and education component.

"(C) REVIEW COMMITTEE.—In carrying out subparagraph (A), the Secretary shall create an independent technical review committee to review projects, monitoring plans, and blueprints.

"(D) CRITERIA FOR HABITAT REHABILITATION.—In carrying out subparagraph (A), the Secretary shall revise criteria for habitat rehabilitation for projects to promote the simulation of natural river processes, to the maximum extent practicable.

"(E) BLUEPRINTS.—

"(i) DATA.—The natural resource blueprint shall, to the maximum extent practicable, use data in existence on the date of enactment of this subparagraph.

"(ii) TIMING.—The Secretary shall complete a natural resource blueprint for each pool not later than 6 years after the date of enactment of this subparagraph.

"(F) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph $350,000 for each of fiscal years 1999 through 2009.

"(2) REPORTS.—On December 31, 2004, in consultation with the Secretary of the Interior and the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, the Secretary shall prepare and submit to Congress a report that—

"(A) contains an evaluation of the programs described in paragraph (1);

"(B) describes the accomplishments of each program;

"(C) provide updates of a systemic habitat needs assessment; and

"(D) identifies any needed adjustments in the authorization under paragraph (1) or the authorized appropriations under paragraphs (3) and (4).";

(B) in paragraph (3)—

(i) by striking "paragraph (1)(A)" and inserting "paragraph (1)(A)(i); and

(ii) by striking "Secretary not to exceed" and all that follows and inserting "Secretary not to exceed $22,750,000 for each of fiscal years 1999 through 2009.";

(C) in paragraph (4)—

(i) by striking "paragraph (1)(B)" and inserting "paragraph (1)(A)(ii); and

(ii) by striking "$7,680,000" and all that follows and inserting "$10,420,000 for each of fiscal years 1999 through 2009.";

(D) by striking paragraphs (5) and (6) and inserting the following:

"(5) TRANSFER OF AMOUNTS.—For each fiscal year beginning after September 30, 1992, the Secretary, in consultation with the Secretary of the Interior and the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, may transfer appropriated amounts between the programs under subparagraphs (A) and (B) of paragraph (1).";

(E) by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively; and

(F) in paragraph (6) (as redesignated by subparagraph (E))—

(i) in subparagraph (A), by inserting before the period the following: "and, in the case of any project carried out on non-Federal land, the non-Federal share of the cost of the project shall be 35 percent and the non-Federal share of the cost of operation and maintenance of the project shall be 100 percent"; and

(ii) in subparagraph (B), by striking "paragraphs (1)(B) and (1)(C) of this subsection" and inserting "paragraph (1)(B)"; and

(2) by adding at the end the following:

"(k) ST. LOUIS AREA URBAN WILDLIFE HABITAT.—The Secretary shall investigate and, if appropriate, carry out restoration of urban wildlife habitat, with a special emphasis on the establishment of greenways in St. Louis, Missouri, area and surrounding communities.".

SEC. 143. REIMBURSEMENT OF NON-FEDERAL INTEREST.

Section 211(e)(2)(A) of the Water Resources Development Act of 1996 (110 Stat. 3684) is amended by striking "subject to amounts being made available in advance in appropriations Acts" and inserting "subject to the availability of appropriations".

SEC. 144. RESEARCH AND DEVELOPMENT PROGRAM FOR COLUMBIA AND SNAKE RIVERS SALMON SURVIVAL.

Section 511 of the Water Resources Development Act of 1996 (16 U.S.C. 3301 note) is amended by striking subsection (a) and all that follows and inserting the following:

"(a) SALMON SURVIVAL ACTIVITIES.—

"(1) IN GENERAL.—In conjunction with the Secretary of Commerce and Secretary of the Interior, the Secretary shall accelerate ongoing research and development activities, and may carry out or participate in additional research and development activities, for the purpose of developing innovative methods and technologies for improving the survival of salmon, especially salmon in the Columbia/Snake River Basin.

"(2) ACCELERATED ACTIVITIES.—Accelerated research and development activities referred to in paragraph (1) may include research and development related to—

"(A) impacts from water resources projects and other impacts on salmon life cycles;

"(B) juvenile and adult salmon passage;

"(C) light and sound guidance systems;

"(D) surface-oriented collector systems;

"(E) transportation mechanisms; and

"(F) dissolved gas monitoring and abatement.

"(3) ADDITIONAL ACTIVITIES.—Additional research and development activities referred to in paragraph (1) may include research and development related to—

"(A) studies of juvenile salmon survival in spawning and rearing areas;

"(B) estuary and near-ocean juvenile and adult salmon survival;

"(C) impacts on salmon life cycles from sources other than water resources projects;

"(D) cryopreservation of fish gametes and formation of a germ plasm repository for threatened and endangered populations of native fish; and

"(E) other innovative technologies and actions intended to improve fish survival, including the survival of resident fish.

"(4) COORDINATION.—The Secretary shall coordinate any activities carried out under this subsection with appropriate Federal, State, and local agencies, affected Indian tribes, and the Northwest Power Planning Council.

"(5) REPORT.—Not later than 3 years after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the research and development activities carried out under this subsection, including any recommendations of the Secretary concerning the research and development activities.

"(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $10,000,000 to carry out research and development activities under paragraph (3).

"(b) ADVANCED TURBINE DEVELOPMENT.—

"(1) IN GENERAL.—In conjunction with the Secretary of Energy, the Secretary shall accelerate efforts toward developing and installing in Corps of Engineers operated dams innovative, efficient, and environmentally safe hydropower turbines, including design of "fish-friendly" turbines, for use on the Columbia/Snake River hydrosystem.

"(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $35,000,000 to carry out this subsection.

"(c) MANAGEMENT OF PREDATION ON COLUMBIA/SNAKE RIVER SYSTEM NATIVE FISHES.—

"(1) NESTING AVIAN PREDATORS.—In conjunction with the Secretary of Commerce and Secretary of the Interior, and consistent with a management plan to be developed by the United States Fish and Wildlife Service, the Secretary shall carry out methods to reduce nesting populations of avian predators on dredge spoil islands in the Columbia River under the jurisdiction of the Secretary.

"(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $1,000,000 to carry out research and development activities under this subsection.

"(d) IMPLEMENTATION.—Nothing in this section affects the authority of the Secretary to implement the results of the research and development carried out under this section or any other law.".

TITLE II—CHEYENNE RIVER SIOUX TRIBE, LOWER BRULE SIOUX TRIBE, AND STATE OF SOUTH DAKOTA TERRESTRIAL WILDLIFE HABITAT RESTORATION

SEC. 201. DEFINITIONS.

In this title:

(1) RESTORATION.—The term "restoration" means mitigation of the habitat of wildlife.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Army, acting through the Assistant Secretary for Civil Works.

(3) TERRESTRIAL WILDLIFE HABITAT.—The term "terrestrial wildlife habitat" means a habitat for a wildlife species (including game and nongame species) that existed or exists on an upland habitat (including a prairie grassland, woodland, bottom land forest, scrub, or shrub) or an emergent wetland habitat.

(4) WILDLIFE.—The term "wildlife" has the meaning given the term in section 8 of the Fish and Wildlife Coordination Act (16 U.S.C. 666b).

SEC. 202. TERRESTRIAL WILDLIFE HABITAT RESTORATION.

(a) TERRESTRIAL WILDLIFE HABITAT RESTORATION PLANS.—

(1) IN GENERAL.—In accordance with this subsection and in consultation with the Secretary and the Secretary of the Interior, the State of South Dakota, the Cheyenne River Sioux Tribe, and the Lower Brule Sioux Tribe shall, as a condition of the receipt of funds under this title, each develop a plan for the restoration of terrestrial wildlife habitat loss that occurred as a result of flooding related to the Big Bend and Oahe projects carried out as part of the Pick-Sloan Missouri River Basin program.

(2) SUBMISSION OF PLAN TO SECRETARY.—On completion of a plan for terrestrial wildlife habitat restoration, the State of South Dakota, the Cheyenne River Sioux Tribe, and the Lower Brule Sioux Tribe shall submit the plan to the Secretary.

(3) REVIEW BY SECRETARY AND SUBMISSION TO COMMITTEES.—The Secretary shall review the plan and submit the plan, with any comments, to—

(A) the Committee on Environment and Public Works of the Senate; and

(B) the Committee on Resources of the House of Representatives.

(4) FUNDING FOR CARRYING OUT PLANS.—

(A) STATE OF SOUTH DAKOTA.—

(i) NOTIFICATION.—On receipt of the plan for terrestrial wildlife habitat restoration submitted by the State of South Dakota, each of the Committees referred to in paragraph (2) shall notify the Secretary of the Treasury of the receipt of the plan.

(ii) AVAILABILITY OF FUNDS.—On notification in accordance with clause (i), the Secretary of the Treasury shall make available to the State of South Dakota funds from the South Dakota Terrestrial Wildlife Habitat Restoration Trust Fund established under section 203, to be used to carry out the plan for terrestrial wildlife habitat restoration submitted by the State.

(B) CHEYENNE RIVER SIOUX TRIBE AND LOWER BRULE SIOUX TRIBE.—

(i) NOTIFICATION.—On receipt of the plan for terrestrial wildlife habitat restoration submitted by the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe, each of the Committees referred to in paragraph (2) shall notify the Secretary of the Treasury of the receipt of each of the plans.

(ii) AVAILABILITY OF FUNDS.—On notification in accordance with clause (i), the Secretary of the Treasury shall make available to the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe funds from the Cheyenne River Sioux Tribe Terrestrial Wildlife Habitat Restoration Trust Fund and the Lower Brule Sioux Tribe Terrestrial Wildlife Habitat Restoration Trust Fund, respectively, established under section 204, to be used to carry out the plan for terrestrial wildlife habitat restoration submitted by the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe, respectively.

(C) TRANSITION PERIOD.—

(i) IN GENERAL.—During the period described in clause (ii), the Secretary shall—

(I) fund the terrestrial wildlife habitat restoration programs being carried out on the date of enactment of this Act on Oahe and Big Bend project land and the plans established under this section at a level that does not exceed the highest amount of funding that was provided for the programs during a previous fiscal year; and

(II) implement the programs.

(ii) PERIOD.—Clause (i) shall apply during the period—

(I) beginning on the date of enactment of this Act; and

(II) ending on the earlier of—

(aa) the date on which funds are made available for use from the South Dakota Terrestrial Wildlife Habitat Restoration Trust Fund under section 203(d)(3)(A)(i) and the Cheyenne River Sioux Tribe Terrestrial Wildlife Habitat Restoration Trust Fund and the Lower Brule Sioux Tribe Terrestrial Wildlife Habitat Restoration Trust Fund under section 204(d)(3)(A)(i); or

(bb) the date that is 4 years after the date of enactment of this Act.

(b) PROGRAMS FOR THE PURCHASE OF WILDLIFE HABITAT LEASES.—

(1) IN GENERAL.—The State of South Dakota may use funds made available under section 203(d)(3)(A)(iii) to develop a program for the purchase of wildlife habitat leases that meets the requirements of this subsection.

(2) DEVELOPMENT OF A PLAN.—

(A) IN GENERAL.—If the State of South Dakota, the Cheyenne River Sioux Tribe, or the Lower Brule Sioux Tribe elects to conduct a program under this subsection, the State of South Dakota, the Cheyenne River Sioux Tribe, or the Lower Brule Sioux Tribe (in consultation with the United States Fish and Wildlife Service and the Secretary and with an opportunity for public comment) shall develop a plan to lease land for the protection and development of wildlife habitat, including habitat for threatened and endangered species, associated with the Missouri River ecosystem.

(B) USE FOR PROGRAM.—The plan shall be used by the State of South Dakota, the Cheyenne River Sioux Tribe, or the Lower Brule Sioux Tribe in carrying out the program carried out under paragraph (1).

(3) CONDITIONS OF LEASES.—Each lease covered under a program carried out under paragraph (1) shall specify that the owner of the property that is subject to the lease shall provide—

(A) public access for sportsmen during hunting season; and

(B) public access for other outdoor uses covered under the lease, as negotiated by the landowner and the State of South Dakota, the Cheyenne River Sioux Tribe, or the Lower Brule Sioux Tribe.

(4) USE OF ASSISTANCE.—

(A) STATE OF SOUTH DAKOTA.—If the State of South Dakota conducts a program under this subsection, the State may use funds made available under section 203(d)(3)(A)(iii) to—

(i) acquire easements, rights-of-way, or leases for management and protection of wildlife habitat, including habitat for threatened and endangered species, and public access to wildlife on private property in the State of South Dakota;

(ii) create public access to Federal or State land through the purchase of easements or rights-of-way that traverse such private property; or

(iii) lease land for the creation or restoration of a wetland on such private property.

(B) CHEYENNE RIVER SIOUX TRIBE AND LOWER BRULE SIOUX TRIBE.—If the Cheyenne River Sioux Tribe or the Lower Brule Sioux Tribe conducts a program under this subsection, the Tribe may use funds made available under section 204(d)(3)(A)(iii) for the purposes described in subparagraph (A).

(c) FEDERAL OBLIGATION FOR TERRESTRIAL WILDLIFE HABITAT MITIGATION FOR THE BIG BEND AND OAHE PROJECTS IN SOUTH DAKOTA.—The establishment of the trust funds under sections 203 and 204 and the development and implementation of plans for terrestrial wildlife habitat restoration developed by the State of South Dakota, the Cheyenne River Sioux Tribe, and the Lower Brule Sioux Tribe in accordance with this section shall be considered to satisfy the Federal obligation under the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.) for terrestrial wildlife habitat mitigation for the State of South Dakota, the Cheyenne River Sioux Tribe, and the Lower Brule Sioux Tribe for the Big Bend and Oahe projects carried out as part of the Pick-Sloan Missouri River Basin program.

SEC. 203. SOUTH DAKOTA TERRESTRIAL WILDLIFE HABITAT RESTORATION TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the "South Dakota Terrestrial Wildlife Habitat Restoration Trust Fund" (referred to in this section as the "Fund").

(b) FUNDING.—For the fiscal year during which this Act is enacted and each fiscal year thereafter until the aggregate amount deposited in the Fund under this subsection is equal to at least $108,000,000, the Secretary of the Treasury shall deposit in the Fund an amount equal to 15 percent of the receipts from the deposits in the Treasury of the United States for the preceding fiscal year from the power program of the Pick-Sloan Missouri River Basin program, administered by the Western Area Power Administration.

(c) INVESTMENTS.—The Secretary of the Treasury shall invest the amounts deposited under subsection (b) only in interest-bearing obligations of the United States or in obligations guaranteed by the United States as to both principal and interest.

(d) PAYMENTS.—

(1) IN GENERAL.—All amounts credited as interest under subsection (c) shall be available, without fiscal year limitation, to the State of South Dakota for use in accordance with paragraph (3).

(2) WITHDRAWAL AND TRANSFER OF FUNDS.—Subject to section 202(a)(4)(A), the Secretary of the Treasury shall withdraw amounts credited as interest under paragraph (1) and transfer the amounts to the State of South Dakota for use as State funds in accordance with paragraph (3).

(3) USE OF TRANSFERRED FUNDS.—

(A) IN GENERAL.—Subject to subparagraph (B), the State of South Dakota shall use the amounts transferred under paragraph (2) only to—

(i) fully fund the annually scheduled work described in the terrestrial wildlife habitat restoration plan of the State developed under section 202(a); and

(ii) with any remaining funds—

(I) protect archaeological, historical, and cultural sites located along the Missouri River on land transferred to the State;

(II) fund all costs associated with the ownership, management, operation, administration, maintenance, and development of recreation areas and other lands that are transferred to the State of South Dakota by the Secretary;

(III) purchase and administer wildlife habitat leases under section 202(b);

(IV) carry out other activities described in section 202; and

(V) develop and maintain public access to, and protect, wildlife habitat and recreation areas along the Missouri River.

(B) PROHIBITION.—The amounts transferred under paragraph (2) shall not be used for the purchase of land in fee title.

(e) TRANSFERS AND WITHDRAWALS.—Except as provided in subsection (d), the Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).

(f) ADMINISTRATIVE EXPENSES.—There are authorized to be appropriated to the Secretary of the Treasury such sums as are necessary to pay the administrative expenses of the Fund.

SEC. 204. CHEYENNE RIVER SIOUX TRIBE AND LOWER BRULE SIOUX TRIBE TERRESTRIAL WILDLIFE HABITAT RESTORATION TRUST FUNDS.

(a) ESTABLISHMENT.—There are established in the Treasury of the United States 2 funds to be known as the "Cheyenne River Sioux Tribe Terrestrial Wildlife Restoration Trust Fund" and the "Lower Brule Sioux Tribe Terrestrial Wildlife Habitat Restoration Trust Fund" (each of which is referred to in this section as a "Fund").

(b) FUNDING.—

(1) IN GENERAL.—Subject to paragraph (2), for the fiscal year during which this Act is enacted and each fiscal year thereafter until the aggregate amount deposited in the Funds under this subsection is equal to at least $57,400,000, the Secretary of the Treasury shall deposit in the Funds an amount equal to 10 percent of the receipts from the deposits in the Treasury of the United States for the preceding fiscal year from the power program of the Pick-Sloan Missouri River Basin program, administered by the Western Area Power Administration.

(2) ALLOCATION.—Of the total amount of funds deposited into the Funds for a fiscal year, the Secretary of the Treasury shall deposit—

(A) 74 percent of the funds into the Cheyenne River Sioux Tribe Terrestrial Wildlife Restoration Trust Fund; and

(B) 26 percent of the funds into the Lower Brule Sioux Tribe Terrestrial Wildlife Habitat Restoration Trust Fund.

(c) INVESTMENTS.—The Secretary of the Treasury shall invest the amounts deposited under subsection (b) only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

(d) PAYMENTS.—

(1) IN GENERAL.—All amounts credited as interest under subsection (c) shall be available, without fiscal year limitation, to the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe for their use in accordance with paragraph (3).

(2) WITHDRAWAL AND TRANSFER OF FUNDS.—Subject to section 202(a)(4)(B), the Secretary of the Treasury shall withdraw amounts credited as interest under paragraph (1) and transfer the amounts to the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe for use in accordance with paragraph (3).

(3) USE OF TRANSFERRED FUNDS.—

(A) IN GENERAL.—Subject to subparagraph (B), the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe shall use the amounts transferred under paragraph (2) only to—

(i) fully fund the annually scheduled work described in the terrestrial wildlife habitat restoration plan of the respective Tribe developed under section 202(a); and

(ii) with any remaining funds—

(I) protect archaeological, historical, and cultural States located along the Missouri River on land transferred to the respective Tribe;

(II) fund all costs associated with the ownership, management, operation, administration, maintenance, and development of recreation areas and other lands that are transferred to the respective Tribe by the Secretary;

(III) purchase and administer wildlife habitat leases under section 202(b);

(IV) carry out other activities described in section 202;

(V) develop and maintain public access to, and protect, wildlife habitat and recreation areas along the Missouri River.

(B) PROHIBITION.—The amounts transferred under paragraph (2) shall not be used for the purchase of land in fee title.

(e) TRANSFERS AND WITHDRAWALS.—Except as provided in subsection (d), the Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).

(f) ADMINISTRATIVE EXPENSES.—There are authorized to be appropriated to the Secretary of the Treasury such sums as are necessary to pay the administrative expenses of the Fund.

SEC. 205. TRANSFER OF FEDERAL LAND TO STATE OF SOUTH DAKOTA.

(a) IN GENERAL.—

(1) TRANSFER.—The Secretary of the Army shall transfer to the Department of Game, Fish and Parks of the State of South Dakota (referred to in this section as the "Department") the land and recreation areas described in subsections (b) and (c) for fish and wildlife purposes, or public recreation uses, in perpetuity.

(2) USES.—The Department shall maintain and develop the land and recreation areas for fish and wildlife purposes in accordance with—

(A) fish and wildlife purposes in effect on the date of enactment of this Act; or

(B) a plan developed under section 202.

(3) CORPS OF ENGINEERS.—The transfer shall not interfere with the Corps of Engineers operation of a project under this section for an authorized purpose of the project under the Act of December 22, 1944 (58 Stat. 887, chapter 665; 33 U.S.C. 701–1 et seq.) or other applicable law.

(4) SECRETARY OF THE ARMY.—The Secretary of the Army shall retain the right to inundate with water the land transferred to the Department under this section or draw down a project reservoir, as necessary to carry out an authorized purpose of a project.

(b) LAND TRANSFERRED.—The land described in this subsection is land that—

(1) is located above the top of the exclusive flood pool of the Oahe Big Bend, Fort Randall, and Garvin's Point projects of the Pick-Sloan Missouri River Basin program;

(2) was acquired by the Secretary of the Army for the implementation of the Pick-Sloan Missouri River Basin program;

(3) is located outside the external boundaries of a reservation of an Indian Tribe; and

(4) is located within the State of South Dakota.

(c) RECREATION AREAS TRANSFERRED.—A recreation area described in this section includes the land and waters within a recreation area that—

(1) the Secretary of the Army determines, at the time of the transfer, is a recreation area classified for recreation use by the Corps of Engineers on the date of enactment of this Act;

(2) is located outside the external boundaries of a reservation of an Indian Tribe; and

(3) is located within the State of South Dakota.

(d) MAP.—

(1) IN GENERAL.—The Secretary of the Army, in consultation with the Department, shall prepare a map of the land and recreation areas transferred under this section.

(2) LAND.—The map shall identify—

(A) land reasonably expected to be required for project purposes during the 20-year period beginning on the date of enactment of this Act; and

(B) dams and related structures;

which shall be retained by the Secretary.

(3) AVAILABILITY.—The map shall be on file in the appropriate offices of the Secretary of the Army.

(e) SCHEDULE FOR TRANSFER.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Army and the Secretary of the South Dakota Game, Fish, and Parks Department shall jointly develop a schedule for transferring the land and recreation areas under this section.

(2) TRANSFER DEADLINE.—All land and recreation areas shall be transferred not later than 1 year after the full capitalization of the respective Trust Fund described in section 204.

(f) TRANSFER CONDITIONS.—The land and recreation areas described in subsections (b) and (c) shall be transferred in fee title to the Department on the following conditions:

(1) RESPONSIBILITY FOR DAMAGE.—The Secretary of the Army shall not be responsible for any damage to the land caused by flooding, sloughing, erosion, or other changes to the land caused by the operation of any project of the Pick-Sloan Missouri River Basin program (except as otherwise provided by Federal law).

(2) EASEMENTS, RIGHTS-OF-WAY, LEASES, AND COST-SHARING AGREEMENTS.—The Department shall maintain all easements, rights-of-way, leases, and cost-sharing agreements that are in effect as of the date of the transfer.

(g) HUNTING AND FISHING.—Nothing in this title affects jurisdiction over hunting and fishing on the waters of the Missouri River. The State of South Dakota, the Lower Brule Sioux Tribe, and the Cheyenne River Sioux Tribe shall continue to exercise the jurisdiction the State and Tribes possess on the date of enactment of this Act.

SEC. 206. TRANSFER OF CORPS OF ENGINEERS LAND FOR INDIAN TRIBES.

(a) IN GENERAL.—

(1) TRANSFER.—The Secretary of the Army shall transfer to the Secretary of the Interior the land and recreation areas described in subsections (b) and (c).

(2) CORPS OF ENGINEERS.—The transfer shall not interfere with the Corps of Engineers operation of a project under this section for an authorized purpose of the project under the Act of December 22, 1944 (58 Stat. 887, chapter 665; 33 U.S.C. 701–1 et seq.) or other applicable law.

(3) SECRETARY OF THE ARMY.—The Secretary of the Army shall retain the right to inundate with water the land transferred to the Tribes under this section or draw down a project reservoir, as necessary to carry out an authorized purpose of a project.

(4) TRUST.—The Secretary of the Interior shall hold in trust for the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe the land transferred under this section that is located within the external boundaries of the reservation of the Indian Tribes.

(b) LAND TRANSFERRED.—The land described in this subsection is land that—

(1) is located above the top of the exclusive flood pool of the Big Bend and Oahe projects of the Pick-Sloan Missouri River Basin program;

(2) was acquired by the Secretary of the Army for the implementation of the Pick-Sloan Missouri River Basin program; and

(3) is located within the external boundaries of the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe.

(c) RECREATION AREAS TRANSFERRED.—A recreation area described in this section includes the land and waters within a recreation area that—

(1) the Secretary of the Army determines, at the time of the transfer, is a recreation area classified for recreation use by the Corps of Engineers on the date of enactment of this Act;

(2) is located within the external boundaries of a reservation of an Indian Tribe; and

(3) is located within the State of South Dakota.

(d) MAP.—

(1) IN GENERAL.—The Secretary of the Army, in consultation with the governing bodies of the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe, shall prepare a map of the land transferred under this section.

(2) LAND.—The map shall identify—

(A) land reasonably expected to be required for project purposes during the 20-year period beginning on the date of enactment of this Act; and

(B) dams and related structures;

which shall be retained by the Secretary.

(3) AVAILABILITY.—The map shall be on file in the appropriate offices of the Secretary of the Army.

(e) SCHEDULE FOR TRANSFER.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Army and the Chairmen of the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe shall jointly develop a schedule for transferring the land and recreation areas under this section.

(2) TRANSFER DEADLINE.—All land and recreation areas shall be transferred not later than 1 year after the full capitalization of the respective Trust Fund described in section 204.

(f) TRANSFER CONDITIONS.—The land and recreation areas described in subsections (b) and (c) shall be transferred to, and held in trust by, the Secretary of the Interior on the following conditions:

(1) RESPONSIBILITY FOR DAMAGE.—The Secretary of the Army shall not be responsible for any damage to the land caused by flooding, sloughing, erosion, or other changes to the land caused by the operation of any project of the Pick-Sloan Missouri River Basin program (except as otherwise provided by Federal law).

(2) JURISDICTION.—Nothing in this title affects jurisdiction over the land and waters below the exclusive flood pool and within the external boundaries of the Cheyenne River Sioux Tribe and Lower Brule Sioux Tribe reservations. Jurisdiction over the land and waters shall continue in accordance with the Flood Control Act of 1944 (33 U.S.C. 701–1 et seq.). Jurisdiction over the land transferred under this section shall be the same as other land held in trust by the Secretary of the Interior on the Cheyenne River Sioux Tribe reservation and the Lower Brule Sioux Tribe reservation.

(3) EASEMENTS, RIGHTS-OF-WAY, LEASES, AND COST-SHARING AGREEMENTS.—

(A) MAINTENANCE.—The Secretary of the Interior shall maintain all easements, rights-of-way, leases, and cost-sharing agreements that are in effect as of the date of the transfer.

(B) PAYMENTS TO COUNTY.—The Secretary of the Interior shall pay any affected county 100 percent of the receipts from the easements, rights-of-way, leases, and cost-sharing agreements described in subparagraph (A).

SEC. 207. ADMINISTRATION.

(a) IN GENERAL.—Nothing in this title diminishes or affects—

(1) any water right of an Indian Tribe;

(2) any other right of an Indian Tribe, except as specifically provided in another provision of this title;

(3) any valid, existing treaty right that is in effect on the date of enactment of this Act;

(4) any external boundary of an Indian reservation of an Indian Tribe;

(5) any authority of the State of South Dakota that relates to the protection, regulation, or management of fish, terrestrial wildlife, and cultural and archaeological resources, except as specifically provided in this title; or

(6) any authority of the Secretary, the Secretary of the Interior, or the head of any other Federal agency under a law in effect on the date of enactment of this Act, including—

(A) the National Historic Preservation Act (16 U.S.C. 470 et seq.);

(B) the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.);

(C) the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.);

(D) the Act entitled "An Act for the protection of the bald eagle", approved June 8, 1940 (16 U.S.C. 668 et seq.);

(E) the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.);

(F) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(G) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.);

(H) the Federal Water Pollution Control Act (commonly known as the "Clean Water Act") (33 U.S.C. 1251 et seq.);

(I) the Safe Drinking Water Act (42 U.S.C. 300f et seq.); and

(J) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(b) POWER RATES.—No payment made under this title shall affect any power rate under the Pick-Sloan Missouri River Basin program.

(c) FEDERAL LIABILITY FOR DAMAGE.—Nothing in this Act shall relieve the Federal Government of liability for damage to private land caused by the operation of the Pick-Sloan Missouri River Basin program.

(d) FLOOD CONTROL.—Notwithstanding any provision of this title, the Secretary shall retain the authority to operate the Pick-Sloan Missouri River Basin program for purposes of meeting the requirements of the Flood Control Act of 1944 (33 U.S.C. 701-1 et seq.).

SEC. 208. AUTHORIZATION OF APPROPRIATIONS.

(a) SECRETARY.—There are authorized to be appropriated to the Secretary such sums as are necessary—

(1) to pay the administrative expenses incurred by the Secretary in carrying out this title; and

(2) to fund the implementation of terrestrial wildlife habitat restoration plans under section 202(a).

(b) SECRETARY OF THE INTERIOR.—There are authorized to be appropriated to the Secretary of the Interior such sums as are necessary to pay the administrative expenses incurred by the Secretary of the Interior in carrying out this title.

AMENDMENTS NOS. 3798 AND 3799, EN BLOC

Mr. JEFFORDS. Senator CHAFEE has two amendments at the desk and I ask for their consideration en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS], for Mr. CHAFEE, proposes amendments numbered 3798 and 3799, en bloc.

(The text of the amendments is printed in today's RECORD under "Amendments Submitted.")

Mr. CHAFEE. Mr. President, today the Senate will consider S. 2131, the Water Resources Development Act of 1998. This measure, similar to water resources legislation enacted in 1986, 1988, 1990, 1992, and 1996, is comprised of water resources project and study authorizations and policy modifications for the U.S. Army Corps of Engineers Civil Works Program.

S. 2131 was introduced on June 4 of this year and was reported by the Environment and Public Works Committee to the full Senate on August 25, 1998.

Since that time, additional project and policy requests have been presented to the Committee. Some have come from our Senate colleagues—others have come from the administration. We have carefully reviewed each such request and include those that are consistent with the Committee's criteria in the manager's amendment being considered along with S. 2131 today. Mr. President, let me take a few moments here to discuss these criteria—that is—the criteria used by the Committee to judge project authorization requests.

On November 17, 1986, President Reagan signed into law the Water Resources Development Act of 1986. Importantly, the 1986 Act marked an end to the 16-year deadlock between Congress and the Executive branch regarding authorization of the Army Corps Civil Works Program.

In addition to authorizing numerous projects, the 1986 Act resolved longstanding disputes relating to cost-sharing between the Army Corps and non-Federal sponsors, waterway user fees, environmental requirements and, importantly, the types of projects in which Federal involvement is appropriate and warranted.

The criteria used to develop the legislation before us are consistent with the reforms and procedures established in the Landmark Water Resources Development Act of 1986.

Is a project for flood control, navigation or some other purpose cost-shared in a manner consistent with the 1986 Act?

Have all of the requisite reports and studies on economic, engineering and environmental feasibility been completed for a project?

Is a project consistent with the traditional and appropriate mission of the Army Corps?

Should the Federal Government be involved?

These, Mr. President, are the fundamental questions that we have applied to each and every project included here for authorization.

This legislation authorizes the Secretary of the Army to construct some 36 projects for flood control, navigation, and environmental restoration. The bill also modifies 43 existing Army Corps projects and authorizes 29 project studies. In total, this bill and the manager's amendment authorizes an estimated Federal cost of $2.3 billion.

Mr. President, this legislation includes other project-specific and general provisions related to Army Corps operations, as I mentioned at the outset. Among them are two provisions sought by Senator BOND and others to enhance the environment along the Missouri and Mississippi Rivers. We have also included a modified version of the administration's so-called Challenge 21 initiative to encourage more non-structural flood control and environmental projects. In addition, we are recommending that the cost-sharing formula be changed for maintenance of future shoreline protection projects.

Mr. President, this legislation is vitally important for countless states and communities across the country. For economic and life-safety reasons, we must maintain our harbors, ports and inland waterways, our flood control levees and shorelines, and the environment. I strongly urge adoption of the underlying bill and manager's amendment.

Mr. BAUCUS. Mr. President, I rise today to support the adoption of S. 2131, the Water Resources Development Act of 1998. This legislation is our usual biennial authorization for the U.S. Army Corps of Engineers. It includes authority to construct projects for navigation, flood control, hurricane and storm damage reduction, emergency streambank and shore protection, water supply storage, recreation and ecosystem restoration and protection. These projects range from harbor improvements in Nome, Alaska, to shore protection at Little Duval Island in Florida.

Since this historic Water Resources Development Act of 1986, when project cost-sharing was established, the Corps of Engineers has established a successful working relationship with the local sponsors of these projects. This partnership has proven to be beneficial for all involved, and we have continued it in this bill. This important principle, combined with technical soundness, environmental acceptability and economic justification guided the selection of projects in this legislation.

The legislation also contains several changes to the Corps' program. It established new continuing authorities program that would allow the Corps of Engineers to undertake nonstructural flood control projects. It changes the periodic beach renourishment cost-share from the current 65 percent Federal, 35 percent non-Federal, to 50 percent Federal, 50 percent non-Federal.

And it allows the Corps to use recreation fees collected above the current baseline to remain at the park where they were collected to be used for maintenance.

The legislation contains 2 provisions that are very important to my State of Montana. One provision would allow the Corps of Engineers to provided needed emergency streambank stabilization in Billings, Montana. Another provision directs the Secretary of the Army, in cooperation with the U.S. Fish and Wildlife Service, the U.S. Geological Survey, the Natural Resource Conservation Service, the State of Montana and all local interests to conduct a comprehensive study of the cumulative impacts of activities on the Yellowstone River. This study will give us a better understanding of how the natural flow and the man-made structures can best protect the river and its habitat.

I thank Senators CHAFEE and WARNER and all Members who worked with us.

I urge the passage of this bill and swift consideration by the House in order to enact this legislation in the Congress.

Mr. LEVIN. Mr. President, I am pleased that the distinguished managers of the Water Resources Development Act (WRDA) of 1998 have agreed to incorporate into the managers' package several provisions which I have proposed. These cover Michigan projects, Great Lakes Basin matters, and contaminated sediments. I am hopeful that the House will expedite passage of this important matter before concluding legislative business this session.

There are several specific items in the managers' package that will benefit Michigan. They include an Army Corps of Engineers' feasibility study of improvements to the Detroit River waterfront between the Belle Isle Bridge and the Ambassador Bridge, as part of the ongoing revitalization of that area. The Corps will also prepare studies for flood control projects in St. Clair Shores and along the Saginaw River in Bay City to see what types of structures will be necessary to protect shorelines and property. Similarly, the Corps will consider reconstruction of the Hamilton Dam flood control project. And, lastly, the Corps will review its denial of the city of Charlevoix's request for reimbursement of construction costs that it incurred in building a new revetment connection to the Federal navigation project at Charlevoix Harbor.

Mr. President, I would like to bring my colleagues' attention to my proposal, now in the amended bill, that the Great Lakes Basin Program be named the "John Glenn Great Lakes Basin Program." This is a small tribute to our colleague for the hard work that he has done to promote and protect the Great Lakes Basin region. As Democratic Co-Chairman of the Senate Great Lakes Task Force and as a former Chairman and now Ranking Member of the Senate Governmental Affairs Committee, he has long advocated common sense and efficiency in Government. He has sought to coordinate Federal research, regulatory, and conservation activities in the Great Lakes region for many years in areas as diverse as shipping and wildlife restoration. The provisions in the "John Glenn Great Lakes Basin Program" are intended to echo his fine work and enhance coordination in Corps' programs in the region and in Federal activities relating to diversion and consumption of Great Lakes Basin waters. The specifics of the program, including a special study on the western Lake Erie watershed, are as follows:

Strategic Plans. The Army Corps of Engineers is directed to develop a framework for their activities in the Great Lakes basin to be updated biennially. Many Army Corps of Engineers divisions have developed and use such strategic plans. Development of such a strategic plan for the Great Lakes Basin has never been more important than at present, given the potential implications of the restructuring plans for the Great Lakes and Ohio River Division.

Great Lakes Biohydrological Information. The Army Corps of Engineers is directed to inventory existing information relevant to the Great Lakes biohydrological system and sustainable water use management. The Corps is then to report the results of this inventory, including recommendations on ways to improve the information base, to Congress, the International Joint Commission and the eight Great Lakes states. The report will consider and update Congress on the status of the issues and the recommendations described in two IJC reports regarding diversion and consumptive uses of Great Lakes waters and Lake levels. This information will be crucial in ongoing debate regarding the continued attempts to export or divert Great Lakes surface and ground water out of the Basin.

Great Lakes Recreational Boating. The amendment directs the Army Corps of Engineers to submit to Congress a report based on existing information detailing the economic benefits of recreational boating in the Great Lakes Basin. As many of my colleagues may know, despite Congress' repeated objections, consecutive administrations have unwisely sought to limit the Corps' role in dredging so-called recreational harbors. Clearly, these harbors' value should and can be recognized in the cost-benefit analysis conducted in making dredging decisions.

Water Use Activities and Policies. The amendment would allow the Secretary to provide technical assistance to the Great Lakes States to develop interstate guidelines to improve the consistency and efficiency of State-level water use activities and policies in the Great Lakes Basin.

Sea Lamprey Control Barriers. The amendment clarifies that the Army Corps of Engineers may use section 1135 funds to construct sea lamprey barriers at any site in the Great Lakes. As my colleagues may know, the invasive sea lamprey species was introduced into the Great Lakes through construction of the Welland Canal, making control of the lamprey clearly a Federal responsibility. Sea lamprey barriers are among the most cost-effective methods available for the control of lamprey in the Great Lakes and use of Corps expertise, especially in conjunction with existing projects, helps to make this management tool as effective and efficient as possible.

Study on Western Lake Erie watershed. This regional study for the western basin of Lake Erie is a pilot project for efforts in the region to understand the synergistic relationships within a natural watershed and the interplay of human economic, agricultural and commercial development with environmental quality objectives.

Mr. President, once again, I'd like to recognize Senator GLENN for his dedication and devotion to the Great Lakes region, even when it might have caused him some political difficulties at home. He was a staunch supporter of the Great Lakes Water Quality Initiative, which came under great attack from various places around the Lakes. Senator GLENN happened to have some of the most vociferous opponents in his State, but that never stopped him from advocating for uniform water quality criteria across the Basin. All of us in the Great Lakes will always be indebted to him for his support on that measure. By the way, my colleagues might be interested to know that implementation of the Great Lakes Initiative is proceeding nicely in all eight Great Lakes States.

Mr. President, the managers have incorporated another very important matter which I have been pressing them and Federal agencies on for some time. The subject is aquatic contaminated sediments and they are a potential threat to public and environmental health across the country. EPA has begun to document this problem in the National Inventory of Contaminated Sediments released earlier this year. That inventory identifies 96 areas of probable concern which Congress and the public should be concerned about and which require appropriate remedial actions.

The provisions which I requested will require the Army Corps of Engineers and the Environmental Protection Agency to finally activate the National Contaminated Sediment Task Force that was mandated by the Water Resources Development Act of 1992. I am hopeful that convening this Task Force will encourage the Federal agencies to work together to combat this problem and create greater public awareness of the need to address contaminated sediments. And, the Task Force will be required to report to Congress on Federal actions to clean up contaminated sediments around the country. The Assistant Secretary of the Army for Civil Works has assured me by letter that the Army will support the convening of the Task Force.

As the managers may know, WRDA 92 required the creation of a Task Force to advise EPA and the Corps in implementation of the National Contaminated Sediment Assessment and Management Act, to review and comment on specific issues, including the extent and seriousness of the problem and research and development priorities, and to make recommendations on prevention and source control. WRDA 92 required the Task Force to report to Congress with findings and recommendations within 2 years of enactment of that Act. Though some time has elapsed, the Task Force's responsibility to comply with that reporting requirement and other statutory responsibilities has not. I fully expect to see that the Task Force complies with its statutory requirements under WRDA 92 and this Act and will be working to make that happen. I will be doing whatever I can to help the Task Force provide Congress with useful advice on contaminated sediment management in advance of reauthorization of Superfund, the Clean Water Act, RCRA and other pertinent laws.

Mr. President, contaminated sediments can pose a serious and demonstrable risk to human health and the environment. Persistent, bioaccumulative toxic substances in contaminated sediment can poison the food chain, making fish and shellfish unsafe for humans and wildlife to eat. Potential costs to society include long term health effects such as cancer and children's neurological and IQ impairment. Contamination of sediments can also interfere with recreational uses and increase the costs of and time needed for navigational dredging and subsequent disposal of dredged material.

Since enactment of the Great Lakes Critical Program Act of 1990, and the National Contaminated Sediment Assessment and Management Act of 1992, the Nation has gained considerable experience and understanding about sediment contamination. As I have mentioned, the report on the Incidence and Severity of Sediment Contamination in Surface Waters of the United States, required under section 503 of the National Contaminated Sediment Assessment and Management Act of 1992, identified 96 areas of probable concern where contaminated sediments pose potential risks to fish and wildlife, and to people who eat fish from them.

The Assessment and Remediation of Contaminated Sediments (ARCS) program under the Clean Water Act, and subsequent studies, have demonstrated that there are some effective tools for determining the extent and magnitude of sediment contamination, for assessing risk and modeling the changes that would result from remedial action, and for involving the public in solutions. Prompt response after discovery of sediment contamination can prevent subsequent spread through storm events and minimize environmental impacts and response costs.

Unfortunately, the resources of the Federal Government have not been brought to bear on these problems in a well coordinated fashion. That is the principle reason for pursuing the convening of the Task Force. But, we also need a better understanding of the quantities and sources of sediment contamination, to prevent subsequent recontamination and minimize the recurrence of these costs and impacts, and to get a handle on the extent of the public health threat. To that end, my provision requires the Task Force to document in a report the status of remedial action on contaminated sediments around the country, including a description of the authorities used in cleanup, the nature and sources of sediment contamination, the methods for determining the need for cleanup, the fate of dredged materials, and barriers to swift remediation.

The response to releases of contaminated sediments should reflect the risk associated with the contamination, and remedies should reflect the beneficial reuse of contaminants. To respond to the serious environmental risks that can be posed by contaminated sediment sites, the Federal Government should use funding and enforcement authorities of existing programs to help remediate these sites.

Last year, the National Research Council's Committee on Contaminated Marine Sediment published a report on Contaminated Sediments in Ports and Waterways: Cleanup Strategies and Technologies. That report highlights the problems with the existing regulatory framework for addressing sediment contamination. While the EPA has put out a "Contaminated Sediment Management Strategy", the regulatory issues raised by the NAS clearly go beyond the scope of the authority of any single agency.

It is likely that the Clean Water Act, Superfund, and the next biennial Water Resources Development Act will all be under consideration in the next Congress. Prompt development of an interagency strategy that addresses the problems identified by the survey and the regulatory and technological issues raised by NAS could make a substantial contribution to helping inform decisionmakers on appropriate legislative changes. It is important that the agencies and the Task Force pay close attention to the analysis and recommendations in the 1997 NAS report.

The NAS report clearly sets out the problems posed by the existing statutory and regulatory framework. It is also clear on the stakes involved, observing that: "The presence of contaminated sediments poses a barrier to essential waterway maintenance and construction in many ports, which support approximately 95 percent of U.S. foreign trade."

NAS identifies the "complex and sometimes inconsistent regulatory framework" as one of the key challenges in managing contaminated sediment, observing that "at least six comprehensive acts of Congress, with responsibilities spread over seven Federal agencies, govern sediment remediation or dredging operations in settings that range from the open ocean to the freshwater reaches of estuaries and wetlands." Many of the applicable authorities were not originally designed to address contaminated sediments, and questions of risk and costs are not considered in a consistent way across the statutes.

The NAS also observes that

> . . . current laws and regulations affecting contaminated sediments can impede efforts to implement the best management practices and achieve efficient, risk-based, and cost-effective solutions. This is a shortcoming of the governing statutes, not a criticism of regulatory agencies charged with implementing them. The timeliness of decision making is also an issue, given that it typically takes years to implement solutions to contaminated sediments problems. In the committee's case histories, the delay between the discovery of a problem and the implementation of a solution ranged from approximately 3 to 15 years.
>
> However, there are no risk-based cleanup standards for underwater sediments. Insufficient attention to risks, costs, and benefits impedes efforts to reach technically sound decisions and mange sediments cost-effectively. Similar inattention to risk is evident in the permitting processes for sediment disposal.

NAS concludes that

> In the committee's view, cost-effective management of contaminated marine sediments will require a multifaceted campaign as well as a willingness to innovate.

The Task Force is set up to involve different agencies and levels of Government, including States that have pioneered innovative approaches for intergovernmental collaboration.

The NAS report did not actually make specific recommendations for statutory language changes. That would be the function of the Task Force and would require the participation and input of the affected Federal agencies on the Task Force and the representatives on the Task Force from the States, public interest groups with a demonstrated interest in the matter, and from the ports, agriculture or manufacturing sectors. Also, the existence and advice of the Task Force should help eliminate Congress' perennial need to deal with contaminated sediments in minute detail for individual watersheds.

Mr. President, I want to be clear that convening the Task Force should not provide an excuse for delay or more inaction. The NAS has already spoken against delay. The report observes that: . . . there is no reason to delay urgent projects in anticipation of new technological solutions; decision makers should continue to try to make incremental improvements in the overall management process,. . ." and that, "The need to meet these challenges [posed by contaminated sediment management] is urgent."

I appreciate my colleagues assistance in incorporating this and the other matters I have discussed into the managers' amendment to S. 2131. I look forward to working with them to get these important provisions signed into law.

Mr. SARBANES. Mr. President, I rise in support of S. 2131, the Water Resources Development Act of 1998, and the Committee amendment, which provide for the development and improvement of our Nation's water resources infrastructure. This legislation authorizes water resource projects of vital importance to our Nation's and our States' economy and maritime industry as well as our environment.

I am particularly pleased that the measure includes a number of provisions for which I have fought to ensure the future health of the Port of Baltimore and of Maryland's environment.

First the bill authorizes nearly $28 million for needed improvements to Baltimore Harbor Anchorages and Channels. Many of the existing anchorages and branch channels within Baltimore Harbor were built in the first half of this century and are no longer deep enough, wide enough or long enough to accommodate the vessels now calling on the Port of Baltimore. Many of the larger ships must now anchor some 25 miles south of Baltimore in naturally deep water, resulting in delays and increased costs to the shipping industry. Also, the narrow widths of some of the branch channels result in additional time for the pilots to maneuver safely to and from their docking berths. In June 1998 the Chief of Engineers approved a report which recommended a number of improvements including: (1) widening and deepening Federal anchorages 3 and 4; (2) widening and providing flared corners for state-owned East Dundalk, Seagirt, Connecting and West Dundalk branch Channels; (3) dredging a new branch channel at South Locust Point; and (4) dredging a turning basin at the head of the Fort McHenry Channel. The report identified the project as "technically sound, economically justified and environmentally and socially acceptable." This project has been a top priority of mine, of the Maryland Port Administration and of the shipping community for many years and I am delighted that this legislation will enable us to move forward with this important project.

Second, the legislation directs the Corps of Engineers to make critically needed safety improvements to the Tolchester Channel in the Chesapeake Bay. The Tolchester Channel is a vital link in the Baltimore Port system. It was authorized in the River and Harbor Act of 1958 and aligned to take advantage of the naturally deep water in the Chesapeake Bay, along Maryland's Eastern Shore. This alignment, which is shaped like an "S," has posed a serious navigation problem and safety risks for vessels. Ships must change course five times within three miles, often beginning a new turn, sometimes in the opposite direction, before completing a first turn. With vessels nearly 1,000 feet in length, it is difficult to safely navigate the channel, particularly in poor weather conditions. The U.S. Coast Guard and the Maryland Pilots Association have expressed serious concerns over the safety of the area and have long recommended straightening of the channel due to the groundings and "near misses" which have occurred in the area. The cost for straightening the Tolchester "S-turn" is estimated at $12.6 million with $1.3 million coming from non-Federal sources. This authorization enables the Corps to proceed expeditiously with these improvements and address the serious concerns of those who must navigate the treacherous channel.

Mr. President, the Port of Baltimore is one of the great ports of the world and one of Maryland's most important economic assets. The Port generates $2 billion in annual economic activity, provides for an estimated 62,000 jobs, and over $500 million a year in State and local tax revenues and customs receipts. These two projects will help assure the continued vitality of the Port of Baltimore into the 21st century.

In addition to port development and improvement projects, the measure contains a provision which will help significantly to enhance Maryland's environment and quality of life and help achieve the goals and vision of the Potomac American Heritage River designation.

It authorizes $15 million for the U.S. Army Corps of Engineers to modify the existing flood protection project at Cumberland, Maryland to restore features of the historic Chesapeake and Ohio Canal adversely affected by construction and operation of the project. Mr. President, the C&O Canal is widely regarded as the Nation's finest relic of America's canal building era. It was begun in 1828 as a transportation route between commercial centers in the East and frontier resources of the West. It reached Cumberland in 1850 and continued operating until 1924 when it succumbed to floods and financial failure. In the early 1950's, a section of the Canal and turning basin at its Cumberland terminus was filled in by the Corps of Engineers during construction of a local flood protection project. Portions of the Canal were proclaimed a national monument in 1961 and it was officially established as a national historical park in 1971. Justice Douglas described the park "* * * not yet marred by the roar of wheels and the sound of horns * * * The stretch of 185 miles of country from Washington to Cumberland, Maryland, is one of the most fascinating and picturesque in the Nation."

The National Park Service, as part of its General Management Plan for the Park, has long sought to rebuild and re-water the Canal at its Cumberland terminus. The NPS entered into a Memorandum of Agreement (MOA) with the Corps to undertake a study of the feasibility of reconstructing the last 2,200 feet of the canal to the terminus, through and adjacent to the Corps' flood protection project. The Corps completed this study in July 1995 and determined that "it is feasible to re-water the canal successfully; the canal and flood protection levee can co-exist on the site without compromising the flood protection for the City of Cumberland; re-construction and partial operation of the locks is feasible; and, based on the as-built information available, underground utility impacts can be mitigated at reasonable cost to allow construction of the canal and turning basin in basically the same alignment and configuration as the original canal." A subsequent Re-watering Design Analysis estimated the total project cost at $15 million. This authorization will enable the Corps to proceed with restoring a 1.1 mile stretch of the C&O Canal and revitalize the area as a major hub for tourism and economic development.

I want to compliment the distinguished Chairmen of the Committee and the Subcommittee, Senators CHAFEE and WARNER, and the ranking member, Senator BAUCUS, for their leadership in crafting this legislation and I urge my colleagues to join me in supporting this measure.

SAVANNAH HARBOR DEEPENING PROJECT

Mr. COVERDELL. Mr. President, I rise to request that the Chairman of the Senate Environment and Public Works Committee help me to clarify the intent of the Savannah Harbor Expansion Project authorization that appears in Section 102 of the 1998 Water Resources Development Authorization Act. It is my understanding that this legislation authorizes a project to deepen the Savannah River channel to a depth of up to 48 feet subject to a favorable report by the Chief of Engineers and a favorable recommendation of the Secretary by December 31, 1998.

Mr. CHAFFEE. The senior Senator from Georgia is correct.

Mr. COVERDELL. Mr. President, it is my understanding as well, that both the Chief of Engineer's Tier I Environmental Impact Statement and Feasibility Report provide for the establishment of a stakeholders' evaluation group which will have early and consistent involvement in the project, and as part of the process, the EIS requires the development of a mitigation plan to fully and adequately address predicted and potential adverse impacts on, among other things, the Savannah National Wildlife Refuge; striped base population; short-nose sturgeon; salt water and fresh water wetlands; chloride levels; dissolved oxygen levels; erosion; and historical resources. Is that correct?

Mr. CHAFFEE. That is correct.

Mr. COVERDELL. Mr. President, it is my further understanding that before this project is carried out, the Secretary, in consultation with affected Federal and non-Federal entities, must develop a mitigation plan addressing adverse project impacts and that the plan must be implemented in advance of or concurrent with project construction and must ensure that the project cost estimates are sufficient to address all potential mitigation alternatives. Is that correct?

Mr. CHAFFEE. That is correct.

Mr. COVERDELL. I thank the Chairman for his assistance and look forward to working with him on this important matter.

Mr. CLELAND. Would the Chairman yield for two additional questions on this project?

Mr. CHAFFEE. I would be happy to answer any questions the Senator may have.

Mr. CLELAND. It is my understanding that the authorization language provides that neither the Secretary nor the Georgia Ports Authority will proceed with the design or construction of the project until the respective department heads concur on an appropriate implementation plan and mitigation plan. Is that correct?

Mr. CHAFFEE. That is correct.

Mr. CLELAND. Any funds to be appropriated by Congress for the project must be allocated in a manner that ensures that project impacts are fully and adequately mitigated and are otherwise consistent with the mitigation plan developed by the Secretary and the stakeholder evaluation group. Is that correct?

Mr. CHAFFEE. That is correct.

Mr. CLELAND. I thank the Chairman for the opportunity to clarify these understandings.

Mr. JEFFORDS. I ask unanimous consent that the amendments be agreed to en bloc, the committee substitute be agreed to, the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 3798 and 3799) were agreed to.

The committee substitute, as amended, was agreed to.

The bill (S. 2131), as amended, was passed.

[The bill was not available for printing. It will appear in a future issue of the RECORD.]

RHINOCEROS AND TIGER CONSERVATION ACT OF 1998

Mr. JEFFORDS. I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 519, S. 361.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 361) to amend the Endangered Species Act of 1994 to prohibit the sale, import and export of products labeled as containing endangered species, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Environment and Public Works, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rhinoceros and Tiger Conservation Act of 1998".

SEC. 2. FINDINGS.

Congress finds that—

(1) the populations of all but 1 species of rhinoceros, and the tiger, have significantly declined in recent years and continue to decline;

(2) these species of rhinoceros and tiger are listed as endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) and listed on Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, signed on March 3, 1973 (27 UST 1087; TIAS 8249) (referred to in this Act as "CITES");

(3) the Parties to CITES have adopted several resolutions—

(A) relating to the conservation of tigers (Conf. 9.13 (Rev.)) and rhinoceroses (Conf. 9.14), urging Parties to CITES to implement legislation to reduce illegal trade in parts and products of the species; and

(B) relating to trade in readily recognizable parts and products of the species (Conf. 9.6), and trade in traditional medicines (Conf. 10.19), recommending that Parties ensure that their legislation controls trade in those parts and derivatives, and in medicines purporting to contain them;

(4) a primary cause of the decline in the populations of tiger and most rhinoceros species is the poaching of the species for use of their parts and products in traditional medicines;

(5) there are insufficient legal mechanisms enabling the United States Fish and Wildlife Service to interdict products that are labeled as containing substances derived from rhinoceros or tiger species and prosecute the merchandisers for sale or display of those products; and

(6) legislation is required to ensure that—

(A) products containing rhinoceros parts or tiger parts are prohibited from importation into, or exportation from, the United States; and

(B) efforts are made to educate persons regarding alternatives for traditional medicine products, the illegality of products containing rhinoceros parts and tiger parts, and the need to conserve rhinoceros and tiger species generally.

SEC. 3. PURPOSES OF THE RHINOCEROS AND TIGER CONSERVATION ACT OF 1994.

Section 3 of the Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5302) is amended by adding at the end the following:

"(3) To prohibit the sale, importation, and exportation of products intended for human consumption or application containing, or labeled or advertised as containing, any substance derived from any species of rhinoceros or tiger.".

SEC. 4. DEFINITION OF PERSON.

Section 4 of the Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5303) is amended—

(1) in paragraph (4), by striking "and" at the end;

(2) in paragraph (5), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(6) 'person' means—

"(A) an individual, corporation, partnership, trust, association, or other private entity;

"(B) an officer, employee, agent, department, or instrumentality of—

"(i) the Federal Government;

"(ii) any State, municipality, or political subdivision of a State; or

"(iii) any foreign government;

"(C) a State, municipality, or political subdivision of a State; or

"(D) any other entity subject to the jurisdiction of the United States.".

SEC. 5. PROHIBITION ON SALE, IMPORTATION, OR EXPORTATION OF PRODUCTS LABELED AS RHINOCEROS OR TIGER PRODUCTS.

The Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5301 et seq.) is amended—

(1) by redesignating section 7 as section 9; and

(2) by inserting after section 6 the following:

"SEC. 7. PROHIBITION ON SALE, IMPORTATION, OR EXPORTATION OF PRODUCTS LABELED AS RHINOCEROS OR TIGER PRODUCTS.

"(a) PROHIBITION.—A person shall not sell, import, or export, or attempt to sell, import, or export, any product, item, or substance intended for human consumption or application containing, or labeled or advertised as containing, any substance derived from any species of rhinoceros or tiger.

"(b) PENALTIES.—

"(1) CRIMINAL PENALTY.—A person engaged in business as an importer, exporter, or distributor that knowingly violates subsection (a) shall be fined under title 18, United States Code, imprisoned not more than 6 months, or both.

"(2) CIVIL PENALTIES.—

"(A) IN GENERAL.—A person that knowingly violates subsection (a), and a person engaged in business as an importer, exporter, or distributor that violates subsection (a), may be assessed a civil penalty by the Secretary of not more than $12,000 for each violation.

"(B) MANNER OF ASSESSMENT AND COLLECTION.—A civil penalty under this paragraph shall be assessed, and may be collected, in the manner in which a civil penalty under the Endangered Species Act of 1973 may be assessed and collected under section 11(a) of that Act (16 U.S.C. 1540(a)).

"(c) PRODUCTS, ITEMS, AND SUBSTANCES.—Any product, item, or substance sold, imported, or exported, or attempted to be sold, imported, or exported, in violation of this section or any regulation issued under this section shall be subject to seizure and forfeiture to the United States.

"(d) REGULATIONS.—After consultation with the Secretary of the Treasury, the Secretary of Health and Human Services, and the United States Trade Representative, the Secretary shall

issue such regulations as are appropriate to carry out this section.

"(e) ENFORCEMENT.—The Secretary, the Secretary of the Treasury, and the Secretary of the department in which the Coast Guard is operating shall enforce this section in the manner in which the Secretaries carry out enforcement activities under section 11(e) of the Endangered Species Act of 1973 (16 U.S.C. 1540(e)).

"(f) USE OF PENALTY AMOUNTS.—Amounts received as penalties, fines, or forfeiture of property under this section shall be used in accordance with section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d)).".

SEC. 6. EDUCATIONAL OUTREACH PROGRAM.

The Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5301 et seq.) (as amended by section 5) is amended by inserting after section 7 the following:

"SEC. 8. EDUCATIONAL OUTREACH PROGRAM.

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary shall develop and implement an educational outreach program in the United States for the conservation of rhinoceros and tiger species.

"(b) GUIDELINES.—The Secretary shall publish in the Federal Register guidelines for the program.

"(c) CONTENTS.—Under the program, the Secretary shall publish and disseminate information regarding—

"(1) laws protecting rhinoceros and tiger species, in particular laws prohibiting trade in products containing, or labeled as containing, their parts;

"(2) use of traditional medicines that contain parts or products of rhinoceros and tiger species, health risks associated with their use, and available alternatives to the medicines; and

"(3) the status of rhinoceros and tiger species and the reasons for protecting the species.".

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

Section 9 of the Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5306) (as redesignated by section 5(1)) is amended by striking "1996, 1997, 1998, 1999, and 2000" and inserting "1996 through 2002".

Amend the title so as to read: "A bill to amend the Rhinoceros and Tiger Conservation Act of 1994 to prohibit the sale, importation, and exportation of products intended for human consumption or application containing, or labeled or advertised as containing, any substance derived from any species of rhinoceros or tiger, and to reauthorize the Rhinoceros and Tiger Conservation Act of 1994, and for other purposes.".

AMENDMENT NO. 3797

Mr. JEFFORDS. Senator CHAFEE has a technical amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS], for Mr. CHAFEE, proposes an amendment numbered 3797.

The amendment is as follows:

On page 5, line 23, insert "or advertised" after "labeled".

On page 6, line 4, insert ", or labeled or advertised as containing," after "containing".

On page 6, line 9, insert ", or labeled or advertised as containing," after "containing".

On page 7, line 20, insert "**OR ADVERTISED**" after "**LABELED**".

On page 8, line 2, insert "**OR ADVERTISED**" after "**LABELED**".

On page 10, line 17, insert "or advertised" after "labeled".

Mr. CHAFEE. Mr. President, I am pleased that the Senate is considering S. 361, sponsored by Senator JEFFORDS and approved by the Committee on Environment and Public Works on July 22, 1998. Rhinos and tigers are some of the most critically endangered species on the planet. Fewer than 7,500 tigers survive in the world today, and of the eight subspecies that have been identified, three are extinct. Another subspecies in South China is on the brink of extinction, with a population of about 20 animals.

Rhinos number between 11,000 and 13,500, with two species in Africa and three in Asia. Two of the Asian species themselves are on the verge of extinction, with the Javan rhino having less than 100 individuals, and the Sumatran rhino having less than 500.

The reason for the recent decline of rhinos and tigers, and the primary immediate threat to their survival is the same—poaching. The reason for the poaching itself is also the same—parts of both rhinos and tigers are used in traditional Asian medicines.

In 1994, Congress passed the Rhinoceros and Tiger Conservation Act to help conserve rhinos and tigers. The Act established the "Rhinoceros and Tiger Conservation Fund" to receive funds appropriated by Congress, as well as donations, to fund conservation projects. Since its enactment, Congress has appropriated $1 million for the program, funding 40 projects in 10 range countries in Africa and Asia.

Despite this program and recent efforts by the Parties to CITES, trade of traditional Asian medicine containing rhino and tiger parts continues to be high, particularly in Asia and the United States. Neither the ESA not CITES allow for the interdiction of products that are labeled or advertised as containing substances derived from rhinos or tigers, without evidence that the products in fact contain these substances. Such evidence, at best, would be extremely difficult, expensive, and time-consuming to acquire, and at worst, would be impossible to acquire.

The bill amends the Rhinoceros and Tiger Conservation Act to address this problem. It prohibits products that contain, or are labeled or advertised as containing, rhino and tiger parts, in an effort to reduce the supply and demand of those products in the United States. It requires a public outreach program in the United States to complement the prohibitions. Lastly, it reauthorizes the Rhinoceros and Tiger Conservation Act through 2002.

As a related matter, I would like to note that even as Congress reaffirms and strengthens the laws for the conservation of rhinos and tigers, funding for implementation of these laws is woefully inadequate. This year—the Year of the Tiger—the administration requested only $400,000 for implementing the Rhinoceros and Tiger Conservation Act. The Act is authorized to be appropriated up to $10 million annually. I strongly urge the administration, for fiscal year 2000, to request funding commensurate with the dire situation facing rhinos, and particularly tigers, in the wild. I also would like to note that the Act allows for donations to be made to the Rhinoceros and Tiger Conservation Fund, and I urge both corporations and individuals to make donations to this Fund.

I wish to thank my colleagues for considering this bill, and I urge the House to approve it expeditiously, so that it can then be signed by the President. I thank the Chair. I yield the floor.

Mr. JEFFORDS. I ask unanimous consent the amendment be agreed to, the committee substitute be agreed to, the bill be considered read a third time and passed, the amendment to the title be agreed to, and the title, as amended, be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3797) was agreed to.

The committee substitute, as amended, was agreed to.

The bill (S. 361), as amended, was passed, as follows:

S. 361

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rhinoceros and Tiger Conservation Act of 1998".

SEC. 2. FINDINGS.

Congress finds that—

(1) the populations of all but 1 species of rhinoceros, and the tiger, have significantly declined in recent years and continue to decline;

(2) these species of rhinoceros and tiger are listed as endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) and listed on Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, signed on March 3, 1973 (27 UST 1087; TIAS 8249) (referred to in this Act as "CITES");

(3) the Parties to CITES have adopted several resolutions—

(A) relating to the conservation of tigers (Conf. 9.13 (Rev.)) and rhinoceroses (Conf. 9.14), urging Parties to CITES to implement legislation to reduce illegal trade in parts and products of the species; and

(B) relating to trade in readily recognizable parts and products of the species (Conf. 9.6), and trade in traditional medicines (Conf. 10.19), recommending that Parties ensure that their legislation controls trade in those parts and derivatives, and in medicines purporting to contain them;

(4) a primary cause of the decline in the populations of tiger and most rhinoceros species is the poaching of the species for use of their parts and products in traditional medicines;

(5) there are insufficient legal mechanisms enabling the United States Fish and Wildlife Service to interdict products that are labeled or advertised as containing substances derived from rhinoceros or tiger species and

prosecute the merchandisers for sale or display of those products; and

(6) legislation is required to ensure that—

(A) products containing, or labeled or advertised as containing, rhinoceros parts or tiger parts are prohibited from importation into, or exportation from, the United States; and

(B) efforts are made to educate persons regarding alternatives for traditional medicine products, the illegality of products containing, or labeled or advertised as containing, rhinoceros parts and tiger parts, and the need to conserve rhinoceros and tiger species generally.

SEC. 3. PURPOSES OF THE RHINOCEROS AND TIGER CONSERVATION ACT OF 1994.

Section 3 of the Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5302) is amended by adding at the end the following:

"(3) To prohibit the sale, importation, and exportation of products intended for human consumption or application containing, or labeled or advertised as containing, any substance derived from any species of rhinoceros or tiger.".

SEC. 4. DEFINITION OF PERSON.

Section 4 of the Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5303) is amended—

(1) in paragraph (4), by striking "and" at the end;

(2) in paragraph (5), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(6) 'person' means—

"(A) an individual, corporation, partnership, trust, association, or other private entity;

"(B) an officer, employee, agent, department, or instrumentality of—

"(i) the Federal Government;

"(ii) any State, municipality, or political subdivision of a State; or

"(iii) any foreign government;

"(C) a State, municipality, or political subdivision of a State; or

"(D) any other entity subject to the jurisdiction of the United States.".

SEC. 5. PROHIBITION ON SALE, IMPORTATION, OR EXPORTATION OF PRODUCTS LABELED OR ADVERTISED AS RHINOCEROS OR TIGER PRODUCTS.

The Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5301 et seq.) is amended—

(1) by redesignating section 7 as section 9; and

(2) by inserting after section 6 the following:

"SEC. 7. PROHIBITION ON SALE, IMPORTATION, OR EXPORTATION OF PRODUCTS LABELED OR ADVERTISED AS RHINOCEROS OR TIGER PRODUCTS.

"(a) Prohibition.—A person shall not sell, import, or export, or attempt to sell, import, or export, any product, item, or substance intended for human consumption or application containing, or labeled or advertised as containing, any substance derived from any species of rhinoceros or tiger.

"(b) Penalties.—

"(1) Criminal penalty.—A person engaged in business as an importer, exporter, or distributor that knowingly violates subsection (a) shall be fined under title 18, United States Code, imprisoned not more than 6 months, or both.

"(2) Civil penalties.—

"(A) In general.—A person that knowingly violates subsection (a), and a person engaged in business as an importer, exporter, or distributor that violates subsection (a), may be assessed a civil penalty by the Secretary of not more than $12,000 for each violation.

"(B) Manner of assessment and collection.—A civil penalty under this paragraph shall be assessed, and may be collected, in the manner in which a civil penalty under the Endangered Species Act of 1973 may be assessed and collected under section 11(a) of that Act (16 U.S.C. 1540(a)).

"(c) Products, Items, and Substances.—Any product, item, or substance sold, imported, or exported, or attempted to be sold, imported, or exported, in violation of this section or any regulation issued under this section shall be subject to seizure and forfeiture to the United States.

"(d) Regulations.—After consultation with the Secretary of the Treasury, the Secretary of Health and Human Services, and the United States Trade Representative, the Secretary shall issue such regulations as are appropriate to carry out this section.

"(e) Enforcement.—The Secretary, the Secretary of the Treasury, and the Secretary of the department in which the Coast Guard is operating shall enforce this section in the manner in which the Secretaries carry out enforcement activities under section 11(e) of the Endangered Species Act of 1973 (16 U.S.C. 1540(e)).

"(f) Use of Penalty Amounts.—Amounts received as penalties, fines, or forfeiture of property under this section shall be used in accordance with section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d)).".

SEC. 6. EDUCATIONAL OUTREACH PROGRAM.

The Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5301 et seq.) (as amended by section 5) is amended by inserting after section 7 the following:

"SEC. 8. EDUCATIONAL OUTREACH PROGRAM.

"(a) In General.—Not later than 180 days after the date of enactment of this section, the Secretary shall develop and implement an educational outreach program in the United States for the conservation of rhinoceros and tiger species.

"(b) Guidelines.—The Secretary shall publish in the Federal Register guidelines for the program.

"(c) Contents.—Under the program, the Secretary shall publish and disseminate information regarding—

"(1) laws protecting rhinoceros and tiger species, in particular laws prohibiting trade in products containing, or labeled or advertised as containing, their parts;

"(2) use of traditional medicines that contain parts or products of rhinoceros and tiger species, health risks associated with their use, and available alternatives to the medicines; and

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SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

Section 9 of the Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5306) (as redesignated by section 5(1)) is amended by striking "1996, 1997, 1998, 1999, and 2000" and inserting "1996 through 2002".

The title was amended so as to read:

A bill to amend the Rhinoceros and Tiger Conservation Act of 1994 to prohibit the sale, importation, and exportation of products intended for human consumption or application containing, or labeled or advertised as containing, any substance derived from any species of rhinoceros or tiger, and to reauthorize the Rhinoceros and Tiger Conservation Act of 1994, and for other purposes.

ASSISTING THE IRISH PEACE PROCESS

Mr. JEFFORDS. I ask unanimous consent the Senate now proceed to the immediate consideration of H.R. 4293 which was received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4293) to establish a cultural training program for disadvantaged individuals to assist the Irish peace process.

The Senate proceeded to consider the bill.

Mr. D'AMATO. Mr. President, on May 22, 1998, the people of Northern Ireland and the Republic of Ireland courageously voted to make a break with the tragic violence of their past by expressing their support for the April 10 Peace Accords.

The time is right for the U.S. to step in and show support for the changes in Ireland. We have a unique opportunity to participate in the building of an everlasting peace with the Northern Ireland Visa for Peace and Reconciliation Act.

Northern Ireland will undergo massive changes as it progresses beyond its violent past to a calm, more peaceful future. These changes require economic opportunities and a workforce that can rebuild a beautiful country.

The United States can offer training and job skills. More importantly, when they return home, they will be prepared to provide the crucial skill-base needed to attract private investment to their local economies.

This past July, Senator Torricelli and I introduced S. 2269 set up for the same purpose. After much negotiation, we now have before us a bipartisan effort to show support for peace—the Irish Peace Process Cultural and Training Program Act of 1998.

This bill will provide 4,000 visas a year for 3 years allowing young people from Ireland to live in the United States for up to 36 months—gaining experience working and living in a peaceful, multicultural society.

The bill establishes a program that will expose individuals from disadvantaged areas of Ireland to business and social life of other communities and train individuals for job skills for which there are opportunities in Ireland. That translates into a low-cost, low-risk, high return investment in peace in Northern Ireland.

This bill will provide opportunities for residents of Ireland to have an experience that they can bring home with them to cultivate their economy and culture as the region enters into a new and promising era. That is why it is called the Northern Ireland Visa for Peace and Reconciliation Act. And I hope we call it law very soon. I believe some call it INNISFAILE, Island of Destiny.

I want to congratulate Congressman Walsh and so many others for their vision and persistence in getting this bill passed and I urge its adoption.

Mr. JEFFORDS. I ask unanimous consent that the bill be considered read a third time and passed, the motion to reconsider be laid on the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4293) was passed.

ORDERS FOR FRIDAY, OCTOBER 9, 1998

Mr. JEFFORDS. I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m. on Friday, October 9. I further ask that the time for the two leaders be reserved. I further ask there be 15 minutes to be equally divided between Senators NICKLES and LIEBERMAN prior to the vote in relation to H.R. 2431.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. JEFFORDS. For the information of all Senators, when the Senate reconvenes on Friday, a rollcall vote will occur at 9:45 on passage of H.R. 2431, the religious freedom bill. Following that vote, the Senate may consider any available appropriations conference reports and any other items cleared for action. Therefore, votes can be expected to occur throughout the day and into the evening on Friday in an effort to consider the continuing resolution and any other legislative or Executive Calendar items.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. JEFFORDS. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 9:20 p.m., recessed until Friday, October 9, 1998, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate October 8, 1998:

FEDERAL MARITIME COMMISSION

JOHN A. MORAN, OF VIRGINIA, TO BE A FEDERAL MARITIME COMMISSIONER FOR THE TERM EXPIRING JUNE 30, 2000, VICE JOE SCROGGINS, JR., TERM EXPIRED.

DEPARTMENT OF LABOR

KENNETH M. BRESNAHAN, OF VIRGINIA, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF LABOR, VICE EDMUNDO A. GONZALES, RESIGNED.

DEPARTMENT OF THE TREASURY

TIMOTHY F. GEITHNER, OF NEW YORK, TO BE AN UNDER SECRETARY OF THE TREASURY, VICE DAVID A. LIPTON.

GARY GENSLER, OF MARYLAND, TO BE AN UNDER SECRETARY OF THE TREASURY, VICE JOHN D. HAWKE, JR.

EDWIN M. TRUMAN, OF MARYLAND, TO BE A DEPUTY UNDER SECRETARY OF THE TREASURY, VICE TIMOTHY F. GEITHNER.

ENVIRONMENTAL PROTECTION AGENCY

TIMOTHY FIELDS, JR., OF VIRGINIA, TO BE ASSISTANT ADMINISTRATOR, OFFICE OF SOLID WASTE, ENVIRONMENTAL PROTECTION AGENCY, VICE ELLIOTT PEARSON LAWS, RESIGNED.

CONFIRMATIONS

Executive Nominations Confirmed by the Senate October 8, 1998:

THE JUDICIARY

WILLIAM A. FLETCHER, OF CALIFORNIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT.

H. DEAN BUTTRAM, JR., OF ALABAMA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ALABAMA.

INGE PRYTZ JOHNSON, OF ALABAMA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ALABAMA.

ROBERT BRUCE KING, OF WEST VIRGINIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FOURTH CIRCUIT.

WITHDRAWAL

EXECUTIVE MESSAGE TRANSMITTED BY THE PRESIDENT TO THE SENATE ON OCTOBER 8, 1998, WITHDRAWING FROM FURTHER SENATE CONSIDERATION THE FOLLOWING NOMINATION:

FEDERAL MARITIME COMMISSION

JOHN A. MORAN, OF VIRGINIA, TO BE A FEDERAL MARITIME COMMISSIONER FOR THE TERM EXPIRING JUNE 30, 2001, VICE MING HSU, TERM EXPIRED, WHICH WAS SENT TO THE SENATE ON OCTOBER 5, 1998.

HOUSE OF REPRESENTATIVES—*Thursday, October 8, 1998*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O God, our help in ages past, our hope for years to come, we pray that You would give to us and all people the gifts of the spirit of knowledge and understanding, of gratitude and praise, of wisdom and tolerance, of justice and mercy, and of peace and goodwill. It is our petition that we would open our hearts to Your love and our souls to Your grace so that we honor You by our words and deeds and serve the people of this Nation with dignity. As You have created a whole world by Your hand, O gracious God, so recreate us in the spirit of reconciliation and unity that together as a nation we will be the people You would have us be. This is our earnest prayer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. SOLOMON. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 325, nays 72, answered "present" 9, not voting 28, as follows:

[Roll No. 495]

YEAS—325

Abercrombie
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berman
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boucher
Boyd
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Capps
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Coyne
Cramer
Crapo
Cubin
Cummings
Danner
Davis (IL)
Davis (VA)
Deal
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fawell
Foley
Forbes
Ford
Fossella
Fowler
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastert
Hastings (WA)
Hayworth
Hilleary
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Hoyer
Hunter
Hutchinson
Inglis
Istook
Jackson (IL)
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
Lofgren
Lowey
Lucas
Luther
Maloney (NY)
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
Meehan
Mica
Millender-McDonald
Miller (FL)
Minge
Mink
Moakley
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Ortiz
Owens
Oxley
Packard
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Pickering
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Quinn
Radanovich
Rahall
Rangel
Redmond
Regula
Riley
Rivers
Rodriguez
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Salmon
Sánchez
Sanders
Sandlin
Sawyer
Saxton
Schumer
Sensenbrenner
Serrano
Sessions
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stokes
Stump
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Wexler
Weygand
White
Whitfield
Wilson
Wise
Wolf
Woolsey
Yates
Young (AK)
Young (FL)

NAYS—72

Ackerman
Aderholt
Becerra
Berry
Bonior
Borski
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Clay
Clyburn
Costello
DeFazio
English
Ensign
Fattah
Fazio
Filner
Fox
Frank (MA)
Furse
Gephardt
Gibbons
Green
Gutierrez
Gutknecht
Hansen
Hastings (FL)
Hefley
Hill
Hilliard
Hinchey
Hulshof
Jackson-Lee (TX)
Kennedy (RI)
Kucinich
LaFalce
Lee
Lewis (GA)
LoBiondo
Manzullo
McGovern
McNulty
Meeks (NY)
Menendez
Moran (KS)
Oberstar
Olver
Pallone
Pickett
Poshard
Ramstad
Rogan
Sabo
Schaffer, Bob
Scott
Skelton
Smith (MI)
Stark
Stenholm
Stupak
Taylor (MS)
Thompson
Towns
Velázquez
Vento
Visclosky
Waters
Weller
Wicker
Wynn

ANSWERED "PRESENT"—9

Carson
Cunningham
Manton
Martinez
Metcalf
Petri
Reyes
Sanford
Shadegg

NOT VOTING—28

Cannon
Conyers
Crane
Davis (FL)
Dixon
Engel
Hefner
Herger
Hinojosa
Houghton
Hyde
Jefferson
Kasich
Maloney (CT)
McCrery
McDade
Meek (FL)
Miller (CA)
Mollohan
Obey
Pryce (OH)
Riggs
Scarborough
Schaefer, Dan
Skeen
Slaughter
Smith, Adam
Strickland

□ 1020

So the Journal was approved.

The result of the vote was announced as Clerk announced as above recorded.

PERSONAL EXPLANATION

Mr. HINOJOSA. Mr. Speaker, during rollcall vote No. 495 on the Journal I was unavoidably detained. Had I been present, I would have voted "yes."

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. LaHood). Will the gentleman from New York (Mr. Solomon) come forward and lead the House in the Pledge of Allegiance.

Mr. SOLOMON led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 678. An act to require the Secretary of the Treasury to mint coins in commemoration of Thomas Alva Edison and the 125th anniversary of Edison's invention of the light bulb, and for other purposes.

H.R. 1659. An act to provide for the expeditious completion of the acquisition of private mineral interests within the Mount St. Helens National Volcanic Monument mandated by the 1982 Act that established the Monument, and for other purposes.

H.R. 2000. An act to amend the Alaska Native Claims Settlement Act to make certain clarifications to the land bank protection provisions, and for other purposes.

H.R. 2411. An act to provide for a land exchange involving the Cape Cod National Seashore and to extend the authority for the Cape Cod National Seashore Advisory Commission.

H.R. 2795. An act to extend certain contracts between the Bureau of Reclamation and irrigation water contractors in Wyoming and Nebraska that receive water from Glendo Reservoir.

H.R. 4079. An act to authorize the construction of temperature control devices at Folsom Dam in California.

H.R. 4081. An act to extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in the State of Arkansas.

H.R. 4166. An act to amend the Idaho Admission Act regarding the sale or lease of school land.

H.R. 4655. An act to establish a program to support a transition to democracy in Iraq.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3528. An act to amend title 28, United States Code, with respect to the use of alternative dispute resolution processes in United States district courts, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3874) "An Act to amend the National School Lunch Act and the Child Nutrition Act of 1966 to provide children with increased access to food and nutrition assistance, to simplify program operations and improve program management, to extend certain authorities contained in those Acts through fiscal year 2003, and for other purposes."

The message also announced that the Senate has passed bills of the following titles in which concurrence of the House is requested:

S. 736. An act to convey certain real property within the Carlsbad Project in New Mexico to the Carlsbad Irrigation District.

S. 744. An act to authorize the construction of the Fall River Water Users District Rural Water System and authorize financial assistance to the Fall River Water Users District, a non-profit corporation, in the planning and construction of the water supply system, and for other purposes.

S. 1175. An act to reauthorize the Delaware Water Gap National Recreation Area Citizen Advisory Commission for 10 additional years.

S. 1637. An act to expedite State review of criminal records of applicants for bail enforcement officer employment, and for other purposes.

S. 1641. An act to direct the Secretary of the Interior to study alternatives for establishing a national historic trail to commemorate and interpret the history of women's rights in the United States.

S. 2041. An act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the design, planning, and construction of the Willow Lake Natural Treatment System Project for the reclamation and reuse of water, and for other purposes.

S. 2086. An act to revise the boundaries of the George Washington Birthplace National Monument.

S. 2117. An act to authorize the construction of the Perkins County Rural Water System and authorize financial assistance to the Perkins County Rural Water System, Inc., a nonprofit corporation, in the planning and construction of the water supply system, and for other purposes.

S. 2140. An act to amend the Reclamation Projects Authorization and Adjustment Act of 1992 to authorize the Secretary of the Interior to participate in the design, planning, and construction of the Denver Water Reuse project.

S. 2142. An act to authorize the Secretary of the Interior to convey the facilities of the Pine River Project, to allow jurisdictional transfer of lands between the Department of Agriculture, Forest Service, and the Department of the Interior, Bureau of Reclamation, and the Bureau of Indian Affairs, and for other purposes.

S. 2235. An act to amend part Q of the Omnibus Crime Control and Safe Streets Act of 1968 to encourage the use of school resource officers.

S. 2239. An act to revise the boundary of Fort Matanzas National Monument, and for other purposes.

S. 2240. An act to establish the Adams National Historical Park in the Commonwealth of Massachusetts, and for other purposes.

S. 2241. An act to provide for the acquisition of lands formerly occupied by the Franklin D. Roosevelt family at Hyde Park, New York, and for other purposes.

S. 2246. An act to amend the Act which established the Frederick Law Olmsted National Historic Site, in the Commonwealth of Massachusetts, by modifying the boundary, and for other purposes.

S. 2247. An act to permit the payment of medical expenses incurred by the United States Park Police in the performance of duty to be made directly by the National Park Service, and for other purposes.

S. 2248. An act to allow for waiver and indemnification in mutual law enforcement agreements between the National Park Service and a State or political subdivision, when required by State law, and for other purposes.

S. 2257. An act to reauthorize the National Historic Preservation Act.

S. 2284. An act to establish the Minuteman Missile National Historic Site in the State of South Dakota, and for other purposes.

S. 2285. An act to establish a commission, in honor of the 150th Anniversary of the Seneca Falls Convention, to further protect sites of importance in the historic efforts to secure equal rights for women.

S. 2309. An act to authorize the Secretary of the Interior to enter into an agreement for the construction and operation of the Gateway Visitor Center at Independence National Historical Park.

S. 2468. An act to designate the Biscayne National Park Visitor Center as the Dante Fascell Visitor Center.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of House Resolution 577, the Chair announces that he has designated this time for the taking of the official photo of the House of Representatives in session. The House will be in a brief recess while the Chamber is being prepared for the photo. The Members will please remain in place when the photographs are taken. Members will please face the camera. The process will take approximately 15 minutes. About 5 minutes after that, the House will proceed with the business of the House.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until approximately 10:50 a.m.

Accordingly (at 10 o'clock and 23 minutes a.m.), the House stood in recess until approximately 10:55 a.m.)

☐ 1055

REQUEST TO EXTEND DEBATE ON IMPEACHMENT INQUIRY RESOLUTION

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that the debate on House Resolution 581 regarding proceeding with an impeachment inquiry be expanded to the time of 8 hours.

The SPEAKER. The Chair is constrained not to recognize the gentleman for that purpose at this time.

AUTHORIZING THE COMMITTEE ON THE JUDICIARY TO INVESTIGATE WHETHER SUFFICIENT GROUNDS EXIST FOR THE IMPEACHMENT OF WILLIAM JEFFERSON CLINTON, PRESIDENT OF THE UNITED STATES

Mr. HYDE. Mr. Speaker, by direction of the Committee on the Judiciary, I call up H. Res. 581, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 581

Resolved, That the Committee on the Judiciary, acting as a whole or by any subcommittee thereof appointed by the chairman for the purposes hereof and in accordance with the rules of the committee, is authorized and directed to investigate fully and completely whether sufficient grounds exist for the House of Representatives to exercise its constitutional power to impeach William Jefferson Clinton, President of the United States of America. The committee shall report to the House of Representatives such resolutions, articles of impeachment, or other recommendations as it deems proper.

SEC. 2. (a) For the purpose of making such investigation, the committee is authorized to require—

(1) by subpoena or otherwise—

(A) the attendance and testimony of any person (including at a taking of a deposition by counsel for the committee); and

(B) the production of such things; and

(2) by interrogatory, the furnishing of such information;

as it deems necessary to such investigation.

(b) Such authority of the committee may be exercised—

(1) by the chairman and the ranking minority member acting jointly, or, if either declines to act, by the other acting alone, except that in the event either so declines, either shall have the right to refer to the committee for decision the question whether such authority shall be so exercised and the committee shall be convened promptly to render that decision; or

(2) by the committee acting as a whole or by subcommittee.

Subpoenas and interrogatories so authorized may be issued over the signature of the chairman, or ranking minority member, or any member designated by either of them, and may be served by any person designated by the chairman, or ranking minority member, or any member designated by either of them. The chairman, or ranking minority member, or any member designated by either of them (or, with respect to any deposition, answer to interrogatory, or affidavit, any person authorized by law to administer oaths) may administer oaths to any witness. For the purposes of this section, "things" includes, without limitation, books, records, correspondence, logs, journals, memorandums, papers, documents, writings, drawings, graphs, charts, photographs, reproductions, recordings, tapes, transcripts, printouts, data compilations from which information can be obtained (translated if necessary, through detection devices into reasonably usable form), tangible objects, and other things of any kind.

The SPEAKER. The resolution, since reported from the Committee on the Judiciary, constitutes a question of privilege and may be called up at this time.

Mr. HYDE. Mr. Speaker, while the normal procedure grants 1 hour of debate on a privileged resolution, I propose doubling that time.

Therefore, I ask unanimous consent that I be recognized for 2 hours for the debate on H. Res. 581, 1 hour of which I intend to yield to the gentleman from Illinois (Mr. CONYERS) for the purposes of debate only. And anybody on my side who was constrained to object, I hope they will withhold their objection so we can have the 2 hours of debate.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

Mr. CONYERS. Mr. Speaker, reserving the right to object, I appreciate the unanimous consent that is being put forward, and ask my friend, the distinguished gentleman from Illinois (Mr. HYDE), chairman of the Committee on the Judiciary, if he would add 2 hours to that request, please.

I understand the exigencies of the moment, but I have enormous pressure being put upon the ranking member for Members to merely have a chance to get in a brief expression on this historic occasion, and I ask that the gentleman give that his most generous consideration.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, I thank the gentleman for yielding. I can only say that we have had extensive discussions and I am fearful that there would be several objectors to that. So, I am constrained to offer the extra hour only and not go beyond that.

I would suggest a special order tonight where everybody can speak as long and as loudly as they want.

☐ 1100

Mr. CONYERS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request gentleman from Illinois?

There was no objection.

The SPEAKER. The gentleman from Illinois (Mr. HYDE) is recognized for 2 hours.

Mr. HYDE. Mr. Speaker, for purposes of debate only, I yield 1 hour to the distinguished minority ranking member on the Committee on the Judiciary, the gentleman from Michigan (Mr. CONYERS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

PARLIAMENTARY INQUIRY

Mr. EDWARDS. Mr. Speaker, considering the historical importance of this vote today and the precedent we will set for decades to come, would it be within the rules of the House for me at this time to ask unanimous consent that each Member of this House, who feels in his or her conscience that he or she would want to speak for 2 minutes on this issue, be allowed that opportunity as they try to represent the 560,000 people in their district?

The SPEAKER. The gentleman is not recognized for that purpose, and the House has already established by unanimous consent the 2-hour time limit.

PARLIAMENTARY INQUIRY

Mr. DINGELL. Mr. Speaker, reserving the right to object.

The SPEAKER. There is no request to be objected to at this time, but the Chair would be glad to recognize the gentleman from Michigan (Mr. DINGELL) for a parliamentary inquiry.

Mr. DINGELL. Then I will make this a parliamentary inquiry, Mr. Speaker.

Why is it we are not being afforded more time to debate this? This is one of the most important questions——

The SPEAKER. That is not a parliamentary inquiry, but that might be raised during debate, if the gentleman gets time.

PARLIAMENTARY INQUIRY

Mr. ACKERMAN. Mr. Speaker, parliamentary inquiry. I would like to inquire if a unanimous consent request is in order.

The SPEAKER. That would not be in order at this time unless the gentleman from Illinois yielded for that purpose.

Mr. ACKERMAN. Mr. Speaker, will the gentleman yield?

The SPEAKER. The gentleman from Illinois (Mr. HYDE) controls the time.

Mr. ACKERMAN. Will the gentleman yield for a unanimous consent request?

Mr. HYDE. Mr. Speaker, I must insist on regular order or we will not get through with this, so I cannot yield for a unanimous consent request.

GENERAL LEAVE

Mr. HYDE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Resolution 581, the resolution now under consideration.

The SPEAKER. Is there objection to the request of the gentleman from Illinois? .

Mr. ACKERMAN. Mr. Speaker, reserving the right to object, we are just asking for fairness.

The SPEAKER. Does the gentleman from New York (Mr. ACKERMAN) object?

Mr. ACKERMAN. In that case, Mr. Speaker, I object.

The SPEAKER. Objection is heard.

The Chair recognizes the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Speaker, general leave was objected to?

The SPEAKER. General leave was objected to. The gentleman from Illinois (Mr. HYDE) controls the time and has yielded to himself.

Mr. HYDE. Mr. Speaker, I ask unanimous consent to revise and extend my remarks.

Mr. Speaker, today we will vote on an historic resolution to begin an inquiry into whether the President has committed impeachable offenses. All of us are pulled in many directions by our political parties, by philosophy and friendships; we are pulled by many competing forces, but mostly we are moved by our consciences. We must listen to that still small voice that whispers in our ear, duty, duty, duty.

Some years ago Douglas MacArthur, in a famous speech at West Point, asserted the ideal of our military forces as duty, honor and country. We do not have to be a soldier in a far-off land to feel the force of those words. They are our ideal here today as well.

We have another ideal here, to attain justice through the rule of law. Justice is always and everywhere under assault, and our duty is to vindicate the rule of law as the surest protector of that fragile justice.

And so here, today, having received the referral in 17 cartons of supportive material from the Independent Counsel, the question asks itself: Shall we look further or shall we look away?

I respectfully suggest that we must look further by voting for this resolution and thus commencing an inquiry into whether or not the President has committed impeachable acts. We do not make any judgments, we do not make any charges, we simply begin a search for truth.

My colleagues will hear from our opponents that, yes, we need to look further, but do it our way. Their way imposes artificial time limits, limits our inquiry to the Lewinsky matter, and requires us to establish standards for impeachment that have never been established before, certainly not in the Nixon impeachment proceedings, which we are trying to follow to the letter.

We have followed the Rodino format. We will move with all deliberate speed. Many raise concerns about that proposition. Let me speak directly to those concerns. Some suggest the process to date has been partisan, yet every member of the Committee on the Judiciary voted for an inquiry in some form. We differ over the procedural details, not the fundamental question of whether we should go forward.

Many on the other side of the aisle worry that this inquiry will become an excuse for an open-ended attack on this administration. I understand that worry. During times when Republicans controlled the executive branch and I was in the minority, I lived where they are living now.

With that personal experience, I pledge to my colleagues the fairest and most expeditious search for the truth that I can muster. I do not expect that I will agree with my Democratic friends at each step along the way, but I know that to date we have agreed on many things. In fact, we have agreed on many more things than is generally known.

I hope at the end of this long day we will agree on the result. I am determined we will continue to look every day for common ground and to agree where we can. When we must disagree, we will do everything we can to minimize those disagreements. At all times, civility must be the watch word for Members on both sides of the aisle. Too much hangs in the balance for us not to rise above partisan politics.

I will use all my strength to ensure that this inquiry does not become a fishing expedition. Rather, I am determined that it will be a fair and expeditious search for truth. We have plenty enough to do now, we do not need to search for new material.

However, I cannot say that we will never address other subjects, nor would it be responsible to do so. I do not know what the future holds. If substantial and credible evidence of other impeachable offenses comes to us, as the Independent Counsel hinted or suggested in a letter we received only yesterday, the Constitution will demand that we do our duty. Like each of my colleagues, I took an oath to answer that call. I intend to do so, and I hope my colleagues will join with me if that day comes. I do not think we want to settle for less than the whole truth.

Some are concerned about timing. Believe me, nobody wants to end this any sooner than I do. But the Constitution demands that we take the amount of time necessary to do the right thing in the right way. A rush to judgment does not serve anybody's interest, certainly not the public's interest. As I have said publicly, my fervent hope and prayer is we can end this process by the end of the year. That is my new year's resolution. However, to agree to an artificial deadline would be irresponsible. It would only invite delay and discourage cooperation.

For those who worry about the timing, I urge them to do everything possible to encourage cooperation. No one likes to have their behavior questioned. The best way to end the questions is to answer them in a timely and truthful manner. Thorough and thoughtful cooperation will do more than anything to put this matter behind us.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. SOLOMON.)

Mr. SOLOMON. Mr. Speaker, I certainly thank the gentleman for yielding me this time, and I just rise in support of the resolution and to commend the Committee on the Judiciary.

Mr. Speaker, I rise in support of this resolution to authorize and direct the Committee on the Judiciary to investigate whether sufficient grounds exist to impeach the President of the United States.

I commend the Judiciary Committee for following the intent of the Rules Committee resolution, H. Res. 525, which passed the House overwhelmingly on September 11. That resolution instructed the Committee to carefully review and release the material in the independent Counsel's report, expunging that material in the Independent Counsel's report, expunging that material which is not relevant or may interfere with ongoing investigations.

I would say to the Committee—you have judiciously carried out the instructions given to you by the House, and I commend you for it.

The public release of the material in that report, with appropriate redactions, was necessary to give Members of the House the ability to cast informed votes here on the floor today. Members of the House and the public, unfortunately, must have a dialogue about the contents of this report.

I believe that in approving the release of this material by such a large margin, the House relied on the traditional notion that an informed citizenry is critical to the success of our republic.

In supporting this resolution before the House today, let me say to the Members that regardless of your personal feelings about the President, whether political supporters or not, you have a constitutional obligation to set aside those feelings and cast your vote solely on the basis of whether you believe the evidence submitted to this House is sufficient grounds to undertake an impeachment inquiry.

Prior to today, I have withheld judgment and made no statements to the media regarding the substantive grounds for impeachment. However, I have reviewed the evidence in the report and I find it thorough, well-documented, and exhaustive in its corroborating detail.

After reviewing all of this evidence, I believe we have an overwhelming constitutional duty to vote to proceed with an inquiry.

I for one will continue to reserve judgment on whether articles of impeachment should be brought until after the Judiciary Committee has completed its investigation and sends a further recommendation to the House.

Mr. Speaker, today we should not determine whether to impeach the man who holds the Executive Office of the President. Rather, we should ratify the Judiciary Committee's recommendation that there is enough evidence to formally ask that question.

In doing so, we affirm the grim charge handed down by the framers of the Constitution, to guard against degradation of the office by the man who happens to hold it.

During the debate on whether to include the impeachment clause in the Constitution at the convention, Gouverneur Morris, a delegate from Pennsylvania, offered an amendment to strike the clause.

At the conclusion of the debate, he changed his mind and supported the impeachment clause and argued, "Our executive is not like a Magistrate having a life interest, much less like one having an hereditary interest in his office."

With the unique idea of this constitutional clause as a foundation for our deliberation, our action here today affirms that we are not like the rest of the world.

I urge support for the resolution.

Mr. HYDE. Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself 10 seconds.

I really want to say to the chairman of the Committee on the Judiciary, the gentleman from Illinois (Mr. HENRY HYDE), that I respect the fulsomeness and fairness of his statement. I know that he is a person of his word, and I hope that these processes within our committee and the Congress will follow along the lines that he has outlined so admirably.

Mr. Speaker, I yield 4½ minutes to the gentleman from Virginia (Mr. RICK BOUCHER), the principal architect of the alternative proposal to the motion on the floor that will be embodied in a motion to recommit.

Mr. BOUCHER. Mr. Speaker, I want to thank the gentleman from Michigan for yielding this time to me and commend him for the leadership that he has exerted as we have worked on this side in order to offer a fair and a balanced alternative to the resolution of inquiry.

At the conclusion of this debate, I will offer a motion to recommit the resolution offered by the gentleman from Illinois to the Committee on the Judiciary with the instruction that the committee immediately report back that resolution to the House with instructions that it contain our Democratic alternative.

While we would have preferred that Democrats have a normal opportunity to present our resolution as an amendment, the procedure that is being used by the House today does not make a Democratic amendment in regular course in order. The motion to recommit with instructions does, however, give us an opportunity to have the House adopt the Democratic plan.

The Democratic amendment is a resolution for a full and complete review by the Committee on the Judiciary of the material that has been presented to the House by the office of Independent Counsel. The Republican resolution also provides for that full and complete review. The difference between the Democratic and the Republican approaches is only over the scope of the review, only over the time that the review will take, and only over our insistence that the Committee on the Judiciary, in conducting its process, pay deference and become aware of the historical constitutional standard for impeachment that has evolved to us over the centuries and was recognized most recently by the Committee on the Judiciary in 1974 and then recognized by the full House of Representatives.

The public interest requires a fair and deliberate inquiry in this matter. Our resolution provides for that fair and deliberate inquiry. But the public interest also requires an appropriate boundary on the scope of the inquiry. It should not become an invitation for a free-ranging fishing expedition, subjecting to a formal impeachment inquiry matters that are not before the Congress today. The potential for such a venture should be strictly limited by the resolution adopted today by the House, and our Democratic proposal contains those appropriate limits. It would subject to the inquiry the material presented to us by the office of Independent Counsel, which is the only material before the House today.

The public interest also requires that the matter be brought to conclusion at the earliest possible time; that is, consistent with a thorough and complete review. The country has already undergone substantial trauma. If the committee carries this work beyond the time that is reasonably needed to conduct its complete and thorough review, that injury to the Nation will only deepen. We should be thorough, but we should also be prompt.

Mr. Speaker, given that the facts of this matter are generally well-known, given that there are only a handful of witnesses who have relevant information that can be addressed in this inquiry, and given the further fact that all of those witnesses have already been the subject of extensive review by the Grand Jury, and their testimony is available, this inquiry can, in fact, be prompt. The committee's work should not extend into next year. A careful and a thorough review can be accomplished between now and the end of this year, and our Democratic resolution provides that appropriate limitation on time.

The resolution requires that the committee hold hearings on the constitutional standard for impeachment, which was clearly stated in the conclusion of the committee's report in the Watergate years of 1974. Our substitute then directs that the committee compare the facts that are stated in the referral of the Independent Counsel to that historical constitutional standard and, if any facts rise to the level of impeachable conduct, that material would then be subjected to the thorough inquiry and review process contained within our resolution.

Under the resolution that we are putting forth, the committee will begin its work on the 12th day of October, that is next Monday, and will conclude all proceedings, including the consideration of recommendations, during the month of December.

□ 1115

There would then be ample time for the House of Representatives to consider those recommendations and conclude its work by the end of this year.

The procedure we are recommending is fair, it is thorough, it is prompt. It is a recommendation for an inquiry. It would assure an appropriate scope. It would give deference to the historical constitutional standard for impeachment, and it would assure that this matter is put behind us so the Nation can proceed with its very important business by the end of this year.

Mr. HYDE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Wisconsin (Mr. SENSENBRENNER), a member of the committee.

Mr. SENSENBRENNER. Mr. Speaker, I rise in support of the resolution of inquiry.

At Monday's meeting of the Committee on the Judiciary, Investigative Counsel David Shippers informed the committee that the material received to date shows that the President may have committed 15 felonies. These alleged felonies were in the course of the President's successfully defeating Paula Jones' civil rights lawsuit, claims the Supreme Court in a 9–0 decision said that she had the right to pursue. The President denies all these allegations. Obviously someone is telling the truth and someone is lying.

The Committee on the Judiciary must be given the power to decide this issue. What is at stake here is the rule of law. Even the President of the United States has no right to break the law. If the House votes down this inquiry, in effect, it will say that even if President Clinton committed as many as 15 felonies, nothing will happen. The result will be a return to the imperial presidency of the Nixon era where the White House felt that the laws did not apply to them, since they never would be punished. That would be a national tragedy of immense consequences.

Vote for the resolution. Let the Committee on the Judiciary try to find the truth.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the able gentleman from New York (Mr. SCHUMER), a senior member of our Committee on the Judiciary.

Mr. SCHUMER. Mr. Speaker, I thank the gentleman for yielding time.

Mr. Speaker, this is a serious and solemn day. After a careful reading of the Starr report and other materials submitted by the Office of Independent Counsel as well as a study of the origins and history of the impeachment clause of the Constitution, I have come to the conclusion that, given the evidence before us, while the President deserves significant punishment, there is no basis for impeachment of the President and it is time to move on and solve the problems facing the American people, like health care, education and protecting seniors' retirement.

To me, Mr. Speaker, it is clear that the President lied when he testified before the grand jury not to cover a crime but to cover embarrassing personal behavior. While it is true that in ordinary circumstances and in most instances an ordinary person would not be punished for lying about an extramarital affair, the President has to be held to a higher standard and must be held accountable. But high crimes and misdemeanors, as defined in the Constitution and as amplified by the Federalist Papers and Justice Story, have always been intended to apply to public actions relating to or affecting the operation of the government, not to personal or private conduct.

That said, the punishment for lying about an improper sexual relationship should fit the crime. Censure or rebuke is the appropriate punishment. Impeachment is not. It is time to move forward, not have the Congress and American people endure the specter of what could be a year-long focus on a tawdry but not impeachable affair. Today the world economy is in crisis and cries out for American leadership, without which worldwide turmoil is a grave possibility. The American people cry out for us to solve the problems facing them. This investigation, now in its fifth year, has run its course. It is time to move on.

Mr. HYDE. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Pennsylvania (Mr. MCHALE).

Mr. McHALE. Mr. Speaker, Franklin Roosevelt once said that "the presidency is preeminently a place of moral leadership."

I want my strong criticism of President Clinton to be placed in context. I voted for President Clinton in 1992 and 1996. I believed him to be the "Man from Hope" as he was depicted in his 1992 campaign video. I have voted for more than three-fourths of the President's legislative agenda and I would do so again. My blunt criticism of the President has nothing to do with policy. Moreover, the President has always treated me with courtesy and respect and he has been more than responsive to the concerns of my constituents.

Unfortunately, the President's misconduct has now made immaterial my past support or agreement with him on issues. Last January 17, the President of the United States attempted to cover up a sordid and irresponsible relationship by repeated deceit under oath in a Federal civil rights suit. Contrary to his later public statement, his answers were not "legally accurate," they were intentionally and blatantly false. He allowed his lawyer to make arguments to the court based on an affidavit that the President knew to be false. The President later deceived the American people and belatedly admitted the truth only when confronted some 7 months later by a mountain of irrefutable evidence. I am convinced that the President would otherwise have allowed his false testimony to stand in perpetuity.

What is at stake is really the rule of law. When the President took an oath to tell the truth, he was no different at that point from any other citizen, both as a matter of morality and as a matter of legal obligation. We cannot excuse that kind of misconduct because we happen to belong to the same party as the President or agree with him on issues or feel tragically that the removal of the President from office would be enormously painful for the United States of America. The question is whether or not we will say to all of our citizens, including the President of the United States, when you take an oath, you must keep it.

Having deliberately provided false testimony under oath, the President in my judgment forfeited his right to office. It was with a deep sense of sadness that I called for his resignation. By his own misconduct, the President displayed his character and he defined it badly. His actions were not "inappropriate." They were predatory, reckless, breathtakingly arrogant for a man already a defendant in a sexual harassment suit, whether or not that suit was politically motivated.

And if in disgust or dismay we were to sweep aside the President's immoral and illegal conduct, what dangerous precedent would we set for the abuse of power by some future President of the United States?

We cannot define the President's character. But we must define the Nation's. I urge an affirmative vote on the resolution.

Mr. CONYERS. Mr. Speaker, I yield 2½ minutes to the gentleman from New York (Mr. NADLER), who coauthored the alternative proposal that we shall shortly offer this morning.

Mr. NADLER. Mr. Speaker, the issue in the potential impeachment is whether to overturn the results of a national election, the free expression of the popular will of the American people. It is an enormous responsibility, and an extraordinary power. It is not one that should be exercised lightly. It is certainly not one which should be exercised in a manner in which or would be perceived to be unfair or partisan.

The work of this House during the Nixon impeachment investigation commanded the respect and support of the American people. A broad consensus that President Nixon had to go was developed precisely because the process was seen to be fair and deliberate. If our conduct in this matter does not earn the confidence of the American people, then any action we take, especially if we seek to overturn the result of a free election, will be viewed with great suspicion and could divide a nation for years to come.

We do not need another "Who lost China?" debate. We do not need a decade of candidates running for office accusing each other of railroading a democratically elected President out of office, or participating in a thinly failed coup d'etat.

The issue has the potential to be the most divisive issue in American public life since the Vietnam War. The process by which we arrive at our decision must be seen to be both nonpartisan and fair. The legitimacy of American political institutions must not be called into question.

I do not believe personally that all the allegations in the Starr report, if proven true, describe impeachable offenses. We need to remember that the framers of the Constitution did not intend impeachment as a punishment for a wrongdoing but as a protection of constitutional liberties and of the structure of the government that they were establishing against a President who might seek to become a tyrant.

The President's acts, if proven true, may be crimes, calling for prosecution or other punishment, but not impeachment. So I do not believe we need a formal impeachment inquiry. But if we are to have an inquiry, it must be fair. So far it has been anything but fair. The President was not given the Starr report before it was made public; a violation of all the precedents. No debate on the committee occurred on the merits whatsoever. We spent a month on deciding what should be released and what should be kept in private, and then we heard the report of the two counsels and then we discussed procedure but not a minute of debate on the merits on the evidence, on the standard of impeachment, on anything.

The supreme insult to the American people, an hour of debate on the House floor on whether to start, for the third time in the American history, a formal impeachment proceeding. We debated two resolutions to name post offices yesterday for an hour and a half. An hour debate on this momentous decision is an insult to the American people and another sign that this is not going to be fair.

The democratic amendment is a fair device for a fair process. It provides for a limitation in scope in time, and I urge its adoption.

POINT OF ORDER

Mr. OBEY. Mr. Speaker, I make a point of order.

The SPEAKER. The gentleman will state his point of order.

Mr. OBEY. Mr. Speaker, this is a fairly important issue. It seems to me that if Members are going to vote on it the least they could do is be here in the chamber when it is debated, and I would hope that the leadership of both parties would be sending out messages to the Members that whatever they are doing, they ought to drop it and get their tails here.

Mr. HYDE. Mr. Speaker, I yield 2½ minutes to the distinguished gentleman from Florida (Mr. CANADY), a member of the committee.

Mr. CANADY of Florida. Mr. Speaker, I rise today to support the impeachment inquiry resolution of the Committee on the Judiciary, a resolution which ensures that we expeditiously deal with the serious charges against the President in a process that is fair, thoughtful and deliberative.

In this resolution, we followed the pattern and procedures established in the Nixon impeachment inquiry. This model served the House well in the Nixon case. It has stood the test of time and there is no reason that we should abandon this model now.

The House should reject the unprecedented Democratic alternative with its unwise, arbitrary and unrealistic limitations and restrictions on the ability of the Committee on the Judiciary to do its job. We must recognize that the Democratic alternative sets up a process that has never, not once, been followed in the more than 200-year history of impeachment under our constitution. It is totally without precedent.

Some have claimed that the charges against the President do not amount to high crimes and misdemeanors but the very report cited by the President's lawyers, which was prepared by the impeachment inquiry staff in the Nixon case, recognizes that conduct of the

President which, and I quote, "undermines the integrity of office" is impeachable. The unavoidable consequence of perjury and obstruction of justice by a President would be to erode respect for the office of the President. Such acts inevitably subvert the respect for the law, which is essential to the well-being of our constitutional system.

If perjury and obstruction of justice do not undermine the integrity of office, what offenses would? Not long after the Constitution was adopted, one of the framers wrote, if it were to be asked what is the most sacred duty and the greatest source of security in a republic, the answer would be, an inviolable respect for the Constitution and laws. Those, therefore, who set examples which undermine or subvert the authority of the laws lead us from freedom to slavery. They incapacitate us for a government of laws.

Today, as Members of this House, it is our solemn responsibility under the Constitution to move forward with this inquiry and to set an example that strengthens the authority of the laws and preserves the liberty with which we have been blessed as Americans.

Mr. CONYERS. Mr. Speaker, I yield 1½ minutes to the gentleman from Florida (Mr. WEXLER), a valuable member of the Committee on the Judiciary.

Mr. WEXLER. Mr. Speaker, God help this Nation if today we become a Congress of endless investigation, accomplices to this unAmerican inquisition that would destroy the presidency over an extramarital affair.

The global economy is crumbling and we are talking about Monica Lewinsky.

Saddam Hussein hides weapons and we are talking about Monica Lewinsky.

□ 1130

Genocide wracks Kosovo, and we are talking about Monica Lewinsky.

Children crammed into packed classrooms, and we are talking about Monica Lewinsky.

Families cannot pay their medical bills, and we are talking about Monica Lewinsky.

God help this Nation if we trivialize the Constitution of the United States and reject the conviction of our Founding Fathers that impeachment is about no less than the subversion of the government. The President betrayed his wife; he did not betray the country. God help this Nation if we fail to recognize the difference.

Mr. HYDE. Mr. Speaker, I yield 2 minutes the distinguished gentleman from Arkansas (Mr. HUTCHINSON).

Mr. HUTCHINSON. Mr. Speaker, today we are considering a resolution of inquiry into the conduct of the President of the United States. It is not about a person, but it is about the rule of law. Each of us took a simple oath to uphold the Constitution of the United States. The Constitution provides a path to follow in these circumstances. The path may not be well worn, but it is well marked, and we will be wise to follow it rather than to concoct our own ideas on how to proceed.

The gentleman from New York concluded that the President has lied under oath, that he should be punished, but he should not be impeached. The gentleman is way ahead in his conclusion of where this process should be and where I am. I would say that this process is not about punishment. The purpose of this process is to examine the public trust, and, if it is breached, to repair it.

We have been referred serious charges of perjury, obstruction of justice and abuse of power. The President and his lawyers have denied each of these charges, as is his right to do. Our response should be that we need to examine these facts to determine the truth and to weigh the evidence, and it is our highest duty today to vote for this inquiry so that, if the result is there are no impeachable offenses, we can move on, but if there is more to be done, we can be sure that the rule of law will not be suspended or ignored by this Congress.

The Watergate model was chosen because that was what was demanded by my friends from across the aisle. This resolution does not direct the committee to go into any additional areas, but it does give the committee the authority to carry out its responsibility and to bring this matter to a conclusion without further delay.

It is my firm commitment, as an Arkansan, as an American and as someone who has tried to work with my colleagues from both side of the aisle, to be fair in every way in the search for truth. Did the President participate in a scheme to obstruct justice? Did the President commit perjury? Do these allegations, if proven, constitute impeachable offenses? We can answer these questions in a fair and bipartisan manner, and that is my commitment.

People say this is not Watergate. That is true. Every case is different. But the rule of law and our obligation to it does not change. They do not change because of position, personalities or power. The rule of law and justice depends upon this truth.

I ask my colleagues to support the resolution.

Mr. CONYERS. Mr. Speaker, I yield 1½ minutes to the gentleman from Wisconsin (Mr. BARRETT).

Mr. BARRETT of Wisconsin. Mr. Speaker, many of the President's actions were wrong. In fact, they were indefensible. But our role today is not to attack him. Our role today is to make sure that this process is defensible.

And this is not a defensible process. This Chamber spent a day, a little more than a day, debating renaming an airport, and we are spending 2 hours on deciding the future of this Presidency. That is unfair.

There should be an inquiry; we should move on. But it has to be fair, and what we are seeing today is not fair, it is not focused.

We have a report from Kenneth Starr. We should focus our inquiry on the report and any subsequent matters Ken Starr brings us.

We should have a target date of completion. We should aim to finish this by December 31. And if we cannot get it done, we can ask for an extension, and that can happen.

But the American people want this to be a fair process, and they are not stupid, and they recognize that this is not a fair process. The President may be punished, the President should be held accountable for his actions, but we have a duty, each and every person in this Chamber has a duty, to do that in a fair way.

And I think each of us has to examine our conscience and ask whether we want to have a wide-ranging fishing expedition or whether we want to focus it on the report that has been brought to us and any subsequent matters the special prosecutor brings to us. If we do that, I think we can do that on a bipartisan basis, and I think that will be fair, and that is what the American people want.

Mr. HYDE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California (Mr. DREIER).

Mr. DREIER. Mr. Speaker, this is obviously a very difficult time for every Member of this House.

I think it was said first by the gentleman from Illinois (Mr. HYDE): Duty, duty, duty. The gentleman from Wisconsin (Mr. BARRETT) just talked about our duty. But I think, over and above our duty, I think it is important for us to recognize the words of the gentleman from Pennsylvania (Mr. MCHALE) who talked about the importance of the rule of law. That really is why we are here.

Over the past several weeks and months a number of us have dusted off our copies of the Federalist Papers, John Jay, Alexander Hamilton, James Madison—James Madison being the author, the father of the Constitution. Towards the end of the 51st Federalist, James Madison puts it perfectly as we look at the challenge that we face today. He said:

> Justice is the end of government. It is the end of civil society. It ever has been and ever will be pursued until it be obtained or until liberty be lost in the pursuit.

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that on the motion to recommit we be granted 5 minutes on each side for the purpose of comments and for the purpose of debate.

The SPEAKER. Has the gentleman from Illinois yielded to the gentleman from Michigan for the purpose of that request?

Mr. HYDE. Yes, Mr. Speaker. I think 5 minutes on each side on the motion to recommit is justifiable, and I support the gentleman in his request.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. CONYERS. Mr. Speaker, I yield 1½ minutes to the gentleman from New Jersey (Mr. ROTHMAN), an able member of the Committee on the Judiciary.

Mr. ROTHMAN. Mr. Speaker, after 4½ years investigation of nearly every aspect of President Clinton's public and private life, Independent Counsel Ken Starr presented the House with 11 allegations of impeachment, all relating only to the President's misconduct with Monica Lewinsky. The Democrats say that these are serious allegations and that we should resolve these 11 charges by the end of this year and let the chips fall where they may. The Republicans say that they will not be limited to the 4½ year investigation by Mr. Starr. They feel that Mr. Starr was too light on President Clinton, and so they want an impeachment inquiry not only limited to Mr. Starr's charges regarding Miss Lewinski, but any other charges anyone can come up with on any subject at any time and with no time limit. And they want the American people to pay for it.

Mr. Speaker, I believe the Republican bill is unfair, it is unfair to the President, it is unfair to our country, and it is not in our national interest. We already know that what the President did was wrong, It was morally wrong, and now we need to decide what is an appropriate punishment for his offenses.

But let us reject the open-ended Republican inquiry. Let us instead follow the democratic model and resolve the 11 charges that Mr. Starr actually brought to us and do so before the end of the year so that we can get together as a Nation and address the serious and important other issues that face us here at home and around the world.

Mr. HYDE. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. CHABOT), a member of the committee.

Mr. CHABOT. Mr. Speaker, I rise in support of the resolution.

Our responsibility today is to determine if the evidence we have examined thus far warrants further investigation by the Committee on the Judiciary. We do not sit in judgment today. We are not here to convict or punish or sentence today. We are here to seek the truth.

To fulfill our constitutional duty we must determine if the evidence presented to date strongly suggests wrongdoing by the President and if the alleged wrongdoing likely rises to the level of an impeachable offense; that is, a high crime or misdemeanor. I would submit that strong evidence exists that the President may have committed perjury and the historic record demonstrates that perjury can be an impeachable offense.

Based on the facts and on the law, this House has a constitutional duty to proceed to a formal inquiry.

Mr. Speaker, I think I speak for most of my colleagues when I say that this is not a matter to be taken lightly. Rarely in one's political life is one forced to confront such an awesome and historic responsibility. It is my sincere hope that we can work together as the Founding Fathers envisioned, in a bipartisan fashion, to complete this task as expeditiously as possible and to do what is in the best interests of the country.

I would urge my colleagues on both sides of the aisle to rise above the partisan fires that too often burn in our Nation's capital. Consider the facts at hand and fulfill our constitutional responsibilities by moving forward with a fair and thorough investigation of this important matter.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. LOFGREN), a member of the Committee on the Judiciary who has worked tirelessly on crafting a middle course for the Members of the House of Representatives.

Ms. LOFGREN. Mr. Speaker, many of us have labored very hard to craft a plan that would allow us to deal with the referral of the independent counsel in a way that is focused, in a way that is fair, in a way that is prompt and efficient, and, most of all, in a way that puts our Constitution first. I am very distressed to say that I do not see that that is going to happen today in this chamber.

Mr. Speaker, I fear what Alexander Hamilton warned against in Federalist Paper Number 65, that "there will always be the greatest danger that the decision will be regulated more by the comparative strength of parties than by the real demonstrations of innocence or guilt." That prophecy, that fear, is about to be realized. I believe that the majority has used its raw voting power to create a proposal that could result in a wide-ranging and lengthy impeachment inquiry. The Committee on the Judiciary may become the standing committee on impeachments. And I further fear that the rules in the Constitution may never be applied to the referral that has been sent to us. Even worse, we may end up—as happened Monday—with the majority counsel creating entirely new standards for high crimes and misdemeanors, which will have a very serious distorting effect on our constitutional system of government.

□ 1145

When we are lost, the best thing for us to do is to look to our Constitution as a beacon of light and a guideline to get us through trying times. Historically, impeachment was to be used when the misconduct of the executive was so severe that it threatened the very constitutional system of government itself. Ben Franklin described it as the alternative to assassination. It is that standard that needs to be applied in this case.

The question is not whether the President's misconduct was bad. We all know that the President's misconduct was bad. The question is, are we going to punish America instead of him for his misconduct? Are we going to trash our Constitution because of his misconduct? Are we going to make sure that this investigation goes on interminably while we ignore economic crises, or the needs of our students for education?

I fear that we are letting down our country. Twenty-four years ago, as an idealistic student, I watched this body rise to the occasion. Twenty-four years ago, as an idealistic student, I worked on the staff of a member of the Judiciary Committee, and I saw the committee, and I saw this Congress do a very hard thing: come together, become nonpartisan, and do a tough job for America.

I am very concerned that, instead of rising to this occasion today, we are falling down and lowering ourselves and America with it. I urge the adoption of the Boucher amendment.

Mr. HYDE. Mr. Speaker, I am pleased to yield 1 minute to the distinguished gentlewoman from Florida (Ms. ROS-LEHTINEN).

Ms. ROS-LEHTINEN. Mr. Speaker, our laws promise a remedy against sexual harassment. But if we say that lying about sex in court is acceptable or even expected, then we have made our sexual harassment laws nothing more than a false promise, a fraud upon our society, upon our legal system, and upon women.

Lying under oath and obstruction of justice are ancient crimes of great weight because they shield other offenses, blocking the light of truth in human affairs. There they are a dagger in the heart of our legal system and our democracy. They cannot and must not be tolerated.

The office of the presidency is due great respect, but the President is a citizen with the same duty to follow the laws as all other citizens. The world marvels that our President is not above the law, and my vote today helps assure that this rule continues.

With a commitment to the principles of the rule of law, which makes this country the beacon of hope for political refugees like myself throughout the world, I cast my vote in favor of the resolution to undertake an impeachment inquiry of the conduct of the President of the United States.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. DELAHUNT), my friend and a senior prosecutor.

Mr. DELAHUNT. Mr. Speaker, I am aware of the fact that there is limited time for this debate. I think that is, indeed, unfortunate, because I was going on to talk about how we have abdicated our constitutional duties to an unelected prosecutor, how we have released thousands of pages that none of us in good conscience can say that we have read.

We violated the sanctity of the Grand Jury so that we can arrive here today to launch an inquiry without an independent, adequate review of the allegations by this body, which is our constitutional mandate. Ken Starr is not the agent of the United States Congress. It is our responsibility.

I was going to go on and speak about the proposal put forth by the gentleman from Virginia (Mr. BOUCHER), one that would have addressed and would address all of the allegations raised in the Starr referral in a fair way and in an expeditious way without dragging this Nation through hearings that will be interminable in nature.

What it really means for this country, is all the President's, any President's, enemies have to do to commence an impeachment process is to name an independent counsel so that we can here just simply rubber stamp that independent counsel's conclusions.

I was going to speak about the letter that was referred to by the universally respected chairman of the committee and a gentleman whom I hold in high esteem, the gentleman from Illinois (Mr. HYDE), the letter where Mr. Starr is saying that he may make further referrals and keep this inquiry going on indefinitely. That is not a process, Mr. Speaker; it is a blank check. That is what I was going to talk about.

But out of deference to others that want to speak, I will conclude by saying, one hour to begin only the third impeachment inquiry in U.S. history is a travesty and a disgrace to this institution. I think that says it all, and besides, I am probably out of time.

Mr. HYDE. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Florida (Mr. MCCOLLUM), a distinguished member of the committee.

Mr. MCCOLLUM. Mr. Speaker, the question for us today is not whether or not the President committed impeachable offenses or whether or not we are here to impeach, the question is, do the allegations that have been presented to us by Kenneth Starr and his report merit further consideration?

Some would have us believe today that, even if all of those allegations were proven to be true, that the answer is no. They are wrong. The issue before us when we consider this matter is not Monica Lewinsky. The issue is not sex. The issue is not whether the President committed adultery or betrayed his wife.

The issue is did the President of the United States commit the felony crime of perjury by lying under oath in a deposition in a sexual harassment case. The issue is did the President of the United States commit the felony crime of perjury by lying under oath to a Grand Jury. The issue is did the President of the United States commit a felony crime of obstructing justice or the felony crime of witness tampering. If he did, are these high crimes and misdemeanors that deserve impeachment?

I would suggest that these are extraordinarily serious; that if the President of the United States is to be judged not to have committed a high crime and misdemeanor if the facts are proven, and we do not know that, that these things are true and he committed these crimes, but if he is judged not to have committed a high crime and misdemeanor for committing these other crimes of perjury, we will have determined that, indeed, he is no longer the legal officer at the highest panicle of this country.

Because to leave him sitting there is to undermine the very judicial system we have. It is to convey the message that perjury is okay, certainly at least perjury in certain matters and under certain circumstances. It is not okay. It is a very serious crime. Obstructing justice is. Witness tampering is.

One hundred fifteen people are serving in Federal prisons today who may be watching these proceedings today, serving in prison for perjury. Two judges have been impeached since I have been in Congress for nothing more than perjury, committing perjury as we call it.

What do we say in the future to all of those people who take the oath of office who say "I swear to tell the truth, the whole truth, and nothing but the truth?" What do we say to all of those people who swear to tell the truth, nothing but the truth, but the whole truth when they are witnesses in cases throughout this country, civil and criminal? What do we say to all of the people who we may judge in the future who may be judges or otherwise who come before us who commit perjury? Is it okay?

If we leave this President alone if he committed these crimes, then we have undermined our Constitution, and we have undermined our system of justice. This is serious. We need to investigate these allegations.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from California (Mr. FAZIO), the departing chair of our caucus.

Mr. FAZIO of California. Mr. Speaker, today's proceeding is of such great historical importance that it should be approached with a deep and abiding respect for the Congress, the Constitution, and the Presidency.

We had the opportunity to develop a fair and responsible process that would protect, not only the dignity of the office of the Presidency, but create a precedent worth following. But I believe the Republican majority has squandered that, and, by doing so, has set in motion a process that is too much about partisanship and not enough about statesmanship.

The Republican proposal offers no limits on how long this partisan inquiry will go on nor on how long independent counsel Ken Starr can drag up issues that he has had 4 years to bring to this House. Sadly, there has been no willingness to limit the duration or scope of this resolution.

The Republican proposal moves ahead with an impeachment inquiry before the Committee on the Judiciary has even conducted a review of the facts and determined whether those facts constitute substantial and credible evidence. It lowers the threshold for which a President can be harassed and persecuted to the point of distraction from his constitutional duties.

From now on, any Congress dissatisfied with the policies of a particular administration or the personal behavior of any President could simply conduct an ongoing, costly, and distracting inquiry designed to dilute the authority of the Presidency.

After this election, when rational behavior returns, and cooler heads can prevail, I urge us to forge a way to rise above the nasty politics that have clouded this body.

I will not be here with those of you who return to this next Congress. I leave after 20 years with my self-respect intact. I have reached across the lines within my own party and, when necessary, across the aisle to the other party to make this House work and to get things done for this country.

I fought partisan battles. I have stood my ground on issues that matter to my district. The American people expect us to do that. But they also expect us to, each of us, to rise above the base political instincts that drive such a wedge through this institution.

In the months ahead, we must find a way, my friends, to do what is right for America to find a way to return this House to the people through a respect for law, for fairness, and due process. In the end, we must do a lot better than we will do today.

Mr. HYDE. Mr. Speaker, I am very pleased to yield 2½ minutes to the gentleman from Georgia (Mr. BARR), a distinguished member of the committee.

Mr. Speaker, will the gentleman yield to me very briefly?

Mr. BARR of Georgia. I am happy to yield to the gentleman from Illinois (Mr. HYDE), the distinguished chairman of the Committee on the Judiciary.

Mr. HYDE. Mr. Speaker, I just want the record to be clear. My good friend the gentleman from Massachusetts

(Mr. DELAHUNT) talked about 60,000 pages that were released that were not reviewed or looked at.

I want him to know, and I want everyone listening to know that every single page of anything that was released was reviewed, and things that were not released were reviewed by our staff.

I also would like to point out that total time spent looking at these records by the Democrats, members of the Committee on the Judiciary on the Democrat side, were 21.81 hours. Six of them never came over to see the material. On the Republican side, 114.59 hours, and every Member came over to look at the material.

Mr. CONYERS. Mr. Speaker, will the gentleman yield to me?

Mr. HYDE. Mr. Speaker, I will give the gentleman from Georgia additional time.

Mr. BARR of Georgia. I yield to the gentleman from Michigan (Mr. CONYERS), the distinguished ranking member.

Mr. CONYERS. Mr. Speaker, I thank the gentleman from Illinois (Mr. HYDE). That really contributes to the comity of this body, and I am sure it is an interesting statistic that everybody ought to know about.

Mr. BARR of Georgia. Mr. Speaker, reclaiming my time, I yield to the gentleman from Illinois (Mr. HYDE), the distinguished chairman of the committee.

Mr. HYDE. Mr. Speaker, I just want to say to my friend that when the gentleman from Massachusetts (Mr. DELAHUNT) says this has been done careless or in a slipshod manner not reviewing these things, it is important to know we took our job seriously. They were there to be reviewed. If my colleagues did not choose to do it, that is their option.

Mr. CONYERS. Thank you, Mr. HYDE.

Mr. HYDE. You are welcome, Mr. CONYERS.

Mr. BARR of Georgia. Mr. Speaker, might I inquire of the gentleman from Illinois (Mr. HYDE), the distinguished chairman of the committee, if I have, in fact, 2 minutes remaining?

Mr. HYDE. Mr. Speaker, the gentleman has every reason to inquire, and I would like to give the gentleman from Georgia (Mr. BARR) a total of 3 minutes for his generosity.

Mr. BARR of Georgia. Mr. Speaker, as the United States Attorney appointed by President Reagan, when a case was presented to me, I started at the beginning. I would look and see what the law says, and I would look and see what the history of that law said.

Here we have similarly to look at the Constitution. It is pretty clear. What makes it even clearer, though, Mr. Speaker, is if we look at the sources for Article II Section 4, which is the impeachment power, we find, for example, Mr. Speaker, that, according to the Federalist writings 211 years ago, that an impeachable offense is, quote, "Any abuse of the great trust reposed in the President."

□ 1200

Moreover, they tell us, as Federalist 65 did, written by that great constitutional scholar Alexander Hamilton, an impeachable offense is a "violation of public trust."

I did not stop there, Mr. Speaker. I looked at further constitutional scholars. I find that 24 years ago, no less a constitutional scholar than William Jefferson Clinton, defined an impeachable offense as, "willful, reckless behavior in office."

I did not stop there. I looked at a report coauthored by Hillary Rodham, part of the impeachment team in the Watergate years, and I find that at page 26 of their report, she and others of her colleagues define an impeachable offense as "wrongs that undermine the integrity of office."

Where are we now, Mr. Speaker? The step we are taking today is one I first urged nearly a year ago. All we are doing today is taking the constitutionally equivalent step of impaneling a grand jury to inquire into whether or not the evidence shall sustain that offenses have, in fact, occurred.

The passage of H.R. 581 will mark the dawn of a new era in American government. We are sending the American people a clear message, that truth is more important than partisanship, and that the Constitution cannot be sacrificed on the altar of political expediency; that no longer will we turn a blind eye to clear evidence of obstruction of justice, perjury and abuse of power. We will be sending a message to this and all future Presidents that if, in fact, the evidence establishes that you or any future President have committed perjury, obstruction of justice, subversion of our judicial system, that we will be saying, no, sir, Mr. President, these things you cannot do.

It is our job as legislators to diagnose threats to our democracy and eliminate them. By the time the damage to our system is so great that everyone can see it, the wounds will be too deep to heal. We have already waited too long to address this issue. We must move forward quickly, courageously, fairly, and most importantly, constitutionally, along the one and the one and only path charted for us in the Constitution, the impeachment process.

We must do this, Mr. Speaker, so that tomorrow morning as we in this Chamber, as teachers all across America, lead their students in the pledge of allegiance, we can look America in the eye and say, yes, at least for today the Constitution is alive and well.

Mr. DELAHUNT. Mr. Speaker, I yield myself such time as I may consume.

I think it is very important for the record and for the American people to know that yes, the staff worked hard; the staff, the majority staff and the minority staff, to review 60,000 and some odd pages. But let me suggest that no Member in this House, no member in this committee in good conscience can stand here in this well today and state that he or she adequately reviewed that testimony before its release.

And this is a responsibility mandated by the Constitution to Members, not to staff, and that is what this is about today. This is not about defending the President, this is about defending the Constitution of the United States.

Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Speaker, the decision of the Republicans to limit the debate on this very important resolution to decide whether this body will move with an inquiry to impeach is a continuation of the partisan, unfair, inconsiderate actions that have dictated the management of this impeachment crisis since independent counsel Ken Starr dumped his referral in the laps of this Congress and in the laps of the public. This continuous, shameless and reckless disregard for the Constitution, basic civil rights and the citizens of this country cannot be tolerated.

This is a sad and painful time for all of us. The least we can do is handle this matter with dignity and fairness for everyone involved. Four and one-half years, $40 million. Unnecessary. Subpoenas of uninvolved individuals, and Mr. Starr's close relationships with groups and individuals, with demonstrated hatred for the President, taints the independent counsel's investigation.

This Congress does not need a protracted, open-ended witch-hunt of intimidation, embarrassment and harassment. The tawdry and trashy thousands of pages of hearsay, accusations, gossip, and stupid telephone chatter does not meet the standard of high crimes and misdemeanors.

The President's actions in this matter are disappointing and unacceptable, but not impeachable. Mr. Schippers, the general counsel for the Republicans, extended the allegations in search of something, anything that may meet the constitutional standards, and even the extended and added allegations do not comport with the Constitution.

It is time to move on. Reprimand the President, condemn him, but let us move on. These grossly unfair procedures will only tear this Congress and this Nation apart. I ask my colleagues to vote down this open-ended and unfair resolution. It does not deserve the support of this House.

Mr. Speaker, the Members of the Congressional Black Caucus have constantly warned this body about the dangers of a prosecutor run amok. They have warned this body about the abuse of the power of the majority. We ask our colleagues to listen to us as we remind our colleagues of the history of our people who have struggled against injustice and unfairness. Let us not march backwards; let us be wise enough to move forward and spend our precious time working on the issues of education, health care, senior citizens, children, and in the final analysis, Mr. Speaker, justice, and opportunity for all Americans.

Mr. HYDE. Mr. Speaker, I would like to inquire as to the time remaining on both sides.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. HYDE) has 33½ minutes; the gentleman from Massachusetts (Mr. DELAHUNT) as 34½ minutes.

Mr. HYDE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from South Carolina (Mr. INGLIS), a valued member of the committee.

Mr. INGLIS of South Carolina. Mr. Speaker, we are now engaged in a constitutional process that is about the search for truth. I believe that we should do that in a fair and expeditious way, completely disregarding polls, completely disregarding the pendency of an election on November 3, and answering the question that our colleague from California just asked about whether it is appropriate just to move along.

Of course, we do want to move along to important issues facing the country. We do want to restore freedom in health care, we do want to secure the future of Medicare and Social Security, and we do want to continue the progress toward balancing the budget. All of those things we want to do.

But I would ask my colleagues to consider this. Really, this is the crucial business of the country. This is the crucial business.

As we go into the next century, the question is, does the truth even matter. Now, some would say, let us move along, it does not matter, just move along. But if we move along, what we are leaving aside is serious allegations of serious crimes.

Just this week one of my staffers was on her way over here with a staff member of one of our colleagues, the gentleman from Louisiana (Mr. COOKSEY). An accident occurred, occurred on a bicycle, struck this young lady, not my staffer, but the other staffer. She was hurt. Now, she has two duties as a citizen. One is to testify, to be a witness, to come forward; and the second is to testify truthfully when called on, if necessary, in court.

Now, what shall we say to her if we are going to just move along and say that the potential of the crime of perjury just does not matter, then what of that small case in a court here in D.C.? We say to that case, well, it is not necessary to tell the truth in court, and it is not necessary to testify, I suppose. But we must say, if we are going to preserve the rule of law in this Nation, that it does matter, and that when that young staffer is called on to testify, if she must, she must testify, and then she must tell the truth.

This is the essential work of this Congress and of this Nation.

Mr. DELAHUNT. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from North Carolina (Mr. WATT), and a distinguished member of the Committee on the Judiciary.

Mr. WATT of North Carolina. Mr. Speaker, as members of the Committee on the Judiciary, we have had the opportunity to indicate our willingness to engage in a process that is fair, measuring the President's conduct against a constitutional standard, not a bicycle standard; focused on what the independent counsel has referred or might refer to us; and timely, one that sets an objective to conclude this matter and put it behind us.

We have also had the opportunity to listen to our colleagues on the Committee on the Judiciary who want to engage in an unfair and open-ended, partisan political fishing expedition, dealing with bicycles rather than constitutional standards, some of whom have already gone on television and already declared their conclusion in this matter before a trial even begins.

We have had our opportunity.

Mr. Speaker, I would like to yield the balance of my time to a nonmember of the Committee on the Judiciary, my good colleague from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, I am deeply disappointed that the Republican leadership has placed an incredibly unfair gag rule on a constitutional debate of historic proportions. If this gag rule is the first test of the Republicans' fairness in this inquiry, they have failed that test.

The most important issue today, Mr. Speaker, before us is not the November 3 elections, or even the fate of President Clinton. The most important issue before us is the historical precedent we set in beginning the process of undoing an election for the most important office of our land. The right to vote is the foundation of our entire democracy. To override the votes of millions of Americans in a Presidential election is an extraordinary action. It is a radical action, and, in effect, it is allowing the votes of 535 citizens to override the votes of tens of millions of citizens.

In its rush to begin an impeachment inquiry just days before a crucial election, this Congress will have lowered the threshold for future Presidential impeachment inquiries in such a way that compromises the independence of the Presidency as a coequal branch of government.

The truth is the Committee on the Judiciary has not even had 1 day, not even 1 hour of hearings on our Founding Fathers' original intent about the threshold for impeachment. I find it ironic that the very Republicans who have preached all year long that we should impeach Federal judges for not abiding by our Founding Fathers' constitutional intentions have now decided we can start an historic constitutional process without even 1 hour of hearings. How ironic that those same Republicans will today force us to vote on a truly historic constitutional issue without even 1 hour, 1 day of hearings on our Founding Fathers' intent about high crimes and misdemeanors.

To begin a formal impeachment inquiry after only a cursory review of the Independent Counsel's report, in light of a standard that has not been defined, within the context of a pending congressional election weeks away, at the very least undermines the credibility of this House on this important issue, and at the very worst has set an historical precedent that we can easily begin the process of undoing the freely exercised votes of millions of Americans.

To even begin this radical process without the greatest of deliberation, regardless of one's final vote, is in itself, in my opinion, an attack upon the very core of our democracy.

□ 1215

Mr. HYDE. Mr. Speaker, I am very pleased to yield 2 minutes to the distinguished gentleman from Tennessee (Mr. BRYANT), a member of our committee.

Mr. BRYANT. Mr. Speaker, I want to remind our colleagues that we are not voting on impeachment today. We are here today simply to uphold our constitutional obligation to look further into the allegations of wrongdoing against this president, and not to look away.

We seem to all agree that the President's conduct was wrong, and we seem to now agree that we must continue this process toward finding the truth. But this is not about keeping political score. It is not about allowing the President to dictate the terms of this process. We are here protecting our Constitution, which we have a duty to uphold. So let us complete our task fairly and expeditiously.

I must respectfully disagree with my good friend and colleague, the gentleman from Virginia (Mr. BOUCHER) and his alternative to this. Now is not the time to set arbitrary time limits, because, as we have learned before, that encourages stonewalling. We can actually get this done quicker, as the chairman said, without time limits. Now is not the time to consider possibly piecemealing allegations. Let us get all this done, get all this behind us, and move forward.

As part and parcel of that, our responsibility to the American people is to be fair throughout this process. It is an elementary principle of this fairness that the President should not be allowed to limit or direct or influence the process that Congress uses to investigate these allegations.

At the end of the day, our Constitution will still stand as a pillar of our Nation. It will and it should, fittingly, outlast any person, whomever it might be, who has the great privilege of serving in the office of the presidency.

Mr. DELAHUNT. Mr. Speaker, I yield 10 seconds to the gentleman from New York (Mr. ACKERMAN).

MOTION OFFERED BY MR. ACKERMAN

Mr. ACKERMAN. Mr. Speaker, I move that when the House adjourn, we do so to Salem, a quaint village in the Commonwealth of Massachusetts, whose history beckons us thence.

The SPEAKER. That is not a proper motion, the Chair would say to the gentleman from New York.

Mr. DELAHUNT. Mr. Speaker, I yield 2 minutes to my friend and colleague, the gentleman from Massachusetts (Mr. MEEHAN), whose district I do not think includes the town of Salem.

Mr. MEEHAN. Mr. Speaker, this debate is as important for what it is not about as for what it is about. It is not about whether to conduct an inquiry. Both the Democratic and Republican resolutions would initiate an inquiry. It is not about who has been more faithful to the Watergate precedent. Neither side is pure on that subject.

What this debate is about is whether the Committee on the Judiciary will take up Whitewater, Travelgate, and Filegate, without a shred of paper from the Independent Counsel on this subject. It is about whether the committee will commence a fullscale impeachment hearing without asking itself, as a threshold matter, whether even Ken Starr's best case compels impeachment.

If Members can somehow convince themselves that after 4½ years and nearly $50 million in taxpayers' money, that Ken Starr has been less than aggressive in pursuing Whitewater, Travelgate, and Filegate, then Members should vote for the Republican resolution which authorizes the Committee on the Judiciary to take them up even without a referral from Kenneth Starr.

If Members believe that the committee should avoid the question of whether even Ken Starr's best case compels impeachment, and, instead, plunge blindly into a month-long evidentiary fiasco, then they should vote for the Republican resolution.

How is it in our Nation's best interest to initiate an impeachment inquiry which willfully blinds itself to the numerous constitutional scholars that say that even Ken Starr's best case does not compel impeachment? At this time of global political and economic turmoil, it is in our Nation's interest to deal with the Lewinsky matter fairly and expeditiously. Only the Democratic alternative would do that.

So please, let us put the national interest above partisanship. I ask Members to vote their conscience, vote for the Democratic alternative, and against the Republican resolution.

Mr. HYDE. Mr. Speaker, I am pleased to yield 1½ minutes to the distinguished gentleman from Ohio (Mr. DENNIS KUCINICH).

Mr. KUCINICH. Mr. Speaker, I rise today not on behalf of Democrats or Republicans, but as an American who is deeply concerned that our country bring closure to the charges against the President. A vote for an inquiry is not the same as a vote for impeachment. This vote is neither a vote to impeach nor a license to conduct a partisan witchhunt.

In fact, some have called for impeachment without a hearing. Some have called for resignation without a hearing. Some have called for exoneration without a hearing. I believe there will be no resolution without an open hearing. There will be no accountability without an open hearing. There will be no closure for this country, for this Congress, or for our president, without an open hearing.

The Nation is divided. The House is divided. A House divided against itself will not stand, so if inquire we must, let us do it fairly, and in the words of Lincoln, with malice towards none, with charity towards all, because there will be an inquiry. The American people expect it to proceed fairly, expeditiously, and then they expect it to end. The people want us to get this over with, and they will be watching.

Let the President make his case. Give him a chance to clear his name and get back to his job. Bring everything out in the open. Bring forward the accusers and subject them to the light of day, settle this, and then move forward to do the business of the people, the business for which the people elected us: to further economic growth, to protect social security, to improve health care, and to meet all the other pressing needs of the American people.

Mr. CONYERS. Mr. Speaker, it is my pleasure to yield 1 minute to the gentleman from Maine (Mr. ALLEN).

Mr. ALLEN. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, this is a solemn moment, but as theater, it is overdone. It is overdone because this vote is not about whether or not we should have an impeachment inquiry. Both resolutions call for such an inquiry, so we will have one. This vote is about what kind of impeachment inquiry we will conduct. That question is important.

The majority wants an open-ended impeachment inquiry with no limits on its scope or duration. Under their plan, the Committee on the Judiciary can investigate anything and everything it wants for 6 months, a year, or even longer. I believe their plan will inflame partisanship, and if prolonged, weaken the institution of the presidency and this country.

This is not Watergate. That committee conducted a factual inquiry. We have piles of facts from the special prosecutor. Our task is to find an appropriate consequence for behavior we know is wrong. Our alternative will provide for thorough consideration of the Starr alternative, of the Starr referral, by December 31, 1998. What is wrong with that?

I urge my colleagues to oppose an inquiry resolution that does not say when it will end or what it will cover, and instead, support the focused, fair, and expeditious Democratic alternative.

Mr. HYDE. Mr. Speaker, I am pleased to yield 2 minutes to the distinguished gentleman from Missouri (Mr. KENNY HULSHOF).

Mr. HULSHOF. Mr. Speaker, last night I addressed this body and urged my colleagues to please avoid partisan wrangling. Today I implore the Members of this body to recognize the historical gravity of the moment. Today is not the day to condemn the process or the prosecutor. Today is not the day for talking points or pointing fingers.

Mr. Speaker, in this debate, let us pledge not our loyalty to our party, let us pledge allegiance to our country. Let us not be partisans. Instead, let us be patriots.

I, too, am concerned about the open-ended nature of the investigation. I believe each one of us would fervently wish this cup would pass us by, but I have faith in the integrity and ability of the gentleman from Illinois (Mr. HYDE), and when he says this process will be handled fairly and expeditiously, I think his word deserves great weight in this body.

So the question I have for the Members is simply this: Is it possible, is it possible, that there is credible evidence that exists that would constitute grounds for an impeachment? If Members' answer is a solemn yes, then vote in favor of the resolution.

But I submit, even if Members' answer is an equivocal "I do not know," then I think that the judgment of the doubt, the benefit of the doubt, must go in favor of the resolution.

Mr. Speaker, last January I was privileged to enter this Chamber for the first time, my family proudly beaming from the House gallery as I rose in unison with the Members of this body to take an oath. I pledged my sacred honor to the Constitution of the United States. That is what this vote is about.

In my humble and considered opinion, that oath requires from me a vote of aye on the resolution.

Mr. CONYERS. Mr. Speaker, it is my pleasure to yield 2 minutes to the able gentleman from New York (Mr. CHARLES RANGEL).

Mr. RANGEL. Mr. Speaker, I had the privilege of serving on the Watergate Committee on the Judiciary. One difference then, as opposed to now, is that we worked together as Republicans and Democrats to search for the facts and to report to the House of Representatives for them to make a determination.

Now, we do not have any question of trying to impeach the President of the United States or protecting the integrity of the Congress or the Constitution. The Republicans do not want to impeach, and would not touch it with a 10-foot political pole. They know at the end of this year that this Congress is over, and they even want to carry this over for the next 2 years, to attempt to hound this president, who has been elected twice, out of office.

The reason for it is because it is the only thing they have to take to the American people before this election. What else are they going to take? Their legislative record? The fact that they have renamed National Airport after Ronald Reagan, that they have deep-sixed the tax code to the year 2002?

On the question of social security, what have they done? Tried to rape the reserve. What have they done as it relates to minimum wage and providing jobs? What have they done for education? What have they done for the health of the people in this Nation?

They are not just going to get elected by hounding the President of the United States, because as they judge the President of the United States, the voters will be judging them on November 3.

Mr. HYDE. Mr. Speaker, I am very pleased to yield 1 minute to the distinguished gentleman from California (Mr. CHRIS COX).

Mr. COX of California. Mr. Speaker, I thank the chairman for yielding time to me.

Mr. Speaker, a member of the minority stated during the debate that the decision to limit the debate to 2 hours on this resolution is partisan. In allocating 2 hours for debate on a resolution authorizing an inquiry of impeachment, the Congress is adhering to precedent, the precedents established by the House of Representatives when it was under Democratic control. It is in fact doubling the amount of time that was spent in debate on the identical resolution in February, 1974.

Likewise, the wording of the resolution adheres directly to precedent. The minority argues today that an impeachment inquiry should be narrowly limited to the evidence we already know, but on February 6, 1974, when the Democrats were in the majority, Committee on the Judiciary Chairman Rodino stated: "To be locked into . . . a date (for completion of the inquiry) would be totally irresponsible and unwise." The inquiry, he said, must be "thorough, so that we can make a fair and responsible judgment."

The resolution does, as it must, follow precedent. We, in undertaking this solemn constitutional duty, must follow precedent. A vote for the resolution is a vote for a fair, full, and complete inquiry today, just as in 1974.

□ 1230

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentleman from Rhode Island (Mr. KENNEDY).

Mr. KENNEDY of Rhode Island. Mr. Speaker, today I will cast the most important vote of my whole time here in the United States Congress. And if we are not going to listen to each other, then I would like us to listen to the eminent scholar, Lawrence Tribe, on what we are doing today.

He said that, "Today this Congress is twisting impeachment into something else, instead of keeping it within its historical boundaries, and our Nation and its form of government are imperiled as a result." He went on to say that, "Today we are losing sight of the constitutional wreckage that this vote will cause as we lay down historical precedent that a President of the United States can be impeached for something other than official misconduct as President of the United States."

Mr. HYDE. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky (Mr. BUNNING).

Mr. BUNNING. Mr. Speaker, I rise in support of the resolution.

Except for declaring war, impeachment is the most serious and sobering issue that the House can consider. The question before us today demands that we act out of statesmanship and not raw, political partisanship. Our history and our Constitution demand the best for us.

I have read the referral to the House from the Independent Counsel, Ken Starr, and I believe there is enough evidence to warrant further inquiry by the Judiciary Committee.

The Judiciary Committee's review of the evidence accumulated by the Independent Counsel indicates that there exists substantial and credible evidence of fifteen separate events directly involving the President that constitute grounds to proceed with an impeachment inquiry. The charges are troubling—perjury, obstruction of justice, witness tampering, and abuse of power. They are not simply about extra-marital affairs, or making misleading statements. Instead, the allegations touch more profoundly upon claims of criminal conduct.

I do not know if all of the allegations in the Starr report are true and factual. But, the charges are serious and some of the claims made against the President are compelling. However, the report represents only one side of the story, and the President deserves the right to exonerate himself before the Judiciary Committee, the full House and the American people.

Our Constitution and historical precedent set out a procedure to follow in proceedings such as this, and I believe we must strictly follow the letter of the law. Impeachment is a grave matter, and at this crucial moment in our history we must not rush to judgment.

The inquiry by the Judiciary Committee must be orderly, and judicious. But, it must also be expeditious. While I do not think that an arbitrary deadline should be imposed on the panel, for the good of the country I believe it is incumbent upon the Committee to work with all deliberate speed in order to conclude this matter as soon and as fairly as possible. Chairman Hyde's goal of the Committee concluding its work by the end of the year is fair and reasonable.

By the same token, I also believe that the President has a duty to work with, and not against, the Judiciary Committee to speedily resolve this matter. The sooner we can conclude these proceedings, the better it will be for the country. Now is not the time for further foot-dragging and delay by anyone.

I believe the President was right yesterday when he said members of the House should cast "a vote of principle and conscience" on authorizing the impeachment inquiry. I agree. Of all the votes cast in this Congress, this should be one of integrity and honor.

Mr. HYDE. Mr. Speaker, I yield 2½ minutes to the gentleman from Texas (Mr. DELAY), the distinguished whip.

Mr. DELAY. Mr. Speaker, I thank the gentleman from Illinois (Chairman HYDE) for yielding me this time.

Mr. Speaker, I do not want to be here today. I wish I could just ignore all of this and make it go away. But I have a responsibility to answer a question today and that question is: How will history judge our actions that we take today?

I believe that this Nation sits at a crossroad. One direction points to the high road of the rule of law. Sometimes hard, sometimes unpleasant. This path relies on truth, justice, and the rigorous application of the principle that no man is above the law.

Now, the other road is the path of least resistance. This is where we start making exceptions to our laws based on poll numbers and spin control. This is when we pitch the law completely overboard when the mood fits us; when we ignore the facts in order to cover up the truth.

Shall we follow the rule of law and do our constitutional duty no matter how unpleasant, or shall we follow the path of least resistance, close our eyes to the potential law breaking, forgive and forget, move on, and tear an unfixable hole in our legal system?

No man is above the law and no man is below the law. That is the principle that we all hold dear in this country. The President has many responsibilities and many privileges. His chief responsibility is to uphold the laws of this land. He does not have the privilege to break the law.

The American system of government is built on the proposition that the President of the United States can be removed if he violates his oath of office. This resolution simply starts that process of inquiry. Did the President break the law? And if he did, does that lawbreaking constitute an impeachable offense?

Closing our eyes to allegations of wrongdoing by voting "no," or by limiting scope or time, constitutes a breach of our responsibilities as Members of this House. So let history judge us as having done our duty to uphold that sacred rule of law.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the able gentleman from Pennsylvania (Mr. KANJORSKI).

Mr. KANJORSKI. Mr. Speaker, I rise in opposition to any impeachment inquiry.

Mr. Speaker, I rise today with a heavy heart. Today, for only the third time in our nation's history, the House will consider whether to initiate an impeachment inquiry against the President. I take my sworn constitutional duty and responsibility in this matter very seriously.

Over the last four weeks, I have reviewed the Starr report and other material submitted by his office. I have also listened to legal experts, constitutional scholars, and my constituents about the referral. I have further studied the origins and history of our Constitution's impeachment clause. After considerable deliberation, I have determined that there is no convincing reason to vote for an impeachment inquiry into the matters referred by the independent counsel based on the evidence that we have before us at this time.

Clearly, President Clinton behaved badly. He was wrong to engage in an inappropriate relationship with a young woman. He was wring to mislead the American people in his public statements, and he was wrong to provide misleading answers in judicial proceedings. For that wrong behavior the President should be reprimanded, but he should not be removed from office.

Our Constitution demands a higher standard for the Congress to undertake the extraordinary action of removing a duly-elected President. This Congress has not sufficiently considered what constitutes an impeachable offense. Before we irreparably damage our nation's delicate system of checks and balances among our three branches of government, it is imperative that we establish that standard in a fair, nonpartisan matter. The resolution we are considering today is not about whether the man who holds the highest elected office in the country engaged in an improper relationship and then tried to conceal it. Rather, this resolution is about the standard under which the Congress has the right to overturn the will of the people who elected the President of the United States.

IMPEACHMENT DEFINITION

Both the text of the Constitution and the comments of its authors place the bar for impeachment quite high, and mandate that Congress use the impeachment process to address only the gravest of wrongs. Specifically, Article II of the Constitution states that the President may be removed from office on impeachment for, and conviction of "treason, bribery or other high crimes and misdemeanors."

Because this phrase is often truncated and used out of context, it is necessary to carefully examine the writings and debates of the Constitution's authors. Fortunately, evidence of the phrase's meaning and development is extensive. One individual who can provide especially helpful guidance about the meaning of the term is George Mason, the man who proposed the language adopted by the Constitutional Convention. Mr. Mason noted that "Impeachment should be reserved for treason, bribery, and high crimes and misdemeanors where the President's actions are great and dangerous offenses or attempts to subvert the Constitution and the most extensive injustice."

Read in their entirety the writings of the Constitution's authors firmly imply that the bar for impeachment is extremely high, and that Congress should use it to address only those Presidential actions that threaten the stability of our democracy. Moreover, the debate over the Constitution indicates that the Founders clearly intended that "other high crimes and misdemeanors" had to be crimes and actions against the state on the same level of magnitude as treason and bribery.

We can also look to precedent when seeking to understand the definition of impeachment and whether the actions of a President in his private life rise to the level of "high crimes and misdemeanors." In 1974, the House Judiciary Committee considered substantial evidence that Richard Nixon committed tax fraud during his presidency. Although the evidence overwhelmingly indicated that President Nixon had committed such fraud, the panel concluded by a bipartisan vote of 26 to 12 that personal misconduct is not an impeachable offense. Further, the Supreme Court has ruled that other remedies exist for addressing Presidential wrongdoing, including civil lawsuits and criminal prosecutions.

Finally, it is important to note that the Founders included impeachment as a constitutional remedy because they worried about Presidential tyranny and gross abuse of power. They did not intend impeachment or the threat of its use to serve as a device for denouncing the President's private actions. Instead, they left punishment for improper private Presidential conduct to public opinion, the political process, and judicial proceedings. I support the Framers' wise counsel on impeachment. The consideration of whether to overturn a decision of the electorate should only be undertaken in extreme situations. In short, Presidents ought not to be impeached for private conduct, however reprehensible.

POOR PRECEDENT

Beyond failing to meet the standard of impeachment envisioned by our Founders and strengthened by past practice, an impeachment inquiry into the matters recently referred by the independent counsel would create dangerous and undesirable precedents for the country in at last three significant ways. First, if this politically-inspired effort ultimately succeeds, it will tip the delicate system of checks and balances in favor of Congress. The result would be a parliamentary system whereby the party in power in Congress could impeach a President and a Vice President of another party for virtually any reason. Our Founders created a government with three separate, but equal branches of government. We should remember this fact today and not upset the balance of power they so sensibly established.

Second, as noted above, the House should vote to pursue an impeachment inquiry only if it has credible evidence of action constituting fundamental injuries to the governmental process. Assuming the facts presented by the independent counsel thus far to be true, the President's conduct does not rise to the level the Founders deemed impeachable because it was not "a serious abuse of power or a serious abuse of official duties." Furthermore, Congress has in more than 200 years never removed a President from office even though several Presidents have committed far more serious abuses. One must consequently ask whether this is where we want to set the bar for impeaching this and future Presidents. From my perspective it is not.

Finally, based on the facts of this referral, an impeachment inquiry would impose an extraordinary invasion of privacy. An impeachment inquiry on what is fundamentally a private matter will likely deter worthy contenders in both parties from running for political office—particularly the presiency—because they fear protracted, government-sponsored investigations into their past, current, and possibly future actions. Moreover, it could also provoke a move to impeach future Presidents every time that Congress thinks they may have made false statements.

THE SOLUTION

Like most Americans, I am personally disappointed with the President's acknowledged inappropriate personal behavior. Clearly, the President engaged in an improper relationship about which he did not want anyone to know. The President, as a result, was not forthcoming with the truth regarding this relationship, not only with the independent counsel and Congress, but also with his family and the American people. Ultimately, after months of personal turmoil the President admitted the affair, and suffered great humiliation and much public embarrassment, probably more than any other individual in our nation who has made similar mistakes.

The President's conduct was wrong and worthy of rebuke. Even if such personal behavior is not impeachable, as representatives of the people we must tell the President that his actions are not acceptable. We should, therefore, immediately consider some sort of censure against the President. Censure is a serious act that will certainly damage his standing in the public and lower his rank in history.

CONCLUSION

At the end of my prepared remarks, I will attach four excellent articles that further elaborate on the points I have made today. They include an analysis by noted constitutional scholar Cass Sunstein, thoughts by Robert F. Drinan and Wayne Owens who served as Democratic Members on the House Watergate panel, and a commentary by former Republican President Gerald R. Ford. The former President argues that instead of impeachment, the House should publicly censure the current President's behavior. I have also attached several recent statements about the Starr referral from some of the individuals integrally involved in Watergate all of whom conclude that this is vastly different form and less serious than Watergate.

Mr. Speaker, from my perspective Congress must swiftly resolve the matters referred by the independent counsel. We need to admonish the President for his inappropriate personal behavior and quickly move forward and address the nation's real priorities. We also need to ensure that we rebuke the President, and not punish the nation. The American people should not have to suffer through what could be an unlimited Congressional inquiry into a tawdry, but hardly impeachable extramarital affair. This Congress should begin the process of healing the nation's wounds. We should also begin to forgive. For these reasons, I will oppose this impeachment inquiry.

[From the Washington Post, Oct. 4, 1998]

"IMPEACHMENT? THE FRAMERS WOULDN'T BUY IT"

(By Cass Sunstein)

We all now know that, under the Constitution, the president can be impeached for "Treason, Bribery, or other high Crimes and Misdemeanors." But what did the framers intend us to understand with these words? Evidence of the phrase's evolution is extensive—and it strongly suggests that, if we could solicit the views of the Constitution's authors, the current allegations against President Clinton would not be impeachable offenses.

When the framers met in Philadelphia during the stifling summer of 1787, they were seeking not only to design a new form of government, but to outline the responsibilities of the president who would head the new nation. They shared a commitment to disciplining public officials through a system of checks and balances. But they disagreed about the precise extent of presidential power and, in particular, about how, if at all, the president might be removed from office. If we judge by James Madison's characteristically detailed accounts of the debates, this question troubled and divided the members of the Constitutional Convention.

The initial draft of the Constitution took the form of resolutions presented before the 30-odd members on June 13. One read that the president could be impeached for "malpractice, or neglect of duty," and, on July 20, this provision provoked extensive debate. The notes of Madison, who was representing Virginia, show that three distinct positions dominated the day's discussion. One extreme view, represented by Roger Sherman of Connecticut, was that "the National Legislature should have the power to remove the Executive at pleasure." Charles Pinckney of South Carolina, Rufus King of Massachusetts and Gouvernor Morris of Pennsylvania opposed, with Pinckney arguing that the president "ought not to be impeachable whilst in office." The third position, which ultimately carried the day, was that the president should be impeachable, but only for a narrow category of abuses of the public trust.

It was George Mason of Virginia who took a lead role in promoting this more moderate course. He argued that it would be necessary to counter the risk that the president might obtain his office by corrupting his electors. "Shall that man be above" justice, he asked, "who can commit the most extensive injustice?" The possibility of the new president becoming a near-monarch led the key votes—above all, Morris—to agree that impeachment might be permitted for (in Morris's words) "corruption & some few other offences." Madison concurred, and Edmund Randolph of Virginia captured the emerging consensus, favoring impeachment on the grounds that the executive "will have great opportunitys of abusing his power; particularly in time of war when the military force, and in some respect the public money, will be in his hands." The clear trend of the discussion was toward allowing a narrow impeachment power by which the president could be removed only for gross abuses of public authority.

To Pinckney's continued protest that the separation of powers should be paramount, Morris argued that "no one would say that we ought to expose ourselves to the danger of seeing the first Magistrate in foreign pay without being able to guard against it by displacing him." At the same time, Morris insisted, "we should take care to provide some mode that will not make him dependent on the Legislature." Thus, led by Morris, the framers moved toward a position that would maintain the separation between president and Congress, but permit the president to be removed in extreme situations.

A fresh draft of the Constitution's impeachment clause, which emerged two weeks later on Aug. 6, permitted the president to be impeached, but only for treason, bribery and corruption (exemplified by the president's securing his office by unlawful means). With little additional debate, this provision was narrowed on Sept. 4 to "treason and bribery." But a short time later, the delegates took up the impeachment clause anew. Mason complained that the provision was too narrow, that "maladministration" should be added, so as to include "attempts to subvert the Constitution" that would not count as treason or bribery.

But Madison, the convention's most careful lawyer, insisted that the term "maladministration" was "so vague" that it would "be equivalent to a tenure during pleasure of the Senate," which is exactly what the framers were attempting to avoid. Hence, Mason withdrew "maladministration" and added the new terms "other high Crimes and Misdemeanors against the State"—later unanimously changed to, according to Madison, "against the United States" to "remove ambiguity." The phrase itself was taken from English law, where it referred to a category of distinctly political offenses against the state.

There is a further wrinkle in the clause's history. On Sept. 10, the entire Constitution was referred to the Committee on Style and Arrangement. When that committee's version appeared two days later, the words "against the United States" had been dropped, probably on the theory that they were redundant, although we have no direct evidence. It would be astonishing if this change were intended to have a substantive effect, for the committee had no authority to change the meaning of any provision, let alone the impeachment clause on which the framers had converged. The Constitution as a whole, including the impeachment provision, was signed by the delegates and offered to the nation on Sept. 17.

These debates support a narrow understanding of "high Crimes and Misdemeanors," founded on the central notions of bribery and treason. The early history tends in the same direction. The Virginia and Delaware constitutions, providing a background for the founders' work, generally allowed impeachment for acts "by which the safety of the State may be endangered." And consider the words of the highly respected (and later Supreme Court Justice) James Iredell, speaking in the North Carolina ratifying convention: "I suppose the only instances, in which the President would be liable to impeachment, would be where he had received a bribe, or had acted from some corrupt motive or other." By way of explanation, Iredell referred to a situation in which "the President has received a bribe . . . from a foreign power, and, under the influence of that bribe, had address enough with the Senate, by artifices and misrepresentations, to seduce their consent to a pernicious treaty."

James Wilson, a convention delegate from Pennsylvania, wrote similarly in his 1791 "Lectures on Law": "In the United States and in Pennsylvania, impeachments are confined to political characters, to political crimes and misdemeanors, and to political punishments." Another early commentator went so far as to say that "the legitimate causes of impeachment * * * can have reference only to public character, and official duty. * * * In general, those offenses, which may be committed equally by a private person, as a public officer, are not the subjects of impeachment."

This history casts new light on the famous 1970 statement of Gerald Ford, then a representative from Michigan, that a high crime and misdemeanor "is whatever a majority of the House of Representatives considers it to be." In a practical sense, of course, Ford was right; no court would review a decision to impeach. But in a constitutional sense, he was quite wrong; the framers were careful to circumscribe the power of the House of Representatives by sharply limiting the category of legitimately impeachable offenses.

The Constitution is not always read to mean what the founders intended it to mean, and Madison's notes hardly answer every question. But under any reasonable theory of constitutional interpretation, the current allegations against Clinton fall far short of the permissible grounds for removing a president from office. Of course, perjury and obstruction of justice could be impeachable offenses if they involved, for example, lies about unlawful manipulation of elections. It might even be possible to count as impeachable "corruption" the extraction of sexual favors in return for public benefits of some kind. But nothing of this kind has been alleged thus far. A decision to impeach President Clinton would not and should not be subject to judicial review. But for those who care about the Constitution's words, and the judgment of its authors, there is a good argument that it would nonetheless be unconstitutional.—Cass Sunstein, who teaches at the University of Chicago School of Law, is the author of "Legal Reasoning and Political Conflict" (Oxford University Press).

[From the New York Times, Oct. 1, 1998]

"AN EASY LINE TO DRAW"

(By Robert F. Drinan and Wayne Owens)

This is not the first time the House Judiciary Committee has been called on to determine whether actions of the President in his private life rise to the level of "high crimes and misdemeanors." In 1974, we were members of the House Judiciary Committee that considered evidence that Richard Nixon committed tax fraud while President. The panel concluded that personal misconduct is not an impeachable offense.

The evidence against President Nixon was convincing. He had claimed a $565,000 deduction on his taxes for the donation of his Vice Presidential papers, but the loophole that allowed the deduction was closed in 1969. The IRS concluded that the documents for the donation had been signed in 1970 and backdated. There was persuasive evidence that Nixon was personally involved in the decision, making him criminally liable for tax fraud.

But the committee decided by a vote of 26 to 12 that he should not be impeached for tax fraud because it did not involve official conduct or abuse of Presidential powers.

As one of the committee's most partisan Democrats, Jerry Waldie, said, "Though I find the conduct of the President to have been shabby, to have been unacceptable, and to have been disgraceful even, this is not an abuse of power sufficient to warrant impeachment."

This bipartisan conclusion was made easier because the first order of business when the committee convened in 1974 was to discuss what the standards should be for impeachment. Without such standards, the impeachment process could become a partisan free-for-all.

The committee stipulated from the beginning that "because impeachment of a President is a grave step for the nation, it is predicted upon conduct seriously incompatible with either the constitutional form and principles of our government or the proper performance of constitutional duties of the Presidential office."

The current House Judiciary Committee would do well to "follow the precedents set in the Nixon hearings," as the chairman, Henry Hyde, recently pledged to do. If the panel applies the standard that emerged in 1974, it will decide that the charges against Clinton do not fall under the articles of impeachment.—Robert F. Drinan and Wayne Owens are former Democratic Representatives from, respectively, Massachusetts and Utah.

Recent Statements Comparing the Lewinsky Matter to Watergate by Individuals Closely Involved in Watergate

"With Mr. Nixon, of course, you had really serious abuse of high office. He engaged in wiretapping of newsmen and government officials. He ordered break-ins—the staff did—of government institutions, and then there was a cover-up where there was clearly no question when you're paying hush money that you're seeking silence of those involved. So, the width and breadth of Watergate was much different than the single incident we have involved here."—John Dean (CNN, 9/11/98)

"The offenses being investigated are totally different. . . . In the aggregate, Watergate was serious, piece-by-piece subversion of presidential accountability to the Congress and public. Those are very wide differences from Whitewater and Monica Lewinsky."—Elliot Richardson (Associated Press, 9/10/98)

Asked if the Starr Report established grounds for impeachment, Ben-Veniste answered, "No, I don't. And I believe that the report itself is a flagrant and arrogant misuse of the power and the authority of an independent counsel. It had been reported that Mr. Starr was going to follow the example of the Watergate prosecutors in transmitting evidence as a statute permits him to do relating to his view of impeachable offenses. Instead, he has set himself up, not only as investigator and prosecutor, but as judge and jury and has had the arrogance to write articles of impeachment as to make an argument here, a prosecution argument for the removal of the President of the United States. This report has gone so far beyond what he was authorized to do that is has now merged Starr, the prosecutor, and Star the Supermarket tabloid."—Richard Ben-Veniste (Meet the Press, 9/13/98)

"I think we have to remember what the crimes in Watergate were. Watergate was about a vast and pervasive abuse of power by a President who ordered break-ins; who ordered fire bombings; who ordered illegal wiretappings; who ordered a squad of goons to thwart the constitutional electoral process. We've seen nothing like that here."—Carl Bernstein (CNN Saturday Morning News, 9/12/98)

[From the New York Times, Oct. 4, 1998]

"The Path Back to Dignity"

(By Gerald R. Ford)

GRAND RAPIDS, MICH.—Almost exactly 25 years have passed since Richard Nixon nominated me to replace the disgraced Spiro Agnew as Vice President. In the contentious days of autumn 1973, my confirmation was by no means assured. Indeed, a small group of House Democrats, led by Bella Abzug, risked a constitutional crisis in order to pursue their own agenda.

"We can get control and keep control," Ms. Abzug told the Speaker of the House, Carl Albert.

The group hoped, eventually, to replace Nixon himself with Mr. Albert.

The Speaker, true to form, refused to have anything to do with the scheme. And so on Dec. 6, 1973, the House voted 387 to 35 to confirm my nomination on accordance with the 25th Amendment to the Constitution.

When I succeeded to the Presidency, in August 1974, my immediate and overriding priority was to draw off the poison that had seeped into the nation's bloodstream during two years of scandal and sometimes ugly partisanship. Some Americans have yet to forgive me for pardoning my predecessor. In the days leading up to that hugely controversial action, I didn't take a poll for guidance, but I did say more than a few prayers. In the end I listened to only one voice, that of my conscience. I didn't issue the pardon for Nixon's sake, but for the country's.

A generation later, Americans once again confront the specter of impeachment. From the day, last January, when the Monica Lewinsky story first came to light, I have refrained publicly from making any substantive comments. I have done so because I haven't known enough of the facts—and because I know all too well that a President's responsibilities are, at the best of times, onerous. In common with the other former Presidents, I have had to wish to increase those burdens. Moreover, I resolved to say nothing unless my words added constructively to the national discussion.

This much now seems clear: whether or not President Clinton has broken any laws, he has broke faith with those who elected him. A leader of rare gifts, one who set out to change history by convincing the electorate that he and his party wore the mantle of individual responsibility and personal accountability, the President has since been forced to take refuge in legalistic evasions, while his defenders resort to the insulting mantra that "everybody does it."

The best evidence that everybody doesn't do it is the genuine outrage occasioned by the President's conduct and by the efforts of some White House surrogates to minimize its significance or savage his critics.

The question confronting us, then is not whether the President has done wrong, but rather, what is an appropriate form of punishment for his wrongdoing. A simple apology is inadequate, and a fine would trivialize his misconduct by treating it as a mere question of monetary restitution.

At the same time, the President is not the only one who stands before the bar of judgment. It has been said that Washington is a town of marble and mud. Often in these past few months it has seemed that we were all in danger of sinking into the mire.

Twenty-five years after leaving it, I still consider myself a man of the House. I never forget that my elevation to the Presidency came about through Congressional as well as constitutional mandate. My years in the White House were devoted to restoring public confidence in institutions of popular governance. Now as then, I care more about preserving respect for those institutions than I do about the fate of any individual temporarily entrusted with office.

This is why I think the time has come to pause and consider the long-term consequences of removing this President from office based on the evidence at hand. The President's hairsplitting legalisms, objectionable as they may be, are but the foretaste of a protracted and increasingly divisive debate over those deliberately imprecise words "high crimes and misdemeanors." The Framers, after all, dealt in eternal truths, not glossy deceit.

Moving with dispatch, the House Judiciary Committee should be able to conclude a preliminary inquiry into possible grounds for impeachment before the end of the year. Once that process is completed, and barring unexpected new revelations, the full House might then consider the following resolution to the crisis.

Each year it is customary for a President to journey down Pennsylvania Avenue and appear before a joint session of Congress to deliver his State of the Union address. One of the binding rituals of our democracy, it takes on added grandeur from its surroundings—there, in that chamber where so much of the American story has been written, and where the ghosts of Woodrow Wilson, Franklin Roosevelt and Dwight Eisenhower call succeeding generations to account.

Imagine a very different kind of Presidential appearance in the closing days of this year, not at the rostrum familiar to viewers from moments of triumph, but in the well of the House. Imagine a President receiving not an ovation from the people's representatives, but a harshly worded rebuke as rendered by members of both parties. I emphasize: this would be a rebuke, not a rebuttal by the President.

On the contrary, by his appearance the President would accept full responsibility for his actions, as well as for his subsequent efforts to delay or impede the investigation of them. No spinning, no semantics, no evasiveness or blaming others for his plight.

Let all this be done without partisan exploitation or mean-spiritedness. Let it be dignified, honest and, above all, cleansing. The result, I believe, would be the first moment of majesty in an otherwise squalid year.

Anyone who confuses this scenario with a slap on the wrist, or a censure written in disappearing ink, underestimates the historic impact of such a pronouncement. Nor should anyone forget the power of television to foster indelible images in the national memory—not unlike what happened on the solemn August noontime in 1974 when I stood in the East Room and declared our long national nightmare to be over.

At 85, I have no general personal or political agenda, nor do I have any interest in "rescuing" Bill Clinton. But I do care, passionately, about rescuing the country I love from further turmoil or uncertainty.

More than a way out of the current mess, most Americans want a way up to something better. In the midst of a far graver national crisis, Lincoln observed, "The occasion is piled high with difficulty, and we must rise

> with the occasion." We should remember those words in the days ahead. Better yet, we should be guided by them.—Gerald R. Ford, the 38th President of the United States, was a Republican member of the House of Representatives from 1949 to 1973.

Mr. CONYERS. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Houston, Texas (Ms. SHEILA JACKSON-LEE), an able member of our Committee on the Judiciary who was working until midnight on the floor.

Ms. JACKSON-LEE. Mr. Speaker, I thank the distinguished gentleman from Michigan (Mr. CONYERS) for yielding me this time, and I thank my democratic colleagues for the convictions they have shared with America today and for helping them understand this most somber challenge and the high constitutional that we may have.

To my colleagues on the other side of the aisle, truth matters, but the Constitution also matters. The President's behavior was reprehensible, outrageous, and disappointing. But as George Mason indicated, impeachable offenses are those dangerous and great offenses against the Constitution. They constitute a subversion of the Constitution.

Members gathered in 1974 and refused to impeach Richard Nixon on the personal charge of tax evasion. It must be that we understand what these constitutional standards are for impeachment high crimes and misdemeanors—would that be private sexual acts—it appears not.

Mr. Speaker, I wish in my Republican friends' attempt to explain to the American people that they stand by the Constitution that they would have implored their own counsel, Mr. Shippers, and, of course, Mr. Starr, not to hide the truth, for the presentations made by both men did not forthrightly acknowledge that Monica Lewinsky said, "No one ever asked me to lie and I was never promised a job for my silence." I am concerned about this uneven presenting of the facts.

Democrats do not want a cover-up. We simply want to have an inquiry that is fair, that is expeditious, and is not open-ended and is not a fishing expedition.

What is perjury? Perjury is lying; however perjury must be proven. Several defenses if raised would disprove lying—such truth, or whether the proponent thought he or she was telling the truth, and materiality. My friends on the other side of the aisle are rushing to judgment. But I am reminded of the words of Congresswoman Barbara Jordan, "It is reason and not passion which must guide our deliberations, guide our debate, and guide our decision." We must proceed deliberately—not eager to accuse without the facts.

Mr. Speaker, I implore my colleagues, to let reason guide us. And then let me say to my constituents and those who face a moral dilemma, I have been in churches in my district, they believe in redemption. And, yes, the President has sinned. But those of you who want to rise and cast the first stone, my question is: Who has not sinned?

And whatever we do today, those of us who have received death threats in our office, attacks against our children because of the hysteria that has been created by this Congress, I simply ask that we give this proceeding a chance to be fair, to act judiciously, and to follow the Constitution.

Lastly, might I say I believe that we will survive this together as a Nation and we will do this if we let constitutional principals guide us for Isaiah 40:31 says, "They that wait upon the Lord shall renew their strength. They shall mount up with wings as eagles and they shall walk and not be faint."

Mr. Speaker, I will stand for the preservation of the Constitution.

It is fate that has put us all here today.

But history will reflect—and tell the story of how we acted today—whether or not the Constitution matters. Truth does matter, but the Constitution dictates that impeachable offenses be grounded in attempts to subvert the Constitution. I am supporting the democratic amendment today that focuses our review, establishes the constitutional standards, and allows us to bring this inquiry to closure by the end of the year.

Truth matters and the Constitution matters. The President is not above the law, however, neither is he beneath the law. We need to act with reason, not fury, harmony not acrimony, with deliberation, not recklessness, with constitutional discharge, and not with opinion, and speculation with justice and fairness and not injustice and unfairness.

Mr. Speaker, in November of 1992 President William Jefferson Clinton was elected President of the United States by focusing on the economy and using the slogan "It's the Economy Stupid." I come here today with mixed feelings. We come here today not to focus on the economy, but the Constitution. It's the Constitution that matters!

Article II, Section IV states that,

> the President . . . shall be removed from Office on Impeachment for, and Conviction of, treason, Bribery, or other High Crimes and Misdemeanors.

It's the Constitution that matters! The Framers of our Constitution set the standard. George Mason, one of the Framers, stated that "high crimes and misdemeanors" refers to Presidential actions that are "great and dangerous offenses" to attempt to subvert the Constitution." The noted legal scholar from Yale University Professor, Charles Black, writes in his Impeachment Handbook that,

> In the English practice from which the Framers borrowed the phrase, "High Crimes and Misdemeanors" . . . was intended to redress public offenses committed by public officials in violation of the public trust and duties. It was designed to be justified for the gravest wrongs—offenses against the Constitution itself.

This is our standard. It is clear that while we have no conduct or allegations showing the President to have committed either treason or bribery, we must focus our attention on two questions. One, what is a "high crime and misdemeanor or an impeachable offense?, and two, did the President of the United States commit any high crimes and misdemeanors or an impeachable offense? Those are the questions, and it is up to the Congress to find the answers.

We are at this point today because the President of the United States had an affair with a White House intern and he didn't want anyone to know about it, and that was wrong. However, what we have heard or seen thus far does not set out a prima facie case for impeachment.

On the floor for consideration today is a Republican "privileged resolution" on the question to launch an impeachment inquiry "to investigate fully and completely whether sufficient grounds exist for the House of Representatives to exercise its constitutional power to impeach the President." There are no limits to their investigation and no establishment of the necessary constitutional standards.

Twenty-five years ago, this committee undertook the constitutional task of considering the impeachment of President Nixon. The process was painstaking, careful, and deliberative, and both the Nation and the world were reassured that America's 200 year-old Constitution worked.

Impeachment is final, nonappealable without further remedy, a complete rejection of the people's will and thereby, I believe it must be done fully beyond a doubt and without rancor or vengeance—complying with every woven thread of the Constitution. Today, by contrast, the world and the American people have been alternatively puzzled, confused, and appalled by the reckless media circus our automatic dumping of documents has produced.

On July 24, 1974, the House Judiciary Committee had a meeting to consider the Impeachment of President Richard Nixon. One of my predecessors of the 18th Congressional District of Texas, the late, great, Barbara Jordan said that,

> My faith in the Constitution is whole, it is complete, it is total. I am not going to sit here and be an idle spectator to the diminution, the subversion, the destruction of the Constitution.

So I, like my predecessor come not to subvert or destroy the Constitution, but to uphold it.

I am fully aware like most of my colleagues, that this privileged resolution only allows for a 10-minute motion to recommit, and not the regular full time allotted to consider a Democratic amendment. In order for this process to be fair and balanced and for the American people to truly hear both sides of this debate the House should waive House Rule IX, and allow the Democratic amendment to be considered, for a certain designated time. The Republicans refused that request.

While the Republican resolution does not have a time certain for the inquiry to end, the Democratic amendment calls for the Judiciary Committee to make a full recommendation to the House concerning Articles of Impeachment by no later than December 31, 1998. This is a compromise. There must be fairness and balance. The Democrats have also yielded on the provision which allows the House to consider other pertinent matters, as long as it is referred by the Independent Counsel, and not arbitrarily decided by Congress. This impeachment inquiry must be limited in scope and have a time certain. On February 6, 1974, Congressman Hutchinson, then the ranking Republican on the committee spoke on the floor of the House about the Watergate inquiry and said,

> The resolution before you carries no cutoff date. Although charges have raged in the media there has yet to be demonstrated any evidence of impeachable conduct. Therefore, if by the end of April no such evidence has been produced, the committee should so report to the House and end its labors.

The American people have spoken and they have said that this has gone on too long. This can not be an endless process. There must be time certain or the House should "end its labors."

So far what we have in Congress is the word of one man, an Independent Counsel who is not duly elected by the people. We have convoluted facts, inconsistent stories and versions, possible illegal tape recordings, but no real hard evidence.

In Act V of Macbeth, William Shakespeare writes,

> Life's but a walking shadow, a poor player That struts and frets his hour upon the stage, And then is heard no more; it is a tale Told by an idiot, full of sound and fury, Signifying nothing.

That's what we have so far Mr. Speaker. We have fury, but no facts, and a tale told by a nonelected official that is full of allegations, not yet fact signifying anything. As the Watergate Committee's February 1974 Staff Report explained, "In an impeachment proceeding a President is called to account for abusing powers that only a President possesses." In Watergate, as in all prior impeachments, the allegations concerned official misconduct that threatened to subvert the constitutional order or balance, not private misbehavior. Impeachment is not a personal punishment. In all of American history, no official has been impeached for misbehavior unrelated to his official responsibilities. I make no attempt to excuse the President's behavior, but as we vote on whether to launch a full scale impeachment inquiry, I admonish my colleagues that we must adhere to the constitution and the writings of the Framers. It's the Constitution that matters!

As James Wilson explained in the Pennsylvania ratification convention: "far from being above the laws, [the President] is amenable to them in this private character as [a] citizen, and in his public character by impeachment." The Constitution imposes a grave and serious responsibility on us to protect the fabric of the Constitution. To perform our job requires that we investigate the facts thoroughly before we begin dealing with what our predecessors called "delicate issues of basic constitutional law." We must avoid prejudging the issues or turning this solemn duty into another forum for partisan wrangling. The Republican resolution on the floor today, which may result in the House acting without all the facts, weakens the foundation of the Constitution.

The former Congressman and now a renowned Georgetown Law Professor, Father Drinan, who served on the House Judiciary Committee during the Watergate Impeachment hearings stated that,

> There is no such thing as a Democratic or Republican approach to the allegation of impeachment, The House of Representatives is now involved in a proceeding which was described by George Mason [a Founding Father] as the Constitution providing for the regular punishment of the executive when his misconduct should deserve it" but also "for his honorable acquittal when he should be unjustly accused.

It was George Washington, the first President of the United States who said in his Farewell Address on September 17, 1796, "Let me now . . . warn you in the most solemn manner against the baneful effects of the spirit of party."

This should be a nonpartisan debate, and a constitutional debate. We need to act with reason, not fury, harmony not acrimony, with deliberation . . . not recklessness, with constitutional discharge, and not with opinions and speculation, with justice and fairness, and not injustice and unfairness.

I hope my colleagues will allow for full consideration and debate of the Democratic amendment which is focused and fair. I leave you with the words of Martin Luther King, who said, "Injustice anywhere is a threat to justice everywhere . . . whatever affects one directly, affects all indirectly." It's the Constitution that matters Mr. Speaker, and I hope today it will rule.

Mr. HYDE. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. SMITH), a distinguished member of the committee.

Mr. SMITH of Texas. Mr. Speaker, others continue to argue or continue to imply that this inquiry is only about a personal relationship, but that is like saying Watergate was only about picking a lock or that the Boston Tea Party was only about tea.

During a similar investigation of President Nixon 24 years ago, there was little focus on the burglary. The Committee on the Judiciary and the special prosecutor rightly wanted to know, as we should today, whether the President lied to the American people, obstructed justice or abused his office.

While some try to describe this scandal as private, the President's own Attorney General found that there existed credible evidence of criminal wrongdoing.

This is not a decision to go forward with an inquiry into a personal relationship. It is about examining the most public of relationships, between a witness and the courts, between the President and the American people.

It is about respect for the law, respect for the office of the presidency, respect for the American people, respect for the officers of the Court, respect for women and ultimately about self-respect.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. ACKERMAN).

Mr. ACKERMAN. Mr. Speaker, I rise in passionate objection and opposition to the resolution.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Mr. Speaker, I thank the gentleman from Michigan (Mr. CONYERS) for yielding.

Mr. Speaker, I rise in opposition to the Hyde resolution, and in doing so point out the inconsistency of the Republican majority. At the start of this Congress, the Republican majority gave you, Mr. Speaker, the highest honor this House can bestow: The speakership. For the freshman Republicans, this was the first vote that they cast in this House. The Republican majority did this after you, Mr. Speaker, were charged with and admitted to lying under oath to the Ethics Committee about the conduct of your political affairs.

How inconsistent then, Mr. Speaker, for this same Republican majority to move to an impeachment inquiry of the President for lying about his personal life. Our Republican majority have said lying under oath is a dagger in the heart of the legal system. We all agree that lying is wrong, but why the double standard?

I urge my colleagues to reject this Republican double standard which exalts the Speaker and moves to impeach the President. I urge my colleagues to vote no on the Hyde resolution.

Mr. HYDE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Utah (Mr. CANNON), a member of the Committee on the Judiciary.

Mr. CANNON. Mr. Speaker, I would like to associate myself with the views expressed by the chairman, the gentleman from Illinois (Mr. HYDE), and also by those expressed by the gentleman from Ohio (Mr. KUCINICH).

I am proud that my Republican colleagues have spent more than 5 times as much time reviewing the Starr referral material than my Democratic colleagues.

This is a solemn occasion and I feel the full weight of the responsibility that we are assuming today.

Some would trivialize this debate by giving it the name of a young intern or by referring to other important matters that face the Nation. They know that this is or they should know that this is inappropriate. Americans want this matter brought to closure. That can only occur if we fully determine the facts, place those facts in the context of the law and weigh the proper response that will preserve the integrity of the office of the presidency and the integrity of our Nation.

Mr. Speaker, as a member of the Committee on the Judiciary, I pledge to work diligently to move this matter forward.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I rise in opposition to the Hyde resolution.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Speaker, I rise in support of the Democratic alternative and in opposition to the open-ended Republican resolution of inquiry.

Mr. Speaker, the question of impeaching a sitting President has only come before the House of Representatives three times in our nation's history. There's a very good reason this has happened so seldom. Our nation's founders deliberately set very high standards for impeachment in order to spare the nation the trauma of such an inherently divisive debate and to maintain a strong and independent Presidency. At a time like this, we all have a responsibility to rise above party politics and short term political considerations. We are not just debating the fate of this President. We are setting precedents that will have a profound and long-lasting effect on our constitutional system of government.

The issue before the House today is whether we will initiate a lengthy and open-ended impeachment inquiry that will paralyze our government and throw this nation into a prolonged constitutional crisis, or whether we will demand a focused and speedy resolution of this matter. After carefully considering the evidence so far produced by Independent Counsel Kenneth Starr, I have concluded that the nation's interests are best served by an impeachment inquiry that is thorough, but focused—comprehensive, but promptly concluded.

This debate is already preventing Congress from addressing important issues facing the nation—including issues like the future of Social Security, health care reform and improving our educational system. There is no profit to the people of the United States in a drawn-out impeachment debate that could go on for another year or more. We have the information we need to conclude this matter by the end of this year. The Republican leadership should work with Democratic leaders to make that happen.

President Clinton's behavior has been outrageous, reckless and morally offensive. He flatly lied to the American people and may have committed perjury in a civil lawsuit. Mr. Starr also alleges that the President obstructed justice and otherwise abused his office.

Reasonable people can differ over whether these charges—if true—constitute the kind of offenses that warrant the national trauma of impeachment. For that reason, if for no other, I believe the Judiciary Committee should consider the evidence brought forward by the Independent Counsel, as well as any new evidence he sees fit to refer to us, and decide without delay whether to forward articles of impeachment to the House. But I strongly disagree with the delay tactics and the blatantly unfair and partisan approach adopted by Republican leaders—a strategy aimed more at improving their party's election prospects than at promoting the national interest.

Impeachment of a President is not a matter for Congress to take lightly or use for narrow partisan purposes. By its very nature, impeachment repudiates the will of the people as expressed in a popular election. it severely undermines the separation of powers, which is at the core of our system of government. And in the long term, it would weaken not only the office of the President, but the nation's strength and prestige in international affairs.

For those reasons and others, I oppose the Republican leadership's drawn-out and open-ended impeachment inquiry proposal and will vote today in favor of the alternative: a prompt and focused impeachment inquiry aimed at resolving this crisis and putting these issues behind us, one way or another.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington (Mr. MCDERMOTT), my dear friend.

Mr. MCDERMOTT. Mr. Speaker, I rise in opposition to the Hyde amendment.

Mr. Speaker, in 1789, the Founding Fathers wrote a Constitution designed to create a stable government. They established a democracy of the people—not a parliamentary democracy—because they did not want a government that would change whenever the executive fell into disfavor with the majority party. The Founding Fathers wanted a government of laws, not people, so they made only one option available to change the chief executive outside of an election by the people—impeachment. Impeachment was prescribed only in unique and extraordinary circumstances.

The impeachment process was vaguely outlined in the Constitution and the established criteria are very few. Article II, Section 4 says that the President, "Shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors." Impeachment does not require criminal acts. In fact, the House Report on the Constitutional Grounds of Presidential Impeachment states, "the emphasis has been on the significant effects of the conduct—undermining the integrity of the office, disregard of constitutional duties and oath of office, arrogation of power, abuse of the governmental process, adverse impact on the system of government." The bar was set high so that impeachment would be neither casual nor easy for fear that we would undermine the stability of the office. Alexander Hamilton summed up the dangers of impeachment by saying, "there will always be the greatest danger that the decision will be regulated more by the comparative strength of parties, than by the real demonstrations of innocence or guilt."

Hamilton's warning seems prophetic today. Aside from its partisan nature, the situation before us is quite unusual. It is the first time an Independent Counsel has presented findings to the Congress for determination of the need for an impeachment process. Secondly, the House of Representatives undermined the process when they ignored the precedents which have been followed in the evaluation and released large volumes of testimony and documents collected in the grand jury process to not only the Congress but to the world at large.

This has allowed the full membership of the House of Representatives and the public to come to conclusions before the process of impeachment has begun. The polls would suggest that the public does not favor removing the President from office but it is less clear what they feel is an adequate sanction.

Today, the members of the House will be confronted with the question of whether or not an impeachment inquiry should begin. I will vote against an inquiry for the following reason:

The evidence presented to the Congress by Mr. Starr does not support the charge of an impeachable offense. When all is said and done, the President made some false statements under oath about a sexual relationship and lied to many people about that relationship. While I in no way condone the President's behavior, I have concluded that it requires no further investigation and does not support impeachment.

The framers of the Constitution did not anticipate litigation against a president in a sexual harassment case or investigation by an independent counsel. The framers limited impeachment to the kinds of improprieties—treason, bribery, and the like—that threatened the nation for the benefit of the individual. We have no such case before us. His actions, while totally unacceptable, do not rise to the level of a high crime or misdemeanor. The President's actions do not threaten our ability to act decisively in the world of politics for the benefit of all Americans, sadly, the House of Representative's actions do.

[From the National Law Journal, Oct. 5, 1998]

Top Profs: Not Enough To Impeach

NLJ 'JURY' OF 12 CON-LAW EXPERTS WEIGHS EVIDENCE

(By Harvey Berkman)

ON A 'JURY' OF 12 constitutional law professors, all but two told The National Law Journal that, from a constitutional standpoint, President Clinton should not be impeached for the things Independent Counsel Kenneth W. Starr claims he did.

Some of the scholars call the question a close one, but most suggest that it is not; they warn that impeaching William Jefferson Clinton for the sin he admits or the crimes he denies would flout the Founding Fathers' intentions.

"On the charges as we now have them, assuming there is no additional report [from Mr. Starr], impeaching the president would probably be unconstitutional," asserts Cass R. Sunstein, co-author of a treatise on constitutional law, who teaches at the University of Chicago Law School.

The first reason for this conclusion is that the one charge indisputably encompassed by the concept of impeachment—abuse of power—stands on the weakest argument and evidence.

"The allegations that invoking privileges and otherwise using the judicial system to shield information . . . is an abuse of power that should lead to impeachment and removal from office is not only frivolous, but also dangerous," says Laurence H. Tribe, of Harvard Law School.

The second reason is that the Starr allegation for which the evidence is disturbingly strong—perjury—stems directly from acts the Founders would have considered personal, not governmental, and so is not the sort of issue they intended to allow Congress to cite to remove a president from office.

NO 'LARGE-SCALE INFIDELITY'

Says Professor Sunstein, "Even collectively, the allegations don't constitute the kind of violation of loyalty to the United States or large-scale infidelity to the Constitution that would justify impeachment, given the Framers' decision that impeachment should follow only from treason, bribery or other like offenses . . . What we have in the worst case here is a pattern of lying to cover up a sexual relationship, which is very far from what the Framers thought were grounds for getting rid of a president."

Douglas W. Kmiec, who spent four years in the Justice Department's Office of Legal Counsel and now teaches at Notre Dame Law School, agrees: "The fundamental point is the one that Hamilton makes in Federalist 65: Impeachment is really a remedy for the republic; it is not intended as personal punishment for a crime.

"There's no question that William Jefferson Clinton has engaged in enormous personal misconduct and to some degree has exhibited disregard for the public interest in doing so," he says. But does that mean that it is gross neglect—gross in the sense of being measured not by whether we have to remove the children from the room when the president's video is playing, but by whether [alleged terrorist Osama] bin Laden is now not being properly monitored or budget agreements aren't being made?"

Adds Prof. John E. Nowak, of the University of Illinois College of Law, the impeachment clause was intended "to protect political stability in this country, rather than move us toward a parliamentary system whereby the dominant legislative party can decide that the person running the country is a bad person and get rid of him." Mr. Nowak co-authored a constitutional law hornbook and a multivolume treatise with fellow Illinois professor Ronald Rotunda, with whom he does not discuss these matters because Professor Rotunda is an adviser to Mr. Starr.

"It seems hard to believe that anything in the report . . . could constitute grounds for an impeachment on other than purely political grounds." Professor Nowak says. "If false statements by the president to other members of the executive branch are the equivalent of a true misuse of office . . . I would think that the prevailing legislative party at any time in our history when the president was of a different party could have cooked up . . . ways that he had misused the office."

And that, says Prof. A.E. Dick Howard, who has been teaching constitutional law and history for 30 years, would be a step in a direction the Founders never intended to go.

"The Framers started from a separation-of-powers basis and created a presidential system, not a parliamentary system, and they meant for it to be difficult for Congress to remove a president—not impossible, but difficult," says Professor Howard, of the University of Virginia School of Law. "We risk diluting that historical meaning if we permit a liberal reading of the impeachment power—which is to say: If in doubt, you don't impeach."

Many of the scholars point to the White House's acquisition of FBI files on Republicans as an example of something that could warrant the Clintons' early return to Little Rock—but only if it were proved that these files were acquired intentionally and malevolently misused. The reason that would be grounds for impeachment, while his activities surrounding Monica Lewinsky would not, the professors say, is that misuse of FBI files would implicate Mr. Clinton's powers as president. But if Mr. Starr has found any such evidence, he has not sent it to Congress, which he is statutorily bound to do.

One professor who believes there is no doubt that President Clinton's behavior in the Lewinsky matter merits his impeachment is John O. McGinnis, who teaches at Yeshiva University, Benjamin N. Cardozo School of Law. "I don't think we want a parliamentary system, although I would point out that it's not as though we're really going to have a change in power. If Clinton is removed there will be Gore, sort of a policy clone of Clinton. A parliamentary system suggests a change in party power. That fear is somewhat overblown."

Professor McGinnis considers the reasons for impeachment obvious. "I don't think the Constitution cares one whit what sort of incident [the alleged felonies] come from," he says. "The question is, 'Can you have a perjurer and someone who obstructs justice as president?' And it seems to me self-evident that you cannot. The whole structure of our country depends on giving honest testimony under law. That's the glue of the rule of law. You can go back to Plato, who talks about the crucial-ness of oaths in a republic. It's why perjury and obstruction of justice are such dangerous crimes."

This argument has some force, says Professor Kmiec, but the public is hesitant to impeach in this case because of a feeling that "the entire process started illegitimately, that the independent counsel statute is flawed and that the referral in this case was even more flawed, in that it was done somewhat hastily by the attorney general."

Jesse H. Choper, a professor at the University of California at Berkeley School of Law (Boalt Hall) and co-author of a con-law casebook now in its seventh edition, agrees that perjury, committed for any reason, can count as an impeachable offense. "The language says 'high crimes and misdemeanor.' and [perjury] is a felony, so my view is that it comes within the [constitutional] language. But whether we ought to throw a president out of office because he lied under oath in order to cover up an adulterous affair . . . my judgment as a citizen would be that it's not enough."

A JUDGE WOULD BE IMPEACHED

Many of the professors say Mr. Clinton would almost certainly be impeached for precisely what he has done, were he a judge rather than the president. That double standard, they say, is contemplated by the Constitution in a roundabout way. Says Professor Kmeic, "The places where personal misbehavior is raised have entirely been in the context of judicial officers. There is a healthy amount of scholarship that suggests that one of the things true about judicial impeachments (which is not true of executive impeachments) is the additional phraseology saying that judges serve in times of good behavior. The counterargument is that there is only one impeachment clause, applying to executive and judicial alike. But . . . our history is that allegations of profanity and drunkenness, gross personal misbehavior, have come up only in the judicial context."

In addition to history, there is another reason for making it harder to impeach presidents, says Akhil Reed Amar, who teaches constitutional law at Yale Law School and who recently published a book on the Bill of Rights: "When you impeach a judge, you're not undoing a national election . . . The questions to ask is whether [President Clinton's] misconduct is so serious and malignant as to justify undoing a national election, canceling the votes of millions and putting the nation through a severe trauma."

THEY'RE UNCOMFORTABLE

None of these arguments, however, is to suggest that the professors are comfortable with what they believe the president may well be doing: persistently repeating a single, essential lie—that his encounters did not meet the definition of sexual relations at his Paula Jones deposition. Mr. Clinton admits that this definition means he could never have touched any part of her body with the intent to inflame or satiate her desire. It is an assertion that clashes not only with Ms. Lewinsky's recounting of her White House trysts to friends, erstwile friends and the grand jury, but also with human nature.

"That's one of the two things that trouble me most about his testimony—that he continues to insist on the quite implausible proposition [of] 'Look, Ma, no hands,' which is quite inconsistent with Monica Lewinsky's testimony, and that he's doing that in what appears to be quite a calculated way," Professor Tribe laments. "But I take some solace in the fact that [a criminal prosecution of perjury] awaits him when he leaves office."

Professor Amar agrees that "whatever . . . crimes he may have committed, he'll have to answer for it when he leaves office, and that is the punishment that will fit his crime."

Also disturbing to Professor Tribe is the president's apparent comfort with a peculiar concept of what it means to tell the truth, a concept the professor describes as "It may be deceptive, but if you can show it's true under a magnifying glass tilted at a certain angle, you're OK."

But even that distortion, he believes, does not reach the high bar the Founders set for imposing on presidents the political equivalent of capital punishment.

"It would be a disastrous precedent to say that when one's concept of truth makes it harder for people to trust you, that that fuzzy fact is enough to say there has been impeachable conduct," Professor Tribe says. "That would move us very dramatically toward a parliamentary system. Whether someone is trustworthy is very much in the eye of the beholder. The concept of truth revealed in his testimony makes it much harder to have confidence in him, but the impeachment process cannot be equated with a vote of no confidence without moving us much closer to a parliamentary system."

Professor Kmiec does suggest that something stronger than simple "no confidence" might form the possible basis for impeachment. Call it "no confidence at all." "It is possible that one could come to the conclusion that the president's credibility is so destroyed that he'd have difficulty functioning as an effective president," Professor Kmiec says, "But the public doesn't seem to think so, and I don't know that foreign leaders think so," given the standing ovation Mr. Clinton received at the United Nations.

In the end, Professor Howard says that he opposes impeachment under these conditions not only because the past suggests it is inappropriate, but also because of the dangerous precedent it would set. "Starting with the Supreme Court's devastatingly unfortunate and totally misconceived opinion [in Clinton v. Jones, which allowed Ms. Jones's suit to proceed against the president while he was still in office], this whole controversy has played out in a way that makes it possible for every future president to be harassed at every turn by his political enemies," Professor Howard warns. "To draw fine lines and say that any instance of stepping across that line becomes impeachable invites a president's enemies to lay snares at every turn in the path. I'm not sure we want a system that works that way."

The other "jurors" on this panel of constitutional law professors were:

The one essentially abstaining "juror": Michael J. Gerhardt, of the College of William and Mary, Marshall-Wythe School of Law.

Douglas Laycock, of The University of Texas School of Law.

Thomas O. Sargentich, co-director of the program on law and government at American University, Washington College of Law.

Suzanna A. Sherry, professor at the University of Minnesota Law School.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentlewoman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Mr. Speaker, historians note that those who are in the middle of history often do not themselves recognize it. Today should not be about polls. Today should not be about the upcoming November election, and even today should not be about the serious matter of sexual misconduct. But with all due respect to my friends, that is exactly what today is all about.

This is only the third time in the history of this country that we are talking about opening impeachment proceedings against our President, and I am shocked at how many people, including some in this chamber, take this serious matter so lightly, even gleefully. We are witnessing a stampede to justice, my friends, and like so many stampedes, when the trail dust settles, we will leave chaos and we will leave ruin.

This is a time for statesmanship. Each one of us must independently assess the best direction for this House and this country, and I will say it is not an open ended, never ending, witch-hunt without any limits. We need to carefully consider the Starr report. We need to set a guideline and then we need to move forward with the serious, serious business of this country.

Mr. Speaker, the House is about to decide whether to exercise one of the most grave constitutional steps within our power: hearings concerning the impeachment of the President. This is the most serious decision we can make, next to a declaration of war. It is legislative, moral, and civic duty to caution the House to carefully weigh this dangerous, perhaps necessary step.

Like so many of you, my political conscience was formed during the Watergate scandal and I applauded the Supreme Court's ruling in U.S. versus Nixon that the President "is not above the law." The President, whoever he or she may be, is not above the law.

But my political conscience was also informed by reading "Profiles in Courage," where John Kennedy, who well-knew the passions that govern partisan political discourse, discussed the failed attempt to impeach President Andrew Johnson. Johnson was saved from impeachment by the courageous actions of several senators who withstood the deep and intense partisan public hatred of a president attempting to unite a divided country. Most historians would agree that the impeachment of Johnson would have been a constitutional, economic, and political catastrophe. In fact, the partisan bickering, motivated by the hope of political advantage, was a dark, shameful moment in American history which affected the national agenda for decades afterwards; a moment we may soon repeat if we do not learn from our history.

This is the time to ask what actions will best serve our country. Hasty decisions in a mob-mentality will not serve the interests of our constituents. Frankly, I have heard little about the long-term consequences of an impeachment hearing, especially if we ultimately decide not to impeach the President. The Watergate scandal undermined the institutional authority of our political system for a generation. Therefore, we must carefully weight what we do now, because it will have consequences for at least a generation to come. Yes, we have a President who has lied to you and me and the American public. I'm, not happy about that; I am angry and outraged. He deserves our scorn and our condemnation. But we cannot impeach him because of our anger. That would turn our constitutional democracy into a parliamentary system. I am sure my colleagues do not want to subvert the constitution in that way.

What we must determine is this: does his conduct constitute a "high crime" or a "misdemeanor"? There is a reasonable doubt about that, and reasonable people can differ on the answer.

Because ours is a legislative, not judicial, judgment, exercised as part of our legislative function, we must also determine if impeachment is in the best interests of the country.

Historians note that those who are in the middle of history often do not realize it. Today, we are not talking about polls—or even elections—or even the sexual misconduct of our President. After all, this will be only the third time in history we consider impeachment of a sitting President. But that's what this debate is really about. I am shocked at how many people, including some in this Chamber, take this serious matter so lightly, even gleefully. We are witnessing a stampede to judgment. And like many stampedes, when the trail-dust settles we may leave chaos and ruin. This is a time for statesmanship. Each of us must independently assess the best direction for the House and for the country. That is why we should vote for a thoughtful process that will establish whether evidence exists to even open an inquiry before we begin a wide-ranging witch hunt with heavy heart and a keen recognition of history, and with reluctant support for this forum.

The American people, the world community, and future historians will judge us as we judge the President. I this House, at this moment, we must rise above passion and partisanship. We must be wise and equal to the public trust.

I ask my colleagues for a full debate on the resolution to open impeachment proceedings. We need more than one hour for discussion. Because of the gravity of this vote, we owe it to the American people to have a fully informed, careful, responsible discussion.

I also ask for our best judgment. I believe that the process that allows us to have more prudent decision-making is the Democratic alternative. Before we can move forward in recommending articles of impeachment, the Judiciary Committee should determine the standards for defining impeachable offenses. That would be extremely helpful and fair in our evaluation of this issue. With this information, we would be in a better position to discuss impeachment.

And I ask for a narrow scope. Impeachment hearings should examine specific, clearly stated, concrete charges. We need to give the Special Prosecutor's report complete consideration, especially after spending $40 million to gather this information. I was not elected to Congress to waste the taxpayers' time and money in political chicanery. I was not elected to engage in a witch-hunt. The discussion must be on-point, specific to the matter-at-hand, relevant, and substantive.

This is the time for prudent judgment, for far-sighted decision-making, for fairness, and for justice. We cannot let our unharnessed passions nor our political greed sway us from acting in the country's best interests. We stand at a singular moment in history. Our actions will forever change the culture and political environment of our country. If we do not act with complete fairness, impartiality, and good judgment, we will certainly be harshly judged by our constituents, by the world community, and by history for our impatient folly. I ask my colleagues to demand a fair, just, and realistic process by which we examine these serious, dangerous, and historic charges against the President.

Mr. HYDE. Mr. Speaker, may I inquire how much time the gentleman from Michigan (Mr. CONYERS) and I have?

The SPEAKER. The gentleman from Illinois (Mr. HYDE) has 20½ minutes. The gentleman from Michigan (Mr. CONYERS) has 20 minutes.

Mr. HYDE. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri (Mr. BLUNT).

□ 1245

Mr. BLUNT. Mr. Speaker, I rise in support of the resolution and will submit my remarks for the RECORD.

I intend to vote for the Judiciary Committee's recommendation that would begin the inquiry for impeachment. The President of the United States needs the trust and confidence of the American people. When the President does not have credibility, the country is at risk.

Currently only one in five Americans say they have confidence in the President's credibility and truthfulness. The American people deserve a speedy resolution of this crisis-in-confidence. The President deserves the opportunity to restore his credibility by having the opportunity to explain his side of what seems to be perjury and obstruction of justice both in a civil case and before a federal grand jury.

It is my hope that this inquiry will meet the demands of the Constitution and be resolved with all deliberate speed.

Mr. Speaker, I urge my colleagues to do their duty under the Constitution and take this step toward a conclusion of this national challenge.

Mr. HYDE. Mr. Speaker, I yield 1 minute to the gentleman from Iowa (Mr. GANSKE).

Mr. GANSKE. Mr. Speaker, we have not always agreed on certain policies. I can think of a health care issue that we disagreed on. But I certainly do not think it is fair for the Speaker of the House to be accused of perjury in this debate today.

I think that I have some bipartisan credentials, so I want to say to Members on both sides of the aisle that the Republican resolution follows the same model that was followed in 1974. A time limit was recognized then, and it is recognized now, as a way to obstruct and delay. We must listen to our consciences. And if we do, I think we can all agree with Chairman Peter Rodino in 1974 and the gentleman from Illinois (Mr. HYDE) today, a time limit is not the way to go on this resolution.

Yes, I am tired of hearing about the President's indiscretions, and I have had a hard time explaining this to my 10-year-old son. And it will be a stressful time for us. But when I think about the stressful times that our country has gone through in the American Revolution, the Civil War, the two world wars, the Great Depression, I think it would be a shame for us to shirk our duty.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. TRAFICANT), the only former sheriff in the House.

Mr. TRAFICANT. Mr. Speaker, the prosecutor has asked us to indict the President of the United States on 11 counts. All 11 counts involve an intern. In the video, in 4 hours of questioning, the prosecutor did not ask the President one time about FBI files, about the travel office, about Vincent Foster, or about Whitewater. In 4 hours, basically the prosecutor asked what did the President do with an intern, when did the President know that he did it, and did he lie about it.

I am not minimizing the gravity of this, my colleagues, but this does not rise to the level of Watergate. Now, let us be honest about that.

This prosecutor is required by law to submit all evidence to the House, which is a Grand Jury. I must assume that he has. But I would also say to the leaders of both parties, if he has not, he should be compelled today to deliver every piece of evidence he has on any pending investigation. That is our duty.

I am going to support an inquiry today, but I am not going to support an extended soap opera, my colleagues. And I will say this: What the Congress of the United States, the House, has before us today is an 11-count indictment. We should be able to act on the predicate of that substance by the end of our terms. Kenneth Starr submitted it to the 105th Congress, not to a future Congress.

Mr. HYDE. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. STEVE BUYER), a distinguished member of the committee.

Mr. BUYER. Mr. Speaker, I thank the chairman for yielding me this time. I have listened to part of the debate, and I have to agree with the gentlewoman from Colorado that I am disappointed in the conduct of some of my colleagues here today. How people can be here on this House floor cheering or applauding, as though they have somehow scored political points, is very disappointing to me. I think that part of that noise is about a clamor against the judicial process and their actions define themselves.

Actually, this kind of reminds me of a story about Abe Lincoln that I will share with my colleagues. Let me tell this little story.

Abe Lincoln, in one of his many famous debates, was debating a person known to be very shallow in substance because he did not really have the facts on his side. He always tried to make up for his lack of substance by making a lot of noise. Sure enough, the debate began with his opponent using plenty of noise, increasing the volume of his voice and the emotion in the delivery and the intensity of the tone. Abe began, in reply, with this story:

He said: There was a man and woman that were walking back to town. It was at night, through a dense forest. It was extremely dark, and a storm, with plenty of thunder and lightning, was all around them. The lightning was not enough for them to see, and the thunder caused confusion and made it difficult for them to see. And they got scared, because they were not sure they were going to be able to make it back to town. So they fell upon their knees and they prayed. And they said, God, may we have a little less noise and a little more light.

What we find here at the moment is a lot of noise, but I, for one, will enjoin in the prayer for a little more light. Our job here is to seek the light of the truth, because the truth matters.

And let us not confuse ourselves with what is happening here today. Both parties, Democrats and Republicans, are saying to America: We have a credible and substantive referral from an independent prosecutor, and we must take the next step toward the inquiry of impeachment. There may be a disagreement, there may be a debate about the scope or the limitation on times, but those are details. The facts will sort themselves out. If the facts find that the President should be exonerated, then we should do so because we follow the truth. If it shows otherwise, then we should proceed with the next step.

Mr. CONYERS. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Michigan (Ms. DEBBIE STABENOW).

Ms. STABENOW. Mr. Speaker, today we make a critically important decision affecting the lives of every single one of the people we represent: Men and women, young and old, working hard every day, who care about their families. They want us to deal with the President's irresponsible behavior and lack of truthfulness in a fair and responsible manner, and they want us to do so as quickly as possible so that we can return to the important issues that affect their families.

They also want us to rise above partisan self-interest and do what is best for the country, not Democrats, not Republicans, but as Americans. I am deeply concerned that this Congress will not meet this test today.

We have two proposals in front of us. The issue is not whether or not to proceed, it is how to proceed. One proposal gives us the opportunity to come together in a bipartisan way, vote to begin an inquiry on the issues raised by the Starr report, and bring this inquiry to a conclusion this year. The Republican alternative is an open-ended, unchecked process that could continue throughout the next Congress, with no requirement to limit the issues formally presented by the special prosecutor.

In all good conscience, I cannot support this process. It is not in the best interest of our country. It is not in the best interest of the families I represent to put our country in suspended animation for months and months when we have the ability here to bring this to a conclusion this year. I believe the American people deserve no less.

We must address this crisis fairly and responsibly and get back to the people's business. I implore my Republican colleagues to join us, to join with America in a process we can truly be proud of.

Mr. HYDE. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. GOODLATTE), a valued member of the Committee on the Judiciary.

Mr. GOODLATTE. Mr. Speaker, in a short while this House will vote on whether or not to begin an impeachment inquiry against the President of the United States. A very serious matter. We will have a vote that will, I think, result in a substantial majority of the Members voting to proceed unhindered by artificial time constraints that simply subject the body to political gamesmanship of delay rather than expedition of the process. We will vote to allow ourselves to look at other credible evidence of impeachable offenses from other credible sources, if those come before the body.

We should not engage in a fishing expedition, but we should exercise our constitutional responsibility in a full and open way, the same way we have always exercised that responsibility for every other impeachment inquiry in more than 200 years of American history. And we should do it in the way suggested by our former colleague, Representative Barbara Jordan, who said at another time, "It is reason, not passion, which must guide our deliberations, guide our debate and guide our decision."

The charges against the President include perjury, witness tampering and obstruction of justice. These are serious charges, charges that cannot be wiped away with a mere wink and a nod, an apology, or someone's interpretation of the latest opinion poll. The standard that we follow, and the standard we teach our children, is that no person is above the law, including the President of the United States.

Amid the intense glare of the moment, we must keep in mind that what the House is considering today is not impeachment or articles of impeachment, nor is it about matters for which the President has apologized. Rather, the House must decide, in light of the documented allegations of serious crimes committed by the President, all of which the President has repeatedly denied, whether we should take the next step in the constitutional process by fully and completely investigating whether the charges are well-founded.

I urge my colleagues to take that step because it is the right thing to do. We must follow the truth wherever it leads.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. LLOYD DOGGETT), a former member of his State's Supreme Court.

Mr. DOGGETT. Mr. Speaker, the real question here today is not whether to begin an inquiry, but whether it will ever end. Whitewater, Travelgate, Filegate. It is really Rabbit Trail Gate that I am concerned about. We do not need Ken Starr squared in this chamber. The only way to force this Congress to get back to the real concerns of American families, like tax reform and Social Security reform, is to bring this matter to a prompt conclusion.

As a former Supreme Court Justice, I will not defend the indefensible, but, by golly, there is a way to punish the lying without punishing the American people, who have clearly had enough of this and then some.

I believe that the standard that we apply should be no higher and no lower than we would apply to ourselves and that we have applied to the Speaker of the House in this very chamber. The Democratic amendment assures that that will happen. Without it, there is no assurance of a bipartisan pursuit of justice, of fairness, and an ultimate answer to the American people on this issue, and then getting back to business on their issues.

Mr. HYDE. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Speaker, if we walk out the door to my right, in the middle on the minority side, and go left, we will come to a large marble staircase. And at the top of that staircase is a large painting, a painting by Howard Chandler Christie entitled, "The Signing. The Constitution of the United States." And in the center of that portrait is Ben Franklin. It is reported that he walked out of the Constitutional Convention and a woman approached him and said, "What kind of government have you given us, Mr. Franklin?" And his response was: "A republic, if you can keep it."

The challenge before us today is: Can we keep it? Because a republic is a Nation that is guided by the rule of law. Not the whims of a dictator or a majority that can trample on the rights of a minority, but the rule of law.

I urge my colleagues to vote in support of this resolution. I, like everyone in this chamber, would like to get this process behind us. The best way to do that is to support this resolution. It is the right thing to do, it is the right way for us to keep the republic, as Franklin asked us to do.

☐ 1300

Mr. CONYERS. Mr. Speaker, a former member of the Committee on the Judiciary the gentleman from California (Mr. BECERRA) is no longer with us on the committee, but we still appreciate his legal insights. I yield 1 minute to the gentleman from California (Mr. BECERRA).

Mr. BECERRA. Mr. Speaker, I thank the gentleman for yielding me this time. The President's conduct in this matter was deeply disappointing to Americans. All of us have traveled down that path. There is no question of that. This House will proceed with an inquiry. That road we have also begun to travel. There is no question of that. But how we travel down that road is still subject to intense questioning. The majority would take us down this road that would offer no end in sight, that omits the rules of the road for its conduct, in essence open-ended, without conclusion.

After more than 4 years, $50 million in taxpayer funds, we should give the American people a clear, defined and transparent process. It is not if we will proceed, it is how we will proceed. Today is the 8th of October. We are now 8 days into the new fiscal year without a budget. Tomorrow, the 9th of October, at midnight, we will have to shut down this government unless this Congress passes a budget. And yet for the American people we offer nothing, no clear, defined, transparent process. They deserve more.

Let us go to our destination and get there with Godspeed. We have work to do for seniors, for children and for working Americans. We must do it in a transparent, balanced and fair way.

Mr. HYDE. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. GEKAS), a very valuable member of the committee.

Mr. GEKAS. Mr. Speaker, the simple gesture of raising one's hand accompanied by an oath to tell the truth, the whole truth and nothing but the truth, this gesture takes place hundreds of times a day in every courthouse in the land. It is preceded by an oath that is taken by the judge to dispense justice, by the jurors to find the truth, by the bailiffs, by the clerk of court, by the sheriff, by the attorneys, the officers of the court. And when a witness mounts the witness stand pledging to tell the truth and nothing but the truth and does not, but commits perjury, then the entire process comes tumbling down.

The very core of the justice system on which we rely for justice for our families, for our churches, on our institutions, for the individual rights of every citizen of our country, all of that depends on that oath that is administered and followed, hopefully, by the witness who takes that stand.

We cannot afford to trivialize the possibility of perjury nor devalue its part in our democracy. That is why we must go forward with this impeachment inquiry to determine whether the statements given under oath amount to perjury, number one, and whether that perjury, no matter what the subject matter is, is an impeachable offense. This is not about sex. This is not about lying about sex. It is, rather, when under oath does one lie about sex.

Mr. CONYERS. Mr. Speaker, very, very few people have argued their cases in the United States Supreme Court. Eleanor Holmes Norton, our delegate from the District of Columbia, has. I yield 1 minute to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. I thank the gentleman for yielding me this time.

Mr. Speaker, we have witnessed astonishing confusion in this House and in the Judiciary Committee concerning the requirements for impeachment. If these very issues were before a court of law, there might be wide disagreement on the facts, but everyone would know what the law is. In an impeachment proceeding, the law is the standard the House sets. We move today, Mr. Speaker, not by any standard, but by the seat of our pants. We are a constitutional democracy, not a parliamentary republic. A vote of no confidence in Great Britain requires no standard, but calls forth a new election. A vote for an impeachment inquiry in the United States requires a high standard, because it could nullify an election.

Mr. Speaker, the President's misconduct may warrant an inquiry, but neither he nor any other American deserves an inquisition.

Mr. HYDE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New York (Mr. FOSSELLA).

Mr. FOSSELLA. Mr. Speaker, I thank the distinguished gentleman for yielding me this time.

Mr. Speaker, it is with a heavy heart that I come before you today to support this resolution. I come not as a Republican, not as a New Yorker, but as a person who loves this great country and all its ideals and principles it represents.

Earlier today one of my colleagues said that this would be the most divisive issue since the Vietnam War. While he may believe that to be true, I take strong exception with that, and I will tell my colleagues why. Men and women were sent overseas like every other war and military conflict since our Nation's birth to defend the rule of law, the notions of personal freedom and individual liberty. And in the case before us today, we are asking a simple question: Did the President of the United States violate any of those rules of law that we cherish and that so many men and women have died for and are willing to die for at every point around the globe?

I do not want to be here today, like so many of my colleagues, but the generations of Americans yet unborn must look back on this day and this matter and this situation and see this as our finest hour, upholding what our Founding Fathers and every generation since has looked for and yearned for, the notion of freedom, the notion of liberty, the notion of the rule of law, and that each American cherish life, liberty and the pursuit of happiness. Reluctantly, I am here; I proudly, though, support this resolution.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentlewoman from Hawaii (Mrs. MINK) who came to this body at the same time as I did, a distinguished lawyer in her own right.

Mrs. MINK of Hawaii. Mr. Speaker, I thank the gentleman for yielding me this time. Mr. Speaker, we have been beseeched today on both sides of the aisle to follow the rule of law, to follow the Constitution. I ask each of you here to understand that the seat of which you occupy in this august Chamber has a constitutional limit which expires on January 3. What right have we to extend this investigation beyond our term of office? That is all that we are saying on this side of the aisle. There must be a limit. This investigation must end by the end of the year.

We also ask you to follow those points that have been raised by the Ken Starr report, extended no further, limited to that. We also say that under the Constitution, we have to know what the rules are, exactly what is the standard of conduct which is impeachable. The Constitution says impeachable requires a definition of high crimes and misdemeanors and talks about treason and bribery.

The Judiciary Committee has not had 1 day of hearings to help this country or this Congress to understand what constitutes an impeachable offense, so how can we vote today on an inquiry which has no standards, no rules of conduct, no time limit?

The President's shameful conduct has brought humiliation to the Presidency, to his family, and to this nation. He has demeaned himself and the office to which he was elected. His conduct cannot be dismissed as a private matter. When he took office he took an oath, as we did, to uphold the law. Probably more important than that oath, is the role the President has as the moral and ethical leader of our country. What will our children think about their President? How will we answer their questions?

In that backdrop this House has now the constitutional duty to judge the facts and to make a determination whether "high crimes and misdemeanors" amounting to treason and bribery have been committed.

Despite assurances by the Republican leadership that they would be fair in setting the rules for this inquiry I have concluded that their interests are primarily partisan.

They have the votes to do whatever they wish. Ultimately the American people will be the judge of whether they were fair.

I, like most of my constituents who have called and written, would prefer that this matter be disposed of quickly. They are disgusted by the incessant media hype regarding the sexual details and just want it to be over and done with. They want to spare their children from having to hear over and over again all the lurid details of the sexual conduct. They want the jokes to cease. The quickest way would be by censure without going through a prolonged inquiry. Under this process we would assume all the narrative facts as described in the Starr report to be true and decree a punishment short of impeachment. It would be a public reprimand. It could also be a fine and forfeiture of pay or pension. Some of these were among the punishments leveled on the Speaker at the beginning of this Congress.

We have had many discussions among minority members and it seemed to me that censure was the right course of action. I regret that it could not be what we are discussing today.

The Republican majority have the votes to carry this forward to an inquiry. They want an open ended inquiry. Most of the public wants no inquiry. The public wants an end to this sordid matter. The public wants us to get back to the business of the nation.

The Democratic minority has suggested that if there must be an inquiry it be limited to the narrative contained in the Starr report and that the inquiry conclude at the end of this 105th Congress. This is a reasonable request. Why should newly elected members of the House be bound by an inquiry which they neither voted for nor participated in? The next Congress, the 106th, if the inquiry goes forward into 1999, has to elect a new Judiciary Committee and for all we know it may have many new members. The limitation to an inquiry by this Congress is both logical and practical and certainly is in keeping with the sentiment felt across this land that they want an end to this emotional debacle.

All that is before this House is the Starr report. This is all that this House and this Judiciary Committee ought to be considering. There is no justification to add other items to this impeachment inquiry. Kenneth Starr has been investigating Whitewater for the past four years at the cost of over $40 million and has filed no report with the House. What could the Judiciary Committee accomplish that Starr has failed to do? Filegate, Travelgate, and Chinagate are all under investigation or have been. There is no need to raise these to the level of impeachment.

If we must be saddled with an inquiry, it must be limited to the report of Kenneth Starr. The Democratic proposal is both fair, and reasonable. It should be accepted.

I shall vote against the Republican version because it leaves open the scope of this inquiry and allows it to go beyond the end of this Congress.

Furthermore, in my view the real debate we should be having in this House is what constitutes a "high crime and misdemeanor" within the meaning of the Constitution. Do the facts of this case, even if all true, warrant an impeachment? Are there judicial precedents? Unless and until we arrive to this determination, the rest of the inquiry is merely to sort out the sordid details, without even understanding whether even if true they amount to an impeachable offense.

Many of my constituents demand that I say whether I am for or against impeachment of this President. That's like asking whether I am ready to drop the guillotine without knowing whether a capital offense deserving death has been committed.

Our system of justice is difficult to understand. For instance OJ Simpson was found "not guilty" of murder because guilt had to be found "beyond a reasonable doubt." Yet in civil court where "the preponderance of evidence" rule is the guide OJ was found liable under the same facts.

Here the Constitution sets the narrow parameters of what an impeachable offense is. We must stick to that determination. First we have to agree what an impeachable offense is. Then we have to decide whether the facts at hand come up to that level of definition.

I am the jury and the judge. Even if there were pending before my court a motion to dismiss this case I would still have to decide what an impeachable offense was and whether the facts reached this definition. If it did not, I would dismiss the case.

It's the rule of law that guides my decision today. We must heed our constitutional duty. What we do will long endure.

Mr. HYDE. Mr. Speaker, I yield 1½ minutes to the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Mr. Speaker, we are on the threshold of a very simple decision here, a simple decision to decide whether to look at and investigate the Starr report. Now, both parties in this House agree that we should investigate. The Democrats want to limit the scope and the time. But we want to follow the precedents established by Watergate.

No prior impeachment investigation has ever been limited in the United States or England in the last 600 years because of time and scope. If there is a precedent that you can cite today, please tell us. Why do we have to go forward like this? Because man believes he is above the law. In fact, Louis XIV said, "I am the State." The king expressed the essence of the doctrine of unlimited power.

In 1825, Daniel Webster in his Bunker Hill Monument oration talked about unlimited power, love of power and "long supported by the excess and abuse of it are yielding in our age to other opinions." What are those opinions? The Constitution.

So, my friends, we are at a threshold. Under our Constitution, the role of the House and our duty to the American people is to act simply as a grand jury in reference to the impeachment charges presented. To paraphrase Thomas More "A Man for All Seasons", when he said:

"The laws of this country are the great barriers that protect the citizens from the winds of evil and tyranny. If we permit one of those laws to fall, who will be able to stand in the winds that follow?"

How eloquent. How truthful. We must do the right thing and move forward with an investigative inquiry of impeachment without restrictions.

Mr. CONYERS. Mr. Speaker, with all apologies to my colleagues on this side of the aisle, without objection from the chairman of the committee, I would like to call on three of my colleagues for 20 seconds each consecutively: I would call on the gentleman from New York (Mr. ENGEL), the gentlewoman from Michigan (Ms. KILPATRICK), and the gentleman from North Carolina (Mr. HEFNER) for that amount of time, if that is permissible.

Mr. Speaker, I yield 20 seconds to the gentleman from New York (Mr. ENGEL).

Mr. ENGEL. Mr. Speaker, I think it is ironic that I have 20 seconds. The Republican majority wants to give us no time limit on an impeachment inquiry which will turn into an open-ended fishing expedition, but I have 20 seconds here. They want to severely limit the amount of debate here amongst our colleagues.

The American people are smart. They want this politically motivated witch-hunt to end. It is no coincidence that Mr. Starr brought his report 7 weeks before a national election.

Let us stop the politics. Let us really talk about bipartisanship. Why can we not have adequate time to debate this important thing to the Nation?

Mr. Speaker, I yield back the balance of my time, perhaps a second and a half.

Mr. CONYERS. Mr. Speaker, I yield 20 seconds to the gentlewoman from Michigan (Ms. KILPATRICK).

Ms. KILPATRICK. Mr. Speaker, I thank the ranking member for giving me this full 20 seconds to address the American people.

It is unfair, it is unconstitutional, and it is unfortunate that we are here today. The highest office in this country, not protecting the Constitution, we ought to be ashamed of ourselves.

Mr. CONYERS. Mr. Speaker, I yield 20 seconds to the gentleman from North Carolina (Mr. HEFNER).

Mr. HEFNER. Mr. Speaker, I came here with Chairman HYDE, and we came here 24 years ago. I was hoping that I would get more than 20 seconds on this, the most important vote I have cast since I have been here. But the thing that bothers me in this whole process, and I will be leaving this august body which I love, is the hatred and the venom that this has engendered over the past year. You look at the talking heads on television, in the newscasts. There are people that are absolutely livid.

Mr. CONYERS. Mr. Speaker, I would like to recognize three more persons in the same time frame as before: The gentlewoman from Florida (Mrs. MEEK), the gentleman from Maine (Mr. BALDACCI), and the gentleman from California (Mr. FILNER).

Mr. Speaker, I yield 20 seconds to the gentlewoman from Florida (Mrs. MEEK).

Mrs. MEEK of Florida. Mr. Speaker, I want to thank this Congress. I love you very much. But it is very apparent that from the very beginning you have not wanted William Jefferson Clinton as your President.

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My colleagues have gotten on a path to do it, and they are on their way.

The American people are watching. They know this process is unfair. And wherever something is unfair, there is an old saying that goodness and justice shall prevail.

So I say if my colleagues keep going, their time will come.

Mr. CONYERS. Mr. Speaker, I yield 20 seconds to the gentleman from Maine (Mr. BALDACCI).

Mr. BALDACCI. Mr. Speaker, I rise today to address this situation that the House of Representatives and, indeed, the country face today. I rise in support of the motion by the gentleman from Virginia (Mr. BOUCHER) to substitute the motion by the gentleman from Illinois (Mr. HYDE) and to have an inquiry, but to have a focused inquiry, and one that has an expeditious end to it so that the Congress, which has an obligation to do the people's business, moves forward as quickly as possible and as fairly as possible. And most importantly, Mr. Speaker, I want to ensure that we are actively working to address the priorities of the American people.

Mr. Speaker, I rise today to address the situation that the House of Representatives, and indeed, face today.

Independent Counsel Kenneth Starr has presented the House of Representatives with a referral and supporting documentation containing "substantial and credible information that President Clinton committed acts that may constitute grounds for an impeachment." It is now the duty of the House to determine whether or not to move forward with an impeachment "inquiry," and if so, what the scope of such an inquiry should be.

This is an important matter. What President Clinton did was wrong, and he must be punished appropriately. However, instead of rushing to judgment, I believe we should pause to consider the long-term implications of our actions. I hope that the actions of this House will stand the test of time. I am concerned that they may not.

Today, I will support an inquiry that is limited in scope to the matters contained in the Independent Counsel's referral. (Should Mr. Starr refer additional matters, I would consider expanding the scope of the inquiry to include those matters at that time.) I do not believe that a wide-ranging resolution that will result in a re-examination of unrelated issues is in the best interest of our nation. The American people have rightly demanded that this matter be settled expeditiously, and there is no reason that cannot happen.

The House must define what constitutes an impeachable offense and determine whether or not the facts before us met that definition. The potential impeachment and removal from office of a popularly elected President is a very serious matter. We must carefully consider the President's conduct, and determine whether or not it rises to the level of "high crimes and misdemeanors." As we go forward, I believe that we should explore whether another punishment, such as censure or rebuke, might be more appropriate to these circumstances. Above all, we must conduct our inquiry in a fair and deliberate manner that is worthy of the seriousness of the situation and that will not set precedents that will weaken the Office of the Presidency in the future.

Again, I support moving forward with a focused inquiry. I would encourage every member—Republican and Democrat—to support a focused inquiry that can bring this difficult situation to a close.

But I also want to recognize there are many other important matters facing our nation. Each week as I travel throughout Maine, I consistently hear from people that they are tired of reading about the Starr investigation. They want to talk about Social Security, education, health care and other issues that affect their day to day lives. The Congress has an obligation to do the people's business. I want to move this process forward as quickly and as fairly as possible. Most importantly, I want to ensure that we are actively working to address the priorities of the American people.

Mr. CONYERS. Mr. Speaker, I yield 20 seconds to the gentleman from California (Mr. FILNER.)

Mr. FILNER. Mr. Speaker, it is this Congress that is subverting the constitution by trivializing the impeachment process. Ken Starr has been 4 years and $40 million investigating every part of the President's life, and we are going to embark on an open-ended investigation while the world economy is collapsing, the health care system needs reform, our own finance system is corrupt, and we will be talking for months about who touched who where.

The continued investigation of the President is nothing more than a cover-up for the failure of a do-nothing Congress to address the real issues facing the American people.

I am voting "no" on opening an impeachment inquiry.

Impeachment is the gravest of offenses. In the view of the framers of our Constitution, impeachment is reserved for those who undermine the fundamental political and Constitutional structure of our nation. While President Clinton's behavior was both reckless and indefensible, it is not impeachable. It is this Congress that is subverting the Constitution by trivializing the impeachment process.

Ken Starr has already spent four years and $40 million investigating every aspect of the President's public and private life. It is irresponsible for this Congress to continue an open-ended investigation for who knows how long. The world economy is collapsing, our health care system needs major reform, our whole campaign finance system is corrupt—and we will be talking for months about who touched who where!

This continued investigation of the President is nothing more than a "coverup" for the failure of a do-nothing Congress to address the real issues facing the American people.

We must bring closure to this sorry chapter in our history as quickly as possible—so we as a nation can move on to deal with our domestic and international problems. To that end, I would urge the Congress to immediately censure the President—and begin the process of healing the breach of trust that engulfs us now.

Mr. HYDE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. Mr. Speaker, I rise in reluctant, but strong support of the resolution offered by the Chairman of the Committee on the Judiciary.

It is disappointing to see this debate degenerate into a cacophony of cat calls.

Honest people can have honest disagreements. But I take strong exception, Mr. Speaker, to the notion that somehow this is unconstitutional. Quite the contrary. This follows the Constitution.

Incumbent upon every Member of this House today is the most important responsibility short of the responsibility of a declaration of war because we have to begin the process to determine the fitness for office of our Chief Executive.

There is no reason to let this degenerate into cat calls or into the spin cycle. Let us follow the Constitution, let us follow the procedures laid down by those who have gone before, let us not confuse the issue, trying to superimpose ethics rules of this House on the constitutional process. Vote for the inquiry of impeachment.

Mr. CONYERS. With apologies again to my colleagues, Mr. Speaker, I yield 20 seconds each to gentleman from New York (Mr. MEEKS) and the gentleman from Florida (Mr. DEUTSCH).

Mr. Speaker, I yield 20 seconds to the gentleman from New York (Mr. MEEKS).

Mr. MEEKS of New York. Mr. Speaker, this resolution does not allow us to even set standards. When we do not have standards, what we become is a modern-day kangaroo court.

I was arrested myself the other day, and when I was arrested for the immoral practices of the Supreme Court in hiring minority law clerks, I knew that I had a right to a speedy trial. I knew the elements of the crime that were against me. That is not here.

Dr. King once said that a threat to justice anywhere is a threat to justice everywhere.

My fellow Americans, this is not about just justice for President Clinton. This is about justice for all of the American people.

Mr. CONYERS. Mr. Speaker, I yield 20 seconds to the gentleman from Florida (Mr. DEUTSCH).

Mr. DEUTSCH. Mr. Speaker, this is clearly my saddest day as a Member of this body.

As my colleagues know, we have heard a lot of protests so far, and the protest that there is no politics here. Well, know something? People are protesting that protest a little too much. It is not believable.

The reality is that my colleagues on the other side of the aisle, they cannot just impeach Bill Clinton, but the truth is they can impeach a ham sandwich. That is the reality of the situation, and the American people understand it.

Mr. CONYERS. Mr. Speaker, I yield 40 seconds to the gentleman from Massachusetts (Mr. KENNEDY).

Mr. KENNEDY of Massachusetts. Mr. Speaker, there are strong beliefs on this issue on both sides. I believe strongly that many of the Republicans think and believe that this is about perjury and think it is about lying, and I think Democrats think that this is about a sexual affair. And in truth: in some ways both are right.

The question before us is whether or not we believe as a people and as a Congress that these issues rise to a impeachable offense.

President Clinton did wrong. He admitted it, he said he was sorry, he asked for our forgiveness. Let us give him our forgiveness, let him run this country, let us talk about the issues that are important to the people of this country: providing health care and education, making certain that we have a fair country, a just country, a country that looks out for the poor.

That is the challenge before the American people.

That is the challenge before the Congress.

Let us meet that challenge and put this inquiry behind us, behind the American people.

Mr. HYDE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Speaker, today's vote is not about impeachment. Today's vote is about the search for truth. This is a vote that our grandchildren will ask us about many years from now when our constituents have long forgotten us, many years from now when our terms of office have been behind us for many years. They will look up and say:

"Why did you vote the way you did?"

Mr. Speaker, I think most Members are going to rise to this occasion and not vote by the polls, not vote by the parties and certainly not by the personalities, but vote for a higher reason: that question of does truth matter? What is right? What is wrong? Are we a Nation of laws? And do we want to affirm and uphold these laws? Do we see that as our constitutional oath of office?

I believe that when the gavel is sounded, most of us, Democrats and Republicans, will affirm that we do uphold the values, that we will move towards the search for truth, not happily jumping into it, but soberly upholding our constitutional oaths of office.

Mr. CONYERS. Mr. Speaker, I have a series of unanimous consent requests to revise and extend remarks, and I yield such time as they may consume to: the gentlewoman from Connecticut (Ms. DeLauro), the gentlewoman from Missouri (Ms. MCARTHY), the gentlewoman from the Virgin Islands (Ms. CHRISTIAN-GREEN), the gentlewoman from North Carolina (Mrs. CLAYTON), the gentlewoman from California (Ms. LEE), the gentlewoman from California (Ms. ESHOO), the gentlewoman from California (Ms. ROYBAL-ALLARD), the gentlewoman from New York (Ms. VELÁZQUEZ), the gentlewoman from Oregon (Ms. FURSE), the gentlewoman from California (Ms. MILLENDER-MCDONALD), the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON), the gentlewoman from California (Ms. WOOLSEY), the gentlewoman from Florida (Ms. BROWN), the gentleman from New Jersey (Mr. MENENDEZ), and the gentleman from Texas (Mr. BENTSEN).

Ms. DELAURO. Mr. Speaker, I regret that I have been denied the opportunity to join this most important constitutional debate, and I rise to announce my intention to vote against an open-ended inquiry that is bad for our families and bad for this country.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair wishes to announce that the Chair is prepared to recognize normal unanimous consent requests within the normal framework or the Chair will cut off all unanimous consent requests.

Mr. Speaker, I rise in opposition to this resolution, in support of a fair process of inquiry.

Mr. Speaker, I rise today in support of the motion to recommit House Resolution 581 so that the measure may be amended to provide a swift, fair, judicious resolution to the inquiry of whether the referral of the Independent counsel constitutes an impeachable offense by our President.

The debate to day is not about whether to proceed with an impeachment inquiry. It is about how we should proceed. I support a responsible inquiry that will focus on the 15 findings contained in over 10,000 pages and documents provided to the Congress and the American people. Our inquiry should begin with a determination of what standard constitutes an impeachable offense, and an examination of the sufficiency of the evidence. If more evidence is needed, we can expand the inquiry. We must be sure the findings constitute impeachment.

For too long the attention of the Congress has not been focused on the needs of the American people: reforming our health care system, achieving quality education, making Social Security solvent, and restoring soundness to our global economy which faces the possibility of a serious recession in light of a world economic downturn. For the sake of the country we should complete this inquiry by the end of the year, so that we can get back to the business of the American people.

I approach this vote with a deep respect for the Constitution, the Presidency, and the Congress. It is a serious act to overturn an election. I am profoundly disturbed and disappointed by what the President has done. Impeachment is meant not to punish a President but to protect the Nation and its citizens against the abuse of power. Our actions today are more important than any one individual. This vote speaks to the essence of our democracy and the premises of our Founding Fathers. The inquiry must go forward expeditiously and free from partisanship.

I am committed to exercising sound judgment in the best interest of the citizens of my district and this great Nation.

Ms. CHRISTIAN-GREEN. Mr. Speaker, I rise in strong opposition to the resolution and in support of fairness, the Constitution and America.

That's not rain outside Mr. Speaker, today the Angels are crying.

Today will be a historic day, but what kind of history will we be making?

If the vote goes as it is projected to and the resolution from the Judiciary Committee is passed in its present form, then Mr. Speaker, today the elected representatives of the people will in doing so defy the people, ignore their pleas that enough is enough, and instead vote to proceed with an ignominious impeachment inquiry that is based solely on partisan politics and not in or on our common interest or that of the state.

In doing so, given the nature of the charges which do not come even close to meeting the standards for impeachment, and having refused to limit the scope or the time, or proceed in a fair manner, it is clear Mr. Speaker that the intent is to destroy President Clinton, and the Democratic chances for victory in November. It clearly has nothing to do with protecting the state.

My colleagues, I rise to say to you that what you are proposing to do will probably not destroy Bill Clinton although it may affect the election outcome, but what it will do is destroy the institution of the Presidency for future generations, it will undermine the Constitution that is there to protect the least of us, it will destabilize the economy that so many have benefitted from, it will weaken our military efforts abroad, and it will damage the integrity of this House.

Yes, Mr. Speaker, the Angels are crying today.

Mr. Speaker, all that the members of the Congressional Black Caucus asked for was fairness. That was not agreed to because it would have dictated that there be no inquiry at all. The Democratic caucus, knowing that a motion to proceed with the inquiry would pass, then asked for a legitimate, fair and focused process. This too is today being denied, Mr. Speaker, and in doing so it is the request of the American people that is being denied.

Today history will be made, let us proceed fairly and vote on the dictates of conscience not politics. Otherwise, I assure you, Mr. Speaker we will all regret that this day ever dawned.

Mrs. CLAYTON. Mr. Speaker, I rise in opposition to this very unfair resolution and in support of a fair resolution, the Democrat alternative.

Mr. Speaker, today, as we consider this Impeachment Inquiry Resolution, each must ask the question, what does the Constitution require of us?

Impeachment of a President is really a greater punishment of the people. When we impeach a President, we frustrate the will of the people. That is why we must consider this matter with great care and probe deeply within our own conscience.

That is why we must have standards. In the sixty impeachment proceedings since 1789, no Congress has ever impeached a President. Two Presidents have faced impeachment, Andrew Johnson, 1868, and Richard Nixon in 1974. Johnson was acquitted. Nixon resigned before trial.

The Constitution sets out what constitutes an "Impeachable Offense", as "Treason, Bribery, or other High Crimes and Misdemeanors." We must ask ourselves, do we believe this President has committed "treason," or any offense like treason?

Treason, attempting by overt acts to overthrow the government, or betraying the government into the hands of a foreign power? We must ask ourselves, can it be said that this President committed "bribery," attempting to influence the behavior of a public official?

Neither the Starr Report nor the Shippers Charges, list treason or bribery among the claimed offenses. So, what does "Other high crimes and misdemeanors," mean?

We must not substitute our personal view of an impeachable offense for the Constitution's definition. And, what of the people's business? What of education, health care, small farmers, the global economy, and Social Security? Each must ask, in seeking to do our duty with this matter, have we done our duty for the people? When this day closes, each must ask, have I moved this Nation forward? Have I met my appointed task? Have I carried out my responsibility? Have I done the deeds for which I am obliged?

Ms. LEE. Mr. Speaker, I am in strong opposition to any impeachment inquiry, and hopefully we will move forward though in a fair and speedy process.

Ms. ESHOO. Mr. Speaker, I rise today in opposition to the resolution believing that in the national interest, in the national interest, that we have a brief and concise hearing.

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise today in opposition to this unfair resolution.

Ms. VELÁZQUEZ. Mr. Speaker, I rise in strong opposition to this undemocratic, unconstitutional resolution.

Ms. FURSE. Mr. Speaker, I rise in strong opposition to this unfair Republican resolution and in favor of the fair Democratic alternative.

Ms. MILLENDER-McDONALD. Mr. Speaker, I rise in unequivocal opposition to this unfair practice.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise in opposition to the Hyde resolution and in favor of the Democratic amendment.

Ms. WOOLSEY. Mr. Speaker, I stand in opposition to the Hyde resolution and in support of the Democratic alternative.

As a woman and a Democrat, I am embarrassed by the President's conduct. What he did was wrong.

The very idea of considering impeaching a duly-elected President and removing him from office is one of the most serious and weighty tasks of the U.S. Congress. Since the Independent Counsel's report was delivered to the steps of Capitol Hill, I have thoroughly and carefully reviewed the allegations. But since that day, I have also seen important constitutional questions answered with partisanship, compromise destroyed by politics, and legal discussions replaced by political attacks. The Republican leadership has allowed desire for political gain to distort this investigation, with little regard for the harm done to American families.

The mudslinging and dirt digging has gone too far and lasted too long. It has hurt our country, damaged this Congress, and harmed our families. We should be focusing on education, Social Security, and health care. Our nation cannot endure an inquiry that goes on month after month with no direction and no end in sight. Before we jump in head first, we need an exit strategy.

That is why I will vote against the Republican resolution. With no limits and no guidelines, the Republican resolution gives the majority party carte-blanche to do still more dirt digging, more snooping, and more probing into personal lives and intimate details. Quite simply, the Republican investigation risks careening out-of-control and dragging our kids and our families down with it.

I will vote for the Democratic alternative proposal because it is fair, focused, and finite. While it does allow Congress to expand its investigation should new facts come to light, it first defines an impeachable offense, specifies the scope of the investigation, and establishes a concrete time frame. Without these guidelines and the time limit, we will never be able to get this ordeal behind us.

Ms. BROWN of Florida. Mr. Speaker, I rise against this pre-Halloween witch-hunt.

Mr. Speaker, I rise today in strong opposition to this impeachment inquiry resolution. We have lost our senses in this Congress! This proposed inquiry is the result of a well-planned witch hunt. For years the nation has been forced to live with daily news articles aimed at discrediting the President and the First Lady. The nation is weary and the world is in crisis! We must end this insanity now!

Our Constitution is at stake; our democratic system is at stake. Will the Congress overturn the will of the people in electing our President? The report to the Congress on this matter is not about high crimes or misdemeanors against the United States of America—the only grounds for impeachment.

We do not need to waste more time on this issue. Every year 1 million more people lose health care and our education system is collapsing. This leadership refuses to address the important issues of working people, children, and the nation's oppressed. I urge my colleagues to end this nightmare now!

Mr. MENENDEZ. In view of the partisan, arbitrary and capricious limitation of time, I rise in opposition to the Republican proposal that limits time but does not limit scope.

Mr. BENTSEN. Mr. Speaker, the issue before the House of Representatives today is not whether the President's behavior should be condoned, nor is it whether the House should proceed with an inquiry to determine if this behavior amounts to an impeachable offense. I believe that the President's behavior was wrong and indefensible, and I believe an inquiry is necessary. The question before us today is what form this inquiry should take. Should it be an open-ended process as provided in the underlying motion H. Res. 581 that allows the Judiciary Committee to investigate anything it wants for as long as it wants, as this resolution would authorize, or should the inquiry be limited in scope to the allegations contained in the Independent Counsel's referral and brought to resolution by the end of the year, as the Boucher motion to recommit would do?

Today, I am voting for the motion to recommit because I believe the House should fully and fairly investigate this matter, but also bring it to a conclusion so we can move on and address the critical challenges facing our nation, including the most serious international economic crisis in half a century. If the motion to recommit were adopted, we could immediately begin with an in-depth inquiry into the referral of the Independent Counsel. The nation cannot afford, and the American people do not want, an open-ended, boundless, limitless inquiry as contained in the Hyde resolution that would consume all the time and energy of our nation's leaders. How long will this resolution go on? One year, two years? I fear the Congress will get little, if anything, done if we reject the Boucher motion and adopt the Hyde motion, as underscored by the recent track record of inaction on the budget, the Patients Bill of Rights, recapitalization of the International Monetary Fund, and other critical issues. My constituents tell me that they want this matter resolved quickly and fairly, and that is what I am voting to do today.

The resolution I am voting for today fulfills the House's obligations under the Constitution and the Independent Counsel law. It establishes a process by which the Judiciary Committee would first thoroughly and comprehensively review the constitutional standard for impeachment of the President. If the Committee determined that the Independent Counsel's referral could constitute grounds for impeachment, the Committee would then move to an inquiry stage in which it would fully and completely determine whether to recommend to the House that grounds exist for the House to exercise its constitutional power to impeach the President. If the Committee did not recommend impeachment to the House, this resolution would allow the Judiciary Committee to consider alternative sanctions or to recommend no action at all. It is also important to note that this resolution, while limiting the scope of the current inquiry to the Independent Counsel's referral, recognizes that the House would have to consider—as required under the Independent Counsel statute—any additional referral subsequently forwarded by the Office of the Independent Counsel. In short, this resolution neither forecloses a broader inquiry should one be warranted, not does it presume that one may be needed, as the majority's resolution would do.

That said, I believe it is terribly important, given the circumstances, that Congress should seek to determine whether there is serious injury to the system of Government. But this does not mean that we should have an open ended inquisition. The alternative resolution does not preclude investigating other matters when they are referred. It only means that for now, we should investigate what Judge Starr has referred to the Congress and proceed expeditiously and, above all, fairly.

Mr. Speaker, we should remember that the Framers of the Constitution did not see impeachment as punishment. Impeachment is a vehicle by which to remove a threat to the nation's laws and to restore its political and legal health. We cannot let our collective anger get in the way of our official duties to the nation. If it is our anger that we want to express, we have several options and we can debate those at a later date. But we have a very serious and terribly important duty to uphold and defend the Constitution, not only from foreign enemies, but from our own destructive impulses as well.

Before we proceed with this inquiry, we should determine what, in fact, constitutes an impeachable offense. Determining what are impeachable offenses will help the Congress to expedite this inquiry. Also, if evidence exists that warrants impeachment, we will be able to build the strongest case possible against the President. No President, today or in the future, should be impeached on accusations that amount to death by a thousand cuts. Rather, he should be impeached on the most serious, most tragic misconduct against the state.

The consequences of wringing our collective hands over this issue for the remainder of the Clinton Presidency are enormous and dire. First, the international financial crisis that has ravaged economies in Asia, Russia, and South America is slowly making its way to our borders. This crisis has produced consequences not seen in 65 years, since the Great Depression: deflation, mass unemployment, and currency devaluations. We should be working to fix the problems associated with unregulated capital markets. Second, there are a host of foreign policy challenges that we are not addressing as a result of our attention to this issue—in Kosovo, the Middle East, North Korea, and Iraq.

Above all, whatever action we take must stand the test of time. History will not shine brightly on the 105th Congress if we are wrong about how we proceed. Therefore, Mr. Speaker, I urge my colleagues to support the alternative motion, to authorize an immediate inquiry by the Judiciary Committee into the Starr referral and report back its findings and recommended actions no later than December 31, 1998 so that we may put this sordid chapter of American History behind us and continue to move the nation forward.

□ 1330

Mr. CONYERS. Mr. Speaker, I would like to continue with apologies to recognize my colleagues on this side for 20 seconds each: The son of our friend HAROLD FORD, the gentleman from Tennessee (Mr. FORD, Jr.), the gentleman from Pennsylvania (Mr. FATTAH), the gentleman from Massachusetts (Mr. TIERNEY).

Mr. Speaker, I yield 20 seconds to the gentleman from Tennessee (Mr. FORD).

Mr. FORD. Mr. Speaker, some of my colleague on that side of the aisle do not like our President. Some of my colleagues on this side of the aisle may not like the Speaker. Some of my colleagues on that side of the aisle may not like other colleagues of theirs, and those on this side the same.

But that does not give us the grounds to launch an impeachment inquiry. Let us do the fair thing, I say to the gentleman from Illinois (Mr. HYDE). Let us do the right thing.

We all want an inquiry. We all think it is the fair thing to do. But put some time limits, some scope limits. Do the right thing for America. We did it for the Speaker. Do it for this President

Mr. CONYERS. Mr. Speaker, I yield 20 seconds to the gentleman from Pennsylvania (Mr. FATTAH).

Mr. FATTAH. Mr. Speaker, I think that we all should understand that the American public are not just going to be mere spectators in this masquerade, since we are getting close to Halloween, I guess we want to get there earlier, of a legitimate inquiry.

This Congress has conducted dozens upon dozens of investigations of Bill Clinton and his administration. Not one of them would any objective person say has been fair or nonpartisan, and this will not be. But if we got to impeach this President or force him from office, there will be economic consequences for the American people. Let them in on this big secret that they will not just be spectators if we carry on with this charade.

Mr. CONYERS. Mr. Speaker, I yield 20 seconds to the gentleman from Massachusetts (Mr. TIERNEY).

Mr. TIERNEY. Mr. Speaker, the Committee on the Judiciary was asked on September 11 to review the communication received on September 9 to determine whether sufficient grounds exist to recommend to the House that an impeachment inquiry be commenced. We did not ask to go beyond what was in that report, but this is what the other party seeks to do.

We asked them to define the standard of what was an impeachable offense and measure against that what was in that report, and they have not done that on the committee. This was to be done before we got here today. We now need a fair process, Mr. Speaker. Let us hope we can get on with that type of process.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. GREEN).

Mr. GREEN. Mr. Speaker, I rise to oppose the open ended investigation and support a limited one.

Mr. Speaker, the overturning of an election in a democracy should not be taken lightly. Our country's history in presidential impeachment inquiries is limited due to the seriousness of overturning an election.

The President's conduct cannot be defended, and I have not done so. Like most Americans, I believed the President last January when he misled and lied to us. I was disappointed with the President's behavior and I will not defend his actions.

The House Judiciary Committee has recommended the beginning of an inquiry into impeachment of the President. This resolution is not limited in scope or time. The Independent Counsel's office has submitted one report based on the Lewinsky allegations while the Judiciary Committee, on a partisan vote, wants an inquiry that is broad-based and not limited in time. We should provide limits to any inquiry that potentially will overturn an election.

One of our founding fathers, George Mason, said that the phrase "high crimes and misdemeanors refers to presidential actions that are great and dangerous offenses, or attempts to subvert the Constitution." Alexander Hamilton, in the Federalist Paper Number 65, wrote that "impeachable offenses relate chiefly to injuries done immediately to society itself." An impeachment should only be undertaken for serious abuse of official power or a serious breach of official duties. The impeachment process should never be used as a legislative vote of no confidence on the President's conduct or policies.

This week I had the opportunity to listen to many constitutional scholars. Attached is a letter from some of them that provides the basis to oppose an unlimited inquiry.

OCTOBER 2, 1998.

Hon. NEWT GINGRICH,
Speaker, U.S. House of Representatives.

DEAR MR. SPEAKER: Did President Clinton commit "high Crimes and Misdemeanors" for which he may properly be impeached? We, the undersigned professors of law, believe that the misconduct alleged in the Independent Counsel's report does not cross that threshold.

We write neither as Democrats nor as Republicans. Some of us believe that the President has acted disgracefully, some that the Independent Counsel has. This letter has nothing to do with any such judgments. Rather, it expresses the one judgment on which we all agree: that the Independent Counsel's report does not make a case for presidential impeachment.

No existing judicial precedents bind Congress's determination of the meaning of "high Crimes and Misdemeanors." But it is clear that Members of Congress would violate their constitutional responsibilities if they sought to impeach and remove the President merely for conduct of which they disapproved.

The President's independence from Congress is fundamental to the American structure of government. It is essential to the separation of powers. It is essential to the President's ability to discharge such constitutional duties as vetoing legislation that he considers contrary to the nation's interests. And it is essential to governance whenever the White House belongs to a party different from that which controls the Capitol. The lower the threshold for impeachment, the weaker the President. If the President could be removed for any conduct of which Congress disapproved, this fundamental element of our democracy—the President's independence from Congress—would be destroyed.

It is not enough, therefore, that Congress strongly disapprove of the President's conduct. Under the Constitution, the President cannot be impeached unless he has committed "Treason, Bribery, or other high Crimes and Misdemeanors."

Some of the charges laid out in the Independent Counsel's report fall so far short of this high standard that they strain good sense: for example, the charge that the President repeatedly declined to testify voluntarily or pressed a debatable privilege claim that was later judicially rejected. These "offenses" are not remotely impeachable. With respect, however, to other allegations, the report requires careful consideration of the kind of misconduct that renders a President constitutionally unfit to remain in office.

Neither history nor legal definitions provide a precise list of high crimes and misdemeanors. Reasonable people have differed in interpreting these words. We believe that the proper interpretation of the Impeachment Clause must begin by recognizing treason and bribery as core or paradigmatic instances, from which the meaning of "other high Crimes and Misdemeanors" is to be extrapolated. The constitutional standard for impeachment would be very different if, instead of treason and bribery, different offenses had been specified. The clause does not read, "Arson, Larceny, or other high Crimes and Misdemeanors," implying that any significant crime might be an impeachable offense. Nor does it read, "misleading the People, Breach of Campaign Promises, or other high Crimes and Misdemeanors," implying that any serious violation of public confidence might be impeachable. Nor does it read, "Adultery, Fornication, or other high Crimes and Misdemeanors," implying that any conduct deemed to reveal serious moral lapses might be an impeachable offense.

When a President commits treason, he exercises his executive powers, or uses information obtained by virtue of his executive powers, deliberately to aid an enemy. When a President is bribed, he exercises or offers to exercise his executive powers in exchange for corrupt gain. Both acts involve the criminal exercise of presidential powers, converting those awful powers into an instrument either of enemy interests or of purely personal gain. We believe that the critical, distinctive feature of treason and bribery is grossly derelict exercise of official power (or, in the case of bribery to obtain or retain office, gross criminality in the pursuit of official power). Nonindictable conduct might rise to this level. For example, a President might be properly impeached if, as a result of drunkenness, he recklessly and repeatedly misused executive authority.

The misconduct of which the President is accused does not involve the derelict exercise of executive powers. Most of this misconduct does not involve the exercise of executive powers at all. If the President committed perjury regarding his sexual conduct, this perjury involved no exercise of presidential power as such. If he concealed evidence, this misdeed too involved no exercise of executive authority. By contrast, if he sought wrongfully to place someone in a job at the Pentagon, or lied to subordinates hoping they would repeat his false statements, these acts could have involved a wrongful use of presidential influence, but we cannot believe that the President's alleged conduct of this nature amounts to the grossly derelict exercise of executive power sufficient for impeachment.

Perjury and obstructing justice can without doubt be impeachable offenses. A President who corruptly used the Federal Bureau of Investigation to obstruct an investigation would have criminally exercised his presidential powers. Moreover, covering up a crime furthers or aids the underlying crime. Thus a President who committed perjury to cover up his subordinates' criminal exercise of executive authority would also have committed an impeachable offense. But if the underlying offense were adultery, calling the President to testify could not create an offense justifying impeachment where there was none before.

It goes without saying that lying under oath is a serious offense. But even if the House of Representatives had the constitutional authority to impeach for any instance of perjury or obstruction of justice, a responsible House would not exercise this awesome power on the facts alleged in this case. The House's power to impeach, like a prosecutor's power to indict, is discretionary. This power must be exercised not for partisan advantage, but only when circumstances genuinely justify the enormous price the nation will pay in governance and stature if its President is put through a long, public, voyeuristic trial. The American people understand this price. They demonstrate the political wisdom that has held the Constitution in place for two centuries when, even after the publication of Mr. Starr's report, with all its extraordinary revelations, they oppose impeachment for the offenses alleged therein.

We do not say that a "private" crime could never be so heinous as to warrant impeachment. Thus Congress might responsibly determine that a President who had committed murder must be in prison, not in office. An individual who by the law of the land cannot be permitted to remain at large, need not be permitted to remain President. But if certain crimes demand immediate removal of a President from office because of their unspeakable heinousness, the offenses alleged against the President in the Independent Counsel's referral are not among them. Short of heinous criminality, impeachment demands convincing evidence of grossly derelict exercise of official authority. In our judgment, Mr. Starr's report contains no such evidence.

Sincerely,

Jed Rubenfeld, Professor of Law, Yale University.

Bruce Ackerman, Sterling Professor of Law and Political Science, Yale University.

Akhil Reed Amar, Southmayd Professor of Law, Yale University.

Susan Bloch, Professor of Law, Georgetown University Law Center.

Paul D. Carrington, Harry R. Chadwick Sr. Professor of Law, Duke University School of Law.

John Hart Ely, Richard A. Hausler Professor of Law, University of Miami School of Law.

Susan Estrich, Robert Kingsley Professor of Law and Political Science, University of Southern California.

John E. Nowak, David C. Baum Professor of Law, University of Illinois College of Law.

Judith Resnik, Arthur L. Liman Professor, Yale Law School.

Christopher Schroeder, Professor of Law, Duke University School of Law.

Suzanne Sherry, Earl R. Larson Professor of Law, University of Minnesota Law School.

Geoffrey R. Stone, Harry Kalven, Jr. Dist. Serv. Professor & Provost, University of Chicago Law School.

Laurence H. Tribe, Tyler Professor of Constitution Law, Harvard University Law School.

Note: Institutional affiliations for purposes of identification only.

I urge a yes vote for a limited and specific inquiry and a no vote on the open-ended, partisan Judiciary Committee inquiry. Our nation is more important than an individual or political party.

The SPEAKER. The gentleman from Michigan (Mr. CONYERS) has 8¼ minutes remaining. The gentleman from Illinois (Mr. HYDE) has 8 minutes remaining.

Mr. CONYERS. Mr. Speaker, I yield 30 seconds to the distinguished gentlewoman from New York (Mrs. LOWEY), then I yield 20 seconds to the gentleman from Tennessee (Mr. CLEMENT), then I yield 20 seconds to the gentleman from Georgia (Mr. LEWIS), our deputy whip of the House, if you please.

Mr. Speaker, I yield 30 seconds to the gentlewoman from New York (Mrs. LOWEY).

Mrs. LOWEY. Mr. Speaker, my colleagues, the people of the United States are wise and fair. They understand that the President's conduct, the President's lies, the President's behavior was wrong and immoral and reprehensible. But they are wise.

I want to appeal to my colleagues as a woman, as a mother, as a grandmother, and as a lawmaker, let us have a formal rebuke of this behavior, but then let us move forward in this House, because I want to make it very clear that we believe it is immoral not to be rebuilding our schools, not to be taking care of our children, not it be focusing on health care, and not to preserve Social Security and Medicare.

Mr. CONYERS. Mr. Speaker, I yield 20 seconds to the gentleman from Tennessee (Mr. CLEMENT).

Mr. CLEMENT. Mr. Speaker, the President of the United States has the toughest job on the face of the earth. We cannot indefinitely keep this open and keep it going into next year. The economy is at stake; we know that. The economy is unraveling now; we know that. How can we neglect it?

We also know there are a lot of regional and ethnic problems in this world. We need to focus on that. We do not need to be preoccupied with Monica or anything else. We need to get on with the business at hand. Let us move forward.

Mr. CONYERS. Mr. Speaker, I yield 20 seconds to the gentleman from Georgia (Mr. LEWIS).

Mr. LEWIS of Georgia. Mr. Speaker, we should be standing here debating the future of Social Security. We should be standing here debating health care. We should be standing here debating education for our children and how we can protect the environment.

Instead, we are participating in a political charade. Republicans want to do what they could not do in an election, defeat Bill Clinton. I have news for my colleagues, the American people are watching. Beware the wrath of the American people, Mr. Speaker, beware.

Mr. HYDE. Mr. Speaker, I am pleased to yield 1½ minutes to the distinguished gentlewoman from California (Mrs. BONO).

Mrs. BONO. Mr. Speaker, I am going to start with a personal story. People constantly ask me where do I get the strength to be a Member of Congress at this difficult time in my life. I have to tell my colleagues that the strength boils down to a day in Lake Tahoe still. I had to kneel down before my two children, Chesare and Chianna, and tell them about the death of their father. While they looked at me, it was through their eyes that they gave me the strength that I needed to go on and do the right thing.

I think it is now the time that we, perhaps, look at all of our children's eyes. Look at their eyes for the strength that we need to go forward and to do the right thing.

This is about the truth, and it is about the Constitution. But the Constitution is based upon truth. I think all of this perhaps is nothing more than the noise of we are being dragged and kicking our way to the truth. That is what it is about is the truth.

I do believe that once we get to the truth, all of this will converge, Democrats, Republicans, the spin in fact, polling data, and reality. It will all converge. When we have that, perhaps this will end up being nothing more than the sound that is made when a leader falls off of his pedestal. Perhaps it will be a lot more than that.

But I say the only way we can get to this quickly is to vote for the Committee on the Judiciary resolution and put this work behind us.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, in the beginning I want to make two things clear. First I do not defend the President's actions in the Lewinsky matter. He says they are wrong, I agree. Second, the matter of the impeachment process must be conducted in a manner which is fair, expeditious, and completely open.

Do these proceedings offered us in the Republican proposal meet these tests? Clearly, No.

In less than one hour Democrats are supposed to be able to discuss questions which rank in Constitutional importance with the declaration of war—the impeachment of a President and setting aside a presidential election, in which the people chose their President is before us.

We function under a gag rule. We are denied opportunity for the people to have this matter properly discussed in their Congress.

In one hour Minority members are to discuss a great Constitutional question, impeachment of a President—unlimited time to be spent on an investigation, unlimited personnel to be deployed, no limits as to money to be spent, no limits on the breadth and sweep of the investigation. All to be done under a gag rule!

At issue here is not whether the House will convene an impeachment proceeding. Before us is whether it will be fair, open and expeditious.

We have the referral of Mr. Starr. In that document he says he has put forward all information then available to justify impeachment.

I note Mr. Starr has spent over four years, forty million dollars, the time of scores and possibly hundreds of Federal law enforcement officers and other government employees and the full authority of the Federal Government.

I also note that another prior Special Prosecutor, Starr's predecessor, spent two years and $20 million, and found no wrong doing.

Mr. Starr, then, finds, after prodigious effort and expenditure of funds, the substance reported in his referral.

There he finds nothing now, except improper sexual activity, on which he reports in extensive, and in nauseating detail.

I insisted that all this be published in full, since it is regrettably the people's business.

If you listen to the people, they are telling you they want the matter brought to a speedy end.

It can be ended speedily, and it should be. It will not take more than until year's end to go thoroughly into the full of Mr. Starr's referral, in whatever detail the Judiciary Committee wishes.

If they find more, or wish to inquire further, the Judiciary Committee can return and with proper request procure such additional authority as they require to carry out their function. No one will gainsay them.

I have supported this inquiry until now. I believe such inquiry should go forward, properly.

I do not however believe we should have an unlimited inquiry, without constraints, and with an unlimited budget.

The Republican resolution authorizes a partisan witch hunt, not a responsible inquiry.

Vote against the partisan Republican resolution, vote for the Minority's resolution for a proper inquiry. It is fair, expeditious and open.

The people are watching.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Speaker, I rise in support of and encourage bipartisan support of both the motion to recommit and final passage.

In spite of the countless words which already have been spoken and written about the vote before us today, I feel compelled to clarify what this vote is and what it is not.

First, this is not a vote about guilt or innocence, primarily of President Clinton or, as some have recommended, of Kenneth Starr. While Members cannot be expected to be void of personal opinion, I believe those who already have made public declarations of guilt or innocence in this case have been both premature and negligent in their constitutional responsibilities.

Second, this is not a vote about punishment or the specific punishment of impeachment. Unfortunately, the media frenzy about this action has confused many citizens who believe the House is voting today for or against impeachment. We are not. At this point, it is entirely unpredictable what the ultimate outcome of this process will be. What is clear is that the Constitutional standard of impeachable offenses is a high and serious one.

Third, this vote is not about the election coming up in less than four weeks. I have been amused by reporters quizzing me in the past week about the degree to which political concerns enter into my votes today. I would like to know how they think any vote has a political advantage in a District, such as mine, which is split right down the middle on each question of impeachment, resignation, censure or discontinued all action. No, my votes today are not about politics and reelection.

What we are voting on is of the highest, most serious nature. We must cast votes which can stand through time, votes which we can defend today, next week, next year, and for the rest of our lives. Every member must not only feel free to vote his or her conscience, as has been mentioned several times today, but they must feel obligated to do so.

For me, that means doing all that I can to create an environment of fairness, justice, and stability for our Country. That is why I am supporting the motions which allow us to move forward toward those goals.

While my constituents have differing opinions about what should happen next in this process, they are united in one desire: to have this unfortunate episode moved out of the present preoccupation and into past history. I believe that as a Nation we will not be able to move on to other pressing issues until we have properly cleared the air, until Constitutional scholars have dissected and debated the Constitutional questions, until Members have been given a chance to evaluate the merits of various responses, and until the public has confidence that fairness and justice has been served.

I am proud of my party for working together to construct a motion which addresses concerns I had about the earlier motion. The scope has been expanded to permit additional referrals from the Independent Counsel, a critical amendment in my opinion. Second, while accepting the reasonable end-of-the-year time goal already suggested by Chairman HYDE, the Democratic motion also acknowledges the limitations of one Congress mandating behavior by a subsequent Congress. Further, the motion expressly states that if the Judiciary Committee is unable to complete its assignment within this time frame, a report requesting an extension of time will be in order. Thus, there is no arbitrary time limit included in this motion.

But knowing that as the minority party this motion is unlikely to prevail today, I am also prepared to vote for the base motion which can pass and allow our Nation to progress to the next necessary step of the process which will allow healing to begin. This resolution provides the Judiciary Committee with a great deal of authority but a great deal of responsibility as well.

I offer my vote in good faith, taking the gentleman from Illinois, Chairman HYDE, at his word. By doing so as a minority Member, I believe that I can serve to help keep this process honest. Having shown my good faith by this vote, I also stand alert to object loudly if the process is then abused with partisan gamesmanship. Such abuse, by either side, has no place in this matter.

I support both of the motions before us today and encourage my colleagues on both sides of the aisle to do likewise.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Speaker, I support the motion to recommit, and I am opposed to the resolution.

Mr. Speaker, today's debate and the decision to move ahead with an inquiry of impeachment is a decision that we must address and which has taken four long weeks to make its way to the House Floor. Personally, I am deeply saddened by the President's conduct, but it is time for us to get on with the task. Looking into the details of the President's personal life is not an issue with which Congress should need to be involved. This is a view that many of our constituents share. We have heard and read too much on this matter. We know what we need to know, perhaps even more than we should know with regards to some details. It is time to move forward as expeditiously as possible so that we can return to the business of our nation and the people's concerns.

While we debate this resolution and move forward with an inquiry, other pressing matters that affect the everyday lives of our constituents go unanswered. Today, at this late date, the federal government is operating without a budget; funding legislation for most government agencies and programs remains in a Congressional gridlock; the President's initiative to improve our children's education by lowering classroom size is ignored; the tobacco settlement is blocked by special interests; and there is no time to address the growing health care crisis, the expulsion of hundreds of thousands of seniors from HMOs, and the HMOs' continued high handed policies that short change consumers and dictate to doctor and patient alike. About the only issues that the House seems to have time for are more investigations of the President and election year posturing for special interest tax breaks and anti-environmental riders. It is time for this House to move forward and address the issues that matter, helping the American people to help themselves.

I support the Democratic alternative to conduct the inquiry. This Democratic alternative limits the scope of the inquiry to the report submitted by Mr. Starr and establishes a workable time frame, requiring Committee action to be completed by the end of December. The Office of Independent Counsel (OIC) issued a report on September 11 with specific allegations. We are compelled to review this report and the supporting documentation to determine their validity. What we must not do is to adapt a resolution of inquiry which will hand over the O.I.C. the ability to superimpose the Starr agenda of continual referrals upon this House essentially subventing the Legislative Branch controlling the work and agenda of Congress to their end, the people's house controlled

This Democratic alternative is a sound and fair framework which sets out an orderly process to assess whether the allegations meet the test of the Constitution first, and then and only then to proceed to determine the validity of such allegations.

Mr. Speaker, the American people are divided about what steps should be taken on this matter. Some have called for the impeachment of the President, others favor censure, while still others believe that the President's personal life should not be the concern of Congress or the OIC. Regardless of their views, however, the American people want this issue resolved and put behind us as quickly as possible. The Democratic alternative best meets that goal by establishing the proper scope and time frame to being this matter to a deliberate and orderly conclusion.

Consideration of any impeachment resolution or inquiry is a serious matter. It is a Constitutional responsibility which I take very seriously. However, acting responsibly should not be equated with an open-ended, unfocused inquiry. The information that supposedly justifies this inquiry has been submitted by the OIC and is already available to the Committee and to the House. Requiring the Judiciary Committee to act by the end of November is a responsible time frame which allows more than enough time to consider the charges and to make a final recommendation. If new information comes to light or more time is required, that request could be accommodated at that point in time.

Any inquiry should be focused solely on the matters already submitted by Independent Counsel Starr. Mr. Starr and his staff had over 4½ years and $44 million to investigate virtually every aspect of the President's life and to track down every rumor in Washington, D.C., Arkansas and who knows where else. The result of that exhaustive investigation is the Independent Counsel's report and the boxes and boxes of information that he has submitted to the House. The extraordinary report, which repeatedly and redundantly outlines the allegations in vivid detail, has been publicly available for a month and spread across the land.

This report should be the sum and substance of our focus. The OIC report is where the matter should end and not be the opening for an impeachment inquiry that rehashes every House investigation and every rumor spread over the past six years of the President's term. In itself, the OIC report justifies this limitation. If after nearly five years and $45 million, the OIC did not forward the information to the House, it should not now be raised. Nor should Mr. Starr put this nation through endless impeachment inquiries and debate with each new focus or chapter in his investigation, stringing this matter out even further. Starr has had an opportunity to put his best case forward to Congress and the American people this September. The Starr Report, in all its explicit detail, was regrettably made public without Congress even screening the material and without giving the President an opportunity to respond. It is now time for Congress to act and with such action the Starr investigation of the President should come to a close. The American people want and deserve a break from this constant drum beat of investigations and leaks. This Congressional House, the People's Body, should get back to the business which the people sent us to address.

Finally, Mr. Speaker, the claim today of nonpartisan conduct is laudable but actions speak louder than words. This resolution leads this House down a path of partisan inquiry and hearings, no limits on the topics or scope, no time or date to complete. Good intentions and claims of good faith should be backed up with text and within context.

Justice delayed is justice denied and this House has a responsibility to make a decision, but today the rule of law is being abused and twisted to serve as a Republican spring board to persecute not pursue facts and conclude, but rather partisan advantage. Certainly this inquiry need not be conducted this way. Fairness, focus, deliberation and expeditious action ought to be our goal and guide, to get to work and get on with it, not to dribble out and follow every rumor over the next year. The House should demand that the Starr report and allegations put up their best case now or shut down this five year inquisition-like process. The formula we have in this motion is proposition to make no decision, it makes me wonder whether the President's accusers have the courage of their conviction to actually vote for a process that will lead to a result or just procrastinate and duck the issue waiting.

Mr. CONYERS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Connecticut (Mrs. KENNELLY).

Mrs. KENNELLY of Connecticut. Mr. Speaker, I am against the open-ended Hyde resolution.

Today I will vote for the Democratic alternative because it will allow us an orderly and efficient process for evaluating the Starr Report. I will vote against the Republican proposal because it will provide the opposite—a lengthy, time-consuming, open-ended investigation that I do not think is in the best interest of the country.

All of us—Members of this House and the public in general—know, basically, the facts of this situation. We understand what has happened, we may know, frankly, even more than we might wish. We have an obligation to consider the facts and to handle the issue. Dealing with the information already before us and coming to a conclusion by the end of this year seems completely reasonable to me.

Mr. CONYERS. Mr. Speaker, I yield such time as she may consume to gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Mr. Speaker, I rise in opposition to this never-ending impeachment inquiry resolution.

Mr. HYDE. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. GALLEGLY).

Mr. GALLEGLY. Mr. Speaker, I, without pleasure, rise today in support of the resolution.

GENERAL LEAVE

Mr. HYDE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Resolution 581.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. FARR).

(Mr. FARR. of California addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from American Samoa (Mr. FALEOMAVAEGA).

Mr. FALEOMAVAEGA. Mr. Speaker, I rise in opposition to the majority resolution.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. LIPINSKI).

Mr. LIPINSKI. Mr. Speaker, today, I will vote to start the formal inquiry into whether President Clinton should be impeached. The President's relationship with Monica Lewinsky was shameful, humiliating, and immoral, and his lying to the American people was deplorable and reprehensible. His dishonesty created a breach of trust between the President and the American people, which I believe calls into question his ability to be an effective leader.

The President's alleged actions in trying to conceal the Monica Lewinsky affair may constitute an obstruction of justice. In addition, his deposition in the *Paula Jones* case, along with his testimony before the federal grand jury, may be construed as perjury.

There is enough evidence before us now that cannot be ignored. As Americans, we owe it to our constitutional government to move ahead with a full scale investigation that will ultimately be judged by the American people. We may be weary of this entire affair, but we have a responsibility to do our job as the Founding Fathers would have wanted us to. Laws may be broken and to ignore such possible transgressions is a crime against our constitution. This matter should be fully investigated by Congress and the American people.

There is no doubt this is a serious matter and a very difficult decision that should not be based on politics. This rises above partisan politics. This is about doing the right thing for our Republic.

For these reasons, I believe a thorough and complete investigation not limited by time and scope should be entered into by the House of Representatives.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. COSTELLO).

Mr. COSTELLO. Mr. Speaker, the House today undertakes one of the most serious deliberations facing this Congress—whether to proceed with a process to impeach President Clinton. The report issued to this Congress by Independent Counsel Kenneth Starr—and the thousands of pages of additional documents containing related information—have provided Members of Congress with an opportunity to review the actions taken by the President and make an initial judgment.

There is information in the Starr Report that is very disturbing. I am greatly disappointed in the President's behavior and his affair with Monica Lewinsky. He has misled the American people by at first denying the affair and then admitting his transgressions. He has misled his family and the people who work for him by having them defend his denials. He has brought tremendous shame on the Presidency and the White House.

As disappointed as I am with President Clinton, I am also disappointed and disturbed by the conduct of the Independent Counsel, Kenneth Starr. I believe his investigation has produced leaks to the media which under our grand jury secrecy laws are illegal. I believe his investigators have intimidated witnesses and used questionable tactics to obtain information. Finally, his report is replete with salacious and unnecessary information that have disgusted the American people. I believe much of his investigation has been aimed only at embarrassing and weakening the President.

The question facing this Congress is whether the President's affairs with Monica Lewinsky merits his impeachment. The Independent Counsel has spent almost five years and $50 million investigating the President. He has included what he believes to be the most serious allegations in his report; I have read this report: I have read the rebuttal of the White House and I have examined other relevant information sent to Congress by Kenneth Starr.

I have come to the judgment that the House should proceed with an impeachment inquiry but within a specific, limited amount of time. The Judiciary Committee has before it the product of the Independent Counsel. The Members of the Committee can finish their work and come to a judgment by the end of this year. If it means the Members of the House have to come back after Election Day to vote on a resolution of impeachment, then that is our duty.

I intend to vote for such a motion today on the House floor, and against the Hyde Resolution offered by the Republican Majority. The Republicans have crafted a resolution which includes no time limits, no boundaries, no scope. If their resolution is passed, we are looking at months and perhaps years of further investigation. In their partisan attempt to embarrass the President and make this an election issue, they have refused to allow an alternative to their resolution and permit only two hours of debate. It is an insult to our democratic process. Mr. Speaker, this investigation will become more partisan and political as time goes on.

There is much at stake as we consider this inquiry. We are facing a global fiscal crisis, a potential conflict in Central Europe involving Serbia and Albania, and continued problems here at home. The world is anticipating the leadership only America can provide. Are we prepared to squander the political prowess and leadership of the United States of America to further investigate the President's extramarital affair? Will millions of American continue to live in poverty and without health insurance as Congress wastes millions on more Lewinsky hearings?

Mr. Speaker, it is time to bring this investigation to a close. The American people want us to weigh the evidence presented in the Starr Report, allow the Judiciary Committee to go ahead and make a judgment by the end of the year, and recommend a decision to the full House. The House should then vote and get this matter behind us, so we can turn as a nation to address those other issues which are calling out for our focused leadership. That is why I intend to vote to reject the open-ended Republican resolution, and for the motion to set specific time limits and scope so we as a nation can bring this matter to an end.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin (Mr. KIND).

Mr. KIND. Mr. Speaker, I rise today in support of the resolution offered by Mr. HYDE to begin an inquiry into allegations against the President of the United States. This decision does not come easily, but I believe that it is in the best interest of our nation. It is time to bring closure to this painful time in our history by conducting an open, fair and bipartisan inquiry to determine the facts in this case. Passage of the resolution will put in place a process to resolve this matter and allow Congress to move on and deal with the more pressing issues of the Country.

I am not entirely pleased with the resolution we have before us. I would like to see some time limits placed on the hearing so this matter does not drag out for an extended period of time. That is why I also support the Democratic amendment which places reasonable time limits on the process while allowing for an extension of the inquiry if new information is presented or it becomes clear that more time is needed to conduct a thorough hearing. There comes a time, however, when we must rely on the promises of members who are leading this effort. Chairman HYDE has promised that he will make every effort to finish this inquiry before the end of this year. Chairman HYDE is a man of great integrity and I am placing my trust in him and his commitment to conduct this inquiry in a fair, non-partisan and quick manner.

With passage of this resolution, we are embarking upon a very important Constitutional exercise that has seldom been used before. This is one of the greatest Constitutional responsibilities that members of Congress face. We must determine whether the conduct of the President rises to the level to justify removal from office and the paralyzation of our country for an extended period of time.

As a former prosecutor, I've placed my faith and trust in the law and the due process of law. We have a process in our Constitution which allow the Judiciary Committee to conduct an inquiry about allegations which may rise to an impeachable offense. I am willing to give the majority party, at this time, the benefit of the doubt that they can conduct this inquiry in a fair, quick and non-partisan manner. I believe that if we are going to have any credible closure to this investigation, it has to happen in a bipartisan manner.

My hope is based on the fact that when we begin this extremely important Constitutional responsibility, all members will make decisions based on what they feel are in the best interests of this country and for future generations rather than short term partisan gain. That is what the American people expect us to do.

The American people will decide the fate of this President, and, ultimately, they will be the judge and jury of the process we are about to embark upon. The authors of the Constitution placed the power of impeachment in the House of Representatives because it is the "people's House". Members of Congress must have the support of the public before we take action to overturn a national election.

I support this resolution with the confidence that Chairman HYDE will keep to his promise of conducting a fair, non-partisan and quick inquiry. Not only is the integrity and credibility of the Presidency at stake, but so is the integrity and credibility of the U.S. Congress. In the final analysis, our children and grandchildren will know, years from now, whether we did our Constitution and this great nation proud.

Mr. CONYERS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New York (Ms. SLAUGHTER).

Ms. SLAUGHTER. Mr. Speaker, I object that all Members of the House were not given enough time to speak.

CALL OF THE HOUSE

Mr. HYDE. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 496]

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sánchez

Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
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Stokes
Strickland
Stump
Stupak
Sununu
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Tauscher
Tauzin
Taylor (MS)
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Thomas
Thompson
Thornberry
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Thurman
Tiahrt
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

□ 1357

The SPEAKER. On this rollcall, 423 Members have recorded their presence by electronic devise, a quorum.

Under the rule, further proceedings under the call are dispensed with.

□ 1400

AUTHORIZING THE COMMITTEE ON THE JUDICIARY TO INVESTIGATE WHETHER SUFFICIENT GROUNDS EXIST FOR THE IMPEACHMENT OF WILLIAM JEFFERSON CLINTON, PRESIDENT OF THE UNITED STATES

The SPEAKER. The Chair recognizes the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Speaker, I yield myself 1½ minutes.

Mr. Speaker, to my Republican friends, sincerely, Gerald Ford has said that we must take the path back to dignity. I want that to weigh on the Members' hearts for this next hour, because more is at stake than the President's fate.

"Moving with dispatch," Gerald Ford said, "the House Judiciary Committee should be able to conclude a preliminary inquiry into possible grounds for impeachment before the end of the year."

I think that we can do it. Our resolution calls for it. I have talked incessantly in private meetings with the gentleman from Illinois (Chairman HYDE) toward this end, and I hope that all of us will commit ourselves to that goal.

Mr. Speaker, I just want Members to know that in my view, the American people have a deep sense of right and wrong, of fairness and privacy. I believe that the Kenneth W. Starr investigation may have offended those sensibilities. Who are we in the Congress? What is it that we stand for?

Do we want to have prosecutors with unlimited powers, accountable to no one, who will spend a million dollars investigating a person's sex life, is that the precedent we are setting, who then haul them before grand juries, every person that they have known of the opposite sex, every person that they had contact with, and then record and release videos to the public of the grand jury questioning the most private aspects of one's personal life?

Please, I beg the Members not to denigrate this very important process in Article II, Section 4.

Mr. Speaker, I yield 2½ minutes to the gentleman from Massachusetts (Mr. BARNEY FRANK), a senior member of the Committee on the Judiciary.

Mr. FRANK of Massachusetts. Mr. Speaker, someone inaccurately, well-intended but inaccurately, said the Democrats were agreeing there should be an inquiry. No, let me define what we say. We accept the fact that the statutorily designated Independent Counsel sent us a referral, and we are obligated to look at it.

But what our resolution says is, let us first look at what he has alleged, and assuming that it is true, decide whether or not those things are impeachable. There is a very real question. If we look at the dismissal of the charge that Richard Nixon did not pay his income tax because it was a personal matter, that would suggest some of these are not impeachable.

If we get to the question of lying, in fact, both the Speaker and I have been reprimanded by this House for lying before official proceedings. That has not kept either of us from continuing to do our duty to our best possible. We will have to look at whether or not these are impeachable issues. But the question is, do we look at those, or do we look at a whole lot of other things.

I think my Republican colleagues fear that there is not enough in those accusations to meet the impeachment standard. That is why they refuse and refuse and refuse to limit it, to get into not just a fishing expedition, but the deep sea fishing expedition of Whitewater and the other matters.

Scope affects time. It is because they are holding out the hope that something will turn up after 4 years about Whitewater and the FBI files and the travel office and all of these other accusations that have to date proven to be dry holes for those trying to get Bill Clinton, they want to not limit the time because they need to keep it open.

Here is what that means in terms of time. Under our resolution, which calls for a December 31 deadline, we would begin work right away, on our time. This Congress is about to adjourn, and on our time, which would otherwise be not dealing with the public's business, we are ready to get into it.

Under their resolution, let me make it very clear to the Members, they have no real plans to do anything during October. We have read about that. They are not going to start until after the election. They are not going to start until 2 months after we got Kenneth Starr's report, because they think it will not play out well in the election, so vote for their resolution, and Members will find that the American people's time will be taken up again next year.

We are ready to do it now on our time and get it out of the way. They are asking us to give them a mandate to stretch it out, wait until after the election, and let it dominate next year, to our detriment, just as it has so far.

Mr. HYDE. Mr. Speaker, I am pleased to yield 2½ minutes to the distinguished gentleman from California (Mr. ROGAN), a member of the committee.

Mr. ROGAN. Mr. Speaker, first, in entering this debate, I consider it a great personal privilege to be allowed to follow two men for whom I have such profound respect, the gentleman from Michigan (Mr. CONYERS) and the gentleman from Massachusetts (Mr. FRANK).

I want to say, as a Republican, that as we begin this procedure, I start with the presumption that the President is deemed innocent of any allegation of wrongdoing unless and until the contrary is shown. Every reasonable inference that can be given to the President must be given to the President.

It is unfortunate that some of today's rhetoric would suggest that this resolution seeks nothing more than to have a carte blanche opportunity for Congress to inquire into the President's personal lifestyle. Nothing could be further from the truth. However, it is our purpose, it is our legal obligation, to review any president's potentially constitutional misconduct within the framework of the Constitution and the rule of law.

When serious and credible allegations have been raised against any president, the Constitution obliges us to determine whether such conduct violated that President's obligation to faithfully execute the law. We must make this determination, or else forever sacrifice our heritage that no person is above the law.

This Congress must decide whether we as a Nation will turn a blind eye to allegations respecting both the subversion of the courts and the search for truth. Mr. Speaker, I fear for my country when conduct such as perjury and obstruction of justice is no longer viewed with opprobrium, but instead is viewed as a sign of legal finesse or personal sophistication.

This House has an obligation to embrace the words of one of our predecessors, Abraham Lincoln, who called on every American lover of liberty not to violate the rule of law nor show toleration for those who do.

Mr. Speaker, there is a difference between knowing the truth and doing the truth. We have an obligation to both, and we have that obligation, despite whatever personal or political discomfort it might bring. For as Justice Holmes once said, "If justice requires the truth to be known, the difficulty in knowing it is no excuse to try."

Let our body be faithful to this search, and in doing so, we will be faithful both to our Founders and to our heirs.

Mr. CONYERS. Mr. Speaker, I am proud to yield the balance of our time to the gentleman from Michigan (Mr. DAVE BONIOR) to close debate on our side.

The SPEAKER. The gentleman from Michigan (Mr. BONIOR) is recognized for 3 and three-quarters minutes.

Mr. BONIOR. Mr. Speaker, we gather today to make a serious decision. What the President did is wrong. He should be held accountable. Today we have an obligation to proceed in a manner that is fair, that upholds our constitutional duties, and allows us to get this matter over with so we can get on with the business of the American people.

Unfortunately, the Republican proposal meets none of these standards. It is unfair, it is unlimited, and it prolongs this process indefinitely. Under the Republican plan, Congress will spend the next 2 years mired in hearings, tangled in testimony, and grinding its gears in partisan stalemate. Today is just another example of that partisanship, that unbridled partisanship.

There are 435 Members that serve in this body, more on the floor today than I have seen in a long time, representing each about a half a million people. What has happened in this proceeding today? Two hours of debate, 2 hours, with Members having to go and beg for 20 seconds to talk to their constituency about one of the most important votes they will ever have to cast.

As the Speaker just said a few minutes ago, this is one of the most important debates that we will have. Why are hundreds of Members of this body being denied the opportunity to express themselves? This is a charade of justice. The American people, through this truncated debate, are being railroaded. Today's proceedings are a hit and run.

The Republican leadership's long-term strategy is very, very clear: Drag this thing out week after week, month after month, and yes, year after year, not for the good of the country, but for their own partisan advantage. The Democratic amendment guarantees that any inquiry will be fair, that it will be limited, and that we will complete our work by the end of the year.

Mr. Speaker, the American people already have had all the sordid details they need, more than they ever wanted. Do we really want 2 more years of Monica Lewinsky, 2 more years of Linda Tripp, 2 more years of parents having to mute their TV sets so they can watch the 6 o'clock news? We in this Chamber have the power to stop this daily mudslide into the Nation's living rooms.

If the Republicans spend 2 years dragging this investigation out, when will they deal with education? If they spend 2 years dragging this investigation out, when will they deal with HMO reform? If they spend 2 years dragging this investigation out, when will they strengthen social security?

I urge my colleagues, let us put a limit, a limit on this investigation. Let us end it this year, this year. Let us get back to working for our children and our families and for our communities.

Mr. HYDE. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. LEWIS).

Mr. LEWIS of California. Mr. Speaker, I rise in support of the resolution.

Mr. DELAHUNT. Mr. Speaker, let me first express my affection and respect for my chairman, the Gentleman from Illinois, If Mr. HYDE says he hopes to complete this inquiry by the end of the year, I know he will do all he can to make good on that promise.

But if we adopt this resolution, the chairman's good intentions will not be enough to prevent this inquiry from consuming not only the remainder of this year but most of next year as well.

Nine days ago, I joined with Mr. BERMAN, Mr. GRAHAM and Mr. HUTCHINSON in a bipartisan letter asking Chairman HYDE and our ranking member, Mr. CONYERS, to contact the Independent Counsel—before we begin an inquiry—to ask him whether he plans to send us any additional referrals.

They wrote to Judge Start on October 2, and I wish to inform the House that last night we received his reply. He said, and I quote, "I can confirm at this time that matters continue to be under active investigation and review by this Office. Consequently, I cannot foreclose the possibility of providing the House of Representatives with additional [referrals]."

There you have it, Mr. Speaker. Despite the fact that both Mr. HYDE and Mr. CONYERS had urged the Independent Counsel to complete his work before transmitting any referral to the House, what he has given us in essentially an interim report.

As the Starr investigation enters its fifth year, we face the prospect that we will begin our inquiry only to receive additional referrals in midstream. Under this open-ended resolution, each subsequent referral will become part of an ever-expanding ripple of allegations. With no end in sight.

That is not a process, Mr. Speaker. It's a blank check. And I believe it's more than the American people will stand for.

They do not want us traumatizing the country and paralyzing the government for another year when we don't even know whether there is "probable cause" to begin an inquiry. And they don't want us abdicating our constitutional responsibility to an unelected prosecutor and accepting his referral on faith.

If we do that—if all a President's adversaries have to do to start an impeachment proceeding is secure the appointment of an Independent Counsel and await his referral—then we will have turned the Independent Counsel Act into a political weapon with an automatic trigger—a weapon aimed at every future President.

What the people want is a process that is fair. A process that is focused. And a process that will put this sad episode behind us with all deliberate speed.

The Majority resolution does not meet those standards. Our alternative does. It provides for the Judiciary Committee to determine first whether any of the allegations would amount to impeachable offenses if proven. Only if the answer to that question is "yes" would we proceed to inquire into whether those allegations are true. The entire process would end by December 31—the target date chosen by Chairman HYDE himself—unless the committee asks for additional time.

Mr. Speaker, that is a fair and responsible way to do our job. It is also the only way to ensure that when that job is done, the American people will embrace our conclusions, whatever they may be.

Mr. POMEROY. Mr. Speaker, as I have indicated repeatedly over the past weeks and months, President Clinton's conduct in having an improper relationship with Monica Lewinsky and not being truthful about it was wrong, plain and simple, and it has left me profoundly disappointed.

I believe the House Judiciary Committee should begin an inquiry into whether the report of Independent Counsel Kenneth Starr on these matters presents facts that warrant impeachment of President Clinton. The debate today in the House is not about whether to proceed with an impeachment inquiry. It is about how to proceed.

Because this is only the third time in our history that Congress has taken the step of initiating an impeachment inquiry against a President, it is vitally important that we proceed in a fair, deliberate and timely manner. We must always remember that our Founding Fathers did not intend the impeachment process to be an exercise in partisan wrangling to be pursued when the legislative and executive branches are controlled by different political parties. Instead, our Constitution establishes impeachment as a solemn and extraordinary removal process triggered only when grounds of "treason, bribery or other high crimes and misdemeanors" are established against a President.

It is critical to establish appropriate ground rules for this extremely rare and constitutionally significant proceeding. A proper inquiry must focus squarely on the matters raised by the Starr report, evaluate the constitutional standard for impeachment, weigh the sufficiency of the evidence, and reach a recommendation on the question of impeachment by the end of this year.

As our Nation's history has shown, an ongoing impeachment inquiry is incredibly disruptive to the normal functioning of our government. It is therefore imperative that the process be concluded as quickly as can reasonably be accomplished. North Dakotans and all Americans believe that we must return to the urgent policy matters before us—strengthening the quality of our schools, preserving Social Security, and assisting our family farmers.

The inquiry process advanced by the majority on the House Judiciary Committee is fatally flawed because it lacks focus, a careful process, and a clear end point. While an appropriate inquiry should proceed, a drawn out procedure designed to prolong scandal and achieve political advantage must not. I will vote today against the majority's inquiry resolution and instead to amend the inquiry process so that this very important constitutional proceeding is fair and expeditious, allowing all of us to return to the people's business.

Mrs. KILPATRICK. Mr. Speaker, today I rise to express my trepidation over the potentially ominous precedent that the impending impeachment proceeding may lay out for the annals of our nation's history. In expressing my concern, I cannot ignore the history which has placed this important resolution before this august body. My unease arises because it seems that after years of investigating White Watergate, Travelgate, Filegate and other events, the linchpin of the Independent Counsel's case are charges of perjury which emanate from a private lawsuit funded predominantly by the most conservative, political enemies of the President.

While there is no question that the President's conduct was reprehensible, I take great pause in the facts which have compelled the leader of the free world before the American corpus and bared him virtually raw. I take great pause in what this means to the office of the President and, for that matter, any other leader in American society who chooses public policy contradictory to powerful opponents.

While many here today speak to the "rule of law" they neglect another American ideal which frames the rule of law. A bulwark of the American psyche is our embrace of the principle of fairness. It is the spirit of fairness that gave birth to the bedrock principle of American jurisprudence that the punishment must be proportional to the offense. It is with these principles in mind, that I suggest to my dear colleagues, that as we vote today in the people's house, and as this process moves forward, we must use all due deliberation to ensure fairness, and that any punishment meted out fit closely with the President's transgressions.

Now the nation and we here in Congress must turn our attention to whether or not to proceed with an impeachment inquiry. And more importantly, we must focus on how we should proceed with an impeachment inquiry. In reviewing the proposals before Congress today, I state my support for the Democratic Amendment. The Democratic Amendment is focused, fair, expeditious and deliberate. By requiring the consideration of a constitutional standard for impeachment, and a fair comparison of the allegations in the context of the well deliberated standard, the Democratic Amendment will allow the Congress to resolve this terrible blight on our nation's history expeditiously and decisively. The Democratic Amendment sets forth clear goals both for the scope and length of this investigation so as to prevent the further agony of dragging the country through a long and intrusive fishing expedition.

It is my fervent belief that the inappropriate actions of President Clinton do not rise to the standard of high crimes, treason, bribery or misdemeanors envisioned by the Framers of the Constitution. It is my sworn duty to protect the Presidency, and not the President. As such, it is my conclusion and the conclusion of most reasonable American citizens, that the last two elections must not be usurped by Congress. I cannot support a broad-based, infinite inquiry on the alleged actions of the President.

In summation, I will not support the further abuse of taxpayer dollars. I will not support a potentially unending fishing expedition based on facts that are no longer under dispute. I will not support this blatant pillage of the rights of all Americans. I will not support the Republican resolution to begin an impeachment inquiry upon our President. It is time for Members of Congress to stand up and protect our Constitution and reject this onerous precedent.

Mr. NUSSLE. Mr. Speaker, the question before us today is whether to look forward or look away.

After reading the referral Independent Counsel Kenneth Starr presented to the House of Representatives on September 9, 1998, and reviewing the materials made available to us since then, I believe there is enough information to continue on with an inquiry into the impeachment of the President.

Our colleagues on the House Judiciary Committee have already approved this resolution and believe a further investigation into the allegations against the President is appropriate. A vote in favor of this resolution by the full House will enable the House Judiciary Committee to proceed with their Constitutional obligations to conduct this investigation and make the necessary recommendations concerning the impeachment of the President.

I vote in favor of moving the process forward.

Mr. WEYGAND. Mr. Speaker, with a heavy heart and a clear conscience, I rise today to support the resolution commencing an impeachment inquiry into the President of the United States.

Congress and the American people are faced with a dilemma. On one hand, we are aware of admitted wrongdoings by the leader of our nation and on the other hand, we are faced with what I feel is overzealous and partisan conduct of the Independent Counsel. Both are wrong. We cannot and must not compromise our principles because of their lack of principles. We deserve a process which is independent of these two forces, so we can work responsibly on our duties as outlined by the Constitution.

My decision to vote in this manner was reached after self-examination and painstaking reflection on my own deeply held beliefs. This process is not one that I enter, nor should be entered into lightly and hope that we can work to make this inquiry progress smoothly and without partisanship, which has become all too commonplace in the House. Lately, I have been concerned over the overt partisan tone on both sides of the aisle. We cannot continue to view this process through politicians' eyes, which have the tendency to become jaded by an individual's political beliefs. We cannot be cavalier and must be conscientious. As we continue this process, we must strive to be not only bi-partisan, but non-partisan because the framers of our Constitution and the people of our nation deserve nothing less.

We must remain focused on the true meaning of this action today. This vote is not a vote for impeachment nor does it authorize the removal of the leader of our nation from his post. This step today is taken so Congress can study if the admitted transgressions of the President warrant an official action or indictment by this chamber.

It is my sincere belief that this inquiry is the proper forum in which the House of Representatives can undertake its solemn responsibility of deliberating if any of the President's actions rise to the level of impeachment. I desire nothing more than to have a quick and resolute end to this distressing situation. I believe that ignoring the President's situation will force our nation to endure this pain even longer. I feel an inquiry serves as the best avenue for the President to provide his defense and for Congress to reach the deliberative end for which our nations yearns.

My preference would be to limit this inquiry, by setting a deadline and imposing limits on what the inquiry would cover. These parameters were offered by the Democrats and I support these reasonable efforts. I had hoped the Democratic alternative would be the roadmap that Congress would take for this inquiry. To my dismay, this effort failed. I support the underlying resolution.

As I have said, today's vote is not a vote to impeach the President. In fact, based on the knowledge I have today, I would not support an impeachment of the President. I have serious misgivings about the President's actions and am disappointed with the extremely poor choices he made.

Each session, Members of Congress face a great number of votes. Some of these votes are merely procedural while others are more weighty relating to crucial issues affecting the welfare of our nation. All of these votes, seem to pale in comparison to the vote we cast today. Barring a vote on the declaration of war, I believe this is one of the most important votes we are called to make. I am guided by my strong beliefs and distinct desire to move on with this inquiry and come to a thoughtful, quick and appropriate resolution.

Mr. HASTERT. Mr. Speaker, We stand at a solemn moment in our nation's history. Today, the House votes on a recommendation from the Judiciary Committee to proceed with a fair and judicious inquiry into the charges contained in the report from the Independent Counsel. Like most of the people on Illinois' 14th Congressional District, I am very sad about this whole situation, and I am concerned that the President's actions have harmed not only his own reputation, but the trust and confidence that people have in the Presidency.

We live in a dangerous world. And our economy, while good, is threatened by problems from abroad. In these times, we need leadership that people can trust if our democracy is to work. Confidence in government is built upon trust. Despite all the media hype and sensationalism, I believe the Judiciary Committee must calmly and professionally do its work and uncover the truth, because that is the only way we can put this matter behind us. Sweeping the matter under the rug just won't work but that would be a disservice to the American people. We must stand up for the Constitution and the laws of our land.

Today, I will vote to allow the inquiry to begin so we can move quickly to uncover the truth. Every member of the Judiciary Committee, Republican and Democrat, voted for an investigation; they only disagreed on whether it should be artificially limited. The Committee must be free to follow all of the facts until they find the truth. I prefer not to set an arbitrary deadline because it will encourage those who do not want to get to the truth to run out the clock. Watergate Chairman Peter Rodino understood that, and that's why he rejected a time limit when Republicans sought one during the Watergate Hearings. I am satisfied with Chairman HYDE'S commitment to try and get this matter resolved by the end of the year.

Much as we wish we could just jump to an end result, the Founding Fathers were wise in establishing a balanced and deliberative process. It is the only path to the truth—the lifeblood of our justice system and of our democracy. Today, we begin a process to uphold the rule of law and help the nation heal.

Mr. DELAHUNT. Mr. Speaker, I oppose the resolution of inquiry as reported by the Judiciary Committee. I do so based on the concerns expressed in the Minority's dissenting views, and for the additional reasons set forth below.

I

On September 9, 1998, Independent Counsel Kenneth W. Starr referred information to the House that he alleged may constitute grounds for impeaching the President. In the 30 days that have elapsed since our receipt of that referral, neither the Judiciary Committee nor any other congressional committee has conducted even a preliminary independent review of the allegations it contains.

In the absence of such a review, we have no basis for knowing whether there is sufficient evidence to warrant an inquiry—other than the assertion of the Independent Counsel himself that his information is "substantial and credible" and "may constitute grounds for impeachment."

I believe that our failure to conduct so much as a cursory examination before launching an impeachment proceeding is an abdication of our responsibility under Article II of the Constitution of the United States. By delegating that responsibility to the Independent Counsel, we sanction an encroachment upon the Executive Branch that could upset the delicate equilibrium among the three branches of government that is our chief protection against tyranny. In so doing, we fulfill the prophecy of Justice Scalia, whose dissent in *Morrison* v. *Olson* (487 U.S. 654, 697 (1988)) foretold with uncanny accuracy the situation that confronts us.

II

The danger perceived by Justice Scalia flows from the nature of the prosecutorial function itself. He quoted a famous passage from an address by Justice Jackson, which described the enormous power that comes with "prosecutorial discretion":

> What every prosecutor is practically required to do is to select the cases . . . in which the offense is most flagrant, the public harm, the greatest, and the proof the most certain. . . . If the prosecutor is obliged to choose his case, it follows that he can choose his defendants. Therein is the most dangerous power of the prosecutor: that he will pick people that he thinks he should get, rather than cases that need to be prosecuted. With the law books filled with a great assortment of crimes, a prosecutor stands a fair chance of finding at least a technical violation of some act on the part of almost anyone. In such a case, it is not a question of discovering the commission of a crime and then looking for the man who has committed it, it is a question of picking the man and then searching the law books, or putting investigators to work, to pin some offense on him. It is in this realm—in which the prosecutor picks some person whom he dislikes or desires to embarrass, or selects some group of unpopular persons and then looks for an offense, that the greatest danger of abuse of prosecuting power lies. It is here that law enforcement becomes personal, and the real crime becomes that of being unpopular with the predominant or governing group, being attached to the wrong political views, or being personally obnoxious to or in the way of the prosecutor himself. Morrison, 487 U.S. 654, 728 (Scalia, J., dissenting), quoting Robert Jackson, The Federal Prosecutor, Address Delivered at the Second Annual Conference of United States Attorneys (April 1, 1940).

The tendency toward prosecutorial abuse is held in check through the mechanism of political accountability. When federal prosecutors overreach, ultimate responsibility rests with the president who appointed them. But the Independent Counsel is subject to no such constraints. He is appointed, not by the president or any other elected official, but by a panel of judges with life tenure. If the judges select a prosecutor who is antagonistic to the administration, "there is no remedy for that, not even a political one." 487 U.S. 654, 730 (Scalia, J., dissenting). Nor is there a political remedy (short of removal for cause) when the Independent Counsel perpetuates an investigation that should be brought to an end:

> What would normally be regarded as a technical violation (there are no rules defining such things), may in his or her small world assume the proportions of an indictable offense. What would normally be regarded as an investigation that has reached the level of pursuing such picayune matters that it should be concluded, may to him or her be an investigation that ought to go on for another year. 487 U.S. 654, 732 (Scalia, J., dissenting).

Under the Independent Counsel Act, there is no political remedy at any point—unless and until the Independent Counsel refers allegations of impeachable offenses to the House of Representatives under section 595(c) At that point, the statute gives way to the ultimate political remedy: the impeachment power entrusted to the House of Representatives under Article II of the Constitution.

III

Section 595(c) of the Independent Counsel Act provides that:

> An independent counsel shall advise the House of Representatives of any substantial and credible information which such independent counsel receives, in carrying out the independent counsel's responsibilities under this chapter, that may constitute grounds for an impeachment. 28 U.S.C. 595(c).

The statute is silent as to what the House is to do once it receives this information. But under Article II, it is the House—and not the Independent Counsel—which is charged with the determination of whether and how to conduct an impeachment inquiry. He is not our agent, and we cannot allow his judgments to be substituted for our own. Nor can we delegate to him our constitutional responsibilities.

Never in our history—until today—has the House sought to proceed with a presidential impeachment inquiry based solely on the raw allegations of a single prosecutor. The dangers of our doing so have been ably described by Judge Bork, who has written that:

> It is time we abandoned the myth of the need for an independent counsel and faced the reality of what that institution has too often become. We must also face another reality. A culture of irresponsibility has grown up around the independent-counsel law. Congress, the press, and regular prosecutors have found it too easy to wait for the appointment of an independent counsel and then to rely upon him *rather than pursue their own constitutional and ethical obligations.* Robert H. Bork, *Poetic Injustice*, National Review, February 23, 1998, at 45, 46 (*emphasis added*)

We must not fall prey to that temptation. For when impeachment is contemplated, the *only* check against overzealous prosecution is the House of Representatives. That is why—whatever the merits of the specific allegations contained in the Starr referral—we cannot simply take them on faith. Before we embark on impeachment proceedings that will further traumatize the nation and distract us from the people's business, we have a duty to determine for ourselves whether there is "probable cause" that warrants a full-blown inquiry. And we have not done that.

IV

What will happen if we fail in this duty? We will turn the Independent Counsel Act into a political weapon with an automatic trigger—a weapon aimed at every future president.

In *Morrison*, Justice Scalia predicted that the Act would lead to encroachments upon the Executive Branch that could destabilize the constitutional separation of powers among the three branches of government. He cited the debilitating effects upon the presidency of a sustained and virtually unlimited investigation, the leverage it would give to the Congress in intergovernmental disputes, and the other negative pressures that would be brought to bear upon the decisionmaking process.

Whether these ill-effects warrant the abolition or modification of the Independent Counsel Act is a matter which the House will consider in due course. For the present, we should at least do nothing to exacerbate the problem. Most of all, we must be sure we do not carry it to its logical conclusion by approving an impeachment inquiry based solely on the Independent Counsel's allegations. If all a president's political adversaries must do to launch an impeachment proceeding is secure the appointment of an Independent Counsel and await his referral, we could do permanent injury to the presidency and our system of government itself.

V

If the House approves this resolution, it will not be the first time in the course of this unfortunate episode that it has abdicated its responsibility to ensure due process and conduct an independent review. It did so when it rushed to release Mr. Starr's narrative within hours of its receipt, before either the Judiciary Committee or the President's counsel had any opportunity to examine it. It also did so when the committee released 7,000 pages of secret grand jury testimony and other documents hand-picked by the Independent Counsel—putting at risk the rights of the accused, jeopardizing future prosecutions, and subverting the grand jury system itself by allowing it to be misused for political purposes.

These actions stand in stark contrast to the process used during the last impeachment inquiry undertaken by the House—the Watergate investigation of 1974. In that year, the Judiciary Committee spent weeks behind closed doors, poring over evidence gathered from a wide variety of sources—including the Ervin Committee and Judge Sirica's grand jury report, as well as the report of the Watergate Special Prosecutor. All before a single document was released. Witnesses were examined and cross-examined by the President's own counsel. Confidential material, including secret grand jury testimony, was never made public. In fact, nearly a generation later it remains under seal. The Rodino committee managed to transcend partisanship at a critical moment in our national life, and set a standard of fairness that earned it the lasting respect of the American people.

Today the Majority makes much of the claim that their resolution adopts the language that was used during the Watergate hearings. While it may be the same language, it is not the same process. Too much damage has been done in the weeks leading up to this vote for the Majority to claim with credibility that it is honoring the Watergate precedent. But it is not too late for us to learn from the mistakes of the last three weeks. If we adopt a fair, thoughtful, focused and bipartisan process, I am confident that the American people will honor our efforts and embrace our conclusions, whatever they may be.

Mr. THORNBERRY. Mr. Speaker, I support the Resolution before us today. The bottom line question is: Should we investigate the allegations that have been made against the President. As someone has said, "Do we look further or do we look away." To fulfill the oath that each of us took, I believe that we must look further.

Some may try to change the subject by quibbling with the parameters of the inquiry or the lack of a time limit. Those are details—if not excuses—which do not change the fundamental question. The only precedent of modern times, the Watergate inquiry, is being followed.

Others seem to have concluded that even if all of the charges are true, it doesn't matter; they do not constitute an impeachable offense. Those Members are wrong. Perjury, obstruction of justice, abuse of power do matter—by anyone—and especially by the one person charged in the Constitution with executing the laws of the land.

We must fulfill our oath to the Constitution that we have sworn to "support and defend." We cannot stick our heads in the sand and wish this unpleasant duty away. We cannot pass along our responsibility to polls, the media, or the other body. We have to try to do what is right, wherever that may take us, even if some of the facts are distasteful.

But, we must also remember that our response to these facts will help determine what kind of nation we will be in the future. Young people—and even those not so young—are watching. They are learning lessons—lessons about telling the truth, lessons about selfish, reckless behavior, lessons about self-discipline and responsibility. They are watching to see if we really mean what we say, whether actions really do have consequences. We can teach them good, constructive lessons, or we can teach them lessons of another kind.

How we all handle this episode—what we say about it and what we do about it—will affect how much trust people are willing to give their elected representatives and the institutions which have navigated us through more than 200 years of often treacherous waters. Even more importantly, however, how we handle this episode will affect the values and moral character of a whole generation of Americans.

There are important decisions to be made in Washington over the coming weeks, but there are even more important decisions to be made around the kitchen table in every American home. I pray we all make the right decisions.

Mr. RIGGS. Mr. Speaker, this is a historic moment. Only twice before in the history of our great Republic have we stood at the brink of such dramatic action concerning a sitting President. The burden upon us as Members of this House is great, and one that I do not take lightly. I know a majority of our colleagues feel the same way. The eyes of the nation are on us as we perform this duty with the best interests of our democracy at heart.

I rise today to urge bipartisan support of an impeachment inquiry into the very serious allegation of felony criminal conduct by the President of the United States. Our oath of office requires no less.

It has become clear over the last several months that the President lied under oath in the Paula Jones case, lied under oath to the grand jury, and after taking an oath to the nation—an oath in which he swore to uphold the Constitution and faithfully execute the law—he lied to the American people.

Our American government—our systems of laws—is based on truth. We all rely on our leaders to respect and uphold that system. The President of the United States is the chief law enforcement officer in our country, and when the chief law enforcement officer shows utter disregard for the truth and such little respect for the judicial process, it is no less than an assault on the rule of law. Congress cannot stand idly by. We have a prescribed Constitutional duty, as the people's representatives. The founding fathers charged us with the first step in this most solemn process. We do not sit in judgment today. Instead we are here to ensure that the President is held accountable for his actions in order to protect the dignity of the office he holds.

Equality is another principle fundamental to our nation, and one that Americans hold dear. Every person should be equal before the law. If any other American citizen lied in a civil deposition, as the President did—lied to a grand jury, as the President did—or refused to answer grand juror questions without asserting a Fifth Amendment privilege, as the President did—that citizen would be prosecuted, and that citizen would face certain punishment, including possible imprisonment. Should such offenses be acceptable in a President? The answer is no.

But there are larger issues here than just narrow legal questions of perjury or obstruction of justice, Mr. Speaker. A President does not merely watch over the daily operations of the federal government. He is our leader, using his moral authority to guide our nation. A President has singular power to influence our history, set our agenda, and to send our sons and daughters into harm's way. There is a sacred trust which exists between the President of the United States and the people. When Bill Clinton made the decision to repeatedly lie and mislead the American people, he violated that trust and broke that faith. I believe he can no longer effectively lead our country or perform the duties expected of his office with that trust shattered. Long before we reached the point we are at today, the point of moving forward with an impeachment of the President, I joined many of my colleagues from both sides of the aisle in suggesting that Bill Clinton should do the honorable thing and resign. He could have ended this painful episode at the beginning of this year by telling the truth. But he made the decision to prolong this ordeal and continue to obfuscate, hiding behind veiled lies while parsing legal definitions. Seven months after shaking a finger at the American people and spending millions of taxpayer dollars in his defense, finally he begrudgingly admitted his lies.

Bill Clinton's dependence on strained, anguished legalisms continues to force the American people down the path of impeachment. The choice our President has left us with is clear: We can proceed with our Constitutionally mandated duty and move forward with this impeachment inquiry, or we can knowingly let dishonest, perjurious—possibly felonious—behavior slide in the highest office in our nation.

This resolution is the right course of action for the House to take today. It lays out a procedure that is fair and just, both to the President and to the members of his party here in the House. Now is not the time for partisanship. Some of my colleagues on the other side of the aisle have put forth their own resolution which would force any inquiry into an artificial time constraint, encouraging partisan stalling and bickering. We need to move ahead in a bipartisan, statesmen-like manner in this most grave of responsibilities. Chairman HYDE and the members of his Judiciary Committee have given us the vehicle to do that. I congratulate them on their hard work and evenhandedness. The American people and the Congress have been given unprecedented access to the facts, regardless of their political import, and now we must act on those facts.

It is with a heavy heart and a deep sense of responsibility to my office and to my constituents that I vote in favor of this resolution today.

Ms. ROS-LEHTINEN. Mr. Speaker, with a commitment to the principles of the rule of law which makes this country the beacon of hope throughout the world, I cast my vote in favor of the resolution to undertake an impeachment inquiry of the conduct of the President of the United States. As a Representative in Congress, I can do no less in fulfilling my trust responsibility to the Constitution and to all who have preceded me in defending the Constitution from erosions of the rule of law.

The impeachment inquiry is necessary to determine the facts surrounding the public conduct of the President, including allegations of lying under oath, obstruction of justice, and conspiracy. The supporting evidence is clearly sufficient to warrant further investigation. Without further investigation, we would be ignoring the charges and clear preliminary evidence without cause or reason. The truth should be our only guide, and only a thorough investigation can produce the truth. Those who seek to avoid a thorough investigation are really seeking to avoid the truth.

These allegations of lying under oath, obstruction of justice, and conspiracy are not about private conduct, but instead about public conduct in our courts of law. Our courts of law and our legal system is the bedrock of our democracy and of our system of individual rights. Lying under oath in a legal proceeding undermines the rights of all citizens, who must rely upon the courts to protect their rights. If lying under oath in our courts is ignored or classified as "minor", then we have jeopardized the rights of everyone who seek redress in our courts. Lying under oath and obstruction of justice are ancient crimes of great weight because they shield other offenses, blocking the light of truth in human affairs. They are a dagger in the heart of our legal system and our democracy; they cannot and should not be tolerated.

We all know that "a right without a remedy is not a right". If we allow, ignore, or encourage lying and obstruction of justice in our legal system, then the rights promised in our laws are hollow. Our laws promise a remedy against sexual harassment, but if we say that "lying about sex in court" is acceptable or expected, then we have made our sexual harassment laws nothing more than a false promise, a fraud upon our society, upon our legal system, and upon women.

The Office of the Presidency is due great respect, but the President (whoever may hold the office) is a citizen with the same duty to follow the law as all other citizens. The world marvels that our President is not above the law, and my vote today helps ensure that this rule continues.

Mr. RILEY. Mr. Speaker, I rise in support of House Resolution 581 to begin an inquiry to determine whether to impeach the President. Mr. Speaker this is a historic day in the House. It is also a sad and solemn day. It is with great regret and respect that the House considers this resolution before us today.

Mr. Speaker, I sympathize with the plight of our friends across the aisle. Yes that's right they have my sympathy and my understanding. Twenty-five years ago when the Watergate facts became public, Republicans initially opposed efforts to move forward with impeachment proceedings against President Nixon. It took some time, but after examining the facts and laying aside partisan allegiances, Republicans came forward for the good of the country and joined with House Democrats to support the House proceedings regarding President Nixon and Watergate. That took courage, open mindedness, a sense of duty to the people those Members of Congress represented, and an understanding of the oath of office each one of them, and each one of us, has taken. It was the same oath taken by the President. It was an oath taken with our hands on the Bible and sworn before God.

Today, our colleagues across the aisle face the same issues we Republicans did twenty-five years ago. I think our colleagues are wrong to oppose this resolution and wrong to attack the investigation and findings turned over to the House. But I understand their opposition. I have hope that, in time, after examining all the facts, evidence and allegations regarding President Clinton, they too will, for the good of the country, join us in moving forward with these proceedings to determine whether the President's action warrant removal from office. It is our constitutional duty to move forward today just like it was twenty-five years ago.

For those of my Democrat colleagues who support this resolution I say thank you. I look forward to working in a bipartisan matter to further investigate the charges against President Clinton and recommend a course of action for our colleagues in the other body. For those of my Democrat colleagues who oppose this resolution, I ask them to put aside politics. This issue is too important and too grave to proceed without you. I believe, in time, they too will understand the need to move forward and work together in a true bipartisan matter for the good of our country.

I urge my colleagues, support House Resolution 581. The American people deserve no less, and our responsibilities as Members of Congress preclude us from no less.

Mr. HOYER. Mr. Speaker, today we confront one of our most solemn responsibilities as Members of Congress, that of the question of impeachment of a President of the United States. In doing so, we consider embarking upon a task of the gravest consequence in democracy: the removal of the elected leader of our Nation by other than electoral process. We have considered this course on only two other occasions in the 209 year history of our Constitution and Government. It is plain that we should proceed judiciously and fairly in carrying out this duty.

Today's vote is how we should undertake this task. There are two proposals: The Republican proposal suggests that we authorize the Judiciary Committee to pursue an open ended investigation, consider all things that the Committee majority deems relevant for such time as that inquiry might take.

The Democratic proposal provides for the Judiciary Committee to pursue an analysis of the facts referred by the Independent Counsel and the law and to make such recommendations to the House as it deems appropriate after such review.

I shall vote for the Democratic proposal and against the Republican one. My constituents should know why.

First, I believe the President's conduct and public representations merit the disdain and deep disappointment, and, yes, even anger, of the American people. Having said that, I believe we must act according to the Constitution, the facts, and with a view to the precedents of history and the precedents we will establish for the future.

In many ways the situation that confronts us is unique. This matter comes to us from the Office of Independent Counsel after four and one-half years of extensive investigation, at a cost of over forty million dollars. In addition the House and Senate have themselves spent over ten million dollars and thousands of hours on hearings, depositions, investigation, and consideration of allegations against the President and his administration.

I believe the Republican proposal to undertake additional investigation and hearings is not only unnecessary and redundant, it is also not in the best interests of our Country. I have stated before that I think this is the conclusion of the American public. Whatever action they favor, I believe they strongly support a prompt resolution so that whatever the outcome we can again focus on a public agenda reflecting the concerns, aspirations, and realities of our people's lives and our Country's in the international community. To do otherwise will jeopardize our future both in the short and long term. We must not continue to mire our public discourse in muck, ridicule, and nationally demeaning debate.

Secondly, I am convinced that we must decide whether the allegations contained in the referral from the Office of Independent Counsel, even if true, constitute impeachable offenses. It is clear that there is disagreement on that question among legal scholars.

The Republican resolution is clearly focused on procedures for further investigation and fact finding rather than a consideration of the information, allegations and conclusions referred by the Independent Counsel. It is difficult for me not to conclude that this is simply intended to prolong this matter for another year or two for political rather than Constitutional reasons. From circus-like delivery of the Counsel's report to the Congress the purpose of which, as quite obviously, to heighten public frenzy and expectation; to the almost immediate release of a salacious report designed, in my opinion, for sensationalism and to add to the debasement of the President, to the subsequent release of volumes of raw material for consumption by the public; to two days consideration weeks before a national election with the gag procedures imposed upon debate of the two alternatives, it is impossible to view these deliberations as either fair or judicious. Such action ill serves our Constitution or our Country. It is, I sadly lament, nevertheless, consistent with the totally partisan tenor of the leadership of this Congress.

The alternative resolution I will support provides that the Judiciary Committee will review the evidence referred to it and either recommend to the House to impeach, to impose such sanctions as it deems warranted or to take no further action. The Committee is directed to do so prior to December 31, 1998—a time frame deemed possible by the Chairman. Furthermore, if the Committee finds that it is unable to accomplish its work in the time frame provided it may ask the House for more time.

Neither this President nor any other can carry out the duties required of him by the Constitution and laws of this Nation while under constant investigation and attack. The American people understand that, which is why they want this matter brought to a close.

Our decisions should not be made based upon poll or plebiscite. But, I am convinced the people are absolutely correct in their judgment that we must conclude this tragic chapter in our Nation's history quickly before it demeans us further and debilitates us more.

Mr. SANDLIN. Mr. Speaker, I rise in support of the Democratic alternative and against the Republican resolution. This is not a vote about whether there will be an inquiry. Rather it is a vote about how it will be done.

Obviously, this is a somber day in our nation's history. Today, we officially embark on a journey that only two Congresses before us have—that of an impeachment inquiry. On a matter of such import it is critical that this body act in a responsible manner, not in a partisan manner. We must rise above politics. It is critical that our vote be dictated by conscience and by the rule of law—not by party.

Even the gentleman from Georgia, Mr. LINDER, seemed to recognize the great harm that we can do by reducing the serious matter of impeachment of a President to mere politics. He stated in an interview last month, "If all Starr has is what we've seen, I don't think the public is ready for impeachment. I have said all along that one party cannot impeach the other party's president."

The Constitution grants us an awesome responsibility and I believe our Founding Fathers would be deeply disappointed to know that some among us would turn that responsibility into a political game. Alexander Hamilton fought for a high standard for impeachment of a President. He understood the inherently political nature of allowing such an issue to be decided by a legislative body. In fact, he warned that "there will always be the greatest danger that the decision will be regulated more by the comparative strength of parties, than by the real demonstrations of innocence or guilt."

In 1974, this body voted 410 to 4 in favor of a resolution similar to that being offered by the Republicans today. That action was clearly a bipartisan decision. According to the report by the Judiciary Committee staff at that time, "Constitutional Grounds for Presidential Impeachment," the action was not "intended to obstruct or weaken the presidency. It was supported by members firmly committed to the need for a strong presidency and a healthy executive branch of our government." We clearly do not have a near unanimous decision today. While I would never question the motives of any of my colleagues, I am concerned that the motives of some in 1998 are not as pure as the motives of this body in 1974.

A review of the debate of our Founding Fathers reveals their concern over the potential for capricious use of the impeachment power. It becomes clear after a review of history that the Founding Fathers intended that an impeachable offense was an offense against the United States. There was a clear difference between public service and private conduct. They did not want Congress to have the unlimited right to decide who is President. They believed that only in the most extreme cases should the Congress undo an election of the American people.

Eight previous Presidents—John Tyler, Andrew Johnson, Grover Cleveland, Herbert Hoover, Harry S. Truman, Richard M. Nixon, Ronald W. Reagan, and George H.W. Bush—have had proposed articles of impeachment filed against them in the House of Representatives. The charges have fallen into two broad categories—behavior considered to be offensive, but not necessarily illegal; and acts that violate statutory or constitutional law. Only one of those presidents was impeached and the second resigned before the House could vote to impeach. In both instances, a clear crime was alleged to have been committed against the State.

After a review of the intent of the framers and of various impeachment resolutions that have been filed, it is clear that, with the possible exception of the charge of "shameless duplicity, equivocation, and falsehood with his late Cabinet and Congress" against President Tyler, the charges leveled against President Clinton to date do not come close to any of the charges brought against other Presidents—even those in which no impeachment resolution was given serious consideration. While other impeachment charges have dealt almost exclusively with alleged crimes against the state and therefore interfered with the Presidential duties, the charges against President Clinton allege actions that did not interfere with his Presidential duties.

Because of the nature of the charges against President Clinton, the investigation should be disposed of as quickly as possible. The Democratic resolution lays out specific time frames in order to fully and fairly conduct an inquiry and, if appropriate, to act upon the referral from the Independent Counsel in a manner that ensures the faithful discharge of the constitutional duty of Congress and concludes the inquiry at the earliest possible time.

To date, I believe this matter has significantly disrupted the progress of the Congress. It would be irresponsible for us not to limit the scope of the investigation and the time in which we conduct this investigation. We must get back to the business of the people as soon as possible and stop allowing this matter to paralyze the country. The working families of America need our help and they need it now. We have done nothing to ensure that home health agencies are able to continue their business into next year. There is no managed care reform. There is no legislation to reduce class size and modernize schools. There has been no action on funding the IMF and rescuing the world economy. My constituents did not elect me to participate in endless investigations. They elected me to take care of the business of the people.

Mr. Speaker, we must carefully consider the matter at hand today and ask ourselves, "How can we best proceed in this matter to prevent the fears of our Founding Fathers from coming true?" I submit to you that the most responsible course of action is to impose upon ourselves the deadlines provided in the Democratic alternative. Only swift and deliberate action can meet the standards of Hamilton. There should be no reason why we cannot meet these deadlines and return to the business of the people.

Mr. DELAHUNT. Mr. Speaker, the issue before us today is not just the conduct of the President. The overriding issue is how this committee will fulfill its own responsibilities at a moment of extraordinary constitutional significance.

Three weeks ago, the Independent Counsel referred information to Congress that he alleged may constitute grounds for impeaching the President.

But it is not the Independent Counsel who is charged by the Constitution to determine whether to initiate impeachment proceedings. That is our mandate. He is not our agent, and we cannot allow his judgments to be substituted for our own.

I am profoundly disturbed at the thought that this committee would base its determination solely on the Starr referral.

Never before in our history has the House proceeded with a presidential impeachment inquiry premised exclusively on the raw allegations of a single prosecutor. Let alone a prosecutor whose excessive zeal has shaken the confidence of fair-minded Americans in our system of justice.

It is the committee's responsibility to conduct our own preliminary investigation to determine whether the information from the Independent Counsel is sufficient to warrant a full-blown investigation. And we have not done that.

If we abdicate that responsibility, we will turn the Independent Counsel Statute into a political weapon with an automatic trigger—aimed at every future president. And in the process, we will have turned the United States Congress into a rubber stamp.

Just as we did when we rushed to release Mr. Starr's narrative within hours of its receipt, before either this committee or the President's counsel had any opportunity to examine it.

Just as we did when we released 7,000 pages of secret grand jury testimony and other documents hand-picked by the Independent Counsel—subverting the grand jury system itself by allowing it to be misused for a political purpose.

Just as we are about to do again: by launching in inquiry when no member of Congress even now, has had sufficient time to read, much less analyze, these materials. Not to mention the 50,000 pages we have not released.

For all I know, there may be grounds for an inquiry. But before the committee authorizes proceedings that will further traumatize the nation and distract us from the people's business, we must satisfy ourselves that there is "probable cause" to recommend an inquiry.

That is precisely what the House instructed us to do on September 10. The chairman of the Rules Committee himself anticipated that we might return the following week to seek "additional procedural or investigative authorities to adequately review this communication."

Yet the committee never sought those additional authorities. Apparently we had no intention of reviewing the communication.

That is the difference between the two resolutions before us today. The Majority version permits no independent assessment by the committee, and asks us instead to accept the referral purely on faith.

Our alternative ensure that there is a process—one that is orderly, deliberative and expeditious—for determining whether the referral is a sound basis for an inquiry.

The Majority has made much of the claim that their resolution adopts the same process—indeed, the very language—that was used during the Watergate hearings of 24 years ago.

It may be the same language. But it is not the same process.

In 1974, the Judiciary Committee spent weeks behind closed doors, poring over evidence gathered from a wide variety of sources—including the Ervin Committee and Judge Sirica's grand jury report, as well as the report of the Watergate Special Prosecutor. All before a single document was released. Witnesses were examined and cross-examined by the President's own counsel. Confidential material, including secret grand jury testimony, as never made public. In fact, nearly a generation later it remains under seal.

It is too late now to claim that we are honoring the Watergate precedent. The damage is done. But is not too late for us to learn from the mistakes of the last three weeks. If we adopt a fair, thoughtful, bipartisan process, I am confident the American people will embrace our conclusions, whatever they may be.

If the Majority chooses to do otherwise, it certainly has the votes to prevail. Just as the Democratic majority had the votes in 1974. But the Rodino committee recognized the overriding importance of transcending partisanship. And it earned the respect of the American people.

It is our challenge to ensure that history is as kind to the work of this committee.

Mr. POSHARD. Mr. Speaker, the vote today is not a vote for or against impeachment. It is not a vote on whether to proceed with the investigation. It is a vote on how to proceed. It is a vote to determine the parameters of the Judiciary Committee's investigation. The Republican proposal wants an investigation which is open-ended, without time limits and not limited to the Starr report. The Democratic alternative focuses the scope of the inquiry to the matter actually before the House in the referral by Mr. Starr. The independent counsel at this time has leveled very specific charges, and these are the ones that should be investigated. The Democratic resolution would first determine if these charges constitute grounds for impeachment. If that determination is reached, a focused inquiry will follow, and this Congress would then get to vote on the Committee's final recommendation. This is a fair process.

I will make my final decision regarding the President's actions after the deliberations of the Judiciary Committee are finished. I hope my colleagues all do the same. Based on the President's admitted behavior, I have strongly condemned his actions and believe he must experience the consequences of his behavior. Whether those consequences rise to the level of impeachment cannot be determined until the Committee investigation is finished, and I believe the Democratic alternative which I support is the most focused, fair, and expeditious way for the Committee to proceed.

Mr. SERRANO. Mr. Speaker, I rise in strong opposition to the Republican resolution calling for further interminable, open-ended, partisan investigation of the President of the United States. My constituents share my outrage at the attacks on President Clinton, and many—more than on any other issue in my eight years in this House—have called, written, and e-mailed me to share their views on the course Congress should take in this matter.

As many of my colleagues on both sides have said, the duty imposed on the House by allegations of Presidential treason, bribery, or other "high crimes and misdemeanors" is very grave. Faced with such allegations, the House must carry out its responsibility in the fairest, most non-partisan manner possible. This is vital to preserving the integrity of a Constitutional process, and we owe it to the President and to the American people.

Having said that, I, and my constituents, believe that this process, based on these allegations, has been unfair and partisan, that the offenses alleged against the President are not impeachable, and that the House Republican leadership should end the investigation and try to do as much of the people's business as is possible in the few days left before Congress adjourns for the year.

On September 11, I voted against immediate release of the Starr report. Basic fairness, like that extended to you, Mr. Speaker during the Ethics Committee investigation into your dealings, would have given the President the chance to review the allegations against him and to respond. After all, the Independent Counsel and his lawyers have spent more than four years and over $40 million focusing all their attention on finding wrongdoing by the President. And the grand jury process, which led to the report, is supposed to present only the prosecutor's version of the facts, not the accused's.

And no-one in Congress reviewed the Starr referral before it was dumped into print and onto the Internet, even though innocent people's reputations were damaged by it, and much of the material was so salacious that our children shouldn't have such easy access to it. Nor was there any apparent reason to release the additional material other than to further humiliate the President.

I believe it would be a bad precedent and a big mistake to remove the President, whom the people elected twice and whose performance in office the people still support, over a private consensual relationship. We must understand, as my constituents clearly do, that liberty and privacy are tightly linked, and that the more we permit intrusion into and exposure of the private lives of our people, even our Presidents, the more we jeopardize our liberty.

I believe the House should not proceed with any further investigation and should instead get on with the unfinished business of America. Therefore, I will vote against both resolutions, and I urge my colleagues to do the same.

Mr. CASTLE. Mr. Speaker, in accordance with the responsibilities placed on Congress by the Constitution, I support House Resolution 581 to authorize the Judiciary Committee to conduct an inquiry to determine whether the actions of the President of the United States require articles of impeachment to be filed against him.

It is a sad and somber moment for the Congress and for the country. No one should take any joy in the fact that Congress must examine these issues. The House Judiciary Committee should now conduct its investigation in a fair and expeditious manner. The President should be afforded every opportunity to address each point in the inquiry. There should be no rush to judgement, but there should also be no effort to delay or obstruct the legitimate examination of evidence and witnesses. I do not support an endless investigation, but a short, artificial time limit would encourage delays in responding to legitimate questions that must be answered.

It is important to emphasize that this is an inquiry. No determination has been made on the fate of the President. We should have an expeditious and open process in effort to complete this unfortunate, but necessary task as quickly as possible. When the inquiry is complete, the House should make a fair determination based on the facts, the law, and on what is in the best interest of our Nation.

Mr. LEVIN. Mr. Speaker, I reiterate my deep dismay at the President's personal conduct and his misleading the American people. We need a process that appropriately punishes the President without unduly punishing our nation. Today's debate is not about whether there will be an impeachment inquiry, but about how the impeachment inquiry should proceed and for how long.

The House should approve an impeachment inquiry today that refers the allegations contained within the Starr Report to the Judiciary Committee to determine if they constitute impeachable offenses in a manner that assures an early conclusion and is clearly defined as to its scope. The Hyde proposal meets none of these criteria.

I agree with President Gerald Ford who recently wrote that "the Judiciary Committee should be able to conclude a preliminary inquiry into possible grounds for impeachment before the end of the year."

The impeachment inquiry we approve today should be focused and clearly defined as to its scope. The Hyde proposal is neither focused nor clearly defined and places no limit on how long the investigation can go on.

I believe the impeachment inquiry proposal that will be offered by Mr. BOUCHER meets appropriate standards and the interests of the American people. The Hyde proposal does not.

Mr. COYNE. Mr. Speaker, I rise today to address the serious business before us—the resolution authorizing the House Judiciary Committee to undertake an impeachment inquiry into the admitted and alleged misdeeds of President Clinton.

We all know that President Clinton did something wrong. He had an affair and he lied about it. He admitted that to the nation in August. I was sorely disappointed by his misbehavior. His actions are to be condemned.

The question that Congress must address in the coming weeks and months, however, is whether his misdeeds merit impeachment. That means that we must sort out what he did, what his intentions were, and whether his actions constituted impeachable conduct.

The first step—and only the first step—in this process was the submission of Independent Counsel Kenneth Starr's referral to Congress last month. The last sections of the referral documents were released to the public last week, and at this point Americans have had enough time to begin to digest the contents of the Independent Counsel's report.

Congress now has the responsibility of weighing the Independent Counsel's charges objectively and determining whether to proceed with the next step in the impeachment process, which consists of an impeachment inquiry by the House Judiciary Committee.

I believe that given the seriousness of the charges, an impeachment inquiry is appropriate. The Starr Report is clearly not objective, but we must remember that it is not supposed to be objective. A grand jury proceeding is supposed to make the most compelling case possible for prosecution. The House should now review the Independent Counsel's referral, allow the President to present his side of the story, and require testimony from any other source that it deems necessary. Consequently, I support legislation authorizing the House Judiciary Committee to undertake an impeachment inquiry.

I am concerned, however, that an open-ended inquiry with the authority to re-visit every allegation made against President Clinton over the last 25 years would be excessive. Many of these charges have been investigated extensively—by Congressional committees, the Justice Department, and the Independent Counsel's office.

Consequently, I will vote today for the Democratic alternative to this resolution, which would authorize an impeachment inquiry but limit its scope to the Independent Counsel's referral. If, as I suspect, that alternative is rejected, I will vote against the resolution. I want to make clear, however, that I support an inquiry. I will vote against the resolution because I believe that an inquiry should focus on the charges set forth in the Independent Counsel's referral. It shouldn't be an open-ended, partisan fishing expedition.

Impeachment of a president is one of the most serious actions that the House of Representatives can take. I know that my colleagues all appreciate the gravity of what we are about to do. I urge my colleagues to act with the country's long-term interests in mind. Thank you.

Mr. BALLENGER. Mr. Speaker, today I rise in support of H. Res. 581, a resolution to open an inquiry by the House Judiciary Committee to determine whether substantial evidence exists to recommend the impeachment of the President of the United States.

When taking his oath of office, President Clinton vowed to "preserve, protect, and defend the Constitution of the United States." Independent Counsel Kenneth Starr's report outlines eleven potentially impeachable offenses against President Clinton suggesting he did not honor his oath. An investigation into these allegations is necessary to determine if there is substantial evidence to prove that President Clinton did, in fact, commit these crimes and to determine if these offenses warrant impeachment. Contrary to some opinions, this impeachment inquiry is not an attempt to disgrace the President but an honest effort to discover the truth.

I endorse this impeachment inquiry by the Judiciary Committee. Like all Americans, I hope it can proceed fairly and conclude expeditiously. Just as Clinton took an oath of office when being sworn in as President of the United States, I also took an oath of office as a Member of Congress to uphold the laws of the land. For that reason, I support H. Res. 581—a vote for truth and justice.

Mr. PASCRELL, of New Jersey. Mr. Speaker, today, I cast my vote for the proposal offered by Representative RICK BOUCHER for an impeachment inquiry. I firmly believe that this is the best course of action for our country. The Hyde proposal, in an effort to advance a political agenda, would allow this inquiry to go on indefinitely. But the American people deserve to have closure on this matter as soon as possible.

Alexander Hamilton, over 200 years ago, warned our great nation of the divisive nature of unfair inquiries. Our proposal would allow us to uphold our Constitutional responsibilities, namely to determine whether these charges made against the President are true and if true, they mandate the President's impeachment.

We have a duty to our constituents to get back to work on the many issues that affect our nation's families. That is why I, and everyone in this room, was sent here in the first place. The deadline our proposal imposes would grant ample time to review the Starr Report, make these difficult decisions, and refocus our energies on other vital matters. My fear of the Hyde proposal is based solely on its open ended nature and the financial toll another lengthy investigation will place upon us.

Make no mistake, I think the President's admitted behavior is indefensible and that this matter has done great harm to our country and the office of the President. But, we need to move on and bring closure to this issue. I will not allow the House Leadership to bring down the institution in which I so proudly serve. And I will do my best to insure that the decisions made best serve our Constitution and our nation. No individual and no party is privy to virtue."

Mr. BOUCHER. Mr. Speaker, at the conclusion of this debate, I will offer a motion to recommit the resolution offered by the gentleman from Illinois to the Committee on the Judiciary with the instruction that the Committee immediately report to the House the resolution in the form of our Democratic alternative.

While we would have preferred that Democrats have a normal opportunity to present our resolution as a amendment, the procedure being used by the House today does not make a Democratic amendment in order. The motion to recommit with instructions, however, offers an opportunity for adoption by the House of our alternative.

The Democratic amendment is a resolution for a full and complete review by the Judiciary Committee of the material referred to the House by the Office of the Independent Counsel. The Republican resolution also provides for that review. The difference between the Democratic and Republican alternatives is only over the scope of the review, the time that the review will take, and the requirement in our Democratic alternative that there be a recognition of the historical Constitutional standard for impeachment.

The public interest requires that a fair and deliberate inquiry occur. Our resolution would assure that it does.

But the public interest also requires an appropriate boundary on the scope of the inquiry. It should not become an invitation for a free ranging fishing expedition, subjecting to a formal impeachment inquiry matters that are not before the Congress today. The potential for such a venture should be strictly limited by the resolution of inquiry. Our proposal contains those appropriate limits. It would subject to the inquiry the material presented to us by the Office of the Independent Counsel which is the only material before us at the present time.

The public interest also requires that the matter be brought to conclusion at the earliest possible time that is consistent with a complete and through review.

The country has already undergone substantial trauma. If the Committee carries its work beyond the time reasonably needed for a complete resolution of the matter now before us the injury to the nation will only deepen.

We should be thorough, but we should be prompt. Given that the facts of this matter are generally well known, and given that there are only a handful of witnesses whose testimony is relevant, all of whom have already undergone grand jury scrutiny, there is no reason to prolong the Committee's work into next year. A careful and thorough review can be accomplished between now and the end of this year. Our resolution so provides.

Our resolution requires that the Committee hold hearings on the Constitutional standard for impeachment which has evolved over two centuries and which was recognized most recently by the Committee and by the House in 1974.

Our substitute then directs the Committee to compare the facts stated in the referral to the Constitutional standard and determine which if any of them rise to the standard.

Any of the facts stated in the referral which pass that initial test would then become the subject of a formal inquiry and investigation following which the Committee could reach its conclusion. It could recommend articles of impeachment, alternative sanctions or a no action option.

Under our resolution the committee will begin its work on October 12 and conclude all proceedings, including the consideration of recommendations in December. The House could then complete its consideration of any recommendations the Committee may make by the last week in December.

This approach is fair. It's in the public interest, and it is what the American public expects.

It gives deference to the Constitutional standard for impeachment recognized by the House in its 1974 report. It offers ample time to consider carefully, any of the allegations which rise to the Constitutional standard.

It assures that the entire matter will be resolved promptly and that the Nation is not distracted by a prolonged inquiry which is clearly not justified by the material presented in the referral.

It presents a framework that will enable the Committee and the House of Representatives to discharge their Constitutional obligations in a manner which is both thorough and expeditious.

I urge approval of the Democratic plan as rules of proceeding which are well tailored to the challenge before us.

Mrs. MORELLA. Mr. Speaker, today is a sad day for our country. I take no pleasure in today's proceedings, or the events which have brought us to this point. I have been entrusted by the people of my district to exercise my judgment in this matter, and I take seriously their confidence in me to use my best judgment and to carry out my Constitutional responsibilities in a somber and thoughtful manner.

We are a nation of law. In conformity with our Constitutional obligation to oversee the Executive Branch of government, Congress passed an independent counsel law, which was signed by President Clinton. The independent counsel appointed pursuant to that law to investigate allegations of illegal conduct within the Executive Branch has, pursuant to that law, forwarded to the Judiciary Committee his report detailing possible impeachable offenses committee by President Clinton.

In forwarding to the full House a resolution regarding an inquiry of impeachment, all members of the Judiciary Committee voted for an inquiry; they differed only on the inquiry's time and scope. Regardless of whichever resolution we pass today, the authorization to conduct an inquiry will expire at the end of this Congress.

Some have suggested that we simply censure President Clinton for his conduct and move on. However, there is no Constitutional provision for censuring a president, and we do not have a censure resolution before us today. While some have pointed to former President Ford's suggestion that the President be censure, they fail to take note of his view that such a censure would follow a presumptive finding by a Judiciary Committee inquiry that the President has not committed impeachable offenses.

We must follow the course set out in the law and the Constitution. It is our duty and responsibility to determine through an inquiry whether or not impeachable offenses were committed. I have every expectation that the House will conduct this inquiry as expeditiously as possible so that the country may achieve closure and move on.

Mr. STARK. Mr. Speaker, today the House considers whether the information sent to the Congress for consideration in the Independent Counsel Report warrants the start of an impeachment inquiry by the House.

The President has admitted that he had an extramarital affair and then lied about it. No one disputes that fact. The President's conduct, while reprehensible, was a betrayal of his vows to his wife but not his oath of office. His actions were personal in nature. If his lies to cover up his conduct amount to perjury, he can and should be held accountable through our judicial system.

Our founding fathers had something quite different in mind when they drafted the Constitutional language on impeachment, a political remedy for tyrannical acts. The Federalist papers shed some light on that. George Mason said that the phrase "high crimes and misdemeanors" refer to presidential actions that are great and dangerous offenses or attempts to subvert the government. Alexander Hamilton, in the Federalist paper 65, wrote that impeachable offenses relate chiefly to injustices done immediately to society. Ben Franklin spoke of impeachment as an alternative to assassination.

When this House voted to proceed with an inquiry to impeach President Nixon in 1974, the offenses in the impeachment resolution contained serious abuses of official power: President Nixon used government agencies to carry out his personal and political vendettas against citizens. Not included in the list of impeachable offenses for President Nixon was his deliberate backdating of a tax document and his false filing under oath of IRS returns by which he sought to fabricate a huge, tax deduction. That conduct was felonious but determined not to be an impeachable offense in 1974 because it did not threaten our form of government; it was personal, reprehensible conduct.

I will cast my vote against the Hyde resolution. It leads us into an impeachment inquiry without focus or time limitation.

I will support the Democratic motion to recommit because we need to resolve the issue of impeachment this year and then move on with the business of governing. We have serious work to do to resolve the solvency of the Social Security and the Medicare trust funds; we have children in need of heath care and quality child care; our schools are overcrowed. The needs of real people will not be addressed until we bring closure of this issue.

Mrs. WILSON. Mr. Speaker, I am the junior member of this House. The one who, arguably, comes to this decision with the cleanest slate, the least experience, and a perspective formed largely outside of these halls.

This morning, as we began our business, every member of this body gathered, faced the flag and repeated the same pledge that school children from Long Island to Los Angeles, from Seattle to Saratoga recited this morning. "I pledge allegiance * * *" With our hands over our hearts, we told the country and each other than we are one nation, under God, with liberty and justice for all. Liberty and justice for all.

The meaning of justice in a free society governed by a constitution is what has been on my mind in the last weeks. I have read the Independent Counsel's report and much of the supporting information which he has transmitted to us. Like my colleagues from both parties on the Judiciary Committee, I have come to the conclusion that we have been presented with substantial and credible evidence concerning the President of the United States that may constitute grounds for impeachment. We must do our duty and fully and fairly investigate these matters.

I have reached this conclusion with a profound sense of sadness. America is a great nation, and we are not less great because we are governed by fallible men and women. Indeed, our founding fathers knew well our failings, and led us to rely not upon the rule of men, but upon the rule of law. That is what is at stake here today—equal justice under the law.

I am reminded of the symbol of justice in America. Justice holding the scales is not blind because she looks away or because she will not see. Justice is blind so that every citizen, regardless of race or creed or station in life, will be treated equally under the law. That includes the President of the United States. It is a powerful symbol. And today, it is one we must live up to.

We are not called upon today to vote on articles of impeachment. We are only voting on whether to proceed, or to look away.

We are a nation ruled by laws. It is up to us to keep it that way.

Mr. SMITH of Michigan. Mr. Speaker, I favor further inquiry by the Judiciary Committee. The issue before us today is straightforward: Do the allegations of possible impeachable offense merit further investigation? Anyone who answers "no" and asserts that there should be no further review has a very high burden to meet. I think that the Judiciary Committee's careful, fair and expeditious review of all of the facts in light of the relevant law is precisely the Constitutional duty required of us by our oath of office. I also think that such a review is the duty we owe the American people.

Congress has received substantial and credible evidence that the President of the United States repeatedly violated the criminal laws of this country. I believe it would be a dereliction of duty of the highest order for us to decide today that no further review is needed. After meeting with Chairman HYDE, I am convinced that we will move forward fairly, quickly and in a bipartisan manner. I am also troubled by reports that the White House is pressuring Democrats to vote against this inquiry.

My office has received over a thousand calls and letters in the past month on this scandal. Additionally, my web page also gives constituents an opportunity to express their views. Eighty percent of the people who have contacted me have urged me to move forward with this investigation.

Despite much of the rhetoric, today's final vote only answers one question: Should we investigate the allegations or forget it? Those who vote against the resolution are, in fact, saying that we should just ignore all the allegations against the President and have no further inquiry.

I have not decided whether President Clinton has technically committed impeachable offenses. However, I have called for President Clinton's resignation. Whether his actions rise to the level of 'high Crimes and Misdemeanors' is still to be determined. The point is that we need to investigate the actions of the President and we need to get this situation behind us as quickly as possible, hopefully by the end of the year.

Today's vote marks only the third time in American history that the House has opened an inquiry into possible impeachment of a President. It is a serious vote for all of us, possibly one of the most important votes I will take. I have made the decision to vote yes because I truly believe to do otherwise would not be in the best interest of our country's future.

Mr. FRANK of Massachusetts. Mr. Speaker, our former colleague from Oklahoma, Mickey Edwards, has gone from service in the House of Representatives to a very distinguished career teaching at the Kennedy School of Government at Harvard. He has combined this with a role as a thoughtful commentator on public affairs. Mr. Edwards is as those who served with him know a very thoughtful conservative, and I disagree with him on many policy issues. Indeed, I disagree with his assessment of the policy impact of the Clinton administration, in foreign policy and elsewhere, which is included in this article. But on the whole it seems to me an extremely thoughtful essay that sheds a good deal of light on the difficult task we face in the coming weeks and months in dealing with the Independent Counsel's investigation of the President.

Both because of the thoughtful nature of this work, and because of Mr. Edwards credentials as one of the most intellectually honest of our political commentators, I ask this his thoughtful essay from the Boston Herald be printed here.

STARR ELECTS TO TOPPLE 1996 ELECTION

This is what we know:

First, that the president has committed adultery and is accused of lying about it before a grand jury. Second, and even more disturbing, we know that we now have in the United States a prosecutor to whom our civil liberties are an inconvenience.

As a conservative, I have dedicated my adult life to opposing the spread of statist power. I have feared, and fought against, the intrusions of Big Brother into the private lives of American citizens. That is why I am disturbed by Bill Clinton but frightened by Kenneth Starr.

Here is the situation: The Constitution grants to the people, through their representatives, the power to remove a president who is guilty of criminal behavior. It is a discretionary power; it has been delegated to a political branch of government and the decision is intended to be based on political as well as legal considerations.

Bill Clinton has twice been elected president. Many of the facts we know about his patterns of behavior were known before the people placed him in office. Perhaps citizens have learned more about the president's tendencies, about his behavior, but if there is any surprise it is about the extent of that behavior, not about its existence.

Because we know all this, the questions that matter most are not whether we should be appalled by the behavior of this president, but about how reluctant we should be to overturn the results of an election, and, second, the extent to which we should sanction the activities of an extra-constitutional inquisitor whose activities threaten not merely our sensibilities but our civil liberties as well.

I am not among the president's defenders. For his indiscretions and lies, he alone is responsible. Even had his activities been less unsavory, he would still be judged by history to be a president of modest accomplishment. His ineptitude in foreign policy alone would doom him to the ranks of mediocrity. But—this is a big distinction—even though I might wish Mr. Clinton had never been elected, he was; he defeated a sitting president and a prominent senator. His election was not a fluke; it was a decision.

Prudence dictates caution in removing from office a man or woman whom the people have placed there. A president's activities may be so heinous that he must be removed at any cost, but in a democratic society, the overturning of an election must rest on more than shocked sensibility. What Mr. Clinton has lied about is an adulterous affair. If he is found to have lied to the grand jury, his actions may be oath reprehensible and illegal. But there is a question of context: what he lied about was whether he carried on a consensual sexual relationship. It may be enough to make one gap; it is not enough to overturn the will of the people that he should be the president.

This brings us to a more serious matter. When Richard Nixon was our president, a Democratic Congress, asserting that a Republican Justice Department could not be trusted to act in the public interest, circumvented the existing governmental structure by creating a special prosecutor (the title is "independent counsel," but as Kenneth Starr has demonstrated, it is an office with the power to function in a disturbingly aggressive manner).

We should all be concerned about the danger inherent in giving the state the ability to trample underfoot the rights of a citizen on behalf of some presumed "greater good." There are "greater goods," those common national interests that sometimes transcend narrower individual interests, but even in the pursuit of such common interests the civil rights of citizens must be preserved.

Kenneth Starr has no such sensibility. He began with a mandate to consider such matters as the possible misuse of secret FBI files, but from that starting point, he ended up in Bill Clinton's bedroom (or, in this case, his Oval Office). He intimidated witnesses. He looked into what books his witnesses read and what movies they watched. He subjected the public to the kind of voyeurism he has publicly criticized. (If he felt the need to illustrate what Mr. Clinton and Monica Lewinsky did, to prove that Mr. Clinton had lied, one example would have been sufficient; even that would not have been necessary if one assumes members of Congress can decide for themselves what does, and does not, constitute "sex.")

Bill Clinton may be an embarrassment, but the Congress should not overturn a national election simply because a president lied about matters about which he should have never been questioned. And whatever Mr. Clinton's flaws, the real danger here is not Mr. Clinton's flaws, the real danger here is not Mr. Clinton's immaturity but Mr. Starr's casual disregard for those considerations which protect the citizen against the excessive intrusions of the state.

Mr. HALL of Ohio. Mr. Speaker, this is only the third time since the founding of our Nation that the House of Representatives has seriously considered impeaching the President of the United States. Consequently, I have deliberated extensively over the upcoming vote. Having reached a decision, there is little doubt in my mind that the Judiciary Committee of the House of Representatives should conduct a limited, clearly defined inquiry into whether President Bill Clinton should be impeached. The alternative, a broad-based impeachment investigation with no time limits is unnecessary, unwarranted, and potentially harmful to our Nation.

Removing the President from office would invalidate the election of Bill Clinton by the American people. The standard for impeachment must be set high for Congress to revoke decisions made by the people at the ballot box. The authority to impeach is an awesome power which, if misused, threatens the foundation of American democracy.

There is probably no individual in history who has been investigated more than President Clinton. Independent Counsel Kenneth Starr and his predecessor have taken more than four years, spent almost $45 million, and employed 60 attorneys, investigators, and other staff to examine President Clinton's activities for evidence of wrongdoing. In addition, more than half a dozen House and Senate committees have investigated potential abuses by President Clinton and the First Lady—including many of the same subjects the Independent Counsel investigated—at additional expense to taxpayers.

I have read the report by Independent Counsel Starr and seen some of the evidence produced by the other investigations. I have strong doubts that they justify impeaching the President, or starting a new, lengthy investigation. The U.S. Constitution permits the Congress to remove the President upon conviction of "treason, bribery, or other high crimes and misdemeanors." President Clinton's actions are unbecoming to the office of the President and thoroughly offensive to the American people and to me. But they are not impeachable offenses.

The impeachment process is filled with potential dangers for America. With the near-collapse of the economies of Russia and several Asian countries, the world is on the verge of an international economic crisis. Military action may be necessary to stem the genocide in Kosovo. The threat of terrorism against U.S. citizens and interests abroad has never been greater. The impeachment process will weaken the President and hurt our Nation's ability to deal with international problems. Our military and economic risk increases the longer it drags on.

A long impeachment process will further distract the attention of Congress from more important issues, such as health care, education, tax reform, protecting Social Security, and reducing hunger and poverty. We should be dealing with these problems, not conducting endless investigations. An open-ended inquiry could cost millions of dollars—money which could be spent more productively. We are becoming a government that sees as its principal mission the investigation of its officers and citizens. Such a government does not serve the people.

Our task is to make the best decision—one that will bring the President to justice and spare the American people from further pain. This vote is not about whether President Clinton will be punished. I believe the President should be punished for his misconduct. We must send a clear and unambiguous signal that this type of behavior is not acceptable. But let's not punish the entire Nation by going forward with an unlimited investigation. If, after a limited investigation, new and unexpected impeachable offenses are discovered, then that avenue should be pursued vigorously. But if that does not happen, the House should consider the recent suggestion of former President Gerald Ford that we publicly rebuke President Clinton. More than any other living American, Mr. Ford knows the pain and public divisiveness an impeachment process imposes on our country and its citizens.

If we vote for an unlimited investigation, when will it end? We have the assurance of well-meaning House leaders that it can be wrapped up by the end of the year. But if that is the goal, why not put it in this resolution? The Judiciary Committee took five months to write articles of impeachment against former President Nixon. The case against President Clinton, which already has become more partisan and controversial, probably will take longer. If we proceed with an unlimited investigation, we are likely to see our newspapers and airwaves filled with still more stories about Monica Lewinsky, Whitewater, and alleged White House scandals from now until the end of the 106th Congress in the year 2001.

I recognize that my own constituents are deeply divided on this issue. Daily I have been receiving thoughtful and passionate telephone calls, letters, and e-mails from residents of Dayton and Montgomery County, Ohio, which I am privileged to represent. After listening to both sides, I have concluded that another investigation by the House of Representatives is not warranted by the evidence, nor is it likely to find anything that has been missed already by investigators. An open-ended inquiry will just be a waste of taxpayers' money and a drain on the Nation. Therefore, I will not vote for another endless round of hearings, depositions, and testimony that serve no purpose.

The alternative I support calls for the Judiciary Committee to begin an impeachment investigation that will finish no later than December 31, 1998, and will be confined in scope to the charges forwarded to the House by the Independent Counsel. This approach does not rule out additional investigations if new, credible information is presented by the Independent Counsel or any other source.

President Clinton has shamed himself and the office of the President, a blot that will stain his record in history. The question is now whether we will shame the House of Representatives by letting this trauma linger on endlessly and drag our Nation down.

Mr. Speaker, this vote is really about setting limits. The Independent Counsel has conducted an unlimited investigation with unlimited time and money. The House of Representatives has given virtually unlimited public access to the documents and evidence he produced. Now, the House is about to authorize another unlimited investigation. I'm willing to say there should be limits. We as a Congress and a Nation have too many other important things to do. It is time for members of the House to put some limits on this process and get on with fulfilling the many other responsibilities we have to the American people.

Mr. DELAHUNT. Mr. Speaker, on September 18, 1998, the House Judiciary Committee voted to release to the public several volumes of supporting material received from the Independent Counsel nine days ago, including grand jury transcripts and the President's videotaped testimony.

In my judgment, the headlong rush to publicize secret grand jury testimony not only endangers the rights of the individuals involved in this particular case, but also undermines the integrity of one of the cornerstones of our system of justice—the grand jury system itself.

Unfortunately, the readiness of the majority to ignore these perils also calls into question the fundamental fairness of our own proceedings.

THE PACE ACCELERATES

On September 9, Independent Counsel Kenneth Starr sent the House of Representatives a 445-page report, together with some 2,000 pages of supporting materials, telephone records, videotaped testimony and other sensitive material, as well as 17 boxes of other information.

Within 48 hours, the House had voted to release the report and give the Judiciary Committee until September 28 to decide whether any of the remaining material should be kept confidential. While I agreed that we should release the report, I opposed our doing so before either the President's attorneys or members of the Committee had been given even a minimal opportunity to review it.

That vote was seven days ago. Since then, the breakneck pace has only accelerated. Today, we were asked to vote—10 days ahead of schedule—on whether to release what may well be the most sensitive materials of all—the grand jury transcripts, together with the videotape of the President's testimony.

Those of us who serve on the Committee had been doing our best to review these materials so that we would be in a position to evaluate whether or not they ought to be released. I cannot speak for other members, but I have been as diligent as possible, and had managed by this morning to get through—at most—some 30 percent of this material.

How can anyone make a considered judgment under such circumstances? How can we properly weigh the benefits of immediate disclosure against the harm it might cause? I have done my utmost not to prejudge the outcome of this investigation. I am prepared to follow the facts wherever they lead. But if the American people are to accept the eventual result of our deliberations, they must be satisfied that our proceedings have been thorough, disciplined, methodical and fair.

I seriously doubt that an objective observer looking back on these past nine days could characterize our proceedings in that manner. The process continues to careen forward—without a roadmap—a dizzying pace.

FUNDAMENTAL FAIRNESS

One portion of the Independent Counsel's report that I made sure to read—not once, but twice—was Mr. Starr's transmittal letter, which cautioned that these supporting materials contain "confidential material and material protected from disclosure by Rule 6(e) of the Federal Rules of Criminal Procedure" (the rule that provides for the secrecy of grand jury records).

The implication of that warning is that the public disclosure of protected grand jury material could do serious and irrevocable harm—not only to the President, but to the many other individuals caught up in the vast web of the Starr investigation, including innocent third-parties, witnesses, and other potential targets of ongoing (and future) investigations.

In the United States, those accused of criminal wrongdoing are presumed innocent—be they presidents or ordinary citizens. Yet if raw, unproven allegations are disclosed to the public before they can be challenged, the "presumption of innocence" loses all meaning. Minds are made up, judgments rendered, and the chance for a fair determination of the facts is lost.

That is one reason why federal grand jury testimony—whether in printed or in audio-visual form—is explicitly shielded from public disclosure under Rule 6(e).

But grand jury secrecy also serves the interests of the prosecution, by encouraging witnesses to come forward and ensuring that prejudicial material will not poison the jury pool and make it impossible to hold a fair trial. This is especially important when the targets and potential targets of an investigation are public figures.

The pre-indictment release of secret testimony compromises both objectives—trampling on the rights of the accused and jeopardizing subsequent indictments. Beyond this, it calls into serious question the fairness and integrity of the grand jury system itself.

"LAUNDERING" THE EVIDENCE

Through its action today, the Judiciary Committee has engaged in an abuse of the grand jury process that has enabled it to accomplish indirectly what the Independent Counsel was prohibited from doing directly.

The Independent Counsel has developed his case by using the grand jury to compel testimony from various witnesses. Although the grand jury voted to subpoena the President, the videotaped testimony was ultimately obtained under a negotiated agreement, under which the Independent Counsel agreed to treat the testimony as secret grand jury proceedings pursuant to Rule 6(e). It was solely on this basis that the President consented to testify.

The Independent Counsel subsequently receive permission from the court to release the videotape, together with the other grand jury material, to the Congress. But the court order did not authorize its further release to the public or the press.

By releasing that testimony to the public, we are—in effect—laundering the evidence so as to nullify the express agreement under which it was obtained. This is an abuse of the grand jury that can only damage the public's faith in that institution and impair its ability to perform its essential role.

And what are the benefits that justify these evils? We are told only that the public has a "right to know"—an interest in the case that entitle sit to the information. Some have even suggested that that interest is a financial one—that the public "paid" for this material and is entitled to it.

To this, one can only respond that the public pays for the grand jury testimony in every case. The public has an interest in every case—especially where the case involves high officials or other celebrities. We accommodate that interest by requiring that trials be held in open court. But the public is no more entitled to secret grand jury testimony than it is to classified intelligence. Not even when the case is concluded, let alone while it is still going on.

In an ordinary criminal trial, grand jury testimony is disclosed under Rule 6(e) only under certain specific circumstances. For example, criminal defendants are entitled to see grand jury proceedings in order to cross-examine witnesses or challenge their credibility on the basis of prior inconsistent statements.

On the other hand, the public release of material of this nature would violate not only Rule

6(e), but Department of Justice guidelines, court precedents and ethical rules binding on prosecutors in every jurisdiction in this country. A party found to have disclosed the material would be subject to sanctions, and the material itself would be excludable in court. The court might even grant a defendant's motion to dismiss the case for prejudice.

LOOKING TO PRECEDENT

This is certainly not an ordinary case. But neither is it so exceptional as to justify our riding roughshod over precedent and due process.

In the one historical precedent that is closest to the present situation, due process was scrupulously observed. Twenty-four years ago, a Republican president was under investigation by a Democratic House.

The Judiciary Committee spent seven weeks in closed session, reviewing judge Sirica's grand jury materials prior to their release. President Nixon's lawyers were permitted not only to participate in these sessions, but to cross-examine witnesses before their testimony was made public.

While there are obviously major differences between the current controversy and the Watergate affair, President Clinton is entitled to the same due process protections afforded President Nixon in the course of that investigation.

In fact, the case for preserving the confidentiality of the evidence is even stronger here than it was in the Watergate case. Mr. Starr's grant jury has made no findings whatsoever with respect to the evidence. The material we have consists merely of selected portions of what the persecutor put before the grand jury, together with his interpretation of that material. The jurors were never asked whether they thought that the video tape—or any other testimony—provided credible evidence of perjury or other wrongdoing. Having used the grant jury as a tool to gather information, the Independent Counsel bypassed it as a fact-finding body.

That is his prerogative. But the Judiciary Committee has a duty to see that the material provided to us is handled appropriately. If we act carelessly, and in haste, we will not only cripple this President, but will do lasting harm to the values and institutions we hold most dear.

Mr. SOLOMON. Mr. Speaker I would like to enter into the record a General Accounting Office report: Executive Office of the President, Procedures for Acquiring Access to and Safeguarding Intelligence Information

This report is a significant and impressive audit performed by the National Security and International Affairs Division of the GAO. It builds on the work previously requested by Chairman Goss and will be the foundation for further oversight by the Permanent Select Committee on Intelligence.

The President's stewardship in protecting the National Security of the United States of America is his highest responsibility. There is no higher calling. I believe that this report raises significant questions that should be addressed.

GAO REPORT TO THE CHAIRMAN, COMMITTEE ON RULES, HOUSE OF REPRESENTATIVES

EXECUTIVE OFFICE OF THE PRESIDENT—PROCEDURES FOR ACQUIRING ACCESS TO AND SAFEGUARDING INTELLIGENCE INFORMATION

U.S. GENERAL ACCOUNTING OFFICE,
NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION,
Washington, DC, September 30, 1998.

Hon. GERALD B. H. SOLOMON,
Chairman, Committee on Rules, House of Representatives.

DEAR MR. CHAIRMAN: This report responds to your request of November 6, 1997, asking us to determine whether the Executive Office of the President (EOP) has established procedures for (1) acquiring personnel access to classified intelligence information, specifically Sensitive Compartmented Information (SCI), and (2) safeguarding such information. You asked that our review include the following offices for which the EOP Security Office provides security support: White House Office, Office of Policy Development, Office of the Vice President, National Security Council, President's Foreign Intelligence Advisory Board, Office of Science and Technology Policy, Office of the United States Trade Representative, Office of National Drug Control Policy, and Office of Administration.

BACKGROUND

SCI refers to classified information concerning or derived from intelligence sources, methods, or analytical processes requiring exclusive handling within formal access control established by the Director of Central Intelligence. The Central Intelligence Agency (CIA) is responsible for adjudicating and granting all EOP requests for SCI access. According to the EOP Security Office, between January 1993 and May 1998, the CIA granted about 840 EOP employees access to SCI.

Executive Order 12958, Classified National Security Information, prescribes a uniform system for classifying, safeguarding, and declassifying national security information and requires agency heads to promulgate procedures to ensure that the policies established by the order are properly implemented, ensure that classified material is properly safeguarded, and establish and maintain a security self-inspection program of their classified activities.

The order also gives the Director, Information Security Oversight Office (an organization under the National Archives and Records Administration), the authority to conduct on-site security inspections of EOP's and other executive branch agencies' classified programs. Office of Management and Budget Circular Number A–123, Management Accountability and Control, emphasizes the importance of having clearly documented and readily available procedures as a means to ensure that programs achieve their intended results.

Director of Central Intelligence Directive 1/14, Personnel Security Standards and Procedures Governing Eligibility for Access to Sensitive Compartmented Information, lays out the governmentwide eligibility standards and procedures for access to SCI by all U.S. citizens, including government civilian and military personnel, contractors, and employees of contractors. The directive requires (1) the employing agency to determine that the individual has a need to know;[1] (2) the cognizant Senior Official of the Intelligence Community to review the individual's background investigation and reach a favorable suitability determination; and (3) the individual, once approved by the Senior Official of the Intelligence Community for SCI access, to sign a SCI nondisclosure agreement.[2] Additional guidance concerning SCI eligibility is contained in Executive Order 12968,[3] the U.S. Security Policy Board investigative standards and adjudicative guidelines implementing Executive Order 12968,[4] and Director of Central Intelligence Directive 1/19.

Governmentwide standards and procedures for safeguarding SCI material are contained in Director of Central Intelligence Directive 1/19, Security Policy for Sensitive Compartmented Information and Security Policy Manual.

The EOP Security Office is part of the Office of Administration. The Director of the Office of Administration reports to the Assistant to the President for Management and Administration. The EOP Security Officer is responsible for formulating and directing the execution of security policy, reviewing and evaluating EOP security programs, and conducting security indoctrinations and debriefings for agencies of the EOP. Additionally, each of the nine EOP offices we reviewed has a security officer who is responsible for that specific office's security program.

As discussed with your office, we reviewed EOP procedures but did not verify whether the procedures were followed in granting SCI access to EOP employees, review EOP physical security practices for safeguarding classified material, conduct classified document control and accountability inspections, or perform other control tests of classified material over which the EOP has custody. (See pages 8 and 9 for a description of our scope and methodology.)

EOP-WIDE PROCEDURES FOR ACQUIRING SCI ACCESS SHOULD BE MORE SPECIFIC

The EOP Security Officer told us that, for the period January 1993 until June 1996, (1) he could not find any EOP-wide procedures for acquiring access to SCI for the White House Office, the Office of Policy Development, the Office of the Vice President, the National Security Council, and the President's Foreign Intelligence Advisory Board for which the former White House Security Office[5] provided security support and (2) there were no EOP-wide procedures for acquiring access to SCI for the Office of Science and Technology Policy, the Office of the United States Trade Representative, the Office of National Drug Control Policy, and the Office of Administration for which the EOP Security Office provides security support. He added that there had been no written procedures for acquiring SCI access within the EOP since he became the EOP Security Officer in 1986. In contrast, we noted that two of the nine EOP offices we reviewed issued office-specific procedures that make reference to acquiring access to SCI—the Office of Science and Technology Policy in July 1996 and the Office of the Vice President in February 1997.

According to the EOP Security Officer, draft EOP-wide written procedures for acquiring access to SCI were completed in June 1996, at the time the White House and EOP Security Offices merged. These draft procedures, entitled Security Procedures for the EOP Security Office, were not finalized until March 1998. While the procedures discuss the issuance of EOP building passes, they do not describe in detail the procedures EOP offices must follow to acquire SCI access; the roles and responsibilities of the EOP Security Office, security staffs of the individual EOP offices, and the CIA and others in the process;

Footnotes at end of letter.

or the forms and essential documentation required before the CIA can adjudicate a request for SCI access. Moreover, the procedures do not address the practices that National Security Council security personnel follow to acquire SCI access for their personnel. For example, unlike the process for acquiring SCI access in the other eight EOP offices were reviewed, National Security Council security personnel (rather than the personnel in the EOP Security Office) conduct the employee pre-employment security interview; deal directly with the CIA to request SCI access; and, once the CIA approves an employee for access, conduct the SCI security indoctrination and oversee the individual's signing of the SCI nondisclosure agreement.

Director of Central Intelligence Directives 1/14 and 1/19 require that access to SCI be controlled under the strictest application of the need-to-know principle and in accordance with applicable personnel security standards and procedures. In exceptional cases, the Senior Official of the Intelligence Community or his designee (the CIA in the case of EOP employees) may, when it is in the national interest, authorize an individual access to SCI prior to completion of the individual's security background investigation.

At least since July 1996, according to the National Security Council's security officer, his office has granted temporary SCI access to government employees and individuals from private industry and academia—before completion of the individual's security background investigation and without notifying the CIA. He added, however, that this practice has occurred only on rare occasions to meet urgent needs. He said that this practice was also followed prior to July 1996 but that no records exist documenting the number of instances and the parties the National Security Council may have granted temporary SCI access to prior to this date. CIA officials responsible for adjudicating and granting EOP requests for SCI access told us that the CIA did not know about the National Security Council's practice of granting temporary SCI access until our review.

A senior EOP official told us that from July 1996 through July 1998, the National Security Council security officer granted 35 temporary SCI clearances. This official also added that, after recent consultations with the CIA, the National Security Council decided in August 1998 to refer temporary SCI clearance determinations to the CIA.

EOP HAS NOT ESTABLISHED PROCEDURES FOR SAFEGUARDING SCI MATERIAL

The EOP-wide security procedures issued in March 1998 do not set forth security practices EOP offices are to allow in safeguarding classified information. In contrast, the Office of Science and Technology Policy and the Office of the Vice President had issued office-specific security procedures that deal with safeguarding SCI material. The Office of Science and Technology Policy procedures, issued in July 1996, were very comprehensive. They require that new employees be thoroughly briefed on their security responsibilities, advise staff on their responsibilities for implementing the security aspects of Executive Order 12958, and provide staff specific guidance on document accountability and other safeguard practices involving classified information. The remaining seven EOP offices that did not have office-specific procedures for safeguarding SCI and other classified information stated that they rely on Director of Central Intelligence Directive 1/19 for direction on such matters.

EOP HAS NOT ESTABLISHED A SECURITY SELF-INSPECTION PROGRAM

Executive Order 12958 requires the head of agencies that handle classified information to establish and maintain a security self-inspection program. The order contains guidelines (which agency security personnel may use in conducting such inspections) on reviewing relevant security directives and classified material access and control records and procedures, monitoring agency adherence to established safeguard standards, assessing compliance with controls for access to classified information, verifying whether agency special access programs provide for the conduct of internal oversight, and assessing whether controls to prevent unauthorized access to classified information are effective. Neither the EOP Security Office nor the security staff of the nine EOP offices we reviewed have conducted security self-inspections as described in the order.

EOP officials pointed out that security personnel routinely conduct daily desk, safe, and other security checks to ensure that SCI and other classified information is properly safeguarded. These same officials also emphasized the importance and security value in having within each EOP office experienced security staff responsible for safeguarding classified information. While these EOP security practices are important, the security self-inspection program as described in Executive Order 12958 provides for a review of security procedures and an assessment of security controls beyond EOP daily security practices.

INFORMATION SECURITY OVERSIGHT OFFICE HAS NOT CONDUCTED SECURITY INSPECTIONS OF EOP ACTIVITIES

Executive Order 12958 gives the Director, Information Security Oversight Office, authority to conduct on-site reviews of each agency's classified programs. The Director of the Information Security Oversight Office said his office has never conducted an on-site security inspection of EOP classified programs. He cited a lack of sufficient personnel as the reason for not doing so and added that primary responsibility for oversight should rest internally with the EOP and other government agencies having custody of classified material.

The Director's concern with having adequate inspection staff and his view on the primacy of internal oversight do not diminish the need for an objective and systematic examination of EOP classified programs by an independent party. An independent assessment of EOP security practices by the Information Security Oversight Office could have brought to light the security concerns raised in this report.

RECOMMENDATIONS

To improve EOP security practices, we recommend that the Assistant to the President for Management and Administration direct the EOP Security Officer to revise the March 1998 Security Procedures for the EOP Security Office to include comprehensive guidance on the procedures EOP offices must follow in (1) acquiring SCI access for its employees and (2) safeguarding SCI material and establish and maintain a self-inspection program of EOP classified programs, including SCI in accordance with provisions in Executive Order 12958.

We recommend further that, to properly provide for external oversight, the Director, Information Security Oversight Office, develop and implement a plan for conducting periodic on-site security inspections of EOP classified programs.

AGENCY COMMENTS AND OUR EVALUATION

We provided the EOP, the Information Security Oversight Office, and the CIA a copy of the draft report for their review and comment. The EOP and the Information Security Oversight Office provided written comments which are reprinted in their entirety as appendices I and II respectively. The CIA did not provide comments.

In responding for the EOP, the Assistant to the President for Management and Administration stated that our report creates a false impression that the security procedures the EOP employ are lax and inconsistent with established standards. This official added that the procedures for regulating personnel access to classified information are Executive Order 12968 and applicable Security Policy Board guidelines and Executive Order 12968 and Executive Order 12958 for safeguarding such information. The Assistant to the President also stated that the report suggests that the EOP operated in a vacuum because the EOP written security procedures implementing Executive Order 12968 were not issued until March 1998. The official noted that EOP carefully followed the President's executive orders, Security Policy Board guidelines and applicable Director of Central Intelligence Directives during this time period. While EOP disagreed with the basis for our recommendations, the Assistant to the President stated that EOP plans to supplement its security procedures with additional guidance.

We agree that the executive orders, Security Policy Board guidelines, and applicable Director of Central Intelligence Directives clearly lay out governmentwide standards and procedures for access to and safeguarding of SCI. However, they are not a substitute for local operating procedures that provide agency personnel guidance on how to implement the governmentwide procedures. We believe that EOP plans to issue supplemental guidance could strengthen existing procedures.

The Assistant to the President also stated that it is not accurate to say that the EOP has not conducted security self-inspections. This official stated that our draft report acknowledges that "security personnel conduct daily desk, safe, and other security checks to ensure that SCI and other classified material is properly safeguarded." The Assistant to the President is correct to point out the importance of daily physical security checks as a effective means to help ensure that classified material is properly safeguarded. However, such self-inspection practices are not meant to substitute for a security self-inspection program as described in Executive Order 12958. Self-inspections as discussed in the order are much broader in scope than routine daily safe checks. The order's guidelines discuss reviewing relevant security directives and classified material access and control records and procedures, monitoring agency adherence to established safeguard standards, assessing compliance with controls for access to classified information, verifying whether agency special access programs (such as SCI) provide for the conduct of internal oversight, and assessing whether controls to prevent unauthorized access to classified information are effective. Our report recommends that the EOP establish a self-inspection program.

In commenting on our recommendation, the Assistant to the President said that to enhance EOP security practices, the skilled assistance of the EOP Security Office staff are being made available to all EOP organizations to coordinate and assist where appropriate in agency efforts to enhance self-inspection. We believe EOP security practices would be enhanced if this action were part of a security self-inspection program as described in Executive Order 12958.

The Director, Information Security Oversight Office noted that our report addresses important elements of the SCI program in place within the EOP and provides helpful insights for the security community as a whole. The Director believes that we overemphasize the need to create EOP specific procedures for handling SCI programs. He observed that the Director of Central Intelligence has issued governmentwide procedures on these matters and that for the EOP to prepare local procedures would result in unnecessary additional rules and expenditure of resources and could result in local procedures contrary to Director of Central Intelligence Directives. As we discussed above, we agree that the executive orders, Security Policy Board guidelines, and applicable Director of Central Intelligence Directives clearly lay out governmentwide standards and procedures for access to and safeguarding of SCI. However, they are not a substitute for local operating procedures that provide agency personnel guidance on how to implement the governmentwide procedures.

The Director agreed that his office needs to conduct on-site security inspections and hopes to begin the inspections during fiscal year 1999. The Director also noted that the primary focus of the inspections would be classification management and not inspections of the SCI program.

SCOPE AND METHODOLOGY

To identify EOP procedures for acquiring access to SCI and safeguarding such information, we met with EOP officials responsible for security program management and discussed their programs. We obtained and reviewed pertinent documents concerning EOP procedures for acquiring SCI access and safeguarding such information.

In addition, we obtained and reviewed various executive orders, Director of Central Intelligence Directives, and other documents pertaining to acquiring access to and safeguarding SCI material. We also discussed U.S. government security policies pertinent to our review with officials of the Information Security Oversight Office and the U.S. Security Policy Board. Additionally, we met with officials of the CIA responsible for adjudicating and granting EOP employees SCI access and discussed the CIA procedures for determining whether an individual meets Director of Central Intelligence Directive eligibility standards.

As discussed with your office, we did not verify whether proper procedures were following in granting SCI access to the approximately 840 EOP employees identified by the EOP Security Officer. Also, we did not review EOP physical security practices for safeguarding SCI and other classified material, conduct classified document control and accountability inspections, or perform other control tests of SCI material over which the EOP has custody.

We performed our review from January 1998 until August 1998 in accordance with generally accepted government auditing standards.

At your request, we plan no further distribution of this report until 30 days after its issue date. At that time, we will provide copies to appropriate congressional committees; the Chief of Staff to the President; the Assistant to the President for Management and Administration; the Director, Information Security Oversight Office; the Director of Central Intelligence; Central Intelligence Agency; the U.S. Security Policy Board; the Director of the Office of Management and Budget; and other interested parties.

Please contact me at (202) 512–3504 if you or your staff have any questions concerning this report. Major contributors to this report were Gary K. Weeter, Assistant Director, and Tim F. Stone, Evaluator-in-Charge.

Sincerely yours,

RICHARD DAVIS,
Director, National Security Analysis.

FOOTNOTES

[1] The "need-to-know" principle is a determination made by an authorized holder of classified information that a prospective recipient requires access to specific classified information in order to perform a lawful and authorized function. The prospective recipient shall possess an appropriate security clearance and access approval in accordance with Director of Central Intelligence Directive 1/14.

[2] The SCI nondisclosure agreement establishes explicit obligations on the government and the individual to protect SCI.

[3] Executive Order 12968, Access to Classified Information, (Aug. 2, 1995).

[4] U.S. Security Policy Board, Adjudicative Guidelines for Determining Eligiblity for Access to Classified Information, Investigative Standards for Background Investigations for Access to Classified Information, and Investigative Standards for Temporary Eligiblity for Access (Mar. 24, 1997).

[5] The White House Security Office was abolished on June 19, 1996. On this date, the EOP Security Office assumed responsibility for security support for the EOP offices previously supported by the White House Security Office.

APPENDIX I—COMMENTS FROM THE ASSISTANT TO THE PRESIDENT FOR MANAGEMENT AND ADMINISTRATION

THE WHITE HOUSE,
Washington, September 23, 1998.

Mr. Richard Davis,
Director, National Security Analysis National Security and International Affairs Division, Washington, DC.

DEAR MR. DAVIS: We are writing in response to your September 11, 1998 letter and draft report for the Executive Office of the President (EOP), *Procedures for Acquiring Access to and Safeguarding Intelligence Information.* Unfortunately, the GAO report creates the false impression that the security procedures employed at the EOP are lax and inconsistent with established standards. Nothing could be further from the truth. In fact, as the evidence provided to the GAO makes abundantly clear, EOP security officials are experienced professionals who have executed their responsibilities diligently and with great attention to detail.

The GAO report also implies that these experienced professionals have not fulfilled their obligations under the law. This is completely unsupported by any reading of the facts. The extensive information provided by the EOP to the GAO auditors plainly demonstrates that the EOP has conscientiously abided by security precautions.

The EOP has made available to the GAO audit team reviewing EOP security procedures key personnel and relevant documents. In fact, the General Counsel of the Office of Administration and the EOP Security Office Chief have personally devoted a substantial number of hours to facilitate the GAO's audit. Numerous other EOP officials have also devoted significant amounts of time to assist the GAO auditors.

After the submission of hundreds of pages of documentation, more than ten meetings with the GAO auditors and more than ten individual interviews with EOP entities, the report still contains errors and statements that generate mis-impressions. It is our hope that the GAO will make the appropriate corrections to the report prior to its submission to the Congress.

In short, the EOP has established procedures for regulating personnel access to classified information; also, the EOP has a rigorous program, administered by career professional security officers, to safeguard classified information. The procedures in question are contained in E.O. 12968 and applicable Security Policy Board (SPB) guidelines. The safeguards in question are also contained E.O. 12958.

The report suggests that the EOP, and its constituent entities, operated in a vacuum because the EOP written security procedures implementing E.O. 12968 were not issued until March 1998. In fact, the EOP carefully followed the authoritative guidance set forth in the President's Executive Orders, SPB guidelines, and applicable Director of Central Intelligence Directives (DCI/Ds) throughout this time period. The President's Executive Orders are the cornerstones of the EOP's security programs and provide the basis for the adjudication of access to classified information, with or without subsequent guidelines. The EOP has found that the Executive Orders and SPB guidelines provide clear guidance that has been implemented with care in order to safeguard classified information and regulate access to it.

With respect to the draft report's comments relating to temporary SCI clearances, during the period July 1996 through July 1998, the NSC Security Officer, a professional career security officer on detail, granted 35 temporary SCI clearances subject to issuance by the CIA of a final SCI clearance. Before considering issuance of a temporary SCI clearance, the Security Officer conducted a thorough review of available background information from the completed SF–86, obtained the results of the FBI name check, and received a progress report from the FBI when the background check was substantially completed. Only if this careful examination revealed no derogatory information would a temporary clearance be granted. Although this process has been implemented successfully with no adverse indications, the NSC decided in August 1998, after consultations with CIA Headquarters personnel and with a view towards simplifying this process, to refer temporary SCI clearance determinations to CIA Headquarters.

The headline for the section of the draft report on self-inspections—EOP HAS NOT CONDUCTED SECURITY SELF-INSPECTIONS—is simply not accurate. Indeed, the draft report acknowledges that "security personnel conduct daily desk, safe, and other security checks to ensure that SCI and other classified material is properly safeguarded." The EOP operates consistently with the self-inspection guidelines issued by the Information Security Oversight Office pursuant to E.O. 12958 for safeguarding classified information, which is the primary focus of this draft report.

The GAO report includes three recommendations. One of the three recommendations included in the GAO report is that the EOP "initiate a self inspection program." As we have stated and supported on numerous occasions to the GAO auditors, our current self-inspection practices are effective. Nevertheless, we are continuing our efforts to enhance EOP security practices. We have made available to all EOP organizations the skilled assistance of our EOP security office staff to coordinate and assist where appropriate in agency efforts to enhance self-inspection.

The GAO also recommends that we revise the Security Procedures for the EOP Security Office to include "comprehensive guidance" on "acquiring SCI access" and "properly safeguarding SCI material," In fact, the

EOP Security Procedures do include comprehensive guidance. As we pointed out to the GAO auditors on several occasions, paragraph 10 (c) of the Security Procedures incorporates by reference guidance for obtaining SCI access. Although we disagree with the basis for the GAO recommendation, we have initiated an effort to supplement the Security Procedures with additional guidance.

Finally, the draft report recommends that the Information Security Oversight Office conduct periodic on-site reviews of the EOP security process. We stand ready to work with the ISOO in any such undertaking.

We would like to request a meeting with the GAO auditors to discuss the issues raised in this letter in addition to other technical corrections to the GAO report. If there is anything that I or any member of my staff, can do to be of assistance, please feel free to contact Mark Lindsay (202) 456-3880.

Sincerely yours,

VIRGINIA M. APUZZO,
Assistant to the President for Management and Administration.

GAO COMMENT

The following is our comment to the Assistant to the President for Management and Administration's letter dated September 23, 1998.

1. A representative of the EOP told us that the errors referred, for example, to statements in GAO's draft report that the EOP does not conduct self-inspections and that the EOP lacks written procedures.

APPENDIX II—COMMENTS FROM THE INFORMATION SECURITY OVERSIGHT OFFICE

INFORMATION SECURITY OVERSIGHT
OFFICE, NATIONAL ARCHIVES AND
RECORDS ADMINISTRATION,
Washington, DC, September 18, 1998.

Subject comments on General Accounting Office (GAO) report "Executive Office of the President: Procedures for Acquiring Access to and Safeguarding Intelligence Information".

Mr. Richard Davis,
Director, National Security Analysis, National Security and International Affairs Division, U.S. General Accounting Office, Washington, DC

DEAR MR. DAVIS: Thank you for the opportunity to comment on the subject draft GAO report. It addresses important elements of the Sensitive Compartmented Information (SCI) program in place within the Executive Office of the President (EOP) and provides helpful insights for the security community as a whole. The conclusions drawn in three areas of the report prompt the Information Security Oversight Office (ISOO) to offer the following comments.

(1) ISOO believes the draft report overemphasizes the issuance of individual office and agency procedures for handling SCI. While Executive Order 12958 prescribes a uniform system for classifying, safeguarding, and declassifying national security information, the Director of Central Intelligence (DCI) prescribes the augmentation of those procedures for SCI, both under the Executive order and the DCI's statutory authorities. As noted in the report, the DCI has issued Government-wide standards and procedures for access to SCI and for safeguarding SCI with Director of Central Intelligence Directives (DCIDs) 1/14 and 1/19, respectively.

Most executive branch agencies rely upon the DCIDs exclusively as their security procedures documents for SCI. Rather than generating others. Requiring agencies to generate additional procedures documents for SCI would result in unnecessary additional rules and expenditure of resources, and could result in procedures contrary to the DCIDs, particularly, if the DCI does not review and approve them. Ensuring that EOP offices and executive branch agencies have ready access to the DCIDs could alleviate concerns about the need for detailed procedures in each office and agency.

(2) Several factors have prevented ISOO from conducting compliance inspections for the past several years. These include the drafting and implementing of E.O. 12958, with its increased functions for ISOO. At the same time, the size of ISOO's staff has decreased by one-third to the point where its total professional and clerical staff numbers 10 people. Nevertheless, we agree that ISOO needs to be conducting inspections and we hope to do so during fiscal year 1999.

Your report suggests, however, that ISOO's inspections would cover SCI as it relates both to the issuance of SCI clearances and the safeguarding of SCI information. These areas would never be the primary or even secondary focus of ISOO's compliance inspections. First, ISOO does not have any jurisdiction over the personnel security (clearance) system. Second, ISOO's primary concern in classification management would not ordinarily focus on the SCI program. In other words, external oversight of the EOP's SCI programs would only coincidentally result from increased ISOO inspections.

(3) Finally, your report raises concerns about the granting of interim clearances for SCI access at the National Security Council (NSC). While we share the report's concerns about the possibility for abuse in this area, we also recognize and understand the NCS's responsibilities to the President. With respect to information generated by the Intelligence Community, having appropriately cleared individuals on the job in a timely manner is essential. Because the SCI program is so large and widely dispersed across the government, ISOO understands the NSC's need to have the ability to grant interim clearances, under specific conditions, so that individuals can perform their duties. Property managing and controlling how these interim clearances are granted would be an important element of oversight. Your report suggests that the DCI is addressing this issue with the NSC.

Please call me on 202-219-5250 if you have any questions concerning our comments on your draft report. Again, we appreciate the opportunity to comment.

Sincerely,

STEVEN GARFINKEL.
Director.

Mr. PAYNE. Mr. Speaker, I rise in adamant opposition to this resolution and to the travesty of justice we are witnessing here today. From the time the voters of America put this President in office six years ago, his enemies have led a frenzied crusade to reverse the results of the electoral process and to subvert the will of the American people.

They have stopped at nothing. What began as an investigation into an investment the President and First Lady made in Arkansas well over a decade ago has mushroomed into a frantic search to find something—anything—to bring this presidency down. The free-ranging, unbridled hunt for damaging information about the President has resulted in the expenditure of millions of tax dollars; it has featured the doctoring of tapes by Republicans; a so-called "Independent" Counsel whose office resorts to bullying, threats and intimidation; a mad rush to put the report of the Counsel on the internet without giving the President the basic right to review the charges against him; the release of the President's videotaped grand jury testimony again with total disregard to his rights, and now the push to expand the inquiry into areas which have already been thoroughly investigated.

Do we really want to turn this nation into a police state where enemies of the President, in pursuit of a political agenda, have the power to restrict individual freedoms and intimidate citizens?

The vast majority of my constituents have told me they are ready to forgive the President for making a mistake in his personal conduct. It is time to move on to the pressing issues facing our nation—education, health care reform, protection of social security, and continued economic growth. I urge my colleagues to put a stop to this partisan, out-of-control vendetta and to take care of the real business of the American people.

Mr. JOHNSON of Texas. Mr. Speaker, today is a solemn day. The Congress has considered an impeachment inquiry only two other times in our Nation's history. It is not a task that we take lightly.

I believe it is our constitutional duty to begin an impeachment inquiry based on the evidence delivered to the Judiciary Committee by Judge Starr.

I believe that the Chairman of the Judiciary Committee, HENRY HYDE, has been committed to a fair and judicious process, and we will continue to follow his lead.

Article 2, section 1 of our Constitution contains the oath of office that the President must take before entering office. It states: "I do solemnly swear (or affirm) that I will faithfully execute the Office of the President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States."

This body voted today to investigate whether the President has broken this oath by committing perjury and obstructing justice.

I, too, took an oath to uphold the Constitution when I entered the military and I have taken that oath as a State representative and as a U.S. Congressman. Each time, I took it as a serious obligation.

The American people deserve answers to the many questions about the conduct of this President and today we have begun the process of finding those answers.

Mrs. FOWLER. Mr. Speaker, I rise today with a heavy heart to support the resolution calling for an impeachment inquiry against the President, William Jefferson Clinton.

While the actions and evidence that have led us here today are deplorable, the action we are taking here today as a result is noble. It is in the finest tradition of our democracy that the process of impeachment begins.

We have heard much discussion today of the Constitution. We heard quotes from James Madison and the Federalist Papers. All that is certainly important in this debate. But our constituents have a voice in this process too, and I received a letter from one last week that I think puts all this in perspective. It's from a 6-year old boy in Jacksonville, Florida.

He writes, "Someday in my mind I hope we get a better President. I want to have a President that tells the truth. Even I think I could be a better President than this man."

There was a day when our children aspired to be President. Now, the children in my district aspire to be better than the President.

The Judiciary Committee, and this House, are about to begin a mission for the truth. But as we undertake the official process that is laid out in the Constitution, I hope we will also begin the process of healing our nation.

They said the truth is a liberating thing. It is only through a successful search for the truth that our nation can liberate itself from this scandal. To sweep it under the rug, would be to leave it to fester under the fiber of our democracy and to eat away at the rule of law.

Yes, we all want to put this behind us, but, as the Constitution requires, and our conscience dictates, we must proceed with this inquiry to do that.

I urge my colleagues to support the resolution.

Mr. FRELINGHUYSEN. Mr. Speaker, today I urge my colleagues to vote in favor of the House Judiciary Committee's recommendation to open an impeachment inquiry into the conduct of President Clinton.

I certainly understand the desire of all Americans, myself included, to be done with this matter and to return our attention to many serious issues that confront our country at home and abroad. And let me say quite frankly, I, like many of my colleagues, resent the fact that the President's actions have brought us to this Constitutional crisis. Given the serious charges leveled against the President including testifying falsely under oath, obstruction of justice, and witness tampering among others, I believe this inquiry is warranted.

Our inquiry has everything to do with the President's ability to lead our country. He is our Commander-in-Chief, as well as the chief architect of American foreign policy and our domestic welfare. The President symbolizes to our nation and the rest of the world what it is to be an American. For these very reasons we need to be certain of the President's conduct, and whether his wrongdoing warrants penalty. Our President must command the moral authority to lead this great nation, especially in the critical times of crisis. And whether it be an issue of national security, or as a role model for our children, our nation cannot afford to question the President's decisions or doubt his sincerity, which many of us do now. We may disagree politically, but every American must be convinced the President's leadership decisions are genuine. I for one, want more from my President than feigned anger and forced contrition. I want the truth that this inquiry seeks.

As recommended by the Judiciary Committee, the process by which this inquiry will be undertaken is the very same model used in the Watergate impeachment inquiry. While the Democrats on the Judiciary Committee did not support this particular model, I think it is important to note that they did support an inquiry, albeit a more limited one with a fixed timeframe for consideration.

There is no more serious obligation given to us under the Constitution than to uphold the rule of law and protect the integrity of the highest offices of our government. The charges against President Clinton cannot simply be ignored. We have a process for resolving them as prescribed by the Constitution and the House will not proceed in a Constitutionally sound and orderly fashion and do so as expeditiously as possible.

The seriousness of Congress' duty to consider this issue is best stated by Judiciary Committee Chairman Peter Rodino of New Jersey in 1974, who said during the impeachment hearings of President Nixon, "we cannot turn away, out of partisanship or convenience, from problems that are now our responsibility, our inescapable responsibility to consider. It would be a violation of our own public trust if we, as the people's representatives, chose not to inquire, not to consult, not even to deliberate."

Mr. Speaker, the President has already admitted to violating the public's trust by lying to the American people, his family, supporters and Cabinet. We cannot let it happen again. It is our duty to restore that trust in the Presidency by approaching this inquiry with a commitment to fairness, and an unshakable dedication to seek the truth.

If it is proven the President of the United States lied under oath, obstructed justice and urged others to do the same, he has forsaken the oath he took when he became our President. Under those circumstances, removal from office is no longer a question. But to come to that conclusion, this Congress and the American people must be satisfied by the fairness and thoroughness of our deliberations.

As the House proceeds, I like all Members, must reserve final judgment on the appropriate action until all the evidence is carefully reviewed and judiciously weighed.

So today, I say let us begin. Let us open the impeachment inquiry of President Clinton.

Mr. MORAN of Virginia. Mr. Speaker, whether this House votes today for the Democratic alternative, which I prefer, or the resolution that was reported from the House Judiciary Committee, which I will vote for when the alternative fails, this much is clear:

The guiding purpose of this inquiry must be to obtain the truth. We must conduct this inquiry in order to give the President the opportunity to acquit himself. And we must conduct this inquiry in a manner that brings honor to this institution, and that keeps faith with the Constitution that we are sworn to uphold.

I don't know, Mr. Speaker, what the outcome of the Committee's inquiry will be. I share the hope that I think all fair-minded Americans hold that the President will emerge from this process exonerated and able to renew his effective service. The Congress will carry a heavy burden to show that the President has conducted impeachable offenses, and that the results of two elections should be overturned.

But I do know that if we fail to move forward today, we will not be serving the best interests of the President, or, much more importantly, of our nation.

Mr. KOLBE. Mr. Speaker, with a heavy heart but a clear conscience, I will vote today to authorize the House Judiciary Committee to proceed with a formal inquiry that could lead to the impeachment of President Clinton.

The President's personal indiscretions, which he himself has essentially acknowledged, are not at issue. What is at issue are allegations of perjury, conspiracy to commit perjury, and obstruction of justice, both in a sworn deposition in the Paula Jones sexual harassment lawsuit and in sworn testimony before a federal grand jury. Judge Starr has suggested that there are eleven instances in which there is substantial and credible evidence of perjury, subornation of perjury and obstruction of justice. The Judiciary Committee has suggested there may be as many as fifteen separate charges that warrant investigation. These are serious charges; the underlying behavior which may have led to these charges is important, but not central to the charges themselves. If proven true, these charges could constitute grounds for the President's impeachment and removal from office. In the meantime, Congress bears the burden of proof and the President is entitled to a presumption of innocence.

While I have not supported President Clinton politically in his election campaigns, I have always tried to work with him and his Administration in a bipartisan manner and for the good of the country. I hope we can all put aside partisanship, maintain the proper decorum and avoid a rush to judgment. Removing a President from office is the most serious step any Congress can ever take since it sets aside the decision made by the voters. It has never happened before in 220 years of our history, and it must never be done lightly.

However, ours is a nation governed by the rule of law, not the rule of men. No person may be above the law, including—or perhaps especially—the Chief Executive of our country. Congress must carry out its constitutional responsibilities in a fair and dignified manner. As a potential "grand juror" who may be required to vote on Articles of Impeachment, I will maintain the highest degree of objectivity and consider fairly all the evidence ultimately gathered by the Judiciary Committee.

Mr PACKARD. Mr. Speaker, I would like to encourage my Colleagues to vote in favor of proceedings to further investigate President Clinton on the charges brought against him.

Our entire system of law is based on a sound understanding that we must live by truth. Today we are casting a vote that defines every principal of which our Constitution was written; truth, justice, and equality.

This is not a vote for or against Bill Clinton. This is a vote for the truth. We must allow justice to be fairly served. I took an oath to defend the Constitution and ensure that no person is above the law, even if that person is the President. This is not a choice, it is a duty.

Mr. Speaker, this is a sad day for America. No one enjoys this. The President of the United States stands accused of committing serious felonies. Congress must fulfill its duty to fully investigate these charges, not just for the sake of reaching the truth, but for the sake of our country.

Ms. WATERS. Mr. Speaker and Members of Congress, the decision of the Republicans to limit the debate on this important resolution and to decide whether or not this body will move an inquiry to impeach President Clinton, is a continuation of the partisan, unfair, and inconsiderate actions that have dictated the management of this impeachment crisis ever since Independent Counsel Ken Starr dumped his referral in the laps of this Congress and the public.

This continuous, shameless, and reckless disregard for the Constitution and basic civil rights cannot be tolerated by the citizens of this country. This is a sad and painful day for all of us. The least we could do is handle this matter with dignity and fairness for everyone involved. Four-and-one-half years and $40 million later, unnecessary subpoenas of uninvolved individuals, Mr. Starr's close relationships with groups and individuals with demonstrated hatred for the President taints the Independent Counsel's investigation. This Congress does not need a protracted, open-ended witch-hunt, intimidation, embarrassment and harassment. The tawdry and trashy pages of hearsay, accusations, gossip, and stupid telephone chatter do not meet the standards of "high crimes and misdemeanors."

The President's actions in this matter are disappointing and unacceptable, BUT NOT IMPEACHABLE! Mr. Schippers, the General Counsel for the Majority on the House Judiciary Committee, extended the allegations in search of something—anything that may meet the constitutional standards for impeachment. However, even the extended and added allegations do not comport with the Constitutional standard for impeachment.

It is time to move on! Reprimand or condemn the President—but let us move on! These grossly unfair procedures will only tear this Congress and this nation apart. I ask my colleagues to vote down this open ended, unfair resolution presented today by the majority. It does not deserve the support of this House.

Mr. Speaker, Members of the Congressional Black Caucus have constantly warned this body about the dangers of a prosecutor run amuck. The Congressional Black Caucus has warned about the abuse of power by the Majority. We ask you to listen to us and we remind you of the history of our people who have struggled against injustice and unfairness.

Let us not march backwards. Let's be wise enough to move forward and spend our precious time working on the issues of education, health care, senior citizens issues, children's issues, and justice and opportunity for all Americans.

Mr. BORSKI. Mr. Speaker, I rise today in opposition to House Resolution #581, the Republican Impeachment Inquiry Resolution, in favor of the Alternative offered today. I cannot condone the behavior of the President; his actions have been profoundly disappointing to the country. But, I believe that the investigation of whether or not his conduct should be the subject of impeachment is one that must be concluded quickly and responsibly.

The resolution offered today will start an inquiry that is open-ended and not limited in any fashion, not even to the Referral by Independent Counsel Kenneth Starr. This inquiry has the potential to last many months, if not years, and into the next Congress. The American people have urged this House to come to a conclusion, and the resolution offered today ignores this plea. Instead of coming to a concise and thoughtful resolution, the Republican party has instead brought forth a plan that is illogical, without direction, and indefinite in length and scope.

Mr. Speaker, we need to heed the call of the American public and resolve this painful conflict as soon as possible. The basic tenent that we should focus on is do the facts brought to us by Independent Counsel Kenneth Starr demand impeachment? If we assume that Kenneth Starr is a competent attorney, and the evidence brought forth is fact, then we should get on with the business of examining that evidence in the light of the Constitution and what our founding fathers deemed impeachable.

I believe that the only way that we, as a body, can properly do this is by focusing the scope of the inquiry to the matter actually before us in the Referral from the Independent Counsel. This is precisely what the offered Alternative does. It would produce a proceeding that is fair, and one that would open with a consideration of the constitutional standard for impeachment. Once these standards are determined, the facts of the case would be examined and held in comparison.

Congress needs to return its focus and attention back to the business of the nation. This process should not stand between the problems facing this country and our ambition to solve them. There are many issues—such as saving Social Security, passing a Patient's Bill of Rights, saving our environment for future generations, and ensuring that all children attending school are given the tools to succeed—that are floundering by the wayside as we continue to focus our energies on this drawn out process. I believe that the only way we can return to work on these imperative issues is by bringing an expeditious conclusion to the inquiry by the end of the year.

An inquiry that is deliberate, grounded in the Constitution, and removed from partisan politics is the only way that we can bring this country the resolution that it craves. In the House of Representatives there is a process in place to deal with matters of presidential improprieties. As a Member of congress, I believe in this process and the importance of adhering to the appropriate steps. The charges against the President are serious, and they deserve serious consideration. Mr. Speaker, I rise in support of the Alternative to the Impeachment Inquiry Resolution because it is focused, fair, expeditious, and deliberate.

Ms. LEE. Mr. Speaker, I rise today to oppose H. Res. 581, the Republican resolution to begin impeachment proceedings regarding the President of the United States. People have stated overwhelmingly, in a loud, clear and unified voice, that the Congress must not proceed with a long, open-ended, and partisan impeachment proceeding.

I have not, nor will I condone the President's behavior. He was wrong, and he should never had lied about his relationship with Monica Lewinsky.

Nevertheless, the prosecutor's investigation and the Congress' discussions and hearings about the President's behavior have been unfair from the start. As a result, I oppose the continuation of independent counsel Kenneth Starr's investigation—which has been a four-year, partisan effort to discredit the President—as well as any related investigations and inquiries. It should be noted that, despite the length of the investigation and the intense scrutiny of the President and his friends, Prosecutor Starr and the Republicans have come up largely empty-handed, except with regard to the President's behavior in the Monica Lewinsky matter. When the Starr investigation produced a now-infamous and, at times, pornographic report, I voted against the release of the Starr report because I felt the material to be unfair and inappropriate, and because the President and his lawyers did not have a chance to review the report before it was released to the public on the internet, and in all of the newspapers.

And so today, I oppose the Republican resolution to begin Presidential impeachment hearings: I strongly oppose any form of impeachment inquiry because I firmly believe that lying about a sexual affair does not constitute an impeachable offense, and because the investigation and the hearings are yet another political effort to undermine the President.

The allegations against the President do not constitute high crimes and misdemeanors. They certainly are not comparable to high crimes and misdemeanors like treason or bribery. Even more, the resolution creates a political circus on the national stage, with no limitations in scope and length, no controls, no definitions, and no justice. And worse still, the process itself is an attempt to overthrow our Democratic agenda; in other words, we are witnessing an attempted coup d'etat.

Today is a sad day for the country. We can only hope now that, despite the past weeks and months, the Congress will proceed quickly with an investigation that is fair and, especially, limited in scope and length. The American people have stated that we must move quickly and get on with the work we were elected to do. The real immorality and scandal in this country is that, because of this partisan process, we have not been able to do the important work of preserving social security, protecting our environment, educating our children, or ensuring health care reform.

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today in strong opposition to House Resolution 581, the impeachment inquiry resolution being considered today by the House of Representatives.

On a matter of procedure, I find it very disturbing that as the House is considering an impeachment inquiry resolution, under one of the most important powers the House has, I was not afforded an opportunity to speak before the House during the debate. There is no question of the importance of the power of the House to send articles of impeachment to the Senate. Given the importance of this decision, there should have been adequate time provided for Members to debate the issue. That I must submit my statement for the record and not be given the opportunity to address my colleagues in person and my constituents via television speaks to the willingness of the majority to give this topic fair consideration.

I have read the independent counsel's report to the House of Representatives and found the conduct described by the allegations to be offensive and not what I expect from a President of the United States. However, I do not believe the conduct described, even if completely accurate, warrants impeachment. I nonetheless feel the House of Representatives needs to address the issue promptly.

Our country will not be well served by months of antagonistic debate, and I urge my colleagues to address the issue in a forthright manner. I am saddened by the President's conduct; his actions were totally inappropriate and should not be condoned.

Extensive news coverage of discussions on impeachment have made it more difficult to address important national issues which need our attention. The independent counsel has spent over $40 million in investigating the President and has provided the House with tens of thousands of pages of materials. Much of the investigative work has been done and the facts are known.

We have the opportunity today to authorize an impeachment inquiry limited only by the voluminous records submitted to us and by the time constraints placed on our term of service by the U.S. constitution. Given the extensive investigation already conducted at taxpayer expense, the House now has a duty to act in a responsible manner, and I urge my colleagues to vote for the Democratic motion to recommit the resolution to the Judiciary Committee with instructions.

Mr. OLVER. Mr. Speaker, the President's personal behavior was morally wrong and deeply disappointing, but this investigation has gone too far and is hurting the country, our families and our children. Congress is getting nothing done and has now embarked on an open-ended fishing expedition. We should hold the President accountable for his personal conduct, but then we should get back to the work that American families care about.

Today, I am voting for a fair, focused and expeditious inquiry into the Kenneth Starr impeachment report. The process I support is specifically designed to focus on the Independent Counsel's report and any other referrals from Kenneth Starr. It would also ensure that this matter would be behind us by the end of the year, the end of this Congress.

The Republican impeachment inquiry is designed to produce an investigation without an end—to drag it out until the presidential election in November 2000, two years from now.

The stark difference between the two approaches is clear.

The Democratic amendment is reasonably focused. The Republican resolution is unlimited. The Democratic amendment is fair. It requires an initial determination regarding the standard for impeachment and the sufficiency of the evidence to meet that standard. The Republican proposal is arbitrary—it requires no preliminary determinations whatsoever. The Democratic amendment is expeditious. The Republican resolution is endless. And, finally, the Democratic amendment is deliberate. It is logical and removes partisanship from the process. The Republican resolution is totally political and reckless in nature.

Americans, by a large majority, are clearly saying they want the Congress to get back to issues like improving public education, protecting our social security system, guaranteeing patients' rights to quality health care, curbing teenage smoking, and reforming the way campaigns are financed.

We must get back to these critical issues, and we should do it as soon as possible.

Mr. UNDERWOOD. Mr. Speaker, I rise today to join my colleagues in expressing my concern about the allegation made by Kenneth Starr against the President of the United States. We are faced with an historical vote on whether to proceed with impeachment proceedings against the President.

While there is no doubt that the allegations against the President are serious, it is extremely necessary to examine them in a timely manner. The House Judiciary Committee should investigate the allegations, but should avoid extending the process beyond this Congress since stretching the time frame does not do justice to the President, unnecessarily drags the country through a painful process, and opens up the body to criticism that we are stretching this process out solely for political reasons.

Furthermore, this impeachment inquiry should be limited to the charges made by the independent counsel in his current report to the Congress. An open-ended inquiry, as proposed by the majority, is little more than a fishing expedition meant to dredge up more problems if they exist. As we all know, Kenneth Starr began this investigation about four and a half years ago with the Whitewater allegations, then moved on to the misuses of the FBI files, the firing of people in the Travel Office, the Paula Jones lawsuit and finally to the Monica Lewinsky matter. The Starr investigation over these years involved large amounts of time and money, and Starr's fishing expedition has resulted with his report to the Congress which is the subject of the resolution before us today.

As we embark on this journey, let us not forget that our predecessors have been down this path before. Over the course of American history, the House of Representatives has deliberated and in fact has impeached 15 individuals, including a President, 12 judges, a Senator, and a cabinet member. The process for impeachment, established by the Constitution of the United States, is a serious and wrenching one. It takes its toll on each and every one of us, as we undergo the accusation and finally the conviction procedures. President Andrew Johnson, the only President to have been impeached, was charged in 1867 with 11 articles of impeachment. President Johnson lost his case before the House; however, the Senate voted only three impeachment articles but failed to convict President Johnson by a razor-thin margin of one vote. Of the 15 individuals who were impeached by the House, only seven were convicted by the Senate. I raise this point only to stress the seriousness of the impeachment process and that we not turn the pending resolution on its head without equally serious debate on the merits of this case against President Clinton.

As a former teacher, I cannot resist the temptation of referring to the federalist papers in order to give us some insights as we decide on some form of sanction against the President. In the Federalist Paper, Number One, written by Alexander Hamilton in 1787, he reminded us that in a great national discussion of whether the nation should adopt or reject the constitution, and I quote: "A torrent of angry and malignant passions will be let loose." Hamilton warned us about "the stale bait for popularity at the expense of public good." And finally, Hamilton noted: ". . . it will be equally forgotten, that the vigor of Government is essential to the security of liberty; that, in the contemplation of a sound and well-informed judgment, their interest can never be separated." I believe that we can learn from these lessons as we contemplate our constitutional responsibility to handle the Starr allegations.

I urge my colleagues to heed the words of Alexander Hamilton, that we use caution as we proceed with this inquiry, and above all, that we be fair to all parties involved. Let us support the reasonable and reasoned Boucher proposal.

Mr. Speaker, the people of Guam elected me to work on the pressing issues which affect their daily lives, like educational opportunities, access to quality health care, as well as access to employment and economic opportunities. We have serious worldwide economic difficulties in Asia which demand our attention.

We should investigate these charges, but we should be mindful of our responsibilities. Let's rise above partisanship as we deliberate on the difficult discourse pending before the Congress, let's conclude this inquiry expeditiously, and let's meet the challenge of improving the lives of the people who elected us to represent them in the United States Congress.

Mr. DAVIS of Florida. Mr. Speaker, we can all agree that the President's improper relationship was immoral and inexcusable. His actions represent a tremendous lapse of judgement which deeply troubles me and which has caused immense pain for his family and our entire Nation. Compounding these actions, the president clearly misled the American people—an act which has further torn the already tattered bonds of trust between citizens and elected officials. This is perhaps the highest price we will all pay for the self-centered actions of one man.

Over the past months, our Nation has struggled to make sense of this scandal, to find a fitting punishment for the President's actions, and to move forward with important matters facing our country. While many Americans would simply like this whole issue to be dropped, we as Members of this House have a Constitutional duty to fulfill. Therefore, today's debate is not about whether we should move forward with an inquiry. Sadly, after a thorough review of the Referral from the Independent Council, I believe that the allegations of potentially impeachable offenses compels us to do so. The question instead is how we should move forward to ensure that we conduct an inquiry that is fair, timely, and focused and which minimizes the potential risks to our country as a whole.

The structure of the inquiry is integral to preserving the integrity of the process. No one will be served by a process that is perceived as simply a partisan attempt to undo the results of the last election. That is why I wrote a letter to our distinguished colleague, Chairman HENRY HYDE, which sought to forge a bipartisan commitment to a focused impartial inquiry. At this point I would like to submit this letter for the RECORD.

Hon. HENRY J. HYDE,
Chairman, Committee on the Judiciary,
Washington, DC October 7, 1998.

DEAR CHAIRMAN HYDE: You have repeatedly expressed your desire to conduct a fair and impartial inquiry into whether the House should impeach the President. I know that you want and need bipartisan support for your motion to proceed with inquiry to substantiate the creditability of the inquiry.

Based on my review of the Referral from the Independent Council and the evidence released by your Committee, I believe that the House should continue with a more thorough inquiry as to the matters raised in the Referral. Therefore, I support your decision to proceed with a formal inquiry as to those matters. Mindful of the enormous cost to our nation and of the potential impact on the stability of our federal government, I nevertheless support an inquiry because I believe that the Referral raises serious allegations that must be further investigated as to the facts and carefully considered in view of the constitutional standards for impeachment. I further believe that we should finish this inquiry as soon as possible in order to minimize these potential hazards to our nation and I will support you in your commitment to try to conclude the inquiry before the end of this year.

However, I am deeply troubled by the comments of House Speaker NEWT GINGRICH and Majority Leader DICK ARMEY that a formal inquiry as to the matters raised in the Referral should be expanded to include the allegations against the President based on the Whitewater matter investigated by the Independent Council and possible allegations surrounding the White House Travel Office and FBI files. I believe the decision of the Independent Counsel not to include any of these matters in his Referral after his lengthy and exhaustive investigation reflects his view that no substantial and credible basis exists to justify considering impeachment based on any of these matters. Therefore, I conclude that it would be irresponsible to include any of these matters in the formal inquiry. Broadening the scope would serve no useful purpose, significantly expand the duration of the inquiry to the detriment of our nation, and undermine the essential integrity of the process.

I am writing to urge you to clearly unequivocally, and publicly commit not to expand the formal inquiry to include matters other than those raised in the Referral without first obtaining majority approval of the Members of the House voting to expand the scope on the basis that substantial and credible evidence exists as to these matters. With this commitment on your part, I, and I believe other like-minded Democrats, will join you in voting for a motion to proceed with a formal inquiry as to the matters raised in the Referral. Without such a commitment, I cannot, in good conscience, support a formal inquiry likely to include Whitewater and other matter already reviewed and apparently resolve by the Independent Counsel.

Thank you in advance for addressing these concerns.

Yours Truly,

JIM DAVIS.

While some may consider today's vote as simply an inevitable step in this ongoing investigation, I firmly believe that each step down the path towards removing a duly-elected President from office must be measured and deliberate. As I stated in my letter to Chairman Hyde, absent a clear commitment to limit the scope of the inquiry to the Referral of the Independent Counsel, I am deeply concerned that it will devolve into a drawn-out, partisan investigation searching for possible impeachable offenses rather than an expedited, fair investigation examining the allegations presented to this body of possibly impeachable offenses.

For these reasons I rise in support of an impeachment inquiry as embodies in the Motion to Recommit and in opposition to the base resolution which is dangerously open-ended. Having consulted with Constitutional scholars, listened to the comments of my constituents, and search my conscience, I believe this is the course which best serves the interests of our Nation.

Mr. FAZIO of California. Mr. Speaker, today's proceeding is of such great historical importance, that it should be approached with a deep and abiding respect for the Congress, the Constitution and the Presidency.

We had the opportunity to develop a fair and responsible process that would protect not only the dignity of office of the Presidency, but create a precedent worth following. But the Republican majority has squandered it and by doing so has set in motion a process that is too much about partisanship and not enough about statesmanship.

It is more about election year defeat of political opponents than it is about what is right, just or fair.

The Republican proposal offers no limits on how long this partisan inquiry will go on, nor on how long Independent Counsel Kenneth Starr can drag up issues that he has had four years to bring to this House. Sadly there has been no willingness to limit the duration or scope of this resolution.

The Republican proposal moves ahead with an impeachment inquiry before the Judiciary Committee has even conducted a review of the facts and determined whether those facts constitute substantial and credible evidence. It lowers the threshold for which a President can be harassed and persecuted to the point of distraction from his Constitutional duties.

From now on, any Congress dissatisfied with the policies of a particular Administration or the personal behavior of any President, could simply conduct an ongoing, costly, and distracting inquiry designed to dilute the authority of the President.

But after the election when rationale behavior returns and cooler head can prevail, I urge us to forge a way to rise above the nasty politics that have clouded this body.

I will not be one of those of you who return to the next Congress. I leave hear after 20 years with my self respect in tact. I have reached across the lines within my own party and when necessary across the aisle to the other party to get things done for this country and make this House work.

I have fought partisan battles; I have stood my ground on issues that matter to my district. The American people expect that. But they also expect each of us to rise above the base political instincts that drive such a wedge through this House.

In the months ahead, we must find a way, my friends, to do what is right for America. Find a way to return this House to the people through a respect for law, for fairness and due process. In the end, we must do better than we will do today.

Mr. BEREUTER. Mr. Speaker, this Member would commend and ask his colleagues to consider carefully the following editorial from the October 8, 1998, edition of the Omaha World Herald, entitled "A Broad Inquiry the Better Course."

[From the Omaha World Herald, Oct. 8, 1998]

A BROAD INQUIRY THE BETTER COURSE

The fate of William Jefferson Clinton is not the only concern that the Kenneth Starr investigation has raised for Congress and the nation. There is also the matter of dealing with Clinton's misbehavior in a way that demonstrates respect for the rule of law.

Democrats have tried to narrow the impeachment inquiry. Abbe Lowell, counsel for the Democrats on the House Judiciary Committee, contends that any case for impeaching Clinton consists of one basic allegation: "The president was engaged in an improper relationship which he did not want disclosed."

The position is designed to minimize Clinton's deceptions by casting them in effect as little white lies. If the Democrats could convince the House and the nation that "it was just sex," Clinton's chances of avoiding impeachment might be greater.

The approach of the Republicans on the Judiciary Committee had much more to commend it. They voted to recommend to the full House an open-ended inquiry, possibly into allegations unconnected to the Lewinsky affair. Presumably, the broader inquiry might include the firing of the travel office staff, the illegal possession by the White House of FBI files, the finding of a job for Webb Hubbell, the mysterious disappearance and reappearance of billing records and even illegal campaign fund raising, even though it was not part of Starr's mandate.

The Republicans' main concern is not the sex, but the lying under oath about it, the memory lapses about it, the exploitation of government employees to cover it up. David Schippers, a lifelong Democrat who is counsel for the Republicans on the Judiciary Committee, explained why Americans ought to be concerned. Clinton took the position that the Paula Jones lawsuit was bogus, Schippers noted. But the law gives a defendant no right to combat a bogus lawsuit by lying under oath.

"The principle that every witness in every case must tell the truth, the whole truth and nothing but the truth is the foundation of the American system of justice, which is the envy of every civilized nation," he said. "The sanctity of the oath taken by a witness is the most essential bulwark of the truth-seeking function of a trial, which is the American method of ascertaining the facts."

Schippers said that if lying under oath is tolerated, "the integrity of this country's entire judicial process is fatally compromised and that process will inevitably collapse." He said the individual circumstances of the case didn't matter. "It is the oath itself that is sacred and must be enforced," he said.

Americans ought to consider the consequences of letting the president's lying go unpunished. This isn't just that lovable rascal, the Comeback Kid, trying to escape another jam. This is the president of the United States defying one of the most important principles of the legal system: that the truth must be told when a person is under oath.

Mr. SKAGGS. Mr. Speaker, the vote today on an impeachment inquiry requires each of us to do our best to address without partisanship a matter laced with partisanship. It calls on each of us to set aside the passions of the moment, to be patriots, to act in the long-term interests of the American democracy, to uphold the Constitution. I pray for the wisdom to do so.

President Clinton has committed serious offenses against the American people, against the dignity of the office of the President, against the truth, and, probably, against the law.

How does the House of Representatives meet its constitutional responsibility in this grave matter today?

We are at an early stage of these proceedings, but we already have a fairly clear picture of the facts. To consider rejecting an impeachment inquiry at this early stage, we are obliged to construe the facts against the President and then test the facts against reasonable constitutional standards for impeachment. That's what I've attempted to do.

It's proper, given the gravity of the remedy of impeachment of a President, to set the standard for impeachable behavior at a comparable level of gravity. The level of proof of that behavior should be set commensurately high. And, finally, given the extraordinary nature of the impeachment remedy, there should be a substantial burden placed on proponents to justify its use. In other words, when in doubt, don't.

As to the question of what is an impeachable offense, it is evident from the Constitution, and from the writings and commentaries at the time, that abuse of office is the crux of the matter. Such an offense must involve serious injury or threat of serious injury to the Republic, on account of the actions of the President in the conduct of his office, or at least seriously undermining his ability to conduct himself in office.

It's unclear where to draw the limits of conduct to be treated as private for purposes of impeachment. But it is clear that the Framers did not intend everything a President does to be viewed as public or official. In my view, the conduct of President Clinton in this case originated in the private sphere and then was drawn into the public sphere. That happened largely because of the extraordinary use of a grand jury by the independent counsel, elevating or transforming the private to the public. The grand jury and that transformation are a device and a result not available in the case of any regular citizen, and available here only because the case involved the President.

Therefore, after careful review of the provisions of the Constitution, the writings and debate of the Framers, the precedents in prior impeachments, and the analysis of constitutional scholars, I have concluded that impeachment is not warranted in this case. The assumed offenses simply do not undermine the State in the way or to the degree required to constitute impeachable offenses.

It is possible that Mr. Starr may come forward with new information about other conduct by the President which will change my conclusion about impeachment. However, it strikes me as somewhat suspect that he waited until the eve of today's vote to suggest that there's more to come.

Today's vote has to be based on what is known, and reasonably to be inferred from what is known, today. On that basis, for the reasons I've stated, I conclude that proceeding further with an impeachment inquiry would serve no useful purpose because the conduct of the President—deplorable as it was—does not warrant impeachment.

The President's behavior, however, does warrant punishment. The good order of the Republic and a proper respect for the law demand that he be held to account and receive appropriate punishment.

While the President might well be advised to leave office voluntarily, it would be a profound mistake to use the impeachment power to remove the President from office involuntarily. Absent a resignation, and rejecting impeachment, other alternatives exist. Although none is perfect, they would be preferable to impeachment. A formal censure of the President, delivered in person before a joint session of Congress, together with a significant monetary penalty, would be serious punishment. To vindicate the rule of law, the President would remain liable to prosecution after leaving office, if warranted by evidence of criminal conduct—the same sort of prosecution any citizen might face for similar conduct.

My conclusion that punishment but not impeachment is the right course is also affected by an understanding of impeachment's enormous costs to the country. Those costs would be paid first in terms of political divisiveness, prolonged distraction from critical national and international problems, and a waste of the most precious resources of the democracy—time and trust. Later, the cost would come due in the harmful precedent we'll have set and its damage to proper constitutional standards and order. Those costs are excessive.

Mr. HYDE. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER. The gentleman from Illinois (Mr. HYDE) is recognized for 4 minutes.

Mr. HYDE. Mr. Speaker, I am very sorry that the gentleman feels he is shortchanged in the debate. As the gentleman knows, under the rule and under the Rodino format, they were entitled to 1 hour. We doubled that. I did not think that was fair, but we could have gone on and on, and much of the same thing said over and over again. It would be too much for me to expect appreciation for doubling the time, but the hostility?

Let me suggest to Members who think this is going on like Tennyson's brook, just on and on and on, the 20th amendment to the Constitution says that "Congress shall assemble at least once in every year, and such meeting shall begin at noon on the third day of January."

☐ 1415

We are out of business at the end of the year. Our money runs out. And if we are to continue, if there is anything to continue, we would have to reconstitute ourselves.

I do not want this to go one day longer than it has to. Believe me, this is very painful and I want it ended. We are not going to go on and on and on. But Mr. Rodino faced up to the problem of time limits and here is what he said. And why do you reject Mr. Rodino time and again in all of these issues? He is our model. He is the one we are following. And here is what he said:

> . . . the chairman recognizes, as the committee does, that to be locked in to such a date would be totally irresponsible and unwise; the committee would be in no position to state at this time whether our inquiry would be completed, would be thorough, so that we could make a fair and responsible judgment.

We are not flying by the seat of our pants. We are riding on Pete Rodino's shoulders. That is why we can see so far.

As far as standards are concerned, something that you have repeatedly brought up, let me quote from the wonderful report by the Rodino committee concerning the Nixon impeachment on the question of standards. Listen to Mr. Rodino:

> Similarly, the House does not engage in abstract advisory or hypothetical debates about the precise nature of conduct that calls for the exercise of its constitutional powers; rather, it must await full development of the facts and understanding of the events to which those facts relate.

That is what we want to do, develop the facts through an inquiry. On with Mr. Rodino:

> This memorandum offers no fixed standards for determining whether grounds for impeachment exist. The framers did not write a fixed standard. Instead, they adopted from English history a standard sufficiently general and flexible to meet future circumstances and events . . .

Thus spake Peter Rodino, and that is our model for this adventure, this excursion, this journey that we are on.

Now, look, this is not about sexual misconduct any more than Watergate was about a third-rate burglary. It was about the reaction of the Chief Executive to that event. Nixon covered it up and got in the direst of trouble.

The problem with the Clinton situation, President Clinton's situation, is a reaction which we believe and we want to find out, and if we do not get the information we will reject it, caused him to lie under oath. Now, lying under oath is either important or it is not. If some people can lie under oath and others cannot, let us find out. If some subjects are "lie-able" that is, you can lie about them, and others are not, let us fine tune our jurisprudence that way. But if the same law applies to everybody equally, that is the American tradition, and that is what we are looking at.

This has not anything to do with sex. It has a lot to do with suborning perjury, tampering with witnesses, obstructing justice, and perjury, all of which impact on our Constitution and on our system of justice and the kind of country we are.

The President of the United States is the trustee of the Nation's conscience. We are entitled to explore fairly, fully, and expeditiously the circumstances that have been alleged to compromise that position. We will do it quickly, we will do it fairly. We want to get this behind us and behind the country and move on.

But it is our duty, it is an onerous, miserable, rotten duty, but we have to do it or we break faith with the people who sent us here.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

MOTION TO RECOMMIT OFFERED BY MR. BOUCHER

Mr. BOUCHER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the resolution?

Mr. BOUCHER. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. BOUCHER moves to recommit House Resolution 581 to the Committee on the Judiciary with instruction to report the same back to the House forthwith with the following amendment:

Strike the first section and insert the following:

That (a)(1) The House of Representatives authorizes and instructs the Committee on the Judiciary (in this Resolution referred to as the "Committee") to take the following steps within the time indicated in order, fully and fairly, to conduct an inquiry and, if appropriate, to act upon the Referral from the Independent Counsel (in this Resolution referred to as "the Referral") in a manner which ensures the faithful discharge of the Constitutional duty of the Congress and concludes the inquiry at the earliest possible time, and, consistent with chapter 40 of title 28, United States Code, to consider any subsequent referral made by the Independent Counsel under section 595(c) of such title 28.

(2) The Committee shall thoroughly and comprehensively review the constitutional standard for impeachment and determine if the facts presented in the Referral, if assumed to be true, could constitute grounds for the impeachment of the President.

(b) If the Committee determines that the facts stated in the Referral, if assumed to be true, could constitute grounds for impeachment, the Committee shall investigate fully and completely whether sufficient grounds exist for the House of Representatives to exercise its constitutional power to impeach the President.

(c) If the Committee finds that there are not sufficient grounds to impeach the President, it shall then be in order for the Committee to consider recommending to the House of Representatives alternative sanctions.

(d) Following the conclusion of its inquiry, the Committee shall consider any recommendation it may commend to the House, including—

(1) one or more articles of impeachment;

(2) alternative sanctions; or

(3) no action.

The Committee shall make such a recommendation sufficiently in advance of December 31, 1998, so that the House of Representatives may consider such recommendations as the Committee may make by that date.

(e) If the Committee is unable to complete its assignment within the time frame set out in subsection (d), a report to the House of Representatives may be made by the Committee requesting an extension of time.

The SPEAKER. Pursuant to the order of the House of today, the gentleman from Virginia (Mr. BOUCHER) and the gentleman from Wisconsin (Mr. SENSENBRENNER) each will control 5 minutes.

The Chair recognizes the gentleman from Virginia (Mr. BOUCHER).

Mr. BOUCHER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the motion to recommit that I am pleased to offer this afternoon is well tailored to the challenge that we have before us. It offers a framework for a full and a fair review by the House Committee on the Judiciary and a full and a fair review by the House of Representatives.

It assures that we give deference to the historical constitutional standard for impeachment, which has evolved to this House over two centuries. It assures ample time to consider carefully any of the facts that are contained in the referral sent to us by the Office of Independent Counsel, which rise to that constitutional standard.

It assures that the entire matter will be resolved promptly and that the Nation is not distracted by a prolonged inquiry.

Some Members, Mr. Speaker, would prefer that there be no review. Some would have us investigate, for more than a year, a wide range of matters. The resolution that we are offering through this motion to recommit steers a middle course, a careful review limited to the materials that are now before us.

With the rules we offer, the House will discharge its constitutional obligations in a manner that is both thorough and expeditious. I urge the approval of this motion to recommit.

Mr. Speaker, I yield 1 minute to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. Mr. Speaker, the motion to recommit will correct several of the most egregious problems with this resolution. If the amendment is not accepted, we will be voting for an inquiry that cannot end. So long as people send allegations to the committee, the committee will inquire and go on and on and on.

The amendment establishes a reasoned approach by which we would consider the allegations before us and come to a conclusion. This amendment would add focus to the deliberations because some of the Starr allegations are not worth inquiring into. In fact, the Republican counsel found some of the allegations so flimsy that he did not even mention them during his presentation to our committee, and many constitutional scholars have already expressed the view that none of the allegations amount to impeachable offenses and the question is not even close.

Finally, Mr. Speaker, make no mistake about it. A vote for this amendment is not necessarily a vote for an inquiry, because some who are for an inquiry and others who are against any inquiry all agree that if we are going to have an inquiry, it ought to be fair.

Mr. BOUCHER. Mr. Speaker, I yield the balance of my time to the gentleman from Missouri (Mr. GEPHARDT), the democratic leader.

The SPEAKER. The gentleman from Missouri (Mr. GEPHARDT) is recognized for 3 minutes.

Mr. GEPHARDT. Mr. Speaker, it is almost a month to the day that we stood here and debated whether or not to release the materials that Ken Starr had sent to the Congress, and I tried to say at that time that this was a time of utmost importance, to us as a House of Representatives and to all of us as a people.

I said then and I repeat today that we are engaged now in what I believe to be a sacred process. We are considering whether or not to ultimately, if we get that far, overturn an election voted on by millions of Americans to decide who should be the chief executive officer of this country.

The last time we did this, Barbara Jordan, who I think really became the conscience of the period, said this, she said, "Common sense would be revolted if we engaged upon this process for petty reasons."

Congress has a lot to do. Pettiness cannot be allowed to stand in the face of such overwhelming problems.

She said, "So today we are not being petty. We are trying to be big, because the task before us is big."

I said the other day that this is a time to be bigger than we really are. We are all human. We all make mistakes. We all give in to pettiness and pride. We all give in to doing things wrong, for the wrong reasons. But this is a time when our Constitution and our people asked each of us to reach inside of ourselves, to be bigger and better than we really are.

In my view, we should not have two resolutions, or a resolution and an amendment out here today. I believe if we had succeeded in what we should be doing, we would have one resolution, agreed to by all 435 Members today.

The question is not whether to have an inquiry. The question today is what kind of inquiry will this be?

Our amendment is simple, and I think it is common sense. First, it says it must be focused. We operate under a statute that we passed from the independent counsel that said there could be referrals from the independent counsel on possible issues of impeachment, and we should take that up, and that is before us.

Our resolution says stick with those referrals. We listened to the complaints of the other side and we said, well, maybe there will be more referrals. So we have amended the language and we say if there are more referrals, we will deal with them as we should under the statute.

Second, it must be fair. The last time we had Watergate, the committee spent a good deal of time considering the standards and the history of impeachment so that all the members of the committee and on the floor would understand the historic process that we are involved in. None of us do this often. We do not think about this very often, so it is vital and important that we all know what it is we are doing and whether or not the facts that are out there rise as a prima facie case. That has not been done in this case.

Third time, we say let us get it over by December 31, before the new Congress comes into session. Why do we say that? We say that because we believe deeply that for the good of the country and the good of our people, this must be done by the end of this year, before there is a new Congress.

Why do we say that? We say it because we live in a dangerous world. The world economy is in a shambles. Our own economy is threatened. Issues like education and health care and economics need to be on the front burner of this Congress. That is what we must be working on.

If we stay here for 3, 6, 9, 12 months, 2 years in suspended animation while we go over every charge that is out there, we will hurt our country and our people and our children.

□ 1430

Now, the gentleman from Illinois (Mr. HYDE) has said, and I believe him, that we should do this by the end of the year. But he also said New Year's promises sometimes get broken.

The gentleman from Illinois has said that we should not be on a fishing expedition, but others in the party, I have heard even leaders in the party, the Republican Party, say, well, we have to look at Travelgate, and we have to look at Filegate, and we have to look at campaign finance, and we have to look at the Chinese rocket sales.

And they say it again.

I really have thought a lot about this. I have really thought a lot about it. I have tried to think to myself, what is our problem, and I think I have identified it. Our problem is we do not trust one another.

The majority says that if they use our language, that we are not going to do what we say we are going to do; that we are going to drag it out; that we are going to try to frustrate the purpose of having this inquiry. And all I say is, we have put our words and our actions to follow that belief. We have said if there are other referrals, we will take them up. We have said that if we get to the end of the year and we need more time, that the majority can come to the floor and more time will be granted. The Republicans run the House.

But when we see the majority's resolution, we do not see trust. Because the words that we are looking for; that we are going to try to get this over by the end of the year; that we are going to try to stick with these referrals and not go into everything under the sun and drag it out for 2 years, and it will be a 2-year political fishing expedition, those words are not there.

Finally, let me say this. We are all profoundly hurt by what the President has done. He has deeply disappointed the American people and he has let us all down. But this investigation must be ended fairly and quickly. It has hurt our Nation and it has hurt our children. We must not compound the hurt.

I have asked every Democratic Member in these last days, I have asked every Member to search their heart and their conscience and to vote for what in their heart and their mind and their conscience they think is right. And I come to the floor today to ask every Republican Member to do the same.

This should not be a party vote today. This should be the attempt of every one of us, humble human beings, who come to this majestic place, where we settle our differences peacefully and not with violence, to say that I am voting for what in my heart and my mind is the best for the country and the best for the American people.

Mr. SENSENBRENNER. Mr. Speaker, I rise in opposition to the motion to recommit, and I yield 1 minute to the gentleman from Florida (Mr. CANADY).

Mr. CANADY of Florida. Mr. Speaker, I thank the gentleman for yielding me this time.

As we consider the motion to recommit, I would ask that the Members of the House on both sides of the aisle step back and consider the fact that what is proposed in the motion to recommit is without any precedent. There is no case in the 200-year history of the impeachment process in this country in which a process similar to the process which is proposed here has been followed. None at all. And I believe that is something that we should take very seriously.

I believe we also have to be aware that if we adopt the motion to recommit, we are setting a precedent today, and I believe it would be a terrible precedent, that would be fraught with the potential for harm stretching far into the future of our country.

Now, consider the process that this motion sets up: First, we are required to assume the truth of allegations, which the President and his lawyers vigorously deny. I do not think that is the right thing to do. We should find out what the truth is.

But while we are following this process, we put aside the weighing and the balancing of the facts and the judging of the credibility of witnesses. Having put aside our duty to weigh the facts and find the truth, we are then called on to make a solemn determination concerning whether impeachable offenses, committed in the assumed facts, which are denied by the President, are at some later point determined to be true.

This simply does not make sense. It will only cause delay. It has never been done before and it should not be done now.

I would ask the Members of the House to reject this contrived, ill-conceived procedure in the motion to recommit. We need to follow the precedent established in 1974, the precedent that the gentleman from Missouri has asked us to follow. We should support the resolution recommended by the Committee on the Judiciary.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, the question before us in this motion to recommit is whether we should make ourselves slaves to the clock or attempt to find out the truth. And let there be no mistake about it, nobody's conduct is under investigation here but that of the President of the United States. And if he had not committed those things that the allegations have sent forth to us by the Independent Counsel, we would not be faced with discharging our awesome constitutional responsibilities.

This should not be a race against the clock. And do not take my word for it, take the word of a respected senior Democratic Member on the other side of the aisle, the gentleman from Indiana (Mr. LEE HAMILTON), who said yesterday, "I have had a lot of experience with investigations. Time limits create large incentives for delay." Do not give anybody an incentive to delay and string this out by establishing an arbitrary time limit.

Now, my friends on the other side of the aisle have said that this will be a never-ending investigation. They have not read the twentieth amendment to the Constitution of the United States. The 105th Congress goes out of business on January 3, 1999. This resolution expires with the 105th Congress and would have to be renewed by a vote of the House on the opening day of the 106th Congress. So all of the arguments over here have been about just 3 days. I think that the gentleman from Illinois (Mr. HYDE), in following the Rodino precedent, and just almost adopting the Rodino resolution word for word, has done the right thing.

February 6, 1974, was the last time this House of Representatives had to do the sacred duty of commencing an impeachment inquiry. The gentleman from Illinois has patterned this resolution after the resolution introduced by Chairman Peter Rodino of New Jersey. There was bipartisanship on the Republican side of the aisle in commencing an impeachment inquiry along exactly the same lines against a Republican President. That vote was 404 to 4. I would ask my Democratic friends to be as bipartisan today as the Republicans were back in 1974 by rejecting the motion to recommit and joining with us to discharge our constitutional duty.

Mr. Speaker, I move the previous question.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. BOUCHER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 198, nays 236, not voting 1, as follows:

[Roll No. 497]

YEAS—198

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Farr
Fattah
Fazio
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Gordon

Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal

Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NAYS—236

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Evans
Everett
Ewing
Fawell
Filner
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest

Gillmor
Gilman
Gingrich
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
Metcalf
Mica
Miller (FL)
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle

Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NOT VOTING—1

Pryce (OH)

☐ 1455

Mr. WAXMAN changed his vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SENSENBRENNER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 258, noes 176, not voting 1, as follows:

[Roll No. 498]

AYES—258

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Etheridge
Evans
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen

Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
Kind (WI)
King (NY)
Kingston
Klug
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Maloney (CT)
Manzullo
McCarthy (NY)
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf

Mica
Miller (FL)
Minge
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stump
Sununu
Talent
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)

Thomas
Thornberry
Thune
Tiahrt
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NOES—176

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kleczka
Klink
LaFalce
Lantos
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Mink
Moakley
Mollohan
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Skaggs
Slaughter
Smith, Adam
Snyder
Stabenow
Stark
Stokes
Strickland
Stupak
Tanner
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Wise
Woolsey
Wynn
Yates

NOT VOTING—1

Pryce (OH)

☐ 1512

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

NOTICE OF INTENTION TO OFFER RESOLUTION RAISING QUESTION OF PRIVILEGES OF THE HOUSE

Mr. VISCLOSKY. Mr. Speaker, Pursuant to House rule IX, clause 1, I rise to give notice of my intent to present a Question of Privilege to the House in the form and resolution as follows:

Mr. Speaker, the resolution reads as follows:

A resolution, in accordance with House Rule IX, clause 1, expressing the sense of the House that its integrity has been impugned because the antidumping provisions of the Trade and Tariff Act of 1930, (Subtitle B of Title VII) have not been expeditiously enforced;

Whereas the current financial crisis in Asia, Russia, and other regions have involved massive depreciation in the currencies of several key steel-producing and steel-consuming countries, along with a collapse in the domestic demand for steel in these countries;

Whereas the crises have generated and will continue to generate surges in United States imports of steel, both from the countries whose currencies have depreciated in the crisis and from steel-producing countries that are no longer able to export steel to the countries in economic crisis;

Whereas United States imports of finished steel mill products from Asian steel-producing countries, the People's Republic of China, Japan, Korea, India, Taiwan, Indonesia, Thailand, and Malaysia, have increased by 79 percent in the first 5 months of 1998 compared to the same period of 1997;

Whereas year-to-date imports of steel from Russia now exceed the record import levels of 1997, and steel imports from Russia and the Ukraine now approach 2,500,000 net tons;

Whereas foreign government trade restrictions and private restraints of trade distort international trade and investment patterns and result in burdens on United States commerce, including absorption of a disproportionate share of diverted steel trade;

Whereas the European Union, for example, despite also being a major economy, in 1997 imported only one-tenth as much finished steel products from Asian steel-producing countries as the United States did and has restricted imports of steel from the Commonwealth of Independent States, including Russia;

Whereas the United States is simultaneously facing a substantial increase in steel imports from countries within the Commonwealth of Independent States, including Russia, caused in part by the closure of Asian markets;

Whereas there is a well-recognized need for improvements in the enforcement of the United States trade laws to provide an effective responsibility to such situations:

Now, therefore, be it

Resolved by the House of Representatives, that the House of Representatives calls upon the President to:

(1) take all necessary measures to respond to the surge of steel imports resulting from the financial crises in Asia, Russia, and other regions, and for other purposes;

(2) pursue enhanced enforcement of United States trade laws with respect to the surge of steel imports into the United States, using all remedies available under those laws including offsetting duties, quantitative restraints, and other authorized remedial measures as appropriate;

(3) pursue with all tools at his disposal a more equitable sharing of the burden of accepting imports of finished steel products from Asia and the countries within the Commonwealth of Independent States;

(4) establish a task force within the executive branch with responsibility for closely monitoring United States imports of steel; and

(5) report to the Congress by no later than January 5, 1999, with a comprehensive plan for responding to this import surge, including ways of limiting its deleterious effects on employment, prices, and investment in the United States steel industry.

The SPEAKER pro tempore (Mr. LATOURETTE). Under rule IX, a resolution offered from the floor by a Member other than the majority leader or the minority leader as a question of the privileges of the House has immediate precedence only at a time or place designated by the Chair in the legislative schedule within 2 legislative days of its properly being noticed.

The Chair will announce the Chair's designation at a later time. The Chair's determination as to whether or not the resolution constitutes a question of privilege will be made at the time designated by the Chair for the consideration of the resolution.

Mr. VISCLOSKY. Mr. Speaker, I ask to be heard at the appropriate time on the question of whether this resolution constitutes a Question of Privilege.

The SPEAKER pro tempore. The gentleman shall be heard at the appropriate time.

Mr. VISCLOSKY. I thank the Speaker.

WAIVING ENROLLMENT REQUIREMENTS FOR REMAINDER OF 105TH CONGRESS WITH RESPECT TO ANY BILL OR JOINT RESOLUTION MAKING GENERAL OR CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1999

Mr. DIAZ-BALART. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 580 and ask for its immediate consideration.

The Clerk read the resolution, as follow:

H. RES. 580

Resolved, That upon adoption of this resolution it shall be in order to consider in the House the joint resolution (H.J. Res. 131) waiving certain enrollment requirements for the remainder of the One Hundred Fifth Congress with respect to any bill or joint resolution making general or continuing appropriations for fiscal year 1999. The joint resolution shall be considered as read for amendment. The previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except: (1) one hour of debate on the joint resolution equally divided and controlled by the Majority Leader and the Minority Leader or their designees; and (2) one motion to recommit.

The SPEAKER pro tempore. The gentleman from Florida (Mr. DIAZ-BALART) is recognized for 1 hour.

Mr. DIAZ-BALART. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Ohio (Mr. HALL), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for purpose of debate only.

House Resolution 580 provides for the consideration in the House of House Joint Resolution 131, waiving certain enrollment requirements with respect to any bill or joint resolution making general or continuing appropriations for fiscal year 1999.

The rule provides 1 hour of debate on the joint resolution, equally divided and controlled by the majority leader or minority leader or their designees, and it provides for one motion to recommit.

For Members who may not recall, the law, sections 106 and 107 of Title I of the U.S. Code, requires enrolled bills, measures that have passed the House and Senate in the same form and require the President's signature to become law, it requires that these be sent to the President on parchment paper.

From what I understand, this is a very time-consuming effort, especially for measures as extensive as the anticipated appropriations measures. It is my understanding that to enroll these bills on parchment paper could take over a week on each one, on each piece of legislation, meaning the President would not be able to sign them for that period of time.

This type of joint resolution has usually been considered in the House in previous Congresses under a unanimous consent request. Unfortunately, attempts to reach a unanimous consent agreement were unlikely due to expected objections.

In fact, when we were in the minority, Mr. Speaker, in the 100th Congress, in 1987, during the consideration of the reconciliation legislation, Majority Leader Foley brought up an almost identical joint resolution waiving the parchment requirement for the enrollment of budget reconciliation and the full-year continuing resolution for fiscal year 1988.

Congressman Bob Walker, one of our parliamentary experts on our side of the aisle, asked Mr. Foley to explain if all the House was doing was to provide for the waiving of parchment copies, to which Mr. Foley responded in the affirmative. There was no objection from our side of the aisle, and the joint resolution was considered by unanimous consent.

However, because of possible anticipated objections certainly earlier in the week when we attempted to reach an agreement for unanimous consent, and because this type of joint resolution is not privileged, it requires a special rule to provide for its consideration.

Once these important bills have passed the House, enrollment on parchment paper will be the impediment keeping them from reaching the President's desk in a timely manner. Therefore, I would urge my colleagues to support this rule and the joint resolution so that these bills can be signed into law as soon as possible.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank my colleague the gentleman from Florida (Mr. DIAZ-BALART) for yielding me the time.

This is a closed rule. It essentially reduces the printing requirements for the appropriation bills that are passed during the remainder of the Congress. It will speed up, though, getting these bills to the President for signature. It is necessary to make sure that the flow of money to the Federal agencies is not interrupted when the current funding expires.

As my colleague has described, this rule provides for 1 hour of debate equally divided and controlled by the majority leader and the minority leader or their designees.

Mr. Speaker, this is noncontroversial. It has been done before when we needed to speed the printing of completed bills. It was adopted by voice vote in the Committee on Rules, and I urge its adoption.

Mr. Speaker, I do not have any speakers.

Mr. Speaker, I yield back the balance of my time.

Mr. DIAZ-BALART. Mr. Speaker, we as well have no further speakers.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. THOMAS. Mr. Speaker, pursuant to House Resolution 580 just passed, I call up the joint resolution (H.J. Res. 131) waiving certain enrollment requirements for the remainder of the One Hundred Fifth Congress with respect to any bill or joint resolution making general or continuing appropriations for fiscal year 1999.

The Clerk read the title of the joint resolution.

The text of House Joint Resolution 131 is as follows:

H.J. RES. 131

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of sections 106 and 107 of title 1, United States Code, are waived for the remainder of the One Hundred Fifth Congress with respect to the printing (on parchment or otherwise) of the enrollment of any bill or joint resolution making general appropriations or continuing appropriations for the fiscal year ending September 30, 1999. The enrollment of any such bill or joint resolution shall be in such form as the Committee on House Oversight of the House of Representatives certifies to be a true enrollment.

The SPEAKER pro tempore. Pursuant to House Resolution 580, the gentleman from California (Mr. THOMAS) and the gentleman from Connecticut (Mr. GEJDENSON) each will control 30 minutes.

The Chair recognizes the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as was just discussed, Mr. Speaker, this resolution allows us to, notwithstanding the law requiring enrollment bills on parchment, to enroll any bill or joint resolution in such form as the Committee on House Oversight of the House of Representatives certifies to be a true enrollment. That is the sum and substance of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. GEJDENSON. Mr. Speaker, we have no objections to this particular proposition. It is part of the housekeeping efforts to keep us going and trying to get things done.

But, frankly, we are about to leave town, in my opinion, without getting some of the most important things we need to get done. There are seniors losing their HMO benefits across my State and much of the Nation. We are not addressing that issue. We are not addressing the issues of class size and the quality of education our kids get. We left campaign finance reform hanging around, lingering a slow death.

Mr. Speaker, some people said this is the least effective Congress in the history of this Union. I am not interested in rating the Congress. I am interested in dealing with these issues. Our seniors deserve to have a Congress that is engaged, and we should not be leaving until we deal with a couple of these critical issues. They are life-and-death issues.

Senator DODD and I had a meeting where one gentleman had a heart attack. He was so anxious about his health care policy and the company dropping him.

Mr. Speaker, again, we have no objection to this particular provision, but we do have an objection to the way this Congress has been run and the little it has done to deal with the needs of the American people.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS. Mr. Speaker, I will restrain myself and tell the gentleman I have no further speakers if he wishes to yield back the balance of his time.

Mr. GEJDENSON. Mr. Speaker, I yield back the balance of my time.

Mr. THOMAS. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore. The gentleman from California (Mr. THOMAS) has 28 minutes remaining.

Mr. THOMAS. Mr. Speaker, I have 28 minutes, and they have yielded back the balance of their time.

The SPEAKER pro tempore. The gentleman is correct.

Mr. THOMAS. Mr. Speaker, let me indicate that I will yield back the balance of my time as well.

The SPEAKER pro tempore. All time for debate has expired.

The joint resolution is considered read for amendment.

Pursuant to House Resolution 580, the previous question is ordered.

The question is on engrossment and the third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ANNOUNCEMENT OF BILLS TO BE CONSIDERED UNDER SUSPENSION OF THE RULES ON TODAY

Mr. THOMAS. Pursuant to House Resolution 575, I announce the following suspensions to be considered today:

H.R. 2675, Federal Employees Life Insurance and S. 2561, Fair Credit Reporting.

□ 1530

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATOURETTE). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, shall be taken later in the day.

AUTHORIZING AWARD OF CONGRESSIONAL MEDAL OF HONOR TO THEODORE ROOSEVELT

Mr. BUYER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2263) to authorize and request the President to award the Congressional Medal of Honor posthumously to Theodore Roosevelt for his gallant and heroic actions in the attack on San Juan Heights, Cuba, during the Spanish-American War.

The Clerk read as follows:

H.R. 2263

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to award the congressional Medal of Honor posthumously to Theodore Roosevelt, of the State of New York, for his actions in the attack of San Juan Heights, Cuba, during the Spanish-American War on July 1, 1898. Such an award may be made without regard to the provisions of section 3744 of title 10, United States Code, and may be made in accordance with award criteria applicable at the time of the actions referred to in the first sentence.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana (Mr. BUYER) and the gentleman from Pennsylvania (Mr. MCHALE) each will control 20 minutes.

The Chair recognizes the gentleman from Indiana (Mr. BUYER).

Mr. BUYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on September 28 I chaired a Subcommittee on Military Personnel hearing that examined the evidence supporting the award of the Medal of Honor to Theodore Roosevelt for his valor on July 1, 1898, during the Battle of San Juan Hill in the Spanish-American War.

During the hearing we heard compelling testimony about the courage and decisiveness of Theodore Roosevelt from two of our colleagues who studied his actions that day in great detail, the gentleman from New York (Mr. LAZIO) and the gentleman from Pennsylvania (Mr. MCHALE).

We learned the details of the military battle that day and the political battle that followed from the historians, Dr. John A. Gable, the executive director of the Theodore Roosevelt Association, and Mr. Nathan Miller, the author of the biography "Theodore Roosevelt, A Life."

Mr. Speaker, finally, we also heard from Mr. Tweed Roosevelt, the great-grandson of Theodore Roosevelt. We heard about the man Theodore Roosevelt, a man of immense energy and intelligence and a family man, a man of unwavering moral fiber, a man of immense stature in the history of this Nation, and the great impact that he had upon his four sons. Then we stop and think about the fact that this is a family that lost four sons in a uniform, three in World War I and one in World War II.

Mr. Speaker, we are honored today to have Mr. Tweed Roosevelt in the gallery to witness this historic celebration of an important moment in the life of his great-grandfather. On behalf of myself and the Committee on National Security and the House of Representatives, I would like to thank Mr. Roosevelt for being here today to represent his family and to share this moment with us.

We can talk about the greatness of the man in Theodore Roosevelt, about his fidelity and his honor and his integrity, and we recognize that these are attributes for which there is no disagreement on this House floor with regard to this President. But what we must focus on is not about the life of the man and how he led it and his impact upon not only his family and the Nation, we have to focus on what happened, as was documented by evidence that occurred at the Battle of San Juan Hill in San Juan Heights. It is his heroic performance, the documented evidence that it did meet the established standard for the award of the medal at the time.

I would like to summarize the evidence of Theodore Roosevelt's heroism that I found instructive. The extraordinary nature of his bravery was confirmed by superiors, subordinates and other eyewitnesses. His willingness to expose himself to the most extreme hazards of the battle, as evidenced by a number of people killed or wounded around him, and his decision to lead the charge on horseback, the only mounted man in the attack, demonstrated an utter and complete disregard for his own life. Such qualities at least equaled the selfless service of those who were awarded the Medal of Honor for service that day, most for rescuing wounded comrades under fire.

His raw courage and fearless, bold and decisive action in leading these two charges when other commanders and officers around him hesitated to do so saved lives. Not only did his actions save lives on that day, but his conspicuous action and valor changed the course of the battle and clearly set him apart from his contemporaries.

His recommendation for the Medal of Honor came from two officers: Major General William Shafter and Colonel Leonard Wood, who were most qualified to judge whether the extraordinary bravery and nature of Roosevelt's actions qualified for the award of the medal since previously both had been awarded the medal themselves.

Mr. Speaker, I, as chairman of the Subcommittee on Personnel, get many different requests to somehow reshape or change the course of history, whether some unit is entitled to this form of citation, or someone should have been promoted that was unjustly, or even overturned courts-martial is correct, and I am always very hesitant to take my judgments of the day and replace them for the judgments of those who are were there at the time.

What is clear to me about this case, about Theodore Roosevelt and the Medal of Honor, was that it was the military that recommended that he receive the Medal of Honor. That is what got my attention the most. And it was my dear friend, the gentleman from Pennsylvania (Mr. MCHALE), who sat me down and made me focus, and he pointed something out to me that was very intriguing, and it was to focus upon the individual of whom recommended and the individual of whom endorsed the Medal of Honor.

When I think of Colonel Leonard Wood, there is a fort named after Colonel Leonard Wood in Missouri. His rank, he was the assistant surgeon of the United States Army and he received the Medal of Honor himself, and he did that because voluntarily he carried out dispatches through the region infested at the time with hostile Indians, making a journey of 70 miles in one night and walking 30 miles the next day; also, for several weeks while in close pursuit of Geronimo's band, and constantly expecting an encounter, commanded an attachment of infantry which was then without an officer and to the command which he was assigned upon his own request.

The individual that endorsed the Medal of Honor was Major General William Shafter, who is a recipient of the

Medal of Honor himself. At that time during the Civil War, he was a lieutenant. He was engaged in a bridge construction, and he was not being needed, and then he returned with his men to engage with the enemy, participated in a charge across an open field that resulted in casualties to 18 out of 22 of his men. At the close of the battle, with his horse shot out from underneath him, and he was severely wounded, he remained on the field that day and stayed to fight the next day, only to have his wounds finally take him aside.

So when I think about where in our history have we ever had two individuals who were recipients of the Medal of Honor themselves recommend someone else receive the Medal of Honor. These are two individuals who understand what it means to be awarded the medal, and that is where I give the most credibility.

Mr. Speaker, in the absence of records, and to substantiate why the decoration was disapproved at the time, I believe there is credible evidence that politics and not an honest assessment of his valor was the prime consideration for the evaluation of Theodore Roosevelt's recommendation for the Medal of Honor. There is no doubt in my mind that then Secretary of War Russell Alger and the McKinley administration were acutely embarrassed by press reports generated by Roosevelt's criticism of Alger's decision not to return the troops home after the war because the administration feared a yellow fever epidemic in this country. When the troops were returned home shortly after the exposure of the issue to the press, it was painfully clear that Secretary Alger resented Theodore Roosevelt's involvement.

Mr. Speaker, the evidence supporting the award of the Medal of Honor to Theodore Roosevelt is overwhelming.

Mr. Speaker, I reserve the balance of my time.

Mr. MCHALE. Mr. Speaker, I yield such time as he may consume to the gentleman from Mississippi (Mr. TAYLOR).

Mr. TAYLOR of Mississippi. Mr. Speaker, today we are considering H.R. 2263, a bill to authorize the President to award the Congressional Medal of Honor to Theodore Roosevelt for his historic charge during the Battle of San Juan Heights. I am pleased to join my colleague, who should have been Secretary of the Navy, the gentleman from Pennsylvania (Mr. MCHALE) in cosponsoring this legislation.

Teddy Roosevelt's charge up Kettle Hill at San Juan Heights is one of the most inspiring moments in our Nation's history. His bravery and gallantry demonstrates how one man's initiative can change the course of a battle. For his bravery he was nominated for the Congressional Medal of Honor. However, it was never bestowed by the Secretary of the Army.

Mr. Speaker, the Medal of Honor is the highest award our Nation can bestow, and, therefore, we should not confer this honor lightly. However, we must recognize the standards for awarding the medal at that time were not the same as the standards for awarding it now. We need the Department of Defense to examine this case on its merits in light of the others who won the Medal of Honor during that engagement.

The Subcommittee on Military Personnel recently held a hearing on the case for awarding the Medal of Honor, the award that Colonel Roosevelt valued so highly and that his superiors so clearly wanted to give him. While I was unable to attend this hearing because of the hurricane that was in south Mississippi last Monday, I understand that witnesses unanimously reaffirmed the case for awarding the medal. I hope this legislation will give the Department the chance to do the same.

Mr. Speaker, while I have the chance, I would like to take this opportunity to commend the bill's author, the gentleman from Pennsylvania (Mr. MCHALE). PAUL has not been a Member of Congress as long as some others, but he has served this body extremely well. He was asked by the President to serve as the Secretary of the Navy and declined, and was one of a very few people on this side of the aisle who felt that the best thing for our country, regardless of partisan politics, was to ask the same man who offered him the job of Secretary of the Navy to resign.

I think the gentleman from Pennsylvania (Mr. MCHALE) is the kind of people that we need more of in Congress. I regret his departure, and I am honored to have cosponsored this bill with him.

Mr. BUYER. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from New York (Mr. SOLOMON), the chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I thank the great American from Indiana, and I also want to commend another great American from Pennsylvania (Mr. MCHALE). I praise him for a different reason. He was a good marine, he is still a good marine, and that is why I salute him and admire him so much.

Mr. Speaker, I really am pleased to rise in strong support of this bill. Theodore Roosevelt is universally recognized as one of the most popular and significant public figures in American history, and we New Yorkers are particularly proud of him as the greatest Republican in the history of our State.

He was a man who devoted his life to fighting for what he called a "square deal," my colleagues remember that, for every American. His name is synonymous with the principles of fairness, justice, love of nature and the highest standards of morality and ethics, standards that he maintained both in public and private life.

So it is a proud moment for me to endorse his receiving the Medal of Honor. This bill will correct the miscarriage of justice which denied him the Medal of Honor during his own lifetime, despite the strong recommendations on his behalf by superior officers and others with whom he served in the Spanish-American War.

Mr. Speaker, not only have I had the privilege of representing the home of Franklin Delano Roosevelt in Hyde Park, New York, but I also represent the Adirondack Mountains where President Theodore Roosevelt spent much of his time. I would like to take just the rest of my time to tell a little-known story about the circumstances that surrounded Theodore Roosevelt's accession to the Presidency.

When President McKinley was shot in Buffalo, New York, then-Vice President Roosevelt rushed to the scene. Upon being assured by doctors that the President was out of danger, Roosevelt joined his family for a camping and hiking trip in the Adirondack Mountains up where I live, and, Mr. Speaker, on the afternoon of September 13, 1901, Roosevelt and several hiking companions were descending from Mount Marcy, one of the most beautiful mountains in the Adirondacks, when word came that the President's condition had taken an unexpected turn for the worse.

They then hiked 12 miles in 3 hours and 15 minutes through the woods to reach a lodge where Mrs. Roosevelt was staying and they could await developments. And at 10 p.m., word came the President was sinking rapidly.

Roosevelt set out from there in a single horse-drawn carriage on a breakneck ride through the night in a thickly-forested area to reach the railroad station at North Creek, New York. The horse and driver were changed twice en route, and Roosevelt covered 34 miles in a little over 6 hours. In the final relay, he covered 16 miles in just one hour and 41 minutes, and I challenge anybody to do that. Upon his arrival at North Creek just after dawn on September 4, 1901, Theodore Roosevelt was informed that he was the 26th President of the United States of America. It was exactly 43 days before his 43rd birthday. He then boarded the train for Buffalo and was formally sworn in later that day.

Today, in my congressional district, there is a plaque that marks the approximate spot where Roosevelt was in his mad dash through the night at the moment that McKinley died. It was at that moment in that spot that he became the President of the United States of America.

Mr. Speaker, let me just conclude by making one more point. Theodore Roosevelt's wartime exploits are well-known. Perhaps less well-known today is the fact that he was the very first American person to receive the Noble Peace Prize. He was awarded that singular honor in 1906 in recognition of his successful effort to negotiate settlement in the Russo-Japanese War. Roosevelt's role as a peacemaker provides a very interesting counterpart to his role as a soldier.

□ 1545

It is for that later role that we give him this due recognition today in awarding him that Medal of Honor. I just commend my good friend and former marine, the gentleman from Pennsylvania (Mr. PAUL MCHALE) for bringing this badly needed legislation to the floor, finally.

Mr. MCHALE. Mr. Speaker, I yield myself such time as I may consume.

Let me first of all thank the gentleman from New York (Mr. SOLOMON) for his very nice remarks. I would point out to the gentleman from New York that the carriage to which he made reference is today on display in the Adirondack Museum at Blue Mountain Lake. My family and I had the opportunity to view that carriage a few years ago.

Let me also thank the gentleman from Mississippi (Mr. TAYLOR) for the kind personal remarks that he directed toward me. In the interest of complete truth, I want to make it clear that I withdrew my name for consideration as Secretary of the Navy before the President had made any final decision, and before any offer had been made to me.

Moving on to what is truly important, the combat record of Theodore Roosevelt, I rise to recommend to the membership of the House that the Medal of Honor be granted to former President Theodore Roosevelt.

On July 1, 1898, Lt. Col. Theodore Roosevelt of the 1st Volunteer Cavalry led an extraordinary charge on San Juan Heights, located on the island of Cuba during the Spanish-American War. Eyewitness accounts indicate that Colonel Roosevelt distinguished himself by, and I quote, "displaying the greatest bravery, and placing his life in extreme jeopardy by unavoidable danger to severe fire."

I have had conversations in recent days with the Acting Secretary of the Army and the Secretary of the Army, where a position was presented to me that although Theodore Roosevelt had been brave on that day, they indicated it did not appear, based on the Army's analysis of the recommendation, that the courage shown by Theodore Roosevelt was extraordinary by comparison to other officers of similar rank and responsibility.

Mr. Speaker, I have been a Member of this Congress for 6 years. I have been a United States Marine for 26 years. I would like to state in the strongest possible personal terms that the valor displayed by Theodore Roosevelt that day, July 1, 1898, was absolutely extraordinary, breathtaking. If anything, history has not credited to Theodore Roosevelt the full measure of courage that he showed under fire.

I respectfully submit, for reasons that I find inexplicable, the Army has failed to appreciate his leadership at that time and place. I believe, however, the record of contemporaneous correspondence captures full well the point that I am making.

As I read these accounts of men with him during the battle, I ask Members to determine whether or not the courage that Theodore Roosevelt showed that day was extraordinary, and whether or not, in light of observations of those who were there, he did indeed earn the Medal of Honor.

July 6, 1898, just 5 days after the battle, to the Adjutant General, Washington, D.C.:

> Sir, I have the honor to recommend Colonel Theodore Roosevelt, 1st U.S. Voluntary Cavalry, for the Medal of Honor for distinguished gallantry in leading a charge on one of the entrenched hills to the east of the Spanish position in the suburbs of Santiago de Cuba July 1, 1898, very respectfully, Leonard Wood, Colonel U.S. 1st Volunteer.

First endorsement, 3 days later, July 9, 1898:

> Earnestly recommended, Joseph Wheeler, General, U.S. Volunteers, commanding, a gentleman who returned to active duty as a commanding officer from this very body where he was at that time serving as a member of the United States House of Representatives.

Second endorsement, July 9, 1898, Respectfully forwarded to the Adjutant General of the Army:

> Approved; William R. Shafter, U.S. Volunteers, commanding.

The recommendation, Mr. Speaker, then went to Secretary of War Alger. From that point forward, what was purely a military recommendation, based on extraordinary courage under fire, became mired in unrelated tangential and unfortunate politics.

Let me read the firsthand observations of those who witnessed Theodore Roosevelt's courage:

Headquarters, United States Military Academy, April 5, 1899.

> My duties on July 1st, 1898, brought me in constant observation of and contact with Colonel Roosevelt from early morning until shortly before the climax of the assault of the Cavalry Division on the San Juan Hill, the so-called Kettle Hill. During this time, while under the enemy's artillery fire from El Poso and while on the March from El Poso to San Juan fjord, to the point from which his regiment moved to the assault about 2 miles, the greater part under fire, Colonel Roosevelt was conspicuous above any others I observed in his regiment in zealous performance of duty, in total disregard of his personal danger, and in his eagerness to meet the enemy.
>
> At El Poso, when the enemy opened on that place with artillery fire, a shrapnel bullet grazed one of Colonel Roosevelt's wrists. The incident did not lessen his exposure under fire, but he continued so exposed until he had placed his command under cover.
>
> In moving to the assault of San Juan, Colonel Roosevelt was most conspicuously brave, gallant, and indifferent to his own safety. He, in the open, led his regiment. No officer could have set a more striking example to his men or displayed greater intrepedity.
>
> Very respectfully, your obedient servant, Colonel, U.S. Army, Superintendent of West Point.

The second piece of correspondence, December 17, 1898:

> I hereby certify that on July 1, 1898, Colonel, then Lieutenant Colonel, Theodore Roosevelt, 1st Volunteer Cavalry, distinguished himself throughout the action, and on two occasions during the battle when I was an eyewitness to his conduct, was most conspicuous and clearly distinguished above other men as follows:
>
> Number one, at the base of San Juan, or first hill there was a strong wire fence or entanglement in which the line hesitated under grueling fire and where the losses were severe.

Mr. Speaker, I would insert parenthetically that Roosevelt's unit that day sustained higher casualties than any other unit engaged in the battle.

Returning to the text:

> Colonel Roosevelt jumped through the fence, and by his enthusiasm, his example and courage, succeeded in leading to the crest of the hill a line sufficiently strong to capture it.
>
> In this charge, the cavalry division suffered its greatest loss, and the Colonel's life was placed in extreme jeopardy owing to the conspicuous position he took in leading the line and being the first to reach the crest of that hill while under heavy fire of the enemy at close range.
>
> Number two, at the extreme advance position occupied by our lines, Colonel Roosevelt found himself the senior, and under instructions from General Sumner to hold that position, he displayed the greatest bravery and placed his life in extreme jeopardy by unavoidable exposure to severe fire while adjusting and strengthening the line, placing the men in positions which afforded best protection; and his conduct and example steadied the men by severe but necessary measures to prevent a small detachment from stampeding to the require.
>
> He displayed the most conspicuous gallantry, courage, and coolness in performing extraordinarily hazardous duty. Captain, 1st Lieutenant, U.S. Cavalry.

December 30, 1898:

> I have the honor to recommend that Theodore Roosevelt, late Colonel of the 1st Volunteers, U.S. Cavalry, receive the Medal of Honor as a reward for conspicuous gallantry on July 1st, 1898. Colonel Roosevelt, by his example and fearlessness, inspired his men at both Kettle Hill and the ridge known as San Juan. He led his command in person, and I witnessed Colonel Roosevelt's action.
>
> I hereby certify that on July 1st, 1898, at the Battle of San Juan, Cuba, I witnessed Colonel Roosevelt, then Lt. Col. Roosevelt, First Volunteer Cavalry, United States Army Mounted, leading his regiment in the charge on San Juan. By his gallantry and strong personality, he contributed most materially to the success of the charge of the Cavalry Division up San Juan Hill.

Mr. Speaker, I have further eyewitness documentation, but in the interests of time, let me simply conclude by speaking extemporaneously.

Those who served with Theodore Roosevelt never doubted his courage. The men who went up the hill with him that day for the rest of his life and for the rest of their own, remembered a man of extraordinary courage who, in time of battle, displayed himself to enemy fire with absolute fearlessness.

There is absolutely no historic doubt that after being recommended by his commanding officer, as pointed out by the gentleman from Indiana (Mr. BUYER), himself a recipient of the Medal of Honor, and the two senior officers next in the chain of command, Theodore Roosevelt was denied the Congressional Medal of Honor because he was then publicly engaged in an unrelated political dispute with the Secretary of War, who never quite found time to sign the recommendation that had been fully endorsed by the military chain of command.

After Theodore Roosevelt died, his widow, Edith, said that having been recommended for the Congressional Medal of Honor and having not received it was one of the most significant disappointments of Roosevelt's' life.

Let me conclude with this, Mr. Speaker, if I may. I admire Theodore Roosevelt, the President, tremendously, but after 26 years as a United States Marine, I would not recommend any man, including Theodore Roosevelt, for the Congressional Medal of Honor unless I believed deep in my heart that he had, through the display of valor, earned that decoration in battle. Mr. Speaker, I am absolutely convinced that that was the case.

Because of political intervention, a man who later became President of the United States but who on that day was simply a very, very brave lieutenant colonel was denied the medal for which he had been properly recommended.

It has been 100 years. Mr. Speaker, we today, in the memory of a great President and perhaps an even greater warrior, we have the opportunity to reverse a century of injustice by granting to Theodore Roosevelt, not President Roosevelt but Lt. Col. Theodore Roosevelt, the medal that he earned in battle.

Mr. Speaker, I reserve the balance of my time.

Mr. BUYER. Mr. Speaker, I yield 4 minutes to the gentleman from Long Island, New York (Mr. LAZIO), who has worked very hard on this, along with the gentleman from Pennsylvania (Mr. MCHALE).

Mr. LAZIO of New York. Mr. Speaker, I want to begin by thanking the gentleman from Indiana (Mr. BUYER) for his leadership in bringing this to the floor. I also would like to acknowledge the great work of many different people who are not here in the Chamber, but who were instrumental in giving us the factual basis for this, including the Theodore Roosevelt Association, Tweed Roosevelt, James Roosevelt, and many others.

I rise in strong support of this bill to authorize the President to award the Medal of Honor to that great Long Islander, Theodore Roosevelt. Teddy Roosevelt was a man of honor, a man who held tightly to his ideals and stayed true to them in the face of adversity. The gentleman from Pennsylvania (Mr. PAUL MCHALE) too is such a man, and I cannot think of a more fitting tribute before he leaves this House than to pass this bill and to have it signed into law.

Theodore Roosevelt is a personal hero of mine. His leadership at the Santiago Heights is one of the reasons I admire him so. There were legions of men on the battlefield that day, and Teddy Roosevelt was just one, but unique among many, he seized the moment, cast aside all regard for personal safety, and he made history. He made history because of a choice he made in the face of danger, in the face of death. While we generally do not have to guard our lives because of the decisions we make here, we do have to guard our honor. I look to Theodore Roosevelt as an inspiration.

As has been remarked earlier, Roosevelt was a great President and a great statesman, a Nobel Peace Prize winner, an author, a conservationist, a reformer, a trustbuster, a great Commissioner of Police in New York City, a great Governor of the State of New York.

But for none of those reasons are we here today, as the gentleman from Pennsylvania (Mr. MCHALE) said. It is because of what he did on that fateful day on July 1, one hundred years ago.

We speak more and more about role models in our society. Roosevelt was a role model of the first order. He told the truth. He did what he promised to do. He was an acknowledged inspiration to another Roosevelt, Franklin Delano. He remains a role model for all Americans.

The same character that made Theodore Roosevelt a role model also made him a hero. America could use some of that character right now. Today we have the marvelous opportunity to correct an injustice and complete the historical record. We have an opportunity to help grant Theodore Roosevelt the Medal of Honor that he so richly deserved 100 years ago. He does not deserve it because of what we say now in this Chamber, but because the historians and his contemporaries tell us he does.

Roosevelt's heroism on July 1 of 1898 has been documented. With his cavalry pinned down and taking heavy casualties, he fearlessly, on horseback, charged Kettle Hill, armed only with a revolver, knowing that his men would follow. The Rough Riders' heroic assault, with the brave Buffalo Soldiers and others, assured a quick victory, seized the high ground, and saved many lives.

Despite being recommended for the Medal of Honor by his superiors and subordinates alike, including those that have been referenced who have won the Medal of Honor themselves, the Secretary of War, Russell Alger, denied the medal out of personal dislike for Roosevelt.

Many others disagreed about this, but it was clear the medal was not denied on the merits; some say it was because Roosevelt called to have his troops brought back so they would not face further losses as a result of yellow fever, some because they felt Roosevelt was so exuberant, some because Roosevelt was simply a volunteer. But it was not based on the merit.

The Medal of Honor citation for Lt. Col. Wendell Neville during the Mexican Campaign of 1915 could easily be inserted in a citation for Theodore Roosevelt. It reads as follows:

> His duties required him to be at points of great danger in directing his officers and men, and he exhibited conspicuous courage, coolness, and skill in his conduct of the fighting. Upon his courage and skill depended, in great measure, success or failure. His responsibilities were great and he met them in a manner worthy of commendation.

In the modern age, individual cases of heroism occur, but the weapons of today open opportunities for unprecedented individual achievements in combat.

In the formal application I have submitted to the Army I cite the action of a Platoon Sergeant McLeery during the Vietnam War. McLeery singlehandedly assaulted a hilltop Vietnamese bunker complex, firing his machine gun from the hip and tossing grenades at the enemy. Upon reaching the top of the hill, McLeery shouted encouragement to his platoon, who then joined him in the assault. McLeery then began a lateral assault on the bunker line.

□ 1600

His modern weapons made possible the damage; however, his success was due to his leadership and his courage. The Medal of Honor is not made of machine guns, grenades, or killed enemies, but of uncommon valor, of courage, and of leadership. Strip away the weaponry, and Roosevelt's leadership and courage at Santiago is of the same caliber.

A hundred years ago an error was made. It is time to right this wrong. It is time to give Theodore Roosevelt the medal he earned in the closing years of the last century. It is time for justice.

Mr. BUYER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California (Mr. COX) the chairman of the policy committee.

Mr. COX of California. Mr. Speaker, I rise in support of this resolution to recognize Theodore Roosevelt with the Medal of Honor, and in support of the two veterans of the armed services, the gentleman from Indiana (Mr. BUYER) and the gentleman from Pennsylvania (Mr. MCHALE) who have dignified us with this effort to bring it to the floor.

Mr. Speaker, I want in particular to recognize one of those two sponsors, because he is going to be leaving us at the end of this Congress which is close upon us. I listened the gentleman from Pennsylvania read about Teddy Roosevelt and describe to us the qualities that he possessed and the very reasons that he should receive this honor.

Mr. Speaker, during the gentleman's tenure in Congress, he has been exposed to severe fire, metaphorically, but nonetheless truly. He has led his colleagues and his countrymen by his conduct and his example.

I came to work with the gentleman from Pennsylvania when the President was preparing to send troops to Bosnia, and I know the gentleman from Indiana (Mr. BUYER) did as well. In meetings with him, with the President, the Vice President, the Secretary of State, and other Members of the administration, the gentleman from Pennsylvania was always enormously well prepared, always articulate, and always made his points with compelling logic.

His patriotism has always been evident. Upon his retirement, we can do no less than to honor him by passing this bill and by recognizing that the extraordinary qualities that Teddy Roosevelt displayed are qualities that the gentleman also possesses.

Mr. MCHALE. Mr. Speaker, I thank the gentleman from California for his kind words.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from California (Mr. ROHRABACHER), a dangerous proposition in this case.

Mr. ROHRABACHER. Mr. Speaker, I find myself on this side of the aisle in order to honor the gentleman from Pennsylvania (Mr. PAUL MCHALE) and thank him very much. I would like to associate myself with the remarks of the gentleman from California (Mr. COX). I think that he summed up the admiration that all of us have for the gentleman from Pennsylvania and an admiration that will go with him in the years ahead.

Mr. Speaker, it was 100 years ago this year that Teddy Roosevelt led his Rough Riders in the Battle of San Juan Hill, which was a decisive battle of the Spanish-American War. History has long overlooked the significance of that battle and the significance of that war, as well as the heroism of Colonel Teddy Roosevelt.

Had the battle of San Juan Hill been lost, America's expeditionary force would likely have been stuck into a no-win conflict, mired down with thinning ranks, troops being thinned, yes, from disease and from lack of competence on the part of our own country in terms of the art of fighting a war.

In fact, at that time we did not know how to transport our troops. We did not know how to supply our troops. And many more of those people who volunteered, those young heroes who volunteered during the Spanish-American War died of eating tainted meat than they did from enemy bullets, because our country did not have the expertise. And if it had not been for the determination and the courage and the gallantry of men like Theodore Roosevelt, that war would have turned out differently.

We need to ask ourselves as Americans, as we look back on this long forgotten war in the last century, what would the America that we know have been like had we lost that war? Most certainly had we lost that small war, America's attitude towards involvement in the world would have been totally different. The American "can do" consciousness that was so much a part of the 20th century would not have been a part of the decision-making process of our leaders and of our people when the great threats to all mankind emerged in the 20th century. That of Naziism, Fascism, Japanese militarism, and communism.

Instead, America faced the 20th century with a positive sense of destiny; that we were meant to be a positive force in the world. This can be tied back to the success of that small war, that forgotten war, the Spanish-American War and Teddy Roosevelt's pivotal moment in American history.

Teddy Roosevelt, in leading his troops up San Juan Hill, showed as much gallantry, and we have heard the evidence today, as our Medal of Honor winners. He exposed himself to the withering fire of the enemy and literally led his troops on horseback and making a target out of himself.

Yes, Teddy Roosevelt deserved the Nation's highest award and politics, as we heard, got in the way. Let us today pay this long overdue honor to this American President and this American hero.

Mr. Speaker, I would like to thank the gentleman from Indiana (Mr. BUYER), and also like to say thanks to my good friend and colleague the gentleman from Pennsylvania (Mr. MCHALE) who is going to be leaving this House, but he will be with us. Thanks to his efforts, we are expressing the appreciation in this long overdue tribute.

Teddy Roosevelt's courage and leadership in this battle, and his indomitable spirit, did much to shape the American character. We are giving him thanks today. It has also been stated by another friend who is also leaving, the gentleman from New York (Mr. SOLOMON) that Teddy Roosevelt was also the winner of the Nobel Prize. And if we succeed today, and I hope we do and I hope this goes through the legislative process, Teddy Roosevelt will be the only individual in history to have earned both the Medal of Honor and the Nobel Peace Prize. I think that is a fitting tribute for a man who represented so much and did so much to shape the 20th century, the American century.

Mr. Speaker, I rise in support of this resolution.

Mr. BUYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as I reviewed this case, a list of words come to mind. I want to share them. They are words that come to mind with regard to Teddy Roosevelt and his gallantry. They are virtues and ideals and values that we can all admire. I think about valor, bravery, gallantry, courage. He was audacious. He was bold. He was dauntless, fearless, gutsy. He had intrepid character. He was valiant, stalwart, steadfast. Yes, venturesome and daring.

And then I add three more: Boldhearted, brave-hearted and lionhearted.

Those words, yes, apply to Teddy Roosevelt and his conspicuous valor and gallantry on that day, and that is why I believe this House should overwhelmingly pass this resolution to authorize the President of the United States to award the Medal of Honor to one of our great presidents, Theodore Roosevelt.

Let me conclude and say to my very dear friend, as you go home to your family, this Congress will miss you, the country will miss you, but more importantly, I am going to miss you, my friend.

When I think about bold-hearted and brave-hearted and lion-hearted, I think of PAUL MCHALE, because your heart is in the right place, my friend. Godspeed to you, and that phone is two-way. Do you hear me?

Mr. MCHALE. I do.

Mr. BUYER. Mr. Speaker, I yield back the balance of my time.

Mr. MCHALE. Mr. Speaker, I yield myself such time as I may consume for concluding remarks.

Mr. Speaker, is it too late to announce my reelection campaign? Had all these nice things been said about me a year ago I might have run again.

Mr. Speaker, Mr. Roosevelt, Tweed Roosevelt, I am delighted and honored that you are here with us today. Throughout the entire presidency of Theodore Roosevelt our forces were never ordered into battle. Theodore Roosevelt understood that the ultimate purpose of military power is to deter conflict and he, in fact, achieved that goal during his presidency.

I have had the opportunity on a number of occasions to go to the Roosevelt Room at the White House, where the Nobel Prize awarded to Theodore Roosevelt for his efforts in negotiating a peace in the Russo-Japanese War remains on display.

I can think of nothing more fitting for Theodore Roosevelt and in fact I can think of nothing more emblematic of our Nation than one day, following this action, to have the Congressional Medal of Honor on that mantle for display immediately adjacent to the Nobel Peace Prize.

We are a nation that reveres peace. We do all that we can to achieve peace, and we are prepared to go to war only in those cases when necessary to defend the fundamental interests and liberty of the citizens of our Nation.

We abhor war. We strive for peace. Those two medals, side-by-side, on display in the Roosevelt Room, would capture much of Theodore Roosevelt and all that is good in our Nation.

Mr. Speaker, in a couple of moments, when it is procedurally proper, I am going to call for a recorded vote. We have little time remaining in this Congress. It is imperative that the other body act within the next 24 to 48 hours. In order to impress upon the other body the sincere, overwhelming support of the membership of this House, I will call for a recorded vote so that the transmittal of that voting tally may, on the other side of the Capitol, provide an incentive for prompt consideration in the other body.

Mr. Speaker, I yield back the balance of my time.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATOURETTE). Before putting the question, the Chair would remind all Members that pursuant to clause 8 of rule XIV it is not in order to recognize or call to the attention of the House any occupant in the gallery.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana (Mr. BUYER) that the House suspend the rules and pass the bill, H.R. 2263.

The question was taken.

Mr. BUYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

FURTHER PROVIDING FOR CONSIDERATION OF H.R. 4274, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 105–798) on the resolution (H. Res. 584) further providing for consideration of the bill (H.R. 4274) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1999, and for other purposes, which was referred to the House Calendar and ordered printed.

Mr. DREIER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 584 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 584

Resolved, That during consideration of the bill (H.R. 4274) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1999, and for other purposes, in the Committee of the Whole House on the state of the Union pursuant to House Resolution 564—

(1) general debate shall not exceed one hour; and

(2) amendments numbered 2 and 3 in House Report 105–762 shall be in order before consideration of any other amendment.

The SPEAKER pro tempore. The gentleman from California (Mr. DREIER) is recognized for one hour.

Mr. DREIER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to my friend from Fairport, the gentlewoman from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded will be for purposes of debate only.

Mr. Speaker, this rule provides for further consideration of the bill H.R. 4274, the Departments of Labor, Health and Human Services and Education appropriations bill for 1999, pursuant to H. Res. 564.

The bill will afford 60 minutes of general debate divided equally between the chairman and the ranking minority member of the Committee on Appropriations.

This rule makes in order, before consideration of any other amendments, the amendments numbered 2 and 3 that were printed in the report of the Committee on Rules that accompanied H. Res. 564.

Mr. Speaker, the House last week passed a rule to provide for consideration of this appropriations bill, the single largest appropriations bill that comes before the Congress. The health care, medical research, education and job training programs provided for in the bill touch the lives of tens of millions of American families. For that reason alone, the bill deserves consideration on the floor of the People's House.

Mr. Speaker, we all know that this bill is immersed in highly charged social issues and is very controversial. Some may be uncomfortable with those debates but they are a fact of life when Federal Government programs impose on areas of daily life which for so long were outside the purview of Washington, D.C.

When that happens, deep and often emotional questions about values will be raised. We can expect nothing less. I applaud the work of my friend from Wilmette, the gentleman from Illinois (Mr. PORTER), for tackling the challenges put before his committee in as commendable a fashion as possible. His bill deserves a fair hearing on the House floor.

□ 1615

This rule, that was already approved by the House, along with this modification, will allow us to engage in what will certainly be a spirited debate that is worth having. I urge Members on both sides of the aisle to recognize that fact and support this rule.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I thank my colleague, the gentleman from California (Mr. DREIER), for yielding me the customary half-hour, and I yield myself such time as I may consume.

Mr. Speaker, this rule is unprecedented. The House has already passed an open rule for the consideration of the Labor-HHS and Education bills. The second rule we are being asked to approve tonight is a rule that will block any real consideration of that bill.

Instead, this rule's extraordinary procedure is designed to give a single special interest group a vote that it wishes to use in a voter scorecard before the election. Once we take that vote, the appropriations bill will be pulled from the floor.

Subverting the House's legislative process for this cynical political ploy typifies the majority's actions this entire session. The do-nothing majority continues to put its own special interest politics before the public good. We have seen bill after bill manipulated for partisan purposes, forcing Members to take votes for purely partisan political reasons. We knew these bills would never be enacted into law, but each provided a sound bite for some special agenda.

In the meantime, this majority has failed in its most basic responsibility. For the first time since the Congressional Budget Act was passed 24 years ago, Congress has not passed a budget resolution. The law requires action on a concurrent budget resolution by April 15. That is many months ago. Six months later, the majority has still failed to pass a resolution.

Today, 8 days into the new fiscal year, only one of the thirteen appropriations bills has been signed into law, and only three other appropriations bills have even been sent to the President. On October 8, with nine appropriations bills still in the legislative process, and with only 2 remaining scheduled legislative days, the House is being asked to again ignore its statutory responsibilities.

Today, we are not taking up the Labor-HHS-Education bill in order to move the process to a conclusion. A rump "conference committee" has been working on this bill for several days and this version is no longer the basis for further action. This new rule is designed solely to force a House vote on two contentious legislative amendments that amend a portion of the bill containing legislative language that does not even belong in the bill.

The rule would enable the House to proceed directly to a vote on a controversial provision in the second title of the bill, directly leaping over the Labor Department provisions and ignoring a number of important issues and amendments that deserve a full and fair debate in this chamber. Instead, the House would debate immediately an amendment offered by the gentleman from Pennsylvania (Mr. GREENWOOD) and a substitute to be offered by the gentleman from Oklahoma (Mr. ISTOOK) regarding parental consent for title X contraceptives distributed to minors.

Now, why is it so vital the House single out those two particular controversial amendments? There is only one reason. The majority has promised its far-right allies this vote to provide campaign fodder for the November election.

This is hardly a new issue. The House has voted on parental consent issues many times, most recently on last year's Labor-HHS-Education appropriations bill. Our positions are all clear on this matter. Yet the majority is kowtowing once again to another element, handing them a politically attractive vote a mere 25 days before the election.

Mr. Speaker, I have been proud to support Labor-HHS appropriations bills in the past, and I have enormous respect for its chairman, the gentleman from Illinois (Mr. PORTER), who is one of the finest persons I have served with in the House of Representatives. Nevertheless, this rule will not provide for real consideration of this most important bill.

This rule represents the most egregious example yet of the majority using its powers for partisan gain. I urge my colleagues to reject this ruse. This institution should be better than this procedural farce. With the Nation's business to do, we should not be pandering to a single interest group. Please vote against this rule.

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume to simply respond to the words of my friend from Fairport, and what I would say is that we have already considered this rule. We had a vote that took place on the rule. This is simply making what is really a minor modification to ensure that amendments numbered 2 and 3 are going to be considered under the constraints that were included in the rule that did pass the House.

There are many Members who have indicated that they want to have a full and fair debate on those issues, which I admit are controversial. Frankly, we have the responsibility of dealing with tough public policy questions, and they are among them.

And so with that, I would say that we can continue to hear charges of the do-nothing Congress and all of this sort of stuff that was used back in 1948; we can hear all sorts of name-calling, which we heard earlier during the debate, but I would just underscore again that this rule passed the House earlier this week. We have considered this issue. We have a couple of amendments that many of our Members want to have brought to the forefront, and I think that those Members have a right to be heard.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts (Mr. MOAKLEY).

Mr. MOAKLEY. Mr. Speaker, I thank my dear colleague and friend, the gentlewoman from New York (Ms. SLAUGHTER).

Mr. Speaker, today I am standing here on behalf of the thousands upon thousands of Americans who rely on the LIHEAP program to help heat their homes in the winter and cool them in the summer. As we celebrate an end to the budget deficit for the first time in years, these people are still wondering how they will keep their children warm this winter, and that, Mr. Speaker, is just plain wrong.

It is wrong to force people to choose between putting food on the table and heating their homes when the temperature outside is below zero. And it is not only limited to the cold climate, Mr. Speaker. During the heat wave that swept through the south this summer, over $100 million in LIHEAP funds were released to help the most vulnerable people suffering from those high temperatures.

Given how important this program is, given that it saves so many lives, and given the benefits that stretch from Maine to Mississippi, I am very disappointed that the Committee on Appropriations has decided to eliminate this program entirely.

Mr. Speaker, the people who this program helps are not the well-off people. Two-thirds of the people that this program is aimed at make less than $8,000 a year. And during periods of extreme cold or extreme heat they have to choose between paying their utility bills and paying their grocery bills.

Let me give my colleagues an example. I have here a letter from a retired veteran who lives in South Boston. He is a veteran of the Korean War. And he explained in this letter that he gets by on about $100 a week. I would just like to read part of this letter. It says:

> Joe, why would anyone want to cut this heating program? It really helps us veterans in the winter. Sometimes you can't afford to heat your room and eat at the same time. What's the matter with the politicians when they want to destroy us veterans and the elderly?

Mr. Speaker, to tell the truth, I do not know how to answer this letter, and I suspect many of my colleagues feel the same way when they get similar letters.

Mr. Speaker, because the LIHEAP program has always received bipartisan support, my Republican colleague, the gentleman from New York (Mr. JACK QUINN), and I have sent a letter to the chairman of the Committee on Appropriations asking for full funding of LIHEAP. This letter was signed by over 200 Members of the House, Democrats and Republicans alike, in a true bipartisan movement. And until this appropriations bill contains funding for the LIHEAP program, I urge those 200 Members to join me in opposing this rule.

With the budget finally in the black, with prosperity affecting millions upon millions of Americans, now is not the time to forget about the elderly. Now is not the time to forget about the poor.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume. I have the highest regard for my friend from South Boston, and I would say to him, as we consider debate on this rule, which again is simply a modification of the rule that already passed the House, I think it is important to note that the LIHEAP program is something that I understand has actually had an increase in funding in the manager's amendment; and the next thing would be in order under this rule, following consideration of amendments numbered 2 and 3, would, in fact, be the manager's amendment, which would include that increase.

I do not want to get into a big debate on the LIHEAP program itself, but I will say that if we look at the program that was put into place in the mid 1970s, at the height of the energy crisis, it was done so, in large part, to deal with that very serious need that was out there. Today, taking inflation into consideration, it is very clear that the cost of energy is substantially lower than it was even in those days in the 1970s. And the LIHEAP program was established, in large part, to provide reimbursement to the States, many of which had very, very serious deficit problems themselves at that point, and now most States are, in fact, running a surplus.

So I would say that I think my friend raises some very interesting questions about the LIHEAP program, and I would argue that those could, in fact, be considered following the consideration of this rule when they move ahead with the Labor-HHS appropriations bill. And, again, the manager's amendment would, in fact, be the next thing in order.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. MOAKLEY).

Mr. MOAKLEY. Mr. Speaker, is the gentleman saying that this matter is dealt with in the manager's amendment in this rule?

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I would say to the gentleman that it is my understanding that the manager's amendment, that would be next to be considered after passage of this rule, after we consider the amendments numbered 2 and 3, the manager's amendment would be in order. And it is my understanding there is, in fact, an increase in funding for the LIHEAP funding. Am I wrong?

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from Wisconsin.

Mr. OBEY. Let me say, Mr. Speaker, there is not an increase in the LIHEAP program in the manager's amendment. There is an increase from zero. But the program level last year was over a billion dollars. So it is an 85 percent reduction. Thanks for small favors.

Mr. DREIER. Mr. Speaker, If the gentleman will continue to yield. I was correct, then, an increase from zero. There is, in fact, an increase in that.

Mr. MOAKLEY. Reclaiming my time, Mr. Speaker, I would just tell the gentleman that that increase still represents about a half a billion dollar decrease.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, I rise in opposition to this astonishing rule. The Labor-HHS bill has often been described by both Democrats and Republicans as the people's bill. It reflects our priorities as a Nation, the health, the education and employment of our children and our families.

What, then, does this rule reveal as Republican priorities? Will we debate full funding for the Low Income Home Energy Assistance Program, which helps poor seniors and families with children heat their homes without sacrificing prescriptions or food? No, we are not going to do that.

Will we debate the elimination of the summer jobs program, which provides summer employment for nearly half a million teens who would otherwise be employed in this country? No, we are not going to do that.

Will we debate the $2 billion shortfall in education funding in this bill? The need for modern schools, so that our children can learn the skills that they need to get the good jobs of the 21st century? The need to reduce class size, train more teachers, ensure that every child gets the attention and the discipline that he or she needs in order to be able to learn? No, we are not going to do that.

Will we debate funding for child care, to ensure that children have safe places to learn while their parents are at work? Will we debate after-school care, to keep kids off our streets and out of trouble in the hours after school ends and before mom and dad get home? No, we are not going to debate that.

What, then, will we debate? What is the Republican right wing's highest priority? Legislation requiring parental consent for birth control, which will violate State laws, frighten teens away from receiving the counseling and screening for sexually transmitted diseases that they need to stay healthy, and increase teenage pregnancy and abortions.

Certainly, this is an important issue. I believe teens should talk to their parents before making these decisions. But it is not more important than all of the priorities represented in this bill.

□ 1630

I urge my colleagues to vote against this rule.

Mr. DREIER. Mr. Speaker, yielding myself such time as I may consume, I would just again tell my colleagues that this is fascinating to continue the debate that we had earlier on a virtually identical rule. We look forward to addressing all of these questions, if we can proceed. I would reserve the balance of my time in hopes that we could move ahead, have a vote on the rule and then move ahead with the work on the appropriations bill so that LIHEAP and everything else can be debated.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise to speak against this rule. Members heard the arguments on LIHEAP and they have heard the arguments on the elimination of summer jobs. But I also want to point out one other area, and that is the President's education initiatives that have been eliminated by $2 billion. We sit here and talk about tax breaks and we have passed a bill to remove the cap to increase persons coming in, immigrants, for jobs because we do not have them prepared, but yet we are gutting the part of this budget that would prepare our young people for the future. We have gutted Goals 2000 which brings our parents much more involved into the education planning for our students. The technology literacy challenge fund has been eliminated, the Eisenhower professional development grants being eliminated, title I grants and safe and drug-free schools.

We have heard arguments all year long about the increase of drug usage of our students. Yet we are eliminating those dollars that can help eliminate the drug use to educate and treat young people who have gotten involved in drugs.

I do not understand the logic of why we are making tax breaks and immigration more of a priority than preparing our own young people for the future. It does not make sense. I ask my colleagues to vote against this rule.

Ms. SLAUGHTER. Mr. Speaker, I yield 6½ minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, I would like to ask a simple question. What in God's name are we doing bringing up this bill at this point? The authority for the government to remain open expires in 1 day. We still have seven major appropriation bills, funding more than half the government, that have still not been acted upon. And if they are not, a whole lot of government will not be operating two days from now. Yet we are about to debate a bill which is going nowhere.

Now, we have been trying to get together to resolve the remaining differences on the seven major appropriation bills that have still to be disposed of so that we can finish our work, keep the government open and go home. We have some rather major problems. If anybody has noticed what has been happening today and yesterday with the stock market and NASDAQ, you have a huge collapse on your hands. And it is probably going to get a lot worse. We are trying to figure out how to reach agreement on things as controversial as the IMF. We have been trying to get to a meeting since 10 o'clock this morning between the principal conferees on the labor-health-education budget, and we have a wide variety of other disputes that are preventing us from finishing our work.

I would point out that while the press seems to be under the impression that there are only five or six items that still are in dispute, we have over 300 open issues that are still highly controversial that must be resolved before tomorrow night. Yet we are being asked now to begin debate on a bill which we know is going nowhere.

This bill is so extreme that the Republican majority in the Senate has shoved it aside and produced an entirely different bill. We have yet to finish action on the Labor-Health bill, the Transportation bill, the State-Justice-Commerce bill, the Foreign Operations bill, the District of Columbia bill, the Ag bill is being vetoed so we have to deal with that one again. We have the Interior bill that still is not passed. Yet what is happening? This Congress is being tied up on bill after bill on one issue, sex. On the Treasury-Post Office bill, that bill has been hung up and still remains at issue because of resistance to insurance coverage on contraception on the part of some members of the majority party. The Agriculture bill was held up for many weeks because of a strong feeling on the part of some members of the majority party that the FDA ought to impose a ban on another birth control device. The State-Justice-Commerce bill is being held up on an issue relating to abortions in prison. The Foreign Operations bill, which is our basic foreign policy document in the appropriations area, is being held up because you have a small group of persons in the majority party who insist that if they do not get their way on the international family planning issue, the entire bill will be held hostage. And now we are asked to bring this bill up and debate the issue of family planning services once again. That issue is being brought up not to resolve anything on the House floor but to resolve a difference within the Republican Caucus between a group that calls themselves moderates and a group that calls themselves conservatives.

I just want to say, sometime, sometime it would be nice if this Congress stops being bogged down on this issue, if we could quit debating bills that are not going anywhere so that we can get in the rooms and work out the differences on bills that are going somewhere and must go somewhere so that we can finish our work on time. This debate does nothing but satisfy political problems within the majority party caucus on a bill that is going nowhere.

MOTION TO ADJOURN

Mr. OBEY. I think that is a terribly destructive waste of time, and that is why, Mr. Speaker, I move that the House do now adjourn.

The SPEAKER pro tempore (Mr. LATOURETTE). Does the gentleman yield back the time to the gentlewoman from New York before making his motion?

Mr. OBEY. Yes, Mr. Speaker.

The SPEAKER pro tempore (Mr. LATOURETTE). The question is on the motion to adjourn offered by the gentleman from Wisconsin (Mr. OBEY).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. OBEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 58, nays 349, not voting 27, as follows:

[Roll No. 499]

YEAS—58

Ackerman
Allen
Andrews
Becerra
Brown (CA)
Clayton
Conyers
DeFazio
Delahunt
DeLauro
Dicks
Evans
Farr
Fazio
Filner
Frank (MA)
Furse
Gephardt
Hall (OH)
Hastings (FL)
Hefner
Hinchey
Jackson-Lee (TX)
Johnson (WI)
Johnson, E. B.
Kilpatrick
LaFalce
Lee
Lewis (GA)
Lowey
Maloney (NY)
Manton
Martinez
Matsui
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Miller (CA)
Mink
Moakley
Obey
Olver
Owens
Pastor
Pelosi
Rodriguez
Sabo
Scott
Slaughter
Spratt
Stark
Strickland
Towns
Waters
Woolsey
Yates

NAYS—349

Aderholt
Archer
Armey
Bachus
Baker
Baldacci
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Clay
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeGette
DeLay
Deutsch
Diaz-Balart
Dickey
Dingell
Dixon
Doggett
Dooley
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Everett
Ewing
Fattah
Foley
Forbes
Ford
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Gutierrez
Gutknecht
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hunter
Hyde
Inglis
Istook
Jackson (IL)
Jefferson
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kildee
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lucas
Luther
Maloney (CT)
Manzullo
Markey
Mascara
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Minge
Mollohan
Moran (KS)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Northup
Norwood
Nussle
Oberstar
Ortiz
Packard
Pallone
Pappas
Parker
Pascrell
Paul
Paxon
Payne
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Salmon
Sánchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Stabenow
Stearns
Stenholm
Stokes
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
Wicker
Wilson
Wolf
Wynn
Young (AK)
Young (FL)

NOT VOTING—27

Abercrombie
Baesler
Barr
Buyer
Christensen
Cunningham
Doyle
Ensign
Fawell
Fossella
Greenwood
Harman
Hulshof
Hutchinson
Kennedy (RI)
Kennelly
Moran (VA)
Ney
Oxley
Pickering
Poshard
Pryce (OH)
Ryun
Wamp
White
Whitfield
Wise

☐ 1659

Messrs. STUMP, ETHERIDGE and KENNEDY of Massachusetts changed their vote from "yea" to "nay."

Mr. YATES and Mr. CONYERS changed their vote from "nay" to "yea."

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. ABERCROMBIE. Mr. Speaker, earlier this afternoon, when the House voted on a motion to adjourn, I was unavoidably detained. I was conducting a satellite teleconference with the Deputy Assistant Secretary of the Treasury to constituents in Honolulu discussing the financial crisis in East Asia and the International Monetary Fund. Had I been present, I would have voted no.

FURTHER PROVIDING FOR CONSIDERATION OF H.R. 4274, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The SPEAKER pro tempore (Mr. LATOURETTE). The Chair would advise that the gentleman from California (Mr. DREIER) has 24½ minutes remaining, and the gentlewoman from New

York (Ms. SLAUGHTER) has 12 minutes remaining in the debate on the rule.

Mr. DREIER. Mr. Speaker, moving right along in an expeditious manner, as we have been trying to throughout the day on most of the questions we have faced here, I yield 4 minutes to the distinguished gentleman from Oklahoma City, Oklahoma (Mr. ISTOOK), a member on the Committee on Appropriations.

Mr. ISTOOK. Mr. Speaker, I rise in support of the rule regarding the appropriations measure on Labor, Health and Human Services, and Education.

There has been a lot of work, of course, that has gone with this bill, as there always is, this being one of the largest spending bills each year that comes before the House.

I especially want to compliment the chairman of the Subcommittee of Labor, Health and Human Services, and Education, the gentleman from Illinois (Mr. PORTER). This is always a very difficult bill, bringing together, as it does, so many different issues, so much major funding. The gentleman from Illinois (Mr. PORTER) has gone to great pains to work with a large number of Members who had concerns over this measure.

I know the gentleman is personally very pleased with the additional funding for medical research through the National Institute of Health, which are in this bill, the efforts to increase the efficiency of the money that actually reaches the classroom through Federal funding for education, whether it be through different block grants and things such as impact aid. I know the gentleman from Illinois (Mr. PORTER) has been very diligent in that.

Mr. Speaker, there is one particular portion of the bill, however, that I want to make sure that I mention. A part of this bill each year involves Federal family planning funds under title 10 as it is called. In the Federal Family Planning Program of title 10, within the bill, is a measure which was adopted in the Committee on Appropriations in consultation, of course, with the authorizing committee involved to make a major reform in that particular program.

Mr. Speaker, 1½ million teenagers each year receive services under the title 10 Family Planning Program. Some of it is treatment for sexually transmitted diseases. Some of it is providing contraceptives and counseling to young people.

Since this program has been in place since 1971, however, which provides a mechanism for Federal dollars to provide contraceptives to teenagers with neither the knowledge nor consent of their parents, since that time, Mr. Speaker, the out-of-wedlock pregnancy rate among teenagers in America has doubled.

We hear a lot of talk about family involvement in major issues of our times, and certainly the rate of teenage pregnancy is one of those.

The measure adopted by the Committee on Appropriations has been desired by a great many American families for a great number of years. It says, in most simple terms, that an unemancipated minor, a teenager who is still dependent upon their parents, should not be provided contraceptives at Federal taxpayers' expense unless their parents are notified.

This does not apply to any particular other types of services. This does not, for example, say that parents have to be notified if it is some sort of emergency medical care. But if taxpayers' money is to be used to pay for future sexual activity by a teenager, this simply says that the parent ought to be notified.

As the parent of teenagers myself, Mr. Speaker, I know that they cannot receive pierced ears without parents being notified. They cannot go on field trips or get aspirins at school without parents being notified.

Yet Federal taxpayers' dollars are used to provide contraceptives to teenagers and the parents are never told. If my child were picked up for using drugs or using alcohol, I would expect to be notified.

The real tragedy is that there is not even notification for children who are below the age of consent. We have laws on the books in this State on statutory rape, contributing to the delinquency of a minor, taking indecent liberties with a minor, and so forth, and the title 10 clinics ignore those laws. They neither report violations of them to the parents nor to law enforcement authorities.

This bill has reforms in it that says they will provide notification in both of those instances. It is a very important measure to try to get parents involved in monitoring and helping with the life and the problems and the circumstances of their youth.

This measure needs to be preserved in this bill. We will have debate on measures to take it out. It is important that we keep it in.

Mr. Speaker, I urge adoption of the rule.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. KENNEDY).

Mr. KENNEDY of Massachusetts. Mr. Speaker, I rise in strong opposition to this rule, and I do so because I recognize that, while there is a political purpose being served by the use of the marshal law tactic to go in and select out one particular provision of the Labor-HHS bill and to use this chamber to then debate just that particular provision for the next few hours, what we are doing, and for political purposes because the Republicans feel they can win on that issue, but what they do not talk about are the other provisions that are hidden in this bill, provisions like eliminating the Federal Fuel Assistance Program, eliminating the program to provide summer youth jobs to hundreds of thousands of children all across our country who in the middle of summer need to go to work.

What we are not seeing is a debate about whether or not we believe as a Congress, whether the Republicans agree in the Congress, that what we ought to do is go out and cut the Federal Fuel Assistance Program, cut a program that millions of Americans count on and will count on this winter to make sure that they stay warm.

We are in a situation where we read in the newspaper about how well America is doing and how much money the wealthy in our country have made and how the unemployment rate is down and the inflation rate is down and the stock market up, until the last month or so used to be up.

But what we do not read about are the millions and millions of very poor people. We do not read about the hundreds of thousands of senior citizens that every winter hang blankets across parts of their houses because they simply cannot afford to keep those houses warm, that have to choose between having a hot meal or staying warm in their beds at night.

How many times do we have to have our elderly people suffer because they do not get enough money in Social Security? Then we turn around in this bill and cut a billion dollars out of the money, the Federal tax monies to go into this program.

My colleagues say, well, we do not have the billion dollars. I will tell them something. The money is in this bill. There is plenty of money in this bill to pay for fuel assistance. The fuel assistance program was paid for years ago.

Mr. DREIER. Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, this Labor-HHS appropriations bill makes me believe that some of my colleagues in the majority party would benefit from spending time back in the classroom. The numbers in this appropriations bill simply do not add up.

From Head Start through higher education and into the workplace, this bill shortchanges the vast majority of Americans.

I am most concerned about the damage done to American school children in this bill. The funds for education do not make the grade. Those of us who have done our homework know that overcrowded classrooms are one of the biggest obstacles to improving education for our children.

What parents and teachers already know is that smaller class size makes for better learning experiences and results in better grades. In fact, even the very Republican governor of my home State of California has made smaller classes a priority in our State.

But it costs money, Mr. Speaker. It costs money to reduce class size, because smaller classes mean more training and more teachers that need to be hired. Smaller classes mean building more classrooms.

This bill does nothing to help schools reduce class size. It cheats our students out of funds they need to get a good education. It deserves to fail.

This bill particularly fails teenagers. This Republican effort, Mr. Speaker, is designed to give the right wing "score card" information before the November 3 election and, in doing so, force young women to risk unwanted pregnancy and sexually transmitted disease.

Mr. DREIER. Mr. Speaker, I am happy to yield 1 minute to my very good friend, the gentleman from Illinois (Mr. MANZULLO).

Mr. MANZULLO. Mr. Speaker, I rise in favor of the rule. It is important we pass this rule because we will have on the floor a very interesting story of a 37-year-old schoolteacher who repeatedly statutorily raped his 13-year-old student, brought her to a title 10 clinic, which gave her birth control devices, a shot of Depo-Provera in the arm which led to very serious medical consequences on her part.

□ 1715

This will be an opportunity for Members of Congress to keep language that allows parents the right to be notified whenever their little girls are being given contraceptive devices.

The language that we will be asking people to support is the Istook-Barcia-Manzullo language, which is a perfecting amendment to the Castle-Greenwood amendment that will be offered on the floor.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Mr. Speaker, I thank the gentlewoman for yielding me this time and for her leadership. I rise in opposition to the rule on the Labor-HHS-Education appropriations bill.

This is a bill that should attend to the urgent human needs and lay the building blocks for our children's and our Nation's future. But this Republican-designed bill fails on both counts.

The rule proposed today is an example of the misplaced priorities of the Republican leadership. In an effort again to appease their radical right wing, the Republican leadership is proposing a rule that caters to those who would undermine family planning and ignores all of the critical priorities contained in this bill.

Mr. Speaker, when on earth will we be awakened to what should be our priorities in this legislation and in this Congress? When we get a report that over 1 in 5 children in America lives in poverty, when we know that tens of millions of individuals cannot afford health insurance, when we see that class sizes are too large and children are struggling to learn in schools that are in need of repair, workers deserve adequate safeguards to protect them from needless injury, and what are we talking about once again on this floor? Stopping funding for family planning.

It should be the mission of this House to attend to the urgent needs of the American people and to answer the call to address inequities in education, health care and worker safety. And it is through the Labor-HHS bill that we can do this to share the benefits of prosperity with those in need.

This bill abandons our children by slashing the administration's education initiatives, including education for the disadvantaged, Head Start, and Safe and Drug-Free Schools. It abandons workers by cutting OSHA workplace safety enforcement and mine safety. It deserts young people by eliminating or severely cutting the Summer Jobs Program and Out of School Youth Opportunities. It disregards the needs of the poor by eliminating or slashing home energy assistance, LIHEAP.

Mr. Speaker, this rule and this bill is bad policy and fails to attend to today's priorities. I urge my colleagues to vote "no."

Mr. DREIER. Mr. Speaker, I yield 2 minutes to the gentleman from Wilmington, Delaware (Mr. CASTLE), my very good friend.

Mr. CASTLE. Mr. Speaker, I thank the distinguished gentleman from California for yielding because he knows I am in opposition to this rule, and I am very, very strongly in opposition to it. Let me explain why I am opposed.

This has been a very controversial piece of legislation. Labor-HHS has had a lot of different aspects to it, all the way from LIHEAP to summer jobs, and a lot of people have questioned and have wanted to change it one way or another. Probably the most controversial of these items is what we are debating right here which is the amendments with regard to parental notification with respect to contraceptive drugs or devices.

As I understand it, and somebody correct me if I am wrong, essentially we are debating this rule and we are going to debate this bill, and then we are going to consider these two amendments, and we are not going to consider the rest of this bill, which is going to end up in the omnibus bill anyhow, so we are essentially down to setting up a mechanism by which we are going to vote on two very difficult amendments, and I happen to be a cosponsor of one of them, with a strong belief that it is the right way to go.

This is a heck of a way to legislate. This is a piece of legislation which has waited until little over 24 hours away the time that we are supposed to leave here and that probably would have taken 3 or 4 days on the floor if it had been done correctly, and here we are with a very truncated rule process in order to move forward on it. My judgment is it has little to do with being prochoice or prolife or anything of those things, it is a process question that we have here.

I hope that everybody in this Congress will step forward and oppose this rule. This simply is not a good way to do business. It is what happens at the end of sessions such as this, and this is a shining example of the wrong way to proceed.

So I would encourage each and every one of us, when the time comes for this vote, to come over here and to vote "no" on this rule, end this bill, and let happen what is going to happen, and that is it will be rolled into the omnibus bill and the appropriations which have to be done, hopefully will be done, that way.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentlewoman from New York for yielding me this time.

This is always a very difficult decision or decisions, plural, because this bill deals with Americans who are in pain. It deals with senior citizens, it deals with the mentally disabled, it deals with teenagers who are sexually abused by a parent or loved one and who are looking for relief if out of that sexual abuse comes an impregnation.

Yet now we come to the floor with the most acrimonious and destructive rule that I could imagine in these last waning hours of this Congress.

Today I engaged in a very painful debate, because it was my job. I came back from that debate and voted to adjourn this House, something that I rarely do. And I did so because my constituents in Texas, some 32 of them died this summer in the most intense heat we had ever been impacted by or felt.

This rule would eliminate the dollars used to help air-condition or heat the homes of poor senior citizens, those of my constituents in Texas who would have died if not for that money. This devastates the LIHEAP monies for senior citizens and the infirm.

This as well devastates the kind of work we have done to keep teenagers off the streets in the hot summer and takes summer jobs money away from hardworking, deserving teenagers who use that money to supplement their family's income, and then it takes Goals 2000, a program that goes into rural and inner-city schools and slashes it 50 percent, schools that depend upon these matching dollars to lift their scores and give incentives to their children that come many times from broken homes.

This is an abuse of power. This is an offensive rule, and it should be defeated.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. GREEN).

Mr. GREEN. Mr. Speaker, I thank the gentlewoman from New York for allowing me to rise in opposition to this bill and the rule.

This appropriations bill grossly underfunds our national priority of providing the best public education for each and every child. There is not enough time left in this 105th Congress to talk about how bad this bill is. Let me just try to hit some of the highlights.

Goals 2000, an education program that started with President Bush and continued under this President, is cut 50 percent from last year's funding level. The School-to-Work program is cut by $250 million. The America Reads program is eliminated. In addition to these extremist cuts, my Republican colleagues want to deny initial funding to many other important education programs.

Funds for Title I grants are frozen, cutting the administration's request by $437 million, denying over a half a million students in high poverty communities the extra help they need to master the basic courses. Funding for College Work Study is cut by $50 million below the administration's request, denying 57,000 needy students college work study awards. Head Start is cut by $160 million below the administration's request, denying slots to 25,000 low-income children.

Mr. Speaker, we have worked hard in Houston to ensure that we have the best Head Start program possible. We have three new providers now, and by collaborating with our public schools, we can truly give our children a real head start on life, but we cannot by short-circuiting and not providing the funding. We have made great strides, but additional funds are needed to meet the overwhelming need in the Head Start program.

The Republican approach to education is a wrong approach, and I think it is an approach that the American people do not want. That is why I urge my colleagues to vote down this short-sighted bill.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. LOWEY).

Mrs. LOWEY. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, last year I was proud to stand on the House floor and work hard with our distinguished chairman and good friend, the gentleman from Illinois (Mr. PORTER), to pass a bipartisan Labor-HHS-Education spending bill. I frankly am sad and disgusted that today we are called here at the last minute to debate a phoney rule on the same bill designed by the Republican leadership simply as a pre-election gift to their right wing.

This rule is a sham designed for one purpose and one purpose only: to give opponents of family planning a procedural advantage in a vote on their provision which was defeated on the House floor 2 years in a row.

It is my understanding that after the gentleman from Oklahoma (Mr. ISTOOK) gets his antifamily planning vote, we will simply rise and discontinue debate on this important bill with its key education and health care programs.

I strongly urge my colleagues to vote down this bogus rule. Because the Republican leadership could not get an agreement to bring up the bill under a fair rule, the bill did not come up. Week after week went by and still no Labor-HHS appropriations bill. Now, 1 day before target adjournment, the bill is brought up suddenly and under a fake rule that is not about policy, but about election year politics.

If the rule does pass, then I urge my colleagues to support the Greenwood-Castle substitute and oppose the Istook second degree amendment.

The Istook second degree contains the same language restricting teenagers' access to Title X family planning services which was defeated on the House floor just last year. This parental consent restriction will deny vulnerable teens the contraceptive services they need to avoid pregnancy, HIV and STDs.

Last year's attack on the Title X program failed because a majority of Members understood that denying teens access to family planning does not promote abstinence. I only wish it were that simple. Instead, Members understand that the Istook language will increase STDs and HIV infections, unintended pregnancies and abortions.

I urge my colleagues to support the Greenwood-Castle substitute, it takes the responsible, sensible route, and defeat this sham rule.

Mr. DREIER. Mr. Speaker, may I inquire of the Chair how much time is remaining on both sides?

The SPEAKER pro tempore. The gentleman from California (Mr. DREIER) has 17½ minutes remaining; the gentlewoman from New York (Ms. SLAUGHTER) has 30 seconds remaining.

Ms. SLAUGHTER. Mr. Speaker, we have no further requests for time, and I yield back the balance of my time.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume.

I would urge my colleagues to vote in favor of this rule. We have already voted on the rule itself. This is a minor modification that was made to consider those two amendments numbered 2 and 3. There are a number of Members on our side who hope very much to have a debate on that question. We will be proceeding with funding in a wide range of other areas, and so I hope that we can proceed with this as quickly as possible and get to this appropriations work.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 5 of rule XV, the Chair will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of agreeing to the resolution.

The vote was taken by electronic device, and there were—yeas 224, nays 201, not voting 9, as follows:

[Roll No. 500]

YEAS—224

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Burr
Burton
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Costello
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Furse
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Mollohan
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul

Paxon
Pease
Peterson (PA)
Petri
Pitts
Pombo
Porter
Portman
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NAYS—201

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fazio
Filner
Ford
Frank (MA)
Frost
Gejdenson
Gephardt
Gonzalez
Goode
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—9

Buyer
Fattah
Horn
Kennelly
McDade
Pickering
Pryce (OH)
Scarborough
Whitfield

☐ 1748

Mr. ACKERMAN changed his vote from "yea" to "nay."

Mr. EHRLICH and Mr. ARMEY changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

MOTION TO RECONSIDER THE VOTE OFFERED BY MS. FURSE

Ms. FURSE. Mr. Speaker, I move to reconsider the vote on the previous question.

The SPEAKER pro tempore (Mr. LATOURETTE). Did the gentlewoman from Oregon vote on the prevailing side in ordering the previous question?

Ms. FURSE. Yes, Mr. Speaker.

The SPEAKER pro tempore. The gentlewoman qualifies.

MOTION TO TABLE OFFERED BY MR. DELAY

Mr. DELAY. Mr. Speaker, I move to table the motion offered by the gentlewoman from Oregon (Ms. FURSE).

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. DELAY) to table the motion to reconsider the vote offered by the gentlewoman from Oregon (Ms. FURSE).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Ms. FURSE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 15-minute vote, followed by a 5-minute vote on passage of the resolution.

The vote was taken by electronic device, and there were—ayes 231, noes 197, not voting 6, as follows:

[Roll No. 501]

AYES—231

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Burr
Burton
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Costello
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Poshard
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NOES—197

Abercrombie
Ackerman
Allen
Baesler
Baldacci
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans.
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha

Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—6

Andrews
Buyer
Kennelly
McDade
Pryce (OH)
Whitfield

□ 1806

Mr. BARR of Georgia changed his vote from "no" to "aye."

So the motion to table the motion to reconsider was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. LATOURETTE). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. OBEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 214, noes 209, answered "present" 1, not voting 11, as follows:

[Roll No. 502]

AYES—214

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bateman
Bereuter
Bilirakis
Bliley
Blunt
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Burr
Burton
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Frelinghuysen
Gallegly
Gekas
Gibbons
Gillmor
Gingrich
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson, Sam
Jones
Kasich
Kelly
Kildee
Kim
King (NY)
Kingston
Knollenberg
LaHood
Largent
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McInnis
McIntosh
McKeon
Metcalf
Mica
Moran (KS)
Murtha
Myrick
Nethercutt
Neumann
Northup
Norwood
Nussle
Ortiz
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Quinn
Radanovich
Rahall
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NOES—209

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barrett (WI)
Bass
Becerra
Bentsen
Berman
Berry
Bilbray
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Castle
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Edwards
Ehrlich
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Franks (NJ)
Frost
Furse
Ganske
Gejdenson
Gephardt
Gilchrest
Gilman
Gonzalez
Gordon
Green
Gutierrez
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Horn
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kilpatrick
Kind (WI)
Kleczka
Klink
Klug
Kolbe
Kucinich
LaFalce
Lampson
Lazio
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McHugh
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Nadler
Neal
Ney
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pickett
Pomeroy
Poshard
Price (NC)
Ramstad
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Shays
Sherman
Sisisky
Skaggs
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn

ANSWERED "PRESENT"—1

Walsh

NOT VOTING—11

Buyer
Cox
Dooley
Fazio
Kennelly
Lantos
Lowey
Martinez
McDade
Pryce (OH)
Yates

□ 1820

Mr. MOLLOHAN and Mr. HOLDEN changed their vote from "aye" to "no."

Messrs. LIVINGSTON, PORTER and BONILLA, Mrs. KELLY and Mr. SHAW changed their vote from "present" to "aye."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. LATOURETTE). Without objection, the motion to reconsider is laid on the table.

Mr. OBEY. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

MOTION TO RECONSIDER THE VOTE OFFERED BY MR. DREIER

Mr. DREIER. Mr. Speaker, I move to reconsider the vote.

MOTION TO TABLE OFFERED BY MR. PORTMAN

Mr. PORTMAN. Mr. Speaker, I move to lay on the table the motion to reconsider.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. PORTMAN) to table the motion to reconsider the vote offered by the gentleman from California (Mr. DREIER).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. OBEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 230, noes 192, not voting 12, as follows:

[Roll No. 503]

AYES—230

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Burr
Burton
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot

Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Jones
Kasich
Kelly
Kildee
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NOES—192

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Gordon
Green
Gutierrez
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn

NOT VOTING—12

Buyer
Diaz-Balart
Dooley
Fawell
Fazio
Harman
Johnson, Sam
Kennelly
Martinez
McDade
Pryce (OH)
Yates

□ 1841

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate agrees to the report of the Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2281) "An Act to amend title 17, United States Code, to implement the World Intellectual Property Organization Copyright Treaty and Performances and Phonograms Treaty, and for other purposes."

The message also announced that the Senate agrees to the report of the Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3694) "An Act to authorize appropriations for fiscal year 1999 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.".

The message also announced that the Senate agrees to the report of the Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4194) "An Act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1999, and for other purposes.".

The message also announced that the Senate agrees to the report of the Committee of Conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2206) "An Act to amend the Head Start Act, the Low-Income Home Energy Assistance Act of 1981, and the Community Services Block Grant Act to reauthorize and make improvements to those Acts, to establish demonstration projects that provide an opportunity for persons with limited means to accumulate assets, and for other purposes.".

REMOVAL OF NAMES OF MEMBERS AS COSPONSORS OF H.R. 4567

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that on H.R. 4567, because of clerical error, the names of gentleman from Maine (Mr. ALLEN), the gentleman from Minnesota (Mr. OBERSTAR), and the gentleman from Michigan (Mr. STUPAK) be removed as cosponsors.

The SPEAKER pro tempore (Mr. LATOURETTE). Is there objection to the request of the gentleman from California?

There was no objection.

LIMITATION OF TIME FOR DEBATE ON CERTAIN AMENDMENTS TO H.R. 4274, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that during consideration of H.R. 4274 that debate time allotted to amendments numbered 2 and 3 in House Report 105-762, pursuant to H. Res. 584, be limited to 16 minutes each, equally divided.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

Mr. OBEY. Reserving the right to object, Mr. Speaker, I just want to make certain that I understand what the last two words mean.

It is my understanding that if the time is equally divided, that means that each party will have 8 minutes of time on each amendment.

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. As I understand it, there are 2 amendments. Each amendment would be divided equally between the majority and the minority or in some such fashion according to the proponent and the opposition. The proponent would get 8 minutes, the opposition would get 8 minutes on each amendment; so, for a total of 16 minutes on each amendment.

Mr. OBEY. But the question, Mr. Speaker, is will the minority party have 8 minutes on each amendment? On each proposition, I mean.

Mr. LIVINGSTON. If the gentleman would continue to yield, I would suggest to the gentleman that the way that the amendment has been propounded that that would be up to the managers of the amendment and the manager in opposition to the amendment.

Mr. OBEY. Mr. Speaker, I just need to have the assurance, and I want to cooperate on this, but I need to have the assurance that our side will be yielded 50 percent of the time on each of the two propositions.

□ 1845

Mr. LIVINGSTON. Mr. Speaker, if the gentleman will yield further, I understand that there is no certain way to guarantee that it is equally divided on each side of the aisle. However, I understand that there appears to be no opposition from the gentleman from Pennsylvania (Mr. GREENWOOD), who would be one of the proponents of an amendment.

Mr. OBEY. Mr. Speaker, further reserving my right to object, that means that we would only have 4 minutes out of all of the debate time.

Mr. LIVINGSTON. Mr. Speaker, if the gentleman will yield, I do not think that that is the case.

If the gentleman will yield further, would he tell me who would claim time in opposition to the Istook amendment?

Mr. OBEY. Mr. Speaker, further reserving my right to object, as the gentleman knows, I am trying to get to a meeting to help facilitate the moving of the budget forward, so what I would like to do is have the gentleman from Ohio (Mr. STOKES) on this side manage the time for the entire bill, including the two amendments.

Mr. LIVINGSTON. Mr. Speaker, if the gentleman will yield, if the gentleman would advise us that the gentleman from Ohio (Mr. STOKES) would rise in opposition to the amendment, it would be the intention of the gentleman from Oklahoma (Mr. ISTOOK) to yield 8 minutes for the gentleman from Ohio (Mr. STOKES) to control on the Istook amendment.

Mr. OBEY. We would also have 8 minutes on the Greenwood proposition.

Mr. COBURN. Mr. Speaker, reserving the right to object.

Mr. LIVINGSTON. Mr. Speaker, the gentleman reserves the right to object.

The SPEAKER pro tempore (Mr. LATOURETTE). The reservation is presently held by the gentleman from Wisconsin (Mr. OBEY). The gentleman from Wisconsin (Mr. OBEY) may yield on his reservation if he so chooses.

Mr. COBURN. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Oklahoma.

Mr. COBURN. Mr. Speaker, I thank the gentleman for yielding to me. We have two issues before us, one which the gentleman from Oklahoma (Mr. ISTOOK) supports, one which many people oppose; and we have the amendment of the gentleman from Pennsylvania (Mr. GREENWOOD) which he supports, but many on our side oppose. If we divide the time as the gentleman has suggested, those equally opposing each amendment will not have equal share of the time.

Mr. OBEY. Mr. Speaker, reclaiming my time, I do not want to do that.

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Speaker, I would like to amend my unanimous consent request which apparently was unclear and unintentionally unclear.

Mr. Speaker, I ask unanimous consent that, on each amendment, those in favor of the amendment be allotted 8 minutes, and those opposed be allotted 8 minutes and that, to as great a degree as possible, the time in each instance be shared on both sides.

It may well be that nobody on the gentleman's side of the aisle would like to claim time in one of those categories or another, but at least people will have the opportunity within that time frame to make their comments and be heard.

Mr. OBEY. Well, continuing under my reservation, Mr. Speaker, I am still trying to figure out what that means. We are not trying to hold anybody up. There are people on this side who want to speak as well. We just want to make certain that we will have an equal amount of time that will be yielded on both propositions. That is all.

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield further?

Mr. OBEY. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Speaker, we have two amendments. We have the Istook amendment, and we have the Greenwood amendment. According to my unanimous consent request, I have asked that, on each, there be 8 minutes allotted for and 8 minutes allotted against.

I guess it would be a little bit simpler if we simply decided right now within the context of this unanimous consent who will represent those for and who will represent those against on each amendment.

In the instance of the Greenwood amendment, the gentleman from Pennsylvania (Mr. GREENWOOD) would have the time for 8 minutes. I am asking the gentleman's statements, I assume that the gentleman from Oklahoma (Mr. COBURN) could be recognized in opposition to the Greenwood amendment.

Mr. OBEY. Mr. Speaker, continuing under my reservation, let me explain to the gentleman, I am sure that, on our side of the aisle, the preponderance of the speakers will be against the Istook amendment. I do not want us to have all the time against the Istook amendment.

I think that, if there are 8 minutes against the Istook amendment, 4 minutes ought to be reserved for the majority party if they want them. If they do not want them, I do not think we ought to have them anyway.

But we would like at least 4 minutes on the Istook amendment and 4 minutes on the Greenwood amendment. If the gentleman do that, I do not care how he works out the time.

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield further?

Mr. OBEY. Absolutely. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Speaker, I would like my unanimous consent request to be amended so that, on the Greenwood amendment, the gentleman from Pennsylvania (Mr. GREENWOOD) be allotted 8 minutes to be divided as he sees fit.

Mr. OBEY. That is fine so far.

Mr. LIVINGSTON. That 8 minutes be allotted to the gentleman from Oklahoma (Mr. COBURN) to be divided as he sees fit.

Mr. COBURN. Mr. Speaker, if the gentleman from Wisconsin will yield, which I would be happy to share with those who feel that position from your side of the aisle.

Mr. OBEY. Mr. Speaker, so what the gentleman is saying, the gentleman from Oklahoma (Mr. COBURN) will have 8 minutes and the gentleman from Pennsylvania (Mr. GREENWOOD) will have 8 minutes, and he has agreed to yield 4 minutes of it to us.

Mr. LIVINGSTON. Mr. Speaker, if the gentleman will yield, that is on Greenwood.

Mr. OBEY. On Greenwood.

Mr. LIVINGSTON. Mr. Speaker, if the gentleman will further yield, on Istook, that the gentleman from Oklahoma (Mr. ISTOOK) will be allotted 8 minutes to be divided as he sees fit, and that the gentleman from Ohio (Mr. STOKES) will be allotted 8 minutes in opposition to be divided as he sees fit.

Mr. OBEY. Mr. Speaker, further reserving my right to object, we would agree that the time of gentleman from Ohio (Mr. STOKES) would be split evenly between the parties if there are persons on the gentleman's side who want to argue against that amendment.

Mr. LIVINGSTON. Correct.

Mr. OBEY. Mr. Speaker, with that understanding, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request by the gentleman from Louisiana?

There was no objection.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The CHAIRMAN. Pursuant to House Resolution 564 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4274.

□ 1952

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4274) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1999, and for other purposes, with Mr. BEREUTER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to House Resolution 564, the bill is considered as having been read the first time.

Pursuant to House Resolution 564, the gentleman from Illinois (Mr. PORTER) and the gentleman from Wisconsin (Mr. OBEY) each will control 30 minutes.

The Chair recognizes the gentleman from Illinois (Mr. Porter).

Mr. PORTER. Mr. Chairman, I yield back the balance of my time.

Mr. ENGEL. Mr. Chairman, today we take a vote on the future of our children. Day in and day out the Members of the 105th Congress come to the floor and express their concerns for ensuring opportunities for the next generation. H.R. 4274, "the Labor-HHS-Education Appropriations bill," is one piece of legislation that goes to the heart of our collective concerns. However, despite our desire to assist our children we instead embark on a bill that politicizes their future. Instead of providing opportunities, this bill guts national education funding for short term political gain. This bill eliminates funding for technology in the classroom in low-income school districts, it eliminates funding for teacher training, and it even eliminates funding to ensure that our children can read before the end of the third grade.

However, to just discuss the inadequacies of this bill on our elementary school aged children would not be a fair summarization of the destructive nature of this piece of legislation. This appropriations bill attempts at its very essence, to provide budget cuts off the backs of the poor, the immigrant and the laborer. H.R. 4274 if passed would eliminate federal subsidized funding for 4.4 million of the poorest households to pay for their heat during the winter months; this bill if passed would cut federal funding for bilingual education by $25 million which would reduce funding for adequate teacher training; this bill if passed would even cut OSHA workplace safety enforcement by $12 million which would result in 4,000 fewer workplace safety inspections in 1999.

The role of government is debated each day on the floor of this House, in our committee rooms, and in our districts but we all can agree that our mandate is to serve the people. It is paramount that as a national body we focus not on partisan political goals but rather on what is in the best interest of our constituents. Members would then understand that this appropriation bill is too unfair, too detrimental to our national educational policy and too damaging to the poor. I urge my colleagues on both sides of the aisle to join me in opposing H.R. 4274 and vote no on this bill.

Mr. PORTER. Mr. Chairman, Mr. GREENWOOD's amendment protects a good program, a program that Members should support.

One of our priorities in this bill is public health programs that help expand access to care for the underserved. Title X—as George Bush and Richard Nixon recognized—is such a program.

1. It supports a broad range of reproductive services to women—including assistance for women who are having trouble conceiving children—as well as screening for breast and cervical cancer, sexually transmitted infections and hypertension. These are life saving, life giving, life enhancing services.

2. In 1996, 4.3 million clients were served—83 percent with incomes below 150 percent of the federal poverty level. Everyone above the poverty line pays something for their care on a sliding scale. For many working poor, Title X provides their only access to the health care system.

3. The law has always barred Title X from paying for any abortion under any circumstances. This is not an abortion issue.

Title X is really an anti-abortion program: roughly half of all unintended pregnancies end in abortion. It is estimated that, in 1994, one million unintended pregnancies were averted as a result of services received at Title X projects. Title X prevents the unintended pregnancies that lead to abortions and that lead to low-birthweight babies.

Title X improves maternal and child health, it lowers the incidence of unintended pregnancy and abortion and it lowers rates of STDs.

It is a good program, it is a wise investment, and we should be very careful about adopting amendments that undermine the program's effectiveness.

I urge all Members to support Mr. GREENWOOD's amendment and oppose Mr. ISTOOK's substitute.

Mr. STARK. Mr. Chairman, I oppose the Labor, Health and Human Services and Education Appropriations (Labor—HHS) Bill considered in the House today.

EDUCATION SUFFERS UNDER THIS BILL

This bill would have devastating effects on students and our education system and I strongly urge my colleagues to reject this bill.

My colleagues on the other side of the aisle have been busy with their education agenda this year. We've debated a Constitutional Amendment to allow for prayer in schools and we've tried to eliminate affirmative action programs for minority students. We've also tried to provide public dollars for private schools—not once, but twice, and to eliminate public dollars to be used for the purposes of educating our bilingual students. Lucky for our students, parents and teachers, Democrats have an education agenda, too.

The Democratic plan will improve public education. We want to reduce the average class size in the early grades by helping local school districts hire 100,000 new qualified teachers. We want to provide federal tax credits to pay the interest on $22 billion in bonds for the modernization and construction of more than 5,000 schools. We want to make sure that schoolchildren have somewhere to go after school instead of hanging out on the streets. We are promoting after school learning opportunities for students. We support expanding resources for educational technology in order to ensure that every classroom and school library is connected to the Internet by 2001.

The Democratic ideas will work; they will provide more opportunities for out kids. Nobody denies that public education is in bad shape. But the majority's solution is to cut funding and eliminate programs and to determine what choices are made available to school districts and teachers. This does not make good sense or good policy.

This Education Appropriations bill fails to fund a single one of the Administration's initiatives to modernize schools and build new schools. it is no secret that schools are overcrowded. Schoolteachers in my district are conducting classes in portables, school lunchrooms and even in hallways. The majority, by not addressing this problem in their bill, are putting a bag over their head and hoping the problem goes away.

This Education Appropriations bill does not fund the President's Literacy Initiatives and eliminates funding for the America Reads Challenge. Furthermore, the bill cuts funding for the Safe and Drug Free Schools initiative, and does not fund the President's plan to target funds to districts and schools with the largest drug and violence programs.

This bill also incorporates the text of a bill that was defeated by the House earlier this year and with regard to bilingual education. This bill would limit the amount of bilingual education a student could receive to a maximum of two years. Reputable research proves that children take between four to seven years to master academic English necessary for higher education success. This bill provides no academic safety net for students who fail to master English in two years. It does not make sense to shove children arbitrarily from an environment where they are learning to one where they are predetemined to fail.

The House has already soundly defeated this idea. Why does this bill pander to an extreme minority who has already lost this fight?

This bill also prevents students from achieving success in the new millennium by cutting funds for GOALS 2000 by 50%. How does cutting funding for this program help students? I would ask the majority leadership to answer this question.

This bill also prevents any funds from being spent to adopt a national testing standard for our kids. These tests have nothing to do with content and would test fourth graders for reading comprehensive and eighth graders for math ability. I support national testing standards. These voluntary tests will have no effect on home schooling or parochial education interests. Testing gives states, local communities and parents one more tool to measure how well their curriculum prepares students in basic reading and math skills. If we are to spend taxpayer money on public schools, we must know that we are getting measurable results.

It is clear that my colleagues on the other side of the aisle do not think the same way about education as we do. Their attacks on our basic fundamental obligation to provide a public education for every child in America will have a devastating effect on schoolchildren and our Country's future.

A real stand for education is a vote against this terrible bill.

CUTS HURT THE MOST VULNERABLE

H.R. 4274 is a confrontational bill—the product of a majority leadership decision to cave to demands from the right wing of its own conference. It does nothing to heal the economic and social divisions within our society. Instead it resembles a blueprint for the reelection of the House Republican leadership.

H.R. 4274 is the direct result of the majority's decision to kill tobacco legislation. Instead of using tobacco company revenues to fund a set of fairly balanced domestic priorities, the majority has decided to offset their spending priorities by cutting the programs that benefit the most vulnerable members of our society.

H.R. 4274 eliminates funding for LIHEAP. I oppose this provision. There is no programmatic or economic rationale to justify eliminating a program that helps 4.4 million low-income households pay their heating and cooling bills. About 1.5 million of these households have elderly members, 1.3 million have disabled members, and 2.1 million have children in poverty. Two-thirds of LIHEAP recipients earn less than $8,000 per year. Energy prices constitute a significant expense for poorer households whose incomes have not kept up with inflation.

I also strongly oppose the bill's prohibitions on Title X funding. Title X family planning clinics offer a wide range of critical services including contraception, screening and treatment for sexually transmitted diseases, HIV screening, routine gynecological exams, and breast and cervical cancer screening. If minors are required to comply with parental consent or notification laws for contraceptive services, not only will they avoid seeking family planning services, they will avoid seeking any of the services at a Title X clinic. Without these services, the authors of this bill can soon take credit for an increase in abortions and sexually transmitted diseases. I oppose this bill for its blatant disregard for the reproductive health, safety, and constitutional rights of America's women.

Supporters argue that H.R. 4274 eliminates excessive and burdensome federal regulation and provide enhanced discretion to state and local officials. Yet, the bill prohibits the use of Title X funds by any entity unless it certifies that it encourages family participation in the decision of minors to seek family planning services. It also prohibits a state or locality's contribution of Medicaid matching funds to pay for any abortion or to pay for health benefits coverage offered by a managed care provider that includes coverage of abortion.

THIS BILL PLAYS POLITICS WITH ORGAN DONATIONS

Every day 10 people die in this country waiting for an organ transplant. There is no disagreement about the problem—there aren't enough organs to meet the needs of patients.

In March, the Department of Health and Human Services issued proposed regulations to equalize large discrepancies in waiting times for transplant patients around the country and help guide the transplant community to create a fairer transplant system.

Now the House Labor-HHS bill includes two riders, which would prohibit the implementation of these regulations and prevent the HHS Secretary from working to increase the number of available organs.

The first rider would prevent the Secretary from requiring hospitals to report patient deaths to regional Organ Procurement Organizations. This simple requirement is in effect in Maryland and Pennsylvania and both states report additional organ donations as a direct result. Preventing this regulation from going forward will make more patients die waiting for other organs. This is a matter of life and death and this rider should be removed from the bill.

The second rider puts a moratorium on the Secretary's organ allocation plan to make the distribution of organs more fair for patients. The Secretary's organ allocation plan is urgently needed by patients across the country. Patients in the Bay Area wait an average of over 300 days for a transplant, while patients in Tennessee wait 21 days. This isn't fair.

The Secretary has proposed to let medical people make medical decisions about the best way to allocate the limited number of donated organs. The Appropriations Committee should allow these regulations to be implemented without further delay.

This rider is being pushed by a group of Louisiana transplant surgeons who believe that organs should be hoarded for their own state use. Over 30% of Louisianans needing a transplant leave the state to find better care in other hospitals or because they have been turned down for transplants in Louisiana. The state has recently passed an "organ hoarding" law to prevent organs that are made available for transplant in Louisiana from leaving the state. The state has also filed a lawsuit against the Secretary for issuing national regulations, despite the fact that the National Organ Transplant Act specifically requires that the Secretary do so.

Fairness is half of this fight; Quality is the other part. There is a lot of money to be made in organ transplants. Too many centers have been opened to increase the prestige and the profits of a local hospital—and not because they do a good job. In fact, in general the lower volume small transplant centers have poorer outcomes than the high volume transplant centers. The fact is that having a transplant center has become the equivalent of health pork. Many of these centers are like the excess projects in the recently-passed highway bill: centers without a justification. But unlike highway pork, these centers sometimes end up killing patients because they do not do as good a job as the high volume centers. I really think it is immoral for centers that have a lower success rate than the high volume centers to be fighting the Department's regulation. Their actions are a disgrace to the Hippocratic Oath.

The proliferation of poor quality transplant centers not only wastes lives, it wastes money. The United States has 289 hospitals doing tranplants—and that is an enormous commitment of capital. I have read that a hospital has to invest about $10 million to be able to do heart transplants.

These proliferating costs are part of what drives health inflation in the United States and part of what places such huge budget pressures on Medicare. Concentrating transplants in fewer, high-quality, life-saving centers would allow us to save hundreds of millions of dollars in the years to come. The Department's regulation gives us the potential to focus on Centers of Excellence where we not only save lives, but can obtain economies of scale necessary to preserve the Medicare program.

If my colleagues are serious about putting patients first, what is so onerous about a system that proposes to base transplant decisions on common medical criteria on a medical need list—not geography, not income, not even levels of insurance coverage—just pure professional medical opinion and medical need.

This issue is about putting patients first—not putting transplant bureaucracies first. I can think of no better way to put patients first than to make the system fair for all. I urge my colleagues to support the Department's regulations and to vote against the Labor-HHS bill.

THE BILL IS BAD FOR WORKING FAMILIES

This bill would have devastating effects on working families and I strongly urge my colleagues to reject this bill.

America's working families deserve a break. After a few years of record profits for Wall Street and the Fortune 500 companies, it is time to help out the working men and women responsible for this productivity. Instead, some of my colleagues, in their quest to please corporate shareholders, have launched an assault upon the basic protections that working families count on and enjoy.

I've heard from numerous young people in my district about the importance of the Summer Youth Employment Training Program (SYETP). They tell me that they have learned the value of a dollar and the importance of being accountable and responsible because of their summer jobs. I've heard from Mayors and School Districts about the need for this program. The Castro Valley Unified School District wrote to me to tell me that "SYETP is one of those programs that addresses the needs of a segment of our student population and does so with a high degree of success." I've included this letter for the CONGRESSIONAL RECORD to accompany my statement.

What has the Majority done in response to this support for the Summer Youth Employment Training Program? They have eliminated all of the funding for it.

The Summer Youth Employment Training Program works. It give young people the tools, skills and experience they need to succeed in the workplace after they are finished with school. Eliminating this program is not an investment in our future.

This Labor–HHS bill cuts funding for Job Training Partnership Act by $1.5 billion from the President's request. The bill also cuts School-to-work programs by 62 percent from last year's appropriation. The message to young workers is clear: if you stuck in a low paying job or lack a graduate degree, the government will not help you obtain the skills you need to provide for your family. This is the wrong direction for our country to be going.

One of the largest roles for government to protect working families is through the Occupational Safety and Health Administration (OSHA). OSHA offers guidelines for employers to provide employees with safe workplaces and enforces safety standards to ensure that the likelihood of injury or death on the job is reduced. OSHA is the safety cop on the beat for working families, and deserves our support.

This Labor–HHS bill cuts OSHA funding by $18 million from the Administration's request. Furthermore, the bill includes provisions to require peer-review of the scientific data on which OSHA standards are based. The bill specifically permits a person with a financial interest in the outcome of the standard to set on the pear review panel. I question how many true labor protection standards will make it out of the regulatory process with employers and financial backers making the final decisions about what workers safety standards are really needed.

The majority's labor record is clear. Working families should take a back seat to corporate interests and employer decisions. I don't share this view.

I believe that working families deserve strong protections at the workplace, should be able to organize and advocate for their common interests and should not have to work in an environment of indentured servitude to guarantee a paycheck.

If my colleagues were serious about help out working men and women, they would work to pass a real minimum wage increase and link it to a cost of living adjustment to provide a real working wage for working families. Making investments in people is the highest priority for me. Cutting funding out of programs to provide job skills and job security does not lead to an economically stable society.

I urge my colleagues to vote for working families and for worker protections and to vote against this bill.

BOARD OF EDUCATION, CASTRO VALLEY UNIFIED SCHOOL DISTRICT
Castro Valley, CA, September 14, 1998.

Hon. FORTNEY "PETE" STARK,
Fremont, CA.

DEAR REPRESENTATIVE STARK: The purpose of this letter is to urge you to support the continuation of the Summer Youth Employment Training Program (SYETP). This program has been a valuable one over the years over the Castro Valley Unified School District as it has provided opportunities for students from low income families to be successful in a work experience environment.

Our responsibility as educators is to provide programs and strategies that are diverse in nature in order to address the diversity within our student population. SYETP is one of those programs that addresses the needs of a segment of our student population and does so with a high degree of success.

There is no doubt that the elimination of this program will be a major loss for us in the district and the Regional Occupational Program in general. Judging by the information that I have received, the elimination of SYETP nationally would result in approximately 400,000 young people not having an opportunity for work and educational assistance in 1999. This is staggering and unacceptable! We cannot afford to ignore the needs of any of our students and specifically with regard to SYETP, the needs of students who have potential to be productive members of our society when they reach adulthood.

Thank you in advance for your support and assistance.

Sincerely,

GEORGE GRANGER,
President.

Ms. JACKSON-LEE of Texas. Mr. Chairman, thank you for the opportunity to speak on this bill tonight, and this amendment, the Istook/Barcia/Manzullo Amendment to the Labor HHS bill. Mr. Chairman, for the first time EVER, the House Appropriations Committee voted to impose a restrictive provision in this bill which will require that minors require five business days' parental notice or parental consent before a minor can obtain contraceptive services at a Title X clinic.

I have consistently opposed mandatory parental consent requirements for young people seeking family planning services, and I am not alone. The American Medical Association, the American Academy of Pediatrics, the American Academy of Physicians, and the American Medical Women's Association are just a number of the organizations that also oppose this restriction. The reason is because such restrictions are dangerous to our country's young people.

There is no question that recent declines in the teen pregnancy and teen abortion rates have been attributed to increased use of birth control. The vast majority of young people who seek contraceptive and family planning services are already sexually active. In one recent study of over 1,200 teenagers in 31 family planning clinics, only 14 percent of the teens came in for family planning services prior to initiating sexual activity. In fact, over ⅓ of these teens (36 percent) sought services ONLY because they suspected they were pregnant. This legislation will only make it worse. In general, teens are sexually active for 11.5 months prior to seeking clinic services! This provision will not persuade our young people to have sex, it will ensure that the rates of unintended pregnancies, abortion and STDs including HIV increase! Currently 78 percent of teen pregnancies are unintended, half of which end in abortion. Approximately 3 million teenagers acquire an STD each year! I am sure that no Member of Congress wants these numbers to increase, yet making it more difficult for teenagers to seek reproductive health services will do just this.

Title X counselors are already required to encourage family participation for teen clients. However, Congress, despite, its wishes cannot mandate open family communication. Title X clinics encourage their teenage clients to discuss their needs with parents or family members they can trust. Confidential access to family planning is crucial in helping teenagers obtain timely medical advice and appropriate medical care.

Our children are our most important resource. We must do whatever we can to make sure that our children remain safe and healthy. I am voting against this amendment because I want our children to have a childhood and to keep our teenagers from becoming parents.

Mr. CASTLE. Mr. Chairman, as you know, Title X of the Public Health Service Act, the National Family Planning Program, sponsored by then-Congressman George Bush, was enacted in 1970. It was signed into law by President Nixon. The program provides grants to public and private non-profit agencies to support projects which provide a broad range of family planning and reproductive services, as well as screening for breast and cervical cancer, sexually-transmitted infections and high blood pressure. Title X also supports training providers, an information and education program, and a research program that focuses on family planning service delivery improvements. The Title X program has provided services to millions of American women, many of whom have no other access to health care services. By law, none of the funds provided may be used for abortions.

Today, we are considering a bill that includes a provision requiring parental consent or advanced notification in order for a minor to receive contraceptive drugs or devices. Ideally, we would like all teens to abstain from premature sexual relationships. Ideally, we would like to think that all teenagers have a wonderful relationship with a loving parent. Unfortunately, the reality is that for many, many teens neither is the case. There are young people who are scared to death of their parents. There are young people who do not have parents. And, the unfortunate reality is that there are young people who would rush out and have unprotected sex if they knew practicing safe sex would come at the price of having their parents find out. This is what the mandatory parental consent and advanced parental notification provision does.

In many cases such a provision would actually increase the chances of teenagers engaging in unprotected, nondiscriminatory or unsafe sex, thereby increasing the rates of pregnancy, sexually-transmitted diseases, and abortions. 56% of women and 73% of men are sexually active before the age of 18. 86% of teenagers using or seeking Title X services for the first time were already sexually active for nearly a year. In addition, studies show that about 55% of adolescents already inform parents of their use of reproductive health services. For those who do not or cannot discuss family planning with their parents, mandatory parental consent and advanced parental notification are not likely to convince them otherwise. In fact, an overwhelming number of teens who do not involve their parents in such decisions reported that they would not seek clinic care if their parents had to be notified. Let me repeat—they would not seek clinic care. This means that they are left to make decisions on their own, and those decisions will most likely lead to unprotected sex, higher rates of pregnancy and higher rates of abortion.

Let me give you an example. In my home state, as scary as this is, there are kids who have reported that they cannot tell their parents about the use of family planning services because they are afraid they will be hurt physically. We also had a case where parents of a 15 year old girl refused to bring her to get family planning services until she was 16 years old and had her drivers license. Well, she turned 16, she got her drivers license and she was already pregnant. If she had the services a year before, she wouldn't be in this predicament. Now, I'm not saying this is the norm. What I am saying is that we need to take situations like this into consideration before we start mandating policies as far reaching as this one. If parents and guardians are unable to help these teenagers, for whatever reason. I believe health professionals should help.

I also want to note that the Greenwood/Castle amendment does not in anyway discourage parental involvement. It simply strikes the mandatory parental notification clause and inserts strong language requiring Title X providers to take a strong stand on abstinence, by expressly informing all minors that abstinence is the only certain way to avoid pregnancy, sexually transmitted diseases, and HIV. Our language ensures that all Title X counselors receive training on how to help minors abstain from sexual activity, avoid coercive relationships, and involve their parents in the decision to receive family planning services.

We support family involvement, and if we believe that mandating parental consent or notification was in the best interest of teens, than we would support that as well. But, we do not. There are too many facts that demonstrate that mandating parental consent will hurt teens considerably more than it could ever help them.

Congressmen ISTOOK and MANZULLO will offer a second degree amendment to our amendment inserting the parental consent or notification language back into the bill. I urge my colleagues to vote against their amendment and for the Greenwood/Castle amendment. Mandated parental consent or notification would scare teens into doing something stupid—like having unprotected sex in secret rather than having their parents find out that they wanted to be safe and responsible.

Mr. PAUL. Mr. Chairman, I am sorry that under the rule my amendment to the Labor-HHS-Education Appropriations bill is not permitted. This simple amendment forbids the Department of Health and Human Services from spending any funds to implement those sections of the Health Insurance Portability and Accountability Act of 1996 authorizing the establishment of a "standard unique health care identifier" for all Americans. This identifier would then be used to create a national database containing the medical history of all Americans. Establishment of such an identifier would allow federal bureaucrats to track every citizen's medical history from cradle to grave. Furthermore, it is possible that every medical professional, hospital, and Health Maintenance Organization (HMO) in the country would be able to access an individual citizen's record simply by entering the patient's identifier into the national database.

My amendment was drafted to ensure that the administration cannot take any steps toward developing or implementing a medical ID. This approach is necessary because if the administration is allowed to work on developing a medical ID it is likely to attempt to implement the ID on at least a "trial" basis. I would remind my colleagues of our experience with national testing. In 1997 Congress forbade the Department of Education from implementing a national test, however it allowed work toward developing national tests. The administration has used this "development loophole" to defy congressional intent by taking steps toward implementation of a national test. It seems clear that only a complete ban forbidding any work on health identifiers will stop all work toward implementation.

Allowing the federal government to establish a National Health ID not only threatens privacy but also will undermine effective health care. As an OB/GYN with more than 30 years experience in private practice, I know better than most the importance of preserving the sanctity of the physician-patient relationship. Oftentimes, effective treatment depends on a patient's ability to place absolute trust in his or her doctor. What will happen to that trust when patients know that any and all information given their doctor will be placed in a data base accessible by anyone who knows the patient's "unique personal identifier?"

I ask my colleagues, how comfortable would you be confiding any emotional problem, or even an embarrassing physical problem like impotence, to your doctor if you knew that this information could be easily accessed by friend, foe, possible employers, coworkers, HMOs, and government agents?

Mr. Chairman, the Clinton administration has even come out in favor of allowing law enforcement officials access to health care information, in complete disregard of the fifth amendment. It is bitterly ironic that the same administration that has proven so inventive at protecting its privacy has so little respect for physician-patient confidentiality.

My amendment forbids the federal government from creating federal IDs for doctors and employers as well as for individuals. Contrary to the claims of some, federal-ID numbers for doctors and employers threaten American liberty every bit as much as individual medical IDs.

The National Provider ID will force physicians who use technologies such as e-mail in their practices to record all health care transactions with the government. This will allow the government to track and monitor the treatment of all patients under that doctor's care. Government agents may pull up the medical records of a patient with no more justification than a suspicion the provider is involved in fraudulent activity unrelated to that patient's care!

The National Standard Employer Identifier will require employers to record employees' private health transactions in a database. This will allow coworkers, hackers, government agents and other unscrupulous persons to access the health transactions of every employee in a company simply by typing the company's identifier into their PC!

Many of my colleagues admit that the American people have good reason to fear a government-mandated health ID card, but they will claim such problems can be "fixed" by additional legislation restricting the use of the identifier and forbidding all but certain designated persons to access those records.

This argument has two flaws. First of all, history has shown that attempts to protect the privacy of information collected by, or at the command, of the government are ineffective at protecting citizens from the prying eyes of government officials. I ask my colleagues to think of the numerous cases of IRS abuses that were brought to our attention in the past few months, the history of abuse of FBI files, and the case of a Medicaid clerk in Maryland who accessed a computerized database and sold patient names to an HMO. These are just some of many examples that show that the only effective way to protect privacy is to forbid the government from assigning a unique number to any citizen.

Even the process by which the National Identifier is being developed shows disdain for the rights of the American people. The National Committee on Vital and Health Statistics, which is developing the national identifier, attempted to keep important documents hidden from the public in violation of federal law. In fact, one of the members of the NCVHS panel working on the medical ID chastised his colleagues for developing the medical ID "in an aura of secrecy."

Last September, NCVHS proposed guidelines for the development of the medical ID. Those guidelines required that all predecisional documents "should be kept in strict confidence and not be shared or discussed," This is a direct violation of the Federal Advisory Committee Act, which requires all working documents to be made public. Although NCVHS, succumbing to public pressure and possible legal, action against it, recently indicated it will make its pre-decisional documents available in compliance with federal law, I hope my colleagues on the Rules Committee agree that the NCVHS attempt to evade the will of Congress and keep its work secret does not bode well for any future attempts to protect the medical ID from abuse by government officials.

The most important reason, legislation "protecting" the unique health identifier is insufficient is that the federal government lacks any constitutional authority to force citizens to adopt a universal health identifier, regardless of any attached "privacy protections." Any federal action that oversteps constitutional limitations violates liberty for it ratifies the principle that the federal government, not the Constitution, is the ultimate arbitrator of its own jurisdiction over the people. The only effective protection of the rights of citizens is for Congress and the American people to follow Thomas Jefferson's advice and "bind (the federal government) down with the chains of the Constitution."

For those who claim that this amendment would interfere with the plans to "simplify" and "streamline" the health care system, under the Constitution, the rights of people should never take a backseat to the convenience of the government or politically powerful industries like HMOs.

Mr. Chairman, all I ask is that Congress by given the change to correct the mistake made in 1996 when they authorized the National Health ID as part of the Kennedy-Kasebaum bill. The federal government has no authority to endanger the privacy of personal medical information by forcing all citizens to adopt a uniform health identifier for use in a national data base. A uniform health ID endangers the constitutional liberties, threatens the doctor-patient relationships, and could allow federal officials access to deeply personal medical information. There can be no justification for risking the rights of private citizens. I therefore urge the Rules Committee to take the first step toward protecting Americans from a medical ID by ruling my amendment to the Labor-HHS-Education Appropriations bill in order.

Mrs. CLAYTON. The Labor-HHS-Education Appropriations Bill is one about priorities. Cutting successful and extremely important education and labor programs is not a priority for me.

Mr. Chairman, I am very disturbed about the number of programs that have been left out of this bill.

Strong employment and training programs for youth and adults would help mitigate problems arising from people who do not have the skills or the intent to be good employees. Yet, this Labor HHS and Education Appropriations bill decimates funding for these very programs. This bill eliminates funding for effective programs such as School-to-Work, Summer Jobs, and Job Corps.

By eliminating the Summer Jobs program, the bill denies jobs to a half-million of our most disadvantaged youth. Without these funds, ¾ of the young people currently participating in this program would be without a job next year. Are these not the same youth who concern us because of their potential for gang affiliation, violence and crime?

The bill, in its [illegible]nal form, eliminated the Low-Income Ho[illegible] Energy Assistance Program (LIHEAP)—a program that helps 4.4 million low-income households pay their heating and cooling bills. However, the manager's amendment may appropriate money for LIHEAP, but it will only be a fraction of the 1.1 billion appropriated in advance last year for use in FY 1999. 1.5 million of the 4.4 million households have elderly members. 1.3 million have disabled members. And 2.1 million have children in poverty. Who, out of the 4.4 million households, will receive the benefit of this insufficient amount of money?

This bill also cuts funding for the Goals 2000 education reform program by 50% below current levels. And, it cuts OSHA workplace safety enforcement by 9% below the administration's request. It's ironic. How can you eliminate so many programs and claim to improve and support opportunities for employment, and the good health and education of the people of our country?

We must restore these programs and remain committed to initiatives that allow the disadvantaged to survive. We must remain devoted to programs that educate our youth and dedicated to providing our youth with opportunities that prepare them for the world of work.

Mr. Speaker, this is a bill about priorities. This is a bill about values. It is not my priority to eliminate necessary programs. And it definitely is not a priority for the disadvantaged individuals in our society.

However, it is my priority to ensure that our youth and those who are disadvantaged are treated fairly and are given the opportunity to be productive citizens. So I ask you * * * honestly is this your priority? If it is, then vote no to the Labor-HHS-Education Appropriations Bill.

Mr. PORTER. Mr. Chairman, I rise in opposition to the Istook substitute.

The Istook amendment is unwise and should be opposed.

A. First, because it overturns the considered judgment of many states.

1. Virtually all states have laws providing for some degree of confidentiality in the provision of such services to minors.

2. In Illinois, statute provides that physicians may give birth control services and information to minors under a number of circumstances—including when the minor is already married, is already a parent, or when failure to do so would create a serious health hazard.

3. This amendment would overturn the considered judgment of the state of Illinois in enacting these provisions—and you might find that it poses similar problems in your state. And I do not recommend abrogating a law that empowers physicians to act to address serious health hazards.

4. In fact, there are presently twenty-three states that explicitly ensure minors' access to confidential family planning services. The amendment directly contravenes these state's judgments.

5. If we are going to set up this Congress as a super State Legislature, it seems to me that, at a bare minimum, we should look at these state laws carefully and incorporate the learning of the states on this subject?

B. Second, the Istook amendment is premised on the false logic that, if minors had to tell their parents they were getting contraceptive services, they would abstain from sexual activity. That sounds good, but unfortunately its wrong.

1. The truth is that most minors who go to Title X projects have already been sexually active for about a year. They go to a Title X project when they fear they have contracted a disease, become pregnant, or they decide they need contraceptives.

2. When they enter the door, they receive counseling by professionals who attempt to ascertain the nature of the relationship, including potential sexual abuse, encourage the minor to consider abstinence and to involve their parents in their decision making, and educate them on how to resist coercive sexual activity.

3. If these minors who are already sexually active know that they will not be able to receive contraceptives, they will not go to the project. They will not receive abstinence counseling or other protective assistance. They will continue to have sex, contract STDs, become pregnant and, statistics tell us, over half will have abortions.

4. And minors from dysfunctional families who may suffer abuse at home and be surrounded by drug and alcohol abuse and crime may have many valid reasons for wishing to not involve their parents. Categorically mandating that involvement, in the absence of a court order is neither wise nor realistic.

5. This is why so many states expressly protect confidential services for minors.

6. And this is why medical organizations—the provider organizations that know the realities better than anyone in this room—support confidential services.

a. As the American Medical Association has told us, AMA policy opposes mandatory parental notification when prescription contraceptives are provided to minors through federally funded programs since it creates a breach of confidentiality in the physician-patient relationship.

b. The American Public Health Association and American Nurses Association are similarly opposed.

We should heed this judgment and support the substitute.

Mr. CLAY. Mr. Chairman, I rise in opposition to the H.R. 4274, the Labor/HHS Appropriations bill, because through it the House Republicans propose to make drastic cuts in many programs that are vitally important to all Americans, but especially to those most in need whose very survival and growth depends upon the assistance they receive from their government. Fortunately, however, this destructive bill is going nowhere and every Member of this body knows it for the sham that it is. The Republican leadership recognizes they don't have the votes to pass it and are negotiating to include another version of this measure in the Omnibus spending bill.

The funding levels in the bill, as reported, fall $2 billion short of what democrats believe is needed to improve our schools and prepare our children for the 21st Century. There are no funds for America Reads, which helps endure that all children can read well when they complete the third grade. There are no funds to help communities hire 100,000 new teachers and reduce class size so that students can have a better chance to learn. There are no funds to help communities modernize and build schools that provide safe and appropriate learning environments. Clearly, there is nothing in this bill that reflects any investment in the future of public education. In fact, this bill grossly underfunds existing and proven educational programs upon which we have long relied.

Later today, this body will consider a bipartisan conference report reauthorizing the Head Start program, yet this appropriations bill would provide $160 million less than what the President has requested to run Head Start next year. A second bipartisan conference report to be taken up today extending child nutrition programs, would authorize new funds for meal supplements to induce greater participation in after-school programs. This appropriations bill, however, would provide $140 million less than what the President requested to operate these very same after-school programs. I can't imagine how any Member who would vote today to reauthorize our Head Start and nutrition programs could, in good conscience, support these devastating cuts.

Regrettably, Mr. Speaker, the cuts don't stop here, there are many many more. For example, funding for Title I, bilingual education, Safe and Drug Free Schools, Work-Study, and School to Work are all cut. Without the assistance there programs, provide, thousands of disadvantaged students will be deprived of both the educational and career opportunities they need to succeed in life.

Our nation's labor force also suffers under this appropriations bill. It cuts funding for critical worker protection programs run by the Occupational Safety and Health Administration, and the Mine Safety and Health Administration. Several regulatory riders are attached that compromise these agencies' effectiveness. In addition, the bill undermines efforts to help our youth enter the workforce by completely defunding the Summer Jobs Program and the President's Youth Opportunity Areas Initiative.

Finally, Mr. Chairman, this bill eliminates funding for the Low Income Energy Assistance Program which provides heating and cooling assistance for over 5.5 million low and fixed-income households. With winter approaching, many of those who have relied on this program may soon be forced to choose between heating their homes and feeding their families. That should be totally unacceptable in a nation as prosperous as ours. But rather than meet this urgent need, Republicans would rather squander available dollars on tax cuts for the wealthy.

Mr. Chairman, this is a bad bill that hurts students, working families, and our most neediest families. I strongly urge Members to oppose it.

Mr. OBEY. Mr. Chairman, because I think this is a colossal waste of time, I, too, yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the House Resolution 564, the bill shall be considered for amendment under the 5-minute rule.

Pursuant to that resolution, Amendment No. 1 printed in House Report 105–762 may be offered only at the appropriate point in the reading of the bill. Pursuant to House Resolution 584, Amendments No. 2 and 3 shall be in order before the consideration of any other amendment.

The Amendments No. 2 and 3 printed in the report may be offered only by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the order of the House today, equally divided and controlled by the gentleman from Pennsylvania (Mr. GREENWOOD) for 8 minutes, the gentleman from Oklahoma (Mr. COBURN) for 8 minutes, the gentleman from Oklahoma (Mr. ISTOOK) for 8 minutes, and the gentleman from Ohio (Mr. STOKES) for 8 minutes, shall not be subject to amendment except as specified in the report, and shall not be subject to a demand for division of the question.

The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1999, and for other purposes, namely:

AMENDMENT NO. 2 OFFERED BY MR. GREENWOOD

Mr. GREENWOOD. Mr. Chairman, I offer an amendment.

(The portion of the bill to which the amendment relates is as follows:)

SEC. 220. (a) Notwithstanding any other provision of law, no provider of services under title X of the Public Health Service Act shall be exempt from any State law requiring notification or the reporting of child abuse, child molestation, sexual abuse, rape, or incest.

(b) None of the funds appropriated in this or any other Act for any fiscal year for carrying out title X of the Public Health Service Act may be made available to any family planning project under section 1001 of such title if any provider of services in the project knowingly provides contraceptive drugs or devices to a minor, unless—

(1) the minor is emancipated under applicable State law;

(2) the minor has the written consent of a custodial parent or custodial legal guardian to receive the drugs or devices;

(3) a court of competent jurisdiction has directed that the minor may receive the drugs or devices; or

(4) such provider of services has given actual written notice to a custodial parent or custodial legal guardian of the minor, notifying the parent or legal guardian of the intent to provide the drugs or devices, at least five business days before providing the drugs or devices.

(c) Each provider of services under title X of the Public Health Service Act shall each year certify to the Secretary of Health and Human Services compliance with this section. Such Secretary shall prescribe such regulations as may be necessary to effectuate this section.

This title may be cited as the "Department of Health and Human Services Appropriations Act, 1999".

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 printed in the House Report Number 105–762 offered by Mr. GREENWOOD:

Page 52, strike line 8 and all that follows through page 53, line 8, and insert the following:

(b)(1) The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall require that each family planning project under section 1001 of title X of the Public Health Service Act—

(A) expressly inform all minors who seek the services of the project that abstinence is the only certain way to avoid pregnancy, sexually transmitted diseases, and infection with the human immunodeficiency virus; and

(B) ensure that all individuals who provide counseling services to minors through the project are trained to provide to minors counseling that encourages the minors—

(i) to abstain from sexual activity;

(ii) to avoid being coerced into engaging in sexual activities; and

(iii) to involve their parents in the decision to seek family planning services.

(2) The Secretary, acting through the Deputy Assistant Secretary for Population Affairs, shall carry out the following with respect to family planning projects referred to in paragraph (1):

(A) The Secretary shall develop and disseminate to the projects protocols for providing the counseling described in paragraph (1)(B), including protocols for training individuals to provide the counseling.

(B) The Secretary shall ensure that such protocols include protocols specific to younger adolescents.

(C) In developing protocols under subparagraphs (A) and (B), the Secretary shall consider the results of research under title XX of the Public Health Service Act.

3. A SUBSTITUTE AMENDMENT OFFERED BY REPRESENTATIVE ISTOOK OF OKLAHOMA OR HIS DESIGNEE TO THE AMENDMENT NUMBERED 2 OFFERED BY REPRESENTATIVE GREENWOOD OF PENNSYLVANIA OR HIS DESIGNEE

Strike section 220 (page 52, line 3, and all that follows through page 53, line 8) and insert the following:

SEC. 220. (a) Notwithstanding any other provision of law, no provider of services under title X of the Public Health Service Act shall be exempt from any State law requiring notification or the reporting of child abuse, child molestation, sexual abuse, rape, or incest.

(b) None of the funds appropriated in this or any other Act for any fiscal year for carrying out title X of the Public Health Service Act may be made available to any family planning project under section 1001 of such title if any provider of services in the project knowingly provides contraceptive drugs or devices to a minor, unless—

(1) such provider of services has given actual written notice to a custodial parent or custodial legal guardian of the minor, notifying the parent or legal guardian of the intent to provide the drugs or devices, at least five business days before providing the drugs or devices; or

(2) the minor has the written consent of a custodial parent or custodial legal guardian to receive the drugs or devices; or

(3) the minor is emancipated under applicable State law; or

(4) a court of competent jurisdiction has directed that the minor may receive the drugs or devices.

(c)(1) The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall require that each family planning project under section 1001 of title X of the Public Health Service Act—

(A) expressly inform all minors who seek the services of the project that abstinence is the only certain way to avoid pregnancy, sexually transmitted diseases, and infection with the human immunodeficiency virus; and

(B) ensure that all individuals who provide counseling services to minors through the project are trained to provide to minors counseling that encourages the minors—

(i) to abstain from sexual activity;

(ii) to avoid being coerced into engaging in sexual activities; and

(iii) to involve their parents in the decision to seek family planning services.

(2) The Secretary, acting through the Deputy Assistant Secretary for Population Affairs, shall carry out the following with respect to family planning projects referred to in paragraph (1):

(A) The Secretary shall develop and disseminate to the projects protocols for providing the counseling described in paragraph (1)(B), including protocols for training individuals to provide the counseling.

(B) The Secretary shall ensure that such protocols include protocols specific to younger adolescents.

(C) In developing protocols under subparagraphs (A) and (B), the Secretary shall consider the results of research under title XX of the Public Health Service Act.

The CHAIRMAN. Pursuant to the order of the House today, the gentleman from Pennsylvania (Mr. GREENWOOD) and a Member opposed, the gentleman from Oklahoma (Mr. COBURN) each will control 8 minutes.

AMENDMENT NO. 3 OFFERED BY MR. ISTOOK AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. GREENWOOD

Mr. ISTOOK. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The CHAIRMAN. The Clerk will designate the amendment offered as a substitute for the amendment.

The text of the amendment offered as a substitute for the amendment is as follows:

Amendment No. 3 printed in House Report 105–762 offered by Mr. ISTOOK as a substitute for the Amendment No. 2 offered by Mr. GREENWOOD:

Strike section 220 (page 52, line 3, and all that follows through page 53, line 8) and insert the following:

SEC. 220. (a) Notwithstanding any other provision of law, no provider of services under title X of the Public Health Service Act shall be exempt from any State law requiring notification or the reporting of child abuse, child molestation, sexual abuse, rape, or incest.

(b) None of the funds appropriated in this or any other Act for any fiscal year for carrying out title X of the Public Health Service Act may be made available to any family planning project under section 1001 of such title if any provider of services in the project knowingly provides contraceptive drugs or devices to a minor, unless—

(1) such provider of services has given actual written notice to a custodial parent or custodial legal guardian of the minor, notifying the parent or legal guardian of the intent to provide the drugs or devices, at least five business days before providing the drugs or devices; or

(2) the minor has the written consent of a custodial parent or custodial legal guardian to receive the drugs or devices; or

(3) the minor is emancipated under applicable State law; or

(4) a court of competent jurisdiction has directed that the minor may receive the drugs or devices.

(c)(1) The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall require that each family planning project under section 1001 of title X of the Public Health Service Act—

(A) expressly inform all minors who seek the services of the project that abstinence is the only certain way to avoid pregnancy, sexually transmitted diseases, and infection with the human immunodeficiency virus; and

(B) ensure that all individuals who provide counseling services to minors through the project are trained to provide to minors counseling that encourages the minors—

(i) to abstain from sexual activity;

(ii) to avoid being coerced into engaging in sexual activities; and

(iii) to involve their parents in the decision to seek family planning services.

(2) The Secretary, acting through the Deputy Assistant Secretary for Population Affairs, shall carry out the following with respect to family planning projects referred to in paragraph (1):

(A) The Secretary shall develop and disseminate to the projects protocols for providing the counseling described in paragraph (1)(B), including protocols for training individuals to provide the counseling.

(B) The Secretary shall ensure that such protocols include protocols specific to younger adolescents.

(C) In developing protocols under subparagraphs (A) and (B), the Secretary shall consider the results of research under title XX of the Public Health Service Act.

(d) Each provider of services under section 1001 of title X of the Public Health Service Act shall each year certify to the Secretary of Health and Human Services compliance with this section. Such Secretary shall prescribe such regulations as may be necessary to effectuate this section.

The CHAIRMAN. Pursuant to the order of the House today, the gentleman from Oklahoma (Mr. ISTOOK) and a Member opposed, the gentleman from Ohio (Mr. STOKES) each will control 8 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. GREENWOOD).

Mr. GREENWOOD. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, this is a virtual reality debate as we know. This bill is not going to go anywhere. This is a debate that should have occurred months ago, and the opponents of free debate on the floor held us up for months, but now we will have the debate. I think we can and should do it in a civilized way.

This is the issue. The gentleman from Oklahoma (Mr. ISTOOK) in the Committee on Appropriations inserted language into the title 10 program, the program that provides family planning services to Americans, to lower income Americans, so that they can avoid pregnancy and provide services so that they can avoid sexually transmitted diseases.

The language of the gentleman from Oklahoma (Mr. ISTOOK) says that, when a minor, a 17-year-old teenager who has been sexually active for a long time, as is usually the case, comes into a clinic. The clinic counselor must send a letter to the parents and the child. The minor cannot receive services for 5 additional days.

I understand the gentleman's intent. I am a parent. But it is wrong-headed. The result of that language, the result of that policy is that if young people do not go into centers and clinics, they do not get the services they need, they become pregnant, and they get diseases.

Our language makes it clear that every family counselor, every family planning counselor has to encourage family involvement in the decision of minors to seek family planning services and provide counseling to minors on how to resist coercive sexual relations.

It requires them to expressly inform all minors that abstinence is the only certain way to avoid pregnancy, sexually transmitted diseases, including HIV.

It requires further that every counselor have state of the art training to encourage, to learn how, and teach kids to involve their parents with these decisions and to abstain from sexual activity.

I urge a "no" vote on the Istook amendment and a "yes" vote on the underlying Greenwood amendment.

Mr. ISTOOK. Mr. Chairman, I yield myself 1 minute and 15 seconds.

Mr. Chairman, the Committee on Appropriations has sought to reform a Federal program that has not been revised or reviewed by the Congress in a great number of years, that being Federal Family Planning.

It is not a matter of 17 years olds, it is a matter of children of any age whatsoever, Mr. Chairman. It is not a matter of just low income persons because the effect of not having parental notice is to say that any child is considered to be a child of poverty and, therefore, at taxpayers' expense, can receive, among other things, taxpayer financed contraceptives, condoms, birth control pills, IUDs, diaphragms, with neither the knowledge or consent of their parents.

Now, Mr. Chairman, if the government were enabling children to be involved with drugs or alcohol or were aware that they were involved, parents would be notified. There is no other circumstance like this where parents are cut out.

The issue is to vote that parents have a right to know, to be involved with the morals and the life and the activities of their children. That is simply why we encourage a vote for the Istook substitute to provide for parental notice, which is sadly lacking today.

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Mr. GREENWOOD. Mr. Chairman, I yield 4 minutes to the gentleman from Ohio (Mr. STOKES) for purposes of control.

The CHAIRMAN. Without objection, the gentleman from Ohio (Mr. STOKES) will control 4 minutes.

There was no objection.

Mr. STOKES. Mr. Chairman, I thank the gentleman for yielding to me. Mr. Chairman, I yield the 4 minutes to the distinguished gentlewoman from New York (Mrs. LOWEY).

Mrs. LOWEY. Mr. Chairman, I thank my distinguished good friend and ranking minority member, the gentleman from Ohio, (Mr. STOKES).

My colleagues, the Istook provision represents the latest attack by family planning opponents against our Nation's flagship program. Three years ago, family planning opponents tried to zero out funds for the Title X program. They failed. Two years ago, family planning opponents led by the gentleman from Oklahoma (Mr. ISTOOK) offered a parental consent amendment, and it failed. Last year the gentleman from Oklahoma (Mr. ISTOOK) offered language nearly identical to that which he is offering today. That amendment also failed.

These attacks on the Title X program have failed because a majority of Members in this body, pro-life and pro-choice, understand that denying teens access to family planning does not promote abstinence. I only wish it were that simple.

Contrary to what we will hear today, the Istook language does not promote family values or protect the authority of parents over their teenagers. As a mother of 3 and a grandmother of 2, I can vouch for that. And instead, cutting off family planning services to teens simply increases STDs and HIV infections, unintended pregnancies and abortions.

The Istook provision would deny contraception to minors unless they have the consent of their parents or waited 5 days after their parents were notified before obtaining contraception. Some of my colleagues are making a distinction between notification and consent, but who is kidding who? The 5-day waiting period before contraception can be obtained is no different than parental consent. The AMA, the American Academy of Pediatricians, Child Welfare League, Public Health Association, Social Workers and Nurses Association all oppose the mandatory parental notification restrictions in the Istook amendment.

Of course, we would prefer that all teens consult with their parents about important life decisions such as using contraception. We would prefer that teens abstain from having sex altogether. But unfortunately, we know that teens will not change their behavior just because Congress passes a law. Instead, teens will forego contraception rather than facing their parents.

In fact, studies show that over 80 percent of teens seeking family planning services have already been sexually active for nearly a year. By denying contraceptive services to tens of thousands of teens, the Istook language will simply result in higher rates of STDs, more unintended pregnancies and more abortions. If teens are required to obtain parental consent for contraceptive services, they will also avoid STD and HIV screening and routine gynecological exams.

Our Nation already leads the western world in teen pregnancies. Millions of teens have some kind of STD, and the incident of AIDS among teens is, frankly, alarming.

Mr. Chairman, we need to address these problems, but not by making Title X services more difficult to obtain. My colleagues, we have a teen pregnancy crisis in the country, and the Istook provision, in my judgment, will only make it worse. By contrast, the Greenwood-Castle substitute before us today promotes sensible policies for teens. It promotes the values we all share: abstinence for teens and parental involvement. However, it does not threaten the health of teens by withdrawing contraceptive services from our most vulnerable teens who simply have nowhere else to turn.

Please, I say to my colleagues, think carefully. Let us protect the health and well-being of our teenagers, reduce the teen pregnancies which lead to abortion, support the Greenwood-Castle substitute, and oppose the Istook second degree amendment.

Mr. ISTOOK. Mr. Chairman, we have 3 cosponsors of the amendment: myself, the gentleman from Michigan (Mr. BARCIA), and the gentleman from Illinois (Mr. MANZULLO).

Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. MANZULLO).

Mr. MANZULLO. Mr. Chairman, the reason for the Istook-Barcia-Manzullo amendment is simple. In McHenry County, Illinois, which I represent, a 37-year-old teacher was raping a 13-year-old student of his over and over and over again. He took her to the Title X-funded McHenry Tri-County Health Clinic. She was injected on 3 different occasions with Depo-Provera, which is a harsh chemical. In fact, the chemical of choice for chemical castration by convicts.

Her parents had no idea that she was getting these shots. In America today, children as young as 12 years old are being injected, implanted, and given prescriptive medication without their parents even knowing.

Our bill does something very simple. It adopts the language of the gentleman from Oklahoma (Mr. ISTOOK) that Title X health care providers are required to counsel all minors regarding abstinence. It adopts the gentlewoman from New York (Mrs. LOWEY'S) problem with this bill that says that children are getting STDs because our bill still allows them to get STDs. In fact, the clinic is still open. Kids can get all the information they want.

What we are simply saying here is this: Allow the parents in this Nation to be put in charge of the sexuality of their children. It is just that simple. We talk about 17 year olds, the gentleman from Pennsylvania (Mr. GREENWOOD) talks about. I wonder at what age he would allow young women to get these injections. In Winnebago County, we understand it is 12 years old. Winnebago County, Illinois.

So vote for the Istook-Barcia amendment that does 3 things. Parents are given actual notice that their children are about to receive prescriptive drugs. It provides for judicial bypass. The amendment does not require parental notification for a minor to receive information, counseling and treatment of STDs. A very modest request.

JAMA, Journal of American Medical Association, in a study done in September of 1997 would agree with this position.

Mr. GREENWOOD. Mr. Chairman, I yield myself 15 seconds.

In response to the previous speaker, one cannot conduct this debate by using the most exaggerated, extreme cases. In the real world, it is 16- and 17-year-old kids who have no parent at home to talk to, who will have no counseling unless the Greenwood amendment is adopted.

Mr. Chairman, I yield 1 minute to the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Chairman, I rise in support of the Greenwood amendment and in opposition to the Istook amendment.

I would like to explain to everybody, this is not pro-life and pro-choice. We need to understand what is going on. Mr. Chairman, 55 percent of all teenagers consult with their parents before they do anything. Eighty-six percent of the teenagers that go into these clinics looking for contraceptive devices or other help are already sexually active.

In a perfect world we would have no sexual activity among teenagers, but we do. And when they come in there, they are looking for help, and the help they are getting hopefully will help them prevent STD or pregnancy and abortion. It is my personal view that if we are able to give them the help, even though we may not prefer that they be involved with a sexual activity, but if we give them that help that they are going to in that way be able to prevent getting sexual diseases, prevent pregnancy, and therefore, prevent the abortion.

I love the idea of mandatory parental notification. That is the difference between our bills, because everything else is provided for in the Greenwood-Castle bill, except for the mandatory parental notification, but if we do that, we are not going to have these kids go in and get the help they need. Please support the Greenwood bill.

Mr. ISTOOK. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, I think it is crucial to understand that we are not talking about the past when a child goes into a Title X clinic, we are talking about the future. We are talking about enabling the future conduct with a program that spends $200 million of taxpayers' money a year and gives these to 1½ million teenagers without the knowledge of their parents.

Mr. COBURN. Mr. Chairman, I yield 1 minute and 15 seconds to the gentlewoman from Idaho (Mrs. CHENOWETH).

Mrs. CHENOWETH. Mr. Chairman, I thank the gentleman for yielding me this time.

I just simply wanted to say that I rise in great support of the Istook amendment.

Mr. Chairman, the tendency in these days is to interfere with that very precious relationship between parents and children, and yes, children are going to do what young people do. But nevertheless, the parents are still primarily responsible for their children, and we as lawmakers must do all that we can to make sure that relationship stays strong and the parents remain responsible.

In a recent Gallup poll of over 500 teenagers between the ages of 15 and 17, fully 66 percent of those polled said that they believed that parental consent, which is a stronger standard than we are asking for in the Istook amendment, parental consent should be required. This is what teenagers said.

Also, in another recent poll it also said that 47 percent of all unintended pregnancies in the United States occur when women are on contraceptives. We need more than just contraceptives. We need good parental relationships, and we need to encourage that.

Mr. GREENWOOD. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, the gentlewoman who just spoke said that we need more than contraceptives. That is why the Greenwood language is so focused on abstinence, abstinence counseling. That is why we are so focused on getting the families in. The problem is that not every kid has the right parent to do that.

Mr. Chairman, I yield 2 minutes to the gentlewoman from Maryland (Mrs. MORELLA).

Mrs. MORELLA. Mr. Chairman, I rise in very strong support of the Greenwood-Castle amendment and in opposition to the Istook amendment.

This current language in the bill requiring parental consent or notification would really do great harm to our efforts to lower the number of unintended pregnancies and abortions, and to our efforts to reduce the incidence of sexually transmitted diseases, including HIV and AIDS.

On the face of it it sounds very reasonable, but it really ignores the realities of the young people who seek care at these clinics. The vast majority of them are already sexually active, have been for almost a year or more, and many of them seek these services because they are afraid they may be pregnant or they have a sexually transmitted disease.

Mr. Chairman, if teens are required to obtain parental consent for any of the Title X services, many of them will avoid the program entirely. It is important to remember that some contraceptives provide protection from STDs. And the opportunity to provide accurate, potentially life-saving education on the transmission of HIV and other STDs could also be lost if teens avoid these services because of parental consent requirements.

I think the Greenwood-Castle amendment offers all kinds of counseling that would be necessary.

I just want to point out the medical community is overwhelmingly opposed to parental consent notification requirements for minors, and I hope that this Congress will support the Greenwood-Castle amendment and oppose the Istook amendment.

The CHAIRMAN. The Chair will seek a clarification of the gentleman from Pennsylvania. Did the gentleman yield 4 of his 8 minutes to the gentleman from Ohio (Mr. STOKES)?

Mr. GREENWOOD. Mr. Chairman, I believe I yielded 4 minutes, and I would be delighted to yield another 4 minutes.

The CHAIRMAN. The gentleman has exhausted the balance of his time through yielding it to the gentlewoman from New York (Mrs. LOWEY).

Mr. GREENWOOD. Mr. Chairman, is it the case then that the time is not entirely fungible, but that there will be another 8 minutes yielded on the Greenwood underlying amendment? Is that correct?

The CHAIRMAN. The time was allocated at the outset for both propositions.

Mr. ISTOOK. Mr. Chairman, if I may inquire as to the time remaining and the different allocations.

The CHAIRMAN. The Chair asks indulgence for 1 minute. The Chair understands the time as fungible.

Under the unanimous consent, each of the following Members were recognized for 8 minutes:

The gentleman from Oklahoma (Mr. ISTOOK); the gentleman from Oklahoma (Mr. COBURN); the gentleman from Ohio (Mr. STOKES); the gentleman from Pennsylvania (Mr. GREENWOOD), and that is on both amendments, in combination, total time.

So the gentleman from Pennsylvania (Mr. GREENWOOD), perhaps under a misunderstanding, has yielded 4 of his 8 minutes to the gentleman from Ohio (Mr. STOKES), who used that time. The gentleman from Ohio (Mr. STOKES) may, in turn, choose to yield 4 minutes of his time back to the gentleman from Pennsylvania.

Mr. STOKES. Mr. Chairman, I am pleased to yield 4 minutes to the gentleman from Pennsylvania (Mr. GREENWOOD)

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The CHAIRMAN. The gentleman from Ohio (Mr. STOKES) yields to the gentleman from Pennsylvania (Mr. GREENWOOD) for his management of 4 minutes of time.

Mr. COBURN. Mr. Chairman, I yield 1 minute to the gentleman from Michigan (Mr. BARCIA).

Mr. BARCIA. Mr. Chairman, I rise in support of the Istook amendment to allow parental notification of minors seeking contraceptives in Title X clinics.

In a recent Gallop survey of 500 teens age 13 through 17, 66 percent indicated that they believed that parental consent should be required before minors received birth control, and believed in fact that parental support and involvement would be beneficial to them.

I would like to also point out, current law requires minors to receive parental consent to have their ears pierced, or even, in cases of an allergy sufferer, to receive an allergy shot. Yet these children can gain access to hormones or other contraceptive drugs that can in fact pose a serious danger to the health of that child. In effect, this issue begs the question of what role should parents have in helping to determine their children's health care needs.

I want to say that while I respectfully disagree with my distinguished colleagues, I commend them for their concern and their focus on abstinence, also, as a key method of preventing unwanted pregnancies.

The CHAIRMAN. The Chair will advise the four Members controlling time, for purposes of the debate that the decision is that the gentleman from Oklahoma (Mr. ISTOOK) as a member of the committee will have the right to close, and the gentleman from Ohio (Mr. STOKES) as a member of the committee will be next to last in closing.

In order to balance the other two, the gentleman from Oklahoma (Mr. COBURN) and the gentleman from Pennsylvania (Mr. GREENWOOD), it is in the Chair's discretion to decide. In order to alternate pro and con on this issue overall, the gentleman from Pennsylvania (Mr. GREENWOOD) will go first in the final use of time, the gentleman from Oklahoma (Mr. COBURN) will go second, the gentleman from Ohio (Mr. STOKES) third, and the gentleman from Oklahoma (Mr. ISTOOK) fourth.

Mr. COBURN. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in strong support of the Istook-Barcia-Manzullo amendment. I encourage all of my colleagues to vote for it, and vote against the Greenwood amendment.

As many know, I practiced medicine prior to coming to the Congress, including working in emergency rooms. When I work in the emergency room, one of the things we always fear is the possibility that a minor child can come in with a serious illness and the parents will not be with them, and we will not be able to get parental consent.

The reason why that is a very, very serious concern is if we stitch up a wound or give a drug and that child has a reaction to that drug, we can actually be prosecuted for assault. Indeed, a minor child cannot get an aspirin from a school nurse, nor, as was stated previously on the other side of the aisle, their ears pierced without parental consent in the United States. But there is one place in the United States today where a minor child can get medical care without parental consent, and that is in the Title X family planning clinics.

It has been proposed or expounded that these clinics are somehow cutting down on the incidence of AIDS, unwanted pregnancies, or HIV. I would assert that all the research data indicates that since this program began that the incidence of all of those things has gotten consistently worse, not better.

Indeed, I would assert that this policy established by this Congress has been a tremendous assault on the integrity of the family, and has played a role in the explosion of sexual activity.

In closing, I would just like to say one additional thing. The data that has actually come out of the Alan Gutmacher Institute indicates that up to as many as 50 percent of these kids under the age of 18 are having sexual relations with a man over the age of 18, and in the vast majority of the States that is statutory rape. Indeed, in the case cited by the gentleman from Illinois (Mr. MANZULLO), it involved a teacher of 37 years having relations with a 13-year-old child.

So I would encourage all of my colleagues to vote with the gentleman from Oklahoma (Mr. ISTOOK) on his amendment. It is the right thing to do for the family, it is morally right, and the arguments being put forward by the opponents of the gentleman from Oklahoma (Mr. ISTOOK) are incorrect.

Mr. GREENWOOD. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Chairman, in the real world it is not hard for kids to get condoms. We may not like it, but it is true. Would Members not rather that they got the advice that came from someone who said to them, you ought to talk to your mom and dad about that; that it was someone skilled enough that they would know how to tell that kid how to talk to their mom and dad? A lot of kids do not talk to their mom and dad about this stuff because they actually do not know how to approach it.

They would sit them down and say, look, this is how you do it, then back them up, and say, come back to me and talk to me about it. A lot of kids need to be coached to talk to their parents, because their parents do not talk to them. Their parents do not talk to them, not just about sex, but also not about school, not about friendships, not about intimacy, not about love.

If Members want to mandate, mandate that everyone has to get anything they want to use from a Title X clinic or any health clinic that meets these standards. Then every kid, including the kid that the gentleman from Illinois (Mr. MANZULLO) was so concerned about, she would have come someplace that was skilled in explaining to her, you do not have to participate in coercive sexual relationships.

My point is that we do not tell kids this is coercive sex, we do not tell them they do not have to do this. We do not get them someplace where there are skilled people who can help them build their relationships with their family, help them resist the kind of pressures that are on them, help them understand that abstinence is the only real protection. Furthermore, it gives them a chance to develop their personal power as a young woman.

If Members want to mandate, mandate that they get whatever it is that they want to get from skilled counselors, from a facility that can give them the advice and guidance they need to go to the right people, their families. Remember, States are a lot closer to these problems. Connecticut has a very good law. I ask Members, please do not override our good law with their mandate.

Mr. COBURN. Mr. Chairman, I yield 15 seconds to the gentleman from Illinois (Mr. MANZULLO).

Mr. MANZULLO. Mr. Chairman, in the case in Illinois, under Illinois law, the 13-year-old did receive abstinence counseling.

Mr. COBURN. Mr. Chairman, I am happy to yield 45 seconds to the gentlewoman from North Carolina (Mrs. MYRICK).

Mrs. MYRICK. Mr. Chairman, the Istook amendment does protect our children, and it does provide counseling for children during the time that they are going through emotional problems in their lives. But it does protect a parent's right to know. It simply requires that a parent be notified before their child is given contraception. As parents, we do want to know that. We want to know if they smoke, drink, or do drugs. I do not really see why this is any different.

One thing we have not talked about is that all birth control is not safe, because it has been documented that birth control can be very damaging to young girls going through puberty. It can cause blood clotting, bone deterioration, blindness, among a long list of possible side effects, and even death in girls with heart conditions. It has been a cause of brainstem stroke in teenagers. So I urge Members to support the Istook amendment.

Mr. STOKES. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Texas (Ms. SHEILA JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman from Ohio for yielding time to me.

Mr. Chairman, this is a difficult time. Let me share a fact in our community. A young woman living with a stepfather and her mother, a young woman having her future before her, her stepfather sexually abused her. There obviously was not enough communication in that home. The child wound up pregnant.

I support the Greenwood-Castle substitute, for any other approach to that would go against what 23 States have done. This now will require Title X counselors to expressly inform all minors that abstinence is the only certain way to avoid pregnancy, sexually transmitted infections, and HIV, but it adds counseling to this process. It makes clear that Title X providers must abide by State laws in the reporting of contribution, child molestation, sexual abuse, rape, and incest.

Now we are talking more to these young women who may come for these kinds of prescriptions, but then also share and burden those who are counseling them, what is going on in their home, and maybe this tragedy in Houston would not have occurred.

The Greenwood-Castle substitute ensures that all Title X counselors receive state-of-the-art training on how to help minors abstain from sexual activity, avoid coercive sexual relationships, and involve their parents in the decision to receive family planning.

Mr. Chairman, if the Istook amendment is passed, we will see more of those victims, impregnated young girls, losing the future of their lives. I would ask that we vote for the Greenwood-Castle substitute only.

Mr. COBURN. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. PITTS).

Mr. PITTS. Mr. Chairman, I rise in strong support of the Istook-Barcia-Manzullo parental notification amendment. Parents should have the right to know what the Federal Government is doing to their children. It absolutely amazes me that the opponents of this provision do not have a problem with having to write a note for their daughters to receive an aspirin at school or permission to have their ears pierced. Yet, when it comes to young girls being given serious birth control prescription by strangers, opponents do not believe that parents should even be told, that they even have the right to know.

President Clinton has said, parents quite simply have a right to know. Unfortunately, he was not referring to parents having the right to know about their children being given DepoProvera, he was referring to the importance of parents knowing which companies are most responsible for the problem of teen smoking.

If parents quite simply have the right to know about teen smoking, then surely they have the right to know if their minor daughter is receiving potentially dangerous contraceptive prescriptions. The Istook amendment is the only amendment that requires parental notification for prescription contraceptives. The Greenwood amendment would gut this provision.

I urge Members to vote for the Istook-Barcia-Manzullo amendment, to give parents the right to protect their minor daughters.

Mr. STOKES. Mr. Chairman, I yield 1 minute to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Chairman, in my State alone over 300,000 women and teens rely on Title X for their only reproductive health care. Studies show that 80 percent of teens who currently seek family planning advice at clinics would stop going if they had to tell their parents. The Istook language will cause many teens to delay or, even worse, avoid seeking essential health care services, placing their health at risk.

How can we claim to be protecting the health of our young women if we pass legislation that damages their health by restricting access to the care they need? I agree that ideally teens should be encouraged to talk to their parents about their health care decisions, but we do not live in an ideal world, and millions of teens do not live in ideal families.

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The Greenwood-Castle substitute is the correct approach. It provides teens with the message that abstinence is the only way to avoid pregnancy, STDs and HIV infection without restricting their access to needed health care.

Mr. COBURN. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair would inquire of the gentleman from Oklahoma (Mr. COBURN) how many speakers he has remaining for his 1½ minutes.

Mr. COBURN. Just one, Mr. Chairman.

The CHAIRMAN. And how many speakers does the gentleman from Pennsylvania (Mr. GREENWOOD) have remaining for his 2 minutes?

Mr. GREENWOOD. One, Mr. Chairman.

The CHAIRMAN. The gentleman from Ohio (Mr. STOKES) has 30 seconds remaining. In that case, I think it would be appropriate that all the rest of the time be used for closing statements.

So then it is appropriate under the previous direction of the Chair that the gentleman from Pennsylvania (Mr. GREENWOOD) is recognized to close with 2 minutes.

Mr. GREENWOOD. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, this is one of those debates where real good friends look at each other and say, "How can you think this way? How can we come to such different conclusions?"

Mr. Chairman, these are my two pretty little girls and I love them and I want to make sure that nothing ever happens to them. And they are so lucky. They are so lucky because their mother and I talk to them, and we are going to talk to them about their health and their sexuality and their personalities and the strength of their character. And when they come to this decision, they will have us.

But walk out the door of this building. Walk out the door of this building and tell me how many minutes it takes to find the first teenage girl whose parents could care less about her; if they knew where she was, if she knew where they were. Tell us what value it is that we are accomplishing when we send a letter into that home, we send a letter into that home from an agency.

Do my colleagues know what happens? The girl says, Do not send that letter there. I do not want this service, if that is what it means. And so where does she live? She lives in a world in which she has predators. She could be 15 or 16, and there are guys in those neighborhoods all over America, all kinds of neighborhoods, preying on her, putting her at risk of pregnancy, putting her at risk of abortion, putting her at risk of HIV.

She has got nobody. She does not have a parent. She does not have, if the Istook language prevails, a counselor. She has got nobody to teach her what is right. And if we want these values taught to these poor kids, just like we want them taught to our kids, vote for the Greenwood amendment and please vote "no" on the Istook amendment.

Mr. COBURN. Mr. Chairman, I yield 1½ minutes to the gentleman from Oklahoma (Mr. ISTOOK).

Mr. ISTOOK. Mr. Chairman, this program provides birth control pills and other contraceptives to kids. Not just those who are 17, but it freely gives them to those who are 15, to those who are 13, to those who are 12, to those who are 11, to those who are 11, 10, with no limit, totally ignoring the State laws on the books about age of consent.

Without the language, the Istook language in the bill, we do not even have a requirement to turn in people who are taking advantage of kids, and then taking them to these clinics for birth control, who are breaking the law that is designed to protect minors and our kids.

The issue is should $200 million a year of taxpayers' money go to provide contraceptives to 1.5 million kids each year without their parents knowing it? This is not emergency care. We do not say they have to have notice if they need treatment, if they have already contracted some disease. It is only if they are giving out contraceptives for future sexual activity.

And birth control pills, yes, they have side effects. They have interactions. Parents need to know about their children's health, as well as about their children's morals, if they are going to be involved in being able to give parental guidance.

The Istook language has counseling on abstinence. It has a requirement that State laws are to be followed in reporting sexual predators. For goodness sakes, Mr. Chairman, let the parents know.

Mr. STOKES. Mr. Chairman, I yield 1½ minutes to the gentleman from Texas (Mr. EDWARDS) for the purpose of closing.

Mr. EDWARDS. Mr. Chairman, this debate is certainly not about statutory rape, nor is it about taking aspirin. What this debate is about is the real world consequences of the Istook amendment, regardless of the intentions.

I often hear my Republican friends and colleagues talking about taking responsibility for one's actions. They are right, and I agree. And what taking responsibility means on the Istook amendment is that the supporters of this amendment must honestly face the real world consequences of the actions of this amendment and the result of this amendment, if it were to pass into law.

According to the expert opinion of the American Medical Association, the American College of Obstetricians and Gynecologists, and even the American Family Physicians, is that this type of amendment could cause several things to happen. First, more unplanned pregnancies. Because of that, more abortions.

It could also cause in the real world a lot of young teenagers to have serious health problems that otherwise could have been prevented, including lifelong infertility for young women who would love to some day have a family of their own, like many of us are blessed to have our own family.

I do not question the intentions of the gentleman from Oklahoma (Mr. ISTOOK) or his supporters but I do ask them to face not the ideal world in which we would like to live but the real world and the real world consequences that we actually do live in.

I will finish. To suggest that there is anything in the Greenwood language that would come between families and teenagers and parents is absolutely simply not true.

Mr. ISTOOK. Mr. Chairman, I yield the balance of the time to the gentleman from Oklahoma (Mr. COBURN), a family doctor who practices in this area, to close the debate.

The CHAIRMAN. The gentleman from Oklahoma (Mr. COBURN) is yielded the remaining 4 minutes.

Mr. COBURN. Mr. Chairman, first of all, let me thank the gentleman from Illinois (Mr. PORTER) for the way he worked with us this year. He has my utmost respect. I also want to say that the gentleman from Pennsylvania (Mr. GREENWOOD) and I have become good friends through this because we have both learned something from one another.

I do not doubt anybody's motives here, but I definitely doubt the gentleman's knowledge of the facts. I am in the real world every day dealing with teenagers who are pregnant and have a sexually transmitted disease. Do you know what? Two-thirds of them have already been to the Title X clinic. We enabled them to fail.

At the time we have this debate today, 32,000 Americans will get a new sexually transmitted disease, and of that, 17,000 have already been to a Title X clinic.

So the question is, what are the real facts? I agree, if we put in the Istook language, some additional young women will get pregnant; some will get a sexually transmitted disease. But what about all those children now who are going to a Title X clinic or using birth control pills and do not use them right because it is not talked to by their parents? They do not even brush their teeth at night, let alone remember to take a pill.

Here is the science on oral contraceptives. This is married couples taking the pill, here is what we can expect: 12 to 16 percent of them get pregnant in the first year. Why would we think a 12 or a 16 or 18 year old would not? That does not have anything to do with sexually transmitted diseases, of which human papilloma virus is growing like gangbusters, and herpes, now 40 percent of our population has herpes.

Oral contraceptives do not protect; a condom does not protect. What are we going to give our children for the two greatest sexually transmitted diseases that we have today? The only thing that we can give them is the knowledge of involving their parents back with them in this decision.

I agree, there will be young women who will choose not to go but there will be hundreds of thousands of young women who do have an opportunity to have a relationship with their parents renewed and discuss this issue. If they choose to continue to take oral contraceptives, they will have a parent there saying be sure and take your pill; be sure and do not be indiscriminate; let us teach you how to do it.

The idea of the gentleman from Pennsylvania (Mr. GREENWOOD) on counseling, I agree.

Title X, for those under 18 years of age, in my opinion, is one of the biggest causes of failure of our children. It is not a help. The facts do not show that it is a help. We like to say it is a help because of all of the problems we see.

I give teenage girls oral contraceptives. I practice in this area. But before they walk out of my office, after I have tried to talk them out of it, I make sure they know everything about it, everything about it. The real world is, is there are some wonderful Planned Parenthood clinics that do a good job but the real world on Title X clinics is they do not. They hand them a book of pills and a piece of paper and say, go. They never say the first thing about they are not going to be protected against a sexually transmitted disease.

Finally, my colleagues need to know about the NIH study. Ninety thousand teenagers, 1993, we sponsored the study, here is what it says: The number one way to keep teenagers from getting pregnant or getting a sexually transmitted disease is to connect the parent to the teenager. It is called parental connectedness.

Why would we not want to have a government policy that follows the largest study ever done in our country on this issue?

It is an easy, simple thing. We all want the same thing. We do not want our kids to get pregnant. We do not want them to get a sexually transmitted disease. The difference is, there is a base of knowledge and if we will really look at it we will all go to the same point. We are not 100 percent right or 100 percent wrong.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma (Mr. ISTOOK), as a substitute for the amendment offered by the gentleman from Pennsylvania (Mr. GREENWOOD).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. STOKES. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. Pursuant to clause 2(c) of rule XXIII, the Chair announces that he may reduce to not less than 5 minutes any recorded vote on the underlying Greenwood amendment.

The vote was taken by electronic device, and there were—ayes 224, noes 200, not voting 10, as follows:

[Roll No. 504]

AYES—224

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bateman
Bereuter
Bilirakis
Bishop
Bliley
Blunt
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Burr
Burton
Callahan
Calvert
Camp
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Ensign
Everett
Ewing
Forbes
Fossella
Fowler
Fox
Gallegly
Gekas
Gibbons
Gillmor
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson, Sam
Jones
Kanjorski
Kasich
Kildee
Kim
King (NY)
Kingston
Knollenberg
LaFalce
LaHood
Largent
Latham
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manzullo
Mascara
McCollum
McCrery
McHugh
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Mollohan
Moran (KS)
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Ortiz
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Petri
Pickering
Pitts
Pombo
Portman
Quinn
Radanovich
Rahall
Redmond
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Stupak
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thornberry
Thune
Tiahrt
Traficant
Turner
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NOES—200

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barrett (WI)
Bass
Becerra
Bentsen
Berman
Berry
Bilbray
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Cardin
Carson
Castle
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Cook
Coyne
Cummings
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Edwards
Ehrlich
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fawell
Filner
Foley
Ford
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Ganske
Gejdenson
Gephardt
Gilchrest
Gilman
Gonzalez
Green
Greenwood
Gutierrez
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Hobson
Hooley
Horn
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kilpatrick
Kind (WI)
Kleczka
Klink
Klug
Kolbe
Kucinich
Lampson
Lantos
LaTourette
Lazio
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McInnis
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moran (VA)
Morella
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pickett
Pomeroy
Porter
Price (NC)
Ramstad
Rangel
Reyes
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sawyer
Schumer
Scott
Serrano
Shays
Sherman
Sisisky
Skaggs
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Tauscher
Thomas
Thompson
Thurman
Tierney
Torres
Towns
Upton
Velázquez
Vento
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn

NOT VOTING—10

Buyer
Fazio
Kennelly
Martinez
McDade
Moakley
Peterson (PA)
Poshard
Pryce (OH)
Yates

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Ms. HOOLEY of Oregon changed her vote from "aye" to "no."

Mr. STUPAK and Mr. NEY changed their vote from "no" to "aye."

So the amendment offered as a substitute for the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. GREENWOOD), as amended.

The amendment, as amended, was agreed to.

Mr. PORTER. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SHIMKUS) having assumed the chair, Mr. BEREUTER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4274) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1999, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. PORTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the consideration of H.R. 4274, and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105-321)

The SPEAKER pro tempore laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I am returning herewith without my approval, H.R. 4101, the "Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999." I am vetoing this bill because it fails to address adequately the crisis now gripping our Nation's farm community.

I firmly believe and have stated often that the Federal Government must play an important role in strengthening the farm safety net. This appropriations bill provides an opportunity each year for the Government to take steps to help hardworking farmers achieve a decent living, despite the misfortune of bad weather, crop disease, collapsing markets, or other forces that affect their livelihoods. It is especially necessary for the Government to act this year, with prices dropping precipitously, crops destroyed by flood, drought, and disease, and where many farmers will see their net income drop by as much as 40 percent below a 5-year average.

Two years ago, when I signed the "Freedom to Farm Bill," I made clear that it did not provide an adequate safety net for our Nation's farmers. There is no better proof of that bill's shortcomings than the hardship in America's farm country this year. Our farm families are facing their worst crisis in a decade.

My Administration has already taken steps to address this crisis. In July, we announced the purchase of $250 million of wheat to export to hungry people around the world. In August, I signed legislation to speed up farm program payments. But in the face of a growing emergency for our Nation's farmers, we must do more to ensure that American farmers can continue to provide, for years to come, the safest and least expensive food in the world. Last month, I sent to the Congress a request for $2.3 billion in emergency aid for our farmers, and I supported Senator Daschle's and Harkin's proposal to boost farm income by lifting the cap on marketing loan rates.

I am extremely disappointed that the Congress has reacted to this agriculture emergency situation by sending me a bill that fails to provide an adequate safety net for our farmers. I have repeatedly stated that I would veto any emergency farm assistance bill if it did not adequately address our farmers' immediate needs, and this bill does not do enough.

The lack of sufficient emergency aid for farmers in this bill is particularly problematic in light of the bill's other provisions that affect farmers and their rural communities. Cutting edge agricultural research is absolutely essential to improve our farmers' productivity and to maintain their advantage over our competitors around the world. But this bill eliminates the $120 million in competitive research grants for this year that I strongly supported and signed into law just last June. It also blocks the $60 million from the Fund for Rural America provided through that same bill, preventing needed additional rural development funds that would help our Nation's rural communities to diversify their economies and improve their quality of life. The bill also cuts spending for our food safety initiative in half, denying funds for research, public education, and other food safety improvements.

Many of our most vulnerable farmers have also had to face an obstacle that no one in America ever should have to confront: racial discrimination. Over 1,000 minority farmers have filed claims of discrimination by USDA's farm loan programs in the 1980s and early 1990s that the statute of limitations bars from being addressed. While I am pleased that this legislation contains a provision waiving the statute of limitations, I am disappointed that it does not contain the language included in the Senate's version of this bill, which accelerates the resolution of the cases, provides claimants with a fair and full court review if they so choose, and covers claims stemming from USDA's housing loan programs.

Therefore, as I return this bill, I again call on the Congress to send me a comprehensive plan, before this session ends, that adequately responds to the very real needs of our farmers at this difficult time.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 7, 1998.*

The SPEAKER pro tempore. The objections of the President will be spread at large upon the Journal, and the veto message and the bill will be printed as a House document.

Mr. SKEEN. Mr. Speaker, I ask unanimous consent that the veto message of the President, together with the accompanying bill, be referred to the Committee on Appropriations.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

GENERAL LEAVE

Mr. SKEEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the veto message of the President to the bill, H.R. 4101, and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 3150, BANKRUPTCY REFORM ACT OF 1998

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 105-799) on the resolution (H. Res. 586) waiving points of order against the conference report to accompany the bill (H.R. 3150) to amend title 11 of the United States Code, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REREFERRAL OF H.R. 1804, JOHN McKINLEY FEDERAL BUILDING

Mr. KIM. Mr. Speaker, I ask unanimous consent that the Committee on

Transportation and Infrastructure be discharged from further consideration of the bill (H.R. 1804) to designate the Federal building located at 210 Seminary Street in Florence, Alabama, as the "John McKinley Federal Building" and that the bill be rereferred to the Committee on Government Reform and Oversight.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REREFERRAL OF H.R. 4668, JOHN T. MYERS FEDERAL BUILDING

Mr. KIM. Mr. Speaker, I ask unanimous consent that the Committee on Transportation and Infrastructure be discharged from further consideration of the bill (H.R. 4668) to designate the facility of the United States Postal Service at 30 North 7th Street in Terre Haute, Indiana, as the "John T. Myers Federal Building" and that the bill be rereferred to the Committee on Government Reform and Oversight.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

AUTHORIZING AWARD OF CONGRESSIONAL MEDAL OF HONOR TO THEODORE ROOSEVELT

The SPEAKER pro tempore. The pending business is the question de novo of suspending the rules and passing the bill, H.R. 2263.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana (Mr. BUYER) that the House suspend the rules and pass the bill, H.R. 2263.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken tomorrow.

SENSE OF HOUSE REGARDING NATIONAL SCIENCE POLICY

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 578) expressing the sense of the House of Representatives that the print of the Committee on Science entitled "Unlocking Our Future: Toward a New National Science Policy" should serve as a framework for future deliberations on congressional science policy and funding.

The Clerk read as follows:

H. RES. 578

Whereas the United States must maintain and improve its preeminent position in science and technology in order to advance human understanding of the universe and all it contains, and to improve the lives, health, and freedom of all peoples; and

Whereas the Committee on Science of the House of Representatives is hereby submitting a print to Congress entitled "Unlocking Our Future: Toward a New National Science Policy": Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that the print from the Committee on Science entitled "Unlocking Our Future: Toward a New National Science Policy" should serve as a framework for future deliberations on congressional science policy and funding.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from California (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all members may have 5 legislative days in which to revise and extend their remarks on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to come to the floor today in support of H. Res. 578, which asks the House to endorse the Science Committee's National Science Policy Study, produced by our friend and colleague from Michigan the Committee Vice Chairman (Mr. EHLERS). The study "Unlocking Our Future: Toward a New National Science Policy" is the result of over a year's work by the committee and reflects an approach to science policy that has earned the support of both sides of the aisle.

We have all heard the expression "if it ain't broke, don't fix it." Well, the clear message of this report is that, while not exactly broke, America's science policy is nonetheless in need of some pretty significant maintenance.

□ 2015

Mr. Speaker, this then is not a visionary document, but it is, I think, a document for visionaries. After all, that is what is scientists are, and it is important that we find ways to support them for the contributions they make to our national security, our health and our welfare, and this study succeeds in doing just that.

In my view what makes this report different from other science policy reports published by various groups over the years, some of them very good, is the Committee on Science's intention to act on its recommendations in future oversight hearings in legislation. Indeed this report should not be seen as the end, but rather the beginning of a long process that will involve Congress, the Executive Branch, the States, universities and industry all working together.

Mr. Speaker, this report has generated a great deal of excitement within the scientific community, and before concluding my remarks I would like to share with the House some statements in support of this document from our colleagues and in the Executive Branch.

Dr. Neal Lane, the President's Science Adviser, said he found the report to be harmonious with the President's established science policy goals, and he commended it for underscoring the importance of sustaining and nurturing America's world-leading science and technology enterprise.

Dr. Rita Colwell, Director of the National Science Foundation also praised the report noting its emphasis on the critical role of Federal support for fundamental research and especially merit based investments in university research. Doctor Colwell was also gratified that the report highlights the singular role that math, science and technology education play in any discussions of national science policy.

Mr. Speaker, I insert the full text of these statements in the RECORD:

STATEMENT OF DR. NEAL LANE

In general, I find the Committee's report to be harmonious with the President's established science policy goals. I commend Representative Ehlers for underscoring the importance of sustaining and nurturing America's world-leading science and technology enterprise. Half of our economic productivity in the last half-century is attributable to technological innovation and the science that supports it.

The report's recommendations on the importance of education concur with the President's views that the degree to which our nation flourishes in the 21st century will rest upon our success in developing a well-educated workforce able to embrace the rapid pace of technological change.

I hope this report will serve as a catalyst for broad-based bipartisan Congressional support of the Administration's thoughtful investments across the entire science and technology portfolio. Such a partnership to stimulate scientific discovery and new technologies will take America into the new century well equipped for the challenges and opportunities that lie ahead.

I look forward to working with House Science Committee Vice Chairman Ehlers and other members of Congress to ensure that our national science policy keeps in step with a changing world.

STATEMENT BY DR. RITA COLWELL

I want to commend Rep. Vern Ehlers of his diligent work in preparing this report on national science policy. I am particularly pleased that the report emphasizes the critical role of federal support for fundamental research, and especially for merit based investments in university research. The technological developments that are key to economic growth, public health, and national prosperity all rely on discoveries occurring at and across the frontiers of science and engineering.

I am also gratified that Rep. Ehlers has highlighted the singular role that math, science and technology education play in any discussion of national science policy. We cannot expect to maintain a system of world class research unless we have broad support from an informed public, and we cannot have an informed public unless we commit ourselves to improving public science literacy. I look forward to working closely with Rep. Ehlers in fostering widespread awareness and discussion of the issues raised in this report.

In closing, Mr. Speaker, the Nation's scientific enterprise is too important to our future to be left on auto pilot. In adopting House Resolution 578 and endorsing the National Science Policy Study the House will be sending an unmistakable signal that America's scientific enterprise will no longer be taken for granted in the Halls of Congress, and the real work will begin of turning the ideas in this report into sound policy that is good for science and good for the Nation.

I urge my colleagues to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, I rise to speak on H.R. 578, and I commend my colleague the honorable gentleman from Michigan (Mr. EHLERS) for the significant effort to bring forward a comprehensive science policy report, and I commend the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from California (Mr. BROWN) for allowing it to come this far. The report offers a guide and framework for continued focus on the importance of science as well as an outline for future congressional scientific discussions and deliberations regarding policy and funding options. The report, however, lacks significant input on issues of major concern.

My Committee on Science colleagues, the gentlewoman from California (Ms. LEE), the gentlewoman from Oregon (Ms. HOOLEY) and the gentlewoman from Texas (Ms. JACKSON-LEE), and I offered dissenting views for inclusion as a means to strengthen the report. We find the report needs to address four critical areas: the role of under represented populations in the fields of science and technology, social and behavioral sciences, K–12 science and math education and the challenges of environmental quality.

The role of unrepresented populations:

This report makes only passing mention of the role of unrepresented populations as African Americans, hispanic and people with disabilities in the field of science and technology. It is essential that any science policy document address the need to create a policy to include these populations in our Nation's science and technology efforts. If we do not, we will have a technology divide between Americans.

For example, presently the percentage of white households owning computers is 40.8 percent as compared to 19.3 percent of African American households and 19.4 percent of hispanic households. In addition, 39 percent of black students in public schools have access to computers at school compared with 56 percent of white students. Solving this problem is crucial because from 1996 to year 2006 employment in science and engineering occupations is expected to increase at more than three times the rate of any other occupations. At the same time some projections state that by year 2000, two-thirds of the new entrants into the American work force will be made up of minorities and women. But the number of hispanic and African American first year graduate enrollment in science and engineering fields dropped by 16.2 percent and 19.3 percent respectively from 1996 to 1997. Taken together, these trends spell disaster as a whole. Whole generation of young people may be left behind unable to ride the technological wave.

To begin this process we recommend: 1. The development of programs to involve under-represented communities in the field of science and technology. For example, the National Science Foundation's urban systemic and rural systemic initiative programs focus on a specialized math and science curricula at the high school level. Programs which are based on variables such as household income will improve the education of our youth. High schools with a majority of low-income students have been shown to lack adequate science, engineering, math and technology curricula.

The involvement of under-represented populations in the scientific community by partnership programs between historically black colleges and universities, hispanic-serving institutions, large research institutions and corporate industry. Cooperative research and development agreements, the CRADAs, is an excellent opportunity for collaborations, provide role models and a support system for smaller institutions. However recent National Science Foundation data show from 1993 to 1994 that research institutions received approximately $12.7 billion from 10 Federal agencies. Ten billion dollars of this amount was allocated to the top 100 research universities, but not one historically black or historically hispanic university received a substantial amount. Only $140 million went to the top 81 historically black and historically hispanic producing students while John Hopkins alone received $701 million. More needs to be done to develop the CRADAs with minority institutions of higher education if we are to see more minorities in the fields of science and technology.

In offering these views it is our hope that any future congressional conversations include the aforementioned in an effort to create a national science policy which is sound, diverse and inclusive. Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. Without objection, the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) will control the balance of the time on the minority side.

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. EHLERS), the author of this report.

Mr. EHLERS. Mr. Speaker, I am pleased to address the House this evening to speak regarding the report of the Committee on Science, Unlocking Our Future: Toward a New National Science Policy, that I have spent much of the last year working on.

We started this mammoth effort just one year ago. It has involved a tremendous amount of work on the part of myself, the gentleman from Wisconsin (Mr. SENSENBRENNER) the gentleman from California (Mr. BROWN) and our staffs, and has had the full support of the Speaker, and I certainly wish to thank them all for their support and their work.

I consider the release of this report to be a commencement; it is a beginning and not an end. It is intended to serve as the foundation for continued discussion within the Committee on Science, within the Congress and within the Nation regarding the future funding of science and policy decisions relating thereto. This report was not intended to be an end in itself, but rather to stimulate discussion and provide direction for the Congress and for the Committee on Science in future deliberation on this topic.

I am certainly delighted by the reception the report has received up to this point. The gentleman from Wisconsin (Mr. SENSENBRENNER) has named some of the responses we have received, those from the Director of the National Science Foundation, from members of the bipartsan Senate Science and Technology Caucus, and from the White House in the person of the Director of the Office of Science and Technology Policy. All of them have indicated support for the report, and similar letters from many scientists, scientific organizations and universities have been pouring into our office and into the chairman's office.

The only comments that we received reflecting reservations agree with and support most of the report, but are concerned about what is not in the report. In other words, they believe that we should have gone further, and indeed we should have and would have in certain subject areas had we had the time.

In particular I would like to respond to the comments of the gentlewoman from Texas who spoke just before me. I appreciate and agree with much of what she just said. There is a great need for us to continue our work in the area of underrepresented populations. I am pleased to report and I do acknowledge in the report, that the instigation, the seed for this report, arose from an African American, Dr. Homer Neal of the University of Michigan, who was Chairman of the U.M. Physics Department when I was in the Michigan State Senate. He invited me to the campus, and we began discussions regarding science and science policy. He eventually became Vice President of Research and then Interim President of the University of Michigan and was instrumental in pulling together a large number of scientists—administrators from major universities to begin discussions on this topic. They met with me, they met with the previous chairman of the Committee on Science, Mr. Walker, and then Dr. Neal organized a symposium at the University of Michigan which was instrumental in beginning the process of developing a science policy in this Nation.

In preparing this report we sought input from the scientific community. I have personally spoken to or with approximately 10,000 scientists and perhaps two thousand nonscientists over the course of the past year. In addition, we started a web site. We have received over 300 E-mails and well over 50 letters, very thoughtful letters, I might add, from scientists across the country. We have held seven hearings specifically on this topic, and in addition to that last year held four hearings on science, math, engineering and technology education, something that is extremely important to this country. We listened very carefully to what every group or individual had to say, and I believe this report reflects much of what we have learned.

But as important as what we learned from these sources was the conviction that we started with.

□ 2030

Our goal, our vision, was that America ought to maintain and improve her preeminent position in science and technology in order, first of all, to advance human understanding of the universe and all that it contains, and, second, to improve the lives, health, and freedoms of all peoples on this planet. Science—including the physical, natural, life and social sciences, math and engineering can help bring about this vision. The scientific and technological enterprise is critical to bringing about advances in understanding that help ensure that we can maintain our national defense, keep people healthy, and bring about prosperity.

I might add that, if we can maintain people's health and their prosperity, we have introduced a great deal of stability which very naturally will lead to greater democracy in this planet. I truly believe that science and technology are the key to our economic future—as a Nation, and as a planet.

But for science to continue to exert its beneficial effects on society, the scientific enterprise must be kept strong and sustainable. Much of our report is devoted to recommendations for doing so.

We have identified three major areas needing attention. (1) We must have continued discoveries at the scientific frontier; (2) we need research advances in the private sector; and (3) we must improve our system of education from preschool through graduate school.

These are critical areas to address because, first of all, future advances in fundamental research will depend largely on substantial and stable funding for this research from the Federal Government.

Second, research in the private sector and industry is important in bringing the fruits of understanding-driven research to society through applied research.

Third, science and math education, the development of our Nation's intellectual capital, is fundamentally important to our Nation's future.

While the freedom of individual researchers is necessary to bring about ground-breaking scientific discoveries, it is crucial that the scientific and engineering enterprise strengthen its ties to society, the taxpayers, who support it. Our report suggests a number of ways to do so.

In addition, science has another role, and that is to help us make decisions, as a society, as a government, within both the regulatory sector and the judicial branch, as individuals and as voters. We must develop and strengthen our ability to draw on science and engineering to help us make decisions, and our report suggests ways to bring this about.

In writing a document that adhered to my initial goals, in that it should be coherent, comprehensive, and yet concise, we were not able to address any particular issue or aspect of the scientific enterprise in great depth.

Because the report is so comprehensive, encompassing not only the role of the Congress or the Federal Government but also the private sector and our entire education system, it does not explore any particular issue in great depth. It is instead a broad-brush view of the entire science and engineering enterprise.

In part because of this "big picture" approach, this report is the beginning of a process, not the end of one.

The work of addressing specific science policy issues will have to come later. I am gratified, in fact, that the additional views submitted by some committee members indicate a desire to pursue further issues raised in the report. It is my hope that we will do so in the next Congress.

Much hard work remains. We must address these issues that are so critical to maintaining our science and technology enterprise. Let's start that process. I urge my colleagues to support this resolution.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I yield as much time as he may consume to the gentleman from California (Mr. BROWN).

Mr. BROWN of California. Mr. Speaker, I thank the gentlewoman for yielding me the time.

Mr. Speaker, a year ago at the Science Policy Study Kick-off Roundtable, Speaker Gingrich said, and I quote, "You give me a mission large enough to mobilize the Nation. You give me a set of strategic investments large enough to be worth doing, and then make it my problem to go out and figure out how to find the money."

The gentleman from Michigan (Mr. EHLERS) accepted this challenge, and I commend him on his efforts to lay down a national policy for science, math, engineering, and technology.

In setting policy, decisions must be made about the direction this country should move in, the precedence we are willing to set, and the scientific agenda for the coming years.

The problem with this report is that, and this has been already acknowledged, so I am not trying to beat a dead horse, the Speaker sought a bold visionary document, and what he got was a document which, valuable as it is, still satisfies mainly the needs of the status quo.

The Speaker, in reviewing the report at the press conference with which it was announced said this is a very good start, but it really only scratches the surface of what over the next 4 or 5 years will have to be a very important national dialogue.

This is the situation that we are in. I like the report as far as it goes. I think I can echo what the gentleman from Michigan (Mr. EHLERS) and the gentleman from Wisconsin (Mr. SENSENBRENNER) said. But I have cast my role here in the Congress at trying to look beyond the status quo at what needs to be done to solve the problems of the future. To me, this report does not go far enough in terms of that particular kind of goal.

So I am going to offer and I have offered to continue to work with the gentleman from Michigan (Mr. EHLERS) whose contribution is very valuable. I have gone through many science policy reports over the last 30-odd years. I think this is the first one that I have seen that was completed on time and under budget. I think any person who can do that in dealing with a complex subject like this deserves to be commended.

What I do think we need to do now is to accept the judgment of the Speaker that we need to continue working in this direction and to give our very best efforts to doing that.

The gentlewoman from Texas has pointed out some of the areas in which we need to continue working. This report, incidentally, as the gentleman from Michigan (Mr. EHLERS) has indicated is very acceptable to the research universities of this country and to those who benefit from the present establishment of science.

They like the idea of the Congress committing itself to provide more money for what they are already doing, and they will be glad to spend that. That is not the problem.

The question now is what social purpose are we serving through the expenditure of that money? We no longer can justify on the grounds of, let us say, national security, although we will continue to spend some money on that, but that will continue to decline. We need to look for new ways of answering the question, for what purpose are we supporting this very large scientific establishment that we have created.

I happen to feel that such an establishment is of very great value, but I think we need to look at a new paradigm in terms of the purpose of that establishment and what it can do to achieve the goals of human society.

I know that the gentleman from Michigan (Mr. EHLERS) referred to the need for greater democracy on this planet. Our good friend, the gentleman from California (Mr. DREIER) in his eloquent remarks this morning quoted from Madison's Federalist Paper Number 51 on the problems of justice and how to achieve them.

The physical sciences cannot solve those kinds of problems, but it is conceivable that newly developing areas of science, in the social sciences, the cognitive sciences, interdisciplinary science, a number of other areas might cast some light on this age-old search for a more effective, just society that we have not yet achieved.

We sometimes almost look as if we are not even coming closer to it. But we need to use the best minds of this society to work on the most important goals, the goals of the highest priority to this society. This is the mind-set that we have to inculcate in the scientific leadership of this country today.

I am not discouraged at the possibility of doing that. I think this report, perhaps, does give us a framework in which we can move forward in that direction. But because I feel that it is my goal to continue to be the doubting Thomas and to focus on the needs of the future, I am going to withhold my support. I did this in committee, I might say, although I did not make any effort to influence the other members of the committee.

I can tell you that more than 75 percent of the Committee on Science have signed their approval of this, which I think is probably a figure that ought to be even exceeded by the full House.

But I am going to play the role that I have chosen, hoping that the gentleman from Michigan (Mr. EHLERS) and the gentleman from Wisconsin (Mr. SENSENBRENNER) will understand that I feel that, that way, I can make the greatest contribution to moving us forward along some of the more unorthodox paths that we need to follow if science is truly going to be the asset to this society that I know it can be.

Mr. Speaker, one year ago, at the Science Policy Study Kick-off Roundtable, Speaker NEWT GINGRICH said: "You give me a mission large enough to mobilize the nation. You give me a set of strategic investments large enough to be worth doing, and then make it my problem to go out and figure out how to find the money."

Representative EHLERS accepted this challenge and I commend him on his effort to lay down a national policy for science, math, engineering, and technology.

In setting policy, decisions must be made about the direction this country should move in, the precedents we are willing to set, and the scientific agenda for the coming years. Unfortunately, these are precisely the decisions that were absent from the report.

The speaker sought a bold, visionary document; what he got was largely an affirmation of the status quo.

Any discussion surrounding this report or this broad topic must be put in context and not viewed as an isolated event. This Science Policy Report is not the first of its kind—not even the first such study by the Science Committee—and it will not be the last.

Over the last two decades I can point to a long string of incremental steps in the evolution of our thinking on science policy. In fact, I can find twenty significant studies on national science and technology policy just within the last few years, and I would ask permission to append this list to these remarks.

Twenty-two years ago, President Gerald Ford helped redefine the federal role in science policy with the signing of the National Science and Technology Policy, Organization, and Priorities Act of 1976, a major work of the House Science and Technology Committee. While the Act was signed by the President, it was never fully implemented.

However, it did lead to the further definition of the federal role in technology transfer and advanced technology development in the 1988 Trade Bill signed by President Reagan. The Trade Bill then opened up a restructuring of the broad area of Government-Industry-University cooperation as one way to making the U.S. industrial system more competitive with the national systems of Europe and Asia, which historically had encouraged closer ties between government and industry.

During the Bush Administration, under the skilled guidance of his Science Advisor, Dr. D. Allan Bromley, and with the input of many science and technology organizations, continued progress was made in improving the process of innovation, of moving new inventions and technologies from the labs to the marketplace, and defining, through the device of cooperative research and development agreements, the legal structure for individual institutional agreements.

With the end of the Cold War, this policy debate has intensified. The House Committee on Science, Space, and Technology issued a report in 1992 on the health of research.

The Clinton Administration has attempted to make this imprint on science policy with the 1994 report, "Science in the National Interest," a product of the Office of Science and Technology Policy. This report prompted Congressional hearings and a renewed discussion of science and technology policy at the national level.

With this historical perspective in mind, I would offer some guiding principles for an ongoing dialogue about the future of science policy.

First, a new science policy should reflect our understanding of the process of creativity and innovation. Second, a new science policy should articulate the public's interest supporting science—the goals and values the public should expect of the scientific enterprise. Third, a new science policy should point towards decision-making tools for better investment choices.

With respect to our understanding of the process of creativity and innovation, virtually no one still believes in the Vannevar Bush-era linear model of scientific breakthroughs leading inexorably to technological developments.

Despite report language endorsing a more sophisticated model of science and technology innovations arising through an iterative process, the Ehlers report ultimately puts its money on the old linear model by emphasizing Federal support for "basic" research. The report provides no guidance on how the Federal government should determine that a "market failure" has occurred in the downstream parts of the R&D process or what types of policies would be appropriate to redress such failures. I think we should work together to develop a policy on the appropriate limits of Federal support that fits with our understanding of how innovation actually works. Let's put our money where our model is.

Further, the Ehlers report seems to support the traditional "hard" sciences with only passing mentions of engineering, biology, bio-technology, the social sciences or the cognitive and policy sciences. I think we need a more holistic conception of what constitutes important science and worthwhile endeavors. An argument can be made that the most pressing issues facing our society—crime, education reform, social justice—are more likely to be addressed through investments in social science rather than in the hard sciences. Yet, the report is silent on the need to support this important research.

Next, concerning the public's interest in supporting science and what goals and values the public should expect of the scientific enterprise, it was over fifty years ago that Vannevar Bush argued that science was worth public support because it could "insure our health, prosperity, and security as a nation in the modern world." I think those general goals are still valid today. However, I also believe that we need to do a more rational job of identifying specific social needs that science can help us remedy. What are the long term goals for society which the public should expect from these investments? To put it simply, science for what end? It isn't enough to declare science a public good and walk away from the table.

When we use public resources to support science and tchnology, we should clearly identify the public purposes which we desire to achieve.

In addition to clearly articulating the goals for science, we need to squarely face the values that science can help enhance or undermine. I am particularly concerned about the possibility that increasing technological sophistication and maldistribution of educational opportunity could create a two-tiered society. What steps can we take to guarantee that we do not become a society of technological haves and have nots? This is a question of justice and equity in access to science education, and to the fruits of the scientific and technological enterprise.

To give an example, it is unfair to use public funds for biomedical research if the fruits of that research are so expensive that only a handful of the most economically advantaged can enjoy them. That is a hidden redistribution of wealth and life-expectancy from poorer Americans to richer Americans under the guise of "basic" research in the life sciences. A new science policy must wrestle with these type of questions.

Another example can be found in the disparity that continues to exist between the number of white males and the number of women and minorities who have access to and pursue higher education in science and technology fields.

Some projections show that by the Year 2000, two-thirds of the new entrants into the American workforce will be made up of minorities and women. These numbers present a compelling argument for inclusion of these groups when one considers sources of scientific capital, the make-up of our workforce, and the nation's consumer base. Therefore, the question is not if, but when, we will begin to seriously tackle the issue of underrepresenttion of these groups. Any comprehensive policy effort must address the inclusion of under-represented groups and acknowledge the future implications for the economy and society if we fail.

And lastly, as regards our decision-making tools for better investment choices. In addition to identifying clear goals and values, a new science policy should point towards methods for making better decisions. Some of the elements for that are in place. For example, the Government Performance and Results Act (GPRA) challenges our agencies to develop comprehensive goals and measurements. However, in research and development programs, GPRA is still a fairly blunt instrument and is in need of fine-tuning.

The Office of Science and Technology Policy is in a position to provide some overall coordination for our science policy, but it doesn't always have the muscle to make its desires stick with executive agencies.

Congress has creative leadership in both parties on science policy questions, but we suffer from a disorganized process for passing authorization and appropriation bills that leads to suboptimal outcomes. I think that we need to tackle all of these elements of decision-making as we move towards a more rational analysis of the major problems facing society—affordable health, broadly based economic opportunity, sustainable environmental policies and social discontent—and of the science needed to address those problems.

Science policy must try to accommodate a complex system that has been and will continue to change with increasing regularity. For this reason we need a policy document that reflects our understanding of the process of creativity and innovation, articulates the public's interest in supporting science, and points towards decision-making tools for better investment choices. Only then can we set forth goals that: (1) Are broad and sustainable, (2) form an overall picture of what we want our future on this planet to be, and (3) are based ultimately on societal needs and our desire to improve the human condition.

Over the course of my career I have issued challenges to legislators, agencies, and the science community to set goals, define priorities, think in a global context, move beyond the limits imposed by discrete disciplines, and to find ways science, engineering, and technology can help society advance. The National Science Policy report written under the direction of Congressman EHLERS is clearly an attempt to move the science, engineering, and technology fields forward, but ultimately it fails to adequately address the pressing issues that face the scientific enterprise and society in coming years. Therefore, I cannot agree that a Science Policy Report that fails to tackle these challenges is "a framework for future deliberations on congressional science policy and funding" as H. Res. 578 states.

I offer any help I can to Mr. EHLERS in continuing this dialogue, but I will withhold my support for the resolution before us today.

20 RECENT SCIENCE POLICY REPORTS

1991—U.S. Congress, Office of Technology Assessment, "Federally Funded Research: Decisions for a Decade."

1992—U.S. Congress, House, Committee on Science, Space and Technology, "Report of the Task Force on Health of Research: Chairman's Report."

1992—Carnegie Commission on Science, Technology, and Government, "Enabling the Future: Linking Science and Technology to Societal Goals."

1992—Federal Coordinating Council for Science, Engineering, and Technology, "In the National Interest: The Federal Government and Research-Intensive Universities."

1992—Competitiveness Policy Council, "First Annual Report To the President and Congress—Building a Competitive America."

1992—President's Council of Advisors on Science and Technology, "Renewing the Promise: Research-Intensive Universities and the Nation."

1993—National Academy of Sciences, Committee on Science, Engineering, and Public Policy, "Science, Technology, and the Federal Government: National Goals for a New Era."

1993—Carnegie Commission on Science, Technology, and Government, "Science, Technology and Government for a Changing World."

1994—Executive Office of the President, President Clinton/VP Gore, Office of Science and Technology Policy, "Science in the National Interest."

1995—National Academy of Sciences, Committee on Science, Engineering, and Public Policy, "Reshaping the Graduate Education of Scientists and Engineers."

1995—Executive Office of the President, The Council of Economic Advisors, "Supporting Research and Development to Promote Economic Growth: The Federal Government Role."

1995—National Academy of Sciences, National Research Council, "Allocating Federal Funds for Science and Technology."

1996—National Science Foundation, "National Patterns of R&D Resources."

1996—Council on Competitiveness, "Endless Frontier, Limited Resource: U.S. R&D Policy for Competitiveness."

1996—Executive Office of the President, President Clinton/VP Gore, Office of Science and Technology Policy, "Technology in the National Interest."

1996—Office of the Vice President for Research, University of Michigan, "The Future of the Government/University Partnership."

1996—U.S. Department of Commerce, "Effective Partnering: A Report to Congress on Federal Technology Partnerships."

1997—Executive Office of the President, Office of Science and Technology Policy, "Science and Technology Shaping the Twenty-first Century."

1997—Lewis Branscomb et al., Harvard University, Center for Science and International Affairs, "Investing in Innovation, Toward a Consensus Strategy for Federal Technology Policy."

1997—National Science Board, "Government Funding of Scientific Research."

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I appreciate the words and insight of the gentleman from California (Mr. BROWN). I think that we are quite proud of the fact, not only was this report completed on time and on budget, which we like to do in the Committee on Science, but also this is one of the first congressional initiatives on any major topic looking into the future that is our own product rather than a reaction from something that has come from the Executive Branch or private industry or the university.

I would like to see the Congress continue in this type of creative venture where we look at how we can better the type of quality of life that we will be bequeathing to our children and grandchildren.

Mr. Speaker, I yield 3½ minutes to the distinguished gentlewoman from Maryland (Mrs. MORELLA).

Mrs. MORELLA. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise this evening in support of H. Res. 578, a resolution expressing the sense of the House that the Committee on Science's report entitled "Unlocking Our Future: Toward a New National Science Policy" should serve as a framework for maintaining and strengthening our U.S. science policy for the 21st Century.

I, first of all, want to acknowledge the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. EHLERS), the vice chairman, for their leadership and commitment toward a renewed focus on U.S. science policy and for their effort to produce the report that is before us this evening.

As my colleagues know, the Committee on Science has held many, many hearings over the last year covering all aspects of science policy. I applaud their work, support the recommendations set forth in the committee's report.

I do want to say that the gentleman from Michigan (Mr. EHLERS) had many, many hearings in crafting together this science policy, and the gentleman from California (Mr. BROWN), the ranking member of the full committee, was also there at many of those meetings. The gentleman from Wisconsin (Mr. SENSENBRENNER), as a leader, has done an extraordinary job.

The science policy study, in part, focuses on the need to revitalize our Nation's educational system to ensure that students at every level, from K through 12 through university, have the skills necessary to excel in all areas of math and science.

The study also advocates promoting more flexibility in graduate level science and engineering programs to encourage more student participation. But most importantly, the study stresses the need to do more to address the underrepresentation of women and minorities in science and engineering fields.

To that end, the study indicates the passage of H.R. 3007, the Commission on the Advancement of Women in Science, Engineering and Technology Development, is an important step in achieving that goal.

H.R. 3007, which I introduced last fall, establishes a commission to identify and address the problems associated with the recruitment, retention, and advancement of women and minorities in science, engineering, and technology development.

The commission will be comprised of representatives from both private businesses and academia and will provide Congress with a list of policy recommendations that will help break down the barriers that women and minorities face in trying to become scientists and engineers.

As my colleagues know, the House of Representatives passed H.R. 3007 under suspension of the rules on September 13. I am pleased to report that the Senate approved the legislation last week and that H.R. 3007 is now awaiting the President's signature.

I see also the gentleman from Pennsylvania (Mr. GOODLING) is here in the chamber. It was jointly referred also to his committee, and I am pleased that that committee also gave its seal of approval. So we are already on our way of addressing some of the critical issues raised in the science policy study.

Again, Mr. Speaker, I want to thank the gentleman from Wisconsin (Chairman SENSENBRENNER), the gentleman from Michigan (Vice Chairman EHLERS) for their hard work. I support the recommendations in the report unlocking our future toward a new national science policy. I look forward to working with my colleagues on both sides of the aisle next Congress to further promote a strong U.S. science policy.

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Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, the idea of a science policy statement is a very valuable idea. As a member of the House Committee on Science, I have wanted for a long time that we bring focus around the issues we work with. However, I think it is important to note that we have a long way to go, and what we might be able to add to this process is an understanding of greater creativity and innovation in science and expanding the public's desire to participate in science, as well as to understand the science investments that this country makes. We also need better decision-making tools that will engage our scientists around the Nation so that we can make the right choices of investment.

Then, although we speak about education in this policy statement, I think it is extremely important that we reflect more on the K through 12. One of our most important challenges is to encourage our young people to be interested in the sciences, to desire to participate in the sciences, and by that we must professionally develop our teachers, and we must work on the K through 12 development.

So I would hope that as we conclude this study, that we will look to do more and make it better to expand the interests of science throughout the Nation.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I yield myself the balance of my time.

Let me close my remarks by expressing my appreciation and respect for both the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. EHLERS) for both accepting this responsibility and for producing this report. I am pleased to have the gentleman from Michigan (Mr. EHLERS) acknowledge that this report is a commencement. I believe sincerely that he is willing and open to having more input as related to the areas I have identified.

Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and agree to the resolution, H. Res. 578.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

SENSE OF THE HOUSE REGARDING IMPORTANCE OF MAMMOGRAPHY AND BIOPSIES IN FIGHTING BREAST CANCER

Mr. BLILEY. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 565) expressing the sense of the House of Representatives regarding the importance of mammograms and biopsies in the fight against breast cancer.

The Clerk read as follows:

H.R. 565

Whereas 1 in 8 women will develop breast cancer in her lifetime;

Whereas nearly 180,000 American women will be diagnosed with breast cancer this year, and nearly 44,000 women will die of the disease;

Whereas breast cancer is the leading cause of cancer death of women between the ages of 40 and 55;

Whereas it is universally recognized that regular mammograms are the best way to detect breast cancer at its earliest, most treatable stages, and that mammograms can detect small breast cancers up to 2 years earlier than they can be detected through self-examination;

Whereas early detection, including regular mammography screening with prompt treatment, could result in one-third fewer breast cancer deaths among women over age 50;

Whereas the American Cancer Society and the National Cancer Institute recognize that regular mammograms are beneficial to women in their forties and recommend that women begin mammography screening by age 40;

Whereas the Centers for Disease Control and Prevention determined in 1995 that nearly half of American women age 50 and older, and more than one-third of American women age 40 to 49, had not received a mammogram in the previous year;

Whereas annual mammograms are essential in early detection of breast cancer, and biopsies are the only way to diagnose or rule out breast cancer with certainty;

Whereas it is vital that women have information about breast biopsy and the biopsy options that are available to them;

Whereas cutting-edge technology in women's health is creating more options for women; and

Whereas greater awareness of the importance of mammograms leads to more mammograms and biopsies: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that—

(1) all American women should take an active role in the fight against breast cancer by all the means that are available to them, including self-examination, physician examination, and regular mammograms;

(2) the role played by community organizations and health care providers in promoting awareness of the importance of regular mammograms and of biopsy options and in helping to expand the availability of low-cost mammograms and biopsies should be recognized and applauded; and

(3) the Federal Government has a responsibility to—

(A) endeavor to raise awareness about the importance of the early detection (through mammography and biopsy) and prompt treatment of breast cancer;

(B) continue to fund research so that the causes of and a cure for breast cancer may be discovered; and

(C) continue to make mammograms and biopsies more widely available to women over 40.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. BLILEY) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. BLILEY).

GENERAL LEAVE

Mr. BLILEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to insert extraneous material on the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. BLILEY. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in support of H. Res. 565, which expresses the sense of the House of Representatives regarding the importance of mammograms and biopsies in the fight against breast cancer. I salute the gentleman from New Hampshire (Mr. BASS) and the gentlewoman from Washington (Ms. DUNN) for this commendable resolution.

According to the General Accounting Office's testimony this past May before the Committee on Commerce, Subcommittee on Health and the Environment, breast cancer is the most commonly diagnosed nonskin cancer and the second leading cause of cancer deaths among women. Experts estimate that during the 1990s, as many as 1.8 million women will be diagnosed with breast cancer, and 500,000 will die from it. According to 1997 data, an estimated 44,000 women died from breast cancer, and an estimated 180,200 new cases of the disease were diagnosed.

Mr. Speaker, we must remember that these women are not mere numbers. They are mothers, daughters, friends, and colleagues. Breast cancer has struck the families of my staff. It has even struck my own wife.

The fact that 1 in 9 women will develop breast cancer at some point in their lives is a frightening prospect, but there is hope. Awareness leads to vigilance, which leads to early detection. This resolution before us helps build the awareness needed to survive.

As my own family found out, the probability of survival, as well as the use of breast-conserving therapy and the avoidance of mastectomy increases significantly when the disease is discovered in its early stages. Currently, the most effective technique for early detection of breast cancer is screening mammography, an X-ray procedure that can detect small tumors and breast abnormalities up to 2 years before they can be detected by touch, and over 90 percent of these early-stage cancers can be cured, according to the FDA.

The use of mammography as a tool for detecting early cancer continues to increase. According to the Centers for Disease Control and Prevention, the proportion of women aged 50 and older who had received mammograms in the prior year increased from 26 percent in 1987 to 57 percent in 1995. The proportion of women 40 to 49 who had received mammograms in the past 2 years also increased from 59 percent in 1990 to 66 percent in 1995.

Mr. Speaker, I am very proud that our committee has done more than simply build awareness about this dreaded disease. Just 3 weeks ago on September 15, the House joined unanimously the Committee on Commerce in passing H.R. 4382, the Bliley-Bilirakis Mammography Quality Standards Reauthorization Act of 1998. This bill will assure the safety, accuracy and overall quality in mammography services for the early detection of breast cancer. Women who seek mammograms, however, must be assured that their results will be accurate and not misleading.

Bliley-Bilirakis provides for direct patient notification of all mammography examinations in writing, and in easily understood terms so that women are fully aware of their results. As the August 4 joint letter of endorsement from the American Cancer Society, the National Alliance of Breast Cancer Organizations and the Susan Komen Breast Cancer Foundation states, "Studies have shown that women believe their mammography results are normal if they are not contacted after their examination. An increasing number of mammography facilities have begun to report both normal and abnormal findings directly to the women as well as her referring physician, without disrupting the relationships with her referring provider."

The other body passed Bliley-Bilirakis without amendment. It has languished on the President's desk for a full week now. It merits his signature.

Mr. Speaker, the month of October is breast cancer awareness month. Today is a fitting day for the House of Representatives to add its voice to the voice of many other dedicated citizens in this country to express the importance of early mammographies and biopsies.

Mr. Speaker, I urge passage of this resolution, and I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Resolution 565. As we all know, breast cancer is one of the leading causes of death among women in this country. By combining early detection of breast cancer with prompt treatment, we can reduce the number of deaths by as much as one-third.

Although these facts are known, only half of all women over the age of 50 and one-third of women over the age of 40 have had a mammogram in the past year. We should actively push the benefits of mammography and increase its availability. I applaud the organizations that have already been active in promoting breast cancer awareness and the benefits of early detection.

Mr. Speaker, a short time ago, as the gentleman from Virginia (Mr. BLILEY) mentioned, this Congress passed the Mammography Quality Standards Reauthorization Act of 1998. This bill assured the continuation of a program for ensuring mammography quality and making sure that all women are notified of those test results. H. Res. 565 complements this legislation by recognizing the need for greater awareness among women of the need to have regular mammograms.

While I am pleased to support H. Res. 565, Mr. Speaker, I would be remiss if I did not remark for the need of more substantive legislation in this area. The Patients' Bill of Rights would have improved women's access to, and quality of, health care. I lament the fact that this Congress will fail to pass meaningful managed care reforms to stop HMO abuses.

Other legislation upon which I fear this Congress may fail to act this year would expand Medicaid coverage for breast and cervical cancer treatment. Reauthorization of the National Institutes of Health and the Centers for Disease Control programs affecting women also unfortunately have languished in this Congress.

In sum, however, Mr. Speaker, I urge my colleagues to support H. Res. 565. I also urge my colleagues to begin work on all the remaining facets of women's health care as soon as possible next year, and I thank the gentleman from Virginia (Mr. BLILEY) for his good work.

Mr. Speaker, I reserve the balance of my time.

Mr. BLILEY. Mr. Speaker, I yield 4 minutes to the gentlewoman from Washington (Ms. DUNN), an original cosponsor of this legislation.

Ms. DUNN. Mr. Speaker, I thank our chairman, the gentleman from Virginia (Mr. BLILEY), and I thank the gentleman from New Hampshire (Mr. BASS) for his great work on a resolution that we believe will help save the lives of women all over this country. I want to thank particularly, though, the gentleman from Virginia (Mr. BLILEY) and the gentleman from Florida (Mr. BILIRAKIS) for enabling this resolution to come very quickly to the floor.

Mr. Speaker, I rise today in support of the Bass resolution because of the impact it will have on the quality of life of America's women. Since October is National Breast Cancer Awareness Month, it is imperative that we seize this opportunity to encourage women to take an active role in combating a disease that takes the lives of thousands of women every single year.

While we have seen tremendous progress in the early detection, diagnosis and treatment of breast cancer, there is still a great deal more work to be done. This year, approximately 180,000 new cases of breast cancer will be diagnosed, and almost 44,000 women will die from this disease.

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That is why it is vital now, more than ever, for us to continue educating women about mammograms and about biopsies. By emphasizing the importance of mammograms and biopsies, the Bass resolution builds on the continuing efforts of those who work so very hard to promote the importance of early detection and early diagnosis in the fight against this devastating disease.

Mr. Speaker, one of my dear friends was diagnosed with breast cancer over a decade ago. She is living a healthy, productive life today because she conquered her illness, but her cancer was not detected early. Back then, only 10 years ago, women had mammograms less frequently, and she discovered the lump in her breast after it had been developing for almost 2 years.

She is a breast cancer survivor because of her own mental strength and her determination and the quality care that she received from her doctors. She was very fortunate, and for that I am thankful. But Mr. Speaker, other women may not be so fortunate.

Early detection and diagnosis through mammography and biopsy remain our best weapons against breast cancer. The Bass resolution stresses the value of regular self-examinations and mammograms in detecting breast abnormalities, and the necessity of breast biopsies in diagnosing if the abnormality is cancerous or noncancerous.

Through our efforts to raise awareness about mammograms and the other biopsy options that are available, women will have the tools to make well-informed decisions when it comes to breast care.

Congress continues to improve the quality of life for American women. As a result of the good work of the gentleman from Virginia (Chairman BLILEY), we are now able to ensure that women have access to the highest quality medical equipment to detect breast cancer at the earliest possible moment, and women now will be able to receive their mammogram results in a clear and comprehensible form.

Congress is also continuing to invest in research that saves lives. We are working to double the funding for the National Institutes of Health over the next 8 years, because their research has produced major advances in the treatment of cancer and disease that affect the lives of women in America.

The Bass resolution complements these efforts to ensure that mothers, daughters, sisters, and wives will not be limited by breast cancer, but will be free to pursue their hopes and dreams, living healthy and productive lives. I ask my colleagues to support this vitally important resolution.

Mr. BROWN of Ohio. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BLILEY. Mr. Speaker, I yield 4 minutes to the gentleman from New Hampshire (Mr. BASS), the original sponsor of this bill.

Mr. BASS. Mr. Speaker, I rise in strong support of the breast cancer awareness resolution, which is quite similar to one I introduced last year. I do want to thank the gentleman from Virginia (Chairman BLILEY) and the gentleman from Florida (Mr. BILIRAKIS) for their crucial help in bringing this resolution to the floor this evening.

I also want to thank the gentlewoman from Washington (Ms. DUNN), whose partnership on this resolution has been absolutely invaluable.

Mr. Speaker, we should all know by now that October is National Breast Cancer Awareness Month, and October 16 is National Mammography Day. It is, therefore, fitting that the House should come together today to pass the resolution that is before us now.

This breast cancer awareness resolution encourages women to take a proactive role in fighting breast cancer through steps like seeking regular mammograms, and following up on those mammograms with biopsies, if necessary. It recognizes and applauds the important role played by community organizations and health care providers in promoting awareness of these services and affordable access to them.

Finally, it acknowledges the responsibility of the Federal Government to be an active participant in efforts to fight breast cancer, from working to promote awareness and access to services to continuing its support for vital medical research.

In recent years, there has been important progress on all of these fronts. On a local level, events like Race for the Cure and Making Strides Against Breast Cancer walkathons that have occurred all over the country, which I participated in last week, have helped raise awareness of the dangers of this disease and support for finally finding a cure.

Congress has also made important contributions, including Medicare coverage for mammograms last year, and, as was mentioned by our chairman, the reauthorization of the Mammography Quality Standards Act.

Yet, despite progress in encouraging early detection and treatment and funding medical research, much more remains to be done. This year alone, nearly 180,000 women will be diagnosed with breast cancer in this country, and 44,000 will die from this terrible disease.

Twenty-seven years ago, when I was 19 years old, or 28 years ago, my mother was diagnosed with breast cancer, and she died at the age of 51. There were no strides for cancer awareness, there were no support groups. Indeed, there was very little understanding of what she faced. Unfortunately, I think she faced this disease with fright, with pain, and sometimes with great loneliness.

What we have done in those 26 years is really quite extraordinary, but there is a lot more work ahead of us. I want to see a world for my wife and my daughter, Lucy, that will be better than it was for my mother.

I thank the chairman of the committee from the bottom of my heart for making this resolution in order tonight, and bringing the importance of breast cancer awareness to the public forefront.

Mr. BLILEY. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Maryland (Mrs. MORELLA).

Mrs. MORELLA. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I want to congratulate the gentleman, and salute him for bringing this resolution to the floor. I thank the gentleman from Virginia (Mr. BLILEY) and the gentleman from Florida (Mr. BILIRAKIS) for the work that they have done, and the gentleman from New Hampshire (Mr. BASS), who is the originator, who introduced this legislation this year as well as last year.

It is true, this is Breast Cancer Awareness Month, October. If we look back we can see that we have made great strides, but we still have that figure of 180,000 women who will be diagnosed with breast cancer each year, and 44,000 who will die of breast cancer.

I have been involved every year with the Race for the Cure, and I must say, to reflect on progress, I look around when we have the 50,000 people who are out there, men as well as women, ready to march for research and education and prevention of breast cancer, and I see those pink hats. Pink hats means they are survivors, and there are more and more survivors. Why? Because of mammograms, because of biopsies, because of education, because of awareness. I think this Congress has been really moving ahead in this particular area.

For instance, I am proud that the National Institutes of Health now has an Office of Research on Women's Health, and we are putting more and more money into breast cancer research and education and prevention.

I am also very proud of our Department of Defense. Many times we do not realize that the Department of Defense appropriation has money in for peer-reviewed breast cancer research, and they have done some wonderful things, because they have great clinical trials where they can come up with some great revelations and great advances on it.

Then, just the other day, as has been mentioned, the Mammography Standards Act not only reauthorizes that for the highest quality of mammograms, but also has the notification facet of it, something that is greatly needed. Again, the gentleman from Virginia (Mr. BLILEY) was a great leader in that particular regard.

I just also want to point out the partnerships that have been occurring, not only with the Department of Defense and NIH, the private sector, NASA, working together to heighten the accuracy of our mammograms, to also have mobile units which they bring in to rural areas and areas of people who have low income, so they can have the finest digital imaging technology available for them.

So we can do a great deal through education, through further research, through making people aware of the advances that are being made, and the continued commitment of this Congress.

Mr. BLILEY. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. FRELINGHUYSEN), my final speaker.

Mr. FRELINGHUYSEN. I thank the gentleman for yielding time to me, Mr. Speaker.

I rise in support of House Resolution 565, expressing the critical need for mammograms and biopsies in the fight against breast cancer. I commend the bill's sponsor, the gentleman from New Hampshire (Mr. BASS) for bringing this important bill to the House floor.

Breast cancer, by any definition, is an epidemic in our country. It is reported that every 3 minutes a woman is diagnosed with this disease, and every 11 minutes a woman dies from it. As has been said, more than 44,000 women die from breast cancer. These women are our mothers, spouses, siblings, children, and our friends, the people we love the most.

The numbers are especially alarming in my own State of New Jersey, which has the second highest breast cancer mortality rate of any State in the Nation. The American Cancer Society estimates 6,400 new cases of breast cancer in New Jersey in 1997, and an estimated 1,800 deaths. I have found, and certainly the people who work on behalf of the American Cancer Society, that more than ever, many of these victims are young women.

While we have made some strides in raising awareness about the need for early detection and some strides in research, we still do not have a cure, nor do we know what causes this devastating disease. That is why more emphasis needs to be placed on the importance of mammograms to assist in the fight against this disease.

As a cosponsor of this legislation, I am pleased that the gentleman from New Hampshire (Mr. BASS) and the gentlewoman from Washington (Ms. DUNN) have done so much to bring this resolution to the floor. I commend their efforts. It is something which all Members should support.

STATEMENT OF CONGRESSMAN JON D. FOX IN SUPPORT OF H. RES. 565—EXPRESSING THE SENSE OF THE HOUSE REGARDING THE IMPORTANCE OF MAMMOGRAMS AND BIOPSIES IN THE FIGHT AGAINST BREAST CANCER

Mr. FOX of Pennsylvania. Mr. Speaker, I rise today in strong support of H. Res. 565 which stresses the importance of mammograms and biopsies in the fight against breast cancer.

More women in the United States are diagnosed with breast cancer every year than any other cancer except skin cancer. This year, about 180,000 cases will be diagnosed and about 44,000 women will die of this disease. Many of these lives could have been saved by early diagnosis.

The earlier breast cancer is detected, the easier it is to treat. Every woman is at risk for breast cancer, and the risks increase with age. That means women under 40 should have a mammogram every three years and women over 40 every year. Routine screening mammography is the single most effective method to detect breast changes that may be cancer, long before physical symptoms can be seen or felt. That is why this legislation is so important.

We need to give women a chance. We need them to have access to the vital tools to detect this deadly disease early. We need these women to survive and win their fights by early detection.

I strongly support this Resolution. And I thank the Gentleman for offering this Resolution which stresses the importance of diagnosing and treating this disease in the early stages. We can win this fight.

Thank you and I yield back the balance of my time.

Mr. BLILEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from Virginia (Mr. BLILEY) that the House suspend the rules and agree to the resolution, House Resolution 565.

The question was taken.

Mr. BASS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

FURTHER MESSAGE FROM THE SENATE

A further a message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate has passed bills of the following titles in which concurrence of the House is requested:

S. 442. An act to establish a national policy against State and local government interference with interstate commerce on the Internet or interactive computer services, and to exercise congressional jurisdiction over interstate commerce by establishing a moratorium on the imposition of exactions that would interfere with the free flow of commece via the Internet, and for other purposes.

S. 2584. An act to provide aviator continuation pay for military members killed in Operation Desert Shield.

ESTABLISHING THE LITTLE ROCK CENTRAL HIGH SCHOOL NATIONAL HISTORIC SITE

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that the Committee on Resources be discharged from further consideration of the Senate bill (S. 2232) to establish the Little Rock Central High School National Historic Site in the State of Arkansas, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2232

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the 1954 U.S. Supreme Court decision of Brown v. Board of Education, which mandated an end to the segregation of public schools, was one of the most significant Court decisions in the history of the United States.

(2) the admission of nine African-American students, known as the "Little Rock Nine", to Little Rock's Central High School as a result of the Brown decision, was the most prominent national example of the implementation of the Brown decision, and served as a catalyst for the integration of other, previously segregated public schools in the United States;

(3) 1997 marked the 70th anniversary of the construction of Central High School, which has been named by the American Institute of Architects as "the most beautiful high school building in America";

(4) Central High School was included on the National Register of Historic Places in 1977 and designated by the Secretary of the Interior as a National Historic Landmark in 1982 in recognition of its national significance in the development of the Civil Rights movement in the United States; and

(5) the designation of Little Rock Central High School as a unit of the National Park System will recognize the significant role the school played in the desegregation of public schools in the South and will interpret for future generations the events associated with early desegregation of southern schools;

(b) PURPOSE.—The purpose of this Act is to preserve, protect, and interpret for the benefit, education, and inspiration of present and future generations, Central High School in Little Rock, Arkansas, and its role in the integration of public schools and the development of the Civil Rights movement in the United States.

SEC. 2. ESTABLISHMENT OF CENTRAL HIGH SCHOOL NATIONAL HISTORIC SITE.

(a) ESTABLISHMENT.—The Little Rock Central High School National Historic Site in the State of Arkansas (hereinafter referred to as the "historic site") is hereby established as a unit of the National Park System. The historic site shall consist of lands and interests therein comprising the Central High School campus and adjacent properties in Little Rock, Arkansas, as generally depicted on a map entitled "Proposed Little Rock Central High School National Historic Site", numbered LIRO-20,000 and dated July, 1998. Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(b) ADMINISTRATION OF HISTORIC SITE.—The Secretary of the Interior (hereinafter referred to as the "Secretary") shall administer the historic site in accordance with this Act. Only those lands under the direct jurisdiction of the Secretary shall be administered in accordance with the provisions of law generally applicable to units of the National Park System including the Act of August 25, 1916 (16 U.S.C. 1, 2-4) and the Act of August 21, 1935 (16 U.S.C. 461-467). Nothing in this Act shall affect the authority of the Little Rock School District to administer Little Rock Central High School nor shall this Act affect the authorities of the City of Little Rock in the neighborhood surrounding the school.

(c) COOPERATIVE AGREEMENTS.—(1) The Secretary may enter into cooperative agreements with appropriate public and private agencies, organizations, and institutions (including, but not limited to, the State of Arkansas, the City of Little Rock, the Little Rock School District, Central High Museum, Inc., Central High Neighborhood, Inc., or the University of Arkansas) in furtherance of the purposes of this Act.

(2) The Secretary shall coordinate visitor interpretation of the historic site with the Little Rock School District and the Central High School Museum, Inc.

(d) GENERAL MANAGEMENT PLAN.—Within three years after the date funds are made available, the Secretary shall prepare a general management plan for the historic site. The plan shall be prepared in consultation and coordination with the Little Rock School District, the City of Little Rock, Central High Museum, Inc., and with other appropriate organizations and agencies. The plan shall identify specific roles and responsibilities for the National Park Service in administering the historic site, and shall identify lands or property, if any, that might be necessary for the National Park Service to acquire in order to carry out its responsibilities. The plan shall also identify the roles and responsibilities of other entities in administering the historic site and its programs. The plan shall include a management framework that ensures the administration of the historic site does not interfere with the continuing use of Central High School as an educational institution.

(e) ACQUISITION OF PROPERTY.—The Secretary is authorized to acquire by purchase with donated or appropriated funds by exchange, or donation the lands and interested therein located within the boundaries of the historic site: *Provided*, That the Secretary may only acquire lands or interests therein within the consent of the owner thereof: *Provided further*, That lands or interests therein owned by the State of Arkansas or a political subdivision thereof, may only be acquired by donation or exchange.

SEC. 3. DESEGREGATION IN PUBLIC EDUCATION THEME STUDY.

(a) THEME STUDY.—Within two years after the date funds are made available, the Secretary shall prepare and transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a National Historic Landmark Theme Study (hereinafter referred to as the "theme study") on the history of desegregation in public education. The purpose of the theme study shall be to identify sites, districts, buildings, structures, and landscapes that best illustrate or commemorate key events or decisions in the historical movement to provide for racial desegregation in public education. On the basis of the theme study, the Secretary shall identify possible new national historic landmarks appropriate to this theme and prepare a list in order of importance or merit of the most appropriate sites for national historic landmark designation.

(b) OPPORTUNITIES FOR EDUCATION AND RESEARCH.—The theme study shall identify appropriate means to establish linkages between sites identified in subsection (a) and between those sites and the Central High School National Historic Site established in section 2, and with other existing units of the National Park System to maximize opportunities for public education and scholarly research on desegregation in public education. The theme study also shall recommend opportunities for cooperative arrangements with State and local governments, educational institutions, local historical organizations, and other appropriate entities to preserve and interpret key sites in the history of desegregation in public education.

(c) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with one or more educational institutions, public history organizations, or civil rights organizations knowledgeable about desegregation in public education to prepare the theme study and to ensure that the theme study meets scholarly standards.

(d) THEME STUDY COORDINATION WITH GENERAL MANAGEMENT PLAN.—The theme study shall be prepared as part of the preparation and development of the general management plan for the Little Rock Central High School National Historic Site established in section 2.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this Act.

Mr. HANSEN. Mr. Speaker, S. 2232 was introduced by Senator DALE BUMPERS from the State of Arkansas who worked hard and has done a very commendable job on a bill which recognizes a very important time in our history.

S. 2232 establishes Little Rock Central High School as a National Historic Site and unit of the National Park System. Little Rock Central High School played a prominent role in the struggle for civil rights and served as an example and as a catalyst for the integration of public schools across the country. In so doing, the Federal Government would help to preserve, protect, and interpret the role this high school played in the integration of public schools and the evolution of the civil rights movement in the United States.

I strongly urge my colleagues to support S. 2232 and send it to the President.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DUTCH JOHN FEDERAL PROPERTY DISPOSITION AND ASSISTANCE ACT OF 1998

Mr. HANSEN. Mr. Speaker. I ask unanimous consent to take from the Speaker's table the Senate bill (S. 890) to dispose of certain Federal properties located in Dutch John, Utah, to assist the local government in the interim delivery of basic services to the Dutch John community, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 890

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Dutch John Federal Property Disposition and Assistance Act of 1998".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1)(A) Dutch John, Utah, was founded by the Secretary of the Interior in 1958 on Bureau of Reclamation land as a community to house personnel, administrative offices, and equipment for project construction and operation of the Flaming Gorge Dam and Reservoir as authorized by the Act of April 11, 1956 (70 Stat. 105, chapter 203; 43 U.S.C. 620 et seq.); and

(B) permanent structures (including houses, administrative offices, equipment storage and maintenance buildings, and other public buildings and facilities) were constructed and continue to be owned and maintained by the Secretary of the Interior;

(2)(A) Bureau of Reclamation land surrounding the Flaming Gorge Reservoir (including the Dutch John community) was included within the boundaries of the Flaming Gorge National Recreation Area in 1968 under Public Law 90-540 (16 U.S.C. 460v et seq.);

(B) Public Law 90-540 assigned responsibility for administration, protection, and development of the Flaming Gorge National Recreation Area to the Secretary of Agriculture and provided that lands and waters needed or used for the Colorado River Storage Project would continue to be administered by the Secretary of the Interior; and

(C) most structures within the Dutch John community (including the schools and public buildings within the community) occupy lands administered by the Secretary of Agriculture;

(3)(A) the Secretary of Agriculture and the Secretary of the Interior are unnecessarily burdened with the cost of continuing to provide basic services and facilities and building maintenance and with the administrative costs of operating the Dutch John community; and

(B) certain structures and lands are no longer essential to management of the Colorado River Storage Project or to management of the Flaming Gorge National Recreation Area;

(4)(A) residents of the community are interested in purchasing the homes they currently rent from the Secretary of the Interior and the land on which the homes are located;

(B) Daggett County, Utah, is interested in reducing the financial burden the County experiences in providing local government support services to a community that produces little direct tax revenue because of Federal ownership; and

(C) a withdrawal of the role of the Federal Government in providing basic direct community services to Dutch John would require local government to provide the services at a substantial cost;

(5)(A) residents of the Dutch John community are interested in self-government of the community; and

(B) with growing demands for additional commercial recreation services for visitors to the Flaming Gorge National Recreation Area and Ashley National Forest, there are opportunities for private economic development, but few private lands are available for the services; and

(6) the privatization and disposal to local government of certain lands in and surrounding Dutch John would be in the public interest.

(b) PURPOSES.—The purposes of this Act are—

(1) to privatize certain lands in and surrounding Dutch John, Utah;

(2) to transfer jurisdiction of certain Federal property between the Secretary of Agriculture and the Secretary of the Interior;

(3) to improve the Flaming Gorge National Recreation Area;

(4) to dispose of certain residential units, public buildings, and facilities;

(5) to provide interim financial assistance to local government to defray the cost of providing basic governmental services;

(6) to achieve efficiencies in operation of the Flaming Gorge Dam and Reservoir and the Flaming Gorge National Recreation Area;

(7) to reduce long-term Federal outlays; and

(8) to serve the interests of the residents of Dutch John and Daggett County, Utah, and the general public.

SEC. 3. DEFINITIONS.

In this Act:

(1) SECRETARY OF AGRICULTURE.—The term "Secretary of Agriculture" means the Secretary of Agriculture, acting through the Chief of the Forest Service.

(2) SECRETARY OF THE INTERIOR.—The term "Secretary of the Interior" means the Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation.

SEC. 4. DISPOSITION OF CERTAIN LANDS AND PROPERTIES.

(a) IN GENERAL.—Lands, structures, and community infrastructure facilities within or associated with Dutch John, Utah, that have been identified by the Secretary of Agriculture or the Secretary of the Interior as unnecessary for support of the agency of the respective Secretary shall be transferred or disposed of in accordance with this Act.

(b) LAND DESCRIPTION.—Except as provided in subsection (e), the Secretary of Agriculture and the Secretary of the Interior shall dispose of (in accordance with this Act) approximately 2,450 acres within or associated with the Dutch John, Utah, community in the NW¼ NW¼, S½ NW¼, and S½ of Section 1, the S½ of Section 2, 10 acres more or less within the NE¼ SW¼ of Section 3, Sections 11 and 12, the N½ of Section 13, and the E½ NE¼ of Section 14 of Township 2 North, Range 22 East, Salt Lake Base and Meridian, that have been determined to be available for transfer by the Secretary of Agriculture and the Secretary of the Interior, respectively.

(c) INFRASTRUCTURE FACILITIES AND LAND.—Except as provided in subsection (e), the Secretary of the Interior shall dispose of (in accordance with this Act) community infrastructure facilities and land that have been determined to be available for transfer by the Secretary of the Interior, including the following:

(1) The fire station, sewer systems, sewage lagoons, water systems (except as provided in subsection (e)(3)), old post office, electrical and natural gas distribution systems, hospital building, streets, street lighting, alleys, sidewalks, parks, and community buildings located within or serving Dutch John, including fixtures, equipment, land, easements, rights-of-way, or other property primarily used for the operation, maintenance, replacement, or repair of a facility referred to in this paragraph.

(2) The Dutch John Airport, comprising approximately 25 acres, including runways, roads, rights-of-way, and appurtenances to the Airport, subject to such monitoring and remedial action by the United States as is necessary.

(3) The lands on which are located the Dutch John public schools, which comprise approximately 10 acres.

(d) OTHER PROPERTIES AND FACILITIES.—The Secretary of Agriculture and the Secretary of the Interior shall dispose of (in accordance with this Act) the other properties and facilities that have been determined to be available for transfer or disposal by the Secretary of Agriculture and the Secretary of the Interior, respectively, including the following:

(1) Certain residential units occupied on the date of enactment of this Act, as determined by the Secretary of the Interior.

(2) Certain residential units unoccupied on the date of enactment of this Act, as determined by the Secretary of the Interior.

(3) Lots within the Dutch John community that are occupied on the date of enactment of this Act by privately owned modular homes under lease agreements with the Secretary of the Interior.

(4) Unoccupied platted lots within the Dutch John community.

(5) The land, comprising approximately 3.8 acres, on which is located the Church of Jesus Christ of Latter Day Saints, within Block 9, of the Dutch John community.

(6) The lands for which special use permits, easements, or rights-of-way for commercial uses have been issued by the Forest Service.

(7) The lands on which are located the offices, 3 employee residences, warehouses, and facilities of the Utah Division of Wildlife Resources, as described in the survey required under section 7, including yards and land defined by fences in existence on the date of enactment of this Act.

(8) The Dutch John landfill site, subject to such monitoring and remedial action by the United States as is necessary, with responsibility for monitoring and remediation being shared by the Secretary of Agriculture and the Secretary of the Interior proportionate to their historical use of the site.

(9) Such fixtures and furnishing in existence and in place on the date of enactment of this Act as are mutually determined by Daggett County, the Secretary of Agriculture, and the Secretary of the Interior to be necessary for the full use of properties or facilities disposed of under this Act.

(10) Such other properties or facilities at Dutch John that the Secretary of Agriculture or the Secretary of the Interior determines are not necessary to achieve the mission of the respective Secretary and the disposal of which would be consistent with this Act.

(e) RETAINED PROPERTIES.—Except to the extent the following properties are determined by the Secretary of Agriculture or the Secretary of the Interior to be available for disposal, the Secretary of Agriculture and the Secretary of the Interior shall retain for their respective use the following:

(1) All buildings and improvements located within the industrial complex of the Bureau of Reclamation, including the maintenance shop, 40 industrial garages, 2 warehouses, the equipment storage building, the flammable equipment storage building, the hazardous waste storage facility, and the property on which the buildings and improvements are located.

(2) 17 residences under the jurisdiction of the Secretary of the Interior and the Secretary of Agriculture, of which—

(A) 15 residences shall remain under the jurisdiction of the Secretary of the Interior; and

(B) 2 residences shall remain under the jurisdiction of the Secretary of Agriculture.

(3) The Dutch John water system raw water supply line and return line between the power plant and the water treatment plant, pumps and pumping equipment, and any appurtenances and rights-of-way to the line and other facilities, with the retained facilities to be operated and maintained by the United States with pumping costs and operation and maintenance costs of the pumps to be included as a cost to Daggett County in a water service contract.

(4) The heliport and associated real estate, consisting of approximately 20 acres, which shall remain under the jurisdiction of the Secretary of Agriculture.

(5) The Forest Service warehouse complex and associated real estate, consisting of approximately 2 acres, which shall remain under the jurisdiction of the Secretary of Agriculture.

(6) The Forest Service office complex and associated real estate, which shall remain under the jurisdiction of the Secretary of Agriculture.

(7) The United States Post Office, pursuant to Forest Service Special Use Permit No. 1073, which shall be transferred to the jurisdiction of the United States Postal Service pursuant to section 6(d).

SEC. 5. REVOCATION OF WITHDRAWALS.

In the case of lands and properties transferred under section 4, effective on the date of transfer to the Secretary of the Interior (if applicable) or conveyance by quitclaim deed out of Federal ownership, authorization for each of the following withdrawals is revoked:

(1) The Public Water Reserve No. 16, Utah No. 7, dated March 9, 1914.

(2) The Secretary of the Interior Order dated October 20, 1952.

(3) The Secretary of the Interior Order dated July 2, 1956, No. 71676.

(4) The Flaming Gorge National Recreation Area, dated October 1, 1968, established under Public Law 90–540 (16 U.S.C. 460v et seq.), as to lands described in section 4(b).

(5) The Dutch John Administrative Site, dated December 12, 1951 (PLO 769, U–0611).

SEC. 6. TRANSFER OF JURISDICTION.

(a) Transfers From the Secretary of Agriculture.—Except for properties retained under section 4(e), all lands designated under section 4 for disposal shall be—

(1) transferred from the jurisdiction of the Secretary of Agriculture to the Secretary of the Interior and, if appropriate, the United States Postal Service; and

(2) removed from inclusion in the Ashley National Forest and the Flaming Gorge National Recreation Area.

(b) Transfers From the Secretary of the Interior.—

(1) In general.—The Secretary of the Interior shall transfer to the Secretary of Agriculture administrative jurisdiction over certain lands and interests in land described in paragraph (2), containing approximately 2,167 acres located in Duchesne and Wasatch Counties, Utah, acquired by the Secretary of the Interior for the Central Utah Project.

(2) Land description.—The lands referred to in paragraph (1) are lands indicated on the maps generally depicting—

(A) the Dutch John transfer of the Ashley National Forest to the State of Utah, dated February 1997;

(B) the Dutch John transfer of the Uinta National Forest to the State of Utah, dated February 1997;

(C) lands to be transferred to the Forest Service: Lower Stillwater Properties;

(D) lands to be transferred to the Forest Service: Red Hollow (Diamond Properties); and

(E) lands to be transferred to the Forest Service: Coal Mine Hollow (Current Creek Reservoir).

(3) Status of lands.—

(A) National forests.—The lands and interests in land transferred to the Secretary of Agriculture under paragraph (1) shall become part of the Ashley or Uinta National Forest, as appropriate. The Secretary of Agriculture shall adjust the boundaries of each of the National Forests to reflect the additional lands.

(B) Management.—The transferred lands shall be managed in accordance with the Act of March 1, 1911 (commonly known as the "Weeks Law") (36 Stat. 962, chapter 186; 16 U.S.C. 515 et seq.) and other laws (including rules and regulations) applicable to the National Forest System.

(C) Wildlife mitigation.—As of the date of the transfer under paragraph (1), the wildlife mitigation requirements of section 8 of the Act of April 11, 1956 (43 U.S.C. 620g), shall be deemed to be met.

(D) Adjustment of boundaries.—This paragraph does not limit the authority of the Secretary of Agriculture to adjust the boundaries of the Ashley or Uinta National Forest pursuant to section 11 of the Act of March 1, 1911 (commonly known as the "Weeks Law") (36 Stat. 963, chapter 186; 16 U.S.C. 521).

(4) Land and water conservation fund.—For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–9), the boundaries of the Ashley and Uinta National Forests, as adjusted under this section, shall be considered to be the boundaries of the Forests as of January 1, 1965.

(c) Federal Improvements.—The Secretary of the Interior shall transfer to the Secretary of Agriculture jurisdiction over Federal improvements to the lands transferred under this section.

(d) Transfers From the Secretary of Agriculture.—The Secretary of Agriculture shall transfer to the United States Postal Service administrative jurisdiction over certain lands and interests in land subject to Forest Service Special Use Permit No. 1073, containing approximately 0.34 acres.

(e) Withdrawals.—Notwithstanding subsection (a), lands retained by the Federal Government under this Act shall continue to be withdrawn from mineral entry under the United States mining laws.

SEC. 7. SURVEYS.

The Secretary of the Interior shall survey or resurvey all or portions of the Dutch John community as necessary—

(1) to accurately describe parcels identified under this Act for transfer among agencies, for Federal disposal, or for retention by the United States; and

(2) to facilitate future recordation of title.

SEC. 8. PLANNING.

(a) Responsibility.—In cooperation with the residents of Dutch John, the Secretary of Agriculture, and the Secretary of the Interior, Daggett County, Utah, shall be responsible for developing a land use plan that is consistent with maintenance of the values of the land that is adjacent to land that remains under the jurisdiction of the Secretary of Agriculture or Secretary of the Interior under this Act.

(b) Cooperation.—The Secretary of Agriculture and the Secretary of the Interior shall cooperate with Daggett County in ensuring that disposal processes are consistent with the land use plan developed under subsection (a) and with this Act.

SEC. 9. APPRAISALS.

(a) Requirements.—

(1) In general.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior shall conduct appraisals to determine the fair market value of properties designated for disposal under paragraphs (1), (2), (3), (5), and (7) of section 4(d).

(2) Unoccupied platted lots.—Not later than 90 days after the date of receipt by the Secretary of the Interior from an eligible purchaser of a written notice of intent to purchase an unoccupied platted lot referred to in section 4(d)(4), the Secretary of the Interior shall conduct an appraisal of the lot.

(3) Special use permits.—

(A) In general.—Not later than 90 days after the date of receipt by the Secretary of the Interior from a permit holder of a written notice of intent to purchase a property described in section 10(g), the Secretary of the Interior shall conduct an appraisal of the property.

(B) Improvements and alternative land.—An appraisal to carry out subparagraph (A) may include an appraisal of the value of permit holder improvements and alternative land in order to conduct an in-lieu land sale.

(4) Occupied parcels.—In the case of an occupied parcel, an appraisal under this subsection shall include an appraisal of the full fee value of the occupied lot or land parcel and the value of residences, structures, facilities, and existing, in-place federally owned fixtures and furnishings necessary for full use of the property.

(5) Unoccupied parcels.—In the case of an unoccupied parcel, an appraisal under this subsection shall consider potential future uses of the parcel that are consistent with the land use plan developed under section 8(a) (including the land use map of the plan) and with subsection (c).

(6) Funding.—Funds for appraisals conducted under this section shall be derived from the Upper Colorado River Basin Fund authorized by section 5 of the Act of April 11, 1956 (70 Stat. 107, chapter 203; 43 U.S.C. 620d).

(b) Reductions for Improvements.—An appraisal of a residence or a structure or facility leased for private use under this section shall deduct the contributory value of improvements made by the current occupant or lessee if the occupant or lessee provides reasonable evidence of expenditure of money or materials in making the improvements.

(c) Current Use.—An appraisal under this section shall consider the current use of a property (including the use of housing as a community residence) and avoid uncertain speculation as to potential future use.

(d) Review.—

(1) In general.—The Secretary of the Interior shall make an appraisal under this section available for review by a current occupant or lessee.

(2) Additional information or appeal.—

(A) In general.—The current occupant or lessee may provide additional information, or appeal the findings of the appraisal in writing, to the Upper Colorado Regional Director of the Bureau of Reclamation.

(B) Action by Secretary of the Interior.—The Secretary of the Interior—

(i) shall consider the additional information or appeal; and

(ii) may conduct a second appraisal if the Secretary determines that a second appraisal is necessary.

(e) Inspection.—The Secretary of the Interior shall provide opportunities for other qualified, interested purchasers to inspect completed appraisals under this section.

SEC. 10. DISPOSAL OF PROPERTIES.

(a) Conveyances.—

(1) Patents.—The Secretary of the Interior shall dispose of properties identified for disposal under section 4, other than properties retained under section 4(e), without regard to law governing patents.

(2) Condition and land.—Except as otherwise provided in this Act, conveyance of a building, structure, or facility under this Act shall be in its current condition and shall include the land parcel on which the building, structure, or facility is situated.

(3) Fixtures and furnishings.—An existing and in-place fixture or furnishing necessary for the full use of a property or facility under this Act shall be conveyed along with the property.

(4) Maintenance.—

(A) Before conveyance.—Before property is conveyed under this Act, the Secretary of the Interior shall ensure reasonable and prudent maintenance and proper care of the property.

(B) After conveyance.—After property is conveyed to a recipient under this Act, the recipient shall be responsible for—

(i) maintenance and proper care of the property; and

(ii) any contamination of the property.

(b) Infrastructure Facilities and Land.—Infrastructure facilities and land described in paragraphs (1) and (2) of section 4(c) shall be conveyed, without consideration, to Daggett County, Utah.

(c) School.—The lands on which are located the Dutch John public schools described in section 4(c)(3) shall be conveyed, without consideration, to the Daggett County School District.

(d) Utah Division of Wildlife Resources.—Lands on which are located the offices, 3 employee residences, warehouses, and facilities of the Utah Division of Wildlife Resources described in section 4(d)(7) shall be conveyed, without consideration, to the Division.

(e) Residences and Lots.—

(1) In general.—

(A) Fair market value.—A residence and occupied residential lot to be disposed of under this Act shall be sold for the appraised fair market value.

(B) Notice.—The Secretary of the Interior shall provide local general public notice, and written notice to lessees and to current occupants of residences and of occupied residential lots for disposal, of the intent to sell properties under this Act.

(2) Purchase of residences or lots by lessees.—

(A) In general.—Subject to subparagraph (B), the Secretary of the Interior shall provide a holder of a current lease from the Secretary for a residence to be sold under paragraph (1) or (2) of section 4(d) or for a residential lot occupied by a privately owned dwelling described in section 4(d)(3) a period of 180 days beginning on the date of the written notice of the Secretary of intent of the Secretary to sell the residence or lot, to execute a contract with the Secretary of the Interior to purchase the residence or lot for the appraised fair market value.

(B) Notice of intent to purchase.—To obtain the protection of subparagraph (A), the lessee shall, during the 30-day period beginning on the date of receipt of the notice referred to in subparagraph (A), notify the Secretary in writing of the intent of the lessee to purchase the residence or lot.

(C) No notice or purchase contract.—If no written notification of intent to purchase is received by the Secretary in accordance with subparagraph (B) or if a purchase contract has not been executed in accordance with subparagraph (A), the residence or lot shall become available for purchase by other persons under paragraph (3).

(3) Purchase of residences or lots by other persons.—

(A) Eligibility.—If a residence or lot becomes available for purchase under paragraph (2)(C), the Secretary of the Interior shall make the residence or lot available for purchase by—

(i) a current authorized occupant of the residence to be sold;

(ii) a holder of a current reclamation lease for a residence within Dutch John;

(iii) an employee of the Bureau of Reclamation or the Forest Service who resides in Dutch John; or

(iv) a Federal or non-Federal employee in support of a Federal agency who resides in Dutch John.

(B) Priority.—

(i) Seniority.—Priority for purchase of properties available for purchase under this paragraph shall be by seniority of reclamation lease or residency in Dutch John.

(ii) Priority list.—The Secretary of the Interior shall compile a priority list of eligible potential purchasers that is based on the length of continuous residency in Dutch John or the length of a continuous residence lease issued by the Bureau of Reclamation in Dutch John, with the highest priority provided for purchasers with the longest continuous residency or lease.

(iii) Interruptions.—If a continuous residency or lease was interrupted, the Secretary shall consider only that most recent continuous residency or lease.

(iv) Other factors.—In preparing the priority list, the Secretary shall not consider a factor (including agency employment or position) other than the length of the current residency or lease.

(v) Disputes.—A potential purchaser may file a written appeal over a dispute involving eligibility or ranking on the priority list with the Secretary of the Interior, acting through the Upper Colorado Regional Director of the Bureau of Reclamation. The Secretary, acting through the Regional Director, shall consider the appeal and resolve the dispute.

(C) Notice.—The Secretary of the Interior shall provide general public notice and written notice by certified mail to eligible purchasers that specifies—

(i) properties available for purchase under this paragraph;

(ii) the appraised fair market value of the properties;

(iii) instructions for potential eligible purchasers; and

(iv) any purchase contract requirements.

(D) Notice of intent to purchase.—An eligible purchaser under this paragraph shall have a period of 90 days after receipt of written notification to submit to the Secretary of the Interior a written notice of intent to purchase a specific available property at the listed appraised fair market value.

(E) Notice of eligibility of highest eligible purchaser to purchase property.—The Secretary of the Interior shall provide notice to the potential purchaser with the highest eligible purchaser priority for each property that the purchaser will have the first opportunity to execute a sales contract and purchase the property.

(F) Availability to other purchasers on priority list.—If no purchase contract is executed for a property by the highest priority purchaser within the 180 days after receipt of notice under subparagraph (E), the Secretary of the Interior shall make the property available to other purchasers listed on the priority list.

(G) Limitation on number of properties.—No household may purchase more than 1 residential property under this paragraph.

(4) Residual property to county.—If a residence or lot to be disposed of under this Act is not purchased in accordance with paragraph (2) or (3) within 2 years after providing the first notice of intent to sell under paragraph (1)(B), the Secretary of the Interior shall convey the residence or lot to Daggett County without consideration.

(5) Advisory committee.—The Secretary of the Interior, acting through the Upper Colorado Regional Director of the Bureau of Reclamation, may appoint a nonfunded Advisory Committee comprised of 1 representative from each of the Bureau of Reclamation, Daggett County, and the Dutch John community to review and provide advice to the Secretary on the resolution of disputes arising under this subsection and subsection (f).

(6) Financing.—The Secretary of the Interior shall provide advice to potential purchasers under this subsection and subsection (f) in obtaining appropriate and reasonable financing for the purchase of a residence or lot.

(f) Unoccupied Platted Lots.—

(1) In general.—Except as provided in paragraph (2), the Secretary of the Interior shall make an unoccupied platted lot described in section 4(d)(4) available for sale to eligible purchasers for the appraised fair market value of the lot.

(2) Conveyance for public purpose.—On request from Daggett County, the Secretary of the Interior may convey directly to the County without consideration a lot referred to in paragraph (1) that will be used for a public use purpose that is consistent with the land use plan developed under section 8(a).

(3) Administration.—The procedures established under subsection (e) shall apply to this subsection to the maximum extent practicable, as determined by the Secretary of the Interior.

(4) Land-use designation.—For each lot sold under this subsection, the Secretary of the Interior shall include in the notice of intent to sell the lot provided under this subsection the land-use designation of the lot established under the land use plan developed under section 8(a).

(5) Limitation on number of lots.—No household may purchase more than 1 residential lot under this subsection.

(6) Limitation on purchase of additional lots.—No household purchasing an existing residence under this section may purchase an additional single home, residential lot.

(7) Residual lots to county.—If a lot described in paragraph (1) is not purchased in accordance with paragraphs (1) through (6) within 2 years after providing the first notice of intent to sell under this subsection, the Secretary of the Interior shall convey the lot to Daggett County without consideration.

(g) Special Use Permits.—

(1) Sale.—Lands on which Forest Service special use permits are issued to holders numbered 4054 and 9303, Ashley National Forest, comprising approximately 15.3 acres and 1 acre, respectively, may be sold at appraised fair market value to the holder of the permit.

(2) Administration of permits.—On transfer of jurisdiction of the land to the Secretary of the Interior pursuant to section 6, the Secretary of the Interior shall administer the permits under the terms and conditions of the permits.

(3) Notice of availability for purchase.—The Secretary of the Interior shall notify the respective permit holders in writing of the availability of the land for purchase.

(4) Appraisals.—The Secretary of the Interior shall not conduct an appraisal of the land unless the Secretary receives a written notice of intent to purchase the land within 2 years after providing notice under paragraph (3).

(5) Alternative parcels.—On request by permit holder number 9303, the Secretary of the Interior, in consultation with Daggett County, may—

(A) consider sale of a parcel within the Daggett County community of similar size and appraised value in lieu of the land under permit on the date of enactment of this Act; and

(B) provide the holder credit toward the purchase or other negotiated compensation for the appraised value of improvements of the permittee to land under permit on the date of enactment of this Act.

(6) Residual land to county.—If land described in paragraph (1) is not purchased in accordance with paragraphs (1) through (5) within 2 years after providing the first notice of intent to sell under this subsection, the Secretary of the Interior shall convey the land to Daggett County without consideration.

(h) Transfers to County.—Other land occupied by authorization of a special use permit, easement, or right-of-way to be disposed of under this Act shall be transferred to Daggett County if the holder of the authorization and the County, prior to transfer of the lands to the County—

(1) agree to and execute a legal document that grants the holder the rights and privileges provided in the existing authorization; or

(2) enter into another arrangement that is mutually satisfactory to the holder and the County.

(i) Church Land.—

(1) In general.—The Secretary of the Interior shall offer to sell land to be disposed of under this Act on which is located an established church to the parent entity of the church at the appraised fair market value.

(2) Notice.—The Secretary of the Interior shall notify the church in writing of the availability of the land for purchase.

(3) Residual land to county.—If land described in paragraph (1) is not purchased in accordance with paragraphs (1) and (2) within 2 years after providing the first notice of intent to sell under this subsection, the Secretary of the Interior shall convey the land to Daggett County without consideration.

(j) Residual Properties to County.—The Secretary of the Interior shall convey all lands, buildings, or facilities designated for disposal under this Act that are not conveyed in accordance with subsections (a) through (i) to Daggett County without consideration.

(k) Water Rights.—

(1) In general.—Subject to the other provisions of this subsection, the Secretary of the Interior shall transfer all water rights the Secretary holds that are applicable to the Dutch John municipal water system to Daggett County.

(2) Water service contract.—

(A) In general.—Transfer of rights under paragraph (1) is contingent on Daggett County entering into a water service contract with the Secretary of the Interior covering payment for and delivery of untreated water to Daggett County pursuant to the Act of April 11, 1956 (70 Stat. 105, chapter 203; 43 U.S.C. 620 et seq.).

(B) Delivered water.—The contract shall require payment only for water actually delivered.

(3) Existing rights.—Existing rights for transfer to Daggett County under this subsection include—

(A) Utah Water Right 41-2942 (A30557, Cert. No. 5903) for 0.08 cubic feet per second from a water well; and

(B) Utah Water Right 41-3470 (A30414b), an unapproved application to segregate 12,000 acre-feet per year of water from the original approved Flaming Gorge water right (41-2963) for municipal use in the town of Dutch John and surrounding areas.

(4) Culinary water supplies.—The transfer of water rights under this subsection is conditioned on the agreement of Daggett County to provide culinary water supplies to Forest Service campgrounds served (on the date of enactment of this Act) by the water supply system and to Forest Service and Bureau of Reclamation facilities, at a rate equivalent to other similar uses.

(5) Maintenance.—The Secretary of Agriculture and the Secretary of the Interior shall be responsible for maintenance of their respective water systems from the point of the distribution lines of the systems.

(l) Shoreline Access.—On receipt of an acceptable application, the Secretary of Agriculture shall consider issuance of a special use permit affording Flaming Gorge Reservoir public shoreline access and use within the vicinity of Dutch John in conjunction with commercial visitor facilities provided and maintained under such a permit.

(m) Revenues.—

(1) In general.—Except as provided in paragraph (2), all revenues derived from the sale of properties as authorized by this Act shall temporarily be deposited in a segregated interest-bearing trust account in the Treasury with the moneys on hand in the account paid to Daggett County semiannually to be used by the County for purposes associated with the provision of governmental and community services to the Dutch John community.

(2) Deposit in the general fund.—Of the revenues described in paragraph (1), 15.1 percent shall be deposited in the general fund of the Treasury.

SEC. 11. VALID EXISTING RIGHTS.

(a) Agreements.—

(1) In general.—If any lease, permit, right-of-way, easement, or other valid existing right is appurtenant to land conveyed to Daggett County, Utah, under this Act, the County shall honor and enforce the right through a legal agreement entered into by the County and the holder before the date of conveyance.

(2) Extension or termination.—The County may extend or terminate an agreement under paragraph (1) at the end of the term of the agreement.

(b) Use of Revenues.—During such period as the County is enforcing a right described in subsection (a)(1) through a legal agreement between the County and the holder of the right under subsection (a), the County shall collect and retain any revenues due the Federal Government under the terms of the right.

(c) Extinguishment of Rights.—If a right described in subsection (a)(1) with respect to certain land has been extinguished or otherwise protected, the County may dispose of the land.

SEC. 12. CULTURAL RESOURCES.

(a) Memoranda of Agreement.—Before transfer and disposal under this Act of any land that contains cultural resources and that may be eligible for listing on the National Register of Historic Places, the Secretary of Agriculture, in consultation with the Secretary of the Interior, the Utah Historic Preservation Office, and Daggett County, Utah, shall prepare a memorandum of agreement, for review and approval by the Utah Office of Historical Preservation and the Advisory Council on Historic Preservation established by title II of the National Historic Preservation Act (16 U.S.C. 470i et seq.), that contains a strategy for protecting or mitigating adverse effects on cultural resources on the land.

(b) Interim Protection.—Until such time as a memorandum of agreement has been approved, or until lands are disposed of under this Act, the Secretary of Agriculture shall provide clearance or protection for the resources.

(c) Transfer Subject to Agreement.—On completion of actions required under the memorandum of agreement for certain land, the Secretary of the Interior shall provide for the conveyance of the land to Daggett County, Utah, subject to the memorandum of agreement.

SEC. 13. TRANSITION OF SERVICES TO LOCAL GOVERNMENT CONTROL.

(a) Assistance.—

(1) In general.—The Secretary of the Interior shall provide training and transitional operating assistance to personnel designated by Daggett County, Utah, as successors to the operators for the Secretary of the infrastructure facilities described in section 4(c).

(2) Duration of training.—With respect to an infrastructure facility, training under paragraph (1) shall continue for such period as is necessary for the designated personnel to demonstrate reasonable capability to safely and efficiently operate the facility, but not to exceed 2 years.

(3) Continuing assistance.—The Secretary shall remain available to assist with resolving questions about the original design and installation, operating and maintenance needs, or other aspects of the infrastructure facilities.

(b) Transition Costs.—For the purpose of defraying costs of transition in administration and provision of basic community services, an annual payment of $300,000 (as adjusted by the Secretary for changes in the Consumer Price Index for all-urban consumers published by the Department of Labor) shall be provided from the Upper Colorado River Basin Fund authorized by section 5 of the Act of April 11, 1956 (70 Stat. 107, chapter 203; 43 U.S.C. 620d), to Daggett County, Utah, or, in accordance with subsection (c), to Dutch John, Utah, for a period not to exceed 15 years beginning the first January 1 that occurs after the date of enactment of this Act.

(c) Division of Payment.—If Dutch John becomes incorporated and become responsible for operating any of the infrastructure facilities referred to in subsection (a)(1) or for providing other basic local governmental services, the payment amount for the year of incorporation and each following year shall be proportionately divided between Daggett County and Dutch John based on the respective costs paid by each government for the previous year to provide the services.

(d) Electric Power.—

(1) Availability.—The United States shall make available electric power and associated energy from the Colorado River Storage Project for the Dutch John community.

(2) Amount.—The amount of electric power and associated energy made available under paragraph (1) shall not exceed 1,000,000 kilowatt-hours per year.

(3) Rates.—The rates for power and associated energy shall be the firm capacity and energy rates of the Salt Lake City Area/Integrated Projects.

SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

(a) Resource Recovery and Mitigation.—There are authorized to be appropriated to the Secretary of Agriculture, out of nonpower revenues to the Federal Government from land transferred under this Act, such sums as are necessary to implement such habitat, sensitive resource, or cultural resource recovery, mitigation, or replacement strategies as are developed with respect to land transferred under this Act, except that the strategies may not include acquisition of privately owned lands in Daggett County.

(b) OTHER SUMS.—In addition to sums made available under subsection (a), there are authorized to be appropriated such sums as are necessary to carry out this Act.

Mr. HANSEN. Mr. Speaker, S. 890 is a very important bill. It helps a small town in Utah, and it saves the American people millions of dollars.

The Town of Dutch John was established in 1958 by the Bureau of Reclamation to provide housing and serve project construction needs for the construction of Flaming Gorge Dam. This provision will privatize certain lands at Dutch John which are no longer needed by the Bureau of Reclamation. In an agreement reached between the local county and the Bureau, this language will transfer these lands and save the taxpayer over one million dollars annually.

I ask my colleagues to give S. 890 their full support.

The Senate bill was ordered to be read a third time, and was read the third time, and passed, and a motion to reconsider was laid on the table.

INTERNATIONAL CHILD LABOR RELIEF ACT OF 1998

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4506) to provide for United States support for developmental alternatives for underage child workers, as amended.

The Clerk read as follows:

H.R. 4506

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "International Child Labor Relief Act of 1998".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Article 32 of the United Nations Convention on the Rights of the Child recognizes "the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education or to be harmful to the child's health or physical, mental, spiritual, moral or social development.".

(2) Article 2 of Convention 138 of the International Labor Organization, the Minimum Age Convention, states that the minimum age for admission to employment or work "shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years.".

(3) Convention 29 of International Labor Organization, the Forced Labor Convention, which has been in effect since 1930, prohibits most forms of "forced or compulsory labor", including all forced labor by people under the age of 18.

(4) Although it is among the most universally condemned of all human rights abuses, child labor is widely practiced. The International Labor Organization and the United Nations Children's Fund (UNICEF) have estimated the total number of child workers to be between 200,000,000 and 250,000,000. More than 95 percent of those child workers live in developing countries.

(5) The International Labor Organization has estimated that 13.2 percent of all children 10 to 14 years of age around the world were economically active in 1995. According to UNICEF, 75 percent of the child laborers in the 10 to 14 age group work 6 days a week or more, and 50 percent work 9 hours a day or more. There are no reliable figures on workers under 10 years of age, though their numbers are known to be significant. Reliable child labor statistics are not readily available, in part because many governments in the developing world are reluctant to document those activities, which are often illegal under domestic laws, which violate international standards, and which may be perceived as a failure of internal public policy.

(6) Notwithstanding international and domestic prohibitions, many children in developing countries are forced to work as debt-bonded and slave laborers in hazardous and exploitative industries. According to the United Nations Working Group on Contemporary Forms of Slavery and the International Labor Organization, there are tens of millions of child slaves in the world today. Large numbers of those slaves are involved in agricultural and domestic labor, the sex industry, the carpet and textile industries, and quarrying and brick making.

(7) In many countries, children lack either the legal standing or the means to protect themselves from cruelty and exploitation in the workplace.

(8) The employment of children often interferes with the opportunities of such children for basic education. Furthermore, where it coexists with high rates of adult unemployment, the use of child labor likely denies gainful employment to millions of adults.

(9) While child labor is a complex and multifaceted phenomenon that is tied to issues of poverty, educational opportunity, and culture, its most abusive and hazardous forms are repugnant to basic human rights and must be eliminated.

(10) Created in 1992, the International Labor Organization's International Program on the Elimination of Child Labor (IPEC) is the world's largest technical cooperation program on child labor, involving more than 50 countries and over 1,000 action programs. Governments take the initiative in seeking IPEC assistance, and demonstrate their commitment to combating child labor by signing a memorandum of understanding with IPEC, which serves as the basis for a long term in-country program that is overseen by a national steering committee comprised of representatives of government, employers' and workers' organizations, and relevant nongovernmental organizations. IPEC activities aim at preventing child labor, withdrawing children from hazardous work, and providing alternatives to child labor as a transitional measure toward its elimination.

SEC. 3. UNITED STATES SUPPORT FOR DEVELOPMENTAL ALTERNATIVES FOR UNDERAGE CHILD WORKERS.

For each of the fiscal years 1999 through 2001 there are authorized to be appropriated for the Department of Labor under the heading "International Labor Affairs Bureau" $30,000,000 for a United States contribution to the International Labor Organization for the activities of the International Program on the Elimination of Child Labor.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. GILMAN) and the gentleman from Minnesota (Mr. LUTHER) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. GILMAN).

GENERAL LEAVE

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this measure.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to express my support for the International Child Labor Relief Act, H.R. 4506. I commend its chief sponsors, the distinguished chairman of our Subcommittee on International Operations and Human Rights, the gentleman from New Jersey (Mr. SMITH), for his tireless work in drawing attention to the growing epidemic of child labor. It is one of the most universally condemned of all human rights abuses.

The work that exploited children do is more often than not dirty, demeaning, and dangerous. A large proportion of the estimated 250 million exploited children in the world are debt bonded or slave laborers. Employment prevents a child from gaining a basic education, and for children whose employment involves captivity, employment means no education at all.

This legislation authorizes $90 million over the next 3 years to the International Labor Organization for the activities of the International Program on the Elimination of Child Labor, IPEC. Each of the more than 50 countries participating in IPEC have signed a memorandum of understanding that serves as a basis for its own long-term efforts to address this problem.

There can be little doubt that the ongoing economic crisis in Asia has forced governments and non-governmental groups alike to reevaluate their programs and strategies to address this critically important issue.

Most experts agree that governments can help to address this growing humanitarian crisis by promoting free education to reduce the incidence of child labor, but the revival of economic growth throughout Asia and other affected market economies is no less essential to the long-term solution to the exploitation of underage workers.

□ 2115

Accordingly, Mr. Speaker, I urge my colleagues to support this vitally important legislation to ensure that child labor issues are given the attention they deserve in the Clinton administration and among all the 174 members of the International Labor Organization.

Mr. Speaker, I reserve the balance of my time.

Mr. LUTHER. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, I want to thank the gentleman from

New York (Chairman GILMAN) and the gentleman from Minnesota (Mr. LUTHER) for being here tonight to outline why this bill is so necessary.

Mr. Speaker, I would like to be home with my kids, and I know that each of my colleagues would like to be as well. We will go home and we will look at those kids and know that they are well fed and clothed and housed and cared for and nurtured. But that is not the case with hundreds of millions of children around the globe.

I would like to share a few of these children that this bill that these gentlemen, along with the gentleman from New Jersey (Mr. SMITH), who was the principal sponsor on the Committee on International Relations, have cared for who would not have been cared for, who will not even be noticed, unless we provide this money.

Mr. Chairman, this is a picture of a girl shining shoes. She works in a shoe shine stand in Ecuador. She cannot be more than 4 years old. She represents the millions of children who work on the streets of the world's cities. Children are sent on to the streets to work or to beg, and while seeking work, they are easy prey.

They are given a job, like this girl, shining shoes. They must turn over all the money they receive to an older child, who then gives them a small portion as salary. The older child rakes in profits by exploiting a small army of children. Frequently, though, the older child is in a similar relationship with even older children who control large groups of these children. Those who are beggars may be maimed to make them look more helpless and miserable than other beggars.

And as the children grow older, they learn they can make more money by theft or by exploiting children younger than themselves.

Here is another picture of the kind of child that this legislation deals with. This is a little girl who works in Aligarth, India, a town on the border of Nepal. This child is making tiny padlocks. The average pay for the children in the metal industry is $6 a month. They work 60-hour workweeks. They are recruited by middlemen, who are paid by the contractor, who prefers children because they are so much easier to control.

Although almost all metal factories claim to be family businesses to skirt India's scant child labor regulations, there are virtually no incidences of actual family metal shops in this part of India.

These children remove molten metal from molds near furnaces. They work with furnaces at temperatures of 2,000 degrees. Burns are a constant danger. Children also work electroplating, polishing and applying chemicals to metal. This child is polishing padlocks on a small grindstone. Fumes and metal dust are constantly inhaled by these children, which causes tuberculosis and respiratory problems.

The last picture of children that this legislation will help this is a little girl. This little girl is hammering rocks. Sometimes in other parts of the world the entire family is working in bondage, perhaps to pay the debt of a deceased relative. Children are required to work alongside their parents to maximize production. They work up to 14 hours a day carrying rocks or breaking them into pieces. That is what this young girl is doing. She lives in an area where gravel is scarce. In order to make cement, rocks must be broken down to small stones.

In many rural areas, traditional class or caste systems perpetuate bonded labor. Pledging one's labor and that of his children may be the only resource that a father has and may be all that he can pledge as security for a loan. Unfortunately, this same family may be uneducated, illiterate. It is easy prey for a moneylender who may charge outrageous interest rates.

That is why this bill does what it does. That is why the gentleman from New York (Chairman GILMAN); why the gentleman from New Jersey (Mr. SMITH), chairman of our subcommittee; why the gentleman from Minnesota (Mr. LUTHER); why so many members of the Committee on International Relations and of the body, and really of the staff, know that this bill has to pass.

These are just a few of the horrors that exist as we speak. They have to be eliminated. This bill is important. I am sorry it comes up so late at night, but I appreciate the fact that the chairman has brought it up, and I appreciate the time that has been given me by the gentleman from Minnesota.

Mr. GILMAN. Mr. Speaker, I thank the gentleman from Virginia (Mr. MORAN) for his very eloquent remarks.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. SMITH), the distinguished chairman of our Subcommittee on International Operations and Human Rights, who is the original sponsor of this measure.

Mr. SMITH of New Jersey. Mr. Speaker, I thank the gentleman from Virginia (Mr. MORAN) for his kind words and for his work on this important legislation. I also thank the gentleman from Minnesota (Mr. LUTHER) and a number of other sponsors, including the gentleman from California (Mr. LANTOS), the ranking member of our Subcommittee on International Operations and Human Rights; the gentlewoman from Florida (Ms. ROS-LEHTINEN); the gentleman from Vermont (Mr. SANDERS); the gentleman from Florida (Mr. CANADY); the gentleman from Massachusetts (Mr. KENNEDY); the gentleman from Virginia (Mr. WOLF); the gentleman from Ohio (Mr. KUCINICH); the gentleman from Florida (Mr. DIAZ-BALART); the gentleman from Virginia (Mr. MORAN) who already spoke; the gentleman from Indiana (Mr. SOUDER); the gentleman from Pennsylvania (Mr. FOX); the gentleman from Pennsylvania (Mr. PITTS), and others who helped shape this legislation and worked so hard to bring it to the floor today.

Mr. Speaker, international child labor is a cancer on our global economy that defies an easy cure. In the words of the International Labor Organization, and I quote, "Few human rights abuses are so unanimously condemned while being so widely practiced as child labor."

Today somewhere between 200 and 250 million children under the age of 14 are being robbed of their youth for the profit of others. Many work in hazardous industries such as mining, explosives, manufacturing, and even deep-sea fishing. Others are forced into prostitution and other forms of sexual exploitation.

The sheer magnitude of these statistics, 250 million kids, a staggering number of kids, can blind us to the human misery that they represent. Those of us who are parents should imagine our own kids in those kinds of circumstances. Only then, I think, do we begin to get a taste of the hopelessness caused by this exploitation.

While the problem is heartbreaking and immense, there are new reasons for hope. Global public awareness of this problem is greater than it has ever been. My subcommittee has held three exhaustive hearings on the issue of child labor, and it involved representatives of the administration, nongovernmental organization witnesses, labor and manufacturing representatives, concerned celebrities such as Kathie Lee Gifford, who I think offered some very useful insight to our committee, and child victims themselves. Those who had actually been exploited came before the committee and stood there and told us how they were abused.

This year, the International Labor Conference issued proposed new labor standards on what they call extreme forms of child labor, which is expected to be adopted next June. Tonight it is increasingly important that we seize this momentum.

Experts believe that the current international financial difficulties that we see every day, just open up the paper about what is going on over the world, may only worsen the problem unless we take some real action.

One of the most promising weapons in the fight against child labor is the International Program on the Elimination of Child Labor, or IPEC, of the International Labor Organization. IPEC works within countries to help develop and execute practical solutions to child labor abuse. IPEC works only in countries whose governments have officially committed themselves to developing national child labor policies in cooperation with employers, workers, NGOs and other relevant parties.

Over the past 3 years, the United States' modest, and I mean this, it is really modest, contributions to IPEC has been on the order of $1 million to $3 million. Yet even that minuscule amount of money has resulted in discernible improvements. Remember, this bill will authorize $90 million over 3 years for these kinds of programs. We are talking about 1 to 3 million, and we even see some success there.

One U.S.-funded project in Bangladesh removed 10,000 children from garment factories and placed them in schools. Another program in Pakistan will remove 7,000 kids from the soccer ball industry. My kids play soccer and have played it all their lives and are on travel teams. It causes me great concern, as it does all of us, that every soccer ball that we pick up comes from Pakistan, made by some kid. That is horrible and has to change. This modest program has begun to change that.

This program provides a social safety net for children and creates a local monitoring mechanism to ensure that they do not return to factory work. By stressing in-country program ownership and requiring local industries to share the costs, IPEC plans for those efforts to become self-sufficient. The old adage, give somebody a fish and they can eat; teach them to fish, and they can eat for a lifetime. We try to help, they try to help the countries to really become self-sufficient.

Let me remind my colleagues that when they are working at these sweatshops, these kids are not going to school. So their prospects for the future are greatly inhibited and retarded as a direct result of the exploitation, and the prospects of breaking out of that become very limited indeed.

Mr. Speaker, our country should be the global standard bearer for human rights. On some things we are, and many other aspects we fall far short. But at least we should be always striving for human rights and human decency. We are blessed, clearly, with unparalleled prosperity. However, to date our IPEC contributions total only about $8 million. That is the aggregate, as compared to $65 million pledged by Germany and $12.5 million by Spain. We must, I would submit, and we can, and with this legislation we will, do better.

Notwithstanding international acclaim for its program, IPEC has not had enough funding, and we have asked them and they have documented that they are far short of the funding needed to meet all the requests or even most of the requests that they have received from countries seeking help.

This bill seeks $30 million, as I said, each year over 3 years, $90 million total over the next fiscal years. These are some of the things that they have identified: The International Program on the Elimination of Child Labor has identified the need for approximately 10 sectoral programs in dangerous industries where child labor is prevalent, such as mining, fireworks, agriculture, and brick making. Those programs would require a minimum of $2 million for each sectoral program in each participating country.

Based on the success of the U.S.-funded projects in Pakistan in the sporting goods industry, IPEC would like to begin projects in other exporting countries with strong links to the U.S. market. They would like to address the surgical instrument industry in Pakistan, the sporting goods industry in India, and other similar projects. As a matter of fact, they gave us a list at our request of what their hopes would be. Looking through it, they are working, preparatory as they call it, in preparatory countries; nine African countries, five Arab states, four in Asia, one in Central Europe and Eastern Europe, and four in Latin America. That is what this money helps to do, to push the envelope to get into those countries and hopefully help to mitigate the suffering of those kids.

Let me conclude by saying in addition to the more than 30 countries currently participating in IPEC, the total of what I just mentioned, 23 additional countries are seeking IPEC assistance. I would hope that we would get an overwhelming support for this legislation. It is bipartisan, and, as I mentioned earlier, my good friend the gentleman from California (Mr. LANTOS) is the principal cosponsor of this legislation and has worked with us in the hearings. We stand arm in arm, Democrat and Republican, trying to advance the cause for these kids who are suffering and for their families.

Mr. Speaker, I do hope the body will adopt this legislation.

Mr. LUTHER. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. LANTOS), my good friend.

Mr. LANTOS. Mr. Speaker, I thank the gentleman from Minnesota (Mr. LUTHER), my friend, for yielding me this time.

Mr. Speaker, I want to pay tribute to my friend and colleague, the gentleman from New Jersey (Mr. SMITH), the chairman of the Subcommittee on International Operations and Human Rights, for taking the lead on this most important item. I also want to express my appreciation to the gentleman from New York (Chairman GILMAN) who has done so much on this most important issue.

Mr. Speaker, my colleagues have spoken eloquently on this matter, and I do not want to take up much time, except to indicate that it is a moral obligation on the part of all of us to move this legislation. While doing so, allow me to mention that a parallel piece of legislation introduced by me, the Young American Workers Bill of Rights, is also before this body.

□ 2130

It is extremely important for us to deal with child labor all over the world, but we should not forget the issue of child labor here in the United States. Scores of young children in the United States are exploited by unconscionable means, and the Young Workers' Bill of Rights will be an appropriate parallel legislation to this legislation which deals with the exploitation of children across the globe.

Mr. LUTHER. Mr. Speaker, I yield 4 minutes to the gentleman from American Samoa (Mr. FALEOMAVAEGA).

Mr. FALEOMAVAEGA. Mr. Speaker, I, too, would like to echo the remarks of my colleagues and to compliment the gentleman from New York (Mr. GILMAN), the chairman of the Committee on International Relations, for bringing this legislation to the floor. I also want to commend my good friend, the gentleman from New Jersey (Mr. SMITH), the chairman of the Subcommittee on International Operations and Human Rights.

With so many lists going around, Mr. Speaker, I do not know which list to go on as far as the listing of the bills on suspension being brought to the floor. I was caught by surprise in learning that this legislation had been brought to the floor for consideration by the Members.

Mr. Speaker, there are approximately 200 to 250 million children in this world who are considered to be working not only under dire circumstances but the fact that they are, as far as I am concerned, Mr. Speaker, they are slave labor. I have held public hearings in the past, Mr. Speaker, on this issue, but I again want to thank the gentleman from New Jersey (Mr. SMITH) for his initiative and his leadership in doing this, not only to sensitize the Members of the Congress about this very serious issue around the world, but the fact that we have now proposed legislation to look into and to fully examine and to provide some sense of sanity to this world and the fact that we have done this so unfairly to these young people around the world.

I want to compliment the gentleman from Virginia (Mr. MORAN), who was here earlier, who shared with us some of the pictures that were taken. I suppose he may have done so himself when he visited some of these countries around the world to see that these things are real and not some abstract idea.

I also want to compliment the members of the Committee on International Relations for their support and the fact that there is true bipartisan support for this piece of legislation.

The sad part about this is, Mr. Speaker, that many of the major companies doing business in some of these Third World countries use children. Supposedly, we are assured that some of the major commodities or products that are being imported to our country are not involved with any children being employed to bring some of these products to our country. But my question is: Who actually looking after this? Where is the assurance to give us that these children are not involved as part of the processing of bringing some of these commodities or products to our country? I seriously question the fact that some of these companies rally do live up to that standard or that requirement.

I know for a fact where many of these products that we receive here, made with labor at 25 cents an hour, end up. When we buy a pair of shoes for $125, I know for a fact that many of these children were involved in that type of employment.

Mr. Speaker, again I commend my good friend from New York (Mr. GILMAN) for bringing this legislation, and I urge my colleagues to support this bill.

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. FOX), a member of our committee.

Mr. FOX of Pennsylvania. Mr. Speaker, I thank the chairman for yielding me this time. I appreciate the opportunity to speak on behalf of this legislation.

It is very important that we protect our children in developing countries who have been forced to work as debt bound and slave laborers in hazardous and exploitative industries. According to the United Nations Working Group on Contemporary Forms of Slavery and the international labor organizations, there are tens of millions of child slaves in the world today. This must be ended, and this legislation will take a positive step to stop this.

We know of many countries where children lack either the legal standing or the means to protect themselves from cruelty and exploitation in the workplace. The employment of children often interferes with the opportunities for the youth's basic education, and it coexists with high rates of adult unemployment where this use of child labor denies gainful employment to millions of adults.

While child labor is a complex and multifaceted phenomenon, Mr. Speaker, it is tied to issues of poverty, education opportunity, and culture, and I commend the gentleman from New Jersey (Mr. SMITH) for this legislation; the gentleman from California (Mr. LANTOS), and the other cosponsors of the bill for moving it forward.

I am proud to be a cosponsor, and I look for colleagues on both sides of the aisle to support this legislation to provide for United States support for developmental alternatives to underage child workers, and commend the sponsor again for his leadership and look forward to the bill's passage here this evening.

Mr. LUTHER. Mr. Speaker, I yield myself such time as I may consume.

I wish to also express my support for this legislation, and I commend the gentleman from New Jersey (Mr. SMITH) for bringing this before the House. I likewise wish to commend the chairman of our committee, the gentleman from New York (Mr. GILMAN), for his leadership role. And I also want to just thank the various colleagues for their excellent presentations, very compelling presentations, here on the floor this evening.

The problem of child labor is truly a global one, as has been pointed out this evening. It impacts children on almost every continent and deprives them of their opportunities for a normal and safe childhood. It is one of the most intolerable forms of human rights abuses. Children have no way of protecting themselves against forced labor and dangerous and exploitative conditions. Recognizing this problem, I am pleased that the President announced earlier this year a child labor initiative.

This bill, as has been pointed out, will make the United States a leader in the international effort to eliminate child labor, and the children of the world need the United States to play a leadership role on this issue. Mr. Speaker, I urge the adoption of this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LUTHER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from New York (Mr. GILMAN) that the House suspend the rules and pass the bill, H.R. 4506, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

PROVIDING REWARDS FOR INFORMATION LEADING TO ARREST OR CONVICTION OF ANY INDIVIDUAL FOR COMMISSION OR CONSPIRACY OF AN ACT OF INTERNATIONAL TERRORISM, NARCOTICS RELATED OFFENSES, OR FOR SERIOUS VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW RELATING TO FORMER YUGOSLAVIA

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4660) to amend the State Department Basic Authorities Act of 1956 to provide rewards for information leading to the arrest or conviction of any individual for the commission of an act, or conspiracy to act, of international terrorism, narcotics related offenses, or for serious violations of international humanitarian law relating to the Former Yugoslavia, as amended.

The Clerk read as follows:

H.R. 4660

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHANGES IN DEPARTMENT OF STATE REWARDS PROGRAM.

(a) INCREASE IN MAXIMUM AMOUNT OF AWARD.—Section 36(c) of the State Department Basic Authorities Act (22 U.S.C. 2708(c)) is amended by striking "$2,000,000" and inserting "$5,000,000".

(b) INCREASE IN AUTHORIZATION OF APPROPRIATIONS.—Section 36(g) of the State Department Basic Authorities Act (22 U.S.C. 2708(g)) is amended in the first sentence by striking "$5,000,000" and inserting "$10,000,000".

SEC. 2. REWARDS FOR INFORMATION CONCERNING INDIVIDUALS SOUGHT FOR SERIOUS VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW RELATING TO THE FORMER YUGOSLAVIA.

The State Department Basic Authorities Act of 1956 is amended by adding after section 36 the following new section:

"SEC. 36A. REWARDS FOR INFORMATION CONCERNING INDIVIDUALS SOUGHT FOR SERIOUS VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW RELATING TO THE FORMER YUGOSLAVIA.

"(a) AUTHORITY.—In the sole discretion of the Secretary of State (except as provided in subsection (b)(2)) and in consultation, as appropriate, with the Attorney General, the Secretary may pay a reward to any individual who furnishes information leading to—

"(1) the arrest or conviction in any country, or

"(2) the transfer to, or conviction by, the International Criminal Tribunal for the Former Yugoslavia,

of any individual who is the subject of an indictment confirmed by a judge of such tribunal for serious violations of international humanitarian law as defined under the statute of such tribunal.

"(b) PROCEDURES.—

"(1) Subject to paragraph (3), the offering, administration, and payment of rewards under this section, including procedures for—

"(A) identifying individuals, organizations, and offenses with respect to which rewards will be offered;

"(B) the publication of rewards;

"(C) the offering of joint rewards with foreign governments;

"(D) the receipt and analysis of data; and

"(E) the payment and approval of payment,

shall be governed by procedures developed by the Secretary of State, in consultation with the Attorney General.

"(2) Before making a reward under this section in a matter over which there is Federal criminal jurisdiction, the Secretary of State shall obtain the concurrence of the Attorney General.

"(3) Rewards under this section shall be subject to any requirements or limitations that apply to rewards under section 36 with respect to the ineligibility of government employees for rewards, maximum reward amount, and procedures for the approval and certification of rewards for payment.

"(c) REFERENCE.—For the purposes of subsection (a), the statute of the International Criminal Tribunal for the Former Yugoslavia means the Annex to the Report of the Secretary General of the United Nations pursuant to paragraph 2 of Security Council Resolution 827 (1993) (S/25704).

"(d) DETERMINATION OF THE SECRETARY.—All determinations of the Secretary of State under this section shall be final and conclusive and shall not be subject to judicial review.

"(e) FUNDING.—

"(1) There are authorized to be appropriated to the Department of State $1,000,000 for fiscal year 1999, $1,000,000 for fiscal year 2000, and $1,000,000 for fiscal year 2001 to carry out this section.

"(2) Amounts appropriated under paragraph (1) shall remain available until expended.

"(f) PRIORITY.—In the administration and payment of rewards under the rewards program of section 36, the Secretary of State shall ensure that priority is given for payments to individuals described in section 36 and that funds paid under this section are paid only after any and all due and payable demands are met under section 36.".

SEC. 2. VIOLATIONS RELATING TO MATERIAL SUPPORT TO TERRORISTS.

Section 38(g)(1)(A)(iii) of the Arms Export Control Act (22 U.S.C. 2778(g)(1)(A)(iii)) is amended by adding at the end before the comma the following: "or section 2339A of such title (relating to providing material support to terrorists)".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. GILMAN) and the gentleman from Minnesota (Mr. LUTHER) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. GILMAN).

GENERAL LEAVE

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 4660, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4660 sends the following message to terrorists and war criminals: "You can run, but you cannot hide."

Following the bombings of our embassies in Tanzania and Kenya, we must review the State rewards program. To date, the program is an unqualified success. Using these rewards, the U.S. Government captured terrorists like Ramsi Yousef, the mastermind of the World Trade Center bombing, and Mir Amal Kasi, who murdered two people outside of the CIA headquarters in 1993. Currently, we have an outstanding reward of $2 million to bring Haroun Fazil back dead or alive for the recent U.S. embassy bombings.

And, Mr. Speaker, I am holding up the wanted poster for Fazil here in my hand, printed by the State Department and distributed throughout the world, along with reward matchbook covers, that resulted in the capture of a prior criminal.

We last set the levels of these rewards back in 1989, and they are currently capped at $2 million. Last month, FBI Director Freeh testified before the Senate that the cap on rewards should be raised. Former CIA Director Woolsey noted that the architect of the embassy bombings, the very wealthy Bin Laden, could "see our $2 million bet and raise it" more than once. And we agree with that.

The bill before the House raises the total amount available for rewards from $5 million to $10 million, and increases the cap from $2 million to $5 million.

The administration and our senior military commanders in Bosnia also requested Congress to grant authority to the State Department to offer rewards for information leading to the arrest of persons indicted for war crimes in the former Yugoslavia.

Under current law, the State Department may offer rewards for information leading to the arrest of persons who commit terrorist acts or who import illegal narcotics into our Nation. Our military commanders in Bosnia would like to expand that to include persons indicted for war crimes in Yugoslavia.

We all know who the main targets of that effort are, Radovan Karadzic and Ratko Mladic, who ordered and carried out the massacre of 7,000 civilians at Screbrencia, among other crimes. These men remain at large and pose a danger to our U.S. diplomatic and military personnel who are stationed in Bosnia.

Mr. Speaker, I want to thank the gentleman from California (Mr. LANTOS), a cosponsor of this legislation, as well as Ambassador Gelbard, and the junior Senator from Arizona, Mr. KYL, all of whom made this legislation possible. This is a bipartisan bill with strong support of the administration and our commanders in the field in Bosnia. Accordingly, I urge its adoption.

Mr. Speaker, the bill authorizes one million dollars in FY99, 00 and 01 to be appropriated to pay for these awards. The Administration expects that awards offered for war criminals will not top $100,000 each. CBO has scored this bill at a cost of $8 million in authorized spending, all subject to appropriation.

It is important to note that while we will authorize such rewards to be offered, the bill requires the Secretary of State to ensure that payment of rewards for the arrest of people in the current law—terrorists and narcotics traffickers—come before this new authority to pay rewards for U.N. war criminals. This requirement keeps the focus of the rewards program on catching people who commit crimes against Americans.

It is also important to state what the bill does not do. It does not authorize rewards for catching people indicted by the Rwanda tribunal, as originally requested by the Administration. While I favor including Rwanda as does most of the members of this committee, we reviewed this proposal with the senior Senator from North Carolina, Mr. Helms, who objected to the inclusion of Rwanda. Since we are looking to consider this bill in the Senate by unanimous consent, we felt it better to not include Rwanda. Nevertheless, if this bill is enacted, I believe that it will make a rewards program for Rwanda more likely to be enacted in the next Congress.

In its comment to the Committee regarding this legislation, the Administration also does not like the language requiring that rewards for the arrest of people who attack Americans and narcotic trafficking take priority over rewards for the arrest of Yugoslav war criminals. While I understand the Administration's call for flexibility, Sen. Helms and I both strongly believe that while we should allow rewards for U.N. war criminals, the priority should remain with the original purposes of the law to arrest those who harm Americans. In light of the Administration's concerns, we did narrow the priority in the bill to making payments for U.N. war criminal arrests after any and all due and payable rewards under the original program are met.

This bill does not permit a judicial review of the U.N. war criminal rewards but I want to emphasize that while the underlying statute does not deal with this subject, we do not imply a judicial review allowed over the current program.

In addition, while we authorize payment of awards only for catching indicted war criminals, the State Department may offer rewards for unindicted criminals. They just cannot make a payment until the War Criminal Court brings forth an official indictment.

With regard to the account rewards will be paid from, the Emergencies in the Diplomatic and Consular Service Account, I will note this account pays the costs of post evacuations, the rewards program and representational expenses of the State Department.

Usually, the account is funded at around $5 million each year and has been supplemented with carryover balances that generally make around $10–12 million available in any given year. This fiscal year, the account is expected to only carry forward only $1 million due to the exceptional number of embassy evacuations.

The FY 98 Supplemental includes $10 million to replenish this account. The $10 million is divided as follows: $4.5 is to pay for medical expenses, transportation, etc. for the families of victims and the Foreign Service Nationals in Kenya and Tanzania, $4.5 to cover rewards following the bombings, and $1 million is targeted for other post evacuations.

The Department has $4 million in transfer authority to replenish this fund out of the Diplomatic and Consular Programs account. They intend to use that authority in FY 99. In FY 2000, the Department expects to have a budget request of $10–12 million.

Since FY 85, $13.3 million has been made available to pay rewards for information leading to the arrest or conviction of persons responsible for international terrorist activities.

FY 97 $1.5 million was available for rewards; $1.2 million was obligated for three narcotics rewards and $144,000 for publicity initiatives.

FY 98 $3 million is available for rewards. $500,000 has been obligated for three narcotics rewards and $86,000 for publicity. Several other rewards are in the interagency review process.

FY 99 $2 million was requested for the rewards program.

In closing, I understand that while the State Department has some concerns with the draft, as outlined above, the Administration strongly supports passage of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. LUTHER. Mr. Speaker, I yield myself such time as I may consume to rise in support of this bill.

This bill, Mr. Speaker, adds a new authority to the current program of paying rewards for information leading to the arrest of terrorist and narcotics suspects. It would allow the Secretary of State to pay rewards for war criminals who are the subject of an indictment by the International Criminal Tribunal for the former Yugoslavia.

The bill is an important contribution to the efforts of the United States and its NATO allies to move forward on the difficult issues of Bosnia peace implementation. We know that the arrest of major figures who have been indicted by the war crimes tribunal has gone slowly. We need to help energize that process. Offering rewards for information leading to the arrest of war criminals in the former Yugoslavia will, hopefully, give some incentive to those who, until now, have been wavering about offering information.

The arrest of these war criminals may not be the solution in itself to the success of the Dayton peace process, but it would be an important step in the right direction in moving the Dayton peace process forward.

Mr. Speaker, I support this important bill and I urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey (Mr. SMITH), the distinguished chairman of our Subcommittee on International Operations and Human Rights.

Mr. SMITH of New Jersey. Mr. Speaker, I rise today in strong support of H.R. 4660, authorizing the provision of rewards for information leading to the arrest and conviction of war criminals and those who have committed other serious violations of international humanitarian law in the former Yugoslavia.

I want to thank the gentleman from New York (Mr. GILMAN) for sponsoring this and for his steadfast work on behalf of those suffering in that very, very troubled region.

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As cochairman of the Helsinki Commission, Mr. Speaker, and also as chair of the International Ops and Human Rights Committee, I have had a number of hearings in both of those panels on the issue of war crimes tribunals, on the fact that from the very beginning, we did far too little, we did not provide enough money, but certainly the effort was worth it to try to collect information. Thankfully some of the problems we had in the beginning of underfunding are beginning to be met and the indictments of Mladic and Karadzic and others is, I think, a compelling testimony that we will at some point hold these people responsible. Our hope is that this will be extended in a very proactive and a very aggressive way to what is going on in Kosovo where there is slaughter.

Our Helsinki Commission held a hearing just a few days ago. We heard from former Senator Bob Dole and Assistant Secretary of State for Human Rights John Shattuck who had just visited the region and gave riveting, unbelievably disturbing testimony about the terrible carnage that they had witnessed firsthand and the accounts that they had heard from people fleeing those who are committing these crimes. Those who do these things must be held accountable. This resolution seeks to up the ante, if you will, put a price on their heads, to try to say that there is a reward for those who will promote justice and bringing these people to justice as they so surely deserve.

I want to again thank the gentleman from New York (Mr. GILMAN). This is a very, very worthwhile resolution deserving of the support of our colleagues.

Mr. Speaker, I rise today in support of H.R. 4660, authorizing the provision of rewards for information leading to the arrest and conviction of war criminals and those who have committed other serious violations of international humanitarian law in the former Yugoslavia.

As Co-Chairman of the Helsinki Commission, I have followed the tragic developments in the former Yugoslavia and advocated decisive action to stop the senseless slaughter, first in Bosnia, and most recently in Kosovo. The tragic chapters of genocide and cold blooded murder in the Former Yugoslavia will not be closed until those responsible for such heinous criminal acts are brought to justice.

Developments in Bosnia underscore the fact that there is a price—a high price—to be paid for allowing indicted war criminals like Karadzic and Mladic to remain at large. The unfolding carnage in Kosovo is most certainly the handiwork of the "Butcher of Belgrade," Slobodan Milosevic. I applaud the recent passage of resolutions in the House and Senate calling for the investigation and indictment of Slobodan Milosevic as a war criminal. In fact, I introduced the measure in this House. We all recognize, though, that true justice demands that the net be cast further than the one person most responsible.

As a supporter of the Tribunal from the get go, I offered amendments to boost funding—I believe it is critical that the Tribunal take a proactive stance in Kosovo that could serve as a possible deterrence against a new round of war crimes in the Former Yugoslavia. In the case of Bosnia, the Tribunal could only react to crimes that were mostly committed before and during its formation. In Kosovo, however, crimes could perhaps be deterred, if the Tribunal is vigorous and visible in its investigation of ongoing activity.

Mr. Speaker, we saw a couple of days ago the reports of a major massacre in three villages in Kosovo, where women, children and the elderly were slain and, in some instances, their bodies mutilated by the Serbian security forces. These scenes are all too familiar and, absent determined action, will be repeated over and over and over again. The Helsinki Commission has received disturbing reports from Senator Bob Dole and Assistant Secretary of State John Shattuck who formed a fact-finding mission to Kosovo. They told us about men being separated from women and children and simply taken away, perhaps to lengthy detention or maybe their execution. There are also reports, again of the mass rape being used as a weapon of war.

Mr. Speaker, as a cosponsor of H.R. 4660, I believe adoption of this legislation will underscore the continued commitment of the United States to see that those responsible for the war crimes and other serious violations of international humanitarian law are held accountable for their actions. While it is unlikely that the offer of rewards alone will lead to the arrest or conviction of all of those responsible for war crimes in the Former Yugoslavia, even if one criminal is brought to justice as a result of our action today, the modest investment would have been worth the effort.

Mr. LUTHER. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. LANTOS).

Mr. LANTOS. I thank my friend for yielding me this time. I rise, Mr. Speaker, in support of this legislation, but also to recognize the enormous contributions of the distinguished Republican chairman of the Committee on International Relations in his fight against terrorism over many years in many capacities. At our annual meetings with the European Parliament, it was Chairman GILMAN who invariably raised the issue of international terrorism, drug trafficking and international criminal activities. His unceasing efforts on behalf of these causes has paid off handsomely. I think this last measure is an appropriate indication of the change of antiterrorist legislation that Chairman GILMAN has introduced. I strongly urge all of my colleagues to support it.

Mr. GILMAN. Mr. Speaker, I want to thank the gentleman from California for his kind remarks and for his strong support for antiterrorism legislation in our committee.

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. FOX).

Mr. FOX of Pennsylvania. Mr. Speaker, I too want to congratulate the gentleman from New York (Mr. GILMAN) for bringing this legislation forward. He has worked in a bipartisan fashion with the gentleman from California

(Mr. LANTOS) and others in the Committee on International Relations including the gentleman from New Jersey (Mr. SMITH) in making sure that the antiterrorism legislation moves forward in this Congress. We owe a great debt of gratitude to the gentleman from New York for his leadership in this area.

We just have to look to the fact that the program that Chairman GILMAN referred to relates back to the August 7, 1998 reward and poster which he spoke of earlier where two explosions rocked the U.S. embassies in Kenya and in Tanzania killing over 200 innocent people. This particular reward calls for a reward to those individuals who will bring information against Haroun Fazil who is a member of an international terrorist group dedicated to opposing select governments with force and violence.

The fact is this legislation, H.R. 4660, Mr. Speaker, will amend the State Department Basic Authorities Act of 1956 to provide rewards of an increase from $2 million to $5 million for the arrest and conviction of any individual for the commission of an act, or conspiracy to act, of international terrorism, narcotics related offenses, or for serious violations of international humanitarian law.

The fact is that it has been 10 years since the last time this threshold from $2 million to $5 million will have been changed. This legislation of the gentleman from New York which we have supported widely will help us to in fact catch those individuals in Croatia, Bosnia and the Federal Republic of Yugoslavia who are committing the kind of terrorism that the United States wants to end. With this legislation, we will be one step further toward that goal.

I thank the gentleman from New York (Mr. GILMAN), the gentleman from California (Mr. LANTOS) and the other cosponsors including the gentleman from New Jersey (Mr. SMITH) for bringing this bill forward and look forward to its passage. I thank my colleagues on both sides of the aisle for supporting this important bill.

Mr. LUTHER. Mr. Speaker, I yield back the balance of my time.

Mr. GILMAN. Mr. Speaker, I thank the gentleman from Pennsylvania (Mr. FOX) for his supporting remarks.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from New York (Mr. GILMAN) that the House suspend the rules and pass the bill, H.R. 4660, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read:

"A bill to amend the State Department Basic Authorities Act of 1956 to provide rewards for information leading to the arrest or conviction of any individual for the commission of an act, or conspiracy to act, of international terrorism, narcotics related offenses, or for serious violations of international humanitarian law relating to the Former Yugoslavia, and for other purposes."

A motion to reconsider was laid on the table.

SENSE OF CONGRESS REGARDING SEWAGE INFRASTRUCTURE FACILITIES IN TIJUANA, MEXICO

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 331) expressing the sense of Congress concerning the inadequacy of sewage infrastructure facilities in Tijuana, Mexico.

The Clerk read as follows:

H. CON. RES. 331

Whereas, since the 1930's, United States beaches have been severely impacted by the flow of sewage from Mexico and, in the last 2 decades, this environmental problem has been elevated to a major health and safety concern; and

Whereas, most recently, the flow of sewage from Tijuana, Mexico, has forced beach closures and caused other environmental and economic hardships in the cities of Imperial Beach, Coronado, and San Diego, California, and caused severe degradation of the Tijuana National Estuarian Wildlife Preserve: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that—

(1) if the Government of Mexico does not take appropriate actions to recognize and mitigate the inadequacy of sewage infrastructure facilities in Mexico (including facilities for the treatment and transport of sewage) and the adverse environmental and economic impacts of sewage from Mexico on cities in the United States, the United States should review its obligations with Mexico under treaties and other international agreements (including agreements relating to port access, loan guarantees, and other types of foreign aid) and take appropriate actions to ensure that the Government of Mexico shares in the burdens caused by its sewage infrastructure problems; and

(2) any measurement of the responsiveness of the Government of Mexico to requests to mitigate its sewage treatment problems should be based on risk assessment procedures developed in consultation with the San Diego County Health Officer.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. GILMAN) and the gentleman from Minnesota (Mr. LUTHER) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. GILMAN).

GENERAL LEAVE

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this measure.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from California (Mr. BILBRAY) introduced this resolution and I was pleased to be able to take it up before our committee and bring it to the floor today.

This resolution highlights the serious problem of untreated sewage-tainted water flowing down the Tijuana River which is contaminating U.S. seashores and the Tijuana National Estuarian Wildlife Preserve. As recently as August of this year, 12 million gallons of river water contaminated with sewage was flowing down the Tijuana River to the Pacific Ocean every day. Ocean currents carried the contaminated water to the Imperial Beach, Coronado and San Diego area.

This is not a new problem and it has yet to find a permanent solution. There have been terrible moments of crisis since the May 1994 break in the sewage line in Tijuana which dumped 25 million gallons of raw, untreated sewage into the Tijuana River a day for three successive days.

While Mexico has made significant infrastructure investments, our Nation has assumed a majority of the burden of building new sewage treatment infrastructure, and since 1989 has appropriated $234 million for the EPA under Section 510 of the Water Quality Act for "special purpose projects" in San Diego. By December of this year, the United States will complete our major outstanding agreed-upon infrastructure improvement, a pipeline to carry treated wastewater some 3½ miles offshore. Still, experts estimate that this will only temporarily help address this binational problem.

It should be underscored that this is a problem that the United States and Mexico must work together jointly to resolve. Both governments must shoulder their responsibility. I have recently met with representatives of the Mexican government along with the gentleman from California (Mr. BILBRAY) to discuss this terrible problem. They have informed us that they both understand and share the deep concern of the people of our Nation who are affected. I am hopeful that the gentleman from California's concerted and tireless efforts have raised the sense of urgency on both sides of the border so that we can get on with solving this problem once and for all.

Accordingly, I ask my colleagues to join me in supporting this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. LUTHER. Mr. Speaker, I yield myself such time as I may consume. I am aware, Mr. Speaker, that the administration does have concerns about this particular piece of legislation, and I know that there are many Members that have concerns as well. Because we have a 2,000-mile border with Mexico, we face a number of issues that we simply cannot solve without the cooperation of the government of Mexico. To address these issues, we have developed an impressive number of joint efforts over the last decade. Some of these efforts are not adequately funded or staffed, but we have made progress in encouraging the government of Mexico to work with us. We all want to see the sewage problem dealt with faster and better. But we must ask ourselves when we are considering any piece of legislation such as this whether threatening unspecified retaliation for insufficient action will hasten cooperation or will it in fact undermine it. I believe that is exactly why the administration has concerns, Mr. Speaker, and I believe it would be helpful to the debate here this evening if we do hear from others that support the legislation and also others that do have concerns about it. I know the gentleman from California (Mr. BILBRAY) is a supporter and I welcome his comments.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. BILBRAY), the author of this legislation.

Mr. BILBRAY. Mr. Speaker, I thank the chairman of the House Committee on International Relations, the gentleman from New York (Mr. GILMAN) for his steadfast support to addressing this concurrent resolution, H. Con. Res. 331. From the beginning, the chairman has been committed to addressing this as an outcome-based strategy, as it is related to the environmental crisis that we have been confronted with in San Diego, California and Imperial Beach, California and the related surrounding communities of Tijuana.

Mr. Speaker, this resolution is simply a sense of Congress. It outlines past problems, and presents the current problems in a clear, concise aspect of the infrastructure problems that relate to Tijuana, Mexico. This lack of infrastructure has forced the closure of beaches and caused environmental and economic hardships for the San Diego region, including the degradation of the Tijuana National Estuarian Wildlife Preserve. This resolution simply states that the government of Mexico needs to recognize and mitigate the inadequate sewage infrastructure that is impacting the United States. Frankly, we need the United States and Mexico recognizing that it is the impact and outcome of this pollution that matters the most. Let me place an emphasis on the word "review" that is in this bill. It states that if this problem is not taken care of, then the United States will "review" its treaties with Mexico. That is all it says. It does not say we will repeal them. It does not mean we will be punitive, but it says we have a relationship with Mexico, we have treaties, and if there is a continuing environmental and health threat, we as Congress think that it is important enough for us to review our treaties. I do not think the word "review" is punitive or mean-spirited. I think it is logical. This is only a sense of Congress. It is not legally binding. All we are trying to say is that the long-term relations between our two great countries have many factors that have to be considered. Frankly one of those major factors is the environment along our frontier.

Mr. Speaker, this resolution is not punitive against Mexico. It is not anti-Mexican. It is anti-pollution. Now, there are those who oppose NAFTA. Some of my close friends opposed NAFTA because they were concerned that increased trade would equate to increased pollution, and they wanted an assurance that our trade agreements were not going to push pollution. This resolution, this sense of Congress just says that all our treaties or agreements will be considered; are they helping or hurting a pollution problem? This pollution problem predates NAFTA. Does that mean that all pollution problems that predate NAFTA now will not be considered in a treaty relationship? Some of my colleagues opposed NAFTA because they were concerned about potential pollution related to NAFTA, but I do not believe anybody who opposed NAFTA on that basis was anti-Mexican. So I would ask that my colleagues not think negatively about those of us who supported NAFTA, hoping that NAFTA would give the inspiration for this Congress and for Mexico to take care of some environmental problems that long predate NAFTA. My intention is to use this forum as a means to educate this Congress specifically on this problem.

Now, seeing the interests and concerns that Members have voiced here tonight, I feel we have been successful at least at that step. The fact is children go to the beaches in the United States and have to be told by their parents, "Patrick, Briana, you can't go in the water. You can't go into your beaches, because a foreign country has polluted your neighborhood."

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The communities of San Diego and Tijuana have enjoyed a special relationship. In fact, I was the mayor of the city that was a sister city to Tijuana long before the City of San Diego even considered a formal long-term relationship with Tijuana. We have strong cultural and economic ties that enable us as neighbors to work together. Even now there are various issues that we are working on to address these issues. We are talking about the City of Imperial Beach and City of San Diego sending vector trucks into Mexico to help clear out their sewer lines. Why would one city send a sewer truck to another neighbor city? So the sewage of one does not pollute their beaches of another.

My goal tonight, Mr. Speaker, is to raise the awareness of my colleagues, to say to them they must be familiar with existing environmental problems if they are going to truly address those that they say may be created in the future. It is now my hope that this resolution will sensitize both the Mexican government and the U.S. Government to understand that this issue needs to be addressed, to inspire them to work together on outcome-based environmental strategies.

Now I have worked on this item, Mr. Speaker, for over 20 years. I have been involved in negotiations that date back to 1978 with the Carter administration, 1985 in the negotiations and 1990 that actually put together the proposal for building a plant that has cost over $200 million of taxpayers' funds. And American taxpayers who say, "What are you going to get for it? Are our beaches really going to be clean?" This sense of Congress will be saying we are committed to our beaches being clean.

I would ask us to look at the fact that we are going to implement improvements that tie together economic opportunities with environmental responsibility. I would say to our colleagues—is that so unfair? I would ask us to recognize that we are building plants today that people are concerned are not going to clean up the beaches. This bill is an added assurance by those of us in Congress that, yes, it will clean up the beaches and we will commit that we will do everything possible to clean up those beaches.

This August we had a meeting, because we had a situation where the beaches of Imperial Beach were closed during August, summertime, major tourist season, and the tourists came to the United States Open Sand Castle Competition, only to be greeted by red pollution signs. What do I tell Mike Bixler, the mayor of Imperial Beach, when he calls an emergency meeting and says, "Why are my beaches being polluted by a foreign government?" What I have told him is that I will do everything possible to educate Washington and to educate Mexico City to what the people of Imperial Beach and Coronado and San Diego are going through.

Mr. Speaker, this is only a sense of Congress. We are not asking to spend money, we are not asking to take on anything except the feeling that this has to be addressed, and our colleagues will keep an open mind.

Some may say that threats to Mexico does not work and will never work. Well, first of all, I would ask my colleagues to read the record. We are not talking about a threat, we are talking about raising a legitimate concern, just as Ambassador Gavin in 1985 raised a concern over a grant for water projects in Tijuana that would result in more sewage pouring into the United States, and because Gavin at that time spoke clearly and frankly to Mexico, Mexico agreed that we must make major improvements.

I think that this is another one of those chances for us to make a clear statement. The problem has gone on for decades and decades and decades. My colleagues, there are those who promised to take care of these environmental problems if NAFTA was passed. Those of my colleagues who oppose NAFTA raised that issue. Now is their chance to say everything will be considered to clean up the environment.

Mr. Speaker, I ask that my colleagues approve H. Con. Res. 331, and let me say sincerely I was raised in a community with raw Mexican sewage pouring in and polluting our beaches. I was raised in this kind of health threat. My children are second generation sewage kids growing up with this pollution. Please let us work together as Members of Congress, and let us work together between the United States and Mexico. Let us make a commitment tonight that from the year 2000 on, from now on, we will stop finding excuses for letting our beaches be polluted, and that the next generation of children that go to that beach will have clean beaches, pure beaches and have an environment that is safe and appropriate. Because let me tell my colleagues flat out: For those who are concerned about social injustice, that environmental policies are not enforced equally, let me assure my colleagues we are talking about a working class neighborhood that happens to have a high percentage of minorities, and they have not been represented by this Congress equally and fairly in the past. Let us start changing that today and tell the children in Imperial Beach and in Tijuana and San Diego we are committed to doing whatever we can whenever we can to make sure it does not happen any more.

Thank you, Mr. Speaker. I'd like to begin by thanking the Chairman of the House Committee on International Relations, Mr. GILMAN, for his steadfast support and effort on House Concurrent Resolution 331. After returning home to Imperial Beach to close beaches for the second summer in a row, resulting from Mexican sewage overflowing or leaking from inadequate and poorly maintained sewage treatment plants across the border, I asked Chairman GILMAN for his assistance in working on this problem.

From the beginning, Chairman GILMAN has been committed to working with me on this environmental and public health crisis. In fact, earlier this afternoon, the Chairman and I had the opportunity to meet with representatives from the Mexican Embassy to discuss both countries' mutual interest in resolving these problems. Again, I thank the Chairman for his leadership and support.

As the Chairman pointed out, H. Con. Res. 331 is simply a "sense of Congress" outlining past and present problems with inadequate sewage infrastructure and treatment facilities in Tijuana, Mexico. This lack of infrastructure has forced beach closures and caused other environmental and economic hardships in the south bay region of San Diego, including severe degradation of the Tijuana National Estuarian Wildlife Preserve. The neighborhoods that are directly impacted by this health threat, such as my hometown of Imperial Beach, consist of largely working class, predominately minority families.

The Concurrent Resolution goes on to state that if the government of Mexico does not recognize and mitigate the inadequacy of sewage infrastructure, then the United States should "review" its existing relationships with Mexico, including existing treaties and other international agreements to see where the weaknesses may exist. Let me place an emphasis on the word review. Such a review will open both the governments of the United States and Mexico to scrutiny on these agreements.

Let me be perfectly clear, this is ONLY a sense of Congress. It is not legally binding, nor does it require Congress to Act. This resolution is not punitive, nor is it anti-Mexico. Frankly, my intent is to use it as a means of educating Congress on the problems many border communities confront on a regular basis. Given the number of Members now showing interest in this issue, I think I've been successful.

I recognize and applaud the ongoing bilateral efforts and binational cooperation of the governments of Mexico and the United States in developing a long-term solution in addressing this problem. The communities of San Diego and Tijuana enjoy a special relationship. Their strong cultural and economic ties have enabled these neighbors to work together, even now, on a variety of issues, including sewage spills. My ultimate goal is for Washington, DC and Mexico City to reach this same level of cooperation and to increase their responsiveness to the local citizens of San Diego and Tijuana.

My intent is to raise the level of awareness on this issue to my fellow colleagues who may be unfamiliar with some of the unique environmental problems we have along the border. It is also my hope that with this resolution, both the Mexican and U.S. governments will understand just how serious our level of commitment is on this issue, and will be inspired to continue to work cooperatively in resolving both the short-term and long-term problems.

Unfortunately, this issue is not new to either the United States or to Mexico. In my 20 years of public service, I have had numerous meetings and extensive dialogue with national and local officials from Mexico, and have raised this issue again on two recent congressional delegation trips to Mexico, as participant in the Interparliamentary Conference. The results have been mixed. On the one hand, Mexico understands the severity of the problem and the need to build a permanent, stable and safe sewage treatment system. On the other, I recognize, better than most, the problems Mexico continues to face in terms of available financial resources.

However, the implementation of these efforts has been less than satisfactory. There has yet to be established between these communities a reliable notification system to alert them when a leak or overflow takes place. All of the communities affected need to realize that this is a regional crisis, and it will take the entire region to resolve these issues.

The United States and Mexico have demonstrated that they can work effectively together, but clearly more attention needs to be devoted to follow-through. In 1990, the United States and Mexico agreed to build a sewage treatment plant in the United States to treat sewage waste from Mexico, because the treatment plant in Mexico was unable to treat the increased volume of waste. However, leakages and overflows on the Mexican side of the border have continued to occur. Unfortunately, that waste continuously ends up on local U.S. beaches. The multimillion dollar plant can't treat sewage that doesn't get to the pipe, which can deliver it for treatment.

Frustration on the part of local officials culminated in an August meeting organized by the mayor of Imperial Beach. Participants included IBWC Commissioners from both Mexico and the United States, a San Diego County supervisor, the Counsel General from Tijuana, City of San Diego officials, and myself. While the attendees were reassured with the status of the long-term plan, concerns remain about the current overflow of sewage waste. A dialogue of possible short-term solutions was initiated at this meeting. As a result of these discussions, the cities of San Diego and Imperial Beach are attempting to send U.S. vector trucks across the border into Tijuana, Mexico to clean out the accumulated debris and cobble stones, which are causing blockages in the pipes and storm drains, which, in turn, are causing sewage to run into the Tijuana River and on to our beaches. We're awaiting final approval from Mexican Customs implementation of this project.

I'd like to raise one last issue. There are some pundits and foreign policy "experts" that will claim that Mexico does not respond well under pressure or to threats, and that this resolution will harm the situation more than help it. Again, this is only a "sense of Congress"—we're only bringing long overdue attention to a very serious problem and maintain the level or urgency of this problem until a solution is in place. I might add that there are also those who will argue that the threat of pressure on Mexico has been used before as an excuse to not assert the need for change to the status quo.

More importantly, however, how can we, as a Congress, in good conscience allow our environment and our public health and safety continue to be at risk without raising this issue? This problem has been going on for decades. It's about time both sides come together and acknowledge the need to comprehensively resolve the sewage crisis along the border. H. Con. Res. 331 can begin this process.

Again, thank you for your consideration and I urge my colleagues to support House Concurrent Resolution 331.

I would ask that these materials be placed into the RECORD following my statement.

[From The Tribune, Nov. 14, 1989]

Tijuana Sewage Is Flowing Faster, Killing Estuary

(By Michael Richmond)

An increasing amount of raw sewage flowing across the border from Mexico is killing marine life and threatening birds in the Tijuana River estuary, according to a newly completed study of the huge saltwater marsh.

The increase is the result of the continued growth of Tijuana, where many neighborhoods are not hooked up to sewers. The sewage flow in the river now averages nearly 10 million gallons a day, up from about 7 million gallons a day two years ago, according to Dion McMicheaux, resident engineer here for the International Boundary and Water Commission.

A three-year federally funded study shows that the sewage-laden water flowing down the river has harmed game fish and shellfish in the saltwater marsh at the river's mouth. The marsh is a part of the 2,500-acre Tijuana River National Estuarine Reserve and the Tijuana Slough National Wildlife Refuge.

In recent years, the Tijuana River Valley has been beset with problems.

The beach stretching from the south city limits of Imperial Beach to the Mexican border, considered by some as one of the most beautiful in Southern California, is deserted most days, except for an occasional jogger or horse rider.

Among the area's troubles:

The two-mile beachfront has been under a health quarantine since 1983 because of sewage pollution from the Tijuana River. Sewage bacteria levels as much as five times the health limit have been measured in the ocean waters. Some surfers regularly ignore the warning, however.

The 390-acre Border Field State Park, nestled against the international boundary, was closed for four months in 1988 because of renegade sewage flows from Mexico, causing the closure from June to mid-September this year after it was overwhelmed with thousands of undocumented migrants and smugglers who used it as a staging area for their trips northward. The park was shut down without any public announcement and has just as quietly reopened, but only on Fridays, Saturdays and Sundays.

Biologists and other researchers studying the Tijuana River estuary and its ecosystem no longer do field work at night because of the danger from border bandits.

County health officials are worried about the potential for an outbreak of malaria or encephalitis from breeding of mosquitoes in sewage ponds that accumulate at times in the river bottom. The water is "heavily laden" with mosquito larvae, says Larry Aker, assistant deputy director of the county's Environmental Health Services.

Some of the sewage settles out of the water as it makes its way through a maze of small channels that thread the estuary en route to the ocean.

"We are essentially killing off that estuary," Aker said.

A walk south from Imperial Beach along the beach at the edge of the estuary can be deceiving.

Ocean waves wash gently upon the sandy beach. A flock of seagulls with a lone brown pelican among them rest on a sandbar near the river mouth. To the south, two riders trot their horses along the beach.

The water flowing from the estuary outlet to the sea appears fairly clear, diluted by incoming tides.

But a quarter-mile inland from the beach, the scene is much different. In places, the water is like a pea-green soup, full of algae, said Chris Nordby, manager of the Pacific Estuarine Research Laboratory at San Diego State University.

It is also an area where there are no pollution sampling stations, "because when I went in there to set up my samples, there just were no animals. There's absolutely nothing there," Nordby said.

Evidence of the extreme environmental damage to the estuary is contained in a just-completed study funded by the National Oceanic and Atmospheric Administration, which found significant depletions in some fish and shellfish species, such as clams. The study is based on water-quality testing and sampling of fish and shellfish from 1986 through March of 1989.

One small game fish known as Tops Smelt, which formerly accounted for 52 percent of the fish in the estuary, has fallen to about 5 percent, said Nordby, a biologist and principal researcher for the pollution study.

The California jacknife clam, which in years past accounted for 70 percent to 86 percent of the clam population, "is now down to about 27 percent," Nordby said.

Another shellfish, the purple clam, is virtually extinct there.

"People used to clam here in the 1970s and take their limit, but not anymore," said Nordby, who has been studying the estuary since 1978.

Small sand dollars, once abundant, are rarely found these days, he said.

"Every now and then you'll find a small tiny one, but they don't survive like they used to," he said. The harm is caused by the year-round influx of polluted fresh water, which dilutes the salinity of the estuary, Nordby explained.

When that happens, marine organism are killed or escape from the estuary.

In addition to marine organisms, the estuary is home to dozens of bird species, including the endangered least tern and the light-footed clapper rail. The effects of the sewage pollution on bird life have not been documented, but Nordby and others believe there is potential for harm.

They note that a decline in the marine life on which birds feed will eventually reduce the bird populations.

Paul Jorgensen, manager of the Tijuana River National Estuarine Reserve, said extensive studies are needed to confirm the effects on birds. But he added, "If the shellfish, crabs and fish are affected, then the birds probably are affected."

Nordby and others worried about the wetlands are pinning their hopes for its recovery on construction of a binational sewage treatment plant that has been proposed for the border to treat sewage from Tijuana. The treated effluent would be discharged directly into the ocean through a big pipe.

But the binational plant is still a long way from being approved. Mexico and U.S. officials have made only preliminary commitments. Negotiations on a detailed agreement between the two countries are under way by the Mexican and U.S. commissioners of the International Boundary and Water Commission in El Paso, Texas.

Narendra N. Gunaji, head of the U.S. section of the international boundary commission, predicted earlier this year that the new plant could be in operation by 1993. That estimate, however, was tied to a firm commitment from Mexico that it would participate in the plant and on funding from both countries.

Without such a plant, the pollution woes of the Tijuana River Valley will only grow as Tijuana keeps growing, officials say.

"I think the federal, state and local governments have a responsibility to the people in the area to make sure that dream becomes a reality," said County Supervisor Brian Bilbray, a former Imperial Beach councilman and mayor who has spent his entire political career trying to resolve the Tijuana River Valley's troubles.

"The sewage problem has become bad enough that the Federal Government can't ignore it anymore," he said, "We're going to find answers . . . because you just can't allow problems like that to exist."

In addition to the border sewage plant, Bilbray said, development of the long-sought Tijuana River Valley Regional Park will help transform the river valley.

The county park will encompass 2,200 acres along both sides of the river, extending from the ocean eastward to San Ysidro. It has received $10 million in state park bond funds and two weeks ago was given another $1.5 million by the Tia Juana Valley County Water District, which apparently is about to shut down after a half-century in existence.

Bilbray has been critical of the Border Patrol and state and federal park and wildlife managers for past practices that he says have focused more on wildlife protection and keeping people out of the area.

He also criticized the Border Patrol for its "scorched earth" practice of clearing underbrush from large areas of the river channel to help them patrol the region.

"If you and I did that, we'd go to jail," Bilbray said.

As for development of the regional park, he said he believes that wildlife preservation and recreation in the river valley can be compatible "if you do it right."

Bilbray envisions miles of trails, small fishing lakes, campgrounds and other amenities.

"I'm real optimistic that we're seeing a lot of movement we haven't seen in 20 years," he said of efforts to solve the river valley's problems.

[From The Tribune, Jan. 26, 1990]

3 Officials Here Pledge To Fight Sewage Project

(By Kathryn Balint)

Meeting the news media in the sewage-polluted Tijuana River Valley, two San Diego city councilmen and a county supervisor vowed yesterday to fight to save local sewer users at least $1 billion on a massive project they say would harm the environment.

"This is a fight we still can win," said Councilman Bruce Henderson.

Henderson, Councilman Bob Filner and Supervisor Brian Bilbray called a news conference yesterday to make it clear that their battle against San Diego city government's nearly $3 billion upgrade in sewage treatment is continuing.

In a closed-door session this week, the city council agreed in a 7–2 vote on a settlement of the federal government's lawsuit accusing the city of discharging inadequately treated sewage into the ocean. The vote, which was taken secretly because by law the council is allowed to discuss litigation in private, will end a two-year legal dispute between the city and the U.S. Environmental Protection Agency.

Henderson and Filner coast the dissenting votes.

Bilbray, Henderson and Filner said the city should not have caved in to the federal government by agreement to build the multibillion-dollar sewage facilities by Dec. 31, 2003. The agreement will be made public Tuesday in the U.S. District Court of Judge Rudi M. Brewster.

"That's disgraceful that we should make such a deal as this," Filner said. He called the planned sewage project "a boondoggie" that will be bad for the environment and for residents' pocketbooks. For the 1.6 million people who use the sewer system, sewer rates are expected to go up dramatically.

As they have in the past, Henderson, Filner and Bilbray based their comments on the opinions of noted marine scientists from the Scripps Institution of Oceanography in La Jolla.

The scientists, including Roger Revelle, director emeritus of the institution, and Edward Goldberg, a chemist known internationally for his work in fighting ocean pollution, contend that the nutrients in the waste water now disposed of in the ocean pose no hazard to sea life. In fact, they say, the lowest forms of life in the ocean feed on the nutrients in the sewage, which is treated to a step just below the federal standards.

The three politicians said they chose the Tijuana River Valley to illustrate their point that a sewage-treatment plant there, near a national estuary, where endangered birds and plants live, would hurt the environment. Anther reason they chose to meet near Border Field State Park in the river valley was to point out the raw sewage flowing daily from Mexico into the United States.

Bilbray said the EPA should be focusing its attention on cleaning up the raw sewage there rather than trying to force San Diegans to spend their money on a project that is unnecessary.

Bilbray also said that the city should be worrying about "keeping the sewage in the pipes," referring to repeated spills of raw sewage from sewer pipes before it even reaches the Point Loma Wastewater Treatment Plant. The raw sewage has fouled both Mission Bay and San Diego Bay. One of the provisions of the settlements agreement is aimed at trying to prevent such spills.

The three politicians said they will lobby for changes in the Clean Water Act. The act sets a uniform sewage-treatment standard—called secondary sewage treatment—for all cities in the nation.

[The San Diego Union, Jan. 26, 1990]

SEWER PROJECT FOES MEET

Three local officials traveled to a proposed South Bay sewage-treatment plant site yesterday to continue their campaign to overturn what they called the city's "bureaucratic boondoogle" decision for a $2.86 billion sewage system upgrade.

San Diego City Councilman Bob Filner and County Supervisor Brian Bilbray, whose districts include the Tijuana estuary site proposed for the plant, were joined by San Diego City Councilman Bruce Henderson, an early critic of the massive sewage-system overhaul.

"This is a fight that we can still win," Henderson said at the site, just north of the entrance to Border Field State Park, on the coast between the international boundary and southern Imperial Beach city limits.

The three argued that the sewage-system upgrade would harm rather than help the environment. They called for more detailed scientific studies on the impacts to the Tijuana River estuary and ocean floor where the treated sewage would be discharged.

They want to begin efforts for a new waiver of federal orders for the more advanced treatment system, have congressional hearings to try to amend the requirements of the U.S. Clean Water Act, or mount a court challenge to the federal and state lawsuit filed to force the city into federal compliance.

[The San Diego Union, Tues., Nov. 13, 1990]

BILBRAY DIVERTS SMELLY RIVER WITH BULLDOZER; MAY HAVE VIOLATED LAW

(By Graciela Sevilla, Staff Writer)

San Ysidro—Sitting at the controls of a bulldozer, county Supervisor Brian Bilbray yesterday redirected the course of the sewage-infested Tijuana River—possibly violating a federal law.

Bilbray said he was fulfilling a promise to area residents to ease the stench and hazard posed by the blocked river, which had become a mosquito breeding ground.

Previously, the river flowed into a wall of willows that caused the water to back up and flood, surrounding farm and commercial properties, Bilbray said.

"When the water backs up and kills the willows, it creates a massive health problem for surrounding communities," he said.

By rechanneling the river to what he believes was its original course, Bilbray estimated that he helped reduce the area previously covered by sewage by as much as 30 percent.

The water now flows into Lake Tijuana, also known as Shelton Pond, which lies in the midst of the Nelson & Sloan concrete company's sand-mining operation just north of the Mexican border.

The river and land immediately banking on it are federal property, under the control of the International Boundary and Water Commission (IBWC).

According to Dion McMicheaux, a local project manager for the commission, Bilbray's action may be in violation of federal law that requires a permit from the Army Corps of Engineers when diverting federal waters.

However, Bilbray said he decided to take matters into his own hands out of frustration after working for two years to secure a permit to no avail. "They can blame me if they find any fault involved in it," Bilbray said.

The supervisor asserted that he had the backing of local environmentalists and the County Health Department; although he said he acted on his own.

Legal or not, Bilbray's earthmoving was applauded by several nearby residents who said they could no longer tolerate the sewage, mosquito and health problems caused by the blocked river.

Ruben Marshall, owner of a vegetable farm located adjacent to the polluted river, said: "The IBWC, in my estimation, has been very lax in addressing the problems of this area."

Rosemary Nolan, a resident of Nestor who helped found the group Citizens Revolting Against Pollution, said she was grateful for Bilbray's intervention.

Nolan said her family and neighbors had suffered headaches, nausea, heartburn and other ills as a result of living near the contaminated river. "I don't know which is worse, the mosquitoes or the smell," she said.

Last September, some 100 area residents gathered in Nolan's living room, where they started the group and aired their complaints before Bilbray.

"He told us that if the bureaucracy didn't do anything by October, then he'd get on a bulldozer and do something about it himself," she said.

Bilbray said he secured a dozer and began putting his words into action over the weekend. He refused to say where he obtained the bulldozer or whether he paid for it.

As a public official, Bilbray has gotten on the business end of a bulldozer once before in an attempt to do battle with Tijuana River sewage.

In June 1980, during his tenure as mayor of Imperial Beach, Bilbray drove an earthmover to create a dirt dam to stop river sewage from contaminating and closing his seaside community's beach.

Yesterday, Imperial Beach City Councilman Bud Harbin was also on hand to support Bilbray's latest effort.

"Every time our beach is quarantined because of pollution . . . this is where it comes from," said Harbin, standing near the edge of the thick, black waters. "If this is deterred, it's going to help us down there. It's definitely a plus for the people here and the people of IB."

[The San Diego Union, Feb. 16, 1991]

WARDENS QUIZ BILBRAY ON BULLDOZING OF DIKE

(By Frank Klimko)

County Supervisor Brain Bilbray was read his rights and questioned in his office yesterday by a pair of state game wardens who are investigating his bulldozing last year of an earthen dike along the Tijuana River channel.

In another development, the U.S. Army Corps of Engineers recently notified Bilbray they had finished their investigation of the Nov. 12 incident and asked him to consult with them before he takes any similar action in the future.

In a Feb. 1 letter to Bilbray, Corps officials said he violated environmental laws by not obtaining the necessary permits before bulldozing the dike. However, no penalties were being sought, the letter said.

Bilbray, atop a bulldozer last year, redirected the course of the sewage-infested Tijuana River, fulfilling a promise he made to area residents to ease the stench and hazard posed by the blocked waterway.

The game wardens visited his office yesterday, tape-recorded their meting after reading him his Miranda Rights, and then left, Bilbray said. Such a declaration of rights is normally given to criminal suspects just before they are arrested.

They told Bilbray they were investigating whether he violated any state fish and game laws and their findings would be turned over to the district attorney. It could not be determined what statutes Bilbray may be suspected of violating.

"I told them I would talk with them," Bilbray said. "It does rattle me when someone does read me the Miranda Rights. I don't have anything to hide here, and I told them the facts."

Bilbray said he bulldozed a dam that had been illegally erected, blocking the river.

Two other such dikes are still in place near the same area, he said.

The river, which had become a breeding ground for mosquitoes, previously flowed into a wall of willows that caused the water to back up and flood, surrounding farm and commercial properties, he said.

By rechanneling the river to what he said was its original course, Bilbray estimated that he helped reduce the area previously covered by sewage by as much as 30 percent.

"The biggest problem that existed was because of the blockage, and my action was to remove an illegal structure that was constituting a health threat," Bilbray said.

The water now flows into Lake Tijuana, also known as Shelton Pond.

[The San Diego Union Jan. 1, 1991]

Emergency Sought on Pollution—Bilbray Seeks Fast Action on Cleanup of Tijuana River Valley

(By Graciela Sevilla)

The County Board of Supervisors will consider declaring a state of emergency next Tuesday to allow for the cleanup of the sewage-infested Tijuana River Valley.

Supervisor Brian Bilbray is recommending that the county join forces with Assemblyman Steve Peace, D–Chula Vista, to request that the governor issue an emergency proclamation releasing state funds and placing the cleanup on a fast track.

A declaration of emergency would override state regulations that have prevented the removal of the underbrush that causes the polluted waters to stagnate in the valley.

"The action really should be taken now to avoid the situation becoming a chronic problem in the summer," Bilbray said.

Area residents complain that the stench and mosquito swarms become intolerable during warm weather. The estimated 13 million gallons of contaminated water flowing daily from Mexico also poses grave health threats.

"Without significant preventive control measures, serious outbreaks of encephalitis and malaria will occur in this area," J. William Cox, director of the county Health Department, wrote last year.

Although local health officials have called the sewage-infestation "a disaster waiting to happen," the county health officer cannot declare a public health emergency until someone becomes sick from exposure to the waste.

Timing is crucial because the river valley is home to several endangered species of birds that nest and migrate in the area during the spring and summer.

"If we wait, it becomes a choice between endangered species and public health," Bilbray said.

The county has yet to determine how much time or money it will take to clear out the dense underbrush. According to Peace, the Regional Water Quality Control Board has indicated a willingness to fund the project if the emergency is declared.

For his part, Bilbray is optimistic that San Diego will fare well with its bid for help from Sacramento once former San Diego Mayor Pete Wilson is inaugurated as governor.

"We have one big advantage in that the guy filling that office this month has got a very good background on this," Bilbray said.

[The San Diego Union, Fri., Jan. 4, 1991]

Emergency Decree Might Unlock Help for Tijuana Sewage Problem

(By Graciela Sevilla)

While county supervisors are poised to declare a state of emergency on the contaminated Tijuana River next week, just what would follow such an unprecedented action is being heavily debated.

County, state and federal officials are at loggerheads over who is to blame for the delay in attacking the chronic mosquito problem that a health official has called a "disaster waiting to happen."

"I think something should be done before you have sick people," said County Health Officer Donald Ramras. "Sooner or later, if something isn't done we're going to have encephalitis or malaria down there transmitted by mosquitoes."

About 13 million gallons of sewage a day flows from the eastern hills of Tijuana into the Tijuana River Valley. For years, the South Bay residents have complained that the stench and mosquito swarms become intolerable during warm weather.

In recent months, the residents formed a group called Citizens Revolting Against Pollution to demand action from public officials.

Representatives from all involved agencies agree action is needed to solve the serious health threat to the estimated 400 families who live beside the sewage-plagued waters, but say there are significant hurdles to clear even if an emergency is declared.

First, a declaration of emergency is needed to release state funds to finance the clearing of the heavy vegetation that causes water to stagnate, enabling mosquitoes to breed.

At the urging of Assemblyman Steve Peace, D-Chula Vista, county Supervisor Brian Bilbray will ask his colleagues Tuesday to declare a state of emergency and to seek a similar declaration from the governor.

Until recently, the supervisors believed Ramras was the only county official with the authority to declare a public health emergency, something Ramras said he cannot legally do in this case.

A situation that has the potential for making people ill is not enough, he explained. "Basically you've go to show that no only you have mosquitoes there but that they've actually given someone encephalitis."

But Peace insists that Ramras can declare an emergency under state code, but has resisted doing so. "It's been an emerging reality on my part that somewhere there's been a reluctance to work on the problem," Peace said.

Unsatisifed with Ramras' posture, Peace asked attorneys for the state Legislature to search for a way around the impasse. In November, he was informed that the California Emergency Services Act allows boards of supervisors to declare a local emergency.

If that's done, Peace said funds would be made available by the State Water Resources Control Board for removing the underbrush clogging the river and hampering its flow. A spokeswoman for the agency said the board would first have to vote to spend the money.

According to Peace, a governor's proclamation would suspend state statutes and state agency regulations that have hindered work efforts. However, federal agencies might still invoke environmental concerns to limit the project.

Depending on the scope of the proposal, which has yet to be defined, the project could require a permit from the Army Corps of Engineers, which must authorize any project that involves filling of wetlands.

The U.S. Fish and Wildlife Service would also evaluate the project to determine if it would irreparably harm the environmentally important area.

"Several state and federally listed endangered species inhabit the river valley," said Martin Kinney, a Fish and Wildlife biologist.

Streamside vegetation along the Tijuana River provides one of the rarest wildlife habitats in the state, Kenney said. In San Diego County, about two-thirds of such streamside areas were destroyed between 1970 and 1987, he said.

Thus far, Kenney said the county has not presented a proposal for removing brush. "There's been constant talk about doing things, but no one wants to put anything on paper," he said.

"We get real defensive if they say there's an emergency when county health and everyone has known about this for a long time," the biologist said. "Why do you wait till January 1991 and suddenly say there's an emergency when you've known about this for years?"

Despite the agency's concerns, Kenney said, joint planning of such a project could make the work possible while preventing serious harm to the environment. "We're not trying to say no to everything."

Last year, cattail plants were cleared by hand from a river valley pond after the agency revised health department plans to burn all the vegetation in the area, Kenney said.

Peace is quick to caution that even if the underbrush is removed, that will not permanently solve the problems of the contaminated river area.

"There are no cheap solutions," Peace said. "The ultimate solution," in his estimation, will be the building of a new $195 million sewage treatment plant, still several years off.

In the interim, the International Boundary and Water Commission is working with the governments of the U.S. and Mexico to construct a pipeline that will divert errant Tijuana sewage into Sand Diego's sewer system for treatment.

That project, now being planned and built in Mexico, is due to be ready in February, according to José Valdez, the project's principal engineer.

[From the San Diego Tribune, June 4, 1991]

County May Act to Ease Effects of Mexico Sewage

(By Ruth L. McKinnie)

A permanent solution to the Mexican sewage problem in the Tijuana River Valley may be years away, but a reduction in mosquito infestation and foul odor may be in sight.

County Supervisor Brian Bilbray and state Assemblyman Steve Peace, D-Rancho San Diego, are optimistic the county can use emergency powers to clear dense vegetation that causes sewage stagnation in the border-area valley.

The county Board of Supervisors will consider calling a local emergency when it meets Tuesday afternoon.

An estimated 13 million gallons of sewage flows daily through the valley, but a complex series of state and federal restrictions intended to protect the environment prevent the county from tearing out willows and cattails that dam the flow and further damage the environment.

The brush is habitat for several endangered birds, including the least Bell's vireo and least tern.

A local emergency declaration would clear the way for Gov.-elect Pete Wilson to call a state-level emergency and suspend the environmental strictures, Bilbray said.

Bilbray and Peace said Wilson, who is familiar with the sewage problem from his years as mayor of San Diego, would likely sign an emergency proclamation.

In the meantime, disease-carrying mosquitoes known to bear encephalitis, malaria and hepatitis continue to plague residents of Nestor and other parts of the valley.

And the wildlife and vegetation that the environmental laws are supposed to protect are being destroyed, Peace said.

"If you continue to do nothing, we're going to have a hot crisis," he said.

Bilbray said the county cannot afford to wait months to secure clearing permits. The removal must be done now, before the birds return form their winter migration.

[From the San Diego Union, Jan. 9, 1991]

County to Ask Wilson's Help on Tijuana Sewage

(By Graciela Sevilla)

The county Board of Supervisors will look to the new governor for help in abating the "extreme peril" posed by the contamination of the Tijuana River Valley with raw sewage from Mexico.

In a unanimous vote yesterday, the board declared a state of emergency to exist in the South San Diego area, which is flooded with an estimated 13 million gallons in raw waste daily from across the border.

The declaration will be forwarded to Gov. Wilson with a request that he issue a similar proclamation and seek a presidential declaration of emergency.

Supervisor Brian Bilbray said he offered the resolution in response to pleas for relief from some of the area's 400 residents who have lived with a terrible stench and mosquito swarms as a result of the polluted waters.

"It's been reaching a crisis level in the last few years," Bilbray said.

Valley resident Rosemary Nolan, praising the action, said: "We hope that by declaring an emergency we can start on the road to recovery for the South Bay community."

Last week, County Health Officer Donald Ramras characterized the problem as "a disaster waiting to happen" and warned that residents were at risk of being infected with malaria and encephalitis by mosquitoes.

Following the vote yesterday, Bilbray said he is optimistic about winning Wilson's support because of the former mayor's familiarity with the situation.

"I have worked with Pete Wilson on this program since 1979," Bilbray said. A gubernatorial declaration would release needed state funds and suspend state regulations that have stymied plans to remove the heavy underbrush that causes the contaminated waters to stagnate.

The state water board has approximately $3.5 million in its cleanup abatement fund, some of which could be spent on the Tijuana River Valley, according to a spokeswoman for Assembly Steve Peace, D–Chula Vista.

A letter petitioning Wilson will be mailed by the end of the week, Bilbray said, adding, "We could expect an answer by the end of the month."

Thus far, the cost of the weed removal has not been calculated, nor has a decision been reached on which agency would be responsible for the work.

In lobbying for the declaration, Bilbray cautioned the audience not to look at the proposed cleanup as a final solution. "This will not cure the problem, but it is one more thing we can do here at the country," Bilbray said.

At the federal level, agreement has been reached between the governments of Mexico and the United States to build a new $195 million sewage treatment plant. That facility is not expected to be in operation until 1995.

In the interim, the International Boundary and Water Commission is working on a binational plan to construct a pipeline to intercept the errant Tijuana sewage and transfer it into the San Diego sewer system for treatment.

[From the Star News, Jan. 9, 1991]

Bilbray Says State of Emergency Needed to Deal With Raw Sewage

Supervisor Brian Bilbray wants the governor to declare a local state of emergency to deal with raw sewage in the Tijuana River Valley, his office recently announced.

Bilbray is trying to convince the County Board of Supervisors to ask the governor to declare the emergency suspending certain laws, and regulations in the emergency area.

Suspended along with those laws would be "presumably, those which prohibit or delay the removal of dense underbrush in the valley," Bilbray said in a letter to fellow supervisors. That underbrush hinders efforts to control mosquitoes that pose not only an annoyance but also a health hazard because they carry encephalitis and malaria.

Bilbray is seeking action this winter to control the mosquitoes breeding in the spring and summer and to protect environmentally sensitive conditions in the valley.

[From the San Diego Tribune, Jan. 9, 1991]

Health Crisis Declared Over South Bay Sewage

(By Ruth L. McKinnie)

Optimistic county officials say they hope that relief from pesky mosquitoes and foul odors in the sewage-plagued Tijuana River Valley is a month away.

The Board of Supervisors yesterday unanimously proclaimed a local health emergency in the border-area valley in hopes of getting emergency powers from the state to immediately clear away dense vegetation that causes sewage stagnation.

Supervisor Brian Bilbray, who represents the South Bay, said that this week the county would ask Gov. Wilson to call a state-level emergency and suspend environmental restrictions preventing the county from tearing out willows and cattails that dam the sewage flow.

An estimated 13 million gallons of Mexican sewage flows daily through the valley. Residents have long complained about the problem, but a permanent solution is years away.

Last summer, the mosquito infestation became so acute that residents could not go outside without being attacked by the insects, which can transmit encephalitis, malaria and hepatitis.

"It is reaching a crisis level," Bilbray said.

The supervisor and Assemblyman Steve Peace, D–Rancho San Diego, who have been pushing for emergency measures, say money is available from the state Regional Water Quality Control Board to pay cleanup costs.

The county, Bilbray said, cannot wait months to get permits to clear away the plants. He said the removal must begin soon, before endangered birds that nest in the valley return from their winter migration.

Wilson May Declare Crisis in South Bay

(By Ron Roach)

Sacramento—The state Assembly yesterday voted to urge Gov. Wilson to declare a state of emergency in the Tijuana River Valley to eradicate mosquitoes and deal with sewage-polluted water.

A spokesman said Wilson, who is a former San Diego mayor, is considering the request.

Minutes before Wilson's State of the State address to the Legislature yesterday afternoon, Assemblyman Steve Peace, D–Rancho San Diego, and Assemblywoman Dede Alpert, D–Del Mar, won approval of the Assembly resolution, which follows Tuesday's San Diego County supervisors' declaration of a local health emergency in the border-area valley.

Peace represents the border area and Alpert's coastal district includes Imperial Beach.

Peace said he discussed the resolution with Bob White, Wilson's chief of staff, and "was very encouraged by his response. he said it would be great to start off with something for San Diego" in the first week of Wilson's administration.

James Lee, Wilson's deputy press secretary, said Wilson would "take a look" at the problem but said "there was no positive go-ahead signal."

A state declaration would make funds available from the state Regional Water Quality Control Board to bulldoze a buffer area, kill mosquitoes and clear away dense willows and cattails that cause sewage-polluted water to pool in the riverbed, Peace said.

It is important, said Peace, that work start while the weather is cool, before the insects can multiply. Otherwise, there could be threats of malaria, encephalitis and hepatitis, he said.

Peace said he and Supervisor Brian Bilbray and pushed the county to act for almost a year. Normally, a county's board of supervisors must make an official request documenting the problem before a governor makes a disaster or emergency declaration.

[From the Los Angeles Times, Jan. 1991]

Tijuana River Valley May Get Emergency Status on Sewage

(By Bernice Hirabayashi)

Gov. Pete Wilson was considering Thursday whether to declare a state of emergency for the sewage-plagued Tijuana River Valley in south San Diego County, state officials said.

The declaration would make state funds available to clean up the border valley, through which 13 million gallons of raw sewage from Mexico flow daily. It would also speed the permit process that would allow removal of cattails and willows restricting the flow of sewage to the ocean.

Assemblyman Steve Peace (D–Rancho San Diego) released a statement saying he spoke with Bob White, Wilson's chief of staff, Wednesday morning and "was very encouraged by his response."

The Assembly threw its support behind the cleanup effort Wednesday by passing a house resolution urging Wilson to call a state of emergency for the area.

The action was the first to be taken by the Legislature this year, and came a day after the County Board of Supervisors declared a local emergency for the area, prompted by concerns that the summer would bring a repeat of last year's unusually large swarms of mosquitoes, which thrive in stagnant pools of sewage in the valley. The mosquitoes from the foul-smelling sewage can transmit encephalitis, malaria and hepatitis to humans.

Money for the cleanup is available from the state Regional Water Quality Control Board, said David Takashima, Peace's chief of staff. The governor's discretionary funds, set aside for economic uncertainty, could also be used for an emergency cleanup.

The county hopes to construct a channel that would keep the sewage moving out to sea instead of forming stagnant pools, said John Woodard, chief of staff for county Supervisor Brian Bilbray, who represents the area and has been pushing for emergency status along with Peace for a year.

A bird on the federal endangered species list, the least, Bell's vireo, nests in several of the valley's marshes between fall and spring, so any work done in the valley requires permission from the U.S. Fish and Wildlife Service and should be kept to the winter months, Woodward said.

[From the Tribune, Mar. 5, 1991]

ILLEGALS CROSS SEWAGE RIVER—AND FEDS IGNORE BOTH PROBLEMS

In a near-disaster filled with symbolism and irony for San Diego, a group of undocumented immigrants crossing the border illegally got caught in the sewage-laden floodwaters of the Tijuana River during last week's storm.

Two floods met—a flood of immigrants and the flood of sewage. Fortunately, San Diego firefighters and lifeguards rescued the stranded immigrants.

San Diego did its job even though both issues are federal responsibility. But because there is little interest or understanding in Washington, D.C., about the nation's southwestern border, San Diego is left alone to try to cope.

The federal government has agreed to help build a sewage plant in the Tijuana River Valley to help clean up that fetid estuary fed by millions of gallons of raw sewage every day. But the plant won't be ready for at least five or six years. Until then, the feds have no plans to help clean up the sewage, which could breed encephalitis-carrying mosquitoes.

The county Board of Supervisors has asked Gov. Wilson for emergency funds to clean up the Tijuana River, but there has been no response from Sacramento.

As for illegal immigration, inaction by the federal government has kept pace with the rising migration from Mexico. Congress passed an immigration reform package last year, and everyone in Washington cheered. Unfortunately, the bill did absolutely nothing to solve the anarchy on our border.

The county and city get no federal or state money to help pay for the burden of illegal immigration. And we've received only a pittance to defray costs of services for hundreds of thousands of legal immigrants here who received amnesty under the 1986 Immigration Reform Act.

San Diego is simply stuck with two serious problems not of our making and far beyond our limited resources to handle. Is anyone out there listening?

[From the San Diego Union, Mar. 15, 1991]

STATE TO PAY TO TREAT TJ SEWAGE

(By Daniel C. Carson and Graciela Sevilla)

Sacramento—Gov. Wilson today will announce he has signed a declaration of emergency for San Diego County and is taking other actions to help the border region cope with raw sewage contaminating the Tijuana River, sources say.

Wilson will be directing the state Water Resources Control Board to release $860,000 to pay the first-year cost of treating the Tijuana River sewage at San Diego's Point Loma sewage plant, sources say.

This sets an important precedent, because the cost of treating border on sewer-system ratepayers in the city of San Diego, sources say.

Wilson's moves come in response to a resolution passed unanimously by the San Diego County Board of Supervisors on Jan. 8 requesting the emergency decree and financial assistance in stemming the sewage flows from Mexico.

In winter months, an estimated 13 million gallons in raw waste from the eastern hills of Tijuana pours into the river each day.

The U.S. and Mexican governments, in cooperation with the city of San Diego and the state, are building a new $195 million sewage treatment plant in the South Bay that would capture and clean up the sewage flows. However, that plant is not expected to begin operation before 1995.

In the interim, the U.S. International Boundary and Water Commission is working on a plan to construct a pipeline to intercept the flows and transfer them to the Point Loma plant for treatment.

The gubernatorial proclamation of a state of emergency finds that "conditions of extreme peril to the safety of persons and property exist within the county of San Diego."

Word of the decree cheered Ruben D. Marshall, a farmer who has worked the land near the river for 15 years.

"We've been through so much hell down here. It has just been one nightmare," Marshall said.

County Supervisor Brian Bilbray, who as mayor of Imperial Beach during the 1970s worked on the Tijuana sewage problem with Wilson—then San Diego's mayor, said Wilson's actions signal a new state commitment to solving a long-standing public health threat.

[From the San Diego Tribune, Mar. 15, 1991]

WILSON DECLARES SEWAGE EMERGENCY

(By Ron Roach)

Responding to the environmental crisis posed by sewage flowing north from Tijuana, Gov. Wilson today declared a state of emergency in San Diego County and urged a state board to provide $860,000 to help clean up the mess.

"The raw sewage flowing across the border creates an extreme peril to people living and working in the area of the Tijuana River estuary," said Wilson, who also called for help from federal agencies.

The Republican governor, a former mayor of San Diego and former U.S. senator from California, was scheduled to discuss his action at a news conference today at Imperial Beach City Hall.

The San Diego County Board of Supervisors voted Jan. 10 to declare the county a disaster area and seek a state declaration of emergency.

The United States and Mexico have agreed to build a treatment plant north of the border to deal with the daily problem of millions of gallons of Tijuana sewage, but the plant will not be completed until 1995.

San Diego city government has agreed to divert the sewage to its Point Loma plant, Wilson said, because of the need to move quickly and resolve a public health threat caused by an estimated 13 million gallons of sewage daily. The diversion project, costing $860,000 a year, is expected to start in April, the governor said.

In a letter to Don Maughan, chairman of the State Water Resources Control Board, the governor urged the board to, at its March 21 meeting, approve $860,000 from the state Cleanup and Abatement Fund as first-year costs of sewage treatment. Although it is a state agency, the board is independent from the governor's authority.

Wilson also wrote to U.S. Secretary of State James Baker, seeking help with his request that the International Boundary and Water Commission provide treatment funds for the city for the interim years, 1992 to 1995, or until the international facility is operating.

Writing to Baker, Wilson said: "The City of San Diego is unable nor should it be expected to bear these costs. Commission or federal government funds should be provided to San Diego to cover costs for interim treatment after the first year."

The governor wrote a third letter, to U.S. Interior Secretary Manuel Lujan, urging Lujan to direct the U.S. Fish and Wildlife Service to help San Diego County divert sewage flows by clearing brush along the Tijuana River to allow for more effective use of insecticide to kill mosquitoes.

Wilson said diverting sewage will reduce dry weather flows in the channel, but mosquito problems will remain during wet weather and possibly in standing pools at various times.

"To fully alleviate the mosquito and sewage problems, the city and county of San Diego believe it will be necessary to perform minor channeling and brush clearing in specific areas," Wilson told Lujan.

While there is a government duty to protect the nation's wetlands, Wilson said in the letter to Lujan:

"We must not lose sight of the fact . . . that the wetlands in question exist today because of raw-sewage flows. Even raising the question of mitigations and offsets in this case—as has been done by Fish and Wildlife Service—goes well beyond the concept of sound environmental management. Our focus clearly must be on protecting the public's health and safety, by removing their exposure to raw sewage and the attendant mosquito problem it has created."

[From the San Diego Union, Mar. 16, 1991]

BORDER BREATHES SIGH OF RELIEF AS WILSON ACTS ON TIJUANA SEWAGE

(By Dwight C. Daniels)

Imperial Beach—Jeanie Gomez breathed a sign of relief yesterday as Gov. Wilson announced his move to combat the 13 million gallons of Mexican sewage that flow daily into the dank and brackish Tijuana River estuary near here.

Wilson's declaration of a state of emergency will serve as a tool to get around international entanglements and federal and state regulations to solve the effluent problem.

The governor's action directs the Water Resources Control Board to release $860,000 to finance first-year costs of treating the diverted effluent at the Point Loma sewage-treatment plant.

"We've got people who have been unable to act, it seems, because they were restrained by regulations and even by law," the governor said, calling the raw sewage "an extreme peril to people living and working in the area."

He said he also sent a letter to Interior Secretary Manual Lujan to ask for his intervention with U.S. Fish and Game authorities to "allow early action by the county . . . to deal with this problem."

The governor's action was good news to Gomez and the families who live in more than 400 homes that border the estuary, which Wilson toured before his midmorning news conference. The sewage has long caused county health officials to voice concerns about possible water-borne diseases.

State and local officials echoed that relief after the announcement, with county Supervisor Brian Bilbray and Assemblyman Steve Peace, D-Chula Vista, leading the chorus.

Bilbray—who repeatedly has risked breaking state laws by using a bulldozer to rechannel or block effluent in the estuary—said the governor "has the guts to take this issue head-on when others would only talk."

Peace pointed out that Wilson overruled advice of key staffers to take the move, which is seen as a precedent because the full cost of sewage treatment has previously fallen on San Diego ratepayers.

The actions came after a unanimous vote by county supervisors Jan. 8 requesting an emergency decree and financial assistance.

The governor's actions included a letter to U.S. Secretary of State James A. Baker that urges the State Department to intercede with the International Boundary and Water Commission to fund the remaining years of work to build the $195 million U.S./Mexican sewage-treatment facility set to be completed in 1995.

Rosemary Nolan, president of the Citizens Revolting Against Pollution, a grass-roots coalition long involved in advocating a solution to solve the sewage quandary, stood at Wilson's side as he made the announcement.

CONGRESSMAN BILBRAY'S STATEMENT FOR THE OPENING OF THE SOUTH BAY INTERNATIONAL WASTEWATER TREATMENT PLANT

San Diego, CA—The following is a text of Congressman Brian Bilbray's (R-CA) remarks during the opening ceremony of the South Bay International Wastewater Treatment Plant:

"It gives me great satisfaction to be here to participate in this event today. A great deal of blood, sweat, and tears has been invested in the engineering showpiece we are here to celebrate, and I'm not even talking about the actual construction of the project. All of you who have been and remain closely involved with the implementation of this process, and there are too many to mention by name, know what I'm talking about. You all have earned a great pat on the back, and you're all to be commended for helping to get us this far. It is my great hope that we can continue to set aside what policy differences some of us may have, and focus on the bottom line that we all share—that is putting our money where our mouths are, walking the walk and not just talking the talk, and working together to establish functioning public health strategies that will keep our children healthy and our beaches open."

"It is a testimony to the magnitude of this project that we have such a strong and diverse alliance here today to mark its opening. Mayor Golding and I have been working on the border pollution problem for longer than either of us care to remember. Bob Filner and I have, with one or two notable exceptions, been able to work together so well on the pollution issue that we've managed to earn the scorn of our more strident and partisan colleagues in *both* parties. And all the dignitaries with us up here today have done so much of the heavy lifting that I will leave the telling of it to them."

"With EPA, well, most of you know that I've done battle with EPA in the past on other issues. But I've said from day one, when EPA is right, I'll be in their corner; when they aren't, then they'll hear from me. I think EPA, like the other groups and individuals here today who care about the South Bay, has during this process learned the value of soliciting public input, listening to people's concerns, and incorporating them into the final analysis. Without these basic building blocks, without talking to the man and woman on the street, all the finest Agency planning in the world counts for nothing. This goes both ways—those who choose to roll up their sleeves and participate in a constructive manner in the planning and implementation process will earn the credibility of their neighbors and their peers, whether or not they agree 100%. Those who prefer to set up obstacles to progress risk losing their own credibility, if the greater good suffers as a result."

"And this treatment plant is clearly devoted to serving the public good."

"And so it goes forward from today—we must be guided both by the people and by the science as it applies to the South Bay. We must all be prepared—President Clinton, his departments and agencies, Congress, and the communities—to move forward with the next step. In order to provide the needed level of protection to the public health, the environment, and our ocean resources, we must especially be led by sound science."

"I have put my colleagues in the House of Representatives on notice from Day One, and will be working in the months to come to educate them to the threat which this facility, and its future components, will help allay. The Administration is well aware of the lengths to which I'm prepared to go—I will do whatever is necessary to provide the appropriate and required level of treatment at this facility. As it now stands, the Clean Water Act requires certain standards be met to protect the public health, and I expect nothing less than a full commitment to this from the federal government—it has entered into a pact with the people which must be kept."

"For too long, it was easy to make excuses and hold these border issues at arms length; there were other priorities, other needs, and the border was far away—someone else's problem. Now, we've thrown a rock through the proverbial window, and served out notice that the time for excuses has long passed. We have accomplished a great deal with the official opening of this facility today, but we aren't done yet. I look forward to continued cooperation and productivity in ensuring that we can have another ceremony, not too long from now, to celebrate the fact that this plant is operating at the level it needs to be to protect our communities and our oceans."

"Thank you."

Mr. LUTHER. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. FILNER).

Mr. FILNER. Mr. Speaker, I thank the gentleman for yielding this time to me, and I rise reluctantly to oppose this measure this evening. I thank the chairman of the committee for his outline of the situation. He is correct. The situation is as he described, as someone who represents the adjacent district to the gentleman from California (Mr. BILBRAY) and whose district has that sewage flowing through it to Mr. BILBRAY's. And I thank him for his attention to it, and what I heard was his commitment to resolve it.

And when I say reluctantly, I say that to my friend, the gentleman from California (Mr. BILBRAY) because my colleagues should know that there have not been probably two people who have worked more closely or, I think, more effectively to resolve this issue over the last decade than the gentleman from California (Mr. BILBRAY) and myself. He was a county supervisor before he became a Member of Congress. I was a city councilman. Our districts completely interlocked, and we worked hand in hand to address this issue, and we had success. Nobody has made more progress over the last decade than we were able to do working together, working together in local government, working together in the Congress, working together with Mexico.

We have seen the building of the international wastewater treatment plant which, when the out fall is completed by the end of November, we will open and go a long way toward resolving that problem. And that treatment plant was built in San Diego with the cooperation of Mexico and the City of Tijuana and the State of Baja. So the gentleman knows that we have worked hand in hand on these issues.

I agree with the gentleman from California (Mr. BILBRAY) when he says he wants a forum to educate Congress and he wants to raise awareness, and we are doing that, but this is the wrong way to complete that job. It is only a sense of Congress, as the gentleman pointed out. It is not legally binding. So there is not much effect if it does pass.

The language that the gentleman from California (Mr. BILBRAY) uses threatens sanctions with Mexico. It implies that we are going to look at loan guarantees and foreign aid. I will tell the gentleman, though, even if we eliminated the foreign aid, direct foreign assistance to Mexico, tomorrow, it constitutes less than 0.001 percent of our total trade. So I am not sure what effect it has in the real world, except the way Mexico and its officials take it and how they will react in the kinds of discussions that we have participated in for over a decade, and I am sure we will be continuing to participate in in the next decade.

The resolution of the gentleman does nothing to clean up the pollution and the sewage that he so eloquently describes. It is a real problem for the gentleman's constituents, for my constituents. That is why we have worked together to develop infrastructure. That is why NAD Bank recently granted $16 million to develop a parallel sewage conveyance system and to help Tijuana upgrade its sewage treatment plant.

That is why as I have a letter here from the commissioner of the International Boundary and Water Commission, Mr. Bernal, who we both know very well, who is reporting on an agreement on the Mexicali II project that was just executed. Mexicali working with both countries have put in the money for a wastewater system capacity for the city of Mexicali for a pump station and wastewater treatment plant. The U.S. is providing 55 percent; Mexico 45 percent. I think that is the kind of cooperation that we need.

The problem is real. We have heard it. The answer is cooperation, not threats, not sanctions. We have made great progress. The gentleman knows that. The gentleman is one of the chief architects of that cooperation. Let us not put that cooperation in jeopardy.

The administration, the State Department, opposes this bill. The Mexican Government opposes the bill. I would say to the gentleman from California (Mr. BILBRAY) we have correspondence from the embassy and our good friend the consul in San Diego wondering why, after just having attended meetings with him, the gentleman has taken a position which seems to be very hostile. It puts people in a very difficult situation when we try and negotiate agreements all across our border.

So I rise reluctantly because the gentleman and I have worked for so long together on these issues and I look forward to working with the gentleman over the next years on these to solve them but let us work with a cooperative tone and not a tone that threatens sanctions.

Mr. GILMAN. Mr. Speaker, I yield 2 additional minutes to the gentleman from California (Mr. BILBRAY).

Mr. BILBRAY. Mr. Speaker, I want to respond to my colleague from California (Mr. FILNER) and point out that on environmental issues we should never threaten, but we should also never be afraid to hold people to standards. We should just be cooperative. Frankly, let us recognize about this, is that we have to date been very cooperative.

The fact is, Mexico City and Washington, D.C. have not been as sensitive to the problem. As my colleague has pointed out, we have built a lot of projects, but the beaches are still polluted.

A $2 million project for a pipeline by itself does not make the beaches any cleaner and does not make the public any safer. Let me point out to my colleague, he may not be aware of the meeting we had this August, but I participated in that meeting. Showing the lack of sensitivity we can get on both sides, we still have 9 million gallons of drinking water pouring into raw sewage, spreading the pollution more onto Mexico's side.

The word I have gotten on this is that the resources and the commitment by Mexico City has been lacking. The frustration of the people in Tijuana is that Mexico City needs to be more aware of this. I appreciate the fact that the gentleman participated in this discussion, because the International Boundary and Water commissioner mentioned by the gentleman from California (Mr. FILNER) has this week delivered this sense of Congress to Mexico City. So hopefully it will tell everybody—let us work together.

Let me point out that my reference to reviewing treaties and existing commitments may not necessarily mean reductions, but may also mean increases in resources under existing relationships. But it does mean that we will look at this substantially.

I challenge my colleagues again to say that outcome does not matter here. All I am saying is, all the treatment plants, all the talk, all the negotiations, all of the relationships are fabulous, but if they do not make the environment safe for the children of Tijuana and San Diego and Imperial Beach, then all we are is a bunch of diplomats and politicians sitting around talking, patting ourselves on the back while our children are exposed to hepatitis, and God knows what else.

Mr. Speaker, I would ask my colleagues to consider that and consider the kids that continue to be exposed. All I am asking is a sense of Congress that says this is important enough for us to review everything and let us talk about it, let us look it over. Let us set the standard that ending pollution is what we care about, not just the building of projects.

The SPEAKER pro tempore (Mr. BLUNT). The gentleman from Minnesota (Mr. LUTHER) has 13½ minutes remaining. The gentleman from New York (Mr. GILMAN) has 5½ minutes remaining.

Mr. LUTHER. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. RODRIGUEZ).

Mr. RODRIGUEZ. Mr. Speaker, I rise today in opposition to the resolution that is before us. The problems do exist in Tijuana but they also exist along the entire length of the U.S.-Mexican border, including my south Texas district. I represent probably the next largest sector next to one additional Congressman in Texas. I want my colleagues to know that I have problems also with potable water. I have problems with sewage. I have problems with Third World conditions and I am not talking about Mexico; I am talking about the United States.

We also have an obligation to make sure that our cities have appropriate sewage plants, and we do not.

□ 2215

We are having a serious problem. I recognize that the efforts that are being made, and hopefully this will be an opportunity to bring to light what occurs in the area. But if anyone has received most of the NAD Bank money it has been Tijuana and not south Texas where we are suffering also for some of those same conditions.

At this time is not the time to start pointing fingers at Mexico. We need to look at ourselves and what we are also doing to the river, what we are also doing to the environment, and in the way we are also allowing Maquilladoras to go across the border and create part that have pollution.

This resolution is a heavy-handed, counterproductive approach that could set back existing cooperations with Mexico to deal with serious environmental issues along the entire border. I would attest to my colleagues that Mexico is making a sincere effort at moving in some of those areas, just like we are trying to do.

I am frustrated because I recognize that my communities do not have the resources. I need 30 million in 1 little community, and I am talking again about the U.S. I am not talking about Mexico that requires some money for potable water.

So, as I indicated to my colleagues, I do represent constituents on the U.S.-Mexico in south Texas who are facing pressing environmental problems on both sides of the border.

Through the International Boundary Water Commission, the Border Environmental Cooperation Commission, and the NAD Bank, we are working to solve some of these problems. I know it is going to take a long time.

I am hoping that the U.S. provides assistance to those Third World conditions that exist in the United States, and that we should take the initiative, and we should set the example, also, before we start to throwing stones across the river.

The Board of environmental Cooperation Commission has approved 24 environmental projects on both sides of the border with 14 in construction phase and eight pending construction. For every dollar we appropriate to the Board of Environmental Cooperation Commission, Mexico has been matching that. Do we want to jeopardize that ongoing projects? I do not think so.

Sure, three or more problems are delayed with these projects, but the bottom line is this particular resolution will not solve those existing problems that we have there, and we need to begin to work cooperatively as we move forward.

I want to also emphasize that the U.S. Department of State has indicated that they oppose this effort and that this is not the way of going about making things happen. I would ask that, as we move forward, that we look at that infrastructure that needs to be developed.

I would also attest to my colleagues that we have got to be careful when we do that. We are right now at the verge of putting a waste site which is nuclear and right on the Sierra Blanca, right on the border. That has direct impact. Mexico has protested the fact because it violates certain other treaties.

When my colleagues talk about the language on their particular, it does talk about treaties. What are we talking about? Look at all the treaties that we have had with Mexico ever since. Are we going to go back to the treaty of Guadalupe Hidalgo.

I think we need to be realistic about some of these items. I think we need to really look at the problems. But it does give us an opportunity to hold our own government accountable for Third World conditions that exist in the border.

I am hoping that, if nothing else, this issue allows us an opportunity to look at that. But I would also ask my colleagues to vote against this effort. I want to thank the gentleman from Minnesota (Mr. LUTHER) for allowing me this opportunity to say a few words. I ask my colleagues to vote no.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Pennsylvania (Mr. FOX), a member of our committee.

Mr. FOX of Pennsylvania. Mr. Speaker, I appreciate the opportunity to rise in support of H.Con.Res. 331, the legislation introduced by the gentleman from California (Mr. BILBRAY).

Certainly this is the kind of legislation that is positive. It is going to bring forth, hopefully, the kind of environmental improvement that is much needed in California.

The flow of sewage from Tijuana has forced the beach closures. Certainly by bringing this problem to the attention of the Mexican government does not in any way jeopardize our relationship with them. We have a very close relationship with Mexico, working together with them on port access, loan guarantees, foreign aid. We have a very close relationship.

However, we need to work jointly on this problem, and we will, because this just highlights the need of, frankly, the White House, I am sure working with Congress, can take the leadership of the gentleman from California (Mr. BILBRAY) and others, bring up how we need to solve this issue.

The gentleman from Texas (Mr. RODRIGUEZ) raises a very important point about the problems we have in Texas. That does not mean we should not work on the problem with Texas; but this resolution deals with Mexico, and we need to a make sure that we work on this particular resolution now, and we will deal with Texas next. That does not mean we should forsake one for the other.

I frankly feel that the gentleman from California (Mr. BILBRAY) has, for a long time, brought to our attention, Mr. Speaker, the importance of environmental protection, the importance of saving our beaches and making sure the air and water are pure. I have to compliment him on bringing this issue forward and making sure we deal with it in a sensitive matter.

This resolution, frankly, only advances that inquiry, brings us toward a solution, and we should support H. Con. Res. 331 in a bipartisan fashion.

The SPEAKER pro tempore (Mr. BLUNT). The gentleman from Minnesota (Mr. LUTHER) has 9½ minutes remaining. The gentleman from New York (Mr. GILMAN) has 3½ minutes remaining.

Mr. GILMAN. Mr. Speaker, we have the right to close, I believe, in which case, we suggest the gentleman go ahead. We have only one more speaker.

Mr. Speaker, I reserve the balance of my time.

Mr. LUTHER. Mr. Speaker, I yield 6 minutes to the gentleman from California (Mr. BECERRA).

Mr. BECERRA. Mr. Speaker, I would like to thank the gentleman for yielding and for being here at this late hour managing this bill along with the chairman and my other colleagues who have taken the time to speak on this matter.

Let me also thank my colleague and friend, the gentleman from San Diego, California (Mr. BILBRAY), for raising this issue. But, unfortunately, I must disagree with the way he has done this.

As the gentleman from California (Mr. BILBRAY) said, this is only a sense of Congress. This bill will not have any practical legal affect on our laws and how we conduct our affairs, at least not immediately.

It is, in essence, a message bill. Unfortunately, the message it sends is not that this is just a sense of Congress that there is a problem between our two countries of Mexico and the U.S. along our borders, but it sends a different message. The message that will be received, not here, but in Mexico will be one of threats.

While the gentleman from California (Mr. BILBRAY) raises a very important point that we must take care of our environmental matters between two sovereign nations, in this case, our country and the country of Mexico, I do not believe that anyone south of the border reading this sense of Congress would believe that this is a cooperative, collaborative approach to resolving the problems that are disturbing the folks in San Diego.

Let us make it clear, the folks in San Diego have every right to be concerned. The folks in Tijuana, Mexico have every right to be concerned. But what we should not do is say that we will unilaterally take action if we do not believe the Mexican government and the Tijuana government have done enough to resolve this problem.

That is what we are faced with in this sense of Congress, which will have no immediate legal effect. It is a message bill. But the message it sends is that we are doing this today. The message we may get back from the Mexican government and the Tijuana government is, tomorrow we will do something similar.

Let me give my colleagues an example. For many decades, the Mexican public, the Mexican government has complained that the U.S. Government allows its people, its State governments, and local governments to extract too much water from the Colorado River, the best of the Colorado River; and also that our people, our governments, our industry is depositing too much into the Colorado River, which is not good. So that by the time the Colorado River crosses the southern border and gets into Mexico, what they have left of a very rich vibrant river is not much. They say you, U.S., you should be doing more about this. They have been saying this for decades.

Would we want to see a resolution from the Mexican government that says they unilaterally are sending us a sense of their Mexican Congress that the U.S. has not done enough, and because it has not done enough, then the Mexican government can unilaterally start reviewing all its treaties, all its agreements with our country that it has signed?

I do not believe we would take kindly to that, because we would say we are trying. I do not believe anybody thinks that the U.S. Government and its people are trying to give Mexico polluted, unusable, nonpotable water. But the Mexican government and the Mexican people probably would say, well, you may not believe it to be the case, but what we see is much different.

Let me give my colleagues another example. Recently this Congress voted, this year this Congress voted, as the gentleman from Texas (Mr. RODRIGUEZ) mentioned, voted to site a hazardous waste deposit site along the Texas Mexico border, the Sierra Blanca site in Texas.

The Mexican government protested to the U.S. Government and to the State governments of the States involved that would be depositing this hazardous waste along the border that this was unjust, it was unfair, that much of the hazardous waste would migrate at the end into Mexican territory and affect the lives of Mexican people.

They also pointed out, as we here pointed out, that this hazardous site is on top of an existing earthquake fault. And if ruptures as a result of any earth quake would occur, that could expose many people, Mexican and U.S. individuals, to the effects of this hazardous waste.

All of that is to say this, we all have examples of how our governments, our peoples perhaps are not working in the fashion that the other people and the other government would like to see. What we should be doing is what we have done, and in the case of this particular environmental problem in and around Tijuana, the two governments have done, and they have worked cooperatively.

Mexico and the United States have been working cooperatively for a number of years on the South International Wastewater Treatment Plant, which is about to start up its operation. In addition, the United States and Mexican governments are working through the International Boundary and Water Commission to clean sewer lines and also to construct a back-up system to the current coastal sewage conveyance and treatment system.

They are doing things. But we can certainly argue that we have not seen enough done. But is this the way we treat a partner, someone we say we cooperate with? I think that is the problem.

If we are going to use threats, if we are going to use our muscle, then we should realize that we should be prepared to face the consequences of someone responding in kind. I do not believe that is what we should do with a solid trading partner.

I do believe we send messages, but send messages as a partner would send a message that we want to work with them and we want to improve the conditions. We want to do it together. Because there are people on both sides of the border who will be affected.

I believe the intent of the gentleman from San Diego is eminently good, well-intended, but I do not believe, unfortunately, this sense of Congress gets us there. I would urge my colleagues to vote against this resolution.

Mr. LUTHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I simply want to say that I think this has been a good, healthy discussion. I appreciate the various points of view that have been presented. We all clearly wants to clean up the environment. That is not the issue here.

I commend the gentleman from California (Mr. BILBRAY) for coming forth. I think it has been terrific that we have heard this debate because, clearly, it is a more complex issue than what initially meets the eye.

There are many facets to this discussion, this debate. Of course that is why the administration has concerns about this legislation.

I think the real issue here is how do we best clean up the environment. How do we best approach this? Do we do it through this approach in this legislation, or do we continue the cooperative efforts that the administration has embarked upon in the past and are continuing to undertake?

So I would simply ask the Members to vote their conscience, vote their point of view on this particular issue. I know there is a variety of points of view within our caucus as I am sure there are in the gentleman's.

I thank the Members again, the gentleman from New York (Mr. GILMAN), for his bringing this before us. I urge everyone to look at this issue carefully and to simply vote their point of view on the issue.

Mr. Speaker, I yield back the balance of my time.

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Mr. GILMAN. Mr. Speaker, I want to thank the gentleman from Minnesota (Mr. LUTHER) for conducting a very good debate on this measure.

Mr. Speaker, to close our arguments on our side, I yield such time as he may consume to the gentleman from California (Mr. BILBRAY).

Mr. BILBRAY. Mr. Speaker, I want to thank my colleagues. I really want to thank my colleagues who have experience related to the Fronteras pollution problems. Let me just tell my colleagues, this is 20 years that I have been trying to address this issue. The reason why I came to Congress probably more so than anything else is the reputation I have had trying to confront the environmental problems.

The fact is that in 1980 I almost went to jail over this issue. Somebody that was willing to stand up, and senior citizens and children stood up and said, enough is enough. Our government has to start addressing this issue. They were frustrated because they were just a working-class community. They did not have a lot of political clout, a lot of influence, but they felt, we are Americans. We have as much right to be defended and protected from environmental problems as wealthy people. Just because the color of our skin may be a little darker, we may be a little poorer, does not mean we do not have environmental rights.

Now, I say to my colleague from Texas, I agree with him, and I want to work with him, and I will commit myself to working with him. The fact is that the Clean Water Act should apply just as much for pollution across the border as it does for within the border. But the frustration of a working-class neighborhood that is told by EPA that they will go to jail if they dump their sewage while that same working community is polluted by somebody else, and the EPA does not clean it up.

The NAD Bank, there can be more things done with the NAD Bank, and I would really point out that there is agreements by the bank to build projects in the Republic of Mexico 60 miles from the border, which I think ought to be taken care of, the landfill at Punta Penasco and the sewer treatment plant in Ensenada. But the border problems should be given the highest priority, because they are the ones that are really the threat to our growing prosperity.

Now, let me get back to this issue. I met with Mexico, articulated to Mexico that this is as much a message to the Federal Government of the United States as it is to Mexico. They understand the concerns. Those who say that we do not want to disturb Mexico or they might take it inappropriately, let me assure my colleague, in 1978, that is exactly what the young neighbor at Imperial Beach was told by the Carter administration, because an oil deal was going through, and they did not want to jeopardize an economic oil deal over just an environmental problem in a working-class neighborhood in the corner of the United States.

Now, Mr. Speaker, I do not think anyone here believes that we should be selling out the environment for any economic deal. Those days are over with. The fact is, we need to send a very clear message, not just to Mexico, but to ourselves, that we will not allow the continuation of the pollution of our environment just because it is convenient to look the other way for economic or political reasons; that every neighborhood in the United States has the right to a clean, healthy environment, and the Federal Government of the United States has as much responsibility to the environment along the border as it does anywhere else in this country.

Mr. Speaker, I am not half as concerned as the message this body could send to Mexico. We have already sent it, it has been delivered. What I am concerned about is the message we send to our fellow citizens here in the United States. There is much prejudice against Mexico, and I want to stop that, and I think the one way we stop it is by sending a clear message to American citizens that this body, the sense of Congress, is that we will not sell out the environment of America for economic advantage. We will place the environment of the United States and the citizens who live in that environment first and foremost in all of our relationships.

I ask my colleagues, please, to pull together and just say, let us work together so that we make sure our relationships with Mexico and the United States and the environment are all cleaned up together. That kind of commitment is what I am asking for today.

I ask for approval of this resolution, Mr. Speaker.

Mr. GILMAN. Mr. Speaker, I want to thank the gentleman from California for his very eloquent argument.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BLUNT). The question is on the motion offered by the gentleman from New York (Mr. GILMAN) that the House suspend the rules and agree to the resolution, H. Con. Res. 331.

The question was taken.

Mr. BECERRA. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule 1 and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

EXPRESSING SUPPORT FOR U.S. GOVERNMENT EFFORTS TO IDENTIFY HOLOCAUST-ERA ASSETS, URGING THE RESTITUTION OF INDIVIDUAL AND COMMUNAL PROPERTY

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 557) expressing support for U.S. Government efforts to identify Holocaust-era assets, urging the restitution of individual and communal property, and for other purposes.

The Clerk read as follows:

H. RES. 557

Whereas the Holocaust was one of the most tragic and complex horrors in this century, and survivors of that catastrophe are now reaching the end of their lives;

Whereas among the many atrocities committed by the Nazis was their systematic effort to confiscate property illegally and wrongfully from individuals, institutions, and communities solely because of religion or ethnicity;

Whereas the Nazi regime used foreign financial institutions to launder and hold property illegally confiscated from Holocaust victims, and some foreign financial institutions violated their fiduciary duty to their customers by converting to their own use financial assets belonging to Holocaust victims and denying heirs of these victims access to these assets through restrictive regulations and unreasonable interpretation of those regulations;

Whereas in the post-Communist period of transition many of the countries of Central and Eastern Europe have begun to enact legal procedures for the restitution of property confiscated or stolen from victims of the holocaust to communities and to individual survivors of the Holocaust and their heirs;

Whereas, despite the enactment of legislation and the establishment of institutions to restore confiscated property in a number of countries, progress has been slow, difficult, and painful, and some countries have established restrictions which require those whose properties have been wrongfully plundered to reside in or be a current citizen of the country from which they now seek restitution or compensation;

Whereas the Tripartite Gold Commission has now concluded its activities, and under the leadership of the United States established an international Nazi Persecutees' Relief Fund, reached agreement with most of the countries which had gold on deposit with the Tripartite Gold Commission to donate their shares to this Persecutees' Fund, and the United States has pledged to contribute $25 million to this fund;

Whereas two significant agreements have recently been reached, the first between Holocaust survivors and private Swiss banks and the second between Holocaust survivors and European insurance companies, which represent significant first steps in the international effort to provide belated justice to survivors and victims of the Holocaust and their heirs;

Whereas the Department of State and the United States Holocaust Memorial Museum will co-host the Washington Conference on Holocaust-Era Assets later this year in order to review current efforts, share research across national borders, renew efforts to open Nazi-era archives, and spur greater progress on the restitution of Holocaust-era assets; and

Whereas there is a growing international consensus and sense of urgency that, after a half century of indifference and inaction, justice must be obtained for victims and survivors of the holocaust and their heirs; Now, therefore, be it

Resolved, That the House of Representatives—

(1) recognizes the great responsibility which the United States has to Holocaust survivors and their families, many of whom are American citizens, to continue to treat the issue of Holocaust-era assets as a high priority and to encourage other governments to do the same;

(2) commends the agencies of the United States government for their untiring efforts and for the example they have set, including the publication of the May 1997 and June 1998 reports on U.S. and Allied Efforts to Recover or Restore Gold and Other Assets Stolen or Hidden by Germany in World War II and the efforts to return such assets to their rightful owners;

(3) commends those organizations which have played a critical role in the effort to assure compensation and/or restitution for survivors of the Holocaust, and in particular to the World Jewish Congress and the World Jewish Restitution Organization;

(4) welcomes the convening of the Washington Conference on Holocaust-Era Assets later this year by the United States Holocaust Memorial Museum and the Department of State and expresses the hope that this conference will contribute to the sharing of information and will spur greater progress on the restitution of Holocaust-era assets;

(5) commends those countries which have instituted procedures for the restitution of individual and communal property confiscated from Holocaust victims, and urges those governments which have not established such procedures to adopt fair and transparent legislation and regulations necessary for such restitution;

(6) calls upon countries in transition in Central and Eastern Europe to remove certain citizenship or residency prerequisites for individual survivors of the Holocaust seeking restitution of confiscated property;

(7) notes that former Communist countries which seek to become members of the North Atlantic Alliance and other international organizations must recognize that a part of the process of international integration involves the enactment of laws which safeguard and protect property rights that are similar to those in democratic countries which do not require artificial citizenship and residency requirements for restitution or compensation;

(8) commends those countries which have established significant commissions, such as the Presidential Advisory Commission on Holocaust Assets in the United States, to conduct research into matters relating to Holocaust-era assets, to assure that information developed by these commissions is publicly available, to complete their major historical research efforts, and to contribute to the major funds established to benefit needy Holocaust survivors no later than December 31, 1999;

(9) commends those countries and organizations which have opened their archives and made public records and documents relating to the Nazi era, and urges all countries and organizations, including the United Nations, the Holy See, the International Committee of the Red Cross and national Red Cross organizations, to assure that all materials relating to that era are fully accessible to the public;

(10) urges all countries to develop and include as a part of their educational curriculum material on the Holocaust, the history of the Second World War, the evils of discrimination and persecution of racial, ethnic or religious minorities, and the consequences of the failure to respect human rights;

(11) appreciates the efforts of the government of Germany for successfully concluding an agreement with the Conference on Material Claims Against Germany on matters concerning restitution for Holocaust survivors from Central and Eastern Europe who have not yet received restitution, and urges the government of Germany to continue to negotiate with the Claims Conference to expand the eligibility criteria to ensure that all needy Holocaust survivors receive restitution;

(12) urges all countries to continue aggressive investigation and prosecution of individuals who may have been involved in Nazi-era war crimes, such as the Government of Germany which should investigate Dr. Hans Joachim Sewering for war crimes of active euthanasia and crimes against humanity committed during World War II;

(13) urges countries, especial Israel, Russia, Poland, and other Central and East European nations, and organizations such as the International Committee of the Red Cross and Israel's Jewish Agency to coordinate efforts to help reunite family members separated during the Holocaust; and

(14) directs the Clerk of the House to transmit a copy of this resolution to the Secretary of State and requests that the Secretary transmit copies to all relevant parties.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. GILMAN) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. GILMAN).

GENERAL LEAVE

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 557 now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H. Res. 557 is sponsored by our committee colleague, the gentleman from California (Mr. LANTOS), the only Holocaust survivor serving in this body. We commend the gentleman from California (Mr. LANTOS) for his long abiding commitment to ensuring justice for Holocaust survivors and for their heirs.

H.R. 557 commends agencies of the United States Government for their efforts to recover and restitute Holocaust-related assets and expresses support for the upcoming Washington Conference on Holocaust-Era Assets.

It urges those governments which have not established restitution procedures to do so, and to ensure that citizenship or residency requirements do not become impediments. The bill wants information to be made public and specifically mentions the Holy See, which has not been cooperative in opening its archives.

H. Res. 557 also incorporates the thrust of some measures introduced by colleagues of ours. It urges Germany to expand the eligibility criteria for needy Holocaust survivors, and it recommends that Germany investigate Dr. Hans Joachim Sewering for crimes against humanity. The measure also urges everyone to work together to unify family members separated during the Holocaust.

Mr. Speaker, these clauses are the result of legislative support expressed by the gentlewoman from California (Mrs. MALONEY), the gentlewoman from California (Ms. WOOLSEY) and the gentleman from New Jersey (Mr. FRANKS), and we thank them for their commitment.

Mr. Speaker, we must continue to make our voices heard on these important Holocaust-related issues. It is imperative that the countries involved in these matters understand that their response is seen as a measure of their commitment to basic human rights, to justice, and to the rule of law, and it is one of several standards by which our Nation assesses its bilateral relations. Those who perished, those who survived, and their descendents deserve nothing less.

Accordingly, Mr. Speaker, I urge my colleagues to support this measure, H.R. 557.

Mr. Speaker. H. Res. 557 is a measure which has many original co-sponsors, and for good reason. While its thrust concerns Holocaust-era communal property and assets as a result of a hearing our International Relations Committee held with Under Secretary of State Stuart Eizenstat, it also expresses the concerns of a number of Members of Congress regarding a number of Holocaust related issues.

H. Res. 557 is sponsored by our Committee colleague the gentleman from California, Mr. LANTOS, who bears the distinction of being the only Holocaust survivor serving in this body. We commend Mr. LANTOS and his staff for their deep seated commitment to ensuring justice for Holocaust survivors and their heirs. Their work in drafting this sense of the House resolution is greatly appreciated, and I wish to specifically recognize Dr. Bob King and Dr. Kay King for their untiring efforts behind the scenes.

H. Res. 557 commends agencies of the United States governments for their efforts to recover and to restitute Holocaust-related assets.

It also commends the World Jewish Congress and the World Jewish Restitution Organization for their efforts in the many negotiations that have been underway.

This measure expresses support for the upcoming Washington Conference on Holocaust-Era Assets at the end of November, and urges those governments which have not established restitution procedures to do so—to ensure that citizenship or residency requirements do not become impediments.

H. Res. 557 wants information to be made public, and specifically mentions the Holy See. I wish to point out to our Members that the Vatican has not been cooperative in opening its archives.

Additionally, H. Res. 557 incorporates the thrust of a number of measures introduced by some of our colleagues. It urges Germany to expand the eligibility criteria to ensure that all needy Holocaust survivors receive restitution, and recommends that Germany investigate Dr. Hans Joachim Sewering (pronounced Hanz Yo-ach-eem Soo-wer-ing) for crimes against humanity committed during World War II. The measure also urges countries and international organizations to work together to reunify family members separated during the Holocaust.

These clauses are the result of legislative support expressed by Mrs. MALONEY of New York, Mrs. WOOLSEY of California, and Mr. FRANK of New Jersey.

We thank them for their commitment to Holocaust survivors, and appreciate their involvement in these critically important issues.

Lastly, Mr. Speaker, H. Res. 557 directs the Clerk of the House to send a copy of this resolution to the Secretary of State and requests the Secretary to transmit copies to all relevant parties.

Mr. Speaker, we must continue to make our voices heard on these important Holocaust-related issues. It is imperative that the countries involved in these matters understand that their response is seen as a measure of their commitment to basic human rights, justice and the rule of law, and as one of several standards by which the United States assesses its bilateral relations.

Those who perished, those who survived, and their descendants, deserve nothing less. Accordingly, Mr. Speaker, I urge unanimous support for H. Res. 557.

Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, at the outset, let me express my appreciation to my good friend, the gentleman from New York (Mr. GILMAN), for his leadership on this matter. Let me also thank the gentleman from Indiana (Mr. HAMILTON), the gentleman from New Jersey (Mr. SMITH), the gentlewoman from California (Ms. WOOLSEY), and all the other colleagues across the political spectrum who have chosen to cosponsor my legislation.

Given the lateness of time, Mr. Speaker, I shall be very brief.

The Holocaust clearly was one of the most horrific crimes against humanity in this or, indeed, in any century. Most of the individuals who survived the Holocaust are no longer here. We are dealing with a passing generation, and we are dealing with their heirs.

No legislation can compensate for the death of 6 million innocent people; no legislation can compensate for the unspeakable horrors and suffering that millions of innocent people have suffered. But we find a half a century after the end of the Holocaust that governmental organizations and private institutions like banks and insurance companies have seen fit to hide and to use for their own purposes assets wrongfully and illegally taken from victims of the Holocaust, from institutions that these individuals created, and from entire communities.

The Nazi regime used foreign financial institutions to launder and to hold illegally confiscated assets from Holocaust victims. And some banking and insurance companies and some governments have seen fit to appropriate these assets.

Mr. Speaker, in the post-Communist period, some of the countries of Central and Eastern Europe have begun to take legal action to attempt to find and return a small portion of these assets, and I commend them. Some of the private institutions, like a few banks in Switzerland and some insurance companies, have begun this same process.

But I must share with my colleagues, Mr. Speaker, my outrage and my horror at noting that some allegedly civilized institutions demand the death certificates from heirs of survivors so they can prove that people who perished at Auschwitz in fact have died. Auschwitz did not issue death certificates, and to see banks and insurance companies in 1998 hiding behind some preposterous and outrageous pseudolegal claim is beyond comprehension.

Now, in a couple of months our Department of State and the Holocaust Museum here in Washington will cohost a Conference on Holocaust-Era Assets, and as is the case with all such developments, it is our government that is taking the lead in attempting to identify and then to see that these assets are returned, either to the heirs of Holocaust victims, or to charitable and educational institutions in case there are no heirs.

I want to commend our government, and I particularly want to commend Under Secretary of State Stuart Eizenstat for the leadership he has taken in working on this significant moral issue. I want to thank all of my colleagues for their support of my legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I am pleased to yield such time as he may consume to the distinguished gentleman from New Jersey (Mr. SMITH), chairman of the Subcommittee on International Operations and Human Rights of our Committee on International Relations.

Mr. SMITH of New Jersey. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, in the aftermath of the Holocaust, survivors struggled to build their lives, and nobody knows this better than the gentleman from California (Mr. LANTOS), and I want to commend him for bringing this legislation to the floor, for authoring it and for the very important provisions that it contains.

Mr. Speaker, Holocaust victims in Western countries generally received some compensation, some monetary compensation, from Germany, albeit very limited. Those victims whose homelands fell behind the Iron Curtain after World War II did not receive even this slight measure of justice. Other issues related to the Holocaust era, including the disposition of assets such as real or financial property, artwork, insurance policy proceeds, went unresolved for all of these individuals, as well as for religious communities.

Mr. Speaker, a belated measure of justice, and again, this is infinitesimally small compared to the unparalleled, horrific nature of the Holocaust, is within reach. Much has been achieved, including unprecedented settlements between Holocaust survivors, Swiss banks and European insurance companies.

Building on this momentum, as was pointed out, the State Department and the U.S. Holocaust Memorial Museum will convene a Washington Conference on Holocaust-Era Assets next month to address issues of Nazi-confiscated assets, including art, insurance, communal property, libraries and archives, as well as Holocaust education, research and remembrance. Conference participants will include government officials from over 40 countries, historians, experts and representatives of major NGOs, including the survivor community.

Mr. Speaker, this resolution should not and could not be considered at a more opportune moment. The resolution calls on countries to return expropriated properties to Holocaust victims or their heirs without arbitrary discrimination.

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It calls for the opening of archives relating to the Nazi-era and for the continued prosecution of Nazi-era war criminals. It calls on Germany to provide reparations to all Holocaust victims without delay and without the use of unreasonable eligibility criteria. And of very real importance, this resolution calls on all countries to encourage education on the history of the Holocaust and the consequences of the failure to respect human rights.

It is a great resolution, very timely and important and I urge its passage.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just like to add a footnote to what the gentleman from New Jersey (Mr. SMITH) has just said. It is beneath contempt that major art museums in major European countries should have on display on their walls stolen property, but that is in fact the case. Priceless works of art, plundered from family collections or collections of institutions, are as we speak tonight on the walls of important art institutes across Europe.

My resolution calls for the return of these works of art, either to their owners or the heirs of the original owners or to the appropriate philanthropic and educational institutions or museums to which they properly belong.

Mr. Speaker, I yield 5 minutes to the gentlewoman from California (Ms. WOOLSEY), my friend and colleague who has been so deeply concerned with this issue and has been a prominent fighter to right this wrong.

Ms. WOOLSEY. Mr. Speaker, I rise in strong support of H. Res. 557. This resolution reflects the growing consensus that real justice must be obtained for the victims and survivors of the Nazi Holocaust.

Mr. Speaker, the world has an obligation to provide justice and dignity to all Holocaust victims and their survivors. I commend the gentleman from California (Mr. LANTOS) and the gentleman from New York (Chairman GILMAN) for bringing the House resolution before us so we can begin to address this need for justice.

I am particularly pleased that this resolution urges all countries to continue aggressive investigation and prosecution of individuals who have been involved in Nazi-era war crimes, because we must bring these individuals to justice and never forget their horrible crimes.

One individual that we must bring to justice is Dr. Hans Severing. Today, in 1998, Dr. Severing practices medicine in Germany, just as he has for the last 55 years. In 1943, Dr. Severing was engaged in a different kind of medical practice. He was a staff physician and the director of the SS at the Schoenbrunn Sanitarium. This sanitarium was meant to treat children with special needs, but it was just a brief stop before a more terrible fate for these children.

The stop was brief because during World War II, Dr. Severing participated in the Nazi euthanasia program. Under Dr. Severing's orders, over 900 mentally and physically disabled children were sent to a so-called "healing center" where physicians starved and drugged these children until their death. Over 900 innocent children.

After the war, Dr. Severing was not punished. He was not even exposed. He was not charged with any crime. He thought that the world would forget the children he sent to death. In fact, until recently it appeared that the world had forgotten.

Since the war, Dr. Severing enjoyed a full and rewarding medical career in Bavaria. In 1993, he became the President-elect of the World Medical Association, until controversy stemming from his crimes forced him to resign. It was at this time that four Franciscan nuns who were witness to these atrocities broke their vows of silence in order to bring Dr. Severing to justice.

After this, the U.S. Department of Justice placed Dr. Severing on our watch list, preventing his entry into the United States. But the Bavarian government refuses to investigate this matter. They refuse to press charges.

Thanks to the Anti-Defamation League, along with the leading pursuer of Dr. Severing, Dr. Michael Franzblau, the world does not forget these crimes that have gone unpunished. Dr. Hans Severing and every other Nazi war criminal must be investigated and exposed for what they really are and they must be brought to justice for their crimes.

Today, along with Michael Franzblau and my colleagues, I demand justice for 900 children who died at the hand of Dr. Severing and for every other individual and family that has suffered as a result of the Holocaust. It is not too late to provide the remaining survivors of the Holocaust with justice and dignity.

Today by passing this resolution we can begin the process. I support H. Res. 557 because we can begin that process.

Mr. GILMAN. Mr. Speaker, I thank the gentlewoman from California (Ms. WOOLSEY) for her strong supportive arguments.

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. FOX), a member of our Committee on International Relations.

Mr. FOX of Pennsylvania. Mr. Speaker, I commend the gentleman from California (Mr. LANTOS) for his outstanding bill, along with the gentleman from New York (Mr. GILMAN) for bringing this forward today. They have been together a team working on this important issue for the U.S. Government to identify Holocaust-era assets and urging the restitution of individual and communal property for some time.

So the resolution offered by the gentleman from California (Mr. LANTOS), with the great support of the gentleman from New York, together have forged a great alliance in the Committee on International Relations and we appreciate their leadership and this is a resolution that deserves 100 percent support from this body.

Mr. Speaker, the resolution specifically expresses support of the U.S. Government to identify Holocaust-era assets. It was only in recent months and years that we have learned about some of these assets that the public did not know about that people did not realize were there. And because of their efforts, we have now gone forward to identify those assets.

The Holocaust, as we know, was one of the most tragic and complex horrors of this century; an era we never want to see repeated ever in this world ever in our time. Whereas among their many atrocities committed by the Nazis was their systematic effort to confiscate property wrongfully from individuals, many of whom never lived, but their families and heirs have never received.

The Nazi regime used foreign financial institutions to launder and hold the property illegally confiscated. In the post-communist period of transition, many of the countries in Europe have begun to enact legal procedures for the restitution of this property. But this resolution, Mr. Speaker, will help us forge efforts in the House and the Senate, in banking circles and other economic circles, to make sure that the restitution will come about and that the heirs and survivors of the Holocaust will be able to get what is rightfully theirs, because of this resolution and the other items and initiatives that will follow.

Whereas the two significant agreements have recently been reached, the first between Holocaust survivors and private Swiss banks and the second between Holocaust survivors and European insurance companies, we will see that the Holocaust survivors' families will be recognized.

Nothing can ever take back all the hurt, the pain, the suffering, the loss of life. But the House of Representatives can certainly, working together with the Senate and the President, take strides to make sure that we recognize our responsibility to the Holocaust survivors and to end this sad chapter of the world and at least do what we can to help those victims put their lives back together.

Mr. LANTOS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GILMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. GILMAN) that the House suspend the rules and agree to the resolution, H. Res. 557.

The question was taken.

Mr. LANTOS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on the motion will be postponed.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4309. An act to provide a comprehensive program of support for victims of torture.

The message also announced that the Senate agrees to the report of the Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1853) "An Act to amend the Carl D. Perkins Vocational and Applied Technology Education Act.".

CONDEMNING THE FORCED ABDUCTION OF UGANDAN CHILDREN AND THEIR USE AS SOLDIERS

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 309) condemning the forced abduction of Ugandan children and their use as soldiers, as amended.

The Clerk read as follows:

H. CON. RES. 309

Whereas the rebel Lord's Resistance Army (LRA) has abducted approximately 10,000 children, some as young as 8 years old, in northern Uganda to support its efforts to overthrow the Government of Uganda;

Whereas the United Nations Commission on Human Rights in March 1998 condemned "in the strongest terms" the LRA's child abductions;

Whereas children kidnapped by the LRA are forced to raid and loot villages, fight in the front lines against the Ugandan army, serve as sexual slaves to rebel commanders, and help kill other abducted children who try to escape;

Whereas the LRA, led by Joseph Kony, has continued to kill, torture, maim, rape, and abduct large numbers of civilians, virtually enslaving numerous children;

Whereas LRA child abductees serve as surrogates for Sudanese government forces against the south;

Whereas Sudanese government soldiers deliver food supplies, vehicles, ammunition, and arms to LRA base camps in government-controlled southern Sudan;

Whereas children who manage to escape from LRA captivity find their families displaced or deceased and have little access to rehabilitation programs, and in many instances their families are afraid for their children turned toy soldiers to return home;

Whereas children are conscripted, coaxed, or tricked into volunteering for the armed forces and are sometimes sold to armies and armed groups by impoverished families;

Whereas the United Nations has recommended the establishment, through the Optional Protocol to the Convention on the Rights of the Child, of age 18 as the minimum age for recruitment and participation of individuals in armed forces; and

Whereas the International Committee of the Red Cross, the United Nations Children's Fund (UNICEF), the United Nations High Commission on Refugees, and the United Nations High Commissioner on Human Rights, as well as many nongovernmental organizations such as Amnesty International and Human Rights Watch, also support the establishment of 18 as the minimum age for military recruitment and participation in armed conflict: Now, therefore, be it

Resolved, That the House of Representatives—

(1) condemns the abduction of children by the Lord's Resistance Army (LRA) in northern Uganda and calls for the immediate release of all LRA child captives;

(2) urges Olara Otunnu, the recently appointed United Nations Special Representative on Children and Armed Conflict, to take appropriate measures to resolve the LRA problem;

(3) encourages the United Nations Committee on the Rights of the Child to investigate the situation in northern Uganda;

(4) calls on the Al-Bashir government to cease supporting the LRA in the abductions and kidnapping of children in Northern Uganda;

(5) calls on the President and the Secretary of State to support efforts to end the abduction of children by the LRA and obtain their release; and

(6) asks the President to provide more support to United Nations agencies and nongovernmental organizations working to rehabilitate former child soldiers and reintegrate them into society.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. GILMAN) and the gentleman from New Jersey (Mr. PAYNE) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. GILMAN).

GENERAL LEAVE

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this measure.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to thank the gentleman from New Jersey (Mr. PAYNE), a member of our Committee on International Relations, for introducing this resolution. I am pleased to be a cosponsor.

This resolution calls our attention to one of the most abhorrent human rights abuses in the world today. The government of Sudan actively supports a rebel group in northern Uganda that calls itself the Lord's Resistance Army. That terrorist group kidnaps the children of innocent Ugandan villagers and turns them into slaves or soldiers who then prey upon their families or their communities.

In a report called "Scars of Death," Human Rights Watch states that, "In effect, children abducted by the Lord's Resistance Army become slaves: their labor, their bodies, and their lives are all at the disposal of their rebel captors."

Accordingly, I urge my colleagues to support this resolution and speak out against these horrible practices.

Mr. Speaker, I reserve the balance of my time.

Mr. PAYNE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H. Con. Res. 309, condemning the forced abduction of Ugandan children and their use as soldiers. I thank the gentleman from New York (Mr. GILMAN), the chairman of the Committee on International Relations, and the gentleman from Indiana (Mr. HAMILTON), ranking member, for helping to bring this important resolution to the House Floor.

Let me also thank my colleagues, the gentleman from California (Mr. BERMAN); the gentleman from New Jersey (Mr. MENENDEZ), the ranking member of our committee; the gentleman from California (Mr. LANTOS); and the gentleman from Florida (Mr. HASTINGS) for being as concerned as I am about the plight of children in northern Uganda.

Since 1994, it is estimated that from 8,000 to 10,000 children have been abducted in northern Uganda. They are the innocent victims, some as young as 4 years old, whose situation is exacerbated by internal and regional conflicts.

I had an opportunity to speak to a mother whose daughter was taken by the Lord's Resistance Army from a local school. The little girl's name was Mary. Mary was not the only one taken. She and 139 of her classmates were taken at gun point by the Lord's Resistance Army.

Some of the children were rescued and told the story of what happened to Mary. They said that when Mary tried to run away, she was caught by the soldiers. When the soldiers caught her, they made an example of her so that other children would not run away. They forced one of her peers, another girl, to kill her.

Mr. Speaker, forcing children to kill their friends is used as a tool to instill fear and to break the spirit and ensure that they will continue to be little rebels, to be slaves, to be obedient to the military leaders. And by instilling fear, they reduce the possibility of children attempting to escape.

So, it does not come as any surprise that 90 percent of the casualties in the conflict in the northern part of Uganda where the Lord's Resistance Army is operating are women and children. They are the most vulnerable.

The leader of the LRA is Joseph Kony, who has committed a series of human rights abuses. He is supported by the Sudan government, the National Islamic Front, the NIF, led by Ali Bashir and his pariah government that supports militarily and financially the Lord's Resistance Army movement in northern Uganda.

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And so I think that we have to certainly shed light on this tragic example of what is happening in Uganda. Once again, Sudan, a pariah government which harbors terrorists, who has worked to destabilize countries in their region, is also continuing to commit high crimes.

This resolution calls for more support to aid in the recovery and rehabilitation of children that go back into their community, and it would also help to stop these egregious violations of individual rights.

This problem has been discussed by our President and the First Lady when we were in Uganda and visited some areas where these children live. Recently our Secretary of State, Madeleine Albright, has also shed light on this problem. And so I am now bringing this to the House of Representatives to ask that we join in the chorus of those who are outraged by this egregious and barbaric situation which is happening.

Once again, Mr. Speaker, I thank the chairman for this opportunity to present this.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume to commend the gentleman from New Jersey (Mr. PAYNE) for his leadership role in this very important human rights measure.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. SMITH), the distinguished chairman of the Subcommittee on International Operations and Human Rights of our Committee on International Relations.

Mr. SMITH of New Jersey. Mr. Speaker, given the lateness of the hour, I will be very brief.

I do want to thank the gentleman from New Jersey (Mr. Payne) for authoring this legislation. I think it sends a very clear and unmistakable message about the Lord's Resistance Army. One has to wonder what Lord they are serving with the kind of atrocities that are committed, stealing upwards of 10,000 kids and then forcing kids, as was pointed out in the resolution, as young as 8 years of age, to carry weapons and to commit atrocities and to try to overthrow the government. It is absolutely appalling.

We have had hearings in our Subcommittee on International Operations and Human Rights and have heard from some witnesses who spoke firsthand about these atrocities committed by the Lord's Resistance Army. Humanitarian aid workers as well. This resolution is very timely, and again I want to commend my good friend from New Jersey for authoring it and bringing to the full House's attention this terrible situation.

Mr. BERMAN. Mr. Speaker, today I speak in strong support of H. Con. Res. 309, which condemns the forced abduction of children by the rebel Lord's Resistance Army (LRA) in northern Uganda. I thank my esteemed colleague Mr. PAYNE for introducing this resolution. I also thank my fellow cosponsors: International Relations Committee Chairman GILMAN, Mr. LANTOS, Mr. MENENDEZ, Mr. SMITH of New Jersey, Mr. HASTINGS, Ms. MCKINNEY, Ms. BROWN and Ms. NORTON. It is time for the U.S. Congress to add its voice to those demanding an end to the atrocities suffered by children in northern Uganda.

The LRA, a bizarre Christian group supported by the fundamentalist Islamic government of Sudan, has kidnapped some 10,000 Ugandan children and forced them to fight as insurgents. Some of these children are as young as eight years old. Captive children raid and loot villages and serve in the front lines against the Ugandan army. They are also forced to help kill other abducted children who try to escape. Young teenage girls suffer the additional horror of serving as "wives" to ranking rebel soldiers. If they resist, they are beaten, sometimes severely. Girls may be given to several men in the course of a year.

In July, the International Relations Committee heard moving firsthand testimony about the abductions from Sister Mary Rose Atuu, from the Little Sisters of Mary Immaculate of Gulu. Sister Atuu told of the harrowing 1992 abduction of 44 girls by LRA rebels from the school where she was a teacher. With great dignity, she begged the United States to stop the "war" being waged against innocent children in Uganda. We must not let her plea go unanswered.

The children's plight is finally getting more international attention, which I believe is vital to ending their nightmare. Earlier this year, the U.N. Commission on Human Rights condemned "in the strongest terms" the abduction of children in northern Uganda, and First Lady Hillary Clinton addressed the issue in a speech while visiting the country in March. We must do much more, however, to increase international pressure on Joseph Kony, the leader of the LRA, and the Al-Bashir government in Sudan that supports him.

This resolution condemns the abduction of children by the LRA in northern Uganda and calls for the immediate release of all LRA child captives. It urges the recently-appointed U.N. Special Representative on Children and Armed Conflict to aggressively address the situation, and encourages the U.N. Committee on the Rights of the Child to investigate. The resolution also calls on the Al-Bashir Government in Sudan to stop supporting the LRA and asks President Clinton to provide more support to U.N. agencies and non-governmental organizations working to rehabilitate and reintegrate former child soldiers into society.

I am proud to be an original cosponsor of this important legislation and I urge all my colleagues to support it.

Mr. PAYNE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GILMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BLUNT). The question is on the motion offered by the gentleman from New York (Mr. GILMAN) that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 309, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT OF BILLS TO BE CONSIDERED UNDER SUSPENSION OF THE RULES ON FRIDAY, OCTOBER 9, 1998

Mr. MICA. Mr. Speaker, pursuant to House Resolution 575, I am pleased to announce the following suspensions to be considered Friday, October 9:

H.R. 4651.

H.R. 1197 or S. 1072.

H.R. 2431.

House Concurrent Resolution 334.

House Concurrent Resolution 320.

S. 2094.

S. 2505.

House Concurrent Resolution 214.

S. 2432.

H.R. 2616.

H.R. to be determined, bill entitled Veterans Programs Enhancement Act of 1998.

S. 852.

S. 1260.

H.R. 4567.

H.R. 4052.

S. 2370.

H.R. 2187.

H.R. 2560.

The list, Mr. Speaker, with the titles follows:

1. H.R. 4651—A Bill to Make Minor and Technical Amendments Relating to Federal Criminal Law and Procedure (McCollum—Judiciary).

2. H.R. 1197 or S. 1072—Plane Patent Amendments Act (Bob Smith—Judiciary).

3. H.R. 2431—Freedom From Religious Persecution Act (Wolf—IR).

4. H. Con. Res. 334—Taiwan World Health Organization (Solomon—IR).

5. H. Con. Res. 320—Supporting the Baltic People of Estonia, Latvia, and Lithuania, and Condemning the Nazi-Soviet Pact of Non-Aggression of August 23, 1939 (Shimkus)—IR).

6. S. 2094—A bill to amend the Fish and Wildlife Improvement Act of 1978 to enable the Secretary of the Interior to more effectively use the proceeds of sales of certain items (Allard—Resources).

7. S. 2505—A bill to direct the Secretary of the Interior to convey title to the Tunnison Lab Hagerman Field Station in Gooding County, Idaho, to the University of Idaho (Craig—Resources).

8. H. Con. Res. 214—A concurrent resolution recognizing the contributions of the cities of Bristol, Tennessee, and Bristol, Virginia, and their people to the origins and development of Country Music (Jenkins—E&W).

9. S. 2432—Assistive Technology (Jeffords—E&W/SCI).

10. H.R. 2616—Charter Schools (E&W).

11. H.R. _____, Veterans Programs Enhancement Act of 1998 (VETS).

12. S. 852—National Salvage Motor Vehicle Consumer Protection Act (COM).

13. S. 1260—Securities Litigation Uniform Standards Act of 1998 (COM).

14. H.R. 4567—Medicare Home Health Care and Veterans Health Care Improvement Act of 1998 (Thomas—W&M/COM).

15. H.R. 4052—A bill to establish designations for United States Postal Service buildings located in Coconut Grove, Opa Locka, Carol City, and Miami, Florida (Meek—GRO).

16. S. 2370—Designating the Lieutenant Henry O. Flipper Station (Moynihan—GRO).

17. H.R. 2187—Designating the United State Courthouse located at 40 Foley Square in New York, New York, as the Thurgood Marshall United States Courthouse.

18. H.R. 2560—to award congressional gold medals to Jean Brown Trickey, Carlotta Walls LaNier, Melba Patillo Beals, Terrence Roberts, Gloria Ray Karlmark, Thelma Mothershed Wair, Ernest Green, Elizabeth Eckford, and Jefferson Thomas, commonly referred to collectively as the "Little Rock Nine" on the occasion of the 40th anniversary of the integration of Central High School in Little Rock, Arkansas.

VETERANS EMPLOYMENT OPPORTUNITIES ACT OF 1998

Mr. MICA. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1021) to amend title 5, United States Code, to provide that consideration may not be denied to preference eligibles applying for certain positions in the competitive service, and for other purposes.

The Clerk read as follows:

S. 1021

by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans Employment Opportunities Act of 1998".

SEC. 2. ACCESS FOR VETERANS.

Section 3304 of title 5, United States Code, is amended by adding at the end the following:

"(f)(1) Preference eligibles or veterans who have been separated from the armed forces under honorable conditions after 3 years or more of active service may not be denied the opportunity to compete for vacant positions for which the agency making the announcement will accept applications from individuals outside its own workforce under merit promotion procedures.

"(2) This subsection shall not be construed to confer an entitlement to veterans' preference that is not otherwise required by law.

"(3) The area of consideration for all merit promotion announcements which include consideration of individuals of the Federal workforce shall indicate that preference eligibles and veterans who have been separated from the armed forces under honorable conditions after 3 years or more of active service are eligible to apply. The announcements shall be publicized in accordance with section 3327.

"(4) The Office of Personnel and Management shall establish an appointing authority to appoint such preference eligibles and veterans.".

SEC. 3. IMPROVED REDRESS FOR PREFERENCE ELIGIBLES.

(a) IN GENERAL.—Subchapter I of chapter 33 of title 5, United States Code, is amended by adding at the end the following:

"§ 3330a. Preference eligibles; administrative redress

"(a)(1) A preference eligible who alleges that an agency has violated such individual's rights under any statute or regulation relating to veterans' preference may file a complaint with the Secretary of Labor.

"(2)(A) A complaint under this subsection must be filed within 60 days after the date of the alleged violation.

"(B) Such complaint shall be in writing, be in such form as the Secretary may prescribe, specify the agency against which the complaint is filed, and contain a summary of the allegations that form the basis for the complaint.

"(3) The Secretary shall, upon request, provide technical assistance to a potential complainant with respect to a complaint under this subsection.

"(b)(1) The Secretary of Labor shall investigate each complaint under subsection (a).

"(2) In carrying out any investigation under this subsection, the Secretary's duly authorized representatives shall, at all reasonable times, have reasonable access to, for purposes of examination, and the right to copy and receive, any documents of any person or agency that the Secretary considers relevant to the investigation.

"(3) In carrying out any investigation under this subsection, the Secretary may require by subpoena the attendance and testimony of witnesses and the production of documents relating to any matter under investigation. In case of disobedience of the subpoena or contumacy and on request of the Secretary, the Attorney General may apply to any district court of the United States in whose jurisdiction such disobedience or contumacy occurs for an order enforcing the subpoena.

"(4) Upon application, the district courts of the United States shall have jurisdiction to issue writs commanding any person or agency to comply with the subpoena of the Secretary or to comply with any order of the Secretary made pursuant to a lawful investigation under this subsection and the district courts shall have jurisdiction to punish failure to obey a subpoena or other lawful order of the Secretary as a contempt of court.

"(c)(1)(A) If the Secretary of Labor determines as a result of an investigation under subsection (b) that the action alleged in a complaint under subsection (a) occurred, the Secretary shall attempt to resolve the complaint by making reasonable efforts to ensure that the agency specified in the complaint complies with applicable provisions of statute or regulation relating to veterans' preference.

"(B) The Secretary of Labor shall make determinations referred to in subparagraph (A) based on a preponderance of the evidence.

"(2) If the efforts of the Secretary under subsection (b) with respect to a complaint under subsection (a) do not result in the resolution of the complaint, the Secretary shall notify the person who submitted the complaint, in writing, of the results of the Secretary's investigation under subsection (b).

"(d)(1) If the Secretary of Labor is unable to resolve a complaint under subsection (a) within 60 days after the date on which it is filed, the complainant may elect to appeal the alleged violation to the Merit Systems Protection Board in accordance with such procedures as the Merit Systems Protection Board shall prescribe, except that in no event may any such appeal be brought—

"(A) before the 61st day after the date on which the complaint is filed; or

"(B) later than 15 days after the date on which the complainant receives written notification from the Secretary under subsection (c)(2).

"(2) An appeal under this subsection may not be brought unless—

"(A) the complainant first provides written notification to the Secretary of such complainant's intention to bring such appeal; and

"(B) appropriate evidence of compliance with subparagraph (A) is included (in such form and manner as the Merit Systems Protection Board may prescribe) with the notice of appeal under this subsection.

"(3) Upon receiving notification under paragraph (2)(A), the Secretary shall not continue to investigate or further attempt to resolve the complaint to which the notification relates.

"(e)(1) This section shall not be construed to prohibit a preference eligible from appealing directly to the Merit Systems Protection Board from any action which is appealable to the Board under any other law, rule, or regulation, in lieu of administrative redress under this section.

"(2) A preference eligible may not pursue redress for an alleged violation described in subsection (a) under this section at the same time the preference eligible pursues redress for such violation under any other law, rule, or regulation.

"§ 3330b. Preference eligibles; judicial redress

"(a) In lieu of continuing the administrative redress procedure provided under section 3330a(d), a preference eligible may elect, in accordance with this section, to terminate those administrative proceedings and file an action with the appropriate United States district court not later than 60 days after the date of the election.

"(b) An election under this section may not be made—

"(1) before the 121st day after the date on which the appeal is filed with the Merit Systems Protection Board under section 3330a(d); or

"(2) after the Merit Systems Protection Board has issued a judicially reviewable decision on the merits of the appeal.

"(c) An election under this section shall be made, in writing, in such form and manner as the Merit Systems Protection Board shall by regulation prescribe. The election shall be effective as of the date on which it is received, and the administrative proceeding to which it relates shall terminate immediately upon the receipt of such election.

"§ 3330c. Preference eligibles; remedy

"(a) If the Merit Systems Protection Board (in a proceeding under section 3330a) or a court (in a proceeding under section 3330b) determines that an agency has violated a right described in section 3330a, the Board or court (as the case may be) shall order the agency to comply with such provisions and award compensation for any loss of wages or benefits suffered by the individual by reason of the violation involved. If the Board or court determines that such violation was willful, it shall award an amount equal to backpay as liquidated damages.

"(b) A preference eligible who prevails in an action under section 3330a or 3330b shall be awarded reasonable attorney fees, expert witness fees, and other litigation expenses.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 33 of title 5, United States Code, is amended by adding after the item relating to section 3330 the following:

"3330a. Preference eligibles; administrative redress.
"3330b. Preference eligibles; judicial redress.
"3330c. Preference eligibles; remedy.".

SEC. 4. EXTENSION OF VETERANS' PREFERENCE.

(a) Amendment to Title 5, United States Code.—Paragraph (3) of section 2108 of title 5, United States Code, is amended by striking "the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service, or the General Accounting Office;" and inserting "or the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service;".

(b) Amendments to Title 3, United States Code.—

(1) In general.—Chapter 2 of title 3, United States Code, is amended by adding at the end the following:

"§ 115. Veterans' preference

"(a) Subject to subsection (b), appointments under sections 105, 106, and 107 shall be made in accordance with section 2108, and sections 3309 through 3312, of title 5.

"(b) Subsection (a) shall not apply to any appointment to a position the rate of basic pay for which is at least equal to the minimum rate established for positions in the Senior Executive Service under section 5382 of title 5 and the duties of which are comparable to those described in section 3132(a)(2) of such title or to any other position if, with respect to such position, the President makes certification—

"(1) that such position is—

"(A) a confidential or policy-making position; or

"(B) a position for which political affiliation or political philosophy is otherwise an important qualification; and

"(2) that any individual selected for such position is expected to vacate the position at or before the end of the President's term (or terms) of office.

Each individual appointed to a position described in the preceding sentence as to which the expectation described in paragraph (2) applies shall be notified as to such expectation, in writing, at the time of appointment to such position.".

(2) Clerical amendment.—The table of sections at the beginning of chapter 2 of title 3, United States Code, is amended by adding at the end the following:

"115. Veterans' preference.".

(c) Legislative Branch Appointments.—

(1) Definitions.—For the purposes of this subsection, the terms "covered employee" and "Board" shall each have the meaning given such term by section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301).

(2) Rights and protections.—The rights and protections established under section 2108, sections 3309 through 3312, and subchapter I of chapter 35, of title 5, United States Code, shall apply to covered employees.

(3) Remedies.—

(A) In general.—The remedy for a violation of paragraph (2) shall be such remedy as would be appropriate if awarded under applicable provisions of title 5, United States Code, in the case of a violation of the relevant corresponding provision (referred to in paragraph (2)) of such title.

(B) Procedure.—The procedure for consideration of alleged violations of paragraph (2) shall be the same as apply under section 401 of the Congressional Accountability Act of 1995 (and the provisions of law referred to therein) in the case of an alleged violation of part A of title II of such Act.

(4) Regulations to implement subsection.—

(A) In general.—The Board shall, pursuant to section 304 of the Congressional Accountability Act of 1995 (2 U.S.C. 1384), issue regulations to implement this subsection.

(B) Agency regulations.—The regulations issued under subparagraph (A) shall be the same as the most relevant substantive regulations (applicable with respect to the executive branch) promulgated to implement the statutory provisions referred to in paragraph (2) except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this subsection.

(C) Coordination.—The regulations issued under subparagraph (A) shall be consistent with section 225 of the Congressional Accountability Act of 1995 (2 U.S.C. 1361).

(5) Applicability.—Notwithstanding any other provision of this subsection, the term "covered employee" shall not, for purposes of this subsection, include an employee—

(A) whose appointment is made by the President with the advice and consent of the Senate;

(B) whose appointment is made by a Member of Congress or by a committee or subcommittee of either House of Congress; or

(C) who is appointed to a position, the duties of which are equivalent to those of a Senior Executive Service position (within the meaning of section 3132(a)(2) of title 5, United States Code).

(6) Effective date.—Paragraphs (2) and (3) shall be effective as of the effective date of the regulations under paragraph (4).

(d) Judicial Branch Appointments.—

(1) In general.—Subject to paragraphs (2) and (3), the Judicial Conference of the United States shall prescribe procedures to provide for—

(A) veterans' preference in the consideration of applicants for employment, and in the conduct of any reductions in force, within the judicial branch; and

(B) redress for alleged violations of any rights provided for under subparagraph (A).

(2) Procedures.—Under the procedures, a preference eligible (as defined by section 2108 of title 5, United States Code) shall be afforded preferences in a manner and to the extent consistent with preferences afforded to preference eligibles in the executive branch.

(3) Exclusions.—Nothing in the procedures shall apply with respect to an applicant or employee—

(A) whose appointment is made by the President with the advice and consent of the Senate;

(B) whose appointment is as a judicial officer;

(C) whose appointment is required by statute to be made by or with the approval of a court or judicial officer; or

(D) whose appointment is to a position, the duties of which are equivalent to those of a Senior Executive Service position (within the meaning of section 3132(a)(2) of title 5, United States Code).

(4) Definitions.—For purposes of this subsection, the term "judicial officer" means a justice, judge, or magistrate judge listed in subparagraph (A), (B), (F), or (G) of section 376(a)(1) of title 28, United States Code.

(5) Submission to congress; effective date.—

(A) Submission to congress.—Not later than 12 months after the date of enactment of this Act, the Judicial Conference of the United States shall submit a copy of the procedures prescribed under this subsection to the Committee on Government Reform and Oversight and the Committee on the Judiciary of the House of Representatives and the Committee on Governmental Affairs and the Committee on the Judiciary of the Senate.

(B) Effective date.—The procedures prescribed under this subsection shall take effect 13 months after the date of enactment of this Act.

SEC. 5. VETERANS' PREFERENCE REQUIRED FOR REDUCTIONS IN FORCE IN THE FEDERAL AVIATION ADMINISTRATION.

Section 347(b) of the Department of Transportation and Related Agencies Appropriations Act, 1996 (109 Stat. 460) is amended—

(1) by striking "and" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "; and"; and

(3) by adding at the end the following:

"(8) sections 3501–3504, as such sections relate to veterans' preference.".

SEC. 6. FAILURE TO COMPLY WITH VETERANS' PREFERENCE REQUIREMENTS TO BE TREATED AS A PROHIBITED PERSONNEL PRACTICE FOR CERTAIN PURPOSES.

(a) In General.—Subsection (b) of section 2302 of title 5, United States Code, is amended—

(1) by striking "or" at the end of paragraph (10);

(2) by redesignating paragraph (11) as paragraph (12); and

(3) by inserting after paragraph (10) the following:

"(11)(A) knowingly take, recommend, or approve any personnel action if the taking of such action would violate a veterans' preference requirement; or

"(B) knowingly fail to take, recommend, or approve any personnel action if the failure to take such action would violate a veterans' preference requirement; or".

(b) Definition; Limitation.—Section 2302 of title 5, United States Code, is amended by adding at the end the following:

"(e)(1) For the purpose of this section, the term 'veterans' preference requirement' means any of the following provisions of law:

"(A) Sections 2108, 3305(b), 3309, 3310, 3311, 3312, 3313, 3314, 3315, 3316, 3317(b), 3318, 3320, 3351, 3352, 3363, 3501, 3502(b), 3504, and 4303(e) and (with respect to a preference eligible referred to in section 7511(a)(1)(B)) subchapter II of chapter 75 and section 7701.

"(B) Sections 943(c)(2) and 1784(c) of title 10.

"(C) Section 1308(b) of the Alaska National Interest Lands Conservation Act.

"(D) Section 301(c) of the Foreign Service Act of 1980.

"(E) Sections 106(f), 7281(e), and 7802(5) of title 38.

"(F) Section 1005(a) of title 39.

"(G) Any other provision of law that the Director of the Office of Personnel Management designates in regulations as being a veterans' preference requirement for the purposes of this subsection.

"(H) Any regulation prescribed under subsection (b) or (c) of section 1302 and any other regulation that implements a provision of law referred to in any of the preceding subparagraphs.

"(2) Notwithstanding any other provision of this title, no authority to order corrective action shall be available in connection with a prohibited personnel practice described in subsection (b)(11). Nothing in this paragraph shall be considered to affect any authority under section 1215 (relating to disciplinary action).".

(c) Repeals.—

(1) Section 1599c of title 10, United States code.—

(A) Repeal.—Section 1599c of title 10, United States Code, is repealed.

(B) Clerical amendment.—The table of sections at the beginning of chapter 81 of such title is amended by striking out the item relating to section 1599c.

(2) Section 2302(a)(1) of title 5, United States code.—Subsection (a)(1) of section 2302 of title 5, United States Code, is amended to read as follows:

"(a)(1) For the purpose of this title, 'prohibited personnel practice' means any action described in subsection (b).".

(d) Savings Provision.—This section shall be treated as if it had never been enacted for purposes of any personnel action (within the meaning of section 2302 of title 5, United States Code) preceding the date of enactment of this Act.

SEC. 7. EXPANSION AND IMPROVEMENT OF VETERANS' EMPLOYMENT EMPHASIS UNDER FEDERAL CONTRACTS.

(a) Covered Veterans.—Section 4212 of title 38, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "$10,000" and inserting in lieu thereof "$25,000"; and

(B) by striking out "special disabled veterans and veterans of the Vietnam era" and inserting in lieu thereof "special disabled veterans, veterans of the Vietnam era, and any other veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized";

(2) in subsection (b), by striking out "special disabled veteran or veteran of the Vietnam era" and inserting in lieu thereof "veteran covered by the first sentence of subsection (a)"; and

(3) in subsection (d)(1), by striking out "veterans of the Vietnam era or special disabled veterans" both places it appears and inserting in lieu thereof "special disabled veterans, veterans of the Vietnam era, or other veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized".

(b) Prohibition on Contracting With Entities Not Meeting Reporting Requirements.—(1) Subchapter III of chapter 13 of title 31, United States Code, is amended by adding at the end the following:

"§ 1354. Limitation on use of appropriated funds for contracts with entities not meeting veterans' employment reporting requirements

"(a)(1) Subject to paragraph (2), no agency may obligate or expend funds appropriated for the agency for a fiscal year to enter into a contract described in section 4212(a) of title 38 with a contractor from which a report was required under section 4212(d) of that title with respect to the preceding fiscal year if such contractor did not submit such report.

"(2) Paragraph (1) shall cease to apply with respect to a contractor otherwise covered by that paragraph on the date on which the contractor submits the report required by such section 4212(d) for the fiscal year concerned.

"(b) The Secretary of Labor shall make available in a database a list of the contractors that have complied with the provisions of such section 4212(d).".

(2) The table of sections at the beginning of chapter 13 of such title is amended by adding at the end the following:

"1354. Limitation on use of appropriated funds for contracts with entities not meeting veterans' employment reporting requirements.".

SEC. 8. REQUIREMENT FOR ADDITIONAL INFORMATION IN ANNUAL REPORTS FROM FEDERAL CONTRACTORS ON VETERANS EMPLOYMENT.

Section 4212(d)(1) of title 38, United States Code, as amended by section 7(a)(3) of this Act, is further amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following:

"(C) the maximum number and the minimum number of employees of such contractor during the period covered by the report.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. Mica) and the gentleman from Maryland (Mr. Cummings) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. Mica).

GENERAL LEAVE

Mr. MICA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 1021, the Senate bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. MICA. Mr. Speaker, I yield myself such time as I may consume.

My colleagues, I am very pleased to be here this evening. It has taken us two Congresses, but this House is finally in a position to legislate long overdue relief for the men and women who have defended our Nation.

This process began in the last Congress when I was pleased to introduce H.R. 3586, the Veterans Employment Opportunities Act of 1996. The House passed that bill twice, once as a standalone bill and once as an amendment to a Senate bill, S. 8668. Unfortunately, the other body did not act on either of those bills before that Congress adjourned.

On the first day of this Congress, Mr. Speaker, I introduced essentially the same bill, H.R. 240, the Veterans Employment Act of 1997. The House passed H.R. 240 on April 9, 1997. The Senate has passed the bill before us today, S. 1021, which was a companion bill to H.R. 240, introduced by Senators Hagel and Cleland, two very distinguished Vietnam veterans.

Mr. Speaker, there are many to thank for their hard work and leadership on this bipartisan issue. I want to particularly point out and thank for their strong support the current chairman of the committee, the gentleman from Indiana (Mr. Dan Burton), and former chairman Bill Clinger, both of whom led the Committee on Government Reform and Oversight during this Congress and the last one.

I also want to take a moment to thank for their leadership the distinguished gentleman from Arizona (Mr. Stump), the chairman of the House Committee on Veterans' Affairs, and the distinguished gentleman from Indiana (Mr. Steve Buyer), who chaired the Subcommittee on Education, Training, Employment and Housing, during the last Congress.

And I must give special appreciation to the gentleman from New York (Mr.

SOLOMON), who has been a strong and tireless supporter of this legislation and a tremendous fighter for our veterans. I appreciate both his support and his leadership.

I also want to thank three gentlemen on the other side of the aisle who have served as ranking members of the Subcommittee on Civil Service during my tenure as chairman. First, unquestionably, we thank for his leadership the gentleman from Maryland (Mr. ELIJAH CUMMINGS), who has done a tremendous job working with me hand-in-hand during the past years. Also, I want to thank former ranking members, one from Pennsylvania, Mr. TIM HOLDEN, and the distinguished gentleman from Virginia (Mr. MORAN), both of whom have supported this legislation, and I thank them for their untiring leadership.

Mr. Speaker, this bill does not resolve all of the problems relating to veterans preference in our Federal workplace. It does not contain all the protections for veterans that were in the bill that the House passed. Nonetheless, Mr. Speaker, there are some very important protections in this legislation.

Foremost among them is the creation of an effective and user-friendly redress system for our veterans who believe their rights have been violated. This has been sought by our veterans for many, many years.

In addition, veterans entitled to preference and other veterans who have 3 years of honorable service in the military will receive expanded opportunities to compete for Federal jobs.

□ 2310

Very often, Mr. Speaker, Federal agencies will only allow current civilian employees to apply for vacancies. Veterans who do not work for the Federal Government are barred from even competing on their merits for these jobs. That will change when this legislation is enacted. Under this bill whenever an agency opens the competition to civilian employees outside of its own workforce, it must also allow these qualified veterans to compete.

S. 1021 is a significant step forward for our veterans. It opens many jobs that were previously closed to them. It also advances the principle of open competition for Federal jobs. Most important, this provision recognizes that the men and women who served in our armed forces have indeed served as Federal employees and it honors and recognizes that service.

Like the House bill, S. 1021 also makes the violation of veterans' preference laws a prohibited personnel practice. This means that bureaucrats who violate veterans' rights do so at their own peril. They can be subjected in fact to disciplinary action before the Merit Systems Protection Board under this legislation.

Mr. Speaker, this bill also expands veterans' employment opportunities with Federal contractors and it also prohibits Federal agencies from contracting with companies that have not complied with the Department of Labor reporting requirements with respect to hiring Vietnam-era, Persian Gulf and our disabled veterans. The House bill contained no similar provisions. These are welcome additions that certainly embody the spirit of the House bill. They will open new job opportunities for our veterans, particularly our Persian Gulf veterans. However, just today the Society for Human Resource Management and other employer organizations have raised certain questions about the potential burden that may be imposed on employers by section 8 of the bill, this provision that I said was included by the other body.

Mr. Speaker, this is a question that should carefully be examined by, among others, the Committee on Education and the Workforce which has jurisdiction over the office of Federal contract compliance programs.

Mr. Speaker, I include for the RECORD a letter I received today from the Society for Human Resource Management.

SOCIETY FOR
HUMAN RESOURCE MANAGEMENT,
Alexandria, VA, October 8, 1998.

U.S. House of Representatives,
Washington, DC.

DEAR MEMBER OF CONGRESS: On behalf of the Society for Human Resource Management (SHRM), I am writing to express concerns regarding Section 8 of S. 1021, the Veterans Employment Opportunities Act, entitled, "Requirement for Additional Information in Annual Reports from Federal Contractors in Veterans Employment". This provision was not included in the House-passed bill or in the original Senate legislation. We understand that the full House is likely to consider S. 1021 by suspending the rules later today.

SHRM is the leading voice of the human resource profession, representing more than 104,000 human resource professionals and student members from across the country and around the globe.

Currently, a federal contractor is required to report the total number of veterans whom the contractor employs on a particular date. S. 1021, Section 8, would further require federal contractors to report the maximum and the minimum number of all employees during the entire one year period covered by the report. The bill would prohibit federal agencies from obligating or expending funds to enter into a contract with a contractor who has not complied with reporting requirements.

The reporting requirements proposed in Section 8 do not currently exist under any federal statute. Information for all employees in the entire workforce, from every payroll period would need to be captured, stored, analyzed and extrapolated to determine the minimum and maximum number of employees for the entire year.

Changes to the current reporting requirements for the VETS-100 report would represent a major effort and expense for federal contractors. New surveying of the current workforce would be required. Internal procedures and forms associated with the hiring process would have to be changed to reflect the new categories of veterans. Processes would need to be implemented to insure that each employee provides a response, even if that response is that he or she does not wish to self-identify. In addition, historical data that currently resides in computer systems would need to be altered.

This requirement raises a whole host of unanswered questions, including, how "employees" will be defined and what constitutes a reported work site. While it may be assumed that the same definition of what constitutes a reported work site would apply to this new mandate, the legislation does not specifically address that issue.

Employers are already confronting significant and costly changes to their Human Resource Information Systems (HRIS) because of a whole host of increased reporting requirements. For example, changes to the 2000 Census will require significant changes to employers' collection reporting processes for employee information. The Office of Federal Contract Compliance Programs (OFCCP) is also reportedly actively considering changes to its reporting requirements. The cumulative impact of these changes in unbearable.

We recognize the importance of protecting American Veterans and the underlying legislation, but hope that you will understand these practical concerns and the impact that Section 8 will have on reporting processes for all federal contractors in the private sector. Please contact Deanna Gelak, Director of Government Affairs if you would like to further discuss these issues and the need to further examine the employment implications of Section 8 of S. 1021 in the next Congressional session.

Sincerely,
SUSAN R. MEISINGER, SPHR,
Senior Vice President.

Mr. Speaker, in short and finally, S. 1021 is a good bill. It is a strong bipartisan measure that in fact will benefit our veterans. I urge all Members to support it.

Unfortunately our Federal workplace has become a barrier to employment opportunity where veterans sometimes are the very last hired and the first fired. This bill changes that practice. This is the most important and significant veterans legislation to pass Congress in nearly a decade. This effort in fact culminates years of efforts by numerous veterans service organizations to recognize Federal service as Federal employment by our veterans.

Mr. Speaker, I reserve the balance of my time.

Mr. CUMMINGS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to express my strong support for S. 1021, the Veterans Employment Opportunity Act. I would first like to congratulate the chairman of the Subcommittee on Civil Service the gentleman from Florida (Mr. MICA) for his leadership and his spirit of bipartisanship in an effort to expand and strengthen veterans' preference. I also want to thank the chairman of the committee the gentleman from Indiana (Mr. BURTON) and our ranking member of the Committee on Government Reform and Oversight the gentleman from California (Mr. WAXMAN) for their cooperation in making this moment possible as we present this legislation tonight.

The spirit of cooperation on both sides of the aisle has been critical in bringing forward this important legislation. S. 1021 improves the ability of veterans to compete during the Federal hiring process, extends veterans' preference to all branches of the Federal Government, and instructs the Secretary of Labor to maintain a database of contractors who have filed reports on the number of veterans they have hired. The bill also makes knowing violations of veterans' preference laws a prohibited personnel practice. Finally, it makes improvements in the system for investigating and redressing violations of veterans preference whenever they occur.

The Federal Government is the Nation's leader in veterans' employment, with 27 percent of the Federal workforce made up of veterans. 506,939 veterans were employed by the government as of September 30, 1996. Compared to the private sector, the Federal Government employs two times the percentage of veterans. Yet testimony in previous Civil Service Subcommittee hearings has revealed that veterans' preference in the Federal workforce is sometimes ignored or circumvented and that its continued viability in the workplace is threatened on several fronts.

For example, a 1992 General Accounting Office study of veterans' preference revealed that certificates, that is the list of candidates from which agencies may hire, headed by a veteran entitled to preference were returned unused at almost 1.4 times the return rate of certificates headed by nonveterans. According to another GAO study, one-quarter of selecting officials who returned a certificate unused to their personnel office in 1992 did so when they could not hire the candidate they wanted because a preference-eligible veteran was ranked higher.

Mr. Speaker, the Congress has repeatedly declared that our veterans deserve special consideration in Federal employment decisions because of their vital contributions to our Nation's security. This bill continues that tradition.

Mr. Speaker, S. 1021 is a good bipartisan bill that strengthens veterans' preference in the Federal Government. It will give our veterans the help they deserve in obtaining and retaining civilian employment within the Federal Government. Our veterans have given so much to allow us to live the wonderful lives that we live. They have given so much of their lives to make it possible for us to have the freedom that we have. Therefore, I urge all my colleagues to support this very important legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. MICA. Mr. Speaker, I yield 2 minutes to the gentlewoman from Maryland (Mrs. MORELLA), a tireless worker and advocate on behalf of our veterans and our Federal employees.

Mrs. MORELLA. I thank the gentleman for yielding me this time, Mr. Speaker. I must say, I am so pleased to see this bill come back under suspension because, as was mentioned, this will be the fourth time around. Twice during the 104th Congress did we pass it in this House and last year in the 105th Congress, and now as we are in our waning days of the 105th Congress, it has come back from the Senate slightly changed but one that will indeed enhance veterans employment opportunities, something that is quite needed.

I want to commend the gentleman from Florida (Mr. MICA). He has been there from the very start. Really it has been his concept that he developed and he crafted, and he has kind of guided it through so many years where there have been tremendous difficulties. And so congratulations to the gentleman from Florida (Mr. MICA) on a great job. He has already indicated our commendation to the chairman of the committee and the ranking member and also the ranking member of the subcommittee the gentleman from Maryland (Mr. CUMMINGS) who is here and the others who have cared about this particular issue.

Basically what it does is it simply, I guess I would call it a bill that enhances and enforces employment opportunities for veterans. It does not do anything about special, I will not say efforts but special privileges for them, but it gives them what they deserve, to make sure that they are getting equal access, a kind of a fair, level playing field and fairness in employment. I like the fact that it sets up also an accountability concept where, for instance, Federal agencies will notify OPM, the Office of Personnel Management and U.S. employment offices of each vacant position for which competition would include those individuals having competitive service which means our veterans. So that is the kind of accountability. And the fact that violations of veterans' preferences would be prohibited under personnel policies and especially the redress mechanism, to ensure that veterans' rights are protected.

□ 2320

So I am pleased, Mr. Speaker, that this bill is finally getting through under suspension, and it is important because it makes us remember the veterans who have given so much to us and so much to this country. They deserve no less. And so I support S. 1021.

Mr. CUMMINGS. Mr. Speaker, I yield myself such time as I may consume.

I just want to say we have no speakers, Mr. Speaker, but I just wanted to pause to again express my appreciation to our entire subcommittee and our committee for all that has been done for our veterans. They are very, very important people, and I know in my State of Maryland when I visit with veterans and they come to visit me, I am constantly reminded of the role that they play in making our lives the best that they can be. So, Mr. Speaker, since we have no further speakers, again I want to thank the gentleman from Florida (Mr. MICA) him for his cooperation.

Mr. Speaker, I yield back the balance of my time.

Mr. MICA. Mr. Speaker, I yield myself such time as I may consume.

I have no further speakers, but I would like to take this opportunity to close. Mr. Speaker, this legislation indeed is a significant step forward for all of America's veterans. That is why all of the major veterans service organizations in the United States support this bill. They and the 12 million veterans they represent know how much veterans will benefit when we pass this legislation this evening. I thank these organizations and the many, many veterans who have contacted me and other Members for their very strong support, active participation and hard work to make this legislation possible. Their efforts were indispensable.

Mr. Speaker, America owes a very great and deep debt of gratitude to the men and women who have kept our Nation free and strong and who fought our battles and served in lonely and harsh outposts around the world to preserve the peace. This bill will not repay that debt. No measure this Congress can enact will ever fully repay that debt. But S. 1021 is a down payment and, in fact, a good one.

The gentleman from Arizona (Mr. STUMP) has called my bill the most significant advance in veterans' preference in 50 years. That can also be said of this legislation, S. 1021. The relief and benefit it will bring to those who have served our Nation under arms is long overdue. This bill commands the support of every Member of the House.

So in closing I urge my colleagues to pass this legislation this evening so it can be made the law of the land. We can do no less for those who have done so much.

Mr. SESSIONS. Mr. Speaker, I am proud to give my support for S. 1021, the Veterans Employment Act of 1998. As a member of the Government Reform and Oversight Committee, I actively supported and voted for passage of H.R. 240, the Veterans Employment Opportunities Act of 1997. I am pleased to see the successful negotiations between the House and Senate have allowed a vote on this important reform of the federal employment hiring system.

This legislation equalizes the treatment of military and civilian employees when seeking employment within the federal government. The bill provides preference to our veterans—

the same preference that civilian employees currently receive in the federal employment system. I supported this effort to instill fairness in the employment process and reward those veterans who provided us with our most sacred principle—freedom.

I am very pleased that we are going to pass this bill today and encourage all of my colleagues to vote for its passage.

Mr. STUMP. Mr. Speaker, I rise today to voice my support for S. 1021, the Veterans Employment Opportunities Act of 1998. This bill originated in the House as H.R. 240 under the guidance of Representative JOHN MICA, Chairman of the Subcommittee on Civil Service, and passed the House on April 9, 1997. S. 1021 provides improvements to veterans' preference and employment opportunities and strengthens veterans' employment rights with federal contractors.

Mr. Speaker, through veterans' preference, wartime and disabled veterans get a small advantage competing for federal jobs, along with promotion and retention protection. To date, veterans comprise 27.6 percent of the federal workforce. The bill in its entirety demonstrates the commitment of the Congress to America's 26 million veterans that preference for federal jobs is an important way to share the sacrifices of war.

I'd like to thank Chairman SPECTER of the Senate Veterans Affairs Committee for two provisions in particular. Section 6 expands and improves veterans' employment under federal contracts, and expands the definition of who is a 'covered veteran' by including veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been awarded. Section 7 requires federal contractors to include the maximum number and the minimum number of employees in their annual reports on veteran's employment. Both of these provisions are designed to afford additional protection to preference eligible veterans employed by Federal contractors.

This bill is the most significant improvement in veterans' preference in my memory and it deserves the strong support of the House. I urge my colleagues to support S. 1021.

Finally, Mr. Speaker, on behalf of all veterans, I'd like to express my thanks and sincere appreciation to Chairman JOHN MICA as well the Ranking Member, ELIJAH CUMMINGS, and all of their staff for the commitment that they continue to show to our men and women who have proudly served our country in the U.S. Armed Forces.

Mr. PAPPAS. Mr. Speaker, I rise today to support our veterans by calling for the passage of the S. 1021, the Veterans Employment Opportunity Act of 1998. Last year, the House did the right thing by passing H.R. 240 introduced by Representative MICA. This legislation is the Senate's long awaited companion bill and, while I wish it had gone further in its protection of veterans from Reductions In Force, nonetheless it also deserves our passage today.

For too long many of our nation's veterans have been neglected by our own government when it comes to obtaining federal employment. Our nation's veterans, who served so selflessly and risked their lives, face unnecessary restrictions that preclude them from federal employment. All they simply desire is the opportunity to continue serving their nation.

As the result of this legislation, veterans can apply for federal jobs on a more competitive basis at a time when their employment within the federal workforce is declining and approaching an historically low level.

This is a bipartisan bill and one that reflects the interests of the people who have served our country so courageously. I am proud that this legislation has the support of the American Legion. I commend Mr. MICA for his work and urge my colleagues to support it.

Mr. MICA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BLUNT). The question is on the motion offered by the gentleman from Florida (Mr. MICA) that the House suspend the rules and pass the Senate bill, H.R. S. 1021.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

FEDERAL EMPLOYEES LIFE INSURANCE IMPROVEMENT ACT

Mr. MICA. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments to the bill (H.R. 2675) to require that the Office of Personnel Management submit proposed legislation under which group universal life insurance and group variable universal life insurance would be available under chapter 87 of title 5, United States Code, and for other purposes.

The Clerk read as follows:

Senate amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Employees Life Insurance Improvement Act".

SEC. 2. STUDY AND REPORT ON CERTAIN LIFE INSURANCE OPTIONS OFFERED TO FEDERAL EMPLOYEES.

(a) IN GENERAL.—Not later than July 31, 1998, the Office of Personnel Management shall conduct a study on life insurance options for Federal employees described under subsection (b) and submit a report to Congress.

(b) STUDY AND REPORT.—The study and report referred to under subsection (a) shall—

(1) survey and ascertain the interest of Federal employees in an offering under chapter 87 of title 5, United States Code, of insurance coverage options relating to—

(A) group universal life insurance;

(B) group variable universal life insurance; and

(C) additional voluntary accidental death and dismemberment insurance; and

(2) include any comments, analysis, and recommendations of the Office of Personnel Management relating to such options.

SEC. 3. REPEAL OF MAXIMUM LIMITATION ON EMPLOYEE INSURANCE.

Chapter 87 of title 5, United States Code, is amended—

(1) in section 8701(c), in the first sentence, by striking the comma immediately following "$10,000" and all that follows and inserting a period; and

(2) in section 8714b(b), in the first sentence, by striking "except" and all that follows and inserting a period.

SEC. 4. FOSTER CHILD COVERAGE.

Section 8701(d)(1)(B) of title 5, United States Code, is amended by inserting "or foster child" after "stepchild" both places it appears.

SEC. 5. INCONTESTABILITY OF ERRONEOUS COVERAGE.

Section 8706 of title 5, United States Code, as amended by section 5(2), is further amended by adding at the end the following new subsection:

"(g) The insurance of an employee under a policy purchased under section 8709 shall not be invalidated based on a finding that the employee erroneously became insured, or erroneously continued insurance upon retirement or entitlement to compensation under subchapter I of chapter 81 of this title, if such finding occurs after the erroneous insurance and applicable withholdings have been in force for 2 years during the employee's lifetime.".

SEC. 6. DIRECT PAYMENT OF INSURANCE CONTRIBUTIONS.

Chapter 87 of title 5, United States Code, is amended—

(1) in section 8707—

(A) in subsection (a), by striking "(a) During" and inserting "(a) Subject to subsection (c)(2), during";

(B) in subsection (b), by striking "(b)(1) Whenever" and inserting "(b)(1) Subject to subsection (c)(2), whenever"; and

(C) in subsection (c), by inserting "(1)" immediately after "(c)" and by adding at the end the following new paragraph:

"(2) An employee who is subject to withholdings under this section and whose pay, annuity, or compensation is insufficient to cover such withholdings may nevertheless continue insurance if the employee arranges to pay currently into the Employees' Life Insurance Fund, through the agency or retirement system that administers pay, annuity, or compensation, an amount equal to the withholdings that would otherwise be required under this section.";

(2) in section 8714a(d), by adding at the end the following new paragraph:

"(3) Notwithstanding paragraph (1), an employee who is subject to withholdings under this subsection and whose pay, annuity, or compensation is insufficient to cover such withholdings may nevertheless continue optional insurance if the employee arranges to pay currently into the Employees' Life Insurance Fund, through the agency or retirement system which administers pay, annuity, or compensation, an amount equal to the withholdings that would otherwise be required under this subsection.";

(3) in section 8714b(d), by adding at the end the following new paragraph:

"(3) Notwithstanding paragraph (1), an employee who is subject to withholdings under this subsection and whose pay, annuity, or compensation is insufficient to cover such withholdings may nevertheless continue additional optional insurance if the employee arranges to pay currently into the Employees' Life Insurance Fund, through the agency or retirement system which administers pay, annuity, or compensation, an amount equal to the withholdings that would otherwise be required under this subsection."; and

(4) in section 8714c(d), by adding at the end the following new paragraph:

"(3) Notwithstanding paragraph (1), an employee who is subject to withholdings under this subsection and whose pay, annuity, or compensation is insufficient to cover such withholdings may nevertheless continue optional life insurance on family members if the employee arranges to pay currently into the Employees' Life Insurance Fund, through the

agency or retirement system that administers pay, annuity, or compensation, an amount equal to the withholdings that would otherwise be required under this subsection.''.

SEC. 7. ADDITIONAL OPTIONAL LIFE INSURANCE CONTINUATION AND PORTABILITY.

(a) In General.—Section 8714b of title 5, United States Code, is amended—

(1) in subsection (c)—

(A) by striking the last 2 sentences of paragraph (2); and

(B) by adding at the end the following:

''(3) The amount of additional optional insurance continued under paragraph (2) shall be continued, with or without reduction, in accordance with the employee's written election at the time eligibility to continue insurance during retirement or receipt of compensation arises, as follows:

''(A) The employee may elect to have withholdings cease in accordance with subsection (d), in which case—

''(i) the amount of additional optional insurance continued under paragraph (2) shall be reduced each month by 2 percent effective at the beginning of the second calendar month after the date the employee becomes 65 years of age and is retired or is in receipt of compensation; and

''(ii) the reduction under clause (i) shall continue for 50 months at which time the insurance shall stop.

''(B) The employee may, instead of the option under subparagraph (A), elect to have the full cost of additional optional insurance continue to be withheld from such employee's annuity or compensation on and after the date such withholdings would otherwise cease pursuant to an election under subparagraph (A), in which case the amount of additional optional insurance continued under paragraph (2) shall not be reduced, subject to paragraph (4).

''(C) An employee who does not make any election under the preceding provisions of this paragraph shall be treated as if such employee had made an election under subparagraph (A).

''(4) If an employee makes an election under paragraph (3)(B), that individual may subsequently cancel such election, in which case additional optional insurance shall be determined as if the individual had originally made an election under paragraph (3)(A).

''(5)(A) An employee whose additional optional insurance under this section would otherwise stop in accordance with paragraph (1) and who is not eligible to continue insurance under paragraph (2) may elect, under conditions prescribed by the Office of Personnel Management, to continue all or a portion of so much of the additional optional insurance as has been in force for not less than—

''(i) the 5 years of service immediately preceding the date of the event which would cause insurance to stop under paragraph (1); or

''(ii) the full period or periods of service during which the insurance was available to the employee, if fewer than 5 years,

at group rates established for purposes of this section, in lieu of conversion to an individual policy. The amount of insurance continued under this paragraph shall be reduced by 50 percent effective at the beginning of the second calendar month after the date the employee or former employee attains age 70 and shall stop at the beginning of the second calendar month after attainment of age 80, subject to a provision for temporary extension of life insurance coverage and for conversion to an individual policy of life insurance under conditions approved by the Office. Alternatively, insurance continued under this paragraph may be reduced or stopped at any time the employee or former employee elects.

''(B) When an employee or former employee elects to continue additional optional insurance under this paragraph following separation from service or 12 months without pay, the insured individual shall submit timely payment of the full cost thereof, plus any amount the Office determines necessary to cover associated administrative expenses, in such manner as the Office shall prescribe by regulation. Amounts required under this subparagraph shall be deposited, used, and invested as provided under section 8714 and shall be reported and accounted for together with amounts withheld under section 8714a(d).

''(C)(i) Subject to clause (ii), no election to continue additional optional insurance may be made under this paragraph 3 years after the effective date of this paragraph.

''(ii) On and after the date on which an election may not be made under clause (i), all additional optional insurance under this paragraph for former employees shall terminate, subject to a provision for temporary extension of life insurance coverage and for conversion to an individual policy of life insurance under conditions approved by the Office.''; and

(2) in the second sentence of subsection (d)(1) by inserting ''if insurance is continued as provided under subsection (c)(3)(A),'' after ''except that,''.

(b) Report.—Not later than 3 years after the date of enactment of this Act, the Office of Personnel Management shall submit a report to Congress on additional optional insurance provided under section 8714b(c)(5) of title 5, United States Code (as added by subsection (a) of this section). Such report shall include recommendations on whether continuation for such additional optional insurance should terminate as provided under such section, be extended, or be made permanent.

(c) Technical Amendment.—The last sentence of section 8714b(d)(1) of title 5, United States Code, is amended by inserting ''(and any amounts withheld as provided in subsection (c)(3)(B))'' after ''Amounts so withheld''.

SEC. 8. IMPROVED OPTIONAL LIFE INSURANCE ON FAMILY MEMBERS.

(a) In General.—Section 8714c(b) of title 5, United States Code, is amended to read as follows:

''(b)(1) The optional life insurance on family members provided under this section shall be made available to each eligible employee who has elected coverage under this section, under conditions the Office shall prescribe, in multiples, at the employee's election, of 1, 2, 3, 4, or 5 times—

''(A) $5,000 for a spouse; and

''(B) $2,500 for each child described under section 8701(d).

''(2) An employee may reduce or stop coverage elected pursuant to this section at any time.''.

(b) Technical and Conforming Amendments.—Section 8714c of title 5, United States Code, is amended—

(1) in subsection (c)(2), by striking ''section 8714b(c)(2) of this title'' and inserting ''section 8714b(c) (2) through (4)''; and

(2) in subsection (d)(1), by inserting before the last sentence the following: ''Notwithstanding the preceding sentence, the full cost shall be continued after the calendar month in which the former employee becomes 65 years of age if, and for so long as, an election under this section corresponding to that described in section 8714b(c)(3)(B) remains in effect with respect to such former employee.''.

SEC. 9. OPEN SEASON.

Beginning not later than 180 days after the date of enactment of this Act, the Office of Personnel Management shall conduct an open enrollment opportunity for purposes of chapter 87 of title 5, United States Code, over a period of not less than 8 weeks. During this period, an employee (as defined under section 8701(a) of such title)—

(1) may, if the employee previously declined or voluntarily terminated any coverage under chapter 87 of such title, elect to begin, resume, or increase group life insurance (and acquire applicable accidental death and dismemberment insurance) under all sections of such chapter without submitting evidence of insurability; and

(2) may, if currently insured for optional life insurance on family members, elect an amount above the minimum insurance on a spouse.

SEC. 10. MERIT SYSTEM JUDICIAL REVIEW.

(a) In General.—Section 7703 of title 5, United States Code, is amended—

(1) in subsection (b)(1) by striking ''within 30 days'' and inserting ''within 60 days''; and

(2) in subsection (d) in the first sentence, by inserting after ''filing'' the following: '', within 60 days after the date the Director received notice of the final order or decision of the Board,''.

(b) Effective Date.—The amendments made by this section shall take effect on the date of enactment of this Act, and apply to any suit, action, or other administrative or judicial proceeding pending on such date or commenced on or after such date.

SEC. 11. EFFECTIVE DATES.

(a) In General.—Except as otherwise provided in this Act, the amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Maximum Limitation on Employee Insurance.—Section 3 shall take effect on the first day of the first applicable pay period beginning on or after the date of enactment of this Act.

(c) Erroneous Coverage.—Section 5 shall be effective in any case in which a finding of erroneous insurance coverage is made on or after the date of enactment of this Act.

(d) Direct Payment of Insurance Contributions.—Section 6 shall take effect on the first day of the first applicable pay period beginning on or after the date of enactment of this Act.

(e) Additional Optional Life Insurance.—

(1) In general.—Section 7 shall take effect on the first day of the first pay period that begins on or after the 180th day following the date of enactment of this Act, or on any earlier date that the Office of Personnel Management may prescribe that is at least 60 days after the date of enactment of this Act.

(2) Regulations.—The Office shall prescribe regulations under which an employee may elect to continue additiondl optional insurance that remains in force on such effective date without subsequent reduction and with the full cost withheld from annuity or compensation on and after such effective date if that employee—

(A) separated from service before such effective date due to retirement or entitlement to compensation under subchapter I of chapter 81 of title 5, United States Code; and

(B) continued additional optional insurance pursuant to section 8714b(c)(2) as in effect immediately before such effective date.

(f) Improved Optional Life Insurance on Family Members.—The amendments made by section 8 shall take effect on the first day of the first pay period which begins on or after the 180th day following the date of enactment of this Act or on any earlier date that the Office of Personnel Management may prescribe.

(g) Open Season.—Any election made by an employee under section 9, and applicable withholdings, shall be effective on the first day of the first applicable pay period that—

(1) begins on or after the date occurring 365 days after the first day of the election period authorized under section 9; and

(2) follows a pay period in which the employee was in a pay and duty status.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. Mica) and the gentleman from Maryland (Mr. CUMMINGS) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. MICA).

GENERAL LEAVE

Mr. MICA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill, H.R. 2675.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida.

There was no objection.

Mr. MICA. Mr. Speaker, I yield myself such time as I may consume.

My colleagues, this legislation makes improvements in the Federal Employees Group Life Insurance program generally called FEGLI. The House passed this bill after the Subcommittee on Post Office Civil Service conducted the most comprehensive review of benefits under this program in over 40 years.

As a result of this legislation, there will be major improvements in the life insurance benefits for our Federal employees for the first time in 16 years. Our Federal employees will be able to obtain better life insurance for themselves, their spouses and their children. They will also be able to carry more insurance into retirement.

The House bill required the Office of Personnel Management to submit a legislative proposal for offering group universal life insurance, group variable life insurance and voluntary additional accidental death and dismemberment to Federal employees. The Senate has substituted a requirement that the Office of Personnel Management review and study this matter. I believe OPM can and should submit that study within 6 months and recommend to the Congress legislative language to make these life insurance options available to our Federal employees.

The Office of Personnel Management will not be required to establish a new Federal program to make this insurance available. Commercial insurance carriers have been offering these products to private sector employees for years. The Office of Personnel Management should be able to find suitable products virtually off the shelf. There is no need, in fact, to reinvent the wheel.

It is important that Federal employees and also our Federal retirees be given these up-to-date choices. It would be the first time since the program was started in 1954 that employees would have a life insurance choice other than just term insurance.

The Senate amendment also allows Federal employees to purchase life insurance for their foster children and allows them to pay their life insurance premiums directly under certain circumstances. The amendments also allow individuals who are wrongly covered by life insurance to remain covered if the policy has been in force for 2 years. The Senate also expanded the open season during which our Federal employees may begin or increase their life insurance.

One final amendment, not related to life insurance, provides the Office of Personnel Management employees with an additional 30 days to appeal Merit Systems Protection Board decisions to the United States Court of Appeals for the Federal circuit.

This is a good bill. A long overdue review of this program and Federal employees will benefit from the improvements we make with this legislation. I urge all Members to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. CUMMINGS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2675 is designed to improve the structure and administration of the Federal Employees Group Life Insurance program provided by the Federal Government for its civilian employees and retirees. FEGLI was established in 1952 and is managed by the Office of Personnel Management. Since 1954 it has been administered by Metropolitan Life Insurance Company through a contract with OPM. FEGLI provides low cost life insurance coverage to Federal employees and retirees.

Enrollees have a choice of basic life insurance, six levels of additional life insurance, family insurance, three options with respect to post-retirement basic insurance and accelerated payments options for the terminally ill.

□ 2330

Nearly 90 percent of the eligible Federal work force participates in the program. The gentleman from Florida (Chairman MICA) and I, along with all of the members of the Subcommittee on Civil Service, were able to work together to develop legislation that would have implemented some excellent recommendations we receive from the witnesses at an oversight hearing we held on FEGLI last year.

However, some of the provisions implementing these recommendations were dropped when the Senate considered the bill. The House bill directed the Office of Personnel Management to submit draft legislative proposals for group universal life, group variable life, and accidental death and dismemberment insurance coverage within 6 months of passage of this legislation.

The Senate version requires OPM to merely conduct a study on these additional forms of insurance, rather than submit legislative proposals. While we can accept the Senate language on this issue, we strongly urge OPM to include in their study recommendations for legislative changes that may provide new life insurance options for Federal employees.

Included in the bill is a provision that will give enrollees the opportunity to continue the full extent of their life insurance coverage after they reach 65. By doing this, we will be providing a measure of comfort and convenience to many who would still have a desire to provide for the security of their loved ones. They will no longer have to seek out a new insurance company from which to purchase life insurance, something often difficult and expensive to do at that late stage in life.

I offered an amendment to H.R. 2675 during our subcommittee's markup of the bill, which added a provision that would enable enrollees to purchase an increased amount of insurance coverage for their spouse and dependent children.

Clearly the present levels of coverage available, $5,000 for one's spouse and $2,500 for each child are inadequate. They neither compensate for the loss nor cover average burial expenses. My amendment would make it possible for enrollees to obtain coverage for their spouse and dependent children up to five times the current levels. I am pleased to see that this important provision is still in the bill.

Additional provisions added to the bill by the Senate were to eliminate Basic insurance maximum limitation, make erroneous FEGLI coverage incontestible if discovered after 2 years of withholding, allow direct payment option for any enrollee whose pay or annuity will not cover withholdings, implements a 3-year demonstration program that would allow employees who separate before retirement to continue Option B coverage for 5 years, by paying usual group rates, covers a foster child in the Family Optional insurance, and provides for open enrollment period following enactment of the bill.

Mr. Speaker, once again, I believe that we still have a very good bipartisan bill. I strongly urge all Members to give their support, Mr. Speaker.

Mr. Speaker, I reserve the balance of my time.

Mr. MICA. Mr. Speaker, I am pleased to yield 3 minutes to the gentlewoman from Maryland (Mrs. MORELLA), a member of our Subcommittee on Civil Service and, again, a tireless advocate for our Federal employees and retirees.

Mrs. MORELLA. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I rise in strong support of the Federal Employees Life Improvement Act, and I want to thank our chairman of the Subcommittee on Civil Service, the gentleman from Florida (Mr. MICA), and the ranking member, the gentleman from Maryland (Mr. CUMMINGS) for their leadership on this issue.

This issue coming up at this hour of the night may just be the kind of the insomnia that people who are watching might well need. However, for Federal employees, it is critically, critically important.

The legislation will provide better life insurance benefits to Federal employees under the Federal Employees Group Life Insurance Program, the FEGLI Program. It is an important program. It provides Basic and Optional Life insurance coverage for almost 2.5 million Federal employees and 1.6 million retirees.

The legislation fulfills the legislative goal that I began to pursue in 1993 through legislation I introduced, H.R. 3297. The goal of that legislation was to extend the treatment currently afforded to Federal judges under FEGLI to other judicial officials.

Since 1993, I worked to get this important provision enacted into law, and now this important goal is realized through the increase in the class of eligible Federal employees who may choose this coverage during open enrollment that this bill provides.

The version of the bill we passed in the House of Representatives directed the Office of Personnel Management to conduct a study of Federal employees' interest in additional insurance proposals and to submit a legislative proposal to offer group universal life insurance and group variable universal life insurance policies under FEGLI within 6 months.

The Senate language differs from the House version in that it does not mandate that OPM submit a legislative proposal, but instead requires OPM to submit findings to Congress by July 31.

While I think it is beneficial to compel OPM to submit a legislative proposal, this difference does not affect my support for this legislation because of its many other benefits. The legislation also incorporates a component of legislation I introduced in the last Congress to increase the amount of additional optional life insurance for dependents from the present level.

Although it does not mirror my proposal exactly, my proposal would have only included dependents with severe disabilities. This approach makes sense in that it will include a larger risk pool and reduce the costs. I thank the chairman for introducing this measure.

Finally, the bill provides Federal employees with the opportunity to continue the full extent of their life insurance coverage after they reach age 65. Under current law, when Federal employees reach age 65, they cease making premium payments, and the face value of the employees life insurance is reduced by 2 percent each month for 50 months. Giving Federal retirees the opportunity to purchase life insurance benefits is a great accomplishment. I simply encourage my colleagues to support this bill, H.R. 2675.

Mr. CUMMINGS. Mr. Speaker, I yield myself such time as I may consume.

I want to thank my colleague, the gentlewoman from Maryland, when she talked about insomnia. I am sure, hopefully, we will be able to wake some people up with all this good news we are imparting here tonight.

But with that, Mr. Speaker, I just want to again reiterate this is another piece of legislation that would not have been possible without the bipartisanship efforts on the part of our subcommittee.

This is a very important piece of legislation because it once again sheds light on the fact that we care about our Federal employees who make it possible for us to do our jobs the way we do them and certainly to support our Nation.

Mr. Speaker, I urge all of my colleagues to support this legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. MICA. Mr. Speaker, I have no additional speakers, and I yield myself the balance of my time.

Mr. Speaker, first I just want to take a moment to thank again the ranking member, the gentlewoman from Maryland (Mrs. MORELLA) and other members of our subcommittee.

Tonight we brought before the House two pieces of legislation, the Veterans Employment Opportunity Act, which provides veterans preference, which is something our veterans have sought for decades since really World War II. It is an important piece of legislation. The staff and Members, in a bipartisan fashion, showed today what we can do working together.

Today has been a difficult day for the Congress and for the American people. It does show, in fact, what we can all do for the benefit of those who served us.

Finally, on this bill, this bill is important because we have over 4 million Federal employees and retirees.

□ 2340

This bill saves money for the taxpayer. This program has not been bid or really examined in some number of decades, and we can provide better benefits at lower cost to those who are actively serving us in Federal employment now.

So I ask my colleagues to support this legislation, and I urge all Members to support this bill tonight.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BLUNT). The question is on the motion offered by the gentleman from Florida (Mr. MICA) that the House suspend the rules and concur in the Senate amendments to the bill H.R. 2675.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendments were concurred in.

A motion to reconsider was laid on the table.

RECOGNIZING THE IMPORTANCE OF CHILDREN AND FAMILIES

Mrs. MORELLA. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 302) recognizing the importance of children and families in the United States and expressing support for the goals of National KidsDay and National Family Month.

The Clerk read as follows:

H. CON. RES. 302

Whereas there is an epidemic of children in crisis in the United States caused by the increased stresses on children from contemporary society, which can even include instances of child abuse and neglect;

Whereas newspaper headlines, news reports, and various studies provide evidence that children are more frequently committing acts of violence, taking illegal drugs, and committing suicide, indicating that the future of the children of the United States, and therefore the future of the Nation, is at risk;

Whereas all families in the United States, regardless of their economic status, ethnic or cultural heritage, or geographic location, are experiencing the pressures caused by contemporary society while trying to raise and nurture their children;

Whereas it is imperative that the people of the United States act boldly to secure the future of the Nation by halting and healing the pain of children in crisis;

Whereas KidsPeace is the oldest, most successful, and most comprehensive not-for-profit organization dedicated solely to helping children attain the confidence and develop the courage necessary to confront and overcome crises;

Whereas KidsPeace has more than 1,500 caregivers helping more than 2,000 children each day in 25 locations across the United States;

Whereas KidsPeace established National KidsDay and National Family Month to recognize and focus attention on relationships between parents and children;

Whereas National KidsDay is celebrated on the third Saturday of September, during the period when children are returning to school, when children are subject to a very high level of stress, and when there is a critical need for children to feel honored, valued, supported, and loved;

Whereas National Family Month is celebrated during the five-week period between Mother's Day in May and Father's Day in June, which is a critical adjustment period for families to prepare for children to return to the home at the end of the school year and can provide a wonderful opportunity for families to prepare to use their time together during the summer to grow and strengthen as a family unit; and

Whereas these celebrations can provide opportunities for parents, grandparents, and caregivers to recognize the importance of being involved in the physical and emotional lives of their children: Now, therefore be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) recognizes the importance of children and families to the future of the United States;

(2) expresses support for the goals of National KidsDay and National Family Month, as established by KidsPeace; and

(3) encourages the people of the United States to participate in local and national activities and celebrations recognizing National KidsDay and National Family Month.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Maryland (Mrs. MORELLA) and the gentleman from Maryland (Mr. CUMMINGS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Maryland Mrs. MORELLA).

GENERAL LEAVE

Mrs. MORELLA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Con. Res. 302.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

Mrs. MORELLA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H. Con. Res. 302, which recognizes the importance of children and families in the United States, and I express my support for Kidsday and National Family Month. I particularly want to commend the sponsor of the bill, the gentleman from Pennsylvania (Mr. MCHALE) and the chairman and ranking member for bringing this bill to the floor.

Kidsday and National Family Month were established by KidsPeace, a special organization dedicated to helping children in crisis. KidsPeace believes that every child is unique, and that children are helped the most by their mothers and fathers, the people who are closest to them.

We all have a responsibility to protect and support America's children. Mr. Speaker, 1 out of every 4 Americans is a child. Children are our hope for the future, our chance for renewal. They carry on our values and our ideals.

Childhood should be a time of learning and of play, and a time to be sheltered from the wickedness of the outside world. However, children and youth today are coping with increasingly serious problems that are robbing them of their innocence, security and physical safety. Violence in the schools as well as on the streets, the availability of drugs, greater numbers of working parents, and soaring divorce rates are taking a toll on kids far sooner than in past generations.

Today, many children spend long hours after school and on weekends unsupervised. They need and often admit wanting some guidance in facing the many challenges of their lives.

One in 5 children entering school this year is living in poverty. Half a million of those children were born to teenage mothers. Analysis of U.S. census data indicates that if the single parent family trend continues, half of all children born in the United States last year will live with a single parent by the time they are 18 years old.

As Americans, we enjoy the highest standard of living in the world. Our economy is one of the most dynamic and diverse in history. We have achieved a level of technological advancement and individual opportunity that is unequaled around the globe. Without a doubt, America is on top of the world.

But the future of America's greatness depends upon how we care for and support our children in the present. Setting aside a time to focus on children and families is important to America's future. National Kidsday is celebrated on the third Saturday of September, and National Family Month is celebrated during the 5-week period between Mother's and Father's day. I encourage all Americans to participate in local activities during the celebration of these 2 commemoratives, and I encourage my colleagues to support wholeheartedly this important resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. CUMMINGS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as ranking member of the Subcommittee on Civil Service I would like to commend the gentleman from Pennsylvania (Mr. MCHALE) for the development of this bipartisan resolution.

House concurrent resolution 302 will help to address challenges children a generation ago did not have to face: Drugs, violence, separation from parents, failing schools, peer group demands, and much, much more.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. MCHALE) for a further explanation of this bipartisan resolution.

Mr. MCHALE. Mr. Speaker, I rise this evening in strong support of H. Con. Res. 302, and I begin by thanking the gentlewoman from Maryland (Mrs. MORELLA), my former chair of the Committee on Science on which I had the privilege to serve, and most especially the gentleman from Maryland (Mr. CUMMINGS) for both the opportunity to speak this evening and their willingness to bring this legislation to the floor.

I will be leaving in just a few days to return to what matters most to me: my wife and my children. It is with great pride that I have served in this body and with some sadness that I near my final days as a Member of Congress. About a year ago, Mr. Speaker, my 7-year-old approached me as I was leaving for Washington on a Monday morning, and with recognition, not really complaint, he said, "Dad, you have been gone my whole life," and at that point I realized that at least for this Member of Congress, it was time to go home.

Today's society, as noted by the gentlewoman from Maryland (Mrs. MORELLA) places increasing demands on children and families and has unfortunately left many children in crisis and feeling that they have nowhere to turn for help. News of children becoming involved in violence, crime, drugs and so on indicates that we as a Nation must pay greater attention to the needs of children and families.

For this reason, I urge my colleagues to support this resolution which recognizes the importance of children and families in the United States. I introduced this resolution with the gentleman from Virginia (Mr. WOLF), the gentleman from Indiana (Mr. ROEMER), the gentlewoman from Ohio (Ms. PRYCE), the gentleman from Tennessee (Mr. FORD), and numerous other Members who have been such strong advocates for children. I would also like to extend my special thanks to the gentleman from North Carolina (Mr. JONES) who is on the floor as I speak, as well as the gentleman from Indiana (Mr. BURTON), chairman of the Committee on Government Reform and Oversight, and the ranking member, the gentleman from California (Mr. WAXMAN) who helped to bring this resolution to the floor.

Mr. Speaker, H. Con. Res. 302 which has 44 bipartisan cosponsors, also expresses support for the goals of National Kids Day and National Family Month. These events were launched by KidsPeace, the National Center for Kids Overcoming Crisis, the largest, most comprehensive private nonprofit organization in the Nation dedicated to serving the critical needs of children and teens.

Headquartered in my district, KidsPeace has become a model of community involvement and improvement. KidsPeace programs include residential treatment centers, the National Hospital for kids in Crisis, foster care in 6 States, community and diagnostic programs, a 24-hour help line, and an accredited school system for grades 1 through 12, and a referral network of thousands of health care providers across the country.

For more than 115 years, KidsPeace has been helping kids develop the confidence and skills to overcome developmental and situational crises in their lives. KidsPeace serves more than 2,000 children every day with 32 programs in 25 locations across the United States.

Mr. Speaker, let me deviate from my prepared text for just a moment. KidsPeace's ability to serve our Nation and my community in particular has not always been a resource available to us. I had the privilege of serving in our State legislature before I came to the Congress, and I remember very clearly about a decade ago when I received a phone call from a family absolutely desperate because they had a teenager in crisis. That child had nowhere to turn. There was no medical facility in our region of the State able to provide the care that that child and that that family needed at that very desperate time. KidsPeace addresses that need today with professional medical care under circumstances where it did not previously exist.

KidsPeace has demonstrated an extraordinary commitment to assisting children and families across the country. National Kids Day and National Family Month were developed by KidsPeace as events to focus on parent-child and family relationships and provide positive encouragement for children to face successfully life's challenges. As a parent who has participated in National Kids Day activities in my district, I strongly support the establishment of these events as recognition of the importance of children and families.

Margaret Mead once said, "We must have a place where children can have a whole group of adults they can trust."

□ 2350

These words very poignantly describe the work of KidsPeace in helping children overcome the challenges and crises in their lives. Helping children feel safe, trusted, loved, and empowered is the heart of the KidsPeace mission.

It is my hope that this resolution will call attention to the needs of children and families in the United States and throughout National KidsDay and National Family Month and thereby help families affirm their love and support for their children. I urge my colleagues to vote for this bipartisan resolution.

Mr. Speaker, I am going to conclude simply by saying that this Member of Congress realized that I could continue serving in this body or I could be a decent husband and father. And under the unique circumstances of my family, I realized that I could not do both. I made the decision to return home with enormous feelings of gratitude and respect for this institution.

This is probably the last time I will speak at a microphone in the House of Representatives, and I could not find a better topic than to address the needs, the love, the support that we as a Nation and we as an individual need to bring to the families of our country. I am pleased to close my career in this House on that note.

Mrs. MORELLA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish the 7-year-old child of the gentleman from Pennsylvania (Mr. MCHALE) could have heard him this evening. And, indeed, I hope the gentleman will save the CONGRESSIONAL RECORD that will have ensconced the speech that he just gave, because it was from the bottom of his heart.

Mr. Speaker, I would use this opportunity to express my warm feelings and respect for the gentleman from Pennsylvania and for the dedication that he has given to this body, knowing him from his service on the Committee on Science with me and as an individual and as a colleague, and knowing the courage that he has shown and the commitment that he made to our country.

So, we wish the gentleman well and thank him very much for what he has done. I think this is a nice commemoration to PAUL MCHALE.

Mr. Speaker, I yield 3 minutes to the distinguished gentleman from North Carolina (Mr. JONES).

Mr. JONES. Mr. Speaker, I thank the gentlewoman from Maryland (Mrs. MORELLA) for yielding me the time.

Mr. Speaker, I rise tonight to commend the gentleman from Pennsylvania (Mr. MCHALE), my good friend and colleague, for introducing this resolution. Our cshildren are our future. They are tomorrow's leaders. My colleagues who are parents like myself know that when a child is upset or frustrated or feeling low, it is painful.

There are outside pressures that can affect our children's everyday life: academic stresses, struggles to feel accepted, and teen violence just to name a few. These are the issues that put our children at a crossroads and these are the issues that KidsPeace helps our children and Nation's families solve.

KidsPeace is a nonprofit organization that offers educational awareness programs and tools dedicated to help our families anticipate, intervene in, and overcome the crises that affect America's children. For our Nation's most rural communities, like those in eastern North Carolina which I have the privilege to serve, these are valuable programs that can provide our children with relief from the problems they face growing up.

Too many of our rural schools have limited resources which make it difficult to maintain the number of school counselors that are needed to help our children build the confidence to overcome their problems. Because of this, as KidsPeace continues to grow, it is vital that it continues to reach out to America's rural communities and communities throughout the Nation.

Even with a strong faith in God and the support of family and friends, our children sometimes need extra encouragement. This is what KidsPeace is working to do, to build confidence in our Nation's children through sharing and learning.

The organization has established a KidsDay in September for communities and families to honor our children during the stressful time of returning to school. KidsPeace also dedicates time each summer to National Family Month, a time for parents and children to build and strengthen the family bond.

Mr. Speaker, our children are our future, and that reminds me somewhere along the way I have heard that if one wants to touch the past, they touch a rock. If they want to touch the present, they touch a flower. If they want to touch the future, they touch a child.

So, in closing, Mr. Speaker, I would like to say to my colleague who is leaving us, PAUL, you have made a tremendous impact on America because of the type of man that you are. A man of character, a man of integrity. You will long be remembered and appreciated for your contribution to this Nation.

Mr. CUMMINGS. Mr. Speaker, I reserve the balance of my time.

Mrs. MORELLA. Mr. Speaker, I want to thank the gentleman from North Carolina (Mr. JONES) for his splendid commentary on the importance of recognizing families and children and programs in the system.

Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Pennsylvania (Mr. FOX).

Mr. FOX of Pennsylvania. Mr. Speaker, I rise tonight to express my support for H. Con. Res. 302, which is a piece of legislation which deals with the importance of children and families in the United States and expresses our support for the goals of the National KidsDay and National Family Month.

This legislation was sponsored by, of course, the gentleman from Pennsylvania (Mr. MCHALE) our good friend. The gentleman is a great U.S. Congressman who is retiring from this body, and I join with the others tonight in saluting him as a great patriot.

Mr. Speaker, I knew the gentleman when I served together with him in the Pennsylvania State House of Representatives. He left that service to go on active duty for the Desert Storm conflict, where he served as an outstanding Marine officer. He has been serving with that particular military organization for at least two decades.

PAUL MCHALE has always been a principled leader, an advocate for children and families in Pennsylvania as well as in this U.S. Congress, and a member and strong leader of the Children's Legislative Caucus, and a pioneer in public-private partnerships such as KidsDay and other legislation dealing with children, for which this legislation is enunciated.

But the gentleman has always been a bipartisan statesman, a role model who has shown that courage and honesty count. I hope that we will soon see, years after his children grow up, and as they do I hope they will allow us to have the gentleman return to public service where he could become Secretary of Defense or to another elected official position.

Certainly, we need him in this country. His family may need him, but the country needs him as well. We certainly acknowledge his service today as being exemplary. We are proud to know him as our colleague and proud to have him as our friend. We know that his family is proud of what he has done as well.

God bless him. Godspeed.

Mr. CUMMINGS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish to commend KidsPeace for its work over the past century helping children overcome all sorts of crises. National KidsDay and National Family Month, both established by KidsPeace, compel all Americans to focus on parent, child, and family relationships. These celebrations encourage parents and grandparents and caregivers to be involved in the lives of their children.

I believe we should all spend time every day nurturing and encouraging the children that we encounter in our lives. This Member of Congress can certainly appreciate the work of KidsPeace. Every child, which is not always the case, has four fundamental needs that must be fulfilled to lead a peaceful and healthy life: Safety to feel safe and protected; trust to be confident, hopeful and assured; love to be valued and unconditionally accepted; and power to be a child and pursue a purpose, skill, or challenge.

This resolution recognizes KidsPeace, an organization that works hard to meet those needs. Through its good work, KidsPeace helps restore the health and happiness of children who are suffering through crises and traumas.

The demand for organizations such as KidsPeace is apparent. From 1991 to 1992, the organization saw a 150 percent increase in the number of kids coming to it for help. That is when KidsPeace stepped forward on a national level with public initiatives to help prevent and overcome crises that can strike any child.

This extra push to alert Americans to the needs of our children could not come at a better time. Between 1990 and 1996, the number of children rose by more than 5 million to 69.4 million. The United States Census Bureau projects that the number of children will continue to rise over the next several decades, reaching 77.6 million by the year 2000.

This resolution is worthy of our support and I urge the Members of this body to do so.

Mr. Speaker, I reserve the balance of my time.

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Mrs. MORELLA. Mr. Speaker, I yield myself such time as I may consume.

I think it is appropriate for Congress to recognize the importance of children and families. My husband and I have been very fortunate to have been able to raise nine children, six who were the children of my late sister, and we now have 15 grandchildren. And so I can value and appreciate children and the need for families. KidsPeace really performs that kind of function.

It is an honor to be managing this particular resolution, which I think is so very important. The institution of the family is, indeed, the bedrock of our society and of civilization, and without strong families, the outlook for children is bleak.

Mr. CUMMINGS. Mr. Speaker, I yield myself the balance of my time for just one brief statement.

On the stationery for KidsPeace there is a quote by George McDonald, and I think that it pretty much summarizes the life of our colleague, the gentleman from Pennsylvania (Mr. MCHALE), and the things that he talked about just a moment ago, and certainly I salute him. But the quote is very simple. It says: "A man must learn to love his children not because they are his but because they are simply children."

Mr. ROEMER. Mr. Speaker, I rise in strong support of H. Con. Res. 302, recognizing the importance of children and families in the United States and expressing support for the goals of National KidsDay and National Family Month. I want to thank Reps. PAUL MCHALE, FRANK WOLF, HAROLD FORD, NANCY JOHNSON and DEBORAH PRYCE, who joined me in introducing this resolution last July, as well as Rep. WALTER JONES and the many other Members who helped bring it to the floor today.

We live in an increasingly stressful society these days. Perhaps no one feels this stress more acutely than our nation's children. The pressures of crime, drugs, violence and broken homes are robbing many children of the joys of childhood. There is a growing concern that too many kids are in crisis, and that no one is speaking out for them or trying to help.

That is what this resolution is all about. It is a simple, straightforward, bipartisan appeal on behalf of the children in our nation to pay more attention to their needs, to provide them with a healthy and safe environment, and to give them hope for a secure and prosperous future. The resolution also expresses support for two particular initiatives which are being undertaken on behalf of kids: National KidsDay and National Family Month. Both of these initiatives have been created by KidsPeace, our nation's oldest and largest not-for-profit organization dedicated solely to serving the needs of kids in crisis.

National KidsDay, observed on the third Saturday in September, encourages parents, grandparents and caregivers to spend a day with their children just having fun, and giving them a break from the strains of everyday life. National Family Month is celebrated during the five-week period between Mother's Day and Father's Day. Each week focuses on a specific value that families should provide to their children, including; a safe and secure home; people they can trust; love and value; the power and freedom to grow; and hope for the future.

Mr. Speaker, children are our most precious gift. We cannot afford to let even one child slip through the cracks. KidsPeace and other organizations are doing a wonderful job of reaching out to those children who are most at risk in society, and helping them develop the courage and skills necessary to overcome crisis. But no matter how hard they try, these organizations cannot take the place of loving parents, stable homes, and a healthy environment in which kids can feel safe, loved and positive about their lives and their futures.

This resolution is small in scope but it is large in symbolism. It sends a message to children that we care about them, we understand their problems, we share their dreams, and we want them to enjoy life to the fullest. As Robert Kennedy said: "When one of us prospers, all of us prosper. When one of us fails, so do we all." I urge my colleagues to support this resolution and five all our children a chance to prosper.

Mr. PAPPAS. Mr. Speaker, I rise today to support our veterans by calling for the passage of the S.1021, the Veterans Employment Opportunity Act of 1998. Last year, the House did the right thing by passing H.R. 240 introduced by Representative MICA. This legislation is the Senate's long awaited companion bill and, while I wish it had gone further in its protection of veterans from Reductions In Force, nonetheless it also deserves our passage today.

For too long many of our nation's veterans have been neglected by our own government when it comes to obtaining federal employment. Our nation's veterans, who served so selflessly and risked their lives, face unnecessary restrictions that preclude them from federal employment. All they simply desire is the opportunity to continue serving their nation.

As the result of this legislation, veterans can apply for federal jobs on a more competitive basis at a time when their employment within the federal workforce is declining and approaching an historically low level.

This is a bipartisan bill and one that reflects the interests of the people who have served our country so courageously. I am proud that this legislation has the support of the American Legion. I commend Mr. MICA for his work and urge my colleagues to support it.

Mr. CUMMINGS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time, and urge my colleagues to support this resolution.

Mrs. MORELLA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time and urge all Members to support this resolution.

The SPEAKER pro tempore (Mr. BLUNT). The question is on the motion offered by the gentlewoman from Maryland (Mrs. MORELLA) that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 302.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

CAMPAIGN FINANCE SUNSHINE ACT OF 1998

Mr. MICA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2109) to amend the Federal Election Campaign Act of 1971 to require reports filed under such Act to be filed electronically and to require the Federal Election Commission to make such reports available to the public within 24 hours of receipt, as amended.

The Clerk read as follows:

H.R. 2109

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Campaign Finance Sunshine Act of 1998".

SEC. 2. FILING OF REPORTS USING COMPUTERS AND FACSIMILE MACHINES.

Section 302(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)) is amended by striking paragraph (11) and inserting the following:

"(11)(A) The Commission shall promulgate a regulation under which a person required to file a designation, statement, or report under this Act—

"(i) is required to maintain and file a designation, statement, or report for any calendar year in electronic form accessible by computers if the person has, or has reason to expect to have, aggregate contributions or expenditures in excess of a threshold amount determined by the Commission; and

"(ii) may maintain and file a designation, statement, or report in electronic form or an alternative form, including the use of a facsimile machine, if not required to do so under the regulation promulgated under clause (i).

"(B) The Commission shall make a designation, statement, report, or notification that is filed electronically with the Commission accessible to the public on the Internet not later than 24 hours after the designation, statement, report, or notification is received by the Commission.

"(C) In promulgating a regulation under this paragraph, the Commission shall provide methods (other than requiring a signature on the document being filed) for verifying designations, statements, and reports covered by the regulation. Any document verified under any of the methods shall be treated for all purposes (including penalties for perjury) in the same manner as a document verified by signature.".

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall apply with respect to reports for periods beginning on or after January 1, 2000.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. MICA) will control 20 minutes, and a Member opposed will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. MICA).

Mr. MICA. Mr. Speaker, I ask unanimous consent that I be allowed to yield the balance of my time to the gentleman from Utah (Mr. COOK) and that he be allowed to manage that time, as I am about to lose my most valuable asset as a Member of Congress, and that is my voice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Utah (Mr. COOK).

Mr. COOK. Mr. Speaker, I yield myself such time as I may consume, and I thank the gentleman from Florida for yielding me this time.

Mr. Speaker, last year I introduced H.R. 2109, the Campaign Finance Reform Sunshine Act. H.R. 2109 requires candidates to file campaign finance disclosure forms electronically with the Federal Elections Commission. The FEC, in turn, would be required to post these disclosures on the internet within 24 hours. My bill is not comprehensive reform, but it is reform Congress can enact this year. Equally important, the Supreme Court would not strike down my bill's reform because of first amendment issues.

I was heartened to see in January of this year the Federal Elections Commission decided to post reports on the internet. The FEC has posted all 1997 and 1998 reports filed by PACs, political parties, and presidential and House campaigns on its web site. Information dating back to 1993 will soon be available.

This move by the FEC is a giant step in the right direction. Computers and the internet are increasingly part of Americans' daily lives. Computers and the internet make it easier and less expensive for people to track fund-raising donations across the Nation. Until now, people have had to pay for a subscription service or come to the FEC headquarters here in Washington to examine the records. State residents would have to go to a lieutenant governor's office to review the records of Federal candidates from their States.

Now, as the saying goes, "Sunshine is the best disinfectant." This rings true with H.R. 2109. Facilitation of public scrutiny provided in this legislation will do more to ensure ethical fund-raising than a half dozen committee investigations. It is a fact of life that scrutiny breeds compliance.

Now, some may think the FEC decision this year makes my legislation unnecessary. But, really, the opposite is true. Currently, the FEC has no mandatory obligation or deadline for posting these reports. Now, while I am confident that FEC officials will post reports as quickly as possible in the final weeks of a nationwide campaign, like the House campaign this year, it may take days or weeks to get reports posted on the web at a time when the largest contributions are being made and the public interest is at its height.

In my view, the goal of any reform proposal would be to make it easier for citizens to know who funds their political campaigns, without trampling on any American's constitutional right to participate in the political process.

I want to thank majority and minority staff of the Committee on House Oversight, who worked with my staff to make technical changes that will bring bipartisan support for this important legislation.

In short, this legislation is progressive reform that can be passed by Congress with bipartisan support, can be signed into law, withstand judicial scrutiny, and it will benefit all Americans.

Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. Mr. Speaker, I thank my colleague from Utah for yielding me this time.

Mr. Speaker, I should note at this juncture in the RECORD that the illness which afflicts our good friend from Florida, I suppose there are some in this chamber, indeed, perhaps quite a few in this chamber, who do not wish ill upon anyone, but perhaps would like to see that affliction of the voice visited upon this Congressman from Arizona from time to time.

Be that as it may, and mindful, perhaps, of that situation, let me, in all sincerity and seriousness, thank my colleague from Utah for having the foresight to offer this common sense piece of legislation.

Mr. Speaker, my colleague quoted the words that came to us I believe in history from Mr. Justice Brandice, who pointed out that time and again, in the public interest, sunshine is the best disinfectant. Indeed, Mr. Speaker, in much the same way that we invited television into this chamber, so that these remarks are seen throughout the Nation by our fellow citizens, so, too, as we move through new communications capabilities to involve and disperse data upon the internet, we offer the American people another glimpse of sunshine and more than just a ray of hope, because this legislation compels the Federal Election Commission to carry the step of sunshine a step further and to post these contributions on the internet within 24 hours.

My colleague from Utah pointed out, and, indeed, if the truth be told, as many of us are involved in spirited campaigns where we champion differences in philosophies, to have these contributions available for public scrutiny, or at least disclosed by candidates within a 48-hour period down the stretch of a campaign, how much more vital it is, Mr. Speaker, to make sure that that information is available to every American on the internet.

My colleague pointed out that already the FEC has made strides, but this legislation will ensure that we go the extra mile to give voice to the notion of genuine reform by bringing in the sunshine of full disclosure and living up to the spirit of what Mr. Justice Brandice advocated.

So it is in that spirit, again thanking my colleague from Utah, because I believe the Nation owes him a debt of gratitude for seizing upon this common sense piece of legislation, that I urge the House and Members of both parties to join with us in its passage. I would advocate strong support for H.R. 2109.

Mr. COOK. Mr. Speaker, I yield myself such time as I may consume, and I certainly want to thank my colleague from Arizona for those words.

Mr. Speaker, the House today can take a small step toward increasing accountability to those whom we represent. The House spent many hours debating campaign finance legislation this year. It appears that the product passed by the House has little chance of becoming law. That is why I think this legislation is so important. It is a significant yet noncontroversial reform that we owe to our constituents, and I urge my colleagues to support the Campaign Finance Sunshine Act.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

□ 0010

The SPEAKER pro tempore (Mr. BLUNT). The question is on the motion offered by the gentleman from Florida (Mr. MICA) that the House suspend the rules and pass the bill, H.R. 2109, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 3874, WILLIAM F. GOODLING CHILD NUTRITION REAUTHORIZATION ACT OF 1998

Mr. GOODLING. Mr. Speaker, I move to suspend the rules and agree to the conference report on the bill (H.R. 3874) to amend the National School Lunch Act and the Child Nutrition Act of 1966 to provide children with increased access to food and nutrition assistance, to simplify program operations and improve program management, to extend certain authorities contained in those Acts through fiscal year 2003, and for other purposes.

The Clerk read the title of the bill.

(For conference report and statement see proceedings of the House of October 6, 1998 at page 23847.)

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. GOODLING) and the gentleman from Missouri (Mr. Clay) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume. I am not sure who is in charge of scheduling. Obviously it has nothing to do with the order of importance. The President says we do not do anything in education. Here we are at 10 minutes after midnight with three very, very substantive pieces of legislation. I am sure the President is not watching television, so he will not know that we did something again. This is number 15, 16 and 17, as a matter of fact, from this committee that we are doing at this wonderful hour in the morning.

Mr. Speaker, H.R. 3874 is the reauthorization act of 1998 and it is one of the most important bills we will enact. Its main purpose is to provide our Nation's children and participants in the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) with vital nutritional assistance.

Long before I came to the House, I was familiar with the School Lunch Program. As a former educator, I could see firsthand the importance of providing nutritious meals to children in order to ensure that they had the health and energy they needed to do well in school.

I believe the legislation we are considering this morning will go a long way toward improving the operation of these programs, freeing them from fraud and abuse and ensuring that children are provided with nutritious meals.

I would like to mention a few key provisions of the legislation. First, the legislation provides additional flexibility to States and local providers of nutrition programs. Second, the Summer Food Service Program is amended to encourage greater participation by private, nonprofit organizations. This change is particularly important to rural areas, some of which I represent, where it is otherwise difficult to find program sponsors. Third, this legislation includes key provisions that address fraud and abuse in both the Special Supplemental Nutrition Program for Women, Infants and Children and the Child and Adult Care Food Program. Next, this legislation modifies current nutrition programs in order to provide snacks to schoolchildren participating in school or community-based afterschool programs with an educational or enrichment purpose. Our Nation is currently undertaking efforts to reduce juvenile crime. Children participating in afterschool programs are less likely to engage in delinquent activities. I believe it is important that we support such programs by providing participants with a nutritious meal.

Last but certainly not least I am pleased this agreement makes permanent automatic eligibility under the Child and Adult Care Food Program for children participating in the Even Start Family Literacy Program. We will now be able to provide the children of some of our most needy families who are making an effort to improve the quality of their life and the lives of their children with nutritional assistance.

Mr. Speaker, this is a good bipartisan bill. I want to acknowledge those Members who contributed their time and effort to crafting this legislation. First I would like to thank the gentleman from Delaware (Mr. CASTLE) who spearheaded the development of this legislation in the Committee on Education and the Workforce. Working with him were the chairman of the Subcommittee on Early Childhood, Youth and Families the gentleman from California (Mr. RIGGS), the gentleman from Missouri (Mr. CLAY), the gentleman from California (Mr. MARTINEZ) and the gentlewoman from California (Ms. WOOLSEY).

From the Senate side, I would like to mention the efforts of RICHARD LUGAR, chairman of the Senate Subcommittee on Agriculture, Nutrition and Forestry, staff from both the House and the Senate who worked on this legislation, including Lynn Selmser, Vic Klatt, Alex Nock, Marci Phillips, Dave Johnson, Mike Ruffner, Dan Spellacy, Mark Halverson and Ed Barron.

Senators MITCH MCCONNELL, THAD COCHRAN, PATRICK LEAHY and TOM HARKIN have also contributed greatly to the final version of this important legislation.

On a personal note, I want to thank Senator LEAHY, whom I have sat across at many House-Senate conferences and have always found to be fair and respectful of our differences and working in the best interests of our children, for offering a motion in the conference to name this important reauthorization after me. I am deeply honored and profoundly humbled by his gesture and that of my colleagues.

Mr. Speaker, this bill goes a long way in improving our Nation's child nutrition programs. I would like to stress that it makes these changes without spending any additional Federal dollars. These are important programs that provide nutritional assistance to millions of individuals. By strengthening these programs, we will ensure that they will continue to feed children and provide nutritional assistance to participants in the Special Supplemental Nutrition Program for Women, Infants and Children for years to come.

Mr. Speaker, I reserve the balance of my time.

Mr. CLAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, if the President were awake at this time of night and watching these proceedings, I am sure that he would say that while he is pleased that this important measure is moving forward, he is also disappointed that we have yet to tackle even more critical priorities in education. This Congress has failed to take action on reducing class sizes. This Congress has failed to take action to address crumbling and overcrowded schools. This Congress has failed to take action on revitalizing our public schools. If this Congress fails to take action on these critical education priorities, we are shortchanging America's schoolchildren. I am sure that would be the response that our President would make.

This bill, the William F. Goodling Child Nutrition Reauthorization Act of 1998, before the House is the product of bipartisan work and an excellent example of what can be accomplished when we join forces to address problems facing our Nation's youth. This important legislation firmly places our child nutrition programs on the path to serve the needs of America's children in the 21st century.

H.R. 3874 expands and improves the focus of child nutrition programs in numerous ways. First, it ensures that the Summer Food Service Program will reach more needy children with more nutritious meals. Second, the bill adds provisions to guard against fraud in the WIC program. In addition, it establishes a universal school breakfast pilot project which will examine the close link between education and nutrition.

Finally, Mr. Speaker, and most importantly, this legislation enables institutions providing afterschool care to receive reimbursement for meal supplements served to children under the age of 18. This supplement is one more incentive for parents and children to participate in productive, afterschool programs.

In closing, Mr. Speaker, I want to extend my thanks for the hard work of the gentleman from Pennsylvania (Mr. GOODLING), the gentleman from Delaware (Mr. CASTLE) and the ranking subcommittee member the gentleman from California (Mr. MARTINEZ) for crafting this legislation. I especially want to thank the gentlewoman from California (Ms. WOOLSEY) who spearheaded much of the reauthorization on our committee. Her work has been invaluable and many of the bill's provisions are based on legislative proposals that she championed.

Mr. Speaker, this legislation is a positive step forward. I urge its adoption by the House.

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield such time as he may consume to the gentleman from Delaware (Mr. CASTLE) who championed this bill through our committee.

Mr. CASTLE. I thank the gentleman from Pennsylvania (Mr. GOODLING) and appreciate tremendously his effort in this direction. I do appreciate the work of the minority members on this bill as well as all the staff individuals as well.

I would say something to the ranking member before I get into the goodness of this bill, and I mean this very sincerely, because it really has bothered me because the President came here in January and he talked about reducing class size, as the gentleman has indicated, and I think he is committed to that.

☐ 0020

He talked about rebuilding, revamping schools, which I think he is also committed to, but I think we all need to recall that the funding mechanism that he talked about, that was the tobacco legislation funding which would not be. Ever since it has been very apparent for at least 3 or 4 months that that was not going to pass, there has been no shift into any other kind of funding put forward by the White House or anybody else, and I think we need to recognize that fact.

I would like to do these things, too. Maybe the Federal Government should not be doing it but the President should not keep giving the illusion that this can be done because the funding is simply not there.

Mr. CLAY. Mr. Speaker, will the gentleman yield?

Mr. CASTLE. I yield to the gentleman from Missouri.

Mr. CLAY. Mr. Speaker, we find monies for all other kinds of products. I would think that we would find money for these most essential projects that the country needs.

Mr. CASTLE. Reclaiming my time, they always have been done by the State and local governments, and secondly it seems to me that if the White House is referencing them and wants to get them done and puts up the money in the source of the tobacco money and then loses that, they have some obligation to come back and try to help out.

I just make a point. I do not want to make a fight of it tonight. It is too late, but I do think we have to recognize that. Let us talk about something that is good, which is this bill, which the gentleman worked on, and I have comments which I will submit when I revise and extend, but I just want to comment that I am very pleased to support this legislation.

I truly am pleased with the work that everybody did on it. It could not have happened otherwise. This is not an easy piece of legislation. We have had some tremendous staff work on it. It has been, frankly, a real pleasure to shepherd the bill through the legislative process. It really was a collaborative effort with Republicans and Democrats, with the House and the Senate working on this, and with the U.S. Department of Agriculture which was tremendously helpful on this.

This is truly, I think, a strong bipartisan bill. It is the kind of bill we should do at 4:00 in the afternoon so people can see what we can do by working together. I would like to thank those who worked on it, particularly the chairman and certainly the gentleman from California (Mr. MARTINEZ) and the gentleman from Missouri (Mr. CLAY) who worked so very hard on this, and the gentlewoman from California (Ms. WOOLSEY) who is on the floor here, who worked so very hard on it.

The gentleman from Pennsylvania (Mr. GOODLING) deserves special recognition. He has been a long time supporter of child nutrition programs and it is why it was such a pleasure to vote in conference to name this bill after our distinguished chairman, and so now we have before us the William F. Goodling Child Nutrition Authorization Act.

While I realize that we have not been able to address everyone's concerns with this bill, although we got close to it, I do believe we have an excellent compromise that will go a long way towards improving our Nation's child nutrition programs by reducing red tape and bureaucracy, finding and punishing fraud and abuse, giving program providers more flexibility, ensuring our Nation's children have access to healthy meals in schools, in child care settings, in after-school programs and during the summer months, and providing low-income pregnant and postpartum women, their infants and young children, access to nutritious foods.

Frankly, one of the greatest accomplishments is the fact that we have been able to make these important changes without blowing the caps of our budget. I could go on about what else is in here but I think the people on the floor here tonight are generally familiar with it.

I would just like to close by thanking everybody who has worked on this because without that sincere bipartisan effort it is not the kind of bill we would be able to get done.

Mr. CLAY. Mr. Speaker, I yield 5 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, I doubt that I will use 5 minutes. Mr. Speaker, it gives me such great pleasure to rise in support of H.R. 3874, the William F. Goodling Child Nutrition Reauthorization Act of 1998. That is a lot to say, Mr. Speaker. One has to be awake to do that.

This legislation will benefit children in schools and child care facilities across our Nation. Our teens will be safer because it will be easier for schools and community organizations to offer them after-school programs.

Elementary students are going to enter the classroom ready to learn and able to do better work in school because this legislation takes an important first step towards making breakfast available at school for all elementary school children.

H.R. 3874 will allow 5 states to provide school breakfasts to all their students free of charge. Two studies have proven that kids who eat breakfast improve both their grades and their school behavior.

In today's world, where two working parents are the norm and long commutes common, more and more families are out the door, on the road, early in the morning, with no time to sit down for breakfast. Whether we like it or not, children, even when they have food at home, leave their home and arrive at school hungry.

Unless we want to pass a law requiring every family to feed their kids breakfast before school and then hire a bunch of breakfast police to enforce it, we need to start looking at school breakfast programs in a different way, and this bill does just that.

This bill also makes it easier for schools and community organizations to offer after-school programs to teenagers by making it easier to pay for their snacks.

We know that the vast majority of juvenile crime and teen pregnancies occur after the school bell and before the dinner bell. We desperately need more after-school programs for adolescents, but feeding adolescents, even when it is just a snack, can be expensive.

H.R. 3874 will open the child and adult care food programs to low income teens and to more after-school programs. This is not Twinkies for teens. The Police Athletic League and other law enforcement organizations have strongly endorsed the benefits of after-school programs for adolescents. This legislation will make more of these programs possible and give teens a place to be after school.

H.R. 3874 will benefit millions of children and I would say to the gentleman from Pennsylvania (Mr. GOODLING) that he can be proud to have this bill carry his name.

Children are only 25 percent of this country's population but they are 100 percent of our future. The William F. Goodling Child Nutrition Reauthorization Act is a sound investment in America's most precious resource: Our children. I urge my colleagues to support it.

Mr. CLAY. Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will just close by reciting the 21 programs that came from our committee: Higher Education Act, Reading Excellence Act, Dollars to the Classroom Act, D.C. Scholarship, Prepaid College Tuition Plans, Job Training Reform, Emergency Student Loans, Quality Head Start, School Nutrition, Charter Schools, Drug Education Initiative, A-plus Savings Accounts, $500 million more for Special Education, Loan Forgiveness for New Teachers, Teacher Testing, Individuals with Disabilities Education Act, High-Tech Job Skills/Vocational Education, Bilingual Education Reform, Prohibition on New Federal School Tests, Equitable Child Care Resolution, Juvenile Justice.

That is a pretty healthy menu, I believe.

My friend from Delaware did not want to take the gentleman from Missouri on. I want to make very clear that the whole idea of pupil/teacher ratio has nothing to do with the Federal Government whatsoever. That is none of our business and if there are not quality teachers in the classroom, it would not matter whether they are one-on-one. If that is something we want to do, fine.

Secondly, I want to make very sure that everybody understands, the Federal Government has nothing to do with maintenance and building of school buildings.

What the Federal Government does have something to do with is putting the 40 percent that they promised 30 years ago into special education, and every year the Los Angeles Unified School District would have had $18 million more, every year, to do whatever they wanted to do about class size and to do whatever they wanted to do about maintaining buildings. That was a responsibility because we sent 100 percent of the mandate for special education.

What did the budget that came from the President of the United States do about special education? Cut it; did not even include an increase for inflation; cut it, when there are more and more students coming in constantly into special ed, the most expensive program that we have.

□ 0030

Not only the most expensive, but an injustice to an awful lot of youngsters who find themselves in that program simply because they have some reading difficulties.

So I do not take a back seat to anybody in relationship to what this committee has done during the last 2 years to try to improve education and job training in this country.

Mr. CLAY. Mr. Speaker, will the gentleman yield to me just for a short question?

Mr. GOODLING. I yield to the gentleman from Missouri.

Mr. CLAY. Mr. Speaker, how many of the 21 bills that the gentleman has cited have become law?

Mr. GOODLING. Mr. Speaker, we are going to have Higher Education, we are going to have Reading Excellence.

Mr. CLAY. Mr. Speaker, if the gentleman will yield, we are going to.

Mr. GOODLING. Mr. Speaker, we are going to have Prepaid College Tuition Plans. We are going to have Job Training Reform. We are going to have Emergency Student Loans. We are going to have Quality Head Start. We are going to have School Nutrition. We are going to have Charter Schools. We are going to have Drug Education Initiatives. We already have $500 million more for Special Education. We have a Loan Forgiveness for New Teachers. We had to bail out the department in order to get the loan situation straightened out.

All of those are there in law by the time we finish at 1 or 2 o'clock this morning. It will be a magnificent effort on the part of the committee of which the gentleman from Missouri was a part.

Mr. CLAY. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. MARTINEZ. Mr. Speaker, I rise in strong support of the conference report on H.R. 3874, the William F. Goodling Child Nutrition Reauthorization Amendments of 1998. This legislation shows what we can do when we put partisanship aside in the name of commitment to our Nation's children.

The Federal child nutrition programs provide access to the healthy meals that are essential to the success of our children today, and well into the future. The reauthorization measure before us this morning strengthens and improves the nutrition programs to meet the needs of children and their families as we move into the 21st century. For instance, this legislation will reimburse schools and other institutions for snacks that they provide to children under age 18 in after-school programs.

The majority of violence and other crimes committed against and by youth occurs after school—between the hours of 3 p.m. and 8 p.m. I believe that the support we provide for after-school programs in this legislation renews our commitment to the prevention of juvenile crime and the provisions of positive alternatives for youth.

It is important that we take other steps to shape the nutrition programs to address the situation of today's families.

As we have all heard time and time again, the most important meal of the day is breakfast. An alarming number of children do not eat breakfast, and thus begin their school day lacking the nutrients and energy to effectively learn. This is not just a problem tied to poverty. In our society, more and more parents have to work, regardless of their economic status.

It is my opinion that one of the most important and cost-effective commitments we can make toward strengthening education in this country is by providing breakfast for every schoolchild. That is why I enthusiastically endorsed Congresswoman WOOLSEY's legislation to authorize universal school breakfast. Through her advocacy, we have been able to include in this legislation a pilot program, which would follow the implementation of universal school breakfast in six States and report on what I believe will be its strong success.

I would have preferred that this legislation authorize mandatory spending for this pilot, to ensure that dedicated, consistent funding is provided over the five years of the program and its accompanying study. I urge appropriations to commit themselves to funding this program for the length of this authorization, as some in the State already have pledged to do.

Mr. Speaker, H.R. 3874 renews our firm commitment to the health and success of our Nation's children, and I strongly support its passage.

Mr. GOODLING. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BLUNT). The question is on the motion offered by the gentleman from Pennsylvania (Mr. GOODLING) that the House suspend the rules and agree to the conference report on the bill, H.R. 3874.

The question was taken.

Mr. GOODLING. Mr. Speaker, on that I demand the yeas and nays.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. GOODLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3874.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

CONFERENCE REPORT ON H.R. 1853, CARL D. PERKINS VOCATIONAL-TECHNICAL EDUCATION ACT AMENDMENTS

Mr. GOODLING. Mr. Speaker, I call up the conference report on the bill (H.R. 1853), to amend the Carl D. Perkins Vocational and Applied Technology Education Act, and I ask unanimous consent for its immediate consideration; that all points of order be waived; and that the conference report be considered as read.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania (Mr. GOODLING)?

There was no objection.

The SPEAKER pro tempore. Pursuant to the unanimous consent request, the conference report is considered read.

(For conference report and statement, see prior proceedings of the House of today.)

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. GOODLING) and the gentleman from Missouri (Mr. CLAY) each will control 30 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the Conference Agreement on H.R. 1853, the Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998.

I cannot think of a better gentleman to have this bill named. I do not want to put "for" at the end a sentence; I am an educator. But Carl was just a wonderful friend, a great chairman, and certainly a strong supporter of vocational education.

This agreement is based upon four overarching principles: Strengthening academics in this country's vocational-technical educational program; broadening opportunities for vocational education students, particularly in areas of high technology; sending more money to the classroom; and significantly increasing State and local flexibility for the design of innovative programs that are responsive to local needs.

This legislation will move our Nation's vocational-technical education programs into the 21st Century, and more importantly will assist the 75 percent of American youth who do not complete a 4-year college degree.

Our Nation's young people should receive a high quality education whether they are bound for college, the military, further training, or directly into the work force.

Today's vocational education students need a quality education, a strong academic foundation, and relevant skills in order to thrive in today's economy.

This legislation makes a number of important improvements to current law that authorizes vocational education programs.

First, the agreement will strengthen the academic component of vocational education. It asks States and local school districts to describe in their State and local applications how they plan to improve the academic and technical skills of students participating in vocational education.

It also asks States to tell us how vocational education students will be taught to the same challenging academic proficiencies as all other students. The legislation broadens opportunities for students participating in vocational education programs.

In 1950, 60 percent of all jobs in the Nation were unskilled. In 1990, this figure dropped to 35 percent. By the year 2000, it is projected to drop to 15 percent.

We need to make sure that vocational education students have opportunities to prepare for continued education and for high-skill high-wage jobs. For this reason, the agreement places an expanded emphasis on technology.

With the increased emphasis on academics and technology, vocational education students will be better prepared for expanded educational and employment opportunities.

Finally, the agreement not only sends more money to the local level than under current law, but it provides those at the local level with more flexibility in how to spend their money.

Local school districts and postsecondary institutions will be able to decide how to best meet the needs of their students. They will have the ability to create innovative programs to meet their individual local needs.

Under current law, only 75 percent of Federal vocational education dollars are required to go locally. This agreement requires that no less than 85 percent of the Federal education dollars go to local school districts or postsecondary programs.

If we are going to see true change occur in vocational-technical education, it is going to come from the local level, and that is where our money should be.

Mr. Speaker, I reserve the balance of my time.

Mr. CLAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to rise in support of the conference report. This report represents nearly 4 years of dedicated work by the Members on both sides of the aisle.

During this Congress, we have worked closely with the gentleman from Pennsylvania (Chairman GOODLING) and our colleagues in the Senate to craft legislation to improve the vocational education system. In addition to extending the authorization of this program for 5 years, the bill improves the structure of our vocational education system.

We continue, under this bill, to target funds on poverty, ensuring that the most needy of school districts receive the assistance.

I want to compliment the gentleman from Pennsylvania (Chairman GOODLING), my ranking subcommittee members, the gentleman from Michigan (Mr. KILDEE), the gentleman from California (Mr. MARTINEZ), the gentleman from California (Mr. MCKEON), the gentleman from Pennsylvania (Mr. PETERSON), and the gentleman from Texas (Mr. JOHNSON) for their work on this legislation.

This bill deserves the strong support of all Members of this body.

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I want to thank Chairman JEFFORDS who led the Senate efforts on the legislation, and our House conferees the gentleman from California (Mr. RIGGS) who chairs the Subcommittee on Early Childhood, Youth, and Families, the gentleman from California (Mr. MCKEON), the gentleman from Pennsylvania (Mr. PETERSON), the gentleman from Texas (Mr. JOHNSON), the gentleman from Missouri (Mr. CLAY), the gentleman from Michigan (Mr. KILDEE), and the gentleman from California (Mr. MARTINEZ).

I would also like to thank staff who have worked very hard in helping us develop this legislation, including Krisann Pearce, Sally Lovejoy, Mary Clagett, Vic Klatt, June Harris, Alex Nock, and Marci Philips.

The conference agreement on H.R. 1853 is based on good public policy. The agreement expands opportunities for vocational education students, placing increased emphasis on academics, technology, and State and local innovation.

Mr. Speaker, I urge your support for this legislation.

Mr. MARTINEZ. Mr. Speaker, I rise in support of the conference report on H.R. 1853, the Carl Perkins Vocational and Applied Technology Amendments of 1998. The Perkins Act has helped millions of students attain the education and training needed to compete in today's workforce.

In particular, the act has provided access to vocational education to a variety of underserved populations—women, including single mothers and displaced homemakers; individuals with disabilities; and students facing barriers to educational achievement, such as limited english proficiency. The reauthorization legislation before us today, I believe, strengthens the Federal Vocational Education Program.

We merge the best of the House and Senate bills to provide for a system that holds vocational education to high academic standards and accountability. We also reaffirm our commitment to special populations, and ensure that not only are they provided access to vocational education, but that they also are included in the quest for high quality.

I am also pleased that disagreements on the formula have been resolved, striking a balance between providing support for local schools and leveraging resources in leadership activities. Just as importantly, this new formula retains the Federal commitment to target scarce education dollars to the neediest students.

Finally, I would like to express my strong support for the provisions in the legislation that preserve the tech-prep program.

Tech-prep provides comprehensive links between vocational education and training in secondary schools and postsecondary education institutions.

As such, the tech-prep program enhances the Federal commitment to provide vocational education students with the skills and education to pursue a successful future after high school—whether it involves obtaining additional training, pursuing a baccalaureate degree, or entering the workforce.

I thank Chairman GOODLING and Chairman JEFFORDS for their commitment to reaching bipartisan, bicameral agreement on vocational education reauthorization.

While these negotiations were lengthy, and often contentious, I believe the final product was worth the effort.

I urge my colleagues to join me in support of passage of this conference report.

Mr. GOODLING. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 2206, COATS HUMAN SERVICES REAUTHORIZATION ACT OF 1998

Mr. GOODLING. Mr. Speaker, I move to suspend the rules and agree to the conference report on the Senate bill (S. 2206) to amend the Head Start Act, the Low-Income Home Energy Assistance Act of 1981, and the Community Services Block Grant Act to reauthorize and make improvements to those Acts, to establish demonstration projects that provide an opportunity for persons with limited means to accumulate assets, and for other purposes.

(For conference report and statement, see proceedings of the House of October 6, 1998 at page 23865.)

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. GOODLING) and the gentleman from Missouri (Mr. CLAY) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. GOODLING).

GENERAL LEAVE

Mr. GOODLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 2206.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on S. 2206, the Coats Human Services Reauthorization Act of 1998 named after the retiring Senator from Indiana.

I would like to take this opportunity to recognize Senator DAN COATS, not only for his remarkable efforts on what will be known as the Coats Human Services Act of 1998, but for his years of service and dedication to education and human services issues. He has been a staunch and compassionate advocate for children. We will miss his insight and wisdom that are reflected in dozens of laws that have and will continue to have positive impact on the lives of millions of American families.

I want to express my sincere appreciation to the members of the conference committee for their diligent efforts to resolve the differences between the House and the Senate bill. This has truly been a bipartisan and bicameral effort.

I want to thank the gentleman from Delaware (Mr. CASTLE), the gentleman from Indiana (Mr. SOUDER), the gentleman from California (Mr. MARTINEZ) and the gentleman from Missouri (Mr. CLAY), the ranking member of the committee, who have worked so diligently on this bipartisan bill. In addition I would like to recognize the gentleman from California (Mr. RIGGS) who was so very important to the development of the legislation.

Due to them and many others who worked with us in crafting this bill, we have before us today a bipartisan conference agreement, an agreement that will lead to better services for millions of disadvantaged families across the Nation.

The Senate has already passed the conference report. Senators JEFFORDS, COATS, KENNEDY and DODD led the Senate efforts on this legislation and have successfully ushered it through the Senate.

The efforts of all these Members have allowed us to move forward on a very important piece of legislation, to reform our Nation's Head Start, Community Service Block Grant and Low-Income Home Energy Assistance Programs.

The legislation makes important changes to these acts that will result in improved services, increased quality, and more accountability.

Title I of the legislation contains important changes to the Head Start program. This bill firmly establishes quality as the focus of the authorization through a variety of measures that strengthen the education component of Head Start. Namely, the bill ensures that local Head Start agencies will be held accountable for successfully preparing children to enter school ready to read by inserting new educational performance standards and measures by which individual Head Start program performance will be measured. The founder of Head Start said that this is the one area that has disappointed him, and that is the area of preparing children to enter school, and it is basically an education preparation program, and we think that in this bill that it will truly be that all over the country.

The bill requires that at least half of all Head Start teachers possess a college degree in early childhood education or related field by the end of the year 2003. It is an important requirement if we are to ensure that Head Start's education service rival those of the best preschools in the Nation.

The bill strikes the appropriate balance between quality and expansion. This is something I insisted on in our House-Senate conference. It slows the rate of growth of the program and it increases funding for quality in the initial years of the authorization, so that the Head Start program has the time and means to develop greater capacity to provide higher quality services.

Title II of the legislation extends the authorization and makes changes to the Community Service Block Grant Act program.

This bill will better enable States and local communities to eradicate poverty, revitalize high poverty neighborhoods, and empower low-income individuals to become self-sufficient.

As with Head Start, this bill increases program accountability and CSBG. It encourages the development of effective partnerships between government, local communities and charitable organizations, including faith-based organizations, to meet the needs of impoverished individuals, and it encourages innovative community-based approaches to attacking the causes and effects of poverty.

I have been a strong supporter for many years of CSBG and the programs that it supports. I feel that this legislation will result in improvements in CSBG and will further improve services for the poor in each local community.

Title III of our legislation extends the authorization of another important program, the Low-Income Home Energy Assistance Program. LIHEAP provides heating and cooling assistance to almost 5 million low-income households each year. Individuals and families receiving this vital assistance include the working poor, individuals making the transition from welfare to work, individuals with disabilities, the elderly, and families with young children.

Finally, this legislation establishes a new demonstration program providing funding for individual development accounts, matched saving accounts for low-income individuals for post-secondary education, home purchases and business capitalization.

I commend Senator COATS and the gentleman from Indiana (Mr. SOUDER) for their insight in the development of this demonstration program.

Finally, I want to give special thanks to numerous staff who have worked for so many weeks, months, years to resolve the various differences on this bill. Their work has culminated in a strong bipartisan bill. Specifically, I would like to thank Sally Lovejoy, Vic Klatt, Mary Clagett, Denzel McGuire and Rich Stombres of our committee staff for their hard work on this bill, as well as Alex Nock and Marci Phillips of the Minority staff.

Let me close by saying that the legislation before us today is truly one of the most important pieces of legislation the 105th Congress will pass this year. It is a bipartisan bill that greatly improves the delivery of services provided under Head Start, CSBG and LIHEAP. It is my belief that many families will benefit from the improvements made under this act. I urge my colleagues to vote for the bipartisan conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. CLAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation reauthorizes Head Start, Low-Income Home Energy Assistance, and Community Services Block Grant programs. In addition, it establishes a new program, Assets for Independence, which will assist low-income families to achieve economic security.

The programs authorized in this bill are critical to children and to seniors. In addition to reauthorizing expiring programs, this legislation makes several needed improvements. In the Head Start section, the bill increases to 10 percent the setaside for early Head Start, the program providing services to low-income infants and toddlers and their families. This will ensure that thousands of additional infants can experience the benefits gained in this extraordinary program.

This bill reauthorizes the LIHEAP program for 5 years, but also concentrates its weatherization services for low-income individuals with higher energy needs.

Finally, Mr. Speaker, this legislation institutes important accountability provisions in the Community Services Block Grant program that will enable us to document its great successes.

In closing, I want to thank the gentleman from Pennsylvania (Mr. GOODLING), our chairman; the ranking subcommittee member, the gentleman from California (Mr. MARTINEZ); the gentleman from Delaware (Mr. CASTLE); and the gentleman from Indiana (Mr. SOUDER) for their hard work on this conference agreement. I believe this strong bipartisan measure, which deserves the support of all Members of this Chamber, should be enacted.

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana (Mr. SOUDER), who was with Senator COATS for a long time before he came to the Congress of the United States, and who has been very important in putting together parts of this legislation

Mr. SOUDER. Mr. Speaker, I thank the chairman for his leadership and all of the others on the conference committee.

It is unfortunate that it is this late at night that we have one of the most important pieces of legislation that could possibly be before us. It addresses the most vulnerable Americans in our society, our children, the working poor and the elderly, and it is an innovative compromise that we have been able to work between the parties and between the bodies.

It is of special meaning to me in 3 different ways, and I want to briefly talk about those. One is my relationship to my former employer, Senator DAN COATS. Second is these issues are many of the things that motivated me to particularly run for Congress, and they are issues that as a staff member for 10 years I worked with, and now, to see some of them come to fruition as part of law is indeed a special honor and a privilege.

So let me touch on a couple of these issues together. Senator DAN COATS is retiring this year after many years in the House and Senate, and as a friend of his who worked in his first primary and general election campaign, we worked together with many goals. Part of those goals are very tied to our personal and deep religious commitments and how we as Christians would address issues facing the most vulnerable in our society. He has tried to be one of the more creative leaders on our side in looking at the balance of how do we work through the private sector, how do we work in joint cooperation in public and private, and what is the role of government in helping develop opportunities.

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When I served as Republican staff director on the House Select Committee on Children, Youth, and Families, we looked at the Head Start program and saw that it was a Federal program that was very effective in at least some areas. And what we have done in this bill is to try to make it even more effective by putting better educational standards in, through targeting better pay for Head Start teachers, and I think that is an example of a Federal program that has worked.

But there are several other things in this bill. Back when I was in the House and when I worked for Senator COATS in the Senate, we were trying to look for creative ways of how to empower private sector organizations, and one of those things is a charitable tax credit.

For the first time, working with the gentleman from Virginia (Mr. SCOTT) on the minority in our committee, we were able to pass in the 10 percent of the State's community service block grants they can use that money to help offset an expansion of the State charitable tax credit. We have not been able to pass other pieces of legislation at this point with it, but it is an important first step.

The gentleman from Ohio (Mr. HALL) and the gentleman from Virginia (Mr. WOLF) have been leaders in the individual development accounts, the Assets for Independence that DAN COATS has supported for a long time as I have. And this is another innovative way to help those who are less fortunate to develop the assets they need, whether they use them for their own personal expenses or whether it is for homes or housing or to develop a business. It is an important breakthrough.

It is something that we worked out when I was a house staffer for Congressman COATS and as a Senate staffer, and it is a tremendous victory for my fellow and former staffers, Stephanie Monroe and Sharon Soderstrom and Mike Gerson to see many of these dreams actually become part of law.

DAN COATS has been a personal model for me. It is so fitting and appropriate that this bill is named after him, because he is a beacon of light and a personal moral example. An example of leadership, of how someone in government can be in both their personal and public life a model for young people around the country; a model for legislators as to how to be creative in their legislation, of how to be a conservative and yet have a heart for the poor, a heart for the underprivileged.

It has been a great honor to both work for him and now with him in this United States Congress, and he is going to be deeply missed by me and many others.

Mr. CLAY. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, I rise in support of the Human Services Reauthorization Act. The programs reauthorized by this legislation, Head Start, Community Service Block Grants, and LIHEAP, help our neediest Americans to live learn and grow.

I am particulary pleased that the Community Services Block Grants include reauthorization for a demonstration project to test the effectiveness of Individual Development Accounts, IDAs. IDAs are dedicated savings accounts that can be used for education. They can be used for first home purchase or to start a business. Each deposit made by the low-income account holder is matched by the community organization which sponsors the IDA.

I was able to leave welfare when I was in trouble at one point because I invested in myself. IDAs allow individuals in the same kind of circumstance I was in to invest in themselves. IDAs give low-income individuals a needed chance to invest in themselves and in their futures. Because their deposits are matched, IDA accounts grow and lives are changed for the better.

This country has been helping middle- and upper-income families invest in themselves and their future for years. For example, there are tax deductions for home mortgage. There are tax break for IRAs and tax breaks for other pension accounts. There are no breaks for low-income individuals who try to save. In fact, in some cases there are actually penalties if a low-income person accumulates assets.

So, Mr. Speaker, the Human Services Reauthorization Act will help millions of low-income Americans change their lives and I am proud to join my colleagues on both sides of the aisle in supporting it.

Mr. GOODLING. Mr. Speaker, I yield such time as he may consume to the gentleman from Delaware (Mr. CASTLE) an important member of the committee.

Mr. CASTLE. Mr. Speaker, I thank the gentleman from Pennsylvania (Mr. GOODLING) for yielding me this time, and I will try to be brief because of the hour.

Mr. Speaker, everything that has been said is so significant. And the Head Start program, the Community Services Block Grant which was heard about, and also the Low-Income Home Energy Assistance program which has struggled politically in this body a lot of times, have gone through strong reauthorizations.

I just would like to focus on the Head Start provisions of this bill for a couple of reasons for a moment. I believe that educational welfare for our children starts well before they even walk into kindergarten. It obviously starts the day kids are born. And some of the most crucial times are their first experiences in structured settings such as in day care or prekindergarten programs.

We are all seeing what is as least viewed as a decline in education in America, at least for some of our students out there today. And I think early intervention is very necessary if we are going to be able to address some of these problems, particularly at the earliest ages. Because that helps, of course, our students attain higher achievements throughout their lives.

What happened in this bill, and it was under the guidance of our chairman, is that we have strengthened the education component programs of Head Start. We are supportive to the whole concept of quality. We put more money into that area; into teacher certification and into making absolutely certain that the Head Start programs that we have would be able to upgrade in that circumstance.

It was a hard fight. It sounds simple, but it was relatively hard because there is a great force that wants more quantity and does not want us to set money aside for quality. We were able to do that working with both sides of the aisle and working with the Senate in order to achieve what I think is in the greater good for kids of this country.

Again, it is a shame that we are debating this bill at 12:55 in the morning as opposed to 2 o'clock in the afternoon. But the bottom line is this is good legislation. It is well thought out. Some excellent staff work went into it, and I hope that we could unanimously endorse it in the House of Representatives and the President could sign it into law soon.

Mr. Speaker. I am pleased to be able to stand up today in strong support of the conference report on the Human Services Reauthorization Act and proud to have been able to serve as a conferee on this very important piece of legislation.

The bills that came out of both Houses on Head Start, the Community Services Block Grant, and the Low Income Home Energy Assistance Programs were very strong and representative of very bipartisan efforts. During conference, we worked diligently to follow through on that bipartisan spirit and deliver a bill that will provide better assistance to some of our nation's neediest citizens.

As with most pieces of legislation, I realize we have not been able to meet everyone's needs, but I do believe we have made an excellent compromise that addresses a majority of this body's concerns. Throughout the process, I have been particularly concerned with the Head Start provisions of this bill. As you know, I come to the table with a deep concern for the welfare of our nation's students. I believe that their educational welfare starts well before they walk into kindergarten. It starts the day kids are born and some of the most crucial times are their first experiences in structured settings, such as in day care or pre-kindergarten programs.

In the past few years, as policy makers, we have been faced with the reality that our education system isn't working for many of our students. Among all of the different factors that we need to consider, one of them is those first few years and those first experiences kids have in structured settings. Early intervention is essential. We know this. If we can begin to address the needs of students at the earliest ages, then we have a better chance of helping them attain higher levels of achievement throughout life.

Along with my colleagues on the conference, I was dedicated to strengthening the current Head Start program so that children are getting the skills they need and are truly prepared for the challenges they will face in school. One of the key reforms in this bill is that we strengthen the education components of the program. Now, the purpose of Head Start is to promote school readiness. Make no mistake about it, this program was deliberately named, these kids need a 'head start' in life, and we have attempted to give them that in the conference report.

First, we are supportive of and committed to increasing funding for quality. This makes sense. We need to ensure that the programs our kids are attending are truly beneficial and deserving of their time. We need to be confident in the services Head Start is providing and confident that kids are learning while they are enrolled. One of the things we do with the increased funding for quality in the conference report is increase the percentage of teachers who have a degree in early childhood education. This is sheer logic. In fact, I think this is essential. Our kids need and deserve to have skilled teachers with an intimate knowledge of child development. The combination of increasing teacher certification levels and quality funds provided for in the conference report will go a long way toward addressing the failures we see in the system now.

As the governing body in this nation, we have a responsibility to ensure that the funds we provide States and locals are spent effectively and efficiently. I believe we have accomplished that in the conference report before the House today. This truly is an important bill, which will affect the future of many, many children and their families and in turn the welfare of our country.

Let me also note that this bill reauthorizes the Low Income Home Energy Assistance Program and the Community Services Block Grant programs, which I support. While I have not focused my comments on those provisions, I do strongly endorse the work of the conferees on both sections.

I encourage my colleagues on both sides of the aisle to support the hard fought compromises we reached during conference and vote in favor of passage. This legislation takes several great strides for the benefit of our nation's kids and families.

Mr. CLAY. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. Mr. Speaker, I thank the gentleman from Missouri (Mr. CLAY), our ranking member, for yielding me this time.

Mr. Speaker, I rise to support the conference agreement reauthorizing

Head Start, Community Services Block Grant, and the Low-Income Home Energy Assistance Act. On balance, this bill does many positive things for children and low-income individuals. I am particularly proud of the fact that it contains a provision that I cosponsored with the gentleman from Indiana (Mr. SOUDER) which replicates a successful program I sponsored in Virginia, the Neighborhood Assistance Act, which offers tax credits for donations to approved programs fighting poverty.

Unfortunately, the conference agreement also contains a provision I find very troubling, the so-called "charitable choice" provision. This provision has serious constitutional and policy shortcomings. Specifically, the "charitable choice" program allows religious groups to be funded under the Community Services Block Grant, even though they may be pervasively sectarian.

The Community Services Block Grant provision also allows, because it allows pervasively sectarian organizations to be funded, it allows publicly funded employee discrimination. Because Title VII of the Civil Rights Act contains certain provisions exempting religious organizations, it allows faith-based organizations to proselytize to beneficiaries as they receive services. It also allows faith-based organizations to require beneficiaries to participate in religious activities in order to receive services. And it allows beneficiaries to be denied alternative service providers if none are available other than the faith-based organization.

With respect to these constitutional issues, Mr. Speaker, I submit a letter from the Department of Justice specifically outlining the constitutional problems with the "charitable choice" provision.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, September 24, 1998.

Hon. WILLIAM F. GOODLING,
Chairman, Committee on Education and the Workforce, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Senate and the House each recently passed versions of S. 2206, designated in the Senate as the Community Opportunities, Accountability, and Training and Educational Services Act of 1998 and in the House as the Human Services Reauthorization Act. We are informed that a conference committee will this week attempt to resolve differences between the two versions of the bill. S. 2206 would, *inter alia*, amend the Community Services Block Grant Act ("CSBGA"), 42 U.S.C. §9901, *et seq*. We are writing with respect to a proposed new section 679 of the CSBGA, which would be established by section 201 of the Senate-passed bill and by section 202 of the House-passed bill. We are concerned that the Senate version (that is, S. 2206 as passed by the Senate on July 27, 1998) could be construed to permit government funds to be provided to, and used by, pervasively sectarian organizations, which would violate the Establishment Clause of the First Amendment to the Constitution. Accordingly, we recommend that the Conference Committee amend the bill to ensure that funds are provided to religious organizations only if they are not pervasively sectarian.

The Act would authorize the Secretary of Health and Human Services ("the Secretary") to establish a program to make federal block grants to states for the purpose of ameliorating the causes of poverty in communities within the states. *See, e.g.*, S. 2206 (as passed by the Senate), §201 (proposing CSBGA §§672(1), 675). The states may, in turn, direct the funds to private, nonprofit organizations to assist in the provision of services. *See, e.g., id.* (proposing CSBGA §§675C(a)(3)(B), 676A(a)(1)(A)).

Proposed CSBGA section 679(a), in both the House and Senate bills, would provide that "the government shall consider, on the same basis as other nongovernmental organizations, faith-based organizations to provide the assistance under the program, so long as the program is implemented in a manner consistent with the Establishment Clause of the first amendment to the Constitution." Section 679(a) further would provide that "[n]either the Federal Government nor a State or local government receiving funds under this subtitle shall discriminate against an organization that provides assistance under, or applies to provide assistance under, this subtitle, on the basis that the organization has a faith-based character."

Section 679 apparently would reflect "Congress' considered judgment that religious organizations can help solve the problems" to which the proposed statute is addressed *Bowen v. Kendrick*, 487 U.S. 589, 606–07 (1988). *Kendrick* and other cases establish that the fact that an institution has religious affiliations does not mean that it may not participate equally in a neutral government financial aid program that benefits both religious and nonreligious entities. *Id.* at 608–11 (Adolescent Family Life Act grants, available to fairly "wide spectrum of public and private organizations" regardless of religious nature, may be awarded to religious institutions), *see also, e.g., Roemer v. Board of Public Works*, 426 U.S. 736 (1976) (plurality opinion) (upholding grant program for colleges and universities as applied to schools with religious affiliations). Nevertheless, the Establishment Clause does place two significant limitations on this general principle.

First, the Establishment Clause requires that federal financial assistance not be used in a way that would advance religious organizations' religious mission. The Court in *Kendrick* confirmed that, even though religious organizations may participate in government-funded social welfare programs, the government must ensure that government aid is not used to advance "'specifically religious activit[ies] in an otherwise substantially secular setting.'" *Kendrick*, 487 U.S. at 621 (quoting *Hunt v. McNair*, 413 U.S. 734 (1973)), *See Roemer*, 426 U.S. at 755 (plurality opinion). Indeed, in *Kendrick*, all nine Justices accepted the principle that government funding of religious activities would be impermissible.[1]

In conformity with this constitutional requirement, proposed section 679 of the House bill would provide that "[n]o funds provided to a faith-based organization to provide assistance under any program described in subsection (a) shall be expended for sectarian worship, instruction, or proselytization."[2]

Second, even where a statute includes (as S. 2206 does) an express condition that the federal aid not be used for sectarian worship, instruction, or proselytization, the government nevertheless may not provide aid directly to "pervasively sectarian" institutions, defined as institutions in which "'religion is so pervasive that a substantial portion of [their] functions are subsumed in the religious mission.'" *Id* at 610 (quoting *Hunt*, 413 U.S. at 743); *see also id.* at 621 (holding that, apart from the question whether aid was being used for religious purposes, Establishment Clause would be violated if the plaintiffs could show that aid flowed to grantees that could be considered "pervasively sectarian religious institutions").

As the Court has explained, the reason for the prohibition on direct governmental aid to pervasively sectarian institutions is the unacceptable risk that where—as in a pervasively sectarian organization—secular and religious functions are "inextricably intertwined," government aid, although designated for a secular purpose, in fact will invariably advance the institution's religious mission. *Id.* at 610. Again, it is immaterial to this part of the Court's analysis that the provision of assistance would serve a legitimate secular purpose. *See id.* at 602. What is critical is that the assistance also would have the effect of advancing religion because of the pervasively sectarian character of the recipients. And even if it were possible, as a theoretical matter, for a pervasively sectarian organization to use government assistance exclusively for secular functions in such institutions, the degree and kind of governmental monitoring necessary to ensure compliance with the requisite restrictions would itself create Establishment Clause problems. *Id.* at 616–17.

It is unclear which, if any, of the religious organizations that would receive funding under S. 2206 would be "pervasively sectarian." The boundaries of the "pervasively sectarian" category are not well-defined, and the Supreme Court has used it almost exclusively in connection with primary and secondary educational institutions. The Court has, however, indicated that numerous considerations are relevant in determining whether an institution is pervasively sectarian. Included among those considerations is whether an organization has explicit corporate ties to a particular religious faith, and bylaws or policies that prohibit any deviation from religious doctrine. *Kendrick*, 487 U.S. at 620 n. 16. The Court also has treated the existence of religious qualifications for admission and hiring as a relevant factor in determining whether a school is pervasively sectarian. Compare *Hunt*, 413 U.S. at 743–44 (no religious qualifications for faculty or students) and *Roemer*, 426 U.S. at 757–58 (plurality opinion) (same), with *Committee for*

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[1] 487 U.S. at 611–12, 615, 621 (Establishment Clause would be violated if public monies were used to fund "'indoctrination into the beliefs of a particular religious faith'" or to "'advance the religious mission' of the religious institution receiving aid.") (quoting *School Dist. of Grand Rapids v. Ball*, 473 U.S. 373, 385 (1985)), *Id.* at 623 (O'Connor, J., concurring) ("[A]ny use of public funds to promote religious doctrines violates the Establishment clause."), *Id.* at 624 (Kennedy, J., concurring) (reasoning that the Establishment Clause would be violated if funds "are in fact being used to further religion"), *Id.* at 634–48 (Blackmun, J., dissenting) (opining that government aid may not be used to advance religion, even if aid was intended for secular purposes). Notably, *Kendrick* involved a statute—like the proposed bill—in which government resources were granted on a neutral, nondiscriminatory basis, to religious and nonreligious groups alike, for a secular purpose (counseling sexual abstinence).

[2] Proposed §679(c) in the Senate version has a similar prohibition, but limited to "funds through a grant or contract." In order to avoid difficult Establishment Clause questions, we recommend deletion of the "through a grant or contract" limitation.

Pub. Educ. v. Nyquist, 413 U.S. 756, 767–68 (1973) (religious restrictions on admissions and faculty appointments) and *School Dist. of Grand Rapids v. Ball*, 473 U.S. 373, 384 n.6 (1985) (preference in attending private school afforded to children belonging to organizational denomination).

Although both the House and Senate versions of proposed §679(a) state that the block grant funds must be disbursed in accordance with the Establishment Clause, certain other provisions in the Senate version of the bill strongly suggest an expectation that state governments would be permitted to provide direct funding to religious organizations that are pervasively sectarian. In particular, the Senate version includes the following three provisions not found in the House version.

(i) Proposed §679([b])(1)[3] would provide that "[a] faith-based organization that provides assistance under a program described in subsection (a) shall retain its faith-based character and control over the definition, development, practice, and expression of its faith-based beliefs."[4]

(ii) Proposed §679([b])(2)(A) would provide, with a minor exception, that "[n]either the Federal Government nor a State or local government shall require a faith-based organization . . . to alter its form of internal governance."

(iii) Proposed §679([b])(3) would provide, *inter alia*, that "[a] faith-based organization that provides assistance under a program described in subsection (a) may require that employees adhere to the religious tenets and teachings of such organization."

These provisions, as well as the bill's repeated references to "faith-based organizations" and recipient organizations' "faith-based character," strongly imply some intent that pervasively sectarian religious organizations would be eligible to receive direct governmental funding. In order to ensure that S.2206 is not construed to permit funding of pervasively sectarian organizations, and that direct governmental funding is not used to support religious activities, we recommend that the Conference Committee not adopt the three quoted provisions (which do not appear in the version of S. 2206 passed by the House). In offering this recommendation, we do not mean to suggest that the government should be able to, for example, "control . . . the definition, development, practice, and expression of . . . beliefs" of a nonpervasively sectarian religious organization that receives CSBGA funds but does not use such funds for sectarian worship, instruction, or proselytization. Nor should we be understood as suggesting that a government may "require" such an organization "to alter its form of internal governance." We merely wish to ensure that the federal, state and local governments involved in disbursing CSBGA funds may take into account the structure and operations of a religious organization in determining whether such an organization is or is not pervasively sectarian. Where such an organization is pervasively sectarian—i.e., where the secular and religious functions of the organization are so "inextricably intertwined," *Kendrick* 487 U.S. at 610, that it would be impossible (at least without impermissible entanglement) to ensure that the organization does not use government funds to advance religion, the organization may not receive and use CSBGA funds.

Thank you for your attention to this matter. If we may be of additional assistance, we trust that you will not hesitate to call upon us. The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the presentation of this report.

Sincerely,

L. ANTHONY SUTIN,
Acting Assistant Attorney General.

Mr. SCOTT. Mr. Speaker, in closing I would like to say a word about the Head Start portion of the bill. During the committee deliberations, this widely supported program was amended and ended up being reported with votes being split right along party lines.

I am delighted to see that the irrelevant, controversial amendments have been removed and that Chairman GOODLING and Ranking Member CLAY have presented essentially the original noncontroversial version of the bill so that reauthorization of this effective educational program can be done with its traditional bipartisan support.

So, on balance, Mr. Speaker, this bill will do much in the long run to expand opportunities for children and low-income individuals; however, the "charitable choice" provision is unfortunate and we will have to wait for the courts to decide its constitutional fate.

□ 0100

However, on balance, Mr. Speaker, I ask my colleagues to support the conference agreement.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

As my good friend from Virginia realizes, in order to get the bill to the floor, we had to do what we had to do or otherwise we would not have had a Head Start bill here.

I do want to point out that the language is the same as in our welfare reform bill and, therefore, there is some precedent for it. But, also, I want to point out that we clarified that religious organizations may participate in CSBG as long as their program is implemented in a manner consistent with the establishment clause of the Constitution. We also included clarification that no funds provided directly to a religious organization under CSBG can be expended for sectarian worship, instruction or proselytization.

Because religious organizations are such important partners in the fight against poverty, their participation in the CSBG program is encouraged. We think the protections in here will make sure that things are not done in the manner that some may fear that they will be.

I just want to close by saying that in the last hour, from midnight on Thursday until 1 a.m. on Friday morning, we passed three of the most important pieces of legislation we could possibly pass for the benefit of those most in need in this country. And as I said, it is tragic that we are doing that at this particular hour, but, again, all three pieces are legislation that are going to mean so much to those in this country who are most in need and also going to present us with a far better 21st Century.

Mr. Speaker, I reserve the balance of my time.

Mr. CLAY. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, I do support this legislation, and I want to compliment the chairman, the gentleman from Pennsylvania (Mr. GOODLING), and the ranking member, the gentleman from Missouri (Mr. CLAY), for their great work. This will be a better country, and communities and young people, people of all ages, and particularly children, will live a better life because of this legislation. However, I must rise, even at this time of the morning, with strong reservations that I share with my colleague from Virginia (Mr. SCOTT).

Mr. Speaker, just a few months ago, in a major national debate and a vote on the floor of this House, this Congress went clearly on record in defending the first 16 words of the first amendment in the Bill of Rights. Those 16 words are these: "Congress shall pass no law respecting an establishment of religion or prohibiting the free exercise thereof." These cherished words have served our country well for over two centuries. They are basically the foundation of religious liberty in America, a liberty of religion that is envied across the world.

The provisions of so-called charitable choice were added in this bill unbeknownst to many Members of the House or Senate at a time when we were cluttered with many other issues in Congress. This charitable choice language, in my opinion, and in the opinion of others, could directly undermine the intent of those first 16 words of the Bill of Rights.

Let me quote from the Working Group for Religious Freedom and Social Services, which includes American Baptist Churches USA, American Jewish Committee, American Jewish Congress, Americans United for Separation of Church and State, Anti-Defamation League, Baptist Joint Committee on Public Affairs, and numerous other religious organizations. They say this: "The primary constitutional problem with the religious provider provisions, the so-called charitable choice provisions, is that they permit and encourage grants to and government contracts with pervasively sectarian organizations, such as churches and other houses of worship."

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[3] The Senate version of the bill designates this as subsection "(c)," rather than "(b)," but this appears to be a typographical error.

[4] In addition to the constitutional problem discussed in the text, this particular provision would (perhaps inadvertently) raise another Establishment Clause problem, since, read literally, the "shall retain" language would appear to require a recipient organization, as a condition of receiving federal funds, to "retain" a particular religious character and a certain form of "control over the definition, development, practice, and expression of its faith-based beliefs." As a general matter, the government may not, of course, attempt in this manner to control the religious character and organization of a religious organization.

Mr. Speaker, I have no question that the intent of those who put this language into this bill was positive; to allow religious-based organizations to help communities address their problems. But good intentions are not enough, particularly when they hit at the very core of our constitutionally protected rights of religious freedom.

So what are the specific problems that could be caused by this language? First, it could violate the intent of the establishment clause by funding "pervasively sectarian organizations". It is unclear what the intent of the Senate author was on this particular matter.

Secondly, it could require the Federal Government to have to make a choice as to whether to provide community service block grants to the Heaven's Gate religious organization, an organization that believed it was divinely inspired to commit suicide. If our government officials are bothered by that particular religious view of the Heaven's Gate organization under the charitable choice organization, then our government has been put in the dilemma of having to choose which religious organizations' views are appropriate and acceptable and which ones are not.

The next concern I have is that approximately one-half of our States have constitutions that expressly prohibit public funds going into the coffers of religious organizations. It appears to me that the language of this bill could override that constitutional language of so many States in our Nation.

Next, as pointed out by my colleague from Virginia (Mr. SCOTT), if I understand this correctly, it appears that under this language we could actually use Federal tax dollars to discriminate based on one's religious faith. I hope that is a misreading of this language, but according to a number of organizations, including the one I just mentioned, representing numerous religious organizations, this would do exactly that. And that is why they are so firmly opposed to this particular language.

According to other organizations, this language could also result in government having to provide financial audits of churches and pervasively sectarian organizations who might possibly be eligible for funds under a charitable choice program. I think it is anathema to all of us who believe that the strength of religion in America is that we have had a 200-year wall of separation between church and State. I think this would cause great concerns for those reasons.

Mr. Speaker, for those and many other reasons that can be discussed in the days and weeks ahead, I hope this Congress will think through very carefully the implications of the language of the so-called charitable choice provisions.

Mr. CLAY. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Speaker, due to the lateness of the hour, I am not going to repeat the arguments or go into them in any depth. Suffice it to say I want to make two points.

One. This is an excellent bill in general. I commend the chairman and the ranking member.

Two. The so-called charitable choice provisions of this bill are clearly violative of the establishment clause of the first amendment.

It is incredible that we would seek to enact exemptions from the religious discrimination clauses of the Civil Rights Act of 1964, which this does. It is incredible that we would allow Federal dollars to be used, for example, by a church and a day care center, even if the church made a condition of receipt of day care services that the parents had to come and attend religious indoctrination or had to attend church services. Clearly violative of the first amendment.

The language the distinguished chairman cited as saying this should not violate the first amendment does not add anything to the first amendment. It simply says what all know: legislation cannot violate the first amendment. We should not be enacting legislation that does so.

I hope that this will not be cited as a precedent, as the welfare bill language is cited as a precedent. I hope we can take this out at some point, or else we will rue the day.

□ 0110

Mr. CLAY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

I just want to say that I am so glad that our committee is not infected and infested with attorneys. We would not get anything done. I have to laugh because when they talk about money being spent, if you look at ESEA, if you look at title I and if you look at title II, I will guarantee you money is going into private and parochial schools, boom, boom, boom, one after the other. Our philosophy is, we legislate and we allow the courts to make a decision as to whether we legislated properly or improperly in relationship to the Constitution.

Mr. HALL of Ohio. Mr. Speaker, I rise in support of the conference report on S. 2206, the Community Opportunities and Educational Services Act. I support many of the provisions in this bill which reauthorizes the Head Start, Community Services Block Grant and the Low-Income Home Energy Assistance Programs. However, I want to focus my remarks on the new demonstration program which will be created if this bill becomes law.

Mr. Speaker, S. 2206 includes the text of H.R. 2849, the Assets for Independence Act which I introduced with Representative JOHN KASICH. The language was added by an amendment offered in the Education and Work Committee by Representatives MARK SOUDER and LYNN WOOLSEY. This legislation authorizes $25 million for five years for the creation of Individual Development Accounts (IDAs) for poor families and individuals. IDAs are dedicated savings accounts, similar in structure to Individual Retirement Accounts, that can be used for purchasing a first home, paying for post-secondary education, or capitalizing a business.

IDAs are managed by community organizations and are held at local financial institutions. Low income individuals make a contribution to the account which is then matched by private or public funds. Under the legislation, participants can have no more than $10,000 in assets (excluding their car and home) to qualify for the program. Federal money can only be used to match private money. In this way, the bill would leverage more private money and local involvement. By encouraging asset development, IDAs help families end their own poverty with dignity.

IDAs and other asset-building strategies for the poor appear to be among the most promising poverty-fighting ideas to emerge in the last few decades. It is estimated that 100 communities are running IDA programs in forty-three states. Twenty-five states, including Ohio, have incorporated IDAs into their welfare-to-work plans, as authorized by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The Joyce, Mott, Ford, Levi Strauss, and Fannie Mae Foundations have issued millions of dollars in grants to support IDA demonstration projects. IDAs have come a long way since the Select Committee on Hunger, which I chaired, first held hearings on this important idea in the early 1990's.

This demonstration project, will provide additional fuel to states, localities, and community based nonprofit groups that are looking for creative and enduring strategies to help low-income families move toward self-sufficiency.

Owning assets gives people a stake in the future and a reason to save, dream, and invest time, effort, and resources in creating a future for themselves and their children. Assets empower people to make choices for themselves.

I would urge my colleagues to pass this important legislation.

Mr. MARTINEZ. Mr. Speaker, I rise in strong support of the Conference agreement on S. 2206, the Coats Human Services Reauthorization Amendments of 1998.

This legislation reauthorizes three programs that provide assistance to the neediest Americans: Head Start, the Low-Income Home Energy Assistance Program (LIHEAP), and the Community Services Block Grant (CSBG).

Historically this legislation has received bipartisan support, and today, there is no exception.

The conference agreement represents a compromise that will ensure the integrity and quality of these programs for years to come.

For more than three decades, Head Start has provided comprehensive social, health, and educational services, designed to promote strong, supportive families and provide disadvantaged with solid foundations for a lifetime of learning.

In 1994, we undertook the most ambitious reauthorization of Head Start, in which we initiated a strong quality improvement process.

I am proud of this effort and the direction it established for the future of Head Start.

That is why, earlier this year, I introduced H.R. 3880, which simply called for building upon this investment in quality through stronger linkages between Head Start programs and schools, and increasing our investment in early Head Start.

I am pleased to say that the proposals in my legislation are in the conference agreement before us today.

S. 2206 allows for the continued expansion of Head Start, as well as the Early Head Start program.

With measures in this legislation to strengthen both programs, and provide Congress with detailed reporting on the successes of these initiatives, I believe we can confidently commit ourselves to increased appropriations in the years to come.

Thus, we will be able to offer Head Start to the 60 percent of eligible children currently excluded from the program.

In this conference agreement, we also reaffirm our commitment to LIHEAP.

LIHEAP helps low-income Americans meet the costs of heating, cooling, and other home energy needs, particularly in times of extreme weather, natural disasters, and other emergencies.

With the five year reauthorization in this legislation, we are telling the Nation's elderly, disabled, and low-income families that this assistance will be continued well into the future.

The third program addressed by this legislation is the Community Services Block Grant.

CSBG supports the efforts of the community action network in addressing the causes of poverty and providing a wide array of assistance to Americans in need.

Services that have been traditionally provided include education, job training and placement, housing, nutrition, emergency services, and health.

S. 2206 also authorizes new activities, including literacy services and support for after-school programs.

In addition, this legislation provides for additional accountability and monitoring, which can only serve to strengthen CSBG.

It is also worth mentioning that while this legislation contains language that clarifies that CSBG dollars can flow to religious organizations to provide social services, we reaffirm that all such transactions are ultimately governed by the establishment clause of the Constitution.

In closing, I would like to urge my colleagues to join me in support of S. 2206, legislation that strengthens and improves some of our most important services for our neediest Americans.

Mr. GOODLING. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BLUNT). The question is on the motion offered by the gentleman from Pennsylvania (Mr. GOODLING) that the House suspend the rules and agree to the conference report on the Senate bill, S. 2206.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the conference report was agreed to.

A motion to reconsider was laid on the table.

GRANTING CONSENT OF CONGRESS TO POTOMAC HIGHLANDS AIRPORT AUTHORITY COMPACT

Mr. LEACH. Mr. Speaker, I move to suspend the rules and pass the Senate joint resolution (S.J. Res. 51) granting the consent of Congress to the Potomac Highlands Airport Authority Compact entered into between the States of Maryland and West Virginia.

The Clerk read as follows:

S.J. RES. 51

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSIONAL CONSENT.

Congress hereby consents to the Potomac Highlands Airport Authority Compact entered into between the States of Maryland and West Virginia. The compact reads substantially as follows:

"Potomac Highlands Airport Authority Compact

"SECTION 1. COUNTY COMMISSIONS EMPOWERED TO ENTER INTO INTERGOVERNMENTAL AGREEMENTS RELATING TO CUMBERLAND MUNICIPAL AIRPORT.

"The county commissions of Mineral County, West Virginia, and of other West Virginia counties contiguous to Mineral County, and the governing bodies of municipal corporations situated in those counties, may enter into intergovernmental agreements with this State, Allegany County, Maryland, other Maryland counties contiguous to Allegany County and Cumberland, Maryland, and other municipal corporations situated in those Maryland counties, and with the Potomac Highlands Airport Authority regarding the operation and use of the Cumberland Municipal Airport situated in Mineral County, West Virginia. The agreements shall be reciprocal in nature and may include, but are not limited to, conditions governing the operation, use, and maintenance of airport facilities, taxation of aircraft owned by Maryland residents and others, and user fees.

"SEC. 2. POTOMAC HIGHLANDS AIRPORT AUTHORITY AUTHORIZED.

"The county commissions of Mineral County, West Virginia, and of other West Virginia counties contiguous to Mineral County, and the governing bodies of municipal corporations situated in those counties, or any one or more of them, jointly and severally, may create and establish, with proper governmental units of this State, Allegany County, Maryland, other Maryland counties contiguous to Allegany County, and Cumberland, Maryland, and other municipal corporations situated in those Maryland counties, or any one or more of them, a public agency to be known as the 'Potomac Highlands Airport Authority' in the manner and for the purposes set forth in this Compact.

"SEC. 3. AUTHORITY A CORPORATION.

"When created, the Authority and the members of the Authority shall constitute a public corporation and, as such, shall have perpetual succession, may contract and be contracted with, sue and be sued, and have and use a common seal.

"SEC. 4. PURPOSES.

"The Authority may acquire, equip, maintain, and operate an airport or landing field and appurtenant facilities in Mineral County, on the Potomac River near Ridgeley, West Virginia, to serve the area in which it is located.

"SEC. 5. MEMBERS OF AUTHORITY.

"(a) IN GENERAL.—The management and control of the Potomac Highlands Airport Authority, its property, operations, business, and affairs, shall be lodged in a board of seven or more persons who shall be known as members of the Authority and who shall be appointed for terms of three years each by those counties, municipal corporations, or other governmental units situated in West Virginia and Maryland as contribute to the funds of the Authority, in such proportion between those States and counties, municipal corporations, and units, and in whatever manner, as may from time to time be provided in the bylaws adopted by the Authority.

"(b) FIRST BOARD.—The first board shall be appointed as follows:

"(1) The County Commission of Mineral County shall appoint two members for terms of two and three years, respectively.

"(2) The governing official or body of the municipal corporation of Cumberland, Maryland, shall appoint three members for terms of one, two, and three years, respectively.

"(3) The governing official or body of Allegany County, Maryland, shall appoint two members for terms of one and two years, respectively.

"SEC. 6. POWERS.

"The Potomac Highlands Airport Authority has power and authority as follows:

"(1) To make and adopt all necessary bylaws, rules, and regulations for its organization and operations not inconsistent with law.

"(2) To take all legal actions necessary or desirable in relation to the general operation, governance, capital expansion, management, and protection of the Cumberland Municipal Airport.

"(3) To increase the number of members of the Authority, and to set the terms of office and appointment procedures for those additional members.

"(4) To elect its own officers, to appoint committees, and to employ and fix the compensation for personnel necessary for its operation.

"(5) To enter into contracts with any person, firm, or corporation, and generally to do anything necessary for the purpose of acquiring, equipping, expanding, maintaining, and operating an airport.

"(6) To delegate any authority given to it by law to any of its officers, committees, agents, or employees.

"(7) To apply for, receive, and use grants in aid, donations, and contributions from any sources.

"(8) To take or acquire lands by purchase, holding title to it in its own name.

"(9) To purchase, own, hold, sell, and dispose of personal property and to sell and dispose of any real estate which it may have acquired and may determine not to be needed for its purposes.

"(10) To borrow money.

"(11) To extend its funds in the execution of the powers and authority hereby given.

"(12) To take all necessary steps to provide for proper police protection at the airport.

"(13) To inventory airplanes and other personal property at the airport and provide the assessor of Mineral County and other proper governmental officials with full particulars in regard to the inventory.

"SEC. 7. PARTICIPATION BY WEST VIRGINIA.

"(a) APPOINTMENT OF MEMBERS; CONTRIBUTION TO COSTS.—The county commissions of Mineral County and of counties contiguous to Mineral County, and the governing bodies of municipal corporations situated in those counties, or any one or more of them, jointly and severally, may appoint members of the Authority and contribute to the cost of acquiring, equipping, maintaining, and operating the airport and appurtenant facilities.

"(b) TRANSFER OF PROPERTY.—Any of the foregoing county commissions or municipal corporations may transfer and convey to the Authority property of any kind acquired previously by the county commission or municipal corporation for airport purposes.

"SEC. 8. FUNDS AND ACCOUNTS.

"(a) CONTRIBUTION AND DEPOSIT OF FUNDS.—Contributions may be made to the Authority from time to time by the various bodies contributing to its funds and shall be deposited in whatever bank or banks a majority of the members of the Authority direct and may be withdrawn from them in whatever manner the Authority directs.

"(b) ACCOUNTS AND REPORTS.—The Authority shall keep strict account of all of its receipts and expenditures and shall make quarterly reports to the public and private bodies contributing to its funds, containing an itemized account of its operations in the preceding quarter. The accounts of the Authority shall be regularly examined by the State Tax Commissioner in the manner required by Article nine, Chapter six of the Code of West Virginia.

"SEC. 9. PROPERTY AND OBLIGATIONS OF AUTHORITY EXEMPT FROM TAXATION.

"The Authority is exempt from the payment of any taxes or fees to the State of West Virginia or any subdivisions of that State or to any officer or employee of the State or other subdivision of it. The property of the Authority is exempt from all local and municipal taxes. Notes, debentures, and other evidence of indebtedness of the Authority are declared to be issued for a public purpose and to be public instrumentalities, and, together with interest on them, are exempt from taxes.

"SEC. 10. SALE OR LEASE OF PROPERTY.

"In the event all of the public corporations contributing to the funds of the Authority so determine, the Authority shall make sale of all of its properties and assets and distribute the proceeds of the sale among those contributing to its funds. In the alternative, if such of the supporting corporations contributing a majority of the funds of the Authority so determine, the Authority may lease all of its property and equipment upon whatever terms and conditions the Authority may fix and determine.

"SEC. 11. EMPLOYEES TO BE COVERED BY WORKMEN'S COMPENSATION.

"All eligible employees of the Authority are considered to be within the Workmen's Compensation Act of West Virginia, and premiums on their compensation shall be paid by the Authority as required by law.

"SEC. 12. LIBERAL CONSTRUCTION OF COMPACT.

"It is the purpose of this Compact to provide for the maintenance and operation of an airport in a prudent and economical manner, and this Compact shall be liberally construed as giving to the Authority full and complete power reasonably required to give effect to the purposes hereof. The provisions of this Compact are in addition to and not in derogation of any power existing in the county commissions and municipal corporations herein named under any constitutional, statutory, or charter provisions which they or any of them may now have or may hereafter acquire or adopt.".

SEC. 2. RIGHT TO ALTER, AMEND, OR REPEAL.

The right to alter, amend, or repeal this joint resolution is hereby expressly reserved. The consent granted by this joint resolution shall not be construed as impairing or in any manner affecting any right or jurisdiction of the United States in and over the region which forms the subject of the compact.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Iowa (Mr. LEACH) and the gentleman from New York (Mr. NADLER) each will control 20 minutes.

The Chair recognizes the gentleman from Iowa (Mr. LEACH).

Mr. LEACH. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from New York (Mr. NADLER) to explain the bill.

Mr. NADLER. Mr. Speaker, I rise in support of the motion. This legislation would grant the consent of Congress to a compact between the States of West Virginia and Maryland to operate the Potomac Highlands Airport Authority as required by the Compacts Clause of the Constitution.

According to the testimony received by the Subcommittee on Commercial and Administrative Law, this legislation is supported by both States and indeed our colleague the gentleman from West Virginia (Mr. MOLLOHAN) and the gentleman from Maryland (Mr. BARTLETT) appeared before the committee as did Senator SARBANES. The legislation is supported by both States and has the bipartisan support of the delegations of both States. I am aware of no opposition whatsoever to this legislation.

Congress' approval of this legislation is necessary for the compact to become legally effective. If that does not happen, if this legislation does not pass, the Airport Authority will be unable to borrow funds or engage in other core activities. I urge the adoption of this bill.

Mr. LEACH. Mr. Speaker, quickly in summary, let me just stress that this is an important resolution involving two States and it is very appropriate for the Congress to put its imprimatur upon it. I would urge my colleagues to support this broadly nonpartisan bill.

Mr. Speaker, I yield back the balance of my time.

Mr. NADLER. Mr. Speaker, the gentleman from Iowa has explained the necessity for this bill cogently. I urge our colleagues to adopt this bill.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa (Mr. LEACH) that the House suspend the rules and pass the Senate joint resolution, S.J. Res. 51.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate joint resolution was passed.

A motion to reconsider was laid on the table.

DEPOSITORY INSTITUTION REGULATORY STREAMLINING ACT OF 1998

Mrs. ROUKEMA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4364) to streamline the regulation of depository institutions, to safeguard confidential banking and credit union supervisory information, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4364

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Depository Institution Regulatory Streamlining Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—IMPROVING MONETARY POLICY

Sec. 101. Payment of interest on reserve balances at Federal reserve banks.
Sec. 102. Amendments relating to savings and demand deposit accounts at depository institutions.
Sec. 103. Transfer of Federal reserve surpluses.
Sec. 104. Study of reserve ratios for deposit insurance funds.

TITLE II—IMPROVING DEPOSITORY INSTITUTION MANAGEMENT PRACTICES

Subtitle A—National Banks

Sec. 201. Authority to allow more than 25 directors.
Sec. 202. Loans on or purchases by institutions of their own stock.
Sec. 203. Expedited procedures for certain reorganizations.

Subtitle B—Savings Associations

Sec. 211. Noncontrolling investments by savings association holding companies.
Sec. 212. Streamlining thrift service company investment requirements.
Sec. 213. Repeal of dividend notice requirement.
Sec. 214. Updating of authority for community development investments.

Subtitle C—Other Institutions

Sec. 221. Prohibition on accrual to insiders of economic benefits from credit union conversions.
Sec. 222. Amendments relating to limited purpose banks.
Sec. 223. Business purpose credit extensions.

TITLE III—STREAMLINING FEDERAL BANKING AGENCY REQUIREMENTS AND ELIMINATION OF UNNECESSARY OR OUTDATED REQUIREMENTS

Sec. 301. "Plain English" requirement for Federal banking agency rules.
Sec. 302. Call report simplification.
Sec. 303. Purchased mortgage service rights.
Sec. 304. Judicial review of receivership appointment.

Sec. 305. Elimination of outdated statutory minimum capital requirements.
Sec. 306. Elimination of individual branch capital requirements.
Sec. 307. Amendment to shareholder notice provisions relating to consolidations and mergers.
Sec. 308. Payment of interest in receiverships with surplus funds.
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Sec. 701. Abolition of special reserve funds.

TITLE I—IMPROVING MONETARY POLICY

SEC. 101. PAYMENT OF INTEREST ON RESERVE BALANCES AT FEDERAL RESERVE BANKS.

(a) IN GENERAL.—Section 19(b) of the Federal Reserve Act (12 U.S.C. 461(b)) is amended by adding at the end the following new paragraph:

"(12) EARNINGS ON RESERVES.—

"(A) IN GENERAL.—Balances maintained at a Federal reserve bank by or on behalf of a depository institution may receive earnings to be paid by the Federal reserve bank at least once each calendar quarter at a rate or rates not to exceed the general level of short-term interest rates.

"(B) REGULATIONS RELATING TO PAYMENTS AND DISTRIBUTION.—The Board may prescribe regulations concerning—

"(i) the payment of earnings in accordance with this paragraph;

"(ii) the distribution of such earnings to the depository institutions which maintain balances at such banks or on whose behalf such balances are maintained; and

"(iii) the responsibilities of depository institutions, Federal home loan banks, and the National Credit Union Administration Central Liquidity Facility with respect to the crediting and distribution of earnings attributable to balances maintained, in accordance with subsection (c)(1)(B), in a Federal reserve bank by any such entity on behalf of depository institutions which are not member banks.".

(b) AUTHORIZATION FOR PASS THROUGH RESERVES FOR MEMBER BANKS.—Section 19(c)(1)(B) of the Federal Reserve Act (12 U.S.C. 461(c)(1)(B)) is amended by striking "which is not a member bank".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—Section 19 of the Federal Reserve Act (12 U.S.C. 461) is amended—

(1) in subsection (b)(4) (12 U.S.C. 461(b)(4)), by striking subparagraph (C) and redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively; and

(2) in subsection (c)(1)(A) (12 U.S.C. 461(c)(1)(A)), by striking "subsection (b)(4)(C)" and inserting "subsection (b)".

SEC. 102. AMENDMENTS RELATING TO SAVINGS AND DEMAND DEPOSIT ACCOUNTS AT DEPOSITORY INSTITUTIONS.

(a) IMMEDIATE INCREASE IN THE NUMBER OF INTERACCOUNT TRANSFERS ALLOWED EACH MONTH.—Section 2 of Public Law 93–100 (12 U.S.C. 1832) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following:

"(b) INTERACCOUNT TRANSFERS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, any depository institution may permit the owner of any deposit or account on which interest or dividends are paid to make up to 24 transfers per month, for any purpose, to another account of the owner in the same institution.

"(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prevent an account offered pursuant to this subsection from being considered a transaction account (as defined in section 19(b) of the Federal Reserve Act (12 U.S.C. 461(b)) for purposes of such Act.".

(b) NOW ACCOUNTS AUTHORIZED FOR ALL BUSINESSES AFTER 2004.—

(1) IN GENERAL.—Effective on the date provided in paragraph (3), section 2 of Public Law 93–100 (12 U.S.C. 1832(a)(2)) (as amended by subsection (a) of this section) is amended to read as follows:

"SEC. 2. WITHDRAWALS BY NEGOTIABLE OR TRANSFERABLE INSTRUMENTS FOR TRANSFERS TO THIRD PARTIES.

"Notwithstanding any other provision of law, any depository institution (as defined in section 3 of the Federal Deposit Insurance Act) may permit the owner of any deposit or account to make withdrawals from such deposit or account by negotiable or transferable instruments for the purpose of making payments to third parties.".

(2) REPEAL OF PROHIBITION ON PAYMENT OF INTEREST ON DEMAND DEPOSITS.—

(A) FEDERAL RESERVE ACT.—Section 19 of the Federal Reserve Act (12 U.S.C. 371a) is amended by striking subsection (i).

(B) HOME OWNERS' LOAN ACT.—The 1st sentence of section 5(b)(1)(B) of the Home Owners' Loan Act (12 U.S.C. 1464(b)(1)(B)) is amended by striking "savings association may not—" and all that follows through "(ii) permit any" and inserting "savings association may not permit any".

(C) FEDERAL DEPOSIT INSURANCE ACT.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by striking subsection (g).

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on October 1, 2004.

SEC. 103. TRANSFER OF FEDERAL RESERVE SURPLUSES.

(a) PAYMENTS FROM DIVIDENDS AND SURPLUS OF FEDERAL RESERVE BANKS.—Section 7(a)(3) of the Federal Reserve Act (12 U.S.C. 289(3)) is amended by striking "fiscal years 1997 and 1998" and inserting "fiscal years 1998 through 2003".

(b) ADDITIONAL TRANSFERS FOR FISCAL YEARS 1999 THROUGH 2003.—

(1) IN GENERAL.—In addition to the amounts required to be transferred from the surplus funds of the Federal reserve banks pursuant to section 7(a)(3) of the Federal Reserve Act and section 3002(b) of the Omnibus Budget Reconciliation Act of 1993, the Federal reserve banks shall transfer from such surplus funds to the Board of Governors of the Federal Reserve System for transfer to the Secretary of the Treasury for deposit in the general fund of the Treasury, such sums as are necessary to equal the net cost of section 101, as estimated by the Office of Management and Budget.

(2) ALLOCATION BY FED.—Of the total amount required to be paid by the Federal reserve banks under paragraph (1) for fiscal years 1999 through 2003, the Board of Governors of the Federal Reserve System shall determine the amount each such bank shall pay in such fiscal year.

(3) REPLENISHMENT OF SURPLUS FUND PROHIBITED.—No Federal reserve bank may replenish such bank's surplus fund by the amount of any transfer by such bank under paragraph (1) during the fiscal year for which such transfer is made.

SEC. 104. STUDY OF RESERVE RATIOS FOR DEPOSIT INSURANCE FUNDS.

(a) REVIEW AND RECOMMENDATION.—The Board of Directors of the Federal Deposit Insurance Corporation, in consultation with the Board of Governors of the Federal Reserve System and the Secretary of the Treasury, shall—

(1) conduct a study of the adequacy of the deposit insurance funds, taking into account—

(A) expected operating expenses, case resolution expenditures and income, and the effect of assessments on members' earnings and capital;

(B) historical failure rates and loss experience;

(C) recent changes in the law, including statutory changes requiring prompt corrective action, least-cost resolutions, and risk-based assessment systems;

(D) the income of such funds from investments;

(E) the potential implication of the Year 2000 computer problem (as defined in section 2(b)(5) of the Examination Parity and Year 2000 Readiness for Financial Institutions Act) and industry consolidation; and

(F) the historical experience of the Corporation in providing rebates or credits from any deposit insurance fund; and

(2) recommend to the Congress—

(A) an appropriate range of reserve ratios between the net worth of any deposit insurance fund and the aggregate amount of insured deposits insured by such fund; and

(B) an appropriate mechanism for rebating or providing credit from any deposit insurance fund when the balance of the fund exceeds any applicable reserve ratio.

(b) REPORT REQUIRED.—The Board of Directors of the Federal Deposit Insurance Corporation, in consultation with the Board of Governors of the Federal Reserve System and the Secretary of the Treasury, shall submit a report to the Congress before June 30, 1999, containing—

(1) the findings and conclusions of the study required under subsection (a)(1); and

(2) the recommendations required under subsection (a)(2).

TITLE II—IMPROVING DEPOSITORY INSTITUTION MANAGEMENT PRACTICES

Subtitle A—National Banks

SEC. 201. AUTHORITY TO ALLOW MORE THAN 25 DIRECTORS.

Section 31 of the Banking Act of 1933 (12 U.S.C. 71a) is amended in the first sentence, by inserting before the period ", except that the Comptroller of the Currency may, by regulation or order, exempt a national banking association from the 25-member limit established by this section".

SEC. 202. LOANS ON OR PURCHASES BY INSTITUTIONS OF THEIR OWN STOCK.

(a) Amendment to Revised Statutes.—Section 5201 of the Revised Statutes of the United States (12 U.S.C. 83) is amended to read as follows:

"SEC. 5201. LOANS BY BANK ON ITS OWN STOCK.

"(a) General Prohibition.—No national banking association shall make any loan or discount on the security of the shares of its own capital stock.

"(b) Exclusion.—For purposes of this section, an association shall not be deemed to be making a loan or discount on the security of the shares of its own capital stock if it acquires the stock to prevent loss upon a debt contracted for in good faith.".

(b) Amendment to Federal Deposit Insurance Act.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

"(t) Loans by Insured Institutions on Their Own Stock.—

"(1) General prohibition.—No insured depository institution shall make any loan or discount on the security of the shares of its own capital stock.

"(2) Exclusion.—For purposes of this subsection, an insured depository institution shall not be deemed to be making a loan or discount on the security of the shares of its own capital stock if it acquires the stock to prevent loss upon a debt contracted for in good faith.".

SEC. 203. EXPEDITED PROCEDURES FOR CERTAIN REORGANIZATIONS.

The National Bank Consolidation and Merger Act (12 U.S.C. 215 et seq.) is amended—

(1) by redesignating section 5 as section 7; and

(2) by inserting after section 4 the following new section:

"SEC. 5. EXPEDITED PROCEDURES FOR CERTAIN REORGANIZATIONS.

"(a) In General.—A national bank may, with the approval of the Comptroller, pursuant to regulations prescribed by the Comptroller, and upon the affirmative vote of the shareholders of such bank owning at least two-thirds of the outstanding capital stock of such bank, reorganize so as to become a subsidiary of a bank holding company or a company that will, upon consummation of such reorganization, become a bank holding company.

"(b) Reorganization Plan.—A reorganization authorized under subsection (a) shall be carried out in accordance with a reorganization plan that—

"(1) specifies the manner in which the reorganization shall be carried out;

"(2) is approved by a majority of the entire board of directors of the bank;

"(3) specifies—

"(A) the amount of cash or securities of the bank holding company, or both, or other consideration, to be paid to the shareholders of the reorganizing bank in exchange for their shares of stock of the bank;

"(B) the date as of which the rights of each shareholder to participate in such exchange will be determined; and

"(C) the manner in which the exchange will be carried out; and

"(4) is submitted to the shareholders of the reorganizing bank at a meeting to be held on the call of the directors in accordance with the procedures prescribed in connection with a merger of a national bank under section 3.

"(c) Applicability of Other Criteria.—In considering a reorganization plan under this section, the Comptroller shall—

"(1) require the national bank to provide notice to the public in accordance with section 18(c)(3) of the Federal Deposit Insurance Act; and

"(2) apply the same standards and the same criteria as are applicable to a transaction under section 18(c) of the Federal Deposit Insurance Act, other than the requirements of paragraphs (4) and (6) of such section.

"(d) Rights of Dissenting Shareholders.—If, pursuant to this section, a reorganization plan has been approved by the shareholders and the Comptroller, any shareholder of the national bank who has voted against the reorganization at the meeting referred to in subsection (b)(4), or has given notice in writing at or before that meeting to the presiding officer that the shareholder dissents from the reorganization plan, shall be entitled to receive the value of the shares of the shareholder, as provided by section 3 for the merger of a national bank.

"(e) Effect of Reorganization.—The corporate existence of a national bank that reorganizes in accordance with this section shall not be deemed to have been affected in any way by reason of such reorganization.

"(f) Approval Under the Bank Holding Company Act of 1956.—Notwithstanding the preceding provisions of this section, it shall be unlawful for any action to be taken that causes any company to become a bank holding company or any bank to become a subsidiary of a bank holding company, except with the prior approval of the Board of Governors of the Federal Reserve System pursuant to section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842).".

Subtitle B—Savings Associations

SEC. 211. NONCONTROLLING INVESTMENTS BY SAVINGS ASSOCIATION HOLDING COMPANIES.

Section 10(e)(1)(A)(iii) of the Home Owners' Loan Act (12 U.S.C. 1467a(e)(1)(A)(iii) is amended—

(1) by inserting ", except with the prior written approval of the Director," after "or to retain";

(2) by striking "subsidiary, or in" and inserting "subsidiary. In"; and

(3) by striking "to so acquire or retain" and inserting "it shall be unlawful, and the Director may not authorize such a company, to acquire or retain".

SEC. 212. STREAMLINING SAVINGS ASSOCIATION SERVICE COMPANY INVESTMENT REQUIREMENTS.

Section 5(c)(4)(B) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(4)(B)) is amended—

(1) in the subparagraph heading, by striking "CORPORATIONS" and inserting "COMPANIES"; and

(2) in the first sentence, by striking "corporation organized" and all that follows through "such State." and inserting "company organized under the laws of any State, if such company's entire capital stock is available for purchase only by savings associations. For purposes of this subparagraph, the term 'company' includes any corporation and any limited liability company (as defined in section 1(b)(7) of the Bank Service Company Act).".

SEC. 213. REPEAL OF DIVIDEND NOTICE REQUIREMENT.

Section 10(f) of the Home Owners' Loan Act (12 U.S.C. 1467a(f)) is amended to read as follows:

"(f) [Repealed].".

SEC. 214. UPDATING OF AUTHORITY FOR COMMUNITY DEVELOPMENT INVESTMENTS.

Section 5(c) of the Home Owners' Loan Act (12 U.S.C. 1464(c)) is amended—

(1) in paragraph (3), by striking subparagraph (A) and redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively; and

(2) by adding at the end the following new paragraph:

"(7) Community development investments.—

"(A) In general.—Investments in real property and obligations secured by liens on real property for the primary purpose of promoting the public welfare, including the welfare of low- and moderate-income communities or families (including the provision of housing, services, or jobs), are permitted, subject to subparagraph (B).

"(B) Limitations.—The aggregate amount of investments of a savings association under subparagraph (A) shall not exceed the sum of 5 percent of the savings association's capital stock actually paid in and unimpaired and 5 percent of the savings association's unimpaired surplus fund, unless the Director determines by order that a higher amount will pose no significant risk to the affected deposit insurance fund, and that the savings association is adequately capitalized, in which case the aggregate amount of such investments shall not exceed an amount equal to the sum of 10 percent of the savings association's capital stock actually paid in and unimpaired and 10 percent of the savings association's unimpaired surplus fund.".

Subtitle C—Other Institutions

SEC. 221. PROHIBITION ON ACCRUAL TO INSIDERS OF ECONOMIC BENEFITS FROM CREDIT UNION CONVERSIONS.

Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

"(t) Prohibition on Economic Benefit From Conversion for Credit Union Officers, Directors, and Committee Members.—

"(1) In general.—An individual who is or, at any time during the 5-year period preceding any conversion described in paragraph (2), was a director, committee member, or senior management official of an insured credit union described in subparagraph (A) or (B) of such paragraph (in connection with such conversion) may not receive any economic benefit as a result of the conversion with regard to the shares or interests of such director, member, or officer in the former insured credit union or in any resulting insured depository institution.

"(2) Covered conversions.—The following conversions are described in this paragraph for purposes of paragraph (1):

"(A) The conversion of an insured credit union into an insured depository institution.

"(B) The conversion from the mutual form to the stock form of an insured depository institution which resulted from a prior conversion of an insured credit union into such insured depository institution.

"(3) Definitions.—For purposes of this subsection, the following definitions shall apply:

"(A) Insured credit union.—The term 'insured credit union' has the meaning given to such term in section 101(7) of the Federal Credit Union Act.

"(B) Senior management official.—The term 'senior management official' means a chief executive officer, an assistant chief executive officer, a chief financial officer, and any other senior executive officer (as defined by the appropriate Federal banking agency pursuant to section 32(f)).".

SEC. 222. AMENDMENTS RELATING TO LIMITED PURPOSE BANKS.

Section 4(f) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)) is amended—

(1) in paragraph (2)(A)(ii)—

(A) by striking "and" at the end of subclause (IX);

(B) by inserting "and" after the semicolon at the end of subclause (X); and

(C) by inserting after subclause (X) the following new subclause:

"(XI) assets that are derived from, or are incidental to, activities in which institutions described in section 2(c)(2)(F) are permitted to engage,";

(2) in paragraph (2)—

(A) by striking "Paragraph (1) shall cease to apply to any company described in such paragraph if—" and inserting "A company described in paragraph (1) shall no longer qualify for the exemption provided under such paragraph if—"; and

(B) by striking subparagraph (B) and inserting the following new subparagraphs:

"(B) any bank subsidiary of such company engages in any activity in which the bank was not lawfully engaged as of March 5, 1987, unless the bank is well managed and well capitalized;

"(C) any bank subsidiary of such company both—

"(i) accepts demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties; and

"(ii) engages in the business of making commercial loans; or

"(D) after the date of the enactment of the Competitive Equality Amendments of 1987, any bank subsidiary of such company permits any overdraft (including any intraday overdraft), or incurs any such overdraft in such bank's account at a Federal reserve bank, on behalf of an affiliate, other than an overdraft described in paragraph (3)."; and

(3) by striking paragraphs (3) and (4) and inserting the following new paragraphs:

"(3) Permissible overdrafts described.—For purposes of paragraph (2)(D), an overdraft is described in this paragraph if—

"(A) such overdraft results from an inadvertent computer or accounting error that is beyond the control of both the bank and the affiliate; or

"(B) such overdraft—

"(i) is permitted or incurred on behalf of an affiliate which is monitored by, reports to, and is recognized as a primary dealer by the Federal Reserve Bank of New York; and

"(ii) is fully secured, as required by the Board, by bonds, notes, or other obligations which are direct obligations of the United States or on which the principal and interest are fully guaranteed by the United States or by securities and obligations eligible for settlement on the Federal Reserve book entry system.

"(4) Divestiture in case of loss of exemption.—If any company described in paragraph (1) fails to continue to qualify for the exemption provided under such paragraph by operation of paragraph (2), the company shall immediately notify the Board that the company has failed to continue to qualify for such exemption, and the company shall divest control of each bank it controls before the end of the 180-day period beginning on the date that the company receives notice from the Board that the company has failed to continue to qualify for such exemption, unless before the end of such 180-day period, the company has—

"(A) either—

"(i) corrected the condition or ceased the activity that caused the company to fail to continue to qualify for the exemption; or

"(ii) received approval from the Board of a plan to correct the condition in a timely manner (which shall not exceed 1 year); and

"(B) implemented procedures that are reasonably adapted to avoid the reoccurrence of such condition or activity.".

SEC. 223. BUSINESS PURPOSE CREDIT EXTENSIONS.

Section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843) is amended by adding at the end the following new subsection:

"(k) Business Purpose Credit Extensions.—

"(1) In general.—An institution referred to in section 2(c)(2)(F) or 4(f)(3) which extends credit through credit card accounts for qualified business purposes shall not be treated as engaging in the business of making commercial loans by reason of such extensions of credit.

"(2) Qualified business purpose.—

"(A) In general.—The Board shall prescribe regulations defining the term 'qualified business purposes' for purposes of this subsection.

"(B) Certain business purposes excluded.—In defining the term 'qualified business purposes' under subparagraph (A), the Board—

"(i) may not treat extensions of credit through a credit card account for expenditures for capital improvements, acquisitions of inventory, or other large acquisitions as a qualified business purpose for credit card accounts; and

"(ii) may treat extensions of credit through a credit card account for expenditures involving employee travel, entertainment, and subsistence, purchases involving a small number of items and low-dollar amounts, and other small acquisitions as qualified business purposes for credit card accounts.

"(3) Credit card defined.—For purposes of this subsection, the term 'credit card' has the same meaning as in section 103 of the Truth In Lending Act.".

TITLE III—STREAMLINING FEDERAL BANKING AGENCY REQUIREMENTS AND ELIMINATION OF UNNECESSARY OR OUTDATED REQUIREMENTS

SEC. 301. "PLAIN ENGLISH" REQUIREMENT FOR FEDERAL BANKING AGENCY RULES.

(a) In General.—Each Federal banking agency shall use plain English in all proposed and final rulemakings published by the agency in the Federal Register after January 1, 1999.

(b) Report.—Not later than June 1, 2000, each Federal banking agency shall submit to the Congress a report that describes how the agency has complied with subsection (a).

(c) Definitions.—For purposes of this section and section 302, the terms "Federal banking agency" and "State bank supervisor" have the meanings given such terms in section 3 of the Federal Deposit Insurance Act.

SEC. 302. CALL REPORT SIMPLIFICATION.

(a) Modernization of Call Report Filing and Disclosure System.—In order to reduce the administrative requirements pertaining to bank reports of condition, savings association financial reports, and bank holding company consolidated and parent-only financial statements, and to improve the timeliness of such reports and statements, the Federal banking agencies (after consulting with State bank supervisors) shall—

(1) work jointly to develop a system under which—

(A) insured depository institutions and their affiliates may file such reports and statements electronically; and

(B) the Federal banking agencies may make such reports and statements available to the public electronically; and

(2) not later than July 1, 2000, report to the Congress and make recommendations for legislation that would enhance efficiency for filers and users of such reports and statements.

(b) Uniform Reports and Simplification of Instructions.—The Federal banking agencies (after consulting with State bank supervisors) shall, consistent with the principles of safety and soundness, work jointly—

(1) to adopt a single form for the filing of core information required to be submitted under Federal law to all such agencies in the reports and statements referred to in subsection (a); and

(2) to simplify instructions accompanying such reports and statements and to provide an index to the instructions that is adequate to meet the needs of both filers and users.

(c) Review of Call Report Schedule.—Each Federal banking agency (after consulting with State bank supervisors) shall—

(1) review the information required by schedules supplementing the core information referred to in subsection (b); and

(2) eliminate requirements that are not warranted for reasons of safety and soundness or other public purposes.

SEC. 303. PURCHASED MORTGAGE SERVICE RIGHTS.

Section 475 of the Federal Depository Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1828 note) is amended—

(1) in subsection (a)(1), by inserting "(or such other percentage exceeding 90 percent but not exceeding 100 percent, as may be determined under subsection (b))" after "90 percent"; and

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

"(b) Authority to Determine Percentage by Which to Discount Value of Servicing Rights.—

"(1) In general.—Notwithstanding subsection (a)(1), the appropriate Federal banking agencies may allow readily marketable purchased mortgage servicing rights to be valued at more than 90 percent of their fair market value but at not more than 100 percent of such value, if such agencies jointly make a finding before the end of the 180-day period beginning on the date of the enactment of the Depository Institution Regulatory Streamlining Act of 1998 that such valuation would not have an adverse affect on the deposit insurance funds or the safety and soundness of insured depository institutions.

"(2) Joint rulemaking.—Any regulations prescribed pursuant to paragraph (1) shall be prescribed jointly by the Federal banking agencies.".

SEC. 304. JUDICIAL REVIEW OF RECEIVERSHIP APPOINTMENTS.

(a) Appointment for National Bank.—Section 2 of the National Bank Receivership Act (12 U.S.C. 191) is amended—

(1) by inserting "(a) APPOINTMENT OF RECEIVER.—" before "The Comptroller"; and

(2) by adding at the end the following new subsection:

"(b) JUDICIAL REVIEW.—Within 30 days after the appointment under subsection (a) of a receiver for a national bank, the national bank may bring an action in the United States district court for the judicial district in which the home office of the bank is located, or in the United States District Court for the District of Columbia, for an order requiring the Comptroller to remove the receiver, and the court shall, on the merits, dismiss the action or direct the Comptroller to remove the receiver.".

(b) APPOINTMENT OF FEDERAL DEPOSIT INSURANCE CORPORATION.—Section 11(c)(7) of the Federal Deposit Insurance Act (12 U.S.C. 1811(c)(7)) is amended to read as follows:

"(7) JUDICIAL REVIEW.—Within 30 days after the Corporation is appointed as conservator or receiver for an insured depository institution under paragraph (4), (9), or (10), the institution may bring an action in the United States district court for the judicial district in which the home office of the institution is located, or in the United States District Court for the District of Columbia, for an order requiring the Corporation to be removed as the conservator or receiver, and the court shall, on the merits, dismiss the action or direct the Corporation to be removed as the conservator or receiver.".

SEC. 305. ELIMINATION OF OUTDATED STATUTORY MINIMUM CAPITAL REQUIREMENTS.

Section 5138 of the Revised Statutes of the United States (12 U.S.C. 51) is repealed.

SEC. 306. ELIMINATION OF INDIVIDUAL BRANCH CAPITAL REQUIREMENTS.

Section 5155(c) of the Revised Statutes of the United States (12 U.S.C. 36(c)) is amended—

(1) in the second sentence, by striking ", without regard to the capital requirements of this section,"; and

(2) by striking the third sentence.

SEC. 307. AMENDMENT TO SHAREHOLDER NOTICE PROVISIONS RELATING TO CONSOLIDATIONS AND MERGERS.

(a) Section 2(a) of the Act of August 17, 1950, entitled "An Act to provide for the conversion of national banking associations into and their merger or consolidation with State banks, and for other purposes." (12 U.S.C. 214a(a)) is amended by striking "registered mail or by certified".

(b) Sections 2(a) and 3(a)(2) of the National Bank Consolidation and Merger Act (12 U.S.C. 215(a) and 215a(a)(2)) are each amended by striking "certified or registered" each place it appears.

SEC. 308. PAYMENT OF INTEREST IN RECEIVERSHIPS WITH SURPLUS FUNDS.

Section 11(d)(10) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(10)) is amended by adding at the end the following new subparagraph:

"(C) RULEMAKING AUTHORITY OF CORPORATION.—The Corporation may prescribe such rules, including definitions of terms, as it deems appropriate to establish the interest rate for or to make payments of postinsolvency interest to creditors holding proven claims against the receivership estates of insured Federal or State depository institutions following satisfaction by the receiver of the principal amount of all creditor claims.".

SEC. 309. REPEAL OF DEPOSIT BROKER NOTIFICATION AND RECORDKEEPING REQUIREMENT.

Section 29A of the Federal Deposit Insurance Act (12 U.S.C. 1831f–1) is repealed.

SEC. 310. ALLOWANCES FOR CERTAIN EXTENSIONS OF CREDIT TO EXECUTIVE OFFICERS.

Section 22(g) of the Federal Reserve Act (12 U.S.C. 375a) is amended—

(1) by redesignating paragraphs (6) through (10) as paragraphs (8) through (12), respectively;

(2) by inserting after paragraph (5) the following new paragraphs:

"(6) A member bank may extend to any executive officer of the bank a home equity line of credit which does not exceed $100,000 and is secured by a lien on the primary residence of the executive officer, to the extent that the aggregate amount of such lien and all other outstanding extensions of credit secured by liens on such primary residence does not exceed the appraised value of such residence.

"(7) A member bank may extend credit to any executive officer of the bank in an amount not to exceed the greater of—

"(A) the amount which is the lesser of 2.5 percent of the aggregate amount of capital and unimpaired surplus of the bank or $100,000; or

"(B) $25,000,

if, at the time the credit is extended, the extension of credit is secured by readily marketable assets that have a fair market value of not less than twice the amount of credit extended."; and

(3) in paragraph (8) (as so redesignated by paragraph (1) of this section), by striking "(3) and (4)" and inserting "(3), (4), (6), and (7)".

SEC. 311. FEDERAL RESERVE ACT LENDING LIMITS.

Section 11(m) of the Federal Reserve Act (12 U.S.C. 248(m)) is amended to read as follows:

"(m) [Repealed].".

SEC. 312. REPEAL OF BANK HOLDING COMPANY ACT PROVISION LIMITING SAVINGS BANK LIFE INSURANCE.

Section 3(f) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(f)) is amended to read as follows:

"(f) [Repealed].".

SEC. 313. AMENDMENT TO SECTION 5137 OF THE REVISED STATUTES OF THE UNITED STATES.

(a) IN GENERAL.—Section 5137 of the Revised Statutes of the United States (12 U.S.C. 29) is amended by adding at the end the following new subsection:

"(d) ADDITIONAL EXTENSION FOR PASSIVE INVESTMENTS IN SUBSURFACE RIGHTS AND INTERESTS.—

"(1) IN GENERAL.—With respect to subsurface rights of real estate, and interests in such rights, which a national bank holds pursuant to the prior approval of the Comptroller of the Currency under subsection (b), the national bank may apply for, and the Comptroller of the Currency may approve, possession by the bank of such rights and interests for an additional period not to exceed 5 years if—

"(A) the national bank acquired the property pursuant to the paragraphs designated the 'Second', 'Third', and 'Fourth' of subsection (a);

"(B) the national bank—

"(i) holds the rights or interest passively; and

"(ii) is not engaged in production, extraction, exploration, or other active use of the rights or interests;

"(C) the national bank—

"(i) values the subsurface rights and interests in such rights on the books of the bank for no more than a nominal amount; and

"(ii) separately discloses the aggregate amount of earnings from the rights and interests in the annual financial statements of the bank; and

"(D) the Comptroller of the Currency determines that the possession of such rights and interests is not inconsistent with the safety and soundness of the national bank.

"(2) AUTHORITY OF COMPTROLLER OF THE CURRENCY TO REQUIRE DIVESTITURE.—The Comptroller of the Currency may order, at any time, a national bank which holds subsurface rights of real estate, and interests in such rights, pursuant to paragraph (1) to divest such rights and interests if the Comptroller determines that continued ownership of such rights or interests is detrimental to the national bank.".

(b) TECHNICAL AMENDMENTS TO REDESIGNATE UNDESIGNATED PARAGRAPHS AS SUBSECTIONS.—Section 5137 of the Revised Statutes of the United States (12 U.S.C. 29) is amended—

(1) in the 1st undesignated paragraph by striking "5137. A national banking association may purchase" and inserting the following:

"SEC. 5137. POWER TO HOLD REAL ESTATE.

"(a) IN GENERAL.—A national banking association may purchase";

(2) in the 3d undesignated paragraph, by striking "For real estate in the possession of a national banking association upon application" and inserting the following:

"(b) EXTENSION OF DIVESTMENT PERIOD AUTHORIZED FOR INELIGIBLE REAL ESTATE.—For real estate in the possession of a national banking association upon application"; and

(3) in the 4th undesignated paragraph, by striking "Notwithstanding the five-year holding limitation of this section" and inserting the following:

"(c) EXTENSION OF HOLDING PERIOD UNDER CERTAIN CIRCUMSTANCES.—Notwithstanding the 5-year holding period limitation contained in subsection (a)".

TITLE IV—DISCLOSURE SIMPLIFICATION

SEC. 401. ALTERNATIVE DISCLOSURE FOR VARIABLE RATE, OPEN-ENDED HOME SECURED CREDIT.

Section 127A(a)(2)(G) of the Truth in Lending Act (15 U.S.C. 1637a) is amended by inserting "or, at the option of the creditor, a statement that periodic payments may substantially increase or decrease" before the semicolon.

TITLE V—BANK EXAMINATION REPORT PRIVILEGE ACT

SEC. 501. AMENDMENT TO THE FEDERAL DEPOSIT INSURANCE ACT.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 45. BANK SUPERVISORY PRIVILEGE.

"(a) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) DEPOSITORY INSTITUTION.—The term 'depository institution' includes—

"(A) any institution which is treated in the same manner as an insured depository institution under paragraph (3), (4), (5), or (9) of section 8(b); and

"(B) any subsidiary or other affiliate of an insured depository institution or an institution described in subparagraph (A).

"(2) SUPERVISORY PROCESS.—The term 'supervisory process' means any activity engaged in by a Federal banking agency to carry out the official responsibilities of the agency with regard to the regulation or supervision of depository institutions.

"(3) CONFIDENTIAL SUPERVISORY INFORMATION.—Subject to paragraph (4), the term ‘confidential supervisory information’ means any of the following information, or any portion of any such information, which is treated as, or considered to be, confidential information by a Federal banking agency, regardless of the medium in which the information is conveyed or stored:

“(A) Any report of examination, inspection, visitation, or investigation, and information prepared or collected by a Federal banking agency in connection with the supervisory process, including any computer file, work paper, or similar document.

“(B) Any correspondence of communication from a Federal banking agency to a depository institution as part of an examination, inspection, visitation, or investigation by a Federal banking agency.

“(C) Any correspondence, communication, or document, including any compliance and other reports, created by a depository institution in response to any request, inquiry, or directive from a Federal banking agency in connection with any examination, inspection, visitation, or investigation and provided to a Federal banking agency.

“(D) Any record of a Federal banking agency to the extent it contains information derived from any report, correspondence, communication or other information described in subparagraph (A), (B), or (C).

(4) Ordinary business records excluded.—The term ‘confidential supervisory information’ shall not include any book or record in the possession of the depository institution routinely prepared by the depository institution and maintained in the ordinary course of business or any information required to be made publicly available by any Federal law or regulation.

“(b) Bank Supervisory Privilege.—

“(1) Privilege established.—

“(A) In general.—All confidential supervisory information shall be the property of the Federal banking agency that created or requested the information and shall be privileged from disclosure to any other person.

“(B) Prohibition on unauthorized disclosures.—No person in possession of confidential supervisory information may disclose such information, in whole or in part, without the prior authorization of the Federal banking agency that created or requested the information, except for a disclosure made in published statistical material that does not disclose, either directly or when used in conjunction with publicly available information, the affairs of any person.

“(C) Agency waiver.—The Federal banking agency may waive, in whole or in part, in the discretion of the agency, any privilege established under this paragraph.

“(2) Exception.—No provision of paragraph (1) shall be construed as preventing access to confidential supervisory information by duly authorized committees of the United States Congress or the Comptroller General of the United States.

“(c) Treatment of State and Foreign Supervisory Information.—In any proceeding before a court of the United States, in which a person seeks to compel production or disclosure by a State bank supervisor, foreign bank regulatory or supervisory authority, Federal banking agency, or other person, of information or a document prepared or collected by a State bank supervisor or foreign bank regulatory or supervisory authority that would, had they been prepared or collected by a Federal banking agency, be confidential supervisory information for purposes of this section, the information or document shall be privileged to the same extent that the information and documents of Federal banking agencies are privileged under this Act.

“(d) Other Privileges Not Waived by Disclosure to Banking Agency.—The submission by a depository institution of any information to a Federal banking agency, a State bank supervisor, or a foreign banking authority for any purpose in the course of the supervisory process of such agency or supervisor shall not be construed as waiving, destroying, or otherwise affecting any privilege such institution may claim with respect to such information under Federal or State law.

“(e) Discovery and Disclosure of Information.—

“(1) Information available only from banking agency.—

“(A) In general.—A person seeking discovery or disclosure, in whole or in part, of confidential supervisory information may not seek to obtain such information through subpoena, discovery procedures, or other process from any person, except that such information may be sought in accordance with this section from the Federal banking agency that created or requested the information.

“(B) Requests submitted to banking agency.—Any request for discovery or disclosure of confidential supervisory information shall be made to the Federal banking agency that created or requested the information, which shall determine within a reasonable time period whether to disclose such information pursuant to procedures and criteria established in regulations.

“(2) Exclusive federal court jurisdiction over disputes.—

“(A) In general.—Federal courts shall have exclusive jurisdiction over actions or proceedings in which any party seeks to compel disclosure of confidential supervisory information.

“(B) Judicial review.—Judicial review of the final action of a Federal banking agency with regard to the disposition of a request for confidential supervisory information shall be before a district court of the United States of competent jurisdiction, subject to chapter 7 of part I of title 5, United States Code.

“(C) Right to appeal.—Any court order that compels production of confidential supervisory information may be immediately appealed by the Federal banking agency and the order compelling production shall be automatically stayed, pending the outcome of such appeal.

“(f) Subpoenas.—

“(1) Authority to intervene.—In the case of any action or proceeding to compel compliance with a subpoena, order, discovery request, or other judicial or administrative process with respect to any confidential supervisory information relating to any depository institution, a Federal banking agency and the depository institution may intervene in such action or proceeding for the purpose of—

“(A) enforcing the limitations established in paragraph (1) of subsections (b) and (e);

“(B) seeking the withdrawal of any compulsory process with respect to such information; and

“(C) registering appropriate objections with respect to the action or proceeding to the extent the action or proceeding relates to or involves such information.

“(2) Right to appeal.—Any court order that compels production of confidential supervisory information may be immediately appealed by the Federal banking agency and the order compelling production shall be automatically stayed, pending the outcome of such appeal.

“(g) Regulations.—

“(1) Authority to prescribe.—Each Federal banking agency may prescribe such regulations as the agency considers to be appropriate, after consultation with the other Federal banking agencies and the National Credit Union Administration Board, to carry out the purposes of this section.

“(2) Authority to require notice.—Any regulations prescribed by a Federal banking agency under paragraph (1) may require any person in possession of confidential supervisory information to notify the Federal banking agency whenever the person is served with a subpoena, order, discovery request, or other judicial or administrative process requiring the personal attendance of such person as a witness or requiring the production of such information in any proceeding.

“(h) Access in Accordance With Regulations and Orders.—Notwithstanding any other provision of this section, the Federal banking agency may, without waiving any privilege, authorize access to confidential supervisory information for any appropriate governmental, law enforcement, or public purpose in accordance with agency regulations or orders.”.

SEC. 502. AMENDMENT TO THE FEDERAL CREDIT UNION ACT.

Title II of the Federal Credit Union Act (12 U.S.C. 1781 et seq.) is amended by adding at the end the following new section:

“SEC. 215. CREDIT UNION SUPERVISORY PRIVILEGE.

“(a) Definitions.—For purposes of this section, the following definitions shall apply:

“(1) Supervisory process.—The term ‘supervisory process’ means any activity engaged in by the Administration to carry out the official responsibilities of the Administration with regard to the regulation or supervision of credit unions.

“(2) Confidential supervisory information.—The term ‘confidential supervisory information’ means any of the following information, or any portion of any such information, which is treated as, or considered to be, confidential information by the Administration, regardless of the medium in which the information is conveyed or stored:

“(A) Any report of examination, inspection, visitation, or investigation, and information prepared or collected by the Administration in connection with the supervisory process, including any computer file, work paper, or similar document.

“(B) Any correspondence or communication from the Administration to a credit union arising from or relating to an examination, inspection, visitation, or investigation by the Administration.

“(C) Any correspondence, communication, or document, including any compliance and other reports, created by a credit union in response to any request, inquiry, or directive from the Administration in connection with any examination, inspection, visitation, or investigation and provided to the Administration, other than any book or record in the possession of the credit union routinely prepared by the credit union and maintained in the ordinary course of business or any information required to be made publicly available by any Federal law or regulation.

“(D) Any record of the Administration to the extent it contains information derived from any report, correspondence, communication or other information described in subparagraph (A), (B), or (C).

“(b) Credit Union Supervisory Privilege.—

“(1) Privilege established.—

"(A) IN GENERAL.—All confidential supervisory information shall be the property of the Administration and shall be privileged from disclosure to any other person.

"(B) PROHIBITION ON UNAUTHORIZED DISCLOSURES.—No person in possession of confidential supervisory information may disclose such information, in whole or in part, without the prior authorization of the Administration, except for a disclosure made in published statistical material that does not disclose, either directly or when used in conjunction with publicly available information, the affairs of any person.

"(C) AGENCY WAIVERS.—The Board may waive, in whole or in part, in the discretion of the Board, any privilege established under this paragraph.

"(2) EXCEPTION.—No provision of paragraph (1) shall be construed as preventing access to confidential supervisory information by duly authorized committees of the United States Congress or the Comptroller General of the United States.

"(c) OTHER PRIVILEGES NOT WAIVED BY DISCLOSURE TO ADMINISTRATION.—The submission by a credit union of any information to the Administration or a State credit union supervisor for any purpose in the course of the supervisory process of the Administration or such supervisor shall not be construed as waiving, destroying, or otherwise affecting any privilege such institution may claim with respect to such information under Federal or State law.

"(d) DISCOVERY AND DISCLOSURE OF INFORMATION.—

"(1) INFORMATION AVAILABLE ONLY FROM ADMINISTRATION.—

"(A) IN GENERAL.—A person seeking discovery or disclosure, in whole or in part, of confidential supervisory information may not seek to obtain such information through subpoena, discovery procedures, or other process from any person, except that such information may be sought in accordance with this section from the Administration.

"(B) REQUEST SUBMITTED TO ADMINISTRATION.—Any request for discovery or disclosure of confidential supervisory information shall be made in the Administration, which shall determine within a reasonable time period whether to disclose such information pursuant to procedures and criteria established in regulations.

"(2) EXCLUSIVE FEDERAL COURT JURISDICTION OVER DISPUTES.—

"(A) IN GENERAL.—Federal courts shall have exclusive jurisdiction over actions or proceedings in which any party seeks to compel disclosure of confidential supervisory information.

"(B) JUDICIAL REVIEW.—Judicial review of the final action of the Administration with regard to the disposition of a request for confidential supervisory information shall be before a district court of the United States of competent jurisdiction, subject to chapter 7 of part I of title 5, United States Code.

"(C) RIGHT TO APPEAL.—Any court order that compels production of confidential supervisory information may be immediately appealed by the Administration and the order compelling production shall be automatically stayed, pending the outcome of such appeal.

"(e) SUBPOENAS.—

"(1) AUTHORITY TO INTERVENE.—In the case of any action or proceeding to compel compliance with a subpoena, order, discover request, or other judicial or administrative process with respect to any confidential supervisory information relating to any credit union, the Administration and the credit union may intervene in such action or proceeding for the purpose of—

"(A) enforcing the limitations established in paragraph (1) of subsections (b) and (d);

"(B) seeking the withdrawal of any compulsory process with respect to such information; and

"(C) registering appropriate objections with respect to the action or proceeding to the extent the action or proceeding relates to or involves such information.

"(2) RIGHT TO APPEAL.—Any court order that compels production of confidential supervisory information may be immediately appealed by the Administration and the order compelling production shall be automatically stayed, pending the outcome of such appeal.

"(f) REGULATIONS.—

"(1) AUTHORITY TO PRESCRIBE.—The Board may prescribe such regulations as the Board considers to be appropriate, after consultation with the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), to carry out the purposes of this section.

"(2) AUTHORITY TO REQUIRE NOTICE.—Any regulations prescribed by the Administration under paragraph (1) may require any person in possession of confidential supervisory information to notify the Administration whenever the person is served with a subpoena, order, discovery request, or other judicial or administrative process requiring the personal attendance of such person as a witness or requiring the production of such information in any proceeding.

"(g) ACCESS IN ACCORDANCE WITH REGULATIONS AND ORDERS.—Notwithstanding any other provision of this section, the Administration may, without waiving any privilege, authorize access to confidential supervisory information for any appropriate governmental, law enforcement, or public purpose in accordance with agency regulations or orders.".

TITLE VI—TECHNICAL CORRECTIONS

SEC. 601. TECHNICAL CORRECTION RELATING TO DEPOSIT INSURANCE FUNDS.

(a) IN GENERAL.—Section 2707 of the Deposit Insurance Funds Act of 1996 (12 U.S.C. 1821 note; Public Law 104–208; 110 Stat. 3009–496) is amended by striking "7(b)(2)(C)" and inserting "7(b)(2)(E)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be deemed to have the same effective date as section 2707 of the Deposit Insurance Funds Act of 1996.

SEC. 602. RULES FOR CONTINUATION OF DEPOSIT INSURANCE FOR MEMBER BANKS CONVERTING CHARTERS.

Section 8(o) of the Federal Deposit Insurance Act (12 U.S.C. 1818(o)) is amended in the second sentence, by striking "subsection (d) of section 4" and inserting "subsection (c) or (d) of section 4".

SEC. 603. WAIVER OF CITIZENSHIP REQUIREMENT FOR NATIONAL BANK DIRECTORS.

Section 5146 of the Revised Statutes of the United States (12 U.S.C. 72) is amended in the 1st sentence, by inserting before the period ", and waive the requirement of citizenship in the case of not more than a minority of the total number of directors of a national bank which is an affiliate (as defined in section 3(w)(6) of the Federal Deposit Insurance Act) of a foreign bank".

SEC. 604. TECHNICAL AMENDMENT TO PROHIBITION ON COMPTROLLER INTERESTS IN NATIONAL BANKS.

Section 329 of the Revised Statutes of the United States (12 U.S.C. 11) is amended by striking "to be interested in any association issuing national currency under the laws of the United States" and inserting "to hold an interest in any national bank".

SEC. 605. APPLICABILITY OF LIMITATION TO PRIOR INVESTMENTS.

(a) IN GENERAL.—Section 18(s) of the Federal Deposit Insurance Act (12 U.S.C. 1828(s)) is amended by adding at the end the following new paragraph:

"(5) CERTAIN INVESTMENTS.—Paragraph (1) shall not apply to investments lawfully made before April 11, 1996, by a depository institution in a Government-sponsored enterprise.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply as if such amendment had been included in the amendment made by section 2615(b) of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 as of the effective date of such section.

TITLE VII—SPECIAL RESERVE FUNDS

SEC. 701. ABOLITION OF SPECIAL RESERVE FUNDS.

(a) SAIF SPECIAL RESERVE.—Section 11(a)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(6)) is amended by striking subparagraph (L).

(b) SPECIAL RESERVE OF THE DEPOSIT INSURANCE FUND.—Section 2704 of the Deposit Insurance Funds Act of 1996 is amended—

(1) by striking subsection (b);

(2) by striking paragraph (4) of subsection (d);

(3) in subsection (d)(6)(C)(i), by striking "(6) and (7)" and inserting "(5), (6), and (7)"; and

(4) in subsection (d)(6)(C)(ii), by striking "(6)" and inserting "(5)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply as if such amendments had been included in the Deposit Insurance Funds Act of 1996 as of the date of the enactment of such Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from New Jersey (Mrs. ROUKEMA) and the gentleman from New York (Mr. LAFALCE) each will control 20 minutes.

The Chair recognizes the gentlewoman from New Jersey (Mrs. ROUKEMA).

Mrs. ROUKEMA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, at this hour of the night I want to thank the Speaker and say to my colleagues here that we have a very important bill here that is somewhat complex but nevertheless we have strong bipartisan support for, and that is the reason we are here under suspension of the rules. We are considering tonight what has become a persistent issue with the Banking Committee and the Congress, namely legislation to relieve the regulatory burden on financial institutions and seeking ways to streamline the regulatory process. It is a very important issue.

We talk a lot about deregulation but here is one way we can actually take some substantive action to deal with it. This Depository Institution Regulatory Streamlining Act of 1998 will provide important regulatory relief for financial institutions. I certainly want to thank the gentleman from Iowa (Mr. LEACH) for his assistance. Without his support and strong leadership, we would not be here this evening. Also I want to acknowledge the work of the gentleman from New York (Mr. LAFALCE) the ranking member of the full committee who is with us tonight, and also the ranking member of the subcommittee, the gentleman from Minnesota (Mr. VENTO). We have had, as I stated, strong bipartisan support with significant reforms. The gentleman from Minnesota and I worked very hard to produce this bill at the subcommittee level, and I believe we have come up with a good product. I regret that we do not have everything that we would have liked in this bill, but it is a significant step forward. Certainly the gentleman from Minnesota and I are intent on continuing our work together, and that there are other agreements on changes that we might be able to make in the future, namely at least in one respect and probably in others as well, but the one that I would single out here tonight is the debit card area, where next year I hope we can take some action. Indeed, we have a letter here which we have agreed, on a bipartisan basis, to send to the Federal Reserve regarding the customer notification issue, and we hopefully will be able to solve that problem.

I also should mention not only the interest of the gentleman from Minnesota (Mr. VENTO) the gentleman from New York (Mr. LAFALCE), the gentleman from Iowa (Mr. LEACH) and mine but also the gentleman from Wisconsin (Mr. BARRETT), a strongly contributing member of our committee.

I would like to point out that the subcommittee had the responsibility to assure that Federal banking laws and regulations in the supervisory system not only promote the safety and soundness of the banking system but in so doing it is important to recognize that we need to review on a regular basis the legal requirements that have been imposed to assure ourselves the continuing efficacy and reliability of the system. Clearly as we all know, and we see worldwide, financial markets and the banking industry are evolving at a tremendous pace, and as changes in the industry occur, old approaches may or may not be appropriate and new ones need to be advanced. That is what this bill is about.

Because of the time here and because of the unanimity of opinion, we certainly do want to hear from our chairman the gentleman from Iowa (Mr. LEACH), other members of the committee and certainly the gentleman from New York (Mr. LAFALCE), I will only outline the major portions of the bill. It has a wide ranging number of subjects, but the five most important provisions or most singular provisions are as follows.

Interest on the sterile reserves is the first major issue that we deal with. Without going into the details of it, the bill would authorize the Federal Reserve Board to pay interest on reserve balances, both required and excess reserve balances that are held at Federal Reserve banks. This is a significant change in banking law with very positive effects for both the banks and the Federal Reserve, and it will make it far easier to manage the economy. Without going into all the different aspects of it, I would simply point out that this provision is strongly supported by the Federal Reserve Board as well as by the banking industry.

Our colleagues on the committee, both the gentleman from Washington (Mr. METCALF), who is here this evening, we will be hearing from and the gentlewoman from New York (Mrs. KELLY) have been the prime advocates and leaders on this issue. I am sure we will be interested in hearing the gentleman from Washington's perspective on this and other portions of the bill.

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The second issue is the interest on business checking. It is a major component of the bill. Financial institutions are currently prohibited by Federal statute from paying interest on business transaction accounts, and actually, as so often happens in these cases and other business aspects of our economy, financial institutions have circumvented the statutory provision in different ways and have demonstrated that it is really not a current provision that we should keep in place.

So we are changing this outdated prohibition of interest on business checking and have provided a 6-year transition period for the elimination of the interest on business checking prohibition so that all parties can make adjustments to this proposal.

This has been somewhat controversial but we think we have reached an accommodation that should satisfy all parties, and it should be noted that the National Federation of Independent Business, the Treasury Management Association and the U.S. Chamber of Commerce all support repeal of that provision.

We also have in the bill the Bank Examination Report Privilege Act. Now that sounds like a lot but it establishes a privilege for correspondence, materials and information which regulators collect from banks and it is a very essential modification that should be, as far as we can tell and the way we have worked it out with all interested parties, including the American Bar Association, that it will bring us up to modern times and still not create a privilege for all documents which are turned over to the regulators.

The gentleman from Florida (Mr. MCCOLLUM), a member of the committee, was very instrumental in helping us reach this conclusion. The SAIF special reserve fund, and the time is going on so I shall simply mention the SAIF special reserve fund which now is possible to adjust and repeal the special reserve fund because of the conditions, both in the BIF and the SAIF and the sound economy that we have, and suffice it to say that all parties are completely supportive of that provision.

Of course, we like to hear this: The CBO has scored this provision and reported that there is no cost.

I am going to conclude now, without going into the details of the CEBA banks, but suffice it to say that this makes an adjustment and a reform from a 1987 law and one that is included in H.R. 10 but it has the support of everyone on all sides. We think it is long overdue reform.

Mr. Speaker, I reserve the balance of my time and would wait to hear the other Members.

Mr. LaFALCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4364.

Mr. Speaker, I reserve the balance of my time.

Mrs. ROUKEMA. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa (Mr. LEACH), the chairman of the Committee on Banking and Financial Services.

Mr. LEACH. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, the principal beneficiaries of the Depository Institution Regulatory Streamlining Act are the Nation's small businesses and their customers. The bill, so ably put together by the Subcommittee on Financial Institutions and Consumer Credit, under the leadership of the gentlewoman from New Jersey (Mrs. ROUKEMA) and the gentleman from Minnesota (Mr. VENTO) will repeal overtime prohibitions in current law that bar banks from paying interest on business checking accounts.

In addition, the bill authorizes financial institutions to establish on an interim basis 24-transaction-a-month money market accounts for businesses. In effect, this means that small businesses, which have fewer options in money management than their larger competitors, will be able to have their money work for them.

The gentlewoman from New York (Mrs. KELLY) deserves special attention for her contributions in helping craft this important provision.

Given the liquidity problems increasing in American banking, the above provisions will enable the principal providers of credit, to midsized American business, to more efficiently serve their customers.

I would like also to call attention to one other provision of the bill and that involves the Federal Reserve Board being allowed for the first time to pay interest to depository institutions on the money they are required to keep on reserve with the Fed.

This would appear on its face to be only fair. Banks should be treated as equitably as others and allowed to collect interest on their savings. A critical upshot of advancing this commonsense precept is that the Fed will be able to better manage monetary policy because disincentives for holding funds at the Fed will be reduced.

This important provision has been advanced with great effectiveness over the past several Congresses by the gentleman from Washington (Mr. METCALF) and he deserves enormous credit for introducing legislation in this regard and keeping it before the Committee on Banking, Housing, and Urban Affairs for such a long period of time.

In closing, I would like to thank or note again the hard work in bringing this bill to the floor by our subcommittee chairman, the gentlewoman from New Jersey (Mrs. ROUKEMA), the ranking member of the full committee, the gentleman from New York (Mr. LAFALCE), and the gentleman from Minnesota (Mr. VENTO), and, of course, particularly to the gentleman from Washington (Mr. METCALF), who has worked so tirelessly for the principles that are in this bill.

Mrs. ROUKEMA. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Washington (Mr. METCALF), a member of the committee.

Mr. METCALF. Mr. Speaker, let me first thank the gentleman from Iowa (Mr. LEACH), the chairman of the Committee on Banking, Housing, and Urban Affairs, the gentlewoman from New Jersey (Mrs. ROUKEMA), the Chair of the Subcommittee on Financial Institutions and Consumer Credit, and the many members of the subcommittee.

I also thank the committee for adopting my bill, the Small Business Banking Act of 1997, as a section of today's bill. This bill represents a culmination of bipartisan effort that many have worked diligently to achieve.

Many people are unaware that small businesses are prohibited, by an outdated 60-year-old law that prevents them from earning interest on their business checking accounts. To address these problems, I have in both the 104th and 105th Congresses introduced legislation to simply allow, not mandate but to allow, the paying of interest on business checking accounts now prohibited under law.

I have heard from hundreds of banks across the Nation. Given the late hour, I will just mention a few. A banker from Iowa wrote, "There seems to be little reason to continue to prohibit interest-bearing checking accounts for businesses or corporations. Further, small community banks such as ourselves must either spend additional dollars to offer a sweep type of product or lose small business customers' accounts."

A banker from Wisconsin wrote, "Small banks are now required to use creative repurchasing agreement accounting in an attempt to compete. Why are our customers being disadvantaged? Please level the playing field."

In expressing his support of this legislation, Federal Reserve Chairman Alan Greenspan wrote, "It would eliminate a significant distortion in financial markets that places small businesses at a particular disadvantage. Moreover, it would assist us in our implementation of monetary policy. Permitting depository institutions to pay interest on demand deposits would eliminate a constraint that serves no purpose and imposes unnecessary costs on both businesses and depository institutions."

The U.S. Chamber of Commerce, the world's largest business federation, wrote in support of the bill, "By allowing for more open competition, this legislation offers an important opportunity to small business owners to establish a more complete relationship with their financial service providers."

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The list goes on and on of those who support this legislation, including the National Federation of Independent Businesses, the Mutual Fund Company, T. Rowe Price, and America's Community Bankers.

In conclusion, this is a chance to do something tangible to help every small business in every congressional district. America's small businesses cannot afford for Congress to further delay lifting this outdated and anticompetitive prohibition. I encourage my colleagues to support this legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. LAFALCE. Mr. Speaker, how much time do I have remaining.

The SPEAKER pro tempore (Mr. BLUNT). The gentleman from New York (Mr. LAFALCE) has 19½ minutes remaining.

Mr. LAFALCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would be remiss if I did not congratulate everyone associated with this bill, most especially the chairman of the full committee, the chairman of the subcommittee, and the distinguished ranking member of the subcommittee the gentleman from Minnesota (Mr. VENTO) also.

I do want to single out that the chairman of the full committee, too. There were provisions within the subcommittee bill that was reported out of subcommittee that were ardently sought by Members of his own party, very adamantly opposed by ours.

There were provisions in the bill, other provisions that were vehemently opposed by ours and some provisions that Members from our side wanted to add to the bill. I think he took a very judicious, prudential approach in producing in a bipartisan fashion a bill that everyone today could support and is deserving of passage, not only by this House, but by the Senate, and deserving of signature by the President of the United States. I hope that will come about.

I thank the gentleman from Iowa (Mr. LEACH) and the gentlewoman from New Jersey (Mrs. ROUKEMA) for their cooperative attitude very much.

Mr. Speaker, I yield back the balance of my time.

Mrs. ROUKEMA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do thank the ranking member for those kind words. It does show how we can be a standard for the rest of the Congress in our bipartisan efforts here. I again congratulate the chairman of the full committee. Mr. Speaker I have no further requests for time.

Mr. BEREUTER. Mr. Speaker, this Member rises today in support of H.R. 4364, the Financial Institution Regulatory Streamlining Act of 1998. This Member has a long history of initiating and supporting regulatory relief efforts and this bill is another substantial step toward this end.

This Member would like to thank the distinguished gentlelady, [Mrs. ROUKEMA] the Chairperson of the Banking Subcommittee on Financial Institutions Subcommittee from New Jersey, for introducing this bill and for her efforts in bringing H.R. 4364 to the House Floor. This Member would also like to express his appreciation to the distinguished gentleman from Iowa [Mr. LEACH], the Chairman of the full Banking Committee, and the distinguished gentleman from New York [Mr. LAFALCE], the Ranking Minority Member of the full Banking Committee, for their efforts in bringing this measure to the House Floor today.

Before going into specific provisions of H.R. 4364, this Member believes that it is imperative to note that efforts directed toward regulatory burden-relief benefits both financial institutions and consumers. It allows financial institutions to conduct their business more efficiently as well as reducing the costs of banking to the consumer.

This Member is supportive of H.R. 4364 for the following three reasons.

1. H.R. 4364 would allow the Federal Reserve to pay interest on reserve balances maintained by depository institutions at Federal Reserve Banks at a rate no greater than the general level of short-term interest rates. This Member understands and appreciates the beneficial effect of this provision since it enhances the liquidity of depository institutions which in turn will positively impact the manner in which depository institutions conduct their lending practices.

2. This measure also applauds the H.R. 4364 provision which would allow for the payment of interest on business checking accounts effective October 1, 2004. This provision, which is both pro-business and pro-commerce, eliminates an undue and unnecessary regulation.

3. This Member would also like to highlight three under-recognized, but important parts of H.R. 4364 which will decrease the everyday regulatory burden on financial institutions.

For instance, provision in H.R. 4364 would require Federal Banking Agencies to use plain

English in all proposed and final rules published after January 1, 1999. This measure will help all financial institutions from confusing and perplexing rules.

Furthermor, H.R. 4364 permits the Comptroller of the Currency to waive the current restriction on having no more than 25 directors serve on the board of national banks. It appears to this Member that there actually is no rationale to support the current regulatory limit of 25. This measure appropriately enhances the flexibility and freedom of a National Bank.

One additional small, but consequential, provision of regulatory relief is the repeal of the Dividend Notice Requirement. Financial institutions are many times inundated with regulatory paperwork. This simple provision would eliminate the 30-day advance notice to the Office of Thrift Supervision of a dividend payment by a savings association to its savings and loan holding company.

In closing, because of the above reasons and others, this Member would encourage the House to vote in support of H.R. 4364.

Mr. METCALF. Mr. Speaker, let me first thank the Chairman of the Banking Committee and also thanks to the Gentlelady from New Jersey, the Chair of the Financial Institutions Subcommittee, and the many members of the Subcommittee. I also thank the committee for adopting my bill—The Small Business Banking Act of 1997, as a major section of today's legislation. This Act now represents a culmination of bi-partisan effort that many have worked diligently to perfect.

Many people are unaware that small businesses are prohibited by an outdated 60 year-old law that prevents them from earning interest on their business checking accounts. What's more ironic is that many banks are actually clamoring to have the choice to serve their business customers by offering interest on these accounts.

To address these problems, I have, in both the 104th and 105th Congresses, introduced legislation to allow, not mandate, but to allow banks and savings institutions to pay interest on business checking accounts, which is now prohibited under law.

By lifting the current prohibition against banks offering interest, the legislation would allow banks to give small businesses this critically needed option. It would also allow banks the opportunity to better address the business concerns of their local communities without having to undergo costly, cumbersome procedures.

But don't take my word for it. Listen to some comments I have received from community banks across the nation:

A banker from Iowa wrote: "There seems little reason to continue to prohibit interest bearing checking accounts for businesses or corporations . . . Further, small community banks such as ourselves must either spend additional dollars to offer a sweep type of product or lose a small business customers' accounts."

A banker from Wisconsin wrote: "Small banks are now required to use 'creative repurchase agreement accounting' in an attempt to compete. Why are our customers being disadvantaged? Please level the playing field."

In expressing his support for the legislation, Federal Reserve Chairman Alan Greenspan wrote: "It would eliminate a significant distortion in financial markets that places small businesses at a particular disadvantage. Moreover, it would assist us in our implementation of monetary policy . . . Permitting depository institutions to pay interest on demand deposits would eliminate a constraint that serves no purpose and imposes unnecessary costs on both businesses and depository institutions."

The U.S. Chamber of Commerce—the world's largest business federation—wrote in support of the bill: "By allowing for more open competition, your legislation offers an important opportunity to small business owners to establish a more complete relationship with their financial service providers."

The list goes on of those who support this bill, including: The National Federation of Independent Businesses; T. Rowe Price, the mutual fund company; and America's Community Bankers.

In closing, this is a chance to do something tangible to help every small business in every congressional district. America's small businesses cannot afford for Congress to further delay lifting this outdated and anti-competitive prohibition. I yield back the balance of my time.

Mr. CASTLE. Mr. Speaker, I rise in support of H.R. 4364, which will provide some fair and needed relief from unnecessary regulations for many of our banks and other financial institutions. I want to thank Chairman ROUKEMA of the financial institutions subcommittee for putting this bill together and to Chairman LEACH of the full committee for helping to bring it to the floor this year.

Balancing efforts to remove unnecessary regulations, improve competition and protect consumers is never easy, but I think this bill balances all those important goals and will contribute to strengthening the financial services industry and promote new products for consumers.

I would like to comment in particular on sections 222 and 223 of the bill which I believe will promote competition and increase the quality of financial products available to consumers. These sections will lift some outdated restrictions from limited-purpose banks and allow these institutions to offer new products consistent with their charter; cross-market the financial products of their affiliates; offer business credit cards to their customers; and correct problems in a reasonable period of time in consultation with the Federal Reserve. These changes will increase the products available to consumers without unfairly affecting other financial service providers. This is consistent with the intent of the entire bill which seeks to help businesses and consumers while maintaining sound regulation.

Again, I want to thank all the members involved for their cooperative efforts on this legislation, and I urge the House to approve H.R. 4364.

Mrs. KELLY. Mr. Speaker, I thank the gentlewoman from New Jersey for yielding me time. Mr. Chairman, I rise today in strong support of H.R. 4364, the Depository Institution Regulatory Streamlining Act. This legislation represents the tireless efforts of many of my colleagues, especially the gentleman from Washington, Mr. METCALF.

H.R. 4364 is a well balanced legislative package of financial services regulatory relief. I was pleased when provisions from my legislation, H.R. 4082, were included in this bill and know that these provisions will help banks better serve their customers.

One of these provisions will allow banks to conduct "24 sweeps" in a given month for their commercial checking customers. Currently, banks are prohibited from paying interest on commercial checking accounts. These sweeps allow banks to move funds sitting in a commercial checking account into an interest bearing account daily after all transactions have occurred in the commercial account. The next morning the money would then be "swept" back into the commercial accounts, with interest. Currently, banks are only allowed to do this six times a month. Operation of additional sweeps each month would not affect the safety and soundness of banks and will allow banks to pay interest on commercial checking accounts.

In my discussions with banks, I have found that complying with this provision would take minimal effort since we will only be increasing their ability to sweep from six times a month to 24. This initiative represents a real "win-win" for banks and businesses.

I want to again thank the gentleman from Washington for his hard work on this bill, as well as the gentlewoman from New Jersey, Mrs. ROUKEMA, the gentleman from Minnesota, Mr. VENTO and the committee staff who worked so hard to make this bill a reality.

Lastly, I am pleased with the bipartisan consensus we have achieved with this legislation and I ask my colleagues from both sides of the aisle to join me in support for House passage of H.R. 4364.

Mr. VENTO. Mr. Speaker, I rise in support of H.R. 4364, the Depository Institution Regulatory Streamlining Act of 1998, legislation that I have worked on for many months and which I cosponsored at introduction.

I am pleased that the anti-CRA amendment that forced the opposition of all the Democrats on the Financial Institutions Subcommittee has been removed because it would effectively exempt over 80% of financial institutions from CRA, I have remaining concerns.

I am uncomfortable with the extension of the delay in allowing interest on business checking accounts, a sound public policy change that should really be effective as soon as possible, from three years to six years. However, because we were able to find an accommodation for a very minor notification provision for consumers about the debit cards they are now receiving as replacement cards for the ATM cards and the response to the F.T.C. concerns on broadcast disclosure I'm for the time supporting this process.

I do want to note for all the Members of the House, that at the Financial Institutions Subcommittee, we worked well together to assure that we would not be condemned to repeat history on regulatory burden relief. I thank the gentlelady from New Jersey, Chairwoman ROUKEMA, and her staff, for their work with us on this legislation. We crafted a balanced bill on which we held a comprehensive hearing. We worked with Members, the regulators and consumer and industry interests to advance a solid, yet basically non-controversial regulatory burden relief bill that did not adversely affect consumers, nor undercut some of the very laws that protect safety and soundness of our financial institutions.

That is not to say that this bill is completely without controversy. Title I, which contains the provisions to allow interest on business checking, a big plus for small-and medium-sized businesses which are not sweep always able to take advantage of the so-called accounts, also allows the Federal Reserve Board to pay interest on sterile reserves. Obviously, that policy, path has a price and we chose in the bill to pay for the scoring by using the Fed surplus. How far past this House floor that these provisions will advance is not clear to me at this time.

This bill provides for the elimination of the SAIF special reserves which in pulling off funds and reserving them from the Savings Association Insurance Fund could set up a differential premium and get us back in the BIF-SAIF "situation" that engulfed us in the last Congress. I support this provision that is supported by the FDIC.

H.R. 4364 also provides some housecleaning type provisions for the banking regulators, bringing outdated statutes up to date, clarifying the meaning of changes made in previous laws, and providing technical corrections to many laws.

Let me be clear, this bill is not about consumer burden relief which should have been in order. Indeed, our Financial Institutions Subcommittee held hearings on some timely topics including privacy issues, unsolicited loan checks and other provisions that could have been added. Many Democratic Members, including myself, would have liked to include positive proactive legislation for consumers. For example, I would have like to increase the limit for the applicability for non-mortgage Truth In Lending Act coverage from $25,000 to $50,000 so that consumers who buy a vehicle that costs more than $25,000 would be protected by TILA. These kinds of provisions, however, were held off in the spirit of pragmatism, trying to move a bill quickly and not to bog it down in controversy.

Let me finally say, regulatory burden relief can generally be a good premise, but not if it breaches consumer protection OR safety and soundness boundaries. It cannot be an excuse for the lowest common denominator with regards to consumers, communities and safety and soundness. I supported working on this legislation so that we can maintain a non-partisan, non-controversial stance on some needed changes. There are unnecessarily changes, however, that were suggested.

For example, there are provisions in the regulatory relief bill that has been pending in the other body and I do find very egregious. They are absent in this bill and I appreciate the willingness to work together on this bill without those sort of provisions. That is what has made this bill a suspension bill today. Because of our less controversial approach, we may well have facilitated the positive consideration of this legislation in the very limited window we have left.

Mrs. ROUKEMA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from New Jersey (Mrs. ROUKEMA) that the House suspend the rules and pass the bill, H.R. 4364, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mrs. ROUKEMA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 4363, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

CONSUMER REPORTING EMPLOYMENT CLARIFICATION ACT OF 1998

Mr. LEACH. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2561) to amend the Fair Credit Reporting Act with respect to furnishing and using consumer reports for employment purposes.

The Clerk read as follows:

S. 2561

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Consumer Reporting Employment Clarification Act of 1998".

SEC. 2. USE OF CONSUMER REPORTS FOR EMPLOYMENT PURPOSES.

(a) DISCLOSURE TO CONSUMER.—Section 604(b)(2) of the Fair Credit Reporting Act (15 U.S.C. 1681b(b)(2)) is amended to read as follows:

"(2) DISCLOSURE TO CONSUMER.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a person may not procure a consumer report, or cause a consumer report to be procured, for employment purposes with respect to any consumer, unless—

"(i) a clear and conspicuous disclosure has been made in writing to the consumer at any time before the report is procured or caused to be procured, in a document that consists solely of the disclosure, that a consumer report may be obtained for employment purposes; and

"(ii) the consumer has authorized in writing (which authorization may be made on the document referred to in clause (i)) the procurement of the report by that person.

"(B) APPLICATION BY MAIL, TELEPHONE, COMPUTER, OR OTHER SIMILAR MEANS.—If a consumer described in subparagraph (C) applies for employment by mail, telephone, computer, or other similar means, at any time before a consumer report is procured or caused to be procured in connection with that application—

"(i) the person who procures the consumer report on the consumer for employment purposes shall provide to the consumer, by oral, written, or electronic means, notice that a consumer report may be obtained for employment purposes, and a summary of the consumer's rights under section 615(a)(3); and

"(ii) the consumer shall have consented, orally, in writing, or electronically to the procurement of the report by that person.

"(C) SCOPE.—Subparagraph (B) shall apply to a person procuring a consumer report on a consumer in connection with the consumer's application for employment only if—

"(i) the consumer is applying for a position over which the Secretary of Transportation has the power to establish qualifications and maximum hours of service pursuant to the provisions of section 31502 of title 49, or a position subject to safety regulation by a State transportation agency; and

"(ii) as of the time at which the person procures the report or causes the report to be procured the only interaction between the consumer and the person in connection with that employment application has been by mail, telephone, computer, or other similar means.".

(b) CONDITIONS ON USE FOR ADVERSE ACTIONS.—Section 604(b)(3) of the Fair Credit Reporting Act (15 U.S.C. 1681b(b)(3)) is amended to read as follows:

"(3) CONDITIONS ON USE FOR ADVERSE ACTIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), in using a consumer report for employment purposes, before taking any adverse action based in whole or in part on the report, the person intending to take such adverse action shall provide to the consumer to whom the report relates—

"(i) a copy of the report; and

"(ii) a description in writing of the rights of the consumer under this title, as prescribed by the Federal Trade Commission under section 609(c)(3).

"(B) APPLICATION BY MAIL, TELEPHONE, COMPUTER, OR OTHER SIMILAR MEANS.—

"(i) If a consumer described in subparagraph (C) applies for employment by mail, telephone, computer, or other similar means, and if a person who has procured a consumer report on the consumer for employment purposes takes adverse action on the employment application based in whole or in part on the report, then the person must provide to the consumer to whom the report relates, in lieu of the notices required under subparagraph (A) of this section and under section 615(a), within 3 business days of taking such action, an oral, written or electronic notification—

"(I) that adverse action has been taken based in whole or in part on a consumer report received from a consumer reporting agency;

"(II) of the name, address and telephone number of the consumer reporting agency that furnished the consumer report (including a toll-free telephone number established by the agency if the agency compiles and maintains files on consumers on a nationwide basis);

"(III) that the consumer reporting agency did not make the decision to take the adverse action and is unable to provide to the consumer the specific reasons why the adverse action was taken; and

"(IV) that the consumer may, upon providing proper identification, request a free copy of a report and may dispute with the consumer reporting agency the accuracy or completeness of any information in a report.

"(ii) If, under clause (B)(i)(IV), the consumer requests a copy of a consumer report from the person who procured the report, then, within 3 business days of receiving the consumer's request, together with proper identification, the person must send or provide to the consumer a copy of a report and a copy of the consumer's rights as prescribed by the Federal Trade Commission under section 609(c)(3).

"(C) SCOPE.—Subparagraph (B) shall apply to a person procuring a consumer report on a consumer in connection with the consumer's application for employment only if—

"(i) the consumer is applying for a position over which the Secretary of Transportation has the power to establish qualifications and maximum hours of service pursuant to the provisions of section 31502 of title 49, or a position subject to safety regulation by a State transportation agency; and

"(ii) as of the time at which the person procures the report or causes the report to be procured the only interaction between the consumer and the person in connection with that employment application has been by mail, telephone, computer, or other similar means.".

SEC. 3. PROVISION OF SUMMARY OF RIGHTS.

Section 604(b)(1)(B) of the Fair Credit Reporting Act (15 U.S.C. 1681b(b)(1)(B)) is amended by inserting ", or has previously provided," before "a summary".

SEC. 4. NATIONAL SECURITY INVESTIGATION CONFORMING AMENDMENTS.

(a) GOVERNMENT AS END USER.—Section 609(a)(3) of the Fair Credit Reporting Act (15 U.S.C. 1681g(a)(3)) is amended by adding at the end the following:

"(C) Subparagraph (A) does not apply if—

"(i) the end user is an agency or department of the United States Government that procures the report from the person for purposes of determining the eligibility of the consumer to whom the report relates to receive access or continued access to classified information (as defined in section 604(b)(4)(E)(i)); and

"(ii) the head of the agency or department makes a written finding as prescribed under section 604(b)(4)(A).".

(b) NATIONAL SECURITY INVESTIGATIONS.—Section 613 of the Fair Credit Reporting Act (15 U.S.C. 1681k) is amended—

(1) by inserting "(a) IN GENERAL.—" before "A consumer"; and

(2) by adding at the end the following:

"(b) EXEMPTION FOR NATIONAL SECURITY INVESTIGATIONS.—Subsection (a) does not apply in the case of an agency or department of the United States Government that seeks to obtain and use a consumer report for employment purposes, if the head of the agency or department makes a written finding as prescribed under section 604(b)(4)(A).".

SEC. 5. CIVIL SUITS AND JUDGMENTS.

Section 605(a) of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)) is amended—

(1) in paragraph (2), by striking "Suits and Judgments which" and inserting "Civil suits, civil judgments, and records of arrest that";

(2) by striking paragraph (5);

(3) in paragraph (6), by inserting ", other than records of convictions of crimes" after "of information"; and

(4) by redesignating paragraph (6) as paragraph (5).

SEC. 6. TECHNICAL AMENDMENTS.

The Fair Credit Reporting Act (15 U.S.C. 1601 et seq.) is amended—

(1) in section 603(d)(2)(A)(iii), by striking "any communication" and inserting "communication";

(2) in section 603(o)(1), by striking "(d)(2)(E)" and inserting "(d)(2)(D)";

(3) in section 603(o)(4), by striking "or" at the end and inserting "and";

(4) in section 604(g), by striking "or a direct marketing transaction";

(5) in section 611(a)(7), by striking "(6)(B)(iv)" and inserting "(6)(B)(iii)"; and

(6) in section 621(b), by striking "or (e)".

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act shall be deemed to have the same effective date as the amendments made by section 2403 of the Consumer Credit Reporting Reform Act of 1996 (Public Law 104–208; 110 Stat. 3009–1257).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Iowa (Mr. LEACH) and the gentleman from New York (Mr. LAFALCE) each will control 20 minutes.

The Chair recognizes the gentleman from Iowa (Mr. Leach).

Mr. LEACH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 2561, the Consumer Reporting Employment Clarification Act of 1998 amends the Fair Crediting Reporting Act FCRA to revise certain changes that were made to the act last Congress. Some of these changes had inadvertent consequences on the trucking industry's hiring practices.

Specifically, the bill amends the FCRA to remove burdensome restrictions so that trucking companies will be able to conduct background investigations of driver applicants in a timely and efficient manner to help ensure highway safety.

S. 2561 has bipartisan support and the agreement of the Federal Trade Commission and consumer advocacy groups. The bill is also strongly supported by the American Trucking Association and the Truckload Carriers Association.

The legislation also amends the FCRA so employers have access to critical information in order to make informed hiring decisions. Current law exempts convictions of crime from consumer reports after 7 years for individuals applying for jobs with an annual salary of less than $75,000. S. 2561 would remove this exemption. Such information is particularly crucial in the hiring process for employers in the area of child or elderly care, school bus driving, and household services.

This bill provides for small changes to the FCRA that will have a significant impact on the efficiency of many employers' hiring practices, resulting in a safer environment for all.

I would like to commend Senator NICKLES, Senator BRYAN, and Senator MACK for their work on this legislation and the gentleman from Oklahoma (Mr. LUCAS) and the gentleman from Oklahoma (Mr. WATTS) for their leadership in the House and the gentleman from New York (Mr. LAFALCE) for his cooperation in ensuring that this important legislation is able to be brought before us at the last moments of this Congress.

By background, on September 30, 1996, Congress enacted amendments to the Fair Credit Reporting Act (FCRA) that unintentionally hindered the ability of trucking companies to hire safe, professional truck drivers. The new regulations, which went into effect last Fall, require trucking companies to obtain written consent from truck driver applicants before the company may obtain driving records and accidents history information required by the Federal Highway Administration.

The hiring process in the trucking industry, which employs over 3.5 million drivers, depends on an immediate ability to verify a driver's safety and employment history before a company will put a driver behind the wheel. Because of the high volume of applicants and the need to verify instantly safety and employment information, many trucking companies utilize an "800" number system. Under this system, trucking carriers will accept applications for employment over the telephone, and immediately orders a background report to determine if the applicant meets the carriers' hiring requirements. Due to the industry's high standards, the industry hires only one of every ten applicants.

The new FCRA regulations have forced the trucking industry to add multiple, unnecessary steps to its hiring procedures, especially since these background checks are already required under federal law. Moreover, because of the burdensome paperwork requirements under these regulations, and because the industry is currently facing a critical shortage of drivers, many carriers will have no choice but to put drivers behind the wheel before their safety records can be verified. This obviously raises serious highway safety concerns. For all these reasons, the trucking industry strongly supports an amendment to FCRA that would permit trucking companies to accept an applicants consent over the telephone.

Section 604 of the FCRA establishes, among other items, the conditions under which a consumer reporting agency may furnish a consumer report for employment purposes. Current law requires prospective employers to certify to the consumer reporting agency that certain notices, including a summary of rights in the event of adverse action, have been given to the consumer and that information from the report will be used for lawful purposes.

In addition, the consumer reporting agency may only furnish a report to a prospective employer if the agency provides with the report the summary of consumer rights. The amendment establishes that the intent of the statute can be met without the consumer reporting agency providing the summary every time a report is obtained. Instead, the requirement is satisfied if the consumer reporting agency has previously provided a summary of rights. The amendment codifies interpretive letter of the Federal Trade Commission in this area.

Section 4 amendments are conforming amendments for provisions added to Section 604(b)(4) in the Intelligence Authorization Act of 1998. These provisions created an exception for providing certain disclosures to consumers if a written determination was obtained from the relevant agency that the disclosure would threaten national security, endanger an individual's safety or hamper an official investigation. The proposed amendments provide for full compliance with the Intelligence Authorization provisions and protect consumer reporting agencies from unwarranted liability.

The Intelligence Authorization Act amendments failed to make conforming exceptions for requirements imposed upon consumer reporting agencies. First, under Section 609, a consumer reporting agency must, upon request, disclose to the consumer the end-user of the report. The amendment would provide an exception to that requirement if the relevant agency makes the appropriate written determination.

Second, under Section 613, consumer reporting agencies may be required to provide consumers with the name and address of person seeking consumer reports consisting of public record information. The amendment establishes an exception for disclosing this information in the context of the national security area.

Under current law, if an individual is seeking a job with an annual salary below $75,000, no records of criminal activity, including convictions, may be reported if they antedate the report by more than seven years. This information may be of critical value to prospective employers, especially those in the areas of child or elderly care, school bus driving and household services. Under the bill, convictions of crimes from the seven-year obsolescence period would be exempted.

All in all this is a common sense bill designed to protect the public. I encourage support of all members.

Mr. Speaker, I reserve the balance of my time.

Mr. LAFALCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 2561, associate myself fully with the remarks of the distinguished chairman of the Committee on Banking and Financial Services, the gentleman from Iowa (Mr. LEACH).

Mr. Speaker, I rise in support of S. 2561, a bill to provide limited clarifications and technical corrections to the Fair Credit Reporting Act. I wish to thank the Chairman of the Banking Committee for bringing this legislation to the floor under suspension.

While I believe we need to be extremely cautious in accepting any proposal to revise the Fair Credit Reporting Act, especially those offered in the rush before adjournment, let me say that I have closely reviewed this bill and have no objections. The exceptions that the bill creates from current FCRA requirements are justifiable and are very narrowly targeted. In addition, the bill provides a number of technical improvements to FCRA that were drafted with the assistance and support of the Federal Trade Commission.

The primary issue addressed by the bill relates to problems encountered by a limited number of firms that provide employment screening for national trucking companies. Under FCRA any report on an individual produced by a hired third party falls under the category of a "consumer report". It requires, where such reports are prepared for employment purposes, that certain disclosures be provided in writing to the individual who is the subject of the report; that the individual provide written authorization for release of the report and that the employer provide a written copy of the report to the applicant where an adverse decision is made based on information in the report.

Since the companies providing employment screening for trucking firms seek applications in all parts of the country and communicate primarily by telephone, fax or mail, current FCRA requirements that disclosures and authorizations be made in person and in writing are inappropriate and burdensome. The legislation would add several narrowly crafted exceptions to FCRA that would permit—where employment applications are taken by phone, mail or electronically—greater flexibility in providing required disclosures and authorizations either by "oral, written or electronic means", and in permitting delivery of a credit report to an applicant within three days after an adverse employment decision.

I believe these exceptions are reasonable and have been crafted to apply very narrowly only to truck driving positions that are defined and regulated under Federal law. The bill also makes a number of additional technical changes, most of which are intended to correct drafting errors made in the 1996 FCRA Amendments,

Mr. Speaker, the clarifications made by S. 2561 are supported by the Federal Trade Commission, they have been signed-off on by U.S. PIRG, and they have raised no objections among the major national consumer organizations.

I urge that the House suspend the rules and adopt S. 2561.

Mr. LUCAS of Oklahoma. Mr. Speaker, I rise today in strong support of the "Consumer Reporting Employment Clarification Act of 1998."

I would like to thank Banking Committee Chairman LEACH and Ranking Member LAFALCE, House Leadership, Senators CONNIE MACK and RICHARD BRYAN, and Senate Assistant Majority Leader DON NICKLES—Oklahoma's Senior Senator—for their hard work on and their support of this legislation that will streamline the trucking industry's hiring of competent, professional, and safe truck drivers.

Unfortunately, current Fair Credit Reporting Act (FCRA) regulations have forced the trucking industry to add multiple, unnecessary steps to its hiring procedures. Worse, because of burdensome paperwork requirements under these regulations, and because the industry is currently facing a critical shortage of drivers, many carriers have been forced to put drivers behind the wheel before their safety records can be verified. This is not what Congress intended when it enacted changes to the FCRA.

This legislation will expedite the process by which employment background information is exchanged between truck company employers and truck drivers. Instead of having to obtain written consent from a potential employee to procure a consumer report, truck company employers will not be able to obtain a potential employee's consent by mail, over the telephone, or by means of computer or fax machine.

I encourage my colleagues to support this bill. It has received the endorsement of the Federal Trade Commission—which enforces the FCRA—major credit institutions, consumer advocacy groups, and is strongly supported by the American Truckers Association and by trucking companies and truckers in Oklahoma.

Let's put highway safety before bureaucratic red tape and correct this safety problem immediately, and vote for this legislation.

Again, I would like to thank those involved in the process of bringing this legislation to the floor.

Mr. LAFALCE. Mr. Speaker, I yield back the balance of my time.

Mr. LEACH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa (Mr. LEACH) that the House suspend the rules and pass S. 2561.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LEACH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 2561, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

CONFERENCE REPORT ON H.R. 1853, CARL D. PERKINS VOCATIONAL-TECHNICAL EDUCATION ACT OF 1998

Mr. Goodling submitted the following conference report and statement on the bill (H.R. 1853) to amend the Carl D. Perkins Vocational and Applied Technology Education Act:

CONFERENCE REPORT (105-800)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1853), to amend the Carl D. Perkins Vocational and Applied Technology Education Act, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; AMENDMENT.

(a) SHORT TITLE.—This Act may be cited as the "Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998".

(b) AMENDMENT.—The Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.) is amended to read as follows:

"SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

"(a) SHORT TITLE.—This Act may be cited as the 'Carl D. Perkins Vocational and Technical Education Act of 1998.

"(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

"Sec. 1. Short title; table of contents.
"Sec. 2. Purpose.
"Sec. 3. Definitions.
"Sec. 4. Transition provisions.
"Sec. 5. Privacy.
"Sec. 6. Limitation.
"Sec. 7. Special rule.
"Sec. 8. Authorization of appropriations.

"TITLE I—VOCATIONAL AND TECHNICAL EDUCATION ASSISTANCE TO THE STATES

"PART A—ALLOTMENT AND ALLOCATION

"Sec. 111. Reservations and State allotment.

"Sec. 112. Within State allocation.
"Sec. 113. Accountability.
"Sec. 114. National activities.
"Sec. 115. Assistance for the outlying areas.
"Sec. 116. Native American program.
"Sec. 117. Tribally controlled postsecondary vocational and technical institutions.
"Sec. 118. Occupational and employment information.

"PART B—STATE PROVISIONS

"Sec. 121. State administration.
"Sec. 122. State plan.
"Sec. 123. Improvement plans.
"Sec. 124. State leadership activities.

"PART C—LOCAL PROVISIONS

"Sec. 131. Distribution of funds to secondary school programs.
"Sec. 132. Distribution of funds for postsecondary vocational and technical education programs.
"Sec. 133. Special rules for vocational and technical education.
"Sec. 134. Local plan for vocational and technical education programs.
"Sec. 135. Local uses of funds.

"TITLE II—TECH-PREP EDUCATION

"Sec. 201. Short title.
"Sec. 202. Definitions.
"Sec. 203. State allotment and application.
"Sec. 204. Tech-prep education.
"Sec. 205. Consortium applications.
"Sec. 206. Report.
"Sec. 207. Demonstration program.
"Sec. 208. Authorization of appropriations.

"TITLE III—GENERAL PROVISIONS

"PART A—FEDERAL ADMINISTRATIVE PROVISIONS

"Sec. 311. Fiscal requirements.
"Sec. 312. Authority to make payments.
"Sec. 313. Construction.
"Sec. 314. Voluntary selection and participation.
"Sec. 315. Limitation for certain students.
"Sec. 316. Federal laws guaranteeing civil rights.
"Sec. 317. Authorization of Secretary.
"Sec. 318. Participation of private school personnel.

"PART B—STATE ADMINISTRATIVE PROVISIONS

"Sec. 321. Joint funding.
"Sec. 322. Prohibition on use of funds to induce out-of-State relocation of businesses.
"Sec. 323. State administrative costs.
"Sec. 324. Limitation on Federal regulations.
"Sec. 325. Student assistance and other Federal programs.

"SEC. 2. PURPOSE.

"The purpose of this Act is to develop more fully the academic, vocational, and technical skills of secondary students and postsecondary students who elect to enroll in vocational and technical education programs, by—

"(1) building on the efforts of States and localities to develop challenging academic standards;

"(2) promoting the development of services and activities that integrate academic, vocational, and technical instruction, and that link secondary and postsecondary education for participating vocational and technical education students;

"(3) increasing State and local flexibility in providing services and activities designed to develop, implement, and improve vocational and technical education, including tech-prep education; and

"(4) disseminating national research, and providing professional development and technical assistance, that will improve vocational and technical education programs, services, and activities.

"SEC. 3. DEFINITIONS.

"In this Act:

"(1) ADMINISTRATION.—The term 'administration', when used with respect to an eligible agency or eligible recipient, means activities necessary for the proper and efficient performance of the eligible agency or eligible recipient's duties under this Act, including supervision, but does not include curriculum development activities, personnel development, or research activities.

"(2) ALL ASPECTS OF AN INDUSTRY.—The term 'all aspects of an industry' means strong experience in, and comprehensive understanding of, the industry that the individual is preparing to enter.

"(3) AREA VOCATIONAL AND TECHNICAL EDUCATION SCHOOL.—The term 'area vocational and technical education school' means—

"(A) a specialized public secondary school used exclusively or principally for the provision of vocational and technical education to individuals who are available for study in preparation for entering the labor market;

"(B) the department of a public secondary school exclusively or principally used for providing vocational and technical education in not fewer than 5 different occupational fields to individuals who are available for study in preparation for entering the labor market;

"(C) a public or nonprofit technical institution or vocational and technical education school used exclusively or principally for the provision of vocational and technical education to individuals who have completed or left secondary school and who are available for study in preparation for entering the labor market, if the institution or school admits as regular students both individuals who have completed secondary school and individuals who have left secondary school; or

"(D) the department or division of an institution of higher education, that operates under the policies of the eligible agency and that provides vocational and technical education in not fewer than five different occupational fields leading to immediate employment but not necessarily leading to a baccalaureate degree, if the department or division admits as regular students both individuals who have completed secondary school and individuals who have left secondary school.

"(4) CAREER GUIDANCE AND ACADEMIC COUNSELING.—The term 'career guidance and academic counseling' means providing access to information regarding career awareness and planning with respect to an individual's occupational and academic future that shall involve guidance and counseling with respect to career options, financial aid, and postsecondary options.

"(5) CHARTER SCHOOL.—The term 'charter school' has the meaning given the term in section 10306 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8066).

"(6) COOPERATIVE EDUCATION.—The term 'cooperative education' means a method of instruction of education for individuals who, through written cooperative arrangements between a school and employers, receive instruction, including required academic courses and related vocational and technical education instruction, by alternation of study in school with a job in any occupational field, which alternation shall be planned and supervised by the school and employer so that each contributes to the education and employability of the individual, and may include an arrangement in which work periods and school attendance may be on alternate half days, full days, weeks, or other periods of time in fulfilling the cooperative program.

"(7) DISPLACED HOMEMAKER.—The term 'displaced homemaker' means an individual who—

"(A)(i) has worked primarily without remuneration to care for a home and family, and for that reason has diminished marketable skills;

"(ii) has been dependent on the income of another family member but is no longer supported by that income; or

"(iii) is a parent whose youngest dependent child will become ineligible to receive assistance under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) not later than 2 years after the date on which the parent applies for assistance under this title; and

"(B) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

"(8) EDUCATIONAL SERVICE AGENCY.—The term 'educational service agency' has the meaning given the term in section 14101 of the Elementary and Secondary Education Act of 1965.

"(9) ELIGIBLE AGENCY.—The term 'eligible agency' means a State board designated or created consistent with State law as the sole State agency responsible for the administration of vocational and technical education or for supervision of the administration of vocational and technical education in the State.

"(10) ELIGIBLE INSTITUTION.—The term 'eligible institution' means—

"(A) an institution of higher education;

"(B) a local educational agency providing education at the postsecondary level;

"(C) an area vocational and technical education school providing education at the postsecondary level;

"(D) a postsecondary educational institution controlled by the Bureau of Indian Affairs or operated by or on behalf of any Indian tribe that is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act or the Act of April 16, 1934 (48 Stat. 596; 25 U.S.C. 452 et seq.);

"(E) an educational service agency; or

"(F) a consortium of 2 or more of the entities described in subparagraphs (A) through (E).

"(11) ELIGIBLE RECIPIENT.—The term 'eligible recipient' means—

"(A) a local educational agency, an area vocational and technical education school, an educational service agency, or a consortium, eligible to receive assistance under section 131; or

"(B) an eligible institution or consortium of eligible institutions eligible to receive assistance under section 132.

"(12) GOVERNOR.—The term 'Governor' means the chief executive officer of a State or an outlying area.

"(13) INDIVIDUAL WITH LIMITED ENGLISH PROFICIENCY.—The term 'individual with limited English proficiency' means a secondary school student, an adult, or an out-of-school youth, who has limited ability in speaking, reading, writing, or understanding the English language, and—

"(A) whose native language is a language other than English; or

"(B) who lives in a family or community environment in which a language other than English is the dominant language.

"(14) INDIVIDUAL WITH A DISABILITY.—

"(A) IN GENERAL.—The term 'individual with a disability' means an individual with any disability (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)).

"(B) INDIVIDUALS WITH DISABILITIES.—The term 'individuals with disabilities' means more than 1 individual with a disability.

"(15) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 101 of the Higher Education Act of 1965.

"(16) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' has the meaning

given the term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

"(17) NONTRADITIONAL TRAINING AND EMPLOYMENT.—The term 'nontraditional training and employment' means occupations or fields of work, including careers in computer science, technology, and other emerging high skill occupations, for which individuals from one gender comprise less than 25 percent of the individuals employed in each such occupation or field of work.

"(18) OUTLYING AREA.—The term 'outlying area' means the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

"(19) POSTSECONDARY EDUCATIONAL INSTITUTION.—The term 'postsecondary educational institution' means—

"(A) an institution of higher education that provides not less than a 2-year program of instruction that is acceptable for credit toward a bachelor's degree;

"(B) a tribally controlled college or university; or

"(C) a nonprofit educational institution offering certificate or apprenticeship programs at the postsecondary level.

"(20) SCHOOL DROPOUT.—The term 'school dropout' means an individual who is no longer attending any school and who has not received a secondary school diploma or its recognized equivalent.

"(21) SECONDARY SCHOOL.—The term 'secondary school' has the meaning given the term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

"(22) SECRETARY.—The term 'Secretary' means the Secretary of Education.

"(23) SPECIAL POPULATIONS.—The term 'special populations' means—

"(A) individuals with disabilities;

"(B) individuals from economically disadvantaged families, including foster children;

"(C) individuals preparing for nontraditional training and employment;

"(D) single parents, including single pregnant women;

"(E) displaced homemakers; and

"(F) individuals with other barriers to educational achievement, including individuals with limited English proficiency.

"(24) STATE.—The term 'State', unless otherwise specified, means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and each outlying area.

"(25) SUPPORT SERVICES.—The term 'support services' means services related to curriculum modification, equipment modification, classroom modification, supportive personnel, and instructional aids and devices.

"(26) TECH-PREP PROGRAM.—The term 'tech-prep program' means a program of study that—

"(A) combines at least 2 years of secondary education (as determined under State law) and 2 years of postsecondary education in a nonduplicative sequential course of study;

"(B) strengthens the applied academic component of vocational and technical education through the integration of academic, and vocational and technical, instruction;

"(C) provides technical preparation in an area such as engineering technology, applied science, a mechanical, industrial, or practical art or trade, agriculture, a health occupation, business, or applied economics;

"(D) builds student competence in mathematics, science, and communications (including through applied academics) in a coherent sequence of courses; and

"(E) leads to an associate degree or a certificate in a specific career field, and to high skill, high wage employment, or further education.

"(27) TRIBALLY CONTROLLED COLLEGE OR UNIVERSITY.—The term 'tribally controlled college or university' has the meaning given such term in section 2 of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801(a)(4)).

"(28) TRIBALLY CONTROLLED POSTSECONDARY VOCATIONAL AND TECHNICAL INSTITUTION.—The term 'tribally controlled postsecondary vocational and technical institution' means an institution of higher education (as defined in section 101 of the Higher Education Act of 1965, except that paragraph (2) of such section shall not be applicable and the reference to Secretary in paragraph (5)(A) of such section shall be deemed to refer to the Secretary of the Interior) that—

"(A) is formally controlled, or has been formally sanctioned or chartered, by the governing body of an Indian tribe or Indian tribes;

"(B) offers a technical degree or certificate granting program;

"(C) is governed by a board of directors or trustees, a majority of whom are Indians;

"(D) demonstrates adherence to stated goals, a philosophy, or a plan of operation, that fosters individual Indian economic and self-sufficiency opportunity, including programs that are appropriate to stated tribal goals of developing individual entrepreneurships and self-sustaining economic infrastructures on reservations;

"(E) has been in operation for at least 3 years;

"(F) holds accreditation with or is a candidate for accreditation by a nationally recognized accrediting authority for postsecondary vocational and technical education; and

"(G) enrolls the full-time equivalent of not less than 100 students, of whom a majority are Indians.

(29) VOCATIONAL AND TECHNICAL EDUCATION.—The term 'vocational and technical education' means organized educational activities that—

"(A) offer a sequence of courses that provides individuals with the academic and technical knowledge and skills the individuals need to prepare for further education and for careers (other than careers requiring a baccalaureate, master's, or doctoral degree) in current or emerging employment sectors; and

"(B) include competency-based applied learning that contributes to the academic knowledge, higher-order reasoning and problem-solving skills, work attitudes, general employability skills, technical skills, and occupation-specific skills, of an individual.

"(30) VOCATIONAL AND TECHNICAL STUDENT ORGANIZATION.—

"(A) IN GENERAL.—The term 'vocational and technical student organization' means an organization for individuals enrolled in a vocational and technical education program that engages in vocational and technical activities as an integral part of the instructional program.

"(B) STATE AND NATIONAL UNITS.—An organization described in subparagraph (A) may have State and national units that aggregate the work and purposes of instruction in vocational and technical education at the local level.

"SEC. 4. TRANSITION PROVISIONS.

"The Secretary shall take such steps as the Secretary determines to be appropriate to provide for the orderly transition to the authority of this Act from any authority under provisions of the Carl D. Perkins Vocational and Applied Technology Education Act, as such Act was in effect on the day before the date of enactment of the Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998.

"SEC. 5. PRIVACY.

"(a) GEPA.—Nothing in this Act shall be construed to supersede the privacy protections afforded parents and students under section 444 of the General Education Provisions Act (20 U.S.C. 1232g), as added by the Family Educational Rights and Privacy Act of 1974 (section 513 of Public Law 93–380; 88 Stat. 571).

"(b) PROHIBITION ON DEVELOPMENT OF NATIONAL DATABASE.—Nothing in this Act shall be construed to permit the development of a national database of personally identifiable information on individuals receiving services under this Act.

"SEC. 6. LIMITATION.

"All of the funds made available under this Act shall be used in accordance with the requirements of this Act. None of the funds made available under this Act may be used to provide funding under the School-to-Work Opportunities Act of 1994 (20 U.S.C. 6101 et seq.) or to carry out, through programs funded under this Act, activities that were funded under the School-To-Work Opportunities Act of 1994, unless the programs funded under this Act serve only those participants eligible to participate in the programs under this Act.

"SEC. 7. SPECIAL RULE.

"In the case of a local community in which no employees are represented by a labor organization, for purposes of this Act the term 'representatives of employees' shall be substituted for 'labor organization'.

"SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to carry out this Act (other than sections 114, 117, and 118, and title II) such sums as may be necessary for each of the fiscal years 1999 through 2003.

"TITLE I—VOCATIONAL AND TECHNICAL EDUCATION ASSISTANCE TO THE STATES

"PART A—ALLOTMENT AND ALLOCATION

"SEC. 111. RESERVATIONS AND STATE ALLOTMENT.

"(a) RESERVATIONS AND STATE ALLOTMENT.—

"(1) RESERVATIONS.—From the sum appropriated under section 8 for each fiscal year, the Secretary shall reserve—

"(A) 0.2 percent to carry out section 115;

"(B) 1.50 percent to carry out section 116, of which—

"(i) 1.25 percent of the sum shall be available to carry out section 116(b); and

"(ii) 0.25 percent of the sum shall be available to carry out section 116(h); and

"(C) in the case of each of the fiscal years 2000 through 2003, 0.54 percent to carry out section 503 of Public Law 105–220.

"(2) STATE ALLOTMENT FORMULA.—Subject to paragraphs (3) and (4), from the remainder of the sums appropriated under section 8 and not reserved under paragraph (1) for a fiscal year, the Secretary shall allot to a State for the fiscal year—

"(A) an amount that bears the same ratio to 50 percent of the sums being allotted as the product of the population aged 15 to 19 inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States;

"(B) an amount that bears the same ratio to 20 percent of the sums being allotted as the product of the population aged 20 to 24, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States;

"(C) an amount that bears the same ratio to 15 percent of the sums being allotted as the product of the population aged 25 to 65, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States; and

"(D) an amount that bears the same ratio to 15 percent of the sums being allotted as the amounts allotted to the State under subparagraphs (A), (B), and (C) for such years bears to the sum of the amounts allotted to all the States under subparagraphs (A), (B), and (C) for such year.

"(3) MINIMUM ALLOTMENT.—

"(A) IN GENERAL.—Notwithstanding any other provision of law and subject to subparagraphs (B) and (C), and paragraph (4), no State shall receive for a fiscal year under this subsection less than ½ of 1 percent of the amount appropriated under section 8 and not reserved under paragraph (1) for such fiscal year. Amounts necessary for increasing such payments to States to comply with the preceding sentence shall be obtained by ratably reducing the amounts to be paid to other States.

"(B) REQUIREMENT.—No State, by reason of the application of subparagraph (A), shall receive for a fiscal year more than 150 percent of the amount the State received under this subsection for the preceding fiscal year (or in the case of fiscal year 1999 only, under section 101 of the Carl D. Perkins Vocational and Applied Technology Education Act, as such section was in effect on the day before the date of enactment of the Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998).

"(C) SPECIAL RULE.—

"(i) IN GENERAL.—Subject to paragraph (4), no State, by reason of the application of subparagraph (A), shall be allotted for a fiscal year more than the lesser of—

"(I) 150 percent of the amount that the State received in the preceding fiscal year (or in the case of fiscal year 1999 only, under section 101 of the Carl D. Perkins Vocational and Applied Technology Education Act, as such section was in effect on the day before the date of enactment of the Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998); and

"(II) the amount calculated under clause (ii).

"(ii) AMOUNT.—The amount calculated under this clause shall be determined by multiplying—

"(I) the number of individuals in the State counted under paragraph (2) in the preceding fiscal year; by

"(II) 150 percent of the national average per pupil payment made with funds available under this section for that year (or in the case of fiscal year 1999, only, under section 101 of the Carl D. Perkins Vocational and Applied Technology Education Act, as such section was in effect on the day before the date of enactment of the Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998).

"(4) HOLD HARMLESS.—

"(A) IN GENERAL.—No State shall receive an allotment under this section for a fiscal year that is less than the allotment the State received under part A of title I of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2311 et seq.) (as such part was in effect on the day before the date of enactment of the Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998) for fiscal year 1998.

"(B) RATABLE REDUCTION.—If for any fiscal year the amount appropriated for allotments under this section is insufficient to satisfy the provisions of subparagraph (A), the payments to all States under such subparagraph shall be ratably reduced.

"(b) REALLOTMENT.—If the Secretary determines that any amount of any State's allotment under subsection (a) for any fiscal year will not be required for such fiscal year for carrying out the activities for which such amount has been allotted, the Secretary shall make such amount available for reallotment. Any such reallotment among other States shall occur on such dates during the same year as the Secretary shall fix, and shall be made on the basis of criteria established by regulation. No funds may be reallotted for any use other than the use for which the funds were appropriated. Any amount reallotted to a State under this subsection for any fiscal year shall remain available for obligation during the succeeding fiscal year and shall be deemed to be part of the State's allotment for the year in which the amount is obligated.

"(c) ALLOTMENT RATIO.—

"(1) IN GENERAL.—The allotment ratio for any State shall be 1.00 less the product of—

"(A) 0.50; and

"(B) the quotient obtained by dividing the per capita income for the State by the per capita income for all the States (exclusive of the Commonwealth of Puerto Rico and the United States Virgin Islands), except that—

"(i) the allotment ratio in no case shall be more than 0.60 or less than 0.40; and

"(ii) the allotment ratio for the Commonwealth of Puerto Rico and the United States Virgin Islands shall be 0.60.

"(2) PROMULGATION.—The allotment ratios shall be promulgated by the Secretary for each fiscal year between October 1 and December 31 of the fiscal year preceding the fiscal year for which the determination is made. Allotment ratios shall be computed on the basis of the average of the appropriate per capita incomes for the 3 most recent consecutive fiscal years for which satisfactory data are available.

"(3) DEFINITION OF PER CAPITA INCOME.—For the purpose of this section, the term 'per capita income' means, with respect to a fiscal year, the total personal income in the calendar year ending in such year, divided by the population of the area concerned in such year.

"(4) POPULATION DETERMINATION.—For the purposes of this section, population shall be determined by the Secretary on the basis of the latest estimates available to the Department of Education.

"(d) DEFINITION OF STATE.—For the purpose of this section, the term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the United States Virgin Islands.

"SEC. 112. WITHIN STATE ALLOCATION.

"(a) IN GENERAL.—From the amount allotted to each State under section 111 for a fiscal year, the State board (hereinafter referred to as the 'eligible agency') shall make available—

"(1) not less than 85 percent for distribution under section 131 or 132, of which not more than 10 percent of the 85 percent may be used in accordance with subsection (c);

"(2) not more than 10 percent to carry out State leadership activities described in section 124, of which—

"(A) an amount equal to not more than 1 percent of the amount allotted to the State under section 111 for the fiscal year shall be available to serve individuals in State institutions, such as State correctional institutions and institutions that serve individuals with disabilities; and

"(B) not less than $60,000 and not more than $150,000 shall be available for services that prepare individuals for nontraditional training and employment; and

"(3) an amount equal to not more than 5 percent, or $250,000, whichever is greater, for administration of the State plan, which may be used for the costs of—

"(A) developing the State plan;

"(B) reviewing the local plans;

"(C) monitoring and evaluating program effectiveness;

"(D) assuring compliance with all applicable Federal laws; and

"(E) providing technical assistance.

"(b) MATCHING REQUIREMENT.—Each eligible agency receiving funds made available under subsection (a)(3) shall match, from non-Federal sources and on a dollar-for-dollar basis, the funds received under subsection (a)(3).

"(c) RESERVE.—

"(1) IN GENERAL.—From amounts made available under subsection (a)(1) to carry out this subsection, an eligible agency may award grants to eligible recipients for vocational and technical education activities described in section 135 in—

"(A) rural areas;

"(B) areas with high percentages of vocational and technical education students; and

"(C) areas with high numbers of vocational and technical students; and

"(D) communities negatively impacted by changes resulting from the amendments made by the Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998 to the within State allocation under section 231 of the Carl D. Perkins Vocational and Applied Technology Education Act (as such section 231 was in effect on the day before the date of enactment of the Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998).

"(2) SPECIAL RULE.—Each eligible agency awarding a grant under this subsection shall use the grant funds to serve at least 2 of the categories described in subparagraphs (A) through (D) of paragraph (1).

"SEC. 113. ACCOUNTABILITY.

"(a) PURPOSE.—The purpose of this section is to establish a State performance accountability system, comprised of the activities described in this section, to assess the effectiveness of the State in achieving statewide progress in vocational and technical education, and to optimize the return of investment of Federal funds in vocational and technical education activities.

"(b) STATE PERFORMANCE MEASURES.—

"(1) IN GENERAL.—Each eligible agency, with input from eligible recipients, shall establish performance measures for a State that consist of—

"(A) the core indicators of performance described in paragraph (2)(A);

"(B) any additional indicators of performance (if any) identified by the eligible agency under paragraph (2)(B); and

"(C) a State adjusted level of performance described in paragraph (3)(A) for each core indicator of performance, and State levels of performance described in paragraph (3)(B) for each additional indicator of performance.

"(2) INDICATORS OF PERFORMANCE.—

"(A) CORE INDICATORS OF PERFORMANCE.—Each eligible agency shall identify in the State plan core indicators of performance that include, at a minimum, measures of each of the following:

"(i) Student attainment of challenging State established academic, and vocational and technical, skill proficiencies.

"(ii) Student attainment of a secondary school diploma or its recognized equivalent, a proficiency credential in conjunction with a secondary school diploma, or a postsecondary degree or credential.

"(iii) Placement in, retention in, and completion of, postsecondary education or advanced training, placement in military service, or placement or retention in employment.

"(iv) Student participation in and completion of vocational and technical education programs that lead to nontraditional training and employment.

"(B) ADDITIONAL INDICATORS OF PERFORMANCE.—An eligible agency, with input from eligible recipients, may identify in the State plan additional indicators of performance for vocational and technical education activities authorized under the title.

"(C) EXISTING INDICATORS.—If a State previously has developed State performance measures that meet the requirements of this section, *the State may use such performance measures to measure the progress of vocational and technical education students.*

"(D) STATE ROLE.—Indicators of performance described in this paragraph shall be established solely by each eligible agency with input from eligible recipients.

"(3) LEVELS OF PERFORMANCE.—

"(A) STATE ADJUSTED LEVELS OF PERFORMANCE FOR CORE INDICATORS OF PERFORMANCE.—

"(i) IN GENERAL.—Each eligible agency, with input from eligible recipients, shall establish in the State plan submitted under section 122, levels of performance for each of the core indicators of performance described in paragraph (2)(A) for vocational and technical education activities authorized under this title. The levels of performance established under this subparagraph shall, at a minimum—

"(I) be expressed in a percentage or numerical form, so as to be objective, quantifiable, and measurable; and

"(II) require the State to continually make progress toward improving the performance of vocational and technical education students.

"(ii) IDENTIFICATION IN THE STATE PLAN.—Each eligible agency shall identify, in the State plan submitted under section 122, levels of performance for each of the core indicators of performance for the first 2 program years covered by the State plan.

"(iii) AGREEMENT ON STATE ADJUSTED LEVELS OF PERFORMANCE FOR FIRST 2 YEARS.—The Secretary and each eligible agency shall reach agreement on the levels of performance for each of the core indicators of performance, for the first 2 program years covered by the State plan, taking into account the levels identified in the State plan under clause (ii) and the factors described in clause (vi). The levels of performance agreed to under this clause shall be considered to be the State adjusted level of performance for the State for such years and shall be incorporated into the State plan prior to the approval of such plan.

"(iv) ROLE OF THE SECRETARY.—The role of the Secretary in the agreement described in clauses (iii) and (v) is limited to reaching agreement on the percentage or number of students who attain the State adjusted levels of performance.

"(v) AGREEMENT ON STATE ADJUSTED LEVELS OF PERFORMANCE FOR 3RD, 4TH AND 5TH YEARS.—Prior to the third program year covered by the State plan, the Secretary and each eligible agency shall reach agreement on the State adjusted levels of performance for each of the core indicators of performance for the third, fourth and fifth program years covered by the State plan, taking into account the factors described in clause (vi). The State adjusted levels of performance agreed to under this clause shall be considered to be the State adjusted levels of performance for the State for such years and shall be incorporated into the State plan.

"(vi) FACTORS.—The agreement described in clause (iii) or (v) shall take into account—

"(I) how the levels of performance involved compare with the State adjusted levels of performance established for other States taking into account factors including the characteristics of participants when the participants entered the program and the services or instruction to be provided; and

"(II) the extent to which such levels of performance promote continuous improvement on the indicators of performance by such State.

"(vii) REVISIONS.—If unanticipated circumstances arise in a State resulting in a significant change in the factors described in clause (vi)(II), the eligible agency may request that the State adjusted levels of performance agreed to under clause (iii) or (vi) be revised. The Secretary shall issue objective criteria and methods for making such revisions.

"(B) LEVELS OF PERFORMANCE FOR ADDITIONAL INDICATORS.—Each eligible agency shall identify in the State plan, State levels of performance for each of the additional indicators of performance described in paragraph (2)(B). Such levels shall be considered to be the State levels of performance for purposes of this title.

"(c) REPORT.—

"(1) IN GENERAL.—Each eligible agency that receives an allotment under section 111 shall annually prepare and submit to the Secretary a report regarding—

"(A) the progress of the State in achieving the State adjusted levels of performance on the core indicators of performance; and

"(B) information on the levels of performance achieved by the State with respect to the additional indicators of performance, including the levels of performance for special populations.

"(2) SPECIAL POPULATIONS.—The report submitted by the eligible agency in accordance with paragraph (1) shall include a quantifiable description of the progress special populations participating in vocational and technical education programs have made in meeting the State adjusted levels of performance established by the eligible agency.

"(3) INFORMATION DISSEMINATION.—The Secretary—

"(A) shall make the information contained in such reports available to the general public;

"(B) shall disseminate State-by-State comparisons of the information; and

"(C) shall provide the appropriate committees of Congress copies of such reports.

"SEC. 114. NATIONAL ACTIVITIES.

"(a) PROGRAM PERFORMANCE INFORMATION.—

"(1) IN GENERAL.—The Secretary shall collect performance information about, and report on, the condition of vocational and technical education and on the effectiveness of State and local programs, services, and activities carried out under this title in order to provide the Secretary and Congress, as well as Federal, State, local, and tribal agencies, with information relevant to improvement in the quality and effectiveness of vocational and technical education. The Secretary annually shall report to Congress on the Secretary's aggregate analysis of performance information collected each year pursuant to this title, including an analysis of performance data regarding special populations.

"(2) COMPATIBILITY.—The Secretary shall, to the extent feasible, ensure that the performance information system is compatible with other Federal information systems.

"(3) ASSESSMENTS.—As a regular part of its assessments, the National Center for Education Statistics shall collect and report information on vocational and technical education for a nationally representative sample of students. Such assessment may include international comparisons.

"(b) MISCELLANEOUS PROVISIONS.—

"(1) COLLECTION OF INFORMATION AT REASONABLE COST.—The Secretary shall take such action as may be necessary to secure at reasonable cost the information required by this title. To ensure reasonable cost, the Secretary, in consultation with the National Center for Education Statistics, the Office of Vocational and Adult Education, and an entity assisted under section 118 shall determine the methodology to be used and the frequency with which information is to be collected.

"(2) COOPERATION OF STATES.—All eligible agencies receiving assistance under this Act shall cooperate with the Secretary in implementing the information systems developed pursuant to this Act.

"(c) RESEARCH, DEVELOPMENT, DISSEMINATION, EVALUATION AND ASSESSMENT.—

"(1) SINGLE PLAN.—

"(A) IN GENERAL.—The Secretary may, directly or through grants, contracts, or cooperative agreements, carry out research, development, dissemination, evaluation and assessment, capacity building, and technical assistance with regard to the vocational and technical education programs under this Act. The Secretary shall develop a single plan for such activities.

"(B) PLAN.—Such plan shall—

"(i) identify the vocational and technical education activities described in subparagraph (A) the Secretary will carry out under this section;

"(ii) describe how the Secretary will evaluate such vocational and technical education activities in accordance with paragraph (3); and

"(iii) include such other information as the Secretary determines to be appropriate.

"(2) INDEPENDENT ADVISORY PANEL.—The Secretary shall appoint an independent advisory panel, consisting of vocational and technical education administrators, educators, researchers, and representatives of labor organizations, businesses, parents, guidance and counseling professionals, and other relevant groups, to advise the Secretary on the implementation of the assessment described in paragraph (3), including the issues to be addressed, the methodology of the studies involved, and the findings and recommendations resulting from the assessment. The panel shall submit to the Committee on Education and the Workforce of the House of Representatives, the Committee on Labor and Human Resources of the Senate, and the Secretary an independent analysis of the findings and recommendations resulting from the assessment described in paragraph (3). The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the panel established under this subsection.

"(3) EVALUATION AND ASSESSMENT.—

"(A) IN GENERAL.—From amounts made available under paragraph (8), the Secretary shall provide for the conduct of an independent evaluation and assessment of vocational and technical education programs under this Act through studies and analyses conducted independently through grants, contracts, and cooperative agreements that are awarded on a competitive basis.

"(B) CONTENTS.—The assessment required under paragraph (1) shall include descriptions and evaluations of—

"(i) the extent to which State, local, and tribal entities have developed, implemented, or improved State and local vocational and technical education programs and the effect of programs assisted under this Act on that development, implementation, or improvement, including the capacity of State, tribal, and local vocational and technical education systems to achieve the purpose of this Act;

"(ii) the extent to which expenditures at the Federal, State, tribal, and local levels address program improvement in vocational and technical education, including the impact of Federal allocation requirements (such as within-State allocation formulas) on the delivery of services;

"(iii) the preparation and qualifications of teachers of vocational and technical, and academic, curricula in vocational and technical education programs, as well as shortages of such teachers;

"(iv) participation of students in vocational and technical education programs;

"(v) academic and employment outcomes of vocational and technical education, including analyses of—

"(I) the number of vocational and technical education students and tech-prep students who meet State adjusted levels of performance;

"(II) the extent and success of integration of academic, and vocational and technical, education for students participating in vocational and technical education programs; and

"(III) the extent to which vocational and technical education programs prepare students

for subsequent employment in high-wage, high-skill careers or participation in postsecondary education;

"(vi) employer involvement in, and satisfaction with, vocational and technical education programs;

"(vii) the use and impact of educational technology and distance learning with respect to vocational and technical education and tech-prep programs; and

"(viii) the effect of State adjusted levels of performance and State levels of performance on the delivery of vocational and technical education services.

"(C) REPORTS.—

"(i) IN GENERAL.—The Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate—

"(I) an interim report regarding the assessment on or before January 1, 2002; and

"(II) a final report, summarizing all studies and analyses that relate to the assessment and that are completed after the assessment, on or before July 1, 2002.

"(ii) PROHIBITION.—Notwithstanding any other provision of law, the reports required by this subsection shall not be subject to any review outside the Department of Education before their transmittal to the Committee on Education and the Workforce of the House of Representatives, the Committee on Labor and Human Resources of the Senate, and the Secretary, but the President, the Secretary, and the independent advisory panel established under paragraph (2) may make such additional recommendations to Congress with respect to the assessment as the President, the Secretary, or the panel determine to be appropriate.

"(4) COLLECTION OF STATE INFORMATION AND REPORT.—

"(A) IN GENERAL.—The Secretary may collect and disseminate information from States regarding State efforts to meet State adjusted levels of performance described in section 113.

"(B) REPORT.—The Secretary shall gather any information collected pursuant to subparagraph (A) and submit a report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

"(5) RESEARCH.—

"(A) IN GENERAL.—The Secretary, after consulting with the States, shall award grants, contracts, or cooperative agreements on a competitive basis to an institution of higher education, a public or private nonprofit organization or agency, or a consortium of such institutions, organizations, or agencies to establish a national research center or centers—

"(i) to carry out research for the purpose of developing, improving, and identifying the most successful methods for successfully addressing the education, employment, and training needs of participants in vocational and technical education programs, including research and evaluation in such activities as—

"(I) the integration of vocational and technical instruction, and academic, secondary and postsecondary instruction;

"(II) education technology and distance learning approaches and strategies that are effective with respect to vocational and technical education;

"(III) State adjusted levels of performance and State levels of performance that serve to improve vocational and technical education programs and student achievement; and

"(IV) academic knowledge and vocational and technical skills required for employment or participation in postsecondary education;

"(ii) to carry out research to increase the effectiveness and improve the implementation of vocational and technical education programs, including conducting research and development, and studies, providing longitudinal information or formative evaluation with respect to vocational and technical education programs and student achievement;

"(iii) to carry out research that can be used to improve teacher training and learning in the vocational and technical education classroom, including—

"(I) effective inservice and preservice teacher education that assists vocational and technical education systems; and

"(II) dissemination and training activities related to the applied research and demonstration activities described in this subsection, which may also include serving as a repository for information on vocational and technical skills, State academic standards, and related materials; and

"(iv) to carry out such other research as the Secretary determines appropriate to assist State and local recipients of funds under this Act.

"(B) REPORT.—The center or centers conducting the activities described in subparagraph (A) shall annually prepare a report of key research findings of such center or centers and shall submit copies of the report to the Secretary, the Committee on Education and the Workforce of the House of Representatives, the Committee on Labor and Human Resources of the Senate, the Library of Congress, and each eligible agency.

"(C) DISSEMINATION.—The center or centers shall conduct dissemination and training activities based upon the research described in subparagraph (A).

"(6) DEMONSTRATIONS AND DISSEMINATION.—

"(A) DEMONSTRATION PROGRAM.—The Secretary is authorized to carry out demonstration vocational and technical education programs, to replicate model vocational and technical education programs, to disseminate best practices information, and to provide technical assistance upon request of a State, for the purposes of developing, improving, and identifying the most successful methods and techniques for providing vocational and technical education programs assisted under this Act.

"(B) DEMONSTRATION PARTNERSHIP.—

"(i) IN GENERAL.—The Secretary shall carry out a demonstration partnership project involving a 4-year, accredited postsecondary institution, in cooperation with local public education organizations, volunteer groups, and private sector business participants to provide program support, and facilities for education, training, tutoring, counseling, employment preparation, specific skills training in emerging and established professions, and for retraining of military medical personnel, individuals displaced by corporate or military restructuring, migrant workers, as well as other individuals who otherwise do not have access to such services, through multisite, multistate distance learning technologies.

"(ii) PROGRAM.—Such program may be carried out directly or through grants, contracts, cooperative agreements, or through the national center or centers established under paragraph (5).

"(7) DEFINITION.—In this section, the term 'institution of higher education' has the meaning given the term in section 101 of the Higher Education Act of 1965.

"(8) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 1999 and each of the 4 succeeding fiscal years.

"SEC. 115. ASSISTANCE FOR THE OUTLYING AREAS.

"(a) OUTLYING AREAS.—From funds reserved pursuant to section 111(a)(1)(A), the Secretary shall—

"(1) make a grant in the amount of $500,000 to Guam; and

"(2) make a grant in the amount of $190,000 to each of American Samoa and the Commonwealth of the Northern Mariana Islands.

"(b) REMAINDER.—Subject to the provisions of subsection (a), the Secretary shall make a grant of the remainder of funds reserved pursuant to section 111(a)(1)(A) to the Pacific Region Educational Laboratory in Honolulu, Hawaii, to make grants for vocational and technical education and training in Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau, for the purpose of providing direct vocational and technical educational services, including—

"(1) teacher and counselor training and retraining;

"(2) curriculum development; and

"(3) the improvement of vocational and technical education and training programs in secondary schools and institutions of higher education, or improving cooperative education programs involving both secondary schools and institutions of higher education.

"(c) LIMITATION.—The Pacific Region Educational Laboratory may use not more than 5 percent of the funds received under subsection (b) for administrative costs.

"(d) RESTRICTION.—Notwithstanding any other provision of law, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not receive any funds under this title for any fiscal year thqt begins after September 30, 2001.

"SEC. 116. NATIVE AMERICAN PROGRAM.

"(a) DEFINITIONS.—In this section:

"(1) ALASKA NATIVE.—The term 'Alaska Native' means a Native as such term is defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).

"(2) BUREAU FUNDED SCHOOL.—The term 'Bureau funded school' has the meaning given the term in section 1146 of the Education Amendments of 1978 (25 U.S.C. 2026).

"(3) INDIAN, INDIAN TRIBE, AND TRIBAL ORGANIZATION.—The terms 'Indian', 'Indian tribe', and 'tribal organization' have the meanings given the terms in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(4) NATIVE HAWAIIAN.—The term 'Native Hawaiian' means any individual any of whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

"(5) NATIVE HAWAIIAN ORGANIZATION.—The term 'Native Hawaiian organization' has the meaning given the term in section 9212 of the Native Hawaiian Education Act (20 U.S.C. 7912).

"(b) PROGRAM AUTHORIZED.—

"(1) AUTHORITY.—From funds reserved under section 111(a)(1)(B)(i), the Secretary shall make grants to and enter into contracts with Indian tribes, tribal organizations, and Alaska Native entities to carry out the authorized programs described in subsection (d), except that such grants or contracts shall not be awarded to secondary school programs in Bureau funded schools.

"(2) INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—The grants or contracts described in this section (other than in subsection (i)) that are awarded to any Indian tribe or tribal organization shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act (25 U.S.C. 450f) and shall be conducted in accordance with the provisions of sections 4, 5, and 6 of the Act of April 16, 1934, which are relevant to the programs administered under this subsection.

"(3) SPECIAL AUTHORITY RELATING TO SECONDARY SCHOOLS OPERATED OR SUPPORTED BY

THE BUREAU OF INDIAN AFFAIRS.—An Indian tribe, a tribal organization, or an Alaska Native entity, that receives funds through a grant made or contract entered into under paragraph (1) may use the funds to provide assistance to a secondary school operated or supported by the Bureau of Indian Affairs to enable such school to carry out vocational and technical education programs.

“(4) Matching.—If sufficient funding is available, the Bureau of Indian Affairs shall expend an amount equal to the amount made available under this subsection, relating to programs for Indians, to pay a part of the costs of programs funded under this subsection. During each fiscal year the Bureau of Indian Affairs shall expend not less than the amount expended during the prior fiscal year on vocational and technical education programs, services, and technical activities administered either directly by, or under contract with, the Bureau of Indian Affairs, except that in no year shall funding for such programs, services, and activities be provided from accounts and programs that support other Indian education programs. The Secretary and the Assistant Secretary of the Interior for Indian Affairs shall prepare jointly a plan for the expenditure of funds made available and for the evaluation of programs assisted under this subsection. Upon the completion of a joint plan for the expenditure of the funds and the evaluation of the programs, the Secretary shall assume responsibility for the administration of the program, with the assistance and consultation of the Bureau of Indian Affairs.

“(5) Regulations.—If the Secretary promulgates any regulations applicable to subsection (b)(2), the Secretary shall—

“(A) confer with, and allow for active participation by, representatives of Indian tribes, tribal organizations, and individual tribal members; and

“(B) promulgate the regulations under subchapter III of chapter 5 of title 5, United States Code, commonly known as the “Negotiated Rulemaking Act of 1990”.

“(6) Application.—Any Indian tribe, tribal organization, or Bureau funded school eligible to receive assistance under subsection (b) may apply individually or as part of a consortium with another such Indian tribe, tribal organization, or Bureau funded school.

“(c) Authorized Activities.—

“(1) Authorized programs.—Funds made available under this section shall be used to carry out vocational and technical education programs consistent with the purpose of this Act.

“(2) Stipends.—

“(A) In general.—Funds received pursuant to grants or contracts awarded under subsection (b) may be used to provide stipends to students who are enrolled in vocational and technical education programs and who have acute economic needs which cannot be met through work-study programs.

“(B) Amount.—Stipends described in subparagraph (A) shall not exceed reasonable amounts as prescribed by the Secretary.

“(d) Grant or Contract Application.—In order to receive a grant or contract under this section an organization, tribe, or entity described in subsection (b) shall submit an application to the Secretary that shall include an assurance that such organization, tribe, or entity shall comply with the requirements of this section.

“(e) Restrictions and Special Considerations.—The Secretary may not place upon grants awarded or contracts entered into under subsection (b) any restrictions relating to programs other than restrictions that apply to grants made to or contracts entered into with States pursuant to allotments under section 111(a). The Secretary, in awarding grants and entering into contracts under this paragraph, shall ensure that the grants and contracts will improve vocational and technical education programs, and shall give special consideration to—

“(1) programs that involve, coordinate with, or encourage tribal economic development plans; and

“(2) applications from tribally controlled colleges or universities that—

“(A) are accredited or are candidates for accreditation by a nationally recognized accreditation organization as an institution of postsecondary vocational and technical education; or

“(B) operate vocational and technical education programs that are accredited or are candidates for accreditation by a nationally recognized accreditation organization and issue certificates for completion of vocational and technical education programs.

“(f) Consolidation of Funds.—Each organization, tribe, or entity receiving assistance under this section may consolidate such assistance with assistance received from related programs in accordance with the provisions of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C 3401 et seq.).

“(g) Nonduplicative and Nonexclusive Services.—Nothing in this section shall be construed—

“(1) to limit the eligibility of any organization, tribe, or entity described in subsection (b) to participate in any activity offered by an eligible agency or eligible recipient under this title; or

“(2) to preclude or discourage any agreement, between any organization, tribe, or entity described in subsection (b) and any eligible agency or eligible recipient, to facilitate the provision of services by such eligible agency or eligible recipient to the population served by such eligible agency or eligible recipient.

“(h) Native Hawaiian Programs.—From the funds reserved pursuant to section 111(a)(1)(B)(ii), the Secretary shall award grants to or enter into contracts with organizations primarily serving and representing Native Hawaiians which are recognized by the Governor of the State of Hawaii to plan, conduct, and administer programs, or portions thereof, which are authorized by and consistent with the provisions of this section for the benefit of Native Hawaiians.

“SEC. 117. TRIBALLY CONTROLLED POSTSECONDARY VOCATIONAL AND TECHNICAL INSTITUTIONS.

“(a) Grants Authorized.—The Secretary shall, subject to the availability of appropriations, make grants pursuant to this section to tribally controlled postsecondary vocational and technical institutions to provide basic support for the education and training of Indian students.

“(b) Use of Grants.—Amounts made available pursuant to this section shall be used for vocational and technical education programs.

“(c) Amount of Grants.—

“(1) In general.—If the sums appropriated for any fiscal year for grants under this section are not sufficient to pay in full the total amount which approved applicants are eligible to receive under this section for such fiscal year, the Secretary shall first allocate to each such applicant who received funds under this part for the preceding fiscal year an amount equal to 100 percent of the product of the per capita payment for the preceding fiscal year and such applicant's Indian student count for the current program year, plus an amount equal to the actual cost of any increase to the per capita figure resulting from inflationary increases to necessary costs beyond the institution's control.

“(2) Per capita determination.—For the purposes of paragraph (1), the per capita payment for any fiscal year shall be determined by dividing the amount available for grants to tribally controlled postsecondary vocational and technical institutions under this section for such program year by the sum of the Indian student counts of such institutions for such program year. The Secretary shall, on the basis of the most accurate data available from the institutions, compute the Indian student count for any fiscal year for which such count was not used for the purpose of making allocations under this section.

“(d) Applications.—Any tribally controlled postsecondary vocational and technical institution that desires to receive a grant under this section shall submit an application to the Secretary in such manner and form as the Secretary may require.

“(e) Expenses.—

“(1) In general.—The Secretary shall, subject to the availability of appropriations, provide for each program year to each tribally controlled postsecondary vocational and technical institution having an application approved by the Secretary, an amount necessary to pay expenses associated with—

“(A) the maintenance and operation of the program, including development costs, costs of basic and special instruction (including special programs for individuals with disabilities and academic instruction), materials, student costs, administrative expenses, boarding costs, transportation, student services, daycare and family support programs for students and their families (including contributions to the costs of education for dependents), and student stipends;

“(B) capital expenditures, including operations and maintenance, and minor improvements and repair, and physical plant maintenance costs, for the conduct of programs funded under this section; and

“(C) costs associated with repair, upkeep, replacement, and upgrading of the instructional equipment.

“(2) Accounting.—Each institution receiving a grant under this section shall provide annually to the Secretary an accurate and detailed accounting of the institution's operating and maintenance expenses and such other information concerning costs as the Secretary may reasonably require.

“(f) Other Programs.—

“(1) In general.—Except as specifically provided in this Act, eligibility for assistance under this section shall not preclude any tribally controlled postsecondary vocational and technical institution from receiving Federal financial assistance under any program authorized under the Higher Education Act of 1965, or any other applicable program for the benefit of institutions of higher education or vocational and technical education.

“(2) Prohibition on alteration of grant amount.—The amount of any grant for which tribally controlled postsecondary vocational and technical institutions are eligible under this section shall not be altered because of funds allocated to any such institution from funds appropriated under the Act of November 2, 1921 (commonly known as the ‘Snyder Act’) (42 Stat. 208, chapter 115; 25 U.S.C. 13).

“(3) Prohibition on contract denial.—No tribally controlled postsecondary vocational and technical institution for which an Indian tribe has designated a portion of the funds appropriated for the tribe from funds appropriated under the Act of November 2, 1921, may be denied a contract for such portion under the Indian Self-Determination and Education Assistance Act (except as provided in that Act), or denied appropriate contract support to administer such portion of the appropriated funds.

“(g) Needs Estimate and Report on Facilities and Facilities Improvement.—

"(1) NEEDS ESTIMATE.—The Secretary shall, based on the most accurate data available from the institutions and Indian tribes whose Indian students are served under this section, and in consideration of employment needs, economic development needs, population training needs, and facilities needs, prepare an actual budget needs estimate for each institution eligible under this section for each subsequent program year, and submit such budget needs estimate to Congress in such a timely manner as will enable the appropriate committees of Congress to consider such needs data for purposes of the uninterrupted flow of adequate appropriations to such institutions. Such data shall take into account the purposes and requirements of part A of title IV of the Social Security Act.

"(2) STUDY OF TRAINING AND HOUSING NEEDS.—

"(A) IN GENERAL.—The Secretary shall conduct a detailed study of the training, housing, and immediate facilities needs of each institution eligible under this section. The study shall include an examination of—

"(i) training equipment needs;

"(ii) housing needs of families whose heads of households are students and whose dependents have no alternate source of support while such heads of households are students; and

"(iii) immediate facilities needs.

"(B) REPORT.—The Secretary shall report to Congress not later than July 1, 2000, on the results of the study required by subparagraph (A).

"(C) CONTENTS.—The report required by subparagraph (B) shall include the number, type, and cost of meeting the needs described in subparagraph (A), and rank each institution by relative need.

"(D) PRIORITY.—In conducting the study required by subparagraph (A), the Secretary shall give priority to institutions that are receiving assistance under this section.

"(3) LONG-TERM STUDY OF FACILITIES.—

"(A) IN GENERAL.—The Secretary shall provide for the conduct of a long-term study of the facilities of each institution eligible for assistance under this section.

"(B) CONTENTS.—The study required by subparagraph (A) shall include a 5-year projection of training facilities, equipment, and housing needs and shall consider such factors as projected service population, employment, and economic development forecasting, based on the most current and accurate data available from the institutions and Indian tribes affected.

"(C) SUBMISSION.—The Secretary shall submit to Congress a detailed report on the results of such study not later than the end of the 18-month period beginning on the date of enactment of this Act.

"(h) DEFINITIONS.—In this section:

"(1) INDIAN.—The terms 'Indian' and 'Indian tribe' have the meanings given the terms in section 2 of the Tribally Controlled College or University Assistance Act of 1978.

"(2) INDIAN STUDENT COUNT.—The term 'Indian student count' means a number equal to the total number of Indian students enrolled in each tribally controlled postsecondary vocational and technical institution, determined as follows:

"(A) REGISTRATIONS.—The registrations of Indian students as in effect on October 1 of each year.

"(B) SUMMER TERM.—Credits or clock hours toward a certificate earned in classes offered during a summer term shall be counted toward the computation of the Indian student count in the succeeding fall term.

"(C) ADMISSION CRITERIA.—Credits or clock hours toward a certificate earned in classes during a summer term shall be counted toward the computation of the Indian student count if the institution at which the student is in attendance has established criteria for the admission of such student on the basis of the student's ability to benefit from the education or training offered. The institution shall be presumed to have established such criteria if the admission procedures for such studies include counseling or testing that measures the student's aptitude to successfully complete the course in which the student has enrolled. No credit earned by such student for purposes of obtaining a secondary school degree or its recognized equivalent shall be counted toward the computation of the Indian student count.

"(D) DETERMINATION OF HOURS.—Indian students earning credits in any continuing education program of a tribally controlled postsecondary vocational and technical institution shall be included in determining the sum of all credit or clock hours.

"(E) CONTINUING EDUCATION.—Credits or clock hours earned in a continuing education program shall be converted to the basis that is in accordance with the institution's system for providing credit for participation in such programs.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $4,000,000 for fiscal year 1999 and each of the 4 succeeding fiscal years.

"SEC. 118. OCCUPATIONAL AND EMPLOYMENT INFORMATION.

"(a) NATIONAL ACTIVITIES.—From funds appropriated under subsection (f), the Secretary, in consultation with appropriate Federal agencies, is authorized—

"(1) to provide assistance to an entity to enable the entity—

"(A) to provide technical assistance to State entities designated under subsection (b) to enable the State entities to carry out the activities described in subsection (b);

"(B) to disseminate information that promotes the replication of high quality practices described in subsection (b);

"(C) to develop and disseminate products and services related to the activities described in subsection (b); and

"(2) to award grants to States that designate State entities in accordance with subsection (b) to enable the State entities to carry out the State level activities described in subsection (b).

"(b) STATE LEVEL ACTIVITIES.—In order for a State to receive a grant under this section, the eligible agency and the Governor of the State shall jointly designate an entity in the State—

"(1) to provide support for a career guidance and academic counseling program designed to promote improved career and education decisionmaking by individuals (especially in areas of career information delivery and use);

"(2) to make available to students, parents, teachers, administrators, and counselors, and to improve accessibility with respect to, information and planning resources that relate educational preparation to career goals and expectations;

"(3) to equip teachers, administrators, and counselors with the knowledge and skills needed to assist students and parents with career exploration, educational opportunities, and education financing.

"(4) to assist appropriate State entities in tailoring career-related educational resources and training for use by such entities;

"(5) to improve coordination and communication among administrators and planners of programs authorized by this Act and by section 15 of the Wagner-Peyser Act at the Federal, State, and local levels to ensure nonduplication of efforts and the appropriate use of shared information and data; and

"(6) to provide ongoing means for customers, such as students and parents, to provide comments and feedback on products and services and to update resources, as appropriate, to better meet customer requirements.

"(c) NONDUPLICATION.—

"(1) WAGNER-PEYSER ACT.—The State entity designated under subsection (b) may use funds provided under subsection (b) to supplement activities under section 15 of the Wagner-Peyser Act to the extent such activities do not duplicate activities assisted under such section.

"(2) PUBLIC LAW 105-220.—None of the functions and activities assisted under this section shall duplicate the functions and activities carried out under Public Law 105-220.

"(d) FUNDING RULE.—Of the amounts appropriated to carry out this section, the Federal entity designated under subsection (a) shall use—

"(1) not less than 85 percent to carry out subsection (b); and

"(2) not more than 15 percent to carry out subsection (a).

"(e) REPORT.—The Secretary, in consultation with appropriate Federal agencies, shall prepare and submit to the appropriate committees of Congress, an annual report that includes—

"(1) an identification of activities assisted under this section during the prior program year;

"(2) a description of the specific products and services assisted under this section that were delivered in the prior program year; and

"(3) an assessment of the extent to which States have effectively coordinated activities assisted under this section with activities authorized under section 15 of the Wagner-Peyser Act.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1999 through 2003.

"PART B—STATE PROVISIONS

"SEC. 121. STATE ADMINISTRATION.

"(a) ELIGIBLE AGENCY RESPONSIBILITIES.—

"(1) IN GENERAL.—The responsibilities of an eligible agency under this title shall include—

"(A) coordination of the development, submission, and implementation of the State plan, and the evaluation of the program, services, and activities assisted under this title, including preparation for nontraditional training and employment;

"(B) consultation with the Governor and appropriate agencies, groups, and individuals including parents, students, teachers, representatives of businesses, labor organizations, eligible recipients, State and local officials, and local program administrators, involved in the planning, administration, evaluation, and coordination of programs funded under this title;

"(C) convening and meeting as an eligible agency (consistent with State law and procedure for the conduct of such meetings) at such time as the eligible agency determines necessary to carry out the eligible agency's responsibilities under this title, but not less than 4 times annually; and

"(D) the adoption of such procedures as the eligible agency considers necessary to—

"(i) implement State level coordination with the activities undertaken by the State boards under section 111 of Public Law 105–220; and

"(ii) make available to the service delivery system under section 121 of Public Law 105–220 within the State a listing of all school dropout, postsecondary, and adult programs assisted under this title.

"(2) EXCEPTION.—Except with respect to the responsibilities set forth in paragraph (1), the eligible agency may delegate any of the other responsibilities of the eligible agency that involve the administration, operation, supervision of activities assisted under this title, in whole or in part, to 1 or more appropriate State agencies.

"SEC. 122. STATE PLAN.

"(a) STATE PLAN.—

"(1) IN GENERAL.—Each eligible agency desiring assistance under this title for any fiscal year shall prepare and submit to the Secretary a State plan for a 5-year period, together with such annual revisions as the eligible agency determines to be necessary.

"(2) REVISIONS.—Each eligible agency—

"(A) may submit such annual revisions of the State plan to the Secretary as the eligible agency determines to be necessary; and

"(B) shall, after the second year of the 5 year State plan, conduct a review of activities assisted under this title and submit any revisions of the State plan that the eligible agency determines necessary to the Secretary.

"(3) HEARING PROCESS.—The eligible agency shall conduct public hearings in the State, after appropriate and sufficient notice, for the purpose of affording all segments of the public and interested organizations and groups (including employers, labor organizations, and parents), an opportunity to present their views and make recommendations regarding the State plan. A summary of such recommendations and the eligible agency's response to such recommendations shall be included in the State plan.

"(b) PLAN DEVELOPMENT.—

"(1) IN GENERAL.—The eligible agency shall develop the State plan in consultation with teachers, eligible recipients, parents, students, interested community members, representatives of special populations, representatives of business and industry, and representatives of labor organizations in the State, and shall consult the Governor of the State with respect to such development.

"(2) ACTIVITIES AND PROCEDURES.—The eligible agency shall develop effective activities and procedures, including access to information needed to use such procedures, to allow the individuals described in paragraph (1) to participate in State and local decisions that relate to development of the State plan.

"(c) PLAN CONTENTS.—The State plan shall include information that—

"(1) describes the vocational and technical education activities to be assisted that are designed to meet or exceed the State adjusted levels of performance, including a description of—

"(A) the secondary and postsecondary vocational and technical education programs to be carried out, including programs that will be carried out by the eligible agency to develop, improve, and expand access to quality, state-of-the-art technology in vocational and technical education programs;

"(B) the criteria that will be used by the eligible agency in approving applications by eligible recipients for funds under this title;

"(C) how such programs will prepare vocational and technical education students for opportunities in postsecondary education or entry into high skill, high wage jobs in current and emerging occupations; and

"(D) how funds will be used to improve or develop new vocational and technical education courses;

"(2) describes how comprehensive professional development (including initial teacher preparation) for vocational and technical, academic, guidance, and administrative personnel will be provided;

"(3) describes how the eligible agency will actively involve parents, teachers, local businesses (including small- and medium-sized businesses), and labor organizations in the planning, development, implementation, and evaluation of such vocational and technical education programs;

"(4) describes how funds received by the eligible agency through the allotment made under section 111 will be allocated—

"(A) among secondary school vocational and technical education, or postsecondary and adult vocational and technical education, or both, including the rationale for such allocation; and

"(B) among any consortia that will be formed among secondary schools and eligible institutions, and how funds will be allocated among the members of the consortia, including the rationale for such allocation;

"(5) describes how the eligible agency will—

"(A) improve the academic and technical skills of students participating in vocational and technical education programs, including strengthening the academic, and vocational and technical, components of vocational and technical education programs through the integration of academics with vocational and technical education to ensure learning in the core academic, and vocational and technical, subjects, and provide students with strong experience in, and understanding of, all aspects of an industry; and

"(B) ensure that students who participate in such vocational and technical education programs are taught to the same challenging academic proficiencies as are taught to all other students;

"(6) describes how the eligible agency will annually evaluate the effectiveness of such vocational and technical education programs, and describe, to the extent practicable, how the eligible agency is coordinating such programs to ensure nonduplication with other existing Federal programs;

"(7) describes the eligible agency's program strategies for special populations;

"(8) describes how individuals who are members of the special populations—

"(A) will be provided with equal access to activities assisted under this title;

"(B) will not be discriminated against on the basis of their status as members of the special populations; and

"(C) will be provided with programs designed to enable the special populations to meet or exceed State adjusted levels of performance, and prepare special populations for further learning and for high skill, high wage careers;

"(9) describe what steps the eligible agency shall take to involve representatives of eligible recipients in the development of the State adjusted levels of performance;

"(10) provides assurances that the eligible agency will comply with the requirements of this title and the provisions of the State plan, including the provision of a financial audit of funds received under this title which may be included as part of an audit of other Federal or State programs;

"(11) provides assurances that none of the funds expended under this title will be used to acquire equipment (including computer software) in any instance in which such acquisition results in a direct financial benefit to any organization representing the interests of the purchasing entity, the employees of the purchasing entity, or any affiliate of such an organization;

"(12) describes how the eligible agency will report data relating to students participating in vocational and technical education in order to adequately measure the progress of the students, including special populations;

"(13) describes how the eligible agency will adequately address the needs of students in alternative education programs, if appropriate;

"(14) describes how the eligible agency will provide local educational agencies, area vocational and technical education schools, and eligible institutions in the State with technical assistance;

"(15) describes how vocational and technical education relates to State and regional occupational opportunities;

"(16) describes the methods proposed for the joint planning and coordination of programs carried out under this title with other Federal education programs;

"(17) describes how funds will be used to promote preparation for nontraditional training and employment;

"(18) describes how funds will be used to serve individuals in State correctional institutions;

"(19) describes how funds will be used effectively to link secondary and postsecondary education;

"(20) describes how the eligible agency will ensure that the data reported to the eligible agency from local educational agencies and eligible institutions under this title and the data the eligible agency reports to the Secretary are complete, accurate, and reliable; and

"(21) contains the description and information specified in sections 112(b)(8) and 121(c) of Public Law 105–220 concerning the provision of services only for postsecondary students and school dropouts.

"(d) PLAN OPTION.—The eligible agency may fulfill the requirements of subsection (a) by submitting a plan under section 501 of Public Law 105–220.

"(e) PLAN APPROVAL.—

"(1) IN GENERAL.—The Secretary shall approve a State plan, or a revision to an approved State plan, unless the Secretary determines that—

"(A) the State plan, or revision, respectively, does not meet the requirements of this section; or

"(B) the State's levels of performance on the core indicators of performance consistent with section 113 are not sufficiently rigorous to meet the purpose of this Act.

"(2) DISAPPROVAL.—The Secretary shall not finally disapprove a State plan, except after giving the eligible agency notice and an opportunity for a hearing.

"(3) CONSULTATION.—The eligible agency shall develop the portion of each State plan relating to the amount and uses of any funds proposed to be reserved for adult vocational and technical education, postsecondary vocational and technical education, tech-prep education, and secondary vocational and technical education after consultation with the State agency responsible for supervision of community colleges, technical institutes, or other 2-year postsecondary institutions primarily engaged in providing postsecondary vocational and technical education, and the State agency responsible for secondary education. If a State agency finds that a portion of the final State plan is objectionable, the State agency shall file such objections with the eligible agency. The eligible agency shall respond to any objections of the State agency in the State plan submitted to the Secretary.

"(4) TIMEFRAME.—A State plan shall be deemed approved by the Secretary if the Secretary has not responded to the eligible agency regarding the State plan within 90 days of the date the Secretary receives the State plan.

"(f) TRANSITION.—This section shall be subject to section 4 for fiscal year 1999 only, with respect to activities under this section.

"SEC. 123. IMPROVEMENT PLANS.

"(a) STATE PROGRAM IMPROVEMENT PLAN.—If a State fails to meet the State adjusted levels of performance described in the report submitted under section 113(c), the eligible agency shall develop and implement a program improvement plan in consultation with appropriate agencies, individuals, and organizations for the first program year succeeding the program year in which the eligible agency failed to meet the State adjusted levels of performance, in order to avoid a sanction under subsection (d).

"(b) LOCAL EVALUATION.—Each eligible agency shall evaluate annually, using the State adjusted levels of performance, the vocational and technical education activities of each eligible recipient receiving funds under this title.

"(c) LOCAL IMPROVEMENT PLAN.—

"(1) IN GENERAL.—If, after reviewing the evaluation, the eligible agency determines that an *eligible recipient is not making substantial progress in achieving the State adjusted levels of performance, the eligible agency shall—*

"(A) conduct an assessment of the educational needs that the eligible recipient shall address to overcome local performance deficiencies;

"(B) enter into an improvement plan based on the results of the assessment, which plan shall include instructional and other programmatic innovations of demonstrated effectiveness, and where necessary, strategies for appropriate staffing and staff development; and

"(C) conduct regular evaluations of the progress being made toward reaching the State adjusted levels of performance.

"(2) CONSULTATION.—The eligible agency shall conduct the activities described in paragraph (1) in consultation with teachers, parents, other school staff, appropriate agencies, and other appropriate individuals and organizations.

"(d) SANCTIONS.—

"(1) TECHNICAL ASSISTANCE.—If the Secretary determines that an eligible agency is not properly implementing the eligible agency's responsibilities under section 122, or is not making substantial progress in meeting the purpose of this Act, based on the State adjusted levels of performance, the Secretary shall work with the eligible agency to implement improvement activities consistent with the requirements of this Act.

"(2) FAILURE.—If an eligible agency fails to meet the State adjusted levels of performance, has not implemented an improvement plan as described in paragraph (1), has shown no improvement within 1 year after implementing an improvement plan as described in paragraph (1), or has failed to meet the State adjusted levels of performance for 2 or more consecutive years, the Secretary may, after notice and opportunity for a hearing, withhold from the eligible agency all, or a portion of, the eligible agency's allotment under this title. The Secretary may waive the sanction under this paragraph due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

"(3) FUNDS RESULTING FROM REDUCED ALLOTMENTS.—

"(A) IN GENERAL.—The Secretary shall use funds withheld under paragraph (2), for a State served by an eligible agency, to provide (through alternative arrangements) services and activities within the State to meet the purpose of this Act.

"(B) REDISTRIBUTION.—If the Secretary cannot satisfactorily use funds withheld under paragraph (2), then the amount of funds retained by the Secretary as a result of a reduction in an allotment made under paragraph (2) shall be redistributed to other eligible agencies in accordance with section 111.

"SEC. 124. STATE LEADERSHIP ACTIVITIES.

"(a) GENERAL AUTHORITY.—From amounts reserved under section 112(a)(2), each eligible agency shall conduct State leadership activities.

"(b) REQUIRED USES OF FUNDS.—The State leadership activities described in subsection (a) shall include—

"(1) an assessment of the vocational and technical education programs carried out with funds under this title that includes an assessment of how the needs of special populations are being met and how such programs are designed to enable special populations to meet State adjusted levels of performance and prepare the special populations for further learning or for high skill, high wage careers;

"(2) developing, improving, or expanding the use of technology in vocational and technical education that may include—

"(A) training of vocational and technical education personnel to use state-of-the-art technology, that may include distance learning;

"(B) providing vocational and technical education students with the academic, and vocational and technical, skills that lead to entry into the high technology and telecommunications field; or

"(C) encouraging schools to work with high technology industries to offer voluntary internships and mentoring programs;

"(3) professional development programs, including providing comprehensive professional development (including initial teacher preparation) for vocational and technical, academic, guidance, and administrative personnel, that—

"(A) will provide inservice and preservice training in state-of-the-art vocational and technical education programs and techniques, effective teaching skills based on research, and effective practices to improve parental and community involvement; and

"(B) will help teachers and personnel to assist students in meeting the State adjusted levels of performance established under section 113;

"(C) will support education programs for teachers of vocational and technical education in public schools and other public school personnel who are involved in the direct delivery of educational services to vocational and technical education students to ensure that such teachers stay current with the needs, expectations, and methods of industry; and

"(D) is integrated with the professional development activities that the State carries out under title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6001 et seq.) and title II of the Higher Education Act of 1965;

"(4) support for vocational and technical education programs that improve the academic, and vocational and technical, skills of students participating in vocational and technical education programs by strengthening the academic, and vocational and technical, components of such vocational and technical education programs through the integration of academics with vocational and technical education to ensure learning in the core academic, and vocational and technical, subjects;

"(5) providing preparation for nontraditional training and employment;

"(6) supporting partnerships among local educational agencies, institutions of higher education, adult education providers, and, as appropriate, other entities, such as employers, labor organizations, parents, and local partnerships, to enable students to achieve State academic standards, and vocational and technical skills;

"(7) serving individuals in State institutions, such as State correctional institutions and institutions that serve individuals with disabilities; and

"(8) support for programs for special populations that lead to high skill, high wage careers.

"(c) PERMISSIBLE USES OF FUNDS.—The leadership activities described in subsection (a) may include—

"(1) technical assistance for eligible recipients;

"(2) improvement of career guidance and academic counseling programs that assist students in making informed academic, and vocational and technical education, decisions;

"(3) establishment of agreements between secondary and postsecondary vocational and technical education programs in order to provide postsecondary education and training opportunities for students participating in such vocational and technical education programs, such as tech-prep programs;

"(4) support for cooperative education;

"(5) support for vocational and technical student organizations, especially with respect to efforts to increase the participation of students who are members of special populations;

"(6) support for public charter schools operating secondary vocational and technical education programs;

"(7) support for vocational and technical education programs that offer experience in, and understanding of, all aspects of an industry for which students are preparing to enter;

"(8) support for family and consumer sciences programs;

"(9) support for education and business partnerships;

"(10) support to improve or develop new vocational and technical education courses;

"(11) providing vocational and technical education programs for adults and school dropouts to complete their secondary school education; and

"(12) providing assistance to students, who have participated in services and activities under this title, in finding an appropriate job and continuing their education.

"(d) RESTRICTION ON USES OF FUNDS.—An eligible agency that receives funds under section 112(a)(2) may not use any of such funds for administrative costs.

"PART C—LOCAL PROVISIONS

"SEC. 131. DISTRIBUTION OF FUNDS TO SECONDARY SCHOOL PROGRAMS.

"(a) DISTRIBUTION FOR FISCAL YEAR 1999.—Except as provided in section 133 and as otherwise provided in this section, each eligible agency shall distribute the portion of the funds made available under section 112(a)(1) to carry out this section for fiscal year 1999 to local educational agencies within the State as follows:

"(1) SEVENTY PERCENT.—From 70 percent of such portion, each local educational agency shall be allocated an amount that bears the same relationship to such 70 percent as the amount such local educational agency was allocated under section 1124 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333) for the preceding fiscal year bears to the total amount received under such section by all local educational agencies in the State for such preceding fiscal year.

"(2) TWENTY PERCENT.—From 20 percent of such portion, each local educational agency shall be allocated an amount that bears the same relationship to such 20 percent as the number of students with disabilities who have individualized education programs under section 614(d) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)) served by such local educational agency for the preceding fiscal year bears to the total number of such students served by all local educational agencies in the State for such preceding fiscal year.

"(3) TEN PERCENT.—From 10 percent of such portion, each local educational agency shall be allocated an amount that bears the same relationship to such 10 percent as the number of students enrolled in schools and adults enrolled in training programs under the jurisdiction of such local educational agency for the preceding fiscal year bears to the number of students enrolled in schools and adults enrolled in training programs under the jurisdiction of all local educational agencies in the State for such preceding fiscal year.

"(b) SPECIAL DISTRIBUTION RULES FOR SUCCEEDING FISCAL YEARS.—Except as provided in section 133 and as otherwise provided in this section, each eligible agency shall distribute the portion of funds made available under section 112(a)(1) to carry out this section for fiscal year 2000 and succeeding fiscal years to local educational agencies within the State as follows:

"(1) 30 PERCENT.—30 percent shall be allocated to such local educational agencies in proportion to the number of individuals aged 15 through 19, inclusive, who reside in the school district served by such local educational agency for the preceding fiscal year compared to the total number of such individuals who reside in the school

districts served by all local educational agencies in the State for such preceding fiscal year.

"(2) 70 PERCENT.—70 percent shall be allocated to such local educational agencies in proportion to the number of individuals aged 15 through 19, inclusive, who reside in the school district served by such local educational agency from families with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved for the fiscal year for which the determination is made compared to the number of such individuals who reside in the school districts served by all the local educational agencies in the State for such preceding fiscal year.

"(c) WAIVER FOR MORE EQUITABLE DISTRIBUTION.—The Secretary may waive the application of subsection (b) in the case of any eligible agency that submits to the Secretary an application for such a waiver that—

"(1) demonstrates that a proposed alternative formula more effectively targets funds on the basis of poverty (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) to local educational agencies within the State than the formula described in subsection (b); and

"(2) includes a proposal for such an alternative formula.

"(d) MINIMUM ALLOCATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a local educational agency shall not receive an allocation under subsection (a) unless the amount allocated to such agency under subsection (a) is greater than $15,000. A local educational agency may enter into a consortium with other local educational agencies for purposes of meeting the minimum allocation requirement of this paragraph.

"(2) WAIVER.—The eligible agency shall waive the application of paragraph (1) in any case in which the local educational agency—

"(A)(i) is located in a rural, sparsely populated area, or

"(ii) is a public charter school operating secondary vocational and technical education programs; and

"(B) demonstrates that the local educational agency is unable to enter into a consortium for purposes of providing activities under this part.

"(3) REDISTRIBUTION.—Any amounts that are not allocated by reason of paragraph (1) or paragraph (2) shall be redistributed to local educational agencies that meet the requirements of paragraph (1) or (2) in accordance with the provisions of this section.

"(e) LIMITED JURISDICTION AGENCIES.—

"(1) IN GENERAL.—In applying the provisions of subsection (a), no eligible agency receiving assistance under this title shall allocate funds to a local educational agency that serves only elementary schools, but shall distribute such funds to the local educational agency or regional educational agency that provides secondary school services to secondary school students in the same attendance area.

"(2) SPECIAL RULE.—The amount to be allocated under paragraph (1) to a local educational agency that has jurisdiction only over secondary schools shall be determined based on the number of students that entered such secondary schools in the previous year from the elementary schools involved.

"(f) ALLOCATIONS TO AREA VOCATIONAL AND TECHNICAL EDUCATION SCHOOLS AND EDUCATIONAL SERVICE AGENCIES.—

"(1) IN GENERAL.—Each eligible agency shall distribute the portion of funds made available under section 112(a)(1) for any fiscal year by such eligible agency for secondary school vocational and technical education activities under this section to the appropriate area vocational and technical education school or educational service agency in any case in which the area vocational and technical education school or educational service agency, and the local educational agency concerned—

"(A) have formed or will form a consortium for the purpose of receiving funds under this section; or

"(B) have entered into or will enter into a cooperative arrangement for such purpose.

"(2) ALLOCATION BASIS.—If an area vocational and technical education school or educational service agency meets the requirements of paragraph (1), then the amount that would otherwise be distributed to the local educational agency shall be allocated to the area vocational and technical education school, the educational service agency, and the local educational agency based on each school, agency or entity's relative share of students who are attending vocational and technical education programs (based, if practicable, on the average enrollment for the preceding 3 years;

"(3) APPEALS PROCEDURE.—The eligible agency shall establish an appeals procedure for resolution of any dispute arising between a local educational agency and an area vocational and technical education school or an educational service agency with respect to the allocation procedures described in this section, including the decision of a local educational agency to leave a consortium or terminate a cooperative arrangement.

"(g) CONSORTIUM REQUIREMENTS.—

"(1) ALLIANCE.—Any local educational agency receiving an allocation that is not sufficient to conduct a program which meets the requirements of section 135 is encouraged to—

"(A) form a consortium or enter into a cooperative agreement with an area vocational and technical education school or educational service agency offering programs that meet the requirements of section 135; and

"(B) transfer such allocation to the area vocational and technical education school or educational service agency; and

"(C) operate programs that are of sufficient size, scope, and quality to be effective.

"(2) FUNDS TO CONSORTIUM.—Funds allocated to a consortium formed to meet the requirements of this paragraph shall be used only for purposes and programs that are mutually beneficial to all members of the consortium and can be used only for programs authorized under this title. Such funds may not be reallocated to individual members of the consortium for purposes or programs benefiting only one member of the consortium.

"(h) DATA.—The Secretary shall collect information from eligible agencies regarding the specific dollar allocations made available by the eligible agency for vocational and technical education programs under subsections (a), (b), (c), and (d) and how these allocations are distributed to local educational agencies, area vocational and technical education schools, and educational service agencies, within the State in accordance with this section.

"(i) SPECIAL RULE.—Each eligible agency distributing funds under this section shall treat a secondary school funded by the Bureau of Indian Affairs within the State as if such school were a local educational agency within the State for the purpose of receiving a distribution under this section.

"SEC. 132. DISTRIBUTION OF FUNDS FOR POSTSECONDARY VOCATIONAL AND TECHNICAL EDUCATION PROGRAMS.

"(a) ALLOCATION.—

"(1) IN GENERAL.—Except as provided in subsections (b) and (c) and section 133, each eligible agency shall distribute the portion of the funds made available under section 112(a)(1) to carry out this section for any fiscal year to eligible institutions or consortia of eligible institutions within the State.

"(2) FORMULA.—Each eligible institution or consortium of eligible institutions shall be allocated an amount that bears the same relationship to the portion of funds made available under section 112(a)(1) to carry out this section for any fiscal year as the sum of the number of individuals who are Federal Pell Grant recipients and recipients of assistance from the Bureau of Indian Affairs enrolled in programs meeting the requirements of section 135 offered by such institution or consortium in the preceding fiscal year bears to the sum of the number of such recipients enrolled in such programs within the State for such year.

"(3) CONSORTIUM REQUIREMENTS.—

"(A) IN GENERAL.—In order for a consortium of eligible institutions described in paragraph (2) to receive assistance pursuant to such paragraph, such consortium shall operate joint projects that—

"(i) provide services to all postsecondary institutions participating in the consortium; and

"(ii) are of sufficient size, scope, and quality to be effective.

"(B) FUNDS TO CONSORTIUM.—Funds allocated to a consortium formed to meet the requirements of this section shall be used only for purposes and programs that are mutually beneficial to all members of the consortium and shall be used only for programs authorized under this title. Such funds may not be reallocated to individual members of the consortium for purposes or programs benefiting only one member of the consortium.

"(4) WAIVER.—The eligible agency may waive the application of paragraph (3)(A)(i) in any case in which the eligible institution is located in a rural, sparsely populated area.

"(b) WAIVER FOR MORE EQUITABLE DISTRIBUTION.—The Secretary may waive the application of subsection (a) if an eligible agency submits to the Secretary an application for such a waiver that—

"(1) demonstrates that the formula described in subsection (a) does not result in a distribution of funds to the eligible institutions or consortia within the State that have the highest numbers of economically disadvantaged individuals and that an alternative formula will result in such a distribution; and

"(2) includes a proposal for such an alternative formula.

"(c) MINIMUM GRANT AMOUNT.—

"(1) IN GENERAL.—No institution or consortium shall receive an allocation under this section in an amount that is less than $50,000.

"(2) REDISTRIBUTION.—Any amounts that are not distributed by reason of paragraph (1) shall be redistributed to eligible institutions or consortia in accordance with this section.

"SEC. 133. SPECIAL RULES FOR VOCATIONAL AND TECHNICAL EDUCATION.

"(a) SPECIAL RULE FOR MINIMAL ALLOCATION.—

"(1) GENERAL AUTHORITY.—Notwithstanding the provisions of sections 131 and 132 and in order to make a more equitable distribution of funds for programs serving the areas of greatest economic need, for any program year for which a minimal amount is made available by an eligible agency for distribution under section 131 or 132, such State may distribute such minimal amount for such year—

"(A) on a competitive basis; or

"(B) through any alternative method determined by the State.

"(2) MINIMAL AMOUNT.—For purposes of this section, the term 'minimal amount' means not more than 15 percent of the total amount made

available for distribution under section 112(a)(1).

"(b) REDISTRIBUTION.—

"(1) IN GENERAL.—In any academic year that an eligible recipient does not expend all of the amounts the eligible recipient is allocated for such year under section 131 or 132, such eligible recipient shall return any unexpended amounts to the eligible agency to be reallocated under section 131 or 132, as appropriate.

"(2) REDISTRIBUTION OF AMOUNTS RETURNED LATE IN AN ACADEMIC YEAR.—In any academic year in which amounts are returned to the eligible agency under section 131 or 132 and the eligible agency is unable to reallocate such amounts according to such sections in time for such amounts to be expended in such academic year, the eligible agency shall retain such amounts for distribution in combination with amounts provided under section 112(a)(1) for the following academic year.

"(c) CONSTRUCTION.—Nothing in section 131 or 132 shall be construed—

"(1) to prohibit a local educational agency or a consortium thereof that receives assistance under section 131, from working with an eligible institution or consortium thereof that receives assistance under section 132, to carry out secondary school vocational and technical education programs in accordance with this title;

"(2) to prohibit an eligible institution or consortium thereof that receives assistance under section 132, from working with a local educational agency or consortium thereof that receives assistance under section 131, to carry out postsecondary and adult vocational and technical education programs in accordance with this title; or

"(3) to require a charter school, that provides vocational and technical education programs and is considered a local educational agency under State law, to jointly establish the charter school's eligibility for assistance under this title unless the charter school is explicitly permitted to do so under the State's charter school statute.

"(d) CONSISTENT APPLICATION.—For purposes of this section, the eligible agency shall provide funds to charter schools offering vocational and technical education programs in the same manner as the eligible agency provides those funds to other schools. Such vocational and technical education programs within a charter school shall be of sufficient size, scope, and quality to be effective.

"SEC. 134. LOCAL PLAN FOR VOCATIONAL AND TECHNICAL EDUCATION PROGRAMS.

"(a) LOCAL PLAN REQUIRED.—Any eligible recipient desiring financial assistance under this part shall, in accordance with requirements established by the eligible agency (in consultation with such other educational entities as the eligible agency determines to be appropriate) submit a local plan to the eligible agency. Such local plan shall cover the same period of time as the period of time applicable to the State plan submitted under section 122.

"(b) CONTENTS.—The eligible agency shall determine requirements for local plans, except that each local plan shall—

"(1) describe how the vocational and technical education programs required under section 135(b) will be carried out with funds received under this title;

"(2) describe how the vocational and technical education activities will be carried out with respect to meeting State adjusted levels of performance established under section 113;

"(3) describe how the eligible recipient will—

"(A) improve the academic and technical skills of students participating in vocational and technical education programs by strengthening the academic, and vocational and technical, components of such programs through the integration of academics with vocational and technical education programs through a coherent sequence of courses to ensure learning in the core academic, and vocational and technical, subjects;

"(B) provide students with strong experience in and understanding of all aspects of an industry; and

"(C) ensure that students who participate in such vocational and technical education programs are taught to the same challenging academic proficiencies as are taught for all other students;

"(4) describe how parents, students, teachers, representatives of business and industry, labor organizations, representatives of special populations, and other interested individuals are involved in the development, implementation, and evaluation of vocational and technical education programs assisted under this title, and how such individuals and entities are effectively informed about, and assisted in understanding, the requirements of this title;

"(5) provide assurances that the eligible recipient will provide a vocational and technical education program that is of such size, scope, and quality to bring about improvement in the quality of vocational and technical education programs;

"(6) describe the process that will be used to independently evaluate and continuously improve the performance of the eligible recipient;

"(7) describe how the eligible recipient—

"(A) will review vocational and technical education programs, and identify and adopt strategies to overcome barriers that result in lowering rates of access to or lowering success in the programs, for special populations; and

"(B) will provide programs that are designed to enable the special populations to meet the State adjusted levels of performance;

"(8) describe how individuals who are members of the special populations will not be discriminated against on the basis of their status as members of the special populations;

"(9) describe how funds will be used to promote preparation for nontraditional training and employment; and

"(10) describe how comprehensive professional development (including initial teacher preparation) for vocational and technical, academic, guidance, and administrative personnel will be provided.

"SEC. 135. LOCAL USES OF FUNDS.

"(a) GENERAL AUTHORITY.—Each eligible recipient that receives funds under this part shall use such funds to improve vocational and technical education programs.

"(b) REQUIREMENTS FOR USES OF FUNDS.—Funds made available to eligible recipients under this part shall be used to support vocational and technical education programs that—

"(1) strengthen the academic, and vocational and technical, skills of students participating in vocational and technical education programs by strengthening the academic, and vocational and technical, components of such programs through the integration of academics with vocational and technical education programs through a coherent sequence of courses to ensure learning in the core academic, and vocational and technical, subjects;

"(2) provide students with strong experience in and understanding of all aspects of an industry;

"(3) develop, improve, or expand the use of technology in vocational and technical education, which may include—

"(A) training of vocational and technical education personnel to use state-of-the-art technology, which may include distance learning;

"(B) providing vocational and technical education students with the academic, and vocational and technical, skills that lead to entry into the high technology and telecommunications field; or

"(C) encouraging schools to work with high technology industries to offer voluntary internships and mentoring programs;

"(4) provide professional development programs to teachers, counselors, and administrators, including—

"(A) inservice and preservice training in state-of-the-art vocational and technical education programs and techniques, in effective teaching skills based on research, and in effective practices to improve parental and community involvement;

"(B) support of education programs for teachers of vocational and technical education in public schools and other public school personnel who are involved in the direct delivery of educational services to vocational and technical education students, to ensure that such teachers and personnel stay current with all aspects of an industry;

"(C) internship programs that provide business experience to teachers; and

"(D) programs designed to train teachers specifically in the use and application of technology;

"(5) develop and implement evaluations of the vocational and technical education programs carried out with funds under this title, including an assessment of how the needs of special populations are being met;

"(6) initiate, improve, expand, and modernize quality vocational and technical education programs;

"(7) provide services and activities that are of sufficient size, scope, and quality to be effective; and

"(8) link secondary vocational and technical education and postsecondary vocational and technical education, including implementing tech-prep programs.

"(c) PERMISSIVE.—Funds made available to an eligible recipient under this title may be used—

"(1) to involve parents, businesses, and labor organizations as appropriate, in the design, implementation, and evaluation of vocational and technical education programs authorized under this title, including establishing effective programs and procedures to enable informed and effective participation in such programs;

"(2) to provide career guidance and academic counseling for students participating in vocational and technical education programs;

"(3) to provide work-related experience, such as internships, cooperative education, school-based enterprises, entrepreneurship, and job shadowing that are related to vocational and technical education programs;

"(4) to provide programs for special populations;

"(5) for local education and business partnerships;

"(6) to assist vocational and technical student organizations;

"(7) for mentoring and support services;

"(8) for leasing, purchasing, upgrading or adapting equipment, including instructional aides;

"(9) for teacher preparation programs that assist individuals who are interested in becoming vocational and technical education instructors, including individuals with experience in business and industry;

"(10) for improving or developing new vocational and technical education courses;

"(11) to provide support for family and consumer sciences programs;

"(12) to provide vocational and technical education programs for adults and school dropouts to complete their secondary school education;

"(13) to provide assistance to students who have participated in services and activities under this title in finding an appropriate job and continuing their education;

"(14) to support nontraditional training and employment activities; and

"(15) to support other vocational and technical education activities that are consistent with the purpose of this Act.

"(d) ADMINISTRATIVE COSTS.—Each eligible recipient receiving funds under this part shall not use more than 5 percent of the funds for administrative costs associated with the administration of activities assisted under this section.

"TITLE II—TECH-PREP EDUCATION

"SEC. 201. SHORT TITLE.

"This title may be cited as the 'Tech-Prep Education Act'.

"SEC. 202. DEFINITIONS.

"(a) In this title:

"(1) ARTICULATION AGREEMENT.—The term 'articulation agreement' means a written commitment to a program designed to provide students with a non duplicative sequence of progressive achievement leading to degrees or certificates in a tech-prep education program.

"(2) COMMUNITY COLLEGE.—The term 'community college'—

"(A) means an institution of higher education, as defined in section 101 of the Higher Education Act of 1965, that provides not less than a 2-year program that is acceptable for full credit toward a bachelor's degree; and

"(B) includes tribally controlled colleges or universities.

"(3) TECH-PREP PROGRAM.—The term 'tech-prep program' means a program of study that—

"(A) combines at a minimum 2 years of secondary education (as determined under State law) with a minimum of 2 years of postsecondary education in a nonduplicative, sequential course of study;

"(B) integrates academic, and vocational and technical, instruction, and utilizes work-based and worksite learning where appropriate and available;

"(C) provides technical preparation in a career field such as engineering technology, applied science, a mechanical, industrial, or practical art or trade, agriculture, health occupations, business, or applied economics;

"(D) builds student competence in mathematics, science, reading, writing, communications, economics, and workplace skills through applied, contextual academics, and integrated instruction, in a coherent sequence of courses;

"(E) leads to an associate or a baccalaureate degree or a postsecondary certificate in a specific career field; and

"(F) leads to placement in appropriate employment or to further education.

"SEC. 203. STATE ALLOTMENT AND APPLICATION.

"(a) IN GENERAL.—For any fiscal year, the Secretary shall allot the amount made available under section 206 among the States in the same manner as funds are allotted to States under paragraph (2) of section 111(a).

"(b) PAYMENTS TO ELIGIBLE AGENCIES.—The Secretary shall make a payment in the amount of a State's allotment under subsection (a) to the eligible agency that serves the State and has an application approved under subsection (c).

"(c) STATE APPLICATION.—Each eligible agency desiring assistance under this title shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

"SEC. 204. TECH-PREP EDUCATION.

"(a) GRANT PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—From amounts made available to each eligible agency under section 203, the eligible agency, in accordance with the provisions of this title, shall award grants, on a competitive basis or on the basis of a formula determined by the eligible agency, for tech-prep education programs described in subsection (c). The grants shall be awarded to consortia between or among—

"(A) a local educational agency, an intermediate educational agency or area vocational and technical education school serving secondary school students, or a secondary school funded by the Bureau of Indian Affairs; and

"(B)(i) a nonprofit institution of higher education that offers—

"(I) a 2-year associate degree program, or a 2-year certificate program, and is qualified as institutions of higher education pursuant to section 102 of the Higher Education Act of 1965, including an institution receiving assistance under the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801 et seq.) and a tribally controlled postsecondary vocational and technical institution; or

"(II) a 2-year apprenticeship program that follows secondary instruction,

if such nonprofit institution of higher education is not prohibited from receiving assistance under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.) pursuant to the provisions of section 435(a)(3) of such Act (20 U.S.C. 1083(a)); or

"(ii) a proprietary institution of higher education that offers a 2-year associate degree program and is qualified as an institution of higher education pursuant to section 102 of the Higher Education Act of 1965, if such proprietary institution of higher education is not subject to a default management plan required by the Secretary.

"(2) SPECIAL RULE.—In addition, a consortium described in paragraph (1) may include 1 or more—

"(A) institutions of higher education that award a baccalaureate degree; and

"(B) employer or labor organizations.

"(b) DURATION.—Each grant recipient shall use amounts provided under the grant to develop and operate a 4- or 6-year tech-prep education program described in subsection (c).

"(c) CONTENTS OF TECH-PREP PROGRAM.—Each tech-prep program shall—

"(1) be carried out under an articulation agreement between the participants in the consortium;

"(2) consist of at least 2 years of secondary school preceding graduation and 2 years or more of higher education, or an apprenticeship program of at least 2 years following secondary instruction, with a common core of required proficiency in mathematics, science, reading, writing, communications, and technologies designed to lead to an associate's degree or a postsecondary certificate in a specific career field;

"(3) include the development of tech-prep programs for both secondary and postsecondary, including consortium, participants in the consortium that—

"(A) meets academic standards developed by the State;

"(B) links secondary schools and 2-year postsecondary institutions, and if possible and practicable, 4-year institutions of higher education through nonduplicative sequences of courses in career fields, including the investigation of opportunities for tech-prep secondary students to enroll concurrently in secondary and postsecondary coursework;

"(C) uses, if appropriate and available, work-based or worksite learning in conjunction with business and all aspects of an industry; and

"(D) uses educational technology and distance learning, as appropriate, to involve all the consortium partners more fully in the development and operation of programs;

"(4) include in-service training for teachers that—

"(A) is designed to train vocational and technical teachers to effectively implement tech-prep programs;

"(B) provides for joint training for teachers in the tech-prep consortium;

"(C) is designed to ensure that teachers and administrators stay current with the needs, expectations, and methods of business and all aspects of an industry;

"(D) focuses on training postsecondary education faculty in the use of contextual and applied curricula and instruction; and

"(E) provides training in the use and application of technology;

"(5) include training programs for counselors designed to enable counselors to more effectively—

"(A) provide information to students regarding tech-prep education programs;

"(B) support student progress in completing tech-prep programs;

"(C) provide information on related employment opportunities;

"(D) ensure that such students are placed in appropriate employment; and

"(E) stay current with the needs, expectations, and methods of business and all aspects of an industry;

"(6) provide equal access, to the full range of technical preparation programs, to individuals who are members of special populations, including the development of tech-prep program services appropriate to the needs of special populations; and

"(7) provide for preparatory services that assist participants in tech-prep programs.

"(d) ADDITIONAL AUTHORIZED ACTIVITIES.—Each tech-prep program may—

"(1) provide for the acquisition of tech-prep program equipment;

"(2) acquire technical assistance from State or local entities that have designed, established, and operated tech-prep programs that have effectively used educational technology and distance learning in the delivery of curricula and services and in the articulation process; and

"(3) establish articulation agreements with institutions of higher education, labor organizations, or businesses located inside or outside the State and served by the consortium, especially with regard to using distance learning and educational technology to provide for the delivery of services and programs.

"SEC. 205. CONSORTIUM APPLICATIONS.

"(a) IN GENERAL.—Each consortium that desires to receive a grant under this title shall submit an application to the eligible agency at such time and in such manner as the eligible agency shall prescribe.

"(b) PLAN.—Each application submitted under this section shall contain a 5-year plan for the development and implementation of tech-prep programs under this title, which plan shall be reviewed after the second year of the plan.

"(c) APPROVAL.—The eligible agency shall approve applications based on the potential of the activities described in the application to create an effective tech-prep program.

"(d) SPECIAL CONSIDERATION.—The eligible agency, as appropriate, shall give special consideration to applications that—

"(1) provide for effective employment placement activities or the transfer of students to baccalaureate degree programs;

"(2) are developed in consultation with business, industry, institutions of higher education, and labor organizations;

"(3) address effectively the issues of school dropout prevention and reentry and the needs of special populations;

"(4) provide education and training in areas or skills in which there are significant workforce shortages, including the information technology industry; and

"(5) demonstrate how tech-prep programs will help students meet high academic and employability competencies.

"(e) EQUITABLE DISTRIBUTION OF ASSISTANCE.—In awarding grants under this title, the eligible agency shall ensure an equitable distribution of assistance between urban and rural consortium participants.

“SEC. 206. REPORT.

“Each eligible agency that receives a grant under this title annually shall prepare and submit to the Secretary a report on the effectiveness of the tech-prep programs assisted under this title, including a description of how grants were awarded within the State.

“SEC. 207. DEMONSTRATION PROGRAM.

“(a) DEMONSTRATION PROGRAM AUTHORIZED.—From funds appropriated under subsection (e) for a fiscal year, the Secretary shall award grants to consortia described in section 204(a) to enable the consortia to carry out tech-prep education programs.

“(b) PROGRAM CONTENTS.—Each tech-prep program referred to in subsection (a)—

“(1) shall—

“(A) involve the location of a secondary school on the site of a community college;

“(B) involve a business as a member of the consortium; and

“(C) require the voluntary participation of secondary school students in the tech-prep education program; and

“(2) may provide summer internships at a business for students or teachers.

“(c) APPLICATION.—Each consortium desiring a grant under this section shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may require.

“(d) APPLICABILITY.—The provisions of sections 203, 204, 205, and 206 shall not apply to this section, except that—

“(1) the provisions of section 204(a) shall apply for purposes of describing consortia eligible to receive assistance under this section;

“(2) each tech-prep education program assisted under this section shall meet the requirements of paragraphs (1), (2), (3)(A), (3)(B), (3)(C), (3)(D), (4), (5), (6), and (7) of section 204(c), except that such paragraph (3)(B) shall be applied by striking “, and if possible and practicable, 4-year institutions of higher education through nonduplicative sequences of courses in career fields”; and

“(3) in awarding grants under this section, the Secretary shall give special consideration to consortia submitting applications under subsection (c) that meet the requirements of paragraphs (1), (3), (4), and (5) of section 205(d), except that such paragraph (1) shall be applied by striking “or the transfer of students to baccalaureate degree programs”.

“(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $25,000,000 for fiscal year 1999 and each of the 4 succeeding fiscal years.

“SEC. 208. AUTHORIZATION OF APPROPRIATIONS.

“There is authorized to be appropriated to carry out this title (other than section 207) such sums as may be necessary for fiscal year 1999 and each of the 4 succeeding fiscal years.

“TITLE III—GENERAL PROVISIONS

“PART A—FEDERAL ADMINISTRATIVE PROVISIONS

“SEC. 311. FISCAL REQUIREMENTS.

“(a) SUPPLEMENT NOT SUPPLANT.—Funds made available under this Act for vocational and technical education activities shall supplement, and shall not supplant, non-Federal funds expended to carry out vocational and technical education activities and tech-prep activities.

“(b) MAINTENANCE OF EFFORT.—

“(1) DETERMINATION.—

“(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), no payments shall be made under this Act for any fiscal year to a State for vocational and technical education programs or tech-prep programs unless the Secretary determines that the fiscal effort per student or the aggregate expenditures of such State for vocational and technical education programs for the fiscal year preceding the fiscal year for which the determination is made, equaled or exceeded such effort or expenditures for vocational and technical education programs, for the second fiscal year preceding the fiscal year for which the determination is made.

“(B) COMPUTATION.—In computing the fiscal effort or aggregate expenditures pursuant to subparagraph (A), the Secretary shall exclude capital expenditures, special one-time project costs, and the cost of pilot programs.

“(C) DECREASE IN FEDERAL SUPPORT.—If the amount made available for vocational and technical education programs under this Act for a fiscal year is less than the amount made available for vocational and technical education programs under this Act for the preceding fiscal year, then the fiscal effort per student or the aggregate expenditures of a State required by subparagraph (B) for such preceding fiscal year shall be decreased by the same percentage as the percentage decrease in the amount so made available.

“(2) WAIVER.—The Secretary may waive the requirements of this section, with respect to not more than 5 percent of expenditures by any eligible agency for 1 fiscal year only, on making a determination that such waiver would be equitable due to exceptional or uncontrollable circumstances affecting the ability of the eligible agency to meet such requirements, such as a natural disaster or an unforeseen and precipitous decline in financial resources. No level of funding permitted under such a waiver may be used as the basis for computing the fiscal effort or aggregate expenditures required under this section for years subsequent to the year covered by such waiver. The fiscal effort or aggregate expenditures for the subsequent years shall be computed on the basis of the level of funding that would, but for such waiver, have been required.

“SEC. 312. AUTHORITY TO MAKE PAYMENTS.

“Any authority to make payments or to enter into contracts under this Act shall be available only to such extent or in such amounts as are provided in advance in appropriation Acts.

“SEC. 313. CONSTRUCTION.

“Nothing in this Act shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of a private, religious, or home school, regardless of whether a home school is treated as a private school or home school under State law. This section shall not be construed to bar students attending private, religious, or home schools from participation in programs or services under this Act.

“SEC. 314. VOLUNTARY SELECTION AND PARTICIPATION.

“No funds made available under this Act shall be used—

“(1) to require any secondary school student to choose or pursue a specific career path or major; and

“(2) to mandate that any individual participate in a vocational and technical education program, including a vocational and technical education program that requires the attainment of a federally funded skill level, standard, or certificate of mastery.

“SEC. 315. LIMITATION FOR CERTAIN STUDENTS.

“No funds received under this Act may be used to provide vocational and technical education programs to students prior to the seventh grade, except that equipment and facilities purchased with funds under this Act may be used by such students.

“SEC. 316. FEDERAL LAWS GUARANTEEING CIVIL RIGHTS.

“Nothing in this Act shall be construed to be inconsistent with applicable Federal law prohibiting discrimination on the basis of race, color, sex, national origin, age, or disability in the provision of Federal programs or services.

“SEC. 317. AUTHORIZATION OF SECRETARY.

“For the purposes of increasing and expanding the use of technology in vocational and technical education instruction, including the training of vocational and technical education personnel as provided in this Act, the Secretary is authorized to receive and use funds collected by the Federal Government from fees for the use of property, rights-of-way, and easements under the control of Federal departments and agencies for the placement of telecommunications services that are dependent, in whole or in part, upon the utilization of general spectrum rights for the transmission or reception of such services.

“SEC. 318. PARTICIPATION OF PRIVATE SCHOOL PERSONNEL.

“An eligible agency or eligible recipient that uses funds under this Act for inservice and preservice vocational and technical education professional development programs for vocational and technical education teachers, administrators, and other personnel may, upon request, permit the participation in such programs of vocational and technical education teachers, administrators, and other personnel in nonprofit private schools offering vocational and technical education programs located in the geographical area served by such agency or recipient.

“PART B—STATE ADMINISTRATIVE PROVISIONS

“SEC. 321. JOINT FUNDING.

“(a) GENERAL AUTHORITY.—Funds made available to eligible agencies under this Act may be used to provide additional funds under an applicable program if—

“(1) such program otherwise meets the requirements of this Act and the requirements of the applicable program;

“(2) such program serves the same individuals that are served under this Act;

“(3) such program provides services in a coordinated manner with services provided under this Act; and

“(4) such funds are used to supplement, and not supplant, funds provided from non-Federal sources.

“(b) APPLICABLE PROGRAM.—For the purposes of this section, the term “applicable program” means any program under any of the following provisions of law:

“(1) Chapters 4 and 5 of subtitle B of title I of Public Law 105–220.

“(2) The Wagner-Peyser Act.

“(c) USE OF FUNDS AS MATCHING FUNDS.—For the purposes of this section, the term ‘additional funds’ does not include funds used as matching funds.

“SEC. 322. PROHIBITION ON USE OF FUNDS TO INDUCE OUT-OF-STATE RELOCATION OF BUSINESSES.

“No funds provided under this Act shall be used for the purpose of directly providing incentives or inducements to an employer to relocate a business enterprise from one State to another State if such relocation will result in a reduction in the number of jobs available in the State where the business enterprise is located before such incentives or inducements are offered.

“SEC. 323. STATE ADMINISTRATIVE COSTS.

“(a) GENERAL RULE.—Except as provided in subsection (b), for each fiscal year for which an eligible agency receives assistance under this Act, the eligible agency shall provide, from non-Federal sources for the costs the eligible agency incurs for the administration of programs under this Act an amount that is not less than the amount provided by the eligible agency from non-Federal sources for such costs for the preceding fiscal year.

“(b) EXCEPTION.—If the amount made available for administration of programs under this

Act for a fiscal year is less than the amount made available for administration of programs under this Act for the preceding fiscal year, the amount the eligible agency is required to provide from non-Federal sources for costs the eligible agency incurs for administration of programs under this Act shall be the same percentage as the amount made available for administration of programs under this Act.

"SEC. 324. LIMITATION ON FEDERAL REGULATIONS.

"The Secretary may issue regulations under this Act only to the extent necessary to administer and ensure compliance with the specific requirements of this Act.

"SEC. 325. STUDENT ASSISTANCE AND OTHER FEDERAL PROGRAMS.

"(a) Attendance Costs Not Treated as Income or Resources.—The portion of any student financial assistance received under this Act that is made available for attendance costs described in subsection (b) shall not be considered as income or resources in determining eligibility for assistance under any other program funded in whole or in part with Federal funds.

"(b) Attendance Costs.—The attendance costs described in this subsection are—

"(1) tuition and fees normally assessed a student carrying an academic workload as determined by the institution, and including costs for rental or purchase of any equipment, materials, or supplies required of all students in that course of study; and

"(2) an allowance for books, supplies, transportation, dependent care, and miscellaneous personal expenses for a student attending the institution on at least a half-time basis, as determined by the institution.

"(c) Costs of Vocational and Technical Education Services.—Funds made available under this Act may be used to pay for the costs of vocational and technical education services required in an individualized education plan developed pursuant to section 614(d) of the Individuals with Disabilities Education Act and services necessary to meet the requirements of section 504 of the Rehabilitation Act of 1973 with respect to ensuring equal access to vocational and technical education.".

SEC. 2. PROMOTING SCHOLAR-ATHLETE COMPETITIONS.

Section 10104 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8004) is amended—

(1) in subsection (a), by striking "to be held in 1995" and inserting "to be held in 1999"; and

(2) in subsection (b)—

(A) in paragraph (4), by striking "in the summer of 1995" and inserting "in the summer of 1999";

(B) in paragraph (5), by striking "in 1996 and thereafter, as well as replicate such program"; and

(C) in paragraph (6), by striking "1995" and inserting "1999".

SEC. 3. REFERENCES TO CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT.

(a) Immigration and Nationality Act.—Section 245A(h)(4)(C) of the Immigration and Nationality Act (8 U.S.C. 1255a(h)(4)(C)) is amended by striking "Vocational Education Act of 1963" and inserting "Carl D. Perkins Vocational and Technical Education Act of 1998".

(b) National Defense Authorization Act.—Section 4461 of the National Defense Authorization Act for Fiscal Year 1993 (10 U.S.C. 1143 note) is amended—

(1) by striking paragraph (4); and

(2) by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(c) Elementary and Secondary Education Act of 1965.—The Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is amended—

(1) in section 1114(b)(2)(C)(v) (20 U.S.C. 6314(b)(2)(C)(v)), by striking "Carl D. Perkins Vocational and Applied Technical Education Act," and inserting "Carl D. Perkins Vocational and Technical Education Act of 1998";

(2) in section 9115(b)(5) (20 U.S.C. 7815(b)(5)), by striking "Carl D. Perkins Vocational and Technical Education Act" and inserting "Carl D. Perkins Vocational and Technical Education Act of 1998";

(3) in section 14302(a)(2) (20 U.S.C. 8852(a)(2))—

(A) by striking subparagraph (C); and

(B) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E), respectively; and

(4) in the matter preceding subparagraph (A) of section 14307(a)(1) (20 U.S.C. 8857(a)(1)), by striking "Carl D. Perkins Vocational and Applied Technology Technical Education Act" and inserting "Carl D. Perkins Vocational and Technical Education Act of 1998".

(d) Equity in Educational Land-Grant Status Act of 1994.—Section 533(c)(4)(A) of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note) is amended by striking "(20 U.S.C. 2397h(3)" and inserting ", as such section was in effect on the day preceding the date of enactment of the Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998".

(e) Improving America's Schools Act of 1994.—Section 563 of the Improving America's Schools Act of 1994 (20 U.S.C. 6301 note) is amended by striking "the date of enactment of an Act reauthorizing the Carl D. Perkins Vocational and Technical Education Act (20 U.S.C. 2301 et seq.)" and inserting "July 1, 1999".

(f) Workforce Investment Act of 1998.—Section 101(3) of the Workforce Investment Act of 1998 (29 U.S.C. 2801(3)) is amended by striking "section 521 of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471)" and inserting "section 3 of the Carl D. Perkins Vocational and Technical Education Act of 1998".

(g) Appalachian Regional Development Act of 1965.—Section 214(c) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 214(c)) is amended by striking "Carl D. Perkins Vocational Education Act" and inserting "Carl D. Perkins Vocational and Technical Education Act of 1998".

(h) Vocational Education Amendments of 1968.—Section 104 of the Vocational Education Amendments of 1968 (82 Stat. 1091) is amended by striking "section 3 of the Carl D. Perkins Vocational Education Act" and inserting "the Carl D. Perkins Vocational and Technical Education Act of 1998".

(i) Older Americans Act of 1965.—The Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) is amended—

(1) in section 502(b)(1)(N)(i) (42 U.S.C. 3056(b)(1)(N)(i)), by striking "or the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.)"; and

(2) in section 505(d)(2) (42 U.S.C. 3056c(d)(2))—

(A) by striking "employment and training programs" and inserting "workforce investment activities"; and

(B) by striking "the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.)" and inserting "the Carl D. Perkins Vocational and Technical Education Act of 1998".

SEC. 4. ADULT EDUCATION AND FAMILY LITERACY.

The Adult Education and Family Literacy Act (20 U.S.C. 9201 et seq.) is amended—

(1) in section 224, by adding at the end the following:

"(g) Transition.—The provisions of this section shall be subject to section 506(b)."; and

(2) by amending paragraph (2) of section 506(b) to read as follows:

"(2) Limitation.—The authority to take actions under paragraph (1) shall apply until July 1, 2000.".

SEC. 5. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Workforce Investment Act of 1998.—Section 121 of the Workforce Investment Act of 1998 (29 U.S.C. 2841) is amended—

(1) in subsection (b)(1)(B)(iv), by inserting before the semicolon the following: "(other than part C of title I of such Act and subject to subsection (f))"; and

(2) by adding at the end the following:

"(f) Application to Certain Vocational Rehabilitation Programs.—

"(1) Limitation.—Nothing in this section shall be construed to apply to part C of title I of the Rehabilitation Act of 1973 (29 U.S.C. 741).

"(2) Client assistance.—Nothing in this Act shall be construed to require that any entity carrying out a client assistance program authorized under section 112 of the Rehabilitation Act of 1973 (29 U.S.C. 732)—

"(A) violate the requirement of section 112(c)(1)(A) of that Act that the entity be independent of any agency which provides treatment, services, or rehabilitation to individuals under that Act; or

"(B) carry out any activity not authorized under section 112 of that Act (including appropriate Federal regulations).".

(b) Wagner-Peyser Act.—

(1) In general.—Section 15 of the Wagner-Peyser Act (as added by section 309 of the Workforce Investment Act of 1998) is amended—

(A) in subsection (a)(2)(A)(i), by striking "under" and all that follows through "for which" and inserting "under the provisions of this section for any purpose other than the statistical purposes for which"; and

(B) in subsection (e)(2)(G), by striking "complementary" and inserting "complementarity".

(2) Effective date.—The amendments made by paragraph (1) take effect July 2, 1999.

(c) Rehabilitation Act of 1973.—Section 725(c)(7) of the Rehabilitation Act of 1973 (as amended by section 410 of the Workforce Investment Act of 1998) is amended by striking "management," and all that follows and inserting "management;".

SEC. 6. REPEALS AND EXTENSIONS OF PREVIOUS HIGHER EDUCATION AMENDMENTS PROVISIONS.

(a) Higher Education Amendments of 1986.—Title XIII of the Higher Education Amendments of 1986 (Public Law 99–498) is repealed.

(b) Higher Education Amendments of 1992.—The following provisions of the Higher Education Amendments of 1992 (Public Law 102–325) are repealed:

(1) Parts E, F, and G of title XIII.

(2) Title XIV.

(3) Parts A, B, C, and D of title XV.

And the Senate agree to the same.

Bill Goodling,
Howard "Buck" McKeon,
Frank Riggs,
John E. Peterson,
Sam Johnson,
Bill Clay,
Matthew G. Martinez,
Dale E. Kildee,
Managers on the Part of the House.

Jim Jeffords,
Dan Coats,
Judd Gregg,
Bill Frist,
Mike DeWine,
Michael B. Enzi,

Tim Hutchinson,
Susan Collins,
Mitch McConnell,
Ted Kennedy,
Chris Dodd,
Tom Harkin,
Barbara A. Mikulski,
Paul Wellstone,
Jack Reed,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1853) to amend the Carl D. Perkins Vocational and Applied Technology Education Act, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

Title I—Vocational and Technical Education Assistance to the States

The Conference agreement improves vocational and technical education by strengthening academics, broadening vocational opportunities for students, sending more money to the local level, and increasing flexibility for State and local program needs.

FORMULA PROVISIONS

The Conference agreement authorizes such sums for Fiscal Years 1999–2003.

Federal to State formula

The House bill changes the formula provisions in the Act. The Federal to State formula allots basic State grant funds to States based upon two populations. Fifty percent would be sent based upon the population aged 15–19 in each State, and 50 percent based upon the population aged 20–24 in the State. This distribution would be subject to each State receiving a minimum amount of one half of one percent of the total grant amounts (small state minimum). State allotments would be adjusted by the per capita income of the State, with the maximum adjustment ratio being 0.55 and the minimum being 0.4.

The Senate bill follows current law.

The Conference agreement follows the Senate bill.

Outlying areas

Both bills provide for grants of $500,000 made to Guam, and $190,000 each to American Samoa, and the Commonwealth of the Northern Marianna Islands from reserved funds. In addition, both bills require the Freely Associated States (the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau) to compete for their allotment with Guam and American Samoa.

The House bill terminates funding for the Freely Associated States (the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau) on September 30, 2001.

The Senate bill terminates funding for the Freely Associated States (the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau) on September 30, 2004.

The Conference agreement follows the House bill.

Within State formula

The House bill requires States to send 90 percent of their basic State grant to the local level for secondary, postsecondary, and adult vocational education activities. Of this 90 percent, a State may reserve up to ten percent for rural (five percent) and urban (five percent) areas in the State. A State is required to reserve eight percent of the basic State grant for State leadership activities and two percent for administrative activities.

The Senate bill maintains several key set-asides found in current law. The Senate bill allocates 75 percent of the State grant for secondary, postsecondary, and adult vocational and technical education activities. The bill allows States to reserve 14 percent of their allotment for State leadership activities, ten percent for administration, and one percent for programming for criminal offenders.

The Conference agreement allocates 85 percent of the State grant for secondary, postsecondary, and adult vocational and technical education programs at the local level. Of this allocation, ten percent may be made available to award grants to rural areas; areas with high percentages of vocational and technical education students; areas with high numbers of vocational and technical education students; and communities negatively impacted as a result of changes in the new within State formula. In adopting this change, the Conferees recognize the inequities inherent in any formula toward rural areas and provide through this reserve a mechanism for States to compensate for these inequities. In addition to rural areas, the Conferees realize that the formula may not adequately reflect those schools or local areas that have a high percentage or population of students in vocational technical education programs.

The agreement also authorizes the State eligible agency to reserve an amount equal to ten percent of the total allotment for State leadership activities. Included in the funds reserved for State Leadership activities, up to one percent of the total allotment shall be used to serve criminal offenders, and not less than $60,000 but no more than $150,000 shall be used for services targeting preparation for nontraditional training and employment. The Conference agreement authorizes the State eligible agency to reserve up to five percent of the total allotment, or $250,000 (whichever is greater), for State administrative activities. This may be used for the costs of developing a State plan, reviewing a local plan, monitoring and evaluating the effectiveness of a program, assuring the compliance with all of the applicable federal laws, or providing technical assistance. Each State that receives this financial assistance shall match the reserve funds on a dollar-for-dollar basis.

NATIONAL ACTIVITIES

Both bills require the Secretary to develop and implement a plan for evaluation and dissemination of vocational and technical education programs. Both bills include provisions with regard to what is to be included in the evaluation and assessment plans. In addition, both bills allow the Secretary to award grants to establish national research centers. Demonstration and dissemination activities are also included. Both bills also require information collection on vocational and technical education programs. Adequate information on access to vocational and technical education by secondary students with disabilities is maintained in the data system.

The House bill extends the authorization of the National Occupational Information Coordinating Committee.

The Senate bill had no comparable provision.

The Conference agreement includes authority for the Secretary of Education to designate an entity at the national level to carry out certain functions related to occupational and employment information for vocational and technical education programs. The agreements also gives authority to the Secretary to award grants to designated State entities, which may include State Occupational Information Coordinating Committees established prior to enactment of this Act, to carry out State activities related to such information. The agreement prohibits any duplication of activities authorized under section 15 of the Wagner-Peyser Act. The Conferees expect the Secretary of Education, in carrying out this section, to consult with the Bureau of Labor Statistics and the Employment and Training Administration in order to avoid any duplication of activities.

INDIAN AND NATIVE HAWAIIAN PROGRAM AND TRIBALLY CONTROLLED POSTSECONDARY VOCATIONAL AND TECHNICAL INSTITUTIONS

Section 103 of the House bill authorizes grants to Indian tribes, tribal organizations, and Alaska Native entities for the purposes of carrying out vocational and technical education, but bars Bureau Funded secondary schools from receiving assistance under this Section. The Secretary is also directed to enter into contracts with organizations primarily serving Native Hawaiian programs. In addition, section 104 of the House bill also authorizes the Secretary to make grants to tribally controlled postsecondary vocational and technical institutions.

Section 114 of the Senate bill authorizes the Secretary to enter into grants or contracts to Indian tribes, tribal organizations, Bureau funded schools, and organizations primarily serving native Hawaiians for the purposes of carrying out vocational and technical education programs. Any organization that receives a grant or enters into a contract would be required to establish adjusted levels of performance to be achieved by students served and evaluate the quality and effectiveness of the program. In addition, the Section 115 of the Senate bill also authorizes the Secretary to make grants to tribally controlled postsecondary vocational and technical institutions.

The Conference agreement follows the Senate bill with regard to the issuance of grants or contracts to Indian tribes, tribal organizations, but adds Alaska Native entities as eligible to receive a grant or enter into a contract. The agreement follows the House bill with regard to the majority of the provisions relating to tribally controlled postsecondary vocational and technical education institutions, including the maintenance of a separate authorization of appropriations for these activities. In addition, the agreement follows the Senate bill on the requirement to conduct needs estimates and reports on facility quality. The Conference agreement closely follows current law on these provisions.

STATE ORGANIZATIONAL AND PLANNING RESPONSIBILITIES

State plan

The House bill requires a State plan to be for a minimum of five years. The plan would describe the vocational and technical education programs that would be carried out with funds received by the State. In addition, the plan would describe how funds received by the State would be allocated; describe how the State would improve the academic and technical skills of vocational technical education students; ensure that participating students are taught to the same academic proficiencies as are provided all other students; and describe how the State would evaluate the effectiveness of the programs annually.

The Senate bill requires a State plan to be for a minimum of three years. The plan would describe the vocational education activities designed to meet the State adjusted levels of performance. It would also describe how funds would be allocated. The plan would describe how funds would be used to expand and improve technology in instruction; to serve individuals in correctional institutions; and to link secondary and postsecondary education.

The Conference agreement follows the House bill with a few modifications. The State plan is to include information that describes the vocational education activities to be assisted that are designed to meet the State adjusted levels of performance. The plan is to be reviewed prior to the third program year. In addition, the plan describes the eligible agency's program strategies for special populations.

State leadership

Required use of funds

The House bill requires State leadership funds to be used for activities targeting the use of technology, professional development, and support for programs that improve the academic and technical skills of participating vocational technical education students.

The Senate bill requires State leadership funds be used for monitoring and evaluating the quality and improvement of vocational and technical education activities and for improving and expanding technology. In addition, the bill requires that funds be used to provide comprehensive professional development. The bill also requires that funds be used to: provide preparation for nontraditional training and employment; support tech-prep education activities; support partnerships among LEAs, institutions of higher education, adult education providers, and other entities; and to serve individuals in State institutions.

The Conference agreement merges the provisions of the two bills. The agreement also includes support for programs for special populations, and describes how funds will be used to serve individuals in correctional institutions.

Permissive use of funds

The House bill allows State leadership funds to be used for technical support of eligible recipients and to establish agreements between secondary and postsecondary programs. It also allows funds to be used for: support for programs for special populations; cooperative education; vocational student organizations; support for public charter schools operating secondary vocational and technical education programs; and programs that offer experience in all aspects of an industry for which students would be preparing to enter. In addition funds may be used for: family and consumer sciences programs; corrections education; education and business partnerships; and to improve or develop new vocational and technical education courses.

The Senate bill permits funds to be used for an array of activities, including support for vocational student organizations, and to provide programs for adults and school dropouts. It also allows funds to be used to provide assistance to participating students in finding a job and continuing their education.

The Conference agreement merges the provisions of the two bills.

Substate formula at the secondary level

The House bill phases in a new secondary substate formula over five years. Year one would operate under current law, and subsequent years would transition to a formula based 60 percent on poverty of individuals aged 15–19, and 40 percent on the population of individuals aged 15–19. The minimum grant would be $10,000. The House bill also includes a waiver ability for States that develop an alternative formula that more effectively targets funds on the basis of poverty to Local Educational Agencies (LEAs).

The Senate bill follows current law on the distribution of funds, but raises the minimum grant to $25,000.

The Conference agreement changes the secondary substate formula over two years. In the first year of the reauthorization, funds for secondary activities would be distributed under current law. Beginning in year two, seventy percent of the funds would be distributed based upon each LEA's share of the individuals aged 15–19 from economically disadvantaged families, and 30 percent distributed based upon the LEA's share of population aged 15–19. The agreement follows the House bill with regard to the waiver authority, and maintains current law with regard to the minimum grant of $15,000.

Substate funding at the postsecondary level

The House bill follows current law on the postsecondary substate formula, which is based upon an institution's share of Pell Grant recipients. It sets the minimum grant at $35,000. The bill also allows the Secretary to waive requirements to permit alternative formulas.

The Senate bill follows current law for the postsecondary substate formula, but sets the minimum grant at $65,000.

The Conference agreement follows current law with regard to the formula, the minimum grant of $50,000, and waiver authority.

ACCOUNTABILITY

The House bill requires the State to develop performance measures to measure the progress of the State. If the State has not demonstrated improvement in meeting its performance measures for 2 or more consecutive years, the Secretary may withhold all, or a portion of, the allotment. In addition, each eligible agency that receives an allotment must annually prepare and submit a report to the Secretary on the State's performance. This report is to include, in addition to other things, a description of the progress of special populations.

The Senate bill requires the Secretary to publish performance measures to assess the progress of each eligible agency. Each eligible agency is to negotiate with the Secretary the adjusted levels of performance. Each eligible agency is to annually evaluate the vocational and technical education and techprep activities to determine the progress. If an organization is not making substantial progress, it is to conduct an assessment, enter into an improvement plan based on the assessment, and conduct regular evaluations of the progress being made. If the organization continues to not demonstrate improvement, the Secretary may withhold all, or a portion of, the allotment. The eligible agency that receives the allotment is to report annually on the progress made, including a description of the progress of special populations.

The Conference agreement requires the State performance measures to be established solely by the State, and are to include core indicators of performance. The State adjusted levels of performance shall be agreed upon by the State adjusted levels of performance shall be agreed upon by the State eligible agency (with input from local eligible recipients) and the Secretary for the first two program years covered by the State plan. Prior to the third program year, the Secretary and eligible agency shall reach agreement on the core indicators of performance for the third, fourth and fifth program years. Each eligible agency that receives this allotment shall prepare and submit an annual report to the Secretary describing the agency's progress.

LOCAL PROVISIONS

LOCAL USES OF FUNDS

Required use of funds

The House bill requires funds to be used for strengthening the academic and technical skills of participating students by strengthening the program components through the integration of academics with vocational and technical education; developing, improving, or expanding the use of technical in vocational and technical education; and providing professional development programs.

The Senate bill requires funds to be used to integrate academic education with vocational and technical education for particapting student; to improve or expand the use of technology in vocational and technical education, including professional development; to provide professional development activities to teachers, counselors, and administrators; to develop and implement performance management systems and evaluations; to initiate and improve quality programs; to link secondary and postsecondary education, including tech-prep programs; to develop implement programs that provide access to quality programs for participating students, including special populations; to promote preparation for nontraditional training and employment.

The Conference agreement follows the majority of the provisions in the House bill. The agreement also requires funds to be used for programs designed to train teachers specifically in the use of technology; to provide services and activities that are of sufficient size, scope, and quality to be effective; and to link, secondary and postsecondary vocational and technical education, including implementing tech-prep programs.

Permissive use of funds

The House bill permits funds to be used for establishing agreements between secondary and postsecondary vocational and technical education programs; involving parents, businesses, and employee representatives in the design and implementation of programs; providing career counseling; providing work related experience; programs for special populations; local education and business partnerships; vocational and technical student organizations; mentoring and support services; equipment used on the programs; establishing programs and procedures that allow students and their parents to participate directly in decisions that influence the programs; teacher preparation programs; improving or developing new vocational and technical education programs; and support for family and consumer sciences programs.

The Senate bill allows funds to be used for providing guidance and counseling to participating students; supporting vocational and technical student organizations; student internships; providing vocational and technical education programs for adults and school dropouts; acquiring and adapting equipment; providing assistance to students in finding an appropriate job and continuing their education; and supporting other vocational and technical education activities.

The Conference agreement merges the two bills.

TITLE II—TECH-PREP PROGRAMS

The House bill permits the eligible agency to award grants to consortia on a competitive basis or on the basis of formula, in order to develop and operate a four to six year tech-prep education program. The tech-prep program is to be carried out with agreement among the participants in the consortium; consist of at least two years secondary school and two years higher education or a two year apprenticeship program; include the development of tech-prep education program components appropriate to the participants; include in-service training for teachers and training programs for counselors; provide equal access to tech-prep programs; and provide for preparatory services that assist participants.

The Senate bill permits the eligible agency to award grants to consortia for the development and operation of programs designed to provide tech-prep education. The tech-prep program is to be carried out with agreement among the participants; consist of at least two years of secondary school, two years of higher education or a two year apprenticeship program; include the development of tech-prep education programs for participants; meet State academic standards; link secondary schools and two-year postsecondary institutions; use work-based or worksite learning along with business and industry; use educational technology and distance learning; include a professional development program for teachers and training programs for counselors; provide equal access to tech-prep programs; and provide preparatory programs to assist special populations.

Both bills include provisions regarding the application process. The Conference agreement provides for grants to be awarded. These grants are to be awarded on a competitive basis or on the basis of formula. The agreement merges the House and the Senate bill with regard to the contents of the program. In addition, the agreement authorizes additional activities, including the acquisition of tech-prep education equipment, acquisition of technical assistance from State or local entities, the establishment of articulation agreements. The agreement also follows the House bill on the allotment provisions, but the Senate bill on appropriations and demonstration programs.

TITLE III—GENERAL PROVISIONS

Both bills clarify that the funds received under this Act shall be used to supplement, not supplant, the amount of funds that would be made available from non-Federal sources for vocational and technical education. Both bills also mandate that nothing in this Act shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of a private, religious, or home school.

The House bill includes provisions clarifying that: none of the funds under this Act shall be used for students prior to the seventh grade; and that none of the funds under the Act shall be used to require any secondary school student to choose or pursue a specific career path or major or to mandate participation in a vocational and technical education program or attain a federally funded skill level, standard, or certificate of mastery. the bill further includes provisions clarifying that: nothing in the Act shall be construed to be inconsistent with Federal laws guaranteeing civil rights; permits the participation of personnel in non-profit private schools; allows the State to use additional funds under applicable programs; and prohibits funds to be used for the sole purpose of providing incentives to relocate a business from one State to another.

The Conference agreement generally follows the House bill, but merges provisions from both bills.

DEFINITIONS

SPECIAL POPULATIONS

The House bill includes individuals with disabilities, economically disadvantaged individuals, individuals with limited English proficiency, and individuals participating in nontraditional training and employment when describing special populations.

The Senate bill includes low-income individuals including foster children, individuals with disabilities, single parents and displaced homemakers, and individuals with other barriers to educational achievement including individuals with limited English proficiency when describing special populations.

The Conference agreement defines special populations as individuals with disabilities; individuals from economically disadvantaged families, including foster children; individuals preparing for non-traditional training and employment; single parents, including single pregnant women; displaced homemakers; and individuals with other barriers to educational achievement, including individuals with limited English proficiency.

BILL GOODLING,
HOWARD "BUCK" MCKEON,
FRANK RIGGS,
JOHN E. PETERSON,
SAM JOHNSON,
BILL CLAY,
MATTHEW G. MARTINEZ,
DALE E. KILDEE,
Managers on the Part of the House.

JIM JEFFORDS,
DAN COATS,
JUDD GREGG,
BILL FRIST,
MIKE DEWINE,
MICHAEL B. ENZI,
TIM HUTCHINSON,
SUSAN COLLINS,
MITCH MCCONNELL,
TED KENNEDY,
CHRIS DODD,
TOM HARKIN,
BARBARA A. MIKULSKI,
PAUL WELLSTONE,
JACK REED,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 2281, DIGITAL MILLENNIUM COPYRIGHT ACT

Mr. COBLE submitted the following conference report and statement on the bill (H.R. 2281) to amend title 17, United States Code, to implement the World Intellectual Property Organization Copyright Treaty and Performances and Phonograms Treaty, and for other purposes:

CONFERENCE REPORT (H. REPT. 105–796)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2281), to amend title 17, United States Code, to implement the World Intellectual Property Organization Copyright Treaty and Performances and Phonograms Treaty, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Digital Millennium Copyright Act".

SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—WIPO TREATIES IMPLEMENTATION

Sec. 101. Short title.
Sec. 102. Technical amendments.
Sec. 103. Copyright protection systems and copyright management information.
Sec. 104. Evaluation of impact of copyright law and amendments on electronic commerce and technological development.
Sec. 105. Effective date.

TITLE II—ONLINE COPYRIGHT INFRINGEMENT LIABILITY LIMITATION

Sec. 201. Short title.
Sec. 202. Limitations on liability for copyright infringement.
Sec. 203. Effective date.

TITLE III COMPUTER MAINTENANCE OR REPAIR COPYRIGHT EXEMPTION

Sec. 301. Short title.
Sec. 302. Limitations on exclusive rights; computer programs.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Provisions Relating to the Commissioner of Patents and Trademarks and the Register of Copyrights.
Sec. 402. Ephemeral recordings.
Sec. 403. Limitations on exclusive rights; distance education.
Sec. 404. Exemption for libraries and archives.
Sec. 405. Scope of exclusive rights in sound recordings; ephemeral recordings.
Sec. 406. Assumption of contractual obligations related to transfers of rights in motion pictures.
Sec. 407. Effective date.

TITLE V—PROTECTION OF CERTAIN ORIGINAL DESIGNS

Sec. 501. Short title.
Sec. 502. Protection of certain original designs.
Sec. 503. Conforming amendments.
Sec. 504. Joint study of the effect of this title.
Sec. 505. Effective date.

TITLE I—WIPO TREATIES IMPLEMENTATION

SEC. 101. SHORT TITLE.

This title may be cited as the "WIPO Copyright and Performances and Phonograms Treaties Implementation Act of 1998".

SEC. 102. TECHNICAL AMENDMENTS.

(a) DEFINITIONS.—Section 101 of title 17, United States Code, is amended—

(1) by striking the definition of "Berne Convention work";

(2) in the definition of "The 'country of origin' of a Berne Convention work"—

(A) by striking "The 'country of origin' of a Berne Convention work, for purposes of section 411, is the United States if" and inserting "For purposes of section 411, a work is a 'United States work' only if";

(B) in paragraph (1)—

(i) in subparagraph (B) by striking "nation or nations adhering to the Berne Convention" and inserting "treaty party or parties";

(ii) in subparagraph (C) by striking "does not adhere to the Berne Convention" and inserting "is not a treaty party"; and

(iii) in subparagraph (D) by striking "does not adhere to the Berne Convention" and inserting "is not a treaty party"; and

(C) in the matter following paragraph (3) by striking "For the purposes of section 411, the 'country of origin' of any other Berne Convention work is not the United States.";

(3) by inserting after the definition of "fixed" the following:

"The 'Geneva Phonograms Convention' is the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms, concluded at Geneva, Switzerland, on October 29, 1971.";

(4) by inserting after the definition of "including" the following:

"An 'international agreement' is—

"(1) the Universal Copyright Convention;

"(2) the Geneva Phonograms Convention;

"(3) the Berne Convention;

"(4) the WTO Agreement;

"(5) the WIPO Copyright Treaty;

"(6) the WIPO Performances and Phonograms Treaty; and

"(7) any other copyright treaty to which the United States is a party.";

(5) by inserting after the definition of "transmit" the following:

"A 'treaty party' is a country or intergovernmental organization other than the United States that is a party to an international agreement.";

(6) by inserting after the definition of "widow" the following:

"The 'WIPO Copyright Treaty' is the WIPO Copyright Treaty concluded at Geneva, Switzerland, on December 20, 1996.";

(7) by inserting after the definition of "The 'WIPO Copyright Treaty'" the following:

"The 'WIPO Performances and Phonograms Treaty' is the WIPO Performances and Phonograms Treaty concluded at Geneva, Switzerland, on December 20, 1996."; and

(8) by inserting after the definition of "work made for hire" the following:

"The terms 'WTO Agreement' and 'WTO member country' have the meanings given those terms in paragraphs (9) and (10), respectively, of section 2 of the Uruguay Round Agreements Act.".

(b) SUBJECT MATTER OF COPYRIGHT; NATIONAL ORIGIN.—Section 104 of title 17, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1) by striking "foreign nation that is a party to a copyright treaty to which the United States is also a party" and inserting "treaty party";

(B) in paragraph (2) by striking "party to the Universal Copyright Convention" and inserting "treaty party";

(C) by redesignating paragraph (5) as paragraph (6);

(D) by redesignating paragraph (3) as paragraph (5) and inserting it after paragraph (4);

(E) by inserting after paragraph (2) the following:

"(3) the work is a sound recording that was first fixed in a treaty party; or";

(F) in paragraph (4) by striking "Berne Convention work" and inserting "pictorial, graphic, or sculptural work that is incorporated in a building or other structure, or an architectural work that is embodied in a building and the building or structure is located in the United States or a treaty party"; and

(G) by inserting after paragraph (6), as so redesignated, the following:

"For purposes of paragraph (2), a work that is published in the United States or a treaty party within 30 days after publication in a foreign nation that is not a treaty party shall be considered to be first published in the United States or such treaty party, as the case may be."; and

(2) by adding at the end the following new subsection:

"(d) EFFECT OF PHONOGRAMS TREATIES.—Notwithstanding the provisions of subsection (b), no works other than sound recordings shall be eligible for protection under this title solely by virtue of the adherence of the United States to the Geneva Phonograms Convention or the WIPO Performances and Phonograms Treaty.".

(c) COPYRIGHT IN RESTORED WORKS.—Section 104A(h) of title 17, United States Code, is amended—

(1) in paragraph (1), by striking subparagraphs (A) and (B) and inserting the following:

"(A) a nation adhering to the Berne Convention;

"(B) a WTO member country;

"(C) a nation adhering to the WIPO Copyright Treaty;

"(D) a nation adhering to the WIPO Performances and Phonograms Treaty; or

"(E) subject to a Presidential proclamation under subsection (g).";

(2) by amending paragraph (3) to read as follows:

"(3) The term 'eligible country' means a nation, other than the United States, that—

"(A) becomes a WTO member country after the date of the enactment of the Uruguay Round Agreements Act;

"(B) on such date of enactment is, or after such date of enactment becomes, a nation adhering to the Berne Convention;

"(C) adheres to the WIPO Copyright Treaty;

"(D) adheres to the WIPO Performances and Phonograms Treaty; or

"(E) after such date of enactment becomes subject to a proclamation under subsection (g).";

(3) in paragraph (6)—

(A) in subparagraph (C)(iii) by striking "and" after the semicolon;

(B) at the end of subparagraph (D) by striking the period and inserting "; and"; and

(C) by adding after subparagraph (D) the following:

"(E) if the source country for the work is an eligible country solely by virtue of its adherence to the WIPO Performances and Phonograms Treaty, is a sound recording.";

(4) in paragraph (8)(B)(i)—

(A) by inserting "of which" before "the majority"; and

(B) by striking "of eligible countries"; and

(5) by striking paragraph (9).

(d) REGISTRATION AND INFRINGEMENT ACTIONS.—Section 411(a) of title 17, United States Code, is amended in the first sentence—

(1) by striking "actions for infringement of copyright in Berne Convention works whose country of origin is not the United States and"; and

(2) by inserting "United States" after "no action for infringement of the copyright in any".

(e) STATUTE OF LIMITATIONS.—Section 507(a) of title 17, United State Code, is amended by striking "No" and inserting "Except as expressly provided otherwise in this title, no".

SEC. 103. COPYRIGHT PROTECTION SYSTEMS AND COPYRIGHT MANAGEMENT INFORMATION.

(a) IN GENERAL.—Title 17, United States Code is amended by adding at the end the following new chapter:

"CHAPTER 12—COPYRIGHT PROTECTION AND MANAGEMENT SYSTEMS

"Sec.
"1201. Circumvention of copyright protection systems.
"1202. Integrity of copyright management information.
"1203. Civil remedies.
"1204. Criminal offenses and penalties.
"1205. Savings clause.

"§ 1201. Circumvention of copyright protection systems

"(a) VIOLATIONS REGARDING CIRCUMVENTION OF TECHNOLOGICAL MEASURES.—(1)(A) No person shall circumvent a technological measure that effectively controls access to a work protected under this title. The prohibition contained in the preceding sentence shall take effect at the end of the 2-year period beginning on the date of the enactment of this chapter.

"(B) The prohibition contained in subparagraph (A) shall not apply to persons who are users of a copyrighted work which is in a particular class of works, if such persons are, or are likely to be in the succeeding 3-year period, adversely affected by virtue of such prohibition in their ability to make noninfringing uses of that particular class of works under this title, as determined under subparagraph (C).

"(C) During the 2-year period described in subparagraph (A), and during each succeeding 3-year period, the Librarian of Congress, upon the recommendation of the Register of Copyrights, who shall consult with the Assistant Secretary for Communications and Information of the Department of Commerce and report and comment on his or her views in making such recommendation, shall make the determination in a rulemaking proceeding on the record for purposes of subparagraph (B) of whether persons who are users of a copyrighted work are, or are likely to be in the succeeding 3-year period, adversely affected by the prohibition under subparagraph (A) in their ability to make noninfringing uses under this title of a particular class of copyrighted works. In conducting such rulemaking, the Librarian shall examine—

"(i) the availability for use of copyrighted works;

"(ii) the availability for use of works for nonprofit archival, preservation, and educational purposes;

"(iii) the impact that the prohibition on the circumvention of technological measures applied to copyrighted works has on criticism, comment, news reporting, teaching, scholarship, or research;

"(iv) the effect of circumvention of technological measures on the market for or value of copyrighted works; and

"(v) such other factors as the Librarian considers appropriate.

"(D) The Librarian shall publish any class of copyrighted works for which the Librarian has determined, pursuant to the rulemaking conducted under subparagraph (C), that noninfringing uses by persons who are users of a copyrighted work are, or are likely to be, adversely affected, and the prohibition contained in subparagraph (A) shall not apply to such users with respect to such class of works for the ensuing 3-year period.

"(E) Neither the exception under subparagraph (B) from the applicability of the prohibition contained in subparagraph (A), nor any determination made in a rulemaking conducted under subparagraph (C), may be used as a defense in any action to enforce any provision of this title other than this paragraph.

"(2) No person shall manufacture, import, offer to the public, provide, or otherwise traffic in any technology, product, service, device, component, or part thereof, that—

"(A) is primarily designed or produced for the purpose of circumventing a technological measure that effectively controls access to a work protected under this title;

"(B) has only limited commercially significant purpose or use other than to circumvent a technological measure that effectively controls access to a work protected under this title; or

"(C) is marketed by that person or another acting in concert with that person with that person's knowledge for use in circumventing a

technological measure that effectively controls access to a work protected under this title.

"(3) As used in this subsection—

"(A) to 'circumvent a technological measure' means to descramble a scrambled work, to decrypt an encrypted work, or otherwise to avoid, bypass, remove, deactivate, or impair a technological measure, without the authority of the copyright owner; and

"(B) a technological measure 'effectively controls access to a work' if the measure, in the ordinary course of its operation, requires the application of information, or a process or a treatment, with the authority of the copyright owner, to gain access to the work.

"(b) Additional Violations.—(1) No person shall manufacture, import, offer to the public, provide, or otherwise traffic in any technology, product, service, device, component, or part thereof, that—

"(A) is primarily designed or produced for the purpose of circumventing protection afforded by a technological measure that effectively protects a right of a copyright owner under this title in a work or a portion thereof;

"(B) has only limited commercially significant purpose or use other than to circumvent protection afforded by a technological measure that effectively protects a right of a copyright owner under this title in a work or a portion thereof; or

"(C) is marketed by that person or another acting in concert with that person with that person's knowledge for use in circumventing protection afforded by a technological measure that effectively protects a right of a copyright owner under this title in a work or a portion thereof.

"(2) As used in this subsection—

"(A) to 'circumvent protection afforded by a technological measure' means avoiding, bypassing, removing, deactivating, or otherwise impairing a technological measure; and

"(B) a technological measure 'effectively protects a right of a copyright owner under this title' if the measure, in the ordinary course of its operation, prevents, restricts, or otherwise limits the exercise of a right of a copyright owner under this title.

"(c) Other Rights, Etc., Not Affected.—(1) Nothing in this section shall affect rights, remedies, limitations, or defenses to copyright infringement, including fair use, under this title.

"(2) Nothing in this section shall enlarge or diminish vicarious or contributory liability for copyright infringement in connection with any technology, product, service, device, component, or part thereof..

"(3) Nothing in this section shall require that the design of, or design and selection of parts and components for, a consumer electronics, telecommunications, or computing product provide for a response to any particular technological measure, so long as such part or component, or the product in which such part or component is integrated, does not otherwise fall within the prohibitions of subsection (a)(2) or (b)(1).

"(4) Nothing in this section shall enlarge or diminish any rights of free speech or the press for activities using consumer electronics, telecommunications, or computing products.

"(d) Exemption for Nonprofit Libraries, Archives, and Educational Institutions.—(1) A nonprofit library, archives, or educational institution which gains access to a commercially exploited copyrighted work solely in order to make a good faith determination of whether to acquire a copy of that work for the sole purpose of engaging in conduct permitted under this title shall not be in violation of subsection (a)(1)(A). A copy of a work to which access has been gained under this paragraph—

"(A) may not be retained longer than necessary to make such good faith determination; and

"(B) may not be used for any other purpose.

"(2) The exemption made available under paragraph (1) shall only apply with respect to a work when an identical copy of that work is not reasonably available in another form.

"(3) A nonprofit library, archives, or educational institution that willfully for the purpose of commercial advantage or financial gain violates paragraph (1)—

"(A) shall, for the first offense, be subject to the civil remedies under section 1203; and

"(B) shall, for repeated or subsequent offenses, in addition to the civil remedies under section 1203, forfeit the exemption provided under paragraph (1).

"(4) This subsection may not be used as a defense to a claim under subsection (a)(2) or (b), nor may this subsection permit a nonprofit library, archives, or educational institution to manufacture, import, offer to the public, provide, or otherwise traffic in any technology, product, service, component, or part thereof, which circumvents a technological measure.

"(5) In order for a library or archives to qualify for the exemption under this subsection, the collections of that library or archives shall be—

"(A) open to the public; or

"(B) available not only to researchers affiliated with the library or archives or with the institution of which it is a part, but also to other persons doing research in a specialized field.

"(e) Law Enforcement, Intelligence, and Other Government Activities.—This section does not prohibit any lawfully authorized investigative, protective, information security, or intelligence activity of an officer, agent, or employee of the United States, a State, or a political subdivision of a State, or a person acting pursuant to a contract with the United States, a State, or a political subdivision of a State. For purposes of this subsection, the term 'information security' means activities carried out in order to identify and address the vulnerabilities of a government computer, computer system, or computer network.

"(f) Reverse Engineering.—(1) Notwithstanding the provisions of subsection (a)(1)(A), a person who has lawfully obtained the right to use a copy of a computer program may circumvent a technological measure that effectively controls access to a particular portion of that program for the sole purpose of identifying and analyzing those elements of the program that are necessary to achieve interoperability of an independently created computer program with other programs, and that have not previously been readily available to the person engaging in the circumvention, to the extent any such acts of identification and analysis do not constitute infringement under this title.

"(2) Notwithstanding the provisions of subsections (a)(2) and (b), a person may develop and employ technological means to circumvent a technological measure, or to circumvent protection afforded by a technological measure, in order to enable the identification and analysis under paragraph (1), or for the purpose of enabling interoperability of an independently created computer program with other programs, if such means are necessary to achieve such interoperability, to the extent that doing so does not constitute infringement under this title.

"(3) The information acquired through the acts permitted under paragraph (1), and the means permitted under paragraph (2), may be made available to others if the person referred to in paragraph (1) or (2), as the case may be, provides such information or means solely for the purpose of enabling interoperability of an independently created computer program with other programs, and to the extent that doing so does not constitute infringement under this title or violate applicable law other than this section.

"(4) For purposes of this subsection, the term 'interoperability' means the ability of computer programs to exchange information, and of such programs mutually to use the information which has been exchanged.

"(g) Encryption Research.—

"(1) Definitions.—For purposes of this subsection—

"(A) the term 'encryption research' means activities necessary to identify and analyze flaws and vulnerabilities of encryption technologies applied to copyrighted works, if these activities are conducted to advance the state of knowledge in the field of encryption technology or to assist in the development of encryption products; and

"(B) the term 'encryption technology' means the scrambling and descrambling of information using mathematical formulas or algorithms.

"(2) Permissible Acts of Encryption Research.—Notwithstanding the provisions of subsection (a)(1)(A), it is not a violation of that subsection for a person to circumvent a technological measure as applied to a copy, phonorecord, performance, or display of a published work in the course of an act of good faith encryption research if—

"(A) the person lawfully obtained the encrypted copy, phonorecord, performance, or display of the published work;

"(B) such act is necessary to conduct such encryption research;

"(C) the person made a good faith effort to obtain authorization before the circumvention; and

"(D) such act does not constitute infringement under this title or a violation of applicable law other than this section, including section 1030 of title 18 and those provisions of title 18 amended by the Computer Fraud and Abuse Act of 1986.

"(3) Factors in Determining Exemption.—In determining whether a person qualifies for the exemption under paragraph (2), the factors to be considered shall include—

"(A) whether the information derived from the encryption research was disseminated, and if so, whether it was disseminated in a manner reasonably calculated to advance the state of knowledge or development of encryption technology, versus whether it was disseminated in a manner that facilitates infringement under this title or a violation of applicable law other than this section, including a violation of privacy or breach of security;

"(B) whether the person is engaged in a legitimate course of study, is employed, or is appropriately trained or experienced, in the field of encryption technology; and

"(C) whether the person provides the copyright owner of the work to which the technological measure is applied with notice of the findings and documentation of the research, and the time when such notice is provided.

"(4) Use of Technological Means for Research Activities.—Notwithstanding the provisions of subsection (a)(2), it is not a violation of that subsection for a person to—

"(A) develop and employ technological means to circumvent a technological measure for the sole purpose of that person performing the acts of good faith encryption research described in paragraph (2); and

"(B) provide the technological means to another person with whom he or she is working collaboratively for the purpose of conducting the acts of good faith encryption research described in paragraph (2) or for the purpose of having that other person verify his or her acts of good faith encryption research described in paragraph (2).

"(5) Report to Congress.—Not later than 1 year after the date of the enactment of this chapter, the Register of Copyrights and the Assistant Secretary for Communications and Information of the Department of Commerce shall jointly report to the Congress on the effect this subsection has had on—

"(A) encryption research and the development of encryption technology;

"(B) the adequacy and effectiveness of technological measures designed to protect copyrighted works; and

"(C) protection of copyright owners against the unauthorized access to their encrypted copyrighted works.

The report shall include legislative recommendations, if any.

"(h) EXCEPTIONS REGARDING MINORS.—In applying subsection (a) to a component or part, the court may consider the necessity for its intended and actual incorporation in a technology, product, service, or device, which—

"(1) does not itself violate the provisions of this title; and

"(2) has the sole purpose to prevent the access of minors to material on the Internet.

"(i) PROTECTION OF PERSONALLY IDENTIFYING INFORMATION.—

(1) CIRCUMVENTION PERMITTED.—Notwithstanding the provisions of subsection (a)(1)(A), it is not a violation of that subsection for a person to circumvent a technological measure that effectively controls access to a work protected under this title, if—

"(A) the technological measure, or the work it protects, contains the capability of collecting or disseminating personally identifying information reflecting the online activities of a natural person who seeks to gain access to the work protected;

"(B) in the normal course of its operation, the technological measure, or the work it protects, collects or disseminates personally identifying information about the person who seeks to gain access to the work protected, without providing conspicuous notice of such collection or dissemination to such person, and without providing such person with the capability to prevent or restrict such collection or dissemination;

"(C) the act of circumvention has the sole effect of identifying and disabling the capability described in subparagraph (A), and has no other effect on the ability of any person to gain access to any work; and

"(D) the act of circumvention is carried out solely for the purpose of preventing the collection or dissemination of personally identifying information about a natural person who seeks to gain access to the work protected, and is not in violation of any other law.

"(2) INAPPLICABILITY TO CERTAIN TECHNOLOGICAL MEASURES.—This subsection does not apply to a technological measure, or a work it protects, that does not collect or disseminate personally identifying information and that is disclosed to a user as not having or using such capability.

"(j) SECURITY TESTING.—

"(1) DEFINITION.—For purposes of this subsection, the term 'security testing' means accessing a computer, computer system, or computer network, solely for the purpose of good faith testing, investigating, or correcting, a security flaw or vulnerability, with the authorization of the owner or operator of such computer, computer system, or computer network.

"(2) PERMISSIBLE ACTS OF SECURITY TESTING.—Notwithstanding the provisions of subsection (a)(1)(A), it is not a violation of that subsection for a person to engage in an act of security testing, if such act does not constitute infringement under this title or a violation of applicable law other than this section, including section 1030 of title 18 and those provisions of title 18 amended by the Computer Fraud and Abuse Act of 1986.

"(3) FACTORS IN DETERMINING EXEMPTION.—In determining whether a person qualifies for the exemption under paragraph (2), the factors to be considered shall include—

"(A) whether the information derived from the security testing was used solely to promote the security of the owner or operator of such computer, computer system or computer network, or shared directly with the developer of such computer, computer system, or computer network; and

"(B) whether the information derived from the security testing was used or maintained in a manner that does not facilitate infringement under this title or a violation of applicable law other than this section, including a violation of privacy or breach of security.

"(4) USE OF TECHNOLOGICAL MEANS FOR SECURITY TESTING.—Notwithstanding the provisions of subsection (a)(2), it is not a violation of that subsection for a person to develop, produce, distribute or employ technological means for the sole purpose of performing the acts of security testing described in subsection (2), provided such technological means does not otherwise violate section (a)(2).

"(k) CERTAIN ANALOG DEVICES AND CERTAIN TECHNOLOGICAL MEASURES.—

"(1) CERTAIN ANALOG DEVICES.—

"(A) Effective 18 months after the date of the enactment of this chapter, no person shall manufacture, import, offer to the public, provide or otherwise traffic in any—

"(i) VHS format analog video cassette recorder unless such recorder conforms to the automatic gain control copy control technology;

"(ii) 8mm format analog video cassette camcorder unless such camcorder conforms to the automatic gain control technology;

"(iii) Beta format analog video cassette recorder, unless such recorder conforms to the automatic gain control copy control technology, except that this requirement shall not apply until there are 1,000 Beta format analog video cassette recorders sold in the United States in any one calendar year after the date of the enactment of this chapter;

"(iv) 8mm format analog video cassette recorder that is not an analog video cassette camcorder, unless such recorder conforms to the automatic gain control copy control technology, except that this requirement shall not apply until there are 20,000 such recorders sold in the United States in any one calendar year after the date of the enactment of this chapter; or

"(v) analog video cassette recorder that records using an NTSC format video input and that is not otherwise covered under clauses (i) through (iv), unless such device conforms to the automatic gain control copy control technology.

"(B) Effective on the date of the enactment of this chapter, no person shall manufacture, import, offer to the public, provide or otherwise traffic in—

"(i) any VHS format analog video cassette recorder or any 8mm format analog video cassette recorder if the design of the model of such recorder has been modified after such date of enactment so that a model of recorder that previously conformed to the automatic gain control copy control technology no longer conforms to such technology; or

"(ii) any VHS format analog video cassette recorder, or any 8mm format analog video cassette recorder that is not an 8mm analog video cassette camcorder, if the design of the model of such recorder has been modified after such date of enactment so that a model of recorder that previously conformed to the four-line colorstripe copy control technology no longer conforms to such technology.

Manufacturers that have not previously manufactured or sold a VHS format analog video cassette recorder, or an 8mm format analog cassette recorder, shall be required to conform to the four-line colorstripe copy control technology in the initial model of any such recorder manufactured after the date of the enactment of this chapter, and thereafter to continue conforming to the four-line colorstripe copy control technology. For purposes of this subparagraph, an analog video cassette recorder 'conforms to' the four-line colorstripe copy control technology if it records a signal that, when played back by the playback function of that recorder in the normal viewing mode, exhibits, on a reference display device, a display containing distracting visible lines through portions of the viewable picture.

"(2) CERTAIN ENCODING RESTRICTIONS.—No person shall apply the automatic gain control copy control technology or colorstripe copy control technology to prevent or limit consumer copying except such copying—

"(A) of a single transmission, or specified group of transmissions, of live events or of audiovisual works for which a member of the public has exercised choice in selecting the transmissions, including the content of the transmissions or the time of receipt of such transmissions, or both, and as to which such member is charged a separate fee for each such transmission or specified group of transmissions;

"(B) from a copy of a transmission of a live event or an audiovisual work if such transmission is provided by a channel or service where payment is made by a member of the public for such channel or service in the form of a subscription fee that entitles the member of the public to receive all of the programming contained in such channel or service;

"(C) from a physical medium containing one or more prerecorded audiovisual works; or

"(D) from a copy of a transmission described in subparagraph (A) or from a copy made from a physical medium described in subparagraph (C).

In the event that a transmission meets both the conditions set forth in subparagraph (A) and those set forth in subparagraph (B), the transmission shall be treated as a transmission described in subparagraph (A).

"(3) INAPPLICABILITY.—This subsection shall not—

"(A) require any analog video cassette camcorder to conform to the automatic gain control copy control technology with respect to any video signal received through a camera lens;

"(B) apply to the manufacture, importation, offer for sale, provision of, or other trafficking in, any professional analog video cassette recorder; or

"(C) apply to the offer for sale or provision of, or other trafficking in, any previously owned analog video cassette recorder, if such recorder was legally manufactured and sold when new and not subsequently modified in violation of paragraph (1)(B).

"(4) DEFINITIONS.—For purposes of this subsection:

"(A) An 'analog video cassette recorder' means a device that records, or a device that includes a function that records, on electromagnetic tape in an analog format the electronic impulses produced by the video and audio portions of a television program, motion picture, or other form of audiovisual work.

"(B) An 'analog video cassette camcorder' means an analog video cassette recorder that contains a recording function that operates through a camera lens and through a video input that may be connected with a television or other video playback device.

"(C) An analog video cassette recorder 'conforms' to the automatic gain control copy control technology if it—

"(i) detects one or more of the elements of such technology and does not record the motion picture or transmission protected by such technology; or

"(ii) records a signal that, when played back, exhibits a meaningfully distorted or degraded display.

"(D) The term 'professional analog video cassette recorder' means an analog video cassette *recorder that is designed, manufactured, marketed, and intended for use by a person who regularly employs such a device for a lawful business or industrial use, including making, performing, displaying, distributing, or transmitting copies of motion pictures on a commercial scale.*

“(E) The terms 'VHS format,' '8mm format,' 'Beta format,' 'automatic gain control copy control technology,' 'colorstripe copy control technology,' 'four-line version of the colorstripe copy control technology,' and 'NTSC' have the meanings that are commonly understood in the consumer electronics and motion picture industries as of the date of the enactment of this chapter.

“(5) Violations.—Any violation of paragraph (1) of this subsection shall be treated as a violation of subsection (b)(1) of this section. Any violation of paragraph (2) of this subsection shall be deemed an 'act of circumvention' for the purposes of section 1203(c)(3)(A) of this chapter.

“§ 1202. Integrity of copyright management information

“(a) False Copyright Management Information.—No person shall knowingly and with the intent to induce, enable, facilitate, or conceal infringement—

“(1) provide copyright management information that is false, or

“(2) distribute or import for distribution copyright management information that is false.

“(b) Removal or Alteration of Copyright Management Information.—No person shall, without the authority of the copyright owner or the law—

“(1) intentionally remove or alter any copyright management information,

“(2) distribute or import for distribution copyright management information knowing that the copyright management information has been removed or altered without authority of the copyright owner or the law, or

“(3) distribute, import for distribution, or publicly perform works, copies of works, or phonorecords, knowing that copyright management information has been removed or altered without authority of the copyright owner or the law,

knowing, or, with respect to civil remedies under section 1203, having reasonable grounds to know, that it will induce, enable, facilitate, or conceal an infringement of any right under this title.

“(c) Definition.—As used in this section, the term 'copyright management information' means any of the following information conveyed in connection with copies or phonorecords of a work or performances or displays of a work, including in digital form, except that such term does not include any personally identifying information about a user of a work or of a copy, phonorecord, performance, or display of a work:

“(1) The title and other information identifying the work, including the information set forth on a notice of copyright.

“(2) The name of, and other identifying information about, the author of a work.

“(3) The name of, and other identifying information about, the copyright owner of the work, including the information set forth in a notice of copyright.

“(4) With the exception of public performances of works by radio and television broadcast stations, the name of, and other identifying information about, a performer whose performance is fixed in a work other than an audiovisual work.

“(5) With the exception of public performances of works by radio and television broadcast stations, in the case of an audiovisual work, the name of, and other identifying information about, a writer, performer, or director who is credited in the audiovisual work.

“(6) Terms and conditions for use of the work.

“(7) Identifying numbers or symbols referring to such information or links to such information.

“(8) Such other information as the Register of Copyrights may prescribe by regulation, except that the Register of Copyrights may not require the provision of any information concerning the user of a copyrighted work.

“(d) Law Enforcement, Intelligence, and Other Government Activities.—This section does not prohibit any lawfully authorized investigative, protective, information security, or intelligence activity of an officer, agent, or employee of the United States, a State, or a political subdivision of a State, or a person acting pursuant to a contract with the United States, a State, or a political subdivision of a State. For purposes of this subsection, the term 'information security' means activities carried out in order to identify and address the vulnerabilities of a government computer, computer system, or computer network.

“(e) Limitations on Liability.—

“(1) Analog transmissions.—In the case of an analog transmission, a person who is making transmissions in its capacity as a broadcast station, or as a cable system, or someone who provides programming to such station or system, shall not be liable for a violation of subsection (b) if—

“(A) avoiding the activity that constitutes such violation is not technically feasible or would create an undue financial hardship on such person; and

“(B) such person did not intend, by engaging in such activity, to induce, enable, facilitate, or conceal infringement of a right under this title.

“(2) Digital transmissions.—

“(A) If a digital transmission standard for the placement of copyright management information for a category of works is set in a voluntary, consensus standard-setting process involving a representative cross-section of broadcast stations or cable systems and copyright owners of a category of works that are intended for public performance by such stations or systems, a person identified in paragraph (1) shall not be liable for a violation of subsection (b) with respect to the particular copyright management information addressed by such standard if—

“(i) the placement of such information by someone other than such person is not in accordance with such standard; and

“(ii) the activity that constitutes such violation is not intended to induce, enable, facilitate, or conceal infringement of a right under this title.

“(B) Until a digital transmission standard has been set pursuant to subparagraph (A) with respect to the placement of copyright management information for a category or works, a person identified in paragraph (1) shall not be liable for a violation of subsection (b) with respect to such copyright management information, if the activity that constitutes such violation is not intended to induce, enable, facilitate, or conceal infringement of a right under this title, and if—

“(i) the transmission of such information by such person would result in a perceptible visual or aural degradation of the digital signal; or

“(ii) the transmission of such information by such person would conflict with—

“(I) an applicable government regulation relating to transmission of information in a digital signal;

“(II) an applicable industry-wide standard relating to the transmission of information in a digital signal that was adopted by a voluntary consensus standards body prior to the effective date of this chapter; or

“(III) an applicable industry-wide standard relating to the transmission of information in a digital signal that was adopted in a voluntary, consensus standards-setting process open to participation by a representative cross-section of broadcast stations or cable systems and copyright owners of a category of works that are intended for public performance by such stations or systems.

“(3) Definitions.—As used in this subsection—

“(A) the term 'broadcast station' has the meaning given that term in section 3 of the Communications Act of 1934 (47 U.S.C. 153)); and

“(B) the term 'cable system' has the meaning given that term in section 602 of the Communications Act of 1934 (47 U.S.C. 522)).

“§ 1203. Civil remedies

“(a) Civil Actions.—Any person injured by a violation of section 1201 or 1202 may bring a civil action in an appropriate United States district court for such violation.

“(b) Powers of the Court.—In an action brought under subsection (a), the court—

“(1) may grant temporary and permanent injunctions on such terms as it deems reasonable to prevent or restrain a violation, but in no event shall impose a prior restraint on free speech or the press protected under the 1st amendment to the Constitution;

“(2) at any time while an action is pending, may order the impounding, on such terms as it deems reasonable, of any device or product that is in the custody or control of the alleged violator and that the court has reasonable cause to believe was involved in a violation;

“(3) may award damages under subsection (c);

“(4) in its discretion may allow the recovery of costs by or against any party other than the United States or an officer thereof;

“(5) in its discretion may award reasonable attorney's fees to the prevailing party; and

“(6) may, as part of a final judgment or decree finding a violation, order the remedial modification or the destruction of any device or product involved in the violation that is in the custody or control of the violator or has been impounded under paragraph (2).

“(c) Award of Damages.—

“(1) In general.—Except as otherwise provided in this title, a person committing a violation of section 1201 or 1202 is liable for either—

“(A) the actual damages and any additional profits of the violator, as provided in paragraph (2), or

“(B) statutory damages, as provided in paragraph (3).

“(2) Actual damages.—The court shall award to the complaining party the actual damages suffered by the party as a result of the violation, and any profits of the violator that are attributable to the violation and are not taken into account in computing the actual damages, if the complaining party elects such damages at any time before final judgment is entered.

“(3) Statutory damages.—(A) At any time before final judgment is entered, a complaining party may elect to recover an award of statutory damages for each violation of section 1201 in the sum of not less than $200 or more than $2,500 per act of circumvention, device, product, component, offer, or performance of service, as the court considers just.

“(B) At any time before final judgment is entered, a complaining party may elect to recover an award of statutory damages for each violation of section 1202 in the sum of not less than $2,500 or more than $25,000.

“(4) Repeated violations.—In any case in which the injured party sustains the burden of proving, and the court finds, that a person has violated section 1201 or 1202 within three years after a final judgment was entered against the person for another such violation, the court may increase the award of damages up to triple the amount that would otherwise be awarded, as the court considers just.

"(5) INNOCENT VIOLATIONS.—

"(A) IN GENERAL.—The court in its discretion may reduce or remit the total award of damages in any case in which the violator sustains the burden of proving, and the court finds, that the violator was not aware and had no reason to believe that its acts constituted a violation.

"(B) NONPROFIT LIBRARY, ARCHIVES, OR EDUCATIONAL INSTITUTIONS.—In the case of a nonprofit library, archives, or educational institution, the court shall remit damages in any case in which the library, archives, or educational institution sustains the burden of proving, and the court finds, that the library, archives, or educational institution was not aware and had no reason to believe that its acts constituted a violation.

"§ 1204. Criminal offenses and penalties

"(a) IN GENERAL.—Any person who violates section 1201 or 1202 willfully and for purposes of commercial advantage or private financial gain—

"(1) shall be fined not more than $500,000 or imprisoned for not more than 5 years, or both, for the first offense; and

"(2) shall be fined not more than $1,000,000 or imprisoned for not more than 10 years, or both, for any subsequent offense.

"(b) LIMITATION FOR NONPROFIT LIBRARY, ARCHIVES, OR EDUCATIONAL INSTITUTION.—Subsection (a) shall not apply to a nonprofit library, archives, or educational institution.

"(c) STATUTE OF LIMITATIONS.—No criminal proceeding shall be brought under this section unless such proceeding is commenced within five years after the cause of action arose.

"§ 1205. Savings clause

"Nothing in this chapter abrogates, diminishes, or weakens the provisions of, nor provides any defense or element of mitigation in a criminal prosecution or civil action under, any Federal or State law that prevents the violation of the privacy of an individual in connection with the individual's use of the Internet.".

(b) CONFORMING AMENDMENT.—The table of chapters for title 17, United States Code, is amended by adding after the item relating to chapter 11 the following:

"12. Copyright Protection and Management Systems .... 1201".

SEC. 104. EVALUATION OF IMPACT OF COPYRIGHT LAW AND AMENDMENTS ON ELECTRONIC COMMERCE AND TECHNOLOGICAL DEVELOPMENT.

(a) EVALUATION BY THE REGISTER OF COPYRIGHTS AND THE ASSISTANT SECRETARY FOR COMMUNICATIONS AND INFORMATION.—The Register of Copyrights and the Assistant Secretary for Communications and Information of the Department of Commerce shall jointly evaluate—

(1) the effects of the amendments made by this title and the development of electronic commerce and associated technology on the operation of sections 109 and 117 of title 17, United States Code; and

(2) the relationship between existing and emergent technology and the operation of sections 109 and 117 of title 17, United States Code.

(b) REPORT TO CONGRESS.—The Register of Copyrights and the Assistant Secretary for Communications and Information of the Department of Commerce shall, not later than 24 months after the date of the enactment of this Act, submit to the Congress a joint report on the evaluation conducted under subsection (a), including any legislative recommendations the Register and the Assistant Secretary may have.

SEC. 105. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in this title, this title and the amendments made by this title shall take effect on the date of the enactment of this Act.

(b) AMENDMENTS RELATING TO CERTAIN INTERNATIONAL AGREEMENTS.—(1) The following shall take effect upon the entry into force of the WIPO Copyright Treaty with respect to the United States:

(A) Paragraph (5) of the definition of "international agreement" contained in section 101 of title 17, United States Code, as amended by section 102(a)(4) of this Act.

(B) The amendment made by section 102(a)(6) of this Act.

(C) Subparagraph (C) of section 104A(h)(1) of title 17, United States Code, as amended by section 102(c)(1) of this Act.

(D) Subparagraph (C) of section 104A(h)(3) of title 17, United States Code, as amended by section 102(c)(2) of this Act.

(2) The following shall take effect upon the entry into force of the WIPO Performances and Phonograms Treaty with respect to the United States:

(A) Paragraph (6) of the definition of "international agreement" contained in section 101 of title 17, United States Code, as amended by section 102(a)(4) of this Act.

(B) The amendment made by section 102(a)(7) of this Act.

(C) The amendment made by section 102(b)(2) of this Act.

(D) Subparagraph (D) of section 104A(h)(1) of title 17, United States Code, as amended by section 102(c)(1) of this Act.

(E) Subparagraph (D) of section 104A(h)(3) of title 17, United States Code, as amended by section 102(c)(2) of this Act.

(F) The amendments made by section 102(c)(3) of this Act.

TITLE II—ONLINE COPYRIGHT INFRINGEMENT LIABILITY LIMITATION

SEC. 201. SHORT TITLE.

This title may be cited as the "Online Copyright Infringement Liability Limitation Act".

SEC. 202. LIMITATIONS ON LIABILITY FOR COPYRIGHT INFRINGEMENT.

(a) IN GENERAL.—Chapter 5 of title 17, United States Code, is amended by adding after section 511 the following new section:

"§ 512. Limitations on liability relating to material online

"(a) TRANSITORY DIGITAL NETWORK COMMUNICATIONS.—A service provider shall not be liable for monetary relief, or, except as provided in subsection (j), for injunctive or other equitable relief, for infringement of copyright by reason of the provider's transmitting, routing, or providing connections for, material through a system or network controlled or operated by or for the service provider, or by reason of the intermediate and transient storage of that material in the course of such transmitting, routing, or providing connections, if—

"(1) the transmission of the material was initiated by or at the direction of a person other than the service provider;

"(2) the transmission, routing, provision of connections, or storage is carried out through an automatic technical process without selection of the material by the service provider;

"(3) the service provider does not select the recipients of the material except as an automatic response to the request of another person;

"(4) no copy of the material made by the service provider in the course of such intermediate or transient storage is maintained on the system or network in a manner ordinarily accessible to anyone other than anticipated recipients, and no such copy is maintained on the system or network in a manner ordinarily accessible to such anticipated recipients for a longer period than is reasonably necessary for the transmission, routing, or provision of connections; and

"(5) the material is transmitted through the system or network without modification of its content.

"(b) SYSTEM CACHING.—

"(1) LIMITATION ON LIABILITY.—A service provider shall not be liable for monetary relief, or, except as provided in subsection (j), for injunctive or other equitable relief, for infringement of copyright by reason of the intermediate and temporary storage of material on a system or network controlled or operated by or for the service provider in a case in which—

"(A) the material is made available online by a person other than the service provider,

"(B) the material is transmitted from the person described in subparagraph (A) through the system or network to a person other than the person described in subparagraph (A) at the direction of that other person, and

"(C) the storage is carried out through an automatic technical process for the purpose of making the material available to users of the system or network who, after the material is transmitted as described in subparagraph (B), request access to the material from the person described in subparagraph (A),

if the conditions set forth in paragraph (2) are met.

(2) CONDITIONS.—The conditions referred to in paragraph (1) are that—

"(A) the material described in paragraph (1) is transmitted to the subsequent users described in paragraph (1)(C) without modification to its content from the manner in which the material was transmitted from the person described in paragraph (1)(A);

"(B) the service provider described in paragraph (1) complies with rules concerning the refreshing, reloading, or other updating of the material when specified by the person making the material available online in accordance with a generally accepted industry standard data communications protocol for the system or network through which that person makes the material available, except that this subparagraph applies only if those rules are not used by the person described in paragraph (1)(A) to prevent or unreasonably impair the intermediate storage to which this subsection applies;

"(C) the service provider does not interfere with the ability of technology associated with the material to return to the person described in paragraph (1)(A) the information that would have been available to that person if the material had been obtained by the subsequent users described in paragraph (1)(C) directly from that person, except that ,this subparagraph applies only if that technology—

"(i) does not significantly interfere with the performance of the provider's system or network or with the intermediate storage of the material;

"(ii) is consistent with generally accepted industry standard communications protocols; and

"(iii) does not extract information from the provider's system or network other than the information that would have been available to the person described in paragraph (1)(A) if the subsequent users had gained access to the material directly from that person;

"(D) if the person described in paragraph (1)(A) has in effect a condition that a person must meet prior to having access to the material, such as a condition based on payment of a fee or provision of a password or other information, the service provider permits access to the stored material in significant part only to users of its system or network that have met those conditions and only in accordance with those conditions; and

"(E) if the person described in paragraph (1)(A) makes that material available online without the authorization of the copyright owner of the material, the service provider responds expeditiously to remove, or disable access to, the material that is claimed to be infringing upon notification of claimed infringement as described in subsection (c)(3), except that this subparagraph applies only if—

“(i) the material has previously been removed from the originating site or access to it has been disabled, or a court has ordered that the material be removed from the originating site or that access to the material on the originating site be disabled; and

“(ii) the party giving the notification includes in the notification a statement confirming that the material has been removed from the originating site or access to it has been disabled or that a court has ordered that the material be removed from the originating site or that access to the material on the originating site be disabled.

“(c) INFORMATION RESIDING ON SYSTEMS OR NETWORKS AT DIRECTION OF USERS.—

“(1) IN GENERAL.—A service provider shall not be liable for monetary relief, or, except as provided in subsection (j), for injunctive or other equitable relief, for infringement of copyright by reason of the storage at the direction of a user of material that resides on a system or network controlled or operated by or for the service provider, if the service provider—

“(A)(i) does not have actual knowledge that the material or an activity using the material on the system or network is infringing;

“(ii) in the absence of such actual knowledge, is not aware of facts or circumstances from which infringing activity is apparent; or

“(iii) upon obtaining such knowledge or awareness, acts expeditiously to remove, or disable access to, the material;

“(B) does not receive a financial benefit directly attributable to the infringing activity, in a case in which the service provider has the right and ability to control such activity; and

“(C) upon notification of claimed infringement as described in paragraph (3), responds expeditiously to remove, or disable access to, the material that is claimed to be infringing or to be the subject of infringing activity.

“(2) DESIGNATED AGENT.—The limitations on liability established in this subsection apply to a service provider only if the service provider has designated an agent to receive notifications of claimed infringement described in paragraph (3), by making available through its service, including on its website in a location accessible to the public, and by providing to the Copyright Office, substantially the following information:

“(A) the name, address, phone number, and electronic mail address of the agent.

“(B) other contact information which the Register of Copyrights may deem appropriate.

The Register of Copyrights shall maintain a current directory of agents available to the public for inspection, including through the Internet, in both electronic and hard copy formats, and may require payment of a fee by service providers to cover the costs of maintaining the directory.

“(3) ELEMENTS OF NOTIFICATION.—

“(A) To be effective under this subsection, a notification of claimed infringement must be a written communication provided to the designated agent of a service provider that includes substantially the following:

“(i) A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

“(ii) Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works at a single online site are covered by a single notification, a representative list of such works at that site.

“(iii) Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit the service provider to locate the material.

“(iv) Information reasonably sufficient to permit the service provider to contact the complaining party, such as an address, telephone number, and, if available, an electronic mail address at which the complaining party may be contacted.

“(v) A statement that the complaining party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law.

“(vi) A statement that the information in the notification is accurate, and under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

“(B)(i) Subject to clause (ii), a notification from a copyright owner or from a person authorized to act on behalf of the copyright owner that fails to comply substantially with the provisions of subparagraph (A) shall not be considered under paragraph (1)(A) in determining whether a service provider has actual knowledge or is aware of facts or circumstances from which infringing activity is apparent.

“(ii) In a case in which the notification that is provided to the service provider's designated agent fails to comply substantially with all the provisions of subparagraph (A) but substantially complies with clauses (ii), (iii), and (iv) of subparagraph (A), clause (i) of this subparagraph applies only if the service provider promptly attempts to contact the person making the notification or takes other reasonable steps to assist in the receipt of notification that substantially complies with all the provisions of subparagraph (A).

“(d) INFORMATION LOCATION TOOLS.—A service provider shall not be liable for monetary relief, or, except as provided in subsection (j), for injunctive or other equitable relief, for infringement of copyright by reason of the provider referring or linking users to an online location containing infringing material or infringing activity, by using information location tools, including a directory, index, reference, pointer, or hypertext link, if the service provider—

“(1)(A) does not have actual knowledge that the material or activity is infringing;

“(B) in the absence of such actual knowledge, is not aware of facts or circumstances from which infringing activity is apparent; or

“(C) upon obtaining such knowledge or awareness, acts expeditiously to remove, or disable access to, the material;

“(2) does not receive a financial benefit directly attributable to the infringing activity, in a case in which the service provider has the right and ability to control such activity; and

“(3) upon notification of claimed infringement as described in subsection (c)(3), responds expeditiously to remove, or disable access to, the material that is claimed to be infringing or to be the subject of infringing activity, except that, for purposes of this paragraph, the information described in subsection (c)(3)(A)(iii) shall be identification of the reference or link, to material or activity claimed to be infringing, that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit the service provider to locate that reference or link.

“(e) LIMITATION ON LIABILITY OF NONPROFIT EDUCATIONAL INSTITUTIONS.—(1) When a public or other nonprofit institution of higher education is a service provider, and when a faculty member or graduate student who is an employee of such institution is performing a teaching or research function, for the purposes of subsections (a) and (b) such faculty member or graduate student shall be considered to be a person other than the institution, and for the purposes of subsections (c) and (d) such faculty member's or graduate student's knowledge or awareness of his or her infringing activities shall not be attributed to the institution, if—

“(A) such faculty member's or graduate student's infringing activities do not involve the provision of online access to instructional materials that are or were required or recommended, within the preceding 3-year period, for a course taught at the institution by such faculty member or graduate student;

“(B) the institution has not, within the preceding 3-year period, received more than 2 notifications described in subsection (c)(3) of claimed infringement by such faculty member or graduate student, and such notifications of claimed infringement were not actionable under subsection (f); and

“(C) the institution provides to all users of its system or network informational materials that accurately describe, and promote compliance with, the laws of the United States relating to copyright.

“(2) INJUNCTIONS.—For the purposes of this subsection, the limitations on injunctive relief contained in subsections (j)(2) and (j)(3), but not those in (j)(1), shall apply.

“(f) MISREPRESENTATIONS.—Any person who knowingly materially misrepresents under this section—

“(1) that material or activity is infringing, or

“(2) that material or activity was removed or disabled by mistake or misidentification,

shall be liable for any damages, including costs and attorneys' fees, incurred by the alleged infringer, by any copyright owner or copyright owner's authorized licensee, or by a service provider, who is injured by such misrepresentation, as the result of the service provider relying upon such misrepresentation in removing or disabling access to the material or activity claimed to be infringing, or in replacing the removed material or ceasing to disable access to it.

“(g) REPLACEMENT OF REMOVED OR DISABLED MATERIAL AND LIMITATION ON OTHER LIABILITY.—

“(1) NO LIABILITY FOR TAKING DOWN GENERALLY.—Subject to paragraph (2), a service provider shall not be liable to any person for any claim based on the service provider's good faith disabling of access to, or removal of, material or activity claimed to be infringing or based on facts or circumstances from which infringing activity is apparent, regardless of whether the material or activity is ultimately determined to be infringing.

“(2) EXCEPTION.—Paragraph (1) shall not apply with respect to material residing at the direction of a subscriber of the service provider on a system or network controlled or operated by or for the service provider that is removed, or to which access is disabled by the service provider, pursuant to a notice provided under subsection (c)(1)(C), unless the service provider—

“(A) takes reasonable steps promptly to notify the subscriber that it has removed or disabled access to the material;

“(B) upon receipt of a counter notification described in paragraph (3), promptly provides the person who provided the notification under subsection (c)(1)(C) with a copy of the counter notification, and informs that person that it will replace the removed material or cease disabling access to it in 10 business days; and

“(C) replaces the removed material and ceases disabling access to it not less than 10, nor more than 14, business days following receipt of the counter notice, unless its designated agent first receives notice from the person who submitted the notification under subsection (c)(1)(C) that such person has filed an action seeking a court order to restrain the subscriber from engaging in infringing activity relating to the material on the service provider's system or network.

“(3) CONTENTS OF COUNTER NOTIFICATION.—To be effective under this subsection, a counter notification must be a written communication provided to the service provider's designated agent that includes substantially the following:

“(A) A physical or electronic signature of the subscriber.

"(B) Identification of the material that has been removed or to which access has been disabled and the location at which the material appeared before it was removed or access to it was disabled.

"(C) A statement under penalty of perjury that the subscriber has a good faith belief that the material was removed or disabled as a result of mistake or misidentification of the material to be removed or disabled.

"(D) The subscriber's name, address, and telephone number, and a statement that the subscriber consents to the jurisdiction of Federal District Court for the judicial district in which the address is located, or if the subscriber's address is outside of the United States, for any judicial district in which the service provider may be found, and that the subscriber will accept service of process from the person who provided notification under subsection (c)(1)(C) or an agent of such person.

"(4) LIMITATION ON OTHER LIABILITY.—A service provider's compliance with paragraph (2) shall not subject the service provider to liability for copyright infringement with respect to the material identified in the notice provided under subsection (c)(1)(C).

"(h) SUBPOENA TO IDENTIFY INFRINGER.—

"(1) REQUEST.—A copyright owner or a person authorized to act on the owner's behalf may request the clerk of any United States district court to issue a subpoena to a service provider for identification of an alleged infringer in accordance with this subsection.

"(2) CONTENTS OF REQUEST.—The request may be made by filing with the clerk—

"(A) a copy of a notification described in subsection (c)(3)(A);

"(B) a proposed subpoena; and

"(C) a sworn declaration to the effect that the purpose for which the subpoena is sought is to obtain the identity of an alleged infringer and that such information will only be used for the purpose of protecting rights under this title.

"(3) CONTENTS OF SUBPOENA.—The subpoena shall authorize and order the service provider receiving the notification and the subpoena to expeditiously disclose to the copyright owner or person authorized by the copyright owner information sufficient to identify the alleged infringer of the material described in the notification to the extent such information is available to the service provider.

"(4) BASIS FOR GRANTING SUBPOENA.—If the notification filed satisfies the provisions of subsection (c)(3)(A), the proposed subpoena is in proper form, and the accompanying declaration is properly executed, the clerk shall expeditiously issue and sign the proposed subpoena and return it to the requester for delivery to the service provider.

"(5) ACTIONS OF SERVICE PROVIDER RECEIVING SUBPOENA.—Upon receipt of the issued subpoena, either accompanying or subsequent to the receipt of a notification described in subsection (c)(3)(A), the service provider shall expeditiously disclose to the copyright owner or person authorized by the copyright owner the information required by the subpoena, notwithstanding any other provision of law and regardless of whether the service provider responds to the notification.

"(6) RULES APPLICABLE TO SUBPOENA.—Unless otherwise provided by this section or by applicable rules of the court, the procedure for issuance and delivery of the subpoena, and the remedies for noncompliance with the subpoena, shall be governed to the greatest extent practicable by those provisions of the Federal Rules of Civil Procedure governing the issuance, service, and enforcement of a subpoena duces tecum.

"(i) CONDITIONS FOR ELIGIBILITY.—

"(1) ACCOMMODATION OF TECHNOLOGY.—The limitations on liability established by this section shall apply to a service provider only if the service provider—

"(A) has adopted and reasonably implemented, and informs subscribers and account holders of the service provider's system or network of, a policy that provides for the termination in appropriate circumstances of subscribers and account holders of the service provider's system or network who are repeat infringers; and

"(B) accommodates and does not interfere with standard technical measures.

"(2) DEFINITION.—As used in this subsection, the term 'standard technical measures' means technical measures that are used by copyright owners to identify or protect copyrighted works and—

"(A) have been developed pursuant to a broad consensus of copyright owners and service providers in an open, fair, voluntary, multi-industry standards process;

"(B) are available to any person on reasonable and nondiscriminatory terms; and

"(C) do not impose substantial costs on service providers or substantial burdens on their systems or networks.

"(j) INJUNCTIONS.—The following rules shall apply in the case of any application for an injunction under section 502 against a service provider that is not subject to monetary remedies under this section:

"(1) SCOPE OF RELIEF.—(A) With respect to conduct other than that which qualifies for the limitation on remedies set forth in subsection (a), the court may grant injunctive relief with respect to a service provider only in one or more of the following forms:

"(i) An order restraining the service provider from providing access to infringing material or activity residing at a particular online site on the provider's system or network.

"(ii) An order restraining the service provider from providing access to a subscriber or account holder of the service provider's system or network who is engaging in infringing activity and is identified in the order, by terminating the accounts of the subscriber or account holder that are specified in the order.

"(iii) Such other injunctive relief as the court may consider necessary to prevent or restrain infringement of copyrighted material specified in the order of the court at a particular online location, if such relief is the least burdensome to the service provider among the forms of relief comparably effective for that purpose.

"(B) If the service provider qualifies for the limitation on remedies described in subsection (a), the court may only grant injunctive relief in one or both of the following forms:

"(i) An order restraining the service provider from providing access to a subscriber or account holder of the service provider's system or network who is using the provider's service to engage in infringing activity and is identified in the order, by terminating the accounts of the subscriber or account holder that are specified in the order.

"(ii) An order restraining the service provider from providing access, by taking reasonable steps specified in the order to block access, to a specific, identified, online location outside the United States.

"(2) CONSIDERATIONS.—The court, in considering the relevant criteria for injunctive relief under applicable law, shall consider—

"(A) whether such an injunction, either alone or in combination with other such injunctions issued against the same service provider under this subsection, would significantly burden either the provider or the operation of the provider's system or network;

"(B) the magnitude of the harm likely to be suffered by the copyright owner in the digital network environment if steps are not taken to prevent or restrain the infringement;

"(C) whether implementation of such an injunction would be technically feasible and effective, and would not interfere with access to noninfringing material at other online locations; and

"(D) whether other less burdensome and comparably effective means of preventing or restraining access to the infringing material are available.

"(3) NOTICE AND EX PARTE ORDERS.—Injunctive relief under this subsection shall be available only after notice to the service provider and an opportunity for the service provider to appear are provided, except for orders ensuring the preservation of evidence or other orders having no material adverse effect on the operation of the service provider's communications network.

"(k) DEFINITIONS.—

"(1) SERVICE PROVIDER.—(A) As used in subsection (a), the term 'service provider' means an entity offering the transmission, routing, or providing of connections for digital online communications, between or among points specified by a user, of material of the user's choosing, without modification to the content of the material as sent or received.

"(B) As used in this section, other than subsection (a), the term 'service provider' means a provider of online services or network access, or the operator of facilities therefor, and includes an entity described in subparagraph (A).

"(2) MONETARY RELIEF.—As used in this section, the term 'monetary relief' means damages, costs, attorneys' fees, and any other form of monetary payment.

"(l) OTHER DEFENSES NOT AFFECTED.—The failure of a service provider's conduct to qualify for limitation of liability under this section shall not bear adversely upon the consideration of a defense by the service provider that the service provider's conduct is not infringing under this title or any other defense.

"(m) PROTECTION OF PRIVACY.—Nothing in this section shall be construed to condition the applicability of subsections (a) through (d) on—

"(1) a service provider monitoring its service or affirmatively seeking facts indicating infringing activity, except to the extent consistent with a standard technical measure complying with the provisions of subsection (i); or

"(2) a service provider gaining access to, removing, or disabling access to material in cases in which such conduct is prohibited by law..

"(n) CONSTRUCTION.—Subsections (a), (b), (c), and (d) describe separate and distinct functions for purposes of applying this section. Whether a service provider qualifies for the limitation on liability in any one of those subsections shall be based solely on the criteria in that subsection, and shall not affect a determination of whether that service provider qualifies for the limitations on liability under any other such subsection.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 17, United States Code, is amended by adding at the end the following:

"512. Limitations on liability relating to material online.".

SEC. 203. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on the date of the enactment of this Act.

TITLE III-COMPUTER MAINTENANCE OR REPAIR COPYRIGHT EXEMPTION

SEC. 301. SHORT TITLE.

This title may be cited as the "Computer Maintenance Competition Assurance Act".

SEC. 302. LIMITATIONS ON EXCLUSIVE RIGHTS; COMPUTER PROGRAMS.

Section 117 of title 17, United States Code, is amended—

(1) by striking "Notwithstanding" and inserting the following:

"(a) MAKING OF ADDITIONAL COPY OR ADAPTATION BY OWNER OF COPY.—Notwithstanding";

(2) by striking "Any exact" and inserting the following:

"(b) LEASE, SALE, OR OTHER TRANSFER OF ADDITIONAL COPY OR ADAPTATION.—Any exact"; and

(3) by adding at the end the following:

"(c) MACHINE MAINTENANCE OR REPAIR.—Notwithstanding the provisions of section 106, it is not an infringement for the owner or lessee of a machine to make or authorize the making of a copy of a computer program if such copy is made solely by virtue of the activation of a machine that lawfully contains an authorized copy of the computer program, for purposes only of maintenance or repair of that machine, if—

"(1) such new copy is used in no other manner and is destroyed immediately after the maintenance or repair is completed; and

"(2) with respect to any computer program or part thereof that is not necessary for that machine to be activated, such program or part thereof is not accessed or used other than to make such new copy by virtue of the activation of the machine.

"(d) DEFINITIONS.—For purposes of this section—

"(1) the 'maintenance' of a machine is the servicing of the machine in order to make it work in accordance with its original specifications and any changes to those specifications authorized for that machine; and

"(2) the 'repair' of a machine is the restoring of the machine to the state of working in accordance with its original specifications and any changes to those specifications authorized for that machine.".

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. PROVISIONS RELATING TO THE COMMISSIONER OF PATENTS AND TRADEMARKS AND THE REGISTER OF COPYRIGHTS

(a) COMPENSATION.—(1) Section 3(d) of title 35, United States Code, is amended by striking "prescribed by law for Assistant Secretaries of Commerce" and inserting "in effect for level III of the Executive Schedule under section 5314 of title 5, United States Code".

(2) Section 701(e) of title 17, United States Code, is amended—

(A) by striking "IV" and inserting "III"; and

(B) by striking "5315" and inserting "5314".

(3) Section 5314 of title 5, United States Code, is amended by adding at the end the following:

"Assistant Secretary of Commerce and Commissioner of Patents and Trademarks.

"Register of Copyrights.".

(b) CLARIFICATION OF AUTHORITY OF THE COPYRIGHT OFFICE.—Section 701 of title 17, United States Code, is amended—

(1) by redesignating subsections (b) through (e) as subsections (c) through (f), respectively; and

(2) by inserting after subsection (a) the following:

"(b) In addition to the functions and duties set out elsewhere in this chapter, the Register of Copyrights shall perform the following functions:

"(1) Advise Congress on national and international issues relating to copyright, other matters arising under this title, and related matters.

"(2) Provide information and assistance to Federal departments and agencies and the Judiciary on national and international issues relating to copyright, other matters arising under this title, and related matters.

"(3) Participate in meetings of international intergovernmental organizations and meetings with foreign government officials relating to copyright, other matters arising under this title, and related matters, including as a member of United States delegations as authorized by the appropriate Executive branch authority.

"(4) Conduct studies and programs regarding copyright, other matters arising under this title, and related matters, the administration of the Copyright Office, or any function vested in the Copyright Office by law, including educational programs conducted cooperatively with foreign intellectual property offices and international intergovernmental organizations.

"(5) Perform such other functions as Congress may direct, or as may be appropriate in furtherance of the functions and duties specifically set forth in this title."

SEC. 402. EPHEMERAL RECORDINGS.

Section 112(a) of title 17, United States Code, is amended—

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) by inserting "(1)" after "(a)";

(3) by inserting after "under a license" the following: ", including a statutory license under section 114(f),";

(4) by inserting after "114(a)," the following: "or for a transmitting organization that is a broadcast radio or television station licensed as such by the Federal Communications Commission and that makes a broadcast transmission of a performance of a sound recording in a digital format on a nonsubscription basis,"; and

(5) by adding at the end the following:

"(2) In a case in which a transmitting organization entitled to make a copy or phonorecord under paragraph (1) in connection with the transmission to the public of a performance or display of a work is prevented from making such copy or phonorecord by reason of the application by the copyright owner of technical measures that prevent the reproduction of the work, the copyright owner shall make available to the transmitting organization the necessary means for permitting the making of such copy or phonorecord as permitted under that paragraph, if it is technologically feasible and economically reasonable for the copyright owner to do so. If the copyright owner fails to do so in a timely manner in light of the transmitting organization's reasonable business requirements, the transmitting organization shall not be liable for a violation of section 1201(a)(1) of this title for engaging in such activities as are necessary to make such copies or phonorecords as permitted under paragraph (1) of this subsection.".

SEC. 403. LIMITATIONS ON EXCLUSIVE RIGHTS; DISTANCE EDUCATION.

(a) RECOMMENDATIONS BY REGISTER OF COPYRIGHTS.—Not later than 6 months after the date of the enactment of this Act, the Register of Copyrights, after consultation with representatives of copyright owners, nonprofit educational institutions, and nonprofit libraries and archives, shall submit to the Congress recommendations on how to promote distance education through digital technologies, including interactive digital networks, while maintaining an appropriate balance between the rights of copyright owners and the needs of users of copyrighted works. Such recommendations shall include any legislation the Register of Copyrights considers appropriate to achieve the objective described in the preceding sentence.

(b) FACTORS.—In formulating recommendations under subsection (a), the Register of Copyrights shall consider—

(1) the need for an exemption from exclusive rights of copyright owners for distance education through digital networks;

(2) the categories of works to be included under any distance education exemption;

(3) the extent of appropriate quantitative limitations on the portions of works that may be used under any distance education exemption;

(4) the parties who should be entitled to the benefits of any distance education exemption;

(5) the parties who should be designated as eligible recipients of distance education materials under any distance education exemption;

(6) whether and what types of technological measures can or should be employed to safeguard against unauthorized access to, and use or retention of, copyrighted materials as a condition of eligibility for any distance education exemption, including, in light of developing technological capabilities, the exemption set out in section 110(2) of title 17, United States Code;

(7) the extent to which the availability of licenses for the use of copyrighted works in distance education through interactive digital networks should be considered in assessing eligibility for any distance education exemption; and

(8) such other issues relating to distance education through interactive digital networks that the Register considers appropriate.

SEC. 404. EXEMPTION FOR LIBRARIES AND ARCHIVES.

Section 108 of title 17, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "Notwithstanding" and inserting "Except as otherwise provided in this title and notwithstanding";

(B) by inserting after "no more than one copy or phonorecord of a work" the following: ", except as provided in subsections (b) and (c)"; and

(C) in paragraph (3) by inserting after "copyright" the following: "that appears on the copy or phonorecord that is reproduced under the provisions of this section, or includes a legend stating that the work may be protected by copyright if no such notice can be found on the copy or phonorecord that is reproduced under the provisions of this section";

(2) in subsection (b)—

(A) by striking "a copy or phonorecord" and inserting "three copies or phonorecords";

(B) by striking "in facsimile form"; and

(C) by striking "if the copy or phonorecord reproduced is currently in the collections of the library or archives." and inserting "if—

"(1) the copy or phonorecord reproduced is currently in the collections of the library or archives; and

"(2) any such copy or phonorecord that is reproduced in digital format is not otherwise distributed in that format and is not made available to the public in that format outside the premises of the library or archives."; and

(3) in subsection (c)—

(A) by striking "a copy or phonorecord" and inserting "three copies or phonorecords";

(B) by striking "in facsimile form";

(C) by inserting "or if the existing format in which the work is stored has become obsolete," after "stolen,"; and

(D) by striking "if the library or archives has, after a reasonable effort, determined that an unused replacement cannot be obtained at a fair price." and inserting "if—

"(1) the library or archives has, after a reasonable effort, determined that an unused replacement cannot be obtained at a fair price; and

"(2) any such copy or phonorecord that is reproduced in digital format is not made available to the public in that format outside the premises of the library or archives in lawful possession of such copy."; and

(E) by adding at the end the following:

"For purposes of this subsection, a format shall be considered obsolete if the machine or device necessary to render perceptible a work stored in that format is no longer manufactured or is no longer reasonably available in the commercial marketplace.".

SEC. 405. SCOPE OF EXCLUSIVE RIGHTS IN SOUND RECORDINGS; EPHEMERAL RECORDINGS.

(a) SCOPE OF EXCLUSIVE RIGHTS IN SOUND RECORDINGS.—Section 114 of title 17, United States Code, is amended as follows:

(1) Subsection (d) is amended—

(A) in paragraph (1) by striking subparagraph (A) and inserting the following:

"(A) a nonsubscription broadcast transmission;"; and

(B) by amending paragraph (2) to read as follows:

"(2) STATUTORY LICENSING OF CERTAIN TRANSMISSIONS.—The performance of a sound recording publicly by means of a subscription digital audio transmission not exempt under paragraph (1), an eligible nonsubscription transmission, or a transmission not exempt under paragraph (1) that is made by a preexisting satellite digital audio radio service shall be subject to statutory licensing, in accordance with subsection (f) if—

"(A)(i) the transmission is not part of an interactive service;

"(ii) except in the case of a transmission to a business establishment, the transmitting entity does not automatically and intentionally cause any device receiving the transmission to switch from one program channel to another; and

"(iii) except as provided in section 1002(e), the transmission of the sound recording is accompanied, if technically feasible, by the information encoded in that sound recording, if any, by or under the authority of the copyright owner of that sound recording, that identifies the title of the sound recording, the featured recording artist who performs on the sound recording, and related information, including information concerning the underlying musical work and its writer;

"(B) in the case of a subscription transmission not exempt under paragraph (1) that is made by a preexisting subscription service in the same transmission medium used by such service on July 31, 1998, or in the case of a transmission not exempt under paragraph (1) that is made by a preexisting satellite digital audio radio service—

"(i) the transmission does not exceed the sound recording performance complement; and

"(ii) the transmitting entity does not cause to be published by means of an advance program schedule or prior announcement the titles of the specific sound recordings or phonorecords embodying such sound recordings to be transmitted; and

"(C) in the case of an eligible nonsubscription transmission or a subscription transmission not exempt under paragraph (1) that is made by a new subscription service or by a preexisting subscription service other than in the same transmission medium used by such service on July 31, 1998—

"(i) the transmission does not exceed the sound recording performance complement, except that this requirement shall not apply in the case of a retransmission of a broadcast transmission if the retransmission is made by a transmitting entity that does not have the right or ability to control the programming of the broadcast station making the broadcast transmission, unless—

"(I) the broadcast station makes broadcast transmissions—

"(aa) in digital format that regularly exceed the sound recording performance complement; or

"(bb) in analog format, a substantial portion of which, on a weekly basis, exceed the sound recording performance complement; and

"(II) the sound recording copyright owner or its representative has notified the transmitting entity in writing that broadcast transmissions of the copyright owner's sound recordings exceed the sound recording performance complement as provided in this clause;

"(ii) the transmitting entity does not cause to be published, or induce or facilitate the publication, by means of an advance program schedule or prior announcement, the titles of the specific sound recordings to be transmitted, the phonorecords embodying such sound recordings, or, other than for illustrative purposes, the names of the featured recording artists, except that this clause does not disqualify a transmitting entity that makes a prior announcement that a particular artist will be featured within an unspecified future time period, and in the case of a retransmission of a broadcast transmission by a transmitting entity that does not have the right or ability to control the programming of the broadcast transmission, the requirement of this clause shall not apply to a prior oral announcement by the broadcast station, or to an advance program schedule published, induced, or facilitated by the broadcast station, if the transmitting entity does not have actual knowledge and has not received written notice from the copyright owner or its representative that the broadcast station publishes or induces or facilitates the publication of such advance program schedule, or if such advance program schedule is a schedule of classical music programming published by the broadcast station in the same manner as published by that broadcast station on or before September 30, 1998;

"(iii) the transmission—

"(I) is not part of an archived program of less than 5 hours duration;

"(II) is not part of an archived program of 5 hours or greater in duration that is made available for a period exceeding 2 weeks;

"(III) is not part of a continuous program which is of less than 3 hours duration; or

"(IV) is not part of an identifiable program in which performances of sound recordings are rendered in a predetermined order, other than an archived or continuous program, that is transmitted at—

"(aa) more than 3 times in any 2-week period that have been publicly announced in advance, in the case of a program of less than 1 hour in duration, or

"(bb) more than 4 times in any 2-week period that have been publicly announced in advance, in the case of a program of 1 hour or more in duration,

except that the requirement of this subclause shall not apply in the case of a retransmission of a broadcast transmission by a transmitting entity that does not have the right or ability to control the programming of the broadcast transmission, unless the transmitting entity is given notice in writing by the copyright owner of the sound recording that the broadcast station makes broadcast transmissions that regularly violate such requirement;

"(iv) the transmitting entity does not knowingly perform the sound recording, as part of a service that offers transmissions of visual images contemporaneously with transmissions of sound recordings, in a manner that is likely to cause confusion, to cause mistake, or to deceive, as to the affiliation, connection, or association of the copyright owner or featured recording artist with the transmitting entity or a particular product or service advertised by the transmitting entity, or as to the origin, sponsorship, or approval by the copyright owner or featured recording artist of the activities of the transmitting entity other than the performance of the sound recording itself;

"(v) the transmitting entity cooperates to prevent, to the extent feasible without imposing substantial costs or burdens, a transmission recipient or any other person or entity from automatically scanning the transmitting entity's transmissions alone or together with transmissions by other transmitting entities in order to select a particular sound recording to be transmitted to the transmission recipient, except that the requirement of this clause shall not apply to a satellite digital audio service that is in operation, or that is licensed by the Federal Communications Commission, on or before July 31, 1998;

"(vi) the transmitting entity takes no affirmative steps to cause or induce the making of a phonorecord by the transmission recipient, and if the technology used by the transmitting entity enables the transmitting entity to limit the making by the transmission recipient of phonorecords of the transmission directly in a digital format, the transmitting entity sets such technology to limit such making of phonorecords to the extent permitted by such technology;

"(vii) phonorecords of the sound recording have been distributed to the public under the authority of the copyright owner or the copyright owner authorizes the transmitting entity to transmit the sound recording, and the transmitting entity makes the transmission from a phonorecord lawfully made under the authority of the copyright owner, except that the requirement of this clause shall not apply to a retransmission of a broadcast transmission by a transmitting entity that does not have the right or ability to control the programming of the broadcast transmission, unless the transmitting entity is given notice in writing by the copyright owner of the sound recording that the broadcast station makes broadcast transmissions that regularly violate such requirement;

"(viii) the transmitting entity accommodates and does not interfere with the transmission of technical measures that are widely used by sound recording copyright owners to identify or protect copyrighted works, and that are technically feasible of being transmitted by the transmitting entity without imposing substantial costs on the transmitting entity or resulting in perceptible aural or visual degradation of the digital signal, except that the requirement of this clause shall not apply to a satellite digital audio service that is in operation, or that is licensed under the authority of the Federal Communications Commission, on or before July 31, 1998, to the extent that such service has designed, developed, or made commitments to procure equipment or technology that is not compatible with such technical measures before such technical measures are widely adopted by sound recording copyright owners; and

"(ix) the transmitting entity identifies in textual data the sound recording during, but not before, the time it is performed, including the title of the sound recording, the title of the phonorecord embodying such sound recording, if any, and the featured recording artist, in a manner to permit it to be displayed to the transmission recipient by the device or technology intended for receiving the service provided by the transmitting entity, except that the obligation in this clause shall not take effect until 1 year after the date of the enactment of the Digital Millennium Copyright Act and shall not apply in the case of a retransmission of a broadcast transmission by a transmitting entity that does not have the right or ability to control the programming of the broadcast transmission, or in the case in which devices or technology intended for receiving the service provided by the transmitting entity that have the capability to display such textual data are not common in the marketplace.".

(2) Subsection (f) is amended—

(A) in the subsection heading by striking "NONEXEMPT SUBSCRIPTION" and inserting "CERTAIN NONEXEMPT";

(B) in paragraph (1)—

(i) in the first sentence—

(I) by striking "(1) No" and inserting "(1)(A) No";

(II) by striking "the activities" and inserting "subscription transmissions by preexisting subscription services and transmissions by preexisting satellite digital audio radio services"; and

(III) by striking "2000" and inserting "2001"; and

(ii) by amending the third sentence to read as follows: "Any copyright owners of sound recordings, preexisting subscription services, or preexisting satellite digital audio radio services may submit to the Librarian of Congress licenses covering such subscription transmissions with respect to such sound recordings."; and

(C) by striking paragraphs (2), (3), (4), and (5) and inserting the following:

"(B) In the absence of license agreements negotiated under subparagraph (A), during the 60-day period commencing 6 months after publication of the notice specified in subparagraph (A), and upon the filing of a petition in accordance with section 803(a)(1), the Librarian of Congress shall, pursuant to chapter 8, convene a copyright arbitration royalty panel to determine and publish in the Federal Register a schedule of rates and terms which, subject to paragraph (3), shall be binding on all copyright owners of sound recordings and entities performing sound recordings affected by this paragraph. In establishing rates and terms for preexisting subscription services and preexisting satellite digital audio radio services, in addition to the objectives set forth in section 801(b)(1), the copyright arbitration royalty panel may consider the rates and terms for comparable types of subscription digital audio transmission services and comparable circumstances under voluntary license agreements negotiated as provided in subparagraph (A).

"(C)(i) Publication of a notice of the initiation of voluntary negotiation proceedings as specified in subparagraph (A) shall be repeated, in accordance with regulations that the Librarian of Congress shall prescribe—

"(I) no later than 30 days after a petition is filed by any copyright owners of sound recordings, any preexisting subscription services, or any preexisting satellite digital audio radio services indicating that a new type of subscription digital audio transmission service on which sound recordings are performed is or is about to become operational; and

"(II) in the first week of January, 2001, and at 5-year intervals thereafter.

"(ii) The procedures specified in subparagraph (B) shall be repeated, in accordance with regulations that the Librarian of Congress shall prescribe, upon filing of a petition in accordance with section 803(a)(1) during a 60-day period commencing—

"(I) 6 months after publication of a notice of the initiation of voluntary negotiation proceedings under;subparagraph (A) pursuant to a petition under clause (i)(I) of this subparagraph; or

"(II) on July 1, 2001, and at 5-year intervals thereafter.

"(iii) The procedures specified in subparagraph (B) shall be concluded in accordance with section 802.

"(2)(A) No later than 30 days after the date of the enactment of the Digital Millennium Copyright Act, the Librarian of Congress shall cause notice to be published in the Federal Register of the initiation of voluntary negotiation proceedings for the purpose of determining reasonable terms and rates of royalty payments for public performances of sound recordings by means of eligible nonsubscription transmissions and transmissions by new subscription services specified by subsection (d)(2) during the period beginning on the date of the enactment of such Act and ending on December 31, 2000, or such other date as the parties may agree. Such rates and terms shall distinguish among the different types of eligible nonsubscription transmission services and new subscription services then in operation and shall include a minimum fee for each such type of service. Any copyright owners of sound recordings or any entities performing sound recordings affected by this paragraph may submit to the Librarian of Congress licenses covering such eligible nonsubscription transmissions and new subscription services with respect to such sound recordings. The parties to each negotiation proceeding shall bear their own costs.

"(B) In the absence of license agreements negotiated under subparagraph (A), during the 60-day period commencing 6 months after publication of the notice specified in subparagraph (A), and upon the filing of a petition in accordance with section 803(a)(1), the Librarian of Congress shall, pursuant to chapter 8, convene a copyright arbitration royalty panel to determine and publish in the Federal Register a schedule of rates and terms which, subject to paragraph (3), shall be binding on all copyright owners of sound recordings and entities performing sound recordings affected by this paragraph during the period beginning on the date of the enactment of the Digital Millennium Copyright Act and ending on December 31, 2000, or such other date as the parties may agree. Such rates and terms shall distinguish among the different types of eligible nonsubscription transmission services then in operation and shall include a minimum fee for each such type of service, such differences to be based on criteria including, but not limited to, the quantity and nature of the use of sound recordings and the degree to which use of the service may substitute for or may promote the purchase of phonorecords by consumers. In establishing rates and terms for transmissions by eligible nonsubscription services and new subscription services, the copyright arbitration royalty panel shall establish rates and terms that most clearly represent the rates and terms that would have been negotiated in the marketplace between a willing buyer and a willing seller. In determining such rates and terms, the copyright arbitration royalty panel shall base its decision on economic, competitive and programming information presented by the parties, including—

"(i) whether use of the service may substitute for or may promote the sales of phonorecords or otherwise may interfere with or may enhance the sound recording copyright owner's other streams of revenue from its sound recordings; and

"(ii) the relative roles of the copyright owner and the transmitting entity in the copyrighted work and the service made available to the public with respect to relative creative contribution, technological contribution, capital investment, cost, and risk.

In establishing such rates and terms, the copyright arbitration royalty panel may consider the rates and terms for comparable types of digital audio transmission services and comparable circumstances under voluntary license agreements negotiated under subparagraph (A).

"(C)(i) Publication of a notice of the initiation of voluntary negotiation proceedings as specified in subparagraph (A) shall be repeated in accordance with regulations that the Librarian of Congress shall prescribe—

"(I) no later than 30 days after a petition is filed by any copyright owners of sound recordings or any eligible nonsubscription service or new subscription service indicating that a new type of eligible nonsubscription service or new subscription service on which sound recordings are performed is or is about to become operational; and

"(II) in the first week of January 2000, and at 2-year intervals thereafter, except to the extent that different years for the repeating of such proceedings may be determined in accordance with subparagraph (A).

"(ii) The procedures specified in subparagraph (B) shall be repeated, in accordance with regulations that the Librarian of Congress shall prescribe, upon filing of a petition in accordance with section 803(a)(1) during a 60-day period commencing—

"(I) 6 months after publication of a notice of the initiation of voluntary negotiation proceedings under subparagraph (A) pursuant to a petition under clause (i)(I); or

"(II) on July 1, 2000, and at 2-year intervals thereafter, except to the extent that different years for the repeating of such proceedings may be determined in accordance with subparagraph (A).

"(iii) The procedures specified in subparagraph (B) shall be concluded in accordance with section 802.

"(3) License agreements voluntarily negotiated at any time between 1 or more copyright owners of sound recordings and 1 or more entities performing sound recordings shall be given effect in lieu of any determination by a copyright arbitration royalty panel or decision by the Librarian of Congress.

"(4)(A) The Librarian of Congress shall also establish requirements by which copyright owners may receive reasonable notice of the use of their sound recordings under this section, and under which records of such use shall be kept and made available by entities performing sound recordings.

"(B) Any person who wishes to perform a sound recording publicly by means of a transmission eligible for statutory licensing under this subsection may do so without infringing the exclusive right of the copyright owner of the sound recording—

"(i) by complying with such notice requirements as the Librarian of Congress shall prescribe by regulation and by paying royalty fees in accordance with this subsection; or

"(ii) if such royalty fees have not been set, by agreeing to pay such royalty fees as shall be determined in accordance with this subsection.

"(C) Any royalty payments in arrears shall be made on or before the twentieth day of the month next succeeding the month in which the royalty fees are set.".

(3) Subsection (g) is amended—

(A) in the subsection heading by striking "SUBSCRIPTION";

(B) in paragraph (1) in the matter preceding subparagraph (A), by striking "subscription transmission licensed" and inserting "transmission licensed under a statutory license";

(C) in subparagraphs (A) and (B) by striking "subscription"; and

(D) in paragraph (2) by striking "subscription".

(4) Subsection (j) is amended—

(A) by striking paragraphs (4) and (9) and redesignating paragraphs (2), (3), (5), (6), (7), and (8) as paragraphs (3), (5), (9), (12), (13), and (14), respectively;

(B) by inserting after paragraph (1) the following:

"(2) An 'archived program' is a predetermined program that is available repeatedly on the demand of the transmission recipient and that is performed in the same order from the beginning, except that an archived program shall not include a recorded event or broadcast transmission that makes no more than an incidental use of sound recordings, as long as such recorded event or broadcast transmission does not contain an entire sound recording or feature a particular sound recording.";

(C) by inserting after paragraph (3), as so redesignated, the following:

"(4) A 'continuous program' is a predetermined program that is continuously performed in the same order and that is accessed at a point in the program that is beyond the control of the transmission recipient.";

(D) by inserting after paragraph (5), as so redesignated, the following:

"(6) An 'eligible nonsubscription transmission' is a noninteractive nonsubscription digital *audio transmission not exempt under subsection (d)(1) that is made as part of a service that provides audio programming consisting, in whole or in part, of performances of sound recordings, including retransmissions of broadcast transmissions, if the primary purpose of the service is to provide to the public such audio or other entertainment programming, and the primary purpose of the service is not to sell, advertise, or promote particular products or services other than sound recordings, live concerts, or other music-related events.*

"(7) An 'interactive service' is one that enables a member of the public to receive a transmission of a program specially created for the recipient, or on request, a transmission of a particular sound recording, whether or not as part of a program, which is selected by or on behalf of the recipient. The ability of individuals to request that particular sound recordings be performed for reception by the public at large, or in the case of a subscription service, by all subscribers of the service, does not make a service interactive, if the programming on each channel of the service does not substantially consist of sound recordings that are performed within 1 hour of the request or at a time designated by either the transmitting entity or the individual making such request. If an entity offers both interactive and noninteractive services (either concurrently or at different times), the noninteractive component shall not be treated as part of an interactive service.

"(8) A 'new subscription service' is a service that performs sound recordings by means of noninteractive subscription digital audio transmissions and that is not a preexisting subscription service or a preexisting satellite digital audio radio service.";

(E) by inserting after paragraph (9), as so redesignated, the following:

"(10) A 'preexisting satellite digital audio radio service' is a subscription satellite digital audio radio service provided pursuant to a satellite digital audio radio service license issued by the Federal Communications Commission on or before July 31, 1998, and any renewal of such license to the extent of the scope of the original license, and may include a limited number of sample channels representative of the subscription service that are made available on a nonsubscription basis in order to promote the subscription service.

"(11) A 'preexisting subscription service' is a service that performs sound recordings by means of noninteractive audio-only subscription digital audio transmissions, which was in existence and was making such transmissions to the public for a fee on or before July 31, 1998, and may include a limited number of sample channels representative of the subscription service that are made available on a nonsubscription basis in order to promote the subscription service."; and

(F) by adding at the end the following:

"(15) A 'transmission' is either an initial transmission or a retransmission.".

(5) The amendment made by paragraph (2)(B)(i)(III) of this subsection shall be deemed to have been enacted as part of the Digital Performance Right in Sound Recordings Act of 1995, and the publication of notice of proceedings under section 114(f)(1) of title 17, United States Code, as in effect upon the effective date of that Act, for the determination of royalty payments shall be deemed to have been made for the period beginning on the effective date of that Act and ending on December 1, 2001.

(6) The amendments made by this subsection do not annul, limit, or otherwise impair the rights that are preserved by section 114 of title 17, United States Code, including the rights preserved by subsections (c), (d)(4), and (i) of such section.

(b) EPHEMERAL RECORDINGS.—Section 112 of title 17, United States Code, is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

"(e) STATUTORY LICENSE.—(1) A transmitting organization entitled to transmit to the public a performance of a sound recording under the limitation on exclusive rights specified by section 114(d)(1)(C)(iv) or under a statutory license in accordance with section 114(f) is entitled to a statutory license, under the conditions specified by this subsection, to make no more than 1 phonorecord of the sound recording (unless the terms and conditions of the statutory license allow for more), if the following conditions are satisfied:

"(A) The phonorecord is retained and used solely by the transmitting organization that made it, and no further phonorecords are reproduced from it.

"(B) The phonorecord is used solely for the transmitting organization's own transmissions originating in the United States under a statutory license in accordance with section 114(f) or the limitation on exclusive rights specified by section 114(d)(1)(C)(iv).

"(C) Unless preserved exclusively for purposes of archival preservation, the phonorecord is destroyed within 6 months from the date the sound recording was first transmitted to the public using the phonorecord.

"(D) Phonorecords of the sound recording have been distributed to the public under the authority of the copyright owner or the copyright owner authorizes the transmitting entity to transmit the sound recording, and the transmitting entity makes the phonorecord under this subsection from a phonorecord lawfully made and acquired under the authority of the copyright owner.

"(3) Notwithstanding any provision of the antitrust laws, any copyright owners of sound recordings and any transmitting organizations entitled to a statutory license under this subsection may negotiate and agree upon royalty rates and license terms and conditions for making phonorecords of such sound recordings under this section and the proportionate division of fees paid among copyright owners, and may designate common agents to negotiate, agree to, pay, or receive such royalty payments.

"(4) No later than 30 days after the date of the enactment of the Digital Millennium Copyright Act, the Librarian of Congress shall cause notice to be published in the Federal Register of the initiation of voluntary negotiation proceedings for the purpose of determining reasonable terms and rates of royalty payments for the activities specified by paragraph (2) of this subsection during the period beginning on the date of the enactment of such Act and ending on December 31, 2000, or such other date as the parties may agree. Such rates shall include a minimum fee for each type of service offered by transmitting organizations. Any copyright owners of sound recordings or any transmitting organizations entitled to a statutory license under this subsection may submit to the Librarian of Congress licenses covering such activities with respect to such sound recordings. The parties to each negotiation proceeding shall bear their own costs.

"(5) In the absence of license agreements negotiated under paragraph (3), during the 60-day period commencing 6 months after publication of the notice specified in paragraph (4), and upon the filing of a petition in accordance with section 803(a)(1), the Librarian of Congress shall, pursuant to chapter 8, convene a copyright arbitration royalty panel to determine and publish in the Federal Register a schedule of reasonable rates and terms which, subject to paragraph (6), shall be binding on all copyright owners of sound recordings and transmitting organizations entitled to a statutory license under this subsection during the period beginning on the date of the enactment of the Digital Millennium Copyright Act and ending on December 31, 2000, or such other date as the parties may agree. Such rates shall include a minimum fee for each type of service offered by transmitting organizations. The copyright arbitration royalty panel shall establish rates that most clearly represent the fees that would have been negotiated in the marketplace between a willing buyer and a willing seller. In determining such rates and terms, the copyright arbitration royalty panel shall base its decision on economic, competitive, and programming information presented by the parties, including—

"(A) whether use of the service may substitute for or may promote the sales of phonorecords or otherwise interferes with or enhances the copyright owner's traditional streams of revenue; and

"(B) the relative roles of the copyright owner and the transmitting organization in the copyrighted work and the service made available to the public with respect to relative creative contribution, technological contribution, capital investment, cost, and risk.

In establishing such rates and terms, the copyright arbitration royalty panel may consider the rates and terms under voluntary license agreements negotiated as provided in paragraphs (3) and (4). The Librarian of Congress shall also establish requirements by which copyright owners may receive reasonable notice of the use of their sound recordings under this section, and under which records of such use shall be kept and made available by transmitting organizations entitled to obtain a statutory license under this subsection.

"(6) License agreements voluntarily negotiated at any time between 1 or more copyright owners of sound recordings and 1 or more transmitting organizations entitled to obtain a statutory license under this subsection shall be given effect in lieu of any determination by a copyright arbitration royalty panel or decision by the Librarian of Congress.

"(7) Publication of a notice of the initiation of voluntary negotiation proceedings as specified in paragraph (4) shall be repeated, in accordance with regulations that the Librarian of Congress shall prescribe, in the first week of January 2000, and at 2-year intervals thereafter, except to the extent that different years for the repeating of such proceedings may be determined in accordance with paragraph (4). The procedures specified in paragraph (5) shall be repeated, in accordance with regulations that the Librarian of Congress shall prescribe, upon filing of a petition in accordance with section 803(a)(1), during a 60-day period commencing on July 1, 2000, and at 2-year intervals thereafter, except to the extent that different years for the repeating of such proceedings may be determined in accordance with paragraph (4). The procedures specified in paragraph (5) shall be concluded in accordance with section 802.

"(8)(A) Any person who wishes to make a phonorecord of a sound recording under a statutory license in accordance with this subsection may do so without infringing the exclusive right of the copyright owner of the sound recording under section 106(1)—

"(i) by complying with such notice requirements as the Librarian of Congress shall prescribe by regulation and by paying royalty fees in accordance with this subsection; or

"(ii) if such royalty fees have not been set, by agreeing to pay such royalty fees as shall be determined in accordance with this subsection.

"(B) Any royalty payments in arrears shall be made on or before the 20th day of the month

next succeeding the month in which the royalty fees are set.

"(9) If a transmitting organization entitled to make a phonorecord under this subsection is prevented from making such phonorecord by reason of the application by the copyright owner of technical measures that prevent the reproduction of the sound recording, the copyright owner shall make available to the transmitting organization the necessary means for permitting the making of such phonorecord as permitted under this subsection, if it is technologically feasible and economically reasonable for the copyright owner to do so. If the copyright owner fails to do so in a timely manner in light of the transmitting organization's reasonable business requirements, the transmitting organization shall not be liable for a violation of section 1201(a)(1) of this title for engaging in such activities as are necessary to make such phonorecords as permitted under this subsection.

"(10) Nothing in this subsection annuls, limits, impairs, or otherwise affects in any way the existence or value of any of the exclusive rights of the copyright owners in a sound recording, except as otherwise provided in this subsection, or in a musical work, including the exclusive rights to reproduce and distribute a sound recording or musical work, including by means of a digital phonorecord delivery, under section 106(1), 106(3), and 115, and the right to perform publicly a sound recording or musical work, including by means of a digital audio transmission, under sections 106(4) and 106(6).".

(c) SCOPE OF SECTION 112(a) OF TITLE 17 NOT AFFECTED.—Nothing in this section or the amendments made by this section shall affect the scope of section 112(a) of title 17, United States Code, or the entitlement of any person to an exemption thereunder.

(d) PROCEDURAL AMENDMENTS TO CHAPTER 8.—Section 802 of title 17, United States Code, is amended—

(1) in subsection (f)—

(A) in the first sentence by striking "60" and inserting "90"; and

(B) in the third sentence by striking "that 60-day period" and inserting "an additional 30-day period"; and

(2) in subsection (g) by inserting after the second sentence the following: "When this title provides that the royalty rates or terms that were previously in effect are to expire on a specified date, any adjustment by the Librarian of those rates or terms shall be effective as of the day following the date of expiration of the rates or terms that were previously in effect, even if the Librarian's decision is rendered on a later date.".

(e) CONFORMING AMENDMENTS.—(1) Section 801(b)(1) of title 17, United States Code, is amended in the second sentence by striking "sections 114, 115, and 116" and inserting "sections 114(f)(1)(B), 115, and 116".

(2) Section 802(c) of title 17, United States Code, is amended by striking "section 111, 114, 116, or 119, any person entitled to a compulsory license" and inserting "section 111, 112, 114, 116, or 119, any transmitting organization entitled to a statutory license under section 112(f), any person entitled to a statutory license".

(3) Section 802(g) of title 17, United States Code, is amended by striking "sections 111, 114" and inserting "sections 111, 112, 114".

(4) Section 802(h)(2) of title 17, United States Code, is amended by striking "section 111, 114" and inserting "section 111, 112, 114".

(5) Section 803(a)(1) of title 17, United States Code, is amended by striking "sections 114, 115" and inserting "sections 112, 114, 115".

(6) Section 803(a)(5) of title 17, United States Code, is amended—

(A) by striking "section 114" and inserting "section 112 or 114"; and

(B) by striking "that section" and inserting "those sections".

SEC. 406. ASSUMPTION OF CONTRACTUAL OBLIGATIONS RELATED TO TRANSFERS OF RIGHTS IN MOTION PICTURES.

(a) IN GENERAL.—Part VI of title 28, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 180—ASSUMPTION OF CERTAIN CONTRACTUAL OBLIGATIONS

"Sec. 4001. Assumption of contractual obligations related to transfers of rights in motion pictures.

"§4001. Assumption of contractual obligations related to transfers of rights in motion pictures

"(a) ASSUMPTION OF OBLIGATIONS.—(1) In the case of a transfer of copyright ownership under United States law in a motion picture (as the terms 'transfer of copyright ownership' and 'motion picture' are defined in section 101 of title 17) that is produced subject to 1 or more collective bargaining agreements negotiated under the laws of the United States, if the transfer is executed on or after the effective date of this chapter and is not limited to public performance rights, the transfer instrument shall be deemed to incorporate the assumption agreements applicable to the copyright ownership being transferred that are required by the applicable collective bargaining agreement, and the transferee shall be subject to the obligations under each such assumption agreement to make residual payments and provide related notices, accruing after the effective date of the transfer and applicable to the exploitation of the rights transferred, and any remedies under each such assumption agreement for breach of those obligations, as those obligations and remedies are set forth in the applicable collective bargaining agreement, if—

"(A) the transferee knows or has reason to know at the time of the transfer that such collective bargaining agreement was or will be applicable to the motion picture; or

"(B) in the event of a court order confirming an arbitration award against the transferor under the collective bargaining agreement, the transferor does not have the financial ability to satisfy the award within 90 days after the order is issued.

"(2) For purposes of paragraph (1)(A), 'knows or has reason to know' means any of the following:

"(A) Actual knowledge that the collective bargaining agreement was or will be applicable to the motion picture.

"(B)(i) Constructive knowledge that the collective bargaining agreement was or will be applicable to the motion picture, arising from recordation of a document pertaining to copyright in the motion picture under section 205 of title 17 or from publication, at a site available to the public on-line that is operated by the relevant union, of information that identifies the motion picture as subject to a collective bargaining agreement with that union, if the site permits commercially reasonable verification of the date on which the information was available for access.

"(ii) Clause (i) applies only if the transfer referred to in subsection (a)(1) occurs—

"(i) after the motion picture is completed, or

"(ii) before the motion picture is completed and—

"(I) within 18 months before the filing of an application for copyright registration for the motion picture under section 408 of title 17, or

"(II) if no such application is filed, within 18 months before the first publication of the motion picture in the United States.

"(C) Awareness of other facts and circumstances pertaining to a particular transfer from which it is apparent that the collective bargaining agreement was or will be applicable to the motion picture.

"(b) SCOPE OF EXCLUSION OF TRANSFERS OF PUBLIC PERFORMANCE RIGHTS.—For purposes of this section, the exclusion under subsection (a) of transfers of copyright ownership in a motion picture that are limited to public performance rights includes transfers to a terrestrial broadcast station, cable system, or programmer to the extent that the station, system, or programmer is functioning as an exhibitor of the motion picture, either by exhibiting the motion picture on its own network, system, service, or station, or by initiating the transmission of an exhibition that is carried on another network, system, service, or station. When a terrestrial broadcast station, cable system, or programmer, or other transferee, is also functioning otherwise as a distributor or as a producer of the motion picture, the public performance exclusion does not affect any obligations imposed on the transferee to the extent that it is engaging in such functions.

"(c) EXCLUSION FOR GRANTS OF SECURITY INTERESTS.—Subsection (a) shall not apply to—

"(1) a transfer of copyright ownership consisting solely of a mortgage, hypothecation, or other security interest; or

"(2) a subsequent transfer of the copyright ownership secured by the security interest described in paragraph (1) by or under the authority of the secured party, including a transfer through the exercise of the secured party's rights or remedies as a secured party, or by a subsequent transferee.

The exclusion under this subsection shall not affect any rights or remedies under law or contract.

"(d) DEFERRAL PENDING RESOLUTION OF BONA FIDE DISPUTE.—A transferee on which obligations are imposed under subsection (a) by virtue of paragraph (1) of that subsection may elect to defer performance of such obligations that are subject to a bona fide dispute between a union and a prior transferor until that dispute is resolved, except that such deferral shall not stay accrual of any union claims due under an applicable collective bargaining agreement.

"(e) SCOPE OF OBLIGATIONS DETERMINED BY PRIVATE AGREEMENT.—Nothing in this section shall expand or diminish the rights, obligations, or remedies of any person under the collective bargaining agreements or assumption agreements referred to in this section.

"(f) FAILURE TO NOTIFY.—If the transferor under subsection (a) fails to notify the transferee under subsection (a) of applicable collective bargaining obligations before the execution of the transfer instrument, and subsection (a) is made applicable to the transferee solely by virtue of subsection (a)(1)(B), the transferor shall be liable to the transferee for any damages suffered by the transferee as a result of the failure to notify.

"(g) DETERMINATION OF DISPUTES AND CLAIMS.—Any dispute concerning the application of subsections (a) through (f) shall be determined by an action in United States district court, and the court in its discretion may allow the recovery of full costs by or against any party and may also award a reasonable attorney's fee to the prevailing party as part of the costs.

"(h) STUDY.—The Comptroller General, in consultation with the Register of Copyrights, shall conduct a study of the conditions in the motion picture industry that gave rise to this section, and the impact of this section on the motion picture industry. The Comptroller General shall report the findings of the study to the Congress within 2 years after the effective date of this chapter.".

(b) CONFORMING AMENDMENT.—The table of chapters for part VI of title 28, United States

Code, is amended by adding at the end the following:

"180. Assumption of Certain Contractual Obligations .... 4001".

SEC. 407. EFFECTIVE DATE.

Except as otherwise provided in this title, this title and the amendments made by this title shall take effect on the date of the enactment of this Act.

TITLE V—PROTECTION OF CERTAIN ORIGINAL DESIGNS

SEC. 501. SHORT TITLE.

This Act may be referred to as the "Vessel Hull Design Protection Act".

SEC. 502. PROTECTION OF CERTAIN ORIGINAL DESIGNS.

Title 17, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 13—PROTECTION OF ORIGINAL DESIGNS

"Sec.
"1301. Designs protected.
"1302. Designs not subject to protection.
"1303. Revisions, adaptations, and rearrangements.
"1304. Commencement of protection.
"1305. Term of protection.
"1306. Design notice.
"1307. Effect of omission of notice.
"1308. Exclusive rights.
"1309. Infringement.
"1310. Application for registration.
"1311. Benefit of earlier filing date in foreign country.
"1312. Oaths and acknowledgments.
"1313. Examination of application and issue or refusal of registration.
"1314. Certification of registration.
"1315. Publication of announcements and indexes.
"1316. Fees.
"1317. Regulations.
"1318. Copies of records.
"1319. Correction of errors in certificates.
"1320. Ownership and transfer.
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"§ 1301. Designs protected

"(a) DESIGNS PROTECTED.—

"(1) IN GENERAL.—The designer or other owner of an original design of a useful article which makes the article attractive or distinctive in appearance to the purchasing or using public may secure the protection provided by this chapter upon complying with and subject to this chapter.

"(2) VESSEL HULLS.—The design of a vessel hull, including a plug or mold, is subject to protection under this chapter, notwithstanding section 1302(4).

"(b) DEFINITIONS.—For the purpose of this chapter, the following terms have the following meanings:

"(1) A design is 'original' if it is the result of the designer's creative endeavor that provides a distinguishable variation over prior work pertaining to similar articles which is more than merely trivial and has not been copied from another source.

"(2) A 'useful article' is a vessel hull, including a plug or mold, which in normal use has an intrinsic utilitarian function that is not merely to portray the appearance of the article or to convey information. An article which normally is part of a useful article shall be deemed to be a useful article.

"(3) A 'vessel' is a craft, especially one larger than a rowboat, designed to navigate on water, but does not include any such craft that exceeds 200 feet in length.

"(4) A 'hull' is the frame or body of a vessel, including the deck of a vessel, exclusive of masts, sails, yards, and rigging.

"(5) A 'plug' means a device or model used to make a mold for the purpose of exact duplication, regardless of whether the device or model has an intrinsic utilitarian function that is not only to portray the appearance of the product or to convey information.

"(6) A 'mold' means a matrix or form in which a substance for material is used, regardless of whether the matrix or form has an intrinsic utilitarian function that is not only to portray the appearance of the product or to convey information.

"§ 1302. Designs not subject to protection

"Protection under this chapter shall not be available for a design that is—

"(1) not original;

"(2) staple or commonplace, such as a standard geometric figure, a familiar symbol, an emblem, or a motif, or another shape, pattern, or configuration which has become standard, common, prevalent, or ordinary;

"(3) different from a design excluded by paragraph (2) only in insignificant details or in elements which are variants commonly used in the relevant trades;

"(4) dictated solely by a utilitarian function of the article that embodies it; or

"(5) embodied in a useful article that was made public by the designer or owner in the United States or a foreign country more than 1 year before the date of the application for registration under this chapter.

"§ 1303. Revisions, adaptations, and rearrangements

"Protection for a design under this chapter shall be available notwithstanding the employment in the design of subject matter excluded from protection under section 1302 if the design is a substantial revision, adaptation, or rearrangement of such subject matter. Such protection shall be independent of any subsisting protection in subject matter employed in the design, and shall not be construed as securing any right to subject matter excluded from protection under this chapter or as extending any subsisting protection under this chapter.

"§ 1304. Commencement of protection

"The protection provided for a design under this chapter shall commence upon the earlier of the date of publication of the registration under section 1313(a) or the date the design is first made public as defined by section 1310(b).

"§ 1305. Term of protection

"(a) IN GENERAL.—Subject to subsection (b), the protection provided under this chapter for a design shall continue for a term of 10 years beginning on the date of the commencement of protection under section 1304.

"(b) EXPIRATION.—All terms of protection provided in this section shall run to the end of the calendar year in which they would otherwise expire.

"(c) TERMINATION OF RIGHTS.—Upon expiration or termination of protection in a particular design under this chapter, all rights under this chapter in the design shall terminate, regardless of the number of different articles in which the design may have been used during the term of its protection.

"§ 1306. Design notice

"(a) CONTENTS OF DESIGN NOTICE.—(1) Whenever any design for which protection is sought under this chapter is made public under section 1310(b), the owner of the design shall, subject to the provisions of section 1307, mark it or have it marked legibly with a design notice consisting of—

"(A) the words 'Protected Design', the abbreviation 'Prot'd Des.', or the letter 'D' with a circle, or the symbol *D*;

"(B) the year of the date on which protection for the design commenced; and

"(C) the name of the owner, an abbreviation by which the name can be recognized, or a generally accepted alternative designation of the owner.

Any distinctive identification of the owner may be used for purposes of subparagraph (C) if it has been recorded by the Administrator before the design marked with such identification is registered.

"(2) After registration, the registration number may be used instead of the elements specified in subparagraphs (B) and (C) of paragraph (1).

"(b) LOCATION OF NOTICE.—The design notice shall be so located and applied as to give reasonable notice of design protection while the useful article embodying the design is passing through its normal channels of commerce.

"(c) SUBSEQUENT REMOVAL OF NOTICE.—When the owner of a design has complied with the provisions of this section, protection under this chapter shall not be affected by the removal, destruction, or obliteration by others of the design notice on an article.

"§ 1307. Effect of omission of notice

"(a) ACTIONS WITH NOTICE.—Except as provided in subsection (b), the omission of the notice prescribed in section 1306 shall not cause loss of the protection under this chapter or prevent recovery for infringement under this chapter against any person who, after receiving written notice of the design protection, begins an undertaking leading to infringement under this chapter.

"(b) ACTIONS WITHOUT NOTICE.—The omission of the notice prescribed in section 1306 shall prevent any recovery under section 1323 against a person who began an undertaking leading to infringement under this chapter before receiving written notice of the design protection. No injunction shall be issued under this chapter with respect to such undertaking unless the owner of the design reimburses that person for any reasonable expenditure or contractual obligation in connection with such undertaking that was incurred before receiving written notice of the design protection, as the court in its discretion directs. The burden of providing written notice of design protection shall be on the owner of the design.

"§ 1308. Exclusive rights

"The owner of a design protected under this chapter has the exclusive right to—

"(1) make, have made, or import, for sale or for use in trade, any useful article embodying that design; and

"(2) sell or distribute for sale or for use in trade any useful article embodying that design.

"§ 1309. Infringement

"(a) ACTS OF INFRINGEMENT.—Except as provided in subjection (b), it shall be infringement of the exclusive rights in a design protected under this chapter for any person, without the consent of the owner of the design, within the United States and during the term of such protection, to—

"(1) make, have made, or import, for sale or for use in trade, any infringing article as defined in subsection (e); or

"(2) sell or distribute for sale or for use in trade any such infringing article.

"(b) Acts of Sellers and Distributors.—A seller or distributor of an infringing article who did not make or import the article shall be deemed to have infringed on a design protected under this chapter only if that person—

"(1) induced or acted in collusion with a manufacturer to make, or an importer to import such article, except that merely purchasing or giving an order to purchase such article in the ordinary course of business shall not of itself constitute such inducement or collusion; or

"(2) refused or failed, upon the request of the owner of the design, to make a prompt and full disclosure of that person's source of such article, and that person orders or reorders such article after receiving notice by registered or certified mail of the protection subsisting in the design.

"(c) Acts Without Knowledge.—It shall not be infringement under this section to make, have made, import, sell, or distribute, any article embodying a design which was created without knowledge that a design was protected under this chapter and was copied from such protected design.

"(d) Acts in Ordinary Course of Business.—A person who incorporates into that person's product of manufacture an infringing article acquired from others in the ordinary course of business, or who, without knowledge of the protected design embodied in an infringing article, makes or processes the infringing article for the account of another person in the ordinary course of business, shall not be deemed to have infringed the rights in that design under this chapter except under a condition contained in paragraph (1) or (2) of subsection (b). Accepting an order or reorder from the source of the infringing article shall be deemed ordering or reordering within the meaning of subsection (b)(2).

"(e) Infringing Article Defined.—As used in this section, an 'infringing article' is any article the design of which has been copied from a design protected under this chapter, without the consent of the owner of the protected design. An infringing article is not an illustration or picture of a protected design in an advertisement, book, periodical, newspaper, photograph, broadcast, motion picture, or similar medium. A design shall not be deemed to have been copied from a protected design if it is original and not substantially similar in appearance to a protected design.

"(f) Establishing Originality.—The party to any action or proceeding under this chapter who alleges rights under this chapter in a design shall have the burden of establishing the design's originality whenever the opposing party introduces an earlier work which is identical to such design, or so similar as to make prima facie showing that such design was copied from such work.

"(g) Reproduction for Teaching or Analysis.—It is not an infringement of the exclusive rights of a design owner for a person to reproduce the design in a useful article or in any other form solely for the purpose of teaching, analyzing, or evaluating the appearance, concepts, or techniques embodied in the design, or the function of the useful article embodying the design.

"§ 1310. Application for registration

"(a) Time Limit for Application for Registration.—Protection under this chapter shall be lost if application for registration of the design is not made within two years after the date on which the design is first made public.

"(b) When Design Is Made Public.—A design is made public when an existing useful article embodying the design is anywhere publicly exhibited, publicly distributed, or offered for sale or sold to the public by the owner of the design or with the owner's consent.

"(c) Application by Owner of Design.—Application for registration may be made by the owner of the design.

"(d) Contents of Application.—The application for registration shall be made to the Administrator and shall state—

"(1) the name and address of the designer or designers of the design;

"(2) the name and address of the owner if different from the designer;

"(3) the specific name of the useful article embodying the design;

"(4) the date, if any, that the design was first made public, if such date was earlier than the date of the application;

"(5) affirmation that the design has been fixed in a useful article; and

"(6) such other information as may be required by the Administrator.

The application for registration may include a description setting forth the salient features of the design, but the absence of such a description shall not prevent registration under this chapter.

"(e) Sworn Statement.—The application for registration shall be accompanied by a statement under oath by the applicant or the applicant's duly authorized agent or representative, setting forth, to the best of the applicant's knowledge and belief—

"(1) that the design is original and was created by the designer or designers named in the application;

"(2) that the design has not previously been registered on behalf of the applicant or the applicant's predecessor in title; and

"(3) that the applicant is the person entitled to protection and to registration under this chapter.

If the design has been made public with the design notice prescribed in section 1306, the statement shall also describe the exact form and position of the design notice.

"(f) Effect of Errors.—(1) Error in any statement or assertion as to the utility of the useful article named in the application under this section, the design of which is sought to be registered, shall not affect the protection secured under this chapter.

"(2) Errors in omitting a joint designer or in naming an alleged joint designer shall not affect the validity of the registration, or the actual ownership or the protection of the design, unless it is shown that the error occurred with deceptive intent.

"(g) Design Made in Scope of Employment.—In a case in which the design was made within the regular scope of the designer's employment and individual authorship of the design is difficult or impossible to ascribe and the application so states, the name and address of the employer for whom the design was made may be stated instead of that of the individual designer.

"(h) Pictorial Representation of Design.—The application for registration shall be accompanied by two copies of a drawing or other pictorial representation of the useful article embodying the design, having one or more views, adequate to show the design, in a form and style suitable for reproduction, which shall be deemed a part of the application.

"(i) Design in More Than One Useful Article.—If the distinguishing elements of a design are in substantially the same form in different useful articles, the design shall be protected as to all such useful articles when protected as to one of them, but not more than one registration shall be required for the design.

"(j) Application for More Than One Design.—More than one design may be included in the same application under such conditions as may be prescribed by the Administrator. For each design included in an application the fee prescribed for a single design shall be paid.

"§ 1311. Benefit of earlier filing date in foreign country

"An application for registration of a design filed in the United States by any person who has, or whose legal representative or predecessor or successor in title has, previously filed an application for registration of the same design in a foreign country which extends to designs of owners who are citizens of the United States, or to applications filed under this chapter, similar protection to that provided under this chapter shall have that same effect as if filed in the United States on the date on which the application was first filed in such foreign country, if the application in the United States is filed within 6 months after the earliest date on which any such foreign application was filed.

"§ 1312. Oaths and acknowledgments

"(a) In General.—Oaths and acknowledgments required by this chapter—

"(1) may be made—

"(A) before any person in the United States authorized by law to administer oaths; or

"(B) when made in a foreign country, before any diplomatic or consular officer of the United States authorized to administer oaths, or before any official authorized to administer oaths in the foreign country concerned, whose authority shall be proved by a certificate of a diplomatic or consular officer of the United States; and

"(2) shall be valid if they comply with the laws of the State or country where made.

"(b) Written Declaration in Lieu of Oath.—(1) The Administrator may by rule prescribe that any document which is to be filed under this chapter in the Office of the Administrator and which is required by any law, rule, or other regulation to be under oath, may be subscribed to by a written declaration in such form as the Administrator may prescribe, and such declaration shall be in lieu of the oath otherwise required.

"(2) Whenever a written declaration under paragraph (1) is used, the document containing the declaration shall state that willful false statements are punishable by fine or imprisonment, or both, pursuant to section 1001 of title 18, and may jeopardize the validity of the application or document or a registration resulting therefrom.

"§ 1313. Examination of application and issue or refusal of registration

"(a) Determination of Registrability of Design; Registration.—Upon the filing of an application for registration in proper form under section 1310, and upon payment of the fee prescribed under section 1316, the Administrator shall determine whether or not the application relates to a design which on its face appears to be subject to protection under this chapter, and, if so, the Register shall register the design. Registration under this subsection shall be announced by publication. The date of registration shall be the date of publication.

"(b) Refusal To Register; Reconsideration.—If, in the judgment of the Administrator, the application for registration relates to a design which on its face is not subject to protection under this chapter, the Administrator shall send to the applicant a notice of refusal to register and the grounds for the refusal. Within 3 months after the date on which the notice of refusal is sent, the applicant may, by written request, seek reconsideration of the application. After consideration of such a request, the Administrator shall either register the design or send to the applicant a notice of final refusal to register.

"(c) Application To Cancel Registration.—Any person who believes he or she is or will be damaged by a registration under this chapter may, upon payment of the prescribed fee, apply to the Administrator at any time to cancel the

registration on the ground that the design is not subject to protection under this chapter, stating the reasons for the request. Upon receipt of an application for cancellation, the Administrator shall send to the owner of the design, as shown in the records of the Office of the Administrator, a notice of the application, and the owner shall have a period of 3 months after the date on which such notice is mailed in which to present arguments to the Administrator for support of the validity of the registration. The Administrator shall also have the authority to establish, by regulation, conditions under which the opposing parties may appear and be heard in support of their arguments. If, after the periods provided for the presentation of arguments have expired, the Administrator determines that the applicant for cancellation has established that the design is not subject to protection under this chapter, the Administrator shall order the registration stricken from the record. Cancellation under this subsection shall be announced by publication, and notice of the Administrator's final determination with respect to any application for cancellation shall be sent to the applicant and to the owner of record.

"§ 1314. Certification of registration

"Certificates of registration shall be issued in the name of the United States under the seal of the Office of the Administrator and shall be recorded in the official records of the Office. The certificate shall state the name of the useful article, the date of filing of the application, the date of registration, and the date the design was made public, if earlier than the date of filing of the application, and shall contain a reproduction of the drawing or other pictorial representation of the design. If a description of the salient features of the design appears in the application, the description shall also appear in the certificate. A certificate of registration shall be admitted in any court as prima facie evidence of the facts stated in the certificate.

"§ 1315. Publication of announcements and indexes

"(a) PUBLICATIONS OF THE ADMINISTRATOR.—The Administrator shall publish lists and indexes of registered designs and cancellations of designs and may also publish the drawings or other pictorial representations of registered designs for sale or other distribution.

"(b) FILE OF REPRESENTATIVES OF REGISTERED DESIGNS.—The Administrator shall establish and maintain a file of the drawings or other pictorial representations of registered designs. The file shall be available for use by the public under such conditions as the Administrator may prescribe.

"§ 1316. Fees

"The Administrator shall by regulation set reasonable fees for the filing of applications to register designs under this chapter and for other services relating to the administration of this chapter, taking into consideration the cost of providing these services and the benefit of a public record.

"§ 1317. Regulations

"The Administrator may establish regulations for the administration of this chapter.

"§ 1318. Copies of records

"Upon payment of the prescribed fee, any person may obtain a certified copy of any official record of the Office of the Administrator that relates to this chapter. That copy shall be admissible in evidence with the same effect as the original.

"§ 1319. Correction of errors in certificates

"The Administrator may, by a certificate of correction under seal, correct any error in a registration incurred through the fault of the Office, or, upon payment of the required fee, any error of a clerical or typographical nature occurring in good faith but not through the fault of the Office. Such registration, together with the certificate, shall thereafter have the same effect as if it had been originally issued in such corrected form.

"§ 1320. Ownership and transfer

"(a) PROPERTY RIGHT IN DESIGN.—The property right in a design subject to protection under this chapter shall vest in the designer, the legal representatives of a deceased designer or of one under legal incapacity, the employer for whom the designer created the design in the case of a design made within the regular scope of the designer's employment, or a person to whom the rights of the designer or of such employer have been transferred. The person in whom the property right is vested shall be considered the owner of the design.

"(b) TRANSFER OF PROPERTY RIGHT.—The property right in a registered design, or a design for which an application for registration has been or may be filed, may be assigned, granted, conveyed, or mortgaged by an instrument in writing, signed by the owner, or may be bequeathed by will.

"(c) OATH OR ACKNOWLEDGEMENT OF TRANSFER.—An oath or acknowledgment under section 1312 shall be prima facie evidence of the execution of an assignment, grant, conveyance, or mortgage under subsection (b).

"(d) RECORDATION OF TRANSFER.—An assignment, grant, conveyance, or mortgage under subsection (b) shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, unless it is recorded in the Office of the Administrator within 3 months after its date of execution or before the date of such subsequent purchase or mortgage.

"§ 1321. Remedy for infringement

"(a) IN GENERAL.—The owner of a design is entitled, after issuance of a certificate of registration of the design under this chapter, to institute an action for any infringement of the design.

"(b) REVIEW OF REFUSAL TO REGISTER.—(1) Subject to paragraph (2), the owner of a design may seek judicial review of a final refusal of the Administrator to register the design under this chapter by bringing a civil action, and may in the same action, if the court adjudges the design subject to protection under this chapter, enforce the rights in that design under this chapter.

"(2) The owner of a design may seek judicial review under this section if—

"(A) the owner has previously duly filed and prosecuted to final refusal an application in proper form for registration of the design;

"(B) the owner causes a copy of the complaint in the action to be delivered to the Administrator within 10 days after the commencement of the action; and

"(C) the defendant has committed acts in respect to the design which would constitute infringement with respect to a design protected under this chapter.

"(c) ADMINISTRATOR AS PARTY TO ACTION.—The Administrator may, at the Administrator's option, become a party to the action with respect to the issue of registrability of the design claim by entering an appearance within 60 days after being served with the complaint, but the failure of the Administrator to become a party shall not deprive the court of jurisdiction to determine that issue.

"(d) USE OF ARBITRATION TO RESOLVE DISPUTE.—The parties to an infringement dispute under this chapter, within such time as may be specified by the Administrator by regulation, may determine the dispute, or any aspect of the dispute, by arbitration. Arbitration shall be governed by title 9. The parties shall give notice of any arbitration award to the Administrator, and such award shall, as between the parties to the arbitration, be dispositive of the issues to which it relates. The arbitration award shall be unenforceable until such notice is given. Nothing in this subsection shall preclude the Administrator from determining whether a design is subject to registration in a cancellation proceeding under section 1313(c).

§ 1322. Injunctions

"(a) IN GENERAL.—A court having jurisdiction over actions under this chapter may grant injunctions in accordance with the principles of equity to prevent infringement of a design under this chapter, including, in its discretion, prompt relief by temporary restraining orders and preliminary injunctions.

"(b) DAMAGES FOR INJUNCTIVE RELIEF WRONGFULLY OBTAINED.—A seller or distributor who suffers damage by reason of injunctive relief wrongfully obtained under this section has a cause of action against the applicant for such injunctive relief and may recover such relief as may be appropriate, including damages for lost profits, cost of materials, loss of good will, and punitive damages in instances where the injunctive relief was sought in bad faith, and, unless the court finds extenuating circumstances, reasonable attorney's fees.

"§ 1323. Recovery for infringement

"(a) DAMAGES.—Upon a finding for the claimant in an action for infringement under this chapter, the court shall award the claimant damages adequate to compensate for the infringement. In addition, the court may increase the damages to such amount, not exceeding $50,000 or $1 per copy, whichever is greater, as the court determines to be just. The damages awarded shall constitute compensation and not a penalty. The court may receive expert testimony as an aid to the determination of damages.

"(b) INFRINGER'S PROFITS.—As an alternative to the remedies provided in subsection (a), the court may award the claimant the infringer's profits resulting from the sale of the copies if the court finds that the infringer's sales are reasonably related to the use of the claimant's design. In such a case, the claimant shall be required to prove only the amount of the infringer's sales and the infringer shall be required to prove its expenses against such sales.

"(c) STATUTE OF LIMITATIONS.—No recovery under subsection (a) or (b) shall be had for any infringement committed more than 3 years before the date on which the complaint is filed.

"(d) ATTORNEY'S FEES.—In an action for infringement under this chapter, the court may award reasonable attorney's fees to the prevailing party.

"(e) DISPOSITION OF INFRINGING AND OTHER ARTICLES.—The court may order that all infringing articles, and any plates, molds, patterns, models, or other means specifically adapted for making the articles, be delivered up for destruction or other disposition as the court may direct.

"§ 1324. Power of court over registration

"In any action involving the protection of a design under this chapter, the court, when appropriate, may order registration of a design under this chapter or the cancellation of such a registration. Any such order shall be certified by the court to the Administrator, who shall make an appropriate entry upon the record.

"§ 1325. Liability for action on registration fraudulently obtained

"Any person who brings an action for infringement knowing that registration of the design was obtained by a false or fraudulent representation materially affecting the rights under this chapter, shall be liable in the sum of $10,000, or such part of that amount as the court *may determine. That amount shall be to compensate the defendant and shall be charged against the plaintiff and paid to the defendant, in addition to such costs and attorney's fees of the defendant as may be assessed by the court.*

"§ 1326. Penalty for false marking

"(a) IN GENERAL.—Whoever, for the purpose of deceiving the public, marks upon, applies to, or uses in advertising in connection with an article made, used, distributed, or sold, a design which is not protected under this chapter, a design notice specified in section 1306, or any other words or symbols importing that the design is protected under this chapter, knowing that the design is not so protected, shall pay a civil fine of not more than $500 for each such offense.

"(b) SUIT BY PRIVATE PERSONS.—Any person may sue for the penalty established by subsection (a), in which event one-half of the penalty shall be awarded to the person suing and the remainder shall be awarded to the United States.

"§ 1327. Penalty for false representation

"Whoever knowingly makes a false representation materially affecting the rights obtainable under this chapter for the purpose of obtaining registration of a design under this chapter shall pay a penalty of not less than $500 and not more than $1,000, and any rights or privileges that individual may have in the design under this chapter shall be forfeited.

"§ 1328. Enforcement by Treasury and Postal Service

"(a) REGULATIONS.—The Secretary of the Treasury and the United States Postal Service shall separately or jointly issue regulations for the enforcement of the rights set forth in section 1308 with respect to importation. Such regulations may require, as a condition for the exclusion of articles from the United States, that the person seeking exclusion take any one or more of the following actions:

"(1) Obtain a court order enjoining, or an order of the International Trade Commission under section 337 of the Tariff Act of 1930 excluding, importation of the articles.

"(2) Furnish proof that the design involved is protected under this chapter and that the importation of the articles would infringe the rights in the design under this chapter.

"(3) Post a surety bond for any injury that may result if the detention or exclusion of the articles proves to be unjustified.

"(b) SEIZURE AND FORFEITURE.—Articles imported in violation of the rights set forth in section 1308 are subject to seizure and forfeiture in the same manner as property imported in violation of the customs laws. Any such forfeited articles shall be destroyed as directed by the Secretary of the Treasury or the court, as the case may be, except that the articles may be returned to the country of export whenever it is shown to the satisfaction of the Secretary of the Treasury that the importer had no reasonable grounds for believing that his or her acts constituted a violation of the law.

"§ 1329. Relation to design patent law

"The issuance of a design patent under title 35 for an original design for an article of manufacture shall terminate any protection of the original design under this chapter.

"§ 1330. Common law and other rights unaffected

"Nothing in this chapter shall annul or limit—

"(1) common law or other rights or remedies, if any, available to or held by any person with respect to a design which has not been registered under this chapter; or

"(2) any right under the trademark laws or any right protected against unfair competition.

"§ 1331. Administrator; Office of the Administrator

"In this chapter, the 'Administrator' is the Register of Copyrights, and the 'Office of the Administrator' and the 'Office' refer to the Copyright Office of the Library of Congress.

"§ 1332. No retroactive effect

"Protection under this chapter shall not be available for any design that has been made public under section 1310(b) before the effective date of this chapter.".

SEC. 503. CONFORMING AMENDMENTS.

(a) TABLE OF CHAPTERS.—The table of chapters for title 17, United States Code, is amended by adding at the end the following:

"13. Protection of Original Designs .... 1301".

(b) JURISDICTION OF DISTRICT COURTS OVER DESIGN ACTIONS.—(1) Section 1338(c) of title 28, United States Code, is amended by inserting ", and to exclusive rights in designs under chapter 13 of title 17," after "title 17".

*(2)(A) The section heading for section 1338 of title 28, United States Code, is amended by inserting "**designs,**" after "**mask works,**".*

(B) The item relating to section 1338 in the table of sections at the beginning of chapter 85 of title 28, United States Code, is amended by inserting "designs," after "mask works,".

(c) PLACE FOR BRINGING DESIGN ACTIONS.—(1) Section 1400(a) of title 28, United States Code, is amended by inserting "or designs" after "mask works".

(2) The section heading for section 1400 of title 28, United States Code is amended to read as follows:

"§ Patents and copyrights, mask works, and designs".

(3) The item relating to section 1400 in the table of sections at the beginning of chapter 87 of title 28, United States Code, is amended to read as follows:

"1400. Patents and copyrights, mask works, and designs.".

(d) ACTIONS AGAINST THE UNITED STATES.—Section 1498(e) of title 28, United States Code, is amended by inserting ", and to exclusive rights in designs under chapter 13 of title 17," after "title 17".

SEC. 504. JOINT STUDY OF THE EFFECT OF THIS TITLE.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, and not later than 2 years after such date of enactment, the Register of Copyrights and the Commissioner of Patents and Trademarks shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a joint report evaluating the effect of the amendments made by this title.

(b) ELEMENTS FOR CONSIDERATION.—In carrying out subsection (a), the Register of Copyrights and the Commissioner of Patents and Trademarks shall consider—

(1) the extent to which the amendments made by this title has been effective in suppressing infringement of the design of vessel hulls;

(2) the extent to which the registration provided for in chapter 13 of title 17, United States Code, as added by this title, has been utilized;

(3) the extent to which the creation of new designs of vessel hulls have been encouraged by the amendments made by this title;

(4) the effect, if any, of the amendments made by this title on the price of vessels with hulls protected under such amendments; and

(5) such other considerations as the Register and the Commissioner may deem relevant to accomplish the purposes of the evaluation conducted under subsection (a).

SEC. 505. EFFECTIVE DATE.

The amendments made by sections 502 and 503 shall take effect on the date of the enactment of this Act and shall remain in effect until the end of the 2-year period beginning on such date of enactment. No cause of action based on chapter 13 of title 17, United States Code, as added by this title, may be filed after the end of that 2-year period.

Amend the title so as to read: "A bill to amend title 17, United States Code, to implement the World Intellectual Property Organization Copyright Treaty and Performances and Phonograms Treaty, and for other purposes.".

And the Senate agree to the same.

From the Committee on Commerce, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

TOM BLILEY,
BILLY TAUZIN,
JOHN D. DINGELL,

From the Committee on the Judiciary, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

HENRY J. HYDE,
HOWARD COBLE,
BOB GOODLATTE,
JOHN CONYERS, Jr.,
HOWARD L. BERMAN,
Managers on the Part of the House.

ORRIN G. HATCH,
STROM THURMOND,
PATRICK J. LEAHY,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2281) to amend title 17, United States Code, to implement the World Intellectual Property Organization Copyright Treaty and Performances and Phonograms Treaty, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

TITLE I—WIPO TREATIES IMPLEMENTATION

This title implements two new intellectual property treaties, the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty, signed in Geneva, Switzerland in December 1996.

SECTION 101. SHORT TITLE

The House recedes to the Senate section 101. This section sets forth the short title of the Act. As between the short titles in the House bill and the Senate amendment, it is believed that the title in Section 101 of the Senate amendment more accurately reflects the effect of the Act.

SECTION 102. TECHNICAL AMENDMENTS

The Senate recedes to House section 102. This section makes technical and conforming amendments to the U.S. Copyright

Act in order to comply with the obligations of the two WIPO treaties.

SECTION 103. COPYRIGHT PROTECTION SYSTEMS AND COPYRIGHT MANAGEMENT INFORMATION

The Senate recedes to House section 103 with modification. The two new WIPO Treaties include substantively identical provisions on technological measures of protection (also commonly referred to as the "black box" or "anticircumvention" provisions). These provisions require contracting parties to provide "adequate legal protection and effective legal remedies against the circumvention of effective technological measures that are used by authors in connection with the exercise of their rights under this Treaty or the Berne Convention and that restrict acts, in respect of their works, which are not authorized by the authors concerned or permitted by law."

Both of the new WIPO treaties also include substantively identical provisions requiring contracting parties to protect the integrity of copyright management information. The treaties define copyright management information as "information which identifies the work, the author of the work, the owner of any right in the work, or information about the terms and conditions of use of the work, and any numbers or codes that represent such information, when any of these items of information is attached to a copy of a work or appears in connection with the communication of a work to the public."

Legislation is required to comply with both of these provisions. To accomplish this, both the House bill and the Senate amendment, in section 103, would add a new chapter (chapter twelve) to title 17 of the United States Code. This new chapter twelve includes five sections—(1) section 1201, which prohibits the circumvention of technological measures of protection; (2) section 1202, which protects the integrity of copyright management information; (3) section 1203, which provides for civil remedies for violations of sections 1201 and 1202; (4) section 1204, which provides for criminal penalties for violations of sections 1201 and 1202; and (5) section 1205, which provides a savings clause to preserve the effectiveness of federal and state laws in protecting individual privacy on the Internet. The House bill and the Senate amendment differ in several respects, primarily related to the scope and availability of exemptions from the prohibitions under section 1201.

Section 1201(a)(1)—Rulemaking by the Librarian of Congress. Section 1201(a)(1)(C) provides that the determination of affected classes of works described in subparagraph (A) shall be made by the Librarian of Congress "upon the recommendation of the Register of Copyrights, who shall consult with the Assistant Secretary for Communications and Information of the Department of Commerce and report and comment on his or her views in making such recommendation." The determination will be made in a rulemaking proceeding on the record. It is the intention of the conferees that, as is typical with other rulemaking under title 17, and in recognition of the expertise of the Copyright Office, the Register of Copyrights will conduct the rulemaking, including providing notice of the rulemaking, seeking comments from the public, consulting with the Assistant Secretary for Communications and Information of the Department of Commerce and any other agencies that are deemed appropriate, and recommending final regulations in the report to the Librarian.

Section 1201(a) and 1202—technological measures. It is the understanding of the conferees that technological measures will most often be developed through consultative, private sector efforts by content owners, and makers of computers, consumer electronics and telecommunications devices. The conferees expect this consultative approach to continue as a constructive and positive method. One of the benefits of such consultation is to allow testing of proposed technologies to determine whether there are adverse effects on the ordinary performance of playback and display equipment in the marketplace, and to take steps to eliminate or substantially mitigate those effects before technologies are introduced. The public interest is well-served by such activities.

Persons may also choose to implement a technological measure without vetting it through an inter-industry consultative process, or without regard to the input of affected parties. Under such circumstances, such a technological measure may materially degrade or otherwise cause recurring appreciable adverse effects on the authorized performance or display of works. Steps taken by the makers or servicers of consumer electronics, telecommunications or computing products used for such authorized performances or displays solely to mitigate these adverse effects on product performance (whether or not taken in combination with other lawful product modifications) shall not be deemed a violation of sections 1201(a) or (b).

However, this construction is not meant to afford manufacturers or servicers an opportunity to give persons unauthorized access to protected content, or to exercise the rights under the Copyright Act of copyright owners in such works, under the guise of "correcting" a performance problem that results from the implementation of a particular technological measure. Thus, it would violate sections 1201(a) or (b) for a manufacturer or servicer to take remedial measures if they are held out for or undertaken with, or result in equipment with only limited commercially significant use other than, the prohibited purpose of allowing users to gain unauthorized access to protected content or to exercise the rights under the Copyright Act of copyright owners in such works.

With regard to section 1202, product adjustments made to eliminate recurring appreciable adverse effects on the authorized performance or display of works caused by copyright management information will not be deemed a violation of section 1202 unless such steps are held out for or undertaken with a prohibited purpose, or the requisite knowledge, of inducing, enabling, facilitating or concealing infringement of rights of copyright owners under the Copyright Act.

Section 1201(e) and 1202(d)—Law enforcement, intelligence, and other government activities. Sections 1201(e) and 1202(d) create and exception to the prohibitions of sections 1201 and 1202 for the lawfully authorized investigative, protective, or intelligence activities of an officer, agent, or employee of, the United States, a State, or a political subdivision of a State, or of persons acting pursuant to a contract with such an entity. The anticircumvention provisions of this legislation might be read to prohibit some aspects of the information security testing that is critical to preventing cyber attacks against government computers, computer systems, and computer networks. The conferees have added language to sections 1201(e) and 1202(d) to make it clear that the anticircumvention prohibition does not apply to lawfully authorized information security activities of the federal government, the states, political subdivisions of states, or persons acting within the scope of their government information security contract. In this way, the bill will permit the continuation of information security activities that protect the country against one of the greatest threats to our national security as well as to our economic security.

At the same time, this change is narrowly drafted so that it does not open the door to the very piracy the treaties are designed to prevent. For example, the term "information security" activities is intended to include presidential directives and executive orders concerning the vulnerabilities of a computer, computer system, or computer network. By this, the conferees intent to include the recently-issued Presidential Decision Directive 63 on Critical Infrastructure Protection. PDD–63 contains a number of initiatives to ensure that the United States takes all necessary measures to swiftly eliminate any significant vulnerability to both physical and cyber attacks on the nation's critical infrastructures, including especially our cyber systems.

The Term "computer system" has the same definition for purposes of this section as that term is defined in the Computer Security Act, 15 U.S.C. §278g–3(d)(1).

Subsection 1201(g)—Encryption Research. Subsection (g) permits the circumvention of access control technologies in certain circumstances for the purpose of good faith encryption research. The conferees note that section 1201(g)(3)(A) does not imply that the results of encryption research must be disseminated. There is no requirement that legitimate encryption researchers disseminate their findings in order to quality for the encryption research exemption in section 1201(g). Rather, the subsection describes circumstances in which dissemination, if any, would be weighed in determining eligibility.

Section 1201(j)—Security Testing. Subsection (j) clarifies the intended effect of the bill with respect to information security. The conferees understand this act to prohibit unauthorized circumvention of technological measures applied to works protected under title 17. The conferees recognize that technological measures may also be used to protect the integrity and security of computers, computer systems or computer networks. It is not the intent of this act to prevent persons utilizing technological measures in respect of computers, computer systems or networks from testing the security value and effectiveness of the technological measures they employ, or from contracting with companies that specialize in such security testing.

Thus, in addition to the exception for good faith encryption research contained in Section 1201(g), the conferees have adopted Section 1201(j) to resolve additional issues related to the effect of the anti-circumvention provision on legitimate information security activities. First, the conferees were concerned that Section 1201(g)'s exclusive focus on encryption-related research does not encompass the entire range of legitimate information security activities. Not every technological means that is used to provide security relies on encryption technology, or does so to the exclusion of other methods. Moreover, an individual who is legitimately testing a security technology may be doing so not to advance the state of encryption research or to develop encryption products, but rather to ascertain the effectiveness of that particular security technology.

The conferees were also concerned that the anti-circumvention provision of Section

1201(a) could be construed to inhibit legitimate forms of security testing. It is not unlawful to test the effectiveness of a security measure before it is implemented to protect the work covered under title 17. Not it is unlawful for a person who has implemented a security measure to test its effectiveness. In this respect, the scope of permissible security testing under the Act should be the same as permissible testing of a simple door lock; a prospective buyer may test the lock at the store with the store's consent, or may purchase the lock and test it at home in any manner that he or she sees fit—for example, by installing the lock on the front door and seeing if it can be picked. What that person may not do, however, it test the lock once it has been installed on someone's else's door, without the consent of the person whose property is protected by the lock.

In order to resolve these concerns, Section 1201(j) creates a exception of "security testing." Section 1201(j)(1) defines "security testing" as obtaining access to a computer, computer system, or computer network for the sole purpose of testing, investigating, or correcting a security flaw or vulnerability, provided that the person engaging in such testing is doing so with the consent of the owner or operator of the computer, computer system, or computer network. Section 102(j)(2) provides that, notwithstanding the provisions of Section 1201(a), a person may engage in such testing, provided that the act does not constitute infringement or violate any other applicable law. Section 1201(j)(3) provides a non-exclusive list of factors that a court shall consider in determining whether a person benefits from this exception.

Section 1201(j)(4) permits an individual, notwithstanding the prohibition contained in Section 1201(a)(2), to develop, produce, distribute, or employ technological means for the sole purpose of performing acts of good faith security testing under Section 1201(j)(2), provided that technological means do not otherwise violate section 1201(a)(2). It it Congress' intent for this subsection to have application only with respect to good faith security testing. The intent is to ensure that parties engaged in good faith security testing have the tools available to them to complete such acts. The conferees understand that such tools may be coupled with additional tools that serve purposes wholly unrelated to the purposes of this Act. Eligibility for this exemption should not be precluded because these tools are coupled in such a way. The exemption would not be available, however, when such tools are coupled with a product or technology that violates section 1201(a)(2).

Section 1201(k)—Certain Analog Devices and Certain Technological Measures.—The conferees included a provision in the final legislation to require that analog video cassette recorders must conform to the two forms of copy control technology that are in wide use in the market today—the automatic gain control copy control technology and the colorstripe copy control technology. Neither are currently required elements of any format of video recorder, and the ability of each technology to work as intended depends on the consistency of design of video recorders or on incorporation of specific response elements in video recorders. Moreover, they do not employ encryption or scrambling of the content being protected.

As a consequence, these analog copy control technologies may be rendered ineffective either by redesign of video recorders or by intervention of "black box" devices or software "hacks". The conferees believe, and specifically intend, that the general circumvention prohibition in Section 1201(b)(2) will prohibit the manufacture and sale of "black box" devices that defeat these technologies. Moreover, the conferees believe and intend that the term "technology" should be read to include the software "hacks" of this type, and that such "hacks" are equally prohibited by the general circumvention provision. Devices have been marketed that claim to "fix" television picture disruptions allegedly caused by these technologies. However, as described in more detail below, there is no justification for the existence of any intervention device to "fix" such problems allegedly caused by these technologies, including "fixes" allegedly related to stabilization or clean up of the picture quality. Such devices should be seen for what they are—circumvention devices prohibited by this legislation.

The conferees emphasize that this particular provision is being included in this bill in order to deal with a very specific situation involving the protection of analog television programming and prerecorded movies and other audiovisual works in relation to recording capabilities of ordinary consumer analog video cassette recorders. The conferees also acknowledge that numerous other activities are underway in the private sector to develop, test, and apply copy control technologies, particularly in the digital environment. Subject to the other requirements of this section, circumvention of these technologies may be prohibited under this Act. Moreover, in some cases, these technologies are subject to licensing arrangements that provide legally enforceable obligations. The conferees applaud these undertakings and encourage their continuation, including the inter-industry meetings and working groups that are essential to their success. If, as a result of such activities, the participants request further Congressional action, the conferees expect that the Congress, and the committees involved in this Conference specifically, will consider whether additional statutory requirements are necessary and appropriate.

Before agreeing to include this requirement in the final legislation, the conferees assured themselves in relation to two critical issues—that these analog copy control technologies do not create "playability" problems on normal consumer electronics products and that the intellectual property necessary for the operation of these technologies will be available on reasonable and non-discriminatory terms.

In relation to the playability issue, the conferees have received authoritative assurances that playability issues have already been resolved in relation to the current specifications for these technologies and that an inter-industry forum will be established to resolve any playability issues that may arise in the future in relation to either revisions to the copy control specifications or development of new consumer technologies and products.

As further explanation on the playability issue, the conferees understand that the existing technologies were the subject of extensive testing that included all or virtually all of the major consumer electronics manufacturers and that this testing resulted in modification of the specifications to assure that the technologies do not produce noticeable adverse effects on the normal display of content that is protected utilizing these technologies. Currently, all manufacturers are effectively "on notice" of the existence of these technologies and their specifications and should be able to design their products to avoid any adverse effects.

In relation to the intellectual property licensing issues, the owner of the analog copy control intellectual property—Macrovision Corporation—has written a letter to the Chairman of the Conference Committee to provide the following assurances in relation to the licenses for intellectual property necessary to implement these analog copy control technologies: (1) that its intellectual property is generally available on reasonable and non-discriminatory terms, as that phrase is used in normal industry parlance; (2) that manufacturers of the analog video cassette recorders that are required by this legislation to conform to the technologies will be provided royalty-free licenses for the use of its relevant intellectual property in any device that plays back packaged, prerecorded content, or that reads and responds to or generates or carries forward the elements of these technologies associated with such content; (3) in the same circumstances as described in (2), other manufacturers of devices that generate, carry forward, or read and respond to these technologies will be provided licenses carrying only modest fees (in the range of $25,000—in current dollars—initial payment and lesser amounts as recurring annual fees); (4) that manufacturers of other products, including set-top-boxes and devices that perform similar functions (including integrated devices containing such functionality), will receive licenses on reasonable and non-discriminatory terms, including royalty terms and other considerations; and (5) that playability issues will not be the subject of license requirements but rather will be handled through an inter-industry forum that is being established for this purpose. The conferees emphasize the need for the technology's proprietor to adhere to these assurances in all future licensing.

With regard to the specific elements of this provision:

First, these technologies operate within the general NTSC television signal environment, and the conferees understand that this means that they work in relation to television signals that are of the 525/60 interlaced type, i.e., the standard definition television signal that has been used in the United States. The S-video and Hi-8 versions of covered devises are, of course, included with the coverage. Further, the new format analog video cassette recorders that are covered by paragraph (1)(A)(v) are those that receive the 525/60 interlaced type of input.

Second, it is the conferees understanding that not all analog video signals will utilize this technology, and, obviously, a device that receives a signal that does not contain these technologies need not read and respond to what might have been there if the signal had utilized the technology.

Third, a violation of paragraph (1) is a form of circumvention under Section 1201(b)(1). Accordingly, the enforcement of this provision is through the penalty provisions applicable to Section 1201 generally. A violation of paragraph (2) is also a violation of Section 1201 and hence subject to those penalty provisions. The inclusion of paragraph (5) with regard to enforcement of paragraph (2) is intended merely to allow the particular statutory damage provisions of Section 1203 to apply to violations of this subsection.

Fourth, the conferees understand that minor modifications may be necessary in the specifications for these technologies and intend that any such modifications (and related new "revised specifications") should not negate in any way the requirements imposed by this subsection. The modifications should, however, be sufficiently minor that manufacturers of analog video cassette recorders should be free to continue to design products to conform to these technologies on the basis of the specifications existing, or actually implemented by manufacturers, as of the date of enactment of this Act.

Fifth, the provisions of paragraph (2) are intended to operate to allow copyright owners to use these technologies to prevent the making of a viewable copy of a pay-per-view, near video on demand, or video on demand transmission or prerecorded tape or disc containing one or more motion pictures or other audiovisual works, at the same time as consumers are afforded their customary ability to make analog copies of programming offered through other channels or services. Copyright owners may utilize these technologies to prevent the making of a "second generation" copy where the original transmission was through a pay television service (such as HBO, Showtime, or the like). The basic and extended basic tiers of programming services, whether provided through cable or other wireline, satellite, or future over the air terrestrial systems, may not be encoded with these technologies at all. The inclusion of paragraph (2)(D) is not intended to be read to authorize the making of a copy by consumers or others in relation to pay-per-view, near video on demand or video-on-demand transmissions or prerecorded media.

Sixth, the exclusion of professional analog video cassette recorders is necessary in order to allow the motion picture, broadcasting, and other legitimate industries and individual businesses to obtain and use equipment that is essential to their normal, lawful business operations. As a further explanation of the types of equipment that are to be subject to this exception, the following factors should be used in evaluating whether a specific product is a "professional" product:

(1) whether, in the preceding year, only a small number of the devices that are of the same kind, nature, and description were sold to consumers other than professionals employing such devices in a lawful business or industrial use;

(2) whether the device has special features designed for use by professionals employing the device in a lawful business or industrial use;

(3) whether the advertising, promotional and descriptive literature or other materials used to market the device were directed at professionals employing such devices in a lawful business or industrial use;

(4) whether the distribution channels and retail outlets through which the device is distributed and sold are ones used primarily to make sales to professionals employing such devices in a lawful business or industrial use; and

(5) whether the uses to which the device is most commonly put are those associated with the work of professionals employing the device in a lawful business or industrial use.

Seventh, paragraph (1)(B) contains a number of points worthy of explanation. In general, the requirement in paragraph (1)(B) is that manufacturers not materially reduce the responsiveness of their existing products and is also intended to be carried forward in the introduction of new models. This is particularly important in relation to the four-line colorstripe copy control technology, where the basic requirement in the statute is that a model of a recorder not be modified to eliminate conformance with the four-line colorstripe technology and where the standard for "conformance" is simply that the lines be visible and distracting in the display of a copy of material that was protected with the technology when the copy is played back, in normal viewing mode, by the recorder that made the copy and displayed on a reference display device. Specific elements of that requirement include:

(1) "Normal viewing mode" is intended to mean the viewing of a program in its natural sequence at the regular speed for playback and is not intended to allow "AGC-stripping viewing modes" to be developed. It is intended to exclude still frame or slow motion viewing from this definition.

(2) The "reference display device" concept is used in the legislation to acknowledge that manufacturers of analog video cassette recorders may use a specific display device to test their responsiveness to the colorstripe technology and then may use the level of such responsiveness as their baseline to achieve compliance. The reference display device for manufacturers that make televisions is intended to be a television set also made by that manufacturer. Where an analog video cassette recorder manufacturer does not make display devices, that manufacturer may choose a display device made by another manufacturer to serve as a reference. In general, a reference display device should be one that is generally representative of display devices in the U.S. market at the time of the testing.

(3) The conferees intend that the word "model" should be interpreted broadly and is not to be determined exclusively by alphabetic, numeric, name, or other label. Courts should look with suspicion at "new models" that reduce or eliminate conformance with this technology, as compared with that manufacturer's "previous models." Further, a manufacturer should not replace a previous model that showed intense lines with a model that shows weak lines in the played back picture.

For any new entrant into the VHS format analog video cassette recorder manufacturing business, the legislation provides that such a manufacturer will build its initial devices so as to be in conformance with the four-line colorstripe copy control technology based on the playback on a reference display device and thereafter not modify the design so that its products no longer conform to this technology.

Finally, the proprietor of the colorstripe copy control technology has supplied the Committee with a description of how the technology should work so as to provide the desired copy protection benefits. That description is as follows: the colorstripe copy control technology works as intended if a recorder records a signal that, when played back by the playback function of that recorder in the normal viewing mode, exhibits on a reference display device a significant distortion of color on the lines which begin with a colorstripe colorburst, or a complete or intermittent loss of color throughout at least 50% of the visible image. While the conferees realize that there may be variations among recorders in relation to this technology, the conferees expect the affected manufacturers to work with the proprietor of the technology to ensure that the basic goal of content protection through this technology is achieved. The conferees understand that content protection through this technology is to the manufacturers' benefit, as well, since it encourages content providers to release more valuable content than they might otherwise release without such protection. The conferees further intend that manufacturers should seek to respond to the colorstripe technology at the highest feasible level and should not modify their recorder designs, or substitute weaker responding recorders for stronger responding recorders in order to avoid the requirements of this subsection.

Eighth, the type of colorstrip copy control technology to which the legislation requires conformance is the four-line "half burst" type version of this technology. The content provider may shift, in an adaptive fashion, from no colorstripe encoding to the two-line version to the four-line version, in order to balance the copy control features of the technology against the possible playback distortion that the four-line technology occasionally creates. This legislation requires conformance only to the four-line version, but prohibits any effort to eliminate or reduce materially the effectiveness of the two-line version in relation to any particular analog video cassette recorder that, in fact, provides a response to the two-line version. The legislation also applies the "encoding rules" in paragraph (2) to either the two-line or four-line versions of this technology.

SECTION 104. EVALUATION OF IMPACT OF COPYRIGHT LAW AND AMENDMENTS ON ELECTRONIC COMMERCE AND TECHNOLOGICAL DEVELOPMENT

The Senate recedes to House section 105 with modification.

SECTION 105. EFFECTIVE DATE

The Senate recedes to House section 106. This section sets forth the effective date of the amendments made by this title. The corresponding sections of the House bill and the Senate amendment are substantively identical.

Title II—Online Copyright Infringement Liability Limitation

Title II preserves strong incentives for service providers and copyright owners to cooperate to detect and deal with copyright infringements that take place in the digital networked environment. At the same time, it provides greater certainty to service providers concerning their legal exposure for infringements that may occur in the course of their activities.

SECTION 201. SHORT TITLE

The Senate recedes to House section 201. This section sets forth the short title of the Act. The Senate accepts the House formulation.

SECTION 202. LIMITATIONS ON LIABILITY FOR COPYRIGHT INFRINGEMENT

The Senate recedes to House section 202 with modification. This section amends chapter 5 of the Copyright Act (17 U.S.C. 501, *et. seq.*) to create a new section 512, titled "Limitations on liability relating to material online." New Section 512 contains limitations on service providers' liability for five general categories of activity set forth in subsections (a) through (d) and subsection (g). As provided in subsection (l), Section 512 is not intended to imply that a service provider is or is not liable as an infringer either for conduct that qualifies for a limitation of liability or for conduct that fails to so qualify. Rather, the limitations of liability apply if the provider is found to be liable under existing principles of law. This legislation is not intended to discourage the service provider from monitoring its service for infringing material. Courts should not conclude that the service provider loses eligibility for limitations on liability under section 512 solely because it engaged in a monitoring program.

The limitations in subsections (a) through (d) protect qualifying service providers from liability for all monetary relief for direct, vicarious and contributory infringement. Monetary relief is defined in subsection (k)(2) as encompassing damages, costs, attorneys' fees, and any other form of monetary payment. These subsections also limit injunctive relief against qualifying service providers to the extent specified in subsection (j). To qualify for these protections, service providers must meet the conditions set forth in subsection (i), and service providers' activities at issue must involve a function described in subsection (a), (b), (c), (d) or (g), respectively. The liability limitations apply to networks "operated by or for the service provider," thereby protecting both service providers who offer a service and subcontractors who may operate parts of, or an entire, system or network for another service provider.

Subsection (b) provides for a limitation on liability with respect to certain acts of "system caching". Paragraphs (5) and (6) of this subsection refer to industry standard communications protocols and technologies that are only now in the initial stages of development and deployment. The conferees expect that the Internet industry standards setting organizations, such as the Internet Engineering Task Force and the World Wide Web Consortium, will act promptly and without delay to establish these protocols so that subsection (b) can operate as intended.

Subsection (e) is included by the conferees in order to clarify the provisions of the bill with respect to the liability of nonprofit institutions of higher learning that act as service providers. This provision serves as a substitute for section 512(c)(2) of the House bill and for the study proposed by section 204 of the Senate amendment.

In general, Title II provides that a university or other public or nonprofit institution of higher education which is also a "service provider" (as that term is defined in title II) is eligible for the limitations on liability provided in title II to the same extent as any other service provider.

However, the conferees recognize that the university environment is unique. Ordinarily, a service provider may fail to qualify for the liability limitations in Title II simply because the knowledge or actions of one of its employees may be imputed to it under basic principle's of respondeat superior and agency law. The special relationship which exists between universities and their faculty members (and their graduate student employees) when they are engaged in teaching or research is different from the ordinary employer-employee relationship. Since independence—freedom of thought, word and action—is at the core of academic freedom, the actions of university faculty and graduate student teachers and researchers warrant special consideration in the context of this legislation. This special consideration is embodied in new subsection (e), which provides special rules for determining whether universities, in their capacity as a service provider, may or may not be liable for acts of copyright infringement by faculty members or graduate students in certain circumstances.

Subsection (e)(1) provides that the online infringing actions of faculty members or graduate student employees, which occur when they are "performing a teaching or research function," will not be attributed to an institution of higher education in its capacity as their employer for purposes of section 512, if certain conditions are met. For the purposes of subsections (a) and (b) of section 512, such faculty member or graduate student shall be considered to be a person other than the institution, and for the purposes of subsections (c) and (d) of section 512 the faculty member's or graduate student's knowledge or awareness of his or her infringing activities will not be attributed to the institution, when they are performing a teaching or research function and the conditions in paragraphs (A)–(C) are met.

When the faculty member or the graduate student employee is performing a function other than teaching or research, this subsection provides no protection against liability for the institution if infringement occurs. For example, a faculty member or graduate student is performing a function other than teaching or research when the faculty member or graduate student is exercising institutional administrative responsibilities, or is carrying out operational responsibilities that relate to the institution's function as a service provider. Further, for the exemption to apply on the basis of research activity, the research must be a genuine academic exercise—i.e. a legitimate scholarly or scientific investigation or inquiry—rather than an activity which is claimed to be research but is undertaken as a pretext for engaging in infringing activity.

In addition to the "teaching or research function" test, the additional liability protections contained in subsection (e)(1) do not apply unless the conditions in paragraphs (A) through (C) are satisfied. First, paragraph (A) requires that the infringing activities must not involve providing online access to instructional materials that are "required or recommended" for a course taught by the infringing faculty member and/or the infringing graduate student within the last three years. The reference to "providing online access" to instructional materials includes the use of e-mail for that purpose. The phrase "required or recommended" is intended to refer to instructional materials that have been formally and specifically identified in a list of course materials that is provided to all students enrolled in the course for credit; it is not intended, however, to refer to the other materials which, from time to time, the faculty member or graduate student may incidentally and informally bring to the attention of students for their consideration during the course of instruction.

Second, under paragraph (B) the institution must not have received more than two notifications of claimed infringement with respect to the particular faculty member or particular graduate student within the last three years. If more than two such notifications have been received, the institution may be considered to be on notice of a pattern of infringing conduct by the faculty member or graduate student, and the limitation of subsection (e) does not apply with respect to the subsequent infringing actions of that faculty member or that graduate student. Where more than two notifications have previously been received with regard to a particular faculty member or graduate student, the institution will only become potentially liable for the infringing actions of that faculty member or that graduate student. Any notification of infringement that gives rise to a cause of action for misrepresentation under subsection (f) does not count for purposes of paragraph (B).

Third, paragraph (C) states that the institution must provide to the users of its system or network—whether they are administrative employees, faculty, or students—materials that accurately describe and promote compliance with copyright law. The legislation allows, but does not require, the institutions to use relevant informational materials published by the U.S. Copyright Office in satisfying the condition imposed by paragraph (C).

Subsection (e)(2) defines the terms and conditions under which an injunction may be issued against an institution of higher education that is a service provider in cases to which subsection (e)(1) applies. First, all the factors and considerations taken into account by a court under 17 U.S.C. §502 will apply in the case of any application for an injunction in cases covered by this subsection. In addition, the court is also required to consider the factors of particular significance in the digital environment listed in subsection (j)(2). Finally, the provisions contained in (j)(3), concerning notice to the service provider and the opportunity to appear, are also applicable in cases to which subsection (e)(1) applies.

The conferees also want to emphasize that nothing contained in subsection (e) should be interpreted to establish new liability for institutions of higher education, including under the doctrines of respondeat superior, or of contributory liability, where liability does not now exist. Further, subsection (e) does not alter any of the existing limitations on the rights of copyright owners that are already contained in the Copyright Act. So, for example, subsection (e) has no impact on the fair use (section 107) doctrine or the availability of fair use in a university setting; similarly, section 110 of the Copyright Act dealing with classroom performance and distance learning is not changed by subsection (e). In this regard, subsection (e) is fully consistent with the rest of section 512, which neither creates any new liabilities for service providers, nor affects any defense to infringement available to a service provider. Finally, subsection (e) has no applicability to any case asserting that a university is liable for copyright infringement in any capacity other than as a service provider.

SECTION 203. EFFECTIVE DATE

The Senate recedes to House section 203. This section sets forth the effective date of the amendments made by this title. The corresponding sections of the House bill and the Senate amendment are substantively identical.

Title III—Computer Maintenance or Repair Copyright Exemption

SECTIONS 301–302

The Senate recedes to the House sections 301–302. These sections effect a minor, yet important clarification in section 117 of the Copyright Act to ensure that the lawful owner or lessee of a computer machine may authorize an independent service provider—a person unaffiliated with either the owner or lessee of the machine—to activate the machine for the sole purpose of servicing its hardware components. When a computer is activated, certain software or parts thereof is automatically copied into the machine's random access memory, or "RAM". A clarification in the Copyright Act is necessary in light of judicial decisions holding that such copying is a "reproduction" under section 106 of the Copyright Act (17 U.S.C. 106),[1] thereby calling into question the right of an independent service provider who is not the licensee of the computer program resident on the client's machine to even activate that machine for the purpose of servicing the hardware components. This section does not in any way alter the law with respect to the scope of the term "reproduction" as it is used the Copyright Act. Rather, this section it is narrowly crafted to achieve the objectives just described—namely, ensuring that an independent service provider may turn on a client's computer machine in order to service its hardware components, provided that such service provider complies with the provisions of this section designed to protect the rights of copyright owners of computer software. The corresponding sections of the House bill and the Senate amendment are substantively identical.

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[1] *See MAI Sys. Corp.* v. *Peak Computer*, 991 F. 2d 511 (9th Cir. 1993), cert. denied, 114 S. Ct. 671 (1994).

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. PROVISIONS RELATING TO THE COMMISSIONER OF PATENTS AND TRADEMARKS AND THE REGISTER OF COPYRIGHTS

The Senate recedes to the House sections 401–402 with modification. This section provides parity in compensation between the Register of Copyrights and the Commissioner of Patent and Trademarks and clarifies the duties and functions of the Register of Copyrights.

The new subsection to be added to 17 U.S.C. §701 sets forth in express statutory language the functions presently performed by the Register of Copyrights under her general administrative authority under subsection 701(a). Like the Library of Congress, its parent agency, the Copyright Office is a hybrid entity that historically has performed both legislative and executive or administrative functions. *Eltra Corp.* v. *Ringer*, 579 F.2d 294 (4th Cir. 1978). Existing subsection 701(a) addresses some of the latter functions. New subsection 701(b) is intended to codify the other traditional roles of the Copyright Office and to confirm the Register's existing areas of jurisdiction.

Paragraph (1) of new subsection 701(b) reflects the Copyright Office's longstanding role as advisor to Congress on matters within its competence. This includes copyright and all matters within the scope of title 17 of the U.S. Code. Such advice, which often takes the form of testimony of pending legislation, is separate from testimony or other recommendations by the Administration pursuant to the President's concurrent constitutional power to make recommendations to Congress.

Paragraph (2) reflects the Copyright Office's longstanding role in advising federal agencies on matters within its competence. For example, the Copyright Office advises the U.S. Trade Representative and the State Department on an ongoing basis on the adequacy of foreign copyright laws, and serves as a technical consultant to those agencies in bilateral, regional and multilateral consultations or negotiations with other countries on copyright-related issues.

Paragraph (3) reflects the Copyright Office's longstanding role as a key participant in international meetings of various kinds, including as part of U.S. delegations as authorized by the Executive Branch, serving as substantive experts on matters within the Copyright Office's competence. Recent examples of the Copyright Office acting in the capacity include its central role on the U.S. delegation that negotiated the two new WIPO treaties at the 1996 Diplomatic Conference in Geneva, and its ongoing contributions of technical assistance in the TRIPS Council of the World Trade Organization and the Register's role as a featured speaker at numerous WIPO conferences.

Paragraph (4) describes the studies and programs that the Copyright Office has long carried out as the agency responsible for administering the copyright law and other chapters of title 17. Among the most important of these studies historically was a series of comprehensive reports on various issues produced in the 1960's as the foundation of the last general revision of U.S. copyright law, enacted as the 1976 Copyright Act. Most recently the Copyright Office has completed reports on the cable and satellite compulsory licenses, legal protection for databases, and the economic and policy implications of term extension. Consistent with the Copyright Office's role as a legislative branch agency, these studies have often included specific policy recommendations to Congress. The reference to "programs" includes such projects as the conferences the Copyright Office cosponsored in 1996–97 on the subject of technology-based intellectual property management, and the International Copyright Institutes that the Copyright Office has conducted for foreign government officials at least annually over the past decade, often in cooperation with WIPO.

Paragraph (5) makes clear that the functions and duties set forth in this subsection are illustrative, not exhaustive. The Register of Copyrights would continue to be able to carry out other functions under her general authority under subsection 701(a), or as Congress may direct. The latter may include specific requests by Committees for studies and recommendations on subjects within the Copyright Office's area of competence. It may also include, when appropriate or required for constitutional reasons, directions to the Office in separate legislation.

SEC. 402. EPHEMERAL RECORDINGS

The Senate recedes to House section 411 with modification. This section amends section 112 of the Copyright Act (17 U.S.C. 112) to address two issues concerning the application of the ephemeral recording exemption in the digital age. The first of these issues is the relationship between the ephemeral recording exemption and the Digital Performance Right in Sound Recordings Act of 1995 ("DPRA"). The DPRA granted sound recording copyright owners the exclusive right to perform their works publicly by means of digital audio transmission, subject to certain limitations, particularly those set forth in section 114(d). Among those limitations is an exemption for nonsubscription broadcast transmissions, which are defined as those made by terrestrial broadcast stations licensed as such by the FCC. 17 U.S.C. §§114(d)(1)(A)(iii) and (j)(2). The ephemeral recording exemption presently privileges certain activities of a transmitting organization when it is entitled to transmit a performance or display under a license or transfer of copyright ownership or under the limitations on exclusive rights in sound recordings specified by section 114(a). The House bill and the Senate amendment propose changing the existing language of the ephemeral recording exemption (redesignated as 112(a)(1)) to extend explicitly to broadcasters the same privilege they already enjoy with respect to analog broadcasts.

The second of these issues is the relationship between the ephemeral recording exemption and the anticircumvention provisions that the bill adds as section 1201 of the Copyright Act. Concerns were expressed that if use of copy protection technologies became widespread, a transmitting organization might be prevented from engaging in its traditional activities of assembling transmission programs and making ephemeral recordings permitted by section 112 for purposes of its own transmissions within its local service area and of archival preservation and security. To address this concern, the House bill and the Senate amendment propose adding to section 112 a new paragraph that permits transmitting organizations to engage in activities that otherwise would violate section 1201(a)(1) in certain limited circumstances when necessary for the exercise of the transmitting organization's privilege to make ephemeral recordings under redesignated section 112(a)(1). By way of example, if a radio station could not make a permitted ephemeral recording from a commercially available phonorecord without violating section 1201(a)(1), then the radio station could request from the copyright owner the necessary means of making a permitted ephemeral recording. If the copyright owner did not then either provide a phonorecord that could be reproduced or otherwise provide the necessary means of making a permitted ephemeral recording from the phonorecord already in the possession of the radio station, the radio station would not be liable for violating section 1201(a)(1) for taking the steps necessary for engaging in activities permitted under section 112(a)(1). The radio station would, of course, be liable for violating section 1201(a)(1) if it engaged in activities prohibited by that section in other than the limited circumstances permitted by section 112(a)(1).

House section 411 is modified in two respects. First, the House provision is modified by adding a new paragraph (3) to include specific reference to section 114(f) in section 112(a) of the Copyright Act. The addition to section 112(a) of a reference to section 114(f) is intended to make clear that subscription music services, webcasters, satellite digital audio radio services and others with statutory licenses for the performance of sound recordings under section 114(f) are entitled to the benefits of section 112(a) with repsect to the sound recordings they transmit.

Second, the House provision is modified in paragraph (4). This amendment to section 112(a) is intended to clarify the application of section 112(a) to FCC-licensed broadcasters with respect to digital nonsubscription broadcast transmissions. Notwithstanding this clarification, neither the amendment in paragraph (4) of section 411 nor the creation of a statutory license in section 112(e) is in any manner intended to narrow the scope of section 112(a) or the entitlement of any transmitting entity to the exemption provided thereunder with respect to copies made for other transmissions.

SECTION 403. LIMITATIONS ON EXCLUSIVE RIGHTS; DISTANCE EDUCATION

The Senate recedes to House section 412. The corresponding sections of the House bill and the Senate amendment are substantively identical.

SECTION 404. EXEMPTION FOR LIBRARIES AND ARCHIVES

The Senate recedes to House section 413. The corresponding sections of the House bill and the Senate amendment are substantively identical.

SECTION 405. SCOPE OF EXCLUSIVE RIGHTS IN SOUND RECORDINGS; EPHEMERAL RECORDINGS

The Senate recedes to section 415 of the House bill with modification.

The amendments to sections 112 and 114 of the Copyright Act that are contained in this section of the bill are intended to achieve two purposes: first, to further a stated objective of Congress when it passed the Digital Performance Right in Sound Recordings Act of 1995 ("DPRA") to ensure that recording artists and record companies will be protected as new technologies affect the ways in which their creative works are used; and second, to create fair and efficient licensing mechanisms that address the complex issues facing copyright owners and copyright users as a result of the rapid growth of digital audio services. This section contains amendments to sections 112 and 114 of Title 17 as follows:

Section 114(d)(1). Exempt Transmissions and Retransmissions. Section 114(d)(1)(A) is amended to delete two exemptions that were either the cause of confusion as to the application of the DPRA to certain nonsubscription services (especially webcaster) or which overlapped with other exemptions (such as the exemption in subsection (A)(iii) for nonsubscription broadcast transmissions). The deletion of these two exemptions is not intended to affect the exemption for nonsubscription broadcast transmissions.

Section 114(d)(2). Statutory Licensing of Certain Transmissions. The amendment to subsection (d)(2) extends the availability of a statutory license for subscription transmissions to cover certain eligible nonsubscription transmissions. "Eligible nonsubscription transmissions" are defined in subsection (j)(6). The amendment subdivides subsection (d)(2) into three subparagraphs ((A), (B), and (C)), each of which contains conditions of a statutory license for certain nonexempt subscription and eligible nonsubscription transmissions.

The conferees note that if a sound recording copyright owner authorizes a transmitting entity to take an action with respect to that copyright owner's sound recordings that is inconsistent with the requirements set forth in section 114(d)(2), the conferees do not intend that the transmitting entity be disqualified from obtaining a statutory license by virtue of such authorized actions.

The conferees intend that counts considering claims of infringement involving violation of the requirements set forth in section 114(d)(2) should judiciously apply the doctrine of de minimis non curat lex. A transmitting entity's statutory license should not be lost, and it becomes subject to infringement damages for transmissions that have been made as part of its service, merely because, through error, it has committed nonmaterial violations of these conditions that, once recognized, are not repeated. Similarly, if a service has multiple channels, the transmitting entity's statutory license should not be lost, and it become subject to infringement damages for transmissions that have been made on other channels, merely because of a violation in connection with one channel. Conversely, courts should not apply such doctrine in cases in which repeated or intentional violations occur.

Subparagraph (A) sets forth three conditions of a statutory license applicable to all nonexempt subscription and eligible nonsubscription transmissions. These three conditions are taken from previous subsection (d)(2).

Subparagraphs (B) and (C) are alternatives: a service is subject to the conditions in one or the other in addition to those in subparagraph (A). Subparagraph (B) contains conditions applicable only to nonexempt subscription transmissions made by a preexisting subscription service in the same transmission medium as was used by the service on July 31, 1998 or a preexisting satellite digital audio radio service. A preexisting subscription service is defined in subsection (j)(11); a preexisting satellite digital audio radio service is defined in (j)(10). The purpose of distinguishing preexisting subscription services making transmissions in the same medium as on July 31, 1998, was to prevent disruption of the existing operations by such services. There was only three such services that exist: DMX (operated by TCI Music), Music Choice (operated by Digital Cable Radio Associates), and the DiSH Network (operated by Muzak). As of July 31, 1998, DMX and Music Choice made transmissions via both cable and satellite media; the DiSH Network was available only via satellite. The purpose of distinguishing the preexisting satellite digital audio radio services is similar. The two preexisting satellite digital audio radio services, CD Radio and American Mobile Radio Corporation, have purchased licenses at auction from the FCC and have begun developing their satellite systems.

The two conditions contained in subparagraph (B) are taken directly from previous subsection (d)(2). Thus, preexisting satellite digital audio radio services and the historical operations of preexisting subscription services are subject to the same five conditions for eligibility for a statutory license, as set forth in subparagraphs (A) and (B), as have applied previously to these services.

Subparagraph (C) sets forth additional conditions for a statutory license applicable to all transmissions not subject to subparagraph (B), namely all eligible nonsubscription transmissions, subscription transmissions made by a new subscription service, and subscription transmissions made by a preexisting subscription service other than those made in the same transmission medium. Subparagraph (C) contains nine conditions.

Subparagraph (C)(i) requires that transmissions subject to a statutory license cannot exceed the sound recording performance complement defined in subsection (j)(13), which is unchanged by this amendment. Subparagraph (C)(i) eliminates this requirement for retransmissions of over-the-air broadcast transmissions by a transmitting entity that does not have the right or ability to control the programming of the broadcast station making the initial broadcast transmission, subject to two limitations.

First, the retransmissions are not eligible for statutory licensing if the retransmitted broadcast transmissions are in digital format and regularly exceed the sound recording performance complement. Second, the retransmissions are not eligible for statutory licensing if the retransmitted broadcast transmissions are in analog format and a substantial portion of the transmissions, measured on a weekly basis, violate the sound recording performance complement. In both cases, however, the retransmitter is disqualified from making its transmissions under a statutory license only if the sound recording copyright owner or its representative notifies the retransmitter in writing that the broadcast transmissions exceed the sound recording performance complement. Once notification is received, the transmitting entity making the retransmissions must cease retransmitting those broadcast transmissions that exceed the sound recording performance complement.

Subparagraph (C)(ii) imposes limitations on the types of prior announcements, in text, video or audio, that may be made by a service under the statutory license. Services may not publish advance program schedules or make prior announcements of the titles of specific sound recordings or the featured artists to be performed on the service. Moreover, services may not induce or facilitate the advance publication of schedules or the making of prior announcements, such as by providing a third party the list of songs or artists to be performed by the transmitting entity for publication or announcement by the third party. The conferees do not intend that the term "prior announcement" preclude a transmitting entity from identifying specific sound recordings immediately before they are performed.

However, services may generally use the names of several featured recording artists to illustrate the type of music being performed on a particular channel. Subparagraph (C)(iii) addresses limitations for archived programs and continuous programs, which are defined in subsections (j)(2) and (j)(4), respectively. Subparts (I) and (II) address archived programs. Archived programs often are available to listeners indefinitely or for a substantial period of time, thus permitting listeners to hear the same songs on demand any time the visitor wishes. Transmissions that are part of archived programs that are less than five hours long are ineligible for a statutory license. Transmissions that are part of archived programs more than five hours long are eligible only if the archived program is available on the webcaster's site or a related site for two weeks or less. The two-week limitation is to be applied in a reasonable manner to achieve the objectives of this subparagraph, so that, for example, archived programs that have been made available for two weeks are not removed from a site for a short period of time and then made available again. Furthermore, altering an archived program only in insignificant respects, such as by replacing or reordering only a small number of the songs comprising the program, does not render the program eligible for statutory licensing.

Subparagraph (C)(iii) also limits eligibility for a statutory license to transmissions that are not part of a continuous program of less than three hours duration (subparagraph (C)(iii)(III)). A listener to a continous program hears that portion of the program that is being transmitted to all listeners at the particular time that the listener accesses the program, much like a person who tunes in to an over-the-air broadcast radio station.

Finally, subparagraph (C)(iii)(IV) limits eligibility for a statutory license to transmissions that are not part of an identifiable program in which performances of sound recordings are rendered in a predetermined order that is transmitted at (a) more than three times in any two week period, which times have been publicly announced in advance, if the program is of less than one hour duration, or (b) more than four times in any two week period, which times have been publicly announced in advance, if the program is one hour or more. It is the conferee's intention that the two-week limitation in subclause (IV) be applied in a reasonable manner consistent with its purpose so that, for example, a transmitting entity does not regularly make all of the permitted repeat performances within several days.

Subparagraph (C)(iv) states that the transmitting entity may not avail itself of a statutory license if it knowingly performs a sound recording, as part of a service that offers transmissions of visual images contemporaneous with transmissions of sound recordings, in a manner that is likely to cause a listener to believe that there is an affiliation or association between the sound recording copyright owner or featured artist and a particular product or service advertised by the transmitting entity. This would cover, for example, transmitting an advertisement for a particular product or service every time a particular sound recording or artist is transmitted; it would not cover more general practices such as targeting advertisements of particular products or services to specific channels of the service according to user demographics. If, for example, advertisements are transmitted randomly while sound recordings are performed, this subparagraph would be satisfied.

Subparagraph (C)(v) provides that, in order to qualify for a statutory license, a transmitting entity must cooperate with sound recording copyright owners to prevent a transmission recipient from scanning the transmitting entity's transmissions to select particular sound recordings. In the future, a device or software may be developed that would enable its user to scan one or more digital transmissions to select particular sound recordings or artists requested by its user. Such devices or software would be the equivalent of an on demand service that would not be eligible for the statutory license. Technology may be developed to defeat such scanning, and transmitting entities taking a statutory license are required to cooperate with sound recording copyright owners to prevent such scanning, provided that such cooperation does not impose substantial costs or burdens on the transmitting entity. This requirement does not apply to a satellite digital audio service, including a preexisting satellite digital audio radio service, that is in operation, or that is licensed by the FCC, on or before July 31, 1998.

Subparagraph (C)(vi) requires that if the technology used by the transmitting entity enables the transmitting entity to limit the making by the transmission recipient of phonorecords in a digital format directly of the transmission, the transmitting entity sets such technology to limit such making of phonorecords to the extent permitted by such technology. The conferees note that some software used to "stream" transmissions of sound recordings enables the transmitting entity to disable such direct digital copying of the transmitted data by transmission recipients. In such circumstances the transmitting entity must disable that direct copying function. Likewise, a transmitting entity may not take affirmative steps to cause or induce the making of any copies by a transmission recipient. For example, a transmitting entity may not encourage a transmission recipient to make either digital or analog copies of the transmission such as by suggesting that recipients should record copyrighted programming transmitted by the entity.

Subparagraph (C)(vii) requires that each sound recording transmitted by the transmitting entity must have been distributed to the public under authority of the copyright owner or provided to the transmitting entity with authorization that the transmitting entity may perform such sound recording. The conferees recognize that a disturbing trend on the Internet is the unauthorized performance of sound recordings not yet released for broadcast or sale to the public. The transmission of such pre-released sound recordings is not covered by the statutory license unless the sound recording copyright owner has given explicit authorization to the transmitting entity. This subparagraph also requires that the transmission be made from a phonorecord lawfully made under the authority of the copyright owner. A phonorecord provided by the copyright owner or an authorized phonorecord purchased through commercial distribution channels would qualify. However, the transmission of bootleg sound recordings (e.g., the recording of a live musical performance without the authority of the performer, as prohibited by Chapter 11) is ineligible for a statutory license.

Subparagraph (C)(viii) conditions a statutory license on whether a transmitting entity has accommodated and does not interfere with technical measures widely used by sound recording copyright owners to identify or protect their copyrighted works. Thus, the transmitting entity must ensure that widely used forms of identifying information, embedded codes, encryption or the like are not removed during the transmission process, provided that accommodating such measures is technologically feasible, does not impose substantial costs or burdens on the transmitting entity, and does not result in perceptible degradation of the digital audio or video signals being transmitted. This requirement shall not apply to a satellite digital audio service, including a preexisting satellite digital audio radio service, that is in operation, or that is licensed under the authority of the Federal communications Commission, on or before July 31, 1998, to the extent that such service has designed, developed or made commitments to procure equipment or technology that is not compatible with such technical measures before such technical measures are widely adopted by sound recording copyright owners.

Subparagraph (C)(ix) requires transmitting entities eligible for the statutory license to identify in textual data the title of the sound recording, the title of the album on which the sound recording appears (if any), and the name of the featured recording artist. These titles and names must be made during, but not before, the performance of the sound recording. A transmitting entity must ensure that the identifying information can easily be seen by the transmission recipient in visual form. For example, the information might be displayed by the software player used on a listener's computer to decode and play the sound recordings that are transmitted. Many webcasters already provide such information, but in order to give those who do not an adequate opportunity to do so this obligation does not take effect until one year after the effective date of the amendment. This requirement does not apply to the retransmission of broadcast transmissions by a transmitting entity that does not have the right or ability to control the programming of the broadcast station making the broadcast transmission, or where devices or technology intended for receiving the service that have the capability to display the identifying information are not common in the marketplace.

Section 114(f). Licenses for Certain Nonexempt Transmissions. Section 114(f) is amended to set forth procedures for determining reasonable rates and terms for those transmissions that qualify for statutory licensing under section 114(d)(2). Section 114(f) is divided into two parts: one applying to transmissions by preexisting subscription services and preexisting satellite digital audio radio services (subsection (f)(1)), and the other applying to transmissions by new subscription services (including subscription transmissions made by a preexisting subscription service other than those that qualify under subsection (f)(1)) as well as eligible nonsubscription transmissions (subsection (f)(2)).

Subsection (f)(1) provides for procedures applicable to subscription transmission by preexisting subscription services and preexisting satellite digital audio radio services. The conferees note that this subsection applies only to the three services considered preexisting subscription services, DMX, Music Choice and the DiSH Network, and the two services considered preexisting satellite digital audio radio services, CD Radio and American Mobile Radio Corporation. The procedures in this subsection remain the same as those applicable before the amendment, except that the rate currently in effect under prior section 114(f) is extended from December 31, 2000 until December 31, 2001. That rate currently applies to the three preexisting subscription services, and the Conferees take no position on its applicability to the two preexisting satellite digital audio radio services. Likewise, the initiation of the next voluntary negotiation period shall take place in the first week of January 2001 instead of January 2000 (subsection (f)(1)(C)(i)). These extensions are made purely to facilitate the scheduling of proceedings.

Subsection (f)(1)(B), which sets forth procedures for arbitration in the absence of negotiated license agreement, continues to provide that a copyright arbitration royalty panel should consider the objectives set forth in section 801(b)(1) as well as rates and terms for comparable types of subscription services.

Subsection (f)(2) addresses procedures applicable to eligible nonsubscription transmissions and subscription transmissions by new subscription services. The first such voluntary negotiation proceeding is to commence within 30 days after the enactment of this amendment upon publication by the Librarian of Congress of a notice in the Federal Register. The terms and rates established will cover qualified transmissions made between the effective date of this amendment and December 31, 2000, or such other date as the parties agree.

Subsection (f)(2) directs that rates and terms must distinguish between the different types of eligible nonsubscription transmission services and new subscription services then in operation. The conferees recognize that the nature of qualified transmissions may differ significantly based on a variety of factors. The conferees intend that criteria including, but not limited to, the quantity and nature of the use of sound recordings, and the degree to which use of the services substitutes for or promotes the purchase of phonorecords by consumers may account for differences in rates and terms between different types of transmissions.

Subsection (f)(2) also directs that a minimum fee should be established for each type of service. A minimum fee should ensure that copyright owners are fairly compensated in the event that other methodologies for setting rates might deny copyright owners an adequate royalty. For example, a copyright arbitration royalty panel should set a minimum fee that guarantees that a reasonable royalty rate is not diminished by different types of marketing practices or contractual relationships. For example, if the base royalty for a service were a percentage of revenues, the minimum fee might be a flat rate per year (or a flat rate per subscriber per year for a new subscription service).

Also, although subsection (f)(1) remains silent on the setting of a minimum fee for preexisting subscription services and preexisting satellite digital audio radio services, the Conferees do not intend that silence to mean that a minimum fee may or may not be established in appropriate circumstances when setting rates under subsection (f)(1) for preexisting subscription services and preexisting satellite digital audio radio services. Likewise, the absence of criteria that should be taken into account for distinguishing rates and terms for different services in subsection (f)(1) does not mean that evidence relating to such criteria may not be considered when adjusting rates and terms for preexisting subscription services and preexisting satellite digital audio radio services in the future.

Subsection (f)(2)(B) sets forth procedures in the absence of a negotiated license agreement for rates and terms for qualifying transmissions under this subsection. Consistent with existing law, a copyright arbitration proceeding should be empaneled to determine reasonable rates and terms. The test applicable to establishing rates and terms is what a willing buyer and willing seller would have arrived at in marketplace negotiations. In making that determination, the copyright arbitration royalty panel shall consider economic, competitive and programming information presented by the parties including, but not limited to, the factors set forth in clauses (i) and (ii).

Subsection (f)(2)(C) specifies that rates and terms for new subscription and eligible nonsubscription transmissions should be adjusted every two years, unless the parties agree as to another schedule. These two-year intervals are based upon the conferees' recognition that the types of transmission services in existence and the media in which they are delivered can change significantly in a short period of time.

Subsection (j)(2)—"archived program." A program is considered an "archived program" if it is prerecorded or preprogrammed, available repeatedly on demand to the public and is performed in virtually the same order from the beginning.

The exception to the definition of "archived program" for a recorded event or broadcast transmission is intended to allow webcasters to make available on demand transmissions of recorded events or broadcast shows that do not include performances of entire sound recordings or feature performances of sound recordings (such as a commercially released sound recording used as a theme song), but that instead use sound recordings only in an incidental manner (such as in the case of brief musical transitions in and out of commercials and music played in the background at sporting events). Some broadcast shows may be part of series that do not regularly feature performances of sound recordings but that occasionally prominently include a sound recording (such as a performance of a sound recording in connection with an appearance on the show by the recording artist). The recorded broadcast transmission of the show should not be considered an "archived program" merely because of such a prominent performance in a show that is part of a series that does not regularly feature performances of sound recordings. The inclusion of this exception to the definition of "archived program" is not intended to impose any new license requirement where the broadcast programmer or syndicator grants the webcaster the right to transmit a sound recording, such as may be the case where the sound recording has been specially created for use in a broadcast show.

Subsection 114(j)(4)—"continuous program." A "continuous program" is one that is continuously performed in the same predetermined order. Such a program generally takes the form of a loop whereby the same set of sound recordings is performed repeatedly; rather than stopping at the end of the set, the program automatically restarts generally without interruption. In contrast to an archived program (which always is accessed from the beginning of the program), a transmission recipient typically accesses a continuous program in the middle of the program. Minor alterations in the program should not render a program outside the definition of "continuous program."

Subsection 114(j)(6)—"eligible nonsubscription transmission". An "eligible nonsubscription transmission" is one that meets the following criteria. First, the transmission must be noninteractive and nonsubscription in nature. Second, the transmission must be made as part of a service that provides audio programming consisting in whole or in part of performances of sound recordings. Third, the purpose of the transmission service must be to provide audio or entertainment programming, not to sell, advertise or promote particular goods or services. Thus, for example, an ordinary commercial Web site that was primarily oriented to the promotion of a particular company or to goods or services that are unrelated to the sound recordings or entertainment programming, but that provides background music would not qualify as a service that makes eligible nonsubscription transmissions. The site's background music transmissions would need to be licensed through voluntary negotiations with the copyright owners. However, the sale or promotion of sound recordings, live concerts or other musical events does not disqualify a service making a nonsubscription transmission. Furthermore, the mere fact that a transmission service is advertiser-based or may promote itself or an affiliated entertainment service does not disqualify it from being considered an eligible nonsubscription transmission service.

Subsection 114(j)(7)—"interactive service." The definition of "interactive service" is amended in several respects. First, personalized tranmissions—those that are specially created for a particular individual—are to be considered interactive. The recipient of the transmission need not select the particular recordings in the program for it to be considered personalized, for example, the recipient might identify certain artists that become the basis of the personal program. The conferees intend that the phrase "program specially created for the recipient" be interpreted reasonably in light of the remainder of the definition of "interactive service." For example, a service would be interactive if it allowed a small number of individuals to request that sound recordings be performed in a program specially created for that group and not available to any individuals outside of that group. In contrast, a service would not be interactive if it merely transmitted to a large number of recipients of the service's transmissions a program consisting of sound recordings requested by a small number of those listeners.

Second, a transmission of a particular sound recording on request is considered interactive "whether or not [the sound recording is] part of a program." This language clarifies that if a transmission recipient is permitted to select particular sound recordings in a prerecorded or predetermined program, the transmission is considered interactive. For example, if a transmission recipient has the ability to move forward and backward between songs in a program, the transmission is interactive. It is not necessary that the transmission recipient be able to select the actual songs that comprise the program. Additionally, a program consisting only of one sound recording would be considered interactive.

Third, the definition of "interactive service" is amended to clarify that certain channels or programs are not considered interactive provided that they do not substantially consist of requested sound recordings that are performed within one hour of the request or at a designated time. Thus, a service that engaged in the typical broadcast programming practice of including selections requested by listeners would not be considered interactive, so long as the programming did not substantially consist of requests regularly performed within an hour of the request, or at a time that the transmitting entity informs the recipient it will be performed.

The last sentence of the definition is intended to make clear that if a transmitting entity offers both interactive and noninteractive services then the noninteractive components are not to be treated as part of an interactive service, and thus are eligible for statutory licensing (assuming the other requirements of the statutory license are met). For example, if a Web site offered certain programming that was transmitted to all listeners who chose to receive it at the same time and also offered certain sound recordings that were transmitted to particular listeners on request, the fact that the latter are interactive transmissions would not preclude statutory licensing of the former.

Subsection 114(j)(8)—"new subscription service." A "new subscription service" is any service that is not a preexisting subscription service as defined in subsection (j)(11) or a preexisting satellite digital audio radio service as defined in subsection (j)(10).

Subsection 114(j)(10)—"preexisting satellite digital audio radio service." A "preexisting satellite digital audio service" is a subscription digital audio radio service provided pursuant to a satellite digital audio radio service license issued by the Federal Communications Commission on or before July 31, 1998. Subscription services offered by these licensed entities do not qualify as "preexisting subscription services" under section 114(j)(11) because they had not commenced making transmissions to the public for a fee on or before July 31, 1998. Only two entities received these licenses: CD Radio and American Mobile Radio Corporation.

A "preexisting satellite digital audio radio service" and "preexisting subscription service" may both include a limited number of sample channels representative of the subscription service that are made available on a nonsubscription basis in order to promote the subscription service. Such sample channels are to be treated as part of the subscription service and should be considered in determining the royalty rate for such subscription service. The conferees do not intend that the ability to offer such sample channels be used as a means to offer a nonsubscription service under the provisions of section 114 applicable to subscription services. The term "limited number" should be evaluated in the context of the overall service. For example, a service consisting of 100 channels should have no more than a small percentage of its channels as sample channels.

Subsection 114(j)(11)—"preexisting subscription service." A "preexisting subscription service" is a noninteractive subscription service that was in existence and was making transmissions to the public on or before July 31, 1998, and which is making transmissions similar in character to such transmissions made on or before July 31, 1998. Only three services qualify as a preexisting subscription service—DMX, Music Choice and the DiSH Network. As of July 31, 1998, DMX and Music Choice made transmissions via both cable and satellite media; the DiSH Network was available only via satellite.

In grandfathering these services, the conferee's objective was to limit the grandfather to their existing services in the same transmission medium and to any new services in a new transmission medium where only transmissions similar to their existing service are provided. Thus, if a cable subscription music service making transmissions on July 31, 1998, were to offer the same music service through the Internet, then such Internet service would be considered part of a preexisting subscription service.

If, however, a subscription service making transmissions on July 31, 1998, were to offer a new service either in the same or new transmission medium by taking advantages of the capabilities of that medium, such new service would not qualify as a preexisting subscription service. For example, a service that offers video programming, such as advertising or other content, would not qualify as a preexisting service, provided that the video programming is not merely information about the service itself, the sound recordings being transmitted, the featured artists, composers or songwriters, or an advertisement to purchase the sound recording transmitted.

Section 114 in General. These amendments are fully subject to all the existing provisions of section 114. Specifically, these amendments and the statutory licenses they create are all fully subject to the safeguards for copyright owners of sound recordings and musical works contained in sections 114(c), 114(d)(4) and 114(i), as well as the other provisions of section 114. In addition, the conferees do not intend to affect any of the rights in section 115 that were clarified and confirmed in the DPRA.

Section 112(e)—Statutory License. Section 112(e) creates a statutory license for the making of an "ephemeral recording" of a sound recording by certain transmitting organizations. The new statutory license in section 112(e) is intended primarily for the benefit of entities that transmit performances of sound recordings to business establishments pursuant to the limitation on exclusive rights set forth in section 114(d)(1)(C)(iv). However, the new section 112(e) statutory license also is available to a transmitting entity with a statutory license under section 114(f) that chooses to avail itself of the section 112(e) statutory license to make more than the one phonorecord it is entitled to make under section 112(a). For example, the conferees understand that a webcaster might wish to reproduce multiple copies of a sound recording to use on different servers or to make transmissions at different transmission rates or using different transmission software. Under section 112(a), as amended by this bill, a webcaster with a section 114(f) statutory license is entitled to make only a single copy of the sound recording. Thus, the webcaster might choose to obtain a statutory license under section 112(e) to allow it to make such multiple copies. The conferees intend that the royalty rate payable under the statutory license may reflect the number of phonorecords of a sound recording made under a statutory license for use in connection with each type of service.

Ephemeral recordings of sound recordings made by certain transmitting organizations under section 112(e) may embody copyrighted musical compositions. The making of an ephemeral recording by such a transmitting organization of each copyrighted musical composition embodied in a sound recording it transmits is governed by existing section 112(a) (or section 112(a)(1) as revised by the Digital Millennium Copyright Act), and, pursuant to that section, authorization for the making of an ephemeral recording is conditioned in part on the transmitting organization being entitled to transmit to the public the performance of a musical composition under a license or transfer of the copyright.

The conditions listed in section 112(e)(1), most of which are also found in section 112(a), must be met before a transmitting organization is eligible for statutory licensing in accordance with section 112(e). First, paragraph (1)(A) provides that the transmitting organization may reproduce and retain only one phonorecord, solely for its own use (unless the terms and conditions of the statutory license allow for more). Thus, trafficking in ephemeral recordings, such as by preparing prerecorded transmission programs for use by third parties, is not permitted. This paragraph provides that the transmitting organization may reproduce and retain more than one ephemeral recording, in the manner permitted under the terms and conditions as negotiated or arbitrated under the statutory license. This provision is intended to facilitate efficient transmission technologies, such as the use of phonorecords encoded for optimal performance at different transmission rates or use of different software programs to receive the transmissions.

Second, paragraph (1)(B) requires that the phonorecord be used only for the transmitting organization's own transmissions originating in the United States, and such transmissions must be made under statutory license pursuant to section 114(f) or the exemption in section 114(d)(1)(C)(iv). Third, paragraph (1)(C) mandates that, unless preserved exclusively for archival purposes, the phonorecord be destroyed within six months from the time that the sound recording was first performed publicly by the transmitting organization. Fourth, paragraph (1)(D) limits the statutory license to reproductions of sound recordings that have been distributed to the public and that are made from a phonorecord lawfully made and acquired under the authority of the copyright owner.

Subsection (e)(3) clarifies the applicability of the antitrust laws to the use of common agents in negotiations and agreements relating to statutory licenses and other licenses. Under this subsection, the copyright owners of sound recordings and transmitting organizations entitled to obtain the statutory license in this section may negotiate collectively regarding rates and terms for the statutory license or other licenses. This subsection provides that such copyright owners and transmitting organizations may designate common agents to represent their interests to negotiate or administer such license agreements. This subsection closely follows the language of existing antitrust exemptions in copyright law, including the exemption found in the statutory licenses for transmitting sound recordings by digital audio transmission found in section 114(f).

Subsections (e)(4) and (5) address the procedures for determining rates and terms for the statutory license provided for in this section. These procedures are parallel to the procedures found in section 114(f)(2) for public performances of sound recordings by digital audio transmission by new subscription services and services making eligible Nonsubscription transmissions.

Subsection (e)(4) provides that the Librarian of Congress should publish notice of voluntary negotiation proceedings 30 days after enactment of this amendment. Such voluntary negotiation proceedings should address rates and terms for the making of ephemeral recordings under the conditions of this section for the period beginning on the date of enactment and ending on December 31, 2000. This subsection requires that a minimum fee be established as part of the rates and terms.

In the event that interested parties do not arrive at negotiated rates and terms during the voluntary negotiation proceedings, subsection (e)(5) provides for the convening of a copyright arbitration royalty panel to determine reasonable rates and terms for the making of ephemeral recordings under this subsection. This paragraph requires the copyright arbitration royalty panel to establish rates that reflect the fees that a willing buyer and seller would have agreed to in marketplace negotiations. In so doing, the copyright arbitration royalty panel should base its decision on economic, competitive and programming information presented by the parties, including, but not limited to, such evidence as described in subparagraphs (A) and (B).

Subseciton (e)(7) states that rates and terms either negotiated or established pursuant to arbitration shall be effective for two-year periods, and the procedures set forth in subsections (e)(4) and (5) shall be repeated every two years unless otherwise agreed to by the parties.

The conferees intend that the amendments regarding the statutory licenses in sections 112 and 114 contained in section 415 of this bill apply only to those statutory licenses.

SECTION 406. ASSUMPTION OF CONTRACTUAL OBLIGATIONS RELATED TO TRANSFERS OF RIGHTS IN MOTION PICTURES

The Senate recedes to House section 416 with modification.

Paragraph (a)—Assumption of obligations. The conferees have added to paragraph (a) language that defines more specifically the meaning of the "knows or has reason to know" standard in subsection (a)(1). There are three ways to satisfy this standard. The first is actual knowledge that a motion picture is or will be covered by a collective bargaining agreement. Subparagraph (ii) provides for constructive knowledge, established through two alternative mechanisms: recordation with the Copyright Office or identification of the motion picture on an online web site maintained by the relevant Guild, where the site makes it possible for users to verify their access date in a commercially reasonable way. In order to ensure that the transferee has a reasonable opportunity to obtain the relevant information, these mechanisms for providing constructive notice apply with respect to transfers that take place after the motion picture is completed. They also apply to transfer that take place before the motion picture is completed, but only if the transfer is within eighteen months prior to the filing of an application for copyright registration for the motion picture or, if there is no application for registration, within eighteen months of its first publication in the United States.

The constructive notice established by recordation for purposes of application of this section is entirely separate and independent from the constructive notice established by recordation under section 205(c) of the Copyright Act. This section does not condition constructive notice on prior registration of the motion picture with the Copyright Office, and does not have any hearing on the issue of priority between conflicting transfers as described in section 205(d) of the Copyright Act.

Subparagraph (iii) provides a more general standard for circumstances where the transferee does not have actual knowledge or constructive knowledge through one of the two mechanisms set out in subparagraph (ii), but is aware of facts and circumstances about the transfer that make it apparent that the motion picture is subject to a collective bargaining agreement. Such facts and information might include, for example, budget, location of principal photography, the identity of the talent associated with a project, or the existence of a personal service contract that references terms or conditions of collective bargaining agreements.

Paragraph (b)—Scope of exclusion of transfer of public performance rights.—New paragraph (b) clarifies that the "public performance" exclusion from the operation of paragraph (a) is intended to include performances described in paragraph (b) that reach viewers through transmission or retransmission of programming or program services via satellite, MMDS, cable, and other means of carriage. This paragraph does not expand or restrict in any way what constitutes a "public performance" for any other purpose. The public performance exclusion would not be rendered inoperable simply because a transfer of public performance rights is accompanied by a transfer of limited, incidental other rights necessary to implement or facilitate the exercise of the performance rights.

Paragraph (c)—Exclusion for grants of security interests.—The purpose of this paragraph is to ensure that banks and others providing financing for motion pictures will not be made subject to the assumption of obligations required by this section merely because they obtain a security interest in the motion picture. Because the term "transfer of copyright ownership" is defined in section 101 of the Copyright Act to include a "mortgage . . . or hypothecation" of any exclusive copyright right, this could be the unintended result of the statutory language. Under this exclusion, a bank or other party would not be subject to the application of paragraph (a) based solely on the acts of taking a security interest in a motion picture, foreclosing on that interest or otherwise exercising its rights as a secured party, or transferring or authorizing transfer of copyright ownership rights secured by its security interest to a third party. Neither would any subsequent transferee downstream from the initial secured party be subject to paragraph (a). The exclusion would apply irrespective of the form or language used to grant or create the security interest.

It should be clear that the only agreements whose terms are enforced by this section are collective bargaining agreements and assumption agreements. In the course of financing a motion picture, a lender, other financier or completion guarantor may execute an inter-creditor or subordination agreement with a union including obligations with respect to the payment of residuals or the obtaining of assumption agreements. Such agreements are not within the scope of this section, and nothing in this section obligates lenders, other financiers or completion guarantors to enter into these agreements, enforces any terms thereof or diminishes any rights that the parties may have under these agreements.

Paragraph (d)—Deferral pending resolution of bona fide dispute. Paragraph (d) allows a remote transferee obligated under paragraph (a)(1) to stay enforcement of this section while there exists a bona fide dispute between the applicable union and a prior transferor regarding obligations under this section. It contemplates that union claims not subject to bona fide dispute will be payable when due under the applicable collective bargaining agreement or through application of this section. Such disputes may be manifested through grievance or arbitration claims, litigation, or other claims resolution procedures in effect between the applicable parties.

Paragraph (e)—Scope of obligations determined by private agreement. Paragraph (e) states explicitly the basic principle of operation of this section. It makes clear that the section simply provides an enforcement mechanism for obligations that have already been agreed to in a collective bargaining agreement. It is not intended to affect in any way the scope or interpretation of the provisions of, or the acts required by, any collective bargaining agreement. The rights and obligations themselves, as well as the remedies for breach, are those that have been agreed to among the parties. Accordingly, they can be changed at any time by agreement.

The collective bargaining agreements contemplate that producers will obtain assumption agreements from distributors in certain circumstances. The statute states that where a producer does not comply with the obligation and obtain an assumption agreement where required, the law will act as though the producer has in fact done so. Thus, it removes the possibility of noncompliance with the obligation to obtain an assumption agreement. It does not require assumption agreements to be obtained in circumstances where the collective bargaining agreement would not require it. If there is a dispute over the meaning and applicability of provisions in the collective bargaining agreement, for example over the question of which distributors must be required to execute an assumption agreement, the statue does not resolve the dispute. It only requires whatever the collective bargaining agreement would require, and relegates the parties to the dispute mechanisms set out in that agreement.

This section does not expand or diminish rights or obligations under other laws that might regulate contractual obligations beyond the purpose of enforcing assumption agreements required by applicable collective bargaining agreements. Nor does this section prevent a person or entity that is subject to obligations under an assumption agreement (whether through application of this section or otherwise) from transferring any such obligations to a subsequent transferee of the applicable copyright rights, and thereby being relieved of its own obligations under the assumption agreement, to the extent permitted by, and under the conditions established in, the applicable assumption agreements.

TITLE V—PROTECTION OF CERTAIN ORIGINAL DESIGNS

Sections 501-505. The Senate recedes to House sections 601-602 with modification.

From the Committee on Commerce for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

TOM BLILEY,
BILLY TAUZIN,
JOHN D. DINGELL,

From the Committee on Judiciary for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

HENRY J. HYDE,
HOWARD COBLE,
BOB GOODLATTE,
JOHN CONYERS, Jr.,
HOWARD L. BERMAN,
Managers on the Part of the House.

ORRIN G. HATCH,
STROM THURMOND,
PATRICK J. LEAHY,
Managers on the Part of the Senate.

□ 0140

ADJOURNMENT

Mr. LEACH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 40 minutes a.m.), the House adjourned until 9 a.m. today.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. YATES (at the request of Mr. GEPHARDT) for after 6 p.m. on Thursday, October 8, on account of wife's illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LAFALCE) to revise and extend their remarks and include extraneous material:)

Mr. BLUMENAUER, for 5 minutes, today.
Mr. HINCHEY, for 5 minutes, today.
Mr. SKAGGS, for 5 minutes, today.
Mr. CONYERS, for 5 minutes, today.
Mr. FILNER, for 5 minutes, today.
Ms. JACKSON LEE of Texas, for 5 minutes, today.
Mr. FALEOMAVAEGA, for 5 minutes, today.
Ms. CARSON, for 5 minutes today.

(The following Members (at the request of Mr. LEACH) to revise and extend their remarks and include extraneous material:)

Mr. PAUL, for 5 minutes, today.
Mr. FOX of Pennsylvania.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. LAFALCE) and to include extraneous material:)

Mr. KIND.
Mr. MATSUI.
Mr. DINGELL.
Mrs. MEEK of Florida.
Mr. PAYNE.
Mr. LEVIN.
Mr. MILLER of California.
Mr. GUTIERREZ.
Mr. HAMILTON.
Mr. HINOJOSA.
Mr. STARK.
Mr. KUCINICH.

Mrs. CAPPS.
Ms. JACKSON-LEE of Texas.
Ms. EDDIE BERNICE JOHNSON of Texas.
Mr. DEUTSCH.
Ms. PELOSI.
Mr. LANTOS.
Mr. VISCLOSKY.
Mr. EVANS.
Mr. MARTINEZ.
Mr. SANDERS.
Ms. KAPTUR.
Mr. RANGEL.
Mr. HALL of Ohio.
Mr. TORRES.
Mr. BERMAN.
Mr. ROEMER.
Mr. BONIOR.
Mr. ABERCROMBIE.
Mr. CLEMENT.
Mr. UNDERWOOD.
Mr. BORSKI.

(The following Members (at the request of Mr. LEACH) and to include extraneous material:)

Mr. OXLEY.
Mr. CAMPBELL.
Mr. GILMAN.
Mr. BARR of Georgia.
Mr. MICA.
Mr. CRANE.
Mr. EHLERS.
Mr. MILLER of Florida.
Mr. LEWIS of California.
Mr. BEREUTER.
Mr. SHUSTER.
Mr. FRELINGHUYSEN.
Mr. SMITH of New Jersey.
Mr. SOLOMON.
Ms. ROS-LEHTINEN.
Mr. MANZULLO.
Mr. FORBES.
Mrs. KELLY.
Mr. CALLAHAN.
Mr. STUMP.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on this day present to the President, for his approval, bills of the House of the following titles:

H.R. 449. To provide for the orderly disposal of certain Federal lands in Clark County, Nevada, and to provide for the acquisition of environmentally sensitive lands in the State of Nevada.

H.R. 930. To require Federal employees to use Federal travel charge cards for all payments of expenses of official Government travel, to amend title 31, United States Code, to establish requirements for prepayment audits of Federal agency transportation expenses, to authorize reimbursement of Federal agency employees for taxes incurred on travel or transportation reimbursements, and to authorize test programs for the payment of Federal employee travel expenses and relocation expenses.

H.R. 1481. To amend the Great Lakes Fish and Wildlife Restoration Act of 1990 to provide for implementation of recommendations of the United States Fish and Wildlife Service contained in the Great Lakes Fishery Resources Restoration Study.

H.R. 1836. To amend chapter 89 of title 5, United States Code, to improve administration of sanctions against unfit health care providers under the Federal Employees Health Benefits Program, and for other purposes.

H.R. 3381. To direct the Secretary of the Interior to exchange land and other assets with Big Sky Lumber Co, and other entities.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 744. An act to authorize the construction of the Fall River Water Users District Rural Water System and authorize financial assistance to the Fall River Water Users District, a nonprofit corporation, in the planning and construction of the water supply system, and for other purposes; to the Committee on Resources.

S. 736. An act to convey certain real property within the Carlsbad Project in New Mexico to the Carlsbad Irrigation District; to the Committee on Resources.

S. 1175. An act to reauthorize the Delaware Water Gap National Recreation Area Citizen Advisory Commission for 10 additional years; to the Committee on Resources.

S. 1637. An act to expedite State review of criminal records of applicants for bail enforcement officer employment, and for other purposes; to the Committee on Judiciary.

S. 1641. An act to direct the Secretary of the Interior to study alternatives for establishing a national historic trail to commemorate and interpret the history of women's rights in the United States; to the Committee on Resources.

S. 2041. An act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the design, planning, and construction of the Willow Lake Natural Treatment System Project for the reclamation and reuse of water, and for other purposes; to the Committee on Resources.

S. 2086. An act to revise the boundaries of the George Washington Birthplace National Monument; to the Committee on Resources.

S. 2117. An act to authorize the construction of the Perkins County Rural Water System and authorize financial assistance to the Perkins County Rural Water System, Inc., a nonprofit corporation, in the planning and construction of the water supply system, and for other purposes; to the Committee on Resources.

S. 2140. An act to amend the Reclamation Projects Authorization and Adjustment Act of 1992 to authorize the Secretary of the Interior to participate in the design, planning, and construction of the Denver Water Reuse project; to the Committee on Resources.

S. 2142. An act to authorize the Secretary of the Interior to convey the facilities of the Pine River Project, to allow jurisdictional transfer of lands between the Department of Agriculture, Forest Service, and the Department of the Interior, Bureau of Reclamation, and the Bureau of Indian Affairs; and for other purposes; to the Committee on Resources.

S. 2235. An act to amend part Q of the Omnibus Crime Control and Safe Streets Act of 1968 to encourage the use of school resource officers; to the Committee on the Judiciary and Education and the Workforce.

S. 2239. An act to revise the boundary of Fort Matanzas National Monument, and for other purposes; to the Committee on Resources.

S. 2240. An act to establish the Adams National Historical Park in the Commonwealth of Massachusetts, and for other purposes; to the Committee on Resources.

S. 2241. An act to provide for the acquisition of lands formerly occupied by the Franklin D. Roosevelt family at Hyde Park, New York, and for other purposes; to the Committee on Resources.

S. 2246. An act to amend the Act which established the Frederick Law Olmsted National Historic Site, in the Commonwealth of Massachusetts, by modifying the boundary, and for other purposes; to the Committee on Resources.

S. 2247. An act to permit the payment of medical expenses incurred by the United States Park Police in the performance of duty to be made directly by the National Park Service, and for other purposes; to the Committee on Government Reform and Oversight.

S. 2248. An act to allow for waiver and indemnification in mutual law enforcement agreements between the National Park Service and a State or political subdivision, when required by State law, and for other purposes; to the Committee on Resources.

S. 2284. An act to establish the Minuteman Missile National Historic Site in the State of South Dakota, and for other purposes; to the Committee on Resources and National Security.

S. 2285. An act to establish a commission, in honor of the 150th Anniversary of the Seneca Falls Convention, to further protect sites of importance in the historic efforts to secure equal rights for women, to the Committee on Resources.

S. 2309. An act to authorize the Secretary of the Interior to enter into an agreement for the construction and operation of the Gateway Visitor Center at Independence National Historical Park; to the Committee on Resources.

S. 2468. An act to designate the Biscayne National Park Visitor Center as the Dante Fascell Visitor Center; to the Committee on Resources.

S. 2584. An act to provide aviator continuation pay for military members killed in Operation Desert Shield; to the Committee on National Security.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. COBLE: Committee of Conference. Conference report on H.R. 2281. A bill to amend title 17, United States Code, to implement the World Intellectual Property Organization Copyright Treaty and Performances and Phonograms Treaty (Rept. 105–796). Ordered to be printed.

Mr. HANSEN: Committee on Standards of Official Conduct. Report in the matter of Representative Jay Kim (Rept. 105–797). Referred to the House Calendar.

Mr. DREIER: Committee of Rules. House Resolution 584. Resolution further providing for consideration of the bill (H.R. 4274) making appropriations for the Department of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1999, and for other purposes (Rept. 105–798). Referred to the House Calendar.

Mr. LINDER: Committee on Rules. House Resolution 586. Resolution waiving points of order against the conference report to accompany the bill (H.R. 3150) to amend title 11 of the United States Code, and for other purposes (Rept. 105–799). Referred to the House Calendar.

Mr. GOODLING: Committee of Conference. Conference report on H.R. 1853. A bill to amend the Carl D. Perkins Vocational and Applied Technology Education Act (Rept. 105–800). Ordered to be printed.

Mr. BLILEY: Committee on Commerce. H.R. 3888. A bill to amend the Communications Act of 1934 to improve the protection of consumers against "slamming" by telecommunications carriers, and for other purposes; with an amendment (Rept. 105–801). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. H.R. 4353. A bill to amend the Securities Exchange Act of 1934 and the Foreign Corrupt Practices Act of 1977 to improve the competitiveness of American business and promote foreign commerce, and for other purposes (Rept. 105–802). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

[Omitted from the RECORD of October 6, 1998]

Mr. BLILEY: Committee on Commerce. H.R. 3610. A bill to authorize and facilitate a program to enhance training, research and development, energy conservation and efficiency, and consumer education in the oilheat industry for the benefit of oilheat consumers and the public, and for other purposes, with an amendment; referred to the Committee on Science for a period ending not later than October 7, 1998, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(n), rule X. (Rept. 105–787, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. MATSUI (for himself and Mr. NEAL of Massachusetts):

H.R. 4732. A bill to amend the Internal Revenue Code of 1986 to provide for the treatment of bonds issued to finance electric output facilities, and for other purposes; to the Committee on Ways and Means.

By Mr. MATSUI (for himself and Mr. BONIOR):

H.R. 4733. A bill to amend the Trade Act of 1974 to consolidate and enhance the trade adjustment assistance and NAFTA transitional adjustment assistance programs under that Act, and for other purposes; to the Committee on Ways and Means.

By Mr. WELLER:

H.R. 4734. A bill to amend part Q of the Omnibus Crime Control and Safe Streets Act of 1968 to reduce the local matching amount to ensure more local communities can qualify for a grant to hire additional police officers; to the Committee on the Judiciary.

By Mr. HANSEN:

H.R. 4735. A bill to make technical corrections to the Omnibus Parks and Public Lands Management Act of 1996; to the Committee on Resources.

By Mr. BENTSEN (for himself, Mr. CRANE, Mr. GANSKE, Mr. CARDIN, Mr. RANGEL, Mr. STARK, and Mr. JEFFERSON):

H.R. 4736. A bill to amend title XVIII of the Social Security Act to ensure the proper payment of approved nursing and paramedical education programs under the Medicare Program; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. KELLY (for herself, Mr. FROST, Mr. GANSKE, Mrs. MCCARTHY of New York, Mr. GILMAN, Mr. CONDIT, Mr. LOBIONDO, and Mrs. MALONEY of New York):

H.R. 4737. A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require that group and individual health insurance coverage and group health plans provide coverage for treatment of a minor child's congenital or developmental deformity or disorder due to trauma, infection, tumor, or disease; to the Committee on Commerce, and in addition to the Committees on Education and the Workforce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ARCHER:

H.R. 4738. A bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, provide tax relief for farmers and small businesses, and for other purposes; to the Committee on Ways and Means.

By Mr. CARDIN (for himself, Mr. STARK, and Mr. JEFFERSON):

H.R. 4739. A bill to amend the Internal Revenue Code of 1986 and title XVIII of the Social Security Act to provide for comprehensive financing for graduate medical education; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CRANE:

H.R. 4740. A bill to amend the Internal Revenue Code of 1986 to permit early distributions from employee stock ownership plans for higher education expenses and first-time homebuyer purchases; to the Committee on Ways and Means.

By Mr. CRANE:

H.R. 4741. A bill to amend the Internal Revenue Code of 1986 to permit 401(k) contributions which would otherwise be limited by employer contributions to employee stock ownership plans; to the Committee on Ways and Means.

By Mr. DEFAZIO (for himself, Mr. SANDERS, and Ms. KAPTUR):

H.R. 4742. A bill to improve consumers' access to airline industry information, to promote competition in the aviation industry, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. FRANK of Massachusetts (for himself and Mr. NEAL of Massachusetts):

H.R. 4743. A bill to reauthorize the Public Safety and Community Policing Grants, and for other purposes; to the Committee on the Judiciary.

By Mr. GREENWOOD (for himself and Mr. GINGRICH):

H.R. 4744. A bill to amend the Public Health Service Act to provide for a system of sanctuaries for chimpanzees that have been designated as being no longer needed in research conducted or supported by the Public Health Service, and for other purposes; to the Committee on Commerce.

By Mr. GUTIERREZ:

H.R. 4745. A bill to establish a program to assist homeowners experiencing unavoidable, temporary difficulty making payments on mortgages insured under the National Housing Act; to the Committee on Banking and Financial Services.

By Mr. HANSEN:

H.R. 4746. A bill to provide for the settlement of the reserved water rights of the Shivwits and for the construction of certain water projects; to the Committee on Resources.

By Mr. MINGE (for himself and Mr. POMEROY):

H.R. 4747. A bill to respond to the needs of United States farmers experiencing exceptionally low commodity prices and extensive crop failures; to the Committee on Agriculture, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. QUINN:

H.R. 4748. A bill to amend title XVIII of the Social Security Act to require 6-months' advance notice to enrollees of Medicare managed care plans of termination of hospital participation under such plans; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SAXTON (by request):

H.R. 4749. A bill to approve a governing international fishery agreement between the United States and the Republic of Estonia; to the Committee on Resources.

By Mr. SAXTON (by request):

H.R. 4750. A bill to approve a governing international fishery agreement between the United States and the Republic of Lithuania; to the Committee on Resources.

By Mr. SNYDER (for himself, Mr. EVANS, Mr. KENNEDY of Massachusetts, Mr. ABERCROMBIE, Mr. PETERSON of Minnesota, Ms. CARSON, Mr. MASCARA, Mr. FILNER, Mr. RODRIGUEZ, Ms. SÁNCHEZ, Mr. JOHNSON of Wisconsin, Mrs. CAPPS, and Mr. MALONEY of Connecticut):

H.R. 4751. A bill to amend title 38, United States Code, to establish a presumption of service connection for the occurrence of hepatitis C in certain veterans; to the Committee on Veterans' Affairs.

By Mr. SOLOMON:

H.R. 4752. A bill to prohibit the construction of any monument, memorial, or other structure at the site of the Iwo Jima Memorial in Arlington, Virginia, until such time as an environmental impact statement is prepared for the construction; to the Committee on Resources.

By Mr. STARK:

H.R. 4753. A bill to amend title XVIII of the Social Security Act to provide for coverage of outpatient prescription drugs and home infusion drug therapy under the Medicare Program; to the Committee on Ways and Means, and in addition to the Committee on

Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. THOMPSON (for himself, Mr. DICKEY, Mr. STUPAK, Mr. PICKERING, and Mr. CALLAHAN):

H.R. 4754. A bill to direct the Secretary of the Interior to conduct a 12-month study of the effects of double-crested cormorants on commercial and recreational fish species, and to require the Secretary to prepare a long-term, comprehensive population management strategy for double-crested cormorants; to the Committee on Resources.

By Mr. YOUNG of Alaska:

H.R. 4755. A bill to provide for the collection and interpretation of state of the art, non-intrusive 3-dimensional seismic data on certain federal lands in Alaska, and for other purposes; to the Committee on Resources.

By Mr. SMITH of New Jersey:

H.J. Res. 132. A joint resolution commending the veterans of service in the Army who fought in the Battle of the Bulge during World War II, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. GILMAN:

H. Con. Res. 336. Concurrent resolution condemning the Taliban regime and supporting a broad based government in Afghanistan; to the Committee on International Relations.

By Mr. CAMPBELL (for himself and Mr. PAYNE):

H. Con. Res. 337. Concurrent resolution expressing the sense of Congress that the total debt owed by 31 of the 40 Heavily Indebted Poor Countries (HIPC) to the United States should be forgiven; to the Committee on Banking and Financial Services.

By Mr. CAMPBELL:

H. Con. Res. 338. Concurrent resolution expressing the sense of the Congress that the people of Taiwan deserve to be represented in international institutions; to the Committee on International Relations.

By Mr. CAMPBELL (for himself and Mr. PAYNE):

H. Con. Res. 339. Concurrent resolution concerning economic, humanitarian, and other assistance to the northern part of Somalia; to the Committee on International Relations.

By Mr. DELAY (for himself, Mr. ROHRABACHER, Mr. HEFLEY, Mr. WELDON of Pennsylvania, Mr. FORBES, Mr. BACHUS, Mr. ADERHOLT, Mr. GIBBONS, Mr. TALENT, Mr. SESSIONS, Mr. WATTS of Oklahoma, Mr. MILLER of Florida, Mr. HAYWORTH, Mr. CRANE, Mr. SALMON, Mr. JENKINS, and Mr. PETERSON of Pennsylvania):

H. Con. Res. 340. Concurrent resolution expressing the sense of the Congress that Iraq is in unacceptable and material breach of its international obligations, that the United States should insist on the removal, destruction, or otherwise rendering harmless of Iraq's programs for biological, chemical, and nuclear weapons, and that the United States should fully support the right of inspectors with the United Nations Special Commission on Iraq to unfettered and unannounced inspections of suspected weapons facilities; to the Committee on International Relations.

By Mr. DELAY (for himself, Mr. ROHRABACHER, Mr. HEFLEY, Mr. WELDON of Pennsylvania, Mr. FORBES, Mr. BACHUS, Mr. ADERHOLT, Mr. GIBBONS, Mr. TALENT, Mr. SESSIONS, Mr. WATTS of Oklahoma, Mr. MILLER of Florida, Mr. HAYWORTH, and Mr. KNOLLENBERG):

H. Con. Res. 341. Concurrent resolution expressing the sense of the Congress that the commitment made by the United States, in conjunction with South Korea and Japan, to arrange financing and construction of 2 nuclear reactors for North Korea, and to provide fuel oil and other assistance to North Korea, should be suspended until North Korea no longer poses a nuclear threat to the peace and security of Northeast Asia or the United States; to the Committee on International Relations.

By Mr. DELAY (for himself, Mr. ROHRABACHER, Mr. HEFLEY, Mr. WELDON of Pennsylvania, Mr. FORBES, Mr. BACHUS, Mr. ADERHOLT, Mr. GIBBONS, Mr. TALENT, Mr. SESSIONS, Mr. WATTS of Oklahoma, Mr. MILLER of Florida, Mr. HAYWORTH, and Mr. CRANE):

H. Con. Res. 342. Concurrent resolution expressing the sense of the Congress that the United States should impose sanctions under the Arms Export Control Act and the Iran-Iraq Arms Non-Proliferation Act of 1992 with respect to the acquisition by Iran of advanced missile technology from other countries and should take steps to expedite the development of a missile defense system for the United States and for United States forces wherever deployed to deal with the Iranian missile threat, and should assist Israel in the acquisition of a missile defense system capable of defending all Israeli territory against Iranian missile attack; referred to the Committee on International Relations, and in addition to the Committe on National Security, for a period to be subsequently determiend by the Speaker, in each case for consideration of such provisions as fall within the jurisdiciton of the committee concerned.

By Mrs. FOWLER (for herself, Mr. SPENCE, Mr. CUNNINGHAM, Mr. ROHRABACHER, Mr. SAM JOHNSON of Texas, Mr. HEFLEY, Mr. GOODLING, Mr. SMITH of Texas, Mr. DELAY, Mr. LINDER, Mr. RILEY, Mr. MCKEON, Mr. LEWIS of California, Mr. SOLOMON, Mr. MANZULLO, Mr. COBURN, Mr. BOB SCHAFFER, Mr. MCINTOSH, Mr. GRAHAM, Mr. JENKINS, Mr. NEUMANN, Mr. SUNUNU, Mr. OXLEY, Mr. MCCOLLUM, Mr. HOBSON, Mr. BEREUTER, Mr. TAUZIN, Mr. BILIRAKIS, Mr. TRAFICANT, Mr. REDMOND, Mrs. CUBIN, Ms. DUNN of Washington, Mr. HERGER, Mr. MCINNIS, Mr. LARGENT, Mr. FOLEY, Mr. SAXTON, Mr. JONES, Mr. MCCRERY, Mr. BAKER, Mr. HAYWORTH, Mr. COLLINS,, Mr. BOEHNER, Mr. NETHERCUTT, Mr. DEAL of Georgia, Mr. WICKER, and Mr. STEARNS):

H. Con. Res. 343. Concurrent resolution expressing the opposition of Congress to any deployment of United States ground forces in Kosovo, a province in southern Serbia, for peacemaking or peacekeeping purposes; to the Committee on International Relations.

By Mr. PALLONE:

H. Con. Res. 344. Concurrent resolution to express the sense of the Congress regarding North Atlantic swordfish and other highly migratory species of fish; to the Committee on Resources.

By Mr. SAXTON (for himself, Mr. SALMON, and Mr. DELAY):

H. Con. Res. 345. Concurrent resolution expressing the sense of the Congress that the President should reassert the traditional opposition of the United States to the unilateral declaration of a Palestinian State; to the Committee on International Relations.

By Mr. SMITH of Oregon (for himself, Mr. BARRETT of Nebraska, Mr. THUNE, and Mr. HILL):

H. Res. 583. A resolution expressing the sense of the House with respect to barriers between the United States and Canada with regard to certain agriculture products; referred to the Committee on Ways and Means, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiciton of the committee concerned.

By Mr. SESSIONS (for himself, Mr. BONILLA, Mr. COMBEST, Mr. THORNBERRY, Mr. SMITH of Texas, Ms. GRANGER, Mr. BRADY of Texas, Mr. BARTON of Texas, and Mr. PAUL):

H. Res. 585. A resolution expressing the sense of the House of Representatives that the Health Care Financing Administration should adhere to the statutory deadlines for implementation of the prospective payment system for home health services furnished under the Medicare Program; referred to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. ROUKEMA (for herself and Ms. KAPTUR):

H. Res. 587. A resolution expressing the sense of the House of Representatives with respect to the seriousness of the national problems associated with mental illness and with respect to congressional intent to establish a mental illness task force; to the Committee on Commerce.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 59: Mrs. WILSON.

H.R. 778: Mrs. CAPPS.

H.R. 779: Mrs. CAPPS.

H.R. 780: Mrs. CAPPS.

H.R. 857: Mr. BOSWELL.

H.R. 1711: Mr. ISTOOK.

H.R. 1816: Mr. FORBES.

H.R. 2001: Mr. SCARBOROUGH.

H.R. 2174: Mr. RANGEL.

H.R. 2397: Mr. BERRY, Mr. THORNBERRY, Mr. GOODLING, and Mr. HEFNER.

H.R. 2635: Mr. ADAM SMITH of Washington, Mr. HALL of Ohio, and Mr. BERMAN.

H.R. 2708: Mr. SMITH of Texas and Mr. NUSSLE.

H.R. 2882: Mr. SMITH of Texas.

H.R. 3333: Mr. OLVER.

H.R. 3435: Mr. ALLEN.

H.R. 3503: Mr. BLUMENAUER and Mr. PETRI.

H.R. 3511: Mr. OBERSTAR, Mr. WELDON of Florida, Mr. INGLIS of South Carolina, Mr. HULSHOF, Mrs. MINK of Hawaii, and Mr. STUPAK.

H.R. 3514: Mr. MASCARA.

H.R. 3622: Mr. ALLEN, Mr. DOYLE, Mr. ACKERMAN, and Ms. DEGETTE.

H.R. 3684: Mr. BACHUS.

H.R. 3794: Ms. MCCARTHY of Missouri, Mr. SANDLIN, Mr. MASCARA, and Mr. TIERNEY.

H.R. 3828: Mr. ALLEN, Ms. SLAUGHTER, Mr. THOMPSON, Mr. NORWOOD, Mrs. WILSON, Mr. STENHOLM, and Mr. CONDIT.

H.R. 4031: Mr. DAVIS of Illinois.

H.R. 4070: Mr. WEXLER.

H.R. 4175: Ms. KILPATRICK, Mr. WATT of North Carolina, and Ms. SLAUGHTER.

H.R. 4180: Mr. HINCHEY.

H.R. 4182: Mr. KANJORSKI and Mr. VISCLOSKY.

H.R. 4203: Mr. PAYNE, Mrs. TAUSCHER, and Mr. BALDACCI.

H.R. 4214: Mr. OLVER and Mrs. CAPPS.

H.R. 4291: Ms. DEGETTE, Mr. FROST, and Mrs. THURMAN.

H.R. 4403: Ms. DELAURO.

H.R. 4415: Mr. DAN SCHAEFER of Colorado.

H.R. 4448: Mr. FORD, Mr. HASTINGS of Florida, Mr. MCNULTY, Ms. DELAURO, and Mr. GUTIERREZ.

H.R. 4449: Mr. MORAN of Kansas, Mr. MILLER of California, and Mr. SMITH of Oregon.

H.R. 4467: Mr. GEJDENSON.

H.R. 4476: Mr. DOYLE and Mr. RUSH.

H.R. 4513: Mr. BOEHLERT.

H.R. 4538: Mrs. CAPPS and Mr. HOLDEN.

H.R. 4567: Mr. BILIRAKIS, Mr. STUMP, Mrs. NORTHUP, and Mr. SUNUNU.

H.R. 4590: Ms. KAPTUR and Mr. FORBES.

H.R. 4621: Mr. BOSWELL.

H.R. 4634: Mr. PALLONE and Mr. MCGOVERN.

H.R. 4648: Mr. DELAHUNT and Mr. TIERNEY.

H.R. 4659: Mr. ENGEL.

H.R. 4674: Mr. OLVER.

H.R. 4684: Mr. ENGLISH of Pennsylvania.

H.R. 4692: Mr. SANDLIN.

H. Con. Res. 154: Mr. MCDERMOTT.

H. Con. Res. 290: Mr. METCALF, Mr. MASCARA, Mr. BOYD, Mr. GEKAS, Mr. ADAM SMITH of Washington, Mr. MCINTOSH, Mr. BURTON of Indiana, Mr. BUYER, Mr. SHADEGG, and Mr. GIBBONS.

H. Con. Res. 313: Ms. KILPATRICK.

H. Con. Res. 328: Mr. KANJORSKI, Mr. SHIMKUS, Ms. CARSON, Mr. ACKERMAN, Mr. HOUGHTON, Mr. SANDERS, Mr. MCNULTY, and Mr. PRICE of North Carolina.

H. Res. 359: Mr. MATSUI, Mr. NEAL of Massachusetts, Mr. WALSH, Mr. WOLF, Mr. SNYDER, and Mr. MEEKS of New York.

H. Res. 460: Mr. MASCARA.

H. Res. 479: Mr. TIERNEY.

H. Res. 561: Mr. GOODLING and Mr. UNDERWOOD.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 4567: Mr. ALLEN, Mr. STUPAK, and Mr. OBERSTAR.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4567

OFFERED BY: MR. THOMAS

(Amendments in the Nature of a Substitute)

AMENDMENT NO. 1: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Medicare Home Health and Veterans Health Care Improvement Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—MEDICARE HOME HEALTH CARE INTERIM PAYMENT SYSTEM REFINEMENT

Sec. 101. Increase in per beneficiary limits and per visit payment limits for payment for home health services.

TITLE II—VETERANS MEDICARE ACCESS IMPROVEMENT

Sec. 201. Improvement in veterans' access to services.

TITLE III—AUTHORIZATION OF ADDITIONAL EXCEPTIONS TO IMPOSITION OF PENALTIES FOR CERTAIN INDUCEMENTS

Sec. 301. Authorization of additional exceptions to imposition of penalties for providing inducements to beneficiaries.

TITLE IV—EXPANSION OF MEMBERSHIP OF THE MEDICARE PAYMENT ADVISORY COMMISSION

Sec. 401. Expansion of membership of MedPAC to 17.

TITLE V—REVENUE OFFSET

Sec. 501. Revenue offset.

TITLE I—MEDICARE HOME HEALTH CARE INTERIM PAYMENT SYSTEM REFINEMENT

SEC. 101. INCREASE IN PER BENEFICIARY LIMITS AND PER VISIT PAYMENT LIMITS FOR PAYMENT FOR HOME HEALTH SERVICES.

(a) INCREASE IN PER BENEFICIARY LIMITS.—Section 1861(v)(1)(L) of the Social Security Act (42 U.S.C. 1395x(v)(1)(L)) is amended—

(1) in the first sentence of clause (v), by inserting "subject to clause (viii)(I)," before "the Secretary";

(2) in clause (vi)(I), by inserting "subject to clauses (viii)(II) and (viii)(III)" after "fiscal year 1994"; and

(3) by adding at the end the following new clause:

"(viii)(I) In the case of a provider with a 12-month cost reporting period ending in fiscal year 1994, if the limit imposed under clause (v) (determined without regard to this subclause) for a cost reporting period beginning during or after fiscal year 1999 is less than the median described in clause (vi)(I) (but determined as if any reference in clause (v) to '98 percent' were a reference to '100 percent'), the limit otherwise imposed under clause (v) for such provider and period shall be increased by ½ of such difference.

"(II) Subject to subclause (IV), for new providers and those providers without a 12-month cost reporting period ending in fiscal year 1994, but for which the first cost reporting period begins before fiscal year 1999, for cost reporting periods beginning during or after fiscal year 1999, the per beneficiary limitation described in clause (vi)(I) shall be equal to 50 percent of the median described in such clause plus 50 percent of the sum of 75 percent of such median and 25 percent of 98 percent of the standardized regional average of such costs for the agency's census division, described in clause (v)(I). However, in no case shall the limitation under this subclause be less than the median described in clause (vi)(I) (determined as if any reference in clause (v) to '98 percent' were a reference to '100 percent').

"(III) Subject to subclause (IV), in the case of a new home health agency for which the first cost reporting period begins during or after fiscal year 1999, the limitation applied under clause (vi)(I) (but only with respect to such provider) shall be equal to 75 percent of the median described in clause (vi)(I).

"(IV) In the case of a new provider or a provider without a 12-month cost reporting period ending in fiscal year 1994, subclause (II) shall apply, instead of subclause (III), to a home health agency which filed an application for home health agency provider status under this title before September 15, 1998, or which was approved as a branch of its parent agency before such date and becomes a subunit of the parent agency or a separate agency on or after such date.

"(V) Each of the amounts specified in subclauses (I) through (III) are such amounts as adjusted under clause (iii) to reflect variations in wages among different areas.".

(b) REVISION OF PER VISIT LIMITS.—Section 1861(v)(1)(L)(i) of such Act (42 U.S.C. 1395x(v)(1)(L)(i)) is amended—

(1) in subclause (III), by striking "or";

(2) in subclause (IV)—

(A) by inserting "and before October 1, 1998," after "October 1, 1997,"; and

(B) by striking the period at the end and inserting ", or"; and

(3) by adding at the end the following new subclause:

"(V) October 1, 1998, 108 percent of such median.".

(c) EXCLUSION OF ADDITIONAL PART B COSTS FROM DETERMINATION OF PART B MONTHLY PREMIUM.—Section 1839 of such Act (42 U.S.C. 1395r) is amended—

(1) in subsection (a)(3), by inserting "(except as provided in subsection (g))" after "year that"; and

(2) by adding at the end the following new subsection:

"(g) In estimating the benefits and administrative costs which will be payable from the Federal Supplementary Medical Insurance Trust Fund for a year for purposes of determining the monthly premium rate under subsection (a)(3), the Secretary shall exclude an estimate of any benefits and administrative costs attributable to the application of section 1861(v)(1)(L)(viii) or to the establishment under section 1861(v)(1)(L)(i)(V) of a per visit limit at 108 percent of the median (instead of 105 percent of the median), but only to the extent payment for home health services under this title is not being made under section 1895 (relating to prospective payment for home health services).".

(d) REPORTS ON SUMMARY OF RESEARCH CONDUCTED BY THE SECRETARY ON THE PROSPECTIVE PAYMENT SYSTEM.—By not later than January 1, 1999, the Secretary of Health and Human Services shall submit to Congress a report on the following matters:

(1) RESEARCH.—A description of any research paid for by the Secretary on the development of a prospective payment system for home health services furnished under the medicare care program under title XVIII of the Social Security Act, and a summary of the results of such research.

(2) SCHEDULE FOR IMPLEMENTATION OF SYSTEM.—The Secretary's schedule for the implementation of the prospective payment system for home health services under section 1895 of the Social Security Act (42 U.S.C. 1395fff).

(3) ALTERNATIVE TO 15 PERCENT REDUCTION IN LIMITS.—The Secretary's recommendations for one or more alternative means to provide for savings equivalent to the savings estimated to be made by the mandatory 15 percent reduction in payment limits for such home health services for fiscal year 2000 under section 1895(b)(3)(A) of the Social Security Act (42 U.S.C. 1395fff(b)(3)(A)), or, in the case the Secretary does not establish and implement such prospective payment system, under section 4603(e) of the Balanced Budget Act of 1997.

(e) MEDPAC REPORTS.—

(1) REVIEW OF SECRETARY'S REPORT.—Not later than 60 days after the date the Secretary of Health and Human Services submits to Congress the report under subsection (d), the Medicare Payment Advisory Commission (established under section 1805 of the Social Security Act (42 U.S.C. 1395b-6)) shall submit to Congress a report describing the

Commission's analysis of the Secretary's report, and shall include the Commission's recommendations with respect to the matters contained in such report.

(2) ANNUAL REPORT.—The Commission shall include in its annual report to Congress for June 1999 an analysis of whether changes in law made by the Balanced Budget Act of 1997, as modified by the amendments made by this section, with respect to payments for home health services furnished under the medicare program under title XVIII of the Social Security Act impede access to such services by individuals entitled to benefits under such program.

(f) GAO AUDIT OF RESEARCH EXPENDITURES.—The Comptroller General of the United States shall conduct an audit of sums obligated or expended by the Health Care Financing Administration for the research described in subsection (d)(1), and of the data, reports, proposals, or other information provided by such research.

(g) PROMPT IMPLEMENTATION.—The Secretary of Health and Human Services shall promptly issue (without regard to chapter 8 of title 5, United States Code) such regulations or program memoranda as may be necessary to effect the amendments made by this section for cost reporting periods beginning on or after October 1, 1998. In effecting the amendments made by subsection (a) for cost reporting periods beginning in fiscal year 1999, the "median" referred to in section 1861(v)(1)(L)(vi)(I) of the Social Security Act for such periods shall be the national standardized per beneficiary limitation specified in Table 3C published in the Federal Register on August 11, 1998, (63 FR 42926) and the "standardized regional average of such costs" referred to in section 1861(v)(1)(L)(v)(I) of such Act for a census division shall be the sum of the labor and nonlabor components of the standardized per-beneficiary limitation for that census division specified in Table 3B published in the Federal Register on that date (63 FR 42926) (or in Table 3D as so published with respect to Puerto Rico and Guam).

TITLE II—VETERANS MEDICARE ACCESS IMPROVEMENT

SEC. 201. IMPROVEMENT IN VETERANS' ACCESS TO SERVICES.

(a) IN GENERAL.—Title XVIII of the Social Security Act, as amended by sections 4603, 4801, and 4015(a) of the Balanced Budget Act of 1997, is amended by adding at the end the following:

"IMPROVING VETERANS' ACCESS TO SERVICES

"SEC. 1897. (a) DEFINITIONS.—In this section:

"(1) ADMINISTERING SECRETARIES.—The term 'administering Secretaries' means the Secretary of Health and Human Services and the Secretary of Veterans Affairs acting jointly.

"(2) PROGRAM.—The term 'program' means the program established under this section with respect to category A medicare-eligible veterans.

"(3) DEMONSTRATION PROJECT; PROJECT.—The terms 'demonstration project' and 'project' mean the demonstration project carried out under this section with respect to category C medicare-eligible veterans.

"(4) MEDICARE-ELIGIBLE VETERANS.—

"(A) CATEGORY A MEDICARE-ELIGIBLE VETERAN.—The term 'category A medicare-eligible veteran' means an individual—

"(i) who is a veteran (as defined in section 101(2) of title 38, United States Code) and is described in paragraph (1) or (2) of section 1710(a) of title 38, United States Code;

"(ii) who is entitled to hospital insurance benefits under part A of the medicare program and is enrolled in the supplementary medical insurance program under part B of the medicare program; and

"(iii) for whom the medical center of the Department of Veterans Affairs that is closest to the individual's place of residence is geographically remote or inaccessible from such place.

"(B) CATEGORY C MEDICARE-ELIGIBLE VETERAN.—The term 'category C medicare-eligible veteran' means an individual who—

"(i) is a veteran (as defined in section 101(2) of title 38, United States Code) and is described in section 1710(a)(3) of title 38, United States Code; and

"(ii) is entitled to hospital insurance benefits under part A of the medicare program and is enrolled in the supplementary medical insurance program under part B of the medicare program.

"(5) MEDICARE HEALTH CARE SERVICES.—The term 'medicare health care services' means items or services covered under part A or B of this title.

"(6) TRUST FUNDS.—The term 'trust funds' means the Federal Hospital Insurance Trust Fund established in section 1817 and the Federal Supplementary Medical Insurance Trust Fund established in section 1841.

"(b) PROGRAM AND DEMONSTRATION PROJECT.—

"(1) IN GENERAL.—

"(A) ESTABLISHMENT.—The administering Secretaries are authorized to establish—

"(i) a program (under an agreement entered into by the administering Secretaries) under which the Secretary of Health and Human Services shall reimburse the Secretary of Veterans Affairs, from the trust funds, for medicare health care services furnished to category A medicare-eligible veterans; and

"(ii) a demonstration project (under such an agreement) under which the Secretary of Health and Human Services shall reimburse the Secretary of Veterans Affairs, from the trust funds, for medicare health care services furnished to category C medicare-eligible veterans.

"(B) AGREEMENT.—The agreement entered into under subparagraph (A) shall include at a minimum—

"(i) a description of the benefits to be provided to the participants of the program and the demonstration project established under this section;

"(ii) a description of the eligibility rules for participation in the program and demonstration project, including any cost sharing requirements;

"(iii) a description of the process for enrolling veterans for participation in the program, which process may, to the extent practicable, be administered in the same or similar manner to the registration process established to implement section 1705 of title 38, United States Code;

"(iv) a description of how the program and the demonstration project will satisfy the requirements under this title;

"(v) a description of the sites selected under paragraph (2);

"(vi) a description of how reimbursement requirements under subsection (g) and maintenance of effort requirements under subsection (h) will be implemented in the program and in the demonstration project;

"(vii) a statement that all data of the Department of Veterans Affairs and of the Department of Health and Human Services that the administering Secretaries determine is necessary to conduct independent estimates and audits of the maintenance of effort requirement, the annual reconciliation, and related matters required under the program and the demonstration project shall be available to the administering Secretaries;

"(viii) a description of any requirement that the Secretary of Health and Human Services waives pursuant to subsection (d);

"(ix) a requirement that the Secretary of Veterans Affairs undertake and maintain outreach and marketing activities, consistent with capacity limits under the program, for category A medicare-eligible veterans;

"(x) a description of how the administering Secretaries shall conduct the data matching program under subparagraph (F), including the frequency of updates to the comparisons performed under subparagraph (F)(ii); and

"(xi) a statement by the Secretary of Veterans Affairs that the type or amount of health care services furnished under chapter 17 of title 38, United States Code, to veterans who are entitled to benefits under part A or enrolled under part B, or both, shall not be reduced by reason of the program or project.

"(C) COST-SHARING UNDER DEMONSTRATION PROJECT.—Notwithstanding any provision of title 38, United States Code, in order—

"(i) to maintain and broaden access to services,

"(ii) to encourage appropriate use of services, and

"(iii) to control costs,

the Secretary of Veterans Affairs may establish enrollment fees and copayment requirements under the demonstration project under this section consistent with subsection (d)(1). Such fees and requirements may vary based on income.

"(D) HEALTH CARE BENEFITS.—The administering Secretaries shall prescribe the minimum health care benefits to be provided under the program and demonstration project to medicare-eligible veterans enrolled in the program or project. Those benefits shall include at least all medicare health care services covered under this title.

"(E) ESTABLISHMENT OF SERVICE NETWORKS.—

"(i) USE OF VA OUTPATIENT CLINICS.—The Secretary of Veterans Affairs, to the extent practicable, shall use outpatient clinics of the Department of Veterans Affairs in providing services under the program.

"(ii) AUTHORITY TO CONTRACT FOR SERVICES.—The Secretary of Veterans Affairs may enter into contracts and arrangements with entities (such as private practitioners, providers of services, preferred provider organizations, and health care plans) for the provision of services for which the Secretary of Health and Human Services is responsible under the program or project under this section and shall take into account the existence of qualified practitioners and providers in the areas in which the program or project is being conducted. Under such contracts and arrangements, such Secretary of Health and Human Services may require the entities to furnish such information as such Secretary may require to carry out this section.

"(F) DATA MATCH.—

"(i) ESTABLISHMENT OF DATA MATCHING PROGRAM.—The administering Secretaries shall establish a data matching program under which there is an exchange of information of the Department of Veterans Affairs and of the Department of Health and Human Services as is necessary to identify veterans who are entitled to benefits under part A or enrolled under part B, or both, in order to carry out this section. The provisions of section 552a of title 5, United States Code, shall apply with respect to such matching program only to the extent the administering Secretaries find it feasible and appropriate in carrying out this section in a timely and efficient manner.

“(ii) PERFORMANCE OF DATA MATCH.—The administering Secretaries, using the data matching program established under clause (i), shall perform a comparison in order to identify veterans who are entitled to benefits under part A or enrolled under part B, or both. To the extent such Secretaries deem appropriate to carry out this section, the comparison and identification may distinguish among such veterans by category of veterans, by entitlement to benefits under this title, or by other characteristics.

“(iii) DEADLINE FOR FIRST DATA MATCH.—The administering Secretaries shall first perform a comparison under clause (ii) by not later than October 31, 1998.

“(iv) CERTIFICATION BY INSPECTOR GENERAL.—

“(I) IN GENERAL.—The administering Secretaries may not conduct the program unless the Inspector General of the Department of Health and Human Services certifies to Congress that the administering Secretaries have established the data matching program under clause (i) and have performed a comparison under clause (ii).

“(II) DEADLINE FOR CERTIFICATION.—Not later than December 15, 1998, the Inspector General of the Department of Health and Human Services shall submit a report to Congress containing the certification under subclause (I) or the denial of such certification.

“(2) NUMBER OF SITES.—The program and demonstration project shall be conducted in geographic service areas of the Department of Veterans Affairs, designated jointly by the administering Secretaries after review of all such areas, as follows:

“(A) PROGRAM SITES.—

“(i) IN GENERAL.—Except as provided in clause (ii), the program shall be conducted in not more than 3 such areas with respect to category A medicare-eligible veterans.

“(ii) ADDITIONAL PROGRAM SITES.—Subject to the certification required under subsection (h)(1)(B)(iii), for a year beginning on or after January 1, 2003, the program shall be conducted in such areas as are designated jointly by the administering Secretaries after review of all such areas.

“(B) PROJECT SITES.—

“(i) IN GENERAL.—The demonstration project shall be conducted in not more than 3 such areas with respect to category C medicare-eligible veterans.

“(ii) MANDATORY SITE.—At least one of the areas designated under clause (i) shall encompass the catchment area of a military medical facility which was closed pursuant to either the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) or title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

“(3) RESTRICTION.—Funds from the program or demonstration project shall not be used for—

“(A) the construction of any treatment facility of the Department of Veterans Affairs; or

“(B) the renovation, expansion, or other construction at such a facility.

“(4) DURATION.—The administering Secretaries shall conduct and implement the program and the demonstration project as follows:

“(A) PROGRAM.—

“(i) IN GENERAL.—The program shall begin on January 1, 2000, in the sites designated under paragraph (2)(A)(i) and, subject to subsection (h)(1)(B)(iii)(II), for a year beginning on or after January 1, 2003, the program may be conducted in such additional sites designated under paragraph (2)(A)(ii).

“(ii) LIMITATION ON NUMBER OF VETERANS COVERED UNDER CERTAIN CIRCUMSTANCES.—If for a year beginning on or after January 1, 2003, the program is conducted only in the sites designated under paragraph (2)(A)(i), medicare health care services may not be provided under the program to a number of category-A medicare-eligible veterans that exceeds the aggregate number of such veterans covered under the program as of December 31, 2002.

“(B) PROJECT.—The demonstration project shall begin on January 1, 1999, and end on December 31, 2001.

“(C) IMPLEMENTATION.—The administering Secretaries may implement the program and demonstration project through the publication of regulations that take effect on an interim basis, after notice and pending opportunity for public comment.

“(5) REPORTS.—

“(A) PROGRAM.—By not later than September 1, 1999, the administering Secretaries shall submit a copy of the agreement entered into under paragraph (1) with respect to the program to Congress.

“(B) PROJECT.—By not later than November 1, 1998, the administering Secretaries shall submit a copy of the agreement entered into under paragraph (1) with respect to the project to Congress.

“(6) REPORT ON MAINTENANCE OF LEVEL OF HEALTH CARE SERVICES.—

“(A) IN GENERAL.—The Secretary of Veterans Affairs may not implement the program at a site designated under paragraph (2)(A) unless, by not later than 90 days before the date of the implementation, the Secretary of Veterans Affairs submits to Congress and to the Comptroller General of the United States a report that contains the information described in subparagraph (B). The Secretary of Veterans Affairs shall periodically update the report under this paragraph as appropriate.

“(B) INFORMATION DESCRIBED.—For purposes of subparagraph (A), the information described in this subparagraph is a description of the operation of the program at the site and of the steps to be taken by the Secretary of Veterans Affairs to prevent the reduction of the type or amount of health care services furnished under chapter 17 of title 38, United States Code, to veterans who are entitled to benefits under part A or enrolled under part B, or both, within the geographic service area of the Department of Veterans Affairs in which the site is located by reason of the program or project.

“(c) CREDITING OF PAYMENTS.—A payment received by the Secretary of Veterans Affairs under the program or demonstration project shall be credited to the applicable Department of Veterans Affairs medical care appropriation (and within that appropriation). Any such payment received during a fiscal year for services provided during a prior fiscal year may be obligated by the Secretary of Veterans Affairs during the fiscal year during which the payment is received.

“(d) APPLICATION OF CERTAIN MEDICARE REQUIREMENTS.—

“(1) AUTHORITY.—

“(A) IN GENERAL.—Except as provided under subparagraph (B), the program and the demonstration project shall meet all requirements of Medicare+Choice plans under part C and regulations pertaining thereto, and other requirements for receiving medicare payments, except that the prohibition of payments to Federal providers of services under sections 1814(c) and 1835(d), and paragraphs (2) and (3) of section 1862(a) shall not apply.

“(B) WAIVER.—Except as provided in paragraph (2), the Secretary of Health and Human Services is authorized to waive any requirement described under subparagraph (A), or approve equivalent or alternative ways of meeting such a requirement, but only if such waiver or approval—

“(i) reflects the unique status of the Department of Veterans Affairs as an agency of the Federal Government; and

“(ii) is necessary to carry out the program or demonstration project.

“(2) BENEFICIARY PROTECTIONS AND OTHER MATTERS.—The program and the demonstration project shall comply with the requirements of part C of this title that relate to beneficiary protections and other matters, including such requirements relating to the following areas, to the extent not inconsistent with subsection (b)(1)(B)(iii):

“(A) Enrollment and disenrollment.

“(B) Nondiscrimination.

“(C) Information provided to beneficiaries.

“(D) Cost-sharing limitations.

“(E) Appeal and grievance procedures.

“(F) Provider participation.

“(G) Access to services.

“(H) Quality assurance and external review.

“(I) Advance directives.

“(J) Other areas of beneficiary protections that the administering Secretaries determine are applicable to such program or project.

“(e) INSPECTOR GENERAL.—Nothing in the agreement entered into under subsection (b) shall limit the Inspector General of the Department of Health and Human Services from investigating any matters regarding the expenditure of funds under this title for the program and demonstration project, including compliance with the provisions of this title and all other relevant laws.

“(f) VOLUNTARY PARTICIPATION.—Participation of a category A medicare-eligible veteran in the program or category C medicare-eligible veteran in the demonstration project shall be voluntary.

“(g) PAYMENTS BASED ON REGULAR MEDICARE PAYMENT RATES.—

“(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, the Secretary of Health and Human Services shall reimburse the Secretary of Veterans Affairs for services provided under the program or demonstration project at a rate equal to 95 percent of the amount paid to a Medicare+Choice organization under part C of this title with respect to such an enrollee. In cases in which a payment amount may not otherwise be readily computed, the Secretary of Health and Human Services shall establish rules for computing equivalent or comparable payment amounts.

“(2) EXCLUSION OF CERTAIN AMOUNTS.—In computing the amount of payment under paragraph (1), the following shall be excluded:

“(A) SPECIAL PAYMENTS.—Any amount attributable to an adjustment under subparagraphs (B) and (F) of section 1886(d)(5) and subsection (h) of such section.

“(B) PERCENTAGE OF CAPITAL PAYMENTS.—An amount determined by the administering Secretaries for amounts attributable to payments for capital-related costs under subsection (g) of such section.

"(3) PERIODIC PAYMENTS FROM MEDICARE TRUST FUNDS.—Payments under this subsection shall be made—

"(A) on a periodic basis consistent with the periodicity of payments under this title; and

"(B) in appropriate part, as determined by the Secretary of Health and Human Services, from the trust funds.

"(4) CAP ON REIMBURSEMENT AMOUNTS.—The aggregate amount to be reimbursed under this subsection pursuant to the agreement entered into between the administering Secretaries under subsection (b) is as follows:

"(A) PROGRAM.—With respect to category A medicare-eligible veterans, such aggregate amount shall not exceed—

"(i) for 2000, a total of $50,000,000;

"(ii) for 2001, a total of $75,000,000; and

"(iii) subject to subparagraph (B), for 2002 and each succeeding year, a total of $100,000,000.

"(B) EXPANSION OF PROGRAM.—If for a year beginning on or after January 1, 2003, the program is conducted in sites designated under subsection (b)(2)(A)(ii), the limitation under subparagraph (A)(iii) shall not apply to the program for such a year.

"(C) PROJECT.—With respect to category C medicare-eligible veterans, such aggregate amount shall not exceed a total of $50,000,000 for each of calendar years 1999 through 2001.

"(h) MAINTENANCE OF EFFORT.—

"(1) MONITORING EFFECT OF PROGRAM AND DEMONSTRATION PROJECT ON COSTS TO MEDICARE PROGRAM.—

"(A) IN GENERAL.—The administering Secretaries, in consultation with the Comptroller General of the United States, shall closely monitor the expenditures made under this title for category A and C medicare-eligible veterans compared to the expenditures that would have been made for such veterans if the program and demonstration project had not been conducted. The agreement entered into by the administering Secretaries under subsection (b) shall require the Department of Veterans Affairs to maintain overall the level of effort for services covered under this title to such categories of veterans by reference to a base year as determined by the administering Secretaries.

"(B) DETERMINATION OF MEASURE OF COSTS OF MEDICARE HEALTH CARE SERVICES.—

"(i) IMPROVEMENT OF INFORMATION MANAGEMENT SYSTEM.—Not later than October 1, 2001, the Secretary of Veterans Affairs shall improve its information management system such that, for a year beginning on or after January 1, 2002, the Secretary of Veterans Affairs is able to identify costs incurred by the Department of Veterans Affairs in providing medicare health care services to medicare-eligible veterans for purposes of meeting the requirements with respect to maintenance of effort under an agreement under subsection (b)(1)(A).

"(ii) IDENTIFICATION OF MEDICARE HEALTH CARE SERVICES.—The Secretary of Health and Human Services shall provide such assistance as is necessary for the Secretary of Veterans Affairs to determine which health care services furnished by the Secretary of Veterans Affairs qualify as medicare health care services.

"(iii) CERTIFICATION BY HHS INSPECTOR GENERAL.—

"(I) REQUEST FOR CERTIFICATION.—The Secretary of Veterans Affairs may request the Inspector General of the Department of Health and Human Services to make a certification to Congress that the Secretary of Veterans Affairs has improved its management system under clause (i) such that the Secretary of Veterans Affairs is able to identify the costs described in such clause in a reasonably reliable and accurate manner.

"(II) REQUIREMENT FOR EXPANSION OF PROGRAM.—The program may be conducted in the additional sites under paragraph (2)(A)(ii) and cover such additional category A medicare eligible veterans in such additional sites only if the Inspector General of the Department of Health and Human Services has made the certification described in subclause (I).

"(III) DEADLINE FOR CERTIFICATION.—Not later than the date that is the earlier of the date that is 60 days after the Secretary of Veterans Affairs requests a certification under subclause (I) or June 1, 2002, the Inspector General of the Department of Health and Human Services shall submit a report to Congress containing the certification under subclause (I) or the denial of such certification.

"(C) MAINTENANCE OF LEVEL OF EFFORT.—

"(i) REPORT BY SECRETARY OF VETERANS AFFAIRS ON BASIS FOR CALCULATION.—Not later than the date that is 60 days after the date on which the administering Secretaries enter into an agreement under subsection (b)(1)(A), the Secretary of Veterans Affairs shall submit a report to Congress and the Comptroller General of the United States explaining the methodology used and basis for calculating the level of effort of the Department of Veterans Affairs under the program and project.

"(ii) REPORT BY COMPTROLLER GENERAL.—Not later than the date that is 180 days after the date described in clause (i), the Comptroller General of the United States shall submit to Congress and the administering Secretaries a report setting forth the Comptroller General's findings, conclusion, and recommendations with respect to the report submitted by the Secretary of Veterans Affairs under clause (i).

"(iii) RESPONSE BY SECRETARY OF VETERANS AFFAIRS.—The Secretary of Veterans Affairs shall submit to Congress not later than 60 days after the date described in clause (ii) a report setting forth such Secretary's response to the report submitted by the Comptroller General under clause (ii).

"(D) ANNUAL REPORT BY THE COMPTROLLER GENERAL.—Not later than December 31 of each year during which the program and demonstration project is conducted, the Comptroller General of the United States shall submit to the administering Secretaries and to Congress a report on the extent, if any, to which the costs of the Secretary of Health and Human Services under the medicare program under this title increased during the preceding fiscal year as a result of the program or demonstration project.

"(2) REQUIRED RESPONSE IN CASE OF INCREASE IN COSTS.—

"(A) IN GENERAL.—If the administering Secretaries find, based on paragraph (1), that the expenditures under the medicare program under this title increased (or are expected to increase) during a fiscal year because of the program or demonstration project, the administering Secretaries shall take such steps as may be needed—

"(i) to recoup for the medicare program the amount of such increase in expenditures; and

"(ii) to prevent any such increase in the future.

"(B) STEPS.—Such steps—

"(i) under subparagraph (A)(i) shall include payment of the amount of such increased expenditures by the Secretary of Veterans Affairs from the current medical care appropriation for the Department of Veterans Affairs to the trust funds; and

"(ii) under subparagraph (A)(ii) shall include lowering the amount of payment under the program or project under subsection (g)(1), and may include, in the case of the demonstration project, suspending or terminating the project (in whole or in part).

"(i) EVALUATION AND REPORTS.—

"(1) INDEPENDENT EVALUATION BY GAO.—

"(A) IN GENERAL.—The Comptroller General of the United States shall conduct an evaluation of the program and an evaluation of the demonstration project, and shall submit annual reports on the program and demonstration project to the administering Secretaries and to Congress.

"(B) FIRST REPORT.—The first report for the program or demonstration project under subparagraph (A) shall be submitted not later than 12 months after the date on which the Secretary of Veterans Affairs first provides services under the program or project, respectively.

"(C) FINAL REPORT ON DEMONSTRATION PROJECT.—A final report shall be submitted with respect to the demonstration project not later than 3½ years after the date of the first report on the project under subparagraph (B).

"(D) CONTENTS.—The evaluation and reports under this paragraph for the program or demonstration project shall include an assessment, based on the agreement entered into under subsection (b), of the following:

"(i) Any savings or costs to the medicare program under this title resulting from the program or project.

"(ii) The cost to the Department of Veterans Affairs of providing care to category A medicare-eligible veterans under the program or to category C medicare-eligible veterans under the demonstration project, respectively.

"(iii) An analysis of how such program or project affects the overall accessibility of medical care through the Department of Veterans Affairs, and a description of the unintended effects (if any) upon the patient enrollment system under section 1705 of title 38, United States Code.

"(iv) Compliance by the Department of Veterans Affairs with the requirements under this title.

"(v) The number of category A medicare-eligible veterans or category C medicare-eligible veterans, respectively, opting to participate in the program or project instead of receiving health benefits through another health insurance plan (including benefits under this title).

"(vi) A list of the health insurance plans and programs that were the primary payers for medicare-eligible veterans during the year prior to their participation in the program or project, respectively, and the distribution of their previous enrollment in such plans and programs.

"(vii) Any impact of the program or project, respectively, on private health care providers and beneficiaries under this title that are not enrolled in the program or project.

"(viii) An assessment of the access to care and quality of care for medicare-eligible veterans under the program or project, respectively.

"(ix) An analysis of whether, and in what manner, easier access to medical centers of the Department of Veterans Affairs affects the number of category A medicare-eligible veterans or C medicare-eligible veterans, respectively, receiving medicare health care services.

"(x) Any impact of the program or project, respectively, on the access to care for category A medicare-eligible veterans or C medicare-eligible veterans, respectively, who did not enroll in the program or project and for other individuals entitled to benefits under this title.

"(xi) A description of the difficulties (if any) experienced by the Department of Veterans Affairs in managing the program or project, respectively.

"(xii) Any additional elements specified in the agreement entered into under subsection (b).

"(xiii) Any additional elements that the Comptroller General of the United States determines is appropriate to assess regarding the program or project, respectively.

"(2) Reports by secretaries on program and demonstration project with respect to medicare-eligible veterans.—

"(A) Demonstration project.—Not later than 6 months after the date of the submission of the final report by the Comptroller General of the United States on the demonstration project under paragraph (1)(C), the administering Secretaries shall submit to Congress a report containing their recommendation as to—

"(i) whether there is a cost to the health care program under this title in conducting the demonstration project;

"(ii) whether to extend the demonstration project or make the project permanent; and

"(iii) whether the terms and conditions of the project should otherwise be continued (or modified) with respect to medicare-eligible veterans.

"(B) Program.—Not later than 6 months after the date of the submission of the report by the Comptroller General of the United States on the third year of the operation of the program, the administering Secretaries shall submit to Congress a report containing their recommendation as to—

"(i) whether there is a cost to the health care program under this title in conducting the program under this section;

"(ii) whether to discontinue the program with respect to category A medicare-eligible veterans; and

"(iii) whether the terms and conditions of the program should otherwise be continued (or modified) with respect to medicare-eligible veterans.

"(j) Application of Medigap Protections to Demonstration Project Enrollees.—(1) Subject to paragraph (2), the provisions of section 1882(s)(3) (other than clauses (i) through (iv) of subparagraph (B)) and 1882(s)(4) shall apply to enrollment (and termination of enrollment) in the demonstration project, in the same manner as they apply to enrollment (and termination of enrollment) with a Medicare+Choice organization in a Medicare+Choice plan.

"(2) In applying paragraph (1)—

"(A) any reference in clause (v) or (vi) of section 1882(s)(3)(B) to 12 months is deemed a reference to 36 months; and

"(B) the notification required under section 1882(s)(3)(D) shall be provided in a manner specified by the Secretary of Veterans Affairs.".

(b) Repeal of Plan Requirement.—Subsection (b) of section 4015 of the Balanced Budget Act of 1997 (relating to an implementation plan for Veterans subvention) is repealed.

(c) Report to Congress on a Method to Include the Costs of Veterans Affairs and Military Facility Services to Medicare-eligible Beneficiaries in the Calculation of Medicare+Choice Payment Rates.—The Secretary of Health and Human Services shall report to the Congress by not later than January 1, 2001, on a method to phase-in the costs of military facility services furnished by the Department of Veterans Affairs or the Department of Defense to medicare-eligible beneficiaries in the calculation of an area's Medicare+Choice capitation payment. Such report shall include on a county-by- county basis—

(1) the actual or estimated cost of such services to medicare-eligible beneficiaries;

(2) the change in Medicare+Choice capitation payment rates if such costs are included in the calculation of payment rates;

(3) one or more proposals for the implementation of payment adjustments to Medicare+Choice plans in counties where the payment rate has been affected due to the failure to calculate the cost of such services to medicare-eligible beneficiaries; and

(4) a system to ensure that when a Medicare+Choice enrollee receives covered services through a facility of the Department of Veterans Affairs or the Department of Defense there is an appropriate payment recovery to the medicare program.

TITLE III—AUTHORIZATION OF ADDITIONAL EXCEPTIONS TO IMPOSITION OF PENALTIES FOR CERTAIN INDUCEMENTS

SEC. 301. AUTHORIZATION OF ADDITIONAL EXCEPTIONS TO IMPOSITION OF PENALTIES FOR PROVIDING INDUCEMENTS TO BENEFICIARIES.

(a) In General.—Subparagraph (B) of section 1128A(i)(6) of the Social Security Act (42 U.S.C. 1320a-7a(i)(6)) is amended to read as follows:

"(B) any permissible practice described in any subparagraph of section 1128B(b)(3) or in regulations issued by the Secretary;".

(b) Extension of Advisory Opinion Authority.—Section 1128D(b)(2)(A) of such Act (42 U.S.C. 1320a-7d(b)(2)(A)) is amended by inserting "or section 1128A(i)(6)" after "1128B(b)".

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(d) Interim Final Rulemaking Authority.—The Secretary of Health and Human Services may promulgate regulations that take effect on an interim basis, after notice and pending opportunity for public comment, in order to implement the amendments made by this section in a timely manner.

TITLE IV—EXPANSION OF MEMBERSHIP OF THE MEDICARE PAYMENT ADVISORY COMMISSION

SEC. 401. EXPANSION OF MEMBERSHIP OF MEDPAC TO 17.

(a) In General.—Section 1805(c)(1) of the Social Security Act (42 U.S.C. 1395b-6(c)(1)), as added by section 4022 of the Balanced Budget Act of 1997, is amended by striking "15" and inserting "17".

(b) Initial Terms of Additional Members.—

(1) In general.—For purposes of staggering the initial terms of members of the Medicare Payment Advisory Commission (under section 1805(c)(3) of such Act (42 U.S.C. 1395b-6(c)(3)), the initial terms of the two additional members of the Commission provided for by the amendment under subsection (a) are as follows:

(A) One member shall be appointed for one year.

(B) One member shall be appointed for two years.

(2) Commencement of terms.—Such terms shall begin on May 1, 1999.

TITLE V—REVENUE OFFSET

SEC. 501. REVENUE OFFSET.

(a) In General.—Subparagraph (B) of section 408A(c)(3) of the Internal Revenue Code of 1986 is amended by striking "relates" and all that follows and inserting "relates, the taxpayer's adjusted gross income exceeds $145,000 ($290,000 in the case of a joint return)."

(b) Effective Date.—The amendment made by subsection (a) shall apply to distributions after December 31, 1998.

EXTENSIONS OF REMARKS

A TRIBUTE TO SERGEANT ARTHUR EUGENE HIBBETTS

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention today the outstanding and dedicated career of Sergeant Arthur Eugene Hibbetts of Barstow, CA. Sergeant Hibbetts is retiring from the Barstow Police Department after a long and distinguished career with the City of Barstow.

Arthur Hibbetts has served the Barstow Police Department for 32 years. He was hired on October 31, 1966 and will retire officially on October 31, 1998. He served as a police patrol officer from 1969 to 1974 and focused on undercover and general investigation work as well as traffic accident investigation. In 1974 he served as a detective and focused on all major crimes including homicide, robbery, burglary, narcotics, theft and fraud. Later that same year, he became the patrol sergeant and served as the watch commander and supervisor of patrol officers. In 1986, Sergeant Hibbetts was promoted to detective sergeant and served as the supervisor of detective and the clerical staff of the investigation division. In 1989, he became patrol traffic sergeant and has served since then as the watch commander and supervisor of the uniform patrol and traffic program.

Sergeant Hibbetts received his education at Barstow Community College, the San Bernardino County Sheriff's Academy, and the FBI National Academy. Over the years, Sergeant Hibbetts has received extensive police training from numerous law enforcement organizations and has received professional certification from the FBI and the California Commission on Peace Officer Standards and Training.

Mr. Speaker, please join me and our colleagues in recognizing the incredible contributions and achievements of this remarkable man. Sergeant Hibbetts has served the City of Barstow for 30 years with distinction and honor. I know that the entire City of Barstow is proud of his fine work and many achievements. It is only fitting that the House of Representatives pay tribute to him today.

HOMETOWN HERO: COACH BILLY BOB EVANS

HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. SESSIONS. Mr. Speaker, in a year of world-breaking home runs, it is easy to lose sight of record setters in our own hometowns. Therefore, I rise in recognition of a Texas hometown hero, Coach Billy Bob Evans, who has been setting records of his own for more than four decades. He is a role model with a unique coaching style and strong leadership for others to follow.

Coined the Millennium Man, Coach Evans has just won his 1000th girls volleyball game at Leon High School, defeating North Zulch 15–0, 15–1. Mr. Evans is the first coach in the entire state of Texas to reach that milestone and only the second in the Nation. His career win/loss record is 1001 to 174.

As coach of Leon's Lady Cougars, Mr. Evans has spent 43 years coaching three generations of Leon athletes. Following his first coaching job for boys and girls basketball at Fair Oaks High School, Mr. Evans returned home to Jewett. In 1954, Mr. Evans became the coach of boys and girls' athletics at Jewett-Marquez Consolidated, now Leon High School.

As Leon's only girls volleyball and basketball coach, Mr. Evans has guided his Lady Cougars through 18 state volleyball tournament appearances, 8 state championships, with his most recent title in 1991. He has won district in volleyball for the past 25 consecutive years.

Billy Bob Evans is part of Texas history. Mr. Evans says there is no special formula for his success and believes it takes more than talent to build a good athletic program. In his own words, Coach Evans says it takes determination, focus, and technique to form a winning team.

I applaud Billy Bob Evans for his commitment to students and their ability to succeed. I want him to know that this Congressman and the people of the Fifth District of Texas are honored to be part of his legendary career and we wish him much success in his years ahead.

SUPPORT FOR INTERNATIONAL CENTERS FOR ENVIRONMENTAL SAFETY

HON. MICHAEL D. CRAPO

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. CRAPO. Mr. Speaker, I rise to express my strong support for the establishment of International Centers for Environmental Safety (ICES). The United States Department of Energy (DOE) and the Russian Ministry of Atomic Energy are currently responsible for overseeing components of the world's largest stockpiles of nuclear weapons, materials, and infrastructures. It is within the responsibilities of these two agencies to address the environmental impacts of nuclear activities resulting from the cold war. It is my understanding that these two agencies have recognized their responsibilities and are discussing the formation of ICES to address these important areas of responsibility.

The establishment of ICES enjoys strong support among DOE officials and representatives in the field. The primary mission of ICES would be to resolve environmental issues associated with the production and management of nuclear weapons materials, decontamination and decommissioning of nuclear facilities, and restoration of associated sites. ICES would be particularly helpful in assisting Russia decontaminate and decommission its obsolete nuclear submarine fleet, especially its spent nuclear fuel. The centers will draw upon the wealth of knowledge, expertise and technologies within the existing scientific infrastructures to accomplish these objectives.

In March of 1998, Russian Minister Adamov proposed to former Secretary of Energy Pena that ICES be established in the United States and Russia. Minister Adamov proposed that these centers be modeled after the International Nuclear Safety Centers that were established under former Secretary O'Leary and former Minister Mikhailov in January, 1996. Minister Adamov suggested that the Idaho National Engineering and Environmental Laboratory (INEEL) and the Russian Research and Development Institute of Power and Engineering serve as the host sites for the centers. Subsequent discussions have been held between Minister Adamov and Secretary Richardson. I agree that the INEEL is the optimal site for this new mission because of its facilities and technical expertise working with spent nuclear fuel and other radioactive materials.

Mr. Speaker, I urge Congress to support DOE's efforts to deal with the important environmental impacts associated with the cold war and to support the creation of ICES.

TRIBUTE TO THE HONORABLE JOSEPH M. McDADE, MEMBER OF CONGRESS

SPEECH OF

HON. JOE SKEEN

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1998

Mr. SKEEN. Mr. Speaker, I rise today to pay special recognition to the gentleman from Pennsylvania (Mr. McDADE) who announced retirement from Congress at the end of the 105th Congressional session earlier this year.

I am pleased to have served with Chairman McDADE throughout my career in the House of Representatives. Working together, we have served as members of the minority and majority party in Congress and have always held principle over politics.

We're going to miss Mr. McDADE next session. Throughout his distinguished 36-year career in the House of Representatives, he

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

served his constituents from Central Pennsylvania and the United States with honor and distinction.

I was especially grateful to serve with Mr. McDADE on the House Appropriations Committee, in particular, the House Interior Appropriations Subcommittee and the National Security Appropriations Subcommittee. I've always appreciated his easy-going style and his willingness to roll up his sleeves and get to work resolving many of the nation's problems that face lawmakers. He is a man of his word and his character defines the meaning of integrity.

As the senior Republican member of the House Appropriations Committee, JOE McDADE led the fight for a strong national defense. As the ranking republican of the Defense Subcommittee since 1985, Mr. McDADE has been a key architect of the annual defense and national security legislation during much of the strengthening of the military during the 1980s. He played a key role in crafting compromises which preserved weapons programs and gave the United States leverage in negotiating arms control treaties like the START treaty with the Soviet Union and the 1989 United Nations Agreement to totally eliminate chemical weapons by the year 2000. He has supported military programs which emphasize a high-quality force, with emphasis on training and readiness for combat.

He also served the House of Representatives with distinction as the Chairman of the House Appropriations Subcommittee on Energy and Water Development, which has jurisdiction over most programs of the Department of Energy, Army Corps of Engineers Civil Works programs, the Bureau of Reclamation, the Nuclear Regulatory Commission, the Defense Nuclear Facilities Safety Board, and several other agencies.

On the Interior Appropriations panel, I was proud to work with Congressman McDADE in helping our nation address national energy problems. Because of his work promoting parks and recreation, he has been honored by the National Parks and Recreation Association.

Mr. McDADE served from 1978 to 1991 as the top-ranking Republican on the Small Business Committee. On the Small Business Committee, Congressman McDADE focused on measures to stimulate the nations small businesses and industries, and to create new opportunities for small businesses to compete in the international marketplace. Over 98 percent of New Mexico's businesses are classified as small businesses, and many of these owners are extremely grateful for the Congressman's positive work on their behalf.

I wish Mr. McDADE and his family all the best and look forward to his continuing dialogue and conversations with members of Congress who need advice from time to time in addressing and resolving the challenges that face our nation.

THREAT OF NUCLEAR MISSILE ATTACK

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. BEREUTER. Mr. Speaker, this Member would ask his colleagues to consider carefully the following editorial from the October 6, 1998, edition of the Norfolk Daily News, entitled "Defense System is Needed in U.S."

[From Norfolk Daily News, Oct. 6, 1998]

DEFENSE SYSTEM IS NEEDED IN U.S.

1972 TREATY DOESN'T BAR UNITED STATES FROM DEVELOPING ANTI-MISSILE WEAPONS

A bipartisan commission headed by Donald Rumsfield, a former U.S. Secretary of Defense, recently concluded that nuclear missiles from rogue nations would strike American cities with "little or no warning" in just a matter of a few years.

At the same time, U.S. intelligence agencies are saying that the United States has nothing to worry about from such missile attacks.

What is one to believe?

The Heritage Foundation, a Washington-based public policy research institute, thinks Americans would be wise to heed the findings of the Rumsfield commission and take the steps necessary to ensure the United States has an effective missile defense system. We agree.

The Soviet Union may be no more, but the threat of a missile attack on the United States is as real as ever. China is a bona fide nuclear power with missiles already aimed at the United States, and India and Pakistan have detonated nuclear devices as well. In addition, North Korea and Iran have been developing missiles that soon may be able to reach the United States. And a number of countries already possess missiles capable of striking U.S. allies and troops stationed abroad.

All of this prompts Edwin Feulner, president of Heritage Foundation, to make two points:

1. Those who argue that the 1972 ABM Treaty bars the United States from having a military defense system are mistaken. The treaty, which the United States signed with the Soviet Union, was designed to prevent the deployment of missile defenses. But the Soviet Union no longer exists. That makes the treaty null and void.

2. A missile defense system doesn't need to spur flashbacks of Star Wars and President Reagan's Strategic Defense Initiative that was proposed in 1983. Since then, defense experts have been able to devise an effective missile defense system that could be operational simply by upgrading the U.S. Navy's existing fleet of guided-missile cruisers.

Those two points should help further the cause of establishing a missile defense system. For if even one nuclear missile reached the United States, millions could die within minutes. As Mr. Feulner has said, building such a defense system is not just a defense consideration, it's a moral imperative.

TRIBUTE TO SISTER IRENE KRAUS

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. LEVIN. Mr. Speaker, I rise today to consecrate the memory of a woman whose life was spent treating the sick in my state of Michigan and throughout the nation, Sister Irene Kraus, a Daughter of Charity of St. Vincent de Paul.

Sister Irene was a pioneer in the health care industry. She was the first woman to chair the American Hospital Association, she also chaired the Catholic Health Association and was inducted into the Healthcare Hall of Fame of the American Hospital Association. The number of honors bestowed upon this extraordinary woman are too great to list in full. Sister Irene's many accolades include: the American College of Healthcare Executives Gold Medal Award for Excellence in Hospital Administration, the B'nai B'rith International National Health Care Award, and the American Hospital Association Distinguished Service Medal.

I became personally acquainted with Sister Irene while serving on the Lay Advisory Board at Providence Hospital in Southfield, Michigan. As President and Chief Executive Officer of Providence Hospital, Sister Irene provided the ladership and vision necessary to implement a health care policy and value system based on respect, advocacy for the poor, quality care, simplicity and inventiveness. It was this literally divine combination that made Southfield's Providence Hospital, and the many other institutions guided by her hand, so valuable to their respective communities.

Underlying her many professional accomplishments, however, was her ability to look beyond organizational structures, to recognize every individual's need for medical and mental health care, and find practical avenues toward prevention and treatment. She did not hesitate to seek answers beyond the conventional wisdom of the day. Her combination of functional command, common sense and diplomacy often persuaded her colleagues to support her ground-breaking approach to policy.

Her rare combination of compassion, clear thinking and spirited leadership will be sorely missed by all those whose lives she has touched. Our family will miss her as a person whom we had the privilege of knowing and working with; like with so many others, she left an indelible imprint on our lives.

On Friday, October 9, a Memorial Service will be held to honor Sister Irene at Providence Hospital, Southfield, Michigan. Only the session in Congress will prevent my joining in this observance. I will be there fully in spirit.

INTRODUCTION OF THE AUTISM STATISTICS, SURVEILLANCE, RESEARCH, AND EPIDEMIOLOGY ACT OF 1998 (ASSURE)

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. SMITH of New Jersey. Mr. Speaker, today I am introducing legislation to improve the quality of research on pervasive developmental disorders like autism. My legislation—The Autism Statistics, Surveillance, Research, and Epidemiology Act of 1998 (ASSURE)—will provide critical support for the Centers of Disease Control and Prevention's (CDC) ongoing efforts to better quantify the incidence and prevalence rates of autism and its related developmental disorders.

This legislation was crafted in close cooperation with the National Alliance for Autism Research (NAAR), the developmental disabilities experts at CDC, as well as with service providers from my district. It is an important health care and medical research bill which I urge all members to support.

According the Centers for Disease Control and Prevention, "autism is a serious life-long developmental disability characterized by impaired social interactions, an inability to communicate with others, and repetitive or restrictive behaviors." It is estimated that autism affects one out of every 500 children, although precise rates are unknown. There is also a general consensus that autism rates seem to be increasing, although it is not known whether these increases represent a better understanding the developmental disability (i.e., better diagnosis), or an actual increase in developed cases of autism.

The story behind the creation of this legislation is in many ways illustrative of why we need to pass and enact the ASSURE act when Congress reconvenes next year. For it was only after I had a meeting with a pair of courageous parents of autistic children in Brick Township that I realized the pressing need for better autism research. Mr. and Mrs. William and Bobby Gallagher, the parents of two beautiful children with autism, met with me in the summer of last year to share their concerns that Brick Township seemed to have an abnormally high number of children diagnosed with autism. After presenting me with preliminary data suggesting that as many as 27 children may have been diagnosed with autism in Brick over the last decade, I relayed their concerns personally to Len Fishman, Commissioner of New Jersey's Department of Health and Senior Services. I asked him to initiate a preliminary inquiry to determine if an autism "cluster" investigation was warranted.

Commissioner Fishman was very receptive to the concerns of the Brick parents, particularly since the New Jersey Department of Health and Senior Services (NJDHSS) and the Ocean County Department of Health, in conjunction wit the federal Agency for Toxic Substances and disease Registry (ATSDR), have been conducting a very comprehensive investigation of a cancer cluster in Toms River, New Jersey.

However, after a few weeks of preliminary research by state officials, it became apparent that the current level of scientific knowledge in the United States about autism was inadequate and no one knew for certain what the national rate of autism was. Although there were rough estimates of autism rates from studies in foreign countries, CDC and the NJDHSS did not have enough information that an epidemiologist could use to determine if the alleged autism "cluster" in Brick was a real public health problem or an illusion of chance.

As a result, an intensive effort by CDC and ATSDR is underway to try to derive national autism rates and try to determine if an autism "cluster" exists in Brick. The study is one of the first of its kind ever undertaken in the United States, and the results of the investigation will prove invaluable for other communities that may be affected by similarly high numbers of autism cases.

That is where the ASSURE act comes in. Under my ASSURE legislation, CDC will uncover and monitor the prevalence of autism as a national level by establishing between three and five "Centers for Research in Autism Epidemiology" across the country. These Centers would conduct population-based surveillance and epidemiologic studies of autism. Periodic screenings of the population (5 to 7-year old children) would be undertaken to examine prenatal, perinatal, and postnatal factors that contribute to autism development.

These Centers would combine data from multiple sites to gain a better understanding of how autism differs from other, related, developmental disabilities and disorder. Because autism is suspected to be caused by a combination of both genetic and environmental factors, the ASSURE legislation would help CDC track the trends of autism and determine which factors are responsible for the apparent rise in autism cases nationwide.

More importantly, the collaborative efforts by CDC and State health departments will help public health officials to possibly prevent autism once scientists better understand which environmental exposures are most likely to cause children to develop autism in the womb. The idea is that each Center established under this legislation would develop a certain niche of autism expertise. Such areas could include: specific genetic markers, early prenatal maternal drug and other exposures; and investigating other autism spectrum disorders.

Mr. Speaker, CDC has already established a pilot program—an autism epidemiology center—near Atlanta, Georgia. The limited but promising results from this initiative points to the fact that current understanding of autism is woefully inadequate and that better surveillance and monitoring of developmental disabilities like autism are critical to providing answers and hope to the parents of nearly 500,000 autistic persons in America.

A TRIBUTE TO THE HONORABLE JERRY SOLOMON

SPEECH OF

HON. JOE SKEEN

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1998

Mr. SKEEN. Mr. Speaker, I rise today to pay special recognition to the gentleman from New York (Mr. SOLOMON) who announced retirement from Congress at the end of the 105th Congressional session earlier this year.

I am pleased to have served with Chairman SOLOMON throughout most of his career in the House of Representatives. Working together, we have served as members of the minority and majority party in Congress and have always held principle over politics.

We're going to miss Mr. SOLOMON next year. Under his tenure as Chairman of the Rules Committee since 1995, he has conducted himself and his panel with the utmost of duty and respect for all colleagues in the House of Representatives. Prior to being selected to serve as Chairman of the House Rules Committee in 1995, he served with distinction as a member of the House Foreign Affairs Committee and the House Veterans Affairs panel.

I would also like to commend Mr. SOLOMON for his steadfast support and active leadership for a strong national defense throughout his entire membership in the House of Representatives. We're all proud of his service with the United States Marines during the Korean War.

Prior to coming to Congress, Mr. SOLOMON served five years as supervisor of the Town of Queensbury and five years as a Warren County legislator in the New York State Legislature, before being elected to Congress in 1978.

As an active member of the House Task Force on National Defense Policy, Mr. SOLOMON is the former chairman and is still a member of the Prisoners of War/Missing in Action Task Force. Since 1982, Congressman SOLOMON has served as a congressional delegate to the North Atlantic Assembly, the political arm of the NATO Alliance. Presently, he serves as Vice President of that Assembly.

I send my heartfelt thanks for your leadership in the House of Representatives and best wishes to you and your family during your days of retirement.

TRIBUTE TO THE HONORABLE SIDNEY R. YATES

SPEECH OF

HON. JOHN JOSEPH MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1998

Mr. MOAKLEY. Mr. Speaker, I rise today to pay tribute to my colleague, a truly great Member of Congress, SID YATES, who will be leaving this House after forty-eight years of distinguished service.

SID began serving his country like I did, the Navy in World War II. He was then elected as the Assistant Attorney General and as the commerce commissioner of the State of Illinois.

First elected to Congress in 1948, before many of us had even started our political careers, SIDNEY served proudly through the 87th Congress until former president John Kennedy appointed him as ambassador to the United Nations. SIDNEY resigned his U.N. position shortly afterwards to regain the title he truly loved, and will hold until next January, Congressman from the ninth congressional district of Illinois.

SID is an exemplary Member of the House Appropriations Committee and a great cardinal. As the Chairman and later the Ranking Member of the Subcommittee for the Department of the Interior and related agencies, he has single-handed done more to protect the National Endowment for the Arts than just about any member of this House. He kept the NEA going during the late eighties and early ninties and it is thanks to him that arts in America is what it is today.

As a member on the Subcommittee for the Department of Interior and related agencies, SID has gotten funding for dozens of national parks, seashores, and wildernesses.

All of us here in Congress will miss SID as our champion for the arts and for the protection of the environment. His successor will have a hard time living up to the legend of SID YATES. His calm, reasoned thinking and stalwart defense of the environment will be long remembered after his retirement.

Mr. Speaker, it has been a pleasure and an honor to serve with SIDNEY YATES and I wish him a long and happy retirement.

PERSONAL EXPLANATION

HON. LUCILLE ROYBAL-ALLARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Ms. ROYBAL-ALLARD. Mr. Speaker, in order to attend the funeral services for former Los Angeles Mayor Tom Bradley, I was not present for roll call votes 480, 481, and 482. Had I been present, I would have voted nay on roll call 480, and yea on roll call votes 481 and 482.

PRIVATE RELIEF FOR ROBERT ANTHONY BROLEY

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. McCOLLUM. Mr. Speaker, today I am introducing a bill for the relief of Robert Anthony Broley. After enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Immigration Judges lost most discretion in granting suspension of deportation of certain criminal aliens. Any relief must be sought from Congress. The case of Robert Anthony Broley is, in my opinion, sufficiently compelling to have Congress grant him relief from pending deportation.

Robert is the son of Robert M. Broley and Barbara Broley. Mrs. Broley was born in Canada but is a U.S. citizen, having been naturalized in 1962. Mr. Broley is also a naturalized U.S. citizen. The son, Robert Anthony Broley, was born in Canada in 1966 and remains a Canadian citizen.

Robert Anthony Broley entered the United States with his parents at the age of 2 in November 1968. He lived with his parents in the United States until they accepted employment in Canada when he was nine. Robert Anthony Broley was admitted again in October, 1978 and, for the most part, he has remained here since. He has an American citizen son, Matthew.

Robert Anthony Broley had personal problems beginning with his senior year in high school. He stole checks from his parents in 1990. In 1992 he was convicted of Driving Under the Influence. He stole furniture from his family in 1993 in order to sell it for cash. His parents felt the need to turn him in to the authorities in order to help Robert in the long run. He served 5 months in prison and was released in October, 1993 and given probation, which he violated by returning to Canada.

His father finally convinced Robert Anthony Broley to return to the United States in order to accept the consequences of his actions. While attempting to enter the United States to turn himself in for violating his probation, he was apprehended and is currently serving a term for parole violation with a release date of March 20, 1999. Once released, he is deportable under Section 212(a) and 237(a) of the Immigration and Naturalization Act (as amended by IIRIRA).

While serving time in prison, Robert was involved in a very serious accident that has left his face permanently disfigured. His family feels that their son has completed changed and has suffered for his crimes and that his deportation will hurt Matthew, Robert's American citizen son.

In view of Robert Anthony Broley's situation, insofar that he was arrested because his family felt it would be for his own good, I feel great sympathy for his family's struggles. They never intended for him to be deported. Therefore, I am introducing a private relief bill on behalf of Robert Anthony Broley. I urge my colleagues to support this bill.

TIM LEE CARTER POST OFFICE BUILDING

SPEECH OF

HON. ED WHITFIELD

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1998

Mr. WHITFIELD. Mr. Speaker, I would like to thank my colleagues for their support of H.R. 3864, designating the Tim Lee Carter Post Office Building in Tompkinsville, Kentucky. My bill passed the House on a voice vote on October 5, 1998.

Former Congressman Tim Lee Carter was born in Tompkinsville, Kentucky, on September 2, 1910. He attended public schools and graduated from Western Kentucky State College in 1934 and from the University of Tennessee in 1937. He volunteered for military service during the Second World War and served forty-two months as a combat medic and a captain in the 38th Infantry Division. Following the war, Carter practiced medicine in Tompkinsville until 1964.

Tim Lee Carter served with distinction in the House of Representatives for 16 years representing the old 5th District of Kentucky. While in Congress, Carter was a tireless advocate for improvements to the schools, water systems, libraries, airports, roads, and recreation areas of his District. His proudest achievement was the passage of a law to provide for preventive medical care for poor children. In 1966, he gained national attention as the first Republican Congressman to seek a U.S. withdrawal from Vietnam, but he never wavered in his support for those soldiers and voted against cutting off funding for the troops.

Upon retirement, Tim Lee Carter returned to his farm on the Cumberland River with his wife Kathleen Bradshaw Carter and continued to practice medicine until his death in 1987 at the age of 76.

Tim Lee Carter is an outstanding example of the selfless public servant and I hope that the Senate moves expeditiously to pass this legislation before the end of the 105th Congress.

INTRODUCTION OF LEGISLATION TO CONSERVE, ENHANCE AND PROTECT AMERICA'S LANDS AND WILDLIFE FOR FUTURE GENERATIONS

HON. CHRISTOPHER JOHN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. JOHN. Mr. Speaker, I rise today to announce the introduction of a landmark piece of legislation that has been crafted by a bipartisan group of members wishing to see a more equitable and prudent use of revenues generated from federal outer continental shelf activities. The bill, entitled "The Conservation and Reinvestment Act of 1998," (CARA) is the product of several months of discussions between Members of Congress, the States and the conservation community regarding a dependable source of funding for our nation's environmental needs. The proposal we introduce today reflects the wisdom of these discussions and is intended to serve as a starting point to launch a public debate on the merits of the idea underlying this legislation: that a portion of revenues derived from one of our nation's non-renewable resources should be reinvested back into our nation through conservation and recreation programs that will yield benefits today and in the future.

Generally speaking, the bill would dedicate sixty percent of the bonuses, rents and royalties from federal offshore oil and gas leases for conservation of wildlife and their habitats, for parks and recreation in urban and rural areas, and for impact aid for coastal states to mitigate the environmental and public service impacts of offshore oil and gas development. These monies would be classified as mandatory spending, thus ensuring a constant and dependable source of revenue for the conservation and community investments made possible by the legislation. While no budget offsets are contained in this bill, my colleagues and I are committed to working with members of the Budget and Appropriations Committees during the next several months to find acceptable offsets for what we believe to be a sound public policy initiative.

The benefits that would result from adoption of CARA are rivaled only by the dire need for such legislation. In Louisiana, we are experiencing a dramatic loss of over 35 miles per year of our coastline due to erosion and wetlands degradation. Meanwhile, as we watch our coastline erode, billions of dollars are extracted in federal mineral resources off our shores. Currently, fifty percent of the revenues derived from federal oil and gas activities onshore are shared with the host state. However, revenues paid from federal OCS production (beyond 8(g) activities) are not shared with adjacent states. The "Conservation and Reinvestment Act of 1998" will remedy this inequity by sharing an equitable portion of royalties derived from federal OCS production with all coastal states to meet the environmental challenges facing their coastlines.

To my constituents in Southwestern Louisiana, this proposal is all about fairness. Since the 1950's, Louisiana has served as the hub of the offshore oil and gas industry. To put this in perspective, in FY97, $3.2 billion of the roughly $4 billion of OCS revenues received by the federal government was generated off the coast of my home state. However, the development of these resources is unavoidably accompanied by environmental and public service impacts in the states that host the development of the OCS. By creating a coastal impact assistance fund, as envisioned in CARA, we can ensure that coastal estuaries and marshes nationwide remain ecologically and economically productive for many years to come. This is accomplished without creating an incentive for new oil and gas development and will have no impact on current OCS leasing moratoria or the President's Executive Order concerning outer continental shelf leasing.

Mr. Speaker, this bill benefits more than just our coastal states by guaranteeing a stable funding source for the Land and Water Conservation Fund (LWCF) at it's authorized level of $900 million. This dedicated funding would provide for both state and federal programs included in LWCF, and include important revenues for recreation projects through the Urban Parks and Recreation Recovery Program (UPARR). The benefits of these programs are enjoyed in all fifty states currently, but budgetary constraints have left them seriously under funded in recent years as appropriators have tried to balance our federal budget. Our proposal breathes new life into these programs by ensuring that a constant source of funds will be available to our towns and states to meet their conservation and recreation needs.

Finally, to assist states in meeting the increased demand for funding programs used for non-game species of wildlife, our bill would reinvest ten percent of the revenues gained from OCS development into a new wildlife and education program. The funds would be distributed through the Federal Aid in Wildlife Restoration Fund, also known as Pittman-Robertson, which has been a model framework for wildlife conservation and recreation projects since its inception in 1939. However, unlike similar proposals that have been suggested to meet non-game wildlife needs, our proposal does not include a new excise tax on sporting goods to fund the program.

Mr. Speaker, the "Conservation and Reinvestment Act of 1998" creates a responsible framework for meeting current and future conservation needs that will yield environmental, recreational and economic benefits for all Americans. I realize that we have very little time remaining in this Congress, but I urge all of my colleagues to take a close look at this proposal and work with the cosponsors of this bill to improve upon it so that we can reintroduce, consider, and enact legislation during the 106th Congress.

CONGRESS UPHOLDING COMMITMENT TO VETERANS

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. DREIER. Mr. Speaker, I believe that there is no better advocate for our nation's veterans than Vice Admiral James B. Stockdale. Throughout his military career and in his private life, Admiral Stockdale has tirelessly worked on behalf of those who served our country in the Armed Forces. While a prisoner of war in North Vietnam, Stockdale injured himself so that his fellow prisoners could escape torture and punishment. For his service to our country, Admiral Stockdale has been awarded two Purple Hearts, two Distinguished Flying Crosses, three Distinguished Service Medals, four Silver Stars and the Congressional Medal of Honor. In fact, he is the only three or four star officer in the history of the U.S. Navy to wear both aviator wings and the Congressional Medal of Honor.

In a recent speech on the steps of the U.S. Capitol, which I submit for the record, Admiral Stockdale urged Congress to uphold the nation's commitment to our veterans. Mr. Speaker, I believe that we have indeed heeded that advice. Last month, the House approved the Defense Authorization conference report which allows military retirees to join the Federal Employees Health Benefit Plan. Furthermore, yesterday the House approved the fiscal year 1999 VA/HUD Appropriations conference report, which provides $19 billion for veterans programs, $439 million more than was requested by President Clinton. In short, I believe that Congress is following Admiral Stockdale's leadership by approving legislation that honors those who valiantly served our country.

SPEECH DELIVERED BY VICE ADMIRAL JAMES B. STOCKDALE

THE CAPITOL STEPS, WASHINGTON, DC, SEPTEMBER 22, 1998

Thank you very much for that warm introduction and for the opportunity to join you here today.

Over the years, I have come to Washington many times for many reasons—but on this visit, we come together to focus the nation's attention on our responsibilities to the men and women who have nobly worn the uniform of their Country—the valiant Soldiers, Sailors, Marines, and Air Force personnel who have answered their Country's call to service.

In the history of this wonderful republic, we have celebrated those who have been willing to put their lives on the line—to pay the ultimate sacrifice to protect the ideals that made America great. To protect the basic freedoms that characterize the majesty of the American experiment in defining the relationship between citizens and their government.

As a nation, as a people, we have never hesitated to ask our fellow citizens to don the uniform of their country to fight for—to protect against forces detrimental to the interests of the United States. We have asked our sons and daughters to endure the horrors of war and to serve as agents of peace. We have, for 200 years, always asked, and they have always answered. Any alternative would be unthinkable. But an integral part of this bargain has been a fundamental understanding—a MORAL CONTRACT—that we will not turn away, we will not abrogate our obligations to them after they have done their part for us. For our ideals, and for the preservation of our great nation.

Now, we stand here together with the recognition that this sacred compact has been shattered. With a heavy heart, I have come to this place, to our nation's Capitol, to ask the Congress of the United States to honor America's traditional commitment—a hithertofore unquestioned commitment—to its military veterans.

For generations Presidents have approved the promise of free, lifetime medical care for military veterans. Legislative and administrative authority made these promises law. As far back as 1799, the U.S. Government offered free medical and hospital care to Seamen and Marines. In 1995 this all changed.

Now the government says that Veterans over the age of 65—we're talking about World War II and Korean Vets—are no longer eligible for treatment at military hospitals. Rather than fulfilling its historical contract with its fighting men and women, the Government now demands that these retirees must personally supplement Medicare benefits to obtain basic health care.

I am here today to carry this message for everyone who has worn the great uniform of the United States. To urge the Government to do the right thing for all of its retired military service personnel. Many of them are old. Many are sick, and many simply cannot afford to pay the costs of supplemental health care on military retirement pay.

A great American once said, "Old soldiers never die—they merely fade away." I am confident that General Douglas MacArthur would agree with me that they should surely be allowed to "fade away with dignity!"

Today, there are a million and a half retired military men and women, each with a dependent, 3 million all together, who simply cannot afford supplemental health insurance and are not receiving the benefit of the bargain—the bargain the United States Government made with them when they signed up to serve their Country. There are all too many heartbreaking examples of retired GI's who have had to sell their homes, liquidate their savings, or suffer the indignities of inadequate medical care because of the Government's current position. This is shameful. This is un-American. And this is totally unacceptable. I come to Washington to join you in asking our Congressional leaders—Senators Lott and Daschle, and Speaker Gingrich and Minority Leader Gephardt to right this wrong.

To enact legislation to provide lifetime retirement medical care for those Americans—and their dependents—who were willing to put their lives on the line for their Country. Over the last 200 years, America has asked and received so very much from its fighting men and women—now they are asking us for so little in return. For the opportunity to see a doctor. For medical treatment. For medicine.

As the richest, most powerful nation on Earth, I believe the United States of America can and should do the right thing for the very people who have suffered enormous sacrifice and burden to ensure the existence of a society we so enjoy—and a Country we so love.

I hope together, we can right this terrible wrong!

God Bless the United States of America, and God bless and protect the men and women of the United States military services. Thank you very much.

HONORING RICHARD EDLER

HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. WELLER. Mr. Speaker, I rise today to honor the work and dedication of Mr. Richard Edler, who retired after 35 yeas and 6 months of service from the U.S. Treasury Department—Internal Revenue Service Collection Division on August 28, 1998.

Mr. E., as he is lovingly called by his counterparts at the I.R.S., has made large contributions to the Internal Revenue Service. Over the 35 years, Richard has been a Revenue Officer, a Compliance Officer, and has held various volunteer assignments including being the employee coordinator for the flu shots at the Olympia field office.

Mr. E. has also done a lot to help out his coworkers during his time at the Internal Revenue Service. Richard was the only person who arrived at the office prior to 6 a.m. every morning. He was always there to make sure to inform the employees if the parking lot conditions was clear of snow or flooding during inclement weather.

Richard Edler's commitment and impact on the Internal Revenue Service, and his service to his coworkers is not only deserving of congressional recognition, but should serve as a model for other government employees to follow.

I urge this body to identify and recognize others in their congressional districts whose actions have so greatly benefited and elightened America's communities.

TRIBUTE TO IFAD'S TWO DECADES OF OPERATIONS: SMALL, EFFECTIVE INTERNATIONAL FINANCIAL INSTITUTION TURNS TWENTY

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. HALL of Ohio. Mr. Speaker, this year an extraordinary organization, the International Fund for Agricultural Development (IFAD), celebrates twenty years of successful work to help the rural poor. I was pleased to recently participate in a workshop marking this milestone, in which IFAD gathered public and private sector representatives to find new ways to work together and advance in fight against rural poverty. I would like to share the recommendations made by the workshop participants, and to recognize IFAD for its many achievements in helping the impoverished citizens of the world.

For twenty years, IFAD has effectively pursued its mission of combating rural poverty and hunger in developing countries. Since 1977, IFAD has financed innovative projects that provide poor farmers with the technical assistance, training, equipment and supplies they need to increase food production and income. Throughout its work, IFAD emphasizes community-based approaches that enable the poor themselves to identify local solutions to local problems. With over 489 projects in 111 countries, IFAD has already touched the lives of over 200 million poor rural people around the world.

IFAD viewed its Twentieth Anniversary as an opportunity to take stock and prepare for challenges that lie ahead. The nature of poverty is becoming more and more complex. As it does, the need to engage an ever widening array of groups in the fight against poverty grows. Recognizing these trends, IFAD hosted an anniversary workshop in which representatives of civil society, the business community, government agencies and academia came together and explored new ways to tackle poverty through partnership.

Those who participated in IFAD's workshop examined opportunities for partnerships in microfinance—the valuable development tool through which poor people gain access to the small loans and savings facilities they need to lift their families out of poverty. They explored ways to combat desertification—the degradation of drylands that is a fundamental threat to the ability of subsistence farmers to feed their families. Finally, the workshop also took a close look at one innovative and successful alliance of public and private actors, the Popular Coalition to Eradicate Poverty and Hunger. Their recommendations in these three areas were thoughtful and valuable, and I would like to share them with my colleagues by submitting them for the RECORD.

RECOMMENDATIONS OF THE MICROFINANCE WORKING GROUP

1. IFAD should identify its implementing partners early, and create alignments with such partners on objectives and policies while not losing its grassroots approach.

2. IFAD should continue to reinforce linkages to non-governmental organizations (NGOs).

3. Because of its grassroots perspective, IFAD has a comparative advantage in identifying barriers to the development of microfinance institutions (MFIs). IFAD should capitalize on that perspective to inform and improve the policy environment for microfinance, especially in dialogues with UN agencies and other multilateral institutions.

4. IFAD should consider organizing working groups to encourage private sector engagement in the microfinance sector. Possible activities include selling products, providing training, and facilitating private sector investment in MFIs. IFAD could also consider providing grants to match private sector grants for purposes of developing MFIs.

5. IFAD should promote among governments and other policy making entities the use of alternative regulations specific to the microfinance industry, for the regulatory environment presently overseeing large, well-capitalized financial institutions may not reflect the unique nature and purpose of MFIs.

6. IFAD could develop a training agenda to promote "best practices" among MFIs, especially for those MFIs (e.g. local and indigenous NGOs) that do not have access to international best practice literature and curricula. IFAD's NGO Advisory Group could have a role in this effort.

7. IFAD should create microcredit workshops in regions around the world.

8. IFAD's NGO Advisory Group should work to create a "lateral" dialogue among other NGO Working Groups linked to multilateral organizations such as the (World Bank's).

9. IFAD should convene NGO working groups on MFIs in post-conflict countries and "reconstructing" economies.

10. IFAD should continue to explore new instruments and innovations for mobilizing and facilitating savings of the rural poor.

11. IFAD should engage in applied research on what is working in the field of microfinance (e.g., engaging in a dialogue with Ms. Marguerite Robinson of the Harvard Institute for International Development, an expert who has advised governments worldwide on MFIs).

12. IFAD should continue to explore linkages between microfinance, land tenure and desertification.

RECOMMENDATIONS OF THE POPULAR COALITION TO ERADICATE HUNGER AND POVERTY WORKING GROUP

1. How can the Popular Coalition broaden the leadership and input to the Coalition from NGO's, governments, multilateral institutions, faith communities, and the private sector?

Action: IFAD should convene the General Assembly from which a broad based steering committee would be chosen. Care should be taken to ensure that representatives from all faith communities (Muslim, Buddhist, Christian, Jewish, Hindu, and others) are chosen, as well as representatives from private sector industry.

2. Beyond having overarching input from the new Steering Committee noted above, there is a need to develop more specific strategies for greater involvement of the private sector and the faith communities. How can this be achieved?

Action: In conjunction with the new Steering Committee, the Secretariat of the Popular Coalition will develop multiple strategies to increase participation of all actors, with a "menu of options" for involvement to offer them.

3. How can the Popular Coalition develop a greater awareness and recognition of its successes and needs? How can it educate and inform its current and future constituents?

Action: The Secretariat of the Popular Coalition in conjunction with the regional nodes of the Popular Coalition will refine the mission and develop a "niche slogan" in a "building-block architecture" that can convey the many activities and goals of the Popular Coalition. The mission and slogan will not be overly complex, so as not to create confusion, but will not be overly simplistic either.

4. How can the Popular Coalition members in the South link with already exiting coalitions in the North?

Action: The Secretariat should task a committee comprised of members from the regional nodes to do the following:

a. conduct an inventory of existing coalitions in the North via sectoral activities (technical assistance for agricultural development, legal and negotiating expertise for land reform, etc.) to understand what the possible assets are; and,

b. develop specific requests from Popular Coalition members that could be developed into a list of concrete assistance needs to be presented to northern coalitions.

5. How can the Popular Coalition target their success stories and their needs to northern NGO's, governments, multilateral institutions, and the private sector? What kind of information moves people to action

and involvement on the issues the Popular Coalition addresses?

Action: The Secretariat will engage an outside evaluator to conduct market research into how the success stories of the Knowledge Networks can be communicated to potential partners in the north with the end goal in mind of strengthening the Coalition members and leveraging resources to build their capacity.

RECOMMENDATIONS OF THE DESERTIFICATION WORKING GROUP

1. Discussants should support, as a group, U.S. ratification of the Convention to Combat Desertification before the end of the 105th Session. Reasons:

It provides the leadership the world expects from the United States on such issues, and will provide the U.S. an opportunity to influence decisions at the Second Conference of Parties to the Convention;

It is good for U.S. business and for the U.S. university/academic community where desertification expertise resides;

The humanitarian need is urgent;

The practical need is also urgent: biodiversity is declining, food sources are dwindling;

National security could be threatened by environmental flash points in fires and other natural disasters where desertification is a factor, and in conflicts over water and other scarce natural resources;

Migration within nations and across borders is prompted by spreading deserts, causing conflict within and among nations;

Desertification is linked to global climate change, and amelioration could help slow global warming;

The treaty's provisions interlink with U.S. obligations under existing treaties, such as national environmental action plans, measures to promote women's rights and sustainable development, and so on;

The treaty would enable the use of revolutionary strategies and methods to combat the spread of deserts; and

It would improve coordinated work with U.S. partners in other areas including foreign aid programs, and global cooperation is an avowed U.S. policy goal.

2. Raise awareness and understanding among the media and the U.S. private sector to generate support for the CCD. The treaty is not about "deserts," for example, as media reports have said, but about preservation of drylands in their current useful state for agriculture.

3. Mobilize scientific analysis of the relationship between desertification and other phenomena such as fires, climate change, damage to the ozone layer, etcetera.

4. Change U.S. trade policies to discourage actions abroad that contribute to desertification.

5. Support coordination between scientists, government agencies, NGOs and localities to develop useful technologies and methodologies to prevent and combat desertification.

HONORING THE CONTRIBUTIONS OF JESSE HOLMAN JONES

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. BENTSEN. Mr. Speaker, I rise to honor the efforts of Houston Endowment Inc. to highlight the life of Jesse Holman Jones, who during his lifetime was widely known as one of the most powerful leaders in the nation, and because of his vast contributions to the growth of the City of Houston, became known as "Mr. Houston."

On November 10, 1998, Houston Endowment Inc. will host a Centennial Celebration of the remarkable contributions of Jesse Holman Jones, beginning with a champagne reception followed by the world premiere of the documentary, "Brother, Can You Spare a Billion? The Story of Jesse H. Jones."

Jesse H. Jones was born in Tennessee but moved to Texas at the age of seventeen, first working in a lumberyard for his uncle, then later establishing his own 60 lumberyards across the Southwest. As an extension of the lumberyards, he began building small houses south of downtown Houston, which he financed for working class families by offering 20-year mortgages, a new concept at the time. He eventually progressed to commercial structures, and in 1907 he announced that he would build the city's three tallest buildings. The nine-story Bristol Hotel, Houston's first "skyscraper", elevated Houston's stature; the 10-story Houston Chronicle Building brought Mr. Jones half interest in a thriving newspaper; and the 10-story Texas Company Building helped make Texaco and the petroleum industry a permanent part of the city's business community. Within 25 years, he had transformed Houston's Main Street and downtown into the region's most prominent business district, filled with office buildings, movie theaters, hotels, apartment buildings, department stores, and parking garages.

Mr. Jones' role in developing Houston's economy was as important as his role in building its skyline. He invested in local banks and became Chairman of the National Bank of Commerce, later to become Texas Commerce Bank and today's Chase Bank of Texas. His portrait still hangs in the majestic lobby of the bank's flagship office. Through his banking interests, Mr. Jones helped industrialize and internationalize Houston. He supported other growing industries, such as the radio and television industry, while convincing the federal government to enter into a public-private partnership to build the Houston Ship Channel, which today includes the Port of Houston, the nation's second busiest port. Such public-private partnerships were unheard of at the time.

Mr. Jones attracted the attention of President Woodrow Wilson and accepted the position of Director General of Military Relief for the American Red Cross. After the war, Mr. Jones helped reorganize the Red Cross from a loose-knit group of local societies into the permanent international relief agency it is today. In addition, in 1928 as Finance Chairman of the Democratic National Committee, he brought the party's national convention to Houston, the first major political convention to be held in the South since before the Civil War.

When the stock market crashed and the nation plunged into the Great Depression, Mr. Jones called the city's business leaders together and worked out a plan that prevented any bank failures in Houston during the Great Depression. Mr. Jones' business and financial insight were called upon when President Herbert Hoover asked him to serve on the board of the newly created Reconstruction Finance Corporation (RFC); President Franklin Roosevelt expanded the RFC's powers and made Mr. Jones its chairman. The Federal Housing Administration (FHA), the Federal National Mortgage Association (Fannie Mae), and the Export-Import Bank are only a few of the many enduring agencies created by Mr. Jones and the RFC.

Mr. Jones would go on to be Secretary of Commerce during the "New Deal" and today scholars give Jesse Jones credit for saving the American capitalist economy, for mobilizing industry in time to fight and win World War II, and for radically changing the relationship between government, business and citizens.

After 14 years of public service in Washington, DC, Jesse Jones had won the respect of Democrats and Republicans alike, as he exercised his authority with diplomacy, patience, and equity. He and his wife, Mary Gibbs Jones, returned to Houston in 1946 and began to focus on philanthropy. By the time Jesse Holman Jones passed away on June 1, 1956, Houston Endowment Inc., the foundation he created in partnership with his wife, Mary, had helped more than 4,000 students through scholarship programs in 57 colleges and universities. Just months before he passed away, the town of 40,000 he came to in 1898 had obtained its one millionth citizen.

Mr. Speaker, I commend Houston Endowment Inc. for reminding Houstonians of the life of Jesse H. Jones, one of our most prominent citizens.

CONFERENCE REPORT ON H.R. 4101, AGRICULTURE, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

SPEECH OF

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1998

Mr. PACKARD. Mr. Speaker, I would like to express my extreme disappointment in the President's threats to veto the FY 99 Agriculture Appropriations bill. This is legislation which will provide much needed aid for cashed-strapped farmers this fall.

American farmers are by far the most productive in the world. These hard working men and women epitomize every value that makes America great. They run their business on a dream and hard work with a constant concern over the weather conditions, hoping for a good crop. During a bad season, some pray daily to be able to put food on the table for their families. Now, after a season of low commodity prices and bad weather, the Democrats are looking to eliminate the emergency aid to those who grow our nation's food supply by urging the President to veto the FY 99 Agriculture Appropriations Act. This is unacceptable.

The fact is, the House more than doubled the only request received from the President, from $1.8 billion to $4.2 billion for emergency aid to help farmers. It is irresponsible for the President to play partisan politics with people's lives.

Mr. Speaker this is no time to play politics. I urge the President to rise above the temptation to exploit this issue for his political advantage and sign the FY 99 Agriculture Appropriations Act into law.

TRIBUTE TO THE HONORABLE JERRY SOLOMON

SPEECH OF

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1998

Mr. STUMP. Mr. Speaker, I've been pleased to call JERRY SOLOMON of New York my friend for 20 years.

JERRY SOLOMON was the guy you always wanted on your side in a legislative battle. You always knew where he stood. You always knew his word was his bond.

It was as if he never left the Marine Corps, and in his mind he probably never did. JERRY SOLOMON wore an American flag pin on his lapel and his love of country on his sleeve. Few members could match his tenacity and his sense of loyalty. Never were those qualities more on display than when the House acted on national defense and veterans matters.

More recently we've seen another side of JERRY SOLOMON. It was his sense of fair play. His chairmanship of the Rules Committee made him the legislative traffic cop in the House. He took his role seriously, and his integrity earned him the respect of majority and minority alike.

His idol was Ronald Reagan, whose determination to rebuild our military found its staunchest House advocate in JERRY SOLOMAN. Our sons and daughters in the military have always been very special to him. He wanted nothing but the best for them both during and after their service.

Veterans have no greater friend than JERRY SOLOMON. He enjoyed a close relationship with that other giant of veterans' legislation, our former colleague and committee chairman Sonny Montgomery of Mississippi. Their collaboration was a golden period for America's veterans and an inspiration for those of us who followed them.

JERRY SOLOMON's proudest moment was that brisk October day at Fort McNair in 1988 when President Reagan signed into law his bill elevating the Veterans Administration to a full, cabinet-level department. That will be his lasting legacy and monument.

We will miss his passion, his perseverance, and his patriotism. "Semper Fi" was never just a slogan for JERRY SOLOMON. It was his attitude towards his fellow Marines, his fellow veterans, his family, his friends, his district, his country, and this House.

We are coming to the end of an era, and this House just won't be the same without him.

Well done, JERRY. There's life after Congress. May yours be full and rewarding.

POW/MIA RECOGNITION DAY

HON. JIM GIBBONS

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. GIBBONS. Mr. Speaker, I insert for the RECORD a proclamation designating September 18, 1998 as POW/MIA Recognition Day in the State of Nevada. The full accounting of all of our servicemen and women abroad must remain of paramount importance to the Nation.

> Whereas, today there are 2,118 Americans still missing and unaccounted for from Southeast Asia, including 3 from the State of Nevada, and their families, friends and fellow veterans still endure uncertainty concerning their fate; and
>
> Whereas, we as Americans believe that freedom is precious because it has been won and preserved for all at a very great cost; and
>
> Whereas, few Americans can more fully appreciate the value of liberty and self-government than those Americans who were interned in enemy prison camps as POWs and those who remain missing in action; and
>
> Whereas, the courage, commitment and devotion to duty demonstrated by those servicemen and women who risked their lives for our sake has moved the hearts of all Nevadans; and
>
> Whereas, their dignity, faith and valor reminds us of the allegiance we owe to our nation and its defenders as well as the compassion we owe to those families of the MIAs who daily demonstrate heroic courage and fortitude in the face of uncertainty: now, therefore, I, Bob Miller, Governor of the State of Nevada, do hereby proclaim September 19, 1997, as POW/MIA Recognition Day.

RECOGNIZING THE 75TH BIRTHDAY OF MR. SANFORD GILBERT KAHN

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. PORTER. Mr. Speaker, I rise today to honor a special man and one of my constituents on his 75th birthday: Sanford Gilbert Kahn. Mr. Kahn is a veteran of World War II and is truly one of the unsung heroes of that conflict. A 20th Air Force bombardier and weatherman, Mr. Kahn flew thirteen successful missions and was awarded with two medals. Those sorties played an important role in bringing the war to an end. At a time when the movie "Saving Private Ryan" reminds us of the sacrifices of WWII veterans, it is most appropriate to recognize the real-life bravery of men like Sanford Kahn.

I would like to join Sanford Kahn's family and friends in celebrating his 75th birthday and in sending my best wishes for his continuing health and happiness.

PITTSTON KNIGHTS HAILED

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to the President John F. Kennedy Council 372 of the Knights of Columbus in Pittston, Pennsylvania on the momentous occasion of their 100th anniversary. I am pleased and proud to have been asked to participate in this historic event.

The early years of the Council are not well documented, but it is known that the Council made its home for many years on William Street in Pittston. Activities of the Council were curtailed during World War II due to the low membership as the members went off to war. Around 1947, the Council became more active under the leadership of the newly-elected Grand Knight, John Moran. The Home Association and Fourth Degree Assembly became active in 1948 and membership in the Council expanded to 400. When membership reached 600 in 1955, the members purchased a building, giving the Council its first real home.

The Council's 65th anniversary was noted with a parade; the following year, the Council's name was changed to honor the recently-assassinated John F. Kennedy. An oil portrait of Council's new namesake still hangs on the main floor of the Council's building.

The Knights of Columbus in Pittston have been integral in the social and civic life in the area through the years. It maintains a choir and honor guard and sponsors a Little League baseball team and many other youth-oriented activities. By 1988, official membership in the Council reached 844.

Mr. Speaker, I send my very best wishes to the dedicated community members who donate their time and energy to the Knights of Columbus activities in the Pittston area. Northeastern Pennsylvania is blessed with a commitment to community service and the long history of the Knights of Columbus. Council 372 is a great example of that proud tradition and heritage.

TRIBUTE TO THE HONORABLE JOSEPH M. McDADE, MEMBER OF CONGRESS

SPEECH OF

HON. JOHN JOSEPH MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1998

Mr. MOAKLEY. Mr. Speaker, I rise today to pay tribute to my colleague, JOE McDADE.

JOE McDADE arrived here 10 years before I did. As he retires this year, the entire country will be the worse for the loss of his service.

In their wisdom, the people of the 10th district of Pennsylvania first elected JOE McDADE to Congress in 1963 and every other year thereafter. After 35 years, JOE will be leaving the 10th district with a proud legacy of accomplishment and service for which he, and his staff, should be very proud.

Joe McDade is currently the longest serving Republican on the Appropriations Committee and among the longest serving Representatives in Pennsylvania's history. Since 1965, he has been on the House Appropriations Committee. But, Joe's service merits distinction for its quality as well as its longevity.

When Joe served on the Appropriations Subcommittee for Housing and Urban Development, he created the Rural Housing Guaranteed Loan Program to help people in rural areas buy homes. It was passed into law in 1990 and has grown to become one of the most important ways our government helps rural Americans buy homes. It was passed into law in 1990 and has grown to become one of the most important ways our government helps rural Americans buy homes. This year, Joe McDade's law will help more than 50,000 low and moderate income Americans buy homes.

When Joe was the ranking member of the Small Business Committee from 1978 to 1991, he created a small business development center and an applied technology center at the University of Scranton to provide training and technical assistance to small business owners.

Joe has been a distinguished, hard working, kind member of the Appropriations Committee and a Member deserving of the title Cardinal. He has been easy to approach and willing to listen to just about any requests for funding. During his 35 years in Congress, Joe certainly left his mark.

Whoever is elected in his seat will have a very hard time filling his shoes. The 10th congressional district of Pennsylvania is lucky to have had him as its representative and we are lucky to have had him as our colleague.

Mr. Speaker, it has been a great honor serving with Joe McDade and I join the entire Congress in wishing him well in his retirement.

INTRODUCTION OF RESOLUTION IN RECOGNITION OF THE NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

HON. ANNE M. NORTHUP

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mrs. NORTHUP. Mr. Speaker, I am pleased to submit a House Concurrent Resolution recognizing and honoring the 50th anniversary of the National Institute of Allergy and Infectious Diseases. An identical resolution is being introduced in the Senate by my distinguished colleague, Senator Mack.

As a member of the House Appropriations Subcommittee with jurisdiction over the National Institutes of Health, I have a great interest in biomedical research and efforts to improve the quality of our public health. In this century, much has been accomplished, including the eradication of smallpox and the near-eradication of polio, the control of other infectious diseases such as whooping cough and diphtheria, and improved treatments for diseases of the immune system. We continue to benefit from the development of new diagnostic tools, medicines, and vaccines that have improved the health of citizens in this country and abroad.

The National Institute of Allergy and Infectious Diseases has been responsible for many of our most important advances. NIAID began as the National Microbiological Institute, formed through the union of the Rocky Mountain Laboratory, the Biologics Control Laboratory, the Division of Infectious Diseases, and the Division of Tropical Diseases of the NIH. In 1955, Congress renamed the Institute as the National Institute of Allergy and Infectious Diseases, recognizing the need for a coordinated scientific research program on infectious, allergic, and immunologic diseases.

Research supported by the Institute has resulted in numerous important advances, including the development of vaccines that have prevented the death of millions of Americans, new treatments to fight the human immunodeficiency virus (HIV), and novel interventions that have reduced the burden of childhood asthma.

Much remains to be done, however. Infectious diseases remain the world's leading cause of death, and the third leading cause of death in the United States, and immune-mediated diseases such as asthma are a leading cause of disability and lost productivity. NIAID continues to lead the way in developing new ways to reduce the toll of these diseases.

I am introducing this resolution today to demonstrate the support of the United States House of Representatives for the NIAID, the NIH, and all of the dedicated professionals who have devoted their lives to improving the quality of the Nation's health.

REMARKS ON THE ATLANTA BRAVES

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. GINGRICH. Mr. Speaker, I gladly accept the challenge of my distinguished colleague, Duke Cunningham.

While I respect his personal faith about the San Diego Padres, I also know that sometimes faith is not enough. And this year that saying will have to comfort the gentleman from California as he watches the Atlanta Braves win the National League Championship.

My dear Colleague from San Diego offered three reasons for his faith in the San Diego Padres.

I would like to offer my reasons for knowing the Atlanta Braves will win:

(1) Cy Young award winner John Smoltz is 17 and 3 with a 2.90 era

(2) Cy Young award winner Tom Glavine is 20 and 6 with a 4.47 era

(3) Four time Cy Young award winner Greg Maddux is 18 and 9 with a 2.22 era

(4) Danny Neagle is 16 and 11 with a 3.55 era, and

(5) Rookie Kevin Millwood is 17 and 8 with a 4.08 era

The Padres may have Greg Vaughn, but the Atlanta Braves have Andres Galarraga with 44 home runs, Javier Lopez and Chipper Jones with 34, and Andruw Jones with 31—not to forget three other players with over 100 home runs.

The Braves' team batting average against the Padres was .259 vs. .209 for the Padres. The Braves outscored San Diego 34 to 29, had 17 more hits, five more home Runs, 3 more stolen bases, and 8 more strikeouts.

And while Tony Gwynn is indeed impressive, he only batted .321 this year, while the Braves starters include Chipper Jones (.313), Andres Galarraga (.305), and Gerald Williams (.305). The Braves also out hit the Padres at almost every position, including pitcher.

Atlanta, the beautiful "capital" of the South, is blessed with many benefits, but having the Braves as their home team is one of the best. It is hard to beat Southern culture and great baseball.

In light of this, I not only accept the distinguished gentleman's challenge, I raise him: If the San Diego Padres win, I will give 100 pounds of fabulous southern BBQ to a homeless shelter in the gentleman's district.

And of course, if the Braves win, I will ensure that the gentleman from California's seat on the Appropriations Committee is secure despite this direct challenge. Now if the Padres win. . . .

U.S. NEEDS FAST TRACT AUTHORITY TO REMAIN GLOBAL LEADER

HON. JIM RAMSTAD

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. RAMSTAD. Mr. Speaker, two weeks ago I spoke before this House in favor of renewing fast track trade authority for the President. I called for my colleagues to choose statesmanship over politics and vote for this important legislation simply because it is the right thing to do and they know it.

I was deeply saddened that we did not have the support of the White House and many key Democrats in that fight—Democrats who typically understand the importance of fast track for opening new markets for U.S. farmers and exporters. I was saddened they were too concerned about the timing of passing the legislation and not the fact that their constituents need it, America's farmers need it, small businesses need it and consumers need it.

Mr. Speaker, I am more than saddened today. I am completely perplexed and frustrated. Yesterday, President Clinton spoke before International Monetary Fund and World Bank officials and called for expanded trade for next year and strategies to spur economic growth. I am very glad to hear him say these things, but his speech is a bit hypocritical.

It moves me to ask why the President will promote fast track authority renewal in January and wouldn't just two weeks ago? How is it the President can say it is "inexcusable and reckless to hold up [IMF] money based on other issues at a time when the world needs U.S. leadership?

President Clinton's failure to be engaged in the recent fast track debate directly contributed to its demise at a time when U.S. exporters needed his leadership—and the international economy needs U.S. leadership. I want my constituents to know that I have concerns about IMF funding because of, in the words of my colleague from Florida, Rep. STEARNS, "the countless evidence of the malfeasance and mismanagement of IMF."

Mr. Speaker, my concerns have nothing to do with what time of the year it is or because certain advocacy groups have threatened political ramifications. My concerns have to do with pure policy issues and a true desire to see U.S. taxpayer dollars used appropriately.

And on the issue of taxes, I don't think I could say it better than Senator ROTH: "Why should we expect Japan to push through a KEMP-ROTH style tax reduction . . . when the White House opposes any domestic tax rate cut that would spur growth?"

Mr. Speaker, I am disappointed that politics have replaced real leadership at the other end of Pennsylvania Avenue. America needs to be a strong leader out in the global market place. We need to set the parameters of debates and make sure we are included in market access agreements that would benefit our farmers and businessmen and women. America needs fast track trade authority and a President who truly wants it.

TRIBUTE TO RICHARD K. BOYD, JR.

HON. ED WHITFIELD

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. WHITFIELD. Mr. Speaker, I rise to pay tribute to a friend and distinguished former Kentuckian, Mr. Richard K. Boyd, Jr., who is retiring this month after 32 years of dedicated service with Westvaco Corporation.

As Manager of Government Relations and various executive capacities during his career at Westvaco, Mr. Boyd diligently exercised his professional stake in civic affairs. As a private citizen of Kentucky for 24 years, he faithfully demonstrated his deep sense of personal responsibility for civic involvement.

For much of his career, Dick Boyd lived and worked in Wickliffe, Kentucky, where he and his wife Malinda raised their three daughters—Anne, Gretchen and Rebecca. His arrival in Wickliffe pre-dates the Westvaco Fine Papers mill, a major employer and contributor to the economic development of western Kentucky. The growth of the mill and the company's good relationship with the community and the Commonwealth of Kentucky are a part of the legacy of Dick Boyd's career and his life in our state.

In 1988, Dick served in Kentucky State Government as Deputy Secretary of the Cabinet for Economic Development, His dedication to family, friends and neighbors is worthy of recognition.

Dick Boyd has performed his duties representing Westvaco and its operations in the First Congressional District of Kentucky with honest and integrity. He is a valued friend and a good citizen whose national corporate responsibilities have never diminished his concern for and dedication to the economic and civic progress of the people of western Kentucky. On their behalf, I take this opportunity to congratulate Richard K. Boyd, Jr. on his successful and distinguished career and extend best wishes for his retirement.

TRIBUTE TO DR. MARY P. SMITH, AN ARDENT LEMONADE MAKER

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. PAYNE. Mr. Speaker, if we are lucky we have come in contact with a person who instinctively makes lemonade out of the lemons of life. There is such a woman in my district who is being honored on Thursday, October 8. She is Dr. Mary Smith. Thirty years ago Dr. Smith saw a need for day care programs in Newark, New Jersey. She used her vision, commitment and steadfastness to establish Babyland Nursery, Inc. Babyland Nursery, Inc., now known as Babyland Family Services, Inc. has evolved into a model for urban day care throughout the nation.

In 1968, Dr. Smith started with 26 children in a seven-room basement apartment in central city Newark to establish one of the first day care programs in the United States and the first non-profit interracial day care center in New Jersey to provide day care for children from 2½ months to five years old. If we go back to 1968, we will remember it was a time that women while moving into the workforce had very limited resources for child care. This sometimes meant that these families had to depend on public assistance for survival rather than become self-sufficient. Today, we see the benefit of providing safe, clean, and educatable day care services. The lack of day care was a lemon to Dr. Smith. She took her knowledge, skills and foresight to make some lemonade that has quenched the thirst of day care need for countless families and children.

Babyland Family Services, Inc. has evolved to comprise 11 different facilities offering 20 separate programs that benefit over 1,500 children, women and families each year. It has a staff of over 200, volunteer support of almost 700 and a reputation that extends to the international arena.

Mr. Speaker, I am sure my colleagues will want to join me in thanking Dr. Mary Smith and Babyland as they are recognized for their hard work and dedication to the health, well-being and education of children from urban areas. I would also like to encourage all citizens to become interested in helping the future, our children, thus ensuring a brighter future for them and the generations to come.

STOP STALLING ON PATIENT PROTECTIONS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. STARK. Mr. Speaker, I rise today to share the words of A.G. Newmyer III with my colleagues. Mr. Newmyer is the Chairman of the Fair Care Foundation, a consumer advocacy organization working to protect people's access to affordable, quality health care, and a national board member of the Epilepsy Foundation.

This week he participated in an event with Senators KENNEDY, DURBIN and TORRICELLI to urge that the Senate quit stalling on the issue on patients' rights. His words bear repeating and so I have attached his statement from that event.

I agree with Mr. Newmyer. Passage of federal consumer protection standards for managed care is past due. The leadership's tactics to thwart passage meaningful reform this year are unconscionable. This is not an issue that is going away and I look forward to continuing to work with Mr. Newmyer and other consumer advocates to achieve federal patient protections.

STATEMENT OF A.G. NEWMYER III

Good morning. My name is Newmyer and I'm here on behalf of the 2.5 million Americans who have seizure disorders, and their families. Some of these folks are well known to you—former Congressman Tony Coelho, Representative Neil Abercrombie, Congressman Hoyer's late wife. Others are total strangers—like me. And a couple hundred people on the Hill either have epilepsy or someone in their family does, but you don't know about it because stigma and fear keep these folks in the closet.

The Epilepsy Foundation urges passage of strong patients' rights legislation. Today's health insurance system is a mean-spirited, predatory mess. But it's far worse for people with special medical needs.

Those of you who cover this debate may recall that Tracy Buccholz from MN was the first public witness before the President's commission on health care. Tracy has epilepsy and led a rather normal life until her health plan started playing games with her life. She explained to the commission, when she came to Washington to testify, that she had been waiting eight months for permission to see her neurologist, despite the literature and promises of her plan.

I'd like to make three brief points this morning.

First, the member satisfaction statistics are pure nonsense. If I asked each of you how you like your life insurance, you'd think I was nuts. You'd tell me that you think it's fine—you never had to use it. The same thing's true for the 80% of Americans who have no significant medical need in any one year. I urge the press to focus on satisfaction among plan participants who have faced a serious medical need.

Second, to those members who say they don't want to interfere in the insurance market, let's be serious. The user isn't the customer. Most patients get insurance at work and have very little choice. When the person making the purchase decision isn't the user of the service, it's not a market. It's an anomaly. And it needs to be fixed. Now.

Finally, I know of no other segment of our society where some people elect to engaged in predatory behavior knowing that the victims can't go to court. No patients want more lawsuits. Patients want health plans to stop horsing around. Patients want to fix a system where some people prosper by denying care. The key is ERISA reform, which is why its being fought so hard by for-profit managed care plans.

I leave you with this thought. Steve Wiggins, CEO of Oxford, made $29 million the year before he was fired. Last year, with his company ½ way down the toilet, he left with $9 million in severance. The CEO of Aetna-United took home $17,693,000 during the past three years.

Do you really think those plans can't afford for people with seizures to have easy access to decent care?

INTERNATIONAL CAPITAL FLOW AND IMF POLICY

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. OXLEY. Mr. Speaker, I would like to bring to the attention of my colleagues a column published today by James K. Glassman of the American Enterprise Institute. As the International Monetary Fund and the World Bank hold their annual meetings this week, his thoughts are especially timely.

As the international financial community continues to struggle to find a solution to the growing Asian contagion, some commentators are beginning to call for international capital controls. The underlying argument behind this position is that the free flow of capital has contributed to our current problems and that barriers must be erected to prevent this flow in the future.

However, as Mr. Glassman makes clear, "capital does not flee sound economies." Rather, investors move their resources in response to changes in the market conditions of a given economy—they move money out of investments in economies as risk rises and into investments where the risk level is more acceptable. Thus, capital is efficiently allocated. Efforts to limit this movement, then, are inherently heavy-handed and counterproductive.

Again, Mr. Speaker, I commend the following column by Mr. Glassman to my colleagues.

[From the Washington Post, October 6, 1998]

COOL IT

(James K. Glassman)

Judging from the panicky pronouncements of politicians, journalists and financiers, you would think we were on the brink of another Great Depression. On Friday, President Clinton declared that the world was on a "financial precipice." The cover of Newsweek trumpets "The Crash of '99." And the folks whose limousines are now clogging Washington for the 53rd annual meeting of the International Monetary Fund and the World Bank—Super Bowl Week for the global credit set—are rushing to erect a new, complex architecture, backed by new money, to keep the world from crashing down around them.

But not so fast. Before we make the errors of haste, let's recall that never in history have businesses been better run. Never have markets been freer and wealth more abundant. Never has technology for communicating, producing and healing been so widely available. Rarely has inflation been less threatening. Rarely have the raw materials of industrial growth—from copper to wheat to oil—been so cheap. Rarely has the world been so peaceful.

The truth is, the international economy was neither as terrific as practically everyone said it was in the spring, nor is it as terrible as practically everyone says it is in the fall. So, let's cool it before we do something irrevocably stupid.

While countries such as Brazil have undeniable short-term troubles, the solutions are not mysterious. They need sounder currencies, linked to the dollar, less public spending, lower taxes and less regulatory red tape, borders that are more open to trade and capital, and governments that are more candid, less corrupt and less apt to meddle in the private sector.

None of these improvements requires the ministrations of the IMF. Markets enforce a more efficient discipline: A country that complies with conditions hospitable to capital will get that capital, which is continually scouring the globe, seeking the best returns. Talk of "contagion" is nonsense: capital does not flee sound economies, as monetary historian Anna Schwartz shows clearly.

Still, the financial bureaucrats gliding down Washington's streets in their limos this week think differently. They believe that, since the world is on the brink, smart people—i.e., like them—need to do something to save it.

That's the danger. British Prime Minister Tony Blair wants a "new Bretton Woods," birthplace of the IMF and World Bank. The problem with another Bretton Woods is that it assumes that these institutions can actually have a beneficial effect today on economies in trouble. The opposite seems the case.

The IMF bears responsibility for Asia's troubles. With the U.S. Treasury in 1995, it delivered unprecedented sums to bail out banks and investors who made reckless loans to Mexico. That rescue then encouraged investors to make riskier extensions of credit to Asia, Russia and Latin America. That led to overcapacity—too many factories unprofitably producing computer chips, cars and clothes, often under government direction—and to the current crisis.

Instead, incredibly, "the free market and the unfettered flow of capital across borders are being vilified as causes of this disaster," writes economist John Makin of the American Enterprise Institute. The French and the British actually want to give the IMF more power, and plans to restrict capital flows abound.

Still, someone has kept his head. Treasury Secretary Robert Rubin has advanced a sensible proposal: Make credit available to sound countries that may be suffering liquidity problems (that is, need cash) but that haven't fallen into deep crisis.

I'd like to expand this idea and obviate the need for an IMF altogether. Set up a streamlined international lending institution that would have constantly available funds, under these four conditions:

(1) Loans would be made only at "penalty rates"—certainly higher than the 4.5 percent that Korea recently paid.

(2) Nations borrowing money must put up their best collateral, such as U.S. Treasury bills or gold.

(3) Borrowers must allow foreign banks to operate within their borders and be able to purchase their domestic banks. The best way to reform a rotten financial system is to admit good, free-market bankers.

(4) Borrowers must subscribe to a new bankruptcy convention that would adopt laws similar to those in the United States and Europe. Lenders have to know that they can seize assets in a default.

At the same time, the world's financial moguls need to: (a) pressure Japan, another villain in the tale of Asia's collapse, to fix its banking sector immediately and reflate the yen; (b) reaffirm the importance of free trade and reject restrictions on the flow of capital; and (c) use the World Bank to alleviate the suffering of innocents in countries such as Indonesia, victims of economic crimes committed by others, including the IMF.

As for the extra money that the IMF wants and Congress has failed to approve: for credit under these new arrangements, as long as Japan reorganizes its banking sector, yes; otherwise, no. Right now, withholding cash is the best leverage for reform that we've got.

REPUBLIC OF CHINA'S NATIONAL DAY

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. BILIRAKIS. Mr. Speaker, I would like to call attention to the National Day of Republic of China on Taiwan. This day commemorates the Wuchang Uprising on October 10, 1911, which led to the establishment of the ROC on January 1, 1912.

The United States' relationship with Taiwan dates back to the end of World War II. In the 1950s and 1960s, U.S. forces used Taiwan as a forward base against Sino-Soviet communism in Asia. Over the years, we have developed strong economic, political and social ties with both the government and people of Taiwan.

Today, Taiwan is one of our most significant trading partners. With one of the largest economies in the world, the nation has done remarkably well during the current economic turmoil that has been engulfing other Asian countries. Taiwan's sound fiscal policies have enabled it to remain strong and provide economic assistance to its neighbors during this difficult time.

Over the past decade, the Republic of China has moved rapidly toward becoming a democratic society. Free and fair elections are routinely held at the local and national levels, and approximately 70 percent of engine voters participate in ROC elections. Taiwan is a shining example of freedom and democracy in a part of the world in need to role models.

America must stand by its long-standing commitment to the people and government of Taiwan. I hope that we will be able to continue our partnership and friendship with the ROC well into the next millennia.

I want to extend my best wishes to the people of Taiwan on the occasion of the Republic of China's National Day.

A TRIBUTE TO DR. MOUSTAPHA ABOU-SAMRA

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. GALLEGLY. Mr. Speaker, I rise to pay tribute to Dr. Moustapha Abou-Samra, this year's recipient of the Physician of the Year Award from the Ventura County Medical Resource Foundation.

Dr. Abou-Samra, a neurosurgeon who practices at Community Memorial Hospital, Ventura County Medical Center and St. John's Hospital, has made valuable contributions to Ventura's medical community for nearly 20 years.

He is president of the Community Memorial Hospital Foundation, serves on its Board of

Trustees and is a member of the Benefactor's Committee. At Ventura County Medical Center, Dr. Abou-Smara served as president of the medical staff, was Chief of Surgery, and served as Chairman of the Quality Assurance Committee and of the Ethics Committee.

Dr. Abou-Samra also taught classes on "Understanding Cancer." He served as the president of the board for the American Cancer Society and was presented the prestigious Golden Sword Award by the organization. Dr. Abou-Samra introduced and coordinated the "Think First Program," a head and spinal prevention program that has become recognized nationwide.

Dr. Abou-Samra also has served on numerous other boards, including the Easter Seals Board of Medical Directors, the Ventura County Symphony and St. Paul's Parish Day School. He is currently on the board of the Ojai Festival.

Dr. Abou-Samra is obviously deserving of this award.

Mr. Speaker, I know my colleagues will join me in recognizing Dr. Abou-Samra for his many years of promoting a healthy America and wish him many more years of service to the medical community.

COMMENDING THE MEMBERS OF THE MARINE SECURITY GUARD

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. FROST. Mr. Speaker, I rise today to bring to the attention of the House the bravery and heroics of the members of the Marine Security Guard at our embassies in Nairobi, Kenya and Dar Es Salaam, Tanzania following the horrific and tragic bombing there on August 8. I have the honor of submitting for the CONGRESSIONAL RECORD a report filed by Lt. Colonel Dennis Sabal which details the devotion to duty and courage under fire exhibited by the Marines who were charged with the responsibility of guarding those two embassies. It is a credit to our Nation that our Marines have and will continue to guard, in the words of Lt. Col. Sabal, "Americans and America's interests abroad, as marines have done for over 222 years."

COLONEL BURGESS: It has been almost 96 hours since the devastating blasts ripped through the American Embassies in Nairobi, Kenya and Dar Es Salaam, Tanzania. With the situation at both embassies now somewhat stabilized, I want to take a few moments and attempt to paint a picture of the events leading up to the blasts as well as provide you with a commander's perspective of the actions of our Marines subsequent to the explosions.

On Friday morning, 8 August 1998 at 10:30 am local Kenyan time (03:30 EST), Corporal Samuel Gonite was standing Post One in the American Embassy in Nairobi, Kenya. At approximately 10:35, Marine Sergeant Jesse "Nathan" Aliganga walked into the embassy to cash a check. Corporal Gonite watched Sergeant Aliganga walk past Post One, get onto the elevator, and ascend to the bank.

At the same time and unbeknownst to anyone in the embassy, two men pulled up to the rear guard shack of the embassy, which was manned by the local Kenyan security force. This parking lot, which was sandwiched in between a 60 story bank building and a smaller bank building, was also the entrance into the underground garage for the embassy. Reportedly, a man approached the local guard and demanded he open the gate (leading into the embassy's underground garage) to which the local guard refused. At this time, the man hurled what was believed to be a grenade in the direction of the guard.

Inside the embassy, people heard the explosion and reportedly got up to look out of their windows when at 10:40 am, a truck filled with explosives crashed into the rear wall of the embassy adjacent to the underground garage, and exploded. Corporal Gonite was immediately knocked to the ground by the concussion of the blast. The glass surrounding Post One was shattered but remained in tact. The detachment commander, Gunnery Sergeant Cross, upon hearing the first blast, immediately went for the ladder well and was shielded from the main blast. The Chancery was in shambles.

When the truck exploded, the small bank building behind the embassy collapsed onto the chancery's emergency generator, spilling thousands of gallons of diesel fuel into the basement of the embassy. The diesel fuel ignited and smoke and fire were billowing throughout the embassy. As injured and confused people were running out of the chancery screaming and choking, the Marines were running into the building looking for survivors.

With no thought for their own lives, having no idea what else may happen, or whether or not the shattered structure would cave in on them, the Marines immediately reacted and began a sweep of the building.

Sergeant Briehl, who was waiting outside the embassy in the car, immediately darted into the building looking for Sergeant Aliganga. He ran to the elevator shafts behind post one, which were completely destroyed, and fell two floors down into the shaft, breaking three ribs and sustaining multiple lacerations and bruises. Sergeant Briehl managed to climb out of the elevator shaft and continued his search for Sergeant Aliganga. Sergeant Outt, who was in Nairobi from Bujumbura for a dental appointment, as well as Sergeant Harper, who was on COT leave in Nairobi from Accra, immediately reached with the Marines and manned posts around the embassy.

At this time, we had Gunnery Sergeant Cross, Sergeants Russel, Jiminez, Briehl, Outt, Harper, and Corporal Gonite on board. These Marines immediately made their way through the rubble, fire and smoke looking for survivors, fended off local looters who swarmed the embassy moments after the blast, secured classified material, and most importantly to them, began the search for their brother, Sergeant Aliganga.

To provide a bit of situational awareness, the embassy in Nairobi is a seven floor concrete structure with five above ground and two below ground levels. It was situated on two major avenues of approach with minimal stand off distance between the road and the structure. When the bomb exploded, the force of the blast was so devastating that it blew out almost every closed window and frame on the building. 12 inch thick concrete walls on all floors of the embassy were shattered like thin plates of glass. Solid wooden doors mounted on steel frames were sent airborne landing throughout the structure. Windows on office buildings over a quarter of a mile away were shattered. There was not an office space that survived inside of the embassy. Bodies were spread all over, most of which were buried under up to eight feet of rubble.

At the same time, the Regional Security Officer for the American Embassy in Dar Es Salaam, Tanzania, John DiCarlo, a former Marine Security Guard, had taken post one from Corporal Johnson in order for him to make a head call.

At approximately 10:40 am, a truck bomb exploded outside the security gate, ripping through the embassy. Corporal Johnson was knocked to the deck. He stood up, and immediately ran to Post One where he found it intact, but inoperable. Corporal Johnson immediately reacted the Marines, which were all at the Marine BEQ during the explosion, and informed all mission personnel to evacuate the building. Corporal Johnson donned his react gear and took control of the Command Center.

The detachment commander, Gunnery Sergeant Kimble, arrived at the Embassy approximately 4–5 minutes after the blast and began checking offices throughout the chancery to insure all personnel were safely out of the building. One of the casualties of the explosion was Gunnery Sergeant Kimble's wife Cynthia, who sustained bruises and eye injuries from flying glass. While Cynthia was flown to London to receive eye surgery. Gunnery Sergeant Kimble never lost focus on the mission at hand. Within eight minutes of the blast, Sergeant Sivason, and first post's Corporals Bohn, Hatfield, Johnson, and McCabe began working through the chancery clearing all rooms of personnel. No direction was required as each Marine knew exactly what had to be done.

Due to the enormous amount of smoke and fire, the decision was made to evacuate Post One and the Marines fell back to their secondary positions.

Corporal Johnson took security for the mission personnel at the rear of the Embassy, and all other Marines took up perimeter security around the building. The force of the blast blew out every window in the chancery, and all doors except post one. The hardline doors, which are located on the opposite side of the embassy, were forced open by the blast. Emergency fire exits on the opposite side of the building in which the blast occurred were blown off the hinges. Concrete walls within the Embassy were knocked down and safes were moved and in some cases knocked over. During the search of the building the Marines had to bust through walls in order to get to areas unattainable during their sweep. Within four hours of the truck bomb, which damaged diplomatic properties and houses up to 1000 meters away, the embassy was secure with MSGs maintaining 24 hour security on the building until the arrival of the FAST team.

In Nairobi, Marines continued to work throughout the day cleaning the embassy, providing local security (as the local constabulary proved worthless), moving the injured and the dead from the rubble to safety. The condition of many of the dead was horrific, making the task of search and rescue that much more difficult for all concerned. By 03.00, I arrived on the scene with my XO, 1stSgt, and admin chief, all of whom had been stationed in the Nairobi embassy for over a year and knew the ground, and two MSGs from the Pretoria det, who quickly took up posts around the embassy.

By 04:00, a number of Army special forces NCOs had volunteered to stand post to give the Marines a much needed break. 1stSgt Quzman took the post from the det commander and I ordered the Marines home to shower and sleep. At first light, all of the Marines were back to continue their Mission while looking for Sergeant Alganga. After hours of digging by hand through tons of rubble, behind Post One and in the elevator shafts, we moved to the area of the bank. This was one of the hardest hit areas as it was one floor up and only about 50 feet from the blast site. Twelve inch slabs of reinforced concrete were piled up to the ceiling, while desks, computers, and file cabinets were reduced to scrap. The Marines and Army S/F personnel, along with DOS personnel worked frantically against the clock. By this time, over thirty bodies had been recovered from the rubble, including ten Americans.

Finally, at exactly 14:30 local time, after 27 hours and fifty minutes of relentless digging with their bare hands, the body of Sergeant Aliganga was recovered from the rubble. Once positively identified, the Marines then gently wrapped Sergeant Aliganga in the American flag, and very purposefully marched him through the rubble and out of the embassy to the waiting vehicle. Although there were no cameras present, nor was there any music playing, the crowds seemed to still, and people stood erect, with tears running down their faces, as the body of another United States Marine, who gave his life in defense of his country, was ushered away.

By nightfall, the FAST team arrived and quickly took up the perimeter security of the embassy, freeing the MSGs to return to the still ongoing task of recovering classified material and equipment from the rubble.

Sir, I apologize that my words are insufficient to more accurately describe the true essence of this horrific tragedy. What must not be missed is the incredible bravery and heroism displayed by our Marine Security Guards. Without any regard for their own lives or safety, they maintained incredible presence of mind in the face of tremendous devastation. Each marine continued to serve our country and our Department of State with distinction. Even through the chaos and the fog, our Marines never lost focus of their mission. They were models of strength to be emulated by all.

As you finish reading this synopsis, the Marines from Nairobi and Dar Es Salaam, augmented by Sergeant Harper from Accra, Sergeant Lawlor from Bonn, Sergeant Outt from Bujumbura, Sergeant Boudah from Dublin, Corporal Graff and Sergeant Wolf from Frankfurt, Sergeant Salizar from the Hague, Sergeant Alberto and Corporal Durden from London, Sergeant Jackson from Paris, Sergeant Smith and Corporal Cornell from Pretoria, and Sergeant Reynolds from Rome, are manning makeshift embassies as our MSGs continue to support our Department of State. They have not missed a beat and will continue guarding Americans and America's interests abroad, as marines have done for over 222 years.

Semper Fidelis and Very Respectfully,
DENNIS SABAL,
Lieutenant Colonel, U.S. Marine Corps.

HONORING POLICE CHIEF JOHN AMBROGIO FOR EXCELLENCE IN SERVICE

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Ms. DELAURO. Mr. Speaker, I rise today in honor of a dedicated and highly respected member of the Hamden Police Department whose decision to retire ended a career in law enforcement which spanned more than forty years. Chief John Ambrogio leaves a legacy of dedication, integrity, and excellence spanning over four decades, and he will not be forgotten by his fellow officers or by the citizens of Hamden.

Chief Ambrogio dedicated nearly a third of his life to leading the Department of Police Services with dignity and virtue, and his work has had a profound effect on the quality of life in Hamden. Eighteen departmental commendations as well as various other professional accolades reflect the commitment and devotion John has given to Hamden and its residents. John's good work is reflected in dramatic reductions in crime rates, the inauguration of the annual Halloween party, and the development of a progressive and highly effective police department—just a few examples of the contributions he has made to the Hamden community.

As a professional law enforcement officer, the various ways John has influenced the community are innumerable. Hamden residents credit John's work as Chief of Police as the most important factor in keeping Hamden a safe community, which is relatively free of criminal activity and drug trafficking. John Ambrogio has become an indispensable figure in Hamden and replacing him will be a tremendously difficult task.

It is with great pleasure that I join with his wife, Maureen, his children, and grandchildren, as we honor my dear friend Police Chief John Ambrogio for more than forty years of dedication and commitment to the Town of Hamden. I wish him many happy years in his retirement.

FARLEY UNITED METHODIST CHURCH WILL CELEBRATE ITS 150TH ANNIVERSARY

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Ms. KAPTUR. Mr. Speaker, I rise today to give special recognition to the Farley United Methodist Church in Richfield Township in Northwest Ohio. On October 18, 1998, the church will celebrate its 150th anniversary.

The Farley Society was founded in 1848. Later named the Farley Methodist Church, and then the Farley United Methodist Church, the church is a small rural congregation in the town of Berkey, Ohio. Strongly supported by its members, succeeding generations of the original founding families still attend the church. To quote one of its members, "Although the church remains today as a small, country church, it has been part of the fabric and an influence in the Richfield Township community for generations."

I am pleased to commemorate the church's 150th anniversary. This milestone is a testament to faith, to the strength of community, and to the values of family, tradition, and coming together. A church is only as strong as its members, and the 150 year long journey of the Farley United Methodist Church has only come about through the faith and perseverance of its congregants. Their lives have certainly been made richer through their faith, but our community has also been made richer by the church's presence. The simple white structure at the town crossroads has housed generations of souls uplifted by the strength of prayer and each other as God's Word was celebrated each Sunday for 150 years.

As those years are celebrated, I know that the spirit of the church's ancestors will be felt, and they will join today's membership in the commemoration. May all present find the day to be one of inspiration, reflection on the past, and vision for the future.

NATIONAL MISSILE DEFENSE SYSTEM

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, few Americans are aware that we have no reliable national missile defense system. If a foreign terroristic antagonist, one Saddam Hussein for example, were to launch a single ballistic missile at the North American continent, we would be defenseless to stop it, and it is wholly unlikely that we could accomplish the task.

The President of the United States seems unconcerned about the matter, even though the technology currently exists to begin programs promising to effectively render nuclear missiles obsolete.

To defend the President's irresponsible policies and actions, he has deployed the cover of the Chairman of the Joint Chiefs of Staff, General Henry H. Shelton. General Shelton has compromised national security to carry out his role as chief apologist for an incompetent Commander-in-Chief—President Clinton.

Recently, General Shelton issued a communication to this Congress about the global threat of ballistic missile attack.

Mr. Speaker, the Shelton letter was alarming, not only because it describes a very real threat, but because it is replete with inconsistencies, inaccuracies, contradictions and admissions all pointing to the obvious conclusion that Americans are today in danger.

Today, I responded rather harshly to General Shelton's August 24 letter to Congress. In composing this response, I consulted many colleagues. They share my concern, and my conclusions and have asked that the final draft be distributed to all Members.

Therefore, Mr. Speaker, I hereby submit for the RECORD, the full text of the letter I have today posted to General Shelton. Furthermore, I am eager to join any Member who shares my outrage in this matter, in actively working to provide a reliable national missile defense system.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES.
October 7, 1998

General HENRY H. SHELTON,
Joint Chiefs of Staff, The Pentagon, Washington, DC.

DEAR GENERAL SHELTON: Your letter to Congress of August 24 said you "believed that North Korea continues moving closer to initiation of a Taepo Dong 1 Medium Range Ballistic Missile (MRBM) testing program."

One week later, on August 31, attempting to launch a satellite, North Korea tested its Taepo Dong 1 Long Range Ballistic Missile, a three-stage ballistic missile with an estimated range of 3,000 to over 6,000 miles, or unlimited range if used as a fractional orbital bombardment system.

But the Intelligence Community failed to provide even a day's notice of North Korea's Taepo Dong 1 ICBM test, or an analysis of its purpose. The Intelligence Community certainly can not provide a three-year warning of its ballistic missile threat.

The yardstick of adequate warning for missile tests is not, and should not, be met in simply describing preparations for missile tests as they unfold over the span of a few months, weeks, or even days. Still, as premised in the obviously flawed 3+3 policy, adequate strategic warning to implement this policy entails predicting the appearance of new missile systems years in advance. In order to prevent these new emerging threats from becoming reality, the United States must secure advantage of the greatest amount of time possible to deploy missile defenses. Any delay threatens freedom.

The Taepo Dong 1, furthermore, is a Long Range Ballistic Missile, an ICBM, not a Medium Range Ballistic Missile as you claim. North Korea's Taepo Dong 1 can threaten the United States today.

Your 3+3 ballistic missile defense program is unconscionably leaving the American people vulnerable to ballistic missile attack. We need a defense today against long range ballistic missiles.

Intelligence Community—The Intelligence Community failed to accurately predict the capabilities of North Korea's August 31 test of its Taepo Dong 1 long range ballistic missile. The Intelligence Community failed to correctly analyze North Korea's ballistic missile test.

The Intelligence Community failed to anticipate and provide timely and adequately warning of Pakistan's acquisition and test of its Ghuari intermediate range ballistic missile. The Intelligence Community failed to predict the resulting nuclear tests and arms race between India and Pakistan.

The Intelligence Community failed to provide adequate warning of Iran's test of its Sahab-3 intermediate range ballistic missile.

You are relying for our defense on an Intelligence Community that has repeatedly failed to predict and warn of critical ballistic missile and nuclear arm developments.

You are recklessly compromising the lives and safety of tens of millions of Americans.

Rumsfeld Commission—The unanimous conclusion of the Rumsfeld Commission argues strongly and conclusively against relying on the Intelligence Community for advance warning on ballistic missile threats. You deny the conclusions of the Rumsfeld Commission. But world events in 1998 have validated the conclusions of the Rumsfeld Commission, and repudiate your findings and perspective.

The Rumsfeld Commission points out unconventional, high-risk development programs and foreign assistance can enable rogue nations to acquire an ICBM capability in a short time, and the Intelligence Community may not be able to detect those efforts. You and the Joint Chiefs of Staff view that as an unlikely development. But North Korea has already developed and ICBM capability, disproving your view.

The Proliferation Primer, A Majority Report of the Subcommittee on International Security, Proliferation, and Federal Services, Committee on Governmental Affairs, U.S. Senate, January 1998, describes at great lengths the foreign assistance being given to rogue nations by Russia, China, North Korea, and the United States for the development of long range ballistic missiles.

Your views on the threats we face from long range ballistic missiles and rogue nations are without basis.

Program—You suggest the 3+3 program is an unprecedented effort to address the likely emergence of a rogue ICBM threat, claiming it compresses what is normally a 6–12 year development program into 3 years, with additional development concurrent with 3 year development.

But we built the atomic bomb in 3 years. We put Polaris to sea in 3.2 years. We built four ballistic missile systems. Thor, Atlas, Titan, and Minuteman, concurrently in under eight years.

We can successfully build advanced technology weapons in crash programs. Your 3+3 program under President Clinton, rather than seeking to build a ballistic missile defense to meet the threats which confront us, is needlessly compromising the security of millions of American lives.

Technology—You claim you have "a prudent commitment to provide absolutely the best technology when a threat warrants development." Yet China threatened to attack the United States by ballistic missile in 1996. North Korea can attack us today. Russia can swiftly launch hundreds of long range ballistic missiles against us. Where is our defense your prudence dictates?

You claim you want to provide the best technology for ballistic missile defense, yet President Clinton canceled the Brilliant Pebbles program in 1993, which would have deployed advanced ballistic missile defenses today. President Clinton cut the Space Based Laser technology program in 1993, an advanced technology program which the Air Force now advocates. President Clinton also cut programs for the research and development of technology for ballistic missile defense. Your claim is utterly false and preposterous.

President Clinton dumbed down the Navy Theater Wide ballistic missile defense program (Navy Upper Tier) to restrict its use of target and cuing information, restrict the speed of its interceptor, and restrict the capability of its Kinetic Kill Vehicle. President Clinton is pursuing ineffective and dumbed-down ballistic missile defense technology. President Clinton is clearly not seeking "absolutely the best technology."

You are using the statement of "absolutely the best technology" to delay the deployment of a strong and effective ballistic missile defense. You are needlessly placing the lives of tens of millions of Americans at risk of destruction by long-range ballistic missiles. You are attempting to deceive Congress.

Additional Funding—You claim that additional funding of ballistic missile defense programs will not buy back any time in its already "fast-paced schedule." You contradict the Navy's report on its Theater Wide ballistic missile defense program, which points out how additional funding can bring development by 2002 rather than 2006. You contradict the experience of the Space Based Laser program, where lack of funding, especially under President Clinton, has restrained progress. Your views are invalid.

President Clinton is starving the funding of the Space Based Lasers, precluding their deployment. President Clinton canceled Brilliant Pebbles. Yet funding can revive those programs. Still you deny the American people a defense against long range ballistic missiles.

ABM Treaty—You and the Chiefs of Staff believe adherence to the ABM Treaty is consistent with our national security interests. But the ABM Treaty invited the massive buildup of the Soviet nuclear missiles, and the Soviet Union flagrantly violated its provisions. You have been silent about these violations of "arms control" agreements.

Furthermore, in April 1991, Dr. Henry Kissinger, author of the 1972 ABM Treaty, repudiated the treaty for being inconsistent with our national security interests, writing, "Limitations on strategic defense will have to be reconsidered in the light of the Gulf War experience. No responsible leader can henceforth leave his civilian population vulnerable."

You are irresponsible with American lives, leaving tens of millions of Americans vulnerable to swift, massive destruction by long-range ballistic missiles.

Position of the Joint Chiefs of Staff—The Joint Chiefs of Staff recommends the deployment of a ballistic missile defense at 25 U.S. cities to save the lives of 30 to 50 million U.S. citizens. The Joint Chiefs of Staff believes it is worthwhile deploying a ballistic missile defense to save the lives of tens of millions of Americans.

The Joint Chiefs of Staff believes that the deployment of a ballistic missile defense will limit the ability of a ballistic missile attack to damage our population, industry, and military.

The Joint Chiefs of Staff believes that the deployment of a ballistic missile defense will provide the U.S. a strategic advantage that will enable us to peacefully settle crises around the world.

These views of the Joint Chiefs of Staff for the deployment of a ballistic missile defense, confident in our technological ability to build an effective ballistic missile defense, provide timely advice for Congress although made in 1966.

In spite of the increasing dangers we face, and in spite of the advances in ballistic missile defense technology we have had in 32 years, you find the advice of the Joint Chiefs of Staff to be without merit.

Summary—There is no substitute for a strong defense against long-range ballistic missiles. Your actions and policy of leaving the American people undefended from long range ballistic missiles is indefensible.

Your letter presents Congress with more than a credibility gap. Your leadership, the leadership of President Clinton and his Administration, and the defense of the American people are incompatible.

You, the Joint Chiefs of Staff, and President Clinton are needlessly risking the lives of tens of millions of Americans. You are inviting a nuclear Pearl Harbor. But the defense of the American people from the threat of long-range ballistic missiles will not admit delay.

It is inconceivable, sir, to arrive at any other conclusion but that you are culpable of dereliction of duty, leaving the lives of tens of millions of Americans undefended from long-range ballistic missile attack.

Your Commander-in-Chief President William Jefferson Clinton and his assistant Vice-President Al Gore are also derelict in their duty to defend American lives.

Very truly yours,

BOB SCHAFFER,
Member of Congress.

TRIBUTE TO THE HONORABLE SIDNEY R. YATES

SPEECH OF

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1998

Mrs. LOWEY. Mr. Speaker, I rise to pay tribute to my good friend and colleague, SID YATES.

Since first joining this Congress a remarkable fifty years ago, SID has been a paragon of conscience and decency, shaping this great Nation for the better through quiet perseverance and boundless idealism.

I have had the pleasure of serving with SID on the Appropriations Committee and have watched in admiration as he successfully funded scores of worthwhile projects, many of enormous benefit to our environment. Years from now, when our children and grandchildren enjoy scenic vistas and waterways, when they walk along gleaming lake fronts and thrill to the diversity of our Nation's wildlife, they will have SID YATES to thank. He has always understood our powerful moral obligations to be custodians of the great outdoors.

Just as important has been SID's championship of the arts. In the midst of controversy and contention, SID has always been a staunch and eloquent defender of the NEA. To those who would inflame public passions about the controversial margins of the artistic world, SID responded with a calm affirmation of the arts' central role in our national life. How many orchestras and exhibitions, how many performances and plays, owe their very existence to SID's faithful leadership? Indeed, the NEA itself might have been overwhelmed by its critics had not SID YATES been a member of this Congress.

For me, it has also been a great honor to sit with SID YATES on Appropriations' Foreign Operations Subcommittee. There, he has been an articulate spokesperson for American leadership around the world and a fierce defender of Israel's interests. It is entirely fitting that SID's first election to Congress should occur in the very year of Israel's declaration of statehood. And that, from this high vantage, SID should be able to watch Israel's development from a threatened outpost between the desert and the sea, to a modern, thriving nation, bursting with technology, artistry, and innovation. SID YATES played no small role in Israel's inspiring progress.

Mr. Speaker, SID YATES leaves this House diminished by his departure, yet wiser for his service. I know that SID YATES' integrity and courage will remain a model to countless public servants for many years to come.

HU KOMPLIMENTA I PLANUN HAGÅTÑA

SPEECH OF

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. UNDERWOOD. Mr. Speaker, today I wish to commend the efforts of the many citizens on Guam who organized and actively took part in "Project Hagåtña." This island-wide initiative has connected generations on Guam with our Chamorro heritage and has instilled in us our common values as a people longing to strengthen our identity and culture as native pacific-islanders. Project Hagåtña Project Hagåtña incorporated a multi-faceted approach by sponsoring scores of events that built upon our cultural backgrounds and renewed our energy to learn our history. The events were planned in confluence with the Centennial of the Spanish American War.

As my colleagues may know, the Guam legislature recently changed the name of our capital city from "Agana" to "Hagåtña " (Guam Public Law 24–162) in hopes of restoring and promoting our ancestral village names while at the same time trying us to our cultural roots.

I would like to commend the following individuals for their remarkable efforts in coordinating Project Hagåtña: Lourdes C.N. Ada, Benigno-Joseph Umagat, John San Nicolas, Annabelle Perez, Jeffrey Edubalad, Teresita N. Taitano, Robert J. Umagat, John Garica, Donna Paulino, Lelani Farrales, Lourdes Alonso, Kennedy Jim, Mayleen San Nicolas, Josusa M. Hayes, Clotlde R. Peredo, Patrick S. Leddy, and Peter Alexis Ada.

My congratulations to the people of Guam on the success of Project Hagåtña, may its work continue to remind us of our unique cultural place in the world and strengthen our heritage.

H.R. 4717: DRAFT OF THE CONSERVATION AND REINVESTMENT ACT OF 1999

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. YOUNG of Alaska. Mr. Speaker, since July 17, 1998, Congressman JOHN DINGELL, W.J. "BILLY" TAUZIN, RICHARD BAKER, CHRIS JOHN, and I have been circulating a discussion draft and asking for comments to help further this legislative proposal. Our proposal is based on the idea that funds derived from outer continental shelf or OCS activities should be shared with coastal states impacted by the development, as well as reinvested into conservation. Today, we, along with several of our colleagues, will be introducing H.R. 4717.

To set the stage we must digress to the topic of oil and gas revenues paid to the Federal Treasury by companies involved in producing the federal mineral estate. Currently, would-be oil and gas operators on our public lands, and in federal waters, must bid for a lease at auction, pay rent on this tract if successful with their bid, and pay a royalty on each cubic foot of natural gas and barrel of oil produced. The receipts from oil and gas development onshore, in states like New Mexico and Wyoming, are shared with the state which hosts the federal lease. Generally, half of the revenues the federal government receives from mineral development is shared with these public and land states.

However, oil and gas produced in the federal waters of the OCS is not shared in this manner with adjacent states. There have been numerous attempts to address this inequity. Most have failed at the hands of large states like California and Florida with the help of the environmental community opposed to OCS revenue-sharing because they perceived it as incentive for new oil and gas production. One of the first negotiations took place between Louisiana Governor Earl Long and President Truman. Governor Long has a long history of quotable and embellished stories, but this one is told as follows: Governor Long approached President Truman regarding the issue of revenue from offshore drilling with his state of Louisiana. President Truman, sympathetic, came back with an offer of 50% of the revenues to be shared with impacted adjacent states, such as Louisiana. Governor Long, in typical Earl Long style replied that if Louisiana could not get its due of 100%, it wanted nothing at all. And since that day Louisiana and the other coastal states received just that.

Which brings us to where we are today. With more than 90% of the offshore federal production occurring off the coast of Louisiana, no state is more energized when this issue of revenue sharing is brought up. Past proposals had formulas which favored producing coastal states such as Louisiana and Texas, which have been supportive of responsible development of OCS oil and gas resources. Some previous proposals even penalized states like Florida and California who annually seek a moratorium on OCS leasing. Not so, this time. We all realize the necessity of keeping our large states supportive of in order to have major legislation passed into law.

It seems appropriate to thank those individuals and groups involved with this bill introduction. The proposal has been a process-driven, seeking input from a diverse array of individuals and groups. Countless meetings and information exchanges occurred throughout the summer and into the fall. Any success realized today, with this bill introduction, came from the diversity of the participants and our determination to stay true to an open process and dialogue. Today, you find Congressman that run the spectrum of ideology and geography together supporting this bill. You see the same with the groups who have come out to support this endeavor and I look forward to continuing this collaboration.

Since July, when Congressman DINGELL, TAUZIN, BAKER and JOHN and I began circulating a discussion draft, posted it to the House Resources Committee website, we have been affirmatively seeking comments on the specifics of this idea. I can't stress enough our desire for critical input. Most of our discussion draft ideas were based upon existing reports or programs. Your input has been critical to making this proposal realize it's legislative potential. Today, we are moving into the next step in our process by introducing this bill. Yes, the 105th Congress is nearly finished, but we felt it worthwhile to formally introduce a legislation for thorough scrutiny until the 106th Congress meets. And the citizens of Alaska so willing, I intent to come back and re-introduce the Conservation and Reinvestment Act of 1999 early next year. Please understand, today's introduction does not signal the end our dialogue. I am committed to working with all interested individuals and groups to improve this bill next Congress, should compelling arguments for further amendments. I am dedicating myself to continue the dialogue begun four months ago into the 106th Congress, and working together, we can build a coalition sufficient to enact the "Conservation and Reinvestment Act of 1999" into law.

TITLE I

The first title of the Conservation and Reinvestment Act will redistribute 27% of the total OCS receipts in a given year and is based on a Minerals Management Service's advisory committee's report. This report was prepared by the Administration and local government officials, and oil and gas industry representative, and conservation-community interests. The panel took a pragmatic approach, by suggesting only revenues from new oil and gas development be considered. While this reduces Budget Enforcement Act-induced concerns, it was troublesome to the environmental community because of the implementation that such revenue-sharing would be a strong incentive for new development. Hence, our bull utilizes all revenue, from both existing production and new leases. With this change not only will the funding levels increase to benefits the programs included in our bill, but we wanted to address the environmental community concerns from the outset.

Let's be candid about the perception that this bill includes incentives for oil and gas production. The only true incentive for a company to produce oil and gas, onshore or offshore, is the price of a barrel of oil or cubic foot of gas. A company examines the economics when making its development decisions. Companies will not decree to place a billion-dollar rig offshore based on a state or local government official's desire to increase their share of the fund our legislation would establish. They invest in the OCS if, and only if, they have reasonable expectations of making a profit. Obviously, even in today's oil & gas price environment, many companies have decided to compete in our OSC—especially in the Gulf of Mexico, but also in the Beaufort Sea, and even on existing leases off California.

Would they like to know their royalties are put to noble purposes for the good of taxpayers throughout the Nation? Well, of course, The Land and Water Conservation Fund primarily fueled by OCS receipts does just that, and has since 1965. But, no one believes LWCF has been an incentive for oil and gas drilling, rather its just been a good idea to reinvest some of our oil and gas dollars in the acquisition of lands and conservation of our renewable resources by both state and federal entities.

In addition, we have asked the Minerals Management Service to prepare data to show the amount of new production which would be necessary to increase a state's allocable share by 10%. Preliminary data shows that if all existing leases were to begin producing offshore California, there would be an increase in California's allocable share of only 1 percent, or about $1 million annually. I strongly doubt the people of California would abide new development off their coast simply to gain this revenue for coastal impact assistance.

I argue that this issue of incentives is a "red herring." When a rational person examines the funding distribution, released today, they will see states like Florida and California as some of the largest recipients of impact assistance, despite the current and likely future leasing moratoria. Nevertheless we wish to address the perception of incentives. We are and have always been committed to keeping this bill free of drilling incentives as this is revenue-sharing legislation, pure and simple. To date, we have not received one comment which provides an adequate alternative to funding distribution to areas impacted by OCS development. But, we will work with individuals and groups in finding alternative which accomplishes the goal of providing funds to areas impacted by development which factors in the amount of development adjacent to a given state.

TITLE II

The second title of the Conservation and Reinvestment Act reinvests 23% of the OCS funds into land-based conservation efforts, with a focus on the Land and Water Conservation Fund (LWCF). More than 30 years ago, the LWCF Act created a unique partnership between Federal, State and local governments by authorizing matching grants for the acquisition and development of recreation and conservation resources. Similarly, the Urban Park and Recreation Recovery Program (UPARR), created in 1978, provided Federal funds to distressed urban areas to rehabilitate and construct recreation areas. Together, these programs strived to develop a national system of parks that would, day-in and day-out, meet the recreation and open-space demands of the American public. Our proposal recognizes the noble potential within these programs and provides the stable funding they have been lacking.

LWCF monies have helped fund over 37,500 State and local projects including campgrounds, trails, playgrounds, and parks throughout the country. UPARR grants have been used to rehabilitate and develop nearly 1,500 urban recreation and park projects in more than 400 local jurisdictions. Yet, with the ever increasing demands of Americans for accessible recreation facilities, State and local governments have identified nearly $3 billion in capital investment needs nationally over the next five years for land acquisition and new construction. Nonetheless, despite the successes of the state-side LWCF matching grant and UPARR programs and the continuing demand for recreation and conservation resources, neither program has been funded over the past three years.

Title two of our bill would revitalize the LWCF and UPARR programs by providing matching grants to federal, state, local, and urban governments for the acquisition and development of conservation and recreation resources. Our bill provides annual funding which in many years provides funding at full $900 million levels. This bill will recommit Congress to the vision that revenues earned from the depletion of a nonrenewable resource should be invested in permanent assets that will serve the conservation and recreation needs of all Americans.

The 23% for land-based conservation would be distributed as follows:

42% to be utilized for Federal LWCF;

42% to State and local conservation and recreation projects; and

16% to fund UPARR programs.

It is important to point out that the funds allocated for State and local conservation and recreation projects only could fund one-half of the projects' costs and all expenditures would have to be consistent with the States' comprehensive outdoor recreation plans. Also the stated, territories, the District of Columbia, Indian tribes, and Alaska Native Village Corporations would all be eligible to receive matching grant funds.

TITLE III

For over six years, some segments of the conservation community have advocated the creation of an excise tax to provide funding for non-game wildlife projects and conservation education. Included in this bill is funding for wildlife conservation and education. Conservation education is critical to ensuring that people understand the interdependence between man and the environment. We are losing the idea that people and the environment that surrounds them not only can coexist, but must coexist. As the urban sprawl envelops more of the public geography and ideology, we must work to educate with the principles of sustainable use. Hiking, biking, bird-watching, canoeing, mountain climbing, and hunting are all sustainable and acceptable uses of our lands and resources. Education by using sound scientific principles is the only way to ensure that our use of our resources will be sustainable for future generations.

Another void this legislation helps to fill, is the issue of game vs. non-game funding. This issue divides the sporting community who need unity to accomplish our common goals. The excise tax initiative, while well intentioned, was divisive as it created segmented funding for a particular species of wildlife. Our bill provides funding for both species of wildlife, game and non-game through the existing mechanism of Pittman-Robertson.

Pittman-Robertson currently allows for the flexibility to address the needs of non-game species, as well as game species. We all realize that Pittman-Robertson is currently focused on funding game species. However, our bill will create a new subaccount, named the "Wildlife Conservation and Restoration" subaccount. The conservation and Reinvestment Act of 1998 will provide funding at higher levels than any other federal source for wildlife. Above levels proposed by the excise tax initiative. This will provide wildlife funding to help move the conservation community beyond the debate of game versus non-game funding and provide for conservation education. This funding is provided with the knowledge that many states will utilize them for non-game and watchable species and these functions can take place with the bill as drafted. However, we allow the flexibility for individual states to maximize their digression.

I am very active in the Congressional Sportsmen's Caucus and am currently the chairman of the Executive Council. The Sportsmen's Caucus is the largest Caucus in the Congress and sportsmen's champion. Far too often, our sportsmen and women are criticized for their outdoor recreation. The mass public does not understand our role in the economy or appreciate our heritage. The sporting community, represented by those who enjoy and utilize the outdoors are a huge segment to our Nation's economy. Members of the Caucus leadership, like SAXBY CHAMBLISS often incorporate our significance in their speeches. We should take a moment to realize how much our sportsmen contribute to the economy and environment.

If hunting and fishing were a corporation, it would rank 10th on the Fortune 500 list. This is ahead of giant corporations like AT&T.

Sportsmen activities support more than twice the number of workers employed by Wal-Mart. Wal-Mart, incidently, Wal-Mart is the largest Fortune 500 employer.

Sportsmen's assets equal, $60 billion in retail sales, 1.9 million jobs supported, and $8.7 billion in state and federal tax revenues. Economists estimate that these factors create a $169 billion ripple effect in our country's economy.

Some additional facts related to the taxes the sporting community pays are also interesting:

Tax revenues generated by sportsmen are greater than the box office total of all United States movie theaters. Also, exceed the combined box office earnings of the all-time top ten grossing films.

Federal tax revenues generated by sportsmen could pay for the combined budgets of the U.S. Fish and Wildlife Service, Endangered Species appropriation, Bureau of Land Management, National Biological Service, and National Park Service. For two years!

Federal tax revenues from New York sportsmen alone could pay for the entire U.S. Forest Service fish and wildlife budget. Pennsylvania sportsmen could pick-up the same tab.

Sportsmen's sales tax revenues generated in North Dakota, South Dakota, Vermont, and West Virginia could pay for their state's entire parks and recreation budgets.

All of you are well aware that the sporting community, especially those who engage in hunting and fishing, have been supporting the larger community of outdoor recreation for decades. Their generous contributions through the sportsmen trust accounts of Dingell-Johnson and Pittman-Robertson have immeasurably benefitted wildlife and their habitat. With that success in mind, I look forward to working with all individuals and groups to see this new subaccount passed into Law.

TRIBUTE TO PETER C. EAGLER

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. PASCRELL. Mr. Speaker, I would like to call to your attention the Honorable Peter C. Eagler of Clifton, New Jersey. Peter is being honored this evening by the Clifton Democratic Club for his many years of invaluable service to the community.

Peter Eagler is a lifelong resident of the City of Clifton. In 1972, he graduated from Paul VI High School whereupon he entered Fairleigh Dickinson University as an undergraduate. He graduated from Fairleigh in 1976 with a Bachelor of Arts degree in Political Science and Russian Area Studies.

Peter has been employed by the New Jersey Highway Authority in Woodbridge since 1977 and is also a Coordinator for the PNC Bank Art Center, formerly the Garden State Art Center. He previously worked as an Assistant Coordinator for the Art Center and as a Coordinator of Heritage Festivals.

Peter's career in politics began back in 1974 when he was first elected to serve on the Clifton Democratic County Committee. He then became an active participant in several campaigns in North Jersey including being County Coordinator for Jimmy Carter's Presidential campaign, County Coordinator for Jim Florio's 1977 bid for Governor, member of the Steering Committee for Gloria Kolodziej's campaign for City Council, and County Coordinator for both Gary Hart's Presidential Primary bid and the Freeholder campaign in 1984. Peter also served Jim Florio's campaign again in 1989, as an advisor to the campaign's Ethnic Coordinator.

In 1990, Peter ran for a seat on the Clifton City Council and was elected. In 1994 and, again in 1998, he was re-elected to serve on the Council. As a member of the Council, he has served, and continues to serve, as liaison to the Planning Board and the Environmental Advisory Board, Chair of the Certificate of Occupancy Committee, and a member of both the Recreational Task Force and Real Estate Committees.

In 1995, Peter ran unsuccessfully for Freeholder but ran again and was elected to the Board of Chosen Freeholders in 1996. As Freeholder, Peter served as Chairman of the Community Services, Education, and Recreation Committee. In November 1997, the Democratic Party gained a majority on the Freeholder Board and in January of 1998, Peter was chosen as the new Director of the Freeholder Board.

Outside of his political involvements, Peter is also an active member of the community. He has been President of St. John Kanty's Parish Council (1975–1977), Administrator of Hamilton House (1981–1987), member of Passaic County's Sesquicentennial Commission (1985–1987), the Governor's Ethnic Inaugural Committee, the Clifton Historical Commission (1975–1990), and the Lakeview Civic Association. In December 1993, he was ordained a Subdeacon in Holy Apostles Church. Currently, Peter serves as a Trustee of Holy Archangel Broadcasting and is a Coordinator of the St. Nicholas Program at the Hamilton House Museum.

Mr. Speaker, I ask that you join me, our colleagues, and Peter's family and friends in paying tribute to one of North Jersey's most dedicated servants of the community, the Honorable Peter C. Eagler.

HOME HEALTH CARE PAYMENTS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. STARK. Mr. Speaker, on behalf of myself, Mr. DINGELL, Mr. MATSUI, Mr. BROWN of Ohio, Mr. COYNE, Mr. LEVIN, Mr. CARDIN, Mr. MCDERMOTT, and Mr. MCGOVERN of Massachusetts, I am today introducing a bill to help ameliorate the impact of the home health agency interim payment system and to delay the scheduled 15% cut in home health agency payments scheduled for next fall.

Our bill is revenue neutral.

It is different from the bill being developed by some of the Republicans on the Ways and Means and Commerce Committees. It does not create huge new tax breaks which will cost far more in out-years than they raise in the near term. It concentrates its relief on those who have been careful, cost-conscious providers and does not throw out money at the agencies which have been abusing Medicare by providing excessive and often questionable visits.

Our bill is identical (except for the pay-for) to the bipartisan bill which has been developed by the Senate Finance Committee, and which may pass the Senate at any moment. Our pay-for simply changes the limits on the Medicare Medical Savings Account demonstration project, lowering the number of participants in the early start-up years and raising them in the out-years and extending the life of the demo. Very few people are likely to participate in this program in the early years, yet CBO charges us for the cost of a full-blown program. By starting more realistically, we will not hurt the program, but can be scored for budget savings.

Attached is a description of the formula changes our bill makes.

This is a small, do-able bill in the last hours of the 105th Congress. It does not waste money on the agencies who have created so much of the fraud, waste, and abuse problem in the home health sector. It is a reponsible pay-for. It is a bill that can quickly and easily be conferenced with the Senate.

We urge other Members to join us in supporting this approach.

SUMMARY OF FORMULA CHANGES

Reduces state and regional differences for "old" agency payments; brings down the per beneficiary limits for the highest cost "old" agencies; raises the per beneficiary limits for the lower cost "old" agencies and eliminates current 2% discount on per beneficiary limits applicable to new agencies. Raises the separate average cost per visit limits for all agencies.

CBO: budget neutral (through FY 2008).

Per Beneficiary Limits

1. "Old" agencies: payment is 50% BBA policy +50% (50% national mean +50% regional mean);

2. "New" agencies: payments are increased by 2% to equal 100% of the national median (about $3,450), (which continues to be regionally adjusted for wages); and

Per Visit Limits

3. Increase the per visit limits from 105% to 110%.

4. Delays for 1 year the 15% across-the-board cuts currently scheduled to go into effect on October 1, 1999.

CBO: Cost is $1 billion over 5 years.

HONORING RICHARD L. OTTINGER

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mrs. LOWEY. Mr. Speaker, I rise to pay tribute to an outstanding leader, good friend, and beloved former member of this House, Dick Ottinger.

Dick represented Westchester County in the United States House of Representatives from 1965 to 1971, and again from 1975 to 1985. Throughout his service in the Congress, Dick was a model of integrity and energy. He fought for the interests of working families and consumers, for the underprivileged and for seniors—always guided by a powerful sense of justice and idealism.

But Dick's greatest passion has always been the environment. He came to Congress at a time when few in Washington devoted sufficient attention to the cleanliness of our air and water, to the depletion of fossil fuels, or to the long-term relationship between economic growth and sound environmental stewardship. He left Washington with these priorities enjoying wide acceptance among lawmakers and the public alike. Without a doubt, Dick's contribution to the environmental cause was wide and deep—and today his legacy is as great as the American outdoors.

Mr. Speaker, Dick's accomplishments are not limited to the arena of elected office. Public service is at the very heart of Dick Ottinger's character, an instinct revealed in every season of his life. He was one of the founding members of the Peace Corps, a distinguished attorney, an author of numerous books and articles, and today the Dean of the Pace University School of Law as well as the Co-Director of Pace's prestigious Center for Environmental legal Studies.

For his extraordinary body of work, Dick Ottinger has been honored many times over. But perhaps the greatest tribute is the lasting affection and admiration of the men and women whom Dick so ably represented and about whom he continues to care so deeply.

I am pleased to recognize Dick Ottinger, together with his wife June, and to express my thanks to an outstanding role model and wonderful human being.

COMMENDING THE INCORPORATION OF THE SUABE NA TASI FOUNDATION ON GUAM

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. UNDERWOOD. Mr. Speaker, I would like to bring to the attention of my colleagues the recent formation of a particular non-profit corporation known as the Suabe Na Tasi Foundation. On August 20, 1998, this foundation was officially incorporated on Guam to increase public awareness about the waters surrounding our beautiful island and to raise the necessary funding to study and implement measures to sustain our vibrant economy while protecting our precious ocean resources.

As many of my colleagues know, Guam's coral reefs as home to the most diverse fish populations in the world. Recent increased development have heightened the demand placed on our near-shore waters and, as a result, our reefs and ocean waters have not only been threatened but are becoming adversely impacted. Tumon Bay in particular, Guam's most developed shoreline, has produced signs of environmental stress and human activity is the leading apparent cause. Recent studies also point to an increase in algae growth and beach sands are turning from a pure white to an abused gray that gives way to erosion as each day passes.

In response to these growing signs of rapid development, various local governments as well as GovGuam have attempted to take constructive action to restore our environment and free it from intrusive and negative impact in the future. However, there is a single impediment standing in the way of needed progress and that is a tremendous lack of funds. The Suabe Na Tasi Foundation has stepped up to act as the engine to fund important local initiatives to save our environment and help Tumon Bay.

The people of Guam are especially grateful to Telo Taitague, a local and talented vocalist who has committed to release a compact disc to facilitate a public awareness campaign and offered all the proceeds in support of the Foundation's efforts. Telo, is a true civic leader on Guam as she has devoted her singing talent to aid not only the Suabe Na Tasi Foundation but in the past helped with the Toys for Tots campaign, Rest Homes in North Carolina, the Hawaiian Save the Waters campaign, Special Olympics, and Miss Guam Universe. The Foundation has also completed plans to hod a benefit concert with Telo and other Guam artists and musicians to release money for the restoration of Tumon Bay.

Mr. Speaker, it is also worthwhile to commend the work of several individuals, who with their determination and energy, worked to incorporate the Suabe Na Tasi Foundation. Mr. Paul Packbier, an advocate for protecting the environment who has over twelve years of experience in environmental consulting and chairman of the Foundation, is to be praised for his efforts in organizing the foundation as well as Mr. Sinforoso M. Tolentino, a hgihly respected lawyer and friend of the business community on Guam. Mrs. Beth S. Lizama, currently the Vice President of Marinas Credit Bureau and a Business Development officer for Mari-Net, also deserves recognition and are gratitude for her commitment to the Suabe Na Tasi Foundation. Without these three individuals, the Suabe Na Tasi Foundation would not have been incorporated and Tumon Bay would still be in dire need of our attention and care.

The Suabe Na Tasi Foundation is the first organization of its kind, and we on Guam eagerly await its benefits and look forward to proudly preserving our environmental resources. Let us continue as an island community to share our talents and energy for the betterment of Guam. Si Yu'os Ma'ase to the contributors and founders of the Suabe Na Tasi Foundation. May your organization and dedication to protecting our environment serve as a model for other communities across the United States to emulate.

HONORING THE RETIREMENT OF COMMANDER JAMES E. BURD

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. BORSKI. Mr. Speaker, I would like to extend my deepest congratulations to Commander James E. Burd, the Commanding Officer of the Naval Air Technical Services Facility, on his retirement.

Commander Burd was born in Harrisburg and raised in Pittsburgh, Pennsylvania. In 1975 he graduated from the United States Naval Academy and he obtained of his pilot wings a year later.

He was initially assigned to a Helicopter Combat Squadron and flew an H–46D helicopter aboard the USS *White Plains* (AFS–4), USS *Midway* (CV–41), and USS *Niagara Falls* (AFS–3) in the Pacific and Indian Oceans. In 1980, Commander Burd received his Masters Degree in Aeronautical Engineering from the Naval Postgraduate School. He also attended the Defense Systems Management College where he issued over 2,200 individual engineering safety clearances for almost every aircraft and aviation weapon system in the Navy and Marine Corps inventory, in addition to the prototype and classified systems successfully employed during Desert Storm. While aboard the USS *Shasta* (AE–33), he demonstrated true heroism by helping to save an aircraft from a ditching situation. By 1984, he was appointed as an Aeronautical Engineering Duty Officer, yet he still found the time to volunteer as a Detachment Officer in Charge of a helicopter deployment aboard USS *Flint* (AE–32).

Commander Burd continued to advance his career in the Navy when he was promoted to the position of Project Officer for the Presidential Helicopter Program and qualified as Aircraft Commander in the CH–53A. Eventually, he became the Vertical Flight Program Director for the Naval Air Development Center in Warminster, Pennsylvania.

After returning to San Diego in 1994, he became the Helicopter Class Desk Officer for COMNAVAIRPAC. Commander Burd now had the enormous responsibility of being in charge of more than 700 Navy and Marine Helicopters stationed throughout the Pacific Fleet. He continued to excel in his career and by 1994 he was designated as the first 3.3 Technical Data Department Head of the Naval Aviation Systems TEAM.

Incredibly, Commander Burd's personal awards are as impressive as his career's track record. He has been honored with the Meritorious Service Medal along with two Navy and Marine Corps Commendation Medals. He also received four separate citations for various at sea rescues and emergency recoveries while piloting both H–46 and H–53 helicopters.

I am more than honored to join Commander Burd's wife, Nancy and his son, Andy, in congratulating him for a job well done. He is an American hero who was dedicated his life to his family and community, as well as preserving the safety of our nation. I wish him the best of luck in the endeavors that follow his retirement.

WORLD POPULATION AWARENESS WEEK

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. SABO. Mr. Speaker, I rise today to call World Population Awareness Week 1998 to the attention of my colleagues.

October 25–31, 1998 marks the 13th annual celebration of World Population Awareness Week. More than 300 family planning, environmental educational, community and service organizations in 61 countries are co-sponsoring the week in an effort to raise awareness of the need or universal voluntary family planning.

I commend to the attention of my colleagues the following proclamation, made by the Governor of Minnesota, the Honorable Arne H. Carlson:

WORLD POPULATION AWARENESS WEEK PROCLAMATION—1998

Whereas world population stands today at more than 5.9 billion and increases by more than 80 million per year, with virtually all of this growth in the least developed countries;

Whereas the consequences of rapid population growth are not limited to the developing world, but extend to all nations and to all people, including every citizen of the State of Minnesota concerned for human dignity, freedom and democracy, as well as for the impact on the global economy;

Whereas 1.3 billion people—more than the combined population of Europe and North Africa—live in absolute poverty on the equivalent of one U.S. dollar or less a day;

Whereas 1.5 billion people—nearly one-quarter of the world population—lack an adequate supply of clean drinking water or sanitation;

Whereas more than 840 million people—one-fifth of the entire population of the developing world—are hungry or malnourished;

Whereas demographic studies and surveys indicate that at least 120 million married women in the developing world—and a large but undefined number of unmarried women—want more control over their fertility but lack access to family planning;

Whereas this unmet demand for family planning is projected to result in 1.2 billion unintended births; and

Whereas the 1994 International Conference on Population and Development determined that political commitment and appropriate programs aimed at providing universal access to voluntary family planning information, education and services can ensure world population stabilization at 8 billion or less rather than 12 billion or more.

Now, therefore, I, Arne H. Carlson, Governor of the State of Minnesota, do hereby proclaim the week of October 25–31, 1998 as World Population Awareness Week, and urge citizens of the State to take cognizance of this event and to participate appropriately in its observance.

* * *

A JOB WELL DONE

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. EVANS. Mr. Speaker, in a matter of days, Adam Sachs, an outstanding member of my Committee staff will return to Kansas City, Missouri. As Adam begins this new chapter in his life, I wish Adam, his wife, Julana Harper-Sachs, and their two daughters, Haleigh and Maggie Harper, happiness and success in the coming years.

Adam began his government service in 1987, when he joined the staff of my congressional office. While a member of my personal staff, Adam served as my legislative assistant for national defense issues and other key issues until 1989. Adam then returned to school and received his law degree from Washington University, St. Louis, Missouri, in 1992.

Last year, after he had established a successful law career in Kansas City, I was fortunate to prevail upon Adam to return to Washington to join the Democratic staff of the House Committee on Veterans' Affairs. As a member of my Committee staff, Adam has served as the Chief Counsel and Staff Director of the Subcommittee on Oversight and Investigations. While Adam's tenure with the Committee has been short, his accomplishment have been significant.

Among his achievements, Adam was instrumental in the establishment of a new process by which the Department of Veterans Affairs responds to allegations of employment discrimination, including sexual harassment in the VA workplace. When inaccurate allegations were made that burials in Arlington National Cemetery were being sold in exchange for political contributions, Adam determined the facts which refuted the improprieties which had been so eagerly alleged. To ensure Arlington National Cemetery continued to be our Nation's most honored final resting place, Adam worked in a bipartisan fashion to develop legislation to maintain the integrity of burials at Arlington National Cemetery. As an indication of Adam's legislative abilities, this legislation was overwhelmingly approved by the House of Representatives.

Adam is blessed with many outstanding attributes. He has a passion for fairness and justice, an unfailing sense of good humor and a willingness to always take on one more task. Adam, those of us who have come to know you and work with you, will miss you. We wish you all the best and look forward to seeing you again in the future.

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HONORING SUNNY YEDDIS GOLDBERG

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mrs. LOWEY. Mr. Speaker, I rise to pay tribute to a remarkable individual and good friend, Sunny Yeddis Goldberg.

There are few people as well named as Sunny. Active in an extraordinary number of causes, ranging from education to neighborhood beautification, from promotion of the arts to prevention of illness, Sunny brings to each challenge her unique blend of bright optimism and boundless energy.

Professionally, Sunny has devoted her life to children, earning degrees in education and acquiring an expertise in overcoming learning disabilities. As a private therapist and as an expert with the Board of Cooperative Services, Sunny has helped countless young people overcome obstacles to achieve their potential.

In Mamaroneck, New York, where Sunny lives, she is regarded as a community treasure. Indeed, one of Sunny's passions has been Larchmont-Mamaroneck Community Television, an exceptionally well-regarded local station with a rich array of programming a central place in the life of the villages it serves. Sunny has been a Board Member at LMC–TV for twelve years, including nine during which she served as President.

This month, LMC–TV will not only recognize Sunny's exceptional contribution, but will name its annual award after her. There can be no more deserving recipient of the "Sunny" than Sunny herself.

Mr. Speaker, Sunny Yeddis Goldberg is one of those individuals around whom burdens seem lighter and joys even more sweet. We are enriched by her work and inspired by her example.

* * *

CONGRATULATIONS TO FATHER DUENAS MEMORIAL HIGH SCHOOL AND THE ACADEMY OF OUR LADY OF GUAM ON THEIR 50TH ANNIVERSARY

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. UNDERWOOD. Mr. Speaker, fifty years ago, Bishop Apollinaris William Baumgartner' dream came to fruition. Firmly believing that the growth of Guam's Catholic Church depended on the establishment of the local clergy, he worked to ensure that young men on Guam had the opportunity to receive religious vocation training and to pursue university level education. Upon contacting the Stigmatine Fathers at Waltham, Massachusetts, work commenced on a minor seminary accommodating young Guam men aspiring to the priesthood.

It was an uphill battle. At the time, the church in Guam was in the earliest stages of self-reliance. It was a challenge to survive with meager funds and at the same time support the goal of an institution that will foster Guamanian clergies, bishops and priests. Money was not the sole problem. Time and energy also went into clearing the land upon which the school was to be built. Fortunately, efforts from dedicated followers make the building construction possible.

In the summer of 1948, five Stigmatine Fathers, considered pioneers and Founding Fathers, arrived on Guam. The Father Superior, Rev. Joseph Morgan, C.P.S., was accompanied by the Revs. Charles Egan, C.P.S., Geral O. Goggin, C.P.S., Leo James Garachi, C.P.S., and Elisworth Fortman, C.P.S. to form the nucleus of the teaching staff. A total of 17 Stigmatine Fathers instructed at the school until 1959 when local clergy were able to administer and staff the school. Capuchin Franciscan Friars, who were pastors of most of the parishes in the Marianas in those days, took over the school's administration.

Father Duenas Memorial School (FDMS) was named after a local priest martyred by Japanese Imperial troops during World War II for sympathizing with the Americans. FDMS opened its doors on October 1, 1948. To usher in the school's first year, a solemn high mass was celebrated in the presence of Bishop Baumgartner and attended by the parents, relatives and friends of students. Among those who filled the chapel to maximum capacity were representatives of the Guam Department of Education, Mr. Norbert Tabery and Mr. Simon Sanchez. The presence bears testimony to the good relations which have always existed between Catholic Schools, FDMS being the first, and the Government of Guam.

To attract more students, Bishop Baumgartner decided to admit non-seminarians, classified then as "day-students," to FDMS. Considered as a college preparatory High School, day students attended classes during the daytime while seminarians boarded at the school. A total enrollment of less than fifty students doubled in 1949 and has since steadily increased.

Around the same time of Father Duenas Memorial's inception, Bishop Baumgartner laid the foundation of yet another of Guam's premier educational institutions. Named after Mary, the Mother of Jesus, the Academy of Our Lady of Guam (AOLG) is a female-only Catholic educational institution delivering Catholic educational service based on the Gospel values of love.

With the assistance of my aunt, Sister Mary Inez Underwood, the Academy opened its doors to 36 freshmen on September 8, 1949. First housed in a section of the Agana Cathedral Activities Hall, the students learned about developed skills in the sciences, mathematics, language and fine arts as well as the life and example of Christ.

Under the guidance of the future Archbishop of Guam, Monsignor Felixberto Camacho Flores spearheaded the construction of a permanent structure for the Academy in 1960. In 1974, the school received its first accreditation from the Western Association of Schools and Colleges. It has undergone the accreditarian process successfully four times after this, the last being in March of 1996.

From an initial enrollment of 36 students in 1949, the student body now consists of over 400 young women. Under the direction of Sister Mary Inez Underwood, Sister Mary Roberta Taitano, Sister Marie Pierre Martinez, Sister Evelyn Muna, Sister Mary Mark Martinez, Sister Mary Francis Jerome Cruz, Sister Mary Helene Torres, and Sister Mary Angela Perez, the Academy has distinguished itself as one of the finest college and career-bound preparatory schools on Guam. Sister Mary Francis Jerome and Mrs. Daphne Castillo continue this tradition of excellence today.

While AOLG students are recognized islandwide for their outstanding scholastic achievement, participation in Academic Challenge Bowls, Mock Trials, and the Debate forums, AOLG is also recognized locally and regionally for its strong interscholastic sports program, such as previous Far East Volleyball Tournament championships, tennis and golf tournaments, as well as an array of other youth athletic activities.

October 14, 1998 marks the 50th anniversary of the establishment of Father Duenas Memorial High School and the Academy of Our Lady of Guam. I commend and congratulate the founders, administrators, faculty, staff, students, alumni and alumnae of these two fine Catholic schools.

For fifty years, the schools have generated men and women who have made great contributions toward the transformation of Guam from an island ravaged by war in the forties to its present state as a political and economic center in the Western Pacific.

I wish FDMS and AOLG continued success. I am confident that these fine institutions of faith and learning will continue their commitment to excellence by providing a valuable educational opportunity to the sons and daughters of Guam.

HONORING HAZEL HAINSWORTH YOUNG AND THE ALPHA KAPPA OMEGA CHAPTER

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of honoring the Alpha Kappa Omega Chapter and Mrs. Hazel Hainsworth Young. This Resolution first recognizes the Alpha Kappa Omega Chapter on the celebration of their 70th birthday. It also recognizes the dedication and commitment of Mrs. Hazel Hainsworth to the sorority and to her community.

Throughout its storied history, the Alpha Kappa Omega Chapter has been an instrument of leadership in many civic, cultural, and charitable projects. This chapter has consistently made an effort to enhance the quality of life for all Houston residents. In the early 1930's, it was this chapter which distributed milk to the underprivileged children of Houston. This tradition continues in the 1990's with its devotion to improving academic achievement among African-American students. Whatever the need, this chapter has answered the call with commitment and leadership.

Mrs. Hazel Hainsworth Young serves as a vivid reminder of our sorority's commitment to wholesome sisterly friendships and of our endeavors to serve our community. She has exemplified the true meaning of being a sister in the Alpha Kappa Alpha Sorority. She continues to be a source of inspiration, not only for me and for you, but to our future members. Who better to look up to for direction and leadership, than to one of our founding sisters.

This birthday celebration allows us to reflect on our past and to look to our future. The past is filled with many Alpha Kappa Alpha sisters, who like Mrs. Hazel Hainsworth Young, dedicated themselves to the improvement of their community. These sisters have set an example which future members of this chapter can emulate.

On this occasion of your 70th year of existence, I want to commend the sisters of the Alpha Kappa Omega Chapter for their dedication to sisterhood and for their efforts to improve the Houston community. I also want to thank Mrs. Hazel Hainsworth Young for her leadership and service.

A TRIBUTE TO THE STREET-LEVEL YOUTH MEDIA PROGRAM

HON. LUIS V. GUTIERREZ

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. GUTIERREZ. Mr. Speaker, I rise today to congratulate the Street-Level Youth Media program for their designation as a recipient of the "Coming Up Taller" Award. The Annual "Coming Up Taller" Awards are sponsored by the National Endowment for the Arts and the President's Committee on the Arts and the Humanities to showcase cultural excellence and enhance the availability of out-of-school arts and humanities programs to children, especially those with limited resources.

Street-Level provides a concrete example of how after-school, weekend and summer arts programs are effectively used by communities in prevention strategies for children and youth.

Street-Level began in 1993 as a vision of a small group of artists who wanted to create a hands-on program that would provide free access to emerging technologies. Children and young adults, with the help of computers, cameras, video, radio and other mediums of media art and technology, were given a forum for self-expression, communication and social change.

Today, that vision has become a reality. Through their collaboration with National Public Radio, The Field Museum of Chicago, Gallery 37 and Public Broadcasting Service, among others, Street-Level is able to serve more than 1,000 children and young adults in Chicago. Thanks to their association with these well-known entities, we have been graced with historical documentaries, innovative animation and multicultural education resources.

Programs like Street-Level Youth Media deserve our recognition. Programs such as these are proactive, promote a child's creative interests and develop critical thinking skills. As we embark into the Twenty-First Century, our challenge should be to replicate exemplary programs like Street-Level so that we may have an able Twenty-First Century citizenry.

I applaud the work that you do and I am hopeful that your creative energy will follow your lives and make our world richer. Congratulations.

PERSONAL EXPLANATION

HON. JAMES H. MALONEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. MALONEY of Connecticut. Mr. Speaker, I was unavoidably detained for a recorded vote earlier today. If I had been present for the rollcall vote No. 487, I would have voted "yea".

DO THE WRITE THING CHALLENGE PROGRAM

HON. FRANK RIGGS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. RIGGS. Mr. Speaker, not long ago, I served as host for a reception in the Cannon Caucus Room to honor the finalists in the Do the Write Thing Challenge Program. As Chairman of the Subcommittee on Early Childhood, Youth and Families of the House Education and the Workforce Committee, I want to call this initiative to the attention of my colleagues.

Do the Write is a project of the National Campaign to Stop Violence. Students in urban middle schools are encouraged to write about problems of violence and drug abuse in their communities. Through these writings, 7th and 8th graders are motivated to make a commitment to stay in school and do something about drug abuse and violence. They also increase adult awareness and involvement in programs to address these problems.

At the beginning of each school year, school superintendents in targeted cities notify middle school principals about the Do the Write Thing Challenge Program. Students are then asked to write papers relating to three questions: "How has youth violence and drug abuse affected my life?" "What are the causes of youth violence and drug abuse?" "What can I do about the youth violence and drug abuse that I see or experience?"

A panel of volunteers reads student papers. They selected male and female finalists for each school. From among these students, the best entries from each city are named national finalists. There is a local recognition ceremony for the school finalists, and a series of recognition events in Washington, D.C. for the national finalists. Local committees also work with government, businesses, and community leaders to provide opportunities for the student participants such as job training internships, mentoring, and scholarships. These are designed to promote community service and build a new network of positive relationships for those who have accepted the Do the Write Thing challenge.

The Do the Write Thing Challenge Program is presently operating in Atlanta, Chicago, Detroit, Hartford, Houston, Las Vegas, Los Angeles, Miami, New Orleans, New York, Philadelphia, and Washington, D.C. Nationwide, over 15,000 students have submitted writings as part of the program.

Mr. Speaker, those who merit recognition are too numerous to mention, but I want to particularly thank Daniel Q. Callister, the founder and Chair of the National Campaign to Stop Violence for his leadership in the Do the Write Thing Challenge Program . I also thank Marion W. Mattingly who is working tirelessly to expand the Do the Write Thing Challenge Program to additional cities. The Council of Great City Schools, the National Association of Secondary School Principals, the National Council of Juvenile and Family Court Judges, the Young Astronauts Counsel, and the Justice Department's Office of Juvenile Justice and Delinquency Prevention are all supporting the program. Finally, special commendation goes to the Kuwait-America Foundation, the primary sponsor of the Do the Write Thing Challenge Program.

HONORING ROBIN CHANDLER DUKE

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mrs. LOWEY. Mr. Speaker, I rise to pay tribute to a good friend and outstanding leader, Robin Chandler Duke.

Robin is one of those rare individuals who lends energy and dynamism to every cause with which she is involved. Through her service and advocacy, Robin has advanced compassionate public policy here and abroad, while touching countless lives.

I have had the great privilege of working at Robin's side in the critical struggle to protect a woman's right to choose. President Emeritus of the National Abortion Rights Action League, Robin has been a tireless champion of reproductive freedom—always inspiring those with whom she works and meeting even the most difficult challenge with grace, wit, and determination.

Robin is a giant among pro-choice leaders, yet this is but a small part of her varied activities. For seven years, Robin has been the National Co-Chairperson of Population Action International, which is dedicated to the promotion of voluntary family planning, effective population policies, and individual rights. In addition, Robin is actively involved in the U.S. Japan Foundation, The David and Lucile Packard Foundation, the Alan Guttmacher Institute, the United Nations Association, the Council on Foreign Relations, and the Friends of Art and Preservation in Embassies. She has represented our country in various international conferences and organizations, and remains today a shining light of principle and purpose.

Above all, Robin is a delightful human being. A paragon of elegance and poise, and yet utterly without pretension. Robin is always impressive, but never imposing. It is a joy to be her friend.

Mr. Speaker, this month Population Action International will honor Robin Chandler Duke for her service to that organization and for a lifetime of good works. Let the record reflect my enormous admiration and gratitude for this outstanding American.

GEOGRAPHY AWARENESS WEEK

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. STUMP. Mr. Speaker, during the week of November 15–21, the Arizona Geographic Alliance will be celebrating Arizona's Geography Awareness Week. The Alliance has worked closely with the Governor, local mayors and school superintendents to recognize the week in the public schools. The National Geographic Society, the State of Arizona, and Arizona State University supports Geography Awareness Week.

The purpose of the week of programs is to illustrate the importance of geography education. Studying geography is much more than just locating a city, state or country on a map. Students of geography learn about direction, climate, physical and social characteristics of a region, methods of travel, cultural differences, monetary systems, and environmental settings. A thorough understanding of geography offers an understanding needed for many of today's jobs. Geographic education also opens the mind to the world and experiences beyond our own boundaries.

I commend the members of the Arizona Geographic Alliance for their promotion of the importance of geography education. Hopefully, other states will join Arizona in creating a Geography Awareness Week to renew interest in our ever-changing global environment.

CELEBRATING THE 70TH BIRTHDAY OF JAMES FORMAN

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Ms. NORTON. Mr. Speaker, I rise to celebrate James Forman, who should have been a celebrated leader years ago. Jim, as we always called him when he was the engine and the engineer of the Student Nonviolent Coordinating Committee (SNCC), has just celebrated his 70th birthday. Jim Forman is the least known of the major civil rights leaders of the 1960s. Our colleague, John Lewis, may be the best known of those of us who worked in SNCC, but John would be the first to say that it was Jim who ran SNCC.

Jim Forman was the Executive Director of the Student Nonviolent Coordinating Committee when it was at its best and at its height. This was the SNCC that pioneered the nonviolent techniques of the sit-ins at segregated lunch counters; that organized the Mississippi Freedom Democratic Party that broke segregated national convention delegations in both parties; and that originated the 1964 Mississippi civil rights summer that brought an integrated army of students into the South to break open the worst and most dangerous areas. These historic achievements required more than young people who were willing to sit in, go to jail, or risk their lives. Jim did those and more. Jim was the sturdy hand at the helm who brought order out of movement chaos, kept everybody focused, and headed off trouble. I remember Jim as the forceful man in charge who was good at the whole range of human interactions. He could cajole, he could persuade, he could entice, and, if necessary, he would order.

SNCC was an extraordinary, collegial, decentralized movement organization. Its loose structure, youthful participants, and free spirits demanded a special leader. How fortunate our band of the young and foolish were. At the moment when we needed a leader who could hold us all together until the segregated south succumbed to the rule of law, we found one—James Forman.

TRIBUTE TO THE HONORABLE GERALD SOLOMON

SPEECH OF

HON. HERBERT H. BATEMAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1998

Mr. BATEMAN. Mr. Speaker, regrettably, schedule conflicts on two occasions prevented me from joining in the tribute here on the House Floor to our departing colleague, Jerry Solomon. I would like to have contributed comments then. Since I could not, I ask these words be included at the appropriate point in the Record.

Jerry Solomon is a number of things to me. On a personal level, he is a friend, one of my best friends in the Congress. He is also a neighbor, as my wife and I live in the same complex as Jerry and his wife, Freida, when she is in the area.

From my earliest days as a member of the House, Jerry was friendly, open and willing to take his time to help a new member.

Amazingly, even after he became Chairman of the Rules Committee, Jerry Solomon remained the same Jerry as before. He was accessible, interested and willing to help whenever his help did not conflict with his deeply held policy positions.

Jerry is a highly skilled legislator. All Members of the Congress are patriots. They love their country. Jerry Solomon is an ardent patriot. He would be even if he was not a Marine Corp veteran, but being a Marine helps.

I have heard Jerry in the forum of the North Atlantic Assembly, where he has served so ably and effectively defended and advocated the security interest of the United States of America.

On this floor, and in the ways that the Chairman of the Rules Committee can make a difference, Jerry Solomon has been one of the strongest advocates for our military service, and on behalf of trying to keep us strong. He has been in the forefront of the efforts to preserve our much too threatened American Merchant Marine and American Merchant Mariners.

For all this, and for much more, I salute my friend and neighbor, Jerry Solomon. You will indeed be missed.

CONGRATULATING GUAM'S PARTICIPATION IN THE IV MICRONESIAN GAMES

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. UNDERWOOD. Mr. Speaker, during the first ten days of August this year, the 1998 Micronesian Games were held in the Republic of Palau. Noted for its natural beauty, friendly people and world famous dive spots, the Republic played host to the IV Micronesian Games, the largest sports event ever to be held within this group of islands. Delegations of over two thousand athletes and coaches from as far away as Kiribati and Nauru made the trip to the archipelago. Team Guam, consisting of over 200 participants and officials, came to compete with our brothers and sisters from all over the Western Pacific and to defend the medals earned during the last Micronesian Games held four years ago on Guam.

Once again, the Guam delegation performed particularly well. I would like to commend and congratulate Team Guam for their superb performance, efforts and contributions toward the success of the Games. Participating in regional competitions such as the Micronesian Games strengthens our relations with our neighbors and prepares our athletes for higher levels of competition.

I am pleased to submit for the Record the names of Guam athletes who have distinguished themselves by winning medals during the IV Micronesian Games.

Gold Medal Winners

TABLE TENNIS

Men's Single: Carlos Gumataotao.

BASKETBALL

Men's Team: Manuel Alegre, Vincent Bautista, Carmen Blas, Joey Almoguera, Joseph P. Cepeda, Daniel D. Cepeda, Richard Gutierrez, Michael Lee, Arnold Mesa, Jine Ho Han, Jesse Pinaula, Mike Swaney, Paul Shimizu, Melvin F. Peters.

LAWN TENNIS

Men's Team: Mark Arakawa, Alfred Feria, Lynn Nguyen, David L. Smith.

Men's Doubles: Lynn Nguyen, Mark Arakawa, Mixed Doubles: Lynn Nguyen, Linda Johnson.

Women's Individual: Linda Johnson.

VOLLEYBALL

Women's Team: Debra Bell, Francine Calvo, Lucia Calvo, Dolores Cruz, Mie Endo, Sharon Mendoza, Deborah D. Pangelinan, Leticia Pangelinan, Rebecca Salas, Sonda Yatar, Michelle Cruz-Taisipic, Lisa Muna.

SOFTBALL

Men's Team: Peter B. Aguon, Melan C. Borja, Frenando S. Diaz, John D. Hattig, Raymond Rojas, Edward T. Laguana, Richard B. Martinez, Vincent E.M. Meno, Peter P. Pangelinan, Frank P. Quintanilla, Albert L. Rdialul.

Women's Team: Jennifer M. Aguon, Josephine M.P. Blas, Arlene Cepeda, Margaret M. Cepeda, Kauleen Crisostomo, Maria B. Cruz, Carla V. Dulay, Vickie Fejeran, Darleen Rayburn, Vitolia Love, Susan Miner, Lillian Quintanilla, Luann Guzman, Marcelle Rivera, Arlinda Sablan, Tara Steffy, Monica Fernandez.

CANOEING

Women's Team (8 mile): Susan Hendricks, Venesia Luzanta, Irene Meritita, Melanie Mesa, Nicole Murphy, Julie Paxton, Agnes Suba, Jorgi Strand hagen, Junko Suzuki.

Men's Team (500 m): Anthony Blas, Marcelito Carlos, Randy Sager, Benjamin Del Rosario, Grafton L. Howard, David Torre, Magahet Mendiola, Andrew Painter, Uati Taua, Raymond Rojas.

WRESTLING

Greco-Roman (213 lbs): Joe Santos.

Greco-Roman (167 lbs): Karido Goodrich.

Greco-Roman (160 lbs.): Darryl Gose.

Greco-Roman (158 lbs): Melchor Manibusan.

Freestyle (213 lbs): Joe Santos.

Freestyle (167 lbs): Ben Hernandez.

Freestyle (158 lbs): Melchor Manibusan.

UNDERWATER FISHING

Team: Roberto Cabreza, Joseph Hobson, Kenneth Pier.

Individual Event: Joe Hobson.

SWIMMING

500m Butterfly: Musashi Flores.

500m Freestyle: Musashi Flores.

ATHLETICS

10,000m: Brent Butler.

5,000m: Brent Butler.

1,500m: Brent Butler.

800m: Neil Weare.

High Jump: Joseph Skeritt.

Discus: Rene Delmar.

4400m Relay: Jenae Skeritt, Sloan Seigrist, Jacqueline Baza, Aubrey Posadas.

3,000m: Jenae Skeritt.

1,500m: Sloan Seigrist.

800m: Jenae Skeritt.

400m: Jaqueline Baza.

High Jump: Jenae Skeritt.

Long Jump: Aubrey Posadas.

Silver Medal Winners

CANOEING

Women's Team: 2500M; 500m.

TABLE TENNIS

Men's Team Overall: Chris Candaso, Carlos I. Gumataotao, Francisco Gumataotao, Frank G. Gumataotao.

Women's Team Overall: Natalie I. Gumataotao, Bina Lujan, Donna Santos.

Men's Doubles: Carlos Gumataotao, Frank Gumataotao, Jr.

LAWN TENNIS

Women's Team Overall: Anita P. Feria, Linda R. Johnson, Kuba Otomi.

Women's Doubles: Anita P. Feria, Linda R. Johnson.

SWIMMING

100m Butterfly: Musashi Flores.

4X100m Free Relay: Musashi Flores, Joshua Taitano.

5X50m Medley Relay: Musashi Flores.

400m Freestyle: Joshua Taitano.

100m Backstroke: Joshua Taitano.

4X50m Medley Relay: Peter Manglona, Alison Aglubat, Daniel Kang, Molly Boyd, Chirika Aguon, Lorianne Sablan, Joshua Taitano.

4X100m Freestyle Relay: Alison Aglubat, Daniel Kang, Molly Boyd, Chirika Aguon, Lorianne Sablan, Gilbert Mendiola.

ATHLETICS

1500m: Neil Weare.

4X100m Relay: Neil Weare, Ryan Claros, Paul Claros, Phil Am Garcia.

Shot Put: Rene Delmar.

1500m: Jenae Skerrit.

800m: Sloan Seigrist.

200m: Jacqueline Baza.

BASKETBALL

Women's Team: Joyce Q. Aflleje, Trinidad Borjka, Liezel M. Delin, Melissa Elwell, Kristina French, Tarsha Okiyama, Michele L. Presnell, Catherine P. Sison, Michelle P. Sison, Teresa P. Sison, Tara Taitano, Marina M. Vergara, Satrina Chargualaf, Tony Thompson.

VOLLEYBALL

Men's Team: Ryan T. Balajadia, Jason J. Camacho, Gerson T. Hoebing, Rayond J. Mantanona, Steven V. Pangelinan, Jesse G. Perez, Michael Rabago, Marvin Rojas, Richard M. Tumanda, Peter L. Valdez, Joel R. Valenzuela, Richard Y. Ybanez, Barbara Quinata, Daniel J. Hattig.

WRESTLING

118 lbs. Greco Roman: Tony Santos.

127 lbs. Freestyle: Darryl Gose.

188 lbs. Greco Roman: Mike Taijeron.

Bronze Medal Winners

CANOEING

Men's Team: 8 mile.

WRESTLING

118 lbs. Freestyle: Tony Santos.

TABLE TENNIS

Women's Doubles: Donna Santos, Natalie Gumataotao.

WEIGHTLIFTING

169 lbs. Best of Snatch: Edgar Molinas.
169 lbs. Clean & Jerk: Edgar Molinas.
231 lbs. Best of Snatch: Jeff Ludwig.
231 lbs. Clean & Jerk: Jeff Ludwig.

ATHLETICS

400m: David Neilsen.
4X400m Relay: Neil Weare, Ryan Claros, Paul Claros, Phil Am Garcia.

BASEBALL

Men's Team: Steven Alcantara, Wilton Acta, Dale Alvarez, Joey J. Blas, Rico R. Castro, Brian Cruz, Dominio Cruz, Issac N. Cruz, Roman Duenas, Kin Fernandez, Vince Gumataotao, Larence Idelbong, Kevin Isezaki, Thomas A. Morrison, Barry Nauta, Shaun A. Pascua, Raymond Quintanilla, Jim S. Reyes, Mark Roberts, Joseph Tuquero, Anthony F. A. Yatar, Rosita Cruz, Ryan Flynn, Darly Haun.

SWIMMING

2 mile ocean swim: Travis Bryce.
400m Individual Medley: Josehua Taitano.
100m Breastroke: Peter Manglona.
50m Backstroke: Samuel Lee.
200m Breastroke: Alison Aglubat.
100m Breastroke: Alison Aglubat.
200m Breastroke: Daniel Kang.

LAWN TENNIS

Men's Individual: Lynn Nguyen.
Men's Doubles: Alfred Feria, Dave Smith.

RECOGNIZING THE AWARD WINNERS OF THE FAYETTE COUNTY 4-H

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. PAUL. Mr. Speaker, I would like to offer my congratulations to thirteen young men and women from Fayette County who will this weekend be honored by the Fayette County 4–H club in my district.

Being awarded the Gold Star will be Michelle Cernoch; Ashley Dittert, and Vickie Sanders.

Receiving the Silver Star, Bradley Klesel and Billie Jo Murphy.

The "I Dare You" award will go to Heather Woelfel and Shayne Markwardt.

The "Outstanding Junior" Award will be presented to Jenifer Klesel, Melanie Cernoch and Kelly Orsak.

And finally, the "Outstanding Sub Junior" award will be presented to Adam Mayer, Jodie Kristynick and Brandon Otto.

These fine young people should be commended for their dedication to the fine principles of 4–H. I know I speak for all the constituents of the 14th District when I offer them congratulations and best wishes for continued success.

PROTECTING DOCTORS AND PATIENTS IN MEDICARE+CHOICE: INTRODUCTION OF LEGISLATION FURTHER LIMITING PHYSICIAN INCENTIVE PLANS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. STARK. Mr. Speaker, as more Medicare beneficiaries join managed care plans, public fears about the effects of financial incentives to physicians demand renewed attention. Under current regulations. Medicare+Choice plans cannot make more than 25% of physicians' total payment dependent on financial incentives to alter practice behavior. This regulation only catches those organizations at the high end of the spectrum since most incentive plans effect less than 25% of total compensation.

A recent editorial in the September 3, 1998 New England Journal of Medicine states that the intensity of incentives in a capitated compensation system clearly affects the extent of physicians' conflict of interest. Bonuses and withheld amounts paid out in lump sums when a specific target is attained can create especially intense conflicts of interest if the physician is close to qualifying for the extra money near the end of a contract period.

An article in the August, 1998 issue of the Journal of Health Politics, Policy and Law states that "more than 60 percent of managed care plans withhold a portion of physicians' salaries to cover expenditures that exceed target projections for use of specialists or hospitals. Furthermore, most plans withhold more than 11 percent of physicians' salaries and some even withhold more than 30 percent". The Journal advocates precautionary measures to protect and reassure the public trust, including limiting financial incentives.

Survey data of HMO managers suggests that physicians' decision making is influenced when financial incentives are between 5–10 percent of income. "Half of the respondents believed that a bonus of 5–15% would affect ordering behavior," according to "Data Watch: HMO Managers' Views on Financial Incentives and Quality" by Hillman, Pauly, Kerman, and Martinek in the Winter 1991 issue of Health Affairs. Clearly there is a need to further reduce the allowable percentage of physicians financial incentives. If managed care programs continue to reward physicians who provide fewer services to patients, physicians will fail to be advocates of patients.

The bill I am introducing today will reduce provider incentives to limit patient services by diminishing financial rewards to physicians who provide minimal services. This bill seeks to eliminate the current ethical dilemma facing physicians by further reducing from a maximum of 25% to a maximum of 10% the percentage of physicians' salaries that are dependent on financial incentives. The rising number of Medicare HMO's make protecting patients by ensuring quality health care essential

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THE HOMEOWNERS EMERGENCY MORTGAGE ASSISTANCE ACT

HON. LUIS V. GUTIERREZ

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. GUTIERREZ. Mr. Speaker, I rise today to introduce legislation that will restore the dream of homeownership to middle- and low-income families.

Mr. Speaker, the sight is all too familiar in urban and rural America: boarded-up homes, abandoned lots, blighted communities. These sights demonstrate that the dream of homeownership is fleeting for some and that these dreams can become nightmares when financial hardship occurs. But what often goes unspoken in discussing this issue is the fact that some of these abandoned properties were purchased under Federal mortgage programs intended to help middle- and low-income Americans. This leads us to ask: what improvements can we make to Federal mortgage assistance programs so that people can keep their homes and live the American dream?

This is the goal of my legislation, the Homeowners Emergency Mortgage Assistance Act. This bill makes needed changes in the way the Federal Housing Administration (FHA) administers its mortgage guarantee program and will keep the dream of homeownership alive for people facing temporary financial difficulties. Under the bill, property owners who fail to pay their mortgage for two months, due to no fault of their own, would not be subject to immediate foreclosure. Often, homeowners cannot honor their mortgage payments because of factors beyond their control. For example, the FHA does not require inspections on homes it guarantees. After a home is purchased, serious structural dilapidation may be uncovered. In such cases, the home may be falling apart and the homeowner will not be able to both repair the damage and pay their mortgage. The home becomes unlivable and is foreclosed. This further blights the neighboring areas and ends the homeowner's dream.

To resolve this unfortunate situation, my bill would provide temporary mortgage assistance to homeowners in need for a period of no longer than 36 months. The assistance would have to be paid back to the FHA and would only be offered if FHA officials deem that the homeowner would be able to honor their mortgage obligations and pay back the emergency assistance after this time period.

Saving people's homes in this manner is a win-win proposition for the government, for the homeowners, the lenders and for the adjacent communities. As you know, the FHA guarantees 100 percent of mortgage loans provided by private lenders to middle- and low-income families under the National Housing Act. Yes, 100 percent. When a home is foreclosed, the FHA has to pay the lender the entire cost of the mortgage. As you can imagine, this is tremendously costly. It can also be avoided in many cases.

In such cases, temporary assistance can make all the difference for homeowners, allowing homeowners to pay for repairs and honor their mortgages. The FHA saves money because the temporary assistance they provide is far less costly than paying the full cost of the mortgage. In addition, the temporary assistance must be paid back thus recouping additional taxpayers' dollars. The lenders are equally satisfied because they are receiving their monthly assessments. And the community is preserved from blight that would otherwise reduce property values throughout the area. The Homeowners Emergency Mortgage Assistance Act is a solution that restores the dream of homeownership for everyone concerned.

The program has also been "battle-tested." My legislation is based on a very successful program in Pennsylvania. More than 24,000 Pennsylvania families faced with possible foreclosure have received help from the state's Homeowners Emergency Mortgage Assistance Program (HEMAP). Pennsylvania's Republican Governor Tom Ridge and Democratic leaders throughout the state have hailed the program as a cost-efficient means to prevent homelessness. In Pennsylvania, 90 percent of assistance payments have been paid back and only eight percent of HEMAP loans have resulted in foreclosure. This record of success should be duplicated at the Federal level.

Saving homes, money and neighborhoods is what government programs should work to achieve. The Homeowners Emergency Mortgage Assistance Act will accomplish these vital goals. I urge my colleagues to co-sponsor this legislation and work with me to maintain the dream of homeownership for middle- and low-income Americans.

RELIGIOUS LIBERTY IN CENTRAL ASIA

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. SMITH of New Jersey. Mr. Speaker, this Congress has focused much needed attention on U.S. foreign policy with respect to the internationally recognized right to freedom of religion and the right to practice one's personal faith. As Co-Chairman of the Commission on Security and Cooperation in Europe and for the benefit of my colleagues, I would like to direct the attention of this House to the Department of State's "OSCE Implementation Report 1998" and, more specifically, the sections concerning religious freedom issues.

In Central Asia, the recognition of religious liberty has been mixed. The Constitution and laws of the Kyrgyz Republic provide for the right of all citizens to choose and practice their own religion. However, these rights are not being effectively protected in practice. In December 1996, the President issued a decree creating new legal obstacles for registering church congregations. In 1997, a new law failed to pass the parliament that would have severely limited religious liberties. Similarly, in its seventh year of independence, Kazakhstani citizens enjoy basic religious rights, although the government is inclined to regulate the activities of foreign religious associations. Current law in Turkmenistan requires 500 signatures before registration is granted and in Uzbekistan, similar restrictions apply to religious groups.

In Eastern Europe, although there are signs of progress, there are some countries that could be potential trouble spots. In 1997, Russia enacted a potentially discriminatory law concerning religion which imposes new restrictions on the establishment of new religious organizations. In Moldova, there is currently in force a 1992 law on religion that contains some restrictions to religious liberty and could inhibit the activities of some religions, although these provisions are reportedly not being enforced. In Ukraine, despite the 1991 law which has positive provisions, a 1993 amendment to that law has been used to restrict the activities of foreign religious organizations. Foreign religious workers have encountered resistance from Ukrainian local officials when trying to renew visas or seeking the use of public buildings for religious services. These kinds of government activities may violate commitments found in the Helsinki Final Act, Basket III, Section 1d, in which the participating states confirm that religious faiths can have contacts and meetings among themselves.

The focus of the report on the Baltic States is Latvia where freedom of religion is constitutionally well established. Under the 1995 Law on Religious Organizations, the Government of Latvia does not require religious groups to register. However, there is incentive to do so in that certain rights and privileges will be afforded to them only if they register. The Justice Ministry has registered some 800 congregations under this law but still denies registered status to Jehovah's Witnesses, the Latvian Free Orthodox Church, the Church of Christ Scientist, and the Rock of Salvation Church. With respect to foreign missionaries, they are allowed to hold meetings and proselytize only if Latvian religious organizations invite them. In particular the Jehovah's Witnesses have encountered severe obstacles under the current Latvian legal framework. As one of the privileges afforded to registered religious organizations, Latvian law allows for religious education to be provided to students in public schools on a voluntary basis by representatives of registered faiths. Elsewhere in the Baltics, Estonia has yet to clarify the implementation of a new visa law enacted in January which could potentially restrict residency of foreign missionaries to ninety days during any six month period. The Baltics merit a close watch, despite some favorable reports.

In the Caucasus, both Azerbaijan and Armenia have strict laws prohibiting foreigners from proselytizing. While Azerbaijan does respect "domestic" faiths, placing no restrictions on them, many foreign groups have reported harassment. The Ministry of Justice has denied registration to one such group but does allow it to continue to function. The Helsinki Commission in investigating this case has learned that, because of this church's work among the refugee population, the Azeri government continues to refuse to register the humanitarian aid arm of the church but continues to refuse registration to their religious body. Unfortunately, this appears to be a pattern the Azeri Government follows when it receives a benefit from a group it does not want to register.

In Armenia there are similar concerns. In September of 1997, a new law was enacted by parliament, designed to stifle the growth of non-Armenian Orthodox churches by tightening registration requirements for non-Apostolic religions and also by tightening funding restrictions so that foreign-based churches are not allowed to be supported by funds from headquarters outside Armenia. Despite this, however, a variety of faiths regularly hold services.

While there has been progress in the OSCE region, there remain areas where significant violations of religious liberty are occurring in Eastern and Central Europe. I commend the "OSCE Implementation Report 1998" to my colleagues as an interesting study of the progress and problems of the region.

TRIBUTE TO MARY FAT

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. MATSUI. Mr. Speaker, I rise today to pay tribute to one of Sacramento's most inspiring citizens, Mary Fat. Mrs. Fat will be honored this evening by the Jinan-Sacramento Sister Cities Corporation. I ask all of my colleagues to join with me in commemorating her remarkable contributions to the people of Sacramento.

Mary Fat was born Yee Lai Ching in Canton, China in 1908. She was the youngest of seven children in a prominent Hong Kong family. She became the bride of a young Frank Fat in 1924 in Canton. A traditionally arranged marriage, she never knew her husband before they were wed. In 1925, the couple saw the birth of a son, Wing-Kai.

Frank returned to the United States where he had worked before in 1926, without his wife and newborn son. His objective was to make enough money to repay debts and support his young family. Frank quickly found work in a restaurant in Sacramento, California.

Yee Lai Ching was not eager to join her husband in the United States. But in 1936 she and her son joined Frank in Sacamento. At this time she adopted the American name of "Mary." She found a job at a Del Monte cannery in addition to her work raising a young son. Frank and Mary eventually had six children, four sons and two daughters. Their children were educated as attorneys, a dentist, and successful businessmen and women.

In 1939, Frank bought a dilapidated restaurant on L Street in Sacramento. His hard work and Mary's assistance eventually established the restaurant as one of the best in California's capital. They forged a successful life together in both business and community activism which encouraged an awareness of Chinese culture.

Mary strongly supported Frank as the leader of the Chinese community in Sacramento. With her help, he founded the Jinan-Sacramento Sister Cities Corporation, the Chinese American Council of Sacramento, and CAPITAL, the Council of Asian Pacific Islanders Together for Active Leadership.

Today, with the tireless work of Mary and Frank Fat, CAPITAL is Sacramento's premier Asian American Pacific Islander organization, comprising 65 groups in Northern California. Yet the Fat's family life was every bit as prolific as their civic endeavors.

Mary and Frank's children and grandchildren are following the example set by the Fats. They are positively contributing to their community and furthering awareness of the diverse Chinese culture which exists not only in Sacramento and California, but throughout the United States.

Mr. Speaker, Mary Fat has devoted her adult life to supporting the civic activism of her husband and promoting the wealth of Chinese culture which exists in my home state. As she is honored tonight, I ask all of my colleagues to join with me in saluting her seventy years of great accomplishments and community service in Sacramento.

ACKNOWLEDGING THE COMPLETION OF THE SAN LEANDRO CREEK MURAL

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. STARK. Mr. Speaker, I am pleased to inform my colleagues today about the completion of an important project in my district.

The Friends of San Leandro Creek have completed work on a creek mural located in Root Park in my district. This mural spans more than 19,000 square feet and is the largest of its type in the Western United States.

Students participating in the San Leandro High School Art Program created the mural design. The students were presented with information about the history of the creek and a list of items to be included in the final design. The final mural depicts the Creek as it was in the early 18th century, filled with rainbow trout and fished by Native American tribes for food.

I would like to point out the hard work of Rick Richards. Rick put this idea together and has been a longtime local activist for environmental causes and a tireless advocate for local community development issues that may impact the San Leandro Creek. Rick is the environmental conscious of the San Leandro community. I would also like to thank Veronica Lacarra Werkmeister for her dedication to this project. She is a nationally renowned muralist and her commitment to teaching children and this project has resulted in the works we commemorate this weekend.

I am very proud to share this mural with my colleagues. The Friends of San Leandro Creek and the students at San Leandro High deserve credit for their commitment to this project and their commitment to San Leandro Creek. I look forward to visiting this mural after Congress adjourns and encourage residents of San Leandro to do the same.

CELEBRATING THE 87TH ANNIVERSARY OF THE REPUBLIC OF CHINA

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. LANTOS. Mr. Speaker, it is a great honor for me to congratulate the democratic government and the people of Taiwan, the Republic of China, on their 87th National Day which they celebrate on October 10, 1998.

Taiwan has much to celebrate this year, as it approaches the culmination of a decade marked by unparalleled economic growth, laudable political reforms, exceptional progress on human rights issues, and the general advancement of values cherished by free men and women around the world. Under the leadership of President Lee Teng-hui, Taiwan has been transformed not only into one of the world's most successful lands, but it has also been prepared to become one of the international community's foremost citizens.

Mr. Speaker, it is long past time to allow this progression to reach its overdue culmination in the form of Taiwan's full participation in international organizations, including accession to the United Nation.

It is nearly a century since the founder of the Republic of China, Dr. Sun Yat-sen, drafted the original plans for a free nation unencumbered by emperors and tyranny. The realization of Dr. Sun Yat-sen's ideals and dreams did not occur with the swiftness he likely intended, as his republic's initial years witnessed lengthy civil wars, brutal invasions, and a series of unforseen obstacles that forced the ROC's government to relocate to Taiwan at the end of its fourth decade. Out of the ashes of this tragedy, however, came the drive and determination to advance the fortunes and welfare of the Taiwanese people, to prove by comparison that free enterprise and political freedoms work with greater efficiency and justice than Communist alternatives.

President Lee's numerous and comprehensive reforms have provided unimpeachable evidence of this fact. He has limited government authority, repealing the extraordinary powers that were provided by outdated civil war decrees, and he has focused the government's responsibilities on issues such as technological investment and environmental protection. In addition, President Lee has led the Taiwanese people in the establishment of a diverse, competitive, multi-party political system with a free press and respect for human rights. This process was capped by Taiwan's presidential election in 1996, when, for the first time in five millenniums of Chinese history, the head of state was directly elected by the people. Despite the dire warnings of those who opposed this evolution, Taiwan's economy and its people have flourished with these progressive changes.

Taiwan's enrichment has not only benefitted its island's nearly 22 million citizens; in addition, the ROC's largesse has aided developing nations and those suffering from humanitarian disasters as well. Whether operating a much-needed hospital in the strife-torn capital of the Central African Republic, contributing to the recovery of my home state of California after a devastating earthquake or, most recently, using its membership in the Asian Pacific Economic Community (APEC) to employ its vast foreign exchange reserves to help ease the financial crisis suffered by its neighbors, Taiwan has proven its commitment to the welfare and health of the international community.

Given this reality, Mr. Speaker, it is both unfortunate and unjust that Taiwan is still denied membership in the United Nations, the World Health Organization, the World Trade Organization, and other multilateral bodies that would benefit from the Taiwan's active involvement. Regrettably, many of Taiwan's humanitarian contributions have been shunned or rejected as a consequence of this political inequity.

In 1993, for example, the ROC's Department of Health pledged to donate $200,000 to a WHO/UNICEF program in order to provide vaccines for children of Kazakhstan and four other Central Asian republics. However, this donation was rejected because the ROC is not a member of the UN or the WHO. Mr. Speaker, it is tragic when children suffer because political obstinacy was more important than human welfare.

Not only does Taiwan's exclusion for participation in international organizations harm other nations, it violates the fundamental international right that countries that are affected by multilateral cooperation agreements should have the right to participate in the crafting of these agreements. Taiwan, according to the UN itself, is one of the six largest high-sea fishing countries in the world, yet it was denied the opportunity to join in the negotiation and adoption of an important UN fish conservation agreement in 1995.

In a similar situation, Taiwan's offer to become a signatory to the Montreal Protocol on the Substances that Deplete the Ozone Layer was refused, resulting in the threat of international economic sanctions against Taiwan—despite the ROC's unilateral implementation of the provisions of the Protocol. Mr. Speaker, the diplomatic anachronism of Taiwan's absolute exclusion from efforts of international cooperation must come to an end.

Mr. Speaker, Taiwan's 88th year appears to hold great promise, as long-stalled talks with the People's Republic of China seem likely to continue in the near future. In addition, Taiwan's economy remains strong despite serious regional difficulties. The record of success of the Taiwanese people is unmistakably clear and strong.

On this important anniversary, Mr. Speaker, I wish the people of Taiwan a glorious National Day and I wish the government of Taiwan the voice that it deserves in the international community.

SHIRLEY FLEISCHMANN NAMED MICHIGAN PROFESSOR OF THE YEAR BY CARNEGIE FOUNDATION

HON. VERNON J. EHLERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. EHLERS. Mr. Speaker, I rise today to pay tribute to Shirley Fleischmann, an engineering professor at the Padnos School of Engineering at Grand Valley State University. As Vice-Chairman of the House Science Committee, I am extremely proud to announce that Shirley has been named by the Carnegie Foundation for the Advancement of Teaching as its 1998 Michigan Professor of the Year.

Dr. Fleischmann is the first engineering professor and the fourth woman in the state of Michigan to receive this award since it was introduced in 1985. She is also the first Grand

Valley State University professor to receive this award that recognizes undergraduate instructors who excel as teachers and who influence the lives of their students. The award is based on the recipients demonstrated involvement with undergraduate students, their scholarly approach to teaching, and their service to their profession and the community in which they live. For professors the award is one of the highest honors they can receive.

Before beginning her teaching career at Grand Valley, Shirley was a professor of mechanical engineering at the United States Naval Academy from 1982–1989. She earned her Ph.D. in Mechanical Engineering from the University of Maryland. She also received M.S. degrees in Mechanical Engineering and Physics from Maryland and was awarded a B.S. in Physics as well. Shirley grew up in Holland, Michigan, where she graduated from Holland Christian High School. To this day she credits her high school teachers for giving her the tools and skills necessary to do her job so effectively.

Mr. Speaker, it is the effort and dedication of professors like Shirley Fleischmann that is so crucial to the future of science education. Professors such as Shirley can help the United States renew its interest in science and better prepare our leaders of tomorrow with the necessary tools and knowledge they need for careers in math, science, and engineering. Her excitement and willingness to go that extra mile in training future scientists and engineers is a shining example of why she was selected for this prestigious award. I ask my colleagues to join me in congratulating Professor Shirley Fleischmann on this outstanding accomplishment.

INTRODUCTION OF ESOP REFORM LEGISLATION

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. CRANE. Mr. Speaker, today I am introducing two bills to provide tax reform in order to encourage economic growth of employee-owned companies in my State of Illinois and around the country.

I have been a strong advocate of employee stock ownership plans (ESOP's). I also have the privilege of representing a significant number of employee-owners of the Nation's largest publicly-owned ESOP, United Airlines. After taking over the ownership of the company, the United employees effected a dramatic economic turnaround of the company's fortunes—making United Airlines a financial success story.

In the summer of 1997, Gerald Greenwald, Chairman and CEO of United Airlines, came to me with ideas to amend the tax rules to allow employees to better utilize their ESOP Investments. When the ESOP tax laws were written, they did not account for companies like United taking ESOP's to such a grand scale. So, as in so many cases it is time for the law to catch up to the realities of the marketplace.

I have been working on these proposals since then to prepare for an opportunity to include them in an appropriate tax vehicle. Such an opportunity has not yet presented itself. Therefore, I am introducing these proposals as stand-alone bills and to bring more attention to the need for updating the ESOP laws.

While ESOP's give the employees a stake in the company and provide a great opportunity to invest for retirement, the current tax rules restrict the ability of employees to use their investments for other important events in their life.

The first bill will expand the ability of employee owners to make qualified distributions from their ESOP's, without incurring a 10-percent penalty on early withdrawals. Similar to the expanded uses for individual retirement accounts Congress has passed, this proposal will allow ESOP distributions for first time home purchases or for college expenses. This will especially benefit middle-income level employees who find it more difficult to save the money to buy their own home or send their children to college.

The second proposal would address a conflict between 401(k) plans and ESOP's. Under current law, employer contributions to 401(k) retirement plans are limited when contributions are also being made to an ESOP. My bill will allow employers to contribute to their employees' 401(k) plans without taking into account their ESOP contributions.

I commend these bills to the attention of my colleagues and urge them to support the employee-owners at United and other ESOP's around the country by cosponsoring these measures.

REDOUBLING EFFORTS TO APPREHEND INDICTED WAR CRIMINALS IN THE FORMER YUGOSLAVIA

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. SMITH of New Jersey. Mr. Speaker, I rise today in support of H.R. 4660, authorizing the provision of rewards for information leading to the arrest and conviction of war criminals and those who have committed other serious violations of international humanitarian law in the former Yugoslavia.

As Co-Chairman of the Helsinki Commission, I have followed the tragic developments in the former Yugoslavia and advocated decisive action to stop the senseless slaughter, first in Bosnia, and most recently in Kosovo. But decisive action is not limited to military intervention alone. The tragic chapters of genocide and cold blooded murder in the Former Yugoslavia will not be closed until those responsible for such heinous criminal acts are brought to justice.

Developments in Bosnia underscore the fact that there is a price—a high price—to be paid for allowing indicted war criminals like Karadzic and Mladic to remain at large. The unfolding carnage in Kosovo is most certainly the handiwork of the "Butcher of Belgrade," Slobodan Milosevic. I applaud the recent passage of resolutions in the House and Senate calling for the investigation and indictment of Slobodan Milosevic as a war criminal. In fact, I introduced the measure in this House. We all recognize, though, that true justice demands that the net be cast further than the one person most responsible.

As a supporter of the Tribunal, I believe it is critical that the Tribunal take a proactive stance in Kosovo that could serve as a possible deterrence against a new round of war crimes in the Former Yugoslavia. In the case of Bosnia, the Tribunal could only react to crimes that were mostly committed before and during its formation. In Kosovo, however, crimes could perhaps be deterred, if the Tribunal is vigorous and visible in its investigation of ongoing activity.

Mr. Speaker, we saw a couple of days ago the reports of a major massacre in three villages in Kosovo, where women, children and the elderly were slain and, in some instances, their bodies mutilated by the Serbian security forces. These scenes are all too familiar and, absent determined action, will be repeated over and over and over again. The Helsinki Commission has received disturbing reports from Senator Bob Dole and Assistant Secretary of State John Shattuck who formed a fact-finding mission to Kosovo. They told us about men being separated from women and children and simply taken away, perhaps to lengthy detention or maybe their execution. There are also reports, again of the mass rape being used as a weapon of war.

Mr. Speaker, as a cosponsor of H.R. 4660, I believe adoption of this legislation will underscore the continued commitment of the United States to see that those responsible for the war crimes and other serious violations of international humanitarian law are held accountable for their actions. While it is unlikely that the offer of rewards alone will lead to the arrest or conviction of all of those responsible for war crimes in the Former Yugoslavia, even if one war criminal is brought to justice as a result of our action today, the modest investment would have been worth the effort.

ELECTRICITY DEREGULATION

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. MATSUI. Mr. Speaker, today, together with my Ways and Means colleague, Mr. NEAL, I have introduced a bill setting forth the Administration's approach to legislation addressing the tax consequences of electricity deregulation upon tax-exempt bonds issued by municipally owned utilities for the generation, transmission and distribution of electricity. As my colleagues may recall, the Administration unveiled a comprehensive electricity deregulation proposal on March 24, 1998, which included a section dealing with the tax issues associated with deregulation.

The 105th Congress did not have an opportunity to take up this or other proposals on electricity deregulation this year. However, despite the lack of Federal legislation in this area, 18 states have already gone forward and begun to deregulate electricity at the state and local level. My own home state of California has deregulated much of its market already. The era of competition has already started for the utilities operating in these states.

Municipally-owned utilities have operated up to now under a strict regime of Federal tax rules governing their ability to issue tax-exempt bonds which were enacted in an era that did not contemplate electricity deregulation. These so-called "private use" rules limit the amount of power that municipal or state-owned utilities ("public power") may sell to private entities through facilities financed with tax-exempt bonds. For years, the private use rules were cumbersome but manageable. As states deregulate, however, the private use rules are threatening many communities that are served by public power with significant financial penalties as they adjust to the changing marketplace. In effect, the rules are forcing public utilities to face the prospects of violating the private use rules, or walling off their customers from competition, or raising rates to consumers—the precise opposite of what deregulation is supposed to achieve. The consumer can only lose when this happens.

The Administration proposal that I am introducing today would protect consumers by grandfathering already outstanding bonds, continue to permit public utilities to issue tax-exempt bonds for facilities involved in the distribution of electricity in the future, but eliminate their ability to issue tax-exempt debt in the future for facilities involved with the transmission or generation of electricity.

In addition, because the restructuring of the electric utility industry is affecting the investor-owned utilities as well as public utilities, the Administration proposal includes a provision intended to address a tax problem that a number of the investor-owned utilities face in a deregulated world. Specifically, under present law, the amount of contributions to a qualified nuclear decommissioning fund a utility is entitled to deduct is the lesser of "cost-of-service" amount or the "ruling amount." In a restructured market, if a nuclear power plant is no longer subject to cost-of-service ratemaking, it could be determined that the amount of decommissioning costs included in cost-of-service would be zero. To eliminate this possibility, the provision would change the present law limitation on the amount of the deduction by limiting the deduction solely by reference to the "ruling amount"

I am introducing this legislation at this time in order to give affected parties, including consumers, an opportunity to review the bill and provided us in Congress with input on its provisions. With this input, we will be in a position to address this important issue more capably in the 106th Congress. I am certainly aware that there are other approaches to the private use problem, some of which have been introduced this year in the House and others in the other body. There are numerous policy and technical issues to be resolved in designing a fair and workable solution to this problem.

The bill does not resolve all of those problems, and indeed, is intended to be a starting point for the consideration of the tax issues involved with electricity deregulation. Other approaches, for instance, providing an election for public utilities to live within the current private use regime or opt into a regime without the ability to issue tax-exempt bonds except for distribution and transmission, merit serious review and discussion.

Even within the approach the Administration has taken in this bill, there are issues that might be decided differently. For instance, the legislation somewhat arbitrarily defines "distribution property" as output facilities that operate at 69 KV or lower. It is our understanding that this definition does not pick up all facilities used for distribution, and that a more flexible definition may be necessary. We welcome input on this issue.

In addition, the legislation ties the relief in the bill to enactment of a Federal electric deregulation bill, which, of course, has not yet been enacted. Because states like California have already deregulated, public power consumers need this relief now. An alternate effective date tied to state deregulation activities would be appropriate.

Another example of an important issue that might be addressed differently is the refunding of bonds. The legislation permits only current refundings of tax-exempt bonds within the grandfather of existing debt, but it also permits the maturity of the bonds to be extended for a limited period. On the other hand, it does not permit advance refundings. The legislation could be drafted to permit either approach to refunding, or advanced and current refundings without extension of the maturity term. I urge affected parties to comment on which is the more appropriate rule.

Another complex issue on which we seek comment is whether public utilities should be able to issue bonds for generation and transmission where the proceeds of the bonds are used just to repair or make environmental improvements to existing facilities and are not used to expand significantly current capacity. The bill as introduced does not address this issue.

Mr. Speaker, we plan to work with all interested parties including American consumers to ensure that we end up with the fairest, most reasonable solution to this complex problem. We want electricity deregulation to be a good deal for everyone involved, especially the American consumer who certainly deserves the lower electric bills that a competitive marketplace is supposed to provide. I urge my colleagues to review this legislation carefully over the coming months and welcome their input, as well as that of all affected parties.

STATEMENT RECOGNIZING SYRIA'S LIBERAL POLICY OF JEWISH EMIGRATION

HON. TOM CAMPBELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. CAMPBELL. Mr. Speaker, I come to the floor today to recognize with commendation that the country of Syria followed through on its promises regarding Jewish emigration over the past 6 years.

Beginning in 1992, without fanfare, Syria eased its strict travel and emigration policies on its Jewish community. Numbering around 100,000 at the turn of the century, the Syrian Jewish community numbered only approximately 5,000 by 1992. Up until 1992, Syrian Jews could only travel outside of the country individually, and only if family members remained behind. Between April and October of 1992, however, approximately 2,600 of this 5,000 were allowed to emigrate from Syria.

In October of 1992, Syria temporarily suspended this eased emigration policy. However, in December of 1993, Secretary of State Warren Christopher visited the country, and in a goodwill gesture during this visit, President Assad informed Secretary Christopher that all remaining Jewish families were free to leave Syria. The liberal Jewish emigration procedures soon resumed, and the Department of State informs me that all but 118 Jewish individuals have been granted exit visas and left Syria. The majority of these families decided to resettle in the United States, specifically in Brooklyn, where a thriving Syrian Jewish community of about 35,000 exists. The State Department reports none of these remaining Syrian Jews have reported Syrian government persecution, and that many plan to emigrate soon.

I was first made aware of Syria's emigration policy toward its Jewish community when I met with President Assad this past June in Damascus. In discussion, President Assad referenced this emigration policy as an example of Syria's continuing good faith effort to propel forward the Middle-East peace process. He did not, but some in the Syrian government did, observe that no statement of acknowledgment of Syria's following through on its emigration commitment had ever been entered into the CONGRESSIONAL RECORD. I wish to correct that oversight now.

Emigration is a basic human right that all responsible nations respect and allow. I commend President Assad for joining the community of nations that seek to guarantee this human right. In an attempt to create a conducive atmosphere toward fostering the peace process, President Assad allowed Syrian Jews to emigrate. Six years have passed since this policy began. It is time that recognition and approbation be properly given.

STATE SENATOR J. DOYLE CORMAN, A STATESMAN FOR THE PEOPLE

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. SHUSTER. Mr. Speaker, I rise today to recognize one of the great statesmen from my District. Sir Walter Scott, one of Scotland's great historical authors and poets, wrote in The Lady of the Lake of "[t]he will to do, the soul to dare." No phrase is more attributable to Pennsylvania State Senator J. Doyle Corman. For the last 21 years, Doyle Corman has served as State Senator to the 34th District which includes Centre, Juniata, Mifflin and Perry Counties. During this time, I have had the distinct pleasure of representing these counties as part of the Ninth Congressional District and working hand-in-hand with Doyle to help improve the lives of our mutual constituents.

After a stellar career in service to his country and his friends and neighbors, Doyle has decided to retire. His resume speaks for itself: Army veteran, Centre County Commissioner, president of SEDA–COG, State Committeeman, president of Corman Associates, Inc., Republican Chairman of the State Senate Transportation Committee, Republican Policy Chairman, Majority Caucus Administrator, member of the State Transportation Commission, PHEAA board member, and member of the Local Government, Games & Fisheries, and Rules and Executive Nominations committees. The recipient of many honors and awards, Doyle's success as State Senator leaves behind a powerful legacy to everyone who knows him.

For many years Doyle and I have worked on numerous projects to enhance the safety of our constituents and overall improve our region. One such notable example is the PA Rt. 322 "Missing Link" project in Mifflin County, Pennsylvania. Responsible for numerous fatalities, this deadly stretch of two-lane highway was a problem that could only be solved by replacing it with a modern four-lane corridor. Doyle tirelessly worked with the Pennsylvania State Legislature and the Pennsylvania Department of Transportation to secure the necessary state funding while I acted in a similar capacity on the federal level. Today, I am happy to report that, as a result of our combined efforts, the "Missing Link" is under construction and nearing completion. I can honestly say that without the benefit of Doyle's support and diligent guidance this critical project would still be only a concept.

It has been truly a great honor to work with such a distinguished individual as Doyle, and I am sad to see him go. I congratulate him on a magnificent career and hope he enjoys the best retirement has to offer. In the words of Walter Lippmann, a noted journalist, "The final test of a leader is that he leaves behind him in other men the conviction and the will to carry on." I know for a fact that Doyle has accomplished this task. I am one of the "other men" who will work hard to continue Doyle's legacy.

Even though he is retiring, I know that we have not heard the last from Doyle Corman. As his history has proven, I am sure Doyle will continue to offer his knowledge and expertise when needed. Mr. Speaker, I am sure you will join me in celebration of Sate Senator J. Doyle Corman's extraordinary service to the State of Pennsylvania. He is truly a great man, a great leader, a great American, and I wish him well in private life.

THE 50TH ANNIVERSARY OF THE COMMUNITY BAPTIST CHURCH OF SAN MATEO

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. LANTOS. Mr. Speaker, it is a great honor for me to invite my colleagues in the Congress to join me in recognizing the Community Baptist Church of San Mateo, which is celebrating its 50th Anniversary on October 11, 1998.

The Community Baptist Church was originally dedicated as the San Mateo Chinese Baptist Community Center in 1948. The primary purpose of the church was to bring Christianity into the lives of Chinese Americans throughout the Peninsula. But what has evolved from this mission is a second purpose which is similarly special and valuable—to provide a community cultural center where the heritage, language, and customs of Chinese Americans are preserved for future generations.

Mr. Speaker, the Community Baptist Church of San Mateo was the product of a mission program established by Mother Margarita Garton and the First Baptist Church of Burlingame, California. Community Baptist Church spent many years establishing itself in and contributing to the community, growing and thriving to meet the needs of its rapidly expanding membership. The church's increasing significance was evidence in 1963 by the construction of a sanctuary on its current site on South Humboldt Street in San Mateo. Three years later, Sunday School classrooms were added to the building, and during the 1980's a multi-storied Conference Center and Nursery was erected.

The Community Baptist Church has endeavored to meet the needs of the expanding population of Cantonese-speaking Chinese Americans in San Mateo County. In 1990 the Community Baptist Church initiated full dual ministries in both English and Cantonese, with strong pastoral leadership serving both segments of a unified church. Since 1995, the church has provided the community with weekly classes in the Cantonese language, which have awakened interest in and informed students about their Chinese heritage.

As Community Baptist Church was the product of a mission program, it has continuously supported the American Baptist Mission Program, and the church has been recognized numerous times by the American Baptist Churches, USA for its contributions to this cause.

The church has also served for many years as a learning facility for the Minister-in-Training program for graduate seminary students. These students have gone on to serve as pastors of their own churches or as staff members of the American Budget Churches of the West.

Most notable of its numerous achievements, the Community Baptist Church has developed into a close-knit and supportive family. Many of its young members have grown into strong church and community leaders who now serve throughout California and across our nation.

Mr. Speaker, I would like to recognize and thank the Reverend Norman Owyang and his congregation at the Community Baptist Church for their outstanding contributions to the people of San Mateo and the Peninsula. I ask my colleagues to join me in wishing Reverend Owyang and the Community Church of San Mateo another half century of prosperity and continuing service to our community.

PROTECTING ISRAEL

HON. TOM DeLAY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. DELAY. Mr. Speaker, I worked with Mr. SAXTON and Mr. SALMON to introduce a resolution calling on the President to clarify American policy with respect to a unilateral declaration of an independent Palestinian state. I did this because I feel the administration's policy regarding Israel and the Middle East process has been confusing and misleading not only for the American people, but for the international community at large, and especially for the parties to the peace process itself.

The United States has never endorsed the creation of a Palestinian state. After the signing of Oslo accords, the United States made it clear that all questions of sovereignty and statehood were a matter of negotiations between Israel and the Palestinians. However, First Lady Hillary Clinton's public statement this May that "it will be in the long-term interests of the Middle East for Palestine to be a state . . . and seen on the same footing as any other state" put U.S. policy on this issue in severe and grave doubt.

Despite official denials by the U.S. State Department and numerous other officials in the administration, the First Lady's remarks were interpreted by many around the world including Palestinian Authority President Yasser Arafat, as "a very important and clear signal" regarding the administration's position. He subsequently threatened to unilaterally declare an independent Palestinian state in May of 1999—after the expiration of the scheduled date for completing the final status talks between Israel and the Palestinians.

The United Nations then voted this past July 7th to elevate the Palestinian observer mission at the United Nations to the status of a full observer mission, a status just short of that accorded an independent state. Media reports in the Middle East indicate that the government of French Premier Lionel Jospin may be prepared to recognize an independent Palestinian state immediately after the end of the interim Oslo accords in May 1999. Just last week in speaking to the United Nations, Yasser Arafat called on world leaders to support an independent Palestinian state—though the State Department had to scramble mightily to prevent him from repeating his threat to declare such a state unilaterally.

Mr. Speaker, what has been missing from this debate over the last several months has been a public—and unequivocal—statement from President Clinton himself that the United States will never recognize the unilateral declaration of an independent Palestinian state. No amount of denials, statements, or clarifications by Secretary of State Madeline Albright and other functionaries down at the State Department can dispel the confusion and uncertainty about U.S. policy occasioned by the First Lady's remarks. Rightly or wrongly, the reception of many around the world and even in this country is that only President Clinton has the clout to override the influence of the First Lady within his Administration.

For the President to pretend otherwise is to hide his head, and America's in the sand. The need for the President to personally act to clarify the U.S. position was brought home when Yasser Arafat stated on July 15, 1998 that "[t]here is a transition period of five years and after five years we have the right to declare an independent Palestine state. We are asking for an accurate implementation, an honest implementation of what has been signed in the White House under the supervision of President Clinton."

We must remember that Yasser Arafat demands the whole West Bank and has declared that there can be no permanent peace as long as the problem of Jerusalem remains "unresolved." The Palestinian Cabinet, on Thursday, September 24, stated that "at the end of the interim period, it (the Palestinian government) shall declare the establishment of a Palestinian state on all Palestinian land occupied since 1967, with Jerusalem as the eternal capital of the Palestinian state."

It is way past time for the President to declare that the United States will never recognize a unilateral declaration of an independent Palestinian state; and that Israel, and Israel alone, can determine its security needs. This was made clear back in June, a month after the First Lady's remarks, when Palestinian National Council Speaker Salim al-Za'nun announced that, "If following our declaration of state, Israel renews its occupation of East Jerusalem, the West Bank, and the Gaza strip, the Palestinian people will struggle and resist the occupier with all means possible, including armed struggle."

I urge my colleagues to support this resolution and to expedite its consideration.

RECOGNITION OF TAMMY LYONS, TEACHER OF THE YEAR FINALIST

HON. ROBERT A. WEYGAND

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. WEYGAND. Mr. Speaker, I rise today to recognize Tammy Lyons, a constituent from my district, who was recently selected as a finalist for the Department of Education's "Teacher of the Year."

Tammy, a resident of Charlestown, Rhode Island, has earned a great deal of respect and honor from her work as a fourth grade teacher at the Ashaway Elementary School. Her status as a Teacher of the Year finalist is a testament to her dedication to the education and development of her students as well as to the improvement of her school and community.

We have spoken a great deal lately of the importance of preparing our nation's students for the coming years and for the new challenges they will face. This goal will be reached through the dedication of our teachers, and Tammy stands out among their number. Not only does she shine as a teacher of the basic skills that students need, she has also brought new ideas to her community. Her day does not end with the afternoon bell; she helps coordinate an after-school program to help students deal with conflict. Such programs are clearly beneficial to our students, for they instruct the skills of understanding and tolerance, key character traits that are essential in a world that contains many ideas and beliefs.

For the last nine years, Tammy has been an asset to her school and her community by bridging the traditional role of teacher with the new expectations asked of modern educators. I thank Tammy for her dedication and commitment and ask colleagues to join me in congratulating her on this notable accomplishment.

IN HONOR OF THE 50TH ANNIVERSARY OF SAINT LEO THE GREAT PARISH

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. KUCINICH. Mr. Speaker, I rise today to celebrate the 50th anniversary of Saint Leo the Great Parish, a parish that builds on tradition, innovation and education.

In October 1948, St. Leo opened its doors. Father Sylvester Lux was appointed as the first pastor. Constructed to serve the growing communities of the South Hills area of Cleveland, Brooklyn Heights, and the northeast area of Parma, St. Leo drew its original families from Our Lady of Good Counsel and St. Francis DeSales parishes in Cleveland and Parma respectively.

In the spring of 1949, realizing that members of the parish didn't enjoy attending Mass at a public school, a temporary building was erected in three days. In January 1950, construction began on both a new school and a new church. The school opened in September 1950, and inaugural Mass was celebrated in the church on December 24, 1950.

Throughout the last fifty years, pastors have benevolently dedicated themselves to spreading the word of God and developing a parish that contributes to the well-being of its community. Both pastors and parishioners have devoted much of their time to sheltering the homeless, feeding the hungry, healing the sick, fostering the elderly and educating the youth. These same principles are still emulated today under the direction of Fr. Bob Bielek.

As the 50th anniversary approaches, St. Leo and parishioners are seizing the opportunity to make the world a finer place. Among the events marking the anniversary year is the Habitat for Humanity Adopt a House Project. The parish would become the first Catholic Parish within the city of Cleveland to complete such a project. The project is directly linked to St. Leo's 50th anniversary theme; to "Build a House Where Love Can Dwell."

My fellow colleagues, please join me in celebrating St. Leo's 50th anniversary, a celebration of service and enhancement that began in 1948 and continues today.

CRIME IDENTIFICATION TECHNOLOGY ACT OF 1998

SPEECH OF

HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. SESSIONS. Mr. Speaker, I want to commend my friends from Florida, Mr. MCCOLLUM and Mr. FOLEY, for working together to bring this legislation to the floor today. Their hard work is sure to provide greater safety to millions of Americans. I want to thank Mr. MCCOLLUM, especially, who, as Chairman of the House Subcommittee on Crime of the Committee on the Judiciary, has given me his assurances that the provisions in the bill which allow for criminal background checks do not open volunteer organizations to greater liability. As the bill allows qualified entities—certain volunteer organizations—to obtain national criminal fingerprint background checks, it avails organizations that make use of the services generously donated by millions of Americans of a privilege heretofore unavailable to them. I am grateful for Chairman MCCOLLUM's recognition that obtaining criminal fingerprint background checks is a costly process from which, at least at present, results may not be available on a timely basis. Charities must balance the cost, burden, and timeliness of the process against the risk that otherwise qualified individuals may be discouraged from volunteering, and that needed programs may have to be reduced or eliminated to pay for such background checks. The committee included section 222 in the bill to provide an option to voluntary nonprofit organizations, not to require them, either directly or indirectly, to undertake criminal fingerprint background checks for employees and volunteers. Chairman MCCOLLUM has assured me, both personally and in his statement, that failure to seek or obtain a criminal fingerprint background check should not be construed as a basis for, or offered as evidence of, liability in civil litigation against a nonprofit voluntary organization where the lawsuit is based on the conduct or actions of an employee or volunteer.

Once again, I would like to congratulate the gentlemen from Florida for their herculean efforts to pass this important legislation, and I thank them for the privilege of making a statement on the bill. I urge my colleagues to vote in favor of the measure.

IN HONOR OF THE PEARL BUCK CENTER'S 45TH ANNIVERSARY

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. DEFAZIO. Mr. Speaker, it is my privilege and honor to congratulate Pearl Buck Center on 45 years of dedicated service to individuals with developmental disabilities.

When Pearl Buck opened in 1953, it was one of the only educational programs in Oregon providing educational services to children with mental retardation and other developmental disabilities. Pearl Buck Center has continued this tradition of leadership in the community, the state, and the nation, providing vocational training, employment, education, and case management services to people with developmental disabilities.

Annually, Pearl Buck Center provides services to about 400 individuals with developmental disabilities and their children. Since it was founded, Pearl Buck Center has helped thousands of adults and children meet the challenges of their disabilities and find opportunities to succeed in school and on the job; to succeed as parents and as self-sufficient individuals; and to contribute to the community and society.

I would like to acknowledge the hard work and spirit of service that characterizes this organization. I hope that all Americans will reflect on the dedication of the staff and volunteers of Pearl Buck Center and on the struggles and successes of the individuals they serve.

I extend my deepest appreciation and thanks to Pearl Buck Center for their efforts, past and present, to help individuals with disabilities more fully realize their abilities, potential, and independence. We are all richer for your 45 years of service.

SPECIAL RECOGNITION OF SENATOR BEN GAETH (DEFIANCE–OH) UPON HIS RETIREMENT FROM PUBLIC SERVICE

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. OXLEY. Mr. Speaker, I rise to honor a true public servant and long time friend, Senator Ben Gaeth of Defiance, Ohio. Senator Gaeth served with distinction from 1975 to the present in the Ohio Senate, and during that time I had the privilege of working with him on many issues of the day. Ben has also represented my home county of Hancock for 23 years during his tenure in the Senate and has always been a responsive and responsible legislator who has represented the best interest of his constituents during his illustrious career.

Senator Gaeth was first elected to the Senate in 1975 serving the people of the 1st Ohio Senate District. Before this he was Safety Director for the City of Defiance from 1962 until 1965. After this, he went on to serve a long career as the Mayor of Definance until 1974. He has served as President in the Mayor's Association of Ohio as well as the Ohio Municipal League.

He has fought to preserve our nation's heritage and our children's freedom. He was wounded while in the Navy in the Pacific and Atlantic War Theaters. Mr. Speaker, Senator Gaeth is a true American Hero.

His many civic duties and charities include the Defiance Area Chamber of Commerce, Rotary Club, Masonic Lodge, Order of the Purple Heart, Veterans of Foreign War, Amvets, American Legion, Loyal Order of Moose, Eagles, and BPO Elks. As you can readily see, it is a wonder that he has had any time to raise a wonderful family.

He has three children, seven grandchildren and one great-grandchild.

In closing, Mr. Speaker, we extend our best wishes to Ben and his lovely wife, Thelma, on this well earned retirement. Ben and Thelma have truly been inspirations to all of us in public service and have exemplified all that is best about politics and government.

IN HONOR OF THE 50TH ANNIVERSARY OF THE GERMAN SCHOOL COMMITTEE

HON. LOIS CAPPS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mrs. CAPPS. Mr. Speaker, I rise to bring to the attention of my colleagues the 50th Anniversary of the German School Committee in San Luis Obispo, California on October 24, 1998.

The year 1998 marks the 50th Anniversary of the German School Committee exchange student program between San Luis Obispo High School in San Luis Obispo, California and Eberhard Ludwigs Gymnasium in Stuttgart, Germany, as the second oldest international student exchange of its kind.

The German School Committee began in 1948 at San Luis Obispo High School as a postwar goodwill project affiliated with the American Friends Service Committee, which sent goods to Eberhard Ludwigs Gymnasium students.

Ethel Cooley, former Dean of Women at San Luis Obispo High School, directed the program from 1948–1991, and Chris Hovis and Deborah Nelson have directed the program from 1992 to the present. A true student exchange program and a strong bond between the two high schools has developed during the past 50 years, enriching the students' and families' lives by building cultural bridges in their respective communities.

Mr. Speaker, I congratulate the German School Committee student exchange program on their 50th Anniversary, and for fostering friendships between students from culturally diverse backgrounds.

CLOSING THE HUGE HOLE IN MEDICARE'S BENEFITS PACKAGE: STARK INTRODUCES MEDICARE PRESCRIPTION DRUG BENEFIT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. STARK. Mr. Speaker, I rise today to introduce the Medicare Prescription Drug Coverage Act of 1998 to remedy a huge hole in the program's benefits package—outpatient prescription drug coverage. Twice in the past 10 years, Congress has almost provided this benefit, and twice we have failed. We established a drug benefit in the Medicare Catastrophic legislation of 1988, but it was repealed the next year before the benefit could start. A drug benefit was a key component of H.R. 3600, the Health Security Act of 1994, reported by the Ways and Means Committee, but failed to pass that year.

It is time to debate this issue again and try some new approaches.

While Congress has done nothing, drug costs have been soaring out of the reach of millions of seniors enrolled in traditional Medicare.

In 1995, 46% of seniors enrolled in fee-for-service Medicare were without drug coverage. Almost one-quarter of beneficiaries enrolled in Medicare HMOs (about 4% of all beneficiaries) do not have a drug benefit.

And in the face of projections that prescription drug prices are about to spike again, following a brief slowdown during the 1993–94 health care reform debate, the number of seniors with no drug benefits could accelerate.

By 2007, the Health Care Financing Administration projects drug costs will account for over 8% of total health care costs, up from 6% in 1996. Viewed another way, that could mean double-digit price increases. For many beneficiaries with modest incomes, no retiree health coverage, and too many assets to qualify for Medicaid, these economic trends mean they will be forced to rely on traditional Medicare—with no drug coverage.

In effect, we are rapidly creating a large underinsured class of Medicare beneficiaries.

So as we approach the millennium, I will pose the question again: Why doesn't Medicare have a drug benefit? Why do nearly all Americans who have private insurance, which includes every member of Congress, enjoy drug coverage, while millions of seniors do not?

Most Americans have heard stories about seniors who must make repeated, difficult choices to buy either prescription drugs or other necessities—like food. The health toll this produces is not easy to quantify. Researchers report that seniors without drug coverage frequently decide to go without medications for conditions such as headaches and muscle aches. What is less well known is that many of these same seniors also decide to skimp on drugs to treat potentially serious diagnosed conditions, including leg swelling and diabetes.

This year, I have heard from many, many distraught seniors who have written to tell me they are going broke trying to pay for drugs their doctor told them they must take. I believe that some will wind up in worse health when they decide to forgo or cut back on the very drugs designed to keep them clinically stable.

The absence of a prescription drug benefit in Medicare that forces elderly people to skip and skimp on drugs is inexcusable. It is time for Congress to debate and enact legislation that will provide all seniors who want it access to affordable Medicare-sponsored drug coverage.

There really aren't any good alternatives. Trends in employer-sponsored retiree health coverage—which has traditionally featured a drug benefit—show it is eroding. A somber General Accounting Office report released last summer warns that "while an estimated 60 to 70% of large employers offered retiree health coverage during the 1980's, fewer than 40% do so today, and that number is continuing to decline despite the recent period of strong economic growth." That's a polite way of pointing out that the number of U.S. companies offering their retirees health coverage in the last decade has been dropping like a stone.

For those seniors who don't—and won't—have retiree health coverage, purchasing a supplemental policy with good drug coverage may soon be unaffordable. Supplemental

Medigap policies now costs on average more than $1,200 per year, according to the American Association of Retired Persons. But Medigap policies with drug coverage can cost far more. The range in costs for Medigap policies with drug coverage is also large: In Los Angeles, Bankers' Life Insurance and Casualty sells a drug-Medigap policy for $6,381 at age 65. At age 75, the same policy costs $9,174! The difficulty that seniors have in affording comprehensive supplemental insurance is illustrated by the fact that in 1994–95, a mere 15% of seniors purchasing a Medigap policy had drug coverage.

The hard fact is that a Medigap policy with drug coverage is not now—and will never be—within the financial reach of millions of Medicare beneficiaries, particularly the very old, who are spending down their assets.

That brings us to Medicare managed care. Remember, one quarter of those who are enrolled today don't have any drug coverage. Those who do are facing ever-higher deductibles and copayments, and ever-lower annual reimbursement caps. In Massachusetts, where state law has long required all HMOs to offer drug coverage, Medicare managed care plans are now asserting that last year's Balanced Budget Act says they don't have to comply!

Only recently have seniors begun to understand that the comprehensive drug benefit they were promised in glossy HMO marketing materials is the equivalent of a "low introductory rate" pitch made by credit card companies. It's great while it lasts. But after that, you could be in trouble.

The Medicare Prescription Drug Coverage Act is carefully designed to help those who most need an outpatient drug benefit—who don't get it from a former employer, from Medicaid or any other federal health program, and who pay an extra premium under Part B for Medicare drug coverage.

I am introducing this bill, roughly modeled on the 1994 legislation, so that consumers, pharmaceutical providers and others can study the issue over the winter, comment and suggest changes for a revised bill to be introduced at the beginning of the 106th Congress. I am leaving the numbers for the deductible, the caps, and the premiums blank, so that groups can comment on what they think the appropriate combination of figures should be.

In a separate statement, I am reprinting some of the literature that is available on the cost of different prescription drug benefit plans at different deductible levels. Clearly, there is a tradeoff between the size of the benefit and its affordability: Striking the right balance is the key to the passage of successful legislation.

There is a critical distinction between previous proposals for Medicare drug coverage and the legislation I am introducing today: If you already have an adequate prescription drug benefit, you will not have to "pay again" in higher Part B premiums. If you have coverage, there will be no change and no new cost to you. If you do not have a prescription drug benefit, you will face a higher Part B premium, but if you are low income, you will get assistance in paying for it. While it is tempting to say that the decision to enroll in the prescription drug benefit could be voluntary, the adverse risk selection (i.e., only sick people needing lots of costly prescriptions would be likely to sign up) would make the cost of premiums to those enrollees prohibitive.

Adding an outpatient drug benefit to Medicare is not cheap. But IF prices are set at the "wholesale" level that physicians, medical suppliers and other purchasers pay, and IF all budgetary savings are not immediately earmarked for tax cuts, then Medicare drug coverage is affordable.

In the next Congress, we will have another opportunity to reshape Medicare to make it a better program. As we work to stabilize the program's financing, we must also improve it for those it was created to serve—our nation's seniors.

Without drug coverage, more and more seniors will fall through the widening cracks of a health care system that is getting leaner and meaner.

Without drug coverage, we'll see more seniors who can't afford to take their medications treated in the emergency room, where health care costs are highest.

Adding a prescription drug benefit to Medicare along with a requirement that costs be held to reasonable levels and a reasonable rate of growth is a clear way out of this dilemma. It is legislation that is 33 years overdue. I hope my colleagues will join me in vigorously advocating for passage of the Medicare Prescription Drug Coverage Act in the 106th Congress.

THE NATIONAL ALLIANCE: HATRED AND BIGOTRY IN ITS MOST FRIGHTENING FORM

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. LANTOS. Mr. Speaker, I would like to ask my colleagues to join me in studying the recently released report of the Anti-Defamation League (ADL) entitled Explosion of Hate: The Growing Danger of the National Alliance. This comprehensive and well-written document addresses the activities and proclivities of one of the most dangerous hate groups in America, the neo-Nazi National Alliance.

The stated goal of the National Alliance is to secure "a racially clean area of the earth . . . no non-whites in our living space . . . a thorough rooting out of Semitic and other non-Aryan values and customs everywhere." To achieve this warped end, this organization of intolerance pledges "to do whatever is necessary to achieve this White living space and to keep it White. We will not be deterred by the difficulty or temporary unpleasantness involved." Indeed, the ADL report details the depths of "temporary unpleasantness" to which the National Alliance has sunk in its pursuit of its depraved agenda, tracing numerous cold-blooded murders and other terrorist activities to National Alliance members. Declared National Alliance leader William L. Pierce: "We should not flinch from this. We should not focus on the fact that it will be horrible and bloody, but on the fact that it is necessary, and because it is necessary it is good." The dramatic growth of this frightening organization over the past several years should alarm us all.

Mr. Speaker, I would like to enter into the RECORD selected portions of "Explosion of Hate: The Growing Danger of the National Alliance." I hope that my colleagues will read the entire report on the ADL's web site at www.adl.org.

EXPLOSION OF HATE: THE GROWING DANGER OF THE NATIONAL ALLIANCE

INTRODUCTION: THRIVING ON HATE

The Most Dangerous Organized Hate Group

A new ADL investigation reveals that the neo-Nazi National Alliance (NA) is the single most dangerous organized hate group in the United States today. The NA sprang to national attention several years ago, when it was discovered that a fictitious incident in The Turner Diaries, a violent and racist novel written by the NA's leader, might have been used as a model for the Oklahoma City bombing. Convicted bomber Timothy McVeigh was a devoted reader of The Diaries, which features a bombing scenario that is eerily reminiscent of the April 19, 1995 blast. The book was also the blueprint for The Order, a revolutionary terrorist group that robbed and murdered its way to fame in the early 1980s. The ringleader of The Order was an organizer for the NA.

Now, the National Alliance has leaped to prominence again. In the last several years, dozens of violent crimes, including murders, bombings and robberies, have been traced to NA members or appear to have been inspired by the groups's propaganda. At the same time, the National Alliance's membership base has experienced dramatic growth, with its numbers more than doubling since 1992. The group, headquartered near Hillsboro, West Virginia, is led by former University of Oregon physics professor and veteran anti-Semite William L. Pierce.

Active Cells From Coast to Coast

With 16 active cells from coast to coast, an estimated membership of 1,000 and several thousand additional Americans listening to its radio broadcasts and browsing its Internet site, the National Alliance is the largest and most active neo-Nazi organization in the nation. The group has also developed significant political connections abroad. In the past three years there has been evidence of NA activity in no fewer than 26 states across the country. The organization has been most active in Ohio, Florida, Michigan, New York, Maryland, North Carolina, Virginia, and New Mexico.

The National Alliance's current strength and influence can be attributed to several factors; its skillful embrace of technology, its willingness to cooperate with other extremists, its energetic recruitment and promotional activities, and its vicious, but deceptively intellectualized propaganda.

A HATE-FILLED NETHERWORLD

Learning From The Turner Diaries

Around the country, local National Alliance leaders are responsible for ensuring that their charges read Pierce's novel, The Turner Diaries, from cover to cover. Some of these unit coordinators have suggested that they regard the novel—which depicts an Aryan world takeover—as a model for their own activities. For instance, The Turner Diaries describes the protagonists' defiance of the fictitious "Cohen Act," a law against private ownership of weapons. Convinced that the government will one day confiscate the weapons of all citizens as it does in The Diaries, some NA leaders have instructed members to keep guns and ammunition hidden on their property. Some coordinators have further advised followers to acquire M-16s and other weapons used by the U.S. Army, so that in the event the government does disarm its citizens, NA members will be able to raid military bases and steal ammunition for their hidden guns.

The Ideology of Hate

Beyond these specific tactical instructions, National Alliance leaders school their adherents in an ideology of hate. The NA is determined to secure "a racially clean area of the earth . . . no non-whites in our living space . . . a thorough rooting out of Semitic and other non-Aryan values and customs everywhere. . . . We must have new societies throughout the white world which are based on Aryan values and are compatible with the Aryan nature." The National Alliance claims it "will do whatever is necessary to achieve this White living space and to keep it White. We will not be deterred by the difficulty or temporary unpleasantness involved, because we realize that it is absolutely necessary for our racial survival."

Fundamental to the organization's doctrine is the belief that "our world is hierarchical" and that the Aryan race is endowed by nature with superior qualities. The National Alliance laments that "nature" is currently unable to take its course, because "the sickness of multiculturalism is destroying America, Britain and every other Aryan nation in which it is being promoted."

Rejecting Democracy

The group's racist vision extends to its views on government. The National Alliance decries "the growth of mass democracy," including "the enfranchisement of women and of non-whites," and favors a government that will "reverse the racially devolutionary course of the last few millennia and keep it reversed."

NA activists are also eager to erase the special progress made by women in the last century, and believe that "feminism is a threat to our race." "A woman's battlefield is the maternity ward," They say, and her "greatest 'diploma' is to give birth to the 'superman' or 'superwoman' "

NA members believe that people are the masters of their destiny, and can control the trajectory of their lives, within the laws of nature. The doctrines of various religious groups are therefore a target. The National Alliance specifically rails against Christianity, because most of its members have Christian family backgrounds. "We are obliged to oppose the Christian churches and to speak out against their doctrines," read the group's tenets. "It is not an Aryan religion . . . like the other Semitic religions [it] is irredeemably primitive."

Jews as THE Threat

While Pierce and other NA figures dehumanize both Blacks and Jews, depicting them as threats to "Aryan culture" and "racial purity," Jews are considered a more immediate menance to white survival. In his infamous essay, "Who Rules America?" Pierce's hatred of Jews turns to paranoia and conspiracy mongering, as he describes the United States as being in the thrall of a malevolent Jewish-owned media.

"The Jewish control of the mass media," Pierce writes, "is the single most important fact of life, not just in America, but in the world today. There is nothing—plague, famine, economic collapse, even nuclear war—more dangerous to the future of our people."

The National Alliance attempts to intellectualize its racist agenda in the page of its glossy magazine, the National Vanguard. The magazine, which is published irregularly, glorifies Aryan civilization and racial purity in articles such as "Aryans: Culture Bearers to China" and "Miscegenation: The Morality of Death." The National Vanguard's highbrow tone contrasts sharply with the cruder, poorly edited propaganda materials of some other extremist groups, and perhaps heightens the NA's appeal among better-educated bigots.

THE DIARIES: AN INSPIRATION

While he wrote "The Turner Diaries" more than two decades ago, Pierce continues to champion its ugly vision of a world for whites only. A National Alliance radio broadcast aired in early 1997 provides one of many examples:

In 1975, when I began writing "The Turner Diaries" . . . I wanted to take all of the feminist agitators and propagandists and all of the race-mixing fanatics and all of the media bosses and all of the bureaucrats and politicians who were collaborating with them, and I wanted to put them up against a wall, in batches of a thousand or so at a time, and machine-gun them. And I still want to do that. I am convinced that one day we will have to do that before we can get our civilization back on track, and I look forward to the day.

Following its broadcast on shortwave and conventional radio stations, a recording of Pierce's explicitly violent statement was featured on the NA's Web site.

A Racist Crime Spree

Other murderers and terrorists appear to have shared the racist fantasies Pierce voiced in his radio address. "The Turner Diaries" is thought to be the inspiration behind a crime spree in the early 1980s perpetrated by a gang of extremists called The Order. The Order's crimes included murders, robberies, counterfeiting and the bombing of a synagogue."

After a Seattle bank robbery in 1983, the terrorist gang's leader, Robert Mathews, told an acquaintance that he had orchestrated the heist as the opening scene in what he hoped would be a reenactment of Pierce's American Nazi revolution. Prior to The Order's formation, Mathews was a Pacific Northwest representative of the National Alliance, and other founders of this terrorist gang also traced their roots to the NA. Even the group's name, "The Order" was chosen as a reverent nod to its inspiration—an elite, clandestine paramilitary unit featured in "The Turner Diaries."

The Aryan Republican Army: Reading the Turner Diaries

More recently, members of a white supremacist gang calling itself the "Aryan Republican Army" took its cues from The Order. Authorities say the "Army," led by Peter Langan, committed 22 bank robberies and bombings across the Midwest between 1992 and 1996 using tactics reminiscent of The Order. Four members of the group have pleaded guilty to a variety of robbery charges, while Langan was convicted in two Federal trails. In a racist video discovered by the FBI, Langan praised Robert Mathews and instructed his viewers to "learn from Bob," Federal prosecutors have also demonstrated that *The Turner Diaries* was required reading in the Aryan Republican Army.

The New Order: Planning Violence

The activities of The Order have also been cited as a role model for an alleged conspiracy by a group of white supremacists in East St. Louis, Illinois. In March 1998, Federal authorities arrested Dennis McGiffen, an Aryan Nations leader and former Klansman, Wallace Weicherding, also a former Klansman, and Robert Bock. The three were charged with conspiracy to possess and make machine guns. McGiffen and Bock pleaded guilty to the charges one month later. Wallace Weicherding was convicted on September 1, 1998.

At the time of their indictment, an FBI agent testified that McGiffen had been forming a group called "The New Order," patterned after Robert Mathews' terrorist gang. The group allegedly planned to bomb the Anti-Defamation League's New York headquarters, the Southern Poverty Law Center in Montgomery, Alabama, and the Simon Wiesenthal Center in Los Angeles. They had also talked of bombing state capitols and post offices, and poisoning public water supplies with cyanide. Like other admirers of The Order, McGiffen's beliefs were reportedly heavily influenced by "The Turner Diaries."

RACIST LINKS

The Fort Bragg Murders

Also on the East Coast, the NA has attempted to attract members among U.S. Army personnel at Fort Bragg, in Fayetteville, North Carolina. A member of the elite 82nd Airborne Division, Robert Hunt, reportedly worked as a recruiter for the National Alliance while stationed at Fort Bragg. In April 1995, according to the NA, Hunt rented a billboard outside Fort Bragg and used it to post an advertisement and local phone number for the group.

In December 1995, a Black couple was gunned down near the Army base in what prosecutors called a racially motivated killing. James Burmeister and Malcolm Wright, members of the 82nd Airborne Division, were ultimately convicted of the murders and sentenced to life in prison. (A third soldier, Randy Meadows, pleaded guilty to conspiracy and accessory charges.) Burmeister and Wright were active neo-Nazi Skinheads, and reportedly read National Alliance propaganda.

Racist Shooting in Mississippi

Another racial incident that can be linked to National Alliance propaganda occurred in April 1996, when Larry Wayne Shoemake killed one African American and injured seven others in Jackson, Mississippi. Police say Shoemake piled a small arsenal of weapons into an abandoned restaurant in a predominantly Black neighborhood, and from his hideout began shooting wildly into the street in a murderous rampage. As an ambulance tried to rescue a dying victim, Shoemake continued firing his rifle, preventing emergency workers from remaining on the scene. Shoemake ultimately took his own life.

In a police search of Shoemake's home, authorities found a Nazi flag draped over his bed, a copy of Adolf Hitler's Mein Kampf and literature from the National Alliance. According to his ex-wife, Shoemake first encountered NA propaganda in the mid-1980s, when he borrowed "The Turner Diaries" from a friend. She said her husband wasn't the same after he read Pierce's novel. "It was like an eye-opener for him," his wife said. "There was a distinct difference in him." Shoemake also began subscribing to Pierce's monthly publications.

Separation or Annihilation

The October 1995 issue of "Free Speech," a monthly newsletter sent to financial supporters of the NA's "American Dissident

Voices" radio program, seems to have had a particular impact on Shoemake. The issue featured an article called "Separation or Annihilation," which exhorted readers to choose between "racial separation" and "annihilation" of whites. It stated that "attaining racial separation and avoiding racial annihilation is worth any cost. We should be willing to give up every material thing we own to achieve it." Along the margins of the essay, Shoemake scrawled: "I say: Separation or annihilation! Who is crazy? Me or you? We will see." Shoemake repeated the NA's slogan in a final, rambling letter obtained and published by the Jackson, Mississippi, Clarion-Ledger. Shoemake wrote: "Black is the problem. It's in their genes. . . . They will never forgive whites for all the supposedly terrible treatment we did to them. The bottom line is: Separation or annihilation."

A VENOMOUS VOICE

Broadcasting Hate

Despite these crimes, Pierce continues to glorify violence, offering it as the ultimate solution to what he calls—in words reminiscent of Adolf Hitler—"the Jewish problem." Much like his writings, Pierce's weekly radio show is rife with incendiary speech. Moreover, while the program's topic varies from week to week depending on current events, Pierce's material never truly changes. Each broadcast is a springboard for the NA's enduring message of anti-Jewish, anti-Black and anti-government hatred.

The broadcasts can be picked up in most of the country on shortwave radio, are aired on local radio stations in parts of Arkansas, Texas, Alabama, New England, Florida and California and can be downloaded in audio form from the NA's World Wide Web site. Transcripts of the speeches are sent via E-mail to subscribers and are sent to financial supporters in the form of a monthly newspaper.

A Continuing Theme: Eliminating Jews and non-whites

In a November 1997 broadcast discussing the revelation that a Black man in upstate New York had infected dozens of local white girls with the AIDS virus, Pierce said:

> Ultimately, we must separate ourselves from the Blacks and other non-whites and keep ourselves separate, no matter what it takes to accomplish this. We must do this not because we hate Blacks, but because we cannot survive if we remain mixed with them. And we cannot survive if we permit the Jews and the traitors among us to remain among us and to repeat their treachery. Eventually we must hunt them down and get rid of them.

Continuing his tirade, Pierce said that while individual Blacks and Jews may seem worthy of redemption, the only tenable solution for white people is to eliminate all non-whites.

Calling for Racial Cleansing

In January 1998, in a speech titled, "What Is a Patriot to Do?" Pierce spoke of starting an armed revolution against the Jewish people. He agreed that such an act of resistance would demand sacrifice, but deemed its rewards far greater:

> Yes, the great cleansing which must come may destroy millions of our own people, the innocent along with the guilty, the good along with the bad. * * * But eventually it must come, because otherwise our people will die, and everything that has gone before as well as everything that might come in the future will be lost forever. The great cleansing must come, and we must do whatever it takes to ensure that it does, so that our people will live.

The bottom line to listeners was a shrill cry for violence. "We should not flinch from this," Pierce said. "We should not focus on the fact that it will be horrible and bloody, but on the fact that it is necessary, and because it is necessary it is good."

LOOKING AHEAD

The National Alliance's dramatic growth is significant because it comes at a time when other neo-Nazi organizations, as well as groups like the Ku Klux Klan, are becoming weaker and more fragmented. Moreover, the NA does not appear to be siphoning members from these declining groups, but actually recruiting a fresh cast of educated, middle-class bigots. These new followers appear to be attracted to the National Alliance's dedicated membership, its commanding presence on the Internet, its emphasis on maintaining a "sophisticated" image, and its powerful leadership. As the National Alliance continues to gather momentum and strength, its threat of violence grows. Crimes being plotted or committed by NA members of "Turner Diaries" devotees have been mounting. By publishing this report, ADL seeks to increase public awareness of the dangers posed by these individuals, as well as to encourage stepped-up vigilance by law enforcement officials at all levels.

CONSIDERATION OF H. RES. 557

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. SMITH of New Jersey. Mr. Speaker, I am pleased to be a cosponsor of this important resolution that addresses many of the unresolved issues of the Holocaust era. I appreciate the efforts of my colleagues, Mr. GILMAN and the bill's sponsor, Mr. LANTOS, and their staff for preparing this important measure.

In the aftermath of the Holocaust, survivors struggled to rebuild their lives. Holocaust victims in Western countries generally received some monetary compensation from Germany, albeit very limited compensation. Those victims whose homelands fell behind the Iron Curtain after World War II did not receive even this slight measure of justice. Other issues related to the Holocaust era, including the disposition of assets such as real or financial property, art work, and insurance policy proceeds went unresolved for all of these individuals, as well as for religious communities.

Mr. Speaker, a belated measure of justice for Holocaust victims is within reach. Much has been achieved, including unprecedented settlements between Holocaust survivors, Swiss Banks, and European insurance companies. Building on this momentum, the State Department and the United States Holocaust Memorial Museum will convene the Washington Conference on Holocaust-era Assets next month to address issues of Nazi-confiscated assets, including art, insurance, communal property, libraries and archives, as well as Holocaust education, research and remembrance. Conference participants will include government officials from over 40 countries, historians, experts, and representatives of major NGOs including the survivor community.

This resolution could not be considered at a more opportune moment. The resolution calls on countries to return expropriated properties to Holocaust victims or their heirs without arbitrary discrimination. It calls for the opening of archives relating to the Nazi era and for the continued prosecution of Nazi-era war criminals. It calls on Germany to provide just reparations to all Holocaust victims without delay and without the use of unreasonable eligibility criteria. Of equal importance, this resolution calls on all countries to encourage education on the history of the Holocaust and the consequences of the failure to respect human rights.

Mr. Speaker, we should pass this resolution as a demonstration of Congress' support for the U.S. Government's efforts to achieve justice for Holocaust victims and their families. I strongly urge my colleagues to join me in supporting this measure.

HOUSE OF REPRESENTATIVES—*Friday, October 9, 1998*

The House met at 9 a.m. and was called to order by the Speaker pro tempore (Mrs. EMERSON).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
October 9, 1998.

I hereby designate the Honorable JO ANN EMERSON to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Reverend James David Ford, D.D., offered the following prayer:

How can we see mountains when our eyes are so low, how can we do good deeds when our hands are so slow? How can we love when we are selfish or vain and how can we serve if we live with disdain? O gracious God from whom all blessings flow, cause us to lift our eyes to the heavens from which all of our gifts do come, teach us to use our hands to do the good works of charity and justice and enable us to love and show concern for the neediest among us. May the faith we believe in our hearts find expression in our words and may our words be translated into good deeds from our hands. Praise be to You, O God, Ruler of the universe! Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Ohio (Mr. TRAFICANT) come forward and lead the House in the Pledge of Allegiance.

Mr. TRAFICANT led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 3332. An act to amend the High-Performance Computing Act of 1991 to authorize appropriations for fiscal years 1999 and 2000 for the Next Generation Internet program, to require the President's Information Technology Advisory Committee to monitor and give advice concerning the development and implementation of the Next Generation Internet program and report to the President and the Congress on its activities, and for other purposes.

H.R. 4284. An act to authorize the Government of India to establish a memorial to honor Mahatma Gandhi in the District of Columbia.

H.R. 4293. An act to establish a cultural training program for disadvantaged individuals to assist the Irish peace process.

H.R. 4558. An act to make technical amendments to clarify the provision of benefits for noncitizens, and to improve the provision of unemployment insurance, child support, and supplemental security income benefits.

H.R. 4658. An act to extend the date by which an automated entry-exit control system must be developed.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 2616. An act to amend titles VI and X of the Elementary and Secondary Education Act of 1965 to improve and expand charter schools.

H.R. 3809. An act to authorize appropriations for the United States Customs Service for drug interdiction, and for other purposes.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the bill (H.R. 1702) "An Act to encourage the development of a commercial space industry in the United States, and for other purposes.".

The message also announced that the Senate had passed bills and a concurrent resolution of the following titles in which the concurrence of the House is requested:

S. 361. An act to amend the Rhinoceros and Tiger Conservation Act of 1994 to prohibit the sale, importation, and exportation of products intended for human consumption or application containing, or labeled or advertised as containing, any substance derived from any species of rhinoceros or tiger, and to reauthorize the Rhinoceros and Tiger Conservation Act of 1994, and for other purposes.

S. 1970. An act to require the Secretary of the Interior to establish a program to provide assistance in the conservation of neotropical migratory birds.

S. 2217. An act to provide for continuation of the Federal research investment in a fiscally sustainable way, and for other purposes.

S. 2238. An act to reform unfair and anticompetitive practices in the professional boxing industry.

S. 2358. An act to provide for the establishment of a presumption of service-connection for illnesses associated with service in the Persian Gulf War, to extend and enhance certain health care authorities relating to such service, and for other purposes.

S. 2427. An act to amend the Omnibus Parks and Public Lands Management Act of 1996 to extend the legislative authority for the Black Patriots Foundation to establish a commemorative work.

S. 2524. An act to codify without substantive change laws related to Patriotic and National Observances, Ceremonies, and Organizations and to improve the United States Code.

S. Con. Res. 120. Concurrent resolution to redesignate the United States Capitol Police headquarters building located at 119 D Street, Northeast, Washington, D.C., as the "Eney, Chestnut, Gibson Memorial Building".

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 2022) "An Act to provide for the improvement of interstate criminal justice identification, information, communications, and forensics.".

NOTICE

Effective January 1, 1999, the subscription price of the Congressional Record will be $325 per year, or $165 for 6 months. Individual issues may be purchased for $2.75 per copy. The cost for the microfiche edition will remain $141 per year; single copies will remain $1.50 per issue. This price increase is necessary based upon the cost of printing and distribution.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain 10 1-minute speeches on each side.

EDWARDSVILLE AMERICAN LEGION POST WINS AMERICAN LEGION WORLD SERIES IN LAS VEGAS

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Madam Speaker, on August 25 Edwardsville American Legion Post 199 not only went into the history books by winning the American Legion World Series in Las Vegas, but they beat the 5,300 to 1 odds which were against them. During their remarkable run to the first national championship,

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Post 199 finished with a season record of 41 and 7 and won their regional state championships as well.

After getting off to a solid start in the first inning, they briefly fell behind in the second inning. However, their character as a team pulled through. They rallied behind the pitching tandem of brothers James and Ben Hutton to begin a comeback in the fifth inning and to take the lead in the sixth inning.

A pair of convincing runs in the ninth inning sealed their 9 to 4 victory, giving their coach and Edwardsville their first national championship.

After the game, pitcher James Hutton said, "The whole team responded tonight. This is a team win, and it will always be a team win. The pitcher gets more of the glory, but I don't deserve more than anyone else on the team."

Congratulations to Edwardsville.

AMERICAN TAXPAYERS SUBSIDIZING FOREIGN ECONOMIES WHILE THEY DENY AMERICAN PRODUCTS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Madam Speaker, let us see if this makes some sense:

Foreign banks all over the world make bad loans knowingly to prop up their falling economies hoping against hope to salvage their systems. Then their businesses go belly up. They default on their loans, the banks fail, and then the foreign banks dial 911 to Uncle Sam for more money. The International Monetary Fund then calls Uncle Sam and says:

"If you don't make these countries and these foreign banks any more loans, they won't buy your products."

Beam me up, Mr. Speaker. When American taxpayers are subsidizing foreign economies and they are denying American products, we need a proctologist to give us some counseling.

PORKER OF THE WEEK AWARD

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Madam Speaker, 12 years and nearly $6 billion after passage of the Safe and Drug Free Schools and Communities Act, many schools are neither drug-free nor safe.

Using this drug prevention money, one Michigan school district gained $81,000 worth of giant plastic teeth and toothbrushes. Police in Hammond, Louisiana, have a squad car. It is a 3-foot, remote-control replica that cost $6,500. And Virginia Beach, Virginia, has extra lifeguards with this drug money.

Students in Richmond, Virginia, are enjoying the social benefits of a $16,000 drug-free party guide. It includes tips on Jello wrestling and holding pageants where guys dress up in women's wear. Los Angeles schools have a new van for transporting sports equipment and have given away $16,000 in tickets to Disneyland and Dodger Stadium to students who have pledged to listen to their parents.

These examples are only the tip of the iceberg. I guess it should not surprise us that the White House wants $605 million more for this program.

Good idea, bad implementation. The Department of Education gets my porker of the week award.

REPUBLICANS WANT TO AVOID A GOVERNMENT SHUTDOWN

(Mr. BALLENGER asked and was given permission to address the House for 1 minute.)

Mr. BALLENGER. Madam Speaker, already rumors are running wild in Washington that the President wants a government shutdown, a shutdown that he can then blame on the Republicans. This is considered a terrible breach of faith among Republicans because Republican leaders in Congress have been working since the spring to avoid a government shutdown. There is no need for a shutdown, for even if an agreement cannot be reached before the current spending bills run out, Republicans are ready to sign on to another temporary spending bill to allow the government to continue without interruption while we work out the remaining differences.

Republicans have been bending over backwards to avoid what we know some here in the administration are recommending. The disruption, the heartache, the uncertainty that government shutdown has introduced into peoples' lives are not necessary, and the Republicans have no desire to provoke a confrontation with the President.

Let us continue to work together to pass the remaining spending bills and avoid a government shutdown.

HAVE THEY NO SHAME?

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Madam Speaker, it is fascinating to watch the spin, the sheer audacity of those who defend the wrongdoing of liberals, whatever the cost. It has gone from "it didn't happen" to "it doesn't matter" to "everyone does it" to "I'm so sorry."

The reputations which have been trashed I guess we should just forget. The thousands and thousands of dollars in lawyers fees that innocent bystanders had to fork out, well, I guess that is their problem. The millions of dollars in court costs that the legal system has had to needlessly endure I suppose is no longer relevant.

Should we pretend that the rule of law is not important? Should we pretend that defendants in a sexual harassment case are not entitled to a fair trial? After all, lying about related misconduct is a private affair. Should we pretend that honor and integrity are not important?

Madam Speaker, the astonishing thing is that not one Cabinet member or one White House staffer has resigned because of this whole sordid mess. Have they no shame?

FORSTMANN-WALTON TEAM CREATING THE FUTURE OF AMERICAN EDUCATION

(Mr. SHAW asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHAW. Madam Speaker, two businessmen, Ted Forstmann and John Walton, are, in my opinion, American heroes, and here is why.

American public schools are in crisis. The crisis is starkly illustrated by the results of the Third International Mathematics and Science Study which found that only Cyprus and South Africa have 12th graders who knew significantly less about math and science than United States students. The major cause of poor United States performance is that our public schools have a near monopoly on education and secondary education, stifling student's academic development. To counter this dilemma, Americans across this Nation are seeking much greater freedom of school choice.

And here is where Forstmann and Walton come in. Last year, through the Washington Scholarship Fund, they awarded over 1,000 scholarships to poor children in Washington, D.C., but they had requests for 7,500. In response to this great demand, the amazing Forstmann/Walton team has pledged $100 million of their own money and plan to raise an additional $100 million to provide around 35,000 scholarships to help poor children attend schools of their choice all across this country.

Mr. Forstmann and Mr. Walton are creating the future of American education. When at last our public schools have to compete for students, they will be remembered as two of our greatest, and most generous, education reformers.

SETTING THE RECORD STRAIGHT

(Mr. NADLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NADLER. Madam Speaker, I saw the news this morning that 400 and some odd Members of the House yesterday voted for an inquiry into impeachment of the President, including all of those of us who voted for the Democratic amendment to the Hyde resolution. That is simply not true. Many people who voted for the Hyde resolution voted for it, many people who voted for the Democratic amendment voted for it because they wanted an inquiry, but they thought the Republican Hyde resolution was a formula for an open-ended, politicized fishing expedition, and at least this would make it fairer. So they voted for the Democratic amendment, and then, when it failed, they voted against the Hyde resolution.

Some of us, however, thought and think there is no impeachable offense described in the Starr Report. Even if you assume the President did everything it alleges he did, there is no impeachable offense. He should be punished in some other way for things he did that are not good things to do, but there was no impeachable offense.

We voted for the Democratic amendment as an amendment to make a bad bill, a bad resolution, a better bill, but, had the amendment passed, we still would have voted against the bill because, although it would have mitigated the damages in the bill, it made it much damaging to the country, it was still calling for an unnecessary inquiry. So one has to ask each Member who voted for the Democratic amendment which position he took, but one cannot say they all voted for an inquiry.

I thought the record should be set straight.

SENIOR CITIZENS IN CARSON CITY LOSE A DEAR FRIEND, BRUCE COTTAM

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Madam Speaker, the State of Nevada and the Senior Citizens Center in Carson City lost a dear and loyal friend yesterday.

Before his death yesterday, Bruce Cottam served over 4,000 volunteer hours, doing everything from building maintenance to modification projects. As a 6-year member of the Advisory Counsel for the Senior Center, Bruce served on the Finance Committee and was Chairman of the Building Committee. Most recently, he played an instrumental role in developing the plans and construction model for an expansion project of the Senior Center which will be constructed this spring. His dedication to seniors of this community can serve as an example to each of us here in Congress.

Bruce worked diligently, knowing that his volunteer hours would help save the Senior Center from facing enormous cost with a limited budget. He did all this hard work day in and day out, without ever recounting his own efforts. Each and every day Bruce would show up with a smile and friendly greeting, searching for the next project to be done.

Although Bruce lost his life yesterday, his legacy in the State of Nevada will live on, as will his commitment to the seniors and staff of the Carson City Senior Center.

THE PRESIDENT IS MISLEADING US

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Madam Speaker, do you remember the quote? The President said,

> I am not against tax cuts, but I am against using the surplus for tax cuts or spending programs until we save Social Security.

That is the President's quote.

Well, the President cannot have it both ways. How do my colleagues think he plans to pay for the $25 billion in new spending that he is demanding from us? He is holding this Congress hostage for $25 billion of our hard-earned dollars. Right out of the surplus and Social Security, of course. This is the same surplus he claims he wants to protect and save for Social Security.

Do not be fooled, America. The President is misleading us. He is spending the surplus. He is not saving every penny for Social Security. He is using it to grow the government instead of growing our family's bank account where the surplus ought to be.

PATIENTS BEFORE PROFITS

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include therein extraneous material.)

Ms. DELAURO. Madam Speaker, for 10 months the American public has been very clear in asking for one particular piece of legislation from this Congress, managed care reform. It has been very clear in defining what it wants from a Patients Bill of Rights, it is just common sense: the ability to choose your own doctor, guaranteed access to emergency rooms, guaranteed access to specialty care, a ban on all gag rules that limit doctors from offering treatment options and the right to hold HMOs accountable for their decisions.

□ 0915

Yet during this Congress the Republican leadership stalled, dallied, and in the end, passed a sham bill that did not do any of the things that the public wanted.

We have 4 days left in this session to pass meaningful managed care reform. The cost of delay is serious. In the past week, 200,000 Medicare recipients have been dropped by their HMOs. This is wrong. It must be addressed before more people are put in jeopardy.

Madam Speaker, we need to put patients before profits. The doctor's office must be a place for medical decisions, not business decisions. We owe it to the American people to pass meaningful HMO reform and do it now.

MANAGED HEALTH CARE REFORM

(Mr. DOGGETT asked and was given permission to address the House for 1 minute.)

Mr. DOGGETT. Madam Speaker, the focus of this House has been almost entirely on what the President did wrong and next to none on how Americans across this country have themselves been wronged in a variety of ways.

One of those that I hear the most from Texas concerns the whole problem of health care and access to health care, the fact that too many people find themselves subject to health care providers who are gagged, they do not have a choice with regard to their health plan, that they are being harmed in some cases by the decisions that a clerk someplace, not a health care professional, not themselves, but a clerk somewhere who might get a bonus by denying them health care makes.

I would say that, in the waning days of this Congress, which has done so little to right the wrongs of the American people, that the President ought to say to the Congress, you cannot go home until you right the wrongs that have been done to the American people with reference to health care.

Let us see some meaningful reform of the way these managed care organizations work, the way they interfere in the doctor-patient relationship. Let us see something done to help the problems that the ordinary American family faces. Let us not go home until the job is completed. I hope the President will speak out on this issue.

CONFERENCE REPORT ON H.R. 3150, BANKRUPTCY REFORM ACT of 1998

Mr. LINDER. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 586 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 586

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 3150) to amend title 11 of the United States Code, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

Mr. LINDER. Madam Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Madam Speaker, House Resolution 586 is a typical rule for conference reports and will permit House consideration of H.R. 3150, the Bankruptcy Reform Act of 1998, a bill that is designed to improve bankruptcy practices and restore personal responsibility and integrity to the bankruptcy process.

H. Res. 56 waives all points of order against the conference report and against its consideration. The resolution also provides that the conference report will be considered as read.

The rules of the House provide for 1 hour of general debate equally divided between the chairman and ranking minority member of the Committee on the Judiciary. In addition, House rules provide for one motion to recommit with or without instructions, as is the right of the minority.

Madam Speaker, the statistics of U.S. bankruptcy filings are frightening. Bankruptcies have increased more than 400 percent since 1980, and we expect over 1.4 million bankruptcies in 1998. In the past, it was possible to blame many bankruptcies on a recession or a poor economic situation. Today, however, we face record numbers of bankruptcy filings at a time of economic growth and low unemployment.

If we take these factors into account, we can realistically come to only one conclusion, bankruptcy of convenience has provided a loophole for those who are financially able to pay their debts, but simply have found a way to avoid personal responsibility and escape their financial responsibilities.

Since the beginning of the 104th Congress in January of 1995, we have worked to advance the values of personal responsibility. In the welfare bill, we thought that helping the poor escape the welfare trap, restoring the dignity of work, and reviving the individual responsibility would help people rise from generation after generation of despair. We were, of course, attacked as heartless and cruel.

Today we know that people are relishing personal responsibility and are moving from welfare to work in record numbers. In fact, in early 1996, simply the prospect of the passage of a welfare reform bill resulted in people moving from welfare to work.

This bankruptcy bill is the Congress' next step in cultivating personal responsibility on accountability. I expect we will hear more hollow charges that we are being heartless and cruel. Nonetheless, the abusers of bankruptcy laws need to receive a message that Federal bankruptcy laws are not a haven of personal fiscal irresponsibility.

If a debtor has the ability to pay the debts that have been accumulated, then they must be held accountable. We believe strongly that individual responsibility is a fundamental norm that Americans should accept.

For the average American who believes that these bankruptcies of convenience do not affect them, we should note that the abusers of the bankruptcy laws are punishing responsible consumers through increased prices and higher credit card fees.

We have to ask ourselves whether the American laborer who works 9:00 to 5:00, or longer, and pays his or her bills on time should have to pay the penalty for those who abuse our current bankruptcy laws. The answer is no.

We know that many people reach the point where they cannot dig themselves out of the financial hole they are in. We know layoffs can hit families at any time. We know that an unexpected medical emergency can undermine the best laid plans. Under this bill, effective and compassionate bankruptcy relief will continue to be available for Americans who need it.

What we cannot condone, however, are those who file for bankruptcy relief under Chapter 7 and have the capacity to pay at least some of their debts. In order to ensure that those who can pay actually do pay, this legislation set in motion a needs-based mechanism.

If the debtor has the ability to pay, the case would be dismissed by the bankruptcy court or guided toward the more appropriate Chapter 13 where they can repay all or some of the debt.

The gentleman from Pennsylvania (Mr. GEKAS), the bill's author, informed us in the Committee on Rules last evening that the conference report adopts the Senate's provisions for a post bankruptcy petition judicial review and includes the House standard for determining the debtor's ability to repay debts.

It is important to note that this bill is not simply about stopping the abuses in the system. It is also about protecting consumers and providing help for those who have found themselves in financial straits.

H.R. 3150 guarantees consumer credit counseling and personal financial management education before being discharged from bankruptcy. It cracks down on misleading credit advertisements and contains consumer disclosure requirements.

H.R. 3150 also recognizes that American farmers face unique challenges, and the conference report ensures that bankruptcy laws protect farmers from the cyclical risks encountered in the agriculture sector.

I am also pleased that H.R. 3150 ensures the priority treatment accorded to child support claims, and in fact improves current law by raising child support and alimony payments to first priority. These are important protections that are supported by the National Association of Attorneys General and by child support agencies across the Nation. This bill also gives priority to the payment of judgments against drunk drivers and drug users.

Madam Speaker, in conclusion, I admit that I am disappointed that, in the face of a bankruptcy crisis that threatens to undermine our economy, I have heard that the President has vowed to veto this common sense legislation. Congress has done its legislative duty in crafting a bill that ensures the debtor's right to a fresh start and protects the system from flagrant abuses from those who can pay their bills.

We have an opportunity to equalize the needs of the debtor and the rights of the creditor, and I hope the President will not follow through on his veto threat.

Madam Speaker, I urge my colleagues to support this rule so we can pass this important legislation and send it to the President for his signature as soon as possible.

Madam Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Madam Speaker, I thank the gentleman for Georgia (Mr. LINDER) for yielding me the customary 30 minutes.

Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in strong opposition to this rule. I oppose the hasty process the rule embraces. I oppose the damage to America's children that the rule does not allow us to challenge. I oppose the fact that the minority party was shut out of the process.

Last year, more than a million American families went through bankruptcy, leaving millions of creditors without full payment for their goods and services. Is the record number of bankruptcies a serious problem? Absolutely. Is this conference report a real answer to that problem? Absolutely not.

This rule waives clause 2(d)(6) of rule XXVIII that requires the availability of conference reports 3 days before their consideration. The House rule allows Members time to read and study the report before they cast their votes. Since this conference report has been available to most Members for less than 24 hours, I have grave doubts that most Members have any real knowledge of what it includes.

The rule also waives House rules that will ensure that the conferees stayed within the framework of the bills passed by each chamber, an obviously important rule. But under this rule, the conferees had carte blanche and rewrote a new bill. Unfortunately, they used the freedom to craft a creditor-slanted bill and gut consumer protections against predatory practices.

Despite a more than 200-year-old tradition of carefully weighing creditors' rights against a new start for the debtor, this rewrite of the bankruptcy code has been rushed and partisan. The Committee on the Judiciary's markup was so rushed that germane amendments offered by committee members were not even considered. In June, the House considered the bill under the rule that allowed fewer than one-third of the amendments that Members wanted to offer.

Now we learn that the conference committee, the minority, and some Members of the majority were left out of the process. In the one public meeting of the conference, no substantive discussion or proposals were even allowed.

So today, after this closed process, what do we know about the provisions of the conference report, legislation that will affect the lives of millions of families filing for bankruptcy and millions of creditors, many of them small businesses needing relief? We know that this legislation does nothing to address a major cause of bankruptcy, the profligate lending of irresponsible creditors.

Madam Speaker, I submit that every American gets three or four applications for credit cards a week regardless of their credit standing. But we did not address that.

We know that the conference report ignores the votes of a majority of both the House and the Senate that credit card companies should not be able to charge extra fees to those customers who use their credit cards responsibly. Indeed, if we pay all of our credit card bill, they will drop us as a customer.

We know the conference report does virtually nothing to address the problems of the enormous variations in State laws regarding the treatments of personal residences. We know that the conference report has not remedied a major fault to the House-passed bill; the devastating impact on the legislation will have on 125,000 children owed child support from a parent who declared bankruptcy.

Just 4 years ago, I introduced the Spousal Equity in Bankruptcy Amendments. So, Madam Speaker, that provision was my own. I feel pretty seriously about that. But it gave priority to child and spousal support payments and bankruptcy proceedings. That legislation became law as part of the Bankruptcy Reform Act of 1994. Thanks to those amendments and other enforcement reforms, child support collections have increased by 68 percent since 1992. This conference report will reverse that progress.

By making large amounts of unsecured consumer dealt non-dischargeable in bankruptcy, this legislation would place money owed on credit card at the same level as alimony and child support obligations. Under this bill, after a debtor goes through bankruptcy proceedings, he or she will still have credit card and other types of consumer debt left to pay. Those debts will compete with child support and alimony for the limited resources of the post bankruptcy debtor.

While proponents of this legislation claim that they have repaired the damage the bill does to child support and alimony, those repairs are only cosmetic.

□ 0930

They ignore the reality that when aggressive credit card collection agencies are calling, it will be easier for the debtor to pay them rather than the former spouse or the powerless child.

For these and other reasons, the legislation continues to be opposed by consumer groups. One of the original Senate sponsors has promised a filibuster in the Senate and the administration will veto the bill if it is sent to the President in its current form.

While I support efforts to truly reform our bankruptcy laws, this conference report is severely lacking, and we can and should do better.

Madam Speaker, I urge my colleagues to oppose this rule and this unfair bill.

Mr. LINDER. Madam Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Madam Speaker, I yield 7 minutes to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Madam Speaker, I thank the gentlewoman for yielding me this time.

Madam Speaker, this special interest legislation should not even be considered by the House today. It is being brought forward at the eleventh hour from a secret, closed-door conference for which the House minority was virtually excluded.

This secret, rushed and closed conference report was written by and for the special interests, perhaps best symbolizing everything that has gone wrong in this 105th Congress. The majority has ignored the needs of the American people in favor of the special interests, acting with recklessness and haste. That is what has happened for the last 2 years, and perhaps it is fitting that the majority chooses to finish this Congress with this bill true to form.

There was exactly one meeting of the staff of all of the conferees of the House and the Senate. There was only one pro forma meeting of the conferees. Members were not given the opportunity to deal or even to make any motions dealing with any of the substantive issues at that meeting. And then there was never another meeting of the conferees and there was never another meeting of the conferees' staff.

The House minority was resolutely excluded from whatever meetings did occur. In the final stages of the conference, it was strictly a majority event.

The extent to which this conference has failed even to pay lip service to including the minority in the discussions is staggering and reflects an unprecedented arrogance and contempt for the views of the minority and of the Americans whom we represent.

This legislation has been written by and for the big banks, the credit card industry, and other special interest groups. Its sole purpose, everything else being window-dressing, is to take large amounts of money from middle income and low-income people in a time of distress of personal bankruptcy and give it to the big banks and the credit card companies. Everything else is window-dressing.

All provisions which protected consumers from predatory practices have been either dropped or gutted. Any provisions which held wealthy debtors of big corporations accountable for their actions have been either dropped or gutted.

For example, the conference report includes a provision which would make judgments from the drunken operation of a watercraft nondischargeable in bankruptcy. Legislation of this type has already passed the House and I was proud to support it.

Curiously, however, an amendment accepted by the House Committee on the Judiciary on a voice vote which would hold tobacco companies accountable for the debt and injury they have caused with their product and for the death and injury they have caused by misleading the American people about the dangers of smoking, that was dropped early in the conference. Thanks to that change, the big tobacco companies, if sued successfully, will be able to evade responsibility for their wrongdoing, if that is proven in court, but they will still evade responsibility by filing for bankruptcy protection.

Another provision which was gutted in conference was one which the majority in this House, including 100 members of the majority party and the distinguished Chairman of the Committee on the Judiciary, supported on a motion to instruct conferees. Section 405 of the Senate bill which would prohibit a credit card company from discriminating against the most responsible borrowers, those who pay their bills in full every month.

Now, we have heard, and I am sure there will be more rhetoric from the Republican side of the aisle, talking about how people have to be responsible, how debtors have to be responsible, how they are escaping in bankruptcy, how we are going to curb the abuses of the dead-beat debtors. But here we are permitting the banks to punish debtors for being responsible. If one pays their bills on time, that is terrible. We are going to punish you by discriminatory fees or by cancelling your credit card. The conferees would allow credit card companies to cancel these cards in a discriminatory manner at the end of the term and entirely delete the prohibition against discriminatory fees for those who have the nerve to pay their bills in full and on time since the credit card companies do not get the interest fees, they only get the activity fees.

This bill still threatens parents attempting to collect child support, and crime victims seeking compensation from their victimizers, favoring banks and big government in collection of limited assets. This problem has not been fixed, despite the careful placement of several transparent fig leaves.

While the majority fiddles, out there American communities are suffering from inaction in those aspects of the bankruptcy legislative agenda which would offer real relief. Chapter 12, which protects family farmers in crisis, lapsed on September 30. Although we have been urging for more than a year that this noncontroversial legislation be moved through this House independently, that has not happened. Now we are in the middle of a farm crisis, there is no chapter 12 protection, the farm belt is in crisis, and still the Majority has not acted. America's family farmers are being held hostage to the agenda of the big banks and the special interests. If chapter 12 is going to be renewed, it will be done only in this bill to try to get the agenda of the big banks. And we know that the President has threatened, has promised us he will veto this bill, so chapter 12 is being made veto bait in the hope that maybe it could help save the profits of the big banks.

Similarly, our bankruptcy courts have needed additional judges for years. We moved a freestanding bill in the House last year, but nothing has happened. Congress could well leave town with that job undone for yet another Congress, causing more delays in cases at great cost to all parties in these cases. We could enact the UNCITRAL Model Law on Cross Border Insolvencies on which there is general agreement and which might just come in handy now that there is a global economic crisis, but that has not happened. We could have taken these noncontroversial steps to modernize the code and stabilize the financial markets, but that entire agenda is being held hostage because we must serve the interests of the big banks.

Madam Speaker, this is a flawed bill that will destroy families and small businesses and make it harder for small creditors, including custodial parents seeking child support payments from debtors, to collect what is their due. It still retains the unworkable, one-size-fits-all means test which bankruptcy judges, trustees, practitioners, academics and the nation's leading experts have told us time and again will not work. It fails to balance the responsibilities of debtors with basic requirements that creditors conduct their businesses in an honest and fair manner. It also lets wealthy debtors avoid their responsibilities by preserving loopholes, like unlimited homestead exemptions, for the very rich.

Now we are going to vote on this special interest legislation handed out in secret and behind closed doors. This rule even waives the 3-day layover rule, even though we only received a hard copy of this 300 page bill Wednesday night and the electronic version was not available to Members and the public until yesterday. The legislative language runs 301 pages dealing with some of the most controversial and complex issues of bankruptcy law. I realize we are late in the session, but that is no reason to act with this kind of haste and ignorance. I urge my colleagues to vote "no" on this rule and maybe we will redo this bill and get a less obnoxious product.

Mr. LINDER. Madam Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Madam Speaker, I yield 7 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Madam Speaker, I thank the gentlewoman from New York for her work, and I thank very much the ranking member for his work.

I had hoped that we would have had a better result today. I voted initially against this bankruptcy resolution or this bankruptcy legislation when it came to the floor. However, I had good faith and good hope that even as the bill was not as I would have wanted it as it left the House, that we would have an opportunity in a collaborative and working manner of good men and women working together for what is a positive idea of balancing the needs of creditors and debtors, that we would have the opportunity to put before this body a reasonable, a reasonable bankruptcy reform legislation.

In our Committee on the Judiciary meetings and subcommittee, I worked extremely hard, and I really appreciate the leadership of the ranking member, the gentleman from New York (Mr. NADLER), for working equally hard and for his leadership on issues dealing with balancing the needs and the burdens of creditors and debtors. Unfortunately, our voices were not heard, our constituencies were not heard, and this legislation is simply bad.

This legislation is not bankruptcy reform, it is bankruptcy recession. Webster's dictionary defines recession as "the act of withdrawing and going back." That is what this conference report does. It takes several steps back.

First of all, in order for there to be a conference report, a conference should first be convened. This conference committee meeting was a sham. After meeting for a couple of minutes, maybe an hour or so, listening to our respective opening statements, there was no discussion about how we could bring about compromise. I thought our constituents sent us to this body to deliberate, to collaborate, to compromise, to give exchange and interchange. None of that occurred in the conference committee. I was appalled as a second-year Member to find out that this is what represents or is represented to the American people as work.

There was no consideration of any of our concerns, no considerations of 2 motions that I intended to offer, and I was gaveled down in the conference committee. What a sham and an outrage.

As we met for opening statements, we did not attempt at that time to reconcile our opening or our concerns about the bill. The conferees were never afforded the opportunity to deal with the substantive issues. This again is not bankruptcy reform, it is bankruptcy recession.

I was pleased that the homestead exemption capital, $100,000 that was in the Senate version of the bill, is not in the conference report. However, I was not pleased to learn that a residency requirement was added into the conference report that require people in my home State of Texas to live in Texas for at least 2 years or own a home for at least 2 years before getting a homestead exemption. This is contrary to our Texas State Constitution, and it would not serve our State well. Any suggestions that people rove into the State of Texas and buy big expensive homes just in order to avoid the process of listing them or having them counted in bankruptcy is an outrage on the citizens of Texas, and we should be left to our own ways under our own Constitution on this issue.

The conference report does not contain certain provisions for the rights of families and children, as well as the right to a fresh start for honest debtors. Any bankruptcy legislation that is enacted should ensure that the obligations to pay child support and to compensate victims of wrongdoing are protected, and that eliminates abuse of the bankruptcy system by both debtors and creditors, and does not tilt what is ultimately a fair and well run system to an unfair advantage of particular interest groups. I heard from so many mothers who receive child support and also heard from those who have to pay child support. These debts need to be protected.

I truly believe that without these basic protections, the conference report would merit a presidential veto and that the veto would be sustained. I am very concerned with the House version passed with child support and alimony. I offered an amendment that would put child support and alimony not only as a priority, but would have them paid first before any secured creditors. One cannot put a mother seeking child support in competition with those credit card companies who are trying to get paid. It is an unequal, unequal fight.

This conference report does not do that. It does not list or make sure that those who need to receive their child support do not have to fight the other nondechargeable debts like credit card debt. I oppose creating new nondechargeable debt that could pit post-bankruptcy credit card debt against child support, alimony, education loans and taxes. The conference report has not fixed that problem.

This conference report has the language that child support and alimony would have first priority, but yet still, this debt must still compete with the nondechargeable debt of secured creditors. The fact that this provision is in the conference report is outrageous and still makes the bill nonviable. Again, this is not bankruptcy reform, this is bankruptcy recession.

I had hoped that we could agree on a conference report that would avoid taking indiscriminate aim at debtors and fails to address some troubling practices of creditors. The only indisputable evidence in this debate is that Americans have significantly more debt than they have ever had before. The average bankruptcy filer last year had a debt-to-income ratio of 1.25 to 1, as opposed to .74 to 1, 74 percent of their income, a few short years ago.

According to bankruptcy law professor Elizabeth Warren of the Harvard Law School, the debtors that enter bankruptcy are usually experiencing turbulent times. Sixty percent of bankruptcy filers have been unemployed within a 2-year span prior to their filing.

□ 0945

Twenty percent of filers have had to cope with an uninsurable medical expense. Over one out of three filers, both male and female, are recently divorced.

The premise of this bankruptcy conference report is that bankrupt people are deadbeats, that they are trying to avoid the system, that they are going in and abusing the system. Madam Speaker, this is not true. If we had had a conference committee working relationship, we would have been able to present to this body one deeming or deserving of their consideration.

I think the idea of forcing bankruptcy filers into Chapter 7 versus Chapter 11 is too harsh and too extreme. The damage of trying to accomplish this goal through a means test might be irreparable. The National Bankruptcy Review Commission rejected the means test formula. This is the main reason why there can be no fair bright line to divide the irresponsible and fraudulent from the needy and the disadvantaged.

Again, this is not reform, this is bankruptcy recession. The means test is rigid and arbitrary for determining whether a debtor can use Chapter 7. In addition, it is very difficult for me to see why those small businesses who may want to be in a Chapter 11 are forced into a Chapter 7, all their goods taken.

Madam Speaker, this is not a good conference committee report. It is not deserving of the House. It should be vetoed. We should vote it down.

Ms. SLAUGHTER. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LINDER. Madam Speaker, I urge passage of the rule, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. GEKAS. Madam Speaker, pursuant to House Resolution 586, I call up the conference report the bill (H.R. 3150) to amend title 11 of the United States Code, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mrs. EMERSON). Pursuant to House Resolution 586, the conference report is considered as having been read.

(For conference report and statement, see Proceedings of the House of October 7, 1998, at page 24339).

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. GEKAS) and the gentleman from New York (Mr. NADLER) each will control 30 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. GEKAS).

Mr. GEKAS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, this is an important time in the 3-year saga that has preceded the moment at hand. That is, for 3 years we have been attempting, in one way or another, to fine-tune the bankruptcy system, and, moreover, in the latter stages of that 3-year process, to directly confront the escalating number of filings that have brought our economic system to the edge of complete chaos in the bankruptcy system, over 1.5 million bankruptcies just in one year, 1997.

That alone prompted action on the part of the various communities involved in the bankruptcy system, and particularly did it cause the Committee on the Judiciary to entertain hearings and to review the Bankruptcy Commission report, and to consult on a daily basis with our Senate colleagues and with everyone concerned in this vast problem.

The final product that the House produced matched the Senate in many different ways, but in those ways in which there was room for negotiation and compromise, that, too, was accomplished.

I want to give one example to the gentleman from New York (Mr. NADLER), if he will give me his attention. The House bill went out of its way, pursuant to the testimony we received at hearings, primarily out of the State of New York about the tax provisions that finally ended up in the House version.

It was largely because of these special interests to which the gentleman refers, like the taxing authorities in New York, that we were able to put into place language that reflected their concerns over the years in a weak bankruptcy code that did not give them the opportunity to recoup monies from bankrupts.

Here is another example, the same thing.

Mr. NADLER. Madam Speaker, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from New York.

Mr. NADLER. Madam Speaker, I just want to observe that I was elected to represent 600,000 citizens or residents of the city of New York, not to represent the city government of New York, which is interested in squeezing money out of people it should not be able to squeeze money out of.

Mr. GEKAS. Reclaiming my time, Madam Speaker, no one accused the gentleman of anything. I am pointing out how we compromised on this matter.

The gentleman forgets, in his apology to his constituents, not his apology but his standing up for his constituents, that when the taxing authorities in New York or in any other State have a difficult time in recouping what is due the taxing authorities, every other one of the gentleman's constituents has to make up the difference in what is lost in tax revenue. That is the important point there.

I am simply outlining that we in the House were able to adopt these tax provisions because of the hearings that we held, the testimony we received, and the concerns that were uttered across the Nation.

Then, in the spirit of compromise, the Senate, which also had taken up that particular provision, even had stronger language which we were able to adopt in the compromise. That is the important feature of what I am discussing here today about how we compromised on a great number of issues.

Especially did that occur in the means testing. We heard right from the beginning that our means test entry formula was too rigid. This was the cry from the opposition, that it forced too many people to go from Chapter 7 to Chapter 13, meaning it was too much to take to force people who could pay some of their debt back over a period of 5 years, it was too much for them to take that they would have to do it over a period of 5 years, even though it only rose to a small percentage of that debt.

So what did we do? We worked with the Senate and we came up with a compromise, which is now in this conference report, whereby the 707(b), that is, that portion of the Senate bill that dealt with abuse, being the vehicle for the final compromise in the conference report.

This, I want to say to the Chair, was a bipartisan effort, notwithstanding the rhetoric that we are being pummeled with. The results in both the Senate and the House of those separate bills indicate that.

I want the RECORD to show that in the House, the vote was 306 to 118. That is pretty bipartisan. On the Senate side it was 97 to 1, even a greater proportion of bipartisanship that approved their version of the bankruptcy reform.

Madam Speaker, here we are in a conference report that includes some of the best ideas in a generation for bankruptcy, including a Bill of Rights for debtors, a whole panoply of avenues of betterment of the plight of the debtor who has to go into bankruptcy and to seek a fresh start.

There is not one poor person or unemployed person in this country, who by reason of their plight are overburdened with their financial situation, who cannot seek and cannot gain a fresh start. We guarantee a fresh start to the poor person, to the person overwhelmed with debt. We are not even talking about them in the reforms and fine-tuning that we did.

What we are addressing is the situation of those people over the median income of our Nation who have a steady income and assets beyond the poor person or the unemployed person who have an ability to repay.

This conference report, this entire system that we have created here, would accommodate the repayment of some of that debt over a period of years. That is the strength of this report and that is the target of the report, not the person who requires and needs a fresh start. That will always be the backbone and the heart of bankruptcy. What we are trying to do is to make sure that that portion is not abused.

In addition to the consumer rights we build into this, I want to say to the Chair that we also have absolute ironclad guarantees, both from the Senate version and our version and in the conference report, for child support on both ends of the spectrum.

That is, we make sure that the person who owes child support will not be able to discharge that debt. That no matter what straits he finds himself in, he must pay that child support. Moreover, we even go as far as making sure that the arrearages that might have piled up are also protected for the purpose of the family that needs that support, and we prioritize child support in such a way that it cannot be misread in any way that the family is being destroyed, which is the rhetoric that we hear; but rather, we have extraordinary ironclad guarantees of the priority of support payments. That is in our bill.

On the homestead exemption, to which reference has been made primarily by our colleagues from Texas and Florida, which have a unique situation, we believe that the conference report meets the needs, and we will be able to discuss that as the gentlemen seek time.

When they are recognized, I would be glad to engage in colloquies with them so that we can firm up the record with respect to the homestead exemption, so we are satisfied that we work diligently to provide a solution, and, I might say to my colleagues from Texas, to ward off those kinds of provisions that would have harmed, I believe, the autonomy of the Texas positions on homestead exemption.

There were many other points that were of contention, and as I think of them, I will regain some of my time. I will consult with my staff as we go along. In the meantime, I want to say one other thing. I think the gentleman from New York, and by the way, I want to personally thank the gentleman from New York for staying in the Chamber last night, as he dutifully did, to shepherd through the Potomac compact.

We were misinformed somehow. We were here. The gentleman from Maryland, Mr. BARTLETT, and I remained on the floor, expecting that the bill would come up, and then by some miscommunication we were advised that it would not come up last night and that it would come up today.

The gentleman from New York (Mr. NADLER) stayed on the floor, and I commend him for that. I am grateful that he was able to help put the final touches on that important piece of legislation.

By the way, upon the adoption of the conference report, and we also have advised the minority, I will bring up a concurrent resolution on unanimous consent that directs the Clerk to make a purely technical revision to the conference reports' effective date provision.

Today marks a major epoch in the history of bankruptcy legislation reform. The Conference Committee Report on H.R. 3150, the Bankruptcy Reform Act of 1998, makes substantial and long-needed reforms to bankruptcy law and practice. The scope and extent of these reforms, it should be noted, have not been undertaken by Congress since the enactment of the Bankruptcy Code in 1978, twenty years ago.

The Conference Report reflects the guiding principles of both the House and Senate's legislative reforms: to restore personal responsibility and integrity in the bankruptcy system and to ensure that it is fair for both debtors and creditors.

We adhered to these principles for one simple reason: the overwhelming mandate that accompanied each bill. In the House, there was a thoroughly bipartisan vote of 306 to 118 for H.R. 3150. In the Senate, again, there was a resounding 97 to 1 vote in favor of S. 1301, the Senate counterpart to our bill. In recognition of these mandates, the Conference Report retains many of the best provisions from each bill and, when necessary, appropriate compromises.

We must also not forget that this Conference Report marks the culmination of more than three years of careful analysis and review of our nation's current bankruptcy system. Both the House and the Senate held numerous hearings and heard from many witnesses, representing a broad cross-section of interests and constituencies in the bankruptcy community. Every major organization having an interest in bankruptcy reform participated in these hearings.

With regard to consumer bankruptcy, the Conference Report contains comprehensive reform measures. Why do we need these reforms? The answers are not only easy, but obvious. Last year, bankruptcy filings topped 1.4 million and even exceeded the number of people who graduated college in that same year. Nevertheless, literally thousands of people who have the ability to repay their debts are simply filing for bankruptcy relief and walking away from those debts without paying their creditors a single penny under the current system.

The Conference Report combines some of the best aspects of both the House and Senate approaches to ensure debtors who have the ability to repay their debts are steered into Chapter 13, a form of bankruptcy relief whereby debtors repay all or a portion of their debts. It accomplishes this objective by adopting the Senate's provisions for post bankruptcy petition judicial review and incorporates the House's standards for determining repayment capacity to provide greater guidance and predictability.

The Conference Report offers a balanced approach to reform with regard to consumer debtors. It creates a debtor's "bill of rights" with regard to the services and notice that a consumer should receive from those that render assistance in connection with the filing of bankruptcy cases. Through misleading advertising and deceptive practices, "Petition mills" deceive consumers about the benefits and detriments of bankruptcy. The Conference Report responds to this problem by instituting mandatory disclosure and advertising requirements as well as enforcement mechanisms.

Most importantly, the Conference bill contains a panoply of heightened protections especially with regard to the treatment of domestic support obligations. These claims are accorded the highest priority to these obligations. This ensures that they will be paid before all other unsecured creditors, including claims of attorneys and other professionals. It also requires a Chapter 13 debtor, as a condition of obtaining a discharge, to pay outstanding arrearages on these obligations.

The Conference Report also incorporates provisions from both the House and Senate bills to stem abuse in the consumer bankruptcy system. These include provisions broadening the category of debts that a consumer debtor must repay notwithstanding his or her bankruptcy filing. It addresses the problem of abusive use of credit on the eve of filing and protects secured creditors from having their claims rendered unsecured by Chapter

13 debtors for purchases of personal property made within five years prior to bankruptcy.

In addition, the Conference bill clarifies the grounds for dismissing Chapter 7 cases for abuse. While protecting a debtor's homestead exemption and preserving states' rights, the Conference bill prevents manipulation of the system by those who seek to take advantage of this provision to the detriment of their creditors.

Besides consumer bankruptcy reform, the Conference Report creates a new bankruptcy chapter designed to deal with the special concerns presented by international insolvencies, a timely and very much needed reform. It contains sorely needed provisions requiring the collection of statistics about bankruptcy cases and the implementation of various studies.

In sum, this Conference Report is a comprehensive restatement of bankruptcy law that will re-introduce personal responsibility and integrity into the bankruptcy system while protecting the right of debtors to a financial "fresh start."

I commend my fellow Conferees and the dedicated staff members who have worked so tirelessly to perfect this legislation. And, I urge my fellow Colleagues to vote in support of this Conference Report.

Upon its adoption, I will offer a concurrent resolution on unanimous consent that directs the clerk to make a purely technical revision to the Conference Report's effective date provision.

Mr. Speaker, I reserve the balance of my time.

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, that the process of the conference report was not open we addressed during a debate in the Committee on Rules. I am not going to go back through that.

Let me start by making several general observations about this bill. This bill deals with a phony crisis, concocted with a $40 million lobbying and propaganda campaign of the big banks and credit card companies. It does so by seeking in 30 or 40 different ways to take large sums of money, in toto, from middle-income and low-income American families in times of personal crisis, personally bankruptcy, to enrich the big banks and credit card companies. This bill has no other purpose, all the window dressing and fig leaves to the contrary notwithstanding.

Mr. Speaker, we are told that the need for this bill is that the number of personal bankruptcy filings has increased greatly over the last 15 years, and that it has gone up to 1.4 million filings last year. We are told that the reason for this is that Americans are basically deadbeats. Americans are basically deadbeats. That is a slander on the American people.

We are told that a couple of generations ago we had moral people in this country, and they would not go bankrupt and seek a discharge of their debts unless they were really in an extreme position, unless they had no other choice, and there was a moral stigma attached to bankruptcy.

Now, in this era today, nobody cares about morality anymore. There is no more moral stigma. Therefore, people go bankrupt, they declare bankruptcy as a financial planning option, or at the first sign of difficulty, instead of in the last resort. They are deadbeats.

Mr. Speaker, as I said, this is a slander on the American people. It is total nonsense. In fact, if we look at the statistics we see what nonsense it is. In 1983, 15 years ago, the average Chapter 7 filer seeking a discharge of debts in bankruptcy had debts equal to 74 percent of his annual income.

□ 1000

Today, the average Chapter 7 filer has debts equal to 125 percent of his annual income. In other words, people are much more reluctant today to file for bankruptcy than they were 15 years ago. They do not file for bankruptcy when they have their debts equal to 74 or 75 percent of their income. They wait, they struggle, they work to resolve their financial situation until they get to 125 percent debt, 125 percent of their income, and only then do they file for bankruptcy. They are a lot more queasy about bankruptcy than they were 15 years ago. They are a lot more reluctant to enter into bankruptcy than they were 15 years ago, to the contrary of the arguments of the proponents of this bill.

We are told those who file for bankruptcies, who can pay their debts but are not because they are given discharges, that this costs every American family $400; and if we pass this bill, Americans will get $400 more money, or will save $400 a year in lower interest rates on their credit cards. This is self-evident nonsense.

We all know what has happened since credit cards were deregulated, since interest rates were deregulated in the early 1980s. They shot up to an average of 17, 18, 19 percent, which in an era of 17 percent inflation in 1980 may have been okay; the banks had to charge at least the inflation rate. We were told when the inflation rate and the cost of money went down that the interest rates would come down. Well, the cost of money has come way down, mortgage interest rates have come down, bank loan rates have come down, the prime rate has come down, everything has come down, but not interest rates on credit cards. They are still averaging 17.7 percent.

Yes, we can find some small-town banks that will give us much better interest rates, but 90 percent of the credit cards, 90–95 percent of the credit cards' credit comes from the big banks, which can do the marketing and the advertising on television, and those rates are way up. If this bill passes, they are not going to lower those rates. They will just have bigger profits.

The fact is that the profit rates of banks, which vary between 1 and 2 percent of assets, the profit rates of the credit card departments are between 4 and 5 percent of assets. In 1983, before credit card interest rates were deregulated, and before the "bankruptcy crisis" started, the profitability of the credit card departments was slightly higher than the profitability of the banks as a whole. Now, it is four times higher.

In fact, if we want to know the cause of the "bankruptcy crisis", of the increase in filings, we do not have far to look. The increase in bankruptcy filings tracks directly year-to-year with the increase in the ratio of debt-to-income in society as a whole. In other words, people are getting more in debt. They are being lulled by the credit card companies to take more and more credit cards, get more in debt, more in over their heads, and the result is not a surprise.

Mr. Speaker, let me outline just some of the problems with this bill, very briefly. We are told there is a means test. Before we can get a Chapter 7 bankruptcy, which now is allowed on request, unless it is abusive, we will have to pass this means test. A means test means that we should look at the ability of the borrower to repay his debts. What is his income; what are his real expenses.

But we are not going to look at real expenses in this bill. We are going to let that wonderful agency the Internal Revenue Agency say what the average rent expense is in the northeast United States. Who cares? The question is what is his or her rent expenses. We are going to look at the average costs for everything else. It does not matter, the real cost is what are his or her expenses. If an individual has a major medical problem on an ongoing basis, it does not matter what the average family spends on medical expenses, it matters what that individual spends on medical expenses.

Mr. Speaker, this bill expands the nondischargeability of credit card debts so that they will compete with child support obligations. It gives creditors powerful new leverage to coerce reaffirmation agreements, which will compete with child support after bankruptcy. It requires diversion of family income in chapter 13 to defend meritless claims of fraud. It adopts a restrictive definition of household goods so that more household goods will be repossessed, household goods of little value to the creditors but which are needed by debtors. It eviscerates all the Senate's consumer protection provisions. It adds new provisions eliminating punitive damages and class actions for intentional violations of the bankruptcy stay. It allows wealthy debtors to plan bankruptcy cases in advance so none of the bill's provisions will affect them.

In other words, for the rich, they can still use bankruptcy abusively, but for the low-income and middle-income people, this bill says we are going to take a lot of their money, we are going to evade their chance to get it, we are going to eliminate or restrict their chance to get a new start, which is the purpose of the bankruptcy laws, because the big banks must be served.

Mr. Speaker, this bill is one of the worst bills I have ever seen. It serves only the big banks against the interests of middle- and low-income Americans. The President, thankfully, has pledged to veto the bill, and so, ultimately, this bill will do no harm except to our reputations.

Mr. Speaker, I reserve the balance of my time.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume to repeat that the vote on the House was 300-something to 118, an overwhelming bipartisan approval of the language of the bill.

Mr. Speaker, I yield 4 minutes to the gentleman from Tennessee (Mr. BRYANT), a member of our committee.

Mr. BRYANT. Mr. Speaker, I do rise in strong support of this conference report on the Bankruptcy Reform Act of 1998. I come to this floor as someone who has practiced in the bankruptcy court for a number of years and I realize that bankruptcy is good for America. We have always been a country that is willing to give people a second chance, and certainly that is what the bankruptcy code is about, to help people who are financially distressed in a genuine situation to have a second chance.

However, over the years, this process, like so many other processes and so many other laws, gets out of focus, perhaps gets a little out of balance, and at this time I think the bankruptcy reform that we have worked so hard on in this Congress is very appropriate to try to bring the process back into balance; allow the courthouse doors to remain open to those people who genuinely and sincerely need bankruptcy relief, but yet give that balance to the creditors out there who, along with the American citizens, bear the cost of bankruptcy abuse.

There are many reasons for this, and I will not begin to get into a great discussion about those, but it seems to me what will be heard today on the floor and what has already been said is probably, in large part, true. There is enough blame to go around for everyone in terms of why there are so many bankruptcies. But what I wanted to see done in this bill was to find this proper balance, to work it through the process of the House bill, the Senate bill, which were very different, and then go into conference and work together and come out with a bill that was more uniform and one that was more consistent, that could be applied across this country, and perhaps taking out some of the discretion, some of the discretion, not all of the discretion, that exists in the current bankruptcy code.

Mr. Speaker, after countless hours of debate and disagreements in this conference between the Senators and the Members of the House, we conferees have emerged from our negotiation with a good and a serious compromise, a bill which, on all sides, has found a workable agreement in helping solve the endless complications associated with our bankruptcy system.

What this compromise bill creates is a needs-based bankruptcy system which will determine the type of relief. Not that an individual cannot file, but determines the type of relief that a debtor needs. It talks about the type of relief that a debtor needs and will require people to fairly repay what they can.

This legislation also removes loopholes that have allowed some debtors to abuse the system over the years. Our reform puts a greater priority on child support and alimony payments that are made through bankruptcy proceedings. But one of the main strengths and one of the main concerns I have in my district is how the legislation affects Chapter 12 bankruptcies.

Chapter 12 bankruptcy will expire this year, and this bill extends that particular provision of the code permanently. This is the provision that allows our farmers to reorganize when they are in a disastrous situation; to be able to reorganize and pay back their debtors and keep those family farms in operation.

We have seen a number of terrible disasters this year, especially in the south, in my home State of Tennessee, and we expect something in the nature of some 50 farmers that may have to face the possibility of some sort of reorganization this year. But given the willingness of our compromise as a whole within this legislation, this particular provision will help our family farms have more say in their reorganization plans.

I do urge my colleagues on both sides of the aisle to pass this legislation as it is and to give the President the opportunity to sign it into law. This is not a time to turn our back on the farmers and a reasonable and an appropriate revamping of the bankruptcy code. This bill shifts responsibility to the debtors for the first time in a long while, in a reasonable fashion, while making adequate protections for those who really need it.

Mr. Speaker, I urge the bill's passage.

Mr. NADLER. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. CONYERS), the distinguished ranking member of the Committee on the Judiciary.

Mr. CONYERS. Mr. Speaker, were it not for the gentleman from New York (Mr. JERRY NADLER), this bill, one of the worst anti-people bills I have ever seen in the Judiciary, would be quietly going through this body. The President of the United States, I say to the gentleman from Pennsylvania (Mr. GEKAS), has pledged he will reward the majority with a veto for not listening to the senior ranking member and going off on the deep end. He will veto this bill. And even if it is put in an omnibus bill, he will veto it. So we are talking serious defects.

I want to address the distinguished chairman, the gentleman from Pennsylvania. He and I have toiled in the Judiciary vineyards together for so long. How could the gentleman put a provision in, first of all, that takes out the few good provisions that we had? The bill was bad enough on its own, but then he gutted the provision, which passed with over 100 of his Republican colleagues, that would have ended the practice of credit card companies cutting off accounts. Why?

Why would the gentleman drop the provisions that would prevent the horrible tobacco companies, the bad guys of American industry, from using bankruptcy to get out of their judgments? Why would he endanger youth? I know he is a pro-family man, like me, pro-family values. Why would he endanger child support, alimony payments, in a bill coming out of the committee with his name on it?

Why would the gentleman harm small businesses? We represent the little guys. And now he is putting them in very precarious positions. And then the gentleman dropped the consumer protection and fair credit amendments that were in the Senate bill.

Now, these were the things the gentleman took out of the bill. But before he did that, the bill was a nightmare anyway.

This was the most partisan of anything the Republicans have ever done in the Committee on Judiciary. And without consulting me, the gentleman has been hurried and partisan and, really, the whole process was not the kind that we want.

By the way, the gentleman mentioned how many people voted for the bill. How many people voted for the open-ended, no-scope inquiry yesterday? The American people do not want that, and they do not want a bill like this. The House makes mistakes all the time. Our job is to correct them. And so I wanted to just outline some of these things, and I refer the gentleman to the report that we filed of dissenting views that is in this matter.

I thank the ranking member of the subcommittee, the gentleman from New York (Mr. JERRY NADLER) for according me so much time.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume to say that I like the gentleman from Michigan (Mr. JOHN CONYERS), and sometimes, even when he makes sense, he goes to the point of the issue at hand. Here, though, he has overlooked the fact that the final conference report, which may or may not have had some of the provisions which are near and dear to his heart, was the subject of the compromise that always occurs between the two bodies when each have passed a similar bill and which then converge to a compromise level at the conference level.

□ 1015

So his disappointment, which heartfelt, should not be visited at the chairman who has gone to great lengths to try to amalgamate the best interests of our body, as the gentleman from Michigan knows. But I will take his words and consult with him later in a private manner in which we will dispose of our differences.

Mr. Speaker, I yield 1½ minutes to the gentleman from Michigan (Mr. KNOLLENBERG) who from the very start has had a special interest in the best sense of the word in bankruptcy reform.

Mr. KNOLLENBERG. Mr. Speaker, I rise in strong support of this bill and I thank the gentleman from Pennsylvania (Mr. GEKAS) for including this provision in this bill. This injustice stems from a last-minute decision back in the 103rd Congress which placed an arbitrary $4 million ceiling on the single asset provisions of the bankruptcy reform bill. The effect has been to render investors helpless in foreclosures on single assets valued at over $4 million.

While in Chapter 11, and I want to talk just briefly, H.R. 3150 provides relief to victims by eliminating this arbitrary ceiling. Under this law, Chapter 11 of the Bankruptcy Code serves as a legal shield for the debtor. Upon the investor's filing to foreclose, the debtor preemptively files for Chapter 11 protection which postpones foreclosure indefinitely.

While in Chapter 11, the debtor will continue to collect the rents on the commercial asset. However, the commercial property will typically be left to deteriorate and the property taxes go unpaid. When the investor finally recovers the property through the delayed foreclosure, they owe an enormous amount in back taxes, they receive a commercial property left in deterioration which has a lower rent value and resale value, and meanwhile the rent for all the months or years they were trying to retain the property went to an uncollectible debtor.

H.R. 3150 does not leave the debtor without protection. First, the investor brings a foreclosure against a debtor only as a last resort. It should be noted, however, that single asset reorganizations are typically a false hope since the owner of a single asset does not have other properties from which he can recapitalize his business.

Mr. Speaker, H.R. 3150 is a good bill. I urge my colleagues to support it.

Mr. NADLER. Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I would actually like to speak to my colleagues who with their best judgment made the determination to vote for what was initially presented to us as an attempt to rid ourselves of those people who would abuse the bankruptcy system. Many of my colleagues came to the floor of the House with good intentions and seeking to respond to the accusations made by the credit card industry. I speak to them today because I think they have been sorely disappointed and their good intentions have been misused. In fact, the distinguished gentleman from Pennsylvania (Mr. GEKAS) notes that the Senate voted for this bill 97-1. The reason was that Democrats joined with Republicans in a bipartisan vote. Why? Because there had been the inclusion of a sizable portion of consumer protections in this bill, providing for consumer education and counseling. Yet in the dark of night, these good provisions that would protect you have been deleted. Frankly it is interesting that this bill uses IRS standards to determine whether a hardworking American who has fallen upon hard times with catastrophic illnesses and other tragedies in their family now can go into the bankruptcy court. It ignores that most bankrupt persons may have been recently divorced, or they may have been elderly persons with catastrophic illnesses falling again upon hard times. It ignores frankly the idea that the credit card industry themselves admitted that really only 4 percent of the debt in America paid by Americans for credit cards is defaulted. So where is the problem? Ninety-six percent of the debt that you owe to credit card companies is paid and paid and paid and paid. In fact, you all realize that you pay three times more, or more, for the item by the time you get through paying. Yet the credit card companies have said to us, "We need relief."

Frankly I am concerned about this means test because important items like child care payments, health care costs, the costs of taking care of ill parents, educational expenses, are those kind of expenses that may keep you out of the bankruptcy court or you may have to prove that they were in fact necessary. Would you imagine that this legislation also takes good, hardworking businesses, small businesses who likewise may have come upon hard times but want to keep their doors open by filing Chapter 11 in order to pay off their debts, it forces them into Chapter 7 which takes away everything that they own.

Mr. Speaker, this is a bill that needs to be voted down. There are so many problems with the bill.

Mr. Speaker, I support Bankruptcy Reform legislation, but not this bankruptcy conference report. This is not bankruptcy reform—this is bankruptcy recession. Webster's Dictionary defines recession as "the act of withdrawing and going back." That's what this conference report does. It takes several steps back. First of all in order for there to be a Conference Report, a conference should first be convened. This conference committee was a sham. We met one time to read opening statements and the democrats were not able to offer any input to reconcile the differences between the House and the Senate versions of the bill. The conferees were never afforded the opportunity to deal with the substantive issues.

This is not bankruptcy reform—this is bankruptcy recession.

I was pleased that the Homestead Exemption cap of $100,000 that was in the Senate version of the bill is not in the conference report. However, I was not pleased to learn that a residency requirement was added into the conference report that would require people in my home state of Texas to live in Texas for at least two years or own a home for at least two years before getting a homestead exemption. This is contrary to our Texas state Constitution and would not serve my state well.

The conference report does not contain certain provisions for the rights of families, children, as well as the right to a fresh start for honest debtors. Any bankruptcy legislation that is enacted should ensure that obligations to pay child support and to compensate victims of wrongdoing are protected, eliminates abuse of the bankruptcy system by both debtors and creditors, and does not tilt what is ultimately a fair and well run system to the unfair advantage of particular interest groups. I truly believe that without these basic protections, the conference report would merit a Presidential veto and that veto would be sustained.

I am very concerned with what the House version passed with child support and alimony. I offered an amendment that would put child support and alimony not only as a priority, but would have them paid first before any secured creditors. This conference report does not do that. I oppose creating new, nondischargeable debts that could pit post-bankruptcy, credit card debt against child support, alimony, educational loans, and taxes. The conference report has not fixed that problem.

This conference report has the language that child support and alimony would have first priority, but yet still this debt must still compete with the non-dischargeable debt of secured creditors. The fact that this provision is in the conference report is outrageous and still makes the bill non-viable. This is not bankruptcy reform—this is bankruptcy recession.

I hoped that we can agree on a conference report that would avoid taking indiscriminate aim at debtors and fails to address some troubling practices of creditors. The only indisputable evidence in this debate is that Americans have significantly more debt today, than they have ever had before. The average bankruptcy filer last year had a debt to income ratio of 1.25 to 1 (125% of their income) as opposed to just .74 to 1 (74% of their income) a few short years ago.

According to Bankruptcy Law Professor Elizabeth Warren of the Harvard Law School, the debtors that enter bankruptcy are usually experiencing turbulent times. Sixty percent of bankruptcy filers have been unemployed within a two year span prior to their filing. Twenty percent of filers have had to cope within an uninsurable medical expense. Over 1 out of 3 filers, both male and female are recently divorced.

The version of the bill that passed the House was unacceptable to me, and I voted against it. I think the idea of forcing bankruptcy filers into Chapter 13 versus Chapter 7 is too harsh and two extreme. The damage of trying to accomplish this goal through a means test might be irreparable. The National Bankruptcy Review Commission rejected the means test formula, and this is the main reason why: there can be no fair brightline to divide the irresponsible and fraudulent from the needy and disadvantaged.

This is not bankruptcy reform, this is bankruptcy recession.

I strongly oppose a "means test" that includes a rigid and arbitrary approach to determining whether a debtor can use Chapter 7 only to those who genuinely have the capacity to repay a portion of their debts successfully under a Chapter 13 plan. Bankruptcy courts must have discretion to consider the specific circumstances of a debtor in bankruptcy, and the thresholds they consider should be high enough to ensure that only those with a strong likelihood of success are affected. If we deny access to Chapter 7 to the wrong debtors, and those debtors fail to complete required repayment plans, they will return to Chapter 7 with a diminished capacity to repay their nondischarged debt—including child support and alimony.

I am also very concerned that some Americans who have small businesses will be forced into Chapter 7 instead of having a chance to repay their debts under Chapter 11. Small business owners should not be allowed to escape their debts unnecessarily, but they should be given an opportunity for a fresh start.

In our House Judiciary Committee Mark-up, I supported an amendment that passed by voice vote which would hold tobacco companies liable for the death and injury that resulted from the use of their deadly products. The conference report changed this "reform," and now the tobacco conglomerates will be able to shield themselves from liability by filing for bankruptcy protection.

This is not bankruptcy reform, this is bankruptcy recession.

There should also be language in the Final Report that addresses consumer and debt education. It should be the responsibility of the credit card companies to give more and better information so that they can understand and better manage their debts. Debtors need to be protected against predatory creditor tactics to coerce inappropriate and unwise reaffirmations of unsecured debt and secured debts. The Consumer education provisions are conspicuous by their absence in this conference report.

Mr. Speaker, this is not Bankruptcy reform, this is Bankruptcy recession. This bill pits creditors over families, conglomerates over women and children, offers no provisions for the farmers of our nation, and provides loopholes for the wealthy. This so-called Bankruptcy reform is D.O.A. (dead on arrival) at the White House. This is not bankruptcy reform, this is bankruptcy recession. I urge you to vote no on this conference report.

Mr. GEKAS. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. SMITH).

Mr. SMITH of Michigan. Mr. Speaker, it is common sense in my areas of Michigan, that if you make it too easy to file bankruptcy and discharge your debts, a lot of those lenders are going to have to jack up their interest rates on everybody else to compensate for the money they lose when that debt is discharged. This legislation provides a better balance, a golden mean. I would hope both sides could work together to find compromize so that we don't end up with harder to get loans and higher interest rates as a result of existing law that makes it easy to declare bankruptcy and discharging those debts.

I have two bills that are now incorporated in this bankruptcy bill. One is H.R. 4672, the extension of the Section 12 provision for farmers and agriculture; the other is a provision suggested to me by an Eaton County Michigan probate Court official, Tom Robinson. That section does not allow the discharge of debt for child care that would be owed to a local court or municipality.

I thank Chairman GEKAS for yielding me time and for his perseverance in developing needed reform to our bankruptcy law.

Mr. NADLER. Mr. Speaker, I yield 4 minutes to the gentleman from Virginia (Mr. BOUCHER).

Mr. BOUCHER. Mr. Speaker, I want to thank the gentleman from New York (Mr. NADLER) for yielding this time to me. It is a very generous amount of time, particularly in view of the fact that my perspective on this issue differs from his. I want to thank him for recognizing me this morning.

Mr. Speaker, I am pleased to rise in support of the conference report on the bankruptcy reform measure and urge its approval by the House of Representatives. In recent years, the bankruptcy laws have been subjected to growing misuse by debtors who can repay a substantial part of what they owe but elect instead to file for the complete discharge and complete liquidation provisions of Chapter 7 of the bankruptcy laws.

In the past year, more than 1.4 million bankruptcy petitions were filed, and that was a 25 percent increase over the prior year's level. That dramatic increase occurred at a time when we had the strongest national economy and the lowest unemployment that our Nation has experienced in decades. Each year, more than $40 billion in consumer debt is wiped out through bankruptcy discharges, a cost that is passed along to borrowers and passed along to the purchasers of all goods and services. That cost amounts to a hidden tax of approximately $400 per year on the typical American family.

The reform legislation that we consider this morning is a positive step toward ensuring that individuals with high incomes who need bankruptcy protection but who can repay a substantial part of their debts use the debt repayment plan of Chapter 13, rather than the complete liquidation provisions of Chapter 7. That will ensure that more of the debt is paid. That will ensure that the $400 tax that is imposed on the typical family because of increased charges for credit and the increased prices for goods and services is, to some extent, reduced and lowered.

By combining the best elements of the House and Senate bankruptcy reform measures, the conference agreement encourages personal responsibility in the use of credit in a manner that is fair to debtors and creditors alike and promotes the interests of all consumers.

It makes a number of other useful changes. Child support and alimony payments that today have the seventh priority in the distribution of a bankrupt's estate will be moved to the very first priority. That is a very significant change. I would note that for people whose concerns have been expressed with regard to the condition of the single parent. In Chapter 13 cases, a court under this legislation can require that all child support and alimony be paid before any other obligations, and a debtor will not receive discharge of his debts in bankruptcy until child support and alimony payments have been made.

The legislation also protects consumers. All credit card users will benefit from mandatory provisions requiring credit card companies to disclose on customer statements the effect that only making the minimum monthly payment will have on the length of time it will take to pay the balance that is due and also on the overall finance charges that must be paid. Credit card companies will also be prohibited from terminating a customer's account because that individual elects to pay his bills on time and, therefore, is not incurring finance charges.

The measure also enhances debtor protections. The conference report addresses the unscrupulous practices of some debt relief agencies by requiring full disclosure to consumers about the bankruptcy process and about related fees. Reaffirmations by debtors of wholly unsecured debt must comply with strict new disclosure requirements that are imposed on creditors, and reaffirmations will also be subjected to review by a bankruptcy judge.

I urge support for the conference agreement.

Mr. Speaker, I rise in support of the conference report on the bankruptcy reform measure and urge its approval by the House.

In recent years, the bankruptcy laws have been subjected to growing misuse by debtors who can repay a substantial part of what they owe, but elect to file for a complete discharge of all of the debts under Chapter 7.

In the past year more than 1.4 million bankruptcy petitions were filed, an increase of more than 25% over the prior year's level. And this dramatic increase has occurred during the strongest economy, with the lowest unemployment the nation has experienced in decades.

Each year, more than $40 billion in consumer debt is wiped out through bankruptcy discharges, a cost which is passed along to borrowers and to the purchasers of all goods and services. This cost amounts to a hidden tax of $400 per year on the typical American family.

The reform legislation is a positive step toward ensuring that individuals with high incomes who need bankruptcy protection but who can repay a substantial portion of their debts use the debt repayment plan of Chapter 13 rather than the complete liquidation provisions of Chapter 7.

By combining the best elements of the House and Senate bankruptcy reform measures, the Conference Agreement encourages personal responsibility in the use of credit in a way which is fair to debtor and creditors alike and promotes the interests of all consumers.

It makes other useful changes: Child support and alimony payments will become the first priority in bankruptcy proceedings, a major change from the seventh priority in current law. In Chapter 13 cases, a court can require that all child support and alimony be paid before any other obligations. And, a debtor will not receive a discharge of debts in bankruptcy until child support and alimony payments are made current.

The legislation protects consumers: All credit card users will benefit from mandatory provision requiring credit card companies to disclose on customer statements the effect of only making the minimum monthly payments on the overall finance charges paid and on the length of time required to repay the balance. Credit card companies will also be prohibited from terminating a customer's account solely because the customer has not incurred finance charges on the account.

The measure enhances debtor protections: The conference report addresses unscrupulous practices of some debt relief agencies by requiring full disclosures to consumers about the bankruptcy process and related fees. Reaffirmations by debtors of wholly unsecured debt must comply with strict new disclosure requirements imposed on creditors and reaffirmations will be subject to review by a bankruptcy judge.

The House passage of this legislation was supported by ¾ of the membership and by approximately ½ of the Democrats. I encourage colleagues on both sides to approve this conference report, and to my Democratic colleagues I would point out that the conference agreement is somewhat less favorable to the credit industry and somewhat more favorable to financially hard-pressed debtors than was the House bill. Therefore, it is my hope that an even larger number of my Democratic colleagues will support the conference agreement than supported the original legislation.

In summary, the conference report on H.R. 3150 protects consumers, reduces abuses of the bankruptcy system by creditors and debtors, and ensures that an effective "fresh start" is available to those who truly need it. Mr. Speaker, H.R. 3150 is a balanced and responsible reform of the bankruptcy law.

Mr. GEKAS. Mr. Speaker, I yield 1½ minutes to the gentleman from Florida (Mr. SHAW) who has been very helpful in the consultations along the road to this moment.

Mr. SHAW. I thank the gentleman for yielding me this time. Mr. Speaker, I would like to congratulate the chairman and all on the Judiciary Committee who took on a most neglected portion of the law which has been racked by abuse in the last years and has really brought us a very, very good bill. I intend to support this bill, but I must express my disappointment as to a provision that was dropped in the conference which I feel is very, very important. As the gentleman from Virginia (Mr. BOUCHER) has just stated, bringing up child support from down at a lower level on priorities right up to the top was a very, very good thing. In order to further implement this, I offered an amendment which was accepted by the House during the passage of this legislation which put a mechanism for enforcement of this very important provision in place. I felt it was very reasonable and I felt also it was very necessary because so many times a mother receiving child support does not know the ins and outs and legalities of being able to enforce her particular priority. I would hope should this bill come back to the House for any reason whatsoever either because of action of the Senate or action of the President that they will reconsider the Shaw amendment and place it back in the bill as a very reasonable enforcement tool for those millions of American women who are struggling to raise their children and are in desperate need of the funds they receive each month in the form of child support.

□ 1030

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas (Mr. BENTSEN).

Mr. BENTSEN. Mr. Speaker, if I could, I would like to engage the chairman of the subcommittee in a colloquy with respect to sections 126 and 127 of the conference report.

First, if I might, in understanding, does the 2-year residency requirement mean that once residency is met the debtor enjoys the benefit of the State's homestead law for so long as he or she is a resident of that State even if they move from one homestead to another within that State? And, furthermore, does this same residency apply to military personnel and expatriates who maintain their residency within that State but may well be domiciled in another State or another country?

Mr. GEKAS. Mr. Speaker, will the gentleman yield?

Mr. BENTSEN. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. It is a yes-yes to the gentleman's inquiries. It allows Texas to set and to keep its homestead exemption theories and laws in place subject to the 2-year limitation that we place in the bill.

Mr. BENTSEN. So once I have established the 2-year residency, I can claim homestead on the house I am in now. The house, if I sell that house and buy another house, that house and each house thereafter, so long as I maintain the initial 2-year residence.

Mr. GEKAS. That is my interpretation.

Mr. BENTSEN. Would a gain on the sale of a residence once residency is obtained which is then rolled over into a new residence be considered an exempt asset or a nonexempt asset?

Mr. GEKAS. I have not thought that through, but it is my impression that that would be protected because, by then, the exemption has already been created.

Mr. BENTSEN. And under Section 127, would a routine prepayment within the 730-day period; as my colleague knows, with one's mortgage statement they can have a routine prepayment on top of their annual mortgage payment or a home equity payment, for that matter, which is carried out within the 730 day period. Would that be considered routine, or would that be something where the debtor would have to fight in court to determine that that is not a fraudulent transfer?

Mr. GEKAS. My impression would be that it would be routine.

Mr. GEKAS. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Speaker, I thank the gentleman for yielding me this time and for his strong leadership on this issue.

Mr. Speaker, I rise today in support of the conference report. This important legislation is an honest compromise between the House and Senate passed bills, and while I have serious concerns about the retention of certain provisions of the Senate passed bill, the overall conference report is a strong agreement that is pro personal responsibility and anti bankruptcy abuse. With a record high 1.4 million bankruptcies filings last year, every American must pay more for credit, goods and services when others go bankrupt. I cosponsored and voted for House passage of H.R. 3150 because it is high time that we relieve consumers from the burden of paying for the debts of others. The Bankruptcy Reform Act restores personal responsibility, fairness and accountability to our bankruptcy laws and will be of great benefit to consumers.

For too long our bankruptcy laws have allowed individuals to walk away from their debts even though many are able to repay them. That is not fair to millions of hard-working families who pay their bills, mortgages, car loans, student loans and credit card bills every month. The loopholes in our bankruptcy laws have led to a 400 percent increase in personal bankruptcy filings since 1980 at a cost of $40 billion per year. These losses have been passed directly to consumers, costing every household that pays its bills an average $400 per year in a hidden tax in the form of increased costs of goods that are passed on by those who are defaulted upon with credit. In real terms that is a year's supply of diapers or 20 tanks of gas.

The conference agreement retains the strong needs-based formula included in the House passed version of the bill but would preserve the right of a debtor in bankruptcy to have a judge review his or her case. This judicial review would preserve the means test that is so necessary for successful bankruptcy reform while allowing a debtor's unique circumstances to be taken into account.

Under the current system, some irresponsible people filing for bankruptcy run up their credit card debt immediately prior to filing knowing that their debts will soon be wiped away. These debts, however, do not just disappear. They are passed along to hard-working folks who play by the rules and pay their own bills on time. The Bankruptcy Reform Act ends this practice by requiring bankruptcy filers to pay back nondischargeable debts made in the 90 days preceding their filing. In addition, new debts incurred within 90 days of bankruptcy for luxury goods over $250 in value would be presumed nondischargeable.

While ending the abuses of our bankruptcy laws, the Bankruptcy Reform Act is strongly pro consumer in other ways as well. This legislation, for example, helps children by strengthening protections in the law that prioritize child support and alimony payments.

Thank you, Mr. Speaker. I rise today in support of the conference report on H.R. 3150, the Bankruptcy Reform Act of 1998. This important legislation is an honest compromise between the House- and Senate-passed bills, and while I have serious concerns about the retention of certain provisions of the Senate-passed bill, the overall conference report is a strong agreement that is pro-personal responsibility and anti-bankruptcy abuse.

With a record-high 1.4 million bankruptcy filings last year, every American must pay more for credit, goods, and services when others go bankrupt. I cosponsored and voted for House passage of H.R. 3150 because it is high time that we relieve consumers from the burden of paying for the debts of others. The Bankruptcy Reform Act restores personal responsibility, fairness, and accountability to our bankruptcy laws, and will be of great benefit to consumers.

For too long, our bankruptcy laws have allowed individuals to walk away from their debts, even though many are able to repay them. That's not fair to millions of hard-working families who pay their bills—mortgages, car loans, student loans, and credit card bills—every month. The loopholes in our bankruptcy laws have led to a 400 percent increase in personal bankruptcy filings since 1980, at a cost of $40 billion per year. These losses have been passed directly to consumers, costing every household that pays its bills $400 per year in a hidden tax in the form of increased costs goods each year. In real terms, that's a year's supply of diapers, or twenty tanks of gas.

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While ending the abuses of our bankruptcy laws, the Bankruptcy Reform Act is strongly pro-consumer in other ways as well. This legislation, for example, helps children by strengthening protections in the law that prioritize child support and alimony payments. Additionally, H.R. 3150 protects consumers from "bankruptcy mills" that encourage folks to file for bankruptcy without fully informing them of their rights and the potential harms that bankruptcy can cause.

I think that my friends on the other side of the aisle would agree with me that none of the parties involved in this debate got everything that they wanted in this bill, nor would any of us claim to support all of the provisions included in this bill. I know I certainly do not. But that is the essence of compromise. On the whole, however, this bill is a giant step in the right direction and means real reform for our nation's bankruptcy laws.

Bankruptcy should remain available to folks who truly need it, but those who can afford to repay their debts should not be able to stick other folks with the tab. Enactment of this conference report will send a big signal toward those who would abuse our bankruptcy system that the free ride is over. I urge my colleagues to support this fair and reasonable compromise. Thank you.

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Beware, senior citizens; beware, middle class working families; beware, hard-working farmers and ranchers. This bill, if enacted into law, could put them into debt for the rest of their life.

Mr. Speaker, this is a perfect example of a good idea, the idea of personal responsibility, being turned into a horrible bill in the last hours of this Congress behind closed doors by special interests who simply went too far.

Three points:

First of all, these were the words my Republican colleagues used about the Internal Revenue Service this year: dictatorial, unfair, arbitrary. And yet, incredibly, in this bill our Republican friends turn over the definition of necessary expenses, they turn over to the IRS the ability to put people in debt for the rest of their lives. They turn over to that IRS that they have been berating all year long. Incredibly, under this bill, the Internal Revenue Service could deny hard-working families the right to use their hard-earned money to pay for child care for their children, to pay for health care or other living expenses for their parents that live in their home. Our Republicans would allow the IRS under circumstances to exclude major health care expenses.

So, a hard-working family, a responsible family that has a $100,000 health care bill, could be determined by the IRS, be forced into bankruptcy, actually forced into debt rather, for the rest of their lives.

Mr. CONYERS. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS. I yield to the gentleman from Michigan.

Mr. CONYERS. The gentleman from Texas is absolutely correct, and our hearing supported that. The gentleman from New York (Mr. NADLER), our ranking member, brought in witnesses to point this out without any shadow of a doubt. Anybody that tries to claim that child support payments are enhanced by the provisions in this bill really do not understand it.

Mr. EDWARDS. Absolutely.

This is a bad bill, Members. Vote no.

Mr. GEKAS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New Jersey (Mrs. ROUKEMA).

Mrs. ROUKEMA. Mr. Speaker, I rise in opposition to the provision on the child support concerns in this bill.

Mr. Speaker, I rise in opposition to this legislation and to associate my position with the position of Representative CLAY SHAW and the admirable work he has done on child support enforcement.

I want to register my opposition to the dropping in conference, which would have provided additional protection for a parent trying to recover child support monies by giving proper notification to the claimant parent.

While this conference agreement does state that "nothing shall prevent the payments of priority child support obligations," an additional provision, offered by Representative CLAY SHAW of Florida, would have required the bankruptcy "Master" to notify a claimant parent. I am sorry to see that this provision has been dropped.

I have a long history of standing up for child support enforcement, having been a pioneer on child support reforms and having served on the U.S. commission for Inter-State Child Support Enforcement.

It's a national disgrace that our child support enforcement system continues to allow so many parents who can afford to pay for their children's support to shirk these obligations. The so-called "enforcement gap"—the difference between how much child support could be collected and how much child support is collected—has been estimated at $34 billion!

If this bill passes, I will continue to press for reforms legislation to ensure that claimant parents are not left out of the loop when it comes to being able to recover in child support cases. Mr. SHAWS reforms should be pursued. This bill seriously erodes that effott.

Mr. Speaker, I will cast my protest vote against this bill.

GENERAL LEAVE

Mr. GEKAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation here under consideration.

The SPEAKER pro tempore (Mr. SHIMKUS) Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. GEKAS. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. MCCOLLUM).

Mr. MCCOLLUM. Mr. Speaker, I thank the gentleman for yielding this time to me, and I want to compliment the gentleman from Pennsylvania (Mr. GEKAS) for all hard work in bringing about this conference report.

Much of what was in the original McCollum-Boucher bill and then later the McCollum-Gekas-Boucher-whatever bill, 3150, is in this report. The most important portion of it is the needs-based test. Granted, we have adopted a certain compromise to the Senate that allows for the judge to have a say over this, but there is a presumption that if somebody can repay their debt after following the formula that was in the House bill, to see if they can afford to repay their debt and have enough money left over to do it after deducting their expenses for secured credit items and for real living expenses and for child support and so forth, if once they have done that, then there is a presumption that they are not eligible for Chapter 7 if they have greater than the median family income, which is about $52,000 a year for a family of four, and they will have to file in Chapter 13 where they have to work out a repayment plan. I think that is an enormous reform of very great monument in this.

Also, the bill contains reforms to reduce repeat filings to prevent the gaming of the bankruptcy system such as running credit bills right before the filing for bankruptcy or filing and dismissing bankruptcies cases as a stalling tactic.

A crucial part of the conference report addresses the recent crisis in the financial markets. Title 10 accepts the Senate provision that deals with the so-called cross product netting provisions that is based on H.R. 4393 as it passed the House Committee on Banking and Financial Services. The bankruptcy code and the banking laws contain provisions that allow market participants to close out net and set off certain types of contracts when a counter party becomes insolvent. This feature allows us to reduce the opportunity for the failure of one entity to infect others. It also encourages market participants to engage in transactions that add market liquidity which leads to lower cost of capital.

I have a letter, Mr. Speaker, that is from the Secretary of the Treasury endorsing this provision. I would like to have it inserted in the RECORD at this time.

DEPARTMENT OF THE TREASURY,
Washington, DC, September 30, 1998.

Hon. GEORGE W. GEKAS,
Chairman, Subcommittee on Commercial and Administrative Law, Committee on the Judiciary, House of Representatives, Washington, DC.

DEAR MR. GEKAS: I am writing to share the Administration's views on certain bankruptcy provisions in S. 1301, the bankruptcy reform bill before the conference committee, and related provisions in H.R. 4393, the "Financial Contract Netting Improvement Act of 1998."

The Administration supports the financial contract netting provisions in S. 1301. These provisions are based on a proposal from the President's Working Group on Financial Markets, which was the result of an intensive, multi-year interagency effort to improve the regime governing the recognition of netting of certain financial contracts in insolvency situations. As I noted when we transmitted our recommendations to Congress, the proposed legislation would reduce systemic risk in our financial markets, reducing the risk that a failure of a single firm would cause significant disruption and danger to our financial markets. In particular, this proposal will help to reduce systemic risk arising out of activities in the derivatives market.

The Administration also encourages the conferees to include similar provisions amending the bank insolvency laws, which are contained in H.R. 4393 as approved by the House Banking Committee. One of the goals of the Working Group effort was to harmonize, where appropriate, provisions under the Bankruptcy Code and the bank insolvency laws. The bank insolvency provisions in H.R. 4393 would accomplish that harmonization and would also clarify the power of the Federal Deposit Insurance Corporation to transfer qualified financial contracts to another financial institution. This clarification will help ensure that the resolution of a failed depository institution can be accomplished at the lowest possible cost to the deposit insurance funds administered by the FDIC.

We look forward to working with the conferees to enact these desirable reforms, in conjunction with moderate and balanced consumer bankruptcy reform legislation.

Sincerely,

ROBERT E. RUBIN,
Secretary of the Treasury.

The conferees struck a good balance between the House and Senate bills, I think, and I would like to also comment particularly on homestead exemption.

This conference report doubles the protections that were in the House bill. The new protection against abusive use of the exemption includes the requirement of a debtor to reside in a State for 2 years before they can take advantage of the State's exemptions, but there is no cap on the exemption, which is very important to States like Florida and Texas.

In addition, the conference report prohibits the conversion of nonexempt assets into exempt homestead property with the intent to defraud, which I think is also important to note, within 2 years of filing for bankruptcy. The bankruptcy exemptions should not be used as a means of hiding assets, and this provision would prevent such an abuse.

It has become clear that reform of the existing bankruptcy system is sorely in need. We know we have doubled the number of bankruptcies in the United States in the 10 years preceding this, and actually last year we had a 25 percent increase, or thereabouts, in the number of personal bankruptcies. Most people believe that is because people were taking advantage of Chapter 7 and filing pure bankruptcies in greater numbers than ever, and this conference report will solve that with a needs based test. I encourage the adoption of it, again commend the chairman again for his hard work.

Mr. NADLER. Mr. Speaker, I yield 1½ minutes to the gentleman from Texas (Mr. GREEN).

Mr. GREEN. Mr. Speaker, I thank my colleague from New York for yielding this time for me and allowing me to speak in opposition to this ill-advised bill.

I want to support bankruptcy reform, but not this conference committee report. There are several provisions in this bill that prevent it from meeting its intended goal, and we have heard that from lots of Members, particularly Members from Texas, the homestead protection concerns we have, how it is affecting military personnel. But, worst of all, however, is that it is doing nothing to slow the growing trend of young people who have to file for bankruptcy each year. We are stopping or hindering the filing of bankruptcy on the inside, but we are not helping the front end. They change the law on bad business practices that allow the loose availabilty of credit to young people.

Let me give some examples. Big banks and credit card companies target teenagers and college students with little or no income, they get maxed out on their credit cards, and then they only pay the minimum balance. And so, with 15 or 18 percent interest, they are getting ready to graduate from college with that huge amount, and when we add in their student loans that they owe, and that is bad business practices.

And I know that personally because I have two college students that have very little income, but they get blank checks in the mail from their credit card companies. Just sign up. Most of their friends in college are maxed out on their credit cards because they are having to do it. They have credit availability easy.

Let us make sure we have a bankruptcy farm bill, but let us also make the people who are making it available and making these young people graduate from college with such a debt load, they owe a responsibility to this bill, too, and it is not in this conference committee report.

We should not put that burden on the people who are the next generation of people who are going to be leading our country.

□ 1045

Mr. GEKAS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Iowa (Mr. LEACH) who is the chairman of the Committee on Banking and Financial Services, but also he is the savior of this particular chairman. Last night, he saved us on the floor and, together with the gentleman from New York (Mr. NADLER), was able to pass the responsibility to the Committee on the Judiciary, which, by miscommunication, I was not able to handle.

Mr. LEACH. Mr. Speaker, I would like to just comment briefly on several provisions of this conference report that relate to items under the jurisdiction of the Committee on Banking and Financial Services.

The conference report contains an amendment to the Truth In Lending Act designed to protect consumers from having their credit lines revoked because they fully pay their outstanding debt in a timely manner. I support this change in law. It is individually counterintuitive and socially counterproductive that lenders establish incentives to pull credit from individuals who pay their debt on time.

The Senate, however, originally coupled this provision with a prohibition against creditors charging any type of fee with regard to an extension of credit in which no finance charge has been incurred.

While perhaps well-intended, this latter provision amounted to a public sector dictate and how the private sector should charge to goods and services. This price fixing provision would have frustrated responsible free market precepts and would have, if it had been enacted, resulted in reduction of credit provided to consumers.

Because of concern for this prohibition, many of us voted last week against a construction of conferees. It also included the earlier described issue. Now that the conferees have appropriately agreed to accept the first part of that instruction but not the second, I and many others who voted against this instruction enthusiastically support this provision.

In summary, let me just express again my appreciation to the gentleman from Pennsylvania (Chairman GEKAS) as well as the gentleman from Illinois (Chairman HYDE) and the rest of the conferees for their willingness to take the Committee on Banking and Financial Services' perspectives into consideration on the parts of the bill that rested within the jurisdiction of the Committee on Banking and Financial Services which, frankly, is not a major part of the bill.

Let me just stress that financial netting section which we worked out with the administration is of signal significance in this time of economic turmoil. This is a provision of the bill that is bipartisanly supported and strongly endorsed by the administration, and it is a signal reason that this bill should be considered at this particular very dicy period of time.

Mr. NADLER. Mr. Speaker, how much time do we have remaining on both sides?

The SPEAKER pro tempore (Mr. SHIMKUS). The gentleman from New York (Mr. NADLER) has 5½ minutes remaining. The gentleman from Pennsylvania (Mr. GEKAS) has 3 minutes remaining.

Mr. NADLER. Mr. Speaker, I yield 1 minute to the gentleman from Iowa (Mr. LEACH).

Mr. Speaker, will the gentleman yield?

Mr. LEACH. I am delighted to yield to the gentleman from New York.

Mr. NADLER. Mr. Speaker, on the provision that this House voted on the instructions to conferees, we said that the bank should not be able to cancel the credit card for the sin of the cardholder having paid on time, and they should not be able to charge an extra fee for that reason.

The gentleman stated correctly that the conference report eliminated the second provision, they can still charge an extra fee. But my understanding is that the conference report says that they can also cancel the card, albeit only at the end of the term, which is generally a year or two.

So what is left of this provision to not to penalize responsible borrowers?

Mr. LEACH. Mr. Speaker, reclaiming my time, the only basis for canceling the card is if the card would not be in use for better than a 3-month period. That is a fairly common sense circumstance. So a financial institution does not have to carry the cost of dealing with people who do not use their card.

Mr. NADLER. Mr. Speaker, if the gentleman will yield further, if the card was used but the bill is paid on time and with no interest, they could not cancel it?

Mr. LEACH. Mr. Speaker, reclaiming my time, that is correct. If the card is in actual use. It is only if the individual did not use the card could an institution pull it.

Mr. GEKAS. Mr. Speaker, I do not know where we stand parliamentarily.

The SPEAKER pro tempore. The gentleman from New York (Mr. NADLER) had the time. The gentleman from New York yielded to the gentleman from Iowa (Mr. LEACH).

Mr. GEKAS. Mr. Speaker, are we to close?

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. GEKAS) has the right to close.

Mr. GEKAS. Mr. Speaker, has the minority time expired?

The SPEAKER pro tempore. The gentleman from New York (Mr. NADLER) has 4½ minutes remaining.

Mr. GEKAS. Mr. Speaker, I yield 2½ minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, I rise in strong support of bankruptcy reform. I am a lead sponsor of this measure because the system is broken, and it is up to us to fix it.

What was once the option of last resort is becoming the preferred option of choice. A legislative fix is vital to distinguish between those who truly need a fresh start and those who want to game the system for personal advantage, those capable of assuming greater responsibility and making good on at least some of what they owe.

Mr. Speaker, unless we take the steps now to reform the bankruptcy system, while the economic times are good, we will not have the political resolve to fix it when they are not so good.

Trapped in a broken bankruptcy system where they lack the confidence that individual borrowers will be able to honor their payment commitments, lenders and creditors will have no choice but to restrict credit. We cannot let that happen.

Restricting credit during a downturn in the economy is exactly the opposite of what should happen. It is exactly the opposite in the national interest. It only deepens the severity of any recession and delays the eventual recovery.

Despite this country's strong economy, the rate of personal bankruptcy filings has increased dramatically. Last year, personal bankruptcy filings rose nearly 20 percent. They reached a record high of 1,400,000 filings. Think about it. More people filed for personal bankruptcy than graduated from college last year. What does that say about our country in a time of such prosperity?

We can vilify creditors and lenders and mortgage companies and credit card industry. I am glad to see the Truth in Lending Act was modified to include an important pro-consumer provision that I tried to offer here in the House. That provision will disclose the full consequences of paying only the minimum monthly balance.

But while many of us would like to blame the credit cards industry for the sharp increase of bankruptcy filings, it is important to note that the credit card industry is not the impetus of the bankruptcy crisis.

The vast majority of individuals recognize their personal responsibility they take in using the credit card. More than 96 percent of credit card holders pay their bills as agreed to and only 1 percent ever end up in bankruptcy.

This is not an issue about credit cards trying to rip off people. Sure there is some unfairness, but that is not what we are having to deal with. Regardless about how one feels about yesterday's or today's creditors, the key issue before us is that many borrowers capable of repaying some or all of their obligations are not acting responsibly. That is what this is about. It is the principle of moral responsibility and personal obligation. That is why this legislation should pass.

Mr. NADLER. Mr. Speaker, I yield 15 seconds to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Speaker, in my continuing education program for the gentleman from Virginia, who is a dear friend of mine, the fact that more are going into bankruptcy is no proof that the bankruptcy laws are being abused. It is really evidence that the credit card industry is enticing millions into debt that the should not be, I say to the gentleman from Virginia (Mr. MORAN).

Mr. NADLER. Mr. Speaker, I yield 30 seconds to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I have many good friends in this chamber, and I would simply like to say, if the credit card companies would stop sending unsolicited questionnaires and applications to people who are now deceased and otherwise, we would not have this problem.

On the issue of child support, let me make it perfectly clear, the credit card debt now becomes nondischargeable. It survives after bankruptcy. It competes with that poor working parent who needs that child support for that child. Tell me, Mr. Speaker, who can survive the beating and repossession abilities of the credit card company over the child support. This is a bad bill.

Mr. NADLER. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore. The gentleman from New York (Mr. NADLER) has 3¼ minutes remaining. The gentleman from Pennsylvania (Mr. GEKAS) has 30 seconds remaining. The gentleman from Pennsylvania has the right to close.

Mr. NADLER. Mr. Speaker I yield myself such time as I may consume.

Mr. Speaker, a couple of comments. First, the gentleman from Virginia said that, if this bill does not pass, if we continue to have a bankruptcy crisis, the credit card companies, the banks are going to restrict credit to people who need it.

I suppose the fact that they will feel the need to restrict credit is evidenced by the fact that they are inundating people, inundating college students with credit card solicitations. I suppose the grave crisis is illustrated by the fact that the credit card departments or the banks are between two and three times more profitable than the banks as a whole. It is the profit center of the banks that shows what a terrible problem we have.

I will reiterate that the real cause of the problem of increased bankruptcy filings is simply that people are going more and more into debt. The average chapter 7 filer today is has debt equal to 125 percent of his income, 15 years ago, it was 74 percent, because he is trapped in paying high interest rates and has taken out too much credit.

This, to a large extent, is the fault of the companies that are inundating people with credit cards. That is the real problem. Simply saying that people who are in over their heads, that we should crack donor bankruptcy is the wrong solution to the wrong problem, to a misstated problem.

I heard the distinguished gentlewoman from New Jersey (Mrs. ROUKEMA) from the other side of the aisle take exception to this bill because of the provisions on child support. I think the gentlewoman from New Jersey (Mrs. ROUKEMA), I think most of the Members of this House know that the gentlewoman from New Jersey (Mrs. ROUKEMA) knows the issues of support, of collection of child support probably better than most other Members of the House. She has been working in this area for years.

When the gentlewoman says that this bill will wreck, will increase the problem of child support collections, we should pay attention.

Mr. Speaker, I am going to introduce a motion to recommit. I have that motion at the desk, and I would like to simply explain it for a moment now.

The conference report would allow credit card companies and other consumer creditors to have their debts survive bankruptcy. That would mean that those debts would compete with child support, with spousal support, with debts to drunk driving victims, and other high priority debts after the bankruptcy case is over.

The motion to recommit will change that. The conferees stripped out important protections contained in the Senate bill which would have prevented creditors from using coercion and other illegal and unethical practices to obtain reaffirmation agreements in which debtors agree to repay debts which would otherwise be discharged in bankruptcy. We will deal with that in the motion to recommit.

Reaffirmed debts, because they survive bankruptcy, compete with child support and spousal support and other high priority debts, which already survive bankruptcy, for the scarce resources of the debtor after the case is over. As I mentioned a moment ago, we will deal with that problem.

The conferees also adopted broad exceptions to the discharge for credit card companies so that the high risk lending practices would have the same privilege status as support obligations and tax arrears, and we will deal with that in a motion to recommit.

The motion to recommit would restore important protections for families and small creditors that were dumped or gutted in the conference report. As I mentioned before, that based primarily on these disastrous changes to the Senate bill, the administration has indicated that the President will veto this bill, and well he should veto this bill.

We should sustain this veto unless the motion to recommit is granted and the provisions of that motion survive subsequent proceedings.

So I urge the Members to vote for the motion to recommit if they care about child support, if they care about spousal support, if they care about debts to drunk driving victims, if they care about payments to victims of crimes, all of which would be endangered by this.

So I urge my colleagues to vote for the motion to recommit and, if it does not pass, against this very unfortunate bill.

Mr. Speaker, I yield back the balance of my time.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it should be made clear that the support priorities that we have built into this conference report are endorsed by the National Association of Attorneys General who supervise all of these matters and by every major support organization in the country.

□ 1100

In fact, they tracked along with us as we moved towards this moment, and approved every set of provisions that we adopted along the way. So I am confident that support payments and family income are well protected in this legislation, as are the consumers in a whole litany of provisions that we have.

Mr. BEREUTER. Mr. Speaker, this Member rises today to express his support for the conference report for H.R. 3150, the Bankruptcy Reform Act. In particular, this Member is supportive of the provision which permanently extends Chapter 12 bankruptcy for family farmers which would be retroactively applied to October 1, 1998.

First, this Member would thank the distinguished gentleman [Mr. GEKAS], Chairman of the Judiciary Subcommittee on Commercial and Administrative Law from Pennsylvania, for introducing this bill and for his efforts in bringing the conference report for H.R. 3150 to the House Floor. This Member would also like to express his appreciation to the distinguished gentleman from Illinois [Mr. HYDE], the Chairman of the Judiciary Committee, for his efforts on this measure.

Unfortunately, Chapter 12 bankruptcy provisions for family farmers expired on September 30, 1998. Chapter 12 bankruptcy has been a viable option for family farmers nationwide. It has allowed family farmers to reorganize their assets in a manner which balances the interests of creditors and the future success of the involved farmer. If Chapter 12 bankruptcy provisions are not extended for family farmers, this will have a drastic impact on an agricultural sector already reeling from low commodity prices. Not only will many family farmers have to end their operations, but also land values will likely plunge downward. Such a decrease in land values will affect both the ability of family farmers to earn a living and the manner in which banks, making agricultural loans, conduct their lending activities. This Member has received many contacts from his constituents regarding the extension of Chapter 12 bankruptcy because of the situation now being faced by our nation's farm families—although the U.S. economy is generally healthy, it is clear that agricultural sector is hurting.

The gravity of this situation for family farmers nationwide makes it imperative that Chapter 12 bankruptcy is permanently extended. Moreover, this extension must also be retroactively applied since the Chapter 12 bankruptcy option for family farms has already expired on September 30, 1998. The provisions in the conference report of H.R. 3150 regarding Chapter 12 are essential.

If the President vetoes this conference report, as he has threatened to do, then this Member would ask the Judiciary Committee to advance legislation, through amendment or in stand-alone legislation, to provide for the immediate extension of Chapter 12 bankruptcy and to make such an extension retroactive to October 1, 1998.

In closing, this Member would encourage his support for H.R. 3150, the Conference Report on the Bankruptcy Reform Act.

Mr. LEACH. Mr. Speaker, I would like to comment briefly on those provisions of this conference report which amend laws under the jurisdiction of the Banking Committee.

The conference report contains an amendment to the Truth in Lending Act designed to protect consumers from having their credit line revoked because they fully pay their outstanding debt in a timely manner. I support this change in law. It is individually counter-intuitive and socially counter-productive that lenders establish incentives to pull credit away from individuals who pay their bills on time.

The Senate, however, originally coupled this provision with a prohibition against a creditor charging any type of fee with regard to an extension of credit on which no finance charge has been incurred. While perhaps well intended, this latter provision amounted to a public sector dictate on how the private sector should charge for goods and services.

This price fixing provision would have frustrated responsible free market precepts and would have, if it had been enacted, resulted in a reduction in credit provided consumers. Because of concern for this prohibition, many of us voted last week against an instruction of conferees that also included the earlier described issue. The conferees approximately agreed to accept the first part of the instruction but not the second. Hence, I and many others who voted against the instruction can now enthusiastically support the provision.

The conference report does include a number of other amendments designed to provide consumers more protections, including enhanced disclosures for credit card debt, which I also support.

In summary, Mr. Speaker, I want to express my appreciation to Chairman HYDE, Chairman GEKA'S and the rest of the conferees for their willingness to take the Banking Committee's views into consideration on those relatively small parts of the bill that fall under the jurisdiction of the committee. While there are parts of this bill such as those related to child support, which I believe are imperfect, as a whole it represents reasonable reform.

If the President vetoes this bill, he will also veto an approach it supports to better stabilize the shaky international economy and other Banking Committee provisions designed to protect consumers.

In this regard, Mr. Speaker, let me stress that the conference report incorporates the provisions of H.R. 4394, the "Financial Contract Netting Improvement Act of 1998", which the Committee on Banking and Financial Services reported to the full House on August 21, 1998.

These netting provisions were approved unanimously by the Banking Committee and are supported by Federal financial regulators and the Administration. They are designed to minimize the risk of a disruption within or between financial markets upon the insolvency of an entity with large holdings of qualified financial contracts. The near failure of Long-Term Capital Management LP highlights the need for the U.S. to further refine its bankruptcy and insolvency laws in order to avoid systemic risk to the nation's financial system in the event of a failure of a large bank, hedge fund, or securities firm with huge exposures to interest rate and currency swaps and other complex financial instruments.

Ms. LEE. Mr. Speaker, I rise to strongly oppose H.R. 3150, the Bankruptcy Reform Conference Report. I opposed the bill as a member of the House Committee on Banking and Financial Services when we voted on this measure in the House because it allows unscrupulous creditors to continue to exploit uninformed and naive borrowers.

There is a problem with increasing rates of bankruptcy, but this Conference report places the burden of a bad loan not on those who knowingly loan to people who are credit risks, but on those who are least able to recover should a personal disaster strike, like illness or job loss. Household debt has risen sharply and defaulting on payment is a serious problem but this bill does not reasonably address these problems. Instead, the bill allows the lender to effectively entrap a poor person who needs money to borrow beyond the safety point. The lending institutions are knowledgeable and sophisticated about the credit market and they do know to whom they are lending money. If this bill passes, the government and taxpayers will be forced to protect, by law, the lending institution, which has deliberately pushed a risky loan, at the expense of low-income American consumers.

Specifically, this bill will allow credit card companies and other consumer creditors to compete for repayment with child support, spousal support, debts to drunk driving victims, and other high-priority debts. The Conference Report strips important Senate bill consumer protections which limited undue coercion and the use of other strong-arm practices to force a debtor to repay.

This bill is blatantly unfair. It protects and even rewards businesses that use marginally safe lending guidelines and elevates their collection rights to the same privileged level as child support and tax arrears.

The President has correctly announced that he will veto this bill. It is also strongly opposed by the AFL–CIO, the Consumer Federation of America, Consumers Union, Public Citizen, the National Organization of Women, the Leadership Conference on Civil Rights, the Association of Trial Lawyers of America, the National Bankruptcy Conference, the Commercial Law League, the National Conference of Bankruptcy Judges, Mothers Against Drunk Driving, and the National Organization for Victim Assistance.

I believe that our function as legislators is to enact laws that are fair and that are reasonable, and I believe that we have an obligation to be aware of vast imbalances of power and to protect those who need protection from more powerful entities. I urge my colleagues to support the motion to recommit and to vote against the Conference Report on H.R. 3150.

Mr. CHABOT. Mr. Speaker, I rise in support of this Conference Report.

I would first like to thank Mr. HYDE, Mr. GEKAS, Mr. HATCH and the other members of the Conference Committee.

The current bankruptcy system, which this legislation seeks to reform, clearly discourages personal responsibility. Our bankruptcy laws often allow those who can afford to pay their bills to declare bankruptcy and walk away debt free instead. As a result, personal bankruptcies are skyrocketing. In fact, despite economic growth, low unemployment and rising incomes personal bankruptcies reached a record 1.4 million last year, and are projected to rise even further this year.

This places a terrible financial burden on consumers who are forced to pay higher prices for goods and services. In fact, the average family pays a $400 bad debt tax every year.

The Conference proposal is, I believe, substantial improvement over current law. This legislation will strengthen the bankruptcy code, reducing the number of "bankruptcies of convenience." I believe that the needs-based test that is implemented in this Conference Report will take substantial steps in reforming this system by reestablishing the link between one's ability to pay and ability to discharge debt.

The needs-based test is a balance between the House and Senate bills on this issue. It adopts the bright-line standards for measuring repayment capacity from the House bill, while at the same time preserving the right of a debtor in bankruptcy to have a judge review his or her individual case so that their unique circumstances could be taken into account.

This legislation also cracks down on a number of ways in which debtors abuse the system bankruptcy. For example, it makes debts that are incurred to pay nondischargeable debts, such as taxes, would become nondischargeable, as well. In other words if a person uses a credit card to pay their income taxes, this legislation prohibits them from turning around and declaring bankruptcy, making the credit card company in effect pay their income taxes.

At the same time, however, it recognizes that there is some real need for the protections that bankruptcy offers, and it strengthens that protection. For example, it strengthens child support and alimony payments, making alimony and child support payments the first priority, not the 7th, as under current law.

Finally, while I believe that some sections of the House passed bill would have better addressed some of the problems with the bankruptcy laws, this strong, pro-consumer bill makes vital reforms to the bankruptcy system.

I urge my colleagues to support this legislation, Mr. Speaker, because it takes some significant steps in the right direction in restoring some personal responsibility to our bankruptcy laws, while protecting those who need the protections of bankruptcy.

I urge my colleagues to support this Conference Report, and I hope that the President will sign this important legislation, giving hardworking American families protection from those who abuse the bankruptcy system.

Mr. GEKAS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

MOTION TO RECOMMIT OFFERED BY MR. NADLER

Mr. NADLER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the conference report?

Mr. NADLER. In its present form I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. NADLER moves to recommit the Conference Report on the bill H.R. 3150 to the Conference Committee with instructions that the Managers on the part of the House disagree to section 110 of the Conference Report and agree to section 210 and section 211 of the Senate Amendment; and disagree to section 149 of the Conference Report and agree to section 315 of the Senate Amendment.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. NADLER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 5 of rule XV, the Chair will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of adoption of the conference report.

Without objection, each of the 4 possible votes on postponed suspensions will be 5-minute votes.

There was no objection.

The vote was taken by electronic device, and there were—yeas 157, nays 266, not voting 11, as follows:

[Roll No. 505]

YEAS—157

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barrett (WI)
Becerra
Blagojevich
Blumenauer
Bonior
Borski
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Carson
Clay
Clayton
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Dixon
Doggett
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Fox
Furse
Gejdenson
Gephardt
Gonzalez
Green
Gutierrez
Hall (OH)
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Mink
Moakley
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roukema
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Skaggs
Slaughter
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Thompson
Thurman
Towns
Traficant
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Woolsey
Wynn
Yates

NAYS—266

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boucher
Boyd
Brady (TX)
Bryant
Bunning
Burr
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Condit
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fazio
Foley
Forbes
Fossella
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson (WI)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Maloney (CT)
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Minge
Mollohan
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wilson
Wise
Wolf
Young (AK)
Young (FL)

NOT VOTING—11

Berman
Burton
Cook
Goodling
John
Kennelly
McDade
Poshard
Pryce (OH)
Tierney
Torres

□ 1122

Mrs. KELLY, Mrs. WILSON, and Messrs. BATEMAN, ROTHMAN, KNOLLENBERG, GILLMOR, WALSH, WICKER, WHITE and HYDE changed their vote from "yea" to "nay."

Messrs. HOLDEN, McNULTY, BORSKI, LIPINSKI, HASTINGS of Florida, ETHERIDGE, MCHALE, and SPRATT changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. NADLER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 300, noes 125, not voting 9, as follows:

[Roll No. 506]

AYES—300

Aderholt
Andrews
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boucher
Boyd
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Etheridge
Everett
Ewing
Fawell
Fazio
Foley
Forbes
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson (WI)
Johnson, Sam
Jones
Kasich
Kelly
Kennedy (RI)
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Maloney (CT)
Maloney (NY)
Manzullo
Matsui
McCarthy (NY)
McCollum
McCrery
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
Menendez
Metcalf
Mica
Miller (FL)
Minge
Mollohan
Moran (KS)
Moran (VA)
Morella
Myrick
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rivers
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Royce
Ryun
Salmon
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Strickland
Stump
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Turner
Upton
Velázquez
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wilson
Wise
Wolf
Wynn
Young (AK)
Young (FL)

NOES—125

Abercrombie
Ackerman
Allen
Baldacci
Barrett (WI)
Becerra
Bonior
Borski
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Carson
Clay
Clayton
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dingell
Dixon
Doggett
Doyle
Edwards
Engel
Eshoo
Evans
Farr
Filner
Ford
Furse
Gejdenson
Gonzalez
Green
Gutierrez
Hall (OH)
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kildee
Kilpatrick
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Manton
Markey
Martinez
Mascara
McCarthy (MO)
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Millender-McDonald
Miller (CA)
Mink
Moakley
Murtha
Nadler
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Payne
Pelosi
Rahall
Rangel
Reyes
Rodriguez
Roukema
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Schumer
Scott
Serrano
Skaggs
Slaughter
Stabenow
Stark
Stokes
Stupak
Thompson
Thurman
Towns
Traficant
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Woolsey
Yates

NOT VOTING—9

Berman
Fattah
John
Kennelly
McDade
Poshard
Pryce (OH)
Tierney
Torres

□ 1130

The Clerk announced the following pairs:

Mr. DICKS and Ms. RIVERS changed their vote from "no" to "aye."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. CUMMINGS. Mr. Speaker, on rollcall vote No. 506, my vote on agreeing to the conference report on H.R. 3150, the Bankruptcy Reform Act, I inadvertently voted "no," when I should have voted "aye."

An "aye" vote would have been consistent with my prior vote on June 10, 1990 when the bill passed the House.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SHIMKUS). Pursuant to clause 5 of rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed earlier in the order in which the motion was entertained.

Votes will be taken in the following order:

House Resolution 565, by the yeas and nays;

H. Con. Res. 331, de novo;

House Resolution 557; by the yeas and nays; and

H.R. 3874, conference report, by the yeas and nays.

Under the previous order of today, the Chair will reduce to 5 minutes the time for any electronic vote in this series.

SENSE OF THE HOUSE REGARDING IMPORTANCE OF MAMMOGRAPHY AND BIOPSIES IN FIGHTING BREAST CANCER

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution, H. Res. 565.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. BLILEY) that the House suspend the rules and agree to the resolution, H.Res. 565, on which the yeas and nays were ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 424, nays 0, not voting 10, as follows:

[Roll No. 507]

YEAS—424

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer

Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sánchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NOT VOTING—10

Berman
Delahunt
Fowler
John
Kennelly
McDade
Poshard
Pryce (OH)
Tierney
Torres

□ 1140

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mrs. FOWLER. Mr. Speaker, on rollcall No. 507, I was inadvertently detained. Had I been present, I would have voted "yea."

SENSE OF CONGRESS REGARDING SEWAGE INFRASTRUCTURE FACILITIES IN TIJUANA, MEXICO

The SPEAKER pro tempore. The unfinished business is the question de novo of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 331.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. GILMAN) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 331.

The question was taken.

RECORDED VOTE

Mr. FILNER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 250, noes 174, not voting 10, as follows:

[Roll No. 508]

AYES—250

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner
Bono
Boswell
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
Kucinich
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Maloney (CT)
Manzullo
Martinez
McCollum
McCrery
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Young (AK)
Young (FL)

NOES—174

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Blagojevich
Blumenauer
Bonilla
Bonior
Borski
Boucher
Boyd
Brady (PA)
Brady (TX)

Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gonzalez
Gordon
Green
Gutierrez
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
LaFalce
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (NY)
Manton
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Torres
Towns
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wynn
Yates

NOT VOTING—10

Berman
Fowler
Gephardt
John
Kennelly
McDade
Poshard
Pryce (OH)
Roemer
Tierney

☐ 1149

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mrs. FOWLER. Mr. Speaker, on rollcall No. 508, I was unavoidably detained. Had I been present, I would have voted "yea."

EXPRESSING SUPPORT FOR U.S. GOVERNMENT EFFORTS TO IDENTIFY HOLOCAUST-ERA ASSETS, URGING THE RESTITUTION OF INDIVIDUAL AND COMMUNAL PROPERTY

The SPEAKER pro tempore (Mr. SHIMKUS). The unfinished business is the question of suspending the rules and agreeing to the resolution, House Resolution 557.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. GILMAN) that the House suspend the rules and agree to the resolution, House Resolution 557, on which the yeas and nays are ordered.

This will be a 5 minute vote.

The vote was taken by electronic device, and there were—ayes 427, noes 0, not voting 7, as follows:

[Roll No. 509]

YEAS—427

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (WI)
Johnson, E.B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodrigues
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sánchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NOT VOTING—7

Berman
Fowler
John
Kennelly
Poshard
Pryce (OH)
Tierney

☐ 1157

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mrs. FOWLER. Mr. Speaker, on rollcall No. 509, I was inadvertently detained. Had I been present, I would have voted "yea."

CONFERENCE REPORT ON H.R. 3874, WILLIAM F. GOODLING CHILD NUTRITION REAUTHORIZATION ACT OF 1998

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the conference report on the bill, H.R. 3874.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. GOODLING) that the House suspend the rules and agree to the conference report on the bill, H.R. 3874, on which the yeas and nays are ordered.

This will be a 5 minute vote.

The vote was taken by electronic device, and there were—ayes 422, noes 1, not voting 11, as follows:

[Roll No. 510]

YEAS—422

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sánchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NAYS—1

Paul

NOT VOTING—11

Berman
DeFazio
Doggett
John
Johnson (WI)
Kennelly
Lampson
Poshard
Pryce (OH)
Sherman
Tierney

□ 1205

So (two-thirds having voted in favor thereof) the rules were suspended and the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CORRECTING ENROLLMENT OF H.R. 3150, BANKRUPTCY REFORM ACT OF 1998

Mr. GEKAS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the concurrent resolution (H. Con. Res. 346) to correct the enrollment of the bill H.R. 3150, and ask for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 346

Resolved by the House of Representatives (the Senate concurring), That, in the enrollment of the bill (H. R. 3150), to amend title 11 of the United States Code, and for other purposes, the Clerk of the House of Representatives shall make the following correction:

In section 1014 of the bill, strike "Act" each place it appears and insert "title".

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken later in the day.

ANNOUNCEMENT OF LEGISLATION TO BE CONSIDERED UNDER SUSPENSION OF THE RULES TODAY

Mr. THOMAS. Mr. Speaker, pursuant to House Resolution 575, I announce the following suspensions to be considered today:

H.R. 4353; H.Res. 212; S. 1298; H.R. 4516; S. 191; S. 2235; and S. 2193.

S. 191—A bill to throttle criminal use of guns

S. 2235—A bill to amend part Q of the Omnibus Crime Control and Safe Streets Act of 1968 to encourage the use of school resource officers

S. 2193—Trademark Law Treaty Implementation Act

H.R. 4353—International Anti-Bribery and Fair Competition Act of 1998

H. Res. 212—recognizing suicide as a national problem

S. 1298—A bill to designate a Federal building located in Florence, Alabama, as the "Justice John McKinley Federal Building"

H.R. 4516—A bill to designate the United States Postal Service building located at 11550 Livingston Road, in Oxon Hill, Maryland, as the "Jacob Joseph Chestnut Post Office Building"

MEDICARE HOME HEALTH AND VETERANS HEALTH CARE IMPROVEMENT ACT OF 1998

Mr. THOMAS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4567) to amend title XVIII of the Social Security Act to make revisions in the per beneficiary and per visit payment limits on payment for health services under the Medicare Program, as amended.

The Clerk read as follows:

H.R. 4567

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Medicare Home Health and Veterans Health Care Improvement Act of 1998".

(b) Table of Contents.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—MEDICARE HOME HEALTH CARE INTERIM PAYMENT SYSTEM REFINEMENT

Sec. 101. Increase in per beneficiary limits and per visit payment limits for payment for home health services.

TITLE II—VETERANS MEDICARE ACCESS IMPROVEMENT

Sec. 201. Improvement in veterans' access to services.

TITLE III—AUTHORIZATION OF ADDITIONAL EXCEPTIONS TO IMPOSITION OF PENALTIES FOR CERTAIN INDUCEMENTS

Sec. 301. Authorization of additional exceptions to imposition of penalties for providing inducements to beneficiaries.

TITLE IV—EXPANSION OF MEMBERSHIP OF THE MEDICARE PAYMENT ADVISORY COMMISSION

Sec. 401. Expansion of membership of MedPAC to 17.

TITLE V—REVENUE OFFSET

Sec. 501. Revenue offset.

TITLE I—MEDICARE HOME HEALTH CARE INTERIM PAYMENT SYSTEM REFINEMENT

SEC. 101. INCREASE IN PER BENEFICIARY LIMITS AND PER VISIT PAYMENT LIMITS FOR PAYMENT FOR HOME HEALTH SERVICES.

(a) Increase in Per Beneficiary Limits.—Section 1861(v)(1)(L) of the Social Security Act (42 U.S.C. 1395x(v)(1)(L)) is amended—

(1) in the first sentence of clause (v), by inserting "subject to clause (viii)(I)," before "the Secretary";

(2) in clause (vi)(I), by inserting "subject to clauses (viii)(II) and (viii)(III)" after "fiscal year 1994"; and

(3) by adding at the end the following new clause:

"(viii)(I) In the case of a provider with a 12-month cost reporting period ending in fiscal year 1994, if the limit imposed under clause (v) (determined without regard to this subclause) for a cost reporting period beginning during or after fiscal year 1999 is less than the median described in clause (vi)(I) (but determined as if any reference in clause (v) to '98 percent' were a reference to '100 percent'), the limit otherwise imposed under clause (v) for such provider and period shall be increased by ½ of such difference.

"(II) Subject to subclause (IV), for new providers and those providers without a 12-month cost reporting period ending in fiscal year 1994, but for which the first cost reporting period begins before fiscal year 1999, for cost reporting periods beginning during or after fiscal year 1999, the per beneficiary limitation described in clause (vi)(I) shall be equal to 50 percent of the median described in such clause plus 50 percent of the sum of 75 percent of such median and 25 percent of 98 percent of the standardized regional average of such costs for the agency's census division, described in clause (v)(I). However, in no case shall the limitation under this subclause be less than the median described in clause (vi)(I) (determined as if any reference in clause (v) to '98 percent' were a reference to '100 percent').

"(III) Subject to subclause (IV), in the case of a new home health agency for which the first cost reporting period begins during or after fiscal year 1999, the limitation applied under clause (vi)(I) (but only with respect to such provider) shall be equal to 75 percent of the median described in clause (vi)(I).

"(IV) In the case of a new provider or a provider without a 12-month cost reporting period ending in fiscal year 1994, subclause (II) shall apply, instead of subclause (III), to a home health agency which filed an application for home health agency provider status under this title before September 15, 1998, or which was approved as a branch of its parent agency before such date and becomes a subunit of the parent agency or a separate agency on or after such date.

"(V) Each of the amounts specified in subclauses (I) through (III) are such amounts as adjusted under clause (iii) to reflect variations in wages among different areas.".

(b) Revision of Per Visit Limits.—Section 1861(v)(1)(L)(i) of such Act (42 U.S.C. 1395x(v)(1)(L)(i)) is amended—

(1) in subclause (III), by striking "or";

(2) in subclause (IV)—

(A) by inserting "and before October 1, 1998," after "October 1, 1997,"; and

(B) by striking the period at the end and inserting ", or"; and

(3) by adding at the end the following new subclause:

"(V) October 1, 1998,. 108 percent of such median.".

(c) Exclusion of Additional Part B Costs From Determination of Part B Monthly Premium.—Section 1839 of such Act (42 U.S.C. 1395r) is amended—

(1) in subsection (a)(3), by inserting "(except as provided in subsection (g))" after "year that"; and

(2) by adding at the end the following new subsection:

"(g) In estimating the benefits and administrative costs which will be payable from the Federal Supplementary Medical Insurance Trust Fund for a year for purposes of determining the monthly premium rate under subsection (a)(3), the Secretary shall exclude an estimate of any benefits and administrative costs attributable to the application of section 1861(v)(1)(L)(viii) or to the establishment under section 1861(v)(1)(L)(i)(V) of a per visit limit at 108 percent of the median (instead of 105 percent of the median), but only to the extent payment for home health services under this title is not being made under section 1895 (relating to prospective payment for home health services).".

(d) Reports on Summary of Research Conducted by the Secretary on the Prospective Payment System.—By not later than January 1, 1999, the Secretary of Health and Human Services shall submit to Congress a report on the following matters:

(1) Research.—A description of any research paid for by the Secretary on the development of a prospective payment system for home health services furnished under the medicare care program under title XVIII of the Social Security Act, and a summary of the results of such research.

(2) Schedule for implementation of system.—The Secretary's schedule for the implementation of the prospective payment system for home health services under section 1895 of the Social Security Act (42 U.S.C. 1395fff).

(3) Alternative to 15 percent reduction in limits.—The Secretary's recommendations for one or more alternative means to provide for savings equivalent to the savings estimated to be made by the mandatory 15 percent reduction in payment limits for such home health services for fiscal year 2000 under section 1895(b)(3)(A) of the Social Security Act (42 U.S.C. 1395fff(b)(3)(A)), or, in the case the Secretary does not establish and implement such prospective payment system, under section 4603(e) of the Balanced Budget Act of 1997.

(e) MedPAC Reports.—

(1) Review of secretary's report.—Not later than 60 days after the date the Secretary of Health and Human Services submits to Congress the report under subsection (d), the Medicare Payment Advisory Commission (established under section 1805 of the Social Security Act (42 U.S.C. 1395b–6)) shall submit to Congress a report describing the Commission's analysis of the Secretary's report, and shall include the Commission's recommendations with respect to the matters contained in such report.

(2) Annual report.—The Commission shall include in its annual report to Congress for June 1999 an analysis of whether changes in law made by the Balanced Budget Act of 1997, as modified by the amendments made by this section, with respect to payments for home health services furnished under the medicare program under title XVIII of the Social Security Act impede access to such services by individuals entitled to benefits under such program.

(f) GAO Audit of Research Expenditures.—The Comptroller General of the United States shall conduct an audit of sums obligated or expended by the Health Care Financing Administration for the research described in subsection (d)(1), and of the data, reports, proposals, or other information provided by such research.

(g) Prompt Implementation.—The Secretary of Health and Human Services shall promptly issue (without regard to chapter 8 of title 5, United States Code) such regulations or program memoranda as may be necessary to effect the amendments made by this section for cost reporting periods beginning on or after October 1, 1998. In effecting the amendments made by subsection (a) for cost reporting periods beginning in fiscal year 1999, the "median" referred to in section 1861(v)(1)(L)(vi)(I) of the Social Security Act for such periods shall be the national standardized per beneficiary limitation specified in Table 3C published in the Federal Register on August 11, 1998, (63 FR 42926) and the "standardized regional average of such costs" referred to in section 1861(v)(1)(L)(v)(I) of such Act for a census division shall be the sum of the labor and nonlabor components of the standardized per-beneficiary limitation for that census division specified in Table 3B published in the Federal Register on that date (63 FR 42926) (or in Table 3D as so published with respect to Puerto Rico and Guam).

TITLE II—VETERANS MEDICARE ACCESS IMPROVEMENT

SEC. 201. IMPROVEMENT IN VETERANS' ACCESS TO SERVICES.

(a) In General.—Title XVIII of the Social Security Act, as amended by sections 4603, 4801, and 4015(a) of the Balanced Budget Act of 1997, is amended by adding at the end the following:

"IMPROVING VETERANS' ACCESS TO SERVICES

"Sec. 1897. (a) Definitions.—In this section:

"(1) Administering secretaries.—The term 'administering Secretaries' means the Secretary of Health and Human Services and the Secretary of Veterans Affairs acting jointly.

"(2) Program.—The term 'program' means the program established under this section with respect to category A medicare-eligible veterans.

"(3) Demonstration project; project.—The terms 'demonstration project' and 'project' mean the demonstration project carried out under this section with respect to category C medicare-eligible veterans.

"(4) Medicare-eligible veterans.—

"(A) Category A medicare-eligible veteran.—The term 'category A medicare-eligible veteran' means an individual—

"(i) who is a veteran (as defined in section 101(2) of title 38, United States Code) and is described in paragraph (1) or (2) of section 1710(a) of title 38, United States Code;

"(ii) who is entitled to hospital insurance benefits under part A of the medicare program and is enrolled in the supplementary medical insurance program under part B of the medicare program; and

"(iii) for whom the medical center of the Department of Veterans Affairs that is closest to the individual's place of residence is geographically remote or inaccessible from such place.

"(B) Category C medicare-eligible veteran.—The term 'category C medicare-eligible veteran' means an individual who—

"(i) is a veteran (as defined in section 101(2) of title 38, United States Code) and is described in section 1710(a)(3) of title 38, United States Code; and

"(ii) is entitled to hospital insurance benefits under part A of the medicare program and is enrolled in the supplementary medical insurance program under part B of the medicare program.

"(5) Medicare health care services.—The term 'medicare health care services' means items or services covered under part A or B of this title.

"(6) Trust funds.—The term 'trust funds' means the Federal Hospital Insurance Trust Fund established in section 1817 and the Federal Supplementary Medical Insurance Trust Fund established in section 1841.

"(b) Program and Demonstration Project.—

"(1) In general.—

"(A) Establishment.—The administering Secretaries are authorized to establish—

"(i) a program (under an agreement entered into by the administering Secretaries) under which the Secretary of Health and Human Services shall reimburse the Secretary of Veterans Affairs, from the trust funds, for medicare health care services furnished to category A medicare-eligible veterans; and

"(ii) a demonstration project (under such an agreement) under which the Secretary of Health and Human Services shall reimburse the Secretary of Veterans Affairs, from the trust funds, for medicare health care services furnished to category C medicare-eligible veterans.

"(B) Agreement.—The agreement entered into under subparagraph (A) shall include at a minimum—

"(i) a description of the benefits to be provided to the participants of the program and the demonstration project established under this section;

"(ii) a description of the eligibility rules for participation in the program and demonstration project, including any cost sharing requirements;

"(iii) a description of the process for enrolling veterans for participation in the program, which process may, to the extent practicable, be administered in the same or similar manner to the registration process established to implement section 1705 of title 38, United States Code;

"(iv) a description of how the program and the demonstration project will satisfy the requirements under this title;

"(v) a description of the sites selected under paragraph (2);

"(vi) a description of how reimbursement requirements under subsection (g) and maintenance of effort requirements under subsection (h) will be implemented in the program and in the demonstration project;

"(vii) a statement that all data of the Department of Veterans Affairs and of the Department of Health and Human Services that the administering Secretaries determine is necessary to conduct independent estimates and audits of the maintenance of effort requirement, the annual reconciliation, and related matters required under the program and the demonstration project shall be available to the administering Secretaries;

"(viii) a description of any requirement that the Secretary of Health and Human Services waives pursuant to subsection (d);

"(ix) a requirement that the Secretary of Veterans Affairs undertake and maintain outreach and marketing activities, consistent with capacity limits under the program, for category A medicare-eligible veterans;

"(x) a description of how the administering Secretaries shall conduct the data matching program under subparagraph (F), including the frequency of updates to the comparisons performed under subparagraph (F)(ii); and

"(xi) a statement by the Secretary of Veterans Affairs that the type or amount of health care services furnished under chapter 17 of title 38, United States Code, to veterans who are entitled to benefits under part A or enrolled under part B, or both, shall not be reduced by reason of the program or project.

"(C) Cost-sharing under demonstration project.—Notwithstanding any provision of title 38, United States Code, in order—

"(i) to maintain and broaden access to services,

"(ii) to encourage appropriate use of services, and

"(iii) to control costs,

the Secretary of Veterans Affairs may establish enrollment fees and copayment requirements under the demonstration project under this section consistent with subsection (d)(1). Such fees and requirements may vary based on income.

"(D) Health care benefits.—The administering Secretaries shall prescribe the minimum health care benefits to be provided under the program and demonstration project to medicare-eligible veterans enrolled in the program or project. Those benefits shall include at least all medicare health care services covered under this title.

"(E) Establishment of service networks.—

"(i) Use of VA outpatient clinics.—The Secretary of Veterans Affairs, to the extent practicable, shall use outpatient clinics of the Department of Veterans Affairs in providing services under the program.

"(ii) Authority to contract for services.—The Secretary of Veterans Affairs may enter into contracts and arrangements with entities (such as private practitioners, providers of services, preferred provider organizations, and health care plans) for the provision of services for which the Secretary of Health and Human Services is responsible under the program or project under this section and shall take into account the existence of qualified practitioners and providers in the areas in which the program or project is being conducted. Under such contracts and arrangements, such Secretary of Health and Human Services may require the entities to furnish such information as such Secretary may require to carry out this section.

"(F) Data match.—

"(i) Establishment of data matching program.—The administering Secretaries shall establish a data matching program under which there is an exchange of information of the Department of Veterans Affairs and of the Department of Health and Human Services as is necessary to identify veterans who are entitled to benefits under part A or enrolled under part B, or both, in order to carry out this section. The provisions of section 552a of title 5, United States Code, shall apply with respect to such matching program only to the extent the administering Secretaries find it feasible and appropriate in carrying out this section in a timely and efficient manner.

"(ii) Performance of data match.—The administering Secretaries, using the data matching program established under clause (i), shall perform a comparison in order to identify veterans who are entitled to benefits under part A or enrolled under part B, or both. To the extent such Secretaries deem appropriate to carry out this section, the comparison and identification may distinguish among such veterans by category of veterans, by entitlement to benefits under this title, or by other characteristics.

"(iii) Deadline for first data match.—The administering Secretaries shall first perform a comparison under clause (ii) by not later than October 31, 1998.

"(iv) Certification by inspector general.—

"(I) In general.—The administering Secretaries may not conduct the program unless the Inspector General of the Department of Health and Human Services certifies to Congress that the administering Secretaries have established the data matching program under clause (i) and have performed a comparison under clause (ii).

"(II) Deadline for certification.—Not later than December 15, 1998, the Inspector General of the Department of Health and Human Services shall submit a report to Congress containing the certification under subclause (I) or the denial of such certification.

"(2) Number of sites.—The program and demonstration project shall be conducted in geographic service areas of the Department of Veterans Affairs, designated jointly by the administering Secretaries after review of all such areas, as follows:

"(A) Program sites.—

"(i) In general.—Except as provided in clause (ii), the program shall be conducted in not more than 3 such areas with respect to category A medicare-eligible veterans.

"(ii) Additional program sites.—Subject to the certification required under subsection (h)(1)(B)(iii), for a year beginning on or after January 1, 2003, the program shall be conducted in such areas as are designated jointly by the administering Secretaries after review of all such areas.

"(B) Project sites.—

"(i) In general.—The demonstration project shall be conducted in not more than 3 such areas with respect to category C medicare-eligible veterans.

"(ii) Mandatory site.—At least one of the areas designated under clause (i) shall encompass the catchment area of a military medical facility which was closed pursuant to either the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) or title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

"(3) Restriction.—Funds from the program or demonstration project shall not be used for—

"(A) the construction of any treatment facility of the Department of Veterans Affairs; or

"(B) the renovation, expansion, or other construction at such a facility.

"(4) Duration.—The administering Secretaries shall conduct and implement the program and the demonstration project as follows:

"(A) Program.—

"(i) In general.—The program shall begin on January 1, 2000, in the sites designated under paragraph (2)(A)(i) and, subject to subsection (h)(1)(B)(iii)(II), for a year beginning on or after January 1, 2003, the program may be conducted in such additional sites designated under paragraph (2)(A)(ii).

"(ii) Limitation on number of veterans covered under certain circumstances.—If for a year beginning on or after January 1, 2003, the program is conducted only in the sites designated under paragraph (2)(A)(i), medicare health care services may not be provided under the program to a number of category-A medicare-eligible veterans that exceeds the aggregate number of such veterans covered under the program as of December 31, 2002.

"(B) Project.—The demonstration project shall begin on January 1, 1999, and end on December 31, 2001.

"(C) Implementation.—The administering Secretaries may implement the program and demonstration project through the publication of regulations that take effect on an interim basis, after notice and pending opportunity for public comment.

"(5) Reports.—

"(A) Program.—By not later than September 1, 1999, the administering Secretaries shall submit a copy of the agreement entered into under paragraph (1) with respect to the program to Congress.

"(B) Project.—By not later than November 1, 1998, the administering Secretaries shall submit a copy of the agreement entered into under paragraph (1) with respect to the project to Congress.

"(6) Report on maintenance of level of health care services.—

"(A) In general.—The Secretary of Veterans Affairs may not implement the program at a site designated under paragraph (2)(A) unless, by not later than 90 days before the date of the implementation, the Secretary of Veterans Affairs submits to Congress and to the Comptroller General of the United States a report that contains the information described in subparagraph (B). The Secretary of Veterans Affairs shall periodically update the report under this paragraph as appropriate.

"(B) Information described.—For purposes of subparagraph (A), the information described in this subparagraph is a description of the operation of the program at the site and of the steps to be taken by the Secretary of Veterans Affairs to prevent the reduction of the type or amount of health care services furnished under chapter 17 of title 38, United States Code, to veterans who are entitled to benefits under part A or enrolled under part B, or both, within the geographic service area of the Department of Veterans Affairs in which the site is located by reason of the program or project.

"(c) Crediting of Payments.—A payment received by the Secretary of Veterans Affairs under the program or demonstration project shall be credited to the applicable Department of Veterans Affairs medical care appropriation (and within that appropriation). Any such payment received during a fiscal year for services provided during a prior fiscal year may be obligated by the Secretary of Veterans Affairs during the fiscal year during which the payment is received.

"(d) Application of Certain Medicare Requirements.—

"(1) Authority.—

"(A) In general.—Except as provided under subparagraph (B), the program and the demonstration project shall meet all requirements of Medicare+Choice plans under part C and regulations pertaining thereto, and other requirements for receiving medicare payments, except that the prohibition of payments to Federal providers of services under sections 1814(c) and 1835(d), and paragraphs (2) and (3) of section 1862(a) shall not apply.

"(B) Waiver.—Except as provided in paragraph (2), the Secretary of Health and Human Services is authorized to waive any requirement described under subparagraph (A), or approve equivalent or alternative ways of meeting such a requirement, but only if such waiver or approval—

"(i) reflects the unique status of the Department of Veterans Affairs as an agency of the Federal Government; and

"(ii) is necessary to carry out the program or demonstration project.

"(2) Beneficiary protections and other matters.—The program and the demonstration project shall comply with the requirements of part C of this title that relate to beneficiary protections and other matters, including such requirements relating to the following areas, to the extent not inconsistent with subsection (b)(1)(B)(iii):

"(A) Enrollment and disenrollment.

"(B) Nondiscrimination.

"(C) Information provided to beneficiaries.

"(D) Cost-sharing limitations.

"(E) Appeal and grievance procedures.

"(F) Provider participation.

"(G) Access to services.

"(H) Quality assurance and external review.

"(I) Advance directives.

"(J) Other areas of beneficiary protections that the administering Secretaries determine are applicable to such program or project.

"(e) Inspector General.—Nothing in the agreement entered into under subsection (b) shall limit the Inspector General of the Department of Health and Human Services from investigating any matters regarding the expenditure of funds under this title for the program and demonstration project, including compliance with the provisions of this title and all other relevant laws.

"(f) Voluntary Participation.—Participation of a category A medicare-eligible veteran in the program or category C medicare-eligible veteran in the demonstration project shall be voluntary.

"(g) Payments Based on Regular Medicare Payment Rates.—

"(1) In general.—Subject to the succeeding provisions of this subsection, the Secretary of Health and Human Services shall reimburse the Secretary of Veterans Affairs for services provided under the program or demonstration project at a rate equal to 95 percent of the amount paid to a Medicare+Choice organization under part C of this title with respect to such an enrollee. In cases in which a payment amount may not otherwise be readily computed, the Secretary of Health and Human Services shall establish rules for computing equivalent or comparable payment amounts.

"(2) Exclusion of certain amounts.—In computing the amount of payment under paragraph (1), the following shall be excluded:

"(A) Special payments.—Any amount attributable to an adjustment under subparagraphs (B) and (F) of section 1886(d)(5) and subsection (h) of such section.

"(B) Percentage of capital payments.—An amount determined by the administering Secretaries for amounts attributable to payments for capital-related costs under subsection (g) of such section.

"(3) Periodic payments from medicare trust funds.—Payments under this subsection shall be made—

"(A) on a periodic basis consistent with the periodicity of payments under this title; and

"(B) in appropriate part, as determined by the Secretary of Health and Human Services, from the trust funds.

"(4) Cap on reimbursement amounts.—The aggregate amount to be reimbursed under this subsection pursuant to the agreement entered into between the administering Secretaries under subsection (b) is as follows:

"(A) Program.—With respect to category A medicare-eligible veterans, such aggregate amount shall not exceed—

"(i) for 2000, a total of $50,000,000;

"(ii) for 2001, a total of $75,000,000; and

"(iii) subject to subparagraph (B), for 2002 and each succeeding year, a total of $100,000,000.

"(B) Expansion of program.—If for a year beginning on or after January 1, 2003, the program is conducted in sites designated under subsection (b)(2)(A)(ii), the limitation under subparagraph (A)(iii) shall not apply to the program for such a year.

"(C) Project.—With respect to category C medicare-eligible veterans, such aggregate amount shall not exceed a total of $50,000,000 for each of calendar years 1999 through 2001.

"(h) Maintenance of Effort.—

"(1) Monitoring effect of program and demonstration project on costs to medicare program.—

"(A) In general.—The administering Secretaries, in consultation with the Comptroller General of the United States, shall closely monitor the expenditures made under this title for category A and C medicare-eligible veterans compared to the expenditures that would have been made for such veterans if the program and demonstration project had not been conducted. The agreement entered into by the administering Secretaries under subsection (b) shall require the Department of Veterans Affairs to maintain overall the level of effort for services covered under this title to such categories of veterans by reference to a base year as determined by the administering Secretaries.

“(B) DETERMINATION OF MEASURE OF COSTS OF MEDICARE HEALTH CARE SERVICES.—

“(i) IMPROVEMENT OF INFORMATION MANAGEMENT SYSTEM.—Not later than October 1, 2001, the Secretary of Veterans Affairs shall improve its information management system such that, for a year beginning on or after January 1, 2002, the Secretary of Veterans Affairs is able to identify costs incurred by the Department of Veterans Affairs in providing medicare health care services to medicare-eligible veterans for purposes of meeting the requirements with respect to maintenance of effort under an agreement under subsection (b)(1)(A).

“(ii) IDENTIFICATION OF MEDICARE HEALTH CARE SERVICES.—The Secretary of Health and Human Services shall provide such assistance as is necessary for the Secretary of Veterans Affairs to determine which health care services furnished by the Secretary of Veterans Affairs qualify as medicare health care services.

“(iii) CERTIFICATION BY HHS INSPECTOR GENERAL.—

“(I) REQUEST FOR CERTIFICATION.—The Secretary of Veterans Affairs may request the Inspector General of the Department of Health and Human Services to make a certification to Congress that the Secretary of Veterans Affairs has improved its management system under clause (i) such that the Secretary of Veterans Affairs is able to identify the costs described in such clause in a reasonably reliable and accurate manner.

“(II) REQUIREMENT FOR EXPANSION OF PROGRAM.—The program may be conducted in the additional sites under paragraph (2)(A)(ii) and cover such additional category A medicare eligible veterans in such additional sites only if the Inspector General of the Department of Health and Human Services has made the certification described in subclause (I).

“(III) DEADLINE FOR CERTIFICATION.—Not later than the date that is the earlier of the date that is 60 days after the Secretary of Veterans Affairs requests a certification under subclause (I) or June 1, 2002, the Inspector General of the Department of Health and Human Services shall submit a report to Congress containing the certification under subclause (I) or the denial of such certification.

“(C) MAINTENANCE OF LEVEL OF EFFORT.—

“(i) REPORT BY SECRETARY OF VETERANS AFFAIRS ON BASIS FOR CALCULATION.—Not later than the date that is 60 days after the date on which the administering Secretaries enter into an agreement under subsection (b)(1)(A), the Secretary of Veterans Affairs shall submit a report to Congress and the Comptroller General of the United States explaining the methodology used and basis for calculating the level of effort of the Department of Veterans Affairs under the program and project.

“(ii) REPORT BY COMPTROLLER GENERAL.—Not later than the date that is 180 days after the date described in clause (i), the Comptroller General of the United States shall submit to Congress and the administering Secretaries a report setting forth the Comptroller General's findings, conclusion, and recommendations with respect to the report submitted by the Secretary of Veterans Affairs under clause (i).

“(iii) RESPONSE BY SECRETARY OF VETERANS AFFAIRS.—The Secretary of Veterans Affairs shall submit to Congress not later than 60 days after the date described in clause (ii) a report setting forth such Secretary's response to the report submitted by the Comptroller General under clause (ii).

“(D) ANNUAL REPORT BY THE COMPTROLLER GENERAL.—Not later than December 31 of each year during which the program and demonstration project is conducted, the Comptroller General of the United States shall submit to the administering Secretaries and to Congress a report on the extent, if any, to which the costs of the Secretary of Health and Human Services under the medicare program under this title increased during the preceding fiscal year as a result of the program or demonstration project.

“(2) REQUIRED RESPONSE IN CASE OF INCREASE IN COSTS.—

“(A) IN GENERAL.—If the administering Secretaries find, based on paragraph (1), that the expenditures under the medicare program under this title increased (or are expected to increase) during a fiscal year because of the program or demonstration project, the administering Secretaries shall take such steps as may be needed—

“(i) to recoup for the medicare program the amount of such increase in expenditures; and

“(ii) to prevent any such increase in the future.

“(B) STEPS.—Such steps—

“(i) under subparagraph (A)(i) shall include payment of the amount of such increased expenditures by the Secretary of Veterans Affairs from the current medical care appropriation for the Department of Veterans Affairs to the trust funds; and

“(ii) under subparagraph (A)(ii) shall include lowering the amount of payment under the program or project under subsection (g)(1), and may include, in the case of the demonstration project, suspending or terminating the project (in whole or in part).

“(i) EVALUATION AND REPORTS.—

“(1) INDEPENDENT EVALUATION BY GAO.—

“(A) IN GENERAL.—The Comptroller General of the United States shall conduct an evaluation of the program and an evaluation of the demonstration project, and shall submit annual reports on the program and demonstration project to the administering Secretaries and to Congress.

“(B) FIRST REPORT.—The first report for the program or demonstration project under subparagraph (A) shall be submitted not later than 12 months after the date on which the Secretary of Veterans Affairs first provides services under the program or project, respectively.

“(C) FINAL REPORT ON DEMONSTRATION PROJECT.—A final report shall be submitted with respect to the demonstration project not later than 3½ years after the date of the first report on the project under subparagraph (B).

“(D) CONTENTS.—The evaluation and reports under this paragraph for the program or demonstration project shall include an assessment, based on the agreement entered into under subsection (b), of the following:

“(i) Any savings or costs to the medicare program under this title resulting from the program or project.

“(ii) The cost to the Department of Veterans Affairs of providing care to category A medicare-eligible veterans under the program or to category C medicare-eligible veterans under the demonstration project, respectively.

“(iii) An analysis of how such program or project affects the overall accessibility of medical care through the Department of Veterans Affairs, and a description of the unintended effects (if any) upon the patient enrollment system under section 1705 of title 38, United States Code.

“(iv) Compliance by the Department of Veterans Affairs with the requirements under this title.

“(v) The number of category A medicare-eligible veterans or category C medicare-eligible veterans, respectively, opting to participate in the program or project instead of receiving health benefits through another health insurance plan (including benefits under this title).

“(vi) A list of the health insurance plans and programs that were the primary payers for medicare-eligible veterans during the year prior to their participation in the program or project, respectively, and the distribution of their previous enrollment in such plans and programs.

“(vii) Any impact of the program or project, respectively, on private health care providers and beneficiaries under this title that are not enrolled in the program or project.

“(viii) An assessment of the access to care and quality of care for medicare-eligible veterans under the program or project, respectively.

“(ix) An analysis of whether, and in what manner, easier access to medical centers of the Department of Veterans Affairs affects the number of category A medicare-eligible veterans or C medicare-eligible veterans, respectively, receiving medicare health care services.

“(x) Any impact of the program or project, respectively, on the access to care for category A medicare-eligible veterans or C medicare-eligible veterans, respectively, who did not enroll in the program or project and for other individuals entitled to benefits under this title.

“(xi) A description of the difficulties (if any) experienced by the Department of Veterans Affairs in managing the program or project, respectively.

“(xii) Any additional elements specified in the agreement entered into under subsection (b).

“(xiii) Any additional elements that the Comptroller General of the United States determines is appropriate to assess regarding the program or project, respectively.

“(2) REPORTS BY SECRETARIES ON PROGRAM AND DEMONSTRATION PROJECT WITH RESPECT TO MEDICARE-ELIGIBLE VETERANS.—

“(A) DEMONSTRATION PROJECT.—Not later than 6 months after the date of the submission of the final report by the Comptroller General of the United States on the demonstration project under paragraph (1)(C), the administering Secretaries shall submit to Congress a report containing their recommendation as to—

“(i) whether there is a cost to the health care program under this title in conducting the demonstration project;

“(ii) whether to extend the demonstration project or make the project permanent; and

“(iii) whether the terms and conditions of the project should otherwise be continued (or modified) with respect to medicare-eligible veterans.

“(B) PROGRAM.—Not later than 6 months after the date of the submission of the report by the Comptroller General of the United States on the third year of the operation of the program, the administering Secretaries shall submit to Congress a report containing their recommendation as to—

"(i) whether there is a cost to the health care program under this title in conducting the program under this section;

"(ii) whether to discontinue the program with respect to category A medicare-eligible veterans; and

"(iii) whether the terms and conditions of the program should otherwise be continued (or modified) with respect to medicare-eligible veterans.

"(j) Application of Medigap Protections to Demonstration Project Enrollees.—(1) Subject to paragraph (2), the provisions of section 1882(s)(3) (other than clauses (i) through (iv) of subparagraph (B)) and 1882(s)(4) shall apply to enrollment (and termination of enrollment) in the demonstration project, in the same manner as they apply to enrollment (and termination of enrollment) with a Medicare+Choice organization in a Medicare+Choice plan.

"(2) In applying paragraph (1)—

"(A) any reference in clause (v) or (vi) of section 1882(s)(3)(B) to 12 months is deemed a reference to 36 months; and

"(B) the notification required under section 1882(s)(3)(D) shall be provided in a manner specified by the Secretary of Veterans Affairs.".

(b) Repeal of Plan Requirement.—Subsection (b) of section 4015 of the Balanced Budget Act of 1997 (relating to an implementation plan for Veterans subvention) is repealed.

(c) Report to Congress on a Method to Include the Costs of Veterans Affairs and Military Facility Services to Medicare-eligible Beneficiaries in the Calculation of Medicare+Choice Payment Rates.—The Secretary of Health and Human Services shall report to the Congress by not later than January 1, 2001, on a method to phase-in the costs of military facility services furnished by the Department of Veterans Affairs or the Department of Defense to medicare-eligible beneficiaries in the calculation of an area's Medicare+Choice capitation payment. Such report shall include on a county-by- county basis—

(1) the actual or estimated cost of such services to medicare-eligible beneficiaries;

(2) the change in Medicare+Choice capitation payment rates if such costs are included in the calculation of payment rates;

(3) one or more proposals for the implementation of payment adjustments to Medicare+Choice plans in counties where the payment rate has been affected due to the failure to calculate the cost of such services to medicare-eligible beneficiaries; and

(4) a system to ensure that when a Medicare+Choice enrollee receives covered services through a facility of the Department of Veterans Affairs or the Department of Defense there is an appropriate payment recovery to the medicare program.

TITLE III—AUTHORIZATION OF ADDITIONAL EXCEPTIONS TO IMPOSITION OF PENALTIES FOR CERTAIN INDUCEMENTS

SEC. 301. AUTHORIZATION OF ADDITIONAL EXCEPTIONS TO IMPOSITION OF PENALTIES FOR PROVIDING INDUCEMENTS TO BENEFICIARIES.

(a) In General.—Subparagraph (B) of section 1128A(i)(6) of the Social Security Act (42 U.S.C. 1320a–7a(i)(6)) is amended to read as follows:

"(B) any permissible practice described in any subparagraph of section 1128B(b)(3) or in regulations issued by the Secretary;".

(b) Extension of Advisory Opinion Authority.—Section 1128D(b)(2)(A) of such Act (42 U.S.C. 1320a–7d(b)(2)(A)) is amended by inserting "or section 1128A(i)(6)" after "1128B(b)".

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(d) Interim Final Rulemaking Authority.—The Secretary of Health and Human Services may promulgate regulations that take effect on an interim basis, after notice and pending opportunity for public comment, in order to implement the amendments made by this section in a timely manner.

TITLE IV—EXPANSION OF MEMBERSHIP OF THE MEDICARE PAYMENT ADVISORY COMMISSION

SEC. 401. EXPANSION OF MEMBERSHIP OF MEDPAC TO 17.

(a) In General.—Section 1805(c)(1) of the Social Security Act (42 U.S.C. 1395b–6(c)(1)), as added by section 4022 of the Balanced Budget Act of 1997, is amended by striking "15" and inserting "17".

(b) Initial Terms of Additional Members.—

(1) In general.—For purposes of staggering the initial terms of members of the Medicare Payment Advisory Commission (under section 1805(c)(3) of such Act (42 U.S.C. 1395b–6(c)(3)), the initial terms of the two additional members of the Commission provided for by the amendment under subsection (a) are as follows:

(A) One member shall be appointed for one year.

(B) One member shall be appointed for two years.

(2) Commencement of terms.—Such terms shall begin on May 1, 1999.

TITLE V—REVENUE OFFSET

SEC. 501. REVENUE OFFSET.

(a) In General.—Subparagraph (B) of section 408A(c)(3) of the Internal Revenue Code of 1986 is amended by striking "relates" and all that follows and inserting "relates, the taxpayer's adjusted gross income exceeds $145,000 ($290,000 in the case of a joint return)."

(b) Effective Date.—The amendment made by subsection (a) shall apply to distributions after December 31, 1998.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. Thomas) and the gentleman from California (Mr. Stark) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. Thomas).

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that 8 of those 20 minutes in the affirmative be controlled by the gentleman from Florida (Mr. Bilirakis), chairman of the Subcommittee on Health of the Committee on Commerce.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

GENERAL LEAVE

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4567.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill, H.R. 4567, is one that is needed for a number of reasons. Most people will probably focus on what they consider to be the major provision, and that is a modification in the home health care payment structure.

In the Balanced Budget Act of 1997, after extensive negotiations with the administration, we were able to get the administration to change their 100 percent structure to a blended arrangement which we thought would at least modify the perniciousness of the administration's approach. We could not get them to go farther. That position became the interim payment structure that we are operating under now. Once we were able to examine what the administration really wanted, we discovered that it was lacking in a number of provisions in assisting on a broad base home health care agencies previously established, newly established and between States.

Not only was it not adequate in its interim payment structure form, but we were told in August by the Health Care Financing Administration that, because of their computers' difficulties with the year 2000 problem, they would not be able to honor the date that they said the prospective payment system replacing the interim payment system would go into effect. What ensued was a series of negotiations among all of those parties affected, and a bill was passed through the Committee on Ways and Means, modified by the Committee on Commerce's concerns and with the administration as a full partner to make sure that anything that we proposed could actually be carried out by the administration because of the year 2000 computer problems.

We have in front of us, I believe, a solution in which there are no losers. One of the difficulties is that many of the proposals basically robbed Peter to pay Paul, revenue neutral. Even if they added money to the pot, it was clear that it was only perpetuating an unfair system. Although we perhaps add more money than I would have liked to have added to the overall pot to solve the problem, the most important provision is that it treats those who are most in need fairly, and that is essential, I think, if in these latter days we are able to move this legislation.

A second provision of this bill is a veterans' subvention program. The Department of Defense has a Medicare subvention demonstration program. We were anxious to involve the veterans. This is a perfected veterans' subvention program.

There are basically two categories of veterans. The category C are those who are relatively well off, vis-a-vis the category A veterans, and who do not have service-related disabilities. The primary focus is on the category A veterans. There is a real problem in this area. We believe that this provision is a worthwhile one. It is a demonstration for both of us, and the chairman of the Committee on Veterans' Affairs will speak to that very shortly.

There are two other minor provisions. One is to allow for the reinstitution of a long-standing practice in which those patients who are end-stage renal disease patients and unable to provide for insurance coverage are assisted in that insurance coverage. Through a technical failure in our fraud and abuse program, that technically would not be allowed. This creates an opportunity for the Inspector General at HHS to make sure there is a safe harbor to protect those individuals.

The last item is an expansion of the MedPAC board, which would provide for a broadening of the representational interests on that board, be they professional, general public or geographic, based upon who those additional members would be.

Mr. Speaker, I reserve the balance of my time.

Mr. STARK. Mr. Speaker, I ask unanimous consent that 6 minutes of debate time be allocated to the gentleman from Pennsylvania (Mr. KLINK).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. STARK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill that the gentleman from California (Mr. THOMAS) and the Republican leadership have crafted does some good things: The subvention. There are some issues dealing with Medicare payments to people with end-stage renal disease that are helpful. There is an attempt to fix or assist the problems that are being caused in the home health delivery system by the administration's inability to get their act together.

Having said that, they have snatched victory from the jaws of defeat and pounded it to death. The bill is now a tax loophole and a stealth pay raise for Members of Congress and it has combined a series of measures and almost assured its defeat in the Senate because it violates the Senate rules and costs $10 billion over the next 10 years. Admittedly we only work in a 5-year time frame. They would raise a point of order in the Senate and need 60 votes and it is unlikely that it would pass there.

□ 1215

It extends a tax break to the very wealthy and now includes Members of Congress. Previously we were unable, as Members of Congress, to take advantage of Roth IRAs, and we now will be able to so that we have, and I am sure people will soon discover, we are about to vote ourselves a pay raise. I vote for pay raises, but I like to do it up front so that my constituents know that. I think it is too bad that we are doing it. It violates the budget, the IRA tax breaks have been dropped in conference or must be dropped or the bill is doomed.

We had suggested in the Committee on Ways and Means the postponement and reduction of medical savings accounts for seniors, and, interestingly enough, there are not any. There is no company offering medical savings accounts to seniors, and we could have saved a billion dollars and postponed the 15 percent tax cut which the home health industry is staring in the face next year. That was defeated by the Republicans in the Committee on Ways and Means, and I hope that if this bill goes to conference we could reestablish that. It hurts no one, there is no insurance company selling it, no seniors can buy it, we have already lost 300 million in savings which has evaporated. Through the inactivity or ignorance of the Republican bill we are going to let more of that savings disappear which could be used to help home health agencies who need it.

Again, this bill gives up, loses, $10.7 billion, does precious little except for the most egregious home health providers and mostly in southern States who have taken most advantage of this payment, and we could have done a better job, Mr. Speaker, we could have not dipped into the surplus so egregiously, and I hope that when this bill comes to conference, if in fact it ever does, that we can correct it at that point.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS. Mr. Speaker, I yield myself 30 seconds.

Notwithstanding the gentleman's description of the bill, the paid-for provision which increases the individual retirement accounts on ROTH IRAs from 100,000 to 145,000 does comport with the budget rules on the House side, and in looking for areas to pay for a change in Medicare and related medical costs, we thought it most prudent not to dip into Medicare or other health care provisions to rob Peter to pay Paul, and it seems to me that this is a particularly appropriate way within the House budget rules.

Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. STUMP), the distinguished Chairman of the Committee on Veterans' Affairs.

Mr. STUMP. Mr. Speaker, I thank the gentleman for yielding this time to me.

I rise in strong support of this measure and am pleased to be an original cosponsor. This legislation would realize one of the top priorities of our national veterans organizations, enabling Medicare-eligible veterans for the first time to get Medicare coverage through the VA. This legislation would expand veterans' options and their access to care while still offering the promise of reducing Medicare costs.

While the Committee on Veterans' Affairs took the lead in reporting out this legislation, I am indeed indebted to my friend, the gentleman from California (Mr. THOMAS), the primary architect of the broader VA Medicare provisions being taken up today. BILL THOMAS' highly acclaimed expertise on the Medicare program and his willingness to become knowledgeable on VA health care with key to moving this legislation, and I would also like to thank the gentleman from Florida (Mr. BILIRAKIS) who is an original cosponsor and has been a tireless champion for veterans.

Veterans' legislation is truly nonpartisan, and I want to salute our colleagues on the other side of the aisle on the Committee on Ways and Means, the Committee on Commerce and the Committee on Veterans Affairs who helped advance this legislation.

Mr. Speaker, this is a good bill for veterans, and I urge the Members to adopt it.

Mr. BILBRAY. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, our bill is the result of hard work between the Committee on Commerce and Committee on Ways and Means. Many of us have heard from constituents, principally veterans and senior citizens who are or may be effected by current health policy which we address and improve in the bill before us today.

H.R. 4567 proves, I think, that Members of Congress do listen to the concerns of their constituents and, when appropriate, work to find viable solutions. Several issues are addressed in this legislation.

Long ago our Nation made a commitment to care for the brave men and women who fought the battles to keep America free, and these are our Nation's veterans. As a veteran myself and a representative of a congressional district with a large veterans population, I am pleased that we have incorporated a Veterans Medicare Access Improvement Act into H.R. 4567. The Veterans Medicare Access Improvement Act will permit the Medicare program to reimburse the VA for care given to Medicare eligible veterans. The bill provides new health care options to veterans who have previously been shut out of the VA health care system, and it allows the VA to reach out to thousands of underserved veterans.

The home health issue is also addressed. Currently one out of every ten Medicare beneficiaries receives close to 80 home health visits per year. BBA 97 sought to address the over utilization of home health services by directing HCFA to create a prospective payment system for the home health industry by October of 1999. Initially HCVA was told to implement an interim payment system which would allow home health agencies to make the transition to the new prospective payment system. HCFA recently informed Congress, unfortunately, that it could not make the October 1, 1999, deadline, thus forcing home health agencies to live with the reimbursement policy which many believe is unfair and will cause numerous facilities to shut down. Through this bill we make the payments to both old and new home health facilities more equitable, thus creating a more even playing field for home health agencies across the country, and most important, we restore assurance to Medicare beneficiaries that they will continue to have home health care services.

Our home health reforms build on three simple and yet crucial principles: equity, resolving the arbitrary differences inadvertently created by BBA 97; transitional sensitivity helping home health agencies not only survive the interim payment system, but also place them squarely on the track for the impending prospective payment system and implementability guaranteeing that HCFA can immediately put into effect the reforms we authorize.

In closing, Mr. Speaker, I urge my colleagues to support the Medicare and Veterans Health Improvement Act.

Mr. Speaker, I reserve the balance of my time.

Mr. STARK. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Mr. Speaker, let me thank my friend for yielding me this time, and let me thank also the Chairman of our Subcommittee on Health for bringing forward this legislation. This is important legislation to deal with the home health care services in our community.

Mr. Speaker, last year we made a mistake, and now we need to correct it. We are moving towards implementing a prospective payment system for home health care providers, and that will reward efficiency and cost effective programs. We had anticipated that that new system would be in effect on October 1, 1999. We are not going to make that date. HCFA has made that clear. In the interim we have developed an interim payment system, and we tried to hold each provider somewhat harmless. But what we did was penalize cost-efficient programs by tying the interim payment system to historical costs. A program that already has a low number of per-patient visits and has got its cost down is discriminated against. We need to take steps to correct it. The legislation before us will correct that circumstance by allowing those programs that are below the national average cost to get a bonus payment by mixing the costs with their historical cost and what the average cost is in the Nation.

That makes sense. That will help many health care providers in our Nation.

In my own State of Maryland, where our costs are well below the national average because our number of patient visits on home health care services is below the national average we would be adversely impacted unless this legislation is enacted. We have far fewer number of providers per our population than most States, and yet if we do not enact legislation, Maryland, a cost effective state that is doing the right thing, we are in jeopardy, we are told, of losing 13 of our providers in our State that will not be able to make it unless we provide some relief.

So this legislation makes sense. We should take steps in order to deal with the interim situation until we can implement the perspective payment system, and I thank the gentleman for yielding me this time.

Mr. THOMAS. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON) a member of the Committee on Ways and Means without whose full participation, ideas and creative approaches to solutions we would not be here with this bill.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the gentleman for those kind remarks and thank the gentleman from California (Mr. THOMAS), the gentleman from Florida (Mr. BILIRAKIS), the gentleman from Texas (Mr. ARCHER) and the gentleman from Florida (Mr. BLILEY) for their hard work to bring this bill to the floor. Indeed the need is urgent.

I would remind Members that when we passed the Balanced Budget Amendment we anticipated slowing growth in the cost of home health services by $16 billion because of the law we wrote. But equally important, because of the administrative changes HCFA made on its own or failed to make to comply with the budget document and because the work of the work of the Inspector General's office, there has been an interaction on this critical service sector that CBO estimates now will take 26 billion out of these services. That is 10 billion more than we anticipated. Believe me, this is a critical industry under terrible distress, and it is our job to fix it.

So I strongly support this bill that does bring much needed relief to specifically low cost, high quality home health providers nationwide, and I want to state for the record that some home health agencies in my State of Connecticut are not only low cost, but according to a government conducted audit they are also virtually free of fraud and abuse. We have legitimate concerns about fraud and abuse in the home health industry. But the Yankee spirit that has kept home health costs low in Connecticut has also kept home health spending honest and home health services high quality.

Ultimately the interim payment system we passed last year penalizes efficient home health providers that have served the Medicare program by keeping their costs down. These are the very providers that we need to preserve in the system if we expect to keep Medicare spending affordable and Medicare operating well in the next century. This legislation will preserve our low cost providers, correct the problems of the past and enable us to establish a strong Medicare system that serves our seniors in the future.

Mr. Speaker, I want to thank Chairmen THOMAS, BILIRAKIS, ARCHER and BLILEY and their staff for their hard work on bringing this important bill to the floor today.

I support this bill because it brings much-needed relief to low-cost, high-quality home health providers nationwide. And I want to state for the record, that home health agencies in my home state of Connecticut are not only low-cost, but—according to a government-conducted audit—they are also virtually free of fraud and abuse. We have heard legitimate concerns about fraud and abuse nationwide in the home health industry, but the Yankee spirit that has kept home health costs low in Connecticut has also kept home health spending honest and home health services high quality.

Unfortunately, the interim payment system we passed last year penalizes efficient home health providers who have served the Medicare program by keeping their costs down. These are the very providers that we need to preserve in the system if we expect to keep Medicare operating in the next century. This legislation will preserve low-cost providers by increasing their rates during the transition to the new payment system.

The best solution for the long-term is to move home health care into a prospective payment system (PPS), where payments will based on the health needs of the patient and recognize those who need more intense services. The real tragedy of the current system is that we don't have the data necessary to build a system based on patient need. And the agency administering Medicare cannot accomplish this goal by the statutory date of October 1, 1999.

To prevent IPS, which is not adjusted for the severity of illness, from compromising the ability of important community providers to care for seniors and to ensure that the PPS will go into effect in a timely and accurate manner, this bill will reform IPS and require reports to Congress that will demonstrate progress on PPS development and account for all the resources used.

This bill also includes an important provision that will enable our veterans to seek Medicare-reimbursed services in veterans hospitals. This will strengthen our VA hospitals and open up accessible care for low income veterans.

I urge my colleagues to support this important bill and work to ensure that it passes before we adjourn.

Mr. KLINK. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, we are here today to fix some of the problems caused by the deep cuts in the Balanced Budget Amendment made in the Medicare home health care benefits. This is not a perfect bill. It is, first of all, not retroactive, it does not address the 15 percent cut scheduled for next year like the Democrat bill would have, and I really do not like the way it is paid for, but I support this bill today because I have heard from too many people in my district who are worried about the drastic impacts the interim payment system is having on the home health care providers and on the patients they serve.

I am going to support this bill because somewhere in this debate over how we should pay for home health care we are losing the focus on the seniors who need that home health care and who without it are going to end up back in the hospital or back in nursing homes. But for the life of me I do not understand why the costs of Medicare home health benefits vary so much from State to State and region to region; why, for example in my district, people who are treated by Nancy Dlusky in Greensburg, Pennsylvania, or Carol Rimer in Delmont, Pennsylvania, get on average only $2,300 a year while in other parts of the country for the same services people are being reimbursed 8, 10, 12 thousand dollars a year.

This is not a perfect bill, but it is a step in the right direction, and I hope that in conference we can perfect it even further.

Mr. Speaker, I reserve the balance of my time.

Mr. STARK. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. LEVIN).

□ 1230

Mr. LEVIN. Mr. Speaker, I thank the distinguished gentleman for yielding me this time.

The IPS, Interim Payment System, has been grossly unfair, grossly unfair to low-cost, cost-effective providers in States, especially States like Michigan. This is a step in the right direction.

But I want to express two hopes. Number one, this is not retroactive. A lot of very good, healthy, once healthy, home health agencies have been terribly hurt. I think our system should protect the cost effective and not assist those that are cost ineffective. So I hope if this bill gets to conference that we can look at that issue.

Also, the chairman of the subcommittee and I have talked about the entire bill. I hope we can take another look in the way we pay for this. I do not think we should mortgage the future to correct the past or the present. So I rise in support of this bill. It is urgently needed.

Mr. BILIRAKIS. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma (Mr. COBURN).

Mr. COBURN. Mr. Speaker, first of all, let me thank the gentleman from California (Mr. THOMAS) and the gentleman from Florida (Mr. BILIRAKIS) for addressing this issue.

There is no question, many things needed to be done to straighten out the problems in home health care. There are still problems with this bill. I am going to support this bill, and it is my hope that this will come through.

With the interim payment system, there is no recognition of the need for the chronically ill, dependent senior for home health. We need outlier protection for those firms who really take care of our seniors, who have proven that they will not dump a senior just because the money wears out.

Unfortunately, with HCFA and their administration of the Balanced Budget Act, not the amendment, but the act, the administration of that act has, in my State, penalized the best and helped the worst. This will go a long way towards changing that.

It, however, does not do anything with the 15 percent cut that is to go into effect October 1 of 1999, which has to be addressed if we are going to keep these firms viable and care for our seniors.

In closing, I have two people in my district that I would like to thank who have worked tirelessly, without ceasing, to try to solve some of these problems with great new ideas. Their names are Mark Lemmons and Steve Money. One is a former bank examiner, and the other is a former businessman. They are not home health care people, but they know costs, and they care for seniors. We have to make sure something happens on this before we leave this town.

Mr. KLINK. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, I am pleased to see that we are at least moving forward in an attempt to do something to correct the home health crisis.

New Jersey's home health providers are among the most efficient in the Nation; and, in my view, it is unfair to penalize those agencies for their efficiency.

I also want to address this 15 percent cut. As we know, the Balanced Budget Act, as everyone who has been affected by this problem knows, mandates a 15 percent across-the-board reduction to the per beneficiary caps in fiscal year 2000 if the prospective payment system is not ready by that time. We already know that it will not be. I would like to have a provision postponing that cut included in this legislation.

Mr. Speaker, 2 days ago, the gentleman from Michigan (Mr. DINGELL) and a number of my Democratic colleagues in the House introduced a bill that would reach the goal by reducing the enrollment cap on Medical Savings Accounts demonstration projects in the short term.

Reducing the enrollment cap on MSAs, moreover, makes even more sense when we consider that nobody has signed up for an MSA yet. It is my understanding the other body was working on a proposal that would include this reduction, and I hope we are successful on getting that postponement included. I think that is very important.

Mr. THOMAS. Mr. Speaker, it is my privilege to yield 2 minutes to the gentleman from Arizona (Mr. HAYWORTH), a member of the Committee on Ways and Means.

Mr. HAYWORTH. Mr. Speaker, I thank the Speaker and my colleague from California for the time and having the privilege to serve on two of the three committees with jurisdiction, both the Committee on Ways and Means and the Committee on Veterans' Affairs.

I am pleased to rise with the dean of our Arizona delegation and the chairman of the Committee on Veterans' Affairs, the gentleman from Arizona (Mr. STUMP), in strong support of this legislation.

As has been chronicled by people from both sides of the aisle with disparate views of the role of government in health care, we all agree today, Mr. Speaker, that this is an idea whose time has come, not only for the challenges confronting home health care, challenges that in and of themselves tend to make HCFA truly a four-letter word, if not an acronym, in terms of the administration and practical applicability of ideas, but also for those Americans who have worn the uniform of our Armed Services and served with distinction both in wartime or in peacetime, especially in a place like the Sixth Congressional District of Arizona, a district in square mileage almost the size of the Commonwealth of Pennsylvania.

This is historic legislation because it would permit the VA to establish service networks to provide Medicare-reimbursed care to service-connected or financially needy Medicare-eligible veterans for whom VA medical centers are geographically remote or inaccessible. While we are working to establish these service centers for these veterans, this is another tool that can be utilized to give these veterans flexibility and access to health care in their senior years.

For these reasons and many more too numerous to mention, Mr. Speaker, I would ask all of my colleagues on both sides of the aisle to join in strong support of this legislation.

Mr. STARK. Mr. Speaker, I am honored to yield 1 minute to the gentleman from South Carolina (Mr. SPRATT), the distinguished ranking member of the Committee on the Budget.

Mr. SPRATT. Mr. Speaker, I have long supported VA subvention, and I want to fix the home health care payment formula as much as anybody on the floor, although I am not sure this bill does much for home health care in my State.

I am sure of this, it deals a body blow to the deficit. This bill adds $6.9 billion in new spending over the next 10 years, $6.9 billion. It cuts revenues, reduces tax revenues by $4.9 billion. So it takes a whack of nearly $12 billion out of the budget, out of the surplus over the next 12 years.

Ironically, that is because the Roth IRA provision put in here as a "pay for" does save money over the first 5 years, $2.4 billion. But over the second 5 years, over the 10-year course of this bill, it loses nearly $5 billion, $4.9 billion. This is a shortsighted way to pay for the bill.

We would be better off to drop the Roth provisions altogether. It would save us a $5 billion hit on the surplus, and we would only have a $7 billion reduction. It is not the way to go if we want to save the surplus for Social Security or protect the fiscal situation that we have worked so hard to get ourselves into.

Mr. BILIRAKIS. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. LAZIO), another member of the subcommittee.

Mr. LAZIO of New York. Mr. Speaker, I want to begin by thanking the three chairmen of the subcommittees, the gentleman from Florida (Mr. BILIRAKIS), the gentleman from California (Mr. THOMPSON), and the full panel chairman, the gentleman from Arizona (Mr. STUMP), for their work on this and both sides on the aisle, quite frankly, for this critical piece of health care that helps Americans stay in their own home, protects families, keeps them together, builds stronger communities, gives seniors and those who are disabled, who are facing critical life choices the peace of mind of knowing that, if they are afflicted with a life-threatening disease, that the system will back them up.

This current reimbursement system clearly undermines, I think, the best of what home health care has provided. The current system reduces payments to New York home health agencies by nearly $130 million, including some of the most efficient and cost-effective home health care agencies.

The ultimate result is that New York seniors are threatened with losing their home health care. At a time when moms and dads are trying to live their retirement years in comfort, the current system undermines their peace of mind. With hard work and leadership from the Committee on Commerce, the Committee on Ways and Means and the Committee on Veterans' Affairs, I am pleased that this bill provides the peace of mind that our seniors need.

During the past year, I have worked with home health care providers in New York to save them and the care that they provide to our seniors. The new reimbursement system for home health care agencies which was developed in the Balanced Budget Act of 1997, the interim payment system, has unintentionally and negatively affected New York residents.

For example, in my district, Southside Hospital's Home Care Agency is expecting a loss of 31 percent this year. That means Southside will lose $1.2 million! The personal security of hundreds of seniors, my friends and neighbors, is threatened.

The New York home health care system is one of the most efficient home care industries in the nation. We are one of the best. Nevertheless, the current reimbursement system reduces payments to New York home health agencies by nearly $130 million in 1998!

The unintended result of this new system is that New York seniors are theatened with losing their health care. At a time when moms and dads are trying to live their retirement years in comfort, the current IPS system pulls the rug out from them. This is the reason why I have worked so hard to address this system and make changes to it to ensure that our seniors—our family, friends, and neighbors—can receive the care they deserve.

With hard work and leadership from both sides of the aisle, I am pleased that the legislation offered on the floor today provides about 1.5 billion dollars to home health care throughout the nation. Only with this money can seniors recover the quality health care they have earned.

The home health provisions before us are supported by the Health Care Association of New York State, the Home Care Association of New York State, and the esteemed Governor from New York.

The bill raises the per beneficiary cap for agencies that have maintained low costs. We should reward the efficient New York providers, not punish them. The bill does not pit agencies against one another. It does not pit one region of the country against another.

Now, Long Island providers will not have to shut down and force our seniors into institutionalized care.

This bill meets two of the loftiest standards of a civilized society—maintaining a senior's dignity—and keeping them active in their communitry during their golden years. The alternative is to penalize the most vulnerable in our society simply for growing old.

I urge my colleagues to vote for the Medicare and Veterans Health Improvement Act of 1998.

Mr. KLINK. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) who is a nurse, is well respected on matters not only on health care but a great many issues.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise in support of this bill and want to thank the leadership on both sides of the aisle for bringing it. I cannot support it wholeheartedly, however, without bringing a few things to my colleague's attention.

I am from a big State with lots of miles, and the new agencies that cover many of those remote-located patients will not be helped by this bill.

We also need to do something about the 15 percent slash that is due next year before that time. I want to associate myself with the remarks of the ranking member of the Committee on Banking and Financial Services, because that is the concern that I have.

While we are creating a tax loophole for the highest earners, which raises money in the short run, it will cost us billions and billions of dollars in the long run.

I do have some concerns. I know that we have an emergency and we do need this coverage, but we cannot let it go without making sure that there is time for correction.

Mr. STARK. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. MCGOVERN).

Mr. MCGOVERN. Mr. Speaker, for over a year now, there has been a small group of us who have been fighting to change the home health care provisions in the Balanced Budget Act; and I want to thank my colleague, the gentleman from Rhode Island (Mr. WEYGAND), the gentlewoman from Michigan (Ms. STABENOW), the gentleman from New Jersey (Mr. PAPPAS), and the gentleman from Oklahoma (Mr. COBURN) for their diligence and their determination to try to help fix this problem.

What we have today on the floor amounts, in my opinion, to a very important achievement. I want to publicly thank the gentleman from California (Chairman THOMAS) for bringing this bill to the floor.

This bill could most certainly be improved, but I commend my colleagues for bringing us this far in the process. I hope that we can work quickly with the Senate in these last few days and pass this bill out of Congress in a form that the President can sign.

I urge all my colleagues to support this legislation.

While there are many people that I would like to thank and recognize, I want to thank the people of Massachusetts who have educated me on this issue, the nurses, the doctors, the home health care agency owners and, most important, our Nation's seniors and the critically ill. I was invited into their homes and their workplaces and shown how important this Medicare benefit is in the lives of everyday people.

This Congress made a grave mistake in the Balanced Budget Act with regard to home health care, and this bill will help correct that mistake. I urge my colleagues to support it.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield such time as he may consume to the gentleman from New Jersey (Mr. SAXTON).

Mr. SAXTON. Mr. Speaker, I rise in strong support of the Medicare Home Health Care and Veterans Health Care Improvement Act.

Mr. Speaker, I am pleased to come here today to vote for the Medicare Home Health

Care and Veterans Health Care Improvement Act.

This bill takes a step in assisting efficient home health agencies around the country that were hit so hard by the Medicare Interim Payment System. The home health agencies of New Jersey have provided exemplary care to the seniors of our State while keeping their costs very low and should not have been unfairly penalized by IPS.

As always, I continue to support efforts to rid the Medicare system of waste, fraud, and abuse. IPS did not fairly address these problems. I do hope that at some time in the very near future, we can revisit this issue and identify and rid Medicare of such fraudulent practices which only hurt our seniors and the quality of care they receive.

Also, Mr. Speaker, while H.R. 4567 does offer much needed relief to the home health providers in my State, the effects of the IPS during FY98 have been extremely detrimental to them. I must request that retroactivity be implemented for low cost agencies as we continue this process.

Mr. Speaker, the 60,000 seniors who live in my district in New Jersey are united behind us and our efforts to fix the IPS.

Thank you Mr. THOMAS and Mr. BILIRAKIS for realizing the needs of cost-effective agencies.

Mr. KLINK. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Texas (Mr. GREEN) of the Committee on Commerce.

Mr. GREEN. Mr. Speaker, I rise in reluctant support of this legislation, although the veterans' benefit is the definite plus in the bill and makes it worthy in its own right. It is a shame that, after literally months of discussions and hours of meetings, this is the best we could do on home health care.

The best part of the bill is it will not hurt any home health care agency. Every agency that is affected by this bill will be helped; but in my State of Texas, very few of them will.

However, this bill does not address the looming 15 percent cut in payments to agencies that is right around the corner. It does not address the problems most agencies will face when they receive their demand letters from HCFA. So, despite our efforts today, many home health care agencies could be forced to close, only because HCFA did not notify of them of their IPS rate until as late as July.

Mr. Speaker, H.R. 4567 is not the home health care fix most of us had hoped for. But it is a start in the right direction, and I look forward to properly addressing all of the other problems the IPS has caused at the start of the next session of Congress.

Mr. STARK. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, home health care agencies that do a terrific job in serving some of the most vulnerable and frail people in the State of Vermont have lost substantial funding because of an absurd formula that was put in place last year.

This bill begins to address the inequities of that unfair formula and would increase funding for home care, home health care agencies in Vermont and throughout this country that are cost effective and efficient.

Unfortunately, the funding approach for improving this formula is not adequate; and my hope is that, in conference committee, it can be changed. But, most importantly, this is a step forward to addressing a real crisis in home health care funding that exists in Vermont and other States where agencies have been cost effective and efficient. I urge support for this legislation.

Mr. KLINK. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Massachusetts (Mr. MARKEY), a member of the Committee on Commerce.

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Mr. MARKEY. Mr. Speaker, this is a good bill; not perfect, but it is good.

My mother passed away in July afflicted by Alzheimer's for 10 years. We kept her in our home. My father, who is 87, tended to her every single day all day long for 10 years.

The only way that that was possible was for the home health care aide to give him some help in the course of each day. It is very difficult for people who want to tend to this population, which will number in the millions as each year goes by, as the baby boomers get old, for us to allow people who want to avoid the indignities of nursing homes, which my father wanted to do for my mother, because he wanted to honor her by keeping her in the house, in our house that she never left, except when she was hospitalized for diseases unrelated to Alzheimer's.

This bill is critically important for millions of families who want to offer the same kind of protections for their loved ones. I hope that it passes unanimously.

Mr. BILIRAKIS. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. STEARNS), a member of the subcommittee.

Mr. STEARNS. Mr. Speaker, this is very important legislation. We just have to hope and pray that it actually gets through the Congress this year.

Medicare-eligible veterans are too often shut out of the VA health care system, particularly if they are low-income and services-connected in the rural parts of this country.

This bill would, for the first time, enable Medicare-eligible veterans to bring their Medicare benefits to the VA. It is an important step to provide improved access and equity. Importantly, this bill can also reduce Medicare costs for the care of these beneficiaries.

Dealing with the home health care side of it, I share with the gentleman from Massachusetts (Mr. MARKEY) the same sentiments, because we cared for my mother in our home for over 10 years, too.

I support implementing the new IPS blend that is more equitable than the present system. Furthermore, new agencies must not be penalized and should receive treatment similar to other existing agencies. I note, of course, for my colleagues from Florida, it increases the home health care payment by at least 5 percent.

Medicare is a vast complicated program to begin with and the changes that will occur over the next few years are bound to compound the frustration and fear seniors already feel about this program.

I think we all recognize that home health care is vital to many of our Medicare recipients and nobody wants to see our seniors suffer needlessly. We all remember the many witnesses who testified about home health care organizations that had bilked the Medicare program out of billions of dollars. Our intention was to reduce unnecessary and fraudulent spending in home health. I believe we were right in setting out to rid the medicare program of fly-by-night organizations that cost the program money that could have been spent on taking care of the needs of seniors.

However, the Interim Payment System now in place is a disaster for rural areas and must be corrected. I support implementing a new IPS blend that is more equitable than the present system. Furthermore, new agencies must not be penalized and should receive treatment similar to that of existing agencies.

This bill addresses these problems by requiring the Secretary to report back to Congress by January 1, 1999 with a time line for implementation of the new system so that Congress will have an opportunity to weigh in and closely monitor its progression. Furthermore, the Administration is charged with making an alternative to the 15-percent reductions that will occur on October 1, 1999. Hopefully, we can alleviate some of the difficulties Medicare home health care beneficiaries have been experiencing for the past few months.

Finally, I would like to indicate my support for the portion of this legislation that was initially introduced as H.R. 3511. The bill will give HHS the discretion to determine, for example, whether allowing physicians to waive the Medicare copayment and deductible requirements for Medicare recipients who participate in particular health care program would open the door to fraud or abuse in the Medicare program. If not, HHS is authorized to issue an advisory opinion permitting the waiver of these requirements with regard to those services.

These provisions of the legislation are critically important to programs such as the National Eye Care Project (NECP), which provide critical health care services to American senior citizens. The National Eye Care Program is the largest and most sustained public service project in American medicine, and is currently sponsored by the Foundation of the American Academy of Ophthalmology and the Knights Templar Eye Foundation, Inc. The program currently has 7,500 participating volunteer ophthalmologists, who examined over 110,000 seniors since 1986. Of those examined, over 70% were diagnosed with an eye disease requiring follow-up care. The program has been recognized by the White House, multiple U.S. Senators and Congressman, the American Medical Association, and the American College of Surgeons.

The program works by matching callers to a toll-free Help line with one of the 7,500 volunteer ophthalmologists nationwide. The physician then provides a comprehensive medical eye examination and treatment for conditions diagnosed at the initial visit. Any financially disadvantaged senior who is a U.S. citizen or legal resident and has no access to an ophthalmologist is eligible to participate.

From the program's inception in 1986 until the passage of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), participating doctors could waive copayment charges and accept insurance reimbursement as payment in full. However, unfortunate technical language found in HIPAA restricted the NECP's participating doctors to waiving fees only for those in financial need. This has forced the NECP to add a means test to their Help line. This test asks questions that financially needy seniors may find embarrassing, such as 'does your financial situation prevent you from seeking eye care?' This means test has unfortunately led to a decrease in the number of seniors seeking care, and has turned away seniors that otherwise would have received treatment.

That's why the pending legislation is so important—it does nothing to dilute the tough anti-fraud and abuse provisions found in HIPAA, while giving the Secretary of Health and Human Services the authority to provide a common sense exemption from payment requirements for the NECP, or for other programs that benefit the public welfare.

Congress needs to allow doctors participating in the NECP to continue their work unhindered and to encourage seniors to utilize the program. More than 50% of all new cases of blindness each year occur in the elderly, at least half of which are preventable. Eye diseases are among the most debilitating and prevalent problems facing the elderly, many of which display no outward symptoms until irreparable damage to their eye sight is imminent.

Mr. Speaker, I urge my colleagues to support this important legislation.

This is important legislation for America's veterans. Medicare-eligible veterans are too often shut out of the VA health care system.

This bill for the first time would enable Medicare-eligible veterans to bring their Medicare benefits to VA. It is an important step to provide improved access and equity.

Importantly, this bill can also reduce Medicare costs for the care of these beneficiaries.–

Mr. KLINK. Mr. Speaker, I yield the remainder of the time to the gentleman from New York (Mr. ENGEL).

Mr. ENGEL. Mr. Speaker, I want to express my strong support for this home health care bill.

In April I introduced the Medicare Home Health Agency Efficiency Act, and I am pleased that H.R. 4567 addresses many of my concerns and, in the end, creates greater equity for all home health care agencies. I hope that we can in the next Congress and in conference continue to work on the problems that still face home health care agencies and my constituents. The current reimbursement system in New York penalizes the most efficient home care agencies and without this legislation, home care agencies in New York would have to close and deprive people of vitally-needed services.

I strongly support the concept of home health care. I have a story also. My father, before he passed away, we kept him in our home, and without home health care services, we could not have done this.

So I think this is a good first step, it is a good step in the right direction, and we need to keep on working on this problem. I commend my colleagues for doing this.

Mr. Speaker, I yield the remainder of my time to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I think it is a good bill, too, and I think we need to work on the IPS, and I would hope that we would be able to continue to work on the interim payments and work with the gentleman as well on his legislation.

Mr. STARK. Mr. Speaker, I am happy to yield 1 minute to the distinguished gentleman from Rhode Island (Mr. WEYGAND).

Mr. WEYGAND. Mr. Speaker, I want to thank the gentleman from California (Mr. STARK) for yielding me this time.

I also would like to take a moment to thank some of my colleagues who have been very helpful in putting this bill together and working together, and that is particularly the gentleman from Massachusetts (Mr. MCGOVERN), the gentleman from Oklahoma (Mr. COBURN), and, in particular, the gentleman from Maryland (Mr. CARDIN), and the gentlewoman from Michigan (Ms. STABENOW). We have all worked over the last year and a half to try to bring this bill to fruition.

Last year we made a horrible mistake in passing a budget that included an interim payment system that was intended to take away fraud and abuse from wasteful agencies, but it also did a terrible thing. It took the most efficient and effective agencies and cut them as well.

In my State I have seen VNAs go out of business. A VNA that was in business for 87 years serving the needy had to close its doors, others have laid off people, because of this interim payment system.

This past spring we were lucky to get an amendment through in the budget that put us in this direction. This is a good first step, and I compliment the gentleman from California (Mr. THOMAS) for bringing it before us today. But there are other parts of this that have not been addressed that we must address in the near future.

Retroactivity. The 1999 interim payment assistance was supposed to go into a PPS. I hope that we will address those; I hope that we will have a future for our needy people in the home health care system, and I ask my colleagues to support this.

Mr. STARK. Mr. Speaker, I yield 1 minute to the gentlewoman from Michigan (Ms. STABENOW).

Ms. STABENOW. Mr. Speaker, I would join with my friend from Rhode Island in thanking everyone who has been involved in this issue. But I also would join today with those who express great concern about the bill that is in front of us.

It has been said that there are no losers as it relates to home health care in this bill. The difficulty is, for me in representing my constituency in Michigan, there are also no winners in this bill.

It has been estimated that in Michigan almost half of our home health care agencies will no longer be able to serve Medicare patients by the end of this year, almost half of those who provide home health care now.

In Michigan, unfortunately, on average, this bill provides only $58.00 in additional home health care services, $58.00 to agencies that are already tremendously efficient providing quality home health care. This is not enough of a fix. This does not, in fact, stop the 15 percent cut for next year.

I urge the conference committee create a better solution so we can provide quality home health care into the future.

Mr. STARK. Mr. Speaker, I yield 1 minute to the gentleman from West Virginia (Mr. RAHALL).

Mr. RAHALL. Mr. Speaker, I thank the gentleman from California for yielding.

Mr. Speaker, I am not opposed to the improved payment system for kidney disease patients contained in this bill. Nor am I opposed to the commendable veteran benefits contained herein. I am, however, deeply concerned about the bill's home health provisions as many of my other colleagues have already expressed.

This bill that is masquerading as an appropriate remedy for the devastating effects of last year's BBA, which imposed an interim payment system on our Nation's home health care agencies, the only specialists we have who serve homebound disabled seniors, and the effect has been to drive thousands out of business and deprive seniors of adequate access to care to which they are entitled.

The home health care provisions of the BBA call for paying home health care agencies in 1994 dollars, and since January this year more than 1,100 have gone out of business or have been forced to stop serving Medicare patients because they cannot afford it.

The problem, Mr. Speaker, is pure and simple, that the Thomas bill, however well intended, is not the proper response to the Nation's home health care problem. It does no harm and it does no good, as has already been stated. It is paying mere lip service to the problem of the interim payment system, and I do hope we can address this in the next session of Congress.

Mr. BILIRAKIS. Mr. Speaker, I yield the balance of my time to the gentleman from New Jersey (Mr. PAPPAS), who has been a stalwart on this issue.

Mr. PAPPAS. Mr. Speaker, Judy Stanley and Steve Snyder approached me last December about an issue which prompted my introducing of H.R. 3567, gained 106 cosponsors and I have worked hard to find a solution to the problems the home health IPSs cause New Jersey and other states.

Let me thank the gentleman from Arizona (Mr. STUMP), the gentleman from Florida (Mr. BILIRAKIS) and the gentleman from California (Mr. THOMAS) and their staffs for all their hard work. I will support the compromise as a needed step to move forward but I am disappointed that the bill does not do more to improve the viability of low cost agencies.

This bill does not curb the spending patterns of older agencies that have had high costs. Addressing that issue is an important part of preparing the home health industry for perspective payment. It also does not address the automatic 15 percent reduction in reimbursement.

Finally, I am hopeful that the final product will contain retroactivity, which CBO has already scored as costing $200 million. Narrowly tailoring retroactive relief to low cost States or regions would reduce this cost even more. I encourage my colleagues to see if these remaining issues can be addressed in the final package and I urge my colleagues to support it.

Mr. STARK. Mr. Speaker, I yield myself the remainder of the time.

Mr. Speaker, I again join with many of my colleagues who support the tenor of the bill but have serious reservations about its budget implications. I would hope that if there is a chance to revisit this bill we can find a more sensible way to pay for it.

Further, I would like to, in the spirit of bipartisan suggestion, urge the distinguished chairman of the subcommittee, the gentleman from California (Mr. THOMAS), to hark back to the eighties when we tried in the Pepper Commission to develop a long-term care proposal.

Let no one make any mistakes. This growth in home health care has been generated by the lack of any ability to pay for long-term care in the Medicare system.

Rather than see the industry sneak a long-term care policy into the back door of acute care Medicare, we should honestly propose and debate a long-term care social insurance program. If it were fairly presented, with the problems in long-term care discussed, I think we could find a way to include it in the Medicare system rather than tinkering with ways to squeeze down the cost of home health.

Mr. Speaker, I yield back the balance of my time.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I include at this point in the RECORD a detailed explanation of the bill.

EXPLANATION OF H.R. 4567—MEDICARE HOME HEALTH AND VETERANS HEALTH CARE IMPROVEMENT ACT OF 1998

TITLE I. MEDICARE HOME HEALTH CARE INTERIM PAYMENT SYSTEM REFINEMENT

Current Law

Section 4602 of the Balanced Budget Act established interim payments for Medicare home health care agencies until implementation of the Prospective Payment System on October 1, 1999. Agencies are currently paid their costs up to two limits. The limits are applied when an agency settles its cost report with Medicare. The first limit—the per visit limit—is based on the mix of visits the agency provided to Medicare patients during the year. The per visit limits are based on 105 percent of the median costs by category of services. The second limit—the per beneficiary limit—is based 75 percent on an agency's historical cost per beneficiary and 25 percent on the average per beneficiary historical costs for the region in which the agency is located (both are reduced by 2 percent and are adjusted by the home health market basket). Agencies whose first full year cost report began after October 1, 1993 receive the national median of the per beneficiary limits.

Explanation of Provision

The bill contains a modified version of H.R. 4567. The amendment would increase the per visit limits to 108 percent of the national median costs. In addition, the amendment would increase the per beneficiary limit for many agencies. For those agencies whose per beneficiary limit is below the input price adjusted national median limit, the beneficiary limit would be increased by one half of the difference between the agency's per beneficiary limit and the input price adjusted national median limit (without the two percent reduction). Home health agencies whose first full cost report began on or after October 1, 1993 and before October 1, 1998 would receive a new beneficiary cap. The cap would be equal the greater of (1) the national median limit, without the 2 percent adjustment, and (2) a new blended payment equal to 50 percent of the payment established under the Balanced Budget Act and 50 percent based on a new blend. The new blend would be equal to 75 percent of the national median and 25 percent of the regional mean—both decreased by two percent.

Home health agencies which began treating Medicare patients on or after October 1, 1998 would have per beneficiary limits equaling 75 percent of the input price adjusted national median limit, minus two percent. In the case of a home health care agency or home health care branch which existed as of September 15, 1998, the 75 percent of the national median rule would not apply if that branch subsequently becomes a subunit of its parent or a separate agency. Rather, the parent agency's limit at the time the branch becomes a subunit or a separate agency would be used. These changes would have no impact on the Medicare part B monthly premium.

The bill also would require the Secretary of Health and Human Services to submit to Congress a report describing (1) all of the research to date on the development of a prospective payment system for Medicare home health services, (2) a schedule for implementation of the BBA mandated prospective payment system, and (3) the Secretary's recommendations for one or more alternatives to provide savings equal to the estimated savings from the 15 percent reduction in payment limits scheduled for fiscal year 2000. The Medicare Payment Advisory Commission (MedPAC) would be required to submit a report to Congress no later than 60 days after the date that the Secretary submits her report. In addition, MedPAC would have to include in its June 1999 report an analysis of whether changes in law made by the Balanced Budget Act and amended by this section, impede access to home health services. The General Accounting Office would be required to conduct an audit of the Health Care Financing Administration's expenditures for research related to the development of a prospective payment system for Medicare home health care services.

Reason for Change

The Medicare home health care interim payment system per beneficiary limits are based on one year of historical cost data (from cost reporting period ending in fiscal year 1994). The rates are based on a blend of agency-specific data and regional data. While this blending reduces some of the variation among agencies, there still exists a more than ten-fold difference between the per beneficiary limits across agencies. Some agencies with very lost historical costs have difficulty responding to changes in the mix of patients. This bill would assist the lowest cost agencies by increasing the per beneficiary limits for the agencies below the national median limit. In addition, the amendment would help decrease some of the differences between old and new agencies within a region.

Because of the Administration's recent announcement of a delay in implementing the prospective payment system on October 1, 1999, as required in the Balanced Budget Act, there is considerable concern about the impact of this delay on agencies and beneficiaries receiving home health care services. In order to ensure accountability, the Secretary would be required to report back to Congress by January 1, 1999 with a detailed time line for implementation of the new system so that the progress may be carefully monitored by the Congress. The Administration would also be required to propose recommended alternatives to the 15 percent across-the-board reduction in rates that will occur on October 1, 1999 because of the PPS implementation delay.

Effective Date

Medicare home health agency cost reporting periods beginning on or after October 1, 1998.

TITLE II. VETERANS MEDICARE ACCESS IMPROVEMENT MEDICARE HOME HEALTH CARE INTERIM PAYMENT SYSTEM REFINEMENT

Current Law

Current law generally prohibits other government agencies from receiving reimbursements for providing Medicare-covered services to Medicare-eligible veterans. In general, Medicare does not pay for services furnished by a federal provider of services or other federal agency. The law has thus generally barred payments for services provided to military retirees at Department of Defense (DoD) facilities and for services provided at VA hospitals and clinics. Subvention is the term given to proposals which would permit the U.S. Department of Veterans Affairs to receive reimbursement from the Medicare trust funds for care provided to Medicare-eligible beneficiaries at VA medical facilities.

The Balanced Budget Act of 1997 (BBA 97, P.L. 105–33) authorized a 3-year demonstration project at six sites under which the Secretary of HHS will reimburse the Secretary of DoD from the Medicare trust funds for services furnished to certain Medicare-eligible military retirees and dependents. The demonstration project is to be established through an agreement entered into by the Secretaries. The Balanced Budget Act of 1997 required the Secretary of HHS and VA to jointly submit to Congress a detailed implementation plan for a subvention demonstration project for veterans.

Explanation of Provision

The bill contains the text of H.R. 3828. The amendment would amend Medicare law by adding a new Section 1897 to the Social Security Act—"Improving Veterans' Access to Services." The bill would establish a subvention program for low-income veterans and a demonstration project for other veterans so that the Department of Veterans Affairs may offer certain veterans comprehensive Medicare health care services. Section 1897 would authorize VA subvention in certain circumstances. Subvention is the term given to proposals which would permit the Department of Veterans Affairs to receive reimbursement from the Medicare trust funds for care provided to Medicare-eligible beneficiaries at VA medical facilities. The bill specifically aims at helping vulnerable veterans—known in veterans parlance as "Category A" veterans—who have either low income or a service-connected disability. The bill also creates a three-year demonstration project to test subvention for other veterans—known as "Category C" veterans—who are not low-income or service-disabled.

The bill would create a Medicare subvention program for Category A veterans but limits Category A subvention to three sites for the three years. If the Category A subvention meets certain criteria, then the subvention program may be offered on a national basis. The amendment provides that Medicare payments for the Category A be capped at $50 million in the first year, $75 million in the second year and $100 million in the third. The amendment would also create a Medicare subvention program for Category C veterans (all other veterans) but limits Category C subvention to three sites for three years. The amendment provides that Medicare payments for Category C will be capped at $50 million per year for three years.

The bill would require the VA to maintain its current level of services to Medicare-eligible veterans and provides that the Secretary of Health & Human Services and the Secretary of Veterans Affairs must monitor expenditure levels during the project in relation to expenditures that would have been made but for subvention.

The bill has provisions which are designed to hold harmless the Medicare Trust Fund, including: (1.) The VA would be paid a discounted rate from the customary Medicare managed care payments (to make up for VA's lower administrative costs); (2.) The VA would be required to institute modern data systems to track the costs and services provided to Medicare-eligible veterans; (3.) The VA would be required to maintain the same level-of-effort that it now provides to Medicare-eligible veterans; (4.) The VA's subvention services would be audited by the Comptroller General and the Inspector General.

Effective Date

The Category C demonstration project could begin as early as January 1, 1999 and end on three years after the commencement. The Category A program would begin on January 1, 2000 at the designated sites.

TITLE III. AUTHORIZATION OF ADDITIONAL EXCEPTIONS TO IMPOSITION OF PENALTIES FOR CERTAIN INDUCEMENTS

Current Law

Current law prohibits medical facilities from making improper inducements in order to attract patients. Because of this, medical facilities have scaled back financial assistance programs which help patients, (e.g., programs to pay patient Medicare Part B and Medigap premiums) lest these programs be construed as improper inducements.

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) contained a number of provisions designed to toughen fraud and abuse enforcement. One provision—Section 231(h)(1)(C)(5) of HIPAA—prohibited medical facilities from offering patients any kind of inducement to receive services from any particular medical provider. This provision was designed to prevent kickbacks which the Inspector General reported was occurring in some circumstances.

Explanation of Provision

The bill contains the text of H.R. 3511. The amendment would affect the HIPAA provision in several ways: First, the Inspector General of the Health and Human Services Department could create exceptions—known as "safe harbors"—to the fraud and abuse rules so as to exclude specific practices from the HIPAA provisions. Second, the bill would allow medical facilities to obtain advisory opinions from the Inspector General. These opinions would provide legal and regulatory guidance to medical facilities as to whether payment of coinsurance or other premiums violates HIPAA's fraud and abuse provisions. Finally, the bill would also give the Secretary of HHS interim final rulemaking authority which would speed up the process whereby these safe harbors and advisory opinions become effective.

Reason for Change

Prior to the enactment of HIPAA, specialized medical facilities, such as dialysis centers, operated programs to help their patients afford medical treatment. Examples of these programs included paying patients' Medicare Part B premiums; giving patients free eye-glasses and other services designed to assist patients. The effect of the HIPAA fraud and abuse provision was to discourage medical facilities from offering programs to help patients lest these programs be seen as inducements for patients to receive services from the particular medical facility. This bill gives the Inspector General the authority to make exceptions and to establish safeguards which would permit an exception to the HIPAA provision.

Effective Date

Upon enactment.

TITLE IV. EXPANSION OF MEMBERSHIP OF THE MEDICARE PAYMENT ADVISORY COMMISSION

Current Law

The Balanced Budget Act of 1997, Public Law 105–33, established the Medicare Payment Advisory Commission (MedPAC) as a result of merging two commissions, the Prospective Payment Advisory Commission and the Physician Payment Review Commission. MedPAC, like its predecessors, is a nonpartisan commission which advises Congress and makes recommendations regarding Medicare payment policies.

Section 4022 of the Balanced Budget Act detailed the criteria for membership on the Commission: The membership of the Commission shall include individuals with national recognition for their expertise in health finance and economics, actuarial science, health facility management, health plans and integrated delivery systems, reimbursement of health facilities, allopathic and osteopathic physicians, and other providers of health services, and other related fields, who provide a mix of different professionals, broad geographic representation, and a balance between urban and rural representatives.

MedPAC commissioners are appointed by the Comptroller General and serve terms of three years. The Balanced Budget Act authorizes the Commission to have fifteen commissioners.

Explanation of Provision

The bill contains the text of H.R. 4377. The amendment would add two commissioners to MedPAC.

Reason for Change

The addition of two commissioners would enable the commission to reflect more fully the diversity of backgrounds and interests in the health policy community. Expanding the number of commissioners would not only allow for a greater range of professional expertise but also a more diverse representation from various parts of the country.

Effective Date

May 1999.

TITLE V. REVENUE OFFSET

Current Law

Taxpayers (single or married) may roll their "traditional IRA" over into a "Roth-IRA" if their adjusted-gross-income (AGI) does not exceed $100,000. Married taxpayers, filing separately, cannot roll their traditional IRA into a Roth-IRA.

Explanation of Provision

The bill would allow single taxpayers with adjusted gross income of $145,000 and married taxpayers with AGI of $290,000 to roll their traditional IRA into a Roth-IRA. Married tax payers, filing separately with adjusted gross income of $145,000 could also do a Roth rollover.

Reason for Change

The current rules impose unwarranted restrictions on taxpayers based merely on their marital status and thus prevent certain taxpayers from adequately providing for their retirement years.

Effective Date

Distributions after December 31, 1998.

Mr. Speaker, I can assure the Members no one is more aware of the modest scope of this bill than I am. It is a very modest correction to the interim payment system. Included in the bill is a request that the secretary provide us with some offset proposals for the 15 percent reduction that I know concerns a number of individuals. It is clear it does not take care of the home health care problems. It does not address long-term care concerns.

The Medicare Commission is currently examining those chronic concerns that face seniors today and all Americans tomorrow. Ongoing oversight of the Health Care Financing Administration is absolutely critical.

This is a modest proposal on the interim payment system. We will continue to examine the changes that are occurring in the home health care industry, but for the veteran subvention, for the modest protection for the end-stage renal disease individuals, for the expansion of the MedPAC Advisory Board, I would ask for an aye vote.

Mr. GUTIERREZ. Mr. Speaker, I rise today in support of the Veterans Programs Enhancement Act of 1998. I commend Chairman STUMP and Ranking Member EVANS for their tireless effort in producing this important legislation.

I also compliment the staff of both the House and Senate Veterans' Affairs Committees. Their hard work and dedication to our veterans has made this legislation possible.

People outside of this building are often unaware of the vital role staff play in the legislative process. They should not be. Our veterans should know how hard the veterans committee staff works for them each day. I hold this bill up as testament to their efforts.

Mr. Speaker, for much of this year I was not sure what this Congress would be able to accomplish on behalf of our nation's veterans.

I would venture to say that this Congress's record on veterans issues has been mediocre at best. Funding for veterans health care was cut again, medicare subvention was not achieved and veterans benefits were slashed to fund highway construction.

But in the end, with the passage of this legislation, we will be able to point to some notable achievements on veterans issues this year.

With this bill, we establish a precedent for the presumptive treatment and compensation of Persian Gulf War veterans.

I have long felt that we must give our Gulf War veterans the benefit of the doubt when it comes to health care and service connection. This bill helps us reach this goal that I have long called for.

In addition, this legislation helps prepare us to provide quality treatment for the veterans of future conflicts.

We were unprepared for the aftermath of the Gulf War.

However, by establishing a National Center for the Study of War-Related Illnesses, this bill helps prepare our veterans health system for the aftermath of future conflicts.

This bill also extends the VA's authority to treat the medical problems afflicting Gulf War veterans until 2001. We know we are not through dealing with the health problems confronting Gulf War veterans and I am pleased to see this fact recognized in this legislation.

The VA's sexual trauma treatment program, a program that I have advocated for throughout this session, is also reauthorized by this bill. During the past two years, the reality of sexual abuse and harassment of women in the military has come to light. It is only right that we maintain the VA's capacity to offer the victims of these crimes the treatment they need and deserve.

In addition, I am also pleased by this bill's provisions regarding educational opportunities, housing and medical construction at veterans hospitals. The reforms contained here are necessary and well-intentioned and should contribute to the welfare of veterans throughout America.

I am proud to support this bipartisan bill. And I urge my colleagues in the House to support this legislation as well.

Mr. ADAM SMITH of Washington. Mr. Speaker, I would like to take this opportunity to express my strong support for making changes to the home health care interim payment system (IPS). As part of the $16.2 billion in savings from home health over five years, the Balanced Budget Act of 1997 created an interim payment system to serve as a bridge until the prospective payment system could be implemented. While the interim payment system was designed to cut costs and reduce fraud, it has unfairly punished the efficient home health agencies throughout the country, including those of Washington state.

In the 1980s, the federal government promoted home care as a way to improve the health care situation in the United States. Using home care services reduces hospitalization, cuts the demand for expensive nursing homes, eases the burden on family caregivers and is proven to help sick people get better faster. Increased use of these services has helped make the health care system more efficient and better for consumers. While home health services have improved health care for many individuals, Congress could not ignore the increased costs and fraud in the home health system in recent years, and we acknowledged changes need to be made. Unfortunately, Congress did not make the correct changes in the process.

My primary concern with the changes in the Balanced Budget Act of 1997 relating to home health care payments is that in interim payment system disproportionately punishes areas of the country where home health patients are served efficiently. Washington state has been especially effective in their use of home health care. The state's home health care systems is one of the most efficient in the country. The typical home health patient in Washington state uses only about 34 visits per year, which is less than half of the national average. Efficient agencies should be rewarded, not punished, under the new system and I believe Congress must fix the changes they made as part of the BBA to assure we do not unfairly punish those who have done their job well.

I strongly support this bill because I believe it is a good step in the right direction for addressing the problems in the home health interim payment system. I feel we must continue to address this issue in the future to assure we are not punishing the home health agencies that provide services efficiently.

Mr. MORAN of Kansas. Mr. Speaker, I rise today in support of H.R. 4567, the Medicare Home Health Care Improvement Act. Last year's changes to Medicare made across the board cuts to home health funding that have been devastating to many agencies and their patients, particularly in states with the lowest historical costs.

Mr. Speaker, this legislation would provide critically needed relief for our seniors needing home health care. In my home state of Kansas, a number of agencies have already closed their doors. For the seniors that I represent in rural areas and smaller communities, the loss of their home health agency, too often means the loss of critical services.

While this legislation is not a perfect solution, it represents an important step. We simply cannot afford to close this session of Congress without addressing the dire circumstances facing our seniors. I urge my colleagues to support this legislation.

Mr. DUNCAN. Mr. Speaker, I feel that there are segments of the healthcare community that are under-represented on the Medicare Payment Advisory Commission (MedPAC).

Specifically, there is a notable lack of input and expertise from the medical supply industry. These manufacturers must overcome technological and clinical challenges during the development, production, and distribution of medical supplies. I believe that the insight derived from this market experience supports the appointment of someone from the medical supply industry to the MedPAC.

I am told that 25 to 30 percent of the current cost of Medicare involves medical supplies. Since MedPAC will review and make recommendations to the Congress concerning Medicare payment policies, I think it is clearly prudent to have this segment of the healthcare industry represented in any future appointments.

Also, if MedPAC is to make recommendations on procurement issues, including the impact and cost of competitive-bidding for effective medical products, it is appropriate to ensure that someone from the medical supply industry serve as a MedPAC commissioner. Although I do not wish to amend the bill to require representation of any specific industry, I do want to recommend that consideration be given to the appointment to MedPAC of a recognized professional from the medical supply industry.

Mr. MENENDEZ. Mr. Speaker, the Balanced Budget Act of 1997 put the home health care industry on a prospective payment system, and set up an interim payment system for agencies until the prospective payment system could be fully implemented.

Unfortunately, those home health agencies which have historically been fiscally responsible in their administration of federal dollars have been penalized for good program management.

In my state of New Jersey, the home health industry has been aggressive in its management of resources. New Jersey's annual average for visits per beneficiary served is only 39.7. The national average is 66 visits per year, and some states have numbers as high as 125 visits per beneficiary! So the message has been that it doesn't pay to be prudent with federal dollars.

HCFA's regulations have not so much penalized those states which have had excessive costs as they have mandated that all states—including those states with the lowest number of beneficiary visits—bear the financial costs in an across-the-board distribution of the effort to rein in the costs for this industry.

The bill we are adopting today, H.R. 4567, is a step in the right direction. However, there is a basic sense of fairness which is missed in the "hold harmless" provisions. It is my sincere hope that as this bill is conferenced some measure of equity is brought into the negotiations which will recognize the efforts of those states which have been in the lowest 20 percentile of costs in the home health care industry. If they are not rewarded for their prudent handling of this program, they should at the very least not be penalized.

Mr. BLILEY. Mr. Speaker, I rise in support of the Medicare Home Health Care and Veterans Health Care Improvement Act, H.R. 4567. This measure is a monumental step forward in expanding quality health care coverage to millions of Americans.

This legislation is the result of a true cooperative spirit between the Commerce and Ways and Means Committee, and would like to personally thank Chairman ARCHER and Congressmen BILIRAKIS and THOMAS for all their hard work on this effort.

While there are a number of important provisions in this bill, I would like to focus solely on two—home health care and VA subvention.

First, nearly one out of every ten Medicare recipients receives home care, with an average of 80 home health visits each. In the Balanced Budget Agreement of 1997, Congress and the Administration sought to restrain the growth in these costs by going to a prospective payment system.

However, before this plan could be implemented, HCFA had to implement a supposed "short term", or interim, payment system that would help the agency and the industry move to this new billing system. Unfortunately, HHS and HCFA have failed to implement a policy that is equitable to all home health agencies.

Our bill recognizes the importance of this benefit to our nation's elderly, while reaffirming our commitment to the Balanced Budget Agreement.

Our home health reforms build on three simple, yet crucial principles:

(1) equity, resolving the arbitrary differences inadvertently created by the Balanced Budget Act of 1997;

(2) transitional sensitivity, helping home health agencies not only survive the interim payment system but also place them squarely on the track for the impending prospective payment system; and

(3) implementability, guaranteeing that HCFA can immediately put into effect the reforms we authorize.

Secondly, all of us understand and appreciate the importance of maintaining our nation's commitments to our nation's servicemen and women, and there is no stronger commitment made to our veterans than the guarantee of quality health care.

By allowing Medicare-eligible veterans to use their Medicare benefits in VA facilities, we are not only helping veterans get their care when and where they feel most comfortable, but we are also helping the VA reach out to those veterans who have fallen through the cracks or are under-served.

In closing, the Medicare and Veterans Health Improvement Act is a major step forward for our nation's seniors and they deserve no less than the fullest measure of our support.

Mr. Speaker, I ask my colleagues for their strong support of this legislation.

Mrs. ROUKEMA. Mr. Speaker, I rise in support of this legislation which moves us in the right direction for saving home health care in New Jersey. Yet, I do wish we could do more.

The proposed Medicare interim payment system would have the effect of punishing the efficient, low cost home health providers. This proposal before us today will help soften that blow by adjusting the per beneficiary limit.

THE PER-BENEFICIARY LIMIT

One of the flaws with the proposed interim payment system policy was in the formula to calculate the per beneficiary limit. Because reductions are made based on agency specific data and regional average costs, expensive agencies who are driving the increase in growth and costs in this industry continue to function at a much higher rate than that of more efficient and less costly ones.

In New Jersey this would mean that New Jersey would receive a reimbursement less than that of the national median.

This bill before us today would bring up those states that are below the national median limit, closer to that national median.

RETROACTIVITY

But I do wish that we could make this legislation retroactive. By not making this legislation retroactive we have left agencies to work under the great financial burdens caused by the interim payment system.

I do hope that we can move this bill forward, but we do still have some work to do.

Mr. BEREUTER. Mr. Speaker, this Member rises today as a co-sponsor and strong supporter or H.R. 4567. When Congress passed the Balanced Budget Act last year, we made some very important changes to Medicare that will insure its availability for seniors well into the next century. However, Congress went a little too far in the area of home health. In an attempt to eliminate the waste, fraud and abuse that did exist in the home health care industry, the Medicare interim payment system, which was created last year, instead hurt some of the most cost-conscious agencies that have worked hard over the years to keep costs low.

For example, one of the home health agencies in this Member's district in Beatrice, NE, was told earlier this year by their intermediary that under IPS they would receive a Medicare reimbursement limit of about $1,600 per beneficiary. That's over $700 less than the regional average of $2,341 per beneficiary, and $2,200 less than the national average reimbursement per beneficiary of $3,862. A reimbursement limit of $1,600 a year is simply not enough money in many cases where a home health agency needs to treat a disabled, elderly individual. To make matters worse, the only other home health agency in the town of Beatrice went out of business this summer, mostly due to its low Medicare home health reimbursement rate.

Even worse, HCFA has announced that they cannot implement a permanent, perspective payment system by their October 1, 1999, deadline because of their Y2K problems. Therefore, under current law, home health agencies will not face an additional reduction of 15 percent in their per-beneficiary reimbursement. Under this system, home health agencies, especially those in rural areas, will go out of business—this unfortunate situation will occur in areas of many States, including Nebraska, with the end result being that these areas will have no home health services available. Under this system, Medicare beneficiaries will suffer.

H.R. 4567 begins to correct the problem with the interim payment system and will allow these agencies to stay in business until a prospective payment system is implemented. It increases the per beneficiary reimbursement to those agencies whose limit is below the national median limit—which will help almost every agency in this Member's district. It also directs HCFA to send Congress a report on its progress, if any, on implementing a prospective payment system. Finally, H.R. 4567 asks the Secretary of Health and Human Services to help Congress find a way to prevent the 15 percent reduction in payment limits scheduled for October 1, 1999.

Mr. Speaker, this Member cannot emphasize enough the importance of passing legislation that will correct the flaws of the IPS. Congress must pass legislation before the end of this session in order to save the hundreds of home health agencies all over the country that will no longer be able to provide care next year if the current payment system is allowed to remain in place. This Member asks all of his colleagues to support this critical measure for all of the elderly constituents receiving home health in their district.

Mr. RODRIGUEZ. Mr. Speaker, I would like to support H.R. 4567 with enthusiasm. This bill on its surface aims to improve veterans health and correct serious deficiencies in our home health reimbursement system. Unfortunately, at least in the home health area, the bill falls woefully short of its stated goal.

For veterans this is the first effort to implement VA-Medicare subvention, which has been sought by veteran's service organizations for years. This legislation would allow veterans who are covered by Medicare to receive treatment at VA facilities. I support subvention and am a co-sponsor of legislation to bring this overdue option to veterans. We own our veterans quality health—for this reason I will vote for this bill today.

However, this bill falls FAR short of addressing the real need of our communities that rely so heavily on the home health care industry. Home health fills a much needed void for my for my community where very few hospitals exist and nursing home have been closed. How can we expect our elderly Medicare beneficiaries in rural communities to survive when a handful of home health agencies are closing everyday? I have no idea how my constituents are expected to survive. Many of the Medicare beneficiaries that utilize home health have already been told they will not longer receive care and have been left to the hands to fate.

This bill fails to address the pressing problems created by the faulty interim payment system (IPS) and further address the failure of the Health Care Financing Administration to recognize the need in rural communities for such care. HR 4567 fails to recognize two key provisions: the need for retroactivity, and the automatic 15 percent reduction scheduled for this year.

It is a shame that we are not able to bring a bill to the floor that addresses the heart of the home health crisis—access to health care for our elderly. The Republican leadership has failed our elderly by not recognizing that more needs to be done and that it needs to be done now. Our only hope is that REAL changes will be made in the conference version of this bill. If not, we will all surely go home from this session hanging our heads low, knowing that we have not really solved the matter. Instead we have pretended to acknowledge it and then walked away.

Mr. ROTHMAN. Mr. Speaker, I rise today in support of H.R. 4567. I am pleased that this bill includes the text of H.R. 3511, and urge my colleagues to vote in favor of this important legislation. H.R. 3511 is one of those bills that, though technical in nature, can be critically important for those that it may affect.

In fact, for some older Americans, this legislation will mean the difference between spending the remaining years of their lives struggling to overcome the handicap of blindness and having the benefits and opportunities of sight.

H.R. 3511 can make a difference in the lives of our senior citizens because it grants to the Secretary of Health and Human Service (HHS) the discretion needed to allow programs such as the National Eye Care Project (NECP) to provide eye care to all elderly Americans at no out-of-pocket cost to those that it serves. Under current law, ophthalmologists who participate in the National Eye Care Project are required to charge each patient all of the copayments and deductible specified by Medicare—unless, of course, that patient is determined to be finally disadvantaged and lacking the means to pay for medical eye care.

The problem is that many senior citizens will decide not to see an eye doctor if they must answer such intrusive questions as whether making the Medicare copayment would mean they are "unable to afford food" or "be forced to put off paying for such expenses as food, housing, transportation and prescription medication." Others who are not "financially disabled," as defined by Medicare, do not believe they can afford the copayments and deductibles, and therefore decide to defer a visit to the eye doctor for another day. Unfortunately, with some eye diseases, a delay of even a few weeks can lead to irreparable damage, and even blindness, which could have been avoided with timely care.

The National Eye Care Project was established by the Foundation of the American Academy of Ophthalmology in 1986 to address this problem. Through a toll-free Helpline, seniors can receive information about common eye diseases and, if eligible, get a referral to one of the approximately 7,500 volunteer ophthalmologists across the country who provides eye care to those in need.

Prior to enactment of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and the NECP could advertise that it would provide this care "at no out-of-pocket cost" to those who need it, and seniors seeking care were not required to answer intrusive questions about whethr they could afford to make Medicare copayments. However, HIPAA made this approach illegal by prohibiting the waiver of Medicare copayments without a case-by-case determination of financial need.

H.R. 3511 will remedy this situation by giving the Secretry of Health and Human Services the discretion to allow a program such as the NECP to waive Medicare co-payments for all participants. HHS would not, of course, make such a determination for the NECP of other programs if it could not establish that granting a waiver would not create a loophole for fraud and abuse in the Medicare program. Combating fraud and abuse was the original objective behind HIPAA restrictions.

In conclusion, Mr. Speaker, H.R. 3511 is important legislation that can lead to significant benefits for our senior citizens. I urge my colleagues to vote for this legislation.

Mr. PORTMAN. Mr. Speaker, I rise in support of H.R. 4567, the Medicare Home Health Care and Veterans Health Care Improvement Act. Home health care is a vital service for Medicare beneficiaries that provides patients with peace of mind by allowing them to stay in their homes during their golden years. Without this service, many individuals would be forced into more expensive assisted living facilities or nursing homes.

The bill is necessary because HCFA has told us that, as a result of the Y2K computer problem, it cannot implement the prospective payment system for home healthcare by October 1, 1999 as required by the Balanced Budget Act. This means home health agencies, through no fault of their own, will be hurt by the interim payment system and will continue to be paid under it longer than Congress intended. This unfortunate situation threatens the very existence of many agencies, including some from my Congressional district that have been responsible and have operated efficiently to keep their costs down.

H.R. 4567 is designed to provide needed relief to such agencies under the interim payment system while HCFA sorts out its computer problems. I agree with those agencies that feel additional measures are needed, but that just isn't possible under our current budget constraints. The real solution is for HCFA to redouble its efforts to implement the PPS without further delay. In the meantime, H.R. 4567 will help agencies get through this difficult period.

I urge passage of this bill to ensure that agencies can continue to offer essential health care services to seniors in southwest Ohio and around the nation, and I call on HCFA to do whatever it takes to see that agencies can get out of the interim payment system as soon as possible.

Mr. STARK. Mr. Speaker, this bill is nothing more than a tax break for the wealthy disguised as a Medicare bill. It's a perk for Members of Congress who, along with their spouses, will not be eligible for new tax shelter—Roth IRAs.

We have had no chance to study the home health proposal. Relative to the bill reported out of Ways and Means, it moves money toward new, for-profit agencies, who have been the cause of the home health funding crisis. Many of these agencies have been the very definition of fraud, waste, and abuse.

The health policy in this bill is not as good as the policy in the bill reported from Ways and Means—but it is not bad.

What is horrendous, what is totally unacceptable is the pay for and the budget implications! This bill loses $10.7 billion over 10 years. It is absurd, but true that the Treasury would be better off if the Majority did not try to pay for the bill! With this bill, you are spending the surplus. You are creating a tax loophole for the very upper income, that will cost billions and billions in the out-years—just when we will need the money to save Medicare and extend its life. This proposal is poor tax policy and poor budget policy. We should be saving the surplus for Medicare—not spending it to please some for-profit home health agencies that have been abusing the program. Between now and 2008 when the Medicare Trust Fund will be exhausted, we will need about $325 billion—yet this bill gives away billions and adds to that pending crisis.

Over the next 5 years, Medicare will spend about $1.1 trillion. You would think that we could find zero-point-two (0.2) percent out of current Medicare spending. There is a National Bipartisan Commission on the Future of Medicare that is trying to save Medicare for future generations, but if we can't find 0.2%, and give away billions of dollars that could be saved for Medicare, what does that say about the worth of that Commission? The Majority's pay for will undoubtedly run into budget rules in the Senate, and will be opposed by the Administration. To offer such a pay for smells like a poison pill.

Mr. BONILLA. Mr. Speaker, I rise today in support of H.R. 4567, the Medicare Home Health Care and Veterans Health Care Improvement Act of 1998. This bill provides additional resources for health care for the heroic men and women who are our nation's veterans. However, this bill falls far short of improving the situation that home health care agencies are facing.

The Balanced Budget Act of 1997 directed the Health Care Financing Administration (HCFA) to develop a prospective payment system of reimbursement for home health care agencies by 1999. In the meantime, HCFA developed an interim payment system designed to help health care agencies' transition to a prospective payment system. Unfortunately, this system has jeopardized the health care for many of our most vulnerable citizens and has put many hard-working agencies out of business. In August, the HCFA told Congress that it will not follow the law and develop the prospective payment system. Due to HCFA's inaction, Congress was forced to quickly develop an interim payment system to keep home health care afloat until HCFA can get its act together.

While the bill we are voting on today takes one step forward in that fix, we still have a long way to go. As we face the last days of this congressional session, I am disappointed that we are faced with a "take it or leave it" situation. However, I am supporting today's measure because a little help is better than no help. I am confident that this Congress will continue to have home health reform as its top priority when it returns next year.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today to express my support for H.R. 4567, the Medicare Home Health Care and Veterans Health Care Improvement Act of 1998 and to congratulate the bill's sponsors for moving this important legislation forward before Congress adjourns this year.

While the bill is not perfect, it does promise to help the historically low-cost agencies that have been penalized by the interim payment system (IMPS) implemented in the Balanced Budget Act of 1997 for their past efficiencies in delivering high quality home care. I also applaud the sponsors of the bill for increasing the per visit reimbursement limit.

While I support the bill, I have some reservations. Texas is a big State with large rural areas. I am concerned that reimbursement to new health agencies in rural areas that must travel long distances to serve their patients is too low under the Interim Payment System. H.R. 4567 does little to help these new agencies.

Furthermore, the bill does nothing to postpone the 15% cut scheduled for next fall when HCFA fails to implement the Prospective Payment System by the October 1, 1999 deadline.

I hope to see these issues addressed during conference with the Senate. In addition, I can only hope that a more appropriate funding mechanism can be found in conference that does not create a tax loophole for the highest earners which raises money in the short run and costs us billions in the long run.

Mr. HILLEARY. Mr. Speaker, I would like to give my support, though reluctantly, to H.R. 4567, the Medicare Home Health Care and Veteran Health Care Improvement Act.

First, I would like to extend thanks to Chairman THOMAS, BLILEY, STUMP, ARCHER and BILIRAKIS for their hard work and countless hours spent crafting this legislation. I would also like to thank members from both sides of the aisle who have worked tirelessly on this subject, especially Congressmen RAHALL, ADERHOLT, COBURN, PAPPAS, STABENOW, and WEYGAND. If not for their hard work and perseverance, we would not even have this bill before us today.

This bill does wonderful things for both our veterans and those in need of kidney dialysis treatment. However, it is woefully inadequate in terms of its aid to home health.

For our veterans, it gives those who have served our country so proudly the right to receive Medicare benefits at VA facilities. This bill will open up access and help ease the financial burden that many of our veterans would otherwise face and create more flexibility on their medical care through a process known as "subvention." Under subvention VA facilities would be able to provide efficient and affordable "one-stop" shopping for veteran medical services. I am proud to support this initiative.

This bill also does a tremendous job for those kidney patients who need better access to dialysis machines. Under this bill "safe harbors" would be created to allow those in need to have a specialized dialysis help subsidize their payments. This would give greater access and make more affordable dialysis machines to the many people who suffer from kidney failure.

However, I must stress my emphatic displeasure with the home health portions of this bill. I do not believe that the home health sections of this bill are bad ideas as written in the bill. Instead, I oppose the glaring omission of several essential elements that must be addressed in order to save this industry that provides health service to so many of our elderly. Among the major deficiencies in the bill are failures to address the agency retroactivity, regional equity, and the impending industry wide 15% cut set to occur next October 1.

I especially find it disheartening that this bill does not even attempt to help every region. In my state of Tennessee, most agencies will not even see a drop of this increase, yet we have already seen 24 closures this year. A regional solution is an incomplete solution.

I do not want to see us simply put a Band-Aid on the problem and pretend that we have done adequate work. By only going halfway on this issue, we have done the home health industry a disservice. For I fear that if we do not address these issues in the next few days, then we will be unable to solve the problems that these issues will create next year.

In particular, I feel that if the 15% cut goes into effect, the entire industry, and the seniors they serve, will be severely impacted. By putting off the problem until next year, the bill merely gives a wink and a nod without offering a solution. I know that if this problem is not addressed, either by establishing a permanent case-mix adjuster or a delay of the 15%, the industry will fail, and we will have this wasted opportunity to blame.

I am completely dumbfounded to why we give a halfhearted solution when we have the opportunity to do so much more. I hope that the issues in this bill are not closed. I hope that we still can address important issues like the impending 15% cut set for next year. If we do not come back next Congress and act quickly, I fear that the sick and elderly will never forgive us for our inaction.

I reluctantly urge my colleagues to support this bill and strongly urge my colleagues and the chairmen overseeing home health care to continue working and address the remaining critical problems facing this industry.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the motion offered by the gentleman from California (Mr. THOMAS) that the House suspend the rules and pass the bill, H.R. 4567, as amended.

The question was taken.

Mr. THOMAS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

☐ 1300

PLANT PATENT AMENDMENTS ACT OF 1997

Mr. SOLOMON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1197) to amend title 35, United States Code, to protect patent owners against the unauthorized sale of plant parts taken from plants illegally reproduced, and for other purposes.

The Clerk read as follows:

H.R. 1197

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Plant Patent Amendments Act of 1997".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress makes the following findings:

(1) The protection provided by plant patents under title 35, United States Code, dating back to 1930, has historically benefited American agriculture and horticulture and the public by providing an incentive for breeders to develop new plant varieties.

(2) Domestic and foreign agricultural trade is rapidly expanding and is very different from the trade of the past. An unforeseen ambiguity in the provisions of title 35, United States Code, is undermining the orderly collection of royalties due breeders holding United States plant patents.

(3) Plant parts produced from plants protected by United States plant patents are being taken from illegally reproduced plants and traded in United States markets to the detriment of plant patent holders.

(4) Resulting lost royalty income inhibits investment in domestic research and breeding activities associated with a wide variety of crops—an area where the United States has historically enjoyed a strong international position. Such research is the foundation of a strong horticultural industry.

(5) Infringers producing such plant parts from unauthorized plants enjoy an unfair competitive advantage over producers who pay royalties on varieties protected by United States plant patents.

(b) PURPOSES.—The purposes of this Act are—

(1) to clearly and explicitly provide that title 35, United States Code, protects the owner of a plant patent against the unauthorized sale of plant parts taken from plants illegally reproduced;

(2) to make the protections provided under such title more consistent with those provided breeders of sexually reproduced plants under the Plant Variety Protection Act (7 U.S.C. 2321 and following), as amended by the Plant Variety Protection Act Amendments of 1994 (Public Law 103-349); and

(3) to strengthen the ability of United States plant patent holders to enforce their patent rights with regard to importation of plant parts produced from plants protected by United States plant patents, which are propagated without the authorization of the patent holder.

SEC. 3. AMENDMENT TO TITLE 35, UNITED STATES CODE.

(a) RIGHTS IN PLANT PATENTS.—Section 163 of title 35, United States Code, is amended to read as follows:

"§ 163. Grant

"In the case of a plant patent, the grant shall include the right to exclude others from asexually reproducing the plant, and from using, offering for sale, or selling the plant so reproduced, or any of its parts, throughout the United States, or from importing the plant so reproduced, or any parts thereof, into the United States.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any plant patent issued on or after the date of the enactment of this Act.

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to the rule, the gentleman from North Carolina (Mr. COBLE) and the gentleman from Massachusetts (Mr. FRANK) each will control 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. COBLE).

GENERAL LEAVE

Mr. COBLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. COBLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a noncontroversial measure which, incidentally, has already passed this House as a portion of H.R. 400, the Plant Patent Amendments Act of 1997. It will serve as a needed complement to current plant patent law.

Briefly, since 1930, the Patent Act has permitted inventors to obtain plant patents. Individuals wishing to skirt protections available under the law have discovered a loophole, however, by trading in plant parts taken from illegally-produced plants. H.R. 1197 closes this loophole by explicitly protecting plant parts to the same extent as plants under the Patent Act.

This bill, Mr. Speaker, is identical to language that was contained in an omnibus patent legislation passed earlier in the term that has since died in the Senate. There is no opposition to the bill, and I urge its adoption, as it will benefit American patent holders and the plant producers who honor their work by paying the necessary royalties.

Mr. Speaker, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I agree with the gentleman from North Carolina, Mr. COBLE.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. FARR), one of the cosponsors of the bill.

Mr. FARR of California. Mr. Speaker, I thank the gentleman from Massachusetts (Mr. FRANK) for yielding time to me.

Mr. Speaker, I rise in strong support of the Plant Patent Amendments Act of 1998.

Before I get started, I just want to say a few words about the cosponsor of this legislation, the gentleman from Oregon (Mr. SMITH), my chairman, friend, and a Willamette Bearcat. He is chairman of the Committee on Agriculture. He is leaving us at the end of Congress.

He has served the Second District of Oregon and this Nation with honor and an acute sense of propriety. For that he is to be commended. I think that he does not want any accolades, but to all of us who have served on the Committee on Agriculture and watched his style, his humor, his ability to bring a consensus, he is certainly one of the most tenacious agriculture traders. He has taken the committee to other countries, and every time he has gone he has been able to sell an awful lot of American agricultural products.

This country is going to miss him, this Congress is going to miss him. I wanted to take this moment to mention that.

I also wanted to say that this bill is noncontroversial. There is no opposition to it.

Mr. Speaker, I rise in strong support of H.R. 1197, the Plant Patent Amendments Act of 1998 and I thank you for allowing us the time to debate this legislation today. I would also like to thank Mr. COBLE and Mr. FRANK for managing this legislation that will make a simple technical clarification to the Plant Patent Act of 1930.

Before I get started, I want to say a few words about the sponsor of this legislation my chairman and friend, the gentleman a Willamette Bearcat from Oregon, Mr. SMITH who will be leaving us at the end of this Congress, again. The gentleman has served the 2nd District of Oregon and this nation with honor and an acute sense of propriety and for that he is to be commended.

His authoritative voice will certainly be missed on the Agriculture Committee in the 106th Congress. I also know that the entire agriculture community from apple producers in Oregon or to flower growers in California, wheat farmers in the Midwest, citrus growers in Florida will miss our standard bearer for open, fair, and free agriculture trade. I know of few people that have traveled the globe more promoting U.S. agriculture products.

Chairman SMITH, you will certainly be missed as a legislator and a friend.

I want to start my statement on H.R. 1197 by informing my colleagues that this should be a simple vote because this legislation has already been voted on and passed in this chamber as part of the Omnibus Patent Act of 1997 in April of last year. Unfortunately, the larger patent reform package, H.R. 400, is not expected to be completed before Congress adjourns. That is why we need to pass this legislation today so we can get this legislation through the other body and signed into law before the end of this Congress.

Mr. Speaker, California leads the nation, holding a 22 percent share for the production of flowers, foliage, and nursery products in the United States. For California, this two billion dollars plus industry ranks in the top ten of all agriculture commodities in the golden state.

Yet despite these positive statistics the number of American chrysanthemum growers has fallen by 25 percent, the number of carnation growers has fallen as by much as one-third and the remaining major commercial types of flowers have fallen in the double-figure range as well.

There are two primary reasons for this spiraling loss of American agriculture production relating to flower, foliage and nursery products. The first, can be addressed today by passing H.R. 1197 and the second is a failed drug policy established in the Andean Trade Preference Act.

Mr. Speaker, H.R. 1197 is a simple technical clarification to a loophole in the Plant Patent Act of 1930. This legislation will fulfill the original intent of Congress by specifically providing that plant patents are extended to include parts of plants, thus halting the current abuse of U.S. patent holders and growers' rights of cut flowers, fruit crops, timber crops, and other propagated plants.

Currently, plant breeders, patent holders and growers are being harmed by a loophole in the Plant Patent Act of 1930 which allows foreign competitors to asexually reproduce and propagate plants that hold U.S. patents.

Without passage of H.R. 1197 during this Congress, the U.S. position as a world leader in plant research and development will continue to erode. U.S. and foreign growers of protected varieties, who are now paying royalties and growing U.S. patented varieties legally, are at an unfair competitive disadvantage to such infringing imports.

It was Congress' original intent in the Plant Patent Act of 1930 that it should be illegal to sell the fruit, flowers, and other products derived from a patented plant reproduced without authorization. H.R. 1197 reaffirms this intent.

This legislation has broad support from the American Nursery and Landscape Association, the American Bar Association, the International Rose Breeders Association, the Society of American Florists, the American Intellectual Property Lawyers Association, the American Seed Trade Association, the National Association of Plant Patent Owners, and the Wholesale Nursery Growers Association.

As I mentioned there are two primary reasons that we are losing this sector of American agriculture. The first, we will begin to take care of today with passage of H.R. 1197. The second, I will continue to push for in the next Congress. We need fairness for our farmers by ending a failed drug policy.

Since enactment in 1991, the Andean Trade Preference Act (ATPA) has provided duty-free access to the U.S. market for flower exporters in four Latin American countries: Colombia, Bolivia, Ecuador, and Peru. For seven years it has allowed flower growers in these four countries to avoid tariffs normally imposed on their product, tariffs ranging from 3.6 percent to 7.4 percent.

The ATPA simply provides Colombian flower growers an unnecessary edge in a market they already dominate—to the detriment of domestic flower growers. The International Trade Commission acknowledged in 1995 and 1996 that the ATPA has had a greater impact on the U.S. fresh cut flower industry than any other market examined.

The purpose of this preferential treatment was intended to encourage Andean countries to develop legal alternatives to drug crop cultivation and production. However, coca eradication efforts to date in Colombia have been much less than anticipated. This policy has failed. For the third consecutive year Colombia has failed in its efforts to be fully certified or reduce the production of illegal drugs. In order to maintain an open dialogue the Administration recently made the determination to put forward a national interest waiver with respect to Colombia. The results in Colombia are particularly disheartening, given that eradication is generally a bilateral effort in which the United States supplies the funding, fuel, and herbicides with the host government providing the personnel.

Mr. Speaker, in closing, I urge my colleagues to support H.R. 1197 and the American flower, foliage and nursery growers that are in a unique situation. They are the economic poster children for a failed trade policy and the sacrificial lamb in a failed foreign policy war to end drug trafficking.

Mr. FRANK of Massachusetts. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. COBLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from California just referred to my friend from Oregon as a Bearcat. I never heard that before, but it is probably applicable. I agree with the gentleman from California, the gentleman from Oregon (Mr. SMITH) will indeed be missed.

Mr. Speaker, I yield 1 minute to the gentleman from Oregon (Mr. SMITH).

Mr. SMITH of Oregon. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I only wanted to rise to thank my friend, the gentleman from California, for his kind words, and my dear friend, the gentleman from North Carolina (Mr. COBLE), for bringing this issue to us, as well as the chairman of the full committee. I appreciate it very much. It is an important piece of legislation for us. I urge its passage.

Mr. Speaker, I rise today in support of H.R. 1197, the Plant Patent Amendments Act of 1997. I would like to take a moment to thank Chairman COBLE of the Judiciary Subcommittee on Courts and Intellectual Property and Chairman HYDE of the Full Judiciary Committee for allowing me to bring this important bill to the floor today. I would also like to take a moment and thank my colleague from California, Representative SAM FARR, for his hard work in bringing this important matter to the floor today.

We are here today to reaffirm the protection of patents by U.S. growers that has already been passed overwhelmingly by the House in April of last year as part of the Omnibus Patent Act of 1997, H.R. 400. Unfortunately, that bill is not expected to be approved by the other body. My legislation, H.R. 1197, is simply the stand-alone version of that section of the bill already passed by the House. It addresses an issue that has long needed clarification. Agricultural producers can not afford to wait another year for the protection from bootleggers of plant parts this bill provides.

H.R. 1197 is a simple technical clarification to a loophole in the Plant Patent Act of 1930. When Congress drafted the Plant Patent Act of 1930, it had no way of knowing the technological advances that science, and the agricultural industry, would make in the growing of plants. Plant breeders and growers in the U.S. are being denied the protection intended by Congress when it enacted the Plant Patent Act of 1930 because of an ambiguity in the law. H.R. 1197 clarifies this ambiguity by specifically including the coverage of plant parts in the Plant Patent Act of 1930. U.S. breeders and growers of patented plants are incurring substantial losses from unauthorized propagation of their plant inventions in foreign countries, and the subsequent export to the U.S. of plant parts such as flowers and fruit harvested from these bootlegged plants.

Currently, foreign growers can come to the U.S., acquire a plant, grow the plant, and then sell its fruits or flowers in U.S. markets without paying any royalty. This practice undercuts U.S. businesses that own the patents and penalizes growers who honor the U.S. patent. U.S. plant breeders lose a substantial amount of income annually from uncollected royalty payments due to this practice.

The loss of royalty income, and U.S. market share, adversely affects U.S. domestic research and breeding. This lost income inhibits investment in the plant research and development programs which are the foundation of a strong horticultural industry. Additionally, those who sell plant parts from unauthorized plants, and do not pay royalties for varieties illegally grown, enjoy an unfair competitive advantage over both producers who pay royalties and the patent holder who also markets the product.

It is time to clarify the Plant Patent Act of 1930 and protect U.S. businesses who develop and produce the plants that we all use and enjoy. Please join me and my fellow colleagues here today and pass H.R. 1197.

Mr. COBLE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. COBLE) that the House suspend the rules and pass the bill, H.R. 1197.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

TAIWAN'S PARTICIPATION IN THE WORLD HEALTH ORGANIZATION

Mr. SOLOMON. Mr. Speaker, on behalf of the chairman of the Committee on International Relations, who is momentarily delayed, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 334) relating to Taiwan's participation in the World Health Organization.

The Clerk read as follows:

H. CON. RES. 334

Whereas good health is a basic right for every citizen of the world and access to the highest standards of health information and services is necessary to help guarantee this right;

Whereas direct and unobstructed participation in international health cooperation forums and programs is therefore crucial, especially with today's greater potential for the cross-border spread of various infectious diseases such as AIDS and Hong Kong bird flu through increased trade and travel;

Whereas the World Health Organization (WHO) set forth in the first chapter of its charter the objective of attaining the highest possible level of health for all people;

Whereas in 1977 the World Health Organization established "Health for all by the year 2000" as its overriding priority and reaffirmed that central vision with the initiation of its "Health For All" renewal process in 1995;

Whereas Taiwan's population of 21,000,000 people is larger than that of ¾ of the member states already in the World Health Organization and shares the noble goals of the organization;

Whereas Taiwan's achievements in the field of health are substantial, including one of the highest life expectancy levels in Asia, maternal and infant mortality rates comparable to those of western countries, the eradication of such infectious diseases as cholera, smallpox, and the plague, the first Asian nation to be rid of polio, and the first country in the world to provide children with free hepatitis B vaccinations;

Whereas prior to 1972 and its loss of membership in the World Health Organization, Taiwan sent specialists to serve in other member countries on countless health projects and its health experts held key positions in the organization, all to the benefit of the entire Pacific region;

Whereas Taiwan is not allowed to participate in any WHO-organized forums and workshops concerning the latest technologies in the diagnosis, monitoring, and control of diseases;

Whereas in recent years both the Taiwanese Government and individual Taiwanese experts have expressed a willingness to assist financially or technically in WHO-supported international aid and health activities, but have ultimately been unable to render such assistance;

Whereas according to the constitution of the World Health Organization, Taiwan does not fulfill the criteria for membership;

Whereas the World Health Organization does allow observers to participate in the activities of the organization; and

Whereas in light of all of the benefits that such participation could bring to the state of health not only in Taiwan, but also regionally and globally: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) Taiwan and its 21,000,000 people should have appropriate and meaningful participation in the World Health Organization; and

(2) it should be United States policy to pursue some initiative in the World Health Organization which will give Taiwan meaningful participation in a manner that is consistent with such organization's requirements.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. SOLOMON) and the gentleman from American Samoa (Mr. FALEOMAVAEGA) will each control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. SOLOMON).

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. SOLOMON. Mr. Speaker, I could not share the time with a more distinguished gentleman than my good friend.

Again, Mr. Speaker, on behalf of our very, very distinguished and great chairman of the Committee on International Relations, the committee which I had the privilege of serving on for many, many years until someone we know named Robert Michel drug me kicking and screaming off of that committee and gave me a chance to serve on the Committee on Rules, I thank the gentleman from New York (Chairman GILMAN) for the support of this legislation. He is one of the major sponsors. He is a friend of our great friend and ally, the Republic of China on Taiwan.

I cannot help but think how things have a way of coming about full circle. As a freshman Member of this body 20 years ago, the first bill I worked on was the Taiwan Relations Act. I still believe that the legislation is one of the most significant achievements of my career and certainly of the whole period in which I have served in this Congress. Again, the gentleman from New York (Mr. GILMAN) was an integral part of that whole legislation.

Mr. Speaker, Members who have come to the House more recently may wonder why it is that so many of us more senior Members from both sides of the aisle are so concerned about Taiwan. Let me tell the Members why.

When President Carter broke off diplomatic relations with Taiwan in favor of recognizing Communist mainland China, that marked the only time in 210 years of constitutional history that our government has broken relations with a treaty ally without provocation and during a time of peace.

Whatever Members may have thought about the merits or the demerits of recognizing mainland Communist China, Members from both sides of the aisle at all points on the philosophical spectrum realized that a profoundly important and potentially dangerous precedent was being established by doing just that. Members reasoned that if America is seen as being unfaithful to its allies, America will soon have no allies at all.

So the Taiwan Relations Act was enacted as a way of assuring the people of Taiwan that America was not abandoning them and that the representatives of the American people, we Members of Congress, overwhelmingly stood solidly with them, regardless of the fact that the President, having the constitutional authority to conduct foreign policy, saw fit to derecognize them at that time. The entire world, and especially our other allies in Asia, needed that same reassurance.

In the years since then, many Members, myself included, have served as watchdogs to make sure that the Taiwan Relations Act, and that is the law of the land right today, Mr. Speaker, is adhered to in both the letter and the spirit of law.

The most important thing to be concerned about is that nothing be done, nothing ever be done, by omission or by commission, that can be construed as undercutting Taiwan or pressuring Taiwan to yield to coercion from mainland China. Mainland China is very good about doing that. They are great intimidators.

Mr. Speaker, the Taiwan Relations Act was a creative response to the unprecedented diplomatic challenge posed by the desire, in fact, the need, to maintain and protect close ties with a historic friend that found itself laboring under the burden of an ambiguous national identity, and still does.

One would have hoped that similarly creative thinking would have been done in various international institutions around the world, but that has not been especially forthcoming, and again, the reason is through the direct intimidation by the Communist Peoples' Republic of China.

Nevertheless, we have an opportunity today to do something positive. The resolution before us expresses the sense of Congress that Taiwan and its 21 million people, 21 million people, should have an appropriate and meaningful representation in the World Health Organization, and that the Clinton administration is urged to pursue an initiative to that end. That is what this resolution is all about.

Mr. Speaker, if there ever was a good place to start this, it is the World Health Organization. Let me tell the Members why. The World Health Organization is a humanitarian organization, as we all know. It is one of the few important international organizations that is not infected with what I call a political agenda. It is not prone to the bureaucratic growth, as most of these international organizations are.

Taiwan, and Members all should listen to this, Taiwan was a charter member of the World Health Organization and, as the resolution notes, made important contributions to the global fight against disease before being deprived of membership in 1972.

Taiwan has continued progress since then in eradicating disease and in establishing high standards of public health at home. That in fact means that it can contribute even more to the world today if the programs and cooperative forums of the World Health Organization were open to Taiwan's participation, again, with 21 million people.

Let me tell the Members how significant 21 million people is. We cannot pretend that a free and prosperous and advanced society of that many people does not exist. Indeed, Taiwan, and this is a point that I wanted to make, Taiwan has a larger population than three-fourths of the Members of the World Health Organization. Can Members imagine that?

Mr. Speaker, the resolution calls for those 21 million people to have an appropriate and meaningful participation in the World Health Organization. That is what it does. Surely the imagination exists to find a way to do that. If there ever is a problem, it would seem to be a matter of will.

But let this House make its voice heard, that Taiwan deserves to participate in the important work of the World Health Organization, and their 21 million need and deserve to be the beneficiaries of that organization. Taiwan has an awful lot to contribute.

Mr. Speaker, for this resolution I would just hope it would pass unanimously. I would like to give great credit for the wording of this resolution to my good friend, the gentleman from Nebraska (Mr. DOUGLAS BEREUTER), a classmate of mine 20 years ago. We helped also to write the Taiwan Relations Act. I would like to pay tribute to him and to the gentleman from New York (Chairman GILMAN) as I have spoken of before for his consideration.

This probably is the last time that he and I will collaborate here on this floor on a matter of common concern, and I thank him for all of his help through the years, both the gentleman from Nebraska (Mr. BEREUTER) and him.

Also, I think I saw the gentleman from Ohio (Mr. BROWN) come in. I would just like to also thank him for his interest on this issue. He and I were in Taiwan not too long ago, and he feels as strongly as I do about this measure.

Once again, I urge support of it, Mr. Speaker, and I ask unanimous consent that the gentleman from New York (Mr. GILMAN) may control the remainder of my time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I also would like to commend the gentleman from New York (Mr. GILMAN), chairman of the Committee on International Relations, for his support and leadership, as well as the management of this legislation now pending before our colleagues.

□ 1315

I also want to commend the gentleman from New York (Mr. SOLOMON) for his eloquent remarks. Over the years, I have always respected his tremendous knowledge about Taiwan, and the rest of Southeast Asia for that matter, and his strong feelings about our security interests in this part of the world.

I want to commend also the gentleman from Nebraska (Mr. BEREUTER), Chairman of the Subcommittee on Asia and the Pacific, for his participation and also working and providing this resolution that is now before us. Of course, my good friend the gentleman from Ohio (Mr. BROWN) for his important role in initially bringing this issue to our attention.

Mr. Speaker, this resolution is a simple one. It States the sense of the Congress that Taiwan should have appropriate and meaningful participation in the World Health Organization, and it endorses an American policy that seeks to find a role for Taiwan, or the Republic of China, in the World Health Organization in a manner that is consistent with the World Health Organization's Constitution.

Mr. Speaker, I will note for my colleagues in the House that even the nonself-governing territories of the United States also participate actively with several programs offered by the World Health Organization. In fact, over the years the World Health Organization has provided scholarships for students from these insular areas, particularly in the areas of medicine, dentistry and nursing school. This scholarship program has been of tremendous assistance to these nonself-governing territories.

Mr. Speaker, Taiwan currently is conducting discussions and dialogue with the leadership of the People's Republic of China and we think this is a positive step to lessen the tensions between Taiwan, or the Republic of China, and the People's Republic of China.

Mr. Speaker, with a population of some 21 million people, Taiwan has achieved over the years one of the economic miracles of Asia. Taiwan currently has one of the most stable economies throughout Southeast Asia with foreign exchange reserves well over $100 billion. Taiwan was the first Asian Nation to eradicate the dreaded disease polio. Taiwan also was the first country in the world to provide its children vaccinations to combat hepatitis B.

Mr. Speaker, with its tremendous resources and expertise available to the fields of health care services, I honestly believe, Mr. Speaker, that the Republic of China, or Taiwan, should become a member of the World Health Organization. I urge my colleagues to vote in support of this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to rise today in strong support of House Concurrent Resolution 334 regarding Taiwan's participation in the World Health Organization. I am proud to be a cosponsor of this resolution.

First, I want to commend the gentleman from New York (Mr. SOLOMON), the distinguished chairman of our Committee on Rules and my good friend, for introducing and advocating this measure. This body will certainly miss his outstanding leadership as chairman of our Committee on Rules and his continued interest in our Nation's security and in our foreign policy. We thank the gentleman for his continued advocacy, not only on behalf of Taiwan, but so many other nations around the world.

Mr. Speaker, I also want to thank the distinguished gentleman from Nebraska (Mr. BEREUTER), chairman of the Subcommittee on Asia and the Pacific, for helping to craft appropriate language for this resolution, as well as the gentleman from Ohio (Mr. BROWN) for his perseverance on this issue.

Mr. Speaker, I believe we all agree that good health is a basic human right of people everywhere. That right, though, can only be guaranteed if all people have unfettered access to all available resources regarding health care.

The World Health Organization, a United Nations body which has 191 participating entities, is one of those important resources. But today, regrettably, Taiwan, a Nation of 21 million people, has been denied a share in that basic human right. That is wrong, and it is time for the House to go on record correcting that.

Denying Taiwan participation in the World Health Organization is not justifiable in this day and age. Good health is a fundamental right of all people and the people of Taiwan are no exception.

United States support for Taiwan's participation in the World Health Organization is appropriate. In today's modern global environment, Taiwan's meaningful involvement in World Health Organization activities will benefit the people of Taiwan and the world as well.

So, it is time for the Clinton administration to do the right thing, to take affirmative action, and to seek appropriate participation for Taiwan in the World Health Organization.

There are opportunities for Taiwan to pursue observer status which would allow the people of Taiwan to participate in a substantive manner in the scientific and health activities of the WHO.

Consequently, I call upon the administration to pursue all initiatives in the WHO which will allow these 21 million people to share in the health benefits that the WHO can provide. That is the right thing to do and, accordingly, I urge my colleagues to fully support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. BROWN), my friend.

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentleman from American Samoa (Mr. FALEOMAVAEGA) for yielding me this time.

Mr. Speaker, I rise in support of House Concurrent Resolution 334, a bill to support Taiwan's efforts to participate in the World Health Organization. I especially want to thank the gentleman from New York (Mr. SOLOMON) for his leadership and perseverance on this issue. Also the good work of the gentleman from American Samoa (Mr. FALEOMAVAEGA), as well as the gentleman from California (Mr. COX) for his work on this, and the gentleman from Nebraska (Mr. BEREUTER) and the gentleman from New York (Mr. GILMAN) as chairs of the subcommittee and committee, respectively, for their assistance and good work on this issue.

Mr. Speaker, every individual, regardless of political or economic background, should have access to first-rate medical care. I am pleased that this Congress is finally considering this important legislation before we adjourn this year.

Since 1972, the 21 million people of Taiwan have been blocked from participating in the World Health Organization. As a consequence, especially the children of Taiwan have needlessly suffered because their doctors are denied access to the latest WHO protocols.

Unfortunately, with each passing year, administration after administration in this country have contributed to Taiwan's plight by supporting China's assertion that its neighbor is not a nation and, therefore, should not be represented in the international community.

The fact of the matter is that participation for Taiwan in the World Health Organization poses no threat to Beijing's security but will actually enhance the quality of life for China 1.2 billion inhabitants in addition to Taiwan's 21 million citizens.

The WHO is not a political organization, as the gentleman from New York (Mr. SOLOMON) pointed out. Disregarding political parties, political philosophies, or political boundaries, the WHO works to eradicate and control disease and improve the health of people around the world. It has instituted highly effective immunization programs allowing hundreds of millions of children to live longer and better lives.

The WHO has already helped protect eight out of ten children worldwide from major childhood diseases, including tuberculosis and measles and has worked to reduce the infant mortality rate 40 percent since 1970. Mr. Speaker, we should all be deeply upset by our country's refusal to help Taiwan conquer diseases which we ourselves have already exterminated.

Taiwan's exclusion from the WHO has been tragic. While the President was visiting China this past July, scores of Taiwanese children were fighting for their lives against a new deadly flu-like virus which attacks the muscle sacs around the surrounding heart, brain, and upper spine. Over 70 infants died, and possibly 100,000 other children have become infected and face an uncertain future.

This tragedy further illustrates the importance of Taiwan's membership in the WHO and the need to access the valuable expertise of this respected body. Young children and older citizens are particularly vulnerable to a host of emerging infectious diseases are without the knowledge and expertise shared among the member nations of the World Health Organization.

With increased travel and trade among the members of our global village, disease obviously does not stop at national borders and national boundaries. When we learn of outbreaks of an enterovirus in Taiwan, Ebola in Central Africa, or the Asian Bird Flu in Hong Kong, it is vital that the WHO be allowed to combat our nation's vulnerability to spreading infectious diseases before it reaches our shores.

Erecting boundaries to shared information which would help improve the health of every American is a foolish and a deadly policy. Twenty years ago, a mysterious and fatal virus from Africa first appeared in New York and San Francisco. Our national health care system, which is the finest in the world, was ill-prepared for the spread of what we now know to be the AIDS virus. Two decades later, AIDS has spread to all 50 States and killed over 100,000 Americans. It is not in our interest to limit membership in an organization which is dedicated to combating infectious disease.

Denying Taiwan the knowledge and the expertise of the WHO is a fundamental violation of human rights. With just under 22 million people, Taiwan's population is larger than 70 percent of the 191 members of the WHO, whose charter clearly states that membership shall be open to all states.

Good health is a basic right for every citizen of the world, and Taiwan's participation in the WHO would greatly help foster that right for its people. The people of Taiwan and their democratically elected government face many serious threats to their sovereignty. Chinese aggression and their continuing threat of force to settle their claim to Taiwan is a serious problem. Equally threatening is their efforts to continue to thwart Taiwan's efforts to help improve the health of its citizens.

Mr. Speaker, we are the only country in the world which can stand up to China and the international community. We have an obligation, Mr. Speaker, to support the Taiwanese people in their efforts to determine their own future. I call on all my colleagues to support House Concurrent Resolution 334, and to help Taiwan participate in the World Health Organization.

Mr. GILMAN. Mr. Speaker, I thank the gentleman from Ohio (Mr. BROWN) for his supportive remarks.

Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Nebraska (Mr. BEREUTER), the chairman of Subcommittee on Asia and the Pacific.

Mr. BEREUTER. Mr. Speaker, I thank the gentleman from New York (Chairman GILMAN) for yielding me this time.

Mr. Speaker, I rise in strong support of H. Con. Res. 334 relating to the appropriate participation of Taiwan in the World Health Organization. I commend my colleague and classmate, the distinguished gentleman from New York (Mr. SOLOMON), chairman of the Committee on Rules, for his initiative on crafting this resolution.

Mr. Speaker, there is strong support for the people of Taiwan being able to take advantage of the information and services offered by the World Health Organization, the WHO. Given that fact, and given the fact that international travel makes the transmission of communicable diseases much more prevalent, it is illogical to deny WHO services to Taiwan's population of 21 or 22 million.

Moreover, there is much that Taiwan could offer in terms of medical and pharmaceutical expertise. This Member very strongly, therefore, is supportive of Taiwan having a meaningful role in the WHO. The difficulty has been the fact that the WHO only allows membership for states, and Taiwan does not fit within the definition of a state.

Mr. Speaker, this is a technical issue, but it is nonetheless an important issue. It relates directly to the fact that Taiwan and the People's Republic of China, the mainland, both claim the same territory. By and large, the international community supports the PRC's claim. As a result, Taiwan is denied full membership in organizations where statehood is a prerequisite.

There are some in Taiwan, and perhaps some in this country, who would push for membership in international organizations as an indirect method of altering Taiwan's sovereign status. While such motives are understandable, it is not the purpose of H. Con. Res. 334, and this body does not, therefore, become enmeshed in such a debate. It would otherwise, I think, unfortunately have been enmeshed in such a debate in the previous resolution. This resolution deals with legitimate humanitarian issues, while consciously avoiding the political dispute.

Mr. Speaker, the point of the resolution before us today is the important contribution to global health that would result from meaningful Taiwanese participation. The Taiwan Relations Act, which everyone in this body seems to support, certainly I do, expresses the expectation that the future of Taiwan will be determined by peaceful means. There is an expectation, and indeed I would say a requirement, that Beijing and Taipei talk to one another about substantive issues.

Mr. Speaker, such discussions are indeed about to take place again. Next week, on October 14, the mainland and the Taiwanese negotiators will meet to resume high-level discussions that have been in a 3-year hiatus. In recent weeks, the head of the association for relations across the Taiwan Strait, the PRC's chief negotiator, has indicated that Beijing may be willing to make significant concessions. Incredibly, there even has been talk about concepts of shared sovereignty. This Member would hope this negotiation does, in fact, happen, goes forward positively, and there will be a clear substantive negotiation.

If these negotiations are ultimately successful, or at least moved towards a successful conclusion, then both sides achieve a better situation. And then it may well be that one day resolutions such as this one before this body may not be necessary. But it is necessary at this point. I, of course, look forward to the day when we have a peaceful resolution of those difficulties.

Mr. Speaker, this Member would congratulate the author of this resolution again, the distinguished gentleman from New York (Mr. SOLOMON), chairman of the Committee on Rules. The gentleman's support for Taiwan has been legendary and it has never wavered.

□ 1300

This Member is genuinely pleased that we were able to reach an accommodation on a measure so close to the gentleman's heart through the resolution which he crafted and introduced.

Mr. Speaker, as a cosponsor of House Concurrent Resolution 334, recently introduced, I urge its speedy adoption.

Mr. FALEOMAVAEGA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. ROHRABACHER), a member of our committee.

Mr. ROHRABACHER. Mr. Speaker, I rise in strong support of H. Con. Res. 334, and I rise thus in support of making it the official policy of the United States government that we favor the participation of the Republic of China and Taiwan in the World Health Organization.

Mr. Speaker, I would like to thank the gentleman from New York (Mr. GILMAN), the chairman of the committee, for the leadership he has provided on this. And, of course, the gentleman always provides the leadership and strength on pro-freedom initiatives and initiatives that deal with fundamental fairness.

I also want to thank the gentleman from American Samoa (Mr. FALEOMAVAEGA) for his cooperation and leadership on that side of the aisle.

And, finally, I would like to thank the gentleman from New York (Mr. SOLOMON), who has been a fierce fighter for freedom and justice in this world and in this body. The gentleman will be missed. And on issues just like this, he has always been there for the people struggling for freedom in various parts of the world.

Taiwan is, first and foremost, a free and democratic country. In the last few years we have seen an evolution in Taiwan that should serve as a shining example to the rest of Asia. In fact, as the rest of Asia sinks further towards tyranny and repression, Taiwan is reaching new heights, even in the face of threats against it, towards achieving its goal of a freer, more democratic, and more prosperous country.

In Taiwan, there are free elections, freedom of the press, freedom of religion, freedom of assembly and freedom of enterprise. This resolution tells the world that freedom counts to the American people. We should not be on the side of a communist regime's attempt, wherever it is, to in some way intimidate a group of free people.

That is the situation we have now in Asia, where one tyrannical government is trying to frighten the people of Taiwan. And we are saying by this that where people have had these reforms, we should be siding with those people, who have at least, or would like to participate in the rest of the free world. And that is what is going on in the Republic of China.

This, on the other hand, sends a message that we respect an elected government; the elected government in the Republic of China and Taiwan. And as I say, not only has it a good record in terms of their political record and their economic record, but the Republic of China and Taiwan has an admirable record of public health, which is consistent with any government's commitment to democracy. The foundation of democracy is the respect that all individuals have a right to live in dignity and with a decent and healthy life. So it is consistent, then, that that is what we find in Taiwan.

I wish to also take this moment to express something that perhaps some people in this body do not know about. And that is, Taiwan, with its 21 million people, through private foundations and also through government action, have been deeply involved with helping other people who face health crises and humanitarian crises throughout the world. Through the TzuChi Foundation, tons and tons of medicines have been sent to crisis areas throughout Asia.

And, in fact, the Republic of Taiwan and the TzuChi Foundation, they even have a free clinic in Southern California for everyone. There is a free clinic that is run by the TzuChi Foundation. These people care about humanity, and we should salute them today by this resolution and say they should be part of the World Health Organization. So I salute the Republic of China and Taiwan and the TzuChi Foundation and those good and decent values those people represent.

This resolution is the best way that I can think of for this Congress to salute that type of commitment to the ideals that we share as Americans. I rise in support of the resolution.

The SPEAKER pro tempore. Mr. Speaker, I yield the balance of my time to the gentleman from California (Mr. COX).

Mr. COX of California. Mr. Speaker, I thank the chairman for yielding me this time, and I wish to thank not only the gentleman from Nebraska (Mr. BEREUTER) but also the gentleman from Ohio (Mr. BROWN) for the very solid work they did in bringing this legislation to the floor.

The concerns about sovereignty by the People's Republic of China ought not to take precedence over public health, certainly not over the health of children in Taiwan. Taiwan's access to the resources of the World Health Organization is a matter of morality.

I am thrilled that we are making this common sense step forward, putting good judgment and public policy ahead of politics. This is a very, very welcome resolution to support, it is sound foreign policy for the United States, and it reflects the best in bipartisanship in this Congress as we close our session. The solid work of the gentleman from Nebraska (Mr. BEREUTER) and the gentleman from Ohio (Mr. BROWN), in particular, working across the aisle, is very much to be commended, and I strongly support this resolution.

Mr. LANTOS. Mr. Speaker, I rise in strong support of House Concurrent Resolution 334, advocating the participation of Taiwan in the World Health Organization. I want to pay tribute, first of all, to my distinguished colleague, Mr. BROWN of Ohio, who has fought for this necessary legislation with the courage and passion that he brings to so many important policy matters in this body. He is truly a champion for human rights, and I am proud to serve with him. I also want to pay tribute to our colleague GERALD SOLOMON, who has been a leading supporter of Taiwan for many decades.

House Concurrent Resolution 334 addresses a matter that, in my strongly held opinion, should transcend the political divides that characterize the complex China-Taiwan issue. This bill is about the health of children and adults, and about not letting the political anachronism of Taiwan's exclusion from the international community limit the ability of its children to receive medical treatments, vaccines, and support services that would allow them to fight disease with greater effectiveness and efficiency.

As we debate this issue this afternoon, Taiwan is attempting to cope with a fatal outbreak of a new, virulent strain of enterovirus type 71. This disease is highly contagious, and it strikes children and infants with devastating consequences, causing sever inflammation of muscles surrounding the brain, spinal cord, and heart. In the month of June alone, more than 50 children died from this horrible affliction.

Mr. Speaker, we have a moral responsibility to do everything in our power to ease the suffering of the Taiwanese people, and to achieve this end we must endorse Taiwan's participation in the WHO. The WHO has the capacity to the provide medical research and supplies to assuage the impact of the enterovirus epidemic, and we must not allow diplomatic technicalities to impede this worthy goal.

It is most appropriate that we encourage involvement by Taiwan in the WHO. Taiwan is a country of some 22 million people, with an advanced medical and research infrastructure and a highly trained cadre of medical personnel—many of whom have been educated at the finest universities in the United States.

Taiwan has much to contribute as a member of the WHO—it should be a member, it should be working with other nations to improve world health. The exclusion of Taiwan from the WHO has everything to do with petty politics and misguided pride in Beijing, but it is a great loss to the world community to exclude Taiwan.

Mr. Speaker, I emphatically urge my colleagues to join me in standing up for the human rights of the children of Taiwan by voting for House Concurrent Resolution 334.

Mr. BILIRAKIS. Mr. Speaker, I rise in support of House Concurrent Resolution 334. This resolution expresses the sense of the Congress that Taiwan and its 21 million people should have appropriate and meaningful participation in the World Health Organization (WHO).

The WHO Constitution states that the "enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition." Yet today, Taiwan is excluded from participation in the WHO because of political pressure from the People's Republic of China.

This means that the people of Taiwan cannot share in the WHO's vital resources and expertise. Taiwanese physicians and health experts are not allowed to take part in WHO-organized forums and workshops regarding the latest techniques in the diagnosis, monitoring and control of diseases. Taiwanese doctors do not have access to WHO medical protocols and health standards.

This is simply not right. Diseases do not stop at national boundaries, and with today's high frequency of international travel, the possibility of transmitting infectious diseases is greater than ever. Good health is a basic right for every citizen of the world, and Taiwan should be granted membership in the WHO.

Despite its exclusion from the WHO, Taiwan has made some remarkable achievements in the field of health, including one of the highest life expectancy levels in Asia, maternal and infant mortality rates comparable to those of western countries, and the eradication of infectious diseases such as smallpox and the plague. Taiwan is the first Asian nation to be rid of polio and the first country in the world to provide children with free hepatitis B vaccinations.

Prior to 1972 and its loss of membership in the WHO, Taiwan sent specialists to serve on health projects in other members countries, and its experts held key positions in the WHO.

In recent years, the Taiwanese government has expressed a willingness to assist financially or technically in WHO-supported international aid and health activities, but it has been unable to render such assistance because it is unable to participate in the international health organization.

Taiwan's population of 21 million people is larger than three-quarters of the member states already in the WHO. Clearly, Taiwan and the world community could benefit by its participation in the WHO. I believe the United States should actively support Taiwan's membership in the World Health Organization.

I urge my colleagues to support this important resolution.

Mr. BROWN of Ohio. Mr. Speaker, I insert the following for the RECORD.

[From the Washington Post, July 8, 1998]

Don't Taiwanese Children Count?

(By Sherrod Brown)

While President Clinton was visiting China, scores of Taiwanese children just across the straits were continuing to fight for their lives against a new, deadly virus. Unfortunately, the doctors treating this illness do not have access to the medical resources of the World Health Organization (WHO) because the regime in China will not permit Taiwan to gain membership. The fact that Taiwan is severely crippled in its effort to save children is a tragedy, with deadly implications for children the world over if this virus is not halted.

Taiwan is in the grip of a fatal epidemic that's showing no sign of slowing down. Over the past month, more than 50 children have reportedly died due to the outbreak of a virulent strain of enterovirus type 71, which causes severe inflammation of muscles surrounding the brain, spinal cord and heart. Infants and children are most vulnerable to this highly contagious virus.

Physicians treating the children unfortunately do not have access to the best medical information available because Taiwan is not allowed membership in the WHO, and cannot share in the organization's vital resources and expertise. This issue should not be about geopolitics; it should be about helping humanity.

Over the past half-century, the WHO has become the foremost international organization working to control and eradicate disease and to improve health for people the world over. Through the WHO's highly effective immunization programs, millions of children live better, longer and healthier lives. The WHO has already helped protect some eight out of 10 children worldwide from major childhood diseases, including measles and tuberculosis, and has worked to reduce the global infant morality rate by 37 percent since 1970. The WHO was also instrumental in eradicating the smallpox epidemic, which spread to 31 countries in the late 1960s and claimed nearly two million lives.

Children suffer from the effects of inadequate health care, whether they live in Los Angeles, Milan, Hong Kong, or Taipei. With the high frequency of international travel, the risk of transmitting infectious diseases such as AIDS, the Hong Kong bird flu and the enteovirus is greater than ever. In addition, increased international trade leads to a greater potential for the cross-border spread of such deadly viruses.

I believe the denial of WHO membership to Taiwan is an unjustifiable violation of its people's fundamental human rights. Good health is a basic right for every citizen of the world, and Taiwan's admission to the WHO would greatly help foster that right for its people.

China, of course, is not the only obstacle to Taiwan's admission to the WHO. The Clinton administration, as with the two previous administrations, does not support Taiwan's participation in international organizations. However, the U.S. State Department's 1994 Taiwan Policy Review clearly stated it would more actively support Taiwan's membership in international organizations when the U.S. government determines that "it is clearly appropriate."

I and more than 50 of my colleagues in the House believe U.S. support for Taiwan's admission to the WHO is and has long been "clearly appropriate." Last February, I introduced a resolution expressing the sense of Congress that Taiwan and its people should be represented in the WHO and that it should be U.S. policy to support Taiwan's membership.

As the WHO celebrates its 50th anniversary this year, the organization can proudly claim 191 nations as members. But for the past 25 years, Taiwan has been shut out of the WHO because of China's continued intransigence toward its small island neighbor. Every day, children and the elderly in Taiwan suffer needlessly because their doctors aren't able to have access to WHO medical protocols that save lives. The longer we wait, the more desperate the situation in Taiwan grows. We must act immediately to right a very serious wrong.

Mr. BERMAN. Mr. Speaker, I rise in support of House Concurrent Resolution 334, Relating to Taiwan's Participation in the World Health Organization.

I congratulate Mr. SHERROD BROWN for the intense efforts he has made to bring this resolution before the House. House Concurrent Resolution 334 is a substitute resolution to House Joint Resolution 126, which Mr. BROWN had introduced earlier and which I was a cosponsor.

This resolution calls attention to what I think we would all consider a basic human right, that is the right of every citizen to good health and access to the highest standards of health information and services. Denying a country of 21 million people to such international institutions as the World Health Organization should embarrass the member states of the United Nations who insist on keeping those doors shut to the Taiwanese people.

But I think this resolution points up an even more egregious mistake by the international community. The fundamental issue is not whether or not Taiwan should be a member of the World Health Organization. The issue is whether or not the international community should exclude a country like Taiwan from membership in any international organizations. We have a situation today in which pariah nations such as North Korea, Iraq, and Burma are members of the United Nations and actively participate—mostly in a negative fashion in terms of American interests—in all the activities of the United Nations and its specialized agencies. Whereas Taiwan which is democratic, with a free market economy, and with the third largest foreign exchange reserves in the world is unable to participate in almost every international organization.

There is something out of balance here that needs to be rectified. The Clinton administration in 1994 Taiwan Policy Review vowed to seek Taiwanese membership in "appropriate" international organizations. So far, no "appropriate" organizations have been found. I would urge the administration to intensify its search.

I think there are such organizations readily at hand in this city: the International Monetary Fund and the World Bank.

We are in the midst of a world economic crisis. Some respected economists even paint the dismal picture of an imminent world depression. The devastating effects of economic collapse are already apparent in the developing country and they are spreading to other states. The world's economy is sick. With foreign exchange reserves totaling $88 billion, Taiwan has some of the medicine which can help the rest of the world recover. We should be seeking for ways to help Taiwan contribute to the well-being of the international community, not finding ways to exclude Taiwan.

I am proud to be a cosponsor of the original resolution and, as ranking member of the Asia and Pacific Subcommittee of the International Relations Committee, I urge my colleagues to support the one before us today.

Mr. DAVIS of Illinois. Mr. Speaker, I take this opportunity to express my strong support for House Concurrent Resolution 334 calling for Taiwan's participation in World Health Organization (WHO) activities because it is good policy. It is my hope that the United States will support this bid.

It does not matter where people live. They may live in the Chinatown area of my district, the 7th Congressional District of Illinois, or on the West Coast in Seattle, Washington, or overseas in Taipei, Taiwan. Regardless, the humane thing to do is to care for ill children, the elderly, all people. Are we playing politics with the 21 million people that reside in Taiwan? I am a firm believer in that the people shall not suffer as a result of government policies. If women and children are ailing, we need to assist in whatever way possible that is within our means.

The bottom line is that the people of Taiwan can access better healthcare if the country is allowed representation in the World Health Organization.

Moreover, in recent years the people of Taiwan have successfully defended their participation in a number of multilateral groups, including, but not limited to the Asian Development Bank, the Pacific Basin Economic Council. Although the composition for their participation varies from group to group, their pragmatic importance is inevitable.

I urge my colleagues to recognize the importance of the country of Taiwan in the global arena and support their entry into the WHO.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the motion offered by the gentleman from New York (Mr. SOLOMON) that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 334.

The question was taken.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

CONFERENCE REPORT ON S. 1260, SECURITIES LITIGATION UNIFORM STANDARDS ACT OF 1998

Mr. BLILEY submitted the following conference report and statement on the Senate bill (S. 1260) to amend the Securities Act of 1933 and the Securities Exchange Act of 1934 to limit the conduct of securities class actions under State law, and for other purposes;

CONFERENCE REPORT (H. REPT. 105–803)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1260), to amend the Securities Act of 1933 and the Securities Exchange Act of 1934 to limit the conduct of securities class actions under State law, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Securities Litigation Uniform Standards Act of 1998".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Private Securities Litigation Reform Act of 1995 sought to prevent abuses in private securities fraud lawsuits;

(2) since enactment of that legislation, considerable evidence has been presented to Congress that a number of securities class action lawsuits have shifted from Federal to State courts;

(3) this shift has prevented that Act from fully achieving its objectives;

(4) State securities regulation is of continuing importance, together with Federal regulation of securities, to protect investors and promote strong financial markets; and

(5) in order to prevent certain State private securities class action lawsuits alleging fraud from being used to frustrate the objectives of the Private Securities Litigation Reform Act of 1995, it is appropriate to enact national standards for securities class action lawsuits involving nationally traded securities, while preserving the appropriate enforcement powers of State securities regulators and not changing the current treatment of individual lawsuits.

TITLE I—SECURITIES LITIGATION UNIFORM STANDARDS

SEC. 101. LIMITATION ON REMEDIES.

(a) AMENDMENTS TO THE SECURITIES ACT OF 1933.—

(1) AMENDMENT.—Section 16 of the Securities Act of 1933 (15 U.S.C. 77p) is amended to read as follows:

"SEC. 16. ADDITIONAL REMEDIES; LIMITATION ON REMEDIES.

"(a) REMEDIES ADDITIONAL.—Except as provided in subsection (b), the rights and remedies provided by this title shall be in addition to any and all other rights and remedies that may exist at law or in equity.

"(b) CLASS ACTION LIMITATIONS.—No covered class action based upon the statutory or common law of any State or subdivision thereof may be maintained in any State or Federal court by any private party alleging—

"(1) an untrue statement or omission of a material fact in connection with the purchase or sale of a covered security; or

"(2) that the defendant used or employed any manipulative or deceptive device or contrivance in connection with the purchase or sale of a covered security.

"(c) REMOVAL OF COVERED CLASS ACTIONS.—Any covered class action brought in any State court involving a covered security, as set forth in subsection (b), shall be removable to the Federal district court for the district in which the action is pending, and shall be subject to subsection (b).

"(d) PRESERVATION OF CERTAIN ACTIONS.—

"(1) ACTIONS UNDER STATE LAW OF STATE OF INCORPORATION.—

"(A) ACTIONS PRESERVED.—Notwithstanding subsection (b) or (c), a covered class action described in subparagraph (B) of this paragraph that is based upon the statutory or common law of the State in which the issuer is incorporated (in the case of a corporation) or organized (in the case of any other entity) may be maintained in a State or Federal court by a private party.

"(B) PERMISSIBLE ACTIONS.—A covered class action is described in this subparagraph if it involves—

"(i) the purchase or sale of securities by the issuer or an affiliate of the issuer exclusively from or to holders of equity securities of the issuer; or

"(ii) any recommendation, position, or other communication with respect to the sale of securities of the issuer that—

"(I) is made by or on behalf of the issuer or an affiliate of the issuer to holders of equity securities of the issuer; and

"(II) concerns decisions of those equity holders with respect to voting their securities, acting in response to a tender or exchange offer, or exercising dissenters' or appraisal rights.

"(2) STATE ACTIONS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this section, nothing in this section may be construed to preclude a State or political subdivision thereof or a State pension plan from bringing an action involving a covered security on its own behalf, or as a member of a class comprised solely of other States, political subdivisions, or State pension plans that are named plaintiffs, and that have authorized participation, in such action.

"(B) STATE PENSION PLAN DEFINED.—For purposes of this paragraph, the term 'State pension plan' means a pension plan established and maintained for its employees by the government of the State or political subdivision thereof, or by any agency or instrumentality thereof.

"(3) ACTIONS UNDER CONTRACTUAL AGREEMENTS BETWEEN ISSUERS AND INDENTURE TRUSTEES.—Notwithstanding subsection (b) or (c), a covered class action that seeks to enforce a contractual agreement between an issuer and an indenture trustee may be maintained in a State or Federal court by a party to the agreement or a successor to such party.

"(4) REMAND OF REMOVED ACTIONS.—In an action that has been removed from a State court pursuant to subsection (c), if the Federal court determines that the action may be maintained in State court pursuant to this subsection, the Federal court shall remand such action to such State court.

"(e) PRESERVATION OF STATE JURISDICTION.—The securities commission (or any agency or office performing like functions) of any State shall retain jurisdiction under the laws of such State to investigate and bring enforcement actions.

"(f) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) AFFILIATE OF THE ISSUER.—The term 'affiliate of the issuer' means a person that directly or indirectly, through one or more intermediaries, controls or is controlled by or is under common control with, the issuer.

"(2) COVERED CLASS ACTION.—

"(A) IN GENERAL.—The term 'covered class action' means—

"(i) any single lawsuit in which—

"(I) damages are sought on behalf of more than 50 persons or prospective class members, and questions of law or fact common to those persons or members of the prospective class, without reference to issues of individualized reliance on an alleged misstatement or omission, predominate over any questions affecting only individual persons or members; or

"(II) one or more named parties seek to recover damages on a representative basis on behalf of themselves and other unnamed parties similarly situated, and questions of law or fact common to those persons or members of the prospective class predominate over any questions affecting only individual persons or members; or

"(ii) any group of lawsuits filed in or pending in the same court and involving common questions of law or fact, in which—

"(I) damages are sought on behalf of more than 50 persons; and

"(II) the lawsuits are joined, consolidated, or otherwise proceed as a single action for any purpose.

"(B) EXCEPTION FOR DERIVATIVE ACTIONS.—Notwithstanding subparagraph (A), the term 'covered class action' does not include an exclusively derivative action brought by one or more shareholders on behalf of a corporation.

"(C) COUNTING OF CERTAIN CLASS MEMBERS.—For purposes of this paragraph, a corporation, investment company, pension plan, partnership, or other entity, shall be treated as one person or prospective class member, but only if the entity is not established for the purpose of participating in the action.

"(D) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to affect the discretion of a State court in determining whether actions filed in such court should be joined, consolidated, or otherwise allowed to proceed as a single action.

"(3) COVERED SECURITY.—The term 'covered security' means a security that satisfies the standards for a covered security specified in paragraph (1) or (2) of section 18(b) at the time during which it is alleged that the misrepresentation, omission, or manipulative or deceptive conduct occurred, except that such term shall not include any debt security that is exempt from registration under this title pursuant to rules issued by the Commission under section 4(2).".

(2) CIRCUMVENTION OF STAY OF DISCOVERY.—Section 27(b) of the Securities Act of 1933 (15 U.S.C. 77z–1(b)) is amended by inserting after paragraph (3) the following new paragraph:

"(4) CIRCUMVENTION OF STAY OF DISCOVERY.—Upon a proper showing, a court may stay discovery proceedings in any private action in a State court as necessary in aid of its jurisdiction, or to protect or effectuate its judgments, in an action subject to a stay of discovery pursuant to this subsection.".

(3) CONFORMING AMENDMENTS.—Section 22(a) of the Securities Act of 1933 (15 U.S.C. 77v(a)) is amended—

(A) by inserting "except as provided in section 16 with respect to covered class actions," after "Territorial courts,"; and

(B) by striking "No case" and inserting "Except as provided in section 16(c), no case".

(b) AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934.—

(1) AMENDMENT.—Section 28 of the Securities Exchange Act of 1934 (15 U.S.C. 78bb) is amended—

(A) in subsection (a), by striking "The rights and remedies" and inserting "Except as provided in subsection (f), the rights and remedies"; and

(B) by adding at the end the following new subsection:

"(f) LIMITATIONS ON REMEDIES.—

"(1) CLASS ACTION LIMITATIONS.—No covered class action based upon the statutory or common law of any State or subdivision thereof may be maintained in any State or Federal court by any private party alleging—

"(A) a misrepresentation or omission of a material fact in connection with the purchase or sale of a covered security; or

"(B) that the defendant used or employed any manipulative or deceptive device or contrivance in connection with the purchase or sale of a covered security.

"(2) REMOVAL OF COVERED CLASS ACTIONS.—Any covered class action brought in any State court involving a covered security, as set forth in paragraph (1), shall be removable to the Federal district court for the district in which the action is pending, and shall be subject to paragraph (1).

"(3) PRESERVATION OF CERTAIN ACTIONS.—

"(A) ACTIONS UNDER STATE LAW OF STATE OF INCORPORATION.—

"(i) ACTIONS PRESERVED.—Notwithstanding paragraph (1) or (2), a covered class action described in clause (ii) of this subparagraph that is based upon the statutory or common law of the State in which the issuer is incorporated (in the case of a corporation) or organized (in the case of any other entity) may be maintained in a State or Federal court by a private party.

"(ii) PERMISSIBLE ACTIONS.—A covered class action is described in this clause if it involves—

"(I) the purchase or sale of securities by the issuer or an affiliate of the issuer exclusively from or to holders of equity securities of the issuer; or

"(II) any recommendation, position, or other communication with respect to the sale of securities of an issuer that—

"(aa) is made by or on behalf of the issuer or an affiliate of the issuer to holders of equity securities of the issuer; and

"(bb) concerns decisions of such equity holders with respect to voting their securities, acting in response to a tender or exchange offer, or exercising dissenters' or appraisal rights.

"(B) STATE ACTIONS.—

"(i) IN GENERAL.—Notwithstanding any other provision of this subsection, nothing in this subsection may be construed to preclude a State or political subdivision thereof or a State pension plan from bringing an action involving a covered security on its own behalf, or as a member of a class comprised solely of other States, political subdivisions, or State pension plans that are named plaintiffs, and that have authorized participation, in such action.

"(ii) STATE PENSION PLAN DEFINED.—For purposes of this subparagraph, the term 'State pension plan' means a pension plan established and maintained for its employees by the government of a State or political subdivision thereof, or by any agency or instrumentality thereof.

"(C) ACTIONS UNDER CONTRACTUAL AGREEMENTS BETWEEN ISSUERS AND INDENTURE TRUSTEES.—Notwithstanding paragraph (1) or (2), a covered class action that seeks to enforce a contractual agreement between an issuer and an indenture trustee may be maintained in a State or Federal court by a party to the agreement or a successor to such party.

"(D) REMAND OF REMOVED ACTIONS.—In an action that has been removed from a State court pursuant to paragraph (2), if the Federal court determines that the action may be maintained in State court pursuant to this subsection, the Federal court shall remand such action to such State court.

"(4) PRESERVATION OF STATE JURISDICTION.—The securities commission (or any agency or office performing like functions) of any State shall retain jurisdiction under the laws of such State to investigate and bring enforcement actions.

"(5) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

"(A) AFFILIATE OF THE ISSUER.—The term 'affiliate of the issuer' means a person that directly or indirectly, through one or more intermediaries, controls or is controlled by or is under common control with, the issuer.

"(B) COVERED CLASS ACTION.—The term 'covered class action' means—

"(i) any single lawsuit in which—

"(I) damages are sought on behalf of more than 50 persons or prospective class members, and questions of law or fact common to those persons or members of the prospective class, without reference to issues of individualized reliance on an alleged misstatement or omission, predominate over any questions affecting only individual persons or members; or

"(II) one or more named parties seek to recover damages on a representative basis on behalf of themselves and other unnamed parties similarly situated, and questions of law or fact common to those persons or members of the prospective class predominate over any questions affecting only individual persons or members; or

"(ii) any group of lawsuits filed in or pending in the same court and involving common questions of law or fact, in which—

"(I) damages are sought on behalf of more than 50 persons; and

"(II) the lawsuits are joined, consolidated, or otherwise proceed as a single action for any purpose.

"(C) EXCEPTION FOR DERIVATIVE ACTIONS.—Notwithstanding subparagraph (B), the term 'covered class action' does not include an exclusively derivative action brought by one or more shareholders on behalf of a corporation.

"(D) COUNTING OF CERTAIN CLASS MEMBERS.—For purposes of this paragraph, a corporation, investment company, pension plan, partnership, or other entity, shall be treated as one person or prospective class member, but only if the entity is not established for the purpose of participating in the action.

"(E) COVERED SECURITY.—The term 'covered security' means a security that satisfies the standards for a covered security specified in paragraph (1) or (2) of section 18(b) of the Securities Act of 1933, at the time during which it is alleged that the misrepresentation, omission, or manipulative or deceptive conduct occurred, except that such term shall not include any debt security that is exempt from registration under the Securities Act of 1933 pursuant to rules issued by the Commission under section 4(2) of that Act.

"(F) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to affect the discretion of a State court in determining whether actions filed in such court should be joined, consolidated, or otherwise allowed to proceed as a single action.".

(2) CIRCUMVENTION OF STAY OF DISCOVERY.—Section 21D(b)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-4(b)(3)) is amended by adding at the end the following new subparagraph:

"(D) CIRCUMVENTION OF STAY OF DISCOVERY.—Upon a proper showing, a court may stay discovery proceedings in any private action in a State court, as necessary in aid of its jurisdiction, or to protect or effectuate its judgments, in an action subject to a stay of discovery pursuant to this paragraph.".

(c) APPLICABILITY.—The amendments made by this section shall not affect or apply to any action commenced before and pending on the date of enactment of this Act.

SEC. 102. PROMOTION OF RECIPROCAL SUBPOENA ENFORCEMENT.

(a) COMMISSION ACTION.—The Securities and Exchange Commission, in consultation with State securities commissions (or any agencies or offices performing like functions), shall seek to encourage the adoption of State laws providing for reciprocal enforcement by State securities commissions of subpoenas issued by another State securities commission seeking to compel persons to attend, testify in, or produce documents or records in connection with an action or investigation by a State securities commission of an alleged violation of State securities laws.

(b) REPORT.—Not later than 24 months after the date of enactment of this Act, the Securities and Exchange Commission (hereafter in this section referred to as the "Commission") shall submit a report to the Congress—

(1) identifying the States that have adopted laws described in subsection (a);

(2) describing the actions undertaken by the Commission and State securities commissions to promote the adoption of such laws; and

(3) identifying any further actions that the Commission recommends for such purposes.

TITLE II—REAUTHORIZATION OF THE SECURITIES AND EXCHANGE COMMISSION

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Section 35 of the Securities Exchange Act of 1934 (15 U.S.C. 78kk) is amended to read as follows:

"SEC. 35. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—In addition to any other funds authorized to be appropriated to the Commission, there are authorized to be appropriated to carry out the functions, powers, and duties of the Commission, $351,280,000 for fiscal year 1999.

"(b) MISCELLANEOUS EXPENSES.—Funds appropriated pursuant to this section are authorized to be expended—

"(1) not to exceed $3,000 per fiscal year, for official reception and representation expenses;

"(2) not to exceed $10,000 per fiscal year, for funding a permanent secretariat for the International Organization of Securities Commissions; and

"(3) not to exceed $100,000 per fiscal year, for expenses for consultations and meetings hosted by the Commission with foreign governmental and other regulatory officials, members of their delegations, appropriate representatives, and staff to exchange views concerning developments relating to securities matters, for development and implementation of cooperation agreements concerning securities matters, and provision of technical assistance for the development of foreign securities markets, such expenses to include necessary logistic and administrative expenses and the expenses of Commission staff and foreign invitees in attendance at such consultations and meetings, including—

"(A) such incidental expenses as meals taken in the course of such attendance;

"(B) any travel or transportation to or from such meetings; and

"(C) any other related lodging or subsistence.".

SEC. 202. REQUIREMENTS FOR THE EDGAR SYSTEM.

Section 35A of the Securities Exchange Act of 1934 (15 U.S.C. 78ll) is amended—

(1) by striking subsections (a), (b), (c), and (e); and

(2) in subsection (d)—

(A) by striking "(d)";

(B) in paragraph (2), by striking "; and" at the end and inserting a period; and

(C) by striking paragraph (3).

SEC. 203. COMMISSION PROFESSIONAL ECONOMISTS.

Section 4(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78d(b)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following:

"(2) Economists.—

"(A) Commission authority.—Notwithstanding the provisions of chapter 51 of title 5, United States Code, the Commission is authorized—

"(i) to establish its own criteria for the selection of such professional economists as the Commission deems necessary to carry out the work of the Commission;

"(ii) to appoint directly such professional economists as the Commission deems qualified; and

"(iii) to fix and adjust the compensation of any professional economist appointed under this paragraph, without regard to the provisions of chapter 54 of title 5, United States Code, or subchapters II, III, or VIII of chapter 53, of title 5, United States Code.

"(B) Limitation on compensation.—No base compensation fixed for an economist under this paragraph may exceed the pay for Level IV of the Executive Schedule, and no payments to an economist appointed under this paragraph shall exceed the limitation on certain payments in section 5307 of title 5, United States Code.

"(C) Other benefits.—All professional economists appointed under this paragraph shall remain within the existing civil service system with respect to employee benefits.".

TITLE III—CLERICAL AND TECHNICAL AMENDMENTS

SEC. 301. CLERICAL AND TECHNICAL AMENDMENTS.

(a) Securities Act of 1933.—The Securities Act of 1933 (15 U.S.C. 77 et seq.) is amended as follows:

(1) Section 2(a)(15)(i) (15 U.S.C. 77b(a)(15)(i)) is amended—

(A) by striking "3(a)(2) of the Act" and inserting "3(a)(2)"; and

(B) by striking "section 2(13) of the Act" and inserting "paragraph (13) of this subsection".

(2) Section 11(f)(2)(A) (15 U.S.C. 77k(f)(2)(A)) is amended by striking "section 38" and inserting "section 21D(f)".

(3) Section 13 (15 U.S.C. 77m) is amended—

(A) by striking "section 12(2)" each place it appears and inserting "section 12(a)(2)"; and

(B) by striking "section 12(1)" each place it appears and inserting "section 12(a)(1)".

(4) Section 18 (15 U.S.C. 77r) is amended—

(A) in subsection (b)(1)(A), by inserting ", or authorized for listing," after "Exchange, or listed";

(B) in subsection (c)(2)(B)(i), by striking "Capital Markets Efficiency Act of 1996" and inserting "National Securities Markets Improvement Act of 1996";

(C) in subsection (c)(2)(C)(i), by striking "Market" and inserting "Markets";

(D) in subsection (d)(1)(A)—

(i) by striking "section 2(10)" and inserting "section 2(a)(10)"; and

(ii) by striking "subparagraphs (A) and (B)" and inserting "subparagraphs (a) and (b)";

(E) in subsection (d)(2), by striking "Securities Amendments Act of 1996" and inserting "National Securities Markets Improvement Act of 1996"; and

(F) in subsection (d)(4), by striking "For purposes of this paragraph, the" and inserting "The".

(5) Sections 27, 27A, and 28 (15 U.S.C. 77z–1, 77z–2, 77z–3) are transferred to appear after section 26, in that order.

(6) Paragraph (28) of schedule A of such Act (15 U.S.C. 77aa(28)) is amended by striking "identic" and inserting "identical".

(b) Securities Exchange Act of 1934.—The Securities Exchange Act of 1934 (15 U.S.C. 78 et seq.) is amended as follows:

(1) Section 3(a)(10) (15 U.S.C. 78c(a)(10)) is amended by striking "deposit, for" and inserting "deposit for".

(2) Section 3(a)(12)(A)(vi) (15 U.S.C. 78c(a)(12)(A)(vi)) is amended by moving the margin 2 em spaces to the left.

(3) Section 3(a)(22)(A) (15 U.S.C. 78c(a)(22)(A)) is amended—

(A) by striking "section 3(h)" and inserting "section 3"; and

(B) by striking "section 3(t)" and inserting "section 3".

(4) Section 3(a)(39)(B)(i) (15 U.S.C. 78c(a)(39)(B)(i)) is amended by striking "an order to the Commission" and inserting "an order of the Commission".

(5) The following sections are each amended by striking "Federal Reserve Board" and inserting "Board of Governors of the Federal Reserve System": subsections (a) and (b) of section 7 (15 U.S.C. 78g(a), (b)); section 17(g) (15 U.S.C. 78q(g)); and section 26 (15 U.S.C. 78z).

(6) The heading of subsection (d) of section 7 (15 U.S.C. 78g(d)) is amended by striking "EXCEPTION" and inserting "EXCEPTIONS".

(7) Section 14(g)(4) (15 U.S.C. 78n(g)(4)) is amended by striking "consolidation sale," and inserting "consolidation, sale,".

(8) Section 15 (15 U.S.C. 78o) is amended—

(A) in subsection (c)(8), by moving the margin 2 em spaces to the left;

(B) in subsection (h)(2), by striking "affecting" and inserting "effecting";

(C) in subsection (h)(3)(A)(i)(II)(bb), by inserting "or" after the semicolon;

(D) in subsection (h)(3)(A)(ii)(I), by striking "maintains" and inserting "maintained";

(E) in subsection (h)(3)(B)(ii), by striking "association" and inserting "associated".

(9) Section 15B(c)(4) (15 U.S.C. 78o–4(c)(4)) is amended by striking "convicted by any offense" and inserting "convicted of any offense".

(10) Section 15C(f)(5) (15 U.S.C. 78o–5(f)(5)) is amended by striking "any person or class or persons" and inserting "any person or class of persons".

(11) Section 19(c)(5) (15 U.S.C. 78s(c)(5)) is amended by moving the margin 2 em spaces to the right.

(12) Section 20 (15 U.S.C. 78t) is amended by redesignating subsection (f) as subsection (e).

(13) Section 21D (15 U.S.C. 78u–4) is amended—

(A) in subsection (g)(2)(B)(i), by striking "paragraph (1)" and inserting "subparagraph (A)".

(B) by redesignating subsection (g) as subsection (f); and

(14) Section 31(a) (15 U.S.C. 78ee(a)) is amended by striking "this subsection" and inserting "this section".

(c) Investment Company Act of 1940.—The Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.) is amended as follows:

(1) Section 2(a)(8) (15 U.S.C. 80a–2(a)(8)) is amended by striking "Unitde" and inserting "United".

(2) Section 3(b) (15 U.S.C. 80a–3(b)) is amended by striking "paragraph (3) of subsection (a)" and inserting "paragraph (1)(C) of subsection (a)".

(3) Section 12(d)(1)(G)(i)(III)(bb) (15 U.S.C. 80a–12(d)(1)(G)(i)(III)(bb)) is amended by striking "the acquired fund" and inserting "the acquired company".

(4) Section 18(e)(2) (15 U.S.C. 80a–18(e)(2)) is amended by striking "subsection (e)(2)" and inserting "paragraph (1) of this subsection".

(5) Section 30 (15 U.S.C. 80a–29) is amended—

(A) by inserting "and" after the semicolon at the end of subsection (b)(1);

(B) in subsection (e), by striking "semi-annually" and inserting "semiannually"; and

(C) by redesignating subsections (g) and (h), as added by section 508(g) of the National Securities Markets Improvement Act of 1996, as subsections (i) and (j), respectively.

(6) Section 31(f) (15 U.S.C. 80a–30(f)) is amended by striking "subsection (c)" and inserting "subsection (e)".

(d) Investment Advisers Act of 1940.—The Investment Advisers Act of 1940 (15 U.S.C. 80b et seq.) is amended as follows:

(1) Section 203(e)(8)(B) (15 U.S.C. 80b–3(e)(8)(B)) is amended by inserting "or" after the semicolon.

(2) Section 222(b)(2) (15 U.S.C. 80b–18a(b)(2)) is amended by striking "principle" and inserting "principal".

(e) Trust Indenture Act of 1939.—The Trust Indenture Act of 1939 (15 U.S.C. 77aaa et seq.) is amended as follows:

(1) Section 303 (15 U.S.C. 77ccc) is amended by striking "section 2" each place it appears in paragraphs (2) and (3) and inserting "section 2(a)".

(2) Section 304(a)(4)(A) (15 U.S.C. 77ddd(a)(4)(A)) is amended by striking "(14) of subsection" and inserting "(13) of section".

(3) Section 313(a) (15 U.S.C. 77mmm(a)) is amended—

(A) by inserting "any change to" after the paragraph designation at the beginning of paragraph (4); and

(B) by striking "any change to" in paragraph (6).

(4) Section 319(b) (15 U.S.C. 77sss(b)) is amended by striking "the Federal Register Act" and inserting "chapter 15 of title 44, United States Code,".

SEC. 302. EXEMPTION OF SECURITIES ISSUED IN CONNECTION WITH CERTAIN STATE HEARINGS.

Section 18(b)(4)(C) of the Securities Act of 1933 (15 U.S.C. 77r(b)(4)(C)) is amended by striking "paragraph (4) or (11)" and inserting "paragraph (4), (10), or (11)".

And the House agree to the same.

Tom Bliley,
M.G. Oxley,
Billy Tauzin,
Chris Cox,
Rick White,
Anna G. Eshoo,
Managers on the Part of the House.

Alfonse D'Amato,
Phil Gramm,
Chris Dodd,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1260) to amend the Securities Act of 1933 and the Securities Exchange Act of 1934 to limit the conduct of securities class actions under State law, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Securities Litigation Uniform Standards Act of 1998

UNIFORM STANDARDS

Title 1 of S. 1260, the Securities Litigation Uniform Standards Act of 1998, makes Federal court the exclusive venue for most securities class action lawsuits. The purpose of this title is to prevent plaintiffs from seeking to evade the protections that Federal law provides against abusive litigation by filing suit in State, rather than in Federal, court. The legislation is designed to protect the interests of shareholders and employees of public companies that are the target of meritless "strike" suits. The purpose of these strike suits is to extract a sizeable settlement from companies that are forced to settle, regardless of the lack of merits of the suit, simply to avoid the potentially bankrupting expense of litigating.

Additionally, consistent with the determination that Congress made in the National Securities Markets Improvement Act[1] (NSMIA), this legislation establishes uniform national rules for securities class action litigation involving our national capital markets. Under the legislation, class actions relating to a "covered security" (as defined by section 18(b) of the Securities Act of 1933, which was added to that Act by NSMIA) alleging fraud or manipulation must be maintained pursuant to the provisions of Federal securities law, in Federal court (subject to certain exceptions).

"Class actions" that the legislation bars from State court include actions brought on behalf of more than 50 persons, actions brought on behalf of one or more unnamed parties, and so-called "mass actions," in which a group of lawsuits filed in the same court are joined or otherwise proceed as a single action.

The legislation provides for certain exceptions for specific types of actions. The legislation preserves State jurisdiction over: (1) certain actions that are based upon the law of the State in which the issuer of the security in question is incorporated,[2] (2) actions brought by States and political subdivisions, and State pension plans, so long as the plaintiffs are named and have authorized participation in the action; and (3) actions by a party to a contractual agreement (such as an indenture trustee) seeking to enforce provisions of the indenture.

Additionally, the legislation provides for an exception from the definition of "class action" for certain shareholder derivative actions.

Title II of the legislation reauthorizes the Securities and Exchange Commission (SEC or Commission) for Fiscal Year 1999. This title also includes authority for the SEC to pay economists above the general services scale.

Title III of the legislation provides for corrections to certain clerical and technical errors in the Federal securities laws arising from changes made by the Private Securities Litigation Reform Act of 1995[3] (the "Reform Act") and NSMIA.

The managers note that a report and statistical analysis of securities class actions lawsuits authored by Joseph A. Grundfest and Michael A. Perino reached the following conclusion:

> The evidence presented in this report suggests that the level of class action securities fraud litigation has declined by about a third in federal courts, but that there has been an almost equal increase in the level of state court activity, largely as a result of a "substition effect" whereby plaintiffs resort to state court to avoid the new, more stringent requirements of federal cases. There has also been an increase in parallel litigation between state and federal courts in an apparent effort to avoid the federal discovery stay or other provisions of the Act. This increase in state activity has the potential not only to undermine the intent of the Act, but to increase the overall cost of litigation to the extent that the Act encourages the filing of parallel claims.[4]

Prior to the passage of the Reform Act, there was essentially no significant securities class action litigation brought in State court.[5] In its Report to the President and the Congress on the First Year of Practice Under the Private Securities Litigation Reform Act of 1995, the SEC called the shift of securities fraud cases from Federal to State court "potentially the most significant development in securities litigation" since passage of the Reform Act.[6]

The managers also determined that, since passage of the Reform Act, plaintiffs' lawyers have sought to circumvent the Act's provisions by exploiting differences between Federal and State laws by filing frivolous and speculative lawsuits in State court, where essentially none of the Reform Act's procedural or substantive protections against abusive suits are available.[7] In California, State securities class action filings in the first six months of 1996 went up roughly five-fold compared to the first six months of 1995, prior to passage of the Reform Act.[8] Furthermore, as a state securities commissioner has observed:

> It is important to note that companies can not control where their securities are traded after an initial public offering. * * * As a result, companies with publicly-traded securities can not choose to avoid jurisdictions which present unreasonable litigation costs. Thus, a single state can impose the risks and costs of its pecular litigation system on all national issuers.[9]

The solution to this problem is to make Federal court the exclusive venue for most securities fraud class action litigation involving nationally traded securities.

SCIENTER

It is the clear understanding of the managers that Congress did not, in adopting the Reform Act, intend to alter the standards of liability under the Exchange Act.

TOM BLILEY,
M.G. OXLEY,
BILLY TAUZIN,
CHRIS COX,
RICK WHITE,
ANNA G. ESHOO,
Managers on the Part of the House.
ALFONSE D'AMATO,
PHIL GRAMM,
CHRIS DODD,
Managers on the Part of the Senate.

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[1] Public law 104-290 (October 11, 1996).

[2] It is the intention of the managers that the suits under this exception be limited to the state in which issuer of the security is incorporated, in the case of a corporation, or state of organization, in the case of any other entity.

[3] Public Law 104-67 (December 22, 1995).

[4] Grundfest, Joseph A. & Perino, Michael A., *Securities Litigation Reform: The First Year's Experience: A Statistical and Legal Analysis of Class Action Securities Fraud Litigation under the Private Securities Litigation Reform Act of 1995*, Stanford Law School (February 27, 1997).

[5] *Id.* n. 18.

[6] *Report to the President and the Congress on the First Year of Practice Under the Private Securities Litigation Reform Act of 1995*, U.S. Securities and Exchange Commission, Office of the General Counsel, April 1997 at 61.

[7] Testimony of Mr. Jack G. Levin before the Subcommittee on Finance and Hazardous Materials of the Committee on Commerce, House of Representatives, Serial No. 105-85, at 41-45 (May 19, 1998).

[8] *Id.* at 4.

[9] Written statement of Hon. Keith Paul Bishop, Commissioner, California Department of Corporations, submitted to the Senate Committee on Banking, Housing and Urban Affairs' Subcommittee on Securities' "Oversight Hearing on the Private Securities Litigation Reform Act of 1995," Serial No. 105-182, at 3 (July 27, 1998).

SUPPORTING THE BALTIC PEOPLE OF ESTONIA, LATVIA, AND LITHUANIA, AND CONDEMNING THE NAZI-SOVIET PACT OF NON-AGGRESSION

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 320) supporting the Baltic people of Estonia, Latvia, and Lithuania, and condemning the Nazi-Soviet Pact of Non-Aggression of August 23, 1939, as amended.

The Clerk read as follows:

H. CON. RES. 320

Whereas on February 16, 1918, February 24, 1918, and November 18, 1918, Lithuania, Estonia, Latvia, declared, respectively, their independence and became democratic, peace-loving states with membership in the League of Nations and diplomatic representation in the United States;

Whereas on August 23, 1939, emissaries of Adolf Hitler and Joseph Stalin, Nazi German Foreign Minister Ribbentrop and Soviet Foreign Minister Molotov, signed an agreement known as the Nazi-Soviet Pact of Non-Aggression which contained secret protocols that illegally divided Eastern Europe into spheres of influence with Estonia, Latvia, and part of Poland going to the Soviet Union and Lithuania and Poland going to Nazi Germany;

Whereas the Soviet Army fulfilled the Nazi-Soviet Pact of Non-Aggression by illegally invading Lithuania on June 15, 1940, and invading both Latvia and Estonia on June 17, 1940;

Whereas this illegal and forcible occupation was never recognized by the United States and successive United States Administrations maintained continuous diplomatic relations with these countries throughout the Soviet period, never once considering them to be "Soviet Republics";

Whereas the Baltic peoples valiantly re-established their independence through peaceful means and the United States recognized their independent governments in 1991; and

Whereas Lithuania, Latvia, and Estonia have achieved commendable success in the eight years since they re-established independence, including full democracy, significant economic reforms, and civilian control of a new military based on Western standards: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That, in observance of the 59th anniversary of the Nazi-Soviet Pact of Non-Aggression, the Congress—

(1) reaffirms the United States policy of the non-recognition of the occupation by the Soviet Union of Lithuania, Latvia, and Estonia subsequent to the Nazi-Soviet Pact of Non-Aggression, which for the 50 years after the signing of such Pact was a commendable bipartisan policy that refused to legally recognize the Soviet occupation of these countries;

(2) urges Russia, in the spirit of democracy, to renounce the Nazi-Soviet Pact of Non-Aggression and its secret supplemental protocols, as illegal;

(3) welcomes and supports the signing of the United States-Baltic Charter by the United States, Lithuania, Latvia, and Estonia that reiterates the strong historical kinship between the peoples of these countries; and

(4) calls on the President and Secretary of State to work to ensure that Russia understands that the Nazi-Soviet Pact of Non-Aggression should be considered illegal and null and void.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. GILMAN) and the gentleman from American Samoa (Mr. FALEOMAVAEGA) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. GILMAN).

GENERAL LEAVE

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Concurrent Resolution 320, the measure under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution reiterates an important aspect of our policy towards the three Baltic states of Latvia, Lithuania and Estonia, namely, that our Nation has never recognized their invasion by the military forces of the former Soviet Union and the former Nazi Germany or their occupation and absorption by the former Soviet regime as legal acts. This is an extremely important measure to remember as we consider the actions of the Russian Federation in regards to the newly independent Baltic States.

As much as we should call for fair treatment of all citizens of the Baltic States, we should remember that the acts of Russia's predecessor State, the Soviet Union, towards Estonia, Latvia and Lithuania were illegal. We should also bear in mind that, due to the purposeful policies of the former Soviet regime, specifically its attempts to Russify the Baltic States through policies of deportation of Baltic residents of those states and settlement of ethnic Russians in those states, the Baltic countries are today faced with the presence of large numbers of ethnic Russian residents, many of whom appear to resent the renewed independence of those states.

The actions of the Russian government with regard to the small Baltic states has not been reassuring. Despite the fact that, at the urging of the United States and the European Union, the Baltic governments have adopted policies meant to fairly integrate ethnic Russians into their politics and society, the Russian government in Moscow seems determined to take advantage of any complaint voiced by ethnic Russians in the Baltic states to renew their harsh criticism of those countries and to claim violations of the human rights of ethnic Russians.

Recent actions threatened against the government of Latvia by the Russian government do not give us any assurance that Russia intends to undertake a fair and balanced approach towards the small Baltic countries and their renewed independence. I would suggest that if the Russian government wishes our Nation and the international community to take more seriously its allegations of violations of human rights of ethnic Russians in the Baltics, it ought to first do as the resolution states:

> Officially acknowledge that the actions of its predecessor state towards the Baltic countries, as embodied in the Molotov-Ribbentrop Pact of 1939 and exemplified by Soviet occupation and Russification of the Baltic states, were illegal.

In concluding, I want to note that the resolution also states congressional support for the U.S.-Baltic Charter, signed by our President and the Presidents of the three Baltic states in January of this year. Although there is some concern in the Congress over the increasing use of charters that do not require ratification, the U.S.-Baltic Charter outlines the importance of U.S. interaction with the Baltic states and assistance to them as they seek to integrate into the pan-European and trans-Atlantic nations. I certainly support that approach in our bilateral policy towards those three States.

I want to commend the gentleman from New York (Mr. SOLOMON) for being a staunch advocate of this measure and for taking an active role in bringing this measure to the floor at this time. Accordingly, I support the approval of this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, again I want to commend the gentleman from New York (Mr. GILMAN), the chairman of our Committee on International Relations, for his leadership and for bringing this piece of legislation to the floor. My commendation also to the gentleman from New York (Mr. SOLOMON) for his participation and his support of this legislation; and certainly my good friend, the gentleman from Nebraska (Mr. BEREUTER), and the gentleman from California (Mr. ROHRABACHER) for their support.

Mr. Speaker, this resolution gives a sense of observation and recognition of this 59th anniversary of the Nazi-Soviet Pact of Non-Aggression. The resolution reaffirms the U.S. Policy of the nonrecognition of the occupation by the Soviet Union of the free Baltic states, mainly Latvia, Estonia and Lithuania, subsequent to this infamous non-agression pact which was done in 1939.

The resolution also urges Russia to renounce as illegal the Molotov-Ribbentrop NonAgression Pact and its secret protocols.

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The resolution welcomes the signing of the U.S.-Baltic Charter in January 1998, and it calls also on the President and the Secretary of State to ensure that Russia understands that the Nazi-Soviet Non-Aggression Pact should be considered illegal, null and void.

The resolution will have no impact on U.S. foreign policy, Mr. Speaker. Rather, it is intended as an implicit warning to the Russians to keep their hands off the Baltic states and to emphasize that these states are no longer in the Russian sphere of influence. This resolution may cause minor problems with our Russian friends, but so it does call on the administration to push our Russian friends to formally renounce the nonaggression pact as illegal, null and void.

The administration does not oppose this resolution, Mr. Speaker. Privately it questions its need and utility, but we think it is important.

Mr. Speaker, it is important that we continue to condemn the Nazi-Soviet Non-Aggression Pact of 1939 which led directly to the illegal incorporation of Lithuania, Latvia and Estonia into the Soviet Union, an act which the United States for some 50 years refused to recognize.

Mr. Speaker, in 1918 under the League of Nations then, the countries of Lithuania, Estonia and Latvia were fully recognized as sovereign and independent nations and these nations were duly recognized even by our own country. But then in 1939 the nations of Germany under Adolf Hitler and Russia under Joseph Stalin signed an agreement known as the Nazi-Soviet Pact of Non-Aggression which basically divided these Baltic states. Estonia and Latvia went to Poland, Poland became part of the Soviet Union, and, of course, Lithuania became part of Germany. But in 1940 the Soviet Union invaded these three countries and occupied them ever since then.

Mr. Speaker, ironically our country never officially recognized the occupation of these three countries. In 1991 with the collapse of the former Soviet Union, the Cold War was over, these Baltic states are again duly recognized as sovereign and independent nations.

As the process of NATO enlargement unfolds next year, Mr. Speaker, it is important that we underscore our strong commitment to the continued independence, sovereignty, territorial integrity and security of these three Baltic states.

The bottom line, Mr. Speaker, I am reminded of an African proverb that states that when two elephants fight, the grass gets trodden. It seems that these countries, Lithuania, Latvia and Estonia, always get caught when larger and more powerful nations fight.

Mr. Speaker, I submit, let us not allow this to happen again to these three states. A couple of years ago it was my privilege to visit the newly recognized states of Estonia and Latvia. They are good people, no different from us here in America.

I submit, Mr. Speaker, that we have got to recognize the importance of this resolution. I urge my colleagues to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from New York (Mr. SOLOMON) chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding time, and I rise in the strongest possible support for the resolution. I really do want to commend the gentleman from Illinois (Mr. SHIMKUS) for his initiative here and certainly the gentleman from American Samoa (Mr. FALEOMAVAEGA), the gentleman from New York (Mr. GILMAN) and my good friend the gentleman from Nebraska (Mr. BEREUTER) for their very strong support of this legislation.

The forcible incorporation of Lithuania, Latvia and Estonia into the Soviet Union in 1940 was one of the greatest tragedies of this 20th century. Invaded by Soviet troops pursuant to a secret pact between Hitler and Stalin, the three Baltic nations had their freedom and their sovereignty totally obliterated for a half century, 50 years. But Soviet jackboots could not stamp out the pride, the religious and cultural strength, and the national identities of the Lithuanian, Latvian and Estonian peoples. Ten American Presidents, five Democrats and five Republicans, refused to recognize the Baltic nations as part of the Soviet Union. Indeed our government, and I was so proud of both political parties, helped keep open the embassies these nations had right here in Washington, D.C. as a symbol of hope for those people. All Americans rejoiced in 1990 when Lithuania, Latvia and Estonia regained their independence as the Iron Curtain came tumbling down thanks to Ronald Reagan and this Congress and others.

But we must never allow ourselves to slip into a false sense of security. The forces of a vicious nationalism are on the rise again in Russia today, Mr. Speaker. Senior Russian officials, including Boris Yeltsin, insist on using ominous terms such as "former Soviet republics" when they mention Latvia, Lithuania and Estonia. And so this resolution is very timely here today. By passing this resolution, we will reaffirm the historic U.S. policy that condemned the forcible enslavement of the Baltic nations and refuse to give it any color of diplomatic recognition or legality. Mr. Speaker, moreover we will be calling upon the administration to reinforce that very policy with Russia so as to urge Moscow to renounce once and for all any claim on the Baltics.

Finally, Mr. Speaker, I would just make a personal note. It is my fervent hope that the next round of NATO expansion will include Latvia, Lithuania and Estonia. I am sure many Members here join me in that hope. I look forward to the day when the historic political orientation toward the West that these nations have always had is recognized by bringing them into NATO.

I want to commend—and this is not like JERRY SOLOMON—I want to commend President Clinton for his support of the Baltics at the meeting of NATO in Madrid that approved the acceptance of Poland, Hungary and the Czech Republic. At that meeting President Clinton accepted my language that made it clear that regardless of size, regardless of geographic location, regardless of political consideration, the Baltics would be included in the open door policy of offering NATO membership to new democracies who otherwise meet the criteria that the NATO allies have set.

Mr. Speaker, I want to again thank all these Members, the gentleman from American Samoa (Mr. FALEOMAVAEGA), the gentleman from New York (Mr. GILMAN) and certainly the gentleman from Illinois (Mr. SHIMKUS) and the gentleman from Nebraska (Mr. BEREUTER) for bringing this legislation to the floor.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume. Again I want to compliment the statement and remarks of the gentleman from New York. This is not meant to be trite or repetitious, but again we are going to miss you, JERRY. I hope all the best for you in your future endeavors.

Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Speaker, I rise today in strong support of House Concurrent Resolution 320, a measure which signals our support for the Baltic people of Estonia, Latvia and Lithuania and condemning the Nazi-Soviet Pact of Non-Aggression of August 23, 1939.

In 1939, emissaries of Hitler and Stalin signed an agreement known as the Nazi-Soviet Pact of Non-Aggression. This pact illegally divided Eastern Europe into spheres of influence. One year later, the Soviet army invaded Lithuania, Latvia and Estonia in fulfillment of the Nazi-Soviet agreement. This occupation ruthlessly suppressed the ethnic identities of the three Baltic countries.

The illegal incorporation of Estonia, Latvia and Lithuania into the Soviet Union was a unilateral act of force with no legal basis in international law. Under Soviet occupation, there was seizing of property, rigging of elections and mass deportations.

Mr. Speaker, during this grim time, the United States never recognized the Baltics as part of the Soviet Union.

In 1990, the Baltics reestablished their independence and shed the yoke of Communist domination. Since that time, each country has been working diligently towards democratic reforms, including religious freedom, which we have talked about so many times on this floor, and movement toward effective free market economies, which we have talked about so many times on this floor.

That is why this measure is necessary. We need to demonstrate our support for the Baltic countries. They are embracing democratic values. Not surprisingly, Lithuania this year elected a Lithuanian-born American citizen, Valdas Adamkus, as their new President. In fact, Lithuania will most likely be the first Baltic country to be ready for NATO membership.

And why not? The Baltics would like to gain membership into NATO. Russian leaders have stated recently that any territory formerly part of the Soviet Union should still be considered under the Russian sphere of influence, unavailable for membership in NATO.

We cannot allow Russia to dictate what NATO is about. We cannot allow Russia to dictate what this country, the United States, is all about. We must continue to build bridges to freedom, international freedom throughout the world. These emerging democracies need full United States support.

That is exactly what this measure does, Mr. Speaker. It reaffirms the United States policy of not recognizing the illegal occupation of the Baltics, and it reiterates our support of the United States-Baltic Charter which was signed earlier this year.

We need to fan the fire of democracy and freedom in these countries. Let us help the Baltic people realize their dreams and secure a prosperous and democratic future. I urge my colleagues to vote "yes" on this important measure. And let us continue to build bridges. Let us continue to build bridges and not be afraid to risk the building of those bridges.

Mr. GILMAN. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois (Mr. SHIMKUS), a former resident of my congressional district while he attended the U.S. Military Academy at West Point. The gentleman from Illinois was the original author of this measure, Mr. Speaker.

Mr. SHIMKUS. Mr. Speaker, I would like to thank the gentleman from New York (Mr. GILMAN), the gentleman from Ohio (Mr. KUCINICH), my cosponsor, cochairman of the Baltic Caucus, and also those Members who signed as cosponsors of this resolution.

The Baltic countries, Lithuania, Latvia, and Estonia, over the centuries have been occupied, terrorized and vilified. At the hands of the former Soviet Union and Nazi Germany, these countries were illegally annexed under the Molotov-Ribbentrop Pact of World

War II. With this concurrent resolution, I hope that we may be able to provide some security to the region by once again denouncing the illegal annexation of the Baltics and to pledge the United States' continued support.

Most people do not realize what happened in Lithuania, Latvia and Estonia during World War II. During their occupation, there was the rigging of elections, seizing of bank accounts, censoring of the press, and suppression of religious worship. Additionally, many law-abiding citizens, including teachers and police officials, were imprisoned, sent to labor camps or executed. This was all part of a systematic campaign to transform the Baltic way of life into Russian.

However, this illegal annexation had no basis in international law. In fact, during the Soviet occupation of eastern and central Europe, the U.S. Congress continued to pass resolutions asking Americans across the country to join in recognizing the fundamental freedom and independence of Lithuania, Latvia and Estonia.

Even after all the hardships, the Baltic people valiantly reestablished their independence through peaceful means. In 1991, the United States recognized their independent governments. But the Molotov-Ribbentrop Pact continues to haunt these free countries. Recently, Russian leaders have stated on the record that all territory formerly designated part of the Soviet Union should be considered part of an exclusive Russian sphere of influence, untouchable by NATO or anyone else. The United States, and more specifically this body, must demonstrate that we support the Baltics and do not condone Russia's actions. We can do this by approving this concurrent resolution.

House Concurrent Resolution 320 simply supports the Baltics. Specifically, it reaffirms the United States policy of not recognizing the occupation of the Baltics; urges Russia to renounce the Molotov-Ribbentrop Pact in the spirit of democracy; welcomes the signing of the U.S.-Baltic Charter last winter; and calls on the President and the Secretary of State to work to ensure that Russia understands that the pact should be considered illegal, null and void.

I would encourage all my colleagues to vote in favor of this resolution so that we may continue to support the emerging democracies of Lithuania, Latvia and Estonia.

□ 1400

Mr. FALEOMAVAEGA. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. KUCINICH), who has a considerable number of his constituency from Latvia.

Mr. KUCINICH. Mr. Speaker, as the cochair of the Baltic Caucus, a position which I proudly serve with the gentleman from Illinois (Mr. SHIMKUS), I am here today to speak about Resolution 320. I had the privilege of being present with Mr. SHIMKUS and others at the signing of the U.S.-Baltic agreement which took place last winter at the White House, to meet with the Presidents of those countries and to share with them our concern that this fledgling freedom which all were feeling would have a chance to be able to grow and to prosper.

This resolution is an important part of it. The resolution's purpose is to express the sense of Congress that we support the Baltic people of Estonia, Latvia and Lithuania and that we condemn the Nazi-Soviet Pact of Non-Aggression of August 23, 1939. This pact of non-aggression, otherwise known as the Molotov-Ribbentrop Pact, was a pivotal time in Baltic history. Part of this treaty that was not published at this time stated, and I quote from it, Mr. Speaker:

> In the event of a territorial and political rearrangement in the areas belonging to the Baltic States: Finland, Estonia, Latvia and Lithuania, the northern boundary of Lithuania shall represent the boundary of the spheres of influence of Germany and the USSR.

This pact, in effect, resulted in the annexation of the Baltic States by the USSR.

In 1940 the Soviet Army illegally invaded Lithuania, Latvia and Estonia. It is no wonder then that the Baltic Republics played a vital role in dismantling the Soviet Union. Opposition groups in all three Baltic States became popular movements calling for national independence. These popular movements culminated with the Baltic Way demonstration on August 23, 1989, exactly 50 years after the Molotov-Ribbentrop Pact was signed. Nearly 2 million people formed a human chain stretching from Tallinn through Riga to Vilnius to protest the illegal pact and to question the legitimacy of the Soviet role.

In August 1991, all three of the Baltic States declared their full independence following the official recognition of the independence of all three Baltic States by many Western countries. Moscow decided to acknowledge their sovereignty on September 4, 1991. Within 3 months the Soviet Union would no longer exist.

Recently, Russian leaders have stated that any territory formerly part of the Soviet sphere should still be considered under the Russian sphere of influence. This resolution, if passed by the United States Congress, would send a clear signal to Russian leaders that they should renounce the Molotov-Ribbentrop Pact and relinquish its grip on nations that never agreed to be part of the Soviet Union and certainly do not consider themselves to be part of the Russian sphere of influence.

I ask my colleagues to vote for this important Baltic resolution to support the people of Latvia, Lithuania and Estonia and to support their quest for the growth of freedom and to support the continuation of democracy all around the world.

Mr. GILMAN. Mr. Speaker, I yield 4 minutes to the gentleman from Nebraska (Mr. BEREUTER), the distinguished chairman of our Subcommittee on Asia and the Pacific.

Mr. BEREUTER. Mr. Speaker, I thank the gentleman from New York for yielding me this time.

I rise in strong support of this resolution, the resolution supporting the Baltic people of Estonia, Latvia and Lithuania in condemning the Nazi-Soviet Pact of Non-Aggression of August 23, 1939. This resolution was, of course, introduced by the distinguished gentleman from Illinois (Mr. SHIMKUS) and the distinguished gentleman from Ohio (Mr. KUCINICH) on August 5 of this year, referred to the Committee on International Relations.

The people of Estonia, Latvia and Lithuania have a new active leader and friend in the U.S. Congress in the gentleman from Illinois and the gentleman from Ohio, and I commend the gentleman from Illinois, for example, in his efforts to craft a strong bipartisan statement of support for these nations. I am pleased to join as a cosponsor.

Mr. Speaker, in 1991, after more than 50 years of Soviet occupation, the nations of Estonia, Latvia and Lithuania, acting peacefully, but with great courage, regained their freedom. In doing so they at last put an end to the illegal and forcible subjugation they had suffered as a result of the infamous Nazi-Soviet Pact of Non-Aggression of 1939.

It is highly appropriate that this body remember that shameful occasion of the 59th anniversary of the Molotov-Ribbentrop Pact by reaffirming our principle bipartisan rejection of that evil agreement and by calling on others to join in condemning it and all it represents.

During the bitter years of occupation, as the gentleman from New York mentioned, the United States' administrations and congressional leaders of both parties consistently rejected the incorporation of the Baltic States into the Soviet Union and maintained diplomatic relations with their legitimate representatives. When at long last their freedom was restored, the United States joyfully welcomed those three countries back into the community of independent nations and sought to assist them in overcoming the legacy of Soviet domination.

Playing a key role in this effort were the many citizens who traced their origins back to the Baltic countries. While enriching our Nation with their cultural heritage, they never lost hope that their mother countries would regain the freedom that is their birthright.

Finally, I join in expressing strong support for the landmark U.S.-Baltic

Charter signed in January of this year. The charter both defines and describes our bonds of kinship and friendship with all three nations.

Mr. Speaker, I am confident that through their efforts, both individually and together, these three nations will continue to make progress in overcoming the lost years of occupation and returning to their rightful place among the free peoples of the world.

Lastly, I would like to note the very direct link between Latvia and Lincoln, Nebraska. Karlis Ulmanis, Father of Latvian independence and the long-serving Latvian President between World War I and World War II, was a graduate of the University of Nebraska School of Dairy Science. He returned to his homeland after World War I, led his country to independence, and was eventually brutally seized in prison by the occupying Soviets and disappeared in Siberian captivity. Next year his grandnephew, Guntis Ulmanis, the current and very popular President of Latvia, will receive an honorary degree from the University of Nebraska Lincoln. Thus, Mr. Speaker, we complete the circle.

The Latvian-American community in Lincoln are proud of the role of their adopted son, the first President of Latvia and his grandnephew, the current President of Latvia, who will be welcomed to Lincoln soon. The Lithuania-American and Estonian-American citizens of our State are also, of course, very supportive of this resolution supporting the Baltic people and recognizing their long-term suffering under the Soviets.

Mr. Speaker, I urge adoption of H. Con. Res. 320.

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. ROHRABACHER), a member of our committee.

Mr. ROHRABACHER. Mr. Speaker, I join with my friends today from Illinois and Ohio in supporting the freedom of the Baltic peoples and in memorializing the infamous Molotov-Ribbentrop Pact.

The Molotov-Ribbentrop Pact is an historic reminder that the forces of evil and tyranny are inevitably attracted to one another. In a world of nazism and communism six decades ago, some unfortunate people in the West, unfortunate because of their wishful thinking, thought that they could play one evil off against another and thus did not just simply state to the world and join in solidarity with the other free people against evil itself. It did not work, and this compromise with evil, trying to play the Nazis off against the Communists and the Communists against the Nazis, led to a world conflagration that destroyed much of the planet and took up to 100 million lives, and, of course, what we saw ending that wishful thinking was an alliance between the Communists and the Nazis. Today we remember the Molotov-Ribbentrop Pact and declare there is no compromise with evil and tyranny. Consistent with that we focus on the Baltic nations.

I recently traveled through Estonia, Latvia and Lithuania. The people there for the most part are successful in their transition out of Communist tyranny. They are showing their Russian neighbors that democracy, free enterprise and the aspects of our Western society work, and the people of the Baltic States now enjoy prosperity, peace and freedom.

The passage of this resolution restates to the world America's commitment to peace, prosperity and democracy for all of the people of the world, especially those brave souls in the Baltics who have suffered so much during the 20th century from the twin evils of communism and nazism.

Mr. GILMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

My apologies to the gentleman from Illinois (Mr. SHIMKUS) for not recognizing his tremendous contributions as the prime sponsor of this piece of legislation.

Mr. Speaker, I said earlier that according to an African proverb, when two elephants fight, the grass gets trodden. A little twist to this African proverb by a remark made years ago by the former Prime Minister of the Independent State of Samoa, the Honorable Tuiatua Tupua Tamasese, who also said that when two elephants make love, the grass still gets trodden.

Mr. Speaker, what is obviously meant by this is that let us not forget the economic and social needs of Estonia, Latvia and Lithuania when the United States intends to conduct major trade and business transactions with Europe and Asia.

Again, Mr. Speaker, I urge my colleagues to support this resolution.

Mr. LIPINSKI. Mr. Speaker, I rise today in support of H. Con. Res. 320. I would like to thank the esteemed Chairman of the House International Relations Committee, the gentleman from New York, Mr. GILMAN, and the Ranking Member, the gentleman from Indiana, Mr. HAMILTON, for their leadership on this issue. I would also like to salute the gentleman from Illinois, Mr. SHIMKUS, for all of the hard work he has put in in drafting this important resolution. His leadership along with his foresight and keen awareness of foreign policy has been instrumental in making this resolution become reality. As the co-chair of the Congressional Baltic Caucus, along with the other co-chair, the gentleman from Ohio, Mr. KUCINICH, his ability to work in a bipartisan fashion for important measures such as this are certainly appreciated by this Member.

Around sixty years ago, the three nations of Latvia, Lithuania and Estonia had their freedom stripped away by the Soviet army. Under a secret, illegal and immoral agreement between Hitler and Stalin, the Nazi-Soviet Pact of Non-Aggression tore Eastern Europe apart. After the Soviet Union invaded Latvia, Lithuania and Estonia in 1940, the cultural identities of those nations were ruthlessly suppressed. These invasions and occupations were not only illegal under international law, they were immoral and atrocious crimes against humanity.

Thanks to the heroic efforts of Ronald Reagan, the fall of communism during his watch eventually freed the Baltic States from communist tyranny. Since their independence in 1990, each nation has been working diligently towards democratic reforms including religious freedom and movement towards free market economies. The brave efforts of the Baltic States must be supported by the U.S.

H. Con. Res. 320 will do just that. It sends a message to the world that we support the Baltic States. Since their independence, Russia continues to refer to the Baltic States as former Soviet Republics despite the fact that they were illegally invaded by the former Soviet Union, and it appears that Russia continues to view the Baltic States as part of the Russian "sphere of influence." We must demonstrate our support for the Baltics. These are fledgling democracies who peacefully overturned the tyrannical rule of communist aggression.

This important resolution will reaffirm the U.S. policy of not recognizing the illegal occupation of the Baltics, urge Russia to renounce the illegal Nazi-Soviet Pact, reiterate our support for the U.S.-Baltic Charter signed earlier this year, and call on the President of the United States and the Secretary of State to work to ensure that Russia understands the Pact should be considered illegal.

I ask my colleagues to support this important resolution. Let us support freedom, let us support peace, let us support democracy, and let us support the pursuit of justice.

Mr. RUSH. Mr. Speaker I rise today in support of H. Con. Res. 320, legislation supporting the Baltic People and condemning the Nazi-Soviet Non-Aggression Pact.

Prior to the cold war Lithuania, Estonia, and Latvia proudly declared their independence and became democratic states with membership in the League of Nations. But, during the cold war Germany and Russia decided to split the Baltic States into two parts by forcing Estonia, Latvia, and a portion of Poland to become part of the Soviet Union and by forcing Lithuania and the rest of Poland to become part of Nazi Germany. I have never recognized the legitimacy of such a decision and I am proud to say that the United States has taken the same point of view. Additionally, I must add that the illegal incorporation of Estonia, Latvia and Lithuania into the Soviet Union does not have and will never have a legal basis in international law.

In 1990, when the Baltic States re-established their independence, the United States along with many other countries boldly recognized their independence. Many of the Baltic States have successfully made the transition from an authoritarian political system to that of a democratic system. It is interesting to note that in light of all these political changes Russia continues to recognize the Nazi-Soviet

Pact of Non-Aggression. This pact illegally divides the Baltic States into "spheres of influence", therefore, precluding the Baltic States from asserting their autonomy and joining NATO or entering into other such alliances.

As faith would have it, Russia itself has undergone tremendous democratic and free market reforms but has yet to recognize the independence of the Baltic States. It is only fitting and just that Russia denounce the Nazi-Soviet Pact of Non-Aggression and recognize the autonomy of the Baltic States and demonstrate to the world that it truly believes in the principles of democracy and individual freedom.

I strongly urge President Clinton and Secretary of State Albright to work with the Russian government to ensure that Russia understands the importance of denouncing the Nazi-Soviet Pact of Non-Aggression and endorsing the right to self determination by the Baltic States.

Mr. McGOVERN. Mr. Speaker, I rise in support of this bill to support the Baltic people and to condemn the Nazi-Soviet Non-Aggression Pact. I want to express my appreciation to the gentleman from Illinois [Mr. SHIMKUS] for his leadership on this issue and in organizing the Congressional Caucus on the Baltics.

In 1918, the nations of Lithuania, Estonia and Latvia declared their independence and became democratic states with membership in the League of Nations and diplomatic representation in the United States.

In 1939, emissaries of Adolf Hitler and Joseph Stalin signed an agreement, known as the Nazi-Soviet Pact of Non-Aggression, which contained secret protocols to divide Eastern Europe into spheres of influence. Estonia, Latvia and part of Poland were made subject to the Soviet Union, with Lithuania and most of Poland going to Nazi Germany.

In 1940, the Soviet Army invaded Lithuania, Latvia and Estonia. This occupation has never been recognized by the United States, and all successive U.S. administrations, whether Democratic or Republican, maintained continuous diplomatic relations with these countries as sovereign nations throughout the Soviet period, never considering them to be Soviet Republics.

The Baltic peoples re-established their independence through peaceful means following the dissolution of the former Soviet Union, and the United States recognized their independent governments in 1991. Lithuania, Latvia and Estonia have achieved significant success in the eight years since they gained their independence, including instituting democratic institutions, economic reforms, and civilian control over the military.

Mr. Speaker, H. Con. Res. 320, introduced by my distinguished colleague from Illinois [Mr. SHIMKUS], and to which I am a proud cosponsor, reaffirms the U.S. policy of not recognizing the occupation by the Soviet Union of these proud nations following the signing of the Nazi-Soviet Pact of Non-Aggression. Further, it urges the now independent nation of Russia, in the spirit of democracy, to renounce the Nazi-Soviet Pact and its secret protocols as illegal. Finally, the measure welcomes and supports the signing of the United States-Baltic Charter by the U.S., Lithuania, Latvia and Estonia—a charter that reiterates the strong historical kinship and support between the Baltic peoples and Americans.

Mr. Speaker, for all the progress, both democratic and economic, these three Baltic nations have made since regaining their independence in 1991, they continue to face many challenges and uncertain relationships with their powerful neighbors. Russia continues to be a threatening and intimidating force, which still views the Baltic nations as subject to its "sphere of influence."

H. Con. Res. 320 clearly signals U.S. support for these nations, for their independence, and for their democratic futures. I urge my colleagues to vote in support of this measure.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. GILMAN) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 320, as amended.

The question was taken.

Mr. SOLOMON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 2431. An act to establish an Office of Religious Persecution Monitoring, to provide for the imposition of sanctions against countries engaged in a pattern of religious persecution, and for other purposes.

H.R. 3903. An act to provide for an exchange of lands located near Gustavus, Alaska, and for other purposes.

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 417) "An Act to extend energy conservation programs under the Energy Policy and Conservation Act through September 30, 2002." with an amendment.

ANNOUNCEMENT OF HOUSE CONCURRENT RESOLUTION TO BE CONSIDERED UNDER SUSPENSION OF THE RULES TODAY

Mr. GOODLING. Pursuant to H. Res. 575, I announce the following House Concurrent Resolution to be considered under suspension today:

H. Con. Res. 214, Recognizing Contributions of the Cities of Bristol, Tennessee, and Bristol, Virginia, to the Development of Country Music.

RECOGNIZING CONTRIBUTIONS OF THE CITIES OF BRISTOL, TENNESSEE, AND BRISTOL, VIRGINIA, TO THE DEVELOPMENT OF COUNTRY MUSIC

Mr. GOODLING. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 214) recognizing the contributions of the cities of Bristol, Tennessee, and Bristol, Virginia, and their people to the origins and development of Country Music, and for other purposes.

The Clerk read as follows:

H. CON. RES. 214

Whereas the cities of Bristol, Tennessee, and Bristol, Virginia, have long been a gathering place for musicians from the nearby mountainous countryside;

Whereas phonographic recordings made in Bristol in August of 1927 launched the careers of the Carter Family and Jimmie Rodgers, who are recognized as the first commercially successful modern Country Music artists;

Whereas these recordings have been called the "Big Bang of Country Music" by the Country Music Foundation in its publication "Country, the Music and the Musicians";

Whereas Jimmie Rodgers has been named the Father of Country Music and was the first artist to be inducted into the Country Music Hall of Fame;

Whereas the original members of the Carter Family have been recognized as Country Music's First Family in part because their works have had an unparalleled influence on succeeding generations of Country Music artists;

Whereas "The Roots of Country Music", a three-part television series which aired nationally on the Turner Broadcasting System in June of 1996, recognized the significant contribution of the cities of Bristol to the development and commercial acceptance of Country Music;

Whereas in 1984 the Tennessee Senate recognized Bristol as the "Birthplace of Country Music"; and

Whereas in 1995, the Virginia General Assembly recognized Bristol as the "Birthplace of Country Music": Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) recognizes the critical contributions of the cities of Bristol, Tennessee, and Bristol, Virginia, and their residents to the origins and development of Country Music;

(2) congratulates the cities of Bristol, Tennessee, and Bristol, Virginia, for launching with the Bristol recordings of 1927 the careers of the Nation's first widely known Country Music artists; and

(3) acknowledges and commends the cities of Bristol, Tennessee, and Bristol, Virginia, as the birthplace of Country Music, a style of music which has enjoyed broad commercial success in the United States and throughout much of the world.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. GOODLING) and the gentleman from California (Mr. MARTINEZ) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. GOODLING).

GENERAL LEAVE

Mr. GOODLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H. Con. Res. 214.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. GOODLING. Mr. Speaker, I yield myself 30 seconds.

Today I rise in support of H. Con. Res. 214, which designates the cities of Bristol, Tennessee, and Bristol, Virginia, as the birthplace of country music. General Assembly of Virginia and Tennessee State Senate have previously made this designation. The gentleman from Tennessee (Mr. JENKINS) and the gentleman from Virginia (Mr. BOUCHER) take their cue from their respective State legislative bodies and introduced an identical concurrent resolution in the House.

I must admit my age. My two country music stars just died: Gene Autry and Roy Rogers.

Mr. Speaker, I yield such time as he may consume to the gentleman from Tennessee (Mr. JENKINS).

Mr. JENKINS. Mr. Speaker, let me say thanks to the committee for their consideration of this resolution and for allowing us to consider it here today.

Mr. Speaker, the city of Bristol is two cities: Bristol, Tennessee, and Bristol, Virginia; Bristol, Tennessee, being in the First Congressional District of Tennessee, and Bristol, Virginia, being in the Ninth Congressional District of Virginia, and represented very ably by the gentleman from Virginia (Mr. BOUCHER).

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Mr. Speaker, in the 1920s, when country music was in its infancy, artists from throughout Tennessee and Virginia and the entire region gathered in Bristol to perform. Some of the most important developments in country music took place there.

In 1927, the Carter family, which later became the First Family of Country Music, and Jimmie Rogers, who became the Father of Country Music, had recording sessions there, very significant recording sessions there.

These recordings became known in time by the country music foundation as the "Big Bang of Country Music." They are credited with propelling the Carter family and Jimmie Rogers and country music itself to a commercially successful venture.

Today, country music is enjoyed throughout this country and throughout the world. As the Chairman pointed out, in 1984, the Tennessee Senate recognized Bristol as the birthplace of country music. In 1995, the General Assembly of Virginia recognized Bristol as the birthplace of country music.

Today we have this resolution which recognizes the contributions of Bristol and its people to the origins and the development of country music. This, I think, significantly is cosponsored by the entire delegations from the States of Tennessee and Virginia. I ask support for this well-deserved recognition.

Mr. MARTINEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the resolution. My colleagues may wonder why a city boy from Los Angeles would be so supportive of country music. But years ago when I worked in a factory, the gentleman next to me was from the south. In fact, he was from Tennessee, and he had a little recorder in there, and that is all he played was country music.

I remember one of the first songs that I was ever attracted to was a song by Johnny Cash, "I Walked The Line." It was very apropos of the way I felt at that time.

I could understand the words. A lot of the other music I could not understand the words. It seemed to me like every piece of country music tells a story, a story of some kind. Sometimes they are too sad. But, regardless, they do tell a story, and they are very interesting to listen to. I like the rhythms in a lot of them.

Of course I remember Jimmie Rogers and I remember Gene Autry and all the people that the Chairman mentioned. But I am more into the kind of modern day country music stars like George Strait, Vince Gill, and a lot of the people that have really brought country music to the front.

But this legislation, as the gentleman from Pennsylvania (Mr. GOODLING) has said, honors the cities of Bristol, Virginia, and Bristol, Tennessee, giving it much credit for the origin and the development of the county music. I commend the gentleman from Tennessee (Mr. JENKINS) and the gentleman from Virginia (Mr. BOUCHER) for bringing this measure before the House.

As I said, I am a fan of country music, and I am pleased to speak in favor of this resolution. I urge my colleagues to join me in support of this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. MARTINEZ. Mr. Speaker I yield such time as he may consume to the gentleman from Virginia (Mr. BOUCHER).

Mr. BOUCHER. Mr. Speaker, I want to thank the gentleman from California for his kind words and for yielding me this time.

I also want to express appreciation to the gentleman from Pennsylvania (Mr. GOODLING) for his very fine efforts and the efforts of his staff in bringing this measure to the floor. We very much appreciate his assistance.

I want to pay a special tribute to my friend and colleague from Tennessee (Mr. JENKINS), with whom I was pleased to draft this measure, offer it to the Committee on Education and the Workforce, and with whom I am pleased to present the matter to the House today.

I am pleased to rise in strong support of the passage of House Concurrent Resolution 214 which recognizes the contributions of the cities of Bristol, Virginia and Tennessee as the birthplace of country music.

This measure is an effort to recognize the many contributions of the two cities of Bristol to the origin of country music. From its beginnings in the mountains of the Southern Appalachians, country music has steadily grown to become the most popular form of music in our Nation today. The two cities of Bristol served as the early foundation for that growth.

Portable recording equipment developed in the late 1920s allowed talent scouts to travel the countryside to capture the performances of country musicians in their natural habitats. Bristol had long been a gathering place for musicians from the nearby mountains.

In August of 1997, a talent scout named Ralph Peer and two engineers from the Victor Records Corporation came to Bristol with the intent of capturing the musical sounds of the area. The phonographic recordings that were made during those historic Bristol sessions launched the careers of the Carter family and also of Jimmie Rogers, who are widely recognized as the first commercially successful country music artists.

The original members of the Carter family have been recognized as country music's first family in part because their works have had an unparalleled influence on succeeding generations of country music artists. Their vocal harmonies served as the basis for almost every vocal group that followed in the ensuing years.

Jimmie Rogers has been named the Father of Country Music. The first artist to be inducted in the Country Music Hall of Fame was Jimmie Rogers.

The recordings made in Bristol in August of 1927 have been called the Big Bang of Country Music by the Country Music Foundation in its publication "Country, the Music and the Musicians." These recordings in Bristol transported country music from the mountains of our region into the national commercial marketplace.

In recent years, the States of Virginia and Tennessee, through their General Assemblies, have both adopted resolutions declaring the two cities of Bristol to be the birthplace of country music. Based upon that historical record today, I am pleased to urge our colleagues in the House of Representatives to append that well-earned designation to these two cities.

I thank my friend and colleague, the gentleman from Tennessee (Mr. JENKINS), for his co-authorship of this measure. I thank the entire delegations of Tennessee and Virginia who have coauthored this measure with us. I am very pleased to urge the passage of this resolution by the House.

Mr. MARTINEZ. Mr. Speaker, I have no more speakers, and I yield back the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. GOODLING) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 214.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

ASSISTIVE TECHNOLOGY ACT OF 1998

Mr. GOODLING. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2432) to support programs of grants to States to address the assistive technology needs of individuals with disabilities, and for other purposes, as amended.

The Clerk read as follows:

S. 2432

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Assistive Technology Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definitions and rule.

TITLE I—STATE GRANT PROGRAMS

Sec. 101. Continuity grants for States that received funding for a limited period for technology-related assistance.
Sec. 102. State grants for protection and advocacy related to assistive technology.
Sec. 103. Administrative provisions.
Sec. 104. Technical assistance program.
Sec. 105. Authorization of appropriations.

TITLE II—NATIONAL ACTIVITIES

Subtitle A—Rehabilitation Act of 1973

Sec. 201. Coordination of Federal research efforts.
Sec. 202. National Council on Disability.
Sec. 203. Architectural and Transportation Barriers Compliance Board.

Subtitle B—Other National Activities

Sec. 211. Small business incentives.
Sec. 212. Technology transfer and universal design.
Sec. 213. Universal design in products and the built environment.
Sec. 214. Outreach.
Sec. 215. Training pertaining to rehabilitation engineers and technicians.
Sec. 216. President's Committee on Employment of People With Disabilities.
Sec. 217. Authorization of appropriations.

TITLE III—ALTERNATIVE FINANCING MECHANISMS

Sec. 301. General authority.
Sec. 302. Amount of grants.
Sec. 303. Applications and procedures.
Sec. 304. Contracts with community-based organizations.
Sec. 305. Grant administration requirements.
Sec. 306. Information and technical assistance.
Sec. 307. Annual report.
Sec. 308. Authorization of appropriations.

TITLE IV—REPEAL AND CONFORMING AMENDMENTS

Sec. 401. Repeal.
Sec. 402. Conforming amendments.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) Disability is a natural part of the human experience and in no way diminishes the right of individuals to—

(A) live independently;

(B) enjoy self-determination and make choices;

(C) benefit from an education;

(D) pursue meaningful careers; and

(E) enjoy full inclusion and integration in the economic, political, social, cultural, and educational mainstream of society in the United States.

(2) Technology has become 1 of the primary engines for economic activity, education, and innovation in the Nation, and throughout the world. The commitment of the United States to the development and utilization of technology is 1 of the main factors underlying the strength and vibrancy of the economy of the United States.

(3) As technology has come to play an increasingly important role in the lives of all persons in the United States, in the conduct of business, in the functioning of government, in the fostering of communication, in the conduct of commerce, and in the provision of education, its impact upon the lives of the more than 50,000,000 individuals with disabilities in the United States has been comparable to its impact upon the remainder of the citizens of the United States. Any development in mainstream technology would have profound implications for individuals with disabilities in the United States.

(4) Substantial progress has been made in the development of assistive technology devices, including adaptations to existing devices that facilitate activities of daily living, that significantly benefit individuals with disabilities of all ages. Such devices and adaptations increase the involvement of such individuals in, and reduce expenditures associated with, programs and activities such as early intervention, education, rehabilitation and training, employment, residential living, independent living, and recreation programs and activities, and other aspects of daily living.

(5) All States have comprehensive statewide programs of technology-related assistance. Federal support for such programs should continue, strengthening the capacity of each State to assist individuals with disabilities of all ages with their assistive technology needs.

(6) Notwithstanding the efforts of such State programs, there is still a lack of—

(A) resources to pay for assistive technology devices and assistive technology services;

(B) trained personnel to assist individuals with disabilities to use such devices and services;

(C) information among targeted individuals about the availability and potential benefit of technology for individuals with disabilities;

(D) outreach to underrepresented populations and rural populations;

(E) systems that ensure timely acquisition and delivery of assistive technology devices and assistive technology services;

(F) coordination among State human services programs, and between such programs and private entities, particularly with respect to transitions between such programs and entities; and

(G) capacity in such programs to provide the necessary technology-related assistance.

(7) In the current technological environment, the line of demarcation between assistive technology and mainstream technology is becoming ever more difficult to draw.

(8) Many individuals with disabilities cannot access existing telecommunications and information technologies and are at risk of not being able to access developing technologies. The failure of Federal and State governments, hardware manufacturers, software designers, information systems managers, and telecommunications service providers to account for the specific needs of individuals with disabilities in the design, manufacture, and procurement of telecommunications and information technologies results in the exclusion of such individuals from the use of telecommunications and information technologies and results in unnecessary costs associated with the retrofitting of devices and product systems.

(9) There are insufficient incentives for Federal contractors and other manufacturers of technology to address the application of technology advances to meet the needs of individuals with disabilities of all ages for assistive technology devices and assistive technology services.

(10) The use of universal design principles reduces the need for many specific kinds of assistive technology devices and assistive technology services by building in accommodations for individuals with disabilities before rather than after production. The use of universal design principles also increases the likelihood that products (including services) will be compatible with existing assistive technologies. These principles are increasingly important to enhance access to information technology, telecommunications, transportation, physical structures, and consumer products. There are insufficient incentives for commercial manufacturers to incorporate universal design principles into the design and manufacturing of technology products, including devices of daily living, that could expand their immediate use by individuals with disabilities of all ages.

(11) There are insufficient incentives for commercial pursuit of the application of technology devices to meet the needs of individuals with disabilities, because of the perception that such individuals constitute a limited market.

(12) At the Federal level, the Federal Laboratories, the National Aeronautics and Space Administration, and other similar entities do not recognize the value of, or commit resources on an ongoing basis to, technology transfer initiatives that would benefit, and especially increase the independence of, individuals with disabilities.

(13) At the Federal level, there is a lack of coordination among agencies that provide or pay for the provision of assistive technology devices and assistive technology services. In addition, the Federal Government does not provide adequate assistance and information with respect to the quality and use of assistive technology devices and assistive technology services to targeted individuals.

(14) There are changes in the delivery of assistive technology devices and assistive technology services, including—

(A) the impact of the increased prevalence of managed care entities as payors for assistive technology devices and assistive technology services;

(B) an increased focus on universal design;

(C) the increased importance of assistive technology in employment, as more individuals with disabilities move from public assistance to work through training and on-the-job accommodations;

(D) the role and impact that new technologies have on how individuals with disabilities will learn about, access, and participate in programs or services that will affect their lives; and

(E) the increased role that telecommunications play in education, employment, health care, and social activities.

(b) PURPOSES.—The purposes of this Act are—

(1) to provide financial assistance to States to undertake activities that assist each State in maintaining and strengthening a permanent comprehensive statewide program of technology-related assistance, for individuals with disabilities of all ages, that is designed to—

(A) increase the availability of, funding for, access to, and provision of, assistive technology devices and assistive technology services;

(B) increase the active involvement of individuals with disabilities and their family members, guardians, advocates, and authorized representatives, in the maintenance, improvement, and evaluation of such a program;

(C) increase the involvement of individuals with disabilities and, if appropriate, their family members, guardians, advocates, and authorized representatives, in decisions related to the provision of assistive technology devices and assistive technology services;

(D) increase the provision of outreach to underrepresented populations and rural populations, to enable the 2 populations to enjoy the benefits of activities carried out under this Act to the same extent as other populations;

(E) increase and promote coordination among State agencies, between State and local agencies, among local agencies, and between State and local agencies and private entities (such as managed care providers), that are involved or are eligible to be involved in carrying out activities under this Act;

(F)(i) increase the awareness of laws, regulations, policies, practices, procedures, and organizational structures, that facilitate the availability or provision of assistive technology devices and assistive technology services; and

(ii) facilitate the change of laws, regulations, policies, practices, procedures, and organizational structures, to obtain increased availability or provision of assistive technology devices and assistive technology services;

(G) increase the probability that individuals with disabilities of all ages will, to the extent appropriate, be able to secure and maintain possession of assistive technology devices as such individuals make the transition between services offered by human service agencies or between settings of daily living (for example, between home and work);

(H) enhance the skills and competencies of individuals involved in providing assistive technology devices and assistive technology services;

(I) increase awareness and knowledge of the benefits of assistive technology devices and assistive technology services among targeted individuals;

(J) increase the awareness of the needs of individuals with disabilities of all ages for assistive technology devices and for assistive technology services; and

(K) increase the capacity of public agencies and private entities to provide and pay for assistive technology devices and assistive technology services on a statewide basis for individuals with disabilities of all ages;

(2) to identify Federal policies that facilitate payment for assistive technology devices and assistive technology services, to identify those Federal policies that impede such payment, and to eliminate inappropriate barriers to such payment; and

(3) to enhance the ability of the Federal Government to—

(A) provide States with financial assistance that supports—

(i) information and public awareness programs relating to the provision of assistive technology devices and assistive technology services;

(ii) improved interagency and public-private coordination, especially through new and improved policies, that result in increased availability of assistive technology devices and assistive technology services; and

(iii) technical assistance and training in the provision or use of assistive technology devices and assistive technology services; and

(B) fund national, regional, State, and local targeted initiatives that promote understanding of and access to assistive technology devices and assistive technology services for targeted individuals.

SEC. 3. DEFINITIONS AND RULE.

(a) DEFINITIONS.—In this Act:

(1) ADVOCACY SERVICES.—The term "advocacy services", except as used as part of the term "protection and advocacy services", means services provided to assist individuals with disabilities and their family members, guardians, advocates, and authorized representatives in accessing assistive technology devices and assistive technology services.

(2) ASSISTIVE TECHNOLOGY.—The term "assistive technology" means technology designed to be utilized in an assistive technology device or assistive technology service.

(3) ASSISTIVE TECHNOLOGY DEVICE.—The term "assistive technology device" means any item, piece of equipment, or product system, whether acquired commercially, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.

(4) ASSISTIVE TECHNOLOGY SERVICE.—The term "assistive technology service" means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

(A) the evaluation of the assistive technology needs of an individual with a disability, including a functional evaluation of the impact of the provision of appropriate assistive technology and appropriate services to the individual in the customary environment of the individual;

(B) services consisting of purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by individuals with disabilities;

(C) services consisting of selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;

(D) coordination and use of necessary therapies, interventions, or services with assistive technology devices, such as therapies, interventions, or services associated with education and rehabilitation plans and programs;

(E) training or technical assistance for an individual with disabilities, or, where appropriate, the family members, guardians, advocates, or authorized representatives of such an individual; and

(F) training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of individuals with disabilities.

(5) CAPACITY BUILDING AND ADVOCACY ACTIVITIES.—The term "capacity building and advocacy activities" means efforts that—

(A) result in laws, regulations, policies, practices, procedures, or organizational structures that promote consumer-responsive programs or entities; and

(B) facilitate and increase access to, provision of, and funding for, assistive technology devices and assistive technology services,

in order to empower individuals with disabilities to achieve greater independence, productivity, and integration and inclusion within the community and the workforce.

(6) COMPREHENSIVE STATEWIDE PROGRAM OF TECHNOLOGY-RELATED ASSISTANCE.—The term "comprehensive statewide program of technology-related assistance" means a consumer-responsive program of technology-related assistance for individuals with disabilities, implemented by a State, and equally available to all individuals with disabilities residing in the State, regardless of their type of disability, age, income level, or location of residence in the State, or the type of assistive technology device or assistive technology service required.

(7) CONSUMER-RESPONSIVE.—The term "consumer-responsive"—

(A) with regard to policies, means that the policies are consistent with the principles of—

(i) respect for individual dignity, personal responsibility, self-determination, and pursuit of meaningful careers, based on informed choice, of individuals with disabilities;

(ii) respect for the privacy, rights, and equal access (including the use of accessible formats) of such individuals;

(iii) inclusion, integration, and full participation of such individuals in society;

(iv) support for the involvement in decisions of a family member, a guardian, an advocate, or an authorized representative, if an individual with a disability requests, desires, or needs such involvement; and

(v) support for individual and systems advocacy and community involvement; and

(B) with respect to an entity, program, or activity, means that the entity, program, or activity—

(i) is easily accessible to, and usable by, individuals with disabilities and, when appropriate, their family members, guardians, advocates, or authorized representatives;

(ii) responds to the needs of individuals with disabilities in a timely and appropriate manner; and

(iii) facilitates the full and meaningful participation of individuals with disabilities (including individuals from underrepresented populations and rural populations) and their family members, guardians, advocates, and authorized representatives, in—

(I) decisions relating to the provision of assistive technology devices and assistive technology services to such individuals; and

(II) decisions related to the maintenance, improvement, and evaluation of the comprehensive statewide program of technology-related assistance, including decisions that affect advocacy, capacity building, and capacity building and advocacy activities.

(8) DISABILITY.—The term "disability" means a condition of an individual that is considered to be a disability or handicap for the purposes of any Federal law other than this Act or for the purposes of the law of the State in which the individual resides.

(9) INDIVIDUAL WITH A DISABILITY; INDIVIDUALS WITH DISABILITIES.—

(A) INDIVIDUAL WITH A DISABILITY.—The term "individual with a disability" means any individual of any age, race, or ethnicity—

(i) who has a disability; and

(ii) who is or would be enabled by an assistive technology device or an assistive technology service to minimize deterioration in functioning, to maintain a level of functioning, or to achieve a greater level of functioning in any major life activity.

(B) INDIVIDUALS WITH DISABILITIES.—The term "individuals with disabilities" means more than 1 individual with a disability.

(10) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given such term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)), and includes a community college receiving funding under the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801 et seq.).

(11) PROTECTION AND ADVOCACY SERVICES.—The term "protection and advocacy services" means services that—

(A) are described in part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.), the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.), or section 509 of the Rehabilitation Act of 1973; and

(B) assist individuals with disabilities with respect to assistive technology devices and assistive technology services.

(12) SECRETARY.—The term "Secretary" means the Secretary of Education.

(13) STATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B) and section 302, the term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(B) OUTLYING AREAS.—In sections 101(c) and 102(b):

(i) OUTLYING AREA.—The term "outlying area" means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(ii) STATE.—The term "State" does not include the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(14) TARGETED INDIVIDUALS.—The term "targeted individuals" means—

(A) individuals with disabilities of all ages and their family members, guardians, advocates, and authorized representatives;

(B) individuals who work for public or private entities (including insurers or managed care providers), that have contact with individuals with disabilities;

(C) educators and related services personnel;

(D) technology experts (including engineers);

(E) health and allied health professionals;

(F) employers; and

(G) other appropriate individuals and entities.

(15) TECHNOLOGY-RELATED ASSISTANCE.—The term "technology-related assistance" means assistance provided through capacity building and advocacy activities that accomplish the purposes described in any of subparagraphs (A) through (K) of section 2(b)(1).

(16) UNDERREPRESENTED POPULATION.—The term "underrepresented population" means a population that is typically underrepresented in service provision, and includes populations such as persons who have low-incidence disabilities, persons who are minorities, poor persons, persons with limited-English proficiency, older individuals, or persons from rural areas.

(17) UNIVERSAL DESIGN.—The term "universal design" means a concept or philosophy for designing and delivering products and services that are usable by people with the widest possible range of functional capabilities, which include products and services that are directly usable (without requiring assistive technologies) and products and services that are made usable with assistive technologies.

(b) REFERENCES.—References in this Act to a provision of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 shall be considered to be references to such provision as in effect on the day before the date of enactment of this Act.

TITLE I—STATE GRANT PROGRAMS

SEC. 101. CONTINUITY GRANTS FOR STATES THAT RECEIVED FUNDING FOR A LIMITED PERIOD FOR TECHNOLOGY-RELATED ASSISTANCE.

(a) GRANTS TO STATES.—

(1) IN GENERAL.—The Secretary shall award grants, in accordance with this section, to eligible States to support capacity building and advocacy activities, designed to assist the States in maintaining permanent comprehensive statewide programs of technology-related assistance that accomplish the purposes described in section 2(b)(1).

(2) ELIGIBLE STATES.—To be eligible to receive a grant under this section a State shall be a State that received grants for less than 10 years under title I of the Technology-Related Assistance for Individuals With Disabilities Act of 1988.

(b) USE OF FUNDS.—

(1) IN GENERAL.—Any State that receives a grant under this section shall use the funds made available through the grant to carry out the activities described in paragraph (2) and may use the funds to carry out the activities described in paragraph (3).

(2) REQUIRED ACTIVITIES.—

(A) PUBLIC AWARENESS PROGRAM.—

(i) IN GENERAL.—The State shall support a public awareness program designed to provide information to targeted individuals relating to the availability and benefits of assistive technology devices and assistive technology services.

(ii) LINK.—Such a public awareness program shall have an electronic link to the National Public Internet Site authorized under section 104(c)(1).

(iii) CONTENTS.—The public awareness program may include—

(I) the development and dissemination of information relating to—

(aa) the nature of assistive technology devices and assistive technology services;

(bb) the appropriateness of, cost of, availability of, evaluation of, and access to, assistive technology devices and assistive technology services; and

(cc) the benefits of assistive technology devices and assistive technology services with respect to enhancing the capacity of individuals with disabilities of all ages to perform activities of daily living;

(II) the development of procedures for providing direct communication between providers of assistive technology and targeted individuals; and

(III) the development and dissemination, to targeted individuals, of information about State efforts related to assistive technology.

(B) INTERAGENCY COORDINATION.—

(i) IN GENERAL.—The State shall develop and promote the adoption of policies that improve access to assistive technology devices and assistive technology services for individuals with disabilities of all ages in the State and that result in improved coordination among public and private entities that are responsible or have the authority to be responsible, for policies, procedures, or funding for, or the provision of assistive technology devices and assistive technology services to, such individuals.

(ii) APPOINTMENT TO CERTAIN INFORMATION TECHNOLOGY PANELS.—The State shall appoint the director of the lead agency described in subsection (d) or the designee of the director, to any committee, council, or similar organization created by the State to assist the State in the development of the information technology policy of the State.

(iii) COORDINATION ACTIVITIES.—The development and promotion described in clause (i) may include support for—

(I) policies that result in improved coordination, including coordination between public and private entities—

(aa) in the application of Federal and State policies;

(bb) in the use of resources and services relating to the provision of assistive technology devices and assistive technology services, including the use of interagency agreements; and

(cc) in the improvement of access to assistive technology devices and assistive technology services for individuals with disabilities of all ages in the State;

(II) convening interagency work groups, involving public and private entities, to identify, create, or expand funding options, and coordinate access to funding, for assistive technology devices and assistive technology services for individuals with disabilities of all ages; or

(III) documenting and disseminating information about interagency activities that promote coordination, including coordination between public and private entities, with respect to assistive technology devices and assistive technology services.

(C) TECHNICAL ASSISTANCE AND TRAINING.—The State shall carry out directly, or provide support to public or private entities to carry out, technical assistance and training activities for targeted individuals, including—

(i) the development and implementation of laws, regulations, policies, practices, procedures, or organizational structures that promote access to assistive technology devices and assistive technology services for individuals with disabilities in education, health care, employment, and community living contexts, and in other contexts such as the use of telecommunications;

(ii)(I) the development of training materials and the conduct of training in the use of assistive technology devices and assistive technology services; and

(II) the provision of technical assistance, including technical assistance concerning how—

(aa) to consider the needs of an individual with a disability for assistive technology devices and assistive technology services in developing any individualized plan or program authorized under Federal or State law;

(bb) the rights of targeted individuals to assistive technology devices and assistive technology services are addressed under laws other than this Act, to promote fuller independence, productivity, and inclusion in and integration into society of such individuals; or

(cc) to increase consumer participation in the identification, planning, use, delivery, and evaluation of assistive technology devices and assistive technology services; and

(iii) the enhancement of the assistive technology skills and competencies of—

(I) individuals who work for public or private entities (including insurers and managed care providers), who have contact with individuals with disabilities;

(II) educators and related services personnel;

(III) technology experts (including engineers);

(IV) health and allied health professionals;

(V) employers; and

(VI) other appropriate personnel.

(D) OUTREACH.—The State shall provide support to statewide and community-based organizations that provide assistive technology devices and assistive technology services to individuals with disabilities or that assist individuals with disabilities in using assistive technology devices and assistive technology services, including a focus on organizations assisting individuals from underrepresented populations and rural populations. Such support may include outreach to consumer organizations and groups in the State to coordinate efforts to assist individuals with disabilities of all ages and their family members, guardians, advocates, or authorized representatives, to obtain funding for, access to, and information on evaluation of assistive technology devices and assistive technology services.

(3) DISCRETIONARY ACTIVITIES.—

(A) ALTERNATIVE STATE-FINANCED SYSTEMS.—The State may support activities to increase access to, and funding for, assistive technology devices and assistive technology services, including—

(i) the development of systems that provide assistive technology devices and assistive technology services to individuals with disabilities of all ages, and that pay for such devices and services, such as—

(I) the development of systems for the purchase, lease, other acquisition, or payment for the provision, of assistive technology devices and assistive technology services; or

(II) the establishment of alternative State or privately financed systems of subsidies for the provision of assistive technology devices and assistive technology services, such as—

(aa) a low-interest loan fund;

(bb) an interest buy-down program;

(cc) a revolving loan fund;

(dd) a loan guarantee or insurance program;

(ee) a program operated by a partnership among private entities for the purchase, lease, or other acquisition of assistive technology devices or assistive technology services; or

(ff) another mechanism that meets the requirements of title III and is approved by the Secretary;

(ii) the short-term loan of assistive technology devices to individuals, employers, public agencies, or public accommodations seeking strategies to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); or

(iii) the maintenance of information about, and recycling centers for, the redistribution of assistive technology devices and equipment, which may include redistribution through device and equipment loans, rentals, or gifts.

(B) DEMONSTRATIONS.—The State, in collaboration with other entities in established, recognized community settings (such as nonprofit organizations, libraries, schools, community-based employer organizations, churches, and entities operating senior citizen centers, shopping malls, and health clinics), may demonstrate assistive technology devices in settings where targeted individuals can see and try out assistive technology devices, and learn more about the devices from personnel who are familiar with such devices and their applications or can be referred to other entities who have information on the devices.

(C) OPTIONS FOR SECURING DEVICES AND SERVICES.—The State, through public agencies or nonprofit organizations, may support assistance to individuals with disabilities and their family members, guardians, advocates, and authorized representatives about options for securing assistive technology devices and assistive technology services that would meet individual needs for such assistive technology devices and assistive technology services. Such assistance shall not include direct payment for an assistive technology device.

(D) TECHNOLOGY-RELATED INFORMATION.—

(i) IN GENERAL.—The State may operate and expand a system for public access to information concerning an activity carried out under another paragraph of this subsection, including information about assistive technology devices and assistive technology services, funding sources and costs of such devices and services, and individuals, organizations, and agencies capable of carrying out such an activity for individuals with disabilities. The system shall be part of, and complement the information that is available through a link to, the National Public Internet Site described in section 104(c)(1).

(ii) ACCESS.—Access to the system may be provided through community-based locations, including public libraries, centers for independent living (as defined in section 702 of the Rehabilitation Act of 1973), locations of community rehabilitation programs (as defined in section 7 of such Act), schools, senior citizen centers, State vocational rehabilitation offices, other State workforce offices, and other locations frequented or used by the public.

(iii) INFORMATION COLLECTION AND PREPARATION.—In operating or expanding a system described in subparagraph (A), the State may—

(I) develop, compile, and categorize print, large print, braille, audio, and video materials, computer disks, compact discs (including compact discs formatted with read-only memory), information in alternative formats that can be used in telephone-based information systems, and materials using such other media as technological innovation may make appropriate;

(II) identify and classify funding sources for obtaining assistive technology devices and assistive technology services, and the conditions of and criteria for access to such sources, including any funding mechanisms or strategies developed by the State;

(III) identify support groups and systems designed to help individuals with disabilities make effective use of an activity carried out under another paragraph of this subsection, including groups that provide evaluations of assistive technology devices and assistive technology services; and

(IV) maintain a record of the extent to which citizens of the State use or make inquiries of the system established in clause (i), and of the nature of such inquiries.

(E) INTERSTATE ACTIVITIES.—

(i) IN GENERAL.—The State may enter into cooperative agreements with other States to expand the capacity of the States involved to assist individuals with disabilities of all ages to learn about, acquire, use, maintain, adapt, and upgrade assistive technology devices and assistive technology services that such individuals need at home, at school, at work, or in other environments that are part of daily living.

(ii) ELECTRONIC COMMUNICATION.—The State may operate or participate in an electronic information exchange through which the State may communicate with other States to gain technical assistance in a timely fashion and to avoid the duplication of efforts already undertaken in other States.

(F) PARTNERSHIPS AND COOPERATIVE INITIATIVES.—The State may support partnerships and cooperative initiatives between the public sector and the private sector to promote greater participation by business and industry in—

(i) the development, demonstration, and dissemination of assistive technology devices; and

(ii) the ongoing provision of information about new products to assist individuals with disabilities.

(G) EXPENSES.—The State may pay for expenses, including travel expenses, and services, including services of qualified interpreters, readers, and personal care assistants, that may be necessary to ensure access to the comprehensive statewide program of technology-related assistance by individuals with disabilities who are determined by the State to be in financial need and not eligible for such payments or services through another public agency or private entity.

(H) ADVOCACY SERVICES.—The State may provide advocacy services.

(c) AMOUNT OF FINANCIAL ASSISTANCE.—

(1) GRANTS TO OUTLYING AREAS.—From the funds appropriated under section 105(a) and reserved under section 105(b)(1)(A) for any fiscal year for grants under this section, the Secretary shall make a grant in an amount of not more than $105,000 to each eligible outlying area.

(2) GRANTS TO STATES.—From the funds described in paragraph (1) that are not used to make grants under paragraph (1), the Secretary shall make grants to States in accordance with the requirements described in paragraph (3).

(3) CALCULATION OF STATE GRANTS.—

(A) CALCULATIONS FOR GRANTS IN THE SECOND OR THIRD YEAR OF A SECOND EXTENSION GRANT.—For any fiscal year, the Secretary shall calculate the amount of a grant under paragraph (2) for each eligible State that would be in the second or third year of a second extension grant made under section 103 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988, if that Act had been reauthorized for that fiscal year.

(B) CALCULATIONS FOR GRANTS IN THE FOURTH OR FIFTH YEAR OF A SECOND EXTENSION GRANT.—

(i) FOURTH YEAR.—An eligible State that would have been in the fourth year of a second extension grant made under section 103 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 during a fiscal year, if that Act had been reauthorized for that fiscal year, shall receive under paragraph (2) a grant in an amount equal to 75 percent of the funding that the State received in the prior fiscal year under section 103 of that Act or under this section, as appropriate.

(ii) FIFTH YEAR.—An eligible State that would have been in the fifth year of a second extension grant made under section 103 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 during a fiscal year, if that Act had been reauthorized for that fiscal year, shall receive under paragraph (2) a grant in an amount equal to 50 percent of the funding that the State received in the third year of a second extension grant under section 103 of that Act or under this section, as appropriate.

(C) PROHIBITION ON FUNDS AFTER FIFTH YEAR OF A SECOND EXTENSION GRANT.—Except as provided in subsection (f), an eligible State that would have been in the fifth year of a second extension grant made under section 103 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 during a fiscal year, if that Act had been reauthorized for that fiscal year, may not receive any Federal funds under this title for any fiscal year after such fiscal year.

(D) ADDITIONAL STATES.—

(i) IN GENERAL.—For purposes of this paragraph, the Secretary shall treat a State described in clause (ii)—

(I) for fiscal years 1999 through 2001, as if the State were a State described in subparagraph (A); and

(II) for fiscal year 2002 or 2003, as if the State were a State described in clause (i) or (ii), respectively, of subparagraph (B).

(ii) STATE.—A State referred to in clause (i) shall be a State that—

(I) in fiscal year 1998, was in the second year of an initial extension grant made under section 103 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988; and

(II) meets such terms and conditions as the Secretary shall determine to be appropriate.

(d) LEAD AGENCY.—

(1) IDENTIFICATION.—

(A) IN GENERAL.—To be eligible to receive a grant under this section, a State shall designate a lead agency to carry out appropriate State functions under this section. The lead agency shall be the current agency (as of the date of submission of the application supplement described in subsection (e)) administering the grant awarded to the State for fiscal year 1998 under title I of the Technology-Related Assistance for Individuals With Disabilities Act of 1988, except as provided in subparagraph (B).

(B) CHANGE IN AGENCY.—The Governor may change the lead agency if the Governor shows good cause to the Secretary why the designated lead agency should be changed, in the application supplement described in subsection (e), and obtains approval of the supplement.

(2) DUTIES OF THE LEAD AGENCY.—The duties of the lead agency shall include—

(A) submitting the application supplement described in subsection (e) on behalf of the State;

(B) administering and supervising the use of amounts made available under the grant received by the State under this section;

(C)(i) coordinating efforts related to, and supervising the preparation of, the application supplement described in subsection (e);

(ii) continuing the coordination of the maintenance and evaluation of the comprehensive statewide program of technology-related assistance among public agencies and between public agencies and private entities, including coordinating efforts related to entering into interagency agreements; and

(iii) continuing the coordination of efforts, especially efforts carried out with entities that provide protection and advocacy services described in section 102, related to the active, timely, and meaningful participation by individuals with disabilities and their family members, guardians, advocates, or authorized representatives, and other appropriate individuals, with respect to activities carried out under the grant; and

(D) the delegation, in whole or in part, of any responsibilities described in subparagraph (A), (B), or (C) to 1 or more appropriate offices, agencies, entities, or individuals.

(e) APPLICATION SUPPLEMENT.—

(1) SUBMISSION.—Any State that desires to receive a grant under this section shall submit to the Secretary an application supplement to the application the State submitted under section 103 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988, at such time, in such manner, and for such period as the Secretary may specify, that contains the following information:

(A) GOALS AND ACTIVITIES.—A description of—

(i) the goals the State has set, for addressing the assistive technology needs of individuals with disabilities in the State, including any related to—

(I) health care;

(II) education;

(III) employment, including goals involving the State vocational rehabilitation program carried out under title I of the Rehabilitation Act of 1973;

(IV) telecommunication and information technology; or

(V) community living; and

(ii) the activities the State will undertake to achieve such goals, in accordance with the requirements of subsection (b).

(B) MEASURES OF GOAL ACHIEVEMENT.—A description of how the State will measure whether the goals set by the State have been achieved.

(C) INVOLVEMENT OF INDIVIDUALS WITH DISABILITIES OF ALL AGES AND THEIR FAMILIES.—A description of how individuals with disabilities of all ages and their families—

(i) were involved in selecting—

(I) the goals;

(II) the activities to be undertaken in achieving the goals; and

(III) the measures to be used in judging if the goals have been achieved; and

(ii) will be involved in measuring whether the goals have been achieved.

(D) REDESIGNATION OF THE LEAD AGENCY.—If the Governor elects to change the lead agency, the following information:

(i) With regard to the original lead agency, a description of the deficiencies of the agency; and

(ii) With regard to the new lead agency, a description of—

(I) the capacity of the new lead agency to administer and conduct activities described in subsection (b) and this paragraph; and

(II) the procedures that the State will implement to avoid the deficiencies, described in clause (i), of the original lead agency.

(iii) Information identifying which agency prepared the application supplement.

(2) INTERIM STATUS OF STATE OBLIGATIONS.—Except as provided in subsection (f)(2), when the Secretary notifies a State that the State shall submit the application supplement to the application the State submitted under section 103 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988, the Secretary shall specify in the notification the time period for which the application supplement shall apply, consistent with paragraph (4).

(3) CONTINUING OBLIGATIONS.—Each State that receives a grant under this section shall continue to abide by the assurances the State made in the application the State submitted under section 103 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 and continue to comply with reporting requirements under that Act.

(4) DURATION OF APPLICATION SUPPLEMENT.—

(A) DETERMINATION.—The Secretary shall determine and specify to the State the time period for which the application supplement shall apply, in accordance with subparagraph (B).

(B) LIMIT.—Such time period for any State shall not extend beyond the year that would have been the fifth year of a second extension grant made for that State under section 103 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988, if the Act had been reauthorized through that year.

(f) EXTENSION OF FUNDING.—

(1) In the case of a State that is in the fifth year of a second extension grant in fiscal year 1998 or is in the fifth year of a second extension grant in any of the fiscal years 2000 through 2004 made under section 103 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988, or made under this section, as appropriate, the Secretary may, in the discretion of the Secretary, award a 3-year extension of the grant to such a State if the State submits an application supplement under subsection (e) and meets other related requirements for a State seeking a grant under this section.

(2) AMOUNT.—A State that receives an extension of a grant under paragraph (1), shall receive through the grant, for each of fiscal years of the extension of the grant, an amount equivalent to the amount the State received for the fifth year of a second extension grant made under section 103 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988, or made under this section, as appropriate, from funds appropriated under section 105(a) and reserved under section 105(b)(1)(A) for grants under this section.

(3) LIMITATION.—A State may not receive amounts under an extension of a grant under paragraph (1) after September 30, 2004.

SEC. 102. STATE GRANTS FOR PROTECTION AND ADVOCACY RELATED TO ASSISTIVE TECHNOLOGY.

(a) GRANTS TO STATES.—

(1) IN GENERAL.—On the appropriation of funds under section 105, the Secretary shall make a grant to an entity in each State to support protection and advocacy services through the systems established to provide protection and advocacy services under the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.) for the purposes of assisting in the acquisition, utilization, or maintenance of assistive technology or assistive technology services for individuals with disabilities.

(2) CERTAIN STATES.—Notwithstanding paragraph (1), for a State that, on the day

before the date of enactment of this Act, was described in section 102(f)(1) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988, the Secretary shall make the grant to the lead agency designated under section 101(d). The lead agency shall determine how the funds made available under this section shall be divided among the entities that were providing protection and advocacy services in that State on that day, and distribute the funds to the entities. In distributing the funds, the lead agency shall not establish any further eligibility or procedural requirements for an entity in that State that supports protection and advocacy services through the systems established to provide protection and advocacy services under the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.). Such an entity shall comply with the same requirements (including reporting and enforcement requirements) as any other entity that receives funding under paragraph (1).

(3) Periods.—The Secretary shall provide assistance through such a grant to a State for 6 years.

(b) Amount of Financial Assistance.—

(1) Grants to outlying areas.—From the funds appropriated under section 105(a) and reserved under section 105(b)(1)(A) for any fiscal year, the Secretary shall make a grant in an amount of not more than $30,000 to each eligible system within an outlying area.

(2) Grants to states.—For any fiscal year, after reserving funds to make grants under paragraph (1), the Secretary shall make allotments from the remainder of the funds described in paragraph (1) in accordance with paragraph (3) to eligible systems within States to support protection and advocacy services as described in subsection (a). The Secretary shall make grants to the eligible systems from the allotments.

(3) Systems within states.—

(A) Population basis.—Except as provided in subparagraph (B), from such remainder for each fiscal year, the Secretary shall make an allotment to the eligible system within a State of an amount bearing the same ratio to such remainder as the population of the State bears to the population of all States.

(B) Minimums.—Subject to the availability of appropriations to carry out this section, the allotment to any system under subparagraph (A) shall be not less than $50,000, and the allotment to any system under this paragraph for any fiscal year that is less than $50,000 shall be increased to $50,000.

(4) Reallotment.—Whenever the Secretary determines that any amount of an allotment under paragraph (3) to a system within a State for any fiscal year will not be expended by such system in carrying out the provisions of this section, the Secretary shall make such amount available for carrying out the provisions of this section to 1 or more of the systems that the Secretary determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a system for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the system (as determined under the preceding provisions of this section) for such year.

(c) Report to Secretary.—An entity that receives a grant under this section shall annually prepare and submit to the Secretary a report that contains such information as the Secretary may require, including documentation of the progress of the entity in—

(1) conducting consumer-responsive activities, including activities that will lead to increased access, for individuals with disabilities, to funding for assistive technology devices and assistive technology services;

(2) engaging in informal advocacy to assist in securing assistive technology and assistive technology services for individuals with disabilities;

(3) engaging in formal representation for individuals with disabilities to secure systems change, and in advocacy activities to secure assistive technology and assistive technology services for individuals with disabilities;

(4) developing and implementing strategies to enhance the long-term abilities of individuals with disabilities and their family members, guardians, advocates, and authorized representatives to advocate the provision of assistive technology devices and assistive technology services to which the individuals with disabilities are entitled under law other than this Act; and

(5) coordinating activities with protection and advocacy services funded through sources other than this title, and coordinating activities with the capacity building and advocacy activities carried out by the lead agency.

(d) Reports and Updates to State Agencies.—An entity that receives a grant under this section shall prepare and submit to the lead agency the report described in subsection (c) and quarterly updates concerning the activities described in subsection (c).

(e) Coordination.—On making a grant under this section to an entity in a State, the Secretary shall solicit and consider the opinions of the lead agency of the State designated under section 101(d) with respect to efforts at coordination, collaboration, and promoting outcomes between the lead agency and the entity that receives the grant under this section.

SEC. 103. ADMINISTRATIVE PROVISIONS.

(a) Review of Participating Entities.—

(1) In general.—The Secretary shall assess the extent to which entities that receive grants pursuant to this title are complying with the applicable requirements of this title and achieving the goals that are consistent with the requirements of the grant programs under which the entities applied for the grants.

(2) Onsite visits of states receiving certain grants.—

(A) In general.—The Secretary shall conduct an onsite visit for each State that receives a grant under section 101 and that would have been in the third or fourth year of a second extension grant under the Technology-Related Assistance for Individuals With Disabilities Act of 1988 if that Act had been reauthorized for that fiscal year, prior to the end of that year.

(B) Unnecessary visits.—The Secretary shall not be required to conduct a visit of a State described in subparagraph (A) if the Secretary determines that the visit is not necessary to assess whether the State is making significant progress toward development and implementation of a comprehensive statewide program of technology-related assistance.

(3) Advance public notice.—The Secretary shall provide advance public notice of an onsite visit conducted under paragraph (2) and solicit public comment through such notice from targeted individuals, regarding State goals and related activities to achieve such goals funded through a grant made under section 101.

(4) Minimum requirements.—At a minimum, the visit shall allow the Secretary to determine the extent to which the State is making progress in meeting State goals and maintaining a comprehensive statewide program of technology-related assistance consistent with the purposes described in section 2(b)(1).

(5) Provision of information.—To assist the Secretary in carrying out the responsibilities of the Secretary under this section, the Secretary may require States to provide relevant information.

(b) Corrective Action and Sanctions.—

(1) Corrective action.—If the Secretary determines that an entity fails to substantially comply with the requirements of this title with respect to a grant program, the Secretary shall assist the entity through technical assistance funded under section 104 or other means, within 90 days after such determination, to develop a corrective action plan.

(2) Sanctions.—An entity that fails to develop and comply with a corrective action plan as described in paragraph (1) during a fiscal year shall be subject to 1 of the following corrective actions selected by the Secretary:

(A) Partial or complete fund termination under the grant program.

(B) Ineligibility to participate in the grant program in the following year.

(C) Reduction in funding for the following year under the grant program.

(D) Required redesignation of the lead agency designated under section 101(d) or an entity responsible for administering the grant program.

(3) Appeals procedures.—The Secretary shall establish appeals procedures for entities that are found to be in noncompliance with the requirements of this title.

(c) Annual Report.—

(1) In general.—Not later than December 31 of each year, the Secretary shall prepare, and submit to the President and to Congress, a report on the activities funded under this Act, to improve the access of individuals with disabilities to assistive technology devices and assistive technology services.

(2) Contents.—Such report shall include information on—

(A) the demonstrated successes of the funded activities in improving interagency coordination relating to assistive technology, streamlining access to funding for assistive technology, and producing beneficial outcomes for users of assistive technology;

(B) the demonstration activities carried out through the funded activities to—

(i) promote access to such funding in public programs that were in existence on the date of the initiation of the demonstration activities; and

(ii) establish additional options for obtaining such funding;

(C) the education and training activities carried out through the funded activities to educate and train targeted individuals about assistive technology, including increasing awareness of funding through public programs for assistive technology;

(D) the research activities carried out through the funded activities to improve understanding of the costs and benefits of access to assistive technology for individuals with disabilities who represent a variety of ages and types of disabilities;

(E) the program outreach activities to rural and inner-city areas that are carried out through the funded activities;

(F) the activities carried out through the funded activities that are targeted to reach underrepresented populations and rural populations; and

(G) the consumer involvement activities carried out through the funded activities.

(3) Availability of assistive technology devices and assistive technology services.—As soon as practicable, the Secretary shall include in the annual report required by this subsection information on the availability of assistive technology devices and assistive technology services.

(d) Effect on Other Assistance.—This title may not be construed as authorizing a Federal or a State agency to reduce medical or other assistance available, or to alter eligibility for a benefit or service, under any other Federal law.

SEC. 104. TECHNICAL ASSISTANCE PROGRAM.

(a) In General.—Through grants, contracts, or cooperative agreements, awarded on a competitive basis, the Secretary is authorized to fund a technical assistance program to provide technical assistance to entities, principally entities funded under section 101 or 102.

(b) Input.—In designing the program to be funded under this section, and in deciding the differences in function between national and regionally based technical assistance efforts carried out through the program, the Secretary shall consider the input of the directors of comprehensive statewide programs of technology-related assistance and other individuals the Secretary determines to be appropriate, especially—

(1) individuals with disabilities who use assistive technology and understand the barriers to the acquisition of such technology and assistive technology services;

(2) family members, guardians, advocates, and authorized representatives of such individuals; and

(3) individuals employed by protection and advocacy systems funded under section 102.

(c) Scope of Technical Assistance.—

(1) National public internet site.—

(A) Establishment of internet site.—The Secretary shall fund the establishment and maintenance of a National Public Internet Site for the purposes of providing to individuals with disabilities and the general public technical assistance and information on increased access to assistive technology devices, assistive technology services, and other disability-related resources.

(B) Eligible entity.—To be eligible to receive a grant or enter into a contract or cooperative agreement under subsection (a) to establish and maintain the Internet site, an entity shall be an institution of higher education that emphasizes research and engineering, has a multidisciplinary research center, and has demonstrated expertise in—

(i) working with assistive technology and intelligent agent interactive information dissemination systems;

(ii) managing libraries of assistive technology and disability-related resources;

(iii) delivering education, information, and referral services to individuals with disabilities, including technology-based curriculum development services for adults with low-level reading skills;

(iv) developing cooperative partnerships with the private sector, particularly with private sector computer software, hardware, and Internet services entities; and

(v) developing and designing advanced Internet sites.

(C) Features of internet site.—The National Public Internet Site described in subparagraph (A) shall contain the following features:

(i) Availability of information at any time.—The site shall be designed so that any member of the public may obtain information posted on the site at any time.

(ii) Innovative automated intelligent agent.—The site shall be constructed with an innovative automated intelligent agent that is a diagnostic tool for assisting users in problem definition and the selection of appropriate assistive technology devices and assistive technology services resources.

(iii) Resources.—

(I) Library on assistive technology.—The site shall include access to a comprehensive working library on assistive technology for all environments, including home, workplace, transportation, and other environments.

(II) Resources for a number of disabilities.—The site shall include resources relating to the largest possible number of disabilities, including resources relating to low-level reading skills.

(iv) Links to private sector resources and information.—To the extent feasible, the site shall be linked to relevant private sector resources and information, under agreements developed between the institution of higher education and cooperating private sector entities.

(D) Minimum library components.—At a minimum, the Internet site shall maintain updated information on—

(i) how to plan, develop, implement, and evaluate activities to further extend comprehensive statewide programs of technology-related assistance, including the development and replication of effective approaches to—

(I) providing information and referral services;

(II) promoting interagency coordination of training and service delivery among public and private entities;

(III) conducting outreach to underrepresented populations and rural populations;

(IV) mounting successful public awareness activities;

(V) improving capacity building in service delivery;

(VI) training personnel from a variety of disciplines; and

(VII) improving evaluation strategies, research, and data collection;

(ii) effective approaches to the development of consumer-controlled systems that increase access to, funding for, and awareness of, assistive technology devices and assistive technology services;

(iii) successful approaches to increasing the availability of public and private funding for and access to the provision of assistive technology devices and assistive technology services by appropriate State agencies; and

(iv) demonstration sites where individuals may try out assistive technology.

(2) Technical assistance efforts.—In carrying out the technical assistance program, taking into account the input required under subsection (b), the Secretary shall ensure that entities—

(A) address State-specific information requests concerning assistive technology from other entities funded under this title and public entities not funded under this title, including—

(i) requests for state-of-the-art, or model, Federal, State, and local laws, regulations, policies, practices, procedures, and organizational structures, that facilitate, and overcome barriers to, funding for, and access to, assistive technology devices and assistive technology services;

(ii) requests for examples of policies, practices, procedures, regulations, administrative hearing decisions, or legal actions, that have enhanced or may enhance access to funding for assistive technology devices and assistive technology services for individuals with disabilities;

(iii) requests for information on effective approaches to Federal-State coordination of programs for individuals with disabilities, related to improving funding for or access to assistive technology devices and assistive technology services for individuals with disabilities of all ages;

(iv) requests for information on effective approaches to the development of consumer-controlled systems that increase access to, funding for, and awareness of, assistive technology devices and assistive technology services;

(v) other requests for technical assistance from other entities funded under this title and public entities not funded under this title; and

(vi) other assignments specified by the Secretary, including assisting entities described in section 103(b) to develop corrective action plans; and

(B) assist targeted individuals by disseminating information about—

(i) Federal, State, and local laws, regulations, policies, practices, procedures, and organizational structures, that facilitate, and overcome barriers to, funding for, and access to, assistive technology devices and assistive technology services, to promote fuller independence, productivity, and inclusion in society for individuals with disabilities of all ages; and

(ii) technical assistance activities undertaken under subparagraph (A).

(d) Eligible Entities.—To be eligible to compete for grants, contracts, and cooperative agreements under this section, entities shall have documented experience with and expertise in assistive technology service delivery or systems, interagency coordination, and capacity building and advocacy activities.

(e) Application.—To be eligible to receive a grant, contract, or cooperative agreement under this section, an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—There are authorized to be appropriated to carry out this title $36,000,000 for fiscal year 1999 and such sums as may be necessary for each of fiscal years 2000 through 2004.

(b) Reservations of Funds.—

(1) In general.—Except as provided in paragraphs (2) and (3), of the amount appropriated under subsection (a) for a fiscal year—

(A) 87.5 percent of the amount shall be reserved to fund grants under section 101;

(B) 7.9 percent shall be reserved to fund grants under section 102; and

(C) 4.6 percent shall be reserved for activities funded under section 104.

(2) Reservation for continuation of technical assistance initiatives.—For fiscal year 1999, the Secretary may use funds reserved under subparagraph (C) of paragraph (1) to continue funding technical assistance initiatives that were funded in fiscal year 1998 under the Technology-Related Assistance for Individuals With Disabilities Act of 1988.

(3) Reservation for onsite visits.—The Secretary may reserve, from the amount appropriated under subsection (a) for any fiscal year, such sums as the Secretary considers to be necessary for the purposes of conducting onsite visits as required by section 103(a)(2).

TITLE II—NATIONAL ACTIVITIES

Subtitle A—Rehabilitation Act of 1973

SEC. 201. COORDINATION OF FEDERAL RESEARCH EFFORTS.

Section 203 of the Rehabilitation Act of 1973 (as amended by section 405 of the Workforce Investment Act of 1988) is amended—

(1) in subsection (a)(1), by inserting after “programs,” insert “including programs relating to assistive technology research and research that incorporates the principles of universal design,”;

(2) in subsection (b)—

(A) by inserting “(1)” before “After receiving”;

(B) by striking “from individuals with disabilities and the individuals' representatives” and inserting “from targeted individuals”;

(C) by inserting after “research” the following: (including assistive technology research and research that incorporates the principles of universal design)”; and

(D) by adding at the end the following:

“(2) In carrying out its duties with respect to the conduct of Federal research (including assistive technology research and research that incorporates the principles of universal design) related to rehabilitation of individuals with disabilities, the Committee shall—

“(A) share information regarding the range of assistive technology research, and research that incorporates the principles of universal design, that is being carried out by members of the Committee and other Federal departments and organizations;

“(B) identify, and make efforts to address, gaps in assistive technology research and research that incorporates the principles of universal design that are not being adequately addressed;

“(C) identify, and establish, clear research priorities related to assistive technology research and research that incorporates the principles of universal design for the Federal Government;

“(D) promote interagency collaboration and joint research activities relating to assistive technology research and research that incorporates the principles of universal design at the Federal level, and reduce unnecessary duplication of effort regarding these types of research within the Federal Government; and

“(E) optimize the productivity of Committee members through resource sharing and other cost-saving activities, related to assistive technology research and research that incorporates the principles of universal design.”;

(3) by striking subsection (c) and inserting the following:

“(c) Not later than December 31 of each year, the Committee shall prepare and submit, to the President and to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report that—

“(1) describes the progress of the Committee in fulfilling the duties described in subsection (b);

“(2) makes such recommendations as the Committee determines to be appropriate with respect to coordination of policy and development of objectives and priorities for all Federal programs relating to the conduct of research (including assistive technology research and research that incorporates the principles of universal design) related to rehabilitation of individuals with disabilities; and

“(3) describes the activities that the Committee recommended to be funded through grants, contracts, cooperative agreements, and other mechanisms, for assistive technology research and development and research and development that incorporates the principles of universal design.”; and

(4) by adding at the end the following:

“(d)(1) In order to promote coordination and cooperation among Federal departments and agencies conducting assistive technology research programs, to reduce duplication of effort among the programs, and to increase the availability of assistive technology for individuals with disabilities, the Committee may recommend activities to be funded through grants, contracts or cooperative agreements, or other mechanisms—

“(A) in joint research projects for assistive technology research and research that incorporates the principles of universal design; and

“(B) in other programs designed to promote a cohesive, strategic Federal program of research described in subparagraph (A).

“(2) The projects and programs described in paragraph (1) shall be jointly administered by at least 2 agencies or departments with representatives on the Committee.

“(3) In recommending activities to be funded in the projects and programs, the Committee shall obtain input from targeted individuals, and other organizations and individuals the Committee determines to be appropriate, concerning the availability and potential of technology for individuals with disabilities.

“(e) In this section, the terms ‘assistive technology’, ‘targeted individuals’, and ‘universal design’ have the meanings given the terms in section 3 of the Assistive Technology Act of 1998.”.

SEC. 202. NATIONAL COUNCIL ON DISABILITY.

Section 401 of the Rehabilitation Act of 1973 (as amended by section 407 of the Workforce Investment Act of 1998) is amended by adding at the end the following:

“(c)(1) Not later than December 31, 1999, the Council shall prepare a report describing the barriers in Federal assistive technology policy to increasing the availability of and access to assistive technology devices and assistive technology services for individuals with disabilities.

“(2) In preparing the report, the Council shall obtain input from the National Institute on Disability and Rehabilitation Research and the Association of Tech Act Projects, and from targeted individuals, as defined in section 3 of the Assistive Technology Act of 1998.

“(3) The Council shall submit the report, along with such recommendations as the Council determines to be appropriate, to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives.”.

SEC. 203. ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD.

(a) In General.—Section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792) is amended—

(1) by redesignating subsections (d) through (i) as subsections (e) through (j), respectively;

(2) by inserting after subsection (c) the following:

“(d) Beginning in fiscal year 2000, the Access Board, after consultation with the Secretary, representatives of such public and private entities as the Access Board determines to be appropriate (including the electronic and information technology industry), targeted individuals (as defined in section 3 of the Assistive Technology Act of 1998), and State information technology officers, shall provide training for Federal and State employees on any obligations related to section 508 of the Rehabilitation Act of 1973.”; and

(3) in the second sentence of paragraph (1) of subsection (e) (as redesignated in paragraph (1)), by striking “subsection (e)” and inserting “subsection (f)”.

(b) Conforming Amendment.—Section 506(c) of the Rehabilitation Act of 1973 (29 U.S.C. 794(c)) is amended by striking “section 502(h)(1)” and inserting “section 502(i)(1)”.

Subtitle B—Other National Activities

SEC. 211. SMALL BUSINESS INCENTIVES.

(a) Definition.—In this section, the term “small business” means a small-business concern, as described in section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

(b) Contracts for Design, Development, and Marketing.—

(1) In general.—The Secretary may enter into contracts with small businesses, to assist such businesses to design, develop, and market assistive technology devices or assistive technology services. In entering into the contracts, the Secretary may give preference to businesses owned or operated by individuals with disabilities.

(2) Small business innovative research program.—Contracts entered into pursuant to paragraph (1) shall be administered in accordance with the contract administration requirements applicable to the Department of Education under the Small Business Innovative Research Program, as described in section 9(g) of the Small Business Act (15 U.S.C. 638(g)). Contracts entered into pursuant to paragraph (1) shall not be included in the calculation of the required expenditures of the Department under section 9(f) of such Act (15 U.S.C. 638(f)).

(c) Grants for Evaluation and Dissemination of Information on Effects of Technology Transfer.—The Secretary may make grants to small businesses to enable such businesses—

(1) to work with any entity funded by the Secretary to evaluate and disseminate information on the effects of technology transfer on the lives of individuals with disabilities;

(2) to benefit from the experience and expertise of such entities, in conducting such evaluation and dissemination; and

(3) to utilize any technology transfer and market research services such entities provide, to bring new assistive technology devices and assistive technology services into commerce.

SEC. 212. TECHNOLOGY TRANSFER AND UNIVERSAL DESIGN.

(a) In General.—The Director of the National Institute on Disability and Rehabilitation Research may collaborate with the Federal Laboratory Consortium for Technology Transfer established under section 11(e) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(e)), to promote technology transfer that will further development of assistive technology and products that incorporate the principles of universal design.

(b) Collaboration.—In promoting the technology transfer, the Director and the Consortium described in subsection (a) may collaborate—

(1) to enable the National Institute on Disability and Rehabilitation Research to work more effectively with the Consortium, and to enable the Consortium to fulfill the responsibilities of the Consortium to assist Federal agencies with technology transfer under the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq);

(2) to increase the awareness of staff members of the Federal Laboratories regarding assistive technology issues and the principles of universal design;

(3) to compile a compendium of current and projected Federal Laboratory technologies and projects that have or will have an intended or recognized impact on the available range of assistive technology for individuals with disabilities, including technologies and projects that incorporate the principles of universal design, as appropriate;

(4) to develop strategies for applying developments in assistive technology and universal design to mainstream technology, to improve economies of scale and commercial incentives for assistive technology; and

(5) to cultivate developments in assistive technology and universal design through demonstration projects and evaluations, conducted with assistive technology professionals and potential users of assistive technology.

(c) GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS.—The Secretary may make grants to or enter into contracts or cooperative agreements with commercial, nonprofit, or other organizations, including institutions of higher education, to facilitate interaction with the Consortium to achieve the objectives of this section.

(d) RESPONSIBILITIES OF CONSORTIUM.—Section 11(e)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(e)(1)) is amended—

(1) in subparagraph (I), by striking "; and" and inserting a semicolon;

(2) in subparagraph (J), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(K) work with the Director of the National Institute on Disability and Rehabilitation Research to compile a compendium of current and projected Federal Laboratory technologies and projects that have or will have an intended or recognized impact on the available range of assistive technology for individuals with disabilities (as defined in section 3 of the Assistive Technology Act of 1998), including technologies and projects that incorporate the principles of universal design (as defined in section 3 of such Act), as appropriate.".

SEC. 213. UNIVERSAL DESIGN IN PRODUCTS AND THE BUILT ENVIRONMENT.

The Secretary may make grants to commercial or other enterprises and institutions of higher education for the research and development of universal design concepts for products (including information technology) and the built environment. In making such grants, the Secretary shall give consideration to enterprises and institutions that are owned or operated by individuals with disabilities. The Secretary shall define the term "built environment" for purposes of this section.

SEC. 214. OUTREACH.

(a) ASSISTIVE TECHNOLOGY IN RURAL OR IMPOVERISHED URBAN AREAS.—The Secretary may make grants, enter into cooperative agreements, or provide financial assistance through other mechanisms, for projects designed to increase the availability of assistive technology for rural and impoverished urban populations, by determining the unmet assistive technology needs of such populations, and designing and implementing programs to meet such needs.

(b) ASSISTIVE TECHNOLOGY FOR CHILDREN AND OLDER INDIVIDUALS.—The Secretary may make grants, enter into cooperative agreements, or provide financial assistance through other mechanisms, for projects designed to increase the availability of assistive technology for populations of children and older individuals, by determining the unmet assistive technology needs of such populations, and designing and implementing programs to meet such needs.

SEC. 215. TRAINING PERTAINING TO REHABILITATION ENGINEERS AND TECHNICIANS.

(a) GRANTS AND CONTRACTS.—The Secretary shall make grants, or enter into contracts with, public and private agencies and organizations, including institutions of higher education, to help prepare students, including students preparing to be rehabilitation technicians, and faculty working in the field of rehabilitation engineering, for careers related to the provision of assistive technology devices and assistive technology services.

(b) ACTIVITIES.—An agency or organization that receives a grant or contract under subsection (a) may use the funds made available through the grant or contract—

(1) to provide training programs for individuals employed or seeking employment in the field of rehabilitation engineering, including postsecondary education programs;

(2) to provide workshops, seminars, and conferences concerning rehabilitation engineering that relate to the use of assistive technology devices and assistive technology services to improve the lives of individuals with disabilities; and

(3) to design, develop, and disseminate curricular materials to be used in the training programs, workshops, seminars, and conferences described in paragraphs (1) and (2).

SEC. 216. PRESIDENT'S COMMITTEE ON EMPLOYMENT OF PEOPLE WITH DISABILITIES.

(a) PROGRAMS.—The President's Committee on Employment of People With Disabilities (referred to in this section as "the Committee") may design, develop, and implement programs to increase the voluntary participation of the private sector in making information technology accessible to individuals with disabilities, including increasing the involvement of individuals with disabilities in the design, development, and manufacturing of information technology.

(b) ACTIVITIES.—The Committee may carry out activities through the programs that may include—

(1) the development and coordination of a task force, which—

(A) shall develop and disseminate information on voluntary best practices for universal accessibility in information technology; and

(B) shall consist of members of the public and private sectors, including—

(i) representatives of organizations representing individuals with disabilities; and

(ii) individuals with disabilities; and

(2) the design, development, and implementation of outreach programs to promote the adoption of best practices referred to in paragraph (1)(B).

(c) COORDINATION.—The Committee shall coordinate the activities of the Committee under this section, as appropriate, with the activities of the National Institute on Disability and Rehabilitation Research and the activities of the Department of Labor.

(d) TECHNICAL ASSISTANCE.—The Committee may provide technical assistance concerning the programs carried out under this section and may reserve such portion of the funds appropriated to carry out this section as the Committee determines to be necessary to provide the technical assistance.

(e) DEFINITION.—In this section, the term "information technology" means any equipment or interconnected system or subsystem of equipment, that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information, including a computer, ancillary equipment, software, firmware and similar procedures, services (including support services), and related resources.

SEC. 217. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title, and the provisions of section 203 of the Rehabilitation Act of 1973 that relate to research described in section 203(b)(2)(A) of such Act, $10,000,000 for fiscal year 1999, and such sums as may be necessary for fiscal year 2000.

TITLE III—ALTERNATIVE FINANCING MECHANISMS

SEC. 301. GENERAL AUTHORITY.

(a) IN GENERAL.—The Secretary shall award grants to States to pay for the Federal share of the cost of the establishment and administration of, or the expansion and administration of, an alternative financing program featuring 1 or more alternative financing mechanisms to allow individuals with disabilities and their family members, guardians, advocates, and authorized representatives to purchase assistive technology devices and assistive technology services (referred to individually in this title as an "alternative financing mechanism").

(b) MECHANISMS.—The alternative financing mechanisms may include—

(1) a low-interest loan fund;

(2) an interest buy-down program;

(3) a revolving loan fund;

(4) a loan guarantee or insurance program;

(5) a program operated by a partnership among private entities for the purchase, lease, or other acquisition of assistive technology devices or assistive technology services; or

(6) another mechanism that meets the requirements of this title and is approved by the Secretary.

(c) REQUIREMENTS.—

(1) PERIOD.—The Secretary may award grants under this title for periods of 1 year.

(2) LIMITATION.—No State may receive more than 1 grant under this title.

(d) FEDERAL SHARE.—The Federal share of the cost of the alternative financing program shall not be more than 50 percent.

(e) CONSTRUCTION.—Nothing in this section shall be construed as affecting the authority of a State to establish an alternative financing program under title I.

SEC. 302. AMOUNT OF GRANTS.

(a) IN GENERAL.—

(1) GRANTS TO OUTLYING AREAS.—From the funds appropriated under section 308 for any fiscal year that are not reserved under section 308(b), the Secretary shall make a grant in an amount of not more than $105,000 to each eligible outlying area.

(2) GRANTS TO STATES.—From the funds described in paragraph (1) that are not used to make grants under paragraph (1), the Secretary shall make grants to States from allotments made in accordance with the requirements described in paragraph (3).

(3) ALLOTMENTS.—From the funds described in paragraph (1) that are not used to make grants under paragraph (1)—

(A) the Secretary shall allot $500,000 to each State; and

(B) from the remainder of the funds—

(i) the Secretary shall allot to each State an amount that bears the same ratio to 80 percent of the remainder as the population of the State bears to the population of all States; and

(ii) the Secretary shall allot to each State with a population density that is not more than 10 percent greater than the population density of the United States (according to the most recently available census data) an equal share from 20 percent of the remainder.

(b) INSUFFICIENT FUNDS.—If the funds appropriated under this title for a fiscal year are insufficient to fund the activities described in the acceptable applications submitted under this title for such year, a State whose application was approved for such year but that did not receive a grant under this title may update the application for the succeeding fiscal year. Priority shall be given in such succeeding fiscal year to such updated applications, if acceptable.

(c) DEFINITIONS.—In subsection (a):

(1) OUTLYING AREA.—The term "outlying area" means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(2) STATE.—The term "State" does not include the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

SEC. 303. APPLICATIONS AND PROCEDURES.

(a) ELIGIBILITY.—States that receive or have received grants under section 101 and comply with subsection (b) shall be eligible to compete for grants under this title.

(b) APPLICATION.—To be eligible to compete for a grant under this title, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including—

(1) an assurance that the State will provide the non-Federal share of the cost of the alternative financing program in cash, from State, local, or private sources;

(2) an assurance that the alternative financing program will continue on a permanent basis;

(3) an assurance that, and information describing the manner in which, the alternative financing program will expand and emphasize consumer choice and control;

(4) an assurance that the funds made available through the grant to support the alternative financing program will be used to supplement and not supplant other Federal, State, and local public funds expended to provide alternative financing mechanisms;

(5) an assurance that the State will ensure that—

(A) all funds that support the alternative financing program, including funds repaid during the life of the program, will be placed in a permanent separate account and identified and accounted for separately from any other fund;

(B) if the organization administering the program invests funds within this account, the organization will invest the funds in low-risk securities in which a regulated insurance company may invest under the law of the State; and

(C) the organization will administer the funds with the same judgment and care that a person of prudence, discretion, and intelligence would exercise in the management of the financial affairs of such person;

(6) an assurance that—

(A) funds comprised of the principal and interest from the account described in paragraph (5) will be available to support the alternative financing program; and

(B) any interest or investment income that accrues on or derives from such funds after such funds have been placed under the control of the organization administering the alternative financing program, but before such funds are distributed for purposes of supporting the program, will be the property of the organization administering the program; and

(7) an assurance that the percentage of the funds made available through the grant that is used for indirect costs shall not exceed 10 percent.

(c) LIMIT.—The interest and income described in subsection (b)(6)(B) shall not be taken into account by any officer or employee of the Federal Government for purposes of determining eligibility for any Federal program.

SEC. 304. CONTRACTS WITH COMMUNITY-BASED ORGANIZATIONS.

(a) IN GENERAL.—A State that receives a grant under this title shall enter into a contract with a community-based organization (including a group of such organizations) that has individuals with disabilities involved in organizational decisionmaking at all organizational levels, to administer the alternative financing program.

(b) PROVISIONS.—The contract shall—

(1) include a provision requiring that the program funds, including the Federal and non-Federal shares of the cost of the program, be administered in a manner consistent with the provisions of this title;

(2) include any provision the Secretary requires concerning oversight and evaluation necessary to protect Federal financial interests; and

(3) require the community-based organization to enter into a contract, to expand opportunities under this title and facilitate administration of the alternative financing program, with—

(A) commercial lending institutions or organizations; or

(B) State financing agencies.

SEC. 305. GRANT ADMINISTRATION REQUIREMENTS.

A State that receives a grant under this title and any community-based organization that enters into a contract with the State under this title, shall submit to the Secretary, pursuant to a schedule established by the Secretary (or if the Secretary does not establish a schedule, within 12 months after the date that the State receives the grant), each of the following policies or procedures for administration of the alternative financing program:

(1) A procedure to review and process in a timely manner requests for financial assistance for immediate and potential technology needs, including consideration of methods to reduce paperwork and duplication of effort, particularly relating to need, eligibility, and determination of the specific assistive technology device or service to be financed through the program.

(2) A policy and procedure to assure that access to the alternative financing program shall be given to consumers regardless of type of disability, age, income level, location of residence in the State, or type of assistive technology device or assistive technology service for which financing is requested through the program.

(3) A procedure to assure consumer-controlled oversight of the program.

SEC. 306. INFORMATION AND TECHNICAL ASSISTANCE.

(a) IN GENERAL.—The Secretary shall provide information and technical assistance to States under this title, which shall include—

(1) providing assistance in preparing applications for grants under this title;

(2) assisting grant recipients under this title to develop and implement alternative financing programs; and

(3) providing any other information and technical assistance the Secretary determines to be appropriate to assist States to achieve the objectives of this title.

(b) GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS.—The Secretary shall provide the information and technical assistance described in subsection (a) through grants, contracts, and cooperative agreements with public or private agencies and organizations, including institutions of higher education, with sufficient documented experience, expertise, and capacity to assist States in the development and implementation of the alternative financing programs carried out under this title.

SEC. 307. ANNUAL REPORT.

Not later than December 31 of each year, the Secretary shall submit a report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate describing the progress of each alternative financing program funded under this title toward achieving the objectives of this title. The report shall include information on—

(1) the number of grant applications received and approved by the Secretary under this title, and the amount of each grant awarded under this title;

(2) the ratio of funds provided by each State for the alternative financing program of the State to funds provided by the Federal Government for the program;

(3) the type of alternative financing mechanisms used by each State and the community-based organization with which each State entered into a contract, under the program; and

(4) the amount of assistance given to consumers through the program (who shall be classified by age, type of disability, type of assistive technology device or assistive technology service financed through the program, geographic distribution within the State, gender, and whether the consumers are part of an underrepresented population or rural population).

SEC. 308. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this title $10,000,000 for fiscal year 1999 and such sums as may be necessary for fiscal year 2000.

(b) RESERVATION.—Of the amounts appropriated under subsection (a) for a fiscal year, the Secretary shall reserve 2 percent for the purpose of providing information and technical assistance to States under section 306.

TITLE IV—REPEAL AND CONFORMING AMENDMENTS

SEC. 401. REPEAL.

The Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.) is repealed.

SEC. 402. CONFORMING AMENDMENTS.

(a) DEFINITIONS.—Section 6 of the Rehabilitation Act of 1973 (as amended by section 403 of the Workforce Investment Act of 1998) is amended—

(1) in paragraph (3), by striking "section 3(2) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2202(2))" and inserting "section 3 of the Assistive Technology Act of 1998"; and

(2) in paragraph (4), by striking "section 3(3) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2202(3))" and inserting "section 3 of the Assistive Technology Act of 1998".

(b) RESEARCH AND OTHER COVERED ACTIVITIES.—Section 204(b)(3) of the Rehabilitation Act of 1973 (as amended by section 405 of the Workforce Investment Act of 1998) is amended—

(1) in subparagraph (C)(i), by striking "the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.)" and inserting "the Assistive Technology Act of 1998"; and

(2) in subparagraph (G)(i), by striking "the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.)" and inserting "the Assistive Technology Act of 1998".

(c) PROTECTION AND ADVOCACY.—Section 509(a)(2) of the Rehabilitation Act of 1973 (as amended by section 408 of the Workforce Investment Act of 1998) is amended by striking "the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (42 U.S.C. 2201 et seq.)" and inserting "the Assistive Technology Act of 1998".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. GOODLING) and the gentleman from California (Mr. MARTINEZ) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. GOODLING).

GENERAL LEAVE

Mr. GOODLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 2432.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 2432 continues the State Grant Program for assistive technology for individuals with disabilities allowing all 50 States, the District of Columbia and the U.S. territories to complete their grant cycle under this Act.

In 1988, the Congress created this program to give States a small Federal incentive to establish State programs to help people with disabilities access assistant technology services and devices. Since that time, all States have established programs that promote the provision of assistive technology services to individuals with disabilities.

However, I do not believe that the program should become a long-term Federal commitment. I believe most States have used this small Federal investment well, and I believe, once our 10-year commitment is met, the Federal government should let States provide these services based on their individual needs.

I know how difficult it is to end Federal assistance once it is started. That is why, in the last 2 years of Federal assistance, we require the States to match 25 percent in the ninth year and 50 percent in the tenth year. By requiring this match, the Federal Government has sent the signal that assistance will phase out and the Federal assistance will end.

Mr. Speaker, I reserve the balance of my time.

Mr. MARTINEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to rise in strong support of the Assistive Technology Act of 1998. This Act will enable States and the Federal Government to build upon the work that has been done under the existing Technology-Related Assistance for Individuals With Disabilities Act of 1998 or the Tech Act.

The Technology Act sunsets this year, and the legislation before the House today will bring our efforts to ensure access to assistive technology into the 21st century.

Under this legislation, States will be able to continue the consumer-responsive programs of technology-related assistance for people with disabilities that have been developed over the past 10 years.

In addition, this bill will help States establish and strengthen systems to inform people with disabilities as to what their technology options are so that they could take advantage of them.

Most importantly, this legislation will establish and expand or loan programs for people with disabilities or their representatives to assess or meet their assistive-technology needs.

Without access to assistive technology, many disabled individuals would be disadvantaged in their ability to successfully compete in today's society.

Mr. Speaker, this bill has gained widespread support from the disability community and deserves to be passed by the House today.

Mr. DEAL of Georgia. Mr. Speaker, assistive technology—products designed to maintain or enhance functional capabilities—enables people with disabilities to assume greater control over their lives and contribute more fully to society.

Rapid advancements in technology continue to provide important new tools to help individuals with disabilities become more independent and participate in activities related to home, school, work, and community.

While substantial progress has been made in both the development of new assistive technology devices and in the transfer and adaptation of existing technologies, information on these devices is difficult to find and inconsistent.

This lack of information creates barriers to individuals with disabilities trying to increase their independence and productivity.

The Assistive Technology Act (S. 2432) includes a national, on-line resource and distance learning center for people with disabilities. This bill offers an on-line website for people with disabilities to become aware of assistive technology.

Information provided on the website might include: available devices and services, comparisons of products, distribution points, training support options, as well as maintenance and funding options.

Assistive technology is the key that provides access to employment, education, transportation, and other activities of daily living for many people with disabilities.

Please join me in providing the opportunity to help individuals with disabilities become more self-sufficient. I urge you to support the Assistive Technology Act.

Mr. MARTINEZ. Mr. Speaker, I yield back the balance of my time.

Mr. GOODLING. Mr. Speaker, I have no additional requests for time, and I yield back the balance of time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. GOODLING) that the House suspend the rules and pass the Senate bill, S. 2432, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

NATIVE AMERICAN PROGRAMS ACT AMENDMENTS OF 1997

Mr. GOODLING. Mr. Speaker, I ask unanimous consent that the Committee on Education and the Workforce be discharged from further consideration of the Senate bill (S. 459) to amend the Native American Programs Act of 1974 to extend certain authorizations, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 459

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Native American Programs Act Amendments of 1997".

SEC. 2. AUTHORIZATIONS OF CERTAIN APPROPRIATIONS UNDER THE NATIVE AMERICAN PROGRAMS ACT OF 1974.

Section 816 of the Native American Programs Act of 1974 (42 U.S.C. 2992d) is amended—

(1) in subsection (a), by striking "for fiscal years 1992, 1993, 1994, and 1995." and inserting "for each of fiscal years 1997, 1998, and 1999.";

(2) in subsection (c), by striking "for each of the fiscal years 1992, 1993, 1994, 1995, and 1996," and inserting "for each of fiscal years 1997, 1998, and 1999,"; and

(3) in subsection (e), by striking ", $2,000,000 for fiscal year 1993 and such sums as may be necessary for fiscal years 1994, 1995, 1996, and 1997." and inserting "such sums as may be necessary for each of fiscal years 1997, 1998, and 1999.".

SEC. 3. NATIVE HAWAIIAN REVOLVING LOAN FUND.

(a) IN GENERAL.—Section 803A of the Native American Programs Act of 1974 (42 U.S.C. 2991b–1) is amended—

(1) in subsection (a)(1)—

(A) in the matter preceding subparagraph (A)—

(i) by striking "award grants" and inserting "award a grant"; and

(ii) by striking "use such grants to establish and carry out" and inserting "use that grant to carry out"; and

(B) in subparagraph (A), by inserting "or loan guarantees" after "make loans";

(2) in subsection (b)—

(A) in paragraph (1), by striking "loans to a borrower" and inserting "a loan or loan guarantee to a borrower"; and

(B) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by striking "Loans made" and inserting "Each loan or loan guarantee made";

(ii) in subparagraph (A), by striking "5 years" and inserting "7 years"; and

(iii) in subparagraph (B), by striking "that is 2 percentage" and all that follows through the end of the subparagraph and inserting "that does not exceed a rate equal to the sum of—

"(I) the most recently published prime rate (as published in the newspapers of general circulation in the State of Hawaii before the date on which the loan is made); and

"(II) 3 percentage points."; and

(3) in subsection (f)(1), by striking "for each of the fiscal years 1992, 1993, and 1994, $1,000,000" and inserting "for the first full fiscal year, beginning after the date of enactment of the Native American Programs Act Amendments of 1997, such sums as may be necessary".

AMENDMENTS OFFERED BY MR. GOODLING

Mr. GOODLING. Mr. Speaker, I offer several amendments.

The Clerk read as follows:

Amendments offered by Mr. GOODLING:

On page 2, line 3, strike out "1997" and "1998" and insert after 1999, "2000, 2001, and 2002".

On page 2, line 7, strike out "1997" and "1998" and insert after 1999, "2000, 2001, and 2002".

On page 2, line 13, strike out "1997" and "1998" and insert after 1999, "2000, 2001, and 2002"

On page 4, line 4, strike out "for each of the fiscal years".

On page 4, line 5, strike out "$1,000,000".

On page 4, line 6, strike out "for the first fiscal year and all that follows through line 9.

On page 4, line 5, after "inserting", insert "2000 and 2001."

Mr. GOODLING (during the reading). Mr. Speaker, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. GOODLING) is recognized for 1 hour..

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 459, the Native American Programs Act Amendments of 1997, would continue the important programs operated under the Native American Programs Act. This Act promotes social and economic self-sufficiency among Indian tribes.

Grants under the Act have been used to assist tribes, develop government infrastructure, establish tax, zoning and corporation codes, and provide the regulatory frameworks necessary to attract and retain outside capital investment. In addition to extending these programs through the years 2002, it amends provisions for a Native Hawaiian Revolving Loan Fund to make it self-sufficient and eliminate the need for further appropriations.

Mr. Speaker, I yield to the gentleman from California (Mr. MARTINEZ).

Mr. MARTINEZ. Mr. Speaker, I am in support of the amendment and find no problem with it

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the gentlewoman from Hawaii (Mrs. MINK).

Mrs. MINK of Hawaii. Mr. Speaker, I rise today in support of S. 459, the Native American Programs Act.

Authorization for this act expired in 1996, and we were unable to bring an authorization bill to the floor in the last Congress, so I am pleased that we have agreement today and can extend these programs for the next 4 fiscal years.

The Native American Programs Act provides funds to American Indians, Alaskan Natives, Native Hawaiians and other Native American Pacific Islanders for projects which help achieve social and economic self-sufficiency among these populations.

We provide about $34.8 million each year for the Native American Programs Act. This assistance provided since 1974 has been critical in helping tribes to establish their governmental and legal systems and develop environmental and land use policies. It has helped to address the social needs among Native American communities and has increased economic development, job creation and business expansion.

It has also funded projects to preserve the languages of our Native Americans that are in danger of being lost forever. The strength of this program is that each project funded by this act is a community-based effort in which the ideas for solutions of community problems comes from the people themselves.

One such project which is funded under this act is the Native Hawaiian Revolving Loan Fund, which provides low interest loans to native Hawaiians for business creation or expansion.

Originally a demonstration project, the loan fund was developed into an important source of capital for native Hawaiian-run businesses, most of which are small businesses. The loans have funded a wide variety of projects, including agribusiness, construction, retail, tourism, trucking, automotive shops, restaurants, and food outlets.

Access to capital is a real problem for native Hawaiian entrepreneurs. The loan fund has helped to develop viable businesses in our community, create jobs, and contribute to our economy. To date, $13.8 million has been given out in loans to 308 businesses.

Documentation provided by the Office of Hawaiian Affairs, which administers the loan fund, shows that almost 1,000 jobs have been created as a direct result of businesses started and expanded through the loan fund.

S. 459 will authorize the revolving loan fund through the year 2001, and make important changes to the loan fund which will help the fund achieve self-sufficiency, so it will no longer need annual Federal funding to sustain itself.

I appreciate the work of the chairman, the gentleman from Pennsylvania (Mr. GOODLING) and his staff in working out an agreement on this Native Hawaiian Revolving Loan Fund. This agreement will help assure that the loan fund will become self-sufficient and truly revolving in nature, without the need of further assistance from the Federal government.

I urge my colleagues to support S. 459 and these important programs that assist our Native American communities.

Mr. GOODLING. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the amendments offered by the gentleman from Pennsylvania (Mr. GOODLING).

The amendments were agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

☐ 1430

COMMUNITY-DESIGNED CHARTER SCHOOL ACT

Mr. RIGGS. Mr. Speaker, I move to suspend the rules and take from the Speaker's table the bill (H.R. 2616) to amend titles VI and X of the Elementary and Secondary Education Act of 1965 to improve and expand charter schools, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Charter School Expansion Act of 1998".

SEC. 2. INNOVATIVE CHARTER SCHOOLS.

Title VI of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7301 et seq.) is amended—

(1) in section 6201(a) (20 U.S.C. 7331(a))—

(A) in paragraph (1)(C), by striking "and" after the semicolon;

(B) by redesignating paragraph (2) as paragraph (3); and

(C) by inserting after paragraph (1) the following:

"(2) support for planning, designing, and initial implementation of charter schools as described in part C of title X; and"; and

(2) in section 6301(b) (20 U.S.C. 7351(b))—

(A) in paragraph (7), by striking "and" after the semicolon;

(B) by redesignating paragraph (8) as paragraph (9); and

(C) by inserting after paragraph (7) the following:

"(8) planning, designing, and initial implementation of charter schools as described in part C of title X; and".

SEC. 3. CHARTER SCHOOLS.

(a) Purpose.—Section 10301(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8061(b)) is amended—

(1) in paragraph (1)—

(A) by inserting "planning, program" before "design"; and

(B) by striking "and" after the semicolon;

(2) in paragraph (2), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(3) expanding the number of high-quality charter schools available to students across the Nation.".

(b) Criteria for Priority Treatment.—Section 10302 of such Act of 1965 (20 U.S.C. 8062) is amended—

(1) in subsection (c)(2)—

(A) in subparagraph (A), by striking "and" after the semicolon;

(B) in subparagraph (B), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(C) not more than 2 years to carry out dissemination activities described in section 10304(f)(6)(B).";

(2) by amending subsection (d) to read as follows:

"(d) Limitation.—A charter school may not receive—

"(1) more than 1 grant for activities described in subparagraphs (A) and (B) of subsection (c)(2); or

"(2) more than 1 grant for activities under subparagraph (C) of subsection (c)(2)."; and

(3) by adding at the end the following:

"(e) Priority Treatment.—

"(1) In general.—

"(A) Fiscal years 1999, 2000, and 2001.—In awarding grants under this part for any of the fiscal years 1999, 2000, and 2001 from funds appropriated under section 10311 that are in excess of $51,000,000 for the fiscal year, the Secretary shall give priority to States to the extent that the States meet the criteria described in paragraph (2) and 1 or more of the criteria described in subparagraph (A), (B), or (C) of paragraph (3).

"(B) Succeeding fiscal years.—In awarding grants under this part for fiscal year 2002 or any succeeding fiscal year from any funds appropriated under section 10311, the Secretary shall give priority to States to the extent that the States meet the criteria described in paragraph (2) and 1 or more of the criteria described in subparagraph (A), (B), or (C) of paragraph (3).

"(2) Review and evaluation priority criteria.—The criteria referred to in paragraph (1) is that the State provides for periodic review and evaluation by the authorized public chartering agency of each charter school, at least once every 5 years unless required more frequently by State law, to determine whether the charter school is meeting the terms of the school's charter, and is meeting or exceeding the academic performance requirements and goals for charter schools as set forth under State law or the school's charter.

"(3) Priority criteria.—The criteria referred to in paragraph (1) are the following:

"(A) The State has demonstrated progress, in increasing the number of high quality charter schools that are held accountable in the terms of the schools' charters for meeting clear and measurable objectives for the educational progress of the students attending the schools, in the period prior to the period for which a State educational agency or eligible applicant applies for a grant under this part.

"(B) The State—

"(i) provides for 1 authorized public chartering agency that is not a local educational agency, such as a State chartering board, for each individual or entity seeking to operate a charter school pursuant to such State law; or

"(ii) in the case of a State in which local educational agencies are the only authorized public chartering agencies, allows for an appeals process for the denial of an application for a charter school.

"(C) The State ensures that each charter school has a high degree of autonomy over the charter school's budgets and expenditures.

"(f) Amount Criteria.—In determining the amount of a grant to be awarded under this part to a State educational agency, the Secretary shall take into consideration the number of charter schools that are operating, or are approved to open, in the State.".

(c) Applications.—Section 10303 of such Act (20 U.S.C. 8063) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by inserting "and" after the semicolon;

(B) by redesignating paragraph (2) as paragraph (3);

(C) by inserting after paragraph (1) the following:

"(2) describe how the State educational agency—

"(A) will inform each charter school in the State regarding—

"(i) Federal funds that the charter school is eligible to receive; and

"(ii) Federal programs in which the charter school may participate;

"(B) will ensure that each charter school in the State receives the charter school's commensurate share of Federal education funds that are allocated by formula each year, including during the first year of operation of the charter school; and

"(C) will disseminate best or promising practices of charter schools to each local educational agency in the State; and"; and

(D) in paragraph (3) (as redesignated by subparagraph (B))—

(i) in subparagraph (E), insert "planning, program" before "design";

(ii) in subparagraph (K), by striking "and" after the semicolon;

(iii) by redesignating subparagraph (L) as subparagraph (N); and

(iv) by inserting after subparagraph (K) the following:

"(L) a description of how a charter school that is considered a local educational agency under State law, or a local educational agency in which a charter school is located, will comply with sections 613(a)(5) and 613(e)(1)(B) of the Individuals with Disabilities Education Act;

"(M) if the eligible applicant desires to use subgrant funds for dissemination activities under section 10302(c)(2)(C), a description of those activities and how those activities will involve charter schools and other public schools, local educational agencies, developers, and potential developers; and"; and

(2) in subsection (c), by striking "10302(e)(1) or"; and

(3) in subsection (d)(1)—

(A) by striking "subparagraphs (A) through (L)" and inserting "subparagraphs (A) through (N)"; and

(B) by striking "subparagraphs (I), (J), and (K)" and inserting "subparagraphs (J), (K), and (N)".

(d) Administration.—Section 10304 of such Act (20 U.S.C. 8064) is amended—

(1) in subsection (a)—

(A) in paragraph (4), by striking "and" after the semicolon;

(B) in paragraph (5), by striking the period and inserting a semicolon; and

(C) by adding at the end the following:

"(6) the number of high quality charter schools created under this part in the State; and

"(7) in the case of State educational agencies that propose to use grant funds to support dissemination activities under section 10302(c)(2)(C), the quality of those activities and the likelihood that those activities will improve student achievement.";

(2) in subsection (b)—

(A) in paragraph (5), by striking "and" after the semicolon;

(B) in paragraph (6), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(7) in the case of an eligible applicant that proposes to use grant funds to support dissemination activities under section 10302(c)(2)(C), the quality of those activities and the likelihood that those activities will improve student achievement.";

(3) in subsection (f)—

(A) in paragraph (1), by inserting before the period the following: ", except that the State educational agency may reserve not more than 10 percent of the grant funds to support dissemination activities described in paragraph (6)";

(B) in paragraph (2), by inserting ", or to disseminate information about the charter school and successful practices in the charter school," after "charter school";

(C) in paragraph (5), by striking "20 percent" and inserting "10 percent"; and

(D) by adding at the end the following:

"(6) Dissemination.—

"(A) In general.—A charter school may apply for funds under this part, whether or not the charter school has applied for or received funds under this part for planning, program design, or implementation, to carry out the activities described in subparagraph (B) if the charter school has been in operation for at least 3 consecutive years and has demonstrated overall success, including—

"(i) substantial progress in improving student achievement;

"(ii) high levels of parent satisfaction; and

"(iii) the management and leadership necessary to overcome initial start-up problems and establish a thriving, financially viable charter school.

"(B) Activities.—A charter school described in subparagraph (A) may use funds reserved under paragraph (1) to assist other schools in adapting the charter school's program (or certain aspects of the charter school's program), or to disseminate information about the charter school, through such activities as—

"(i) assisting other individuals with the planning and start-up of 1 or more new public schools, including charter schools, that are independent of the assisting charter school and the assisting charter school's developers, and that agree to be held to at least as high a level of accountability as the assisting charter school;

"(ii) developing partnerships with other public schools, including charter schools, designed to improve student performance in each of the schools participating in the partnership;

"(iii) developing curriculum materials, assessments, and other materials that promote increased student achievement and are based on successful practices within the assisting charter school; and

"(iv) conducting evaluations and developing materials that document the successful practices of the assisting charter school and that are designed to improve student performance in other schools.".

(f) National Activities.—Section 10305 of such Act (20 U.S.C. 8065) is amended to read as follows:

"SEC. 10305. NATIONAL ACTIVITIES.

''(a) In General.—The Secretary shall reserve for each fiscal year the greater of 5 percent or $5,000,000 of the amount appropriated to carry out this part, except that in no fiscal year shall the total amount so reserved exceed $8,000,000, to carry out the following activities:

''(1) To provide charter schools, either directly or through State educational agencies, with—

''(A) information regarding—

''(i) Federal funds that charter schools are eligible to receive; and

''(ii) other Federal programs in which charter schools may participate; and

''(B) assistance in applying for Federal education funds that are allocated by formula, including assistance with filing deadlines and submission of applications.

''(2) To provide for the completion of the 4-year national study (which began in 1995) of charter schools.

''(3) To provide for other evaluations or studies that include the evaluation of the impact of charter schools on student achievement, including information regarding—

''(A) students attending charter schools reported on the basis of race, age, disability, gender, limited English proficiency, and previous enrollment in public school; and

''(B) the professional qualifications of teachers within a charter school and the turnover of the teaching force.

''(4) To provide—

''(A) information to applicants for assistance under this part;

''(B) assistance to applicants for assistance under this part with the preparation of applications under section 10303;

''(C) assistance in the planning and startup of charter schools;

''(D) training and technical assistance to existing charter schools; and

''(E) for the dissemination to other public schools of best or promising practices in charter schools.

''(5) To provide (including through the use of 1 or more contracts that use a competitive bidding process) for the collection of information regarding the financial resources available to charter schools, including access to private capital, and to widely disseminate to charter schools any such relevant information and model descriptions of successful programs.

''(b) Construction.—Nothing in this section shall be construed to require charter schools to collect any data described in subsection (a).''.

(g) Commensurate Treatment; Records Transfer; Paperwork Reduction.—Part C of title X of such Act (20 U.S.C. 8061 et seq.) is amended—

(1) by redesignating sections 10306 and 10307 as sections 10310 and 10311, respectively; and

(2) by inserting after section 10305 the following:

"SEC. 10306. FEDERAL FORMULA ALLOCATION DURING FIRST YEAR AND FOR SUCCESSIVE ENROLLMENT EXPANSIONS.

''(a) In General.—For purposes of the allocation to schools by the States or their agencies of funds under part A of title I, and any other Federal funds which the Secretary allocates to States on a formula basis, the Secretary and each State educational agency shall take such measures not later than 6 months after the date of enactment of the Charter School Expansion Act of 1998 as are necessary to ensure that every charter school receives the Federal funding for which the charter school is eligible not later than 5 months after the charter school first opens, notwithstanding the fact that the identity and characteristics of the students enrolling in that charter school are not fully and completely determined until that charter school actually opens. The measures similarly shall ensure that every charter school expanding its enrollment in any subsequent year of operation receives the Federal funding for which the charter school is eligible not later than 5 months after such expansion.

''(b) Adjustment and Late Openings.—

''(1) In general.—The measures described in subsection (a) shall include provision for appropriate adjustments, through recovery of funds or reduction of payments for the succeeding year, in cases where payments made to a charter school on the basis of estimated or projected enrollment data exceed the amounts that the school is eligible to receive on the basis of actual or final enrollment data.

''(2) Rule.—For charter schools that first open after November 1 of any academic year, the State, in accordance with guidance provided by the Secretary and applicable Federal statutes and regulations, shall ensure that such charter schools that are eligible for the funds described in subsection (a) for such academic year have a full and fair opportunity to receive those funds during the charter schools' first year of operation.

"SEC. 10307. SOLICITATION OF INPUT FROM CHARTER SCHOOL OPERATORS.

''To the extent practicable, the Secretary shall ensure that administrators, teachers, and other individuals directly involved in the operation of charter schools are consulted in the development of any rules or regulations required to implement this part, as well as in the development of any rules or regulations relevant to charter schools that are required to implement part A of title I, the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), or any other program administered by the Secretary that provides education funds to charter schools or regulates the activities of charter schools.

"SEC. 10308. RECORDS TRANSFER.

''State educational agencies and local educational agencies, to the extent practicable, shall ensure that a student's records and, if applicable, a student's individualized education program as defined in section 602(11) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(11)), are transferred to a charter school upon the transfer of the student to the charter school, and to another public school upon the transfer of the student from a charter school to another public school, in accordance with applicable State law.

"SEC. 10309. PAPERWORK REDUCTION.

''To the extent practicable, the Secretary and each authorized public chartering agency shall ensure that implementation of this part results in a minimum of paperwork for any eligible applicant or charter school.''.

(h) Part C Definitions.—Section 10310(1) of such Act (as redesignated by subsection (e)(1)) (20 U.S.C. 8066(1)) is amended—

(1) in subparagraph (A), by striking ''an enabling statute'' and inserting ''a specific State statute authorizing the granting of charters to schools'';

(2) in subparagraph (H), by inserting ''is a school to which parents choose to send their children, and that'' before ''admits'';

(3) in subparagraph (J), by striking ''and'' after the semicolon;

(4) in subparagraph (K), by striking the period and inserting ''; and''; and

(5) by adding at the end the following:

''(L) has a written performance contract with the authorized public chartering agency in the State that includes a description of how student performance will be measured in charter schools pursuant to State assessments that are required of other schools and pursuant to any other assessments mutually agreeable to the authorized public chartering agency and the charter school.''.

(i) Authorization of Appropriations.—Section 10311 of such Act (as redesignated by subsection (e)(1)) (20 U.S.C. 8067) is amended by striking ''$15,000,000 for fiscal year 1995'' and inserting ''$100,000,000 for fiscal year 1999''.

(j) Title XIV Definitions.—Section 14101 of such Act (20 U.S.C. 8801) is amended—

(1) in paragraph (14), by inserting '', including a public elementary charter school,'' after ''residential school''; and

(2) in paragraph (25), by inserting '', including a public secondary charter school,'' after ''residential school''.

(k) Conforming Amendment.—The matter preceding paragraph (1) of section 10304(e) of such Act (20 U.S.C. 8064(e)) is amended by striking ''10306(1)'' and inserting ''10310(1)''.

The SPEAKER pro tempore (Mr. LaHood). Pursuant to the rule, the gentleman from California (Mr. Riggs) and the gentleman from California (Mr. Martinez) each will control 20 minutes.

The gentleman recognizes the gentleman from California (Mr. Riggs).

GENERAL LEAVE

Mr. RIGGS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2616.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. RIGGS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is truly a pleasure to be here on the House floor today to vote on H.R. 2616, the Charter School Expansion Act of 1998. It represents the end of a rather lengthy and somewhat legislatively arduous journey, but I want my colleagues to know at the outset that the legislation before us represents as fine a bipartisan, bicameral effort as we have seen in this particular Congress.

It also represents, I think, a very important Federal education reform initiative, and I would hope that my colleagues will bear those words in mind, particularly as we enter or get closer to the November election.

We are clearly today in, and how do I put this politely, the election or political spin cycle, and I understand that it is part and parcel of our political process to say and do things for political advantage, but it is simply not true to represent that this Republican-led Congress is a ''do-nothing'' Congress that has produced no significant educational legislative achievements, and I cite this particular bill.

This bill represents the realization, the achievement, of one of the President's primary education proposals. It embodies a request that he made of the Congress at the State of the Union address last January where he called on us to put Federal taxpayer funding, start-up or seed money, if you will, for the creation of more charter schools, these are public schools of choice for parents and children, and he called on us to enact this legislation that we have before us today. So we have made good on the President's request in a bipartisan fashion, and at the same time, I want my colleagues to understand that this particular initiative represents a very key part of the Republican education legislative agenda.

We have worked hard over the last 2 years of this Congress on legislation raising teacher competence, requiring students to meet rigorous standards, and allowing more parental choice in education. We hope and believe that this will result in greater, higher student achievement, better pupil performance, and after all, those are the results that everybody wants for our young people and our education system.

I also believe that this legislation responds to a growing public demand on the part of our fellow Americans for more choice in education. I personally am very heartened by recent public opinion polls that show that for the first time in surveying history, a majority of Americans now favor allowing parents to send their children to any public, private or church-related school. They also favor allowing the government, that is to say we, the taxpayers, to pay all or part of the tuition at a private school, and that is according to a poll conducted in June by the Gallup organization for Phi Delta Kappa, a professional association of educators.

In that poll, 51 percent, so slightly more than a majority, now support the concept of expanded and greater parental choice in education. And that poll is not the only one that shows that growing public support for more choice in education; more choice for parents and guardians who, after all, are the consumers of education. And what we are trying to do here is fundamentally change the educational paradigm in this country by shifting the focus in our education system from the providers of education to the consumers of education.

I say that and then hasten to add that we have made great strides in the higher education bill and in our literacy legislation to strengthen the teaching profession, because as I and Speaker GINGRICH and many other people have said, the gentleman from Pennsylvania (Mr. GOODLING), we believe that teaching is truly a missionary occupation. It is a calling. It is a high calling, a noble calling. Therefore, we want to do all that we can to strengthen America's teachers to prepare them for an exciting, challenging and rewarding career in the classroom.

I think we have done that, again, on a number of legislative fronts, bearing in mind that wonderful saying that a teacher can affect eternity because he or she never knows where their influence on our young people might end.

So I am very pleased to be on the floor to support this legislation, and as I go on to conclude my remarks, I also want to thank a number of people who were instrumental in working on this legislation. The principal author, as is referred to in the other body, the Senate Chamber, was Senator COATS. We were delighted to work closely with him and his staff in moving this bill through the Senate.

Denzel McGuire seated next to me, she is an extraordinarily capable member of the Committee on Education and the Workforce staff who has been supported by her colleagues on the staff in doing a great job on this legislation, and the rest of our very ambitious education legislative agenda in this particular Congress.

I was delighted to work very closely with my good friend, my classmate from the 102nd Congress, the gentleman from Indiana (Mr. ROEMER), in crafting this bipartisan legislation; and we would not be on the floor today if it were not for the support of that legislation by my good friend, the gentleman from California (Mr. MARTINEZ). All of us, I believe, have found common ground by forwarding public education reform through charter schools, and as the result of the input and contribution of all of these different people, this legislation, this bipartisan bill, is even a stronger piece of legislation.

Now, I want to point out that the charter school movement is something that is occurring out there, across the land. We are beginning to see the first charter schools here in the District of Columbia chartered by the District of Columbia public school system, but that is something that started years ago in the heartland of America.

In 1991, Minnesota became the first State to authorize charter schools. And today, just 7 years later, we have 32 States with charter school laws on the books, along with, as I just mentioned, the District of Columbia and Puerto Rico, the Commonwealth of Puerto Rico. We also have now today some 700 charter schools serving approximately 170,000 children across the country, and that is more than the entire student population of Rhode Island.

Charter schools, as I mentioned, are on the cutting edge of education reform in public education. They are a fascinating experiment in educational innovation. They are deregulated, decentralized, public schools that are largely autonomous from any governing body. They are schools that I would argue are much closer than most public schools to the constituency that they are intended to serve; that is, parents and the children, the children who would attend or matriculate at those schools.

The early reports about charter schools are very encouraging. They indicate that administrators and teachers are delighted that they are being freed up from overregulation, burdensome regulation. The teachers are more free to innovate in the classroom.

Many charter schools have adopted longer school days, longer school years, so that they are going above and beyond what they are required in terms of the total number of instructional hours, what they are required to offer by State law.

The bottom line here, in terms of the real improvement to the education system, is that students are eager to learn at charter schools, and parents are thrilled about the results. We have seen a correlation in America, American public education, over the last few years, between increased parental involvement in education and a corresponding increase in the achievement of their children.

We think that is very, very encouraging, and it is something that we here in the Congress want to continue to strengthen and reinforce.

Since 1994, when Congress authorized the National Charter Schools as part of the authorization of the Elementary and Secondary Education Act, and established a Federal taxpayer funding stream to assist charter schools with their start-up costs, and incidentally we have learned that those start-up costs are the greatest obstacle that charter school operators or charter school developers face in trying to start a charter school, we have learned a great deal about how the Federal Government can best support the charter school movement, and we hope that those lessons are incorporated into and represented by H.R. 2616, which responds to the concerns of students, parents, teachers, charter school operators, some of the educational experts that testified before our committee, and also represents the Department of Education's first-year report of their 4-year study on charter schools.

The highlights of our bill are as follows: We, first of all, meet the President's funding level request that he made in his State of the Union and in his subsequent budget proposal to Congress by increasing the authorization for Federal taxpayer funding for charter school start-ups from $15 million to $100 million, and we articulate a goal of trying to move the Congress and the country in the direction of 3,000 charter schools by the start of the new millennium; again, a goal that President Clinton has proposed for the country.

We drive over 90 percent of the Federal charter school money down to the State and local levels to establish more charter schools in those States that have strong charter school laws on the books.

We direct this money. We give priority to those States that provide a high degree of fiscal autonomy for charter schools, that can demonstrate progress in increasing the number of high-quality charter schools that provide for strong academic accountability, and the gentleman from Indiana (Mr. ROEMER) was a stickler on the accountability provisions of the bill, and that provide for more than one chartering agency in the State.

We also try to ensure that charter schools will be treated on an equal basis, that they will be on an equal footing with other public schools when qualifying and competing for Federal categorical aid for the various federally-authorized and federally-funded categorical education programs.

Lastly, we direct the Secretary to help by disseminating information on how charter schools can access private capital to supplement their taxpayer funding.

We permit States to reserve 10 percent of their Federal grant money to provide assistance to established charter schools with a history of improving student performance so that those charter schools can help other fledgling charter schools in that State replicate their academic programs.

We ensure that individuals directly involved with the operation of charter schools are consulted in the development of any new Federal rules or regulations pertaining to charter schools.

We improve upon existing law by sending more money, as I mentioned earlier, directly to charter schools to ensure that parents and teachers have the maximum amount of Federal resources and flexibility available to them to start up high-quality charter schools.

This really is an outstanding bill with strong bipartisan support across the aisle, and I urge my colleagues to vote for H.R. 2616.

Mr. Speaker, I reserve the balance of my time.

□ 1445

Mr. MARTINEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this morning, as the gentleman from California (Mr. RIGGS) has outlined, we are considering H.R. 2616, the Charter School Expansion Act of 1998, and from his talk Members probably see the enthusiasm that he has for this particular bill, and maybe it should have been named the Frank Riggs Charter School Expansion Act of 1998.

But I continue to have reservations about charter schools. I do support this bill, however. I wholeheartedly believe in the need for innovation, for consideration of new approaches to education. But I am concerned about efforts to provide an unfettered growth in the number of charter schools. I really believe that we have to take a step back and evaluate whether charter schools are fulfilling the goals of using the flexibility and creativity that we have provided to provide high quality education.

Charter schools are relatively new. The oldest are only 6 years old. Much of the information we have about these schools is anecdotal. We lack concrete, objective data on their success or failure. However, I am glad to see that in H.R. 2616 it has been significantly scaled back from the version that originally passed the House, and that the language that I was able to incorporate in the legislation has been championed by the Senate in the bill before us today.

One of those provisions requires a description of how local educational agencies, that is a charter school or that has a charter school in its district will comply the Individuals with Disabilities Education Act.

There have been reports, including information provided at our hearings, on several serious problems regarding the admission and provision of services to children with disabilities. This language would reaffirm a charter school's responsibility under IDEA, and compel it to plan for compliance with that statute.

The other provision requires that in the evaluation of the impact of charter schools on students' achievement, the information provided on students attending those schools be reported on the race, age, disability, gender, limited English proficiency, and previous enrollment in public schools. I believe that will go a long way towards providing the specific information about the children being served by charter schools and the successes they are experiencing.

As many know, I am cautious yet supportive of the concept of charter schools and their possible impacts on the larger public school system as a whole. I therefore support this legislation before us and its passage, but I do have a question I would like to ask the chairman, if he would indulge me.

Mr. Chairman, this is the last piece of legislation that is scheduled to come from our subcommittee. I was wondering, there is another bill that we worked on very hard in a bipartisan manner, the Reading Excellence Act, that came out of our subcommittee.

I understand that legislation is at the desk now. I was wondering why we are not taking it up, and if there is any possibility to take that up now. I imagine, since we did the Native Americans under a unanimous consent agreement, that we might ask unanimous consent to take that bill up.

Mr. RIGGS. Mr. Speaker, will the gentleman yield?

Mr. MARTINEZ. I yield to the gentleman from California.

Mr. RIGGS. Mr. Speaker, as the gentleman well knows, I need to defer to the chairman of the full committee, the gentleman from Pennsylvania (Mr. GOODLING), on any question involving unanimous consent.

I can tell the gentleman that it is my understanding that we hope that the literacy bill, otherwise known as the Reading Excellence Act, will be incorporated into the omnibus funding measure, the continuing resolution, that should be before this body either later today or tomorrow, over the weekend, but will certainly be, obviously, for purposes of funding the Federal Government, it will be enacted and passed through the House and will be enacted into law in the near future.

Mr. MARTINEZ. I am very glad to hear that. As the gentleman knows, the Senate passed it overwhelmingly. It would be a shame if we adjourned without taking that piece of legislation up, since it is an identical bill, and that is all we have to do is take it up and pass it for it to be signed into law. The President has already indicated he would sign it.

Mr. RIGGS. Yes.

Mr. MARTINEZ. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana (Mr. ROEMER).

Mr. ROEMER. Mr. Speaker, first of all, I just want to say that oftentimes this institution is targeted for high criticism because we engage in too much finger-pointing, not enough cooperation, and not enough bipartisanship.

That certainly can be true on occasion, but I think today the success of this charter school legislation points toward another side of the story, and points to one where, for a bold, new, exciting idea that can influence maybe the single most important issue in our Nation today, education, this bill typifies bipartisan support and cooperation, bicameral support and cooperation, bold and innovative ideas that have come from the local and the State level, and from some of our think tanks to this institution here.

I think it really reaffirms what we can get done on the most important problem in America when we join hands and work together.

I want to give high praise and credit to a number of people. First of all, I want to give credit to my friend, the gentleman from California (Mr. RIGGS), when we started working with Denzel McGuire and on my staff Gina Mahony back in April of 1997 to formulate how to work together, the Republicans and Democrats, to get this charter school bill crafted and get it through our committee.

I want to thank the gentleman from California (Mr. MARTINEZ), who had some hesitations and initial concerns about this legislation, where now I think, with some caveats and cautionary remarks, he is supportive.

I want to thank the gentleman from Pennsylvania (Mr. GOODLING) and some people on the Senate side, Mr. Speaker. Senator COATS, a colleague of mine from the great State of Indiana, who is retiring, has worked and championed this legislation on the Senate side, along with Senator LIEBERMAN, Senator LANDRIEU, and Senator BOB KERREY. It probably could not have found its way through the mazes of the

United States Senate had it not been for that bipartisan cooperation, so there is a lot of credit that needs to go around to bring this truly historic legislation through this body.

Also, Mr. Speaker, the President of the United States, President Clinton, has been an advocate of charter schools, and has talked about these for a long, long time through his legislative career.

I also need to give credit to the Democratic Leadership Council, run by Al Fromm and Will Marshall, who have talked about schools in our Democratic Party for a decade. We have had a great deal of debate in our Caucus over how to move this idea in a positive way, with promise for our educational system, forward, investing in our public school system, investing in our teachers, and thereby helping our children and helping our economy and our businesses compete.

That is what this bill help us accomplish. That is the overriding goal with this legislation today, to move this public education system boldly forward, and help our businesses compete by getting students that can compete in a global economy today through high school and college.

Mr. Speaker, as we have worked on this legislation from April, 1997, onward, I want to tell the Members why I am a supporter of charter schools. First of all, they provide an alternative to the traditional public school system. I am a very strong supporter of public school education in America.

Yet, some of it is not working well enough today. We have too many savage inequalities between some of our inner city schools and some of our suburban schools. We need to work on discipline and safety in our schools. We need to reward and help teachers with professional development and resources, so they can continue to be the heroes in our classes today.

Yes, we need charter schools. We need charter schools so we have bold experiments to look at ways to get some of these schools away from some of the regulations and burdens of Federal regulations handed down to the local governments and our local schools, and free them up with some new ideas to experiment with the curriculum, to experiment with the length of the school year, to experiment with the length of the school day; to really drive reform and drive change into some of our public schools. That is one of the reasons.

Secondly, I am for strengthening accountability for academic achievement. Certainly some of our schools, many of our schools, most of our schools in America today are performing very well. Some of them are not, and we need to increase the accountability on these schools. We need to make sure that when a school is not performing that there are consequences. That consequence will happen to charter schools. They can and will be shut down. That is not a bad thing. That can be a very good thing.

Mr. Speaker, thirdly, we need to inject innovation and reform into the public school system. When we see charter schools, and even used in the right fashion, they are not the silver bullet. No Democrat is going to claim, or Republican, I hope, is going to claim that there is a single silver bullet and a panacea to solve the hard work of fixing and reforming and boldly moving forward our education system in America today. There are a host of things we need to do, from more parental involvement to increased safety and discipline to, yes, charter schools.

But when we try charter schools with a host of these other things, such as they are doing in Chicago, Illinois, we see test scores go up, we see absenteeism go down, we see parents get more and more involved in the system. We see hopefully less threat from outside the schoolroom and in the neighborhoods. It takes work to make our public school system work. That is what we all need to do today as Americans.

Mr. Speaker, I think most people know that charter schools have been out there for 6 or 7 years. We now have in this academic year 1,129 charter schools serving 250,000 students in America today. Thirty-four States, Mr. Speaker, have passed charter school legislation, and I hope, and I think we all hope, that all 50 States will move towards embracing charter schools.

This legislation increases the authorization level for charter schools, and I want to commend the appropriators for increasing the appropriation this year to $100 million for charter schools throughout the country.

□ 1500

This legislation also provides assistance to charter schools in ensuring that they receive information about their eligibility for Federal education programs, as well as their commensurate share of title I and IDEA funding. Many charter schools have not known that they were even eligible for these funds and have had some kind of difficulty obtaining these funds. I am pleased, I am proud to say that this bill provides assistance in those areas.

This bill also contains funding for high-performing charter schools so they can disseminate, they can share these worthwhile practices with other schools.

One of the reasons I support charter schools is because I think they will have a ripple effect into the traditional public school system. And, yes, we are seeing results of that too, Mr. Speaker. The charter schools office at Central Michigan University is already saying they are seeing a secondary ripple effect into the public school system from public charter schools. So, we are seeing progress, we are seeing hope, we are seeing reform through this bold innovation.

Again, I want to close by quoting Will Rogers, Mr. Speaker. He once said, "You can be on the right track, but if you are not moving fast enough, you are going to get run over." I think the American people want us to move down the right track on reforming public education, to invest in it, to care passionately about our children in these schools, to work together, Democrats and Republicans, and to make sure that we are working with our business community investing in better vocational and technical skills.

But I think today, instead of the finger-pointing and the jeering, instead of the critiques that we see about this institution not getting enough done, today with charter school legislation we are accomplishing a lot for America.

Mr. Speaker, I salute the institution in a bipartisan, bicameral way for this success.

Mr. MARTINEZ. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Speaker, I thank the gentleman from California (Mr. MARTINEZ) for yielding me this time.

For most who know me, some 20 years ago, for 10 years I taught, and I consider it one of the most important roles that any of us in our society can aspire to. But I am concerned about this bill, the amendments to the Community Design Charter School Act.

Make no mistake about it, I support charter schools. In fact, I call my colleagues' attention to the fact that the City Academy, the first charter school in the Nation, existed and was developed in my neighborhood community on the east side of Saint Paul where I hail from. We opened our doors there in 1992 to 35 students.

The State of Minnesota, of course, has been a center for this under Governor Rudy Perpich, governor at that time. He instituted a Statewide program that, in fact, capitalized on this. But this legislation, which I voted against when it was considered in the House initially, had some fundamental flaws, all of which I think have not been cured.

This is, of course, a case I think of symbolism over substance. This measure authorizes the use of funds for planning, design, and initial implementation of the charter schools. In other words, the funds allocated in this legislation are intended to help with startup of the schools. This ignores, of course, the needs of districts such as mine and States such as mine which already have strong charter school systems in place.

When the Academy opened in 1992, the first charter school in our Nation, they were setting up folding chairs and tables to conduct classes. The school has worked hard since then to acquire the necessary supplies and equipment needed for fully functioning classrooms. But, nevertheless, they are struggling.

As a supporter of charter schools, I understand the importance of appropriating funds to innovative schools to assist them in covering initial expenses, but also in terms of maintaining their operations. States like Minnesota are struggling their best to support rational innovation; however, equitable funding for up-and-running schools are shortchanged in this particular program. We tried an amendment on the floor and we were not able to change that.

The proponents of this legislation claim they are going to give school districts more autonomy. But the bill appears to shift the fiscal control from local entities to a State authority. That is the language of the amendments. Local schools have too little to say in how grant money for charter schools is distributed in this program. Rather, the State education agency or its equivalent is given the power of being the fiscal agency or funding source. This clearly fragments local control. This is contrary to Minnesota's success, where greater support comes from the local school district than from the State and Federal government combined!

Additionally, this legislation directs the Department of Education to fund one or more contracts to help charter schools obtain access to private capital. This is, clear and simple, I understand, something that the administration favored. But I am hesitant myself to advocate using Federal dollars as seed money and turning a school entity into a fund-raising operation. Are the Federal dollars, U.S. taxpayer funds going to pay for the bingo prizes?

If there is not enough nonprofit initiative to fund schools or charter schools, or enough gumption to obtain the funds, should this be a Federal role? I do not think so. Charter schools are still experimental in nature. Promoting funding specifically for schools that have a high degree of autonomy over their budgets and expenditures without sound accountability is a real problem.

Funding should be awarded on the school's ability to demonstrate they are indeed able to achieve success in educating our students in terms of educational measurement, or testing which demonstrates accountability.

Mr. Speaker, let me reiterate that I am not against charter schools. On the contrary, I want to be sure that the local authorities that we elect to provide most of the funding for local education, that such ideas are models, and that equitable and efficient means to assure their success are available and reject detours on the way to such innovation.

Let us reward those who are already fighting the fight, those that have earned the right for Federal support rather than promoting a measure which superimposes some Washington, D.C. idea of what a charter school is. That is what this legislation does. Minnesota has shown us how to do it and the Federal policy-makers still cannot seem to get it right.

No doubt this legislation will pass today. It's certainly improved over the House passed version, and the bill authorizes more appropriation over the 1994 original charter school Federal law that I optimistically supported. Hopefully, as this new policy is implemented, we will note the concerns I've voiced and they may be corrected in the administrative implementation. I reluctantly support this measure today and am hopeful that proper oversight will persist regarding the changes and policy to accomplish the good intentions I've heard voiced today.

Mr. RIGGS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, just to respond to the concerns of the gentleman from Minnesota (Mr. VENTO), we have tried to be responsive to that particular issue by adopting Senate language that will allow the States to reserve up to 10 percent of their allocation to help fund existing successful charter schools, so they can continue and expand their operations.

They can also act, potentially, as a template for other charter schools in that community and in that State, so that those new charter school startups can hopefully replicate the success of that existing charter school. So, we have tried to be responsive to that.

Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. FORBES).

Mr. FORBES. Mr. Speaker, I rise in strong support of H.R. 2616, the Charter Schools Amendments Act of 1998. There is no more compelling issue in my mind than the future of our children, and I think most of us would surely agree. But our efforts to improve K through 12 education can and must be an important contribution to this Nation's future and the Federal Government needs to pay more close attention to this important need.

Sadly, American students by any measure are ranking much lower than their peers around the world in math and science performance. It is critical that we pay attention to much-needed reforms and help the school boards and the States improve K through 12 education, and the Federal Government should play a much larger role in this priority.

I want to take a moment though and also commend the chairman of the subcommittee, the gentleman from California (Mr. RIGGS), for has leadership on these issues. I am sad to say that he will be moving on to other challenges at the conclusion of this year, but his leadership on this important issue is to be commended and I thank him.

The Charter Schools Amendments Act strengthens our public charter school programs, without a doubt. I for one am a product of the Long Island Public School system, one of the finest in the country, and the New York State Public University system. So, I understand and appreciate the dedicated professionals who have defined the success of our public school systems.

But we must also recognize that public schools are not always meeting the grade. They are not always getting the job done. And this charter schools legislation is critical. It allows, frankly, parents the freedom to choose the schools based on the best educational environment for their children.

The bill is about giving parents educational choices and putting them at the top of the list when it comes to making decisions about what is best for their children's future and their children's education.

But we must also allow other approaches to improving K through 12 education. Our children need a safe and clean learning environment, and I support providing Federal funds to finance the repair and modernization of public schools, for instance.

I support proposals to hire the 100,000 qualified new teachers to reduce class size and eliminate overcrowding. And I support voluntary national testing so our students' performance can be measured against other students across the regions from different parts of the country.

Recently, we made further progress by passing the Dollars to the Classroom Act, again another important tool in this effort to improve K through 12 education. The Classroom Act would pump $2.74 billion directly into our classrooms, another important part of this effort.

We must make this commitment. Congress and the Federal Government have an obligation to help improve K through 12 education and to allow our children to be competitive in the global economy and in the competitive 21st century.

Mr. RIGGS. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. CUNNINGHAM) my immediate predecessor as the chairman of the Subcommittee on Early Childhood, Youth and Families.

Mr. CUNNINGHAM. Mr. Speaker, first of all I would like to say what a fantastic job that the gentleman from California (Mr. RIGGS) has done. He will be leaving this Congress at the end of the year, and so I do not have to say nice things about him because he is going to be back as chairman. But I will say it because of what a good job he has done.

California has taken the lead in charter schools, and has over the last 5, 6 years. I would like to also say what we have done, with my colleagues' support on the other side, with the charter schools in the D.C. bill, the Washington, D.C. bill.

The schools here are dismal in this particular district that we are sitting in. The new school superintendent came out in support of charter schools and we fully funded them. One of the problems was some of the money was taken out of public schools. Our position was, with the gentleman from California (Mr. RIGGS) and myself and the chairman of the committee, the gentleman from North Carolina (Mr. TAYLOR), that the schools are doing so well, let us not penalize them. Let us reward them for the good work that they are starting to do in the City of Washington, D.C.

So, we were able to fully fund the public schools to, add the money for the charter schools. We had 20,000 students to beg for summer school. First time. And it is not because they had to go to summer school; it is because they wanted to go to summer school. They wanted to learn.

I would like to thank the gentleman from California (Mr. RIGGS) and the gentleman from Pennsylvania (Chairman GOODLING) and the committee for that good work, not only in charter schools themselves but in Washington, D.C. They are starting to turn the corner. We have a long way to go. And I beg my colleagues on both sides of the aisle, let us stay focused on it.

Mr. RIGGS. Mr. Speaker, I yield myself such time as I may consume for the purposes of closing debate.

One thing I want to say that follows on what the gentleman from California (Mr. CUNNINGHAM) just said and that is that we are seeing a tremendous and I believe pent-up demand for more choice, more selection, if you will, in public education. We are beginning to see waiting lists created in charter schools around the country.

Our legislation stipulates that children must be served on a first come, first served basis with a lottery system, if there are more students desiring to get into a particular school than there are classroom spaces. And that first come, first served system includes children with learning disabilities.

In fact, we have seen charter schools started in many communities around the country for the express and sole purpose of serving children with learning disabilities and special education needs.

☐ 1515

So the charter school movement, again, is very exciting.

In closing, I want to recognize and thank Gina Mahony from the staff of the gentleman from Indiana (Mr. ROEMER), who was a very able counterpart to Denzel McGuire, and we like that Irish-American connection.

Again, I urge my colleagues to support this bill. It will infuse more competition and more choice into the public education system and make that system less monolithic and more responsive to parents and the needs of their children. I urge passage of the legislation.

Mr. GOODLING. Mr. Speaker, today we consider H.R. 2616 is amended by the Senate, the "Charter Schools Expansion Act of 1998". H.R. 2616 is a result of extensive efforts by Mr. RIGGS and Mr. ROEMER to craft a charter school bill that enjoys broad bipartisan support.

I would also like to take this opportunity to recognize Mr. RIGGS for his fine leadership as Chairman of the Subcommittee on Early Childhood, Youth, and Families. Mr. RIGGS has had an enormously successful tenure as Subcommittee Chairman.

He has successfully crafted numerous education bills, including but by no means limited to the charter school bill we are considering today. I regret that Mr. RIGGS has decided to retire this year as his tireless energy and dedication have been a wonderful asset to the Committee. I am sure that I speak for all the Members of the Committee in saying that we will miss his leadership and devotion in crafting innovative legislation and bettering the lives of children all across this country. We wish him well in his future endeavors.

I would also like to take this opportunity to thank Senator COATS for successfully spearheading efforts to get a charter school bill passed in senate.

We passed H.R. 2616 last October with an overwhelming bipartisan vote. The Senate recently amended H.R. 2616 and sent it back to us for a final vote. I am pleased to say that when the House votes for H.R. 2616 today, we will be able to send the bill to the President for signature.

As we stand here on the House floor today, about 170,000 children are being educated in 700 charter schools across the nation. Clearly, charter schools are no longer a fringe idea, rather they represent an integral component of public education reform.

H.R. 2616 builds upon what we have learned about charter schools, since 1994 when Congress established a Federal funding stream to assist charter schools with start-up costs—the planning, design and initial operation costs involved with starting-up a charter school.

This bill responds to lessons we have learned over the last four years, the concerns expressed in five hearings we have held on charter schools and the findings of various public and private studies on charter schools. It represents a well-thought-out approach to improving the existing charter school statute and to spurring the creation of more charter schools.

By all accounts, the number one concern of charter school operators is a lack of start-up funds. H.R. 2616 addresses that concern on several fronts: it increases the authorization level, it drives more Federal dollars directly down to locals to establish high quality charter schools, it ensures that charter schools receive their fair share of the Federal dollar and it directs the Secretary to disseminate information on how charter schools can access financial resources, including private capital.

Charter schools have made great strides in just a few short years. The strengths of charter schools lie in their academic performance, parental involvement and teacher satisfaction. This bill ensures that these innovative schools will have the maximum amount of assistance to help them keep up the good work.

In addition, this bill not only allows charter schools to keep up the good work but also encourages charter schools to share their knowledge on best practices with other public schools. Under the bill, States may provide assistance to established charter schools, with a proven record of improving student performance, who wish to replicate their successful academic programs so that more children may benefit from their innovative curriculums and teaching techniques.

In closing, I would like to emphasize that we have before us today a bipartisan bill that contributes greatly to the charter school movement and urge my Colleagues to vote for H.R. 2616.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the motion offered by the gentleman from California (Mr. RIGGS) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 2616.

The question was taken.

Mr. RIGGS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

ANNOUNCEMENT OF INTENTION TO OFFER RESOLUTION RAISING QUESTION OF PRIVILEGES OF THE HOUSE

Mr. TRAFICANT. Mr. Speaker, pursuant to House rule IX, clause 1, I rise to give notice of my intent to present a question of personal privilege of the House.

The form of the resolution is as follows:

A resolution, in accordance with House rule IX, clause 1, expressing the sense of the House that its integrity has been impugned because the antidumping provisions of the Trade and Tariff Act of 1930, (Subtitle B of Title VII) have not been expeditiously enforced;

Whereas the current financial crisis in Asia, Russia, and other regions have involved massive depreciation in the currencies of several key steel-producing and steel-consuming countries, along with a collapse in the domestic demand for steel in these countries;

Whereas the crises have generated and will continue to generate surges in United States imports of steel, both from the countries whose currencies have depreciated in the crisis and from steel-producing countries that are no longer able to export steel to the countries in economic crisis;

Whereas United States imports of finished steel mill products from Asian steel-producing countries, the People's Republic of China, Japan, Korea, India, Taiwan, Indonesia, Thailand, and Malaysia, have increased by 79 percent in the first 5 months of 1998 compared to the same period in 1997;

Whereas year-to-date imports of steel from Russia now exceed the record import levels of 1997, and steel imports from Russia and Ukraine now approach 2,500,000 net tons;

Whereas foreign government trade restrictions and private restraints of trade distort international trade and investment patterns and result in burdens on United States commerce, including absorption of a disproportionate share of diverted steel trade;

Whereas the European Union, for example, despite also being a major economy, in 1997 imported only one-tenth as much finished steel products from Asian steel-producing countries as the United States did and has restricted imports of steel from the Commonwealth of Independent States, including Russia;

Whereas the United States is simultaneously facing a substantial increase in steel imports from countries within the Commonwealth of Independent States, including Russia, caused in part by the closure of Asian markets;

Whereas there is a well-recognized need for improvements in the enforcement of United States trade laws to provide an effective response to such situations:

Now, therefore, be it resolved by the House of Representatives that the House of Representatives calls upon the President of the United States to:

Number 1, take all necessary measures to respond to the surge of steel imports resulting from the financial crises in Asia, Russia, and other regions, and for other purposes;

Number 2, to pursue enhanced enforcement of United States trade laws with respect to the surge of steel imports into the United States, using all remedies available under those laws including offsetting duties, quantitative restraints, and other authorized remedial measures as appropriate;

Number 3, pursue with all tools at his disposal a more equitable sharing of the burden of accepting imports of finished steel products from Asia and the countries within the Commonwealth of Independent States;

Number 4, establish a task force within the executive branch with responsibility for closely monitoring United States imports of steel; and

Number 5, report to the Congress by no later than January 5, of the coming year, 1999, with a comprehensive plan for responding to this import surge, including ways of limiting its deleterious effects on employment, prices, and investment in the United States steel industry.

The SPEAKER pro tempore (Mr. SUNUNU). Under rule IX, a resolution offered from the floor by a Member other than the majority leader or the minority leader as a question of the privileges of the House has immediate precedence only at a time designated by the Chair within 2 legislative days after the resolution is properly noticed.

Pending that designation, the form of the resolution noticed by the gentleman from Ohio (Mr. TRAFICANT) will appear in the RECORD at this point.

The Chair will not at this point determine whether the resolution constitutes a question of privilege. That determination will be made at the time designated for consideration of the resolution.

Mr. TRAFICANT. Mr. Speaker, I ask to be heard at the appropriate time on the question of whether this resolution constitutes a question of privilege.

The SPEAKER pro tempore. The Chair will do so at the appropriate time.

NATIONAL SALVAGE MOTOR VEHICLE CONSUMER PROTECTION ACT OF 1998

Mr. BLILEY. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 852) to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles, as amended.

The Clerk read as follows:

S. 852

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Salvage Motor Vehicle Consumer Protection Act of 1998".

SEC. 2. MOTOR VEHICLE TITLING AND DISCLOSURE REQUIREMENTS.

(a) AMENDMENT TO TITLE 49, UNITED STATES CODE.—Subtitle VI of title 49, United States Code, is amended by inserting a new chapter at the end:

"CHAPTER 333—AUTOMOBILE SAFETY AND TITLE DISCLOSURE REQUIREMENTS

"Sec.
"33301. Definitions.
"33302. Passenger motor vehicle titling.
"33303. Disclosure and label requirements on transfer of rebuilt salvage vehicles.
"33304. Report on funding.
"33305. Effect on State law.
"33306. Civil penalties.
"33307. Actions by States.

"§ 33301. Definitions

"(a) DEFINITIONS.—For the purposes of this chapter:

"(1) PASSENGER MOTOR VEHICLE.—The term 'passenger motor vehicle' has the same meaning given such term by section 32101(10), except, notwithstanding section 32101(9), it includes a multipurpose passenger vehicle (constructed on a truck chassis or with special features for occasional off-road operation), a truck, other than a truck referred to in section 32101(10)(B), and a pickup truck when that vehicle or truck is rated by the manufacturer of such vehicle or truck at not more than 10,000 pounds gross vehicle weight, and it only includes a vehicle manufactured primarily for use on public streets, roads, and highways.

"(2) SALVAGE VEHICLE.—The term 'salvage vehicle' means any passenger motor vehicle, other than a flood vehicle or a nonrepairable vehicle, which—

"(A) is a late model vehicle which has been wrecked, destroyed, or damaged, to the extent that the total cost of repairs to rebuild or reconstruct the passenger motor vehicle to its condition immediately before it was wrecked, destroyed, or damaged, and for legal operation on the roads or highways, exceeds 75 percent of the retail value of the passenger motor vehicle;

"(B) is a late model vehicle which has been wrecked, destroyed, or damaged, and to which an insurance company acquires ownership pursuant to a damage settlement (except in the case of a settlement in connection with a recovered stolen vehicle, unless such vehicle sustained damage sufficient to meet the damage threshold prescribed by subparagraph (A)); or

"(C) the owner wishes to voluntarily designate as a salvage vehicle by obtaining a salvage title, without regard to the level of damage, age, or value of such vehicle or any other factor, except that such designation by the owner shall not impose on the insurer of the passenger motor vehicle or on an insurer processing a claim made by or on behalf of the owner of the passenger motor vehicle any obligation or liability.

Notwithstanding any other provision of this chapter, a State may use the term 'older model salvage vehicle' to designate a wrecked, destroyed, or damaged vehicle that does not meet the definition of a late model vehicle' in paragraph (9). If a State has established or establishes a salvage definition at a lesser percentage than provided under subparagraph (A), then that definition shall not be considered to be inconsistent with the provisions of this chapter.

"(3) SALVAGE TITLE.—The term 'salvage title' means a passenger motor vehicle ownership document issued by the State to the owner of a salvage vehicle. A salvage title shall be conspicuously labeled with the word 'salvage' across the front.

"(4) REBUILT SALVAGE VEHICLE.—The term 'rebuilt salvage vehicle' means—

"(A) any passenger motor vehicle which was previously issued a salvage title, has passed State anti-theft inspection, has been issued a certificate indicating that the passenger motor vehicle has passed the required anti-theft inspection, has passed the State safety inspection in those States requiring a safety inspection pursuant to section 33302(b)(8), has been issued a certificate indicating that the passenger motor vehicle has passed the required safety inspection in those States requiring such a safety inspection pursuant to section 33302(b)(8), and has a decal stating 'Rebuilt Salvage Vehicle—Anti-theft and Safety Inspections Passed' affixed to the driver's door jamb; or

"(B) any passenger motor vehicle which was previously issued a salvage title, has passed a State anti-theft inspection, has been issued a certificate indicating that the passenger motor vehicle has passed the required anti-theft inspection, and has, affixed to the driver's door jamb, a decal stating 'Rebuilt Salvage Vehicle—Anti-theft Inspection Passed/No Safety Inspection Pursuant to National Criteria' in those States not requiring a safety inspection pursuant to section 33302(b)(8).

"(5) REBUILT SALVAGE TITLE.—The term 'rebuilt salvage title' means the passenger motor vehicle ownership document issued by the State to the owner of a rebuilt salvage vehicle. A rebuilt salvage title shall be conspicuously labeled either with the words 'Rebuilt Salvage Vehicle—Anti-theft and Safety Inspections Passed' or 'Rebuilt Salvage Vehicle—Anti-theft Inspection Passed/No Safety Inspection Pursuant to National Criteria,' as appropriate, across the front.

"(6) NONREPAIRABLE VEHICLE.—The term 'nonrepairable vehicle' means any passenger motor vehicle, other than a flood vehicle, which is incapable of safe operation for use on roads or highways and which has no resale value except as a source of parts or scrap only or which the owner irreversibly designates as a source of parts or scrap. Such passenger motor vehicle shall be issued a nonrepairable vehicle certificate and shall never again be titled or registered.

"(7) NONREPAIRABLE VEHICLE CERTIFICATE.—The term 'nonrepairable vehicle certificate' means a passenger motor vehicle ownership document issued by the State to the owner of a nonrepairable vehicle. A nonrepairable vehicle certificate shall be conspicuously labeled with the word 'Nonrepairable' across the front.

"(8) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"(9) LATE MODEL VEHICLE.—The term 'Late Model Vehicle' means any passenger motor vehicle which—

"(A) has a manufacturer's model year designation of or later than the year in which the vehicle was wrecked, destroyed, or damaged, or any of the six preceding years; or

"(B) has a retail value of more than $7,500.

The Secretary shall adjust such retail value on an annual basis in accordance with changes in the consumer price index.

"(10) RETAIL VALUE.—The term 'retail value' means the actual cash value, fair market value, or retail value of a passenger motor vehicle as—

"(A) set forth in a current edition of any nationally recognized compilation (to include automated databases) of retail values; or

"(B) determined pursuant to a market survey of comparable vehicles with regard to condition and equipment.

"(11) COST OF REPAIRS.—The term 'cost of repairs' means the estimated retail cost of parts needed to repair the vehicle or, if the vehicle has been repaired, the actual retail cost of the parts used in the repair, and the cost of labor computed by using the hourly labor rate and time allocations that are reasonable and customary in the automobile repair industry in the community where the repairs are to be performed.

"(12) FLOOD VEHICLE.—

"(A) IN GENERAL.—The term 'flood vehicle' means any passenger motor vehicle that—

"(i) has been acquired by an insurance company as part of a damage settlement due to water damage; or

"(ii) has been submerged in water to the point that rising water has reached over the door sill, has entered the passenger or trunk compartment, and has exposed any electrical, computerized, or mechanical component to water, except where a passenger motor vehicle which, pursuant to an inspection conducted by an insurance adjuster or estimator, a motor vehicle repairer or motor vehicle dealer in accordance with inspection guidelines or procedures established by the Secretary or the State, is determined—

"(I) to have no electrical, computerized or mechanical components which were damaged by water; or

"(II) to have one or more electrical, computerized or mechanical components which were damaged by water and where all such damaged components have been repaired or replaced.

"(B) INSPECTION NOT REQUIRED FOR ALL FLOOD VEHICLES.—No inspection under subparagraph (A) shall be required unless the owner or insurer of the passenger motor vehicle is seeking to avoid a brand of 'Flood' pursuant to this chapter.

"(C) EFFECT OF DISCLOSURE.—Disclosing a passenger motor vehicle's status as a flood vehicle or conducting an inspection pursuant to subparagraph (A) shall not impose on any person any liability for damage to (except in the case of damage caused by the inspector at the time of the inspection) or reduced value of a passenger motor vehicle.

"(b) CONSTRUCTION.—The definitions set forth in subsection (a) only apply to vehicles in a State which are wrecked, destroyed, or otherwise damaged on or after the date on which such State complies with the requirements of this chapter and the rule promulgated pursuant to section 33302(b).

"§ 33302. Passenger motor vehicle titling

"(a) CARRY-FORWARD OF STATE INFORMATION.—For any passenger motor vehicle, the ownership of which is transferred on or after the date that is 1 year after the date of the enactment of the National Salvage Motor Vehicle Consumer Protection Act of 1998, each State receiving funds, either directly or indirectly, appropriated under section 30503(c) of this title after the date of the enactment of that Act, in licensing such vehicle for use, shall disclose in writing on the certificate of title whenever records readily accessible to the State indicate that the passenger motor vehicle was previously issued a title that bore any word or symbol signifying that the vehicle was 'salvage', 'older model salvage', 'unrebuildable', 'parts only', 'scrap', 'junk', 'nonrepairable', 'reconstructed', 'rebuilt', or any other symbol or word of like kind, or that it has been damaged by flood, and the name of the State that issued that title.

"(b) NATIONALLY UNIFORM TITLE STANDARDS AND CONTROL METHODS.—Not later than 18 months after the date of the enactment of the National Salvage Motor Vehicle Consumer Protection Act of 1998, the Secretary shall by rule require each State receiving funds, either directly or indirectly, appropriated under section 30503(c) of this title after the date of the enactment of that Act, in licensing any passenger motor vehicle where ownership of such passenger motor vehicle is transferred more than 2 years after publication of such final rule, to apply uniform standards, procedures, and methods for the issuance and control of titles for motor vehicles and for information to be contained on such titles. Such titling standards, control procedures, methods, and information shall include the following requirements:

"(1) A State shall conspicuously indicate on the face of the title or certificate for a passenger motor vehicle, as applicable, if the passenger motor vehicle is a salvage vehicle, a nonrepairable vehicle, a rebuilt salvage vehicle, or a flood vehicle.

"(2) Such information concerning a passenger motor vehicle's status shall be conveyed on any subsequent title, including a duplicate or replacement title, for the passenger motor vehicle issued by the original titling State or any other State.

"(3) The title documents, the certificates, and decals required by section 33301(4), and the issuing system shall meet security standards minimizing the opportunities for fraud.

"(4) The certificate of title shall include the passenger motor vehicle make, model, body type, year, odometer disclosure, and vehicle identification number.

"(5) The title documents shall maintain a uniform layout, to be established in consultation with the States or an organization representing them.

"(6) A passenger motor vehicle designated as nonrepairable shall be issued a nonrepairable vehicle certificate and shall not be retitled.

"(7) No rebuilt salvage title shall be issued to a salvage vehicle unless, after the salvage vehicle is repaired or rebuilt, it complies with the requirements for a rebuilt salvage vehicle pursuant to section 33301(4). Any State inspection program operating under this paragraph shall be subject to continuing review by and approval of the Secretary. Any such anti-theft inspection program shall include the following:

"(A) A requirement that the owner of any passenger motor vehicle submitting such vehicle for an anti-theft inspection provide a completed document identifying the vehicle's damage prior to being repaired, a list of replacement parts used to repair the vehicle, and proof of ownership of such replacement parts, as may be evidenced by bills of sale, invoices, or, if such documents are not available, other proof of ownership for the replacement parts. The owner shall also include an affirmation that the information in the declaration is complete and accurate and that, to the knowledge of the declarant, no stolen parts were used during the rebuilding.

"(B) A requirement to inspect the passenger motor vehicle or any major part or any major replacement part required to be marked under section 33102 for signs of such mark or vehicle identification number being illegally altered, defaced, or falsified. Any such passenger motor vehicle or any such part having a mark or vehicle identification number that has been illegally altered, defaced, or falsified, and that cannot be identified as having been legally obtained (through bills of sale, invoices, or other ownership documentation), shall be contraband and subject to seizure. The Secretary, in consultation with the Attorney General, shall, as part of the rule required by this section, establish procedures for dealing with those parts whose mark or vehicle identification number is normally removed during industry accepted remanufacturing or rebuilding practices, which parts shall be deemed identified for purposes of this section if they bear a conspicuous mark of a type, and applied in such a manner, as designated by the Secretary, indicating that they have been rebuilt or remanufactured. With respect to any vehicle part, the Secretary's rule, as required by this section, shall acknowledge that a mark or vehicle identification number on such part may be legally removed or altered as provided for in section 511 of title 18, United States Code, and shall direct inspectors to adopt such procedures as may be necessary to prevent the seizure of a part from which the mark or vehicle identification number has been legally removed or altered.

"(8) Any safety inspection for a rebuilt salvage vehicle performed pursuant to this chapter shall be performed in accordance with nationally uniform safety inspection criteria established by the Secretary. A State may determine whether to conduct such safety inspection itself, contract with one or more third parties, or permit self-inspection by a person licensed by such State in an automotive-related business, all subject to criteria promulgated by the Secretary hereunder. Any State inspection program operating under this paragraph shall be subject to continuing review by and approval of the Secretary. A State requiring such safety inspection may require the payment of a fee for the privilege of such inspection or the processing thereof.

"(9) No duplicate or replacement title shall be issued unless the word 'duplicate' is clearly marked on the face thereof and unless the procedures for such issuance are substantially consistent with Recommendation three of the Motor Vehicle Titling, Registration and Salvage Advisory Committee.

"(10) A State shall employ the following titling and control methods:

"(A) If an insurance company is not involved in a damage settlement involving a salvage vehicle or a nonrepairable vehicle, the passenger motor vehicle owner shall apply for a salvage title or nonrepairable vehicle certificate, whichever is applicable, before the passenger motor vehicle is repaired or the ownership of the passenger motor vehicle is transferred, but in any event within 30 days after the passenger motor vehicle is damaged.

"(B) If an insurance company, pursuant to a damage settlement, acquires ownership of a passenger motor vehicle that has incurred damage requiring the vehicle to be titled as a salvage vehicle or nonrepairable vehicle, the insurance company or salvage facility or other agent on its behalf shall apply for a salvage title or nonrepairable vehicle certificate within 30 days after the title is properly assigned by the owner to the insurance company and delivered to the insurance company or salvage facility or other agent on its behalf with all liens released.

"(C) If an insurance company does not assume ownership of an insured's or claimant's passenger motor vehicle that has incurred damage requiring the vehicle to be titled as a salvage vehicle or nonrepairable vehicle, the insurance company shall notify the owner of the owner's obligation to apply for a salvage title or nonrepairable vehicle certificate for the passenger motor vehicle and notify the State passenger motor vehicle titling office that a salvage title or nonrepairable vehicle certificate should be issued for the vehicle, except to the extent such notification is prohibited by State insurance law.

"(D) If a leased passenger motor vehicle incurs damage requiring the vehicle to be titled as a salvage vehicle or nonrepairable vehicle, the lessor shall apply for a salvage title or nonrepairable vehicle certificate within 21 days after being notified by the lessee that the vehicle has been so damaged, except when an insurance company, pursuant to a damage settlement, acquires ownership of the vehicle. The lessee of such vehicle shall inform the lessor that the leased vehicle has been so damaged within 30 days after the occurrence of the damage.

"(E) Any person acquiring ownership of a damaged passenger motor vehicle that meets the definition of a salvage or nonrepairable vehicle for which a salvage title or nonrepairable vehicle certificate has not been issued, shall apply for a salvage title or nonrepairable vehicle certificate, whichever is applicable. This application shall be made before the vehicle is further transferred, but in any event, within 30 days after ownership is acquired. The requirements of this subparagraph shall not apply to any scrap metal processor which acquires a passenger motor vehicle for the sole purpose of processing it into prepared grades of scrap and which so processes such vehicle.

"(F) State records shall note when a nonrepairable vehicle certificate is issued. No State shall issue a nonrepairable vehicle certificate after 2 transfers of ownership.

"(G) When a passenger motor vehicle has been flattened, baled, or shredded, whichever comes first, the title or nonrepairable vehicle certificate for the vehicle shall be surrendered to the State within 30 days. If the second transferee on a nonrepairable vehicle certificate is unequipped to flatten, bale, or shred the vehicle, such transferee shall, at the time of final disposal of the vehicle, use the services of a professional automotive recycler or professional scrap processor who is hereby authorized to flatten, bale, or shred the vehicle and to effect the surrender of the nonrepairable vehicle certificate to the State on behalf of such second transferee. State records shall be updated to indicate the destruction of such vehicle and no further ownership transactions for the vehicle will be permitted. If different than the State of origin of the title or nonrepairable vehicle certificate, the State of surrender shall notify the State of origin of the surrender of the title or nonrepairable vehicle certificate and of the destruction of such vehicle.

"(H) When a salvage title is issued, the State records shall so note. No State shall permit the retitling for registration purposes or issuance of a rebuilt salvage title for a passenger motor vehicle with a salvage title without a certificate of inspection, which complies with the security and guideline standards established by the Secretary pursuant to paragraphs (3), (7), and (8), as applicable, indicating that the vehicle has passed the inspections required by the State. This subparagraph does not preclude the issuance of a new salvage title for a salvage vehicle after a transfer of ownership.

"(I) After a passenger motor vehicle titled with a salvage title has passed the inspections required by the State, the inspection official will affix the secure decal required pursuant to section 33301(4) to the driver's door jamb of the vehicle and issue to the owner of the vehicle a certificate indicating that the passenger motor vehicle has passed the inspections required by the State. The decal shall comply with the permanency requirements established by the Secretary.

"(J) The owner of a passenger motor vehicle titled with a salvage title may obtain a rebuilt salvage title or vehicle registration, or both, by presenting to the State the salvage title, properly assigned, if applicable, along with the certificate that the vehicle has passed the inspections required by the State. With such proper documentation and upon request, a rebuilt salvage title or registration, or both, shall be issued to the owner. When a rebuilt salvage title is issued, the State records shall so note.

"(11) A seller of a passenger motor vehicle that becomes a flood vehicle shall, prior to the time of transfer of ownership of the vehicle, give the transferee a written notice that the vehicle has been damaged by flood, provided such person has actual knowledge that such vehicle has been damaged by flood. At the time of the next title application for the vehicle, disclosure of the flood status shall be provided to the applicable State with the properly assigned title and the word 'Flood' shall be conspicuously labeled across the front of the new title.

"(12) In the case of a leased passenger motor vehicle, the lessee, within 15 days of the occurrence of the event that caused the vehicle to become a flood vehicle, shall give the lessor written disclosure that the vehicle is a flood vehicle.

"(13) Ownership of a passenger motor vehicle may be transferred on a salvage title, however, a passenger motor vehicle for which a salvage title has been issued shall not be registered for use on the roads or highways unless it has been issued a rebuilt salvage title.

"(14) Ownership of a passenger motor vehicle may be transferred on a rebuilt salvage title, and a passenger motor vehicle for which a rebuilt salvage title has been issued may, if permitted by State law, be registered for use on the roads and highways.

"(15) Ownership of a passenger motor vehicle may only be transferred 2 times on a nonrepairable vehicle certificate. A passenger motor vehicle for which a nonrepairable vehicle certificate has been issued can never be titled or registered for use on roads or highways.

"(c) CONSUMER NOTICE IN NONCOMPLIANT STATES.—Any State receiving, either directly or indirectly, funds appropriated under section 30503(c) of this title after the date of enactment of the National Salvage Motor Vehicle Consumer Protection Act of 1998 and not complying with the requirements of subsections (a) and (b) of this section, shall conspicuously print the following notice on all titles or ownership certificates issued for passenger motor vehicles in such State until such time as such State is in compliance with the requirements of subsections (a) and (b) of this section: 'NOTICE: This State does not conform to the uniform Federal requirements of the National Salvage Motor Vehicle Consumer Protection Act of 1998.'.

"(d) ELECTRONIC PROCEDURES.—A State may employ electronic procedures in lieu of paper documents whenever such electronic procedures provide the same information, function, and security otherwise required by this section.

"§ 33303. Disclosure and label requirements on transfer of rebuilt salvage vehicles

"(a) WRITTEN DISCLOSURE REQUIREMENTS.—

"(1) GENERAL RULE.—Under regulations prescribed by the Secretary of Transportation, a person transferring ownership of a rebuilt salvage vehicle shall, prior to the time of transfer of ownership of the vehicle, give the transferee a written disclosure that the vehicle is a rebuilt salvage vehicle when such person has actual knowledge of the status of such vehicle.

"(2) FALSE STATEMENT.—A person making a written disclosure required by a regulation prescribed under paragraph (1) of this subsection may not make a false statement in the disclosure.

"(3) COMPLETENESS.—A person acquiring a rebuilt salvage vehicle for resale may accept a disclosure under paragraph (1) only if it is complete.

"(4) REGULATIONS.—The regulations prescribed by the Secretary shall provide the way in which information is disclosed and retained under paragraph (1).

"(b) LABEL REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary shall by regulation require that a label be affixed to the windshield or window of a rebuilt salvage vehicle before its first sale at retail containing such information regarding that vehicle as the Secretary may require. The label shall be affixed by the individual who conducts the applicable State antitheft inspection in a participating State.

"(2) REMOVAL, ALTERATION, OR ILLEGIBILITY OF REQUIRED LABEL.—No person shall willfully remove, alter, or render illegible any label required by paragraph (1) affixed to a rebuilt salvage vehicle before the vehicle is delivered to the actual custody and possession of the first retail purchaser.

"(c) LIMITATION.—The requirements of subsections (a) and (b) shall only apply to a transfer of ownership of a rebuilt salvage vehicle where such transfer occurs in a State which, at the time of the transfer, is complying with subsections (a) and (b) of section 33302.

"§ 33304. Report on funding

"The Secretary shall, contemporaneously with the issuance of a final rule pursuant to section 33302(b), report to appropriate committees of Congress whether the costs to the States of compliance with such rule can be met by user fees for issuance of titles, issuance of registrations, issuance of duplicate titles, inspection of rebuilt vehicles, or for the State services, or by earmarking any moneys collected through law enforcement action to enforce requirements established by such rule.

"§ 33305. Effect on State law

"(a) IN GENERAL.—Unless a State is in compliance with subsection (c) of section 33302, effective on the date the rule promulgated pursuant to section 33302 becomes effective, the provisions of this chapter shall preempt all State laws in States receiving funds, either directly or indirectly, appropriated under section 30503(c) of this title after the date of the enactment of the National Salvage Motor Vehicle Consumer Protection Act of 1998, to the extent they are inconsistent with the provisions of this chapter or the rule promulgated pursuant to section 33302, which—

"(1) set forth the form of the passenger motor vehicle title;

"(2) define, in connection with a passenger motor vehicle (but not in connection with a passenger motor vehicle part or part assembly separate from a passenger motor vehicle), any term defined in section 33301 or the terms 'salvage', 'nonrepairable', or 'flood', or apply any of those terms to any passenger motor vehicle (but not to a passenger motor vehicle part or part assembly separate from a passenger motor vehicle); or

"(3) set forth titling, recordkeeping, antitheft inspection, or control procedures in connection with any salvage vehicle, rebuilt salvage vehicle, nonrepairable vehicle, or flood vehicle.

"(b) EXCEPTIONS.—

"(1) PASSENGER MOTOR VEHICLE; OLDER MODEL SALVAGE.—Subsection (a)(2) does not preempt State use of the term—

"(A) 'passenger motor vehicle' in statutes not related to titling, recordkeeping, antitheft inspection, or control procedures in connection with any salvage vehicle, rebuilt salvage vehicle, nonrepairable vehicle, or flood vehicle ; or

"(B) 'older model salvage' to designate a wrecked, destroyed, or damaged vehicle that is older than a late model vehicle.

"(2) CONSUMER LAW ACTIONS.—Nothing in this chapter may be construed to affect any private right of action under State law.

"(c) CONSTRUCTION.—Additional disclosures of a passenger motor vehicle's title status or history, in addition to the terms defined in section 33301, shall not be deemed inconsistent with the provisions of this chapter. Such disclosures shall include disclosures made on a certificate of title. When used in connection with a passenger motor vehicle (but not in connection with a passenger motor vehicle part or part assembly separate from a passenger motor vehicle), any definition of a term defined in section 33301 which is different than the definition in that section or any use of any term listed in subsection (a), but not defined in section 33301, shall be deemed inconsistent with the provisions of this chapter. Nothing in this chapter shall preclude a State from disclosing on a rebuilt national salvage title that a rebuilt national salvage vehicle has passed a State safety inspection which differed from the nationally uniform criteria to be promulgated pursuant to section 33302(b)(8).

"§ 33306. Civil penalties

"(a) PROHIBITED ACTS.—It is unlawful for any person knowingly to—

"(1) make or cause to be made any false statement on an application for a title (or duplicate title) for a passenger motor vehicle or any disclosure made pursuant to section 33303;

"(2) fail to apply for a salvage title when such an application is required;

"(3) alter, forge, or counterfeit a certificate of title (or an assignment thereof), a nonrepairable vehicle certificate, a certificate verifying an anti-theft inspection or an anti-theft and safety inspection, a decal affixed to a passenger motor vehicle pursuant to section 33302(b)(10)(I), or any disclosure made pursuant to section 33303;

"(4) falsify the results of, or provide false information in the course of, an inspection conducted pursuant to section 33302(b)(7) or (8);

"(5) offer to sell any salvage vehicle or nonrepairable vehicle as a rebuilt salvage vehicle;

"(6) fail to make any disclosure required by section 33302(b)(11);

"(7) fail to make any disclosure required by section 33303;

"(8) violate a regulation prescribed under this chapter;

"(9) move a vehicle or a vehicle title in interstate commerce for the purpose of avoiding the titling requirements of this chapter; or

"(10) conspire to commit any of the acts enumerated in paragraph (1), (2), (3), (4), (5), (6), (7), (8), or (9).

"(b) CIVIL PENALTY.—Any person who commits an unlawful act as provided in subsection (a) of this section shall be fined a civil penalty of up to $2,000 per offense. A separate violation occurs for each passenger motor vehicle involved in the violation.

"§ 33307. Actions by States

"(a) IN GENERAL.—When a person violates any provision of this chapter, the chief law enforcement officer of the State in which the violation occurred may bring an action—

"(1) to restrain the violation;

"(2) recover amounts for which a person is liable under section 33306; or

"(3) to recover the amount of damage suffered by any resident in that State who suffered damage as a result of the knowing commission of an unlawful act under section 33306(a) by another person.

"(b) STATUTE OF LIMITATIONS.—An action under subsection (a) shall be brought in any court of competent jurisdiction within 2 years after the date on which the violation occurs.

"(c) NOTICE.—The State shall serve prior written notice of any action under subsection (a) or (f)(2) upon the Attorney General of the United States and provide the Attorney General with a copy of its complaint, except that if it is not feasible for the State to provide such prior notice, the State shall serve such notice immediately upon instituting such action. Upon receiving a notice respecting an action, the Attorney General shall have the right—

"(1) to intervene in such action;

"(2) upon so intervening, to be heard on all matters arising therein; and

"(3) to file petitions for appeal.

"(d) CONSTRUCTION.—For purposes of bringing any action under subsection (a), nothing in this Act shall prevent an attorney general from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

"(e) VENUE; SERVICE OF PROCESS.—Any action brought under subsection (a) in a district court of the United States may be brought in the district in which the defendant is found, is an inhabitant, or transacts business or wherever venue is proper under section 1391 of title 28, United States Code. Process in such an action may be served in any district in which the defendant is an inhabitant or in which the defendant may be found.

"(f) ACTIONS BY STATE OFFICIALS.—

"(1) Nothing contained in this section shall prohibit an attorney general of a State or other authorized State official from proceeding in State court on the basis of an alleged violation of any civil or criminal statute of such State.

"(2) In addition to actions brought by an attorney general of a State under subsection (a), such an action may be brought by officers of such State who are authorized by the State to bring actions in such State on behalf of its residents.".

(b) CONFORMING AMENDMENT.—The table of chapters for part C at the beginning of subtitle VI of title 49, United States Code, is amended by inserting at the end the following new item:

"333. AUTOMOBILE SAFETY AND TITLE DISCLOSURE REQUIREMENTS .... 33301".

SEC. 3. AMENDMENTS TO CHAPTER 305.

(a) DEFINITIONS,—

(1) Section 30501(4) of title 49, United States Code, is amended to read as follows:

"(4) 'nonrepairable vehicle', 'salvage vehicle', and 'rebuilt salvage vehicle' have the same meanings given those terms in section 33301 of this title.".

(2) Section 30501(5) of such title is amended by striking "junk automobiles" and inserting "nonrepairable vehicles".

(3) Section 30501(8) of such title is amended by striking "salvage automobiles" and inserting "salvage vehicles".

(4) Section 30501 of such title is amended by striking paragraph (7) and redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively.

(b) NATIONAL MOTOR VEHICLE TITLE INFORMATION SYSTEM.—

(1) Section 30502(d)(3) of title 49, United States Code, is amended to read as follows:

"(3) whether an automobile known to be titled in a particular State is or has been a nonrepairable vehicle, a rebuilt salvage vehicle, or a salvage vehicle;".

(2) Section 30502(d)(5) of such title is amended to read as follows:

"(5) whether an automobile bearing a known vehicle identification number has been reported as a nonrepairable vehicle, a rebuilt salvage vehicle, or a salvage vehicle under section 30504 of this title.".

(c) STATE PARTICIPATION.—Section 30503 of title 49, United States Code, is amended to read as follows:

"§ 30503. State participation

"(a) STATE INFORMATION.—Each State receiving funds appropriated under subsection (c) shall make titling information maintained by that State available for use in operating the National Motor Vehicle Title Information System established or designated under section 30502 of this title.

"(b) VERIFICATION CHECKS.—Each State receiving funds appropriated under subsection (c) shall establish a practice of performing an instant title verification check before issuing a certificate of title to an individual or entity claiming to have purchased an automobile from an individual or entity in another State. The check shall consist of—

"(1) communicating to the operator—

"(A) the vehicle identification number of the automobile for which the certificate of title is sought;

"(B) the name of the State that issued the most recent certificate of title for the automobile; and

"(C) the name of the individual or entity to whom the certificate of title was issued; and

"(2) giving the operator an opportunity to communicate to the participating State the results of a search of the information.

"(c) GRANTS TO STATES.—

"(1) In cooperation with the States and not later than January 1, 1994, the Attorney General shall—

"(A) conduct a review of systems used by the States to compile and maintain information about the titling of automobiles; and

"(B) determine for each State the cost of making titling information maintained by that State available to the operator to meet the requirements of section 30502(d) of this title.

"(2) The Attorney General may make reasonable and necessary grants to participating States to be used in making titling information maintained by those States available to the operator.

"(d) REPORT TO CONGRESS.—Not later than October 1, 1998, the Attorney General shall report to Congress on which States have met the requirements of this section. If a State has not met the requirements, the Attorney General shall describe the impediments that have resulted in the State's failure to meet the requirements.".

(d) REPORTING REQUIREMENTS.—Section 30504 of title 49, United States Code, is amended by striking "junk automobiles or salvage automobiles" every place it appears and inserting "nonrepairable vehicles, rebuilt salvage vehicles, or salvage vehicles".

SEC. 4. DEALER NOTIFICATION PROGRAM FOR PROHIBITED SALE OF NONQUALIFYING VEHICLES FOR USE AS SCHOOLBUSES.

Section 30112 of title 49, United States Code, is amended by adding at the end thereof the following:

"(c) NOTIFICATION PROGRAM FOR DEALERS CONCERNING SALES OF VEHICLES AS SCHOOLBUSES.—Not later than September 1, 1998, the Secretary shall develop and implement a program to notify dealers and distributors in the United States that subsection (a) prohibits the sale or delivery of any vehicle for use as a schoolbus (as that term is defined in section 30125(a)(1) of this title) that does not meet the standards prescribed under section 30125(b) of this title.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. BLILEY) and the gentleman from Massachusetts (Mr. MARKEY) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. BLILEY).

GENERAL LEAVE

Mr. BLILEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the Senate bill, S. 852, and to include extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. BLILEY. Mr. Speaker, I yield myself 5 minutes.

Today I rise in strong support of the bill S. 852, the National Salvage Motor Vehicle Consumer Protection Act. As many of my colleagues know, this bill is similar to legislation passed by the House at the end of the first session of this Congress, H.R. 1839, introduced by the gentleman from Washington (Mr. WHITE), a member of the Committee on Commerce.

As many of my colleagues know, I first became interested in this subject when my constituent and longtime friend, Dick Strauss, brought to my attention the problem of the hodgepodge of State definitions for salvage and rebuilt automobiles. While most automobile dealers make every effort to ensure that used cars on their lots are of the highest quality, increasingly sophisticated scam artists are using the differences in State automobile titling schemes to swindle consumers, dealers and insurers alike.

Both H.R. 1839 and this bill would require that States receiving certain Federal grants must either adopt uniform definitions and procedures for titling and salvaging rebuilt automobiles or must inform their consumers that they do not meet Federal standards. Neither bill forces any State to change its standards, and the bill before the House gives States even more protection for standards that they view as more protective.

While the bill was in the Senate, Senator LOTT and Senator GORTON made a number of worthwhile changes to the bill. Among other provisions, S. 852 lowers the threshold for "salvage vehicles" from 80 percent to 75 percent; it allows States to use the term "older model salvage vehicle" to cover certain vehicles that might not be covered by the Federal definition; and it permits the chief law enforcement officer of a State to seek restitution for aggrieved customers. All of these changes are improvements to the bill and are contained in the legislation before the House today.

However, this legislation came back from the Senate with one provision that we could not accept, because it would render the purpose of the bill completely meaningless. In an amendment offered by several Members of the other body, the system of uniform definitions proposed by the bill was put aside, and the Federal definitions were designed as an "overlay" on top of the already confusing system of State definitions. Under the language that passed the Senate, the consumer could be confronted with two definitions of "salvage" that contradict one another, a Federal definition and a separate State definition.

That amendment represents a huge step backwards for consumers. The bill, as it passed the Senate, would only result in more confusion for consumers and a greater opportunity for criminals to further abuse the system of titling salvage vehicles. In a recent letter from the State motor vehicle officials, the officials charged with implementing the law, they described this language as "unworkable" and "serving no useful purpose, while undercutting the important goals of the bill." We cannot, in good conscience, accept this language.

However, that amendment was rooted in a legitimate concern for consumers in States that would otherwise have stricter standards for defining salvage vehicles. In order to address this concern, we have added language which will permit States to use any percentage definition for salvage vehicle that the State deems appropriate. I believe that this will go a long way in addressing the concerns raised by critics of this legislation.

Mr. Speaker, this legislation protects consumers by striking a balance. It vastly improves the status quo by giving consumers, dealers, and State officials notice about the status of vehicles that have been totaled by accident or flood. Today, the patchwork of 50 different State laws ensures that no State can adequately protect its own citizens. This legislation changes that situation for the better, and I strongly support its passage.

In closing, I want to recognize the gentleman from Washington (Mr. WHITE) for all his hard work in moving this legislation in both the 104th and the 105th Congresses. The majority leader of the other body also deserves high praise for his dedication to this issue.

I urge all my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise with significant concerns about the bill before us this afternoon. S. 852, authored by Senator LOTT, is the companion bill to H.R. 1839, introduced by the gentleman from Washington (Mr. WHITE). I opposed this bill when it originally left the House, and I oppose it again today.

Mr. Speaker, this legislation ought to be crafted in a way that establishes a high level of consumer protection, while allowing States to provide additional protections for their citizens. This bill does not achieve that goal, and it has a number of problems.

The sale of rebuilt, wrecked or totaled vehicles, and just so those who may be watching or listening to this debate understand what we are talking about, it is that category of cars that have been totaled. That is what we call it in Boston. I do not know what other parts of the country may call it when a car is in such a wreck that it essentially costs more money to repair it than it does to junk it, but in Boston we call it a totaled car. Well, that is what this legislation deals with, that category of cars that have been totaled.

We believe that there is substantial risk of death, or disability, or personal injury or financial ruin to large numbers of people, and that this bill ought not to pass. It is not that an effort has not been undertaken or that has not consumed a huge amount of time. It has. It is that, at the end of the day, the bill does not achieve the goal which was sought.

For example, I continue to have concerns that the different definition in the bill of a late-model vehicle is overly narrow. This legislation would exempt sellers of cars of models over 6 years old and worth less than $7,500 from having to disclose accident damage. The Department of Transportation tells us that the average car in America is 8 years old. And so the fleet of automobiles that is going to be potentially exempted under the provision of this bill is huge.

It would seem to me that even if one wanted to preempt the States, that one would at least want to cover the average car on the road, at least cars that are 8 years old. Now, it seems, I think to a lot of people, somewhat of a surprise that the average car is 8 years of age, but that is the reality. These cars are the ones most likely to be those on used car lots and most likely to be safety threats to our citizens.

Although this legislation gives States some flexibility in limited fashion to change the percentage, I am still concerned about it, because it would have the effect of preempting vital consumer protection laws for all used car buyers at each State that opts into the Federal titling plan.

The bill also requests the Department of Transportation to issue national regulations and standards relating to title granting, but it does not contain any money to help the States to implement it. There is no adequate enforcement provision. No private right of action is contained in the bill. An individual cannot sue themselves. With all the pressing cases that they have, relying upon United States attorneys to take a used car dealer to court for allegedly misbranding a title of any car is a false hope for any consumer in our country.

□ 1530

We need a private right of action, so that if someone misbrands a title or omits vital information, a consumer can then take them to court to seek redress.

When this motor vehicle salvage bill passed the House earlier in this Congress, I expressed the hope that we could improve the bill authored by the gentleman from Washington (Mr. WHITE) to make it satisfactory from a consumer perspective as the process moved forward in the Senate and in our conversations with the other body, and the Senate actually approved this motor vehicle salvage bill recently, adopting a pro-consumer amendment offered by Senators LEVIN and FEINSTEIN. This amendment ensures that States could go further and protect consumers even more. Unfortunately, the very changes that improved the bill in the Senate and started to make it consumer friendly are being deleted from the bill before us today. Rather than working with those of us who had problems with the bill, this bill is being brought to the floor with these consumer protections and State authority provisions being summarily dropped. In short, Members are being asked to pass a bill to protect consumers that lacks the support of the national consumer groups and the State attorneys general.

In its current form, this bill is opposed by the Consumer Federation of America, opposed by the Center for Auto Safety, opposed by Public Citizen, opposed by the National Association of Consumer Advocates, opposed by U.S. PIRG, opposed by the Consumers Union. How on earth can this bill be characterized as a pro-consumer bill if all the large, national consumer groups strongly oppose its passage? I urge Members to oppose this bill, Mr. Speaker.

Mr. Speaker, I reserve the balance of my time.

Mr. BLILEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Virginia would like to ask the gentleman from Massachusetts if totaled, is that what happened to the BC Eagles last night against the Virginia Tech Gobblers?

Mr. MARKEY. If the gentleman will yield, Mr. Speaker, exactly. The Virginia Tech football team totaled the BC football team, in the same way that the Cleveland Indians totaled the Red Sox last week. I do not think either a football team or a baseball team ought to be allowed back out on the field without some kind of warning to fans in Boston that they could be engaging in activity very dangerous to their psychic health.

Mr. BLILEY. I thank the gentleman for his response.

Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. WHITE), the chief author of this bill.

Mr. WHITE. Mr. Speaker, I thank the gentleman for yielding time, and I am happy to know that the gentleman from Massachusetts, even if he does not support this bill for a totaled car, he would support it for a totaled athletic team. I appreciate that very much.

Mr. Speaker, this is a good bill that does a very simple thing. It simply requires the States to disclose to consumers if the car they are buying has been totaled. Now, this bill is also proof that nothing is easy to get done in this particular institution, because with massive support from the House, we had a vote of 336–72 when this was passed almost a year ago, and with massive support even 2 years prior to that in the last Congress, this bill has still been tied up in the Senate until just recently, for almost a 3-year period of time.

They finally sent it back to us just this week with some minor changes except in one case. As the chairman described to us earlier, they added an amendment that would allow for dual definitions of what a salvage vehicle is. I agree with the chairman wholeheartedly that that would just lead to confusion, it would be a big mistake, and so I totally support his amendment to take those dual definitions out and simplify this bill so that it accomplishes the purpose that we were trying to accomplish. But with the manager's amendment, this is a good bill. It deserves our support, just as it did before.

If I might just respond to a couple of quick things that the gentleman from Massachusetts said.

Number one, I want to assure him that in Seattle we refer to these cars in a very similar way that he does. We refer to them as a totaled car. I understand in Boston they are referred to as a totaled "caah" but it is a very similar thing. I think we are dealing with the same issue.

I also want to remind the gentleman, as we discussed when we talked about this bill earlier, the problem with older cars is one of striking a balance. If a car is too old and it sustains damage, for example, to the sunroof, you might find yourself in a situation where a damaged sunroof totals more than 75 percent of the value of the car. We do not want a car with a damaged sunroof to be considered totaled. So we tried to find a balance where older cars were included but only to a point where minor cosmetic damage would not require them to be considered a salvage vehicle.

With that, Mr. Speaker, I would simply urge my colleagues to vote in favor of this bill.

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in Boston when a car has been totaled we assume that car is not going to go back out on the road again. Now, in Washington State they have a different relationship with these vehicles. They try to rehabilitate them, put that chassis back on top of the wheels again and get it back out on the road. We appreciate that. It is something that would not raise that big of an issue if all we were talking about is the sunroof that was being repaired, or if it was the internal upholstery that needed to be redone. But while it may include those repairs in the definition of being totaled, meaning that it would cost that much money in order to repair something and it exceeded the cost of the vehicle in its present condition, it could also include the fact that the steering wheel had come off in someone's hands as they were trying to turn left and the vehicle went right. It could mean that the entire chassis had been knocked off of the wheels, the axles of the car. It could mean a lot of other things. And under this legislation, the consumer would not be told that the wheel had come off in the last owner's hands, that the chassis had been knocked off of the axles and now been put back on, very carefully, but without notifying the subsequent purchaser that there might have been a problem.

Now, you say what are we talking about? Well, since the average car is 8 years old, I went to Kelley's blue book on the Internet to find some cars that will not get any protection at all. Let us look at what we can find in the blue book of Kelley's on the Internet.

Here we go. We got a 1990 FORD Escort LX hatchback, 2D, only 20,000 miles, air conditioning, power steering, only cost you $2125. You can buy this car right now, a 1990 car. Anyone interested? No warning. We do not know what has ever happened to that car, if it was totaled.

How about a 1990 Chevrolet Camaro RS, convertible, 2D. If Congress does not get a raise, a lot of Members are going to be looking at cars like this. 75,000 miles, air conditioning, power steering, power windows, tilt wheel, AM-FM stereo/cassette, $5280. Do not know where it has been, do not know if it got totaled and if it did get totaled, they are not telling you. They are going to tell you that they just put in some nice upholstery. "Doesn't it look nice? We got a nice shine on the outside of the car."

How about this one: 1990 BMW. Always wanted to get one of those foreign jobs? Here it is. A 325I sedan, 2D, air conditioning, power steering; $7,075. Been totaled, but you are not going to be told that when you buy it. You buy it as is. They are not even going to tell you it was totaled.

How about a 1990 Cadillac De Ville, in the mind's eye of every American the dream car. It is $6825, air conditioning, power steering, consumer-rated, condition excellent. Excellent. Who rated it? Have they been told that it was totaled? Do not have to tell anyone it has been totaled.

I could go on and on, right down to I am sure a car that a lot of people would be interested in, the 1990 Jaguar XJ6 sedan, $5675. 1990. Air conditioning, power steering. Totaled. But they do not have to tell you that when you buy it. They are telling you this is a beauty. "Want to take it for a spin around the block? Great. No, you don't have to take it out on the highway. I promise you. Great car."

Well, ladies and gentlemen, this bill does not give the consumer the information, the knowledge which they need. I think we should reject it at this time and try to improve it next year. We are going to be trying to do a lot of that in the next session of Congress. I would hope at this point that all Members listening understand the real danger to consumers, to drivers on the road, not only those in the car but those in other cars on the road that the driver of the vehicle does not understand the potentially dangerous conditions under which he is operating.

Mr. Speaker, I reserve the balance of my time.

Mr. BLILEY. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. THOMAS).

Mr. THOMAS. I thank the gentleman for yielding time.

Actually, I was off doing other work; but in listening to this debate on the floor, I thought that perhaps someone ought to come to the floor who as an avocation understands something about cars, since this discussion was fairly obvious to anyone who understands anything about cars that some of the folks who were carrying on the discussion knew nothing about them.

First of all, in today's passenger market if, in fact, you have a separate chassis you are almost always talking about a truck, you are not talking about a car. Cars tend to be unibody or just have a subassembly which is up front. The gentleman used an example of a 1990 BMW 325. That is probably a 325-I, which is their small car, that at 7,075 is a typical price for that car.

I would tell the gentleman if that car, according to an insurance company, was totaled, if you wanted to talk about the front end, your radiator would be about $300, your subsuspension, just the lower A arm is $194. I know. I just bought one about 2 months ago for my daughter's car. You begin adding up the bumper pieces and the rest, you will have spent $3,000 to $4,000 on a relatively minor 20-mile-per-hour wreck.

The description of the gentleman on the automobiles, and I will tell you, on an XJ6 1990, one of the problems with those automobiles, Jaguars, was that you would almost spend that much tuning the car up, let alone dealing with any of the mechanical problems with the car.

The point is, the gentleman's examples simply do not exist in the real world where economics control what you do and what you do not do. I am sympathetic with the gentleman indicating that when a car has been totaled, people ought to be notified. We need to deal with a reasonableness notification. I believe that the current limits of $7,500 and the model year makes some sense.

However, in the bill on page 10, if, in fact, the State wants to go beyond that and deal with an older model that has been salvaged, you can certainly do that. But if we are going to debate this, one of the things we ought not to do is to, with a considerable amount of time being consumed, let other people know exactly what we do not know about the subject matter that we are discussing.

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume. I appreciate the comments of the gentleman from California. He is without question a quintessential used car salesman.

I appreciate the knowledge that he has about this subject, but the lecturing tone that he gives on this subject, well, is one where every American feels as though they are an expert on automobiles, and the younger you are, the more you feel as though you are an expert on used cars.

I personally as a former owner of at least eight or 10 used cars stand here as much of an expert as anyone may in terms of the representations that were made by the previous owner to me. Now, you might say that it was kind of foolish of me to put down money for cars that ultimately I wound up paying in repair bills at least triple the cost of that car, but I think many Americans share the same circumstances that I have.

□ 1545

I know it is not rational, I know that is not the way the real world should work, and I wish I did not meet some of the people from whom I got their used cars, but nonetheless they are out there, and these used car salesmen with a straight face try to convince people that they are doing them a favor. And all we are saying here is that there is a certain caveat emptor that should exist in the marketplace when it comes to cars that have not been totaled, but if they have been totaled, then there is an additional safety risk. And to the extent that public health and safety is at risk, then people should be told that that additional component is included in the price of the automobile. That is all we are really saying.

Mr. Speaker, I again reserve the balance of my time.

Mr. BLILEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana (Mr. TAUZIN).

Mr. TAUZIN. Mr. Speaker, I want to thank the chairman of our committee, the gentleman from Virginia (Mr. BLILEY), who has led us so well this season, and to commend my friend, the gentleman from Washington (Mr. WHITE), for this legislation. I must tell my friend from Massachusetts that whenever we mix politicians and used car salesmen, we are certainly begging for a lot of trouble here. It is like Thunderbirds of a feather flying together, I suppose.

But this is a good bill. This bill, the National Salvage Motor Vehicle Consumer Protection Act, may not indeed rise to the level of importance of health care or telecommunications policy, but it is very important legislation. The bill simply protects consumers, and it protects legitimate automobile dealers, and it protects others from the fraud artists who would try to pawn off stolen or unsafe cars on those who have no way of knowing better. For the first time it will close the numerous loopholes created by 50 separate State salvage laws that have literally permitted car thieves to get away with murder.

This legislation is just as important to the used car consumer as the Telecommunications Act was important to consumers of phone service, and like the Telecommunications Act, we needed to carefully balance the needs of consumers and the needs of people in the business. We had to balance greater consumer disclosure against the effect their title brand might have both on the value of a vehicle and the cost to insure that vehicle, and we had to balance the need for consistent terms and procedures in titling vehicles against the State's right to maintain its sovereignty, and we needed to balance the need to maintain current business practices against the benefits of improved consumer disclosure.

As we passed the bill at the end of last session, Congress attempted to strike that balance, and the gentleman from Washington spent 2 years working with our committee and all the interested outside groups to address all the issues raised in our many hearings and discussions, and while I am proud of our work then, the bill before the House today actually reflects additional efforts made to accommodate the critics of the legislation.

For example, legislation before the House today tells States that if they accept Federal funds to upgrade the computer systems in their DMVs, that they are under an obligation to either adopt the uniform procedures in this bill or to tell their consumers that they may be purchasing a car with a checkered past. Either way the present situation is improved because consumers are on notice that there may be a potential problem.

If a State adopts all of the procedures outlined in the legislation, a consumer is notified in no fewer than four differ ways as to the status of the vehicle. And even more importantly, consumers in other States have notice about the vehicle's status as well. This is a vast improvement over the status quo.

Now, some of the critics of the legislation will argue that the thresholds of the bill are too high or they do not include enough cars in the definitions, so this bill addresses those concerns. It allows the States to set whatever percentage threshold they deem appropriate for defining a salvaged vehicle and allows our States to provide greater disclosures by allowing them to brand certain vehicles as, quote, older model salvaged vehicles, unquote. It even struck the prohibition on the use of certain other terms to describe salvaged vehicles. This bill represents a significant effort to address the concerns of the critics of the House-passed proposal.

So I would like to take this opportunity again to commend the gentleman from Washington and the Majority Leader of the Senate for their hard work on this legislation. They have both labored to try and include the suggestions of as many parties as possible and to even accommodate the interests of some who may not be squarely in favor of this approach, including some consumer advocates and some of our friends in the minority. They both deserve to be commended for their efforts.

In closing, Mr. Speaker, the bill of the gentleman from Washington (Mr. WHITE) represents a strong step forward for used car consumers. I strongly support the bill and urge our colleagues to do likewise.

Mr. MARKEY. Mr. Speaker, I yield myself as much time as I may consume just to conclude by saying that if the bill does not cover the average car on the road, then the bill simply does not go far enough.

Again, it cannot be a consumer bill if every major consumer group in America is opposed to the bill.

In conclusion, the gentleman from Michigan (Mr. DINGELL) would like it to be noted that he is against this bill, and I do not think there is anyone who has ever served in this House who knows more about automobiles than Mr. DINGELL. And Mr. DINGELL, if my colleagues look up the word "automobile" in the dictionary, Mr. DINGELL's picture is next to it. I do not think anybody in this body questions that. He thinks this is a bad bill, and I am relying upon the good sense and good judgment of Mr. DINGELL on this issue, hoping that the Members will also vote no.

Mr. Speaker, I yield back the balance of my time.

Mr. BLILEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just say to my friend from Boston, if the Massachusetts Motor Vehicle Department and the Massachusetts Legislature wants to extend this to older vehicles, they have every right to do so.

I would also say that with the objection of the gentleman from Massachusetts (Mr. MARKEY) and the gentleman from Michigan (Mr. DINGELL), the bill passed pretty much as is 336 to 72 the last time around.

With that I urge adoption of the bill.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SUNUNU). The question is on the motion offered by the gentleman from Virginia (Mr. BLILEY) that the House suspend the rules and pass the Senate bill, S. 852, as amended.

The question was taken.

Mr. MARKEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

INTERNATIONAL ANTI-BRIBERY AND FAIR COMPETITION ACT OF 1998

Mr. BLILEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4353) to amend the Securities Exchange Act of 1934 and the Foreign Corrupt Practices Act of 1977 to improve the competitiveness of American business and promote foreign commerce, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4353

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "International Anti-Bribery and Fair Competition Act of 1998".

SEC. 2. AMENDMENTS TO THE FOREIGN CORRUPT PRACTICES ACT GOVERNING ISSUERS.

(a) PROHIBITED CONDUCT.—Section 30A(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78dd–1(a)) is amended—

(1) by amending subparagraph (A) of paragraph (1) to read as follows:

"(A)(i) influencing any act or decision of such foreign official in his official capacity, (ii) inducing such foreign official to do or omit to do any act in violation of the lawful duty of such official, or (iii) securing any improper advantage; or";

(2) by amending subparagraph (A) of paragraph (2) to read as follows:

"(A)(i) influencing any act or decision of such party, official, or candidate in its or his official capacity, (ii) inducing such party, official, or candidate to do or omit to do an act in violation of the lawful duty of such party, official, or candidate, or (iii) securing any improper advantage; or"; and

(3) by amending subparagraph (A) of paragraph (3) to read as follows:

"(A)(i) influencing any act or decision of such foreign official, political party, party official, or candidate in his or its official capacity, (ii) inducing such foreign official, political party, party official, or candidate to do or omit to do any act in violation of the lawful duty of such foreign official, political party, party official, or candidate, or (iii) securing any improper advantage; or".

(b) Officials of International Organizations.—Paragraph (1) of section 30A(f) of the Securities Exchange Act of 1934 (15 U.S.C. 78dd-1(f)(1)) is amended to read as follows:

"(1)(A) The term 'foreign official' means any officer or employee of a foreign government or any department, agency, or instrumentality thereof, or of a public international organization, or any person acting in an official capacity for or on behalf of any such government or department, agency, or instrumentality, or for or on behalf of any such public international organization.

"(B) For purposes of subparagraph (A), the term 'public international organization' means—

"(i) an organization that is designated by Executive order pursuant to section 1 of the International Organizations Immunities Act (22 U.S.C. 288); or

"(ii) any other international organization that is designated by the President by Executive order for the purposes of this section, effective as of the date of publication of such order in the Federal Register.".

(c) Alternative Jurisdiction Over Acts Outside the United States.—Section 30A of the Securities Exchange Act of 1934 (15 U.S.C. 78dd-1) is amended—

(1) by adding at the end the following:

"(g) Alternative Jurisdiction.—

"(1) It shall also be unlawful for any issuer organized under the laws of the United States, or a State, territory, possession, or commonwealth of the United States or a political subdivision thereof and which has a class of securities registered pursuant to section 12 of this title or which is required to file reports under section 15(d) of this title, or for any United States person that is an officer, director, employee, or agent of such issuer or a stockholder thereof acting on behalf of such issuer, to corruptly do any act outside the United States in furtherance of an offer, payment, promise to pay, or authorization of the payment of any money, or offer, gift, promise to give, or authorization of the giving of anything of value to any of the persons or entities set forth in paragraphs (1), (2), and (3) of subsection (a) of this section for the purposes set forth therein, irrespective of whether such issuer or such officer, director, employee, agent, or stockholder makes use of the mails or any means or instrumentality of interstate commerce in furtherance of such offer, gift, payment, promise, or authorization.

"(2) As used in this subsection, the term 'United States person' means a national of the United States (as defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101)) or any corporation, partnership, association, joint-stock company, business trust, unincorporated organization, or sole proprietorship organized under the laws of the United States or any State, territory, possession, or commonwealth of the United States, or any political subdivision thereof.";

(2) in subsection (b), by striking "Subsection (a)" and inserting "Subsections (a) and (g)"; and

(3) in subsection (c), by striking "subsection (a)" and inserting "subsection (a) or (g)".

(d) Penalties.—Section 32(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78ff(c)) is amended—

(1) in paragraph (1)(A), by striking "section 30A(a)" and inserting "subsection (a) or (g) of section 30A";

(2) in paragraph (1)(B), by striking "section 30A(a)" and inserting "subsection (a) or (g) of section 30A"; and

(3) by amending paragraph (2) to read as follows:

"(2)(A) Any officer, director, employee, or agent of an issuer, or stockholder acting on behalf of such issuer, who willfully violates subsection (a) or (g) of section 30A of this title shall be fined not more than $100,000, or imprisoned not more than 5 years, or both.

"(B) Any officer, director, employee, or agent of an issuer, or stockholder acting on behalf of such issuer, who violates subsection (a) or (g) of section 30A of this title shall be subject to a civil penalty of not more than $10,000 imposed in an action brought by the Commission.".

SEC. 3. AMENDMENTS TO THE FOREIGN CORRUPT PRACTICES ACT GOVERNING DOMESTIC CONCERNS.

(a) Prohibited Conduct.—Section 104(a) of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2(a)) is amended—

(1) by amending subparagraph (A) of paragraph (1) to read as follows:

"(A)(i) influencing any act or decision of such foreign official in his official capacity, (ii) inducing such foreign official to do or omit to do any act in violation of the lawful duty of such official, or (iii) securing any improper advantage; or";

(2) by amending subparagraph (A) of paragraph (2) to read as follows:

"(A)(i) influencing any act or decision of such party, official, or candidate in its or his official capacity, (ii) inducing such party, official, or candidate to do or omit to do an act in violation of the lawful duty of such party, official, or candidate, or (iii) securing any improper advantage; or"; and

(3) by amending subparagraph (A) of paragraph (3) to read as follows:

"(A)(i) influencing any act or decision of such foreign official, political party, party official, or candidate in his or its official capacity, (ii) inducing such foreign official, political party, party official, or candidate to do or omit to do any act in violation of the lawful duty of such foreign official, political party, party official, or candidate, or (iii) securing any improper advantage; or".

(b) Penalties.—Section 104(g) of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2(g)) is amended—

(1) by amending subsection (g)(1) to read as follows:

"(g)(1)(A) Penalties.—Any domestic concern that is not a natural person and that violates subsection (a) or (i) of this section shall be fined not more than $2,000,000.

"(B) Any domestic concern that is not a natural person and that violates subsection (a) or (i) of this section shall be subject to a civil penalty of not more than $10,000 imposed in an action brought by the Attorney General."; and

(2) by amending paragraph (2) to read as follows:

"(2)(A) Any natural person that is an officer, director, employee, or agent of a domestic concern, or stockholder acting on behalf of such domestic concern, who willfully violates subsection (a) or (i) of this section shall be fined not more than $100,000 or imprisoned not more than 5 years, or both.

"(B) Any natural person that is an officer, director, employee, or agent of a domestic concern, or stockholder acting on behalf of such domestic concern, who violates subsection (a) or (i) of this section shall be subject to a civil penalty of not more than $10,000 imposed in an action brought by the Attorney General.".

(c) Officials of International Organizations.—Paragraph (2) of section 104(h) of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2(h)) is amended to read as follows:

"(2)(A) The term 'foreign official' means any officer or employee of a foreign government or any department, agency, or instrumentality thereof, or of a public international organization, or any person acting in an official capacity for or on behalf of any such government or department, agency, or instrumentality, or for or on behalf of any such public international organization.

"(B) For purposes of subparagraph (A), the term 'public international organization' means—

"(i) an organization that is designated by Executive order pursuant to section 1 of the International Organizations Immunities Act (22 U.S.C. 288); or

"(ii) any other international organization that is designated by the President by Executive order for the purposes of this section, effective as of the date of publication of such order in the Federal Register.".

(d) Alternative Jurisdiction Over Acts Outside the United States.—Section 104 of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2) is further amended—

(1) by adding at the end the following:

"(i) Alternative Jurisdiction.—

"(1) It shall also be unlawful for any United States person to corruptly do any act outside the United States in furtherance of an offer, payment, promise to pay, or authorization of the payment of any money, or offer, gift, promise to give, or authorization of the giving of anything of value to any of the persons or entities set forth in paragraphs (1), (2), and (3) of subsection (a), for the purposes set forth therein, irrespective of whether such United States person makes use of the mails or any means or instrumentality of interstate commerce in furtherance of such offer, gift, payment, promise, or authorization.

"(2) As used in this subsection, the term 'United States person' means a national of the United States (as defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101)) or any corporation, partnership, association, joint-stock company, business trust, unincorporated organization, or sole proprietorship organized under the laws of the United States or any State, territory, possession, or commonwealth of the United States, or any political subdivision thereof.";

(2) in subsection (b), by striking "Subsection (a)" and inserting "Subsections (a) and (i)";

(3) in subsection (c), by striking "subsection (a)" and inserting "subsection (a) or (i)"; and

(4) in subsection (d)(1), by striking "subsection (a)" and inserting "subsection (a) or (i)".

(e) Technical Amendment.—Section 104(h)(4)(A) of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2(h)(4)(A)) is amended by striking "For purposes of paragraph (1), the" and inserting "The".

SEC. 4. AMENDMENTS TO THE FOREIGN CORRUPT PRACTICES ACT GOVERNING OTHER PERSONS.

Title I of the Foreign Corrupt Practices Act of 1977 is amended by inserting after section 104 (15 U.S.C. 78dd–2) the following new section:

"SEC. 104A. PROHIBITED FOREIGN TRADE PRACTICES BY PERSONS OTHER THAN ISSUERS OR DOMESTIC CONCERNS.

"(a) Prohibition.—It shall be unlawful for any person other than an issuer that is subject to section 30A of the Securities Exchange Act of 1934 or a domestic concern (as defined in section 104 of this Act), or for any officer, director, employee, or agent of such person or any stockholder thereof acting on behalf of such person, while in the territory of the United States, corruptly to make use of the mails or any means or instrumentality of interstate commerce or to do any other act in furtherance of an offer, payment, promise to pay, or authorization of the payment of any money, or offer, gift, promise to give, or authorization of the giving of anything of value to—

"(1) any foreign official for purposes of—

"(A)(i) influencing any act or decision of such foreign official in his official capacity, (ii) inducing such foreign official to do or omit to do any act in violation of the lawful duty of such official, or (iii) securing any improper advantage; or

"(B) inducing such foreign official to use his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such person in obtaining or retaining business for or with, or directing business to, any person;

"(2) any foreign political party or official thereof or any candidate for foreign political office for purposes of—

"(A)(i) influencing any act or decision of such party, official, or candidate in its or his official capacity, (ii) inducing such party, official, or candidate to do or omit to do an act in violation of the lawful duty of such party, official, or candidate, or (iii) securing any improper advantage; or

"(B) inducing such party, official, or candidate to use its or his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such person in obtaining or retaining business for or with, or directing business to, any person; or

"(3) any person, while knowing that all or a portion of such money or thing of value will be offered, given, or promised, directly or indirectly, to any foreign official, to any foreign political party or official thereof, or to any candidate for foreign political office, for purposes of—

"(A)(i) influencing any act or decision of such foreign official, political party, party official, or candidate in his or its official capacity, (ii) inducing such foreign official, political party, party official, or candidate to do or omit to do any act in violation of the lawful duty of such foreign official, political party, party official, or candidate, or (iii) securing any improper advantage; or

"(B) inducing such foreign official, political party, party official, or candidate to use his or its influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such person in obtaining or retaining business for or with, or directing business to, any person.

"(b) Exception for Routine Governmental Action.—Subsection (a) of this section shall not apply to any facilitating or expediting payment to a foreign official, political party, or party official the purpose of which is to expedite or to secure the performance of a routine governmental action by a foreign official, political party, or party official.

"(c) Affirmative Defenses.—It shall be an affirmative defense to actions under subsection (a) of this section that—

"(1) the payment, gift, offer, or promise of anything of value that was made, was lawful under the written laws and regulations of the foreign official's, political party's, party official's, or candidate's country; or

"(2) the payment, gift, offer, or promise of anything of value that was made, was a reasonable and bona fide expenditure, such as travel and lodging expenses, incurred by or on behalf of a foreign official, party, party official, or candidate and was directly related to—

"(A) the promotion, demonstration, or explanation of products or services; or

"(B) the execution or performance of a contract with a foreign government or agency thereof.

"(d) Injunctive Relief.—

"(1) When it appears to the Attorney General that any person to which this section applies, or officer, director, employee, agent, or stockholder thereof, is engaged, or about to engage, in any act or practice constituting a violation of subsection (a) of this section, the Attorney General may, in his discretion, bring a civil action in an appropriate district court of the United States to enjoin such act or practice, and upon a proper showing, a permanent injunction or a temporary restraining order shall be granted without bond.

"(2) For the purpose of any civil investigation which, in the opinion of the Attorney General, is necessary and proper to enforce this section, the Attorney General or his designee are empowered to administer oaths and affirmations, subpoena witnesses, take evidence, and require the production of any books, papers, or other documents which the Attorney General deems relevant or material to such investigation. The attendance of witnesses and the production of documentary evidence may be required from any place in the United States, or any territory, possession, or commonwealth of the United States, at any designated place of hearing.

"(3) In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, or other documents. Any such court may issue an order requiring such person to appear before the Attorney General or his designee, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(4) All process in any such case may be served in the judicial district in which such person resides or may be found. The Attorney General may make such rules relating to civil investigations as may be necessary or appropriate to implement the provisions of this subsection.

"(e) Penalties.—

"(1)(A) Any juridical person that violates subsection (a) of this section shall be fined not more than $2,000,000.

"(B) Any juridical person that violates subsection (a) of this section shall be subject to a civil penalty of not more than $10,000 imposed in an action brought by the Attorney General.

"(2)(A) Any natural person who willfully violates subsection (a) of this section shall be fined not more than $100,000 or imprisoned not more than 5 years, or both.

"(B) Any natural person who violates subsection (a) of this section shall be subject to a civil penalty of not more than $10,000 imposed in an action brought by the Attorney General.

"(3) Whenever a fine is imposed under paragraph (2) upon any officer, director, employee, agent, or stockholder of a person, such fine may not be paid, directly or indirectly, by such person.

"(f) Definitions.—For purposes of this section:

"(1) The term 'person', when referring to an offender, means any natural person other than a national of the United States (as defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101) or any corporation, partnership, association, joint-stock company, business trust, unincorporated organization, or sole proprietorship organized under the law of a foreign nation or a political subdivision thereof.

"(2)(A) The term 'foreign official' means any officer or employee of a foreign government or any department, agency, or instrumentality thereof, or of a public international organization, or any person acting in an official capacity for or on behalf of any such government or department, agency, or instrumentality, or for or on behalf of any such public international organization.

"(B) For purposes of subparagraph (A), the term 'public international organization' means—

"(i) an organization that is designated by Executive order pursuant to section 1 of the International Organizations Immunities Act (22 U.S.C. 288); or

"(ii) any other international organization that is designated by the President by Executive order for the purposes of this section, effective as of the date of publication of such order in the Federal Register.

"(3)(A) A person's state of mind is knowing, with respect to conduct, a circumstance or a result if—

"(i) such person is aware that such person is engaging in such conduct, that such circumstance exists, or that such result is substantially certain to occur; or

"(ii) such person has a firm belief that such circumstance exists or that such result is substantially certain to occur.

"(B) When knowledge of the existence of a particular circumstance is required for an offense, such knowledge is established if a person is aware of a high probability of the existence of such circumstance, unless the person actually believes that such circumstance does not exist.

"(4)(A) The term 'routine governmental action' means only an action which is ordinarily and commonly performed by a foreign official in—

"(i) obtaining permits, licenses, or other official documents to qualify a person to do business in a foreign country;

"(ii) processing governmental papers, such as visas and work orders;

"(iii) providing police protection, mail pick-up and delivery, or scheduling inspections associated with contract performance or inspections related to transit of goods across country;

“(iv) providing phone service, power and water supply, loading and unloading cargo, or protecting perishable products or commodities from deterioration; or

“(v) actions of a similar nature.

“(B) The term ‘routine governmental action’ does not include any decision by a foreign official whether, or on what terms, to award new business to or to continue business with a particular party, or any action taken by a foreign official involved in the decision-making process to encourage a decision to award new business to or continue business with a particular party.

“(5) The term ‘interstate commerce’ means trade, commerce, transportation, or communication among the several States, or between any foreign country and any State or between any State and any place or ship outside thereof, and such term includes the intrastate use of—

“(A) a telephone or other interstate means of communication, or

“(B) any other interstate instrumentality.”.

SEC. 5. TREATMENT OF INTERNATIONAL ORGANIZATIONS PROVIDING COMMERCIAL COMMUNICATIONS SERVICES.

(a) DEFINITION.—For purposes of this section:

(1) INTERNATIONAL ORGANIZATION PROVIDING COMMERCIAL COMMUNICATIONS SERVICES.—The term “international organization providing commercial communications services” means—

(A) the International Telecommunications Satellite Organization established pursuant to the Agreement Relating to the International Telecommunications Satellite Organization; and

(B) the International Mobile Satellite Organization established pursuant to the Convention on the International Maritime Satellite Organization.

(2) PRO-COMPETITIVE PRIVATIZATION.—The term “pro-competitive privatization” means a privatization that the President determines to be consistent with the United States policy of obtaining full and open competition to such organizations (or their successors), and nondiscriminatory market access, in the provision of satellite services.

(b) TREATMENT AS PUBLIC INTERNATIONAL ORGANIZATIONS.—

(1) TREATMENT.—An international organization providing commercial communications services shall be treated as a public international organization for purposes of section 30A of the Securities Exchange Act of 1934 (15 U.S.C. 78dd-1) and sections 104 and 104A of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2) until such time as the President certifies to the Committee on Commerce of the House of Representatives and the Committees on Banking, Housing and Urban Affairs and Commerce, Science, and Transportation that such international organization providing commercial communications services has achieved a pro-competitive privatization.

(2) LIMITATION ON EFFECT OF TREATMENT.—The requirement for a certification under paragraph (1), and any certification made under such paragraph, shall not be construed to affect the administration by the Federal Communications Commission of the Communications Act of 1934 in authorizing the provision of services to, from, or within the United States over space segment of the international satellite organizations, or the privatized affiliates or successors thereof.

(c) EXTENSION OF LEGAL PROCESS.—

(1) IN GENERAL.—Except as specifically and expressly required by mandatory obligations in international agreements to which the United States is a party, an international organization providing commercial communications services, its officials and employees, and its records shall not be accorded immunity from suit or legal process for any act or omission taken in connection with such organization's capacity as a provider, directly or indirectly, of commercial telecommunications services to, from, or within the United States.

(2) NO EFFECT ON PERSONAL LIABILITY.—Paragraph (1) shall not affect any immunity from personal liability of any individual who is an official or employee of an international organization providing commercial communications services.

(d) ELIMINATION OR LIMITATION OF EXCEPTIONS.—The President and the Federal Communications Commission shall, in a manner that is consistent with specific and express requirements in mandatory obligations in international agreements to which the United States is a party—

(1) expeditiously take all actions necessary to eliminate or to limit substantially any privileges or immunities accorded to an international organization providing commercial communications services, its officials, its employees, or its records from suit or legal process for any act or omission taken in connection with such organization's capacity as a provider, directly or indirectly, of commercial telecommunications services to, from, or within the United States, that are not eliminated by subsection (c);

(2) expeditiously take all appropriate actions necessary to eliminate or to reduce substantially all privileges and immunities not eliminated pursuant to paragraph (1); and

(3) report to the Committee on Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on any remaining privileges and immunities of an international organization providing commercial communications services within 90 days of the effective date of this act and semiannually thereafter.

(e) PRESERVATION OF LAW ENFORCEMENT AND INTELLIGENCE FUNCTIONS.—Nothing in subsection (c) or (d) of this section shall affect any immunity from suit or legal process of an international organization providing commercial communications services, or the privatized affiliates or successors thereof, for acts or omissions—

(1) under chapters 119, 121, 206, or 601 of title 18, United States Code, the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), section 514 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 884), or Rules 104, 501, or 608 of the Federal Rules of Evidence;

(2) under similar State laws providing protection to service providers cooperating with law enforcement agencies pursuant to State electronic surveillance or evidence laws, rules, regulations, or procedures; or

(3) pursuant to a court order.

(f) RULES OF CONSTRUCTION.—

(1) NEGOTIATIONS.—Nothing in this section shall affect the President's existing constitutional authority regarding the time, scope, and objectives of international negotiations.

(2) PRIVATIZATION.—Nothing in this section shall be construed as legislative authorization for the privatization of INTELSAT or Inmarsat, nor to increase the President's authority with respect to negotiations concerning such privatization.

SEC. 6. ENFORCEMENT AND MONITORING.

(a) REPORTS REQUIRED.—Not later than July 1 of 1999 and each of the 5 succeeding years, the Secretary of Commerce shall submit to the House of Representatives and the Senate a report that contains the following information with respect to implementation of the Convention:

(1) RATIFICATION.—A list of the countries that have ratified the Convention, the dates of ratification by such countries, and the entry into force for each such country.

(2) DOMESTIC LEGISLATION.—A description of domestic laws enacted by each party to the Convention that implement commitments under the Convention, and assessment of the compatibility of such laws with the Convention.

(3) ENFORCEMENT.—As assessment of the measures taken by each party to the Convention during the previous year to fulfill its obligations under the Convention and achieve its object and purpose including—

(A) an assessment of the enforcement of the domestic laws described in paragraph (2);

(B) an assessment of the efforts by each such party to promote public awareness of such domestic laws and the achievement of such object and purpose; and

(C) an assessment of the effectiveness, transparency, and viability of the monitoring process for the Convention, including its inclusion of input from the private sector and non-governmental organizations.

(4) LAWS PROHIBITING TAX DEDUCTION OF BRIBES.—An explanation of the domestic laws enacted by each party to the Convention that would prohibit the deduction of bribes in the computation of domestic taxes.

(5) NEW SIGNATORIES.—A description of efforts to expand international participation in the Convention by adding new signatories to the Convention and by assuring that all countries which are or become members of the Organization for Economic Cooperation and Development are also parties to the Convention.

(6) SUBSEQUENT EFFORTS.—An assessment of the status of efforts to strengthen the Convention by extending the prohibitions contained in the Convention to cover bribes to political parties, party officials, and candidates for political office.

(7) ADVANTAGES.—Advantages, in terms of immunities, market access, or otherwise, in the countries or regions served by the organizations described in section 5(a), the reason for such advantages, and an assessment of progress toward fulfilling the policy described in that section.

(8) BRIBERY AND TRANSPARENCY.—An assessment of anti-bribery programs and transparency with respect to each of the international organizations covered by this Act.

(9) PRIVATE SECTOR REVIEW.—A description of the steps taken to ensure full involvement of United States private sector participants and representatives of nongovernmental organizations in the monitoring and implementation of the Convention.

(10) ADDITIONAL INFORMATION.—In consultation with the private sector participants and representatives of nongovernmental organizations described in paragraph (9), a list of additional means for enlarging the scope of the Convention and otherwise increasing its effectiveness. Such additional means shall include, but not be limited to, improved recordkeeping provisions and the desirability of expanding the applicability of the Convention to additional individuals and organizations and the impact on United States business of section 30A of the Securities Exchange Act of 1934 and sections 104 and 104A of the Foreign Corrupt Practices Act of 1977.

(b) DEFINITION.—For purposes of this section, the term "Convention" means the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions adopted on November 21, 1997, and signed on December 17, 1997, by the United States and 32 other nations.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. BLILEY) and the gentleman from Massachusetts (Mr. MARKEY) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. BLILEY).

GENERAL LEAVE

Mr. BLILEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on this legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. BLILEY. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in support of H.R. 4353, the International Anti-Bribery and Fair Competition Act of 1998. We have before us today an important piece of legislation that is good policy, good for business, good for workers all at the same time.

I would like to thank the gentleman from Ohio (Mr. OXLEY) in particular for cosponsoring this important legislation with me and for moving it through the committee last month by voice vote. This is another example of his leadership on international issues.

I would also like to thank the gentleman from Michigan (Mr. DINGELL) for his input on this legislation. His input has helped to make a good bill even better.

I would like to thank as well the ranking minority member on the subcommittee, the gentleman from New York (Mr. MANTON) for his cosponsorship and assistance in moving this bill forward and for his fine service on our committee.

Finally, I wish to thank the gentleman from Massachusetts (Mr. MARKEY), who was the first cosponsor joining the gentleman from Ohio (Mr. OXLEY) and myself in moving this bill forward.

Our legislation is designed to create a level playing field for Americans. This bill helps bring about a more equitable and transparent business environment while reducing both foreign bribery and unfair privileges and immunities.

The International Anti-Bribery and Fair Competition Act of 1998 contains the changes to our domestic laws necessary to implement the OECD convention on combating bribery of foreign public officials. The United States has one of the world's strictest anti-bribery laws called the Foreign Corrupt Practices Act, or FCPA. American business believes this law puts them at a disadvantage since most of our trading partners do not have similarly strong laws against bribery of foreign officials. Some of our competitors have even made bribery tax-deductible.

I believe contracts should go to the best competitor, not the biggest briber. Our workers and companies are the most competitive and productive in the world and thus have the most to gain from fair and open competition. Our bill seeks to help develop a fairer, more open business environment worldwide.

The convention has no binding mechanism to make other nations actually adopt their own anti-bribery laws in accordance with its requirements. To help address this potential problem, the gentleman from Ohio (Mr. OXLEY) and myself have added a reporting requirement to the legislation. The gentleman from Massachusetts (Mr. MARKEY) made some additions to this provision which enhanced its scope and depth, and for that I thank him very much. I would also like to thank the chairman of the Committee on International Relations, the gentleman from New York (Mr. Gilman), for his additions to this section.

Our bill will require the administration to report annually beginning on July 1 of next year on other countries' enforcement implementation measures. This will give us the information we need to determine whether other nations are living up to their end of the agreement and will put pressure on them to do so.

The gentleman from Ohio (Mr. OXLEY) and myself also added a section which helps level the playing field with respect to the intergovernmental satellite organizations, INTELSAT and Inmarsat. Bribery of officials in these organizations should not escape from the coverage of the FCPA through an anticompetitive privatization. The beneficiaries will not only be competing private American satellite companies and their workers, but also consumers who will see the lower prices that increased competition brings.

I urge Members to support our bill, send it to the Senate with a big margin of support.

Mr. Speaker, I reserve the balance of my time, and I ask unanimous consent to turn control over the balance of the time to the gentleman from Ohio (Mr. OXLEY), chairman of the subcommittee.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 4353, the International Anti-Bribery and Fair Competition Act of 1998. I want to begin by thanking the gentleman from Ohio (Mr. OXLEY) of the subcommittee who handled this bill magnificently along with the chairman of the full committee, the gentleman from Virginia (Mr. BLILEY), who, in an evenhanded way, working with the gentleman from Michigan (Mr. DINGELL) and myself and the ranking member of the subcommittee, the gentleman from New York (Mr. MANTON) over the last several months has helped to craft, I think, a very important forward-looking piece of legislation, and I am very proud to have been a cosponsor with them on this bill.

Back in the 1970s there were a series of widely reported scandals and investigations by the Securities and Exchange Commission into bribes and other illicit payments to foreign officials and illegal domestic political contributions by American corporations. Hundreds of United States corporations were found to have made such payments to foreign government officials including more than 25 percent of our Fortune 500 companies. Clearly the widespread corrupt practices that were taking place during this period were fundamentally inconsistent with the principles of free and fair markets and, I believe, ultimately harmful to the interests of the United States because they damage the interests of shareholders of these United States companies.

In response to these practices, Congress enacted the Federal Corrupt Practices Act to establish an explicit bar against bribing foreign government officials and creating requirements for accurate books and records and devising and maintaining a system of internal accounting controls. When Congress enacted this legislation, it was hoped that by taking the lead to curb bribery by our corporations, America would put pressure on other developed and developing industrialized nations to adopt similar laws inside their own countries.

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Today, this Congress, pursuant to the leadership of the gentleman from Ohio (Mr. OXLEY) and the gentleman from Virginia (Mr. BLILEY) is taking up legislation which is the fruit of our earlier legislative efforts in the original Foreign Corrupt Practices Act and in the 1988 amendments to this Act to put pressure on foreign governments to adopt strong laws against bribing foreign government officials.

After many years of difficult negotiations, the United States succeeded last year in securing the agreement of 33 countries, including almost all of the OECD States and several other nations, to a Convention which is closely modeled after the Foreign Corrupt Practices Act.

In order to implement the terms of the Convention, H.R. 4353 strengthens U.S. law by extending its coverage to cover foreign persons and corporations, bribes paid to officials of international organizations, and clarifying that the law's prohibitions should be construed to cover any payments made to secure any improper advantage.

This is the right formula for the future of the world. We have to add more integrity to the global marketplace. Consumers and investors across the planet have to know that, wherever business is being done, it is being done by a set of rules. That is agreed by every single industrialized nation so that all are given full protection.

I want to congratulate again the gentleman from Ohio (Mr. OXLEY) and the gentleman from Virginia (Mr. BLILEY). They worked closely with the gentleman from Michigan (Mr. DINGELL), the gentleman from New York (Mr. MANTON), and I. We are proud to be cosponsors of this seminal piece of legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. OXLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this legislation, the International Anti-Bribery and Fair Competition Act of 1998.

Bribery distorts the free market system and provides unfair advantages. It does so at the expense of those unwilling or unable to use similar tactics. Those companies or governments that participate in bribery take away an opportunity from someone willing or required to play by the rules. But what happens when there are no rules or the existing laws are murky or poorly enforced? In such an environment, bribery is allowed to flourish.

The United States, our Anti-Bribery law is the Foreign Corrupt Practices Act, also known as the FCPA, one of the strongest anti-bribery laws worldwide. Unfortunately, many foreign nations do not have similar laws as we do in the United States or certainly enforce them. As a result, American companies and American workers suffer a significant competitive disadvantage. They are bound by the provisions of the FCPA while others are not. H.R. 4353 will help rectify this serious problem.

As a matter of fact, there has been evidence that American corporations lose upwards to $30 billion per year against unfair competition where foreign countries, companies bribe the public officials and in many cases actually have those bribes deducted from their tax liability.

This implements the recently completed OECD Convention on Combating Bribery of Foreign Officials in International Business Transactions. Concluded last December, this Convention will go a long way to raising the bar regarding anti-bribery legislation.

The first step that must be done to make the Convention a success is bring the Parties into compliance with the Convention. This bill makes the necessary changes to the FCPA to bring the U.S. into compliance. We will be the first country to do so. These changes are small, but they are significant and very important.

The administration has made a case that the U.S. must take a strong lead in implementing the Convention, and we do that today.

Moreover, H.R. 4353 contains strong reporting requirements which we added to the bill in order to help ensure other nations are implementing and enforcing their commitments under the Convention. For that, I thank my good friend, the gentleman from Massachusetts (Mr. MARKEY) for his vigilance and hard work for providing those reporting requirements. We plan to be vigilant to ensure the next steps, international compliance and enforcement, are completed.

This bill will also reduce and eliminate unfair privileges and immunities of the intergovernmental satellite organizations, INTELSAT and Inmarsat, and makes it quite clear that these organizations are covered under the anti-bribery Convention as well as the statute. Doing so will help bring us closer to the point where no satellite competitor is above the law.

It is clear that the American business groups support this bill. They want to compete on a level ground with their international counterparts. Furthermore, the bill has been enforced by the American business community, including the Business Roundtable, the Emergency Committee for American Trade, the National Association of Manufacturers, the National Foreign Trade Council, Transparency International, and the United States Council for International Business.

Let me say, Mr. Speaker, that without the hard work of the Commerce Department, Secretary Daley, we also would not be here today, and we want to thank them for their fine efforts.

The Senate has already passed a similar version of this bill. I am hopeful that the other body will quickly approve the improvements we made to the bill so we can quickly send this legislation to the President for his signature.

Let me finally take this opportunity to thank the gentleman from Virginia (Chairman BLILEY) for steering this important initiative forward. I, too, want to thank the gentleman from Michigan (Mr. DINGELL), the ranking minority member of the full committee, the gentleman from New York (Mr. MANTON), the ranking minority member on my subcommittee, who is retiring this year, and also of course our good friend the gentleman from Massachusetts (Mr. MARKEY) for his work in this effort.

During the committee process, we worked with interested parties, including the administration, to approve specific language of the bill. The bill H.R. 4353 passed in the Committee on Commerce with no opposition. The bill before us today has brought bipartisan support and deserves the support of the entire House.

Mr. Speaker, I reserve the balance of my time.

Mr. MARKEY. Mr. Speaker, we have no other requests for time on this side of the aisle.

Mr. Speaker, I yield back the balance of our time.

Mr. OXLEY. Mr. Speaker, I know we have no further speakers on this side.

Mr. Speaker, we too, yield back the balance of our time.

The SPEAKER pro tempore (Mr. SUNUNU). The question is on the motion offered by the gentleman from Virginia (Mr. BLILEY) that the House suspend the rules and pass the bill, H.R. 4353, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. OXLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2375) to amend the Securities Exchange Act of 1934 and the Foreign Corrupt Practices Act of 1977, to strengthen prohibitions on international bribery and other corrupt practices, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2375

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "International Anti-Bribery Act of 1998".

SEC. 2. AMENDMENTS RELATING TO ISSUERS OF SECURITIES.

(a) PROHIBITED CONDUCT.—Section 30A(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78dd-1(a)) is amended—

(1) in paragraph (1)—

(A) by striking "(B)" and inserting "(D)"; and

(B) by striking subparagraph (A) and inserting the following:

"(A) influencing any act or decision of such foreign official in his official capacity;

"(B) inducing such foreign official to do or omit to do any act in violation of the lawful duty of such official;

"(C) securing any improper advantage; or";

(2) in paragraph (2)—

(A) by striking "(B)" and inserting "(D)"; and

(B) by striking subparagraph (A) and inserting the following:

"(A) influencing any act or decision of such party, official, or candidate in its or his official capacity;

"(B) inducing such party, official, or candidate to do or omit to do an act in violation of the lawful duty of such party, official, or candidate;

"(C) securing any improper advantage; or"; and

(3) in paragraph (3)—

(A) by striking "(B)" and inserting "(D)"; and

(B) by striking subparagraph (A) and inserting the following:

"(A) influencing any act or decision of such foreign official, political party, party official, or candidate in its or his official capacity;

"(B) inducing such foreign official, political party, party official, or candidate to do or omit to do any act in violation of the lawful duty of such foreign official, political party, party official, or candidate;

"(C) securing any improper advantage; or".

(b) OFFICIALS OF INTERNATIONAL ORGANIZATIONS.—Section 30A(f) of the Securities Exchange Act of 1934 (15 U.S.C. 78dd–1(f)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) The term—

"(A) 'foreign official' means any officer or employee of a foreign government or any department, agency, or instrumentality thereof, or of a public international organization, or any person acting in an official capacity for or on behalf of any such government, department, agency, or instrumentality, or for or on behalf of any such public international organization; and

"(B) 'public international organization' means an organization that has been so designated by Executive order pursuant to section 1 of the International Organizations Immunities Act (22 U.S.C. 288)."; and

(2) in paragraph (3)(A)(v), by inserting before the period "to those referred to in clauses (i) through (iv)".

(c) ALTERNATIVE JURISDICTION OVER ACTS OUTSIDE OF THE UNITED STATES.—Section 30A of the Securities Exchange Act of 1934 (15 U.S.C. 78dd–1) is amended—

(1) by redesignating subsection (f) as subsection (g);

(2) by inserting after subsection (e) the following:

"(f) ALTERNATIVE JURISDICTION.—

"(1) IN GENERAL.—It shall be unlawful for an issuer, or for any United States person that is an officer, director, employee, or agent of such issuer or any stockholder thereof, acting on behalf of that issuer, to corruptly do any act outside of the United States in furtherance of an offer, payment, promise to pay, or authorization of the payment of any money, or offer, gift, promise to give, or authorization of the giving of any thing of value to any of the persons or entities referred to in paragraphs (1), (2), and (3) of subsection (a), for the purposes set forth therein, whether or not that issuer (or that officer, director, employee, agent, or stockholder) makes use of the mails or any means or instrumentality of interstate commerce in furtherance of the offer, gift, payment, promise, or authorization.

"(2) APPLICABILITY.—This subsection applies only to an issuer that—

"(A) is organized under the laws of the United States, or a State, territory, possession, or commonwealth of the United States or a political subdivision thereof; and

"(B) has a class of securities registered pursuant to section 12 or that is required to file reports under section 15(d).

"(3) UNITED STATES PERSON.—In this subsection, the term 'United States person' means—

"(A) a national of the United States (as defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101)); and

"(B) any corporation, partnership, association, joint-stock company, business trust, unincorporated organization, or sole proprietorship organized under the laws of the United States or any State, territory, possession, or commonwealth of the United States, or any political subdivision thereof.";

(3) in subsection (b), by striking "Subsection (a)" and inserting "Subsections (a) and (f)"; and

(4) in subsection (c), by striking "subsection (a)" and inserting "subsections (a) and (f)".

(d) PENALTIES.—Section 32(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78ff(c)) is amended—

(1) by striking "section 30A(a) of this title" each place that term appears and inserting "subsection (a) or (f) of section 30A"; and

(2) in paragraph (2)—

(A) in subparagraph (A), by striking "or director" and inserting ", director, employee, or agent";

(B) by striking subparagraph (B); and

(C) by redesignating subparagraph (C) as subparagraph (B).

SEC. 3. AMENDMENTS RELATING TO DOMESTIC CONCERNS.

(a) PROHIBITED CONDUCT.—Section 104(a) of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd–2(a)) is amended—

(1) in paragraph (1)—

(A) by striking "(B)" and inserting "(D)"; and

(B) by striking subparagraph (A) and inserting the following:

"(A) influencing any act or decision of such foreign official in his official capacity;

"(B) inducing such foreign official to do or omit to do any act in violation of the lawful duty of such official;

"(C) securing any improper advantage; or";

(2) in paragraph (2)—

(A) by striking "(B)" and inserting "(D)"; and

(B) by striking subparagraph (A) and inserting the following:

"(A) influencing any act or decision of such party, official, or candidate in its or his official capacity;

"(B) inducing such party, official, or candidate to do or omit to do an act in violation of the lawful duty of such party, official, or candidate;

"(C) securing any improper advantage; or"; and

(3) in paragraph (3)—

(A) by striking "(B)" and inserting "(D)"; and

(B) by striking subparagraph (A) and inserting the following:

"(A) influencing any act or decision of such foreign official, political party, party official, or candidate in its or his official capacity;

"(B) inducing such foreign official, political party, party official, or candidate to do or omit to do any act in violation of the lawful duty of such foreign official, political party, party official, or candidate;

"(C) securing any improper advantage; or".

(b) OFFICIALS OF INTERNATIONAL ORGANIZATIONS.—Section 104(h) of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd–2(h)) is amended—

(1) by striking paragraph (2) and inserting the following:

"(2) The term—

"(A) 'foreign official' means any officer or employee of a foreign government or any department, agency, or instrumentality thereof, or of a public international organization, or any person acting in an official capacity for or on behalf of any such government, department, agency, or instrumentality, or for or on behalf of any such public international organization; and

"(B) 'public international organization' means an organization that has been so designated by Executive order pursuant to section 1 of the International Organizations Immunities Act (22 U.S.C. 288)."; and

(2) in paragraph (4)(A)(v), by inserting before the period "to those referred to in clauses (i) through (iv)".

(c) ALTERNATIVE JURISDICTION OVER ACTS OUTSIDE OF THE UNITED STATES.—Section 104 of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd–2) is amended—

(1) by redesignating subsection (h) as subsection (i);

(2) by inserting after subsection (g) the following:

"(h) ALTERNATIVE JURISDICTION.—

"(1) IN GENERAL.—It shall be unlawful for a United States person to corruptly do any act outside the United States in furtherance of an offer, payment, promise to pay, or authorization of the payment of any money, or offer, gift, promise to give, or authorization of the giving of any thing of value to any of the persons or entities referred to in paragraphs (1), (2), and (3) of subsection (a), for the purposes set forth therein, whether or not that United States person makes use of the mails or any means or instrumentality of interstate commerce in furtherance of the offer, gift, payment, promise, or authorization.

"(2) DEFINITION.—In this subsection, the term 'United States person' means—

"(A) a national of the United States (as defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101)); and

"(B) any corporation, partnership, association, joint-stock company, business trust, unincorporated organization, or sole proprietorship organized under the laws of the United States or any State, territory, possession, or commonwealth of the United States, or any political subdivision thereof.";

(3) in subsection (b), by striking "Subsection (a)" and inserting "Subsections (a) and (h)";

(4) in subsection (c), by striking "subsection (a)" and inserting "subsections (a) and (h)"; and

(5) in subsection (d), by striking "subsection (a) of this section" and inserting "subsection (a) or (h)".

(d) PENALTIES.—Section 104(g) of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd–2(g)) is amended—

(1) by striking "subsection (a)" each place that term appears and inserting "subsection (a) or (h)";

(2) in paragraph (1), by inserting "that is not a natural person" after "domestic concern" each place that term appears; and

(3) in paragraph (2)—

(A) by striking "Any officer" each place that term appears and inserting "Any natural person that is an officer";

(B) in subparagraph (A), by striking "or director" and inserting ", director, employee, or agent";

(C) by striking subparagraph (B); and

(D) by redesignating subparagraph (C) as subparagraph (B).

(e) TECHNICAL AMENDMENT.—Section 104(i)(4)(A) of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd–2(h)(4)(A)), as redesignated by subsection (c) of this section, is amended by striking "For purposes of paragraph (1), the" and inserting "The".

SEC. 4. AMENDMENT RELATING TO OTHER PERSONS.

The Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd et seq.) is amended by inserting after section 104 the following new section:

"SEC. 104A. PROHIBITED FOREIGN TRADE PRACTICES BY PERSONS OTHER THAN ISSUERS OR DOMESTIC CONCERNS.

"(a) Prohibited Conduct.—It shall be unlawful for any covered person, or for any officer, director, employee, or agent of such covered person or any stockholder thereof, acting on behalf of such covered person, while in the territory of the United States, corruptly to make use of the mails or any means or instrumentality of interstate commerce or to do any other act in furtherance of an offer, payment, promise to pay, or authorization of the payment of any money, or offer, gift, promise to give, or authorization of the giving of anything of value to—

"(1) any foreign official for purposes of—

"(A) influencing any act or decision of such foreign official in the official capacity of the foreign official;

"(B) inducing such foreign official to do or omit to do any act in violation of the lawful duty of such official;

"(C) securing any improper advantage; or

"(D) inducing such foreign official to use the influence of that official with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such covered person in obtaining or retaining business for or with, or directing business to, any person;

"(2) any foreign political party or official thereof or any candidate for foreign political office for purposes of—

"(A) influencing any act or decision of such party, official, or candidate in its or his official capacity;

"(B) inducing such party, official, or candidate to do or omit to do an act in violation of the lawful duty of such party, official, or candidate;

"(C) securing any improper advantage; or

"(D) inducing such party, official, or candidate to use its or his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such covered person in obtaining or retaining business for or with, or directing business to, any person; or

"(3) any person, while knowing that all or a portion of such money or thing of value will be offered, given, or promised, directly or indirectly, to any foreign official, to any foreign political party or official thereof, or to any candidate for foreign political office, for purposes of—

"(A) influencing any act or decision of such foreign official, political party, party official, or candidate in its or his official capacity;

"(B) inducing such foreign official, political party, party official, or candidate to do or omit to do any act in violation of the lawful duty of such foreign official, political party, party official, or candidate;

"(C) securing any improper advantage; or

"(D) inducing such foreign official, political party, party official, or candidate to use its or his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such covered person in obtaining or retaining business for or with, or directing business to, any person.

"(b) Exception for Routine Governmental Action.—Subsection (a) shall not apply to any facilitating or expediting payment to a foreign official, political party, or party official, the purpose of which is to expedite or to secure the performance of a routine governmental action by a foreign official, political party, or party official.

"(c) Affirmative Defenses.—It shall be an affirmative defense to actions under subsection (a) that—

"(1) the payment, gift, offer, or promise of anything of value that was made, was lawful under the written laws and regulations of the country of the foreign official, political party, party official, or candidate; or

"(2) the payment, gift, offer, or promise of anything of value that was made was a reasonable and bona fide expenditure, such as travel and lodging expenses, incurred by or on behalf of a foreign official, party, party official, or candidate, and was directly related to—

"(A) the promotion, demonstration, or explanation of products or services; or

"(B) the execution or performance of a contract with a foreign government or agency thereof.

"(d) Injunctive Relief.—

"(1) In general.—When it appears to the Attorney General that any covered person, or officer, director, employee, agent, or stockholder of a covered person, is engaged, or about to engage, in any act or practice constituting a violation of subsection (a), the Attorney General may, in the discretion of the Attorney General, bring a civil action in an appropriate district court of the United States to enjoin such act or practice, and upon a proper showing, a permanent injunction or a temporary restraining order shall be granted without bond.

"(2) Civil investigations.—For the purpose of any civil investigation that, in the opinion of the Attorney General, is necessary and proper to enforce this section, the Attorney General, or a designee thereof, may administer oaths and affirmations, subpoena witnesses, take evidence, and require the production of any books, papers, or other documents that the Attorney General deems relevant or material to such investigation. The attendance of witnesses and the production of documentary evidence may be required from any place in the United States, or any territory, possession, or commonwealth of the United States, at any designated place of hearing.

"(3) Subpoenas.—In the case of contumacy by, or refusal to obey a subpoena issued to, any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or in which such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, or other documents. Any such court may issue an order requiring such person to appear before the Attorney General, or a designee thereof, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(4) Process.—All process in any action referred to in this subsection may be served in the judicial district in which such person resides or may be found.

"(5) Rules.—The Attorney General may make such rules relating to civil investigations as may be necessary or appropriate to implement this subsection.

"(e) Penalties.—

"(1) Juridical persons.—Any covered person that is a juridical person that violates subsection (a)—

"(A) shall be fined not more than $2,000,000; and

"(B) shall be subject to a civil penalty of not more than $10,000, imposed in an action brought by the Attorney General.

"(2) Natural person.—Any covered person who is a natural person and who—

"(A) willfully violates subsection (a) shall be fined not more than $100,000, or imprisoned not more than 5 years, or both;

"(B) violates subsection (a) shall be subject to a civil penalty of not more than $10,000, imposed in an action brought by the Attorney General.

"(3) Payment of fines.—Whenever a fine is imposed under paragraph (2) upon any officer, director, employee, agent, or stockholder of a covered person, such fine may not be paid, directly or indirectly, by that covered person.

"(f) Applicability; Other Laws.—This section does not apply—

"(1) to any issuer of securities to which section 30A of the Securities Exchange Act of 1934 applies; or

"(2) to any domestic concern to which section 104 of this Act applies.

"(g) Definitions.—For purposes of this section—

"(1) the term—

"(A) 'foreign official' means any officer or employee of a foreign government or any department, agency, or instrumentality thereof, or of a public international organization, or any person acting in an official capacity for or on behalf of any such government or department, agency, or instrumentality, or for or on behalf of any such public international organization; and

"(B) 'public international organization' means an organization that has been designated by Executive order pursuant to section 1 of the International Organizations Immunities Act (22 U.S.C. 288);

"(2) the state of mind of a covered person is 'knowing' with respect to conduct, a circumstance, or a result if—

"(A) such covered person is aware that such covered person is engaging in such conduct, that such circumstance exists, or that such result is substantially certain to occur; or

"(B) such covered person has a firm belief that such circumstance exists or that such result is substantially certain to occur;

"(3) if knowledge of the existence of a particular circumstance is required for an offense, such knowledge is established if a covered person is aware of a high probability of the existence of such circumstance, unless the covered person actually believes that such circumstance does not exist;

"(4) the term 'covered person' means—

"(A) any natural person, other than a national of the United States (as defined in section 101(a) of the Immigration and Nationality Act); and

"(B) any corporation, partnership, association, joint-stock company, business trust, unincorporated organization, or sole proprietorship that is organized under the law of a foreign nation or a political subdivision thereof; and

"(5) the term 'routine governmental action'—

"(A) means only an action that is ordinarily and commonly performed by a foreign official—

"(i) in obtaining permits, licenses, or other official documents to qualify a person to do business in a foreign country;

"(ii) in processing governmental papers, such as visas and work orders;

"(iii) in providing police protection, mail pickup and delivery, or scheduling inspections associated with contract performance or inspections related to transit of goods across country;

"(iv) in providing phone service, power and water supply, loading and unloading cargo, or protecting perishable products or commodities from deterioration; or

"(v) in actions of a similar nature to those referred to in clauses (i) through (iv); and

"(B) does not include any decision by a foreign official regarding whether, or on what terms, to award new business to or to continue business with a particular party, or any action taken by a foreign official involved in the decisionmaking process to encourage a decision to award new business to or continue business with a particular party.".

MOTION OFFERED BY MR. OXLEY

Mr. OXLEY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. OXLEY moves to strike out all after the enacting clause of S. 2375 and insert in lieu thereof the text of H.R. 4353 as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "To amend the Securities Exchange Act of 1934 and the Foreign Corrupt Practices Act of 1977 to improve the competitiveness of American business and promote foreign commerce, and for other purposes.".

A motion to reconsider was laid on the table.

A similar House bill, (H.R. 4353) was laid on the table.

GENERAL LEAVE

Mr. OXLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 2375.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

RECOGNIZING SUICIDE AS A NATIONAL PROBLEM

Mr. BURR of North Carolina. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 212) recognizing suicide as a national problem, and for other purposes.

The Clerk read as follows:

H. RES. 212

Whereas suicide, the ninth leading cause of all deaths in the United States and the third such cause for young persons ages 15 through 24, claims over 31,000 lives annually, more than homicide;

Whereas suicide attempts, estimated to exceed 750,000 annually, adversely impact the lives of millions of family members;

Whereas suicide completions annually cause over 200,000 family members to grieve over and mourn a tragic suicide death for the first time, thus creating a population of over 4,000,000 such mourners in the United States;

Whereas the suicide completion rate per 100,000 persons has remained relatively stable over the past 40 years for the general population, and that rate has nearly tripled for young persons;

Whereas the suicide rate is rising among African American young men;

Whereas the suicide completion rate is highest for adults over 65;

Whereas the stigma associated with mental illness works against suicide prevention by keeping persons at risk of completing suicide from seeking lifesaving help;

Whereas the stigma associated with suicide deaths seriously inhibits surviving family members from regaining meaningful lives;

Whereas suicide deaths impose a huge unrecognized and unmeasured economic burden on the United States in terms of potential years of life lost, medical costs incurred, and work time lost by mourners;

Whereas suicide is a complex, multifaceted biological, sociological, psychological, and societal problem;

Whereas even though many suicides are currently preventable, there is still a need for the development of more effective suicide prevention programs;

Whereas suicide prevention opportunities continue to increase due to advances in clinical research, in mental disorder treatments, and in basic neuroscience, and due to the development of community-based initiatives that await evaluation; and

Whereas suicide prevention efforts should be encouraged to the maximum extent possible: Now, therefore, be it

Resolved, That the House of Representatives—

(1) recognizes suicide as a national problem and declares suicide prevention to be a national priority;

(2) acknowledges that no single suicide prevention program or effort will be appropriate for all populations or communities;

(3) encourages initiatives dedicated to—

(A) preventing suicide;

(B) responding to people at risk for suicide and people who have attempted suicide;

(C) promoting safe and effective treatment for persons at risk for suicidal behavior;

(D) supporting people who have lost someone to suicide; and

(E) developing an effective national strategy for the prevention of suicide; and

(4) encourages the development, and the promotion of accessibility and affordability, of mental health services, to enable all persons at risk for suicide to obtain the services, without fear of any stigma.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from North Carolina (Mr. BURR) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. BURR).

GENERAL LEAVE

Mr. BURR of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and insert extraneous material on H. Res. 212.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. BURR of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are here today to address the House resolution that deals with recognizing suicide as a national problem. When I am back in my district, I spend a tremendous amount of time in our country's schools. It is very interesting to watch the children in elementary and middle and high school these days, as they talk about the problems that they hear their parents talk about around the dinner table, not the ones that influence us on the nightly news but the ones that truly affect their quality of life.

I cannot imagine a school child without hope, but, believe me, in our world today there are many children that go to bed at night without that hope. This is a reason that I cosponsored House Resolution 212 introduced by Mr. LEWIS, my colleague from Georgia.

I received a letter recently from a student in my district, and I want to share part of that letter with my colleagues here today. Her letter said:

> This letter concerns my opinion on teen suicide. There are more and more teen suicides, and it is becoming more and more popular. I think that teen suicide could be prevented. There could be classes that teens could take, not for a grade, but for them to build their self-esteem. If they do not feel badly about themselves, they will not have a reason to kill themselves.

Let me read my colleagues some statistics. According to the Centers for Disease Control, despite a decrease in the number of overall deaths of children age 5 through 14 from 1980 to 1998, death itself due to suicide in that age group doubled. While the overall number of deaths age 15 to 24 also dropped during the same period, suicide increased 3 percentage points.

Mr. Speaker, any death leaves a hole in a family. A suicide not only leaves a hole, but many painful unanswered questions. It is my hope that by passage of House Resolution 212, fewer families will have to live with the pain, and more individuals will receive the help they desperately need.

House Resolution 212 states that, one, Congress recognizes suicide as a national problem and wants suicide prevention to be a national priority. Two, no single suicide prevention program or effort will be appropriate for all populations and/or communities.

So while a self-esteem class may be what is right for children in the Fifth District of North Carolina, House Resolution 212 says that Congress needs to promote a variety of types of intervention and treatment programs so that there is one suitable for every community in this country and their needs.

Suicide prevention is an inexact science. It takes the efforts of all areas of society, teenagers, teachers, families, health care providers and, yes, even Congress.

House Resolution 212 specifically encourages initiatives to, one, prevent suicide; two, respond to people at risk for suicide and people who have attempted suicide; three, promote safe and effective treatment for persons at risk for suicidal behavior; four, support people who have lost someone to suicide; and, five, develop an effective national strategy for the prevention of suicide.

I think this is an excellent resolution, and I would urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I rise in support of House Resolution 212.

Mr. Speaker, I ask unanimous consent that the gentleman from Georgia (MR. LEWIS) be allowed to control the time for our side.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. LEWIS of Georgia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am proud to join my colleagues in bringing to the floor today a resolution that addresses a common but often unrecognized problem, suicide. This resolution recognizes suicide as a national problem and declares suicide prevention to be a national priority.

While no single prevention program would be appropriate for all populations and communities, the point of this resolution is to create a climate for suicide prevention, to recognize as a Nation that we must become aware of the problem, that we are to address it and eventually solve it.

□ 1615

We must not remain quiet or silent on problems that cause us pain. Instead, we must bring the problems out from under the rug into the light where we can deal with them. If we begin to do that as a Nation, it is my hope that we will encourage individuals and communities nationwide to do the same.

I am pleased that more than 92 of my colleagues are joining me in this effort by becoming original cosponsors of this resolution. I want to thank my good friend from North Carolina (Mr. Burr) for managing the bill on the other side.

Suicide touches hundreds of American families every year. An estimated 750,000 people attempt suicide each year. Suicide claims the lives of more than 31,000 people annually, more than homicide. Suicide is the ninth leading cause of all deaths in the United States, and the third for young people age 15 to 24. It is on the rise for young people in general and for African-American young men in particular.

Only by talking about mental illness and encouraging treatment can we begin to address the painful issue that leads to suicide. We must tell our friends and our loved ones that it is okay to talk about feelings of despair, depression and hopelessness and suicide. For those who have the courage to get help, to seek treatment, we must support them, and we must talk about suicide so that we can try to understand it and prevent it.

Too much shame surrounds feelings of depression and suicide. We can change that and we must, by reaching out to others in our communities. The Senate has already passed a similar resolution on suicide recognition and prevention. I urge all of my colleagues in the House to join me and many others, Republicans and Democrats, from all parts of the Nation in our pledge to work together towards suicide prevention, awareness and treatment. Please join us in supporting House Resolution 212, a resolution recognizing suicide as a national problem.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I want to thank the gentleman from Georgia (Mr. LEWIS) for his outstanding leadership on this issue. I thank my colleagues on the other side of the aisle as well, the 92 cosponsors, of which I am one, to finally acknowledge that suicide strikes at so many Americans. It is a silent killer almost, because so many Americans and so many American families suffer in silence.

This resolution will help us establish the criteria and the focus on this devastating, devastating occurrence in our families. It results in, of course, the enormous loss of life, the loss of talented individuals, and it is now time that we say to those families and even say to those who, in moments have thought about suicide, and maybe have not acted upon it, that they are not alone, and that we can find ways to stem the tide of this devastation.

I want to simply say to the gentleman, I join him in reemphasizing that everyone counts in America, everyone counts. No one should believe that they are not counted or not in, or not important. Suicide sometimes comes about because people believe they are alone, that they can turn to no one. So many of us have experienced the tragedies of suicide, and frankly, I want to tell my colleagues the most devastating suicide occurrences are those among our children. I hate to say that my young 13-year-old son experienced that while he was in the 6th grade with one of his classmates. What a tragedy, one that leaves us speechless.

So I want to applaud the gentleman from Georgia (Mr. LEWIS), for bringing this to the Nation's attention and calling upon this Congress to stand up and be counted, acknowledging how important all persons are, and that those who may be contemplating and those families who have experienced this, they are not alone. We are here to now answer the question of how we can prevent this terrible devastation.

Mr. Speaker, I strongly endorse this measure. Suicide affects people of all ages, races, and gender. It is high time that we recognize this dire problem that plagues the citizens of our Nation. Suicide is the ninth leading cause of death in our country. Worse yet, suicide is the third leading cause of death for young persons ages 15 through 24. Everyday, six children commit suicide, and by the end of the year, this blight will claim over 31,000 lives.

These statistics are intolerable. And the situation worsens each day. Suicide is on the rise among young people, especially among young African-American men.

In addition to the thousands lost each year to suicide, over 750,000 citizens attempt suicide each year. Even when these attempts fail, families are adversely impacted.

The thought of the 200,000 family members who must grieve and mourn suicide deaths each year saddens my soul. I find it even more sobering that a population of over 4,000,000 such mourners currently exists in America.

Most of these suicides and suicide attempts are preventable. The stigma of mental illness, however, prevents our citizens from seeking lifesaving help. This stigma spreads to the family members as well, and these family members are inhibited from regaining meaningful lives.

We must provide suicide prevention opportunities to the public. Clinical research has improved mental disorder treatments. Help is available, and we can provide it.

It is imperative that we respond to this epidemic.

Mr. LEWIS of Georgia. Mr. Speaker, I yield back the balance of my time.

Mr. BURR of North Carolina. Mr. Speaker, I also commend the gentleman from Georgia (Mr. LEWIS) for his foresight with this issue. Many times teen suicide and child suicide goes with many unanswered questions. I urge my colleagues to support this resolution.

Mr. PACKARD. Mr. Speaker, I rise today in support of H. Res. 212, which recognizes suicide as a national problem. I would like to commend JOHN LEWIS for his leadership in introducing this legislation. DAVID SKAGGS and I also introduced H. Res. 548, which recognizes that the prevention of youth suicide is a compelling national priority.

While I has home in my district, I was contacted by a constituent of mine, Lisa Dove, the mother of Justin Dove who tragically committed suicide at age 16. Justin was a well liked child who lived with clinical depression and Attention Deficit Disorder. Despite several years of medical psychological treatments and antidepressant medications, Justin decided to take his own life. I will submit her letters for the RECORD for my colleagues to read.

The Light For Life Foundation recognized September 20–26, 1998 as Yellow Ribbon Youth Suicide Awareness and Prevention Week. There is a need to increase awareness about youth suicide and make it a national priority and I urge my colleagues to support H.

Res. 212 to encourage committees nationwide to increase awareness about and prevent suicide.

I would also like to recognize the Light For Life Foundation of America and their founders, the Emme family, who tragically lost their teenage son, Michael to suicide in 1994. It was through the vision of the Emme family that the Yellow Ribbon Program, which is now responsible for saving over 1000 teenage lives since its inception, has become a reality.

Mr. Speaker, I urge the adoption of H. Res. 212.

Mission Viejo, CA,
August 19, 1998.

Congressman Ron Packard,
Fairfax, VA.

Dear Brother Packard: I write to you first as your role of a father and a friend of my family's and second, as a Congressman of the United States. I write in hopes of your understanding and support in a very real and tragic problem facing the youth in our country.

My parents are Val and Diane Mortensen from Carlsbad. I am their second daughter, Lisa, and I grew up with many of your children as well as your nieces and nephews in Carlsbad, California Stake.

Recently, our family suffered an incredibly painful loss. Our oldest child, Justin, three weeks before his sixteenth birthday, went to a park near our home and shot himself in the head. He suffered brain death shortly afterward, and we lost him that night, May 4, 1998.

Justin was a sweet natured, polite, kind-hearted, and well liked youth, who lived with clinical depression and ADD (Attention Deficit Disorder). Despite several years of medical and psychological treatments and antidepressant medications, it seemed the pain won out, and Justin decided to take his own life; I'm sure in hopes of relief.

As a parent you can imagine the pain, guilt, questions, and terrible sense of loss we are living with day to day. It is an agonizing and heart-breaking experience that will affect the rest of our lives. Almost more terrible than the act itself, is the extreme inner pain and loneliness that I felt in the moments preceding his death. As the Savior, he was alone in his extreme pain, and I, the parent could not staunch it. It is so incredibly sad!

Almost immediately after Justin's death I knew in my heart of hearts that I would somehow and in some way devote my time to increase awareness of depression and also teenage suicide. This is my first attempt to help. This is how you can help.

There is an existing foundation called the Light for Life Foundation of America, based in Westminster, Colorado. They have a Yellow Ribbon program that has been effective in the prevention and awareness of suicide.

Youth suicide is the "fastest growing killer of youth today" according to federal officials and we need your interest and support to help stop this epidemic. Statistics show that 95% of all suicides are preventable with proper prevention and awareness. Even though the rates are increasing every year, there are programs that are working and one of the most effective is the Yellow Ribbon Program of the Light For Life Foundation of America.

Started in September 1994 with the suicide of 17-year-old Michael Emme, the program has spread across all 50 states and many foreign countries and is already credited officially with SAVING MORE THAN 1,000 LIVES as of September 1997, and the numbers are growing. Youth and adults all over this country are starting the programs in their schools, churches, and communities and are helping to form a network of caring, willing people who realize that not only does it take a "village to raise a child, but it takes a village to SAVE a child" and they are saving precious lives.

This letter is a request for recognition of a "Yellow Ribbon Youth Suicide Awareness and Prevention Week" to be designated on 20–26 September, 1998.

Will you designate, or ask your agency, to proclaim this week officially and to contact the Light For Life Foundation of America for more information on how you personally and officially can help save lives? This proclamation is being designated throughout the United States and Canada already. Never before has the opportunity to do something so simple been so effective. Simply knowing that it is okay to ask for help and that people are willing to listen has been credited with many saved lives.

Brother Packard, thank you for your precious time—in reading this letter and hopefully in supporting my request for an official suicide prevention week in your jurisdiction.

Enclosed please find the Yellow Ribbon Card that was made in Justin's memory, and of which 450+ were distributed at his memorial service. Also, a recent photograph of Justin and a small verse I wrote about him the day following his death.

Please contact the Light For Life Foundation of America and tell them, of your intent to proclaim September 20–26, 1998 "Yellow Ribbon Youth Suicide Awareness and Prevention Week". (See addresses below.)

Further, if you need to speak with me, or if I can in some way be of support to any family in a similar situation, please call me at (949) 472–8363.

How wonderful to possess the truth of the gospel in these Latter-days and enjoy the knowledge and blessings of eternal families. To know that Justin is in the arms of our Savior's love is the sustaining hope that lifts our hearts.

Most Sincerely,
Lisa M. Dove.

Mr. BLILEY. Mr. Speaker, I rise today to urge support for House Resolution 212.

This issue is important to every family with children and to every family that has suffered the loss of a loved one through suicide.

This resolution recognizes that suicide is a national problem. And it encourages that the nation undertake suicide prevention efforts.

Mr. Speaker, it is estimated that 750,000 people attempt suicide each year. These attempts are traumatic not only for the individual but also for family and friends who surround him or her.

Just as tragic, more than 31,000 lives annually are lost to suicide. It may be hard to believe, but that is even more than homicide.

In fact, suicide is the ninth leading cause of all death in the U.S. It is the third leading cause of death for young people. And it is on the rise.

I hope that this resolution will help focus attention on this tragedy—and will lead to action in our homes and our communities to save young and old lives alike from suicide.

Mr. BURR of North Carolina. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. Burr) that the House suspend the rules and agree to the resolution, H. Res. 212.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4567

Mr. STUPAK. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 4567, as my name was placed on this legislation without my knowledge or consent.

The SPEAKER pro tempore (Mr. Sununu). Is there objection to the request of the gentleman from Michigan?

There was no objection.

ESTABLISHING DESIGNATIONS FOR UNITED STATES POSTAL SERVICE BUILDINGS

Mr. McHUGH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4052) to establish designations for United States Postal Service buildings located in Coconut Grove, Opa Locka, Carol City, and Miami, Florida, as amended.

The Clerk read as follows:

H.R. 4052

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WILLIAM R. "BILLY" ROLLE POST OFFICE BUILDING.

(a) Designation.—The United States Postal Service building located at 3191 Grand Avenue in Coconut Grove, Florida, shall be known and designated as the "William R. 'Billy' Rolle Post Office Building".

(b) References.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in subsection (a) shall be deemed to be a reference to the "William R. 'Billy' Rolle Post Office Building".

SEC. 2. HELEN MILLER POST OFFICE BUILDING.

(a) Designation.—The United States Postal Service building located at 550 Fisherman Street in Opa Locka, Florida, shall be known and designated as the "Helen Miller Post Office Building".

(b) References.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in subsection (a) shall be deemed to be a reference to the "Helen Miller Post Office Building".

SEC. 3. ESSIE SILVA POST OFFICE BUILDING.

(a) Designation.—The United States Postal Service building located at 18690 N.W. 37th Avenue in Carol City, Florida, shall be known and designated as the "Essie Silva Post Office Building".

(b) References.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in subsection (a) shall be deemed to be a reference to the "Essie Silva Post Office Building".

SEC. 4. ATHALIE RANGE POST OFFICE BUILDING.

(a) Designation.—The United States Postal Service building located at 500 North West

2d Avenue in Miami, Florida, shall be known and designated as the "Athalie Range Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in subsection (a) shall be deemed to be a reference to the "Athalie Range Post Office Building".

SEC. 5. GARTH REEVES, SR. POST OFFICE BUILDING.

(a) DESIGNATION.—The United States Postal Service building located at 995 North West 119th Street in Miami, Florida, shall be known and designated as the "Garth Reeves, Sr. Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in subsection (a) shall be deemed to be a reference to the "Garth Reeves, Sr. Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. MCHUGH) and the gentlewoman from Florida (Mrs. MEEK) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. MCHUGH).

GENERAL LEAVE

Mr. MCHUGH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. MCHUGH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4052 as introduced by our distinguished colleague, the gentlewoman from Florida (Mrs. MEEK), the legislation was introduced on June 11 of 1998, and all members of the Florida delegation are original cosponsors of this legislation, as required under the committee rules.

The bill establishes designations for United States Postal Service buildings located in Coconut Grove, Opa Locka, Carol City and Miami, Florida.

Section 1 designates the United States Postal Service building located at 3191 Grand Avenue in Coconut Grove, Florida, to be known as the William R. "Billy" Rolle Post Office Building.

Section 2 designates the facility at 550 Fisherman Street in Opa Locka, Florida, to be known as the Helen Miller Post Office Building.

Section 3 designates the United States Post Office building located at 18690 Northwest 37th Avenue in Carol City, Florida, be known as the Esse Silva Post Office Building.

Section 4 designates the United States Postal Service building at 500 Northwest Second Avenue in Miami, Florida, be known as the Athalie Range Post Office Building, while section 5 designates the facility at 995 Northwest 119th Street, Miami, Florida be known as the Garth Reeves, Sr., Post Office Building.

Mr. Speaker, I would say that in keeping with the tradition of the Subcommittee on Postal Service, the gentlewoman from Florida (Mrs. MEEK) has taken yet another step in advancing five very distinguished Americans who distinguish themselves and their communities for their hard work.

This is a bit of an unusual approach to have five designations in a single bill, but I think it is a testament to the frugality and the wisdom of the gentlewoman from Florida (Mrs. MEEK), a former member of the Subcommittee on Postal Service, a very valuable member and a lady who we miss dearly, but we know continues to be interested in these.

I recognize that the gentlewoman has much to say about each one of these individuals. I would only note that having reviewed the record of each one of these fine designees, I could not more highly recommend them for these designations.

Mr. Speaker, I reserve the balance of my time.

Mrs. MEEK of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this resolution, and I want to thank the gentleman from New York (Mr. MCHUGH), under whom I served on the Subcommittee on Postal Service, for his guidance and leadership in understanding the postal system.

It is a very, very organized system and having worked on that committee was of tremendous help to me, and also now to have the gentleman from Pennsylvania (Mr. FATTAH), who is the ranking member of that committee, to provide guidance.

I want to thank all of those people who made it possible that we could recognize these citizens that are being recognized today in the naming of Postal Service buildings, and that many of them are unsung in terms of the large frame of this country.

I want to say to the Congress that these members are people in the community and in Florida who have blazed a trail for others to follow. Also, I want to thank the members of the Florida delegation. They unanimously supported these five post offices being designated to these outstanding citizens.

They are distinguished and, as I said, they may not be nationally known, but they are local heroes in our community, Mr. Speaker. There are post offices in this country named after certain luminaries such as John Kennedy, Dr. Martin Luther King and others, but I want to assure you that everyone in South Florida and many people in the Nation will recognize and be aware of the credentials of these five persons.

First is Billy Rolle. He is deceased. The post office that has been dedicated to him is one that is in the neighborhood where he lived. He spent 35 years teaching and coaching, not the regular youngsters, but the out-of-school youth, many of the people that other trainers and coaches may not have noticed after school, but Billy Rolle noticed them. He also taught them band, how to have their own band, how to have their own track team.

He served as an administrator in the Dade County school system for many, many years. He organized the First Annual Goombay Festival in Miami, and that festival now is known throughout the State of Florida and in the Nation for many who come to visit.

Next, the Athalie Range Post Office. She served so many years in the local Parent-Teachers Association there in Miami. She was the first African American woman to be elected and serve on the city commission in Miami, Florida.

She served as the first African American woman to serve in the cabinet in the State of Florida. She has been the recipient of so many awards, Mr. Speaker. I would say to the gentleman from New York (Mr. MCHUGH) and the rest of my colleagues, I cannot enumerate the number of awards. She has dedicated herself to her community.

The next post office is to be named after Garth S. Reeves. He is a current publisher and owner of the Miami Times. This was a newspaper founded by his father in 1923. He has dedicated himself to the achievement of excellence. Just the name Reeves in the State of Florida and in the newspaper publishing establishment throughout this country is well-known.

He sits on trustee boards of three colleges located in Florida, and he has a scholarship set up in his name that provides support for the education of aspiring journalists, an outstanding example in his own name.

Esse D. Silva, the next post office, she chaired the Governmental Affairs Committee for the Miami Dade Chamber; caused many local businesspeople to be able to establish businesses and to get working capital for the businesses they established.

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She has lobbied for black businesses throughout this country and trying to build them, knowing that they provide jobs for the people who live in the inner cities of this country. She started the SunStreet Festival in Miami, Florida, to bring better businesses, and to bring certainly more admiration for the businesses on 7th Avenue, Esse D. Silva.

Helen Miller, the next post office. She became the first African American female elected to be the mayor of Opa Locka, Florida. She was the first one in Dade County to be recognized. She served on nearly 40 different nonprofit community organizations. Commissioner Miller was a motivator whose many years of political activism and political work made her the elder stateswoman of the Opa Locka and Miami-Dade political community.

I am happy, Mr. Speaker, that I am allowed, through the committee of the gentleman from New York (Mr. McHUGH) to bring the eyes of the Congress and the eyes of this country to these people. I urge my colleagues to vote for these outstanding heroes from Dade County, Florida. To have their names emboldened on the post office would mean a lot, not only to them but to their families who come after them.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. McHUGH. Mr. Speaker, I yield myself such time as I may consume.

The gentlewoman from Florida (Mrs. MEEK), as I knew very well she would, highlighted the many admirable achievements of these individuals from Florida. As she so eloquently stated, I would say in closing, in deriving from her experience on the committee, while often post offices or Postal Service buildings are named for individuals known to us all, for me as chairman the very special time is the opportunity that this provides us to recognize, as she put it so well, heroes in their local communities. We have at this moment five just such individuals. I would urge all colleagues to support this bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. McHUGH) that the House suspend the rules and pass the bill, H.R. 4052, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

JUSTICE JOHN McKINLEY FEDERAL BUILDING

Mr. McHUGH. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1298) to designate a Federal building located in Florence, Alabama, as the "Justice John McKinley Federal Building".

The Clerk read as follows:

S. 1298

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF JUSTICE JOHN McKINLEY FEDERAL BUILDING.

The Federal building located at 210 North Seminary Street in Florence, Alabama, shall be known and designated as the "Justice John McKinley Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Justice John McKinley Federal Building".

The SPEAKER pro tempore (Mr. SUNUNU). Pursuant to the rule, the gentleman from New York (Mr. McHUGH) and the gentlewoman from Florida (Mrs. MEEK) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. McHUGH).

GENERAL LEAVE

Mr. McHUGH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this measure.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. McHUGH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1298 was introduced by Senator SHELBY on October 20, 1997, and the bill passed the Senate without amendment by unanimous consent on June 2 of this year, and a message on Senate action was sent to the House on June 3.

John McKinley was a U.S. Senator and the first United States Supreme Court Justice from the State of Alabama. A Virginian by birth, he practiced law in Kentucky. He was a self-taught lawyer. He moved to Alabama in 1818, becoming a member of the Cypress Land Company, which was then the largest single purchaser of land in north Alabama, along with a gentleman by the name of Andrew Jackson.

In 1820, Mr. McKinley was elected to the Alabama State legislature. He then proceeded to have a long, historic and extremely distinguished public career. The State legislature elected Mr. McKinley to the U.S. Senate in 1826, where he served until 1831. He was appointed to the Supreme Court by voice vote of the Senate in September of 1837.

Mr. Speaker, our colleague, the gentleman from Alabama (Mr. CRAMER), introduced a similar bill, H.R. 1804, also honoring Justice McKinley, which was cosponsored by the entire delegation from the great State of Alabama, and I want to thank him and that delegation for working with the other body, working with Senator SHELBY, and bringing us not just a deserving individual, obviously, but one who represents a great period in the history of this country, obviously a great period that continues to this day in the history of the great State of Alabama. I thank him for his efforts.

Mr. Speaker, I reserve the balance of my time.

Mrs. MEEK of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Senate bill 1298 introduced by Senator RICHARD SHELBY, Republican of Alabama, names a United States post office located at 210 North Seminary Street in Florence, Alabama, as the Justice John McKinley Federal Building.

Senate bill 1298 enjoys the support of a House companion bill, House Resolution 1804, sponsored by the gentleman from Alabama (Mr. ROBERT "BUD" CRAMER). Mr. McKinley served in the Alabama State Legislature, was one of the founding trustees of the University of Alabama, and served as the first United States Supreme Court Justice from Alabama.

The Alabama State congressional delegation is proud to name a post office after John McKinley.

Mr. Speaker, I yield 5 minutes to my colleague, the gentleman from Alabama (Mr. BUD CRAMER), the author of the House version.

Mr. CRAMER. Mr. Speaker, I thank my colleague, the gentlewoman from Florida, for yielding time to me.

Mr. Speaker, I want to congratulate the chairman and say that we in Alabama appreciate the attention this issue has been given here in what we hope are the last few days of this session to make sure that the House bill, H.R. 1804, is merged with S. 1298 to make sure this legislation is passed and gets to the President.

Mr. Speaker, this legislation would designate the United States Courthouse and Post Office Building in Florence, Alabama, which happens to be in my district, as the Justice John McKinley Federal Building. The chairman and ranking member have done an excellent job in making sure is that Justice John McKinley's background and legacy is well known.

In my district, this particular piece of legislation enjoys a wide range of support within the State, the Lauderdale County Bar Association, the Florence Historical Board, the Tennessee Valley Historical Society, the Alabama State Bar, and Governor Fob James, in addition to the entire Alabama delegation. We have looked forward to this day for some time; and, Mr. Speaker, designating the United States Post Office after Justice John McKinley would be an honor befitting his contribution to Alabama, and, frankly, to this country. Mr. Speaker, I urge the passage of S. 1298.

Mrs. MEEK of Florida. Mr. Speaker, I yield back the balance of my time.

Mr. McHUGH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, with a closing thanks to the gentleman from Alabama (Mr. CRAMER) for his leadership on this issue, I would highly recommend all of our colleagues support us in this very meritorious renaming bill.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. McHUGH) that the House suspend the rules and pass the Senate bill, S. 1298.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

JACOB JOSEPH CHESTNUT POST OFFICE BUILDING

Mr. McHUGH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4516) to designate the United States Postal Service building located at 11550 Livingston Road, in Oxon Hill, Maryland, as the "Jacob Joseph Chestnut Post Office Building".

The Clerk read as follows:

H.R. 4516

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States Postal Service building located at 11550 Livingston Road, in Oxon Hill, Maryland, shall be known and designated as the "Jacob Joseph Chestnut Post Office Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in section 1 shall be deemed to be a reference to the "Jacob Joseph Chestnut Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. McHUGH) and the gentlewoman from Florida (Mrs. MEEK) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. McHUGH).

GENERAL LEAVE

Mr. McHUGH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 4516.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. McHUGH. Mr. Speaker, I yield myself such time as I may consume.

H.R. 4516, Mr. Speaker, was introduced by our distinguished colleague, the gentleman from Maryland (Mr. WYNN), on August 6 of this year. The legislation is cosponsored by the entire House delegation of the great State of Maryland, as is pursuant to the policy of the Committee on Government Reform and Oversight.

This bill does indeed designate the United States Postal Service Building located at 11550 Livingston Road in Oxon Hill, Maryland, as the Jacob Joseph Chestnut Post Office Building.

Mr. Speaker, in July of this year the entire Congress, indeed, the entire Nation, was stunned by the sudden and senseless random killing of two of our own Capitol Hill Police, Officer Jacob Joseph Chestnut and Detective John Michael Gibson. These brave men laid down their lives in defense of this building, in defense of all this building stands for and, of course, in the line of duty for the protection of these hallowed halls and the people who work and visit them.

I want to thank and commend the gentleman from Maryland (Mr. WYNN), whom I have had a chance as recently as today to talk about this measure with, for introducing this bill honoring this true American hero. The naming of the post office in Oxon Hill, Maryland, will enable family and friends and neighbors of Mr. Chestnut to continue to remember him in a very special way.

I am sure we all heard the eulogies that were offered to both of these brave men as their bodies lay in state in the Capitol. We heard the beautiful words expressed by his daughter, Officer Chestnut's daughter, as she spoke of her beloved father, and we felt the love that Officer Chestnut had for his family, his friends, his community and, perhaps most of all, his country.

His career was a storied one. He served 20 years as a member of the Military Police in the United States Air Force, and he served on the Capitol Police Force for 17 years doing his duty. He was just 2 years away from retirement.

The gentlewoman from Florida (Mrs. MEEK) spoke earlier about local heroes, community heroes. I think John Jacob Chestnut was all of that. I know he was a hero to his family, but we have here as well someone who, as he was just doing his duty, I am sure, in his eyes, was thrust into the light and into the glare of being a national hero.

We have named dozens of these facilities in the last several years, Mr. Speaker, but I honestly can tell the Members I do not think we have ever named one more appropriately than the one we seek today to name after the hero, John Jacob Chestnut. I want to thank the gentleman from Maryland (Mr. WYNN) particularly for his efforts in bringing this to the floor today.

Mr. Speaker, I reserve the balance of my time.

Mrs. MEEK of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am proud to join the gentleman from New York (Chairman McHUGH) in bringing to the House floor H.R. 4516, legislation introduced by my friend and colleague, the gentleman from Maryland (Mr. ALBERT WYNN).

H.R. 4516 names a post office, a United States Post Office located at 11550 Livingston Road in Oxon Hill, Maryland, as the Jacob Joseph Chestnut Post Office Building, an honor for a man who gave his life, who laid down his life for all of us.

As of July 26, 1998, the Washington Post reported, on a clear, sunny day like yesterday, Jacob J. Chestnut would have been tending the squash, cucumbers, and red and green peppers in his vegetable garden, sharing the bounty with his family and neighbors. Instead, Officer J.J. Chestnut, an 18-year veteran of the Capitol Police Force, was killed when an armed intruder rushed past the security checkpoint in the Capitol. He was shot without warning near the visitor's entrance.

Officer Chestnut is remembered by friends and neighbors, and it is a very high honor that his own representative, the honorable gentleman from Maryland (Mr. ALBERT WYNN), is introducing and is going to name this post office for this honorable slain hero.

Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland (Mr. WYNN), the sponsor of H.R. 4516.

Mr. WYNN. Mr. Speaker, I thank the gentlewoman for yielding time to me, and let me thank the chairman, the gentleman from New York (Mr. McHUGH), for his cooperation and support in moving this matter forward to the body. Also, I would like to thank the gentlewoman from Florida (Mrs. MEEK) for her kind words on behalf of my former constituent. Her comments were most moving.

Mr. Speaker, we are here today in an effort to memorialize the sacrifice of Officer J.J. Chestnut. This proposal is supported by the entire Maryland delegation on a bipartisan basis, and I think it reflects the bipartisan sentiments of this entire body in support of this outstanding Officer.

The legislation redesignates the United States Postal Service Building located at 11550 Livingston Road in Oxon Hill, Maryland, presently known as the Fort Washington Post Office, as the Jacob Joseph Chestnut Post Office Building.

United States Capitol Police Officer Jacob Joseph Chestnut, along with United States Capitol Police Special Agent John Gibson, gave their lives in the line of duty on Friday, July 24, 1998, while guarding the visitors and staff in the United States Capitol; some would say, in our home.

Officer Jacob Joseph Chestnut, an 18-year-Capitol Police veteran and a retired United States Air Force Officer, was a gentle giant of a man who touched many lives with his friendly smile and his quiet competence in his short 58-year journey on this earth. A husband and father of five children, J.J. Chestnut was a pillar of his community, a respected leader, and a mentor to his fellow officers.

Following this tragedy, his widow, Wen Ling, said, "It is amazing to think that the death of a man so simple, so humble, so family-oriented, and yet so private, can rock the Nation and the world for simply doing his job."

The tragedy of J.J. Chestnut's death teaches us that life is fleeting. It teaches us that it is not the quantity of what you do in life, but it is the quality of what you do. This small piece of legislation is a grateful community's attempt to memorialize the sacrifice this American has made.

Although the bill does not request it, we are hopeful that in future years a bust and a picture and a plaque commemorating Officer Chestnut will also be placed in this post office, so that future generations will be able to see the man and understand the sacrifice he made.

☐ 1645

Mr. Speaker, this is the story of an American hero that gave his all for his country. It is a story of what makes our country great. J.J. Chestnut knew that freedom is not free. He understood that there is a price to be paid.

We ask men and women like J.J. Chestnut to defend and protect our freedom every day. We ask them to confront those who would violently attack the safety of individuals and of our most cherished institutions. They ultimately risk their lives and they too often lose their lives. But for Officer Chestnut's selfless actions, we may have lost many other innocent lives on that unfortunate day.

In Officer Jacob Joseph Chestnut we find an extraordinary individual who served his country and made the ultimate sacrifice in the performance of his duty to protect the lives of others in the Capitol. I thank my colleagues on both sides of the aisle. I thank my colleagues from the State of Maryland for their support in recognition of a great American whose gentle smile and helpful spirit will truly be missed.

Mr. McHUGH. Mr. Speaker, I reserve the balance of my time.

Mrs. MEEK of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. CUMMINGS).

Mr. CUMMINGS. Mr. Speaker, I rise in support of this legislation because I think it is extremely important, as the gentleman from Maryland (Mr. Wynn) has stated, that we take time to memorialize those who have played significant roles in our lives.

As a fellow resident of Maryland, along with the gentleman and, of course, the man who we honor with this legislation, J.J. Chestnut, I think what we send out to the world is a memorial which will be there for a very, very long time that says to the world that he was one who gave his life so that others might live, bringing a hope and a sense of dedication to the area in Maryland where this post office is.

Also, I want to take a moment to thank the gentleman from Maryland (Mr. WYNN). Throughout this entire unfortunate situation, the gentleman was there with the family. He constantly made it clear that he would do everything, and did do everything that he could to uplift the family.

I think that one of the most fitting things that could possibly be done is this way of memorializing this great man. So, when people come into that post office and see that name there and know that he is one who stood up for us, and for many when they could not stand up for themselves, and even the children who will come in and say who is that man? Who was he? For some person to be able to say that was J.J. Chestnut. He was an officer with the Capitol Police and he gave his life so that others might live, I think that that will be a very, very fitting memorial.

So, Mr. Speaker, I would ask that the entire House support this wonderful, wonderful resolution and ask that all of my colleagues vote for it.

Mrs. MEEK of Florida. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. McHUGH. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. FOX).

Mr. FOX of Pennsylvania. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of the legislation that the gentleman from Maryland (Mr. WYNN) has brought forward. It is very fitting legislation. Officer Chestnut was someone well-loved in this Capitol, who represented the finest in law enforcement and certainly he is an individual who we will miss as a result of his tragic murder that took place here in the Capitol.

This individual represented the best in law enforcement. His family and his friends certainly miss him greatly. We all do. The Nation does. But to have, therefore, a post office named in his honor is certainly appropriate. It is certainly a small token of the affection, respect, and admiration that all of us here in the Capitol and across the Nation felt for Officer Chestnut.

Many officers come to this institution and have a chance to serve their Nation. Officer Chestnut was so near retirement. He had brought to many people the opportunity to see their Capitol firsthand. He was professional. He was a policeman's policeman; one who was well trained, who dealt with the public in a very friendly, professional manner. He really was the best of the best.

So, having this post office be named for one of our own who was one of law enforcement's best is a symbol, a reflection of this House and this Congress saying "thank you" to a great man whose life was cut far too short.

We join with the family and friends and the men and women in blue all across this country who have lost one of their own, who stood up for us all the time, and who make a real difference for this country. This is certainly a unanimous vote that should be the forthcoming result, and I am sure the Senate and the President will agree that this is certainly a tribute that is appropriate and I hope that the House will join the gentleman from Maryland (Mr. WYNN) in making this a unanimous vote.

Mr. McHUGH. Mr. Speaker, with a final word of praise to the gentleman from Maryland (Mr. WYNN) and great thanks to him, I urge all our colleagues to support this, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. McHUGH) that the House suspend the rules and pass the bill, H.R. 4516.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1999

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations be discharged from the further consideration of the joint resolution (H.J. Res. 133) making further continuing appropriations for the fiscal year 1999, and for other purposes, when called up; and that it be in order at any time to consider the joint resolution in the House; that the joint resolution be considered as read for amendment; that the joint resolution be debatable for not to exceed one hour, to be equally divided and controlled between myself and the gentleman from Wisconsin (Mr. OBEY); that all points of order against the joint resolution and against its consideration be waived; and, that the previous question be considered as ordered on the joint resolution to final passage without intervening motion, except one motion to recommit with or without instructions.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. LIVINGSTON. Mr. Speaker, pursuant to the unanimous consent request just agreed to, I called up the joint resolution (H.J. Res. 133) making further continuing appropriations for the fiscal year 1999, and for other purposes, and ask for its immediate consideration in the House.

The text of House Joint Resolution 133 is as follows:

H.J. RES. 133

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 106(c) of Public Law 105–240 is amended by striking "October 9, 1998" and inserting in lieu thereof "October 12, 1998".

The SPEAKER pro tempore. Pursuant to the order of the House of today, the gentleman from Louisiana (Mr. LIVINGSTON) and the gentleman from Wisconsin (Mr. OBEY) each will control 30 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. LIVINGSTON).

GENERAL LEAVE

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. J. Res. 133, and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. LIVINGSTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today the initial continuing resolution for fiscal year 1999 expires, so we need another continuing resolution. Not all of the appropriations bills have yet been enacted, and for that reason we do need a little extra time to complete our business.

Adoption of H.J. Res. 133, which runs from tonight through October 12, will give us the time we need to complete our remaining work.

I am disappointed I have had to bring this joint resolution to the floor. I really thought that it was possible that we could get our bills done by tonight, but evidently we have run into some roadblocks and we need a little bit more time.

The negotiations are proceeding. There are tough issues yet to be settled. I appreciate all parties for having participated to the degree that they have. But I hope they understand that we need to knuckle down and do a little bit more if we are going to finish the job through the end of this particular continuing resolution which expires on Monday.

I was a little taken aback by the press conference by the President a little while ago suggesting that the Congress is not intent on doing our business. As you know, Mr. Speaker, both Houses have been diligently working on the budget ever since the President came to Congress and requested approximately $9 billion over the budget agreement that he agreed to last year, which ultimately led to balancing the budget this year. He requested $9 billion more than he had agreed to last year and we have been doing the best that we could to meet the caps, the budget caps that were put in place by that budget agreement.

It would appear now that the President wishes us to exceed those budget caps with the promise that he has certain unidentified offsets for any monies that might be expended in excess of those caps. And yet to this moment, Mr. Speaker, to this very moment, despite our requests since July, I have not seen those offsets.

Mr. Speaker, we have repeatedly requested from the administration day after day, week after week, month after month to give us a sneak peek at the offsets that they might provide for us, so that we might know if we spend more than the budget caps agreed to by the President. We will offset that amount and the budget agreement that the President engaged in last year will not be broken, will not be breached.

To this minute as I stand here, I still have not seen those budget offsets. And so it concerns me when I turn on the television a little while ago and see the President of the United States standing in the Rose Garden surrounded by Members of Congress from the other side of the aisle saying that we have not met his prerogatives and he is going to hold the Congress here until we meet his demands.

We would love to meet his demands, but all we ask is to let us see these offsets which pay for the amount that he wishes to expend in excess of the amount that he agreed to in his budget agreement with us that led to the balanced budget that we all reached last year.

I am hopeful, I am deeply hopeful that we are going to be able to see those budget offsets some day soon. Maybe even today. But just a few minutes ago, the Director of the Office of Management and Budget said that he wanted to wait until the end of the process before he showed us his offsets.

Well, I think the time for Kenny Rogers to step up to the table and say, "You've got to know when to hold 'em and when to fold 'em" is long since past. The time is to put the cards on the table, and we have not yet been able to get the administration to do that. So, we have not really been able to get an agreement yet.

Mr. Speaker, I am sorry about that. I apologize to all the Members of this body that we have not concluded our business. I am hopeful and optimistic that we will be able to do so by Monday. But I want to say to all of my Members, all of my colleagues throughout Congress, we are going to stay here. We are going to stay here until we conclude the people's business. We will stay as long as it takes to finish our business, pass our appropriations bills, live within the budget caps, the agreement that the President and the Congress made last year.

When we conclude our business, we will go home and get elected. Until then, I am afraid that we may be here with another continuing resolution, and that grieves me greatly. I would like very much not to have to say that. But to think that just a few minutes ago the representatives of the President of the United States would not show us the offsets that they intend to use to pay for any spending over and above the budget caps that the President agreed to a year ago is absolutely astounding at this late hour.

So, I have no choice but to come here and request this continuing resolution.

Mr. Speaker, I reserve the balance of my time.

□ 1700

Mr. OBEY. Mr. Speaker, I yield myself 7 minutes.

Mr. Speaker, everyone knows that the gentleman from Louisiana and I are good friends. We are an awful lot alike; we are both very placid individuals. Neither one of us ever gets excited; neither one of us ever gets mad; and we are always the quietest, most calm people in the place.

Let me simply say that I have enjoyed listening to my friend's speech, and he is doing his duty in bringing this extension of the continuing resolution to the floor. But I kind of feel like Yogi Berra. This is deja vu all over again. And I think we really do need to understand why we are here and what the practical steps are that must be taken if we are to get out of here in a reasonable length of time.

This House has had sort of a schizophrenic history the last 2 years on appropriations bills. Last year, I thought we had a very good year, and I thought that both parties could genuinely be pleased about what was produced in the appropriations process. After the fight over the government shutdown several years ago, where my friends on the other side got badly burned because they thought they could shut the government down to force the President to cave into their priorities, and they were proven wrong, in reaction to that, last year, I thought they behaved quite responsibly. And, as a result, we had a bipartisan approach to virtually every appropriations bill except one. And at the end of the process I thought we all felt pretty good about ourselves and about each other.

But when this year's appropriations cycle began, it was apparent that the majority leadership was in a new mode, and they were telling the leadership of the Committee on Appropriations on the other side of the aisle that they wanted them to adopt a more confrontational mode so that they could more clearly define the differences between the two parties. The press has written about that. I have been told that, frankly, by a number of Members on the other side of the aisle.

So, as a consequence, what has been the track record? The track record is that this Congress never did produce a budget. We are now through the entire fiscal year, and we still do not have a budget. We also have very few bills that have gone through the entire process. I think only two of them have been signed, one has been vetoed, and the rest are still stuck in the Congress somewhere.

One of the reasons for that, in my view, is because the leadership on that side of the aisle in this House decided that they wanted to try to pass a series of appropriations bills with only Republican votes. And so, for instance, on Labor, Health, Education, they produced a bill which is some $2 billion below the President's on education; they eliminated the Low Income Heating Assistance Program; they eliminated Summer Jobs; they shredded the

President's education initiatives; and they produced a bill which was so extreme that their Republican brethren in the Senate would not accept that bill, and that bill has never even been finished by either body. Finally, yesterday, that bill came to the floor, and then we simply had a brief debate on family planning and then that bill was pulled from the floor.

Now, we do not run this place; the other side does, because they are the majority. I recognize that. But when the other side follows a policy of confrontation rather than cooperation, they have to expect that we are going to have problems. And so now we are stuck. No budget. Almost no appropriations bills passed. Fiscal year gone. We have already had one continuing resolution and now we have yet another one. I would predict for my colleagues that this is going to have to be extended again.

Members in this House need to understand there is not a chance of a snowball in Hades that we can possibly reach all of the agreements that have to be reached and have a bill to the floor on Monday. I have talked to a number of our friends in the press, and they seem to have been told that there were only 9 or 10 items that separated us. We still have over 300 items that have to be resolved, in numbers and in language. And that is a practical fact. That means that we are going to need every second of this extension and then some, in my view.

I would just ask that we recognize that while the majority party controls both Houses of the Congress, and it is their right to produce a bill that can only be passed with Republican votes, they must understand that if they want those bills to become law, they do need a Presidential signature, and that means there is going to have to be compromise. We are going to have to find common ground. And, until we do, we are going to be stuck here. I hope we can find that common ground sooner than later, but it is going to be very difficult.

With respect to the chairman's comments on offsets, offsets are simply what is produced in order to pay the bill. The check comes after we know what the bill is. Well, until we know what the differences are between parties, and until we know the size of those differences, it is pretty hard to say how we are going to pay for them when we do not even know what the differences are. So what we have to do, with all due respect to my friends on the other side, we have to sit down and lay out what our differences are so that we know rather than are guessing about how the other feels, and then we can proceed to try to bridge those differences.

I hope we can be here early next week with a resolution to these bills, but we are a long way from settlement. And as the President said in the White House, we are not going to leave, we are not going to leave until this Congress is responsive to the President's education initiatives and we have those funded to considerable measure. And that means that we had better start recognizing that right now.

Madam Speaker, I reserve the balance of my time.

Mr. ROGERS. Madam Speaker, I yield myself 2 minutes.

As the gentleman has said, the process is to work between the bodies on the Hill and between the parties in this body and the other body to work out our differences, and, of course, work with the White House to try to achieve some degree of compromise to where the bills can be signed. And that is exactly the process that we are in and have been in for several weeks now.

As far as knowing what the White House offsets are going to be so that we can know where the money is going to come from to pay for these extra frills that the President seems to want, we simply want to know what the cost is going to be and where the money is going to come from. When we go shopping at the store and the store shows us the goods that we would like to buy, they have to know that we have got the money to pay for it before we can strike a deal.

And so we simply want to see the White House's money. If they have a way to pay for the frills that they are asking for, then that is a different story. But until this time they have simply refused to tell us whether or not they have the money to pay for the frills that they want to add to these bills.

Now, we are in the process of working differences out between the bodies and the White House. That process is ongoing. The budget office from the White House has been here now for several days meeting with the leadership in the Congress, the Speaker, the majority leader, and the leaders of the minority party in both bodies. We are in the process of negotiating and working. We simply have not had time to meet the demands of the White House at this point in time.

And I would urge that the White House be reasonable in their requests. We are trying to be reasonable. We are trying to find ways to do what the White House would like to do on all these bills. They are being a bit unreasonable at this point in time, and we simply are going to stay here until we get this job done.

Now, the White House can take their campaign trips wherever they want. This body, this House, is staying in session until we get the job done.

□ 1710

Mr. OBEY. Madam Speaker, I yield 7 minutes to the distinguished gentleman from Michigan (Mr. BONIOR), the Democratic Whip.

Mr. BONIOR. Madam Speaker, I thank my colleague for yielding and giving me some time to talk about the lack of a budget.

Madam Speaker, here we are. We are 9 days past the end of the fiscal year. We are passing another short-term budget because the Republican leadership has failed to do its work. We have no budget.

If we were running a business and we were entering a new year, we would have a budget to follow so we would know where we were going, what we were going to spend, what income we were going to take in, how we were going to make our ledger work.

A family would have a budget so they knew how to take care of their housing needs and their children's education and all of the things that are important.

We are not talking about some small entity here. This is the Federal Government. We have no budget. For the first time in 25 years, there is no budget. And only 6 of the 13 spending bills have been passed. Excuse me. Six have not been passed.

So what have we been doing here for, lo, these many months since the President came and talked about issues of concern to the country in the State of the Union address?

Have we dealt with the minimum wage so that people who work 40 hours a week can earn at least a poverty level wage? They do not now. They did not do that. The Senate a couple of weeks ago voted against that. The Republican colleagues killed that in the Senate.

How about campaign finance reform to clean up our system? Did not do that in the Senate. They killed that one, too, after squandering months on it in the House not wanting to take it up.

How about teen smoking for the health of our children? What did we do there? Zippo, nada, nothing.

How about HMO reform, a patients' bill of rights so that when someone wants to see a doctor they can see a doctor. So that if someone needs a test they can get a test. So if someone has an emergency they can go to the closest hospital? They killed it in the Senate today in the other body.

So this Congress has basically done nothing on the issues that the American people care about. We have no budget.

And my colleague on the other side of the aisle, who I respect, the gentleman from Kentucky (Mr. ROGERS), talks about frills, how are we going to pay for the frills?

I just was handed a definition of "frills" because I was on my way to the dictionary which sits in this Chamber next to the Speaker's podium, and they define frills as a trimming, as a strip of cloth or lace gathered at the end, a ruffle, something superfluous.

Let me tell my colleagues what kind of frills we are talking about and then decide whether or not it is superfluous. We are talking about education, and we are talking about reducing our class size in America so that our children can get a good education, so that there can be discipline in the classrooms and our teachers can teach, and we have a bill that we have advocated for months and months and months, and they have said no and no and no to it. That is the frills we are talking about today.

Or how about this frill? How about taking care of the schools in this Nation that are falling apart, where the plaster is falling down and the plumbing does not work or our children are getting educated in trailers outside the main building, where the heat does not work sometimes? Is that a frill?

That is why we want to stay here, so that we can take care of those issues that we came here to take care of.

They have closed the door to a good wage for people already. They closed the door on patients' health reform, a patients' bill of rights, reforming HMOs today. They closed the door on doing something about teen smoking and health care in this country, and now they talk about education reform as frills.

We have no budget. This, in my opinion, has been the worst, most unproductive Congress that I have been involved with in my 22 years here. Oh, it has done a lot of investigating, but when it comes to the people's business, the business that the people talk about around their kitchen tables, nothing, and then we get it called frills.

Madam Speaker, I hope in the next week, and I suspect we will be here for a week, I cannot imagine that we will get 300 items taken care of, because that is what is in disagreement, as the ranking member, the gentleman from Wisconsin (Mr. OBEY) mentioned, 300 pieces of disagreement on these appropriation bills, in numbers and in language.

I hope in the week or so that it takes to get this done we will elevate the education issue to where it belongs in this country so that our children will get the respect, the dignity and the resources that they need to be able to compete in our world.

Mr. ROGERS. Madam Speaker, I yield myself 2 minutes.

Madam Speaker, the gentleman from Michigan (Mr. BONIOR), whatever he calls the additional spending the President has requested, he has yet to tell us how he is going to pay for it. I mean, the budget agreement that the gentleman agreed to, the President agreed to, under which we are operating, sets caps for spending.

We are spending up to the caps. Now the President says disregard the caps; give us more money for X, Y and Z.

Well, we cannot consider that until we know how we are going to pay for it. Where are we going to cut spending in order to increase spending for something else so that we stay under the overall caps, under which this Congress operates and the White House agreed to and is operating?

Now, as to whether or not there is a budget resolution, it makes not a hill of beans' difference. We are operating under the budget agreement that the parties and the White House agreed to a couple of years ago. We are spending in the appropriations bills every penny of those caps. Whether or not we have a budget resolution is irrelevant, because we agreed back in June, without the budget resolution, that we would spend up to the caps. We cannot spend more than the caps unless we change the law. So what difference is it if there is not a budget resolution, which only is an internal paper of the Congress anyway?

So we are spending all of the caps that we are allowed to spend under the budget resolution, the budget agreement, that the White House signed off on and now wants to violate.

I want to ask the White House, how come they want to violate the balanced budget agreement that led to the Nation's first balanced budget in 37 years and which they are so big about crowing about on television? Why do they now want to violate that balanced budget agreement?

As long as there is a refusal to come up with the offsets to spend more in one category than we agreed to, it simply is a hollow demand.

☐ 1720

Mr. OBEY. Madam Speaker, I yield myself 30 seconds. I would like to ask the gentleman a question on my time. He is asking what the administration will do to pay for its initiatives. The Speaker is asking that we spend at least $8 billion in additional funding for the Pentagon, in addition to the bill that we just passed through here 2 weeks ago.

Where are you going to get the money to pay for that?

Mr. ROGERS. If the gentleman will yield, I assume that the Speaker has suggested the offsets with which to pay for it. That is the way this place has to operate under the balanced budget agreement.

Mr. OBEY. The gentleman assumes wrongly.

Mr. ROGERS. Madam Speaker, I yield 3 minutes to the gentleman from California (Mr. CUNNINGHAM), a member of the committee.

Mr. CUNNINGHAM. Madam Speaker, this debate is almost hilarious. My colleagues on the other side say there is no budget. But each appropriations bill we have in the balanced budget has a cap. Every appropriations bill has a budget in it, all 13 of them. There is your budget. And in every case, every single case except one that the liberals always want to cut is defense, and our national security is the lowest it has been in 30 years. That is your cash cow. In every single one. You say, well, education. Your party over 40 years has screwed up the education program to where we are 15th in the industrialized nations in math and science. We are last in literacy. And for the first time we have taken the 760 federal education programs so you can rein down your excessive money and limit it and get the money to the classroom. Instead of 50 cents on the dollar, we are going to get 90 cents on the dollar down to the classroom.

You call us extreme. Well, yesterday's fiasco, so that you can generate your base, we are trying to lead the country based on the Constitution and here you are with a gimmick to try to generate your base. And now you are over at the White House saying, Mr. President, we need to spend more, we need big government, we need to tax more, and do you think we are going to stick around and let you do that? We are going to stick around, but we are not going to let you get away your liberal spending, liberal tax and liberal bigger government. Absolutely not.

I feel sorry for my colleagues on the other side. They look at the polls and they know that many of them are not coming back next term. The only thing they can do is sit here and demagogue and push the White House to spend more money. We are not going to let you do it. Because the American people know exactly what you are trying to do.

When you say education, what about the children, well, what about Davis-Bacon? We could have waived Davis-Bacon for construction on schools in D.C., Mr. Bonior, and your union bosses preferred union bosses instead of children, instead of building and putting roofs on our D.C. schools.

Let us call it like it is. You talk about increasing education. The money that is in there for education out of the President's budget is not there. It is above it. And the only way he can increase it is to take it out of the surplus. And you take it out of the surplus, I do not guess you want to take the surplus and put it into Social Security anymore. I guess you have changed your mind. Because of all these great spending programs you have, you want to keep spending and spending and spending. You cannot have it both ways. You have got to adhere to a balanced budget that the President signed which you on the left do not want to do. I feel sorry for you. Because not many of you are coming back.

Mr. OBEY. Madam Speaker, I yield myself 1 minute. The gentleman says that the Democratic Party has screwed up education. I guess that means that he feels we should not have passed the Nation's student loan programs which we would not have had without a Democratic Congress. I guess that means he feels we should not have Pell grants that helped the kids from working families go to college and technical school. I guess that means he feels that we ought to repeal handicapped educational legislation. I guess that means he feels we ought to repeal Head Start that is the main program that we provide so that kids who are having trouble learning to read and deal with mathematics get a decent start in the early grades on that. The gentleman may think that that is screwing up America. I think it is creating opportunity for every working family in America.

On this side of the aisle, we make absolutely no apology in being for that kind of spending. In contrast, in the last 3 years, this Congress has added $20 billion to the President's defense budget but $17 billion of the $20 billion has gone for pork rather than readiness. I will compare and debate those priorities anytime.

Madam Speaker, I yield 3 minutes to the distinguished gentleman from California (Mr. MILLER).

Mr. MILLER of California. Madam Speaker, I thank the gentleman for yielding time. It is interesting that the Republicans who spent months and months trying to get a budget, then when they cannot get a budget, they say it does not amount to a hill of bean, that it makes no difference to the American people. Then why did you spend all those months in the Budget Committee trying to hammer out a budget? You say it does not matter that the appropriations bills are not done yet. But why did you spend all this time trying to do it?

The fact of the matter is you have an ideological fight going on within the Republican Party within the right wing and the far right wing and you cannot resolve it and you have not been able to do the American public's business. You have not been able to do it.

Most of the businesses in America are increasing their productivity. Workers all across America are increasing their productivity. People are making investments in productivity. The Republican Congress is working less every year. Every year. You lost a month this year. Last year we worked 132 days. This year we worked 106. You have lost a month. Two years ago you worked more days. You have lost 2 months in 2 years. At this rate we will be the most unproductive workers in America. You cannot get a budget, you cannot get appropriations bills, you could not get a tobacco agreement, you have not been able to reform HMOs, you cannot deal with crumbling classrooms in this country, you cannot deal with getting more teachers in the classrooms because of a teacher shortage, and yet you are getting the same pay. But you have lost 2 months in 2 years' time. If you worked for any corporation in America, either you would shut down your corporation, you would reinvent your corporation, or you would go out of business. Name another entity in this country that lost 2 months in the last 2 years in worker productivity. American workers are working harder than they have ever worked before for their wages and the first thing that the gentleman from California (Mr. CUNNINGHAM) suggests is that we take away their wages in Davis-Bacon, that we take hardworking Americans and his answer to the budgetary problem is to take away their wages. That is outrageous. Those people are working 8 and 10 hours a day. They are working 6 and 7 days a week. The Congress is coming in on Wednesday and leaving on Thursday, the Congress cannot show up after its August break until the middle of September, and it is ready to go home in October and it is not coming back until March. That is a hell of a job we have got here, ladies and gentlemen. The only problem is you have not done your work. Anywhere else in America, you would be fired. You would be fired, because you failed to show up and go to work every day like every other American.

So what has happened? So we have said no, this Congress, to 100,000 teachers for our children. We have said no to our children who are in crumbling classrooms, where $12 billion worth of work needs to be done to make those classrooms safe. We have said no to America's children for afterschool programs that the police departments tell us all the time they need to help us fight crime after school between 3 and 6 in the afternoon. You have said no to the people who want to submit the patient-doctor relationship, you have insisted that we are going to continue to let the insurance companies get in between patients and doctors who need that kind of care. You have said no to the tobacco settlement so we can get back to the Medicare system the money that was stolen from them because they had to deal with the tobacco ailments of the American public from smoking after being deceived by the tobacco companies.

This is the most unproductive Congress in the history of this Congress. If we keep losing the days of work like this, pretty soon we will just show up in January, collect a year's pay and go home, because according to you, it makes no difference whether we have a budget and appropriations. It makes a difference to the American people because the reason you do not have a budget is you do not want to admit what you have not done.

Mr. ROGERS. Madam Speaker, I yield myself 1 minute. Apparently the gentleman does not believe that a balanced budget is important. This Congress achieved a balanced budget for the first time in 37 years. Apparently the gentleman does not believe that cutting taxes to the American people is important. This Congress cut people's taxes. Apparently the gentleman does not believe that having the best economy in decades is not important. We believe it is. This Congress created the atmosphere in which we have got the best economy in decades. The gentleman apparently does not believe that having record employment is important. We believe it is. Under this Congress's policies we have had record employment for the last several years ever since this party has been in charge.

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We believe this Congress has been productive on the important matters for all of the American people.

Madam Speaker, I reserve the balance of my time.

Mr. OBEY. Madam Speaker, I yield 2 minutes to the distinguished gentleman from Connecticut (Mr. GEJDENSON).

Mr. GEJDENSON. Madam Speaker, listening to my friend, the gentleman from California (Mr. MILLER), it reminds me of Harry Truman's statement. Some complained that Harry Truman was giving them hell; he says, "No, I just tell them the truth, and it sounds like hell." Harry Truman also coined the do-nothing Congress.

Now the bad news here is that the extreme right has taken control of the agenda here. We find ourselves through this session not dealing with the budgetary matters, health care, education. We spent half a day on the floor trying to take away health care from people in California. We go after ethnic groups and try to divide this country based on their national origin or their heritage. When it comes to education, we ignore it. Pension reform; we will not deal with it here.

CHRIS DODD and I sat in a meeting in Norwich, Connecticut, where a gentleman died of a heart attack because he was so frightened about the situation of his family because the HMO was in the process of dropping them. Can his family, can other families turn to this Congress? No. This Congress is too busy, too busy to take care of people's health needs.

In my district and across this country there are a quarter of a million seniors who are losing their health care and million others that are frightened. We are here sitting around taking up pieces of legislation that have no life-and-death significance, but not HMO reform. Our colleagues might get somebody with a big corporate contribution angry, so there is no HMO reform, there is no help for seniors who are losing their health care.

What I saw what government did as a kid: Members came to Congress so they could be an advocate for those without power, not the insurance companies, not the major corporations. Members were there to make sure the average person had a voice for their troubles.

And then, of course, campaign finance reform. Our colleagues control the House and the Senate. They have always been the reason that campaign finance reform has not passed, filibustered in the Senate, vetoed by President Bush. Now, they could have written any bill that they choose to. They killed campaign finance reform along with health care and pensions and education.

Madam Speaker, our colleagues ought to be ashamed of themselves.

Mr. ROGERS. Madam Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. Madam Speaker, I thank my colleague from Kentucky for yielding this time to me.

Madam Speaker, I would say the debate is somewhat enlightening, except there seems to be far more heat of that aforementioned four-letter definition that my friend from Connecticut mentioned a second ago than any light. We could sit here and retrace history. We could ask why during 40 years of liberal control campaign finance reform to deal with so many problems was never really taken up. We could talk about the fact that true health care reform to protect the doctor-patient relationship rather than the patient-trial lawyer relationship has been championed in this body. We could talk about the fact that for the first time in 16 long years, this common-sense conservative Congress offered tax relief to working Americans.

Indeed, Madam Speaker, I am struck by the irony of the other side who always would cast themselves as defenders of working Americans, and yet time and time and time again reached into the pockets of those working Americans to take their wages and send them here to Washington.

Madam Speaker, our common-sense policies have drawn a clear choice and contrast because we are intent on transferring money, power and influence out of the hands of the bureaucrats. We are intent on making sure that working Americans hang onto more of their wages so they have more to spend on their own families rather than sending those wages here to Washington. That is the real change, and to the extent that we continue this proven record of success with a balanced budget, with tax relief for Americans, with a bold plan to ensure the sanctity of the patient-doctor relationship, we are proud to take our time to debate our differences and to achieve that balanced budget.

Mr. OBEY. Madam Speaker, I yield 1 minute to the gentleman from Michigan (Mr. BONIOR), the distinguished minority whip.

Mr. BONIOR. Madam Speaker, I am sorry the gentleman would not yield. I asked him several times. Perhaps he would answer this question for me.

The gentleman talked about wages and standing up for working people. Is the gentleman in support of increasing the minimum wage, the minimum wage bill that we have? Or is the gentleman opposed to it?

Mr. HAYWORTH. Madam Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Arizona.

Mr. HAYWORTH. The gentleman is in support of cutting taxes for working Americans.

Mr. BONIOR. Madam Speaker, the gentleman will not answer that question, so he obviously is not in support of raising the minimum wage for people who work for less than poverty wages, and that ought to be recorded and understood by the people who he represents.

Mr. OBEY. Madam Speaker, I yield myself 1 minute.

I would also remind the gentleman from Arizona, he says that when the Democrats controlled Congress, we did not take up campaign finance reform. The fact is we passed campaign finance reform three times in this House. I was the sponsor of it on two occasions. He says that we did not do much to help senior citizens. All we did under the Democrat watch was to pass Social Security, to pass Medicare, two programs that the gentleman's Speaker has spent a lifetime trying to destroy.

Madam Speaker, I reserve the balance of my time.

Mr. LIVINGSTON. Madam Speaker, I reserve the balance of my time and reserve the right to close.

Mr. OBEY. Madam Speaker, I yield 2 minutes to the distinguished gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Madam Speaker, I listened to what the gentleman from Arizona (Mr. HAYWORTH) said, and the problem I have is not only with the substance of what he talked about, but the fact that effectively what he has proposed and what the Republican leadership has done is to just waste time, and that is why we are here in this dilemma tonight where they have to pass continuing resolutions, and they cannot get the budget done, and they cannot get the appropriation bills passed because basically they just wasted the Congress' and the American public's time.

The gentleman from Arizona talked about HMO reform. They had no intention of passing HMO reform. Democrats in committee, in the Committee on Commerce and other committees, on the floor, constantly asked that the Patient Bill Of Rights be brought up for a vote and be considered, the Democratic proposal. It was never considered. They just took 1 day, they passed an HMO bill that basically reformed nothing, that was worse than the status quo, and they knew it was not going to go anywhere. They sent it over to the Senate. The Senate never took it up. The Democratic leadership in the Senate tried to take it up today and was denied. There was no intention to pass HMO reform, just to waste time.

The gentleman from Arizona (Mr. HAYWORTH) talked about tax cuts. There was no intention to pass a tax cut. This was just an exercise in futility. They were taking the money from the Social Security Trust Fund. They knew it was never going to pass. It passed the House, it went over to the Senate, they knew the Senate would never take it up. The President vowed he would never sign it. They did not even intend to pass a tax cut really. They were just wasting time.

And we have seen this over and over again, wasting time on appropriations bills, all these antienvironmental riders that will wreck our natural resources that eventually most of them they had to take out.

This whole debate over education, they did not care about public education. They spent days, weeks talking about vouchers, taking money from public schools to give it to private schools. But they did not even intend to really pass that either. They were just wasting time.

That is why we are here today, because this Congress essentially does nothing under the Republican leadership but waste time. They do not want to do anything to help the American public. Just some benchmarks: The least number of days that this Congress has worked in decades, the least number of bills enacted in decades, and, finally, the failure to pass a budget for the first time since the budget process was created.

Mr. LIVINGSTON. Madam Speaker, I yield myself 3½ minutes.

Madam Speaker, I am absolutely astounded at the comments that just preceded me. The gentleman from New Jersey (Mr. PALLONE) obviously is engaged in a tough political race back home, and he has brought rhetoric to the floor of the House. Unfortunately it is only that, has no bearing, no relationship to the truth whatsoever.

The fact is if he would have checked the record, if he had been around here in that campaign, perhaps he would know that we passed the Higher Education Act, the Reading Excellence Act, the school nutrition bill, the vocational technical education bill, a quality Head Start bill, a charter schools bill and legislation to provide new technology to the people with disabilities.

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The fact is that he would know that in the Labor-Health bill now being discussed with the President's people today, the Congress has approved roughly $32 billion.

The differences between the President's position and our position is less than $600 million, maybe as low as $300 million. In many instances, the Congress, the Republican Congress has appropriated more than the President asked for, specifically on the issue with respect to the special education where the President did not ask for the sufficient amount of money that was already authorized by Congress in previous years.

Just about an hour and a half ago, the President's people came to us with what we thought was a good faith negotiation to resolve all our differences and get Congress out of session by the end of the continuing resolution tonight, which we are now trying to extend till Monday.

As late as today, October 9, they came to us with no paper, no spreadsheets, no documentation for what they were asking for, and they have been saying to us since July that they were going to provide offsets, that they were going to provide for legislative cuts to offset the additional spending that the President has requested throughout the last several months, and that they have still to this moment, to this moment not given us the first sheet of paper or the first indication of what those offsets in some black box happen to be.

The fact is if we are dealing in a good faith effort with the opposing party, both sides, at a late date like this, the last days of the legislative session, should put their cards on the table and stop jockeying politically.

But as it was noted by the speaker that just proceeded, all they are interested in is politics and in posturing. They are not interested in actually sitting down and getting the people's business done. I regret that. I regret that.

I am prepared to stay here as long as it takes to get this business done, to get these bills appropriated, to make sure that the money is available for the people that really need it, but make sure that we live within the budget caps that the President himself agreed to last year when he came up with an historic balanced budget agreement with the Congress that led to the first surplus in the American treasury in 30 years, 30 years, Madam Speaker.

I think it's very, very important that we separate the wheat from the chaff, that we separate the political posturing like the speaker that preceded me. Understand, we are going to finish the people's business.

But in order for us to reach a good faith agreement with the administration, with the President of the United States so that we can resolve all of our differences, we have to know what their position is. We have to see their paper. We have to see their request. We have to see the extra money that they want to spend it on, and we have to know where that money is coming from. Until we get it, we are just talking in the dark.

I think it is time to stop talking in the dark. Get real. Put the politics behind us and get the people's business done.

Mr. MURTHA. Madam Speaker, if the gentleman will yield, I want the gentleman to know I have been watching the debate; and the gentleman from Wisconsin (Mr. OBEY) is coming across as reasonable. I do not know what is going on.

Mr. OBEY. Madam Speaker, I yield myself 30 seconds.

Madam Speaker, we have heard a lot of touting over there about the fact the administration is not offsetting some of the items it is asking for us provide.

I see in the National Journal's Congress Daily the fact that the Senate majority leader is asking us to spend $385 million in so-called emergency funding to bail out ConAgra and Tyson's and other big chicken exporters who, on the private market, ship chickens to Russia and now cannot find a buyer.

So when we start talking about declaring something as an emergency, I did not realize it was an emergency that we would bail out big business when they make a bad detail.

Madam Speaker, I yield back the balance of my time.

Mr. LIVINGSTON. Madam Speaker, I yield 2 minutes to the very patient and hard-working, intelligent, dynamic gentleman from Tennessee (Mr. WAMP).

Mr. WAMP. Madam Speaker, I thank the gentleman yielding to me.

Madam Speaker, I had no intention of coming to the floor and engaging in this debate, but I really believe it is important from time to time for people to come maybe to the center of this institution and put things in somewhat of a perspective as we prepare to go home at the end of the 105th Congress.

I have been here 4 years and have grown to deeply and passionately, not only love this institution, but love people on both sides of the aisle.

When I hear people like the gentleman from California come here and make statements about people not doing their job and not working hard, I want the people to know, everybody in this institution that I know have works their tails off.

When my 11-year-old son and my 9 year-old-daughter watch these proceedings and know how much time I spend away from them and how busy I am and everybody in this institution, this institution means more than either one of our political parties. It must be held up. If not, the cynicism in this country is going to grow.

I strongly encourage Members on both sides to say what they mean and mean what they say and quit using words that demean this institution. It is not in our best interest. It is not to our children's best interest.

What is in their best interest is to know that we all work hard and do our very best for the people that we represent. We should debate the issues, but to use shallow rhetoric about this body not having done its job last year or this year, I have been here 4 years. I have seen people work around the clock from both sides of the aisle. Four hundred thirty-five people work, from my perspective, as hard as they possibly could.

I worked with my friends on the other side of the aisle on campaign finance reform. I tried not to come down here and run my mouth if I did not have something to say that was a value to this process.

Please, for the sake of this government, for civil government, for decency, for cooperation, for the next Congress and the next Congress and Congresses 100 years from now, quit using shallow rhetoric.

Mr. OBEY. Madam Speaker, I yield myself 10 seconds.

Madam Speaker, I wish we had heard that same speech yesterday.

Madam Speaker, I yield 2 minutes to the distinguished gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Madam Speaker, let me paraphrase Admiral Stockdale, a former vice presidential candidate: "Who are we, and why are we here?"

It is clear that the Republican leadership of this House has no idea who they are and certainly do not know why they are here. They do not know why the people of this country sent them to represent their interests. This Republican-led Congress has failed the American people.

We have passed the end of the fiscal year, and what have they accomplished? The Republican leadership has not passed the budget. They have not completed appropriations. We only have a few days left before this Congress adjourns, and they refuse to address the issue that the American people care about.

Let us talk about the missed opportunities. Social Security reform. Instead of doing that, they would raid the Social Security Trust Fund and not preserve and protect Social Security for the future.

Tobacco legislation. Three thousand kids in this country start to smoke every single day, and 1,000 will die. But, no, we could not do something about tobacco legislation.

Real managed care reform. About getting doctors and patients to make the decisions, the medical decisions in their lives instead of insurance companies. No. We had bipartisan support in this body. We could have passed it in a heartbeat. If the Speaker of this House wanted to get it passed, we could have done it at a moment's notice.

Let us talk about minimum wage and raising the living standards of working families in this country. No, we could not do that.

Campaign finance reform. Certainly let us not reform this House. Let us not do that.

They have failed to take any action to strengthen our public schools, reduce class size, make sure we have 100,000 new teachers in the classroom, modernize our schools so that our kids get wired up to the Internet and they can succeed in their future.

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No, none of these we could do.

Let me just say, the American people deserve to know why we are here. We are here to represent their interests. We have a few short hours in this session of the Congress. Let us do something about our school system; let us pass legislation that is meaningful to the people of this country.

Mr. LIVINGSTON. Madam Speaker, I reserve the balance of my time, and I reserve the right to close.

The SPEAKER pro tempore (Mrs. EMERSON). The gentleman from Wisconsin has 4 minutes remaining; the gentleman from Louisiana has 8½ minutes remaining.

Mr. OBEY. Madam Speaker, I yield 1 minute to the distinguished gentleman from New Jersey (Mr. MENENDEZ).

Mr. MENENDEZ. Madam Speaker, this Republican Congress has been a failure. We have spent a lot of time, yes, on investigations and millions of dollars on investigations, but not making a meaningful difference in people's lives.

Madam Speaker, we have a balanced budget and a Federal surplus because of the Democratic deficit reduction program, yet my colleagues are 9 days overdue on a budget for America. No mayor, no Governor, no American family could do the same. My colleagues have failed families in this country in giving them protection from HMO abuses. My Republican colleagues have failed seniors by making sure that Social Security comes first in the context of the budget surplus.

Madam Speaker, we Democrats do not want to let you go home and fail our children. We want to put 100,000 teachers back in the classrooms of this country to help educate our children and modernize our schools. If we have billions of dollars for tax cuts, we can have some money for the Nation's children that are going to make us competitive in the next century.

Democrats will not let you leave and go home and campaign; we will stay here and work and make sure, we are going to ensure, that you do not commit the final failure, which would be failing our children.

Mr. LIVINGSTON. Madam Speaker, I yield myself such time as I may consume.

I was prepared to close, but evidently we are going to have continue to have rhetoric that sometimes compels me to answer.

I left the floor a little while ago to take care of some very important business, and when I returned I was advised that one of the speakers on the other side took this political rhetoric to such an extent that he talked about a campaign rally, or a town meeting at which he was present, and an elderly gentleman talked about HMOs and got so excited that he fell down and died, and for some reason that was supposed to be our fault.

I heard the last speaker say that we have deprived America of all of the good that the President wishes to bestow upon them, and I just get concerned about the rhetoric. I just asked my friend from Arizona there, does he have any thoughts about how heated this rhetoric gets?

Madam Speaker, I yield to the gentleman from Arizona.

Mr. HAYWORTH. Madam Speaker, I think we could do with a lot more light, and a lot less heat. I think it is unfortunate when members of the minority, and we can understand that different people have different philosophies and that we should exchange those, but to have reason and, to a certain degree, passion replaced by a sad rhetorical device to imply that anyone's policies on this floor led to the death of an individual I think is highly regrettable.

I would hope that those on both sides of the aisle would rethink that type of rhetoric, because again, it has no place in this Chamber. Indeed, given the standards that many have applied to the conservative side of the aisle, I would hope that they would offer the same scrutiny to such unfortunate statements that come from the other side.

The bottom line is this: We can work together in the framework of what we did last year, balancing the budget for the first time in a generation; offering tax cuts to working folks for the first time in 16 years; and I would hope that all of the poll-driven rhetoric and all of the passion-driven examples that are highly regrettable would be left outside the Chamber.

Mr. LIVINGSTON. Madam Speaker, reclaiming my time, the gentleman is absolutely correct. Because of our efforts, we now have a balanced budget, $70 billion in surplus. Because of our efforts, we have the lowest interest rates in a generation. Because of our efforts, our children have a future which, hopefully, if we can get our way, will be free of undue taxation and free of undue interference from Washington, D.C. That is our goal. That is our hope. That is our platform. We are prepared to run on that at any time.

But to be accused of inciting conditions that caused the death of an American citizen frankly goes beyond the pale. I am really surprised that that was used in the rhetoric here on the floor.

Madam Speaker, I reserve the balance of my time, and I hope to close this debate soon.

Mr. OBEY. Madam Speaker, how much time remains?

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. OBEY) has 3 minutes remaining.

Mr. OBEY. Madam Speaker, I yield myself the remainder of the time.

Madam Speaker, first of all, I would like to thank the suddenly moderate gentleman from Arizona for his pieties, and I would simply like to say that I love this institution, and I respect many, many Members in it. And I revere what this institution is supposed to mean to each and every citizen of the country. But in the last analysis, I think they are going to be impressed much less by our pieties and by our rhetoric than they are by our actions.

It seems to me if we really want to inspire the American people, we will take action in the next week, as we make our final decisions on the budget, a budget which, after all, does define what our values are, and as we make those choices, I hope that the choices that we make will indeed help to make a difference for struggling working families who need every bit of help they can to make education affordable, to provide decent classrooms for kids, to provide decent teacher-student ratios so that kids have a chance to learn in the poor school districts as well as the wealthy school districts in this country.

I hope that in the area of health we will recognize that every American has a right to full access to health care, just by virtue of the fact that they were born one of God's creatures; and I hope that we will recognize our obligation to strengthen people's retirement security, and I hope we will recognize our obligation to drop the innumerable attacks on the environment that we see in appropriation bills that threaten the future environmental health and safety of this country.

So I would urge Members to vote for this simple extension of time so that this very tardy Congress can get its work done.

I make no criticism of the gentleman from Louisiana in this. I think we have said many times, if all of these issues were left to us to work out between the two of us, I do not think there is an issue that we could not solve. But unfortunately, there are many pressures above our pay grade which have often interposed themselves and made it very, very difficult for our committee to reach the same kind of accommodation that we were able to reach last year, and that is why we stand here tonight with still so much work to be done, and with still so many public needs to be met.

I would hope that in the time that we have remaining and the time that is provided by this resolution will help us indeed to put people first.

□ 1800

Mr. LIVINGSTON. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I want to thank my friend, the gentleman from Wisconsin (Mr. OBEY) for his comments. I do agree with them. I think if he and I were left to work out all of the problems that divide us, we could be through and be out of here tonight. However, unfortunately, there are others involved in the process. It has been a long calendar, both in the calendar year 1998 and in 1997, that comprised the legislative agenda for the 105th Congress.

I happen to think we have accomplished a great deal. I know my friend might quarrel with that, but we have managed to roll back taxes, we have cut regulation, we have passed a balanced budget agreement, in conjunction with the President.

We have expected the President to adhere to the requirements of that balanced budget agreement, and I think one of the reasons we stand here tonight is because the balanced budget agreement has not been adhered to by the President. As I noted earlier, the President signed that budget agreement.

We have set caps for the discretionary spending, that which goes through the appropriations process for departments, agencies, and programs. Last year we knew that we were on a glide path that would be difficult to meet, and the President in fact did not meet it, but he expected the Congress would pass tobacco taxes and all sorts of additional taxes and user fees to meet his additional agenda that he proposed in February when he addressed us in the State of the Union speech.

We do not have that extra money. We would expect the President to come to us early in the process and say, if we do not have that extra money, here is how I expect to get some of my other initiatives fulfilled. Certainly that is a negotiating process. We would never expect the President to get all of his initiatives fulfilled, any more than we would expect to get all of ours imposed upon him in an equal negotiation, but we have not had an equal negotiation.

We have had our cards on the table for days, weeks, months. The President knows, his people know where we are on appropriations bills, and just only 2 hours ago came to us and said they are still not going to give us their offsets, and they are going to parcel out the extra items for spending that he has targeted. That puts us in a tough position.

I would say that it is time to put the politics behind us. I would rely on our accomplishments. My friend, the gentleman from Illinois (Mr. MANZULLO) has given me a long list of fiscal accomplishments which I think is so good I would like to include them in the RECORD at this point.

The material referred to is as follows:

TOP TEN FISCAL ACCOMPLISHMENTS

(1) Most families with children will save $400 in taxes per child in 1998 and $500 thereafter. That amounts to over $100 million dollars in each congressional district that the taxpayers get to keep.

(2) Most families with children in the first two years of college will be able to use money for college expenses that otherwise would have gone for taxes and can now set up educational savings accounts whose profits are tax free.

(3) Most Americans who buy and sell stocks, or who sell a piece of real estate, will save considerably on their taxes.

(4) Most Americans who bell their principal residence won't have to pay one dime of capital gains taxes.

(5) Many children of farmers and small business owners who want to inherit their parents' property and businesses will pay less or no death taxes.

(6) Small business owners will be able to deduct a greater share of health and accident insurance premiums, and be able to write off a greater amount of money for new equipment.

(7) Young people will be able to save easier for a down payment on their first home by our creating a new IRA.

(8) Stay at home spouses will no longer be discriminated against because we changed the IRA laws to allow them to participate.

(9) People can save $2,000 a year in retirement IRAs paid for by after tax dollars so that every cent earned is tax free at retirement.

(10) In 1993 President Clinton gave us the biggest tax increase in history, but now most Americans have received a tax cut and a Balanced Budget Act that will stop deficit spending and pay off the national debt.

Mr. LIVINGSTON. Mr. Speaker, I hope Members understand that it is important that we complete our business, that it is important that we finish the appropriations process, that we work out a mutually agreeable negotiation with the President and his representatives, that he sign the appropriations bills, either within their individual context or within an omnibus bill, gathering those bills left unattended, and that once signed, we can complete the work of this Congress and go back and campaign for reelection.

I do not have an opponent this year. I am happy to tell the Members that if we cannot get the President to give us his numbers and show us his cards and enter into a negotiation, I am prepared to stay here.

I know that is going to inconvenience a lot of Members, Republican and Democrat. I do not think that the vast majority of Members want to stay here past tonight, let alone Monday or next Friday or next month, but if necessary, it will not bother me. I will just be here. I will just plug along.

I hope that one day, whether it is today or tomorrow or Sunday or Monday or next week, one day, that the representatives of the Office of Management and Budget will say, okay, here is what we want and here are our offsets, and here is how we are going to pay for it. We will take this, they will take that, we will wrap it all up, get the President to sign it, and we will go home.

If not, I will just stay here. We will not close the government. We are not going to have any shutdowns. We are just going to keep on plugging and do our business. If the President wants to posture in the Rose Garden, I will go run upstairs into the press gallery and I will answer his posturing. If he wants to get down to business, we will roll up our sleeves and we will get down to business. Hopefully, that is what we will opt for. We will in fact complete the people's business. We will do it soon. That demands that we first vote for this continuing resolution.

We are not going to be able to complete our business tonight, unfortunately, but we might, we might successfully complete our business by Sunday or Monday, at the latest. That is why we are asking for this continuing resolution to be passed and signed into law, to give us the time that we need to do our job, working with the White House and our colleagues on both sides of the aisle. That is why I ask for a yes vote on this three-day continuing resolution.

Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. EMERSON). The joint resolution is considered as read for amendment, and pursuant to the order of the House of today, the previous question is ordered on the joint resolution.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LAHOOD. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 421, nays 0, not voting 13, as follows:

[Roll No. 511]

YEAS—421

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner

Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sánchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NOT VOTING—13

Berman
Frank (MA)
Inglis
John
Kennelly
Manton
Mollohan
Nethercutt
Poshard
Pryce (OH)
Smith (MI)
Tierney
Yates

□ 1824

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4761, URUGUAY ROUND AGREEMENTS COMPLIANCE ACT

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report (Rept. No. 105–805) on the resolution (H. Res. 588) providing for consideration of the bill (H.R. 4761) to require the United States Trade Representative to take certain actions in response to the failure of the European Union to comply with the rulings of the World Trade Organization, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING A REQUIREMENT OF CLAUSE 4(b) OF RULE XI WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS REPORTED BY THE RULES COMMITTEE AND PROVIDING FOR MOTIONS TO SUSPEND THE RULES

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report (Rept. No. 105–806) on the resolution (H. Res. 589) waiving a requirement of clause 4(b) to rule XI with respect to consideration of certain resolutions reported from the Committee on Rules, and for other purposes, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. EMERSON). The chair announces that any rollcall votes on suspensions will be postponed until tomorrow.

HOUR OF MEETING ON TOMORROW

Mr. CASTLE. Madam Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 10 a.m. tomorrow.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Delaware?

There was no objection.

GRANTING MEMBERS OF THE HOUSE PRIVILEGE TO EXTEND AND REVISE REMARKS IN CONGRESSIONAL RECORD UNTIL LAST EDITION IS PUBLISHED

Mr. CASTLE. Madam Speaker, I ask unanimous consent that Members may have until publication of the last edition of the CONGRESSIONAL RECORD authorized for the second session by the Joint Committee on Printing to revise and extend their remarks and to include brief, related extraneous material on any matter occurring before the adjournment of the second session sine die.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Delaware?

There was no objection.

□ 1830

LITTLE ROCK NINE MEDALS AND COINS ACT

Mr. CASTLE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2560) to award congressional gold medals to Jean Brown Trickey, Carlotta Walls LaNier, Melba Patillo Beals, Terrence Roberts, Gloria Ray Karlmark, Thelma Mothershed Wair, Ernest Green, Elizabeth Eckford, and Jefferson Thomas, commonly referred to collectively as the "Little Rock Nine" on the occasion of the 40th anniversary of the integration of Central High School in Little Rock, Arkansas, as amended.

The Clerk read as follows:

H.R. 2560

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Little Rock Nine Medals and Coins Act".

TITLE I—LITTLE ROCK NINE GOLD MEDALS

SEC. 101. CONGRESSIONAL FINDINGS.

The Congress hereby finds the following:

(1) Jean Brown Trickey, Carlotta Walls LaNier, Melba Patillo Beals, Terrence Roberts, Gloria Ray Karlmark, Thelma Mothershed Wair, Ernest Green, Elizabeth Eckford, and Jefferson Thomas, hereafter in this section referred to as the "Little Rock Nine", voluntarily subjected themselves to the bitter stinging pains of racial bigotry.

(2) The Little Rock Nine are civil rights pioneers whose selfless acts considerably advanced the civil rights debate in this country.

(3) The Little Rock Nine risked their lives to integrate Central High School in Little Rock, Arkansas, and subsequently the Nation.

(4) The Little Rock Nine sacrificed their innocence to protect the American principle that we are all "one nation, under God, indivisible".

(5) The Little Rock Nine have indelibly left their mark on the history of this Nation.

(6) The Little Rock Nine have continued to work towards equality for all Americans.

SEC. 102. CONGRESSIONAL GOLD MEDALS.

(a) PRESENTATION AUTHORIZED.—The President is authorized to present, on behalf of the Congress, to Jean Brown Trickey, Carlotta Walls LaNier, Melba Patillo Beals, Terrence Roberts, Gloria Ray Karlmark, Thelma Mothershed Wair, Ernest Green, Elizabeth Eckford, and Jefferson Thomas, commonly referred to collectively as the "Little Rock Nine", gold medals of appropriate design, in recognition of the selfless heroism such individuals exhibited and the pain they suffered in the cause of civil rights by integrating Central High School in Little Rock, Arkansas.

(b) DESIGN AND STRIKING.—For purposes of the presentation referred to in subsection (a), the Secretary of the Treasury shall strike a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary for each recipient

(c) AUTHORIZATION OF APPROPRIATION.—Effective October 1, 1997, there are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 103. DUPLICATE MEDALS.

(a) STRIKING AND SALE.—The Secretary of the Treasury may strike and sell duplicates in bronze of the gold medals struck pursuant to section 2 under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

(b) REIMBURSEMENT OF APPROPRIATION.—The appropriation used to carry out section 2 shall be reimbursed out of the proceeds of sales under subsection (a).

SEC. 104. NATIONAL MEDALS.

The medals struck pursuant to this title are national medals for purposes of chapter 51 of title 31, United States Code.

TITLE II—GERALD AND BETTY FORD GOLD MEDAL

SEC 201. CONGRESSIONAL GOLD MEDAL.

(a) PRESENTATION AUTHORIZED.—The President is authorized to present, on behalf of the Congress, to Gerald R. and Betty Ford a gold medal of appropriate design—

(1) in recognition of their dedicated public service and outstanding humanitarian contributions to the people of the United States; and

(2) in commemoration of the following occasions in 1998:

(A) The 85th anniversary of the birth of President Ford.

(B) The 80th anniversary of the birth of Mrs. Ford.

(C) The 50th wedding anniversary of President and Mrs. Ford.

(D) The 50th anniversary of the 1st election of Gerald R. Ford to the United States House of Representatives.

(E) The 25th anniversary of the approval of Gerald R. Ford by the Congress to become Vice President of the United States.

(b) DESIGN AND STRIKING.—For purposes of the presentation referred to in subsection (a), the Secretary of the Treasury shall strike a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary.

(c) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated not to exceed $20,000 to carry out this section.

SEC. 202. DUPLICATE MEDALS.

(a) STRIKING AND SALE.—The Secretary of the Treasury may strike and sell duplicates in bronze of the gold medal struck pursuant to section 201 under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

(b) REIMBURSEMENT OF APPROPRIATION.—The appropriation used to carry out section 201 shall be reimbursed out of the proceeds of sales under subsection (a).

SEC. 203. NATIONAL MEDALS.

The medals struck pursuant to this title are national medals for purposes of chapter 51 of title 31, United States Code.

TITLE III—JACKIE ROBINSON COMMEMORATIVE COINS

SEC. 301. 6-MONTH EXTENSION FOR CERTAIN SALES.

Notwithstanding section 101(7)(D) of the United States Commemorative Coin Act of 1996, the Secretary of the Treasury may, at any time before January 1, 1999, make bulk sales at a reasonable discount to the Jackie Robinson Foundation of not less than 20 percent of any denomination of coins minted under section 101(7) of such Act which remained unissued as of July 1, 1998, except that the total number of coins of any such denomination which were issued under such section or this section may not exceed the amount of such denomination of coins which were authorized to be minted and issued under section 101(7)(A) of such Act.

TITLE IV—$1 COIN DESIGN EVALUATION

SEC. 401. COMMISSIONING OF STUDY REQUIRED.

(a) IN GENERAL.—The Comptroller General of the United States shall commission, on a reimbursable basis, a study, similar to the study conducted under section 302 of the United States Commemorative Coin Act of 1996, to compare the relative acceptance by the public and the fiscal impact on the Treasury of the United States of the use of the image of Sacajawea on the obverse of the new $1 coin with that of the relative acceptance by the public and the fiscal impact on the Treasury of the United States of the use of the image of the Statue of Liberty.

(b) DESIGN AND SCOPE OF STUDY.—The study required to be commissioned under subsection (a) shall—

(1) be designed by the Comptroller General, in consultation with the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, the Secretary of the Treasury, and the Director of the United States Mint;

(2) be conducted by private sector consultants selected by the Comptroller General on the basis of their education, training, and experience;

(3) measure the estimated acceptance of each image, including an estimate of the number of potential sales of proof, uncirculated, and other qualities of coins bearing each such image;

(4) estimate the number of coins bearing each such image which would be removed from circulation for collections or as souvenirs by both formal and informal numismatists and other collectors, as well as tourists; and

(5) examine the financial impact which could flow from other factors that might influence the choice of an image for the obverse of the coin.

(c) INCLUSION OF FOCUS GROUPS AND INTERESTED ASSOCIATIONS.—In carrying out the study required under this section, the consultants selected by the Comptroller General shall—

(1) convene groups consisting of individuals representing a broad cross-section of the populace for purposes of testing the relative acceptance of the 2 images; and

(2) consult with the American Numismatic Association and the Coin Coalition, as well as any marketing organization or operator of a sales location which might sell proof, uncirculated, and other qualities of the new $1 coin.

(d) REPORT.—

(1) IN GENERAL.—A report on the study shall be completed and submitted to the Congress before January 31, 1999.

(2) CONTENTS.—The report submitted pursuant to paragraph (1) shall contain the findings and conclusions of the consultants conducting the study and the Comptroller General, together with such recommendations as the consultants and the Comptroller General determine to be appropriate.

(e) FUNDING.—Not to exceed $350,000 of the costs of the study required under this section shall be reimbursed by the Secretary of the Treasury from the United States Mint Public Enterprise Fund.

TITLE V—LEIF ERICSSON MILLENNIUM COMMEMORATIVE COIN

SEC. 501. SHORT TITLE.

This title may be cited as the "Leif Ericsson Millennium Commemorative Coin Act".

SEC. 502. COIN SPECIFICATIONS.

(a) $1 SILVER COINS.—In conjunction with the simultaneous mining and issuance of commemorative coins by the Republic of Iceland in commemoration of the millennium of the discovery of the New World by Leif Ericsson, the Secretary of the Treasury (hereafter in this title referred to as the "Secretary") shall mint and issue not more than 500,000 1 dollar coins, which shall—

(1) weigh 26.73 grams;

(2) have a diameter of 1.500 inches; and

(3) contain 90 percent silver and 10 percent copper.

(b) LEGAL TENDER.—The coins minted under this title shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of section 5136 of title 31, United States Code, all coins minted under this title shall be considered to be numismatic items.

SEC. 503. SOURCES OF BULLION.

The Secretary may obtain silver for minting coins under this title from any available source, including stockpiles established under the Strategic and Critical Materials Stock Piling Act.

SEC. 504. DESIGN OF COINS.

(a) DESIGN REQUIREMENTS.—

(1) IN GENERAL.—The design of the coins minted under this title shall be emblematic

of the millennium of the discovery of the New World by Leif Ericsson.

(2) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this title there shall be—

(A) a designation of the value of the coin;

(B) an inscription of the year "2000"; and

(C) inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) SELECTION.—The design for the coins minted under this title shall be—

(1) selected by the Secretary after consultation with the Leifur Eiríksson Foundation and the Commission of Fine Arts; and

(2) reviewed by the Citizens Commemorative Coin Advisory Committee.

SEC. 505. ISSUANCE OF COINS.

(a) QUALITY OF COINS.—Coins minted under this title shall be issued in uncirculated and proof qualities.

(b) MINT FACILITY.—Only 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this title.

(c) COMMENCEMENT OF ISSUANCE.—The Secretary may issue coins minted under this title beginning January 1, 2000.

(d) TERMINATION OF MINTING AUTHORITY.—No coins may be minted under this title after December 31, 2000.

SEC. 506. SURCHARGES.

(a) IN GENERAL.—All sales of coins minted under this title shall include a surcharge of $10 per coin.

(b) DISTRIBUTION.—All surcharges received by the Secretary from the sale of coins issued under this title shall be promptly paid by the Secretary to the Leifur Eiríksson Foundation for the purpose of funding student exchanges between students of the United States and students of Iceland.

(c) AUDITS.—The Leifur Eiríksson Foundation shall be subject to the audit requirements of section 5134(f)(2) of title 31, United States Code, with regard to the amounts received by the Foundation under subsection (b).

SEC. 507. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this title.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Delaware (Mr. CASTLE) and the gentleman from Minnesota (Mr. VENTO) each will control 20 minutes.

The Chair recognizes the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of 2560, the Little Rock Nine Medals and Coin Act. This bill directs the production of nine Congressional Gold Medals on the occasion of 40th anniversary of the integration of Central High School in Little Rock, Arkansas, by Jean Brown Trickey, Carlotta Walls LaNier, Melba Patillo Beals, Terrence Roberts, Gloria Ray Karlmark, Thelma Mothershed Wair, Ernest Green, Elizabeth Eckford and Jefferson THOMAS, known as the "Little Rock Nine."

The gentleman from Mississippi (Mr. THOMPSON) has worked hard as the House sponsor to obtain 299 co-sponsors for this measure.

The rest of the amendment to this bill represents what has become a regular function of reconciling our coin legislation with that of the Senate. It includes the Gerald and Betty Ford Congressional Gold Medal, which had already passed this House by a wide margin but was used as a vehicle by the Senate to transmit their priority coin programs. It accepts these Senate priorities by granting the Robinson Foundation a limited opportunity to make a bulk purchase of authorized but unsold Jackie Robinson commemorative coins. It provides for a study to ensure successful public acceptance of the new one dollar coin.

Finally, it enacts the Citizens Commemorative Coin Advisory Committee recommendation in favor of the bill of the gentleman from Iowa (Mr. LEACH) to commemorate the millennium of Leif Ericsson's voyage of discovery by jointly minting coins with Iceland.

I urge the immediate adoption of H.R. 2560.

Madam Speaker, I reserve the balance of my time.

Mr. VENTO. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of this legislation. This is good legislation. The Little Rock Nine is a very profound demonstration, I think, of the human spirit as they climbed not just those steps in Little Rock, Arkansas, but climbed into the history and raised the consciousness of this country in terms of the civil rights movement and the need, in our diverse population, for integration, to work together.

I would further like to comment, Madam Speaker, on the issue of the other medals in terms of recognizing Jackie Robinson for his significant role in terms of athletics and his outstanding role as an athlete but, most importantly, as an American.

I also, of course, would be remiss if I did not recognize President Gerald FORD, and Betty Ford, for their work here and, of course, on the eve of Columbus Day, October 12, to recognize Leif Ericsson. I know that many of my constituents in Minnesota would endorse the recognition that he is receiving here, in spite of my efforts to teach a more poignant aspect of history with regards to the discovery of North America.

At the request of the gentleman from Minnesota (Mr. SABO), I have actually sponsored this. Now, there is real bipartisanship and working together, Madam Speaker.

Madam Speaker, I am very pleased that we are here on the floor today considering legislation to award the congressional gold medal to those individuals known as the "Little Rock Nine" on the occasion of the 40th anniversary of the integration of Central High School in Little Rock, Arkansas.

I would like to commend Congressman Bennie Thompson for introducing this bill and his tireless work and commitment to see it become law.

The bill will authorize the President to award congressional gold medals to Jean Brown Trickey, Carlotta Walls LaNier, Melba Patillo Beals, Terrence Roberts, Gloria Ray Karlmark, Thelma Mothershed Wair, Ernest Green, Elizabeth Eckford, and Jefferson Thomas.

These individuals advanced the struggle for civil rights in this country by their heroic efforts to integrate Central High School.

When these courageous young people climbed the stairs of Central High School on September 25, 19957 and they climbed into the civil rights history of your Nation, they forced this country to face its racial segregation.

They themselves did something about it and challenged our Nation to face up to the issue of justice.

I am also pleased that this bill includes a provision to extend the Jackie Robinson Commemorative Coin Program so that the Jackie Robinson Foundation can continue to purchase these coins until January 1, 1999.

I would like to thank Chairman CASTLE and the work of others like Congressman MEEKS who worked to ensure that we properly honor this American sports hero and legendary African-American.

With this bill we also authorize the presentation of a presidential gold medal to President Gerald and Betty Ford as well as the Leif Ericsson Millennium Commemorative Coin Act. I'm sure many of my Minnesota constituents will endorse this recognition as I have at Congressman SABO's request.

Madam Speaker, I reserve the balance of my time.

Mr. VENTO. Madam Speaker, I yield 5 minutes to the gentleman from Mississippi (Mr. THOMPSON), my good friend from the other end of the Mississippi, who has sponsored the underlying provision with regards to the Little Rock Nine.

Mr. THOMPSON. Madam Speaker, on September 25, 1957, nine African American high school students voluntarily risked their lives to remind us of the basic American principles. When Jean Trickey, Carlotta LaNier, Melba Beals, Terrence Roberts, Gloria Karlmark, Thelma Wair, Ernie Green, Elizabeth Eckford and Jefferson Thomas stepped onto the campus at Central High School in Little Rock, Arkansas, they forced our country to admit that segregation is an abomination to every democratic principle and every freedom we enjoy as Americans.

Make no mistake, this is about race. It is about all the valiant men and women who fought in and are still fighting in our Nation's struggle to recognize the civil rights of every American.

By passing H.R. 2560 and bestowing the highest award Congress can present to civilians on the Little Rock Nine, Congress is sending an historic, significant message. It is important for that little boy to be able to play baseball on the lighted field, and it is equally important for all Americans to recognize men and women who made that seemingly small feat possible for a small town boy in Arkansas.

Today, our Nation has a solemn and long overdue thanks. Thanks to the civil rights pioneers who blazed a trail through the wilderness of racial discrimination to lead our Nation, kicking and screaming at times, down the path of justice and equality.

I might add, Madam Speaker, it is long overdue. These individuals who are now all in their mid-fifties have paid a tremendous price. Some of them are on disability. Some of them are very successful. Nonetheless, by awarding this commemorative coin, we now recognize the work that they did.

Mr. VENTO. Madam Speaker, I ask unanimous consent to yield the balance of the time to the gentleman from Mississippi (Mr. THOMPSON) to manage that time.

The SPEAKER pro tempore (Mrs. EMERSON). Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. CASTLE. Madam Speaker, I yield 2 minutes to the distinguished gentleman from Michigan (Mr. EHLERS).

Mr. EHLERS. Madam Speaker, I am very pleased to address the portion of this bill which honors the thirty-eighth president of the United States, Gerald R. Ford and his wife Betty. We previously passed that portion of this bill, but it was under unanimous consent, and we did not have an opportunity for debate.

The thirty-eighth president, Gerald R. Ford, has long been noted for his successful efforts to heal this Nation after a previous impeachment drama that we dealt with. Our Nation owes him a great debt of gratitude for his unprecedented work in carrying us through that most difficult period, for restoring and healing and stability in this Nation.

This is a particularly appropriate year to recognize him. It is the year of President Ford's 85th birthday. It is also the year of the 80th birthday of Betty Ford, who in her own right deserves recognition. Her name is also included on the medal, due to her work in publicizing the dangers of breast cancer and vastly increasing public awareness of this terrible disease in this Nation.

Her work with the Betty Ford Clinic also has earned her a place of recognition on this medal.

In addition to those two birthdays, this year we also celebrate their 50th wedding anniversary, as well as the 50th anniversary of President Ford's election to this House of Representatives, where he served very ably for 25 years and, in fact, became the minority leader for a number of years.

In addition to that, this is the 25th anniversary of the year that President Ford acceded to the vice presidency of the United States of America. As we all know, he did a marvelous job as vice president and president and put this Nation on the right course for years to come.

In recognition of the accomplishments of both President Ford and his wife Betty, and in recognition of all that he has done for this Nation, I urge all members to vote for this bill.

☐ 1840

Mr. CASTLE. Madam Speaker, I ask unanimous consent that the balance of my time to manage this legislation be turned over to the gentleman from Oklahoma (Mr. LUCAS), another member of the committee.

The SPEAKER pro tempore (Mrs. EMERSON). Is there objection to the request of the gentleman from Delaware?

There was no objection.

Mr. THOMPSON. Madam Speaker, I yield 2 minutes to the gentleman from Arkansas (Mr. SNYDER).

Mr. SNYDER. Madam Speaker, last night on this floor by unanimous consent agreement a bill was passed, Senator BUMPERS' Senate bill to include Little Rock Central High School and the surrounding neighborhood as a national historic site, as part of our national park system, to recognize the historical significance of the events that occurred in the school year 1957–1958 in Little Rock, Arkansas, at Central High School. I am proud to have been a cosponsor of that bill and to be a cosponsor of this bill.

As I went around getting cosponsors with the gentleman from Mississippi (Mr. THOMPSON) and others for this recognition bill of the Little Rock Nine, all you had to say to other Members is, "This is Central High School, 1957, Little Rock Nine." We are very much aware that the eyes of the world were on Central High School at that event.

What was the event about? It was about nine kids, nine children who put up with events that the rest of us have never had to put up with in our life. Melba Patillo has a book out the last several years called "Warriors Don't Cry." That is what this was for these nine kids, these nine children as they were fighting our battles, the battles of America during this school year in 1957.

This photo right here is Elizabeth Eckford, one of the Little Rock Nine, in 1957 who found herself alone in the middle of a mob one day at school. This one right here is Hazel Massery who was a 15-year-old student at the time. This photo seared the world with a picture of bigotry. They were beaten, they were kicked, they were tripped, they had food thrown on them, they had verbal insults. Worst of all, they feared for their lives. It changed their lives but it also changed the lives of the rest of us and of our Nation.

This is a photo from 1997, the 40th anniversary of the desegregation of Central High School. This is Elizabeth Eckford, 40 years later, and this is that 15-year-old girl who had such a look of hatred and bigotry on her face 40 years ago. I am very pleased to be part of the recognition of the Little Rock Nine and their courage. It is very, very important that we recognize what they went through. I was in the Marine Corps in Vietnam. We had the opportunity to earn medals. There were no medals given in 1957 and 1958 for the sacrifices that the Little Rock Nine went through.

Mr. LUCAS of Oklahoma. Madam Speaker, I yield 2 minutes to the gentleman from Arkansas (Mr. HUTCHINSON).

Mr. HUTCHINSON. Madam Speaker, I thank the gentleman for yielding me this time. I want to congratulate my colleague from Arkansas for his work on this and so many others. Forty-one years ago, nine youths walked through the doors of Little Rock Central High School and forever changed American culture. The Little Rock Nine as they are known today forced this Nation to examine its soul and decide whether ours would be a society of hostility and division or a society of tolerance and unity. The images of those youths facing an angry and defiant mob at the door of Central High are forever burned into our national consciousness. They are images of fear and hesitation. They are images of a crossroads in our Nation's history. While we cannot and should not ever forget those painful images of four decades ago, we should today celebrate the fact that this great Nation made the right choice and took the right path. We decided that ours would be a Nation of unity, not division; a Nation of tolerance, not hate.

Madam Speaker, all Americans today owe a debt of gratitude to those nine youths who forced this Nation to look inward and make that decision. For that, I am proud to rise today in support of this legislation to award them the Congressional Gold Medal.

Mr. THOMPSON. Madam Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Madam Speaker, I want to thank the gentleman for yielding me this time. When the Little Rock Nine walked in the door, I was a 16-year-old college freshman at Arkansas AM&N College. It is so delightful to see an opportunity, they are contemporaries of mine. Ernie Green. Mrs. Patillo actually was a teacher at the Scipio A. Jones High School when I did student teaching. That is Melba

Patillo's mother. Minnie Jean Brown was my mother's favorite of the nine. Each day after the news, she wanted to find out, what did Minnie Jean Brown do that particular day.

Daisy Bates really ought to be in this group, because she emerged as a leader among leaders at that time. Attorney Wiley Branton from Pine Bluff who ultimately became an attorney for the national NAACP. Dr. Flowers, Attorney Flowers, all of those who played a role, I am simply pleased to join with others who feel that the time has come to say to the Little Rock Nine and all of those involved in that particular situation, that they too played a major role in the civil rights development in this country during the 1950s and 1960s which have brought us to this point today.

Mr. THOMPSON. Madam Speaker, I yield 2 minutes to the gentleman from Arkansas (Mr. BERRY) who did a lot of work to get this bill to where it is now.

Mr. BERRY. Madam Speaker, I want to thank my colleague from Mississippi for this time and congratulate him and my colleague from Arkansas and many others who have made this evening possible.

I rise today in support of H.R. 2560 and also to pay tribute to nine people who showed America what it means to be courageous. This legislation will award the Congressional Gold Medal to nine people who 40 years ago stepped into a school and changed history forever. We all remember the day when the nine young people faced an angry mob of segregationists to voluntarily integrate Central High School in Little Rock, Arkansas. These young people became symbols to all of us of what it means to be courageous, honorable and exceptionally brave.

This legislation honors Jean Brown Trickey, Carlotta Walls LaNier, Melba Patillo Beals, Terrence Roberts, Gloria Ray Karlmark, Thelma Mothershed Wair, Ernest Green, Elizabeth Eckford and Jefferson Thomas for making our country a better place to live. Although they probably did not know it at the time, those people who were only children in 1957 taught all Americans a valuable lesson: Stand up for what you believe in. Be courageous and proud. Those nine people deserve the Congressional Gold Medals for what they did. That is why every Member should support this legislation.

Mr. THOMPSON. Madam Speaker, I yield 2 minutes to the gentleman from New York (Mr. MEEKS).

Mr. MEEKS of New York. Madam Speaker, it has come to my attention this summer, in the heat of the Sosa-McGwire home run race, that the Jackie Robinson Commemorative Coin program was set to end on June 30, 1998. This program has been a source of pride for Americans as we have recognized a true American hero. Mr. Robinson's breaking of the race barrier in professional sports in many aspects signaled our country's drive to equal justice and equal treatment under the law. Moreover, his life's story is indicative of Americans striving to defeat high odds, and his achievements represent the best that this country has to offer. These reflections on his contributions to baseball and indeed his contributions to America were the foundation of our enactment of coin legislation to pay homage to Mr. Robinson.

It is with dismay that I learned of the legislative history behind this important program and I was obligated in part to defend this program since it was a program that my predecessor Reverend Floyd Flake helped implement.

☐ 1850

For those of my colleagues who do not know, this extension is necessary because of the allocation of Jackie Robinson surcharges, the Botanical Gardens Coin Program. I recognized the political agendas at the close of the 104th Congress required this arrangement. However we also recognize today the Jackie Robinson Program has suffered because of the arrangement. Today's legislation, in addition to honoring the Little Rock Nine on whose shoulders I also stand, allowed the Jackie Robinson Foundation to buy the remaining stock until January 1, 1999. It will then be free to resell these coins to help further the foundation's educational mission.

I, therefore, urge the adoption of H.R. 2560 and extend my gratitude of thanks to Senator D'AMATO, who, with Congressman Flake, created this program, and I also extend my appreciation to the gentleman from Delaware (Mr. CASTLE), the gentlewoman from California (Ms. WATERS) and the gentleman from Mississippi (Mr. THOMPSON) for their efforts in bringing this legislation to the floor today.

Mr. THOMPSON. Madam Speaker, I yield 2 minutes to the gentlewoman from California (Ms. MILLENDER-MCDONALD).

Ms. MILLENDER-McDONALD. Madam Speaker, I am proud to stand tonight with the collective forces on both sides of the aisle to give tribute to nine children, nine children who courageously, yet fearfully, stood in the doors of Central High School to say that we must change the culture of this society, we must change the culture of schools, high schools in this country and all schools.

As a former teacher, I can recognize how important it is to ensure that quality of education, irrespective of race, be given to every child across this country. I have seen and have followed their careers, and they have positioned themselves in many endeavors, but clearly have positioned themselves as outstanding Americans.

I had the pleasure of traveling with Ernie Green this last March when we travelled with the President to Africa. This outstanding man has no remorse. He serves his country with dignity and serves his country with distinction.

If it is not but one thing we can remember, and that is that we must all contribute something to make this country a better world, a better life for our children, for all Americans.

Let me thank the gentleman from Mississippi (Mr. THOMPSON), the gentleman on the other side of the aisle, my dear friend, and all who played a tremendous part in bringing these outstanding Americans to the floor. To give them a Congressional Medal of Honor would be the highest mark of saying thank you.

To Betty Ford and all the others who will be receiving one, we congratulate them as well.

Mr. THOMPSON. Madam Speaker, I yield 1 minute to the gentlewoman from Houston, Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Madam Speaker, let me thank the gentleman from Mississippi (Mr. THOMPSON), one, for his leadership on this issue, and thank my good friends on the other side of the aisle, this has been a collaborative effort; and certainly my colleagues from Arkansas because this is clearly a mark on America's landscape that shares with us the heroics of young people and what they say to America.

This is my tribute to the Little Rock Nine. All of those nine African American students who integrated Central High School in 1957 went on to become college graduates. This is a testimony for America's children. This is certainly a testimony for our African American children of what we can do when we face adversity. And I believe as these young people faced adversity, they opened the eyes of America to excellence, to the value of integration, the value of understanding, the value of commonality, the value of humanity.

All of these members moved away except one, Elizabeth Eckford, who came back, but what is striking is how successful they were.

So I want to pay tribute to them as they have received the Congressional Medal of Honor and to recognize these individuals by name:

Melba Beals, Elizabeth Eckford, Ernest Green, Jefferson Thomas, Gloria Karlmark, Carlotta Walls LaNier, Terrence Roberts, Minnie Jean Brown Trickey, Thelma Mothershed Wair, and certainly to all their family members. We thank them on behalf of America for accepting the challenge that this Nation cannot stand divided.

And might I also congratulate the Jackie Robinson Foundation and family for what this legislation will do for that program as well.

Again, my hat is off to these great heroes of America.

Mr. THOMPSON. Madam Speaker, I have no further speakers, and I yield back the balance of my time.

Mr. LUCAS of Oklahoma. Madam Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. FOX).

Mr. FOX of Pennsylvania. Madam Speaker, I rise to support H.R. 2560. This is certainly legislation which is bipartisan. We thank the sponsor, the gentleman from Mississippi (Mr. THOMPSON), for introducing the bill, certainly congratulate him for his efforts in this regard and to have this kind of legislation move forward.

The Congressional Gold Medals is certainly fitting and proper in all respects, and certainly one that is appropriate, and I rise and ask that it be unanimously adopted, and I hope that my colleagues will agree that this is legislation that is universal, appropriate and certainly about time.

Mr. LUCAS of Oklahoma. Madam Speaker, I yield myself such time as I may consume.

First of all, I would like to say thank you to the gentleman from Mississippi (Mr. THOMPSON) for his efforts to bring this about. It is a very onerous process to work through to have one of these bills become law. It requires many signatures and much effort, and he has shown himself to be truly dedicated to the effort by making this happen.

Second, let me say that this is a wonderful and appropriate reason to strike such a gold medal. When we consider the efforts of these then brave young men and women in 1957 to go places and do things literally in Little Rock that had not been done before, it cannot be understated the danger that they were physically in, the emotional stress that they went through to take that step in the right direction for all of us. They did their part to make this country a better place, to enhance the quality of life and opportunities for everyone in this country, and that is very much deserving of this high honor.

But let me also say for a moment or take a moment to express my appreciation to the chairman of this subcommittee, the gentleman from Delaware (Mr. CASTLE). Most likely this is the last piece of legislation that will come to the floor from the Subcommittee on Domestic and International Monetary Policy of the Committee on Banking and Financial Services of the U.S. House. Mr. CASTLE, that I have had the privilege of serving under as a member of this committee for now almost 4 years, has worked diligently in a variety of areas. There have been many concerns among those coin collectors out there in days gone by over how various commemorative programs were handled and how various expenses were affecting the United States Treasury. Mr. CASTLE has worked diligently to bring some rhyme or reason, some sanity to all of those programs. So he is owed in that right a huge debt of gratitude by all of us.

Of course Mr. Flake, the ranking member at the beginning of this session of Congress, and now the gentlewoman from California (Ms. WATERS), the ranking member on the subcommittee at the conclusion, have worked their part also, but I must say to the gentleman from Delaware (Mr. CASTLE), the progress that he has begun in this subcommittee of winning back the faith of those coin collectors out there who we all know are the main source of purchasers of the various numismatic items that we offer from the United States Treasury as a result of many of these pieces of legislation, have to have those issues and concerns addressed.

So with that I thank the gentleman from Mississippi (Mr. THOMPSON) for his efforts, thank those brave, maybe not quite as young now as they were 40 years ago, young men and women who took those brave and bold steps to make this country, this world, a better place for all of us and for the generations that will come after them.

Madam Speaker, I yield back the balance of my time.

□ 1900

The SPEAKER pro tempore (Mrs. EMERSON). The question is on the motion offered by the gentleman from Delaware (Mr. CASTLE) that the House suspend the rules and pass the bill, H.R. 2560, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to authorize the President to award gold medals to Jean Brown Trickey, Carlotta Walls LaNier, Melba Patillo Beals, Terrence Roberts, Gloria Ray Karlmark, Thelma Mothershed Wair, Ernest Green, Elizabeth Eckford, and Jefferson Thomas, commonly referred to collectively as the 'Little Rock Nine,' and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LUCAS OF OKLAHOMA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2560, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

NOTICE OF INTENTION TO OFFER RESOLUTION RAISING QUESTION OF PRIVILEGES OF THE HOUSE

Mr. OBERSTAR. Madam Speaker, pursuant to House rule IX, clause 1, I rise to give notice of my intent to present a Question of Privilege of the House.

Madam Speaker, the form of the resolution is as follows:

RESOLUTION

A resolution, in accordance with House Rule IX, Clause 1, expressing the sense of the House that its integrity has been impugned because the anti-dumping provisions of the Trade and Tariff Act of 1930 (Subtitle B of Title VII) have not been expeditiously enforced;

Wherease the current financial crises in Asia, Russia, and other regions have involved massive depreciation in the currencies of several key steel-producing and steel consuming countries, along with a collapse in the domestic demand for steel in these countries;

Whereas the crises have generated and will continue to generate surges in United States imports of steel, both from the countries whose currencies have depreciated in the crisis and from steel producing countries that are no longer able to export steel to the countries in economic crisis;

Whereas United States imports of finished steel mill products from Asian steel producing countries—the People's Republic of China, Japan, Korea, India, Taiwan, Indonesia, Thailand, and Malaysia—have increased by 79 percent in the first 5 months of 1998 compared to the same period in 1997;

Whereas year-to-date imports of steel from Russia now exceed the record import levels of 1997, and steel imports from Russia and Ukraine now approach 2,500,000 net tons;

Whereas foreign government trade restrictions and private restraints of trade distort international trade and investment patterns and result in burdens on United States commerce, including absorption of a disproportionate share of diverted steel trade;

Whereas the European Union, for example, despite also being a major economy, in 1997 imported only one-tenth as much finished steel products from Asian steel-producing countries as the United States did and has restricted imports of steel from the Commonwealth of Independent States, including Russia;

Whereas the United States is simultaneously facing a substantial increase in steel imports from countries within the Commonwealth of Independent States, including Russia, caused in part by the closure of Asian markets;

Whereas there is a well-recognized need for improvements in the enforcement of United States trade laws to provide an effective response to such situations: Now, therefore, be it

Resolved by the House of Representatives, That the House of Representatives calls upon the President to—

(1) take all necessary measures to respond to the surge of steel imports resulting from the financial crises in Asia, Russia, and other regions, and for other purposes;

(2) pursue enhanced enforcement of United States trade laws with respect to the surge of steel imports into the United States, using all remedies available under those laws including offsetting duties, quantitative restraints, and other authorized remedial measures as appropriate;

(3) pursue with all tools at his disposal a more equitable sharing of the burden of accepting imports of finished steel products from Asia and the countries within the Commonwealth of Independent States;

(4) establish a task force within the executive branch with responsibility for closely

monitoring United States imports of steel; and

(5) report to the Congress by no later than January 5, 1999, with a comprehensive plan for responding to this import surge, including ways of limiting its deleterious effects on employment, prices, and investment in the United States steel industry.

The SPEAKER pro tempore. Under rule IX, a resolution offered from the floor by a Member other than the majority leader or the minority leader as a question of the privileges of the House has immediate precedence only at a time designated by the Chair within 2 legislative days after the resolution is properly noticed.

Pending that designation, the form of the resolution noticed by the gentleman from Minnesota (Mr. OBERSTAR) will appear in the RECORD at this point.

The Chair will not at this point determine whether the resolution constitutes a question of privilege. That determination will be made at the time designated for consideration of the resolution.

Mr. OBERSTAR. Madam Speaker, I ask to be heard at the appropriate time on the question of whether this resolution constitutes a question of privilege.

The SPEAKER pro tempore. The gentleman will be afforded that opportunity at that time.

Mr. OBERSTAR. I thank the Speaker.

THROTTLING CRIMINAL USE OF GUNS

Mr. McCOLLUM. Madam Speaker, I move to suspend the rules and pass the Senate bill (S. 191) to throttle criminal use of guns, as amended.

The Clerk read as follows:

S. 191

SECTION 1. AMENDMENT TO TITLE 18, UNITED STATES CODE.

(a) IN GENERAL.—Section 924(c) of title 18, United States Code, is amended—

(1) by striking "(c)" and all that follows through the end of paragraph (1) and inserting the following:

"(c)(1)(A) Except to the extent that a greater minimum sentence is otherwise provided by this subsection or by any other provision of law, any person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States, uses or carries a firearm, or who, in furtherance of any such crime, possesses a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime—

"(i) be sentenced to a term of imprisonment of not less than 5 years;

"(ii) if the firearm is brandished, be sentenced to a term of imprisonment of not less than 7 years; and

"(iii) if the firearm is discharged, be sentenced to a term of imprisonment of not less than 10 years.

"(B) If the firearm possessed by a person convicted of a violation of this subsection—

"(i) is a short-barreled rifle, short-barreled shotgun, or semiautomatic assault weapon, the person shall be sentenced to a term of imprisonment of not less than 10 years; or

"(ii) is a machinegun or a destructive device, or is equipped with a firearm silencer or firearm muffler, the person shall be sentenced to a term of imprisonment of not less than 30 years.

"(C) In the case of a second or subsequent conviction under this subsection, the person shall—

"(i) be sentenced to a term of imprisonment of not less than 25 years; and

"(ii) if the firearm involved is a machinegun or a destructive device, or is equipped with a firearm silencer or firearm muffler, be sentenced to imprisonment for life.

"(D) Notwithstanding any other provision of law—

"(i) a court shall not place on probation any person convicted of a violation of this subsection; and

"(ii) no term of imprisonment imposed on a person under this subsection shall run concurrently with any other term of imprisonment imposed on the person, including any term of imprisonment imposed for the crime of violence or drug trafficking crime during which the firearm was used, carried, or possessed."; and

(2) by adding at the end the following:

"(4) For purposes of this subsection, the term 'brandish' means, with respect to a firearm, to display all or part of the firearm, or otherwise make the presence of the firearm known to another person, in order to intimidate that person, regardless of whether the firearm is directly visible to that person.".

(b) CONFORMING AMENDMENT.—Section 3559(c)(2)(F)(i) of title 18, United States Code, is amended by inserting "firearms possession (as described in section 924(c));" after "firearms use;".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. MCCOLLUM) and the gentleman from Virginia (Mr. SCOTT) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. MCCOLLUM).

GENERAL LEAVE

Mr. McCOLLUM. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the Senate bill, S. 191.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. McCOLLUM. Madam Speaker, I yield myself so much time as I may consume.

Madam Speaker, I am proud today to bring S. 191 before the House. With the passage of this legislation, we take an important step in the battle against firearm violence in America. Support of this legislation today offers Members an opportunity to send a clear message to violent predators that the criminal use of guns will not be tolerated.

The Senate passed S. 191 on November 13, 1997, and the House passed its companion legislation, H.R. 424, on February 24 of this year by a vote of 350 to 59.

The version I now bring to the floor represents a compromise between the House and the Senate. This legislation will have a significant impact on the number of violent criminals behind bars, and I am extremely pleased that we are able to come to an agreement before adjournment.

Madam Speaker, criminals who use firearms to commit violent crimes and drug trafficking offenses demonstrate the ultimate indifference to human life. The risks for law enforcement, and the potential for harm to innocent bystanders, are dramatically increased when criminals wield guns.

Criminals who carry guns while committing serious crimes are making a clear and unequivocal statement to the world, I will hurt you or kill you if you get in my way. Such persons should be punished severely, and that is what this legislation will do.

Consider these frightening facts. According to the National Institute of Justice, 37 percent of arrestees in 11 major urban areas admitted to owning a gun. Even more astonishing, and terrifying for the country, is that a shocking 42 percent of admitted drug sellers and 50 percent of admitted gang members further confess to using a gun to commit a crime. Madam Speaker, these are just the ones who are willing to admit to such criminal behavior.

S. 191 amends section 924(c) of title 18 of the United States Code. Currently, that section allows for additional time in prison for any person who uses or carries a firearm during and in relation to the commission of a Federal crime of violence or drug trafficking crime.

Section 924(c) is a very significant and frequently used tool for Federal prosecutors. According to the U.S. Sentencing Commission, there were 10,576 defendants sentenced from 1991 to 1996 under this section.

This is an opportunity for the Federal authorities to take somebody who is a known criminal off the streets and lock them up for a considerable period of time by an enhanced penalty provision that all of us should be pleased to have on the books.

But in December of 1995, the Supreme Court significantly limited the effective use of this Federal statute by holding in Bailey versus the United States that in order to receive the penalty enhancement for use of a firearm, the government must demonstrate active employment of the firearm. In so stating, the Supreme Court overturned the Justice Department's long-standing practice of applying this penalty to dangerous criminals whose firearms further or advance their criminal activities.

The impact caused by the Bailey decision was immediate. Federal prosecutors have been less able to utilize this section of the code. Moreover, drug dealers and other bad actors have been successful in having their convictions overturned on the basis of an erroneous jury instruction regarding the "use" prong of the "use or carry" test.

This legislation clarifies Congress' intent as to the type of criminal conduct which should trigger the statute's application. The bill strikes the now unworkable "use or carry" element of the statute, and replaces it with a structure which allows the penalty enhancement for possessing, brandishing, or discharging a firearm during and in relation to a Federal crime of violence or drug trafficking crime.

It is also important to note that this bill will not affect any person who merely possesses a firearm in the general vicinity of a crime, nor will it impact someone who uses a gun in self-defense.

A bill containing nearly identical language to H.R. 424 passed the House in the last Congress, and the gentlewoman from North Carolina (Mrs. MYRICK) introduced the bill that we have taken up before previously this year, H.R. 424, during the first days of the 105th Congress. I am very grateful for her for her continued dedication to ensuring the passage of this legislation.

Section 924(c) is a critical tool in our fight against gun-toting criminals. Yes, this is a tough bill, but I believe it is exactly what we need in response to the menacing threat of the vicious gun crimes that are committed around the country.

□ 1910

We need to pass this bill. It is, as I said earlier, a compromise with the Senate, it is a good bill, it is a solid bill, it corrects the Bailey problem and will allow law enforcement to once again use this very effective tool for locking up criminals and throwing away the key for a long period of time if they are using a gun, possessing in the course of a crime a gun, or certainly brandishing or discharging that gun.

Mr. Speaker, I reserve the balance of my time.

Mr. SCOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I stand in opposition to the bill, S. 191, which is similar to a piece of legislation, H.R. 424, passed by this body earlier this Congress. That version contained penalties for drug offenders which were 6 times greater than the penalty for rape and 7 times greater than the penalty for voluntary manslaughter. Although the Senate version is not as egregious as that, I still cannot in good conscience vote for a measure containing ridiculous mandatory minimums.

I oppose this legislation for several reasons, the most important of which is the absolutely outrageous mandatory minimum penalties attached to the bill. Five years for possession of a gun, 7 years for brandishing a gun, and 10 years for discharging the gun. This means if someone is convicted of possessing 5 grams of crack and is found to have possessed a gun at the time, he will receive a mandatory 5-year sentence for the crack and another 5 years for the gun, a total of 10 years. If that individual opens a coat to display a gun tucked in under his belt during the course of a drug sale, he will receive a mandatory 7-year sentence in addition to the 5 years for crack, for a total of 12 years.

Let us compare these penalties to the penalties for other crimes. For instance, voluntary manslaughter carries a penalty of 5 years; aggregated assault, less than 2 years; assaulted with intent to murder, less than 3½ years; rape, under 6 years; kidnapping, approximately 4 years. Does that make sense? Two years for serious assault, 3½ years for assault with intent to murder, 4 years for kidnapping, 6 years for rape, and 10 years mandatory minimum for possessing a gun in connection with a small-time crack sale where no one is injured. This type of legislation and these ludicrous penalties demonstrate that we have truly run amok when it comes to crime legislation.

Mr. Speaker, this is why we have a Sentencing Commission. The Sentencing Commission can take the politics out of sentencing and put some common sense in. So I urge my colleagues to demonstrate some common sense and vote against this legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. McCOLLUM. Mr. Speaker, I yield 2 minutes to the gentlewoman from North Carolina (Mrs. MYRICK), the author of this fine legislation.

Mrs. MYRICK. Mr. Speaker, I rise in support of S. 191. This is Senator JESSE HELMS' companion to my H.R. 424, which passed the House on February 24 by an overwhelming vote of 350-to-589. As written, the Federal Criminal Code imposes a 5-year mandatory sentence when a felon uses or carries a firearm during the Commission of a violent crime or a drug trafficking offense.

In the 1995 case of Bailey v. United States, though, the Supreme Court interpreted the word "carry" in the Federal criminal code to mean that a felon must fire or brandish his weapon. This is clearly contrary to Congress's intent, and it has resulted in the early release of hundreds of dangerous criminals.

To put a stop to this mess, S. 191 clarifies that a criminal who possesses a gun while committing a violent crime or a drug crime will face a mandatory sentence. And at the same time, the bill increases the mandatory sentence for such crimes.

Mr. Speaker, I am a strong defender of the second amendment, but no American has a right to go out and use a gun to commit a crime.

Indeed, the National Rifle Association has endorsed S. 191 because they recognize the best way to protect our second amendment rights is to punish those who use their guns to rape or murder or traffic in drugs. The bill also has been endorsed by the Fraternal Order of Police and the Southern States Police Benevolent Association.

The message is clear: Commit a crime while possessing or brandishing a firearm, and you will go to prison for a very long time. We cannot send that message too strongly or too often.

Mr. McCOLLUM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just want to point out as we close the debate on this that the minimum mandatory sentence in this bill for possession will be 5 years. The minimum mandatory for brandishing the firearm will be 7 years; the minimum mandatory for discharging the firearm in the commission of another crime will be 10 years. Those are enhancements on top of my underlying sentence for a crime that is committed with a gun, and in the case of a subsequent or second conviction of brandishing or discharging, it is 25 years.

I think it is important to put that on the record, because this is the compromise that is different, considerably different from the House version and different from the Senate version as well.

Mr. Speaker, I urge the adoption of this bill.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. EMERSON). The question is on the motion offered by the gentleman from Florida (Mr. McCOLLUM) that the House suspend the rules and pass the Senate bill, S. 191, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

AMENDING PART Q OF OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968

Mr. McCOLLUM. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2235) to amend part Q of the Omnibus Crime Control and Safe Streets Act of 1968 to encourage the use of school resource officers.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SCHOOL RESOURCE OFFICERS.

Part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd et seq.) is amended—

(1) in section 1701(d)—

(A) by redesignating paragraphs (8) through (10) as paragraphs (9) through (11), respectively; and

(B) by inserting after paragraph (7) the following:

"(8) establish school-based partnerships between local law enforcement agencies and local school systems by using school resource officers who operate in and around elementary and secondary schools to combat school-related crime and disorder problems, gangs, and drug activities;"; and

(2) in section 1709—

(A) by redesignating the first 3 undesignated paragraphs as paragraphs (1) through (3), respectively; and

(B) by adding at the end the following:

"(4) 'school resource officer' means a career law enforcement officer, with sworn authority, deployed in community-oriented policing, and assigned by the employing police department or agency to work in collaboration with schools and community-based organizations—

"(A) to address crime and disorder problems, gangs, and drug activities affecting or occurring in or around an elementary or secondary school;

"(B) to develop or expand crime prevention efforts for students;

"(C) to educate likely school-age victims in crime prevention and safety;

"(D) to develop or expand community justice initiatives for students;

"(E) to train students in conflict resolution, restorative justice, and crime awareness;

"(F) to assist in the identification of physical changes in the environment that may reduce crime in or around the school; and

"(G) to assist in developing school policy that addresses crime and to recommend procedural changes.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. McCOLLUM) and the gentleman from Virginia (Mr. SCOTT) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. McCOLLUM).

GENERAL LEAVE

Mr. McCOLLUM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the Senate bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. McCOLLUM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 2235 amends the 100,000 "COPS on the Beat" program, established in the 1994 Crime Bill, to permit community policing grants to be used to establish school-based partnerships between local law enforcement agencies and local school systems. The grants would allow for "school resource officers" to operate in and around elementary and secondary schools to combat school-related crime and disorder problems, gangs, and drug activities. S. 2235 passed the Senate on October 7 and is sponsored by Senator CAMPBELL. The gentleman from Connecticut (Mr. MALONEY) is the sponsor on the House companion bill, H.R. 4009.

Mr. Speaker, the President's "COPS on the Beat" program authorized $8.8 billion over 6 years to give grants to State and local police departments to put 100,000 community-oriented police officers on the beat across the country. As of March 1998, the latest month in which a survey was completed, the COPS office claimed to have funded 71,000 of those police officers. Approximately 40,800 are actually hired and deployed on the streets. About 2,400 more are in training.

The remaining 29,000 are officers counted under the "COPS M.O.R.E." program, which funds technology and equipment and is believed to increase policing activities and police presence on the streets. These grants have been counted towards the 100,000 goal, not because grants have been used to pay police officers' salaries, but because technology and equipment purchased has supposedly freed up officers for the streets.

While the COPS program was specifically authorized by Congress to fund 100,000 community police officers, broad interpretation of the Act has allowed the Justice Department to fund several other initiatives through the COPS program. Some of these programs include grants to employ community policing to address domestic violence, grants to communities to address gang violence, and grants to support law enforcement efforts to combat the rise of youth firearms violence.

Mr. Speaker, the bill we are considering today will allow for the COPS grants to be used to put community police officers in our Nation's schools. It will allow school officials and law enforcement to better identify young people who cause trouble frequently, both in the school and in the community.

It is a sad reality that many of today's schools are becoming increasingly dangerous places to be. Schoolyard brawls have become lethal confrontations involving knives, guns or drugs. Recent school-related shootings serve as a sobering example of just how urgent the situation has become. Rather than providing our children with a safe place to learn or to grow, many of our schools have become combat zones.

A look at crime statistics show that while murder rates for young people may be declining, the schoolyard murder rate has almost doubled in the last 2 years. Mr. Speaker, 25 students have been killed in U.S. schools since January 1998.

□ 1920

This is unacceptable. No child in America should go to a school in fear of her safety or his safety and wellbeing. The fact is that we are going to have a demographic shift shortly. We are going to see a rise in the number of young people in the age group which might be exposed to these situations, and this bill is all that much more important for that reason.

The bill would allow schools to establish partnerships with local law enforcement to provide much-needed order to allow for learning, not violence, to occur in schools.

I support this addition to the COPS program. I think it will improve the existing law. I commend the gentleman from Connecticut (Mr. MALONEY) and Senator CAMPBELL for their initiation of this legislation.

I am pleased the Subcommittee on Crime supports this, albeit we did not have the opportunity to bring it forward through the subcommittee this year, but we have chosen to come directly to the floor, because it is a very good bill. I do not think anyone would oppose it. I urge my colleagues to vote for it.

Mr. Speaker, I reserve the balance of my time.

Mr. SCOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2235. In response to the rising tide of violent crime in and around schools around this Nation, Congress must step up our fight against juvenile crime, particularly those initiatives that come from a prevention perspective.

This legislation would amend the Omnibus Crime Bill and Safe Streets Act of 1968, encouraging school-based partnerships between local law enforcement agencies and local school systems. School-based partnerships would be eligible to receive Federal funds to hire school resource officers or SROs.

An SRO would be a career law enforcement officer with sworn authority, deployed in community-oriented policing and assigned to the deploying police department or agency to work in collaboration with schools and community-based organizations to address crime and disorder problems, gangs and drug activities affecting or occurring in or around elementary schools or secondary schools, develop or expand crime prevention efforts for students, educate likely school-age victims in crime prevention and safety, develop or expand community justice initiatives, train students in conflict resolution, restorative justice, and crime awareness, assist in the identification of physical changes in the environment that may reduce crime problems, and/or assist in the development of anticrime school policy and procedural changes.

This legislation complements an existing school-based partnership research grant program administered by the Community-Oriented Police Services, or the COPS program. The existing program funds demonstration efforts on particular singular solutions to youth crime and violence. The proposed legislation would explicitly allow COPS program resources to be used in general school-based partnership SRO efforts.

This statutory language is vital to clearly articulate the importance of fighting juvenile crime, and will be essential in establishing the fight against juvenile crime as a national priority.

President Clinton recently announced that the same community policing techniques that are helping make our streets safe again are the best way to help keep our schools safe. This legislation is an important step in making our schools safe for our children.

Mr. Speaker, I yield such time as he may consume to the gentleman from Connecticut (Mr. MALONEY), the chief sponsor of the legislation.

Mr. MALONEY of Connecticut. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise today to urge passage of Senate bill 2235, which is the Senate companion to H.R. 4009, the School Resource Partnership Act. I would like to thank the gentleman from New York (Mr. SCHUMER) and the gentleman from Florida (Mr. MCCOLLUM), the gentleman from Michigan (Mr. CONYERS) and the gentleman from Illinois (Mr. HYDE) for their help in this matter, and I would also like to commend Senator BEN NIGHTHORSE CAMPBELL for his tireless work in support of this legislation.

As this Congress comes to a close, the new school year is just beginning. Children around the country are heading to school, seeing old friends, and making new ones. They are learning new ideas and sharing new experiences. We trust our schools with the future and safety of our children. The rash of school-related shootings and violence that have occurred in both small towns and large cities, rural areas and urban centers, have shocked the Nation. We in Congress must act to ensure that our schools provide a safe place for our children to grow and to learn.

Over the past 18 months, throughout my congressional district, I have held a series of meetings with local police chiefs, school superintendents, teachers, and principals to discuss strategies that are working to reduce school violence and to find ways Congress can better assist the local leaders in their fight to protect the community.

Placing a uniquely trained community police officer in partnership with schools to reach out to kids before they get drawn into crime or violence was the clear suggestion I repeatedly heard in my numerous meetings with local law enforcement and education officials.

As a result of these meetings, I introduced in the House this legislation, that will enable localities to place a School Resource Officer, also known as an SRO, in designated schools, forming a partnership between the schools and police departments that will help keep children safe and provide juvenile intervention before police or court action becomes necessary.

The SRO will serve as a peace officer who prevents violence, a teacher who instructs students in areas of his or her expertise, and a counselor who serves as a liaison to community resources.

Additionally, the SRO will have the opportunity to serve as a role model for today's students, who want and need additional positive influences in their lives outside of their home. Unlike the police officer who responds to school problems as a result of an emergency call from the principal, the SRO regards the school as his or her community. The officer knows the school's physical design and who belongs on campus and who does not. The SRO initiative will also save money, especially for the criminal justice system, by resulting in fewer incidents requiring court action.

My legislation will enable the localities to place a School Resource Officer in appropriately designated schools, forming a partnership between the schools and police departments that will keep our children safe.

Just one example, Mr. Speaker, a school in Wolcott, Connecticut, in my district, on their own resources, has assigned a School Resource Officer now for about a year. During that year, two-thirds, there has been a two-thirds reduction in the number of incidents of a police officer having to respond to the school. This clearly works. This is a service that works, and this is an approach that works to prevent crime, to prevent violence, and to help kids stay out of trouble, make sure they do not get into trouble in the first place.

In addition to this important legislation, we worked hard to include in the FY 1999 Commerce-State-Justice appropriations bill an earmark of $20 million in unobligated funds to be directed for hiring School Resource Officers under the Department of Justice COPS program.

Mr. Speaker, I urge passage of this important legislation.

Mr. SCOTT. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. STUPAK), who is a former police officer, and one who has worked diligently to reduce juvenile crime.

Mr. STUPAK. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise today in strong support of S. 2235, which will take another step to combat school violence. The gentleman from Connecticut (Mr. MALONEY) introduced this bill in the House, and I want to thank him for his leadership on this very important issue.

The bill of the gentleman from Connecticut (Mr. MALONEY) and this bill amends the COPS law to create this uniquely trained community police officer designated to provide early intervention for our children. School-based partnerships would be eligible to receive Federal funding to hire School Resource Officers.

This summer, the Law Enforcement Caucus held two forums on school violence. We heard from experts around the country, including Education Secretary Riley, prevention experts, educators from the Baltimore and D.C. schools, the FBI, Department of Justice, authors, and scholars.

Every participant, every participant at our hearings, although they came from different backgrounds and professions, expressed the same theme: We can fight juvenile crime and school violence with aggressive early intervention, prevention, and education strategies.

Creating a School Resource Officer, as the gentleman from Connecticut (Mr. MALONEY) has proposed, is exactly one kind of a program which will help us achieve peace and safety in our schools. The School Resource Officer is designed to work in cooperation with the schools and community-based organizations to address crimes and disorders in the schools.

Besides being a police officer, the School Resource Officer will also be trained to develop crime prevention efforts with students, educate school-age victims in crime prevention and safety, train students in conflict resolution, and assist with the development of school policies and procedures to help reduce crime. This comprehensive, community-oriented approach to law enforcement is the most effective form of preventing crime, and will go a long way to make our schools safe again.

Schools are places of learning for our children, but schools can only be effective if they are a safe place. Creating a School Resource Officer, as proposed by the gentleman from Connecticut (Mr. MALONEY) is a good step to help us provide a safe environment at school, so that our kids may learn and thrive in the best possible setting.

□ 1930

Mr. Speaker, I urge strong support of Senate bill 2235, and its passage.

Mr. SCOTT. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina (Mr. ETHERIDGE), a former State superintendent of public instruction in the State of North Carolina.

Mr. ETHERIDGE. Mr. Speaker, I thank the gentleman from Virginia (Mr. SCOTT), my friend, for yielding me this time.

Mr. Speaker, I rise this evening in strong support of this legislation that will, in my opinion, have a very positive impact on the problem of school violence in this country. I want to thank the gentleman from Connecticut (Mr. MALONEY) for being the sponsor of this legislation on the House side, and I appreciate him allowing me to be a cosponsor.

Mr. Speaker, the recent tragic incidents of violent crime in our schools violate the very values that define us as a people. We cannot tolerate violent crimes no matter where they occur and no matter who commits them. Violent crimes must be punished, and school violence requires an urgent response, because the aftereffects of school violence poison the learning environment for our children and for our teachers.

These recent incidents must serve as a call to action. Congress must respond with effective means to prevent and combat school violence. The School Resource Officer legislation will help provide the response that is needed to attack the problem of school violence in a very effective manner, in my opinion. This bipartisan bill will apply the proven principles and techniques of community policing to the school environment.

School resource officers are highly trained law enforcement officers with expertise in tackling the unique challenges of school-based crime and violence, and they certainly are unique.

Mr. Speaker, prior to my election to this Congress, as the gentleman from Virginia has just shared, I served for 8 years as the elected State superintendent of schools in my State. North Carolina has pioneered the use of school resource officers to provide our children's safety in our schools.

Mr. Speaker, 78 percent of the high schools in my State now have school resource officers, as do about half of the middle schools. We now have more than 450 school resource officers serving our schools throughout the State of North Carolina. These officers are making a difference in keeping our communities and school environments safe and helping our children have a good learning environment.

North Carolina can serve as a model for the Nation, and this legislation will codify the good work the Justice Department is now doing in channeling law enforcement resources directly into our schools across this land.

It is really very simple. Our children cannot learn if they are not safe. We cannot expect our children to learn geometry if they are scared to death about the possibility of gunfire. We cannot expect our teachers to teach effectively when the scourge of drugs invade their classrooms. And we cannot expect parents to have any faith in our schools as learning institutions without providing them the kind of peace of mind that the schools are free of crime and drugs and violence and gangs.

School resource officers are a tremendous asset to this effort, and this bill will provide a uniform standard, while maintaining local flexibility. Let me repeat that again: A uniform standard with local flexibility.

Congress must respond to the concerns and fears of our students and parents and pass this innovative approach to fighting school crime.

Earlier this year, a report in a national magazine, U.S. News and World Report, documented the success of school resource officers in my State. As the editorial points out, and I quote, "In the past 2 years, reported firearm possessions have dropped 50 percent in North Carolina schools, and principals identify school resource officers as the single most important factor in deterring crime."

I was honored to join my friend and colleague, the gentleman from Connecticut (Mr. MALONEY), as an original cosponsor of the House version of this bill, and I am pleased this legislation has received the support of the National Education Association, the International Brotherhood of Police, and a long list of other groups that I will not categorize here tonight.

Mr. Speaker, I urge this Congress to pass this bill without delay so that we can provide this safety for our children and our teachers in our schools.

Mr. SCOTT. Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas (Mr. BERRY), another distinguished cosponsor of the House version of the legislation.

Mr. BERRY. Mr. Speaker, I thank the gentleman from Virginia (Mr. SCOTT) for yielding me this time.

Mr. Speaker, I rise in strong support of this bill. The 1st Congressional District of Arkansas knows firsthand the terrible tragedies that can occur in our schools. The school resource officer is a common-sense approach to give our schools the tools they need to get the job done. I compliment the gentleman from Connecticut (Mr. MALONEY) for bringing this bill to the House, and I urge support of this bill and passage.

Mr. SCOTT. Mr. Speaker, I thank the gentleman from Illinois (Mr. HYDE), the gentleman from Michigan (Mr. CONYERS), the gentleman from New York (Mr. SCHUMER) and the gentleman from Florida (Mr. MCCOLLUM) for bringing this expeditiously to the floor. I also thank the various sponsors and cosponsors that have spoken on this bill.

Mr. CONYERS. Mr. Speaker, I rise in support of H.R. 2235. In response to the rising tide of violent crime in and around schools across this nation, Congress must step-up our fight against juvenile crime from a prevention perspective.

This legislation would amend the Omnibus Crime Control and Safe Streets Act of 1968, encouraging school-based partnerships between local law enforcement agencies and local school systems. School based partnerships would be eligible to receive federal funding to hire "School Resource Officers" (SRO's).

A SRO would be a career law enforcement officer, with sworn authority, deployed in community-oriented policing, and assigned by the employing police department or agency to work in collaboration with schools and community-based organizations to (1) address crime and disorder problems, gangs, and drug activities, affecting or occurring in or around an elementary or secondary school, (2) develop or expand crime prevention efforts for students (3) educate likely school-age victims in crime prevention and safety; (4) develop or expand community justice initiatives; (5) train students in conflict resolution, restorative justice, and crime awareness; (6) assist in the identification of physical changes in the environment that may reduce the crime problem, and/or (7) assist with the development of anti-crime, school policy and procedural changes.

This legislation complements an existing School-based Partnership research grant program administered by the Community Oriented Policing Services (COPS). The existing program funds demonstration efforts on particular, single solutions to youth crime and violence. The proposed legislation would explicitly allow COPS program resources to be used in general (non-research) school based partnerships/SRO efforts.

This statutory language is vital to clearly articulating the importance of fighting juvenile crime, and will be essential in establishing the fight against juvenile crime as a national priority.

President Clinton recently announced that "the same community policing techniques that are helping to make our streets safe again are the best way to help keep our schools safe."

This legislation is an important step in making our schools safe for our children.

Mrs. MCCARTHY of New York. Mr. Speaker, I rise in support of H.R. 4009 and Senate bill 2235. I became involved in education issues because I see education as an antidote to gangs and guns. But how can our kids realize their full potential if the violence is happening on school grounds?

Sadly, schools are not immune from crime. Incidents in places like Jonesboro, Arkansas and Springfield, Oregon have shown us that every school, in every part the country, must work to prevent violence, and address violence when it happens.

When I visit the schools on Long Island, I see their commitment to keeping students safe. But my schools tell me that they often do not have the resources to fight violence. The more time and energy they need to devote to preventing violence, the less they have to educate students. Teachers and principals should not have to serve as police officers.

H.R. 4009 will provide the tools to help schools and the police work in partnership to keep young people safe. I want to commend my colleague from Connecticut for introducing this bill, and I urge my colleagues to support it.

Mr. Speaker, I yield back the balance of my time.

Mr. MCCOLLUM. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SNOWBARGER). The question is on the motion offered by the gentleman from Florida (Mr. MCCOLLUM) that the House suspend the rules and pass the Senate bill, S. 2235.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

ANNOUNCEMENT OF INTENTION TO OFFER RESOLUTION RAISING QUESTION OF PRIVILEGES OF THE HOUSE

Mr. BERRY. Mr. Speaker, pursuant to clause 1 of rule IX, I hereby give notice of my intention to offer a resolution which raises a question of the privileges of the House.

The form of the resolution is as follows:

A resolution in accordance with House Rule IX, clause 1, expressing the sense of the House that its integrity has been impugned because the antidumping provisions of the Trade and Tariff Act of 1930, (Subtitle B of Title VII) have not been expeditiously enforced;

Whereas the current financial crisis in Asia, Russia, and other regions have involved massive depreciation in the currencies of several key steel-producing and steel-consuming countries, along with the collapse in the domestic demand for steel in these countries;

Whereas the crisis has generated and will continue to generate surges in United States imports of steel, both from the countries whose currencies have depreciated in the crisis and from steel-producing countries that are no longer able to export steel to the countries in economic crisis;

Whereas United States imports of finished steel mill products from Asian steel-producing countries, the People's Republic of China, Japan, Korea, India, Taiwan, Indonesia, Thailand and Malaysia, have increased by 79 percent in the first 5 months of 1998, compared to the same period in 1997;

Whereas year-to-date imports of steel from Russia now exceed the record levels of 1997, and steel imports from Russia and Ukraine now approach 2.5 million net tons;

Whereas foreign government trade restrictions and private restraints of trade distort international trade and investment patterns and result in burdens on United States commerce, including the absorption of a disproportionate share of diverted steel trade;

Whereas the European Union, for example, despite also being a major economy, in 1997 imported only one-tenth as much finished steel products from Asian steel-producing countries as the United States did and has restricted imports of steel from the Commonwealth of Independent States, including Russia;

Whereas the United States is simultaneously facing a substantial increase in steel imports from countries within the Commonwealth of Independent States, including Russia, caused in part by the closure of Asian markets;

Whereas there is well-recognized need for the enforcement of United States trade laws to provide an effective response to such situations:

Now, therefore, be it resolved by the House of Representatives that the House of Representatives calls upon the President to:

(1) take all necessary measures to respond to the surge of steel imports resulting from the final crisis in Asia, Russia, and other regions, and for other purposes;

(2) pursue enhanced enforcement of the United States trade laws with respect to the surge of steel imports into the United States, using all remedies available under those laws including offsetting duties, quantitative restraints, and other authorized remedial measures as appropriate;

(3) pursue with all tools as its disposal a more equitable sharing of the burden of accepting imports of finished steel products from Asia and the countries from within the Commonwealth of States;

(4) establish a task force within the executive branch with responsibility for closely monitoring United States steel imports of steel; and

(5) report to the Congress by no later than January 5, 1999, with a comprehensive plan for responding to this import surge, including the ways of limiting its deleterious effects on employment, prices, and investment in the United States steel industry.

□ 1940

The SPEAKER pro tempore (Mr. SNOWBARGER). Under rule IX, a resolution offered from the floor by a Member other than the majority leader or the minority leader as a question of the privileges of the House has immediate precedence only at a time designated by the Chair within 2 legislative days after the resolution is properly noticed. Pending that designation, the form of the resolution noticed by the gentleman from Arkansas (Mr. BERRY) will appear in the RECORD at this point.

The Chair will not at this point determine whether the resolution constitutes a question of privilege. That determination will be made at the time designated for consideration of the resolution.

Mr. BERRY. Mr. Speaker, I ask to be heard at the appropriate time on the question of whether this resolution constitutes a question of privilege.

The SPEAKER pro tempore. The gentleman will have that opportunity.

TRADEMARK LAW TREATY IMPLEMENTATION ACT

Mr. COBLE. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2193) to implement the provisions of the Trademark Law Treaty.

The Clerk read as follows:

S. 2193

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—TRADEMARK LAW TREATY IMPLEMENTATION

SEC. 101. SHORT TITLE.

This title may be cited as the "Trademark Law Treaty Implementation Act".

SEC. 102. REFERENCE TO THE TRADEMARK ACT OF 1946.

For purposes of this title, the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946 (15 U.S.C. 1051 et seq.), shall be referred to as the "Trademark Act of 1946".

SEC. 103. APPLICATION FOR REGISTRATION; VERIFICATION.

(a) APPLICATION FOR USE OF TRADEMARK.—Section 1(a) of the Trademark Act of 1946 (15 U.S.C. 1051(a)) is amended to read as follows:

"SECTION 1. (a)(1) The owner of a trademark used in commerce may request registration of its trademark on the principal register hereby established by paying the prescribed fee and filing in the Patent and Trademark Office an application and a verified statement, in such form as may be prescribed by the Commissioner, and such number of specimens or facsimiles of the mark as used as may be required by the Commissioner.

"(2) The application shall include specification of the applicant's domicile and citizenship, the date of the applicant's first use of the mark, the date of the applicant's first use of the mark in commerce, the goods in connection with which the mark is used, and a drawing of the mark.

"(3) The statement shall be verified by the applicant and specify that—

"(A) the person making the verification believes that he or she, or the juristic person in whose behalf he or she makes the verification, to be the owner of the mark sought to be registered;

"(B) to the best of the verifier's knowledge and belief, the facts recited in the application are accurate;

"(C) the mark is in use in commerce; and

"(D) to the best of the verifier's knowledge and belief, no other person has the right to use such mark in commerce either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods of such other person, to cause confusion, or to cause mistake, or to deceive, except that, in the case of every application claiming concurrent use, the applicant shall—

"(i) state exceptions to the claim of exclusive use; and

"(ii) shall specify, to the extent of the verifier's knowledge—

"(I) any concurrent use by others;

"(II) the goods on or in connection with which and the areas in which each concurrent use exists;

"(III) the periods of each use; and

"(IV) the goods and area for which the applicant desires registration.

"(4) The applicant shall comply with such rules or regulations as may be prescribed by the Commissioner. The Commissioner shall promulgate rules prescribing the requirements for the application and for obtaining a filing date herein.".

(b) APPLICATION FOR BONA FIDE INTENTION TO USE TRADEMARK.—Subsection (b) of section 1 of the Trademark Act of 1946 (15 U.S.C. 1051(b)) is amended to read as follows:

"(b)(1) A person who has a bona fide intention, under circumstances showing the good faith of such person, to use a trademark in commerce may request registration of its trademark on the principal register hereby established by paying the prescribed fee and filing in the Patent and Trademark Office an application and a verified statement, in such form as may be prescribed by the Commissioner.

"(2) The application shall include specification of the applicant's domicile and citizenship, the goods in connection with which the applicant has a bona fide intention to use the mark, and a drawing of the mark.

"(3) The statement shall be verified by the applicant and specify—

"(A) that the person making the verification believes that he or she, or the juristic person in whose behalf he or she makes the verification, to be entitled to use the mark in commerce;

"(B) the applicant's bona fide intention to use the mark in commerce;

"(C) that, to the best of the verifier's knowledge and belief, the facts recited in the application are accurate; and

"(D) that, to the best of the verifier's knowledge and belief, no other person has the right to use such mark in commerce either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods of such other person, to cause confusion, or to cause mistake, or to deceive.

Except for applications filed pursuant to section 44, no mark shall be registered until the applicant has met the requirements of subsections (c) and (d) of this section.

"(4) The applicant shall comply with such rules or regulations as may be prescribed by the Commissioner. The Commissioner shall promulgate rules prescribing the requirements for the application and for obtaining a filing date herein.".

(c) CONSEQUENCE OF DELAYS.—Paragraph (4) of section 1(d) of the Trademark Act of 1946 (15 U.S.C. 1051(d)(4)) is amended to read as follows:

"(4) The failure to timely file a verified statement of use under paragraph (1) or an extension request under paragraph (2) shall result in abandonment of the application, unless it can be shown to the satisfaction of the Commissioner that the delay in responding was unintentional, in which case the time for filing may be extended, but for a period not to exceed the period specified in paragraphs (1) and (2) for filing a statement of use.".

SEC. 104. REVIVAL OF ABANDONED APPLICATION.

Section 12(b) of the Trademark Act of 1946 (15 U.S.C. 1062(b)) is amended in the last sentence by striking "unavoidable" and by inserting "unintentional".

SEC. 105. DURATION OF REGISTRATION; CANCELLATION; AFFIDAVIT OF CONTINUED USE; NOTICE OF COMMISSIONER'S ACTION.

Section 8 of the Trademark Act of 1946 (15 U.S.C. 1058) is amended to read as follows:

"DURATION

"SEC. 8. (a) Each registration shall remain in force for 10 years, except that the registration of any mark shall be canceled by the Commissioner for failure to comply with the provisions of subsection (b) of this section, upon the expiration of the following time periods, as applicable:

"(1) For registrations issued pursuant to the provisions of this Act, at the end of 6 years following the date of registration.

"(2) For registrations published under the provisions of section 12(c), at the end of 6 years following the date of publication under such section.

"(3) For all registrations, at the end of each successive 10-year period following the date of registration.

"(b) During the 1-year period immediately preceding the end of the applicable time period set forth in subsection (a), the owner of the registration shall pay the prescribed fee and file in the Patent and Trademark Office—

"(1) an affidavit setting forth those goods or services recited in the registration on or in connection with which the mark is in use in commerce and such number of specimens or facsimiles showing current use of the mark as may be required by the Commissioner; or

"(2) an affidavit setting forth those goods or services recited in the registration on or in connection with which the mark is not in use in commerce and showing that any such nonuse is due to special circumstances which excuse such nonuse and is not due to any intention to abandon the mark.

"(c)(1) The owner of the registration may make the submissions required under this section within a grace period of 6 months after the end of the applicable time period set forth in subsection (a). Such submission is required to be accompanied by a surcharge prescribed by the Commissioner.

"(2) If any submission filed under this section is deficient, the deficiency may be corrected after the statutory time period and within the time prescribed after notification of the deficiency. Such submission is required to be accompanied by a surcharge prescribed by the Commissioner.

"(d) Special notice of the requirement for affidavits under this section shall be attached to each certificate of registration and notice of publication under section 12(c).

"(e) The Commissioner shall notify any owner who files 1 of the affidavits required by this section of the Commissioner's acceptance or refusal thereof and, in the case of a refusal, the reasons therefor.

"(f) If the registrant is not domiciled in the United States, the registrant shall designate by a written document filed in the Patent and Trademark Office the name and address of some person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, such notice or process may be served upon the Commissioner.".

SEC. 106. RENEWAL OF REGISTRATION.

Section 9 of the Trademark Act of 1946 (15 U.S.C. 1059) is amended to read as follows:

"RENEWAL OF REGISTRATION

"SEC. 9. (a) Subject to the provisions of section 8, each registration may be renewed for periods of 10 years at the end of each successive 10-year period following the date of registration upon payment of the prescribed fee and the filing of a written application, in such form as may be prescribed by the Commissioner. Such application may be made at any time within 1 year before the end of each successive 10-year period for which the registration was issued or renewed, or it may be made within a grace period of 6 months after the end of each successive 10-year period, upon payment of a fee and surcharge prescribed therefor. If any application filed under this section is deficient, the deficiency may be corrected within the time prescribed after notification of the deficiency, upon payment of a surcharge prescribed therefor.

"(b) If the Commissioner refuses to renew the registration, the Commissioner shall notify the registrant of the Commissioner's refusal and the reasons therefor.

"(c) If the registrant is not domiciled in the United States, the registrant shall designate by a written document filed in the Patent and Trademark Office the name and address of some person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, such notice or process may be served upon the Commissioner.".

SEC. 107. RECORDING ASSIGNMENT OF MARK.

Section 10 of the Trademark Act of 1946 (15 U.S.C. 1060) is amended to read as follows:

"ASSIGNMENT

"SEC. 10. (a) A registered mark or a mark for which an application to register has been filed shall be assignable with the good will of the business in which the mark is used, or with that part of the good will of the business connected with the use of and symbolized by the mark. Notwithstanding the preceding sentence, no application to register a mark under section 1(b) shall be assignable prior to the filing of an amendment under section 1(c) to bring the application into conformity with section 1(a) or the filing of the verified statement of use under section 1(d), except for an assignment to a successor to the business of the applicant, or portion thereof, to which the mark pertains, if that business is ongoing and existing. In any assignment authorized by this section, it shall not be necessary to include the good will of the business connected with the use of and symbolized by any other mark used in the business or by the name or style under which the business is conducted. Assignments shall be by instruments in writing duly executed. Acknowledgment shall be prima facie evidence of the execution of an assignment, and when the prescribed information reporting the assignment is recorded in the Patent and Trademark Office, the record shall be prima facie evidence of execution. An assignment shall be void against any subsequent purchaser for valuable consideration without notice, unless the prescribed information reporting the assignment is recorded in the Patent and Trademark Office within 3 months after the date of the subsequent purchase or prior to the subsequent purchase. The Patent and Trademark Office shall maintain a record of information on assignments, in such form as may be prescribed by the Commissioner.

"(b) An assignee not domiciled in the United States shall designate by a written document filed in the Patent and Trademark Office the name and address of some person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, such notice or process may be served upon the Commissioner.".

SEC. 108. INTERNATIONAL CONVENTIONS; COPY OF FOREIGN REGISTRATION.

Section 44 of the Trademark Act of 1946 (15 U.S.C. 1126) is amended—

(1) in subsection (d)—

(A) by striking "23, or 44(e) of this Act" and inserting "or 23 of this Act or under subsection (e) of this section"; and

(B) in paragraphs (3) and (4) by striking "this subsection (d)" and inserting "this subsection"; and

(2) in subsection (e), by striking the second sentence and inserting the following: "Such applicant shall submit, within such time period as may be prescribed by the Commissioner, a certification or a certified copy of the registration in the country of origin of the applicant.".

SEC. 109. TRANSITION PROVISIONS.

(a) Registrations in 20-Year Term.—The provisions of section 8 of the Trademark Act of 1946, as amended by section 105 of this Act, shall apply to a registration for trademark issued or renewed for a 20-year term, if the expiration date of the registration is on or after the effective date of this Act.

(b) Applications for Registration.—This title and the amendments made by this title shall apply to any application for registration of a trademark pending on, or filed on or after, the effective date of this Act.

(c) Affidavits.—The provisions of section 8 of the Trademark Act of 1946, as amended by section 105 of this Act, shall apply to the filing of an affidavit if the sixth or tenth anniversary of the registration, or the sixth anniversary of publication of the registration under section 12(c) of the Trademark Act of 1946, for which the affidavit is filed is on or after the effective date of this Act.

(d) Renewal Applications.—The amendment made by section 106 shall apply to the filing of an application for renewal of a registration if the expiration date of the registration for which the renewal application is filed is on or after the effective date of this Act.

SEC. 110. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect—

(1) on the date that is 1 year after the date of the enactment of this Act, or

(2) upon the entry into force of the Trademark Law Treaty with respect to the United States,

whichever occurs first.

TITLE II—TECHNICAL CORRECTIONS

SEC. 201. TECHNICAL CORRECTIONS TO TRADEMARK ACT OF 1946.

(a) In General.—The Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946 (15 U.S.C. 1051 et seq.) (commonly referred to as the Trademark Act of 1946), is amended as follows:

(1) Section 1(d)(1) (15 U.S.C. 1051(d)(1)) is amended—

(A) by inserting "and," after "specifying the date of the applicant's first use of the mark in commerce"; and

(B) by striking "and, the mode or manner in which the mark is used on or in connection with such goods or services".

(2) Section 2 (15 U.S.C. 1052) is amended—

(A) in subsection (e)—

(i) in paragraph (3) by striking "or" after "them,"; and

(ii) by inserting before the period at the end the following: ", or (5) comprises any matter that, as a whole, is functional"; and

(B) in subsection (f), by striking "paragraphs (a), (b), (c), (d), and (e)(3)" and inserting "subsections (a), (b), (c), (d), (e)(3), and (e)(5)".

(3) Section 7(a) (15 U.S.C. 1057(a)) is amended in the first sentence by striking the second period at the end.

(4) Section 14(3) (15 U.S.C. 1064(3)) is amended by inserting "or is functional," before "or has been abandoned".

(5) Section 23(c) (15 U.S.C. 1091(c)) is amended by striking "or device" and inserting ", device, any matter that as a whole is not functional,".

(6) Section 26 (15 U.S.C. 1094) is amended by striking "7(c),," and inserting ", 7(c),".

(7) Section 31 (15 U.S.C. 1113) is amended—

(A) by striking—

"§ 31. Fees";

and

(B) by striking "(a)" and inserting "Sec. 31. (a)".

(8) Section 32(1) (15 U.S.C. 1114(1)) is amended by striking "As used in this subsection" and inserting "As used in this paragraph".

(9) Section 33(b) (15 U.S.C. 1115(b)) is amended—

(A) by redesignating paragraph (8) as paragraph (9); and

(B) by inserting after paragraph (7) the following:

"(8) That the mark is functional; or".

(10) Section 39(a) (15 U.S.C. 1121(a)) is amended by striking "circuit courts" and inserting "courts".

(11) Section 42 (15 U.S.C. 1124) is amended by striking "the any domestic" and inserting "any domestic".

(12) The Act is amended by striking "trade-mark" each place it appears in the text and the title and inserting "trademark".

(b) Effective Date.—The amendments made by this section shall take effect on the date of enactment of this Act, and shall apply only to any civil action filed or proceeding before the United States Patent and Trademark Office commenced on or after such date relating to the registration of a mark.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. USE OF CERTIFICATION MARKS FOR ADVERTISING OR PROMOTIONAL PURPOSES.

Section 14 of the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946 (15 U.S.C. 1064) (commonly referred to as the Trademark Act of 1946) is amended by adding at the end the following: "Nothing in paragraph (5) shall be deemed to prohibit the registrant from using its certification mark in advertising or promoting recognition of the certification program or of the goods or services meeting the certification standards of the registrant. Such uses of the certification mark shall not be grounds for cancellation under paragraph (5), so long as the registrant does not itself produce, manufacture, or sell any of the certified goods or services to which its identical certification mark is applied.".

SEC. 302. OFFICIAL INSIGNIA OF NATIVE INDIAN TRIBES.

(a) In General.—The Commissioner of Patents and Trademarks shall study the issues surrounding the protection of the official insignia of federally and State recognized Native American tribes. The study shall address at least the following issues:

(1) The impact on Native American tribes, trademark owners, the Patent and Trademark Office, any other interested party, or the international legal obligations of the United States, of any change in law or policy with respect to—

(A) the prohibition of the Federal registration of trademarks identical to the official insignia of Native American tribes;

(B) the prohibition of any new use of the official insignia of Native American tribes; and

(C) appropriate defenses, including fair use, to any claims of infringement.

(2) The means for establishing and maintaining a listing of the official insignia of federally or State recognized Native American tribes.

(3) An acceptable definition of the term "official insignia" with respect to a federally or State recognized Native American tribe.

(4) The administrative feasibility, including the cost, of changing the current law or policy to—

(A) prohibit the registration, or prohibit any new uses of the official insignia of State or federally recognized Native American tribes; or

(B) otherwise give additional protection to the official insignia of federally and State recognized Native American tribes.

(5) A determination of whether such protection should be offered prospectively or retrospectively and the impact of such protection.

(6) Any statutory changes that would be necessary in order to provide such protection.

(7) Any other factors which may be relevant.

(b) Comment and Report.—

(1) Comment.—Not later than 60 days after the date of enactment of this Act, the Commissioner shall initiate a request for public comment on the issues identified and studied by the Commissioner under subsection (a) and invite comment on any additional issues that are not included in such request. During the course of the public comment period, the Commissioner shall use any appropriate additional measures, including field hearings, to obtain as wide a range of views as possible from Native American tribes, trademark owners, and other interested parties.

(2) Report.—Not later than September 30, 1999, the Commissioner of Patents and Trademarks shall complete the study under this section and submit a report including the findings and conclusions of the study to the chairman of the Committee on the Judiciary of the Senate and the chairman of the Committee on the Judiciary of the House of Representatives.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from North Carolina (Mr. Coble) and the gentleman from Virginia (Mr. Scott) each will control 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. Coble).

GENERAL LEAVE

Mr. COBLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 2193, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. COBLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 2193 consists of changes to public law that will enable us to implement the Trademark Law Treaty, popularly referred to as TLT, which the Senate ratified on June 26 of this year. There are 35 signatory nations to the TLT, which is designed to harmonize many trademark procedures around the world in an effort to simplify the registration process. These changes are especially important to American small businesses that wish to register their marks overseas but are unable to do so in every individual country because the process is too laborious and expensive. By enacting S. 2193, we will expand the ability of American businesses to conduct commerce abroad and diminish trademark piracy that has flourished in the absence of the TLT.

The bill is largely identical, Mr. Speaker, to H.R. 1661, the House version of the TLT Implementation Act, which we passed under suspension in July of last year. In addition, S. 2193 consists of technical changes to the Lanham, or Trademark, Act, as well as compromise language governing the use of certification marks. Finally, the measure also empowers the Commissioner of Patents And Trademarks to conduct a study of the official insignia of Federally and State recognized Native American tribes.

Mr. Speaker, this is a noncontroversial and important bill which the Senate passed on September 17 of this year. I urge my colleagues to adopt it so we can send S. 2193 to the President for his signature.

Mr. Speaker, I reserve the balance of my time.

Mr. SCOTT. Mr. Speaker, I yield myself such time as I may consume, and I rise in strong support of S. 2193, the Trademark Treaty Implementation Act. The House of Representatives has passed this legislation before, and I am pleased that the Senate has taken it up and now we can finally get it enacted into law.

The enactment of this legislation will bring the United States into conformity with the treaty entered into earlier this year, the effect of which will be to greatly ease the registration requirements of domestic and international trademark holders. We should strongly support this bipartisan legislation. It is good for small business, good for American trademark holders and good for international registration.

Mr. Speaker, I would like to thank the gentleman from North Carolina (Mr. COBLE) and the gentleman from Massachusetts (Mr. FRANK) for their hard work on this bill and I urge its passage.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. COBLE. Mr. Speaker, I yield myself such time as I may consume to thank the gentleman from Virginia for his help in this as well.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. COBLE) that the House suspend the rules and pass the Senate bill, S. 2193.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

ANNOUNCEMENT OF BILLS TO BE CONSIDERED UNDER SUSPENSION OF THE RULES ON SATURDAY, OCTOBER 10, 1998

Mr. SAXTON. Mr. Speaker, pursuant to House Resolution 575, I announce the following suspensions to be considered tomorrow:

H.R. 4110
H.R. 2431
H.R. 4309
House Resolution 559
House Resolution 553
House Concurrent Resolution 295
House Resolution 523
H.R. 3528
H.R. 3610
S. 1754
H.R. 4523
H.R. 4566
Senate Joint Resolution 58

House Resolution , Recognizing and honoring Hunter Scott for his efforts to honor the memory of the captain and crew of the U.S.S. Indianapolis and for the outstanding example he has set for the young people of the United States.

S. 2432
H.R. 2186
H.R. 3903
H.R. 3796
H.R. 2886
H.R. 4735
S. 2095
S. 2240
S. 1408
S. 1718
S. 469
S. 2106
S. 2413
S. 1175 and
S. 391.

The SPEAKER pro tempore. The notice will appear in the RECORD.

Saturday suspensions (29 bills)

1. H.R. 4111—Veterans Benefits Improvement Act of 1998 (Stump—Veterans)

2. H.R. 2431—Freedom From Religious Persecution Act (Wolf—IR)

3. H.R. 4309—Torture Victims Relief Act of 1998 (Smith—IR)

4. H. Res. 559—A resolution condemning the terror, vengeance, and human rights abuses against the civilian population of Sierra Leone (Ehlers—IR)

5. H. Res. 533—expressing the sense of the House of Representatives regarding the culpability of Hun Sen of war crimes, crimes against humanity, and genocide in Cambodia (Rohrabacher—IR)

6. H. Con. Res. 295—expressing the sense of Congress that the 65th anniversary of the Ukrainian Famine of 1932–1933 should serve as a reminder of the brutality of the government of the former Soviet Union's repressive policies toward the Ukrainian people (Levin—IR)

7. H. Res. 523—expressing the sense of the House of Representatives regarding the terrorist bombing of the United States Embassies in East Africa (A. Hastings—IR)

8. H.R. 3528—Alternative Dispute Resolution Act of 1998 (Coble—Judiciary)

9. H.R. 3610—National Oilheat Research Alliance Act of 1998 (Greenwood—COM)

10. S. 1754—Health Professions Education Partnerships Act of 1998 (Frist—COM)

11. H.R. 4523—Lorton Technical Corrections Act of 1998 (Davis—GRO)

12. H.R. 4566—District of Columbia Courts and Justice Technical Corrections Act of 1998 (Davis—GRO)

13. S.J. Res. 58—recognizing the accomplishments of Inspector General since their creation in 1978 in preventing and detecting waste, fraud, abuse, and mismanagement, and in promoting economy, efficiency, and effectiveness in the Federal Government (Glenn—GRO)

14. H. Res. —Recognizing and Honoring Hunter Scott for his Efforts to Honor the Memory of the Captain and Crew of the U.S.S. Indianapolis and for the Outstanding Example he has set for the Young People of the United States (Scarborough—GOV)

15. S. 2432—Assistive Technology Act of 1998 (Jeffords—E&W)

16. H.R. 2186—A bill to authorize the Secretary of the Interior to provide assistance to the National Historic Trails Interpretive Center in Casper, Wyoming (Cubin—Resources)

17. H.R. 3903—Glacier Bay National Park Boundary Adjustment Act of 1998 (Young—Resources)

18. H.R. 3796—A bill to authorize the Secretary of Agriculture to convey the administrative site for the Rogue River National Forest and use the proceeds for the construction or improvement of offices and support buildings for the Rogue River National Forest and the Bureau of Land Management (Smith—Resources)

19. H.R. 2886—Granite Watershed Enhancement and Protection Act (Doolittle—Resources)

20. H.R. 4735—A bill to make technical corrections to the Omnibus Parks and Public Lands Management Act (Hansen—Resources)

21. S. 2095—National Fish and Wildlife Foundation Establishment Act Amendments of 1998 (Chafee—Resources)

22. S. 2240—Adams National Historical Park Act of 1998 (Murkowski—Resources)

23. S. 1408—Lower East Side Tenement National Historic Site Act of 1997 (D'Amato/Velázquez—Resources)

24. S. 1718—A bill to amend the Weir Farm National Historic Site Establishment Act of 1990 (Lieberman—Resources)

25. S. 469—Sudbury Assabet, and Concord Wild and Scenic Rivers Act (Kerry—Resources)

26. S. 2106—Arches National Park Expansion Act of 1998 (Bennett—Resources)

27. S. 2413—Woodland Lake Park tract in Apache-Sitgreaves National Forest (McCain—Resources)

28. S. 1175—Delaware Water Gap National Recreation Area Citizen Advisory Commission (Lautenberg—Resources)

29. S. 391—Mississippi Sioux Tribes Judgment Fund Distribution Act (Dorgan—Resources)

CONVEYING TITLE TO TUNNISON LAB HAGERMAN FIELD STATION IN GOODLING COUNTY, IDAHO, TO UNIVERSITY OF IDAHO

Mr. SAXTON. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2505) to direct the Secretary of the Interior to convey title to the Tunnison Lab Hagerman Field Station in Goodling County, Idaho, to the University of Idaho.

The Clerk read as follows:

S. 2505

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONVEYANCE OF TUNNISON LAB HAGERMAN FIELD STATION, HAGERMAN, IDAHO, TO THE UNIVERSITY OF IDAHO.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior shall convey to the University of Idaho, without reimbursement, all right, title, and interest of the United States in and to the property described in subsection (b) for use by the University of Idaho for fish research.

(b) DESCRIPTION OF PROPERTY.—

(1) IN GENERAL.—The property referred to in subsection (a) consists of approximately 4 acres of land, the Tunnison Lab Hagerman Field Station in Gooding County, Idaho, located thereon, and all improvements and related personal property, excluding water rights vested in the United States and necessary access and utility easements and rights-of-way.

(2) SURVEY.—The exact acreage and legal description of the property described under paragraph (1) shall be determined by a survey that is satisfactory to the Secretary.

(c) REVERSIONARY INTEREST IN THE UNITED STATES.—

(1) REQUIREMENT.—If any property conveyed to the University of Idaho under this section is used for any purpose other than the use authorized under subsection (a), all right, title, and interest in and to all property conveyed under this section shall revert to the United States.

(2) CONDITION OF PROPERTY ON REVERSION.—In the case of a reversion of property under paragraph (1), the University of Idaho shall ensure that all property reverting to the United States under this subsection is in substantially the same condition as, or in better condition than, on the date of conveyance under subsection (a).

(d) COMPLIANCE WITH OTHER LAWS.—In connection with property conveyed under this section, the University of Idaho shall—

(1) comply with the National Historic Preservation Act (16 U.S.C. 470 et seq.) for all ground disturbing activities, with special emphases on compliance with sections 106, 110, and 112 (16 U.S.C. 470f, 470h–2, 470h–4); and

(2) protect prehistoric and historic resources in accordance with the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.).

(e) LIABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), as a condition of the conveyance of property under this section, the University of Idaho shall hold the United States harmless, and shall indemnify the United States, for all claims, costs, damages, and judgments arising out of any act or omission relating to the property conveyed under this section.

(2) EXCEPTIONS.—Paragraph (1) shall not apply to a claim, cost, damage, or judgment arising from an act of negligence committed by the United States, or by an employee, agent, or contractor of the United States, prior to the date of the conveyance under this section, for which the United States is found liable under chapter 171 of title 28, United States Code.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. SAXTON) and the gentleman from California (Mr. MILLER) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. SAXTON).

Mr. SAXTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 2505, a bill introduced by our colleagues from Idaho, Senators LARRY CRAIG and DIRK KEMPTHORNE, to transfer the Tunnison Lab Hagerman Field Station to the University of Idaho.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Idaho (Mrs. CHENOWETH) to explain the bill.

Mrs. CHENOWETH. Mr. Speaker, I thank the chairman for yielding me this time. It is with a great deal of pleasure that I rise to support the passage of Senate bill 2505, a bill that was guided very well through the Senate by our Idaho colleagues, Senators CRAIG and KEMPTHORNE. And I want to thank the gentleman from New Jersey (Mr. SAXTON) and also the gentleman from Alaska (Mr. YOUNG) for bringing this bill to the House floor.

Mr. Speaker, the United States Fish and Wildlife Service maintains a very large steelhead fish hatchery near Hagerman, Idaho. Part of that operation has been aquaculture research, and they have a laboratory there known as the Tunnison Lab Hagerman Field Station.

Recognizing the importance of continuing aquaculture research, the United States Fish and Wildlife Service reached a cooperative agreement with the University of Idaho 3 years ago.

□ 1950

This agreement would allow the University to continue and expand the work that is presently being done at Hagerman.

The collaboration has worked very well, but now, with the passage of this bill, we have the opportunity to do even better. The University of Idaho has secured $1.75 million in combination with Federal, State and private funds to finance the improvements at this laboratory in order to bring it up to current research standards and make it a truly viable research facility for aquaculture.

With the transfer of this property to the University of Idaho, the people of Idaho, the local aquaculture industry, the State of Idaho and the U.S. Fish and Wildlife Service will continue to reap the benefits of the very important work being done at this laboratory.

Mr. Speaker, I am sure that most of my colleagues are aware of how very important the salmon is to the State of Idaho. In fact, it is a social icon in Idaho and a cultural icon. It is at the very headwaters of this whole environmental debate in the Northwest.

At this time, hundreds of millions of dollars are being spent each year on the recovery of this declining species. Some have proposed drastic and heavy-handed measures, using unproven science, to save the species. However, I have advocated that finding solutions to this complex and very difficult issue will require sound science, the kind of science that the University of Idaho will utilize in the research of salmon biology at the Hagerman Laboratory.

The University of Idaho has undertaken very important work here to help find practical solutions, workable solutions, to aid the efforts to conserve our native salmonid species. Survival rates of hatchery raised fish in the wild are notoriously low, but solutions as simple as developing new hatchery diets can greatly improve their survival rates. This work is already under way at the laboratory at Hagerman, but, in addition, the University proposes to make the Hagerman Lab home to an innovative cryogenic gene bank for salmon genetic material to ensure that we have access to the full range of genetic material needed to maintain a salmonid population's genetic integrity when raising fish to release in the wild, which is very, very important for our future.

Mr. Speaker, this bill is a win-win. It is good for the people of Idaho. It is good for the Northwest. It is good for the industry, and it is good, most importantly, for the native salmonids. It is a win for the United States Fish and Wildlife Service and for the State of Idaho, and I am pleased to see it considered and passed in the House today.

Mr. Speaker, I am pleased to present to the House S. 2094, the Fish and Wildlife Revenue Enhancement Act. This bill would amend the Fish and Wildlife Improvement Act of 1978 to enable the U.S. Fish and Wildlife Service to utilize funds obtained from the sale of certain abandoned or forfeited products.

The House version of this legislation, introduced by our colleagues, BOB SCHAFFER and DAVID SKAGGS, was the subject of an extensive hearing before my subcommittee. At that time the Fish and Wildlife Service made a compelling case for changing the law to allow them to pay the costs associated with shipping, storage, and disposal of certain wildlife items.

While thousands of wildlife items legally enter this country on a daily basis with proper documentation, other products are confiscated at our borders because they lack the proper or necessary import permits. While some of these goods are made from endangered or threatened species and, therefore, cannot be legally possessed, many of these products, like boots and handbags, can be legally owned.

Currently, the U.S. Fish and Wildlife Service is responsible for transporting all confiscated and forfeited goods to the National Wildlife Property Repository in Commerce City, CO. Some of the goods are distributed to high schools and other educational facilities in what the Service calls Cargo for Conservation kits. However, the constant supply of goods coming into the Repository far exceeds the demand for these items. In fact, the Repository currently has about 450,000 items, of which 200,000 can be legally sold.

While the Service may dispose of these items by any means it deems appropriate, it must do so at its own cost. Any funds obtained in excess of the storage costs or money paid to individuals as a reward for information must be deposited into the General Fund of the U.S. Treasury. Last year, the Repository was appropriated $310,000. After paying overhead and operations, only $30,000 was left to implement programs that loan wildlife items to schools, universities, and museums and to assist Native Americans in meeting their religious and ceremonial needs. Therefore, there is no incentive for the Service to sell any of these legal products, since it lacks the resources to undertake this effort.

S. 2094 gives the Service the opportunity to sell certain wildlife goods now in storage through a public auction process. These auctions would only sell those goods that are legal to possess, and no items derived from endangered or threatened species would be available. By doing this, the stockpile will be reduced, better storage techniques would be implemented, and programs, like Cargo for Conservation, could be expanded to help educate thousands of additional students each year.

Mr. Speaker, this is a sound piece of legislation and I compliment the author, Senator WAYNE ALLARD of Colorado, for his outstanding leadership in this matter. I urge an "aye" vote on S. 2094.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the legislation. It is supported by the administration, and I want to thank Senator KEMPTHORNE and Senator CRAIG and the gentlewoman from Idaho (Mrs. CHENOWETH) for their work. I am aware of no controversy.

Mr. Speaker, I yield back the balance of my time.

Mr. SAXTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SNOWBARGER). The question is on the motion offered by the gentleman from New Jersey (Mr. SAXTON) that the House suspend the rules and pass the Senate bill, S. 2505.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAXTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 2505, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

FISH AND WILDLIFE REVENUE ENHANCEMENT ACT OF 1998

Mr. SAXTON. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2094) to amend the Fish and Wildlife Improvement Act of 1978 to enable the Secretary of the Interior to more effectively use the proceeds of sales of certain items.

The Clerk read as follows:

S. 2094

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fish and Wildlife Revenue Enhancement Act of 1998".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the United States Fish and Wildlife Service (referred to in this Act as the "Service")—

(A) is responsible for storage and disposal of items derived from fish, wildlife, and plants, including eagles and eagle parts, and other items that have become the property of the United States through abandonment or forfeiture under applicable laws relating to fish, wildlife, or plants;

(B) distributes many of those items for educational and scientific uses and for religious purposes of Native Americans; and

(C) unless otherwise prohibited by law, may dispose of some of those items by sale, except items derived from endangered or threatened species, marine mammals, and migratory birds;

(2) under law in effect on the date of enactment of this Act, the revenue from sale of abandoned items is not available to the Service, although approximately 90 percent of the items in possession of the Service have been abandoned; and

(3) making revenue from the sale of abandoned items available to the Service will enable the Service—

(A) to cover costs incurred in shipping, storing, and disposing of items derived from fish, wildlife, and plants; and

(B) to make more extensive distributions of those items for educational, scientific, and Native American religious purposes.

(b) PURPOSES.—The purposes of this Act are to make proceeds from sales of abandoned items derived from fish, wildlife, and plants available to the Service and to authorize the use of those proceeds to cover costs incurred in shipping, storing, and disposing of those items.

SEC. 3. USE OF PROCEEDS OF CERTAIN SALES.

Section 3(c) of the Fish and Wildlife Improvement Act of 1978 (16 U.S.C. 742*l*(c)) is amended—

(1) by striking "Notwithstanding" and inserting the following:

"(1) IN GENERAL.—Subject to paragraph (2), notwithstanding"; and

(2) by adding at the end the following:

"(2) PROHIBITION ON SALE OF CERTAIN ITEMS.—In carrying out paragraph (1), the Secretary of the Interior and the Secretary of Commerce may not sell any species of fish, wildlife, or plant, or derivative thereof, for which the sale is prohibited by another Federal law.

"(3) USE OF REVENUES.—The Secretary of the Interior and the Secretary of Commerce may each expend any revenues received from the disposal of items under paragraph (1), and all sums referred to in the first sentence of section 11(d) of the Endangered Species Act of 1973 (16 U.S.C. 1540(d)) and the first sentence of section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d))—

"(A) to make payments in accordance with those sections; and

"(B) to pay costs associated with—

"(i) shipping items referred to in paragraph (1) to and from the place of storage, sale, or temporary or final disposal, including temporary or permanent loan;

"(ii) storage of the items, including inventory of, and security for, the items;

"(iii) appraisal of the items;

"(iv) sale or other disposal of the items in accordance with applicable law, including auctioneer commissions and related expenses;

"(v) payment of any valid liens or other encumbrances on the items and payment for other measures required to clear title to the items; and

"(vi) in the case of the Secretary of the Interior only, processing and shipping of eagles and other migratory birds, and parts of migratory birds, for Native American religious purposes.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. SAXTON) and the gentleman from California (Mr. MILLER) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. SAXTON).

Mr. SAXTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to present the House S. 2094, the Fish and Wildlife Revenue Enhancement Act. This bill would amend the Fish and Wildlife Improvement Act of 1978 to enable the U.S. Fish and Wildlife Service to utilize funds obtained from the sale of certain abandoned or forfeited products.

Mr. Speaker, I know of no controversy with regard to this bill. I, therefore, will ask that the balance of my statement be placed in the RECORD.

Mr. Speaker, I reserve the balance of my time.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 2094. It is a good government bill and the gentleman from Colorado (Mr. SKAGGS), who has authored the House bill, deserves credit for his diligence and devotion for getting this legislation passed.

Mr. SKAGGS. Mr. Speaker, I rise in support of S. 2094. This is simply a good Government bill. It allows the Fish and Wildlife Service to auction nonendangered wildlife products that have been confiscated by wildlife agents or the customs service for various reasons. The bill enables the proceeds of those sales to be used to cover the costs of shipping, storing, and disposing of confiscated wildlife products, and to facilitate the distribution of such products for educational or scientific purposes, or for Native American religious purposes.

Sadly, each year millions of dollars in illegal wildlife products are confiscated at our borders. This bill takes these lemons and makes lemonade by allowing some of these products to be used to raise revenue to enhance wildlife awareness and education, as well as to pay the more mundane costs of administering confiscated goods.

This is good legislation made better by the other body, whose amendment ensures that no products whose sale is otherwise prohibited by Federal law may be sold pursuant to this legislation.

The gentleman from Colorado, Mr. SKAGGS, who authored the House bill, deserves credit for his diligence and devotion to getting this legislation passed. This bill is as unassuming and effective and its House sponsor and I urge the House to support its passage.

Mr. Speaker, I yield back the balance of my time.

Mr. SAXTON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. SAXTON) that the House suspend the rules and pass the Senate bill, S. 2094.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAXTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 2094, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title.

H.J. Res. 133. Joint resolution making further continuing appropriations for the fiscal year 1999, and for other purposes.

APPOINTMENT OF MEMBER TO SOCIAL SECURITY ADVISORY BOARD

The SPEAKER pro tempore. Without objection, and pursuant to the provisions of Section 703 of the Social Security Act, 42 U.S.C. 903, as amended by Section 103 of Public Law 103–296, the Chair announces the Speaker's reappointment of the following member to the Social Security Advisory Board to fill the existing vacancy thereon:

Ms. Jo Anne Barnhart, Arlington, Virginia.

There was no objection.

SUPPORT THE U.S. STEEL JOBS PROTECTION ACT

(Mr. ADERHOLT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include therein extraneous material.)

Mr. ADERHOLT. Mr. Speaker, I am introducing today the U.S. Steel Jobs Protection Act, a bill with already 10 bipartisan cosponsors. This bill imposes an immediate 1-year ban on hot-rolled steel from Japan, Brazil, and Russia.

Our trade partners, knowing the slowness of the petition process, have dumped millions of tons of below-cost steel on the U.S. market. Thousands of permanent U.S. jobs will be lost by the time the petition process concludes.

The U.S. steel industry mass modernized and cut production man-hours per ton from 10 to three. This strong, by temporary, action must be taken if we are to be serious about helping families who work for the steel industry.

We urge support for the bill and strongly urge the President to take immediate action to help America's steelworkers.

Mr. Speaker, today I am introducing "The U.S. Steel Jobs Protection Act," a bill with ten bipartisan cosponsors. Currently, U.S. steel producers are in a crisis due to outrageously unfair conditions. Membership in the World Trade Organization, and signing onto the General Agreement on Tariffs and Trade (GATT) implies a willingness to abide by fair trading practices in order to avoid what some call trade wars.

Unfortunately, a number of countries experiencing severe financial crisis have knowingly allowed their steel companies to export steel to the United States at a cost far below their own domestic market price or even below the cost of production. While I understand the need for income by these countries, I do not condone what at best is a reckless disregard for the effect that such exports have on workers in our steel industry.

Since the 1980's, our steel industry has modernized and streamlined. In 1982, it cost roughly 10 man hours per ton to produce U.S. steel. In 1998, the average is below 4 MHPT. The U.S. steel industry has invested over $50 billion in steel plant modernization over the past two decades. The industry employed 425,000 in 1980, and 160,000 in 1998. The U.S. steel industry forecasts that imports of hot-rolled steel in 1998 will be over 500 percent of that imported in 1995. According to industry analysts, some foreign steel is being sold at one-third the cost of production, or more. Clearly, the U.S. steel industry has done its part.

No business can long withstand that kind of assault. I wish that a gentle call to our foreign trading partners for reasonable action would suffice. I am afraid that we are way beyond that point, however. U.S. companies and unions filing a petition for relief from unfair trade practices know that they must wait until severe financial damage is evident for their petition to be acted upon with any urgency. Even then, the best they can hope for is a partial resolution in 160 days. Such cases usually take 12 to 18 months. The current crisis in the steel industry is too great for that kind of wait.

My bill imposes an immediate, temporary moratorium on the further import of certain steel products from three countries—Japan, Russia, and Brazil—for 1 year. Upon completion of the case filed September 30, 1998, duties may be assessed on all steel dumped at a below-cost price retroactive to one year prior the filing of the petition. Should this bill become law, that 1-year retroactive aspect would also apply to any other petitions naming other countries engaged in similar steel-dumping practices.

I realize that there are some concerns about our obligations under the GATT agreements and as a member of the WTO. I agree that we should keep our word and treat all of our trading partners fairly. I also believe that our first obligation as Members of the federal government is to protect the citizens of the United States. What we are currently experiencing is not a minor misunderstanding, or a cultural difference in economic practices. We are the victim of a deliberate action which is harming our domestic steel industry.

Not defending ourselves in this situation is akin to unilateral disarmament while being fired upon. My suggestion of a temporary import ban is not a strike back; it is a recovery period from a battle in which we are wounded. If you believe that membership in the WTO and accepting GATT overrides all U.S. federal laws, historical precedents, constitutional authority, and the moral duty of the federal government to its citizens, I wish you would please come to Gadsden, Alabama and explain that to the 150 or so families who have lost their income, or will lose it within a few weeks.

Please explain to the remaining 2000+ steel industry employees that they must sacrifice their jobs to outrageously unfair trade practices so that we can stabilize the governments and economies of other nations. I don't think they will understand. Nor, frankly, will I.

If our neighbors, our foreign allies need help, let us discuss in a reasonable and straightforward manner on this House floor a plan specific to each country regarding how we might help them—and by that I do not mean throwing away billions of dollars to the IMF board, who have no idea where billions of dollars recently sent to Russia have ended up.

I would like to see this bill become law. I would like to see the President take a serious look at his authority under various U.S. trade laws and take action himself to impose a temporary import ban so that the industry might have a period in which to recover. If our trading partners do not like these suggestions, the solution is easy. Let them admit to the wrongness of their actions, and present to the President a serious plan for halting or slowing imports and making reparations directly to the U.S. steel industry.

The United States of America is strong, and generous. Let us help our friends abroad, but let us stop sacrificing U.S. jobs in what amounts to an unfunded, unauthorized, program of foreign aid.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. SNOWBARGER). Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

☐ 2000

ON THE ACHIEVEMENTS OF THE LABORERS' REFORM EFFORTS

The SPEAKER pro tempore (Mr. SNOWBARGER). Under the Speaker's announced policy of January 7, 1997, the gentleman from Missouri (Mr. CLAY) is recognized for 10 minutes as the designee of the minority leader.

Mr. CLAY. Mr. Speaker, Clarence Darrow said, "With all their faults, trade unions have done more for humanity than any other organization of men that ever existed. They have done more for decency, for honesty, for education, for the betterment of the race, for the developing of character in men than any other association of men."

The labor movement has played a vital role in making this country what it is today. Only 65 years ago the basic right to retire was beyond the means of most workers. One worked until one was physically unable to work anymore. Workers even when they were employed could barely support their families on a day-to-day basis. The prospect of being able to save enough money to retire, or buy a home or send a child to college was for most workers nonexistent. The fact that this is no longer the case is in large part a measure of the success of the labor movement.

The successes achieved by the labor movement did not come easily. Most worker rights were bitterly opposed by employers and their political allies. Moreover, labor's opponents have never been satisfied with merely opposing policies pursued on behalf of workers. More typically labor's opponents attack the very fabric of trade unionism. In doing so, they directly attack the well-being of working families.

Today, Mr. Speaker, I want to talk about another attack that has been launched against the labor movement. In the American Spectator, in the Weekly Standard and on the editorial pages of the Wall Street Journal, charge after charge has been leveled against the Laborers' International Union. The reform efforts that the Laborers' have undertaken and the consent decree under which the union is operating have been assaulted.

Mr. Speaker, these articles regularly sling stupefying charges of continued mob control of the union by a recognized crime family without providing a shred of evidence or on-the-record attribution for allegations made. The common feature of these articles is that they make absolutely no mention of the real progress that has been made to ensure that the Laborers' is a democratic union controlled by and operated for the benefit of rank-and-file members.

Today there is an effort under way at the Laborers' Union that represents one of the most innovative, cost-effective programs ever undertaken to rid a union of mob influence. The reform effort is still a work in progress. It is premature to render judgment regarding its ultimate success. However, Mr. Speaker, the progress that has been made is truly impressive. To ignore, misrepresent or dismiss it is not just disingenuous but may deny workers and the government a model for the future that does a better job of promoting and protecting union democracy than other means that we have tried in the past.

Corruption in the Laborers' Union was investigated for decades, with little to show for the effort. Finally, the U.S. Justice Department informed the union that it would take legal action to take control of the union just as it had done with the Teamsters Union.

The union and its leaders facing this critical decision and knowing how serious the problem was could have chosen to spend years fighting the government's suit or could be part of the solution. The union's executive board chose to be part of that solution. On February 13, 1995 the Laborers' entered into an historic oversight agreement with the Department of Justice to rid the union of mob influence. The union agreed that, with the help of independent investigators and prosecutors, it would clean its own house.

Since that time, a remarkable story has been taking place. The union adopted a new ethics and disciplinary code and it adopted an independent process to enforce that code. The union has hired a team of former top-ranking FBI officials and Justice Department prosecutors to enforce the code and to discipline those who violate it.

So far, Mr. Speaker, the reform effort within the union has, one, removed 189 union officials; has filed charges against 132 union officials and staff; has caused 47 union officials to resign after bringing or threatening to bring charges; has referred 25 criminal matters to Federal or local law enforcement authorities; and has imposed 19 trusteeships over local unions and district councils in which all local officials and officers were removed.

Mr. Speaker, trusteeships have been imposed on the Chicago District Council and on Local 210 in Buffalo, New York, both regarded as longtime bastions of organized crime.

Members of the Mason Tenders District Council of Greater New York recently conducted their first officers' election since the imposition of a trusteeship in 1994. While under trusteeship, the union recovered $12 million of the $15 million in assets lost by wrongdoing by former officers.

In 1996, the union conducted its first direct rank-and-file election for general president and will soon implement the first ever direct membership vote for all union offices.

Mr. Speaker, the union is embarking upon hiring hall reforms and is educating its Members so that they are able to freely and fully participate in the union affairs and governance. The union has also implemented a toll-free 800 telephone number directly to the internal, independent Inspector General's office so that members may more easily raise complaints or express their concerns.

No one has been immune from the reform process. Charges have even been brought against the union's general president. An independent inquiry is now being made to determine whether to remove that individual from office or not.

Mr. Speaker, all of this is being accomplished by the union itself. It is all being paid for with union money and not government funds. The reform process is promoting private initiative and accountability. The union is under the democratic control of its members, not the mob and not the government.

In 3½ years, the Laborers' internal reform effort has done more to clean up the union than decades of efforts by law enforcement agencies. And the reform effort has accomplished this in a manner that has made the union a more effective advocate on behalf of its members rather than a weaker one.

The reform efforts are not yet complete, but much has been accomplished. Nevertheless the accomplishments of the Laborers' internal reform effort are truly significant. They deserve the attention of the public, and they deserve fair and accurate reporting by the media.

Mr. Speaker, I include for the RECORD a document entitled "Report to Members of Congress, Laborers' International Union of North America's Ethics and Disciplinary Program: 41 Months of Progress."

REPORT TO MEMBERS OF CONGRESS—LIUNA'S ETHICS AND DISCIPLINARY PROGRAM: 41 MONTHS OF PROGRESS

A BOLD EXPERIMENT

One of the most under reported stories in today's labor movement concerns a union, with a proud past that was sadly tarnished by corruption, that has taken matters into its own hands, ridding itself of wrongdoers and eradicating criminal influences.

Under an historic Oversight Agreement signed on February 13, 1995, the Laborers' International Union of North America (LIUNA) continues to work with the U.S. Department of Justice to initiate widespread internal reforms. Over the past three years, our union has implemented model ethics, disciplinary and democracy programs that stand second to none in safeguarding the rights of every union member. We have succeeded in moving our union into a new era.

The Laborers' International also successfully conducted the first rank-and-file election for General President in December 1996, under the supervision of an Independent Election Officer. In our next election, we will implement direct membership votes for all union officers.

LIUNA's reform programs have been cited as a model for future reform efforts, and in a March 24, 1998 letter to the National Legal and Policy Center, the Department of Justice stated that it believed that our internal reform process has "resulted in considerable success."

This is not to imply that the Justice Department believes our programs are perfect, nor do we. But as we learn, we continue to progress. Indeed, our success thus far—and the fact that work remains to be done—is why we and the Justice Department extended our unique Oversight Agreement for another year. Under this agreement, the Justice Department retains the unilateral power to take control of our union if it feels we are making insufficient progress in rooting out corruption and safeguarding our members' rights. We view the extension of the Oversight Agreement as a clear vote of confidence in our reform efforts.

THE POLITICAL ATMOSPHERE

The innovative nature of the Laborers' self-reform movement—and the facts about its genesis and achievements—should merit both bipartisan and nonpartisan support. Unfortunately, this has not been the case.

Over the course of the Agreement, our reform programs and our union have been the subject of relentless attacks by anti-labor opponents and right-wing extremists. Those who have the most to fear and the most to lose from reform have tried to sabotage this process and undo LIUNA's progress. And some in Congress and in the media have given these people an uncritical hearing and platform.

Media outlets, such as The Wall Street Journal and The American Spectator, continue to publish articles, editorials and guest columns that repeat—like a broken record—misconceptions, falsehoods and unsupported allegations about our union, our officers and our reform efforts. They do not, however, have the journalistic integrity to publish the evidence of our progress or to take an unbiased look at how our union is changing for the better.

A NEW APPROACH

LIUNA's Cooperative Agreement is a model for the kind of reform the Justice Department and FBI have been working toward in private industry—requiring private organizations to assume principal responsibility for policing themselves. Among its many benefits, the Agreement has: Saved taxpayer dollars by having LIUNA—not the government—responsible for cleaning its own house; promoted private initiative and accountability, rather than relying on the government to fix what is, in essence, an internal matter; and kept LIUNA under the democratic control of its members, averting a government takeover of a private organization.

LIUNA's General Executive Board (GEB) is firmly committed to the success of the Ethics and Disciplinary Program. Our experience has only added to our commitment for this unique experiment in self-policing, and it has deepened our resolve to permanently change this union for the better. LIUNA is unequivocally committed to advancing internal reforms and to making this the most democratic union for our members.

Another priority continues to be implementation of hiring hall reforms. LIUNA's General Executive Board adopted a new set of job referral rules and hiring hall practices to protect all LIUNA members' rights and eliminate any possibility of violations. In 1996, we also established a Job Referral Committee which works with the independent GEB Attorney on an ongoing basis to deal with complex local issues and to improve policies governing these matters. LIUNA officials and members are receiving the necessary education and instruction to put these reforms in place.

A third priority is educating members on our election reform rules so that all members can be confident of their right to participate fully in fair and open elections, and in union affairs and governance.

HIGHLIGHTS OF THE REFORM PROCESS

The Laborers' Ethics and Disciplinary Code and internal reform program work because they are now an established part of our union's Constitution and because they are enforced by a team of fully independent officers. These officers do no answer to the General President, General Executive Board or the General Counsel of the Laborers' Union; they answer only to our members and the U.S. Department of Justice.

When the Inspector General's investigators discover conduct that might constitute grounds for discipline, they bring the matter to the attention of the GEB Attorney, and he commences prosecution, if warranted. Such cases have succeeded in eliminating some of the most significant sources of corruption within the union.

Officials at all levels of LIUNA have resigned their positions when confronted with disciplinary charges or the prospect of being required to give sworn testimony in connection with investigations. The resignations eliminate sources of corruption swiftly and effectively, and allow the Inspector General and GEB Attorney to focus efforts on other high priorities. The ease of these victories in no way detracts from their value.

The following actions, compiled by the Inspector General's Office as of August 1998, are testament to the ongoing success of LIUNA's innovative reform process:

Removed 189 individuals for criminal or ethical violations, or ties to criminal elements, through convictions, terminations or suspensions.

Filed charges and complaints against 132 individuals for alleged wrongdoing. Some focus on individual members or officers. Others are aimed at broader patterns of misconduct committed by LIUNA District Councils or Local Unions.

Prompted the resignations of 47 individuals who were targets of investigations.

Suspended eight individuals pending resolution of criminal charges.

Referred 25 criminal matters to federal or local law enforcement authorities.

In addition to these activities, we should note that the Laborers' have succeeded in using trusteeships and suspensions to rid our most problem district councils and local unions of all vestiges of corruption.

For example, the Mason Tenders District Council of Greater New York this year concluded its first officers' election since a trusteeship was imposed in 1994. The trusteeship has recovered $12 million of the $15 million in assets lost by the membership because of malfeasance.

The Mason Tenders Investigations Officer, Michael Chertoff, who also served as Majority Counsel to the Senate Whitewater Committee, has expressed his confidence in our aggressive efforts to prevent organized crime from ever regaining influence there.

Our Independent Officers have also imposed trusteeships over Local 210 in Buffalo and the Chicago District Council, which had historically been controlled by organized crime. Law enforcement authorities pursued both locals for many years with minimal success, but our internal reform process got results expeditiously and fairly.

In all, 19 trusteeships have been imposed, 17 in the U.S. and two in Canada, where all officers were removed and 10 supervisions have been established where the majority of officers were removed.

LIUNA'S ANTI-CORRUPTION TEAM

Our Inspector General, W. Douglas Gow, is the former Associate Deputy Director for Investigations at the FBI. He is charged with investigating and resolving disciplinary matters arising under LIUNA's Constitution or Ethical Practices Code, and supervising the union's compliance program that is designed to prevent and detect wrongdoing. He has assembled a first-class team of high-ranking, former FBI agents and law enforcement officers. This team is charged with pursuing every credible lead of possible wrongdoing.

We have taken extra steps to make it easier for union members to raise their complaints, questions or concerns through a toll-free 800 telephone number that goes directly into the Inspector General's Office. All calls are treated in the strictest of confidence.

Our General Executive Board Attorney, Robert Luskin, is the former Special Counsel for the Justice Department's Organized Crime and Racketeering Section. He serves, in effect, as the union's chief disciplinary official.

All internal hearings are held before the Independent Hearing Officer, Peter F. Vaira, a former director of the President's Commission on Organized Crime and a former U.S. Attorney for the Eastern District of Pennsylvania. W. Neil Eggleston, a former Chief Appellate Attorney for the U.S. Attorney's Office for the Southern District of New York, serves as the Independent Appeals Officer.

A FINAL NOTE

As we stated earlier, our reform process is not perfect, but it has made more progress in the last 41 months in ferreting out corruption and identifying wrongdoings than any other union. We are proud of what we have accomplished, and we will continue to work hard to make our union the strongest, cleanest and most democratic for our members.

□ 2010

GREEDY PLAYERS, GREEDY OWNERS, AND PUTTING AMERICA FIRST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. DUNCAN) is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, we are all reading the reports about economic troubles all over the world. We are also being told that these problems are already starting to affect the economy here in this country. Yet at the same time a small group of people who are averaging over $2½ million a year are getting ready to go on strike. I am talking of course about the NBA.

Today professional sports has become filled with greedy players and greedy owners, and nowhere is this more obvious than in pro basketball. Last year one of my sons told me that one little-known player had signed a 6-year, $123 million contract, 20½ million dollars a year. I told my son that the sports world has simply gone berserk.

I hope the NBA players and owners cannot work out their differences. I hope the whole season is lost. If they do play, I wish people would just refuse to watch and instead go to college or high school games.

I remember a couple of years ago hearing about a major league baseball player signing for 3 years for $6 million a year. The average person in this country today makes less than $25,000 a year. If a person worked for 40 years at 25,000 a year, he would make $1 million for his whole career. If he was way above average, making 50,000 a year, he would make $2 million over a 40 year career. A person would have to average $150,000 a year for 40 years to make $6 million.

These pro sports salaries are simply out of whack. I do not support giving government more money because so much of it is wasted, and turning money over to government is the least efficient way to spend money and the least efficient way to create jobs that you could find. But with these ridiculous salaries as high as they are now and especially if they continue to escalate, then we should lower the taxes on middle-income people and make it up by raising the taxes on these athletes and movie stars who are making millions of dollars a year.

Mr. Speaker, if we are about to hit some hard economic times, then we need to try even harder to see that we use our money and spend our money in the wisest ways possible. We need to give people more incentives to save and more incentives to invest especially in companies that create manufacturing and industrial jobs, good paying jobs. We need to stop giving tax breaks and spending huge sums of public money for pro sports companies so they can raise the salaries of athletes who are already being paid obscene amounts already.

While I am discussing inefficient, unfair ways of spending public money, I should mention that unfortunately we are about to give many billions more to the International Monetary Fund in this end-of-the-year omnibus appropriations bill. We will be doing this against the advice of people like George Schultz, the former Treasury Secretary; Jack Kemp, a former leader in this body; James K. Glassman, the Washington Post financial columnist and many others. Mr. Glassman wrote this past Tuesday that:

> The IMF bears responsibility for Asia's troubles. With the U.S. Treasury in 1995, it delivered unprecedented sums to bail out banks and investors who made reckless loans to Mexico. That rescue then encouraged investors to make riskier extensions of credit to Asia, Russia and Latin America. That led to over capacity and to the current crisis.

In other words, we are taking billions from lower and middle income Americans to send to foreign countries to bail out rich investors, banks and multinational companies for bad investments overseas and in some cases to help keep factories going in other nations which are taking jobs from American workers. Our Founding Fathers never would have believed this. We are told we have to do this because if we do not, other countries will not be able to buy as many American products, and some American workers will lose their jobs. What we would really be doing though is sending billions of American tax dollars to other countries so that we can get a portion of it back.

Already our balance of payments deficit, our trade deficit is at record levels. We will lose about 3 million jobs to other countries because of a trade imbalance this year alone. If we kept all of these billions here instead of giving it to the IMF, some multi-national companies and international bankers and investors might be hurt. But this money would not disappear if we simply kept it here. More of it would then go to the benefit of American workers and small American businesses that do not do much or any business overseas.

Mr. Speaker, as I have said on this floor before, we need to start putting our own workers and our own businesses first once again. We need to start putting America first once again, even if it is not politically correct or fashionable with liberal elitists to do so.

SEMI-ANNUAL REPORT PURSUANT TO THE CUBAN DEMOCRACY ACT OF 1992—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. SHIMKUS) laid before the House the following message from the President of the United States; which was read and, without objection, referred to the Committee on International Relations, and ordered to be printed:

To the Congress of the United States:

This report is submitted pursuant to 1705(e)(6) of the Cuban Democracy Act of 1992, 22 U.S.C. 6004(e)(6) (the "CDA"), as amended by section 102(g) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, Public Law 104–114 (March 12, 1996), 110 Stat. 785, 22 U.S.C. 6021–91 (the "LIBERTAD Act"), which requires that I report to the Congress on a semiannual basis detailing payments made to Cuba by any United States person as a result of the provision of telecommunications services authorized by this subsection.

The CDA, which provides that telecommunications services are permitted between the United States and Cuba, specifically authorizes the President to provide for payments to Cuba by license. The CDA states that licenses may be issued for full or partial settlement of telecommunications services with Cuba, but may not require any withdrawal from a blocked account. Following enactment of the CDA on October 23, 1992, a number of U.S. telecommunications companies successfully negotiated agreements to provide telecommunications services between the United States and Cuba consistent with policy guidelines developed by the Department of State and the Federal Communications Commission.

Subsequent to enactment of the CDA, the Department of the Treasury's Office of Foreign Assets Control (OFAC) amended the Cuban Assets Control Regulations, 31 C.F.R. Part 515 (the "CACR"), to provide for specific licensing on a case-by-case basis for certain transactions incident to the receipt or transmission of telecommunications between the United States and Cuba, 31 C.F.R. 515.542(c), including settlement of charges under traffic agreements.

The OFAC has issued eight licenses authorizing transactions incident to the receipt or transmission of telecommunications between the United States and Cuba since the enactment of the CDA. None of these licenses permits payments to the Government of Cuba from a blocked account. For the period January 1 through June 30, 1998, OFAC-licensed U.S. carriers reported payments to the Government of Cuba in settlement of charges under telecommunications traffic agreements as follows:

AT&T Corporation (formerly, American Telephone and Telegraph Company)	$12,795,658
AT&T de Puerto Rico	292,229
Global One (formerly, Sprint Incorporated)	3,075,733
IDB WorldCom Services, Inc. (formerly, IDB Communications, Inc.)	4,402,634
MCI International, Inc. (formerly, MCI Communications Corporation)	8,468,743
Telefonica Larga Distancia de Puerto Rico, Inc	129,752
WilTel, Inc. (formerly, WilTel Underseas Cable, Inc.)	4,983,368
WorldCom, Inc. (formerly, LDDS Communications, Inc.)	5,371,531
	39,519,648

I shall continue to report semiannually on telecommunications payments to the Government of Cuba from United States persons.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 8, 1998.*

HONORING HENRY B. GONZALEZ FOR 4½ DECADES OF SERVICE TO THE HOUSE AND THE PEOPLE OF THE 20TH CONGRESSIONAL DISTRICT OF TEXAS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Texas (Mr. GREEN) is recognized for the balance of the Minority Leader's hour, approximately 51 minutes.

Mr. GREEN. Mr. Speaker, I rise tonight and requested this special order and share it with a number of our colleagues to pay tribute to our friend and colleague and the Dean of the Texas Congressional Delegation, the distinguished Congressman from 20th Congressional District of Texas, HENRY B. GONZALEZ. It is an honor to be associated with such a great man, and we wish him well in his retirement.

Texas has many colorful and distinguished leaders, some of which have reached the level of legend. HENRY B. GONZALEZ worked in Congress and his dedication to his constituents places him that top category. HENRY B. has been noted as being the last great populist. His tenacity marks his good works. He has been a voice and not a echo, and he has also been known as a fighter.

And I will go on, Mr. Speaker, but I would like to yield to the incoming Dean of the Texas Democrat delegation, my colleague from Dallas, MARTIN FROST.

Mr. FROST. Mr. Speaker, I rise today to honor my friend and colleague, the Dean of the Texas Delegation, HENRY B. GONZALEZ of San Antonio. HENRY is leaving Congress, but in doing so he is leaving behind a legacy of nearly four decades of service to this House and to the people of the 20th Congressional District of Texas.

When HENRY first came to Congress in 1961, he tacked a sign to the door of his office which said, "This office belongs to the people of the 20th Congressional District of Texas."

Throughout his career both here and in Washington and in Texas, HENRY has been a man of the people and a tireless advocate for the less fortunate among us. He has stood tall for the people of the 20th District of Texas by championing affordable housing for all Americans, especially the poor, equal rights for every American regardless of their heritage, and above all decency and honesty in his actions as a public servant.

HENRY is, however, a man of great independence, and he has demonstrated time and again this willingness to take a stand regardless of which way the political winds might be blowing. He has never been afraid to stake out his own position and defend it regardless of how unpopular it might make him. He is a man of great integrity, and he will be missed.

HENRY B., as he is affectionately known to our delegation and to his constituents, has been in San Antonio for much of this Congress recovering from an illness that may have slowed him down but could not stop him. I am so grateful he has joined us again for these last days of the 105th Congress so that we can all pay tribute to a truly great American.

HENRY, I salute you and wish you well as you return to San Antonio. I know that just because you are not in Congress that your voice will not be silenced. I expect to hear that you have once more found a way to stand up and defend those who cannot do so for themselves.

Via con Dios, mi amigo.

Mr. GREEN. Reclaiming my time, Mr. Speaker, Congressman GONZALEZ' outstanding 45 year career of public service and his 38 year career demonstrates his deep commitment to public service and his constituents and his thorough knowledge of the House procedures in his dedication to this House of Representatives. Prior to his election to the House of Representatives in 1961, HENRY B. served as a member of the San Antonio City Council and as City Mayor Pro Tem. He was subsequently elected to the Texas State Senate where he is remembered as a champion of the people. He is revered, known, for leading a 36 hour filibuster against legislation which sought to uphold and facilitate the principles of segregation.

□ 2020

HENRY B. held the floor of the Texas Senate for 22 hours and 2 minutes finishing shoeless and exhausted but victorious in the late 1950s. He made such an impression on the Texas State Senate that his portrait hangs in the chamber in Austin, Texas. Only one other Member of Congress has ever had their portrait hung in the Chamber of the Texas Senate, the late Barbara Jordan.

HENRY B. was elected to Congress in 1961, and his legislative agenda included housing, the need for lower interest rates, education, adequate energy supply at a reasonable price, more industry for San Antonio, increases in minimum wage, not only as a State Senator in Texas in the 1950s, but also a host of other issues that are important to the people in his community and the people in the State of Texas but also the people of our Nation.

Throughout his service in Congress, HENRY B. has made his mission to force the chief executive to justify any military action. In 1983, Congressman GONZALEZ was the only Member calling for the withdrawal of U.S. troops from Lebanon.

He introduced the resolution to this effect and continued to speak out on this issue. Congress should have listened to him, because 3 days after his last statement on the subject, the Beirut bombing occurred.

HENRY B.'s greatest accomplishments are in the area of affordable housing. He insisted on protecting the rights of low income citizens instead of ganging up on them like some people do.

Mr. Speaker, I will go on for a few minutes, but I would like to yield to both a good friend, but also a neighbor of the 20th district in San Antonio, the gentleman from Texas (Mr. RODRIGUEZ).

Mr. RODRIGUEZ. Mr. Speaker, it is my privilege to be joining the gentleman from Texas (Mr. GREEN) and the gentleman from Texas (Mr. FROST) in this special order today.

We honor not only a colleague, we honor an American hero. It is my honor to offer this tribute on my behalf, on behalf of the San Antonians and the constituents of the 20th Congressional District and the behalf of Texas and the Nation.

Congressman HENRY B. GONZALEZ deserves our praise and has earned our respect and admiration. His story is one that has inspired generations and will likely inspire many more. We all know HENRY B. In San Antonio, all you have to say is HENRY B., and everyone knows who he is. The Honorable HENRY B. GONZALEZ of the 20th Congressional District. His name and his face are known in every household in San Antonio.

In my family, my father would always call him El Compadre GONZALEZ. He was our compadre because we admired him. We respected him, and we knew he had us and our neighbors in his thoughts and his actions. He was like one of our households.

He was also known and we also recognize Congressman GONZALEZ as the first Hispanic from Texas elected to this body. In those days, in San Antonio, it was very much smaller than it is today, and the 20th Congressional District included the entire city of San Antonio.

Let me tell my colleagues that, in those days, as a Mexican-American, to be elected out of San Antonio was an extraordinary action. Those were the days when we were required to have a poll tax and had to pay in order to participate in the elections.

HENRY B. GONZALEZ was an extraordinary man. We know him as the man who stands his ground, who does not shy away from dispute, who holds fast to his values. In so many ways Congressman GONZALEZ's life represents the American dream.

His parents were immigrants from Mexico who fled the violence in the 1911 revolution in Mexico. He worked hard and obtained a college degree and, as my colleagues recall, it is even difficult now for Hispanics to be able to get a degree. At that time, it was more extraordinary because he did it so many years ago.

HENRY B. helped his father and his business and then turned to public service as a probation officer and then as a deputy director of the San Antonio Housing Authority. His passion for the poor and his passion for fighting for equity, his fierce sense of justice became his landmark.

In the early 1950s, HENRY B. made a name for himself in San Antonio as a city councilman, then as a State Senator. In the Texas Senate, he is known as holding the longest filibuster in Texas history, a record that still stands.

His career reflects his passion for civil rights, his fight for the American ideals of equal justice for all. He fought against segregation in the 1950s and helped lead the struggle to pass civil rights laws in the 1960s.

He even dared to oppose the now discredited House Committee on Un-American Activities. As a distinguished member and then chairman of the Committee on Banking and Financial Services, HENRY B. made his mark as a champion of the less fortunate and crusader against corruption. The 71 bills he managed as chair included legislation to protect depositors and punish those who sought to cheat the system.

We could list the amount of legislation of his accomplishments, but it would take hours. Our Congressman HENRY B. GONZALEZ represents more than just a list of achievements. He represents those values that we espouse and cherish but rarely realize ourselves. HENRY B. stands for honesty and independence and he embodies the passion for his constituents.

My colleagues, take note, Congressman GONZALEZ has served more than 37 years in this House, and I will tell my colleagues why, because he believes and he stood for those beliefs. He spoke his mind even when it was unpopular to do so. He stood by his constituents even when he faced great challenges. As a song from Frank Sinatra goes, he did it his way.

HENRY B. boasts one other great accomplishment, and we should take note of this. He and his wife Bertha will be celebrating their 58th wedding anniversary next month. They are blessed with 8 children, more than 20 grandchildren, and 3 great grandchildren.

I look forward to working next year with Charlie Gonzalez when he joins us as a representative of the 20th Congressional District.

Compadre GONZALEZ, I am honored to serve in this great House with you. We will miss you, and I know that we will not forget you. You will be in our minds.

I want to take this opportunity to quote a couple of items from the gentleman from Texas (Mr. Ortiz) as he has given me a couple of things to say.

One of the items that he mentions is he remembers HENRY B. GONZALEZ, both not only in terms of as we recognize him tonight, but as a lifetime of service to this country.

We must admire a man who hails soft and punches a fellow in his face in a restaurant because he has called him a Communist. HENRY B. tells it like it is. He has been a bur on the saddle of the Presidents that have gone before us.

He has occasionally annoyed his colleagues with his never-give-up attitude. He is much loved. He has been much loved throughout his career by his constituents friends and those of us who have had the privilege of serving with him.

Congressman ORTIZ continues by saying I remember a friend telling me that she was a little girl whose mother worked with HENRY B. on his first campaign, and she recalled the raw excitement about the campaigns that HENRY B. used to have, and elated about the victory.

She was also so proud when she and her mother was invited to Washington to see him sworn in. She did not make it, and she said she still had little, was a little angry because they were not able to attend. But she recalls she came up here to Washington in the 1980s at a dinner one night and talks about the fact that, as she went up to Congressman ORTIZ, he asked her, you know, who would you like to meet, the President of the United States, the Speaker of the House, a movie star. Well she just said and looked, I would just want to meet HENRY GONZALEZ. She finally got to meet HENRY. And as she recalls, she had tears in her eyes.

With that, I just want to just indicate, Congressman GONZALEZ, you have been a role model to me and for many others I know. I admire you for your integrity, your convictions, your strong work ethic, your dedication to your constituents.

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Thank you for your service and your dedication. Muchas gracias.

Mr. GREEN. Mr. Speaker, reclaiming my time, I would like to recognize that our good friend and colleague, HENRY B. GONZALEZ, has joined us on the floor of the House, and tonight, a number of Members are using the remainder of this hour to talk about his achievements and pay both honor and respect to him for his many years in service, not just in Congress, but also to the people of Texas as a city council member, a State senator, and later on this evening I will read from some articles that we have received over the years on HENRY B.

As Chairman of the Committee on Banking and Financial Services, he led the efforts to repair the savings and loan industry and help stop the crisis from spreading to our banks by overhauling the deposit insurance system. Congressman GONZALEZ has been a burr under the Federal Reserve saddle for many years. He is responsible for the Fed's shift to a restricted money policy and for the release of monetary policy proceedings.

HENRY B. GONZALEZ has been a crusader on behalf of our environment. In 1990, the American General Insurance Company wanted to build a $2.5 billion tourist attraction on the Padre Island National Seashore, which we consider a Texas treasure. Through intense lobbying, they attempted to exclude Padre Island from the protection of the Coastal Barrier Act, known as our Wetlands Act. HENRY B., using his influence and power of persuasion, saved this beachfront for its natural beauty for the next generations of Texans.

I find it awkward, Mr. Speaker, for me to be standing here as a third-term Member of Congress, because as a State House member in the 1970s and the 1980s, I used to consider HENRY B. the king of the Special Orders, because I watched him many times extolling the problems that he saw for our country. Again, just like I mentioned earlier, in requiring the President to get the permission of Congress before having our troops in foreign military action in the case of Lebanon, he introduced a resolution, and again, Congress should have listened to him because 3 days after Congressman GONZALEZ' last statement was the loss of lives of the marines in Beirut.

I have a lot I would like to talk about this evening, but I would like to yield to my colleague, another colleague from Texas, Congressman JIM TURNER, who again served with me in the State senate and enjoyed the portrait in the State Capitol. I mentioned earlier there are only 2 State senators who have their portrait in the State Capitol: HENRY B. GONZALEZ, this gentleman from Texas (Mr. TURNER), and also Barbara Jordan, who is your contemporary and whom you served with.

I would like to yield time to my colleague from Texas (Mr. TURNER).

Mr. TURNER. Mr. Speaker, I thank the gentleman from Texas (Mr. GREEN) for leading us in this Special Order this evening honoring our dear friend and colleague, HENRY B. GONZALEZ. I, much like the gentleman from Texas (Mr. GREEN), as I was a younger man and I heard the name, HENRY B. GONZALEZ, a name that always stood for a man who worked hard in the Congress for little people.

I know that HENRY comes from a background where he understood how important it is for someone to have affordable housing. He came from a background that understood that quality education was the key to moving up in life. It is an honor for me to stand here tonight as a freshman member of this body and honor a colleague and friend who has served over four decades in these halls.

HENRY B. had what many might consider a very daunting and difficult task in that he served as dean of the congressional delegation from Texas, oftentimes a rowdy group. But my colleague from Texas rose to that occasion and led because of his many years of experience in these halls.

The congressional career of HENRY B. GONZALEZ is indeed a distinguished one, both in terms of his longevity and in terms of his accomplishments. He was first Mexican-American elected to serve the State of Texas in the United States House of Representatives, the son of Mexican immigrants. HENRY B. GONZALEZ served Texans in the Texas State Senate as well as in the U.S.

House, and he went on to serve three terms as chairman of the Committee on Banking and Financial Services. His work to overhaul the deposit insurance system and to repair the savings and loan industry were instrumental to the banking industry and to the consumers of this country.

He was a vocal advocate for affordable housing, and he worked for many, many years for lower income American families to ensure that they had access to safe quality housing. He knew how important it was for someone to have a place that they could call home, a place that they could live in with pride. He knew what it meant for American families to be able to enjoy the benefits of homeownership.

HENRY B. GONZALEZ has always been a fighter. He never turned his back when he knew there was an issue of importance that he needed to stand up for. He had that kind of reputation in this Congress; he had that reputation in Texas; he had that reputation in his community.

I salute a great American, a great Texan, Congressman HENRY B. GONZALEZ. I thank you, HENRY, for your years of service, for your leadership, for your compassion on behalf of the issues that you knew were important to the little people in this country. For the people who did not have a voice, you spoke for them. For that, we are eternally grateful.

We are sorry to see you leave our ranks. We will miss you as a friend, we will miss your leadership in this body, and I share with my colleagues our congratulations to you for your distinguished service, and we wish you well in your new ventures along the way.

Mr. GREEN. Mr. Speaker, I thank the gentleman, and reclaiming my time, as Democratic Members of the House, we are well aware of HENRY B.'s efforts on behalf of the Democratic party for many years. He was an articulate spokesman in presidential politics since 1960 when he served as the national cochair of the Viva Kennedy campaign.

I first remember reading about Congressman GONZALEZ because I admired him so long before I met him. In 1956, he was elected to a 4-year term in the Texas State Senate, becoming the first Mexican-American to gain a seat in that body in 110 years. He soon attracted international attention when, with a colleague, he staged the longest filibuster in the history of Texas. There were 10 race bills under consideration in which Senator GONZALEZ at that time opposed. He said at the time, and I quote, "It may be some kind of chloroform for their conscience, but if we fear long enough, we hate, and if we hate long enough, we fight."

Eight of the bills were defeated because of Senator GONZALEZ. One of those passed was later declared unconstitutional, and in 5 years in the Texas Senate, he clearly identified with the poor, opposing sales taxes and rising tuition costs, while favoring some clearance and controls on lobbyists long before it was in vogue.

I am proud to honor HENRY B. GONZALEZ. When I was running for Congress in 1992 in my district in the east end and north side of Houston, I had a number of people who had served as precinct judges for many years in my community, and they would come up to me and say, if all you ever do is walk in the shadow of HENRY B. GONZALEZ and walk in his footsteps, that is the kind of Congressman we want you to be.

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That was such a great honor. I say to the gentleman from Texas, HENRY B., I have some constituents who are the gentleman's longtime friends, A.V. Almos is still a precinct judge, and Cruz Injos and his family. We have a group called the Old Timers Club which has been meeting for many years, and they were part of the nucleus of the group in 1961 when you ran for the U.S. Senate and made it a close race.

With that, I tell the gentleman from Texas (Mr. GONZALEZ), we are glad to share this night with him.

Let me talk about one of HENRY B. GONZALEZ's famous stands. He wanted to be a voice and not an echo. On a recent Friday afternoon, HENRY B. GONZALEZ received a standing ovation from his colleagues who not only heard his speech, but they cheered him afterwards. HENRY was caught by some tricky parliamentary maneuver. A Republican Member of Congress, angry at the Democrats' tactics, unexpectedly moved to adjourn. Now in the minority, we understand how that happens, Mr. Speaker.

With his speech in hand, our Texas congressman demanded a rollcall. Surprised colleagues showed up and voted 213 to 99 to let Congressman GONZALEZ speak. When the Chair finally recognize him, Congressman GONZALEZ responded, "Mr. Speaker, overwhelmed by the popular demand to be heard," and the Chamber was filled with laughter.

Before launching into his attacks lambasting President Reagan for his actions in Grenada, Congressman GONZALEZ explained why he spoke so frequently, often several times a week. A House member, he said, has only two real powers: one is to register his vote, and the other one is his voice. Congressman GONZALEZ has been a voice and not an echo.

Congressman GONZALEZ at that time assured his colleagues that speechmaking did not evolve after House activities becoming televised. In fact, he claims the heart of his district was still without cable, because at that time it was only cable coverage. Now we have C–Span, but back at that time there was only cable.

Mr. Speaker, I yield to the gentleman from Austin, Texas (Mr. DOGGETT), who also served in the State Senate. It is almost an alumni club. In fact, the gentleman was in Senate when Congressman GONZALEZ's portrait was hung in 1976.

Mr. DOGGETT. I was, indeed, Mr. Speaker. We will soon have enough for kind of a quorum here of the Texas State Senate, as we gather here not on the banks of the Colorado but on the banks of the Potomac, to honor someone whose effects on Americans has stretched across this great Nation.

It is certainly fitting that we would gather here to do that on what is called Special Orders, because I know even in my short time here in Congress, I have seen Congressman GONZALEZ come and make use of special orders to convey a message, perhaps to a few Members assembled at the moment here in the House, but to convey a message all across America to alert the country to some particular problem on which we needed additional focus, and to remind the Members of their duty to the ordinary people of this country who have made it the greatest land in the world.

I think that it is undoubted that the gentleman from Texas (Mr. HENRY B. GONZALEZ) is leaving an indelible mark, not only on this institution, the United States House of Representatives, but on our entire country.

Some would point, as my colleague, the gentleman from Texas (Mr. GREEN) has done, in providing leadership here tonight for this special order, to his triumphs in banking and housing. Others remember him as a champion of open government, and our friend, the gentleman from Massachusetts (Mr. BARNEY FRANK), refers to his demystifying, if that can be done, of the Federal Reserve Bank more than anybody in history. It is still a little bit of a mystery, but he has made some good headway on it.

All of us know that HENRY B. is a man of extraordinary principle, unparalleled courage, and of dogged determination. Some would probably say if it is dogged determination, it is bullheaded determination. But he was in there, willing to do what was right, no matter whether there was anybody else willing to stand with him or not.

In 1994, in recognition of his courage, the prestigious Profile in Courage award was presented to Congressman GONZALEZ as a shining example of public service that was epitomized in the book "Profiles in Courage," that the late President Kennedy authored, described as one ". . . whose abiding loyalty to their Nation triumphed over all personal and political considerations, who showed the real meaning of courage, and a real faith in democracy." I think that is a good summary of the career of Congressman GONZALEZ. It expresses our feelings, I know, from Texas about him.

He received this award for initiating a series of spectacular hearings on the savings and loan crisis, and writing sweeping legislation to try to clean up the chaos and reform this industry.

He was also honored by this award for his courageous investigation into the sale of U.S. arms to Iraq by top officials of the Reagan and Bush administrations. It took courage to stand and do that when many others were trying to brush the lies and the conspiracy aside, and he did that, and all of America is the beneficiary.

As one previous recipient of the Profiles in Courage award remarked, "For the scientist, the moment is the Nobel; for the journalist, it is the Pulitzer; the actor, the Oscar; but for those in government, it is the Kennedy, and it is with that high award that Congressman GONZALEZ has received special recognition.

When placed in the context of his total public service career, beginning with his successful campaign as a college student to bring public housing to San Antonio, it is almost impossible to determine which accomplishment is the most significant.

But knowing him as we do from Texas, I think we have to agree that one accomplishment that we have not yet discussed tonight ranks very high in a very special way. That is that he was able to balance his service to other people's families and other children around this country with being a good father and having a family of some eight children.

What can be more fitting than the legacy of HENRY B. GONZALEZ, that as he departs Washington, one of his sons will be coming to join us in this body. Charlie GONZALEZ I knew as a Member of the Texas judiciary during my service on the Supreme Court, and prior to that time. I know that he has been a teacher, a legal aid worker, and a district judge, and that, like his father, he is passionate about public service.

I salute Congressman GONZALEZ for the role that he has played, not only as a public servant but as a father and a family leader who lived the values that he has preached and recognized from this forum and across the country.

When we look back on his career, as the gentleman from Texas (Mr. GREEN) has done in reminding us of what Texas was like in the 1950s, and how very tough it was to go as the first Mexican-American into what was an all-male and all-Anglo Texas Senate, and in one of the times of that Senate which is not one in which we can see any particular pride, when there were some people there who were unwilling to accept opportunity for all of our citizens, who were insistent on passing a set of laws to oppose the whole concept that the Supreme Court had advanced of equality of opportunity in our school system, that Congressman GONZALEZ stood and would not let that tide of bigotry overwhelm him and overwhelm the people of Texas, but he stood as one force for the people, for equality, for equal opportunity.

As we reflect on his historic role in Texas and in this entire country, I think it is important to remember that he never forgot that while he pulled himself up by his bootstraps, that there were many other people out there who had no boots.

He has fought for those people, he has fought for America. He is a man with the courage of his convictions to do what is right, and Texas will lose not only the dean of our delegation with his departure from Washington, but we will lose someone who has set the very highest standards for integrity, for determination, and for making government work for all of us.

"I do not know where we will be without HENRY B.," is I am sure something that is being said in many parts of Texas. But we know that he will provide, by his example of leadership, a model that we will follow and emulate in the years ahead.

I want to thank the gentleman from Texas (Mr. GREEN) for his leadership in doing this tonight, because I think it is really historic to record the accomplishments and the contributions of our colleague, HENRY B. GONZALEZ. I consider it one of my greatest honors here in Congress to serve with a man of his caliber and character.

Mr. GREEN. Mr. Speaker, I would like to thank my colleague from Travis County, Austin, Texas, and a great friend. We served together, and I was a State representative when he was in the State Senate in 1976, when Congressman GONZALEZ portrait was hung.

Let me quote: At that time Governor Dolph Briscoe called Congressman GONZALEZ a truly dedicated public servant, and said he is gaining more influence yearly in the Texas delegation. He said, there are two types of Congressmen, and to this day that is still true. One is a show horse and the other is a workhorse, Governor Briscoe said, and certainly Congressman GONZALEZ is a workhorse. I think that is a tribute not only in 1976, but also in 1998 to Congressman GONZALEZ.

There are lots of great stories on HENRY B. that I have learned over my lifetime in Texas. One of them is his first run for Congress in 1961.

Coming off the Viva Kennedy cochair on a national basis, at that time Vice President Lyndon Johnson insisted he would not become involved in trying to tell the Baird County voters how to vote.

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And after that, he issued a strong endorsement of Congressman GONZALEZ's candidacy in the San Antonio Express. The doors slammed shut for all practical purposes on Congressman GONZALEZ' Democratic opponent. Vice President Johnson then neutralized the other opponents by his endorsement.

So, again, HENRY B. you run with lots of folks in Texas who I have admired for many years, including Vice President and President Lyndon Johnson.

HENRY B. has been known for his tenacity. We know that because it has been said tonight about his tenacity on special orders, but tenacity on issue after issue. It came as a surprise to some of us, but part of HENRY B.'s success and tenacity is that he introduced a bill in 1965 to provide $50,000 survivor's benefits for law enforcement agents and firemen killed in the line of duty. Eleven years later, after the riots in the 1960s, this became law.

HENRY B. has been derided by opponents for the speeches he makes to an almost empty Chamber of the House. The Congressman has made in the neighborhood of thousands of speeches. In 1984, he had given 2,200 speeches in the House at that time in 23 years, making him the most prolific speaker in the House. His speeches under special orders are duly recorded in the Congressional Quarterly and his newsletters to his constituents. That was before C-SPAN, before we had nationwide coverage. Congressman GONZALEZ was there making sure that his constituents were heard and he was representing his job as a Member of Congress.

He is productive by the number of bills that he passed in Congress. Many times other Members from Texas could not pass legislation, but Congressman GONZALEZ was the chief bill-passer in the State of Texas for Members of Congress. Again, that is a challenge some of us would like to be.

Congressman GONZALEZ, and again, my honor to him is he is considered one of the last great populists. It is a classic performance. A man better known as HENRY B. or simply as HBG. Depending on who you ask he is either feisty, colorful or combative, or an eccentric that is looked upon with tolerance.

But for his constituents in Texas, he has been a fighter and a populist for their needs and their desires for many years in Congress. We talked about his serving in the Senate and fighting the race-baiting bills in the late 1950s. But he also introduced the first minimum wage bill in the State Senate and it was 40 cents an hour in the 1950s. It is just an honor that I had the opportunity during my three terms of Congress to serve with him.

Congressman GONZALEZ' individuality has paid a price. Although widely revered in San Antonio and an icon in Texas, he is sometimes known in Congress as a loner and a maverick who charts his own course. And I do not think there is a better honor to you than that you are your own man, and you have been for 45 years in public service.

He speaks out on issues. He is one that never is hesitant to stand up for both his ideas, but also the people he represents.

Many years ago, and this has happened a number of times, I have admired him for being a fighter for his constituents. In 1963, there was a time when a Representative Foreman from Odessa was outside the House Chamber and accused Congressman GONZALEZ of being a "communist" and a "pinko," and Congressman GONZALEZ challenged him. And those stories are endless.

I remember one story when I was in the House of Representatives in Austin when HENRY B. was in a restaurant in San Antonio and someone at the next table called him a communist and he got up and decked that person.

Obviously, he represents Texas very well and a lot of us have learned many things, both in his feistiness, but also in his beliefs. He will stand by his beliefs and fight for his beliefs. And he has done so many great things. Let me mention just one thing.

In 1968, I was in college and I had the opportunity to go to San Antonio. My wife and I were not married at that time, but both of us were University of Houston students. And, of course, at that time one would not go out of town overnight with their best girl. My wife and I got on a bus from Houston and took the bus from Houston to San Antonio Texas to go to the HemisFair, and HemisFair was in San Antonio because of Congressman GONZALEZ. And it brought international acclaim and literally opened up the city, and I am still proud to go to San Antonio today and see the HENRY B. GONZALEZ Courthouse that is in the HemisFair grounds that he triumphed back in his first years in Congress.

There are so many stories, Mr. Speaker, but not only Members from Texas but Members who served with Congressman GONZALEZ on the Committee on Banking, the Members of the Hispanic Caucus.

I am proud to honor a man who has worked and improved the quality of life for men and women not just in his district and not just in the State of Texas, but throughout our country. I have been fortunate and we have been fortunate to have a Member like HENRY B. GONZALEZ to serve as our colleague, our friend, and our Dean of the Texas delegation.

Before I close, I would like to mention his wife of 58 years, Bertha Cuellar Gonzalez, originally from Floresville, but 58 years of marriage. I thought my wife and I at 28 years had been married many years, but hopefully we will make 58. Fifty-eight years of marriage and love.

The reason HENRY B. could not come back earlier was because he knows who the boss is in our households, and his wife was making sure that HENRY B.'s health was well enough for him to come back and continue his duties as a Member of Congress. Both the love of your wife and family, and also the love of your fellow Members of Congress and your constituents is the best tribute more than we can ever say here on the floor of this House.

Mr. Speaker, I would like to close by saying that if I could just walk in his shadow and fill part of his shoes, I will consider myself to be a successful Member of Congress.

Mr. HINOJOSA. Mr. Speaker, it is a privilege to participate in today's tribute to the Honorable HENRY B. GONZALEZ.

A maverick, a pioneer, a man of conviction—there aren't too many people I would use these words to describe. The deal of our delegation, however, is one such individual.

Our distinguished dean came to the House of Representatives in 1961, before any other Hispanics were elected from the State of Texas.

He laid the foundation for those of us who have since followed.

For all you have done—for your constituents—for the Hispanic community—for the underprivileged—for all Americans—I want to say thank you.

In the brief time I have been in Congress, I unfortunately have not had the good fortune to be able to work closely with you. But I am well acquainted with your remarkable achievements.

It is because of the commitment you have always demonstrated that I know why it is so important to work tirelessly for the causes and issues we believe in.

You have taught us why we must be dedicated to the pursuit of excellence.

You have shown how goals are, indeed, attainable, but not always easy to achieve.

More importantly, you have shown that within each and every one of us there is the potential to make a real difference in the world we live in, but that to make such a difference, one must be involved.

Chairman GONZALEZ, you have made Congress a better place—you have made Texas a better place—and you have made America a better place.

I began my remarks by saying you were a maverick, a pioneer, a man of conviction. I want to close them by saying it would be more accurate to say you are indeed a legend.

Mr. CRANE. Mr. Speaker, I am especially pleased to join with my colleagues in honoring the renowned dean of the Texas delegation, the Honorable HENRY B. GONZALEZ of the Twentieth District of that great state.

My colleagues, as the long-time Chairman of the Banking Committee, HENRY was well known for his tough stance during the savings and loan investment scandals, and for his many attempts to consolidate banking regulations. His wide-ranging and perceptive special orders on international banking practices and malpractices could well constitute in themselves an indispensable textbook on the history of modern financial structures, consortia, monopolies, trusts, etc. Surely HENRY ought to be welcomed back to the University of Texas or to St. Mary's University in a special chair as professor of economics. Our present loss in his departure, then, would be a real gain for young Texas students.

The people of Texas can attest to HENRY's strong record in support of civil rights and especially in developing housing programs for the poor. His colleagues in Congress know that whatever this hard-working Texan was determined to do, it was done with dedication and a kind of dogged perseverance which could well be emulated by many of those of us who will remain in the House.

In many ways HENRY has been a kind of grand institution on this Hill, a genial father figure for many younger members; and those of us on the other side of the aisle have long come to respect him as a man of determined principle and especially as one whom we know to have served his district constituents admirably well. Obviously San Antonio will be glad to see more of HENRY in his retirement, but we hope that we, too, will be able once in a while see him on the House floor renewing friendships and giving wise counsel to those of us still struggling with the complexities of legislation, and worrying, as he so often did, about what is best for all Americans.

HENRY, we wish you the very best in your sell-deserved retirement in that exciting city of San Antonio—your town—and we have to say that it has been more than a privilege to have been your colleague during all these interesting and important years, when your judgment and dedication contributed so much to what we all have accomplished. God bless, HENRY GONZALEZ, and Godspeed.

Mr. ORTIZ. Mr. Speaker, I thank these gentlemen for taking the time to honor a giant of Texas politics, HENRY B. GONZALEZ.

To see the future, you must stand on the shoulders of giants. I, and many Texans elected after HENRY GONZALEZ was elected, have seen the future—and the future promises more Hispanics to Congress from Texas.

This giant has been an inspiration for young men and women who aspire to excellence in public office. Young HENRY GONZALEZ, who learned business at his father's side, has spent virtually his entire life in public service.

He is a maverick who, while recognizing the significance of being the first Hispanic elected to national office from Texas, respectfully declined to be labeled only as a Hispanic during his term of service. Realizing the importance of being part of the mainstream in the United States, he wanted only to be known as a legislator, and as a Texan.

We remember him as both those things tonight, and we thank him for the lifetime of service he gave to our country. You must admire a man who hauls off and punches a fellow in the face in a restaurant because he called him a communist.

HENRY B.'s tell-it-like-it-is-style has been a burr under the saddle of presidents; he has occasionally annoyed his colleagues with a never-give-up-attitude; and he is much loved, and has been much lived, throughout his career by his constituents, friends and those of us who have been privileged to serve as his colleagues in this august body.

I remember a friend telling me that she was a little girl whose mother worked in HENRY B.'s first campaign and she recalled the raw excitement about the campaign, and the elation of the victory. She was so proud when she and her mother were invited to Washingon to see him sworn in. Well, she didn't make it and she said she's still a little mad at her mom for coming here without her.

She came up here to work in Washington in the 1980s and at dinner one night, I asked her who she would like to meet—the President of the United States, the Speaker of the House, a movie star—Well, she wanted to meet HENRY GONZALEZ. She finally got to meet HENRY GONZALEZ, and she had tears in her eyes after they spoke.

There is not a way to qualify your legacy, mi amigo. You served your country well and showed all of those who followed you the path to success. Thank you.

Mr. MARTINEZ. Mr. Speaker, I rise tonight to pay tribute to a friend, a colleague, and a great American. After a highly distinguished career in public service, representing San Antonio, Texas, HENRY B. GONZALEZ will be retiring from Congress at the end of the year.

In 1961, HENRY GONZALEZ began his congressional career with a bang—becoming the first Mexican-American elected to the U.S. House of Representatives from the State of Texas. HENRY never allowed this institution to shape his thoughts and actions. He was always his own man fighting the good fight.

Mr. Speaker, when I was first elected to the House in 1982, HENRY GONZALEZ had already made his mark on this august body. His leadership on a variety of national issues affecting his constituents, the Hispanic community in general, and the nation as a whole are legendary.

During his congressional tenure, HENRY served as chairman of the committee on Banking, Finance, and Urban Affairs from 1989 to 1994. In his capacity as chairman, HENRY successfully promoted legislation guaranteeing depositors a safe place to put their savings. He championed measures facilitating small business access to credit and strengthened the laws against money laundering and bank fraud.

Under his leadership, the Banking Committee held countless number of hearings on the Bush administration's pre-war Iraq policy. HENRY vigorously investigated the scandal, involving the Bank of Commerce and Credit International, and he took the lead in shedding light on the savings and loan debacle of the 1980's.

Throughout his distinguished public service, HENRY has championed the causes of urban and economic development, affordable housing and civil rights. I'm certain that HENRY must have broken the CONGRESSIONAL RECORD for endurance on special orders. I vividly remember how he would tirelessly take to the floor night after night exposing government incompetence, waste and abuse.

I salute you HENRY. I salute your integrity and leadership. You will be sorely missed.

Mr. TORRES. Mr. Speaker, I am proud to pay tribute today and participate in this special order for Representative HENRY B. GONZALEZ. From one retiring Member of Congress to another, I would like to wish him the best of luck in whatever lies ahead of him. May HENRY's life be in retirement as fruitful as it has been these last 37 years as a Member of Congress. HENRY B. GONZALEZ is an honorable man of impeccable character who has served as a role model for Latinos across the nation, including me. He served as Chairman of the Banking Committee and helped assure his constituency and Latinos across the nation were well served in his committee. Under his chairmanship, sound public policy, ranging from guaranteeing depositors a safe place to put their savings to reauthorizing federal housing laws were written and passed.

What can I say is the most remarkable thing about HENRY B? I can say that he had an unstoppable fighting spirit and a well developed sense of independence. HENRY B. will always stand for his causes, even if he stands alone. He will literally fight for what he thinks is right, and we all know that to be a fact. He is a great man to admire and emulate, and he will be missed.

HENRY B. GONZALEZ has been, to me and the other members of the Congressional Hispanic Caucus, what we call in Spanish a "padrino," a godfather. In Mexican heritage a "padrino" is the person bestowed with the honor of looking after a child and be responsible for the good and moral upbringing of that child. As the "padrino," HENRY B. is the one we came to for advise when we wanted to something, and the one we came to for help when we did it wrong. As a Member of Congress, I am what I am because of HENRY B., all his advice, and my secret desire to emulate him. HENRY, you raised us well. HENRY, I tried my best to emulate you and I hope you're proud of me.

HENRY, I wish the best of luck to you, Bertha, your children, grandchildren, and great-grandchildren. Goodby and godspeed.

Mr. GREEN. HENRY B., we will miss you. We will miss your tenacity, your fighter spirit, your independence. But you have set a course for a lot of us who are now serving in Congress to try to follow in your footsteps.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BERMAN (at the request of Mr. GEPHARDT) after 8:30 p.m. on Thursday, October 8, and the balance of the week on account of a death in the family.

Mr. UNDERWOOD (at the request of Mr. GEPHARDT) for Friday, October 9, and the balance of the week on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. CLAY) to revise and extend their remarks and include extraneous material:)

Mr. BLUMENAUER, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mr. MINGE, for 5 minutes, today.

Ms. CARSON, for 5 minutes, today.

Ms. HARMAN, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. LAFALCE, for 5 minutes, today.

Mrs. MINK of Hawaii, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. SKAGGS, for 5 minutes, today.

(The following Members (at the request of Mr. SAXTON) to revise and extend their remarks and include extraneous material:)

Mr. PITTS, for 5 minutes, today.

Mr. SANFORD, for 5 minutes, today.

Mrs. ROUKEMA, for 5 minutes, today.

Mr. DUNCAN, for 5 minutes, today.

Mr. KASICH, for 5 minutes, today.

Mr. MORAN of Kansas, for 5 minutes, today.

Mr. COBURN, for 5 minutes, today.

Mr. EHLERS, for 5 minutes, today.

Mr. TALENT, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. HYDE, and to include therein extraneous material, notwithstanding the fact that it exceeds two pages and is estimated by the public printer to cost $1,108.

SENATE BILLS REFERRED

Bills and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1970. An act to require the Secretary of the Interior to establish a program to provide assistance in the conservation of neotropical migratory birds; to the Committee on Resources.

S. 2358. An act to provide for the establishment of a presumption of service-connection for illnesses associated with service in the Persian Gulf War, to extend and enhance certain health care authorities relating to such service, and for other purposes; to the Committee on Veterans' Affairs.

S. 2427. An act to amend the Omnibus Parks and Public Lands Management Act of 1996 to extend the legislative authority for the Black Patriots Foundation to establish a commemorative work; to the Committee on Resources.

S. 2524. An act to codify without substantive change laws related to Patriotic and National Observances, Ceremonies, and Organizations and to improve the United States Code; to the Committee on the Judiciary.

S. Con. Res. 120. Concurrent resolution to redesignate the United States Capitol Police headquarters building located at 119 D Street, Northeast, Washington, D.C., as the "Eney, Chestnut, Gibson Memorial Building"; to the Committee on Transportation and Infrastructure.

ENROLLED BILLS SIGNED

Mr. THOMAS, from the Committee on House Oversight reported that that committee had examined and found truly enrolled bills, and a concurrent resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3694. An act to authorize appropriations for fiscal year 1999 for intelligence and intelligence related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

H.R. 3790. An act to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the Library of Congress.

H.R. 4194. An act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1999, and for other purposes.

H.R. 4248. An act to authorize the use of receipts from the sale of the Migratory Bird Hunting and Conservation Stamps to promote additional stamp purchases.

H.J. Res. 133. Joint resolution making further continuing appropriations for the fiscal year 1999, and for other purposes.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2022. An act to provide for the improvement of interstate criminal justice identification, information, communication, and forensics.

ADJOURNMENT

Mr. EHLERS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 57 minutes p.m.), under its previous order, the House adjourned until tomorrow, Saturday, October 10, 1998, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

11590. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Potato Research and Promotion Plan; Suspension of Portions of the Plan; Amendments of the Regulations Regarding Importers' Votes; and Clarification of Reporting Requirements [FV-96-703FR] received October 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

11591. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Dried Prunes Produced in California; Increased Assessment Rate [Docket No. FV98-993-2 FR] received October 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

11592. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting the Service's final rule—Mediterranean Fruit Fly; Removal of Quarantined Areas [Docket No. 97-056-17] received October 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

11593. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Dimethomorph [(E,Z) 4-[3-(4-chlorophenyl)-3-(3,4-dimethoxyphenyl)—1-oxo-2-propenyl] morpholine]; Pesticide Tolerance [OPP-300740; FRL-6036-7] (RIN: 2070-AB78) received October 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

11594. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Hexythiazox; Pesticide Tolerances for Emergency Exemptions [OPP-300720; FRL-6030-3] (RIN: 2070-AB78) received October 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

11595. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Paraquat; Extension of Tolerance for Emergency Exemptions [OPP-300726; FRL-6032-5] (RIN: 2070-AB78) received October 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

11596. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Cyromazine; Extension of Tolerance for Emergency Exemptions [OPP-300741; FRL-6037-1] (RIN: 2070-AB78) received October 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

11597. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Hexythiazox; Pesticide Tolerance [OPP-300732; FRL-6035-2] (RIN: 2070-AB78) received October 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

11598. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Mancozeb; Pesticide Tolerances for Emergency Exemptions [OPP-300714; FRL-6029-5] (RIN: 2070-AB78) received October 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

11599. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Maryland; Withdrawal of Final Rule [MD068-3027; FRL-6174-3] received October 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

11600. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Approval of VOC and NOx RACT Determinations for Individual Sources [PA-4076a; FRL-6166-1] received October 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

11601. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; Minnesota [MN52-01-7277a; MN53-01-7278a; FRL-6162-1] received October 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

11602. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans Tennessee: Approval of Revisions to the Nashville/Davidson County Portion of the Tennessee SIP Regarding Control of Volatile Organic Compounds [TN-201-9828a; FRL-6169-6] received October 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

11603. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of State Plans For Designated Facilities and Pollutants: Alabama [AL-046-9826a; FRL-6168-4] received October 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

11604. A letter from the AMD-Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Part 80 of the Rules Concerning U.S. Coast Guard Vessel Traffic Services (VTS) Systems in New Orleans, Louisiana—received October 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

11605. A letter from the AMD-Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Implementation of the Cable Television Consumer Protection and Competition Act of 1992, Petition for Rulemaking of Ameritech New Media, Inc. Regarding Development of Competition and Diversity in Video Programming Distribution and Carriage [CS Docket No. 97-248 RM No. 9097] received October 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

11606. A letter from the Director, Regulations Policy and Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Adhesives and Components of Coatings [Docket No. 98F-0183] received October 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

11607. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Japan [Transmittal No. DTC 106-98], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

11608. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Japan [Transmittal No. DTC 117-98], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

11609. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Norway [Transmittal No. DTC 132-98], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

11610. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Algeria [Transmittal No. DTC 124-98], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

11611. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed Technical Assistance Agreement with Spain [Transmittal No. DTC 115-98], pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

11612. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed Manufacturing License Agreement with Singapore [Transmittal No. DTC 104–98], pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

11613. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Mexico [Transmittal No. DTC 96–98], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

11614. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Israel [Transmittal No. DTC 126–98], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

11615. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Japan [Transmittal No. DTC 131–98], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

11616. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Japan [Transmittal No. DTC 127–98], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

11617. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Japan [Transmittal No. DTC 120–98], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

11618. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed Manufacturing License Agreement with United Kingdom [Transmittal No. DTC 108–98], pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

11619. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting Copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

11620. A letter from the Director, Office of Personnel Management, transmitting the Office's final rule—Performance Ratings (RIN: 3206–AH77) received October 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

11621. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod in the Western Regulatory Area of the Gulf of Alaska [Docket No. 971208297–8054–02; I.D. 092298B] received October 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

11622. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod in the Central Regulatory Area of the Gulf of Alaska [Docket No. 971208297–8054–02; I.D. 092298A] received October 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

11623. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pollock by Trawl Vessels Using Nonpelagic Trawl Gear in Bering Sea and Aleutian Islands [Docket No. 971208298–8055–02; I.D. 092898A] received October 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

11624. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pollock by Trawl Vessels Using Nonpelagic Trawl Gear in Bycatch Limitation Zone 1 of the Bering Sea and Aleutian Islands [Docket No. 971208298–8055–02; I.D. 092898E] received October 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

11625. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Atlantic Tuna Fisheries; Atlantic Bluefin Tuna [I.D. 092298C] received October 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

11626. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Adminstration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Shortraker/Rougheye Rockfish in the Eastern Regulatory Area of the Gulf of Alaska [Docket No. 971208297–8054–02; I.D. 092998C] received October 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

11627. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Adminstration, transmitting the Administration's final rule—Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Ocean Recreational Salmon Fisheries; Closure and Reopening; Queets River, Washington, to Cape Falcon, Oregon, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

11628. A letter from the General Counsel, Executive Office for Immigration Review, Department of Justice, transmitting the Department's final rule—Suspension of Deportation and Cancellation of Removal [EOIR No. 124I; AG ORDER No. 2182–98] (RIN: 1125–AA25) received October 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

11629. A letter from the Director, Office of Regulations Management, Department of Veterans Affairs, transmitting the Department's final rule—Eligibility Reporting Requirements (RIN: 2900–AJ09) received October 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BLILEY: Committee of Conference. Conference report on S. 1260. An act to amend the Securities Act of 1933 and the Securities Exchange Act of 1934 to limit the conduct of securities class actions under State law, and for other purposes (Rept. 105–803). Ordered to be printed.

Mr. GOSS: Permanent Select Committee on Intelligence. Investigation into Iranian Arms Shipments to Bosnia (Rept. 105–804). Referred to the Committee of the Whole House on the State of the Union.

Mr. DREIER: Committee on Rules. House Resolution 588. Resolution providing for consideration of the bill (H.R. 4761) to require the United States Trade Representative to take certain actions in response to the failure of the European Union to comply with the rulings of the World Trade Organization (Rept. 105–805). Referred to the House Calendar.

Mr. SOLOMON: Committee on Rules. House Resolution 589. Resolution waiving a requirement of clause 4(b) of Rule XI with respect to consideration of certain resolutions reported from the Committee on Rules, and for other purposes (Rept. 105–806). Referred to the House Calendar.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 1965. Referral to the Committees on Ways and Means and Commerce extended for a period ending not later than October 16, 1998.

H.R. 3055. Referral to the Committee on Transportation and Infrastructure extended for a period ending not later than October 16, 1998.

H.R. 3511. Referral to the Committee on Commerce extended for a period ending not later than October 16, 1998.

H.R. 3828. Referral to the Committees on Veterans Affairs and Commerce extended for a period ending not later than October 16, 1998.

H.R. 3829. Referral to the Committees on Government Reform and Oversight, the Judiciary, and National Security extended for a period ending not later than October 16, 1998.

H.R. 3844. Referral to the Committee on Transportation and Infrastructure extended for a period ending not later than October 16, 1998.

H.R. 4377. Referral to the Committee on Commerce extended for a period ending not later than October 16, 1998.

H.R. 4567. Referral to the Committee on Commerce extended for a period ending not later than October 16, 1998.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mrs. MORELLA (for herself, Mr. BARCIA of Michigan, Mr. LEACH, Mr. KUCINICH, and Mr. LAFALCE):

H.R. 4756. A bill to ensure that the United States is prepared to meet the Year 2000 computer problem; to the Committee on Science.

By Mr. GILMAN (for himself, Mr. HAMILTON, Mr. BEREUTER, Mr. LANTOS, Mr. SMITH of New Jersey, Mr. BERMAN, Ms. ROS-LEHTINEN, Mrs. MEEK of Florida, Mr. GALLEGLY, Mr. DIAZ-BALART, Mr. HASTINGS of Florida, Mr. BILIRAKIS, Mr. DAVIS of Florida, Mr.

Mica, Mr. Young of Florida, and Mr. Wexler):

H.R. 4757. A bill to designate the North/South Center as the Dante B. Fascell North-South Center; to the Committee on International Relations.

By Mr. EVANS:

H.R. 4758. A bill to amend title 38, United States Code, to improve access of veterans to emergency medical care in non-Department of Veterans Affairs medical facilities; to the Committee on Veterans' Affairs.

By Mr. OXLEY (for himself and Mr. Hall of Texas):

H.R. 4759. A bill to require the Federal Communications Commission to repeal redundant reporting and record keeping requirements, and for other purposes; to the Committee on Commerce.

By Mr. BARCIA of Michigan:

H.R. 4760. A bill to require the United States Fish and Wildlife Service to approve a permit required for importation of certain wildlife items taken in Tajikistan; to the Committee on Resources.

By Mr. CRANE (for himself, Mr. Smith of Oregon, Mr. Thomas, Mr. Stenholm, Mrs. Johnson of Connecticut, Mr. Watkins, Mr. Combest, Mr. Kolbe, Mr. Herger, Mr. Houghton, Mr. Tanner, Mr. Barrett of Nebraska, Mr. Camp, Mr. Ewing, Mr. Sam Johnson of Texas, Mr. Nussle, Mr. Ramstad, Mr. Collins, Ms. Dunn of Washington, Mr. Lewis of Kentucky, Mr. Pombo, Mr. Portman, Mr. Christensen, Mr. English of Pennsylvania, Mr. Weller, and Mr. Berry):

H.R. 4761. A bill to require the United States Trade Representative to take certain actions in response to the failure of the European Union to comply with the rulings of the World Trade Organization; to the Committee on Ways and Means.

By Mr. ADERHOLT (for himself, Mr. Ney, Mr. Regula, Mr. Walsh, Mr. Traficant, Mr. Dickey, Mr. English of Pennsylvania, Mr. Evans, Mr. Holden, Mr. Brown of Ohio, and Mr. Kucinich):

H.R. 4762. A bill to impose a temporary ban on the importation of certain steel products from Japan, Russia, and Brazil, and for other purposes; to the Committee on Ways and Means.

By Mrs. MINK of Hawaii:

H.R. 4763. A bill to declare certain Amerasians to be citizens of the United States; to the Committee on the Judiciary.

By Mr. ADERHOLT:

H.R. 4764. A bill to require any Federal or State court to recognize any notarization made by a notary public licensed by a State other than the State where the court is located when such notarization occurs in or affects interstate commerce; to the Committee on the Judiciary.

By Mr. BLILEY (for himself and Mr. Gingrich):

H.R. 4765. A bill to amend the Internal Revenue Code of 1986 to increase the amount allowable for qualified adoption expenses, to permanently extend the credit for adoption expenses, and to adjust the limitations on such credit for inflation; to the Committee on Ways and Means.

By Mr. BURTON of Indiana:

H.R. 4766. A bill to require the Secretary of Education to conduct a study and submit a report regarding the availability of educational instruction in the English language to student citizens in the Commonwealth of Puerto Rico; to the Committee on Education and the Workforce.

By Ms. DEGETTE:

H.R. 4767. A bill to amend titles XIX and XXI of the Social Security Act to improve the coverage of needy children under the State Children's Health Insurance Program (SCHIP) and the Medicaid Program; to the Committee on Commerce.

By Mr. ENGEL:

H.R. 4768. A bill to designate the United States Courthouse located at 40 Centre Street in New York, New York, as the "Thurgood Marshall United States Courthouse"; to the Committee on Transportation and Infrastructure.

By Mr. ENGLISH of Pennsylvania:

H.R. 4769. A bill to require the Secretary of the Treasury to prepare a report on the current Federal program costs, and Federal revenues, attributable to the Commonwealth of Puerto Rico and on other matters relating to the taxation of residents of the Commonwealth of Puerto Rico; to the Committee on Ways and Means.

By Mr. FAWELL:

H.R. 4770. A bill to amend the Labor-Management Reporting and Disclosure Act of 1959; to the Committee on Education and the Workforce.

By Mr. HEFLEY:

H.R. 4771. A bill to direct the Secretary of Health and Human Services to waive the penalty for late enrollment under part B of the Medicare Program for certain military retirees and dependents, and for other purposes; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HILL:

H.R. 4772. A bill to amend the Federal Election Campaign Act of 1971 to prohibit disbursements of non-Federal funds by foreign nationals in campaigns for election for Federal office; to the Committee on House Oversight.

By Mr. MCDERMOTT (for himself, Mr. Moran of Virginia, Mr. Blumenauer, Mr. Jefferson, and Mr. Matsui):

H.R. 4773. A bill to provide for assistance by the United States to promote economic growth and stabilization of Northern Ireland and the border counties of the Irish Republic; to the Committee on International Relations, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MORAN of Kansas (for himself, Mr. Tiahrt, Mr. Snowbarger, and Mr. Ryun):

H.R. 4774. A bill to designate the facility of the United States Postal Service at 410 North 6th Street in Garden City, Kansas, as the "Clifford R. Hope Post Office"; to the Committee on Government Reform and Oversight.

By Mr. MORAN of Kansas:

H.R. 4775. A bill to amend title 36, United States Code, to grant a Federal charter to The National Teachers Hall of Fame in Emporia, Kansas; to the Committee on the Judiciary.

By Mrs. MYRICK:

H.R. 4776. A bill to make it a Federal crime to use a weapon of a State or local law enforcement officer in the commission of a crime against the officer; to the Committee on the Judiciary.

By Ms. NORTON (for herself and Mr. Nadler):

H.R. 4777. A bill to expand authority for programs to encourage Federal employees to commute by means other than single-occupancy motor vehicles to include an option to pay cash for agency-provided parking spaces, and for other purposes; to the Committee on Government Reform and Oversight.

By Mr. PITTS (for himself, Mr. Fawell, Mr. Hoekstra, Mr. Souder, Mr. Petri, Mr. Talent, Mr. Nethercutt, Mr. Barrett of Nebraska, Mr. Ramstad, Mr. Cunningham, and Mr. Manzullo):

H.R. 4778. A bill to amend the Fair Labor Standards Act of 1938 to clarify the exemption for houseparents from the minimum wage and maximum hours requirements of that Act, and for other purposes; to the Committee on Education and the Workforce.

By Mr. SALMON:

H.R. 4779. A bill to provide block grant options for certain education funding; to the Committee on Education and the Workforce.

By Mr. SALMON:

H.R. 4780. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for expenses of attending elementary and secondary schools and for contributions to charitable organizations which provide scholarships for children to attend such schools; to the Committee on Ways and Means.

By Mr. Bob SCHAFFER:

H.R. 4781. A bill to amend the Federal Election Campaign Act of 1971 to require the national committees of political parties to file pre-general election reports with the Federal Election Commission without regard to whether or not the parties have made contributions or expenditures under such Act during the periods covered by such reports; to the Committee on House Oversight.

By Mr. THOMPSON:

H.R. 4782. A bill to amend the Internal Revenue Code of 1986 to make the dependent care tax credit refundable and to increase the amount of allowable dependent care expenses, and for other purposes; to the Committee on Ways and Means.

By Mr. LIVINGSTON:

H.J. Res. 133. A joint resolution making further continuing appropriations for the fiscal year 1999, and for other purposes; to the Committee on Appropriations.

By Ms. PELOSI (for herself, Mr. Lantos, Mr. Bonior, Mr. Torres, Mr. Yates, Mr. Rush, Mr. Barrett of Wisconsin, Mr. Blagojevich, Mr. Brown of California, Mr. McGovern, Mr. Oberstar, Mr. Minge, Mr. Sabo, Mr. Hinchey, Mr. Kleczka, Mr. Markey, Mr. Engel, Mr. Farr of California, Mr. Delahunt, Mr. Olver, Ms. Kilpatrick, Mr. Meehan, Mr. Stark, Mr. Frost, Ms. DeLauro, Mr. Jackson of Illinois, Mr. Sanders, Ms. Rivers, Ms. Waters, Mr. Leach, Mr. Price of North Carolina, Ms. Eshoo, Mr. McDermott, Ms. Woolsey, Ms. Slaughter, Ms. Millender-McDonald, Ms. Lofgren, and Mr. Davis of Illinois):

H. Con. Res. 347. Concurrent resolution expressing the sense of Congress regarding measures to achieve a peaceful resolution of the conflict in the state of Chiapas, Mexico, and for other purposes; to the Committee on International Relations.

By Mr. SCARBOROUGH (for himself, Mr. Armey, Mrs. Johnson of Connecticut, Ms. Carson, Mrs. Mink of Hawaii, and Mr. Abercrombie):

H. Res. 590. A resolution recognizing and honoring Hunter Scott for his efforts to honor the memory of the captain and crew of the U.S.S. INDIANAPOLIS and for the outstanding example he has set for the young people of the United States; to the Committee on Government Reform and Oversight.

By Mr. MEEKS of New York (for himself, Mr. CONYERS, and Mr. JACKSON of Illinois):

H. Res. 591. A resolution expressing the sense of the House of Representatives that the Supreme Court of the United States should improve its employment practices with regard to hiring more qualified minority applicants to serve as clerks to the Justices; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. ORTIZ:

H.R. 4783. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel GRIEFSWALD; to the Committee on Transportation and Infrastructure.

By Mr. YATES:

H.R. 4784. A bill for the relief of Marin Turcinovic, and his fiancee, Corina Dechalup; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 23: Mr. PRICE of North Carolina, Mr. STUPAK, Ms. LEE, Mr. COYNE, Mr. MURTHA, and Mr. VENTO.

H.R. 44: Ms. ROS-LEHTINEN.

H.R. 167: Ms. ROS-LEHTINEN.

H.R. 168: Ms. ROS-LEHTINEN.

H.R. 371: Mr. DELAHUNT, Mr. CONYERS, Mr. SOUDER, and Mrs. BONO.

H.R. 616: Mr. SHERMAN.

H.R. 836: Mr. SHAYS and Ms. MCCARTHY of Missouri.

H.R. 900: Mr. BECERRA, Mr. WATT of North Carolina, Ms. MCCARTHY of Missouri, and Mr. THOMPSON.

H.R. 1059: Mr. HILL.

H.R. 1073: Ms. ROS-LEHTINEN.

H.R. 1111: Mr. DRIER and Mr. HALL of Ohio.

H.R. 1126: Mr. STRICKLAND.

H.R. 1232: Mr. KLECZKA and Mr. ABERCROMBIE.

H.R. 1261: Mr. PETERSON of Minnesota.

H.R. 1354: Mr. LANTOS and Mr. GEJDENSON.

H.R. 1401: Mr. ACKERMAN.

H.R. 2009: Mr. ROEMER.

H.R. 2273: Mr. JENKINS.

H.R. 2397: Mr. WISE and Mr. BLAGOJEVICH.

H.R. 2465: Mr. LIPINSKI.

H.R. 2524: Mrs. CAPPS.

H.R. 2560: Mr. HASTERT, Mr. GALLEGLY, and Mr. MURTHA.

H.R. 2635: Mr. MINGE and Mr. JOHNSON of Wisconsin.

H.R. 2715: Mr. NEY and Mr. INGLIS of South Carolina.

H.R. 2733: Mr. CUMMINGS.

H.R. 2908: Mr. HOEKSTRA.

H.R. 2938: Mr. VISCLOSKY.

H.R. 2950: Mr. BURTON of Indiana.

H.R. 3008: Mr. GILLMOR.

H.R. 3033: Mr. DEUTSCH.

H.R. 3279: Mr. DEFAZIO.

H.R. 3514: Mr. BLUMENAUER, Mr. RODRIGUEZ, and Mr. LEVIN.

H.R. 3572: Mr. BUYER.

H.R. 3637: Mr. FATTAH.

H.R. 3702: Mr. STRICKLAND.

H.R. 3720: Mr. HOSTETTLER, Mr. ADERHOLT, Mr. NORWOOD, and Mr. CALVERT.

H.R. 3766: Mr. LEWIS of Kentucky and Mr. BLUMENAUER.

H.R. 3779: Mr. BOB SCHAFFER, Mr. DEUTSCH, Mr. SAWYER, and Mrs. WILSON.

H.R. 3794: Mr. BLUMENAUER.

H.R. 3833: Mr. UNDERWOOD.

H.R. 3879: Mr. EWING.

H.R. 3946: Mr. DOYLE, Ms. SÁNCHEZ, and Mrs. CAPPS.

H.R. 3949: Mr. THOMAS and Mr. DICKEY.

H.R. 3956: Ms. BROWN of Florida and Mr. ABERCROMBIE.

H.R. 4019: Mr. SPRATT and Mr. DOYLE.

H.R. 4035: Mr. HILL, Mr. MOAKLEY, Mr. BUNNING of Kentucky, Mr. CHAMBLISS, Ms. ROYBAL-ALLARD, Mr. PALLONE, Mr. GEJDENSON, Mr. BLUNT, Mr. MASCARA, Mr. POSHARD, and Mrs. NORTHUP.

H.R. 4036: Mr. HILL, Mr. BAKER, Mr. MOAKLEY, Mr. BUNNING of Kentucky, Mr. CHAMBLISS, Ms. ROYBAL-ALLARD, Mr. MARKEY, Mr. PALLONE, Mr. FALEOMAVAEGA, Mr. GEJDENSON, Mr. DICKS, Mr. BLUNT, Mr. PARKER, Mr. SHAW, Mr. PASCRELL, Mr. MASCARA, Mr. POSHARD, Mr. BORSKI, Mr. WHITFIELD, Mr. SPRATT, Mr. LATOURETTE, Mr. PETERSON of Pennsylvania, Mr. SCARBOROUGH, Mr. DIAZ-BALART, and Ms. MILLENDER-MCDONALD.

H.R. 4126: Mrs. LINDA SMITH of Washington.

H.R. 4127: Mr. SANDERS.

H.R. 4130: Mr. DEFAZIO.

H.R. 4153: Mr. CAMP.

H.R. 4154: Mr. NORWOOD.

H.R. 4291: Mr. MALONEY of Connecticut.

H.R. 4358: Mr. ROTHMAN.

H.R. 4383: Mr. DEAL of Georgia, Mr. WYNN, and Mr. NORWOOD.

H.R. 4415: Mr. SCARBOROUGH.

H.R. 4449: Mr. JOHNSON of Wisconsin and Mr. HINOJOSA.

H.R. 4467: Mr. BROWN of California, Mr. BONIOR, and Ms. DELAURO.

H.R. 4492: Mr. SANDLIN, Mr. MCHUGH, Mr. METCALF, and Mr. BLUMENAUER.

H.R. 4513: Mr. REDMOND.

H.R. 4545: Mr. PALLONE.

H.R. 4546: Mr. CUNNINGHAM, Mr. MILLER of Florida, Mr. MCCRERY, Mr. SNOWBARGER, Mr. STEARNS, Mr. MCINTOSH, Mr. HOEKSTRA, Mr. BOB SCHAFFER, Mr. PORTER, Mr. TALENT, Mr. DEAL of Georgia, Mr. DUNCAN, and Mr. CHAMBLISS.

H.R. 4552: Mrs. MALONEY of New York.

H.R. 4553: Mr. BEREUTER and Mr. BOB SCHAFFER.

H.R. 4581: Mr. OBERSTAR.

H.R. 4628: Mr. FARR of California.

H.R. 4648: Mr. MARKEY, Mr. KENNEDY of Massachusetts, and Mr. MEEHAN.

H.R. 4653: Mr. FILNER, Mr. TRAFICANT, and Mr. HINCHEY.

H.R. 4683: Mr. SANDERS, Mr. SHERMAN, and Ms. SLAUGHTER.

H.R. 4686: Mr. FORD.

H.R. 4709: Mr. YOUNG of Florida.

H.R. 4717: Ms. MCCARTHY of Missouri, Mr. GIBBONS, and Mr. ADERHOLT.

H.R. 4727: Mr. MURTHA, Mr. STUPAK, and Mr. PALLONE.

H.R. 4733: Mr. BENTSEN.

H.R. 4737: Ms. ESHOO.

H. Con. Res. 122: Ms. SLAUGHTER.

H. Con. Res. 229: Ms. GRANGER, Mr. LATOURETTE, and Ms. ROS-LEHTINEN.

H. Con. Res. 274: Mr. GOSS and Ms. ROS-LEHTINEN.

H. Con. Res. 286: Mr. OBERSTAR and Ms. MCKINNEY.

H. Con. Res. 314: Mr. CANADY of Florida.

H. Con. Res. 325: Mr. CONYERS.

H. Con. Res. 328: Ms. SLAUGHTER, Mrs. EMERSON, Mr. CHAMBLISS, Mr. OBEY, Mr. TANNER, Mr. HOEKSTRA, and Mr. BENTSEN.

H. Con. Res. 335: Mrs. MORELLA.

H. Con. Res. 345: Mr. MCCOLLUM, Mr. HEFLEY, Mr. FORBES, Mr. BACHUS, Mr. KNOLLENBERG, Mr. WATTS of Oklahoma, Mr. GREEN, Mr. FOX of Pennsylvania, Mr. GIBBONS, Mr. SCHUMER, Mr. COOK, Mr. SESSIONS, Mr. ADERHOLT, Mr. TALENT, Mr. MILLER of Florida, Mr. HAYWORTH, Mr. SNOWBARGER, Mr. TIAHRT, Mr. ROHRABACHER, Mr. WELDON of Pennsylvania, and Mr. BURTON of Indiana.

H. Res. 406: Mr. HASTINGS of Washington.

H. Res. 483: Mr. SAWYER, Mr. BONIOR, Mr. OWENS, and Mr. MEEKS of New York.

H. Res. 519: Mr. GOODLING.

H. Res. 561: Mr. PORTER.

H. Res. 571: Mr. GRAHAM and Mr. ABERCROMBIE.

SENATE—*Friday, October 9, 1998*

(Legislative day of Friday, October 2, 1998)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Eternal God, sovereign of history, who gives beginnings and ends to the phases of our work, on whom our mortal efforts depend, soon this hallowed Chamber will be silent for a time. The 105th Congress will be completed. Historians will write the human judgments of what has been accomplished, but You will have the final word about what has been achieved. It is Your affirmation that we seek. Senators in both parties have prayed to know and do Your will. Often there has been sharp disagreement on what is best for our Nation. Thank You for those times when debate led to deeper truth and compromise to the blending of aspects for a greater solution. We need that today. We remember those moving moments when we sensed Your presence, received supernatural power, and pressed on in spite of tiredness and tension. We need that today. Help us to forgive and forget any memories of strained relationships or debilitating differences. Preserve the friendships that reach across party lines. We need that today.

Father, help us to finish well. Give us strength to complete the work of this Congress with expeditious excellence. Renew the weary, reinforce the fatigued, rejuvenate the anxious. When it is all said and done, there is one last word we long to hear. It is Your divine accolade, "Well done, good and faithful servant." Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader is recognized.

Mr. LOTT. Thank you, Mr. President, and good morning to you.

SCHEDULE

Mr. LOTT. Mr. President, this morning there will be 15 minutes remaining for debate on the religious freedom bill. At 9:45, under a previous order, the Senate will proceed to vote on the passage of the religious freedom bill. I commend Senator ARLEN SPECTER and Senator NICKLES and Senators on both sides of the aisle who have worked on this. I am sure Senator LIEBERMAN was involved, and others. I think this is a really fine accomplishment in the waning hours of this session of Congress.

Following that vote, the Senate may consider any available appropriations conference reports—we have at least one that I believe could be taken up, that is the Treasury-Postal Service bill—and any other legislative or executive items cleared for action. It is anticipated that we will move at some point today to the nomination of Mr. Paez from California, to be a judge for the Ninth Circuit. There is opposition, significant opposition to that nomination, so there will have to be some debate and I am sure a vote.

The Senate will also consider a continuing resolution or an omnibus appropriations bill, should they become available or when they become available. Members should expect, then, rollcall votes throughout today's session and into the evening. I thank my colleagues for their attention.

I might just note, last night a lot of good work was done in the wrapup, including approval of the intelligence authorization conference report and the water resources bill. This is a very significant bill that is important to every State in the Nation. It had been tied up with various and sundry problems, but with a lot of hard work and a lot of cooperation, that bill was cleared. We hope, now, the House will take expeditious action and we can complete action on the water resources bill before we go out for the year. Also, we did the human resources reauthorization and the vocational education bill. When you couple higher education and vocational education, plus the Coverdell A+ bill that Congress passed, there has been a significant achievement this year in education. Even though the President vetoed the ability for people to save for their children's education, higher education and vocational education are two areas where we have completed our action and will be signed into law.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

A PRODUCTIVE BIRTHDAY FOR THE MAJORITY LEADER

Mr. NICKLES. Mr. President, the majority leader announced several things we accomplished yesterday. It was a pretty productive day. Today I hope will be even a more productive day. Because it is one of the last days of our legislative session, but also because it is the majority leader's birthday, we want it to be a very productive day.

FREEDOM FROM RELIGIOUS PERSECUTION ACT OF 1998

Mr. NICKLES. Mr. President, I think the regular order is we are back on the International Religious Freedom Act?

The PRESIDING OFFICER (Mr. ALLARD). If the Senator will suspend, the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2431) to establish an Office of Religious Persecution Monitoring, to provide for the imposition of sanctions against countries engaged in a pattern of religious persecution, and for other purposes.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. There are 15 minutes equally divided. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I spoke at length on this bill last night. I mentioned that we have had a lot of cooperation and effort on behalf of a lot of Senators to help make this bill a reality and hopefully to soon become law. Principal among those is Senator LIEBERMAN from Connecticut, who is not just a principal cosponsor, but a tireless worker on behalf of individuals throughout the world who have been suffering from religious persecution or who desire religious freedom. Senator LIEBERMAN has been working on their behalf. I am privileged to work with him on this bill and I yield him such time as he desires on this bill.

Mr. LIEBERMAN. Mr. President, I thank my friend and colleague from Oklahoma for his kind words and for his extraordinary leadership on this measure.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. Mr. President, we are heading rapidly to the end of this second half of the 105th Congress. There will be time for reviews and evaluations. Some will say what did we accomplish in this second part of this 105th Congress? I hope when we are asked that, one of the answers we will be able to give is that we adopted the International Religious Freedom Act, a historic piece of legislation, genuinely bipartisan, representing and expressing the core beliefs and values of the American people and putting those beliefs and values at the center of our foreign policy.

It is, in fact, a measure that has the potential to affect the freedom, the

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

lives, the fates of tens of millions of people around the world today who are denied the basic right of freedom of religion that brought so many of our ancestors to the United States.

This kind of measure does not reach the edge of passage without a lot of strong support. I thank particularly the Senator from Oklahoma, Mr. NICKLES, and his outstanding staff—especially Steve Moffitt of that staff—for the hundreds of hours that they spent working on this legislation and the spirit of common purpose that guided them as we went on.

I thank also my friend and colleague from Delaware, Senator BIDEN, and his staff, particularly Brian McKeon, who contributed immeasurably to, not only the purpose, but to the way in which this legislation is crafted; to Senator FEINSTEIN and her staff, particularly Dan Shapiro, for their very constructive contributions; and Senator COATS as well, about whom I have a little more to say in a few moments. And I want to recognize Cecile Shea who is on my staff for the literally hundreds of hours she worked to help craft this bill.

This effort began with some Pied Pipers outside the Congress who educated us to the fact that these religious freedoms that we hold so dear in the United States are not real for many people, millions of people around the world. Surprisingly to many of us, they are particularly not real for people of the Christian faith around the world, who are subjected to discrimination, and in many cases persecution.

One of the people who started this effort was Michael Horowitz of the Hudson Institute, and he deserves to be mentioned here and thanked for educating and opening our eyes to the persecution that exists. Senator SPECTER and Congressman WOLF introduced the initial bill. They were the pioneers here and blended together with the effort that Senator NICKLES and I initiated here in the Senate. I thank them for their support.

As we come to the conclusion, I want to thank the administration representatives, led by Under Secretary Stuart Eizenstat, who worked with us to craft the language that could finally be approved by National Security Advisor Sandy Berger and the President. The administration endorsement guarantees that when passed this legislation will become law.

The list of groups that endorsed the act is extraordinary, a true expression of all of God's children:

The Episcopal Church, the Catholic Conference, the United Methodist Church Women's Division, the Evangelical Lutherans, the American Jewish Committee, the Christian Coalition, the National Association of Evangelicals—the list goes on and on and on—the B'nai B'rith, the Anti-Defamation League, the Catholic Conference of Major Superiors of Men's Institutes, the Jewish Council for Public Affairs, the National Conference of Soviet Jewry, the Union of American Hebrew Congregations, the Union of Orthodox Jewish Congregations of America, the American Coptic Association, Advocates International, the Religious Liberty Commission of the Southern Baptist Convention, Union of American Hebrew Congregations, the International Fellowship of Jews and Christians, the Traditional Values Coalition, the Justice Fellowship and the Church of the Disciples.

What brought all of these groups together? What brought them together is, in many ways, what brought the founders of our country to these shores and what led them to declare their independence ultimately from England. And that was faith, shared faith in God and a belief that no government has the right to tell people how to worship and certainly does not have the right to discriminate against them or persecute them for the way in which they choose to express their faith in God.

The founders of this country declared in the Declaration of Independence that: "We hold these truths to be self-evident, that all men are created equal" and that they have certain endowments, not from the founders of the country, not from a group of politicians. The endowments come from their Creator, and the endowment is the right to life, liberty and the pursuit of happiness. Then in the very first amendment to the Bill of Rights, they established the freedom of religion that has been so dear to our country, so central to our country and such a magnet for our fathers and grandfathers and great grandfathers who came here driven by a desire to have that freedom.

On this day, I think of my grandmother who came here from Central Europe. My grandmother was probably one of the greatest American patriots I ever knew, for a simple reason: She said to me in her old age how much she loved the country. She said, "It may not seem that profound to you, it may not seem that complicated, but the fact I can walk to synagogue on Saturday morning and not only is no one harassing me or bothering me, not only do I live free of fear, not only do I have no hesitation about what I will find in the synagogue, nobody bothering the building or any of us worshipping there, but my neighbors who are not Jewish, as they see me, say 'Good morning, Mrs. Manger, good Sabbath to you.'"

This to her expressed the essence of what it meant to be American and free and the gratitude that she felt. In some measure, I suppose many of us are supporting this legislation and trying to express that gratitude by extending as best we can that freedom and respect to people around the world.

Some say, "OK, it is good for the United States. What gives you the right to tell other countries how they should treat their citizens?" What we are saying here is that we have the right to express our values; we have the right to put our values at the center of our foreign policy. Countries can do what they will, but we have no obligation to deal with countries on a normal basis, to give them aid and comfort if they are violating a central animating principle of American life, which is freedom of religion.

Who else, if not a nation whose forebears and citizens, beginning with the Puritans and continuing to this day, suffered under persecutors in foreign lands before coming to this country? Who else will speak for those around the world who are denied those basic liberties?

Mr. President, this legislation, finely crafted, worked on for more than a year, expresses, in sensible terms, those values to which I have spoken. It clearly states America's unwavering commitment to religious freedom around the world. It requires that every succeeding American administration report once a year on the state of religious freedom in every country in the world—put it on the record—and also report on the steps the administration has taken to encourage—and that is the way this proposal will best work—and raise the status of religious freedom in every country around the world to a level of visibility and report on it. We have given the administrations—this and all future administrations—a menu of choices to respond to, some modest and, in most extreme cases of persecution, some severe.

In nations where violations are particularly egregious, where torture, execution and inhumane punishment routinely are used to limit the free expression of religion, today the President may choose from a list of economic incentives to pressure the offending government to reform. The menu of sanctions in this bill is narrowly focused. It is designed to mitigate the offending behavior without causing economic hardship to our own country. The President has a waiver authority on the sanctions and is also required to seek, first, multilateral cooperation in this sanctions bill.

But this is much more than a sanctions bill. It is a reminder to the executive branch of the American Government, both now and in the future, that as it encourages human rights around the world, it must consider freedom of religion.

This bill requires training in religious freedom issues for foreign service and immigration officials. It establishes an independent commission to monitor religious persecution around the world and to make recommendations to the administration on how to encourage greater religious freedom.

Mr. President, right now somewhere in the world a man or woman languishes in prison, some on death row, because he or she did nothing more than choose faith in God over personal expediency. They probably wonder if anyone cares about what has happened to them. In too many places in this world today, a group, a village, perhaps a province, will suffer economic hardship, lack of access to medical care, systematic harassment and intimidation because its citizens refuse to turn their backs on the most fundamental definition of who they are. They wonder, I suppose, whether anyone cares or has noticed. And this bill, the International Religious Freedom Act, says to them that we notice, we care and the Government of the strongest nation in the world will speak up for them to protect their right to worship their God in the way in which they choose.

Mr. President, just a final word about our retiring colleague from Indiana, Senator DAN COATS. As fine a person of faith as I have ever known in my life, as trustworthy a man as I have ever had the privilege to work with, worked very hard on this piece of legislation because the principles embodied in this legislation spring from the inner core of this man of surpassing and illuminating Christian faith.

In some measure, I think this is one of the great testaments, one of the great monuments that he will leave as he leaves the Senate. With this act, we send a message that our Nation, founded under God, with freedom of conscience on religion as its cornerstone is prepared to do what it can to extend those values reasonably, sensibly to people throughout the world.

Mr. DODD. Mr. President, I rise to support H.R. 2431—the International Religious Persecution Act of 1998—as amended by the substitute offered by Senator NICKLES and others. I believe that the changes that this amendment makes to the underlying bill vastly improve the effectiveness of this legislation in promoting religious freedom around the world and in better responding to actions that would deny people such freedom, regardless of where they reside.

Mr. President, we in the United States are very fortunate. Our Founding Fathers recognized the importance of religious freedom as a bedrock issue. That they did so is not surprising. It was borne out of their personal experiences having been forced to flee their countries because of religious intolerance and outright persecution. For that reason, religious freedom was given a prominent place by the drafters of the Constitution—in the Bill of Rights as the first amendment to the Constitution.

We as Americans are not the only ones who cherish and hold dear our religious freedom. This important and unalienable right is also a part of the universal collection of rights that people around the globe hold sacred. It is recognized in both the Universal Declaration of Human Rights and the International Covenant of Civil and Political Rights.

Despite the seeming universality of the right to religious freedom, people throughout the planet are every day being denied the right to practice their religion—Christian and Jew, Moslem and Buddhist, Hindu and Baha'i. At its most extreme, unthinkable acts have been perpetrated against an entire people in the process of denying them the right to practice their faith, I am speaking of the annihilation of more than 6 million Jews by Adolf Hitler while the world looked on.

Even today, religious intolerance remains rooted in too many societies throughout the planet—in Iran, in Sudan, in Burma, in the People's Republic of China, in Russia—and this is by no means an exhaustive list.

H.R. 2431, as amended, seeks to establish a policy and procedures for the United States government to follow in defending religious freedom internationally. It provides for the imposition of targeted sanctions against governments which practice religious persecution. However, it also gives the President and the Secretary of State some measure of flexibility in carrying out the policy.

I am also pleased to note that it excludes the denial of food and medicine as a sanctions option under this legislation. I have never believed that to deny innocent men, women and children access to the very basic necessities of life places the United States as a government on a particularly high moral ground at the very time we are trying to elicit a higher standard of moral behavior by other governments. The bill also includes waiver authority that will enable the President to react with flexibility to changing events in furtherance of U.S. national interests. Finally, the bill includes a sunset provision that would lift any sanctions imposed pursuant to this act after two years, unless specifically reauthorized by the Congress.

I believe that President Clinton is committed to promoting international religious freedom. In no way should the passage of this legislation be interpreted as a criticism of the administration's efforts to champion the cause of international religious freedom. Rather, my support for this legislation should be viewed as an effort to complement the Administration's efforts. Passage of the pending legislation will signal to the world that the Congress stands fully behind all efforts to promote religious freedom along with other fundamental human rights as a core component in the United States foreign policy agenda.

I commend Senator NICKLES and my colleague from Connecticut Senator LIEBERMAN for all their work on this legislation. Thanks to their efforts to perfect and refine its provisions, this legislation will be far more effective in furthering U.S. efforts to promote respect for religious freedom throughout the world.

Mr. President, I am pleased to join with them and many others in this Chamber in voting for final passage of this bill at the appropriate time.

Mr. ASHCROFT. Mr. President, the International Religious Freedom Act of 1998 represents a vitally important piece of legislation to raise awareness of and combat religious persecution overseas. Some would downplay the problem of religious persecution abroad, but preserving religious freedom at home and promoting it in other countries is central to the purpose and objectives of the United States.

In our own history as a nation and in the histories of countries around the world, religious freedom has been at the center of movements for broader civil liberty. Efforts to restrict religious freedom strike at the heart of liberty itself. Thus, the United States has a duty to stand for religious liberty abroad as we continue to preserve it at home.

If the Administration had been more aggressive in confronting religious persecution, such legislation might not be necessary. In fact, at a White House meeting to discuss one of the major bills on religious persecution, President Clinton told religious leaders that legislation which actually required him to confront persecution abroad would put "enormous pressure on whoever is in the executive branch to fudge an evaluation of the facts of what is going on."

That is a troubling statement by the President of the United States, which not only calls us to question this Administration's commitment to fight religious persecution, but the reliability of other presidential certifications on issues such as Chinese missile and nuclear proliferation. Such statements by Administration officials make it clear why legislation to address religious persecution is needed.

Religious persecution is a tragic fact of life in many countries, from Latin America to Asia to Africa. Religious persecution in Sudan and China has been of particular concern to me. As Chairman of the Africa Subcommittee, I held a hearing on religious persecution in Sudan in September of last year.

Religious persecution has become enmeshed in a brutal Sudanese civil war that has taken more than 1.5 million civilians since 1983, with over 4 million more being displaced by the fighting. An estimated 430,000 refugees have fled Sudan to seek safety in neighboring countries.

Human rights organizations working in Sudan have testified before Congress that the government uses "aerial bombardment and burning of villages, arbitrary arrests, torture, chattel slavery—especially child slavery—hostage taking, summary execution, inciting deadly tribal conflict, the abduction and brainwashing of children, the arrest of Christian pastors and lay church workers, and the imprisonment of moderate Muslim religious leaders" to suppress dissent and form a radical Islamic state. Such barbarous atrocities, along with Sudan's support for international terrorism, has led me to introduce legislation to cut off financial transactions with the Sudanese government.

The viciousness of religious persecution in Sudan should not callous us to the very real and brutal oppression taking place in other countries. As Nina Shea notes in The Lion's Den, China has more Christians in prison because of religious activities than any other nation. The State Department's first comprehensive review of persecution against Christians, issued in July 1997 and entitled "U.S. Policy in Support of Religious Freedom," says, "The Government of China has sought to restrict all actual religious practice to government-subsidized religious organizations and registered places of worship."

China's efforts to restrict religious freedom are driven by oppressive policies which seek to make all religion subservient to the state's secular objectives. In the book China: State Control of Religion, Human Rights Watch states that "the Chinese government believes that religion breeds disloyalty, separatism, and subversion." The book goes on to note: "Chinese authorities are keenly aware of the role that the church played in Eastern Europe during the disintegration of the Soviet empire."

Rather than embrace and encourage the free expression of faith, the Chinese government is engaged in a massive, ongoing, and brutal effort to repress non-sanctioned religious activity. Ministers or lay people who seek to practice their faith free from bureaucratic interference and oppression are subjected to imprisonment, torture, and worse. The Far Eastern Economic Review noted that 15,000 religious sites were destroyed by government police in the first five months of 1996 alone. Paul Marshall and Nina Shea note that "China's underground Christians are the target of what they themselves describe as the most brutal repression since the early 1980s when China was just emerging from the terror of the Cultural Revolution."

And yet, in spite of such repression by the Chinese Communist government, this Administration declined even to sponsor a resolution at the U.N. Commission on Human Rights condemning China's human rights record. Apparently, some type of back door deal was made with the Chinese government in which a few prisoners would be released and we would turn our head and close our ears to the thousands that remain in Chinese prisons and labor camps.

I am aware of mounting concern in the U.S. business community on the damage done to U.S. competitiveness due to unilateral sanctions. I want U.S. companies to compete and succeed in the international marketplace. The Nickles legislation, however, is a carefully crafted bill which offers the President an array of options to promote religious liberty abroad and will target any resulting sanctions on those countries most deserving of reproach for religious persecution. This legislation is a necessary first step to address the problem of religious persecution.

Mr. President, I submit that it is time for the Senate of the United States to take a stand on this issue of religious persecution, and passage of the Nickles legislation offers just such an opportunity. It is also time for the Executive Branch to take a stand on this issue. Rather than look at how we might "fudge" legislative requirements to avoid confronting oppression abroad, let us have the courage of our convictions. Mr. President, I yield the floor.

Mr. BREAUX. Mr. President, I rise today to express my enthusiastic support for the International Religious Freedom Act of 1998, which was passed by the Senate earlier today. This legislation condemns religious persecution and promotes what is indisputably a fundamental human right—the right to freedom or religion.

I am proud to have co-sponsored this legislation, which I might add was passed by the Senate without opposition. That is due in no small part to the efforts of Senators NICKLES and LIEBERMAN. I want to commend them and their staffs for all the hard work they've done to craft a bill that is meaningful and effective without being excessively rigid or inflexible.

Mr. President, it has amazed me to see how Americans' awareness of religious persecution abroad has grown just in this decade. It is, no doubt, a result of the incredible resources and vast amounts of information that ordinary Americans now have at their fingertips. As more and more people gain access to the Internet, the velocity of information continues to increase. Americans have learned about religious persecution by foreign governments around the globe and they expect our government to take serious action to curb this behavior.

Their can be no doubt that we have a responsibility to advocate and encourage freedom of religion in foreign lands. We, as a nation, have always held it to be the most sacrosanct of human rights. Indeed, it is not just enshrined in our Bill of Rights, it is a thread that is woven into the very fabric of our national identity.

The International Religious Freedom Act channels U.S. assistance to governments that are not gross violators of human rights, in particular the right to religious freedom. It provides for sanctions or other comparable action against countries that persecute citizens on religious grounds. The bill establishes a Commission on International Religious Persecution to publish yearly recommendations to the White House and the Congress on how to promote religious freedom abroad. It also establishes an Ambassador-at-Large of Religious Freedom within the State Department and a Special Advisor on International Religious Freedom within the National Security Council. As a result, it requires the Administration to produce a yearly "Annual Report on Religious Freedom Around the World."

Mr. President, these are reasonable provisions that I believe will help focus our efforts to stand up for religious freedom abroad while at the same time allowing the executive branch a degree of needed flexibility to deal with different facts and circumstances in different instances of persecution. It is an important bill, and I am hopeful that the Congress can send it to the President for signature before adjournment.

Mr. HATCH. Mr. President, it is fitting that, as we conclude the 105th Congress, we can add to our long list of accomplishments the passage of the International Religious Freedom Act of 1998.

This bill has been in the works throughout this Congress and is a fine example of the legislative results we can achieve through long, thoughtful study and debate. I would like to compliment the numerous members and their staffs who have worked on this bill since its inception. Senator SPECTER introduced the first version of this bill last year. Senator LUGAR and Senator LIEBERMAN worked diligently to develop that initial draft. And Senator NICKLES took the final drafts and brought the bill to the version we will vote on today.

Numerous compromises were made, but the lasting product of this body rarely passes without such compromising, and again I wish to compliment all the senators who so assiduously developed the bill I expect will pass overwhelmingly this morning.

There is a conceptual problem whenever we seek to apply serious diplomatic and economic sanctions to worldwide problems. On the one hand, you risk over 70 cases of unintended consequences. I use that number because recent estimates are that at least 70 nations violate, abuse or proscribe outright religious freedom. One legislative solution mandating tangible and serious sanctions applied to over 70 cases can have a myriad of consequences we don't intend.

On the other hand, a mere resolution of disapproval of such behavior appears weak, and can give the signal that the Congress is strong on denunciation, but weak on action.

Mr. President, one of my favorite quotes on geopolitics comes from the British historian Paul Johnson, who wrote in his magisterial history of the blood-soaked 20th century, Modern Times, that "it is of the essence of geopolitics to be able to distinguish between different degrees of evil."

Of course, evil is evil. But, it takes sophisticated legislating to address it in a geopolitically sound way, and I believe that this current bill has succeeded in doing that.

By the detailed and considered list of incremental actions directed of the President, and by the selective waiver authorities, we have, in the International Religious Freedom Act of 1998, a piece of legislation that is both substantive and flexible. It conscientiously fulfills the Congress's intent to act against one of the most hideous violations of human rights, persecution based on faith.

We could not ignore the moral imperative to act, Mr. President. It would be impossible now to list all of the egregious abuses of this fundamental right that are occurring today, and I fear that to select a few examples risks suggesting other, unmentioned, abuses are less objectionable.

Nor would it be accurate to suggest that abuses of religion occur merely in totalitarian or authoritarian regimes. The renowned human rights organization Freedom House recently reported that the number of democracies in the world has grown over the past ten years from 66 democracies to 117. This is a remarkable accomplishment and bodes well for global political trends.

But we should not believe this trend is irreversible, nor should we assume that all of the new democracies are well-established in their institutions. While democratic development is required to further the protection of individual rights, including the right to conscience and faith, certain democratic regimes around the world still constrain complete freedom of religion.

There is a relation, however, between the degree of abuse of the right to individual faith and authoritarian regimes, because it mostly is in authoritarian regimes do you the horrific abuses—torture, imprisonment, execution and disappearance—that are most disturbing to Americans. That is why all of us gathered today to support this bill must redouble our efforts to maintain a strong commitment to the development and expansion of democracy as a pillar of American foreign policy.

Mr. President, I take my own Mormon faith seriously; and, because of my faith, I am acutely aware of the historical suffering of an intolerant society. Perhaps that is what makes me more attuned to the sufferings of the faithful—of all the great religions—around the world. Perhaps it is because I am a conservative, who simply believes in a life based on faith, family and country, with faith underpinning the values of family and country.

But it is probably because I am an American, a proud citizen of a country where we have so developed a rule of law that enshrines the individual right to belief that we are the envy of freedom-seeking people around the world and the enemies of those regimes too insecure, too primitive, and, in some cases, too barbaric to countenance this most fundamental freedom.

Mr. President, I have traveled a great deal in this world, and I have met many leaders. I have met communists who believed, and believers who countenanced oppression of other faiths. The varieties of personal faith and its expressions are countless, but the fundamental political right to personal conscience is indivisible, and universally desired.

This bill before demonstrates that the United States Congress, and all its members with all their faiths, believe that the pursuit of this political right must be a conscious, vocal, activist, and determined part of our foreign policy. I urge my colleagues to support this bill.

Mr. HUTCHINSON. Mr. President, as an original cosponsor, I rise in strong support of the International Religious Freedom Act and hope for the persecuted everywhere. I commend my colleagues on both sides of the aisle in the Senate and House for their dedicated efforts in crafting this legislation.

Mr. President, the desire for religious freedom is not uniquely American. But as Americans we are in a unique position to advocate it. As a superpower, we have the resources. As a nation of free people, we have the responsibility. Religious freedom is at the core of our country and enshrined in our Constitution. Our nation's founders fled from religious persecution in search of a land where they could freely exercise their ideal of religious freedom They stood recognizing that the suppression of their faith was tryanny over their hearts and minds. They knew that without the freedom to gather, to worship, to speak about their God, there would be no freedom. So they laid a cornerstone for our democracy, establishing freedom in law. And from that day, the protection of religious freedom has become part of our legacy, part of our identify as a nation. We must exercise this identify or one day realize that we have lost it. For the fruits of democracy, hoarded in the hands of the few, become bitter and rotten.

Mr. President this legislation takes concrete steps to promote the basic right to religious freedom. It establishes three entities to cooperatively guarantee that combating religious persecution is a priority in U.S. foreign policy. Within the State Department, an Ambassador-at-Large for Religious Liberty will serve as a high level diplomat, raising issues of religious persecution in bilateral meetings and heading up the Office of International Religious Freedom at the State Department. A Special Advisor on Religious Persecution at the National Security Council will monitor incidents of persecution and act as an advisor and resource for the executive branch. The Commission on International Religious Liberty, a ten member, bipartisan commission, will investigate religious persecution and provide an outside voice for policy recommendations to both Congress and the White House. Under this legislation, the U.S. government collects information on religious persecution, through the compilation of an Annual Report on Religious Persecution, and responds to these violations through a broad range of options, ranging from diplomatic protest to economic sanctions. The apparatus under this legislation is not simply reactive, however. It also provides for active promotion of religious freedom through international broadcasts, Fulbright exchanges, and training for Foreign Service Officers and refugee and asylum personnel on these issues. While the apparatus may seem extensive, it only reflects the magntitude of the problem. I believe that is the least that we can do to lay a concrete foundation for religious freedom.

Religious persecution around the world may go unnoticed in the hectic run of our daily lives, but for millions of people it is a horrifying, incessant reality. They live in fear of arrest, imprisonment, torture, and death for simply exercising their faith. In Pakistan, fear reigns under the constitution, which stipulates the death penalty for blaspheny against Mohammed. Ayoob Masih, a Christian, was beaten by a mob for reading his Bible, arrested, imprisoned, fined, and sentenced to death by hanging for blasphemy. Local police have failed to control angry mobs destroying the homes and churches of Christians in Pakistan. Ahmadis, Hindus, Zakris, and other minority religious groups have also been targets of lynching. In Egypt, Coptic Christians are routinely denied permits to build or repair churches. In Cairo's Tora district, security forces forcibly closed the doors of the Church of St. Bishoi, waxing its windows and preventing any further entry and any freedom to worship there. An eighteen year old girl in Laos was thrown into prison by government forces for teaching Bible classes to neighborhood children. In Iran, a man was shot in the street for not being in the mosque during prayer time. Bahai's have also been subject to a rash of executions. In Sudan, where civil war has ravaged the land and claimed over a million lives, Christians and Animists are subject to abduction, imprisonment, torture, enslavement, forced conversion to Islam, and execution. Christian children are abducted, forced into reeducation camps, given Arab names, and raised as Muslims. A Muslim sheik who Christianity was arrested, charged with apostasy, and faced with execution unless he returned to Islam within two months. Only government-certified clergymen are allowed to talk about religion in Uzbekistan. Private religious instruction is also formally banned under pains of stiff fines and labor camp sentences.

This type of insidious government control is also present in China, where Article 36 of the Chinese Constitution guarantees religious freedom, but religious repression is carefully meted out through an apparatus of government registration, intense scrutiny, unrelenting intimidation, and brutal punishment. Only five religions are permitted and control is exercised over these official churches in matters such as personnel selection, sermon themes, congregation size, and dissemination of religious materials. Unofficial, or illegal, religious gatherings are forcibly broken up, its participants arrested, victims of extortion, torture, and even fatal beatings. Zheng Muzheng, who was active in sharing his faith, was beaten to death in a jail in Hunan Province. His grieving widow has been repeatedly interrogated and held without arrest. Members of unofficial churches fortunate enough not to be imprisoned live under the glare of government surveillance. They are arbitrarily and repeatedly detained without formal charges, threatened with loss of property and employment, subject to heavy fines—all for believing in and worshiping an authority higher than the Communist Party. Under their reign of terror, Tibetan Buddhist monasteries and temples cannot be constructed and are often destroyed. Monks and nuns are restricted in numbers and tortured. Palden Gyatso, a Tibetan Buddhist monk, testified before the House International Relations Committee about the routine use by the Chinese government of electric shock guns, serrated and hooked knives, handcuffs and thumbcuffs on those who would dare to exercise their constitutionally guaranteed freedom of religion.

The grim and disturbing reality is that religious persecution is not limited to a particular region or a particular faith. It beats on the backs of Christians, Jews, Buddhists, Hindus, Muslims, Baha'is. It scourages over half the world's population in over seventy countries.

Mr. President, this legislation takes comprehensive action against this alarming trend of oppression. Through its reporting provisions, it sheds light on the dark practices of persecution—a radiant ray of hope for those languishing in prisons. By requiring the President to use those means deemed necessary to not allow these atrocious acts to persist, this legislation cracks the heavy yoke of persecution. In its active promotion of religious freedom, it sweeps open the gates of suppressed faith, preparing the way for the liberty.

Mr. President, I am aware that detractors of this legislation claim that it establishes a false hierarchy of human rights abuses. But I suspect that for those same critics, treating all human rights abuses on an equal basis means voting against all human rights provisions on an equal basis. Others claim that it binds the hands of the President, propelling him on a course of self-defeating foreign policy, forcing him to ultimately "fudge" sanctions. This well-crafted legislation has taken this concern into consideration, incorporating the views of its sponsors, the Administration, and the business community. It focuses on specific and particularly egregious instances of religious persecution. While it requires the President to act, it also presents the President with a wide berth of options and requires a review of the potential impact on American security and economic interests and its intended efficacy.

Still others claim that we should not be moralizing or imposing our values on other countries. Those suffering in prison for practicing their faith would certainly disagree. Freedom of religion is a universal right and aspiration, recognized and articulated in a number of international instruments including the Universal Declaration of Human Rights, which states that "Everyone has the right to freedom of thought, conscience, and religion . . . to manifest his religion or belief in teaching, practice, worship, and observance." The International Covenant on Civil and Political Rights recognizes that "Everyone shall have the right to freedom of thought, conscience, and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others in public or private, to manifest his religion or belief in worship, observance, practice, and teaching." By advocating this freedom, we are not imposing our values on others but reaffirming a universal right.

We must not cower under the covers of complacency. We must not be complicit actors, carried away in a current of oppression. We must not, for fear of taking a false step on the path of justice, refuse to walk at all. We must be the voice of those muted by their oppressors, crying out for a land of the free. We must, in the words of Ronald Reagan, ". . . be staunch in our conviction that freedom is not the sole prerogative of a lucky few, but the inalienable and universal right of all human beings."

Mr. FEINGOLD. Mr. President, I offer my comments on the NICKLES substitute amendment to H.R. 2431, the International Religious Freedom Act of 1998.

Mr. President, I commend the Senator from Oklahoma [Mr. NICKLES] for all the hard work that he and others have devoted to this important piece of legislation. These Senators, and our House colleagues, have recognized the importance of promoting religious freedom abroad, and have tried to craft legislation that both emphasizes our serious concerns about this issue, and provides authority to the President to react to governments which abuse these fundamental rights.

In particular, I appreciate their efforts to make improvements to the original bill, most of which I support.

Mr. President, the issue of religious freedom is especially important for our country. Freedom of religion is one of the bedrock principles of American democracy. Our founders, who came to America in part to flee religious intolerance, championed freedom of religion as a universal right, and made it an integral part of the Constitution through the Bill of Rights.

Throughout our history, immigrants from every corner of the globe have arrived on our shores seeking a community where they could practice their religion openly and without fear of persecution. Today, we value the separation of church and state as one of our guiding principles.

But we are all well aware that such liberties are not fully enjoyed everywhere, and there are millions of people who daily face persecution or intolerance because of their religious beliefs. Worse yet, the exploitation of religious and ethnic differences for political ends has become all too common in the post-Cold War era.

These trends have been around for centuries, but have been getting more serious press attention in the last several years. They mirror the myriad other abuses that are conducted, or at least tolerated, by non-democratic regimes around the world. Examples of restrictions on basic freedoms—of expression, of association, of the press—abound, and those who dare violate such restrictions face imprisonment, repression or even death. As we consider this legislation today, it is likely that somewhere, a political prisoner is being beaten by the police or armed forces, or by some paramilitary group whose members might include police officers or soldiers. It is likely that somewhere a union organizer is being detained or harassed by authorities, that a woman is being raped by government thugs, that a newspaper is being shut down, or that a prisoner has "disappeared."

The question for us today is this: what is the appropriate U.S. policy response to such acts of oppression by other nations on the basis of religious beliefs? We should also ask: what is the appropriate response to oppression of any kind?

I firmly believe that the defense of human rights around the world relates directly to our "national interests" and therefore justifies leadership from the United States, a nation founded on respect for individual rights and liberties.

We are bound by our country's founding principles to promote and defend certain ideas: that we are all created equal, that we are born with certain inalienable rights, that government is legitimate only with the consent of the people, and that government should exist to promote the general welfare and to secure the blessings of liberty for all. Our other national interests—security and economic opportunity—have the best chance for advancement in a climate of freedom and respect for individual rights, and are undermined where that climate does not thrive.

I have never shied away from the use of every economic, diplomatic, or rhetorical tool to advance our human rights agenda. It is through the vigorous use of these tools that the United States can exercise the type of leadership such fundamental violations of justice demand. To a certain extent, this is the approach implicit in the bill we are considering today, which provides a menu of presidential actions to respond to violations of religious freedom.

But, with deference to my colleague from Oklahoma and the work he has done on this bill and although I support the bill, I have some outstanding concerns regarding this legislation. I believe that if we had been able to fully consider this bill in the Committee on Foreign Relations, we would have been able to work out some of these issues.

I strongly support the basic premise of the bill, that the United States should defend religious liberty, but I am concerned that it might appear to subordinate other fundamental rights to the right to religious freedom. As we defend the freedom of religion, should we not just as vigorously defend the rule of law, basic human rights and the exercise of political rights? We would be pleased if, tomorrow, Sudan's ruling National Islamic Front suddenly lifted its Shar'ia law and allowed Christians to worship freely. But would we then tolerate the forced conscription of children, the lack of press freedom and the manipulation of humanitarian assistance that also takes place in the Sudan?

I also have some concerns about a few specific provisions.

First, this bill creates a new commission, the "Commission on International Religious Freedom." Although I am open to arguments on this subject, I am not convinced a new commission is needed. We already have in operation the Advisory Committee on Religious Freedom. This body, which is broadly representative of various religious communities, has been in operation since early 1997 and has already produced several useful reports about the state of religious freedom around the world. Its work has helped focus administration attention on the issue of religious persecution and the conditions of religious minorities.

Second, Section 205 of the bill authorizes $6 million over two years to carry out the work of this new Commission. The protection of religious freedom is vital work that must be done, but I believe this is an enormous amount of money to be devoting to a commission of any sort, and I have seen no explanation of why $6 million is required. The Advisory Committee was able to conduct its work with existing resources from the Department of State. I understand that the Committee's work greatly strained the resources of the Department's Bureau for Democracy, Human Rights and Labor, but I also understand that, even if staff salaries are included, the Committee could have been run with a budget of less than $500,000. Also, the new Commission proposed by the legislation would be comprised of nine commissioners, rather than the 20 on the existing Advisory Committee, so it might be expected to require less resources.

In addition, I am concerned that because of the narrow language of Section 205, the authorized funds might be used only for the specific activities of the Commission, and not for the many additional requirements of the bill which would then have to borne by the already stretched resources of the Bureau of Democracy, Human Rights and Labor.

Mr. President, I hope there will be further clarification of the intended uses of these funds, and—if the Congress does appropriate such high levels of funding—I hope it will be used to further the goals of the whole bill, and not simply Title II.

Third, another provision that raises some concerns is Section 107, which provides equal access to the premises of diplomatic missions to any U.S. citizen seeking to conduct religious activities. It is in the best American tradition to provide a haven for Americans of faith who find themselves in a country that is not hospitable to their religion, but I wonder if some might argue that this provision would expand what the Supreme Court has determined constitutes a "public forum" with respect to equal access for religion. In practice, it is possible that it might then be deemed by some court to be an unconstitutional endorsement of a particular religion. That is not what we intend, so I hope the provision allows for discretion on the part of the chiefs of mission to appropriately respond to requests from the American community.

My fourth concern relates to the provisions in Section 108—not what is in those provisions, but rather, what has been left out. Section 108 requires the Secretary of State to prepare and maintain issue briefs on religious freedom on a country-by-country basis. These will be similar to the annual country reports on human rights, which have proven to be an excellent source of information on conditions in individual countries. However, the briefs are also required to include lists of "persons believed to be imprisoned, detained, or placed under house arrest for their religious faith." In cases where the production and publicizing of prisoner lists is useful, perhaps we should devote similar attention to individuals detained in the pursuit of other internationally recognized human rights. The Secretary should consider exercising her authority to broaden the list to include all prisoners of conscience, as appropriate. In addition, there may be cases where the production or publication of such a list might actually be harmful to the individuals in question, or indeed to our intelligence resources. I believe on this point the administration is given considerable discretion.

Fifth, in an earlier draft of this legislation, included in the description of what might constitute a violation of religious freedom was "arbitrary prohibitions or restrictions on the grounds of religion on holding public office, or pursuing educational or professional opportunities." For unknown reasons, this language unfortunately was deleted from all subsequent drafts of this bill, including the current version. However, the bill's definitional language is merely suggestive, indicating areas the administration can take into consideration when making a determination about a given country. I will assume that the administration will also consider restrictive prohibitions on education and employment, among other factors, when making such determinations. Any kind of religious discrimination is unacceptable.

Finally, Section 103 provides for the establishment of a religious freedom Internet web site which would contain major international documents relating to religious freedom, among other items. This is a fantastic way to disseminate information about this issue to individuals around the world who can use it to help promote their causes in their own countries. Already we have seen the importance of the Internet in promoting civil society. The Internet is the modern version of the underground literature of the Cold War, only it does not require printing presses which can be taken away, and it is more readily available to its audience. I hope, however, that the Secretary of State will take the opportunity to also include in the web site other important documents related more generally to human rights. In that way, we can be sure to pursue the protection of all human rights through the most modern technology possible.

Also, Mr. President, just to make the record clear, I do not support the provisions of Section 406 which allow an exception to the sanctions in this bill for defense contractors.

Again, I commend the sponsors of this legislation and everyone who has worked so hard to produce a consensus package.

Mr. D'AMATO. Mr. President, as a co-sponsor of the International Religious Freedom Act, I rise today to commend my colleagues for their efforts to bring this bill to the Senate. This legislation takes concrete steps to insure continued U.S. leadership and diplomatic focus on issues of religious liberty around the world. Few things are more precious to the American people than freedom of religion, and I strongly support our efforts to bring this freedom to those who are persecuted for their faiths around the world.

The vast majority of those who suffer abridgement of their right to religious liberty do not suffer torture, rape, or murder. Instead, they face harassment, discrimination, and onerous bureaucratic obstacles to registering their religious organizations. The Act covers all violations of religious liberty, not just the most egregious acts of persecution and I commend the drafters of this legislation for its broad coverage.

As Chairman of the Commission on Security and Cooperation in Europe, I am very concerned over rising religious intolerance and even oppression in the OSCE region. As Eastern European countries begin to loosen their grip on their economies, they must also learn to relinquish government control over legitimate private action by their citizenry that is protected by international commitments. I have written repeatedly strong letters to heads of state or government in support of religious liberty and to hold them to their international human rights commitments.

The Commission has had two hearings and several public briefings on this issue in the OSCE region. We have heard testimony that, contrary to our expectations when the Communist governments of the former Warsaw Pact states fell, a variety of official measures have been taken restricting, or in some cases denying, freedom of thought, conscience, religion or belief. One of the core values of the United States is freedom of religion. The various documents of the Helsinki Process and the Universal Declaration on Human Rights have adopted this fundamental freedom and established it as an international norm all nations are expected to meet. I strongly believe that adoption of this legislation will help the United States advocate religious liberty around the world, and address some of the specific problems our hearings and briefings have documented.

This year in Uzbekistan, for instance, a new law was passed which, among other restrictions, requires 100 Uzbek citizens to sign a religious community's application for registration, criminalizes any unregistered religious activity, and penalizes religious free speech. In 1997, similarly restrictive laws were passed in Russia and Macedonia and a number of OSCE participating states are reportedly considering legislation imposing significant restrictions on religious liberty, particularly for minority religious groups.

In Western Europe, the trends toward increased religious intolerance has been more insidious. In the last few years, governments in Western Europe, particularly France, Germany, Belgium, and Austria, have targeted numerous groups that they label "dangerous" and have published official government propaganda against them, placed them under surveillance by security agencies, and revoked tax exempt status based on the determination that groups are not a positive influence on society. Furthermore, these Western European actions embolden the more intolerant sectors of Eastern European society to further restrict religious liberty for minority or ill-favored groups.

By requiring the President to take action against all countries engaged in violations of religious liberty, the Act insures that less egregious cases of religious liberty violations will not be ignored. By enumerating the specific policy responses required ranging from a private demarche to sanctions, the Act reflects the need for flexibility in diplomacy. Finally, by instituting a separate commission, the Act facilitates accurate and independent reporting on religious liberty violations around the world.

Mr. President, I am proud to be a cosponsor of this important legislation and I urge my colleagues to support the International Religious Freedom Act.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I ask unanimous consent that I be able to proceed for 2 minutes on this legislation.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, I support the International Religious Freedom Act presented by the Assistant Majority Leader, the Senator from Oklahoma and the Senator from Connecticut.

We have discussed this legislation at some length over the last couple of weeks, and my colleagues have been very gracious in trying to accommodate some of my concerns with the bill.

Although it is not a perfect bill, it is a compromise that I support.

The persecution of individuals for their faith, like persecution for political beliefs or ethnicity, is abhorrent to all Americans. Unfortunately, too many nations around the world fail to protect the basic human rights of their citizens. The reasons for this are often complex and varied—but they are never justified.

What justification can there be, for example, for the jailing by the Chinese government of thousands of dissidents—not to mention a few Catholic leaders who choose to remain loyal to the Vatican, rather than bow to the dictates of the so-called "official" church in Beijing?

What justification can there be for a law in Russia which appears to discriminate between "established" religious organizations and those whose roots in Russia are not long-standing?

As a nation founded on the premise that "all men are created equal * * * endowed by their Creator with certain unalienable rights", Americans have long been committed to promoting and protecting human rights. Existing law, in place since the 1970s, prohibits U.S. assistance to nations which engage in a "consistent pattern of gross violations" of human rights—including the right to religious freedom. Since the 1970s, we have also had an Assistant Secretary of State specifically devoted to the task of advancing human rights.

In recent years, the Clinton Administration has taken important steps to promote religious freedom. In 1996, Secretary of State Christopher established an Advisory Committee on Religious Persecution Abroad, a 20-member panel which is broadly representative of many religious faiths, and has provided practical guidance to the Secretary and the State Department about this important subject.

More recently, Secretary of State Albright has appointed a Senior Adviser to take the lead on religious freedom in the State Department.

This legislation is designed to further elevate religious freedom on our foreign policy agenda. It does so by creating a new Office on International Religious Freedom at the Department of State, to be headed by an Ambassador-at-Large.

Under this legislation, the State Department will produce a new annual report on religious freedom, which will assess the state of religious freedom around the world. This report, which will expand on the information available in the annual human rights report already produced by the State Department, should prove an invaluable resource to Americans concerned about religious freedom.

Additionally, a new Commission will be established, for a period of four years, which will serve in an advisory capacity, producing a report of its own on an annual basis which will include recommendations for U.S. policy.

The bill also contains new provisions of law requiring that the President impose sanctions against the most severe violators of the right to religious freedom.

I must confess to some skepticism that new sanctions legislation is necessary, for two reasons. First, as I stated, current law already prohibits U.S. assistance to countries which engage in serious human rights violations.

Second, in recent months I have reconsidered my own view on sanctions policy—and have come to the conclusion that, even though Congress is well within its constitutional power to apply sanctions, it is not always wise, as a matter of sound foreign policy, for Congress to do so.

But I am willing to go along with this sanctions law because it includes many aspects that I believe must be present in any sanctions law that Congress enacts. Indeed, the sanctions provision in this bill offers considerable flexibility to the President.

First, the bill provides the President with a "menu" of options—seven different types of sanctions from which the President must choose just one sanction. If the President doesn't like the choices on the menu, he is free to take "commensurate action"—that is, action commensurate to the items on the menu of options.

Second, the bill provides a broad waiver authority.

The President may waive the application of the sanction if the foreign government has ceased the violations; if using the waiver would "further the purposes" of the Act; or if important national interests of the United States justified the exercise of the waiver.

Third, the bill provides that any sanctions sunset two years after they are imposed unless they are specifically reauthorized.

The President may also terminate the sanctions if the foreign government has "ceased or taken substantial and verifiable steps to cease" the violations that gave rise to the sanctions.

Fourth, there is an exemption from the sanctions for the provision of food, medicine, medical equipment or supplies, as well as other humanitarian assistance.

In sum, although I am not eager to enact a new sanctions law, I believe we are setting an important precedent with this bill in terms of what should be contained in any sanctions law.

We must make every effort to ensure that the steps we take under this law will help those who are suffering from persecution—and not increase the dangers they face. During the hearings in the Foreign Relations Committee on this legislation, several witnesses representing religious communities that operate overseas expressed this concern.

I know the sponsors of this bill share this concern—and so I hope that both Congress and the Executive Branch will be attentive to it in the coming years.

This bill takes several steps which I hope will lead to the advancement of religious freedom—one of the fundamental human rights—around the world.

We must be certain that in implementing this law, it is not to the detriment of other fundamental human rights that are recognized internationally.

As the columnist Stephen Rosenfeld has written, religious freedom deserves a seat at the human rights table, but it should not overturn the table.

Mr. President, I see my friend from Pennsylvania on the floor, Senator SPECTER. I compliment him—he is the one who got me into this, quite frankly—and my colleagues from Oklahoma and from Connecticut. I can claim no credit for starting this initiative. I can only claim that I have attempted to play a role here to make sure that the desire we all have to extend religious freedom around the world becomes a reality. I have tried to make sure that our sanctions meet a realistic test of promoting an actual change in the behavior of other nations. It was toward that end that I worked on a small part of this bill. I attempted to rationalize the sanctions legislation on this issue with what we are attempting to do on all the other sanctions legislation we have around here.

The thing we have all learned is, unilateral sanctions on any subject seldom ever work. Sometimes, and promoting religious freedom is one of those times, we may have to act even if it is not efficacious, just to state our principled commitment to religious freedom. I recommend my colleagues take a look at this legislation though because I think we have produced a sound sanctions bill.

For that, I have to thank the authors, Senator SPECTER and Senator NICKLES and Senator LIEBERMAN, for accommodating some of the changes I suggested in the functional way in which these sanctions would be employed.

I thank them for their consideration. They were very gracious to me and very patient with me. And I am very satisfied with the way the bill has turned out—not only the principle but the efficacy of the legislation.

I thank my colleague for the extra time, and I yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I thank my colleague from Delaware for his statement but also for his leadership. I have already complimented Senator LIEBERMAN for his leadership and his partnership in making this happen. But also I mentioned last night Senator SPECTER worked tirelessly on this; Senator COATS did as well. Senator FEINSTEIN came in and negotiated with us and I think made some important changes.

I also just quickly would like to thank a couple of staff people. Cecile Shea of Senator LIEBERMAN's staff worked tirelessly on this legislation; John Hanford of Senator LUGAR's staff and Steve Moffitt of my staff have put in maybe more hours on this piece of legislation than most any I have seen. Others who helped were Laura Bryant and Willie Imboden.

Also, I thank Senator HELMS for his support and leadership, as well as Congressman WOLF for leading the effort in the House of Representatives. They have assured us that they will pass this legislation as soon as they receive it.

So I thank my colleagues and I yield the floor. And I yield the remainder of my time.

The PRESIDING OFFICER. The question is on final passage.

Mr. NICKLES. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill, as amended, pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Ohio (Mr. GLENN) and the Senator from South Carolina (Mr. HOLLINGS) are necessarily absent.

The PRESIDING OFFICER (Mr. GRAMS). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 310 Leg.]

YEAS—98

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Faircloth
Feingold
Feinstein
Ford
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson

Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wellstone
Wyden

NOT VOTING—2

Glenn
Hollings

The bill (H.R. 2431), as amended, was passed.

Mr. HATCH. Mr. President, I move to reconsider the vote.

Mr. GRAMM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read:

An act to express United States foreign policy with respect to, and to strengthen United States advocacy on behalf of, individuals persecuted in foreign countries on account of religion; to authorize United States actions in response to violations of religious freedom in foreign countries; to establish an Ambassador at Large for International Religious Freedom within the Department of State, a Commission on International Religious Freedom, and a Special Adviser on International Religious Freedom within the National Security Council; and for other purposes.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

PATIENT PROTECTION ACT OF 1998—MOTION TO PROCEED

Mr. DASCHLE. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 505, H.R. 4250, the House-passed health care reform bill.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I move to table the pending motion to proceed and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Kentucky (Mr. MCCONNELL) is necessarily absent.

Mr. FORD. I announce that the Senator from Ohio (Mr. GLENN) and the Senator from South Carolina (Mr. HOLLINGS) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 50, nays 47, as follows:

[Rollcall Vote No. 311 Leg.]

YEAS—50

Abraham
Allard
Ashcroft
Bennett
Brownback
Burns
Campbell
Chafee
Coats
Cochran
Collins
Coverdell
Craig
DeWine
Domenici
Enzi
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Jeffords
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
Murkowski
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—47

Akaka
Baucus
Biden
Bingaman
Bond
Boxer
Breaux
Bryan
Bumpers
Byrd
Cleland
Conrad
D'Amato
Daschle
Dodd
Dorgan
Durbin
Faircloth
Feingold
Feinstein
Ford
Graham
Harkin
Inouye
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Specter
Torricelli
Wellstone
Wyden

NOT VOTING—3

Glenn
Hollings
McConnell

The motion to lay on the table the motion to proceed was agreed to.

Mr. REID. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. LOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UTAH SCHOOLS AND LAND EXCHANGE ACT OF 1998

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 574, H.R. 3830.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3830) to provide for the exchange of certain lands within the State of Utah.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. LOTT. Mr. President, I yield to Senator HATCH for 2 minutes, and then to Senator BENNETT for 2 minutes.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I rise to express my support for this legislation to exchange school trust lands located in Utah to the federal government. This timely piece of legislation has the full support of the Utah delegation, the Governor of Utah, and the Clinton administration, as well as the PTA and local educators from across our state. It is, in some small measure, the result of the unfortunate situation created several years ago when President Clinton created the Grand Staircase Escalante Monument that withdrew hundreds of thousands of additional Utah school trust lands from benefiting Utah s school children. This bill represents the largest land exchange in the history of Utah.

I commend the President for being willing to do this, the Secretary of the Interior for being willing to do this, and others on the floor, including my colleague, Senator BENNETT, the chairman of the Energy Committee, Senator MURKOWSKI, and the distinguished Senator from Arkansas, Senator BUMPERS. Without their leadership and support, this legislation would not have been possible. I want to express that appreciation. This is a momentous day for the State of Utah that will leave a lasting legacy for our school children.

This bill passed the House of Representatives in July and was approved by the Senate Committee on Energy and Natural Resources last month. I am pleased the full Senate will consider it today and send it to the President.

I and all the citizens of Utah have looked forward anxiously to this day, which has been a long time coming.

When Utah became a state in 1896, Congress designated a portion of each township in the state to be set aside as School Trust Land which would be used to generate revenue for Utah's schools. The patchwork layout of these school trust lands across the state has historically created management difficulties between federal and state governments. As new national parks, forests, and monuments are designated, the school lands are often enveloped within them. This has the effect of closing off development of these lands and, therefore, any revenue they might produce for the school land trust fund.

As of 1995, over 200,000 acres of school trust land, called inholdings, were isolated this way. As I mentioned, President Clinton doubled this amount with his designation of the Grand Staircase-Escalante Monument in 1996.

At the time of the creation of the Grand Staircase-Escalante Monument, President Clinton gave numerous assurances that Utah's school children would not be hurt by this designation. H.R. 3830 represents the partial fulfillment of these promises.

The Utah Schools and Lands Exchange Act is the culmination of long and careful deliberations between Governor Leavitt and Secretary of the Interior Bruce Babbitt. As a result of this thorough and delicate planning, the act enjoys broad support from environmentalists, private landowners, educators, legislators, and the Administration.

The bill exchanges approximately 350,000 acres of school trust lands located in Utah monuments, recreation areas, national parks, and forests to the Federal Government. To provide equitable compensation for these lands, Utah will receive cash, lands, mineral rights, coal deposits, and other Federal properties. I assure my colleagues that this is a fair and equitable exchange of assets.

The land received by the Federal Government, totaling 376,739 acres of land and 65,853 acres of mineral rights, includes school trust areas that are similar in nature to the surrounding blocks of federal lands. By transferring these areas to the federal government, the land will fall under federal protection and management.

Consolidation of these lands will be beneficial because land ownership will be harmonized, precious natural resources will be preserved and protected, and the American public will gain access to previously isolated areas.

A number of priceless natural landmarks will come under the protection of the federal government as a result of this bill. These include: Eye of the Whale Arch, located in Arches National Park; ancient Native American ruins and the Jacob Hamblin Arch of Glen Canyon National Recreation Area; several hundred-foot red rock cliffs located within the Grand Staircase Escalante Monument; and the high mountain alpine area in the Wasatch-Cache National Forest known as Franklin Basin. Other natural wonders safeguarded through the exchange include: ancient Native American rock art panels in Dinosaur National Monument and unique geologic formations of the Waterpocket Fold within Capitol Reef National Park.

Mr. President, H.R. 3830 addresses many land management problems which have plagued Utah for decades. Specifically, this measure helps solve a problem suffered by all states, such as Utah, having large tracts of federally owned or controlled land —that is, the starvation and lack of funding for our school systems which traditionally depend on property taxes for funding.

The trust land system, developed by Congress in the 19th century during the period of westward expansion, was an attempt to offset the losses from the Federal Government's desire to protect certain lands. We are pleased that, after 2 years, the Clinton administration has delivered on this commitment.

I especially want to commend Utah Governor Mike Leavitt for undertaking the task of painstaking identification of lands for exchange and for conducting these negotiations with the Interior Department. His determination and dedication to initiating this process cannot be understated.

I also want to recognize the efforts of Utah's educators, parents, and school board members, who kept this issue on the front burner. Their dedication to resolving this serious funding helped drive these negotiations and ensure that nothing got bogged down. In short, land is land; but we needed to keep our eye on the ball, and that is our children.

Again, I want to thank my friend and colleague, Senator BENNETT, for his efforts on this bill. I know he shares my feeling of joy that this bill is finally coming to fruition. It means a great deal to improving education in our State, and I appreciate my colleagues' support.

I yield to my colleague.

The PRESIDING OFFICER. The junior Senator from Utah.

Mr. BENNETT. Mr. President, thank you.

This is a delightful day. As I think about the issue of swapping land, school trust lands in Utah for other Federal lands, I realize that this is an issue that my father worked on in this Chamber over 40 years ago. Governor Matheson, to keep it bipartisan, the Democratic Governor of Utah, tried an initiative on this same issue while he was the Governor some 20 years ago. To see it finally come to fruition now brings me a great sense of satisfaction.

I thank my senior colleague for his support and leadership on this issue, I thank the members of the Energy Committee for their work, and I particularly thank my friend from Arkansas, the senior Senator, Mr. BUMPERS, for his support as we have gone through this. He and I became acquainted when I first came to the Senate and went on that committee. We worked on a number of issues together, and I am delighted that this is one that comes together in a bipartisan fashion.

So this is a time of rejoicing, nostalgia, and great pleasure on my part.

Mr. BUMPERS addressed the Chair.

Mr. LOTT. Mr. President, I believe I still have the time. If the Senator from Arkansas would like a couple of minutes, I would be glad to yield to him for a comment.

Mr. BUMPERS. Mr. President, there are few Senators in the U.S. Senate for whom I have ever held a higher esteem than my good friend BOB BENNETT. Therefore, several months ago, when I put a hold on this Utah land exchange, which was divinely desired by the Governor and the Interior Department, which is a rare instance—would that all land exchanges had this kind of support—I went to Senator BENNETT and I told him privately—and he will agree to this—I told him privately, "BOB, if push comes to shove"—I am not going to go into the details of why I put a hold on it. We all do these things around here occasionally. I never liked it, but sometimes we have to do things to protect ourselves.

I told Senator BENNETT privately, "At the right time, I will take my hold off this bill." I said, "I want you to know I would never allow something this popular and well received to go down and"——

The PRESIDING OFFICER. Will the Senator suspend?

The Chamber will come to order. The Senate will come to order.

The Senator from Arkansas.

Mr. BUMPERS. I must say, his determination—his fierce determination—to get this bill passed was reflected in the fact that he asked me every day for 6 months when I was going to take my hold off. This morning, I was very happy to tell him that my reason for putting the hold on in the first place had been resolved. One of the happiest days of my life was the day I could take that hold off to accommodate the Senator and Senator HATCH. I know he has been actively involved in this also.

I just wanted to say that, Mr. President. I thank the leader very much for yielding the time.

Mr. LOTT. Has the clerk reported the title?

The PRESIDING OFFICER. The clerk has reported.

Mr. LOTT. Mr. President, I ask unanimous consent that the bill be read a third time and passed and that the motion to reconsider be laid upon the table without intervening action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3830) was considered read the third time and passed.

THE CALENDAR

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of the following bills, en bloc: Calendar No. 368, H.R. 1021; Calendar No. 447, S. 1752; Calendar No. 526, S. 2087; Calendar No. 639, S. 2500; Calendar No. 701, S. 2402; Calendar No. 702, S. 2413; and Calendar No. 703, S. 2458.

I ask unanimous consent that any committee amendments be agreed to; that the bills, as amended, be read a third time and passed; that the motion to reconsider be laid upon the table; that any title amendments be agreed to; and that any statements relating to the bills appear at the appropriate place in the RECORD, with the above occurring en bloc. I should note that this has been cleared with the Democratic side.

The PRESIDING OFFICER. Without objection, it is so ordered.

MILES LAND EXCHANGE ACT OF 1998

The bill (H.R. 1021) to provide for a land exchange involving certain National Forest System lands within the Routt National Forest in the State of Colorado, was considered, ordered to a third reading, read the third time, and passed.

CONVEYING CERTAIN ADMINISTRATIVE SITES FOR THE NATIONAL FORESTS IN THE STATE OF ARIZONA

The Senate proceeded to consider the bill (S. 1752) to authorize the Secretary of Agriculture to convey certain administrative sites and use the proceeds for the acquisition of office sites and the acquisition, construction, or improvement of offices and support buildings for the Coconini National Forest, Kaibab National Forest, Prescott National Forest, and Tonto National Forest in the State of Arizona, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. DEFINITIONS.

In this Act, the term "Secretary" means the Secretary of Agriculture.

SEC. 2. SALE OR EXCHANGE OF ADMINISTRATIVE SITES.

(a) IN GENERAL.—Subject to subsection (c), the Secretary, under such terms and conditions as the Secretary may prescribe, may sell or exchange any or all right, title, and interest of the United States in and to the following National Forest System administrative sites:

(1) The Camp Verde Administrative Site, comprising approximately 213.60 acres, as depicted on the map entitled "Camp Verde Administrative Site", dated April 12, 1997.

(2) A portion of the Cave Creek Administrative Site, comprising approximately 16 acres, as depicted on the map entitled "Cave Creek Administrative Site", dated May 1, 1997.

(3) The Fredonia Duplex Housing Site, comprising approximately 1.40 acres and the Fredonia Housing Site, comprising approximately 1.58 acres, as depicted on the map entitled "Fredonia Duplex Dwelling, Fredonia Ranger Dwelling", dated August 28, 1997.

(4) The Groom Creek Administrative Site, comprising approximately 7.88 acres, as depicted on the map entitled "Groom Creek Administrative Site", dated April 29, 1997.

(5) The Payson Administrative Site, comprising approximately 296.43 acres, as depicted on the map entitled "Payson Administrative Site", dated May 1, 1997.

(6) The Sedona Administrative Site, comprising approximately 21.41 acres, as depicted on the map entitled "Sedona Administrative Site", dated April 12, 1997.

(b) EXCHANGE ACQUISITIONS.—The Secretary may acquire land and existing or future administrative improvements in exchange for a conveyance of an administrative site under subsection (a).

(c) APPLICABLE AUTHORITIES.—A sale or exchange of an administrative site shall be subject to the laws (including regulations) applicable to the conveyance and acquisition of land for National Forest System purposes.

(d) CASH EQUALIZATION.—Notwithstanding any other provision of law, the Secretary may accept a cash equalization payment in excess of 25 percent of the value of an administrative site in an exchange under subsection (a).

(e) SOLICITATIONS OF OFFERS.—In carrying out this Act, the Secretary may—

(1) use solicitations of offers for sale or exchange on such terms and conditions as the Secretary may prescribe; and

(2) reject any offer if the Secretary determines that the offer is not adequate or not in the public interest.

SEC. 3. DISPOSITION OF FUNDS.

The proceeds of a sale or exchange under section 2 shall be deposited in the fund established under Public Law 90–171 (16 U.S.C. 484a) (commonly known as the "Sisk Act") and shall be available for expenditure, until expended, for—

(1) the acquisition of land and interests in land for administrative sites; and

(2) the acquisition, construction, or improvement of offices and new or other administrative buildings for the Coconino National Forest, Kaibab National Forest, Prescott National Forest, and Tonto National Forest.

SEC. 4. REVOCATIONS.

(a) PUBLIC LAND ORDERS.—Notwithstanding any other provision of law, to facilitate the sale or exchange of the administrative sites, public land orders withdrawing the administrative sites from all forms of appropriation under the public land laws are revoked for any portion of the administrative sites conveyed by the Secretary.

(b) EFFECTIVE DATE.—The effective date of a revocation made by this section shall be the date of the patent or deed conveying the administrative site.

The committee amendment was agreed to.

The bill (S. 1752), as amended, was considered read the third time and passed.

WELLTON-MOHAWK TRANSFER ACT

The Senate proceeded to consider the bill (S. 2087) to authorize the Secretary of the Interior to convey certain works, facilities, and titles of the Gila Project, and designated lands within or adjacent to the Gila Project, to the Wellton-Mohawk Irrigation and Drainage District, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE

This Act may be referred to as the "Wellton-Mohawk Transfer Act".

SEC. 2. TRANSFER

The Secretary of the Interior ("Secretary") is authorized to carry out the terms of the Memorandum of Agreement No. 8–AA–34–WAO14 ("Agreement") dated July 10, 1998 between the Secretary and the Wellton-Mohawk Irrigation and Drainage District ("District") providing for the transfer of works, facilities, and lands to the District, including conveyance of Acquired Lands, Public Lands, and Withdrawn Lands, as defined in the Agreement.

SEC. 3. WATER AND POWER CONTRACTS

Notwithstanding the transfer, the Secretary and the Secretary of Energy shall provide for and deliver Colorado River water and Parker-Davis Project Priority Use Power to the District in accordance with the terms of existing contracts with the District, including any amendments or supplements thereto or extensions thereof and as provided under section 2 of the Agreement.

SEC. 4. SAVINGS

Nothing in this Act shall affect any obligations under the Colorado River Basin Salinity Control Act (Public Law 93–320, 43 U.S.C. 1571).

SEC. 5. REPORT

If transfer of works, facilities, and lands pursuant to the Agreement has not occurred by July 1, 2000, the Secretary shall report on the status of the transfer as provided in section 5 of the Agreement.

SEC. 6. AUTHORIZATION

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

The committee amendment was agreed to.

The bill (S. 2087), as amended, was considered read the third time and passed.

PROTECTING THE SANCTITY OF CONTRACTS AND LEASES ENTERED INTO BY SURFACE PATENT HOLDERS WITH RESPECT TO COALBED METHANE GAS

The Senate proceeded to consider the bill (S. 2500) to protect the sanctity of contracts and leases entered into by surface patent holders with respect to coalbed methane gas, which had been reported from the Committee on Energy and Natural Resources, with an amendment; as follows:

(The part of the bill intended to be inserted is shown in italic.)

S. 2500

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROTECTION OF SANCTITY OF CONTRACTS AND LEASES OF SURFACE PATENT HOLDERS WITH RESPECT TO COALBED METHANE GAS.

(a) IN GENERAL.—Subject to subsection (b), the United States shall recognize as not infringing upon any ownership rights of the United States to coalbed methane any—

(1) contract or lease covering any land that was conveyed by the United States under the Act entitled "An Act for the protection of surface rights of entrymen", approved March 3, 1909 (30 U.S.C. 81), or the Act entitled "An Act to provide for agricultural entries on coal lands", approved June 22, 1910 (30 U.S.C. 83 et seq.), that was—

(A) entered into by a person who has title to said land derived under said Acts, and

(B) that conveys rights to explore for, extract, and sell coalbed methane from said land; or

(2) coalbed methane production from the lands described in subsection (a)(1) by a person who has title to said land and who, on or before the date of enactment of this Act, has filed an application with the State oil and gas regulating agency for a permit to drill an oil and gas well to a completion target located in a coal formation.

(b) APPLICATION.—Subsection (a)—

(1) shall apply only to a valid contract or lease described in subsection (a) that is in effect on the date of enactment of this Act;

(2) shall not otherwise change the terms or conditions of, or affect the rights or obligations of any person under such a contract or lease;

(3) shall apply only to land with respect to which the United States is the owner of coal reserved to the United States in a patent issued under the Act of March 3, 1909 (30 U.S.C. 81), or the Act of June 22, 1910 (30 U.S.C. 83 et seq.), the position of the United States as the owner of the coal not having passed to a third party by deed, patent or other conveyance by the United States;

(4) shall not apply to any interest in coal or land conveyed, restored, or transferred by the United States to a federally recognized Indian tribe, including any conveyance, restoration, or transfer made pursuant to the Indian Reorganization Act, June 18, 1934 (c. 576, 48 Stat. 984, as amended); the Act of June 28, 1938 (c. 776, 52 Stat. 1209 as implemented by the order of September 14, 1938, 3 Fed. Reg. 1425); and including the area described in §3 of Public Law 98–290; or any executive order;

(5) shall not be construed to constitute a waiver of any rights of the United States with respect to coalbed methane production that is not subject to subsection (a); and

(6) shall not limit the right of any person who entered into a contract or lease before the date of enactment of this Act, or enters into a contract or lease *on or* after the date of enactment of this Act, for coal owned by the United States, to mine and remove the coal and to release coalbed methane without liability to any person referred to in subsection (a)(1)(A) or (a)(2).

The committee amendment was agreed to.

The bill (S. 2500), as amended, was considered read the third time and passed.

CONVEYING CERTAIN LANDS TO SAN JUAN COLLEGE

The Senate proceeded to consider the bill (S. 2402) to direct the Secretary of Agriculture to convey certain lands in San Juan County, New Mexico, to San Juan College, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. OLD JICARILLA ADMINISTRATIVE SITE.

(a) CONVEYANCE OF PROPERTY.—Not later than one year after the date of enactment of this Act, the Secretaries of Agriculture and Interior (herein "the Secretaries") shall convey to San Juan College, in Farmington, New Mexico, subject to the terms and conditions under subsection (c), all right, title, and interest of the United States in and to a parcel of real property (including any improvements on the land) consisting of approximately ten acres known as the "Old Jicarilla Site" located in San Juan County, New Mexico (T29N; R5W; portions of Sections 29 and 30).

(b) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretaries and the President of San Juan College. The cost of the survey shall be borne by San Juan College.

(c) TERMS AND CONDITIONS.—

(1) Notwithstanding exceptions of application under the Recreation and Public Purposes Act (43 U.S.C. 869(c)), consideration for the conveyance described in subsection (a) shall be—

(A) an amount that is consistent with the Bureau of Land Management special pricing program for Governmental entities under the Recreation and Public Purposes Act; and

(B) an agreement between the Secretaries and San Juan College indemnifying the Government of the United States from all liability of the Government that arises from the property.

(2) The lands conveyed by this Act shall be used for educational and recreational purposes. If such lands cease to be used for such purposes, at the option of the United States, such lands will revert to the United States.

(d) LAND WITHDRAWALS.—Public Land Order 3443, only insofar as it pertains to lands described in subsections (a) and (b) above, shall be revoked simultaneous with the conveyance of the property under subsection (a).

Mr. DOMENICI. Mr. President, I am very pleased at the Senate's passage of S. 2402, the Old Jicarilla Administrative Site Conveyance Act of 1998. This legislation allows for transfer by the Secretaries of Agriculture and Interior real property and improvements at an abandoned and surplus administrative site of the Carson National Forest to San Juan College. The site is known as the old Jicarilla Ranger District Station, near the village of Gobernador, New Mexico. The Jicarilla Station will continue to be used for public purposes, including educational and recreational purposes of the college.

The Forest Service determined that these ten acres are of no further use to them, since the Jicarilla District Ranger moved into a new administrative facility in the town of Bloomfield, New Mexico. The facility has had no occupants for several years, and the Forest Service recently testified that the improvements on the site are surplus, and endorsed passage of this bill to provide long-term benefits for the people of San Juan County and the students and faculty of San Juan College.

Clearly, this legislation deserves prompt approval in the House and signature by the President because it is noncontroversial and the land can readily be put to good use for San Juan College and the area residents. We also need to put this property in the hands of the college so it can protect the area from further deterioration and fire.

Over one third of the land in New Mexico is owned by the federal government, and therefore finding appropriate sites for community and educational purposes can be difficult. S. 2402 is a win-win bill in providing facilities and lands to San Juan College and removing unwanted and unused land and facilities from federal ownership. I urge prompt passage in the House of Representatives.

The committee amendment was agreed to.

The bill (S. 2402), as amended, was considered read the third time and passed.

The title was amended so as to read: "A bill to direct the Secretaries of Agriculture and Interior to convey certain lands in San Juan County, New Mexico, to San Juan College.".

APACHE-SITGREAVES NATIONAL FOREST

The Senate proceeded to consider the bill (S. 2413) to provide for the development of a management plan for the Woodland Lake Park tract in Apache-Sitgreaves National Forest in the State of Arizona reflecting the current use of the tract as a public park, which had been reported from the Committee on Energy and Natural Resources, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 2413

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. MANAGEMENT OF WOODLAND LAKE PARK TRACT, APACHE-SITGREAVES NATIONAL FOREST, ARIZONA, FOR RECREATIONAL PURPOSES.

[(a) MANAGEMENT PLAN REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Agriculture, acting through the supervisor of Apache-Sitgreaves National Forest in the State of Arizona, shall prepare a management plan for the Woodland Lake Park tract that is designed to ensure that the tract is managed by the Forest Service for recreational purposes consistent with the use of the tract as a public park by the town of Pinetop-Lakeside, Arizona. The forest supervisor shall prepare the management plan in consultation with the town of Pinetop-Lakeside.

[(b) PROHIBITION ON CONVEYANCE.—The Secretary]

I90[S09OC8-99]{S12103}SECTION 1.

SECTION 1. WOODLAND LAKE PARK TRACT, APACHE-SITGREAVES NATIONAL FOREST, ARIZONA.

(a)PROHIBITION

Secretary

of Agriculture may not convey any right, title, or interest of the United States in and to the Woodland Lake Park tract unless the conveyance of the tract—

(1) is made to the town of Pinetop-Lakeside; or

(2) is specifically authorized by a law enacted after the date of the enactment of this Act.

[(c) DEFINITION.—The terms] *(b) DEFINITION.—In this section, the terms* "Woodland Lake Park tract" and "tract" mean the parcel of land in Apache-Sitgreaves National Forest in the State of Arizona that consists of approximately 583 acres and is known as the Woodland Lake Park tract.

The committee amendment was agreed to.

The bill (S. 2413), as amended, was considered read the third time and passed, as follows:

S. 2413

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WOODLAND LAKE PARK TRACT, APACHE-SITGREAVES NATIONAL FOREST, ARIZONA.

(a) PROHIBITION OF CONVEYANCE.—The Secretary of Agriculture may not convey any right, title, or interest of the United States in and to the Woodland Lake Park tract unless the conveyance of the tract—

(1) is made to the town of Pinetop-Lakeside; or

(2) is specifically authorized by a law enacted after the date of the enactment of this Act.

(b) DEFINITION.—In this section, the terms "Woodland Lake Park tract" and "tract" mean the parcel of land in Apache-Sitgreaves National Forest in the State of Arizona that consists of approximately 583 acres and is known as the Woodland Lake Park tract.

The title was amended so as to read: "A bill prohibiting the conveyance of Woodland Lake Park tract in Apache-Sitgreaves National Forest in the State of Arizona unless the conveyance is made to the town of Pinetop-Lakeside or is authorized by Act of Congress.".

MORRISTOWN NATIONAL HISTORICAL PARK

The bill (S. 2458) to amend the Act entitled "An Act to provide for the creation of the Morristown National historical Park in the State of New Jersey, and for other purposes" to authorize the acquisition of property known as the "Warren Property," was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 2458

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ACQUISITION OF WARREN PROPERTY FOR MORRISTOWN NATIONAL HISTORICAL PARK.

The Act entitled "An Act to provide for the creation of the Morristown National Historical Park in the State of New Jersey, and for other purposes", approved March 2, 1933 (16 U.S.C. 409 et seq.), is amended by adding at the end the following:

"SEC. 8. ACQUISITION OF WARREN PROPERTY FOR MORRISTOWN NATIONAL HISTORICAL PARK.

"(a) IN GENERAL.—In addition to any other land or interest authorized to be acquired for inclusion in the Morristown National Historical Park, and notwithstanding the first proviso of the first section of this Act, the Secretary of the Interior may acquire by purchase, donation, or other means not to exceed 15 acres of land and interests in land comprising the property known as the 'Warren Property' or 'Mount Kemble'.

"(b) AUTHORIZED EXPENDITURE.—The Secretary may expend such sums as are necessary for the acquisition.

"(c) ADMINISTRATION.—Any land or interest acquired under this section shall be included in and administered as part of the Morristown National Historical Park.".

Mr. TORRICELLI. I thank the majority leader and minority leader for bringing this legislation forward. Although time has been short, to some of us this is very important. Mr. President, this is a simple effort to conserve 15 acres of land in Morristown, NJ. It is for most Americans a sacred piece of real estate. It is where George Washington spent the winter of 1779. There are few more hallowed grounds in American history.

While previous Congresses have saved much of this real estate, this particular acreage is under threat of development. This is a simple authorization. The U.S. Government can either enter into a contract to purchase or receive it as a gift, this final threatened acreage. I am very grateful for this support and bringing this forward today.

Finally, Mr. President, I want to mention, while Senator GORTON is on the floor, that in separate legislation in the Interior bill he has authorized a study of all remaining threatened lands from the Revolutionary War, that we no longer have to do this on a piecemeal basis.

I thank again the majority leader, Mr. President.

I yield the floor.

UNANIMOUS CONSENT AGREEMENT

Mr. LOTT. Mr. President, I now ask unanimous consent that the Senate proceed, en bloc, to the immediate consideration of the following bills: Calendar No. 622, S. 2133; Calendar No. 637, S. 2401; Calendar No. 704, S. 2513. I further ask unanimous consent that amendment No. 3800 to S. 2133, amendment No. 3801 to S. 2401, and amendment No. 3802 to S. 2513 be considered as agreed to, en bloc, to the respective bills. I finally ask unanimous consent that any committee amendments be considered agreed to, the bills, as amended be read a third time, passed, and the motions to reconsider be laid upon the table, and that any statements relating to these measures appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTE 66 NATIONAL HISTORIC HIGHWAY

The Senate proceeded to consider the bill (S. 2133) to designate former United States Route 66 as "America's Main Street" and authorize the Secretary of the Interior to provide assistance, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. DEFINITIONS.

In this Act:

(1) ROUTE 66.—The term "Route 66" means—

(A) portions of the highway formerly designated as United States Route 66 that remain in existence as of the date of enactment of this Act; and

(B) public and private land in the vicinity of the highway.

(2) CULTURAL RESOURCE PROGRAMS.—The term "Cultural Resource Programs" means the programs established and administered by the National Park Service for the benefit of and in support of cultural resources related to Route 66, either directly or indirectly.

(3) PRESERVATION OF ROUTE 66.—The term "preservation of Route 66" means the preservation or restoration of portions of the highway, businesses and sites of interest and other contributing resources along the highway commemorating Route 66 during its period of outstanding historic significance (principally between 1933 and 1970), as defined by the July 1995 National Park Service "Special Resource Study of Route 66".

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Cultural Resource Programs at the National Park Service.

(5) STATE.—The term "State" means a State in which a portion of Route 66 is located.

SEC. 2. DESIGNATION.

Route 66 is designated as "Route 66 National Historic Highway".

SEC. 3. MANAGEMENT.

(a) IN GENERAL.—The Secretary, in collaboration with the entities described in subsection (c), shall facilitate the development of guidelines and a program of technical assistance and grants that will set priorities for the preservation of Route 66.

(b) DESIGNATION OF OFFICIALS.—The Secretary shall designate officials of the National Park Service stationed at locations convenient to the States to perform the functions of the Cultural Resource Programs under this Act.

(c) GENERAL FUNCTIONS.—The Secretary shall—

(1) support efforts of State and local public and private persons, nonprofit Route 66 preservation entities, Indian Tribes, State Historic Preservation Offices, and entities in the States to preserve Route 66 by providing technical assistance, participating in cost-sharing programs, and making grants;

(2) act as a clearinghouse for communication among Federal, State, and local agencies, nonprofit Route 66 preservation entities, Indian Tribes, State Historic Preservation Offices, and private persons and entities interested in the preservation of Route 66; and

(3) assist the States in determining the appropriate form of establishing and supporting a non-Federal entity or entities to perform the functions of the Cultural Resource Programs after those programs are terminated.

(d) AUTHORITIES.—In carrying out this Act, the Secretary may—

(1) collaborate with the Secretary of Transportation to—

(A) address transportation factors that may conflict with preservation efforts in such a way as to ensure ongoing preservation, interpretation and management of Route 66 National Historic Highway; and

(B) take advantage, to the maximum extent possible, of existing programs, such as the Scenic Byways program under section 162 of title 23, United States Code.

(2) enter into cooperative agreements, including, but not limited to study, planning, preservation, rehabilitation and restoration;

(3) accept donations;

(4) provide cost-share grants and information;

(5) provide technical assistance in historic preservation; and

(6) conduct research.

(e) ROAD SIGNS.—The Secretary may sponsor a road sign program on Route 66 to be implemented on a cost-sharing basis with State and local organizations.

(f) PRESERVATION ASSISTANCE.—

(1) IN GENERAL.—The Secretary shall provide assistance in the preservation of Route 66 in a manner that is compatible with the idiosyncratic nature of the highway.

(2) Planning.—The Secretary shall not prepare or require preparation of an overall management plan for Route 66, but shall cooperate with the States and local public and private persons and entities, State Historic Preservation Offices, nonprofit Route 66 preservation entities, and Indian Tribes in developing local preservation plans to guide efforts to protect the most important or representative resources of Route 66.

SEC. 4. RESOURCE TREATMENT.

(a) Technical Assistance Program.—

(1) In general.—The Secretary shall develop a program of technical assistance in the preservation of Route 66.

(2) Guidelines for preservation needs.—

(A) In general.—As part of the program under paragraph (1), the Secretary shall establish guidelines for setting priorities for preservation needs.

(B) Basis.—The guidelines under subparagraph (A) may be based on national register standards, modified as appropriate to meet the needs of Route 66 so as to allow for the preservation of Route 66.

(b) Program for Coordination of Activities.—

(1) In general.—The Secretary shall coordinate a program of historic research, curation, preservation strategies, and the collection of oral and video histories of Route 66.

(2) Design.—The program under paragraph (1) shall be designed for continuing use and implementation by other organizations after the Cultural Resource Programs are terminated.

(c) Grants.—The Secretary shall—

(1) make cost-share grants for preservation of Route 66 available for resources that meet the guidelines under subsection (a); and

(2) provide information about existing cost-share opportunities.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $10,000,000 for the period of fiscal years 2000 through 2009 to carry out the purposes of this Act.

AMENDMENT NO. 3800

(Purpose: To improve the bill)

On page 6, strike lines 12 through 18 and insert the following:

(1) Route 66 corridor.—The term "Route 66 corridor" means structures and other cultural resources described in paragraph (3), including—

(A) public land within the immediate vicinity of those portions of the highway formerly designated as United States Route 66; and

(B) private land within that immediate vicinity that is owned by persons or entities that are willing to participate in the programs authorized by this Act.

On page 6, lines 22 and 23, strike "cultural resources related to Route 66" and insert "preservation of the Route 66 corridor".

On page 7, strike lines 1 through 9 and insert the following:

(3) Preservation of the route 66 corridor.—The term "preservation of the Route 66 corridor" means the preservation or restoration of structures or other cultural resources of businesses, sites of interest, and other contributing resources that—

(A) are located within the land described in paragraph (1);

(B) existed during the route's period of outstanding historic significance (principally between 1933 and 1970), as defined by the study prepared by the National Park Service and entitled "Special Resource Study of Route 66", dated July 1995; and

(C) remain in existence as of the date of enactment of this Act.

On page 7, line 15, strike "Route 66" and insert "the Route 66 corridor".

On page 7, strike lines 16 through 18.

On page 7, line 19, strike "**SEC. 3.**" and insert "**SEC. 2.**".

On page 7, lines 23 and 24, strike "preservation of Route 66" and insert "preservation of the Route 66 corridor".

On page 8, line 9, strike "to preserve Route 66" and insert "for the preservation of the Route 66 corridor".

On page 8, line 15, strike "historic" and insert "Historic".

On page 8, line 16, strike "preservation of Route 66;" and insert "preservation of the Route 66 corridor;".

On page 9, strike lines 1 through 11.

On page 9, line 12, strike "(2)" and insert "(1)".

On page 9, line 15, strike "(3)" and insert "(2)".

On page 9, line 16, strike "(4)" and insert "(3)".

On page 9, line 17, strike "(5)" and insert "(4)".

On page 9, line 19, strike "(6)" and insert "(5)".

On page 9, strike lines 20 through 22.

On page 9, line 23, strike "(f)" and insert "(e)".

On page 9, line 25, strike "preservation of Route 66" and insert "preservation of the Route 66 corridor".

On page 10, line 2, strike "highway" and insert "Route 66 corridor".

On page 10, line 5, strike "Route 66" and insert "the Route 66 corridor".

On page 10, line 11, strike "Route 66" and insert "the Route 66 corridor".

On page 10, line 12, strike "**SEC. 4.**" and insert "**SEC. 3.**".

On page 10, line 16, strike "Route 66" and insert "the Route 66 corridor".

On page 11, strike lines 1 and 2 and insert the following:

needs for preservation of the Route 66 corridor.

On page 11, line 7, strike "histories of Route 66" and insert "histories of events that occurred along the Route 66 corridor".

On page 11, line 14, strike "Route 66" and insert "the Route 66 corridor".

On page 11, line 18, strike "**SEC. 5.**" and insert "**SEC. 4.**".

Amend the title so as to read: "A bill to preserve the cultural resources of the Route 66 corridor and to authorize the Secretary of the Interior to provide assistance.".

Mr. DOMENICI. Mr. President, today the United States Senate has taken a historic step in preserving one of America's treasures—Route 66. S. 2133, the Route 66 Corridor Preservation Act of 1998, will preserve the unique cultural resources along the famous Route 66 corridor and authorize the Interior Secretary to provide assistance through the Park Service. Congresswoman HEATHER WILSON of Albuquerque, New Mexico, introduced a companion bill (HR. 4513) in the House of Representatives. I am hoping that body will promptly act on this bill with the changes proposed by the distinguished Environment and Public Works Committee Chairman CHAFEE.

I introduced the "Route 66 Study Act of 1990," which directed the National Park Service to determine the best ways to preserve, commemorate and interpret Route 66. As a result of that study, I introduced S. 2133 this June authorizing the National Park Service to join with federal, state and private efforts to preserve aspects of the historic Route 66 corridor, the nation's most important thoroughfare for east-west migration in the 20th century.

The Administration testified in favor of this legislation, with some modifications. We've made some good changes to the bill, and Senator CHAFEE's amendment furthers progress for success of this Park Service program. This legislation authorizes a funding level over 10 years and stresses that we want the federal government to support grassroots efforts to preserve aspects of this historic highway.

New Mexico added to the aura of Route 66, giving new generations of Americans their first experience of our colorful culture and heritage. Designated in 1926, the 2,200-mile Route 66 stretched from Chicago to Santa Monica, California. It rolled through eight American states, and in New Mexico, it went through the communities of Tucumcari, Santa Rosa, Albuquerque, Grants, and Gallup. Route 66 allowed generations of vacationers to travel to previously remote areas and experience the natural beauty and cultures of the Southwest and Far West. S. 2133 will facilitate greater coordination in federal, state and private efforts to preserve structures and other cultural resources of the historic Route 66 corridor, the 20th century route equivalent to the Santa Fe Trail.

This bill authorizes the National Park Service to support state, local and private efforts to preserve the Route 66 corridor by providing technical assistance, participating in cost-sharing programs, and make grants. The Park Service will also act as a clearing house for communication among federal, state, local, private and American Indian entities interested in the preservation of the Route 66 corridor.

As we draw to the close of this century, there is more interest in trying to save Route 66. I sincerely hope that this legislation is quickly passed on the House floor. The time is now to provide tangible means of assistance to preserve this special highway.

The amendment (No. 3800) was agreed to.

The committee amendment, as amended, was agreed to.

The bill (S. 2133), as amended, was considered read the third time and passed, as follows:

S. 2133

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITIONS.

In this Act:

(1) Route 66 corridor.—The term "Route 66 corridor" means structures and other cultural resources described in paragraph (3), including—

(A) public land within the immediate vicinity of those portions of the highway formerly designated as United States Route 66; and

(B) private land within that immediate vicinity that is owned by persons or entities that are willing to participate in the programs authorized by this Act.

(2) CULTURAL RESOURCE PROGRAMS.—The term "Cultural Resource Programs" means the programs established and administered by the National Park Service for the benefit of and in support of preservation of the Route 66 corridor, either directly or indirectly.

(3) PRESERVATION OF THE ROUTE 66 CORRIDOR.—The term "preservation of the Route 66 corridor" means the preservation or restoration of structures or other cultural resources of businesses, sites of interest, and other contributing resources that—

(A) are located within the land described in paragraph (1);

(B) existed during the route's period of outstanding historic significance (principally between 1933 and 1970), as defined by the study prepared by the National Park Service and entitled "Special Resource Study of Route 66", dated July 1995; and

(C) remain in existence as of the date of enactment of this Act.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Cultural Resource Programs at the National Park Service.

(5) STATE.—The term "State" means a State in which a portion of the Route 66 corridor is located.

SEC. 2. MANAGEMENT.

(a) IN GENERAL.—The Secretary, in collaboration with the entities described in subsection (c), shall facilitate the development of guidelines and a program of technical assistance and grants that will set priorities for the preservation of the Route 66 corridor.

(b) DESIGNATION OF OFFICIALS.—The Secretary shall designate officials of the National Park Service stationed at locations convenient to the States to perform the functions of the Cultural Resource Programs under this Act.

(c) GENERAL FUNCTIONS.—The Secretary shall—

(1) support efforts of State and local public and private persons, nonprofit Route 66 preservation entities, Indian tribes, State Historic Preservation Offices, and entities in the States for the preservation of the Route 66 corridor by providing technical assistance, participating in cost-sharing programs, and making grants;

(2) act as a clearinghouse for communication among Federal, State, and local agencies, nonprofit Route 66 preservation entities, Indian tribes, State Historic Preservation Offices, and private persons and entities interested in the preservation of the Route 66 corridor; and

(3) assist the States in determining the appropriate form of and establishing and supporting a non-Federal entity or entities to perform the functions of the Cultural Resource Programs after those programs are terminated.

(d) AUTHORITIES.—In carrying out this Act, the Secretary may—

(1) enter into cooperative agreements, including, but not limited to study, planning, preservation, rehabilitation and restoration;

(2) accept donations;

(3) provide cost-share grants and information;

(4) provide technical assistance in historic preservation; and

(5) conduct research.

(e) PRESERVATION ASSISTANCE.—

(1) IN GENERAL.—The Secretary shall provide assistance in the preservation of the Route 66 corridor in a manner that is compatible with the idiosyncratic nature of the Route 66 corridor.

(2) PLANNING.—The Secretary shall not prepare or require preparation of an overall management plan for the Route 66 corridor, but shall cooperate with the States and local public and private persons and entities, State Historic Preservation Offices, nonprofit Route 66 preservation entities, and Indian tribes in developing local preservation plans to guide efforts to protect the most important or representative resources of the Route 66 corridor.

SEC. 3. RESOURCE TREATMENT.

(a) TECHNICAL ASSISTANCE PROGRAM.—

(1) IN GENERAL.—The Secretary shall develop a program of technical assistance in the preservation of the Route 66 corridor.

(2) GUIDELINES FOR PRESERVATION NEEDS.—

(A) IN GENERAL.—As part of the program under paragraph (1), the Secretary shall establish guidelines for setting priorities for preservation needs.

(B) BASIS.—The guidelines under subparagraph (A) may be based on national register standards, modified as appropriate to meet the needs for preservation of the Route 66 corridor.

(b) PROGRAM FOR COORDINATION OF ACTIVITIES.—

(1) IN GENERAL.—The Secretary shall coordinate a program of historic research, curation, preservation strategies, and the collection of oral and video histories of events that occurred along the Route 66 corridor.

(2) DESIGN.—The program under paragraph (1) shall be designed for continuing use and implementation by other organizations after the Cultural Resource Programs are terminated.

(c) GRANTS.—The Secretary shall—

(1) make cost-share grants for preservation of the Route 66 corridor available for resources that meet the guidelines under subsection (a); and

(2) provide information about existing cost-share opportunities.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $10,000,000 for the period of fiscal years 2000 through 2009 to carry out the purposes of this Act.

VALLEY FORCE NATIONAL HISTORIC SITE

The Senate proceeded to consider the bill (S. 2401) to authorize the addition of the Paoli Battlefield in Malvern, Pennsylvania, to Valley Forge National Historic Park, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. STUDY.

(a) IN GENERAL.—Not later than 18 months after the date on which funds are made available for the purpose, the Secretary of the Interior shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a resource study of the Paoli Battlefield Site and the Brandywine Battlefield Site in Pennsylvania.

(b) CONTENTS.—The study under subsection (a) shall—

(1) identify the full range of resources and historic themes associated with the battlefields and their relationship to the American Revolutionary War and the Valley Forge National Historical Park; and

(2) identify alternatives for National Park Service involvement at the sites and include cost estimates for any necessary acquisition, development, interpretation, operation, and maintenance associated with the alternatives identified.

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

AMENDMENT NO. 3801

(Purpose: To amend in the nature of a substitute, Calendar Number 637, S. 2401)

Strike all after the enacting clause and insert the following:

SECTION 1. ADDITION OF THE PAOLI BATTLEFIELD SITE TO THE VALLEY FORGE NATIONAL HISTORICAL PARK.

Section 2(a) of Public Law 94-337 (16 U.S.C. 410aa-1(a)) is amended in the first sentence by striking "which shall" and inserting "and the area known as the 'Paoli Battlefield', located in the borough of Malvern, Pennsylvania, described as the "Proposed Addition to Paoli Battlefield" on the map numbered 71572 and dated 2-17-98, (referred to in this Act as the 'Paoli Battlefield'), which map shall".

SEC. 2. COOPERATIVE MANAGEMENT OF PAOLI BATTLEFIELD.

Section 3 of Public Law (16 U.S.C. 410aa-2), is amended by adding at the end the following: "The Secretary may enter into a cooperative agreement with the borough of Malvern, Pennsylvania for the management by the Borough of the Paoli Battlefield.".

SEC. 3. ACQUISITION OF LAND FOR PAOLI BATTLEFIELD.

Section 4(a) of Public Law 94-337 (16 U.S.C. 410aa-3) is amended by striking "not more than $13,895,000 for the acquisition of lands and interests in lands" and inserting "not more than—

"(1) $13,895,000 for the acquisition of land and interests in land; and

"(2) if non-Federal funds in the amount of not less than $1,000,000 are available for the acquisition and donation to the National Park Service of land and interests in land within the Paoli Battlefield, $2,500,000 for the acquisition of land interests in land within the Paoli Battlefield".

The amendment (No. 3801) was agreed to.

The committee amendment, as amended, was agreed to.

The bill (S. 2401), as amended, was considered read the third time and passed.

OREGON PUBLIC LAND TRANSFER AND PROTECTION ACT OF 1998

The Senate proceeded to consider the bill (S. 2513) to transfer administrative jurisdiction over certain Federal land located within or adjacent to Rogue River National Forest and to clarify the authority of the Bureau of Land Management to sell and exchange other Federal land in Oregon.

AMENDMENT NO. 3802

(Purpose: To direct the Secretary of the Interior to sell certain land at fair market value to Deschutes County, Oregon and make technical corrections)

On page 2, before line 3, insert the following:

TITLE III—CONVEYANCE TO DESCHUTES COUNTY, OREGON

Sec. 301. Conveyance to Deschutes County, Oregon.

On page 2, strike lines 11 through 13 and insert the following:

depicted on the map entitled "BLM/Rogue River NF Administrative Jurisdiction Transfer, North Half" and dated April 28, 1998, and the map entitled "BLM/Rogue River NF Administrative Jurisdiction Transfer, South Half" and dated April 28, 1998, consisting of approximately

On page 3, strike lines 13 through 16 and insert the following:

(1) LAND TRANSFER.—The Federal land depicted on the maps described in subsection (a)(1), consisting of approximately 1,632

On page 4, strike lines 9 through 11 and insert the following:

Federal land depicted on the maps described in subsection (a)(1), consisting of

On page 5, strike lines 9 through 11 and insert the following:

maps described in subsection (a)(1), consisting of approximately 960 acres within

On page 6, strike lines 15 and 16 and insert the following:

on the map entitled "BLM/Rogue River NF Boundary Adjustment, North Half" and dated April 28, 1998, and the map entitled "BLM/Rogue River NF Boundary Adjustment, South Half" and dated April 28, 1998.

On page 10, after line 3, add the following:

TITLE III—CONVEYANCE TO DESCHUTES COUNTY, OREGON

SEC. 301. CONVEYANCE TO DESCHUTES COUNTY, OREGON.

(a) PURPOSES.—The purposes of this section are to authorize the Secretary of the Interior to sell at fair market value to Deschutes County, Oregon, certain land to be used to protect the public's interest in clean water in the aquifer that provides drinking water for residents and to promote the public interest in the efficient delivery of social services and public amenities in southern Deschutes County, Oregon, by—

(1) providing land for private residential development to compensate for development prohibitions on private land currently zoned for residential development the development of which would cause increased pollution of ground and surface water;

(2) providing for the streamlined and low-cost acquisition of land by nonprofit and governmental social service entities that offer needed community services to residents of the area;

(3) allowing the County to provide land for community amenities and services such as open space, parks, roads, and other public spaces and uses to area residents at little or no cost to the public; and

(4) otherwise assist in the implementation of the Deschutes County Regional Problem Solving Project.

(b) SALE OF LAND.—

(1) IN GENERAL.—The Secretary of the Interior, acting through the Director of the Bureau of Land Management (referred to in this section as the "Secretary") may make available for sale at fair market value to Deschutes County, Oregon, the land in Deschutes County, Oregon (referred to in this section as the "County"), comprising approximately 544 acres and lying in Township 22, S., Range 10 E. Willamette Meridian, described as follows:

(A) Sec. 1:

(i) Government Lot 3, the portion west of Highway 97;

(ii) Government Lot 4;

(iii) SENW, the portion west of Highway 97; SWNW, the portion west of Highway 97, NWSW, the portion west of Highway 97; SWSW, the portion west of Highway 97;

(B) Sec. 2:

(i) Government Lot 1;

(ii) SENE, SESW, the portion east of Huntington Road; NESE; NWSE; SWSE; SESE, the portion west of Highway 97;

(C) Sec. 11:

(i) Government Lot 10;

(ii) NENE, the portion west of Highway 97; NWNE; SWNE, the portion west of Highway 97; NENW, the portion east of Huntington Road; SWNW, the portion east of Huntington Road; SENW.

(2) SUITABILITY FOR SALE.—The Secretary shall convey the land under paragraph (1) only if the Secretary determines that the land is suitable for sale through the land use planning process.

(c) SPECIAL ACCOUNT.—The amount paid by the County for the conveyance of land under subsection (b)—

(1) shall be deposited in a special account in the Treasury of the United States; and

(2) may be used by the Secretary for the purchase of environmentally sensitive land east of Range Nine East in the State of Oregon that is consistent with the goals and objectives of the land use planning process of the Bureau of Land Management.

Mr. WYDEN. Mr. President, I am joined by my Oregon colleague, Senator SMITH, in offering an amendment to S. 2513. My amendment will provide the critical final step to enable Deschutes County, Oregon, in the completion of more than three years of intense work that they have done to find an effective way to protect their groundwater and wetlands from inappropriate residential development.

Deschutes County has completed several years collaborative work to resolve a number of extraordinarily difficult land use problems in that county. In particular, the County faces the prospect of development of more than 13,000 subdivided lots in the vicinity of the Deschutes River in the southern half of the county. More than half of these lots have not yet been developed, and the county now knows that if it does not prevent the further development of these lands, they are going to have major, intractable pollution of the groundwater and of the Deschutes River.

The Oregon Department of Environmental Quality tells us that at present rates of growth, this area faces serious ground water quality problems over the next decade. Further, these lands constitute the most important wildlife and wetlands habitat in the area.

After several years of working with federal and state agencies and local citizens, under the authority of Oregon's Regional Problem Solving initiative, the County has come up with a plan to use incentives to shift development from these sensitive lands, over on to Bureau of Land Management lands that are not nearly so sensitive. Under this plan, the County will sell parcels of this land to prospective residential developers. However, before a developer may acquire a tract, the developer must have purchased "development rights" to lands in environmentally sensitive areas. Once these rights are acquired, the land will be rezoned so as to prevent any future development in the undesirable area.

In fact, the BLM lands have already been logged. The BLM lands are easily served by a wastewater collection system and have other features that make the location far more appropriate for development. Local BLM officials have been deeply involved in this effort and tell us that if it fails, the damage to the natural environment of the area will be substantial, and far more expensive to deal with later.

I particularly want to thank Senator SMITH, Senator BUMPERS, and Chairman MURKOWSKI for working with me at this late date to work out this provision. I want to express my deep appreciation to Governor John Kitzhaber, whose Regional Problem Solving initiative paved the way for this effort. And finally, I want to thank the staff at the Bureau of Land Management here in Washington, in Portland, and at the Prineville District for approaching this matter from the distinct perspective of the greater benefit to the environment that this legislation will achieve.

I also note the very active participation of Deschutes County Commissioner Linda Swearingen, Assistant County Attorney Bruce White, and Community Development Director George Read. They have provided critical help to get this measure approved, and certainly it is their vision for the future of Deschutes County that has gotten us where we are today.

The amendment (No. 3802) was agreed to.

The bill (S. 2513), as amended, was considered read the third time and passed, as follows:

S. 2513

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Oregon Public Land Transfer and Protection Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—ROGUE RIVER NATIONAL FOREST TRANSFERS

Sec. 101. Land transfers involving Rogue River National Forest and other public land in Oregon.

TITLE II—PROTECTION OF OREGON AND CALIFORNIA RAILROAD GRANT LAND

Sec. 201. Definitions.
Sec. 202. No net loss of O & C land, CBWR land, or public domain land.

Sec. 203. Relationship to Umpqua land exchange authority.

TITLE III—CONVEYANCE TO DESCHUTES COUNTY, OREGON

Sec. 301. Conveyance to Deschutes County, Oregon.

TITLE I—ROGUE RIVER NATIONAL FOREST TRANSFERS

SEC. 101. LAND TRANSFERS INVOLVING ROGUE RIVER NATIONAL FOREST AND OTHER PUBLIC LAND IN OREGON.

(a) TRANSFER FROM PUBLIC DOMAIN TO NATIONAL FOREST.—

(1) LAND TRANSFER.—The public domain land depicted on the map entitled "BLM/Rogue River NF Administrative Jurisdiction Transfer, North Half" and dated April 28, 1998, and the map entitled "BLM/Rogue River NF Administrative Jurisdiction Transfer, South Half" and dated April 28, 1998, consisting of approximately 2,058 acres within the external boundaries of Rogue River National Forest in the State of Oregon, is added to and made a part of Rogue River National Forest.

(2) ADMINISTRATIVE JURISDICTION.—Administrative jurisdiction over the land described in paragraph (1) is transferred from the Secretary of the Interior to the Secretary of Agriculture.

(3) MANAGEMENT.—Subject to valid existing rights, the Secretary of Agriculture shall manage the land described in paragraph (1) as part of Rogue River National Forest in accordance with the Act of March 1, 1911 (commonly known as the "Weeks Law") (36 Stat. 961, chapter 186), and other laws (including regulations) applicable to the National Forest System.

(b) TRANSFER FROM NATIONAL FOREST TO PUBLIC DOMAIN.—

(1) LAND TRANSFER.—The Federal land depicted on the maps described in subsection (a)(1), consisting of approximately 1,632 acres within the external boundaries of Rogue River National Forest, is transferred to unreserved public domain status, and the status of the land as part of Rogue River National Forest and the National Forest System is revoked.

(2) ADMINISTRATIVE JURISDICTION.—Administrative jurisdiction over the land described in paragraph (1) is transferred from the Secretary of Agriculture to the Secretary of the Interior.

(3) MANAGEMENT.—Subject to valid existing rights, the Secretary of the Interior shall administer such land under the laws (including regulations) applicable to unreserved public domain land.

(c) RESTORATION OF STATUS OF CERTAIN NATIONAL FOREST LAND AS REVESTED RAILROAD GRANT LAND.—

(1) RESTORATION OF EARLIER STATUS.—The Federal land depicted on the maps described in subsection (a)(1), consisting of approximately 4,298 acres within the external boundaries of Rogue River National Forest, is restored to the status of revested Oregon and California Railroad grant land, and the status of the land as part of Rogue River National Forest and the National Forest System is revoked.

(2) ADMINISTRATIVE JURISDICTION.—Administrative jurisdiction over the land described in paragraph (1) is transferred from the Secretary of Agriculture to the Secretary of the Interior.

(3) MANAGEMENT.—Subject to valid existing rights, the Secretary of the Interior shall administer the land described in paragraph (1) under the Act of August 28, 1937 (43 U.S.C. 1181a et seq.), and other laws (including regulations) applicable to revested Oregon and California Railroad grant land under the administrative jurisdiction of the Secretary of the Interior.

(d) ADDITION OF CERTAIN REVESTED RAILROAD GRANT LAND TO NATIONAL FOREST.—

(1) LAND TRANSFER.—The revested Oregon and California Railroad grant land depicted on the maps described in subsection (a)(1), consisting of approximately 960 acres within the external boundaries of Rogue River National Forest, is added to and made a part of Rogue River National Forest.

(2) ADMINISTRATIVE JURISDICTION.—Administrative jurisdiction over the land described in paragraph (1) is transferred from the Secretary of the Interior to the Secretary of Agriculture.

(3) MANAGEMENT.—Subject to valid existing rights, the Secretary of Agriculture shall manage the land described in paragraph (1) as part of Rogue River National Forest in accordance with the Act of March 1, 1911 (36 Stat. 961, chapter 186), and other laws (including regulations) applicable to the National Forest System.

(4) DISTRIBUTION OF RECEIPTS.—Notwithstanding the sixth paragraph under the heading "FOREST SERVICE" in the Act of May 23, 1908 and section 13 of the Act of March 1, 1911 (16 U.S.C. 500), revenues derived from the land described in paragraph (1) shall be distributed in accordance with the Act of August 28, 1937 (43 U.S.C. 1181a et seq.).

(e) BOUNDARY ADJUSTMENT.—The boundaries of Rogue River National Forest are adjusted to encompass the land transferred to the administrative jurisdiction of the Secretary of Agriculture under this section and to exclude private property interests adjacent to the exterior boundaries of Rogue River National Forest, as depicted on the map entitled "BLM/Rogue River NF Boundary Adjustment, North Half" and dated April 28, 1998, and the map entitled "BLM/Rogue River NF Boundary Adjustment, South Half" and dated April 28, 1998.

(f) MAPS.—Not later than 60 days after the date of enactment of this Act, the maps described in this section shall be available for public inspection in the office of the Chief of the Forest Service.

(g) MISCELLANEOUS REQUIREMENTS.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall—

(1) revise the public land records relating to the land transferred under this section to reflect the administrative, boundary, and other changes made by this section; and

(2) publish in the Federal Register appropriate notice to the public of the changes in administrative jurisdiction made by this section with regard to the land.

TITLE II—PROTECTION OF OREGON AND CALIFORNIA RAILROAD GRANT LAND

SEC. 201. DEFINITIONS.

In this title:

(1) O & C LAND.—The term "O & C land" means the land (commonly known as "Oregon and California Railroad grant land") that—

(A) revested in the United States under the Act of June 9, 1916 (39 Stat. 218, chapter 137); and

(B) is managed by the Secretary of the Interior through the Bureau of Land Management under the Act of August 28, 1937 (43 U.S.C. 1181a et seq.).

(2) CBWR LAND.—The term "CBWR land" means the land (commonly known as "Coos Bay Wagon Road grant land") that—

(A) was reconveyed to the United States under the Act of February 26, 1919 (40 Stat. 1179, chapter 47); and

(B) is managed by the Secretary of the Interior through the Bureau of Land Management under the Act of August 28, 1937 (43 U.S.C. 1181a et seq.).

(3) PUBLIC DOMAIN LAND.—

(A) IN GENERAL.—The term "public domain land" has the meaning given the term "public lands" in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702).

(B) EXCLUSIONS.—The term "public domain land" does not include O & C land or CBWR land.

(4) GEOGRAPHIC AREA.—The term "geographic area" means the area in the State of Oregon within the boundaries of the Medford District, Roseburg District, Eugene District, Salem District, Coos Bay District, and Klamath Resource Area of the Lakeview District of the Bureau of Land Management, as the districts and the resource area were constituted on January 1, 1998.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 202. NO NET LOSS OF O & C LAND, CBWR LAND, OR PUBLIC DOMAIN LAND.

In carrying out sales, purchases, and exchanges of land in the geographic area, the Secretary shall ensure that on expiration of the 10-year period beginning on the date of enactment of this Act and on expiration of each 10-year period thereafter, the number of acres of O & C land and CBWR land in the geographic area, and the number of acres of O & C land, CBWR land, and public domain land in the geographic area that are available for timber harvesting, are not less than the number of acres of such land on the date of enactment of this Act.

SEC. 203. RELATIONSHIP TO UMPQUA LAND EXCHANGE AUTHORITY.

Notwithstanding any other provision of this title, this title shall not apply to an exchange of land authorized under section 1028 of the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104–333; 110 Stat. 4231), or any implementing legislation or administrative rule, if the land exchange is consistent with the memorandum of understanding between the Umpqua Land Exchange Project and the Association of Oregon and California Land Grant Counties dated February 19, 1998.

TITLE III—CONVEYANCE TO DESCHUTES COUNTY, OREGON

SEC. 301. CONVEYANCE TO DESCHUTES COUNTY, OREGON.

(a) PURPOSES.—The purposes of this section are to authorize the Secretary of the Interior to sell at fair market value to Deschutes County, Oregon, certain land to be used to protect the public's interest in clean water in the aquifer that provides drinking water for residents and to promote the public interest in the efficient delivery of social services and public amenities in southern Deschutes County, Oregon, by—

(1) providing land for private residential development to compensate for development prohibitions on private land currently zoned for residential development the development of which would cause increased pollution of ground and surface water;

(2) providing for the streamlined and low-cost acquisition of land by nonprofit and governmental social service entities that offer needed community services to residents of the area;

(3) allowing the County to provide land for community amenities and services such as open space, parks, roads, and other public spaces and uses to area residents at little or no cost to the public; and

(4) otherwise assist in the implementation of the Deschutes County Regional Problem Solving Project.

(b) SALE OF LAND.—

(1) IN GENERAL.—The Secretary of the Interior, acting through the Director of the Bureau of Land Management (referred to in this section as the "Secretary") may make available for sale at fair market value to Deschutes County, Oregon, the land in Deschutes County, Oregon (referred to in this section as the "County"), comprising approximately 544 acres and lying in Township 22, S., Range 10 E. Willamette Meridian, described as follows:

(A) Sec. 1:

(i) Government Lot 3, the portion west of Highway 97;

(ii) Government Lot 4;

(iii) SENW, the portion west of Highway 97; SWNW, the portion west of Highway 97, NWSW, the portion west of Highway 97; SWSW, the portion west of Highway 97;

(B) Sec. 2:

(i) Government Lot 1;

(ii) SENE, SESW, the portion east of Huntington Road; NESE; NWSE; SWSE; SESE, the portion west of Highway 97;

(C) Sec. 11:

(i) Government Lot 10;

(ii) NENE, the portion west of Highway 97; NWNE; SWNE, the portion west of Highway 97; NENW, the portion east of Huntington Road; SWNW, the portion east of Huntington Road; SENW.

(2) SUITABILITY FOR SALE.—The Secretary shall convey the land under paragraph (1) only if the Secretary determines that the land is suitable for sale through the land use planning process.

(c) SPECIAL ACCOUNT.—The amount paid by the County for the conveyance of land under subsection (b)—

(1) shall be deposited in a special account in the Treasury of the United States; and

(2) may be used by the Secretary for the purchase of environmentally sensitive land east of Range Nine East in the State of Oregon that is consistent with the goals and objectives of the land use planning process of the Bureau of Land Management.

VITIATION OF PASSAGE OF S. 2131

Mr. LOTT. I ask unanimous consent that passage of S. 2131 be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

WATER RESOURCES DEVELOPMENT ACT OF 1998

Mr. LOTT. Mr. President, I further ask unanimous consent that the Senate now proceed to the consideration of S. 2131, and ask that the substitute amendment, which is at the desk, be agreed to, the bill be read a third time and passed, with the motion to reconsider laid upon the table.

I note that this legislation passed last evening, and this is a housekeeping matter to allow this matter to be received by the House quickly.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3803

(The text of the amendment is printed in today's RECORD under "Amendments submitted.")

Mr. LAUTENBERG. Mr. President, I am pleased to join in support of the Water Resources Development Act of 1998, one of the most important public works measures before the Senate. This important measure was approved this summer by the Committee on Environment and Public Works, on which I serve.

This legislation includes authorizations for numerous water resources projects important to my state. Three shoreline protection projects which will protect property, wildlife habitat, and contribute to New Jersey's coastal economy are authorized to proceed to construction.

Mr. President, I am pleased that this Committee has addressed a serious policy disagreement with the Administration over funding for shore protection projects. For the past five years, the Administration has requested no funding for new shore protection studies and has underfunded the construction work of ongoing projects. This year, the Administration proposed modifying the cost-share for shore protection projects to require the states and localities to finance the majority—65 percent, of the costs of periodic renourishment. This activity is the most expensive portion of the project, since these projects generally receive 3–5 year renourishments over their 50-year period.

I disagreed with this approach because I believed that it was unfair to those communities that had planned for these projects and expected a true partnership with the federal government. During the consideration of this bill in Committee, I offered an amendment to allow us to phase in a more reasonable cost-sharing formula for shore protection projects. Those projects which have a feasibility study completed by the end of 1998 or which are authorized to proceed to construction in this bill, will continue to be covered by the 65/35 cost-share formula through the life of the projects, just as all flood control projects are cost-shared. Those projects authorized subsequently will continue to receive the 65/35 cost-share formula for the initial construction. However, states will be required to provide 50 percent—just five percent more of the costs—for periodic renourishment. While I was disappointed that we could not maintain the current cost share for all projects, I believe that the committee's proposal is fairer to the communities and states that have planned for these projects. We have authorized many shore protection projects that have only moved forward because of the efforts of Congress. I sincerely hope that our action today moves the Administration forward to begin planning and budgeting for these projects.

The bill also provides necessary authorization adjustments for projects critical to the movement of cargo through the Port of New York and New Jersey as proposed by Senator MOYNIHAN and I. The port annually handles 1.4 million containers and 30 billion gallons of petroleum products and is the gateway to a thriving economy for New Jersey, New York, and the entire country. By the year 2010, experts predict that 90 percent of all liner freight will be shipped in containers. The bill's amendments are important to addressing the increasing cost of dredged material disposal in light of the moratorium on ocean disposal.

In addition, the bill authorizes flood control studies important to numerous communities in my state. The bill provides for a study of flood control measures in the Repaupo Creek. This waterway contains a deteriorating 76-year old floodgate, which, if breached, threatens the communities of Greenwich, East Greenwich, Harrison, and Logan, Mantua, and Woolwich. Another important study of the Delaware River streams and watersheds in Camden and Gloucester Counties is authorized in the bill. The bill also includes a study of navigational needs along the Fortescue Inlet of the Delaware Bay.

Mr. President, the State of New Jersey, local governments and regional authorities have been carefully planning and budgeting for the critical projects that this bill authorizes. Any further delays could have an adverse impact on the economies of regions that are affected by these projects. I urge my colleagues to support this legislation.

I want to thank the Chairman, Senator CHAFEE, the Ranking Member, Senator BAUCUS, and the Subcommittee Chairman, Senator WARNER, and their staff members for their hard work on this bill. The members of the committee staff, including Dan Delich, Ann Loomis, and Jo-Ellen Darcy were extremely helpful and professional, putting in many long hours to produce a bill that benefits communities across the country.

Mr. MACK. Mr. President, I rise today in support of the Water Resources Development Act of 1998 (WRDA 98). WRDA 98 recognizes the importance of Florida's natural resources—through the authorization of projects and studies related to the Everglades, flood control, shore protection and water supply.

The investment Congress has made in the Everglades is significant. The authorization of the extension of the Everglades' Critical Restoration Projects is important because there are many stakeholders involved. The Senate, through WRDA 98, sends a clear message that this investment is important.

WRDA 98 recognizes the leadership Florida provides in the development of water resources by authorizing Aquifer Storage & Recovery projects in South Florida, as well as a deep water storage project in the Caloosahatchee River basin. These projects provide the important and necessary next steps to continue the progress made in the restoration of the Everglades.

Finally, a critical Alternative Water Source provision provides the necessary framework for developing a sustainable water supply as Florida continues to experience unprecedented growth. In total, WRDA 98 provides for the authorization of 23 projects in Florida to meet important shore protection, flood control and water supply needs in the State.

The amendment (No. 3803) was agreed to.

The bill (S. 2131), as amended, was considered read the third time and passed, as follows:

S. 2131

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Water Resources Development Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—WATER RESOURCES DEVELOPMENT

Sec. 101. Definition.
Sec. 102. Project authorizations.
Sec. 103. Project modifications.
Sec. 104. Project deauthorizations.
Sec. 105. Studies.
Sec. 106. Flood hazard mitigation and riverine ecosystem restoration program.
Sec. 107. Shore protection.
Sec. 108. Small flood control authority.
Sec. 109. Use of non-Federal funds for compiling and disseminating information on floods and flood damages.
Sec. 110. Everglades and south Florida ecosystem restoration.
Sec. 111. Aquatic ecosystem restoration.
Sec. 112. Beneficial uses of dredged material.
Sec. 113. Voluntary contributions by States and political subdivisions.
Sec. 114. Recreation user fees.
Sec. 115. Water resources development studies for the Pacific region.
Sec. 116. Missouri and Middle Mississippi Rivers enhancement project.
Sec. 117. Outer Continental Shelf.
Sec. 118. Environmental dredging.
Sec. 119. Benefit of primary flood damages avoided included in benefit-cost analysis.
Sec. 120. Control of aquatic plant growth.
Sec. 121. Environmental infrastructure.
Sec. 122. Watershed management, restoration, and development.
Sec. 123. Lakes program.
Sec. 124. Dredging of salt ponds in the State of Rhode Island.
Sec. 125. Upper Susquehanna River basin, Pennsylvania and New York.
Sec. 126. Small flood control projects.
Sec. 127. Small navigation projects.
Sec. 128. Streambank protection projects.
Sec. 129. Aquatic ecosystem restoration, Springfield, Oregon.
Sec. 130. Guilford and New Haven, Connecticut.
Sec. 131. Francis Bland Floodway Ditch.
Sec. 132. Caloosahatchee River basin, Florida.
Sec. 133. Cumberland, Maryland, flood project mitigation.
Sec. 134. Sediments decontamination policy.
Sec. 135. City of Miami Beach, Florida.
Sec. 136. Small storm damage reduction projects.
Sec. 137. Sardis Reservoir, Oklahoma.
Sec. 138. Upper Mississippi River and Illinois waterway system navigation modernization.
Sec. 139. Disposal of dredged material on beaches.
Sec. 140. Fish and wildlife mitigation.
Sec. 141. Upper Mississippi River management.
Sec. 142. Reimbursement of non-Federal interest.
Sec. 143. Research and development program for Columbia and Snake Rivers salmon survival.
Sec. 144. Nine Mile Run habitat restoration, Pennsylvania.
Sec. 145. Shore damage prevention or mitigation.
Sec. 146. Larkspur Ferry Channel, California.
Sec. 147. Comprehensive Flood Impact-Response Modeling System.
Sec. 148. Study regarding innovative financing for small and medium-sized ports.
Sec. 149. Candy Lake project, Osage County, Oklahoma.
Sec. 150. Salcha River and Piledriver Slough, Fairbanks, Alaska.
Sec. 151. Eyak River, Cordova, Alaska.
Sec. 152. North Padre Island storm damage reduction and environmental restoration project.
Sec. 153. Kanopolis Lake, Kansas.
Sec. 154. New York City watershed.
Sec. 155. City of Charlevoix reimbursement, Michigan.
Sec. 156. Hamilton Dam flood control project, Michigan.
Sec. 157. National Contaminated Sediment Task Force.
Sec. 158. Great Lakes basin program.
Sec. 159. Projects for improvement of the environment.
Sec. 160. Water quality, environmental quality, recreation, fish and wildlife, flood control, and navigation.
Sec. 161. Irrigation diversion protection and fisheries enhancement assistance.

TITLE II—CHEYENNE RIVER SIOUX TRIBE, LOWER BRULE SIOUX TRIBE, AND STATE OF SOUTH DAKOTA TERRESTRIAL WILDLIFE HABITAT RESTORATION

Sec. 201. Definitions.
Sec. 202. Terrestrial wildlife habitat restoration.
Sec. 203. South Dakota Terrestrial Wildlife Habitat Restoration Trust Fund.
Sec. 204. Cheyenne River Sioux Tribe and Lower Brule Sioux Tribe Terrestrial Wildlife Habitat Restoration Trust Funds.
Sec. 205. Transfer of Federal land to State of South Dakota.
Sec. 206. Transfer of Corps of Engineers land for Indian Tribes.
Sec. 207. Administration.
Sec. 208. Study.
Sec. 209. Authorization of appropriations.

TITLE I—WATER RESOURCES DEVELOPMENT

SEC. 101. DEFINITION.

In this title, the term "Secretary" means the Secretary of the Army.

SEC. 102. PROJECT AUTHORIZATIONS.

(a) PROJECTS WITH REPORTS.—The following projects for water resources development and conservation and other purposes are authorized to be carried out by the Secretary substantially in accordance with the plans, and subject to the conditions, described in the respective reports designated in this section:

(1) RIO SALADO (SALT RIVER), ARIZONA.—The project for environmental restoration, Rio Salado (Salt River), Arizona: Report of the Chief of Engineers, dated August 20, 1998, at a total cost of $85,900,000, with an estimated Federal cost of $54,980,000 and an estimated non-Federal cost of $30,920,000.

(2) AMERICAN RIVER WATERSHED, CALIFORNIA.—

(A) IN GENERAL.—The project for flood damage reduction described as the Folsom Stepped Release Plan in the United States Army Corps of Engineers Supplemental Information Report for the American River Watershed Project, California, dated March 1996, at a total cost of $464,600,000, with an estimated Federal cost of $302,000,000 and an estimated non-Federal cost of $162,600,000.

(B) IMPLEMENTATION.—

(i) IN GENERAL.—Implementation of the measures by the Secretary pursuant to subparagraph (A) shall be undertaken after completion of the levee stabilization and strengthening and flood warning features authorized by section 101(a)(1) of the Water Resources Development Act of 1996 (110 Stat. 3662).

(ii) FOLSOM DAM AND RESERVOIR.—The Secretary may undertake measures at the Folsom Dam and Reservoir authorized under subparagraph (A) only after reviewing the design of such measures to determine if modifications are necessary to account for changed hydrologic conditions and any other changed conditions in the project area, including operational and construction impacts that have occurred since completion of the report referred to in subparagraph (A). The Secretary shall conduct the review and develop the ,modifications to the Folsom Dam and Reservoir with the full participation of the Secretary of the Interior.

(iii) REMAINING DOWNSTREAM ELEMENTS.—

(I) IN GENERAL.—Implementation of the remaining downstream elements authorized pursuant to subparagraph (A) may be undertaken only after the Secretary, in consultation with affected Federal, State, regional, and local entities, has reviewed the elements to determine if modifications are necessary to address changes in the hydrologic conditions, any other changed conditions in the project area that have occurred since completion of the report referred to in subparagraph (A) and any design modifications for the Folsom Dam and Reservoir made by the Secretary in implementing the measures referred to in clause (ii), and has issued a report on the review.

(II) PRINCIPLES AND GUIDELINES.—The review shall be prepared in accordance with the economic and environmental principles and guidelines for water and related land resources implementation studies, and no construction may be initiated unless the Secretary determines that the remaining downstream elements are technically sound, environmentally acceptable, and economically justified.

(3) LLAGAS CREEK, CALIFORNIA.—The project for completion of the remaining reaches of the Natural Resources Conservation Service flood control project at Llagas Creek, California, undertaken pursuant to section 5 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1005), substantially in accordance with the requirements of local cooperation as specified in

section 4 of that Act (16 U.S.C. 1004) at a total cost of $34,300,000, with an estimated Federal cost of $16,600,000 and an estimated non-Federal share of $17,700,000.

(4) Upper Guadalupe River, California.—The Secretary may construct the locally preferred plan for flood damage reduction and recreation, Upper Guadalupe River, California, described as the Bypass Channel Plan of the Chief of Engineers dated August 18, 1998, at a total cost of $132,836,000, with an estimated Federal cost of $42,869,000 and an estimated non-Federal cost of $89,967,000.

(5) Delaware Bay Coastline: Delaware and New Jersey-Broadkill Beach, Delaware.—

(A) In general.—The shore protection project for hurricane and storm damage reduction, Delaware Bay Coastline: Delaware and New Jersey-Broadkill Beach, Delaware, Report of the Chief of Engineers dated August 17, 1998, at a total cost of $8,871,000, with an estimated Federal cost of $5,593,000 and an estimated non-Federal cost of $3,278,000.

(B) Periodic nourishment.—Periodic nourishment is authorized for a 50-year period at an estimated average annual cost of $651,000, with an estimated annual Federal cost of $410,000 and an estimated annual non-Federal cost of $241,000.

(6) Hillsboro and Okeechobee Aquifer Storage and Recovery Project, Florida.—The project for aquifer storage and recovery described in the United States Army Corps of Engineers Central and Southern Florida Water Supply Study, Florida, dated April 1989, and in House Document 369, dated July 30, 1968, at a total cost of $27,000,000, with an estimated Federal cost of $13,500,000 and an estimated non-Federal cost of $13,500,000.

(7) Indian River County, Florida.—Notwithstanding section 1001(a) of the Water Resources Development Act of 1986 (33 U.S.C. 579a(a)), the project for shoreline protection, Indian River County, Florida, authorized by section 501(a) of that Act (100 Stat. 4134), shall remain authorized for construction through December 31, 2002.

(8) Lido Key Beach, Sarasota, Florida.—

(A) In general.—The project for shore protection at Lido Key Beach, Sarasota, Florida, authorized by section 101 of the River and Harbor Act of 1970 (84 Stat. 1819) and deauthorized by operation of section 1001(b) of the Water Resources Development Act of 1986 (33 U.S.C. 579a(b)), is authorized to be carried out by the Secretary at a total cost of $5,200,000, with an estimated Federal cost of $3,380,000 and an estimated non-Federal cost of $1,820,000.

(B) Periodic nourishment.—Periodic nourishment is authorized for a 50-year period at an estimated average annual cost of $602,000, with an estimated annual Federal cost of $391,000 and an estimated annual non-Federal cost of $211,000.

(9) Amite River and Tributaries, Louisiana, East Baton Rouge Parish Watershed.—The project for flood damage reduction and recreation, Amite River and Tributaries, Louisiana, East Baton Rouge Parish Watershed: Report of the Chief of Engineers, dated December 23, 1996, at a total cost of $110,045,000, with an estimated Federal cost of $71,343,000 and an estimated non-Federal cost of $38,702,000.

(10) Baltimore Harbor Anchorages and Channels, Maryland and Virginia.—The project for navigation, Baltimore Harbor Anchorages and Channels, Maryland and Virginia: Report of the Chief of Engineers, dated June 8, 1998, at a total cost of $27,692,000, with an estimated Federal cost of $18,510,000 and an estimated non-Federal cost of $9,182,000.

(11) Red Lake River at Crookston, Minnesota.—The project for flood damage reduction, Red Lake River at Crookston, Minnesota: Report of the Chief of Engineers, dated April 20, 1998, at a total cost of $8,720,000, with an estimated Federal cost of $5,567,000 and an estimated non-Federal cost of $3,153,000.

(12) Park River, North Dakota.—

(A) In general.—Subject to the condition stated in subparagraph (B), the project for flood control, Park River, Grafton, North Dakota, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4121) and deauthorized under section 1001(a) of the Water Resources Development Act of 1986 (33 U.S.C. 579a), at a total cost of $27,300,000, with an estimated Federal cost of $17,745,000 and an estimated non-Federal cost of $9,555,000.

(B) Condition.—No construction may be initiated unless the Secretary determines through a general reevaluation report using current data, that the project is technically sound, environmentally acceptable, and economically justified.

(b) Projects Subject to a Final Report.—The following projects for water resources development and conservation and other purposes are authorized to be carried out by the Secretary substantially in accordance with the plans, and subject to the conditions recommended in a final report of the Chief of Engineers as approved by the Secretary, if the report of the Chief is completed not later than December 31, 1998.

(1) Nome Harbor Improvements, Alaska.—The project for navigation, Nome Harbor Improvements, Alaska, at a total cost of $24,280,000, with an estimated first Federal cost of $19,162,000 and an estimated first non-Federal cost of $5,118,000.

(2) Sand Point Harbor, Alaska.—The project for navigation, Sand Point Harbor, Alaska, at a total cost of $11,463,000, with an estimated Federal cost of $6,718,000 and an estimated first non-Federal cost of $4,745,000.

(3) Seward Harbor, Alaska.—The project for navigation, Seward Harbor, Alaska, at a total cost of $11,930,000, with an estimated first Federal cost of $3,816,000 and an estimated first non-Federal cost of $8,114,000.

(4) Hamilton Airfield Wetland Restoration, California.—The project for environmental restoration at Hamilton Airfield, California, at a total cost of $55,100,000, with an estimated Federal cost of $41,300,000 and an estimated non-Federal cost of $13,800,000.

(5) Oakland, California.—

(A) In general.—The project for navigation and environmental restoration, Oakland, California, at a total cost of $214,900,000, with an estimated Federal cost of $128,600,000 and an estimated non-Federal cost of $86,300,000.

(B) Berthing areas and other local service facilities.—The non-Federal interests shall provide berthing areas and other local service facilities necessary for the project at an estimated cost of $38,200,000.

(6) South Sacramento County Streams, California.—The project for flood damage reduction, environmental restoration, and recreation, South Sacramento County Streams, California at a total cost of $65,410,000, with an estimated Federal cost of $39,104,000 and an estimated non-Federal cost of $26,306,000.

(7) Yuba River Basin, California.—The project for flood damage reduction, Yuba River Basin, California, at a total cost of $25,850,000, with an estimated Federal cost of $16,775,000 and an estimated non-Federal cost of $9,075,000.

(8) Delaware Bay Coastline: Delaware and New Jersey-Port Mahon, Delaware.—

(A) In general.—The shore protection project for ecosystem restoration, Delaware Bay Coastline: Delaware and New Jersey-Port Mahon, Delaware, at a total cost of $7,563,000, with an estimated Federal cost of $4,916,000 and an estimated non-Federal cost of $2,647,000.

(B) Periodic nourishment.—Periodic nourishment is authorized for a 50-year period at an estimated average annual cost of $238,000, with an estimated annual Federal cost of $155,000 and an estimated annual non-Federal cost of $83,000.

(9) Delaware Bay Coastline: Delaware and New Jersey-Roosevelt Inlet-Lewes Beach, Delaware.—

(A) In general.—The shore protection project for navigation mitigation and hurricane and storm damage reduction, Delaware Bay Coastline: Delaware and New Jersey-Roosevelt Inlet-Lewes Beach, Delaware, at a total cost of $3,326,000, with an estimated Federal cost of $2,569,000 and an estimated non-Federal cost of $757,000.

(B) Periodic nourishment.—Periodic nourishment is authorized for a 50-year period at an estimated average annual cost of $207,000, with an estimated annual Federal cost of $159,000 and an estimated annual non-Federal cost of $48,000.

(10) Delaware Coast from Cape Henelopen to Fenwick Island, Bethany Beach/South Bethany Beach, Delaware.—

(A) In general.—The shore protection project for hurricane storm damage reduction, Delaware Coast from Cape Henelopen to Fenwick Island, Bethany Beach/South Bethany Beach, Delaware, at a total cost of $22,094,000, with an estimated Federal cost of $14,361,000 and an estimated non-Federal cost of $7,733,000.

(B) Periodic nourishment.—Periodic nourishment is authorized for a 50-year period at an estimated average annual cost of $1,573,000, with an estimated annual Federal cost of $1,022,000 and an estimated annual non-Federal cost of $551,000.

(11) Jacksonville Harbor, Florida.—The project for navigation, Jacksonville Harbor, Florida, at a total cost of $27,758,000, with an estimated Federal cost of $9,632,000 and an estimated non-Federal cost of $18,126,000.

(12) Little Talbot Island, Duval County, Florida.—The shore protection project for hurricane and storm damage prevention, Little Talbot Island, Duval County, Florida, at a total cost of $5,802,000, with an estimated Federal cost of $3,771,000 and an estimated non-Federal cost of $2,031,000.

(13) Ponce de Leon Inlet, Volusia County, Florida.—The project for navigation and recreation, Ponce de Leon Inlet, Volusia County, Florida, at a total cost of $5,533,000, with an estimated Federal cost of $3,408,000 and an estimated non-Federal cost of $2,125,000.

(14) Tampa Harbor-Big Bend Channel, Florida.—The project for navigation, Tampa Harbor-Big Bend Channel, Florida, at a total cost of $11,348,000, with an estimated Federal cost of $5,747,000 and an estimated non-Federal cost of $5,601,000.

(15) Brunswick Harbor Deepening, Georgia.—The project for navigation, Brunswick Harbor deepening, Georgia, at a total cost of $49,433,000, with an estimated Federal cost of $32,083,000 and an estimated non-Federal cost of $17,350,000.

(16) Savannah Harbor Expansion, Georgia.—

(A) In general.—Subject to subparagraph (B), the Secretary may carry out the project for navigation, Savannah Harbor expansion, Georgia, substantially in accordance with the plans, and subject to the conditions, recommended in a final report of the Chief of Engineers, with such modifications as the Secretary deems appropriate, at a total cost of $223,887,000 (of which amount a portion is authorized for implementation of the mitigation plan), with an estimated Federal cost of $141,482,000 and an estimated non-Federal cost of $82,405,000, if the final report of the Chief of Engineers is completed by December 31, 1998.

(B) CONDITIONS.—The project authorized by subparagraph (A) may be carried out only [illegible]er—

(i) the Secretary, in consultation with affected Federal, State, regional, and local entities, has reviewed and approved an Environmental Impact Statement that includes—

(I) an analysis of the impacts of project depth alternatives ranging from 42 feet through 48 feet; and

(II) a selected plan for navigation and associated mitigation plan as required by section 906(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2283); and

(ii) the Secretary of the Interior, the Secretary of Commerce, and the Administrator of the Environmental Protection Agency, with the Secretary, have approved the selected plan and have determined that the mitigation plan adequately addresses the potential environmental impacts of the project.

(C) MITIGATION REQUIREMENTS.—The mitigation plan shall be implemented in advance of or concurrently with construction of the project.

(17) GRAND FORKS, NORTH DAKOTA, AND EAST GRAND FORKS, MINNESOTA.—The project for flood damage reduction and recreation, Grand Forks, North Dakota, and East Grand Forks, Minnesota, at a total cost of $307,750,000, with an estimated Federal cost of $154,360,000 and an estimated non-Federal cost of $153,390,000.

(18) BAYOU CASSOTTE EXTENSION, PASCAGOULA HARBOR, PASCAGOULA, MISSISSIPPI.—The project for navigation, Bayou Cassotte extension, Pascagoula Harbor, Pascagoula, Mississippi, at a total cost of $5,700,000, with an estimated Federal cost of $3,705,000 and an estimated non-Federal cost of $1,995,000.

(19) TURKEY CREEK BASIN, KANSAS CITY, MISSOURI AND KANSAS CITY, KANSAS.—The project for flood damage reduction, Turkey Creek Basin, Kansas City, Missouri, and Kansas City, Kansas, at a total cost of $43,288,000 with an estimated Federal cost of $28,840,000 and an estimated non-Federal cost of $17,448,000.

(20) LOWER CAPE MAY MEADOWS, CAPE MAY POINT, NEW JERSEY.—

(A) IN GENERAL.—The shore protection project for navigation mitigation, ecosystem restoration, and hurricane and storm damage reduction, Lower Cape May Meadows, Cape May Point, New Jersey, at a total cost of $14,885,000, with an estimated Federal cost of $11,390,000 and an estimated non-Federal cost of $3,495,000.

(B) PERIODIC NOURISHMENT.—Periodic nourishment is authorized for a 50-year period at an estimated average annual cost of $4,565,000, with an estimated annual Federal cost of $3,674,000 and an estimated annual non-Federal cost of $891,000.

(21) NEW JERSEY SHORE PROTECTION, BRIGANTINE INLET TO GREAT EGG HARBOR, BRIGANTINE ISLAND, NEW JERSEY.—

(A) IN GENERAL.—The shore protection project for hurricane and storm damage reduction, New Jersey Shore protection, Brigantine Inlet to Great Egg Harbor, Brigantine Island, New Jersey, at a total cost of $4,861,000, with an estimated Federal cost of $3,160,000 and an estimated non-Federal cost of $1,701,000.

(B) PERIODIC NOURISHMENT.—Periodic nourishment is authorized for a 50-year period at an estimated average annual cost of $454,000, with an estimated annual Federal cost of $295,000 and an estimated annual non-Federal cost of $159,000.

(22) NEW JERSEY SHORE PROTECTION, TOWNSENDS INLET TO CAPE MAY INLET, NEW JERSEY.—

(A) IN GENERAL.—The shore protection project for hurricane and storm damage reduction and ecosystem restoration, New Jersey Shore protection, Townsends Inlet to Cape May Inlet, New Jersey, at a total cost of $55,204,000, with an estimated Federal cost of $35,883,000 and an estimated non-Federal cost of $19,321,000.

(B) PERIODIC NOURISHMENT.—Periodic nourishment is authorized for a 50-year period at an estimated average annual cost of $6,319,000, with an estimated annual Federal cost of $4,107,000 and an estimated annual non-Federal cost of $2,212,000.

(23) MEMPHIS HARBOR, MEMPHIS, TENNESSEE.—

(A) IN GENERAL.—Subject to subparagraph (B), the project for navigation, Memphis Harbor, Memphis, Tennessee, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4145) and deauthorized under section 1001(a) of that Act (33 U.S.C. 579a(a)) is authorized to be carried out by the Secretary.

(B) CONDITION.—No construction may be initiated unless the Secretary determines through a general reevaluation report using current data, that the project is technically sound, environmentally acceptable, and economically justified.

(24) METRO CENTER LEVEE, CUMBERLAND RIVER, NASHVILLE, TENNESSEE.—The project for flood damage reduction and recreation, Metro Certer Levee, Cumberland River, Nashville, Tennessee, at a total cost of $5,931,000, with an estimated Federal cost of $3,753,000 and an estimated non-Federal cost of $2,178,000.

(25) HOWARD HANSON DAM, WASHINGTON.—The project for water supply and ecosystem restoration, Howard Hanson Dam, Washington, at a total cost of $74,908,000, with an estimated Federal cost of $36,284,000 and an estimated non-Federal cost of $38,624,000.

SEC. 103. PROJECT MODIFICATIONS.

(a) PROJECTS WITH REPORTS.—

(1) GLENN-COLUSA, CALIFORNIA.—The project for flood control, Sacramento River, California, authorized by section 2 of the Act entitled "An Act to provide for the control of the floods of the Mississippi River and of the Sacramento River, California, and for other purposes", approved March 1, 1917 (39 Stat. 949), and modified by section 102 of the Energy and Water Development Appropriations Act, 1990 (103 Stat. 649), and further modified by section 301(b)(3) of the Water Resources Development Act of 1996 (110 Stat. 3709), is further modified to authorize the Secretary to carry out the portion of the project in Glenn-Colusa, California, in accordance with the Corps of Engineers report dated May 22, 1998, at a total cost of $20,700,000, with an estimated Federal cost of $15,570,000 and an estimated non-Federal cost of $5,130,000.

(2) SAN LORENZO RIVER, CALIFORNIA.—The project for flood control, San Lorenzo River, California, authorized by section 101(a)(5) of the Water Resources Development Act of 1996 (110 Stat. 3663), is modified to authorize the Secretary to include as a part of the project streambank erosion control measures to be undertaken substantially in accordance with the report entitled "Bank Stabilization Concept, Laurel Street Extension", dated April 23, 1998, at a total cost of $4,000,000, with an estimated Federal cost of $2,600,000 and an estimated non-Federal cost of $1,400,000.

(3) WOOD RIVER, GRAND ISLAND, NEBRASKA.—The project for flood control, Wood River, Grand Island, Nebraska, authorized by section 101(a)(19) of the Water Resources Development Act of 1996 (110 Stat. 3665) is modified to authorize the Secretary to construct the project in accordance with the Corps of Engineers report dated June 29, 1998, at a total cost of $16,632,000, with an estimated Federal cost of $9,508,000 and an estimated non-Federal cost of $7,124,000.

(4) ABSECON ISLAND, NEW JERSEY.—The project for Absecon Island, New Jersey, authorized by section 101(b)(13) of the Water Resources Development Act of 1996 (110 Stat. 3668) is amended to authorize the Secretary to reimburse the non-Federal interests for all work performed, consistent with the authorized project.

(5) WAURIKA LAKE, OKLAHOMA, WATER CONVEYANCE FACILITIES.—The requirement for the Waurika Project Master Conservancy District to repay the $2,900,000 in costs (including interest) resulting from the October 1991 settlement of the claim of the Travelers Insurance Company before the United States Claims Court related to construction of the water conveyance facilities authorized by the first section of Public Law 88–253 (77 Stat. 841) is waived.

(b) PROJECTS SUBJECT TO REPORTS.—The following projects are modified as follows, except, that no funds may be obligated to carry out work under such modifications until completion of a final report by the Chief of Engineers, as approved by the Secretary, finding that such work is technically sound, environmentally acceptable, and economically justified, as applicable:

(1) SACRAMENTO METRO AREA, CALIFORNIA.—The project for flood control, Sacramento Metro Area, California, authorized by section 101(4) of the Water Resources Development Act of 1992 (106 Stat. 4801) is modified to authorize the Secretary to construct the project at a total cost of $32,600,000, with an estimated Federal cost of $24,500,000 and an estimated non-Federal cost of $8,100,000.

(2) THORNTON RESERVOIR, COOK COUNTY, ILLINOIS.—

(A) IN GENERAL.—The Thornton Reservoir project, an element of the project for flood control, Chicagoland Underflow Plan, Illinois, authorized by section 3(a)(5) of the Water Resources Development Act of 1988 (102 Stat. 4013), is modified to authorize the Secretary to include additional permanent flood control storage attributable to the Thorn Creek Reservoir project, Little Calumet River Watershed, Illinois, approved under the Watershed Protection and Flood Prevention Act (16 U.S.C. 1001 et seq.).

(B) COST SHARING.—Costs for the Thornton Reservoir project shall be shared in accordance with section 103 of the Water Resources Development Act of 1986 (33 U.S.C. 2213).

(C) TRANSITIONAL STORAGE.—The Secretary of Agriculture may cooperate with non-Federal interests to provide, on a transitional basis, flood control storage for the Thorn Creek Reservoir project in the west lobe of the Thornton quarry.

(D) CREDITING.—The Secretary may credit against the non-Federal share of the Thornton Reservoir project all design and construction costs incurred by the non-Federal interests before the date of enactment of this Act.

(E) REEVALUATION REPORT.—The Secretary shall determine the credits authorized by subparagraph (D) that are integral to the Thornton Reservoir project and the current total project costs based on a limited reevaluation report.

(3) WELLS HARBOR, WELLS, MAINE.—

(A) IN GENERAL.—The project for navigation, Wells Harbor, Maine, authorized by section 101 of the River and Harbor Act of 1960 (74 Stat. 480), is modified to authorize the Secretary to realign the channel and anchorage areas based on a harbor design capacity of 150 craft.

(B) DEAUTHORIZATION OF CERTAIN PORTIONS.—The following portions of the project are not authorized after the date of enactment of this Act:

(i) The portion of the 6-foot channel the boundaries of which begin at a point with coordinates N177,992.00, E394,831.00, thence running south 83 degrees 58 minutes 14.8 seconds west 10.38 feet to a point N177,990.91, E394,820.68, thence running south 11 degrees 46 minutes 47.7 seconds west 991.76 feet to a point N177,020.04, E394,618.21, thence running south 78 degrees 13 minutes 45.7 seconds east 10.00 feet to a point N177,018.00, E394,628.00, thence running north 11 degrees 46 minutes 22.8 seconds east 994.93 feet to the point of origin.

(ii) The portion of the 6-foot anchorage the boundaries of which begin at a point with coordinates N177,778.07, E394,336.96, thence running south 51 degrees 58 minutes 32.7 seconds west 15.49 feet to a point N177,768.53, E394,324.76, thence running south 11 degrees 46 minutes 26.5 seconds west 672.87 feet to a point N177,109.82, E394,187.46, thence running south 78 degrees 13 minutes 45.7 seconds east 10.00 feet to a point N177,107.78, E394,197.25, thence running north 11 degrees 46 minutes 25.4 seconds east 684.70 feet to the point of origin.

(iii) The portion of the 10-foot settling basin the boundaries of which begin at a point with coordinates N177,107.78, E394,197.25, thence running north 78 degrees 13 minutes 45.7 seconds west 10.00 feet to a point N177,109.82, E394,187.46, thence running south 11 degrees 46 minutes 15.7 seconds west 300.00 feet to a point N176,816.13, E394,126.26, thence running south 78 degrees 12 minutes 21.4 seconds east 9.98 feet to a point N176,814.09, E394,136.03, thence running north 11 degrees 46 minutes 29.1 seconds east 300.00 feet to the point of origin.

(iv) The portion of the 10-foot settling basin the boundaries of which begin at a point with coordinates N177,018.00, E394,628.00, thence running north 78 degrees 13 minutes 45.7 seconds west 10.00 feet to a point N177,020.04, E394,618.21, thence running south 11 degrees 46 minutes 44.0 seconds west 300.00 feet to a point N176,726.36, E394,556.97, thence running south 78 degrees 12 minutes 30.3 seconds east 10.03 feet to a point N176,724.31, E394,566.79, thence running north 11 degrees 46 minutes 22.4 seconds east 300.00 feet to the point of origin.

(C) REDESIGNATIONS.—The following portions of the project shall be redesignated as part of the 6-foot anchorage:

(i) The portion of the 6-foot channel the boundaries of which begin at a point with coordinates N177,990.91, E394,820.68, thence running south 83 degrees 58 minutes 40.8 seconds west 94.65 feet to a point N177,980.98, E394,726.55, thence running south 11 degrees 46 minutes 22.4 seconds west 962.83 feet to a point N177,038.40, E394,530.10, thence running south 78 degrees 13 minutes 45.7 seconds east 90.00 feet to a point N177,020.04, E394,618.21, thence running north 11 degrees 46 minutes 47.7 seconds east 991.76 feet to the point of origin.

(ii) The portion of the 10-foot inner harbor settling basin the boundaries of which begin at a point with coordinates N177,020.04, E394,618.21, thence running north 78 degrees 13 minutes 30.5 seconds west 160.00 feet to a point N177,052.69, E394,461.58, thence running south 11 degrees 46 minutes 45.4 seconds west 299.99 feet to a point N176,759.02, E394,400.34, thence running south 78 degrees 13 minutes 17.9 seconds east 160 feet to a point N176,726.36, E394,556.97, thence running north 11 degrees 46 minutes 44.0 seconds east 300.00 feet to the point of origin.

(iii) The portion of the 6-foot anchorage the boundaries of which begin at a point with coordinates N178,102.26, E394,751.83, thence running south 51 degrees 59 minutes 42.1 seconds west 526.51 feet to a point N177,778.07, E394,336.96, thence running south 11 degrees 46 minutes 26.6 seconds west 511.83 feet to a point N177,277.01, E394,232.52, thence running south 78 degrees 13 minutes 17.9 seconds east 80.00 feet to a point N177,260.68, E394,310.84, thence running north 11 degrees 46 minutes 24.8 seconds east 482.54 feet to a point N177,733.07, E394,409.30, thence running north 51 degrees 59 minutes 41.0 seconds east 402.63 feet to a point N177,980.98, E394,726.55, thence running north 11 degrees 46 minutes 27.6 seconds east 123.89 feet to the point of origin.

(D) REALIGNMENT.—The 6-foot anchorage area described in subparagraph (C)(iii) shall be realigned to include the area located south of the inner harbor settling basin in existence on the date of enactment of this Act beginning at a point with coordinates N176,726.36, E394,556.97, thence running north 78 degrees 13 minutes 17.9 seconds west 160.00 feet to a point N176,759.02, E394,400.34, thence running south 11 degrees 47 minutes 03.8 seconds west 45 feet to a point N176,714.97, E394,391.15, thence running south 78 degrees 13 minutes 17.9 seconds 160.00 feet to a point N176,682.31, E394,547.78, thence running north 11 degrees 47 minutes 03.8 seconds east 45 feet to the point of origin.

(E) RELOCATION.—The Secretary may relocate the settling basin feature of the project to the outer harbor between the jetties.

(4) NEW YORK HARBOR AND ADJACENT CHANNELS, PORT JERSEY, NEW JERSEY.—The project for navigation, New York Harbor and Adjacent Channels, Port Jersey, New Jersey, authorized by section 202(b) of the Water Resources Development Act of 196 (100 Stat. 4098), is modified to authorize the Secretary to construct the project at a total cost of $100,689,000, with an estimated Federal cost of $74,998,000 and an estimated non-Federal cost of $25,701,000.

(5) ARTHUR KILL, NEW YORK AND NEW JERSEY.—

(A) IN GENERAL.—The project for navigation, Arthur Kill, New York and New Jersey, authorized by section 202(b) of the Water Resources Development Act of 1986 (100 Stat. 4098) and modified by section 301(b)(11) of the Water Resources Development Act of 1996 (110 Stat. 3711), is further modified to authorize the Secretary to construct the project at a total cost of $269,672,000, with an estimated Federal cost of $178,400,000 and an estimated non-Federal cost of $91,272,000.

(B) BERTHING AREAS AND OTHER LOCAL SERVICE FACILITIES.—The non-Federal interests shall provide berthing areas and other local service facilities necessary for the project at an estimated cost of $37,936,000.

(c) BEAVER LAKE, ARKANSAS, WATER SUPPLY STORAGE REALLOCATION.—The Secretary shall reallocate approximately 31,000 additional acre-feet at Beaver Lake, Arkansas, to water supply storage at no cost to the Beaver Water District or the Carroll-Boone Water District, except that at no time shall the bottom of the conservation pool be at an elevation that is less than 1,076 feet, NGVD.

(d) TOLCHESTER CHANNEL S-TURN, BALTIMORE, MARYLAND.—The project for navigation, Baltimore Harbor and Channels, Maryland, authorized by section 101 of the River and Harbor Act of 1958 (72 Stat. 297), is modified to direct the Secretary to straighten the Tolchester Channel S-turn as part of project maintenance.

(e) TROPICANA WASH AND FLAMINGO WASH, NEVADA.—Any Federal costs associated with the Tropicana and Flamingo Washes, Nevada, authorized by section 101(13) of the Water Resources Development Act of 1992 (106 Stat. 4803), incurred by the non-Federal interest to accelerate or modify construction of the project, in cooperation with the Corps of Engineers, shall be considered to be eligible for reimbursement by the Secretary.

(f) REDIVERSION PROJECT, COOPER RIVER, CHARLESTON HARBOR, SOUTH CAROLINA.—

(1) IN GENERAL.—The rediversion project, Cooper River, Charleston Harbor, South Carolina, authorized by section 101 of the River and Harbor Act of 1968 (82 Stat. 731) and modified by title I of the Energy and Water Development Appropriations Act, 1992 (105 Stat. 517), is modified to authorize the Secretary to pay the State of South Carolina not more than $3,750,000, if the State enters into an agreement with the Secretary providing that the State shall perform all future operation of the St. Stephen, South Carolina, fish lift (including associated studies to assess the efficacy of the fish lift).

(2) CONTENTS.—The agreement shall specify the terms and conditions under which payment will be made and the rights of, and remedies available to, the Secretary to recover all or a portion of the payment if the State suspends or terminates operation of the fish lift or fails to perform the operation in a manner satisfactory to the Secretary.

(3) MAINTENANCE.—Maintenance of the fish lift shall remain a Federal responsibility.

(g) FLOOD MITIGATION NEAR PIERRE, SOUTH DAKOTA.—

(1) IN GENERAL.—

(A) LAND ACQUISITION.—To provide full operational capability to carry out the authorized purposes of the Missouri River Main Stem dams that are part of the Pick-Sloan Missouri River Basin Program authorized by section 9 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes" approved December 22, 1944 (58 Stat. 891), the Secretary may acquire from willing sellers such land and property in the vicinity of Pierre, South Dakota, or floodproof or relocate such property within the project area, as the Secretary determines is adversely affected by the full wintertime Oahe Powerplant releases.

(B) OWNERSHIP AND USE.—Any land that is acquired under subparagraph (A) shall be kept in public ownership and shall be dedicated and maintained in perpetuity for a use that is compatible with any remaining flood threat.

(C) REPORT.—

(i) IN GENERAL.—The Secretary shall not obligate funds to implement this paragraph until the Secretary has completed a report addressing the criteria for selecting which properties are to be acquired, relocated, or floodproofed, and a plan for implementing such measures, and has made a determination that the measures are economically justified.

(ii) DEADLINE.—The report shall be completed not later than 180 days after funding is made available.

(D) COORDINATION AND COOPERATION.—The report and implementation plan—

(i) shall be coordinated with the Federal Emergency Management Agency; and

(ii) shall be prepared in consultation with other Federal agencies, State and local officials, and residents.

(E) CONSIDERATIONS.—The report should take into account information from prior and ongoing studies.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $35,000,000.

(h) TRINITY RIVER AND TRIBUTARIES, TEXAS.—The project for flood control and navigation, Trinity River and tributaries, Texas, authorized by section 301 of the River and Harbor Act of 1965 (79 Stat. 1091), is modified to add environmental restoration as a project purpose.

(i) BEACH EROSION CONTROL AND HURRICANE PROTECTION, VIRGINIA BEACH, VIRGINIA.—

(1) ACCEPTANCE OF FUNDS.—In any fiscal year that the Corps of Engineers does not receive appropriations sufficient to meet expected project expenditures for that year, the Secretary shall accept from the city of Virginia Beach, Virginia, for purposes of the project for beach erosion control and hurricane protection, Virginia Beach, Virginia, authorized by section 501(a) of the Water Resources Development Act of 1986 (100 Stat. 4136), such funds as the city may advance for the project.

(2) REPAYMENT.—Subject to the availability of appropriations, the Secretary shall repay, without interest, the amount of any advance made under paragraph (1), from appropriations that may be provided by Congress for river and harbor, flood control, shore protection, and related projects.

(j) ELIZABETH RIVER, CHESAPEAKE, VIRGINIA.—Notwithstanding any other provision of law, after the date of enactment of this Act, the city of Chesapeake, Virginia, shall not be obligated to make the annual cash contribution required under paragraph 1(9) of the Local Cooperation Agreement dated December 12, 1978, between the Government and the city for the project for navigation, southern branch of Elizabeth River, Chesapeake, Virginia.

(k) PAYMENT OPTION, MOOREFIELD, WEST VIRGINIA.—The Secretary may permit the non-Federal interests for the project for flood control, Moorefield, West Virginia, to pay without interest the remaining non-Federal cost over a period not to exceed 30 years, to be determined by the Secretary.

(l) MIAMI DADE AGRICULTURAL AND RURAL LAND RETENTION PLAN AND SOUTH BISCAYNE, FLORIDA.—Section 528(b)(3) of the Water Resources Development Act of 1996 (110 Stat. 3768) is amended by adding at the end the following:

"(D) CREDIT AND REIMBURSEMENT OF PAST AND FUTURE ACTIVITIES.—The Secretary may afford credit to or reimburse the non-Federal sponsors (using funds authorized by subparagraph (C)) for the reasonable costs of any work that has been performed or will be performed in connection with a study or activity meeting the requirements of subparagraph (A) if—

"(i) the Secretary determines that—

"(I) the work performed by the non-Federal sponsors will substantially expedite completion of a critical restoration project; and

"(II) the work is necessary for a critical restoration project; and

"(ii) the credit or reimbursement is granted pursuant to a project-specific agreement that prescribes the terms and conditions of the credit or reimbursement.".

(m) LAKE MICHIGAN, ILLINOIS.—

(1) IN GENERAL.—The project for storm damage reduction and shoreline protection, Lake Michigan, Illinois, from Wilmette, Illinois, to the Illinois-Indiana State line, authorized by section 101(a)(12) of the Water Resources Development Act of 1996 (110 Stat. 3664), is modified to provide for reimbursement for additional project work undertaken by the non-Federal interest.

(2) CREDIT OR REIMBURSEMENT.—The Secretary shall credit or reimburse the non-Federal interest for the Federal share of project costs incurred by the non-Federal interest in designing, constructing, or reconstructing reach 2F (700 feet south of Fullerton Avenue and 500 feet north of Fullerton Avenue), reach 3M (Meigs Field), and segments 7 and 8 of reach 4 (43rd Street to 57th Street), if the non-Federal interest carries out the work in accordance with plans approved by the Secretary, at an estimated total cost of $83,300,000.

(3) REIMBURSEMENT.—The Secretary shall reimburse the non-Federal interest for the Federal share of project costs incurred by the non-Federal interest in reconstructing the revetment structures protecting Solidarity Drive in Chicago, Illinois, before the signing of the project cooperation agreement, at an estimated total cost of $7,600,000.

(n) MEASUREMENTS OF LAKE MICHIGAN DIVERSIONS, ILLINOIS.—Section 1142(b) of the Water Resources Development Act of 1986 (100 Stat. 4253) is amended by striking "$250,000 per fiscal year for each fiscal year beginning after September 30, 1986" and inserting "a total of $1,250,000 for each of fiscal years 1999 through 2003".

(o) PROJECT FOR NAVIGATION, DUBUQUE, IOWA.—The project for navigation at Dubuque, Iowa, authorized by section 101 of the River and Harbor Act of 1960 (74 Stat. 482), is modified to authorize the development of a wetland demonstration area of approximately 1.5 acres to be developed and operated by the Dubuque County Historical Society or a successor nonprofit organization.

(p) LOUISIANA STATE PENITENTIARY LEVEE.—The Secretary may credit against the non-Federal share work performed in the project area of the Louisiana State Penitentiary Levee, Mississippi River, Louisiana, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4117).

(q) JACKSON COUNTY, MISSISSIPPI.—The project for environmental infrastructure, Jackson County, Mississippi, authorized by section 219(c)(5) of the Water Resources Development Act of 1992 (106 Stat. 4835) and modified by section 504 of the Water Resources Development Act of 1996 (110 Stat. 3757), is modified to direct the Secretary to provide a credit, not to exceed $5,000,000, against the non-Federal share of the cost of the project for the costs incurred by the Jackson County Board of Supervisors since February 8, 1994, in constructing the project, if the Secretary determines that such costs are for work that the Secretary determines was compatible with and integral to the project.

(r) RICHARD B. RUSSELL DAM AND LAKE, SOUTH CAROLINA.—

(1) IN GENERAL.—Except as otherwise provided in this paragraph, the Secretary shall convey to the State of South Carolina all right, title, and interest of the United States in the parcels of land described in subparagraph (B) that are currently being managed by the South Carolina Department of Natural Resources for fish and wildlife mitigation purposes for the Richard B. Russell Dam and Lake, South Carolina, project authorized by the Flood Control Act of 1966 and modified by the Water Resources Development Act of 1986.

(2) LAND DESCRIPTION.—

(A) IN GENERAL.—The parcels of land to be conveyed are described in Exhibits A, F, and H of Army Lease No. DACW21–1–93–0910 and associated supplemental agreements or are designated in red in Exhibit A of Army License No. DACW21–3–85–1904, excluding all designated parcels in the license that are below elevation 346 feet mean sea level or that are less than 300 feet measured horizontally from the top of the power pool.

(B) MANAGEMENT OF EXCLUDED PARCELS.—Management of the excluded parcels shall continue in accordance with the terms of Army License No. DACW21–3–85–1904 until the Secretary and the State enter into an agreement under subparagraph (F).

(C) SURVEY.—The exact acreage and legal description of the land shall be determined by a survey satisfactory to the Secretary, with the cost of the survey borne by the State.

(3) COSTS OF CONVEYANCE.—The State shall be responsible for all costs, including real estate transaction and environmental compliance costs, associated with the conveyance.

(4) PERPETUAL STATUS.—

(A) IN GENERAL.—All land conveyed under this paragraph shall be retained in public ownership and shall be managed in perpetuity for fish and wildlife mitigation purposes in accordance with a plan approved by the Secretary.

(B) REVERSION.—If any parcel of land is not managed for fish and wildlife mitigation purposes in accordance with such plan, title to the parcel shall revert to the United States.

(5) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance as the Secretary considers appropriate to protect the interests of the United States.

(6) FISH AND WILDLIFE MITIGATION AGREEMENT.—

(A) IN GENERAL.—The Secretary may pay the State of South Carolina not more than $4,850,000 subject to the Secretary and the State entering into a binding agreement for the State to manage for fish and wildlife mitigation purposes in perpetuity the lands conveyed under this paragraph and excluded parcels designated in Exhibit A of Army License No. DACW21–3–85–1904.

(B) FAILURE OF PERFORMANCE.—The agreement shall specify the terms and conditions under which payment will be made and the rights of, and remedies available to, the Federal Government to recover all or a portion of the payment if the State fails to manage any parcel in a manner satisfactory to the Secretary.

(s) LAND CONVEYANCE, CLARKSTON, WASHINGTON.—

(1) IN GENERAL.—The Secretary shall convey to the Port of Clarkston, Washington, all right, title, and interest of the United States in and to a portion of the land described in the Department of the Army lease No.

DACW68-1-97-22, consisting of approximately 31 acres, the exact boundaries of which shall be determined by the Secretary and the Port of Clarkston.

(2) The Secretary may convey to the Port of Clarkston, Washington, at fair market value as determined by the Secretary, such additional land located in the vicinity of Clarkston, Washington, as the Secretary determines to be excess to the needs of the Columbia River Project and appropriate for conveyance.

(3) Terms and conditions.—The conveyances made under subsections (a) and (b) shall be subject to such terms and conditions as the Secretary determines to be necessary to protect the interests of the United States, including a requirement that the Port of Clarkston pay all administrative costs associated with the conveyances, including the cost of land surveys and appraisals and costs associated with compliance with applicable environmental laws and regulations.

(4) Use of land.—The Port of Clarkston shall be required to pay the fair market value, as determined by the Secretary, of any land conveyed pursuant to subsection (a) that is not retained in public ownership or is used for other than public park or recreation purposes, except that the Secretary shall have a right of reverter to reclaim possession and title to any such land.

(t) White River, Indiana.—The project for flood control, Indianapolis on West Fork of the White River, Indiana, authorized by section 5 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and other purposes", approved June 22, 1936 (49 Stat. 1586, chapter 688), as modified by section 323 of the Water Resources Development Act of 1996 (110 Stat. 3716), is modified to authorize the Secretary to undertake the riverfront alterations described in the Central Indianapolis Waterfront Concept Plan, dated February 1994, for the Canal Development (Upper Canal feature) and the Beveridge Paper feature, at a total cost not to exceed $25,000,000, of which $12,500,000 is the estimated Federal cost and $12,500,000 is the estimated non-Federal cost, except that no such alterations may be undertaken unless the Secretary determines that the alterations authorized by this subsection, in combination with the alterations undertaken under section 323 of the Water Resources Development Act of 1996 (110 Stat. 3716), are economically justified.

(u) Fox Point Hurricane Barrier, Providence, Rhode Island.—The project for hurricane-flood protection, Fox Point, Providence, Rhode Island, authorized by section 203 of the Flood Control Act of 1958 (72 Stat. 306) is modified to direct the Secretary to undertake the necessary repairs to the barrier, as identified in the Condition Survey and Technical Assessment dated April 1998 with Supplement dated August 1998, at a total cost of $3,000,000, with an estimated Federal cost of $1,950,000 and an estimated non-Federal cost of $1,050,000.

SEC. 104. PROJECT DEAUTHORIZATIONS.

(a) Bridgeport Harbor, Connecticut.—The portion of the project for navigation, Bridgeport Harbor, Connecticut, authorized by section 101 of the River and Harbor Act of 1958 (72 Stat. 297), consisting of a 2.4-acre anchorage area 9 feet deep and an adjacent 0.60-acre anchorage area 6 feet deep, located on the west side of Johnsons River, Connecticut, is not authorized after the date of enactment of this Act.

(b) Bass Harbor, Maine.—

(1) Deauthorization.—The portions of the project for navigation, Bass Harbor, Maine, authorized on May 7, 1962, under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577) described in paragraph (2) are not authorized after the date of enactment of this Act.

(2) Description.—The portions of the project referred to in paragraph (1) are described as follows:

(A) Beginning at a bend in the project, N149040.00, E538505.00, thence running easterly about 50.00 feet along the northern limit of the project to a point, N149061.55, E538550.11, thence running southerly about 642.08 feet to a point, N148477.64, E538817.18, thence running southwesterly about 156.27 feet to a point on the westerly limit of the project, N148348.50, E538737.02, thence running northerly about 149.00 feet along the westerly limit of the project to a bend in the project, N148489.22, E538768.09, thence running northwesterly about 610.39 feet along the westerly limit of the project to the point of origin.

(B) Beginning at a point on the westerly limit of the project, N148118.55, E538689.05, thence running southeasterly about 91.92 feet to a point, N148041.43, E538739.07, thence running southerly about 65.00 feet to a point, N147977.86, E538725.51, thence running southwesterly about 91.92 feet to a point on the westerly limit of the project, N147927.84, E538648.39, thence running northerly about 195.00 feet along the westerly limit of the project to the point of origin.

(c) Boothbay Harbor, Maine.—The project for navigation, Boothbay Harbor, Maine, authorized by the Act of July 25, 1912 (37 Stat. 201, chapter 253), is not authorized after the date of enactment of this Act.

(d) East Boothbay Harbor, Maine.—Section 364 of the Water Resources Development Act of 1996 (110 Stat. 3731) is amended by striking paragraph (9) and inserting the following:

"(9) East boothbay harbor, maine.—The project for navigation, East Boothbay Harbor, Maine, authorized by the first section of the Act entitled 'An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes', approved June 25, 1910 (36 Stat. 657).".

SEC. 105. STUDIES.

(a) Baldwin County, Alabama, Watersheds.—The Secretary of the Army shall review the report of the Chief of Engineers on the Alabama Coast published as House Document 108, 90th Congress, 1st Session, and other pertinent reports, with a view to determining whether modifications of the recommendations contained in the House Document are advisable at this time in the interest of flood damage reduction, environmental restoration and protection, water quality, and other purposes, with a special emphasis on determining the advisability of developing a comprehensive coordinated watershed management plan for the development, conservation, and utilization of water and related land resources in the watersheds in Baldwin County, Alabama.

(b) Escambia River, Alabama and Florida.—

(1) In general.—The Secretary shall review the report of the Chief of Engineers on the Escambia River, Alabama and Florida, published as House Document 350, 71st Congress, 2d Session, and other pertinent reports, to determine whether modifications of any of the recommendations contained in the House Document are advisable at this time with particular reference to Burnt Corn Creek and Murder Creek in the vicinity of Brewton, and East Brewton, Alabama, and the need for flood control, floodplain evacuation, flood warning and preparedness, environmental restoration and protection, and bank stabilization in those areas.

(2) Coordination.—The review shall be coordinated with plans of other local and Federal agencies.

(c) Caddo Levee, Red River Below Denison Dam, Arizona, Louisiana, Oklahoma, and Texas.—The Secretary shall conduct a study to determine the feasibility of undertaking a project for flood control, Caddo Levee, Red River Below Denison Dam, Arizona, Louisiana, Oklahoma, and Texas, including incorporating the existing levee, along Twelve Mile Bayou from its juncture with the existing Red River Below Denison Dam Levee approximately 26 miles upstream to its terminus at high ground in the vicinity of Black Bayou, Louisiana.

(d) Fields Landing Channel, Humboldt Harbor, California.—The Secretary—

(1) shall conduct a study for the project for navigation, Fields Landing Channel, Humboldt Harbor and Bay, California, to a depth of minus 35 feet (MLLW), and for that purpose may use any feasibility report prepared by the non-Federal sponsor under section 203 of the Water Resources Development Act of 1986 (33 U.S.C. 2231) for which reimbursement of the Federal share of the study is authorized subject to the availability of appropriations; and

(2) may carry out the project under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577), if the Secretary determines that the project is feasible.

(e) Strawberry Creek, Berkeley, California.—The Secretary shall conduct a study to determine the feasibility of restoring Strawberry Creek, Berkeley, California, and the Federal interest in environmental restoration, conservation of fish and wildlife resources, recreation, and water quality.

(f) West Side Storm Water Retention Facility, City of Lancaster, California.—The Secretary shall conduct a study to determine the feasibility of undertaking measures to construct the West Side Storm Water Retention Facility in the city of Lancaster, California.

(g) Apalachicola River, Florida.—The Secretary shall conduct a study for the purpose of identifying—

(1) alternatives for the management of material dredged in connection with operation and maintenance of the Apalachicola River Navigation Project; and

(2) alternatives that reduce the requirements for such dredging.

(h) Broward County, Sand Bypassing at Port Everglades, Florida.—The Secretary shall conduct a study to determine the feasibility of constructing a sand bypassing project at the Port Everglades Inlet, Florida.

(i) City of Destin-Noriega Point Breakwater, Florida.—The Secretary shall conduct a study to determine the feasibility of—

(1) restoring Noriega Point, Florida, to serve as a breakwater for Destin Harbor; and

(2) including Noriega Point as part of the East Pass, Florida, navigation project.

(j) Gateway Triangle Redevelopment Area, Florida.—

(1) In general.—The Secretary shall conduct a study to determine the feasibility of undertaking measures to reduce the flooding problems in the vicinity of Gateway Triangle Redevelopment Area, Florida.

(2) Studies and reports.—The study shall include a review and consideration of studies and reports completed by the non-Federal interests.

(k) Hillsborough River, Withlacoochee River Basins, Florida.—The Secretary shall conduct a study to identify appropriate measures that can be undertaken in the Green Swamp, Withlacoochee River, and the Hillsborough River, the Water Triangle of west central Florida, to address comprehensive watershed planning for water conservation, water supply, restoration and protection of environmental resources, and other water resource-related problems in the area.

(l) CITY OF PLANT CITY, FLORIDA.—

(1) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility of a flood control project in the city of Plant City, Florida.

(2) STUDIES AND REPORTS.—In conducting the study, the Secretary shall review and consider studies and reports completed by the non-Federal interests.

(m) ST. LUCIE COUNTY, FLORIDA, SHORE PROTECTION.—The Secretary shall conduct a study to determine the feasibility of a shore protection and hurricane and storm damage reduction project to the shoreline areas in St. Lucie County from the current project for Fort Pierce Beach, Florida, southward to the Martin County line.

(n) SAINT JOSEPH RIVER, SOUTH BEND, INDIANA.—The Secretary shall conduct a study to determine the feasibility of undertaking erosion control, bank stabilization, and flood control along the Saint Joseph River, Indiana, including the South Bend Dam and the banks of the East Bank and Island Park.

(o) ACADIANA NAVIGATION CHANNEL, LOUISIANA.—The Secretary shall conduct a study to determine the feasibility of assuming operations and maintenance for the Acadiana Navigation Channel located in Iberia and Vermillion Parishes, Louisiana.

(p) CAMERON PARISH WEST OF CALCASIEU RIVER, LOUISIANA.—The Secretary shall conduct a study to determine the feasibility of a storm damage reduction and ecosystem restoration project for Cameron Parish west of Calcasieu River, Louisiana.

(q) BENEFICIAL USE OF DREDGED MATERIAL, COASTAL LOUISIANA.—The Secretary shall conduct a study to determine the feasibility of using dredged material from maintenance activities at Federal navigation projects in coastal Louisiana to benefit coastal areas in the State.

(r) CONTRABAND BAYOU NAVIGATION CHANNEL, LOUISIANA.—The Secretary shall conduct a study to determine the feasibility of assuming the maintenance at Contraband Bayou, Calcasieu River Ship Canal, Louisiana.

(s) GOLDEN MEADOW LOCK, LOUISIANA.—The Secretary shall conduct a study to determine the feasibility of converting the Golden Meadow floodgate into a navigation lock to be included in the Larose to Golden Meadow Hurricane Protection Project, Louisiana.

(t) GULF INTRACOASTAL WATERWAY ECOSYSTEM PROTECTION, CHEF MENTEUR TO SABINE RIVER, LOUISIANA.—

(1) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility of undertaking ecosystem restoration and protection measures along the Gulf Intracoastal Waterway from Chef Menteur to Sabine River, Louisiana.

(2) MATTERS TO BE ADDRESSED.—The study shall address saltwater intrusion, tidal scour, erosion, and other water resources related problems in that area.

(u) LAKE PONTCHARTRAIN, LOUISIANA, AND VICINITY, ST. CHARLES PARISH PUMPS.—The Secretary shall conduct a study to determine the feasibility of modifying the Lake Pontchartrain Hurricane Protection Project to include the St. Charles Parish Pumps and the modification of the seawall fronting protection along Lake Pontchartrain in Orleans Parish, from New Basin Canal on the west to the Inner Harbor Navigation Canal on the east.

(v) LAKE PONTCHARTRAIN AND VICINITY SEAWALL RESTORATION, LOUISIANA.—The Secretary shall conduct a study to determine the feasibility of undertaking structural modifications of that portion of the seawall fronting protection along the south shore of Lake Pontchartrain in Orleans Parish, Louisiana, extending approximately 5 miles from the new basin Canal on the west to the Inner Harbor Navigation Canal on the east as a part of the Lake Pontchartrain and Vicinity Hurricane Protection Project, authorized by section 204 of the Flood Control Act of 1965 (79 Stat. 1077).

(w) LOUISIANA STATE PENITENTIARY LEVEE.—The Secretary shall conduct a study of the impacts of crediting the non-Federal interests for work performed in the project area of the Louisiana State Penitentiary Levee.

(x) DETROIT RIVER, MICHIGAN, GREENWAY CORRIDOR STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility of a project for shoreline protection, frontal erosion, and associated purposes in the Detroit River shoreline area from the Belle Isle Bridge to the Ambassador Bridge in Detroit, Michigan.

(2) POTENTIAL MODIFICATIONS.—As a part of the study, the Secretary shall review potential project modifications to any existing Corps projects within the same area.

(y) ST. CLAIR SHORES FLOOD CONTROL, MICHIGAN.—The Secretary shall conduct a study to determine the feasibility of constructing a flood control project at St. Clair Shores, Michigan.

(z) TUNICA LAKE WEIR, MISSISSIPPI.—

(1) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility of constructing an outlet weir at Tunica Lake, Tunica County, Mississippi, and Lee County, Arkansas, for the purpose of stabilizing water levels in the Lake.

(2) ECONOMIC ANALYSIS.—In carrying out the study, the Secretary shall include as a part of the economic analysis the benefits derived from recreation uses at the Lake and economic benefits associated with restoration of fish and wildlife habitat.

(aa) PROTECTIVE FACILITIES FOR THE ST. LOUIS, MISSOURI, RIVERFRONT AREA.—

(1) STUDY.—The Secretary shall conduct a study to determine the optimal plan to protect facilities that are located on the Mississippi River riverfront within the boundaries of St. Louis, Missouri.

(2) REQUIREMENTS.—In conducting the study, the Secretary shall—

(A) evaluate alternatives to offer safety and security to facilities; and

(B) use state-of-the-art techniques to best evaluate the current situation, probable solutions, and estimated costs.

(3) REPORT.—Not later than April 15, 1999, the Secretary shall submit to Congress a report on the results of the study.

(bb) YELLOWSTONE RIVER, MONTANA.—

(1) STUDY.—The Secretary shall conduct a comprehensive study of the Yellowstone River from Gardiner, Montana to the confluence of the Missouri River to determine the hydrologic, biological, and socioeconomic cumulative impacts on the river.

(2) CONSULTATION AND COORDINATION.—The Secretary shall conduct the study in consultation with the United States Fish and Wildlife Service, the United States Geological Survey, and the Natural Resources Conservation Service and with the full participation of the State of Montana and tribal and local entities, and provide for public participation.

(3) REPORT.—Not later than 5 years after the date of enactment of this Act, the Secretary shall submit a report to Congress on the results of the study.

(cc) LAS VEGAS VALLEY, NEVADA.—

(1) IN GENERAL.—The Secretary shall conduct a comprehensive study of water resources located in the Las Vegas Valley, Nevada.

(2) OBJECTIVES.—The study shall identify problems and opportunities related to ecosystem restoration, water quality, particularly the quality of surface runoff, water supply, and flood control.

(dd) CAMDEN AND GLOUCESTER COUNTIES, NEW JERSEY, STREAMS AND WATERSHEDS.—The Secretary shall conduct a study to determine the feasibility of undertaking ecosystem restoration, floodplain management, flood control, water quality control, comprehensive watershed management, and other allied purposes along tributaries of the Delaware River, Camden County and Gloucester County, New Jersey.

(ee) OSWEGO RIVER BASIN, NEW YORK.—The Secretary shall conduct a study to determine the feasibility of establishing a flood forecasting system within the Oswego River basin, New York.

(ff) PORT OF NEW YORK-NEW JERSEY NAVIGATION STUDY AND ENVIRONMENTAL RESTORATION STUDY.—

(1) NAVIGATION STUDY.—The Secretary shall conduct a comprehensive study of navigation needs at the Port of New York-New Jersey (including the South Brooklyn Marine and Red Hook Container Terminals, Staten Island, and adjacent areas) to address improvements, including deepening of existing channels to depths of 50 feet or greater, that are required to provide economically efficient and environmentally sound navigation to meet current and future requirements.

(2) ENVIRONMENTAL RESTORATION STUDY.—The Secretary, acting through the Chief of Engineers, shall review the report of the Chief of Engineers on the New York Harbor, printed in the House Management Plan of the Harbor Estuary Program, and other pertinent reports concerning the New York Harbor Region and the Port of New York-New Jersey, to determine the Federal interest in advancing harbor environmental restoration.

(3) REPORT.—The Secretary may use funds from the ongoing navigation study for New York and New Jersey Harbor to complete a reconnaissance report for environmental restoration by December 31, 1999. The navigation study to deepen New York and New Jersey Harbor shall consider beneficial use of dredged material.

(gg) BANK STABILIZATION, MISSOURI RIVER, NORTH DAKOTA.—

(1) STUDY.—

(A) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility of bank stabilization on the Missouri River between the Garrison Dam and Lake Oahe in North Dakota.

(B) ELEMENTS.—In conducting the study, the Secretary shall study—

(i) options for stabilizing the erosion sites on the banks of the Missouri River between the Garrison Dam and Lake Oahe identified in the report developed by the North Dakota State Water Commission, dated December 1997, including stabilization through nontraditional measures;

(ii) the cumulative impact of bank stabilization measures between the Garrison

Dam and Lake Oahe on fish and wildlife habitat and the potential impact of additional stabilization measures, including the impact of nontraditional stabilization measures;

(iii) the current and future effects, including economic and fish and wildlife habitat effects, that bank erosion is having on creating the delta at the beginning of Lake Oahe; and

(iv) the impact of taking no additional measures to stabilize the banks of the Missouri River between the Garrison Dam and Lake Oahe.

(C) Interested parties.—In conducting the study, the Secretary shall, to the maximum extent practicable, seek the participation and views of interested Federal, State, and local agencies, landowners, conservation organizations, and other persons.

(D) Report.—

(i) In general.—The Secretary shall report to Congress on the results of the study not later than 1 year after the date of enactment of this Act.

(ii) Status.—If the Secretary cannot complete the study and report to Congress by the day that is 1 year after the date of enactment of this Act, the Secretary shall, by that day, report to Congress on the status of the study and report, including an estimate of the date of completion.

(2) Effect on existing projects.—This subsection does not preclude the Secretary from establishing or carrying out a stabilization project that is authorized by law.

(hh) Santee Delta Wetland Habitat, South Carolina.—Not later than 18 months after the date of enactment of this Act, the Secretary shall complete a comprehensive study of the ecosystem in the Santee Delta focus area of South Carolina to determine the feasibility of undertaking measures to enhance the wetland habitat in the area.

(ii) Waccamaw River, South Carolina.—The Secretary shall conduct a study to determine the feasibility of a flood control project for the Waccamaw River in Horry County, South Carolina.

(jj) Upper Susquehanna-Lackawanna, Pennsylvania, Watershed Management and Restoration Study.—

(1) In general.—The Secretary shall conduct a study to determine the feasibility of a comprehensive flood plain management and watershed restoration project for the Upper Susquehanna-Lackawanna Watershed, Pennsylvania.

(2) Geographic information system.—In conducting the study, the Secretary shall use a geographic information system.

(3) Plans.—The study shall formulate plans for comprehensive flood plain management and environmental restoration.

(4) Crediting.—Non-Federal interests may receive credit for in-kind services and materials that contribute to the study. The Secretary may credit non-Corps Federal assistance provided to the non-Federal interest toward the non-Federal share of study costs to the maximum extent authorized by law.

(kk) Niobrara River and Missouri River Sedimentation Study, South Dakota.—The Secretary shall conduct a study of the Niobrara River watershed and the operations of Fort Randall Dam and Gavins Point Dam on the Missouri River to determine the feasibility of alleviating the bank erosion, sedimentation, and related problems in the lower Niobrara River and the Missouri River below Fort Randall Dam.

(ll) Santa Clara River, Utah.—

(1) In general.—The Secretary shall conduct a study to determine the feasibility of undertaking measures to alleviate damage caused by flooding, bank erosion, and sedimentation along the watershed of the Santa Clara River, Utah, above the Gunlock Reservoir.

(2) Contents.—The study shall include an analysis of watershed conditions and water quality, as related to flooding and bank erosion, along the Santa Clara River in the vicinity of the town of Gunlock, Utah.

(mm) City of Ocean Shores Shore Protection Project, Washington.—The Secretary shall conduct a study to determine the feasibility of undertaking a project for beach erosion and flood control, including relocation of a primary dune and periodic nourishment, at Ocean Shores, Washington.

(nn) Agat Small Boat Harbor, Guam.—The Secretary shall conduct a study to determine the feasibility of undertaking the repair and reconstruction of Agat Small Boat Harbor, Guam, including the repair of existing shore protection measures and construction or a revetment of the breakwater seawall.

(oo) Apra Harbor Seawall, Guam.—The Secretary shall conduct a study to determine the feasibility of undertaking measures to repair, upgrade, and extend the seawall protecting Apra Harbor, Guam, and to ensure continued access to the harbor via Route 11B.

(pp) Apra Harbor Fuel Piers, Guam.—The Secretary shall conduct a study to determine the feasibility of undertaking measures to upgrade the piers and fuel transmission lines at the fuel piers in the Apra Harbor, Guam, and measures to provide for erosion control and protection against storm damage.

(qq) Maintenance Dredging of Harbor Piers, Guam.—The Secretary shall conduct a study to determine the feasibility of Federal maintenance of areas adjacent to piers at harbors in Guam, including Apra Harbor, Agat Harbor, and Agana Marina.

(rr) Alternative Water Sources Study.—

(1) In general.—The Administrator of the Environmental Protection Agency shall conduct a study of the water supply needs of States that are not currently eligible for assistance under title XVI of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. 390h et seq.).

(2) Requirements.—The study shall—

(A) identify the water supply needs (including potable, commercial, industrial, recreational and agricultural needs) of each State described in paragraph (1) through 2020, making use of such State, regional, and local plans, studies, and reports as are available;

(B) evaluate the feasibility of various alternative water source technologies such as reuse and reclamation of wastewater and stormwater (including indirect potable reuse), aquifer storage and recovery, and desalination to meet the anticipated water supply needs of the States; and

(C) assess how alternative water sources technologies can be utilized to meet the identified needs.

(3) Report.—The Administrator shall report to Congress on the results of the study not more than 180 days after the date of enactment of this Act.

SEC. 106. FLOOD HAZARD MITIGATION AND RIVERINE ECOSYSTEM RESTORATION PROGRAM.

(a) In General.—

(1) Authorization.—The Secretary may carry out a program to reduce flood hazards and restore the natural functions and values of riverine ecosystems throughout the United States.

(2) Studies.—In carrying out the program, the Secretary shall conduct studies to identify appropriate flood damage reduction, conservation, and restoration measures and may design and implement watershed management and restoration projects.

(3) Participation.—The studies and projects carried out under the program shall be conducted, to the extent practicable, with the full participation of the appropriate Federal agencies, including the Department of Agriculture, the Federal Emergency Management Agency, the Department of the Interior, the Environmental Protection Agency, and the Department of Commerce.

(4) Nonstructural approaches.—The studies and projects shall, to the extent practicable, emphasize nonstructural approaches to preventing or reducing flood damages.

(b) Cost-Sharing Requirements.—

(1) Studies.—The cost of studies conducted under subsection (a) shall be shared in accordance with section 105 of the Water Resources Development Act of 1986 (33 Stat. 2215).

(2) Projects.—The non-Federal interests shall pay 35 percent of the cost of any project carried out under this section.

(3) In-kind contributions.—The non-Federal interests shall provide all land, easements, rights-of-way, dredged material disposal areas, and relocations necessary for the projects. The value of the land, easements, rights-of-way, dredged material disposal areas, and relocations shall be credited toward the payment required under this subsection.

(4) Responsibilities of the non-Federal interests.—The non-Federal interests shall be responsible for all costs associated with operating, maintaining, replacing, repairing, and rehabilitating all projects carried out under this section.

(c) Project Justification.—

(1) In general.—The Secretary may implement a project under this section if the Secretary determines that the project—

(A) will significantly reduce potential flood damages;

(B) will improve the quality of the environment; and

(C) is justified considering all costs and beneficial outputs of the project.

(2) Selection criteria; policies and procedures.—Not later than 180 days after the date of enactment of this Act, the Secretary shall—

(A) develop criteria for selecting and rating the projects to be carried out as part of the program authorized by this section; and

(B) establish policies and procedures for carrying out the studies and projects undertaken under this section.

(d) Reporting Requirement.—The Secretary may not implement a project under this section until—

(1) the Secretary provides to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a written notification describing the project and the determinations made under subsection (c); and

(2) a period of 21 calendar days has expired following the date on which the notification was received by the Committees.

(e) Priority Areas.—In carrying out this section, the Secretary shall examine the potential for flood damage reductions at appropriate locations, including—

(1) Le May, Missouri;

(2) upper Delaware River basin, New York;

(3) Tillamook County, Oregon;

(4) Providence County, Rhode Island; and

(5) Willamette River basin, Oregon.

(f) Per-Project Limitation.—Not more than $25,000,000 in Army Civil Works appropriations may be expended on any single project undertaken under this section.

(g) Authorization of Appropriations.—

(1) In general.—There is authorized to be appropriated to carry out this section $75,000,000 for the period of fiscal years 2000 and 2001.

(2) Program funding levels.—All studies and projects undertaken under this authority from Army Civil Works appropriations shall be fully funded within the program funding levels provided in this subsection.

SEC. 107. SHORE PROTECTION.

Section 103(d) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(d)) is amended—

(1) by striking "Costs of constructing" and inserting the following:

"(1) Construction.—Costs of constructing"; and

(2) by adding at the end the following:

"(2) Periodic nourishment.—In the case of a project authorized for construction after December 31, 1998, or for which a feasibility study is completed after that date, the non-Federal cost of the periodic nourishment of projects or measures for shore protection or beach erosion control shall be 50 percent, except that—

"(A) all costs assigned to benefits to privately owned shores (where use of such shores is limited to private interests) or to prevention of losses of private land shall be borne by non-Federal interests; and

"(B) all costs assigned to the protection of federally owned shores shall be borne by the United States.".

SEC. 108. SMALL FLOOD CONTROL AUTHORITY.

Section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s) is amended—

(1) in the first sentence, by striking "construction of small projects" and inserting "implementation of small structural and nonstructural projects"; and

(2) in the third sentence, by striking "$5,000,000" and inserting "$7,000,000".

SEC. 109. USE OF NON-FEDERAL FUNDS FOR COMPILING AND DISSEMINATING INFORMATION ON FLOODS AND FLOOD DAMAGES.

Section 206(b) of the Flood Control Act of 1960 (33 U.S.C. 709a(b)) is amended in the third sentence by inserting before the period at the end the following: ", but the Secretary of the Army may accept funds voluntarily contributed by such entities for the purpose of expanding the scope of the services requested by the entities".

SEC. 110. EVERGLADES AND SOUTH FLORIDA ECOSYSTEM RESTORATION.

Subparagraphs (B) and (C)(i) of section 528(b)(3) of the Water Resources Development Act of 1996 (110 Stat. 3769) are amended by striking "1999" and inserting "2000".

SEC. 111. AQUATIC ECOSYSTEM RESTORATION.

Section 206(c) of the Water Resources Development Act of 1996 (33 U.S.C. 2330(c)) is amended—

(1) by striking "Construction" and inserting the following:

"(1) In general.—Construction"; and

(2) by adding at the end the following:

"(2) Nonprofit entities.—Notwithstanding section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), for any project carried out under this section, a non-Federal interest may include a nonprofit entity, with the consent of the affected local government.".

SEC. 112. BENEFICIAL USES OF DREDGED MATERIAL.

Section 204 of the Water Resources Development Act of 1992 (33 U.S.C. 2326) is amended by adding at the end the following:

"(g) Nonprofit Entities.—Notwithstanding section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), for any project carried out under this section, a non-Federal interest may include a nonprofit entity, with the consent of the affected local government.".

SEC. 113. VOLUNTARY CONTRIBUTIONS BY STATES AND POLITICAL SUBDIVISIONS.

Section 5 of the Act of June 22, 1936 (33 U.S.C. 701h), is amended by inserting "or environmental restoration" after "flood control".

SEC. 114. RECREATION USER FEES.

(a) Withholding of Amounts.—

(1) In general.—During fiscal years 1999 through 2002, the Secretary may withhold from the special account established under section 4(i)(1)(A) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(i)(1)(A)) 100 percent of the amount of receipts above a baseline of $34,000,000 per each fiscal year received from fees imposed at recreation sites under the administrative jurisdiction of the Department of the Army under section 4(b) of that Act (16 U.S.C. 460l–6a(b)).

(2) Use.—The amounts withheld shall be retained by the Secretary and shall be available, without further Act of appropriation, for expenditure by the Secretary in accordance with subsection (b).

(3) Availability.—The amounts withheld shall remain available until September 30, 2005.

(b) Use of Amounts Withheld.—In order to increase the quality of the visitor experience at public recreational areas and to enhance the protection of resources, the amounts withheld under subsection (a) may be used only for—

(1) repair and maintenance projects (including projects relating to health and safety);

(2) interpretation;

(3) signage;

(4) habitat or facility enhancement;

(5) resource preservation;

(6) annual operation (including fee collection);

(7) maintenance; and

(8) law enforcement related to public use.

(c) Availability.—Each amount withheld by the Secretary shall be available for expenditure, without further Act of appropriation, at the specific project from which the amount, above baseline, is collected.

SEC. 115. WATER RESOURCES DEVELOPMENT STUDIES FOR THE PACIFIC REGION.

Section 444 of the Water Resources Development Act of 1996 (110 Stat. 3747) is amended by striking "interest of navigation" and inserting "interests of water resources development (including navigation, flood damage reduction, and environmental restoration)".

SEC. 116. MISSOURI AND MIDDLE MISSISSIPPI RIVERS ENHANCEMENT PROJECT.

(a) Definitions.—In this section:

(1) Middle Mississippi river.—The term "middle Mississippi River" means the reach of the Mississippi River from the mouth of the Ohio River (river mile 0, upper Mississippi River) to the mouth of the Missouri River (river mile 195).

(2) Missouri river.—The term "Missouri River" means the main stem and floodplain of the Missouri River (including reservoirs) from its confluence with the Mississippi River at St. Louis, Missouri, to its headwaters near Three Forks, Montana.

(3) Project.—The term "project" means the project authorized by this section.

(b) Protection and Enhancement Activities.—

(1) Plan.—

(A) Development.—Not later than 180 days after the date of enactment of this Act, the Secretary shall develop a plan for a project to protect and enhance fish and wildlife habitat of the Missouri River and the middle Mississippi River.

(B) Activities.—

(i) In general.—The plan shall provide for such activities as are necessary to protect and enhance fish and wildlife habitat without adversely affecting—

(I) the water-related needs of the region surrounding the Missouri River and the middle Mississippi River, including flood control, navigation, recreation, and enhancement of water supply; and

(II) private property rights.

(ii) Required activities.—The plan shall include—

(I) modification and improvement of navigation training structures to protect and enhance fish and wildlife habitat;

(II) modification and creation of side channels to protect and enhance fish and wildlife habitat;

(III) restoration and creation of island fish and wildlife habitat;

(IV) creation of riverine fish and wildlife habitat;

(V) establishment of criteria for prioritizing the type and sequencing of activities based on cost-effectiveness and likelihood of success; and

(VI) physical and biological monitoring for evaluating the success of the project, to be performed by the River Studies Center of the United States Geological Survey in Columbia, Missouri.

(2) Implementation of activities.—

(A) In general.—Using funds made available to carry out this section, the Secretary shall carry out the activities described in the plan.

(B) Use of existing authority for unconstructed features of the project.—Using funds made available to the Secretary under other law, the Secretary shall design and construct any feature of the project that may be carried out using the authority of the Secretary to modify an authorized project, if the Secretary determines that the design and construction will—

(i) accelerate the completion of activities to protect and enhance fish and wildlife habitat of the Missouri River or the middle Mississippi River; and

(ii) be compatible with the project purposes described in this section.

(c) Integration of Other Activities.—

(1) In general.—In carrying out the activities described in subsection (b), the Secretary shall integrate the activities with other Federal, State, and tribal activities.

(2) New authority.—Nothing in this section confers any new regulatory authority on any Federal or non-Federal entity that carries out any activity authorized by this section.

(d) Public Participation.—In developing and carrying out the plan and the activities described in subsection (b), the Secretary shall provide for public review and comment in accordance with applicable Federal law, including—

(1) providing advance notice of meetings;

(2) providing adequate opportunity for public input and comment;

(3) maintaining appropriate records; and

(4) compiling a record of the proceedings of meetings.

(e) COMPLIANCE WITH APPLICABLE LAW.—In carrying out the activities described in subsections (b) and (c), the Secretary shall comply with any applicable Federal law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(f) COST SHARING.—

(1) NON-FEDERAL SHARE.—The non-Federal share of the cost of the project shall be 35 percent.

(2) FEDERAL SHARE.—The Federal share of the cost of any 1 activity described in subsection (b) shall not exceed $5,000,000.

(3) OPERATION AND MAINTENANCE.—The operation and maintenance of the project shall be a non-Federal responsibility.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to pay the Federal share of the cost of carrying out activities under this section $30,000,000 for the period of fiscal years 2000 and 2001.

SEC. 117. OUTER CONTINENTAL SHELF.

(a) SAND, GRAVEL, AND SHELL.—Section 8(k)(2)(B) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(k)(2)(B)) is amended in the second sentence by inserting before the period at the end the following: "or any other non-Federal interest subject to an agreement entered into under section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b)".

(b) REIMBURSEMENT FOR LOCAL INTERESTS AT SANDBRIDGE BEACH, VIRGINIA BEACH, VIRGINIA.—Any amounts paid by the non-Federal interests for beach erosion control and hurricane protection, Sandbridge Beach, Virginia Beach, Virginia, as a result of an assessment under section 8(k) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(k)) shall be fully reimbursed.

SEC. 118. ENVIRONMENTAL DREDGING.

Section 312(f) of the Water Resources Development Act of 1990 (33 U.S.C. 1272(f)) is amended by adding at the end the following:

"(6) Snake Creek, Bixby, Oklahoma.".

SEC. 119. BENEFIT OF PRIMARY FLOOD DAMAGES AVOIDED INCLUDED IN BENEFIT-COST ANALYSIS.

Section 308 of the Water Resources Development Act of 1990 (33 U.S.C. 2318) is amended—

(1) in the heading of subsection (a), by striking "BENEFIT-COST ANALYSIS" and inserting "ELEMENTS EXCLUDED FROM COST-BENEFIT ANALYSIS";

(2) by redesignating subsections (b) through (e) as subsections (c) through (f), respectively;

(3) by inserting after subsection (a) the following:

"(b) ELEMENTS INCLUDED IN COST-BENEFIT ANALYSIS.—The Secretary shall include primary flood damages avoided in the benefit base for justifying Federal nonstructural flood damage reduction projects."; and

(4) in the first sentence of subsection (e) (as redesignated by paragraph (2)), by striking "(b)" and inserting "(d)".

SEC. 120. CONTROL OF AQUATIC PLANT GROWTH.

Section 104(a) of the River and Harbor Act of 1958 (33 U.S.C. 610(a)) is amended—

(1) by inserting "Arundo dona," after "water-hyacinth,"; and

(2) by inserting "tarmarix" after "melaleuca".

SEC. 121. ENVIRONMENTAL INFRASTRUCTURE.

Section 219(c) of the Water Resources Development Act of 1992 (106 Stat. 4835) is amended by adding at the end the following:

"(19) LAKE TAHOE, CALIFORNIA AND NEVADA.—Regional water system for Lake Tahoe, California and Nevada.

"(20) LANCASTER, CALIFORNIA.—Fox Field Industrial Corridor water facilities, Lancaster, California.

"(21) SAN RAMON, CALIFORNIA.—San Ramon Valley recycled water project, San Ramon, California.".

SEC. 122. WATERSHED MANAGEMENT, RESTORATION, AND DEVELOPMENT.

Section 503 of the Water Resources Development Act of 1996 (110 Stat. 3756) is amended—

(1) in subsection (d)—

(A) by striking paragraph (10) and inserting the following:

"(10) Regional Atlanta Watershed, Atlanta, Georgia, and Lake Lanier of Forsyth and Hall Counties, Georgia."; and

(B) by adding at the end the following:

"(14) Clear Lake watershed, California.

"(15) Fresno Slough watershed, California.

"(16) Hayward Marsh, Southern San Francisco Bay watershed, California.

"(17) Kaweah River watershed, California.

"(18) Lake Tahoe watershed, California and Nevada.

"(19) Malibu Creek watershed, California.

"(20) Truckee River basin, Nevada.

"(21) Walker River basin, Nevada.

"(22) Bronx River watershed, New York.

"(23) Catawba River watershed, North Carolina.";

(2) by redesignating subsection (e) as subsection (f); and

(3) by inserting after subsection (d) the following:

"(e) NONPROFIT ENTITIES.—Notwithstanding section 221(b) of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b(b)), for any project undertaken under this section, with the consent of the affected local government, a non-Federal interest may include a nonprofit entity.".

SEC. 123. LAKES PROGRAM.

Section 602(a) of the Water Resources Development Act of 1986 (100 Stat. 4148) is amended—

(1) in paragraph (15), by striking "and" at the end;

(2) in paragraph (16), by striking the period at the end; and

(3) by adding at the end the following:

"(17) Clear Lake, Lake County, California, removal of silt and aquatic growth and development of a sustainable weed and algae management program;

"(18) Flints Pond, Hollis, New Hampshire, removal of excessive aquatic vegetation; and

"(19) Osgood Pond, Milford, New Hampshire, removal of excessive aquatic vegetation.".

SEC. 124. DREDGING OF SALT PONDS IN THE STATE OF RHODE ISLAND.

The Secretary may acquire for the State of Rhode Island a dredge and associated equipment with the capacity to dredge approximately 100 cubic yards per hour for use by the State in dredging salt ponds in the State.

SEC. 125. UPPER SUSQUEHANNA RIVER BASIN, PENNSYLVANIA AND NEW YORK.

Section 567(a) of the Water Resources Development Act of 1996 (110 Stat. 3787) is amended by adding at the end the following:

"(3) The Chemung River watershed, New York, at an estimated Federal cost of $5,000,000.".

SEC. 126. SMALL FLOOD CONTROL PROJECTS.

Section 102 of the Water Resources Development Act of 1996 (110 Stat. 3668) is amended—

(1) by redesignating paragraphs (15) through (22) as paragraphs (16) through (23), respectively;

(2) by inserting after paragraph (14) the following:

"(15) REPAUPO CREEK AND DELAWARE RIVER, GLOUCESTER COUNTY, NEW JERSEY.—Project for tidegate and levee improvements for Repaupo Creek and the Delaware River, Gloucester County, New Jersey."; and

(3) by adding at the end the following:

"(24) IRONDEQUOIT CREEK, NEW YORK.—Project for flood control, Irondequoit Creek watershed, New York.

"(25) TIOGA COUNTY, PENNSYLVANIA.—Project for flood control, Tioga River and Cowanesque River and their tributaries, Tioga County, Pennsylvania.".

SEC. 127. SMALL NAVIGATION PROJECTS.

Section 104 of the Water Resources Development Act of 1996 (110 Stat. 3669) is amended—

(1) by redesignating paragraphs (9) through (12) as paragraphs (10) through (13), respectively; and

(2) by inserting after paragraph (8) the following:

"(9) FORTESCUE INLET, DELAWARE BAY, NEW JERSEY.—Project for navigation for Fortescue Inlet, Delaware Bay, New Jersey.".

SEC. 128. STREAMBANK PROTECTION PROJECTS.

(a) ARCTIC OCEAN, BARROW, ALASKA.—The Secretary shall evaluate and, if justified under section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r), carry out storm damage reduction and coastal erosion measures at the town of Barrow, Alaska.

(b) SAGINAW RIVER, BAY CITY, MICHIGAN.—The Secretary may construct appropriate control structures in areas along the Saginaw River in the city of Bay City, Michigan, under authority of section 14 of the Flood Control Act of 1946 (33 Stat. 701s).

(c) YELLOWSTONE RIVER, BILLINGS, MONTANA.—The streambank protection project at Coulson Park, along the Yellowstone River, Billings, Montana, shall be eligible for assistance under section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r).

(d) MONONGAHELA RIVER, POINT MARION, PENNSYLVANIA.—The Secretary shall evaluate and, if justified under section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r), carry out streambank erosion control measures along the Monongahela River at the borough of Point Marion, Pennsylvania.

SEC. 129. AQUATIC ECOSYSTEM RESTORATION, SPRINGFIELD, OREGON.

(a) IN GENERAL.—Under section 1135 of the Water Resources Development Act of 1990 (33 Stat. 2309a) or other applicable authority, the Secretary shall conduct measures to address water quality, water flows and fish habitat restoration in the historic Springfield, Oregon, millrace through the reconfiguration of the existing millpond, if the Secretary determines that harmful impacts have occurred as the result of a previously constructed flood control project by the Corps of Engineers.

(b) NON-FEDERAL SHARE.—The non-Federal share, excluding lands, easements, rights-of-way, dredged material disposal areas, and relocations, shall be 25 percent.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,500,000.

SEC. 130. GUILFORD AND NEW HAVEN, CONNECTICUT.

The Secretary shall expeditiously complete the activities authorized under section 346 of the Water Resources Development Act of 1992 (106 Stat. 4858), including activities associated with Sluice Creek in Guilford, Connecticut, and Lighthouse Point Park in New Haven, Connecticut.

SEC. 131. FRANCIS BLAND FLOODWAY DITCH.

(a) Redesignation.—The project for flood control, Eight Mile Creek, Paragould, Arkansas, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4112) and known as "Eight Mile Creek, Paragould, Arkansas", shall be known and designated as the "Francis Bland Floodway Ditch".

(b) Legal References.—Any reference in any law, map, regulation, document, paper, or other record of the United States to the project and creek referred to in subsection (a) shall be deemed to be a reference to the Francis Bland Floodway Ditch.

SEC. 132. CALOOSAHATCHEE RIVER BASIN, FLORIDA.

Section 528(e)(4) of the Water Resources Development Act of 1996 (110 Stat. 3770) is amended in the first sentence by inserting before the period at the end the following: ", including potential land acquisition in the Caloosahatchee River basin or other areas".

SEC. 133. CUMBERLAND, MARYLAND, FLOOD PROJECT MITIGATION.

(a) In General.—The project for flood control and other purposes, Cumberland, Maryland, authorized by section 5 of the Act of June 22, 1936 (commonly known as the "Flood Control Act of 1936") (49 Stat. 1574, chapter 688), is modified to authorize the Secretary to undertake, as a separate part of the project, restoration of the historic Chesapeake and Ohio Canal substantially in accordance with the Chesapeake and Ohio Canal National Historic Park, Cumberland, Maryland, Rewatering Design Analysis, dated February 1998, at a total cost of $15,000,000, with an estimated Federal cost of $9,750,000 and an estimated non-Federal cost of $5,250,000.

(b) In-Kind Services.—The non-Federal interest for the restoration project under subsection (a)—

(1) may provide all or a portion of the non-Federal share of project costs in the form of in-kind services; and

(2) shall receive credit toward the non-Federal share of project costs for design and construction work performed by the non-Federal interest before execution of a project cooperation agreement and for land, easements, and rights-of-way required for the restoration and acquired by the non-Federal interest before execution of such an agreement.

(c) Operation and Maintenance.—The operation and maintenance of the restoration project under subsection (a) shall be the full responsibility of the National Park Service.

SEC. 134. SEDIMENTS DECONTAMINATION POLICY.

Section 405 of the Water Resources Development Act of 1992 (33 U.S.C. 2239 note; Public Law 102–580) is amended—

(1) in subsection (a), by adding at the end the following:

"(4) Practical end-use products.—Technologies selected for demonstration at the pilot scale shall result in practical end-use products.

"(5) Assistance by the secretary.—The Secretary shall assist the project to ensure expeditious completion by providing sufficient quantities of contaminated dredged material to conduct the full-scale demonstrations to stated capacity."; and

(2) in subsection (c), by striking the first sentence and inserting the following: "There is authorized to be appropriated to carry out this section a total of $22,000,000 to complete technology testing, technology commercialization, and the development of full scale processing facilities within the New York/New Jersey Harbor.".

SEC. 135. CITY OF MIAMI BEACH, FLORIDA.

Section 5(b)(3)(C)(i) of the Act of August 13, 1946 (33 U.S.C. 426h), is amended by inserting before the semicolon the following: ", including the city of Miami Beach, Florida".

SEC. 136. SMALL STORM DAMAGE REDUCTION PROJECTS.

Section 3 of the Act of August 13, 1946 (33 U.S.C. 426g), is amended by striking "$2,000,000" and inserting "$3,000,000".

SEC. 137. SARDIS RESERVOIR, OKLAHOMA.

(a) In General.—The Secretary shall accept from the State of Oklahoma or an agent of the State an amount, as determined under subsection (b), as prepayment of 100 percent of the water supply cost obligation of the State under Contract No. DACW56–74–JC–0314 for water supply storage at Sardis Reservoir, Oklahoma.

(b) Determination of Amount.—The amount to be paid by the State of Oklahoma under subsection (a) shall be subject to adjustment in accordance with accepted discount purchase methods for Government properties as determined by an independent accounting firm designated by the Director of the Office of Management and Budget.

(c) Effect.—Nothing in this section shall otherwise affect any of the rights or obligations of the parties to the contract referred to in subsection (a).

SEC. 138. UPPER MISSISSIPPI RIVER AND ILLINOIS WATERWAY SYSTEM NAVIGATION MODERNIZATION.

(a) Findings.—Congress finds that—

(1) exports are necessary to ensure job creation and an improved standard of living for the people of the United States;

(2) the ability of producers of goods in the United States to compete in the international marketplace depends on a modern and efficient transportation network;

(3) a modern and efficient waterway system is a transportation option necessary to provide United States shippers a safe, reliable, and competitive means to win foreign markets in an increasingly competitive international marketplace;

(4) the need to modernize is heightened because the United States is at risk of losing its competitive edge as a result of the priority that foreign competitors are placing on modernizing their own waterway systems;

(5) growing export demand projected over the coming decades will force greater demands on the waterway system of the United States and increase the cost to the economy if the system proves inadequate to satisfy growing export opportunities;

(6) the locks and dams on the upper Mississippi River and Illinois River waterway system were built in the 1930s and have some of the highest average delays to commercial tows in the country;

(7) inland barges carry freight at the lowest unit cost while offering an alternative to truck and rail transportation that is environmentally sound, is energy efficient, is safe, causes little congestion, produces little air or noise pollution, and has minimal social impact; and

(8) it should be the policy of the Corps of Engineers to pursue aggressively modernization of the waterway system authorized by Congress to promote the relative competitive position of the United States in the international marketplace.

(b) Preconstruction Engineering and Design.—In accordance with the Upper Mississippi River-Illinois Waterway System Navigation Study, the Secretary shall proceed immediately to prepare engineering design, plans, and specifications for extension of locks 20, 21, 22, 24, 25 on the Mississippi River and the LaGrange and Peoria Locks on the Illinois River, to provide lock chambers 110 feet in width and 1,200 feet in length, so that construction can proceed immediately upon completion of studies and authorization of projects by Congress.

SEC. 139. DISPOSAL OF DREDGED MATERIAL ON BEACHES.

Section 145 of the Water Resources Development Act of 1976 (33 U.S.C. 426j) is amended in the first sentence by striking "50" and inserting "35".

SEC. 140. FISH AND WILDLIFE MITIGATION.

Section 906(e) of the Water Resources Development Act of 1986 (33 U.S.C. 2283(e)) is amended by inserting after the second sentence the following: "Not more than 80 percent of the non-Federal share of such first costs may be in kind, including a facility, supply, or service that is necessary to carry out the enhancement project.".

SEC. 141. UPPER MISSISSIPPI RIVER MANAGEMENT.

Section 1103 of the Water Resources Development Act of 1986 (33 U.S.C. 652) is amended—

(1) in subsection (e)—

(A) by striking "(e)" and all that follows through the end of paragraph (2) and inserting the following:

"(e) Undertakings.—

"(1) In general.—

"(A) Authority.—The Secretary, in consultation with the Secretary of the Interior and the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, is authorized to undertake—

"(i) a program for the planning, construction, and evaluation of measures for fish and wildlife habitat rehabilitation and enhancement; and

"(ii) implementation of a program of long-term resource monitoring, computerized data inventory and analysis, and applied research.

"(B) Requirements for projects.—Each project carried out under subparagraph (A)(i) shall—

"(i) to the maximum extent practicable, simulate natural river processes;

"(ii) include an outreach and education component; and

"(iii) on completion of the assessment under subparagraph (D), address identified habitat and natural resource needs.

"(C) Advisory committee.—In carrying out subparagraph (A), the Secretary shall create an independent technical advisory committee to review projects, monitoring plans, and habitat and natural resource needs assessments.

"(D) Habitat and natural resource needs assessment.—

"(i) Authority.—The Secretary is authorized to undertake a systemic, river reach, and pool scale assessment of habitat and natural resource needs to serve as a blueprint to guide habitat rehabilitation and long-term resource monitoring.

"(ii) Data.—The habitat and natural resource needs assessment shall, to the maximum extent practicable, use data in existence at the time of the assessment.

"(iii) Timing.—The Secretary shall complete a habitat and natural resource needs assessment not later than 3 years after the date of enactment of this subparagraph.

"(2) Reports.—On December 31, 2005, in consultation with the Secretary of the Interior and the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, the Secretary shall prepare and submit to Congress a report that—

"(A) contains an evaluation of the programs described in paragraph (1);

"(B) describes the accomplishments of each program;

"(C) includes results of a habitat and natural resource needs assessment; and

"(D) identifies any needed adjustments in the authorization under paragraph (1) or the authorized appropriations under paragraphs (3), (4), and (5).";

(B) in paragraph (3)—

(i) by striking "paragraph (1)(A)" and inserting "paragraph (1)(A)(i)"; and

(ii) by striking "Secretary not to exceed" and all that follows and inserting "Secretary not to exceed $22,750,000 for each of fiscal years 1999 through 2009.";

(C) in paragraph (4)—

(i) by striking "paragraph (1)(B)" and inserting "paragraph (1)(A)(ii)"; and

(ii) by striking "$7,680,000" and all that follows and inserting "$10,420,000 for each of fiscal years 1999 through 2009.";

(D) by striking paragraphs (5) and (6) and inserting the following:

"(5) Authorization of appropriations.—There is authorized to be appropriated to carry out paragraph (1)(C) not to exceed $350,000 for each of fiscal years 1999 through 2009.

"(6) Transfer of amounts.—

"(A) In general.—For each fiscal year beginning after September 30, 1992, the Secretary, in consultation with the Secretary of the Interior and the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, may transfer appropriated amounts between the programs under clauses (i) and (ii) of paragraph (1)(A) and paragraph (1)(C).

"(B) Apportionment of costs.—In carrying out paragraph (1)(D), the Secretary may apportion the costs equally between the programs authorized by paragraph (1)(A)."; and

(E) in paragraph (7)—

(i) in subparagraph (A)—

(I) by inserting "(i)" after "paragraph (1)(A)"; and

(II) by inserting before the period at the end the following: "and, in the case of any project requiring non-Federal cost sharing, the non-Federal share of the cost of the project shall be 35 percent"; and

(ii) in subparagraph (B), by striking "paragraphs (1)(B) and (1)(C) of this subsection" and inserting "paragraph (1)(A)(ii)";

(2) in subsection (f)(2)—

(A) in subparagraph (A), by striking "(A)"; and

(B) by striking subparagraph (B); and

(3) by adding at the end the following:

"(k) St. Louis Area Urban Wildlife Habitat.—The Secretary shall investigate and, if appropriate, carry out restoration of urban wildlife habitat, with a special emphasis on the establishment of greenways in the St. Louis, Missouri, area and surrounding communities.".

SEC. 142. REIMBURSEMENT OF NON-FEDERAL INTEREST.

Section 211(e)(2)(A) of the Water Resources Development Act of 1996 (33 U.S.C. 701b-13(e)(2)(A)) is amended by striking "subject to amounts being made available in advance in appropriations Acts" and inserting "subject to the availability of appropriations".

SEC. 143. RESEARCH AND DEVELOPMENT PROGRAM FOR COLUMBIA AND SNAKE RIVERS SALMON SURVIVAL.

Section 511 of the Water Resources Development Act of 1996 (16 U.S.C. 3301 note; Public Law 104–303) is amended by striking subsection (a) and all that follows and inserting the following:

"(a) Salmon Survival Activities.—

"(1) In general.—In conjunction with the Secretary of Commerce and Secretary of the Interior, the Secretary shall accelerate ongoing research and development activities, and may carry out or participate in additional research and development activities, for the purpose of developing innovative methods and technologies for improving the survival of salmon, especially salmon in the Columbia/Snake River Basin.

"(2) Accelerated activities.—Accelerated research and development activities referred to in paragraph (1) may include research and development related to—

"(A) impacts from water resources projects and other impacts on salmon life cycles;

"(B) juvenile and adult salmon passage;

"(C) light and sound guidance systems;

"(D) surface-oriented collector systems;

"(E) transportation mechanisms; and

"(F) dissolved gas monitoring and abatement.

"(3) Additional activities.—Additional research and development activities referred to in paragraph (1) may include research and development related to—

"(A) studies of juvenile salmon survival in spawning and rearing areas;

"(B) estuary and near-ocean juvenile and adult salmon survival;

"(C) impacts on salmon life cycles from sources other than water resources projects;

"(D) cryopreservation of fish gametes and formation of a germ plasm repository for threatened and endangered populations of native fish; and

"(E) other innovative technologies and actions intended to improve fish survival, including the survival of resident fish.

"(4) Coordination.—The Secretary shall coordinate any activities carried out under this subsection with appropriate Federal, State, and local agencies, affected Indian tribes, and the Northwest Power Planning Council.

"(5) Report.—Not later than 3 years after the date of enactment of this section, the Secretary shall submit to Congress a report on the research and development activities carried out under this subsection, including any recommendations of the Secretary concerning the research and development activities.

"(6) Authorization of appropriations.—There is authorized to be appropriated $10,000,000 to carry out research and development activities under paragraph (3).

"(b) Advanced Turbine Development.—

"(1) In general.—In conjunction with the Secretary of Energy, the Secretary shall accelerate efforts toward developing and installing in Corps of Engineers-operated dams innovative, efficient, and environmentally safe hydropower turbines, including design of fish-friendly turbines, for use on the Columbia/Snake River hydrosystem.

"(2) Authorization of appropriations.—There is authorized to be appropriated $35,000,000 to carry out this subsection.

"(c) Management of Predation on Columbia/Snake River System Native Fishes.—

"(1) Nesting avian predators.—In conjunction with the Secretary of Commerce and the Secretary of the Interior, and consistent with a management plan to be developed by the United States Fish and Wildlife Service, the Secretary shall carry out methods to reduce nesting populations of avian predators on dredge spoil islands in the Columbia River under the jurisdiction of the Secretary.

"(2) Authorization of appropriations.—There is authorized to be appropriated $1,000,000 to carry out research and development activities under this subsection.

"(d) Implementation.—Nothing in this section affects the authority of the Secretary to implement the results of the research and development carried out under this section or any other law.".

SEC. 144. NINE MILE RUN HABITAT RESTORATION, PENNSYLVANIA.

The Secretary may credit against the non-Federal share such costs as are incurred by the non-Federal interests in preparing environmental and other preconstruction documentation for the habitat restoration project, Nine Mile Run, Pennsylvania, if the Secretary determines that the documentation is integral to the project.

SEC. 145. SHORE DAMAGE PREVENTION OR MITIGATION.

Section 111 of the River and Harbor Act of 1968 (33 U.S.C. 426(i)) is amended—

(1) in the first sentence, by striking "The Secretary" and inserting "(a) In General.—The Secretary";

(2) in the second sentence, by striking "The costs" and inserting the following:

"(b) Cost Sharing.—The costs";

(3) in the third sentence—

(A) by striking "No such" and inserting the following:

"(c) Requirement for Specific Authorization.—No such"; and

(B) by striking "$2,000,000" and inserting "$5,000,000"; and

(4) by adding at the end the following:

"(d) Coordination.—The Secretary shall—

"(1) coordinate the implementation of the measures under this section with other Federal and non-Federal shore protection projects in the same geographic area; and

"(2) to the extent practicable, combine mitigation projects with other shore protection projects in the same area into a comprehensive regional project.".

SEC. 146. LARKSPUR FERRY CHANNEL, CALIFORNIA.

The Secretary shall work with the Secretary of Transportation on a proposed solution to carry out the project to maintain the Larkspur Ferry Channel, Larkspur, California, authorized by section 601(d) of the Water Resources Development Act of 1986 (100 Stat. 4148).

SEC. 147. COMPREHENSIVE FLOOD IMPACT-RESPONSE MODELING SYSTEM.

(a) In General.—The Secretary may study and implement a Comprehensive Flood Impact-Response Modeling System for the Coralville Reservoir and the Iowa River watershed, Iowa.

(b) Study.—The study shall include—

(1) an evaluation of the combined hydrologic, geomorphic, environmental, economic, social, and recreational impacts of operating strategies within the watershed;

(2) creation of an integrated, dynamic flood impact model; and

(3) the development of a rapid response system to be used during flood and emergency situations.

(c) Report to Congress.—Not later than 5 years after the date of enactment of this Act, the Secretary shall transmit a report to Congress on the results of the study and modeling system and such recommendations as the Secretary determines to be appropriate.

(d) Authorization of Appropriations.—There is authorized to be appropriated a total of $2,250,000 to carry out this section.

SEC. 148. STUDY REGARDING INNOVATIVE FINANCING FOR SMALL AND MEDIUM-SIZED PORTS.

(a) Study.—The Comptroller General of the United States shall conduct a study and analysis of various alternatives for innovative financing of future construction, operation, and maintenance of projects in small and medium-sized ports.

(b) Report.—Not later than 270 days after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Environment and Public Works of the Senate and Committee on Transportation and Infrastructure of the House of Representatives and the results of the study and any related legislative recommendations for consideration by Congress.

SEC. 149. CANDY LAKE PROJECT, OSAGE COUNTY, OKLAHOMA.

(a) Definitions.—In this section:

(1) Fair market value.—The term "fair market value" means the amount for which a willing buyer would purchase and a willing seller would sell a parcel of land, as determined by a qualified, independent land appraiser.

(2) Previous owner of land.—The term "previous owner of land" means a person (including a corporation) that conveyed, or a descendant of a deceased individual who conveyed, land to the Army Corps of Engineers for use in the Candy Lake project in Osage County, Oklahoma.

(3) Secretary.—The term "Secretary" means the Secretary of the Army.

(b) Land Conveyances.—

(1) In general.—The Secretary shall convey, in accordance with this section, all right, title, and interest of the United States in and to the land acquired by the United States for the Candy Lake project in Osage County, Oklahoma.

(2) Previous owners of land.—

(A) In general.—The Secretary shall give a previous owner of land first option to purchase the land described in paragraph (1).

(B) Application.—

(i) In general.—A previous owner of land that desires to purchase the land described in paragraph (1) that was owned by the previous owner of land, or by the individual from whom the previous owner of land is descended, shall file an application to purchase the land with the Secretary not later than 180 days after the official date of notice to the previous owner of land under subsection (c).

(ii) First to file has first option.—If more than 1 application is filed for a parcel of land described in paragraph (1), first options to purchase the parcel of land shall be allotted in the order in which applications for the parcel of land were filed.

(C) Identification of previous owners of land.—As soon as practicable after the date of enactment of this Act, the Secretary shall, to the extent practicable, identify each previous owner of land.

(D) Consideration.—Consideration for land conveyed under this subsection shall be the fair market value of the land.

(3) Disposal.—Any land described in paragraph (1) for which an application has not been filed under paragraph (2)(B) within the applicable time period shall be disposed of in accordance with law.

(4) Extinguishment of Easements.—All flowage easements acquired by the United States for use in the Candy Lake project in Osage County, Oklahoma, are extinguished.

(c) Notice.—

(1) In general.—The Secretary shall notify—

(A) each person identified as a previous owner of land under subsection (b)(2)(C), not later than 90 days after identification, by United States mail; and

(B) the general public, not later than 90 days after the date of enactment of this Act, by publication in the Federal Register.

(2) Contents of notice.—Notice under this subsection shall include—

(A) a copy of this section;

(B) information sufficient to separately identify each parcel of land subject to this section; and

(C) specification of the fair market value of each parcel of land subject to this section.

(3) Official date of notice.—The official date of notice under this subsection shall be the later of—

(A) the date on which actual notice is mailed; or

(B) the date of publication of the notice in the Federal Register.

SEC. 150. SALCHA RIVER AND PILEDRIVER SLOUGH, FAIRBANKS, ALASKA.

The Secretary shall evaluate and, if justified under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s), carry out flood damage reduction measures along the lower Salcha River and on Piledriver Slough, from its headwaters at the mouth of the Salcha River to the Chena Lakes Flood Control Project, in the vicinity of Fairbanks, Alaska, to protect against surface water flooding.

SEC. 151. EYAK RIVER, CORDOVA, ALASKA.

The Secretary shall evaluate and, if justified under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s), carry out flood damage reduction measures along the Eyak River at the town of Cordova, Alaska.

SEC. 152. NORTH PADRE ISLAND STORM DAMAGE REDUCTION AND ENVIRONMENTAL RESTORATION PROJECT.

The Secretary shall carry out a project for ecosystem restoration and storm damage reduction at North Padre Island, Corpus Christi Bay, Texas, at a total estimated cost of $30,000,000, with an estimated Federal cost of $19,500,000 and an estimated non-Federal cost of $10,500,000, if the Secretary finds that the work is technically sound, environmentally acceptable, and economically justified.

SEC. 153. KANOPOLIS LAKE, KANSAS.

(a) Water Supply.—

(1) In general.—Not later than 1 year after the date of enactment of this Act, the Secretary, in cooperation with the State of Kansas or another non-Federal interest, shall complete a water supply reallocation study at the project for flood control, Kanopolis Lake, Kansas, as a basis on which the Secretary shall enter into negotiations with the State of Kansas or another non-Federal interest for the terms and conditions of a reallocation of the water supply.

(2) Options.—The negotiations for storage reallocation shall include the following options for evaluation by all parties:

(A) Financial terms of storage reallocation.

(B) Protection of future Federal water releases from Kanopolis Dam, consistent with State water law, to ensure that the benefits expected from releases are provided.

(C) Potential establishment of a water assurance district consistent with other such districts established by the State of Kansas.

(D) Protection of existing project purposes at Kanopolis Dam to include flood control, recreation, and fish and wildlife.

(b) In-Kind Credit.—

(1) In general.—The Secretary may negotiate a credit for a portion of the financial repayment to the Federal Government for work performed by the State of Kansas, or another non-Federal interest, on land adjacent or in close proximity to the project, if the work provides a benefit to the project.

(2) Work included.—The work for which credit may be granted may include watershed protection and enhancement, including wetland construction and ecosystem restoration.

SEC. 154. NEW YORK CITY WATERSHED.

Section 552(d) of the Water Resources Development Act of 1996 (110 Stat. 3780) is amended by striking "for the project to be carried out with such assistance" and inserting ", or a public entity designated by the State director, to carry out the project with such assistance, subject to the project's meeting the certification requirement of subsection (c)(1)".

SEC. 155. CITY OF CHARLEVOIX REIMBURSEMENT, MICHIGAN.

The Secretary shall review and, if consistent with authorized project purposes, reimburse the city of Charlevoix, Michigan, for the Federal share of costs associated with construction of the new revetment connection to the Federal navigation project at Charlevoix Harbor, Michigan.

SEC. 156. HAMILTON DAM FLOOD CONTROL PROJECT, MICHIGAN.

The Secretary may construct the Hamilton Dam flood control project, Michigan, under authority of section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s).

SEC. 157. NATIONAL CONTAMINATED SEDIMENT TASK FORCE.

(a) Definition of Task Force.—In this section, the term "Task Force" means the National Contaminated Sediment Task Force established by section 502 of the National Contaminated Sediment Assessment and Management Act (33 U.S.C. 1271 note; Public Law 102–580).

(b) Convening.—The Secretary and the Administrator shall convene the Task Force not later than 90 days after the date of enactment of this Act.

(c) Reporting on Remedial Action.—

(1) In general.—Not later than 1 year after the date of enactment of this Act, the Task Force shall submit to Congress a report on the status of remedial actions at aquatic sites in the areas described in paragraph (2).

(2) Areas.—The report under paragraph (1) shall address remedial actions in—

(A) areas of probable concern identified in the survey of data regarding aquatic sediment quality required by section 503(a) of the National Contaminated Sediment Assessment and Management Act (33 U.S.C. 1271);

(B) areas of concern within the Great Lakes, as identified under section 118(f) of the Federal Water Pollution Control Act (33 U.S.C. 1268(f));

(C) estuaries of national significance identified under section 320 of the Federal Water Pollution Control Act (33 U.S.C. 1330);

(D) areas for which remedial action has been authorized under any of the Water Resources Development Acts; and

(E) as appropriate, any other areas where sediment contamination is identified by the Task Force.

(3) Activities.—Remedial actions subject to reporting under this subsection include remedial actions under—

(A) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) or other Federal or State law containing environmental remediation authority;

(B) any of the Water Resources Development Acts;

(C) section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344); or

(D) section 10 of the Act of March 3, 1899 (30 Stat. 1151, chapter 425).

(4) Contents.—The report under paragraph (1) shall provide, with respect to each remedial action described in the report, a description of—

(A) the authorities and sources of funding for conducting the remedial action;

(B) the nature and sources of the sediment contamination, including volume and concentration, where appropriate;

(C) the testing conducted to determine the nature and extent of sediment contamination and to determine whether the remedial action is necessary;

(D) the action levels or other factors used to determine that the remedial action is necessary;

(E) the nature of the remedial action planned or undertaken, including the levels of protection of public health and the environment to be achieved by the remedial action;

(F) the ultimate disposition of any material dredged as part of the remedial action;

(G) the status of projects and the obstacles or barriers to prompt conduct of the remedial action; and

(H) contacts and sources of further information concerning the remedial action.

SEC. 158. GREAT LAKES BASIN PROGRAM.

(a) STRATEGIC PLANS.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, and every 2 years thereafter, the Secretary shall report to Congress on a plan for programs of the Army Corps of Engineers in the Great Lakes basin.

(2) CONTENTS.—The plan shall include details of the projected environmental and navigational projects in the Great Lakes basin, including—

(A) navigational maintenance and operations for commercial and recreational vessels;

(B) environmental restoration activities;

(C) water level maintenance activities;

(D) technical and planning assistance to States and remedial action planning committees;

(E) sediment transport analysis, sediment management planning, and activities to support prevention of excess sediment loadings;

(F) flood damage reduction and shoreline erosion prevention;

(G) all other activities of the Army Corps of Engineers; and

(H) an analysis of factors limiting use of programs and authorities of the Army Corps of Engineers in existence on the date of enactment of this Act in the Great Lakes basin, including the need for new or modified authorities.

(b) GREAT LAKES BIOHYDROLOGICAL INFORMATION.—

(1) INVENTORY.—

(A) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall request each Federal agency that may possess information relevant to the Great Lakes biohydrological system to provide an inventory of all such information in the possession of the agency.

(B) RELEVANT INFORMATION.—For the purpose of subparagraph (A), relevant information includes information on—

(i) ground and surface water hydrology;

(ii) natural and altered tributary dynamics;

(iii) biological aspects of the system influenced by and influencing water quantity and water movement;

(iv) meteorological projections and weather impacts on Great Lakes water levels; and

(v) other Great Lakes biohydrological system data relevant to sustainable water use management.

(2) REPORT.—

(A) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary, in consultation with the States, Indian tribes, and Federal agencies, and after requesting information from the provinces and the federal government of Canada, shall—

(i) compile the inventories of information;

(ii) analyze the information for consistency and gaps; and

(iii) submit to Congress, the International Joint Commission, and the Great Lakes States a report that includes recommendations on ways to improve the information base on the biohydrological dynamics of the Great Lakes ecosystem as a whole, so as to support environmentally sound decisions regarding diversions and consumptive uses of Great Lakes water.

(B) RECOMMENDATIONS.—The recommendations in the report under subparagraph (A) shall include recommendations relating to the resources and funds necessary for implementing improvement of the information base.

(C) CONSIDERATIONS.—In developing the report under subparagraph (A), the Secretary, in cooperation with the Secretary of State, the Secretary of Transportation, and other relevant agencies as appropriate, shall consider and report on the status of the issues described and recommendations made in—

(i) the Report of the International Joint Commission to the Governments of the United States and Canada under the 1977 reference issued in 1985; and

(ii) the 1993 Report of the International Joint Commission to the Governments of Canada and the United States on Methods of Alleviating Adverse Consequences of Fluctuating Water Levels in the Great Lakes St. Lawrence Basin.

(c) GREAT LAKES RECREATIONAL BOATING.—Not later than 18 months after the date of enactment of this Act, the Secretary shall, using information and studies in existence on the date of enactment of this Act to the maximum extent practicable, and in cooperation with the Great Lakes States, submit to Congress a report detailing the economic benefits of recreational boating in the Great Lakes basin, particularly at harbors benefiting from operation and maintenance projects of the Army Corps of Engineers.

(d) COOPERATION.—In undertaking activities under this section, the Secretary shall—

(1) encourage public participation; and

(2) cooperate, and, as appropriate, collaborate, with Great Lakes States, tribal governments, and Canadian federal, provincial, tribal governments.

(e) WATER USE ACTIVITIES AND POLICIES.—The Secretary may provide technical assistance to the Great Lakes States to develop interstate guidelines to improve the consistency and efficiency of State-level water use activities and policies in the Great Lakes basin.

(f) COST SHARING.—The Secretary may seek and accept funds from non-Federal entities to be used to pay up to 25 percent of the cost of carrying out subsections (b), (c), (d), and (e).

SEC. 159. PROJECTS FOR IMPROVEMENT OF THE ENVIRONMENT.

Section 1135(c) of the Water Resources Development Act of 1986 (33 U.S.C. 2309a(c)) is amended—

(1) by striking "If the Secretary" and inserting the following:

"(1) IN GENERAL.—If the Secretary"; and

(2) by adding at the end the following:

"(2) CONTROL OF SEA LAMPREY.—Congress finds that—

"(A) the Great Lakes navigation system has been instrumental in the spread of sea lamprey and the associated impacts to its fishery; and

"(B) the use of the authority under this subsection for control of sea lamprey at any Great Lakes basin location is appropriate.".

SEC. 160. WATER QUALITY, ENVIRONMENTAL QUALITY, RECREATION, FISH AND WILDLIFE, FLOOD CONTROL, AND NAVIGATION.

(a) IN GENERAL.—The Secretary may investigate, study, evaluate, and report on—

(1) water quality, environmental quality, recreation, fish and wildlife, flood control, and navigation in the western Lake Erie watershed, including the watersheds of the Maumee River, Ottawa River, and Portage River in the States of Indiana, Ohio, and Michigan; and

(2) measures to improve water quality, environmental quality, recreation, fish and wildlife, flood control, and navigation in the western Lake Erie basin.

(b) COOPERATION.—In carrying out studies and investigations under subsection (a), the Secretary shall cooperate with Federal, State, and local agencies and nongovernmental organizations to ensure full consideration of all views and requirements of all interrelated programs that those agencies may develop independently or in coordination with the Army Corps of Engineers.

SEC. 161. IRRIGATION DIVERSION PROTECTION AND FISHERIES ENHANCEMENT ASSISTANCE.

The Secretary may provide technical planning and design assistance to non-Federal interests and may conduct other site-specific studies to formulate and evaluate fish screens, fish passages devices, and other measures to decrease the incidence of juvenile and adult fish inadvertently entering into irrigation systems. Measures shall be developed in cooperation with Federal and State resource agencies and not impair the continued withdrawal of water for irrigation purposes. In providing such assistance priority shall be given based on the objectives of the Endangered Species Act, cost-effectiveness, and the potential for reducing fish mortality. Non-Federal interests shall agree by contract to contribute 50 percent of the cost of such assistance. Not more than one-half of such non-Federal contribution may be made by the provision of services, materials, supplies, or other in-kind services. No construction activities are authorized by this section. Not later than 2 years after the date of enactment of this section, the Secretary shall report to Congress on fish mortality caused by irrigation water intake devices, appropriate measures to reduce mortality, the extent to which such measures are currently being employed in the arid States, the construction costs associated with such measures, and the appropriate Federal role, if any, to encourage the use of such measures.

TITLE II—CHEYENNE RIVER SIOUX TRIBE, LOWER BRULE SIOUX TRIBE, AND STATE OF SOUTH DAKOTA TERRESTRIAL WILDLIFE HABITAT RESTORATION

SEC. 201. DEFINITIONS.

In this title:

(1) RESTORATION.—The term "restoration" means mitigation of the habitat of wildlife.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Army.

(3) TERRESTRIAL WILDLIFE HABITAT.—The term "terrestrial wildlife habitat" means a habitat for a wildlife species (including game and nongame species) that existed or exists on an upland habitat (including a prairie grassland, woodland, bottom land forest, scrub, or shrub) or an emergent wetland habitat.

(4) WILDLIFE.—The term "wildlife" has the meaning given the term in section 8 of the

Fish and Wildlife Coordination Act (16 U.S.C. 666b).

SEC. 202. TERRESTRIAL WILDLIFE HABITAT RESTORATION.

(a) Terrestrial Wildlife Habitat Restoration Plans.—

(1) In general.—In accordance with this subsection and in consultation with the Secretary and the Secretary of the Interior, the State of South Dakota, the Cheyenne River Sioux Tribe, and the Lower Brule Sioux Tribe shall, as a condition of the receipt of funds under this title, each develop a plan for the restoration of terrestrial wildlife habitat loss that occurred as a result of flooding related to the Big Bend and Oahe projects carried out as part of the Pick-Sloan Missouri River Basin program.

(2) Submission of plan to secretary.—On completion of a plan for terrestrial wildlife habitat restoration, the State of South Dakota, the Cheyenne River Sioux Tribe, and the Lower Brule Sioux Tribe shall submit the plan to the Secretary.

(3) Review by secretary and submission to committees.—The Secretary shall review the plan and submit the plan, with any comments, to the appropriate committees of the Senate and the House of Representatives.

(4) Funding for carrying out plans.—

(A) State of south dakota.—

(i) Notification.—On receipt of the plan for terrestrial wildlife habitat restoration submitted by the State of South Dakota, each of the Committees referred to in paragraph (3) shall notify the Secretary of the Treasury of the receipt of the plan.

(ii) Availability of funds.—On notification in accordance with clause (i), the Secretary of the Treasury shall make available to the State of South Dakota funds from the South Dakota Terrestrial Wildlife Habitat Restoration Trust Fund established under section 203, to be used to carry out the plan for terrestrial wildlife habitat restoration submitted by the State.

(B) Cheyenne river sioux tribe and lower brule sioux tribe.—

(i) Notification.—On receipt of the plan for terrestrial wildlife habitat restoration submitted by the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe, each of the Committees referred to in paragraph (3) shall notify the Secretary of the Treasury of the receipt of each of the plans.

(ii) Availability of funds.—On notification in accordance with clause (i), the Secretary of the Treasury shall make available to the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe funds from the Cheyenne River Sioux Tribe Terrestrial Wildlife Habitat Restoration Trust Fund and the Lower Brule Sioux Tribe Terrestrial Wildlife Habitat Restoration Trust Fund, respectively, established under section 204, to be used to carry out the plan for terrestrial wildlife habitat restoration submitted by the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe, respectively.

(C) Transition period.—

(i) In general.—During the period described in clause (ii), the Secretary shall—

(I) fund the terrestrial wildlife habitat restoration programs being carried out on the date of enactment of this Act on Oahe and Big Bend project land and the plans established under this section at a level that does not exceed the highest amount of funding that was provided for the programs during a previous fiscal year; and

(II) implement the programs.

(ii) Period.—Clause (i) shall apply during the period—

(I) beginning on the date of enactment of this Act; and

(II) ending on the earlier of—

(aa) the date on which funds are made available for use from the South Dakota Terrestrial Wildlife Habitat Restoration Trust Fund under section 203(d)(3)(A)(i) and the Cheyenne River Sioux Tribe Terrestrial Wildlife Habitat Restoration Trust Fund and the Lower Brule Sioux Tribe Terrestrial Wildlife Habitat Restoration Trust Fund under section 204(d)(3)(A)(i); or

(bb) the date that is 4 years after the date of enactment of this Act.

(b) Programs for the Purchase of Wildlife Habitat Leases.—

(1) In general.—The State of South Dakota may use funds made available under section 203(d)(3)(A)(iii) to develop a program for the purchase of wildlife habitat leases that meets the requirements of this subsection.

(2) Development of a plan.—

(A) In general.—If the State of South Dakota, the Cheyenne River Sioux Tribe, or the Lower Brule Sioux Tribe elects to conduct a program under this subsection, the State of South Dakota, the Cheyenne River Sioux Tribe, or the Lower Brule Sioux Tribe (in consultation with the United States Fish and Wildlife Service and the Secretary and with an opportunity for public comment) shall develop a plan to lease land for the protection and development of wildlife habitat, including habitat for threatened and endangered species, associated with the Missouri River ecosystem.

(B) Use for program.—The plan shall be used by the State of South Dakota, the Cheyenne River Sioux Tribe, or the Lower Brule Sioux Tribe in carrying out the program carried out under paragraph (1).

(3) Conditions of leases.—Each lease covered under a program carried out under paragraph (1) shall specify that the owner of the property that is subject to the lease shall provide—

(A) public access for sportsmen during hunting season; and

(B) public access for other outdoor uses covered under the lease, as negotiated by the landowner and the State of South Dakota, the Cheyenne River Sioux Tribe, or the Lower Brule Sioux Tribe.

(4) Use of assistance.—

(A) State of south dakota.—If the State of South Dakota conducts a program under this subsection, the State may use funds made available under section 203(d)(3)(A)(iii) to—

(i) acquire easements, rights-of-way, or leases for management and protection of wildlife habitat, including habitat for threatened and endangered species, and public access to wildlife on private property in the State of South Dakota;

(ii) create public access to Federal or State land through the purchase of easements or rights-of-way that traverse such private property; or

(iii) lease land for the creation or restoration of a wetland on such private property.

(B) Cheyenne river sioux tribe and lower brule sioux tribe.—If the Cheyenne River Sioux Tribe or the Lower Brule Sioux Tribe conducts a program under this subsection, the Tribe may use funds made available under section 204(d)(3)(A)(iii) for the purposes described in subparagraph (A).

(c) Federal Obligation for Terrestrial Wildlife Habitat Mitigation for the Big Bend and Oahe Projects in South Dakota.—The establishment of the trust funds under sections 203 and 204 and the development and implementation of plans for terrestrial wildlife habitat restoration developed by the State of South Dakota, the Cheyenne River Sioux Tribe, and the Lower Brule Sioux Tribe in accordance with this section shall be considered to satisfy the Federal obligation under the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.) for terrestrial wildlife habitat mitigation for the State of South Dakota, the Cheyenne River Sioux Tribe, and the Lower Brule Sioux Tribe for the Big Bend and Oahe projects carried out as part of the Pick-Sloan Missouri River Basin program.

SEC. 203. SOUTH DAKOTA TERRESTRIAL WILDLIFE HABITAT RESTORATION TRUST FUND.

(a) Establishment.—There is established in the Treasury of the United States a fund to be known as the "South Dakota Terrestrial Wildlife Habitat Restoration Trust Fund" (referred to in this section as the "Fund").

(b) Funding.—For the fiscal year during which this Act is enacted and each fiscal year thereafter until the aggregate amount deposited in the Fund under this subsection is equal to at least $108,000,000, the Secretary of the Treasury shall deposit in the Fund an amount equal to 15 percent of the receipts from the deposits in the Treasury of the United States for the preceding fiscal year from the power program of the Pick-Sloan Missouri River Basin program, administered by the Western Area Power Administration.

(c) Investments.—The Secretary of the Treasury shall invest the amounts deposited under subsection (b) only in interest-bearing obligations of the United States or in obligations guaranteed by the United States as to both principal and interest.

(d) Payments.—

(1) In general.—All amounts credited as interest under subsection (c) shall be available, without fiscal year limitation, to the State of South Dakota for use in accordance with paragraph (3).

(2) Withdrawal and transfer of funds.—Subject to section 202(a)(4)(A), the Secretary of the Treasury shall withdraw amounts credited as interest under paragraph (1) and transfer the amounts to the State of South Dakota for use as State funds in accordance with paragraph (3).

(3) Use of transferred funds.—

(A) In general.—Subject to subparagraph (B), the State of South Dakota shall use the amounts transferred under paragraph (2) only to—

(i) fully fund the annually scheduled work described in the terrestrial wildlife habitat restoration plan of the State developed under section 202(a); and

(ii) with any remaining funds—

(I) protect archaeological, historical, and cultural sites located along the Missouri River on land transferred to the State;

(II) fund all costs associated with the ownership, management, operation, administration, maintenance, and development of recreation areas and other lands that are transferred to the State of South Dakota by the Secretary;

(III) purchase and administer wildlife habitat leases under section 202(b);

(IV) carry out other activities described in section 202; and

(V) develop and maintain public access to, and protect, wildlife habitat and recreation areas along the Missouri River.

(B) Prohibition.—The amounts transferred under paragraph (2) shall not be used for the purchase of land in fee title.

(e) Transfers and Withdrawals.—Except as provided in subsection (d), the Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).

(f) Administrative Expenses.—There are authorized to be appropriated to the Secretary of the Treasury such sums as are necessary to pay the administrative expenses of the Fund.

SEC. 204. CHEYENNE RIVER SIOUX TRIBE AND LOWER BRULE SIOUX TRIBE TERRESTRIAL WILDLIFE HABITAT RESTORATION TRUST FUNDS.

(a) Establishment.—There are established in the Treasury of the United States 2 funds to be known as the "Cheyenne River Sioux Tribe Terrestrial Wildlife Restoration Trust Fund" and the "Lower Brule Sioux Tribe Terrestrial Wildlife Habitat Restoration Trust Fund" (each of which is referred to in this section as a "Fund").

(b) Funding.—

(1) In general.—Subject to paragraph (2), for the fiscal year during which this Act is enacted and each fiscal year thereafter until the aggregate amount deposited in the Funds under this subsection is equal to at least $57,400,000, the Secretary of the Treasury shall deposit in the Funds an amount equal to 10 percent of the receipts from the deposits in the Treasury of the United States for the preceding fiscal year from the power program of the Pick-Sloan Missouri River Basin program, administered by the Western Area Power Administration.

(2) Allocation.—Of the total amount of funds deposited into the Funds for a fiscal year, the Secretary of the Treasury shall deposit—

(A) 74 percent of the funds into the Cheyenne River Sioux Tribe Terrestrial Wildlife Restoration Trust Fund; and

(B) 26 percent of the funds into the Lower Brule Sioux Tribe Terrestrial Wildlife Habitat Restoration Trust Fund.

(c) Investments.—The Secretary of the Treasury shall invest the amounts deposited under subsection (b) only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

(d) Payments.—

(1) In general.—All amounts credited as interest under subsection (c) shall be available, without fiscal year limitation, to the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe for their use in accordance with paragraph (3).

(2) Withdrawal and transfer of funds.—Subject to section 202(a)(4)(B), the Secretary of the Treasury shall withdraw amounts credited as interest under paragraph (1) and transfer the amounts to the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe for use in accordance with paragraph (3).

(3) Use of transferred funds.—

(A) In general.—Subject to subparagraph (B), the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe shall use the amounts transferred under paragraph (2) only to—

(i) fully fund the annually scheduled work described in the terrestrial wildlife habitat restoration plan of the respective Tribe developed under section 202(a); and

(ii) with any remaining funds—

(I) protect archaeological, historical, and cultural sites located along the Missouri River on land transferred to the respective Tribe;

(II) fund all costs associated with the ownership, management, operation, administration, maintenance, and development of recreation areas and other lands that are transferred to the respective Tribe by the Secretary;

(III) purchase and administer wildlife habitat leases under section 202(b);

(IV) carry out other activities described in section 202; and

(V) develop and maintain public access to, and protect, wildlife habitat and recreation areas along the Missouri River.

(B) Prohibition.—The amounts transferred under paragraph (2) shall not be used for the purchase of land in fee title.

(e) Transfers and Withdrawals.—Except as provided in subsection (d), the Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).

(f) Administrative Expenses.—There are authorized to be appropriated to the Secretary of the Treasury such sums as are necessary to pay the administrative expenses of the Fund.

SEC. 205. TRANSFER OF FEDERAL LAND TO STATE OF SOUTH DAKOTA.

(a) In General.—

(1) Transfer.—

(A) In general.—The Secretary of the Army shall transfer to the Department of Game, Fish and Parks of the State of South Dakota (referred to in this section as the "Department") the land and recreation areas described in subsections (b) and (c) for fish and wildlife purposes, or public recreation uses, in perpetuity.

(B) Permits, rights-of-way, and easements.—All permits, rights-of-way, and easements granted by the Secretary of the Army to the Oglala Sioux Tribe for land on the west side of the Missouri River between the Oahe Dam and Highway 14, and all permits, rights-of-way, and easements on any other land administered by the Secretary and used by the Oglala Sioux Rural Water Supply System, are granted to the Oglala Sioux Tribe in perpetuity to be held in trust under section 3(e) of the Mni Wiconi Project Act of 1988 (102 Stat. 2568).

(2) Uses.—The Department shall maintain and develop the land outside the recreation areas for fish and wildlife purposes in accordance with—

(A) fish and wildlife purposes in effect on the date of enactment of this Act; or

(B) a plan developed under section 202.

(3) Corps of engineers.—The transfer shall not interfere with the Corps of Engineers operation of a project under this section for an authorized purpose of the project under the Act of December 22, 1944 (58 Stat. 887, chapter 665; 33 U.S.C. 701–1 et seq.), or other applicable law.

(4) Secretary of the army.—The Secretary of the Army shall retain the right to inundate with water the land transferred to the Department under this section or draw down a project reservoir, as necessary to carry out an authorized purpose of a project.

(b) Land Transferred.—The land described in this subsection is land that—

(1) is located above the top of the exclusive flood pool of the Oahe, Big Bend, Fort Randall, and Gavin's Point projects of the Pick-Sloan Missouri River Basin program;

(2) was acquired by the Secretary of the Army for the implementation of the Pick-Sloan Missouri River Basin program;

(3) is located outside the external boundaries of a reservation of an Indian Tribe; and

(4) is located within the State of South Dakota.

(c) Recreation Areas Transferred.—A recreation area described in this section includes the land and waters within a recreation area that—

(1) the Secretary of the Army determines, at the time of the transfer, is a recreation area classified for recreation use by the Corps of Engineers on the date of enactment of this Act;

(2) is located outside the external boundaries of a reservation of an Indian Tribe;

(3) is located within the State of South Dakota;

(4) is not the recreation area known as "Cottonwood", "Training Dike", or "Tailwaters"; and

(5) is located below Gavin's Point Dam in the State of South Dakota in accordance with boundary agreements and reciprocal fishing agreements between the State of South Dakota and the State of Nebraska in effect on the date of enactment of this Act, which agreements shall continue to be honored by the State of South Dakota as the agreements apply to any land or recreation areas transferred under this title to the State of South Dakota below Gavin's Point Dam and on the waters of the Missouri River.

(d) Map.—

(1) In general.—The Secretary of the Army, in consultation with the Department, shall prepare a map of the land and recreation areas transferred under this section.

(2) Land.—The map shall identify—

(A) land reasonably expected to be required for project purposes during the 20-year period beginning on the date of enactment of this Act; and

(B) dams and related structures;

which shall be retained by the Secretary.

(3) Availability.—The map shall be on file in the appropriate offices of the Secretary of the Army.

(e) Schedule for Transfer.—

(1) In general.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Army and the Secretary of the Department shall jointly develop a schedule for transferring the land and recreation areas under this section.

(2) Transfer deadline.—All land and recreation areas shall be transferred not later than 1 year after the full capitalization of the Trust Fund described in section 203.

(f) Transfer Conditions.—The land and recreation areas described in subsections (b) and (c) shall be transferred in fee title to the Department on the following conditions:

(1) Responsibility for damage.—The Secretary of the Army shall not be responsible for any damage to the land caused by flooding, sloughing, erosion, or other changes to the land caused by the operation of any project of the Pick-Sloan Missouri River Basin program (except as otherwise provided by Federal law).

(2) Easements, rights-of-way, leases, and cost-sharing agreements.—The Department shall maintain all easements, rights-of-way, leases, and cost-sharing agreements that are in effect as of the date of the transfer.

(g) Hunting and Fishing.—

(1) In general.—Nothing in this title affects jurisdiction over the land and water below the exclusive flood pool of the Missouri River within the State of South Dakota, including affected Indian reservations. The State of South Dakota, the Lower Brule Sioux Tribe, and the Cheyenne River Sioux Tribe shall continue in perpetuity to exercise the jurisdiction the State and Tribes possess on the date of enactment of this Act.

(2) No effect on respective jurisdictions.—The Secretary may not adopt any regulation or otherwise affect the respective jurisdictions of the State of South Dakota, the Lower Brule River Sioux Tribe, or the Cheyenne River Sioux Tribe described in paragraph (1).

(h) Applicability of Law.—Notwithstanding any other provision of this Act, the following provisions of law shall apply to land transferred under this section:

(1) The National Historic Preservation Act (16 U.S.C. 470 et seq.), including sections 106 and 304 of that Act (16 U.S.C. 470f, 470w–3).

(2) The Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.), including sections 4, 6, 7, and 9 of that Act (16 U.S.C. 470cc, 470ee, 470ff, 470hh).

(3) The Native American Graves Protection Act and Repatriation Act (25 U.S.C. 3001 et seq.), including subsections (a) and (d) of section 3 of that Act (25 U.S.C. 3003).

SEC. 206. TRANSFER OF CORPS OF ENGINEERS LAND FOR INDIAN TRIBES.

(a) In General.—

(1) Transfer.—The Secretary of the Army shall transfer to the Secretary of the Interior the land and recreation areas described in subsections (b) and (c).

(2) Corps of engineers.—The transfer shall not interfere with the Corps of Engineers operation of a project under this section for an authorized purpose of the project under the Act of December 22, 1944 (58 Stat. 887, chapter 665; 33 U.S.C. 701–1 et seq.), or other applicable law.

(3) Secretary of the army.—The Secretary of the Army shall retain the right to inundate with water the land transferred to the Secretary of the Interior under this section or draw down a project reservoir, as necessary to carry out an authorized purpose of a project.

(4) Trust.—The Secretary of the Interior shall hold in trust for the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe the land transferred under this section that is located within the external boundaries of the reservation of the Indian Tribes.

(b) Land Transferred.—The land described in this subsection is land that—

(1) is located above the top of the exclusive flood pool of the Big Bend and Oahe projects of the Pick-Sloan Missouri River Basin program;

(2) was acquired by the Secretary of the Army for the implementation of the Pick-Sloan Missouri River Basin program; and

(3) is located within the external boundaries of the reservation of the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe.

(c) Recreation Areas Transferred.—A recreation area described in this section includes the land and waters within a recreation area that—

(1) the Secretary of the Army determines, at the time of the transfer, is a recreation area classified for recreation use by the Corps of Engineers on the date of enactment of this Act;

(2) is located within the external boundaries of a reservation of an Indian Tribe; and

(3) is located within the State of South Dakota.

(d) Map.—

(1) In general.—The Secretary of the Army, in consultation with the governing bodies of the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe, shall prepare a map of the land transferred under this section.

(2) Land.—The map shall identify—

(A) land reasonably expected to be required for project purposes during the 20-year period beginning on the date of enactment of this Act; and

(B) dams and related structures;

which shall be retained by the Secretary.

(3) Availability.—The map shall be on file in the appropriate offices of the Secretary of the Army.

(e) Schedule for Transfer.—

(1) In general.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Army and the Chairmen of the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe shall jointly develop a schedule for transferring the land and recreation areas under this section.

(2) Transfer deadline.—All land and recreation areas shall be transferred not later than 1 year after the full capitalization of the State and tribal Trust Fund described in section 204.

(f) Transfer Conditions.—The land and recreation areas described in subsections (b) and (c) shall be transferred to, and held in trust by, the Secretary of the Interior on the following conditions:

(1) Responsibility for damage.—The Secretary of the Army shall not be responsible for any damage to the land caused by flooding, sloughing, erosion, or other changes to the land caused by the operation of any project of the Pick-Sloan Missouri River Basin program (except as otherwise provided by Federal law).

(2) Hunting and fishing.—Nothing in this title affects jurisdiction over the land and waters below the exclusive flood pool and within the external boundaries of the Cheyenne River Sioux Tribe and Lower Brule Sioux Tribe reservations. The State of South Dakota, the Lower Brule Sioux Tribe, and the Cheyenne River Sioux Tribe shall continue to exercise, in perpetuity, the jurisdiction they possess on the date of enactment of this Act with regard to those lands and waters. The Secretary may not adopt any regulation or otherwise affect the respective jurisdictions of the State of South Dakota, the Lower Brule River Sioux Tribe, or the Cheyenne River Sioux Tribe described in the preceding sentence. Jurisdiction over the land transferred under this section shall be the same as that over other land held in trust by the Secretary of the Interior on the Cheyenne River Sioux Tribe reservation and the Lower Brule Sioux Tribe reservation.

(3) Easements, rights-of-way, leases, and cost-sharing agreements.—

(A) Maintenance.—The Secretary of the Interior shall maintain all easements, rights-of-way, leases, and cost-sharing agreements that are in effect as of the date of the transfer.

(B) Payments to county.—The Secretary of the Interior shall pay any affected county 100 percent of the receipts from the easements, rights-of-way, leases, and cost-sharing agreements described in subparagraph (A).

SEC. 207. ADMINISTRATION.

(a) In General.—Nothing in this title diminishes or affects—

(1) any water right of an Indian Tribe;

(2) any other right of an Indian Tribe, except as specifically provided in another provision of this title;

(3) any treaty right that is in effect on the date of enactment of this Act;

(4) any external boundary of an Indian reservation of an Indian Tribe;

(5) any authority of the State of South Dakota that relates to the protection, regulation, or management of fish, terrestrial wildlife, and cultural and archaeological resources, except as specifically provided in this title; or

(6) any authority of the Secretary, the Secretary of the Interior, or the head of any other Federal agency under a law in effect on the date of enactment of this Act, including—

(A) the National Historic Preservation Act (16 U.S.C. 470 et seq.);

(B) the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.);

(C) the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.);

(D) the Act entitled "An Act for the protection of the bald eagle", approved June 8, 1940 (16 U.S.C. 668 et seq.);

(E) the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.);

(F) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(G) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.);

(H) the Federal Water Pollution Control Act (commonly known as the "Clean Water Act") (33 U.S.C. 1251 et seq.);

(I) the Safe Drinking Water Act (42 U.S.C. 300f et seq.); and

(J) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(b) Power Rates.—No payment made under this title shall affect any power rate under the Pick-Sloan Missouri River Basin program.

(c) Federal Liability for Damage.—Nothing in this title relieves the Federal Government of liability for damage to private land caused by the operation of the Pick-Sloan Missouri River Basin program.

(d) Flood Control.—Notwithstanding any other provision of this title, the Secretary shall retain the authority to operate the Pick-Sloan Missouri River Basin program for purposes of meeting the requirements of the Act of December 22, 1944 (58 Stat. 887, chapter 665; 33 U.S.C. 701–1 et seq.).

SEC. 208. STUDY.

(a) In General.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Army shall arrange for the United States Geological Survey, in consultation with the Bureau of Indian Affairs and other appropriate Federal agencies, to conduct a comprehensive study of the potential impacts of the transfer of land under sections 205(b) and 206(b), including potential impacts on South Dakota Sioux Tribes having water claims within the Missouri River Basin, on water flows in the Missouri River.

(b) No Transfer Pending Determination.—No transfer of land under section 205(b) or 206(b) shall occur until the Secretary determines, based on the study, that the transfer of land under either section will not significantly reduce the amount of water flow to the downstream States of the Missouri River.

SEC. 209. AUTHORIZATION OF APPROPRIATIONS.

(a) Secretary.—There are authorized to be appropriated to the Secretary such sums as are necessary—

(1) to pay the administrative expenses incurred by the Secretary in carrying out this title; and

(2) to fund the implementation of terrestrial wildlife habitat restoration plans under section 202(a).

(b) Secretary of the Interior.—There are authorized to be appropriated to the Secretary of the Interior such sums as are necessary to pay the administrative expenses incurred by the Secretary of the Interior in carrying out this title.

Mr. LOTT. Let me just say again, a lot of work went into this important legislation involving water resources. It affects States throughout the country. I am very pleased that we got this done. We worked on it in a bipartisan way. And we are hoping now that the House will act expeditiously and we can complete this legislation.

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, we do have another move we will need to make in a few minutes, but Senator DASCHLE has indicated he would wish to have an opportunity to use some leader time at this point and, depending on how things go, I may want to do the same. But we worked on these things in a cooperative way, and he is entitled to take leader time. And we have assured each other that nobody is going to try to take advantage of this time.

I yield the floor so that Senator DASCHLE can use leader time on his issue.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. I thank the majority leader.

BLOCKING HMO REFORM

Mr. DASCHLE. First, let me say that I would not have required leader time had we been following what I understand is normal procedure on the Senate floor: The majority leader is recognized first, the Democratic leader is recognized second. I was not recognized following the motion that I made, and I am very disappointed—

Mr. LEAHY. The Senate is not in order. I think the leader is entitled to be heard.

The PRESIDING OFFICER. The Senate will be in order. Please take all extraneous conversations to the cloakroom.

Mr. DASCHLE. I thank the Senator from Vermont.

I would clarify my comments by adding that the current Presiding Officer was not in the chair, nor was the current Parliamentarian. So it could have been an accident, and I will accept it as that, but I would hope that the Chair—not this particular Presiding Officer—but the Chair would always recognize the importance of following Senate rules. And Senate rules oblige the Chair to recognize either leader before any other Member.

Mr. President, I wanted the opportunity to talk about why we raised HMO reform today and why it was important that we have a vote. We had the vote on almost a partisan basis—there were a couple of our Republican colleagues who joined us, but it was largely on a partisan basis. Once again, our efforts to bring forth a bill and a debate on the Patients' Bill of Rights failed. I am disappointed because this may be the last opportunity we have to consider this issue.

We have considered a lot of items over the last couple of weeks. I have reported to the distinguished majority leader that I have heard from many of my Members on a daily basis why it is important to bring up HMO reform if we are going to bring up so many other issues. As the sponsor of the legislation, frankly, I feel much the same with regard to the priority this legislation should have.

We have attempted to deal with H.R. 10, and I have supported that effort. We have successfully dealt with Internet tax, and I supported that. We dealt with bankruptcy, and, unfortunately, that bill will be vetoed in large measure because we weren't able to come to some successful conclusion in the negotiations, but I supported that. We had time for all of those measures. That our Senate colleagues do not have the time or are unwilling to provide the priority to this legislation speaks volumes about where their real priorities are.

Democrats have said over and over again there is nothing more important than this legislation, that there is nothing more important on our agenda than passing a Patients' Bill of Rights this year.

We have held hearings throughout the year. We introduced our bill in March, S. 1890. We attempted over the last 9 months, through myriad parliamentary procedures, to be able to come to some conclusion on this issue. We even proposed working overtime, a second shift, to be able to address a Patients' Bill of Rights in a meaningful way. We even offered the bill as an amendment. We have been thwarted in every single scenario that has presented itself to the Senate to date.

Frankly, the priority that this legislation should have is probably as great a dividing line as there is between our Republican colleagues and Democratic Senators. Our Republican colleagues first urged insurers to "get out their wallets" and fight protections as though it were a war.

In April, they voted against the sense-of-the-Senate resolution regarding patients' rights—a vote against access to specialists, against protection from drive-through mastectomies, against an end to the practice of medicine by insurance company bureaucrats.

By July they had read polls and, frankly, I think they were concerned about the political implications of this issue. Then they introduced a bill, strikingly different from ours but using exactly the same title. The fact is there are now two bills entitled a Patients' Bill of Rights—one that is real and one that is not. Their bill is filled with loopholes that benefit the insurance industry. And today, once again, they have refused to debate the real issues and our real differences regarding this legislation.

Passage of real patient protections should have been the highest priority of this session of Congress. We should have ended this session celebrating bipartisan cooperation on a bill of this import.

Instead, our colleagues have thwarted us at every turn. They have ignored how real people get hurt. Over the past year, we have heard story after story of abuses that should have been addressed.

We heard about a 6-month-old by the name of James Adams, who was burning with a 105-degree fever, and his HMO forced his parents to drive to an emergency room over an hour away, even though there was a hospital closer by. Young James suffered cardiac arrest, and lost his hands and feet.

We also heard about forty-five-year-old Buddy Kuhl who died after his HMO denied and delayed heart surgery. He left a wife and two young children. We could go on with these tragedies that occur every day outside this chamber.

The tragedy within this chamber is, with all of these stories and millions and millions of people abused every year, this Congress has ignored and thwarted every effort to address the problem. There is no explanation, no excuse, no way it can be explained away.

One-hundred and eighty different groups, as disparate as they can be—from doctors and nurses organizations, to organizations representing consumers and workers, to the American Cancer Society—urged the Congress, in as strong terms as they could, to do something, resolve this problem, address it in a comprehensive way. Don't pass a sham bill. Don't say you passed something and falsely raise expectations. Don't talk about how serious the problem is and then not address it.

We have lost an opportunity to address this issue. We have lost the opportunity to provide critical protections to those who need emergency care, to those who need access to specialists, and to those who have ongoing illnesses who recognize the abuses by HMOs and are increasingly frustrated with Congress' unwillingness to deal with this issue. These are the people who recognize the importance of access to the prescription drugs a doctor prescribes as necessary. They recognize the importance of access to clinical trials. They recognize that the protection against retaliation for doctors and nurses who advocate for patients is critical. They recognize that protection from insurance companies who interfere with a doctor's best judgment is necessary.

With all the recognition of the problems that exist, with all that realization, we had an opportunity to work in a bipartisan way to resolve these matters. To leave the issue on the calendar, to leave that work undone is indeed a tragedy.

I acknowledge that our prospects for passing something this year are not good. But I will state as unequivocally as I can that this will continue to be an issue until it is resolved. This will continue to be something we will force on the Senate agenda in whatever way we can—as an amendment, moving to a motion to proceed, finding ways to reach out to the millions of Americans who need our help this year and who will certainly need it next year.

We must act responsibly. We must act comprehensively. I hope we do it sooner rather than later.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I will say at the beginning that I agree with Senator DASCHLE that this is something we should address and I believe we will address because there are some legitimate concerns and problems in this area that need to be dealt with. I am very hopeful we can do that next year.

I want to thank Senator NICKLES and our task force that worked on this issue. I want to thank Dr. BILL FRIST, a Member of the Senate, who worked on this issue. I think it is great that we actually have a doctor involved that understands what happens in this area.

I have told people, you can take your choice here of which bill is really the best bill—the one proposed by the Democratic side, led by Senator KENNEDY, or the one proposed over on the Republican side led by Dr. BILL FRIST. I think the choice is pretty clear. But thank you for your work. I do believe that we are going to address this next year. I believe we will do it in, hopefully, a responsible way and, eventually, it can be a bipartisan bill.

This effort today was clearly a planned PR effort because we were able to accidentally come across some e-mail that indicated that this was in preparation for a big hoopla down at the White House.

We have tried to get this issue up in a fair way—on June 18, three different times; on July 15, twice; on June 25, and on other occasions, I had offered a very fair process to bring this up. The Democratic proposal, sponsored by Senators DASCHLE, KENNEDY, and others, would have been offered. Our alternative proposal, the Republican proposal, would have been offered. We could have debated them both, with three amendments on both sides. It could be small amendments or big amendments—that is up to either side—and we could have had the votes and been done with it, and sent it to conference with the House. We could have completed this in June or July.

But, no, the Democrats objected. They didn't want to have the two bills head to head and amendments in order because they knew what the result would be. We had a good proposal; it was going to pass. By the way, we might actually have gotten something done.

They don't want this issue to pass. They want a political issue. We could have done this in June or July, but they objected, saying, no, we must have 20 amendments on each side. Twenty amendments; forty amendments total—days. The whole plan was to try to find a way to have the Members have to cast repeated votes on an issue that would obfuscate the difference between the two bills in reality.

So we have made an effort. We are ready to go. We would have been happy to do it in June or July. We are going to be looking for a way to do it next year. When the time comes, it won't be the Kennedy-Daschle bill. The American people don't want or need that. What we need is a fair bill. We need access. What we don't need is something that will lead to more costs and more lawsuits—hallelujah.

Is this about the patients and the doctors and health care, or is this so my brother-in-law can file another lawsuit? I have the answer. The answer is that we ought to be worrying about the patients and the health care providers in America. We have a good bill. I am proud to have supported it and to have been willing to bring it up in a fair way. We will do it, I hope, early next year.

I would be glad to yield to the assistant majority leader, Senator NICKLES, who has done great work on this.

Mr. NICKLES. Mr. President, I am disappointed that our colleagues on the Democrat side of the aisle really have tried to play politics with this issue. Many of us were very, very serious about trying to pass a positive bill that dealt with HMO organizations, with health care. We studied the issue for a long time. Senator DASCHLE said after they realized the polls, they introduced the bill in July. We worked 7 or 8 months trying to put a bill together that would be a responsible, positive bill to meet certain objectives. One, not increase the number of people in the uninsured category. Unfortunately, I think that would have happened under the Kennedy bill. It would have dramatically increased the cost of insurance and, therefore, dramatically increase the number of people who are uninsured. We said, What can we do that would be a positive impact on helping people have affordable health care and maybe provide some coverage and protections for those people who don't have it from their States, and so we put together a package to do that.

We didn't come up and say, hey, trial lawyers, what would you like? Under the Democrats' bill, really, it was a bill that would greatly enhance attorney fees. It gave people the right not only to sue the HMO and the health care provider, but also the employer as well. The net result is that lots of employers would have dropped plans, increased the number of uninsured. That would not have helped anybody. It would have been a serious mistake. We didn't want to pass legislation that would increase the number of uninsured by 1 million people. That would have been a mistake.

So we were willing to take it up. Our colleagues have said, wait a minute, we want to vote today. Today may be the last or second to last day we are going to be in session. In June or July, we offered to do this. Or we tried to get it done this September where we would have a reasonable time limit, where we would vote and pass legislation. Unfortunately, I think Senator KENNEDY and others didn't want to do that because they didn't have the votes.

Their proposal didn't have the votes. It had a lot of rhetoric, but it didn't have the votes. They never would take yes for an answer. We were willing to take up their proposal. We were willing to take up our proposal. We were willing to have a couple of amendments on each side. They could have drafted those amendments any way they wanted to. They could have addressed every issue they wanted to, and we could have passed legislation. We could have done it in time to go to conference with the House and maybe work out a responsible and reasonable bill that could be enacted into law. Unfortunately, they wouldn't take yes for an answer.

So they played games trying to turn it into an election year issue. I can see it right now. People will try to run ads—maybe in my State—and say, "NICKLES opposed Patients' Bill of Rights." But the truth is, we had 50 cosponsors on this side of the aisle who cosponsored a Patients' Bill of Rights that, in my opinion, and the belief of the majority of the body, was far superior to the bill that was proffered by our colleagues on the Democratic side of the aisle. It is unfortunate to me that they wouldn't take yes for an answer. They wouldn't agree to a unanimous consent request that would have allowed us to pass legislation and, instead, resorted to some type of shenanigan where they tried to get a vote and then have the galleries filled with people in the House.

And so, "Oh, yes, we are really working to do this," when all they were looking for was an election year ad not to pass real legislation.

Mr. KENNEDY. Will the Senator yield?

Mr. President, I listened with interest to the attempts of my good friends Senators LOTT and NICKLES to rewrite the history of the Patients' Bill of Rights in this Congress. No amount of rhetoric and disinformation can disguise the fact that the Republicans in Congress have abused the rules of the Senate to prevent passage of strong patient protections this year. The vote today was the latest installment payment to powerful special interests opposed to change.

The Republican leadership could have called the Patients' Bill of Rights at any time for a full and fair debate. Instead, proposed a series of phony "consent" agreements that would prevent fair debate and make passage of real reform impossible. These stalling tactics were clearly meant to run out the clock, so that managed care reforms cannot be passed before Congress adjourns, and so that the Republican leadership can avoid responsibility for its defeat.

The record of Republican attempts to avoid the blame for inaction would be laughable, if the consequences for patients across the country were not so serious.

On June 18, Senator LOTT proposed to bring up the bill, but on terms that made a mockery of the legislative process. His proposal would have allowed the Senate to start considering HMO reform, but he would have been permitted to end the debate at any time. The proposal also barred the Senate from considering any other health care legislation for the rest of the year. So if Senator LOTT did not like the direction the bill was headed, he could kill it and tie the Senate's hands on HMO reform for the remainder of the year.

On June 23, 43 Democratic Senators wrote to Senator LOTT to urge that he allow a debate and votes on the merits of the Patient's Bill of Rights. We requested that the Senate take up this issue before the August recess.

In response, on June 24, Senator LOTT repeated his earlier unacceptable offer.

On June 25, Senator DASCHLE proposed an agreement in which Senator LOTT would bring up a Republican health care bill by July 6, so that Senator DASCHLE could offer the Democratic Patients' Bill of Rights, and other Senators could offer amendments on HMO reform. We would agree to avoid amendments on any other subject. Only amendments related to the Patients Bill of Rights would be eligible for consideration. Senator LOTT rejected this offer as well.

On June 26, he offered once again an agreement that allowed him to withdraw the legislation at any time, and bar any further consideration of any health care legislation for the remainder of the year.

On July 15, Senator LOTT made yet another offer. This time, he proposed an agreement that permitted only one amendment. He could bring up bill. We could bring up ours. And that would be it—all or nothing. No votes on key issues.

On July 29 and on September 1, the Republican leadership offered variations of this proposal, with amendments restricted to three for Democrats and three for Republicans.

Senator DASCHLE offered yet another reasonable approach to resolve the impasse that Senator LOTT had created by his efforts to prevent meaningful reform. He offered to agree to let the Senate debate other bills during the day, and use evenings to debate the Patients' Bill of Rights—but the Republican leadership said, "no."

Our patients' Bill of Rights was introduced in March—and a predecessor bill was introduced by Congressman DINGELL and myself more than eighteen months ago, at the beginning of this Congress.

Senator DASCHLE, in an effort to be responsive to the Republican Leader's ultimatum that an agreement on the terms of the debate must be reached before the debate can begin, has offered reasonable proposal after reasonable propsal—and every one was rejected.

Yet the Republican leader has allowed the Senate to debate many other bills this year, with ample time and ample opportunity for amendments.

We had 7 days of debate on the budget resolution, and considered 105 amendments. Two of those were offered by Senator NICKLES.

We had 6 days of debate on the defense authorization bill, and considered 150 amendments. Two of those were offered by Senator LOTT and he cosponsored 10 others. We had 8 days of debate on IRS reform and considered 13 amendments.

We had 17 days of debate on tobacco legislation—a bill we never completed—and considered 18 amendments.

We had 5 days of debate on the agriculture appropriations bill and 55 amendments.

We had 19 days of debate on the highway bill, with 100 amendments.

The Republican leadership has allowed 5 days of debate and 24 amendments to the bankruptcy bill.

They have allowed 36 amendments and 2 days of debate on the FAA bill.

All these bills were important, and all deserved reasonable debate and opportunities for amendments. They were brought up without any undue restrictions on debate. That is the normal way of doing business on important pieces of legislation in the Senate.

The Republican leadership was willing to have an adequate opportunity to debate and vote on these other important measures. But when the issue is protecting American families instead of insurance industry profits, different ground rules apply to protect the industry and deny the rights of patients.

The reason the Republican leadership was unwilling to engage in a fair debate is obvious. Senator LOTT knows his legislation is deeply flawed, and that it cannot possibly be fixed with just three amendments. He believes that he and his special interest friends can hold most of the Republican Senators for a few votes, but he feared that the would not be willing to stand before the American people on the Senate floor and cast vote after vote for the special interests and against the interests of American families. The fundamental flaws in the Republican bill mean greater profits for insurance companies and lesser care for American patients. Senator LOTT does not want the Senate to vote to fix these flaws. He does not want a vote: on whether all Americans should be covered, or just one third of Americans as the Republicans shamefully propose; on whether there should be genuine access to emergency room care; on whether patients should have access to the specialists they need when they are seriously ill; on whether doctors should be free to give the medical advice they deem appropriate, without fear of being fired by their HMO; on whether patients with incurable cancer or Alzheimer's disease or other serious illnesses should have access to quality clinical trials where conventional treatments offer no hope; on whether patients in the middle of a course of treatment can keep their doctor if their health plan drops them from its network, or their employer changes health plans; on whether the special health needs of the disabled, and women, and children should be met; on whether patients should be able to obtain timely independent review of plan decisions that deny care; or on whether health plans should be held responsible in court for decisions that kill or injure patients.

The list of flaws in the Republican bill goes on and on.

The Republican leadership's record on this issue is painfully clear. Their cynical strategy is to protect the insurance industry at all costs, by blocking any reform at all, or by passing only a minimalist bill so weak that it would be worse than no bill at all. And today, they finally ended the charade—by moving to table a motion to bring the bill passed by Republicans in the House before the Senate.

Last Friday, the Wall Street Journal reported that the Republican Congressional Campaign Committee held a $25,000-a-person fundraiser for a "select group" of health care industry executives. The heading for the article was, "Politicians seek to profit from the debate over health care policies."

The American people are sick of health insurance companies that profit by abusing patients. And it is equally unacceptable that politicians should profit by protecting those exorbitant industry profits.

Every family in this country knows that it will some day have to confront the challenge of serious illness for a parent, or grandparent, or a child. When that day comes, all of us want the best possible medical care for our loved ones. Members of the ?Senate deserve good medical care for their loved ones—and we generally get it. Every other family is equally deserving of good quality care—but too often they do not get it, because their insurance plan is more interested in profits than patients.

The Patients' Bill of Rights provides simple justice and basic protection for every one of the 160 million Americans with private insurance. It is supported by the American Medical Association, the Consortium of Citizens with Disabilities, the American Cancer Society, the American Heart Association, the National Alliance for the Mentally Ill, the National Partnership for Women and Families, the National Association of Children's Hospitals, the AFL–CIO, and many other groups representing physicians and other health care providers, children, women, families, consumers, persons with disabilities, Americans with serious illnesses, small businesses, and working families.

It is rare for such a broad and diverse coalition to come together in support of legislation. Both they have done so to end these flagrant abuses that hurt so many families.

We serve notice today that this struggle is not over. The Republicans in Congress and their friends in the insurance industry may have won this year's battle, but they will lose in the end.

Democrats in Congress intend to make the Patients' Bill of Rights the first order of business when the new Congress convenes next January. We will continue to fight for meaningful patient protections until they are signed into law. We will not give up this struggle until every family can be confident that a child or parent or grandparent who is ill will receive the best care that American medicine can provide.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I ask for the yeas and nays on the pending committee substitute.

The PRESIDING OFFICER. Will the Senator withhold?

FINANCIAL SERVICES ACT OF 1998

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 10) to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, and other financial service providers, and for other purposes.

The Senate resumed consideration of the bill.

Mr. LOTT. I now ask for the yeas and nays on the pending committee substitute.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

MOTION TO RECOMMIT

Mr. LOTT. I move to recommit H.R. 10 back to the Banking Committee to report back forthwith with an amendment.

AMENDMENT NO. 3804

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi (Mr. LOTT) proposes an amendment numbered 3804.

Mr. LOTT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. LOTT. I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3805 TO INSTRUCTIONS TO RECOMMIT

Mr. LOTT. I send an amendment to the desk to the pending motion.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi (Mr. LOTT) proposes an amendment numbered 3805 to the instructions to recommit.

Mr. LOTT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the Instructions, add the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Marriage Tax Elimination Act".

SEC. 2. COMBINED RETURN TO WHICH UNMARRIED RATES APPLY.

(a) IN GENERAL.—Subpart B of part II of subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to income tax returns) is amended by inserting after section 6013 the following new section:

"SEC. 6013A. COMBINED RETURN WITH SEPARATE RATES.

"(a) GENERAL RULE.—A husband and wife may make a combined return of income taxes under subtitle A under which—

"(1) a separate taxable income is determined for each spouse by applying the rules provided in this section, and

"(2) the tax imposed by section 1 is the aggregate amount resulting from applying the separate rates set forth in section 1(c) to each such taxable income.

"(b) TREATMENT OF INCOME.—For purposes of this section—

"(1) earned income (within the meaning of section 911(d)), and any income received as a pension or annuity which arises from an employer-employee relationship, shall be treated as the income of the spouse who rendered the services, and

"(2) income from property shall be divided between the spouses in accordance with their respective ownership rights in such property.

"(c) TREATMENT OF DEDUCTIONS.—For purposes of this section—

"(1) except as otherwise provided in this subsection, the deductions allowed by section 62(a) shall be allowed to the spouse treated as having the income to which such deductions relate,

"(2) the deduction for retirement savings described in paragraph (7) of section 62(a) shall be allowed to the spouse for whose benefit the savings are maintained,

"(3) the deduction for alimony described in paragraph (10) of section 62(a) shall be allowed to the spouse who has the liability to pay the alimony,

"(4) the deduction referred to in paragraph (16) of section 62(a) (relating to contributions to medical savings accounts) shall be allowed to the spouse with respect to whose employment or self-employment such account relates,

"(5) the deductions allowable by section 151 (relating to personal exemptions) shall be determined by requiring each spouse to claim 1 personal exemption,

"(6) section 63 shall be applied as if such spouses were not married, and

"(7) each spouse's share of all other deductions (including the deduction for personal exemptions under section 151(c)) shall be determined by multiplying the aggregate amount thereof by the fraction—

"(A) the numerator of which is such spouse's adjusted gross income, and

"(B) the denominator of which is the combined adjusted gross incomes of the 2 spouses.

Any fraction determined under paragraph (7) shall be rounded to the nearest percentage point.

"(d) TREATMENT OF CREDITS.—Credits shall be determined (and applied against the joint liability of the couple for tax) as if the spouses had filed a joint return.

"(e) TREATMENT AS JOINT RETURN.—Except as otherwise provided in this section or in the regulations prescribed hereunder, for purposes of this title (other than sections 1 and 63(c)) a combined return under this section shall be treated as a joint return.

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this section.".

(b) UNMARRIED RATE MADE APPLICABLE.—So much of subsection (c) of section 1 of such Code as precedes the table is amended to read as follows:

"(c) SEPARATE OR UNMARRIED RETURN RATE.—There is hereby imposed on the taxable income of every individual (other than a married individual (as defined in section 7703) filing a joint return or a separate return, a surviving spouse as defined in section 2(a), or a head of household as defined in section 2(b)) a tax determined in accordance with the following table:".

(c) BASIC STANDARD DEDUCTION FOR UNMARRIED INDIVIDUALS MADE APPLICABLE.—Subparagraph (C) of section 63(c)(2) of such Code is amended to read as follows:

"(C) $3,000 in the case of an individual who is not—

"(i) a married individual filing a joint return or a separate return,

"(ii) a surviving spouse, or

"(iii) a head of household, or".

(d) CLERICAL AMENDMENT.—The table of sections for subpart B of part II of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6013 the following:

"Sec. 6013A. Combined return with separate rates."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning January 1, 2000.

Mr. LOTT. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3806 TO AMENDMENT NO. 3805

Mr. LOTT. I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi (Mr. LOTT) proposes an amendment numbered 3806 to amendment No. 3805.

Mr. LOTT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the first word and insert the following:

SHORT TITLE.

This Act may be cited as the "Marriage Tax Elimination Act".

SEC. 2. COMBINED RETURN TO WHICH UNMARRIED RATES APPLY.

(a) IN GENERAL.—Subpart B of part II of subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to income tax returns) is amended by inserting after section 6013 the following new section:

"SEC. 6013A. COMBINED RETURN WITH SEPARATE RATES.

"(a) GENERAL RULE.—A husband and wife may make a combined return of income taxes under subtitle A under which—

"(1) a separate taxable income is determined for each spouse by applying the rules provided in this section, and

"(2) the tax imposed by section 1 is the aggregate amount resulting from applying the separate rates set forth in section 1(c) to each such taxable income.

"(b) TREATMENT OF INCOME.—For purposes of this section—

"(1) earned income (within the meaning of section 911(d)), and any income received as a pension or annuity which arises from an employer-employee relationship, shall be treated as the income of the spouse who rendered the services, and

"(2) income from property shall be divided between the spouses in accordance with their respective ownership rights in such property.

"(c) TREATMENT OF DEDUCTIONS.—For purposes of this section—

"(1) except as otherwise provided in this subsection, the deductions allowed by section 62(a) shall be allowed to the spouse treated as having the income to which such deductions relate,

"(2) the deduction for retirement savings described in paragraph (7) of section 62(a) shall be allowed to the spouse for whose benefit the savings are maintained,

"(3) the deduction for alimony described in paragraph (10) of section 62(a) shall be allowed to the spouse who has the liability to pay the alimony,

"(4) the deduction referred to in paragraph (16) of section 62(a) (relating to contributions to medical savings accounts) shall be allowed to the spouse with respect to whose employment or self-employment such account relates,

"(5) the deductions allowable by section 151 (relating to personal exemptions) shall be determined by requiring each spouse to claim 1 personal exemption,

"(6) section 63 shall be applied as if such spouses were not married, and

"(7) each spouse's share of all other deductions (including the deduction for personal exemptions under section 151(c)) shall be determined by multiplying the aggregate amount thereof by the fraction—

"(A) the numerator of which is such spouse's adjusted gross income, and

"(B) the denominator of which is the combined adjusted gross incomes of the 2 spouses.

Any fraction determined under paragraph (7) shall be rounded to the nearest percentage point.

"(d) TREATMENT OF CREDITS.—Credits shall be determined (and applied against the joint liability of the couple for tax) as if the spouses had filed a joint return.

"(e) TREATMENT AS JOINT RETURN.—Except as otherwise provided in this section or in the regulations prescribed hereunder, for purposes of this title (other than sections 1 and 63(c)) a combined return under this section shall be treated as a joint return.

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this section.".

(b) UNMARRIED RATE MADE APPLICABLE.—So much of subsection (c) of section 1 of such Code as precedes the table is amended to read as follows:

"(c) SEPARATE OR UNMARRIED RETURN RATE.—There is hereby imposed on the taxable income of every individual (other than a married individual (as defined in section 7703) filing a joint return or a separate return, a surviving spouse as defined in section 2(a), or a head of household as defined in section 2(b)) a tax determined in accordance with the following table:".

(c) BASIC STANDARD DEDUCTION FOR UNMARRIED INDIVIDUALS MADE APPLICABLE.—Subparagraph (C) of section 63(c)(2) of such Code is amended to read as follows:

"(C) $3,000 in the case of an individual who is not—

"(i) a married individual filing a joint return or a separate return,

"(ii) a surviving spouse, or

"(iii) a head of household, or".

(d) CLERICAL AMENDMENT.—The table of sections for subpart B of part II of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6013 the following:

"Sec. 6013A. Combined return with separate rates."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

TREASURY, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1999—CONFERENCE REPORT

Mr. LOTT. I now ask unanimous consent that the Senate proceed to the Treasury-Postal Service appropriations conference report and that the conference report be considered as having been read.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I ask unanimous consent that the report be read.

The PRESIDING OFFICER. Is there objection to the request?

Mr. REID. Objection.

MOTION TO PROCEED

Mr. LOTT. There is objection. Therefore, I now move to proceed to the conference report.

Several Senators addressed the Chair.

Mr. REID. I ask that the report be read.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Nevada has that right.

The clerk will read the conference report.

The assistant legislative clerk proceeded to read the conference report.

Mr. CAMPBELL addressed the Chair.

The PRESIDING OFFICER (Mr. ROBERTS). The Senator from Colorado.

Mr. CAMPBELL. Mr. President, I ask unanimous consent further reading of the bill be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Objection.

The PRESIDING OFFICER. Objection is heard. The clerk will continue to read.

The assistant legislative clerk continued the reading of the conference report.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER (Mr. SMITH of New Hampshire). The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I yield the floor.

The PRESIDING OFFICER. The clerk will proceed.

The assistant legislative clerk continued the reading of the conference report.

Mr. CAMPBELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. CAMPBELL. I ask unanimous consent that the reading of the conference report be dispensed with.

Mr. GRAHAM. Mr. President, on behalf of Senator REID, I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue reading the report.

The assistant legislative clerk continued the reading of the conference report.

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that the further reading of the conference report be dispensed with.

Mr. DURBIN. Mr. President, I object.

The PRESIDING OFFICER (Mr. HAGEL). Objection is heard.

The legislative clerk continued with the reading of the conference report.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the conference report be dispensed with.

Mr. DURBIN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued with the reading of the conference report.

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that further reading of the report be dispensed with.

Mr. DURBIN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued with the reading of the conference report.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the conference report be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued with the reading of the conference report.

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that reading of the conference report be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued with the reading of the conference report.

Mr. HELMS. Mr. President, in order for the U.S. Senate to conduct the people's business, despite the delay and frustration of the other party, I ask unanimous consent that reading of the conference report be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued with the reading of the conference report.

Mr. SMITH of New Hampshire. Mr. President, in order that the Senate might conduct the people's business, I ask unanimous consent that reading of the conference report be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued with the reading of the conference report.

Mr. HELMS. Mr. President, in order that the Democrats not put the Senate in a stalemate, I ask unanimous consent that reading of the conference report be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued with the reading of the conference report.

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that reading of the conference report be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued with the reading of the conference report.

Mr. HELMS. Mr. President, in order to save a little time, I have ordered some Tinkertoys for the Democrats to play with. I, therefore, ask unanimous consent that reading of the conference report be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. Mr. President, I object.

The legislative clerk continued with the reading of the conference report.

Mr. SMITH of New Hampshire. Mr. President, I again ask unanimous consent that reading of the conference report be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. Mr. President, I object. Protecting the rights of the majority under the rules of the Senate, I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued with the reading of the conference report.

Mr. HELMS. Mr. President, point of parliamentary inquiry.

The PRESIDING OFFICER. Parliamentary inquiry is not in order.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the conference report be dispensed with as it should be.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued with the reading of the conference report.

Mr. SMITH of New Hampshire. Mr. President, in order to conduct the people's business, I again ask unanimous consent that reading of the conference report be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. Mr. President, in order to protect the rights of thousands of Federal women, Federal employees who are women, who are denied health care, I object.

Mr. SMITH of New Hampshire. Regular order, Mr. President.

Mr. HELMS. Mr. President, regular order.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued with the reading of the conference report.

Mr. HELMS. Mr. President, I ask unanimous consent that this absurdity be brought to an end.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued with the reading of the conference report.

Mr. SMITH of New Hampshire. Mr. President, I again ask unanimous consent that reading of the conference report be dispensed with until we conduct the people's business.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. Mr. President, objection.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued with the reading of the conference report.

Mr. HELMS. Mr. President, I congratulate the Senator from Illinois on having brought this absurdity to the floor.

Mr. DURBIN. Mr. President, regular order.

The PRESIDING OFFICER. Objection is heard.

The clerk will report.

The legislative clerk continued with the reading of the conference report.

Mr. SMITH of New Hampshire. Mr. President, I make a point of order that the reading is dilatory and irresponsible and again make a request——

The PRESIDING OFFICER. The point of order is not well taken.

The clerk will report.

The legislative clerk continued with the reading of the conference report.

Mr. SMITH of New Hampshire. I make a unanimous consent request that further reading of the conference report be suspended.

Mr. DURBIN. Objection.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Objection.

Mr. REID. Objection.

The PRESIDING OFFICER. Objection is heard.

The clerk will report.

The legislative clerk continued with the reading of the conference report.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Again, I ask that this absurdity be brought to an end so the Senate can conduct its business.

Mr. REID. Is there a question? I didn't understand what he said.

Mr. HELMS. Mr. President, I think the Senator understood. I think we ought to stop this absurdity, and stop it now, and do the people's business.

The PRESIDING OFFICER. Is there objection?

Mr. REID. On behalf of 1.3 million Federal women who are covered under——

The PRESIDING OFFICER. Objection is heard.

The clerk will report.

The legislative clerk continued with the reading of the conference report.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I ask unanimous consent that further reading of the conference report be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Objection.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued with the reading of the conference report.

Mr. SMITH of New Hampshire addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH of New Hampshire. On behalf of the customs and drug enforcement employees in our U.S. Government, I ask unanimous consent that further reading of the conference report be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. REID. On behalf of——

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. 3.6 million unintended pregnancies every year, I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued with the reading of the conference report.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I renew my request that further reading of the conference report be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. REID. I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued with the reading of the conference report.

Mr. SMITH of New Hampshire. Mr. President, on behalf of those who favor the Jacksonville, FL, and Orlando, FL, courthouse construction, I ask that further reading—I ask unanimous consent that further reading of the conference report be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. GRAHAM. Mr. President, on behalf of those who also favor the Jacksonville and Orlando courthouse construction, I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued and concluded the reading of the conference report.

(The text of the conference report is printed in the House proceedings of the RECORD of October 7, 1998.)

The PRESIDING OFFICER. The question now occurs on the motion to proceed.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BURNS). Without objection, it is so ordered.

Mr. CAMPBELL. Mr. President, I ask for the yeas and nays on the pending motion.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to proceed to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Ohio (Mr. GLENN), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Minnesota (Mr. WELLSTONE) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. WELLSTONE) would vote "no."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 58, nays 39, as follows:

[Rollcall Vote No. 312 Leg.]

YEAS—58

Abraham
Allard
Ashcroft
Bennett
Bond
Brownback
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Collins
Coverdell
Craig
D'Amato
DeWine
Domenici
Enzi
Faircloth
Ford
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Jeffords
Kempthorne
Kohl
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—39

Akaka
Baucus
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Cleland
Conrad
Daschle
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Inouye
Johnson
Kennedy
Kerrey
Kerry
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Snowe
Torricelli
Wyden

NOT VOTING—3

Glenn
Hollings
Wellstone

The motion was agreed to.

TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1999—CONFERENCE REPORT

The PRESIDING OFFICER. The clerk will report the conference report.

The legislative clerk read as follows:

> The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4104), have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 7, 1998.)

The PRESIDING OFFICER. The distinguished majority leader.

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, for the information of all Senators, I know there is a lot of interest in trying to determine what the schedule will be for the balance of the day and perhaps even the weekend.

It is obvious because of the feelings of the Senator from Nevada, Senator REID, with regard to the Treasury and Postal Service appropriations conference report, that he does not intend to allow the Senate to have a vote on the conference report itself anytime soon.

Therefore, as we approach the end of this session, we will probably have a vote, if we can get some accommodation here—I think we may—within a couple of hours, on or in relation to the bankruptcy bill. So we should expect another recorded vote in about 2 hours. We will need, hopefully, to get that locked in here in the next few minutes. The main point is we will have one more vote.

Then, other than unanimous consent requests or voice votes, the only votes we would expect for the balance of this year would be on a continuing resolution, if necessary, and the omnibus appropriations bill.

Now, I will need to confer further with Senator DASCHLE. We will certainly keep Members informed as to what the schedule may be. Negotiations are continuing with regard to all of the different issues that are pending on the omnibus appropriations bill. We expect to work this weekend. We hope we will have this completed to possibly vote on Monday. If that is not possible, we will let Members know as soon as some determination is made. For now, we will expect a vote in a couple of hours, and then we would go to the vote on the bankruptcy bill. That would be it as far as recorded votes for tonight.

Mr. DASCHLE. Will the majority leader will yield?

Mr. LOTT. Yes.

Mr. DASCHLE. Mr. President, I have been getting questions about what our intentions are with regard to a new CR. My understanding is that we would be contemplating a CR that would take us at least through Monday.

Mr. LOTT. That's correct. We have discussed that with administration officials this morning. They indicated that they understood it was just a physical problem in terms of getting final agreements and getting paperwork ready, and a short-term CR would be no problem from their viewpoint. I discussed that with you. We anticipate a CR that would take us until Monday at midnight. So there would be no question that we are still working, and there is no threat of a Government shutdown, while we continue to count on our appropriators to do their work, and we hope to get it completed this weekend.

Mr. LEAHY. Will the leader yield for a question?

Mr. LOTT. Yes.

Mr. LEAHY. Mr. President, I tell my friend from Mississippi, we have on the calendar 22 Federal judges pending, plus another 5 or 6 court of claims. Can the distinguished leader give us any advice on what might happen?

Mr. LOTT. I have been working diligently to get some of the more controversial judges done. We did have a couple votes. I was trying to get Paez done today. The time is going to be consumed by reading the Treasury/Postal Service conference report and now the appearance of having to read the Bankruptcy Reform conference report. So that has been pushed aside. I tried to move three nominations last night. It was objected to. We are in the usual last days of the session where everybody is holding this one on the basis of that one. I think where we are is, over the next few days as we make progress, if we can get agreements on some things, then we will probably get agreements on all things. They are all interrelated. We will have to see how that plays out.

Mr. LEAHY. I am prepared to pray and consult with the distinguished leader.

Mr. LOTT. I appreciate that attitude of the Senator from Vermont. He has been very helpful, and he continues to remind me of the need for these judges.

Mr. CRAIG. Will the leader yield for a moment?

Mr. LOTT. Yes.

BIRTHDAY WISHES FOR SENATOR LOTT

Mr. CRAIG. Mr. President, on behalf of all of us here on the floor and all colleagues here in the Senate, we know this is a stressful day. It should actually be a joyful day for Senator LOTT. It is his birthday and we wish him a happy birthday.

[Applause.]

Mr. LOTT. Thank you all very much. It is a joyful day. I resented when Senator DASCHLE came over and told me he was only about 50, reminding me of his youth. Then Senator STROM THURMOND welcomed me into his range of age. I don't know quite what that meant. Actually, in spite of all the things we have working, it has been a great day. Actually, I enjoy every day here and I appreciate the friendship of all of you on both sides of the aisle.

Mr. BUMPERS. Mr. President, not to be the skunk at the lawn party, but that reminds me of a story I feel like I have to share with you. Recently, in the caucus, Senator DASCHLE announced the birthdays of three Senators that would occur in the ensuing week. He named them, and JOHN GLENN was one of them, and I forget the other two. BARBARA MIKULSKI was one. Everybody applauded, and I turned to Senator TORRICELLI and said, "Isn't it strange that we applaud birthdays in this country?" He said, "It is an American anachronism that we applaud the march toward death."

Mr. LOTT. Was that supposed to be humorous?

Mr. DODD. Will the leader yield?

Mr. LOTT. Mr. President, I yield to Senator DODD for a question.

Mr. DODD. Mr. Leader, I don't want to disrupt your birthday, but I have a unanimous-consent request I want to make at an appropriate time, which I suspect the majority will object to. I want to be able to do it before we move on to the next order of business. I don't know the plan here.

Mr. LOTT. If we could complete comments on this, and then you will have an opportunity to do that. You have put me on notice, but let us try to do this.

Mr. BYRD. Will the leader yield to me?

Mr. LOTT. I am delighted to yield to Senator BYRD.

Mr. BYRD. Mr. President, I was listening to the debate going on on the floor and I heard that it was someone's birthday. For those in the galleries who wish to make note of it, I am 29,544 days old today. It is not my birthday, but I am 29,544 days old. I want to congratulate our leader on his birthday.

Mr. LOTT. Thank you, sir.

Mr. BYRD. I say to the leader:

Count your garden by the flowers,
Never by the leaves that fall;
Count your days by the sunny hours,
Not remembering clouds at all.
Count your nights by stars, not shadows;
Count your life by smiles, not tears;
And on this beautiful [October] afternoon, [leader,]
Count your age by friends, not years.

Mr. LOTT. Thank you very much.

[Applause.]

Mr. LOTT. Mr. President, only the distinguished Senator BYRD would be able to come to the floor and have poetry that he could quote on the spur of the moment. I always enjoy his remarks so much. Thank you, Senator BYRD.

TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. LOTT. Mr. President, I yield 5 minutes at this time to the chairman of the subcommittee, Senator CAMPBELL. I thank him for his work on this bill. He has worked very hard. The problems we have were not caused by him, but by difficulties in the House of Representatives. I thank the Senator for the effort that he put into this legislation. We will get it done before the day is done—maybe not this day, but before the day is done.

Mr. CAMPBELL. I thank the majority leader. Whether this bill is pulled down or proceeds is yet to be determined. I would like to make a few comments about the bill. Senator KOHL and I, as well as our staffs, worked very hard on this bill. It seemed like the longer it hung out there the more lightning it drew. I want comment on a few provisions in it.

This report provides funding for the Department of Treasury, the U.S. Postal Service, the Executive Office of the President, and various independent agencies, as our colleagues know.

Although this has not been an easy bill to complete, because of the funding constraints as well as controversial issues, I think we did as good a job as we could, accommodating as many requests as we could from our colleagues. The most difficult issues for the conferees were not about money, but about legislative riders to this appropriations bill. There were some very strong opinions on both sides on these riders and that did end up stalling the bill.

But I am concerned about one article. As I mentioned, during the heat of the debate, there were some strong opinions. I was concerned about an article appearing in the October 7 Hill that implied the Senator from Texas, Senator HUTCHISON, was blocking the bill because it contained language to name a post office building in St. Paul for former Senator Eugene McCarthy. For the RECORD, I want to say that is absolutely not true. At no time, did she ever disagree with this bill, and in fact that language is in the bill. I wanted to make that part of the RECORD.

The ranking member of our subcommittee, Senator KOHL, and I continued to place greater emphasis on treasury law enforcement, which is a central focus of this bill, and tried to ensure that agents and inspectors have the tools to do their job. I certainly appreciate Senator KOHL's support and hard work.

There is much in this conference report that deserves the support of the Senate:

$128 million for the IRS customer service initiative, and to restructure and reform their long overdue operation.

$2 million for low-income taxpayers clinic.

$2.4 million to double the staffing for the cyber-smuggling unit at the Customs Service to stop child pornography, plus an additional $1 million for technology to assist in this effort.

$13 million for grants to state and local law enforcement for gang resistance education and training programs, called GREAT programs—$3 million more than the President actually had requested.

$6 million to allow eligible State and local law enforcement to acquire ballistics identification and comparison computer systems for both bullets and cartridge cases.

There is another $27 million to continue and expand the Youth Crime Gun

Interdiction Initiative to help stop gun trafficking to our youth.

There is $182 million for the high-intensity drug trafficking areas, known as HIDTAs, and $13 million to continue the program to transfer technology to State and local law enforcement.

Courthouse construction projects, as well as repair and alterations of current Federal facilities, were also included.

There is $185 million for a second year of a very successful antidrug youth media campaign that was administered by the drug czar.

All in all, Mr. President, I think it is a good bill. We worked very hard.

I am just here to say I am sorry that some of these rather divisive riders that ended up being on the bill ended up making it so controversial. But the underlying fact of the bill, the mission of the bill, has great intentions. It is a good bill.

I just wanted to again thank Senator KOHL for all of his work on it. I hope we proceed forward with it. I am realistic enough to know that it is in trouble.

With that, I yield the floor, Mr. President.

Mr. KOHL addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, I agree with much of what my colleague, Senator CAMPBELL, has said about this bill.

It is a good bill. It provides sufficient appropriations for the Department of the Treasury and the independent agencies. But, since this bill left the Senate floor, it changed in ways that made it impossible for me to sign the conference report.

First, the good news. The conference report before us is silent on the issue of staffing the Federal Election Commission. I am very pleased we have decided to avoid a partisan battle on this issue.

Unfortunately, several other changes to the bill were made after the conference—and these make the bill much worse.

First, the Senate bill contained a provision that would have provided for the adjustment of the status of Haitians. This provision, which had bipartisan Senate support, would allow 40,000 Haitian refugees who have been in this country since 1995, to stay permanently. Last year Congress provided this same type of correction for 150,000 Nicaraguans and 5,000 Cubans. The conference report before us drops that provision—despite the fact that it was agreed to by all conferees.

Second, the Senate bill contained a provision that would address the requirements of providing quality child care in Federal facilities. This measure, proposed by Senator JEFFORDS, would simply make sure that Federal child care facilities operate under reasonable quality standards. In addition, it would bring under Federal regulation the child care centers run by Congress—child care centers that operate now completely unregulated by local, state, or Federal law.

The conference report before us drops this provision—which until now was uncontroversial. I find it unacceptable that Congress would use the last minute legislative rush to exempt itself from basic health and safety standards for the children in its care.

And, third, this conference report drops language—adopted by a bipartisan majority in both Houses—that would provide Federal employees with health insurance coverage for contraception. Again it is unacceptable that an extreme minority should be able to prevail on this. Close to half of all pregnancies in the United States are unintended, and tragically, those unintended pregnancies often led to abortion. By providing federal workers with the most appropriate and safe means of contraception, we can reduce the number of abortions performed and increase the number of children who are born wanted, planned for, and loved.

We in the Senate made good decisions when we passed the Treasury-General Government appropriations bill. It is disappointing that so many of those decisions have been overturned in last minute, partisan negotiations.

The White House has promised that they will work with us to get the Haitian fairness, child care and contraception provisions included in the omnibus funding bill. Based on that assurance, and knowing of the many other strong provisions retained in the conference report, I will vote for passage. But I do so with great disappointment at how this bill has been altered in the last few days and great hope that the democratic decisions overturned will be restored in the final omnibus appropriations measure.

One last note, I want to thank the staff members who have worked so tirelessly to bring this bill to the floor. Pat Raymond and Tammy Perrin of Senator CAMPBELL's staff have always been helpful and professional in their dealings with us—their demeanor has allowed us to put this bill together in a truly bipartisan way. Paul Bock, my chief of staff, approached this bill as he does everything: with intelligence and a healthy sense of humor. And my deepest gratitude is for my clerk, Barbara Retzlaff, who has boundless energy, complete mastery of the programs she monitors, and incredible patience—with me and with this year's torturous negotiations. Thank you all.

PUBLIC ACCESS TO GOVERNMENT RESEARCH DATA

Mr. LOTT. Mr. President, I would like to take a moment to thank the Senator from Alabama and the Chairman of the Treasury and General Government Appropriations Subcommittee for their diligent efforts to develop legislation that will provide the public with access to federally funded research data. The Conference Report for the Treasury and General Government Appropriations Act for FY 99 currently before us requires the Director of OMB to amend OMB Circular A-110 to require Federal awarding agencies to ensure that all research results, including underlying research data, funded by the Federal government are made available to the public through the procedures established under the Freedom of Information Act. This provision represents a critical step forward in assuring that the public has access to the research and underlying data used by the Federal government in developing policy and rules.

Mr. CAMPBELL. I thank the Majority Leader and my colleague from Alabama for his leadership on this issue. The gentleman is correct. The language included in the Conference Report will require Federal agencies to make all Federally funded research data available to the public through procedures established by the Freedom of Information Act. The Conferees recognize that this language covers research data not currently covered by the Freedom of Information Act. The provision applies to all Federally funded research data regardless of whether the awarding agency has the data at the time the request is made. If the awarding agency must obtain the data from the recipient of the award, the provision specifically states that the awarding agency may authorize a reasonable user fee equaling the incremental cost of obtaining the data. It is my expectation that the Director of OMB to make the required changes within 90 days of enactment and that awarding agencies to issue new regulations implementing the amended Circular within one year of enactment. As is true with the existing OMB Circular A-110, the amended Circular shall apply to all Federally funded research, regardless of the level of funding or whether the award recipient is also using non-Federal funds. I want to thank my colleague from Alabama for his leadership on this important issue and his efforts to safeguard the public's right to know.

Mr. SHELBY. I thank the Majority Leader and Chairman CAMPBELL for their support. The lack of public access to research data feeds general public mistrust of the government and undermines support for major regulatory programs. This measure was long overdue and it represents a first step in ensuring that the public has access to all studies used by the Federal government to develop Federal policy.

● Ms. MOSELEY-BRAUN. Mr. President, I want to note my disappointment that the permanent relief for Haitian refugees that I and many others in this body have worked to make law has been dropped from the Treasury Appropriations Conference Report.

This effort began last year during debate of the D.C. Appropriations bill, which included language that granted certain Central Americans access to the "suspension of deportation" procedure, but Haitians were not granted this access. And you may recall that while I supported granting relief to the affected class of Central Americans, I, along with several of my colleagues here in the Senate and the House, fought vigorously for additional provisions for Haitian refugees.

Although we were unsuccessful in that effort, we later introduced S. 1504, Haitian Immigrations Fairness Act of 1997, legislation that would provide Haitian refugees permanent residency status. During the course of this year, this legislation was reported favorably out of the Judiciary committee and passed by the Senate as a provision of the Treasury-Postal Appropriations Fiscal Year 1999 bill. Eventually, this language was agreed to by the Conferees on the Treasury-Postal Appropriations bill. Unfortunately, due to last-minute, close-door maneuvering and negotiations, there is no Haitian relief included in the Conference Report that we are voting on today.

This legislation is vitally important to the several thousand Haitian men, women, and children who came here in the wake of the military coup in Haiti that in 1991 toppled the democratically elected government of that country. That coup was followed by a period of military dictatorship in Haiti marked by atrocious human rights abuses, including systematic use of rape and murder as weapons of terror. The International Civilian Mission, which has monitored human rights conditions throughout Haiti, documented this tragedy, including horrors so awful as to be almost imaginable.

To allow such human rights violations to occur so close to home while doing nothing would have been inconsistent with the stated goals of our foreign policy. So in 1991, the U.S. took in persons fleeing Haiti at Guantanamo Bay, Cuba. After intense screening, many of these individuals were paroled into the U.S. to apply affirmatively for asylum. Between the 1991 and May of 1992, over 30,000 Haitians were interviewed. Under one-third of these individuals were paroled into the U.S. to seek asylum.

Around Memorial day in 1992, Bush issued the "Kennebunkport Order," ending the asylum screening process at Guantanamo Bay, an action which became an issue during the 1992 presidential elections. A refugee program began operating in Port-au-Prince. This practice continued until 1994, when President Clinton reinstated a screening process in military hospital ship in Kingston Harbor, Jamaica. Democracy was restored in Haiti in the fall of 1994.

The individuals that I am talking about today are the children, wives, brothers, and sisters of soldiers and activists who stood up for democracy in Haiti. They fled to this country for refuge. They played by our rules. In the time that they've been here, they've built homes, paid taxes, had families in our country. These individuals are owed nothing less than treatment equal to that already provided to the Eastern European and Central European refugees residing in our Nation.

I regret that the Conferees decided at the last moment to strip the Haitian refugee relief provision from the Treasury-Postal Appropriations bill, but I would like to urge Senators LOTT and DASCHLE to consider adding this provision to any omnibus appropriations measures that may be considered in the upcoming days.•

Mr. McCAIN. Mr. President, I want to thank the managers of this bill for their hard work in putting forth this legislation which provides federal funding for numerous vital programs. However, I am sad to say, once again, I find myself in the unpleasant position of speaking before my colleagues about unacceptable levels of parochial projects in another appropriations Conference Report.

Earlier this year, I came to the Senate floor and highlighted the numerous earmarks and set asides contained in the Senate version of this bill. That bill contained $826 million in specifically earmarked pork-barrel spending. That was a $791 million increase over last year's pork-barrel spending total for this bill, which only contained $34.25 million in wasted funds.

While the Senate bill contained an unacceptable amount of pork, this conference report is even worse. It contains $1.5 billion in specially earmarked pork barrel spending. This is almost double the amount of pork which was in the bill. This is a tremendous burden which is patently unfair to the millions hard-working American taxpayers, who does not possess the resources to get a "pet project" placed in their back yard.

The list of projects which received priority billing is quite long and the dollar amounts are staggering. Nevertheless, I will highlight a few of the more egregious violations.

First the conference report instructs the Administrator of General Services to purchase a property adjacent to the new courthouse currently under construction in Scranton, PA, at whatever price she/he determines is appropriate. The language then provides $668 million for repairs, alterations, and construction services. That adds $668 million to the price of acquiring the building. I am not an expert on court house construction, but $668 million in addition to the purchase price seems like a lot of money for a courthouse.

But, the unbridled spending does not stop with the Scranton, PA court house, it continues. The conference report also contains numerous provisions for millions of dollars to construct new court houses in specific locations throughout the U.S. Again, why are these particular sites so deserving of funding, that they receive specific earmarks to fund their construction? Unfortunately, this spending frenzy is not limited to court houses. Somebody in either the House of Representatives, or the Senate has concluded that the World Trade Office in Vermont ($500,000), and the IRS Service Center in Brookhaven, NY ($20 million) are so unique that they should receive specific earmarks.

These are just a few examples of the spending excesses in this report. The list goes on, and on. Mr. President, why are we spending so much on locality specific pork barrel projects? Why are we spending so much on new court house construction? Maybe if we used some of the new court house construction money to combat teen drug use, we would not need to construct so many new court houses. Maybe, we should redirect some of this court house construction money to combating overall drug use, putting more police on our streets, or funding crime prevention programs to prevent people from ever becoming involved in the criminal justice system.

Mr. President, I will not deliberate much longer on the objectionable provisions in the conference report. I simply ask my colleagues to apply fair and reasonable spending principles when appropriating funds to the multitude of priority and necessary programs in our appropriations bills.

As I have said many times in the past, we must remain committed to open and fair consideration of public expenditures. Our objective must always be to further the greatest public good. This must remain the cornerstone of the appropriations process. And, most important, we must remember, responsible spending is the cornerstone of good governance.

Ms. SNOWE. Mr. President, I rise because the Treasury-Postal conferees have bypassed the will of the majority and decided to kill the contraceptive coverage language in the Treasury/Postal bill.

This is an outrage. Our contraceptive language was included in the original legislation passed both in the House and in the Senate, and conferees last week signed off on including the House language in the bill. At the same time, conferees agreed to include the Senate's provision specifically excluding coverage of abortion or abortion-related service, and conferees signed the report, closed out the conference and sent the report to the House for consideration.

The language the House of Representatives passed by a vote of 224 to 198 on July 15, 1998. The Senate language was agreed to by unanimous consent.

It isn't very complicated language. If you take the time to read the two versions, you will see that their intent is the same. The main difference in the two versions is the conscience clause in the Senate bill.

In addition to listing the five plans that OPM identifies as being religious-based, it goes a step further by providing a waiver to future or existing plans that have reason to oppose contraceptive coverage because of their religious beliefs. Also the Senate language clarifies that this provision is not intended to cover abortion—and again I would note that this provision was in the conference report when it was signed the first time.

So last week the conferees accept the language and this week it becomes a "killer provision" that would keep us from passing the Treasury/Postal appropriations bill. Mr. President that fallacious argument is belied by the fact that not one person—not one of the 435 members of the United States House of Representatives—stood up on the House floor when the rule on Treasury-Postal was debated last Thursday night and cited this provision as a reason for opposing the bill. Not one!

Why is this a "killer amendment"?

It can't be because of the cost. CBO won't even score the bill, because they don't score legislation that costs less than a million dollars. And they put the price tag on this language at $500,000.

It can't be about the rights of religious plans, because this language protects the health care plans that OPM identifies as being religious-based.

It can't be about abortion, because it does not cover abortion in any way, shape or form and it says so.

So, why is it a "killer amendment", Mr. President? The answer to that question will remain a mystery, as it is opposed by a few people in a backroom at the expense of 1.2 million American women who are being denied affordable access to a basic health care need—contraception. These opponents lurk in the shadows, unwilling to come out in the daylight and discuss their opposition—and apparently these few make the decisions and they decided on their own that it was coming out. They have made a mockery of the democratic process.

Let's consider the language the House and Senate agreed to. It is very simple—all this language will do is provide women who work for the federal government and the spouses and daughters of federal employees equality in health care and the affordable access to prescription contraception coverage they need and deserve; and it will help reduce the number of unintended pregnancies and abortions in this country.

The provision we are talking about requires plans that participate in the Federal Employees Health Benefits Program (FEHBP) that provide prescription drug coverage to also cover prescription contraceptives. What exactly is wrong with that? Nothing, according to 224 members of the United States House of Representatives.

Today 81 percent of these plans do not cover all five of the most basic and widely used methods of contraception and 10 percent of these plans do not cover any type of contraception at all. Yet all but one of the more than 300 FEHBP plans covers sterilization. Think about that for a moment—we are willing to cover sterilization but not contraceptives. Unbelievable!

Today, the victory may go to those who have lurked in the shadows, but I have something to say to those few. Do not let yourselves believe that you have had the final word on this issue because the women of America will not 'go quietly into that good night' on an issue as basic to their health and well being and that of their family as contraceptive coverage.

It took us 72 years to get the vote and it wasn't until 1978—only 20 years ago—that Congress finally passed legislation requiring health care plans to cover maternity leave. This is not an issue that will go away, Mr. President. You can rest assured that we will be back next year, and the year after that and as many votes and debates as it takes until we win.

Mr. DOMENICI. Mr. President, I rise in support of H.R. 4104, the Conference Agreement on the Treasury and General Government Appropriations Bill for FY 1999.

This bill provides new budget authority of $26.9 billion and new outlays of $23.2 billion to finance the operations of the Department of the Treasury, including the Internal Revenue Service, the U.S. Customs Service, the Bureau of Alcohol, Tobacco, and Firearms, and the Financial Management Service. The bill also finances the Executive Office of the President, the Office of Personnel Management, the General Services Administration, and other agencies that perform central government functions.

I congratulate the Chairman and Ranking Member for producing a bill that is within the Subcommittee's revised 302(b) allocation. I also commend the Chairman's strong commitment to law enforcement throughout this bill, including support for the Federal Law Enforcement Training Center.

When outlays from prior-year BA and other adjustments are taken into account, the bill totals $26.9 billion in BA and $26.0 billion in outlays. The total bill is at the Senate subcommittee's revised 302(b) allocation for nondefense discretionary budget authority and outlays. The subcommittee is also at its Violent Crime Reduction Trust Fund allocation for BA and outlays.

Mr. President, I ask unanimous consent to have printed in the RECORD, a table displaying the Budget Committee scoring of the Conference Agreement on H.R. 4104. I urge my colleagues to support the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

H.R. 4104, TREASURY-POSTAL APPROPRIATIONS, 1999—SPENDING COMPARISONS—CONFERENCE REPORT

[Fiscal year 1999; in millions of dollars]

	Defense	Nondefense	Crime	Mandatory	Total
Conference Report:					
Budget authority	....	13,311	132	13,439	26,882
Outlays	....	12,429	129	13,439	25,997
Senate 302(b) allocation:					
Budget authority	....	13,311	132	13,439	26,882
Outlays	....	12,429	129	13,439	25,997
1998 level:					
Budget authority	....	12,649	131	12,713	25,493
Outlays	....	12,460	123	12,712	25,295
President's request:					
Budget authority	....	13,495	132	13,439	27,066
Outlays	....	13,174	86	13,439	26,699
House-passed bill:					
Budget authority	....	13,209	132	13,439	26,780
Outlays	....	12,428	129	13,439	25,996
Senate-passed bill:					
Budget authority	....	13,211	132	13,439	26,782
Outlays	....	12,068	125	13,439	25,632
Conference Report compared to:					
Senate 302(b) allocation:					
Budget authority	....	....	....	....	....
Outlays	....	....	....	....	....
1998 level:					
Budget authority	....	662	1	726	1,389
Outlays	....	−31	6	727	702
President's request:					
Budget authority	....	−184	....	....	−184

H.R. 4104, TREASURY-POSTAL APPROPRIATIONS, 1999—SPENDING COMPARISONS—CONFERENCE REPORT—Continued

[Fiscal year 1999; in millions of dollars]

	Defense	Nondefense	Crime	Mandatory	Total
Outlays	....	−745	43	....	−702
House-passed bill:					
Budget authority	....	102	....	....	102
Outlays	....	1	....	....	1
Senate-passed bill:					
Budget authority	....	100	....	....	100
Outlays	....	361	4	....	365

NOTE: Details may not add to totals due to rounding. Totals adjusted for consistency with current scorekeeping conventions.

Mr. DODD. Mr. President, I rise today to express my disappointment that a provision in the fiscal year 1999 Treasury, Postal Appropriations Bill relating to contraceptive coverage under the Federal Employee Health Benefits program was dropped in conference.

This provision, authored by Senators HARRY REID and OLYMPIA SNOWE, would have required the Federal Employee Health Benefits plans that cover prescription drugs to treat contraceptives in the same fashion as all other covered drugs. This amendment passed the Senate unanimously. A similar provision, offered by Representative NITA LOWEY, was approved by the House by a vote of 224–198. However, even after the strong, bipartisan show of support by both bodies, this provision was still dropped in conference.

I was a cosponsor of the bipartisan legislation on which this provision was based. Along with a bipartisan group of 25 of my colleagues, I wrote the conferees on this bill asking them to retain this provision in the conference report.

I'd like to think we've come a long way since the early 1960s when birth control was illegal in many states. So it was astonishing to me to learn that in this day and age, many families find their contraceptive choices to be limited by their insurers—because insurers are not required to cover prescriptive contraceptives.

In Connecticut, for example, 62% of insurers don't cover birth control pills and 85% don't cover devices such as IUDs and diaphragms. At the same time, almost all of these policies cover sterilization. And of the 68,000 pregnancies each year in our state, more than 14,000 are unplanned.

Under far too many health plans, women are offered the unconscionable "choice" of getting help in paying for an unplanned pregnancy, an abortion, or sterilization—but not for birth control.

Is this the best choice we can offer to families trying to act responsibly, wanting to bring children into the world when they can be supported and cared for?

Many of us agree that contraception, and improved access to contraception, is a simple, cost-effective way to lower the staggering rate of unintended pregnancies in the United States.

I am very disappointed that this provision has been dropped from the fiscal year 1999 Treasury, Postal Appropriations Bill and the federal government lost an opportunity to be a leader on this critical issue.

Mr. THOMPSON. Mr. President, I am pleased that we passed a regulatory accounting provision in the Treasury and General Government Appropriations bill. I appreciate that the conferees retained the provision I introduced to the Senate bill. I believe that this legislation will help promote the public's right to know about the benefits and costs of regulatory programs; to increase the accountability of government to the people it serves; and ultimately, to improve the quality of our government. This amendment aims to provide better information on the performance of regulatory programs. This information should help us assess what benefits our regulatory system is delivering, at what costs, and help us understand what need to do to improve it.

The American people deserve better results from the vast time and resources spent on regulation—$700 billion per year, or $7,000 for the average American household by some estimates. By regulating smarter, we could have a cleaner environment, safer workplaces, quality products, and a higher standard of living at the same time. As the Office of Management and Budget stated in its first Report to Congress on the Costs and Benefits of Federal Regulations in 1997:

> [R]egulations (like other instruments of government policy) have enormous potential for both good and harm. . . . The only way we know how to distinguish between the regulations that do good and those that cause harm is through careful assessment and evaluation of their benefits and costs. Such analysis can also often be used to redesign harmful regulations so they produce more good than harm and redesign good regulations so they produce even more net benefits.

I am pleased that there is broad support for this amendment, particularly from Majority Leader LOTT and Senators BREAUX, ROBB, and SHELBY, who cosponsored it. There is a broad bipartisan coalition in the House that supported this provision. And it continues the efforts of my precedessors. Senator TED STEVENS first passed a regulatory accounting amendment in 1996 when he was the Chairman of the Governmental Affairs Committee. Regulatory accounting also was a part of a regulatory reform bill that unanimously passed out of committee in 1995 when BILL ROTH chaired Governmental Affairs.

I added several new requirements to the Stevens amendment to improve the credibility and usefulness of the report. First, OMB is required to arrange for peer review of its draft report and draft guidelines. The peer review must be conducted by an organization independent and external from the government, with expertise in regulatory analysis and regulatory accounting. It is critical that the peer review be performed by experts who will critique the draft based on the state of the art—not by a partisan interest group. Last year, the American Enterprise Institute and the Brookings Institution sponsored a conference on OMB's first regulatory accounting report. A distinguished group of independent economists unanimously agreed that OMB had fallen short in many respects. That is the kind of constructive peer review we need.

Second, OMB must take a more active role in ensuring the quality and credibility of information used in the report. OMB must issue guidelines to the agencies to standardize plausible measures of costs and benefits and the format of regulatory accounting statements. Third, OMB must provide more detailed information on the incremental costs and benefits of regulation, broken down by agency and by agency program. Thus far, OMB has failed to provide that information, despite repeated statements in legislative history and in correspondence to OMB. A great deal more information on the incremental costs and benefits of agency programs can be assembled by OMB, especially for programs run by big agencies such as EPA, DOT, OSHA, FDA and the Department of Labor. Fourth, OMB must count the paperwork burden. A 1995 report of the U.S. Small Business Administration, entitled The Changing Burden of Regulation, Paperwork, and Tax Compliance, estimated the process costs of regulation at $229 billion for 1998. Clearly, this must be accounted for. Finally, OMB must assess the direct and indirect impact of Federal regulation on small business; State, local and tribal government; wages; and economic growth. This provision addresses several important concerns. Regulation can have a disparate impact on small businesses. The 1995 SBA report found that, for companies with under 20 workers, regulation costs $5,500 per worker each year—far higher than the per worker cost for large companies.

Many regulations also impose unfunded mandates on State, local and tribal government. Unfunded mandates are putting a severe strain on these governments, forcing them to raise taxes, reduce essential services, or even face bankruptcy. Finally, the public has a right to know that there is no free lunch. Regulation can reduce productivity, wages and economic growth. In the end, the public pays for regulatory programs through higher prices and taxes, reduced government services, and squandered opportunities to do better.

It is time for the Government to come to grips with the good, the bad, and the ugly about regulation so we can design a smarter, more cost-effective regulatory process.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

HMOS

Mr. DODD. Mr. President, I just want to inquire. I see the majority leader.

Before we go to the reading of the bill, I had mentioned to the majority leader earlier that I was going to propound a unanimous consent request on behalf of myself and Senator REID of Nevada.

Very briefly—I will just take 30 seconds—this unanimous consent request will be the discharge of the Finance Committee and then to proceed immediately to a piece of legislation I introduced that would propose a moratorium on HMOs terminating any of their patients between now and over the next 4 or 5 months while we are out of session.

I realize that there will be objection probably filed to this, or expressed on this.

We have seen 400,000 people in the last number of months who have lost their HMOs—12,000 in my State over the last 3 weeks. When we are out of session, I am concerned that more of these people are going to be dropped.

So for those reasons, Mr. President, I ask unanimous consent that the Finance Committee, on behalf of myself and Senator REID, be discharged from consideration of S. 2562 and the Senate then proceed to its immediate consideration.

Mr. LOTT. Mr. President, reserving the right to object, I appreciate the notification that the Senator was going to make this request.

We have not had a chance to look at this legislation. I know there is interest in this area. I think next year we are going to have to do some work on it, and maybe we will even have some legislation in this area. But in view of the hour and the fact that we haven't had a chance really to review it, and the committee hasn't had a chance to act on it, I object at this time.

Mr. DODD. Mr. President, if I may, very briefly, I will not take the time now, but before we adjourn, I would like to make some additional comments on this.

My State and 21 other States are adversely affected. But I can only hope that there will not be more people asked to leave or pull out of these markets and cause the kind of disruption that these people feel.

I will reserve time later to discuss it. But I thank the majority leader for his consideration and regret deeply that we cannot bring this bill up.

The PRESIDING OFFICER. Who yields time?

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, I had a conversation with the distinguished Senator from Illinois with regard to his concerns on the bankruptcy reform package as it now exists. He agrees and we agree that there is no necessity for this to be read over a period of 5 or 6 hours. So I think we have something worked out that we will be comfortable with and others will be comfortable with to allow us to assure Members what time the next vote will be, and we can do some business in the interim and have speeches made on this or other issues in the meantime.

BANKRUPTCY REFORM ACT OF 1998—CONFERENCE REPORT

MOTION TO PROCEED

Mr. LOTT. Mr. President, I now move to proceed to the conference report to accompany H.R. 3150 and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LOTT. Mr. President, I ask unanimous consent that at 6 p.m. this evening the vote on this motion take place. And between now and then, of course, we have other business we can do. Senator DURBIN may want to make some remarks during that time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LOTT. I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LUGAR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING DAN COATS

Mr. LUGAR. Mr. President, I would like to take this opportunity before the 105th Congress adjourns to honor our distinguished colleague and my friend, DAN COATS, who will be returning to private life at the end of this Congress.

For the past 10 years it has been my privilege to join with Senator COATS in serving the people of Indiana. During that time, he has epitomized strong character and devotion to public service.

Senator COATS has been a determined advocate for his point of view, but also a good listener who has often forged compromises that benefited our Nation. He has been a work horse able to shoulder the daily burdens of a thousand details, but also a thoughtful observer who sees beyond the politics of the moment to provide perspective on the direction of our country. And he has been an effective defender of the interests of Indiana, while always upholding his national responsibilities.

DAN COATS has applied his expertise and commitment to many of the most critical areas of public policy. He has become one of our foremost advocates for protecting America's children and strengthening American families. His knowledge of military issues and his leadership on the Armed Forces Committee will be difficult to replace.

Of particular note is his Project for American Renewal, because it speaks to both DAN's personal convictions and his legislative innovation. With this project—a set of 19 legislative proposals—he has succeeded in articulating a coherent philosophy of compassionate conservatism.

Senator COATS understands that the limits of government do not limit our responsibilities to each other as citizens of a great nation. His project promotes volunteerism, charitable giving, personal responsibility, and the cohesiveness of communities. His proposal embodies both Senator COAT's insightful reading of modern American social conditions and his optimism for our future. I know that Senator COATS will continue to be an eloquent spokesman for the Project for American Renewal as he returns to private life.

I am especially sad to see Senator COATS leave because he has been an outstanding partner. Ever since he arrived in the Senate in 1989, he and I have operated a unique joint office arrangement in Indiana designed to maximize our efforts on behalf of Hoosiers. By combining our resources, we have been able to provide better service at less expense to the citizens of Indiana.

Many Senate colleagues over the years have been surprised when they learn that we share office space and staffs in Indiana. They understand the daunting challenges of combining the staffs of two independent-minded Senators with distinct responsibilities and committee assignments. But our Hoosier partnership has been strong and supportive, for which I am deeply appreciative.

Senator COATS leaves the Senate after 10 years having established a legion of friendships and a legacy of achievement and integrity. The Senate will miss his expertise, his hard work, his thoughtful reflection, and his talent for innovation. I am confident that DAN will continue to serve the public in the many challenges that lie ahead of him. I wish DAN and Marcia Coats all the best as they move on to these new adventures.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I wish to compliment the distinguished senior Senator from Indiana for his parting words about our colleague. I agree with him. It will come as no surprise that there are those on this side of the aisle, like myself, who also will miss DAN COATS and who are most impressed by the way that he and his distinguished colleague work together.

SENATOR JOHN GLENN

Mr. LEAHY. Mr. President, it is a time when Senators say goodbye to Senators who are leaving, and I was privileged, in 1974, to be elected with a very special class of Senators, a very large class of Senators—nearly a dozen—who came to this body. We developed personal friendships. Of that class, there are only four left: The distinguished senior Senator from Ohio, Mr. GLENN; the distinguished senior Senator from Kentucky, Mr. FORD; the distinguished senior Senator from Arkansas, Mr. BUMPERS; and myself. Each of the other three have announced their plans to retire this year. In some ways I feel like the lonely person who is given the chore to turn out the lights after everybody else leaves, because I will be the last of the class of 1974.

I am going to speak of each of them, but I wish to speak now and to give tribute to a great statesman, a person who is recognized as a true American hero and a very good friend of mine, JOHN HERSHEL GLENN, Jr.

As I said, we both arrived in the Senate at the same time in 1974. There was a big difference, however. I came here as a 34-year-old unknown county prosecutor from rural Vermont. JOHN GLENN arrived here as a living American legend. We have served together now for 24 years and it is with the fondest memories that I recollect his time here. I remember the very first day I met him. The two of us had gone over to see the legendary Jim Eastland, President pro tempore of the Senate. That is probably the only time, then or since, I have ever seen JOHN GLENN look at all nervous, was going in to see Senator Eastland. Senator GLENN was nervous. I was terrified. There is a big difference.

But JOHN GLENN will be remembered here in the Senate as a man who advocated a role for Government in daily life, but he never stopped trying to make Government more efficient. He is one of our leading experts on science and technology. He has always been a tireless advocate for Government-sponsored scientific and health research. He brought tremendous intellect and dedication to the task of preventing the spread of weapons of mass destruction. I remember when the United States and the Soviet Union were locked in a wasteful nuclear arms race, JOHN GLENN was a voice of reason and moderation.

He has used his seat on the Armed Services Committee to advocate for our men and women in uniform, while at the same time looking out for wasteful spending. I remember, when I and others began to have doubts about the costly B-2 bomber—$2 billion a plane—that I read papers and memos about it. JOHN GLENN went out and flew it, then came back and said its cost outweighed its benefits. I credit him for saving the taxpayers a lot of money.

He used his position in the Governmental Affairs Committee to expose waste in Government and to clean up the Nation's nuclear materials production plants.

In his conduct here in the Senate, JOHN has always been nonpartisan, polite, accommodating, but always true to his beliefs. His personality reminds me of Longfellow's words, "A tender heart; a will inflexible."

It is hard for us to think of JOHN GLENN before he was a national hero, but not so long ago he was a smalltown boy like many of us. He was born on July 18, 1921, in Cambridge, OH. He grew up in the tiny town of New Concord, OH. But, like millions of Americans, his life was forever changed by World War II.

Many of us know the details of what makes JOHN GLENN a hero, but I want to repeat them for my colleagues. Shortly after Pearl Harbor, he was commissioned in the Marines Corps. He served as a fighter pilot in the South Pacific. He stayed in the Marines, and when the Korean War started, JOHN GLENN requested combat duty. He ended up flying 149 combat missions in both wars. How good a pilot is our colleague from Ohio? In the last 9 days of fighting in Korea, he downed three Chinese MiG fighters in combat along the Yalu River.

In July 1957, he set a speed record from Los Angeles to New York, the first transcontinental flight to average supersonic speed.

An avid pilot to this day, JOHN has over 9,000 hours of flight time in a variety of aircraft. To put that statistic in perspective, to equal that mark you would have to fly 8 hours a day, every day of the year, for 3 years.

Probably the flight that I remember the best, the one I enjoyed as much as any, was when JOHN GLENN and I flew to the northeast kingdom of Vermont in a small float plane at the height of glorious fall foliage. JOHN and Annie Glenn were staying with Marcelle and I at our farm in Middlesex, VT. JOHN had borrowed the plane from a friend of mine in Vermont. We flew up and set down in one of those little Vermont ponds with the fall foliage around it. There happened to be a trapper's convention there. Some of the people there were calling him Colonel GLENN, not Senator GLENN. They kind of put up with me being there, but he was the hero.

Of course I do remember also the look on JOHN and Marcelle's and Annie's faces when we landed in Montpelier Airport in a heavy crosswind. JOHN turned to me after he taxied up and said, "You know, I have never been so frightened landing anything in my life," which almost stopped my heart to hear him tell it. But when we got out of the plane, JOHN was wearing—this is accurate now—a skunk-skin cap which the trappers had given him.

He stepped out of the airplane with me shaking and quivering behind him. Annie turned to Marcelle and says, "Marcelle, I told you we never should have let those boys go off by themselves."

We all know what happened in a far more dramatic time when JOHN strapped himself into a tiny capsule on top a gigantic tube of volatile fuel on February 20, 1962. When he landed 4 hours 55 minutes later, JOHN GLENN not only became the first American to orbit the Earth, but he boosted the psyche of our Nation in a way not seen equaled before or since.

Cicero said a man of courage is also full of faith. It should be said that JOHN GLENN is a man who puts all his faith in God.

All his accomplishments here in the Senate, in the cockpit, in the capsule, all pale before the one true constant in JOHN GLENN's life, and that is the love he shares with his beautiful wife Annie. They are truly a couple for the ages and role models for all of us. Married for 55 years, they have two wonderful children, John David and Carolyn Ann, whom we all know as Lyn.

When the space shuttle *Discovery* surges into space later this month, the cabin will be cramped with the seven astronauts aboard. But sitting with JOHN in spirit, as she has for so many years, will be Annie. They are truly inseparable. No matter how fast or far he travels, she is always with him.

Mr. President, later this month the eyes of the Nation and the world will focus on Cape Canaveral, FL. We will watch as a marvelous machine, built by Americans, flown by an international crew, roars into the heavens in the name of science, and on board will be our colleague from Ohio, a great Senator, an expert pilot and extraordinary American hero, my friend, JOHN

GLENN. I intend to be there to cheer him on.

Once again, as he has done in so many ways over the years, JOHN GLENN will make us turn our eyes toward the heavens, and like all who will be there, I will say, "Godspeed, JOHN GLENN, and thank you."

Mr. President, I ask unanimous consent that an article from Roll Call about Senator GLENN be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Roll Call, Oct. 5, 1998]

GLENN COUNTS DOWN TO LAUNCH WITH COMPLETE SUPPORT FROM WIFE AND COLLEAGUES—SENATOR SET TO REPEAT HISTORY

(By Ed Henry)

He's survived 149 combat missions as a Marine, orbited the Earth three times at 17,544 miles per hour as an astronaut and endured 24 years of partisan battles as a Senator.

But John Glenn says that one of the toughest missions of his life came as a husband: convincing his wife, Annie, that it was a good idea for him to be shot into space again at the end of this month.

"Let's say she was a little cool with this whole idea to begin with—that's the understatement," Glenn said in an interview about the Oct. 29 space mission. "She didn't react too kindly when I first started talking about this some time ago."

The 77-year-old Ohio Democrat said that while the couple's two children were not excited about the Discovery launch either, "Annie was the main one to convince."

Slipping into the lingo of an old Marine, Glenn noted that based on all of the dangers he's already faced, he could have gotten "bagged" long ago.

"There were lots of times that things could have gone a little bit different way, but they didn't," he said. "But I think all my life, I guess, you don't look back and think what might have been or where you might have gotten bagged or whatever. You look forward. There are risks in everything you do."

Sen. Patrick Leahy (D-Vt.), one of the couple's closest friends, said Annie was "apprehensive" about the fact that her husband was heading into space so close to his retirement from the Senate.

"She had some reluctance because he was coming to a time in his life when they were going to have more time together," said Leahy. "They are an extraordinarily close couple—they're sort of the role model for all of us in our own marriages."

Nobody underestimates the strength of Annie Glenn, who toughed her way through her husband's Feb. 20, 1962, Mercury mission, when he flirted with death in the 36-cubic-foot Friendship 7. She also had the guts to stand up to then-Vice President Lyndon Johnson by refusing to let him come into her home for a photo-op, out of fear for how her stutter would look in front of Johnson and so many network TV correspondents.

She was sitting up in the House gallery on that day in 1962 when Glenn jubilantly told a joint session of Congress, "I want you to meet my wife, Annie * * * Annie * * * the rock!"

And Glenn was there for Annie, Leahy recalled, when she conquered her stuttering problem 20 years ago. "We don't think of them as John or Annie," he said. "We think of them as JohnandAnnie—it's just one word."

In finally deciding to hop aboard for this mission, Annie thought back to a vow her husband had made on the day they wed 55 years ago.

"One thing that she's reminded me of is that on our wedding day, along with the vows, one of the things I told her that day or that night sometime was that I would pledge to her I would try to do everything I could to keep life from ever being boring," said the Senator.

Then he added with a laugh, "And she's reminded me of that several times in the past, and this time, too, that she'd just as soon have things be a little bit more boring."

Since critics have said the upcoming nine-day mission is merely a joy ride, Glenn has done his homework. With great specificity, he can recount how the research about how a senior citizen is affected in space will do a great deal for the 34 million seniors in America.

"She gradually over a period of time became an enthusiast for this," he said. "She's changed her view on this, as has my whole family, so she's excited about it."

Sen Dale Bumpers (D-Ark.) said he spoke to Annie last week and she revealed that NASA will be providing a laptop so she can communicate with her husband in space.

"I said, 'Annie, aren't you apprehensive at all about this flight?'" recalled Bumpers. "'She said, 'I'm never apprehensive about anything John really wants to do.'"

Annie Glenn will not be the only person close to the Senator lending her support at Cape Canaveral. A bipartisan delegation of Senators will be heading down to Florida on an official CODEL authorized by Majority Leader Trent Lott (R-Miss.) and Minority Leader Tom Daschle (D-S.D.).

Daschle plans to be there for the launch, even though he faces re-election back in South Dakota less than a week later. Because Lott has a scheduling conflict, he will be sending Senate Appropriations Chairman Ted Stevens (R-Alaska)—who helped come up with the idea of a trip—to lead the Republican side.

"Senators have a way of coming together when another is involved," Lott said in an interview.

The office of Senate Sergeant-at-Arms Greg Casey, who is organizing the trip, does not have a complete list of Senators attending yet. The trip will originate from Andrews Air Force Base on the morning of the launch.

"We have a lot of interest from Senators," said Secretary of the Senate Gary Sisco, who will also attend.

Glenn said that while colleagues have not discussed the launch with him, he's heard whispers about it and feels gratified.

"It's a good feeling to know that there are going to be people there that you have worked with all these years—that they think enough about it to be down there," he said.

Another person who was supposed to be at the Cape was Alan Shepard, his onetime rival in the Mercury program, who recently died. Glenn admits that Shepard's death reminded him of his own mortality, but the Senator insists he's not worried about his safety.

"I've always been very aware of my own mortality anyway," said Glenn. "I got over that teenage immortality bit a long time ago."

Glenn suggested he is at peace with his decision. "I have a deep religious faith and I have all my life," he said. "I don't believe in calling on your religion like a fire engine, you know, 'Oh God, get me out of this mess I've gotten myself into and I'll be so good even you won't believe it."

He added, "But I think . . . we should all live so that if something like that happens to us it won't be a big shock. It's a shock. It would be a shock, of course. Nothing can be 100 percent safe. Everyone knows that. But I think the safety record NASA has had through the manned space program has been absolutely amazing."

Besides his combat missions in Korea and World War II, Glenn faced danger in 1962.

"Some of the ophthalmologists predicted your eyes might change shape," he said. "It was serious enough that if you look at the Friendship 7 over there in the Air and Space Museum now, up on top of the instrument panel there's still a little eye chart that I was to read every 20 minutes to see if my eyes were changing."

When asked why he took such risks, without so much as a blink Glenn responds, "I thought it was valuable for the country."

Colleagues say it is this modesty—as well as Glenn's relationship with his wife—that they will remember most.

"He's one of my favorite people in the whole world because he wears his heroism with such extraordinary modesty," said Sen. Carl Levin (D-Mich.).

Senators like 51-year-old Tim Johnson (D-S.D.) seem awed by getting the chance to serve with Glenn.

"It's like serving with a legend," said Johnson. "The fact that I served with John Glenn is something I'll tell my grandkids."

As a young Navy pilot, Sen. John McCain (R-Ariz.) revered Glenn and says the upcoming mission will remind everyone of that.

"I know it will just affirm in people's minds that we're privileged to have known a great American hero," he said. "I am honored to be in his company. I am serious. I am honored to be in his company."

Sen. Richard Bryan (D-Nev.) said he will try to be in Florida, partially because of a simple expression of love he saw when Bonnie Bryan and Annie Glenn recently traveled together to Saudi Arabia. From across the globe, Mrs. Glenn placed a phone call to her husband in the Senate cloakroom.

Bryan recalled, "He was very excited and came up to me and said, 'I've got Annie on the line, would you like to talk to Bonnie?' John and Annie have this very special relationship—you can sense that."

Leahy recalled riding in the back seat one time as the Glenns kept teasing and poking fun at one another in front seat.

"The two of them are like a pair of teenagers," he said.

But a much sadder occasion reminded Leahy of his affection for the couple. When Leahy's mother died last year, he found out that the Glenns had been trying to lift her spirits during her illness.

"One of the things I found on her bed stand was a handwritten note from John and Annie," said Leahy. "They both had written a couple of paragraphs in the letter. These are very special people."

For Glenn, his frequent trips to Houston for training seem to have been a sort of fountain of youth.

Every time Glenn returns from Houston, said Sen. Richard Lugar (R-Ind.), he's been updated about the status of the mission. "It's wonderful to see someone so engaged and lit up with enthusiasm," he said.

It has also reminded Glenn about the differences between his two careers.

"Here of course, the political lines are drawn and you have confrontation and you have to put everything through a political sieve to know what's real and what isn't in people's minds," he said.

> "Back when I was in the Mercury program or in the program down there now, it's such a pleasure to work in that program because everything is so focused on one objective that everybody's agreed on."
>
> The similarities between the two jobs, he concluded, are limited.
>
> "Both fields take a lot of dedication to accomplish anything. That would be a big similarity, dedication to country and dedication to what you're doing. But that's about where the similarities end."

Mr. LEAHY. I yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER (Mr. ALLARD). The Senator from Iowa.

BANKRUPTCY REFORM ACT OF 1998—CONFERENCE REPORT

MOTION TO PROCEED

The Senate resumed consideration of the motion to proceed to the conference report.

Mr. GRASSLEY. Mr. President, the business before the Senate is the motion to proceed on the bankruptcy conference report.

The PRESIDING OFFICER. The Senator is correct.

Mr. GRASSLEY. Mr. President, as we take up the conference report to the bankruptcy bill, I want to make clear that this report is a balanced and fair compromise between the House and Senate bankruptcy bills. The fact of the matter is that the process of a conference is a process of joining two bills that have passed both Houses in different forms.

One of the key differences between the House and Senate was the question of means testing. The House had a very strict formula, while the Senate bill contained a change to a section of the bankruptcy code which directs judges to consider repayment capacity.

On this point of means testing, the House had one provision formula driven, very much different from the Senate provision that was more subjective in the decision of a judge of whether somebody should be in chapter 7 or chapter 13. But, obviously, even in the Senate bill, we had penalties and incentives for people who should be filing under chapter 13 but, in fact, filed under chapter 7. We had these differences on means testing between the House and the Senate.

Under the conference report that is now before us, a debtor can file in any chapter of the bankruptcy code, and before a debtor can be transferred from chapter 7 to chapter 13, a judge will review the merits of each case.

Mr. President, I think this is important to understand because we provide that every single person who wants their day in court with due process will get it, because under the conference report, each debtor will receive an individual hearing and get a chance to press his or her own case. In other words, the conference report maintains the judicial scrutiny that I think was the distinguishing factor of the Senate bill's means test. Of course, we have a flexible means test before us today that is a product of the conference compromise.

When the Senate considered my bankruptcy reform bill, I spoke at length about the need for reform, and I would like to restate those points as we go to final consideration, after this conference report was overwhelmingly passed by the House of Representatives just a few hours ago.

The need for this bill is based upon the statistics of bankruptcy, and those statistics speak for themselves. The number of bankruptcy filings has skyrocketed in recent years. In 1994, the total number of nonbusiness filings was just over 780,000, probably thought to be too much at that time, and maybe the number was too high at that time. But in 1996, this figure jumped to 1.1 million, and, astonishingly, the 1997 figure was almost 1.35 million. Of course, the trend is continuing.

There is no letup in the dramatic increase in the number of personal bankruptcies being filed even this very day in this country, because filings for the first quarter of 1998 are over 20,000 higher than for the same time last year. They are almost 90,000 ahead of the first quarter of 1996. Unfortunately, the future looks even bleaker. A study released just a few days ago predicted that the number of personal bankruptcies will exceed 2.2 million by the year 2001.

If there is any better reason or rationale for the adoption of this conference report by this body before we go home for recess, it is that the high number of personal bankruptcy filings is continuing to shoot up at a tremendous rate, unjustified for the economic conditions we are in. We think 1.4 million is too high. In 3 years—in 2½ years—they will be well over 2 million if we don't do something about it, and I think this legislation will do something about it.

The interesting and alarming thing is that this unprecedented increase in the filings for bankruptcy comes at a time when our economy is very, very healthy. Disposable income is up, unemployment is very low, and the interest rates are very low.

Here is something that just does not make sense, then. Common sense and basic economics would say that when times are as good as they are now—almost the longest peacetime recovery this country has ever had—when the economy is flourishing, that bankruptcies should not shoot up as well; that is, unless there is something wrong. And there is something wrong.

The bankruptcy code is flawed. There is need for reform. There is not any shame connected with bankruptcy anymore. There is lack of personal responsibility. There is lack of corporate responsibility, as well as credit card companies are pushing credit cards into mailboxes every day. And the bankruptcy bar is not adequately counseling people as to whether or not they should even be in bankruptcy, let alone discouraging them from being in chapter 7 when they should be in chapter 13. But with all of these put together, Mr. President, in my view, the main problem in our bankruptcy law, quite simply, is that current law discourages personal responsibility.

Let me start out by saying that most people who declare bankruptcy because of their low incomes, their inability to pay, probably are correct in doing so. When I say that, that does not counteract what I just said about assuming personal responsibility or not having some shame connected with bankruptcy. But as far as our present law is concerned, and their ability to repay, I would have to say that that is probably where they should be.

But that does not mean that we do not have a responsibility through our society and through the standards set by our Government to do something about the fact that so many people are in bankruptcy in the first place. We will have to deal with that sometime other than in this legislation, because this legislation is dealing with the fact that those who have the ability to repay ought to not get off scot-free. But if you do not have the ability to repay, then, of course, that is another consideration. You have to deal with that in some ways differently than what we do in this legislation.

Estimates vary, but about 80 percent of the people who declare bankruptcy are in desperate straits. And then under the principle that we have had for the last 100 years in our bankruptcy laws, particularly if this is in situations beyond their control—like natural disaster, death, divorce, medical problems—then they may need to get a fresh start.

The problem is, Mr. President, as I have already hinted, some people use bankruptcy as a financial planning tool. They do it to get out of paying off debts which they could pay off. And that is what is pushing the desire for bankruptcy reform. We have a bankruptcy system that lets higher-income people write off their debts with no questions asked and no real way for creditors to prevent this from happening. And this legislation deals with that unjust situation—unjust for creditors, unjust for consumers, because consumers pay it, and too just for people who have the ability to repay.

As I said so often last year, we had a record number of Americans filing for bankruptcy. Of course each bankruptcy case means that someone who extended credit in good faith will not get paid. While estimates differ as to the exact number, American businesses are losing about $40 billion a year as a result of consumer bankruptcy.

You might say, well, big banks and big businesses are in somewhat of a stronger position since they can offset these losses by increasing the amount that they charge other customers. That is an important point, Mr. President. Under the best of circumstances, where a big business can stay afloat in the face of large losses due to bankruptcies, then it is simple: Honest customers pay the price because there is no free lunch. This is like a hidden tax—a hidden bankruptcy tax—which consumers pay, people who play by the rules pay. Because, as businesses end up writing off their debts in bankruptcy, the consumers make it up.

So my legislation would reduce this tax by requiring those consumers who can afford to pay, who have the capacity to make good on their debts, or even some portion thereof, to do so. But that is the situation with big businesses that can pass it on. They can survive in the face of huge bankruptcy losses. They stay in business. They get consumers coming to their door. The consumers pay. But there are a lot of small business people who have to close their doors because maybe they cannot afford to absorb the loss of so much income and consequently do not have the ability to pass it on to their consumers. The Bankruptcy Reform Act limits complete debt relief to only those who cannot repay their debts. Those who can repay their debts are required to do that. And of course, that is common sense.

That is one important aspect of the legislation, the means testing provisions of it. There was a compromise between the House and the Senate. The House had that very strict formula that decided whether a person was in bankruptcy 13 or bankruptcy 7. We had a subjective judgment with encouragement for people to be in chapter 13 and penalties to those who went into 7 when they had the ability to repay and should have been in 13. But it was very subjective, and it took motions by creditors. It took action by trustees to bring that about, and it took penalties against lawyers who were not properly counseling the debtor. So we joined these together to have the bright line of the House version of who should be in chapter 13, but we also make sure that every debtor gets their day in court with due process to make sure they have been treated fairly.

So we move on to another hot-button issue. On this issue the Senate prevailed. The conference report still provides that child support obligations must be paid during any bankruptcy proceeding.

You can see here in this chart, under the conference report, child support and alimony receive first priority. Child support must be paid in full before debt forgiveness. You can see across here, under current law child support/alimony is seventh in priority. We move that to first in priority. You can see that under present law there is no requirement to pay child support before debt forgiveness in chapter 13. Child support must be paid in full before debt forgiveness. Under the conference report, bankruptcy trumps wage garnishment for child support. Under the conference report, bankruptcy does not trump wage garnishment for child support. And lastly, and added to child support, collections are exempt from automatic stay.

The reason that it is important to put child support claimants at the top of the list during bankruptcy proceedings is that most bankrupts do not have enough money to pay all creditors in full. So somebody is not going to be paid. This bill makes it more certain that child support will be paid in full before other creditors can collect a penny. That is real progress in making sure that children and former spouses are treated fairly.

I know this was very much a concern of many members of the Judiciary Committee, including my distinguished ranking member, Senator DURBIN of Illinois, and other members of the committee. I know it is very much a concern of people at the White House. I hope, first of all, that they understand there was no intent of changing this in the original legislation, but I guess it is the way combinations can work, that there was some suspect that this could happen, but I hope that we make it very, very clear that families and children and spouses are first. We have moved it from seventh to first.

Also, the conference report provides that someone owed child support can enforce their obligations even against the exempt property of a bankrupt. This means that wealthy bankrupts can't hide their assets in expensive homes or in pension funds as a way of stiffing their children or their ex-spouses. This is another example of how this legislation will help—not hurt—child support claimants. And rightly so.

This conference report states that debtors receiving child support don't have to count that income when calculating a repayable schedule.

Outside the bankruptcy context, when there are delinquent child or spousal support obligations, State government agencies often step in and try to help collect that child support. The conference report exempts these collection efforts from the automatic stay. The automatic stay is a court injunction which automatically arises when anyone declares bankruptcy, and it prevents creditors from collecting on their debts.

Now, if this legislation were to pass, State agencies would be in a much better position to collect past due child support. In practical terms, that means that State government agencies attempting to collect child support can garnish wages and suspend driver's licenses and professional licenses—plenty of incentive for people to get on the stick and keep their social obligations to the families they have been a part of, benefited from, and to the children that they ought to love in the first place.

Clearly, this will help State governments in catching deadbeats who want to use the bankruptcy system to get out of paying child support. In fact, the district attorneys who actually collect child support strongly support this conference report. So any argument that this conference report is bad for child support is empty political rhetoric.

If I could go to another chart, the conference report also maintains tough fines against creditors who misuse their new powers to harass or intimidate honest consumers, rather than to stop abuses. I think the chart shows what we are doing. I can tell you that this was a very key feature of the Senate bill. Whenever we give creditors a new tool, we also give debtors a new shield to rein in potential creditor abuses. If it is wrong for a debtor to avoid personal responsibility, it is wrong for creditors to misuse the bankruptcy code in an unethical way, as well.

I think it is amazing that we hear from our Democratic friends that we should oppose this conference report, as I think we will, because we limit the ability of unscrupulous trial lawyers to bring class actions against the bankruptcy code. Now, I think that is a very telling point. It seems that those who oppose this bill do not really oppose it because they are worried about consumers. They might oppose it because they want to help trial lawyers clean their pockets. I hope my colleagues will keep this in mind as we consider this conference report.

There is another example of how the conference report gives debtors important new tools to defer, to deter and punish abusive creditor conduct. In the last few years, there have been a number of reports about creditors coercing debtors into agreeing to paying their debts even though the debt could be wiped away in bankruptcy. The bankruptcy code allows debtors to reaffirm debts if they choose to do so voluntarily. The problem is that some companies have been threatening consumers in order to force reaffirmation. The conference report gives every debtor the right to a hearing before a bankruptcy judge who will review the agreement to make sure that there has been no coercion. This is a crucially important change to protect consumers.

I want to make one last point in regard to this chart. We have "truth in advertising" requirements for bankruptcy lawyers. It seems to me this is very, very important. In the original debate on this bill before it went to conference, 2 or 3 weeks ago, the point was made that some lawyers with the bankruptcy mills were advising people through advertising that they had the ability to avoid paying alimony and other things. "Truth in advertising" is very important in any business. It is just as important in the legal profession.

Debtors get new rights to court hearings to stop unfair debt collection practices.

It promotes out-of-court settlements by punishing creditors who refuse to negotiate. We think there ought to be the willingness and the obligation, when somebody who is greatly in debt and wants to work something out without going through the costly and adversarial environment of the court, they ought to be able to. That incentive is in here.

And it requires credit card companies to point out the dangers of making only the minimum payments.

Finally, the conference report makes important changes to help prevent the collapse of the financial sector when a party to a swap or a repurchase agreement defaults on an obligation. These changes were suggested by our Secretary of the Treasury, Robert Rubin. As President Clinton put it, we are in a serious financial crisis and we need to reduce systematic risk in the financial markets now.

This conference report, I think, is balanced and fair. I am sure that we will hear that it is not. Obviously, it is not entirely to my liking. No conference report is to everyone's liking. The essence of this legislative process, when a House and a Senate pass different versions of the bill, is that there be compromise. Actually, the differences in these versions was greater than you would normally have between pieces of legislation passed by the respective bodies and much more difficult to do.

I want to repeat for our colleagues, as well as for his constituents in Illinois, Senator DURBIN has been very, very cooperative throughout this process. We have had a bipartisan bill through the Senate. The process of compromise detracted from that, I am sorry to say. I was hoping that we would have a bill by the last week in July so we could have the whole month of September to work on the tremendous differences between the House and Senate. But things didn't work out the way I wanted them to and I am sure they didn't work out the way our distinguished Senate majority leader, TRENT LOTT, wanted them to work out, so this bill came out during the third week of September.

Now here we are about ready to adjourn for the year and to go home and campaign. That process was not handled in the spirit of bipartisanship that I had planned a year and a half ago when I started working on this legislation, and that has been the practice not only through the Senate, but through conference in previous times. Some of that probably was within my control, but most of it was outside of my control. So the extent to which the last step did not encompass the spirit of bipartisanship that I had anticipated a year and a half ago, I apologize to my friend, the Senator from Illinois.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Let me say at the outset, my respect for my colleague, Senator GRASSLEY of Iowa, has not been diminished by this experience, but enhanced. It has been a joy to work with him over the last year and a half in preparing this important legislation. It is complex. It is difficult. He has shown both legislative and intellectual stamina throughout. He has been fair in his dealings with me, and to the moment where we were successful in passing this bill on the floor of the Senate by an overwhelming vote of 97–1, a strong bipartisan vote, I think we both took pride in the fact that we had given it virtually everything that we could to make the best possible legislation for a very difficult challenge.

Having said that, I will knowledge, as the Senator from Iowa has, that once that bill left the Senate floor, once the conferees were appointed, a totally different process took place, which was very disappointing to me. It was totally different in that it was not bipartisan. In fact, as I stand here today and look up at the clerk's desk and see the conference report from this committee, this is the first time I have ever laid eyes on it. I wasn't there. I wasn't invited to the conference committee meetings. I wasn't asked to sign the conference committee report. In fact, virtually no Democrats—at least on the Senate side—were involved in any of that negotiation. That is truly unfortunate.

There is no reason why this had to be a partisan endeavor. Senator GRASSLEY and I proved that in working together on a bipartisan basis we could come up with a good and balanced bill. In fact, when this issue first came to me and people representing banks and the credit industry came to my office, I said to them: I agree with you, there are abuses in the bankruptcy system that need to be cleaned up. I will help you clean them up if, and only if, you will concede that there are also abuses when it comes to credit cards in America that need to be cleaned up as well.

Each bank, each merchant, each credit card company said, without fail: We agree. We are in for both sides to be repaired, both sides to be changed, and reform to come that will really affect bankruptcy in the future.

The Senate bill did that. The Senate bill said: Yes, we will clean up the bankruptcy court, but we will also say to the credit card companies, you have a responsibility to clean up your act. It also said to creditors that when it comes to the whole question of your efforts, if there are predatory credit practices that are, in fact, unfair, those credit practices will not allow you a ticket into the bankruptcy court.

UNANIMOUS CONSENT REQUEST

Mr. President, before proceeding, I ask unanimous consent that the previously scheduled vote now occur at 5:50 p.m. this evening.

Mr. BAUCUS. Mr. President, reserving the right to object. If I might ask the manager if I may speak 5 minutes before 5:50. Otherwise, I will object. I ask the managers of the bill if they can assure me they will give me 5 minutes.

Mr. GRASSLEY. I will not speak anymore.

Mr. BAUCUS. Otherwise, I will object.

Mr. DURBIN. Mr. President, can we have some indication from other Members on the floor of the time they might need? Perhaps we can come to some accommodation.

Mr. SESSIONS. Mr. President, the Senator from Alabama would like about 10 minutes on the bankruptcy bill. There are 10 minutes set aside for me now.

Mr. DURBIN. How much time would the Senator from Ohio need?

Mr. DEWINE. I would like 8 minutes.

Mr. DURBIN. That is 23 minutes. I would have to sit down, and that would be a painful experience at this moment. I will withdraw the unanimous consent request at this point.

The PRESIDING OFFICER. The request is withdrawn.

Mr. DURBIN. Mr. President, I am concerned that when we set about dealing with the bankruptcy code and reform, we tried to do it in a balanced fashion in the Senate bill.

Tonight, when you go home, open the mailbox, and you know what you are going to find—preapproved credit card applications. If you are an average American, you get 28 a year. If you happen to be in the prime target group, you get many more. A college student, in the first 6 months they are in college, can expect to be inundated. You are 18 years old and you can sign a contract; they can't wait to get you. The dean of students at the University of Indiana tells us that the No. 1 reason kids are leaving school at Indiana is not grades, it is credit card debt. That is what is happening.

So when there is a speech made about the shame of bankruptcy, what about the shame of some of these credit practices?

So what did we suggest be changed as part of this debate? Let me give you an idea of one thing in the Senate bill that was totally rejected by the conference committee. The banks and credit card companies said: This is unreasonable, we don't want it in the bill.

This example credit card statement belongs to a staff member who probably used this as a basis for acquiring more salary. We have added to this a provision that would have been from the Senate bill. We would put it at the bottom of your statement, a tiny paragraph, which says: if you pay only the minimum payment due and make no new purchases or advances, it will take you x number of months to pay off your balance, and the total cost will be approximately x.

Does that sound like an outrageous request of a credit card company—that we as consumers would know what the minimum monthly payment means in terms of indebtedness?

This individual has a balance of $1,295. They asked him to make a minimum payment of $26. If we put our provision on this, we would be telling him it would take him 93 months—almost 8 years—to pay off the bill. When it is all said and done, he would be paying $2,418, or almost double the amount of the current balance.

I don't think consumers should be in any way tricked or deceived or the facts concealed. Yet, that is what is happening because this conference committee felt that it was unreasonable to put that burden on a credit card company.

We had another provision that said that these predatory lenders that go after senior citizens—primarily widows in their late years—in the family home, and sign them up for siding and roofs and home repair with a second mortgage with a balloon, and take the house away because they have deceived some poor person, should not be able to walk into bankruptcy court and execute their claim against that person and their home. Predatory credit practices would not allow you a ticket to the bankruptcy court. As soon as this got in conference committee, they ripped it out and said: We don't want to go that far.

Let me tell you what happened as a result. We received a letter from the Director of the Office of Management and Budget. Mr. Lew has written to us—in fact, to the leaders of Congress—within the last 2 days, to say that if this conference report is presented to the President, his senior advisers will recommend that he veto it. Why? Because it is unreasonable. This conference report could have been so good, could have been so fair and so balanced, and it is not.

When it comes to the test that they are going to put someone in bankruptcy court, this is inflexible and unforgiving. Frankly, as a result of it, a lot of people who don't have resources and should not be put through this wringer will face it.

In addition to that is the whole question of class actions. I will concede to the Senator from Iowa that there are undoubtedly class action lawyers who are unscrupulous, but there are also class action lawyers who stand up for consumers who could not afford a day in court by themselves.

Consider this: A major retailer in the United States of America, as a matter of policy, has a coercive practice that when you are in bankruptcy court, they put the hammer on you as a debtor and say: We don't want you to have our debt written off. We want to tell you that you have to re-sign up to pay off this debt on this refrigerator—or car, or set of tools. They put the pressure on them. The person, under pressure, signs it. And it turns out to be a national policy. In fact, it is a national scandal. Only by class action suits on behalf of debtors across America can you go after these major banks and major retailers.

This conference report removes the right of debtors, through classes, to come to court. That was a right under the law before we even considered bankruptcy code reform. And so not only does this bill take away new protections for consumers, it takes away the existing protections for consumers—another reason why the President's Director of the Office of Management and Budget says they will veto this bill, as I believe they should.

There has been a lot said about child support and alimony. Consider how many of the people who go into bankruptcy court have an obligation to pay for the debts of their children and are, frankly, facing a lot of other debts and wondering how they will pay them off. The bottom line on this bill, as the letter from Mr. Lew indicates, is that they are putting more people in line to draw from the limited assets of estates. So a spouse trying to raise children and looking for child support, when they walk out the door in bankruptcy, has less money to turn to.

This bill, unfortunately, does not provide the kind of protection that I believe is absolutely necessary.

When we came to this Senate floor, we adopted a variety of consumer protection provisions that really gave balance to this bill. Almost without exception every single one of them was removed in this conference committee.

The credit industry that promised us they would give us a balanced bill, that they would agree to end abusive practices in their own industry—when they went into that conference committee and closed the door, they basically broke the deal. They walked out of that door with the conference committee report to their liking. The conference committee report, which they are lauding, is one which most of us believe is, frankly, a bill that should not be signed into law.

It is one sided. It is designed to reward the credit industry and to penalize the average consumer. They save the worst treatment for the unlucky families facing bankruptcy. They held aside the mother who depends on child support so that coercive creditors can claim the limited assets of bankrupt spouses. They refuse to protect the widow bilked out of her home by a home repair con artist. They refuse to provide any new credit card disclosure so that consumers can better understand the termination of their card agreements, or monthly bills.

Our purpose in this bill on this side was never to ration credit, but only to say that credit should be more rational, that each of us, as we enter into agreements for credit cards, should be able to understand the terms of the those credit cards and make our own decisions for ourselves, our families, and our businesses. Each and every time we attempted to do that in the bankruptcy bill, it was stripped out in the conference report.

What did they put in instead? A study—a study. So when it comes to nailing the consumers going into bankruptcy court, we need laws. When it comes to protecting the consumers who are trying to understand the terms of credit, they need studies.

That isn't balanced. And that isn't fair.

I think, frankly, that they have gutted the current law which protects consumers in bankruptcy from creditor abuse and manipulation.

This bill rips into low- and middle-income families and still lets the Florida and Texas millionaires hide their assets in mansions featured in Architectural Digest.

What am I talking about? Let's get specific.

There is an actor we have all heard of named Burt Reynolds. Mr. Reynolds is going through bankruptcy. He had a chain of restaurants and that chain of restaurants, unfortunately for him, failed. So when he reached the end of his rope, he decided to file for bankruptcy. But Mr. Reynolds happens to be a resident in the State of Florida.

If you happen to be a lucky resident of a State like Florida or Texas or Kansas, you can buy whatever size home at whatever expense you care to, and basically it is protected from bankruptcy. The rest of us living in other States would find in bankruptcy court that we are only protected to a limited extent. In those States, you are virtually unprotected.

Mr. Reynolds—this is reported in the newspaper; it is not some privileged information—is going to be able to protect a home in bankruptcy valued at $2.5 million.

This has been called the worst single scandal and abuse in the bankruptcy system.

If we set out to clean up the system, how did we overlook this glaring problem? Because, frankly, there are an awful lot of politically powerful people who do not want to see this changed.

We see a former commissioner of baseball moving to Florida and filing for bankruptcy so he can put as much of his assets as possible into a home that can't be attached under bankruptcy.

A former Governor of Texas filing for bankruptcy is buying 200 acres of ranch land protected from bankruptcy. And the average person walking into a bankruptcy court across America doesn't have that kind of a sweetheart deal.

We cleaned that up in the Senate bill. And the conference committee, when they closed the door, basically stripped it out. They made some changes—I will give them credit for that—some modifications.

But when it comes to dealing with the amendment offered by Senator KOHL of Wisconsin, Senator SESSIONS of Alabama, they are not even close.

If you are talking the shame of bankruptcy, I think it is shameful that we would allow that kind of loophole to continue and say that we have passed a meaningful reform bill.

I come here today in opposition to this bill. I am glad that the administration has indicated that it will veto the bill.

I have said to Senator GRASSLEY and all others who are interested in this subject that I want a fair bill, one that is fair to consumers as well as to creditors. The door is still open for us to come and sit together and try to achieve that.

But those who think they can push this through, that they can slam-dunk this change without taking into consideration the protection of consumers, I think have really done a disservice to families across America—families who count on this Senate and their House of Representatives to listen to their interests, not just to the interests of the banks and the credit industry and the institutions which can afford the high-paid lobbyists in this town.

A few days after our bill passed in the Senate, I ran into a banking lobbyist in this town who said to me with a smile, "When it is all said and done, your consumer protections are gone." She seemed to know already what the outcome would be. I didn't think that was going to happen. I thought when we got into conference we would be able to protect consumers. It didn't happen. What we got was a study—a study instead of a law. A law doesn't protect anybody unless it is enforced. And a study has never protected anybody even if it is enforced.

We need to make certain that if we are going to have real bankruptcy reform, it is balanced reform.

I hope this conference report is ultimately defeated. I hope it is vetoed by the President. I hope we will return to the table and in the spirit of bipartisanship guide us to a Senate bill that passed 97 to 1 on a bipartisan basis. I hope we will come up with that balanced legislation.

I yield the floor.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank the distinguished Senator from Illinois. He did a good amount of work. He worked hard on this bill in committee. He worked hard on it to the very end. He was a champion of it in the committee. It came out of our committee by a 17-to-2 vote. It passed in the Senate with only one negative vote. Then we went into conference with the House. I am convinced that the bill is better today after having been be in conference than it was before it left, even though I had to give up some things that I favored.

I certainly agree with the idea that this homestead situation, where millionaires move off, buy mansions, and then declare bankruptcy, is a scandal.

But I am telling you, I was amazed how many Senators from States who have those homestead exemptions, mistakenly in my view, felt very strongly that this somehow abrogated their State law, their State constitutions. Their opposition, as Senator GRASSLEY knows, jeopardized the ability of the bill to pass. We made some modest progress towards restraining this abuse.

Senator GRASSLEY said he was prepared to let us take it up again next year and see what we could do then. But in order to move the bill, we made some progress rather than no progress on this issue. I certainly believe we can do better.

This bill passed the House with 300 affirmative votes; 75 Democrats supported it. I really do not agree with the assertions that this is not good bipartisan legislation.

It really hurts me to hear the Senator say that this bill guts the protections that were in the Senate version. This bill institutes protections for debtors, but it does set some standards in bankruptcy. It will not let an individual come in and wipe out all of their debt without any explanation or any justification for it. They have to justify that they need this radical protection.

With regard to the question of fairness, we have been on this bill for years now. Senator GRASSLEY has met and met and met. He worked very hard and had the bipartisan support of his Senate Judiciary Committee and his subcommittee on this bill. Senator DURBIN is the ranking member of it. The staff on Sunday met for 7 hours. They met 10 hours with the Democratic staff between Sunday and Wednesday of this week discussing this bill. They were asked to sign the conference report and they chose not to. Those of us who supported the bill signed it. The Democrats refused to do so. Obviously, at some point, they made a decision they were going to object to this bill. I don't believe the majority of the Senators want to do that in either party. It came out of this body and the other body with overwhelming support.

It is stunning to me. I know there is a campaign theme about this "do-nothing Congress." The President has been suggesting that.

This is a good historic piece of legislation. We haven't made a major improvement bankruptcy laws since 1978. A lot of work has gone into this reform. This is major legislation setting forth major progress. And, all of a sudden now, at the last minute, all of the objections come up. I suppose they will accuse us of not being able too pass the bankruptcy legislation.

But I want to say this: I think some people who killed this bill are going to have to answer why. I don't believe it is going to be a satisfactory explanation to say that they voted against it because it prohibited trial lawyers from bringing a bunch of class actions. Only within the area of a finite part of the bankruptcy law are class actions prohibited.

That is almost an insignificant part of this bill. And to raise that now and suggest it is a basis to oppose this bill suggests to me just how good a bill it is, if that is all they can find to fuss about. Maybe this suggests that it is trial lawyers making the phone calls and stirring up the opposition. It really is frustrating to see a man of the ability, the patience and the integrity of Senator GRASSLEY bring this bill up with the great support he had from both parties and see it now being jeopardized by a Presidential veto.

I would hate for that to happen. I believe when the President actually studies this bill carefully, he is going to conclude ti is a historic improvement over the present law, that he cannot justify not signing it, that it will be good for America and that he will sign it. I certainly hope that is true.

Let me mention a couple of things about the bill. We have several pages of restrictions on credit. There is a whole section of this bill entitled "Enhanced Disclosures on the Open End Credit Plan." We went into credit cards and some of that stuff, but this is not a banking bill. This is not a credit card bill. This is a bill to improve bankruptcy, not credit cards. Attaching and raising all those issues is something that ought to be done by the Banking Committee. But we included some restrictions, a number of restrictions, and we put in this bill a study required to be done by the Federal Reserve Board to help us develop a way to control any abuses in the credit card industry. I think it will be a step forward.

This is a not a stonewall. Here at the last minute we don't have to be creating movement from bankruptcy to credit cards. I feel strongly about that.

Let me just mention a couple of things the bill does. It, for the first time, states that if you have plenty of money to pay back a lot of your debts, you ought to do so. So if you can pay back 50 percent, 70 percent of your debts, you ought to go into chapter 13. The court will protect you from lawsuits and creditors, and you set up a payment plan and you can pay back those creditors a portion of what you owe if you have sufficient income.

Now, the standard used for income is the national median income for a family of four. This means that the person would have to make over $50,000 a year to be required to pay any back. If they make less than that, they can stay in the chapter 7 and wipe out all of their debts. So I don't think the standard is very high at all. But people who are wealthy, have money, ought to pay back some of their debts. And many of them can pay all of their debts back.

That is the historic step. It is only fair. And it is just not moral to allow people to not pay their just debts when they are capable of doing so.

I see the distinguished chairman of the Senate Judiciary Committee has come in the Chamber. I have a couple of minutes remaining. I will be delighted to yield for any comments he has. He has been a strong leader in this legislation.

I yield the floor.

Mr. HATCH addressed the Chair.

the PRESIDING OFFICER. the Senator from Utah is recognized.

Mr. BAUCUS. Mr. President, will the Senator yield?

Mr. HATCH. Without losing my right to the floor.

Mr. BAUCUS. I just wonder if the Senator will give am a few minutes. I have been in the Chamber for over a half hour waiting. I would appreciate the Senator yielding.

Mr. HATCH. how much time would the Senator want?

Mr. BAUCUS. Three to 4 minutes.

Mr. HATCH. Could the Senator do it in 2?

Mr. BAUCUS. Three.

Mr. HATCH. Three. Three minutes. Go ahead.

Mr. BAUCUS. I thank the Senator very much.

Mr. HATCH. Without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I thank my good friend from Utah for his graciousness in yielding me 3 minutes.

RELOCATION OF LOCAL POST OFFICES

Mr. BAUCUS. Mr. President, I want to talk about something very simple. It is about post offices and particularly small town or community post offices. Our first Postmaster General was Benjamin Franklin, 200 years ago. And, obviously, at that time post offices were very important to Americans. It was a local gathering place; it was a meeting place, in addition to sending and receiving mail. And the same is true today in small town America, in some of our smaller communities and even some of our larger communities.

For example, in my State of Montana, let's take Livingston, the post office is where people meet to compare notes, talk about what the fly hatch is on the Yellowstone so they will know what to go fishing with. And maybe Red Lodge, MT—collect the mail and talk about what happened at the most recent track meet. The same is true in Plains, MT, a post office that has been there for 115 years.

The problem is this: The Postal Service recently, in my judgment, has not treated communities fairly because it has come in and closed local post offices and often rebuilt them outside of town to essentially destroy the local character of the community.

Senator JEFFORDS and I offered an amendment on the Treasury-Postal appropriations bill. It passed the Senate by a vote of 76 to 21. A similar version passed the House. Essentially, we are just providing for notice so that local communities, when the Postal Service decides to come in and close a post office or move it, would have a chance to have a hearing, would have an opportunity to have notice, would have an opportunity to have some say in their community.

Today, under Postal Service regulations, local people don't have a say. They don't have the ability to influence, in any meaningful way, where their post office is located or whether it should be closed.

I think that is wrong. I regret saying this, but the conferees on the bill stripped our amendment, even though it passed the Senate 76 to 21, and even though it had very large support in the House.

That is just not right. It is not fair. It is not fair to those folks in communities who very much rely on their post office. We are just asking for a fair process so the local people have the opportunity to have some say in their community so that Uncle Sam, Uncle Postal Service, doesn't ram down their throats a solution that doesn't make sense. I regret to say the conferees did not include it, and next year I will reintroduce the legislation, I am sure, along with Senator JEFFORDS. That provision, unfortunately, is not in the bill.

Again, I thank my good friend from Utah, and I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

BANKRUPTCY REFORM ACT OF 1998—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. HATCH. Mr. President, what this legislation will accomplish is straightforward. If a person is able to repay their debts, they will be required to do so. We must restore personal responsibility to the bankruptcy system. If we do not, every family in America, many of whom struggle to make ends meet, will continue to shoulder the financial burden of those who abuse the system.

It always has been my view that individuals should take personal responsibility for their debts, and repay them to the extent possible. Under the present system, it is too easy for debtors who have the ability to repay some of what they owe to file for chapter 7 bankruptcy. Under chapter 7, debtors can liquidate their assets and discharge all debt, while protecting certain assets from liquidation, irrespective of their income. Mr. President, I believe that the complete extinguishing of debt should be reserved for debtors who truly cannot repay them.

Mr. President, let's think about this problem in fundamental terms. Let's say that somebody owes you money, and is perfectly able to pay you back However, this person finds a clever way under Federal law to avoid paying you. That would be wrong—it would be unfair. Yet, we are allowing this to happen every day in our bankruptcy courts. We have a system woefully in need of reform. The bankruptcy system was never intended to be a means for people who are perfectly able to repay their debts to get out of paying them. It was designed to be a last resort for people who truly need it. What our bill does is allow those who truly need bankruptcy relief to have it, but requires those who can repay their debts to do so. This is not a novel concept. It is basic fairness.

Americans agree that bankruptcy should be based on need. As this chart demonstrates, 87 percent believe that an individual who files for bankruptcy should be required to repay as much of their debt as they are able to and then be allowed to extinguish the rest. Yet, as stated in the Wall Street Journal (Nov. 8, 1996) bankruptcy protection laws give an alarming number of "obscure, but perfectly legal places for anyone to hide assets." For instance, one Virginian multimillionaire incurred massive debt, but under State law was entitled to keep certain household goods, farm equipment, and "one horse." This particular individual opted to keep a $640,000 race horse.

This bill does a number of things to make ti harder for people who can repay their debts to avoid doing so by using loopholes in the present bankruptcy system.

It provides a needs-based means test approach to bankruptcy, under which debtors who can repay some of their debts are required to do so. It contains new measures to protect against fraud in bankruptcy, such as a requirement that debtors supply income tax returns and pay stubs, audits of bankruptcy cases, and limits on repeat bankruptcy filings.

Mr. President, I am amazed to hear critics of this legislation make the argument that his report does not protect consumers. As recently as yesterday, I read that an opponent of this legislation said, "The Republican conferees stripped out every significant consumer protection in the Senate bill, and to add insult to injury, repealed existing consumer protections in the law." How, Mr. President, does this bill "repeal existing consumer protections?" Further, I challenge anyone who would make such an unfounded claim to compare the House bill, which passed with an overwhelming bipartisan vote of 306 to 118, with this balanced conference legislation, and tell me there are no new significant consumer protections.

Let's get beyond the politics. Let's stop with the unfounded criticisms of this legislation, and look at what it really gives to consumers:

A debtor's bill of rights with disclosure requirements for debtor lawyers who advertise. This provision is designed to protect consumers from "bankruptcy mills" that are out to make money without regard to consumers. This provision will protect unwary consumers from being lured into bankruptcy without knowing what they are getting into and without knowing their alternatives.

Credit counseling for debtors before they file for bankruptcy, so that they may be able to avoid bankruptcy altogether.

New consumers protections with regard to reaffirmations. Every debtor who reaffirms unsecured debt will have the opportunity to appear before a judge. And, a new heightened standard is required in the review of each of these agreements to make sure debtors are not coerced into making them.

New reaffirmation disclosure requirements. Even it a debtor is represented by counsel, the creditor must give new disclosures to the debtor with regard to the debtor's rights.

New penalties for pressuring debtors after discharge. A $1,000 penalty plus actual damages and attorneys fees if a creditor violates the post-discharge injunction.

New penalties for abusive reaffirmation practices: Another $1,000 penalty on top of actual damages and attorneys fees if a debtor is injured by a creditor's failure to follow the procedures for a reaffirmation agreement.

New penalties for refusal to credit the payment plan properly—again, $1,000 plus actual damages and attorneys fees when the creditor refuses to credit payments under a plan.

New protection for debtors from unjustified motions for dismissal in the form of liability for the debtor's attorneys fees and costs.

New penalties for creditors who fail to negotiate. If a creditor unreasonably refuses a good faith offer to settle before bankruptcy for 60 cents on the dollar, the court can decrease the creditor's claim by up to 20 percent.

New penalties for violating the automatic stay—including actual damages and attorneys fees.

New protections from credit card cancellation. A credit card company is prohibited from terminating a customer's account solely because the debtor has not incurred finance charges on the account.

New credit card warnings and disclosures, including new initial disclosures, new periodic statement disclosures and new annual disclosures about the reality of paying off a balance by making only the minimum payment.

A new study on disclosures for closed and open end credit secured by the debtor's house, to be conducted by the Federal Reserve Board, with authority to issue new disclosure regulations.

A new Fed study on the sufficiency of current consumer protections on debit card liability and the authority to issue new disclosure regulations.

A report from the comptroller general within 1 year on whether there are excessive extensions of credit to college students.

And, the bill makes extensive reform to the bankruptcy laws in order to protect our children. The bill ensures that bankruptcy cannot be used by deadbeat dads to avoid paying child support and alimony obligations. The obligation to pay child support and alimony is moved to a first priority status under this legislation, as opposed to its current place at seventh in line, behind bankruptcy lawyers and other special interest. With this new law, debtors who owe child support will have to keep paying it when they file for bankruptcy, and they cannot obtain a discharge until they bring their child support and alimony obligations current. Also, if a debtor pays child support right before filing for bankruptcy, the child support payment can't be taken away from the kids.

The National Association of Attorneys General has told me that they "applaud the provisions * * * that improve the tr4atment of domestic support obligations by ensuring that the spouse and children will continue to be able to collect support payments they are owed during the bankruptcy case and that debtors will not obtain a discharge until they have met their obligations to their spouse and children." The attorneys general go on to say that "these are much needed additions to current law, and we strongly support these changes." the National Child Support Enforcement Association has also written to me in support of these improvements to bankruptcy law because of the need "to strengthen and clarify the rights of separated families during and following bankruptcy proceedings."

In addition, this bill protects our children's educations. With this legislation, postsecondary education accounts will be protected in bankruptcy up to $50,000 per child or $100,000 in the aggregate.

This bill also provides new and important protections for retirement savings. The AARP has stated, "The accumulation and preservation of retirement funds * * * represents an important national goal." The AARP believes—and I agree with them—that retirement savings should be more uniformly protected, and that "Shielding retirement funds would reduce the likelihood that legitimate petitioners will be impoverished later in life." Under this bill, retirement plan assets are categorically untouchable by creditors, even if State exemptions are otherwise claimed.

Furthermore, this legislation keeps drunk drivers from using bankruptcy to get out of paying their victims the judgments they owe them.

I simply can't believe that opponents of this legislation can say with a straight face that this legislation doesn't help the American people.

About $40 billion in consumer debt will be erased this year in personal bankruptcies.

Let me put this figure in perspective. $40 billion is enough to fund the entire U.S. Department of Transportation for a year, or to provide Pell grants to 13 million needy college students.

It has been estimated that bankruptcies cost every American family about $400 per year. Apparently, critics of this legislation are content to throw this money away. But where I come from, $400 a family means something. It buys 5 weeks worth of groceries, 20 tanks of gas, 10 pairs of shoes for a grade school child, or more than a year's supply of diapers.

Are opponents of this bill really comfortable with the status quo? Are they willing to throw away all of the important new consumer protections we have worked for in this bill? Are they willing to have retirement savings and educational savings exposed to the claims of creditors in bankruptcy? Are they willing to continue to let deadbeat dads use the U.S. bankruptcy system to get off the hook for child support? Are they willing to let drunk drivers use bankruptcy to get out of paying their victims?

The only conclusion we can reach is that opponents of this legislation simply never wanted to see bankruptcy reform at all. Apparently, they are content to do nothing to curb the record increases in bankruptcy filings. They are willing to allow people to continue to "game" the bankruptcy system at the expense of honest, hardworking Americans. And, they are happy to sit idly by and do nothing when they see a

$400 hidden bankruptcy tax imposed on every American family year after year.

It is my sincere hope my colleagues will not derail this bill just to make a political statement, and instead vote their conscience on the substance, and support this bill. I am also hopeful that the President and his advisors will recognize the importance of this bill to the economy and to all consumers.

In conclusion, Mr. President, I have heard these arguments from my colleagues on the other side that this process has not been a good process and all of their consumer protection items have been taken out of this bill.

Look, I negotiated with the House on this, and we had to do it in a very intensive, tight framework. It was a very difficult thing to do. Let me go down through some of the new consumer protections that are in this bill, because nothing could be farther from the truth than for them to come out here and indicate there are no consumer protections.

No. 1, we have a Debtor Bill of Rights in this bill, credit counseling; we have judicial review of reaffirmation; we have reaffirmation of disclosure requirements; we have penalties for pressuring debtors after discharge; we have penalties for abusive reaffirmation; we have penalties for refusal to credit payments; we have protections from unjustified motions; and penalties for failure to negotiate.

This is all for the protection of consumers. Penalties for violating automatic stays, protection from credit card cancellations, credit card warnings and disclosures that we require, rules and study on disclosures, over 100 percent mortgage credit study; we have a study on debit card liability; we have a college student and credit card study. All of this is important, meaning we are going to continue to revisit this and do all of the things we can to do what is right here.

We have child support protected, education savings protected, retirement savings protected; we have drunk-driving judgments are going to get paid.

Now, there are a lot of consumer protections here. Look at this: "Americans agree bankruptcy should be based on need."

> An individual who files for bankruptcy should be able to wipe out all their debt regardless of their ability to repay that debt.

That is 10 percent of the people.

The "DK refused," 4 percent.

> An individual who files for bankruptcy should be required to pay as much of their debt as they are able to and then be able to wipe out the rest.

Eighty-seven percent fit in that category. What does that mean to the American taxpayers and the real consumers in this country and everybody else who is paying for this ungodly process? About $40 billion in consumer debt will be erased this year in personal bankruptcy. First, $40 billion would fund the entire U.S. Department of Transportation for 1 year; second, provide Pell grants to 13 million needy college-bound students; third, "The Flawed System Costs Every American Household $400." Just think about that. Last but not least, "Bankruptcies Cost American Families $400 a Year."

That $400 could buy a family of four 5 weeks of groceries, 20 tanks of unleaded gasoline 10 pairs of shoes for the average grade-school child, and more than 1 year's worth of disposable diapers.

There is a lot we have done here. Is it perfect? No, because we have two bodies here that have to get together.

I would also like to express any disappointment that despite hours and hours and numerous meetings between Democrats and Republicans, some say that the process was not fair or somehow excluded Democrat participation.

I lived through years and years of Democrat control of this body, and the other body, and I have to tell you, they were not nearly as fair in most conferences as we have been here in trying to accommodate Democrats—when many did not want to. So we have tried to do it. I think it is just really very phony to go otherwise.

I yield the floor.

Mr. BROWNBACK. Mr. President, I rise in support of the Senate-House Conference Report on the Consumer Bankruptcy Reform Act. I applaud the hard work of both the Senate and House conferencees, especially the leadership that Senator GRASSLEY has shown on reforming our bankruptcy laws.

I believe that this conference report is a balance between preventing the fraud and abuse of our bankruptcy system and protecting those who are in considerable economic pain. The increase in bankruptcies has put a strain on our economy and families. These losses associated with bankruptcies have been passed onto consumers, costing every household that pays its bills $400 in hidden taxes. That is not fair to the millions of families who pay their bills every month. This report will prohibit fraud, abuse, and the casual use of our bankruptcy laws while ensuring the payment of child support and alimony.

I am disheartened by some of my Democratic colleagues and the Administration's opposition to this conference report. This bill not only reforms our current bankruptcy laws, but places Chapter 12 into our bankruptcy code permanently in order to protect family farms and farmers.

Farmers in Kansas and across the country are experiencing cash flow problems associated with low commodity prices. U.S. Dept. of Agriculture estimated that net farm income would be down by 15.8 percent this year. Some economists have indicated that America's farmers could soon see a recession similar to the one which occurred in the mid-1980's.

Chapter 12 of the bankruptcy code was created by Congress in 1986 in response to the farm crisis of the mid-1980's, which caused many family farmers to lose their farms and homes. This chapter was specifically designed to protect family farmers by enabling them to reorganize their debts and keep their land. However, this chapter has not yet been reauthorized and expired on October 1.

While I realize both sides of the aisle have differences on how to provide relief to our family farmers during this difficult time, we are all unanimous in protecting their farms and homes. Just last year, the Senate passed the Family Farmer Protection Act by unanimous consent that would permanently place Chapter 12 in our bankruptcy code. If we want to protect our family farms and farmers during this crisis, we must pass the bankruptcy conference report and place Chapter 12 permanently into our bankruptcy code.

Mr. KERREY. Mr. President, I want to express my disappointment with H.R. 3150, the Bankruptcy Reform Conference Report, and the decision of the Conference members to drop important provisions that would have helped our farmers.

I voted for the Senate version of the bankruptcy bill because I believe it properly toughened provisions to keep bad seeds from filing for bankruptcy, while maintaining protections for consumers. I voted for the Senate bill because I worked hard to get important protections for farmers added to the bill.

The Senate passed a bipartisan piece of legislation that not only was crafted in the best spirit of bipartisanship, but included valuable provisions to help our farmers, who are facing the worst economic crisis in a decade.

I, along with my friend from Wisconsin, Mr. FEINGOLD, worked hard to add provisions to the Senate bill to specifically help family farmers by increasing debt limits so that inflation levels are factored into their debt calculations; ease regulations related to income acquired off of the farm by families trying to make ends meet; and help farmers better structure their debt in order to continue to prepare for next season's crops and livestock.

All of these provisions were removed in the Conference Report.

I come to the floor today to make something clear. I will not let the Conference Committee's decision to exclude these important protections for farmers be the final word. I plan on doing everything I can during these remaining days to get these much needed farming provisions included in the Omnibus Appropriations bill.

Mr. KOHL. Mr. President, I rise to express my strong concern about the conference report on bankruptcy reform. We do need to stop abuse of the bankruptcy system, and there is some good in this measure. But regrettably this is not an adequate solution. I do want to "proceed," but to a better bankruptcy bill.

Two weeks ago, the Senate overwhelmingly passed a reform bill which I was proud to support. It targeted the worst abuses by debtors and creditors, without overburdening the vast majority of debtors who truly need—and deserve—relief. Senator GRASSLEY and Senator DURBIN deserve much of the credit for putting together such a balanced and effective measure.

But this bill is not that bill. Let me tell you why.

Mr. President, we can't truly "reform" the bankruptcy system unless we eliminate the most egregious abuse. That is, debtors who shield their assets in luxury homes in states like Florida and Texas, while their legitimate creditors—children, ex-spouses owed alimony, governments, retailers and banks—get left out in the cold. If we really want to restore the stigma to bankruptcy, all of us know this is the best place to start. By capping the homestead exemption at $100,000, the Senate bill would have stopped this abuse.

But the Conference Report won't put an end to this practice. Indeed, it only addresses part of the problem—by making it harder to move to Florida or Texas solely to take advantage of their liberal homestead laws. Now that is a step forward. But it is just a small step; it does nothing to stop debtors who already own lavish homes—or second homes—in those states from continuing to live like kings. That's an injustice to legitimate creditors and an outrage to anyone who believes—like I do—that deadbeats who go into bankruptcy shouldn't be able to shield their assets in luxurious homes.

Just take a look at what Burt Reynolds did earlier this week. The measure wouldn't apply to him, because he lives in Florida and that state has no homestead cap. As part of his bankruptcy settlement, he managed to hold onto his $2.5 million estate called "Valhalla." Now, I like Burt Reynolds' movies. I liked "Deliverance," "Daisy Miller," and "The Longest Yard"—though I didn't see "Boogie Nights." Burt Reynolds is a fine actor. But it seems like he's making out much like his title role in "Smokey and the Bandit." While he lives in luxury, his legitimate creditors lose millions. The Conference Report allows this to happen; the Senate bill would have put an end to this travesty.

Of course, the dramatic rise in bankruptcies is very troubling, regardless of whether the blame lies with credit card companies, a culture that disparages personal responsibility, the bankruptcy code or, most probably, with all of the above. While none of us wants to return to the era of "debtors' prison," we need to do something to reverse this trend, reduce the number of bankruptcy filings and make sure bankruptcy remains a tool of last resort. This bill does some of that. For example, it discourages repeat filings and it encourages debtors who can repay some of their debts to do so. But Mr. President, ultimately this Conference Report falls short. Instead of proceeding to this measure, we should proceed to a better bill. And hopefully next Congress we will. Thank you.

The PRESIDING OFFICER. The hour of 6 o'clock having arrived, the question is on the motion to proceed to the conference report on H.R. 3150.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Missouri (Mr. BOND) is necessarily absent.

Mr. FORD. I announce that the Senator from Ohio (Mr. GLENN), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Minnesota (Mr. WELLSTONE) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. WELLSTONE) would vote "aye."

The result was announced—yeas 94, nays 2, as follows:

[Rollcall Vote No. 313 Leg.]

YEAS—94

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Biden
Bingaman
Boxer
Breaux
Brownback
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Faircloth
Feingold
Feinstein
Ford
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wyden

NAYS—2

Harkin
Kohl

NOT VOTING—4

Bond
Glenn
Hollings
Wellstone

The motion was agreed to.

BANKRUPTCY REFORM ACT OF 1998—CONFERENCE REPORT

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3150), have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The Senate proceeded to consider the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 7, 1998.)

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Texas.

Mrs. HUTCHISON. I am happy to yield to the Senator from Indiana.

The PRESIDING OFFICER. The Chair recognizes the Senator from Indiana.

Mr. COATS. I thank the Senator from Texas.

MORNING BUSINESS

Mr. COATS. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COATS. Mr. President, I ask unanimous consent that I be permitted to speak for up to—and I do not think it will take that long—15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that I be allowed to follow the Senator from Indiana for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. COATS. Mr. President, I also ask unanimous consent that members of my staff be granted floor privileges during the presentation of my statement. And I also ask unanimous consent that a list of their names be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The list is as follows:

Mike Boisvenue, Joy Borkholder, David Crane, Mike Farley, Carol Feddeler, Frank Finelli, Tim Goeglein, John Hatter, Debra Jarrett, Vivian Jones, Holly Kuzmich, Bruce Landis, Sue Lee, Robin McDonald, Christine McEachin, Townsend Lange McNitt, Stephanie Monroe, Michael O'Brien, Karen Parker, Ryan Reger, Marc Scheessele, Pam Sellars, Mary Smith, Matt Smith, Sharon Soderstrom, Russ Vought, Emily Wall, and Paul Yanosy.

Mr. DASCHLE. Parliamentary inquiry; could the Chair inform our colleagues as to the order that has been agreed to as a result of the unanimous consent request.

The PRESIDING OFFICER. The Senator from Indiana has up to 15 minutes, as agreed to by unanimous consent, to be followed by the Senator from Texas for up to 5 minutes.

Mr. DASCHLE. I ask unanimous consent I be recognized for the purpose of morning business following the two Senators who have already been identified through the unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COATS. Mr. President, let me state that it is not my intention to hold anybody here that needs to leave. It is my understanding that all normal business for the day has been finished, and that is why I asked for the permission to speak in morning business. If that is not the case, I am certainly willing to defer.

Since I hear no objection, I will proceed.

REFLECTIONS

Mr. COATS. Mr. President, the end of the 105th Congress marks the beginning of my transition from Senator to citizen. This ends 24 years for me of public service: Two in the U.S. Army, four as a legislative assistant and district director for then-Congressman Dan Quayle, and 18 in the Congress. While I look forward to life after politics, I know how much I will miss this place and its people, and so I want to acknowledge some debts.

I want to acknowledge the privilege of serving under two remarkable Republican leaders and one Democrat majority leader, all of whom I hold a great deal of respect. Senator Mitchell was majority leader when I arrived. He gave me nothing but the utmost courtesy, fairness and respect. I have a great deal of respect for him in the way he conducted this Senate. Senator Dole became my friend and mentor. His life is a tribute to a true patriot and to someone whose commitment to public service, I think, is nearly unequal. Our current leader, Senator LOTT, is someone who is a dear friend, someone who I greatly respect, and I think certainly has a great future as majority leader.

There are many others that have made a deep impression on me and provided friendship and support in ways that I will never be able to adequately acknowledge: The senior Senator from Indiana, whose lifetime of public service serves as a model to many; my staff, who have faithfully and tirelessly served. I have always said good staff makes for good Senators. I don't know if I fit the quality of a good Senator, but I know I had a good staff. Any failings on my part are not due to my staff, they are due to me. They have been exceptional. I think they are the best Senate staff assembled. I say that for the very few who are left that have not secured employment. Some of you are passing up great opportunities if you don't grab them.

I have had three very, very able administrative assistants, chiefs of staff: David Hoppe, who now serves as the floor's chief of staff and served with me for my first 4 years; David Gribbin, who many of you know, assistant secretary of staff for Dick Cheney for many, many years in the House; and now Sharon Soderstrom. All have been exceptional chiefs of staff. They have assembled a wonderful staff.

The Senate support team: All those who man the desks and work the cloakroom and make sure we vote on time; the guards who protect us and make sure we are safe in our jobs; the staff who serve us, and the people who make this place work, they are a family. They have treated me like part of the family. I have tried to treat them as part of the family. They make it possible for us to do so many things and they certainly deserve our acknowledgment.

Our Chaplain, who has meant so much to me from a spiritual perspective, and my colleagues, my friends, who I can't begin to thank; those who share my ideals and have voted with me and those who don't but who have engaged in respectful, meaningful dialog in debate, and who, at the end of the debate, we have been able to meet at the center aisle, shake hands, acknowledge, "Well done, we will get you next time," or "See you at the next debate?"—all of those mean a great deal to me. I come from here with many, many memories.

I want to thank my wife for her love and support and sacrifice. She is the best mother that any three children could ever have had. She has been a father many times when I haven't been there to do the job as a father. My children have been patient and had stolen moments which I will never be able to recover. I thank my colleagues, as I said, those who have shared ideals and those who we had honorable and honest disagreement. Finally, the people of Indiana who have seen fit to elect me many times to the Congress and twice to the Senate, thank you for giving me a privilege beyond my ability to earn the privilege of their trust, the honor of their votes.

In times of change you become reflective, and it is nice to think about your accomplishments. It is also a time to reflect on unfinished business, business that I hope will help shape the direction of this Congress that some have indicated an interest in, and hopefully others will pick up that interest.

By constitutional design, the measure of success in the Senate, I think, is different from other parts of government. We are employed to take a longer view, insulated from the rush of hours to see the needs of future years. This is the theory. In practice, the pace of politics makes this very different, very difficult. This has been the greatest source of personal frustration during my years in this institution, that we have not spent nearly enough time dealing with the larger issues that face us, things that will matter down the road, topics that will be chapters in American history, not footnotes in the CONGRESSIONAL RECORD.

If you allow me the privilege, I will briefly mention three of those matters that I trust will remain central to the questions of our time.

All of you know of my interest in the issue of life. I believe there is no higher call of government than to protect the most defenseless among us. There is no greater honor in this Senate than to use our voice to speak for those who cannot speak for themselves. Perhaps uniquely among our deliberations, the cause of life is informed and ennobled by a simple truth: Humanity is not an achievement. It is an endowment, and that that endowment is made by a Creator who gives inalienable rights, first among them the right to life. This is a founding principle of our political tradition. It is the teaching of our moral heritage. And it is the demand of our conscience.

Abraham Lincoln wrote of our Founders:

> This was their majestic interpretation of the economy of the universe. This was their lofty, and wise, and noble understanding of the justice of the Creator to his creatures. . . . In their enlightened belief, nothing stamped with the divine image and likeness was sent into the world to be trodden on. . . . They grasped not only the whole race of man then living, but they reached forward and seized upon the farthest posterity. They erected a beacon to guide their children, and their children's children, and the countless myriads who should inhabit the Earth in other ages.

My question is, Will that beacon shine for all our children, those born and yet to be born? Or will we, in the name of personal liberty, stamp out the divine image and likeness of the most defenseless of all? I believe it is one of the central questions of our time.

I know we are divided on that issue. I hope, though, that we would all put aside some of the harsh rhetoric and continue to engage in the discussion about the meaning and the value of life and what our duties and responsibilities are to protect that life, to expand the ever-widening circle of inclusion that our great democracy is known for: bringing women, the defenseless, the handicapped, African-Americans and minorities within this circle of protection in our democracy. And I believe—my personal view, and I hope one we would certainly debate and discuss—that extends to the unborn.

Secondly, another great issue that I believe demands our continued attention is the long-term strength of our Nation, the resource and planning that we devote to the defense of liberty. Here we are, not weak as a nation, but I fear that we are on a trajectory toward weakness—that our power and authority are being spent and not accumulated.

It has been one of the highest callings and privileges for this Senator to serve on the Senate Armed Services Committee and to use that position to advance the cause of our men and women in uniform. I deeply respect and honor those who have served our Nation in war and peace as watchmen on the wall of freedom, but the test of our appreciation is measurable by the firmness of our determination that their lives will not be needlessly sacrificed because we have allowed the deterrent power of America's military to decay. The history of this country is a history of military victories, but it is also a history of how our Nation often invited future conflict and unnecessary loss of American life by too swiftly disarming after our victories and squandering the opportunities of peace.

In 1939, Army Chief of Staff, Malin Craig said:

> What transpires on prospective battlefields is influenced vitally years before in the councils of the staff and in the legislative halls of Congress. Time is the only thing that may be irrevocably lost, and it is the first thing lost sight of in the seductive false security of peaceful times.

Mr. President, I believe we have been living in peaceful times. We have enjoyed prosperity and peace that is almost unprecedented in America these past several years. I fear that storm clouds are gathering, however, on America's horizon, that the "seductive false security of our peaceful times" is fast fading. We see a frightening proliferation of weapons of mass destruction. We see worldwide terrorism, much of it directed at Americans and American interests. We see political instability and human suffering, social disorder resulting from ethnic hatred, power-hungry dictators, and the very real prospect of global financial distress with all of its attendant consequences. All of this, I believe, calls for eternal vigilance, a national defense second to none, a military equal to the threats of a new century.

We have a unique opportunity, I believe, and a strategic pause that is fast fading to build a new military equal to the new challenges and the new threats of the future. Closer to home, it is my hope that the Senate, in every future debate on social policy, will focus on the role of families, churches and community institutions in meeting human needs and touching human souls. This is a world of heroic commitment and high standards and true compassion that must be respected and fostered and protected, not harassed or undermined by Government or Hollywood. It is a world of promise that I urge all of you to take the time to discover.

I believe our Nation needs a bold, new definition of compassion. We need compassion that shows good outcomes, not just good intentions. We need to get rid of the destructive welfare culture. We have taken a great step in that direction, but we still need to fulfill our responsibilities to the less fortunate and disadvantaged, the children and the helpless. We need to abandon our illusions about Government bureaucracies, but we still need to keep our human decency.

How is this possible? I am convinced there is a way—a hopeful new direction for change, because there are people and institutions in our society that can reach and change these things. Families and neighborhoods, churches, charities, and volunteer associations have the tools to transform people's lives. They can demand individual responsibility. They can practice tough love. They can offer moral values and spiritual renewal—things that Government can't do, and we should not want Government to do.

I believe a bold, new definition of compassion will adopt this bold dream: to break the monopoly of Government as a provider of compassion and return its resources to individuals, churches, synagogues, charities, volunteer associations, community organizations and others. This, I believe, is the next step of the welfare debate and the next stage of reform, the next frontier of compassion in America.

Before I close, let me add a personal note, and it is difficult for me to say this. I have deliberated long on whether I should say this. But I believe, since I am not going to be here next year, this is something I would want to have said. So allow me to briefly do that.

I resolved when I came here, like many of you, from the moment I took the oath, that I would do my best not to do anything to bring this body into disrepute, that I would try not to tarnish it by word or action, that whatever I did in public policy, I would try my best not to contribute to public cynicism or a diminishing of the office. I think all of us feel this burden. It is one of the reasons that I believe this impeachment process, which we are contemplating, which looms large on the horizon of this Senate, has to be taken seriously. I don't presume that any of us should draw a conclusion at this point. But I believe it is a serious thing to consider. I don't believe that moral deregulation of public office is ratified by public apathy. It will be a terrible thing if the ethical expectations of public office are allowed to wither. The Nation could double its wealth, but we could have a shrunken legacy. I believe each of you who will be here have a high duty and moral responsibility to address this with the utmost seriousness and the absolute smallest amount of partisanship that is possible, and I speak to my colleagues on the Republican side, as well as the Democrat side.

It is my hope that when the time comes, the Senate will give evidence to the ideals that I have seen displayed so many times in this body. I believe these things strongly, but I don't want to end on this point. I make the points because I have learned from so many here in the Senate and from so many great Americans who served before me how honorable public service can be. I am not leaving the Senate disillusioned in any way. I leave having seen how important and how sometimes noble elective office can be, after nearly two decades of service. I believe in this job and in its goals, and I am confident that the country is well served by my many friends and colleagues who will continue to serve and lead this institution.

Again, I thank my great State of Indiana and the people and friends who made it possible for me to serve here. I thank my God for the privilege of service in this place, and I thank each of you for being my friends and my colleagues and leaving me with memories that I will never, ever forget. I will leave here extolling this institution as the greatest deliberative body in the greatest country in the history of the world, and I have been privileged to be a part of it. Thank you very much.

[Applause.]

SENATOR DAN COATS

Mr. LOTT. Mr. President, while our colleagues express their appreciation to our good friend from Indiana, I would like to just say a few words about him and spread those on the RECORD of the U.S. Senate.

We are all losing some good friends in the Senate Chamber this year on both sides of the aisle, and we will have a chance over the next few hours to talk about each one of them. I want to say a few special words about my good friend, DAN COATS.

Senator DAN COATS succeeded Senator Dan Quayle in the Senate. He was a Member of the House, and he worked as a staff member before that. I have actually known this distinguished Senator from Indiana going back about 20 years now, as a staff member, which I was, as a Congressman, and as a Senator. I have to say that I truly believe that no man or woman who serves in the Senate today has had a greater influence on my own life and on my own career than DAN COATS from Indiana. He was always there for me when I sought advice in the House. And every time I have sought elective office in the Senate, he was one of the nominators. I referred to him as my "rabbit's foot" because he always said just the right things. Whenever the going is the toughest, I know I can go to DAN and seek good advice, and it will come from him. He is a man that has his priorities in order—honesty, integrity, family, and also those special things a lot of people don't know about, such as his involvement in the Big Brothers Program. One of the things he enjoyed the most, which he didn't mention today, is that he served in the House for quite some time as the ranking member on the Select Committee on Children, Youth and Families. He enjoyed that assignment. I always wanted to eliminate all of the select committees. But for DAN and that committee, they did a great service for the families and the children of this country.

DAN is the kind of guy also who will run late to a meeting with the archbishop and will stop and visit with a homeless man on the street to try to talk to him about his needs, and try to help him, try to get him to go to a shelter. He is really a good human being.

He has been a valuable asset to the Senate when it came to our services, when it came to working with any of us who have problems here in the Senate.

So I am going to dearly miss him as a personal friend, as a great Senator, a great family man. He and Marcia are great people. In fact, I was sitting on my patio a couple of weeks ago on Saturday, and I got to thinking about DAN COATS. I got melancholy, and I got tears in my eyes. I called him on a Saturday afternoon and said, "You can't leave. I can't go forward in the Senate without you." I found out that he and Marcia had been playing tennis on a nice clay tennis court instead of being out campaigning in the backwoods somewhere. And, somehow or other, it seemed okay.

He is leaving the Senate, but he is not leaving us. I have a feeling that he is going to have a real influence in many ways for the rest of his life, and he is going to stay close to all of us.

So on a very personal basis on behalf of the Senate, I wish you God's grace in everything you do, DAN COATS.

I yield the floor.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Chair recognizes the Senator from Texas.

Mrs. HUTCHISON. Mr. President, I want to add to the wonderful words that were said about Senator DAN COATS by our distinguished majority header. He has affected many of us. I think by his example we have all been enriched in this body, and in the U.S. Congress. We thank him very much.

BANKRUPTCY REFORM ACT OF 1998

Mrs. HUTCHISON. Mr. President, I rise to talk about the bankruptcy reform bill that we have just proceeded to and to say that this is a very important reform bill.

I want to commend Senator CHUCK GRASSLEY for the work he has done on this bill and to specifically talk about one part of this bill which was very important to me. That is the homestead exemption that is a part of the Texas Constitution.

I worked with Senator GRASSLEY and Senator HATCH when this bill was coming to the floor earlier this month to make sure that, by the time the bill was finished, it would take into account those States that have constitutional provisions, as my State does, which provide for some sort of homestead exemption.

In my home State of Texas, we have had a homestead exemption under our bankruptcy laws and in the constitution since the 1840s, actually; this is not something that has come about lately. But because many farmers and ranchers were very worried about losing their livelihoods if they ever got into a temporary situation—they were worried that they would lose their ability to maintain their families and their livelihoods—so we have a constitutional provision. It was important to me that we keep it.

The first bill that passed out of the Senate did not have that. But I had the assurance of Senator GRASSLEY that he would work with me to make sure that a State like mine would not be overrun on this very important point. And, in fact, Senator GRASSLEY is true to his word. I cannot say enough good things about the fact that he kept his word to the letter. We were able to come to an agreement that kept the Texas constitutional provision for the homestead exemption intact. That is in the bill that will go forward.

I hope we will be able to pass this bill, send it to the President, put it on his desk, and that he will sign it. But if in fact that isn't the case, I hope we will be able to work on this next year to have real bankruptcy reform so that people will not be able to willingly walk away from their debts, but nevertheless that will also take into account that there are States which have constitutions about which we feel very strongly, that this is a part of our heritage. It is one that I will work tirelessly to see continued.

Mr. President, I thank the Presiding Officer. I appreciate very much the opportunity to work on this with Senator GRASSLEY and Senator HATCH. I hope we will prevail either in the next few days or in the next year.

Thank you, Mr. President. I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Democratic leader is recognized.

Mr. DASCHLE. I thank the Chair.

SENATOR WENDELL H. FORD

Mr. DASCHLE. Mr. President, as the majority leader noted, this is a bittersweet time for many of us. We bid colleagues farewell and we recall the times we have had together. In some cases, we have worked together and shared friendships for many years.

I have been asked to do something somewhat unusual tonight. I have been asked by the staff of our distinguished Senator from Kentucky, my dear friend, Senator FORD, to read a letter they have composed to him for the Congressional RECORD.

I am delighted that Senator FORD is on the floor to hear this personally.

So, as requested, I will read the letter, which was written by his staff. I know my own staff shares these feelings for Senator FORD. The letter is dated October 9, 1998.

> OCTOBER 9, 1998.
>
> DEAR SENATOR FORD: After several weeks of tributes, receptions, dinners and other special events in your honor, we're sure that a man of your humble nature is probably ready to have people quit making a fuss and let you leave town as unnoticed and as low-key as possible.
>
> However, these weeks have given us the opportunity to hear others tell you what we've also known all along: your legacy of serving our state, your labor of love on behalf of all Americans, and the unfailing kindness you've shown during your time in the United States Senate will never be forgotten.
>
> On top of just being a plain 'ole good boss, you've also been a mentor, a teacher, and someone we could always look up to for guidance and support, no matter the situation. But most importantly, you've been a friend to all of us.
>
> You've given us the opportunity on a daily basis to personally witness the countless hours of hard work you put in on behalf of Kentuckians. We've seen you stay into the early morning hours here in the Senate during an all-night session, and then rush to catch an early morning plane for a commitment back home. We've seen you toil late into the night working on a conference committee, only to have you beat us into work the next morning with a smile and joke for everyone.
>
> These are some of the things your Kentucky constituents may never have known. But at the same time, we know they've benefitted greatly from your accomplishments on their behalf and your never-ending desire to see that all Kentuckians, no matter their station, have the tools and opportunities to lead successful and productive lives.
>
> As we've heard you say many times, it's been a good run. And we could not let today pass without letting you know how much it's meant for us to have had the opportunity to work with you, to learn from you, and have you as our favorite Senator.
>
> Sincerely,
>
> YOUR STAFF.

Mr. President, I yield the floor.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Kentucky.

Mr. FORD. Mr. President, let me thank my good friend, the Democratic leader, TOM DASCHLE, for reading this letter. I didn't know it was coming.

I really do not know how to respond to it, except to thank my staff. We claim to do a lot of things around here. And if we did not have loyal, faithful, hard-working, dedicated, intelligent staff, not only in our offices but here on the floor, we would not get accomplished near as much as we do.

So I thank them from the bottom of my heart. And I hope that in the last few days I will not get so cantankerous that they will want to expunge the RECORD of this letter.

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56 BIT ENCRYPTION IS A GOOD START, BUT IS NOT ENOUGH

Mr. LOTT. Mr. President, the White House recently announced that it would allow some relaxation of its encryption export controls to allow the sale of strong encryption products to companies in the finance, insurance, and health sectors and to certain companies engaged in electronic commerce. While the specific details have yet to be articulated in revised regulations, it appears that the Administration is finally heeding Congress' calls to modernize its export control regulations. While this action is a step in the right direction, I believe the Administration is still moving too slowly and incrementally. Even with these proposed changes, there are still a number of other businesses and consumers who will not be able to utilize strong American-made encryption products. Since export restrictions will remain in place, foreign suppliers will continue to develop and sell strong encryption products in the international marketplace without real competition from U.S. providers. Putting $60 billion and over 200,000 American jobs in jeopardy over the next few years.

Unfortunately, the Administration continues to pursue an outmoded policy that supports the broad use of 56-bit encryption for the vast majority of computer users. As my colleagues are aware, the government-approved 56-bit Data Encryption Standard was recently cracked last July in just 56 hours. This is particularly alarming because it was accomplished using a single computer instead of the thousands that were linked together just a few months ago to achieve the same result in 39 days.

Fortunately, this code-breaking effort was undertaken by contest participants as part of an international challenge instead of by hackers or thieves preying on a vulnerable, unsuspecting target. It is truly scary to see how easy it is for someone's medical, financial, or personal records to be accessed and read by unauthorized persons. Ironically, the decoded message read, "It's time for those 128-, 192-, and 256-bit keys."

This feat proves what many in Congress have been stating for some time, that 56-bit encryption can no longer protect individual or corporate computer files from unauthorized access. Yet, 56- bit encryption continues to be recognized as the government standard and U.S. companies can only sell advanced encryption software and hardware to a finite community abroad. Let us be clear; the Administration's export regime affects American citizens everywhere. Whether you communicate via the Internet, or work in the technology business, you are likely to be adversely affected by the Administration's current encryption policy. A policy that does not allow the sale of strong encryption to energy suppliers, telecommunication providers, the transportation industry, human rights organizations and the vast majority of legitimate and responsible business entities and consumers throughout the globe. Ultimately, this approach promotes the use and development of weak encryption. While I welcome the White House's recent announcement to relax some export controls, the Administration's proposal simply does not go far enough.

Mr. President, it is encouraging that the Minority Leader has actively engaged himself on the encryption issue. In a floor speech last July, Senator DASCHLE agreed that America's encryption policy needs to strike a balance between privacy protections and national security and law enforcement interests. The Minority Leader recognizes that the development and use of strong encryption products promote international commerce and Internet use as well as ensure privacy and aid national security. Senator DASCHLE is also equally alarmed that, "maintaining existing encryption policies will cost the U.S. economy as much as $96 billion over the next 5 years . . ." I agree with Senator DASCHLE's comments that the Administration needs to articulate and advance an encryption agreement that is "good for consumers, good for business, and good for law enforcement and national security." Similarly, we agree that it is time to move beyond endless discussion and debate and on to a balanced and complete solution.

Mr. President, with every passing month, consumers across the globe turn to foreign suppliers for their advanced encryption needs. If a solution that reverses this trend is not found soon, then America's computer industry will fall so far behind its foreign competitors that U.S. suppliers will lose forever their technology market share to European, Asian, and other foreign manufacturers. Congress and the Administration cannot allow this happen.

As Senator DASCHLE pointed out, the computer industry and privacy groups are serious about reaching a compromise on encryption. In May, for example, Americans for Computer Privacy (ACP), a technology policy group, submitted a seven-point proposal to the Administration which would provide U.S. manufactures the ability to sell the kind of encryption technology that is already widely available abroad. In July, an industry consortium announced the "Private Doorbells" proposal to assist law enforcement. This proposal was a reasonable attempt to find an alternative to the White House's call for a national key escrow framework. Fortunately, the Administration finally appears to recognize that a third party key recovery system is technically unworkable and unnecessary.

I believe Congress is still interested in modernizing the Nation's encryption policy based on current realities. As Senator DASCHLE observed, several cryptography bills have been offered during this session. Clearly though, they are not all created equal. Some of these legislative proposals would turn back the clock by putting controls on domestic encryption where no such controls currently exist. Others would completely sacrifice constitutional protections by allowing law enforcement to read personal computer files without a court order and without the target ever knowing their files had been accessed. There are also proposals that would require an expensive, technically unworkable key escrow system. Finally, some members advocate linking encryption with other technology issues which could in the end result in no legislation being passed at all.

The encryption debate cannot be resolved by settling on a specific bit-length, giving particular industry sectors export relief while denying others the same, or by sanctioning one technical solution over another. Moreover, this debate will not be resolved by building secret backdoors, frontdoors or any doorways into encryption software.

Mr. President, I look forward to working further with Senator DASCHLE, my colleagues from both sides of the aisle, the Administration, and the computer industry to help close the gaps that still exist. As the Minority Leader recognizes, this is not about politics or partisanship. This is an urgent matter that requires us all to work together to forge an appropriate solution. One that balances the needs of industry, consumers, and the law enforcement and intelligence communities. In the end, we must have a consensus solution that brings America encryption policy into the 21st Century.

COMMENDING THE CENTER FOR SUSTAINABLE URBAN NEIGHBORHOODS

Mr. FORD. Mr. President, all across America, people from every walk of life carry a vision in their heads and in their hearts of the perfect community—of the kind of place where they can raise their children and their children can in turn raise their children.

There's no doubt that everyone's picture would look different, based on our own experience. But I feel certain they would have many elements in common. We want safe neighborhoods. We want to be economically secure. And we want to keep our families healthy. These are the building blocks of a liveable community, and the City of Louisville has played an important role in helping to put them into place, serving as a model for inner-city revitalization.

The city has rehabilitated and built hundreds of housing units, they've created new jobs and businesses, and more families are building stable, productive lives. East Russell, an inner-city Louisville Neighborhood, has seized the nation's attention by creating a renaissance in that part of the city, bringing it new life and vitality. Rightfully so, this revitalization project has received attention by mayors and elected officials all over the United States.

The University of Louisville's Sustainable Urban Neighborhoods (SUN) is devoted to making inner city neighborhoods healthy and safe places to live. The project is located at the Center for Urban and Economic Research at the University of Louisville. One of the biggest accomplishments of this project has been building affordable houses for residents with a strong cooperative effort by the entire staff, including the University of Louisville, CityBank, and Telesis, along with many community organizations.

Mr. President, the SUN staff—including its Director, Dr. John Gilderbloom and students from the University of Louisville —and SUN community partners have already done so much to strengthen our inner city communities and boost the hopes and spirits of the people living there.

I would ask that my colleagues join me today in commending their work to make our cities "dream places" to live and for their continued commitment to the greater community. And as they host their conference the week of October 15th through the 17th, we wish them the best of luck in their continued efforts.

RETIREMENT OF SENATOR DIRK KEMPTHORNE

Mr. THURMOND. Mr. President, while each of us is looking forward to adjournment so that we may go home and spend time with our constituents and being closer to our family and friends, the end of the 105th Congress is a somewhat bittersweet occasion as many of our colleagues are concluding their careers in the Senate. One member who will not be back with us in January is my friend, Senator DIRK KEMPTHORNE of Idaho.

Senator KEMPTHORNE arrived in Washington six-years-ago and very quickly established a reputation for not only being dedicated to the duties and responsibilities of his office, but for being an individual with a keen mind who approached matters before this body in a very thoughtful and deliberative manner. His opinion on issues was always well regarded and void of partisan rhetoric. Though one will never have every member of this Body agree with their position, everyone gave considerable weight to the remarks and positions of the Senator from Idaho.

One of Senator KEMPTHORNE's committee assignments was to the Armed Services Committee and I quickly spotted his leadership ability, and in a relatively short period of time, assigned him the chairmanship of the Subcommittee on Personnel. This was a demanding job, especially in this era when we are not only trying to determine what the appropriate size of the military should be, but also because of a number of highly emotional issues related to personnel matters. Regardless of the issue that was before his subcommittee, Senator KEMPTHORNE worked hard to ensure that he discharged his responsibilities impartially, and with the best interests of our men and women in uniform in mind.

Beyond earning a reputation for being an intelligent student of public policy, Senator KEMPTHORNE also earned a well deserved reputation for being a decent man. He was unfailingly polite and cordial to everyone with whom he dealt. Whether it was a witness before the Committee, a debate opponent on the Senate Floor, or one of the thousands of support staff that work in the Senate, DIRK KEMPTHORNE was pleasant, respectful, and cordial.

It is truly our loss that Senator KEMPTHORNE has decided to leave the Senate and return to Idaho, but the citizens of that state will indeed benefit when our friend is elected Governor. The ability he demonstrated for leadership and civility will serve both he and his constituents well and I am certain that Idaho will be regarded as one of the most efficiently run states in the Union before the end of his first term. My counsel to the members of this Chamber is that DIRK KEMPTHORNE is a man to keep your eye on, and frankly, I would not be surprised if he were to return to Washington one day, though to take an office that is at the opposite end of Pennsylvania Avenue. Regardless, I wish both he and his lovely wife Patricia health, happiness, and great success in the years to come, we shall miss them both.

RETIREMENT OF SENATOR DAN COATS

Mr. THURMOND. Mr. President, there is perhaps no other legislative body in the world that attracts a more competent group of public servants than the United States Senate. In the almost 45 years I have spent in this institution, I have had the good fortune to serve with a number of very capable, dedicated, and selfless individuals who have worked hard to represent their constituents and do what is best for the nation. One person who is an excellent example of the high caliber of person who is drawn to public service is my good friend and colleague, DAN COATS.

The Mid-West has the uncanny way of producing men and women of imminent sense and decency, individuals who have the ability to see to the heart of a matter and find a way to resolve a problem. Such skill is extremely valuable in the United States Senate, a body by its very design that is supposed to foster compromise between legislators on issues before the nation. Without question, DAN COATS is a Senator who worked hard to bring parties together, find common ground, and to get legislation passed. That is certainly a fine legacy with which to leave this institution.

More than being an able legislator, Senator COATS developed a strong expertise on defense matters, particularly those related to his responsibilities as Chairman of the Airland Subcommittee of the Committee on the Armed Services. In this role, Senator COATS was responsible for providing advice and helping shape policy on matters related to how to describe what the threat and future threats to our Nation are, how our military should be structured in order to guarantee our security, and what sort of ground and aviation assets our troops need in order to do our jobs. Senator COATS had to be well versed in everything from the GoreTex booties that go into the boots of our soldiers to the advanced aerodynamical concepts that are being used in the helicopters and jets being developed for our forces. Few other individuals could have mastered these disparate topics so well, and that Senator COATS was able to do so, and make it look so easy, is a testament to this man's intellect, dedication, and ability.

Without question, we are going to miss the many contributions of Senator COATS, both to the Committee and to the full Senate. He had a wry sense of humor, a civil demeanor, and a desire to serve our nation. His departure from the Senate is truly a loss, but I am confident that he will continue to find a way to serve and to make a difference. I will miss him, both as a friend and a colleague, and I would like to take this opportunity to wish both he and his lovely wife Marcia great success and happiness in all his future endeavors.

RETIREMENT OF SENATOR JOHN GLENN

Mr. THURMOND. Mr. President, though the 105th Congress will soon come to a close, and each of us will return home to meet with constituents, or take fact finding trips throughout the nation or the world, one of our colleagues has not only already left town, but is headed for a most unusual destination, that of outer space. I speak, of course, of our friend, JOHN GLENN who is ending his career in the United States Senate.

Like most people, I first learned of JOHN GLENN in 1962 when he orbited the Earth, but when the people of Ohio elected him to this Body in 1974, I had the opportunity to come to know him personally. In the subsequent years, we worked closely together on a number of issues, especially those related to national security as we served together on the Senate Committee on the Armed Forces. Naturally, his experiences as a Marine Corps officer gave Senator GLENN valuable insight into defense matters and he played an important role on the Committee and in working to help provide for a military adequately capable of protecting the United States.

The same qualities that made JOHN GLENN a successful Marine and astronaut, served him well here in the United States Senate. Without question, he is a determined man who has earned our respect for his honor, ability, and dedication. His desire to serve our nation is an inspiration, and in keeping with the highest traditions of public service. Without question, he has set an excellent example for others to follow and it is my hope that more people, from Ohio and throughout the United States, will follow his lead and find a way to make a difference in their communities and to our nation.

Mr. President, the United States Senate will just not be quite the same place without the presence of Senator JOHN GLENN. We appreciate the many ways in which he has served so admirably and wish both he and his lovely wife Annie health, happiness, and success in the years ahead.

RETIREMENT OF SENATOR WENDELL FORD

Mr. THURMOND. Mr. President, Kentucky is famous for many things, including its bourbon and the Derby, but what I have come to associate most with the "Bluegrass State" over the past 24-years is Senator WENDELL FORD, who I regret to note is leaving the Senate at the end of the 105th Congress.

Senator FORD is a man with a deep and unwavering commitment to public service. He served in the United States Army during World War II and continued his military service as a member of the Kentucky National Guard. He has held elected office at both the state and federal levels, holding the titles of state senator and governor before being elected to the United States Senate in 1974.

Each of us understands that our primary job as Senators is to make the law, but many of us also believe that we should use our offices to help the people of our states. This is a sentiment that Senator FORD and I share, and over the years, my friend from Kentucky has worked tirelessly to help his state develop and prosper. While Kentucky, like South Carolina, is still a largely rural state, thanks in no small part to the efforts of WENDELL FORD, the people of Kentucky are enjoying opportunities and economic growth that has been substantial.

During his time in Washington, Senator FORD has held a number of key positions, both in the Senate and in political organizations. His leadership roles as an Assistant Leader and a former Committee Chairman stand as testament to both his abilities and the regard in which he is held by his peers.

I am certain that Senator FORD did not easily come to the decision to retire, but I am certain that he and his lovely wife Jean are looking forward to their new life. I wish both of them health, happiness and success in whatever endeavor they undertake.

RETIREMENT OF SENATOR DALE BUMPERS

Mr. THURMOND. Mr. President, one of the things that makes the Senate such a unique and enjoyable place to work is the fact that there are 100 unique personalities that make up this institution. While each member takes his or her duties seriously, I hope that I do not offend anyone when I say that not all are gifted orators. One person who definitely can engage in articulate and compelling debate, and is also able to bring a little levity to our proceedings through his wit and ability to tell a story is the Senator from Arkansas, DALE BUMPERS.

First elected to the Senate in 1974, Senator BUMPERS arrived with an already well established and well deserved reputation for having a commitment to serving is constituents and our Nation. He served in the United States Marine Corps during World War II, as well as the Governor of Arkansas, having been elected to that post in 1970. Clearly, his training as the chief executive of his home State, along with experiences as a trial lawyer, gave him the skills that would make him an effective and respected Senator.

For the past more than 20-years, Senator BUMPERS has worked hard to represent his State, and in doing so, has made many valuable contributions to the U.S. Senate. I regret that we have not shared any committee assignments, but I have always respected and valued the opinions of the Senator from Arkansas. His exist from the Senate leaves this institution without one of its most impressive and effective advocates.

I am certain that DALE and his lovely wife Betty will enjoy the more deliberate lifestyle and pace that bring out of politics will afford them and I wish the both of them health, happiness and success in the years ahead.

SECRETARY OF THE NAVY JOHN H. DALTON

Mr. THURMOND. Mr. President, as the framers of the Constitution worked to lay out the foundation of the United States, they very wisely decided that the military forces of this nation should be subservient to civilian leadership. For the past 224 years, this arrangement has worked well proving the wisdom of the men who drafted the document that serves as the cornerstone of our democracy and government.

One of the reasons that civilian leadership of the military has worked so well is because Presidents search tirelessly to find qualified individuals to fill the critical positions of the service secretaries. If we were to look across the Potomac and into the "E" ring of the Pentagon, we would find a group of selfless men and women serving as the civilian leadership of America's armed forces. One of those individuals is Secretary of the Navy John H. Dalton, who will be stepping down from his position at the end of this year.

When John Dalton raised his right hand on July 22, 1993, swore his oath and became the 70th Secretary of the Navy, he came to the office well trained to discharge the duties of his new office. Not only was he a successful corporate executive with invaluable experience in managing a large organization, he graduated from the United States Naval Academy and served as an officer aboard the submarines USS Blueback and USS John C. Calhoun. Additionally, he served in the Carter Administration as a member and chairman of the Federal Home Loan Bank Board.

The challenges of essentially being the first post-Cold War Secretary of the Navy were significant. Secretary Dalton had the unenviable task of being responsible for the reshaping of the Navy and the Marine Corps to meet the security needs of the United States in a world that is no longer bi-polar. Under his direction, the Navy and the Marine Corps implemented the new doctrines of "Forward, From the Sea: Anytime, Anywhere", and "Operational Maneuver from the Sea", both which will help America meet its short and long-term tactical and strategic needs. Furthermore, Secretary Dalton worked to achieve acquisition initiatives seeking to establish practices resulting in the procurement of the best equipment for our sailors and marines, at the fairest cost to the taxpayer. The new attack submarine teaming arrangement, the DDG–51 multi-year procurement, and the testing and evaluation of the F/A–18 E/F are all examples of such successful endeavors.

Unquestionably, the Navy and Marine Corps that Secretary Dalton will turn over to his successor are institutions that have benefitted from the leadership of this charismatic and kind

Texan. His efforts have earned him the respect and accolades of people in the Congress, in the Executive Branch, in industry, in academia, and around the world, and even resulted in his being awarded with the National Security Caucus' prestigious International Leadership Award in 1997. He is the first service secretary to be recognized in this manner and his winning this award is a testament to the regard in which he is held.

Mr. President, I have worked with a lot of service secretaries in my almost 45 years in this body and I say without reservation that John Dalton is one of the finest individuals to have ever served in that capacity. He is a man of honor, ability, and dedication and he will certainly be missed. I know that everyone in this chamber joins me in wishing him "fair winds and following seas" as he completes his public service to the Department of the Navy and the United States of America.

PASSAGE OF THE YEAR 2000 INFORMATION AND READINESS DISCLOSURE ACT, S. 2392

Mr. LEAHY. Mr. President, the Y2K bill demonstrates successful bipartisanship and cooperation, and how well Congress can work together when it wants to. Under the leadership of Vice President GORE, Senators HATCH, BENNETT, DODD, THOMPSON, KYL and I, along with others, have worked with the Administration and the House of Representatives to create and pass this legislation. I thank them for their hard work and dedication to this issue.

Four-hundred and forty-nine days from now, millions of computers controlling our air traffic, recording stock and credit card transactions, running electric and telephone systems, tracking bank deposits and monitoring hospital patients may crash in befuddlement. All of this is due to the short-sighted omission of a couple of digits, a one and a nine, from computer chips. Passage of this bill is a signal to the world that by acting now, we can work together to avoid these problems.

The Year 2000 Information and Readiness Disclosure Act will not eliminate the millennium bug—regrettably, no legislation could do that. However, it will greatly increase the chances that industry, university and government experts will work cooperatively to come up with the solutions.

One of the scariest aspects of the Y2K bug has been the silence of businesses and industries in the face of this common enemy. Liability concerns have muted industry experts, dashing the best hopes for developing fixes for this problem. The Year 2000 Information and Readiness Disclosure Act was designed to overcome this isolation and create a free flow of constructive information.

The Year 2000 Information and Readiness Disclosure Act will encourage the sharing of knowledge and working together to create solutions. This bill does not give companies liability protection for their products or services. Rather, for a limited time it will provide adjusted procedures for the exchange of Year 2000 information. This is our best bet to ensuring that services and products will continue operating after midnight on December 31, 1999.

This bill also includes a provision I proposed that will assist consumers, small businesses and local governments. It charters a national information clearinghouse and website as a starting point to provide rapid and accurate information about solving Y2K problems. This will be a needed tool for small businesses, local governments and citizens so they can prepare for the millennium.

I want to thank the President and Vice President for their foresight in this issue, and the corporate leaders who worked together with us to get this done. Major industries—from telecommunications, electric, computer, transportation, energy, health, insurance and many others—pitched in and listened to each other and worked together. I congratulate and thank Senators for their unanimous support for this measure. It is reassuring to know that even in the midst of other dramas, Congress can come together to tackle fundamental issues confronting our national economy and security. I look forward to the President signing this important legislation.

NEXT GENERATION INTERNET RESEARCH ACT OF 1998

Mr. LEAHY. Mr. President, I am delighted that last night the Senate took up and passed H.R. 3332.

I first introduced my domain name study bill, S. 1727, on March 6, 1998. It was cosponsored by Senator ASHCROFT on May 21, 1998 and passed the Senate on June 26, 1998 as an amendment to S. 1609, Senate legislation to authorize the Next Generation Internet program. The House passed a very similar domain name study bill on September 14, 1998 as part of H.R. 3332, its legislation to authorize the Next Generation Internet program. The Senate Judiciary Committee reported out a substitute amendment to S. 1727 on September 17, 1998 that was identical to the domain name study language that is in H.R. 3332. Now, with the Senate passage of H.R. 3332, the domain name study language will be presented to the President for his signature into law.

The Leahy/Ashcroft domain name study legislation that is incorporated into H.R. 3332 authorizes the National Research Council (NRC) of the National Academy of Sciences to conduct a comprehensive study of the effects on trademark rights of adding new generic top level domain names (gTLDs), and related dispute resolution procedures.

When I first introduced this bill in March, it was, in part, a response to the Administration's Green Paper released on January 30, 1988, on the domain name system (DNS), which suggested the addition of five new generic Top Level Domains (gTLDs).

Although adding new gTLDs, as the Green Paper proposed, would allow more competition and more individuals and businesses to obtain addresses that more closely reflect their names and functions, I was concerned as were many businesses, that the increase in gTLDs would make the job of protecting their trademarks from infringement or dilution more difficult. In addition, increasing the number of gTLDs without an efficient dispute resolution mechanism had the potential of fueling litigation and the threat of litigation, with an overall chilling effect on the choice and use of domain names.

The Green Paper properly raised the important questions of how to protect consumers' interests in locating the brand or vendor of their choice on the Internet without being deceived or confused, how to protect companies from having their brand equity diluted in an electronic environment, and how to resolve disputes efficiently and inexpensively. It did not, however, answer these complex and important questions. Dictating the introduction of new gTLDs without analyzing the impact that these new gTLDs would have on trademark rights and related dispute resolution procedures seemed like putting the cart before the horse.

The Leahy/Ashcroft domain name study bill is intended to put the horse back before the cart. We should understand the effects on trademark rights of adding new gTLDs and related dispute resolution procedures before we move to add significant numbers of new gTLDs. Since its introduction in March, groups such as ATT, Bell Atlantic, Time Warner, the International Trademark Association, the Information Technology Industry Council, the Motion Picture Association of America, the Domain Name Rights Coalition, and the American Intellectual Property Law Association, amongst others, have endorsed this legislation reflected in the Leahy-Ashcroft domain name study bill.

The Administration's White Paper, released on June 5, 1988, backed off the Green Paper's earlier suggestion to add five new gTLDs. Instead, the White Paper proposes that the new corporation would be the most appropriate body to make decisions as to how many, if any, new gTLDs should be added once it has global input, including from the study called for in the Leahy-Ashcroft domain name bill. Specifically, the White Paper calls upon the World Intellectual Property Organization, *inter alia*, to "evaluate the effects, based on studies conducted by independent organizations, such as the

National Research Council of the National Academy of Sciences, of adding new gTLDs, and related dispute resolution procedures on trademark and intellectual property holders."

I commend the Administration for the deliberate approach it has taken to facilitate the withdrawal of the U.S. government from the governance of the Internet and to privatize the management of Internet names and addresses. We should have a Hippocratic Oath for the Internet—that before we adopt any new regimen that affects the Internet, we should make sure we are doing no harm to this dynamic medium.

In order for the WIPO study to be able to evaluate the effects, based on studies conducted by independent organizations, such as the NRC, of adding new gTLDs and related dispute resolution procedures on trademark rights, the Leahy/Ashcroft domain name study legislation in H.R. 3332 instructs the NRC to release an interim report that can be considered before the release of the March 1, 1999 WIPO study. I believe it beneficial, however, for the final report of the NRC to still be released after the WIPO study, so that the NRC can take into account the results and recommendations offered by the WIPO study and offer its comments on the WIPO study.

One might ask whether the NRC report is necessary, given the fact that WIPO will also be doing a study. I believe that the answer is a resounding "yes". Since the Internet is an outgrowth of U.S. government investments carried out under agreements with U.S. agencies, major components of the DNS are still performed by or subject to agreements with U.S. agencies. Examples include assignments of numerical addresses to Internet users, management of the system of registering names for Internet users, operation of the root server system, and protocol assignment. although U.S. government management of the Internet's most basic functions will soon be phased out, it is still not clear who will be running the new nonprofit corporation which, according to the Administration's White Paper, will oversee the domain name system. Moreover, the U.S. leads the world in the creation and dissemination of intellectual property. Given the U.S. interests that are at stake and the uncertainty in who will run the domain name system and how it will affect U.S. stakeholders, I think it important that a U.S. entity examine the issue of adding new gTLDs and related dispute resolution procedures on trademark rights. As important as it is for WIPO to benefit from an objective U.S. entity's perspective on this matter, I also think that an objective U.S. entity should be tasked with considering whatever recommendations are issued by WIPO.

I am therefore pleased that the Senate passed H.R. 3332 last night with the Leahy/Ashcroft domain name study bill.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Thursday, October 8, 1998, the federal debt stood at $5,540,550,647,696.94 (Five trillion, five hundred forty billion, five hundred fifty million, six hundred forty-seven thousand, six hundred forty-seven dollars and ninety-four cents).

One year ago, October 8, 1997, the federal debt stood at $5,413,433,000,000 (Four trillion, four hundred thirteen billion, four hundred thirty-three million).

Five years ago, October 8, 1993, the federal debt stood at $4,400,578,000,000 (Four trillion, four hundred billion, five hundred seventy-eight million) which reflects a debt increase of more than $1 trillion—$1,133,917,649,475.23 (One trillion, one hundred thirty-three billion, nine hundred seventeen million, six hundred forty-nine thousand, four hundred seventy-five dollars and twenty-three cents) in just 5 years.

ROBERT DIBBLEE

Mr. HATCH. Mr. President, I would like to take just a moment to note the departure later this month of my Administrative Assistant, Robert Dibblee. Robert has served as my chief of staff for four years. He previously served a number of years with our former colleague, Senator Jake Garn.

He has been my right-hand man, not only in running my office—running my life actually—but also on key land policy issues affecting Utah. I have really come to rely on him for advice and counsel as well as for accomplishing the myriad of tasks that face a Senate office.

I want to use this public forum to recognize and thank Robert for his tireless efforts behind the scenes to keep the Utah Schools and Lands Exchange Act, just passed by the Senate, on track. From the day he arrived on my staff in 1993, I knew he would make my priority his own. I should mention that the first iteration of this legislation was my bill, S. 184, introduced during the 103rd Congress. The bill was enacted into law; but, unfortunately, the required land appraisals were never carried out by the Interior Department. And, the presidential designation of the Grand Staircase-Escalante National Monument in 1996 doubled the number of acres of trust land that needed to be offset or compensated.

Robert has worked practically on a daily basis on this issue with the Utah governor's office, the Interior Department, members and staff of the Senate Energy Committee, and with the staff of my colleagues in the Utah delegation, particularly Congressman JIM HANSEN, without whose assistance as chairman of the House Resources Subcommittee we could not have passed the bill today.

During this final week, Robert worked to break several logjams that could have sunk this legislation. Throughout the consideration of this bill, he has been a steady and reliable guide for this all-important bill to support education in Utah.

Robert is moving on to be Vice President for Government Relations for the National Association of Independent Insurers. So, I say to my colleagues who do not yet know him: you will. And, you will appreciate working with him as much as I have. Robert Dibblee is a stand-up guy who does what is right and honorable; he won't try to pull the wool over your eyes; and he follows through on his commitments.

I will miss having him as an integral part of my team, but I wish him well in this new, challenging assignment.

RETIREMENT OF SENATOR WENDELL FORD

Mr. LEVIN. Mr. President, when this Congress adjourns the Senate will lose its distinguished Minority Whip, the senior Senator from Kentucky, WENDELL H. FORD. WENDELL FORD has earned a reputation as the Senate's leader on aviation matters, and has long been one of the most influential members of the Senate on energy and election reform issues. He has battled for campaign finance reform legislation and led the fight for the "motor voter" bill which has expanded voter registration across the country.

There is no member of the Senate more well-liked by his colleagues than WENDELL FORD. However, I have often thought that one of the true measures of a Senator is how she or he relates to staff members, workers and other visitors to our nation's capital. WENDELL FORD is among the most beloved.

I think back to one particular incident. A member of my staff had brought his 5-year old son to work for the day. The staff member, needing to attend an important meeting, left his son to play with paper, crayons and stapler, under the supervision of several co-workers. He returned to find his son no longer at the desk where he had been left. A quick search followed. The young boy was found just outside the office in the Senate hallway where he had stopped Senator WENDELL FORD and attempted to sell him a book (artful pages of crayon scribbles, stapled together) for a nickel. Senator FORD was in the act of earnestly requesting two and trying to convince the young man to accept a dime as superior to the requested nickel.

Last March, WENDELL FORD became the longest serving senator from Kentucky in the history of the U.S. Senate when he surpassed another beloved Kentuckian, Alben Barkley.

WENDELL FORD is unsurpassed in many things: He is unsurpassed in his love of family, love of country and love of the U.S. Senate. He is unsurpassed in his efforts to be helpful to new members. How many times he has set aside personal needs or took the time to help newcomers to this body to weather the self doubts or maneuver through the complex procedures.

WENDELL FORD is unsurpassed in his commitment to the hard working families whom are the backbone of this nation and in his passion for the "little guy".

Mr. President, to me, the story I told of the little boy in the Senate hall characterizes WENDELL FORD. WENDELL is a genuine, kind, straight-forward and thoughtful man as well as an effective national leader. All of us in the United States Senate and our families will miss the inimitable WENDELL FORD and his wife, Jean.

RETIREMENT OF SENATOR DAN COATS

Mr. LEVIN. Mr. President, when the Congress ends, Senator DAN COATS of Indiana will retire from the Senate. DAN COATS and I have served together on the Armed Services Committee and the Senate Select Committee on Intelligence.

On the Armed Services Committee, DAN COATS has served ably as the Chairman of the Airland Forces Subcommittee. He is a forceful proponent of a strong national defense and has consistently supported efforts to assure that our men and women in the military remain the best trained and equipped in the world.

Although DAN COATS was one of the leading proponents in the Senate of the version of the line-item veto which was passed and signed into law, and I joined with Senators BYRD and MOYNIHAN in arguing in an amicus curiae brief to the Supreme Court that that legislation was unconstitutional, I greatly respected the diligence and integrity with which he fought that battle.

My friend from Indiana and I have worked together for several years to prevent our states and communities from becoming dumping grounds for solid waste from other areas of the country and outside the country. He has been a persistent advocate of giving states and local governments the power to stem the flow of garbage flooding into their jurisdictions. I would like to thank him for all he has done on this matter, hopefully paving the way to a resolution which will give more power to the people whose quality of life is being harmed by a free interstate flow of trash.

Mr. President, DAN COATS' outstanding service as a United States Senator came as no surprise to me or my constituents. He was born and raised in Jackson, Michigan and naturally this has prepared him, like most Michiganders, to excel in life. However, even though he has wandered off to Indiana, and wandered even further into the GOP, I have enjoyed the opportunities which I have had to work with DAN COATS and will miss his friendship next year.

RETIREMENT OF SENATOR JOHN GLENN

Mr. LEVIN. Mr. President, when the 105th Congress adjourns sine die in the next few days, the Senate will lose one of our nation's true heroes, and one of my personal heroes, Senator JOHN H. GLENN, Jr. of Ohio. I rise today to pay tribute to this great American, a man I feel genuinely honored to call my friend.

All of us old enough to remember JOHN GLENN's flight into orbit around the earth on February 20, 1967 aboard Friendship 7 stand in awe of his courage and strength of character. But this enormous accomplishment followed on a distinguished record of heroism in battle as a Marine officer and pilot. He served his country in the Marine Corps for 23 years, including his heroic service in both World War II and the Korean conflict. And, in turn, his remarkable accomplishment in the history of space flight has been followed by an extraordinary Senate career over the past 24 years, as the only Ohio Senator in history to serve four consecutive terms.

For the 20 years that I have been in the Senate, I have served side by side with JOHN GLENN in both the Governmental Affairs Committee which he chaired for many years and now serves as Ranking Minority Member and the Armed Services Committee where he serves as the Ranking Minority Member of the Subcommittee on Airland Forces. More recently, I have served with JOHN GLENN on the Senate Select Committee on Intelligence. This has given me a front row seat to watch one of the giants of the modern day U.S. Senate do the hard, grinding work of legislative accomplishment.

Over the years, JOHN GLENN has led the fight for efficiency in government, for giving the American people more bang for that tax "buck". He was the author of the Paperwork Reduction Act. He has worked to streamline federal purchasing procedures, and led the fight to create independent inspectors general in federal agencies. He was the point man in the Senate for the Clinton Administration's battle to reduce the size of the federal workforce to the lowest levels since the Kennedy Administration. He and I have fought side by side to block extreme efforts to gut regulatory safeguards in the name of reform and for the passage of a sensible approach to regulatory reform to restore confidence in government regulations. Throughout his career, JOHN GLENN has made himself an enemy of wasteful spending and bureaucracy, yet a friend of the dedicated federal worker.

JOHN GLENN has steadfastly served as a powerful advocate for veterans. He led the effort to bring the Veterans Administration up to cabinet-level and to provide benefits to veterans of the Persian Gulf conflict.

On the Armed Services Committee, JOHN GLENN has brought his enormous credibility to bear time and again both in that Committee and on the Intelligence Committee on the side of needed programs and weapons and against wasteful and unnecessary ones like the B–2 bomber.

Perhaps JOHN GLENN's most important role, however, has been as the author of the Nuclear Non-Proliferation Act and as the Senate's leader in fighting the proliferation of nuclear weapons around the world. In this area, the Senate will sorely miss his clear vision, eloquent voice and consistent leadership.

Mr. President, JOHN GLENN, of course, has remained the strongest and most effective voice in the Senate for the nation's space program. Many of us will be on hand to watch the launch of his second NASA mission later this month, 31 years after the first. At age 77, JOHN GLENN has volunteered to go back into space to test the effects of weightlessness on the aging process, and once again inspires our nation and sets an example for us all—an example of courage, character, sense of purpose, and, yes, adventure.

No person I've known or know of has worn his heroism with greater humility. JOHN GLENN is, to use a Yiddish word, a true mensch, a good and decent man.

JOHN GLENN and his beloved wife, Annie, are simply wonderful people. They, their children and grandchildren are the All-American family. My wife Barbara and I will keenly miss JOHN and Annie Glenn as they leave the Senate family.

RETIREMENT OF SENATOR DALE BUMPERS

Mr. LEVIN. Mr. President, the United States Senate is about to lose one of the great orators of its long history. I never had the opportunity, of course, to hear Webster or Clay or Calhoun. But, I have heard DALE BUMPERS of Arkansas on the Senate floor and it's hard to imagine anyone could have been a more forceful, eloquent, or effective speaker.

I was reminded recently by a former staff member of one debate in particular. The issue was the proposed real estate development in Northern Virginia at the site of the Second Battle of Manassas. The debate had stretched into a Friday evening and a larger than usual number of Senators were on the floor. The manager had made an effective presentation when DALE BUMPERS, the author of a more restrictive version of the bill rose to speak.

Knowing that many of his colleagues love history, DALE BUMPERS using detailed maps laid out the story of the Second Battle of Manassas more than a hundred years ago. Every Senator on the floor that night listened with rapt attention. As he reached the climax of his performance, DALE BUMPERS said:

"Well, I could go on and on, but I want to just simply say . . . I believe strongly in our heritage, and I think our children ought to know where these battlefields are and what was involved in them. And, I don't want to go out there ten years from now with my grandson and tell him about the Second Battle of Manassas . . . and he says, "Grandpa, wasn't General Lee in control of this war here—didn't he command the confederate troops.?"

"Yes, he did."

"Well, where was he?"

"He was up there where that shopping mall is."

Senator BUMPERS then said, "I can see a big granite monument inside that mall's hallway right now: 'General Lee Stood On This Spot'. Now if you really cherish our heritage, as I do, and you believe that history is very important for our children, you'll vote for my amendment."

Rarely in the modern Senate do we see issues actually decided in debate on the floor. But, I suspect that that night I watched DALE BUMPERS, with that speech, win the "Third Battle of Manassas".

DALE BUMPERS has served in the Senate for four terms. He has been one of the most consistent voices for elimination of wasteful government spending. We will all miss his leadership in efforts to reform federal mining law and grazing fees. His battles against the Clinch River Breeder Reactor which he won in 1984, the superconducting super collider which he finally won in 1993 and the space station which he did not win, have become legendary.

DALE BUMPERS and I both take pride in the fact that we were among the few Senators to vote against the Reagan tax cut and unfunded defense buildup of 1981 which together led to the huge deficits of the 1980's.

DALE would have made a great President because he is a person whose clarity of expression is matched by the courage of his vision and his committment to America's working families.

Mr. President, when the 106th Congress convenes next year, the Senate will seem an emptier body in the absence of one of its most memorable leaders and all of us in the Senate family with miss DALE and Betty Bumpers.

RETIREMENT OF SENATOR DIRK KEMPTHORNE

Mr. LEVIN. Mr. President, I rise to pay tribute to a colleague and friend who will be leaving the Senate when the 105th Congress adjourns, DIRK KEMPTHORNE, the junior senator from Idaho.

I have served with DIRK KEMPTHORNE on both the Armed Services and Small Business Committees where I have come to respect his thoughtfulness, dedication and hard work.

DIRK KEMPTHORNE has been a valuable member of the Armed Services Committee where he has served as the Chairman of the Personnel Subcommittee. As Chairman, he has demonstrated a commitment to the welfare of our men and women in uniform and their families.

Senator KEMPTHORNE joined with Senator BYRD in initiating the Congressional Commission on Military Training to examine issues related to basic training of men and women which will give its best advice to the Congress next year on whether current practices should be changed.

While I didn't agree with DIRK KEMPTHORNE on many of the specifics of his Unfunded Mandate legislation in 1995, I, like many of my colleagues in the Senate, was greatly impressed with the manner in which he managed the bill and his command of the complex details.

Mr. Chairman, in the United States Senate we are called upon to work with colleagues of many differing points of view. While DIRK KEMPTHORNE and I sit on separate sides of the aisle and sometimes disagree on issues before the Senate, it has always been a pleasure to deal with him. He is always an able advocate for his position, and always a gracious gentleman.

WHY THE FLAG AMENDMENT DEBATE IS APPROPRIATE NOW

Mr. HATCH. Mr. President, I would like to make a few very brief remarks about our inability to get a time agreement on the flag amendment, and respond to the assertion that it is somehow inappropriate to debate this important issue at this time. I think it is entirely appropriate that we debate the constitutional amendment to protect our flag at this time in the year. There is no better time than the present to discuss the values the flag represents: the unity and common values of all Americans.

The flag amendment should, like the flag itself, unite us. And it does unite Americans of both parties. This amendment is cosponsored by 61 Members of the Senate, Republicans and Democrats. Senator CLELAND, a war hero, who has sacrificed much, and who is a Democrat, is the primary cosponsor.

And ultimately, all we supporters of the amendment are asking for is a chance to let the American people decide whether to protect the flag by debating the amendment in ratification debates in each of the State legislatures. And the people clearly want the flag amendment. Forty-nine State legislatures have called for the flag amendment. And polling has consistently shown that more than three-quarters of the American people have consistently supported a flag amendment over the years since the Supreme Court's fateful decision in Texas versus Johnson in 1989.

Mr. President, I believe this legislation not only is vital to protect our shared values as Americans, but this debate is also timely today as we all strive to recover what is good and decent about our country.

Mr. President, we see evidence of moral decay and a lack of standards all around us. Behavior that was once found to be shameful is now routinely excused because "everybody does it." Our popular culture, including movies and television, bombard us with messages of gratuitous sex and violence. Even sports figures too often set a terrible example for the young people that follow their every move.

And yet here today we have a unique opportunity to do something uplifting, something decent, something that will make our country proud. We have an opportunity to say to a few exhibitionists and anarchists that in pursuit of your fifteen minutes of fame, you may not deface the most sacred embodiment of the virtues of our country. You may not dishonor the memory of those millions of men and women who have given their lives for America. You may not yet again lower standards of elemental decency that all of must and should live by. Today, we will say that our flag, the embodiment of so many of our hopes and dreams, can no longer be dragged through the mud, torn asunder, or defecated on.

Can anyone think of a better message to send to our citizens and to our young people than to begin to reclaim appropriate standards of behavior for everyone in this country? Mr. President, there will be those who will decry this discussion as a distraction from "real" and "important" matters of taxes and budgets and regulation and other Federal programs. These issues are important and the Congress must deal with them. But that should not obscure our inattention to the "values deficit" that exists in public life today. We need more public conversation about values and standards. We must take every opportunity to set the right behavioral standards for our children, lest we become a nation of cynics who snicker every time someone tries to reinstill virtue into public life.

And so, Mr. President, not only is this discussion appropriate today, but it is critical. I can think of no more important conversation we can have in

America than how we use American liberty to promote public virtue.

Protecting the American flag from physical desecration is a small but important way to begin this important debate.

Now, having said all that, I am disappointed that opponents of the flag amendment have rejected a reasonable time agreement, without even offering an alternative time agreement. I would be interested to know what would be acceptable.

Finally, if it should be the case that we are not going to debate the flag amendment this year, and that is how it appears, I believe we should bring it up early in the new Congress, and debate and vote on it at the earliest opportunity next year. I want my colleagues to know that I will be back next year and I will trust that this important matter will be acted on early in the next session. The American people want the opportunity to debate the flag amendment in the States, and I believe we should listen to the people on this.

FAILURE TO ACHIEVE JUVENILE CRIME LEGISLATION

Mr. HATCH. Mr. President, I would like to briefly discuss an issue of great importance to the Senate and the nation—juvenile crime. Over the past weeks, we have been working hard to try to reach consensus on comprehensive legislation to address juvenile crime in our nation. I am disappointed to report to my colleagues that we have fallen short in that effort.

The sad reality is that we can no longer sit silently by as children kill children, as teenagers commit truly heinous offenses, as our juvenile drug abuse rate continues to climb. In 1996, juveniles accounted for nearly one fifth—19 percent—of all criminal arrests in the United states. Persons under 18 committed 15 percent of all murders, 17 percent of all rapes, and 32.1 percent of all robberies.

And although there are endless statistics on our growing juvenile crime problem, one particularly sobering fact is that, between 1985 and 1993, the number of murder cases involving 15-year olds increased 207 percent. We have kids involved in murder before they can even drive.

In short, our juvenile crime problem has taken a new and sinister direction. But cold statistics alone cannot tell the whole story. Crime has real effect on the lives of real people. Recently, I read an article in the Richmond Times-Dispatch by my good friend, crime novelist Patricia Cornwell. It is one of the finest pieces I have read on the effects of and solutions to our juvenile crime problem, and I ask unanimous consent that it be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, let me share with my colleagues some of what Ms. Cornwell, who has spent the better part of her adult life studying and observing crime and its effects, has to say. She says "when a person is touched by violence, the fabric of civility is forever rent, or ripped, or breached * * *." This a graphic but accurate description. Countless lives can be ruined by a single violent crime. There is, of course, the victim, who may be dead, or scarred for life. There are the family and friends of the victim, who are traumatized as well, and who must live with the loss of a loved one. Society itself is harmed, when each of us is a little more frightened to walk on our streets at night, to use an ATM, or to jog or bike in our parks. And, yes, there is the offender who has chosen to throw his or her life away. Particularly when the offender is a juvenile, family, friends, and society are made poorer for the waste of potential in every human being. One crime, but permanent effects when "the fabric of civility is rent."

This is the reality that has driven me to work even up to the closing hours of the session to address this issue. For nearly a year, the Senate has had before it comprehensive youth violence legislation. S. 10, the Hatch-Sessions Violent and Repeat Juvenile Offender Act, was reported out of the Judiciary Committee last year on bipartisan vote, two to one vote. This legislation would have fundamentally reformed the role played by the federal government in addressing juvenile crime in our Nation. It was supported by law enforcement organizations such as the Fraternal Order of Police, the National Sheriffs Association, and the National Troopers Coalition, as well as the support of juvenile justice practitioners such as the National Council of Juvenile and Family Court Judges, and victim's groups including the National Victims Center and the National Organization for Victims Assistance.

S. 10 was reported on a bipartisan, two to one vote. Indeed, among members of the Youth Violence Subcommittee, the vote was seven to two in favor of the bill. Our reform proposal included the best of what we know works. It combined tough measures to protect the public from the worst juvenile criminals, smart measures to provide intervention and correction at the earliest acts of delinquency, and compassionate measures to supplement and enhance extensive existing prevention programs to keep juveniles out of the cycle of crime, violence, drugs, and gangs.

All too often, the juvenile justice system ignores the minor crimes that lead to the increasingly frequent serious and tragic juvenile crimes capturing headlines. Unfortunately, many of these crimes might have been prevented had the warning signs of early acts of delinquency or antisocial behavior been heeded. A delinquent juvenile's critical first brush with the law is a vital aspect of preventing future crimes, because it teaches an important lesson—what behavior will be tolerated.

According to a recent Department of Justice study, juveniles adjudicated for so-called index crimes—such as murder, rape, robbery, assault, burglary, and auto threft—began their criminal careers at an early age. The average age for a juvenile committing an index offense is 14.5 years, and typically, by age 7, the future criminal is already showing minor behavior problems. If we can intervene early enough, however, we might avert future tragedies. That is why we seek to reform federal policy that has been complicit in the system's failure, and provide states with much needed funding for a system of graduated sanctions, including community service for minor crimes, electronically monitored home detention, boot camps, and traditional detention for more serious offenses.

And let there be no mistake—detention is needed as well. As Ms. Cornwell recently wrote, "our first priority should be to keep our communities safe. We must remove violent people from our midst, no matter their age. . . . When the trigger is pulled, when the knife is plunged, kids aren't kids anymore. We should not shield and give excuses and probation to violent juveniles who, odds are, will harm or kill again if they are returned to our neighborhoods and schools." I couldn't have said it any better.

Meaningful reform also requires that juvenile's criminal record ought to be accessible to police, courts, and prosecutors, so that we can know who is a repeat or serious offender. Right now, these records simply are not available in NCIC, the national system that tracks adult criminal records. Ms. Cornwell again cogently explains what this means: "If a juvenile commits a felony in Virginia, when he turns 18 his record is not expunged and will follow him for the rest of his days. But were he to commit the same felony in North Carolina, at 16 he'll be released from a correctional facility with no record of any crime he committed in that state. Let's say he's back on the street and returns to Virginia. Now he's a juvenile again, and police, prosecutors, judges or juries will never know what he did in North Carolina.

If he moves to yet another state where the legal age is 21, he can commit felonies for three or four more years and have no record of them, either. Maybe by then, he's committed fifteen felonies but is only credited with the one he committed in Virginia. Maybe when he becomes an adult and is violent again, he gets a light sentence or even probation, since it appears he's committed only one felony in his life instead of fifteen. He'll be back among us soon enough. Maybe his next victim will be you."

So the reform we sought also provides the first federal incentives for the integration of serious juvenile criminal records into the national criminal history database, together with federal funding for the system.

Mr. President, I believe that we all agree that it is far better to prevent the fabric of civility from being rent than to deal with the aftermath of juvenile crime.

I have been involved in this fight for over three years now. Rarely have I found an issue over which interest group opponents were more determined to block needed reforms through distortions of the record.

In no small measure, in my view, this harmful posturing has brought us to where we are today—just short of achieving important reform legislation. I believe that we must look to the greater good, and limit—in the interests of our children and public safety—the posturing which too often infects criminal justice issues.

Let me take just a moment to acknowledge the efforts of members on both sides of the aisle who have worked in good faith to try and address this issue in a responsible manner. Senator LEAHY and Senator BIDEN deserve enormous credit. And I want to particularly thank Senator SESSIONS, the Chairman of our Youth Violence Subcommittee for his many months of determined work. We will be back on this issue next Congress. It will not go away, any more than the problem will go away until we address it. So, I will be urging the Majority Leader, when he sets our agenda for next year, to make enacting a responsible juvenile crime bill among our top legislative priorities in the 106th Congress. Mr. President, I thank my colleagues and yield the floor.

EXHIBIT 1

WHEN THE FABRIC IS RENT

(By Patricia Cornwell)

There was a saying in the morgue during those long six years I worked there. When a person is touched by violence, the fabric of civility is forever rent, or *ripped* or *breached*, whatever word is most graphic to you.

Our country is the most violent one in the free world, and as far as I'm concerned, we are becoming increasingly incompetent in preventing and prosecuting cruel crimes that we foolishly think happen only to others. There was another saying in the morgue. The one thing every dead person had in common in that place was he never thought he'd end up there. He never imagined his name would be penned in black ink in the big black book that is ominously omnipresent on a counter top in the autopsy suite.

I have seen hundreds, maybe close to a thousand dead bodies by now, many of them ruined by another person's hands. I return to the morgue at least two or three times a year to painfully remind myself that what I'm writing about is awful and final and real.

I suffer from nightmares and don't remember the last time I had a pleasant dream. I have very strong emotional responses to crimes that have nothing to do with me, such as Versace's murder, and more recently, the random shooting deaths of Capitol Police Agent John Gibson and Officer Jacob Chestnut. I can't read sad, scary or violent books. I watched only half of *Titanic* because I cold not bear its sadness. I stormed out of Ann Rice's *Interview With A Vampire*, so furious my hands were shaking because the movie is such an outrageous trivialization and celebration of sexual violence. For me the suffering, the blood, the deaths are real.

I'd like to confront Ann Rice with bitemarks and other sadistic wounds that are not special effects. I'd like to sentence Oliver Stone to a month in the morgue, make him sit in the cooler for a while and see what an audience of victims has to say about his films. I'd like O.J. Simpson to have a total recall and suffer, go broke, be ostracized, never allowed on a golf course again. I was in a pub in London when that verdict was read. I'll never forget the amazed faces of a suddenly mute group of beer-drinking Brits, or the shame of my friends and I felt because in America it is absolutely true. Justice is blind.

Justice has stumbled off the rod of truth and fallen headlong into a thicket of subjective verdicts where evidence doesn't count and plea bargains that are such a bargain they are fire sales. I've begun to fear that the consequences and punishment of violent crime have become some sort of mindless multiple choice, a *Let's Make A Deal*, a *Let's microwave the popcorn and watch Court TV*.

I have been asked to tell you what my fictional character Dr. Scarpetta would do if she were the crime czar or Virginia, of America. Since she and I share the same opinions and views, I am stepping out from behind my curtain of imagined deeds and characters and telling you what I feel and think.

It startles me to realize that at age 42, I have spent almost half my life studying crime, of living and working in it's pitifully cold, smelly, ugly environment. I am often asked why people cheat, rob, stalk, slander, main and murder. How can anybody enjoy causing another human being or any living creature destruction and pain? I will tell you in three words: Abuse of power. Everything in life is about the power we appropriate for good or destruction, and the ultimate overpowering of a life is to make it suffer and end.

This includes children who put on camouflage and get into the family guns. We don't want to believe that 12, 13, 16 year old youths are unredeemable. Most of them aren't. But it's time we face that some of them have transgressed beyond forgiveness, certainly beyond trust. Not all victims I have seen pass through the morgue were savaged by adults. The creative cruelty of some young killers is the worst of the worst, images of what they did to their victims ones I wish I could delete.

About a year ago, I began researching juvenile crime for the follow-up of *Hornet's Nest* (*Southern Cross*, January, '99) and my tenth Scarpetta book (unfinished and untitled yet). This was a territory I had yet to explore. I was inspired by the depressing fact that in the last ten years, shootings, hold-ups at ATM's, and premeditated murders committed by juveniles have risen 160 percent. As I ventured into my eleventh and twelfth novels, I wondered what my crusading characters would do with violent children.

So I spent months in Raleigh watching members of the Governor's Commission on Juvenile Crime and Justice debate and rewrite their juvenile crime laws, as Virginia did in 1995 under the leadership of Jim Gilmore. I quizzed Senator ORRIN HATCH about his youth violence bill, S. 10, a federal approach to reforming a juvenile justice system that is failing our society. I toured detention homes in Richmond and elsewhere. I sat in on juvenile court cases and talked to inmates who were juveniles when they began their lives of crime.

While it is true that many violent juveniles have abuse, neglect, and the absence of values in their homes, I maintain my belief that all people should be held accountable for their actions. Our first priority should be to keep our communities safe. We must remove violent people from our midst, no matter their age. As Marcia Morey, executive director of North Carolina's juvenile crime commission, constantly preaches, "We must stop the hemorrhage first."

When the trigger is pulled, when the knife is plunged, kids aren't kids anymore. We should not shield and give excuses and probation to violent juveniles who, odds are, will harm or kill again if they are returned to our neighborhoods and schools. We should not treat young violent offenders with sealed lips and exclusive proceedings.

"The secrecy and confidentiality of our system have hurt us," says Richmond Juvenile and Domestic Relations District Court Judge Kimberly O'Donnell. "What people can't see and hear is often difficult for them to understand."

Virginia has opened its courtrooms to the public, and Judge O'Donnell encourages people to sit in hers and see for themselves those juveniles who are remorseless and those who can be saved. Most juveniles who end up in court are not repeat offenders. But for that small number who threaten us most, I advocate hard, non-negotiable judgement. Most of what I would like to see is already being done in Virginia. But we need juvenile justice reform nationally, a system that is sensible and consistent from state to state.

As it is now, if a juvenile commits a felony in Virginia, when he turns 18 his record is not expunged and will follow him for the rest of his days. But were he to commit the same felony in North Carolina, at 16 he'll be released from a correctional facility with no record of any crime he committed in that state. Let's say he's back on the street and returns to Virginia. Now he's a juvenile again, and police, prosecutors, judges or juries will never know what he did in North Carolina.

If he moves to yet another state where the legal age is 21, he can commit felonies for three or four more years and have no record of them, either. Maybe by then he's committed fifteen felonies but is only credited with the one he committed in Virginia. Maybe when he becomes an adult and is violent again, he gets a light sentence or even probation, since it appears he's committed only one felony in his life instead of fifteen. He'll be back among us soon enough. Maybe his next victim will be you.

If national juvenile justice reform were up to me, I'd be strict. I would not be popular with extreme child advocates. If I had my way, it would be routine that when any juvenile commits a violent crime, his name and personal life are publicized. Records of juveniles who commit felonies should not be expunged when the individual becomes an adult. Mug shots, fingerprints and the DNA of violent juveniles should, at the very least, be available to police, prosecutors, and schools, and if the young violent offender has an extensive record and commits another crime, plea bargaining should be limited or at least informed.

Juveniles who rape, murder or commit other heinous acts should be tried as adults, but judges should have the discretionary power to decide when this is merited. I want to see more court-ordered restitution and mediation. Let's turn off the TV's in correctional centers and force assailants, robbers, thieves to work to pay back what they've destroyed and taken, as much as that is possible. Confront them with their victims, face to face. Perhaps a juvenile might realize the awful deed he's done if his victim is suddenly a person with feelings, loved ones, scars, a name.

Prevention is a more popular word than punishment. But the solution to what's happening in our society, particularly to our youths, is simpler and infinitely harder than any federally or private funded program. All of us live in neighborhoods. Unless you are in solitary confinement or a coma, you are aware of others around you. Quite likely you are exposed to children who are sad, lost, ignored, neglected or abused. Try to help. Do it in person.

I remember my first few years in Richmond when I was living at Union Theological Seminary, where my former husband was a student and I was a struggling, somewhat failed writer. Charlie and I spent five years in a seminary apartment complex where there was a little boy who enjoyed throwing a tennis ball against the building in a staccato that was torture to me.

I was working on novels nobody wanted and every time that ball thunked against brick, I lost my train of thought. I'd popped out of my chair and fly outside to order the kid to stop, but somehow he was always gone without a trace, silence restored for an hour or two. One day I caught him. I was about to reprimand him when I saw the fear and loneliness in his eyes.

"What's your name?" I asked.

"Eddie," he said.

"How old are you?"

"Ten."

"It's not a good idea to throw a ball against the building. It makes it hard for some of us to work."

"I know." He shrugged.

"If you know, then why do you do it?"

"Because I have no one to play catch with me," he replied.

My memory lit up with acts of kindness when I was a lonely child living in the small town of Montreat, North Carolina. Adult neighbors had taken time to play tennis with me. They had invited me, the only girl in town, to play baseball or touch football with the boys.

Billy Graham's wife, Ruth, used to stop her car to see how I was or if I needed a ride somewhere. Years later, she befriended me when I was a very confused teenager who felt rather worthless. Were it not for her kindness and encouragement, I doubt I would be writing this editorial. Maybe I wouldn't have amounted to much. Maybe I would have gotten into serious trouble. Maybe I'd be dead.

Eddie and I started playing catch. I gave him tennis lessons and probably ruined his backhand for life. He told me all about himself and amused me with his stories. We became pals. He never threw a tennis ball against the building again.

We must protect ourselves from all people who have proven to be dangerous. But we should never abandon those who can be helped or are at least are worthy of the effort. If you save or change one life, you have added something priceless to this world. You have left it better than you found it.

ADVANCED AVIONICS SUBSYSTEMS PROGRAM

Mr. WARNER. There is an issue involving the Navy's progress with the Advanced Avionics Subsystems project that should have been addressed in the conference report accompanying the fiscal year 1999 National Defense Authorization Act. Would the Senator from Pennsylvania care to enter into a colloquy regarding this issue.

Mr. SANTORUM. I thank the Senator from Virginia and would be happy to engage in a colloquy. The conferees noted the Navy's progress with the Advanced Technology Avionics Subsystems project as exemplified by its recent demonstration using Commercial-off-the-Shelf (COTS) technologies for avionics applications. The conferees were aware of the difficulties associated with using and integrating commercial technologies and recognized the merit of the project which is designed to develop viable solutions for transitioning affordable technologies.

Mr. WARNER. Because this project has been successful in identifying obstacles and rendering usable solutions for the implementation of COTS technologies, does the Senator concur with the recommendation that the Department of the Navy consider reprogramming funds to provide for the current year's shortfall and to fund the project at its prior years' level?

Mr. SANTORUM. Yes, for the reasons that the Senator from Virginia gave, I recommend that the Department of the Navy consider reprogramming funds to provide for the current year's shortfall for the Advanced Technology Avionics Subsystems project and to fund the project at its prior years' level.

Mr. THURMOND. I have been listening to the colloquy between the Senator from Virginia and the Senator from Pennsylvania and I wish to say that I agree with their remarks with respect to the Advanced Technology Avionics Subsystems project.

Mr. WARNER. I thank the Senator from Pennsylvania and the Senator from South Carolina.

THE NOMINATION FOR THE TREASURY INSPECTOR GENERAL

Mr. ROTH. Mr. President, I would like to report out from the Finance Committee the Administration's nomination of David C. Williams to be the Inspector General for the Treasury Department. The nomination hearing for Mr. Williams was held on September 24, 1998.

The Inspector General Act of 1978, as amended, grants the independence and authority for an Inspector General to conduct audits and investigations to (1) detect waste, fraud or abuse, and (2) promote economy and efficiency in agency programs and operations. I, for one, deeply believe in the IG concept and support the important role an Inspector General must carry out. It is often a very tough and demanding job.

The Treasury Inspector General is an extremely critical position that is responsible for overseeing several Treasury agencies, including three law enforcement bureaus, namely, the U.S. Customs Service, the U.S. Secret Service, and the Bureau of Alcohol, Tobacco and Firearms. The previous Inspector General resigned as a result of an investigation conducted by Senator SUSAN COLLINS' Permanent Subcommittee on Investigations (PSI). PSI determined that the IG broke the law twice concerning two contracts and identified significant mismanagement within the Treasury IG's Office.

The Treasury IG's Office has been a very troubled agency because of bad leadership. It is, therefore, an absolute requirement for the next Treasury Inspector General to be an individual with a proven track record as a strong, effective manager and leader, one who will engage in aggressive—but fair—oversight, and one who will carry out their duties with the utmost integrity. Such behavior as demonstrated by the previous Inspector General will not be tolerated. As the watchdog for the Treasury Department, the Inspector General must set a good ethical example.

Mr. Williams began his career in the Federal Government in 1975 as a Secret Service Agent. In 1979, he went to work for the Labor Department's Office of Inspector General in the Office of Labor Racketeering, where he served as Special Agent in Charge for two field offices and later as the Field Director.

During that time, Mr. Williams also served on President Reagan's Commission on Organized Crime. In 1986, Mr. Williams became the first Director for the Office of Special Investigations for the General Accounting Office. In 1989, Mr. Williams was nominated by President Bush to be the first Inspector General for the Nuclear Regulatory Commission.

In 1995, President Clinton nominated Mr. Williams to be the first Inspector General for the Social Security Administration; Mr. Williams became the SSA, IG in 1996. Since June 1998, Mr. Williams has been serving as a Senior Advisor at the Treasury Inspector General's Office.

Mr. Williams' background as the Inspector General for two Government agencies, as well as his investigator background, is clearly representative of the qualifications needed to be the Treasury Inspector General. The Senate Finance Committee intends to monitor the progress of this agency as it gets back on track in accomplishing its mandated mission.

TRIBUTE TO SENATOR JOHN GLENN, A TRUE AMERICAN HERO

Mr. JOHNSON. Mr. President, I rise today to pay tribute to a special colleague and a true American hero, JOHN GLENN of Ohio.

During his distinguished career, Senator GLENN has used his boundless energy and expertise to work for effective and efficient government and world peace. He is one of our most beloved national figures and a role model to people of all ages and all backgrounds from all over the world.

I was a teenager when the nation watched in awe as JOHN GLENN became the first American to orbit the earth. I never would have guessed during those spectacular early days of the space program that someday I would have an office next to his in the United States Senate. It has been my great privilege to serve with him and to know him as both a friend and a colleague.

Today, he is at Cape Canaveral preparing to visit space again. I know my colleagues share in my admiration and pride for Senator GLENN as he boldly goes once more into space. I wish him an exciting journey, a safe return and wonderful retirement.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll

Mr. COATS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT CONCERNING THE CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY (LIBERTAD) ACT—MESSAGE FROM THE PRESIDENT—PM 161

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Foreign Relations.

To the Congress of the United States:

This report is submitted pursuant to 1705(e)(6) of the Cuban Democracy Act of 1992, 22 U.S.C. 6004(e)(6) (the "CDA"), as amended by section 102(g) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, Public Law 104-114 (March 12, 1996), 110 Stat. 785, 22 U.S.C. 6021-91 (the "LIBERTAD Act"), which requires that I report to the Congress on a semiannual basis detailing payments made to Cuba by any United States person as a result of the provision of telecommunications services authorized by this subsection.

The CDA, which provides that telecommunications services are permitted between the United States and Cuba, specifically authorizes the President to provide for payments to Cuba by license. The CDA states that licenses may be issued for full or partial settlement of telecommunications services with Cuba, but may not require any withdrawal from a blocked account. Following enactment of the CDA on October 23, 1992, a number of U.S. telecommunications companies successfully negotiated agreements to provide telecommunications services between the United States and Cuba consistent with policy guidelines developed by the Department of State and the Federal Communications Commission.

Subsequent to enactment of the CDA, the Department of the Treasury's Office of Foreign Assets Control (OFAC) amended the Cuban Assets Control Regulations, 31 C.F.R. Part 515 (the "(CACR"), to provide for specific licensing on a case-by-case basis for certain transctions incident to the receipt or transmission of telecommunications between the United States and Cuba, 31 C.F.R. 515.542(c), including settlement of charges under traffic agreements.

The OFAC has issued eight licenses authorizing transactions incident to the receipt or transmission of telecommunications between the United States and Cuba since the enactment of the CDA. None of these licenses permits payments to the Government of Cuba from a blocked account. For the period January 1 through June 30, 1998, OFAC-licensed U.S. carriers reported payments to the Government of Cuba in settlement of charges under telecommunications traffic agreements as follows:

AT&T Corporation (formerly, American Telephone and Telegraph Company)	$12,795,658
AT&T de Puerto Rico	292,229
Global One (formerly, Sprint Incorporated)	3,075,733
IDB WorldCom Services, Inc. (formerly, IDB Communications, Inc.)	4,402,634
MCI International, Inc. (formerly MCI Communications Corporation) ...	8,468,743
Telefonica Larga Distancia de Puerto Rico, Inc.	129,752
WilTel, Inc. (formerly, WilTel Underseas Cable, Inc.)	4,983,368
WorldCom, Inc. (formerly LDDS Communications, Inc.)	5,371,531
	39,519,648

I shall continue to report semiannually on telecommunications payments to the Government of Cuba from United States persons.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 8, 1998.*

MESSAGES FROM THE HOUSE

At 12:55 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2109. An act to amend the Federal Election Campaign Act of 1971 to require reports filed under such Act to be filed electronically and to require the Federal Election Commission to make such reports available to the public within 24 hours of receipt.

H.R. 2263. An act to authorize and request the President to award the Congressional Medal of Honor posthumously to Theodore Roosevelt for his gallant and heroic actions in the attack on San Juan Heights, Cuba, during the Spanish-American War.

H.R. 4364. An act to streamline the regulation of depository institutions, to safeguard confidential banking and credit union supervisory information, and for other purposes.

H.R. 4506. An act to provide for United States support for developmental alternatives for underage child workers.

H.R. 4660. An act to amend the State Department Basic Authorities Act of 1956 to provide rewards for information leading to the arrest or conviction of any individual for the commission of an act, or conspiracy to act, of international terrorism, narcotics related offenses, or for serious violations of international humanitarian law relating to the Former Yugoslavia, and for other purposes.

The message also announced that the House has passed the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 302. Concurrent resolution recognizing the importance of children and families in the United States and expressing support for the goals of National Kids Day and National Family Month.

H. Con. Res. 309. Concurrent resolution condemning the forced abduction of Ugandan children and their use as soldiers.

The message further announced that the House has passed the following bills and joint resolution, without amendment:

S. 890. An act to dispose of certain Federal properties located in Dutch John, Utah, to assist the local government in the interim delivery of basic services to the Dutch John community, and for other purposes.

S. 1021. An act to amend title 5, United States Code, to provide that consideration may not be denied to preference eligibles applying for certain positions in the competitive service, and for other purposes.

S. 2232. An act to establish the Little Rock Central High School National Historic Site in the State of Arkansas, and for other purposes.

S. 2561. An act to amend the Fair Credit Reporting Act with respect to furnishing and using consumer reports for employment purposes.

S.J. Res. 51. Joint resolution granting the consent of Congress to the Potomac Highlands Airport Authority Compact entered into between the States of Maryland and West Virginia.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3150) to amend title 11 of the United States Code, and for other purposes.

The message also announced that the Houses agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1853) to amend the Carl D. Perkins Vocation and Applied Technology Education Act.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House of Representatives to the bill (S. 2206) to amend the Head Start Act, the Low-Income Home Energy Assistance Act of 1981, and the Community Services Block Grant Act to reauthorize and make improvements to those Acts, to establish demonstration projects that provide an opportunity for persons with limited means to accumulate assets, and for other purposes.

The message announced that the House agrees to the amendments of the Senate to the bill (H.R. 2675) to require that the Office of Personnel Management submit proposed legislation under which group universal life insurance and group variable universal life insurance would be available under chapter 87 of title 5, United States Code, and for other purposes.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 3694. An act to authorize appropriations for fiscal year 1999 for intelligence and intelligence related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

H.R. 3790. An act to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the Library of Congress.

H.R. 4248. An act to authorize the use of receipts from the sale of the Migratory Bird Hunting and Conservation Stamps to promote additional stamp purchases.

The enrolled bills were signed subsequently by the President pro tempore (Mr. THURMOND).

At 2:00 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3874) to amend the National School Lunch Act and the Child Nutrition Act of 1966 to provide children with increased access to food and nutrition assistance, to simplify program operations and improve program management, to extend certain authorities contained in those Acts through fiscal year 2003, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 346. Concurrent resolution to correct the enrollment of the bill H.R. 3150.

At 5:15 p.m., a message from the House of Representatives, delivered by Mr. Hanrahan, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1197. An act to amend title 35, United States Code, to protect patent owners against the unauthorized sale of plant parts taken from plants illegally reproduced, and for other purposes.

H.R. 4052. An act to establish designations for United States Postal Service buildings located in Coconut Grove, Opa Locka, Carol City, and Miami, Florida.

The message also announced that Houses has passed the following bill, without amendment:

S. 1298. An act to designate a Federal building located in Florida, Alabama, as the "Justice John McKinley Federal Building."

The message further announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 459. An act to amend the Native American Programs Act of 1974 to extend certain authorizations, and for other purposes.

At 6:33 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 133. Joint resolution making further appropriations for the fiscal year 1999, and for other purposes.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

The message also announced that the Speaker has signed the following bill and joint resolution:

S. 2022. An act to provide for the improvement of interstate criminal justice identification, information, communications, and forensics.

H.J. Res. 133. Joint resolution making further appropriations for the fiscal year 1999, and for other purposes.

The enrolled bill and joint resolution were signed subsequently by the President pro tempore (Mr. THURMOND).

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on October 9, 1998, he had presented to the President of the United States, the following enrolled bill:

S. 2022. An act to provide for the improvement of interstate criminal justice identification, information, communications, and forensics.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources: Report to accompany the bill (S. 2402) to direct the Secretaries of Agriculture and Interior to convey certain lands in San Juan County, New Mexico, to San Juan College (Rept. No. 105–383).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources: Report to accompany the bill (S. 2413) to provide for the development of a management plan for the Woodland Lake Park tract in Apache-Sitgreaves National Forest in the State of Arizona reflecting the current use of the tract as a public park (Rept. No. 105–384).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources: Report to accompany the bill (S. 2401) to authorize the addition of the Paoli Battlefield site in Malvern, Pennsylvania, to Valley Forge National Historic Park (Rept. No. 105–385).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources: Report to accompany the bill (S. 991) to make technical corrections to the Omnibus Parks and Public Lands Management Act of 1996, and for other purposes (Rept. No. 105–386).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources: Report to accompany the bill (S. 1960) A bill to allow the National Park Service to acquire certain land for addition to the Wilderness Battlefield, as previously authorized by law, by purchase or exchange as well as by donation (Rept. No. 105–387).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources: Report to accompany the bill (S. 2247) to permit the payment of medical expenses incurred by the U.S. Park Police in the performance of duty to be made directly by the National Park Service, and for other purposes (Rept. No. 105–388).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources: Report to accompany the bill (S. 2257) to reauthorize the National Historic Preservation Act (Rept. No. 105–389).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources: Report to accompany the bill (S. 2284) to establish the Minuteman Missile National Historic Site in the State of South Dakota, and for other purposes (Rept. No. 105–390).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources: Report to accompany the bill (S. 2513) to transfer administrative jurisdiction over certain Federal land located within or adjacent to Rogue River National Forest and to clarify the authority of the Bureau of Land Management to sell and exchange other Federal land in Oregon (Rept. No. 105–391).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources: Report to accompany the bill (H.R. 2411) to provide for a land exchange involving the Cape Cod National Seashore and to extend the authority for the Cape Cod National Seashore Advisory Commission (Rept. No. 105–392).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources: Report to accompany the bill (H.R. 4166) to amend the Idaho Admission Act regarding the sale or lease of school land (Rept. No. 105–393).

By Mr. HELMS, from the Committee on Foreign Relations, with an amendment in the nature of a substitute:

S. 1344: A bill to amend the Foreign Assistance Act of 1961 to target assistance to support the economic and political independence of the countries of South Caucasus and Central Asia (Rept. No. 105–394).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources: Report to accompany the bill (S. 1614) to require a permit for the making of motion picture, television program, or other form of commercial visual depiction in a unit of the National Park System or National Wildlife Refuge System (Rept. No. 105–395).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources: Report to accompany the bill (S. 2285) to establish a commission, in honor of the 150th Anniversary of the Seneca Falls Convention, to further protect sites of importance in the historic efforts to secure equal rights for women (Rept. No. 105–396).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources: Report to accompany the bill (S. 1175) to reauthorize the Delaware Water Gap National Recreation Area Citizen Advisory Commission for 10 additional years (Rept. No. 105–397).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources: Report to accompany the bill (S. 2239) to revise the boundary of Fort Matanzas Monument and for other purposes (Rept. 105–398).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources: Report to accompany the bill (S. 2133) to designate former United States Route 66 as "America's Main Street" and authorize the Secretary of the Interior to provide assistance (Rept. No. 105–399).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources: Report to accompany the bill (S. 2241) to provide for the acquisition of lands formerly occupied by the Franklin D. Roosevelt family at Hyde Park, New York, and for other purposes (Rept. No. 105–400).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources: Report to accompany the bill (S. 2136) to provide for the exchange of certain land in the State of Washington (Rept. No. 105–401).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources: Report to accompany the bill (S. 2248) to allow for waiver and indemnification in mutual law enforcement agreements between the National Park Service and a state or political subdivision, when required by state law, and for other purposes (Rept. No. 105–402).

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 257: A resolution expressing the sense of the Senate that October 15, 1998, should be designated as "National Inhalant Abuse Awareness Day."

By Mr. CAMPBELL, from the Committee on Indian Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 1771: A bill to amend the Colorado Ute Indian Water Rights Settlement Act to provide for a final settlement of the claims of the Colorado Ute Indian Tribes, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources:

T.J. Glauthier, of California, to be Deputy Secretary of Energy.

By Mr. ROTH, from the Committee on Finance:

Patricia T. Montoya, of New Mexico, to be Commissioner on Children, Youth, and Families, Department of Health and Human Services.

David C. Williams, of Maryland, to be Inspector General, Department of the Treasury.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. THOMPSON, from the Committee on Governmental Affairs:

David C. Williams, of Maryland, to be Inspector General, Department of the Treasury.

Gregory H. Friedman, of Maryland, to be Inspector General of the Department of Energy.

Eljay B. Bowron, of Michigan, to be Inspector General, Department of the Interior.

(The above nominations were reported with the recommendation that they be confirmed.)

Sylvia M. Mathews, of West Virginia, to be Deputy Director of the Office of Management and Budget.

John U. Sepulveda, of New York, to be Deputy Director of the Office of Personnel Management.

Joseph Swerdzewski, of Colorado, to be General Counsel of the Federal Labor Relations Authority for a term of five years. (Reappointment)

Dana Bruce Covington, Sr., of Mississippi, to be a Commissioner of the Postal Rate Commission for a term expiring October 14, 2004.

Edward Jay Gleiman, of Maryland, to be a Commissioner of the Postal Rate Commission for a term expiring October 14, 2004. (Reappointment)

David M. Walker, of Georgia, to be Comptroller General of the United States for a term of fifteen years.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. TORRICELLI (for himself, Mr. LEAHY, Mr. DEWINE, and Mr. JEFFORDS):

S. 2596. A bill to amend the Federal Agriculture Improvement and Reform Act of 1996 to improve the farmland protection program; to the Committee on Agriculture, Nutrition, and Forestry.

S. 2597. A bill to amend the Federal Agriculture Improvement and Reform Act of 1996 to improve the farmland protection program; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. TORRICELLI (for himself and Mr. LAUTENBERG):

S. 2598. A bill to require proof of screening for lead poisoning and to ensure that children at highest risk are identified and treated; to the Committee on Finance.

By Ms. SNOWE:

S. 2599. A bill to amend title 38, United States Code, to establish a presumption of service-connection for certain veterans with Hepatitis C, and for other purposes; to the Committee on Veterans Affairs.

By Mr. HATCH:

S. 2600. A bill to amend section 402 of the Controlled Substances Act to reform the civil remedy provisions relating to recordkeeping violations; to the Committee on the Judiciary.

By Mr. KYL:

S. 2601. A bill to provide block grant options for certain education funding; to the Committee on Labor and Human Resources.

S. 2602. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for expenses of attending elementary and secondary schools and for contributions to charitable organizations which provide scholarships for children to attend such schools; to the Committee on Finance.

By Mr. BAUCUS (for himself, Mr. DASCHLE, Mr. INOUYE, Mr. BINGAMAN, Mr. JOHNSON, and Mr. CONRAD):

S. 2603. A bill to promote access to health care services in rural areas; to the Committee on Finance.

By Mr. TORRICELLI:

S. 2604. A bill to provide demonstration grants to local educational agencies to enable the agencies to extend time for learning and the length of the school year; to the Committee on Labor and Human Resources.

By Mr. TORRICELLI (for himself and Mr. LAUTENBERG):

S. 2605. A bill to amend the Public Health Service Act to provide for the establishment of a national program of traumatic brain injury and spinal cord injury registries; to the Committee on Labor and Human Resources.

By Mr. ASHCROFT:

S. 2606. A bill to amend the Agricultural Trade Act of 1978 to require the President to report to Congress on any selective embargo on agricultural commodities, to provide a termination date for the embargo, to provide greater assurances for contract sanctity, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DEWINE (for himself, Mr. ROCKEFELLER, Ms. LANDRIEU, and Mr. CHAFEE):

S. 2607. A bill to improve the administrative efficiency and effectiveness of the Nation's abuse and neglect courts and the quality and availability of training for judges, attorneys, and volunteers working in such courts, and for other purposes consistent with the Adoption and Safe Families Act of 1997; to the Committee on Finance.

By Mr. KYL (by request):

S. 2608. A bill to approve a mutual settlement of the Water Rights of the Gila River Indian Community and the United States, on behalf of the Community and the Allottees, and Phelps Dodge Corporation, and for other purposes; to the Committee on Indian Affairs.

By Mr. BENNETT (for himself and Mr. MACK):

S. 2609. A bill to ensure confidentiality with respect to medical records and health care-related information, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. LIEBERMAN (for himself, Mr. DODD, Mr. KERRY, Mr. LAUTENBERG, and Mr. TORRICELLI):

S. 2610. A bill to amend the Clean Air to repeal the grandfather status for electric utility units; to the Committee on Environment and Public Works.

By Mr. ROTH (for himself, Mr. LIEBERMAN, and Mr. MACK):

S. 2611. A bill to amend title XVIII of the Social Security Act to enable medicare beneficiaries to remain enrolled in their chosen medicare health plan; to the Committee on the Judiciary.

By Mr. FORD:

S. 2612. A bill to provide that Tennessee may not impose sales taxes on any goods or services purchased by a resident of Kentucky at Fort Campbell, nor obtain reimbursement for any unemployment compensation claim made by a resident of Tennessee relating to work performed at Fort Campbell; to the Committee on Governmental Affairs.

By Mr. KERREY:

S. 2613. A bill to accelerate the percentage of health insurance costs deductible by self-employed individuals through the use of revenues resulting from an estate tax technical correction; to the Committee on Finance.

By Mr. COATS:

S. 2614. A bill to amend chapter 96 of title 18, United States Code, to enhance the protection of first amendment rights; to the Committee on the Judiciary.

By Mr. MURKOWSKI:

S. 2615. A bill to study options to improve and enhance the protection, management, and interpretation of the significant natural and other resources of certain units of the National Park System in northwest Alaska, to implement a pilot program to better accomplish the purposes for which those units were established by providing greater involvement by Alaska Native communities, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ROTH (for himself and Mr. MOYNIHAN):

S. 2616. A bill to amend title XVIII of the Social Security Act to make revisions in the per beneficiary and per visit payment limits on payment for health services under the medicare program; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. THOMAS (for himself, Mr. KERRY, Mr. SMITH of Oregon, Mr. LIEBERMAN, and Mr. GRAMS):

S. Res. 294. A resolution expressing the sense of the Senate with respect to developments in Malaysia and the arrest of Dato Seri Anwar Ibrahim; to the Committee on Foreign Relations.

By Mr. COATS (for himself, Mr. MCCAIN, and Mr. COVERDELL):

S. Res. 295. A bill to express the sense of the Senate concerning the development of effective methods for eliminating the use of heroin; to the Committee on Labor and Human Resources.

By Mr. KERREY:

S. Res. 296. A resolution expressing the sense of the Senate that, on completion of construction of a World War II Memorial in Area I of the District of Columbia and its environs, Congress should provide funding for the maintenance, security, and custodial and long-term care of the memorial by the National Park Service; considered and agreed to.

By Mr. LOTT (for himself and Mr. DASCHLE):

S. Res. 297. A resolution authorizing testimony and representation of former and current Senate employees and representation of Senator Craig in Student Loan Fund of Idaho, Inc. v. Riley, et al; considered and agreed to.

By Mr. ABRAHAM:

S. Res. 298. A resolution condemning the terror, vengeance, and human rights abuses against the civilian population of Sierra Leone; to the Committee on Foreign Relations.

By Mr. DURBIN (for himself and Mr. MACK):

S. Con. Res. 127. A concurrent resolution recognizing the 50th anniversary of the National Institute of Allergy and Infectious Diseases, and for other purposes; to the Committee on the Judiciary.

By Mr. LEAHY (for himself, Mr. DODD, Mrs. FEINSTEIN, Mr. KERRY, Mrs. MURRAY, Mr. DURBIN, Mr. BINGAMAN, Mr. FEINGOLD, Mr. HARKIN, Mr. BUMPERS, Mr. WELLSTONE, Mr. JEFFORDS, Mrs. BOXER, Mr. KENNEDY, Mr. WYDEN, and Ms. MIKULSKI):

S. Con. Res. 128. A concurrent resolution expressing the sense of Congress regarding measures to achieve a peaceful resolution of the conflict in the state of Chiapas, Mexico, and for other purposes; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TORRICELLI (for himself, Mr. LEAHY, Mr. DEWINE, and Mr. JEFFORDS):

S. 2596. A bill to amend the Federal Agriculture Improvement and Reform Act of 1996 to improve the farmland protection program; to the Committee on Agriculture, Nutrition, and Forestry.

FARMLAND PROTECTION LEGISLATION

● Mr. TORRICELLI. Mr. President, today I introduce legislation which will assist in the critical effort to preserve our nation's most vulnerable farmland. I want to first acknowledge Senator LEAHY's decisive leadership on this issue, and recognize him as the author of the original legislation establishing the Farmland Protection Program in the 1996 Farm Bill. He has been a tireless advocate for this important issue, and I look forward to working closely with him in the future to protect more of our Nation's open spaces.

We have heard a lot during the last decade about the dissolution and destruction of the American Family Farm. Indeed, the family farm is under serious threat of extinction. Today, there are 1,925,300 farms in the United States, the lowest number of farms in our Nation since before the Civil War. The U.S. is losing two acres of our best farmland to development every minute of every day. In my State, New Jersey, we have lost 6,000 farms, or 40 percent of our total, since 1959. This reduction has serious implications for the environment, the economy and our food supply.

The threat comes partially from an anachronistic and unfair inheritance tax that threatens the generational continuity of the family farm and partially from the fact that much of America's farmland is near major cities. As our cities sprawl into neighboring rural areas, our farms are in danger of becoming subdivisions or shopping malls.

Last year I strongly supported a significant reduction in the estate tax to keep farms in the family, preserve open space and ensure fairness in our tax code. This was an important victory for farmers across the Nation. However, we also need programs like the Farmland Protection Program to reinforce this effort. This critical initiative is designed to protect soil by encouraging landowners to limit conversion of their farmland to non-agricultural uses. It has proven so successful that demand for these grants currently outstrips availability of funds by 900 percent, and the last of its authorized funding was spent during fiscal year 1998.

The legislation I am introducing today with Senators LEAHY, DEWINE and JEFFORDS will provide authorization for additional funding, and ensure the survival of this important program. Our bill will reauthorize the program at $55 million a year through 2002, and will broaden the original legislation to allow non-profit conservation groups to hold these easements. This provision is necessary because some State governments, such as Colorado's, are barred from holding easements by their constitution. This legislation will allow non-profit groups to hold these easements in lieu of the state government and this will broaden participation in the program.

I hope my colleagues are able to support this legislation and allow us to continue building on the success of the past few years, during which we were able to protect nearly 82,000 acres on more than 230 farms.●

By Mr. TORRICELLI. (for himself and Mr. LAUTENBERG):

S. 2598. A bill to require proof of screening for lead poisoning and to ensure that children at highest risk are identified and treated; to the Committee on Finance.

CHILDREN'S LEAD PREVENTION AND INCLUSIVE TREATMENT ACT OF 1998

● Mr. TORRICELLI. Mr. President, today with my colleague from New Jersey, Senator LAUTENBERG, I introduce the "Children's Lead Prevention and Inclusive Treatment Act of 1998." For almost thirty years Congress has focused attention on lead-related issues. In 1971 we first passed the Lead-based Paint Poisoning Prevention Act, and much has been done since that time to identify children with elevated lead levels, to educate parents on the dangers of lead, and to devise means of removing or controlling lead in homes. Over the last 20 years, the removal of lead from gasoline, food canning, children's toys, and other sources has seen a reduction in national population blood lead levels by over 80 percent.

Yet recent studies indicate that we are still not doing enough. While national lead levels have dropped over 80 percent, the numbers for Medicaid children, and poor children overall, are nothing short of disgraceful. Since 1992 the Health Care Financing Administration, at the behest of Congress, has required that Medicaid children be screened for elevated blood-lead levels at least twice before they reach the age of 2. But the Centers for Disease Control and Prevention estimates that nationally, 890,000 children between the ages of one and five have elevated blood lead levels and have never been tested.

Even worse, Mr. President, in a Report to Congress earlier this year, the General Accounting Office reported that almost 79 percent of Medicaid children under two years of age have never been screened! This means that as many as 206,000 Medicaid children between the ages of 1 and 2 have not been screened. Considering that in 1991 the U.S. Public Health Service called for a society-wide effort to eliminate childhood lead poisoning by the year 2011, it is quite apparent that we are not making much progress in reaching that goal.

A subsequent GAO report further identified poor and minority children as being at greatest risk of lead poisoning. GAO reported that the prevalence of elevated blood lead levels in Hispanic children aged 1 through 5 was more than twice that of white children, and for African-American children it was more than five times that of white children. Additionally, children in families below 130 percent of the Federal poverty level had a higher prevalence of elevated blood lead levels than those children above the Federal poverty level. Yet all these children continue to be the very ones falling through the cracks!

That is why, Mr. President, I am introducing this legislation. The Children's Lead PAINT Act promises to be a three-pronged attack on the lead-screening system. First, it will create a "safety net" through WIC and Early Start to ensure that high-risk children are screened. A parent enrolling their child in either of these programs must provide proof of screening, within 180 days of enrollment. If a child hasn't been screened, a parent can request WIC or Early Start to perform the test themselves. Additionally, if WIC or Early Start performs the test, Medicaid will be authorized to reimburse the program.

Second, we will be putting teeth into the State's screening obligation, by setting a Minimum number of Screenings a State must perform, or having it face a penalty for failure. Beginning in Fiscal Year 2000, States will be required to screen at least 50 percent of Medicaid children under age 2. This will increase 10 percent each year until it hits 90 percent, where it must remain. If States fail to meet these targets, they stand to lose one percent of their Medicaid funds.

Finally, Mr. President, we will require any Health Care Provider that signs a State Medicaid contract to agree in that contract to comply with the screening requirements, and to provide follow-up services to children who test positive. Although States have been required to perform these screenings, they are not a mandatory requirement of Medicaid health care contracts. Thus, there is no statutory obligation on the part of physicians to perform the tests. This will ensure that doctors perform the tests and that if a child does test positive that an environmental assessment will be done at their home and that follow-up testing and evaluations will be conducted.

I am especially pleased that I have been joined in this fight by two highly regarded national advocacy groups. The Alliance to End Childhood Lead Poisoning, a non-profit public interest organization exclusively dedicated to the elimination of childhood lead poisoning, has publicly endorsed the Lead PAINT Act. Similarly, the Coalition to End Childhood Lead Poisoning, a non-profit parents and victims organization dedicated to educating the public on the dangers of lead poisoning and as well as to eradicating this disease, has also publicly endorsed this legislation.

Mr. President, although we have made great progress in lead poison prevention techniques, first, by banning lead-based paint in homes and more recently by strengthening our home testing system, the GAO report makes it very clear that we are failing to identify those children with lead already in their bodies. It is time we demand accountability. Our children deserve no less.

I look forward to working with my colleagues on this legislation and this issue. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2598

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Children's Lead Prevention and Inclusive Treatment Act of 1998" or the "Children's Lead PAInT Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) lead poisoning remains a serious environmental risk, especially to the health of young children;

(2) childhood lead poisoning can cause reductions in IQ, attention span, reading, and learning disabilities, and other growth and behavior problems;

(3) children under the age of 6 are at the greatest risk because of the sensitivity of their developing brains and nervous systems;

(4) poor children and minority children are at substantially higher risk of lead poisoning;

(5) it is estimated that more than 500,000 children enrolled in medicaid have harmful levels of lead in their blood;

(6) children enrolled in medicaid represent 60 percent of the 890,000 children in the United States with elevated blood lead levels;

(7) although the Health Care Financing Administration has required mandatory blood lead screenings for children enrolled in medicaid who are not less than 1 nor more than 5 years of age, approximately two-thirds of children enrolled in medicaid have not been screened or treated;

(8) the Health Care Financing Administration mandatory screening policy has not been effective, or sufficient, to properly identify and screen children enrolled in medicaid who are at risk;

(9) uniform lead screening requirements do not exist for children not enrolled in medicaid; and

(10) adequate treatment services are not uniformly available for children with elevated blood lead levels.

(b) PURPOSE.—The purpose of this Act is to create a lead screening safety net that will, through medicaid and other entitlement programs, ensure that low-income children at the highest risk of lead poisoning receive blood lead screenings and appropriate followup care.

SEC. 3. INCREASED LEAD POISONING SCREENINGS AND TREATMENTS UNDER THE MEDICAID PROGRAM.

(a) PENALTY FOR INSUFFICIENT INCREASES IN LEAD POISONING SCREENINGS.—

(1) PERFORMANCE IMPROVEMENT.—Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended by adding at the end the following:

"(x) PERFORMANCE IMPROVEMENT.—

"(1) IN GENERAL.—Notwithstanding section 1905(b), beginning with fiscal year 2000 and for each fiscal year thereafter, with respect to any State that fails to meet minimum blood lead screening rates stated in paragraph (2), the Federal medical assistance percentage determined under section 1905(b) for the State for the fiscal year shall be reduced by 1 percentage point, but only with respect to—

"(A) items and services furnished under a State plan under this title during that fiscal year;

"(B) payments made on a capitation or other risk-basis under a State plan under this title for coverage occurring during that fiscal year; and

"(C) payments under a State plan under this title that are attributable to DSH allotments for the State determined under section 1923(f) for that fiscal year.

"(2) MINIMUM BLOOD LEAD SCREENING RATES.—The minimum acceptable percentages of 2-year-old medicaid-enrolled children who have received at least 1 blood lead screening test are—

"(A) 50 percent in fiscal year 2000;

"(B) 60 percent in fiscal year 2001;

"(C) 70 percent in fiscal year 2002;

"(D) 80 percent in fiscal year 2003; and

"(E) 90 percent in each fiscal year after fiscal year 2003.

"(3) MODIFICATION OR WAIVER.—The Secretary may modify or waive the application of paragraph (1) in the case of a State that the Secretary determines has performed during a fiscal year such a significant number of lead blood level assessments that the State reasonably cannot be expected to achieve the minimum blood lead screening rates established by paragraph (2).".

(2) REPORTING REQUIREMENT.—Section 1902(a)(43)(D) of the Social Security Act (42 U.S.C. 1396a(a)(43)(D)) is amended—

(A) in clause (iii), by striking "and" at the end;

(B) in clause (iv), by striking the semicolon and inserting ", and"; and

(C) by adding at the end the following:

"(v) the number of children who are not more than 2 years of age and enrolled in the medicaid program and the number and results of lead blood level assessments performed by the State, along with demographic and identifying information that is consistent with the recommendations of the Centers for Disease Control and Prevention with respect to lead surveillance;".

(b) MANDATORY SCREENING REQUIREMENTS.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(1) in paragraph (65), by striking the period and inserting "; and"; and

(2) by adding at the end the following:

"(66) provide that each contract entered into between the State and an entity (including a health insuring organization and a medicaid managed care organization) that is responsible for the provision (directly or through arrangements with providers of services) of medical assistance under the State plan shall provide for—

"(A) compliance with mandatory screening requirements for lead blood level assessments (as appropriate for age and risk factors) that are commensurate with guidelines and mandates issued by the Secretary through the Administrator of the Health Care Financing Administration; and

"(B) coverage of appropriate qualified lead treatment services, as prescribed by the Centers for Disease Control and Prevention guidelines, for children with elevated levels of lead in their blood.".

(c) REIMBURSEMENT FOR TREATMENT OF CHILDREN WITH ELEVATED BLOOD LEAD LEVELS.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended—

(1) in subsection (a)—

(A) in paragraph (26), by striking "and" at the end;

(B) by redesignating paragraph (27) as paragraph (28); and

(C) by inserting after paragraph (26) the following:

"(27) qualified lead treatment services (as defined in subsection (v);"; and

(2) by adding at the end the following:

"(v)(1) The term 'qualified lead treatment services' means all appropriate and medically necessary services that are provided by a qualified provider, as determined by the State, to treat a child described in paragraph (2), including—

"(A) environmental investigations to determine the source of a child's lead exposure, including the costs of qualified and trained professionals (including health professionals and lead professionals certified by the State or the Environmental Protection Agency) to conduct such investigations and the costs of laboratory testing of substances suspected of being significant pathways for lead exposure (such as lead dust, paint chips, bare soil, and water);

"(B) professional case management services to coordinate access to such services; and

"(C) emergency measures to reduce or eliminate lead hazards to a child, if required (as recommended by the Centers for Disease Control and Prevention).

"(2) For purposes of paragraph (1), a child described in this paragraph is a child who—

"(A) has attained 6 months of age but has not attained 73 months of age; and

"(B) has been identified as having a blood lead level that equals or exceeds 20 micrograms per deciliter (or persistently equals or exceeds 15 micrograms per deciliter).".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section apply on and after October 1, 1998.

(2) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—In the case of a State plan under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of this section solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

SEC. 4. LEAD POISONING SCREENING FOR SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN.

Section 17(d) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)) is amended by adding at the end the following:

"(4) LEAD POISONING SCREENING.—

"(A) IN GENERAL.—Subject to subparagraph (B), for an infant or child to be eligible to participate in the program under this section, a member of the family of the infant or child shall provide proof to the State agency, not later than 180 days after enrollment of the infant or child in the program and periodically thereafter (as determined by the State agency), that the infant or child has received a blood lead test for lead poisoning using an assessment that is appropriate for age and risk factors.

"(B) WAIVERS.—A State agency or local agency may waive the requirement of subparagraph (A) with respect to an infant or child if the State agency or local agency determines that—

"(i) the area in which the infant or child resides does not pose a risk of lead poisoning; or

"(ii) the requirement would be contrary to the religious beliefs or moral convictions of the family of the infant or child.

"(C) SCREENINGS BY STATE AGENCIES.—

"(i) IN GENERAL.—On the request of a member of a family of an infant or child who has not been screened for lead poisoning and who seeks to participate in the program, at no charge to the family, a State agency shall perform a blood lead test on the infant or child that is appropriate for age and risk factors.

"(ii) REIMBURSEMENT.—On the request of a State agency that screens for lead poisoning under clause (i) an infant or child that is receiving medical assistance under a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), the Secretary of Health and Human Services shall reimburse the State agency, from funds that are made available under that title, for the cost of the screening (including the cost of purchasing portable blood lead analyzer instruments approved for sale by the Food and Drug Administration and providing screening with the use of such instruments through laboratories certified under section 353 of the Public Health Service Act (42 U.S.C. 263a)).".

SEC. 5. LEAD POISONING SCREENING FOR EARLY HEAD START PROGRAMS.

Section 645A of the Head Start Act (42 U.S.C 9840a) is amended—

(1) in subsection (c)(2), by inserting before the semicolon the following: ", if the families comply with subsection (i)"; and

(2) by adding at the end the following:

"(i) LEAD POISONING SCREENING.—

"(1) IN GENERAL.—Subject to paragraph (2), for a child to be eligible to participate in a program described in subsection (a)(1), a member of the family of the child shall provide proof to the entity carrying out the program, not later than 180 days after enrollment of the child in the program and periodically thereafter (as determined by the entity), that the child has received a blood lead test for lead poisoning using an assessment that is appropriate for age and risk factors.

"(2) WAIVERS.—The entity may waive the requirement of paragraph (1) with respect to a child if the entity determines that—

"(A) the area in which the child resides does not pose a risk of lead poisoning; or

"(B) the requirement would be contrary to the religious beliefs or moral convictions of the family of the child.

"(3) SCREENINGS BY ENTITIES.—

"(A) IN GENERAL.—On the request of a member of a family of a child who has not been screened for lead poisoning and who seeks to participate in the program, at no charge to the family, the entity shall perform a blood lead test on the child that is appropriate for age and risk factors.

"(B) REIMBURSEMENT.—On the request of an entity that screens for lead poisoning under subparagraph (A) a child that is receiving medical assistance under a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), the Secretary shall reimburse the entity, from funds that are made available under that title, for the cost of the screening (including the cost of purchasing portable blood lead analyzer instruments approved for sale by the Food and Drug Administration and providing screening with the use of such instruments through laboratories certified under section 353 of the Public Health Service Act (42 U.S.C. 263a)).".•

By Ms. SNOWE:

S. 2599. A bill to amend title 38, United States Code, to establish a presumption of service-connection for certain veterans with Hepatitis C, and for other purposes; to the Committee on Veterans' Affairs.

HEPATITIS C VETERANS LEGISLATION

• Ms. SNOWE. Mr. President, today I introduce legislation to address a serious health concern for veterans infected with the hepatitis C virus. This legislation would make hepatitis C a service-connected condition so that veterans suffering from this virus can be treated by the VA.

Specifically, the bill will establish a presumption of service connection for veterans with hepatitis C, meaning that we will assume that this condition was incurred or aggravated in military service, even if there is no record of evidence that the condition existed during the actual period of service, provided that certain conditions are met.

Under this legislation, veterans who received a transfusion of blood during a period of service before December 31, 1992; veterans who were exposed to blood during a period of service; veterans who underwent hemodyalisis during a period of service; veterans diagnosed with unexplained liver disease during a period of service; veterans with an unexplained liver dysfunction value or test; or veterans working in a health care occupation during service, will be eligible for treatment for this condition at VA facilities.

I am introducing this legislation today because of medical research that suggests many veterans were exposed to hepatitis C in service and are now suffering from liver and other diseases caused by exposure to the virus.

I am troubled that many "hepatitis C veterans" are not being treated by the VA because they can't prove the virus was service connected, despite that fact that hepatitis C was little known and could not be tested for until recently.

Mr. President, we are learning that those who served in Vietnam and other conflicts, tend to have higher than average rates of hepatitis C. In fact, VA data shows that 20 percent of its inpatient population is infected with the hepatitis C virus, and some studies have found that 10 percent of otherwise healthy Vietnam veterans are hepatitis C positive.

Although hepatitis C is a very serious infection, it was actually unknown until recently. Hepatitis C was not isolated until 1989, and the test for the virus has only been available since 1990. Hepatitis C is a hidden infection with few symptoms. However, most of those infected with the virus will develop serious liver disease 10 to 30 years after contracting it. For many of those infected, hepatitis C leads to liver failure, transplants, liver cancer, and ultimately death.

And yet, most people who have hepatitis C don't even know it and often do not get treatment until it's too late. Only five percent of the estimated four million Americans with hepatitis C know they have it, but with new treatments, some estimates indicate that 50 percent can have the virus eradicated.

Vietnam Veterans in particular are just now starting to show up with liver disease caused by hepatitis C. And detection and treatment now may help head off serious liver disease for many of them. However, many veterans with hepatitis C will not be treated by the VA because they cannot establish a service connection for their condition in spite of the fact that we now know that many Vietnam-era and other veterans got this disease serving their country.

Many of my colleagues may be interested to know how veterans likely were exposed to this virus. Many veterans received blood transfusions while in Vietnam. This is one of the most common ways hepatitis C is transmitted. Medical transmission of the virus through needles and other medical equipment is possible in combat. And Medical care providers in the services were likely at increased risk, and may have, in turn, posed a risk to the service members they treated.

Researchers have discovered that hepatitis C was widespread in Southeast Asia during the Vietnam war, and that some blood sent from the U.S. was also infected with the virus. Researchers and veterans organizations, including the Vietnam Veterans of America, with whom I worked to prepare this legislation, believe that many veterans were infected after being injured in combat and getting a transfusion or from working as a medic around combat injuries.

Yet, veterans cannot establish a service connection because frequently there were no symptoms when they were infected in Vietnam. In addition, while medical records may show a short bout of hepatitis, hepatitis C was not known then and there was no testing to detect the hepatitis C infection at discharge.

The hepatitis C infected veterans are essentially in a catch 22: the VA is reluctant to depart from their routine service connection requirements and veterans cannot prove that they contracted hepatitis C in combat because the science to detect it did not exist during the period of service. Without congressional authority in the form of legislation providing for presumptive service connection, thousands of Vietnam vets infected with hepatitis C in service will not get VA health care testing or treatment. I believe the government will actually save money in the long run by testing and treating this infection early on. The alternative is much more costly treatment of end-stage liver disease and the associated complications, or other disorders.

I would like to describe some of the research that has led me to the conclusion that hepatitis C may be service connected in many veterans. A number of studies have established a link between hepatitis C in veterans and high risk factors for hepatitis C that are unique to combat or are highly prevalent in combat situations.

A study published in the American Journal of Epidemiology in 1980 found that veterans have a higher incidence of hepatitis C compared to non-veterans. The study of veterans receiving liver transplants at the Nashville, Tennessee VA medical center, which was conducted by researchers at the Vanderbilt University Medical Center, found that there "was a significantly greater incidence of hepatitis C . . . in veterans compared with non-VA patients." The study claims to confirm that "veteran patients have a higher incidence of hepatitis C. . ."

A study published in Cancer in 1989 found that veterans have increased risk of liver cancer as compared to non-veterans. The study found that there was a 50 percent increase in the rate of liver cancer among male veterans using VA medical systems from 1970 to 1982.

A study published in Military Medicine in 1997 found that from 1991 to 1994, the number of veterans diagnosed with hepatitis C increased significantly from 6,612 in 1991 to 18,854 in 1994, which is an increase of more than 285 percent. The study notes that "total patients seen nationally . . . increased by only 4.87 percent during the same period." Therefore, this increase cannot be explained by increased in workload. Over the subsequent year, this increased to 21,400 (in 1996), and has since continued to increase.

Some will argue that further epidemiologic data is needed to resolve or prove the issue of service connection. I agree that we have our work cut out for us, and further study is required. However, while the research being done is providing more and more data on the relationship between military service and hepatitis C, we should not force those who fought for our country to wait for the treatment they deserve.

It should be noted that some progress has been made in recent years in the effort to address this health concern. This is not a new issue.

The VA has done some screening and testing for hepatitis C in veterans. VA Under Secretary for Health, Ken Kizer, issued a directive that all VA medical centers should test veterans for hepatitis C if they fall into certain risk categories. However, I understand that medical centers are not complying with this directive uniformly. In addition, there is no mention of treatment in the Kizer directive. Therefore, if the virus is detected, the VA does not necessarily treat it.

I would also note that the FY98 VA-HUD Appropriations report contains the following language: "The Committee is concerned that the rates of serious liver disease, liver cancer and liver transplants related to hepatitis C infection are expected to rise rapidly among veterans populations over the next decade. Veterans health care facilities will bear a large part of the treatment cost. Those costs can be reduced with early screening and treatment of veterans infected with hepatitis C. Therefore, the Committee directs the Department to determine rates of hepatitis C infection among veterans receiving health services from the VA and to establish a protocol for screening new entrants to the VA health care system. The Committee also directs the Department to provide counseling and access to treatment for veterans who test positive for hepatitis C. The Department should pay special attention to rates of hepatitis C among veterans of Vietnam and more recent deployments."

Former Surgeon General C. Everett Koop, well respected both within and outside of the medical profession, has said, "In some studies of veterans entering the Department of Veterans Affairs health facilities, half of the veterans have tested positive for HCV. Some of these veterans may have left the military with HCV infection, while others may have developed it after their military service. In any event, we need to detect and treat HCV infection if we are to head off very high rates of liver disease and liver transplant in VA facilities over the next decade. I believe this effort should include HCV testing as part of the discharge physical in the military, and entrance screening for veterans entering the VA health system."

The VA requires that a veteran demonstrate onset during service or within requisite presumptive periods with chronic residuals of a disease or injury that had its onset during active military service. How does a veteran prove service connection under these criteria for a condition that did not even have a name until 10 years ago.

Veterans have already fought their share of battles—these men and women who sacrificed in war so that others could live in peace shouldn't have to fight again for the benefits and respect they have earned.

In closing, let me say that we are just now beginning to learn the full extent of this emerging health threat to veterans and the general population. We still have a long way to go before we know how best to confront this deadly virus. A comprehensive policy to confront such a monumental challenge can not written overnight. It will require the long-term commitment of Congress and the Administration to a serious effort to address this health concern.

I hope this legislation will be a constructive step in this effort, and I look forward to working with the Veterans' Affairs Committee, the VA-HUD appropriators, Vietnam Veterans of America, and others to meet this emerging challenge.●

By Mr. HATCH:

S. 2600. A bill to amend section 402 of the Controlled Substances Act to reform the civil remedy provisions relating to recordkeeping violations; to the Committee on the Judiciary.

CONTROLLED SUBSTANCE CIVIL PENALTY REFORM ACT

Mr. HATCH. Mr. President, I rise today to introduce the "Controlled Substances Civil Penalty Reform Act of 1998," S. 2600, legislation I have been developing for some months working in conjunction with Senator GREGG and the Appropriations Committee, our House colleague, BILL McCOLLUM, and other interested parties including the Drug Enforcement Administration, the National Association of Chain Drug Stores, and the National Wholesale Druggists Association.

This is a "good government" bill, legislation which I intend to correct a situation which has proven to be of great concern to America's drug stores, the wholesale community which supplies them, and America's consumers.

As a House hearing amply documented last month, there have been a number of cases in which the Drug Enforcement Administration has imposed large fines for small, record-keeping errors committed by those the agency regulates, primarily drug stores and their suppliers.

The DEA has a critical mission to combat diversion of controlled substances. This is of great national significance, and the agency should zealously pursue to the limits of the law those who traffic in illicit drugs.

That being said, there is a difference between going after drug dealers and examining the records kept by legitimate wholesalers and pharmacies. Overzealously throwing the book at above-board businesses, who are doing so much to help America's consumers, for relatively minor record-keeping violations is not warranted.

In 1997, these fines, which may be assessed at up to $25,000 per violation, totaled a substantial $12 million. But given the nature of some of the minor deficiencies, which I am advised are sometimes for trivial matters such as incorrect zip codes, the question must be raised whether this particular enforcement activity is operating more life a hidden tax or user fees than a meaningful deterrent to drug diversion.

In short, S. 2600 amends the Controlled Substances Act in three important ways. First, it adds a negligence standard to current law, so that the government must prove that the record-keeping violation was due to a negligent act, rather than an unintended mistake or omission, prior to any fines being imposed. Second, it lowers the ceiling on these fines from "up to $25,000" per violation, to "up to $10,000" per violation.

The third provision adds a number of needed standards that the Attorney General must consider before any fine is imposed. These include: whether diversion actually occurred; whether actual harm to the public resulted from the diversion; whether the violations were intentional or negligent in nature; whether the violations were a first time offense; the time intervals between inspections where no, or any serious, violations were found; whether the violations were multiple occurrences of the same type of violation; whether and to what extent financial profits may have resulted from the diversion; and the financial capacity of registrants to pay the fines assessed.

Finally, my proposal makes clear that in determining whether to assess a penalty, the Attorney General may take into account whether the violator has taken immediate and effective corrective action, including demonstrating the existence of compliance procedures, in order to reduce the potential for any future violations. The Attorney General may also follow informal procedures such as sending one or more warning letters to the violator, as she determines appropriate.

Mr. President, I recognize that our time is short for the remainder of this session. However, given Senator GREGG's significant interest in this issue, and the abundant work that Representative McCOLLUM and I have devoted to this issue this year, I am hopeful this needed reform is something we can accomplish before we adjourn.

By Mr. KYL:

S. 2601. A bill to provide block grant options for certain education funding; to the Committee on Labor and Human Resources.

DOLLARS FOLLOWS THE KID EDUCATION BLOCK GRANT

S. 2602. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for expenses of attending elementary and secondary schools and for contributions to charitable organizations which provide scholarships for children to attend such schools; to the Committee on Finance.

K THROUGH COMMUNITY PARTICIPATION ACT

● Mr. KLY. Mr. President, I rise to introduce two education legislative proposals that will increase parental and student choice, educational quality, and school safety.

A colleague from the Arizona delegation, Representative Matt Salmon, is today introducing these proposals in the House of Representatives.

The first proposal is the "Dollars Follow the Student Education Block Grant Act."

This proposal would ensure that education dollars are spent in the classroom on behalf of specific students rather than in bureaucracies like the Department of Education in Washington, D.C.

The second proposal is the "K through 12 Community Participation Act" which would offer tax credits to families and businesses of up to $500 annually for qualified K through 12 education expenses or activities.

Over the last 30 years, Americans have steadily increased their monetary commitment to education.

Unfortunately, we have not seen a corresponding improvement in the quality of the education our children receive.

Given our financial commitment, and the great importance of education, these results are unacceptable.

Mr. President, I believe the problem is not how much money is spent, but how it is spent, and by whom.

Our national commitment to education is clear from the ever-increasing sums we spend annually.

The problem is the big-government, Washington D.C.-based policies that have squandered these resources on well-meaning but misguided programs that are failing our children and our country.

By beginning the debate on these two legislative proposals at the end of the 105th Congress, I believe the Congress can build upon the great progress made in the direction of parental choice, educational quality, and safety—progress which has been led by Senator PAUL COVERDELL and Senator SLADE GORTON, and Senator TIM HUTCHINSON.

THE DOLLARS FOLLOW THE STUDENT EDUCATION BLOCK GRANT PROPOSAL

As a nation we have long recognized the supreme importance of educating our children.

It is the foundation for a productive and rewarding future for all individuals and, as Thomas Jefferson noted, "is essential to the preservation of our democracy."

The critical issue is whether the taxpayers are getting their money's worth for their education tax dollar in light of the disappointing conclusions of the recent congressional Education at the Crossroads report.

As the report pointed out, the federal government pays only seven percent of the cost of education, but imposes 50 percent of the paperwork requirements that schools face.

Our students are struggling to master just the basics in reading, math, and science. Around 40 percent of our fourth graders can't read, while the government pays to add subtitles to the "Jerry Springer Show."

It is clear that after more than 30 years of topdown control, hundreds of duplicative federal programs and one-size-fits-all policies from Washington are not working.

In fact, according to a recent study by the Heritage Foundation, 20 cents of each education tax dollar are lost to administrative and federal compliance costs. I believe these resources would be better spent on textbooks or making schools safer than on salaries of, and regulations issued by, bureaucrats in Washington.

It's clear that we need to get more from our education tax dollars by spending more of them in the classroom and less in Washington.

This idea—an education block grant—has been successfully promoted by Senator SLADE GORTON of Washington state. The Gorton block grant proposal passed the Senate and the House in 1997, but, at the Clinton administration's insistence, it was stripped from the Labor, Health and Human Services, and Education appropriations bill of 1997.

As with the Gorton proposal, my bill would consolidate most federally funded K through 12 education programs, except for special education. This money is sent directly to states and local school districts free from federal mandates or regulations.

Under both proposals, each state would choose one of three options: 1. To have federal block grant funds sent directly to local school districts minus federal regulations; 2. To have federal block grant funds sent to the state education authority, again without federal regulations; 3. Or to continue to receive federal funds under the current system of categorizing monies rigidly into specific programs.

But my amendment adds a new feature to the block grant idea for states that choose a block grant option. Several years ago, the Goldwater Institute, a Phoenix-based educational think tank, began to advocate market-based education finance reform in which a specific amount of money would follow each child to the school of his or her choice. I believe the time has come for this concept of "dollars following kids" to be debated and implemented on the national level.

Under this proposal, each state electing to have a block grant could also decide to allow parents of children in private schools, public schools (including charter schools), and parents of "home schooled" kids, to receive their "per capita" amount directly, rather than indirectly through the school district and school. This money would literally "follow the child" from school to school, thus creating an incentive for the school to muster the best education product possible in order to keep the child enrolled.

I believe the fundamental problem with today's method of federal education funding is that it provides little if any link between the quality of a school or school district's educational product and the education funding it receives. The absence of a link between school funding and education quality has led to a loss of accountability and to an education product that is, in many ways, severely deficient. Parents, students, and the nation suffer from this loss of accountability.

As we all know, under current education-funding procedures, federal dollars allocated by the U.S. Department of Education are sent to state education agencies, and then to each school district, and finally, to each school. At each level, important education decisions are being made by bureaucrats—and more importantly, not being made by parents. Also, at each level of bureaucracy, additional percentages of the original education-funding dollar that left Washington is being lost. Currently, fully 20 percent of all federal education dollars never make it to the classroom and the student.

I believe we need to explore a new education-funding framework that is child-centered rather than school, or school district, centered. The current system has proven to be inconsistent with the fundamental principles of parental choice, competition, and education quality.

This proposal would implement the fundamental reform needed in our education financing system. I believe we should consider financing public education by linking funding to individual students and requiring that the schools and school districts compete for those students by providing a quality education. This approach puts the child, rather than the system itself, at the center. With child-centered funding, students are more valuable to schools than the bureaucrats who make funding decisions.

Simply put, under my plan, the federal money that supports primary and secondary education would go directly from the state to parents, and only then to the schools in which parents chose to educate their children.

Practically speaking, what does this mean? First, the federal government funds about 6.3% of the total amount—$358 billion—invested in primary and secondary education each year. If every state chose the block grant, this proposal would result in a block grant of roughly $13 billion sent to the states with greatly reduced regulatory mandates. (It is important to note that federal funding through the Individuals with Disabilities Act is exempted from this block grant.)

This amount—$13 billion—divided among roughly 50 million students results in $255 dollars that will "follow" each student. When one considers that the average school enrollment is 530 students, this block grant proposal would mean that each school would receive an average of $135,000 in federal dollars and, more importantly, would have the flexibility to sue it to address the specific educational needs of the students in that school.

Suppose the parents of 50 students decided to remove their children because they were unsatisfied with the educational product of the school: that school would lose over $12,000 as a result. This would mean that each school would have the strong incentive to improve its curriculum, its staff, and its overall performance, since, if parents weren't satisfied, they could move their child to another school—and the dollars along with the child.

To allay fears that federal funding will be cut if consolidated into a block grant, this proposal provides that, if federal funding falls below the levels agreed to in the 1997 budget agreement, it will revert back to funding under federally-designated categories.

Also, my bill encourages states that choose block grants to adjust the per-student amounts by two factors: The relative cost of living, i.e., rural v. urban; and the income of the child's parents.

Citizens in the states put their trust in members of Congress to represent them in the nation's capital. It is time Congress showed the same trust in them and gave them more discretion in how their education tax dollars are spent.

It comes down to this: Will local schools be improved through more control from Washington, or will they be improved by giving more control to parents, teachers, and principals? The question needs only to be asked to be answered. The K through 12 Community Participation Act.

Mr. President, the second education legislative proposal I am introducing today is the K through 12 Community Participation Act. This proposal addresses the problem of falling education standards by giving families and businesses a tax incentive to provide children with a higher quality education through choice and competition.

The problem of declining education standards is illustrated by a report just released by the Education and Workforce Committee of the House of Representatives, Education at the Crossroads. This is the most comprehensive review of federal education programs ever undertaken by the United States Congress. It shows that the federal government's response to the decline in American schools has been to build bigger bureaucracies, not a better education system.

According to the report: There are more than 760 federal education programs overseen by at least 39 federal agencies at a cost of $100 billion a year to taxpayers. These programs are overlapping and duplicative. For example, there are 63 separate (but similar) math and science programs, 14 literacy programs, and 11 drug-education programs.

Even after accounting for recent streamlining efforts, the U.S. Department of Education still requires over 48.6 million hours worth of paperwork per year—this is the equivalent of 25,000 employees working full time.

As I mentioned earlier, states get at most seven percent of their total education funds from the federal government, but most states report that roughly half of their paperwork is imposed by federal education authorities.

The federal government spends tax dollars on closed captioning of "educational" programs such as "Baywatch" and Jerry Springer's squalid daytime talk show.

With such a large number of programs funded by the federal government, it's no wonder local school authorities feel the heavy hand of Washington upon them.

And what are the nation's taxpayers getting for their money? According to the report, around 40 percent of fourth grades cannot read, and 57 percent of urban students score below their grade level. Half of all students from urban school districts fail to graduate on time, if at all. U.S. 12th graders ranked third from the bottom out of 21 nations in mathematics. According to U.S. manufacturers, 40 percent of all 17-year-olds do not have the math skills to hold down a production job at a manufacturing company.

The conclusion of the Education at the Crossroads report is that the federally designed "one-size-fits-all" approach to education is simply not working.

I believe we need a federal education policy that will: Give parents more control. Give local schools and school boards more control. Spend dollars in the classroom, not on a Washington bureaucracy. Reaffirm our commitment to basic academics.

As was the case regarding my block grant proposal, my state of Arizona has led the way with legislation passed in 1997. This state law provides tax credit that can be used by parents and businesses to cover certain types of expenses attendant to primary and secondary education.

Mr. President, today, Representative SALMON and I are introducing a form of the new Arizona education tax-credit law.

The K through 12 Community Participation Education Act would be phased in over four years and would impel parents, businesses, and other members of the community to invest in our children's education. Specifically, it offers every family or business a tax credit of up to $500 annually for any K through 12 education expense or activity. This tax credit could be applied to home schooling, private schools (including charter schools), or parochial schools. Allowable expenses would include tuition, books, supplies, and tutors.

Further, the tax credit could be given to a "school-tuition organization" for distribution. To qualify as a school-tuition organization, the organization would have to devote at least 90 percent of its income per year to offering available grants and scholarships for parents to use to send their children to the school of their choice.

How might this work? A group of businesses in any community could join forces to send sums for which they received tax credits to charitable "school-tuition organizations" which would make scholarships and grants available to low income parents of children currently struggling to learn in unsafe, non-functional schools.

Providing all parents—including low income parents—the freedom to choose will foster competition and increase parental involvement in education. Insuring this choice will make the federal education tax code more like Arizona's. It is a limited but important step the Congress and the President can—and I believe, must—take.

Mr. President, it's clear that top-down, one-size fits all, big government education policy has failed our children and our country.

This tax-credit legislation, as well as the block-grant legislation I described earlier, will refocus our efforts on doing what is in the best interests of the child as determined by parents, and will give parents and businesses the opportunity to take an important step to rescue American education so that we can have the educated citizenry that Jefferson said was essential to our health as a nation.●

By Mr. BAUCUS (for himself, Mr. DASCHLE, Mr. INOUYE, Mr. BINGAMAN, Mr. JOHNSON, and Mr. CONRAD):

S. 2603. A bill to promote access to health care services in rural areas; to the Committee on Finance.

PROMOTING HEALTH IN RURAL AREAS ACT OF 1998

Mr. BAUCUS. Mr. President, all Americans deserve access to primary health care and emergency treatment. But in rural America the delivery of these services is often difficult, given the vast distances and extreme weather conditions that typically prevail. Just as small communities' transportation, education and housing needs are different than those of urban areas, so too are their mechanisms for delivering health care.

That's why Senator DASCHLE and I are introducing the Promoting Health In Rural Areas Act of 1998. PHIRA would, among other things: reformulate the Adjusted Average Per Capita Cost for Medicare payments to managed care; direct Medicare payments to tribally-owned hospitals; rebase provisions for Sole Community Hospitals; revise the underserved criteria used by the Office of Personnel Management; and allow recently-closed hospitals to be designated on a Critical Access basis.

As you know, 1997 reforms went a long way towards ensuring the viability of the Medicare program, including its use by rural Americans. For example, under Section 4201 of the 1997 BBA, Congress established a rural-friendly hospital program. Modeled on a demonstration project conducted in my state of Montana, the new program allows a rural hospital to convert to a limited-service hospital status, called a "Critical Access Hospital," or CAH. These hospitals are given flexibility and relief from Medicare regulations designed for full-size, full-service acute care hospitals. By giving these smaller hospitals greater latitude on staffing and other cumbersome federal regulations, it is easier for rural hospitals to organize their staffs and facilities based on patient needs.

If the demonstration project on which this new program is based is any indication (and I certainly hope that it is), Congress can be proud of this new law. And rural folks across the country will benefit. They will receive access to quality care in a way that meets their unique needs, and they will be assisted in preserving a way of life that is increasingly threatened by the urban- and sub-urbanization of America.

Yet despite many positive developments, it has become clear to the Minority Leader and I that much still needs to be done to facilitate the delivery of rural health services. In order to meet those needs, the Promoting Health in Rural Areas Act will do several things. First, it will change the Office of Personnel Management's underserved designation criteria by changing the way the Office of Personnel Management designates rural areas. Back in the 1960s, underserved areas were designated on a state-by-state basis. Now, the Department of Health and Human Services has the sophistication to designate areas by county, or even sub-county. The bill we are introducing today would require OPM to designate underserved areas on a county-by-county, not state-by-state, basis.

Second, PHIRA would direct Medicare payments to tribally-owned hospitals. As you know, Mr. President, a demonstration project conducted in Alaska, Mississippi and Oklahoma allowed four tribal health care providers operating Indian Health Services hospitals to bill Medicare and Medicaid directly. The demo project increased efficiency and, by allowing providers to directly bill Medicare, provided badly-needed revenue. Our bill would expand the demonstration project nationwide and make it permanent.

Mr. President, our bill would also allow recently-closed hospitals to be designated as Criticala Access Hospitals. Under the 1997 law establishing the Critical Access Hospital program, a closed or downsized hospital does not qualify. Our bill would allow a hospital that had closed within the last five years to qualify for conversion to CAH status.

Our bill also addresses rural needs for Medicare Graduate Medical Education (GME). As you know, BBA mandated a cap on the number of residents a teaching hospital is allowed to train. Because this provision threatens to exacerbate an already serious shortage of physicians in rural America, our bill would allow programs training residents targeted for rural areas to be exempt from the cap.

Mr. President, by reforming the way health care is delivered in rural areas, we are not only making government more efficient, we are making agencies more accountable. And we are preserving a way of life that American pioneers established long ago and that rural Americans continue today. It is in many ways a simpler lifestyle, uncomplicated by traffic, smog and a desire to get everything done yesterday. But it is also a difficult way of life, characterized by harsh weather, long distances, and the historic tendency of the Federal Government to view all areas—rural or urban—through a one-size-fits-all lens. I invite senators to join the Minority Leader and I today, to ensure that our rural residents are given proper access to the health care they need. I urge my colleagues to support this important legislation.

Mr. DASCHLE. Mr. President, today, with Senator BAUCUS, I introduce a bill intended to improve health care for Americans living in rural communities. The Promoting Health in Rural Areas Act of 1998 would help rural communities attract and retain health care providers and health plans, improve the viability of sole community hospitals, and make optimal use of the advances in medical technology available today.

Delivering health care in rural America presents unique challenges—issues related to geography, lack of transportation, and reimbursement. With a relatively small population spread over a large area, and health care professionals in short supply, patients often must travel long distances to see a physician or get to a hospital. While these rural communities strive to improve access through telemedicine and recruitment efforts, they must also struggle to maintain what they have, to ensure that providers who leave their area are replaced, and to keep their hospitals' doors open.

Rural communities have long had great difficulty recruiting and retaining health care providers to serve their needs. Despite great increases in the number of providers trained in this country over the past 30 years, rural communities have not shared equitably in the benefits of this expansion. Even though 20 percent of Americans live in non-metropolitan counties, only 11 percent of physicians practice in those counties, and that percentage has been falling for the last 25 years. Currently, 30 towns in South Dakota are looking for family physicians.

Telemedicine is a promising tool to provide medical expertise to rural communities. Through telemedicine technology, rural patients can have access to specialists they would otherwise never encounter. The benefits of telemedicine extend to rural health professionals as well, providing them with technical expertise and interaction with peers that can make practicing in a rural area more attractive. Yet the potential of telemedicine has been limited by reimbursement issues and a number of other obstacles.

In addition to problems with provider recruitment and limitations facing telemedicine, seniors in rural areas do not have the array of health plan options available in more urban areas due in part to a disparity in reimbursement. Although the Balanced Budget Act began to address the issue of low payment levels in rural areas, and has been successful to some degree, budgetary constraints have prevented the expected increase in rural areas.

The Promoting Health in Rural Areas Act of 1998 is intended to address some of the basic challenges facing rural health care. It will not address every health problem facing rural America. It is, however, intended to take important steps to improve access, increase choice, and improve the quality of care provided in more isolated parts of the country.

The bill addresses obstacles in current law to the recruitment and training of providers in rural areas. One provision in the bill ensures that new rules enacted as part of the Balanced Budget Act, regarding reimbursement for medical residents, do not discriminate against areas that train residents in rural health clinics or other settings outside a hospital.

The bill also helps medically underserved communities plan and be ready for the retirement of a physician. Current law effectively requires communities to actually lose a physician before they qualify for recruitment assistance to replace that doctor. Because recruitment is rarely less than a 6-month-long process, current policy places a community at risk of potentially having no physician available to them for long periods of time. This bill would provide communities with 12 months of lead time to secure recruitment assistance when they know a retirement or resignation is pending.

The bill would enhance the economic viability of Sole Community Hospitals, often the only source of inpatient services that are reasonably available in a geographic area, by updating the base cost reporting period.

The bill would ensure that health plans for Medicare beneficiaries who want to develop in rural counties get the increased reimbursement promised in the Balanced Budget Act, while maintaining budget neutrality. This provision is important to ensure that beneficiaries in rural areas begin to have some of the health plan choices available to urban seniors.

The bill also places significant focus on the promise of telemedicine for rural areas and attempts to overcome some of the barriers that have limited its potential. The bill would expand reimbursement for telemedicine to all rural areas, not just those designated as health professional shortage areas. The bill also would allow reimbursement for services currently covered by Medicare in face-to-face interactions with health professionals. It also would make telemedicine more convenient, by allowing any health care practitioner to present a patient to a specialist on the other side of the video connection.

Mr. President, providing health care in rural communities raises unique challenges that require targeted responses. Rural America deserves appropriate access to health care—access to providers, access to hospitals, access to quality care, and greater choice. The bill we introduce today takes important steps to achieve these ends.

By Mr. TORRICELLI:

S. 2604. A bill to provide demonstration grants to local educational agencies to enable the agencies to extend time for learning and the length of the school year; to the Committee on Labor and Human Resources.

EXTENDED SCHOOL LEGISLATION

• Mr. TORRICELLI. Mr. President, today I introduce legislation authorizing funding for extended school day and extended school year programs across the country. The continuing gap between American students and those in other countries, combined with the growing needs of working parents and the growing popularity of extending both the school day and the school year, have made this educational option a valuable one for many school districts.

Students in the United States currently attend school an average of only 180 days per year, compared to 220 days in Japan, and 222 days in both Korea and Taiwan. American students also receive fewer hours of formal instruction per year compared to their counterparts in Taiwan, France, and Germany. We cannot expect our students to remain competitive with those in other industrialized countries if they must learn the same amount of information in less time.

Our school calendar is based on a no longer relevant agricultural cycle that existed when most American families lived in rural areas and depended on their farms for survival. The long summer vacation allowed children to help their parents work in the fields. Today, summer is a time for vacations, summer camps, and part-time jobs. Young people can certainly learn a great deal at summer camp, and a job gives them maturity and confidence. However, more time in school would provide the same opportunities while helping students remain competitive with those in other countries. As we debate the need to bring in skilled workers from other countries, the need to improve our system of education has become increasingly important.

In 1994, the Commission on Time and Learning recommended keeping schools open longer in order to meet the needs of both children and communities, and the growing popularity of extended-day programs is significant. Between 1987 and 1993, the availability of extended-day programs in public elementary schools has almost doubled. While school systems have begun to respond to the demand for lengthening the school day, the need for more widespread implementation still exists. Extended-day programs are much more common in private schools than public schools, and only 18 percent of rural schools have reported an extended-day program.

This bill would authorize $50 million over the next five years for the Department of Education to administer a demonstration grant program. Local education agencies would then be able to conduct a variety of longer school day and school year programs, such as extending the school year to 210 days, studying the feasibility of extending the school day, and implementing strategies to maximize the quality of extended core learning time.

The constant changes in technology, and greater international competition, have increased the pressure on American students to meet these challenges. Providing the funding for programs to lengthen the school day and school year would leave American students better prepared to meet the challenges facing them in the next century.•

By Mr. TORRICELLI (for himself and Mr. LAUTENBERG):

S. 2605. A bill to amend the Public Health Service Act to provide for the establishment of a national program of traumatic brain injury and spinal cord injury registries; to the Committee on Labor and Human Resources.

TRAUMATIC BRAIN AND SPINAL CORD INJURY REGISTRY ACT

• Mr. TORRICELLI. Mr. President, I introduce legislation that represents an important step forward in our national strategy for addressing traumatic brain injury (TBI) and spinal cord injury (SCI). Tragically, these injuries have enormous personal and economic costs on victims, their families, and our nation as a whole.

Today, an estimated 4.5 million Americans live with a disability as a result of a TBI. Each year, more than two million people suffer a TBI, 10,000 of whom live in my State of New Jersey. More than 200,000 Americans live with a SCI, with 10,000 new injuries reported each year. Collectively, TBI and SCI costs the U.S. more than $35 billion per year.

These statistics, however, reveal only a fraction of the problem. In the U.S., we have no standardized system of collecting information on these injuries. Instead, we rely on the work of a few limited State programs and private organizations who often lack the resources to collect complete, timely, and accurate data.

Mr. President, the legislation I introduce today, the TBI/SCI Registry Act, will allow the Centers for Disease Control and Prevention (CDC) to make grants available to states to establish their own TBI/SCI registries. The CDC and state departments of health will then work as partners in establishing and maintaining comprehensive tracking systems that ensures patient privacy.

The important information that state registries will be responsible for collecting will include: circumstances of injury and demographics of patients; length of stay in hospital and treatments used; severity of the injury; outcomes of treatments and services.

The benefits will be far-reaching because the collection of accurate data will help identify high-risk populations for future prevention programs and will help link patients to effective treatments and social services. Perhaps most important, the information from these registries will help advocates and legislators justify TBI/SCI as a greater funding priority.

The National Institutes of Health (NIH) currently spends approximately $60 million for SCI and $52 million for TBI. This research has contributed to tremendous progress, but we must improve our ability to identify innovative research projects and increase our financial commitment to those efforts.

Mr. President, this legislation will ultimately help achieve this goal by creating a foundation for a unified scientific and public health approach for preventing, treating, and someday finding a cure for TBI/SCI. I am proud that my bill has already received the endorsement of the Christopher Reeve Foundation, the American Paralysis Association, the Brain Injury Association, and the Eastern Paralyzed Veterans Association.

Mr. President, I ask that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2605

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Traumatic Brain Injury and Spinal Cord Injury Registry Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) traumatic brain and spinal cord injury are severe and disabling, have enormous personal and societal costs;

(2) 51,000 people die each year from traumatic brain injury and 4,500,000 people live with lifelong and severe disability as a result of a traumatic brain injury;

(3) approximately 10,000 people sustain spinal cord injuries each year, and 200,000 live with life-long and severe disability; and

(4) a nationwide system of registries will help better define—

(A) who sustains such injuries and the impact of such injuries;

(B) the range of impairments and disability associated with such injuries; and

(C) better mechanisms to refer persons with traumatic brain injuries or spinal cord injuries to available services.

SEC. 3. TRAUMATIC BRAIN INJURY AND SPINAL CORD INJURY REGISTRIES PROGRAM.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end the following:

"PART O—NATIONAL PROGRAM FOR TRAUMATIC BRAIN INJURY AND SPINAL CORD INJURY REGISTRIES

"SEC. 399N. NATIONAL PROGRAM FOR TRAUMATIC BRAIN INJURY AND SPINAL CORD INJURY REGISTRIES.

"(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may make grants to States or their designees to operate the State's traumatic brain injury and spinal cord injury registry, and to academic institutions to conduct applied research that will support the development of such registries, to collect data concerning—

"(1) demographic information about each traumatic brain injury or spinal cord injury;

"(2) information about the circumstances surrounding the injury event associated with each traumatic brain injury and spinal cord injury;

"(3) administrative information about the source of the collected information, dates of hospitalization and treatment, and the date of injury;

"(4) information characterizing the clinical aspects of the traumatic brain injury or spinal cord injury, including the severity of the injury, the types of treatments received, and the types of services utilized;

"(5) information on the outcomes associated with traumatic brain injuries and spinal cord injuries, such as impairments, functional limitations, and disability;

"(6) information on the outcomes associated with traumatic brain injuries and spinal cord injuries which do not result in hospitalization; and

"(7) other elements determined appropriate by the Secretary.

"(b) ELIGIBILITY FOR GRANTS.—

"(1) IN GENERAL.—No grant shall be made by the Secretary under subsection (a) unless an application has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such a manner, and be accompanied by such information, as the Secretary may specify. No such application may be approved unless it contains assurances that the applicant will use the funds provided only for the purposes specified in the approved application and in accordance with the requirements of subsection (a), that the application will establish such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement and accounting of Federal funds paid to the applicant under subsection (a) of this section, and that the applicant will comply with review requirements under sections 491 and 492.

"(2) ESTABLISHMENT OF REGISTRIES.—Each applicant, prior to receiving Federal funds under subsection (a), shall provide for the establishment of a registry that will—

"(A) comply with appropriate standards of completeness, timeliness, and quality of data collection;

"(B) provide for periodic reports of traumatic brain injury and spinal cord injury registry data; and

"(C) provide for the authorization under State law of the statewide traumatic brain injury and spinal cord injury registry, including promulgation of regulations providing—

"(i) a means to assure timely and complete reporting of brain injuries and spinal cord injuries (as described in subsection (a)) to the statewide traumatic brain injury and spinal cord injury registry by hospitals or other facilities providing diagnostic or acute care or rehabilitative social services to patients with respect to traumatic brain injury and spinal cord injury;

"(ii) a means to assure the complete reporting of brain injuries and spinal cord injuries (as defined in subsection (a)) to the statewide traumatic brain injury and spinal cord injury registry by physicians, surgeons, and all other health care practitioners diagnosing or providing treatment for traumatic brain injury and spinal cord injury patients, except for cases directly referred to or previously admitted to a hospital or other facility providing diagnostic or acute care or rehabilitative services to patients in that State and reported by those facilities;

"(iii) a means for the statewide traumatic brain injury and spinal cord injury registry to access all records of physicians and surgeons, hospitals, outpatient clinics, nursing homes, and all other facilities, individuals, or agencies providing such services to patients which would identify cases of traumatic brain injury or spinal cord injury or would establish characteristics of the injury, treatment of the injury, or medical status of any identified patient; and

"(iv) for the reporting of traumatic brain injury and spinal cord injury case data to the statewide traumatic brain injury and spinal cord injury registry in such a format, with such data elements, and in accordance with such standards of quality timeliness and completeness, as may be established by the Secretary.

"(3) APPLIED RESEARCH.—Applicants for applied research shall conduct applied research as determined by the Secretary, acting through the Director of the Centers for Disease Control and Prevention, to be necessary to support the development of registry activities as defined in this section.

"(4) ASSURANCES FOR CONFIDENTIALITY OF REGISTRY DATA.—Each applicant shall provide to the satisfaction of the Secretary for—

"(A) a means by which confidential case data may in accordance with State law be disclosed to traumatic brain injury and spinal cord injury researchers for the purposes of the prevention, control and research of brain injuries and spinal cord injuries;

"(B) the authorization or the conduct, by the statewide traumatic brain injury and spinal cord injury registry or other persons and organizations, of studies utilizing statewide traumatic brain injury and spinal cord injury registry data, including studies of the sources and causes of traumatic brain injury and spinal cord injury, evaluations of the cost, quality, efficacy, and appropriateness of diagnostic, rehabilitative, and preventative services and programs relating to traumatic brain injury and spinal cord injury, and any other clinical, epidemiological, or other traumatic brain injury and spinal cord injury research;

"(C) the protection of individuals complying with the law, including provisions specifying that no person shall be held liable in any civil action with respect to a traumatic brain injury and spinal cord injury case report provided to the statewide traumatic brain injury and spinal cord injury registry, or with respect to access to traumatic brain injury and spinal cord injury case information provided to the statewide traumatic brain injury and spinal cord injury registry; and

"(D) the protection of individual privacy and confidentiality consistent with Federal and State laws.

"SEC. 399O. TECHNICAL ASSISTANCE IN OPERATIONS OF STATEWIDE REGISTRIES.

"The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may, directly or through grants and contracts, or both, provide technical assistance to the States in the establishment and operation of statewide registries, including assistance in the development of model legislation for statewide traumatic brain injury and spinal cord injury registries and assistance in establishing a computerized reporting and data processing system. In providing such assistance, the Secretary shall encourage States to utilize standardized procedures where appropriate.

"SEC. 399P. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this part, there are authorized to be appropriated $10,000,000 for fiscal year 1999, and such sums as may be necessary for each of the fiscal years 2000 through 2004.

"SEC. 399Q. DEFINITIONS.

"In this part:

"(1) SPINAL CORD INJURY.—The term 'spinal cord injury' means an acquired injury to the spinal cord. Such term does not include spinal cord dysfunction caused by congenital or degenerative disorders, vascular disease, or tumors, or spinal column fractures without a spinal cord injury.

"(2) TRAUMATIC BRAIN INJURY.—The term 'traumatic brain injury' means an acquired injury to the brain, including brain injuries caused by anoxia due to near-drowning. Such term does not include brain dysfunction caused by congenital or degenerative disorders, cerebral vascular disease, tumors, or birth trauma. The Secretary may revise the definition of such term as the Secretary determines appropriate.".●

By Mr. KYL (by request):

S. 2608. A bill to approve a mutual settlement of the Water Rights of the Gila River Indian Community and the United States, on behalf of the Community and the Allottees, and Phelps Dodge Corporation, and for other purposes; to the Committee on Indian Affairs.

THE GILA RIVER INDIAN COMMUNITY—PHELPS DODGE CORPORATION WATER RIGHTS SETTLEMENT ACT OF 1998

Mr. KYL. Mr. President, today I introduce, by request, a bill to authorize an Indian water rights settlement agreement that was entered into on May 4, 1998 by the Gila River Indian Community of Arizona and the Phelps Dodge Corporation.

As other Western members well know, any Indian water rights settlement is a difficult, lengthy, and often frustrating process. Reaching a settlement requires years of hard work and cooperation by all parties involved. But the work is worthwhile. By reaching settlement, parties avoid decades of costly litigation and the uncertainty regarding water rights that inevitable comes when the determination of rights and liabilities is delayed. I have been, both in my prior career, and in this one, an ardent supporter of the settlement process and I hope that by introducing this legislation, I can give the negotiating parties at home in Arizona some encouragement. There is light at the end of the tunnel.

This particular settlement agreement is part of a much larger, comprehensive settlement process that will eventually settle all claims of the Gila River Community. I have been involved in several aspects of the Gila negotiations and I am comforted that the negotiations are progressing far enough that the parties are beginning to put their agreements down on paper and actually sign their names to those documents. In reference to his particular agreement, I want to note that my introduction of legislation does not endorse the May 4, 1994 agreement. Rather, my intention is to endorse and encourage the process. The settlement agreement is complex and lengthy and contains some elements that all parties in the larger Gila negotiation proceeds, including the federal government, may not agree with. My purpose in introducing a bill this year is to put a document on the table that will provide an opportunity for all interested parties to comment. In addition, a bill introduced this year will help move the process forward next year.

I encourage the parties to continue their discussions. Indian water settlements are among the most important bills that Congress passes—we in the federal government have a trust responsibility to provide water for tribes and in passing legislation that has been carefully crafted to consider the interests of all parties, we are able to take steps toward fulfilling that trust responsibility.

By Mr. BENNETT (for himself and Mr. MACK):

S. 2609. A bill to ensure confidentiality with respect to medical records and health care-related information, and for other purposes to the Committee on Labor and Human Resources.

THE MEDICAL INFORMATION PROTECTION ACT OF 1998

Mr. BENNETT. Mr. President, today I introduce the Medical Information Protection Act of 1998. I know it is late in the 105th Congress and that there will not be time to give this legislation full consideration. However, I feel strongly about this issue and did not want this session to end without the introduction of this legislation. I feel that great progress has been made and that the legislation that I am introducing addresses many of the concerns that have been expressed. I will include letters and statements of support for the RECORD from the following groups: American Medical Informatics Association; Joint Healthcare Information Technology Alliance; Intermountain Health Care; Premier Institute; Association of American Medical Colleges; American Health Information Management Association; Healthcare Leadership Council; Federation of American Health Systems; American Hospital Association and Pharmaceutical Research and Manufacturers of America. It is my intention to reintroduce this legislation early in the 106th Congress and seek for its passage.

Most individuals wrongly assume that their personal health information is protected under federal law. It is not. Federal law protects the confidentiality of our video rental records, and federal law ensures us access to information about us such as our credit history. However, there is no current federal law which will protect the confidentiality of our medical information and ensure us access to our own medical information. This is a circumstance that must change. This is a circumstance that the Medical Information Protection Act will correct.

At this time, the only protection of an individual's personal medical information is under state law. These state laws, where they exist, are incomplete, inconsistent and inadequate. At last check, there were over 34 states with each state having its own unique set of laws to protect medical records. In many states there is no penalty for releasing and disseminating the most private information about our health and the health care that we have received. Many of our local health care systems continue to expand across state lines and are forced to deal with multiple and conflicting state laws. In addition, advances in technology allow information to be moved instantaneously across the country or around the world. The majority of providers, insurers, health care professionals, researchers and patients agree that there is an increasingly urgent need for uniformity in our laws that govern access to and disclosure of personal health information.

Mr. President, I remind my colleagues that if we do not act by August of 1999, the Health Insurance Portability and Accountability Act of 1996 (HIPAA) requires the Secretary of Health and Human Services (HHS) to put into place regulations governing health information in an electronic format. Thus, we could have a circumstance where paper based records and electronic based records are treated differently. I urge my colleagues to work with me to pass legislation that would give HHS clear direction and provide each American with greater protection of their health information.

Mr. President, I ask unanimous consent that the letters of support be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PHARMACEUTICAL RESEARCH AND
MANUFACTURERS OF AMERICA,
Washington, DC, October 7, 1998.

Hon. ROBERT F. BENNETT,
U.S. Senate,
Washington, DC.

DEAR SENATOR BENNETT: The Pharmaceutical Research and Manufacturers of America (PhRMA) applauds your introduction of the Medical Information Protection Act of 1998 and your leadership on this issue. This legislation would help patients in important ways. First, it would protect the confidentiality of their medical information. Second, it would help patients with unmet medical needs and their families by facilitating valuable biomedical research leading to the discovery and development of innovative medicines. Third, it would protect and promote health care quality by encouraging the appropriate use of medical information for epidemiological research, pharmaco-economics and outcomes analysis.

Your bill provides a sound regulatory framework to help foster biomedical research and the delivery of high-quality care in an increasingly integrated health care system, while at the same time preserving the confidentiality of sensitive medical information identifying patients.

PhRMA welcomes the Medical Information Protection Act of 1998 as a good prescription to help patients, commends you leadership on this issue, and looks forward to working together.

Sincerely,

ALAN F. HOLMER,
President.

AMERICAN HOSPITAL ASSOCIATION,
Washington, DC, October 2, 1998.

AHA APPLAUDS INTRODUCTION OF BILL THAT PROTECTS PRIVACY OF PATIENT MEDICAL INFORMATION

The American Hospital Association (AHA) applauds the introduction of a new bill which for the first time would establish a federal confidentiality law that protects patients' private health care information.

As guardians of patient medical information, hospitals and health systems have long sought strong federal legislation that would establish a uniform national standard to protect patient privacy. The bill, the Medical Information Protection Act of 1998, appropriately balances the need to protect the privacy of confidential patient information with the need for that information to flow freely among health care providers.

"Comprehensive confidentiality legislation is critical to thousands of patients who come through the doors of our nation's hospitals each day," said AHA President Dick Davidson. "It puts in place the safeguards needed to protect the most sensitive and personal information. We commend Senator Bennett for introducing the bill and for his leadership and guidance on an issue that is relevant to everyone."

The Medical Information Protection Act bill:

Allows patients in all states access to their records, a right not currently given in some areas.

Establishes full federal preemption of all state confidentiality laws—with the exception of some key public health laws—and sets a uniform standard over weaker or stronger state laws so that patient information is equally protected even as providers are linked across delivery sites and state boundaries.

Recognizes the need for confidential medical information to move appropriately and timely within groups and systems of providers without impeding the quality of care.

Broadly applies not only to providers, payers, and employers, but also to law enforcement agencies. The Bennett bill moves in the right direction on this issue by setting a national standard for how law enforcers can gain access to confidential patient records.

Contains language that, for the first time, would put in place federal sanctions against those who inappropriately disclose medical information.

"This is an issue that affects each of us personally," Davidson said. "America's hospitals and health systems look forward to working with Senator Bennett and Congress to help enact legislation to protect the privacy of each and every individual they serve."

The AHA is a not-for-profit organization of health care provider organizations that are committed to the health improvement of their communities. The AHA is the national advocate for its members, which includes 5,000 hospitals, health care systems, networks and other providers of care. Founded in 1898, AHA provides education for health care leaders and is a source of information on health care issues and trends. For more information, visit the AHA Web site at www.aha.org.

AMERICAN MEDICAL
INFORMATICS ASSOCIATION,
Bethesda, MD, October 5, 1998.

Hon. ROBERT F. BENNETT,
U.S. Senate,
Washington, DC.

DEAR SENATOR BENNETT: The American Medical Informatics Association (AMIA) is a national organization dedicated to the development and application of medical informatics in support of patient care, teaching, research, and health care administration. On behalf of AMIA's more than 3,800 physicians, researchers, librarians, information systems managers, and other professionals with expertise in information technologies, I write to commend you on the introduction of the "Medical Information Protection Act of 1998."

AMIA recognizes that the enormous potential of computer and communications technology to improve health care delivery, quality and access cannot be realized unless individuals, and the society-at-large, are reasonably certain that safeguards are in place to protect the confidentiality of personal health information in medical records. Simply, every person must feel that his or her health data is protected against unnecessary disclosure. At the same time, there can be no doubt that the delivery of highest quality health care and advances in medical research cannot proceed without the timely and efficient transfer of health data across the health information infrastructure. Thus, in developing national standards for health information, Congress—as charged by the Health Insurance Portability and Accountability Act of 1996—must thoughtfully and carefully balance the rights of individuals, the capacity of the health care system to provide needed health care, and the interests of our nation as a whole. We believe that the "Medical Information Protection Act" does an admirable job of accomplishing those complex goals.

Our association is especially concerned that health information standards allow appropriate access to health data for research, while adequately protecting patient confidentiality. Dr. Don Detmer, Co-Chair of AMIA's Public Policy Committee, was pleased to consult with your staff on a number of occasions to address that issue, and to devise enforcement mechanisms to effectively sanction the misuse of protected health information.

The American Medical Informatics Association thanks you for introducing the "Medical Information Protection Act of 1998." We look forward to passage of the bill, an essential first step in the development of a national health information strategy to advance the health of our nation.

Sincerely,

PAUL D. CLAYTON, PH.D.,
President.

JOINT HEALTHCARE INFORMATION
TECHNOLOGY ALLIANCE,
October 5, 1998.

Hon. ROBERT F. BENNETT,
U.S. Senate,
Washington, DC.

DEAR SENATOR BENNETT: Representing a broad array of medical, information, and technology professionals involved in the development, use, management, and security of healthcare information systems, the organizations of the Joint Healthcare Information Technology Alliance (JHITA) strongly support enactment of federal legislation to protect the confidentiality of medical records. We write today to commend you on the introduction of the "Medical Information Protection Act of 1998."

The more than 50,000 members of our constituent organizatons—physicians, researchers and other health professionals, medical records professionals and information systems managers and executives, healthcare information technology developers and vendors—believe that computer and communications technologies hold enormous potential to improve healthcare delivery, quality and access, while also reducing costs. Yet, these benefits cannot be realized unless individuals, and society, are confident that safeguards are in place to protect the confidentiality of personal health information. Simply, every person must feel that his or her health data is protected against unnecessary disclosure. At the same time, there can be no doubt of the need for timely and efficient transfer of health data across the health information infrastructure. Thus, national standard for the collection, use and dissemination of healthcare information must thoughtfully and carefully balance the rights of individuals, the capacity of the healthcare system to provide needed services and the interests of our nation as a whole. The JHITA believes that the "Medical Information Protection Act" does an admirable job of accomplishing those complex goals.

In order for national fair information standards to offer consistent and genuine guidance and protection to healthcare professionals and consumers, and effect significant Federal penalties and sanctions for the misuse of health data, the JHITA believes that federal law must preempt the current patchwork of federal, state and local laws and regulations governing health information. We applaud your commitment in the "Medical Information Protection Act" to a uniform and high level of confidentiality for all health information, regardless of the individual's diagnosis or state of residence."

The Joint Healthcare Information Technology Alliance thanks you for introducing the "Medical Information Protection Act. We look forward to working with you to win passage of the bill, an essential first step in the development of a national health information strategy that will advance the health of our nation and protect the rights of all.

Sincerely,

LINDA KLOSS,
Executive Vice President & CEO, AHIMA.
CARLA SMITH,
Executive Director, CHIM.
JOHN PAGE,
Executive Director, HIMSS.
DENNIS REYNOLDS,
Executive Director, AMIA.
RICHARD CORRELL,
President, CHIME.

AMERICAN HEALTH INFORMATION
MANAGEMENT ASSOCIATION,
Washington, DC, October 6, 1998.

Senator ROBERT F. BENNETT,
Dirksen Building,
Washington, DC.

DEAR SENATOR BENNETT: On behalf of the more than 37,000 members of the American Health Information Management Association (AHIMA), thank you for once again being in the forefront of the effort to pass legislation to protect the confidentiality of individually identifiable health information. AHIMA is pleased to offer its strong support for *the Medical Information Protection Act of 1998.*

During the past several years, we have worked with you and your Legislative Director Paul A. "Chip" Yost and developed several legislative proposals that have resulted in the current bill. The hard work put into the drafting of this landmark legislation has paid-off. The bill strikes a hard-to-achieve balance between protecting the confidentiality of a patient's health information while not impeding the provision of patient care or the operations of the nation's health care delivery system. One of the most important facets of *the Medical Information Protection Act* is that it contains strong criminal and civil sanctions to provide remedies against wrongful disclosure of health information. In addition, the legislation will eliminate the current patchwork-quilt of various state statutes and regulations, thus providing all Americans the confidentiality protections that they truly deserve.

Senator, AHIMA is pleased to continue working with you and your office on this important issue. Your dedication has kept us encouraged that Congress will pass legislation to establish a uniform national policy for the use and disclosure of individually identifiable health information. As you know from our past association, AHIMA has been a leader in the effort to pass comprehensive confidentiality legislation. Throughout the legislative process, we have achieved a reputation for working on a bipartisan basis with various elected officials and health policy makers. In this context, we continue to support your efforts and offer our assistance and expertise to help move this important issue forward.

Again, thank you for your dedication to this important issue. If AHIMA can provide any assistance, please do not hesitate to contact me in the AHIMA Washington, DC Office at (202) 218–3535.

Sincerely,

KATHLEEN A. FRAWLEY, JD,
Vice President, Legislative and Public Policy Services.

Healthcare Leadership Council,
Washington, DC, October 7, 1998.

Healthcare Leadership Council Commends Senator Bennett for Medical Information Act of 1998

WASHINGTON, DC.—The Healthcare Leadership Council (HLC) today commended Sen. Robert Bennett (R–UT) for introducing the "Medical Information Protection Act of 1998."

"This bill protects the confidentiality of patient health information and establishes new federal penalties for its misuse," said HLC President Pamela G. Bailey. "At the same time, the Bennett bill allows for the appropriate use of patient health information to promote a better health care delivery system and protect vital health care research."

Information is the cornerstone of a high quality, innovative health care system," Bailey said. "In fact, it can be an issue of life or death. Without access to patient information, physicians, health plans, hospitals and researchers would be unable to provide the high standard of care that Americans deserve."

As the leading innovators in the health care industry, HLC members support federal rules to ensure patient confidentiality rather than the increasingly confusing patchwork of state laws. "The Bennett bill would replace this patchwork of state laws with a strong federal law that protects patients and provides a workable, uniform framework that facilitates the delivery of the highest quality health care."

"In the debate over patient confidentiality, we sometimes lose sight of what most patients want most—to get healthy. Fundamental to the fantastic advances made in treatment of so many diseases is our ability to use patient information throughout our increasingly complex health care system," said Bailey.

The HLC is committed to working toward final enactment of comprehensive, uniform confidentiality legislation by the August 1999 deadline imposed under the Health Insurance Portability and Accountability Act.

The HLC is a coalition of the chief executive of America's leading health care institutions.

Federation of
American Health Systems,
Washington, DC, October 7, 1998.

FAHS Praises Introduction of Medical Information Protection Act

APPLAUDS UTAH GOP SENATOR BENNETT FOR HIS LEADERSHIP AND HEALTH COMMUNITY OUTREACH EFFORTS

The Federation today praised Sen. Robert Bennett (R-UT) for introducing the Medical Information Protection Act of 1998 and applauded his leadership in drawing upon the input of a broad range of health care organizations in crafting the legislation.

"Although it's a bit like walking a tightrope, Sen. Bennett's commitment to working with varying interests on this important issue should be commended," said Laura Thevenot, Federation Executive Vice President and COO. "He has approached the task before Congress of passing legislation relating to medical records confidentiality by August of 1999 with openness and a real determination to reach a consensus that protects patients and still allows hospitals and health systems to do their jobs. This legislation establishes a good framework for an issue that will be debated at length when the 106th Congress convenes next January."

Thevenot highlighted a couple of key provisions in the legislation: uniform national confidentiality standards, which would avoid a cumbersome patchwork of state law and regulation, and enhanced security safeguards to ensure appropriate access to patient data.

"As the debate moves forward, one of the Federation's primary concerns is that Congress not tie the hands of hospitals and health systems by putting obstacles in the way of their commitment to provide the necessary treatment and care patients need," Thevenot added. "Our commitment has always been and will remain to serve the patient. Proper uses of information for treatment, payment, quality improvement, and where appropriate, research, are a critical component of that commitment."

Intermountain Health Care,
Salt Lake City, UT, October 2, 1998.

Hon. Robert F. Bennett,
Dirksen Senate Office Building,
Washington, DC.

Dear Senator Bennett: Intermountain Health Care ("IHC") applauds the introduction of the "Medical Information Protection Act of 1998." IHC is deeply appreciative of your leadership in developing legislation to establish uniform federal confidentiality standards. IHC also wishes to express its deep appreciation of the hard work and dedication of Chip Yost and Mike Nielsen of your staff.

The bill you have crafted reflects a keen understanding of the need to strike an appropriate balance between safeguarding patient identifiable health information and facilitating the coordination and delivery of high quality, network-based health care,. such as that provided at IHC. Indeed, striking the right balance is critical to the delivery of the best possible patient care.

As you well know, IHC has developed state-of-the-art electronic medical records and common databases which we used extensively not just for treatment and payment but for such fundamental quality enhancing activities as outcomes review, disease management, health promotion and quality assurance. You bill rightly recognizes that all of these efforts are essential to optimizing patient health.

In addition, we are particularly pleased that you have called for federal preemption of state law. Health systems like IHC, which operate across state lines, would have enormous difficulty complying with different federal and state standards.

As you know, IHC is a large integrated health care delivery system based in Salt Lake City and operating in the states of Utah, Idaho, and Wyoming. The IHC system includes 23 hospitals, 33 clinics, 16 home health agencies, and 400 employed physicians. Additionally, our system operates a large Health Plans Division with enrollment of 350,000 directly insured plus 430,000 who use our networks through other insurers. IHC's 20,000 employees are keenly aware of their responsibility to safeguard personal health information and IHC has invested considerable resources in order to develop effective protections and procedures.

IHC pledges to work with you toward enactment of this important legislation well in advance of the August 1999 deadline established by the Health Insurance Portability and Accountability Act of 1996. Please do not hesitate to contact me or IHC's Washington Counsel Michael A. Romansky (202/756–8069) and Karen S. Sealander (202/756–8024) of McDermott, Will & Emery with questions or for further information.

Sincerely,
John T. Nielsen, Esq.,
Senior Counsel and
Director of Government Relations.

Premier Institute,
Washington, DC, October 5, 1998.

The Premier Institute Applauds Introduction of the Medical Information Protection Act of 1998

Washington, DC.—Jim Scott, president of the Premier Institute, commended Senator Robert F. Bennett (R-UT) for his leadership in introducing the "Medical Information Protection Act of 1998." "This legislation protects patients from being subjected to unauthorized or inappropriate use of their medical records and, at the same time, ensures that hospitals and health plans have access to information necessary to do their jobs in serving patients," said Scott. "Senator Bennett creates workable standards that protect patient's confidentiality and assures that medical information is available for the treatment, quality assurance, and research needs that are so important to our health care system and the patients it serves."

The Bennett bill recognizes the many legitimate uses for medical information and provides the right regulatory framework for safeguarding the use and disclosure of protected health information by the health care industry. The bill permits its use for patient treatment, quality enhancing activities, payment for health care activities, and research for the development of life saving pharmaceuticals and new medical procedures. By providing for a singular authorization process when a patient accesses the health care system, the bill avoids costly administrative burdens for health care providers and barriers to the efficient use of information within integrated care networks, hospital systems, physician-hospital organizations, or managed care organizations.

The bill also adopts uniform national confidentiality standards. Given the increasingly complex and interstate nature of the way health information flows in today's delivery system, strong preemption of state confidentiality laws protects consumers and minimizes the costs associated with the increasing patchwork of conflicting state laws.

Finally, the bill clearly recognizes the value of medical research and does not establish unnecessary barriers to research. It allows for the use of protected health information in research activities while holding medical researchers to confidentiality requirements that protect the identity of the individuals in a medical study. Under this bill, researchers will continue to have access to databases of patient information that are crucial in discovering trends and anomalies that lead to cures for diseases over time.

"Today marks the introduction of an important piece of legislation for the future of our health care system," said Scott. "We look forward to working with Senator Bennett to enact the right patient confidentiality standards into law."

Premier is a strategic alliance of leading hospitals and healthcare systems across the country, representing nearly 215 owners and the 800 hospitals and healthcare facilities they operate, and approximately 900 other affiliated hospitals. Premier provides hospitals and healthcare systems across the nation with products and services designed to help them reduce costs, develop integrated delivery systems, manage technology, and share knowledge. The organization maintains offices in Charlotte, NC; San Diego, CA; Chicago, IL; and Washington, DC.

ASSOCIATION OF AMERICAN
MEDICAL COLLEGES,
Washington, DC, October 2, 1998.
Hon. ROBERT BENNETT,
U.S. Senate, Dirksen Senate Offices Building, Washington, DC.

DEAR SENATOR BENNETT: I write to convey the Association of American Medical Colleges' (AAMC) support for your bill entitled the "Medical Information Protection Act." The AAMC represents the nation's 125 accredited medical schools, approximately 400 major teaching hospitals, and 86 academic and professional societies representing over 90,000 faculty members.

We believe the Medical Information Protection Act is a thoughtful effort to address the very important and complex issues surrounding the protection of patient health information. This legislation is a significant step in the right direction as Congress attempts to achieve the delicate balance between the competing goods of individual privacy and the considerable public benefit that results from controlled access to health information that is crucial to our country's continuing ability to deliver high-quality health care and cutting-edge research.

Over the past year, the AAMC has advocated for medical information privacy legislation that employees appropriate confidentiality safeguards while ensuring access to patient records and other archival materials required to pursue biomedical, behavioral, and health services research. The AAMC is pleased that the Medical Information Protection Act incorporates many of the major principles articulated by the Association.

In particular, the AAMC supports the legislation's clear and workable definitions for "protected health information" and "nonidentifiable health information," the creation of appropriate safeguards and stiff penalties to protect patient confidentiality, and the proposed preemption of state privacy laws. While recognizing that preemption is a politically highly-charged issue, the Association believes that, in an era of rapidly emerging information technology and major consolidation of the health care industry, protecting the ability of medical information to flow unimpeded across state lines is essential to the functioning of a high-quality, medically-effective and efficient care delivery system.

In addition, the AAMC applauds the bill's affirmation of support for the role of institutional review boards in the disclosure of protected health information for research purposes. We believe that the security of medical information created, maintained and used in the course of medical research would be significantly strengthened by the provisions of this bill.

We thank you for your leadership on this issue and look forward to continuing to work with you as this bill is considered by the Senate.

Sincerely,

JORDAN J. COHEN, M.D.
President.

By Mr. LIEBERMAN (for himself, Mr. DODD, Mr. KERRY, Mr. LAUTENBERG, and Mr. TORRICELLI):

S. 2610. A bill to amend the Clean Air to repeal the grandfather status for electric utility units; to the Committee on Environment and Public Works.

THE CLEAN ELECTRIC POWER ACT OF 1998

Mr. LIEBERMAN. Mr. President, I am pleased to introduce today the Clean Electric Power Act of 1998, and to be joined by my colleagues Senators DODD, KERRY, LAUTENBERG, and TORRICELLI.

This legislation would address a gap in the Clean Air Act that exempts older power plants from strict environmental standards, allowing them to emit more pollutants than newer facilities and contributing to serious environmental problems. This disparity is of particular concern right now as we enter the new world of restructuring of the electric utility industry—a world that was never envisioned at the time of any of the Clean Air Act Amendments, including the 1990 Amendments. Because most of the older plants don't have to expend the same amount of money on environmental controls that newer plants do, it is simple economics that these older plants will benefit under deregulation by increasing their generation of power and, therefore, their emissions of dangerous pollutants into the air. This situation is unfair to utilities that generate electricity while meeting stricter environmental standards, and it is unfair to the public whose health will be endangered.

Electricity deregulation carries the promise of enormous benefits for the consumer in terms of reduced electric bills which I strongly support. But unless we do it right, electricity deregulation also can result in significant adverse environmental and public health effects. Some of the early results from the initial efforts at deregulation of wholesale power sales, as well as studies containing projections about what might occur, are very disturbing:

In February, EPA projected increases of 553,000 tons of nitrogen oxides and 62 million tons of carbon by the year 2010 resulting from restructuring, without provisions in restructuring legislation to address pollution increases.

The Northeast States for Coordinated Air Use Management in January 1998 found that several large Midwestern power companies substantially increased their wholesale electricity sales between 1995 and 1996. This meant substantially increased generation at several of the companies' highest polluting coal-fired power plants, large increases in the flow of power from the Midwest towards the east, and substantial increases in emissions from power plants.

A 1995 Harvard University Study concluded that electricity restructuring could adversely affect environmental quality for a number of reasons, including increasing utilization of older, higher emitting coal facilities.

A 1996 Resources for the Future Study examined the regional air pollution effects that could result from a more competitive market. The study concluded that in the year 2000, the Nation's NO_X emissions would increase by about 350,000 tons and the carbon dioxide emissions would increase by about 114 million tons.

Let me give a little background about how we got to where we are.

A series of requirements in the 1970 and 1977 Clean Air Act and amendments thereto required that utility plants meet new source performance standards for pollutants, including nitrogen oxides and sulfur dioxide. The act defines these standards as emissions limits reflecting the degree of emission limitation achievable through the application of the best system of emission reduction, taking into account cost, as determined by the Administrator. However, these standards were only imposed on new generating plants, and did not cover existing plants, plants under construction, or in the permitting process or being planned for, unless they undertook major construction.

At the time, the view was that it would be more cost-effective to impose stricter standards on new facilities than existing ones, and that many of the existing facilities would be retiring soon. But for a number of economic reasons, the anticipated retirement of plants did not occur. More than half of the power plants operating today were built before the new source standards went into effect.

My legislation would require that power plants that generate electricity that flows through transmission or connected facilities that cross State lines comply with the stricter environmental standards. It would also require EPA to set up a market-based allowance trading program to allow utilities to comply in the most cost-effective manner.

Electric power generating plants are among the largest sources of air pollution in the United States. According to EPA reports, power plants account for 67 percent of all sulfur dioxide emissions, 28 percent of all nitrogen oxide emissions, 36 percent of all carbon dioxide emissions and over 33 percent of mercury emissions. These pollutants contribute significantly to some of the most urgent public health and environmental problems in the United States, including smog, fine particles acid rain, excessive nutrient loads to important water bodies such as Long Island Sound, toxic impacts on health and ecosystems from mercury emissions, climate change, and nitrogen saturation of sensitive forest ecosystems.

This is not to say that older plants do not have any pollution controls. Some controls are required on these plants under older standards, State Implementation Plans, and the requirements under the acid rain provisions of the Clean Air Act Amendments of 1990. But in many cases, the controls fall far short of levels that would be achieved under the new source performance standards. Some studies show that the older plants emit pollutants at rates that are often four to ten times higher than the cleanest operating plants, but there is significantly less disparity in areas where states have imposed tighter controls under the State Implementation Plans, state laws or regional programs such as California and parts of the Northeast. In addition, EPA's new regulation requiring 22 states to reduce NO_X emissions will result in significant reductions at many power plants. The bill makes clear that nothing affects the obligations of sources to comply with that new regulation in the timeframe set forth by EPA or to comply with any other provision of the Clean Air Act.

But we still have a situation where there is currently an unacceptably high level of power plant emissions and, in many cases, a disparity in emission requirements between different generators. On top of this, we have a new era of electricity deregulation and restructuring which we are entering at a rapid pace; in the foreseeable future, retail consumers all over the country may be able to choose their supplier of electricity. As I've noted, this era of deregulation was never envisioned at the time of either the 1977 Clean Air Act Amendments or the more recent 1990 Amendments. Increasing competitive markets provide opportunities for relatively low cost generators to increase generation; where cost differentials are due in part to differences in emission standards this will mean increases in generation at the highest emitting plants.

Mr. President, the good news is that cost-effective technologies are available to meet these stricter standards. For example, the Northeast States for Coordinated Air Use Management and the Mid-Atlantic Regional Air Management Association have recently completed a report on the availability of controls for NO_X and the cost-effectiveness of those controls. The report shows that a number of advanced emissions control technologies are available that can reduce NO_X emissions from utilities by 85 percent or more, and that these controls are not only feasible but are highly cost-effective. The report looked at real world experience with the application of available technology at 19 coal fired facilities and found that NO_X emissions nearly 50 percent stricter than EPA's new standard for NO_X can be achieved at the vast majority of coal utilities. Of course, under the bill grandfathered utilities would have the option of purchasing allowances as an alternative method of meeting the performance standards.

Mr. President, as we enter the era of deregulation we have a unique opportunity to provide great benefits for the consumers and reduce air pollution, which I strongly support. But we need to ensure that proper pollution safeguards are in place to rectify the current disparity in standards and to ensure that air pollution does not increase in a competitive market.

Mr. President, I ask unanimous consent that the full text of my legislation be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2610

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STANDARDS OF PERFORMANCE FOR ELECTRIC UTILITY UNITS.

(a) FINDINGS.—Congress finds that—

(1) older electric utility units are exempt from strict emission control requirements applicable to newer facilities, allowing some older units to emit greater quantities of dangerous pollutants;

(2) this disparity in regulatory treatment is of particular concern in the new era of electric utility restructuring, which was never envisioned at the time of enactment of the Clean Air Act (42 U.S.C. 7401 et seq.) or amendments to that Act;

(3) in an era of electric utility restructuring, utilities that spend less money on environmental controls will be able to increase their generation of power and emissions of dangerous pollutants;

(4) this situation results in an unfair competitive disadvantage for utilities that generate electricity while meeting strict environmental standards; and

(5) electricity restructuring can result in enormous benefits for consumers and the environment if done right.

(b) STANDARDS.—Section 111 of the Clean Air Act (42 U.S.C. 7411) is amended by adding at the end the following:

"(k) STANDARDS OF PERFORMANCE FOR ELECTRIC GENERATING UNITS.—

"(1) DEFINITION OF GRANDFATHERED UNIT.—In this subsection, the term 'grandfathered unit' means a fossil fuel-fired electric utility unit that, before the date of enactment of this subsection, was not subject to the standards of performance set forth in subpart D of part 60 of title 40, Code of Federal Regulations, or to any subsequently adopted standard of performance under this section applicable to fossil fuel-fired electric utility units.

"(2) APPLICABILITY.—Notwithstanding any other provision of law, in the case of a fossil fuel-fired electric utility unit, a standard of performance under this section that applies to new or modified electric utility units shall also apply to a grandfathered unit that—

"(A) has the capacity to generate more than 25 megawatts of electrical output per hour; and

"(B) generates electricity that flows through transmission or connected facilities that cross State lines (including electricity in a transaction that for regulatory purposes is treated as an intrastate rather than an interstate transaction).

"(3) DEADLINES FOR COMPLIANCE.—Each grandfathered unit shall comply with—

"(A) a standard of performance established under this section before the date of enactment of this subsection, not later than 5 years after the date of enactment of this subsection; and

"(B) a standard of performance established under this section on or after the date of enactment of this subsection, not later than 3 years after the date of establishment of the standard.

"(4) ALTERNATIVE COMPLIANCE.—

"(A) IN GENERAL.—To provide an alternative means of complying with standards of performance made applicable by this subsection, the Administrator shall—

"(i) establish national annual limitations for calendar year 2003 and each calendar year thereafter for each pollutant subject to the standards at a level that is equal to the aggregate emissions of each pollutant that would result from application of the standards to all electric utility units subject to this section;

"(ii) allocate transferable allowances for pollutants subject to the standards to electric utility units subject to this section in an annual quantity not to exceed the limitations established under clause (i) based on each unit's share of the total electric generation from such units in each calendar year; and

"(iii) require grandfathered units to meet the standards by emitting in any calender year no more of each pollutant regulated under this section than the quantity of allowances that the unit holds for the pollutant for the calendar year.

"(B) CALCULATION OF LIMITATIONS.—In calculating the limitations under subparagraph (A)(i), the Administrator shall apply the standard for the applicable fuel type in effect in calendar year 2000.

"(5) NO EFFECT ON OBLIGATION TO COMPLY WITH OTHER PROVISIONS.—Nothing in this subsection affects the obligation of an owner or operator of a source to comply with—

"(A) any standard of performance under this section that applies to the source under any provision of this section other than this subsection; or

"(B) any other provision of this Act (including provisions relating to National Ambient Air Quality Standards and State Implementation Plans).".

By Mr. ROTH (for himself, Mr. LIEBERMAN, and Mr. MACK):

S. 2611. A bill to amend title XVIII of the Social Security Act to enable medicare beneficiaries to remain enrolled in their chosen medicare health plan; to the Committee on the Judiciary.

MEDICARE LEGISLATION

Mr. ROTH. Mr. President, yesterday the President announced his plans for helping Medicare beneficiaries who are enrolled in health plans which are not renewing their Medicare contracts for next year. I am glad that President Clinton recognizes the problems Medicare beneficiaries are facing and I think it is important that we all work together to address this issue. But I am concerned that the President offered a 'tomorrow' solution for today's problem.

The problems facing Medicare HMO beneficiaries need attention now and cannot wait until next year. The President's proposal is inadequate and we must take immediate action to help Medicare beneficiaries to stay in their chosen health plans.

Across the country, including in my home state of Delaware, thousands of Medicare beneficiaries are losing their HMO coverage and being forced back into the original Medicare program with expensive Medigap policies. We need to help these beneficiaries today.

I am urging my colleagues in the House and Senate to act now to allow Medicare managed care plans that have withdrawn from the program to get back into Medicare. The legislation I am introducing today, along with my colleagues Senator LIEBERMANN and Senator MACK, would instruct the Health Care Financing Administration to allow these plans to restructure their costs where justified. This would give many of the health insurance providers the flexibility they need to go back in to these markets. But most critically important, it would give beneficiaries the opportunity to remain in their current plans without the disruption and increased costs that they will otherwise face.

I am presenting this legislation today after several attempts over the last month to work with the Administration to allow Medicare+Choice plans to update their cost and beneficiary filings for 1999. I had hoped to resolve this problem administratively—before these plans made their final decisions to pull out of 371 counties leaving 220 thousand beneficiaries to find another Medicare option. I sent a letter to HCFA head Nancy-Ann Min Deparle urging HCFA to take immediate action to prevent these manage care plans from leaving the Medicare+Choice program.

I find it highly regrettable that the Health Care Financing Administration decided not to allow Medicare+Choice plans to update their cost and benefit filings for 1999. This decision could undermine the Medicare+Choice program enacted into law just last year and which I believe holds so much promise for improving Medicare for seniors.

HCFA's shortsighted decision will result in large out-of-pocket cost increases, fewer benefits, and fewer choices for hundreds of thousands of Medicare beneficiaries. The beneficiaries who will bear the hardest brunt of the Administration's decision are the 455,000 enrolled in non-renewing Medicare+Choice plans in counties where no additional plans exist. These beneficiaries will now be left with only a significantly more expensive Medicare option; that is, the original Medicare program combined with a Medigap insurance policy. This is particularly unfortunate given that premiums for Medigap insurance policies have been sharply increasing each year. In fact, the American Association for Retired Persons announced just this week that its Medigap insurance premiums will increase by an average of 9 percent nationwide next year.

And even in areas where beneficiaries will be left with one or more health plan options, the plan withdrawal will result in reduced competition which translates to higher out-of-pocket costs for Medicare beneficiaries.

I am very concerned by the agency's failure to evaluate potential increased beneficiary cost-sharing when making the critical decision not to allow plans to update their cost and benefit filings. I believe this action demonstrates HCFA's continued resistance to facilitate private plan choices for Medicare beneficiaries, regardless of the consequence to beneficiaries.

I hope that the Congress and President Clinton will fight the temptation to play politics with Medicare and instead do the right thing for beneficiaries by taking action before Congress adjourns for the year to help beneficiaries to remain in their current Medicare health plans if they so choose. Next year, we can work together toward a more comprehensive solution to this issue.

By Mr. FORD:

S. 2612. A bill to provide that Tennessee may not impose sales taxes on any goods or services purchased by a resident of Kentucky at Fort Campbell, nor obtain reimbursement for any unemployment compensation claim made by a resident of Tennessee relating to work performed at Fort Campbell; to the Committee on Governmental Affairs.

FORT CAMPBELL TAX FAIRNESS ACT OF 1998

Mr. FORD. Mr. President, today I introduce the Fort Campbell Tax Fairness Act. This legislation is designed to restore some sense of balance and maintain some level of fairness in the taxation of individuals who work at the Fort Campbell military installation in Kentucky and Tennessee.

My colleagues may recall that earlier this month, an unprecedented provision was included in the Defense Authorization bill which granted special tax status for a single site—Fort Campbell—to Tennessee residents who work on the Kentucky side of the border. Even worse, the provision in the Defense bill preempted State tax law. It preempted the ability of my State to administer its own tax laws in a fair manner, and in a way in which the State determined was fairest and best.

The provision adopted in the Defense bill exempts Tennessee residents who work in Kentucky at Fort Campbell from paying Kentucky state income taxes. This special exemption was snuck into the House version of the bill, and then maintained in the conference committee. It is extremely unfair.

Mr. President, the Congress has no business dictating to States how they should administer their own tax laws. This is a matter for the States to determine by themselves. The basic principle of taxation is that income is taxed at the location where it is produced. There are exceptions to this rule, but generally they are worked out among and between States themselves. The only other exceptions of which I am aware relate to federal employees with a unique interstate aspect to their jobs, like members of the military or Members of Congress, or other employees with a special interstate job situation, like Amtrak employees or those involved in constructing interstate highways.

I have never heard of a special State tax exemption for private sector employees at a single site. That is, I had never heard of it until I saw this year's Defense Authorization bill.

But Mr. President, the provision in the Defense Authorization bill is a one way street. It preempts Kentucky state law for Tennessee residents who would otherwise be taxed within Kentucky's borders. But there is no comparable preemption of Tennessee state law for Kentucky residents who are taxed at Fort Campbell within Tennessee's borders.

As a matter of basic fairness, if Tennessee residents are to be granted a special tax exemption while on the Kentucky side of Fort Campbell, Kentucky residents should be given equal consideration while on the Tennessee side of Fort Campbell. In addition, it is currently the case that unemployment compensation for any Tennessee residents who work on the Kentucky side of Fort Campbell are paid out of Kentucky tax dollars. This should no longer be the case now that Tennessee workers are being given a special tax status and are exempt from Kentucky laws.

My legislation attempts to correct these new inequities created by the passage of this year's Defense Authorization bill. First, it would direct that Tennessee sales taxes imposed on the Tennessee side of Fort Campbell apply only to Tennessee residents. The distinguished Senator from Tennessee, in debate on the Defense Authorization bill, asserted that no such taxes are currently collected at Fort Campbell. Therefore, he should have no objection to this provision whatsoever. However, I have been informed that Tennessee sales taxes are in fact collected from private business operations within the Fort Campbell boundaries. So this provision is badly needed as a matter of fairness.

Second, the legislation clearly states that the Commonwealth of Kentucky has absolutely no obligation to continue paying the unemployment benefits of Tennessee residents out of Kentucky tax dollars. Since Tennessee residents have been given this special tax status and preemption of State laws, Kentucky should no longer have any liabilities should these workers become unemployed. Those claims should be the responsibility of the State of Tennessee.

Mr. President, I have always attempted to fiercely defend the interests of my State during my 24 years in the Senate. The special tax preemption provision tucked into the Defense Authorization bill was one of the most unfair provisions imaginable, singling out my State for unfair treatment. I realize the time is short in the current session, and the odds of enacting this legislation are not great in the days ahead. However, I am introducing this bill to go on the Record in advocating fairness for my State. It is my hope that when the Congress reconvenes vigorously pursue efforts to pass this legislation and correct an unfairness which has been imposed upon my State.

By Mr. COATS:

S. 2614. A bill to amend chapter 96 of title 18, United States Code, to enhance the protection of first amendment rights; to the Committee on the Judiciary.

THE FIRST AMENDMENT FREEDOMS ACT OF 1998

Mr. COATS. Mr. President, in 1970, Congress passed provisions known as the Racketeer Influenced and Corrupt Organization Act, or RICO, as part of the larger Organized Crime Control Act of 1970. The bill was designed to help law enforcement officials better address the plague of organized crime, and has been a valuable tool in this effort.

During drafting of this legislation, concerns were raised by several members of this body, including my colleague from Massachusetts, Senator KENNEDY, that the bill was written so broadly that it might be used against organized civil disobedience, including anti-war demonstrators. This was at the height of the Vietnam War, and anti-war demonstrations were taking place across the country. Senator KENNEDY, along with Senator HART of Michigan, submitted their views as part of the Senate Judiciary Committee Report on the Organized Crime Control Act of 1969.

I think their words deserve our attention today. They recognized that, and I quote: "To combat organized crime, as distinguished from other forms of criminal activity, requires procedures specifically designed for that purpose." They continued, "The reach of this bill goes beyond organized criminal activity. Most of its features propose substantial changes in the general body of criminal procedures. Finally, their statement notes that, "Amended to restrict its scope solely to organized criminal activity and to assure the protection of individual rights, the bill could contribute important and useful means of eradicating organized crime." Mr. President, I ask that a copy of this statement from the Judiciary Committee Report be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INDIVIDUAL VIEWS OF MESSRS. HART AND KENNEDY

To combat organized crime, as distinguished from other forms of criminal activity, requires procedures specifically designed for that purpose.

S. 30, the Organized Crime Control Act of 1969, is billed as a means of providing the procedures necessary to eradicate the disease of organized crime and its serious threat to our national security.

But the reach of this bill goes beyond organized criminal activity. Most of its features propose substantial changes in the general body of criminal procedures.

New rules of evidence and procedure applicable to all criminal jurisprudence are established.

Amended to restrict its scope solely to organized criminal activity and to assure the protection of individual rights, the bill could contribute important and useful means of eradicating organized crime.

Mr. COATS, in direct response to the legitimate concerns raised by Senator KENNEDY, Senator HART, the ACLU, and others, the language of the Organized Crime Control Act was modified to narrow the definition of racketeering activity. These modifications were seen as adequate, and debate moved on to other issues. It is clear from the record of congressional debate that nobody—not the bill's author, Senator MCCLELLAN, not the Judiciary Committee, not the House of Representatives, not my colleague from Massachusetts—nobody was interested in prosecuting civil disobedience as organized crime.

Mr. President, our country has a long and distinguished history of political free speech under the First Amendment. At times, political and social protesters have seen civil disobedience as the best manner to bring the message home. From abolitionists of the 18th and 19th centuries to the civil rights demonstrations of Dr. Martin Luther King, non-violent civil disobedience has played a major role in shaping this nation. While civil disobedience is inherently "disobedient" to the law, and while such violations of the law have consequences, there is a vast difference between organized crime and organized political protest.

Today, this difference is becoming much less noticeable As many of us know, on April 20, 1998, a U.S. District Court jury ruled that anti-abortion leaders had violated federal anti-racketeering statutes by engineering a nationwide conspiracy that involved 21 acts of extortion, mostly the formation of barricades that prevented the use of clinics performing abortions. The defendants were ordered to pay nearly $86,000 in damages. That penalty was automatically tripled under RICO. We are not talking about abortion protesters being charged with political violence—murder, bombing of abortion clinics, or physical violence against patients or employees of the clinics involved. Rather, we are talking about these protesters being charged as racketeers for non-violent forms of civil disobedience.

This is not an isolated decision, but rather followed on the heels of a 1994 Supreme Court opinion regarding the scope of RICO. In the case of NOW v. Scheidler, the Supreme Court ruled that the National Orgnaization for Women could bring suit under RICO against a coalition of anti-abortion groups, alleging the defendants were members of a nationwide conspiracy to shut down abortion clinics through a pattern of racketeering activity. Both the U.S. District Court and Court of Appeals had dismissed the suit on grounds that RICO implied an "economic motive" for the racketeering activity. The Supreme Court reversed the lower court decisions in finding that the letter of the law in RICO did not require proof that either racketeering enterprise or predicate acts of racketeering be motivated by economic purpose. The Supreme Court then remanded the case to the District Court.

The Supreme Court ruling and the subsequent U.S. District Court decision have radically expanded the scope of federal anti-racketeering statues in direct contradiction to the clear intent of Congress in the creation of RICO. The result of the rulings is that civil disobedience is now open to prosecution as organized crime. This is already having a chilling effect on free speech in this country.

Mr. President, before going further on this matter, let me make several things very clear. First, this is not an abortion issue. The Senate must continue to wrestle with the morality of the legality of abortion in this country, and my colleagues are well aware of my deep convictions on this matter, but that is not what I am here to discuss. The application of federal anti-racketeering statues to political protest and civil disobedience is not an abortion issue—it is a First Amendment issue. While the catalyst for the expansion of RICO was its application to pro-life demonstrators, the case could just as easily could have involved civil rights advocates, animal rights activities, anti-war demonstrators, or AIDS activists. The issue is not abortion, it is political speech.

Let me also make clear that the issue is not whether civil disobedience should be punished: it is, and it should be. This country has a proud history of both the rule of law and the practice of civil disobedience. In a nation under the rule of law, civil disobedience has legal consequences. I am not here to debate whether abortion protesters, AIDS activists, or animal rights demonstrators should abide by the law, or, when they break the law, they should be accountable. There are federal and state laws on the books dealing with trespassing, vandalism, and many other crimes commonly associated with civil disobedience. However, the punishment ought to fit the crime. What we have, in the expansion of RICO, is the application of the heavy rod intended for organized crime, being turned against organized political protest.

Finally, let me emphasize that I am not here to debate political violence. Murder, arson, death threats, physical harm—these are not acts of civil disobedience, but of terrorism, and RICO specifically applies to a pattern of such activities. I am not concerned with protecting these actions, whether engaged in by anti-abortion demonstrators or environmental activists.

What does concern me deeply, is the prosecution of non-violent civil disobedience as racketeering activity. Under RICO, whoever participates in a commercial "enterprise" or an "enterprise" which has an impact on commerce, through a pattern of specific criminal "racketeering" activity, can be penalized. Typical "racketeering" activity includes murder, kidnapping, robbery, arson, bribery, loan-sharking, mail fraud, wire fraud, obstruction of justice, witness retaliation, or extortion. Also included as racketeering activity is violation of the Hobbs Act, which modified the Anti-Racketeering Act of 1934. The Hobbs Act includes a provision which prohibits affecting commerce by "extortion" using "wrongful or threatened force, violence, or fear."

It is this final provision which has been expanded by the Courts to apply to those engaged in civil disobedience. While under common law understanding, "extortion" requires the actual trespatory taking of property, the term is now being interpreted as "coercion," which involves compulsion of action. Political and social protest by its very nature attempts to compel a change of actions, whether it be the actions of a logging company cutting old growth forests, a restaurant that will not serve minorities, a business that will not promote women, or a health clinic performing abortions. Such organized efforts to compel action, inherent in civil disobedience, are now captured in the net of RICO.

As I stated earlier, Congress did not envision, and could not conceive, of this application of the law, especially in the wake of the modifications undertaken at the time. In its original draft, RICO specified, and I quote, "any act dangerous to life, limb, or property," as predicate offenses. In direct response to concerns raised by several members of Congress, including the Senator from Massachusetts, that this wording could put civil disobedience into jeopardy, the language was redrafted to clearly define RICO's predicate offenses, specifying particular state and federal offenses. No offense remotely related to rioting, trespass, vandalism, or any other aspect of a demonstration that might stray beyond constitutional limits was included as racketeering activity. While state and federal law continues to apply to many of these violations, these were intentionally excluded from the scope of anti-racketeering laws and the increased punishments these entailed.

Mr. President, in response to recent Court rulings which have grossly expanded the scope of federal anti-racketeering laws to cover non-violent political protest, I am introducing the First Amendment Freedoms Act today. This legislation restores RICO to its originally intended application of organized criminal activity, and codifies Supreme court opinion regarding the protection of First Amendment rights.

Specifically, the bill does two things. First, it narrows the judicially expanded definition of "extortion" under RICO, which has allowed for the erroneous prosecution of civil disobedience under this statute. Second, it assures that, in any civil action brought under RICO or any other legal theory, the litigation is conducted consistent with the First Amendment guidelines of the Supreme Court.

Our nation has a long and distinguished history of non-violent civil disobedience as a legitimate form of political and social protest. Such activity has legal consequences. However, such activity is not the equivalent of organized crime. The prosecution of political and social protest under federal anti-racketeering statutes is entirely contrary to anything Congress foresaw in enacting RICO. Congress should act expeditiously to correct this obvious misapplication of the law.

Martin Luther king, Jr., in his acceptance of the Nobel Peace Prize in 1964, said that: "Nonviolence is the answer to the crucial political and moral questions of our time; the need for man to overcome oppression and violence without resorting to oppression and violence." Those who engage in non-violent civil disobedience should not, and it was never the intent of Congress that they would be, prosecuted as criminal racketeers. If the current interpretation of the law had been in effect in the 1950's and 60's, the civil rights movement could easily have been quashed. I trust that Congress will take steps to address this matter in a timely manner.

By Mr. MURKOWSKI:

S. 2615. A bill to study options to improve and enhance the protection, management, and interpretation of the significant natural and other resources of certain units of the National Park System in northwest Alaska, to implement a pilot program to better accomplish the purposes for which those units were established by providing greater involvement by Alaska Native communities, and for other purposes; to the Committee on Energy and Natural Resources.

ALASKA NATIONAL INTEREST LEGISLATION

• Mr. MURKOWSKI. Mr. President, the legislation that I have introduced today will require the Secretary of the Interior to report on what he has done, or not done, to implement the requirements of sections 1307 and 1308 of the Alaska National Interest Lands Conservation Act. Those provisions sought to mitigate the effect of the designation of over 100 million acres of land in Alaska for permanent preservation on the Alaska Natives who have lived in the areas for centuries. Those provisions required the Secretary to allow those who were already providing visitor services to continue to provide such services and also provided a preference in hiring at those conservation units for local residents.

Those provisions were intended to accomplish several objectives. First and foremost, they were designed to ensure that local residents who would assume the costs attendant to the establishment of these conservation units as a result of future limitations on economic opportunities received some of the benefits from whatever jobs were created. The provisions also ensured that the rich history and knowledge of the area that the local native population possessed was made available to visitors. For a change, Washington could learn from those in the surrounding communities. There would also be an incidental benefit from hiring local residents to the budget of the National Park Service since they would not have to pay employees to relocate to Alaska.

Mr. President, while speaking to the issue of benefits, I have been told by several of the residents of Kotzebue that they have assisted in the rescue of Park Service personnel on a number of occasions. It makes little sense to me to bring someone to the Northwest parks from the lower forty-eight who is unfamiliar with the rugged terrain and treacherous weather. It makes better sense to hire an individual who stands little chance of getting lost or stranded.

This is not a new concept. In various other units of the National Park System we have made provisions to take advantage of local communities, especially where the resource has particular historic or religious significance. At Zuni-Cibola Historical Park, for example, section 4 of Public Law 100-567 specifically authorizes the Secretary to enter into cooperative agreements with the Zuni Tribe and individual tribal members to provide training for the interpretation, management, protection, and preservation of archaeological and historical properties and in the provision of public services on the Zuni Indian Reservation to accomplish the purposes for which that unit of the Park System was established.

At the National Park of American Samoa, the Secretary has been directed to establish a program to train native American Samoan personnel to function as professional park service employees and to provide services to visitors and operate and maintain park facilities. The law establishing the park also provided a preference for the hiring of local Samoans both as employees and under any contract. The general management plan for the park is to be developed in cooperation with the Governor of American Samoa. It is also conceivable, under the legislation, that after fifty years, sole authority to administer the park could be turned over to the Governor of American Samoa from the Secretary.

There are other examples, but I think the time is long overdue for this philosophy to be realized at conservation units in Alaska. The Department of the Interior, in my view, has been dragging its feet and has failed to take advantage of the rich human resources present in the Alaska Native communities that lie in proximity to National Parks and Refuges. These units are remarkable and this Nation is not well served when the Secretary fails to take advantage of the local population.

In particular, the four northwest Alaska units of the National Park System would be a good place for the Secretary to begin complying with section 1307 and 1308 of ANILCA and start contracting with the local people for the management of these park units.

Bering Land Bridge National Preserve is a remnant of the land bridge that connected Asia with North America more than 13,000 years ago. The land bridge itself is now overlain by the Chukchi Sea and the Bering Sea. During the glacial epoch, this area was part of a migration route for people, animals, and plants whenever ocean levels fell enough to expose the land bridge. Scientists find it one of the most likely regions where prehistoric Asian hunters entered the New World.

Today Eskimos from neighboring villages pursue subsistence lifestyles and manage their reindeer herds in and around the preserve. Some 112 migratory bird species may be seen in the Preserve, along with occasional seals, walrus, and whales. Grizzly bears, fox, wolf, and moose also inhabit the Preserve. Other interesting features are rimless volcanoes called Maar craters, Serpentine Hot Springs, and seabird colonies at Sullivan Bluffs.

Cape Krusenstern National Monument is comprised of 659,807 acres of land and water—a coastal plain dotted with sizable lagoons and backed by gently rolling, limestone hills. The Cape Krusenstern area has been designated an Archeological District in the National Register of Historic Places, and a National Historic Landmark. The core of the archeologic district is made up of approximately 114 marine beach ridges. These beach ridges, formed of gravel deposited by major storms and regular wind and wave action, record in horizontal succession the major cultural periods of the last 4,500 years. The prehistoric inhabitants of northwest Alaska occupied the cape seasonally to hunt marine mammals, especially seals. As new beach ridges were formed, camps were made on the ridges closest to the water. Thus, over centuries, a chronological horizontal stratigraphy was laid down in which the oldest cultural remains were found on the beach ridges farthest from the ocean. The discoveries made at Cape Krusenstern National Monument provided a definite, datable outline of cultural succession and development in northwest Alaska.

The park contains approximately 1,726,500 acres of federal lands and encompasses a nearly enclosed mountain basin in the middle section of the Kobuk River in the Northwest Alaska Areas. Trees approach their northern limit in the Kobuk Valley, where forest and tundra meet. Today's dry, cold climate of the Kobuk Valley still approximates that of late Pleistocene times, supporting a remnant flora once covering the vast Arctic steppe tundra bridging Alaska and Asia. Sand created by the grinding of glaciers has been carried to the Kobuk Valley by winds and water. The great Kobuk Sand Dunes—25 square miles of shifting dunes—is the largest active dune field in the arctic latitudes.

Native people have lived in the Kobuk Valley for at least 12,500 years. This human use is best recorded at the extensive archeological sites at Onion Portage. The Kobuk Valley remains an important area for traditional subsistence harvest of caribou, moose, bears, fish, waterfowl, and many edible and medicinal plants. The slow-moving, gentle Kobuk River is tremendous for fishing and canoeing or kayaking.

Noatak National Preserve lies in northwestern Alaska, in the western Brooks Range, and encompasses more than 250 miles of the Noatak River. The preserve protects the largest untouched mountain-ringed river basin in the United States. The river basin provides an outstanding resource for scientific research, environmental education, and subsistence and recreational opportunities.

Above the Arctic Circle, the Noatak River flows from glacial melt atop Mount Igikpak in the Brooks Range out to Kotzebue Sound. Along its 425-mile course, the river has carved out the Grand Canyon of the Noatak. The preserve is in a transition zone between the northern coniferous forests and tundra biomes. The river basin contains most types of arctic habitat, as well as one of the finest arrays of flora and fauna. Among the Preserve's large mammals are brown bears, moose, caribou, wolves, lynx, and Dall sheep. Birdlife also is plentiful in the area because of the migrations from Asia and the tip of South America. The Noatak River supports arctic char, whitefish, grayling, and salmon and is an important resource for fishing, canoeing, and kayaking.

Mr. President, these are the human and natural resources of Northwest Alaska. This legislation will direct the Secretary to finally bring the two together for the benefit of both Alaska Natives and the nation.●

By Mr. ROTH (for himself and Mr. MOYNIHAN):

S. 2616. A bill to amend title XVIII of the Social Security Act to make revisions in the per beneficiary and per visit payment limits on payment for health services under the Medicare program; to the Committee on Finance.

HEALTH SERVICES LEGISLATION

Mr. MOYNIHAN. Mr. President, I am pleased to join my distinguished Chairman, Senator ROTH, and other colleagues in introducing a bill to improve the home health interim payment system.

Prior to the Balanced Budget Act of 1997 (BBA), home health agencies were reimbursed on a cost basis for all their costs, as long as they maintained average costs below certain limits. That payment system provided incentives for home health agencies to increase the volume of services delivered to patients, and it attracted many new agencies to the program. From 1989 to 1996, Medicare home health payments grew at an average annual rate of 33 percent, while the number of home health agencies increased from about 5,700 in 1989 to more than 10,000 in 1997.

In order to constrain the growth in costs and usage of home care, the BBA included provisions that would establish a Prospective Payment System (PPS) for home health care, a method of paying health care providers whereby rates are established in advance. An interim payment system (IPS) was also established while the Health Care Financing Administration works to develop the PPS for home health care agencies.

The home health care industry is dissatisfied with the IPS. The resulting concern expressed by many Members of Congress prompted us to ask the General Accounting Office (GAO) to examine the question of beneficiary access to home care. While the GAO found that neither agency closures nor the interim payment system significantly affected beneficiary access to care, I remain concerned that the potential closure of many more home health agencies might ultimately affect the care that beneficiaries receive, particularly beneficiaries with chronic illness.

The bill we are introducing today adjusts the interim payment system to achieve equity and fairness in payments to home health agencies. It would reduce extreme variations in payment limits applicable to old agencies within states and across states and would reduce artificial payment level differences between "old" and "new" agencies. The bill would provide all agencies a longer transition period in which to adjust to changed payment limits.

Clearly, since the bill may not address all the concerns raised by Medicare beneficiaries and by home health agencies, we should revisit this issue next year. A thorough review is needed to determine whether the funding mechanism for home health is sufficient, fair and appropriate, and whether the benefit is meeting the needs of Medicare beneficiaries.

America's home health agencies provide invaluable services that have given many Medicare beneficiaries the ability to stay home while receiving medical care. An adjustment to the interim payment system and delay in further payment reductions will enable home health agencies to survive the transition into the prospective payment system while continuing to provide essential care for beneficiaries.

ADDITIONAL COSPONSORS

S. 35

At the request of Mr. FEINGOLD, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 35, a bill to amend the Reclamation Reform Act of 1982 to clarify the acreage limitations and incorporate a means test for certain farm operations, and for other purposes.

S. 1459

At the request of Mr. GRASSLEY, the names of the Senator from Maine (Ms. COLLINS) and the Senator from Minnesota (Mr. WELLSTONE) were added as cosponsors of S. 1459, a bill to amend the Internal Revenue Code of 1986 to provide a 5-year extension of the credit for producing electricity from wind and closed-loop biomass.

S. 1557

At the request of Mr. TORRICELLI, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1557, a bill to end the use of steel jaw leghold traps on animals in the United States.

S. 1855

At the request of Mr. WYDEN, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1855, a bill to require the Occupational safety and Health Administration to recognize that electronic forms of providing MSDSs provide the same level of access to information as paper copies.

S. 1868

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 1868, a bill to express United States foreign policy with respect to, and to strengthen United States advocacy on behalf of, individuals persecuted for their faith worldwide; to authorize United States actions in response to religious persecution worldwide; to establish an Ambassador at Large on International Religious Freedom within the Department of State, a Commission on International Religious Persecution, and a Special Adviser on International Religious Freedom within the National Security Council; and for other purposes.

S. 2024

At the request of Mr. ASHCROFT, the names of the Senator from Iowa (Mr. GRASSLEY), the Senator from Utah (Mr. HATCH), and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of S. 2024, a bill to increase the penalties for trafficking in methamphetamine in order to equalize those penalties with the penalties for trafficking in crack cocaine.

S. 2078

At the request of Mr. GRASSLEY, the names of the Senator from Washington (Mr. GORTON), the Senator from Texas (Mrs. HUTCHISON), and the Senator from Louisiana (Mr. BREAUX) were added as cosponsors of S. 2078, a bill to amend the Internal Revenue Code of 1986 to provide for Farm and Ranch Risk Management Accounts, and for other purposes.

S. 2110

At the request of Mr. BIDEN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 2110, a bill to authorize the Federal programs to prevent violence against women, and for other purposes.

S. 2182

At the request of Mr. GORTON, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 2182, a bill to amend the Internal Revenue Code of 1986 to provide tax-exempt bond financing of certain electric facilities.

S. 2190

At the request of Mr. KENNEDY, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 2190, a bill to authorize qualified organizations to provide technical assistance and capacity building services to microenterprise development organizations and programs and to disadvantaged entrepreneurs using funds from the Community Development Financial Institutions Fund, and for other purposes.

S. 2213

At the request of Mr. FRIST, the name of the Senator from Michigan (Mr. ABRAHAM) was added as a cosponsor of S. 2213, a bill to allow all States to participate in activities under the Education Flexibility Partnership Demonstration Act.

S. 2292

At the request of Ms. COLLINS, the name of the Senator from Illinois (Ms. MOSELEY-BRAUN) was added as a cosponsor of S. 2292, a bill to amend title XVIII of the Social Security Act to provide for coverage under the medicare program of insulin pumps as items of durable medical equipment.

S. 2295

At the request of Mr. MCCAIN, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 2295, a bill to amend the Older Americans Act of 1965 to extend the authorizations of appropriations for that Act, and for other purposes.

S. 2412

At the request of Mr. BURNS, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 2412, a bill to create employment opportunities and to promote economic growth establishing a public-private partnership between the United States travel and tourism industry and every level of government to work to make the United States the premiere travel and tourism destination in the world, and for other purposes.

S. 2494

At the request of Mr. MCCAIN, the names of the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from Delaware (Mr. ROTH) were added as cosponsors of S. 2494, a bill to amend the Communications Act of 1934 (47 U.S.C. 151 et seq.) to enhance the ability of direct broadcast satellite and other multichannel video providers to compete effectively with cable television systems, and for other purposes.rposes.

S. 2562

At the request of Mr. DODD, the names of the Senator from West Virginia (Mr. BYRD) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 2562, a bill to amend title XVIII of the Social Security Act to extend for 6 months the contracts of certain managed care organizations under the medicare program.

S. 2563

At the request of Mr. ROBERTS, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 2563, a bill to amend title 10, United States Code, to restore military retirement benefits that were reduced by the Military Retirement Reform Act of 1986.

S. 2565

At the request of Mr. DURBIN, the name of the Senator from North Carolina (Mr. FAIRCLOTH) was added as a cosponsor of S. 2565, a bill to amend the Federal Food, Drug, and Cosmetic Act to clarify the circumstances in which a substance is considered to be a pesticide chemical for purposes of such Act, and for other purposes.

SENATE JOINT RESOLUTION 56

At the request of Mr. GRASSLEY, the names of the Senator from Kansas (Mr. BROWNBACK), the Senator from Arkansas (Mr. HUTCHINSON), the Senator from Mississippi (Mr. LOTT), the Senator from Idaho (Mr. KEMPTHORNE), the Senator from Idaho (Mr. CRAIG), the Senator from Alabama (Mr. SHELBY), the Senator from Tennessee (Mr. FRIST), the Senator from Indiana (Mr. COATS), the Senator from Mississippi (Mr. COCHRAN), and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of Senate Joint Resolution 56, a joint resolution expressing the sense of Congress in support of the existing Federal legal process for determining the safety and efficacy of drugs, including marijuana and other Schedule I drugs, for medicinal use.

SENATE CONCURRENT RESOLUTION 124

At the request of Mr. LAUTENBERG, the names of the Senator from Missouri (Mr. ASHCROFT) and the Senator from Illinois (Ms. MOSELEY-BRAUN) were added as cosponsors of Senate Concurrent Resolution 124, a concurrent resolution expressing the sense of Congress regarding the denial of benefits under the Generalized System of Preferences to developing countries that violate the intellectual property rights of United States persons, particularly those that have not implemented their obligations under the Agreement on Trade-Related Aspects of Intellectual Property.

SENATE CONCURRENT RESOLUTION 125

At the request of Mr. INHOFE, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of Senate Concurrent Resolution 125, a concurrent resolution expressing the opposition of Congress to any deployment of United States ground forces in Kosovo, a province in southern Serbia, for peacemaking or peacekeeping purposes.

SENATE RESOLUTION 199

At the request of Mr. TORRICELLI, the name of the Senator from Nebraska (Mr. KERREY) was added as a cosponsor of Senate Resolution 199, a resolution designating the last week of April of each calendar year as "National Youth Fitness Week."

SENATE CONCURRENT RESOLUTION 127—RECOGNIZING THE 50TH ANNIVERSARY OF THE NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES, AND FOR OTHER PURPOSES

Mr. DURBIN (for himself and Mr. MACK) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 127

Whereas November 1998 marks the 50th anniversary of the creation of the National

Microbiological Institute (referred to in this resolution as the "Institute") under authority of section 202 of the Public Health Service Act;

Whereas the Institute was formed through the combination of the Rocky Mountain Laboratory, the Biologics Control Laboratory, the Division of Infectious Diseases and the Division of Tropical Diseases of the National Institutes of Health;

Whereas in 1955 Congress renamed the Institute as the National Instituteof Allergy and Infectious Diseases (referred to in this resolution as "NIAID") under the authority of the Omnibus Medical Research Act, recognizing the need for a coordinated scientific research program on infectious, allergic and immunologic diseases;

Whereas the research portfolio of NIAID encompasses infectious diseases such as acquired immunodeficiency syndrome (AIDS), tuberculosis, sexually transmitted diseases, malaria and influenza, immunologic diseases including asthma, allergies and primary immune deficiency diseases, transplantation immunology, and development of new diagnostic therapies and vaccines forinfectious diseases;

Whereas research supported by NIAID continues to yield promising advances including the development of vaccines against the human immunodeficiency virus (HIV), and in the identification of effective treatment regimens for childhood asthma;

Whereas the continued threat of emerging and re-emerging infectious diseases, like tuberculosis, poses a risk to the health worldwide, NIAID-supported research provides the necessary tools to develop diagnostic tests, new and improved treatments, vaccines and other means to combat the microbial threats of today and those of the future;

Whereas NIAID-supported research is making significant progress in understanding the immune system and its disorders including the mechanisms of immune tolerance, which refers to the ability of the immune system to distinguish between cells and tissues that are "self" and those that are foreign or "non-self," such as a pathogen, tumor, ortransplanted organ;

Whereas such advances are vital to the field of organ transplantation and may prove useful in treating autoimmune diseases, such as rheumatoid arthritis and multiple sclerosis;

Whereas Congress intends that NIAID continue its innovative leadership in delineating pathogenesis, improving diagnosis and treatment, and developing vaccines to prevent infectious and immunologic diseases, thereby contributing to the overall health of the American public and the people of the world: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), that Congress—

(1) recognizes the historic significance of the 50th anniversary of theestablishment of the National Microbiological Institute and the creation ofthe Institute that became the National Institute of Allergy and Infectious Diseases;

(2) recognizes the research scientists, administrative staff, professional societies, and patient groups for their active participation in support of the research programs and goals of the NIAID; and

(3) reaffirms its support of the National Institute of Allergy and Infectious Diseases and its commitment to advance knowledge and improve health.

• Mr. DURBIN. Mr. President, I am pleased to submit a Senate Concurrent Resolution recognizing and honoring the 50th anniversary of the National Institute of Allergy and Infectious Diseases. An identical resolution is being introduced in the House by my distinguished colleague, Representative NORTHUP.

As you know I am an ardent supporter of biomedical research and the National Institutes of Health. In this century, great strides have been made in the control of such killer infectious diseases such as polio, rubella, measles, cholera, typhoid fever, and diphtheria. Small pox has been eradicated. We continue to benefit from the development of new drugs and vaccines that contribute enormously to the betterment of the public health.

At the forefront of these advances stands the National Institute of Allergy and Infectious Diseases. NIAID began as the National Microbiological Institute, formed through the union of the Rocky Mountain Laboratory, the Biologics Control Laboratory, the Division of Infectious Diseases, and the Division of Tropical Disease of the NIH. In 1955, Congress renamed the Institute as the National Institute of Allergy and Infectious Diseases, recognizing the need for a coordinated scientific research program on infectious, allergic, and immunologic diseases.

Research supported by the Institute has led to important advances, including: the development of vaccines against infectious diseases such as meningitis, hepatitis A, whopping cough and the rotavirus diarrhea; new treatments to fight against the human immunodeficiency virus (HIV); and novel interventions to treat childhood asthma.

However, despite significant progress, infectious diseases remain the world's leading cause of death, and the third leading cause of death in the United States, and immune-mediated diseases continue to exact a considerable toll. NIAID-supported research will continue to provide the necessary tools to develop diagnostic tests, new and improved treatments, vaccines, and other means to combat the microbial threats of today and those of the future, and to address diseases of the immune system.

I am submitting this resolution today to demonstrate the support of the United States Senate for the NIAID, the NIH and all of the dedicated professionals who have devoted their lives to improving the quality of the nation's health.•

SENATE CONCURRENT RESOLUTION 128—EXPRESSING THE SENSE OF CONGRESS REGARDING MEASURES TO ACHIEVE A PEACEFUL RESOLUTION OF THE CONFLICT IN THE STATE OF CHIAPAS, MEXICO

Mr. LEAHY (for himself, Mr. DODD, Mrs. FEINSTEIN, Mr. KERRY, Mrs. MURRAY, Mr. DURBIN, Mr. BINGAMAN, Mr. FEINGOLD, Mr. HARKIN, Mr. BUMPERS, Mr. WELLSTONE, Mr. JEFFORDS, Mrs. BOXER, Mr. KENNEDY, Mr. WYDEN, and Ms. MIKULSKI) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 128

Whereas the United States and Mexico have a long history of close relations and share many economic and security interests;

Whereas the democratic and prosperous Mexico is in the interest of the United States;

Whereas the United States is providing assistance and licensing exports of military equipment to Mexican security forces for counter-narcotics purposes;

Whereas the Department of State has documented human rights violations by Mexican security forces and paramilitary groups;

Whereas the conflict in Chiapas, Mexico has resulted in the deaths and disappearance of innocent civilians;

Whereas the lack of progress in implementing a preliminary peace agreement signed in 1996 and the presence of tens of thousands of Mexican soldiers, as well as paramilitary and other groups, have contributed to increased political tension and violence in Chiapas and the absence of basic human rights protections;

Whereas the persistence of political tension and violence has exacerbated the impoverished conditions of indigenous people in Chiapas;

Whereas thousands of indigenous people in Chiapas have fled their homes as a result of the violence and are living in deplorable conditions;

Whereas despite President Zedillo's calls for negotiations and repeated visits to chiapas, efforts to negotiate a peaceful resolution of the conflict have been unsuccessful and the National Mediation Commission was dissolved after the resignation of its President, Bishop Samuel Ruiz, due to the lack of progress in the peace process; and

Whereas the summary expulsions of United States citizens and human rights monitors from Mexico raise concerns about the commitment of the Government of Mexico to freedom of movement, association and expression. Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that the Secretary of State should—

(1) take effective measures to ensure that United States assistance and exports of equipment to Mexican security forces—

(A) are used primarily for counter-narcotics purposes; and

(B) do not contribute to human rights violations;

(2) encourage the Government of Mexico to reduce political tension and violence in Chiapas by disarming paramilitary groups and decreasing its military presence there;

(3) commend the Government of Mexico for inviting the United Nations High Commissioner for Human Rights to visit Mexico to discuss the Chiapas conflict;

(4) encourage the Government of Mexico and the Zapatista National Liberation Army to take steps to create conditions for good faith negotiations that address the social, economic and political causes of the conflict to achieve a peaceful and lasting resolution of the conflict, and to vigorously pursue such negotiations;

(5) support efforts to provide relief assistance to displaced persons in Chiapas and adequate monitoring of such assistance; and

(6) seek a commitment from the Government of Mexico to respect the rights of United States citizens and human rights monitors in Mexico in accordance with Mexican law and international law.

Mr. LEAHY. Mr. President, I am today submitting a Concurrent Resolution expressing the sense of Congress regarding measures to achieve a peaceful resolution of the conflict in the state of Chiapas, Mexico.

This resolution is cosponsored by Senator DODD, who is the ranking member of the Western Hemisphere subcommittee and among the most knowledgeable Members of Congress on Mexican affairs, Senator FEINSTEIN, Senator BINGAMAN, Senator JEFFORDS, Senator FEINGOLD, Senator KERRY of Massachusetts, Senator WELLSTONE, Senator BUMPERS, Senator BOXER, Senator KENNEDY, Senator DURBIN, Senator MURRAY, Senator WYDEN, Senator HARKIN, and Senator MIKULSKI.

Congresswoman NANCY PELOSI is today introducing an identical resolution in the House of Representatives.

Mr. President, the purpose of this resolution is to convey our support for a peaceful resolution of the conflict in Chiapas that has been simmering since the Zapatista uprising in 1994. Since then, and despite attempts at negotiations, the situation remains explosive. Scores of innocent people, mostly impoverished Indians, have been killed. Thousands have fled their homes and are living in squalid conditions, made unbearable by the recent flooding.

This resolution does not attempt to take sides or to dictate an outcome. The situation in Chiapas is a complex one that has social, ethnic, economic and political dimensions. It is a manifestation of years of Mexican history. It is for the Mexican people to resolve.

But despite its complexities, there is no doubt that the indigenous people of Chiapas have been the victims of centuries of injustice. Most do not own any land and they live—as their parents and grandparents did—in abject poverty. The Zapatista uprising was a reflection of that injustice and despair, and the political tension and violence of recent years has only exacerbated their plight.

To his credit, President Zedillo has called for a resumption of negotiations and has visited Chiapas several times. Recently, his government invited Mary Robinson, the U.N. High Commissioner for Human Rights, to visit Mexico to discuss the Chiapas situation. I welcome that. But there remains a deep distrust between the two sides, and no sign that the government's strategy is working. This resolution calls on our Secretary of State to encourage the Mexican Government and the Zapatistas to support negotiations that address the underlying causes of the conflict, to achieve lasting peace.

Mr. President, this resolution is not meant to embarrass or interfere. It is to convey our concern about the people of Chiapas, and the urgent need for concrete progress to resolve a conflict that has cost many innocent lives and which threatens the economic and political development of our southern neighbor.

Many Senators may not know the history of the Chiapas conflict. After the 1994 uprising, the Zapatistas and the government tried to resolve the conflict peacefully. Those negotiations collapsed in 1996 when the Mexican Government walked away from a partial agreement which would have given the inhabitants of Chiapas greater rights.

Since then the situation has gotten worse. Last December, Mexican paramilitary forces killed 45 unarmed civilians in the village of Acteal. In June, two police officers and eight villagers died when Mexican soldiers and police clashed with Zapatista supporters. There are now tens of thousands of Mexican soldiers who patrol the roads in and out of Chiapas in armored vehicles. They patrol the skies in low flying helicopters. They surround the impoverished communities of Zapatista supporters, who, not surprisingly, see the government as their enemy. On top of that, there are armed paramilitary groups who have been responsible for some of the worst atrocities.

The dissolution of the National Mediation Commission after the resignation of its President, Bishop Samuel Ruiz, has further impeded efforts to resolve the conflict peacefully.

I regularly receive reports of violence or harassment directed against human rights monitors, including American citizens, who have been summarily expelled from Mexico for activities that amount to nothing more than criticizing the policies of the Mexican Government.

One case I have followed closely involves an American priest who lived in Chiapas for some 19 years. He was arrested, driven to the airport, accused of engaging in illegal political activity on the basis of anonymous, unsubstantiated allegations, and summarily expelled. Efforts by myself, the American Ambassador, and the Department of State to correct this injustice have been entirely unsuccessful. The Mexican Government has consistently misrepresented the facts in his case.

Despite President Zedillo's repeated calls for renewed dialogue with the Zapatistas and their supporters, and despite the fact that the Zapatistas do not pose a credible threat to the Mexican Government, the Mexican Government's actions have not improved the situation. The government seems to believe that it can solve the problem by simultaneously threatening and holding out promises to Zapatista supporters, even though they live in the same miserable conditions as their parents, their parents' parents, and their grandparents' grandparents, and they deeply distrust the government.

Mr. President, the United States and Mexico share many interests. We have worked together to address concerns on both sides of the border. I have no doubt that the government and the Zapatistas can solve this problem, if they want to. But we must also recognize that violence and instability in Mexico directly affect United States economic and security interests, and human rights abuses, wherever and however they occur, deserve our attention.

This Resolution reflects a balanced approach. Neither side in the conflict is blameless. To resolve it peacefully, both must want peace and be willing to take steps to create the conditions that make it possible for good faith negotiations to succeed, and then sit down at the table together.

The Resolution urges the Secretary of State to ensure that the United States is not contributing to the political violence, by reaffirming current law which limits assistance and exports of equipment only to Mexican security forces who are primarily involved in counter-narcotics activities and who do not commit human rights abuses.

It calls on the Mexican Government to respect the rights of American citizens and human rights monitors in Mexico.

Mr. President, some may ask why we are submitting this Resolution today, when this conflict has been simmering for years. One reason is that after all this time the problem is no closer to being solved. It has gotten worse, not better. The recent flooding has caused an urgent, humanitarian crisis among displaced people in Chiapas who are struggling to survive. And last week's elections showed, not surprisingly, that fully half the people in Chiapas have no faith in the political process.

In short, the status quo is unacceptable. The violence is unacceptable. The lack of any meaningful peace process is unacceptable. There is no reason why so many civilians have died. There is no reason why the causes of the conflict cannot be openly discussed and effectively addressed.

This Resolution sends a message to the Mexican Government, the Zapatistas, our own administration and the international community that an intensified effort is needed urgently to resolve the conflict peacefully.

Mr. President, I want to thank the other Senators who have cosponsored this resolution

SENATE RESOLUTION 294—EXPRESSING THE SENSE OF THE SENATE WITH RESPECT TO DEVELOPMENTS IN MALAYSIA AND THE ARREST OF DATO SERI ANWAR IBRAHIM

Mr. THOMAS (for himself, Mr. KERRY, Mr. SMITH of Oregon, Mr. LIEBERMAN, and Mr. GRAMS) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 294

Whereas on September 2, 1998, Malaysia's Prime Minister Mahathir Mohamad dismissed Deputy Prim Minister Dato Seri Anwar Ibrahim;

Whereas over the past year, Dato Seri Anwar has advocated adopting meaningful economic structural reforms to combat an increasingly deteriorating economy—a view which runs counter to those of Dr. Mahathir;

Whereas after being dismissed, Dato Seri Anwar began touring the country and publicly criticizing Dr. Mahathir and the policies of the ruling United Malays Organization Baru (UMNO) party;

Whereas in apparent reaction to this criticism Dato Seri Anwar was arrested on September 20, 1998, and held under the provisions of the Malaysian Internal Security Act (ISA);

Whereas the ISA removes arrested individuals from the protections afforded criminal defendants under Malaysia's constitution and statutes, and consequently Dato Seri Anwar was held in an undisclosed location without any formal charges being lodged against him;

Whereas on September 29, 1998, Dato Seri Anwar was formally charged with nine counts of corruption and sexual misconduct, including four sodomy counts, to which another count was later added;

Whereas the vague nature of the charges, as well as the fact that two of the government's "witnesses" have already recanted, could reasonably lead to a conclusion that the charges were manufactured by the government for maximum shock value to discredit Dato Seri Anwar and silence him;

Whereas when Dato Seri Anwar appeared at his arraignment, he had been beaten by police while in custody; and told the judge that on his first night of detention, while handcuffed and blindfolded, that he was "boxed very hard on my head and lower jaw and left eye . . . I was then slapped very hard, left and right, until blood came out from my nose and my lips cracked. Because of this I could not walk or see properly";

Whereas to substantiate his claims, Dato Seri Anwar showed the court a large bruise on his arm; his swollen black eye was evident to everyone in the courtroom;

Whereas Dr. Mahathir suggested that Dato Seri Anwar inflicted the injuries to himself in order to gain public sympathy;

Whereas since its independence Malaysia has been transformed from a divided multiracial developing nation into a modern, cosmopolitan, economically sophisticated country; and

Whereas the government's actions in case of Dato Seri Anwar seriously damage the reputation of Malaysia in the eyes of the rest of the world; Now therefore be it

Resolved by the Senate, That it is the sense of the Senate that—

(1) the Malaysian government should take every step to safeguard the rights of Dato Seri Anwar, ensure that any charges brought against him are not spurious, afford him a fair and open trial, and fully investigate and prosecute those responsible for his mistreatment while in detention; and that

(2) all Malaysians should be permitted to express their political views in a peaceful and orderly fashion without fear of arrest or intimidation.

SENATE RESOLUTION 295—TO EXPRESS THE SENSE OF THE SENATE CONCERNING THE DEVELOPMENT OF EFFECTIVE METHODS FOR ELIMINATING THE USE OF HEROIN

Mr. COATS (for himself, Mr. MCCAIN, and Mr. COVERDELL) submitted the following resolution; which was referred to the Committee on Labor and Human Resources:

S. RES. 295

Whereas heroin use in the United States continues to increase;

Whereas drug use among teenagers in the United States is increasing and the number of teenagers that are using heroin for the first time is higher than any other number previously determined;

Whereas between 1992 and 1996, heroin use among college-age students increased an estimated 10 percent;

Whereas an estimated 810,000 chronic heroin addicts live in the United States;

Whereas an estimated 115,000 heroin addicts in the United States are currently participating in methadone programs;

Whereas methadone is a synthetic opiate and the use of methadone in treatment for heroin addiction results in the transfer of addiction from one drug to another drug;

Whereas heroin addicts and methadone addicts are unable to function as self-sufficient, productive members of society;

Whereas methadone addicts who attempt to become drug free experience the same difficult withdrawal process as that experienced by heroin addicts;

Whereas the Clinton Administration, through the Office of National Drug Control Policy, is directing the drug policy of the United States toward the wrong goals by announcing a new heroin policy;

Whereas that heroin policy would double the number of heroin addicts transferred to methadone addiction, loosen controls with respect to the licensing of methadone dispensers, and promote methadone addiction as the principal means of ending heroin addiction;

Whereas no official responsible for that policy has consulted with Congress concerning that policy and the Clinton Administration lacks sufficient statutory and budgetary authority to carry out that policy; and

Whereas in promoting methadone addiction as the preferred treatment for heroin addiction, the Clinton Administration has abandoned heroin addicts to a lifetime of Government-sponsored drug dependency: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the Federal Government should adopt a zero-tolerance drug-free policy that has as its principal objective the elimination of drug abuse and addiction, including both methadone and heroin;

(2) Congress should conduct a thorough examination of the national drug control policy of the United States to determine the reasons for the failure of methadone and methadone maintenance programs to eliminate heroin addiction;

(3) Congress should carefully examine alternative approaches to curing heroin addiction, and focus on treatments that eliminate dependence on, or addiction to, any substance or drug; and

(4) Congress should work with the Clinton Administration to develop an effective drug control policy that—

(A) includes a clear and comprehensive strategy to provide for a transition to a zero-tolerance, drug-free program that is based on detoxification and the comprehensive treatment of the pathology of drug addiction;

(B) addresses other human needs that contribute to recidivism among recovering heroin addicts; and

(C) provides opportunities for former addicts to become self-sufficient, productive members of society.

Mr. MCCAIN. Mr. President, I am here today with my colleagues, Senator COATS and Senator COVERDELL, to submit a resolution providing much needed direction to our nation's battle against heroin addiction.

Drug abuse continues to plague our society, destroying families, futures and opportunities for millions of Americans each year. Addiction to drugs, particularly devastating drugs like heroin, endangers the well-being of all citizens, particularly our children, and thus the future of this nation.

Recent statistics show dramatic increases in drug use among children and pain a chilling image of the obstacles facing our nation before we can claim victory in the battle against drugs. In a 1997 study, almost 12 percent of children between the ages of 12 and 17 report using an illicit drug in the preceding 30 days. The number of children using heroin for the first time is at its highest level in 30 years, and today there are over 810,000 heroin addicts in our country.

Clearly, we are still quite far from winning the war drugs.

This is why I am concerned and, honestly, frustrated by the policies which are being promoted by the Office of National Drug Control Policy (ONDCP) to combat heroin addiction. Under the direction of General McCaffrey, the ONDCP and the Administration have announced their decision to spend $3.7 billion to double the number of heroin addicts in methadone maintenance programs, which ONDCP has unilaterally chosen as the preferred treatment for heroin addicts.

Mr. President, I have serious concerns about this recently announced policy.

First, methadone treatment programs simply transfer addiction from one drug, heroin, to another drug, methadone. Methadone treatment merely transfers dependency. It does nothing to provide addicts with the training and support necessary to function as self-sufficient, productive members of society. Methadone maintenance programs alone force individuals into a life of government-sponsored drug dependency.

Second, ONDCP did not consult with Congress about this significant and expensive policy decision. The simple fact is that ONDCP has neither the statutory nor budget authority to implement this policy without Congressional approval. And it is not clear that spending nearly $4 billion on expanded methadone maintenance programs is a wise or effective use of the resources available to combat drug abuse and addiction in this country.

Mr. President, eradicating heroin use is a difficult issue which must be addressed with careful deliberation, extensive dialogue and a thorough examination. Our policies and programs must be designed to free heroin addicts from their addition, not hook them on another government-condoned drug.

The resolution we are submitting today calls on Congress to focus on developing effective policies and program for ending heroin addiction. We should be looking at all alternatives to methadone treatment, especially those that do not involve transferring addiction or dependence on substances. We should also include programs to provide training and support to former addicts to help them become productive members of our society. And we should be working to develop drug strategies that will further our goal of a drug-free America.

Let me take a moment to thank my dear friend, DAN COATS, for his work in putting together this resolution. His thoughtful and caring devotion to improving the lives of children and the less fortunate in our society will be sorely missed.

Mr. President, I realize that time is short in this Congress, but I strongly believe that eliminating drug abuse and addiction in America should be a high priority for the Administration and Congress. I urge my colleagues to give careful consideration to this issue and join in working toward that goal in the 106th Congress.

Mr. COVERDELL. Mr. President, today I join Senator COATS and Senator MCCAIN in submitting a Senate Resolution renouncing the recent proposal by the Administration to expand methadone maintenance programs. Methadone is a so-called "treatment" for heroin addiction. Heroin is a highly addictive opiate which leads its users down a path of crime and self-destruction, and the prescription of methadone is simply a means to sustain addiction. My colleagues and I do realize the need for help, but do not believe the answer is exchanging one addiction for another.

The Administration has failed to consult Congress of its plan to increase the number of methadone maintenance programs and to loosen regulations of licensed methadone dispensers. We frown upon the idea of paying for drug addiction. Our Resolution states the need for Congressional hearings in order to compare the Administration's proposal with alternative drug-free treatment programs.

Alternatives such as the Ready, Willing and Able program have been extremely successful in helping Americans who are addicted to drugs, homeless, or in many cases, both. This program is based on community. It provides wages earned from community based jobs in exchange for room, board and positive reinforcement in a drug-free environment. I believe comprehensive treatment programs such as this are a positive step in our war against drugs.

America will have achieved nothing in the fight against drugs if we keep funding programs that allow us to look the other way without looking at the facts. We need to hear from those who are methadone users, those who are previous methadone users, and those who administer methadone. We need to look at statistics, look at current funding, and look at current problems within the programs. I don't believe we have solved anyone's drug addiction if we can still call them an addict. Methadone users are addicts and they face the same withdrawals as those on heroin. Let's find solutions to our Nation's drug problems, not follow the Administration's example, which further feeds and funds drug addiction.

SENATE RESOLUTION 296—EXPRESSING THE SENATE REGARDING THE COMPLETION OF CONSTRUCTION OF A WWII MEMORIAL

MR. KERREY submitted the following resolution; which was considered and agreed to:

S. RES. 296

Whereas World War II is the defining event of the 20th century;

Whereas in World War II, over 16,000,000 American men and women served the Nation, of which nearly 300,000 were killed and over 670,000 were wounded;

Whereas in Public Law 103–422 (108 Stat. 4356), Congress approved the location of a memorial to this epic event in Area I of the District of Columbia and its environs, as described in the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes", approved November 14, 1986 (40 U.S.C. 1001 et seq.); and

Whereas Congress has traditionally provided funding for the memorials commemorating President Thomas Jefferson and President Abraham Lincoln, the monument to President George Washington, and the Korean War Veterans Memorial: Now, therefore, be it

Resolved,

SECTION 1. FUNDING OF A WORLD WAR II MEMORIAL.

It is the sense of the Senate that, on completion of construction of a World War II Memorial in Area I of the District of Columbia and its environs, as described in that Act, Congress should provide funding for the maintenance, security, and custodial and long-term care of the memorial by the National Park Service.

Mr. KERREY. Mr. President, I have a very simple proposition for the Senate. Let's close an accidental tax loophole for the heirs of people who leave estates worth more than $17 million and use the savings to help self-employed Americans—like the thousands of entrepreneurs on Nebraska's farms and ranches—afford the soaring cost of health care.

Today I am submitting legislation to accomplish that purpose.

The facts are very simple. Prior to 1997, when we passed the 1997 Balanced Budget Agreement, the first $600,000 of an estate was excluded from taxes. The old law gradually phased out this exclusion once an estate reached $17 million. The 1997 Act increases the value of an estate not subject to taxes. But a drafting error in the 1997 Balanced Budget Agreement failed to include the accompanying phase out of the exclusion on estates over $17 million.

Clearly this error needs to be fixed. Letting this mistake stand uncorrected will cost the American taxpayers nearly $900 million over the next ten years. To give you an idea of how much this provision does to benefit the few, consider that in 1995, the Internal Revenue Service estimates that just 300 tax returns were filed on estates over $20 million.

Congress had the opportunity to correct this error during consideration of the IRS Reform bill this year. Regrettably, the objections of a few to making this right overcame the support of the many for doing so.

Meanwhile, Mr. President, self-employed Americans are struggling to cope with the rising cost of health insurance, which they—unlike Americans employed by others—cannot fully deduct from their taxable income. The face of their struggle is most evident on farms and ranches. In Nebraska, producers are facing plunging commodity prices at the same time they face soaring costs of living, especially for health insurance. Today they can deduct 40 percent of the cost of their insurance. Under current law, they cannot fully deduct that cost until 2007.

So, my proposal is simple. Let's close the loophole that everyone admits was an accident, and use that money to accelerate the full deductibility of health insurance for the self-employed. It's a clear choice between a loophole that nobody wanted to exist and entrepreneurs who—especially those on our farms and ranches—may not exist much longer if we don't get them some help.

While I recognize time is short for passing this bill this year, I urge my colleagues to join me in supporting this legislation and in pursuing this goal next year.

SENATE RESOLUTIONS 297—AUTHORIZING TESTIMONY AND REPRESENTATION OF FORMER AND CURRENT SENATE EMPLOYEES AND REPRESENTATION OF A SENATOR

Mr. LOTT (for himself and Mr. DASCHLE) submitting the following resolution; which was considered and agreed to:

S. RES. 297

Whereas, in the case of *Student Loan Fund of Idaho, Inc.* v. *Riley, et al.*, Case No. CV 94-0413-S-LMB, pending in the United States District Court for the District of Idaho, testimony has been requested from Elizabeth Criner, a former employee of Senator LARRY CRAIG;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent Senators and employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as well promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That Elizabeth Criner, and any other former or current Senate employee from whom testimony may be required, are authorized to testify in the case of *Student Loan Funding of Idaho, Inc.* v. *Riley, et al.*, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Senator LARRY CRAIG, Elizabeth Criner, and any other Member or employee of the Senate in connection with the testimony authorized in section one of this resolution.

SENATE RESOLUTION 298—CONDEMNING THE TERROR, VENGEANCE, AND HUMAN RIGHTS ABUSES AGAINST THE CIVILIAN POPULATION OF SIERRA LEONE

Mr. ABRAHAM submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 298

Whereas the ousted Armed Forces Revolutionary Council (AFRC) military junta and the rebel fighters of the Revolutionary United Front (RUF) have mounted a campaign of terror, vengeance, and human rights abuses on the civilian population of Sierra Leone;

Whereas the AFRC and RUF violence against civilians continues with at least 1,200 persons having hands or feet amputated by rebels;

Whereas the International Committee of the Red Cross estimates that only 1 in 4 victims of mutilation actually makes it to medical help;

Whereas the AFRC and RUF continue to abduct children and forcibly train them as combatants;

Whereas UNICEF estimates the number of children forcibly abducted since March 1998 exceeds 3,000;

Whereas the consequences of this campaign have been the flight of more than 250,000 refugees to Guinea and Liberia in the last 6 months and the increase of over 250,000 displaced Sierra Leoneans in camps and towns in the north and east;

Whereas the Governments of Guinea and Liberia are having great difficulty caring for the huge number of refugees, now totaling 600,000 in Guinea and Liberia, and emergency appeals have been issued by the United Nations High Commission for Refugees for $7,300,000 for emergency food, shelter, and sanitation, and medical, educational, psychological, and social services;

Whereas starvation and hunger-related deaths have begun in the north where more than 500 people have died since August 1, 1998, a situation that will only get worse in the next months;

Whereas the humanitarian community is unable, because of continuing security concerns, to deliver food and medicine to the vulnerable groups within the north and east of Sierra Leone;

Whereas the Economic Community of West African States and its peacekeeping arm, the Economic Community of West African States Military Observer Group (ECOMOG), are doing their best, but are still lacking in the logistic support needed to either bring this AFRC and RUF rebel war to a conclusion or force a negotiated settlement;

Whereas arms and weapons continue to be supplied to the AFRC and RUF in direct violation of a United Nations arms embargo;

Whereas the United Nations Under Secretary for Humanitarian Affairs and Emergency Relief Coordinator, Amnesty International, Human Rights Watch, and Refugees International, following visits to Sierra Leone in May and June 1998, condemned, in the strongest terms, the terrible human rights violations done to civilians by the AFRC and RUF rebels; and

Whereas the Special Representative of the United Nations Secretary General for Children and Armed Conflict, following a May 1998 visit to Sierra Leone, called upon the United Nations to make Sierra Leone one of the pilot projects for the rehabilitation of child combatants: Now, therefore, be it

Resolved, That the Senate—

(1) urges the President and the Secretary of State to give high priority to solving the conflict in Sierra Leone and to bring stability to West Africa in general;

(2) urges the Department of State to give the needed logistical support to ECOMOG and the Government of Sierra Leone to bring this conflict to a rapid conclusion;

(3) condemns the use of children as combatants in the conflict in Sierra Leone;

(4) urges the establishment of a secure humanitarian corridor to strategic areas in the north and east of Sierra Leone for the safe delivery of food and medicines by the Government of Sierra Leone and humanitarian agencies already in the country mandated to deliver this aid;

(5) urges the President and the Secretary of State to strictly enforce the United Nations arms embargo on the Armed Forces Revolutionary Council and Revolutionary United Front;

(6) urges the President and the Secretary of State to work with the Economic Community of West African States to ensure there are sufficient African forces and arms provided to its peacekeeping arm, ECOMOG;

(7) urges the President and the Secretary of State to support the United Nations High Commission for Refugees appeal for aid to the Sierra Leonean refugees in Guinea, Liberia, and other countries;

(8) urges the President and the Secretary of State to support the United Nations agencies and nongovernmental organizations working in Sierra Leone to bring humanitarian relief and peace to the country;

(9) urges the President and the Secretary of State to support the Government of Sierra Leone in its demobilization, disarmament, and reconstruction plan for the country as peace becomes a reality; and

(10) encourages and supports the United Nations Special Representative of the Secretary General for Children and Armed Conflict, to continue in the efforts to work in Sierra Leone to establish programs designed to rehabilitate child combatants.

AMENDMENTS SUBMITTED

UNITED STATES ROUTE 66

CHAFEE (AND OTHERS) AMENDMENT NO. 3800

Mr. LOTT (for Mr. CHAFEE for himself, Mr. DOMENICI, Mr. BINGAMAN, and Mr. WARNER) proposed an amendment to the bill (S. 2133) to designate former United States Route 66 as "America's Main Street" and authorize the Secretary of the Interior to provide assistance; as follows:

On page 6, strike lines 12 through 18 and insert the following:

(1) ROUTE 66 CORRIDOR.—The term "Route 66 corridor" means structures and other cultural resources described in paragraph (3), including—

(A) public land within the immediate vicinity of those portions of the highway formerly designated as United States Route 66; and

(B) private land within that immediate vicinity that is owned by persons or entities that are willing to participate in the programs authorized by this Act.

On page 6, lines 22 and 23, strike "cultural resources related to Route 66" and insert "preservation of the Route 66 corridor".

On page 7, strike lines 1 through 9 and insert the following:

(3) PRESERVATION OF THE ROUTE 66 CORRIDOR.—The term "preservation of the Route 66 corridor" means the preservation or restoration of structures or other cultural resources of businesses, sites of interest, and other contributing resources that—

(A) are located within the land described in paragraph (1);

(B) existed during the route's period of outstanding historic significance (principally between 1933 and 1970), as defined by the study prepared by the National Park Service and entitled "Special Resource Study of Route 66", dated July 1995; and

(C) remain in existence as of the date of enactment of this Act.

On page 7, line 15, strike "Route 66" and insert "the Route 66 corridor".

On page 7, strike lines 16 through 18.

On page 7, line 19, strike "**sec. 3**." and insert "**sec. 2**.".

On page 7, lines 23 and 24, strike "preservation of Route 66" and insert "preservation of the Route 66 corridor".

On page 8, line 9, strike "to preserve Route 66" and insert "for the preservation of the Route 66 corridor".

On page 8, line 15, strike "historic" and insert "Historic".

On page 8, line 16, strike "preservation of Route 66;" and insert "preservation of the Route 66 corridor;".

On page 9, strike lines 1 through 11.

On page 9, line 12, strike "(2)" and insert "(1)".

On page 9, line 15, strike "(3)" and insert "(2)".

On page 9, line 16, strike "(4)" and insert "(3)".

On page 9, line 17, strike "(5)" and insert "(4)".

On page 9, line 19, strike "(6)" and insert "(5)".

On page 9, strike lines 20 through 22.

On page 9, line 23, strike "(f)" and insert "(e)".

On page 9, line 25, strike "preservation of Route 66" and insert "preservation of the Route 66 corridor".

On page 10, line 2, strike "highway" and insert "Route 66 corridor".

On page 10, line 5, strike "Route 66" and insert "the Route 66 corridor".

On page 10, line 11, strike "Route 66" and insert "the Route 66 corridor".

On page 10, line 12, strike "**sec. 4**." and insert "**sec. 3**.".

On page 10, line 16, strike "Route 66" and insert "the Route 66 corridor".

On page 11, strike lines 1 and 2 and insert the following:

needs for preservation of the Route 66 corridor.

On page 11, line 7, strike "histories of Route 66" and insert "histories of events that occurred along the Route 66 corridor".

On page 11, line 14, strike "Route 66" and insert "the Route 66 corridor".

On page 11, line 18, strike "**sec. 5**." and insert "**sec. 4**.".

Amend the title so as to read: "A bill to preserve the cultural resources of the Route 66 corridor and to authorize the Secretary of the Interior to provide assistance.".

VALLEY FORGE NATIONAL HISTORICAL PARK

MURKOWSKI AMENDMENT NO. 3801

Mr. LOTT (for Mr. MURKOWSKI) proposed an amendment to the bill (S. 2401) to authorize the addition of the Paoli Battlefield site in Malvern, Pennsylvania, to Valley Forge National Historical Park; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. ADDITION OF THE PAOLI BATTLEFIELD SITE TO THE VALLEY FORGE NATIONAL HISTORICAL PARK.

Section 2(a) of Public Law 94–337 (16 U.S.C. 410aa–1(a)) is amended in the first sentence by striking "which shall" and inserting "and the area known as the 'Paoli Battlefield', located in the borough of Malvern, Pennsylvania, described as the "Proposed Addition to Paoli Battlefield" on the map numbered 71572 and dated 2–17–98, (referred to in this Act as the 'Paoli Battlefield') which map shall".

SEC. 2. COOPERATIVE MANAGEMENT OF PAOLI BATTLEFIELD.

Section 3 of Public Law 94–337 (16 U.S.C. 410aa–2), is amended by adding at the end the following: "The Secretary may enter into a cooperative agreement with the borough of Malvern, Pennsylvania for the management by the borough of the Paoli Battlefield.".

SEC. 3. ACQUISITION OF LAND FOR PAOLI BATTLEFIELD.

Section 4(a) of Public Law 94–337 (16 U.S.C. 410aa–3) is amended by striking "not more than $13,895,000 for the acquisition of lands and interests in lands" and inserting "not more than—

"(1) $13,895,000 for the acquisition of land and interests in land; and

"(2) if non-Federal funds in the amount of not less than $1,000,000 are available for the acquisition and donation to the National Park Service of land and interests in land within the Paoli Battlefield, $2,500,000 for the acquisition of land interests in land within the Paoli Battlefield".

OREGON PUBLIC LAND TRANSFER AND PROTECTION ACT OF 1998

WYDEN (AND SMITH) AMENDMENT NO. 3802

Mr. LOTT (for Mr. WYDEN for himself and Mr. SMITH of Oregon) proposed an amendment to the bill (S. 2513) to transfer administrative jurisdiction over certain Federal land located within or adjacent Rogue River National Forest and to clarify the authority of the Bureau of Land Management to sell and exchange other Federal land in Oregon; as follows:

On page 2, before line 3, insert the following:

TITLE III—CONVEYANCE TO DESCHUTES COUNTY, OREGON

Sec. 301. Conveyance to Deschutes County, Oregon.

On page 2, strike lines 11 through 13 and insert the following:

depicted on the map entitled "BLM/Rogue River NF Administrative Jurisdiction Transfer, North Half" and dated April 28, 1998, and the map entitled "BLM/Rogue River NF Administrative Jurisdiction Transfer, South Half" and dated April 28, 1998, consisting of approximately

On page 3, strike lines 13 through 16 and insert the following:

(1) LAND TRANSFER.—The Federal land depicted on the maps described in subsection (a)(1), consisting of approximately 1,632

On page 4, strike lines 9 through 11 and insert the following:

Federal land depicted on the maps described in subsection (a)(1), consisting of

On page 5, strike lines 9 through 11 and insert the following:

maps described in subsection (a)(1), consisting of approximately 960 acres within

On page 6, strike lines 15 and 16 and insert the following:

on the map entitled "BLM/Rogue River NF Boundary Adjustment, North Half" and dated April 28, 1998, and the map entitled "BLM/Rogue River NF Boundary Adjustment, South Half" and dated April 28, 1998.

On page 10, after line 3, add the following:

TITLE III—CONVEYANCE TO DESCHUTES COUNTY, OREGON

SEC. 301. CONVEYANCE TO DESCHUTES COUNTY, OREGON.

(a) PURPOSES.—The purposes of this section are to authorize the Secretary of the Interior to sell at fair market value to Deschutes County, Oregon, certain land to be used to protect the public's interest in clean water in the aquifer that provides drinking water for residents and to promote the public interest in the efficient delivery of social services and public amenities in southern Deschutes County, Oregon, by—

(1) providing land for private residential development to compensate for development prohibitions on private land currently zoned for residential development the development of which would cause increased pollution of ground and surface water;

(2) providing for the streamlined and low-cost acquisition of land by nonprofit and governmental social service entities that offer needed community services to residents of the area;

(3) allowing the County to provide land for community amenities and services such as open space, parks, roads, and other public spaces and uses to area residents at little or no cost to the public; and

(4) otherwise assist in the implementation of the Deschutes County Regional Problem Solving Project.

(b) SALE OF LAND.—

(1) IN GENERAL.—The Secretary of the Interior, acting through the Director of the Bureau of Land Management (referred to in this section as the "Secretary") may make available for sale at fair market value to Deschutes County, Oregon, the land in Deschutes County, Oregon (referred to in this section as the "County"), comprising approximately 544 acres and lying in Township 22, S., Range 10 E. Willamette Meridian, described as follows:

(A) Sec. 1:

(i) Government Lot 3, the portion west of Highway 97;

(ii) Government Lot 4;

(iii) SENW, the portion west of Highway 97; SWNW, the portion west of Highway 97, NWSW, the portion west of Highway 97; SWSW, the portion west of Highway 97;

(B) Sec. 2:

(i) Government Lot 1;

(ii) SENE, SESW, the portion east of Huntington Road; NESE; NWSE; SWSE; SESE, the portion west of Highway 97;

(C) Sec. 11:

(i) Government Lot 10;

(ii) NENE, the portion west of Highway 97; NWNE; SWNE, the portion west of Highway 97; NENW, the portion east of Huntington Road; SWNW, the portion east of Huntington Road; SENW.

(2) SUITABILITY FOR SALE.—The Secretary shall convey the land under paragraph (1) only if the Secretary determines that the land is suitable for sale through the land use planning process.

(c) SPECIAL ACCOUNT.—The amount paid by the County for the conveyance of land under subsection (b)—

(1) shall be deposited in a special account in the Treasury of the United States; and

(2) may be used by the Secretary for the purchase of environmentally sensitive land east of Range Nine East in the State of Oregon that is consistent with the goals and

objectives of the land use planning process of the Bureau of Land Management.

WATER RESOURCES DEVELOPMENT ACT OF 1998

CHAFEE AMENDMENT NO. 3803

Mr. LOTT (for Mr. CHAFEE) proposed an amendment to the bill (S. 2131) to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Water Resources Development Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—WATER RESOURCES DEVELOPMENT

Sec. 101. Definition.
Sec. 102. Project authorizations.
Sec. 103. Project modifications.
Sec. 104. Project deauthorizations.
Sec. 105. Studies.
Sec. 106. Flood hazard mitigation and riverine ecosystem restoration program.
Sec. 107. Shore protection.
Sec. 108. Small flood control authority.
Sec. 109. Use of non-Federal funds for compiling and disseminating information on floods and flood damages.
Sec. 110. Everglades and south Florida ecosystem restoration.
Sec. 111. Aquatic ecosystem restoration.
Sec. 112. Beneficial uses of dredged material.
Sec. 113. Voluntary contributions by States and political subdivisions.
Sec. 114. Recreation user fees.
Sec. 115. Water resources development studies for the Pacific region.
Sec. 116. Missouri and Middle Mississippi Rivers enhancement project.
Sec. 117. Outer Continental Shelf.
Sec. 118. Environmental dredging.
Sec. 119. Benefit of primary flood damages avoided included in benefit-cost analysis.
Sec. 120. Control of aquatic plant growth.
Sec. 121. Environmental infrastructure.
Sec. 122. Watershed management, restoration, and development.
Sec. 123. Lakes program.
Sec. 124. Dredging of salt ponds in the State of Rhode Island.
Sec. 125. Upper Susquehanna River basin, Pennsylvania and New York.
Sec. 126. Small flood control projects.
Sec. 127. Small navigation projects.
Sec. 128. Streambank protection projects.
Sec. 129. Aquatic ecosystem restoration, Springfield, Oregon.
Sec. 130. Guilford and New Haven, Connecticut.
Sec. 131. Francis Bland Floodway Ditch.
Sec. 132. Caloosahatchee River basin, Florida.
Sec. 133. Cumberland, Maryland, flood project mitigation.
Sec. 134. Sediments decontamination policy.
Sec. 135. City of Miami Beach, Florida.
Sec. 136. Small storm damage reduction projects.
Sec. 137. Sardis Reservoir, Oklahoma.
Sec. 138. Upper Mississippi River and Illinois waterway system navigation modernization.
Sec. 139. Disposal of dredged material on beaches.
Sec. 140. Fish and wildlife mitigation.
Sec. 141. Upper Mississippi River management.
Sec. 142. Reimbursement of non-Federal interest.
Sec. 143. Research and development program for Columbia and Snake Rivers salmon survival.
Sec. 144. Nine Mile Run habitat restoration, Pennsylvania.
Sec. 145. Shore damage prevention or mitigation.
Sec. 146. Larkspur Ferry Channel, California.
Sec. 147. Comprehensive Flood Impact-Response Modeling System.
Sec. 148. Study regarding innovative financing for small and medium-sized ports.
Sec. 149. Candy Lake project, Osage County, Oklahoma.
Sec. 150. Salcha River and Piledriver Slough, Fairbanks, Alaska.
Sec. 151. Eyak River, Cordova, Alaska.
Sec. 152. North Padre Island storm damage reduction and environmental restoration project.
Sec. 153. Kanopolis Lake, Kansas.
Sec. 154. New York City watershed.
Sec. 155. City of Charlevoix reimbursement, Michigan.
Sec. 156. Hamilton Dam flood control project, Michigan.
Sec. 157. National Contaminated Sediment Task Force.
Sec. 158. Great Lakes basin program.
Sec. 159. Projects for improvement of the environment.
Sec. 160. Water quality, environmental quality, recreation, fish and wildlife, flood control, and navigation.
Sec. 161. Irrigation diversion protection and fisheries enhancement assistance.

TITLE II—CHEYENNE RIVER SIOUX TRIBE, LOWER BRULE SIOUX TRIBE, AND STATE OF SOUTH DAKOTA TERRESTRIAL WILDLIFE HABITAT RESTORATION

Sec. 201. Definitions.
Sec. 202. Terrestrial wildlife habitat restoration.
Sec. 203. South Dakota Terrestrial Wildlife Habitat Restoration Trust Fund.
Sec. 204. Cheyenne River Sioux Tribe and Lower Brule Sioux Tribe Terrestrial Wildlife Habitat Restoration Trust Funds.
Sec. 205. Transfer of Federal land to State of South Dakota.
Sec. 206. Transfer of Corps of Engineers land for Indian Tribes.
Sec. 207. Administration.
Sec. 208. Authorization of appropriations.

TITLE I—WATER RESOURCES DEVELOPMENT

SEC. 101. DEFINITION.

In this title, the term "Secretary" means the Secretary of the Army.

SEC. 102. PROJECT AUTHORIZATIONS.

(a) PROJECTS WITH REPORTS.—The following projects for water resources development and conservation and other purposes are authorized to be carried out by the Secretary substantially in accordance with the plans, and subject to the conditions, described in the respective reports designated in this section:

(1) RIO SALADO (SALT RIVER), ARIZONA.—The project for environmental restoration, Rio Salado (Salt River), Arizona: Report of the Chief of Engineers, dated August 20, 1998, at a total cost of $85,900,000, with an estimated Federal cost of $54,980,000 and an estimated non-Federal cost of $30,920,000.

(2) AMERICAN RIVER WATERSHED, CALIFORNIA.—

(A) IN GENERAL.—The project for flood damage reduction described as the Folsom Stepped Release Plan in the United States Army Corps of Engineers Supplemental Information Report for the American River Watershed Project, California, dated March 1996, at a total cost of $464,600,000, with an estimated Federal cost of $302,000,000 and an estimated non-Federal cost of $162,600,000.

(B) IMPLEMENTATION.—

(i) IN GENERAL.—Implementation of the measures by the Secretary pursuant to subparagraph (A) shall be undertaken after completion of the levee stabilization and strengthening and flood warning features authorized by section 101(a)(1) of the Water Resources Development Act of 1996 (110 Stat. 3662).

(ii) FOLSOM DAM AND RESERVOIR.—The Secretary may undertake measures at the Folsom Dam and Reservoir authorized under subparagraph (A) only after reviewing the design of such measures to determine if modifications are necessary to account for changed hydrologic conditions and any other changed conditions in the project area, including operational and construction impacts that have occurred since completion of the report referred to in subparagraph (A). The Secretary shall conduct the review and develop the modifications to the Folsom Dam and Reservoir with the full participation of the Secretary of the Interior.

(iii) REMAINING DOWNSTREAM ELEMENTS.—

(I) IN GENERAL.—Implementation of the remaining downstream elements authorized pursuant to subparagraph (A) may be undertaken only after the Secretary, in consultation with affected Federal, State, regional, and local entities, has reviewed the elements to determine if modifications are necessary to address changes in the hydrologic conditions, any other changed conditions in the project area that have occurred since completion of the report referred to in subparagraph (A) and any design modifications for the Folsom Dam and Reservoir made by the Secretary in implementing the measures referred to in clause (ii), and has issued a report on the review.

(II) PRINCIPLES AND GUIDELINES.—The review shall be prepared in accordance with the economic and environmental principles and guidelines for water and related land resources implementation studies, and no construction may be initiated unless the Secretary determines that the remaining downstream elements are technically sound, environmentally acceptable, and economically justified.

(3) LLAGAS CREEK, CALIFORNIA.—The project for completion of the remaining reaches of the Natural Resources Conservation Service flood control project at Llagas Creek, California, undertaken pursuant to section 5 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1005), substantially in accordance with the requirements of local cooperation as specified in

section 4 of that Act (16 U.S.C. 1004) at a total cost of $34,300,000, with an estimated Federal cost of $16,600,000 and an estimated non-Federal share of $17,700,000.

(4) UPPER GUADALUPE RIVER, CALIFORNIA.—The Secretary may construct the locally preferred plan for flood damage reduction and recreation, Upper Guadalupe River, California, described as the Bypass Channel Plan of the Chief of Engineers dated August 18, 1998, at a total cost of $132,836,000, with an estimated Federal cost of $42,869,000 and an estimated non-Federal cost of $89,967,000.

(5) DELAWARE BAY COASTLINE: DELAWARE AND NEW JERSEY-BROADKILL BEACH, DELAWARE.—

(A) IN GENERAL.—The shore protection project for hurricane and storm damage reduction, Delaware Bay Coastline: Delaware and New Jersey-Broadkill Beach, Delaware, Report of the Chief of Engineers dated August 17, 1998, at a total cost of $8,871,000, with an estimated Federal cost of $5,593,000 and an estimated non-Federal cost of $3,278,000.

(B) PERIODIC NOURISHMENT.—Periodic nourishment is authorized for a 50-year period at an estimated average annual cost of $651,000, with an estimated annual Federal cost of $410,000 and an estimated annual non-Federal cost of $241,000.

(6) HILLSBORO AND OKEECHOBEE AQUIFER STORAGE AND RECOVERY PROJECT, FLORIDA.—The project for aquifer storage and recovery described in the United States Army Corps of Engineers Central and Southern Florida Water Supply Study, Florida, dated April 1989, and in House Document 369, dated July 30, 1968, at a total cost of $27,000,000, with an estimated Federal cost of $13,500,000 and an estimated non-Federal cost of $13,500,000.

(7) INDIAN RIVER COUNTY, FLORIDA.—Notwithstanding section 1001(a) of the Water Resources Development Act of 1986 (33 U.S.C. 579a(a)), the project for shoreline protection, Indian River County, Florida, authorized by section 501(a) of that Act (100 Stat. 4134), shall remain authorized for construction through December 31, 2002.

(8) LIDO KEY BEACH, SARASOTA, FLORIDA.—

(A) IN GENERAL.—The project for shore protection at Lido Key Beach, Sarasota, Florida, authorized by section 101 of the River and Harbor Act of 1970 (84 Stat. 1819) and deauthorized by operation of section 1001(b) of the Water Resources Development Act of 1986 (33 U.S.C. 579a(b)), is authorized to be carried out by the Secretary at a total cost of $5,200,000, with an estimated Federal cost of $3,380,000 and an estimated non-Federal cost of $1,820,000.

(B) PERIODIC NOURISHMENT.—Periodic nourishment is authorized for a 50-year period at an estimated average annual cost of $602,000, with an estimated annual Federal cost of $391,000 and an estimated annual non-Federal cost of $211,000.

(9) AMITE RIVER AND TRIBUTARIES, LOUISIANA, EAST BATON ROUGE PARISH WATERSHED.—The project for flood damage reduction and recreation, Amite River and Tributaries, Louisiana, East Baton Rouge Parish Watershed: Report of the Chief of Engineers, dated December 23, 1996, at a total cost of $110,045,000, with an estimated Federal cost of $71,343,000 and an estimated non-Federal cost of $38,702,000.

(10) BALTIMORE HARBOR ANCHORAGES AND CHANNELS, MARYLAND AND VIRGINIA.—The project for navigation, Baltimore Harbor Anchorages and Channels, Maryland and Virginia: Report of the Chief of Engineers, dated June 8, 1998, at a total cost of $27,692,000, with an estimated Federal cost of $18,510,000 and an estimated non-Federal cost of $9,182,000.

(11) RED LAKE RIVER AT CROOKSTON, MINNESOTA.—The project for flood damage reduction, Red Lake River at Crookston, Minnesota: Report of the Chief of Engineers, dated April 20, 1998, at a total cost of $8,720,000, with an estimated Federal cost of $5,567,000 and an estimated non-Federal cost of $3,153,000.

(12) PARK RIVER, NORTH DAKOTA.—

(A) IN GENERAL.—Subject to the condition stated in subparagraph (B), the project for flood control, Park River, Grafton, North Dakota, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4121) and deauthorized under section 1001(a) of the Water Resources Development Act of 1986 (33 U.S.C. 579a), at a total cost of $27,300,000, with an estimated Federal cost of $17,745,000 and an estimated non-Federal cost of $9,555,000.

(B) CONDITION.—No construction may be initiated unless the Secretary determines through a general reevaluation report using current data, that the project is technically sound, environmentally acceptable, and economically justified.

(b) PROJECTS SUBJECT TO A FINAL REPORT.—The following projects for water resources development and conservation and other purposes are authorized to be carried out by the Secretary substantially in accordance with the plans, and subject to the conditions recommended in a final report of the Chief of Engineers as approved by the Secretary, if the report of the Chief is completed not later than December 31, 1998:

(1) NOME HARBOR IMPROVEMENTS, ALASKA.—The project for navigation, Nome Harbor Improvements, Alaska, at a total cost of $24,280,000, with an estimated first Federal cost of $19,162,000 and an estimated first non-Federal cost of $5,118,000.

(2) SAND POINT HARBOR, ALASKA.—The project for navigation, Sand Point Harbor, Alaska, at a total cost of $11,463,000, with an estimated Federal cost of $6,718,000 and an estimated first non-Federal cost of $4,745,000.

(3) SEWARD HARBOR, ALASKA.—The project for navigation, Seward Harbor, Alaska, at a total cost of $11,930,000, with an estimated first Federal cost of $3,816,000 and an estimated first non-Federal cost of $8,114,000.

(4) HAMILTON AIRFIELD WETLAND RESTORATION, CALIFORNIA.—The project for environmental restoration at Hamilton Airfield, California, at a total cost of $55,100,000, with an estimated Federal cost of $41,300,000 and an estimated non-Federal cost of $13,800,000.

(5) OAKLAND, CALIFORNIA.—

(A) IN GENERAL.—The project for navigation and environmental restoration, Oakland, California, at a total cost of $214,900,000, with an estimated Federal cost of $128,600,000 and an estimated non-Federal cost of $86,300,000.

(B) BERTHING AREAS AND OTHER LOCAL SERVICE FACILITIES.—The non-Federal interests shall provide berthing areas and other local service facilities necessary for the project at an estimated cost of $38,200,000.

(6) SOUTH SACRAMENTO COUNTY STREAMS, CALIFORNIA.—The project for flood damage reduction, environmental restoration, and recreation, South Sacramento County Streams, California at a total cost of $65,410,000, with an estimated Federal cost of $39,104,000 and an estimated non-Federal cost of $26,306,000.

(7) YUBA RIVER BASIN, CALIFORNIA.—The project for flood damage reduction, Yuba River Basin, California, at a total cost of $25,850,000, with an estimated Federal cost of $16,775,000 and an estimated non-Federal cost of $9,075,000.

(8) DELAWARE BAY COASTLINE: DELAWARE AND NEW JERSEY-PORT MAHON, DELAWARE.—

(A) IN GENERAL.—The shore protection project for ecosystem restoration, Delaware Bay Coastline: Delaware and New Jersey-Port Mahon, Delaware, at a total cost of $7,563,000, with an estimated Federal cost of $4,916,000 and an estimated non-Federal cost of $2,647,000.

(B) PERIODIC NOURISHMENT.—Periodic nourishment is authorized for a 50-year period at an estimated average annual cost of $238,000, with an estimated annual Federal cost of $155,000 and an estimated annual non-Federal cost of $83,000.

(9) DELAWARE BAY COASTLINE: DELAWARE AND NEW JERSEY-ROOSEVELT INLET-LEWES BEACH, DELAWARE.—

(A) IN GENERAL.—The shore protection project for navigation mitigation and hurricane and storm damage reduction, Delaware Bay Coastline: Delaware and New Jersey-Roosevelt Inlet-Lewes Beach, Delaware, at a total cost of $3,326,000, with an estimated Federal cost of $2,569,000 and an estimated non-Federal cost of $757,000.

(B) PERIODIC NOURISHMENT.—Periodic nourishment is authorized for a 50-year period at an estimated average annual cost of $207,000, with an estimated annual Federal cost of $159,000 and an estimated annual non-Federal cost of $48,000.

(10) DELAWARE COAST FROM CAPE HENELOPEN TO FENWICK ISLAND, BETHANY BEACH/SOUTH BETHANY BEACH, DELAWARE.—

(A) IN GENERAL.—The shore protection project for hurricane storm damage reduction, Delaware Coast from Cape Henelopen to Fenwick Island, Bethany Beach/South Bethany Beach, Delaware, at a total cost of $22,094,000, with an estimated Federal cost of $14,361,000 and an estimated non-Federal cost of $7,733,000.

(B) PERIODIC NOURISHMENT.—Periodic nourishment is authorized for a 50-year period at an estimated average annual cost of $1,573,000, with an estimated annual Federal cost of $1,022,000 and an estimated annual non-Federal cost of $551,000.

(11) JACKSONVILLE HARBOR, FLORIDA.—The project for navigation, Jacksonville Harbor, Florida, at a total cost of $27,758,000, with an estimated Federal cost of $9,632,000 and an estimated non-Federal cost of $18,126,000.

(12) LITTLE TALBOT ISLAND, DUVAL COUNTY, FLORIDA.—The shore protection project for hurricane and storm damage prevention, Little Talbot Island, Duval County, Florida, at a total cost of $5,802,000, with an estimated Federal cost of $3,771,000 and an estimated non-Federal cost of $2,031,000.

(13) PONCE DE LEON INLET, VOLUSIA COUNTY, FLORIDA.—The project for navigation and recreation, Ponce de Leon Inlet, Volusia County, Florida, at a total cost of $5,533,000, with an estimated Federal cost of $3,408,000 and an estimated non-Federal cost of $2,125,000.

(14) TAMPA HARBOR-BIG BEND CHANNEL, FLORIDA.—The project for navigation, Tampa Harbor-Big Bend Channel, Florida, at a total cost of $11,348,000, with an estimated Federal cost of $5,747,000 and an estimated non-Federal cost of $5,601,000.

(15) BRUNSWICK HARBOR DEEPENING, GEORGIA.—The project for navigation, Brunswick Harbor deepening, Georgia, at a total cost of $49,433,000, with an estimated Federal cost of $32,083,000 and an estimated non-Federal cost of $17,350,000.

(16) SAVANNAH HARBOR EXPANSION, GEORGIA.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary may carry out the project for navigation, Savannah Harbor expansion, Georgia, substantially in accordance with the plans, and subject to the conditions, recommended in a final report of the Chief of Engineers, with such modifications as the Secretary deems appropriate, at a total cost of $223,887,000 (of which amount a portion is authorized for implementation of the mitigation plan), with an estimated Federal cost of $141,482,000 and an estimated non-Federal cost of $82,405,000, if the final report of the Chief of Engineers is completed by December 31, 1998.

(B) CONDITIONS.—The project authorized by subparagraph (A) may be carried out only after—

(i) the Secretary, in consultation with affected Federal, State, regional, and local entities, has reviewed and approved an Environmental Impact Statement that includes—

(I) an analysis of the impacts of project depth alternatives ranging from 42 feet through 48 feet; and

(II) a selected plan for navigation and associated mitigation plan as required by section 906(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2283); and

(ii) the Secretary of the Interior, the Secretary of Commerce, and the Administrator of the Environmental Protection Agency, with the Secretary, have approved the selected plan and have determined that the mitigation plan adequately addresses the potential environmental impacts of the project.

(C) MITIGATION REQUIREMENTS.—The mitigation plan shall be implemented in advance of or concurrently with construction of the project.

(17) GRAND FORKS, NORTH DAKOTA, AND EAST GRAND FORKS, MINNESOTA.—The project for flood damage reduction and recreation, Grand Forks, North Dakota, and East Grand Forks, Minnesota, at a total cost of $307,750,000, with an estimated Federal cost of $154,360,000 and an estimated non-Federal cost of $153,390,000.

(18) BAYOU CASSOTTE EXTENSION, PASCAGOULA HARBOR, PASCAGOULA, MISSISSIPPI.—The project for navigation, Bayou Cassotte extension, Pascagoula Harbor, Pascagoula, Mississippi, at a total cost of $5,700,000, with an estimated Federal cost of $3,705,000 and an estimated non-Federal cost of $1,995,000.

(19) TURKEY CREEK BASIN, KANSAS CITY, MISSOURI AND KANSAS CITY, KANSAS.—The project for flood damage reduction, Turkey Creek Basin, Kansas City, Missouri, and Kansas City, Kansas, at a total cost of $43,288,000 with an estimated Federal cost of $28,840,000 and an estimated non-Federal cost of $17,448,000.

(20) LOWER CAPE MAY MEADOWS, CAPE MAY POINT, NEW JERSEY.—

(A) IN GENERAL.—The shore protection project for navigation mitigation, ecosystem restoration, and hurricane and storm damage reduction, Lower Cape May Meadows, Cape May Point, New Jersey, at a total cost of $14,885,000, with an estimated Federal cost of $11,390,000 and an estimated non-Federal cost of $3,495,000.

(B) PERIODIC NOURISHMENT.—Periodic nourishment is authorized for a 50-year period at an estimated average annual cost of $4,565,000, with an estimated annual Federal cost of $3,674,000 and an estimated annual non-Federal cost of $891,000.

(21) NEW JERSEY SHORE PROTECTION, BRIGANTINE INLET TO GREAT EGG HARBOR, BRIGANTINE ISLAND, NEW JERSEY.—

(A) IN GENERAL.—The shore protection project for hurricane and storm damage reduction, New Jersey Shore protection, Brigantine Inlet to Great Egg Harbor, Brigantine Island, New Jersey, at a total cost of $4,861,000, with an estimated Federal cost of $3,160,000 and an estimated non-Federal cost of $1,701,000.

(B) PERIODIC NOURISHMENT.—Periodic nourishment is authorized for a 50-year period at an estimated average annual cost of $454,000, with an estimated annual Federal cost of $295,000 and an estimated annual non-Federal cost of $159,000.

(22) NEW JERSEY SHORE PROTECTION, TOWNSENDS INLET TO CAPE MAY INLET, NEW JERSEY.—

(A) IN GENERAL.—The shore protection project for hurricane and storm damage reduction and ecosystem restoration, New Jersey Shore protection, Townsends Inlet to Cape May Inlet, New Jersey, at a total cost of $55,204,000, with an estimated Federal cost of $35,883,000 and an estimated non-Federal cost of $19,321,000.

(B) PERIODIC NOURISHMENT.—Periodic nourishment is authorized for a 50-year period at an estimated average annual cost of $6,319,000, with an estimated annual Federal cost of $4,107,000 and an estimated annual non-Federal cost of $2,212,000.

(23) MEMPHIS HARBOR, MEMPHIS, TENNESSEE.—

(A) IN GENERAL.—Subject to subparagraph (B), the project for navigation, Memphis Harbor, Memphis, Tennessee, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4145) and deauthorized under section 1001(a) of that Act (33 U.S.C. 579a(a)) is authorized to be carried out by the Secretary.

(B) CONDITION.—No construction may be initiated unless the Secretary determines through a general reevaluation report using current data, that the project is technically sound, environmentally acceptable, and economically justified.

(24) METRO CENTER LEVEE, CUMBERLAND RIVER, NASHVILLE, TENNESSEE.—The project for flood damage reduction and recreation, Metro Certer Levee, Cumberland River, Nashville, Tennessee, at a total cost of $5,931,000, with an estimated Federal cost of $3,753,000 and an estimated non-Federal cost of $2,178,000.

(25) HOWARD HANSON DAM, WASHINGTON.—The project for water supply and ecosystem restoration, Howard Hanson Dam, Washington, at a total cost of $74,908,000, with an estimated Federal cost of $36,284,000 and an estimated non-Federal cost of $38,624,000.

SEC. 103. PROJECT MODIFICATIONS.

(a) PROJECTS WITH REPORTS.—

(1) GLENN-COLUSA, CALIFORNIA.—The project for flood control, Sacramento River, California, authorized by section 2 of the Act entitled "An Act to provide for the control of the floods of the Mississippi River and of the Sacramento River, California, and for other purposes", approved March 1, 1917 (39 Stat. 949), and modified by section 102 of the Energy and Water Development Appropriations Act, 1990 (103 Stat. 649), and further modified by section 301(b)(3) of the Water Resources Development Act of 1996 (110 Stat. 3709), is further modified to authorize the Secretary to carry out the portion of the project in Glenn-Colusa, California, in accordance with the Corps of Engineers report dated May 22, 1998, at a total cost of $20,700,000, with an estimated Federal cost of $15,570,000 and an estimated non-Federal cost of $5,130,000.

(2) SAN LORENZO RIVER, CALIFORNIA.—The project for flood control, San Lorenzo River, California, authorized by section 101(a)(5) of the Water Resources Development Act of 1996 (110 Stat. 3663), is modified to authorize the Secretary to include as a part of the project streambank erosion control measures to be undertaken substantially in accordance with the report entitled "Bank Stabilization Concept, Laurel Street Extension", dated April 23, 1998, at a total cost of $4,000,000, with an estimated Federal cost of $2,600,000 and an estimated non-Federal cost of $1,400,000.

(3) WOOD RIVER, GRAND ISLAND, NEBRASKA.—The project for flood control, Wood River, Grand Island, Nebraska, authorized by section 101(a)(19) of the Water Resources Development Act of 1996 (110 Stat. 3665) is modified to authorize the Secretary to construct the project in accordance with the Corps of Engineers report dated June 29, 1998, at a total cost of $16,632,000, with an estimated Federal cost of $9,508,000 and an estimated non-Federal cost of $7,124,000.

(4) ABSECON ISLAND, NEW JERSEY.—The project for Absecon Island, New Jersey, authorized by section 101(b)(13) of the Water Resources Development Act of 1996 (110 Stat. 3668) is amended to authorize the Secretary to reimburse the non-Federal interests for all work performed, consistent with the authorized project.

(5) WAURIKA LAKE, OKLAHOMA, WATER CONVEYANCE FACILITIES.—The requirement for the Waurika Project Master Conservancy District to repay the $2,900,000 in costs (including interest) resulting from the October 1991 settlement of the claim of the Travelers Insurance Company before the United States Claims Court related to construction of the water conveyance facilities authorized by the first section of Public Law 88–253 (77 Stat. 841) is waived.

(b) PROJECTS SUBJECT TO REPORTS.—The following projects are modified as follows, except that no funds may be obligated to carry out work under such modifications until completion of a final report by the Chief of Engineers, as approved by the Secretary, finding that such work is technically sound, environmentally acceptable, and economically justified, as applicable:

(1) SACRAMENTO METRO AREA, CALIFORNIA.—The project for flood control, Sacramento Metro Area, California, authorized by section 101(4) of the Water Resources Development Act of 1992 (106 Stat. 4801) is modified to authorize the Secretary to construct the project at a total cost of $32,600,000, with an estimated Federal cost of $24,500,000 and an estimated non-Federal cost of $8,100,000.

(2) THORNTON RESERVOIR, COOK COUNTY, ILLINOIS.—

(A) IN GENERAL.—The Thornton Reservoir project, an element of the project for flood control, Chicagoland Underflow Plan, Illinois, authorized by section 3(a)(5) of the Water Resources Development Act of 1988 (102 Stat. 4013), is modified to authorize the Secretary to include additional permanent flood control storage attributable to the Thorn Creek Reservoir project, Little Calumet River Watershed, Illinois, approved under the Watershed Protection and Flood Prevention Act (16 U.S.C. 1001 et seq.).

(B) COST SHARING.—Costs for the Thornton Reservoir project shall be shared in accordance with section 103 of the Water Resources Development Act of 1986 (33 U.S.C. 2213).

(C) TRANSITIONAL STORAGE.—The Secretary of Agriculture may cooperate with non-Federal interests to provide, on a transitional basis, flood control storage for the Thorn Creek Reservoir project in the west lobe of the Thornton quarry.

(D) CREDITING.—The Secretary may credit against the non-Federal share of the Thornton Reservoir project all design and construction costs incurred by the non-Federal interests before the date of enactment of this Act.

(E) REEVALUATION REPORT.—The Secretary shall determine the credits authorized by subparagraph (D) that are integral to the Thornton Reservoir project and the current total project costs based on a limited reevaluation report.

(3) WELLS HARBOR, WELLS, MAINE.—

(A) IN GENERAL.—The project for navigation, Wells Harbor, Maine, authorized by section 101 of the River and Harbor Act of 1960 (74 Stat. 480), is modified to authorize the Secretary to realign the channel and anchorage areas based on a harbor design capacity of 150 craft.

(B) DEAUTHORIZATION OF CERTAIN PORTIONS.—The following portions of the project are not authorized after the date of enactment of this Act:

(i) The portion of the 6-foot channel the boundaries of which begin at a point with coordinates N177,992.00, E394,831.00, thence running south 83 degrees 58 minutes 14.8 seconds west 10.38 feet to a point N177,990.91, E394,820.68, thence running south 11 degrees 46 minutes 47.7 seconds west 991.76 feet to a point N177,020.04, E394,618.21, thence running south 78 degrees 13 minutes 45.7 seconds east 10.00 feet to a point N177,018.00, E394,628.00, thence running north 11 degrees 46 minutes 22.8 seconds east 994.93 feet to the point of origin.

(ii) The portion of the 6-foot anchorage the boundaries of which begin at a point with coordinates N177,778.07, E394,336.96, thence running south 51 degrees 58 minutes 32.7 seconds west 15.49 feet to a point N177,768.53, E394,324.76, thence running south 11 degrees 46 minutes 26.5 seconds west 672.87 feet to a point N177,109.82, E394,187.46, thence running south 78 degrees 13 minutes 45.7 seconds east 10.00 feet to a point N177,107.78, E394,197.25, thence running north 11 degrees 46 minutes 25.4 seconds east 684.70 feet to the point of origin.

(iii) The portion of the 10-foot settling basin the boundaries of which begin at a point with coordinates N177,107.78, E394,197.25, thence running north 78 degrees 13 minutes 45.7 seconds west 10.00 feet to a point N177,109.82, E394,187.46, thence running south 11 degrees 46 minutes 15.7 seconds west 300.00 feet to a point N176,816.13, E394,126.26, thence running south 78 degrees 12 minutes 21.4 seconds east 9.98 feet to a point N176,814.09, E394,136.03, thence running north 11 degrees 46 minutes 29.1 seconds east 300.00 feet to the point of origin.

(iv) The portion of the 10-foot settling basin the boundaries of which begin at a point with coordinates N177,018.00, E394,628.00, thence running north 78 degrees 13 minutes 45.7 seconds west 10.00 feet to a point N177,020.04, E394,618.21, thence running south 11 degrees 46 minutes 44.0 seconds west 300.00 feet to a point N176,726.36, E394,556.97, thence running south 78 degrees 12 minutes 30.3 seconds east 10.03 feet to a point N176,724.31, E394,566.79, thence running north 11 degrees 46 minutes 22.4 seconds east 300.00 feet to the point of origin.

(C) REDESIGNATIONS.—The following portions of the project shall be redesignated as part of the 6-foot anchorage:

(i) The portion of the 6-foot channel the boundaries of which begin at a point with coordinates N177,990.91, E394,820.68, thence running south 83 degrees 58 minutes 40.8 seconds west 94.65 feet to a point N177,980.98, E394,726.55, thence running south 11 degrees 46 minutes 22.4 seconds west 962.83 feet to a point N177,038.40, E394,530.10, thence running south 78 degrees 13 minutes 45.7 seconds east 90.00 feet to a point N177,020.04, E394,618.21, thence running north 11 degrees 46 minutes 47.7 seconds east 991.76 feet to the point of origin.

(ii) The portion of the 10-foot inner harbor settling basin the boundaries of which begin at a point with coordinates N177,020.04, E394,618.21, thence running north 78 degrees 13 minutes 30.5 seconds west 160.00 feet to a point N177,052.69, E394,461.58, thence running south 11 degrees 46 minutes 45.4 seconds west 299.99 feet to a point N176,759.02, E394,400.34, thence running south 78 degrees 13 minutes 17.9 seconds east 160 feet to a point N176,726.36, E394,556.97, thence running north 11 degrees 46 minutes 44.0 seconds east 300.00 feet to the point of origin.

(iii) The portion of the 6-foot anchorage the boundaries of which begin at a point with coordinates N178,102.26, E394,751.83, thence running south 51 degrees 59 minutes 42.1 seconds west 526.51 feet to a point N177,778.07, E394,336.96, thence running south 11 degrees 46 minutes 26.6 seconds west 511.83 feet to a point N177,277.01, E394,232.52, thence running south 78 degrees 13 minutes 17.9 seconds east 80.00 feet to a point N177,260.68, E394,310.84, thence running north 11 degrees 46 minutes 24.8 seconds east 482.54 feet to a point N177,733.07, E394,409.30, thence running north 51 degrees 59 minutes 41.0 seconds east 402.63 feet to a point N177,980.98, E394,726.55, thence running north 11 degrees 46 minutes 27.6 seconds east 123.89 feet to the point of origin.

(D) REALIGNMENT.—The 6-foot anchorage area described in subparagraph (C)(iii) shall be realigned to include the area located south of the inner harbor settling basin in existence on the date of enactment of this Act beginning at a point with coordinates N176,726.36, E394,556.97, thence running north 78 degrees 13 minutes 17.9 seconds west 160.00 feet to a point N176,759.02, E394,400.34, thence running south 11 degrees 47 minutes 03.8 seconds west 45 feet to a point N176,714.97, E394,391.15, thence running south 78 degrees 13 minutes 17.9 seconds 160.00 feet to a point N176,682.31, E394,547.78, thence running north 11 degrees 47 minutes 03.8 seconds east 45 feet to the point of origin.

(E) RELOCATION.—The Secretary may relocate the settling basin feature of the project to the outer harbor between the jetties.

(4) NEW YORK HARBOR AND ADJACENT CHANNELS, PORT JERSEY, NEW JERSEY.—The project for navigation, New York Harbor and Adjacent Channels, Port Jersey, New Jersey, authorized by section 202(b) of the Water Resources Development Act of 1986 (100 Stat. 4098), is modified to authorize the Secretary to construct the project at a total cost of $100,689,000, with an estimated Federal cost of $74,998,000 and an estimated non-Federal cost of $25,701,000.

(5) ARTHUR KILL, NEW YORK AND NEW JERSEY.—

(A) IN GENERAL.—The project for navigation, Arthur Kill, New York and New Jersey, authorized by section 202(b) of the Water Resources Development Act of 1986 (100 Stat. 4098) and modified by section 301(b)(11) of the Water Resources Development Act of 1996 (110 Stat. 3711), is further modified to authorize the Secretary to construct the project at a total cost of $269,672,000, with an estimated Federal cost of $178,400,000 and an estimated non-Federal cost of $91,272,000.

(B) BERTHING AREAS AND OTHER LOCAL SERVICE FACILITIES.—The non-Federal interests shall provide berthing areas and other local service facilities necessary for the project at an estimated cost of $37,936,000.

(c) BEAVER LAKE, ARKANSAS, WATER SUPPLY STORAGE REALLOCATION.—The Secretary shall reallocate approximately 31,000 additional acre-feet at Beaver Lake, Arkansas, to water supply storage at no cost to the Beaver Water District or the Carroll-Boone Water District, except that at no time shall the bottom of the conservation pool be at an elevation that is less than 1,076 feet, NGVD.

(d) TOLCHESTER CHANNEL S-TURN, BALTIMORE, MARYLAND.—The project for navigation, Baltimore Harbor and Channels, Maryland, authorized by section 101 of the River and Harbor Act of 1958 (72 Stat. 297), is modified to direct the Secretary to straighten the Tolchester Channel S-turn as part of project maintenance.

(e) TROPICANA WASH AND FLAMINGO WASH, NEVADA.—Any Federal costs associated with the Tropicana and Flamingo Washes, Nevada, authorized by section 101(13) of the Water Resources Development Act of 1992 (106 Stat. 4803), incurred by the non-Federal interest to accelerate or modify construction of the project, in cooperation with the Corps of Engineers, shall be considered to be eligible for reimbursement by the Secretary.

(f) REDIVERSION PROJECT, COOPER RIVER, CHARLESTON HARBOR, SOUTH CAROLINA.—

(1) IN GENERAL.—The rediversion project, Cooper River, Charleston Harbor, South Carolina, authorized by section 101 of the River and Harbor Act of 1968 (82 Stat. 731) and modified by title I of the Energy and Water Development Appropriations Act, 1992 (105 Stat. 517), is modified to authorize the Secretary to pay the State of South Carolina not more than $3,750,000, if the State enters into an agreement with the Secretary providing that the State shall perform all future operation of the St. Stephen, South Carolina, fish lift (including associated studies to assess the efficacy of the fish lift).

(2) CONTENTS.—The agreement shall specify the terms and conditions under which payment will be made and the rights of, and remedies available to, the Secretary to recover all or a portion of the payment if the State suspends or terminates operation of the fish lift or fails to perform the operation in a manner satisfactory to the Secretary.

(3) MAINTENANCE.—Maintenance of the fish lift shall remain a Federal responsibility.

(g) FLOOD MITIGATION NEAR PIERRE, SOUTH DAKOTA.—

(1) IN GENERAL.—

(A) LAND ACQUISITION.—To provide full operational capability to carry out the authorized purposes of the Missouri River Main Stem dams that are part of the Pick-Sloan Missouri River Basin Program authorized by section 9 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes" approved December 22, 1944 (58 Stat. 891), the Secretary may acquire from willing sellers such land and property in the vicinity of Pierre, South Dakota, or floodproof or relocate such property within the project area, as the Secretary determines is adversely affected by the full wintertime Oahe Powerplant releases.

(B) OWNERSHIP AND USE.—Any land that is acquired under subparagraph (A) shall be kept in public ownership and shall be dedicated and maintained in perpetuity for a use that is compatible with any remaining flood threat.

(C) REPORT.—

(i) IN GENERAL.—The Secretary shall not obligate funds to implement this paragraph until the Secretary has completed a report addressing the criteria for selecting which properties are to be acquired, relocated, or floodproofed, and a plan for implementing such measures, and has made a determination that the measures are economically justified.

(ii) DEADLINE.—The report shall be completed not later than 180 days after funding is made available.

(D) COORDINATION AND COOPERATION.—The report and implementation plan—

(i) shall be coordinated with the Federal Emergency Management Agency; and

(ii) shall be prepared in consultation with other Federal agencies, State and local officials, and residents.

(E) CONSIDERATIONS.—The report should take into account information from prior and ongoing studies.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $35,000,000.

(h) TRINITY RIVER AND TRIBUTARIES, TEXAS.—The project for flood control and navigation, Trinity River and tributaries, Texas, authorized by section 301 of the River and Harbor Act of 1965 (79 Stat. 1091), is modified to add environmental restoration as a project purpose.

(i) BEACH EROSION CONTROL AND HURRICANE PROTECTION, VIRGINIA BEACH, VIRGINIA.—

(1) ACCEPTANCE OF FUNDS.—In any fiscal year that the Corps of Engineers does not receive appropriations sufficient to meet expected project expenditures for that year, the Secretary shall accept from the city of Virginia Beach, Virginia, for purposes of the project for beach erosion control and hurricane protection, Virginia Beach, Virginia, authorized by section 501(a) of the Water Resources Development Act of 1986 (100 Stat. 4136), such funds as the city may advance for the project.

(2) REPAYMENT.—Subject to the availability of appropriations, the Secretary shall repay, without interest, the amount of any advance made under paragraph (1), from appropriations that may be provided by Congress for river and harbor, flood control, shore protection, and related projects.

(j) ELIZABETH RIVER, CHESAPEAKE, VIRGINIA.—Notwithstanding any other provision of law, after the date of enactment of this Act, the city of Chesapeake, Virginia, shall not be obligated to make the annual cash contribution required under paragraph 1(9) of the Local Cooperation Agreement dated December 12, 1978, between the Government and the city for the project for navigation, southern branch of Elizabeth River, Chesapeake, Virginia.

(k) PAYMENT OPTION, MOOREFIELD, WEST VIRGINIA.—The Secretary may permit the non-Federal interests for the project for flood control, Moorefield, West Virginia, to pay without interest the remaining non-Federal cost over a period not to exceed 30 years, to be determined by the Secretary.

(l) MIAMI DADE AGRICULTURAL AND RURAL LAND RETENTION PLAN AND SOUTH BISCAYNE, FLORIDA.—Section 528(b)(3) of the Water Resources Development Act of 1996 (110 Stat. 3768) is amended by adding at the end the following:

"(D) CREDIT AND REIMBURSEMENT OF PAST AND FUTURE ACTIVITIES.—The Secretary may afford credit to or reimburse the non-Federal sponsors (using funds authorized by subparagraph (C)) for the reasonable costs of any work that has been performed or will be performed in connection with a study or activity meeting the requirements of subparagraph (A) if—

"(i) the Secretary determines that—

"(I) the work performed by the non-Federal sponsors will substantially expedite completion of a critical restoration project; and

"(II) the work is necessary for a critical restoration project; and

"(ii) the credit or reimbursement is granted pursuant to a project-specific agreement that prescribes the terms and conditions of the credit or reimbursement.".

(m) LAKE MICHIGAN, ILLINOIS.—

(1) IN GENERAL.—The project for storm damage reduction and shoreline protection, Lake Michigan, Illinois, from Wilmette, Illinois, to the Illinois-Indiana State line, authorized by section 101(a)(12) of the Water Resources Development Act of 1996 (110 Stat. 3664), is modified to provide for reimbursement for additional project work undertaken by the non-Federal interest.

(2) CREDIT OR REIMBURSEMENT.—The Secretary shall credit or reimburse the non-Federal interest for the Federal share of project costs incurred by the non-Federal interest in designing, constructing, or reconstructing reach 2F (700 feet south of Fullerton Avenue and 500 feet north of Fullerton Avenue), reach 3M (Meigs Field), and segments 7 and 8 of reach 4 (43rd Street to 57th Street), if the non-Federal interest carries out the work in accordance with plans approved by the Secretary, at an estimated total cost of $83,300,000.

(3) REIMBURSEMENT.—The Secretary shall reimburse the non-Federal interest for the Federal share of project costs incurred by the non-Federal interest in reconstructing the revetment structures protecting Solidarity Drive in Chicago, Illinois, before the signing of the project cooperation agreement, at an estimated total cost of $7,600,000.

(n) MEASUREMENTS OF LAKE MICHIGAN DIVERSIONS, ILLINOIS.—Section 1142(b) of the Water Resources Development Act of 1986 (100 Stat. 4253) is amended by striking "$250,000 per fiscal year for each fiscal year beginning after September 30, 1986" and inserting "a total of $1,250,000 for each of fiscal years 1999 through 2003".

(o) PROJECT FOR NAVIGATION, DUBUQUE, IOWA.—The project for navigation at Dubuque, Iowa, authorized by section 101 of the River and Harbor Act of 1960 (74 Stat. 482), is modified to authorize the development of a wetland demonstration area of approximately 1.5 acres to be developed and operated by the Dubuque County Historical Society or a successor nonprofit organization.

(p) LOUISIANA STATE PENITENTIARY LEVEE.—The Secretary may credit against the non-Federal share work performed in the project area of the Louisiana State Penitentiary Levee, Mississippi River, Louisiana, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4117).

(q) JACKSON COUNTY, MISSISSIPPI.—The project for environmental infrastructure, Jackson County, Mississippi, authorized by section 219(c)(5) of the Water Resources Development Act of 1992 (106 Stat. 4835) and modified by section 504 of the Water Resources Development Act of 1996 (110 Stat. 3757), is modified to direct the Secretary to provide a credit, not to exceed $5,000,000, against the non-Federal share of the cost of the project for the costs incurred by the Jackson County Board of Supervisors since February 8, 1994, in constructing the project, if the Secretary determines that such costs are for work that the Secretary determines was compatible with and integral to the project.

(r) RICHARD B. RUSSELL DAM AND LAKE, SOUTH CAROLINA.—

(1) IN GENERAL.—Except as otherwise provided in this paragraph, the Secretary shall convey to the State of South Carolina all right, title, and interest of the United States in the parcels of land described in subparagraph (B) that are currently being managed by the South Carolina Department of Natural Resources for fish and wildlife mitigation purposes for the Richard B. Russell Dam and Lake, South Carolina, project authorized by the Flood Control Act of 1966 and modified by the Water Resources Development Act of 1986.

(2) LAND DESCRIPTION.—

(A) IN GENERAL.—The parcels of land to be conveyed are described in Exhibits A, F, and H of Army Lease No. DACW21-1-93-0910 and associated supplemental agreements or are designated in red in Exhibit A of Army License No. DACW21-3-85-1904, excluding all designated parcels in the license that are below elevation 346 feet mean sea level or that are less than 300 feet measured horizontally from the top of the power pool.

(B) MANAGEMENT OF EXCLUDED PARCELS.—Management of the excluded parcels shall continue in accordance with the terms of Army License No. DACW21-3-85-1904 until the Secretary and the State enter into an agreement under subparagraph (F).

(C) SURVEY.—The exact acreage and legal description of the land shall be determined by a survey satisfactory to the Secretary, with the cost of the survey borne by the State.

(3) COSTS OF CONVEYANCE.—The State shall be responsible for all costs, including real estate transaction and environmental compliance costs, associated with the conveyance.

(4) PERPETUAL STATUS.—

(A) IN GENERAL.—All land conveyed under this paragraph shall be retained in public ownership and shall be managed in perpetuity for fish and wildlife mitigation purposes in accordance with a plan approved by the Secretary.

(B) REVERSION.—If any parcel of land is not managed for fish and wildlife mitigation purposes in accordance with such plan, title to the parcel shall revert to the United States.

(5) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance as the Secretary considers appropriate to protect the interests of the United States.

(6) FISH AND WILDLIFE MITIGATION AGREEMENT.—

(A) IN GENERAL.—The Secretary may pay the State of South Carolina not more than $4,850,000 subject to the Secretary and the State entering into a binding agreement for the State to manage for fish and wildlife mitigation purposes in perpetuity the lands conveyed under this paragraph and excluded parcels designated in Exhibit A of Army License No. DACW21-3-85-1904.

(B) FAILURE OF PERFORMANCE.—The agreement shall specify the terms and conditions under which payment will be made and the rights of, and remedies available to, the Federal Government to recover all or a portion of the payment if the State fails to manage any parcel in a manner satisfactory to the Secretary.

(s) LAND CONVEYANCE, CLARKSTON, WASHINGTON.—

(1) IN GENERAL.—The Secretary shall convey to the Port of Clarkston, Washington, all right, title, and interest of the United States in and to a portion of the land described in the Department of the Army lease No.

DACW68–1–97–22, consisting of approximately 31 acres, the exact boundaries of which shall be determined by the Secretary and the Port of Clarkston.

(2) The Secretary may convey to the Port of Clarkston, Washington, at fair market value as determined by the Secretary, such additional land located in the vicinity of Clarkston, Washington, as the Secretary determines to be excess to the needs of the Columbia River Project and appropriate for conveyance.

(3) Terms and conditions.—The conveyances made under subsections (a) and (b) shall be subject to such terms and conditions as the Secretary determines to be necessary to protect the interests of the United States, including a requirement that the Port of Clarkston pay all administrative costs associated with the conveyances, including the cost of land surveys and appraisals and costs associated with compliance with applicable environmental laws and regulations.

(4) Use of land.—The Port of Clarkston shall be required to pay the fair market value, as determined by the Secretary, of any land conveyed pursuant to subsection (a) that is not retained in public ownership or is used for other than public park or recreation purposes, except that the Secretary shall have a right of reverter to reclaim possession and title to any such land.

(t) White River, Indiana.—The project for flood control, Indianapolis on West Fork of the White River, Indiana, authorized by section 5 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and other purposes", approved June 22, 1936 (49 Stat. 1586, chapter 688), as modified by section 323 of the Water Resources Development Act of 1996 (110 Stat. 3716), is modified to authorize the Secretary to undertake the riverfront alterations described in the Central Indianapolis Waterfront Concept Plan, dated February 1994, for the Canal Development (Upper Canal feature) and the Beveridge Paper feature, at a total cost not to exceed $25,000,000, of which $12,500,000 is the estimated Federal cost and $12,500,000 is the estimated non-Federal cost, except that no such alterations may be undertaken unless the Secretary determines that the alterations authorized by this subsection, in combination with the alterations undertaken under section 323 of the Water Resources Development Act of 1996 (110 Stat. 3716), are economically justified.

(u) Fox Point Hurricane Barrier, Providence, Rhode Island.—The project for hurricane-flood protection, Fox Point, Providence, Rhode Island, authorized by section 203 of the Flood Control Act of 1958 (72 Stat. 306) is modified to direct the Secretary to undertake the necessary repairs to the barrier, as identified in the Condition Survey and Technical Assessment dated April 1998 with Supplement dated August 1998, at a total cost of $3,000,000, with an estimated Federal cost of $1,950,000 and an estimated non-Federal cost of $1,050,000.

SEC. 104. PROJECT DEAUTHORIZATIONS.

(a) Bridgeport Harbor, Connecticut.—The portion of the project for navigation, Bridgeport Harbor, Connecticut, authorized by section 101 of the River and Harbor Act of 1958 (72 Stat. 297), consisting of a 2.4-acre anchorage area 9 feet deep and an adjacent 0.60-acre anchorage area 6 feet deep, located on the west side of Johnsons River, Connecticut, is not authorized after the date of enactment of this Act.

(b) Bass Harbor, Maine.—

(1) Deauthorization.—The portions of the project for navigation, Bass Harbor, Maine, authorized on May 7, 1962, under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577) described in paragraph (2) are not authorized after the date of enactment of this Act.

(2) Description.—The portions of the project referred to in paragraph (1) are described as follows:

(A) Beginning at a bend in the project, N149040.00, E538505.00, thence running easterly about 50.00 feet along the northern limit of the project to a point, N149061.55, E538550.11, thence running southerly about 642.08 feet to a point, N148477.64, E538817.18, thence running southwesterly about 156.27 feet to a point on the westerly limit of the project, N148348.50, E538737.02, thence running northerly about 149.00 feet along the westerly limit of the project to a bend in the project, N148489.22, E538768.09, thence running northwesterly about 610.39 feet along the westerly limit of the project to the point of origin.

(B) Beginning at a point on the westerly limit of the project, N148118.55, E538689.05, thence running southeasterly about 91.92 feet to a point, N148041.43, E538739.07, thence running southerly about 65.00 feet to a point, N147977.86, E538725.51, thence running southwesterly about 91.92 feet to a point on the westerly limit of the project, N147927.84, E538648.39, thence running northerly about 195.00 feet along the westerly limit of the project to the point of origin.

(c) Boothbay Harbor, Maine.—The project for navigation, Boothbay Harbor, Maine, authorized by the Act of July 25, 1912 (37 Stat. 201, chapter 253), is not authorized after the date of enactment of this Act.

(d) East Boothbay Harbor, Maine.—Section 364 of the Water Resources Development Act of 1996 (110 Stat. 3731) is amended by striking paragraph (9) and inserting the following:

"(9) East boothbay harbor, maine.—The project for navigation, East Boothbay Harbor, Maine, authorized by the first section of the Act entitled 'An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes', approved June 25, 1910 (36 Stat. 657).".

SEC. 105. STUDIES.

(a) Baldwin County, Alabama, Watersheds.—The Secretary of the Army shall review the report of the Chief of Engineers on the Alabama Coast published as House Document 108, 90th Congress, 1st Session, and other pertinent reports, with a view to determining whether modifications of the recommendations contained in the House Document are advisable at this time in the interest of flood damage reduction, environmental restoration and protection, water quality, and other purposes, with a special emphasis on determining the advisability of developing a comprehensive coordinated watershed management plan for the development, conservation, and utilization of water and related land resources in the watersheds in Baldwin County, Alabama.

(b) Escambia River, Alabama and Florida.—

(1) In general.—The Secretary shall review the report of the Chief of Engineers on the Escambia River, Alabama and Florida, published as House Document 350, 71st Congress, 2d Session, and other pertinent reports, to determine whether modifications of any of the recommendations contained in the House Document are advisable at this time with particular reference to Burnt Corn Creek and Murder Creek in the vicinity of Brewton, and East Brewton, Alabama, and the need for flood control, floodplain evacuation, flood warning and preparedness, environmental restoration and protection, and bank stabilization in those areas.

(2) Coordination.—The review shall be coordinated with plans of other local and Federal agencies.

(c) Caddo Levee, Red River Below Denison Dam, Arizona, Louisiana, Oklahoma, and Texas.—The Secretary shall conduct a study to determine the feasibility of undertaking a project for flood control, Caddo Levee, Red River Below Denison Dam, Arizona, Louisiana, Oklahoma, and Texas, including incorporating the existing levee, along Twelve Mile Bayou from its juncture with the existing Red River Below Denison Dam Levee approximately 26 miles upstream to its terminus at high ground in the vicinity of Black Bayou, Louisiana.

(d) Fields Landing Channel, Humboldt Harbor, California.—The Secretary—

(1) shall conduct a study for the project for navigation, Fields Landing Channel, Humboldt Harbor and Bay, California, to a depth of minus 35 feet (MLLW), and for that purpose may use any feasibility report prepared by the non-Federal sponsor under section 203 of the Water Resources Development Act of 1986 (33 U.S.C. 2231) for which reimbursement of the Federal share of the study is authorized subject to the availability of appropriations; and

(2) may carry out the project under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577), if the Secretary determines that the project is feasible.

(e) Strawberry Creek, Berkeley, California.—The Secretary shall conduct a study to determine the feasibility of restoring Strawberry Creek, Berkeley, California, and the Federal interest in environmental restoration, conservation of fish and wildlife resources, recreation, and water quality.

(f) West Side Storm Water Retention Facility, City of Lancaster, California.—The Secretary shall conduct a study to determine the feasibility of undertaking measures to construct the West Side Storm Water Retention Facility in the city of Lancaster, California.

(g) Apalachicola River, Florida.—The Secretary shall conduct a study for the purpose of identifying—

(1) alternatives for the management of material dredged in connection with operation and maintenance of the Apalachicola River Navigation Project; and

(2) alternatives that reduce the requirements for such dredging.

(h) Broward County, Sand Bypassing at Port Everglades, Florida.—The Secretary shall conduct a study to determine the feasibility of constructing a sand bypassing project at the Port Everglades Inlet, Florida.

(i) City of Destin-Noriega Point Breakwater, Florida.—The Secretary shall conduct a study to determine the feasibility of—

(1) restoring Noriega Point, Florida, to serve as a breakwater for Destin Harbor; and

(2) including Noriega Point as part of the East Pass, Florida, navigation project.

(j) Gateway Triangle Redevelopment Area, Florida.—

(1) In general.—The Secretary shall conduct a study to determine the feasibility of undertaking measures to reduce the flooding problems in the vicinity of Gateway Triangle Redevelopment Area, Florida.

(2) Studies and reports.—The study shall include a review and consideration of studies and reports completed by the non-Federal interests.

(k) Hillsborough River, Withlacoochee River Basins, Florida.—The Secretary shall conduct a study to identify appropriate measures that can be undertaken in the Green Swamp, Withlacoochee River, and the Hillsborough River, the Water Triangle of west central Florida, to address comprehensive watershed planning for water conservation, water supply, restoration and protection of environmental resources, and other water resource-related problems in the area.

(l) CITY OF PLANT CITY, FLORIDA.—

(1) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility of a flood control project in the city of Plant City, Florida.

(2) STUDIES AND REPORTS.—In conducting the study, the Secretary shall review and consider studies and reports completed by the non-Federal interests.

(m) ST. LUCIE COUNTY, FLORIDA, SHORE PROTECTION.—The Secretary shall conduct a study to determine the feasibility of a shore protection and hurricane and storm damage reduction project to the shoreline areas in St. Lucie County from the current project for Fort Pierce Beach, Florida, southward to the Martin County line.

(n) SAINT JOSEPH RIVER, SOUTH BEND, INDIANA.—The Secretary shall conduct a study to determine the feasibility of undertaking erosion control, bank stabilization, and flood control along the Saint Joseph River, Indiana, including the South Bend Dam and the banks of the East Bank and Island Park.

(o) ACADIANA NAVIGATION CHANNEL, LOUISIANA.—The Secretary shall conduct a study to determine the feasibility of assuming operations and maintenance for the Acadiana Navigation Channel located in Iberia and Vermillion Parishes, Louisiana.

(p) CAMERON PARISH WEST OF CALCASIEU RIVER, LOUISIANA.—The Secretary shall conduct a study to determine the feasibility of a storm damage reduction and ecosystem restoration project for Cameron Parish west of Calcasieu River, Louisiana.

(q) BENEFICIAL USE OF DREDGED MATERIAL, COASTAL LOUISIANA.—The Secretary shall conduct a study to determine the feasibility of using dredged material from maintenance activities at Federal navigation projects in coastal Louisiana to benefit coastal areas in the State.

(r) CONTRABAND BAYOU NAVIGATION CHANNEL, LOUISIANA.—The Secretary shall conduct a study to determine the feasibility of assuming the maintenance at Contraband Bayou, Calcasieu River Ship Canal, Louisiana.

(s) GOLDEN MEADOW LOCK, LOUISIANA.—The Secretary shall conduct a study to determine the feasibility of converting the Golden Meadow floodgate into a navigation lock to be included in the Larose to Golden Meadow Hurricane Protection Project, Louisiana.

(t) GULF INTRACOASTAL WATERWAY ECOSYSTEM PROTECTION, CHEF MENTEUR TO SABINE RIVER, LOUISIANA.—

(1) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility of undertaking ecosystem restoration and protection measures along the Gulf Intracoastal Waterway from Chef Menteur to Sabine River, Louisiana.

(2) MATTERS TO BE ADDRESSED.—The study shall address saltwater intrusion, tidal scour, erosion, and other water resources related problems in that area.

(u) LAKE PONTCHARTRAIN, LOUISIANA, AND VICINITY, ST. CHARLES PARISH PUMPS.—The Secretary shall conduct a study to determine the feasibility of modifying the Lake Pontchartrain Hurricane Protection Project to include the St. Charles Parish Pumps and the modification of the seawall fronting protection along Lake Pontchartrain in Orleans Parish, from New Basin Canal on the west to the Inner Harbor Navigation Canal on the east.

(v) LAKE PONTCHARTRAIN AND VICINITY SEAWALL RESTORATION, LOUISIANA.—The Secretary shall conduct a study to determine the feasibility of undertaking structural modifications of that portion of the seawall fronting protection along the south shore of Lake Pontchartrain in Orleans Parish, Louisiana, extending approximately 5 miles from the new basin Canal on the west to the Inner Harbor Navigation Canal on the east as a part of the Lake Pontchartrain and Vicinity Hurricane Protection Project, authorized by section 204 of the Flood Control Act of 1965 (79 Stat. 1077).

(w) LOUISIANA STATE PENITENTIARY LEVEE.—The Secretary shall conduct a study of the impacts of crediting the non-Federal interests for work performed in the project area of the Louisiana State Penitentiary Levee.

(x) DETROIT RIVER, MICHIGAN, GREENWAY CORRIDOR STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility of a project for shoreline protection, frontal erosion, and associated purposes in the Detroit River shoreline area from the Belle Isle Bridge to the Ambassador Bridge in Detroit, Michigan.

(2) POTENTIAL MODIFICATIONS.—As a part of the study, the Secretary shall review potential project modifications to any existing Corps projects within the same area.

(y) ST. CLAIR SHORES FLOOD CONTROL, MICHIGAN.—The Secretary shall conduct a study to determine the feasibility of constructing a flood control project at St. Clair Shores, Michigan.

(z) TUNICA LAKE WEIR, MISSISSIPPI.—

(1) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility of constructing an outlet weir at Tunica Lake, Tunica County, Mississippi, and Lee County, Arkansas, for the purpose of stabilizing water levels in the Lake.

(2) ECONOMIC ANALYSIS.—In carrying out the study, the Secretary shall include as a part of the economic analysis the benefits derived from recreation uses at the Lake and economic benefits associated with restoration of fish and wildlife habitat.

(aa) PROTECTIVE FACILITIES FOR THE ST. LOUIS, MISSOURI, RIVERFRONT AREA.—

(1) STUDY.—The Secretary shall conduct a study to determine the optimal plan to protect facilities that are located on the Mississippi River riverfront within the boundaries of St. Louis, Missouri.

(2) REQUIREMENTS.—In conducting the study, the Secretary shall—

(A) evaluate alternatives to offer safety and security to facilities; and

(B) use state-of-the-art techniques to best evaluate the current situation, probable solutions, and estimated costs.

(3) REPORT.—Not later than April 15, 1999, the Secretary shall submit to Congress a report on the results of the study.

(bb) YELLOWSTONE RIVER, MONTANA.—

(1) STUDY.—The Secretary shall conduct a comprehensive study of the Yellowstone River from Gardiner, Montana to the confluence of the Missouri River to determine the hydrologic, biological, and socioeconomic cumulative impacts on the river.

(2) CONSULTATION AND COORDINATION.—The Secretary shall conduct the study in consultation with the United States Fish and Wildlife Service, the United States Geological Survey, and the Natural Resources Conservation Service and with the full participation of the State of Montana and tribal and local entities, and provide for public participation.

(3) REPORT.—Not later than 5 years after the date of enactment of this Act, the Secretary shall submit a report to Congress on the results of the study.

(cc) LAS VEGAS VALLEY, NEVADA.—

(1) IN GENERAL.—The Secretary shall conduct a comprehensive study of water resources located in the Las Vegas Valley, Nevada.

(2) OBJECTIVES.—The study shall identify problems and opportunities related to ecosystem restoration, water quality, particularly the quality of surface runoff, water supply, and flood control.

(dd) CAMDEN AND GLOUCESTER COUNTIES, NEW JERSEY, STREAMS AND WATERSHEDS.—The Secretary shall conduct a study to determine the feasibility of undertaking ecosystem restoration, floodplain management, flood control, water quality control, comprehensive watershed management, and other allied purposes along tributaries of the Delaware River, Camden County and Gloucester County, New Jersey.

(ee) OSWEGO RIVER BASIN, NEW YORK.—The Secretary shall conduct a study to determine the feasibility of establishing a flood forecasting system within the Oswego River basin, New York.

(ff) PORT OF NEW YORK-NEW JERSEY NAVIGATION STUDY AND ENVIRONMENTAL RESTORATION STUDY.—

(1) NAVIGATION STUDY.—The Secretary shall conduct a comprehensive study of navigation needs at the Port of New York-New Jersey (including the South Brooklyn Marine and Red Hook Container Terminals, Staten Island, and adjacent areas) to address improvements, including deepening of existing channels to depths of 50 feet or greater, that are required to provide economically efficient and environmentally sound navigation to meet current and future requirements.

(2) ENVIRONMENTAL RESTORATION STUDY.—The Secretary, acting through the Chief of Engineers, shall review the report of the Chief of Engineers on the New York Harbor, printed in the House Management Plan of the Harbor Estuary Program, and other pertinent reports concerning the New York Harbor Region and the Port of New York-New Jersey, to determine the Federal interest in advancing harbor environmental restoration.

(3) REPORT.—The Secretary may use funds from the ongoing navigation study for New York and New Jersey Harbor to complete a reconnaissance report for environmental restoration by December 31, 1999. The navigation study to deepen New York and New Jersey Harbor shall consider beneficial use of dredged material.

(gg) BANK STABILIZATION, MISSOURI RIVER, NORTH DAKOTA.—

(1) STUDY.—

(A) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility of bank stabilization on the Missouri River between the Garrison Dam and Lake Oahe in North Dakota.

(B) ELEMENTS.—In conducting the study, the Secretary shall study—

(i) options for stabilizing the erosion sites on the banks of the Missouri River between the Garrison Dam and Lake Oahe identified in the report developed by the North Dakota State Water Commission, dated December 1997, including stabilization through nontraditional measures;

(ii) the cumulative impact of bank stabilization measures between the Garrison

Dam and Lake Oahe on fish and wildlife habitat and the potential impact of additional stabilization measures, including the impact of nontraditional stabilization measures;

(iii) the current and future effects, including economic and fish and wildlife habitat effects, that bank erosion is having on creating the delta at the beginning of Lake Oahe; and

(iv) the impact of taking no additional measures to stabilize the banks of the Missouri River between the Garrison Dam and Lake Oahe.

(C) Interested parties.—In conducting the study, the Secretary shall, to the maximum extent practicable, seek the participation and views of interested Federal, State, and local agencies, landowners, conservation organizations, and other persons.

(D) Report.—

(i) In general.—The Secretary shall report to Congress on the results of the study not later than 1 year after the date of enactment of this Act.

(ii) Status.—If the Secretary cannot complete the study and report to Congress by the day that is 1 year after the date of enactment of this Act, the Secretary shall, by that day, report to Congress on the status of the study and report, including an estimate of the date of completion.

(2) Effect on existing projects.—This subsection does not preclude the Secretary from establishing or carrying out a stabilization project that is authorized by law.

(hh) Santee Delta Wetland Habitat, South Carolina.—Not later than 18 months after the date of enactment of this Act, the Secretary shall complete a comprehensive study of the ecosystem in the Santee Delta focus area of South Carolina to determine the feasibility of undertaking measures to enhance the wetland habitat in the area.

(ii) Waccamaw River, South Carolina.—The Secretary shall conduct a study to determine the feasibility of a flood control project for the Waccamaw River in Horry County, South Carolina.

(jj) Upper Susquehanna-Lackawanna, Pennsylvania, Watershed Management and Restoration Study.—

(1) In general.—The Secretary shall conduct a study to determine the feasibility of a comprehensive flood plain management and watershed restoration project for the Upper Susquehanna-Lackawanna Watershed, Pennsylvania.

(2) Geographic information system.—In conducting the study, the Secretary shall use a geographic information system.

(3) Plans.—The study shall formulate plans for comprehensive flood plain management and environmental restoration.

(4) Crediting.—Non-Federal interests may receive credit for in-kind services and materials that contribute to the study. The Secretary may credit non-Corps Federal assistance provided to the non-Federal interest toward the non-Federal share of study costs to the maximum extent authorized by law.

(kk) Niobrara River and Missouri River Sedimentation Study, South Dakota.—The Secretary shall conduct a study of the Niobrara River watershed and the operations of Fort Randall Dam and Gavins Point Dam on the Missouri River to determine the feasibility of alleviating the bank erosion, sedimentation, and related problems in the lower Niobrara River and the Missouri River below Fort Randall Dam.

(ll) Santa Clara River, Utah.—

(1) In general.—The Secretary shall conduct a study to determine the feasibility of undertaking measures to alleviate damage caused by flooding, bank erosion, and sedimentation along the watershed of the Santa Clara River, Utah, above the Gunlock Reservoir.

(2) Contents.—The study shall include an analysis of watershed conditions and water quality, as related to flooding and bank erosion, along the Santa Clara River in the vicinity of the town of Gunlock, Utah.

(mm) City of Ocean Shores Shore Protection Project, Washington.—The Secretary shall conduct a study to determine the feasibility of undertaking a project for beach erosion and flood control, including relocation of a primary dune and periodic nourishment, at Ocean Shores, Washington.

(nn) Agat Small Boat Harbor, Guam.—The Secretary shall conduct a study to determine the feasibility of undertaking the repair and reconstruction of Agat Small Boat Harbor, Guam, including the repair of existing shore protection measures and construction or a revetment of the breakwater seawall.

(oo) Apra Harbor Seawall, Guam.—The Secretary shall conduct a study to determine the feasibility of undertaking measures to repair, upgrade, and extend the seawall protecting Apra Harbor, Guam, and to ensure continued access to the harbor via Route 11B.

(pp) Apra Harbor Fuel Piers, Guam.—The Secretary shall conduct a study to determine the feasibility of undertaking measures to upgrade the piers and fuel transmission lines at the fuel piers in the Apra Harbor, Guam, and measures to provide for erosion control and protection against storm damage.

(qq) Maintenance Dredging of Harbor Piers, Guam.—The Secretary shall conduct a study to determine the feasibility of Federal maintenance of areas adjacent to piers at harbors in Guam, including Apra Harbor, Agat Harbor, and Agana Marina.

(rr) Alternative Water Sources Study.—

(1) In general.—The Administrator of the Environmental Protection Agency shall conduct a study of the water supply needs of States that are not currently eligible for assistance under title XVI of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. 390h et seq.).

(2) Requirements.—The study shall—

(A) identify the water supply needs (including potable, commercial, industrial, recreational and agricultural needs) of each State described in paragraph (1) through 2020, making use of such State, regional, and local plans, studies, and reports as are available;

(B) evaluate the feasibility of various alternative water source technologies such as reuse and reclamation of wastewater and stormwater (including indirect potable reuse), aquifer storage and recovery, and desalination to meet the anticipated water supply needs of the States; and

(C) assess how alternative water sources technologies can be utilized to meet the identified needs.

(3) Report.—The Administrator shall report to Congress on the results of the study not more than 180 days after the date of enactment of this Act.

SEC. 106. FLOOD HAZARD MITIGATION AND RIVERINE ECOSYSTEM RESTORATION PROGRAM.

(a) In General.—

(1) Authorization.—The Secretary may carry out a program to reduce flood hazards and restore the natural functions and values of riverine ecosystems throughout the United States.

(2) Studies.—In carrying out the program, the Secretary shall conduct studies to identify appropriate flood damage reduction, conservation, and restoration measures and may design and implement watershed management and restoration projects.

(3) Participation.—The studies and projects carried out under the program shall be conducted, to the extent practicable, with the full participation of the appropriate Federal agencies, including the Department of Agriculture, the Federal Emergency Management Agency, the Department of the Interior, the Environmental Protection Agency, and the Department of Commerce.

(4) Nonstructural approaches.—The studies and projects shall, to the extent practicable, emphasize nonstructural approaches to preventing or reducing flood damages.

(b) Cost-Sharing Requirements.—

(1) Studies.—The cost of studies conducted under subsection (a) shall be shared in accordance with section 105 of the Water Resources Development Act of 1986 (33 Stat. 2215).

(2) Projects.—The non-Federal interests shall pay 35 percent of the cost of any project carried out under this section.

(3) In-kind contributions.—The non-Federal interests shall provide all land, easements, rights-of-way, dredged material disposal areas, and relocations necessary for the projects. The value of the land, easements, rights-of-way, dredged material disposal areas, and relocations shall be credited toward the payment required under this subsection.

(4) Responsibilities of the non-Federal interests.—The non-Federal interests shall be responsible for all costs associated with operating, maintaining, replacing, repairing, and rehabilitating all projects carried out under this section.

(c) Project Justification.—

(1) In general.—The Secretary may implement a project under this section if the Secretary determines that the project—

(A) will significantly reduce potential flood damages;

(B) will improve the quality of the environment; and

(C) is justified considering all costs and beneficial outputs of the project.

(2) Selection criteria; policies and procedures.—Not later than 180 days after the date of enactment of this Act, the Secretary shall—

(A) develop criteria for selecting and rating the projects to be carried out as part of the program authorized by this section; and

(B) establish policies and procedures for carrying out the studies and projects undertaken under this section.

(d) Reporting Requirement.—The Secretary may not implement a project under this section until—

(1) the Secretary provides to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a written notification describing the project and the determinations made under subsection (c); and

(2) a period of 21 calendar days has expired following the date on which the notification was received by the Committees.

(e) Priority Areas.—In carrying out this section, the Secretary shall examine the potential for flood damage reductions at appropriate locations, including—

(1) Le May, Missouri;

(2) upper Delaware River basin, New York;

(3) Tillamook County, Oregon;

(4) Providence County, Rhode Island; and

(5) Willamette River basin, Oregon.

(f) Per-Project Limitation.—Not more than $25,000,000 in Army Civil Works appropriations may be expended on any single project undertaken under this section.

(g) Authorization of Appropriations.—

(1) In general.—There is authorized to be appropriated to carry out this section $75,000,000 for the period of fiscal years 2000 and 2001.

(2) Program funding levels.—All studies and projects undertaken under this authority from Army Civil Works appropriations shall be fully funded within the program funding levels provided in this subsection.

SEC. 107. SHORE PROTECTION.

Section 103(d) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(d)) is amended—

(1) by striking "Costs of constructing" and inserting the following:

"(1) Construction.—Costs of constructing"; and

(2) by adding at the end the following:

"(2) Periodic nourishment.—In the case of a project authorized for construction after December 31, 1998, or for which a feasibility study is completed after that date, the non-Federal cost of the periodic nourishment of projects or measures for shore protection or beach erosion control shall be 50 percent, except that—

"(A) all costs assigned to benefits to privately owned shores (where use of such shores is limited to private interests) or to prevention of losses of private land shall be borne by non-Federal interests; and

"(B) all costs assigned to the protection of federally owned shores shall be borne by the United States.".

SEC. 108. SMALL FLOOD CONTROL AUTHORITY.

Section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s) is amended—

(1) in the first sentence, by striking "construction of small projects" and inserting "implementation of small structural and nonstructural projects"; and

(2) in the third sentence, by striking "$5,000,000" and inserting "$7,000,000".

SEC. 109. USE OF NON-FEDERAL FUNDS FOR COMPILING AND DISSEMINATING INFORMATION ON FLOODS AND FLOOD DAMAGES.

Section 206(b) of the Flood Control Act of 1960 (33 U.S.C. 709a(b)) is amended in the third sentence by inserting before the period at the end the following: ", but the Secretary of the Army may accept funds voluntarily contributed by such entities for the purpose of expanding the scope of the services requested by the entities".

SEC. 110. EVERGLADES AND SOUTH FLORIDA ECOSYSTEM RESTORATION.

Subparagraphs (B) and (C)(i) of section 528(b)(3) of the Water Resources Development Act of 1996 (110 Stat. 3769) are amended by striking "1999" and inserting "2000".

SEC. 111. AQUATIC ECOSYSTEM RESTORATION.

Section 206(c) of the Water Resources Development Act of 1996 (33 U.S.C. 2330(c)) is amended—

(1) by striking "Construction" and inserting the following:

"(1) In general.—Construction"; and

(2) by adding at the end the following:

"(2) Nonprofit entities.—Notwithstanding section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), for any project carried out under this section, a non-Federal interest may include a nonprofit entity, with the consent of the affected local government.".

SEC. 112. BENEFICIAL USES OF DREDGED MATERIAL.

Section 204 of the Water Resources Development Act of 1992 (33 U.S.C. 2326) is amended by adding at the end the following:

"(g) Nonprofit Entities.—Notwithstanding section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), for any project carried out under this section, a non-Federal interest may include a nonprofit entity, with the consent of the affected local government.".

SEC. 113. VOLUNTARY CONTRIBUTIONS BY STATES AND POLITICAL SUBDIVISIONS.

Section 5 of the Act of June 22, 1936 (33 U.S.C. 701h), is amended by inserting "or environmental restoration" after "flood control".

SEC. 114. RECREATION USER FEES.

(a) Withholding of Amounts.—

(1) In general.—During fiscal years 1999 through 2002, the Secretary may withhold from the special account established under section 4(i)(1)(A) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–6a(i)(1)(A)) 100 percent of the amount of receipts above a baseline of $34,000,000 per each fiscal year received from fees imposed at recreation sites under the administrative jurisdiction of the Department of the Army under section 4(b) of that Act (16 U.S.C. 460*l*–6a(b)).

(2) Use.—The amounts withheld shall be retained by the Secretary and shall be available, without further Act of appropriation, for expenditure by the Secretary in accordance with subsection (b).

(3) Availability.—The amounts withheld shall remain available until September 30, 2005.

(b) Use of Amounts Withheld.—In order to increase the quality of the visitor experience at public recreational areas and to enhance the protection of resources, the amounts withheld under subsection (a) may be used only for—

(1) repair and maintenance projects (including projects relating to health and safety);

(2) interpretation;

(3) signage;

(4) habitat or facility enhancement;

(5) resource preservation;

(6) annual operation (including fee collection);

(7) maintenance; and

(8) law enforcement related to public use.

(c) Availability.—Each amount withheld by the Secretary shall be available for expenditure, without further Act of appropriation, at the specific project from which the amount, above baseline, is collected.

SEC. 115. WATER RESOURCES DEVELOPMENT STUDIES FOR THE PACIFIC REGION.

Section 444 of the Water Resources Development Act of 1996 (110 Stat. 3747) is amended by striking "interest of navigation" and inserting "interests of water resources development (including navigation, flood damage reduction, and environmental restoration)".

SEC. 116. MISSOURI AND MIDDLE MISSISSIPPI RIVERS ENHANCEMENT PROJECT.

(a) Definitions.—In this section:

(1) Middle Mississippi river.—The term "middle Mississippi River" means the reach of the Mississippi River from the mouth of the Ohio River (river mile 0, upper Mississippi River) to the mouth of the Missouri River (river mile 195).

(2) Missouri river.—The term "Missouri River" means the main stem and floodplain of the Missouri River (including reservoirs) from its confluence with the Mississippi River at St. Louis, Missouri, to its headwaters near Three Forks, Montana.

(3) Project.—The term "project" means the project authorized by this section.

(b) Protection and Enhancement Activities.—

(1) Plan.—

(A) Development.—Not later than 180 days after the date of enactment of this Act, the Secretary shall develop a plan for a project to protect and enhance fish and wildlife habitat of the Missouri River and the middle Mississippi River.

(B) Activities.—

(i) In general.—The plan shall provide for such activities as are necessary to protect and enhance fish and wildlife habitat without adversely affecting—

(I) the water-related needs of the region surrounding the Missouri River and the middle Mississippi River, including flood control, navigation, recreation, and enhancement of water supply; and

(II) private property rights.

(ii) Required activities.—The plan shall include—

(I) modification and improvement of navigation training structures to protect and enhance fish and wildlife habitat;

(II) modification and creation of side channels to protect and enhance fish and wildlife habitat;

(III) restoration and creation of island fish and wildlife habitat;

(IV) creation of riverine fish and wildlife habitat;

(V) establishment of criteria for prioritizing the type and sequencing of activities based on cost-effectiveness and likelihood of success; and

(VI) physical and biological monitoring for evaluating the success of the project, to be performed by the River Studies Center of the United States Geological Survey in Columbia, Missouri.

(2) Implementation of activities.—

(A) In general.—Using funds made available to carry out this section, the Secretary shall carry out the activities described in the plan.

(B) Use of existing authority for unconstructed features of the project.—Using funds made available to the Secretary under other law, the Secretary shall design and construct any feature of the project that may be carried out using the authority of the Secretary to modify an authorized project, if the Secretary determines that the design and construction will—

(i) accelerate the completion of activities to protect and enhance fish and wildlife habitat of the Missouri River or the middle Mississippi River; and

(ii) be compatible with the project purposes described in this section.

(c) Integration of Other Activities.—

(1) In general.—In carrying out the activities described in subsection (b), the Secretary shall integrate the activities with other Federal, State, and tribal activities.

(2) New authority.—Nothing in this section confers any new regulatory authority on any Federal or non-Federal entity that carries out any activity authorized by this section.

(d) Public Participation.—In developing and carrying out the plan and the activities described in subsection (b), the Secretary shall provide for public review and comment in accordance with applicable Federal law, including—

(1) providing advance notice of meetings;

(2) providing adequate opportunity for public input and comment;

(3) maintaining appropriate records; and

(4) compiling a record of the proceedings of meetings.

(e) COMPLIANCE WITH APPLICABLE LAW.—In carrying out the activities described in subsections (b) and (c), the Secretary shall comply with any applicable Federal law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(f) COST SHARING.—

(1) NON-FEDERAL SHARE.—The non-Federal share of the cost of the project shall be 35 percent.

(2) FEDERAL SHARE.—The Federal share of the cost of any 1 activity described in subsection (b) shall not exceed $5,000,000.

(3) OPERATION AND MAINTENANCE.—The operation and maintenance of the project shall be a non-Federal responsibility.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to pay the Federal share of the cost of carrying out activities under this section $30,000,000 for the period of fiscal years 2000 and 2001.

SEC. 117. OUTER CONTINENTAL SHELF.

(a) SAND, GRAVEL, AND SHELL.—Section 8(k)(2)(B) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(k)(2)(B)) is amended in the second sentence by inserting before the period at the end the following: "or any other non-Federal interest subject to an agreement entered into under section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b)".

(b) REIMBURSEMENT FOR LOCAL INTERESTS AT SANDBRIDGE BEACH, VIRGINIA BEACH, VIRGINIA.—Any amounts paid by the non-Federal interests for beach erosion control and hurricane protection, Sandbridge Beach, Virginia Beach, Virginia, as a result of an assessment under section 8(k) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(k)) shall be fully reimbursed.

SEC. 118. ENVIRONMENTAL DREDGING.

Section 312(f) of the Water Resources Development Act of 1990 (33 U.S.C. 1272(f)) is amended by adding at the end the following:

"(6) Snake Creek, Bixby, Oklahoma.".

SEC. 119. BENEFIT OF PRIMARY FLOOD DAMAGES AVOIDED INCLUDED IN BENEFIT-COST ANALYSIS.

Section 308 of the Water Resources Development Act of 1990 (33 U.S.C. 2318) is amended—

(1) in the heading of subsection (a), by striking "BENEFIT-COST ANALYSIS" and inserting "ELEMENTS EXCLUDED FROM COST-BENEFIT ANALYSIS";

(2) by redesignating subsections (b) through (e) as subsections (c) through (f), respectively;

(3) by inserting after subsection (a) the following:

"(b) ELEMENTS INCLUDED IN COST-BENEFIT ANALYSIS.—The Secretary shall include primary flood damages avoided in the benefit base for justifying Federal nonstructural flood damage reduction projects."; and

(4) in the first sentence of subsection (e) (as redesignated by paragraph (2)), by striking "(b)" and inserting "(d)".

SEC. 120. CONTROL OF AQUATIC PLANT GROWTH.

Section 104(a) of the River and Harbor Act of 1958 (33 U.S.C. 610(a)) is amended—

(1) by inserting "Arundo dona," after "water-hyacinth,"; and

(2) by inserting "tarmarix" after "melaleuca".

SEC. 121. ENVIRONMENTAL INFRASTRUCTURE.

Section 219(c) of the Water Resources Development Act of 1992 (106 Stat. 4835) is amended by adding at the end the following:

"(19) LAKE TAHOE, CALIFORNIA AND NEVADA.—Regional water system for Lake Tahoe, California and Nevada.

"(20) LANCASTER, CALIFORNIA.—Fox Field Industrial Corridor water facilities, Lancaster, California.

"(21) SAN RAMON, CALIFORNIA.—San Ramon Valley recycled water project, San Ramon, California.".

SEC. 122. WATERSHED MANAGEMENT, RESTORATION, AND DEVELOPMENT.

Section 503 of the Water Resources Development Act of 1996 (110 Stat. 3756) is amended—

(1) in subsection (d)—

(A) by striking paragraph (10) and inserting the following:

"(10) Regional Atlanta Watershed, Atlanta, Georgia, and Lake Lanier of Forsyth and Hall Counties, Georgia."; and

(B) by adding at the end the following:

"(14) Clear Lake watershed, California.

"(15) Fresno Slough watershed, California.

"(16) Hayward Marsh, Southern San Francisco Bay watershed, California.

"(17) Kaweah River watershed, California.

"(18) Lake Tahoe watershed, California and Nevada.

"(19) Malibu Creek watershed, California.

"(20) Truckee River basin, Nevada.

"(21) Walker River basin, Nevada.

"(22) Bronx River watershed, New York.

"(23) Catawba River watershed, North Carolina.";

(2) by redesignating subsection (e) as subsection (f); and

(3) by inserting after subsection (d) the following:

"(e) NONPROFIT ENTITIES.—Notwithstanding section 221(b) of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b(b)), for any project undertaken under this section, with the consent of the affected local government, a non-Federal interest may include a nonprofit entity.".

SEC. 123. LAKES PROGRAM.

Section 602(a) of the Water Resources Development Act of 1986 (100 Stat. 4148) is amended—

(1) in paragraph (15), by striking "and" at the end;

(2) in paragraph (16), by striking the period at the end; and

(3) by adding at the end the following:

"(17) Clear Lake, Lake County, California, removal of silt and aquatic growth and development of a sustainable weed and algae management program;

"(18) Flints Pond, Hollis, New Hampshire, removal of excessive aquatic vegetation; and

"(19) Osgood Pond, Milford, New Hampshire, removal of excessive aquatic vegetation.".

SEC. 124. DREDGING OF SALT PONDS IN THE STATE OF RHODE ISLAND.

The Secretary may acquire for the State of Rhode Island a dredge and associated equipment with the capacity to dredge approximately 100 cubic yards per hour for use by the State in dredging salt ponds in the State.

SEC. 125. UPPER SUSQUEHANNA RIVER BASIN, PENNSYLVANIA AND NEW YORK.

Section 567(a) of the Water Resources Development Act of 1996 (110 Stat. 3787) is amended by adding at the end the following:

"(3) The Chemung River watershed, New York, at an estimated Federal cost of $5,000,000.".

SEC. 126. SMALL FLOOD CONTROL PROJECTS.

Section 102 of the Water Resources Development Act of 1996 (110 Stat. 3668) is amended—

(1) by redesignating paragraphs (15) through (22) as paragraphs (16) through (23), respectively;

(2) by inserting after paragraph (14) the following:

"(15) REPAUPO CREEK AND DELAWARE RIVER, GLOUCESTER COUNTY, NEW JERSEY.—Project for tidegate and levee improvements for Repaupo Creek and the Delaware River, Gloucester County, New Jersey."; and

(3) by adding at the end the following:

"(24) IRONDEQUOIT CREEK, NEW YORK.—Project for flood control, Irondequoit Creek watershed, New York.

"(25) TIOGA COUNTY, PENNSYLVANIA.—Project for flood control, Tioga River and Cowanesque River and their tributaries, Tioga County, Pennsylvania.".

SEC. 127. SMALL NAVIGATION PROJECTS.

Section 104 of the Water Resources Development Act of 1996 (110 Stat. 3669) is amended—

(1) by redesignating paragraphs (9) through (12) as paragraphs (10) through (13), respectively; and

(2) by inserting after paragraph (8) the following:

"(9) FORTESCUE INLET, DELAWARE BAY, NEW JERSEY.—Project for navigation for Fortescue Inlet, Delaware Bay, New Jersey.".

SEC. 128. STREAMBANK PROTECTION PROJECTS.

(a) ARCTIC OCEAN, BARROW, ALASKA.—The Secretary shall evaluate and, if justified under section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r), carry out storm damage reduction and coastal erosion measures at the town of Barrow, Alaska.

(b) SAGINAW RIVER, BAY CITY, MICHIGAN.—The Secretary may construct appropriate control structures in areas along the Saginaw River in the city of Bay City, Michigan, under authority of section 14 of the Flood Control Act of 1946 (33 Stat. 701s).

(c) YELLOWSTONE RIVER, BILLINGS, MONTANA.—The streambank protection project at Coulson Park, along the Yellowstone River, Billings, Montana, shall be eligible for assistance under section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r).

(d) MONONGAHELA RIVER, POINT MARION, PENNSYLVANIA.—The Secretary shall evaluate and, if justified under section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r), carry out streambank erosion control measures along the Monongahela River at the borough of Point Marion, Pennsylvania.

SEC. 129. AQUATIC ECOSYSTEM RESTORATION, SPRINGFIELD, OREGON.

(a) IN GENERAL.—Under section 1135 of the Water Resources Development Act of 1990 (33 Stat. 2309a) or other applicable authority, the Secretary shall conduct measures to address water quality, water flows and fish habitat restoration in the historic Springfield, Oregon, millrace through the reconfiguration of the existing millpond, if the Secretary determines that harmful impacts have occurred as the result of a previously constructed flood control project by the Corps of Engineers.

(b) NON-FEDERAL SHARE.—The non-Federal share, excluding lands, easements, rights-of-way, dredged material disposal areas, and relocations, shall be 25 percent.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,500,000.

SEC. 130. GUILFORD AND NEW HAVEN, CONNECTICUT.

The Secretary shall expeditiously complete the activities authorized under section 346 of the Water Resources Development Act of 1992 (106 Stat. 4858), including activities associated with Sluice Creek in Guilford, Connecticut, and Lighthouse Point Park in New Haven, Connecticut.

SEC. 131. FRANCIS BLAND FLOODWAY DITCH.

(a) Redesignation.—The project for flood control, Eight Mile Creek, Paragould, Arkansas, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4112) and known as "Eight Mile Creek, Paragould, Arkansas", shall be known and designated as the "Francis Bland Floodway Ditch".

(b) Legal References.—Any reference in any law, map, regulation, document, paper, or other record of the United States to the project and creek referred to in subsection (a) shall be deemed to be a reference to the Francis Bland Floodway Ditch.

SEC. 132. CALOOSAHATCHEE RIVER BASIN, FLORIDA.

Section 528(e)(4) of the Water Resources Development Act of 1996 (110 Stat. 3770) is amended in the first sentence by inserting before the period at the end the following: ", including potential land acquisition in the Caloosahatchee River basin or other areas".

SEC. 133. CUMBERLAND, MARYLAND, FLOOD PROJECT MITIGATION.

(a) In General.—The project for flood control and other purposes, Cumberland, Maryland, authorized by section 5 of the Act of June 22, 1936 (commonly known as the "Flood Control Act of 1936") (49 Stat. 1574, chapter 688), is modified to authorize the Secretary to undertake, as a separate part of the project, restoration of the historic Chesapeake and Ohio Canal substantially in accordance with the Chesapeake and Ohio Canal National Historic Park, Cumberland, Maryland, Rewatering Design Analysis, dated February 1998, at a total cost of $15,000,000, with an estimated Federal cost of $9,750,000 and an estimated non-Federal cost of $5,250,000.

(b) In-Kind Services.—The non-Federal interest for the restoration project under subsection (a)—

(1) may provide all or a portion of the non-Federal share of project costs in the form of in-kind services; and

(2) shall receive credit toward the non-Federal share of project costs for design and construction work performed by the non-Federal interest before execution of a project cooperation agreement and for land, easements, and rights-of-way required for the restoration and acquired by the non-Federal interest before execution of such an agreement.

(c) Operation and Maintenance.—The operation and maintenance of the restoration project under subsection (a) shall be the full responsibility of the National Park Service.

SEC. 134. SEDIMENTS DECONTAMINATION POLICY.

Section 405 of the Water Resources Development Act of 1992 (33 U.S.C. 2239 note; Public Law 102–580) is amended—

(1) in subsection (a), by adding at the end the following:

"(4) Practical end-use products.—Technologies selected for demonstration at the pilot scale shall result in practical end-use products.

"(5) Assistance by the secretary.—The Secretary shall assist the project to ensure expeditious completion by providing sufficient quantities of contaminated dredged material to conduct the full-scale demonstrations to stated capacity."; and

(2) in subsection (c), by striking the first sentence and inserting the following: "There is authorized to be appropriated to carry out this section a total of $22,000,000 to complete technology testing, technology commercialization, and the development of full scale processing facilities within the New York/New Jersey Harbor.".

SEC. 135. CITY OF MIAMI BEACH, FLORIDA.

Section 5(b)(3)(C)(i) of the Act of August 13, 1946 (33 U.S.C. 426h), is amended by inserting before the semicolon the following: ", including the city of Miami Beach, Florida".

SEC. 136. SMALL STORM DAMAGE REDUCTION PROJECTS.

Section 3 of the Act of August 13, 1946 (33 U.S.C. 426g), is amended by striking "$2,000,000" and inserting "$3,000,000".

SEC. 137. SARDIS RESERVOIR, OKLAHOMA.

(a) In General.—The Secretary shall accept from the State of Oklahoma or an agent of the State an amount, as determined under subsection (b), as prepayment of 100 percent of the water supply cost obligation of the State under Contract No. DACW56–74–JC–0314 for water supply storage at Sardis Reservoir, Oklahoma.

(b) Determination of Amount.—The amount to be paid by the State of Oklahoma under subsection (a) shall be subject to adjustment in accordance with accepted discount purchase methods for Government properties as determined by an independent accounting firm designated by the Director of the Office of Management and Budget.

(c) Effect.—Nothing in this section shall otherwise affect any of the rights or obligations of the parties to the contract referred to in subsection (a).

SEC. 138. UPPER MISSISSIPPI RIVER AND ILLINOIS WATERWAY SYSTEM NAVIGATION MODERNIZATION.

(a) Findings.—Congress finds that—

(1) exports are necessary to ensure job creation and an improved standard of living for the people of the United States;

(2) the ability of producers of goods in the United States to compete in the international marketplace depends on a modern and efficient transportation network;

(3) a modern and efficient waterway system is a transportation option necessary to provide United States shippers a safe, reliable, and competitive means to win foreign markets in an increasingly competitive international marketplace;

(4) the need to modernize is heightened because the United States is at risk of losing its competitive edge as a result of the priority that foreign competitors are placing on modernizing their own waterway systems;

(5) growing export demand projected over the coming decades will force greater demands on the waterway system of the United States and increase the cost to the economy if the system proves inadequate to satisfy growing export opportunities;

(6) the locks and dams on the upper Mississippi River and Illinois River waterway system were built in the 1930s and have some of the highest average delays to commercial tows in the country;

(7) inland barges carry freight at the lowest unit cost while offering an alternative to truck and rail transportation that is environmentally sound, is energy efficient, is safe, causes little congestion, produces little air or noise pollution, and has minimal social impact; and

(8) it should be the policy of the Corps of Engineers to pursue aggressively modernization of the waterway system authorized by Congress to promote the relative competitive position of the United States in the international marketplace.

(b) Preconstruction Engineering and Design.—In accordance with the Upper Mississippi River-Illinois Waterway System Navigation Study, the Secretary shall proceed immediately to prepare engineering design, plans, and specifications for extension of locks 20, 21, 22, 24, 25 on the Mississippi River and the LaGrange and Peoria Locks on the Illinois River, to provide lock chambers 110 feet in width and 1,200 feet in length, so that construction can proceed immediately upon completion of studies and authorization of projects by Congress.

SEC. 139. DISPOSAL OF DREDGED MATERIAL ON BEACHES.

Section 145 of the Water Resources Development Act of 1976 (33 U.S.C. 426j) is amended in the first sentence by striking "50" and inserting "35".

SEC. 140. FISH AND WILDLIFE MITIGATION.

Section 906(e) of the Water Resources Development Act of 1986 (33 U.S.C. 2283(e)) is amended by inserting after the second sentence the following: "Not more than 80 percent of the non-Federal share of such first costs may be in kind, including a facility, supply, or service that is necessary to carry out the enhancement project.".

SEC. 141. UPPER MISSISSIPPI RIVER MANAGEMENT.

Section 1103 of the Water Resources Development Act of 1986 (33 U.S.C. 652) is amended—

(1) in subsection (e)—

(A) by striking "(e)" and all that follows through the end of paragraph (2) and inserting the following:

"(e) Undertakings.—

"(1) In general.—

"(A) Authority.—The Secretary, in consultation with the Secretary of the Interior and the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, is authorized to undertake—

"(i) a program for the planning, construction, and evaluation of measures for fish and wildlife habitat rehabilitation and enhancement; and

"(ii) implementation of a program of long-term resource monitoring, computerized data inventory and analysis, and applied research.

"(B) Requirements for projects.—Each project carried out under subparagraph (A)(i) shall—

"(i) to the maximum extent practicable, simulate natural river processes;

"(ii) include an outreach and education component; and

"(iii) on completion of the assessment under subparagraph (D), address identified habitat and natural resource needs.

"(C) Advisory committee.—In carrying out subparagraph (A), the Secretary shall create an independent technical advisory committee to review projects, monitoring plans, and habitat and natural resource needs assessments.

"(D) Habitat and natural resource needs assessment.—

"(i) Authority.—The Secretary is authorized to undertake a systemic, river reach, and pool scale assessment of habitat and natural resource needs to serve as a blueprint to guide habitat rehabilitation and long-term resource monitoring.

"(ii) Data.—The habitat and natural resource needs assessment shall, to the maximum extent practicable, use data in existence at the time of the assessment.

"(iii) Timing.—The Secretary shall complete a habitat and natural resource needs assessment not later than 3 years after the date of enactment of this subparagraph.

"(2) Reports.—On December 31, 2005, in consultation with the Secretary of the Interior and the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, the Secretary shall prepare and submit to Congress a report that—

"(A) contains an evaluation of the programs described in paragraph (1);

"(B) describes the accomplishments of each program;

"(C) includes results of a habitat and natural resource needs assessment; and

"(D) identifies any needed adjustments in the authorization under paragraph (1) or the authorized appropriations under paragraphs (3), (4), and (5).";

(B) in paragraph (3)—

(i) by striking "paragraph (1)(A)" and inserting "paragraph (1)(A)(i)"; and

(ii) by striking "Secretary not to exceed" and all that follows and inserting "Secretary not to exceed $22,750,000 for each of fiscal years 1999 through 2009.";

(C) in paragraph (4)—

(i) by striking "paragraph (1)(B)" and inserting "paragraph (1)(A)(ii)"; and

(ii) by striking "$7,680,000" and all that follows and inserting "$10,420,000 for each of fiscal years 1999 through 2009.";

(D) by striking paragraphs (5) and (6) and inserting the following:

"(5) Authorization of appropriations.—There is authorized to be appropriated to carry out paragraph (1)(C) not to exceed $350,000 for each of fiscal years 1999 through 2009.

"(6) Transfer of amounts.—

"(A) In general.—For each fiscal year beginning after September 30, 1992, the Secretary, in consultation with the Secretary of the Interior and the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, may transfer appropriated amounts between the programs under clauses (i) and (ii) of paragraph (1)(A) and paragraph (1)(C).

"(B) Apportionment of costs.—In carrying out paragraph (1)(D), the Secretary may apportion the costs equally between the programs authorized by paragraph (1)(A)."; and

(E) in paragraph (7)—

(i) in subparagraph (A)—

(I) by inserting "(i)" after "paragraph (1)(A)"; and

(II) by inserting before the period at the end the following: "and, in the case of any project requiring non-Federal cost sharing, the non-Federal share of the cost of the project shall be 35 percent"; and

(ii) in subparagraph (B), by striking "paragraphs (1)(B) and (1)(C) of this subsection" and inserting "paragraph (1)(A)(ii)";

(2) in subsection (f)(2)—

(A) in subpatagraph (A), by striking "(A)"; and

(B) by striking subparagraph (B); and

(3) by adding at the end the following:

"(k) St. Louis Area Urban Wildlife Habitat.—The Secretary shall investigate and, if appropriate, carry out restoration of urban wildlife habitat, with a special emphasis on the establishment of greenways in the St. Louis, Missouri, area and surrounding communities.".

SEC. 142. REIMBURSEMENT OF NON-FEDERAL INTEREST.

Section 211(e)(2)(A) of the Water Resources Development Act of 1996 (33 U.S.C. 701b–13(e)(2)(A)) is amended by striking "subject to amounts being made available in advance in appropriations Acts" and inserting "subject to the availability of appropriations".

SEC. 143. RESEARCH AND DEVELOPMENT PROGRAM FOR COLUMBIA AND SNAKE RIVERS SALMON SURVIVAL.

Section 511 of the Water Resources Development Act of 1996 (16 U.S.C. 3301 note; Public Law 104–303) is amended by striking subsection (a) and all that follows and inserting the following:

"(a) Salmon Survival Activities.—

"(1) In general.—In conjunction with the Secretary of Commerce and Secretary of the Interior, the Secretary shall accelerate ongoing research and development activities, and may carry out or participate in additional research and development activities, for the purpose of developing innovative methods and technologies for improving the survival of salmon, especially salmon in the Columbia/Snake River Basin.

"(2) Accelerated activities.—Accelerated research and development activities referred to in paragraph (1) may include research and development related to—

"(A) impacts from water resources projects and other impacts on salmon life cycles;

"(B) juvenile and adult salmon passage;

"(C) light and sound guidance systems;

"(D) surface-oriented collector systems;

"(E) transportation mechanisms; and

"(F) dissolved gas monitoring and abatement.

"(3) Additional activities.—Additional research and development activities referred to in paragraph (1) may include research and development related to—

"(A) studies of juvenile salmon survival in spawning and rearing areas;

"(B) estuary and near-ocean juvenile and adult salmon survival;

"(C) impacts on salmon life cycles from sources other than water resources projects;

"(D) cryopreservation of fish gametes and formation of a germ plasm repository for threatened and endangered populations of native fish; and

"(E) other innovative technologies and actions intended to improve fish survival, including the survival of resident fish.

"(4) Coordination.—The Secretary shall coordinate any activities carried out under this subsection with appropriate Federal, State, and local agencies, affected Indian tribes, and the Northwest Power Planning Council.

"(5) Report.—Not later than 3 years after the date of enactment of this section, the Secretary shall submit to Congress a report on the research and development activities carried out under this subsection, including any recommendations of the Secretary concerning the research and development activities.

"(6) Authorization of appropriations.—There is authorized to be appropriated $10,000,000 to carry out research and development activities under paragraph (3).

"(b) Advanced Turbine Development.—

"(1) In general.—In conjunction with the Secretary of Energy, the Secretary shall accelerate efforts toward developing and installing in Corps of Engineers-operated dams innovative, efficient, and environmentally safe hydropower turbines, including design of fish-friendly turbines, for use on the Columbia/Snake River hydrosystem.

"(2) Authorization of appropriations.—There is authorized to be appropriated $35,000,000 to carry out this subsection.

"(c) Management of Predation on Columbia/Snake River System Native Fishes.—

"(1) Nesting avian predators.—In conjunction with the Secretary of Commerce and the Secretary of the Interior, and consistent with a management plan to be developed by the United States Fish and Wildlife Service, the Secretary shall carry out methods to reduce nesting populations of avian predators on dredge spoil islands in the Columbia River under the jurisdiction of the Secretary.

"(2) Authorization of appropriations.—There is authorized to be appropriated $1,000,000 to carry out research and development activities under this subsection.

"(d) Implementation.—Nothing in this section affects the authority of the Secretary to implement the results of the research and development carried out under this section or any other law.".

SEC. 144. NINE MILE RUN HABITAT RESTORATION, PENNSYLVANIA.

The Secretary may credit against the non-Federal share such costs as are incurred by the non-Federal interests in preparing environmental and other preconstruction documentation for the habitat restoration project, Nine Mile Run, Pennsylvania, if the Secretary determines that the documentation is integral to the project.

SEC. 145. SHORE DAMAGE PREVENTION OR MITIGATION.

Section 111 of the River and Harbor Act of 1968 (33 U.S.C. 426(i)) is amended—

(1) in the first sentence, by striking "The Secretary" and inserting "(a) In General.—The Secretary";

(2) in the second sentence, by striking "The costs" and inserting the following:

"(b) Cost Sharing.—The costs";

(3) in the third sentence—

(A) by striking "No such" and inserting the following:

"(c) Requirement for Specific Authorization.—No such"; and

(B) by striking "$2,000,000" and inserting "$5,000,000"; and

(4) by adding at the end the following:

"(d) Coordination.—The Secretary shall—

"(1) coordinate the implementation of the measures under this section with other Federal and non-Federal shore protection projects in the same geographic area; and

"(2) to the extent practicable, combine mitigation projects with other shore protection projects in the same area into a comprehensive regional project.".

SEC. 146. LARKSPUR FERRY CHANNEL, CALIFORNIA.

The Secretary shall work with the Secretary of Transportation on a proposed solution to carry out the project to maintain the Larkspur Ferry Channel, Larkspur, California, authorized by section 601(d) of the Water Resources Development Act of 1986 (100 Stat. 4148).

SEC. 147. COMPREHENSIVE FLOOD IMPACT-RESPONSE MODELING SYSTEM.

(a) In General.—The Secretary may study and implement a Comprehensive Flood Impact-Response Modeling System for the Coralville Reservoir and the Iowa River watershed, Iowa.

(b) Study.—The study shall include—

(1) an evaluation of the combined hydrologic, geomorphic, environmental, economic, social, and recreational impacts of operating strategies within the watershed;

(2) creation of an integrated, dynamic flood impact model; and

(3) the development of a rapid response system to be used during flood and emergency situations.

(c) Report to Congress.—Not later than 5 years after the date of enactment of this Act, the Secretary shall transmit a report to Congress on the results of the study and modeling system and such recommendations as the Secretary determines to be appropriate.

(d) Authorization of Appropriations.—There is authorized to be appropriated a total of $2,250,000 to carry out this section.

SEC. 148. STUDY REGARDING INNOVATIVE FINANCING FOR SMALL AND MEDIUM-SIZED PORTS.

(a) Study.—The Comptroller General of the United States shall conduct a study and analysis of various alternatives for innovative financing of future construction, operation, and maintenance of projects in small and medium-sized ports.

(b) REPORT.—Not later than 270 days after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Environment and Public Works of the Senate and Committee on Transportation and Infrastructure of the House of Representatives and the results of the study and any related legislative recommendations for consideration by Congress.

SEC. 149. CANDY LAKE PROJECT, OSAGE COUNTY, OKLAHOMA.

(a) DEFINITIONS.—In this section:

(1) FAIR MARKET VALUE.—The term "fair market value" means the amount for which a willing buyer would purchase and a willing seller would sell a parcel of land, as determined by a qualified, independent land appraiser.

(2) PREVIOUS OWNER OF LAND.—The term "previous owner of land" means a person (including a corporation) that conveyed, or a descendant of a deceased individual who conveyed, land to the Army Corps of Engineers for use in the Candy Lake project in Osage County, Oklahoma.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Army.

(b) LAND CONVEYANCES.—

(1) IN GENERAL.—The Secretary shall convey, in accordance with this section, all right, title, and interest of the United States in and to the land acquired by the United States for the Candy Lake project in Osage County, Oklahoma.

(2) PREVIOUS OWNERS OF LAND.—

(A) IN GENERAL.—The Secretary shall give a previous owner of land first option to purchase the land described in paragraph (1).

(B) APPLICATION.—

(i) IN GENERAL.—A previous owner of land that desires to purchase the land described in paragraph (1) that was owned by the previous owner of land, or by the individual from whom the previous owner of land is descended, shall file an application to purchase the land with the Secretary not later than 180 days after the official date of notice to the previous owner of land under subsection (c).

(ii) FIRST TO FILE HAS FIRST OPTION.—If more than 1 application is filed for a parcel of land described in paragraph (1), first options to purchase the parcel of land shall be allotted in the order in which applications for the parcel of land were filed.

(C) IDENTIFICATION OF PREVIOUS OWNERS OF LAND.—As soon as practicable after the date of enactment of this Act, the Secretary shall, to the extent practicable, identify each previous owner of land.

(D) CONSIDERATION.—Consideration for land conveyed under this subsection shall be the fair market value of the land.

(3) DISPOSAL.—Any land described in paragraph (1) for which an application has not been filed under paragraph (2)(B) within the applicable time period shall be disposed of in accordance with law.

(4) EXTINGUISHMENT OF EASEMENTS.—All flowage easements acquired by the United States for use in the Candy Lake project in Osage County, Oklahoma, are extinguished.

(c) NOTICE.—

(1) IN GENERAL.—The Secretary shall notify—

(A) each person identified as a previous owner of land under subsection (b)(2)(C), not later than 90 days after identification, by United States mail; and

(B) the general public, not later than 90 days after the date of enactment of this Act, by publication in the Federal Register.

(2) CONTENTS OF NOTICE.—Notice under this subsection shall include—

(A) a copy of this section;

(B) information sufficient to separately identify each parcel of land subject to this section; and

(C) specification of the fair market value of each parcel of land subject to this section.

(3) OFFICIAL DATE OF NOTICE.—The official date of notice under this subsection shall be the later of—

(A) the date on which actual notice is mailed; or

(B) the date of publication of the notice in the Federal Register.

SEC. 150. SALCHA RIVER AND PILEDRIVER SLOUGH, FAIRBANKS, ALASKA.

The Secretary shall evaluate and, if justified under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s), carry out flood damage reduction measures along the lower Salcha River and on Piledriver Slough, from its headwaters at the mouth of the Salcha River to the Chena Lakes Flood Control Project, in the vicinity of Fairbanks, Alaska, to protect against surface water flooding.

SEC. 151. EYAK RIVER, CORDOVA, ALASKA.

The Secretary shall evaluate and, if justified under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s), carry out flood damage reduction measures along the Eyak River at the town of Cordova, Alaska.

SEC. 152. NORTH PADRE ISLAND STORM DAMAGE REDUCTION AND ENVIRONMENTAL RESTORATION PROJECT.

The Secretary shall carry out a project for ecosystem restoration and storm damage reduction at North Padre Island, Corpus Christi Bay, Texas, at a total estimated cost of $30,000,000, with an estimated Federal cost of $19,500,000 and an estimated non-Federal cost of $10,500,000, if the Secretary finds that the work is technically sound, environmentally acceptable, and economically justified.

SEC. 153. KANOPOLIS LAKE, KANSAS.

(a) WATER SUPPLY.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, in cooperation with the State of Kansas or another non-Federal interest, shall complete a water supply reallocation study at the project for flood control, Kanopolis Lake, Kansas, as a basis on which the Secretary shall enter into negotiations with the State of Kansas or another non-Federal interest for the terms and conditions of a reallocation of the water supply.

(2) OPTIONS.—The negotiations for storage reallocation shall include the following options for evaluation by all parties:

(A) Financial terms of storage reallocation.

(B) Protection of future Federal water releases from Kanopolis Dam, consistent with State water law, to ensure that the benefits expected from releases are provided.

(C) Potential establishment of a water assurance district consistent with other such districts established by the State of Kansas.

(D) Protection of existing project purposes at Kanopolis Dam to include flood control, recreation, and fish and wildlife.

(b) IN-KIND CREDIT.—

(1) IN GENERAL.—The Secretary may negotiate a credit for a portion of the financial repayment to the Federal Government for work performed by the State of Kansas, or another non-Federal interest, on land adjacent or in close proximity to the project, if the work provides a benefit to the project.

(2) WORK INCLUDED.—The work for which credit may be granted may include watershed protection and enhancement, including wetland construction and ecosystem restoration.

SEC. 154. NEW YORK CITY WATERSHED.

Section 552(d) of the Water Resources Development Act of 1996 (110 Stat. 3780) is amended by striking "for the project to be carried out with such assistance" and inserting ", or a public entity designated by the State director, to carry out the project with such assistance, subject to the project's meeting the certification requirement of subsection (c)(1)".

SEC. 155. CITY OF CHARLEVOIX REIMBURSEMENT, MICHIGAN.

The Secretary shall review and, if consistent with authorized project purposes, reimburse the city of Charlevoix, Michigan, for the Federal share of costs associated with construction of the new revetment connection to the Federal navigation project at Charlevoix Harbor, Michigan.

SEC. 156. HAMILTON DAM FLOOD CONTROL PROJECT, MICHIGAN.

The Secretary may construct the Hamilton Dam flood control project, Michigan, under authority of section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s).

SEC. 157. NATIONAL CONTAMINATED SEDIMENT TASK FORCE.

(a) DEFINITION OF TASK FORCE.—In this section, the term "Task Force" means the National Contaminated Sediment Task Force established by section 502 of the National Contaminated Sediment Assessment and Management Act (33 U.S.C. 1271 note; Public Law 102–580).

(b) CONVENING.—The Secretary and the Administrator shall convene the Task Force not later than 90 days after the date of enactment of this Act.

(c) REPORTING ON REMEDIAL ACTION.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Task Force shall submit to Congress a report on the status of remedial actions at aquatic sites in the areas described in paragraph (2).

(2) AREAS.—The report under paragraph (1) shall address remedial actions in—

(A) areas of probable concern identified in the survey of data regarding aquatic sediment quality required by section 503(a) of the National Contaminated Sediment Assessment and Management Act (33 U.S.C. 1271);

(B) areas of concern within the Great Lakes, as identified under section 118(f) of the Federal Water Pollution Control Act (33 U.S.C. 1268(f));

(C) estuaries of national significance identified under section 320 of the Federal Water Pollution Control Act (33 U.S.C. 1330);

(D) areas for which remedial action has been authorized under any of the Water Resources Development Acts; and

(E) as appropriate, any other areas where sediment contamination is identified by the Task Force.

(3) ACTIVITIES.—Remedial actions subject to reporting under this subsection include remedial actions under—

(A) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) or other Federal or State law containing environmental remediation authority;

(B) any of the Water Resources Development Acts;

(C) section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344); or

(D) section 10 of the Act of March 3, 1899 (30 Stat. 1151, chapter 425).

(4) CONTENTS.—The report under paragraph (1) shall provide, with respect to each remedial action described in the report, a description of—

(A) the authorities and sources of funding for conducting the remedial action;

(B) the nature and sources of the sediment contamination, including volume and concentration, where appropriate;

(C) the testing conducted to determine the nature and extent of sediment contamination and to determine whether the remedial action is necessary;

(D) the action levels or other factors used to determine that the remedial action is necessary;

(E) the nature of the remedial action planned or undertaken, including the levels of protection of public health and the environment to be achieved by the remedial action;

(F) the ultimate disposition of any material dredged as part of the remedial action;

(G) the status of projects and the obstacles or barriers to prompt conduct of the remedial action; and

(H) contacts and sources of further information concerning the remedial action.

SEC. 158. GREAT LAKES BASIN PROGRAM.

(a) Strategic Plans.—

(1) In general.—Not later than 18 months after the date of enactment of this Act, and every 2 years thereafter, the Secretary shall report to Congress on a plan for programs of the Army Corps of Engineers in the Great Lakes basin.

(2) Contents.—The plan shall include details of the projected environmental and navigational projects in the Great Lakes basin, including—

(A) navigational maintenance and operations for commercial and recreational vessels;

(B) environmental restoration activities;

(C) water level maintenance activities;

(D) technical and planning assistance to States and remedial action planning committees;

(E) sediment transport analysis, sediment management planning, and activities to support prevention of excess sediment loadings;

(F) flood damage reduction and shoreline erosion prevention;

(G) all other activities of the Army Corps of Engineers; and

(H) an analysis of factors limiting use of programs and authorities of the Army Corps of Engineers in existence on the date of enactment of this Act in the Great Lakes basin, including the need for new or modified authorities.

(b) Great Lakes Biohydrological Information.—

(1) Inventory.—

(A) In general.—Not later than 90 days after the date of enactment of this Act, the Secretary shall request each Federal agency that may possess information relevant to the Great Lakes biohydrological system to provide an inventory of all such information in the possession of the agency.

(B) Relevant information.—For the purpose of subparagraph (A), relevant information includes information on—

(i) ground and surface water hydrology;

(ii) natural and altered tributary dynamics;

(iii) biological aspects of the system influenced by and influencing water quantity and water movement;

(iv) meteorological projections and weather impacts on Great Lakes water levels; and

(v) other Great Lakes biohydrological system data relevant to sustainable water use management.

(2) Report.—

(A) In general.—Not later than 18 months after the date of enactment of this Act, the Secretary, in consultation with the States, Indian tribes, and Federal agencies, and after requesting information from the provinces and the federal government of Canada, shall—

(i) compile the inventories of information;

(ii) analyze the information for consistency and gaps; and

(iii) submit to Congress, the International Joint Commission, and the Great Lakes States a report that includes recommendations on ways to improve the information base on the biohydrological dynamics of the Great Lakes ecosystem as a whole, so as to support environmentally sound decisions regarding diversions and consumptive uses of Great Lakes water.

(B) Recommendations.—The recommendations in the report under subparagraph (A) shall include recommendations relating to the resources and funds necessary for implementing improvement of the information base.

(C) Considerations.—In developing the report under subparagraph (A), the Secretary, in cooperation with the Secretary of State, the Secretary of Transportation, and other relevant agencies as appropriate, shall consider and report on the status of the issues described and recommendations made in—

(i) the Report of the International Joint Commission to the Governments of the United States and Canada under the 1977 reference issued in 1985; and

(ii) the 1993 Report of the International Joint Commission to the Governments of Canada and the United States on Methods of Alleviating Adverse Consequences of Fluctuating Water Levels in the Great Lakes St. Lawrence Basin.

(c) Great Lakes Recreational Boating.—Not later than 18 months after the date of enactment of this Act, the Secretary shall, using information and studies in existence on the date of enactment of this Act to the maximum extent practicable, and in cooperation with the Great Lakes States, submit to Congress a report detailing the economic benefits of recreational boating in the Great Lakes basin, particularly at harbors benefiting from operation and maintenance projects of the Army Corps of Engineers.

(d) Cooperation.—In undertaking activities under this section, the Secretary shall—

(1) encourage public participation; and

(2) cooperate, and, as appropriate, collaborate, with Great Lakes States, tribal governments, and Canadian federal, provincial, tribal governments.

(e) Water Use Activities and Policies.—The Secretary may provide technical assistance to the Great Lakes States to develop interstate guidelines to improve the consistency and efficiency of State-level water use activities and policies in the Great Lakes basin.

(f) Cost Sharing.—The Secretary may seek and accept funds from non-Federal entities to be used to pay up to 25 percent of the cost of carrying out subsections (b), (c), (d), and (e).

SEC. 159. PROJECTS FOR IMPROVEMENT OF THE ENVIRONMENT.

Section 1135(c) of the Water Resources Development Act of 1986 (33 U.S.C. 2309a(c)) is amended—

(1) by striking "If the Secretary" and inserting the following:

"(1) In general.—If the Secretary"; and

(2) by adding at the end the following:

"(2) Control of sea lamprey.—Congress finds that—

"(A) the Great Lakes navigation system has been instrumental in the spread of sea lamprey and the associated impacts to its fishery; and

"(B) the use of the authority under this subsection for control of sea lamprey at any Great Lakes basin location is appropriate.".

SEC. 160. WATER QUALITY, ENVIRONMENTAL QUALITY, RECREATION, FISH AND WILDLIFE, FLOOD CONTROL, AND NAVIGATION.

(a) In General.—The Secretary may investigate, study, evaluate, and report on—

(1) water quality, environmental quality, recreation, fish and wildlife, flood control, and navigation in the western Lake Erie watershed, including the watersheds of the Maumee River, Ottawa River, and Portage River in the States of Indiana, Ohio, and Michigan; and

(2) measures to improve water quality, environmental quality, recreation, fish and wildlife, flood control, and navigation in the western Lake Erie basin.

(b) Cooperation.—In carrying out studies and investigations under subsection (a), the Secretary shall cooperate with Federal, State, and local agencies and nongovernmental organizations to ensure full consideration of all views and requirements of all interrelated programs that those agencies may develop independently or in coordination with the Army Corps of Engineers.

SEC. 161. IRRIGATION DIVERSION PROTECTION AND FISHERIES ENHANCEMENT ASSISTANCE.

The Secretary may provide technical planning and design assistance to non-Federal interests and may conduct other site-specific studies to formulate and evaluate fish screens, fish passages devices, and other measures to decrease the incidence of juvenile and adult fish inadvertently entering into irrigation systems. Measures shall be developed in cooperation with Federal and State resource agencies and not impair the continued withdrawal of water for irrigation purposes. In providing such assistance priority shall be given based on the objectives of the Endangered Species Act, cost-effectiveness, and the potential for reducing fish mortality. Non-Federal interests shall agree by contract to contribute 50 percent of the cost of such assistance. Not more than one-half of such non-Federal contribution may be made by the provision of services, materials, supplies, or other in-kind services. No construction activities are authorized by this section. Not later than 2 years after the date of enactment of this section, the Secretary shall report to Congress on fish mortality caused by irrigation water intake devices, appropriate measures to reduce mortality, the extent to which such measures are currently being employed in the arid States, the construction costs associated with such measures, and the appropriate Federal role, if any, to encourage the use of such measures.

TITLE II—CHEYENNE RIVER SIOUX TRIBE, LOWER BRULE SIOUX TRIBE, AND STATE OF SOUTH DAKOTA TERRESTRIAL WILDLIFE HABITAT RESTORATION

SEC. 201. DEFINITIONS.

In this title:

(1) Restoration.—The term "restoration" means mitigation of the habitat of wildlife.

(2) Secretary.—The term "Secretary" means the Secretary of the Army.

(3) Terrestrial wildlife habitat.—The term "terrestrial wildlife habitat" means a habitat for a wildlife species (including game and nongame species) that existed or exists on an upland habitat (including a prairie grassland, woodland, bottom land forest, scrub, or shrub) or an emergent wetland habitat.

(4) Wildlife.—The term "wildlife" has the meaning given the term in section 8 of the

Fish and Wildlife Coordination Act (16 U.S.C. 666b).

SEC. 202. TERRESTRIAL WILDLIFE HABITAT RESTORATION.

(a) Terrestrial Wildlife Habitat Restoration Plans.—

(1) In general.—In accordance with this subsection and in consultation with the Secretary and the Secretary of the Interior, the State of South Dakota, the Cheyenne River Sioux Tribe, and the Lower Brule Sioux Tribe shall, as a condition of the receipt of funds under this title, each develop a plan for the restoration of terrestrial wildlife habitat loss that occurred as a result of flooding related to the Big Bend and Oahe projects carried out as part of the Pick-Sloan Missouri River Basin program.

(2) Submission of plan to secretary.—On completion of a plan for terrestrial wildlife habitat restoration, the State of South Dakota, the Cheyenne River Sioux Tribe, and the Lower Brule Sioux Tribe shall submit the plan to the Secretary.

(3) Review by secretary and submission to committees.—The Secretary shall review the plan and submit the plan, with any comments, to the appropriate committees of the Senate and the House of Representatives.

(4) Funding for carrying out plans.—

(A) State of south dakota.—

(i) Notification.—On receipt of the plan for terrestrial wildlife habitat restoration submitted by the State of South Dakota, each of the Committees referred to in paragraph (3) shall notify the Secretary of the Treasury of the receipt of the plan.

(ii) Availability of funds.—On notification in accordance with clause (i), the Secretary of the Treasury shall make available to the State of South Dakota funds from the South Dakota Terrestrial Wildlife Habitat Restoration Trust Fund established under section 203, to be used to carry out the plan for terrestrial wildlife habitat restoration submitted by the State.

(B) Cheyenne river sioux tribe and lower brule sioux tribe.—

(i) Notification.—On receipt of the plan for terrestrial wildlife habitat restoration submitted by the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe, each of the Committees referred to in paragraph (3) shall notify the Secretary of the Treasury of the receipt of each of the plans.

(ii) Availability of funds.—On notification in accordance with clause (i), the Secretary of the Treasury shall make available to the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe funds from the Cheyenne River Sioux Tribe Terrestrial Wildlife Habitat Restoration Trust Fund and the Lower Brule Sioux Tribe Terrestrial Wildlife Habitat Restoration Trust Fund, respectively, established under section 204, to be used to carry out the plan for terrestrial wildlife habitat restoration submitted by the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe, respectively.

(C) Transition period.—

(i) In general.—During the period described in clause (ii), the Secretary shall—

(I) fund the terrestrial wildlife habitat restoration programs being carried out on the date of enactment of this Act on Oahe and Big Bend project land and the plans established under this section at a level that does not exceed the highest amount of funding that was provided for the programs during a previous fiscal year; and

(II) implement the programs.

(ii) Period.—Clause (i) shall apply during the period—

(I) beginning on the date of enactment of this Act; and

(II) ending on the earlier of—

(aa) the date on which funds are made available for use from the South Dakota Terrestrial Wildlife Habitat Restoration Trust Fund under section 203(d)(3)(A)(i) and the Cheyenne River Sioux Tribe Terrestrial Wildlife Habitat Restoration Trust Fund and the Lower Brule Sioux Tribe Terrestrial Wildlife Habitat Restoration Trust Fund under section 204(d)(3)(A)(i); or

(bb) the date that is 4 years after the date of enactment of this Act.

(b) Programs for the Purchase of Wildlife Habitat Leases.—

(1) In general.—The State of South Dakota may use funds made available under section 203(d)(3)(A)(iii) to develop a program for the purchase of wildlife habitat leases that meets the requirements of this subsection.

(2) Development of a plan.—

(A) In general.—If the State of South Dakota, the Cheyenne River Sioux Tribe, or the Lower Brule Sioux Tribe elects to conduct a program under this subsection, the State of South Dakota, the Cheyenne River Sioux Tribe, or the Lower Brule Sioux Tribe (in consultation with the United States Fish and Wildlife Service and the Secretary and with an opportunity for public comment) shall develop a plan to lease land for the protection and development of wildlife habitat, including habitat for threatened and endangered species, associated with the Missouri River ecosystem.

(B) Use for program.—The plan shall be used by the State of South Dakota, the Cheyenne River Sioux Tribe, or the Lower Brule Sioux Tribe in carrying out the program carried out under paragraph (1).

(3) Conditions of leases.—Each lease covered under a program carried out under paragraph (1) shall specify that the owner of the property that is subject to the lease shall provide—

(A) public access for sportsmen during hunting season; and

(B) public access for other outdoor uses covered under the lease, as negotiated by the landowner and the State of South Dakota, the Cheyenne River Sioux Tribe, or the Lower Brule Sioux Tribe.

(4) Use of assistance.—

(A) State of south dakota.—If the State of South Dakota conducts a program under this subsection, the State may use funds made available under section 203(d)(3)(A)(iii) to—

(i) acquire easements, rights-of-way, or leases for management and protection of wildlife habitat, including habitat for threatened and endangered species, and public access to wildlife on private property in the State of South Dakota;

(ii) create public access to Federal or State land through the purchase of easements or rights-of-way that traverse such private property; or

(iii) lease land for the creation or restoration of a wetland on such private property.

(B) Cheyenne river sioux tribe and lower brule sioux tribe.—If the Cheyenne River Sioux Tribe or the Lower Brule Sioux Tribe conducts a program under this subsection, the Tribe may use funds made available under section 204(d)(3)(A)(iii) for the purposes described in subparagraph (A).

(c) Federal Obligation for Terrestrial Wildlife Habitat Mitigation for the Big Bend and Oahe Projects in South Dakota.—The establishment of the trust funds under sections 203 and 204 and the development and implementation of plans for terrestrial wildlife habitat restoration developed by the State of South Dakota, the Cheyenne River Sioux Tribe, and the Lower Brule Sioux Tribe in accordance with this section shall be considered to satisfy the Federal obligation under the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.) for terrestrial wildlife habitat mitigation for the State of South Dakota, the Cheyenne River Sioux Tribe, and the Lower Brule Sioux Tribe for the Big Bend and Oahe projects carried out as part of the Pick-Sloan Missouri River Basin program.

SEC. 203. SOUTH DAKOTA TERRESTRIAL WILDLIFE HABITAT RESTORATION TRUST FUND.

(a) Establishment.—There is established in the Treasury of the United States a fund to be known as the "South Dakota Terrestrial Wildlife Habitat Restoration Trust Fund" (referred to in this section as the "Fund").

(b) Funding.—For the fiscal year during which this Act is enacted and each fiscal year thereafter until the aggregate amount deposited in the Fund under this subsection is equal to at least $108,000,000, the Secretary of the Treasury shall deposit in the Fund an amount equal to 15 percent of the receipts from the deposits in the Treasury of the United States for the preceding fiscal year from the power program of the Pick-Sloan Missouri River Basin program, administered by the Western Area Power Administration.

(c) Investments.—The Secretary of the Treasury shall invest the amounts deposited under subsection (b) only in interest-bearing obligations of the United States or in obligations guaranteed by the United States as to both principal and interest.

(d) Payments.—

(1) In general.—All amounts credited as interest under subsection (c) shall be available, without fiscal year limitation, to the State of South Dakota for use in accordance with paragraph (3).

(2) Withdrawal and transfer of funds.—Subject to section 202(a)(4)(A), the Secretary of the Treasury shall withdraw amounts credited as interest under paragraph (1) and transfer the amounts to the State of South Dakota for use as State funds in accordance with paragraph (3).

(3) Use of transferred funds.—

(A) In general.—Subject to subparagraph (B), the State of South Dakota shall use the amounts transferred under paragraph (2) only to—

(i) fully fund the annually scheduled work described in the terrestrial wildlife habitat restoration plan of the State developed under section 202(a); and

(ii) with any remaining funds—

(I) protect archaeological, historical, and cultural sites located along the Missouri River on land transferred to the State;

(II) fund all costs associated with the ownership, management, operation, administration, maintenance, and development of recreation areas and other lands that are transferred to the State of South Dakota by the Secretary;

(III) purchase and administer wildlife habitat leases under section 202(b);

(IV) carry out other activities described in section 202; and

(V) develop and maintain public access to, and protect, wildlife habitat and recreation areas along the Missouri River.

(B) Prohibition.—The amounts transferred under paragraph (2) shall not be used for the purchase of land in fee title.

(e) Transfers and Withdrawals.—Except as provided in subsection (d), the Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).

(f) Administrative Expenses.—There are authorized to be appropriated to the Secretary of the Treasury such sums as are necessary to pay the administrative expenses of the Fund.

SEC. 204. CHEYENNE RIVER SIOUX TRIBE AND LOWER BRULE SIOUX TRIBE TERRESTRIAL WILDLIFE HABITAT RESTORATION TRUST FUNDS.

(a) Establishment.—There are established in the Treasury of the United States 2 funds to be known as the "Cheyenne River Sioux Tribe Terrestrial Wildlife Restoration Trust Fund" and the "Lower Brule Sioux Tribe Terrestrial Wildlife Habitat Restoration Trust Fund" (each of which is referred to in this section as a "Fund").

(b) Funding.—

(1) In general.—Subject to paragraph (2), for the fiscal year during which this Act is enacted and each fiscal year thereafter until the aggregate amount deposited in the Funds under this subsection is equal to at least $57,400,000, the Secretary of the Treasury shall deposit in the Funds an amount equal to 10 percent of the receipts from the deposits in the Treasury of the United States for the preceding fiscal year from the power program of the Pick-Sloan Missouri River Basin program, administered by the Western Area Power Administration.

(2) Allocation.—Of the total amount of funds deposited into the Funds for a fiscal year, the Secretary of the Treasury shall deposit—

(A) 74 percent of the funds into the Cheyenne River Sioux Tribe Terrestrial Wildlife Restoration Trust Fund; and

(B) 26 percent of the funds into the Lower Brule Sioux Tribe Terrestrial Wildlife Habitat Restoration Trust Fund.

(c) Investments.—The Secretary of the Treasury shall invest the amounts deposited under subsection (b) only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

(d) Payments.—

(1) In general.—All amounts credited as interest under subsection (c) shall be available, without fiscal year limitation, to the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe for their use in accordance with paragraph (3).

(2) Withdrawal and transfer of funds.—Subject to section 202(a)(4)(B), the Secretary of the Treasury shall withdraw amounts credited as interest under paragraph (1) and transfer the amounts to the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe for use in accordance with paragraph (3).

(3) Use of transferred funds.—

(A) In general.—Subject to subparagraph (B), the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe shall use the amounts transferred under paragraph (2) only to—

(i) fully fund the annually scheduled work described in the terrestrial wildlife habitat restoration plan of the respective Tribe developed under section 202(a); and

(ii) with any remaining funds—

(I) protect archaeological, historical, and cultural sites located along the Missouri River on land transferred to the respective Tribe;

(II) fund all costs associated with the ownership, management, operation, administration, maintenance, and development of recreation areas and other lands that are transferred to the respective Tribe by the Secretary;

(III) purchase and administer wildlife habitat leases under section 202(b);

(IV) carry out other activities described in section 202; and

(V) develop and maintain public access to, and protect, wildlife habitat and recreation areas along the Missouri River.

(B) Prohibition.—The amounts transferred under paragraph (2) shall not be used for the purchase of land in fee title.

(e) Transfers and Withdrawals.—Except as provided in subsection (d), the Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).

(f) Administrative Expenses.—There are authorized to be appropriated to the Secretary of the Treasury such sums as are necessary to pay the administrative expenses of the Fund.

SEC. 205. TRANSFER OF FEDERAL LAND TO STATE OF SOUTH DAKOTA.

(a) In General.—

(1) Transfer.—

(A) In general.—The Secretary of the Army shall transfer to the Department of Game, Fish and Parks of the State of South Dakota (referred to in this section as the "Department") the land and recreation areas described in subsections (b) and (c) for fish and wildlife purposes, or public recreation uses, in perpetuity.

(B) Permits, rights-of-way, and easements.—All permits, rights-of-way, and easements granted by the Secretary of the Army to the Oglala Sioux Tribe for land on the west side of the Missouri River between the Oahe Dam and Highway 14, and all permits, rights-of-way, and easements on any other land administered by the Secretary and used by the Oglala Sioux Rural Water Supply System, are granted to the Oglala Sioux Tribe in perpetuity to be held in trust under section 3(e) of the Mni Wiconi Project Act of 1988 (102 Stat. 2568).

(2) Uses.—The Department shall maintain and develop the land outside the recreation areas for fish and wildlife purposes in accordance with—

(A) fish and wildlife purposes in effect on the date of enactment of this Act; or

(B) a plan developed under section 202.

(3) Corps of engineers.—The transfer shall not interfere with the Corps of Engineers operation of a project under this section for an authorized purpose of the project under the Act of December 22, 1944 (58 Stat. 887, chapter 665; 33 U.S.C. 701–1 et seq.), or other applicable law.

(4) Secretary of the army.—The Secretary of the Army shall retain the right to inundate with water the land transferred to the Department under this section or draw down a project reservoir, as necessary to carry out an authorized purpose of a project.

(b) Land Transferred.—The land described in this subsection is land that—

(1) is located above the top of the exclusive flood pool of the Oahe, Big Bend, Fort Randall, and Gavin's Point projects of the Pick-Sloan Missouri River Basin program;

(2) was acquired by the Secretary of the Army for the implementation of the Pick-Sloan Missouri River Basin program;

(3) is located outside the external boundaries of a reservation of an Indian Tribe; and

(4) is located within the State of South Dakota.

(c) Recreation Areas Transferred.—A recreation area described in this section includes the land and waters within a recreation area that—

(1) the Secretary of the Army determines, at the time of the transfer, is a recreation area classified for recreation use by the Corps of Engineers on the date of enactment of this Act;

(2) is located outside the external boundaries of a reservation of an Indian Tribe;

(3) is located within the State of South Dakota;

(4) is not the recreation area known as "Cottonwood", "Training Dike", or "Tailwaters"; and

(5) is located below Gavin's Point Dam in the State of South Dakota in accordance with boundary agreements and reciprocal fishing agreements between the State of South Dakota and the State of Nebraska in effect on the date of enactment of this Act, which agreements shall continue to be honored by the State of South Dakota as the agreements apply to any land or recreation areas transferred under this title to the State of South Dakota below Gavin's Point Dam and on the waters of the Missouri River.

(d) Map.—

(1) In general.—The Secretary of the Army, in consultation with the Department, shall prepare a map of the land and recreation areas transferred under this section.

(2) Land.—The map shall identify—

(A) land reasonably expected to be required for project purposes during the 20-year period beginning on the date of enactment of this Act; and

(B) dams and related structures;

which shall be retained by the Secretary.

(3) Availability.—The map shall be on file in the appropriate offices of the Secretary of the Army.

(e) Schedule for Transfer.—

(1) In general.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Army and the Secretary of the Department shall jointly develop a schedule for transferring the land and recreation areas under this section.

(2) Transfer deadline.—All land and recreation areas shall be transferred not later than 1 year after the full capitalization of the Trust Fund described in section 203.

(f) Transfer Conditions.—The land and recreation areas described in subsections (b) and (c) shall be transferred in fee title to the Department on the following conditions:

(1) Responsibility for damage.—The Secretary of the Army shall not be responsible for any damage to the land caused by flooding, sloughing, erosion, or other changes to the land caused by the operation of any project of the Pick-Sloan Missouri River Basin program (except as otherwise provided by Federal law).

(2) Easements, rights-of-way, leases, and cost-sharing agreements.—The Department shall maintain all easements, rights-of-way, leases, and cost-sharing agreements that are in effect as of the date of the transfer.

(g) Hunting and Fishing.—

(1) In general.—Nothing in this title affects jurisdiction over the land and water below the exclusive flood pool of the Missouri River within the State of South Dakota, including affected Indian reservations. The State of South Dakota, the Lower Brule Sioux Tribe, and the Cheyenne River Sioux Tribe shall continue in perpetuity to exercise the jurisdiction the State and Tribes possess on the date of enactment of this Act.

(2) No effect on respective jurisdictions.—The Secretary may not adopt any regulation or otherwise affect the respective jurisdictions of the State of South Dakota, the Lower Brule River Sioux Tribe, or the Cheyenne River Sioux Tribe described in paragraph (1).

(h) Applicability of Law.—Notwithstanding any other provision of this Act, the following provisions of law shall apply to land transferred under this section:

(1) The National Historic Preservation Act (16 U.S.C. 470 et seq.), including sections 106 and 304 of that Act (16 U.S.C. 470f, 470w–3).

(2) The Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.), including sections 4, 6, 7, and 9 of that Act (16 U.S.C. 470cc, 470ee, 470ff, 470hh).

(3) The Native American Graves Protection Act and Repatriation Act (25 U.S.C. 3001 et seq.), including subsections (a) and (d) of section 3 of that Act (25 U.S.C. 3003).

SEC. 206. TRANSFER OF CORPS OF ENGINEERS LAND FOR INDIAN TRIBES.

(a) In General.—

(1) Transfer.—The Secretary of the Army shall transfer to the Secretary of the Interior the land and recreation areas described in subsections (b) and (c).

(2) Corps of engineers.—The transfer shall not interfere with the Corps of Engineers operation of a project under this section for an authorized purpose of the project under the Act of December 22, 1944 (58 Stat. 887, chapter 665; 33 U.S.C. 701–1 et seq.), or other applicable law.

(3) Secretary of the army.—The Secretary of the Army shall retain the right to inundate with water the land transferred to the Secretary of the Interior under this section or draw down a project reservoir, as necessary to carry out an authorized purpose of a project.

(4) Trust.—The Secretary of the Interior shall hold in trust for the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe the land transferred under this section that is located within the external boundaries of the reservation of the Indian Tribes.

(b) Land Transferred.—The land described in this subsection is land that—

(1) is located above the top of the exclusive flood pool of the Big Bend and Oahe projects of the Pick-Sloan Missouri River Basin program;

(2) was acquired by the Secretary of the Army for the implementation of the Pick-Sloan Missouri River Basin program; and

(3) is located within the external boundaries of the reservation of the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe.

(c) Recreation Areas Transferred.—A recreation area described in this section includes the land and waters within a recreation area that—

(1) the Secretary of the Army determines, at the time of the transfer, is a recreation area classified for recreation use by the Corps of Engineers on the date of enactment of this Act;

(2) is located within the external boundaries of a reservation of an Indian Tribe; and

(3) is located within the State of South Dakota.

(d) Map.—

(1) In general.—The Secretary of the Army, in consultation with the governing bodies of the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe, shall prepare a map of the land transferred under this section.

(2) Land.—The map shall identify—

(A) land reasonably expected to be required for project purposes during the 20-year period beginning on the date of enactment of this Act; and

(B) dams and related structures;

which shall be retained by the Secretary.

(3) Availability.—The map shall be on file in the appropriate offices of the Secretary of the Army.

(e) Schedule for Transfer.—

(1) In general.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Army and the Chairmen of the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe shall jointly develop a schedule for transferring the land and recreation areas under this section.

(2) Transfer deadline.—All land and recreation areas shall be transferred not later than 1 year after the full capitalization of the State and tribal Trust Fund described in section 204.

(f) Transfer Conditions.—The land and recreation areas described in subsections (b) and (c) shall be transferred to, and held in trust by, the Secretary of the Interior on the following conditions:

(1) Responsibility for damage.—The Secretary of the Army shall not be responsible for any damage to the land caused by flooding, sloughing, erosion, or other changes to the land caused by the operation of any project of the Pick-Sloan Missouri River Basin program (except as otherwise provided by Federal law).

(2) Hunting and fishing.—Nothing in this title affects jurisdiction over the land and waters below the exclusive flood pool and within the external boundaries of the Cheyenne River Sioux Tribe and Lower Brule Sioux Tribe reservations. The State of South Dakota, the Lower Brule Sioux Tribe, and the Cheyenne River Sioux Tribe shall continue to exercise, in perpetuity, the jurisdiction they possess on the date of enactment of this Act with regard to those lands and waters. The Secretary may not adopt any regulation or otherwise affect the respective jurisdictions of the State of South Dakota, the Lower Brule River Sioux Tribe, or the Cheyenne River Sioux Tribe described in the preceding sentence. Jurisdiction over the land transferred under this section shall be the same as that over other land held in trust by the Secretary of the Interior on the Cheyenne River Sioux Tribe reservation and the Lower Brule Sioux Tribe reservation.

(3) Easements, rights-of-way, leases, and cost-sharing agreements.—

(A) Maintenance.—The Secretary of the Interior shall maintain all easements, rights-of-way, leases, and cost-sharing agreements that are in effect as of the date of the transfer.

(B) Payments to county.—The Secretary of the Interior shall pay any affected county 100 percent of the receipts from the easements, rights-of-way, leases, and cost-sharing agreements described in subparagraph (A).

SEC. 207. ADMINISTRATION.

(a) In General.—Nothing in this title diminishes or affects—

(1) any water right of an Indian Tribe;

(2) any other right of an Indian Tribe, except as specifically provided in another provision of this title;

(3) any treaty right that is in effect on the date of enactment of this Act;

(4) any external boundary of an Indian reservation of an Indian Tribe;

(5) any authority of the State of South Dakota that relates to the protection, regulation, or management of fish, terrestrial wildlife, and cultural and archaeological resources, except as specifically provided in this title; or

(6) any authority of the Secretary, the Secretary of the Interior, or the head of any other Federal agency under a law in effect on the date of enactment of this Act, including—

(A) the National Historic Preservation Act (16 U.S.C. 470 et seq.);

(B) the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.);

(C) the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.);

(D) the Act entitled "An Act for the protection of the bald eagle", approved June 8, 1940 (16 U.S.C. 668 et seq.);

(E) the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.);

(F) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(G) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.);

(H) the Federal Water Pollution Control Act (commonly known as the "Clean Water Act") (33 U.S.C. 1251 et seq.);

(I) the Safe Drinking Water Act (42 U.S.C. 300f et seq.); and

(J) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(b) Power Rates.—No payment made under this title shall affect any power rate under the Pick-Sloan Missouri River Basin program.

(c) Federal Liability for Damage.—Nothing in this title relieves the Federal Government of liability for damage to private land caused by the operation of the Pick-Sloan Missouri River Basin program.

(d) Flood Control.—Notwithstanding any other provision of this title, the Secretary shall retain the authority to operate the Pick-Sloan Missouri River Basin program for purposes of meeting the requirements of the Act of December 22, 1944 (58 Stat. 887, chapter 665; 33 U.S.C. 701–1 et seq.).

SEC. 208. STUDY.

(a) In General.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Army shall arrange for the United States Geological Survey, in consultation with the Bureau of Indian Affairs and other appropriate Federal agencies, to conduct a comprehensive study of the potential impacts of the transfer of land under sections 205(b) and 206(b), including potential impacts on South Dakota Sioux Tribes having water claims within the Missouri River Basin, on water flows in the Missouri River.

(b) No Transfer Pending Determination.—No transfer of land under section 205(b) or 206(b) shall occur until the Secretary determines, based on the study, that the transfer of land under either section will not significantly reduce the amount of water flow to the downstream States of the Missouri River.

SEC. 209. AUTHORIZATION OF APPROPRIATIONS.

(a) Secretary.—There are authorized to be appropriated to the Secretary such sums as are necessary—

(1) to pay the administrative expenses incurred by the Secretary in carrying out this title; and

(2) to fund the implementation of terrestrial wildlife habitat restoration plans under section 202(a).

(b) Secretary of the Interior.—There are authorized to be appropriated to the Secretary of the Interior such sums as are necessary to pay the administrative expenses incurred by the Secretary of the Interior in carrying out this title.

FINANCIAL SERVICES COMPETITION ACT OF 1998

LOTT AMENDMENT NO. 3804

Mr. LOTT proposed an amendment to the motion to recommit proposed by him to the bill (H.R. 10) to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, and other financial service providers, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; AMENDMENT TO 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Parent and Student Savings Account PLUS Act".

(b) AMENDMENT TO 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; amendment to 1986 Code; table of contents.

TITLE I—TAX INCENTIVES FOR EDUCATION

Sec. 101. Modifications to education individual retirement accounts.
Sec. 102. Exclusion from gross income of education distributions from qualified State tuition programs.
Sec. 103. Extension of exclusion for employer-provided educational assistance.
Sec. 104. Additional increase in arbitrage rebate exception for governmental bonds used to finance education facilities.
Sec. 105. Exclusion of certain amounts received under the National Health Corps Scholarship program.

TITLE II—REVENUE

Sec. 201. Clarification of deduction for deferred compensation.
Sec. 202. Modification to foreign tax credit carryback and carryover periods.

TITLE I—TAX INCENTIVES FOR EDUCATION

SEC. 101. MODIFICATIONS TO EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS.

(a) TAX-FREE EXPENDITURES FOR ELEMENTARY AND SECONDARY SCHOOL EXPENSES.—

(1) IN GENERAL.—Section 530(b)(2) (defining qualified higher education expenses) is amended to read as follows:

"(2) QUALIFIED EDUCATION EXPENSES.—

"(A) IN GENERAL.—The term 'qualified education expenses' means—

"(i) qualified higher education expenses (as defined in section 529(e)(3)), and

"(ii) qualified elementary and secondary education expenses (as defined in paragraph (4)).

Such expenses shall be reduced as provided in section 25A(g)(2).

"(B) QUALIFIED STATE TUITION PROGRAMS.—Such term shall include amounts paid or incurred to purchase tuition credits or certificates, or to make contributions to an account, under a qualified State tuition program (as defined in section 529(b)) for the benefit of the beneficiary of the account."

(2) QUALIFIED ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—Section 530(b) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

"(4) QUALIFIED ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—

"(A) IN GENERAL.—The term 'qualified elementary and secondary education expenses' means—

"(i) expenses for tuition, fees, academic tutoring, special needs services, books, supplies, computer equipment (including related software and services), and other equipment which are incurred in connection with the enrollment or attendance of the designated beneficiary of the trust as an elementary or secondary school student at a public, private, or religious school, or

"(ii) expenses for room and board, uniforms, transportation, and supplementary items and services (including extended day programs) which are required or provided by a public, private, or religious school in connection with such enrollment or attendance.

"(B) SPECIAL RULE FOR HOMESCHOOLING.—Such term shall include expenses described in subparagraph (A)(i) in connection with education provided by homeschooling if the requirements of any applicable State or local law are met with respect to such education.

"(C) SCHOOL.—The term 'school' means any school which provides elementary education or secondary education (kindergarten through grade 12), as determined under State law."

(3) SPECIAL RULES FOR APPLYING EXCLUSION TO ELEMENTARY AND SECONDARY EXPENSES.—Section 530(d)(2) (relating to distributions for qualified higher education expenses) is amended by adding at the end the following new subparagraph:

"(D) SPECIAL RULES FOR ELEMENTARY AND SECONDARY EXPENSES.—

"(i) IN GENERAL.—The aggregate amount of qualified elementary and secondary education expenses taken into account for purposes of this paragraph with respect to any education individual retirement account for all taxable years shall not exceed the sum of the aggregate contributions to such account for taxable years beginning after December 31, 1998, and before January 1, 2003, and earnings on such contributions.

"(ii) SPECIAL OPERATING RULES.—For purposes of clause (i)—

"(I) the trustee of an education individual retirement account shall keep separate accounts with respect to contributions and earnings described in clause (i), and

"(II) if there are distributions in excess of qualified elementary and secondary education expenses for any taxable year, such excess distributions shall be allocated first to contributions and earnings not described in clause (i)."

(4) CONFORMING AMENDMENTS.—Subsections (b)(1) and (d)(2) of section 530 are each amended by striking "higher" each place it appears in the text and heading thereof.

(b) MAXIMUM ANNUAL CONTRIBUTIONS.—

(1) IN GENERAL.—Section 530(b)(1)(A)(iii) (defining education individual retirement account) is amended by striking "$500" and inserting "the contribution limit for such taxable year".

(2) CONTRIBUTION LIMIT.—Section 530(b) (relating to definitions and special rules), as amended by subsection (a)(2), is amended by adding at the end the following new paragraph:

"(5) CONTRIBUTION LIMIT.—The term 'contribution limit' means $500 ($2,000 in the case of any taxable year beginning after December 31, 1998, and ending before January 1, 2003)."

(3) CONFORMING AMENDMENTS.—

(A) Section 530(d)(4)(C) is amended by striking "$500" and inserting "the contribution limit for such taxable year".

(B) Section 4973(e)(1)(A) is amended by striking "$500" and inserting "the contribution limit (as defined in section 530(b)(5)) for such taxable year".

(c) WAIVER OF AGE LIMITATIONS FOR CHILDREN WITH SPECIAL NEEDS.—Section 530(b)(1) (defining education individual retirement account) is amended by adding at the end the following flush sentence:

"The age limitations in the preceding sentence shall not apply to any designated beneficiary with special needs (as determined under regulations prescribed by the Secretary)."

(d) CORPORATIONS PERMITTED TO CONTRIBUTE TO ACCOUNTS.—Section 530(c)(1) (relating to reduction in permitted contributions based on adjusted gross income) is amended by striking "The maximum amount which a contributor" and inserting "In the case of a contributor who is an individual, the maximum amount the contributor".

(e) NO DOUBLE BENEFIT.—Section 530(d)(2) (relating to distributions for qualified education expenses), as amended by subsection (a)(3), is amended by adding at the end the following new subparagraph:

"(E) DISALLOWANCE OF EXCLUDED AMOUNTS AS CREDIT OR DEDUCTION.—No deduction or credit shall be allowed to the taxpayer under any other section of this chapter for any qualified education expenses to the extent taken into account in determining the amount of the exclusion under this paragraph."

(f) TECHNICAL CORRECTIONS.—

(1)(A) Section 530(b)(1)(E) (defining education individual retirement account) is amended to read as follows:

"(E) Any balance to the credit of the designated beneficiary on the date on which the beneficiary attains age 30 shall be distributed within 30 days after such date to the beneficiary or, if the beneficiary dies before attaining age 30, shall be distributed within 30 days after the date of death to the estate of such beneficiary."

(B) Section 530(d) (relating to tax treatment of distributions) is amended by adding at the end the following new paragraph:

"(8) DEEMED DISTRIBUTION ON REQUIRED DISTRIBUTION DATE.—In any case in which a distribution is required under subsection (b)(1)(E), any balance to the credit of a designated beneficiary as of the close of the 30-day period referred to in such subsection for making such distribution shall be deemed distributed at the close of such period."

(2)(A) Section 530(d)(1) is amended by striking "section 72(b)" and inserting "section 72".

(B) Section 72(e) (relating to amounts not received as annuities) is amended by inserting after paragraph (8) the following new paragraph:

"(9) EXTENSION OF PARAGRAPH (2)(B) TO QUALIFIED STATE TUITION PROGRAMS AND EDUCATIONAL INDIVIDUAL RETIREMENT ACCOUNTS.—Notwithstanding any other provision of this subsection, paragraph (2)(B) shall apply to amounts received under a qualified State tuition program (as defined in section 529(b)) or under an education individual retirement account (as defined in section 530(b)). The rule of paragraph (8)(B) shall apply for purposes of this paragraph."

(3) Section 530(d)(4)(B) (relating to exceptions) is amended by striking "or" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", or", and by adding at the end the following new clause:

"(iv) an amount which is includible in gross income solely because the taxpayer elected under paragraph (2)(C) to waive the application of paragraph (2) for the taxable year."

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1998.

(2) TECHNICAL CORRECTIONS.—The amendments made by subsection (f) shall take effect as if included in the amendments made by section 213 of the Taxpayer Relief Act of 1997.

SEC. 102. EXCLUSION FROM GROSS INCOME OF EDUCATION DISTRIBUTIONS FROM QUALIFIED STATE TUITION PROGRAMS.

(a) IN GENERAL.—Section 529(c)(3)(B) (relating to distributions) is amended to read as follows:

"(B) DISTRIBUTIONS FOR QUALIFIED HIGHER EDUCATION EXPENSES.—

"(i) IN GENERAL.—No amount shall be includible in gross income under subparagraph (A) if the qualified higher education expenses of the designated beneficiary during the taxable year are not less than the aggregate distributions during the taxable year.

"(ii) DISTRIBUTIONS IN EXCESS OF EXPENSES.—If such aggregate distributions exceed such expenses during the taxable year, the amount otherwise includible in gross income under subparagraph (A) shall be reduced by the amount which bears the same ratio to the amount so includible (without regard to this subparagraph) as such expenses bear to such aggregate distributions.

"(iii) ELECTION TO WAIVE EXCLUSION.—A taxpayer may elect to waive the application of this subparagraph for any taxable year.

"(iv) IN-KIND DISTRIBUTIONS.—Any benefit furnished to a designated beneficiary under a qualified State tuition program shall be treated as a distribution to the beneficiary for purposes of this paragraph.

"(v) DISALLOWANCE OF EXCLUDED AMOUNTS AS CREDIT OR DEDUCTION.—No deduction or credit shall be allowed to the taxpayer under any other section of this chapter for any qualified higher education expenses to the extent taken into account in determining the amount of the exclusion under this paragraph."

(b) DEFINITION OF QUALIFIED HIGHER EDUCATION EXPENSES.—Section 529(e)(3)(A) (defining qualified higher education expenses) is amended to read as follows:

"(A) IN GENERAL.—The term 'qualified higher education expenses' means expenses for tuition, fees, academic tutoring, special needs services, books, supplies, computer equipment (including related software and services), and other equipment which are incurred in connection with the enrollment or attendance of the designated beneficiary at an eligible educational institution."

(c) COORDINATION WITH EDUCATION CREDITS.—Section 25A(e)(2) (relating to coordination with exclusions) is amended—

(1) by inserting "a qualified State tuition program or" before "an education individual retirement account", and

(2) by striking "section 530(d)(2)" and inserting "section 529(c)(3)(B) or 530(d)(2)".

(d) TECHNICAL CORRECTION.—Section 529(c)(3)(A) is amended by striking "section 72(b)" and inserting "section 72".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1998.

(2) TECHNICAL CORRECTION.—The amendment made by subsection (d) shall take effect as if included in the amendments made by section 211 of the Taxpayer Relief Act of 1997.

SEC. 103. EXTENSION OF EXCLUSION FOR EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) IN GENERAL.—Section 127(d) (relating to termination of exclusion for educational assistance programs) is amended by striking "May 31, 2000" and inserting "December 31, 2002".

(b) REPEAL OF LIMITATION ON GRADUATE EDUCATION.—The last sentence of section 127(c)(1) (defining educational assistance) is amended by striking ", and such term also does not include any payment for, or the provision of any benefits with respect to, any graduate level course of a kind normally taken by an individual pursuing a program leading to a law, business, medical, or other advanced academic or professional degree".

(c) EFFECTIVE DATES.—

(1) EXTENSION.—The amendment made by subsection (a) shall apply to expenses paid with respect to courses beginning after May 31, 2000.

(2) GRADUATE EDUCATION.—The amendment made by subsection (b) shall apply to expenses paid with respect to courses beginning after December 31, 1997.

SEC. 104. ADDITIONAL INCREASE IN ARBITRAGE REBATE EXCEPTION FOR GOVERNMENTAL BONDS USED TO FINANCE EDUCATION FACILITIES.

(a) IN GENERAL.—Section 148(f)(4)(D)(vii) (relating to increase in exception for bonds financing public school capital expenditures) is amended by striking "$5,000,000" the second place it appears and inserting "$10,000,000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to obligations issued after December 31, 1998.

SEC. 105. EXCLUSION OF CERTAIN AMOUNTS RECEIVED UNDER THE NATIONAL HEALTH CORPS SCHOLARSHIP PROGRAM.

(a) IN GENERAL.—Section 117(c) (relating to the exclusion from gross income amounts received as a qualified scholarship) is amended—

(1) by striking "Subsections (a)" and inserting the following:

"(1) IN GENERAL.—Except as provided in paragraph (2), subsections (a)"; and

(2) by adding at the end the following new paragraph:

"(2) NATIONAL HEALTH CORPS SCHOLARSHIP PROGRAM.—Paragraph (1) shall not apply to any amount received by an individual under the National Health Corps Scholarship Program under section 338A(g)(1)(A) of the Public Health Service Act."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to amounts received in taxable years beginning after December 31, 1993.

TITLE II—REVENUE

SEC. 201. CLARIFICATION OF DEDUCTION FOR DEFERRED COMPENSATION.

(a) IN GENERAL.—Section 404(a) (relating to deduction for contributions of an employer to an employee's trust or annuity plan and compensation under a deferred-payment plan) is amended by adding at the end the following new paragraph:

"(11) DETERMINATIONS RELATING TO DEFERRED COMPENSATION.—

"(A) IN GENERAL.—For purposes of determining under this section—

"(i) whether compensation of an employee is deferred compensation, and

"(ii) when deferred compensation is paid,

no amount shall be treated as received by the employee, or paid, until it is actually received by the employee.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to severance pay."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to taxable years ending after the date of the enactment of this Act.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by the amendment made by subsection (a) to change its method of accounting for its first taxable year ending after the date of the enactment of this Act—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary of the Treasury, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account in such first taxable year.

SEC. 202. MODIFICATION TO FOREIGN TAX CREDIT CARRYBACK AND CARRYOVER PERIODS.

(a) IN GENERAL.—Section 904(c) (relating to limitation on credit) is amended—

(1) by striking "in the second preceding taxable year,", and

(2) by striking "or fifth" and inserting "fifth, sixth, or seventh".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to credits arising in taxable years beginning after December 31, 1999.

LOTT AMENDMENT NO. 3805

Mr. LOTT proposed an amendment to amendment No. 3804 proposed by him to the bill, H.R. 10, supra; as follows:

At the end of the Instructions, add the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Marriage Tax Elimination Act".

SEC. 2. COMBINED RETURN TO WHICH UNMARRIED RATES APPLY.

(a) IN GENERAL.—Subpart B of part II of subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to income tax returns) is amended by inserting after section 6013 the following new section:

"SEC. 6013A. COMBINED RETURN WITH SEPARATE RATES.

"(a) GENERAL RULE.—A husband and wife may make a combined return of income taxes under subtitle A under which—

"(1) a separate taxable income is determined for each spouse by applying the rules provided in this section, and

"(2) the tax imposed by section 1 is the aggregate amount resulting from applying the separate rates set forth in section 1(c) to each such taxable income.

"(b) TREATMENT OF INCOME.—For purposes of this section—

"(1) earned income (within the meaning of section 911(d)), and any income received as a pension or annuity which arises from an employer-employee relationship, shall be treated as the income of the spouse who rendered the services, and

"(2) income from property shall be divided between the spouses in accordance with their respective ownership rights in such property.

"(c) TREATMENT OF DEDUCTIONS.—For purposes of this section—

"(1) except as otherwise provided in this subsection, the deductions allowed by section 62(a) shall be allowed to the spouse treated as having the income to which such deductions relate,

"(2) the deduction for retirement savings described in paragraph (7) of section 62(a) shall be allowed to the spouse for whose benefit the savings are maintained,

"(3) the deduction for alimony described in paragraph (10) of section 62(a) shall be allowed to the spouse who has the liability to pay the alimony,

"(4) the deduction referred to in paragraph (16) of section 62(a) (relating to contributions to medical savings accounts) shall be allowed to the spouse with respect to whose employment or self-employment such account relates,

"(5) the deductions allowable by section 151 (relating to personal exemptions) shall be determined by requiring each spouse to claim 1 personal exemption,

"(6) section 63 shall be applied as if such spouses were not married, and

"(7) each spouse's share of all other deductions (including the deduction for personal exemptions under section 151(c)) shall be determined by multiplying the aggregate amount thereof by the fraction—

"(A) the numerator of which is such spouse's adjusted gross income, and

"(B) the denominator of which is the combined adjusted gross incomes of the 2 spouses.

Any fraction determined under paragraph (7) shall be rounded to the nearest percentage point.

"(d) TREATMENT OF CREDITS.—Credits shall be determined (and applied against the joint liability of the couple for tax) as if the spouses had filed a joint return.

"(e) TREATMENT AS JOINT RETURN.—Except as otherwise provided in this section or in the regulations prescribed hereunder, for purposes of this title (other than sections 1 and 63(c)) a combined return under this section shall be treated as a joint return.

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this section.".

(b) UNMARRIED RATE MADE APPLICABLE.—So much of subsection (c) of section 1 of such Code as precedes the table is amended to read as follows:

"(c) SEPARATE OR UNMARRIED RETURN RATE.—There is hereby imposed on the taxable income of every individual (other than a married individual (as defined in section 7703) filing a joint return or a separate return, a surviving spouse as defined in section 2(a), or a head of household as defined in section 2(b)) a tax determined in accordance with the following table:".

(c) BASIC STANDARD DEDUCTION FOR UNMARRIED INDIVIDUALS MADE APPLICABLE.—Subparagraph (C) of section 63(c)(2) of such Code is amended to read as follows:

"(C) $3,000 in the case of an individual who is not—

"(i) a married individual filing a joint return or a separate return,

"(ii) a surviving spouse, or

"(iii) a head of household, or".

(d) CLERICAL AMENDMENT.—The table of sections for subpart B of part II of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6013 the following:

"Sec. 6013A. Combined return
with separate rates."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning January 1, 2000.

LOTT AMENDMENT NO. 3806

Mr. LOTT proposed an amendment to amendment No. 3805 proposed by him to the bill, H.R. 10, supra; as follows:

Strike all after the first word and insert the following:

SHORT TITLE.

This Act may be cited as the "Marriage Tax Elimination Act".

SEC. 2. COMBINED RETURN TO WHICH UNMARRIED RATES APPLY.

(a) IN GENERAL.—Subpart B of part II of subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to income tax returns) is amended by inserting after section 6013 the following new section:

"SEC. 6013A. COMBINED RETURN WITH SEPARATE RATES.

"(a) GENERAL RULE.—A husband and wife may make a combined return of income taxes under subtitle A under which—

"(1) a separate taxable income is determined for each spouse by applying the rules provided in this section, and

"(2) the tax imposed by section 1 is the aggregate amount resulting from applying the separate rates set forth in section 1(c) to each such taxable income.

"(b) TREATMENT OF INCOME.—For purposes of this section—

"(1) earned income (within the meaning of section 911(d)), and any income received as a pension or annuity which arises from an employer-employee relationship, shall be treated as the income of the spouse who rendered the services, and

"(2) income from property shall be divided between the spouses in accordance with their respective ownership rights in such property.

"(c) TREATMENT OF DEDUCTIONS.—For purposes of this section—

"(1) except as otherwise provided in this subsection, the deductions allowed by section 62(a) shall be allowed to the spouse treated as having the income to which such deductions relate,

"(2) the deduction for retirement savings described in paragraph (7) of section 62(a) shall be allowed to the spouse for whose benefit the savings are maintained,

"(3) the deduction for alimony described in paragraph (10) of section 62(a) shall be allowed to the spouse who has the liability to pay the alimony,

"(4) the deduction referred to in paragraph (16) of section 62(a) (relating to contributions to medical savings accounts) shall be allowed to the spouse with respect to whose employment or self-employment such account relates,

"(5) the deductions allowable by section 151 (relating to personal exemptions) shall be determined by requiring each spouse to claim 1 personal exemption,

"(6) section 63 shall be applied as if such spouses were not married, and

"(7) each spouse's share of all other deductions (including the deduction for personal exemptions under section 151(c)) shall be determined by multiplying the aggregate amount thereof by the fraction—

"(A) the numerator of which is such spouse's adjusted gross income, and

"(B) the denominator of which is the combined adjusted gross incomes of the 2 spouses.

Any fraction determined under paragraph (7) shall be rounded to the nearest percentage point.

"(d) TREATMENT OF CREDITS.—Credits shall be determined (and applied against the joint liability of the couple for tax) as if the spouses had filed a joint return.

"(e) TREATMENT AS JOINT RETURN.—Except as otherwise provided in this section or in the regulations prescribed hereunder, for purposes of this title (other than sections 1 and 63(c)) a combined return under this section shall be treated as a joint return.

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this section.".

(b) UNMARRIED RATE MADE APPLICABLE.—So much of subsection (c) of section 1 of such Code as precedes the table is amended to read as follows:

"(c) SEPARATE OR UNMARRIED RETURN RATE.—There is hereby imposed on the taxable income of every individual (other than a married individual (as defined in section 7703) filing a joint return or a separate return, a surviving spouse as defined in section 2(a), or a head of household as defined in section 2(b)) a tax determined in accordance with the following table:".

(c) BASIC STANDARD DEDUCTION FOR UNMARRIED INDIVIDUALS MADE APPLICABLE.—Subparagraph (C) of section 63(c)(2) of such Code is amended to read as follows:

"(C) $3,000 in the case of an individual who is not—

"(i) a married individual filing a joint return or a separate return,

"(ii) a surviving spouse, or

"(iii) a head of household, or".

(d) CLERICAL AMENDMENT.—The table of sections for subpart B of part II of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6013 the following:

"Sec. 6013A. Combined return with separate
rates."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

GLACIER BAY MANAGEMENT AND PROTECTION ACT OF 1998

MURKOWSKI AMENDMENT NO. 3807

(Ordered to lie on the table.)

Mr. MURKOWSKI submitted an amendment intended to be proposed by him to the bill (S. 1064) to amend the Alaska National Interest Lands Conservation Act to more effectively manage visitor service and fishing activity in Glacier Bay National Park, and for other purposes; as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Glacier Bay Fisheries Act'.

"SEC. 2. FISHERIES MANAGEMENT.

"Hereafter, commercial fishing shall be allowed to occur in the marine waters of Glacier Bay National Park, except that—

"(1) fishing in Glacier Bay north of a line drawn from Point Carolus to Point Gustavus may be limited to the use of longlining for halibut, the use of pots and ring nets for crab, and troll gear for salmon;

"(2) the waters of Rendu Inlet, Adams Inlet, and the Scidmore Bay-Hugh Miller Inlet-Charpentier Inlet complex shall be closed to commercial fishing; and,

"(3) fishing for Dungeness crab shall be permitted in the Beardslee Islands and in upper Dundas Bay, but may be limited to the number of individuals who harvested Dungeness crab in either the Beardslee Islands or upper Dundas Bay in 1995, 1986 or 1997.

"SEC. 3 EFFECT ON TIDAL AND SUBMERGED LAND.

"(a) Nothing in this Act invalidates, or in any other ways affects any claim of the State of Alaska to title to any tidal or submerged land.

"(b) No action taken pursuant to or in accordance with this Act shall bar the State of Alaska from asserting at any time its claim of title to any tidal or submerged land.

"(c) Nothing in this Act, and no action taken pursuant to this Act, shall expand or diminish Federal or State jurisdiction, responsibility, interests, or rights in the management, regulation, or control of waters or tidal or submerged land of the State of Alaska."

Mr. MURKOWSKI. Mr. President, I am both throwing down a gauntlet and laying down a marker on this subject of fishing in Glacier Bay.

Native Alaskans have used Glacier Bay to obtain fish and other foodstuffs essential to them for many thousands of years, and not long after the United States acquired Alaska, commercial fishing started there also. In all the time since, fishing has caused absolutely no harm to the values that make this area one of America's premier national parks.

Parts of Glacier Bay were declared as a national monument in 1925, to promote the study of flora, fauna and geology of post-glacial terrain. Glacier Bay was ideal for this purpose. When visited by Capt. George Vancouver in the late 18th century it was closed by a geologically recent glacial advance, but by the time John Muir visited in the 1880's, Native fishermen had resumed their age-old practice of fishing here every summer.

In 1939, the national monument was expanded. In 1980, it was expanded again, and most of it was redesignated as a national park.

Mr. President, just as the Federal Government spoke with a "forked tongue" to Native Americans throughout much of our history, so it has spoken to the Tlingits and to the other local residents who rely on Glacier Bay for their livelihoods and for their sustenance. Throughout the history of government proclamations, local Natives and commercial fishermen have been promised that their activities would be respected—yet a few years ago, the government decided to ignore its promises and began a concerted effort to banish both commercial and subsistence fishing.

It has been aided and abetted by some of the sleaziest tactics I have ever seen—a network of half-truths and outright lies about the fisheries, the fishermen, and about our efforts to save them.

Mr. President, this is just plain wrong. It is an affront to every American who believes the government's promises should be worth something, and there are still a few of us left, despite everything.

I had hopes that reasonable people could work this issue out. Indeed, earlier this year I delayed further action on my own efforts to craft compromise legislation in order to allow additional time to the fishermen, State of Alaska representatives and others who have been trying to develop a consensus.

Unfotunately, these efforts have been stymied by the refusal of the national environmental organizations to agree to fair treatment of these historical users. For that reason, I supported putting a one-year regulatory moratorium into the Interior appropriation, so as to allow additional time to work on this issue at the local level.

Regrettably, the Department of the Interior and its allies are not willing to continue working toward a consensus. Instead, they refused to accept the moratorium language, and insisted on going forward with regulations to put the fishermen out of business.

There is a real inconsistency here; in the same bays and inlets where they insist fishing is an unacceptable commercial activity, they are only too happy to allow tour vessels with thousands of visitors.

Soon, perhaps within hours, perhaps within a few days, we will pass an omnibus appropriation measure that makes one of Washington's insider "deals" on this issue. Under the deal, a minimum payment will be made to get some fishermen to disappear altogether, and a handful of others will be told that they will be allowed to fish, but that their current right to sell or bequeath their fishing permits to their children has just evaporated forever.

I repeat, Mr. President, what is happening here is just plain wrong.

For that reason, I am today offering an amendment to my earlier bill. I will introduce another such a bill in January of next year, and In intend to introduce such a bill every January hereafter until justice is done. I will also welcome the assistance of the State of Alaska in asserting its right of jurisdiction over the management of these fisheries.

Come what may, I will not stand by and allow these existing small fishing operators to be lost in Glacier Bay.

GAYLORD NELSON APOSTLE ISLANDS STEWARDSHIP ACT OF 1998

FEINGOLD AMENDMENT NO. 3808

(Ordered to lie on the table.)

Mr. MURKOWSKI submitted an amendment intended to be proposed by him to the bill (S. 1966) to direct the Secretary of the Interior to study whether the Apostle Islands National Lakeshore should be protected as a wilderness area; as follows:

On page 4, after line 24, insert the following:

(g) TRANSFER OF APPROPRIATED FUNDS.—

(1) IN GENERAL.—All amounts made available to the Denali Commission for fiscal year 1999 shall be transferred to the Secretary of the Interior for use in carrying out subsections (c) and (d).

(2) UNEXPENDED BALANCE.—Any balance of amounts transferred under paragraph (1) that remain unexpended at the end of fiscal year 1999 shall be returned to the general fund of the Treasury of the United States.

• Mr. FEINGOLD. Mr. President, today I am submitting an amendment to S. 1966, Gaylord Nelson Apostle Islands Stewardship Act of 1988, a bill that I introduced on April 22, 1988. In keeping with my belief that progress toward a balanced budget should be maintained, I am proposing that a section be added to the bill which offsets the $4.1 million in authorized spending for the Apostle Islands contained in my original bill, with the $20 million in funds appropriated in FY 99 to the Denali Commission. The Secretary of the Interior would be required to transfer $15.9 million above the money that it needs to take actions at the Apostle Islands back to the Treasury.

Mr. President, the Denali Commission is not currently authorized. Authorization for this new commission was included in the Senate version of the FY 99 Energy and Water Appropriations bill, but was removed in conference. Nevertheless, the appropriators decided to set aside $20 million in funds pending the authorization of the Commission. Whatever the merits of this proposed commission may be, Mr. President, I am concerned that we have set aside such a large amount of money when we have acute appropriations needs at places like the Apostle Islands National Lakeshore, for an unauthorized program.

I am further concerned, Mr. President, about creating a new Federal commission to address economic development and other State specific issues when Congress is seeking to back away from such commitments. For example, in the same bill that provides funds for the Denali Commission, the Congress terminates appropriated funds for the Tennessee Valley Authority, known as TVA, an action I have had legislation to accomplish since I became a Member of the Senate. I applaud congress for acting to end appropriated funds for TVA, but I fear we may take a step backward if we create a new entity that we now need to fund.

I look forward to Senate Energy Committee consideration of the Gaylord Nelson Apostle Islands Stewardship Act of 1988, and its eventual passage.•

SONNY BONO MEMORIAL SALTON SEA RECLAMATION ACT

KYL AMENDMENT NO. 3809

(Ordered to lie on the table.)

Mr. KYL submitted an amendment intended to be proposed by him to the bill (H.R. 3267) to direct the Secretary of the Interior, acting through the Bureau of Reclamation, to conduct a feasibility study and construct a project to reclaim the Salton Sea; as follows:

Strike all after enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Salton Sea Reclamation Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—SALTON SEA FEASIBILITY STUDY

Sec. 101. Feasibility study authorization.
Sec. 102. Concurrent wildlife resources studies.
Sec. 103. Salton Sea National Wildlife Refuge renamed as Sonny Bono Salton Sea National Wildlife Refuge.

TITLE II—EMERGENCY ACTION TO IMPROVE WATER QUALITY IN THE ALAMO RIVER AND NEW RIVER

Sec. 201. Alamo River and New River irrigation drainage water.

SEC. 2. DEFINITIONS.

In this Act:—

(1) the term "Committees" means the Committee on Resources and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Environmental and Public Works of the Senate;

(2) the term "Salton Sea Authority" means the Joint Powers Authority by that name established under the laws of the State of California by a Joint Power Agreement signed on June 2, 1993; and

(3) the term "Secretary" means the Secretary of the Interior, acting through the Bureau of Reclamation.

TITLE I—SALTON SEA FEASIBILITY STUDY

SEC. 101. SALTON SEA FEASIBILITY STUDY AUTHORIZATION.

(a) IN GENERAL.—No later than January 1, 2000, the Secretary, in accordance with this section, shall complete all feasibility studies and cost analyses for the options set forth in subsection (b)(2)(A) necessary for Congress to fully evaluate such options.

(b) FEASIBILITY STUDY.—

(1) IN GENERAL.—

(A) The Secretary shall complete all studies, including, but not limited to environmental and other views, of the feasibility and benefit-cost of various options that permit the continued use of the Salton Sea as a reservoir for irrigation drainage and (1) reduce and stabilize the overall salinity of the Salton Sea, (2) stabilize the surface elevation of the Salton Sea, (3) reclaim, in the long term, healthy fish and wildlife resources and their habitats, and (4) enhance the potential for recreational uses and economic development of the Salton Sea.

(B) Based solely on whatever information is available at the time of submission of the report, the Secretary shall (1) identify any options he deems economically feasible and cost effective, (2) identify any additional information necessary to develop construction specifications, and (3) submit any recommendations, along with the results of the study to the Committees no later than January 1, 2000.

(i) The Secretary shall carry out the feasibility study in accordance with a memorandum of understanding entered into by the Secretary, the Salton Sea Authority, and the Governor of California.

(ii) The memorandum of understanding shall, at a minimum, establish criteria for evaluation and selection of options under subparagraph (2)(A), including criteria for determining benefit and the magnitude and practicability of costs of construction, operation, and maintenance of each option evaluated.

(2) OPTIONS TO BE CONSIDERED.—Options considered in the feasibility study—

(A) shall consist of, but need not be limited to—

(i) use of impoundments to segregate a portion of the waters of the Salton Sea in one or more evaporation ponds located in the Salton Sea basin;

(ii) pumping water out of the Salton Sea;

(iii) augmented flows of water into the Salton Sea;

(iv) a combination of the options referred to in clauses (i), (ii), and (iii); and

(v) any other economically feasible remediation option the Secretary considers appropriate and for which feasibility analyses and cost estimates can be completed by January 1, 2000;

(B) shall be limited to proven technologies; and

(C) shall not include any option that—

(i) relies on the importation of any new or additional water from the Colorado River; or

(ii) is inconsistent with the provisions of subsection (c).

(3) ASSUMPTIONS.—In evaluating options, the Secretary shall apply assumptions regarding water inflows into the Salton Sea Basin that encourage water conservation, account for transfers of water out of the Salton Sea Basin, and are based on a maximum likely reduction in inflows into the Salton Sea Basin which could be 800,000 acre-feet or less per year.

(4) CONSIDERATION OF COSTS.—In evaluating the feasibility of options, the Secretary shall consider the ability of Federal, tribal, State and local government sources and private sources to fund capital construction costs and annual operation, maintenance, energy, and replacement costs and shall set forth the basis for any cost sharing allocations as well as anticipated repayment, if any, of federal contributions.

(c) RELATIONSHIP TO OTHER LAW.—

(1) RECLAMATION LAWS.—Activities authorized by this Act shall not be subject to the Act of June 17, 1902 (32 Stat. 388; 43 U.S.C. et seq.), and Acts amendatory thereof and supplemental thereto. Amounts expended for those activities shall be considered nonreimbursable for purposes of those laws and shall not be considered to be a supplemental or additional benefit for purposes of the Reclamation Reform Act of 1982 (96 Stat. 1263; 43 U.S.C. 390aa et seq.).

(2) PRESERVATION OF RIGHTS AND OBLIGATIONS WITH RESPECT TO THE COLORADO RIVER.—This Act shall not be considered to supersede or otherwise affect any treaty, law, decree, contract, or agreement governing use of water from the Colorado River. All activities taken under this Act must be carried out in a manner consistent with rights and obligations of persons under those treaties, laws, decrees, contracts, and agreements.

SEC. 102. CONCURRENT WILDLIFE RESOURCES STUDIES.

(a) IN GENERAL.—The Secretary shall provide for the conduct, concurrently with the feasibility study under section 101(b), of studies of hydrology, wildlife pathology, and toxicology relating to wildlife resources of the Salton Sea by Federal and non-Federal entities.

(b) SELECTION OF TOPICS AND MANAGEMENT OF STUDIES.—

(1) IN GENERAL.—The Secretary shall establish a committee to be known as the 'Salton Sea Research Management Committee'. The committee shall select the topics of studies under this section and manage those studies.

(2) MEMBERSHIP.—The committee shall consist of the following five members:

(A) The Secretary.

(B) The Governor of California.

(C) The Executive Director of the Salton Sea Authority.

(D) The Chairman of the Torres Martinez Desert Cahuilla Tribal Government.

(E) The Director of the California Water Resources Center.

(c) COORDINATION.—The Secretary shall require that studies under this section are coordinated through the Science Subcommittee which reports to the Salton Sea Research Management Committee. In addition to the membership provided for by the Science Subcommittee's charter, representatives shall be invited from the University of California, Riverside; the University of Redlands; San Diego State University; the Imperial Valley College; and Los Alamos National Laboratory.

(d) PEER REVIEW.—The Secretary shall require that studies under this section are subjected to peer review.

(e) AUTHORIZATION OF APPROPRIATIONS.—For wildlife resources studies under this section there are authorized to be appropriated to the Secretary, through accounts within the Fish and Wildlife Service Exclusively, $5,000,000.

(f) ADVISORY COMMITTEE ACT.—The committee, and its activities, are not subject to the Federal Advisory Commission Act (5 U.S.C. app.).

SEC. 103. SALTON SEA NATIONAL WILDLIFE REFUGE RENAMED AS SONNY BONO SALTON SEA NATIONAL WILDLIFE REFUGE.

(a) REFUGE RENAMED.—The Salton Sea National Wildlife Refuge, located in Imperial County, California, is hereby renamed and shall be known as the 'Sonny Bono Salton Sea National Wildlife Refuge'.

(b) REFERENCES.—Any reference in any statute, rule, regulation, executive order, publication, map, or paper or other document of the United States to the Salton Sea National Wildlife Refuge is deemed to refer to the Sonny Bono Salton Sea National Wildlife Refuge.

TITLE II—EMERGENCY ACTION TO IMPROVE WATER QUALITY IN THE ALAMO RIVER AND NEW RIVER

SEC. 201. ALAMO RIVER AND NEW RIVER IRRIGATION DRAINAGE WATER.

(a) RIVER ENHANCEMENT.—

(1) IN GENERAL.—The Secretary is authorized and directed to promptly conduct research and construct river reclamation and wetlands projects to improve water quality in the Alamo River and New River, Imperial County, California, by treating water in those rivers and irrigation drainage water that flows into those rivers.

(2) ACQUISITIONS.—The Secretary may acquire equipment, real property from willing sellers, and interests in real property (including site access) from willing sellers as needed to implement actions under this section if the State of California, a political subdivision of the State, or Desert Wildlife Unlimited has entered into an agreement with the Secretary under which the State, subdivision, or Desert Wildlife Unlimited, respectively, will, effective 1 year after the date that systems for which the acquisitions are made are operational and functional—

(A) accept all right, title, and interest in and to the equipment, property, or interests; and

(B) assume responsibility for operation and maintenance of the equipment, property, or interests.

(3) TRANSFER OF TITLE.—Not later than 1 year after the date a system developed under this section is operational and functional, the Secretary shall transfer all right, title, and interest of the United States in and to all equipment, property, and interests acquired for the system in accordance with the applicable agreement under paragraph (2).

(4) MONITORING AND OTHER ACTIONS.—The Secretary shall establish a long-term monitoring program to maximize the effectiveness of any wetlands developed under this title and may implement other actions to improve the efficacy of actions implemented pursuant to this section.

(b) COOPERATION.—The Secretary shall implement subsection (a) in cooperation with the Desert Wildlife Unlimited, the Imperial Irrigation District, California, and other interested persons.

(c) FEDERAL WATER POLLUTION CONTROL.—Water withdrawn solely for the purpose of a wetlands project to improve water quality under subsection (a)(1), when returned to the Alamo River or New River, shall not be required to meet water quality standards under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

(d) AUTHORIZATION OF APPROPRIATIONS.—For river reclamation and other irrigation drainage water treatment actions under this section, there are authorized to be appropriated to the Secretary $3,000,000.

Amend the title to read as follows: "To direct the Secretary of the Interior, acting through the Bureau of Reclamation, to complete a feasibility study relating to the Salton Sea, and for other purposes.".

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY AUTHORIZATION ACT OF 1998

FRIST (AND ROCKEFELLER) AMENDMENT NO. 3810

Mr. COATS (for Mr. FRIST for himself and Mr. ROCKEFELLER) proposed an amendment to the bill to authorize appropriations for the National Institute of Standards and Technology for fiscal years 1998 and 1999, and for other purposes; as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Technology Administration Act of 1998".

SEC. 2. MANUFACTURING EXTENSION PARTNERSHIP PROGRAM CENTER EXTENSION.

Section 25(c)(5) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(c)(5)) is amended by striking ", which are designed" and all that follows through "operation of a Center," and inserting in lieu thereof ". After the sixth year, a Center may receive additional financial support under this section if it has received a positive evaluation through an independent review, under procedures established by the Institute. Such an independent review shall be required at least every two years after the sixth year of operation. Funding received for a fiscal year under this section after the sixth year of operation shall not exceed one third of the capital and annual operating and maintenance costs of the Center under the program.".

SEC. 3. MALCOLM BALDRIGE QUALITY AWARD.

(a) ADDITIONAL AWARDS.—Section 17(c)(3) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a(c)(3)) is amended by inserting ", unless the Secretary determines that a third award is merited and can be given at no additional cost to the Federal Government" after "in any year".

(b) CATEGORIES.—Section 17(c)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a(c)(1)) is amended by adding at the end the following:

"(D) Health care providers.

"(E) Education providers.".

SEC. 4. NOTICE.

(a) REDESIGNATION.—Section 31 of the National Institute of Standards and Technology Act is redesignated as section 32.

(b) NOTICE.—The National Institute of Standards and Technology Act (15 U.S.C. 271 et seq.) is amended by inserting after section 30 the following new section:

"NOTICE

"SEC. 31. (a) NOTICE OF REPROGRAMMING.—If any funds authorized for carrying out this Act are subject to a reprogramming action that requires notice to be provided to the Appropriations Committees of the House of Representatives and the Senate, notice of such action shall concurrently be provided to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

"(b) NOTICE OF REORGANIZATION.—

"(1) REQUIREMENT.—The Secretary shall provide notice to the Committees on Science and Appropriations of the House of Representatives, and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate, not later than 15 days before any major reorganization of any program, project, or activity of the Institute.

"(2) DEFINITION.—For purposes of this subsection, the term "major reorganization" means any reorganization of the Institute that involves the reassignment of more than 25 percent of the employees of the Institute.".

SEC. 5. SENSE OF CONGRESS ON THE YEAR 2000 PROBLEM.

With the year 2000 fast approaching, it is the sense of Congress that the National Institute of Standards and Technology should—

(1) give high priority to correcting all 2-digit date-related problems in its computer systems to ensure that those systems continue to operate effectively in the year 2000 and beyond; and

(2) develop contingency plans for those systems that the Institute is unable to correct in time.

SEC. 6. ENHANCEMENT OF SCIENCE AND MATHEMATICS PROGRAMS.

(a) DEFINITIONS.—In this section—

(1) EDUCATIONALLY USEFUL FEDERAL EQUIPMENT.—The term "educationally useful Federal equipment" means computers and related peripheral tools and research equipment that is appropriate for use in schools.

(2) SCHOOL.—The term "school" means a public or private education institution that serves any of the grades of kindergarten through grade 12.

(b) SENSE OF CONGRESS.—

(1) IN GENERAL.—It is the sense of Congress that the Director of the National Institute of Standards and Technology should, to the greatest extent practicable and in a manner consistent with applicable Federal law (including Executive Order No. 12999), donate educationally useful Federal equipment to schools in order to enhance the science and mathematics programs of those schools.

(2) REPORTING.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Director of the National Institute of Standards and Technology shall prepare and submit to the President a report. The President shall submit the report to Congress at the same time as the President submits a budget request to Congress under section 1105(a) of title 31, United States Code.

(B) CONTENTS OF REPORT.—The report prepared by the Director under this paragraph shall describe any donations of educationally useful Federal equipment to schools made during the period covered by the report.

SEC. 7. TEACHER SCIENCE AND TECHNOLOGY ENHANCEMENT INSTITUTE PROGRAM.

The National Institute of Standards and Technology Act (15 U.S.C. 271 et seq.) is amended by inserting after section 19 the following:

"SEC. 19A. (a) The Director shall establish within the Institute a teacher science and technology enhancement program to provide for professional development of mathematics and science teachers of elementary, middle, and secondary schools (as those terms are defined by the Director), including providing for the improvement of those teachers with respect to the understanding of science and the impacts of science on commerce.

"(b) In carrying out the program under this section, the Director shall focus on the areas of—

"(1) scientific measurements;

"(2) tests and standards development;

"(3) industrial competitiveness and quality;

"(4) manufacturing;

"(5) technology transfer; and

"(6) any other area of expertise of the Institute that the Director determines to be appropriate.

"(c) The Director shall develop and issue procedures and selection criteria for participants in the program.

"(d) The program under this section shall be conducted on an annual basis during the summer months, during the period of time when a majority of elementary, middle, and secondary schools have not commenced a school year.

"(e) The program shall provide for teachers' participation in activities at the laboratory facilities of the Institute, or shall utilize other means of accomplishing the goals of the program as determined by the Director, which may include the Internet, video conferencing and recording, and workshops and conference.".

SEC. 8. OFFICE OF SPACE COMMERCIALIZATION.

(a) ESTABLISHMENT.—There is established within the Department of Commerce an Office of Space Commercialization (referred to in this section as the "Office").

(b) DIRECTOR.—The Office shall be headed by a Director, who shall be a senior executive and shall be compensated at a level in the Senior Executive Service under section 5382 of title 5, United States Code, as determined by the Secretary of Commerce.

(c) FUNCTIONS OF THE OFFICE; DUTIES OF THE DIRECTOR.—The Office shall be the principal unit for the coordination of space-related issues, programs, and initiative within the Department of Commerce. The primary responsibilities of the Director, in carrying out the functions of the Office, shall include—

(1) promoting commercial provider investment in space activities by collecting, analyzing, and disseminating information on space markets, and conducting workshops and seminars to increase awareness of commercial space opportunities;

(2) assisting United States commercial providers in the efforts of those providers to conduct business with the United States Government;

(3) acting as an industry advocate within the executive branch of the Federal Government to ensure that the Federal Government meets the space-related requirements of the Federal Government, to the fullest extent feasible, using commercially available space goods and services;

(4) ensuring that the United States Government does not compete with United States commercial providers in the provision of space hardware and services otherwise available from United States commercial providers;

(5) promoting the export of space-related goods and services;

(6) representing the Department of Commerce in the development of United States policies and in negotiations with foreign

countries to ensure free and fair trade internationally in the area of space commerce; and

(7) seeking the removal of legal, policy, and institutional impediments to space commerce.

SEC. 9. EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE TECHNOLOGY.

Section 5 of the Stevenson Wydler Technology Innovation Act of 1980 (15 U.S.C. 3705) is amended by adding at the end the following:

"(f) EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE TECHNOLOGY.—

"(1) IN GENERAL.—The Secretary, acting through the Under Secretary, shall establish for fiscal year 1999 a program to be known as the Experimental Program to Stimulate Competitive Technology (referred to in this subsection as the 'program'). The purpose of the program shall be to strengthen the technological competitiveness of those States that have historically received less Federal research and development funds than those received by a majority of the States.

"(2) ARRANGEMENTS.—In carrying out the program, the Secretary, acting through the Under Secretary, shall—

"(A) enter into such arrangements as may be necessary to provide for the coordination of the program through the State committees established under the Experimental Program to Stimulate Competitive Research of the National Science Foundation; and

"(B) cooperate with—

"(i) any State science and technology council established under the program under subparagraph (A); and

"(ii) representatives of small business firms and other appropriate technology-based businesses.

"(3) GRANTS AND COOPERATIVE AGREEMENTS.—In carrying out the program, the Secretary, acting though the Under Secretary, may make grants or enter into cooperative agreements to provide for—

"(A) technology research and development;

"(B) technology transfer from university research;

"(C) technology deployment and diffusion; and

"(D) the strengthening of technological capabilities through consortia comprised of—

"(i) technology-based small business firms;

"(ii) industries and emerging companies;

"(iii) universities; and

"(iv) State and local development agencies and entities.

"(4) REQUIREMENTS FOR MAKING AWARDS.—

"(a) IN GENERAL.—In making awards under this subsection, the Secretary, acting through the Under Secretary, shall ensure that the awards are awarded on a competitive basis that includes a review of the merits of the activities that are the subject of the award.

"(B) MATCHING REQUIREMENT.—The non-Federal share of the activities (other than planning activities) carried out under an award under this subsection shall be not less than 25 percent of the cost of those activities.

"(5) CRITERIA FOR STATES.—The Secretary, acting through the Under Secretary, shall establish criteria for achievement by each State that participates in the program. Upon the achievement of all such criteria, a State shall cease to be eligible to participate in the program.

"(6) COORDINATION.—To the extent practicable, in carrying out this subsection, the Secretary, acting through the Under Secretary, shall coordinate the program with other programs of the Department of Commence.

"(7) REPORT.—

"(A) IN GENERAL.—Not later than 90 days after the date of enactment of the Technology Administration Act of 1998, the Under Secretary shall prepare and submit a report that meets the requirements of this paragraph to the Secretary. Upon receipt of the report, the Secretary shall transmit a copy of the report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives.

"(B) REQUIREMENTS FOR REPORT.—The report prepared under this paragraph shall contain with respect to the program—

"(i) a description of the structure and procedures of the program;

"(ii) a management plan for the program;

"(iii) a description of the merit-based review process to be used in the program;

"(iv) milestones for the evaluation of activities to be assisted under the program in fiscal year 1999;

"(v) an assessment of the eligibility of each State that participates in the Experimental Program to Stimulate Competitive Research of the National Science Foundation to participate in the program under this subsection; and

"(iv) the evaluation criteria with respect to which the overall management and effectiveness of the program will be evaluated.".

SEC. 10. NATIONAL TECHNOLOGY MEDAL FOR ENVIRONMENTAL TECHNOLOGY.

In the administration of section 16 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711), Environmental Technology shall be established as a separate nomination category with appropriate unique criteria for that category.

SEC. 11. INTERNATIONAL ARCTIC RESEARCH CENTER.

The Congress finds that the International Arctic Research Center is an internationally-supported effort to conduct important weather and climate studies, and other research projects of benefit to the United States. It is, therefore, the scene of the Congress that, as with similar research conducted in the Antarctic, the United States should provide similar support for this important effort.

CHILD PROTECTION AND SEXUAL PREDATOR PUNISHMENT ACT OF 1998

HATCH (AND OTHERS) AMENDMENT NO. 3811

Mr. COATS (for Mr. HATCH for himself, Mr. LEAHY, and Mr. DEWINE) proposed an amendment to the bill (H.R. 3494) to amend title 18, United States Code, with respect to violent sex crimes against children, and for other purposes; as follows:

On page 116, lines 22 and 23, strike "territory" and insert "commonwealth, territory,".

On page 118, strike lines 1 through 3, and insert the following:

"(2) the term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United".

On page 132, lines 9 and 10, strike "that provide probable cause to believe that" and insert "from which".

On page 132, line 13, strike "has occurred" and insert "is apparent,".

HATCH (AND OTHERS) AMENDMENT NO. 3812

Mr. COATS (for Mr. HATCH for himself, Mr. LEAHY, Mr. DEWINE, and Mr. SESSIONS) proposed an amendment to the bill, H.R. 3494, supra; as follows:

On page 121, between lines 6 and 7, insert the following:

SEC. 203. "ZERO TOLERANCE" FOR POSSESSION OF CHILD PORNOGRAPHY.

(a) MATERIAL INVOLVING THE SEXUAL EXPLOITATION OF MINORS.—Section 2252 of title 18, United States Code, is amended—

(1) in subsection (a)(4), by striking "3 or more" each place that term appears and inserting "1 or more"; and

(2) by adding at the end the following:

"(c) AFFIRMATIVE DEFENSE.—It shall be an affirmative defense to a charge of violating paragraph (4) of subsection (a) that the defendant—

"(1) possessed less than 3 matters containing any visual depiction proscribed by that paragraph; and

"(2) promptly and in good faith, and without retaining or allowing any person, other than a law enforcement agency, to access any visual depiction or copy thereof—

"(A) took reasonable steps to destroy each such visual depiction; or

"(B) reported the matter to a law enforcement agency and afforded that agency access to each such visual depiction.".

(b) MATERIAL CONSTITUTING OR CONTAINING CHILD PORNOGRAPHY.—Section 2252A of title 18, United States Code, is amended—

(1) in subsection (a)(5), by striking "3 or more images" each place that term appears and inserting "an image"; and

(2) by adding at the end the following:

"(d) AFFIRMATIVE DEFENSE.—It shall be an affirmative defense to a charge of violating subsection (a)(5) that the defendant—

"(1) possessed less than 3 images of child pornography; and

"(2) promptly and in good faith, and without retaining or allowing any person, other than a law enforcement agency, to access any image or copy thereof—

"(A) took reasonable steps to destroy each such image; or

"(B) reported the matter to a law enforcement agency and afforded that agency access to each such image.".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. LOTT. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Friday, October 9, 1998, at 10:30 a.m. for a markup of pending committee nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

MICHAEL "MICK" BIRD—THE TRANS-OCEANIC ROWING EXPEDITION

• Mr. INOUYE. Mr. President, I rise today to bring my colleagues' attention to a very exciting expedition. Last month, Mr. Michael "Mick" Bird completed the second leg of an unprecedented 24,000 mile voyage around the world. On August 19, 1997, Mick Bird started rowing out to sea from Fort Bragg, California in his vessel *Reach*. After 66 days of rowing, on October 23, 1997, Mick arrived in Hilo Bay on the Big Island of Hawaii.

After putting the *Reach* in drydock in Hawaii, Mick returned to his home base in California to raise support and prepare for the next leg of his historic journey. Mick returned to Hawaii this Summer and put to sea in *Reach* on July 18, 1998 rowing for the Gilbert Islands, about 2,500 miles southwest of Hawaii and the halfway point between Hawaii and Australia. On September 22, 1998, 66 days and more than 2,200 miles from Hawaii, Mick made land fall on Majuro in the Marshall Islands, a bit north of his intended destination in the Gilberts. Mick is now happily home in California with his family preparing for his next leg to the north central coast of Australia; another 2,500 mile row.

Mick Bird, a former U.S. Air Force officer, is of Pacific Island descent and has family ties to the State of Hawaii. His voyage is more formally known as Trans-Oceanic, which is the name of the non-profit organization sponsoring this attempt at the world's first solo circumnavigation of the globe by a rowing vessel. The goals of this expedition are, among others, to explore the limits of the human spirit, to raise awareness about ocean ecosystems, to be an example of individual achievement as well as teamwork, and to generate support for The National Tuberous Sclerosis Association. The expedition is also using its World Wide Web sites (www.naau.com and www.goals.com/transrow) to create a direct link between Mick's vessel *Reach* and educators and students to share experiences and practical applications of math, science and geography.

I would like to congratulate Mr. Bird on his very impressive accomplishments to this point, and to express my good wishes for the safety and success of the rest of this voyage around the world. I also wish to commend him and Trans-Oceanic for enhancing public awareness and education. I encourage my colleagues to have a look at Trans-Oceanic's web sites and share them with educators at home to follow along with this amazing journey.•

TRIBUTE TO JUDGE ROBERT I.H. HAMMERMAN

• Mr. SARBANES. Mr. President, I rise to acknowledge the unique and extraordinary contributions made to Baltimore and the State of Maryland by Judge Robert I.H. Hammerman who, this past summer, retired after thirty-seven years of distinguished service to our citizens and legal system. During his career on the bench, Judge Hammerman was a leader in court reform and the efforts to establish an effective yet caring system of juvenile criminal justice. These efforts were directed not only at changing the system, but also at exerting every effort possible to give young men in need the opportunity for academic and athletic development.

His remarkable commitment to the youth of Baltimore is most exemplified by the Lancers Boys Club which he founded 50 years ago and which greatly affected the lives of approximately 3,000 young men of all different backgrounds and races. Through his remarkable commitment, Judge Hammerman influenced several generations of young men whose leadership has affected every facet of State and national life. "Bobby" Hammerman, as he is known by his fellow Baltimoreans, served his community with exceptional dedication as a jurist but also, even more importantly, as a good and caring citizen. I want to take this occasion to express my own appreciation for his life of service and ask to have printed in the RECORD several articles from the Baltimore Sun and the Baltimore Jewish Times which chronicle his accomplishments.

The articles follow:

[From the Baltimore Sun, July 16, 1998]

WITH CLOSING ARGUMENT, JUDGE ENDS 37-YEAR TERM

MD.'S HAMMERMAN QUESTIONS BEING FORCED TO PUT DOWN GAVEL AT 70

By Dennis O'Brien)

The longest-serving trial judge in Maryland history hangs up his robes today—and he is not happy about it.

"I'm not retiring. They're retiring me," says Baltimore Circuit Chief Judge Robert I.H. Hammerman.

After 37 years of deciding other people's fates and distputes, Hammerman says this choice is being made for him: He will turn 70 tomorrow, the mandatory retirement age for judges under Maryland law.

He sees little sense to being forced out because of his age, especially since he is fit enough to walk up the five fights of stairs to his countroom two or three times each day, he still needs only four hours of sleep each night, can beat 20-year-old opponents at tennis and plays an hours of squash five times a week.

He loves the work routine that begins at 5:30 a.m. and involves listening to hours of arcane legal arguments.

"I feel like every day is a new day, and every day is different. I've never felt tired, or bored at this job," he says.

Hammerman has asked Court of Appeals Chief Judge Robert Mack Bell to allow him to serve in retirement as much as possible as a part-time judge, a position that would mean "specially assigning" him to any courthouse in Maryland where judges are short-handed.

Bell says he intends to take Hammerman up on his offer. "I think he's been a great judge," said Bell, who served with Hammerman on the Baltimore Circuit Court in the 1980s before Bell was appointed the state's top judge.

It upsets Hammerman that Maryland law will allow him to serve as a part-time judge for only one-third of any calendar year.

Hammerman, who is single, gives the impression of being willing to go just about anywhere to hear a case.

"I've always said that when my time is up in this world, I want it to be one of three courts: a court of law, a tennis court or a squash court," Hammerman said.

FROM THE BEGINNING

Robert Israel Harold Hammerman was born in Baltimore, the son of Herman Hammerman, a lawyer who did mostly real estate work for his older brother, S.L. Hammerman, a prominent Baltimore developer.

A graduate of City College, the Johns Hopkins University and Harvard Law School, Hammerman was appointed in 1961 by Gov. J. Millard Tawes to be a judge on the old Baltimore Municipal Court to decide traffic cases, neighborhood disputes and misdemeanor offenses. He was appointed six years later to the Supreme Bench of Baltimore, which became the Baltimore Circuit Court in 1983.

He spent his first eight years on the Supreme Bench presiding over the city's Juvenile Court and is credited with bringing the court into compliance with a landmark 1967 Supreme Court case, In Re Gault, that guaranteed juvenile offenders the same right to an attorney as adults.

IN THE SPOTLIGHT

Over the years, Hammerman has presided over some of the city's most publicized trials, including the 1995 jury trial for John Joseph Merzbacher, then 53, a former Catholic Community Middle School teacher accused of sexually abusing 14 students and other teen-agers between 1972 and 1979.

Hammerman sentenced the former teacher to four life terms for raping one of the students.

In recent years, Hammerman said, the courts have been flooded with criminal cases—particularly drug cases. When he was appointed to the Supreme Bench there were 15 judges, he said. These days there are twice that many judges—and the courts are still swamped, he said.

"The drug culture just permeates everything we do here," he said.

BE ON TIME, OR ELSE

In court, Hammerman developed a reputation as a strict, uncompromising no-nonsense judge, who appeared each morning on the bench at exactly 9 a.m. and expected lawyers to be just as punctual.

"He's very big on punctuality," said David Moore, a former law clerk who is now a Baltimore assistant state's attorney.

Many lawyers also say that Hammerman is prone to lose his temper, is often quick to make up his mind on a case and will dress down lawyers who either try to argue him out of his position or fail to show proper respect.

"He's never held me in contempt, but he's chewed me out." said Curt Anderson, a criminal defense lawyer, former state delegate and a longtime friend. "It reminded me of being 17 again and being chewed out—it was that bad."

Lewis A. Noonberg, another lawyer and longtime friend, attributes Hammerman's legendary short fuse to his work ethic and his competitive edge.

"He loves sports, and he loves to beat the pants off people half his age. He doesn't get any thrill out of beating me 'cause I'm only 10 years younger than him," said Noonberg, 60.

REPUTATION FOR HONESTY

Hammerman admits to being competitive and to insisting on civility in his courtroom.

But more than anything, he says, he values his reputation for honesty. So he says it offended him when he was charged with leaving the scene of an accident after a fender-bender outside the Pikesville library on Reisterstown Road on April 5, 1997.

The driver of the car who reported the accident, Ronnie N. Albom, said publicly after Hammerman was cleared of the charge on Sept. 22, 1997, that his position as a judge helped him win the acquittal in Baltimore County District Court, a charge that Hammerman vehemently denies.

Hammerman said that there was no accident and no damages, that he did not know the judge who acquitted him and that he turned down an offer to have the case dismissed if he would pay the $77 in damages to Albom.

"For one thing, there was no accident. Second, I didn't leave the scene; that's how they got the information that they later used to file these false charges," Hammerman said.

LEGACY OF THE LANCERS

Although as a judge he has often been in the public eye, Hammerman may be best known throughout the city for his work as adviser to the Lancers Boys Club, a high-profile civic organization for teen-age boys established by three childhood friends in 1946. The club, which boasts Mayor Kurt L. Schmoke and numerous other prominent people as members, has been the judge's pet project ever since.

Hammerman has used the club to steer 3,000 boys to civic activism through activities such as tutoring in schools, working in soup kitchens and participating in community cleanup drives. The club encourages members to study in school, play sports and strive for success and rewards them with overseas trips, dinners and lectures that have included celebrity guest speakers.

In retirement, Hammerman says, he probably will spend more time on club activities, lining up speakers, corresponding with members and making arrangements for trips, dinners and other events.

Anderson, who joined the Lancers when he and Schmoke were students at City College, praises Hammerman for his club work.

"You've got to hand it to him," Anderson said. "He's probably touched thousands of lives."

[From the Baltimore Jewish Times, July 10, 1998]

A Good Way To Leave—Baltimore's Chief Judge Robert I.H. Hammerman Might Be Retiring, But He'll Never Stop Working

(By Christine Stutz)

One can only imagine how crestfallen Chief Judge Robert I.H. Hammerman will feel when his alarm goes off at 3:52 a.m. on July 17, and he remembers he's not due in court.

For July 17 is his 70th birthday, which means it's also the first day of his retirement, a status he finds about as appealing as a dip in a frozen lake.

"I'm not retiring," Judge Hammerman says, indignantly. "They're retiring me."

With 37 years of service to the city of Baltimore, Judge Hammerman has the longest tenure of any judge in the Maryland court system. For a man who lives by a strict work ethic and personifies the core values associated with that ethic, every day off the bench will carry a certain emptiness.

That's why he's offering to hear cases as a retired "recall judge" in whatever local jurisdiction needs him, 12 months a year—even though by law he can only be paid for four months of service.

"I don't know anyone who has tried, and continues to try, harder than he does simply to be a good judge," says Baltimore Circuit Court Judge David Ross, a longtime colleague and friend of Judge Hammerman's who retired voluntarily two years ago.

"He gives a lot and he expects a lot," says David L. Palmer, a former Baltimore assistant state's attorney who now works in the law offices of Peter Angelos. "He takes a lot of pride in the courtroom."

At the luncheons and dinners planned in his honor in the coming weeks, the vigorous, whitehaired jurist will be lauded as a man of intellect, industry and integrity. No doubt he also will be teased about his tennis game, his fondness for iced tea and Rold Gold pretzels, and his fastidious nature.

On the bench, he is Chief Judge Robert I.H. Hammerman, a stickler for detail and a force to be reckoned with. The first week on the job, every trial lawyer in town learns two cardinal rules about the Hammerman court: be on time and be prepared. Those who have incurred his wrath are probably still smarting from it.

In his private life, though, he is Bob Hammerman, a sports enthusiast who attends Smashing Pumpkins concerts and shares his cluttered den with a giant Mickey Mouse doll. At 11:25 every evening, the Harvard Law School graduate opens a pint of Baskin Robbins ice cream and sits down to watch the sports segment on the Channel 2 evening news. About halfway through "Nightline," he reaches the bottom of the container and calls it a night.

At precisely 3:52 a.m., his alarm goes off, and he begins another day. He's at the courthouse by 5:30, when even the pigeons are still sleeping.

A lifelong member of Reform Har Sinai Congregation in Upper Park Heights, Judge Hammerman blows the shofar, or ram's horn, every Rosh Hashanah. For the past 25 years he also has blown the shofar during Ash Wednesday services at Immaculate Heart of Mary, a Catholic church in Towson.

Although he says he never set out to be a role model, Judge Hammerman takes pride in exemplifying certain character traits he holds dear:punctuality, diligence, honesty, respectfulness and generosity. As founder of the Lancers Boys Club in 1946, he has influenced more than 3,000 young men to strive for excellence.

A doting father figure to many current and former Lancers, he cheers them on at ballgames, follows their academic progress, and is always available for late-night phone calls when advice or encouragement is needed.

With his guidance, countless Lancers have attended prestigious colleges and professional schools and become outstanding business and community leaders. Baltimore Mayor Kurt L. Schmoke, state Del. Samuel I. "Sandy" Rosenberg and former Alex. Brown chairman Alvin "Buzzy" Krongard are Lancers alumni.

"I believe in discipline everywhere. Discipline is something we haven't enough of in our society," says the judge, who graduated Phi Beta Kappa from Johns Hopkins University in 1950.

"It isn't enough to do something that will simply pass muster, that is adequate," he tells his protégés. "You must do it to the very best of your ability."

In his first assignment, to the juvenile court, he took great pains to find something a young offender was interested in and "use that as a building block," he says. One boy, who had brought a loaded gun to school, loved football, but there were no organized teams in his Southwest Baltimore neighborhood.

The judge arranged for him to play with the Randallstown Rams, and made attending practices a condition of his probation. The youth became a star of the team, and then—with the judge's help—attended Baltimore Polytechnic Institute and went on to college.

DEMANDING, BUT FAIR

It's difficult to imagine a profession for which Judge Hammerman is better suited. As a judge, he can use his brilliant mind to serve mankind, but in a secure, controlled environment where he's very much in charge.

"It has allowed me to use the habits I believe in, in constructive ways," he says.

David Rosenberg, a litigation partner with the Washington, D.C., law firm of Wright, Robinson, Osthimer & Tatum, clerked for Judge Hammerman in 1985–86.

"He really influenced me and had a profound effect on my career," says Mr. Rosenberg. "I was always amazed. He never took the bench without looking at the file completely. And I was always struck by the fact that he let the lawyers have their say."

Even though the judge has been very demanding of his law clerks, they praise him for teaching them what it takes to be a successful lawyer.

"His demands were not so much that Robert I.H. Hammerman was an important person, but the people who went into that courtroom were important people," says state Del. Robert L. Frank of Reisterstown, who clerked for the judge in 1984–85. "In a society of me-first people, he has given far more than he'll ever get."

Judge Hammerman, who never married, lives in the same Park Heights apartment he shared with his mother, the late Belle Greenblatt Hammerman. Every item in the home has a history he's eager to share, and which he recalls in great detail.

He opens the glass doors of a secretary to reveal the complete works of Tolstoy, Hugo, Dickens and Hawthorne—classics he says his father, whose family could not afford to send him to college, devoured each night before retiring. Filed among the yellowed pages of those books are all of Judge Hammerman's school report cards.

In the same way that he recalls his happy childhood, Judge Hammerman looks back with pride on a stellar career as one of the city's most prominent public figures.

"I feel I have been very privileged, very fortunate, very lucky to have had this job," he says. "I have no regrets. None.

"And it's a good way to leave."●

REAUTHORIZATION OF THE ENVIRONMENTAL MANAGEMENT PROGRAM IN THE WATER RESOURCES DEVELOPMENT ACT OF 1998

● Mr. FEINGOLD. Mr. President, last night, the Senate passed the Water Resources Development Act of 1998. I wanted to voice my support for this bill. In particular, I appreciate the section that reauthorizes the Army Corps' Upper Mississippi River Environmental Management Program, known as EMP. I wish to commend the hard work of the Senator from Rhode Island (Mr. CHAFEE) and the Senator from Montana (Mr. BAUCUS) and their staff members, Dan Delich and Jo Ellen Darcy, in order to complete a WRDA bill prior to the adjournment of the 105th Congress. I appreciate the time and attention they have paid to ensuring that EMP is reauthorized in this bill.

I also want to extend my sincere thanks to the Senior Senator from Missouri (Mr. BOND), who shepherded the EMP provisions through the Committee. I have enjoyed working with him on the reauthorization of this important program. He and his staff have worked along with me and my staff to make sure this section was well crafted and met the needs of the Upper Mississippi states and the Mississippi River environment. The manager's amendment makes the necessary changes to the Committee language to meet the needs of all interested parties.

From its inception, the EMP has been a program that enjoys bipartisan support. Initially conceived and sponsored in the House by my former colleague from Wisconsin (Mr. Gunderson) and the Congressman from Minnesota (Mr. OBERSTAR), the EMP was originally authorized in the Water Resources Act of 1986. At the same time, Congress designated the Upper Mississippi River "a nationally significant ecosystem and a nationally significant commercial navigation system."

Since its inception, the EMP has been a cooperative effort between the Corps, the Upper Mississippi states, conservationists, and commercial shipping and other economic interests. The program's purpose is to regain and protect significant areas of diverse, productive fish and wildlife habitat, to establish long-term resource monitoring which gauges dynamic changes and impacts of future developments, and to improve and assess recreational uses so vital in our nation's midsection. The EMP involves extensive federal-state planning, coordination, and cost-sharing.

I am pleased that this legislation will prevent termination of this program in 2001, as provided in the earlier authorizing legislation. This bill will ensure that necessary funding, and approved habitat rehabilitation and enhancement projects will continue. I also recognize, with a total ten year authorization of $350 million, that it is among the largest program authorizations contained in the bill.

I am very pleased that the collegial spirit surrounding work on EMP is also well-rooted on the House side. My colleague in the Wisconsin delegation (Representative KIND) is working with Representative OBERSTAR in steadfastly pursuing this reauthorization this year.

The manager's amendment reauthorizes EMP through 2009 at an increased total funding level of $33.5 million per year. It also makes some important changes to the program. It creates an independent technical advisory committee to review habitat projects and monitoring plans. It authorizes the Corps to complete a habitat and natural resource needs assessment of the Upper Mississippi Basin within three years of WRDA enactment. And, it provides Congress with another comprehensive assessment of the program, its projects and effectiveness, by 2005.

I believe these to be positive changes to the program. I look forward to the Conference on this matter, and I urge my colleagues in the other body to act quickly on this legislation.•

ANNIVERSARY OF IMPORTANT MILESTONES TOWARD ENDING NUCLEAR WEAPONS TESTING

• Mr. HARKIN. Mr. President, today I want to recognize the anniversaries of some important milestones along the road to ending nuclear weapons testing. This month marks some major steps we have taken toward an international ban on nuclear weapons tests, a cornerstone of our Nation's nuclear weapons non-proliferation policy. These anniversaries also remind us how much more remains to be done if we are to honor the vision of those who have worked to reduce the threat of nuclear war.

On October 11, 1963, the Limited Test Ban Treaty entered into force after being ratified by the Senate in an overwhelming, bipartisan vote of 80–14 just a few weeks earlier. This treaty paved the way for future nuclear weapons testing agreements by prohibiting tests in the atmosphere, in outer space, and underwater. This treaty was signed by 108 countries.

Our Nation's agreement to the Limited Test Ban Treaty marked the end of our Nation's aboveground testing of nuclear weapons, including those at the U.S. test site in Nevada. We now know, all too well, the terrible impact of exploding nuclear weapons over the Nevada desert. Among other consequences, these tests in the 1950's exposed millions of Americans to large amounts of radioactive Iodine-131, which accumulates in the thyroid gland and has been linked to thyroid cancer. "Hot Spots," where the Iodine-131 fallout was the greatest, were identified by a National Cancer Institute report as receiving 5–16 rads of Iodine-131. The "Hot Spots" included many areas far away from Nevada, including New York, Massachusetts and Iowa. Outside reviewers have shown that the 5–16 rad level is only an average, with many people having received much higher exposure levels, especially those who were children at the time.

To put that in perspective, federal standards for nuclear power plants require that protective action be taken for 15 rads. To further understand the enormity of the potential exposure, consider this: 150 million curies of Iodine-131 were released by the above ground nuclear weapons testing in the United States, about three times more than from the Chernobyl nuclear power plant disaster in the former Soviet Union.

It is all too clear that outlawing above-ground tests were in the interest of our Nation. I strongly believe that banning all nuclear tests is also in our interests.

October also marked some key steps the Comprehensive Test Ban Treaty or CTBT. On October 2, 1992, President Bush signed into law the U.S. moratorium on all nuclear tests. The moratorium was internationalized when, just a few year later, on September 24, 1996, a second step was taken—the Comprehensive Test Ban Treaty, or CTBT, was opened for signature. The United States was the first to sign this landmark treaty.

Mr. President, a little more than a year ago, President Clinton took a third important step in abolishing nuclear weapons tests by transmitting the CTBT to the United States Senate for ratification. Unfortunately, the Senate has yet to take the additional step of ratifying the CTBT. I am hopeful that we in the Senate will debate and vote on ratification of the Treaty, and continue the momentum toward the important goal of a worldwide ban on nuclear weapons testing.

Many believed we had conquered the dangerous specter of nuclear war after the Cold War came to an end and many former Soviet states became our allies. Unfortunately, recent developments in South Asia remind us that we need to be vigilant in our cooperative international efforts to reduce the dangers of nuclear weapons.

It is especially important that the Senate act before the September 1999 deadline for ratification by 44 countries. If the United States fails to ratify the CTBT, then we will not have a voice in the special international conference which will negotiate how to accelerate the treaty into force. Yet, as a signatory, we will still be bound by its provisions.

The CTBT is a major milestone in the effort to prevent the proliferation of nuclear weapons. It would establish a permanent ban on all nuclear explosions in all environments for any purpose. Its "zero-yield" prohibition on nuclear tests would help to halt the development and deployment of new nuclear weapons. The Treaty would also establish a far-reaching verification regime that includes a global network of sophisticated seismic, hydro-acoustic and radionuclide monitoring stations, as well as on-site inspection of test sites to deter and detect violations.

It is vital to our national security for the nuclear arms race to come to an end, and the American people recognize this. In a recent poll commissioned by the Coalition to Reduce Nuclear dangers, nearly 50 percent of voters supported "eliminating nuclear weapons worldwide" and an additional third support "reducing the number of nuclear weapons worldwide". In addition, a 1997 poll by the Mellman Group for the Henry J. Stimson Center found that 69 percent of voters believe the goal of the United States should be to reduce or eliminate nuclear weapons.

It is heartening to know that the American people understand the risks of a world with nuclear weapons. It is now time for policymakers to recognize this as well. There is no better way to honor the hard work and dedication of those who developed the LTBT and the CTBT than for the U.S. Senate to immediately ratify the CTBT. Our Nation's role as the world's only remaining superpower demands no less.•

AWARD OF EXCELLENCE FOR DR. LINDA ERWIN

• Mr. WYDEN. Mr. President, I rise today to recognize Dr. Linda Erwin of Portland, Oregon, for her career as both a gifted medical professional and as a tireless and dedicated educator. As one of the first healthcare professionals in the Pacific Northwest to recognize that gun violence is a public health issue, Dr. Erwin has just been awarded the National Crime Prevention Council's Ameritech Award of Excellence in Crime Prevention. She is one of only seven people throughout the Nation to receive this honor.

Dr. Erwin is currently the Assistant Director of Trauma Services at Legacy Emanuel Hospital, and it was through her experiences as a trauma surgeon that she first became aware of the need for increased education about violence—especially gun violence. Dr. Erwin has taken advantage of her position, education, and talents to reach beyond the trauma room to educate young people throughout the Pacific Northwest.

While working in England for two years, Dr. Erwin treated a total of two patients for gunshot wounds. Upon returning to Portland, she was struck by the high numbers of gunshot wound patients being treated each year at Emanuel Hospital. After speaking with victims and their families and friends, she realized that most young people did not recognize or understand the consequences of their risky behavior. Since then, Dr. Erwin has worked as a leading advocate for gun violence prevention, intervention and education.

One of the keys to Dr. Erwin's success has been her ability to create partnerships. Many of the programs that she has initiated bring together and combine the efforts of the medical, legal, law enforcement, and education communities as well as non-profit organizations and committed volunteers.

Dr. Erwin has successfully spread her message throughout the Portland community with such programs as "Save Our Youth," "Safe Schools Safe Lives," "Firearms as a Public Health Crisis" and "American Epidemic Programs." She has also lectured throughout the Pacific Northwest, taking her educational presentations to peer and youth groups throughout the states of Oregon, Washington, and Idaho.

Dr. Linda Erwin is an outstanding example of a professional who has given her time, resources, and knowledge to the community for the betterment of all. For these reasons, Dr. Erwin has received Ameritech's Award of Excellence in Crime Prevention. I would like to thank her on behalf of all those whose lives she lives she has touched.

NATIONAL FIRE PREVENTION WEEK

• Mr. SARBANES. Mr. President, this week the nation joins in marking National Fire Prevention Week, a time set aside not only to remember those who were injured and those who tragically lost their lives due to fire, but also to acknowledge the heroic efforts of those men and women who work so hard to prevent and protect us against such tragedies.

Every year, more than 5,000 Americans die in fires and another 25,000 sustain fire-related injuries. The majority of these fires, around 80%, occur in the home. Fortunately, many of these deaths and injuries can be prevented by simply planning ahead.

The most important function of National Fire Prevention Week is that of raising awareness about the dangers of fire and the relatively simple steps we can take to prevent fire-related tragedies.

The theme of this year's National Fire Prevention Week, "Fire Drills: The Great Escape," serves to encourage the public to practice and plan a home escape plan. This involves a number of steps and I want to touch on them briefly. According to officials at the United States Fire Administration (USFA), the first step in developing a home escape plan is the installation of smoke alarms on every floor. It is estimated that working smoke alarms can actually double your chances of survival in the event of fire.

Smoke alarms, though, are not the only element of a home escape plan. It is vital that every individual in a household knows and practices at least two escape routes from every room in that home. If confronted by a fire, one should first escape the burning house and then meet at a previously designated family meeting place outside of the home. Then, the fire department should be notified. Finally, by no means should anyone attempt to reenter a burning home.

Mr. President, I rise today in support of the theme of this year's National Fire Protection Week and to encourage the development of as many home escape plans as possible. The fact is that no one is immune to the dangers of fire, but if they develop a plan similar to the USFA's their chances of survival are significantly increased.

Today, on the anniversary of one of our nation's worst fires, the Great Chicago Fire of 1871, I want to commend the National Fire Protection Association for sponsoring National Fire Protection Week and to urge my colleagues and all citizens to pay careful attention to the theme and message of this year's National Fire Protection Week, so that we may continue to reduce such preventable losses.•

TRIBUTE TO JENNIFER WARDREP

• Mr. CLELAND. Mr. President, I rise today to pay tribute to Jennifer Wardrep, one of my finest employees who has worked for me, in one capacity or another, for five years. Jennifer came to work for my press office when I was the Secretary of State of Georgia. She had recently graduated from East Carolina University where she studied journalism and political science. Jennifer had a successful career in college, working for the student newspaper and rising to become its editor.

In the Secretary of State's office, Jennifer quickly won my respect and that of her coworkers for her hard work and writing skills. She spent many long nights working in the Georgia Capitol to make it possible for the people of Georgia to receive the news of State elections, the new Motor Voter laws and all of the important work handled by that office. Her dedication to me, and that office, is something for which I am deeply in her debt.

In December of 1995, Jennifer left the safety of her "good government job" for the exciting but temporary life of a political campaign. Once again, Jennifer came to work for me, on my long-shot attempt to become a United States Senator. If there ever was a time when I needed a good press person, it was then. Jennifer was a huge part of a successful media campaign that let the voters of Georgia decide for themselves who was best suited to represent them in the U.S. Senate.

I remember one time in particular when we were traveling through South Georgia talking to several newspapers and many more voters. It was late in the campaign and we were all tired and ready for the election. Jennifer kept me on message as much as humanly possible and rewarded me with candy. This creative thinking is typical of Jennifer. As she and I will both affirm, it sometimes takes innovative approaches to confine me to one message.

I went to bed on election night not knowing for certain if I had won the race. Early the next morning, my phone rang and woke me up. It was Jennifer and she said "Good morning, Senator." The people of Georgia had heard our message of hope and opportunity, several news organizations wanted to interview me and this was my wake-up call. Jennifer was the first person to call me "Senator." I will never forget that moment and I want to thank her very much for that.

After the election, I asked Jennifer to come to Washington with me where she became my Press Secretary. The tenacious media in Washington was no match for her. Although the southern hospitality of Atlanta was nothing like the rough and tumble of Washington, Jennifer's experience paid off. Jennifer quickly established good relationships with the media and helped me share with the people of Georgia the work we were doing on campaign finance reform, Georgia's defense operations and many, many more things.

Although I have said it many times, I truly believe that I have the best staff on Capitol Hill. And I truly believe I have the best Press Secretary on Capitol Hill as well. Jennifer has decided to move on to other things and I wish her the best of luck at whatever she does, although I doubt she will need it. Jennifer has served the people of Georgia well and served me extraordinarily well. Whether it was setting up press conferences, sending out news releases, writing PSA's, or recording Internet messages, Jennifer Wardrep is an irreplaceable part of my staff and will always be my "Tiger" in the press office.•

THE BUDGET SURPLUS

• Mr. KYL. Mr. President, September 30 marked the end of fiscal year 1998, and, for the first time since 1969, the news is written in black ink, not red. Although the final numbers will not be available for a few more weeks, it appears that the federal government will end the year with a unified budget surplus of about $70 billion.

Mr. President, this is truly a dramatic turnaround. After all, it was only three years ago that President Clinton submitted a budget plotting $200 billion deficits well into the next century. I recall that skeptics back then often derided a balanced budget as a risky idea, something that could even threaten Social Security. Now, however, the skeptics seem to concede what many of us have been saying all along—that a balanced budget is good for America and good for Social Security.

What does a balanced budget mean for hard-working Americans? For one thing, it means lower interest rates. The rate on a 30-year fixed-rate mortgage might be as high as 9.5 percent, instead of the current average of about 6.6 percent, had Washington continued to rack up deficits as large as those experienced in the early 1990s.

The savings from lower interest rates can be substantial. Just a one point drop on a $100,000 mortgage amounts to monthly savings of $67, or more than $24,000 over the 30-year term of a mortgage. We are talking here, not about just a one point drop, but rates that are two to three points lower than just a few years ago.

Lower interest rates on student loans make a college education more affordable for young people, and lower rates on car loans mean that hard-working men and women all around the country can stretch their budgets a little farther. A balanced budget literally means money in people's pockets.

The first thing we should do at the beginning of this new fiscal year is commit that we will maintain a balanced federal budget for the American people. We can certainly debate what to do with emerging budget surpluses, but there should be no longer be any debate that our national policy ought to be to keep the budget in balance.

Mr. President, now that the budget is finally in balance, we have the unique opportunity to consider other issues without the cloud of big deficits hanging overhead. For example, we ought to consider whether tax rates are at their optimal level, or whether they are too high. By definition, a budget surplus means that our government is collecting more than is necessary for current operations. People are paying simply paying more than they need to.

Perhaps, instead of keeping tax rates higher than they need to be, we ought to reduce income-tax rates across the board—for single people and married couples, people with children and those without, young people just getting a start and seniors trying to make ends meet on fixed incomes. It seems to me that every taxpaying American deserves a break.

We could also reduce taxes on savings and investment—lower the tax on capital gains and eliminate the death tax—two things that would help keep the already lengthy economic expansion from petering out. If we have learned anything from recent experience, it is that a strong economy, more than tax-rate increases or modest spending cuts, is what it takes to turn budget deficits into surpluses. The booming economy has been pouring billions of extra tax dollars into the Treasury. If we want that revenue flow to continue, we need to be sure that tax policy is conducive to sustained economic growth.

But the fact is, tax relief is not going to pass this year. President Clinton has already indicated he will veto the modest tax-relief bill approved by the House, and we do not have the votes to reach the two-thirds majority that it would take to override a veto. So discussion of tax relief is really academic this year.

Aside from tax relief, the surplus gives us a chance to pay down the national debt. Less federal borrowing frees up funds for businesses and consumers, and as I indicated earlier in my remarks, that has already led to lower interest rates. Further reductions in the debt would continue that virtuous cycle. Moreover, it seems to me that we have a moral obligation to relieve our children and grandchildren of some of the burden of paying off the debt that our generation has accrued.

Another option is to use the budget surplus for Social Security. We all recognize the huge costs that will be associated with getting back to what most people thought Social Security was supposed to be—a safe and secure account where their contributions could be deposited and where they could grow to produce a nest egg for retirement. Applying the budget surplus toward those transition costs will make it much easier to make the required changes and ensure that Social Security is there for our children and grandchildren.

And of course, the surplus we have in the unified federal budget really exists only as a result of the surplus that Social Security generates anyway. Take Social Security out of the calculation and the federal budget would show not a surplus of $70 billion, but a deficit somewhere in the range of $30 billion.

Mr. President, there is some merit in each of these ideas: tax relief, debt repayment, and Social Security reform. The problem is, before we can even begin the debate about which of these options is best, the budget surplus is being steadily frittered away.

Earlier this year, Congress, at the Clinton administration's behest, dipped into the surplus, spending about $6 billion on a variety of programs. Within the next day or two, action is expected on another Clinton request to draw down the surplus by at least another $14 billion—with not a dime going to Social Security. We are talking about the President's request to spend billions of dollars of the surplus on Bosnia, embassy security, farm aid, and the Year 2000 computer problem.

Of course, funding requirements for Bosnia and these other needs were certainly foreseeable and could have been accounted for when the President sent his budget to Congress eight months ago. After all, troops have been deployed in Bosnia since 1995, and last year, the President extended their deployment there indefinitely. The need to beef up embassy security was brought up months ago, and we have known about the Year 2000 computer problem for some time. None of these things should have come as a surprise to the White House or anyone else.

But by failing to account for them when he submitted his original budget in February, President Clinton was able to inflate spending on other programs and claim that his budget still fell within the constraints of last year's budget agreement. Now, the President wants all of this declared emergency spending so that it does not have to be offset elsewhere in the budget. The reality is that he wants to raid the Social Security surplus to pay for these other things.

Many Americans will ask what happened to the pledge President Clinton made in his State of the Union Address earlier this year. That was when he looked the American people squarely in the eye and said:

> I propose that we reserve 100 percent of the surplus—that is every penny of any surplus—until we have taken all the necessary measures to strengthen the Social Security system for the 21st century.

Eight months have passed, and the President has yet to send us any plan to protect Social Security. Worse yet, while publicly claiming to try to protect the surplus for Social Security, he has already been out drawing it down for other programs. The House-approved tax-relief bill that the President has criticized would use only $6.6 billion of the budget surplus for tax relief next year. That compares to the $20 billion or more of the surplus that the President wants to spend on other programs.

If it is wrong to use part of the surplus for tax relief, is it not wrong to spend at least three times as much on government programs? It seems to me that this is just another example of the President trying to have it both ways.

Mr. President, it is too bad we did not achieve any consensus about what to do with the budget surplus this year, because, by default, as of October 1, any surplus automatically went to reduce the national debt. If we are really serious about protecting Social Security, as to future surpluses, we should wall off the Social Security surplus so that it cannot be spent on other programs—not by the President, not by Congress.

The Senator from Texas, Senator GRAMM, has one idea about how to do that. As I understand it, funds would be invested in genuine assets, not just government IOUs, under the supervision of the Federal Reserve. The money would be off-limits to Congress and the President, and when Congress and the President agree on a plan to save Social Security, it could be put to use for the purpose for which it was collected.

In addition to protecting the Social Security surplus, in my opinion, we should provide broad-based tax relief to the American people with any other surplus. It is, after all, their hard work and their tax payments that have created the surplus we enjoy today. We ought to return any excess revenue to the people who earned it and paid it.•

THE PROCLAMATION OF SEPTEMBER 18, 1998 AS POW/MIA RECOGNITION DAY FOR THE STATE OF NEVADA

• Mr. REID. Mr. President, recently, Governor Miller of Nevada, in support of the National League of Families of American Prisoners and Missing in Southeast Asia, proclaimed September 18, 1998 as POW/MIA Recognition Day in the state of Nevada. I am pleased to declare before the Senate my strong support for this proclamation.

The proclamation reads as follows:

> Whereas today there are 2,118 Americans still missing and unaccounted for from Southeast Asia, including 3 from the State of Nevada, and their families, friends, and fellow veterans still endure uncertainty concerning their fate; and
>
> Whereas we as Americans believe that freedom is precious because it has been won and preserved for all at a very great cost; and
>
> Whereas few Americans can more fully appreciate the value of liberty and self-government than those Americans who were interned in enemy prison camps as POWs and those who remain missing in action; and
>
> Whereas the courage, commitment, and devotion to duty demonstrated by those servicemen and women who risked their lives for our sake has moved the hearts of all Nevadans; and
>
> Whereas, their dignity, faith, and valor reminds us of the allegiance we owe to our nation and its defenders as well as the compassion we owe to those families of the MIAs who daily demonstrate heroic courage and fortitude in the face of uncertainty;
>
> Now, therefore, I, Bob Miller, Governor of the State of Nevada, do hereby proclaim September 18, 1998, as POW/MIA Recognition Day.
>
> Mr. President, it is of paramount importance that we continue to demand a full accounting of our servicemen and women in foreign countries, in full respect and acknowledgment of their unremitting courage and dedication in placing their lives on the line as members of the United States Armed Forces.
>
> The importance of this issue cannot be overstated. The sacrifices of these brave men and women must never be forgotten, and we must continue to strive to account for every one of our missing service members. A full accounting of our missing Americans is absolutely essential, not only for our armed services personnel but for their families and our nation. Similarly, we must see that they, like all our other veterans, are forever recognized for the duty they performed so valiantly when our country needed them.
>
> It is with these convictions that I support this proclamation, establishing a Recognition Day for those who so fully deserve our reciprocal dedication.•

HONORING ALEXANDER C. SCHLEHR

• Mr. D'AMATO. Mr. President, I rise to pay tribute to the young men and women that served bravely in the United States military during WWI, and to one veteran in particular, Alexander C. Schlehr. Mr. Schlehr, of Buffalo, NY, is one of only 1,800 living veterans of this war. He courageously lived through the perils of European trench warfare and served his country honorably.

Due to his strong desire to assist his country in the war effort, Alexander enlisted in the army at the young age of 19. Immediately, he was incorporated into 59th Pioneer Infantry, later to be known as the Corps of Engineers. Even before Alex's infantry landed in France, the boat on which he was traveling was attacked by enemy torpedoes. Thus, he has experienced all aspects of warfare, both on the sea and in the trenches of France and in the Argonne forest. For his patriotic and heroic service, Schlehr has been awarded a WWI medal with three Battle Stars and is currently being reviewed for the French "Legion of Honor" medal. He is also considered a local hero. His service has been exalted in his local newspaper, the Amherst Bee, and has been recognized by local and top government officials, all of whom contacted him on his 100th birthday.

Yet, Alexander Schlehr's desire to serve his country did not end at the close of the war. When the war ended, Schlehr graciously helped in handling the personal belongings of discharged officers. He has raised four children, one of which has served the United States in wartime as well, and prospered as a successful business man. Furthermore, he has received numerous awards and recognitions denoting his sixty years of service in the American Legion and the Commandeers.

I feel it is my duty to recognize the outstanding service Alexander Schlehr has given to this country during his 101 years of life. He is an example for all Americans through his selfless and courageous actions. I thank him for his dedication to our country and wish him a Happy 102nd Birthday this coming spring.•

TRIBUTE TO SAM LACY

• Mr. SARBANES. Mr. President, it is a singular privilege for me to rise and acknowledge that this past summer Sam Lacy, one of the giants of American sports journalism, was inducted into the Baseball Hall of Fame in Cooperstown, New York on July 26. Sam Lacy, like Baltimore's great civil rights leaders Thurgood Marshall and Clarence Mitchell, Jr., was a pioneer in the great struggle to expand the participation of all Americans in our national life. The path he chose, however, was not the corridors of legal or political power, nor the streets and sidewalks of protest, but rather the silent and eloquent power of his pen.

His career in journalism, which spanned over 50 years, began in the throes of a segregated society which deprived talented athletes of color the right to give their best in the field of competition. Sam Lacy, using his gift of writing combined with a pleasant but persistent demeanor, helped to break down these barriers thereby enriching immeasurably the quality and equality of our revered "National Pastime."

It is a tribute to the talent and determination of Sam Lacy and that of baseball pioneers Jackie Robinson and Larry Doby, and the essential fairness of our American spirit, that at age 94, Sam Lacy was recognized for his unique contribution to journalism and baseball. Mr. President, I am most pleased to take this opportunity to congratulate Sam Lacy personally for his induction into the Hall of Fame and for his distinguished and exceptional contribution to sports journalism. In honoring him, we also pay tribute to those great players of the past and present who have given so much to the sport of baseball.

I ask that several articles from the Baltimore Afro-American, which provided the forum for Sam's journalistic offerings, and the Baltimore Sun be printed in the RECORD.

The articles follow:

[From the Baltimore Sun, July 27, 1998]

DIVERSE PATHS CROSS AT HALL

PIONEERS DOBY, LACY SHARE DAIS WITH SUTTON ON INDUCTION DAY

(By Peter Schmuck)

COOPERSTOWN, N.Y.—They came from different places. Different backgrounds. Different eras.

Don Sutton, the son of a tenant farmer, won 324 games and was one of the most steady and consistent pitchers of his generation.

Larry Doby, the brilliant young Negro leagues outfielder who followed closely in the footsteps of Jackie Robinson, hit 253 major-league home runs, but is better known as the first black player in the American League.

Sam Lacy, the sports editor and columnist for the Baltimore Afro-American these past 54 years, crusaded for the inclusion of black players in the major leagues and, yesterday, was included in the large class that was inducted into Baseball's Hall of Fame.

The Class of '98 also included longtime baseball executive Lee MacPhail, turn-of-the-century star George Davis, Negro leagues pitcher Joe Rogan and Spanish-language broadcaster Jaime Jarrin, all of them honored during an emotional 1½-hour induction ceremony on the lawn of the Clark Sports Center on the outskirts of Cooperstown.

It was Sutton who tugged hardest on the heartstrings of the estimated crowd of 6,000 with an elegant 20-minute acceptance speech that traced his career from the uncut baseball fields of the rural South to the stage where he stood in front of 33 past Hall of Fame inductees to see his plaque unveiled.

"I've wanted this for over 40 years," he said, "so why am I standing here shaking like a leaf? Probably because I'm standing in front of these wonderful artists of our game. If you can't feel the aura when you walk through the Hall of Fame, check tomorrow's obituary column . . . because you're in it."

Sutton thanked his father for the work ethic that carried him through 23 major-league seasons. He lovingly acknowledged his late mother, Lillian, his wife, Mary, and his children.

He thanked Hall of Fame teammates Sandy Koufax and the late Don Drysdale, who inadvertently ushered him into the major leagues with their dual contract holdout in 1966, then guided him through his first season. He thanked the late Dodgers manager Walter Alston, who took a chance on him in his youth, and former Angels manager Gene Mauch, who stuck with him in the latter stages of his career.

But he saved the most credit for his eventual Hall of Fame induction for longtime Dodgers pitching coach Red Adams, who fashioned him into the durable and skillful pitcher who would win 15 or more games 12 times and finish his career ranked fifth all-time with 3,574 strikeouts.

"No person ever meant more to my career than Red Adams," Sutton said. "Without him, I would not be standing in Cooperstown today."

There weren't a lot of dry eyes when Sutton finally pointed out his 20-month-old daughter Jacqueline, who was born 16 weeks premature and given little chance to survive, and credited her with bringing his life and career into perspective.

"Thanks, little girl, for sticking around to be part of this. You make it perfect," said Sutton, 53. "I'm a very blessed man. I have my health. I'm part of a family that I love to be a part of. I've had a dream come true that is a validation of what my father taught me a long time ago. You can have a dream and if you're willing to work for it, it can come true. With apologies to Lou Gehrig, I'm the luckiest man on the face of the earth. I have everything in life I ever wanted."

The makeup of the group of honorees clearly reflected the great progress that baseball—and society—has made during the half-century since Robinson broke through baseball's color barrier in 1947.

Doby would soon join Robinson in the major leagues, helping fulfill the dream that Lacy had articulated in countless newspaper columns in the 1930s and early 1940s—a dream that sill seemed very distant when Rogan ended his playing career in 1938. Jarrin would forge a link to the Latino community in Los Angeles a decade later and emerge as the voice of baseball to millions of Hispanic baseball fans in the United States and Latin America.

Lacy, 94, gave the crowd a start when he stumbled and fell on his way to the podium, but he collected himself and delivered a poignant, humorous speech that included a call to more fully acknowledge the history and contributions of the black press.

"I hope that my presence here . . . will impress on the American public that the Negro press has a role that is recognized and honored," Lacy said.

Doby also gave a stirring acceptance speech, recounting a career that began with the four years he spent with the Newark Eagles of the Negro leagues and took a historic turn when Cleveland Indians owner Bill Veeck purchased his contract and brought him right to the majors on July 5, 1947.

"Everything I have and my family has got has come from baseball," he said. "If someone had told me 50 years ago that I would be here today, I would not have believed it."

Pressed later for details of indignities he suffered as one of the pioneer black players, he responded without rancor or bitterness.

"It's a tough thing to look back and think about things that were probably negative," said Doby. "You put those things on the back burner. You're proud to have played a part in the integration of baseball. I feel this is the proof that we all can work together, live together and be successful together."

[From the Baltimore Afro-American, Aug. 1, 1998]

LACY: A MAN WHO STANDS FOR SOMETHING AND FALLS FOR NOTHING

(By Tony White)

There's an old saying that goes: "If you don't stand for something, you'll fall for anything." Sam Lacy has literally made a career out of taking stands.

Over the course of his writing career that spans seven decades, Mr. Lacy has taken one stand after another. Some were popular, others met staunch opposition. As a tribute to an historic stand he took against baseball's segregated major leagues almost 60 years ago, Mr. Lacy stood at the podium in Cooperstown, N.Y., July 26, where he was officially inducted to the Baseball Hall of Fame.

As the 49th recipient of the J.G. Taylor Spink Award, a picture of Mr. Lacy will hang in the baseball writers' wing of the Baseball Hall of Fame Museum but the picture would have to speak more than a thousand words to tell his story.

Mr. Lacy has garnered a reputation as a writer of integrity and principle, willing to make a sacrifice for another's cause. Even as he accepted the Spink Award, his mind was on the family members, numerous friends and supporters who had made the trip to upstate New York, to witness his moment of glory. In his acceptance speech, the 94-year-old deflected attention from himself toward the Black press.

"It was a very pleasant experience because of the recognition it gave the Black press," said Mr. Lacy. "The response I got from friends was tremendous. There were about 50–60 people who were in Cooperstown last weekend, who would not have been there otherwise."

Along with late Pittsburgh Courier writer Wendell Smith, Mr. Lacy is credited with facilitating the integration of the league that showcased America's favorite pass-time. Mr. Smith, however, joined in a fight that Mr. Lacy had picked with the majors late in the 1930s. Feisty and unabashed, the Washington D.C. native began a writing campaign that drew the nation's attention to the separatism practiced in the league, which earned him significant sayso when the time came for skin color to take a back seat to talent.

A decade after Mr. Lacy had written his first column criticizing the segregated majors, Jackie Robinson took the field as a Brooklyn Dodger. Though now highly acclaimed, the break through was not painless for Mr. Lacy.

The suggestion of integration coupled with the agitation of Mr. Lacy's writing, drew the ire of White baseball club owners. When he approached Washington Nationals' owner Clark Griffith about hiring Black players for his team, the club executive told Mr. Lacy integrating the majors would kill the institution of Negro Baseball.

"I told him Negro Baseball may have been an institution but it was also a symbol of segregation. The sacrifice would be worth it," said Mr. Lacy.

That position was less than popular with Black baseball club owners. Mr. Lacy, as usual held his ground but things didn't get any easier. The selection of Mr. Robinson as the first Black player to compete in the major leagues was not based totally upon skill. Mr. Lacy, Mr. Smith and Brooklyn Dodgers owner Branch Rickey knew the player chosen would have to be composed enough to endure the racist flack that would be heaped upon him.

Fittingly, Larry Body, a player whom Mr. Lacy had also considered along with Mr.

Robinson, was also inducted during Sunday's ceremony. Mr. Doby was the first Black to play in the American League. He acknowledged the significance of following Mr. Robinson into the big leagues.

"We proved that Black and Whites could work together, play together, live together and be successful," said Mr. Doby, who played for the Newark Eagles of the Negro Leagues.

There were other Negro League players who felt they should have been chosen before Mr. Robinson and Mr. Doby. Pitching sensation Satchel Paige, slugger Josh "The Big Man" Gibson, Buck Leonard, who was known as the "Black Lou Gehrig", Oscar Charleston and Sam Bankhead were some of the players many felt should have been moved up first.

Lacy stood his ground.

As Mr. Robinson and Mr. Doby began to experience success in the majors, Negro League attendance begin to fall off. Some players and club owners blamed Mr. Lacy for their misfortune.

Meanwhile, Mr. Doby, Mr. Robinson and Mr. Lacy caught hell in the White baseball world. Fans jeered Mr. Robinson and Mr. Doby and players tried to injure them. Lacy was barred from press boxes and they all were barred from fields in certain states. With criticism coming from White and Black quarters and players, Lacy was catching it from all directions.

The stand he took on behalf of Black inclusion in major league baseball, was misunderstood and had turned some his fellow African Americans bitterly against him.

"They were a little resentful. They saw the deterioration of their (Negro League) attendance. Black newspapers were easing off coverage of the Negro Leagues and the (Black) stars in the majors were getting the press," said Mr. Lacy.

"At the time you had to wonder why they would be jealous of their former teammates. If they (Robinson and Doby) go up and are successful, why couldn't they (other Negro League players) just follow them?"

At Sunday's induction ceremony, Mr. Lacy took a tumble on the way to the podium, then in classic fashion, rose to the occasion to make a poignant speech. Those gathered showed they understood and appreciated Mr. Lacy's stand for multicultural baseball. They gave him one standing ovation, then stood and gave him another.

HALL OF FAME LACY

There seems to be no end to the forms of recognitions being conveyed upon Sam Lacy, our illustrious sports editor. There is, however, no denying that his recent induction into the Baseball Hall of Fame at Cooperstown, N.Y. must rank among Mr. Lacy's highest honors.

There have been many expressions of adoration used to described Mr. Lacy's invaluable contributions to baseball and sports. The one which seems most often repeated relates to Mr. Lacy's persistance in reminding major league baseball of the atrocity it was committing by continuously excluding African-American athletes.

There seem to be a fair number of African Americans who have been enshrined at the Hall of Fame in Cooperstown. Most of them participated in baseball well after Mr. Lacy's efforts helped break down the barriers to Jackie Robinson being admitted into the 'big leagues.'

The importance of Mr. Lacy's contribution has not diminished one bit as demonstrated in Cooperstown last weekend, when the 'ole timers' all stepped back to give Mr. Lacy his long overdue recognition. For a brief moment, everyone remembered what it was like in the old days and in the process applauded Mr. Lacy's contribution to making it better.

A bigger job now appears to loom in getting the current major league stars to remember that their arrival in the bright lights of today's big leagues is due to the efforts of the 'ole guard,' which now forever includes our Sam Lacy.●

TRIBUTE TO FONTBONNE COLLEGE ON ITS 75TH ANNIVERSARY

● Mr. BOND. Mr. President, I rise today to pay tribute to Fontbonne College in St. Louis, Missouri. On October 15, 1998, Fontbonne College will celebrate its 75th anniversary.

Fontbonne has served more than 10,000 graduates in pursuit of academic excellence. As Fontbonne moves toward the 21st century, it is looking to continue the ministry of higher education begun by the sisters of St. Joseph of Carondelet.

Fontbonne's history goes back to seventeenth century France, the beginning of the Sisters of St. Joseph. In LePuy, France in 1647, six women under the direction of Jesuit priest Father Jean Pierre Medaille were brought together to dedicate their lives to the spiritual and material needs of the people. The order was publicly recognized as the Sisters of St. Joseph on October 15, 1650.

Around 1778, Jeanne Fontbonne entered the congregation, received the name of Sister St. John Fontbonne, and later became the Mother Superior at Monistrol. With the violence of the French Revolution, the sisters were forced to disband. Several were imprisoned and executed. After the death of Robespierre, the day before Mother St. John was to be executed, she was released and asked to reform the congregation. In 1807, 12 women celebrated the rebirth of the Sisters of St. Joseph.

Bishop Joseph Rosati of St. Louis asked Mother St. John to send sisters to the area to teach the deaf. Six sisters set sail for America and established its current home in Carondelet, on the southern border of St. Louis. A log cabin built on a bluff overlooking the Mississippi River became the "cradle of the congregation of the Sisters of St. Joseph of Carondelet."

The sisters opened a day school in the area, a school for deaf and a girl's high school. With these successes, the sisters discussed a new twentieth century idea—higher education of women.

Fontbonne College was chartered on April 17, 1917, but the entrance of the United States in World War I in that year precluded the beginning of classes. Construction at the Clayton location started in 1924. The first Fontbonne class began in 1923 at St. Joseph's Academy. New buildings were ready for the fall term of 1925. On June 18, 1927, Fontbonne conferred its first bachelor of arts degree on eight women.

Since its beginnings in 1923, Fontbonne has changed with and been ahead of the times, but has also kept its identity. Fontbonne admitted African American students in 1947, eight years before the Supreme Court's school desegregation decision. Male students were admitted in selective majors in 1971, then in 1974 all classes were opened to men and women. In the 1980s, Fontbonne created degree programs with flexible scheduling to meet the needs of working students. Now Fontbonne has its first male president.

Today Fontbonne is deeply rooted in the tradition and values—quality, respect, diversity, community, justice, service, faith and Catholic presence—of the Sisters of St. Joseph of Carondelet.

I commend Fontbonne College staff and students for their dedication and perseverance throughout the college's many years of existence and hope they continue to enrich the St. Louis community for years to come.●

INTERNET TAX FREEDOM ACT

● Mr. CLELAND. Mr. President, the Internet, as an growing form of communication, commerce, and information exchange, is a powerful medium for all who are able to take advantage of the opportunities it presents. The initial version of S. 442, the Internet Tax Freedom Act, would, in my opinion, have provided this already powerful tool with even more competitive advantages. Frankly, I believed that the original version was too one-sided in aiding Internet-based businesses at the expense of other interests. However, I was very pleased with the willingness of the authors of this bill to address the concerns raised by state and local governments as well as "Main Street" business owners in such a way that I was able to support the final bill.

The final version of S. 442 contains several positive features. Among those is the inclusion of the Hutchinson amendment, which will allow the Commission created by S. 442 to examine the impact of all types of remote sales. Every year states lose billions of dollars in revenue from remote sales, most recently via the Internet but also in catalog sales. The Hutchinson amendment, which is faithful to the recommendation of the Finance Committee, makes a proper and relevant expansion of the mandate of the Commission.

Not all states and municipalities have imposed taxes on the Internet. However, those that have should not have their Constitutional right to impose these taxes stripped away by Congress. The grandfathering of existing taxes on electronic commerce contained in the final version of S. 442, is consistent with our federalist system and balances the needs of interstate commerce with the proper role of states and municipalities.

Although these and other positive provisions in S. 442 allowed me to support the overall bill, I am hopeful that the initial concerns I had with S. 442 will not arise again when the three year moratorium established by the bill expires. The purpose of this temporary moratorium is to allow government and industry representatives time to work together to decide the rules for electronic commerce. However, S. 442 offers no guarantee that the moratorium will not be extended after the three year period. I supported Senator GRAHAM's amendment that would have required a super majority to extend the moratorium, but unfortunately, it was defeated.

There is a precedent of another "temporary" moratorium that never expired. In 1959, Congress enacted Public Law 86-272, which limited state corporate income tax collection on out-of-state corporations. Like the goal of the Commission created by S. 442, a moratorium was imposed to try to negotiate a uniform standard with regard to the tax treatment of out-of-state corporations. The results of P.L. 86-272 was an increase in litigation and a decrease in state and local tax revenue. This precedent explains state and local leaders' skepticism about a temporary Internet tax moratorium. It is my hope that when the three year moratorium expires, Congress will not extend the moratorium. The experience of P.L. 86-272 does not need to be repeated.

I fear that a continuation of the moratorium would tilt the scales heavily in favor electronic commerce at the expense of local "Main Street" businesses. Internet sales should not receive any privileges that are not available to other forms of commerce. Business competitors of Internet-based firms should not have to experience such legalized discrimination.

Although the use of computers will certainly continue to grow, there will always be consumers who will not have access to the Internet. If attempts are made to extend the three year moratorium, Congress will, in effect, be offering a tax break to those who can afford a computer and Internet access to the detriment of those who cannot.

I wanted to take this opportunity to applaud the efforts that have been made to address this rapidly emerging form of trade, and I believe that the compromise version of S. 442 is an appropriate balance that will give the Commission time to make a recommendation while not greatly interfering with interstate commerce. However, I urge caution by my colleagues, when we revisit this issue in three years, that in our zeal to encourage the growth of the Internet and all the promise it offers we should not compromise the needs of our states, cities, towns, and local merchants. I pledge my efforts to achieve that goal.•

AUTO CHOICE REFORM ACT

• Mr. SHELBY. Mr. President, while I know that the Senate will not take up consideration of S. 625, The Auto Choice Reform Act of 1997, during the 105th Congress, I wanted to put my views regarding this legislation on the record.

S. 625 creates a federally mandated two-tracked automobile insurance system under which car owners would have the option to enroll in a "personal protection system" or the traditional "tort maintenance system." Those who select the personal protection system are promised "prompt recovery" of economic loss, regardless of fault. However, they forfeit the right to recover damages for pain and suffering while being exempted from liability for such damages themselves.

I have some strong concerns regarding this type of so-called "reform" legislation.

First and foremost, I believe that the argument that "Auto Choice" will reduce insurance premiums is unfounded. Over the last few years, the numerous states that have adopted no-fault insurance programs similar to those in this legislation have had the highest premiums in the country. In fact, in 1995, 6 out of the 10 states with the highest average liability premiums were no-fault systems. In light of the failure of auto choice to lower premium costs, I cannot understand why we are seeking to put such a system into place across the country.

I am also greatly troubled by the fact that this bill involves an attempt by the federal government to impose a one-size-fits-all solution on the states. While I recognize that some reforms are necessary, I do not believe that federalizing our tort system, is, or should be the solution.

For more than 200 years, states have had the power to develop and refine their own tort systems. Supreme Court Justice Powell wisely observed: "Our 50 states have developed a complicated and effective system of tort laws and where there have been problems, the states have acted to fix those problems." Mr. President, federally directed reform efforts such as those contained in S. 625 detract from the states' abilities to fashion their own initiatives and deny them the opportunity to provide solutions to meet their own particularized needs.

Furthermore, I am troubled by the fact that this bill allows people to waive their right to recover for non-economic damages. Mr. President, such a provision could lead to a lifetime of pain and suffering for those who suffer massive injury in a car accident. In fact, that possibility is so high, no state, not one, allows its citizens to choose to waive their right of recovery for pain and suffering.

Consider the fact that in all likelihood people would "choose" to waive these rights when they are sitting in their den, filling out their insurance forms. Mr. President, I would argue that the timing of such a choice precludes the possibility of informed consent on the part of the consumer. No one can predict the future, people cannot say whether they will need to pursue recovery for some accident. I predict that, many of those who so choose will one day find that they guessed wrong. Mr. President, checking off a box on a form could forever cost someone the ability to seek damages for loss of a limb, blindness, loss of a child or permanent disfigurement. This legislation does not provide a choice, it opens people up to take an unnecessary chance.

This legislation contains another flaw in that it does not fully protect the rights of those who choose traditional tort protection. Someone who chooses tort law coverage can only seek complete access to the courts if the at-fault driver has also selected traditional tort law coverage. Thus, a victim in an accident has to hope to be lucky enough that the person that hits him has selected the "right" type of coverage. Again, what appear to be "choices" in this bill are in effect risky chances.

Mr. President, if we revisit this issue in the future, I believe we must closely consider these factors. Ultimately, we must also note that we cannot advance reform without taking our federal system into consideration. What is right in Alabama, may not be proper for California, or North Dakota or Connecticut. States must play the preeminent role in setting the course for tort law reform. Common sense demands it, our legal traditions demand it, and our Constitution demands it.•

THE STRENGTHENING ABUSE AND NEGLECT COURTS ACT

• Mr. ROCKEFELLER. Mr. President, I rise today to join Mr. DEWINE in his introduction of the Strengthening Abuse and Neglect Courts Act. I would like to thank Mr. DEWINE of this leadership on this bill, another example of his ongoing commitment to our Nation's most vulnerable children and families. I would also like to thank my good friends Ms. LANDRIEU and Mr. CHAFEE for their support of and input on this legislation.

Last year at this time, Congress passed and President Clinton signed into law the Adoption and Safe Families Act, the most sweeping piece of child welfare legislation in more than two decades. For the first time, this law establishes that a child's health and safety must be the paramount consideration when any decision is made regarding a child in the abuse and neglect system. The law promotes stability and permanence for abused and neglected children by requiring timely decision-making in proceedings to determine whether children can safely return to their families or whether they should be moved into safe and stable adoptive homes. More specifically, the law requires a State to move to terminate the parental right of any parent whose child has been in foster care for 15 out of the last 22 months. While essential to protect children, these accelerated time lines increase the pressure on the Nation's already overburdened abuse and neglect courts.

Our courts play a vital role in the Nation's abuse and neglect system. Through my discussions with judges in my state of West Virginia and across the country, I have learned that abuse and neglect judges make some of the most difficult decisions made by any members of the judiciary. Adjudications of abuse and neglect, terminations of parental rights, approval of adoptions, and life-changing determinations are not made without careful and sometimes painful deliberation. Despite the courts' commitment to the fair and efficient administration of justice in these cases, staggering increases in the number of children in the abuse and neglect system, have placed a tremendous burden on our abuse and neglect courts.

Many abuse and neglect courts have found creative and effective new ways to eliminate their backlogs and move children more efficiently and safely through the court system. In West Virginia, Supreme Court Justice Margaret Workman and a dedicated group of judges and attorneys have developed a comprehensive plan to increase the accountability and efficient administration of abuse and neglect cases. In Cincinnati, Ohio, Judge Grossman's abuse and neglect courts have implemented state-of-the-art computer tracking systems which help them smooth the legal paths of children in foster care.

The purpose of the Strengthening Abuse and Neglect Courts Act is to help remove the burdens on an even greater number of abuse and neglect courts by increasing their administrative efficiency and effectiveness. The bill establishes a program which will provide grants to state and local courts for the creation and implementation of computerized casetracking systems, similar to the one that has seen such incredible success in Ohio. Through the establishment of such systems, courts are able to more easily track how long a child spends in foster care and the status of their cases. Such easy-to-access information will allow courts to move children more quickly and efficiently through the foster care system and into adoptive homes and other permanent placements. This grant program will also enable state and local courts to design and use similar computer systems and to allow for the replication of similar models in other jurisdictions. The technical assistance provision in this bill provides additional funds to aid these courts in the design and implementation of their new computer programs.

Throughout the debate on the Adoption and Safe Families Act, we heard from dozens of judges who said that the biggest problems facing their courts was the overwhelming backlog of abuse and neglect cases. Without creative ways to eliminate such backlogs, the judges argued, new cases will never move smoothly through the court system. That is why this bill also authorizes a grant program to provide State courts with the funds they need to eliminate current backlogs once and for all. For some courts, that might involve the temporary hiring of an additional judge, a temporary extension of court hours, or restructuring the duties of court personnel. This program will provide grants to those court projects that will result in the effective and rapid elimination of current backlogs to smooth the way for a more efficient courts in the future.

The Strengthening the Abuse and Neglect Courts also recognizes the need to improve training, continuing education opportunities, and model practice standards for judges, attorneys and other court personnel who work in the abuse and neglect courts. More specifically, the bill requires that abuse and neglect agencies design and encourage the implementation of "best practice" standards for those attorneys representing the agencies in abuse and neglect cases. The Act also extends the federal reimbursement for training currently provided to agency representatives to judges, court personnel, law enforcement representatives, guardians-ad-litem, and the other attorneys who practice in abuse and neglect proceedings. For the first time, such reimbursement would help fund specialized cross-trainings between agency and court personnel and trainings that focus on vital subjects such as new research on child development.

In addition to the judges, guardians-ad-litem and attorneys in the abuse and neglect courts, volunteers for the Court-Appointed Special Advocate (CASA) Program also play a key role in helping abused and neglected children in the court system. CASA volunteers are the eyes and the ears of the courts, spending time with abused and neglected children, interviewing the adults involved in their lives, and helping to give judges a better understanding of the needs of each individual child. Despite the incredible success of the CASA programs, thousands of abused and neglected children do not have the benefit of CASA representation. The Strengthening Abuse and Neglect Courts Act provides CASA with a $5 million grant to expand its programs into under-served areas and to improve its ability to recruit, train and supervise volunteers in already existing programs.

When we talk about child welfare in this country, abuse and neglect courts are too often left out of the discussion. This is an unacceptable mistake, since our courts play a central role in the well-being of our nation's abused and neglected children. I am confident that the Strengthening Abuse and Neglect Courts Act will be valuable first step in making these courts stronger and more efficient than ever, and I ask my colleagues to join us in this important effort.•

RECOGNITION OF MS. VERONICA CALVILLO

• Mr. GORTON. Mr. President, I speak today in recognition of a young woman from my home state of Washington, Ms. Veronica Calvillo. Ms. Calvillo, a sophomore at Seattle University, is the recipient of a scholarship from the Hispanic College Fund. While I did not have the good fortune of attending the recent awards dinner at which Ms. Calvillo spoke, I have heard from many who did attend that she made a remarkable impression. After reading the remarks she made at that dinner, I can certainly understand why. Through her remarks, Ms. Calvillo shows herself to be an intelligent, mature and centered young woman. Ms. Calvillo and her family are truly an example of what is best about America. I ask that Ms. Calvillo's remarks be printed in the CONGRESSIONAL RECORD.

The remarks follow.

REMARKS BY VERONICA CALVILLO

[Veronica Calvillo is a sophomore majoring in business and engineering at Seattle University]

Good Evening, I am very honored to have been selected as a scholarship recipient by the Hispanic College Fund. I am especially pleased to have been asked to speak on behalf of this year's scholarship recipients.

I wish to begin by thanking American Airlines for making it possible for ten of us to travel from various parts of the country to be here tonight. I also wish to express my gratitude and appreciation to all the individuals and companies, in particular Eddie Bauer, for making our scholarships possible. This support will enable me and the other recipients to begin or continue our pursuit of a higher education.

This evening, I would like to share with you my story, a little piece of history about who I am and why it means so much to me that I am here standing on this podium as a scholarship recipient. The best place for me to begin is by telling you what I do almost every weekend.

Every weekend when I drive to the city where I grew up, I feel like the most privileged Hispanic on the planet. Why do I feel this way? Well, every weekend I am able to witness two individuals that optimize Hispanic Business Leadership and I am able to learn from them firsthand. You are probably wondering who these people are. The two Hispanic leaders have no education, not even elementary education, and they live in a low-income neighborhood—they are my parents, Angel and Lupe Calvillo are their names, and in my opinion they are the two most successful Hispanic business leaders. I base this opinion on the description of what I believe "Hispanic Business Leadership" is. I believe that a Hispanic leader in business should have the characteristics that are common in the mother and father family figures in Hispanic families. I believe this because running a business is like managing a big family, where the children are the employees and you are there to manage them into becoming successful individuals for their benefit as well as the family, which is a sort of business. My parents were extremely successful in managing their children, or their "employees," into becoming successful individuals. How, you may ask? First of all, I don't think many could argue that Hispanic parents, with their strict and religious way of raising their families, are the most successful at running any kind of family. This is why many Hispanic businesses that are family owned, for instance the explosion of family restaurants, are so successful. The Hispanic businesses are managed with the same leadership skills that my parents had as they were raising their children. The skills my parents embody and that they taught me, in preparation for becoming successful, are summed up in three words; integrity, dignity and faith. Integrity—doing what you say you're going to do, Dignity—meaning your daily actions should bring honor and humility, and Faith—having loyalty to God's teachings and confidence in God's plan for you. Three characteristics needed to be a successful business leader in any community, whether it be Hispanic or not.

My parent's climb to success with their own family happened because they are living every day those three characteristics they taught my brothers, sisters and me.

My parents came to America in 1963 with hopes of a better future for themselves and their children. They have no education whatsoever and to this day, many years later, barely utter the English language. They were migrant workers in California and Washington. My older siblings vividly remember their childhood when they, too, had to work in the fields, alongside my parents. When my parents first arrived in America, they made a pact with each other that the life they lived was not going to be the destiny of their children. They had arrived in the "land of opportunity," and they would do anything to give their children the best education available to them.

This is exactly what they did. My Dad eventually obtained a job as a welder and my Mom as a motel housekeeper. Although together they averaged a meager income, they were able to send all five of my siblings and me to private schools. I know this seems unimaginably hard to do, but my family succeeded because of my parents' immense faith in God, family, and in this country. My siblings and I obtained jobs at young ages so we could help out financially; we understood and accepted why we couldn't go see a movie on weekends, or why in winter we would double layer our clothes and sleep with our jackets on. Yes, we were poor, but I never really knew my family was poor until I went to Bellarmine Prep. High School and visited my friends elegant homes and saw how they lived. However, I still never felt the negative associations that are usually paired with being poor. I was happy, because God gave me more blessings than money could ever give me. God gave me two extraordinary parents who instilled Christian morals in their children and taught us how to live with integrity and dignity in the eyes of God. Because God is guiding my family, He made our experiences make my family strong and united—truly engulfed in love for one another.

My parents worked hard, harder than any human being should ever have to. They have gone without, so that we wouldn't . . . the most unselfish human act possible . . . and this is why under all my extreme circumstances I prevail. Looking at my father's leathered hands alone send me soaring. Now it is my turn to help them. I have responsibilities after school that few others have. I must fill out forms, pay bills, send letters, read letters, make phone calls for appointments, go to appointments to translate and much more. I do all of this for my parents because they do not speak English, read or write. Sometimes, I feel like I am the parent. It is frustrating at times when I have a test to study for, but can't because I have to translate for my parents somewhere, at some meeting, or appointment, etc. However, I do it because I love them and like I mentioned before, I know their hands are thick and knotted because of the lifetime of work they have done for their children. This is why I am going to college—to further my education and make myself and my parents proud. I have concluded that all of my parents' dreams and hopes live in their children. When we succeed, they have succeeded.

My parents' hard work and the values they instilled in us started to pay-off with my eldest sister—Lorena. She was the first person in my family to even attempt to go to college. She left my parents' home with just her clothes and my parents' blessing. She eventually graduated from Seattle University. I will never forget how my parents felt when they heard my sister's name called out at the graduation. They cried and my Dad cheered wildly, this is something he rarely does. It had been a struggle for her, but finally a Calvillo made it. My sister also set an example for the rest of the family. My twenty-one year old brother is in his second year at Seattle University, my first cousin, Aida Calvillo (whom worked alongside my sister, Lorena, in the fields with her parents), in 1996 graduated from the University of Washington medical school, and the list continues as more Calvillos are graduating from college. This is my second week attending Seattle University and I am relishing every moment of it.

My sister utilized her education for others, and preached to her younger siblings the importance of a higher education. She told me my junior year of high school, as I was contemplating college, "Veronica, you can't determine what you are born into, but you can determine what you will become with the leadership skills our parents gave us." I took her advice and have kept, and will keep, moving forward until I become what I have determined I will become: a successful Hispanic business leader.

With the help of the Hispanic College Fund Board of Trustees and the generous financial support of Eddie Bauer, I am on my way.

Once again, thank you and good evening.●

WHITE HOUSE'S CEREMONY HONORING EIGHT NEW YORK CITY POLICE OFFICERS FOR BEING AMONG THE NATION'S TOP COPS

● Mr. MOYNIHAN. Mr. President, today this nation takes time to honor the deeds of some of our bravest public servants, the men and women who make up this country's federal, state, and local law enforcement agencies and departments. These officers are the guardians of our safety, the protectors of our hearths and homes. Often in harm's way, they are the ever-vigilant heroes of our communities, towns and cities.

These words particularly ring true when they are applied to the eight New York City Police Department officers who are among those honored here today. In July 1997, Officers Joseph Dolan, Michael Keenan, David Marinez, Mario Zorovic, Sergeant John English, Jr., Lieutenant Owen McCaffrey, Deputy Inspector Raymond McDermott, and Captain Ralph Pascullo prevented two men from attempting to blow up a portion of New York City's subway system with homemade pipe bombs.

These eight officers spearheaded a team that entered the apartment where these two men lived. Once inside, the officers disabled these men and recovered four unexploded pipe bombs. Their bravery and professionalism undoubtedly saved countless lives and prevented a bloody catastrophs.

I am extremely proud of these men and take great pride in calling them New York City's finest.●

COMMENDING JUDY LEWIS

● Mr. COCHRAN. Mr. President, I bring to the Senate's attention that October 16 is World Food Day. As the largest international food aid organization in the world, the United Nations World Food Program feeds 52.9 million people in 84 countries and deserves special recognition.

Millions of people have survived civil unrest, famine and other disasters because of a project called Food-for-Life which makes emergency operations the primary focus of the World Food Program. Other projects include Food-for-Work which uses food as a tool to encourage people to work within their communities in order to become self reliant and Food-for-Growth which distributes food aid at schools, clinics and hospitals to help children and pregnant women.

I am proud to say that Judy Lewis, a native of Scott County, Mississippi, and past Director of Organization of my 1978 campaign staff, has been named the World Food Program's Country Director for Ethiopia. Since 1992, Ms. Lewis has many times endured dangerous conditions to participate first-hand in helping to bring food to starving people whose lives were threatened by natural disasters or armed conflicts. She has played a key role in many of the World Food Program's biggest emergency and development projects around the world in places like Kenya, Rwanda, Tanzania, and Somalia. As Country Director for Ethiopia, Ms. Lewis will be managing a

$30 million emergency and development operation aiming to help over 800,000 people, focusing on refugees, famine relief and urban poverty.

I commend Ms. Lewis for her strength and diligence. And I congratulate the World Food Program for all of its good work.•

RENO$_X$ '98

• Mr. REID. Mr. President, I am pleased to announce today the release of findings from an important environmental conference held in my home State this summer. RENO$_X$ '98 gathered together experts from across the country to focus on the issue of oxides of nitrogen (NO_X) pollution. NO_X is a hazardous pollutant that is produced primarily by internal combustion engines and power generation boilers and furnaces.

In 1996, more than 23 million tons of NO_X were released into the atmosphere in the U.S. alone. NO_X is a key component in the formation of ground-level ozone and urban smog. The health effects of ground-level ozone are well-documented. It contributes to respiratory diseases that cause premature death. It is harmful to children who play actively outdoors and damages agricultural crops and natural vegetation.

RENO$_X$ '98 explored all of these effects and identified strategies and solution for the control of NO_X pollution. The U.S. Environmental Protection Agency has some NO_X reduction programs under way in both the transportation and power generation sectors. However, one of the messages of RENO$_X$ '98 is that more needs to be done and it needs to be done more quickly if we are to make our cities more livable for children and the elderly, who are the most vulnerable to the effects of NO_X emissions.

For these reasons, I hope that all Members of the Senate and their staff will take some time to read the copy of the RENO$_X$ '98 proceedings that was mailed to each office last week. After reading it, I believe you will see the urgency of this issue. I know the Gunnerman Foundation, the lead sponsor of RENO$_X$ '98 intends to aggressively pursue legislation and policy changes that will make NO_X emissions reductions a higher national priority. Dr. Jack Gibbons, formerly Science Advisory to the President and one of the keynote speakers and RENO$_X$ '98, said: "We must move the NO_X problem, which has languished, toward the front of the line."

This is an issue worthy of our attention and I urge you to give it a closer look.•

NATIONAL DAY FOR THE REPUBLIC OF CHINA ON TAIWAN

• Mr. MURKOWSKI. Mr. President, as Americans prepare to celebrate Columbus Day, I notice that there are other celebrations going on around Washington, including "National Day" celebrations in Chinatown. October 10, 1998 marks the 87th anniversary of the founding of modern China. This is a very special day for Chinese people around the world, and especially in Taiwan where October 10 is celebrated as National Day in the Republic of China on Taiwan.

Dr. Sun Yat-sen is the father of modern China, and is widely regarded and revered both in mainland China and in Taiwan. On October 10, 1911, Dr. Sun's Revolutionary Alliance succeeded in putting an end to imperial rule in China, a date which also marked the formal planting of the seeds of democracy which continue to flourish in Taiwan today.

People often speculate as to the real reasons for the "Taiwan Miracle" and how Taiwan continues to defy the odds today; how this island nation continues to expand economically when nations all around her are at an economic standstill or contracting; and they speculate as to how Taiwan not only survives politically, but how she has evolved into such a strong democracy despite the pressures by the People's Republic of China (PRC) to isolate her from the international community.

While there is no easy answer to this question, Taiwan is a flourishing and successful society in every sense of the word, and is a source of optimism in an increasingly uncertain world. In this light, it gives me particularly great pleasure to wish everyone on Taiwan, and Chinese people around the world, a very special October 10 National Day. And so to all of you, congratulations.•

THE DRUG CURRENCY FORFEITURES ACT

• Mr. CLELAND. Mr. President, Mark Twain once said, "Get your facts first, and then you can distort them as much as you please." There has been some distortion and misinformation about my bill, the Drug Currency Forfeitures Act, and I appreciate the opportunity to discuss the facts.

First of all, the purpose of my bill is to dismantle the fortunes of drug traffickers by helping law enforcement seize their drug profits. It is all about confiscating the money of drug dealers, drug traffickers, and drug kingpins. It is NOT about seizing the money of innocent, law-abiding citizens, as some have charged. Confiscating the money of innocent citizens violates the Fourth Amendment of the Constitution, and I would oppose such an attempt with every effort at my command. That is why this legislation includes constitutional safeguards which protect innocent Americans against illegal searches and seizures.

Mr. President, let me tell you why I introduced my bill. There have been a recent series of court cases which have handed down some very disturbing verdicts. In each case, despite overwhelming evidence to the contrary, the court ruled against seizing the assets of drug traffickers—one of our most effective weapons in the war against drugs. Let me give you just one example.

A traveler was stopped in an airport carrying almost $14,000 in cash. A trained drug dog responded positively to the presence of drugs on the money. When asked for an explanation, the drug courier produced a fake ID and lied about the money's source. He also had a previous drug arrest on his record. Yet despite the evidence, the court gave the money back to the trafficker. Why? The court ruled there was sufficient evidence to show that the money came from some kind of criminal activity. But the court held there was insufficient evidence to prove that the crime was drug trafficking. United States v. $13,570.00 in U.S. Currency, 1997 WL 722947 (E.D. La. 1997).

Every year drug sales in this country generate $60 billion in drug profits. Every day drug couriers move huge quantities of this multi-billion-dollar pot out of the U.S. in loads big enough to fill suitcases, trucks, and even airplanes. This movement of drug kingpins' cash crop is the most vulnerable part of their drug operation. Yet current law allows the drug trafficker and his couriers to say nothing at all when their money is seized. That's right, Mr. President. Under the law, the drug trafficker is obliged to give no explanation at all as to where his money came from. If the government can only show that the money was involved in a crime—but can't show that it was a drug crime—the drug dealer gets his money back.

My legislation proposes a presumption that the money is drug proceeds if certain clearly defined circumstances are present—circumstances which typically are found in drug trafficking cases: the presence of drugs or drug residue; a positive alert by a properly trained dog; packaging of the money in a suspicious and highly unusual manner; false statements made to the police; previous drug trafficking convictions.

Let me take just a moment, Mr. President, to answer those critics who discount the positive alert by a properly trained dog. These critics say that so much of our currency is tainted with drug residue that a positive dog alert is meaningless. Yet these critics fail to take into account the scientific evidence that shows that the drug dogs are NOT alerting to the presence of cocaine—which may or may not contaminate a large fraction of all U.S. currency. Instead, the scientific evidence shows that the dogs are alerting to methyl benzoate, a highly volatile chemical by-product of the cocaine manufacturing process that remains on the currency only for a short period of time. The bottom line is that the dogs are alerting only to money that has recently, or just before packaging, been in close proximity to a significant amount of cocaine. This research explains why these dogs do not routinely alert to currency.

To repeat: These clearly defined circumstances in my bill are safeguards to protect the innocent. More important, my bill establishes only a presumption that the money is drug money. Individuals have every opportunity to rebut the government's claim and get their money back. Criminals, however, will no longer be able to play dumb and recover their drug money without having to provide an explanation of where that money came from.

To those critics who maintain that my bill violates the rights of innocent citizens, let me say loud and clear: My bill takes effect only AFTER a determination has been made that the money in question is from an illegal source. This is how the process works.

A police officer or federal agent assigned to an airport task force seizes the money of a traveler based on "probable cause." The traveler, for example, has exhibited suspicious, counter-surveillance behavior, such as signaling to seemingly unrelated travelers who, in fact, are traveling with him. He has concealed a large quantity of money in his carry-on bag along with odor-disguising items like fabric softener sheets to throw off the drug dog. He produces a fake ID and offers a false explanation for the money. Someone whose name he doesn't remember packed the bag, and he had no idea there was any money in it.

Let me repeat: There must be probable cause for the government to seize the money. Once the money is seized, notice of the seizure must be published in the newspaper on three successive weeks and direct notice must be given, in writing, to the person from whom the money was seized as well as to any other person known to have a potential legal interest. The notice explains the procedure for filing a claim to the money. In 85 percent of all federal cases, no one files a claim. To my critics, let me repeat: In 85 percent of the cases, the individual never contests the seizure.

If an individual does file a claim, the agency which has seized the money must refer the case to the United States Attorney, who then makes an independent determination of the merits of the case. If the U.S. Attorney does not believe the government can establish that the money was drug proceeds, the case is rejected and the money is returned. On the other hand, if the U.S. Attorney believes the case has merit, he or she must file a civil forfeiture complaint in federal district court. The claimant is granted a certain number of days to renew his claim and file an answer to the government's complaint.

The case is then litigated in the district court. In each and every case, the burden of proof is on the government. In each and every case, the government has the burden of establishing—to the satisfaction of the district court—that there is probable cause to believe that the money is drug money and therefore subject to forfeiture. Only if the government successfully overcomes this hurdle is the case scheduled for a jury trial where the claimant is required to offer his explanation for the legitimate source of the money. If the jury accepts this explanation, and the government is unable to rebut it with admissible evidence, the claimant will prevail and will recover the money. Otherwise, the court will enter judgment for the government and order the forfeiture of the money.

Mr. President, the federal forfeiture laws are carefully written to provide due process to the innocent and the guilty alike. My bill conforms to these high standards while closing a legal loophole that benefits only the guilty. In the court cases which my bill addresses, the cases are dismissed before the claimant ever has to go before a jury to explain the source of the money. My bill addresses this problem by creating a presumption that if certain factors are present, the money is drug proceeds, and thereby allows the case to move forward to the next stage.

To those who have expressed concern with the concept of rebuttable presumption, let me emphasize this fact: The presumption does not lead inevitably to the forfeiture of the money. Its role is only to force the claimant to come forward with an explanation for a legitimate source of the money. Therefore, my bill in no way infringes upon a property owner's rights under law.

To those who have expressed concern over the possible impact of my bill, let me cite these facts. In fiscal year 1995—a time period prior to most of the court decisions which have limited the use of drug asset seizures—the FBI, the Drug Enforcement Administration, and the Immigration and Naturalization Service made 35,000 seizures of forfeitable property. Of the 35,000 cases, more than 85 percent were uncontested. Of the 5,250 contested cases, the U.S. Attorney declined to prosecute 3,057. Of the 2,193 complaints filed, the government lost in only 48 cases. These statistics are similar for the prior three years. There is therefore little evidence of actual abuses of drug asset forfeitures in the past, and there is even less likelihood of such abuses under the enhanced safeguards in my proposal.

In closing, let me state once again: The Drug Currency Forfeitures Act goes after drug money only. Drug trafficking is a business, and drug traffickers are in this business for one reason—money. Their multi-billion-dollar war chests allow drug lords to have some of the world's most sophisticated airplanes, boats, and communications equipment. Because of their war chests, drug cartels possess weapons in quantities that rival the capabilities of some legitimate governments. If we want to make our streets safer, if we hope to make our children's lives drug-free, it is not enough just to apprehend the drug trafficker. Throw the drug kingpin in jail, and he continues his drug operations from behind prison walls. As evidence, just look at the leaders of the most powerful international organized crime group in history—Colombia's notorious Cali cartel. Even now, the Rodriguez-Orejuela brothers are able to run their drug trafficking business from prison through the use of private quarters and telephones.

Critics of my proposal talk about the need to protect innocent victims. If we want to talk about innocent victims, look at the children who are being sold drugs at increasingly younger ages. Mr. President, I'm proud to be the sponsor of the Drug Currency Forfeitures Act. It hits the drug cartels where it hurts the most—their wallets. The ability of law enforcement to confiscate drug money hinges on the government's ability to prove that the money is drug proceeds, and not the proceeds of some other form of unlawful activity.

My bill is endorsed by the Fraternal Order of Police, the International Association of Chiefs of Police, the International Brotherhood of Police Officers, and the Federal Law Enforcement Officers Association. The Drug Currency Forfeitures Act closes a legal loophole that benefits only the guilty. At the same time, it upholds the Constitution's Fourth Amendment, which protects the innocent against unlawful searches and seizures. I worked very closely with the Department of Justice in crafting this legislation. It is a positive—and needed—step forward, and at the appropriate time I urge my colleagues to support this measure.•

SENATE QUARTERLY MAIL COSTS—THIRD QUARTER

• Mr. WARNER. Mr. President, in accordance with section 318 of Public Law 101–510 as amended by Public Law 103–283, I am submitting the frank mail allocations made to each Senator from the appropriation for official mail expenses and a summary tabulation of Senate mass mail costs for the third quarter of FY98 to be printed in the RECORD. The third quarter of FY98 covers the period of April 1, 1998 through June 30, 1998. The official mail allocations are available for frank mail costs, as stipulated in Public Law 105–55, the Legislative Branch Appropriations Act of 1998.

The material follows:

SENATE QUARTERLY MASS MAIL VOLUMES AND COSTS FOR THE QUARTER ENDING 06/30/98

Senators	FY98 Official mail allocation	Total pieces	Pieces per capita	Total cost	Cost per capita
Abraham	$112,359	850	0.00009	$217.88	$0.00002
Akaka	34,512	0		0.00	
Allard	62,250	0		0.00	
Ashcroft	76,766	0		0.00	
Baucus	33,725	0		0.00	
Bennett	40,632	0		0.00	
Biden	31,373	0		0.00	
Bingaman	41,065	0		0.00	
Bond	76,766	0		0.00	
Boxer	299,774	0		0.00	
Breaux	65,447	0		0.00	
Brownback	48,952	0		0.00	
Bryan	41,146	0		0.00	
Bumpers	50,032	0		0.00	
Burns	33,725	33,832	0.04106	30,597.92	0.03713
Byrd	42,197	0		0.00	
Campbell	62,260	0		0.00	
Chafee	33,982	0		0.00	
Cleland	93,914	0		0.00	
Coats	78,470	0		0.00	
Cochran	49,853	0		0.00	
Collins	37,296	0		0.00	
Conrad	30,599	0		0.00	
Coverdell	93,914	0		0.00	
Craig	35,335	1,275	0.00119	436.67	0.00041
D'Amato	182,405	0		0.00	
Daschle	31,250	0		0.00	
DeWine	129,502	0		0.00	
Dodd	55,328	0		0.00	
Domenici	41,065	0		0.00	
Dorgan	30,599	926	0.00146	220.39	0.00035
Durbin	127,523	1,540	0.00013	1,226.99	0.00011
Enzi	29,313	0		0.00	
Faircloth	98,546	0		0.00	
Feingold	72,344	0		0.00	
Feinstein	299,774	0		0.00	
Ford	62,013	0		0.00	
Frist	75,654	0		0.00	
Glenn	129,502	0		0.00	
Gorton	78,894	3,600	0.00070	734.26	0.00014
Graham	179,546	0		0.00	
Gramm	199,231	2,300	0.00013	813.63	0.00005
Grams	67,502	25,501	0.00569	10,164.43	0.00227
Grassley	51,340	0		0.00	
Gregg	35,844	0		0.00	
Hagel	40,141	0		0.00	
Harkin	51,340	0		0.00	
Hatch	40,632	0		0.00	
Helms	98,546	0		0.00	
Hollings	60,001	0		0.00	
Hutchinson	50,032	0		0.00	
Hutchison	199,231	0		0.00	
Inhofe	58,636	0		0.00	
Inouye	34,512	0		0.00	
Jeffords	30,350	0		0.00	
Johnson	31,250	0		0.00	
Kempthorne	35,335	0		0.00	
Kennedy	81,449	0		0.00	
Kerrey	40,161	0		0.00	
Kerry	81,449	635	0.00011	589.92	0.00010
Kohl	72,344	0		0.00	
Kyl	68,104	0		0.00	
Landrieu	65,447	0		0.00	
Lautenberg	95,810	0		0.00	
Leahy	30,350	7,316	0.01284	4,824.19	0.00846
Levin	112,359	0		0.00	
Lieberman	55,328	0		0.00	
Lott	49,853	0		0.00	
Lugar	78,470	0		0.00	
Mack	179,546	0		0.00	
McCain	68,104	3,949	0.00103	3,158.62	0.00082
McConnell	62,013	0		0.00	
Mikulski	72,320	0		0.00	
Moseley-Braun	127,523	0		0.00	
Moynihan	182,405	4,550	0.00025	1,053.92	0.00006
Murkowski	30,301	366,400	0.62419	56,009.25	0.09542
Murray	78,894	0		0.00	
Nickles	58,636	0		0.00	
Reed	33,982	0		0.00	
Reid	41,146	1,363	0.00103	1,070.03	0.00081
Robb	86,917	0		0.00	
Roberts	48,952	0		0.00	
Rockefeller	42,197	27,339	0.01509	6,395.34	0.00353
Roth	31,373	0		0.00	
Santorum	137,173	1,069	0.00009	901.69	0.00008
Sarbanes	72,320	0		0.00	
Sessions	66,267	0		0.00	
Shelby	66,267	0		0.00	
Smith, Gordon	56,470	1,219	0.00041	1,123.92	0.00038
Smith, Robert	35,844	0		0.00	
Snowe	37,296	0		0.00	
Specter	137,173	0		0.00	
Stevens	30,301	0		0.00	
Thomas	29,313	0		0.00	
Thompson	75,654	0		0.00	
Thurmond	60,001	0		0.00	
Torricelli	95,810	0		0.00	
Warner	86,917	0		0.00	
Wellstone	67,502	0		0.00	
Wyden	56,470	655	0.00022	231.89	0.00008•

SENATE QUARTERLY MAIL COSTS—FOURTH QUARTER

• Mr. WARNER. Mr. President, in accordance with section 318 of Public Law 101-520 as amended by Public Law 103-283, I am submitting the frank mail allocations made to each Senator from the appropriation for official mail expenses and a summary tabulation of Senate mass mail costs for the fourth quarter of FY98 to be printed in the RECORD. The fourth quarter of FY98 covers the period of July 1, 1998, through September 30, 1998. The official mail allocations are available for frank mail costs, as stipulated in Public Law 105-55, the Legislative Branch Appropriations Act of 1998.

The material follows:

SENATE QUARTERLY MASS MAIL VOLUMES AND COSTS FOR THE QUARTER ENDING 09/30/98

Senators	FY98 official mail allocation	Total pieces	Pieces per capita	Total cost	Cost per capita
Abraham	$112,359	0	....	$0.00	....
Akaka	34,512	0	....	0.00	....
Allard	62,250	0	....	0.00	....
Ashcroft	76,766	0	....	0.00	....
Baucus	33,725	1,113	0.00135	887.63	$0.00108
Bennett	40,632	0	....	0.00	....
Biden	31,373	0	....	0.00	....
Bingaman	41,065	0	....	0.00	....
Bond	76,766	0	....	0.00	....
Boxer	299,774	189,826	0.00615	152,219.40	0.00493
Breaux	65,447	0	....	0.00	....
Brownback	48,952	0	....	0.00	....
Bryan	41,146	60,000	0.04521	6,851.98	0.00516
Bumpers	50,032	0	....	0.00	....
Burns	33,725	1,105	0.00134	879.25	0.00107
Byrd	42,197	0	....	0.00	....
Campbell	62,250	0	....	0.00	....
Chafee	33,982	0	....	0.00	....
Cleland	93,914	0	....	0.00	....
Coats	78,470	0	....	0.00	....
Cochran	49,853	0	....	0.00	....
Collins	37,296	0	....	0.00	....
Conrad	30,599	0	....	0.00	....
Coverdell	93,914	0	....	0.00	....
Craig	35,335	735	0.00069	151.10	0.00014
D'Amato	182,405	0	....	0.00	....
Daschle	31,250	0	....	0.00	....
DeWine	129,502	0	....	0.00	....
Dodd	55,328	0	....	0.00	....
Domenici	41,065	0	....	0.00	....
Dorgan	30,599	1,978	0,00311	1,402.19	0.00220
Durbin	127,523	0	....	0.00	....
Enzi	29,313	0	....	0.00	....
Faircloth	98,546	0	....	0.00	....
Feingold	72,344	0	....	0.00	....
Feinstein	299,774	0	....	0.00	....
Ford	62,013	0	....	0.00	....
Frist	75,654	0	....	0.00	....
Glenn	129,502	0	....	0.00	....
Gorton	78,894	321,320	0.06256	54,565.00	0.01062
Graham	179,546	0	....	0.00	....
Gramm	199,231	0	....	0.00	....
Grams	67,502	5,165	0.00115	4,074.66	0.00091
Grassley	51,340	282,160	0.10034	51,420.04	0.01829
Gregg	35,844	0	....	0.00	....
Hagel	40,141	0	....	0.00	....
Harkin	51,340	0	....	0.00	....
Hatch	40,632	0	....	0.00	....
Helms	98,546	0	....	0.00	....
Hollings	60,001	0	....	0.00	....
Hutchinson	50,032	0	....	0.00	....
Hutchison	199,231	0	....	0.00	....
Inhofe	58,636	0	....	0.00	....
Inouye	34,512	0	....	0.00	....
Jeffords	30,350	34,910	0.06125	6,977.43	0.01224
Johnson	31,250	50,480	0.07100	8,980.40	0.01263
Kempthorne	35,335	0	....	0.00	....
Kennedy	81,449	0	....	0.00	....
Kerrey	40,161	0	....	0.00	....
Kerry	81,449	0	....	0.00	....
Kohl	72,344	0	....	0.00	....
Kyl	68,104	0	....	0.00	....
Landrieu	65,447	0	....	0.00	....
Lautenberg	95,810	0	....	0.00	....
Leahy	30,350	0	....	0.00	....
Levin	112,359	2,250	0.00024	434.15	0.00005
Lieberman	55,328	0	....	0.00	....
Lott	49,853	0	....	0.00	....
Lugar	78,470	0	....	0.00	....
Mack	179,546	0	....	0.00	....
McCain	68,104	23,272	0.00606	18,281.89	0.00477
McConnell	62,013	0	....	0.00	....
Mikulski	72,320	12,600	0.00257	2,282.23	0.00047
Moseley-Braun	127,523	0	....	0.00	....
Moynihan	182,405	0	....	0.00	....
Murkowski	30,301	0	....	0.00	....
Murray	78,894	121,500	0.02366	21,864.80	0.00426
Nickles	58,636	0	....	0.00	....
Reed	33,982	0	....	0.00	....
Reid	41,146	60,000	0.04521	6,851.93	0.00516
Robb	86,917	0	....	0.00	....
Roberts	48,952	0	....	0.00	....
Rockefeller	42,197	132,476	0.07311	25,456.09	0.01405
Roth	31,373	0	....	0.00	....
Santorum	137,173	0	....	0.00	....
Sarbanes	72,320	0	....	0.00	....
Sessions	66,267	0	....	0.00	....
Shelby	66,267	0	....	0.00	....
Smith, Gordon	56,470	0	....	0.00	....
Smith, Robert	35,844	0	....	0.00	....
Snowe	37,296	3,757	0.00304	1,213.61	0.00098
Specter	137,173	0	....	0.00	....
Stevens	30,301	0	....	0.00	....
Thomas	29,313	5,209	0.01118	3,617.97	0.00776

SENATE QUARTERLY MASS MAIL VOLUMES AND COSTS FOR THE QUARTER ENDING 09/30/98—Continued

Senators	FY98 official mail allocation	Total pieces	Pieces per capita	Total cost	Cost per capita
Thompson	76,654	0	....	0.00	....
Thurmond	60,001	0	....	0.00	....
Torricelli	95,810	34,378	0.00441	31,463.88	0.00404
Warner	86,917	0	....	0.00	....
Wellstone	67,502	0	....	0.00	....
Wyden	56,470	0	....	0.00	•

VET CENTERS OF EXCELLENCE

• Mr. ROCKEFELLER. Mr. President, the Readjustment Counseling Service (RCS) within the Department of Veterans Affairs recently named five Vet Centers—from 206 across the country—as "Vet Centers of Excellence." I note with great pride that the Morgantown Vet Center, in my State of West Virginia, was one of the Vet Centers selected for this distinguished award.

RCS Vet Centers, mandated by Congress in 1979, are community-based service centers staffed by highly qualified professionals. Vet Center services include individual and group counseling, family/marital counseling, sexual trauma counseling, substance abuse counseling, vocational and employment assistance, VA claims and benefits information, help for the homeless, and social service and health care referrals. They provide readjustment counseling to combat veterans and their families—veterans who served during Vietnam, Korea, and World War II—as well as veterans involved in combat hostilities in Panama, Grenada, Lebanon, Somalia, and the Persian Gulf.

Mr. President, many veterans suffer from psychological injuries as a result of their service in the Armed Forces, especially service in combat. But unlike those injuries that can be bandaged, sewn, or cast, psychological battle wounds are typically unseen and left untreated. Many veterans struggle for years to find peace within themselves, often turning to VA for help years after they've come home from war.

So, the work being done at our Vet Centers is enormously important. And Vet Center services become even more vital when they are the only VA presence for hundreds of miles, as is the case in some parts of the country.

The criteria used in selecting the "Vet Centers of Excellence" included quality of clinical care, administrative management, outreach to high-risk veteran populations, and cost effectiveness.

I am truly delighted that the Morgantown Vet Center has been recognized among those which best represent the spirit and mission of RCS. The Morgantown Vet Center catchment area is mostly rural, with a widely dispersed population covering 16 counties in North Central West Virginia and two counties in Pennsylvania. Since opening its doors in 1982, it has provided service to over 7,000 veterans. To the Morgantown Vet Center staff—Johnny Bragg, Melody Johns, Ronald Jones, and Sandra Calvert—I say thank you for a job well done, and for always going above and beyond what is required in your positions. I am very proud of you.

In addition, I congratulate the staff of the other Vet Centers selected as "Vet Centers of Excellence"—Vista, California; Tucson, Arizona; Atlanta, Georgia; and White River Junction, Vermont.

But I also want to note my appreciation for the other Vet Centers in West Virginia, and those others around the country. All provide a vital service—in many cases, literally a lifeline to troubled vets. I am reminded of the many times my Senate staffers have contacted a Vet Center employee somewhere in the country after hearing from a veteran in crisis—or a family member—and been able to secure the help needed to avert an emergency. And I am reminded of the number of veterans and family members in my State of West Virginia who tell me how positively their lives have changed after contact with a Vet Center.

So, to all 206 Vet Centers and the dedicated staff who work there—your good deeds have not gone unnoticed. Keep up the good work. Our Nation's combat veterans are lucky to have you, and I am enormously proud of what you have been able to accomplish.•

TRIBUTE TO RICHARD K. BOYD

• Mr. McCONNELL. Mr. President, I rise today to pay tribute to Dick Boyd, who will retire at the end of October after 32 years of service to the Westvaco Corporation. For over thirty years, Dick has helped establish Westvaco and the Fine Papers mill into fixtures of Wickliffe, Kentucky. Though not originally from Kentucky, Dick became a valued member of the Wickliffe community, raised his family there and continues to have close ties to Kentucky.

In 1966, Dick joined Westvaco as the Assistant Public Relations Manager at the Fine Papers Division in Luke, Maryland. The next year, Westvaco announced that Wickliffe, Kentucky would be the site of a new $80 million mill. It was while assisting in the public relations details of this announcement that Dick began his long association with the community of Wickliffe. Later that year, Dick, his wife Malinda and their two daughters moved to Wickliffe. Dick became Public Relations Manager for Fine Papers in 1970.

Dick held that job until 1988. During that time, he played an integral role as the Fine Papers mill became the bedrock of the Wickliffe community. After a brief stint during 1988 in the Kentucky State Government as Deputy Secretary of the Cabinet for Economic Development, Dick returned to Westvaco as Regional Public Affairs Manager, a position he held until 1991. At that time he moved to Washington to become Westvaco's Director of Public Affairs, a position he continues to hold today.

Since the 1966 announcement that the plant would be built in Western Kentucky, Westvaco has spent more than half a billion dollars to create a state-of-the-art papermaking facility in Wickliffe. Today, Westvaco employs over 750 men and women in Kentucky, and makes an annual contribution of $134 million to the local economy. The growth of the mill and the company's great relationship with the community are a legacy of Dick's career at Westvaco and his 24 years in Kentucky.

Mr. President, I have worked closely with Dick on several issues of great importance to both Westvaco and my constituents in the Wickliffe area. His hard work and dedication have allowed Westvaco to become an important part of the Wickliffe community. I have enjoyed working with him, thank him for all his efforts on behalf of Westvaco and the people of the Wickliffe community, and wish him the best wherever his future endeavors may take him.•

65TH ANNIVERSARY OF THE UKRAINIAN FAMINE OF 1932–33

• Mr. D'AMATO. Mr. President, I am pleased to cosponsor S. Con. Res. 122, introduced by my distinguished colleague, Senator LEVIN, commemorating the 65th anniversary of the Ukrainian Famine of 1932–33. It is timely once again for us to join together to call the world's attention to this cold act of mass murder, to remember its victims, and to pledge ourselves to prevent hunger from being used as a weapon of genocide. I urge my colleagues to join me in support of this resolution.

The Ukrainian Famine ranks among the most devastating human tragedies of all time, with an estimated loss of life exceeding 7 million men, women and children. Millions of Ukrainians died not from natural causes, but from policies designed to eradicate

Ukraine's cultural and political identity and to punish the Ukrainian people for resisting the forced collectivization of agriculture. As such, the Famine is a dramatic testament to the brutality of the imperial Soviet system, responsible for the destruction of tens of millions of lives over the course of its 70-year existence.

The Ukrainian Famine was a crime of epic proportions. In the 1980's the U.S. Commission on the Ukraine Famine painstakingly documented every aspect of this genocide, collecting an impressive body of material documenting the tragedy inflicted upon Ukrainians by their Soviet masters. Members of the Famine Commission from this body and from the House of Representatives held hearings around the country in which elderly eyewitnesses recounted the consequences of Stalin's genocidal policies in starkly human terms, giving poignant and often gruesome accounts of the horrors they, their families, friends and fellow countrymen faced. The Famine Commission's final report to Congress confirmed the man-made nature of the Famine, specifically, the complicity of Joseph Stalin and those around him in its conception and execution.

Clearly, the Ukrainian Famine occurred within the context of a Soviet system which denied and vigorously opposed democratic values, the rule of law, and any respect for elementary human rights. Now that Ukraine is free from foreign domination and is moving towards full respect for human rights, democratic values and the rule of law, the likelihood of a similar catastrophe, at the present time, appears remote.

Nevertheless, I strongly agree with the resolution's assertion that it is essential that the United States continue to assist Ukraine as it proceeds towards democracy, a free-market economy, and full respect for human rights. It is imperative for America and for the West to support independence and democracy in Ukraine to ensure that Ukraine never again experiences domination by a foreign power hostile to Ukraine's very identity as a people and as a nation.

Mr. President, in closing, I once again urge my colleagues to join together in support of this important resolution.•

TRIBUTE TO ELIZABETH "BETTIE" MOHART FOR HER SERVICE TO THE UNITED STATES SENATE

• Mr. BOND. Mr. President, I rise today to pay tribute to Elizabeth "Bettie" Mohart for her outstanding service to the United States Senate. Bettie was the Chief Clerk on the Senate Committee on Small Business, of which I am Chair. In the three and a half years that she was with the Committee, she helped to make it run smoothly and efficiently.

When Sam Rayburn said "you cannot be a leader, and ask other people to follow you, unless you know how to follow too," he could have been talking about Bettie Mohart. She started her service in 1969 with Senator Stuart Symington as a Staff Assistant, and then went to work for Senator ROBERT BYRD as a Staff Assistant in 1972. In 1974, Bettie left the Senate to pursue other endeavors, only to return in 1985 to work for Senator Jack Danforth. She was hired as a Staff Assistant for Senator Danforth's personal office and was later moved to the Senate Committee on Commerce, when he became Chair. He then asked Bettie to return to his personal office, as Office Manager, where she stayed until his retirement. In 1994, I was fortunate enough to be able to hire her for the Committee on Small Business where she remained until her departure.

By the time Bettie came to work for me she had worked in just about every capacity, in the Senate, with the exception of Chief of Staff and Senator, which no doubt she could have handled. This experience made her, not only an asset to my Committee, but it also gave her the wisdom to manage the Small Business Committee office with a just hand. I thank Bettie for her many years of service to myself and to the United States Senate, and wish her the best of luck in the future.•

IN RECOGNITION OF THE TENTH ANNIVERSARY OF THE WEST VIRGINIA COALITION AGAINST DOMESTIC VIOLENCE CENTRAL SERVICE OFFICE

• Mr. ROCKEFELLER. Mr. President, it is with great pride that I rise today to share my warmest congratulations to the West Virginia Coalition Against Domestic Violence Central Service Office on its 10th Anniversary celebration. Through its around the clock support, educational outreach and a network of safe shelters, the WVCADV Central Service Office providers mothers and children with the information and resources necessary to produce "Peacemaking Partnerships"—statewide cooperation to eliminate domestic violence.

Offering support on a 24-hour basis with an exceptionally educated full time staff, corps of volunteers and Americorps workers, the WVCADV has been able to help prevent, and in many cases help heal the scar of domestic violence in the state of West Virginia. Such commitment is essential in the campaign to stop domestic violence which has grown in staggering proportions. Statistics reflect that a woman is assaulted by her husband or intimate partner every fifteen seconds in the United States. Without effective mechanisms for intervention, this number will only continue to grow.

The WVCADV plays a vital role in encouraging victims of domestic violence to come forward and tell their stories. Through community education, seminars and conferences designed to broaden public awareness of warning signs and other violence-related issues, the WVCADV is changing the past protocol of 'looking the other way' into empowerment, response and prevention.

Through the myriad of support services WVCADV has made available, the network of thirteen safe shelters in West Virginia provide a place for women and children as they begin the process of leaving violence-filled homes. With nearly seventy-five percent of fatal attacks occurring after separation, such safe shelters are essential to protect women and children from their abusers. These shelters not only provide a secure, stable environments with educational programs, but also offer direct contacts with legal advocates and law enforcement to ensure the safety of these women and children after they leave.

Furthermore, through their collaboration with advocates and policy makers, the WVCADV fosters legislation which is essential to counter domestic violence—setting up mechanisms not only to protect abuse victims but also to increase and provide accountability for abusive behavior. In 1994, I proudly cosponsored the Violence Against Women Act, the first comprehensive piece of Federal legislation to address this important issue. I will continue to work with my collegues in Congress and with the staff of the WVCADV to ensure that the most vulnerable families get the support that they need to remain safe, stable and free of violence.

Throughout the month of October, the WVCADV will hold events throughout the State to celebrate the progress they have made in fighting domestic violence. On November 6th a statewide event titled "In Celebration of Peacemaking Partnerships: Looking Back and Moving Ahead" will demonstrate the 10 years of success and goals. I cannot think of a more fitting title for this anniversary celebration which recognizes the West Virginia Coalition Against Domestic Violence Central Service Office's leadership in forging model partnerships throughout West Virginia and across the nation.

Again, Mr. President, I want to express my sincerest congratulations to the West Virginia Coalition Against Domestic Violence Central Service Office for the work it has done and for all that it will continue to do in the future. Also, I would like to express my appreciation for all the WVCADV staff and volunteers. Such commitment and dedication that always inspires me in the work that I do on behalf of West Virginia children and families. I look forward to our future endeavors together as we continue to make great strides in creating "peacemaking partnerships" throughout West Virginia and across the country.•

THE AUTO CHOICE REFORM ACT

• Mr. ALLARD. Mr. President, I rise to make a few remarks concerning the Auto Choice Reform Act. I am a cosponsor of this legislation.

The Auto Choice Act proposes the development of a "no fault compensation system" to provide an option to drivers who do not want to pay for services they do not want and will not use. This legislation would allow for the recovery of economic losses, but not for the recovery of non-economic damages like pain and suffering. Those who choose to stay insured under the tort system would retain the right to sue and be sued for economic and non-economic losses, while those who choose the "no fault" system would be able to sue or be sued for economic damages only. And that is what the Auto Choice Act is really about, Mr. President. Choice for the driving public.

All drivers are currently insured through a system that requires them to pay for insurance on the assumption that if they are involved in an accident then they will sue or be sued for more than economic damages. The majority of drivers are never involved in a suit for pain and suffering, yet they pay for this coverage every single month.

Between 1987 and 1994 the cost of automobile insurance increased by 44%. This extraordinary increase was due in large part to excessive claims made by accident victims for pain and suffering, that is, for compensation beyond the costs of automobile damages and medical bills. For every $1 in actual economic loss generated by this system, $3 are paid out for non-economic damages. Rampant abuse of the insurance industry attempts to turn people's misfortune into a sweepstakes.

This sweepstakes is particularly beneficial for attorneys who collect 40 cents of every dollar paid for bodily injury. Twenty-eight cents from every premium dollar goes to attorneys. According to the Joint Economic Committee, lawyers earn between $15 and $17 billion a year under the current tort system and lawyers on both sides of a dispute make almost two times the amount of money that injured parties receive for actual economic loss. This is abuse of a system that exists to protect people from the genuine financial costs of misfortune and tragedy.

The Federal Bureau of Investigation estimates that such excessive legal and medical claims, combined with outright fraudulent claims, have added $200 in unnecessary premiums for every household in America. That's a $200 increase for every family—regardless of what type of coverage that family may want. That's $200 that will not be spent on groceries, clothing for children, or tucked away into savings for education.

This system becomes more inequitable when the burden on low-income and urban drivers is considered. These drivers pay a disproportionate amount of their income for auto insurance. In my home state of Colorado we have the 14th highest insurance rates in the nation. The effects of the high cost of driving in Colorado are particularly noticeable along the more densely populated front range. Last week Denver Mayor Wellington Webb testified before the Senate Commerce Committee concerning the effects of high premium costs on a large urban population. Mayor Webb testified that not only do the urban poor pay a premium disproportionate to their income, but high premium costs can also deter drivers from purchasing insurance at all. Dr. Robert Lee Maril testified to the disproportionate cost of insurance stating that nationally households spend 2% of their annual income on automobile insurance. The upper 50% of people living below the poverty line, however, spend a staggering 14% of their income on automobile insurance.

Mayor Webb also testified that this is not just an issue for the poor. Middle-income families spend on average 150% more on auto insurance than they do on education, and in the City of Denver alone residents would see their premiums reduced by as much as 40%.

In July the Joint Economic Committee released a report that demonstrates the benefits of Auto Choice for businesses. In addition to the relief this bill provides for individual drivers, the JEC reports that nearly 40% of all tort cases against businesses are auto-related. The incentives that drive the tort system increase the cost of doing business. In 1994 businesses spent $21 billion on auto liability insurance. Just as families are forced to spend money on high premiums that could be better spent on food or education, businesses are forced to dedicate resources to liability insurance instead of payroll and capital investments. The JEC report concluded that the Auto Choice Act would result in an average 27% savings on commercial auto insurance, potentially saving American businesses $41 billion over five years.

The Insurance Commissioner from my state of Colorado has endorsed this legislation, however, I realize that in spite of the expected benefits of this legislation, some states prefer their current system. Therefore, this bill provides a choice for the individual states. Under this legislation, state legislatures are able to opt-out of Auto Choice for any reason. Furthermore, the bill clearly states that it will not preclude a State or State Official from fully exercising their regulatory authority concerning policy rates, consumer protection or carrying out the requirements of this act. The Auto Choice Reform Act will leave the ultimate regulation of auto insurance to the states.

The implementation of The Auto Choice Act would cause the average insurance policy to decrease by $243 annually, saving drivers an estimated $45 billion nationwide. By providing greater choice to the driving public, without cost to the government, the driving public would save $246 billion over five years. That's an enormous savings for simply providing an option to the consumer. This is a bill about choice, it is a bill about savings, and it is a bill about equitable compensation for the American driver.•

NIH EARMARKS

• Mr. COATS. Mr. President, I would like to speak today about a matter which concerns me greatly—the process by which funds are allocated at the National Institutes of Health (NIH).

The National Institutes of Health is one of the finest institutions of medical research in the World. A commitment to providing the best possible health care has driven the NIH's recruitment of preeminent physicians and medical researchers across the breadth of the medical disciplines.

Having created such an impressive resource, it is disheartening that Congress, through legislative earmarks and other mandates, often undertakes to second-guess the considered opinions of these experts.

The practice of earmarking disease-specific funds results mainly from lobbying pressure directed to Senators or our staffs. As a result of this pressure, Senator's introduce language which sets aside sums of money—often very large sums of money—to be used exclusively for one specific disease.

In September of last year, the Senate overwhelmingly approved the Department of Health and Human Services Appropriations Bill, which contained a provision for an in-depth study to examine the priority setting process at NIH. The amendment which incorporated this study was originally sponsored by myself and Senator Frist, and directed the Institute of Medicine (IOM) to conduct this study with utmost priority.

The intent of this research was to understand how priorities regarding specific research programs are determined, how levels of funding for these research programs are established, and how new organizational entities within the NIH are created.

This study grew out of Senator Frist and my concerns that Congress was unduly influencing the process by which priorities are set at NIH through the practice of the earmarking of funds for disease-specific research. We were concerned that the priority setting process at NIH was becoming less science-based and more politically drive. It was clear that our concern was shared by the majority of the Senate, as they voted to include this amendment in the appropriations bill.

In July of this year, IOM completed its work and reported its findings to

Congress. The study cited the need for greater public involvement, specifically, and I quote, "The director of NIH should establish and appropriately staff a Director's Council of Public Representatives, to facilitate interactions between NIH and the general public" and that, "* * * public membership of NIH policy and program advisory groups should be selected to represent a broad range of public constituencies." unquote. It is interesting to note that both these recommendations focus public input directly to NIH, rather than to Congress.

This is very much in line with another recommendation; quote, "The U.S. Congress should use its authority to mandate specific research programs, establish level of funding for them, and implement new organizational entities only when other approaches have proven inadequate." unquote.

The findings of this study are clear. For the purpose of priority-setting, public input-including organized input via lobbying efforts—are most appropriately directed to NIH, where it can be evaluated by appropriate science-based criteria. Only when there is evidence that NIH is unable or unwilling to apply this input appropriately to their priority-setting process and criteria, should Congress influence the process through legislative mandates. It is my contention that if the litmus test were applied to all earmarks, most would be stripped from legislation.

The message is clear: Congress should avoid the practice of earmarking within NIH appropriations. The findings of the research conducted by the independent and impartial experts clearly indicates that the concern regarding the pricess of priority setting at NIH was warranted.

As the Senate considers the future appropriations and authorization legislation for NIH, I would urge my colleagues to consider, with a critical eye, any disease-specific earmarks. I would urge my colleagues to ask themselves whether there is evidence that NIH has somehow failed to appropriately consider and apply science-based priority-setting criteria. In the absence of such evidence, I would urge my colleagues to not impose earmerks or other legislative mandates on the NIH.•

A TRIBUTE TO JOSEPH PINGA

• Mr. CHAFEE. Mr. President, I would like to take this opportunity to pay tribute to the late Joseph Pinga, a community leader who passed away on September 1st, in West Warwick, Rhode Island. Mr. Pinga was best known for his community giving and his vigilance that helped to reform the West Warwick town government.

Mr. Pinga served honorably in the U.S. Navy and worked to establish his business, Westcott Baking Company, of which he was the owner and operator for over forty years. In this capacity, Mr. Pinga was regarded not only as a local pioneer, but also as a defender of rights for small business owners. In fact, in 1978, *Time Magazine* recognized Joe's perseverance in an article about his struggle with the Occupational Safety and Health Administration.

Joseph Pinga certainly was a believer in community involvement. Numerous charitable organizations could always count on Mr. Pinga's generosity without ever requesting any public acknowledgement. In addition, Joe ran for mayor of West Warwick in 1990 and was a member of the local Elks Lodge.

Mr. President, I join with all Rhode Islanders in extending to Mr. Pinga's family our sympathy and best wishes.•

HONORING WALTER SELLERS

• Mr. DEWINE. Mr. President, I rise today to pay tribute to the distinguished career of Walter G. Sellers of Wilberforce, Ohio—who has recently completed his term as president of Kiwanis International.

Mr. Sellers is the first African-American to serve as Kiwanis International President. For 32 years, he was a member of the Kiwanis Club in Xenia, Ohio. In 1990, he was elected to the Kiwanis International Board of Trustees. he served as Vice President and Treasurer before becoming President.

All Ohioans are proud of Mr. Sellers' outstanding stewardship of one of the largest service clubs in the world. But we also know that his service to our community extends beyond his work with the Kiwanis organization. He has served as President of the Xenia Board of Education and President of the Ohio School Boards Association. And he has done great work on many other public-service boards in Ohio.

Walter Sellers has dedicated his life to improving the lives of the people of Ohio, especially in the field of education. We are all extremely grateful for his efforts and I ask my colleagues to join me in wishing him all the best in his next endeavors.•

THE FUTURE OF FAMILY FARMING AND RANCHING

• Mr. JOHNSON. Mr. President, today I rise to express—in very stark terms—my deep and increasing concern for the future of family farming and ranching in this country. The truth is, our country's family farmers and ranchers are under increasing economic pressure from concentration in agriculture—concentration in meatpacking, concentration in food-retailing, concentration in rail and other forms of transportation, concentration in banking, concentration in the grain-trading companies, and concentration in production itself.

The strands of these varied concentrations are tightening around the throats of family farmers and ranchers, threatening not only the farmers and ranchers themselves, but also their families, the small-town businesses that depend on them, their schools, their churches, and the very social fabric that makes rural America such a special and wonderful place to live—the reasons why we should do whatever we can to preserve and promote our system of family farming and ranching.

But there is more at stake here than just our farmers and ranchers and their families, critically important as they are. What's also at stake is the very system that produces our food, that gives us life. Study after study shows that family agriculture is the most efficient way, the most environmentally safe way, to produce our food. And that is another reason why we should do whatever we can to preserve and promote our system of family farming and ranching.

But, frankly, there is a troubling movement in our country toward the corporatization of family agriculture. Look at the pork industry—it has become increasingly dominated by giant corporate hog factories, a fact which has gone hand-in-glove with lower and lower prices for hogs, to the point that many family pork producers can't make a living at it anymore, and have simply given up.

A case in point is the state of North Carolina, which has seen the biggest influx of corporate hog factories in the United States. In 1984, there were 24,000 hog farmers in that state, just before the growth of hog factories skyrocketed. Now, there are 7,000 hog farmers in North Carolina, almost all of them working on contract, little more than hired hands working for outside corporate investors. However, at the same time that independent family hog producers have almost disappeared in North Carolina, the number of hogs produced there has tripled, thus leading to enormous environmental problems—fish kills numbering in the tens of millions, rapidly rising nitrates in groundwater used for drinking, increasing levels in airborne ammonia, stench that makes the eyes water, and a corresponding and unsurprising drop in tourism. The North Carolina experiment has clearly not worked.

What has happened in North Carolina, and what is happening in many other states, is nothing less than a human tragedy. My ancestors, and the ancestors of many people here today, left Europe to escape the feudal system of agriculture, a system of inequality and unfairness where a baron controlled the land and the peasants worked for him as little better than slaves.

I do not want to return to a "new feudalism" in which the baron is replaced by out-of-state corporate investors, nor do I believe that the people of my state desire to do so, either. It is for that reason that I have opposed the concentration in agriculture at all levels, because it ultimately is fair to neither food producers nor food consumers.

And it is also the reason that I plan to vote for "Amendment E," an initiated measure that will appear on the November 3rd, 1998 South Dakota general election ballot. This measure corresponds very closely to a similar measure in Nebraska, which has been deemed constitutional by the United States Supreme Court, and has allowed Nebraska to maintain both market share and number of producers much better than its neighboring states, including South Dakota. I'm not telling any South Dakotan how to vote on this or any other issue, but I do want to add my voice to those who believe the move toward the corporatization of our family farming system has gone too far. We have far too much at stake to simply sit silently by while the best food producing system ever devised by humankind is allowed to die a slow and painful death.●

THE VA HEALTH CARE SYSTEM AND DR. KENNETH W. KIZER

● Mr. SESSIONS. Mr. President, I rise to make a few remarks concerning the VA health care system, a system that is currently undergoing dramatic changes and reorganization. I would note that these changes, in turn, to include managerial reforms, facility consolidations, and reallocation of resources, all initiated by the Under Secretary for Health, Dr. Kenneth W. Kizer M.D., M.P.H., are having a dramatic impact on when, where, and how VA is providing for our veterans, many of whom are in my home state of Alabama.

The private health care sector is likewise undergoing massive managerial and resource changes. We saw evidence earlier this week of the erosion in care for elderly Americans, for instance, when a number of HMO's decided not to participate any further in Medicare+Choice. Over at the VA, using managed care models, Dr. Kizer also shifted inpatient care to outpatient care and heightened the focus of primary care at the expense of specialty care and specialized services. So elderly veterans, and those in speciality care programs around the country, are under the same stresses as their civilian neighbors.

Dr. Kizer apparently likes decentralized decision making, and I cannot say that I necessarily disagree with that style. It can be very effective at times and in certain organizations. He has given local VA managers incentives and authority to design and run their own health care operations independent of VA's National Headquarters. In many respects these reforms have been beneficial, even bold I am told, particularly at a time when the VA budget is under severe stress.

However, I expressed my personal concern to Dr. Kizer in a phone call earlier this week that there is one area where I believe decentralization and certainly the shifting of resources is having a very negative effect on one of the VA's core missions, and that is, the provision of specialized services for veterans with spinal cord injury and dysfunction.

Mr. President, the Congress mandated in P.L. 104-262 that the VA would maintain its capacity to provide specialized services, such as care given in VA's 23 Spinal Cord Injury (SCI) centers. Many have wondered, and rightly so I believe, that budget pressures, reorganization and decentralization of management have created the incentive for local managers to downgrade these expensive specialized programs, generally shifting resources and staff out of one area to make up for shortfalls in others areas. Costs are thereby reduced at the expense of the care for the veterans who need it the most.

Specialized programs, including blind rehabilitation, amputation care, specialized health programs, as well as spinal cord injury care, are core disciplines of the VA health care system. They, least of all, should be subject to re-engineering until all aspects of that care have been analyzed from a headquarters perspective. I don't think allowing numerous mangers to make that kind of decision is in the national interest or in the interest of our veterans.

Former Senator Alan Simpson from Wyoming, then Chairman of the Senate Committee on Veterans' Affairs, presided over the passage of the legislation protecting specialized services. Addressing this particular provision, he said: "VA is required to maintain special programs (such as treatment of spinal cord dysfunction, blind rehabilitation, amputation and mental illness) at least at the current level. On a per capita basis, these services are expensive to provide and it is not the intent of the Committee to allow VA to reduce them in order to pay for other kinds of routine care."

Mr. President, I am afraid what Senator Simpson and the Congress feared could happen to specialized programs in general and spinal cord injury programs specifically under VA's current reorganization initiatives is, in fact, happening.

Nearly a month ago, I had a visit from Mr. Aubrey L. Crockett, the President of the Mid-South Chapter of Paralyzed Veterans of America. Aubrey represents the health care interests of 1830 spinal cord dysfunctional veterans in Alabama. As he sat confined to his wheel chair, he raised serious concerns that the VA was not maintaining the quality and quantity of its specialized health care services for the over 120,000 veterans nationwide with spinal cord dysfunction.

Last month, Gordon Mansfield, the National Executive Director of the Paralyzed Veterans of America addressed the same subject from a national perspective during hearings on the Hill. PVA's leadership has expressed its concerns to me as well. Over 75 percent of their membership, a larger percentage than any other veterans service organization, rely on the VA for all or part of their specialized health care needs. For these individuals with chronic and catastrophic disabilities, any erosion in the care they require can be life threatening. Aubrey indicated that something as simple as a pad for a wheel chair can make a big difference for a veteran.

I have come to believe that PVA's concerns need to be addressed. I further believe that any erosion in staffing, bed availability or the quality of care at our nations VA Spinal Cord Injury Centers cannot stand without a review of the underlying reasons, and that the VA must direct the resources to fix the problems in order to comply with the intent of Congress as mandated in the statutes.

In an era of tight budgets, local hospital administrators and managers don't see these programs, such as the Spinal Cord Injury programs, as being "National Programs." Ignoring the national mandates, local managers acting under Dr. Kizer's administrative decentralization guidelines have been left to do whatever they felt was warranted. We may disagree on the numbers of reported beds and staff in SCI centers, but even GAO has criticized the inaccuracy of VA data collection efforts. So, it should not be surprising that a number of Senators have questioned VA's procedures and policies as applied to managing its specialized programs. Paralyzed veterans, I think, are the only true judges of the state of the health care they receive. They are the reason the VA health care system exists. If paralyzed veterans have a concern then the Congress must listen, and more importantly, if warranted we must act on their behalf.

On September 29, 1998, I wrote to my colleague from Pennsylvania Veterans Committee Chairman ARLEN SPECTER expressing my concerns in this matter. I indicated that "I will consider placing a hold on the re-nomination" of Dr. Kenneth Kizer, "until my concern regarding the maintenance of specialized services within the Veterans Health Administration is adequately addressed."

Mr. President, I want to commend Senator SPECTER, and the Committee for its support in this matter. The Committee met every request I had in a timely fashion. Moreover, it helped coordinate a solution acceptable to all parties. America's veterans owe Senator SPECTER a debt of gratitude for his hard work on their behalf.

The solution I had in mind when I wrote to Dr. Kizer was to bring the reins of control for SCI programs back to the National Headquarters level and in the process elevate the controls over policy and resources and restore a greater degree of national guidance and oversight. In doing so, I hoped we would be guaranteeing for some time to come that these changes would meet the needs of our paralyzed veterans and conform to the mandated statutes.

Mr. President, I am pleased to report that Dr. Kizer has responded to my concerns with a suggested list of administrative and policy changes that would bring additional control over the spinal cord injury program.

I request that my letter to Dr. Kizer dated October 5, 1998, and his letter of policy recommendations dated October 8, 1998 be printed in the RECORD immediately following this statement.

I believe I have Dr. Kizer's commitment to a series of positive improvements to our specialized programs. I look forward to seeing the fruits of his labor and those of the departments he supervises. Similarly, and with the help of the Senate Committee on Veterans' Affairs, I intend to keep a close watch on these policy changes and the Spinal Cord Injury Program in particular. I have no intention of letting Aubrey or the other 1830 Spinal Cord dysfunctional veterans in Alabama down. This body needs to make certain that the VA is maintaining its capacity to provide specialized health care services and that it is doing as much as it can to care for all our 26 million veterans—all the time. That has always been the intent of Congress and I am certain it always will be.

The letters follow:

UNITED STATES SENATE,
Washington, DC, October 5, 1998.

Dr. KENNETH W. KIZER, M.D.,
Special Assistant to the Secretary, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC.

DEAR DR. KIZER; I am glad we had a brief chance to speak this afternoon. As I told you, I am ready to remove my hold on your re-nomination for the position of Under Secretary for Health once you clarify for me in writing what action(s) you and the Department intend to take to comply with the statutory mandates for the specialized treatment and rehabilitative needs of disabled veterans (including veterans with spinal cord dysfunction, blindness, amputation and mental illness) identified in section 1706, Title 38 U.S.C. and staffing requirements in section 7306 (f), Title 38 U.S.C.

VA's massive reorganization efforts coupled with chronic budget pressures have placed great stress on management and patients alike. While many of my colleagues have complimented you on your management initiatives, Alabama's paralyzed veterans are concerned that in the VA's haste to re-engineer itself, managers are shifting vital resources and staff out of specialized programs. I think we would both agree that SCI, blind rehabilitation, amputation care, and special mental health programs are the core of the VA health care system. Alabama veterans over and over again have told me that this type of care cannot be matched anywhere outside VA. Hence, you can well understand why I am interceding on their behalf.

In order for me to release my hold on your re-nomination, I would appreciate your response as soon as possible. In addition to my overall compliance concerns, I would appreciate it if you would specifically address the establishment of a centralized operational authority for the SCI program; the resources and authority necessary to run that program office to include such oversight as treatment guidelines, staffing and bed modeling; relationship to local and regional managers, and compliance reporting procedures or other actions the Department deems necessary to comply with this management structure.

Sincerely,

JEFF SESSIONS,
U.S. Senator.

DEPARTMENT OF VETERANS AFFAIRS,
Washington, DC, October 8, 1998.

Hon. JEFF SESSIONS,
U.S. Senate,
Washington, DC.

DEAR SENATOR SESSIONS: I wanted to follow-up with you in writing to underscore my commitment to maintaining capacity, improving access, and enhancing coordination of care to meet the specialized needs of our most vulnerable veterans. I believe that we do not differ in our views that maintaining the Veterans Health Administration's (VHA) specialized programs is of paramount importance.

As I have said on several occasions, I believe VHA's programs and services for certain special disability groups are the heart of the Department of Veterans Affairs' (VA) health care program. These special VA programs include those for veterans with spinal cord injury, blindness, traumatic brain injury, amputations, serious mental illness and post traumatic stress disorder. It would be unthinkable for VHA to retreat from its commitment to the specialized needs of veterans who rely on VA for these services. Further, it is my intent to take advantage of opportunities to improve and provide better services, as science and new technologies advance.

I share your interest in ensuring that VA is in compliance with current laws related to specialized programs. It is my understanding that the Department currently is in compliance with the law, as outlined below. Additionally, I intend to implement additional measures should I be confirmed for a new 4-year term.

As required by legislation, the Department has submitted two reports to Congress on maintaining our capacity for these specialized programs—one in May 1997 and one in June 1998. Our reports to Congress document compliance with 38 U.S.C. §1706, which requires the maintenance of capacity for specialized services. Nationally, the number of veterans treated in the six programs was maintained or increased for all categories but amputation, which declined by 2%. (Of note, this latter statistic is, in fact, a positive finding since it reflects the greater emphasis that has been placed on preserving limbs, and better management of veterans at risk for amputation, which has resulted in fewer amputations per year.) Still, we recognize that VA's data gathering and validation can be improved and that the multiple data sources and different ways of interpreting data have given rise to several issues and concerns related to reporting capacity. In early December 1998, VA will convene a national data summit to review and find solutions to address these issues, and we are inviting to participate in this conference a wide array of stakeholders (e.g., veterans service organizations, Congress, and the Inspector General) who review our data to assess quality and system improvements.

I understand that you also are concerned about compliance with 38 U.S.C. §7306, which addresses the expertise of VHA Headquarters staff in specialized services. VHA Headquarters staff includes highly qualified representation in all specialized programs: Chief Consultant, Mental Health Strategic Healthcare Group; Chief Consultant, Prosthetics and Sensory Aids Strategic Healthcare Group; Clinical Program Manager, Spinal Cord Injury and Disorders Strategic Healthcare Group; and Director, Blind Rehabilitation Service. These individuals have substantive expertise and policy guidance and provide critical oversight of these specialized programs. In response to a wholly separate inquiry from that raised by your concerns, I have been advised that the VA's General Counsel confirmed VHA's compliance with 38 U.S.C. §7306 in an August 14, 1998, memorandum.

Effective management of our specialized programs is a VHA-wide responsibility. VHA has a management structure that physically places personnel in a decentralized manner, as appropriate. In our experience, we have found that we often get better program leadership when individuals remain clinically active. In the case of the Chief Consultant, Spinal Cord Injury and Disorders, Dr. Margaret Hammond, a national SCI expert, serves in this capacity from the Seattle VA Medical Center. Dr. Hammond's efforts have been widely praised, including by many members of the Paralyzed Veterans of America.

While VA is in compliance with current law, I believe that some additional measures could be taken to reinforce our ongoing commitment to SCI programs. Accordingly, I intend to take the following steps to strengthen Headquarters' role in these matters, should I be reconfirmed for a full term as Under Secretary for Health.

First, decision-making authority for any SCI-related mission changes, construction, staffing, or bed level proposals will be centralized to Headquarters. In the future, before a VISN will be allowed to make changes, it must have the approval of the Under Secretary for Health, following consultation with the Chief Consultant, SCI/D and Chief Officer, Patient Care Services. A directive to all network offices and facilities will be issued to effect this.

Second, national guidelines will be developed so that patient referral procedures are uniform across the VA healthcare system and to ensure that complex specialty care is provided at the appropriate site. Additionally, SCI health care Circular M2, Part 24 will be revised and updated. Dr. Margaret Hammond, Chief Consultant, SCI/D, will lead these efforts, which will involve the full range of stakeholders in the process.

Third, some weeks ago I directed VHA's Chief Officer, Patient Care Services to contract with an outside consultant to look at capacity and quality of VA care for veterans with spinal cord dysfunction. Until this study has been undertaken, reviewed, and evaluated, the expired directive related to nurse staffing levels for SCI units will be reissued. Additionally, to improve oversight and management, the SCI/D Strategic Healthcare Group staff will be increased. The Chief Network Officer will also be asked to identify a single individual among his Headquarters staff to coordinate local SCI issues with the Chief Consultant SCI/D and the Under Secretary for Health.

Finally, SCI operating beds will be removed from the performance measure for bed occupancy that is contained in network directors' performance contracts, or the measure will be dropped altogether. The following performance indicators related to SCI/D are already in place for fiscal year 1999, and the network directors' accountability for these will be closely scrutinized: admission within 24 hours for acute care; an appointment with a specialist in 7 days; and transfer of semi-emergent care to an SCI unit within two weeks.

In summary, I believe VA services for SCI are already second to none, but we continue to seek opportunities to improve. Currently, VA cares for veterans with spinal cord dysfunction in 23 SCI centers, 29 SCI support clinics, and 120 primary care teams at non-SCI center facilities. With respect to capacity, from fiscal year (FY) 1996 to FY 1997, VA treated 4% more SCI patients and applied 3% more dollars to SCI care, although the number of beds and staff were decreased. A notable improvement in timeliness from FY 1996 to FY 1997 also was achieved for SCI patients. For acute care, meeting the "timeliness for admission' standard (one day) improved from 41% to 91%, and for routine care meeting the 'timeliness of appointments' standard improved from 87% to 100%. It is my intent that the new program enhancements will build upon these measures, resulting in improved clinical outcomes and enhanced quality of care.

Again, thank you for sharing your commitment to VA's services for special veteran populations—a commitment with which I fully concur. Please do not hesitate to contact me if you wish to meet or further discuss these matters.

Sincerely,

KENNETH W. KIZER.

A PLAN TO EDUCATE OUR CHILDREN

• Mr. KERRY. Mr. President, countless hours will be spent in this country, and even on this Senate floor, debating the issues that today fill the front pages of our newspapers. Some of the talk titillates, some of it disgusts—and Mr. President, it's clear that some of it requires the very serious attention of this Senate.

But the tribulations of public life in America today do not provide us sufficient excuses for inaction when it comes to addressing the crises in this country that don't make the front pages, but should. And there can be no excuses for any of us—or for anyone in this country—for our failure to do something to help the 50 million children in our public schools today—children whose reading scores show that of 2.6 million graduating high school students, one-third are below basic reading level, one-third are at basic, only one-third are proficient and only 100,000 are at a world class reading level; children who edge out only South Africa and Cyprus on international tests in science and math, with 29 percent of all college freshmen requiring remedial classes in basic skills.

Mr. President, we know that public education is in trouble—so much trouble that some argue it could implode from the weight and pressure of bloated bureaucracy, stagnant administration and inadequate classroom resources.

These statistics speak not just of a crisis—they speak of our collective failure to come together and do what it takes to give every child in this country a real chance at success. We are stuck both nationally and locally—unable or unwilling to answer the challenge, trapped in a debate that is little more than an echo of old and irrelevant positions with promising solutions stymied by ideology and interest groups—both on the right and on the left.

Nowhere more than in the venerable United States Senate, where we pride ourselves on our ability to work together across partisan lines, we have been stuck in a place where Democrats and Republicans seem to talk past each other. Democrats are perceived to be always ready to throw money at the problem but never for sufficient accountability or creativity; Republicans are perceived as always ready to give a voucher to go somewhere else but rarely supportive of investing sufficient resources to make the public schools work. It's the reason why we spent weeks debating a bill this past spring—the major elementary and secondary education legislation of this 105th Congress—that would put $7 into the pocket of the average public school student in this country—and we called that reform.

No wonder parents are losing faith in our ability to reform public education. No wonder they're looking elsewhere: in too many of our debates, whichever side wins, on whichever bill, our children continue to be the losers. We all need to change that outcome and I respectfully suggest there is a different road we can meet on to make it happen.

That is why I will be introducing in the next Senate the kind of comprehensive education reform legislation that I believe will provide us a chance to come together not as Democrats and Republicans, but as the true friends of parents, children, teachers, and principals—to come together as citizens—and help our schools reclaim the promise of public education in this country. We need to ask one question: "What provides our children with the best education?" And whether the answer is conservative, liberal, or simply practical, we need to commit ourselves to that course.

As we being to chart that new course, I would remind this body of a conviction shared by all of us: no one in America wants the federal government trespassing on a cherished local prerogative. But the federal government can and should leverage resources to schools everywhere; it can help teachers, parents, administrators, and community leaders take up the work they all agree is so badly needed. To say that there is no federal role in education is to call upon the federal government to abandon 50 million children.

I believe this Senate will reject that notion and accept instead legislation to help every school make a new start on their own, an invitation to all parties in the name of saving public education in America. My bill will be built on challenge grants for schools to pursue comprehensive reform and adopt the proven best practices of any other school funds to help every school become an accountable charter school within the public school system; the incentives to make choice and competition a hallmark of our school systems; and the resources to help schools fix their crumbling infrastructure, get serious about crime, end social promotion, restore a sense of community to our schools, and send children to school ready to learn.

My legislation will begin the Voluntary State Reform Incentive Grants so school districts that choose to finance and implement comprehensive reform based on proven high-performance models can bring forth change. We will target investments at school districts below the national or state median and leverage local dollars through matching grants. This component of the legislation will aim to make every public school in this country essentially a charter school within the public school system—giving them the chance to quickly and easily put in place the best of what works in any other school—private, parochial or public—with decentralized control, site-based management, parental engagement, and high levels of volunteerism—while at the same time meeting high standards of student achievement and public accountability. I believe public schools need to have the chance to make changes not tomorrow, not five years from now, not after another study—but now—today.

And my legislation will help us restore accountability to public education by injecting choice and competition into a public school system badly in need of both. We are not a country that believes in monopolies. We are a country that believes diversity raises quality. We wouldn't accept one source, one company, one choice of food, or clothing or cable television. It is time we end a system that restricts each child to an administrator's choice and not a parent's choice where possible. It is time we adopt a competitive system of public school choice with grants awarded to schools that meet parents' test of quality and assistance to schools that must catch up rapidly. That is why I'll be proposing that we create an incentive for schools all across the nation to adopt public school choice to the extent logistically feasible.

So if schools will embrace this new framework—every school a charter school in the public school system, choice, competition, and accountability—what then are the key ingredients of their excellence?

My legislation will allow our schools to strip away the bureaucracy that stifles creativity and remember that what counts in any public school is how our students fare academically. You don't identify a good school by the number of administrators you hire. In fact, we impose so many rules and regulations on our schools "from above" that we forget teaching happens "on the ground"—in a school building, in a classroom. But you won't find accountability there because it's been fractured and scattered in hundreds of different offices and titles. We need to restore leadership and accountability and put our faith in our principals—holding them accountable for the way their teachers teach and the way ultimately, their students learn.

That means we need to do better in guaranteeing that every one of our nation's 80,000 principals have the capacity to lead—the talents and the knowhow to do the job; effective leadership skills; the vision to create an effective team—to recruit, hire, and transfer teachers and engage parents. Without those abilities, the title of principal and the freedom to lead means little. I'll be proposing an "Excellent Principals Challenge Grant" which would provide funds to local school districts to train principals in sound management skills and effective classroom practices. This bill helps our schools make being a principal the great calling of our time.

But as we set our sights on recruiting a new generation of effective principals, we must acknowledge what today's best principals know: principals can only produce results as good as the teachers with whom they must work. To get the best results, we need the best teachers. And we must act immediately to guarantee that we get the best as the United States hires 2 million new teachers in the next ten years, 60% of them in the next five years. I will be offering legislation that empowers our states and school districts to find new ways to hire and train outstanding teachers: a Teacher Recruitment Incentive Grant, to raise teachers' salaries and attract a larger group of qualified people into the teaching profession; a Ongoing Education Grant to provide continued training for our nation's teachers.

This legislation will allow states to reconfigure their certification policies and their teaching standards to address the reality that our standards for teachers are not high enough—and at the same time, they are too rigid in setting out irrelevant requirements that don't make teaching better; they make it harder for some who choose to teach. We know we need to streamline teacher certification rules in this country to recruit the best college graduates to teach in the United States. Today we hire almost exclusively education majors to teach, and liberal arts graduates are only welcomed in our country's top private schools. My legislation will allow states to rewrite the rules so every principal has the same right as headmasters at private schools—to hire liberal arts graduates as teachers and measure their competency; while at the same time allowing hundreds of thousands more teachers to achieve a more broad based meaningful certification—the National Board for Professional Teaching Standards certification with its rigorous test of subject matter knowledge and teaching ability.

My legislation will build a new teacher recruitment system for our public schools—providing college scholarships for our highest achieving high school graduates if they agree to come back and teach in our public schools.

I hope to build support for this legislation around the consensus that we share a common obligation to build a system where every principal and every teacher in every school can be held accountable. Every parent wants that; every child deserves it. And we should all be held accountable if we are unwilling to make those changes. But I also hope to build a consensus in this Senate that recognizes that you can't hold someone accountable if they don't have the tools to succeed.

I also want to help our schools close the resource gap in public education: helping to fix our crumbling schools with a federal tax credit so that 5,000 school districts can rebuild and modernize their buildings; helping to eliminate the crime that turns too many hallways and classrooms into areas of violence by giving school districts incentives to write discipline codes and create "Second Chance" schools with a range of alternatives for chronically disruptive and violent students—everything from short-term in-school crisis centers, to medium duration in-school suspension rooms, to high quality off-campus alternatives; helping every child come to school ready to learn by funding successful, local early childhood development efforts; and making schools the hubs of our communities once more by providing support for after school programs where students receive tutoring, mentoring, and values-based education—the kind of programs that are open to entire communities, making public schools truly public.

Mr. President, I am not just asking Democrats and Republicans to meet where our students are and where our children are educated. I will be offering legislation that helps us do it, that forces not just a debate, but a vote—yes or no, up or down, change or more of the same. Together we can embrace new rights and responsibilities on both sides of the ideological divide and admit that the answer to the crisis of public education is not found in one concept alone—in private school vouchers or bricks and mortar alone. We can find answers for our children by breaking with the past in every respect—breaking with the instinct for the symbolic, and especially the notion that a speech here and there will make education better in this country. It can't and won't. But our hard work together in the coming year—Democrats and Republicans together—can make a difference. Education reform can work in a bi-partisan way. We know that Congressman OBEY and PORTER in the House have succeeded in establishing promising demonstration projects on comprehensive reform—they know this isn't a partisan issue. And there is no shortage of good ideas or leadership here in the Senate—tireless leadership from Senator MOSELEY-BRAUN on the question of crumbling schools; bi-partisan creativity from Senator COATS and Senator LIEBERMAN with regard to charter schools; and the leadership and passion, of course, of the senior Senator from my state, Senator KENNEDY, who has led the fight in this Senate to reauthorize the Higher Education Act and has provided this body with over 30 years of unrivaled leadership and support for education. I have already begun talking about this legislation with colleagues from both sides of the aisle and the response thus far has been positive. Today I will release a detailed outline of the legislative proposals I am developing, and I look forward to working with all of my colleagues here in the Senate to shape legislation that we can all support—bold legislation that sends the message—finally—to parents and children struggling to find schools that work, and to teachers and principals struggling in schools simultaneously bloated with bureaucracy and starved for resources—to prove to them not just that we hear their cries for help, but that we will respond not with sound bites and salvos, but with real answers.

Mr. President, I ask a brief summary of my education plan be printed in the RECORD.

The summary follows:

A PLAN TO EDUCATE AMERICA'S CHILDREN

TITLE I—VOLUNTARY STATE REFORM INCENTIVE GRANTS

If education reform is to succeed in America's public schools, we must demand nothing less than a comprehensive reform effort. The best public school districts are simultaneously embracing a host of approaches to educating our children: high standards and accountability, sufficient resources, small class sizes, quality teachers, motivated students, effective principals, and engaged parents and community leaders. We must not be half-hearted in our efforts to make reform feasible for every school in this country. We cannot address only one challenge in education and ignore the rest. We must make available the tools for real comprehensive reform so that every aspect of public education functions better and every element of our system is stronger.

So let us now turn to a bold answer: Let's make every public school in this country essentially a charter school within the public school system. Let's give every school the chance to quickly and easily put in place the best of what works in any other school—private, parochial or public—with decentralized control, site-based management, parental engagement, and real accountability.

Several schools across the country have devised ways to accomplish this by raising standards to improve student achievement, lowering class size, improving on-going education for teachers, and reducing unnecessary middle-level bureaucracy. Numerous high-performance school designs have also been created such as the Modern Red Schoolhouse program, the Success for All program, and the new American Schools program. The results of extensive evaluations of these programs have shown that these designs are successful in raising student achievement. Studies show that these many of these successful programs cost less than the national median of basic education revenues per pupil for K–12 school districts. If we brought all schools up to the spending level of the national median, all schools could finance these high-performance school designs. Therefore, we should raise spending to the state or the national median, whichever is higher, thereby allowing every school district to finance and implement comprehensive reform based on proven high-performance models and teach students to the highest standards (58 percent of school districts are below either the national or their state median). Although money alone will not solve the problems in poor school districts, it is impossible to solve without adequate resources. Rather than piecemeal, fragmented approaches to reform, the Comprehensive School Reform program is intended to foster coherent schoolwide improvements that cover virtually all aspects of a school's operations.

To ensure that the vast majority of school districts could engage in comprehensive school reform, Title I of the Elementary and Secondary Education Act (ESEA) should also be fully funded. Title I is the primary federal help for local districts to provide assistance to poor students in basic math and reading skills. Title I currently provides help to local school districts for additional staff and resources for reading and math, curriculum improvements, smaller classes, and training poor students' parents to help their children learn to read and do math. However, Title I only reaches two-thirds of poor students because of inadequate funding. Since 90 percent of school districts receive at least some Title I funds, fully funding Title I and allowing school districts to use these additional funds for comprehensive reforms would give schools the ability to implement comprehensive reforms so that all students reach the highest academic standards.

Most poor school districts lack the resources to meet the vital educational needs of all of their students. A well-crafted program with the federal and state governments working in close cooperation with one another could make major studies in closing these gaps and improving student performance.

Comprehensive school reform will help raise student achievement by assisting public schools across the country to implement effective, comprehensive school reforms that are based on proven, research-based models. No new federal bureaucracy would be established—the program would be implemented at the state level. Furthermore, no funds could be used to increase the school bureaucracy. School districts would implement a comprehensive school reform program and evaluate and measure results achieved. Schools would also provide high-quality and continuous teacher and staff professional development and training, have measurable goals for student performance and benchmarks for meeting those goals, provide for meaningful involvement of parents and the local community in planning and implementing school improvement, and identify how other available federal, state, local, or private resources will be utilized to coordinate services to support and sustain the school reform effort.

The funding for the program would move towards the goal of providing every school district in the country enough funds to implement a high quality, performance-based model of comprehensive school reform at a cost of $4,270. This would mean providing enough funds to bring every district up to the state or the national median, whichever is higher (it is estimated that $30 billion annually would be needed to bring the per-pupil expenditure of every school district up to the national or state average). To move towards this goal, the federal government would provide funds and states would match this money (states would provide 10 to 20 percent with poorer states providing a smaller match). To receive these funds, states would have to provide a minimum spending effort based on state and local school spending relative to the state's per capita income. Funding would be $250 million in FY99, $500 million in FY2000, $750 million in FY2001, $1 billion in FY2002 and $4 billion in FY2003.

Fully fund Title I so almost all school districts would receive some funds to implement compressive school reform (90 percent of all local school districts receive Title funds). Funding would be $200 million in FY99, $400 million in FY2000, $600 Million in FY2001, $1 billion in FY202, and $4 billion in FY2003.

TITLE II—ENSURE THAT CHILDREN BEGIN SCHOOL READY TO LEARN

Recent scientific evidence conclusively demonstrates that enhancing children's physical, social, emotional, and intellectual development will result in tremendous benefits. Many local communities across the country have developed successful early childhood efforts and with additional resources could expand and enhance opportunities for young children. We must enhance private, local, and state early successful support programs for young children by providing resources to expand and/or initiate successful efforts for at-risk children from birth to age six.

Provide funds to States to make grants to local early childhood development collaboratives. States would fund parent education and home visiting classes and have great flexibility to decide whether to also support quality child care, helping schools stay open later for early childhood development activities, or health services for young children. Communities would be required to document their unmet needs and how they would use the funds to improve outcomes for young children so they begin school ready to learn. Funding would be $100 million in FY99, $200 million in FY2000, $300 million in FY2001, $400 million in FY2002, and $1 billion in FY2002.

TITLE III—EXCELLENT PRINCIPALS CHALLENGE GRANT

Principals face long hours, high stress, and too little pay. To overcome these obstacles, principals in successful schools must have effective leadership skills. However, too few principals get the training they need in management skills to ensure their school provides an excellent education for every child. Attracting, training, and retaining excellent principals is essential to helping every local school district become world class.

Establish a grant program to states to provide funds to local school districts to attract and to provide professional development for elementary and secondary school principals. Activities would include developing management and business skills, knowledge of effective instructional skills and practices, learning about educational technology, etc. Funding would be $20 million per year. States and local school districts would contribute 25 percent of the total although poor school districts would be exempt from the match.

TITLE IV—ESTABLISH "SECOND CHANCE" SCHOOLS FOR TROUBLED STUDENTS

Parents, students, and educators know that serious school reform cannot succeed without an orderly and safe learning environment. The few students who are unwilling or unable to comply with discipline codes and make learning impossible for the other students need behavior management programs and high quality alternative placements. Suspending or expelling chronically disruptive or violent students is not effective in the long run since these students will fall behind in school and may cause additional trouble since they are frequently completely unsupervised; these students need alternative placements that provide supervision, remediation of behavior and maintenance of academic progress. Although some may resist this program for fear that it will be used to isolate disabled students, the purpose is to provide additional interventions for troubled students, not to change disciplinary actions against disabled students.

Add a new title to the Elementary and Secondary Education Act (ESEA) to establish a competitive state grant program for school districts to establish "Second Chance" programs. To receive the funds school districts must enact district-wide discipline codes which use clear language with specific examples of behaviors that will result in disciplinary action and have every student and parent sign the code. Additionally, schools may use the funds to promote effective classroom management; provide training for school staff and administrators in enforcement of the code; implement programs to modify student behavior including hiring school counselors; and establish high quality alternative placements for chronically disruptive and violent students that include a continuum of alternatives from meeting with behavior management specialists, to short-term in-school crisis centers, to medium duration in-school suspension rooms, to off-campus alternatives. Funding would be $100 million per year and distributed to states through the Title I formula.

TITLE V—TEACHER RECRUITMENT AND ON-GOING EDUCATION INCENTIVE GRANT

Approximately 61,000 first-time teachers begin in our nation's public schools each year. Since the average starting salary for teachers is a little more than $21,000 per year, we need to raise their compensation to attract a larger group of qualified people into the teaching profession. Since the average student loan debt of students graduating college who borrowed money for college is $9,068, the most effective way to provide federal assistance to states to raise teachers' salaries is to provide loan forgiveness. In addition, scholarships ought to be available to the most talented high school students in every state in return for a commitment to teach in our public schools (North Carolina has successfully recruited future teachers from within public high schools with the lure of college scholarships).

States would be given funds to provide poor school districts the ability to raise teacher salaries to attract and retain the best teachers. Funding would be provided through the Title I "targeted grant" formula (the minimum threshold would be 20% poor children or 20,000 poor children). Funding would be $500 million for FY 99, $500 million in FY 2000, $1 billion in FY 2001, $1 billion in FY 2002, and $2 billion in FY 2003. Additionally, full-time state certified public school teachers who teach in low-income areas or who teach in areas with teacher shortages such as math, science, and special needs would have 20 percent of their student loans forgiven after two years of teaching, an additional 20 percent after three years, an additional 30 percent after four years, and the remaining 30 percent after five years. The program would be funded at $50 million each year. Finally, an additional $10 million would be provided as grants to states that wish to provide signing bonuses for first-time teachers who teach in low-income areas or areas with teacher shortages.

Provide $10 million in grants for states to establish a program to provide college scholarships to the top 20 percent of SAT achievers or grade point average in each state's high school graduating class in return for a commitment to become a state certified teacher for five years. States would contribute 20 percent of the funds for the scholarships. Five percent of the total funds could be used by local school districts to hire staff to recruit at the top liberal arts, education, and technical colleges (districts would be encouraged to establish a central regional recruiting office to pool their resources). One percent of the total funds would be used by the Secretary of Education to create a national hotline for potential teachers to receive information on a career in teaching.

TITLE VI—TEACHER QUALITY ENHANCEMENT GRANTS

We need to provide on-going education in teaching skills and academic content knowledge, establish or expand alternative routes to state certification, and establish or expand mentoring programs for prospective teachers by veteran teachers (according to the National Commission on Teaching and America's Future, beginning teachers who have had the continuous support of a skilled mentor are more likely to stay in the profession).

Establish Teacher Quality Enhancement Grants, a competitive grant awarded to states to improve teaching. The grants would have a matching requirement and must be used to institute state-level reforms to ensure that current and future teachers possess the necessary teaching skills and academic content knowledge in the subject areas they are assigned to teach. In addition, establish Teacher Training Partnership Grants, designed to encourage reform at the local level to improve teacher training. One of the uses of these funds would be for states to establish, expand, or improve alternative routes to state certification for highly qualified individuals from other occupations such as business executives and recent college graduates with records of academic distinction. Another use would be to mentor prospective teachers by veteran teachers. Provide $100 million per year for these new teacher training programs so that states can improve teacher quality, establish or expand alternative routes to state certification for new teachers, and mentor new teachers by veteran teachers.

TITLE VII—INVEST IN COMMUNITY-BASED SCHOOLS AND COMMUNITY SERVICE

As many as five million children are home alone after school each week. Most juvenile involvement in crime—either committing crime or becoming victims themselves—occurs between 3 p.m. and 8 p.m. Children who attend quality after-school programs, however, tend to do better in school, get along better with their peers, and are less likely to engage in delinquent behavior. Expansion of both school-based and community-based after-school programs will provide safe, developmentally appropriate environments for children and help communities reduce the incidents of juvenile delinquency and crime. In addition, many states and localities such as Maryland and the Chicago public school system require high school students to perform community service to receive a high school diploma. The real world experience helps prepare students for work and instills a sense of civic duty.

Expand the 21st Century Learning Centers Act by providing $400 million each fiscal year to help communities provide after-school care. Grantees will be required to offer expanded learning opportunities for children and youth in the community. Funds could be used by school districts to provide: literacy programs; integrated education, health, social service, recreational or cultural programs; summer and weekend school programs; nutrition and health programs; expanded library services, telecommunications and technology education programs; services for individuals with disabilities; job skills assistance; mentoring; academic assistance; and drug, alcohol and gang prevention activities.

Provide $10 million in grants to states that have established or chose to establish a state-wide or a district-wide program that requires high school students to perform community service to receive a high school diploma. States would determine what constitutes community service, the number of hours required, and whether to exempt some low-income students who hold full-time jobs while attending school full-time. The grants would be matched dollar for dollar with half of the match coming from the state and local education agencies and half coming from the private sector.

TITLE VIII—EXPAND THE NATIONAL BOARD CERTIFICATION PROGRAM FOR TEACHERS

The National Board for Professional Teaching Standards, which is headed by Gov. Jim Hunt, established rigorous standards and assessments for certifyuing accomplished teaching. To pass the exam and be certified, teachers must demonstrate their knowledge and skills through a series of performance-based assessments which include teaching portfolios, student work samples, videotapes and rigorous analyses of their classroom teaching and student learning. Additionally, teachers must take written tests of their subject-matter knowledge and their understanding of how to teach those subjects to their students. The National Board certification is offered to teachers on a voluntary basis and complements but does not replace state licensing. The National Commission on Teaching for America's Future called for a goal of 105,000 board certified teachers by the year 2006 (since the exam began recently, only about 2,000 teachers are currently board certified). Since the exam costs $2,000, many teachers are currently unable to afford it.

Provide $189 million over five years so that states have enough money to provide a 90% subsidy for the National Board certification of 105,000 teachers across the country.

TITLE IX—HELP COMMUNITIES TO MODERNIZE AMERICA'S SCHOOLS

More than 14 million children in America attend schools in need of extensive repair or replacement. According to a comprehensive survey by the General Accounting Office (GAO) requested by Senator Moseley-Braun, Sentor Kerry and others, the repair backlog totals $112 billion. Researchers at Georgetown University found that the performance of students assigned to schools in poor condition fall by 10.9 percentage points below those in buildings in excellent condition.

To help rebuild modernize, and build over 5,000 public schools, provide federal tax credits to school districts to pay interest on nearly $22 billion in bonds at a cost of $5 billion over five years.

TITLE X—ENCOURAGE PUBLIC SCHOOL CHOICE

Many public schools have implemented public school choice programs where students may enroll at any public school in the public school system. In contrast to vouchers for private schools, public school choice increases options for students but does not use public funds to finance private schools which remain entirely unaccountable to taxpayers.

Provide $20 million annually in grants to states that choose to implement public school choice programs. School districts could spend the funds on transportation and other services to implement a successful public school choice program. Up to 10 percent of the funds may be spent by a school district to improve low performing school districts that lose students due to the public school choice program.•

CAMBODIA: WHERE DO WE GO FROM HERE?

• Mr. McCONNELL. Mr. President, I rise today to discuss the latest developments in Cambodia and my thoughts on how the United States should respond to these developments.

Over the past decade the United States has contributed hundreds of millions of dollars towards peace in Cambodia. What benefit has been achieved as a result of this assistance? Is Cambodia better off now than it was 10 years ago? I would argue that recent political developments have undercut most gains this assistance may have provided—and worse, our own policies have contributed to the most recent deterioration considerably.

On July 26 of this year, the Cambodian people turned out in overwhelming numbers to vote in parliamentary elections. The ruling government pointed to this impressive turnout and claimed it was representative of a free and fair process. In fact, the election was termed by one American observer as the "Miracle on the

Mekong." With all due respect, I question how any informed observer could make that evaluation. For one to believe this appraisal, one must completely ignore the events dating from the 1997 coup.

In truth, the events which lead up to the July 26 balloting made the prospects for free and fair elections impossible. The opposition parties infrastructure had been completely dismantled following the July 1997 coup d'etat, orchestrated by Hun Sen and his Cambodian Peoples Party (CPP). As many as 100 opposition party members were reported killed, and those who remained in Cambodia were forced to campaign in fear if they dared speak out at all. The CPP controlled access to media and thereby prevented opposition candidates from effectively getting their message out. The National Election Commission (NEC), which had oversight of the election process, was stacked almost entirely with CPP party loyalists. Each of these factors on their own would be troubling, but when looked at collectively they are an outrageous example of a government which acts with impunity and has no regard for democratic principles.

Despite this reality, the Clinton Administration joined many in the international community, including the so-called "Friends of Cambodia," in pushing the parties to participate in the July 26 elections. I thought then, and I continue to believe now, that this was a mistake. To use an old phrase—with "Friends" like these, who needs enemies? How could we ask these brave men and women to risk their lives and take part in a process which was doomed to failure? To make matters worse, the U.S. Government now seems bent on ignoring the reality of the flawed election. Rather, it is pushing opposition leaders to participate in a parliament at the mercy of a brutal dictator who has no regard for the rule of law. So, in the end, the United States has invested hundreds of million of dollars and the Cambodian people have little to show for our efforts.

Mr. President, since July 26th, the environment has actually deteriorated rather than improved. Opposition leaders filed hundreds of protests with the National Election Commission, only to see each of these complaints dismissed without consideration. Legitimate claims of fraud have been ignored as the CPP seeks to cement its claim to so-called "legitimate" authority. Let's examine a few of these problems:

Prior to the July ballot, the NEC secretly and without debate changed the formula by which parliament seats would be assigned. Only after the votes were tabulated was this new formula announced. To no one's surprise, the result was an additional five seats for Hun Sen's party, thereby preventing CPP from being in the minority. Had the original formula been in place, the parties of Prince Ranariddh and Sam Rainsy could have combined their seats to form a majority of parliament.

Only July 27, as ballots were being processed, the NEC ordered the counting stopped. According to a senior member of the NEC, this halt in the proceedings occurred because the opposition parties had taken the lead. Not surprisingly, when counting was renewed, CPP regained control and went on to be credited with 41 percent of the total vote.

Finally, the violence continues. Immediately following the election, largely peaceful demonstrations broke out in downtown Phnom Phen. CPP armed thugs and soldiers broke up the demonstrations and dismantled the symbolic "democracy square" located near the National Assembly. Opposition leaders were subject to a travel ban and intimidation tactics. Finally, and most alarmingly, several Buddhist monks were murdered and reportedly tortured.

Mr. President, the question must be asked, how should the United States proceed in the face of these developments? I believe there are several concrete steps we can and must take to send the signal that we will not tolerate Hun Sen's brutal disregard for his own nation and people.

Number one, we must continue to withhold direct assistance to the Cambodian Government. This year's foreign operations appropriations bill will do just this. Only when each of the election disputes have been dealt with could aid be released.

Number two, we must not appoint an Ambassador to succeed Ambassador Quinn. Many in the opposition have already spoken out against the current nominee and I share their concerns. However, regardless of the nominee, we should send a strong signal to Hun Sen that we will not recognize his illegitimate government. Mr. President, I ask unanimous consent to insert a letter from Prince Norodom Ranariddh and Sam Rainsy, leaders of the two most active opposition parties. In this letter, they detail not only the election disputes, but their opposition to the current nominee to be ambassador to Cambodia.

Number three, the United States should identify Hun Sen for what he is, a criminal. Congressman ROHRABACHER has introduced a resolution in the House which calls on the United States to assist in the collection of information that would lead to trying Hun Sen before an international tribunal for violation of human rights. I think Congressman ROHRABACHER should be commended for his leadership, and I am hopeful similar legislation will pass in the Senate this year.

Finally, we should oppose the current Cambodian government being allowed a seat at the United Nations.

These steps are essential to staking out America's position as a defender of democracy and rule of law in Cambodia. Strong actions by the U.S. Government can give hope to the heroic members of the opposition as they continue to strive for democracy in the face of repression.

Before I yield the floor, I will ask unanimous consent that remarks from opposition leader Sam Rainsy be printed in the RECORD. Mr. Rainsy was invited and prepared to appear before the subcommittee on East Asian and Pacific Affairs of the Senate Foreign Relations Committee earlier this week, but at the last minute was not allowed to testify due to objections raised by some on the committee. Mr. President, this is a shame.

Sam Rainsy, along with Prince Ranariddh and Son Soubert represent the leaders of those who are working to establish democracy and respect for human rights and rule of law. Had this not been the final hectic week of our Congressional session I would have welcomed the opportunity to host Sam Rainsy before the Foreign Operations Committee. Absent that opportunity, I believe it is important that the Senate have the ability to review Mr. Rainsy's statement, and accordingly I renew my request that his remarks be printed in the RECORD.

The remarks follow:

DEAR SENATOR HELMS: This letter is an appeal to you and your Committee to take immediate action in condemning the recent bloodshed in Cambodia caused by soldiers and police loyal to Hun Sen. Over the past few days, many protestors have been injured and Buddhist monks killed as these forces have tried to silence the Cambodian people. We ask you what kind of government murders Buddhist monks?

We do not recognize the results of the July election. The Cambodian People's Party's (CPP) domination of the Constitutional Council and the National Election Committee have created a grossly uneven playing field. Our appeals and complaints of vote fraud and counting irregularities have been dismissed out of hand and in violation of law. Make no mistake, Cambodia is a country ruled by a single man intent on destroying any and all political opposition. Since last year's coup d'etat, scores of our supporters have been murdered, beaten, and intimidated by Hun Sen's loyalists.

It is imperative that the United States continue to take a principled stand in Cambodia. To this end, we ask that the U.S. Congress continue to suspend official assistance to the current government—formed by a coup—until the current crisis is resolved. More than anything, if Hun Sen were to succeed in securing international legitimacy and the resumption of aid, it would be nothing less than a reward for his lawless and repressive ways. We ask that the U.S. Congress and Administration condemn the use of violence in the strongest of terms. Too many people have died in the hands of reckless Cambodian leaders, like Hun Sen and Pol Pot. Finally we urge you not to replace Ambassador Kenneth Quinn after his term expires in Phnom Penh, and certainly not with Kent Wiederman who we believe may be less than supportive of the cause of democracy in Cambodia. The position should be left vacant as a message to Hun Sen that there are no rewards for corruption, manipulation of elections, and violence. We know a precedent exist for such action in neighboring Burma.

We thank you for your consideration of our views, and we remain committed to bringing about peaceful, democratic change in Cambodia.

Yours Sincerely,
Prince Norodom Ranariddh,
President, FUNCINPEC.
Sam Rainsy,
President, The Sam Rainsy Party.

Remarks by Sam Rainsy, President, Sam Rainsy Party, Cambodia—Subcommittee on East Asian and Pacific Affairs, Senate Committee on Foreign Relations, October 2, 1998

Mr. Chairman, it is a distinct and unique pleasure for me to appear before you today. I am honored to inform this Subcommittee of the political situation in Cambodia following the July parliamentary elections and to highlight the important role the United States can play in bringing democracy, the rule of law, and lasting peace to my country.

The last few months, weeks, and days have been among the most difficult of my life, and it has been equally trying for all Cambodians who support democracy. I know this Subcommittee is familiar with the brutal crackdown of pro-democracy demonstrators in Phnom Penh by forces of the Cambodian People's Party (CPP). Buddhist monks and students have been found tortured and murdered, and many continue to be missing. I know you are familiar with the illegal and unconstitutional travel ban that prevented me and all opposition members from leaving Cambodia one week ago—a ban that was personally instituted by Hun Sen. And I know that you are aware of the CPP-biased election machinery that denied opposition parties due process in the counting of ballots and resolution of election complaints.

There is no one more disappointed and saddened by the total failure of the July elections than myself. However, the opposition in Cambodia warned from the very beginning that democracy cannot be built on an undemocratic foundation that lacks the rule of law. Throughout the electoral process—even before we returned to Phnom Penh from exile in Bangkok—we pointed out to the international community many serious flaws in the political environment and in election preparations. For example, our party structures and property had been totally destroyed or looted during Hun Sen's July 1997 coup d'etat, and our membership was traumatized. I could not agree more with the characterization of the pre-election period as "fundamentally flawed."

Mr. Chairman, we were reluctant participants in this election and at one point even withdrew from the process. But under heavy pressure, we accepted the assurances of the international community that the elections would be assessed fairly. We were wrong in accepting these assurances, and today Cambodia is on the brink of affirming the rule of man, not instituting the rule of law. I know this to be true, as I spent ten days under the protection of the United Nations in Phnom Penh because of Hun Sen's pointed threats.

The United Nations and many other sponsors and observers of the election did not effectively challenge the conditions that made a fair election impossible. Throughout the campaign, our activists were harassed, threatened, and killed with complete impunity. While the United Nations has done a commendable job in documenting the abuses of the Cambodian government, not one human rights violator has been prosecuted. And the killings and torture continue.

Other shortfalls in the elections included limited and unequal access to state controlled media, an election framework that was biased and that lacked transparency, a recounting process that failed to conduct recounts, a reluctance to reconcile all ballots, and an illegal change in the method for seat allocation that gave the ruling party a majority of seats with only 41 per cent of the official vote.

The burden of proof that this election was legitimate no longer lies with the opposition—as some asserted immediately after the polls closed—it is now the responsibility of Hun Sen and the CPP.

The Cambodian people are confused, frustrated and angry. They don't understand why many in the international community are supporting the announced election results and pressuring the opposition to join a coalition. Why isn't the Cambodian government pressured into obeying Cambodian laws and its Constitution?

If the opposition is forced into a coalition without being able to resolve underlying problems, Cambodia will continue to be under the complete control of Hun Sen. History has shown that he will do whatever it takes to stay in power. Over the past five years, under Hun Sen's leadership, Cambodia has had unrestrained corruption, human rights violations, and environmental destruction. He kept his political opposition in check while building up his own political and military machine, in part, by making deals with some of the worst Khmer Rouge leaders and incorporating them into the government. Anyone who thought Hun Sen was the solution to Cambodia's problems or that he offered "stability" should know better by now.

I understand all of Cambodia's problem cannot be solved at once, and the opposition has demonstrated its willingness to compromise. However, there are some issues where compromise is impossible, such as the resolution of election related disputes before a coalition government is formed and the development of an independent judiciary that enforces and protects the rights of all citizens, not only members of the CPP.

Without proper and full resolution of election complaints, the elections will have no credibility among the Cambodian people. For better or for worse, the Cambodian people look to the United States as the standard-bearer of democracy and the conscience of the world. It was the United States that took Hun Sen's coup seriously last year and the U.S. Congress that acted so swiftly to restrict official foreign assistance to Cambodia. The reaction of Congress was one of the few times that Hun Sen has received a message from the international community other than one of accommodation.

Hun Sen expect that the world will legitimize his rule through these elections and cloak his dictatorial behavior in the mantle democracy. Cambodian democrats are asking the United States to be the standard-bearer again while there is still a chance to get Cambodia back on the road to democracy. We call upon the United States to: make it clear that it will refuse to recognize any Cambodian government that is formed prior to the resolution of election-related complaints filed by opposition parties, or any government formed under duress; strongly condemn the Cambodian government for its human rights abuses and ongoing intimidation of opposition activists; continue to withhold official aid, as it is currently doing, and to oppose IMF and other multilateral lending. Let me make clear that humanitarian and demining assistance should continue; vote to keep Cambodia's UN seat vacant and to oppose other international recognition; leave the U.S. ambassador's post vacant after the departure of Ambassador Kenneth Quinn until a credible government is formed and to ensure that next U.S. ambassador is someone with strong credentials as a supporter of democrats; intensify efforts to deter the Cambodian government's role in illegal logging, drug-trafficking, money-laundering and acts of terrorism such as the grenade attack on march 30, 1997 that killed at least 16 people; and, make public the Federal Bureau of Investigation's report into the March 1997 grenade attack.

Mr. Chairman, as a target of assassination in 1997 and again just a few weeks ago outside of the Ministry of Interior, I know how dangerous Cambodian politics can be. The United States has an opportunity to make an historic contribution to Cambodia's future by demonstrating its leadership and supporting democracy and human rights. Today, I look to you for hope and assistance.

Thank you for the opportunity to testify.•

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

PATIENT'S BILL OF RIGHTS

• Mr. HOLLINGS. Mr. President, because of my schedule I was unable to attend the vote to table the Patients' Bill of Rights. The tabling of this legislation was wrong. We are telling the American people that the insurance industry is more important than the patients. We must not let the insurance companies take the place of family physicians in deciding what is appropriate care for patients.

Let me share with my colleagues a situation that occurred in South Carolina. Ms. Lisa Baughman lives in Charleston. She has a type of cancer called "multiple myeloma." Her doctors at the Medical University of South Carolina are the best in the country at treating her particular condition, and they gave her chemotherapy in preparation for a bone marrow transplant.

That is not a light matter, Mr. President. Anyone who has ever watched a friend or relative fight cancer knows it is serious and takes courage, prayer, and all the support you can find to go through that.

Her doctors did what doctors have to do now. They called the insurance company and got "pre-approval" that the bone marrow transplant would be covered.

But the day before the operation, the insurance company said she could not have the operation in her home town with her expert doctors. She would have to fly to another state because the insurer had a contract with a different hospital that was cheaper. This was literally the day before the operation. Can you imagine the mental anguish of going through chemotherapy, coming to the day before a bone marrow transplant, and then being told "not now, not with your doctor, not in your state, not in your home town, who knows when"—all with your life hanging in the balance?

Her doctors protested that she was too weak and needed immediate treatment. The hospital in Charleston offered to do the operation for equal or less payment than the out-of-state hospital. But the insurer would not yield and tried to fly her alone, holding her medical files in her wheelchair, to the other hospital. She got them to approve a relative to accompany her.

When she arrived, there was no one to meet her at the airplane with a wheelchair, no hotel room reservation, indeed, no "room at the inn." These things had been promised.

So she eventually showed up at an appointment with the new doctor chosen by the insurance company to learn about her case. He said he couldn't do the operation for another three weeks, but that she should be getting her care in Charleston, South Carolina at the Medical University because they had the best people. In fact, he had been taught by the surgeon in Charleston.

She had no choice but to fly home. She contracted pneumonia in her weakened condition and is in the hospital right now, trying to recover. Because of the delay, she has to go through chemotherapy again before she can have the operation.

That should not happen in America. No one should be forced to go through chemotherapy twice because an insurance company overrides an expert surgeon's orders and delays critical medical treatment. It should not happen, and there is no one in this world who can do anything about it except the United States Congress.

Because of a Federal statute insurers cannot be sued for making injurious medical decisions and are not accountable to many state requirements. I do not know what we tell someone like Lisa Baughman if we go home this year without fixing this problem we created.

Congress has stood by and watched while "managed" health care has taken over. Perhaps that was the wisest course for a while, because we do not have all the solutions. But if we do not agree on basic groundrules for fairness, patients have no protection and it is a race to the bottom. We cannot blame HMO's, insurance, or anything else if the Congress continues to refuse to act.

Let me list some of the groundrules that we should enact with the Patients' Bill of Rights:

People trained in medicine, not accountants should make life and death medical decisions. Every patient should know their doctor is free to give his or her best advice and decide the best course of treatment, without restriction from the insurance company.

Every patient should know that specialty care is available if needed.

Citizens should know when they go to the emergency room, that their insurance will pay instead of haggling over the bill and denying payment afterwards. The last thing someone needs while rushing a sick child to the emergency room is a gnawing worry about payment.

Women should be able to visit their OB/Gyn without going through a gatekeeper.

People with longterm illnesses also should be able to see their specialists without getting a referral every time. People pay premiums to get health care, not a runaround.

Some people say this is radical socialized medicine, but I think people see through that. This argument is an old red herring and it is starting to smell.

What we are talking about with this Patients Bill of Rights is just the health care we always thought we had, but now it is being taken away. I have spent decades pushing medical research and building the medical research base in South Carolina. I was trying to build expertise in life-saving treatments in my home state so my constituents could be cared for, not so they could be denied and sent somewhere else on a day's notice.•

BEST WISHES TO DR. DAVID A. SPENCER

• Mr. ABRAHAM. Mr. President, I rise today to congratulate Dr. David A. Spencer, President and CEO of Walsh College, on his new appointment as president of the newly formed Michigan Virtual University.

Dr. Spencer has brought new ideas, enthusiasm, and a love for innovative learning to Walsh College. His vision of the future of Walsh College had no limits. And while he helped make Walsh College a world-class business institution, he made sure to showcase the brilliance and innovation of the students and faculty. This is a man who is not only creative and thoughtful, but willing to share credit that he deserves with many, many others.

I, personally, will hate to see David leave Walsh College. He has been an invaluable partner to me and my office in our efforts to reach out to and learn more about the Michigan business community. We worked hand-in-hand on an annual small business conference through which I have gathered extremely valuable information about the needs of the business community. On many occasions, I have been able to use the information I gathered at these conferences as examples during legislative debates. These conferences have also helped illustrate to me the most important legislative priorities of the business community. David Spencer was invaluable in putting together these innovative, informative conferences.

David is one of those people who believes anything is possible through technology. I am confident that he is the right person to lead the Michigan Virtual University. Walsh College will surely miss him. My staff and I will miss having him here, but I am hopeful that his new position as president of the Michigan Virtual University we will have many new opportunities to work together.

I wish Dr. David Spencer much continued success.•

CONCERN OVER RECENT DEVELOPMENTS IN IRAQ

• Mr. LEVIN. Mr. President, today, along with Senators McCAIN, LIEBERMAN, HUTCHISON and twenty-three other Senators, I am sending a letter to the President to express our concern over Iraq's actions and urging the President "after consulting with Congress, and consistent with the U.S. Constitution and laws, to take necessary actions (including, if appropriate, air and missile strikes on suspect Iraqi sites) to respond effectively to the threat posed by Iraq's refusal to end its weapons of mass destruction programs."

At the outset, I believe it would be useful to review the events that led up to the requirement for the destruction of Iraq's weapons of mass destruction programs. At the time that Iraq unlawfully invaded and occupied its neighbor Kuwait, the UN Security Council imposed economic and weapons sanctions on Iraq.

After Iraqi forces had been ousted from Kuwait by the U.S.-led coalition and active hostilities had ended, but while coalition forces were still occupying Iraqi territory, the UN Security Council, acting under Chapter VII of the UN Charter, conducted a review of Iraq's history with weapons of mass destruction and made a number of decisions in April 1991 to achieve its goals, including a formal cease fire.

With respect to Iraq's history, the Security Council noted Iraq's threat during the Gulf War to use chemical weapons in violation of its treaty obligations, Iraq's prior use of chemical weapons, Iraq's use of ballistic missiles in unprovoked attacks, and reports that Iraq attempted to acquire materials for a nuclear weapons program contrary to its treaty obligations.

After reviewing Iraq's history, the Security Council decided that "Iraq shall unconditionally accept the destruction, removal, or rendering harmless, under international supervision" of its weapons of mass destruction programs and all ballistic missiles with a range greater than 150 kilometers and conditioned the lifting of the economic and weapons sanctions on Iraq's meeting its obligations, including those relating to its weapons of mass destruction programs.

To implement those decisions, the Security Council authorized the formation of a Special Commission, which has come to be known as UNSCOM, to "carry out immediate on-site inspection of Iraq's biological, chemical and missile capabilities, based on Iraq's declarations and the designation of any additional locations by the Special Commission itself" and requested the Director General of the International Atomic Energy Agency (IAEA) to carry out similar responsibilities for Iraq's nuclear program. Additionally, the UN Security Council decided that Iraq shall unconditionally undertake not to use, develop, construct or acquire weapons of mass destruction and called for UNSCOM to conduct ongoing monitoring and verification of Iraq's compliance. The detailed modalities for these actions were agreed upon by an exchange of letters in May 1991 that were signed by the UN Secretary General, the Executive Chairman of UNSCOM and the Minister of Foreign Affairs of Iraq.

Thus, Iraq unconditionally accepted the UN Security Council's demands and thereby achieved a formal cease-fire and the withdrawal of coalition forces from its territory.

Mr. President, UNSCOM has sought to carry out its responsibilities in as expeditious and effective way as possible. UNSCOM Executive Chairman Richard Butler and his teams, however, have been confronted with Iraqi obstacles, lack of cooperation and lies. As UNSCOM has noted in its own document entitled "UNSCOM Main Achievements": "UNSCOM has uncovered significant undeclared proscribed weapons programmes, destroyed elements of those programmes so far identified, including equipment, facilities and materials, and has been attempting to map out and verify the full extent of these programmes in the face of serious efforts to deceive and conceal. UNSCOM also continues to try to verify Iraq's illegal unilateral destruction activities. The investigation of such undeclared activities is crucial to the verification of Iraq's declarations on its proscribed weapons programmes."

Mr. President, I will not dwell on the numerous instances of Iraq's failure to comply with its obligations. I would note, however, that in accepting the February 23, 1998 Memorandum of Understanding that was signed by the UN Secretary General and Iraq's Deputy Foreign Minister, that ended Iraq's prior refusal to allow UNSCOM and the IAEA to perform their missions, the UN Security Council warned Iraq that it will face the "severest consequences" if it fails to adhere to the commitments it reaffirmed in the MOU. Suffice it to say that on August 5, 1998, Iraq declared that it was suspending all cooperation with UNSCOM and the IAEA, except some limited monitoring activities.

In response, on September 9, 1998, a unanimous UN Security Council condemned Iraq's action and suspended its sanctions' reviews until UNSCOM and the IAEA report that they are satisfied that they have been able to exercise their full range of activities. Within the last week, Iraq's Deputy Foreign Minister refused to rescind Iraq's decision. Throughout this process and despite the unanimity in the UN Security Council, Iraq has depicted the United States and Britain as preventing UNSCOM and the IAEA from certifying Iraqi compliance with its obligations.

To review, Iraq unlawfully invaded and occupied Kuwait, it's armed forces were ejected from Kuwait by the U.S.-led coalition forces, active hostilities ceased, and the UN Security Council demanded and Iraq accepted, as a condition of a cease-fire, that its weapons of mass destruction programs be destroyed and that such destruction be accomplished under international supervision and permanent monitoring, and that economic and weapons sanctions remain in effect until those conditions are satisfied.

Mr. President, by invading Kuwait, Iraq threatened international peace and security in the Persian Gulf region. By its failure to comply with the conditions it accepted as the international community's requirements for a cease-fire, Iraq continues to threaten international peace and security. By its refusal to abandon its quest for weapons of mass destruction and the means to deliver them, Iraq is directly defying and challenging the international community and directly violating the terms of the cease fire between itself and the United States-led coalition.

Mr. President, it is vitally important for the international community to respond effectively to the threat posed by Iraq's refusal to allow UNSCOM and the IAEA to carry out their missions. To date, the response has been to suspend sanctions' reviews and to seek to reverse Iraq's decision through diplomacy.

Mr. President, as UN Secretary General Kofi Annan noted when he successfully negotiated the memorandum of agreement with Saddam Hussein in February, "You can do a lot with diplomacy, but of course you can do a lot more with diplomacy backed up by fairness and force." It is my sincere hope that Saddam Hussein, when faced with the credible threat of the use of force, will comply with the relevant UN Security Council Resolutions. But, I believe that we must carefully consider other actions, including, if necessary, the use of force to destroy suspect sites if compliance is not achieved.

Mr. President, the Iraqi people are suffering because of Saddam Hussein's noncompliance. The United States has no quarrel with the Iraqi people. It is most unfortunate that they have been subjected to economic sanctions for more than seven years. If Saddam Hussein had cooperated with UNSCOM and the IAEA from the start and had met the other requirements of the UN Security Council resolutions, including the accounting for more than 600 Kuwaitis and third-country nationals who disappeared at the hands of Iraqi authorities during the occupation of Kuwait, those sanctions could have been lifted a number of years ago. I support the UN's oil-for-food program and regret that Saddam Hussein took more than five years to accept it. In the final analysis, as the Foreign Ministers of Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates, comprising the Gulf Cooperation Council stated at the time of the February crisis: "responsibility for the result of this crisis falls on the Iraqi regime itself."

I ask that the letter to the President be printed in the RECORD.

The letter follows:

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, October 9, 1998.

THE PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: We are writing to express our concern over recent developments in Iraq.

Last February, the Senate was working on a resolution supporting military action if diplomacy did not succeed in convincing Saddam Hussein to comply with the United Nations Security Council resolutions concerning the disclosure and destruction of Iraq's weapons of mass destruction. This effort was discontinued when the Iraqi government reaffirmed its acceptance of all relevant Security Council resolutions and reiterated its willingness to cooperate with the United Nations Special Commission (UNSCOM) and the International Atomic Energy Agency (IAEA) in a Memorandum of Understanding signed by its Deputy Prime Minister and the United Nations Secretary General.

Despite a brief interval of cooperation, however, Saddam Hussein has failed to live up to his commitments. On August 5, Iraq suspended all cooperation with UNSCOM and the IAEA, except some limited monitoring activity.

As UNSCOM Executive Chairman Richard Butler told us in a briefing for all Senators in March, the fundamental historic reality is that Iraq has consistently sought to limit, mitigate, reduce and, in some cases, defeat the Security Council's resolutions by a variety of devices.

We were gratified by the Security Council's action in unanimously passing Resolution 1194 on September 9. By condemning Iraq's decision to suspend cooperation with UNSCOM and the IAEA, by demanding that Iraq rescind that decision and cooperate fully with UNSCOM and the IAEA, by deciding not to conduct the sanctions' review scheduled for October 1998 and not to conduct any future such reviews until UNSCOM and the IAEA, report that they are satisfied that they have been able to exercise the full range of activities provided for in their mandates, and by acting under Chapter VII of the United Nations Charter, the Security Council has sent an unambiguous message to Saddam Hussein.

We are skeptical, however, that Saddam Hussein will take heed of this message even though it is from a unanimous Security Council. Moreover, we are deeply concerned that without the intrusive inspections and monitoring by UNSCOM and the IAEA, Iraq will be able, over time, to reconstitute its weapons of mass destruction programs.

In light of these developments, we urge you, after consulting with Congress, and consistent with the U.S. Constitution and laws, to take necessary actions (including, if appropriate, air and missile strikes on suspect Iraq sites) to respond effectively to the threat posed by Iraq's refusal to end its weapons of mass destruction programs.

Sincrely,

Carl Levin, Joe Lieberman, Frank R. Lautenberg, Dick Lugar, Kit Bond, Jon Kyl, Chris Dodd, John McCain, Kay Bailey Hutchison, Alfonse D'Amato, Bob Kerrey, Pete V. Domenici, Dianne Feinstein, Barbara A. Mikulski.

Thomas Daschle, John Breaux, Tim Johnson, Daniel K. Inouye, Arlen Specter, James Inhofe, Strom Thurmond, Mary L. Landrieu, Wendell Ford, John F. Kerry, Chuck Grassley, Jesse Helms, Rick Santorum.●

TRIBUTE TO NORTEL NETWORKS

● Mr. FAIRCLOTH. Mr. President, I rise today to congratulate one of North Carolina's good corporate citizens for receiving two prestigious international awards this week. Nortel Networks is a global supplier of telecom and data networking solutions and has been an employer in North Carolina since 1974. They employ over 9,000 people in the Raleigh-Durham area, over 32,000 employees across the United States and approximately 80,000 people in over 150 countries. Over 40 percent of Nortel Networks' worldwide revenues are generated from their facilities in Raleigh-Durham.

Nortel Networks' CEO John Roth received "The Emerging Markets CEO of the Year Award," which acknowledges companies whose expansion into emerging markets has contributed significantly to the corporation and has benefitted the countries involved. This award was presented at a special event during the IMF/World Bank annual meeting this week in Washington.

Nortel Networks was also recognized this week as "The World's Most Global Company" in the electricals sector, by the editors of Global Finance, a magazine known for its reporting of world financial matters. Other companies who have received this award in the past include IBM, Citibank, Reuters, and Avon.

These awards are well deserved. A country's communications structures, capabilities and services—its "infostructure"—is directly linked to its standard of living. The network technologies Nortel Networks has brought to emerging markets has helped improve the standard of living for the citizens of these countries, providing them a much faster ascent into the 21st Century. Advanced network technologies promise greater opportunities to improve their education and health care, as well as expand business and employment.

I hope my colleagues will join me in congratulating this world leader which also happens to be a stellar North Carolina corporation.●

MISS MICHIGAN SHANNON GRACE CLARK

● Mr. ABRAHAM. Mr. President, I rise today to honor Shannon Grace Clark, who was crowned as Miss Michigan USA 1999 on Sunday, May 24, 1998.

I am very proud to have her represent the State of Michigan, for Shannon is a shining example of service above self. Through her dedication to family, church and local community, she has made a tremendous impact on helping those who are less fortunate in society, enabling them opportunities of self-sufficiency.

Her role has enabled her many opportunities, however, Shannon has shared them with homeless women and children throughout the State of Michigan. She has tirelessly dedicated herself to directly assisting those in need and to heightening public awareness to the importance of helping people facing unfortunate circumstances.

Shannon's platform "People Helping People," comes to her naturally because she comes from a family dedicated to the importance of family, church and local community. Her parents, the Reverend and Dr. Pam Clark run the Pontiac Rescue Mission, a homeless and rehabilitation center in Pontiac, Michigan, which helps reclaim and rehabilitate the downtrodden of society.

Through the program, Reverend and Doctor Clark designed and implemented, many individuals have reclaimed their lives, strength, pride, character, their children and themselves. They have developed into productive members of society, and loving families, free from the chains of addiction and destructive lifestyles.

To build upon the accomplishments of her parents, she has formed a committee to raise additional financial support for the women and children program at the Pontiac Rescue Mission. Her efforts indeed are a fine model of leadership and selfless dedication that will help those in need as well as serving as an example for those to follow.

I want to express my congratulations to Shannon Grace Clark and wish her luck in the Miss USA pageant in February. Most importantly, I would like to thank her for her commitment to those who are less fortunate in society.●

TRIBUTE TO WALTER SONDHEIM, JR.

● Mr. SARBANES. Mr. President, this past July Walter Sondheim, Jr., one of Maryland's most distinguished citizens, celebrated his 90th birthday with family and friends in Baltimore. It is an accomplishment for anyone to reach this chronological milestone, but in this instance, Walter's nine decades have marked an extraordinary record of unparalleled public service to Baltimore and the State of Maryland.

As a successful business executive, Walter Sondheim has served in "volunteer" public service positions on important state and local boards and commissions and as an advisor to Mayors and Governors for the last half century. His grace, good humor, extraordinary intelligence, and dedication have been powerful and good influences for progress and unity in Maryland.

Achieving 90 years of age for most "normal" individuals, with rare exception, implies retirement or reduced activity. But among the several articles I am inserting in today's CONGRESSIONAL RECORD is an announcement in the July 30 edition of the Washington Post that Walter was unanimously elected to become the new President of the Maryland Board of Education. This public demonstration of confidence is a continuing vindication of his effectiveness in undertaking difficult tasks.

I am also including an article from the July 25 Baltimore Sun which describes Walter's exceptional and inspiring life of service. I know I express the deep appreciation of his fellow Marylanders for his many decades of commitment and their best wishes in his latest and most significant assignment. I ask that these articles be inserted at this point in the RECORD, and I yield the floor.

The article follows:

[From the Baltimore Sun, July 25, 1998]

NOT THE RETIRING TYPE

(By M. Dion Thompson)

Walter Sondheim is on the phone, trying to get out of being interviewed. He can't understand why the city's newspaper is coming around, yet again, to get the tale of his life. Who cares, he says.

Yes, he is turning 90, and that is worth remarking on. But all this fuss, the parties, the inquiring journalist. Is it really necessary? Still, after only the slightest bit of nudging, he relents, which is to be expected because, after all, Walter Sondheim is a nice guy.

On the scheduled day, he takes a seat behind the desk of his 15th floor office at Baltimore's Legg Mason Tower and makes one last halfhearted try.

"Why waste the time? It really is embarrassing, because I think my friends who know me well figure. 'There he goes again,'" he says, then gets down to business. "Now, what do you want? . . . What's on your mind? I feel sorry for you."

He is painfully modest, sometimes excruciatingly so. For 50 years he has been the consummate citizen, advisor to mayors and governors, a steady presence in his city's decades-long resurgence. He led the school board during desegregation. He was chairman of Charles Center-Inner Harbor Management, the organization that oversaw the renewal of downtown.

If he were a different kind of man, he could walk you down Charles Street, tug at your sleeve and say, "See, I made that happen. And over there, Me. again." He could stand at the Inner Harbor and go on about how he, Jim Rouse and others turned this town around. He is not that kind of man, not one to revel in yesterday's glory to seek accolades for past successes. There is too much to be done today.

Every workday he's up early, dressed in a suit and tie and out the door as he has been for nearly 70 years. These days is senior adviser to the Greater Baltimore Committee. He used to be president.

He could be anywhere. He has the money. He career with Hochschild, Kohn & Co. ended with his retirement at senior vice president and treasurer. Soon after, investor Warren Buffet brought the department store company.

Money doesn't bring him to this downtown office with its view of the towering NationsBank building, the one old-timers remembers as Maryland National. It isn't a yearning for fame that has him fielding calls, hustling to meetings, offering his considered judgment on public policy.

Then why is he here, when he could be in Aruba, Martha's Vineyard, the Cape?

"Well, you know, you touch on a real issue there, I'd get restless if I weren't doing anything," he says. "I think about it every now and then because I have no reason not to retire. I'm not doing anything that obviously someone else couldn't do. But waking up in the morning and not having a job just doesn't appeal to me."

Bring up the Golden Years, and Sondheim likely turns a deaf ear. There's this crazy idea about retirement, as if people can easily walk away from what has sustained them. Retire, and do what? Sometimes there is a consuming hobby or passion waiting. Sometimes, the work is its own passion.

Sally Michel, a longtime friend, notes how work can fuel a person's life. Think of the great pianist Artur Rubinstein, practically blind and giving recitals at 89; or jazz trumpeter Adolphus "Doc" Cheatham swinging at 91; or George Burns at 100 with his cigars and wisecracks. Now, think of Walter Sondheim.

"You see that when people have a purpose, a real serious purpose to their lives, that they stay alive a lot longer. Retirement is not a good thing," says Michel.

Yet Sondheim knows longevity has its downside. He says he can remember looking down the table in many board rooms and seeing three or four emeritus members sitting there, "every one of them sure that he could do the job better than I could, and they were probably right."

Now, he's Mr. Emeritus. The position doesn't sit well with him. "You can't vote, and an emeritus means you're not a participant anymore," he says.

He wonders if he has stayed too long. Maybe he's in the way. If his wife were alive, she would tell him.

But Janet dies six years ago come September. They were married 58 years. He still wears his wedding ring.

"We never had a fight in 58 years. My daughter said it was because we were both too lazy," he says and smiles a bit, then talks about his loss. "To me it has been one continuous period. I don't mean a continuous period of mourning, but I think about her often. . . . Missing her is institutionalized in me."

Without her, he turned to his closets friends, asking them to send him an anonymous letter if they thought he was slipping.

"I thought it was incredible, an incredible thing to do, to make that suggestion," says Michel, who received one of the letters. "I was just very moved by it."

Abell Foundation President Robert C. Embry, Jr., whose friendship with Sondheim goes back nearly 30 years, also received one.

"I know that he worries and has expressed this publicly. 'Has he overstayed his welcome? Is he losing his acuity? Are people humoring him?'" says Embry. "But the opposite is true."

Sondheim is on 24 boards and foundations. That sounds impressive, overwhelming, but some meet once a year, some once a month, he says. When officials from elsewhere call the GBC about Baltimore and its redevelopment, they get Walter. He still talks to the mayor, the governor. He was chairman of the ad hoc committee that picked the Hippodrome for an expanded center of performing arts.

"Walter is the quintessential public servant," says Mayor Kurt L. Schmoke. "He remains an important adviser in business and political activities in this community. I just met with him as recently as this week to talk about downtown development."

It all started long before he was appointed to the "Jewish slot" on the city school board in 1948. It started July 25, 1908, in the front room, second floor of 1621 Bolton St. That's where he was born. He graduated from Park School in 1925, then went on to Haverford College. There were 81 graduates in the class of '29. A dozen remain.

On his yearbook page, the editors wrote: "By simultaneously preserving his pride and refusing to take himself seriously, he has practically forced us to consider him seriously as one of the prides of the class."

Not much has changed in 70 years. In the mid-1950s, his calm approach made Baltimore the first school district south of the Mason-Dixon Line to respond to the Supreme Court's landmark ruling outlawing "separate but equal" education. Some one burned a cross on the lawn of his Windsor Hills home, but it didn't stop him.

During the 1960s Mayor Thomas D'Alesandro III sought his help.

"His calling card is integrity and, as I said before, he has no hidden agenda," says D'Alesandro. "My whole concept of Walter was that he was a cut above."

He does not have a "typical" day. It depends on where he is needed. Just the other day, he showed up for the Maryland Art Place's dedication of its miniature golf course at Rash Field. He called himself "Tiger Wouldn't."

"Me, who's opposed to all exercise," he says, of what turned into an awful day. He tripped and fell on the 17th hole. "I ripped my suit beyond repair. I went to get my car, it had a $20 ticket on it."

He still drives his black Acura Legend, and walks when there is a purpose. Not too long ago he walked from his Harborview apartment to a dinner party on Federal Hill. The hosts were very concerned.

"You know, you shock people if you drive. You shock people if you walk," he says.

At 90, he goes where he wants, when he wants. He does acrostics for fun, and surprises himself by still being able to recite the Keats he learned at Haverford.

"I've had a lucky life," he says, pale blue eyes shining behind his glasses. "It's not because of me. I've been lucky to be in places."

Now there are rumors that he's the odds-on favorite to be the next state school board president. He says he doesn't want the job. Yes, he has been involved with education for 50 years, but he doesn't consider himself an expert.

"I don't think it would be wise for them to pick me," he says, wondering aloud how it would look, a 90-year-old man.

So often in the past people have come to him, seeking his perspective, his gift of compromise. He has said "yes" probably more times than he can remember. His resume lists 78 committees, boards and foundations he once served.

"My wife, who used to chastise me for saying 'Yes,' said, 'It's your curiosity,'" he says. "The truth is, I'm a little bit of a sissy. I don't like to say 'No.' . . . That's not a strength, you known. That's a weakness."

[From the Washington Post, July 30, 1998]

SONDHEIM TO HEAD MARYLAND SCHOOL BOARD

(By Ellen Nakashima)

At 90, Walter Sondheim Jr. protested that he was too old to head the influential board that sets education policy in Maryland. Just Friday he insisted, "You don't get wiser with age."

But other members of the Maryland Board of Education would not hear of it. Yesterday, they unanimously elected the self-deprecating Baltimorean—the godfather of the state's school reform efforts—as their new president.

A man who has urged friends to write him anonymously when they felt it was time for him to "hang up the spikes," Sondheim is now the oldest person in the country to lead a statewide education board.

"I'm very grateful to all of you," he told his colleagues yesterday. "It's a nice thing to do to an old man."

Although it's a part-time job with no pay, heading the state board requires an ability to smooth out the ripples created by 12 strong personalities. In the past months, board members have clashed over such issues as whether to require teachers-in-training to take reading courses and how to institute new high school exams for graduation. And Sondheim, a consensus-maker par excellence, was the best candidate to keep the board on a fast track to education reform, board members said. He replaces Rose LaPlaca, whose term has expired.

"This is a man who's a cut above everyone," said State Superintendent Nancy S. Grasmick, herself a recognized leader in school reform. "Very few people have intelligence coupled with integrity. He is as intellectually sharp as someone half his age. Most people have lost more gray matter in their thirties than he has in his lifetime."

Sondheim has a wry sense of humor that is almost always directed at himself. (A Navy lieutenant in World War II, he never served overseas—"It could possibly be why we won the war." What did he do in the Navy? "I didn't interfere.")

He was appointed president of the Baltimore City school board in 1954 on the same day the U.S. Supreme Court handed down the landmark *Brown vs. Board of Education* desegregation decision. He has headed the state's Higher Education Commission. And in 1987, then-Gov. William Donald Schaefer tapped him to head to Governor's Commission on School Performance, which in 1989 released what has come to be known as the Sondheim Report—or the blueprint for school reform in Maryland.

They are all posts he says he did not seek.

"I've just lived a long time," he said, shrugging off his achievements. "You will find that the older you get, the nicer people are to you."

Sondheim, born and bred in Baltimore, serves on 24 boards and foundations and works full time as a consultant to the Greater Baltimore Committee, a booster group he once headed. He chaired Charles Center-Inner Harbor Management, which sparked the revival of downtown Baltimore. Today, he works on the 15th floor of the Legg Mason Tower, a few blocks from the state board office. His dress is impeccable, from button-down shirt to wingtip shoes.

"I don't know anything about his genes, except his remarkable physical ability," said Schaefer, 76, who declares himself "just a child beside Walter." Said Schaefer: "He's got the stamina of a man 55 years old. He's amazing. He can outwork guys in their fifties, sixties." And he doesn't exercise.

"Oh, God forbid!" Sondheim exclaimed. "I'm opposed to it. I don't believe in exercise. It's partly because I've never done any form of athletics very well. I'm not an athletic type. I get kidded about that a lot."

He stood for two hours Tuesday night at a birthday party in his honor despite having fallen and hurt his leg. About 100 of his closest friends served him up a three-foot-long cake with 15-inch-high candles. According to Schaefer, he blew them out with one puff and declared: "No presents. No speeches. No exceptions."

Sondheim, whose wife, Janet, died six years ago and who has two children and two grandchildren, gets asked all the time when he'll retire.

"I have no idea," he said. "Somebody may tell me it's time to do it. I keep a watchful eye out for being past my time. And I have some friends I expect to tell me when my time has come."

But Schaefer believes Sondheim will never hang up his spikes. "He'd be bored to death," Schaefer said. "He couldn't retire. He just couldn't. Besides, nobody wants him to."

Sondheim's agenda for the coming year is simple.

"I think what I hope to do in the next year," he said, "is wake up every morning."•

TRIBUTE TO THE SCHUYLKILL TRAINING & TECHNOLOGY CENTER PRACTICAL NURSING PROGRAM

• Mr. SANTORUM. Mr. President, I rise today to congratulate the Schuylkill Training & Technology Center on celebrating its 30th year of graduates in their Licensed Practical Nursing (LPN) Program.

In June, the program marked 30 years of graduations with its 62nd daytime class and ninth part-time evening class commencement. Since its start, the program's class size has increased from 33 graduates in 1968 to 55 graduates this year. To mark the 30th anniversary of the program the Schuylkill Training & Technology Center will hold a celebration of the program and the success of its graduates on October 18.

Over the past 30 years, acceptance of LPNs by other health-care professionals has increased dramatically. Today students are enrolling in the LPN Program because of multiple job opportunities, and I am proud to say that a large percentage of all graduates find job opportunities in Pennsylvania.

Mr. President, I commend the Schuylkill Training & Technology Center for its excellence in job training, and I ask my colleagues to join me in congratulating them on their 30th year of graduates.•

MEMORIAL FOR FRANK HORAN OF ALBUQUERQUE, NM

• Mr. BINGAMAN. Mr. President, I rise to honor the memory of one of the finest public servants ever to have served the citizens of New Mexico, Mr. Frank Horan. Mr. Horan, who served a quarter of a century as the city attorney of Albuquerque, passed away last Saturday, October 3, 1998. His loss will be deeply felt by countless friends and family—two sons, a daughter, and seven grandchildren—who will always remember his dedication to public service, his deep affection for his community, his abiding love for his family, and his legendary sense of humor.

Frank Horan was in a sense one of the founding fathers of modern Albuquerque, moving to the city during the early 1940s, and serving as city attorney during the first years of the city's mayor-council form of government. He played a key role in designing the city's governmental structure and establishing its relationship to other jurisdictions within the state. His early professional investment in city government serves as a foundation of today's Albuquerque, a model of good government under the current leadership of Mayor Jim Baca, a longtime schoolmate of Mr. Horan's son, Tom. Tom Horan, following in his father's footsteps, currently practices law in Albuquerque and works with the state legislature.

Following his years in service to the citizens of Albuquerque, Frank Horan served in the House of Representatives in the State of New Mexico from which he retired in 1982. His dedication to public service, however, did not stop when he retired. In recent years, he devoted his life to volunteer causes, including Meals on Wheels and Encino House, a retirement center located in Albuquerque. Tom Horan reports that his father pursued those activities because, in Frank Horan's words, he was "building his resume." I am certain that Frank's "resume" will abide favorably in the hereafter. I also know that his spirit and contributions will live on among the citizens of Albuquerque and New Mexico. The people of New Mexico will miss him very much. And so will I. Thank you Mr. President.•

CFA 6TH ANNUAL DINNER

• Mr. ABRAHAM. Mr. President, I rise today to recognize a very important organization in the state of Michigan. The Chaldean Federation of America (CFA) is an umbrella association of Chaldean Civic Organizations in Metropolitan Detroit. The CFA has been in existence since 1980 and represents more than 100,000 Chaldean-Americans. Its primary goal is to assist Chaldean youth in their pursuit of academic success. It is also involved in other community programs such as race relations, youth and senior citizen programs, and social services.

The CFA will be celebrating its 6th Annual Dinner Awards Banquet on Tuesday, October 27, 1998. Dr. Jacoub Mansour, CFA Chairman, and co-chairs Rosemary Bannon and Kays Zair have a wonderful evening planned. It will undoubtedly be a great success.

I extend my congratulations and best wishes to all of this year's award recipients, and everyone who has contributed to making this organization so strong. I congratulate my good friends at the CFA on their sincere dedication to improving the lives of those around them and wish them many more years of success.•

CALLING FOR CONCERTED ACTION BY NATO TO STOP ONGOING ATROCITIES IN KOSOVO

• Mr. DODD. Mr. President, I rise today to speak about the tragedy that continues to unfold in the Province of Kosovo. I cannot stress to my colleagues enough how serious I believe the Kosovo situation has become. What we are witnessing in Kosovo now is potentially the most dangerous conflict in the Balkans since 1991. For more than seven months, President Milosevic and his Serb police forces have been engaged in an offensive against ethnic Albanians in Kosovo that can only be characterized as "ethnic cleansing".

The Congress must put aside election year politics and speak with one voice in support of the United States utilizing all necessary means to put an end to these atrocities that threaten a wider war in the Balkans. For that reason, I hope that the Republican leadership will allow a vote in the Senate to signal our strong support for the use of air power against Serbian targets in the coming days.

Clearly no one on the other side of the aisle can assert that the new escalation of fighting in Kosovo has not been very destabilizing to the region. The evidence clearly indicates that it has—over a quarter of a million of Kosovans have been displaced, many of whom have fled beyond the borders of Kosovo and Serbia to Albania and the Former Yugoslav Republic of Macedonia.

Similarly the Kosovo Liberation Army (KLA) has sought refuge and material support from Albanian populations in other countries—such actions could draw others into an ever widening civil conflict.

But it is not only the conflict's disastrous potential that cries out for action. The status quo in Kosovo is a human catastrophe. According to some estimates, already more than 1,000 people have been killed since the end of February, when Serbian paramilitary police began their crackdown on villages in Kosovo believed to be strongholds of the Kosovo Liberation Army. Many more have been driven from their homes.

Fearful women and children are hiding from the Serb police and other Serb armed forces in the hills around Kosovo without adequate food, water, or shelter. Nightly temperatures are already falling near freezing at night and it is clear that with the advent of winter their fate is doomed. Mr. President, we cannot let this humanitarian and human rights catastrophe continue.

The deep concern about the current crisis is a shared one—it is bipartisan. Many of the members of this body have recently had an opportunity to hear from a former colleague and Majority Leader Senator Bob Dole who at the behest of President Clinton traveled to Kosovo and Belgrade to make a first hand assessment of the situation. He was accompanied on that visit by Assistant Secretary of State for Democracy, Human Rights and Labor, John Shattuck.

Senator Dole and Assistant Secretary Shattuck returned to Washington with a shared assessment of what has been transpiring in Kosovo in recent weeks.

They have both spoken of atrocities being perpetrated against the civilian population—ninety percent of whom are ethnic Albanians. Senator Dole again confirmed what many of us in this body have been saying over the last seven months, namely that "Milosevic is again on the warpath. . . . and, there should be no doubt that Serbia is engaged in major, systematic attacks on the people and territory of Kosovo."

The United States has been assertive in condemning Serbian aggression. The Clinton administration has spoken out repeatedly against Serb human rights abuses in Kosovo, and has stated that it will not let Serbs follow through with their ethnic cleansing. The Congress too has felt it extremely important to go on record to denounce Yugoslav President Milosevic and the Serbian military and security forces under his direction. We in the Senate also called upon the international community to act forcefully if Serbian armed aggression continued. Sadly Serbian aggression has continued. Innocent Kosovans have lost mothers and fathers, sisters and brothers, aunts and uncles.

There is a time for words and a time for force. Ambassador Richard Holbrooke has been trying as I speak to convince Milosevic to alter course. The latest information indicates that these efforts are unlikely to produce positive results. To my mind, that means that the time for words is over. Our entreaties to Milosevic to do the right thing have fallen on deaf ears. Milosevic and his Serbian forces have been mocking the international community by declaring one thing and doing another.

The time has come for the international community to confront the obvious contradictions between the words and deeds of Milosevic and the Serbian security forces under his command—saying on the one hand that a unilateral cease fire has been established and continuing on the other hand with his attacks on ethnic Albanian villages. The Serbian September 26, cease-fire declaration was pure theater. Frankly so was last weekend's "withdrawal" of Serbian forces. At the very moment that Serbian Prime Minister Mirko Marjanovic publicly declared that the seven-month offensive against the militant separatists was over, fighting continued in southern Kosovo.

Let us not repeat the mistakes of the past and give Milosevic another chance to mislead the international community. Russian objections to the use of force by NATO should carry no weight at this juncture. NATO has given Milosevic its final ultimatum—to comply immediately with all UN and NATO demands to end the crackdown in Kosovo, withdraw government forces and open meaningful political negotiations with the ethnic Albanians.

NATO's military options both to stop fighting and to enforce a possible peace settlement have been planned in detail over the past months. NATO's military staff is prepared to act. All that is needed is the political will upon the part of NATO governments to give the green light. We can no longer afford to show any more patience for the indecision of our Allies. In my view the internationally community has already waited too long to put an end to the human suffering that is being inflicted on innocent men, women and children. After seven years of watching Milosevic play cat and mouse games with United States and European leaders, I believe that the only language this individual will respond to is the sound of missiles hitting and crushing strategic targets in his proverbial backyard.

Mr. President, yesterday NATO Foreign Ministers met in Brussels. In reporting on the outcome of that meeting, Secretary of State Madeleine Albright reported that NATO was united and ready to authorize bombing in Serbia. Earlier this week, President Clinton assured members of the Senate that any air strikes conducted by NATO against Serbia would not be "pinprick" strikes but would "send a very clear signal" that we mean business.

We in the United States need to lead by example. We cannot wait any longer—for humanitarian reasons, for human rights reasons, and for geo-political reasons. If the international community fails to respond to Milosevic's continued assaults on Kosovo with force if necessary, then shortly there will be few if any ethnic Albanians left to protect in Kosovo and stability in the greater Balkans will be at risk.

Mr. President, I know that many of my colleagues share my views. I believe the American people as well.•

TRIBUTE TO THE 1968 AND 1998 BASEBALL SEASONS

• Mr. KERREY. Mr. President, I rise to make a few remarks about a fellow Nebraskan and to celebrate the 30th anniversary of his legendary baseball season.

"Let us go forth a while and get better air in our lungs. Let us leave our close rooms. The game of ball is glorious."—Walt Whitman.

Indeed, this year baseball has been "glorious."

The highlight of my job is traveling our state and going into communities to listen and learn. These learning discussions reflect the diverse and varied needs of our state, but this summer there has been one constant in all of my meetings. From Omaha to Ogallala, from Bellevue to Beatrice, everywhere throughout the State, Nebraskans have been talking baseball—specifically, the heroics of Mark McGwire and Sammy Sosa.

This year's heroics have left me reminiscing about the 30th anniversary of another magical summer, this one in 1968, when the eyes of the world were trained on a native Nebraskan—the great Bob Gibson. The St. Louis Cardinal unleashed onto the baseball world quit possibly the best season a pitcher has ever thrown.

Nebraskans have come together to watch McGwire and Sosa pursue the number 61 in a way no one thought possible. It was as if these two hitting giants entered a zone unknown to us mortals. Before this season, it seemed unheard of to even mention the numbers 70 and 66. Allowing us to follow in their chase was like joining two explorers on the verge of discovering a new world.

The highlight of many a long day this season was to watch the nightly edition of ESPN's Sportcenter and see which man was setting history that day. At a time when divisions were tugging at the seams of our political system, baseball brought us together. Every American—Republican or Democrat, right, left or center—found common ground in watching these baseball pioneers explore a new sports frontier.

For me, only Bob Gibson's 1968 heroics match up with this season's, 1998 was as enjoyable as 1968 because of the tremendous season Bob Gibson had. As a New York Yankee fan, I have earlier, unhappier memories of Gibson. It was the 1964 World Series and the Cardinals were facing a tough Yankees lineup featuring Roger Maris, Mickey Mantle, and Whitey Ford. I was convinced the Bronx Bombers would win out. It was not to be. The determined Gibson won twice and finished off the series with a victory in the seventh and final game, earning the Most Valuable Player award.

In 1968, Gibson was coming off another World Series MVP award as the Cardinals defeated Carl Yastrzemski's Red Sox the previous year. Gibson started that season with some hard luck losses and did not get going until late spring. But once he got going, there was no stopping this train.

That summer I was in SEAL Team training in San Diego. A lot of people there were snarling, but none of them could match the menace Gibson wore on his face when he ascended the mound. When Gibson came to the mound, everyone in the park could feel his intensity. As his catcher, Tim McCarver, would say, he had the "Look." It seemed as though Gibson could "Look" a strikeout before he even began his pitching motion. He was a command pitcher who mastered the edge he needed for each batter who dared to engage him in combat. His renowned discipline, his pure intimidation and his intellect for the game created a master craftsman in the art of pitching. Whether it be his blazing fastball or his snapping slider, the sight of Gibson with his right leg ominously moving from beginning to end, while unraveling his cannon of a right arm, exploding the unhittable white ball into the leather of the catcher's paws was a sight for all.

In the beginning of June of 1968, Gibson began to unveil a performance so dominating, so powerful, it seemed as though the mystery of pitching had finally been solved and only Gibson had the blueprints, hand-delivered from the creators of the game. Starting in early June and finishing in early August, Gibson had thrown an astounding 10 shutouts. If not for one earned run against the Dodgers, Gibson would have finished with 71 straight scoreless innings, easily surpassing the record of 59 Orel Hershiser set in 1988. At one point, Gibson had pitched 95 innings, which is almost a half season for today's pitchers, and allowed only 2 earned runs, for an unheard-of ERA of 0.19.

This season, Randy Johnson led baseball with six shutouts. In 1968, Gibson had 13, shutting out every team but the Dodgers. The end of Cal Ripken's streak this year reminded us of the value of baseball's work ethic. In 1968, Gibson was also a dominating workhorse, completing 28 of his 34 starts and going into the eighth inning in all but two. Led by his fastball and slider, Gibson was the league champion in strikeouts with 268.

Recounting Gibson's 1968 season, Chicago Cubs Hall of Famer Billy Williams would say many right-handed batters suffered "Gibbyitis"—a mysterious malady that would somehow take batters ill on the day their team faced Gibson.

Gibson finished the 1968 season with a 1.12 ERA—which is the record for over 300 innings pitched, besting Walter Johnson's 1.14 in 1913. He won both the Cy Young Award and the MVP of the 1968 season, while also earning another Golden Glove Award for his strong fielding. His recordsetting exploits did not end in the regular season, as he set another Herculean record when he mercilessly fanned 17 Detroit Tigers in the World Series.

Bob Gibson dominated 1968. While doing so, he marveled America with a performance so strong, so masterful, so historic, that it should be remembered at a time 30 years later when two others stunned the country with their mythical skills. Nebraskans should be proud that one of us could produce such a season. I want to thank baseball for 1968 and 1998, both 'glorious' years.•

APPRECIATION FOR DEDICATED STAFF OF THE CONGRESSIONAL RESEARCH SERVICE

• Mr. SMITH of Oregon. Mr. President. In these closing days of the 105th Congress, I would be remiss if I did not pay tribute to those who toil everyday behind the scenes to make our lives easier. I am speaking of the very dedicated and professional group of public servants who comprise the Congressional Research Service. Access to reliable information—and the ability to get it quickly—is critical to the effective functioning of the Senate, and I am particularly grateful to the Congressional Research Service employees for their professional and timely responses to the many requests for information they receive from Senators and their staffs.

It is difficult for me to imagine this institution's functioning without access to reliable information, and it is with deep appreciation that I commend researchers of the Congressional Research Service for responding quickly, pleasantly, professionally and with attention to detail to the many requests received from my office. It is this type of dedicated service that government employees all too often perform, and no one hears anything about it. This is a group of people who take their commitment to the Congress and the American people very seriously. And they deliver.

Mr. President, the Congressional Research Service provides a truly unique and indispensable service to the Congress. It has certainly made my first term as a U.S. Senator easier and more productive. I congratulate all of the workers there on their fine work and extend to them my heartfelt thanks.•

BIRMINGHAM ROTARY CLUB 75TH ANNIVERSARY

• Mr. ABRAHAM. Mr. President, I rise today to honor the Birmingham Rotary Club on the occasion of their 75th Anniversary of service to the community.

The Birmingham Rotary Club was organized on March 19, 1924, by fifteen of the community, business and professional leaders. The club has an illustrious past with many local activities attributed to or begun by the Rotary Club including The Halloween Parade. At Seaholm High School, they dedicated the Rotary Memorial in 1950 to those who have died in service to our country, sculpted by Marshall Fredericks, also a Birmingham Rotarian and in 1992, a baseball scoreboard. The J.B. Howarth City Park was dedicated and named for a Birmingham Rotarian. Kenning Park is named for Bob Kenning (Retired City Manager of Birmingham), also a Birmingham Rotarian and past club president.

The Club has made numerous contributions to the community from furnishing the Rotary Room at the Baldwin Library and computer system at the Community House to the elevator and picnic shelter at Springdale Park. In addition, they support numerous schools, community groups and those who are less fortunate during Thanksgiving and the holiday season. Rotary has hosted international exchange students and has sponsored local students to go abroad through the International Rotary Scholarship Foundation.

Currently, the Birmingham Rotary Club is helping establish an Interact Club at Seaholm High School to involve high school age students in "Service Above Self". They are also supporting Polio Plus, to eradicate Polio worldwide by the year 2000, with a sizeable donation from all of the membership.

Over the past 75 years, the Birmingham Rotary Club has had a positive influence in the community and around the world. Through the tireless dedication and leadership of their 140 person membership, the Club's influence will only continue to grow and benefit those in the community and those who are less fortunate.

As one of Michigan's finest examples of volunteerism, I want to express my congratulations to all members of the Birmingham Rotary Club in recognition of their 75th Anniversary.•

RETIREMENT OF ROBERT MARTIN

• Mr. JOHNSON. Mr. President, I want to take the opportunity today to honor

Robert (Bob) Martin for his years of hard work and commitment to the people of South Dakota. I would also like to extend my warmest wishes and congratulate Bob on his upcoming retirement.

Bob, a native of Estelline, South Dakota, graduated from high school in 1952. After his graduation Bob joined the United States Navy and proudly served from 1952–1956. Following his military service, he attended Dakota State University in Madison, South Dakota receiving a bachelors degree in 1960. With a degree in hand, Bob became a welcomed addition to the faculty in the Madison School System where I am certain he inspired many students to pursue their dreams.

In 1965, Bob joined KEM Electric Cooperative, in Linton, North Dakota, serving as Public and Member Relations and Power Use Director. Coming back to his South Dakota roots, Bob returned to Madison in 1970 to become Member Service Director for East River Electric Power Cooperative and eventually Assistant to the General Manager at East River, a position he held until 1983. Ultimately, Bob became Manager of the Member Services and Public Affairs Division and remained in this position until 1990. In 1990, Bob left East River Electric to become General Manager of Rushmore Electric Power Cooperative located in Rapid City, South Dakota.

Bob's lifetime of service to rural electric cooperatives is impressive and reflects his commitment to public power and the critically important role rural electric cooperatives play in rural America. Bob has been a leader on many different issues important to public power and rural electrics, from preventing the privatization of the Power Marketing Administrations to helping further rural water efforts in South Dakota. Rural electric cooperatives are an important factor in the economic development of their communities and in many cases, they are the best equipped to work to ensure small communities remain viable and continue to keep medical facilities, schools and other services available. I am convinced the importance of rural cooperatives will continue to grow, but it will require the dedication of more individuals like Bob Martin to ensure the future of public power.

Today, Bob is a member of the South Dakota School of Mines and Technology Citizens Advisory Committee; a Director on the Board of the Mid-West Electric Consumers Association; chairs the Rapid City Chamber of Commerce Agriculture Committee; and is Chairman of the Pennington County Extension Board.

In addition to his military, scholastic, and professional achievements Bob and his wife, Kay have four grown children and five grandchildren. Again, I would like to thank Bob for all he has done to better South Dakota and I would like to wish him best of luck in his retirement. Although I imagine that keeping up with five grandchildren is not exactly retirement.●

TRIBUTE TO MICELL TECHNOLOGIES

● Mr. FAIRCLOTH. Mr. President, I would like to commend a rising company in the Tarheel State and use its positive example to encourage my colleagues to recognize and support the role environmental technologies are playing in our economy.

Micell Technologies of Raleigh has made great strides in improving carbon dioxide cleaning methods which may soon revolutionize the dry cleaning, metal finishing and textile industries. This company's environmentally friendly and energy efficient innovation, which is the result of research by a prominent professor and students at the University of North Carolina at Chapel Hill, has recently earned recognition by R&D magazine as one of the top 100 innovations of 1998.

I would also like to share a column authored by Anna Vondrak that appeared recently in the Greensboro News & Record calling for the federal government to provide more research and development funding to stimulate environmental discoveries as well as tax and other incentives for polluting, less energy efficient companies to seek alternative manufacturing processes.

I respectfully request that this statement and accompanying article by Ms. Vondrak by printed in the Record.

[From the Greensboro News & Record, Sept. 27, 1998]

N.C. FIRM SHOWS THE POWER OF "GREEN" RESEARCH; GOVERNMENT SHOULD ENCOURAGE MORE ENVIRONMENTAL RESEARCH AND DEVELOPMENT

(By Anna Vondrak)

Congress is notorious for its tendency to divert money for research and development to well-larded pork projects.

The federal government is spending $74 billion on R&D this year. But more than half of that goes to defense. A third of the rest goes to medical research, which consumes a rising share of federal research dollars.

In today's rapidly changing world, however, technological innovation by small firms will become increasingly important in ensuring economic success and environmental protection. Improved technologies can help industries move from dirty, energy-guzzling manufacturing processes to clean, energy-efficient ones.

An example of seemingly mundane but significant environmental innovation comes from Micell Technologies, a start-up firm based in North Carolina, in the heart of the famed Research Triangle.

Formed in 1995 by three scientists—Joseph DeSimone, Timothy Romack and James McClain—Micell employs just 26 people. This small team is on the verge of solving one of this nations' most pervasive environmental problems.

Today, most dry cleaners rely on toxic solvents, such as percholoroethylene, or PERC, which can contaminate ground water and may cause cancer in humans after long-term exposure. While liquid carbon dioxide has long been seen as an environmentally positive alternative, it has not fared well in the marketplace because it simply cannot clean garments to acceptable standards by itself.

Led by DeSimone, a soft-spoken chemistry professor who co-invented the process with his students, scientists at UNC-Chapel Hill, developed new detergents that dissolve in liquid CO2.

Not only is the toxic substance PERC removed from the dry cleaning equation, but Micell's two new cleaning systems, Micare and Miclean, separate and recover the CO2 and detergents they use. Those waste products can then be recycled—an important factor in preventing run-off pollution from reaching sensitive waterways.

Just as important, Micell's innovation also will play a major role in protecting the health of tens of thousands employees in America's dry cleaning industry—and quite likely millions of their customers as well.

The firm's accomplishment caught the eye of R&D Magazine, which named it a winner of its annual R&D 100 Awards, long regarded as the "Oscars of Invention."

Thus, a humble dry cleaner joins the fax machines, antilock brakes, and the ubiquitous ATM created by far larger corporations as a leader in cutting-edge technology.

Micell's experience shows that academic research and small company entrepreneurship may be the fastest—and greenest—path to the marketplace.

Congress should speed the discovery process by establishing new R&D tax credits and low-interest loans to encourage small businesses and universities to expand research activities.

The House and Senate Appropriations Committees recently pledged to double funding for the National Institutes of Health over five years—for starters—increasing NIH funding by $2 billion this year. Experts in the medical community believe the funding increase will pay huge public health dividends.

Similarly, significant increases in federal funding that supports research for new environmental technologies also will produce big benefits for Americans—less pollution-driven disease, a greener planet and new industries that create jobs and enhance prosperity.

Continuing technological innovation is the key to America's economic and environmental health as it enters the 21st century. Congress should move quickly to bolster R&D and tax incentives in this key area. The time to act is now, while the U.S. still enjoys global economic dominance.●

RECOGNITION FOR RID-REMOVE INTOXICATED DRIVERS

● Mr. D'AMATO. Mr. President, 1998 marks the 20th anniversary of RID-Remove Intoxicated Drivers. Formed in 1978 by Doris Aiken in New York, the organization has focused its efforts on educating the public on the impact of abusive alcohol use, offering support for the victims of drunk drivers and advocating for stricter laws on DWI.

RID has lobbied for the enactment of laws that will eliminate plea bargains for repeat offenders and funds for anti-DWI enforcement. With all their hard work, RID is able to claim credit for high safety ratings experienced in New

York State. RID has also advocated for the lowering of the blood alcohol content from .1% to .08% as well as enhanced penalties for drunk drivers whose passengers are minors.

The National Highway Traffic Safety recognized the accomplishments of RID and awarded them the 1998 Public Service Award for their effective campaign to deter drunk driving. Their efforts contributed to New York being selected as having one of the safest records against drunk driving in the Nation for the fifth year.

In 1996, over 17,000 people died in drunk driving accidents, accounting for 41% of the total traffic fatalities of that year. While there was a 29% reduction from the alcohol related fatalities in 1986, it is still high—17,126 people too high. The senseless death of these individuals, the pain and anguish experienced by the family and friends and the hundreds of thousands who were injured can never truly be expressed through statistics. RID's accomplishments are for these victims and for potential victims of alcohol-related accidents.

I would like to add my congratulations to the many that RID has already received—on being recognized for their achievements in curbing drunk driving and on their 20 years of public service.•

COMMENDING THE BAY COUNTY WOMEN'S CENTER

• Mr. ABRAHAM Mr. President, I rise today to recognize an important event in my home state of Michigan. In conjunction with National Domestic Violence Awareness Month, the Bay County Women's Center has planned a Candlelight Vigil and Speakout. The vigil recognizes survivors, family members, and those who have lost their lives to domestic violence, in addition to educating the community about the resources available to the victims of domestic violence.

The Bay County Women's Center reaches out to survivors of physical, emotional, and sexual abuse. It provides a safe, supportive, non-judgmental environment for survivors to make decisions about their lives and families. In addition to offering extensive counseling, the Center goes so far as to assist with job search skills, housing options, and child care services.

The Vigil and Speakout draw attention to a problem that is all too common in hopes that we can work together toward a solution. It will join citizens, groups of professionals, and community leaders in an effort to stress to the Bay community that violence is inexcusable and will not be tolerated. Because the tragedy of domestic violence affects far too many American families, I commend the tireless work of the Bay County Women's Center in helping reverse domestic violence statistics and assist the victims of violence. The Center is truly an invaluable asset to Michigan's families.•

RECOGNITION OF PHILIP AND MARGE ODEEN

• Mr. JOHNSON. Mr. President, I want to take this opportunity to recognize Philip and Marge Odeen of Virginia. These two natives of Yankton, South Dakota have been selected by the Northern Virginia Community Foundation to receive the 1998 Northern Virginia Community Founder's Award. The Founder's Award is presented each year to those citizens who have consistently demonstrated a commitment to both civic and humanitarian concerns, while making a substantial contribution to improving the quality of life in Northern Virginia. The Founder's Award is a tribute to the Odeens' leadership in all of these areas.

From the time they moved east in 1960, the Odeens made an immediate impact in the areas of commerce, public affairs, the arts, and community improvement. Phil distinguished himself in the public sector at the National Security Council, later as a co-founder of the World Affairs Council, and most recently in his work with BDM International and TRW. Marge's endeavors on behalf of Northern Virginia Community College and the Women's Center have also been noted for their success.

Throughout their professional careers Phil and Marge have always found a way to donate time and effort to worthy causes such as the Salvation Army, Childhelp USA, the Heart Association, and the Wolf Trap Foundation. They have given freely to non-profit organizations in terms of time and money, have consistently taken the lead in getting others involved, and most importantly have positively affected the lives of numerous men, women, and children in the Washington area.

I would like to commend the Odeens for their numerous contributions to the Northern Virginia Community; their community leadership serves as a model for the citizens of both Virginia and South Dakota to emulate.•

THE CHARTER SCHOOL EXPANSION ACT OF 1998

• Mr. COATS. Mr. President, I am pleased with the passage by UC of the bipartisan substitute amendment to HR 2616, the Charter School Expansion Act. Senator LIEBERMAN and I introduced this bill last November to help further expand the charter school movement which is so successfully providing new educational opportunities for children all around this country. This bill passed unanimously out of the Labor Committee and was unanimously approved by the Senate last night.

This important bill builds upon the great success of the original charter school legislation which Senator LIEBERMAN and former Senator Durenberger introduced in 1994. The Federal Charter School Grant Program provides seed money to charter school operators to help them pay for the planning, design and initial implementation of a charter school. Since this program's inception, the number of charter schools has tripled, with over 1100 charter schools now operating in 33 States and the District of Columbia.

Charter schools are independent public schools that have been freed from onerous bureaucratic and regulatory burdens in order to pursue clear objectives and goals aimed at increasing student achievement. To increase student achievement, charter schools are able to design and deliver educational programs tailored to meet the needs of their students and their communities.

It is the individualized education available to students through charter schools that makes this a desirable educational alternative for many families. Charter schools give families an opportunity to choose the educational setting that best meet their child's needs. For many low-income families in particular, charter schools provide their first opportunity to select an educational setting which is best suited for their child.

Parents and educators have, in turn, given these programs overwhelmingly high marks. Broad-based studies conducted by the Department of Education and the Hudson Institute show that charters are effectively serving diverse populations, particularly disadvantaged and at-risk children, that traditional public schools have struggled to educate.

With results like these, it is no wonder that some of the strongest support for charter legislation comes from low-income families. Not only do these parents now have real educational choices, but they are actually needed in the charter school environment for everything from volunteering to coaching, fundraising, and even teaching. This direct involvement of families is helping to build small communities centered around the school.

Charter schools can be started by anyone interested in providing a quality education: Parents, teachers, school administrators, community groups, businesses and colleges can all apply for a charter. And, importantly, if these schools fail to deliver a high-quality education, they will be closed—either through a district or State's accountability measures or from lack of students. Accountability is literally built into the charter school process—the school must comply with the provisions in its charter, and unhappy parents and students can leave if they are not satisfied.

Additionally, a survey conducted last fall by the National School Boards Association (NSBA) found that the charter movement is already having a positive ripple effect that is being felt in many local public school districts. The NSBA report cites evidence that traditional public schools are working harder to please local families so they won't abandon them to competing charter schools, and that central administrators often see charters as "a powerful tool" to develop new ideas and programs without fearing regulatory roadblocks.

Several other studies have recently been released highlighting the success of charter schools around the country. Among other things, these studies have shown that charter schools have successfully met and surpassed the standards outlined in their charters, attracted significant proportions of minority and low-income students, and have higher parental approval rates than public schools.

The results of these studies point to important ways to improve and reinvent public education as a whole. The implications from the success of charter schools indicate that public schools should be consumer-oriented, diverse, results-oriented, and professional places that also function as mediating institutions in their communities.

The purpose of this bill is to further encourage the growth of high-quality charter schools around the country. This bill provides incentives to encourage States to increase the number of high quality charter schools in their State. To qualify for funding under this bill, States must satisfy two criteria. First, they must provide for review and evaluation of their charter schools by the public chartering agency at least once every five years to ensure that the charter school is meeting the terms of its charter and meeting its academic performance requirements. And second, States meet at least one of three priority criteria:

The State has demonstrated progress in increasing the number of high quality charter schools that meet clear and measurable objectives for the educational progress of their students;

The State provides an alternative to the local educational agency as the public chartering agency through either another authorized public chartering agency or an appeals process; or

The State ensure that each charter school has a high degree of automony over the charter school's budgets and expenditures.

These priority criteria were included to encourage States to develop charter school laws that promote diversified educational opportunities balanced with high expectations, clear objectives, and strong accountability measures.

This bill continues the primary focus of charter school grants for the planning, design and implementation costs of new charter schools. This bill adds another purpose for which grants can be used by States—States may now reserve up to 10 percent of their grant funds to support the dissemination activities of successful charter schools. These dissemination grants can go to charter school operators to help encourage education reform by spreading the lessons learned by successful charter schools and assist in the creation of new charters and the reform and reinvigoration of other public schools.

To help ensure that the amount of the federal grants are proportional to the level of charter school activity in the State, this bill directs the Secretary to take into consideration the number of charter schools in operation, or that have been approved to open.

During drafting of this bill, the single greatest concern I heard from charter school operators related to their ability to access their fair share of federal education funding. And so, to ensure that charter schools have enough funding to continue once their doors are opened, this bill provides that charter schools get their fair share of federal programs for which they are eligible, such as Title 1 and IDEA. The bill also directs States to inform their charter schools of any Federal funds to which they are entitled.

This bill also increases the financing options available to charter schools and allows them to utilize funds from the Title VI block grant program for start-up costs.

Because it is so important that charter schools are held accountable in return for the flexibility they are given from Federal, state and local laws and regulations, this amendment includes several significant provisions which strengthen accountability. First, under the priority criteria, States must review and evaluate their charter schools at least once every five years to ensure that they are meeting the terms of their charter and their academic performance requirements. They are rewarded for increasing the number of high quality charter schools that are "held accountable in their charter for meeting clear and measurable objectives for the educational progress of their students."

The definitions section of the bill also stresses accountability by requiring a written performance contract with the authorized chartering agency in the State. These written performance contracts include clearly defined objectives for the charter school to meet in return for the autonomy they are given. The performance objectives in the contract are to be measured by State assessments and other assessments the charter wishes to use.

I am confident that this amendment will build on and contribute to the success of the charter school movement. This bill stresses the need for high quality, accountable schools which are given autonomy they need to provide the best educational opportunity for their students.

With the passage of this bill, a strong signal will be sent to parents and teachers all across this country that they are not alone in their struggle to improve education. We hope to ease their struggle by enabling new charter schools to be developed. More charter schools will result in greater accountability, broader flexibility for classroom innovation, and ultimately more choice in public education. I urge my colleagues to increase educational opportunities for all children by supporting this bill.

Mr. President, I would like to thank Senator LIEBERMAN for his tremendous leadership in the area of educational reform. He and I have worked closely on a number of issues over the last several years, and I want to commend him, in particular, for his strong support and leadership on issues concerning increasing educational opportunities for low-income children. He understands so clearly the fundamental importance of providing a high quality education in a safe environment to our neediest children. In addition to this charter schools bill, which will help to increase educational opportunities for low-income children, Senator LIEBERMAN and I have worked closely for the last 4 years to gain support for publicly-funded scholarships for low-income children. I want to thank him for his unwavering commitment to this issue and his vitally important leadership. His efforts have done much to win bipartisan support for both charter schools and low-income scholarships and I thank him for his strong commitment to our country's neediest children. With the passage of this charter schools bill, Senator LIEBERMAN and I have the pleasure of seeing the first of our joint educational reform initiatives move closer to becoming law.

Mr. President, I ask that a summary of the study results to which I referred be printed in the RECORD.

The summary follows:

FINDINGS FROM KEY STUDIES ON CHARTER SCHOOLS

The Department of Education released its first formal report on its study of charter schools in May 1998. Key first-year findings include:

The two most common reasons for starting public charter schools are flexibility from bureaucratic laws and regulations, and the chance to realize an educational vision.

In most states, charter schools have a racial composition similar to statewide averages or have a higher proportion of minority students.

Charter schools enroll roughly the same proportion of low-income students, on average, as other public schools.

The Hudson Institute has also undertaken its own two-year study of charter schools, entitled "Charter Schools in Action." Their research team traveled to 14 states, visited 60 schools, and surveyed thousands of parents, teachers, and students. Some of this study's key findings include:

Three-fifths of charter school students report that their charter school teachers are better than their previous school's teacher.

Over two-thirds of parents say their charter school is better than their child's previous schools with respect to class size, school size, and individual attention.

Over 90 percent of teachers are satisfied with their charter school's educational philosophy, size, fellow teachers, and students.

Among students who said they were failing at their previous school, more than half are now doing "excellent" or "good" work. These gains were dramatic for minority and low-income youngsters and were confirmed by their parents.

Most of the top charter schools are not only meeting the high standards they have set for themselves, but surpassing them.•

• Mr. LIEBERMAN. Mr. President, last night the Senate unanimously approved H.R. 2616, the Charter School Expansion Act, a piece of legislation that Senator COATS and I, along with many others, have been working on for the better part of the past two years. the House is expected to pass this bill today under suspension and send on to the President, who has pledged to sign it into law.

I rise today to express my deep appreciation to our colleagues for their strong bipartisan support of this bill, and to add a few brief words about the significance of its passage, which I am afraid may get lost amidst the last-minute flurry of activity this week before Congress adjourns.

It would not be too difficult to overlook this legislation. Compared to some of the high-profile education bills we have considered recently, this is a modest and largely anonymous proposal, which will strengthen our support for charter schools and encourage states to create more of these innovative, independent programs. It will not fix all or even much of what ails our public education system. It will not singlehandedly sate the demands of parents for safer schools, better teachers, smaller classes, and smarter students. Nor will it settle the long-standing and often inflammatory debate over education reform that has divided the parties and effectively stymied the efforts of this Congress to respond to the public's growing concerns.

But nevertheless, I believe that this may turn out to be one of the most important and constructive bills that we enact into law during this season. What we have agreed to do today will help take the charter school model from novelty to the norm in this country, and thereby bolster the most promising engine of education reform at work in America today. The Charter School Expansion Act will spur the growth of hundreds of high-quality and highly-accountable schools of choice, which in the next few years will expand the educational opportunities available to thousands of American children, and could over the long haul help to reshape the public school for the 21st Century.

Perhaps just as noteworthy as what this legislation will do, though, is the simple fact that we agreed to do it. As my colleagues are well aware, we have struggled throughout this Congress to reach a consensus on how to improve our schools, fighting a series of pitched partisan battles that have bogged down several thoughtful proposals from both sides, and leaving the public to question our ability to address these critical issues. By adopting this bill with unanimous support, I think we have made an important statement that we can get things done, that we can find common ground to strengthen the common school. And I am hopeful, despite the deep policy differences still dividing many of us, that this bill will lay the groundwork for more bipartisan cooperation next year as we prepare to reauthorize the massive Elementary and Secondary Education Act and proceed with what may be the most consequential education debate of our lifetime.

In marking this accomplishment, I want to thank Senator COATS, who I have had the great pleasure of working on many education reform initiatives over the last few years, and our fellow cosponsors, Senators KERREY of Nebraska, D'AMATO, and LANDRIEU, who made this a bipartisan effort from the start. I will sorely miss Senator COATS' partnership next year as this great education debate continues, but I am glad that, after many years of frustratingly close votes we have endured together, he can leave on a resounding note of success.

I particularly want to thank the chairman and ranking member of the Labor Committee, Senators JEFFORDS and KENNEDY, for their leadership in shepherding this bill to the floor. I know there were some difficult issues that had to be resolved to bring our proposal out of committee, and I am grateful to my colleagues from Vermont and Massachusetts for the time and energy they devoted to getting that done. We simply could not have beat the legislative clock were it not for their persistence and skilled bridge-building.

I also want to pay tribute to our former colleague, Senator Durenberger, whose vision and creativity made this legislation possible in the first place. In 1992 and 1993, a band of pioneering teachers and parents in Minnesota founded the nation's first charter schools, and their efforts inspired Senator Durenberger to propose a national pilot program to help other communities around the country experiment with this progressive reform model. I was proud to join with Senator Durenberger four years ago in cosponsoring the bill authorizing this pilot program, now known as the Federal Charter School Grant Program. Congress approved this initiative with strong bipartisan majorities, and in the years since it has provided $75 million to help new charters to defray the burdensome cost of starting a school from scratch.

Today, thanks in part to this Federal seed money, the charter school movement has quickly spread throughout the nation. As of this fall, more than 1,100 charters are operating in 26 states, including my home state of Connecticut, as well as the District of Columbia, quadrupling the number that were in business just four years ago. In the past nine months alone, four additional states passed new charter laws, and more than a half dozen others strengthened their laws and significantly expanded their programs. In California, for example, the state legislature broadly supported a move to raise the state cap on charters from 100 to 250 of this year and allow the creation of 100 additional schools each succeeding year. And just last month in Texas, the state board of education approved the creation of 85 new schools, more than doubling the existing number.

This is truly a grass-roots revolution, led by parents and teachers and community activists, which is seeking to reinvent the public school and take it back to the future, reconnecting public education to some of our oldest, most basic values—ingenuity, responsibility, accountability—and refocusing its mission on doing what's best for the child instead of what's best for the system.

The results so far have been quite encouring. Parents of charter school students overwhelmingly give their programs high marks, particularly for their responsiveness and the sense of community they foster. Also, broad-based studies done by the Hudson Institute and the Education Department show that charters are effectively serving diverse populations, especially many of the disadvantaged and at-risk children that traditional public schools have struggled to educate. And while it's too soon to determine what impact charter schools are having on overall academic performance, the early returns suggest that charters are succeeding where it matters most, in the classroom.

A survey done last fall by the National School Boards Association found that the charter movement is already having a positive ripple effect that is being felt in many local public school districts. The NSBA report cites evidence that traditional public schools are working harder to please local families so they won't abandon them to competing charter schools, and that central administrators often see charters as a "a powerful tool" to develop new ideas and programs without fearing regulatory roadblocks.

The most remarkable aspect of the charter movement may be that it has managed to bring together citizens, educators, business leaders and politicians from across the political spectrum in support of a mutual goal to better educate our children through more choice, more flexibility and more accountablity in our public schools. In these grass-roots, as I suggested above, may lie the roots of a consensus for renewing the promise of public education and ending the left-right stalemate that has too often impeded the reform debate.

We want to build on that broad agreement at the local and state level and do what we can at the Federal level to support and encourage the growth of this movement, which is just what the legislation we approved today will do. It starts by revamping the charter grant program to focus it more on helping states and local groups create new schools and meet the President's goal of creating 3,000 charters by the year 2000.

Specifically, it calls for gradually increasing the grant funding over the next several years, and then better targeting those additional dollars to the states that are serious about expanding their charter program. It would do so by establishng several "priority" criteria that would give preference in awarding start-up grants to those states that show real progress in creating high-quality, highly-accountable charters. Our hope is that these changes will give states that have been slow to embrace the charter movement an incentive to get on board. The intent is not to punish those states that are moving cautiously, but instead to reward the ones that are prepared to harness this progressive force for change and encourage others to do the same.

The CSEA would also tighten some unintended loopholes in the original statute that have hampered the effectiveness of the program, ensure that charter schools receive their fair share of funding from the major Federal categorical grant programs, and take some initial steps to widen the pool of funding sources for those charters that are struggling to stay alive. And to enhance the potential for all children to benefit from charter successes, this legislation directs the Secretary of Education to work with the states to in effect establish an "innovation pipeline" that would share information about what is working in charter schools to public school districts around the country.

That, in the end, is really what this bill and the charter school movement in general are all about, which is improving the whole of our public education system. As Norman Atkin, a founder and director of the North Star Academy Charter School in Newark, has said, charter schools have the potential to serve as the "R&D arm" of public education, incubating new ideas that could benefit millions of students. And in time hopefully every public school will put into practice the principles undergirding the charter model, and every public school will be liberated from some of the top-heavy bureaucracy that too often suffocates them and in turn pledge to meet high standards of achievement for which they will be held strictly accountable, and every public school will benefit from the positive forces of choice and competition.

For now, we have taken an important step toward that goal today, and passed a piece of legislation that I am confident will make a real and immediate difference in the lives of many children in this country. I again want to thank my colleagues for their broad vote of confidence in the charter movement, and I look forward to working with them next year on new blueprint for education reform that will incorporate the substance and spirit of what we have achieved today.●

UNANIMOUS CONSENT AGREEMENT—HOUSE JOINT RESOLUTION CONTINUING GOVERNMENT FUNDING

Mr. COATS. Mr. President, I ask unanimous consent that when the Senate receives from the House the House joint resolution that will continue Government funding until midnight Monday, October 12, 1998, with no amendments, it be considered agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, in accordance with 22 U.S.C. 1928a–1928d, as amended, appoints the following Senators as members of the Senate Delegation to the North Atlantic Assembly during the Second Session of the 105th Congress, to be held in Edinburgh, United Kingdom, November 9–14, 1998:

The Senator from Utah (Mr. Hatch);

The Senator from Virginia (Mr. Warner);

The Senator from Iowa (Mr. Grassley);

The Senator from Pennsylvania (Mr. Specter);

The Senator from Arkansas (Mr. Hutchinson);

The Senator from Alabama (Mr. Sessions);

The Senator from Oregon (Mr. Smith);

The Senator from Tennessee (Mr. Thompson);

The Senator from Arkansas (Mr. Bumpers);

The Senator from Maryland (Ms. Mikulski); and

The Senator from Hawaii (Mr. Akaka).

EXPRESSING SENSE OF SENATE ON COMPLETION OF CONSTRUCTION OF WORLD WAR II MEMORIAL

Mr. COATS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 296 submitted earlier today by Senator Kerrey.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 296) expressing the sense of the Senate that, on completion of construction of a World War II Memorial in Area 1 of the District of Columbia and its environs, Congress should provide funding for the maintenance, security, and custodial and long-term care of the memorial by the National Park Service.

The Senate proceeded to consider the resolution.

Mr. COATS. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to, en bloc; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution be printed at the appropriate place in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 296) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. Res. 296

World War II is the defining event of the 20th century;

Whereas in World War II, over 16,000,000 American men and women served the Nation, of which nearly 300,000 were killed and over 670,000 were wounded;

Whereas in Public Law 103–422 (108 Stat. 4356), Congress approved the location of a memorial to this epic event in Area I of the District of Columbia and its environs, as described in the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes", approved November 14, 1986 (40 U.S.C. 1001 et seq.); and

Whereas Congress has traditionally provided funding for the memorials commemorating President Thomas Jefferson and President Abraham Lincoln, the monument to President George Washington, and the Korean War Veterans Memorial: Now, therefore, be it

Resolved,

SECTION 1. FUNDING OF A WORLD WAR II MEMORIAL.

It is the sense of the Senate that, on completion of construction of a World War II Memorial in Area I of the District of Columbia and its environs, as described in that Act, Congress should provide funding for the maintenance, security, and custodial and long-term care of the memorial by the National Park Service.

Mr. KERREY. Mr. President, I am pleased that the Senate has agreed to this Sense of the Senate Resolution which would provide funding for the maintenance, security, custodial and long-term care of the memorial by the National Park Service. This is a significant step forward in bringing the World War II Memorial to fruition. What this resolution does is put the Senate on record as supporting public funding of some sort for the World War II Memorial which will be placed on the National Mall—our nation's front yard.

I felt this resolution necessary because of the continued structural problems confronting the Korean War Veterans Memorial, which lies in the same flood plain that the World War II Memorial will call home. I felt it necessary that the Senate take on some precautionary responsibility for the maintenance and upkeep of what will be the most prominent memorial on the Mall.

Next year, I intend to introduce legislation to fund not only maintenance, security, custodial and long-term care, but also construction costs to assist the Honorable Bob Dole in his fundraising endeavor.

I would again like to thank my colleagues, especially Senators MURKOWSKI and BUMPERS for their support and assistance.

EXPRESSING SENSE OF SENATE RELATIVE TO LOUISVILLE FESTIVAL OF FAITHS

Mr. COATS. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 274 and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 274) to express the sense of the Senate that the Louisville Festival of Faiths should be commended and should serve as a model for similar festivals in other communities throughout the United States.

The Senate proceeded to consider the resolution.

Mr. COATS. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to, en bloc, and that the motion to reconsider be laid upon the table, without intervening action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 274) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 274

Whereas a Festival of Faiths celebrating the diversity of religion has been held in Louisville, Kentucky, in the month of November of each of the last 3 years;

Whereas the Louisville Festival of Faiths has provided an opportunity for representatives of different faiths to communicate with each other and learn about each other's heritage, experiences, and beliefs,

Whereas more than 60 faiths have participated in the Louisville Festival of Faiths over the past 3 years;

Whereas the freedom to practice religion in diverse ways is a principle that the United States was founded on and one that the United States has embraced throughout its history;

Whereas religious diversity, in addition to its other benefits, expands the perspectives and experiences available to this Nation as a whole;

Whereas the communication of diverse perspectives and experiences between representatives of different religions can enrich the lives of such individuals and can assist such individuals in developing an appreciation of the commonality between different religions;

Whereas such communication can also diminish the potential for conflict between religious groups at a time when the dangers of religious conflict pose increasingly serious problems throughout the world; and

Whereas the Louisville Festival of Faiths experience can be replicated without great difficulty in other communities: Now, therefore, be it

Resolved, That it is the sense of the Senate that the Louisville Festival of Faiths—

(1) should be commended for its concept and its achievements to date; and

(2) should serve as a model for similar festivals in other communities throughout the United States.

EXPRESSING SENSE OF SENATE ON DESIGNATING NATIONAL CHILDREN'S DAY

Mr. COATS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 260.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 260) expressing the sense of the Senate that October 11, 1998, should be designated as "National Children's Day".

The Senate proceeded to consider the resolution.

Mr. COATS. Mr. President, I ask unanimous consent that the resolution be agreed to; that the preamble be agreed to; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution be printed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 260) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 260

Whereas the people of the United States should celebrate children as the most valuable asset of the Nation;

Whereas children represent the future, hope, and inspiration of the United States;

Whereas the children of the United States should be allowed to feel that their ideas and dreams will be respected because adults in the United States take time to listen;

Whereas many children of the United States face crises of grave proportions, especially as they enter adolescent years;

Whereas it is important for parents to spend time listening to their children on a daily basis;

Whereas modern societal and economic demands often pull the family apart;

Whereas encouragement should be given to families to set aside a special time for all family members to engage together in family activities;

Whereas adults in the United States should have an opportunity to reminisce on their youth and to recapture some of the fresh insight, innocence, and dreams that they may have lost through the years;

Whereas the designation of a day to commemorate the children of the United States will provide an opportunity to emphasize to children the importance of developing an ability to make the choices necessary to distance themselves from impropriety and to contribute to their communities;

Whereas the designation of a day to commemorate the children of the Nation will emphasize to the people of the United States the importance of the role of the child within the family and society;

Whereas the people of the United States should emphasize to children the importance of family life, education, and spiritual qualities; and

Whereas children are the responsibility of all Americans and everyone should celebrate the children of the United States, whose questions, laughter, and tears are important to the existence of the United States: Now, therefore, be it

Resolved, That—

(1) it is the sense of the Senate that October 11, 1998, should be designated as "National Children's Day"; and

(2) the President is requested to issue a proclamation calling upon the people of the United States to observe "National Children's Day" with appropriate ceremonies and activities.

EXPRESSING SENSE OF SENATE RELATIVE TO NATIONAL INHALANT ABUSE AWARENESS DAY

Mr. COATS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 257.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 257) expressing the sense of the Senate that October 15, 1998, should be designated as "National Inhalant Abuse Awareness Day".

The Senate proceeded to consider the resolution.

Mr. COATS. Mr. President, I ask unanimous consent that the resolution be agreed to; that the preamble be agreed to; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution be printed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 257) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. Res. 257

Whereas inhalant abuse is nearing epidemic proportions with over 20 percent of all students admitting to experimenting with inhalants by the time they graduate from high school and only 4 percent of parents suspecting their children of inhalant use;

Whereas according to the National Institute on Drug Abuse, inhalant use ranks third behind use of alcohol and tobacco for all youths through the eighth grade;

Whereas the over 1,000 products that are being inhaled to get high are legal, inexpensive, and found in nearly every home and every corner market;

Whereas using inhalants even once can lead to kidney failure, brain damage, and even death;

Whereas inhalants are considered a gateway drug, one that leads to the use of harder, more deadly drugs; and

Whereas because inhalant use is difficult to detect, the products used are accessible and affordable, and abuse is so common, increased education of young people and their parents regarding the dangers of inhalants is an important step in our battle against drug abuse: Now, therefore, be it

Resolved, That—

(1) it is the sense of the Senate that October 15, 1998, should be designated as "National Inhalant Abuse Awareness Day", to be observed with appropriate activities; and

(2) the Senate requests that the President issue a proclamation designating October 15, 1998, as "National Inhalant Abuse Awareness Day".

EXPRESSING SENSE OF SENATE WITH RESPECT TO DIPLOMATIC RELATIONS WITH PACIFIC ISLAND NATIONS

Mr. COATS. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of S. Res. 277, submitted by Senator INOUYE, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 277) expressing the sense of the Senate with respect to the importance of diplomatic relations with the Pacific Island nations.

The Senate proceeded to consider the resolution.

Mr. COATS. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to, en bloc; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution be printed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 277) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. Res. 277

Whereas the South Pacific region covers an immense area of the earth, approximately 3 times the size of the contiguous United States;

Whereas the United States seeks to maintain strong and enduring economic, political, and strategic ties with the Pacific island countries of the region, despite the reduced diplomatic presence of the United States in the region since World War II;

Whereas Pacific island nations wield control over vast tracts of the ocean, including seabed minerals, fishing rights, and other marine resources which will play a major role in the future of the global economy;

Whereas access to these valuable resources will be vital in maintaining the position of the United States as the leading world power in the new millennium;

Whereas Asian countries have already recognized the important role that these Pacific island nations will play in the future of the global economy, as evidenced by the Tokyo summit meeting in October 1997 with various Pacific island heads of state;

Whereas the Pacific has long been regarded as one of the "last frontiers", with an enormous wealth of uncultivated resources; and

Whereas direct United States participation in the human and natural resource development of the South Pacific region would promote beneficial ties with these Pacific island nations and increase the possibilities of access to the region's valuable resources: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) it is in the national interest of the United States to remain actively engaged in the South Pacific region as a means of supporting important United States commercial and strategic interests, and to encourage the consolidation of democratic values;

(2) a Pacific island summit, hosted by the President of the United States with the Pacific island heads of government, would be an excellent opportunity for the United States to foster and improve diplomatic relations with the Pacific island nations;

(3) through diplomacy and participation in the human and natural resource development of the Pacific region, the United States will increase the possibility of gaining access to valuable resources, thus strengthening the position of the United States as a world power economically and strategically in the new millennium; and

(4) the United States should fulfill its longstanding commitment to the democratization and economic prosperity of the Pacific island nations by promoting their earliest integration in the mainstream of bilateral, regional, and global commerce and trade.

NATIONAL MAMMOGRAPHY DAY

Mr. COATS. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 271 and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 271) designating October 16, 1998, as "National Mammography Day."

The Senate proceeded to consider the resolution.

Mr. COATS. Mr. President, I ask unanimous consent that the resolution be agreed to; that the preamble be agreed to; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution be printed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 271) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. Res. 271

Whereas according to the American Cancer Society, in 1998, 178,700 women will be diagnosed with breast cancer and 43,500 women will die from this disease;

Whereas in the decade of the 1990's, it is estimated that about 2,000,000 women will be diagnosed with breast cancer, resulting in nearly 500,000 deaths;

Whereas the risk of breast cancer increases with age, with a woman at age 70 having twice as much of a chance of developing the disease as a woman at age 50;

Whereas at least 80 percent of the women who get breast cancer have no family history of the disease;

Whereas mammograms, when operated professionally at a certified facility, can provide a safe and quick diagnosis;

Whereas experts agree that mammography is the best method of early detection of breast cancer, and early detection is the key to saving lives;

Whereas mammograms can reveal the presence of small cancers up to 2 years or more before a regular clinical breast examination or breast self-examination (BSE), reducing mortality by more than 30 percent; and

Whereas 47 States and the District of Columbia have passed legislation requiring health insurance companies to cover mammograms in accordance with recognized screening guidelines: Now, therefore, be it

Resolved, That the Senate—

(1) designates October 16, 1998, as "National Mammography Day"; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe such day with appropriate programs and activities.

REMEMBERING THE LIFE OF GEORGE WASHINGTON AND HIS CONTRIBUTIONS TO THE NATION

Mr. COATS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Concurrent Resolution 83.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 83) remembering the life of George Washington and his contributions to the Nation.

The Senate proceeded to consider the concurrent resolution.

Mr. COATS. Mr. President, I ask unanimous consent that the resolution be agreed to; that the preamble be agreed to; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution be printed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 83) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. CON. RES. 83

Whereas December 14, 1999, will be the 200th anniversary of the death of George Washington, the father of our Nation and the protector of our liberties;

Whereas the standards established by George Washington's steadfast character and devotion to duty continue to inspire all men and women in the service of their country and in the conduct of their private lives;

Whereas the Mount Vernon Ladies' Association of the Union, which maintains the Mount Vernon estate and directs research and education programs relating to George Washington's contribution to our national life, has requested all Americans to participate in the observance of this anniversary;

Whereas bells should be caused to toll at places of worship and institutions of learning for the duration of 1 minute commencing at 12 o'clock noon, central standard time, throughout the Nation, on the 200th anniversary of the death of George Washington;

Whereas the flag of the United States should be lowered to half staff on the 200th anniversary of the death of George Washington; and

Whereas the example set by George Washington is of the utmost importance to the future of the Nation, and it is the responsibility of private and government institutions to prepare for the observation of the 200th anniversary of the death of George Washington: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) calls upon the Nation to remember the life of George Washington and his contributions to the Nation; and

(2) requests and authorizes the President of the United States—

(A) to issue a proclamation calling upon the people of the United States—

(i) to commemorate the death of George Washington with appropriate ceremonies and activities; and

(ii) to cause and encourage patriotic and civic associations, veterans and labor organizations, schools, universities, and communities of study and worship, together with citizens everywhere, to develop programs and research projects that concentrate upon the life and character of George Washington as it relates to the future of the Nation and to the development and welfare of the lives of free people everywhere; and

(B) to notify the governments of all Nations with which the United States enjoys relations that our Nation continues to cherish the memory of George Washington with affection and gratitude by furnishing a copy of this resolution to those governments.

DESIGNATING THE 30TH DAY OF APRIL OF 1999, AS "DIA DE LOS NINOS: CELEBRATING YOUNG AMERICANS"

Mr. COATS. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 278, and the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 278) designating the 30th day of April of 1999, as "Dia de los Ninos: Celebrating Young Americans", and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. COATS. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 278) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 278

Whereas many of the nations throughout the world, and especially within the Western hemisphere, celebrate "Dia de los Niños" on the 30th of April, in recognition and celebration of their country's future—their children;

Whereas children represent the hopes and dreams of the citizens of the United States;

Whereas children are the center of American families;

Whereas children should be nurtured and invested in to preserve and enhance economic prosperity, democracy, and the American spirit;

Whereas Latinos in the United States, the youngest and fastest growing ethnic community in the nation, continue the tradition of honoring their children on this day, and wish to share this custom with the rest of the Nation;

Whereas one in four Americans is projected to be of Hispanic descent by the year 2050, and there are now 10.5 million Latino children;

Whereas traditional Latino family life centers largely on its children;

Whereas the primary teachers of family values, morality, and culture are parents and family members, and we rely on children to pass on these family values, morals, and culture to future generations;

Whereas more than 500,000 children drop out of school each year and Hispanic dropout rates are unacceptably high;

Whereas the importance of literacy and education are most often communicated to children through family members;

Whereas families should be encouraged to engage in family and community activities that include extended and elderly family members and encourage children to explore, develop confidence, and pursue their dreams;

Whereas the designation of a day to honor the children of the Nation will help affirm for the people of the United States the significance of family, education, and community;

Whereas the designation of a day of special recognition of children of the United States will provide an opportunity to children to reflect on their future, to articulate their dreams and aspirations, and find comfort and security in the support of their family members and communities;

Whereas the National Latino Children's Institute, serving as a voice for children, has worked with cities throughout the country to declare April 30 as "Día de los Niños: Celebrating Young Americans"—a day to bring together Latinos and other communities nationwide to celebrate and uplift children; and

Whereas the children of a nation are the responsibility of all its citizens, and citizens should be encouraged to celebrate the gifts of children to society—their curiosity, laughter, faith, energy, spirit, hopes, and dreams: Now, therefore, be it

Resolved, That the Senate designates the 30th of April of 1999, as "Dia de los Niños: Celebrating Young Americans" and requests that the President issue a proclamation calling on the people of the United States to join with all children, families, organizations, communities, churches, cities, and States across the Nation to observe the day with appropriate ceremonies, beginning April 30, 1999, that include—

(1) activities that center around children, and are free or minimal in cost so as to encourage and facilitate the participation of all our citizens;

(2) activities that are positive, uplifting, and that help children express their hopes and dreams;

(3) activities that provide opportunities for children of all backgrounds to learn about one another's cultures and share ideas;

(4) activities that include all members of the family, and especially extended and elderly family members, so as to promote greater communication among the generations within a family, enabling children to appreciate and benefit from the experiences and wisdom of their elderly family members;

(5) activities that provide opportunities for families within a community to get acquainted; and

(6) activities that provide children with the support they need to develop skills and confidence, and find the inner strength—the will and fire of the human spirit—to make their dreams come true.

WAIVING CERTAIN ENROLLMENT REQUIREMENTS

Mr. COATS. Mr. President, I ask unanimous consent that the Senate now proceed to House Joint Resolution 131 received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 131) waiving certain enrollment requirements for the remainder of the One Hundred Fifth Congress with respect to any bill or joint resolution making general or continuing appropriations for fiscal year 1999.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. COATS. Mr. President, I ask unanimous consent that the resolution be considered read a third time and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution (H.J. Res. 131) was considered read the third time and passed.

AUTHORIZING TESTIMONY AND REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. COATS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 297 submitted earlier by Senators LOTT and DASCHLE.

The PRESIDING OFFICER. The clerk will report the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 297) to authorize testimony and representation of former and current Senate employees and representation of Senator CRAIG in *Student Loan Fund of Idaho, Inc.* v. *Riley, et al.*

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, this resolution concerns a request for testimony in a civil action set for trial in the U.S. District Court for District of Idaho. This case arises out of a dispute between the plaintiff, a private corporation, and the Department of Education concerning the status of certain student loan guaranty reserve funds. Counsel for the plaintiff wishes to question a former member of Senator CRAIG's staff about her recollection of meetings with representatives from the Department of Education during a time period in which she served as a legislative aid to the Senator.

This resolution would authorize testimony by the former staff member, and any other former or current employees of the Senate, except where a privilege should be asserted, with representation by the Senate Legal Counsel. The resolution would also authorize the Senate Legal Counsel to represent Senator CRAIG and his employees in connection with this matter in order to protect the Senator's privileges.

Mr. COATS. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 297) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 297

Whereas, in the case of *Student Loan Fund of Idaho, Inc.* v. *Riley, et al.*, Case No. CV 94-0413-S-LMB, pending in the United States District Court for the District of Idaho, testimony has been requested from Elizabeth Criner, a former employee of Senator Larry Craig;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent Senators and employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That Elizabeth Criner, and any other former or current Senate employee from whom testimony may be required, are authorized to testify in the case of *Student Loan Fund of Idaho, Inc.* v. *Riley, et al.*, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Senator Larry Craig, Elizabeth Criner, and any other Member or employee of the Senate in connection with the testimony authorized in section one of this resolution.

AUTHORIZING THE SECRETARY OF THE INTERIOR TO PROVIDE FINANCIAL ASSISTANCE TO THE STATE OF MARYLAND

Mr. COATS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4337 received from the House.

The PRESIDING OFFICER. The clerk will report.

A bill (H.R. 4337) to authorize the Secretary of the Interior to provide financial assistance to the State of Maryland for a pilot program to develop measures to eradicate or control nutria and restore marshland damaged by nutria.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. SARBANES. Mr. President, this legislation authorizes the Secretary of Interior to provide assistance to the State of Maryland in controlling a nonnative rodent—nutria—which is destroying wetlands and valuable habitat at and around Blackwater National Wildlife Refuge on the Eastern Shore of Maryland. Sponsored by my colleague Representative GILCHREST, the legislation establishes a three year demonstration program of methods of manage nutria populations and to restore marshlands damaged by the destructive creature.

Mr. President, Blackwater National Wildlife Refuge is one of the real treasures and showplaces of our National Wildlife Refuge system. Established in the early 1930s to help preserve migratory waterfowl, the 20,000 acre refuge has become one of the chief wintering areas for Canada geese along the Atlantic Flyway. It is also home for the endangered Delmarva Fox Squirrel and more than 200 species of birds. As all who visit the refuge quickly discover, Blackwater is a very special place: a haven for fish and wildlife , a land of exceptional beauty, and a vital part of the natural heritage and quality of life that we enjoy in Maryland.

Unfortunately the Refuge and surrounding wetlands are being threatened by the prolific and highly invasive nonindigenous species nutria which are destroying the tidal marshes and even displacing other native species. Over the past three decades, the population of nutria in Maryland has grow exponentially from about 150 to as many as 150,000—a thousand fold increase. During that same period, Blackwater National Wildlife Refuge has lost more than 40 percent of its marshes—approximately 7,000 of 17,000 acres—due, in large part, to nutria. As nutria population densities continue to increase, so does the range of the creature and its associated ecological damage.

In order to respond to this threat, the Maryland Department of Natural Resources, the U.S. Fish and Wildlife Service, the USDA Animal and Plant Health Inspection Service, the University of Maryland and more than a dozen other partners have joined together to develop a plan to address march loss and control of nutria. The goal of this three year pilot program is to develop methods for intensive control of the nutria populations and to restore damaged marsh habitats. This legislation authorizes the Federal funds necessary to carry out the program. I urge adoption of the legislation.

Mr. COATS. I ask unanimous consent that the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4337) was considered read the third time and passed.

ADVISORY COUNCIL ON CALIFORNIA INDIAN POLICY EXTENSION ACT OF 1998

Mr. COATS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar No. 595, H.R. 3069.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3069) to extend the Advisory Council on California Indian Policy to allow the Advisory Council to advise Congress on the implementation of the proposals and recommendations of the Advisory Council.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Indian Affairs, with an amendment; as follows:

(The part of the bill intended to be inserted is shown in italic.)

H.R. 3069

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Advisory Council on California Indian Policy Extension Act of 1998".

SEC. 2. FINDING AND PURPOSE.

(a) FINDING.—Congress finds that the Advisory Council on California Indian Policy, pursuant to the Advisory Council on California Indian Policy Act of 1992 (Public Law 102–416; 25 U.S.C. 651 note), submitted its proposals and recommendations regarding remedial measures to address the special status of California's terminated and unacknowledged Indian tribes and the needs of California Indians relating to economic self-sufficiency, health, and education.

(b) PURPOSE.—The purpose of this Act is to allow the Advisory Council on California Indian Policy to advise Congress on the implementation of such proposals and recommendations.

SEC. 3. DUTIES OF ADVISORY COUNCIL REGARDING IMPLEMENTATION OF PROPOSALS AND RECOMMENDATIONS.

(a) IN GENERAL.—Section 5 of the Advisory Council on California Indian Policy Act of 1992 (106 Stat. 2133) is amended by striking "and" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting "; and", and by adding at the end the following new paragraph:

"(8) work with Congress, the Secretary, the Secretary of Health and Human Services, and the California Indian tribes, to implement the Council's proposals and recommendations contained in the report submitted under paragraph (6), including—

"(A) consulting with Federal departments and agencies to identify those recommendations that can be implemented immediately, or in the very near future, and those which will require long-term changes in law, regulations, or policy;

"(B) working with Federal departments and agencies to expedite to the greatest extent possible the implementation of the Council's recommendations;

"(C) presenting draft legislation to Congress for implementation of the recommendations requiring legislative changes;

"(D) initiating discussions with the State of California and its agencies to identify specific areas where State actions or tribal-State cooperation can complement actions by the Federal Government to implement specific recommendations;

"(E) providing timely information to and consulting with California Indian tribes on discussions between the Council and Federal and State agencies regarding implementation of the recommendations; and

"(F) providing annual progress reports to the Committee on Indian Affairs of the Senate and the Committee on Resources of the House of Representatives on the status of the implementation of the recommendations.".

(b) TERMINATION.—The first sentence of section 8 of the Advisory Council on California Indian Policy Act of 1992 (106 Stat. 2136) is amended to read as follows: "The Council shall cease to exist on March 31, 2000.".

SEC. 4. HEALTH OR SOCIAL SERVICES FACILITY.

Section 1004(a) of the Coast Guard Authorization Act of 1996 (Public Law 104–324; 110 Stat. 3956) is amended by striking "use other than for a facility for the provision of health programs funded by the Indian Health Service (not including any such programs operated by Ketchikan Indian Corporation prior to 1993)" and inserting "use as a health or social services facility".

Mr. COATS. Mr. President, I ask unanimous consent that the committee amendment not be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment was rejected.

Mr. COATS. I ask unanimous consent the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3069), as amended, was considered read the third time and passed.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY ACT

Mr. COATS. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of H.R. 1274, and further, that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1274) to authorize appropriations for the National Institute of Standards and Technology for fiscal years 1998 and 1999, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3810

(Purpose: To amend the Technology Administration Act of 1998)

Mr. COATS. Mr. President, Senator FRIST has a substitute amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Indiana [Mr. COATS], for Mr. FRIST and Mr. ROCKEFELLER, proposes an amendment numbered 3810.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. COATS. Mr. President, I ask unanimous consent that the substitute amendment be agreed to, the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3810) was agreed to.

The bill (H.R. 1274), as amended, was read the third time and passed.

WORKFORCE IMPROVEMENT AND PROTECTION ACT OF 1998

Mr. COATS. Mr. President, I now ask unanimous consent that the Senate proceed to the consideration of H.R. 3736, a bill to amend the Immigration and Nationality Act to make changes relating to H–1B nonimmigrants.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. I object.

The PRESIDING OFFICER. The objection is heard.

Mr. COATS. Mr. President, I regret that this objection is being made. The bill is vital to the technology industry, and this objection makes it impossible to pass the bill this year.

Mr. HARKIN. Will the Senator yield for about 3 minutes?

Mr. COATS. I am happy to yield to the Senator.

Mr. HARKIN. I appreciate the Senator from Indiana yielding to me to explain why I object to this.

Before I get into that, let me say that I was here for part of his speech. He thanked his staff. I thought it was a very gracious and wonderful thing the Senator did. It was really nice.

I must say, I will miss you here in the Senate, DAN. As I said before, you have been a wonderful person to work with. I hate to end it on this note, where I am objecting to something that you are bringing up. You have been a great Senator. You have been a great human being to work with. We will miss you. I will miss you, personally. All of my friends who have left said there is a life beyond the Senate. Quite frankly, it is probably a lot better, considering we are here at 7:30 on a Friday night.

Mr. President, I just want to explain why I object to this bill. This is the bill that would have increased the number of H–1B visas from 65,000 per year to 115,000 for next year and the year after, then drop down to 107,500 in 2001 and back down to 65,000 thereafter.

Now, ostensibly, the reason for doing this, and why this came up in the last couple of years, is that there was projected to be a big shortage in computer programmers. Thus, there was this big push to increase the number of H–1B visas, to get these computer programmers.

It turns out that has, indeed, not happened. In fact, I have three recent articles. One is from the San Jose Mercury News dated October 6, 1998. It says:

> High-tech Layoffs are Accelerating.

They pointed out in the article:

> Computers ranked second in total job-cut announcements, with 44,000. That represented nearly three times the number from last year.

The article goes on to say:

> The changing job market can be seen at the Career Action Center, a career resource center in Cupertino, where counselors are seeing more people come in. Job searches are taking more time, companies are taking longer to make their hiring decision, and some businesses have even enacted hiring freezes, said Betsy Collard, the center's strategic development director.
>
> While the center posted 10,000 jobs in August, that was down from 13,500 it posted a year earlier.

I ask unanimous consent the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the San Jose Mercury News, Oct. 6, 1998]

HIGH-TECH LAYOFFS ARE ACCELERATING

(By Jonathan Rabinovitz)

High-technology industries have cut four times as many jobs nationally in 1998 as they did in the same period last year, imposing more layoffs than almost every other sector of the economy, according to a report released Tuesday by an international outplacement firm.

The survey of job-cut announcements was yet another signal of the slowing of economic growth both in Silicon Valley and nationally. It attributed many of the reductions to the global financial crisis, particularly the recession that has gripped much of Asia.

And while the labor market in the San Jose area remains tight—the 3.4 percent unemployment rate in August was down from last year—one of the authors of the study said that this year's downsizing tend has already dimmed the rampant optimism that once pervaded Silicon Valley.

"People used to say that you don't have anything to worry about, but that's not the case any more," said John A. Challenger, chief executive of Challenger, Gray & Christmas Inc., the Chicago-based company that compiles the monthly survey. "The ice seems a little bit thinner right now."

Still, Silicon Valley and the state continue to add thousands of jobs, at a pace that outstrips the rate of layoffs, though job growth has slowed both here and nationally.

The layoffs in high-tech companies come against a backdrop of increased job-cut announcements across the country. The September figure for job-cut announcements was the highest reported by the survey since January 1996. The amount has generally increased each month this year.

And the total number of job cuts for all industries was up 53 percent—about 150,000 job-cut announcements—from the amount for the first nine months of 1997.

But perhaps the most striking change was in the high-tech industries. While electronics, computers and telecommunications were not among the top five industries in job-cut announcements last year at this time, all three industries were now in that category.

Electronics, which includes chip manufacturing, had more announcements than any other industry. The number had increased to nearly 70,000, eight times more than the first nine months of last year, according to the Challenger survey.

Computers ranked second in total job-cut announcements, with 44,000. That represented nearly three times the number from last year.

Telecommunications was placed fifth. It increased to nearly 29,000, four times the amount in 1997.

The changing job market can be seen at the Career Action Center, a career resource center in Cupertino, where counselors are seeing more people come in. Job searches are taking more time, companies are taking longer to make their hiring decision and some businesses have even enacted hiring freezes, said Betsy Collard, the center's strategic development director.

While the center posted 10,000 jobs in August, that was down from the 13,500 it posted a year earlier.

But, Collard stressed, "It is still a very good job market."

Indeed, the Challenger survey should not inspire panic in Silicon Valley. Its findings reveal only a small and recent dent in an economic miracle that has included phenomenal job growth.

Another report, issued this week by the American Electronics Association, showed how Silicon Valley extended its reach throughout California from 1990 to 1996.

While Santa Clara County added almost 25,000 high-tech jobs during that period to reach a total of 221,000 technology jobs—a 12 percent increase—other California metropolitan areas had substantial employment growth in the tech industries.

The Sacramento area, for instance, had 30,000 high-tech jobs by 1996, a 56 percent jump from six years earlier. San Mateo, San Francisco and Marin Counties had a total of about 49,000 high-tech jobs, up 37 percent over the same period. And Alameda and Contra Costa Counties had 53,000, a 14 percent increase from 1990.

Still, the continued growth had a new facet this year, it was accompanied by a spate of down-sizing efforts that approach the scope of the deepest cuts of the decade in 1993, Challenger said.

Over the last year, many of Silicon Valley's most revered companies have announced layoffs. Santa Clara-based Applied Materials has eliminated almost one out of every four positions. Scotts Valley-based Seagate said in January it would reduce its work force by 10,000 employees worldwide. And San Jose-based Adobe Systems said it would cut anywhere between 240 to 300 jobs.

The Challenger Survey has been conducted since 1993. It is based entirely on public reports of job cuts and calculates all reductions announced by U.S.-based companies.

Mr. HARKIN. Another recent article from Computer World, dated October 5, 1998, talked about the same subject:

> The year 2000 retention drama is playing out differently from what was expected. The widely anticipated programmer shortage never quite materialized, but another shortage has proved far more dangerous.
>
> "We'd always heard the industry speak of demand for programmers, but the more critical and unexpected demand is for project managers," says Irene Dec, vice president of information systems at the Prudential Insurance Company of America in Newark, NJ.

The article pointed out, quite frankly, that the programmers are in fine shape. What they are really looking for are program managers. I understand the H–1B visa does not in any way address that problem at all.

I ask unanimous consent this article also be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Computerworld, Oct. 5, 1998]

THE MILLENNIUM'S SUPERSTARS

YEAR 2000 PROJECT MANAGERS ARE WORTH THEIR WEIGHT IN GOLD. HOW DO YOU KEEP THEM?

(By Kathleen Melymuka)

The year 2000 retention drama is playing out differently from what was expected. The widely anticipated programmer shortage never quite materialized, but another shortage has proved far more dangerous.

"We'd always heard the industry speak of demand for programmers, but the more critical and unexpected demand is for project managers," says Irene Dec, vice president of information systems at The Prudential Insurance Company of America in Newark, N.J.

"Those are the people that make the different between success and failure," says Chas Snyder, who heads the year 2000 project at Levi Strauss & Co. in San Francisco. "If somebody is experienced at running an effort like this for a large company, the knowledge they develop is invaluable."

Keeping programmers "has not been as big a problem as people thought it was going to be," says Jim Jones, managing director of the year 2000 group at the Information Management Forum in Atlanta. "It's not the worker-bee folks they're hurting for; it's project managers."

An August survey of 100 contracting and consulting firms by the Information Technology Association of America (ITAA) showed that the "overwhelming majority" have more programmers than they can use. The ITAA called the anticipated programmer shortage "a marketplace failing to live up to its prior billing."

The supply of year 2000 programmers has been bigger than expected because many corporations outsourced coding to offshore companies, vendors developed year 2000 tools that automated much of the coding process, and schools and training facilities graduated a bumper crop of programmers geared to the job.

With programmers available, companies realized where the real crunch would be. "Even the best programmers in the world can't make it happen if no one is managing," Dec says.

Depending on the organization, year 2000 project managers may be found at every level—and every salary—from corporate vice presidents through division managers, business functional team leaders and department honchos. There may be one project manager, or there may be a pyramid of project managers—from each division or business unit, for example—reporting to a chief. But wherever they are found, they are hard to keep. "We know that our people are being called [by headhunters] because they tell us," says Gael Hanover, senior director of human resources for information systems at Sears. Roebuck and Co. in Hoffman Estates, Ill.

"Consulting firms can dangle pretty big salaries, and we can't."

In fact, some consulting firms are so desperate for project managers that they are willing to pay them at the rate they bill customers for their services. "The projects can't get done without project managers, so if they bill [companies] at $125 an hour, they're willing to give [project managers] $125 an hour," Jones says. "No corporation can do that."

But corporations have come up with other strategies to keep their year 2000 project managers on the job through the millennium. Some strategies rely on the lure of money and perks, but most are based on the understanding that retention has to be a long-term effort because the need for project managers won't go away after 2000.

RECOGNITION AND ROTATION

At Kraft Foods, Inc. in Northfield, Ill., where the overall IS turnover rate is 5%, Chief Information Officer Jim Kinney has been very careful to make year 2000 a high-profile, high-recognition temporary job. "We've chosen very good people for project teams," he says. Most work only on the application set for which they're normally responsible. "Once that's finished, they rotate back to their regular assignment," Kinney explains.

Smart companies are making sure their year 2000 project managers don't stagnate during the project. "Folks focused on year 2000 are being sent to appropriate training and conferences and classes so they can stay up with technology," Dec says. She has lost only five of the 60 to 80 people in her year 2000 program management team.

Keane, Inc. in Boston, a provider of year 2000 services, has established an internal organization to look after the career development of its project managers, says David Pollard, Keane's director of recruiting.

"Rather than simply throw cash at the issue, we tapped into meeting their development objectives and getting [them] the right training so they can be successful in the long haul," he says. Turnover has declined 30% since the development organization was founded last year.

MONEY

There's nothing wrong with money judiciously deployed, and bonuses of 20% of salary aren't uncommon. Sears is offering year 2000 project managers and selected other periodic cash bonuses through April 2000.

"If we lost one of these folks, we would be hurting more than if we lost 10 other people. So rather than spread [the money] to everyone, we do more for some," Hanauer says.

BE PREPARED

Nothing can guarantee that you will retain the people crucial to your year 2000 effort. Knowing that, Snyder planned for the worst. "My biggest fear was to lose people in high leverage points," he says. "So for my core four or five managers, I designed responsibilities to be shared. That way, if I lost one, we could cover the responsibility easily."

He did lose one, he says, "but we were able to pick up the slack running."

THE BIG PICTURE

Unlike year 2000 programmers, who know their peak earning time is limited, project managers have the luxury of a long view. If your company's view is the same, you have an advantage. "Year 2000 is a short-term brass ring," Snyder says. "There might be enough in a year or two to make it worthwhile for some people to leave, but if you're thinking long term, it's not enough. The people I have are long-term Levi's employees, and they plan on staying here."●

Mr. HARKIN. Mr. President, I think this bill, at the time it came up, was probably well intentioned.

Another article I want to have printed in the RECORD is an article from Labor Relations Week, dated September 30, 1998:

> The latest data from the Challenger report showed that so far this year, electronics industry job reductions announcements have totaled 60,845, and those in the computer industry totaled 40,642.

I ask unanimous consent this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Labor Relations Week, Sept. 30, 1998]

LAYOFF REPORTS OUTPACING LEVEL SEEN LAST YEAR; HIGH-TECH HIT HARD

With high-technology industries particularly hard hit, the pace at which U.S. corporations are announcing workforce reductions remained brisk through August, according to the latest figures from the international outplacement firm Challenger, Gray & Christmas.

In August, U.S. companies announced that they plan to make job cuts totaling 37,717, the Challenger report, released Sept. 8, said. That figure, while it was smaller than reported in July, put the total for the first eight months of this year at 358,394—which is 37 percent higher than the total for the comparable period of 1997.

In fact, the January-to-August total for this year is only 11 percent lower than the total reported by Challenger for the same period in 1993, the year that the firm began its layoff survey.

"There have been a significant number of downsizing announcements in 1998, reflecting a number of factors that include the global situation, especially in Asia." John Challenger, executive vice president of the firm, told BNA. He said that given the increased pressure on some U.S. industries due to the Asian economic crisis, there are likely to be more layoff announcements in the industries most affected.

The latest data from the Challenger report showed that so far this year, electronics industry job reductions announcements have totaled 60,845, and those in the computer industry totaled 40,642.

"We've seen the 10 largest mergers in [U.S.] history all announced since last fall," Challenger said, citing another indication of labor market flux. In many cases, companies are reducing their workforces in one area at the same time that they are adding employees in other areas, he said.

While Challenger said that he does not expect 1998 to surpass 1993 in total layoff announcements, he said that the fact that the total for the first eight months of this year is so close to 1993 total indicates that "companies are quicker to respond to changes in the marketplace."

Layoff announcements tracked by the Challenger firm are based on publicly released estimates of planned workforce reductions that could take place immediately or over an extended period of time, the firm said. Announcements of job reduction plans are verified by the Challenger firm, and the tallies are revised only if companies announce that they have changed their plans, the firm said.

Mr. HARKIN. Mr. President, I object because I think while this maybe had some legitimacy at some time because of the projected shortage in computer programmers, every indication is that has not happened.

Obviously, we don't need to pass this bill right now. I think we can take another look at it next year to see if, in fact, there is any problem. We can always come back and look at this again next year, but right now it does not appear that the demand is there that they anticipated a couple of years ago.

Mr. COATS. Mr. President, first of all, I thank the Senator from Iowa for his kind comments. We have served together in the Labor Committee for a 10-year period of time. While we have had our disagreements, we have also agreed on a number of things. I have enjoyed working with him.

I understand, but regret, the objection of this unanimous consent request. There obviously is a difference of opinion as to the need for support in the technology industry, the computer industry, particularly with the Y2K problem. That issue will have to be resolved. There is honest disagreement here. We will pick the issue up in the next Congress.

Mr. ABRAHAM. Mr. President, I would like to turn my attention briefly to the issue which was discussed by the Senator from Iowa in raising objection to proceeding with the legislation aimed at trying to expand the number of H–1B entries as permitted on an annual basis to be employed by American businesses.

The Senator focused on a very narrow issue in raising his objection—specifically, the argument based on several newspaper stories that there is not a shortage of skilled workers in the high-tech industries.

Virtually every study that I have seen—and as the principal sponsor of the legislation when it was in the Senate, I made most of those available as part of the RECORD—indicates that, indeed, we have a very severe shortage in these high-tech worker job slots. Virginia Tech University conducted a recent study which indicated over 340,000 vacancies in information technology positions that exist today in this country. Our Department of Commerce conducted a study which revealed it is anticipated that in each of the next 10 years we will generate over 130,000 new information technology jobs and yet the combined resources of our colleges, universities, and job training programs and high schools is only likely to fill a fraction of those every year. This is a severe problem, and it is especially severe at this time.

The Senator from Iowa talks about moving us to next year. Well, next year just happens to be the last few months prior to the year 2000. By the time this legislation might be brought back before us, we will be in a situation where the Federal Government as well as the companies from one end of America to the other are going to be confronted with the final crisis stages of trying to prepare our high-tech systems for the Year 2K problems that we have all been raving so much about.

If we do not pass this legislation, it is going to be Senators such as the Senator who raised this objection and others who have impeded the progress in this legislation who are going to have to explain to all of those whose systems break down why it is that happened, because one of the problems we are having confronting the Year 2K problems is an inadequate number of people to perform all of the various information technology jobs required to be conducted for those problems to be fixed. That is just one aspect of it. It is late in the evening so I am not going to go into all of the many others, but I think that any study that has been conducted by serious researchers reveals that there not only exists, but will continue to be, an ever larger number of vacancies in this area.

This legislation that was stopped tonight not only covers increasing the number of high-tech workers, it also is a very important piece of legislation to our academic institutions—in two respects. First, regarding many of the high-tech jobs, many of the H-1B visa users are in fact employed on our campuses teaching American kids how to perform these high-technology jobs so we can meet the demand in this area in the future. If we do not have these scientists, these educators, we are going to continue to fail to meet the challenge.

In addition, our academic institutions were relying on the passage of this legislation to address a very serious problem created by the Hathaway decision with regard to the prevailing wage they must pay people who come in under the H-1B Program. So this does not just affect the private sector, it affects our academic institutions as well.

In addition, the Senator from Iowa and others who question the problem do not need to just listen to people on our side of the aisle. They can listen to the President of the United States who, I believe just 2 weeks ago this evening, was in Silicon Valley in California before a group of executives from the high-tech industries there talking about this issue. The day after his staff and my staff and I reached agreement on the legislation that has been blocked this evening, he took credit for the ability, that we were then apparently going to have, to move forward to it and acknowledged the need for the legislation in taking credit for the settlement and agreement we had reached.

Obviously, whether it is the White House, the Department of Commerce, Virginia Tech University, or any one of a number of other sources, there is an acknowledged existence of a problem here that has to be addressed. I am extremely disappointed at what has transpired this evening.

I would just say, in conclusion, we have not, obviously, reached the end of this session. There is still some time, hopefully, for reconsideration by the Senator from Iowa and any others who may have concerns. I hope they will rethink this. I hope they will realize, in undermining this legislation, in stopping it at this time, they are going to be hurting not just the business sector and the information technology sector, but the academic sector. They are also going to prevent us from instituting a whole new array of job training programs and scholarship programs that were going to be launched by this legislation. So I hope they will take a look at that, reconsider, and if they look at the numbers a little more closely, I think they will reach the same conclusions we have.

Mr. President, I close by saying I hope the Senator from Iowa, and others who might share his position, again will look closely at the statistics I have talked about tonight, examine all the other aspects of this legislation and what it will mean if it does not move forward in all the different contexts I have outlined and the many others I have not had time for, rethink whether or not it is appropriate to put this off to some future date, and think about the consequences, whether it is in the context of the Y2K problems or the current economic conditions we have in the world marketplace where America's high-tech industries' growth is essential to the maintenance of our economic strength, and reconsider their position.

I yield the floor.

PROTECTION OF CHILDREN FROM SEXUAL PREDATORS ACT OF 1998

Mr. COATS. Mr. President, I now ask unanimous consent that the Senate proceed to the consideration of calendar No. 587, H.R. 3494.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3494) to amend Title 18 United States Code with respect to violent sex crimes against children, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Protection of Children From Sexual Predators Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—PROTECTION OF CHILDREN FROM PREDATORS

Sec. 101. Use of interstate facilities to transmit identifying information about a minor for criminal sexual purposes.
Sec. 102. Coercion and enticement.
Sec. 103. Increased penalties for transportation of minors or assumed minors for illegal sexual activity and related crimes.
Sec. 104. Repeat offenders in transportation offense.
Sec. 105. Inclusion of offenses relating to child pornography in definition of sexual activity for which any person can be charged with a criminal offense.
Sec. 106. Transportation generally.

TITLE II—PROTECTION OF CHILDREN FROM CHILD PORNOGRAPHY

Sec. 201. Additional jurisdictional base for prosecution of production of child pornography.
Sec. 202. Increased penalties for child pornography offenses.

TITLE III—SEXUAL ABUSE PREVENTION

Sec. 301. Elimination of redundancy and ambiguities.
Sec. 302. Increased penalties for abusive sexual contact.
Sec. 303. Repeat offenders in sexual abuse cases.

TITLE IV—PROHIBITION ON TRANSFER OF OBSCENE MATERIAL TO MINORS

Sec. 401. Transfer of obscene material to minors.

TITLE V—INCREASED PENALTIES FOR OFFENSES AGAINST CHILDREN AND FOR REPEAT OFFENDERS

Sec. 501. Death or life in prison for certain offenses whose victims are children.
Sec. 502. Sentencing enhancement for chapter 117 offenses.
Sec. 503. Increased penalties for use of a computer in the sexual abuse or exploitation of a child.
Sec. 504. Increased penalties for knowing misrepresentation in the sexual abuse or exploitation of a child.
Sec. 505. Increased penalties for pattern of activity of sexual exploitation of children.
Sec. 506. Clarification of definition of distribution of pornography.
Sec. 507. Directive to the United States Sentencing Commission.

TITLE VI—CRIMINAL, PROCEDURAL, AND ADMINISTRATIVE REFORMS

Sec. 601. Pretrial detention of sexual predators.
Sec. 602. Criminal forfeiture for offenses against minors.
Sec. 603. Civil forfeiture for offenses against minors.
Sec. 604. Reporting of child pornography by electronic communication service providers.
Sec. 605. Civil remedy for personal injuries resulting from certain sex crimes against children.
Sec. 606. Administrative subpoenas.
Sec. 607. Grants to States to offset costs associated with sexually violent offender registration requirements.

TITLE VII—MURDER AND KIDNAPPING INVESTIGATIONS

Sec. 701. Authority to investigate serial killings.
Sec. 702. Kidnapping.

Sec. 703. Morgan P. Hardiman Child Abduction and Serial Murder Investigative Resources Center.

TITLE VIII—RESTRICTED ACCESS TO INTERACTIVE COMPUTER SERVICES

Sec. 801. Prisoner access.
Sec. 802. Recommended prohibition.
Sec. 803. Survey.

TITLE IX—STUDIES

Sec. 901. Study on limiting the availability of pornography on the Internet.
Sec. 902. Study of hotlines.

TITLE I—PROTECTION OF CHILDREN FROM PREDATORS

SEC. 101. USE OF INTERSTATE FACILITIES TO TRANSMIT IDENTIFYING INFORMATION ABOUT A MINOR FOR CRIMINAL SEXUAL PURPOSES.

(a) IN GENERAL.—Chapter 117 of title 18, United States Code, is amended by adding at the end the following:

"§2425. Use of interstate facilities to transmit information about a minor

"Whoever, using the mail or any facility or means of interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States, knowingly initiates the transmission of the name, address, telephone number, social security number, or electronic mail address of another individual, knowing that such other individual has not attained the age of 16 years, with the intent to entice, encourage, offer, or solicit any person to engage in any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined under this title, imprisoned not more than 5 years, or both.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 117 of title 18, United States Code, is amended by adding at the end the following:

"2425. Use of interstate facilities to transmit information about a minor.".

SEC. 102. COERCION AND ENTICEMENT.

Section 2422 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting "or attempts to do so," before "shall be fined"; and

(B) by striking "five" and inserting "10"; and

(2) by striking subsection (b) and inserting the following:

"(b) Whoever, using the mail or any facility or means of interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States knowingly persuades, induces, entices, or coerces any individual who has not attained the age of 18 years, to engage in prostitution or any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined under this title, imprisoned not more than 15 years, or both.".

SEC. 103. INCREASED PENALTIES FOR TRANSPORTATION OF MINORS OR ASSUMED MINORS FOR ILLEGAL SEXUAL ACTIVITY AND RELATED CRIMES.

Section 2423 of title 18, United States Code, is amended—

(1) by striking subsection (a) and inserting the following:

"(a) TRANSPORTATION WITH INTENT TO ENGAGE IN CRIMINAL SEXUAL ACTIVITY.—A person who knowingly transports an individual who has not attained the age of 18 years in interstate or foreign commerce, or in any territory or possession of the United States, with intent that the individual engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined under this title, imprisoned not more than 15 years, or both."; and

(2) in subsection (b), by striking "10 years" and inserting "15 years".

SEC. 104. REPEAT OFFENDERS IN TRANSPORTATION OFFENSE.

(a) IN GENERAL.—Chapter 117 of title 18, United States Code, is amended by adding at the end the following:

"§2426. Repeat offenders

"(a) MAXIMUM TERM OF IMPRISONMENT.—The maximum term of imprisonment for a violation of this chapter after a prior sex offense conviction shall be twice the term of imprisonment otherwise provided by this chapter.

"(b) DEFINITIONS.—In this section—

"(1) the term 'prior sex offense conviction' means a conviction for an offense—

"(A) under this chapter, chapter 109A, or chapter 110; or

"(B) under State law for an offense consisting of conduct that would have been an offense under a chapter referred to in paragraph (1) if the conduct had occurred within the special maritime and territorial jurisdiction of the United States; and

"(2) STATE.—the term 'State' means a State of the United States, the District of Columbia, any commonwealth, possession, or territory of the United States.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 117 of title 18, United States Code, is amended by adding at the end the following:

"2426. Repeat offenders.".

SEC. 105. INCLUSION OF OFFENSES RELATING TO CHILD PORNOGRAPHY IN DEFINITION OF SEXUAL ACTIVITY FOR WHICH ANY PERSON CAN BE CHARGED WITH A CRIMINAL OFFENSE.

(a) IN GENERAL.—Chapter 117 of title 18, United States Code, is amended by adding at the end the following:

"§2427. Inclusion of offenses relating to child pornography in definition of sexual activity for which any person can be charged with a criminal offense

"In this chapter, the term 'sexual activity for which any person can be charged with a criminal offense' includes the production of child pornography, as defined in section 2256(8).".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 117 of title 18, United States Code, is amended by adding at the end the following:

"2427. Inclusion of offenses relating to child pornography in definition of sexual activity for which any person can be charged with a criminal offense.".

SEC. 106. TRANSPORTATION GENERALLY.

Section 2421 of title 18, United States Code, is amended—

(1) by inserting "or attempts to do so," before "shall be fined"; and

(2) by striking "five years" and inserting "10 years".

TITLE II—PROTECTION OF CHILDREN FROM CHILD PORNOGRAPHY

SEC. 201. ADDITIONAL JURISDICTIONAL BASE FOR PROSECUTION OF PRODUCTION OF CHILD PORNOGRAPHY.

(a) USE OF A CHILD.—Section 2251(a) of title 18, United States Code, is amended by inserting "if that visual depiction was produced using materials that have been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer," before "or if".

(b) ALLOWING USE OF A CHILD.—Section 2251(b) of title 18, United States Code, is amended by inserting ", if that visual depiction was produced using materials that have been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer," before "or if".

(c) INCREASED PENALTIES IN SECTION 2251(d).—Section 2251(d) of title 18, United States Code, is amended by striking "or chapter 109A" each place it appears and inserting ", chapter 109A, or chapter 117".

SEC. 202. INCREASED PENALTIES FOR CHILD PORNOGRAPHY OFFENSES.

(a) INCREASED PENALTIES IN SECTION 2252.—Section 2252(b) of title 18, United States Code, is amended—

(1) in each of paragraphs (1) and (2), by striking "or chapter 109A" and inserting ", chapter 109A, or chapter 117"; and

(2) in paragraph (2), by striking "the possession of child pornography" and inserting "aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor or ward, or the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography".

(b) INCREASED PENALTIES IN SECTION 2252A.—Section 2252A(b) of title 18, United States Code, is amended—

(1) in each of paragraphs (1) and (2), by striking "or chapter 109A" and inserting ", chapter 109A, or chapter 117"; and

(2) in paragraph (2), by striking "the possession of child pornography" and inserting "aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor or ward, or the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography".

TITLE III—SEXUAL ABUSE PREVENTION

SEC. 301. ELIMINATION OF REDUNDANCY AND AMBIGUITIES.

(a) MAKING CONSISTENT LANGUAGE ON AGE DIFFERENTIAL.—Section 2241(c) of title 18, United States Code, is amended by striking "younger than that person" and inserting "younger than the person so engaging".

(b) REDUNDANCY.—Section 2243(a) of title 18, United States Code, is amended by striking "crosses a State line with intent to engage in a sexual act with a person who has not attained the age of 12 years, or".

(c) STATE DEFINED.—Section 2246 of title 18, United States Code, is amended—

(1) in paragraph (5), by striking the period at the end and inserting "; and"; and

(2) by adding at the end the following:

"(6) the term 'State' means a State of the United States, the District of Columbia, and any commonwealth, possession, or territory of the United States.".

SEC. 302. INCREASED PENALTIES FOR ABUSIVE SEXUAL CONTACT.

Section 2244 of title 18, United States Code, is amended by adding at the end the following:

"(c) OFFENSES INVOLVING YOUNG CHILDREN.—If the sexual contact that violates this section is with an individual who has not attained the age of 12 years, the maximum term of imprisonment that may be imposed for the offense shall be twice that otherwise provided in this section.".

SEC. 303. REPEAT OFFENDERS IN SEXUAL ABUSE CASES.

Section 2247 of title 18, United States Code, is amended to read as follows:

"§2247. Repeat offenders

"(a) MAXIMUM TERM OF IMPRISONMENT.—The maximum term of imprisonment for a violation of this chapter after a prior sex offense conviction shall be twice the term otherwise provided by this chapter.

"(b) PRIOR SEX OFFENSE CONVICTION DEFINED.—In this section, the term 'prior sex offense conviction' has the meaning given that term in section 2426(b).".

TITLE IV—PROHIBITION ON TRANSFER OF OBSCENE MATERIAL TO MINORS

SEC. 401. TRANSFER OF OBSCENE MATERIAL TO MINORS.

(a) In General.—Chapter 71 of title 18, United States Code, is amended by adding at the end the following:

“§1470. Transfer of obscene material to minors

“Whoever, using the mail or any facility or means of interstate or foreign commerce, knowingly transfers obscene matter to another individual who has not attained the age of 16 years, knowing that such other individual has not attained the age of 16 years, or attempts to do so, shall be fined under this title, imprisoned not more than 10 years, or both.”.

(b) Technical and Conforming Amendment.—The analysis for chapter 71 of title 18, United States Code, is amended by adding at the end the following:

“1470. Transfer of obscene material to minors.”.

TITLE V—INCREASED PENALTIES FOR OFFENSES AGAINST CHILDREN AND FOR REPEAT OFFENDERS

SEC. 501. DEATH OR LIFE IN PRISON FOR CERTAIN OFFENSES WHOSE VICTIMS ARE CHILDREN.

Section 3559 of title 18, United States Code, is amended by adding at the end the following:

“(d) Death or Imprisonment for Crimes Against Children.—

“(1) In general.—Subject to paragraph (2) and notwithstanding any other provision of law, a person who is convicted of a Federal offense that is a serious violent felony (as defined in subsection (c)) or a violation of section 2422, 2423, or 2251 shall, unless the sentence of death is imposed, be sentenced to imprisonment for life, if—

“(A) the victim of the offense has not attained the age of 14 years;

“(B) the victim dies as a result of the offense; and

“(C) the defendant, in the course of the offense, engages in conduct described in section 3591(a)(2).

“(2) Exception.—With respect to a person convicted of a Federal offense described in paragraph (1), the court may impose any lesser sentence that is authorized by law to take into account any substantial assistance provided by the defendant in the investigation or prosecution of another person who has committed an offense, in accordance with the Federal Sentencing Guidelines and the policy statements of the Federal Sentencing Commission pursuant to section 994(p) of title 28, or for other good cause.”.

SEC. 502. SENTENCING ENHANCEMENT FOR CHAPTER 117 OFFENSES.

(a) In General.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall review and amend the Federal Sentencing Guidelines to provide a sentencing enhancement for offenses under chapter 117 of title 18, United States Code.

(b) Instruction to Commission.—In carrying out subsection (a), the United States Sentencing Commission shall ensure that the sentences, guidelines, and policy statements for offenders convicted of offenses described in subsection (a) are appropriately severe and reasonably consistent with other relevant directives and with other Federal Sentencing Guidelines.

SEC. 503. INCREASED PENALTIES FOR USE OF A COMPUTER IN THE SEXUAL ABUSE OR EXPLOITATION OF A CHILD.

Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal Sentencing Guidelines for—

(A) aggravated sexual abuse under section 2241 of title 18, United States Code;

(B) sexual abuse under section 2242 of title 18, United States Code;

(C) sexual abuse of a minor or ward under section 2243 of title 18, United States Code; and

(D) coercion and enticement of a minor under section 2422(b) of title 18, United States Code, contacting a minor under section 2422(c) of title 18, United States Code, and transportation of minors and travel under section 2423 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal Sentencing Guidelines to provide appropriate enhancement if the defendant used a computer with the intent to persuade, induce, entice, coerce, or facilitate the transport of a child of an age specified in the applicable provision of law referred to in paragraph (1) to engage in any prohibited sexual activity.

SEC. 504. INCREASED PENALTIES FOR KNOWING MISREPRESENTATION IN THE SEXUAL ABUSE OR EXPLOITATION OF A CHILD.

Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal Sentencing Guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, sexual abuse under section 2242 of title 18, United States Code, sexual abuse of a minor or ward under section 2243 of title 18, United States Code, coercion and enticement of a minor under section 2422(b) of title 18, United States Code, contacting a minor under section 2422(c) of title 18, United States Code, and transportation of minors and travel under section 2423 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal Sentencing Guidelines to provide appropriate enhancement if the defendant knowingly misrepresented the actual identity of the defendant with the intent to persuade, induce, entice, coerce, or facilitate the transport of a child of an age specified in the applicable provision of law referred to in paragraph (1) to engage in a prohibited sexual activity.

SEC. 505. INCREASED PENALTIES FOR PATTERN OF ACTIVITY OF SEXUAL EXPLOITATION OF CHILDREN.

Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal Sentencing Guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, sexual abuse under section 2242 of title 18, United States Code, sexual abuse of a minor or ward under section 2243 of title 18, United States Code, coercion and enticement of a minor under section 2422(b) of title 18, United States Code, contacting a minor under section 2422(c) of title 18, United States Code, and transportation of minors and travel under section 2423 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal Sentencing Guidelines to increase penalties applicable to the offenses referred to in paragraph (1) in any case in which the defendant engaged in a pattern of activity involving the sexual abuse or exploitation of a minor.

SEC. 506. CLARIFICATION OF DEFINITION OF DISTRIBUTION OF PORNOGRAPHY.

Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal Sentencing Guidelines relating to the distribution of pornography covered under chapter 110 of title 18, United States Code, relating to the sexual exploitation and other abuse of children; and

(2) upon completion of the review under paragraph (1), promulgate such amendments to the Federal Sentencing Guidelines as are necessary to clarify that the term “distribution of pornography” applies to the distribution of pornography—

(A) for monetary remuneration; or

(B) for a nonpecuniary interest.

SEC. 507. DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.

In carrying out this title, the United States Sentencing Commission shall—

(1) with respect to any action relating to the Federal Sentencing Guidelines subject to this title, ensure reasonable consistency with other guidelines of the Federal Sentencing Guidelines; and

(2) with respect to an offense subject to the Federal Sentencing Guidelines, avoid duplicative punishment under the Federal Sentencing Guidelines for substantially the same offense.

TITLE VI—CRIMINAL, PROCEDURAL, AND ADMINISTRATIVE REFORMS

SEC. 601. PRETRIAL DETENTION OF SEXUAL PREDATORS.

Section 3156(a)(4) of title 18, United States Code, is amended by striking subparagraph (C) and inserting the following:

“(C) any felony under chapter 109A, 110, or 117; and”.

SEC. 602. CRIMINAL FORFEITURE FOR OFFENSES AGAINST MINORS.

Section 2253 of title 18, United States Code, is amended by striking “or 2252 of this chapter” and inserting “2252, 2252A, or 2260 of this chapter, or who is convicted of an offense under section 2421, 2422, or 2423 of chapter 117,”.

SEC. 603. CIVIL FORFEITURE FOR OFFENSES AGAINST MINORS.

Section 2254(a) of title 18, United States Code, is amended—

(1) in paragraph (2), by striking “or 2252 of this chapter” and inserting “2252, 2252A, or 2260 of this chapter, or used or intended to be used to commit or to promote the commission of an offense under section 2421, 2422, or 2423 of chapter 117,”; and

(2) in paragraph (3), by striking “or 2252 of this chapter” and inserting “2252, 2252A, or 2260 of this chapter, or obtained from a violation of section 2421, 2422, or 2423 of chapter 117,”.

SEC. 604. REPORTING OF CHILD PORNOGRAPHY BY ELECTRONIC COMMUNICATION SERVICE PROVIDERS.

(a) In General.—The Victims of Child Abuse Act of 1990 (42 U.S.C. 13001 et seq.) is amended by inserting after section 226 the following:

“SEC. 227. REPORTING OF CHILD PORNOGRAPHY BY ELECTRONIC COMMUNICATION SERVICE PROVIDERS.

“(a) Definitions.—In this section—

“(1) the term ‘electronic communication service’ has the meaning given the term in section 2510 of title 18, United States Code; and

“(2) the term ‘remote computing service’ has the meaning given the term in section 2711 of title 18, United States Code.

“(b) Requirements.—

“(1) Duty to report.—Whoever, while engaged in providing an electronic communication service or a remote computing service to the public, through a facility or means of interstate or foreign commerce, obtains knowledge of facts or circumstances that provide probable cause to believe that a violation of section 2251, 2251A, 2252, 2252A, or 2260 of title 18, United States Code, involving child pornography (as defined in section 2256 of that title), has occurred shall, as soon as reasonably possible, make a report of such facts or circumstances to a law enforcement agency or agencies designated by the Attorney General.

“(2) Designation of agencies.—Not later than 180 days after the date of enactment of this

section, the Attorney General shall designate the law enforcement agency or agencies to which a report shall be made under paragraph (1).

"(3) FAILURE TO REPORT.—A provider of electronic communication services or remote computing services described in paragraph (1) who knowingly and willfully fails to make a report under that paragraph shall be fined—

"(A) in the case of an initial failure to make a report, not more than $50,000; and

"(B) in the case of any second or subsequent failure to make a report, not more than $100,000.

"(c) CIVIL LIABILITY.—No provider or user of an electronic communication service or a remote computing service to the public shall be held liable on account of any action taken in good faith to comply with this section.

"(d) LIMITATION OF INFORMATION OR MATERIAL REQUIRED IN REPORT.—A report under subsection (b)(1) may include additional information or material developed by an electronic communication service or remote computing service, except that the Federal Government may not require the production of such information or material in that report.

"(e) MONITORING NOT REQUIRED.—Nothing in this section may be construed to require a provider of electronic communication services or remote computing services to engage in the monitoring of any user, subscriber, or customer of that provider, or the content of any communication of any such person.

"(f) CONDITIONS OF DISCLOSURE OF INFORMATION CONTAINED WITHIN REPORT.—

"(1) IN GENERAL.—No law enforcement agency that receives a report under subsection (b)(1) shall disclose any information contained in that report, except that disclosure of such information may be made—

"(A) to an attorney for the government for use in the performance of the official duties of the attorney;

"(B) to such officers and employees of the law enforcement agency, as may be necessary in the performance of their investigative and recordkeeping functions;

"(C) to such other government personnel (including personnel of a State or subdivision of a State) as are determined to be necessary by an attorney for the government to assist the attorney in the performance of the official duties of the attorney in enforcing Federal criminal law; or

"(D) as permitted by a court at the request of an attorney for the government, upon a showing that such information may disclose a violation of State criminal law, to an appropriate official of a State or subdivision of a State for the purpose of enforcing such State law.

"(2) DEFINITIONS.—In this subsection, the terms 'attorney for the government' and 'State' have the meanings given those terms in Rule 54 of the Federal Rules of Criminal Procedure.".

(b) EXCEPTION TO PROHIBITION ON DISCLOSURE.—Section 2702(b)(6) of title 18, United States Code, is amended to read as follows:

"(6) to a law enforcement agency—

"(A) if the contents—

"(i) were inadvertently obtained by the service provider; and

"(ii) appear to pertain to the commission of a crime; or

"(B) if required by section 227 of the Crime Control Act of 1990.".

SEC. 605. CIVIL REMEDY FOR PERSONAL INJURIES RESULTING FROM CERTAIN SEX CRIMES AGAINST CHILDREN.

Section 2255(a) of title 18, United States Code, is amended by striking "2251 or 2252" and inserting "2241(c), 2242, 2243, 2251, 2251A, 2252, 2252A, 2260, 2421, 2422, or 2423".

SEC. 606. ADMINISTRATIVE SUBPOENAS.

(a) IN GENERAL.—Chapter 223 of title 18, United States Code, is amended—

(1) in section 3486, by striking the section designation and heading and inserting the following:

"§ 3486. Administrative subpoenas in Federal health care investigations"; and

(2) by adding at the end the following:

"§ 3486A. Administrative subpoenas in cases involving child abuse and child sexual exploitation

"(a) AUTHORIZATION.—

"(1) IN GENERAL.—In any investigation relating to any act or activity involving a violation of section 1201, 2241(c), 2242, 2243, 2251, 2251A, 2252, 2252A, 2260, 2421, 2422, or 2423 of this title in which the victim is an individual who has not attained the age of 18 years, the Attorney General, or the designee of the Attorney General, may issue in writing and cause to be served a subpoena—

"(A) requiring a provider of electronic communication service or remote computing service to disclose the name, address, local and long distance telephone toll billing records, telephone number or other subscriber number or identity, and length of service of a subscriber to or customer of such service and the types of services the subscriber or customer utilized, which may be relevant to an authorized law enforcement inquiry; or

"(B) requiring a custodian of records to give testimony concerning the production and authentication of such records or information.

"(2) ATTENDANCE OF WITNESSES.—Witnesses summoned under this section shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

"(b) PROCEDURES APPLICABLE.—The same procedures for service and enforcement as are provided with respect to investigative demands in section 3486 apply with respect to a subpoena issued under this section.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 223 of title 18, United States Code, is amended by striking the item relating to section 3486 and inserting the following:

"3486. Administrative subpoenas in Federal health care investigations.

"3486A. Administrative subpoenas in cases involving child abuse and child sexual exploitation.".

SEC. 607. GRANTS TO STATES TO OFFSET COSTS ASSOCIATED WITH SEXUALLY VIOLENT OFFENDER REGISTRATION REQUIREMENTS.

(a) IN GENERAL.—Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071) is amended—

(1) by redesignating the second subsection designated as subsection (g) as subsection (h); and

(2) by adding at the end the following:

"(i) GRANTS TO STATES FOR COSTS OF COMPLIANCE.—

"(1) PROGRAM AUTHORIZED.—

"(A) IN GENERAL.—The Director of the Bureau of Justice Assistance (in this subsection referred to as the 'Director') shall carry out a program, which shall be known as the 'Sex Offender Management Assistance Program' (in this subsection referred to as the 'SOMA program'), under which the Director shall award a grant to each eligible State to offset costs directly associated with complying with this section.

"(B) USES OF FUNDS.—Each grant awarded under this subsection shall be—

"(i) distributed directly to the State for distribution to State and local entities; and

"(ii) used for training, salaries, equipment, materials, and other costs directly associated with complying with this section.

"(2) ELIGIBILITY.—

"(A) APPLICATION.—To be eligible to receive a grant under this subsection, the chief executive of a State shall, on an annual basis, submit to the Director an application (in such form and containing such information as the Director may reasonably require) assuring that—

"(i) the State complies with (or made a good faith effort to comply with) this section; and

"(ii) where applicable, the State has penalties comparable to or greater than Federal penalties for crimes listed in this section, except that the Director may waive the requirement of this clause if a State demonstrates an overriding need for assistance under this subsection.

"(B) REGULATIONS.—

"(i) IN GENERAL.—Not later than 90 days after the date of enactment of this subsection, the Director shall promulgate regulations to implement this subsection (including the information that must be included and the requirements that the States must meet) in submitting the applications required under this subsection. In allocating funds under this subsection, the Director may consider the annual number of sex offenders registered in each eligible State's monitoring and notification programs.

"(ii) CERTAIN TRAINING PROGRAMS.—Prior to implementing this subsection, the Director shall study the feasibility of incorporating into the SOMA program the activities of any technical assistance or training program established as a result of section 40152 of this Act. In a case in which incorporating such activities into the SOMA program will eliminate duplication of efforts or administrative costs, the Director shall take administrative actions, as allowable, and make recommendations to Congress to incorporate. such activities into the SOMA program prior to implementing the SOMA program.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection, $25,000,000 for each of fiscal years 1999 and 2000.".

(b) STUDY.—Not later than March 1, 2000, the Director shall conduct a study to assess the efficacy of the Sex Offender Management Assistance Program under section 170101(i) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(i)), as added by this section, and submit recommendations to Congress.

TITLE VII—MURDER AND KIDNAPPING INVESTIGATIONS

SEC. 701. AUTHORITY TO INVESTIGATE SERIAL KILLINGS.

(a) IN GENERAL.—Chapter 33 of title 28, United States Code, is amended by adding at the end the following:

"§ 540B. Investigation of serial killings

"(a) IN GENERAL.—The Attorney General and the Director of the Federal Bureau of Investigation may investigate serial killings in violation of the laws of a State or political subdivision, if such investigation is requested by the head of a law enforcement agency with investigative or prosecutorial jurisdiction over the offense.

"(b) DEFINITIONS.—In this section:

"(1) KILLING.—The term 'killing' means conduct that would constitute an offense under section 1111 of title 18, United States Code, if Federal jurisdiction existed.

"(2) SERIAL KILLINGS.—The term 'serial killings' means a series of 3 or more killings, not less than 1 of which was committed within the United States, having common characteristics such as to suggest the reasonable possibility that the crimes were committed by the same actor or actors.

"(3) STATE.—The term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 33 of title 28, United States Code, is amended by adding at end the following:

"540B. Investigation of serial killings.".

SEC. 702. KIDNAPPING.

(a) CLARIFICATION OF ELEMENT OF OFFENSE.—Section 1201(a)(1) of title 18, United States Code, is amended by inserting ", regardless of whether the person was alive when transported across a State boundary if the person was alive when the transportation began" before the semicolon.

(b) TECHNICAL AMENDMENT.—Section 1201(a)(5) of title 18, United States Code, is amended by striking "designated" and inserting "described".

(c) 24-HOUR RULE.—Section 1201(b) of title 18, United States Code, is amended by adding at the end the following: "Notwithstanding the preceding sentence, the fact that the presumption under this section has not yet taken effect does not preclude a Federal investigation of a possible violation of this section before the 24-hour period has ended.".

SEC. 703. MORGAN P. HARDIMAN CHILD ABDUCTION AND SERIAL MURDER INVESTIGATIVE RESOURCES CENTER.

(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this Act, the Attorney General shall establish within the Federal Bureau of Investigation a Child Abduction and Serial Murder Investigative Resources Center to be known as the "Morgan P. Hardiman Child Abduction and Serial Murder Investigative Resources Center" (in this section referred to as the "CASMIRC").

(b) PURPOSE.—The CASMIRC shall be managed by National Center for the Analysis of Violent Crime of the Critical Incident Response Group of the Federal Bureau of Investigation (in this section referred to as the "NCAVC"), and by multidisciplinary resource teams in Federal Bureau of Investigation field offices, in order to provide investigative support through the coordination and provision of Federal law enforcement resources, training, and application of other multidisciplinary expertise, to assist Federal, State, and local authorities in matters involving child abductions, mysterious disappearance of children, child homicide, and serial murder across the country. The CASMIRC shall be co-located with the NCAVC.

(c) DUTIES OF THE CASMIRC.—The CASMIRC shall perform such duties as the Attorney General determines appropriate to carry out the purposes of the CASMIRC, including—

(1) identifying, developing, researching, acquiring, and refining multidisciplinary information and specialities to provide for the most current expertise available to advance investigative knowledge and practices used in child abduction, mysterious disappearance of children, child homicide, and serial murder investigations;

(2) providing advice and coordinating the application of current and emerging technical, forensic, and other Federal assistance to Federal, State, and local authorities in child abduction, mysterious disappearances of children, child homicide, and serial murder investigations;

(3) providing investigative support, research findings, and violent crime analysis to Federal, State, and local authorities in child abduction, mysterious disappearances of children, child homicide, and serial murder investigations;

(4) providing, if requested by a Federal, State, or local law enforcement agency, on site consultation and advice in child abduction, mysterious disappearances of children, child homicide and serial murder investigations;

(5) coordinating the application of resources of pertinent Federal law enforcement agencies, and other Federal entities including, but not limited to, the United States Customs Service, the Secret Service, the Postal Inspection Service, and the United States Marshals Service, as appropriate, and with the concurrence of the agency head to support Federal, State, and local law enforcement involved in child abduction, mysterious disappearance of a child, child homicide, and serial murder investigations;

(6) conducting ongoing research related to child abductions, mysterious disappearances of children, child homicides, and serial murder, including identification and investigative application of current and emerging technologies, identification of investigative searching technologies and methods for physically locating abducted children, investigative use of offender behavioral assessment and analysis concepts, gathering statistics and information necessary for case identification, trend analysis, and case linkages to advance the investigative effectiveness of outstanding abducted children cases, develop investigative systems to identify and track serious serial offenders that repeatedly victimize children for comparison to unsolved cases, and other investigative research pertinent to child abduction, mysterious disappearance of a child, child homicide, and serial murder covered in this section;

(7) working under the NCAVC in coordination with the National Center For Missing and Exploited Children and the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice to provide appropriate training to Federal, State, and local law enforcement in matters regarding child abductions, mysterious disappearances of children, child homicides; and

(8) establishing a centralized repository based upon case data reflecting child abductions, mysterious disappearances of children, child homicides and serial murder submitted by State and local agencies, and an automated system for the efficient collection, retrieval, analysis, and reporting of information regarding CASMIRC investigative resources, research, and requests for and provision of investigative support services.

(d) APPOINTMENT OF PERSONNEL TO THE CASMIRC.—

(1) SELECTION OF MEMBERS OF THE CASMIRC AND PARTICIPATING STATE AND LOCAL LAW ENFORCEMENT PERSONNEL.—The Director of the Federal Bureau of Investigation shall appoint the members of the CASMIRC. The CASMIRC shall be staffed with Federal Bureau of Investigation personnel and other necessary personnel selected for their expertise that would enable them to assist in the research, data collection, and analysis, and provision of investigative support in child abduction, mysterious disappearance of children, child homicide and serial murder investigations. The Director may, with concurrence of the appropriate State or local agency, also appoint State and local law enforcement personnel to work with the CASMIRC.

(2) STATUS.—Each member of the CASMIRC (and each individual from any State or local law enforcement agency appointed to work with the CASMIRC) shall remain as an employee of that member's or individual's respective agency for all purposes (including the purpose of performance review), and service with the CASMIRC shall be without interruption or loss of civil service privilege or status and shall be on a nonreimbursable basis, except if appropriate to reimburse State and local law enforcement for overtime costs for an individual appointed to work with the resource team. Additionally, reimbursement of travel and per diem expenses will occur for State and local law enforcement participation in resident fellowship programs at the NCAVC when offered.

(3) TRAINING.—CASMIRC personnel, under the guidance of the Federal Bureau of Investigation's National Center for the Analysis of Violent Crime and in consultation with the National Center For Missing and Exploited Children, shall develop a specialized course of instruction devoted to training members of the CASMIRC consistent with the purpose of this section. The CASMIRC shall also work with the National Center For Missing and Exploited Children and the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice to develop a course of instruction for State and local law enforcement personnel to facilitate the dissemination of the most current multidisciplinary expertise in the investigation of child abductions, mysterious disappearances of children, child homicides, and serial murder of children.

(e) REPORT TO CONGRESS.—One year after the establishment of the CASMIRC, the Attorney General shall submit to Congress a report, which shall include—

(1) a description of the goals and activities of the CASMIRC; and

(2) information regarding—

(A) the number and qualifications of the members appointed to the CASMIRC;

(B) the provision of equipment, administrative support, and office space for the CASMIRC; and

(C) the projected resource needs for the CASMIRC.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 1999, 2000, and 2001.

(g) CONFORMING AMENDMENT.—Subtitle C of title XVII of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 5776a et seq.) is repealed.

TITLE VIII—RESTRICTED ACCESS TO INTERACTIVE COMPUTER SERVICES

SEC. 801. PRISONER ACCESS.

Notwithstanding any other provision of law, no agency, officer, or employee of the United States shall implement, or provide any financial assistance to, any Federal program or Federal activity in which a Federal prisoner is allowed access to any electronic communication service or remote computing service without the supervision of an official of the Federal Government.

SEC. 802. RECOMMENDED PROHIBITION.

(a) FINDINGS.—Congress finds that—

(1) a Minnesota State prisoner, serving 23 years for molesting teenage girls, worked for a nonprofit work and education program inside the prison, through which the prisoner had unsupervised access to the Internet;

(2) the prisoner, through his unsupervised access to the Internet, trafficked in child pornography over the Internet;

(3) Federal law enforcement authorities caught the prisoner with a computer disk containing 280 pictures of juveniles engaged in sexually explicit conduct;

(4) a jury found the prisoner guilty of conspiring to trade in child pornography and possessing child pornography;

(5) the United States District Court for the District of Minnesota sentenced the prisoner to 87 months in Federal prison, to be served upon the completion of his 23-year State prison term; and

(6) there has been an explosion in the use of the Internet in the United States, further placing our Nation's children at risk of harm and exploitation at the hands of predators on the Internet and increasing the ease of trafficking in child pornography.

(b) SENSE OF CONGRESS.—It is the sense of Congress that State Governors, State legislators, and State prison administrators should prohibit unsupervised access to the Internet by State prisoners.

SEC. 803. SURVEY.

(a) SURVEY.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall conduct a survey of the States to determine to what extent each State allows prisoners access to any interactive computer service and whether such access is supervised by a prison official.

(b) Report.—The Attorney General shall submit a report to Congress of the findings of the survey conducted pursuant to subsection (a).

(c) State Defined.—In this section, the term "State" means each of the 50 States and the District of Columbia.

TITLE IX—STUDIES

SEC. 901. STUDY ON LIMITING THE AVAILABILITY OF PORNOGRAPHY ON THE INTERNET.

(a) In General.—Not later than 90 days after the date of enactment of this Act, the Attorney General shall request that the National Academy of Sciences, acting through its National Research Council, enter into a contract to conduct a study of computer-based technologies and other approaches to the problem of the availability of pornographic material to children on the Internet, in order to develop possible amendments to Federal criminal law and other law enforcement techniques to respond to the problem.

(b) Contents of Study.—The study under this section shall address each of the following:

(1) The capabilities of present-day computer-based control technologies for controlling electronic transmission of pornographic images.

(2) Research needed to develop computer-based control technologies to the point of practical utility for controlling the electronic transmission of pornographic images.

(3) Any inherent limitations of computer-based control technologies for controlling electronic transmission of pornographic images.

(4) Operational policies or management techniques needed to ensure the effectiveness of these control technologies for controlling electronic transmission of pornographic images.

(c) Final Report.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and the Senate a final report of the study under this section, which report shall—

(1) set forth the findings, conclusions, and recommendations of the Council; and

(2) be submitted by the Committees on the Judiciary of the House of Representatives and the Senate to relevant Government agencies and committees of Congress.

SEC. 902. STUDY OF HOTLINES.

(a) In General.—Not later than 1 year after the date of the enactment of this Act, the Attorney General shall conduct a study in accordance with subsection (b) and submit to Congress a report on the results of that study.

(b) Contents of Study.—The study under this section shall include an examination of—

(1) existing State programs for informing the public about the presence of sexual predators released from prison, as required in section 170101 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071), including the use of CD-ROMs, Internet databases, and Sexual Offender Identification Hotlines, such as those used in the State of California; and

(2) the feasibility of establishing a national hotline for parents to access a Federal Bureau of Investigation database that tracks the location of convicted sexual predators established under section 170102 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14072) and, in determining that feasibility, the Attorney General shall examine issues including the cost, necessary changes to Federal and State laws necessitated by the creation of such a hotline, consistency with Federal and State case law pertaining to community notification, and the need for, and accuracy and reliability of, the information available through such a hotline.

AMENDMENT NO. 3811

(Purpose: To make technical and conforming amendments)

Mr. COATS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Indiana [Mr. Coats], for Mr. Hatch, Mr. Leahy, and Mr. DeWine, proposes an amendment numbered 3811.

Mr. COATS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 116, lines 22 and 23, strike "territory" and insert "commonwealth, territory,".

On page 118, strike lines 1 through 3, and insert the following:

"(2) the term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United".

On page 132, lines 9 and 10, strike "that provide probable cause to believe that" and insert "from which".

On page 132, line 13, strike "has occurred" and insert "is apparent,".

Mr. COATS. Mr. President, I ask unanimous consent that the amendment be agreed to.

The amendment (No. 3811) was agreed to.

AMENDMENT NO. 3812

(Purpose: To amend chapter 110 of title 18, United States Code, to provide for "zero tolerance" for possession of child pornography)

Mr. COATS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Indiana [Mr. Coats], for Mr. Hatch, proposes an amendment numbered 3812.

Mr. COATS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 121, between lines 6 and 7, insert the following:

SEC. 203. "ZERO TOLERANCE" FOR POSSESSION OF CHILD PORNOGRAPHY.

(a) Material Involving the Sexual Exploitation of Minors.—Section 2252 of title 18, United States Code, is amended—

(1) in subsection (a)(4), by striking "3 or more" each place that term appears and inserting "1 or more"; and

(2) by adding at the end the following:

"(c) Affirmative Defense.—It shall be an affirmative defense to a charge of violating paragraph (4) of subsection (a) that the defendant—

"(1) possessed less than 3 matters containing any visual depiction proscribed by that paragraph; and

"(2) promptly and in good faith, and without retaining or allowing any person, other than a law enforcement agency, to access any visual depiction or copy thereof—

"(A) took reasonable steps to destroy each such visual depiction; or

"(B) reported the matter to a law enforcement agency and afforded that agency access to each such visual depiction.".

(b) Material Constituting or Containing Child Pornography.—Section 2252A of title 18, United States Code, is amended—

(1) in subsection (a)(5), by striking "3 or more images" each place that term appears and inserting "an image"; and

(2) by adding at the end the following:

"(d) Affirmative Defense.—It shall be an affirmative defense to a charge of violating subsection (a)(5) that the defendant—

"(1) possessed less than 3 images of child pornography; and

"(2) promptly and in good faith, and without retaining or allowing any person, other than a law enforcement agency, to access any image or copy thereof—

"(A) took reasonable steps to destroy each such image; or

"(B) reported the matter to a law enforcement agency and afforded that agency access to each such image.".

Mr. COATS. Mr. President, I ask unanimous consent that the amendment be agreed to, the committee substitute be agreed to, the bill considered read the third time and passed, as amended, the amendment to the title be agreed to, and the title, as amended, be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3812) was agreed to.

The committee amendment, as amended, was agreed to.

The bill (H.R. 3494), as amended, was considered read the third time, and passed.

The title amendment was agreed to.

The title amendment, as amended, was agreed to.

The title was amended so as to read: "To amend title 18, United States Code, to protect children from sexual abuse and exploitation, and for other purposes."

Mr. HATCH. Mr. President, I am pleased to note the passage of H.R. 3494, the Hatch-Leahy-DeWine "Protection of Children from Sexual Predators Act of 1998." I want to thank Senators Leahy and DeWine for their cooperation in drafting and advocating the passage of this important piece of legislation. I also want to commend Congressman McCollum for his determined efforts in marshaling H.R. 3494 through the House.

Although it was necessary to make some changes to the House version in an effort to achieve bipartisan support in the Senate, the final product is a strong bill which goes a long way toward improving the ability of law enforcement and the courts to respond to high-tech sexual predators of children. Pedophiles who roam the Internet, purveyors of child pornography, and serial child molesters are specifically targeted.

The Internet is a wonderful creation. By allowing for instant communication around the globe, it has made the world a smaller place, a place in which people can express their thoughts and ideas without limitation. It has released the creative energies of a new generation of entrepreneurs and it is an unparalleled source of information.

While we should encourage people to take full advantage of the opportunities the Internet has to offer, we must also be vigilant in seeking to ensure that the Internet is not perverted into a hunting ground for pedophiles and other sexual predators, and a drive-through library and post office for purveyors of child pornography. Our children must be protected from those who would choose to sexually abuse and exploit them. And those who take the path of predation should know that the consequences of their actions will be severe and unforgiving.

How does this bill provide additional protection for our children? By prohibiting the libidinous dissemination on the Internet of information related to minors and the sending of obscene material to minors, we make it more difficult for sexual predators to gather information on, and lower the sexual inhibitions of, potential targets. By prohibiting to possession of even one item or image containing child pornography, we are stating in no uncertain terms that we have "zero tolerance" for the sexual exploitation of children. And by requiring electronic communication service providers to report the commission of child pornography offenses to authorities, we mandate accountability and responsibility on the Internet.

Additionally, law enforcement is given effective tools to pursue sexual predators. The Attorney General is provided with authority to issue administrative subpoenas in child pornography cases. Proceeds derived from these offenses, and the facilities and instrumentalities used to perpetuate these offenses, will be subject to forfeiture. And prosecutors will not have the power to seek pretrial detention of sexual predators prior to trial.

Federal law enforcement will be given increased statutory authority to assist the States in kidnapping and serial murder investigations, which often involve children. In that vein, H.R. 3494 calls for the creation of the Morgan P. Hardiman Child Abduction and Serial Murder Investigative Resources Center. That center will gather information, expertise and resources that our nation's law enforcement agencies can draw upon to help combat these heinous crimes.

Sentences for child abuse and exploitation offenses will be made tougher. In addition to increasing the maximum penalties available for many crimes against children and mandating tough sentences for repeat offenders, the bill will also recommend that the Sentencing Commission reevaluate the guidelines applicable to these offenses, and increase them where appropriate to address the egregiousness of these crimes. And H.R. 3494 calls for life imprisonment in appropriate cases where certain crimes result in the death of children.

Protection of our children is not a partisan issue. We have drawn upon the collective wisdom of the House as well as from Senators on both sides of the aisle to draft a bill which includes strong, effective legislation protecting children. Once again, I urge the House to act quickly to pass this bill so that we can get it to the President for his signature this session. Protection for our children delayed is protection denied.

Mr. LEAHY. Mr. President, I am glad that we have been able to achieve passage of a bill that will help protect children from sexual predators.

As the leaders of the Senate Judiciary Committee, it is the responsibility of Chairman HATCH and myself to schedule legislation for consideration by the Committee and to draft changes, if warranted. Many bills never are scheduled for committee votes, and as the legislative session draws to a close, it becomes increasingly important that any bills brought to the Senate Floor adequately address concerns raised, to improve their chances for enactment. At this stage of the legislative process, even one senator can prevent passage of an ill-considered or controversial bill. Passage today of the Hatch-Leahy-DeWine substitute to H.R. 3494 is due to the efforts of those members who have worked to resolve the legitimate concerns raised by the original bill we received from the House.

In the case of H.R. 3494, the Chairman and I, joined by Senator DEWINE, worked hard to bring forward a bill that was both strong and sensible and that would have a chance to win enactment in the short time remaining in the legislative session.

Unlike some who may just want to score political points, we actually want to enact this bill to protect children, something that I worked hard to do as a prosecutor, when I convicted child molesters in the state of Vermont. We wanted to bring forward a bill that could pass.

The problem area is the original House bill as it reached the Committee centered on its unintended consequences for law enforcement, regulation of the Internet, and important privacy rights that have nothing to do with child pornography.

As I have said before, the whole world watches when the United States regulates the Internet, and we have a special obligation to do it right.

The goal of H.R. 3494, and of the Hatch-Leahy-DeWine substitute, is to provide stronger protections for children from those who would prey upon them. Concerns over protecting our children have only intensified in recent years with the growing popularity of the Internet and the World Wide Web. Cyberspace gives users access to a wealth of information; it connects people from around the world. But is also creates new opportunities for sexual predators and child pornographers to ply their trade.

The challenge is to protect children from exploitation in cyberspace while ensuring that the vast democratic forum of the Internet remains an engine for the free exchange of ideas and information.

The Hatch-Leahy-DeWine version of the bill meets this challenge. While neither version is a cure-all for the scourge of child pornography, the substitute is a useful step toward limiting the ability of cyber-pornographers and predators from harming children.

The bill has come a long way since it was passed by the House last June. Significant objections were raised by civil liberties organizations and others to provisions in the original H.R. 3494, and we worked hard on a bipartisan basis to ensure that this bill would pass in the short time remaining in this Congress.

I thank the Chairman and Senator DEWINE, and other members of the Committee, for working together to address the legitimate concerns about certain provisions in the House-passed bill, and to make this substitute more focused and measured. Briefly, I would like to highlight and explain some of the changes we made, and why we made them.

As passed by the House, H.R. 3494 would make it a crime, punishable by up to 5 years' imprisonment, to do nothing more than "contact" a minor, or even just attempt to "contact" a minor, for the purpose of engaging in sexual activity. This provision, which would be extremely difficult to enforce and would invite court challenges, does not appear in the Hatch-Leahy-DeWine substitute. In criminal law terms, the act of making contact is not very far along the spectrum of an overt criminal act. Targeting "attempts" to make contact would be even more like prosecuting a thought crime. It is difficult to see how such a provision would be enforced without inviting significant litigation.

Another new crime created by the House bill prohibited the transmittal of identifying information about any person under 18 for the purpose of encouraging unlawful sexual activity. In its original incarnation, this provision would have had the absurd result of prohibiting a person under the age of consent from e-mailing her own address or telephone number to her boyfriend. The Hatch-Leahy-DeWine substitute fixes this problem by making it clear that a violation must involve the transmission of someone else's identifying information. In addition, to eliminate any notice problem arising from the variations in state statutory rape laws, the Senate bill conforms the bill to the federal age of consent—16—in provisions regarding the age of the identified minor. The Senate bill also clarifies that the defendant must know that the person about whom he was transmitting identifying information was, in fact, under 16. This change was particularly important because, in the anonymous world of cyberspace, a person may have no way of knowing the age of the faceless person with whom he is communicating.

Another provision of the House bill, which makes it a crime to transfer obscene material to a minor, raised similar concerns. Again, the Hatch-Leahy-DeWine bill lowers the age of minority from 18 to 16—the federal age of majority—and provides that the defendant must know he is dealing with someone so young. This provision of the Senate bill, like the House bill, applies only to "obscene" material—that is, material that enjoys no First Amendment protection whatever—material that is patently offensive to the average adult. The bill does not purport to proscribe the transferral of constitutionally protected material.

The original House bill would also have criminalized certain conduct directed at a person who had been "represented " to be a minor, even if that person was, in fact, an adult. The evident purpose was to make clear that the targets of sting operations are not relieved of criminal liability merely because their intended victim turned out to be an undercover agent and not a child. The new "sting" provisions addressed a problem that simply does not currently exist: No court has ever endorsed an impossibility defense along the lines anticipated by the House bill. The creation of special "sting" provisions in this one area could unintentionally harm law enforcement interests by lending credence to impossibility defenses raised in other sting and undercover situations. At the same time, these provisions would have criminalized conduct that was otherwise lawful: It is not a crime for adults to communicate with each other about sex, even if one of the adults pretends to be a child. Given these significant concerns, the "sting" provisions have been stricken from the House Leahy-DeWine substitute.

Another concern with the House bill was its modification of the child pornography possession laws. Current law requires possession of three or more pornographic images in order for there to be criminal liability. Congress wrote this requirement into the law as a way of protecting against government overreaching. By eliminating this numeric requirement, the House bill put at risk the unsuspecting Internet user who, by inadvertence or mistake, downleaded a single pornographic image of a child. While we support the concept of zero tolerance for child pornography, the inevitable result of the House language in overriding the earlier congressional definition would be to chill the free exchange of information over the Web by making users fearful that, if they download illegal material by mistake, they could go to jail.

More importantly, this provision could also inadvertently harm law enforcement interests by chilling those who inadvertently or mistakenly come upon child pornography from bringing the material to the attention of law enforcement officers. Technically, under the House-passed bill, these law-abiding citizens would be subject to criminal liabiilty.

Efforts to avoid these unintended consequences, while promoting zero tolerance of child pornography, could not be resolved in the time constraints facing the Committee. However, our bipartisan efforts to draft workable language have borne fruit. The Hatch-Leahy-DeWine-Sessions amendment accommodates the objective of "zero balance" for child pornography, but permits a narrow affirmative defense for certain defendants who, in good faith, destroyed the prohibited material or reported it to law enforcement authorities. With this amendment, we have achieved zero tolerance without unintended consequences for innocent Internet users and for law enforcement.

The House bill would have given the Attorney General sweeping administrative authority to subpoena records and witnesses investigations involving crimes against children. This proposed authority to issue administrative subpoenas would have given federal agents the power to compel disclosures without any oversight by a judge, prosecutor, or grand jury, and without any of the grand jury secrecy requirements. We appreciate that such secretary requirements may pose obstacles to full and efficient cooperation of federal/state task forces in their joint efforts to reduce the steadily increasing use of the Internet to perpetrate crimes against children, including crimes involving the distribution of child pornography. In addition, we understand that some U.S. Attorneys' Offices are reluctant to open grand jury investigations when the only goal is to identify individuals who have not yet, and may never, commit a federal (as opposed to state or local) offense.

The Hatch-Leahy-DeWine substitute accommodates these competing interests by granting the Department a narrowly drawn authority to subpoena the information that it most needs: Routine subscriber account information from Internet Service Providers (ISPS), which may provide appropriate notice to subscribers.

The new reporting requirement established by H.R. 3494 would also create new problems. Under current law, ISPs are generally free to report suspicious communications to law enforcement authorities. Under H.R. 3494, ISPs would be required to report such communications when they involve child pornography; failure to do so would be punishable by a substantial fine.

In addressing this issue, the Chairman, Senator DEWINE and I are committed to eradicating the market of child pornography, believing that child pornography is inherently harmful to children. ISPs that come across such material should report it, and, in most cases, they already do. We must tread cautiously, however, before we compel private citizens to act as good Samaritans or to assume duties and responsibilities that are better left to law enforcement following statutory defined procedures to safeguard privacy and ensure due process.

The ISPs have cooperated in refining this provision of the House bill to make it more workable. Particular consideration was given to the appropriate standard for triggering a duty to report. We wanted to make the bar sufficiently high to discourage ISPs from erring on the side of over-reporting every questionable image. Over-reporting would overwhelm law enforcement agencies with worthless investigative leads and make it more difficult for them to isolate the leads worth pursuing. Over-reporting would also jeopardize the First Amendment rights of Internet users, while needlessly magnifying the administrative burden of the ISPs.

Under H.R. 3494, ISPs have a duty to make a report to law enforcement authorities only when they obtain knowledge of material from which a violation of the federal child pornography laws "is apparent." While the committee-reported bill required ISPs to make a report only when they had "probable cause" to believe that the child pornography laws were being violated, the substitute passed today adopts an "is apparent" standard. The latter standard is stricter than the "probable cause" standard and so will reduce any incentive for over-reporting. I ask unanimous consent that a letter from America Online regarding the "is apparent" standard be included in the record.

If the "is apparent" standard is met, an ISP must expeditiously file a report with law enforcement authorities. This report is to include the "facts or circumstances" from which a violation of the law is apparent, so that law enforcement agencies can determine whether or not further investigation or prosecution is called for. Information in the ISP's files identifying the name of a subscriber does not fall within this description, since child pornography offenses will either be apparent or not, without regard to the name of a party to an image transmission or other violative act. If law enforcement determines that further investigation is warranted, it may subpoena, the ISP for any identifying information that the ISP may possess. The new administrative subpoena power should expedite this process.

The substitute also refines the reporting requirement in other ways:

First, by providing that there is no liability for failing to make a report unless the ISP knew both of the existence of child pornography and of the duty to report it (if it rises to the level of probable cause).

Second, by making clear that we are not imposing a monitoring requirement of any kind: ISPs must report child pornography when they come across it or it is brought to their attention, but they are not obligated to go out looking for it, which raises significant privacy concerns and conflicts with other laws.

Third, by adding privacy protections for any information reported under the bill.

Fourth, to protect smaller ISPs who could be put out of business for a first offense, by lowering the maximum fine for first offenders to $50,000; a second or subsequent failure to report, however, may still result in a fine of up to $100,000.

Thus, improved, the reporting requirement will accomplish its objectives without violating the privacy rights of Internet users, unduly burdening the ISPs, or inundating law enforcement with a lot of worthless information.

In conclusion, I commend Senators HATCH and DEWINE for their efforts to address the terrible problem of child predators and pornographers. I am glad that we were able to join forces to construct a substitute that goes a long way toward achieving our common goals.

AMERICA ONLINE INC.,
Washington, DC, September 25, 1998.

HON. PATRICK LEAHY,
Ranking Member, Judiciary Committee, US Senate, Washington, DC.

DEAR SENATOR LEAHY: I am writing to follow up on the letter of September 18 on the ISP reporting provisions of H.R. 3494, to which America Online was a signatory.

In discussions preceding markup, there was an ISP request for a tighter standard for the duty-to-report screening test, to avoid unnecessary and counter-productive reporting. In response, the committee used a "probable cause" standard. While we are grateful for your intent, there has remained some uncertainty about the effect of the original "is apparent" standard and, thus, about which standard is actually more limiting of the material covered, and thus more workable for ISP's. Subsequently, a number of ISP's have analyzed and discussed the question, and it is our collective judgment that the "is apparent" standard is preferable. This is the basis for our request that the language be changed.

To elaborate: under proposed 227(b)(1) of the Victims of Child Abuse Act, as added by Sec. 604 of H.R. 3494, Internet and online service providers (ISP's) would have a duty to report to a law enforcement authority any child pornography of which it gains knowledge in the provision of its service. In each case the ISP must judge whether material is covered under this duty or not. The test it uses in this process of analysis is the subject of our request. Based on our review of the history of the "is apparent" standard, we believe it to result in a narrower reporting scope than "probably cause," which at best calls for an uncertain "more likely than not" judgment.

A more workable approach is to trigger the duty when the ISP receives knowledge of "facts or circumstances from which a violation of [applicable law] is apparent * * *" While the ISP has no duty to monitor its users, in essence this language creates a "red flag:" if the ISP in the operation of its service obtains knowledge of material which is clearly child pornography, a red flag should be raised. Such material must be reported to the authorities. It is not, the ISP may be heavily fined—it ignores the red flag at its peril.

As you are aware, this standard originated in Title II of the Digital Millennium Copyright Act, developed in the Judiciary Committee and passed 99-0 by the Senate earlier this summer. For material present on ISPs' servers or material to which ISP's link on the Internet, committee desired to create a standard of liability triggered by disregard of any "red flags". It sought a test falling between the familiar "should have known, could have known" standard, which was deemed too broad in its coverage, and absolute certainty of infringement, which was deemed too narrow. "Apparent" has more the meaning of "clear on its face," and is a higher standard of evidence of illegality than "probable cause", which implies "more likely than not, based on all the circumstances.". As the bill's extensively-negotiated "Section by Section" written analysis states: "Under this standard, a service provider would have no obligation to seek out copyright infringement, but it would not qualify for the safe habor if it had turned a blind eye to 'red flags' of obvious infringement."

Again, given this history and understanding of the "is apparent" standard, we believe it will be a significant improvement over "probable cause" in H.R. 3494's duty-to-report provisions.

In conclusion, thank you for your willingness to continue working with us on this point. Your sensitivity, and that of the Chairman, have once again been crucial in laying down a workable legislative road map for the Internet/online medium.

Very truly yours,

JILL A. LESSER,
Director, Law & Public Policy,
Assistant General Counsel.

Mr. LAUTENBERG. Mr. President, we live in a world where it is increasingly difficult to protect our children. The advent of sophisticated computer technology has made it too easy for depraved criminals to gather information about children and prey upon them. And nothing is more heinous and reprehensible than the brutalization of a child. We cannot be too vigilant in the battle against child predators.

I am pleased that today, with the passage of the Child Protection and Sexual Predator Punishment Act, the Senate is marching forward in this fight. This legislation will provide tough punishment for those who would sexually abuse the youth of our Nation.

This measure contains an important provision, the Joan's Law Act, that Senator TORRICELLI and I originally introduced as a separate bill. This measure is based on a New Jersey law, which was named after a 7-year-old-girl, Joan D'Alessandro. Tragically, Joan was raped and killed in 1973. Although her murderer was convicted of the crime and sentenced to 20 years in State prison, he has become eligible for parole and continues to seek his release.

Joan's family has repeatedly had to fight against parole for this vicious killer. They have been forced to relive this tragedy again and again, as they try to ensure that others are protected from the terrible horror they have suffered.

Joan's law will spare other families from these battles. It provides that, unless the death sentenced is imposed, any criminal convicted of a sexual offense that results in the death of a minor under the age of 14 will be sentenced to life imprisonment. With this effort, we will ensure that cold-blooded murderers who abuse our children will be kept behind bars for the rest of their lives.

Mr. President, I wish that we could do more to alleviate the pain and trauma suffered by the D'Alessandro family. With profound courage and dignity, they have endured so much for so long. Their relentless battle for justice, and their tireless efforts to protect others is an inspiration to us all. I am deeply heartened that Congress has passed this legislative memorial to Joan.

Mr. CONRAD. Mr. President, I would like to say a few words about my strong support of the Mississippi Sioux Tribes Judgment Fund Distribution Act.

In 1967, the Indian Claims Commission rendered a judgment in favor of the Sisseton-Wahpeton Sioux Tribe, the Devils Lake Sioux Tribe (now the Spirit Lake Nation), and the Assiniboine and Sioux Tribe of Fort Peck, to satisfy land compensation claims. In 1968, Congress appropriated $5.9 million for this settlement.

In 1972, Congress passed legislation to provide for the distribution of this award to the three Tribes. Twenty-five percent ($1.5 million) was set aside for lineal descendants who are not tribal members. Funds were distributed to the Devils Lake Sioux and the Sisseton-Wahpeton Sioux in 1974, and a partial distribution was made to the Assiniboine and Sioux Tribe in 1979. However, because the original judgment did not include shares for the lineal descendants, the issue has been tied up in litigation and the lineal descendants' share of the funds has remained undistributed since the passage of distribution legislation in 1972. Since that time, the interest on the fund has grown to nearly $15 million. The bill we have approved today will distribute 71.6005 percent of these funds to the lineal descendants, and 28.3995 percent to the Tribes.

I say again, as I have said on numerous occasions, this situation has gone on long enough. Neither the Tribes nor the lineal descendants benefit from these funds being tied up in court. The Indian Affairs Committee has worked with the Tribes, the Department of the Interior, and representatives of the lineal descendants to craft the compromise embodied in this legislation.

Mr. President, I am pleased by the passage of this legislation, which helps finalize a judgment made three decades ago. This legislation is a fair compromise, one that will help break the stalemate that has prevented the distribution of these judgment funds. I thank my colleagues for their support and assistance.

AMENDING THE ARMORED CAR INDUSTRY RECIPROCITY ACT OF 1993

Mr. COATS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar No. 538, H.R. 624.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 624) to amend the Armored Car Industry Reciprocity Act of 1993 to clarify certain requirements and to improve the flow of interstate commerce.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. COATS. Mr. President, I ask unanimous consent that the bill be considered read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 624) was considered read the third time, and passed.

ANTI-MICROBIAL REGULATION TECHNICAL CORRECTIONS ACT OF 1998

Mr. COATS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4679, which was received from the House.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4679) to amend the Federal Food, Drug and Cosmetic Act to clarify the circumstances in which a substance is considered to be a pesticide chemical for purposes of such act, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. COATS. Mr. President, I ask unanimous consent that the bill be considered read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4679) was considered read the third time, and passed.

MISSISSIPPI SIOUX TRIBES JUDGMENT FUND DISTRIBUTION ACT OF 1998

Mr. COATS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 708, S. 391.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A bill (S. 391) to provide for the disposition of certain funds appropriated to pay judgment in favor of the Mississippi Sioux Indians, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Indian Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mississippi Sioux Tribes Judgment Fund Distribution Act of 1998".

SEC. 2. DEFINITIONS.

In this Act:

(1) COVERED INDIAN TRIBE.—The term "covered Indian tribe" means an Indian tribe listed in section 4(a).

(2) FUND ACCOUNT.—The term "Fund Account" means the consolidated account for tribal trust funds in the Treasury of the United States that is managed by the Secretary—

(A) through the Office of Trust Fund Management of the Department of the Interior; and

(B) in accordance with the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(4) TRIBAL GOVERNING BODY.—The term "tribal governing body" means the duly elected governing body of a covered Indian tribe.

SEC. 3. DISTRIBUTION TO, AND USE OF CERTAIN FUNDS BY, THE SISSETON AND WAHPETON TRIBES OF SIOUX INDIANS.

Notwithstanding any other provision of law, including Public Law 92–555 (25 U.S.C. 1300d et seq.), any funds made available by appropriations under chapter II of Public Law 90–352 (82 Stat. 239) to the Sisseton and Wahpeton Tribes of Sioux Indians to pay a judgment in favor of those Indian tribes in Indian Claims Commission dockets numbered 142 and 359, including interest, that, as of the date of enactment of this Act, have not been distributed, shall be distributed and used in accordance with this Act.

SEC. 4. DISTRIBUTION OF FUNDS TO TRIBES.

(a) IN GENERAL.—

(1) AMOUNT DISTRIBUTED.—

(A) IN GENERAL.—Subject to section 8(e) and if no action is filed in a timely manner (as determined under section 8(d)) raising any claim identified in section 8(a), not earlier than 365 days after the date of enactment of this Act and not later than 415 days after the date of enactment of this Act, the Secretary shall transfer to the Fund Account to be credited to accounts established in the Fund Account for the benefit of the applicable governing bodies under paragraph (2) an aggregate amount determined under subparagraph (B).

(B) AGGREGATE AMOUNT.—The aggregate amount referred to in subparagraph (A) is an amount equal to the remainder of—

(i) the funds described in section 3; minus

(ii) an amount equal to 71.6005 percent of the funds described in section 3.

(2) DISTRIBUTION OF FUNDS TO ACCOUNTS IN THE FUND ACCOUNT.—The Secretary shall ensure that the aggregate amount transferred under paragraph (1) is allocated to the accounts established in the Fund Account as follows:

(A) 28.9276 percent of that amount shall be allocated to the account established for the benefit of the tribal governing body of the Spirit Lake Tribe of North Dakota.

(B) 57.3145 percent of that amount, after payment of any applicable attorneys' fees and expenses by the Secretary under the contract numbered A00C14202991, approved by the Secretary on August 16, 1988, shall be allocated to the account established for the benefit of the tribal governing body of the Sisseton and Wahpeton Sioux Tribe of South Dakota.

(C) 13.7579 percent of that amount shall be allocated to the account established for the benefit of the tribal governing body of the Assiniboine and Sioux Tribes of the Fort Peck Reservation in Montana, as designated under subsection (c).

(b) USE.—Amounts distributed under this section to accounts referred to in subsection (d) for the benefit of a tribal governing body shall be distributed and used in a manner consistent with section 5.

(c) TRIBAL GOVERNING BODY OF ASSINIBOINE AND SIOUX TRIBES OF FORT PECK RESERVATION.—For purposes of making distributions of funds pursuant to this Act, the Sisseton and Wahpeton Sioux Council of the Assiniboine and Sioux Tribes shall act as the governing body of the Assiniboine and Sioux Tribes of the Fort Peck Reservation.

(d) TRIBAL TRUST FUND ACCOUNTS.—The Secretary of the Treasury, in cooperation with the Secretary of the Interior, acting through the Office of Trust Fund Management of the Department of the Interior, shall ensure that such accounts as are necessary are established in the Fund Account to provide for the distribution of funds under subsection (a)(2).

SEC. 5. USE OF DISTRIBUTED FUNDS.

(a) PROHIBITION.—No funds allocated for a covered Indian tribe under section 4 may be used to make per capita payments to members of the covered Indian tribe.

(b) PURPOSES.—The funds allocated under section 4 may be used, administered, and managed by a tribal governing body referred to in section 4(a)(2) only for the purpose of making investments or expenditures that the tribal governing body determines to be reasonably related to—

(1) economic development that is beneficial to the covered Indian tribe;

(2) the development of resources of the covered Indian tribe;

(3) the development of programs that are beneficial to members of the covered Indian tribe, including educational and social welfare programs;

(4) the payment of any existing obligation or debt (existing as of the date of the distribution of the funds) arising out of any activity referred to in paragraph (1), (2), or (3);

(5)(A) the payment of attorneys' fees or expenses of any covered Indian tribe referred to in subparagraph (A) or (C) of section 4(a)(2) for litigation or other representation for matters arising out of the enactment of Public Law 92–555 (25 U.S.C. 1300d et seq.); except that

(B) the amount of attorneys' fees paid by a covered Indian tribe under this paragraph with funds distributed under section 4 shall not exceed 10 percent of the amount distributed to that Indian tribe under that section;

(6) the payment of attorneys' fees or expenses of the covered Indian tribe referred to in section 4(a)(2)(B) for litigation and other representation for matters arising out of the enactment of Public Law 92–555 (25 U.S.C. 1300d et seq.), in accordance, as applicable, with the contracts numbered A00C14203382 and A00C14202991, that the Secretary approved on February 10, 1978 and August 16, 1988, respectively; or

(7) the payment of attorneys' fees or expenses of any covered Indian tribe referred to in section 4(a)(2) for litigation or other representation with respect to matters arising out of this Act.

(c) MANAGEMENT.—Subject to subsections (a), (b), and (d), any funds distributed to a covered Indian tribe pursuant to sections 4 and 7 may be managed and invested by that Indian tribe pursuant to the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).

(d) WITHDRAWAL OF FUNDS BY COVERED TRIBES.—

(1) IN GENERAL.—Subject to paragraph (2), each covered Indian tribe may, at the discretion of that Indian tribe, withdraw all or any portion of the funds distributed to the Indian tribe under sections 4 and 7 in accordance with the American Indian Trust Fund Management Reform Act (25 U.S.C. 4001 et seq.).

(2) EXEMPTION.—For purposes of paragraph (1), the requirements under subsections (a) and (b) of section 202 of the American Indian Trust Fund Management Reform Act (25 U.S.C. 4022 (a) and (b)) and section 203 of such Act (25 U.S.C. 4023) shall not apply to a covered Indian tribe or the Secretary.

(3) RULE OF CONSTRUCTION.—Nothing in paragraph (2) may be construed to limit the applicability of section 202(c) of the American Indian Trust Fund Management Reform Act (25 U.S.C. 4022(c)).

SEC. 6. EFFECT OF PAYMENTS TO COVERED INDIAN TRIBES ON BENEFITS.

(a) IN GENERAL.—A payment made to a covered Indian tribe or an individual under this Act shall not—

(1) for purposes of determining the eligibility for a Federal service or program of a covered Indian tribe, household, or individual, be treated as income or resources; or

(2) otherwise result in the reduction or denial of any service or program to which, pursuant to Federal law (including the Social Security Act (42 U.S.C. 301 et seq.)), the covered Indian tribe, household, or individual would otherwise be entitled.

(b) APPLICABILITY.—Section 304 of Public Law 92–555 (25 U.S.C. 1300d–8) shall apply to any funds distributed under this Act.

SEC. 7. DISTRIBUTION OF FUNDS TO LINEAL DESCENDANTS.

(a) IN GENERAL.—Subject to section 8(e), the Secretary shall, in the manner prescribed in section 202(c) of Public Law 92–555 (25 U.S.C. 1300d–4(c)), distribute to the lineal descendants of the Sisseton and Wahpeton Tribes of Sioux Indians an amount equal to 71.6005 percent of the funds described in section 3, subject to any reduction determined under subsection (b).

(b) ADJUSTMENTS.—

(1) IN GENERAL.—Subject to section 8(e), if the number of individuals on the final roll of lineal descendants certified by the Secretary under section 201(b) of Public Law 92–555 (25 U.S.C. 1300d–3(b)) is less than 2,588, the Secretary shall distribute a reduced aggregate amount to the lineal descendants referred to in subsection (a), determined by decreasing—

(A) the percentage specified in section 4(a)(B)(ii) by a percentage amount equal to—

(i) .0277; multiplied by

(ii) the difference between 2,588 and the number of lineal descendants on the final roll of lineal descendants, but not to exceed 600; and

(B) the percentage specified in subsection (a) by the percentage amount determined under subparagraph (A).

(2) DISTRIBUTION.—If a reduction in the amount that otherwise would be distributed under subsection (a) is made under paragraph (1), an amount equal to that reduction shall be added to the amount available for distribution under section 4(a)(1), for distribution in accordance with section 4(a)(2).

(c) VERIFICATION OF ANCESTRY.—In seeking to verify the Sisseton and Wahpeton Mississippi Sioux Tribe ancestry of any person applying for enrollment on the roll of lineal descendants after January 1, 1998, the Secretary shall certify that each individual enrolled as a lineal descendant can trace ancestry to a specific Sisseton or Wahpeton Mississippi Sioux Tribe lineal ancestor who was listed on—

(1) the 1909 Sisseton and Wahpeton annuity roll;

(2) the list of Sisseton and Wahpeton Sioux prisoners convicted for participating in the outbreak referred to as the "1862 Minnesota Outbreak";

(3) the list of Sioux scouts, soldiers, and heirs identified as Sisseton and Wahpeton Sioux on the roll prepared pursuant to the Act of March 3, 1891 (26 Stat. 989 et seq., chapter 543); or

(4) any other Sisseton or Wahpeton payment or census roll that preceded a roll referred to in paragraph (1), (2), or (3).

(d) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 202(a) of Public Law 92–555 (25 U.S.C. 1300d–4(a)) is amended—

(A) in the matter preceding the table—

(i) by striking ", plus accrued interest,"; and

(ii) by inserting "plus interest received (other than funds otherwise distributed to the Sisseton and Wahpeton Tribes of Sioux Indians in accordance with the Mississippi Sioux Tribes Judgment Fund Distribution Act of 1998)," after "docket numbered 359,"; and

(B) in the table contained in that subsection, by striking the item relating to "All other Sisseton and Wahpeton Sioux".

(2) ROLL.—Section 201(b) of Public Law 92–555 (25 U.S.C. 1300d–3(b)) is amended by striking "The Secretary" and inserting "Subject to the Mississippi Sioux Tribes Judgment Fund Distribution Act of 1998, the Secretary".

SEC. 8. JURISDICTION; PROCEDURE.

(a) ACTIONS AUTHORIZED.—In any action brought by or on behalf of a lineal descendant or any group or combination of those lineal descendants to challenge the constitutionality or validity of distributions under this Act to any covered Indian tribe, any covered Indian tribe, separately, or jointly with another covered Indian tribe, shall have the right to intervene in that action to—

(1) defend the validity of those distributions; or

(2) assert any constitutional or other claim challenging the distributions made to lineal descendants under this Act.

(b) JURISDICTION AND VENUE.—

(1) EXCLUSIVE ORIGINAL JURISDICTION.—Subject to paragraph (2), only the United States District Court for the District of Columbia, and for the districts in North Dakota and South Dakota, shall have original jurisdiction over any action brought to contest the constitutionality or validity under law of the distributions authorized under this Act.

(2) CONSOLIDATION OF ACTIONS.—After the filing of a first action under subsection (a), all other actions subsequently filed under that subsection shall be consolidated with that first action.

(3) JURISDICTION BY THE UNITED STATES COURT OF FEDERAL CLAIMS.—If appropriate, the United States Court of Federal Claims shall have jurisdiction over an action referred to in subsection (a).

(c) NOTICE TO COVERED TRIBES.—In an action brought under this section, not later than 30 days after the service of a summons and complaint on the Secretary that raises a claim identified in subsection (a), the Secretary shall send a copy of that summons and complaint, together with any responsive pleading, to each covered Indian tribe by certified mail with return receipt requested.

(d) STATUTE OF LIMITATIONS.—No action raising a claim referred to in subsection (a) may be filed after the date that is 365 days after the date of enactment of this Act.

(e) SPECIAL RULE.—

(1) FINAL JUDGMENT FOR LINEAL DESCENDANTS.—

(A) IN GENERAL.—If an action that raises a claim referred to in subsection (a) is brought, and a final judgment is entered in favor of 1 or more lineal descendants referred to in that subsection, section 4(a) and subsections (a) and (b) of section 7 shall not apply to the distribution of the funds described in subparagraph (B).

(B) DISTRIBUTION OF FUNDS.—Upon the issuance of a final judgment referred to in subparagraph (A) the Secretary shall distribute 100 percent of the funds described in section 3 to the lineal descendants in a manner consistent with—

(i) section 202(c) of Public Law 92–555 (25 U.S.C. 1300d–4(c)); and

(ii) section 202(a) of Public Law 92–555, as in effect on the day before the date of enactment of this Act.

(2) FINAL JUDGMENT FOR COVERED INDIAN TRIBES.—

(A) IN GENERAL.—If an action that raises a claim referred to in subsection (a) is brought, and a final judgment is entered in favor of 1 or more covered Indian tribes that invalidates the distributions made under this Act to lineal descendants, section 4(a), other than the percentages under section 4(a)(2), and subsections (a) and (b) of section 7 shall not apply.

(B) DISTRIBUTION OF FUNDS.—Not later than 180 days after the date of the issuance of a final judgment referred to in subparagraph (A), the Secretary shall distribute 100 percent of the funds described in section 3 to each covered Indian tribe in accordance with the judgment and the percentages for distribution contained in section 4(a)(2).

(f) LIMITATION ON CLAIMS BY A COVERED INDIAN TRIBE.—

(1) IN GENERAL.—If any covered Indian tribe receives any portion of the aggregate amounts transferred by the Secretary to a Fund Account or any other account under section 4, no action may be brought by that covered Indian tribe in any court for a claim arising from the distribution of funds under Public Law 92–555 (25 U.S.C. 1300–d et seq.).

(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to limit the right of a covered Indian tribe to—

(A) intervene in an action that raises a claim referred to in subsection (a); or

(B) limit the jurisdiction of any court referred to in subsection (b), to hear and determine any such claims.

Mr. DORGAN. Mr. President, S. 391, the Mississippi Sioux Judgment Fund Distribution Act is a bill intended to resolve a longstanding problem with respect to a judgment fund distribution to Sisseton and Wahpeton tribes in the Dakotas and Montana. The bill would distribute an additional 7.1 percent of the funds, plus accrued interest, awarded by the Indian Claims Commission in 1967 to the Sisseton and Wahpeton Mississippi Sioux Tribes. This legislation is cosponsored by Senators BAUCUS, BURNS, CONRAD, DASCHLE, and Johnson.

In 1972, Congress enacted legislation that authorized the Secretary of the Interior to distribute 75 percent of the $5.9 million judgment award to the Devils Lake Sioux Tribe of North Dakota (now known as the Spirit Lake Tribe), the Sisseton-Wahpeton Sioux Tribe of North and South Dakota, and the Sisseton-Wahpeton Sioux Council of the Assiniboine and Sioux Tribes of the Fort Peck Reservation in Montana. The remaining 25 percent was to be distributed to individuals who could trace their lineal ancestry to a member of the aboriginal Sisseton and Wahpeton Mississippi Sioux, the predecessor to the three modern-day tribal entities. The judgment was compensation for the 27 million acres of land taken from this aboriginal tribe in the 19th century.

Congress made the decision to allocate 25 percent of the original judgment to the lineal descendants at the urging of the Department of the Interior. The Department, in 1972, felt that historical events warranted a departure from precedent which was to make awards to tribes and not to individuals. In fact, the 1967 Indian Claims Commission judgment awarded compensation only to the successor tribes to the aboriginal Sisseton and Wahpeton Mississippi Sioux tribe, not to individual lineal descendants.

The three Sisseton and Wahpeton tribes received their respective shares of the judgment award by the mid-1970's. To date, though, the funds allocated for the lineal descendants have not been distributed. This has resulted in a situation where the accrued interest on the original principle of approximately $1.5 million has now grown to more than $15 million.

If the 1,988 lineal descendants identified to date by the Department of the Interior receive the $15 million in per capita payments, they would receive more than 18 times what the 11,829 enrolled members received in the 1970's. Moreover, since these identified lineal descendants comprise only 14 percent of the total number of tribal and non-tribal member descendants, the 25 percent allocated for lineal descendants in the 1972 act would permit each lineal descendant to receive almost twice as much as did the enrolled tribal members who were compensated in the 1970's, not counting interest.

In 1987, the three Sisseton and Wahpeton tribes filed suit in federal court to challenge the constitutionality of the lineal descendancy provisions of the 1972 Act. When this legislation failed, in 1997 the tribes filed a new suit in federal court challenging these provision on constitutional grounds. This second suit is currently on appeal. In 1992, Congress enacted legislation which authorized the Attorney-General to settle these cases on any terms agreed to by the parties involved. However, the Department of Justice has refused to proceed with any settlement negotiations and has taken the position that the 1992 law did not authorize the Department to settle these cases on any terms other than those laid out in the original 1972 act. While I believe that this interpretation flies in the face of congressional intent, the Department has been unwilling to pursue the issue.

S. 391 represents a reasonable solution to this matter and a substantial compromise on the part of the tribes. In the past, the tribes have sought complete repeal of the lineal descendancy provisions of the 1972 act. In 1986, a bill was reported out by the Select Committee on Indian Affairs which would have achieved this goal. The Department of the Interior supported this bill, explaining in a letter to the then Chairman of the Select Committee: "As a general rule, we believe that each distribution of the Indian judgment funds should benefit the aggrieved historic tribe for which the award was made. If the historic tribe is no longer in existence, we believe that judgment funds should be programmed, to the greatest extent possible, to the present-day successor tribe(s) to the historic tribe."

In this Congress, the tribes supported legislation that would have retained the undistributed principal for the lineal descendants and distributed the accrued interest to the three tribes. S. 391, as originally introduced, adopted this approach. H.R. 976, an identical bill introduced in the House, passed last year.

After the House acted on this legislation, the Senate Committee on Indian Affairs held a hearing last October on H.R. 976 and another hearing last July on an S. 391 substitute. The bill before us today is the product of exhaustive negotiations between the parties involved and the subject of frequent consultations between congressional staff and representatives of the Departments of Interior and Justice that occurred in the past 12 months. Every effort has been made to consider and accommodate the concerns of these Departments while making sure that the tribes receive an additional distribution of at least 7.1 percent of the judgment award.

While I believe that this legislation is a fundamentally fair solution to a problem that has remained unsolved for 30 years and that would persist for many more years without congressional intervention, none of the parties is entirely satisfied with the legislation. The tribes accept the legislation for what it provides but continue to maintain that they have a constitutional right to all of the undistributed funds. Certain persons seeking lineal descendant status have alleged that this legislation deprives them of their property.

Because it is in the best interests of the United States and the other parties to bring an end to this problem, the bill provides that if the lineal descendants do not challenge the constitutionality of the bill's distribution to the tribes within one year following enactment, they are barred from bringing such a challenge in the future. On the other hand, if the lineal descendants do bring a timely challenge to the tribal distribution, the bill provides that the tribes have a right to intervene to challenge the constitutionality of the distribution made to lineal descendants. This provision would enable a federal court to finally and conclusively determine on the merits the respective constitutional claims of these parties and permanently put to rest what has been an endless legal dispute.

Even after these legal disputes are settled, the Department of the Interior will continue, pursuant to a federal court order, to identify new lineal descendants who did not receive adequate notice in the 1970's of their right to participate in the judgment distribution. I am concerned about the determination of eligibility to participate of any newly identified lineal descendants. The 1972 act requires that eligibility be based on an individual's ability to trace ancestry to a lineal ancestor who was a member of the Sisseton and Wahpeton Mississippi Sioux Tribe. In their litigation the tribes alleged that only 65 of the 1,988 identified lineal descendants met this requirement. The government did not contradict this allegation but argued that the issue was irrelevant because the 1972 act allows the Secretary to identify ancestors on 20th century rolls. S. 391 changes this provision of the 1972 act to require the use of rolls as contemporaneous as possible to the existence of the aboriginal Sisseton and Wahpeton Mississippi Sioux Tribe in order to assure, consistent with the 1972 act, that a specific lineal ancestor from that tribe can be identified. Finally, it bears reemphasizing that the reason for this legislation is to correct an injustice suffered by the three tribes as a result of the 1972 act. The tribes, not individuals, were wronged by the taking of 27 million acres of treaty-protected lands owned by their aboriginal predecessor. In my view, in 1972 no amount of the judgment awarded for the taking of these lands should have been allocated to lineal descendants. Allocations to lineal descendants from Indian Claims Commission judgments long ago became a discredited policy and were generally abandoned. However, since 26 years have passed since the enactment of the 1972 act, I believe that the lineal descendants should receive a portion of the judgment. S. 391 would distribute about 30% of the undistributed funds to the tribes and about 70% to the unaffiliated lineal descendants.

This split of the undistributed funds would equalize the distribution between tribal lineal descendants and the non-tribal member class of lineal descendants. Capping the non-tribal member class at 600 persons more than the 1,988 already identified lineal descendants was the method the Committee adopted for calculating the percent of the undistributed funds to be allocated to lineal descendants regardless of the final identified number. The split is not an attempt to achieve perfect parity among all lineal descendants, both tribal members and non-tribal members. I recognize that there is some chance that the final identified number of lineal descendants may exceed 2,588. Whatever the final number may be, those lineal descendants will equally share the 70% allocation.

However, the distribution split is justified because the tribes should be the primary beneficiaries of the judgment they won after 17 years of litigation before the Indian Claims Commission. They were under compensated in the 1972 act based on their numbers and it is important that these judgment funds, to the greatest extent possible, be used to support tribal government programs and services. Moreover, the split is based on actual identified lineal descendants plus a reasonable additional number who may be identified in the future and represents a reasonable and long overdue resolution of this issue.

Finally, I want to clarify the intent of a portion of subsection (f) of section 8, a subsection added to S. 391 in the last few days. The reference in subparagraph (2)(B) of that subsection to "any such claims" includes any claim that may be brought in intervention by a covered Indian tribe.

I urge my colleagues to adopt S. 391.

Mr. COATS. Mr. President, I ask unanimous consent that the committee substitute amendment be agreed to, bill as amended be considered read the third time and passed, the motion to reconsider be laid upon the table and that any statements relating to the bill appear at this point in the RECORD.

The committee amendment was agreed to.

The bill (S. 391), as amended, was considered read the third time, and passed.

RECOGNIZING THE 50TH ANNIVERSARY OF THE AMERICAN RED CROSS BLOOD SERVICES

Mr. COATS. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Con. Res. 119, and the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 119) recognizing the 50th anniversary of the American Red Cross Blood Services.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FRIST. Mr. President, I rise today to recognize the 50th anniversary of the American Red Cross Blood Services. The Red Cross Blood Services has been saving lives since its inception during World War II. Today, in a rapidly changing health care environment, with ever increasing challenges, the Red Cross continues to serve patients throughout our country.

The Red Cross is America's first nationwide, volunteer blood collection and distribution system. During World War II, the Red Cross saved soldiers' lives by collecting and distributing blood. This led to the first National Civilian Blood Program, with the opening of the first blood center in 1948. Today, the Red Cross serves over 3,000 hospitals nationwide by supplying almost half of the nation's blood for transfusion. This life-giving service is made possible by volunteers who generously donate nearly six million units of blood each year.

In 1991, the Red Cross began a comprehensive technology and systems review, to ensure the organization entered the next century with state-of-the-art programs, systems, and facilities. This program, entitled, "Transformation," is a $287 million modernization of every aspect of blood collection, processing, and distributing. According to Red Cross President Elizabeth Dole, it is the most ambitious project that the Red Cross has ever undertaken. Transformation's goals included the creation of a new centralized management structure, a new information system, and a program of the highest quality. Without objection, I'd like to submit a copy of Mrs. Dole's remarks at the 50th Anniversary Bicentennial Celebration of the Red Cross, which includes comments on Transformation, for the record.

Transformation successfully consolidated 50 individual, non-standardized labs operated by local Blood Regions into eight state-of-the-art National Testing Laboratories that perform 70 million laboratory tests each year. These new labs serve the Red Cross as well as several non-Red Cross blood centers. As part of this Transformation, the American Red Cross has undertaken a Manufacturing and Computer Standardization initiative. This program has integrated 28 different computer systems into one national system, linking Red Cross Blood Regions across the nation to the world's largest information database for transfusion medical research.

In addition, Transformation has led to standardized manufacturing processes throughout the Red Cross system, thereby promoting a consistent standard of high quality blood services. A centrally managed blood inventory system operated by the Red Cross was designed to facilitate consistent availability of blood in every region of the country. Transformation has also created the Quality Assurance Program and a new Charles Drew Biomedical Institute which provides training and other education to personnel, using state of the art technology which does not require staff and volunteers to travel for training. Instructors can now train personnel in a wide range of fields across the country.

Through the American Red Cross Jerome H. Holland Laboratory, a premiere blood research facility, significant progress has been made in improving transfusion safety, and fostering the development of new blood products. Red Cross has shared the knowledge and expertise gained through studies conducted by Holland Laboratory scientists and physicians with the transfusion services of countries throughout the world. The Red Cross translates research into life-saving products for patients because of its tremendous investment in research and development. Let me just note that the risk of becoming infected with HIV through a blood transfusion has been reduced from one in 220,000 in 1991, to one in 676,000 today—a tremendous improvement in the safety of the blood supply.

I congratulate the 32,000 paid staff and 1.3 million volunteers on their first fifty years of providing blood services, and especially want to recognize Mrs. Elizabeth Dole and her tremendous management team for their vision in the implementation of the Transformation program.

In recognition of their accomplishments, I am introducing the following bill, with ten of my colleagues, Mr. JEFFORDS, Mr. LOTT, Ms. MIKULSKI, Mr. COATS, Ms. MURRAY, Mr. MCCONNELL, Mr. HARKIN, Ms. COLLINS, Mr. GREGG, and Mr. BINGAMAN, to commemorate the 50th anniversary of the American Red Cross Blood Services.

Mr. COATS. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements related to the resolution appear in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 119) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, is as follows:

S. CON. RES. 119

Whereas the American Red Cross is a nonprofit humanitarian organization of 32,000 paid staff, 1,300,000 volunteers, and 4,300,000 blood donors which considers its role in the provision of blood services to be a public trust;

Whereas the American Red Cross Blood Services began by collecting and distributing blood to help save the lives of soldiers on the battlefields of World War II, and has evolved to become a leader in the healthcare industry;

Whereas following World War II the American Red Cross created the first national civilian blood program, opening its first blood center in 1948;

Whereas through the generosity of over 4,300,000 voluntary blood donors the American Red Cross is able to provide half the Nation's blood supply, and everyday, in communities throughout this country, many thousands of people receive lifesaving blood in the 3,000 hospitals served by the 38 American Red Cross Blood Regions;

Whereas in May 1991, the American Red Cross announced its ambitious "Transformation" program, a 7-year, $287,000,000 comprehensive modernization of every aspect of the American Red Cross Blood Services blood collection, testing, processing, and distribution systems;

Whereas one of the most massive undertakings of Transformation was the Manufacturing and Computer Standardization (MACS) initiative which integrated 28 different computer systems into a single, national system linking American Red Cross Blood Regions nationwide to the world's largest blood information database for transfusion medicine research, and standardized manufacturing processes;

Whereas under Transformation the more than 50 individual, nonstandardized laboratories operated by local American Red Cross Blood Regions were replaced by 8 state-of-the-art National Testing Laboratories, which effectively implement the latest medical technology to perform the testing of approximately 6,000,000 units of blood annually, serving both American Red Cross blood centers and several non-American Red Cross blood centers as well, and are located in Atlanta, Georgia; Charlotte, North Carolina; Dedham, Massachusetts; Detroit, Michigan; Philadelphia, Pennsylvania; Portland, Oregon; St. Louis, Missouri; and St. Paul, Minnesota;

Whereas the American Red Cross Blood Services has created a Quality Assurance program recognized throughout the world as a leader in assuring quality in the manufacture of blood products;

Whereas the creation of the Charles Drew Biomedical Institute has allowed the American Red Cross to provide training and other educational resources to American Red Cross Blood Services' personnel through "One Touch" which is an interactive, distance learning system that allows instructors to train personnel across the country from the institute's location at American Red Cross Biomedical Headquarters in Rosslyn, Virginia;

Whereas Transformation saw the development of a centrally managed blood inventory system to ensure the consistent availability of blood and blood components in every American Red Cross Blood Services Region throughout the country, and the creation of the new centralized organizational structure within American Red Cross Blood Services;

Whereas the American Red Cross Jerome H. Holland Laboratory in Rockville, Maryland, is the world's premiere blood research facility, consistently contributing to the progress of biomedical science, especially transfusion safety and new blood products, and shares its expertise with a number of countries around the world;

Whereas the American Red Cross manages an almost $30,000,000 investment in research and development, which includes $8,000,000 in Federal research grants, and is committed to working with others in the biotechnology field to ensure that this pioneering research is translated into lifesaving products available for patient use as quickly as possible;

Whereas the American Red Cross is investigating and implementing the newest technologies to ensure blood safety, including Genome Amplification Technology to test for the human immunodeficiency virus (HIV) and for hepatitis C virus (HCV), solvent detergent treated fresh frozen plasma, virus inactivated plasma for transfusion, use of iodine in plasma filtration, and inactivation of viruses in cellular products (such as red blood cells) through a light-activated dye called 491;

Whereas the American Red Cross is in the constant process of modernization and improvement and at the forefront of new product development, and is prepared to enter the 21st century as a cutting-edge organization providing safe, high quality blood and blood products to the hundreds of thousands of patients in need;

Whereas Congress and the American Red Cross join in celebrating the phenomenal success in the reduction of HIV infection through the use of blood and blood products as evidenced by the fact that in 1991 an American's risk of HIV transmission through a blood transfusion was 1 in 220,000 and today the risk is 1 in 676,000, nearly nonexistent; and

Whereas Congress and the American Red Cross encourage healthy Americans to donate blood by calling the American Red Cross: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) joins with the American Red Cross in celebration of the 50th anniversary of American Red Cross Blood Services and the impact of their efforts on modern medicine; and

(2) looks forward to the tremendous possibilities and potential for discovery and innovation as the American Red Cross Blood Services enters the next 50 years of providing the Nation with a safe blood supply.

ORDERS FOR SATURDAY, OCTOBER 10, 1998

Mr. COATS. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 12 noon on Saturday, October 10. I further ask that the time for the two leaders be reserved.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COATS. Mr. President, I further ask unanimous consent that there be a period for the transaction of morning business until 12:30 p.m. with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

SCHEDULE

Mr. COATS. Mr. President, for the information of all Senators, on Saturday there will be a period of morning business until 12:30 p.m. Following morning business, the Senate will await an update in relation to the omnibus appropriations bill, and may consider any legislative or executive items cleared for action.

ORDER FOR RECESS

Mr. COATS. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that, following the remarks of Senator ABRAHAM from Michigan, the Senate stand in recess under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABRAHAM. Mr. President, I ask to be recognized to speak as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO SENATOR DAN COATS

Mr. ABRAHAM. Before he leaves the floor, I would like to pay tribute, as several of our colleagues have, to our distinguished friend, the Senator from the State of Indiana, Dan COATS.

Obviously, his career in the Senate is coming nearly to the end here, but those of us who have had the chance to serve with him and who are friends of his will miss him greatly in this body.

When I came to the Senate 4 years ago, I thought about the kinds of people whose advice and counsel I wanted to have. And the first name on the list as I was planning my first trip to the Senate after the election was DAN COATS. From that point on, he has been a friend, a mentor, somebody whose judgment and advice I have respected as highly as anyone's in this Chamber.

He has served his State with great distinction, but those of us who live in Michigan have a special fondness for him because, of course, he is a native of our State. He grew up in Jackson, MI, so although he represents Indiana in the Senate, to many Michiganites and many of my constituents when I am in the southern portion of my State, they look at DAN COATS as their third Senator.

So he has not only been a great friend to Michigan as a native but also as a Senator who has worked closely with us. I wish to say to him before he leaves the floor how much I value his friendship, how much I look forward to working with him in the future on other causes, and how much I hope that, at whatever point I bring my career in the Senate to an end, I will be thought of even half as fondly and with half as much respect as he has, because I think all of us who serve here hold him in the very highest of esteem.

Mr. COATS. I thank the Senator.

RECESS UNTIL TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate now stands in recess until noon tomorrow, Saturday, October 10, 1998.

Thereupon, the Senate, at 7:50 p.m, recessed until Saturday, October 10, 1998, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate October 9, 1998:

DEPARTMENT OF STATE

Jack J. Spitzer, of Washington, to be an Alternate Representative of the United States of America to the Fifty-second Session of the General Assembly of the United Nations.

Frank J. Guarini, of New Jersey, to be a Representative of the United States of America to the Fifty-second Session of the General Assembly of the United Nations.

CENTRAL INTELLIGENCE

James M. Simon, Jr., of Alabama, to be Assistant Director of Central Intelligence for Administration. (New Position)

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Arthur J. Naparstek, of Ohio, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term expiring October 6, 2003. (Reappointment)

EXTENSIONS OF REMARKS

75TH ANNIVERSARY OF SUTTER HEALTH

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. MATSUI. Mr. Speaker, I rise today to recognize the 75th Anniversary of one of the nation's leading medical institutions, Sutter Health. As the Sacramento community celebrates this milestone, I ask all of my colleagues to join me in saluting the excellent work of the Sutter network of medical facilities.

Seventy-five years ago, a group of Sacramento physicians joined together to plant the seeds of what has grown into one of the region's leading medical centers, Sutter Community Hospitals. The founders' passion for their community was matched only by their commitment to providing unparalleled medial service.

From the founding of Sutter Hospital, the sophistication of medical services provided has grown with the needs of the Sacramento community. For example, in delivering more than 260,000 births since its founding, more than 8,000 annually, Sutter has become the leading Women's and Children's Services center in the Central Valley of California.

Sutter opened Sacramento's first Cancer Center in the 1940s. This facility has flourished into a national leader in critical trials for treatments of prostate, ovarian, and breast cancer. Its pediatrics hematology/oncology program is one of the busiest in the world. Much of this research is in conjunction with the Sutter Institute for Medical Research—the largest non-university medical research center in Northern California.

The Sacramento area's only heart transplantation center is housed at Sutter. In 1959, the region's first open heart transplant occurred there. Recently Sutter's Heart Institute was recognized as having the second highest survival rate in the United States.

Sutter Health's tradition of providing leading medical care continues to this day. Its use of advanced services and medical devices not only provide the Sacramento area with outstanding care, but has also established Sacramento as one of the leading centers of medical excellence in the world.

The quality of physicians, nurses, and other health professionals is superior at Sutter. For the past 75 years, its reputation for excellence has consistently attracted the highest quality medical personnel.

Northern California has also been the fortunate recipient of Sutter's outstanding community service endeavors. In the last year alone, Sutter spent more than $51 million on community services, in addition to the nearly $100,000 it gave to our community's non-profit organizations, such as the American Heart Association and the Sacramento Food Bank.

Over the years, Sutter's staff has worked to provide quality pediatric care to poor families in some of Sacramento's most neglected neighborhoods. Through its Keeping Families Safe and Healthy program, Sutter has helped to prevent child abuse and neglect, strengthen families, and improve child immunization rates.

The Sutter SeniorCare program, an innovative way to care for the frail elderly in our community, helps older people with multiple heart problems live as independently as possible. In the last year, Sutter SeniorCare assisted 238 elderly residents in Northern California.

Since its founding, Sutter Health has grown from a modest community hospital into a world-renowned medical center. This remarkable accomplishment deserves recognition throughout Sacramento and the nation's medical community. I ask all of my colleagues to join with me in acknowledging the achievements of Sutter Health and proudly recognizing its 75th Anniversary.

* * *

TRIBUTE TO CARNEY CAMPION

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. SHUSTER. Mr. Speaker, I rise today to recognize one of the pillars of the transportation industry. Mr. Carney Campion will retire after fourteen years of dedicated service as General Manager of the Golden Gate Bridge, Highway and Transportation District.

Mr. Campion has spent countless hours improving the infrastructure and services of the bridge as well as its surrounding area. He has shown great leadership in establishing electronic toll collection systems on all bridges. His mediation skills has kept the focus of the bridge on commuter use and not political gamesmanship. Bridge safety has been a consistent goal during his tenure as General Manager. Accomplishments in that area include structural additions for seismic activity and a crossover median barrier to eliminate auto accidents. He has also made major strides in the areas of environmental protection, disability compliance, and coordinated successful celebrations of the 50th and 60th anniversaries.

Along with his commitment to the bridge, he lobbied for the federal funding to purchase a section of the Northwest Pacific Railroad for future use by his local area of Marin, California. He has been an active member of the American Public Transit Association and the California Transit Association. Mr. Campion has also made numerous contributions to his community through his work as a 35 year member of the San Francisco Press Club and Director of the Marin YMCA and Theatre Company.

I would like to express my sincere appreciation and gratitude for his dedication and service to one of America's great landmarks and the people of the San Francisco Bay area. I wish all the best for him and his family in their future endeavors.

* * *

NUCLEAR WEAPONS AND NORTH KOREA, IRAQ, AND IRAN

HON. TOM DeLAY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. DELAY. Mr. Speaker, over the last year or so I have been appalled at this administration's foreign policy—or more accurately its lack of a foreign policy—with respect to North Korea, Iran, and Iraq. I am also joining with Congressmen SAXTON, SALMON, and others today in introducing another resolution concerning the Administration's policies regarding Israel.

Since agreeing to help find the financing and necessary technology to build two nuclear reactors for North Korea in 1994, the Clinton administration has done everything it can to give Americans the impression that its diplomatic efforts have "frozen and stopped" North Korea's efforts to develop a nuclear arsenal. However, Newsweek reported last week that when Secretary of State Albright testified to that effect before a classified Congressional briefing 2 month ago she was quickly refuted by the Defense Intelligence Agency. The DIA testified that it had concluded months earlier that the North Korean program to develop nuclear weapons was and is still under way.

Subsequent intelligence and press reports continue to bear out the fact that the administration's policy of appeasement has not dissuaded the North Korean drive to develop nuclear weapons and the means to deliver them. For instance, the North Korean's have an ongoing effort to bury their nuclear weapons program underground. Their launch on August 31, 1998, of a three-stage ballistic missile—parts of which landed off the coast of Alaska—make such a conclusion undeniable. The Central Intelligence Agency's senior intelligence officer for strategic programs was recently quoted by Washington Post as saying that the three stage configuration of that missile could well give North Korea the ability to send warheads across the Pacific.

To counter the misimpression that has often been given the American people on this issue, I am introducing a resolution that calls for the suspension of the $4–6 billion agreement to build two light-water nuclear reactors and to provide other assistance to North Korea until the President certifies that the North Korean government has agreed to cease its efforts to build nuclear weapons and the means to deliver them.

Mr. Speaker, the administration has also been pursuing a failed and misleading foreign

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

policy with regard to Iraq. Earlier this year, President Clinton warned that if Iraq were to break the weapons inspection agreement signed with U.N. Chief Kofi Annan and the international community failed to act, then Saddam Hussein "will conclude that the international community has lost its will. He will then conclude that he can go right on and do more to rebuild an arsenal of devastating destruction. And some day, some way, I guarantee you he'll use the arsenal." United States Secretary of State Madeleine Albright also stated at the time that if Hussein "reneges on this deal, there will be no question that force is the only way to go."

Of course, the American public now knows the truth. Scott Ritter, a UNSCOM inspector team leader in Iraq, recently resigned from his post because of what he termed "interference and manipulation usually coming from the highest levels of the [Clinton] administration's national security team," including Secretary of State Madeleine Albright. That interference undermined UNSCOM's ability to inspect potential weapon sites in Iraq even as the administration was telling the world that it supported the U.N. inspectors' right to unfettered and unannounced access to Saddam Hussein's suspected weapons programs.

During his recent testimony before Congress, Mr. Ritter stated that such public statements of support in conjunction with the secret interference from the United States and the United Kingdom gives the appearance that UNSCOM is conducting unhindered weapons inspection checks when in fact such inspections are not occurring. Mr. Ritter's warning to Congress that it would take Iraqi leader Saddam Hussein only 6 months to reconstitute his chemical weapons capability and the ballistic missiles to deliver them—and his subsequent statement to the Washington Institute for Near East Policy that Iraq has three "technologically complete" nuclear bombs that only lack the missile material to make them operational—is sobering to most Americans. The administration's reaction to these brave revelations has been to attack Mr. Ritter's credibility, reputation, and professionalism.

The administration instead should be acting to bring Saddam Hussein into compliance with the numerous agreements he has made as a result of the Persian Gulf war. To that end, I am introducing a resolution that calls on the President to take the necessary steps to bring Iraq into compliance with the international agreements it has signed with respect to its weapons program, including the United Nation's right to unfettered and unannounced inspections of suspected weapons sites or facilities. The resolution also states that official U.S. policy should insist on the removal or destruction of Saddam Hussein's chemical, biological, or nuclear weapons capability. Most importantly, for the sake of the United States foreign policy credibility, the resolution calls on the President not to renege on the warnings he issued this past spring that the United States is committed to using military force if necessary to punish Iraq for interfering with or obstructing the U.N.'s weapons inspections.

Finally, Mr. Speaker, in the face of intelligence estimates earlier this year that Iran will have a missile capable of targeting Israel within a year and Central Europe within 3 years, President Clinton vetoed the Iran Missile Sanctions Act. The President's continued refusal to use existing law to its full extent to impose sanctions against countries and organizations that help Iran develop and modernize its ballistic missile program is yet another failure on the part of this Administration. While failing to obstruct the on-going ballistic missile and nuclear weapons programs in Iran, North Korea, Iraq and other nations, this administration has not been bashful in obstructing the efforts of many of us in Congress to build a defense for the United States against ballistic missile attacks by our potential enemies.

The third resolution I am introducing calls on the President to impose sanctions against countries and organizations that assist Iran in obtaining advanced missile technology to the fullest extent permitted under existing law. The resolution also calls on the President to expedite the development of U.S. anti-missile defense systems and to assist Israel in responding to the new long-range ballistic missile threat from Iran in order to protect all of Israel's territory.

Mr. Speaker, this administration's continued failure in foreign policy arenas affecting the national security of the United States must cease before our Nation's credibility and determination to defend our interests is irreparably compromised. It is foolhardy to issue threats and then fail to carry through on them as this administration has done time and time again. While it may play well in the short term, it has real world consequences as our potential enemies gradually lose respect for our resolve and our might. I urge my colleagues to support the resolutions which I intend to reintroduce in the next Congress as well.

IN HONOR OF SAINT VINCENT DE PAUL PARISH

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. KUCINICH. Mr. Speaker, I rise today to extend my best wishes to Saint Vincent de Paul Parish of Cleveland, Ohio. For 75 years, this parish has served as a spiritual refuge, opening its doors to any soul in search of peace.

Saint Vincent de Paul originated in 1922 when a group of people living on the outskirts of Cleveland petitioned Bishop Schrembs to recognize and act on their need to have a parish. Under the leadership of Father Michael Flanigan, the parish community grew rapidly causing a need to build a church. By 1924, the basic outlines of Saint Vincent de Paul included a church for worship, as well as a school which educated 340 children.

The Great Depression greatly affected the parish by halting its rapid expansion, but also leading many of its young men and women to enter the Lord's service. When the depression ended, the membership continued to grow, resulting in overcrowding of the school. To allow for this rapid growth, the Bishop decided to build several parishes to fill the need of Catholics to worship, making Saint Vincent de Paul the mother parish of all the others. Throughout the 1970s and 1980s, the parish experienced many changes, including several ordinations to the priesthood, renovations to the church, and a number of staffing changes that demonstrated an impressive level of dedication and commitment.

My fellow colleagues, please join me in celebrating the 75th anniversary of Saint Vincent de Paul. The parish has a strong sense of community and a proud heritage to guide it into the future.

IN HONOR OF DR. ROBERT BRYANT AND WESTMONT COLLEGE

HON. LOIS CAPPS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mrs. CAPPS. Mr. Speaker, I rise to bring to the attention of my colleagues a remarkable citizen, and an exceptional college in Santa Barbara, California: Dr. Robert Bryant and Westmont College.

Dr. Robert Bryant, owner of Bryant & Sons Ltd., has been a leader in the Santa Barbara business community for over 35 years. He has served on the boards of the Boy Scouts of America, YMCA, Santa Barbara Rugby Association, Santa Barbara Zoo, Lobero Foundation, the Symphony, and the Sheriff's Council. He is an active supporter of both Santa Barbara City College and Westmont College, serving in numerous capacities for both institutions over the years. His involvement in the Fighting Back Task Force and his Chairmanship of the Amethyst Ball for the last 3 years has helped the Council on Alcoholism & Drug Abuse raise hundreds of thousands of dollars, and the community fight alcohol and drug abuse on many levels.

Westmont College—through the involvement of its President, Dr. David K. Winter and Executive Vice President, Dr. Edward Birch as volunteers for Santa Barbara County's United Way—has invested significant hours in our community. Dr. Winter served as Campaign Chair of the Santa Barbara County's United Way campaign in 1988–89. Under his leadership, Westmont College has run a successful campaign annually for over a decade. He has served as Director of the Montecito Association, Montecito Rotary Club, the Channel City Club, and the Chamber of Commerce. He Chaired the board of the Salvation Army Hospitality House and the Santa Barbara Industry Education Council. Ed Birch serves on the board of the Santa Barbara County's United Way. Throughout the summer months, the Westmont campus also offers summer day camps for children in our community.

The students of Westmont College are also involved, volunteering at many organizations throughout the community: Transition House, the YMCA, Cottage Hospital, Westside Community Clinic, and many others.

Mr. Speaker, I congratulate Dr. Robert Bryant and Westmont College for their lifetime achievements being celebrated on October 16, 1998 by Santa Barbara County's United Way.

CONFERENCE REPORT ON H.R. 3694, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1999

SPEECH OF

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. OXLEY. Mr. Speaker, I rise today in support of the conference report. Specifically, I would like to address Section 604 which gives law enforcement officials multipoint wiretap authority.

As a former special agent of the FBI, I know from personal experience that the court-authorized interception of communications is one of our most effective tools in our battle against crime. Existing law requires law enforcement officials seeking a court order for a wiretap to specify the telephone to be intercepted. Unfortunately, the modern day criminal too often is aware of this limitation and uses different phones in different locations to carry out his illicit activity. By simply walking down the street to a local pay telephone, an individual suspected of criminal activity can thwart the reasonable investigative efforts of the law enforcement community.

To solve this growing problem, the multipoint wiretap provision of the Intelligence Authorization Act allows law enforcement officials to obtain court authorization to tap the phones that a person under suspicion actually uses. Thus, if a suspected drug trafficker uses a stolen cellular telephone rather than the phone in his/her residence, the law enforcement community would still be able to gather evidence of wrong-doing. To ensure that these new court-ordered authorizations do not infringe upon the privacy rights of law-abiding Americans, the Conference Report includes a provision that prohibits the activation of a tap unless it is reasonable to presume that the person under suspicion is about to use or is using a given telephone. This is a dramatic step forward for privacy rights because, under current law, once a tap is authorized it is active for the duration of the court order. Innocent Americans could have their conversations monitored if they use a phone also used by a criminal suspect. Under this new provision, the tap would only be operational when a suspect is involved in a conversation.

Mr. Speaker, in closing, I would like to commend the leadership of Chairman PORTER GOSS and ranking member NORM DICKS for their efforts on this provision. I would also like to commend Congressman BILL MCCOLLUM for his tireless efforts on this issue as well. I believe that a balance has been reached that gives the law enforcement community more effective tools to protect American citizens while also further protecting the privacy rights of our constituents. I urge the adoption of the Conference Report.

AVIATION CONSUMER RIGHT TO KNOW ACT

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. DEFAZIO. Mr. Speaker, I rise today to introduce the "Aviation Consumer Right To Know Act," legislation to give consumers access to important airline industry information.

Twenty years after the deregulation of the airline industry a debate is raging about its benefits to consumers. Deregulation proponents tout the benefits of free market competition. However, to truly enjoy any of these benefits, consumers must have access to accurate information so they can make fully informed choices.

Although there is much debate about the impact of deregulation, it is quite clear that it is almost impossible for consumers to gain full access to information about the airline industry. The dizzying array of airline prices change constantly and inexplicably. The full selection of fares remains a mystery to consumers. Even travel agents do not have access to all available fares.

Many passengers are further bewildered when they book travel on one airline only to find upon boarding that they are actually flying on a totally different airline. Domestic code-sharing agreements, primarily between larger airlines and small regional airlines, allow one airline to book tickets on another without disclosing this information to consumers.

To make booking travel easier, many consumers turn to travel agents for help. However, what most consumers do not know is that travel agents often get special incentives to book the majority of air travel sold through their agency on a particular airline. Travel agents are not currently required to disclose this information to customers. Travel agents provide an important service to the flying public by deciphering the baffling airline fare structure but consumers should also be aware that this information is not always unbiased.

Another area of frustration to consumers is the lack of accurate, consistent and realistic information about frequent flyer programs. Despite the popularity of frequent flyer programs, consumers find that when they actually choose to redeem awards, the destinations and times they want are not available. Many travelers choose an airline because of its frequent flyer program and it is important to fully disclose this type of information.

My bill would give consumers the information they need to make informed choices about what airlines to patronize. The Aviation Consumer Right To Know Act will, (1) require airlines and travel agents to disclose the actual air service carrier if it differs from the carrier issuing the ticket, (2) require travel agents to disclose any special incentives they get for booking travel on a particular airline, (3) require airlines to disclose all available fares, (4) require airlines to keep records on the likelihood of redeeming frequent flyer benefits for specific city-pairs.

I urge my colleagues to join me in sponsoring this legislation.

FEDERAL ACTIVITIES INVENTORY REFORM ACT OF 1998

SPEECH OF

HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1998

Mr. SESSIONS. Mr. Speaker, I am pleased that the House is poised to pass S. 314, the Federal Activities Inventory Reform (FAIR) Act. This legislation is a consensus compromise bill. It is an important step in the process of ensuring that the component agencies of the Federal Government deliver performance to the taxpayers they serve. This legislation, combined with the Government Performance and Results Act, the Chief Financial Officer Act and other procurement and financial management reforms, will result in an improved Federal Government.

In the 1920s, Congress raised concern over the large numbers of additional Federal functions initiated during the First World War and never discontinued. These concerns resulted in hearings. Later, in the 1950s, the House of Representatives passed legislation to terminate commercial activities of the Federal Government. In response to this legislation the Bureau of the Budget, and later, the Office of Management and Budget, issued guidance for executive branch agencies on the issue of agencies performing commercial activities. This guidance is currently represented by OMB Circular A–76.

This policy has been erratically followed since its promulgation. Agencies routinely ignore the stated policy of the President. Among the greatest problems which we face with the ineffective Administrative policy regarding the performance of agency commercial activities are the following:

(1) Agencies do not develop accurate inventories of such activities,

(2) They do not conduct the reviews outlined in the Circular,

(3) When reviews are conducted they drag out over extended periods of time,

(4) Agencies initiate commercial activities without reference to the policy, and

(5) The criteria for the reviews are not fair and equitable.

For example, certain practices are tolerated which bias cost-comparison competitions in favor of the Federal Government. A description of the cost-comparison competition process illustrates this costly unfairness. First, when an action is to be taken, the agency develops a "most efficient organization," designed to represent the best form to accomplish the purpose of the commercial activity. This MEO allows for agency commercial activities to reorganize prior to the competition. Agencies promise to shed staff and reorganize for efficiency. Sometimes, agencies do not make the changes promised under the MEO. And in no case are the post-competition promises of agency commercial activities verified or audited.

Once the MEO is established, two competitions are held. In the first competition, a commercial source is selected using performance-based criteria. The offeror representing the best value source is chosen. The winning offeror is often not the low-price offeror, since a higher-quality source can offer better value for the money. Then the best value commercial source is compared to the agency commercial activity on the basis of cost, regardless of performance or quality. The commercial source must then beat cost of the agency commercial activity, and do so by at least 10 percent.

In enacting S. 314, the Federal Activities Inventory Reform, it is the intent of Congress that the Director of the Office of Management and Budget take prompt action, through the budget process and regulations promulgated pursuant to this legislation, to ensure that:

1. Agency commercial activities establish and use cost accounting systems, as required under the Federal Accounting Standards Board (FASAB) and applicable law.

2. Agency commercial activities are not given an advantage in terms of avoiding any evaluation on performance.

3. Agency commercial activities are not given any preference merely because they are government agencies or the incumbent provider of goods or services. Agency commercial activities ought to be treated identically in this regard to commercial sources.

4. Agency commercial activities are evaluated after any award, and penalties for default are established. Such penalties should include re-competition or termination of the activity.

5. Agency commercial activities be evaluated upon their performance during the cost-comparison competition process. If the offer of any commercial source is lower than the agency commercial activity, the in-house agency commercial activity should not be selected, even if another commercial source is the best value offeror, unless the agency commercial activity is the best value source.

6. Agency commercial activities are regularly subjected to competition to ensure that the taxpayer is getting the best value.

During the course of our hearings on this legislation, it became abundantly clear that there are certain activities that the Federal government has performed in-house which can and should be converted to the private sector. Areas such as architecture, engineering, auctions, surveying and mapping, laboratory testing, information technology, and laundry services have no place in government. These activities should be converted to performance by the private sector.

There are other activities in which a public-private competition should be conducted to determine which provider can deliver the best value to the taxpayer. Examples include base and facility operation and campgrounds.

Section 2(d) of the legislation requires the head of an agency to review the activities on its list of commercial activities "within a reasonable time." Unfortunately, OMB opposed a legislative timetable for conducting these reviews. As a result of the compromise language on this matter, it will be incumbent on OMB to make certain these reviews are indeed conducted in a reasonable time frame. It is the intent of Congress in enacting this legislation that at the Department of Defense, agency commercial activities will be reviewed and competed within seven years. For the civilian agencies, it is the intent of Congress that such activities be reviewed before five years. I urge OMB to exercise strong oversight to assure timely implementation of this requirement by the agencies.

This provision also requires that agencies use a "competitive process" to select the course of goods or services. This term has the same meaning as "competitive procedure" as defined in Federal law (10 U.S.C. 2302(2) and 41 U.S.C. 259(b)). To the extent that a government agency competes for work under this section of the bill, the government agency will be treated as any other contractor or offeror in order to assure that the competition is conducted on a level playing field.

Another key decision which must be made is the determination of what is inherently governmental. The legislation continues current policy, embodied in OFPP Policy Letter 92–1. There will be certain agency commercial activities that may have components which are both inherently governmental and commercial in nature. Such activities should be segmented, so that the commercial activity can be studied for competition.

For example, one important agency function deals with the disposal of surplus government property. The Committee on Government Reform and Oversight is intimately familiar with such actions, due to its jurisdiction over the Federal Property and Administrative Services Act.

While an agency's decision of whether or not to dispose of excess, surplus and seized property is inherently governmental, the process of actually disposing of excess, surplus and seized property is not an inherently governmental function and, therefore, this activity should be listed on the commercial inventory under this legislation. There will be situations where disposal of property is an inherently governmental function, such as the disposal of certain surplus naval vessels and other weapons and weapon systems. But generally, such functions are commercial in nature, since the property disposal process generally is not so intimately connected with the public interest as to require performance by Federal employees. Therefore, Congress intends that property disposal would normally be conducted by contracting with commercial sources. The utilization of experienced, bonded commercial property disposal firms will assist the government to meet that goal, using the same structures and incentives as the private sector in disposing of excess, surplus and seized property. These practices are designed to maximize the commercial value of this property, while government practices and incentives are primarily designed to dispose of inventory as quickly as possible rather than maximizing the return on the dollar. That is the goal of this legislation.

Mr. Speaker, it is high time to pass this legislation. It is long overdue. So do all of your constituents a favor and vote for S. 314.

Executive Office of the President—Office of Management and Budget, Oct. 2, 1998

STATEMENT OF ADMINISTRATION POLICY

S. 314—FEDERAL ACTIVITIES INVENTORY REFORM ACT

(Thomas (R) WY and 16 cosponsors)

The Administration has no objection to S. 314, the "Federal Activities Inventory Reform Act of 1998 (FAIR)." The Act would reinforce efforts to improve the identification and review of non-inherently governmental activities. The bill permits the agencies to assess which functions should be submitted to competition with the private sector and allows the Government to choose the source—public or private—which is the most cost effective and in the best interests of the taxpayer. This bill is consistent with Administration efforts to reform Federal procurement and ensure that taxpayers receive the best value.

The Administration's policy is to promote competition to achieve the best deal for the taxpayer. Competition is an integral part of the Administration's overall reinvention and management improvement effort. The inventories of commercial activities required by the FAIR Act will help senior agency managers and OMB to identify opportunities not only for competition, but also other reinvention opportunities, including: re-engineering, organizational restructuring, termination decisions, and the possibility of applying new technologies, such as electronic commerce.

HONORING SENATOR JOHN GLENN

HON. ROBERT W. NEY
OF OHIO

HON. STEVE C. LaTOURETTE
OF OHIO

HON. JOHN A. BOEHNER
OF OHIO

HON. SHERROD BROWN
OF OHIO

HON. STEVE CHABOT
OF OHIO

HON. PAUL E. GILLMOR
OF OHIO

HON. TONY P. HALL
OF OHIO

HON. DAVID L. HOBSON
OF OHIO

HON. MARCY KAPTUR
OF OHIO

HON. JOHN R. KASICH
OF OHIO

HON. DENNIS J. KUCINICH
OF OHIO

HON. MICHAEL G. OXLEY
OF OHIO

HON. ROB PORTMAN
OF OHIO

HON. DEBORAH PRYCE
OF OHIO

HON. RALPH REGULA
OF OHIO

HON. THOMAS C. SAWYER
OF OHIO

HON. LOUIS STOKES
OF OHIO

HON. TED STRICKLAND
OF OHIO

HON. JAMES A. TRAFICANT, JR.
OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. NEY. Mr. Speaker, my colleagues and I rise today to pay tribute to an American and

Ohio hero. More than 35 years ago, JOHN GLENN made history as the first American to orbit the earth. On October 29, he will once again make history as the oldest man to travel into space. On behalf of the people of Ohio and the country, along with the rest of the members of the Ohio delegation, I would like to thank Senator GLENN for his dedicated service to our country and wish him the best of luck on his upcoming mission.

JOHN HERSCHEL GLENN, Jr., is a true American hero. He has served his country honorably in the Marine Corps, in the U.S. Space Program and as a member of the United States Senate. On February 20, 1962, he became a national figure after becoming the first American to orbit the earth. Senator GLENN, a native of Ohio, has represented the working families of Ohio as their Senator since 1974. His upcoming shuttle mission and retirement at the end of this Congress will punctuate the end of a remarkable stretch of public service that will leave an indelible mark on our society.

October 29, 1998, marks a triumphant day for our nation when Senator GLENN returns to space aboard the Space Shuttle Discovery. Nearly 37 years after his initial trip into space, he will again represent his country and our state as a member of Discovery Mission STS–95. As he prepares for his upcoming mission, the Members of the Ohio delegation wish salute to the Senator from Ohio. As he prepares for the upcoming mission, we salute the Senator and native of New Concord, Ohio. Godspeed, JOHN GLENN.

IN HONOR OF MICHAEL MARCELLINO

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. KUCINICH. Mr. Speaker, I rise today to honor Michael Marcellino. Michael Marcellino served as a United States Army combat correspondent in the Vietnam War from 1967 to 1968. After his honorable discharge from the service, he worked for 13 years as a newspaper reporter in Northeast Ohio with the Painesville Telegraph and the Sun Newspapers.

While at Sun Newspapers, Marcellino received two national awards for excellence in reporting—the Suburban Newspapers of America Award for Investigative Journalism and the national Newspaper Association's Community Service Award. His reporting included Veterans' affairs, government and politics.

From 1983–1987, Marcellino served on the Cleveland staff of Congressman Louis Stokes. As Community Relations Specialist, his work included advocacy for community, veterans and human rights issues. He was appointed Press Secretary to Mayor-elect Michael R. White in 1989. During nearly nine years with the White Administration, Marcellino also served as Liaison for Veterans and Military Affairs to Mayor White and Manager of Marketing for the City of Cleveland's Department of Public Utilities.

Marcellino is presently a writer and public relations consultant. He is a founding board member of the Greater Cleveland Veterans Business Resource Council and a member of the Veterans of Foreign Wars and the American Legion.

He attended Cleveland and Parma Public Schools and Wake Forest University. Marcellino and his wife, Laurie, a restaurant owner, have three children, Sean, Rachael, and Ari.

FISHERIES STOCK ENHANCEMENT

HON. DAN MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. MILLER of Florida. Mr. Speaker, as a leader in the field of fisheries stock enhancement, Mote Marine Laboratories was highlighted recently in an article from Fly Fishing in Saltwater magazine. Mote Marine is located in Sarasota, Florida which is in the 13th District of Florida and provides innumerable benefits to our environment and my constituents. I am pleased therefore to enter this article recognizing Mote Marine's importance into the CONGRESSIONAL RECORD.

[From Fly Fishing in Saltwater, Sept./Oct. 1998]

SNOOK FOR THE MASSES—MARINE FISHERIES STOCK ENHANCEMENT MAY BE IN OUR FUTURE

(By Don Phillips)

On January 10, 1998, Steve Serfling and Todd Hershfield went fishing for snook in Sarasota Bay, Florida. In two hours they caught and released four snook on the fly.

That was no surprise because they were fishing an area where the Mote Marine Laboratory had earlier released small snook as part of an experimental stock-enhancement program. Serfling is director of Mote's aquaculture program and Hershfield works in the laboratory and their January trip was one of four the two had made to find out how the stocked snook were integrating with the natural population. Nice work if you can get it!

As of February this year, the Mote Laboratory had stocked 12,000 juvenile snook in eight different areas of Sarasota Bay, the Braden River, and several areas of Tampa Bay. The results have been most encouraging. Of 18 snook caught during Todd and Hershfield's four trips, half were from Mote's Aquaculture facility (their origin was readily determined by a miniature red marker implanted in the snook shortly before their release).

The laboratory and its partner, Florida's Department of Environmental Protection, are delighted. The stocked fish seem to have integrated well into the natural population and their growth, appearance, health, and behavior mirrors that of their wild cousins.

Actually, that shouldn't be too surprising; the stocked snook were raised from eggs and milt removed from wild snook netted from and released back into the same areas.

When I heard about the stocking program I made arrangements to visit Mote's acquaculture facility on City Island in Sarasota to find out more. Previous experience with freshwater and anadromous fish stocking programs had not left me exactly impressed with this method of fisheries enhancement. "Put-and-take" fishing mentality, genetic deterioration, diseases, and pollution are just some of the problems associated with hatchery programs. So it was with a fair amount of skepticism that I planned my visit.

But after touring the facility with Serfling I was impressed with the technical sophistication of Mote's approach. The lab has paid close attention to every detail of the snook's early life in an effort to duplicate its natural environment.

"We start with wild eggs and milt," Serfling said. "The fertilized eggs hatch into larvae that develop over a two-day period on their own yoke sacs. During these two days they develop eyes, mouths, and a digestive system, so they can feed. Then the larvae are fed microalgae and zooplankton cultured in our own hatchery, duplicating their natural food at this stage in their life.

"Pellet feeding begins after about four weeks, at the point when the fingerlings require larger food sizes Cannibalism is a major problem with carnivorous fish like snook, because they instinctively prefer to each fish from day 20 onward. But they cannot be size-graded and separated to reduce cannibalism until around day 40, because the larvae and fry stages are too delicate to handle.

"A few days before stocking the snook are also fed live minnows, to reinforce their natural instinct to chase and cat swimming prey. Their immediate predatory behavior suggests that this instinct is alive and well."

The heart of the aquaculture facility is a closed-cycle water system that controls water salinity, temperature, pH, oxygen content, and turbidity. Waste products are treated and recycled. Only a very small amount of fresh water or filtered seawater is added weekly to replenish losses and adjust salinity.

This closed-cycle approach insulates the system from undesirable environmental phenomena such as red tide or periods of exceedingly cold temperature, significantly increasing survival of the young snook.

The aquaculture facility also uses cylindrically shaped tanks to minimize collision trauma among the fish. When the fish are large enough, size grading is done periodically to minimize cannibalism.

"We have now progressed to the point where 10 percent of our larvae survive to the 5- or 6-inch size range in six months," Serfling said, "This is quite impressive when compared with an equivalent 0.0005 percent rate for wild fish under favorable environmental conditions." The survival percentage is expected to increase even more as the laboratory learns more about young snook.

Mote also is raising Gulf and short-nosed sturgeon and has plans to include pompano, flounder and snapper in its program. Funding is through the William R. Mote Scientific Foundation.

After touring the facility I met with Dr. Ken Leber, Mote's senior scientist and director of fisheries and aquaculture research, and Dr. John Miller, professor of fisheries and oceanography at North Carolina State University who is a visiting scientist at the Mote Laboratory. Both were enthusiastic about the stocking program, but both also were candid about the hurdles still to be overcome.

Leber said the laboratory is prepared to continue the program up to and including full-scale hatchery releases, if appropriate federal and state support is obtained. But he added that a lot of research is still needed to understand the many variables of stock enhancement and to determine its economic viability as a fishery management tool.

"What, when, and where to stock are questions needing definitive answers," he said. For example, economic considerations might suggest stocking lots of fingerlings, but high initial predation rates could make this approach penny-wise and pound-foolish.

Similarly, stocking excessive numbers of fish could upset the balance of local ecosystems by adding too many predators or displacing wild stocks.

Determining the best season for stocking also is important so new residents have the best chance for acclimatization and survival.

Yet another consideration is finding the best places for stocking. Those places must provide immediate sanctuary and food. Thermal refuges may be particularly important to minimize mortality due to high or low water temperatures.

Leber and his staff are studying these questions by assessing current populations, performing stocking experiments, then evaluating the new populations.

Similar efforts are going on elsewhere around the world, with researchers sharing the results. Recently, Mote joined forces with research activities in Hawaii, Mississippi, and Florida (the Florida Marine Fisheries Research Institute) to address stock enhancement on a large scale. This multi-million dollar effort, sponsored by the federal government, is likely to draw in other research activities, especially from the Gulf States.

"Since the 1950s, the focus of marine fisheries management has concentrated on maintaining and restoring habitat and controlling harvest through regulation," Leber said. "Stock enhancement has thus far largely been ignored as a management tool for marine fisheries. We are now not too far from being able to supplement these two strategies (habitat maintenance and restoration) with selective stock enhancement, where such (measures) can be supported by the local ecosystem.

"The old approach of stocking without careful assessment of impact cannot be tolerated today, especially in areas like Florida, where population growth is significant and fishing pressure is ever increasing.

"I like to think of our direction today is toward more responsible marine fisheries management, where the focus is being shifted to maintain the health of our fish populations and their habitat and environment, rather than only raising and stocking the maximum number of fish per taxpayer dollar."

I left the Mote Marine Laboratory with kind of a warm feeling inside. It's nice to know there are programs and people trying to steer us in the right direction.

The Mote Marine Laboratory is an independent, nonprofit research organization dedicated to the marine and environmental science. Located on an 11-acre site on City Island in Sarasota, Florida, the laboratory has extensive research and administrative facilities plus the Mote Aquarium, which attracts about 250,000 visitors a year.

The laboratory is staffed by 50 scientists with master's or doctorate degrees, plus support personnel and more than 1,000 volunteers. Its $3.5 million research program is supported by grants, contracts, aquarium income, and donations. Founder William R. Mote has thus far donated all funding for the laboratory's aquaculture program.

The laboratory's other research and education activities include threatened species (sharks, sea turtles, manatees, etc.); fish vision; red tide; commercial fishing bycatch; improvement of recreational fishing; mackerel migrations; the impact of thermal power plants on sea grasses; river, estuary and wetland management; and the environmental impacts of chemicals, pesticides, and other forms of pollution.

For more information on the laboratory and its programs, contact Virginia Haley, 1600 Ken Thompson Parkway, Sarasota FL 34236, telephone (941) 388–1441, fax (941) 388–4312, or e-mail katura@mote.org.

EXTENSION OF REMARKS

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, even nations need a soul. Indeed great countries establish traditions, institutions, and civil codes to reflect the integrity of their people. Taken together, these attributes give insight to a nation's character, and as such, signal the dignity of her people.

The United States Navy is but one American institution charged with defending our borders and maintaining our dignity. Among the Navy's first officers is Joseph E. Schmitz who has devoted considerable thought to the heavy matters we weigh today in Congress.

I hereby submit for the RECORD, Mr. Schmitz's scholarly analysis of current conditions created by the Commander-in-Chief. I furthermore commend the conclusions of Mr. Schmitz to my colleagues and beg they prove persuasive in resolving the great question before us.

WHEN THE COMMANDER-IN-CHIEF MISLEADS, WHO FOLLOWS?

OR WHAT DO WE TELL THE TROOPS NOW, COMMANDER?

(By Joseph E. Schmitz[1])

How can a commanding officer of a warship ask an 18-year-old sailor to risk his life in the line of duty if the commander is not willing to risk his own personal ambitions for honor? He can't. A military leader must be the example, first and foremost. Congress should not lose sight of this reality of military leadership as it deliberates over the recent report of the Independent Counsel.

While the Constitution empowers Congress "To make Rules for the Government and Regulation of the land and naval Forces," each commander is responsible for enforcing these rules within his or her own command. At the same time, the President as Commander-in-Chief is ultimately responsible for enforcing these rules throughout—as well as for the overall good order and discipline of —the United States Armed Forces.

Technical legal arguments that the Uniform Code of Military Justice may not apply to the Commander-in-Chief miss the point. At issue are some of the first principles upon which our colonial forefathers pledged their "sacred honor," among which is Equal Justice Under Law, requiring that even the President be accountable to the Rule of Law (as opposed to the rule of men). By definition, the Rule of Law cannot be influenced by public opinion, whether through public opinion polls or otherwise.

By virtue of an Act of Congress in 1956, recodifying the First Article of the 1775 "Rules for the Regulation of the Navy of the United Colonies of North-America" into what is still public—albeit not-well-publicized—law, "All commanding officers and others in authority in the naval service are required to show in themselves a good example of virtue, honor, patriotism, and subordination; . . . to guard against and suppress all dissolute and immoral practices, and to correct, according to the laws and regulations of the Navy, all persons who are guilty of them."[2] This long-standing moral edict by Congress exemplifies the central theme of the "Legislation of Morality" seminar this author conducts at Georgetown University Law Center: democratically-enacted legislation is the societal analog to an individual's conscience formation process. At the national level, Congress promulgates the national conscience through public laws, essentially announcing what is right and what is wrong for the nation. As with the relationship between individual conscience and behavior, this societal conscience formation process is distinct from, albeit integrally related to, the enforcement process.

In his August 17, 1998, nationally-televised speech, the President purported to accept full responsibility for misleading the nation about his "inappropriate" relationship with a White House intern. This confession by the Commander-in-Chief to both dishonorable and immoral conduct in the Oval Office, and the subsequent release of the Independent Counsel's Report and video tape, among other things, have amplified the need for all military leaders to uphold the moral authority of the First Article of the 1775 Navy Regulations, sometimes referred to as the "First Principle of the American Military."

In the "Code of Conduct for Members of the United States Armed Force," like all other members of the Armed Forces, I was admonished to "never forget that I am an American, fighting for freedom, responsible for any actions, and dedicated to the principles which made my country free." Every first-year law student learns that two of those principles are accountability "according to law" and "no man is above the law." According to the text of the Constitution, even an impeached President, after he is convicted by the Senate and removed from office for "treason, bribery, or other high crimes and misdemeanors" (U.S. Const., art. II, sec. 4), "shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law." U.S. Const., art I, sec. 3.

A few years ago, as the Naval Academy was attempting to deal with the worst cheating scandal in its 150-year history, a committee hearing on Capitol Hill featured a telling colloquy between Senator Robert C. Byrd and Rear Admiral Thomas Lynch, then Superintendent of the Naval Academy. At the beginning of the colloquy, Senator Byrd asked Admiral Lynch whether he was familiar with the adage, "You rate what you skate." Of course the Admiral was. But neither the Senator nor the Admiral discussed the adage further.

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[1] Mr. Schmitz graduated with distinction from the U.S. Naval Academy and earned his Doctor of Jurisprudence from Stanford Law School. He is currently an attorney in Washington D.C. and an Adjunct Professor of Law at Georgetown University Law Center, where he teaches an advanced constitutional law seminar on "Legislation of Morality: Constitutional and Practical Considerations" (the syllabus for which is available by request to jschmitz@pattonboggs.com).

[2] 10 U.S.C. §5947. The 1775 version reads: "ART. 1. The Commanders of all ships and vessels belonging to the THIRTEEN UNITED COLONIES, are strictly required to shew in themselves a good example of honor and virtue to their officers and men, and to be vigilant in inspecting the behaviour of all such as are under them, and to discountenance and suppress all dissolute, immoral and disorderly practices; and also, such as are contrary to the rules of discipline and obedience, and to correct those who are guilty of the same according to the usage of the sea" (www.history.navy.mil).

This Naval Academy adage is tantamount to a rule that "while officers are responsible for personal choices, they need not be accountable for poor choices unless caught." Such a mixed moral message fundamentally undermines the formation of character traits such as honesty, reliability, moral courage, and good judgment, upon which rest not only the tax dollars of hard-working Americans, but the lives of many Americans as well.

A crisis of military discipline looms if any commander, by this words and actions, promotes and adage that "you rate what you get away with, and even if you're caught, it's OK to evade accountability if you can get away with that"; a constitutional crisis looms if our legal system does not hold all officers with full responsibility to a standard of full accountability. Responsibility without accountability "according to law" undermines the core foundation of the Constitution, the aforementioned basic principle known as the Rule of Law, without which our Constitution is no more than a piece of paper.

The Armed Forces now have a more fundamental challenge to leadership training than simply instilling character traits adverse to lying, cheating, and stealing: How do we instill in young leaders the moral courage to admit when they are wrong and to accept accountability for mistakes made? Personal example by senior leaders, up to and including the Commander-in-Chief, is an essential starting point—and risk to personal ambitions is no excuse for any officer of the United States Armed Forces.

After the Commander-in-Chief holds himself accountable to the Rule of Law, or is otherwise held accountable to the Rule of Law, "We the People"—even those of us who serve "at the pleasure of the President"—should follow his lead and talk about forgiveness. In the meantime, other commanders might do well by following the lead of, and by telling their troops to follow the lead of, Archbishop John Carroll, whose "A Prayer for the Republic" seems as timely now as when penned by the founder of Georgetown University 200 years ago: "We Pray Thee, O God . . . assist with Thy holy spirit of counsel and fortitude the President of the United States, that his administration may be conducted in righteousness, and be eminently useful to Thy people over whom he presides; by encouraging the due respect for virtue and religion; by a faithful execution of the laws in justice and mercy; and by restraining vice and immorality. Let the light of Thy divine wisdom direct the deliberations of Congress, ..."

DALLAS LIVER TRANSPLANT PROGRAM

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I submit the attached materials to be included in the CONGRESSIONAL RECORD:

DALLAS LIVER TRANSPLANT PROGRAM, BAYLOR UNIVERSITY MEDICAL CENTER, CHILDREN'S MEDICAL CENTER OF DALLAS, DALLAS, TX,
September 22, 1998.

Congresswoman EDDIE BERNICE JOHNSON,
Longworth House Office Building,
Washington, DC.

DEAR CONGRESSWOMAN JOHNSON: I am aware that the House recently passed H.R. 4250, the Patient Protection Act of 1998. I understand that the Patient's Bill of Rights Act, S. 2330, is currently under consideration as the companion bill.

Managed care is here to stay, but it has, as you are well aware, caused many significant problems. I have had personal, intimate experience with health care plans ever since they were first introduced into the Dallas health care market in the late 1980s. I support the provisions in the bill as it is currently worded. However, I find it very troublesome that the private insurance plans would not be required to emulate the same restrictions against financial incentives as the current Medicare rules provide. To allow a system that awards or penalizes physicians depending on how "cost effective" the care is they provide I believe is unethical. The simple thought of paying physicians extra if they do not provide health care is, in effect, repugnant to me. In addition, we must prevent the development of separate requirements for public and private health care sectors.

In my own particular field, that of transplantation, it is very obvious that transplant patients, i.e. recipients of kidneys, pancreas', livers, hearts, lungs and other organs, are so sick and have such serious disorders that they need to be cared for by specialists in their respective fields, both before and after the transplant. There are areas of the country where a specialist's care is not available. In those circumstances, the local physicians work very closely with the super-specialists at the transplant institutions. I think it is essential to allow chronically ill patients to have specialists designated as their primary care physicians.

On a separate vein, the basis for improvement of care and the safety of treatment we can provide to patients is to allow the patients to participate in scientific, peer-reviewed, controlled trials. It is essential for medicine, and to have health care plans forbid patient participation because of whatever reason they deem fit is unthinkable. They always want to participate and reap the benefits of any advances, especially if they can save a few dollars for themselves. However, they don't ever want to participate and help such developments along.

Finally, since I have seen health care being prevented and withheld by health care providers so many times, I believe it is imperative to allow patients to sue their carrier. The unconscionable way that many health care providers approach health care today is upsetting. One situation I bring to your attention is several years ago open of the biggest HMOs in the country had patients who were 20% more expensive to transplant than other patients. The reason was simply that the patients coming from this particular HMO were so much farther advanced and therefore more complex when they finally arrived for transplantation. The patients were simply prevented from having the transplants when they were in optimum condition, thus jeopardizing their lives. Clearly this was not the fault of the referring physicians or the physicians involved in the transplantation, but the HMOs corporate policy in trying to avoid the cost that would be incurred. Thus, the right to sue the carrier is absolutely essential to insure the patient's right to prevent withholding of care that is so widely prevalent today.

As always I appreciate your work in Congress and your involvement In the health care problems.

Yours most sincerely,
GORAN B. KLINTMALM, M.D.
Medical Director, Transplantation Services, Baylor University Medical Center—Dallas.

DEPARTMENT OF HEALTH & HUMAN SERVICES,
Washington, DC, September 23, 1998.

HON. EDDIE BERNICE JOHNSON,
House of Representatives, Washington, DC.

DEAR MS. JOHNSON: Thank you for your letter regarding implementation of the surety bond requirement for home health agencies (HHAs) included in the Balanced Budget Act of 1997. I regret the delay in this response.

In response to concerns raised by Members of Congress and the home health industry, the Health Care Financing Administration (HCFA), in a rule published in the Federal Register on July 31, announced the indefinite suspension of the compliance date by which home health agencies must obtain a surety bond. As a result, home health agencies no longer have a date by which they must obtain a surety bond. The Congress has requested that the General Accounting Office conduct a study of the home health surety bond requirement, and upon completion of that study, HCFA will work in consultation with the Congress about the surety bond requirement. Following this review and consultation, the new date by which home health agencies must obtain bonds will be at least 60 days after HCFA publishes a revised rule requiring bonds, but will not be earlier than February 15, 1999.

I hope this information is helpful, and I appreciate your letter. A similar letter is being sent to the other members of the delegation who co-signed your letter.

Sincerely,
NANCY-ANN MIN DEPARLE,
Administrator.

A TRIBUTE TO MARGARET ROBERTS AND CHAR CALLIES

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention today a recent editorial from one of the finest weekly papers I know, the Desert Trail newspaper in Twentynine Palms, California. This editorial pays tribute to two remarkable woman who have made, and continue to make a tremendous differnce to the people of Twentynine Palms.

[The Desert Trail, Thursday, Sept. 10, 1998]

CONGRATS TO OUR CITY CLERKS

There are upsides and downsides to every situation, and the announcement this week that Deputy City Clerk Char Callies will succeed retiring City Clerk Margaret Roberts is no exception.

We all knew the day would come when Margaret would hang up her city of

Twentynine Palms seal and head into "retirement" with her husband, Marine Sgt. Maj. Alex Roberts.

That day will officially come on Dec. 18, when Margaret closes the door on an 11-year career with the city, City Manager Jim Hart announced Wednesday.

"Margaret was the city's first full-time employee and she was instrumental in helping guide the new city after incoporation. We all owe Margaret a sense of gratitude for her efforts on behalf of the city," Hart said in announcing that her resignation had been accepted reluctantly by the City Council for the end of the year.

There's probably not anyone in this city who doesn't owe Margaret some debt of gratitude. For more than a decade she has represented the city of Twentynine Palms in a most gracious and straightforward fashion. It seems there's nothing she can't do, nothing and no one she cannot handle with aplomb.

She has guided council candidates, provided information and assistance of all kinds to just about everyone and their brother and been there to lend an ear when needed.

Margaret has never failed to provide The Desert Trail with information we've requested and never hesitated to pick up the phone and let us know when a story needed to be told.

We will all miss Margaret, even as we wish her well, when she and Alex head East to pursue the next part of their lives together.

That said, we don't think the City Council could have made a better choice to replace Margaret than Char Callies.

A longtime resident of Twentynine Palms, Char is personable, caring, efficient, strong, hard-working and no-nonsense, just like her predecessor.

"Char has been working hard over the past three years to gain the knowledge and experience the City Council felt was needed to become city clerk," Hart said in announcing her promotion. "She has done an outstanding job as the city manager's secretary and deputy city clerk and this promotion is a recognition of Char's efforts."

We wholeheartedly congratulate Char on her promotion and look forward to working with her come mid-December. It's nice to know that she'll be on the job when Margaret says goodbye.

Mr. Speaker, please join me and our colleagues in recognizing the incredible contributions and achievements of these fine women. I know that the entire City of Twentynine Palms is proud of their fine work. It is only fitting that the House of Representatives pay tribute to them today.

TRIBUTE TO LOU STOKES

HON. THOMAS C. SAWYER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. SAWYER. Mr. Speaker, I am here today to share the feelings of LOU STOKES' staff as they celebrate his legacy.

Much has been said on this floor about Lou's great accomplishments in this body, but I can think of no greater tribute than that the members of his staff—who have worked late into the night and early into the morning alongside their boss—would want to pay tribute to him in the record.

Lou has put in countless hours both in Cleveland and in Washington over the past 30 years, and his staff has been there with him, working to address the issues most important to him and to his constituents. His staff members have worked in Washington for legal aid, for improvement of public housing, for increased opportunities for the poor. They have worked in the district to address the needs of his constituents. They have all made it their goal to fight alongside LOU for the residents of his congressional district and for all Americans.

So, Mr. Speaker, it is an honor and a privilege today to place a tribute to the Honorable LOU STOKES into the CONGRESSIONAL RECORD on behalf of his loyal and dedicated staff.

STAFF PAYS TRIBUTE

Mr. Speaker, this great body has known giants. The halls of this chamber have resounded to the words of great men and women.

Mr. Speaker, we have been most fortunate to serve one such exceptional gentleman of the House: the gentleman from Ohio, Dean of the Ohio Delegation, the Honorable Louis Stokes. We ride his shoulders and see his vision. Nothing has escaped his penetrating discovery in 30 years.

He put some of us in the field to walk amongst the people and respond to their problems. He gave some of us the task of finding legislative solutions. All of us, at one time or another, knew the anguish of a constituent in pain and all of us, fortunately, on numerous occasions, celebrated the victories of their success. The word "failure" is not in Lou Stokes' vocabulary; the act of failing is unfathomable. No challenge has been too big. No person is too small.

Lou Stokes has been a stalwart defender of the Constitution and has spent his adult life fighting for the right of all people to live in dignity and in peace.

He has gone from dawn to dawn, all in a day's work. His staff are in amazement as his energy continues.

We have learned much from this man of humble beginnings. One can never give too much of one's time, compassion or energy to help one's fellow man. In fact, we must always go the "extra mile" and make sure we have done all that could be done to help someone in need.

Lou Stokes emanates pride in his roots and respect for all people. He fights for his principles and has taught us to be unwavering advocates.

The system may frustrate him, but never thwart him. For Lou Stokes knows how to make change happen from within. He is tough, with a gentle heart. A task master who expects nothing more from others than he would give of himself, Lou Stokes reaches high, very high. In so doing, he makes all of us taller.

We have served Lou Stokes from varying lengths of time. We are the Stokes Team, a family. Mr. Speaker, ladies and gentlemen of the House, you are paying tribute to one of your favorite sons. As he has left an indelible mark on this institution, so has he left something with all of his staff. He has left us a challenge: always take the time to care, to take responsibility, to be involved, to reach back and reach out. Make today count so that tomorrow will be a better day for someone.

Mr. Speaker, we have been privileged to share this gentleman's vision. Thank you for this opportunity to pay tribute to a very special boss.

The Stokes legacy will continue as long as good prevails.

HONORING ALEXANDER DUBCEK

HON. JOHN L. MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. MICA. Mr. Speaker, during the six months March–August 1968 the world witnessed a revolutionary drama which began in Bratislava, now the capital of Slovakia, and ended in Prague. The world's audience was fascinated especially by the leading player, a Slovak, Alexander Dubcek. Within that short time, Dubcek became a well-known symbol for his reform efforts in the totalitarian centralist Czechoslovakia in which Slovakia was treated as no more than a region. Dubcek's reforms became known as the "Prague Spring" although they would equally deserve the title "Dubcek Spring". His reforms involved the free speech, economic experimentation, open borders and open debate over the country's political future. Dubcek was faced by Stalinist with the same courage, as he had faced the Nazi fascists in the Slovak National Uprising in 1944 in which Alexander was wounded and his brother Julius was killed. It was not just by chance that the Spring 1968 started in Slovakia. In the first and last post World War II democratic elections in Czechoslovakia in 1946, the clear winner in Slovakia had been the Democratic Party, while in the larger Czech part of the country it had been the Communist Party that finally grabbed the overall power.

However, during the night of August 20–21, 1968 Dubcek's revolution was crushed by more than 600,000 troops with 7,000 tanks from the Warsaw Pact countries—Soviet Union, Bulgaria, East Germany, Hungary and Poland. For more than twenty years Dubcek remained under constant state security scrutiny. In spite of his ordeal, he always believed that people were essentially good and he never gave up hope. With the start of the Velvet Revolution in 1989, Dubcek reemerged at the Slovak National Uprising Square in Bratislava and Wenceslas Square in Prague, convincing thousands of demonstrators that their Revolution would succeed.

Few people know that Dubcek's parents came to settle in the United States. They lived in Chicago for more than five years in the second decade of this century but returned to Slovakia shortly before Alexander's birth on November 27, 1921. Alexander literally had his very beginning in the U.S. It is also rather symbolic that the American University in Washington, DC, was among the first in the world to award Dubcek with an honorary Doctorate in April 1990, in the Spring immediately following the Velvet Revolution.

The moral and ideological impact of the "Dubcek Spring" spilled beyond the borders of his country, infiltrating the whole of the former Soviet Bloc. His message was that even the harshest dictatorship cannot prevent men of courage and honesty to reach far ahead of their time and keep their true conviction despite years of oppression. The Dubcek Spring started a process crowned by the fall of the Berlin Wall and the new democratic perspective for Central and Eastern Europe.

Alexander Dubcek and Vaclav Havel became known as the two symbols of the Velvet Revolution with great international prestige, opening the doors to the world for their respective Republics. By a fatal irony, on September 1, 1992, the day when the new Constitution of the Slovak Republic was adopted, Dubcek was gravely injured in a car accident and he died just a month before the independent Slovakia was born. Unfortunately, he died when he was the most needed by his mother country.

This year the 30th anniversary of the "Dubcek Spring" is commemorated in many countries of the world. The American University, jointly with the Embassy of the Slovak Republic, organized a series of events in which the guest of honor was Dr. Paul Dubcek, Alexander's son. I had the honor and pleasure of accompanying him through the U.S. Capitol and introducing him to such distinguished Congress Members as the Chairman of the Senate Foreign Relations Committee, Senator JESSE HELMS, and the Chairman of the House International Relations Committee, Congressman BENJAMIN GILMAN. I had the opportunity to witness that the name of Dubcek still echoed in the ears of America's leaders.

It is my honor to recognize Alexander Dubcek and also symbolically pay tribute to hundreds of thousands of Slovak Americans who not only provided a key contribution to the American industrial revolution—working hard in coal mines, factories and steel mills of America's past. But also to the Slovak Americans who now lead American business, industry and science.

Alexander Dubcek, the man symbolizing what a giant contribution of a small country at the heart of Europe can provide to the rest of the world, definitely has his place among the great historic leaders of world democracy.

OPTIONS FOR A MEDICARE PRESCRIPTION DRUG BENEFIT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. STARK. Mr. Speaker, today, I introduced legislation that would provide a prescription drug benefit for Medicare beneficiaries. The bill, if enacted, would close the most glaring deficiency in the Medicare program. With pharmaceuticals becoming an ever-more important element in the treatment of diseases, it is essential that we modernize the Medicare program by including a drug benefit.

I think there is almost universal agreement that Medicare should cover the cost of prescriptions. The issue is the cost and how to pay for it.

I've introduced this bill in the closing hours of the 105th Congress, so that interested parties could think about the issue over the adjournment period. I hope that the various stakeholders will comment over the winter, so that a new and refined bill can be reintroduced at the start of the 106th and have a wide range of support.

I have left blank in the bill the question of (1) size of the deductible, and (2) whether there should be caps on total out-of-pocket expense. Where these two numbers are set will determine what the program will cost and thus what the increase in Part B premiums will be. As we fill in these numbers, seniors and taxpayers will decide whether the admitted cost of the program is worth its value.

There is no free lunch. If the deductible is set high, the cost will be low, but it will help many fewer people. If it is a low deductible, it will be widely used, and the program's cost will be high. Do we want a low-deductible benefit, or do we want a catastrophic coverage benefit that protects people against the several thousand dollar-plus diseases? This is the heart of the debate, and I hope to hear from the public and the industries involved on this key question.

Following is some data that will give readers a feel for the cost of different levels of benefit and the trade-offs involved.

TABLE 1.—PRESCRIPTION DRUG BENEFIT COSTS FOR SMI ENROLLEES

[In billions of dollars]

Fiscal Years	2000	2001	2002	2003	2004	2005	2006	2007	2008
Rx Deductible = $1,000:									
Medicare Gross Outlays	11.1	18.3	20.8	23.8	26.8	30.2	34.1	38.4	43.3
SMI Premiums	−2.9	−4.2	−4.8	−5.4	−6.2	−7.0	−7.9	−8.9	−10.0
Net Medicare Outlays	8.2	14.1	16.1	18.2	20.8	23.3	26.2	29.6	33.3
Medicaid Outlays	0.8	1.2	1.2	1.2	1.3	1.3	1.4	1.4	1.6
Net Effect on Federal Spending	9.1	16.3	17.2	19.4	21.9	24.6	27.8	31.0	34.8
Addendum:									
Increase in Monthly SMI Premium	8.90	10.00	11.20	12.60	14.10	15.70	17.50	19.30	21.40
Rx Deductible = $2,000:									
Medicare Gross Outlays	5.7	9.7	11.6	13.6	15.8	18.6	21.5	25.0	28.9
8MI Premiums	−1.4	−2.1	−2.6	−3.0	−3.5	−4.1	−4.9	−6.6	−6.6
Net Medicare Outlays	4.3	7.8	8.9	10.5	12.3	14.4	16.7	19.3	22.3
Medicaid Outlays	1.2	1.6	1.7	1.7	1.8	1.8	1.9	2.0	2.1
Net Effect on Federal Spending	5.5	9.2	10.6	12.2	14.1	16.2	18.6	21.3	24.4
Addendum:									
Increase in Monthly SMI Premium	4.60	5.40	6.30	7.30	8.40	9.70	11.20	12.70	14.40

NOTES: All options would add prescription drug coverage to the SMI benefit package as of January 1, 2000. The Rx benefit would have a separate deductible and a 20% coinsurance requirement.
Estimates have not been reviewed and are preliminary.
No account has been taken of administrative costs or price discounts that would affect costs.
It was assumed that Medicaid would cover cost-sharing expenses under the Rx benefit for Medicaid-eligible beneficiaries.

TABLE 2.—FEDERAL COST OF MEDICARE DRUG COVERAGE UNDER ALTERNATIVE COST SHARING REQUIREMENTS WITH MEDICAID OFFSETS

[In billions of dollars] [1,2]

	Prescription Drug Benefit Cost Sharing								
	$250 Deductible, 20 Percent Copay, No Benefit Cap			$250 Deductible, 20 Percent Copay, $1,500 Benefit Cap			$500 Deductible, 20 Percent Copay, $1,500 Benefit Cap		
	Medicare Cost	Federal Medicaid Savings	Net Federal Cost	Medicare Cost	Federal Medicaid Savings	Net Federal Cost	Medicare Cost	Fedeal Medicaid Savings	Net Federal Cost
1999	19.0	2.0	17.0	14.5	1.5	13.0	11.4	1.3	10.1
2000	20.6	2.2	18.4	16.7	1.6	14.1	12.4	1.4	11.0
2001	22.3	2.4	19.9	17.1	1.8	16.3	13.4	1.5	11.9
2002	24.1	2.6	21.5	18.4	1.9	16.5	14.5	1.6	12.9
2003	26.1	2.8	23.3	20.0	2.1	17.9	15.8	1.7	14.1
2004	28.3	3.0	25.3	21.7	2.3	19.4	17.1	1.9	15.2
2005	30.7	3.3	27.4	23.5	2.5	21.0	18.6	2.0	16.6
2006	33.3	3.6	29.7	25.5	2.7	22.8	20.2	2.2	18.0
2007	36.4	3.9	32.5	27.8	2.9	24.9	21.9	2.4	19.5
2008	39.6	4.2	35.4	30.2	3.1	27.1	23.9	2.6	21.3
Total, 1999–2003	112.1	11.9	100.2	85.7	8.9	76.3	67.5	7.5	60.0
Total, 1999–2006	280.4	29.8	250.6	214.4	22.3	192.1	169.2	16.6	160.6

[1] Drug benefit costs valued at average acqusition cost.

[2] Assumes that the deductible and benefit cap are indexed at the same rates as the Medicare Part A hospital deductible over time.

Source: Lewis Group estimates using the Medicare Benefits Simulation Model (MBSM).

TABLE 3.—FEDERAL COST OF AN ILLUSTRATIVE MEDICARE BENEFITS PACKAGE THAT INCLUDES PRESCRIPTION DRUG AND STOP-LOSS COVERAGE

[In billions of dollars]

	Prescription Drug Benefit: $500 Deductible, 20 Percent Copay, $1,500 Benefit Cap			Stop-Loss Benefit: $5,000 Out-of-Pocket Stop-Loss Cap			Total Cost of Illustrative Benefits Package		
	Medicare Cost	Federal Medicaid Savings	Net Federal Cost	Medicare Cost	Federal Medicaid Savings	Net Federal Cost	Medicare Cost	Federal Medicaid Savings	Net Federal Cost
1999	11.4	1.3	10.1	5.2	0.7	4.5	16.6	2.0	14.6
2000	12.4	1.4	11.0	5.6	0.8	4.8	18.0	2.2	15.8
2001	13.4	1.5	11.9	6.1	0.9	5.2	19.5	2.4	17.1
2002	14.5	1.6	12.9	6.9	0.9	6.0	21.4	2.5	18.9
2003	15.8	1.7	14.1	7.3	1.0	6.3	23.1	2.7	20.4
2004	17.1	1.9	15.2	7.9	1.1	6.8	25.0	3.0	22.0
2005	18.6	2.0	16.6	8.7	1.2	7.5	27.3	3.2	24.1
2006	20.2	2.2	18.0	9.4	1.3	8.1	29.6	3.5	26.1
2007	21.9	2.4	19.5	9.9	1.5	8.4	31.8	3.9	27.9
2008	23.9	2.6	21.3	10.5	1.6	8.9	34.4	4.2	30.2
Total, 1999–2003	67.5	7.5	60.0	31.1	4.3	26.8	98.6	11.8	86.8
total, 1999–2008	169.2	18.6	150.6	77.5	11.0	66.5	246.7	29.6	217.1

Source: Lewin Group estimates using the Medicare Benefits Simulation Model (MBSM).

TRIBAL SELF-GOVERNANCE AMENDMENTS OF 1998

SPEECH OF

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1998

Mr. MILLER of California. Mr. Speaker, I am proud to have sponsored this bill, the Tribal Self-Governance Amendments of 1998, which I believe will mark yet another milestone in the history of Indian self-determination. This major legislation is the product of more than two years of hard work and consultation with Indian tribes and the Administration. We have worked diligently with the tribes and the Department of Health and Human Services to make this bill as fair as possible. I would like to extend my appreciation to the tribal leaders, their representatives, and the Departmental staff who have made passage of this bill possible.

It is important to note that subsequent to the full committee mark up that occurred this spring, the tribes and the Department were able to work out additional differences. Thus there are several changes that I want to highlight. We were able to come to agreement on issues regarding reassumption, regulation waiver, trial de novo, rejection of final offer, and the creation of a new title VI to carry out the non-IHS demonstration project study.

Let me briefly explain what this bill does. H.R. 1833, the Tribal Self-Governance Amendments Act of 1998, would create two new titles in the 1975 Indian Self-Determination and Education Assistance Act. The 1975 Act allows Indian tribes to contract for or take over the administration and operation of certain federal programs which provide services to Indian tribes. Subsequent amendments to the 1975 Act created Title III of the Act which provided for a Self-Governance Demonstration Project that allows for large-scale tribal Self-Governance compacts and funding agreements on a "demonstration" basis.

The new title V created by H.R. 1833 would make this contracting by tribes permanent for programs contracted for within the Indian Health Service (IHS). Thus, Indian and Alaska Native tribes would be able to contract for the operation, control, and redesign of various IHS activities on a permanent basis. In short, what was a demonstration project would become a permanent IHS Self-Governance program. Pursuant to H.R. 1833, tribes which have already contracted for IHS activities would continue under the provisions of their contracts while an additional 50 new tribes would be selected each year to enter into contracts.

The 1998 amendments require that Indian tribes must meet certain criteria—they have to have experience in government contracting, have clean audits, and demonstrate management capability—in order to exercise the right to take over the operation of IHS functions, including the funds necessary to run them.

H.R. 1833 also adds a new title VI which authorizes a feasibility study regarding the execution of tribal Self-Governance compacts and funding agreements of Indian-related programs outside the IHS but within the Department of Health and Human Services on a demonstration project basis.

Although this issue was not addressed in this legislation, I want to express my continued concern about the poor labor relations at various Indian Health Service facilities throughout the West, but particularly the IHS facilities at Sacaton, Arizona and Owyhee, Nevada. Contrary to both the law and agency decisions, the IHS has refused to complete its obligation to meet and negotiate with the Laborers' International Union which represents workers at these facilities. I also understand that the IHS continues to commit unfair labor practices. I want to send a strong message to the IHS that I will continue to monitor labor relations at IHS facilities and that continued indifference to the law and agency decisions will not be ignored by Congress. I understand that the Administration is aware of my concerns and has agreed to correct these issues in the very near future.

I firmly believe that this bill advances the principle focus of the Self-Governance program—to remove needless and sometimes harmful layers of federal bureaucracy that dictate Indian affairs. By giving tribes direct control over federal programs run for their benefit and making them directly accountable to their members, we are enabling Indian tribes to run programs more efficiently and more innovatively than federal officials have in the past. And, allowing tribes to run these programs furthers the Congressional policy of strengthening and promoting tribal governments.

The Self-Governance program recognizes that Indian tribes care for the health, safety, and welfare of their own members as well as that of non-Indians who either live on their reservations or conduct business with the tribes and are thus committed to safe and fair working conditions and practices.

A comprehensive description of the substitute follows. I strongly urge my colleagues to pass this legislation.

SECTION-BY-SECTION DESCRIPTION OF SUBSTITUTE

SECTION 1. SHORT TITLE.

This provision sets forth the short title, "The Tribal Self-Governance Act Amendments of 1998."

SECTION 2. FINDINGS

This provision sets forth the findings of Congress which reaffirm the inherent sovereignty of Indian tribes and the unique government-to-government relationship between the United States and Indian tribes. The findings make clear that while progress has been made, the federal bureaucracy has eroded tribal self-governance. The findings state that the Federal Government has failed to fully meet its trust responsibility and to satisfy its obligations under treaties and other laws. The findings explain that Congress has reviewed the tribal self-governance demonstration project and concluded that self-governance is an effective mechanism to implement and strengthen the federal policy of government-to-government relations with Indian tribes by transferring Indian tribes full control and funding for federal programs, functions, services, or activities, or portions thereof.

SECTION 3. DECLARATION OF POLICY

This section provides that it is Congress' policy to permanently establish and implement tribal self-governance within the Department of Health and Human Services with the full cooperation of its agencies. Among the key policy objectives Congress seeks to achieve through the self-governance program are to (1) maintain and continue the United States' unique relationship with Indian tribes; (2) allow Indian tribes the flexibility to choose whether they wish to participate in self-governance; (3) ensure the continuation and fulfillment of the United States' trust responsibility and other responsibilities towards Indian Tribes that are contained in treaties and other laws; (4) permit a transition to tribal control and authority over programs, functions, services, or activities (or portions thereof); and (5) provide a corresponding parallel reduction in the Federal bureaucracy.

SECTION 4. TRIBAL SELF GOVERNANCE

This section sets out the substantive provisions of the Self-Governance program within the Indian Health Service and authorizes a feasibility study of the applicability of Self-Governance to other Departmental agencies by adding Titles V and VI to the Indian Self-Determination and Education Assistance Act.

SECTION 501. ESTABLISHMENT

This provision directs the Secretary of HHS to establish a permanent Tribal Self-Governance Program in the Indian Health Service.

SECTION 502. DEFINITIONS

Subsection (a)(1) defines the term "construction project". The Committee does not intend this legislation to preclude agreements between self-governance tribes and the Indian Health Service for carrying out sanitary facilities construction projects pursuant to a "Project Funding Agreement" or "Memorandum of Agreement" executed as an addendum to a Title V Annual Funding Agreement as authorized by Section 7(a)(3) of Pub. L. 86-121, 73 Stat. 267 (42 U.S.C. §2004(a)).

Subsection (a)(2) provides that a "construction project agreement" is one between the Secretary and the Indian tribe that, at a minimum, establishes start and completion dates, scope of work and standards, identifies party responsibilities, addresses environmental considerations, identifies the owner and maintenance entity of the proposed work, provides a budget, provides a payment process, and establishes a duration of the construction project agreement.

Subsection (a)(3) defines "inherent federal functions" as those functions which cannot be legally delegated to Indian tribes. This definition states the obvious. Inherent federal functions are functions which the Executive Branch cannot by law delegate to other branches of governments, or non-governmental entities. The Committee's definition is consistent with the Department of the Interior Solicitor's Memorandum of May 17, 1996 entitled "Inherently Federal Functions under the Tribal Self-Governance Act of 1994." The Committee's definition is expressly intended to provide flexibility so as to allow the Secretary and the tribes to come to agreement on which functions are inherently federal on a case-by-case basis. It is important to note that, in the tribal procurement context, there is another factor the Committee has considered—when the federal government is returning tribal governmental powers and functions that are inherent in tribes governmental status such as those possessed by tribes before the establishment of the federal Indian bureaurcracy, the scope of allowable transfers is broader than in the transfer of federal government powers to private or other governmental entities.

Subsection (a)(4) defines "inter-tribal consortium". The Committee notes that during the Title III Demonstration Project the IHS authorized intertribal consortia, such as the co-signers to the Alaska Tribal Health Compact, to participate in the Project and that participation has had great success. The definition of "inter-tribal consortium" is intended to include "tribal organizations" as that term is defined in Section 4(l) of the Indian Self-Determination Act, Pub. L. No. 93-638. This would include consortia such as those involved in the Alaska Tribal Health Consortium. It is the Committee's intent that inter-tribal consortia and tribal organizations shall count as one tribe for purposes of the 50 tribe per year limitation contained in section 503(a).

Subsection (a)(5) defines "gross mismanagement". The inclusion of this term is to govern one of the criteria that the Secretary is to consider in the reassumption of a tribally-operated program. The Secretary will be given the authority to reassume programs that imminently endanger the public health where the danger arises out of a compact or funding agreement violation. The Committee believes that the inclusion of a performance standard, in this case gross mismanagement, is also an appropriate grounds for reassumption. Gross mismanagement is defined as a significant, clear, and convincing violation of compact, funding agreement, regulatory or statutory requirements related to the transfer of Self-Governance funds to the tribe that results in a significant reduction of funds to the tribe's Self-Governance program. The Committee's definition of gross mismanagement is narrowly tailored and will require a high degree of proof by the Secretary. The Committee is well aware of tribal concerns and agrees that the inclusion of this performance standard must not be utilized by the Secretary in such a manner as to needlessly impose monitoring and auditing requirements that hinder the efficient operation of tribal programs. Intrusive and overburdensome monitoring and auditing activities are antithetical to the goals of Self-Governance.

Subsection (a)(6) defines "tribal shares". This definition is consistent with the Title IV Rule-making Committee's determination that residual funds are those "necessary to carry out the inherently federal functions that must be performed by federal officials if all tribes assume responsibilities for all BIA programs." Fed. Reg. Vol. 63, No. 29, 7235, (Feb. 12, 1998) (Proposed Rule, 25 CFR Sec. 1000.91). All funds appropriated under the Indian Self-Determination and Education Assistance Act are either tribal shares or Agency residual.

Subsection (a)(7) defines "Secretary" as the Secretary of Health and Human Services.

Subsection (a)(8) defines "Self-Governance" as the program established under this title.

Section (b) defines "Indian Tribe". This definition enables an Indian tribe to authorize another Indian tribe, inter-tribal consortium or tribal organization to participate in self-governance of its behalf. The authorized Indian Tribe, inter-tribal consortium or tribal organization may exercise the authorizing Indian tribe's rights as specified by Tribal resolution.

SECTION 503. SELECTION OF PARTICIPATING TRIBES

This section describes the eligibility criteria that must be satisfied by any Indian tribe interested in participating.

(a) Continuing Participation. All tribes presently participating in the Tribal Self-Governance Demonstration Project under Title III of the Indian Self-Determination Act may elect to participate in the permanent Self-Governance program. Tribes must do so through tribal resolution.

(b) Additional Participants. (1) This section allows an additional 50 tribes a year to participate in self-governance.

(2) This section allows an Indian tribe that chooses to withdraw from an inter-tribal consortium or tribal organization to participate in self-governance provided it independently meets the eligibility criteria in Title V. Tribes and tribal organizations that withdraw from tribal organizations and inter-tribal consortia under this section shall be entitled to participate in the permanent program under section 503(b)(2) and such participation shall not be counted against the 50 tribe a year limitation contained in section 503(a).

(c) Applicant Pool. The eligibility criteria for self-governance tribes are the same as those that apply under Title IV. To participate, an Indian tribe must successfully complete a planning phase, must request participation in the program through a resolution or official action of the governing body, and must have demonstrated financial stability and financial management capability for the past three years. Proof of no material audit exceptions in the tribe's self determination contracts or Self Governance funding agreements is conclusive proof of such qualification. The Committee notes that the financial examination addressed in subsection 503(c)(3) refers solely to funds managed by the tribe under Title I and Title IV of the Indian Self-Determination Act. The bill has been deliberately crafted to make clear that a tribe's activities in other economic endeavors are not subject of the Section 503(c) examination. Similarly, the "budgetary research" referred to in section 503(d)(1) of the bill requires a tribe to research only budgetary issues related to the administration of the programs the tribe anticipates transferring to tribal operation under Self-Governance.

(d) Planning Phase. Every Indian tribe interested in participating in self-governance shall complete a planning phase prior to participating in the program. The planning phase is to include legal and budgetary research and internal tribal government planning and organizational preparation. The planning phase is to be completed to the satisfaction of the tribe.

(e) Grants. Subject to available appropriations, any Indian tribe interested in participating in self-governance is eligible to receive a grant to plan for participation in the Program or to negotiate the terms of a Compact and funding agreement.

(f) Receipt of Grant not Required. This section provides that receipt of a grant from HHS is not required to participate in the permanent program.

SECTION 504. COMPACTS

This section authorizes Indian tribes to negotiate Compacts with the Secretary and identifies generally the contents of Compacts. While the Compact process was not specifically part of prior legislative enactment, the Committee understands that Compacts have developed as an integral part of Self Governance. The Committee believes that Compacts serve an important and necessary function in establishing government-to-government relations, which as noted earlier, is the keystone of modern federal Indian policy.

(a) Compact Required. The Secretary is required to negotiate and enter into a written Compact consistent with the trust responsibility, treaty obligations and the government-to-government relationship between the United States and each participating tribe.

(b) Contents. This section requires that Compacts state the terms of the government-to-government relationship between the Indian Tribe and the United States. Compacts may only be amended by agreement of both parties.

(c) Existing Compacts. Upon enactment of Title V, Indian tribes have the option of retaining their existing Compacts, or any portion of the Compacts that do not contradict the provisions of Title V.

(d) Term and Effective Date. The date of approval and execution by the Indian Tribe is generally the effective date of a Compact, unless otherwise agreed to by the parties. A Compact will remain in effect as long as permitted by federal law or until terminated by written agreement of the parties, or by retrocession or reassumption.

SECTION 505. FUNDING AGREEMENTS

This section authorizes Indian tribes to negotiate funding agreements with the Secretary and identifies generally the contents of those agreements.

(a) Funding Agreement Required. The Secretary is required to negotiate and enter into a written funding agreement consistent with the trust responsibility, treaty obligations and the government-to-government relationship between the United States and each participating tribe.

(b) Contents. An Indian tribe may include in an funding agreement all programs, functions, services, or activities, (or portions thereof) that it is authorized to carry out under Title I of the Act. Funding agreements may, at the option of the Indian tribe, authorize the Tribe to plan and carry-out all programs, functions, services, or activities (or portion thereof) administered by the IHS that are carried out for the benefit of Indians because of their status as Indians or where Indian tribes or Indian beneficiaries are the primary or significant beneficiaries, as set forth in status. For each program, function, service, or activity (or portion thereof) included in a funding agreement, an Indian tribe is entitled to receive its full tribal share of funding, including funding for all local, field, service unit, area, regional, and central/headquarters or national office locations. Available funding includes the Indian tribe's share of discretionary IHS competitive grants but not statutorily mandated competitive grants.

The Committee is concerned with the reluctance of the Indian Health Service to include all available federal health funding in self governance funding agreements. We note, as an example, the refusal of the IHS to so include the Diabetes Prevention Initiative funding. As a result, funding was delayed and undue administrative requirements diverted resources from direct services. This section is intended to directly remedy this situation.

The Committee has received ample testimony showing the benefits of self governance. In 1998, the National Indian Health Board recently released its' "National Study on Self-Determination and Self-Governance," providing empirical evidence that self-governance leads to more efficient management of tribal health service delivery, especially preventive services. This study consistently observed an overall improvement in quality of care when tribes operate their own Health Care systems. Less than full funding agreements will result in less than maximum use of federal resources to address the health care in Indian country. Accordingly, this section is to be interpreted broadly by affording a presumption in favor of including in a tribe's self-governance funding agreement any federal funding administered by that Agency.

(c) Inclusion in Compact or Funding Agreement. Indians do not need to be specifically identified in authorizing legislation for a program to be eligible for inclusion in a Compact or funding agreement.

(d) Funding Agreement Terms. Each funding agreement should generally set out the programs, functions, services, or activities, (or portions thereof) to be performed by the Indian tribe, the general budget category assigned to each program, function, service, or activity (or portion thereof), the funds to be transferred, the time and method of payment and other provisions that the parties agree to.

(e) Subsequent Funding Agreements. Each funding agreement remains in full force and effect unless the Secretary receives notice from the Indian tribe that it will no longer operate one or more of the programs, functions, services, or activities, (or portions thereof) included in the funding agreement or until a new funding agreement is executed by the parties.

The Committee is concerned with reports that the IHS has been able to use the annual negotiations provisions of Section 303(a) of the Act to obtain an unfair bargaining advantage during negotiations by threatening to suspend application of the Act to a tribe if it does not sign an Annual Funding Agreement. This subsection is meant to facilitate negotiation between the tribes and the Indian Health Service on a true government-to-government basis. The Committee believes the retroactive provision is fair because this assures that no act or omission of the federal government endangers the health and welfare of tribal members.

(f) Existing Funding Agreements. Upon enactment of Title V, Tribes may either retain their existing annual funding agreements, or any portion thereof, that do not conflict with provisions of title V, or negotiate new funding agreements that conform to Title V.

(g) Stable Base Funding. An Indian tribe may include a stable base budget in its funding agreement. A stable base budget contains the tribe's recurring funding amounts and provides for transfer of the funds in a predictable and consistent manner over a specific period of time. Adjustments are made annually only if there are changes in the level of funds appropriated by Congress. Nonrecurring funds are not included and must be negotiated on an annual basis. The Committee intends this section to codify the existing Agency policy guidance on stable base funding.

SECTION 506. GENERAL PROVISIONS

(a) Applicability. The provisions in this section may, at the tribe's option, be included in a Compact or funding agreement negotiated under Title V.

(b) Conflicts of Interest. Indian tribes are to assure that internal measures are in place to address conflicts of interest in the administration of programs, functions, services, or activities, (or portions thereof).

(c) Audits. The Single Agency Audit Act applies to Title V funding agreements. Indian tribes are required to apply cost principles set out in applicable OMB Circulars, as modified by section 106 of Title I or by any exemptions that may be applicable to future OMB Circulars. No other audit or accounting standards are required. Claims against Indian tribes by the Federal Government based on any audit of funds received under a Title V funding agreement are subject to the provisions of section 106(f) of Title I.

(d) Records. An Indian tribe's records are not considered federal records for purposes of the Federal Privacy Act, unless otherwise stated in the Compact or funding agreement. Indian tribes are required to maintain a record keeping system and, upon reasonable advance request, provide the Secretary with reasonable access to records to enable HHS to meet its minimum legal record keeping requirements under the Federal Records Act.

(e) Redesign and Consolidation. An Indian tribe may redesign or consolidate programs, functions, services, or activities, (or portions thereof) and reallocate or redirect funds in any way the Indian tribe considers to be in the best interest of the Indian community. Any redesign or consolidation, however, must not have the effect of unfairly denying eligibility to people otherwise eligible to be served under federal law.

(f) Retrocession. An Indian tribe may retrocede fully or partially back to the Secretary any program, function, service, or activity (or portion thereof) included in a Compact or funding agreement. A 1retrocession request becomes effective within the time frame specified in the Compact or funding agreement, one year from the date the request was made, the date the funding agreement expires, or any date mutually agreed to by the parties, whichever occurs first.

(g) Withdrawal. An Indian tribe that participates in self-governance through an inter-tribal consortium or tribal organization can withdraw from the consortium or organization. The withdrawal becomes effective within the time frame set out in the tribe's authorizing resolution. If a time frame is not specified, withdrawal becomes effective one year from the submission of the request or on the date the funding agreement expires, whichever occurs first. An alternative date can be agreed to by the parties, including the Secretary.

When an Indian tribe withdraws from an inter-tribal consortium or tribal organization and wishes to enter into a Title I contract or Title V agreement on its own, it is entitled to receive its share of funds supporting the program, function, service, or activity, (or portion thereof) that it will carry out under its new status. The funds must be removed from the funding agreement of the participating organization or inter-tribal consortium and included in the withdrawing tribe's agreement or contract. If the withdrawing tribe is to receive services directly from the Secretary, the tribe's share of funds must be removed from the funding agreement of the participating organization or inter-tribal consortium and retained by the Secretary to provide services. Finally, an Indian tribe that chooses to terminate its participation in the self-governance program may, at its option, carry out programs, functions, services, or activities, (or portions thereof) in a Title I contract of Self-Governance funding agreement and retain its mature contractor status.

(h) Nonduplication. This section provides that a tribe operating programs under a Self-Governance compact may not contract under Title I (a "638 contract") for the same programs.

SECTION 507. PROVISIONS RELATING TO THE SECRETARY

This section sets out mandatory and nonmandatory provisions relating to the Secretary's obligations.

(a) Mandatory Provisions.

(1) Health Status Reports. To the extent that the data is not otherwise available to the Secretary, Compacts and funding agreements must include a provision requiring the Indian tribe to report data on health status and service delivery. The Secretary is to use this data in her annual reports to Congress. The Secretary is required to provide funding to the Indian tribe to compile such data. Reporting requirements can only impose minimal burdens on the Indian tribe and may only be imposed if they are contained in regulations developed under negotiated rulemaking.

(2) Reassumption. Compacts or funding agreements must include a provision authorizing the Secretary to reassume a program,

function, service, or activity, (or portion thereof) if she makes a finding of imminent endangerment of the public health caused by the Indian tribe's failure to carry out the Compact or funding agreement or gross mismanagement that causes a significant reduction in available funding. The Secretary is required to provide the Indian tribe with notice of a finding. The Indian tribe may take action to correct the problem identified in the notice. The Secretary has the burden at the hearing of demonstrating by clear and convincing evidence the validity of the grounds for reassumption. In cases where the Secretary finds imminent substantial and irreparable endangerment of the public health caused by the tribe's failure to carry out the Compact or funding agreement, the Secretary may immediately reassume the program but is required to provide the tribe with a hearing on the record within ten days after reassumption.

(b) Final Offer. If the parties cannot agree on the terms of a Compact or funding agreement, the Indian tribe may submit a final offer to the Secretary. The Secretary has 45 days to determine if the offer will be accepted or rejected. The 45 days can be extended by the Indian tribe. If the Secretary takes no action the offer is deemed accepted by the Secretary.

(c) Rejection of Final Offers. This provision describes the only circumstances under which the Secretary may reject an Indian tribe's final offer.

A rejection requires written notice to the Indian tribe within 45 days of receipt with specific findings that clearly demonstrate or are supported by controlling legal authority that: (1) the amount of funds proposed exceeds the funding level that the Indian tribe is entitled to; (2) the program, function, service, or activity (or portion thereof) that is the subject of the offer is an inherent federal function that only can be carried out by the Secretary; (3) the applicant is not eligible to participate in self-governance; or (4) the Indian tribe cannot carry out the program, function, service or activity, (or portion thereof) without a significant danger or risk to the public health. The Committee believes the fourth provision appropriately balances the Secretary's trust responsibility to assure the delivery of health care services to Indian beneficiaries, with the equally important goal of fostering maximum tribal self-determination in the administration of health care programs transferred under Title V. The Committee has included the requirement of a "specific finding" is included to avoid rejections which merely state conclusory statements that offer no analysis and determination of facts supporting the rejection.

The Secretary must also offer assistance to the Indian tribe to overcome the stated objections, and must provide the Indian tribe with an opportunity to appeal the rejection and have a hearing on the record. In any hearing the Indian tribe has the right to engage in full discovery. The Indian tribe also has the option to proceed directly to federal district court under section 110 of Title I of the Act in lieu of an administrative hearing.

The Secretary may only reject those portions of a "final offer" which do not justify a rejection. By entering into a partial Compact or funding agreement the Indian tribe does not waive its right to appeal the Secretary's decision for the rejected portions of the offer.

(d) Burden of Proof. The Secretary has the burden of demonstrating by clear and convincing evidence the validity of a rejection of a final offer in any hearing, appeal or civil action. A decision relating to an appeal within the Department is considered a final agency action if it was made by an administrative judge or by an official of the Department whose position is at a higher level than the level of the departmental agency in which the decision that is the subject of the appeal was made.

(e) Good Faith. The Secretary is required to negotiate in good faith and carry out his discretion under Title V in a manner that maximizes the implementation of self-governance.

(f) Reduction of Secretarial Responsibilities. Any savings in the Department's administrative costs that result from the transfer of programs, functions, services, or activities, (or portions thereof) to Indian tribes in self-governance agreements that are not otherwise transferred to Indian tribes under Title V must be made available to Indian tribes for inclusion in their Compacts or funding agreements. We have consistently indicated that Self Governance should achieve reductions in federal bureaucracy and create resultant cost savings. This subsection makes clear that such savings are for the benefit of the Indian tribes. Savings are not to be utilized for other agency purposes, but rather are to be provided as additional funds or services to all tribes, intertribal consortia, and tribal organizations in a fair and equitable manner.

(g) Trust Responsibility. The Secretary is prohibited from waiving, modifying or diminishing the trust responsibilities or other responsibilities as reflected in treaties, executive orders or other laws and court decisions of the United States to Indian tribes and individual Indians. The Committee reaffirms that the protection of the federal trust responsibility to Indian tribes and individuals is a key element of Self Governance. The ultimate and legal responsibility for the management and preservation of trust resources resides with the United States as Trustee. The Committee believes that health care is a trust resource consistent with federal court decisions. This subsection continues the practice of permitting substantial tribal management of its trust resources provided that tribal activities do not replace the trustee's specific legal responsibilities. Section 507(a)(2) (reassumption) with its concept of imminent endangerment of the public health provides guidance in defining the Secretary's trust obligation in the health context.

(h) Decisionmaker. Final agency action is a decision by either an official from the Department at any higher organizational level than the initial decision maker or an administrative law judge. Subparagraph (h)(2) is included to assure that the persons deciding an administrative appeal are not the same individuals who made the initial decision to reject a tribe's "final offer."

SECTION 508. TRANSFER OF FUNDS

(a) In General. The Secretary is required to transfer all funds provided for in a funding agreement, pursuant to Section 509(c) below. Funds are also required to be provided for periods covered by continuing resolutions adopted by Congress, to the extent permitted by such resolutions. When a funding agreement requires that funds be transferred at the beginning of the fiscal year, the transfer are to be made within 10 days after the Office of Management and Budget apportions the funds, unless the funding agreement states otherwise.

(b) Multi-Year Funding. The Secretary is authorized to negotiate multi-year funding agreements.

(c) Amount of Funding. The Secretary is required to provide an Indian tribe the same funding for a program, function, service, or activity, (or portion thereof) under self-governance that the tribe would have received under Title I. This includes all Secretarial resources that support the transferred program, and all contract support costs (including indirect costs) that are not available from the Secretary but are reasonably necessary to operate the program. The bill requires that the transfer of funds occur along with the transfer of the program. Thus the bill states that "the Secretary shall provide" the funds specified, and the Secretary is not authorized to phase-in funds in any manner that is not voluntarily agreed to by Self-Governance tribe.

(d) Prohibitions. The Secretary is specifically prohibited from withholding, refusing to transfer or reducing any portion of an Indian tribe's full share of funds during a Compact or funding agreement year, or for a period of years. The Committee is aware that for the first twenty-one years of administration of the Indian Self-Determination Act, the Department had never taken the position that it has the discretion to delay funding for any program transferred under the Act absent tribal consent. However, a 1996 IHS circular purported to do just that. Since this circular was issued, several Area offices have refused to turn over substantial program funds to tribal operation. In one instance both an Area office and Headquarters refused to transfer portions of programs for several years, and with respect to several Headquarters functions the IHS refused to transfer the functions altogether. A recent Oregon Federal district court decision declared Indian Health Service's actions in these instances illegal and the Committee agrees.

Additionally, funds that an Indian tribe is entitled to receive may not be reduced to make funds available to the Secretary for monitoring or administration; may not be used to pay for federal functions (such as pay costs or retirement benefits); and, may not be used to pay costs associated with federal personnel displaced by self-governance or Title I contracting.

In subsequent years, funds may only be reduced in very limited circumstances: if Congress reduces the amount available from the prior year's appropriation; if there is a directive in the statement of managers which accompanies an appropriation; if the Indian tribe agrees; if there is a change in the amount of pass-through funds; or, if the project contained in the funding agreement has been completed.

(e) Other Resources. If an Indian tribe elects to carry out a Compact or funding agreement using federal personnel, supplies, supply sources or other resources that the Secretary has available under procurement contracts, the Secretary is required to acquire and transfer the personnel, supplies or resources to the Indian tribe.

(f) Reimbursement to Indian Health Service. The Indian Health Service is authorized on a reimbursable basis to provide goods and services to tribes. Reimbursements are to be credited to the same or subsequent appropriation account which provided the initial funding. The Secretary is authorized to receive and retain the reimbursed amounts until expended without remitting them to the Treasury.

(g) Prompt Payment Act. This subsection makes the Prompt Payment Act (31 U.S.C. Chapter 39) applicable to the transfer of all funds due to a tribe under a Compact or funding agreement. The first annual or semiannual transfer due under a funding agreement must be made within 10 calendar days of the date the Office of Management and Budget apportions the appropriations for that fiscal year. Under this section, the Secretary is obligated to pay to a Self-Governance tribe interest, as calculated under the Prompt Payment Act, for any late payment under a funding agreement.

(h) Interest or Other Income on Transfers. An Indian tribe may retain interest earned or other income on funds transferred under a Compact or funding agreement. Interest earned must not reduce the amount of funds the tribe is entitled to receive during the year the interest was earned or in subsequent years. An Indian tribe may invest funds received in a funding agreement as it wishes, provided it follows the "prudent investment standard", a commonly utilized fiduciary standard, that the Committee believes is strict enough to ensure that funds are invested wisely and safely yet provide a reasonable yield on investment.

Eligible investments under the prudent investment standard may include the following: (1) cash and cash equivalents (including bank checking accounts, savings accounts, and brokerage account free cash balances that carry a quality rating A1 P1, or AA or higher) (2) money market accounts with an A rating or higher, (3) certificates of deposit where the amounts qualify for insurance ($100,000 or less) or where the issuing bank has delivered a specific assignment, (4) bank repossession certificates where the amounts qualify for insurance ($100,000 or less) or where the issuing bank has delivered a specific assignment, (5) U.S. Government or Agency Securities, (6) commercial paper rated A1 P1 at time of purchase and which cannot exceed 10% of portfolio at time of purchase with any one issuer (short term paper—under 90 days—may be treated as a cash equivalent), (7) auction rate preferred instruments that are issued by substantial issuers, are rated AA or better, and may be utilized with auction maturities of 28 to 90 days, (8) corporate bonds of U.S. Corporations that have Moody's, Standard and Poor's, or Fitch's rating of A or equivalent and where no more than 10% of portfolio at time of purchase is invested in the securities of any one issuer, (9) dollar denominated short term bonds of the G7 Nations or World Bank only if the yields exceed those of U.S. instruments of equivalent maturity and quality, and where no more than 25% of portfolio at time of purchase is invested in this asset category, (10) properly registered short term no-load government or corporate bond mutual funds with a safety rating and average fund quality of A or higher, which demonstrate low volatility, and where no more than 25% of portfolio at time of purchase is invested in any one fund.

Carryover of Funds. All funds paid to an Indian tribe under a Compact or funding agreement are "no year" funds and may be spent in the year they are received or in any future fiscal year. Carryover funds are not to reduce the amount of funds that the tribe may receive in subsequent years.

(j) Program Income. All program income (including Medicare/Medicaid) earned by an Indian tribe is supplemental to the funding that is included in its funding agreement. The Secretary may not reduce the amount of funds that the Indian tribe may receive under its funding agreement for future fiscal years. The Indian tribe may retain such income and spend it either in the current or future years.

(k) Limitation of Costs. An Indian tribe is not required to continue performance of a Program, function, service, or activity (or portion thereof) included in a funding agreement if doing so requires more funds than were provided under the funding agreement. If an Indian tribe believes that the amount of funds transferred is not enough to carry out a program, function, service, or activity, (or portion thereof) for the full year, the Indian tribe may so notify the Secretary. If the Secretary does not supply additional funds the tribe may suspend performance of the program, function, service, or activity (or portion thereof) until additional funds are provided.

SECTION 509. CONSTRUCTION PROJECTS

(a) In General. Indian tribes are authorized to conduct construction projects authorized under this Section. The tribes are to assume full responsibility for the projects, including responsibility for enforcement and compliance with all relevant federal laws, including the National Historic Preservation Act of 1966 and the National Environmental Policy Act of 1969. A tribe undertaking a construction project must designate a certifying officer to represent the tribe and accept federal court jurisdiction for purposes of the enforcement of federal environmental laws.

(b) Negotiations. This subsection provides that negotiation of construction projects are negotiated pursuant to Section 105(m) of the Act and construction project agreements included in the funding agreement as an addendum.

(c) Codes and Standards. The tribes and the IHS must agree to standards and codes for the construction project. The agreement will be in conformity with nationally accepted standards for comparable projects.

(d) Responsibility for Completion. This subsection provides that the Indian tribe must assume responsibility for the successful completion of the project according to the terms of the construction project agreement.

(e) Funding. This subsection provides that funding of construction projects will be through advance payments, on either an annual or semi-annual basis. Payment amounts will be determined by project schedules, work already completed, and the amount of funds already expended. Flexibility in payment schedules will be maintained by the IHS through contingency funds to take account of exigent circumstances such as weather and supply.

(f) Approval. This subsection allows the Secretary to have at least one opportunity to approve tribal project planning and design documents or significant amendments to the original scope of work before construction. The tribe is to provide at least semiannual progress and financial reports. The Secretary is allowed to conduct semiannual site visits or on another basis if agreed to by the tribe.

(g) Wages. This subsection mirrors section 7(a) of the Indian Self-Determination and Education Assistance Act which incorporates Davis-Bacon wage protections for workers.

(h) Application of Other Laws. This subsection provides that provisions of the Office of Federal Procurement Policy Act, the Federal Acquisition Regulations, and other federal procurement laws and regulations do not apply to construction projects, unless agreed to by the participating tribe.

SECTION 510. FEDERAL PROCUREMENT LAWS AND PROGRAM REGULATIONS

This section provides that unless otherwise agreed to by the parties, Compacts and funding agreements are not subject to federal contracting or cooperative agreement laws and regulations (including executive orders) unless those laws expressly apply to Indian tribes. Compacts and funding agreements are also not subject to program regulations that apply to the Secretary's operations.

SECTION 511. CIVIL ACTIONS

(a) Contract Defined. The Committee intends that Section 110 of Title I of the Act, which grants tribes access to Federal District Court to challenge a decision by the Secretary, shall apply to this Title.

(b) Applicability of Certain Laws. This subsection provides that Department of Interior approval of tribal contracts (25 U.S.C. 81) and section 16 of the Indian Reorganization Act (25 U.S.C. 476) shall not apply to attorney and other professional contracts with Self-Governance tribes.

SECTION 512. FACILITATION

(a) Secretarial Interpretation. This section requires the Secretary to interpret all executive orders, regulations and federal laws in a manner that will facilitate the inclusion of programs, functions, services, or activities, (or portions thereof) and funds associated therewith under Title V, implementation of Title V Compacts and funding agreements, and the achievement of Tribal health goals and objectives where they are not inconsistent with Federal law. This section reinforces the Secretary's obligation not merely to provide health care services to Native American tribes, but to facilitate the efforts of tribes to manage those programs for the maximum benefit of their communities.

(b) Regulation Waiver. An Indian tribe participating in Self-Governance under Title V may seek a waiver of an applicable Indian Self-Determination Act regulation by submitting a written waiver request to the Secretary. The Secretary has 90 days to respond and a failure to act within that period is deemed an approval of the request by operation of law. Action on a waiver request is final for the Department. Denials may be made upon a specific finding that the waiver is prohibited by federal law. Failure to act within the 90 day period by the Secretary is deemed an approval.

(c) Access to Federal Property. This subsection addresses tribal use of federal buildings, hospitals and other facilities, as well as the transfer to tribes of title to excess personal or real property. At the request of an Indian tribe the Secretary is required to permit the Indian tribe to use government-owned real or personal property under the Secretary's jurisdiction under such terms as the parties may agree to.

The Secretary is required to donate title to personal or real property that is excess to the needs of any agency or the General Services Administration as long as the Secretary has determined that the property is appropriate for any purpose for which a compact is authorized, irrespective of whether a tribe is in fact administering a particular program that matches that purpose. For instance, if a tribe is not administering a mental health program under its IHS compact or funding agreement, the Secretary may nonetheless acquire excess or surplus property and donate such property to the tribe so long as the Secretary determines that the tribe will be using the property to administer mental health services.

Title to property furnished by the government or purchased with funds received under a Compact or funding agreement vests in the Indian tribe if it so chooses. Such property also remains eligible for replacement, maintenance or improvement on the same terms as if the United States had title to it. Any property that is worth $5,000 or more at the time of a retrocession, withdrawal or reassumption may revert back to the United States at the option of the Secretary.

(d) Matching or Cost-Participation Requirement. Funds transferred under Compacts and funding agreements are to be considered non-federal funds for purposes of meeting matching or cost participation requirements under federal or non-federal programs.

(e) State Facilitation. This section encourages and authorizes States to enter agreements with tribes supplementing and facilitating Title V and other federal laws that benefit Indians and Indian tribes, for example, welfare reform. It is designed to provide federal authority so as to remove equal protection objections where states enter into special arrangements with tribes.

The Committee wants to foster enlightened and productive partnerships between state and local governments, on the one hand, and Indian tribes on the other; and, the Committee wants to be sure that states are authorized by the Federal Government to undertake such initiatives, as part of the Federal Government's constitutional authority to deal with Indian tribes as political entities, irrespective of any limitations which have from time to time been argued might otherwise exist with respect to state action under either state constitutional provisions or other provisions of the Constitution. Many state and tribal governments have undertaken positive initiatives both in health care issues and in natural resource management, and it is the Committee's strong desire to fully support, authorize and encourage such cooperative efforts.

(f) Rules of Construction. Provisions in this Title and in Compacts and funding agreements shall be liberally construed and ambiguities decided for the benefit of the Indian tribe participating in the program.

SECTION 513. BUDGET REQUEST

(a) The President is required to annually identify in his/her budget all funds needed to fully fund all Title V Compacts and funding agreements. These funds are to be apportioned to the Indian Health Service which will then be transferred to the Office of Tribal Self-Governance. The IHS may not thereafter reduce the funds a tribe is otherwise entitled to receive whether or not such funds have been apportioned to the Office of Tribal Self-Governance.

The Committee has been made aware that the current system for payment and approval of funding and amendments for Annual Funding Agreements for Self-Governance Demonstration tribes is inefficient and time consuming. In addition, by leaving authority and responsibility for distributions to Area Offices, there have been reported instances of excessive and unwarranted assertion of authority by Area Offices over self governance tribes. This includes Area Offices retaining shares of funds not authorized to be retained by the tribe's Annual Funding Agreement. The Committee concludes that by requiring a report on Self Governance expenditures, and by moving all Self-Governance funding onto a single line, the Congress will be able to achieve the following ends: more accurately gauge the amount of funding flowing directly to Tribes through participation in Self governance; generate savings through decreasing the bureaucratic burden on the payment and approval process in the Indian Health Service; expedite the transferal of funding to tribal operating units; and, aid in the implementation of true government to government relations and tribal self determination.

(b) The budget must identify the present level of need and any shortfalls in funding for every Indian tribe in the United States that receives services directly from the Secretary, through a Title I contract or in a Title V Compact and funding agreement.

SECTION 514. REPORTS

(a) Annual Report. The Secretary is required to submit to Congress on January 1 of every year a written report on the Self-Governance program. The report is to include the level of need presently funded or unfunded for every Indian tribe in the United States that receives services directly from the Secretary, through a Title I contract or in a Title V Compact and funding agreement. The Secretary may not impose reporting requirements on Indian tribes unless specified in Title V.

(b) Contents. The Secretary's report must identify: (1) the costs and benefits of self-governance; (2) all funds related to the Secretary's provision of services and benefits to self-governance tribes and their members; (3) all funds transferred to self-governance tribes and the corresponding reduction in the federal bureaucracy; (4) the funding formula for individual tribal shares; (5) the amount expended by the Secretary during the preceding fiscal year to carry out inherent federal functions; and (6) contain a description of the method used to determine tribal shares. The Secretary's report must be distributed to Indian tribes for comment no less than 30 days prior to its submission to Congress and include the separate views of Indian tribes.

(c) Report on IHS Funds. This section requires the Secretary to consult with Indian tribes and report, within 180 days after Title V is enacted, on funding formulae used to determine tribal shares of funds controlled by IHS. The formulae are to become a part of the annual report to Congress discussed above in Section 514(d). This provision is not intended to relieve HHS from its obligation under Title V to make all funds controlled by the central office, national, headquarters or regional offices available to Indian tribes. This provision is also not intended to require reopening funding formulae that are already being used by HHS to distribute funds to Indian tribes. Any new formulae or revision of existing formulae should be determined only after significant regional and national tribal consultation.

SECTION 515. DISCLAIMERS

(a) No Funding Reduction. This provision states that nothing in Title V shall be interpreted to limit or reduce the funding for any program, project or activity that any other Indian tribe may receive under Title I or other applicable federal laws. A tribe that alleges that a Compact or funding agreement violates this section may rely on Section 110 of the Act to seek judicial review of the allegation.

(b) Federal Trust and Treaty Responsibilities. This section clarifies that the trust responsibility of the United States to Indian tribes and individual Indians which exists under treaties, Executive Orders, laws and court decisions shall not be reduced by any provision of Title V.

(c) Tribal Employment. This provision excludes Indian tribes carrying out responsibilities under a Compact or funding agreement from falling under the definition of "employer" as that term is used in the National Labor Regulations Act.

(d) Obligations of the United States. The IHS is prohibited from billing, or requiring Indian tribes from billing, individual Indians who have the economic means to pay for services. For many years the Interior and Related Agencies Appropriations Bills included language that prohibited the Indian Health Service, without explicit direction from Congress, from billing or charging Indians who have the economic means to pay. In 1997 the language was removed from the Appropriation bills and it has not been included since. This section reflects the Committee's intent that the IHS is prohibited from billing Indians for services, and is further prohibited from requiring any Indian tribe to do so.

SECTION 516. APPLICATION OF OTHER SECTIONS OF THE ACT

(a) This section expressly incorporates a number of provisions from other areas of the Indian Self-Determination and Education Assistance Act into Title V. These sections include: 5(b) (access for three years to tribal records), 6 (setting our penalties that apply if an individual embezzles or otherwise misappropriates funds under Title V); 7 (Davis-Bacon wage and labor standards and Indian preference requirements); 102(c) and (d) (relating to Federal Tort Claims Act coverage); 104 (relating to the right to use federal personnel to carry out responsibilities in a Compact or funding agreement); 105(k) (access to federal supplies); 111 (clarifying that Title V shall have no impact on existing sovereign immunity and the United States' trust responsibility); and section 314 Public Law No. 101–512 (coverage under the Federal Tort Claims Act).

(b) At the request of an Indian tribe, other provisions of Title I of the Indian Self-Determination Act which do not conflict with provisions in Title V may be incorporated into a Compact or funding agreement. If incorporation is requested during negotiations it will be considered effective immediately.

SECTION 517. REGULATIONS

This section gives the Secretary limited authority to promulgate regulations implementing Title V.

(a) In general. The Secretary is required to initiate procedures to negotiate and promulgate regulations necessary to carry out Title V within 90 days of enactment of Title V. The procedures must be developed under the Federal Advisory Committee Act. The Secretary is required to publish proposed regulations no later than one year after the date of enactment of Title V. The authority to promulgate final regulations under Title V expires 21 months after enactment. The Committee is aware of the success of the Title I negotiated rulemaking and believes that one reason for its success is a similar limitation of rulemaking authority contained in section 107(a) of the Indian Self-Determination Act, which this section is modeled after.

(b) Committee. This provision requires that a negotiated rulemaking committee made up of federal and tribal government members be formed in accordance with the Negotiated Rulemaking Act. A majority of the tribal committee members must be representatives of and must have been nominated by Indian tribes with Title V Compacts and funding agreements. The committee will confer with and allow representatives of Indian tribes, inter-tribal consortiums, tribal organizations and individual tribal members to actively participate in the rulemaking process.

(c) Adaptation of Procedures. The negotiated rulemaking procedures may be modified by the Secretary to ensure that the unique context of self-governance and the government-to-government relationship between the United States and Indian tribes is accommodated.

(d) Effect. The effect of Title V shall not be limited if regulations are not published.

(e) Effect of Circulars, Policies, Manuals, Guidances and Rules. Unless an Indian tribe agrees otherwise in a Compact or funding agreement, no agency circulars, policies, manuals, guidances or rules adopted by the IHS apply to the tribe.

SECTION 518. APPEALS

In any appeal (including civil actions) involving a decision by the Secretary under Title V, the Secretary carries the burden of proof. To satisfy this burden the Secretary must establish by clear and convincing evidence the validity of the grounds for the decision made and that the decision is fully consistent with provisions and policies of Title V.

SECTION 519. AUTHORIZATION OF APPROPRIATIONS

This section authorizes Congress to appropriate such funds as are necessary to carry out Title V.

SECTION 601. DEMONSTRATION PROJECT FEASIBILITY

This provision requires an 18 month study to determine the feasibility of creating a Tribal Self-Governance Demonstration Project for other agencies, programs and services in the Department of Health and Human Services.

(a) Study. This subsection authorizes the feasibility study.

(b) Considerations. This subsection requires the Secretary to consider (1) the effects of a Demonstration Project on specific programs and beneficiaries, (2) statutory, regulatory or other impediments, (3) strategies for implementing the Demonstration Project, (4) associated costs or savings, (5) methods to assure Demonstration Project quality and accountability, and (6) such other issues that may be raised during the consultation process.

(c) Report. This subsection provides that the Secretary is to submit a report to Congress on the results of the study, which programs and agencies are feasible to be included in a Demonstration Project, which programs would not require statutory changes or regulatory waivers, a list of legislative recommendations for programs that are feasible but would require statutory changes, and any separate views of Indian tribes or other entities involved in the consultation process.

The Committee has deferred to the Secretary's request not to provide for a demonstration or pilot project component to the Feasibility Study to determine how to best apply Self-Governance to agencies other than the Indian Health Service at HHS. The Secretary has pledged to work in a cooperative spirit with the Indian tribes to quickly identify those programs outside the IHS that are suitable for Self-Governance. The Committee believes that there are agencies and programs outside of the IHS that should be ready to participate in the Self-Governance program at the conclusion of the study and anticipates the introduction of legislation at that time to authorize such participation.

SECTION 602. CONSULTATION

(a) Study Protocol. This Provision requires the Secretary to consult with Indian tribes to determine a protocol for conducting the study. The protocol shall require that the government-to-government relationship between the United States and the Indian tribes forms the basis for the study, that consultations are jointly conducted by the tribes and the Secretary, and that the consultation process allow for input from Indian tribes and other entities who wish to comment.

(b) Conducting Study. This provision requires that when the Secretary conducts the study, she is to consult with Indian tribes, states, counties, municipalities, program beneficiaries, and interested public interest groups.

SECTION 603. DEFINITIONS

(a) This subsection is intended to incorporate into Title VI the definitions used in Title V.

(b) This subsection defines "agency" to mean any agency in the Department of Health and Human Services other than the Indian Health Service.

SECTION 604. AUTHORIZATION OF APPROPRIATIONS

This section authorizes the appropriation of such sums as necessary for fiscal years 1999 and 2000 in order to carry out Title VI.

SECTION 5. AMENDMENTS CLARIFYING CIVIL PROCEEDINGS

(a) This provision amends Section 102(e)(1) of the Act to clarify that the Secretary has the burden of proof in any civil action pursuant to Section 110(a).

(b) The provision provides that the amendment to Section 102(e)(1) set out subsection (a) shall apply to any proceeding commenced after October 25, 1994.

SECTION 6. SPEEDY ACQUISITION OF GOODS AND SERVICES

This section requires the Secretary to enter into agreements for acquisition of goods and services for tribes, including pharmaceuticals at the best price and in as fast a manner as is possible, similar to those obtained buy agreement by the Veterans Administration.

SECTION 7. PATIENT RECORDS

This section provides that Indian patient records may be deemed to be federal records under the Federal Records Acts in order to allow tribes to store patient records in the Federal Records Center.

SECTION 8. REPEALS

This Section repeals Title III of the Indian Self-Determination and Education Assistance Act which authorizes the Demonstration Project replaced by this Act.

SECTION 9. SAVINGS PROVISION

This section provides that funds already appropriated for Title III of the Indian Self-Determination and Education Assistance Act shall remain available for use under the new Title V.

SECTION 10. EFFECTIVE DATE

This section provides that the Act shall take effect on the date of enactment.

LOUISE EPPERSON TO CELEBRATE HER 90TH BIRTHDAY

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. PAYNE. Mr. Speaker, I would like to ask my colleagues here in the U.S. House of Representatives to join me in recognizing a very special person who will be honored at her 90th birthday celebration later this month, Ms. Louise Epperson.

Friends and family will gather at Clinton Avenue Presbyterian Church in Newark, New Jersey to pay tribute to this woman who has given so much to our community. I feel fortunate to have forged a friendship with Ms. Epperson, whom I have come to know as a wonderful, caring person and tireless community activist. Her character and concern for those around her are summed up in the words she holds as her motto and her mission: "To make my life a source of inspiration to others, and a part of tomorrow's history. Never to look down on anyone unless it is to give them a hand to lift them up."

Among her many accomplishments, Ms. Epperson was named Auxilian of the New Year for her 25 years of service to the University of Medicine and Dentistry of New Jersey's University Hospital Auxiliary. This award honored Ms. Epperson as an individual who demonstrated outstanding leadership skills, worked to improve the health of the community and contributed to the advancement of the hospital and its auxiliary. A champion of health issues in her Central Ward neighborhood, Ms. Epperson took up the cause of patient advocacy in her role as patient ombudsman at Martland, which is now called University Hospital, over two decades ago. She became a founding member of the Martland Hospital Auxiliary, where she put innovative ideas into action. Among the programs the auxiliary sponsored were a lead poisoning awareness program in local grammar schools, a "Careermobile" which traveled to local high schools to educate young people about health care careers, the purchase of a van to transport patients to the hospital for outpatient services, nurse education programs, and furnishing a pediatric playroom and a bereavement room. In 1998, she was honored by the city and inducted into the Newark's Women Hall of Fame.

Ms. Epperson is an inspiration to us all as she continues to remain active in numerous organizations, including the Newark Senior Citizens Commission, the Newark Affirmative Action Committee, the Black Presbyterians United, Golden Heritage, the NAACP, and the League of Women Voters. Mr. Speaker, I know my colleagues here in Congress join me in wishing Ms. Epperson a happy birthday and continued success and happiness.

THE MEDICARE NURSING AND PARAMEDICAL EDUCATION ACT OF 1998

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. BENTSEN. Mr. Speaker, I rise today to introduce legislation, the Medicare Nursing and Paramedical Education Act of 1998, to ensure that our nation continues to invest in the training of nurses and allied health professionals even as our health care system makes its transition to the increased use of managed care. I am pleased that several colleagues are joining me as original co-sponsors to this initiative, including Reps. CRANE, GANSKE, CARDIN, RANGEL, STARK, and JEFFERSON.

This legislation would provide guaranteed federal funding for nursing and paramedical education and help ensure that our nation continues to train enough nurses and other health care providers during this transition to managed care. Without such a guarantee, I am concerned that the availability and quality of medical care in our country would be at risk.

Teaching hospitals have a different mission and caseload than other hospitals. These hospitals are teaching centers where reimbursements for treating patients must pay for the cost not only of patient care, but also for medical education including nursing and paramedical education. In the past, teaching hospitals were able to subsidize the cost of medical education through higher reimbursements from private and public health insurance programs. With the introduction of managed care, these subsidies are being reduced and eliminated.

Under current law, the Medicare program provides payments to teaching hospitals for nursing and paramedical education. These Medicare payments pay a portion of the costs associated with the required classroom and clinical training.

As more Medicare beneficiaries enroll in managed care plans, payments for nursing and paramedical education are reduced in two ways. First, many managed care patients no longer seek services from teaching hospitals because their plans do not allow it. Second, payments are cut because the formula for these payments is based on the number of traditional, fee-for-service Medicare patients served at these hospitals. When fewer patients visit hospitals, these pass-through payments are reduced.

In 1995, Medicare provided $253 million for a portion of the costs associated with the allied health and nursing education. This payment represents 37 percent of the total costs of operating these programs at 731 hospitals nationwide. According to a recent Lewin Group estimate, allied health and nursing education pass-through programs would be reduced by $80 million in 2002 from current levels because of fewer Medicare beneficiaries utilizing teaching institutions. This year, for example, Methodist Hospital in Houston estimates that it would lose $71,871 because Medicare managed care patients are not seeking services from them. Clearly, we need to correct this inequity.

As the representative for the Texas Medical Center, home of two medical schools, three nursing programs, and several paramedical programs, I have seen firsthand the invaluable role of medical education in our health care system and the stresses being placed on it today. For instance, Methodist Hospital provides training for 825 students in its nursing, allied health, physical and occupational therapy, respiratory therapy, laboratory technology, and pharmacy programs. I am concerned that without sufficient Medicare support that these programs would be jeopardized.

The Balanced Budget Act of 1997 included a provision, similar to legislation I introduced, to ensure that Medicare managed care health plans contribute to the cost of graduate medical education at teaching and research hospitals. This law carves out a portion of the Adjusted Average Per Capita Cost (AAPCC) payment to Medicare managed care plans and transfers this funding directly to teaching hospitals to help pay the costs of graduate medical education. This law provides $5 billion for physician medical education over five years. However, the law did not require Medicare managed care health plans to provide similar funding for nursing and allied health professional programs. My legislation would correct this omission by extending the provisions of the Balanced Budget Act to require Medicare managed care plans to contribute a portion of their AAPCC payment to teaching institutions which provide nursing and allied health professional education. All health care consumers, including those in Medicare managed care plans, benefit from this training and should contribute equally towards this goal.

Our nation's medical education programs are the best in the world. Maintaining this excellence requires continued investment by the federal government. Our teaching hospitals need and deserve the resources to meet the challenge of our aging population and our changing health care marketplace. This legislation would ensure that our nation continues to have the health care professionals we need to provide quality health care services in the future.

I also believe that this legislation is fiscally responsible. This legislation has no budgetary impact, because a portion of the payment to managed care plans would simply be shifted to these teaching institutions.

I urge my colleagues to support this effort to provide guaranteed funding for nursing and allied health professional education.

PUT PARTISANSHIP ASIDE

HON. KAREN McCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Ms. McCARTHY. Mr. Speaker, I rise today to stress the importance of the work that this Congress needs to complete before we adjourn. We will be making a momentous decision today, and each one of us must reflect carefully on that decision. However, we also have several critical issues still facing us, and we must focus on these concerns and fulfill our responsibility to the American people.

We must pass a budget. Tomorrow marks the last day of the continuing resolution signed by the President. We are facing the threat of a government shutdown. As we all know, a government shutdown means no veteran benefits, Social Security benefits, or student loan funds.

The American people deserve access to excellent and affordable health care. If people do not have good medical care, they may suffer severe consequences, and sometimes, even death. I urge the House leadership to work with my Democratic colleagues to find a solution to the managed care dilemma.

We must protect Social Security first and ensure the financial security of our retirees now and into the future. We must resist the temptation to use Social Security funds for anything but the long-term solvency of this important, successful, and needed program.

Again, I urge my colleagues on both sides of the aisle to put partisanship aside and work together to complete the work that we have to do. The American people elected us to this body to serve in their best interest and uphold the principles of democracy. Let us break down the wall that exists in the aisle of this hall and work together to address the issues before us.

IN HONOR OF MAJOR THOMAS CARR

HON. PHIL ENGLISH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. ENGLISH of Pennsylvania. Mr. Speaker, it is with great sadness and a deep sense of pride, that I rise today to honor Major Thomas Carr, a native of Erie, Pennsylvania. Major Carr lost his life on September 12, 1998, during an Air Force attack training mission when his F–16D jet went down over the Avon Bombing Range in Florida.

Major Thomas Carr, 37, a United States Air Force Reservist, set a positive example for all of us. As his Meritorious Service Medal Citation states, "He sacrificed his life in the defense of his nation, and in the name of freedom." Major Carr, a widely respected officer, set high standards and inspired those who had the privilege of knowing him.

Major Carr developed his love of flying as a child at his first Erie Air Show. As an Air Force aviator, he understood and accepted the risks associated with flying planes. Living life to the fullest, he moved effortlessly from riding a dirt bike and waterskiing to flying F–16D jets for the Air Force.

Major Carr had over 12 years of Air Force service—eight years of active duty and four years of reserve duty. In his military career, he had been stationed in Korea, the Persian Gulf, Italy, Iraq, and Bosnia, flying several missions around the world. In fact, earlier this year, he had flown missions over Iraq during Operation Northern Watch.

Major Thomas Carr received numerous awards for his performance as a pilot from the Air Force. Major Carr was awarded the Air Force Meritorious Service Medal, which was presented to his family posthumously. He was best described as "the epitome of a fighter pilot." Mr. Speaker, I have enclosed the citation that accompanied this award and ask that it be inserted in the RECORD.

Major Carr was a 1979 Erie Tech Memorial High School graduate. He graduated from Clemson University with a degree in electrical engineering in 1984. He was a graduate of the Air Force's elite Fighter Weapons School. He was also a pilot for American Airlines based out of Miami, Florida.

Major Carr is survived by his wife, Karen; sister Kathy Rozantz; and his parents, Tom and June Carr of Erie, Pennsylvania. Our thoughts and prayers go out to Major Carr's family and friends.

CITATION TO ACCOMPANY THE AWARD OF THE MERITORIOUS SERVICE MEDAL (POSTHUMOUS) TO THOMAS M. CARR

Major Thomas M. Carr distinguished himself in the performance of outstanding service to the United States while assigned to the 93rd Fighter Squadron, Homestead Air Reserve Station, Florida, from 21 August 1995 to 12 September 1998. During this period, the outstanding professional skill, leadership and ceaseless efforts of Major Carr facilitated two major overseas deployments, three live weapons deployments, one Operational Readiness Inspection and an expeditious conversion from the F-16A to the F-16C aircraft. As the Squadron Weapons Officer, Major Carr continually pushed his unit's readiness higher through comprehensive academic and aerial instruction. Hand-picked for the United States Air Force Weapons School, he was praised by his commander for his outstanding leadership as senior ranking officer and role model for his class. His extensive efforts in preparation for the unit's combat deployments in support of Operation Northern Watch ensured the success of this highly visible major contingency reflected a distinctively genuine concern for his fellow warriors and he established the standard for all of those who selflessly dedicate their lives in the service of the United States Air Force. Major Carr was the epitome of the citizen airman. His career reflected a distinctively genuine concern for his fellow warriors and he established the standard for all of those who selflessly dedicate their lives in the service of the United States Air Force. Major Carr upheld the finest qualities and the highest traditions of a combat aviator. He sacrificed his life in the defense of his nation, and in the name of freedom.

THE TALIBAN: PROTECTORS OF TERRORISTS, PRODUCERS OF DRUGS, H. CON. RES. 336

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. GILMAN. Mr. Speaker, today I am introducing H. Con. Res. 336, legislation condemning the Taliban regime and supporting a broad based government in Afghanistan.

The attacks on our embassies in Nairobi and Dar es-Salaam that left 254 dead including 12 Americans and over 5,000 injured reflect the failure of U.S. policymakers to confront a new kind of warfare and a new kind of adversary, one that draws its power from a convergence of the destructive tactics of international terrorism and radical Muslim extremism with one of the world's largest heroin empires.

This is a war, not between Islam and the United States, but between a small but growing army of religious fanatics who want to undermine the West and radicalize the Islamic world by overthrowing moderate Islamic governments.

We are in this predicament because the Clinton administration has failed to distinguish between those who are devout Muslims and those who use Islam as a rallying point to attack both the West and those who do not subscribe to their interpretation of the Koran.

Perhaps the most dangerous example of this lack of distinction is found in the administration's attitude toward the Taliban regime of Afghanistan, the principal protectors of Osama bin Ladin.

As the Taliban has extended its sway over Afghanistan, it has grown increasingly extremist and anti-Western, its leaders proclaiming that virtually every aspect of Western culture violates their version of Islam.

In addition to restrictions against women, such as barring them from holding jobs or traveling unaccompanied by a male relative, ancient and cruel forms of punishment, such as stoning have been revived. There are reports of massive ethnic killings and starvation. The evolution of the Taliban bears a fearsome resemblance to the murderously fanatical and purist Pol Pot regime in Cambodia.

Moreover, under the Taliban, Afghanistan has become perhaps the world's largest producer of heroin. The Taliban are involved at every level of activity, from licensing and taxing poppy cultivation to expanding new refining facilities to controlling transportation and distribution.

Disturbingly, Taliban leaders, who have made narcotics the economic base of their regime, view the drug trade itself as a potential weapon. Viewing the West and many pro-Western countries in the Muslim world as corrupt, the Taliban have no compunction about trafficking in narcotics.

The new threat to the West is that these drugs are now financing activities of anti-western fanatics who view terrorism as an effective means to further their aims.

Another key reason for the numerous terrorist training camps that have sprung up in the Taliban controlled areas of Afghanistan, in addition to bin Ladin's, has been the benign posture of neighboring Pakistan.

Islamabad has not only countenanced the Afghan terrorist training camps, it has also provided crucial diplomatic support for the Taliban. They have done so out of interest in agitation by Muslim extremists in the disputed Indian territory of Kashmir, and in hopes that the Taliban, after gaining control throughout Afghanistan, will be dependent on Pakistan, thus providing not only strategic depth in the region, but a corridor to the important energy reserves of Central Asia.

Regrettably, the Clinton administration has consistently underestimated the stakes in this situation, particularly in taking its cue from Pakistan on dealing with the Taliban. Even after the U.S. attack on the terrorist camps in Afghanistan, it was reported that administration officials believed they could negotiate with the Taliban for bin Ladin's extradition. If dialogue with the Taliban over bin Ladin exemplifies the basic strategy for confronting this new terrorist threat, we are in serious trouble.

Bin Ladin is only the tip of the iceberg and removing him will not end the threat the U.S. faces from Muslim terrorist extremists of his stripe. Regrettably, the administration has not understood that the fate of Afghanistan cannot be permitted to rest in the hands of the Taliban and their supporters in Pakistan and elsewhere.

For the Taliban's divinely mandated war has no borders and they will not stop with the conquest of Afghanistan. The head of the Taliban has donned the cloak of the Prophet Mohammed and proclaimed himself "Commander of the Faithful," a claim of suzerainty over all Muslims in the region, and a challenge to every government there.

It should be no surprise that, with the advent of the Taliban, Tajikistan and Uzbekistan have invited Russian forces to help protect their southern borders and Iran has assembled 70,000 troops or more on its border with Afghanistan.

Moreover, recent events in Pakistan clearly demonstrate that the fundamentalists there, encouraged by the Taliban successes, have leveraged considerable power over the government.

President Nawaz Sharif recently declared that Pakistan will become a Shariat state, confirming that the radical message of the Taliban is spreading to Pakistan's political structure. Fundamentalists are gaining an upper hand—and Pakistan has the bomb.

It is time for U.S. policymakers to stop taking its lead from Islamabad and to bolster relationships with the Muslim states of Central Asia, as well as other important states in the region, such as India, and begin to realistically confront the danger that the Taliban present, not only to the West, but to other Muslim governments that do not share their extremist ideology.

H. Con. Res. 336 outlines this serious U.S. foreign policy failure and attempts to correct the administration's deficiencies in this regard. Accordingly, I urge my colleagues to support H. Con. Res. 336. I request that the full text of H. Con. Res. 336 to be printed in the RECORD at this point.

H. CON. RES. 336

Whereas the military defeat of the Soviet Union in Afghanistan, in which more than 1,000,000 Afghans lost their lives, was a key contribution to the ending of the Cold War;

Whereas upon the Soviet Union's withdrawal from Afghanistan, the United States generally lost interest in the region and Afghanistan's neighbors became more influential inside Afghanistan, and the various Afghan factions were thus unable to form a broad-based and representative national government;

Whereas in October 1994 a new force called the Taliban emerged in Afghanistan, pledging itself to establish a true Islamic government, disarm all other factions, eliminate narcotics cultivation, establish law and order, and restore peace;

Whereas since 1994 the Taliban movement has, often through force and terror, continued to expand its domination of more and more territory within Afghanistan, while the movement itself has become more and more militant and extreme in its actions and its interpretation of Islamic principles;

Whereas the Taliban movement, especially key members of its leadership, has become increasingly associated and deeply involved with individuals and groups involved in international terrorism, including, but not limited to, Osama bin Ladin, who was responsible for the August 1998 attacks on United States embassies in Kenya and Tanzania;

Whereas those terrorist elements with which the Taliban are associated are not only focused on separatist activities in Kashmir but also significantly involved in anti-Western and anti-American terrorist activities;

Whereas over 95 percent of heroin produced in Afghanistan is from areas controlled by the Taliban and some large portion of that heroin is sold on America's streets and, in spite of United Nations crop substitution program in Taliban areas, poppy cultivation and heroin trafficking have increased dramatically;

Whereas linkages have been established between Afghanistan and terrorists who were involved in the World Trade Center bombing, the murder of Central Intelligence Agency personnel in Langley, Virginia, and the recent bombings of United States embassies in Kenya and Tanzania;

Whereas the inter-Afghan dialogue initiative began in early 1997 and has successfully held 3 major meetings, concluding its last gathering of approximately 200 Afghans in Bonn, Germany, in July 1998;

Whereas the United States launched a limited attack against terrorist bases in Taliban-controlled Afghanistan on August 20, 1998;

Whereas the Taliban rule by fear and terror and systematically abuse the rights of all Afghans, especially women, and are intolerant to non-Sunni Muslim believers, especially Hazara, many of whom are Shiite Muslims;

Whereas the Government of Pakistan has been a vigorous defender of the Taliban's activities and tens of thousands of Pakistani Taliban have linked up with Afghan Taliban creating a transborder movement with growing influence inside Pakistan;

Whereas reports of the persecution of Christians, Shiites, and other religious minorities inside Pakistan are a growing concern to Congress;

Whereas the Central Asian States, especially Uzbekistan and Tajikistan, in addition to Russia and Iran have voiced alarm at the fall of northern areas of Afghanistan, where there has been almost no narcotics cultivation and where all the major groups have been interested in strong and close relations with the United States;

Whereas it is widely accepted in the region that the United States Department of State, and consequently the United States Government, supports the Taliban;

Whereas Congress has repeatedly condemned the activities of the Taliban regime and urged more vigorous support for efforts to form a broad-based government based on the inter-Afghan dialogue initiative, several of whose members have been executed by the Taliban for no apparent crime; and

Whereas there needs to be a fundamental reappraisal of overall United States policy toward Afghanistan and its neighbors: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the House of Representatives and the Senate that—

(1) the United States should publicly condemn the Taliban regime for its reprehensible atrocities against human rights, in particular women's rights, its embrace of international terrorism, and its willing integration into a worldwide narcotics syndicate;

(2) the United States should recognize that it will be better served by a comprehensive regional strategy that addresses Afghan issues rather than its current one that relies primarily on Pakistan;

(3) the United States should explore its mutual interest regarding the danger of the Taliban with other countries of the region;

(4) the United States should not grant diplomatic recognition to the Taliban or assist in any way its recognition in the United Nations but rather should support the inter-Afghan dialogue efforts to form a truly representative broad-based government;

(5) the Department of Defense should conduct a vulnerability assessment of the Taliban regime;

(6) the United States should work to initiate through the United Nations Security Council a ban on all international commercial air travel to and from Taliban controlled Afghanistan;

(7) the United States should call on the Taliban regime to permit humanitarian supplies to be delivered without interference to all regions of Afghanistan;

(8) the United States should consider those Afghans, especially known friends of the United States, fleeing political persecution from the Taliban regime to be refugees eligible for consideration for asylum;

(9) the Department of State should urge the Islamic Republic of Pakistan to protect the rights of Christians and Shiite Muslims in Pakistan and should publish a special report to Congress on the human rights situation in Pakistan, especially as it affects religious minorities; and

(10) the Department of State should report to the Congress concerning whether the Taliban, which provides a safe haven for Osama bin Laden and other terrorist organizations as well as illicit drug monies which assist these terrorists, should be added to the list of designated foreign terrorist organizations.

AMERICAN INSTITUTE OF IRANIAN STUDIES

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues a short statement by the Council of American Overseas Research Centers about efforts of the American Institute of Iranian Studies efforts to reestablish contacts with Iran as one in a series of good initiatives to expand exchanges with Iran.

This past summer two professors from the University of Pennsylvania took nine American students to Iran for close to three months. USIA covered travel expenses, but the Iranian Ministry of Culture and Higher Education covered local costs in Tehran. The American Institute of Iranian Studies which was founded more than 30 years ago anticipates further such exchanges in an effort to help reestablish a more permanent presence in Iran.

The statement of the American Council follows:

AMERICAN INSTITUTE OF IRANIAN STUDIES: ACTIVITIES IN TEHRAN

Following signals from Iran earlier this year indicating a willingness to conduct a dialogue at non-governmental levels, the American Institute of Iranian Studies (AIIrS) has taken steps to reestablish its presence in Iran and to launch programs which support Iranian studies in the United States and contribute to easing tension and facilitating communication between the United States and Iran. A summer language and research program for American graduate students was successfully completed last month and discussions culminated in agreement on a framework for continuing direct dialogue in both Iran and United States, and collaboration in the promotion of research on Iranian civilization.

The American Institute of Iranian Studies was founded in 1967 as a consortium of American universities and museums having an interest in Iranian Studies. It functioned as an American overseas research organization, representing Iranian studies at the institutional level and maintaining a center in Tehran with a resident American scholar as director. The Tehran center was closed in 1979 for political reasons but the organization has remained active since then. For the past nineteen years, AIIrS has worked to support and strengthen the field of Iranian studies in the U.S. by awarding fellowships to help graduate students complete their dissertations. Its current membership consists of fifteen American universities and museums.

In the spring of 1998, officers of the AIIrS, Profs. William L. Hanaway and Brian Spooner of the University of Pennsylvania, worked with the Permanent Mission of the Islamic Republic of Iran to the United Nations to develop an intensive summer program in Iran for advanced American graduate students. Nine students from the Universities of Texas, Washington, Michigan and California at Los Angeles, the University of Chicago, Tufts University, Harvard University, and Washington University St. Louis, were chosen from over thirty applicants to attend a two-month summer language and research program administered by the International Center for Persian Studies in Tehran.

The nine students—five women and four men—were briefed in New York by the UN Mission' and AIIrS and subsequently spent nine weeks in Tehran attending language classes and carrying out first-hand research relevant to their doctoral dissertation topics which range from historical subjects to studies of Iranian law and society, nationalism and ethnic conflict, and business issues. Most of the students returned to their home universities in early September, although one woman remains in Tehran with the concurrence of the University to pursue further language study. The students were warmly treated by their hosts and the Iranian general public and traveled freely throughout the country with no restrictions or untoward incidents.

The Iranian Ministry of Culture and Higher Education covered all local costs in Tehran. A grant of $30,000 from the United States Information Agency (USIA) enabled AIIrS to cover the cost of international travel for the students, Hanaway, and Spooner, and to arrange a briefing in New York for the students before their departure. This financial support from the U.S. government was an important factor in the program's success. Hanaway and Spooner kept officials at USIA and the U.S. Department of State aware of all aspects of the program and received support and constructive advice at all stages.

Hanaway and Spooner were also able to begin negotiations with Iranian scholars and officials which should lead to greater cooperation between scholars in both countries. Within the framework for dialogue, exchange, and collaboration just established, AIIrS expects very soon to send the first of a series of American research fellows, continue advanced language training, launch scholarly exchanges between American and Iranian scholars, serve as a resource in the U.S. for Iranian scholars, and continue dialogue with the Ministry of Culture and Higher Education in Tehran. Through academic non-political programs, AIIrS will work to improve relations between American and Iranian scholars and thereby contribute to improved relations between the two countries.

Submitted by Dr. Mary Ellen Lane, Executive Director, Council of American Overseas Research Centers, Smithsonian Institution, Washington, DC.

IN HONOR OF CLEVELAND CENTRAL CATHOLIC HIGH SCHOOL

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. KUCINICH. Mr. Speaker, I rise today to extend my best wishes to Cleveland Central Catholic High School (CCC) in Celebrating its 30th anniversary. From its opening in 1969, it has continuously honored its mission to provide an innovative educational opportunity to the students of the greater Cleveland area.

The brainchild of Rev. John L. Fiala, this high school originated as a merger of four deeply rooted neighborhood Catholic high schools, Saint John Cantius, Saint Stanislaus, Our Lady of Lourdes and Saint Michael. His hard work resulted in a campus where each building retained its own identity while changing its educational curriculum to fit the plan of the merger. The buildings were renovated to house many structural changes, with labs and specialty rooms on each campus. Reverend Fiala fashioned an affordable high school experience for the 1,600 students who attended Cleveland Central Catholic while providing them with excellent faculty and staff.

Once the merger was established, the school began to expand and improve its programs, becoming a forerunner in education. It initiated the first State approved 3-year program in Ohio and instituted block scheduling, a concept that has been heralded to catapult education into the year 2000. Much of the school's success has occurred due to the unconditional support from the CCC Parents Club, the Booster Club, and the ongoing dedication of the faculty.

Even though the academics have focused toward a more traditional role at CCC, there have been a number of evident changes. Advances in technology have brought the installation of computer labs and extensive staff training, access to the Internet, a video-conferencing lab, and integrated math and post secondary option programs.

My fellow colleagues, please join me in celebrating the 30th anniversary of Cleveland Central Catholic High School. This institution provides a needed stability for the students who come through its doors. It has remained a unique educational experience that is sure to become even better in years to come.

IN MEMORY OF MAYOR TOM BRADLEY

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. MARTINEZ. Mr. Speaker, I rise tonight to salute the life of Mayor Tom Bradley—a great American and great Angelino.

He was a pioneer and a peacemaker. He was tenacious and compassionate. He was a coalition builder who fought for Justice and racial tolerance. Tom Bradley was truly a remarkable man whose historic, 20-year leadership of Los Angeles left an indelible mark on our lives.

It is indeed a testament to the strength of his character and to our democracy that the grandson of a slave, and son of a sharecropper, could end up as the first African-American mayor of the Nation's second largest city. Before reaching the pinnacle of political power in Los Angeles, Bradley's career was as varied as the city he would later represent. In 1940, Tom Bradley began his career as a Los Angeles police officer and became a lieutenant—no small task in an era of segregation. In 1956, he earned his law degree from Southwestern Law School. Five years later, he left the force to practice law. He launched his political career in 1963 when he won a seat on the City Council. Ten years later, Tom Bradley was elected mayor.

During his leadership of the city, minorities and women were brought into city government in record numbers. He transformed L.A. into a bustling metropolis. It was under his mayoral tenure that Los Angeles emerged as a national transportation hub and financial center that it is today.

Mayor Bradley made a difference in the lives of Angelinos. His legacy is firmly established. The city is a far better place because of the political leadership and contributions of this immensely talented and courageous man.

God bless you Tom Bradley.

REDEDICATION OF CLAY MEMORIAL STADIUM

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Ms. KAPTUR. Mr. Speaker, I would like to take this opportunity to recognize the administration, faculty, staff, students and families of Clay High School in Oregon, Ohio. On October 9, 1998, the Clay High School community will rededicate the Clay Memorial Stadium.

In December, 1941, our nation entered the greatest conflict in human history. Young people from all walks of life served in our armed forces. Many soldiers, sailors, airmen and marines came from the Oregon, Ohio, area and served with honor and distinction as we freed the world of Axis terror and facism. Some of these young people never returned. They gave their lives for freedom with the hope that our nation and their community would always cherish the gifts that America offers.

It was in this spirit that the Oregon, Ohio, community dedicated the Clay Memorial Stadium, in 1948, to the young men and women who gave their lives in defense of liberty. This year marks the 50th Anniversary of the stadium. The Clay High School family and the Oregon community at large are now embarking on a renovation project to make the stadium's World War II memorial the focus of the facility. The community also plans to add memorials to those who served in Korea, Vietnam and the Gulf War. The renovated stadium promises to be a renewed memorial to those who have made the supreme sacrifice and a symbol of youth and hope as we enter the 21st Century.

Mr. Speaker, as the Congressional author of legislation to create a national World War II Memorial it gives me much pride to represent the ctiizens of Oregon, Ohio in this great House. They and the nation will never forget the sacrifice of the millions of men and women who gave their lives to freedom in the victory over tyranny that defined world history for the 20th century.

Our community extends warm appreciation to the citizens of Oregon, Ohio as they rededicate the Clay Memorial Stadium.

A TRIBUTE TO THE GREATER PATCHOGUE CHAMBER OF COMMERCE

HON. MICHAEL P. FORBES

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. FORBES. Mr. Speaker, I rise today in the House of Representatives to ask my colleagues to join me in congratulating the Greater Patchogue Chamber of Commerce, as the business owners and residents of this historic South Shore, Long Island community celebrate the Chamber's 75th anniversary.

Born in the days when many residents of this beautiful, seaside village still earned their living on the waters of the Great South Bay, raking clams and oysters from the sand. As the main center of commerce on the South Shore of Suffolk County, Patchogue boasted a thriving Main Street business district. Still, many understood the need to coordinate their efforts to promote the goods and services of Patchogue's merchants. On February 8, 1924, the Long Island Advance editorial page advocated the creation of a Chamber of Commerce to market Patchogue to consumers across Long Island. A month later, the Chamber held its first meeting.

The members of the Greater Patchogue Chamber of Commerce are accomplished business, education and civic leaders who are dedicated to the success of this historic Long Island village. For the past 75 years, the great citizens have built a lasting legacy, giving of their time, talents and treasures to make our community a better place to live, work and raise a family.

The Greater Patchogue Chamber of Commerce organizes many community-building activities, from the Christmas Tree lighting and Holiday Party to the Annual Clam and Crab Festival and St. Patrick's Day parade.

Throughout the year, the Chamber organizes several creative marketing promotions, in an effort to draw shoppers and tourists into Patchogue's historic downtown and water front areas. Their spirited and creative efforts helped Patchogue weather tough times in the local economy and helped the Village maintain its status as the premier shopping area in Suffolk.

Anniversaries are a time to reflect upon the past and to look toward new horizons. Therefore, Mr. Speaker, I ask you and my colleagues to join me in commemorating the 75th anniversary of the Greater Patchogue Chamber of Commerce. All of us who are about our Long Island home thank each of the members of the Chamber for all they have done to make Patchogue such a great place to live and shop.

PRESIDENT LEE TENG-HUI AND THE NOBEL PEACE PRIZE

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. SOLOMON. Mr. Speaker, President Lee Teng-hui of the Republic of China has been named as one of four nominees for the 1998 Nobel Peace Prize. This is not only an honor for President Lee himself, but also a direct acknowledgment of his contributions to Taiwan and the world.

In the past ten years, President Lee has successfully presided over a "quiet revolution" in Taiwan. Taiwan has emerged from its authoritarian past to become a free and prosperous country. Taiwan is the world's fourteenth largest economy and has an annual per capital income of $12,000, forty times that of mainland China.

Long ostracized from regional organizations, Taiwan is now active in the Asian Development Bank and has joined the Asia-Pacific Economic Cooperation group. On the political front, the parliament has been overhauled; several major political parties have developed; restrictions on the press have been lifted; and people have the right to demonstrate and protest against government policies.

President Lee is a voice for peace in the evolving relationship between Taiwan and the Chinese mainland. He has repeatedly urged his counterparts in Beijing to sit down and discuss all issues regarding the eventual reunification of Taiwan and the mainland.

President Lee's dream is to see a new China, a country that is free, democratic, and prosperous. In the meantime, he has rejected the "one country, two systems" arrangement suggested by the communists on the mainland. The fact is that China is divided and has two governments, just as Germany and Vietnam were divided in the past and Korea is still today.

No one can doubt President Lee's genuine desire to see a reunified China. Meanwhile, let's give him our support and wish him success in winning the Nobel Peace Prize and the hearts and minds of his counterparts in Beijing.

A reunified China under the principles of freedom, democracy, and human rights is the dream of all Chinese people. And that, incidentally, is my dream for them as well, as the people on Taiwan prepare to celebrate their National Day on Saturday.

MULTIPLE CHEMICAL SENSITIVITY

HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. SANDERS. Mr. Speaker, I rise today to discuss the issue of Multiple Chemical Sensitivity as it relates to both our civilian population and our Gulf war veterans.

Multiple Chemical Sensitivity or MCS is a chronic condition marked by heightened sensitivity to multiple different chemicals and other irritants at or below previously tolerated levels of exposure. Sensitivity to odors is often accompanied by food and drug intolerance, sensitivity to sunlight and other sensory abnormalities, such as hypersensitivity to touch, heat and-or cold, and loud noises. MCS is often accompanied by impaired balance, memory and concentration.

As a member of the Human Resources Subcommittee, which has oversight jurisdiction for the Veterans' Affairs, I have been involved in the issue of Gulf war illness and Multiple Chemical Sensitivity. I have been concerned for many years about the role that chemicals may be playing on human health, not only in Gulf war veterans and their families, but in civilian society as well. I have talked to many people who are suffering symptoms not dissimilar from the symptoms that our Persian Gulf veterans are experiencing because of chemicals in their homes or workplaces.

As has been well-documented, the military theater in the Persian Gulf was a chemical cesspool. Our troops were exposed to chemical warfare agents, leaded petroleum, widespread use of pesticides, depleted uranium and burning oil wells. In addition, they were given a myriad of pharmaceuticals as vaccines. Further, and perhaps most importantly, as a result of a waiver from the FDA, hundreds of thousands of troops were given pyridostigmine bromide. Pyridostigmine bromide, which was being used as an anti-nerve agent, had never been used in this capacity before. In the midst of all this, our troops were living in a hot, unpleasant climate and were under very great stress.

The Department of Defense and the Department of Veterans Affairs have downplayed the presence of Multiple Chemical Sensitivity in Gulf war veterans. In the very beginning, the Defense Department and Veterans' Affairs actually denied that there was any problem whatsoever with our veterans' health. Then, after finally acknowledging that there was a problem, they concluded that the problem was in the heads of our soldiers—of psychological origin. The DOD and the VA responded very poorly to our veterans' concerns. Tragically, our veterans were discounted. They were called malingerers.

Ever so slowly, the truth about chemical exposure in the Persian Gulf has begun to surface. On July 24, 1997, the Defense Department and the Central Intelligence Agency gave us their best estimate—that as many as 98,910 American troops could have been exposed to chemical warfare agents due to destruction of "the Pit" in Khamisiyah, an Iraqi munitions facility.

Not waiting for the DOD and VA, many other Federal, State, and local government agencies have recognized the existence of Multiple Chemical Sensitivity. I want to submit for the RECORD the latest "Recognition of Multiple Chemical Sensitivity" newsletter which lists the U.S. Federal, State, and local government authorities, U.S. Federal and State courts, U.S. workers' compensation boards, and independent organizations that have adopted policies, made statements, and-or published documents recognizing Multiple Chemical Sensitivity disorders.

RECOGNITION OF MULTIPLE CHEMICAL SENSITIVITY

Multiple Chemical Sensitivity or MCS is a chronic condition marked by heightened sensitivity to multiple different chemicals and other irritants at or below previously tolerated levels of exposure. Sensitivity to odors is often accompanied by food and drug intolerances, photosensitivity to sunlight and other sensory abnormalities, such as hypersensitivity to touch, heat and/or cold, and loud noises and impaired balance, memory and concentration. MCS is more common in women and can start at any age, but usually begins in one's 20's to 40's. Onset may be sudden (from a brief high-level toxic exposures) or gradual (from chronic low-level exposures), as in "sick buildings." The syndrome is defined by multiple symptoms occuring in multiple organ systems (most commonly the neurological, gastrointestinal, respiratory, and musculoskeletal) in response to multiple different exposures. Symptoms may include chronic fatigue, aching joints and muscles, irritable bowel, difficulty sleeping and concentrating, memory loss, migraines, and irritated eyes, nose, ears, throat and/or skin. Symptoms usually begin after a chronic or acute exposure to one or more toxic chemical(s), after when they "spread" to other exposures involving unrelated chemicals and other irritants from a great variety of sources (air pollutants, food additives, fuels, building materials, scented products, etc.). Consistent with basic principles of toxicology, MCS usually can be improved, although not completely cured, through the reduction and environmental control of such exposures. Many different terms have been proposed in medical literature since 1869 to describe MCS syndrome and possibly related disorders whose symptoms also wax and wane in response to chemical exposures.

ALTERNATE NAMES PROPOSED FOR MCS

Acquired Intolerance to Solvents, Allergic Toxemia, Cerebral Allergy, Chemical Hypersensitivity Syndrome, Chemical-Induced Immune Dysfunction, Ecological Illness, Environmental Illness or "EI," Environmental Irritant Syndrome, Environmentally Induced Illness, Environmental Hypersensitivity Disorder, Idiopathic Environmental Intolerances or "IEI," Immune System Dysregulation, Multiple Chemical Hypersensitivity Syndrome, Multiple Chemical Reactivity, Total Allergy Syndrome, Toxic Carpet Syndrome, Toxin Induced Loss of Tolerance of "TILT," Toxic Response Syndrome, 20th Century Disease.

DISORDERS ASSOCIATED WITH SINGLE OR MULTI-ORGAN CHEMICAL SENSITIVITY

Akureyri Disease (coded as EN), Asthma, Cacosmia, Chronic Fatigue Syndrome, Disorders of Porphyrin Metabolism, [Benign

Myalgic] Encephalomyelitis, Epidemic Neuromyastenia (EN), Fibromyalgia Syndrome, Gulf War Syndrome, Icelandic Disease (coded as EN), Mastocytosis, Migraine, Neurasthenia, Royal Free [Hospital] Disease, Sick Building Syndrome, Silicone Adjutant Disease, Systemic Lupus Erythematosus, Toxic Encephalopathy.

Listed alphabetically below are the U.S. Federal, State, and local government authorities, U.S. Federal and State courts, U.S. workers' compensation boards, and independent organizations that have adopted policies, made statement, and/or published documents recognizing MCS disorders under one name or another as a ligitimate medical condition and/or disability. An introductory section summarizes recognition or MCS in peer-reviewed medical literature, and the last section lists upcoming MCS conferences as well as past conferences sponsored by Federal Government agencies.

The exact meaning of "recognition" varies with the context as each listing makes clear. Recognition by a court of law, for example, usually refers to a verdict or appeal in favor of an MCS plaintiff, while recognition by government agencies varies tremendously—from acknowledgement of the condition in publications and policies to research funding and legal protection of disability rights.

RECOGNITION OF MCS BY 25 FEDERAL AUTHORITIES

U.S. Agency for Toxic Substances & Disease Registry in a unanimously adopted recommendation of the ATSDR's Board of Scientific Counselors, which calls on the ATSDR to "take a leadership role in the investigation of MCS" [1992, 24 pages, R–1]. To coordinate interagency research into MCS, the ATSDR co-chairs the Federal Work Group on Chemical Sensitivity, which it convened for the first time in 1994 (see below). The ATSDR has helped organize and pay for three national medical conferences on MCS: sponsored by the National Academy of Sciences in 1991, the Association of Occupational and Environmental Clinics in 1991, and the ATSDR in 1994. The combined proceedings of these three conferences are reprinted in Multiple Chemical Sensitivity, A Scientific Overview, ed. Frank Mitchell, Princeton NJ: Princeton Scientific Publishing, 1995 (609–683–4750 to order). ATSDR also contributed funding to a study conducted by the California Department of Health Services to develop a protocol for detecting MCS outbreaks in toxic-exposed communities via questionnaires and diagnostic tests (see entry below on California Department of Health Services). Officially, however, ATSDR has not "established a formal position regarding this syndrome" [1995, 1 page, R–2].

U.S. Army, Medical Evaluation Board on US Army Form 3947 (from the U.S. Army Surgeon General), Army Medical Evaluation Board certified a diagnosis of "Multiple Chemical Sensitivities Syndrome" for a Persian Gulf veteran on 14 April 1993 [1 page, R–3]. MCS is defined on this form as "manifested by headache, shortness of breath, congestion, rhinorrhea, transient rash, and incoordination associated with exposure to a variety of chemicals." The Board's report further recognizes that this patient's particular MCS condition began approximately in April 1991 (while the patient was serving in the Gulf and entitled to base pay), that the condition did not exist prior to service, and that it has been permanently aggravated by service. At least five other active duty Persian Gulf veterans have been diagnosed by the Army with MCS, as reported by the Persian Gulf Veterans coordinating Board in "Summary of the Issues Impacting Upon the Health of Persian Gulf Veterans," [3 March 1994, 4 page excerpt, R–4]. The Army Medical Department also has requested funding for a research facility to study MCS (reported in an Army information paper on "Post Persian Gulf War Health Issues," 16 November 1993).

U.S. Congress in a VA/HUD Appropriations Bill for FY1993 signed by President Bush in 1992 appropriating "$250,000 from Superfund funds for chemical sensitivity workshops." These funds were used by the U.S. Agency for Toxic Substances and Disease Registry (see above) to co-sponsor scientific meetings on MCS with various other organizations [1992, 3 page excerpt, R–5] and support an MCS study (see California State Department of Health Services below). For FY 1998, Vermont Congressman Bernard Sanders proposed and Congress appropriated $800,000 to start a new 5-year civilian agency research program into MCS among Gulf War veterans. Congress also requested that the administration report back by January 1998 on how it planned to spend the funds (text of appropriations is quoted in report; see below: U.S. Department of Health Services, Agency for Health Care Policy and Research).

U.S. Consumer Product Safety Commission, U.S. Environmental Protection Agency, American Lung Association, and American Medical Association (jointly) in a jointly published booklet entitled *Indoor Air Pollution An Introduction for Health Professional* [US GPO 1994–523–217/81322] under the heading "What is 'multiple chemical sensitivity' or 'total allergy'?, these organizations state that "The current consensus is that in cases of claimed or suspected MCS, complaints should not be dismissed as psychogenic, and a thorough workup is essential." The booklet is prefaced by the claim that "Information provided in this booklet is based upon current scientific and technical understanding of the issues presented . . ."[1994, 3 page excerpt, R–6]

U.S. Department of Agriculture, Forest Service in its Final Environmental Impact Statement on "Gypsy Moth Management in the United States: a cooperative approach", people with MCS are mentioned as a "potential high risk group" who should be given advance notification of insecticide treatment projects via "organizations, groups and agencies that consist of or work with people who are chemically sensitive or immunocompromised." MCS also is discussed in an appendix on Human Health Risk Assessment (Appendix F, Volume III of V) under both "Harzard Identification" and "Groups at Special Risk" [1995, 11 page excerpt and 1 page cover letter from John Hazel, the USDA's EIS Team Leader, to Dr. Grace Ziem of MCS Referral & Resources, R–130].

U.S. Department of Education in the enforcement by its Office of Civil Rights of Section 504 of the Rehabilitation Act of 1973 which requires accommodation of persons with "MCS Syndrome" via modification of their educational environment, as evidenced by several "agency letters of finding" (including San Diego (Calif) Unified School District, 1 National Disability Law Reporter, para. 61, p. 311, 24 May 1990; Montville (Conn.) Board of Education, 1 National Disability Law Reporter, para. 123, p. 515, 6 July 1990; and four letters (along with an individualized environment management program) in the case of the Arminger children of Baltimore County, MD [in 1991, 1992, 1993 and 1994; 20 pages total, R–7]. These accommodations also are required under the terms of Public Law 94–142, now known as the Individuals with Disabilities Education Act (CFR34 Part 300). The Department of Education as a whole, however, has no formal policy or position statement on the accommodation of students with MCS.

U.S. Department of Energy, Oak Ridge National Laboratory in being the lead sponsor of the 11th Annual Life Sciences Symposium on "Indoor Air and Human Health Revisited." This 1994 conference was co-sponsored by the US Environmental Protection Agency and Martin Marietta Energy Systems' Hazardous Waste Remedial Action Program. The proceedings are published in *Indoor Air and Human Health* (Gammage RB and Berven BA, editors, Boca Raton FL: CRC Lewis Publishers, 1996) and contain several peer-reviewed papers of critical relevance to MCS by DoE, EPA and other federally funded researchers. (4 page excerpt with table of contents, R–175)

U.S. Department of Health and Human Services (HHS), Agency for Health Care Policy and Research in a "Report to Congress on Research on Multiple Chemical Exposures and Veterans with Gulf War Illnesses" by agency administrator Dr. John Eisenberg (who is also the acting Assistant Secretary for Health). Dr. Eisenberg proposes spending $300,000 in 1998 for a "consensus building" and research planning conference, $400,000 for research into the health effects of chemical mixtures, and $100,000 for an Interagency Coordinator in the Office of Public Health and Science [January 1998, 7 pages including MCS R&R press release, R–168]. Congress requested the report in 1998, as part of an $800,000 appropriation for a new civilian research into MCS (see U.S. Congress, above).

U.S. Dept. of HHS, National Institute on Deafness and Other Communication Disorders in the funding of MCS-related olfactory research by its Chemical Senses Branch since NIDCD's creation in 1988; including $29,583,000 in fiscal year 1998. The Chemical Senses Branch supports both basic and applied research, with most of its funds going to just five "chemosensory research centers": the Connecticut Chemosensory Clinical Research Center (860–679–2459), Monell Chemical Senses Center (215–898–6666), Rocky Mountain Taste and Smell Center (303–315–5650), State University of New York Clinical Olfactory Research Center (315–464–5588), and University of Pennsylvania Smell and Taste Center (215–662–6580). Free information is available from NIDCD Information Clearinghouse, 800–241–1044.

U.S. Dept. of HHS, National Institute of Environmental Health Sciences in "Issues and Challenges in Environmental Health," a publication about the work of NIEHS, research priorities are proposed for "hypersensitivity diseases resulting from allergic reactions to environmental substances" [NIH 87–861, 1987, 45 pages, R—8]. It is not clear from the context if this statement was meant to include or exclude MCS, since the condition was still thought by some at the time to be an allergic-type reaction. In 1992, the director Dr. Bernadine Healy responded in detail to an inquiry from Congressman Pete Stark about the scope of NIEHS research into MCS: "It is hoped that research conducted at NIEHS will lead to methods to identify individuals who may be predisposed to chemical hypersensitivities. . . . NIH research is directed toward the understanding of the effect of chemical sensitivities on multiple parts of the body, including the immune system." [1992, 3 pages, R–9]. In 1996, director Dr. Kenneth Olden wrote US Senator Bob Graham that "NIEHS has provided research support to study MCS. . . . NIEHS has also supported a number of workshops and meetings on the subject." [15 April 1996, 2 pages, R–101]. Dr. Olden also states that "Pesticides and solvents are the two major classes of chemicals most frequently reported by patients reporting low level sensitivities as having initiated their problems."

U.S. Department of Health and Human Services, National Library of Medicine . . . in the 1995 Medical Subject Headings (MESH) codes used to catalog all medical references, which started using Multiple Chemical Sensitivity (and its variations) as a subject heading for all publications indexed after October 1994 [3 pages excerpt, R–10].

U.S. Department of Health and Human Services, Office for Civil Rights (OCR) . . . in the final report by the Regional Director (of Region VI) regarding OCR's investigation of an ADA-related discrimination complaint filed by a patient with MCS against the University of Texas M.D. Anderson Cancer Center for failing to accommodate her disability and thereby forcing her to go elsewhere for surgery. Prior to completion of the investigation and the issuance of any formal "findings," the OCR accepted a proposal from the Univ. of Texas to resolve this complaint by creating a joint subcommittee of the cancer center's Safety and Risk Management committees. This subcommittee's three tasks (as approved by the OCR) are to "identify a rapid response mechanism which could be triggered by any patient registering a complaint or presenting a special need which is environment related; develop a 'protocol' outlining steps to be taken to resolve environmental complaints by patients . . . ; and inform the medical staff through its newsletter of the mechanism and the protocol so that they will better understand how to address such questions or concerns." The OCR has placed the M.D. Anderson Cancer Center "in monitoring" pending completion and documentation of these changes, but it may initiate further investigation if M.D. Anderson fails to complete this process within the 13 months allowed. [27 March 1996, 11 pages, R–99]

U.S. Department of Health and Human Services, Social Security Administration . . . in enforcement of the Social Security Disability Act (see Recognition of MCS by Federal Courts, below), and in the SSA's Program Operations Manual System (POMS), which includes a section on the "Medical Evaluation of Specific Issues—Environmental Illness" stating that "evaluation should be made on an individual case by case basis to determine if the impairment prevents substantial gainful activity" [SSA publication 68–0424500, Part 04, Chapter 245, Section 24515.065, transmittal #12, 1998, 1 page excerpt, R–11]. In 1997, the U.S. District Court in Massachusetts required Acting SSA Commissioner John Callahan to spell out the agency's position on MCS in a formal memo to the court (31 October 1997, 2 pages, R–164; see Creamer v. Callahan below, under Recognition of MCS by US Federal Court Decisions). With this memo, SSA now officially recognizes MCS "as a medically determinable impairment" on an agency wide basis. MCS is also recognized in several "fully favorable" decisions of the SSA's Office of Hearing and Appeals: in case #538–48–7517, in which the administrative law judge, David J. Delaittre, ruled that "the claimant has an anxiety disorder and multiple chemical sensitivity," with the latter based in part on the fact that "objective [qEEG] evidence showed abnormal brain function when exposed to chemicals" [1995, 7 pages, R–12]; in case #264–65–5308, in which the administrative law judge, Martha Lanphear, ruled that the claimant suffered severe reactive airways disease secondary to chemical sensitivity and that this impairment prevented her from performing more than a limited range of light work [1996, 8 pages, R–120]; in case #239–54–6581, in which the administrative law judge, D. Kevin Dugan, ruled that the claimant suffered severe impairments as a result of pesticide poisoning, including "marked sensitivity to airborne chemicals," which prevent her from "performing any substantial gainful activity on a sustained basis [1996, 4 pages, R–135]; in case #024–40–2499, in which the administrative law judge, Lynette Diehl Lang, recognized that the claimant suffered from severe MCS and could not tolerate chemical fumes at work (as a result of overexposure to formaldehyde in a state office building), as a result of which he was awarded both disability benefits and supplemental security income [1995, 8 pages, R–140]; in case #184–34–4849, in which administrative law judge Robert Sears ruled that the claimant suffered from "extreme environmental sensitivities," and particularly "severe intolerance to any amount of exposure to pulmonary irritants" [11 June 1996, 7 pages, R–156]; and in case #256–98–4768, in which the administrative law judge, Frank Armstrong, classified the claimant's "dysautonomia triggered by multiple chemical sensitivities" as severe and said it "prevents the claimant from engaging in substantial gainful activity on a sustained basis" [18 March 1997, 8 pages, R–157].

IN HONOR OF THE 25TH ANNIVERSARY OF THE NATIONAL HEAD START ASSOCIATION (AND THE LAUNCH OF THE HEADS UP! NETWORK)

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. MARTINEZ. Mr. Speaker, October 1998 marks the 25th Anniversary of the National Head Start Association and I rise in tribute to this organization which, for a quarter-century, has been responsive to the needs of millions of Head Start children and their families, as well as staff and friends of the program.

NHSA, its membership, its leadership, and its Government Affairs Department, are to be commended on their latest accomplishment—the invaluable input provided by the Association in the successful completion of a bipartisan Head Start reauthorization at the end of this session. NHSA once again left its mark on that legislation. I am proud to have been a part of that effort and can testify firsthand of the good work which NHSA does.

The idea for a Head Start Association was born in 1973 in Kansas City, Missouri, at a national conference for directors of community action agencies. A handful of Head Start program directors attending the conference discussed the need for a private, national association that could advocate specifically for the Head Start community in Congress.

During the remainder of 1973, the core group of directors from Kansas City met several times with other Head Start directors from across the country. Pooling their broad resources, they formed the National Directors Assocation—the forerunner of NHSA. In addition to protecting Head Start's funding, the association aimed to strengthen the quality of Head Start.

At the request of the National Directors Association, Head Start parent delegates from each state met in Washington, D.C., in September 1974 to begin forming the parent affiliate of the Head Start Association, called the Head Start Parents Association.

At the January 1975 organizational meeting in Los Angeles, the parents passed a motion to invite Head Start non-director staff members to the second annual conference. It was their feeling that all Head Start staff members were critical to the association's long-term success. Non-director staff members formed the third affiliate association, the Head Start Staff Association. By the time the second annual meeting was held in Kansas City, the three associations as a group were named the National Head Start Association.

At the second annual conference, a number of the attendees did not fit into any of the three affiliate associations already organized. These "friends" of Head Start organized themselves into the final affiliate association of National Head Start Association, presenting their bylaws and charter at the second annual conference.

This collaborative and expanding effort is indicative of the vitality and responsiveness upon which NHSA prides itself. Like the Head Start program itself, NHSA has worked to respond to local and changing needs—and has done so by enlarging the Head Start community to include everyone in the community.

Over the past 20 years, NHSA's mission has changed from simply defending Head Start in Congress to actively expanding and improving the program. Membership types have been created for Head Start agencies, Head Start state and regional associations, and both commercial and nonprofit organizations. From planning massive annual training conferences to publishing a vast array of publications, the National Head Start Association continually strives to improve the quality of Head Start's comprehensive services for America's children and families.

The latest chapter in NHSA's bold leadership came just two weeks ago. On September 24, I took part in the premiere of the Heads Up! Network—a satellite television network exclusively dedicated to the training needs of the Head Start and early childhood community. As NHSA examines new, innovative ways to support the needs of Head Start professionals and parents, I share their belief in the power of the Heads Up! Network to deliver on the promise of high-quality affordable training.

On behalf of myself and my colleagues, I congratulate the National Head Start Association, its President Ron Herndon, Chief Executive Officer Sarah Greene, and the Association's national staff and thousands of members across the nation on a quarter century of success in service to the country's low income children and families. I think I speak for all my colleagues when I say that a grateful Congress looks forward to many more years in support of quality early childhood and family care and education—hand in hand with NHSA. Happy Anniversary!

HONORING THE RETIREMENT OF IMAM KHATTAB

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Ms. KAPTUR. Mr. Speaker, I rise today to recognize a member of the clergy in my district, the Imam Khattab of the Islamic Center of Greater Toledo. The Imam is retiring as the congregation's director, having served the Muslim community of Northwest Ohio for sixteen years.

Born in Egypt, Abdelmoneim Mahmoud Khattab completed his undergraduate degree at Al-Azhar University, where he received his Bachelor's Degree in Theology. He later received Masters Degrees in Social Services and Theology, and completed three years in the College of Law at Cairo University. After immigrating to Canada, he obtained a Masters Degree in Sociology and went on to complete his PhD coursework. A true scholar and learned man, Imam Khattab has directed his expertise to the fields of education, health, and foreign affairs, as well as directing Islamic Centers in Edmonton, Alberta and London, Ontario prior to his tenure in Northwest Ohio.

Imam Khattab has profoundly affected each congregation to which he devoted himself. With his guidance, the Islamic Center of Greater Toledo has fostered an interfaith understanding with the community, and it has become a centerpiece of Muslim faith and culture in our region. Those who visit the mosque, whether members of the Muslim community or not, cannot help but be swept up in the reverence, humility, faith, and sense of the world which reverberates within its walls.

Imam Khattab has been a leader in every sense of that word, directing the members of the mosque in his quiet, humble manner and with the greatest dignity. He takes his leave to pursue other important ventures, but leaves all of those who knew him during his stay here richer for the experience. We wish him well in his journey. Assalamu Alaikum, a friend to each of us who strive for a world of greater understanding, peace, and fellowship.

SONNY BONO COPYRIGHT TERM EXTENSION ACT

SPEECH OF

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. CONYERS. Madam Speaker, I rise today in strong support of that part of the term extension bill which actually extends the term of copyright. But to object to another, unrelated provision of the bill which I wish were not included today. I do support this overall bill, and I will vote for it, but as I say, regret that I am forced to accept a terrible provision as the price to pay for supporting a bill which this Nation urgently needs.

I deeply regret that copyright term extension legislation was hijacked some time ago by interests that have little to do with the extension of copyright's term, but through their persistence, and the support of some in the House of Representatives whose tenacity is to be admired, have succeeded in putting a provision in this legislation which is a terrible blow to songwriters.

Copyright term extension is an important and necessary improvement to our copyright laws, and one which I have long supported. After a healthy debate, it passed out of the Judiciary Committee without dissent, and those of us who support it have fought long and hard for it to come to the floor today. It strengthens our domestic copyright industry by extending the life of copyright. In addition, it eliminates the disadvantage that the United States has operated under since the European Union extended the life of its copyrights, but provided that copyrights created in countries that did not do the same, like the United States until now, would not be similarly protected.

Although I am wholeheartedly in support of term extension, I am deeply disappointed that the leadership has agreed to use this vehicle to carve out important protections—meaning real money—from songwriters, the overwhelming majority of whom do not make a great deal of money to begin with. The musical licensing exemption provision in today's bill may be a compromise, but it's bad policy.

I am concerned that the musical licensing exemption—a wholly inappropriate carveout of performers rights—may also be violative of international treaty obligations. Specifically, the provision may well violate the Berne Convention for the protection of literary and artistic works. I am directly talking about Article 11b is of that convention, which provides the exclusive right of the author to authorize the "public communication by loudspeaker or other analogous instrument transmitting by signs, sounds, or images, the broadcast of the work." Based on the Register of Copyrights' analysis of earlier versions of this bill, I am concerned that the carveout in today's bill may violate that provision.

The case has also been made to me that the carveout—which will come directly out of the pockets of songwriters—may also be a taking. How ironic that the Republican majority would spend so much time worried about takings in the property context, then turn around and do it to small business people when nobody's looking.

I am voting for today's legislation because the extension of copyright term is a critical and necessary policy change for our Nation to make. I am disappointed that the legislation includes this carveout that hurts songwriters. But it was a compromise, and I recognize that. I regret that songwriters were made to compromise on something they should not have had to be dealing with at all, but it is a compromise, and I understand that. I just am not sure that nations that may have a claim against us in the world trade organization because of a violation of the Berne Convention will understand it, and that concerns me.

HONORING THE MEMORY OF DEPUTY CONSTABLE RAY LEO "MICHAEL" EAKIN III

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. GREEN. Mr. Speaker, I rise today to pay tribute to Ray Leo "Michael" Eakin III, who died tragically on September 29, 1998, while performing his duties as a deputy constable.

I would like to extend my condolences to his parents, Bill and Janet Green, as well as his mother, Barbara Johnson, his father, Ray Eakin, Jr., and his many other relatives and friends.

Michael went out every day to make a difference and he did—some days in small ways, some days in big ways, and on September 29, 1998, at the cost of his life. One cannot ask more of peace officers.

Michael had been in law enforcement for 4½ years, spending the past 2½ years working for Harris County Precinct One Constable Jack Abercia. Before that he worked in the Montgomery County Constable's office. Michael Eakin is the first person to die while performing his duties in the Harris County Precinct One Constable's office.

During Michael's tenure with the Constable's office, he served with distinction in contract patrol, building security, warrant division and the Hardy Toll Road patrol.

He grew up in the Aldine area and attended school there. During his senior year, his family moved to Conroe, Texas, where he graduated from high school.

The loss of a peace officer is a tragic event. The Book of John, Chapter 15, verse 13 states: Greater love has not man than this, that a man way down his life for his friends.

I believe this message has special meaning today and forever. As a father and proud family man, I cannot begin to understand the pain and heartache being felt by the Green and Eakin families. I can only hope and pray that this death was not in vein, and we all join together to pray for them.

Deputy Constable Michael Eakin's dedication and devotion to the citizens of Harris County serves as a model for all law enforcement. I ask my colleagues to join me in paying tribute to the life of Michael Eakin.

RECOGNIZING NEW JERSEY BROADCASTERS

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. SMITH of New Jersey. Mr. Speaker, I rise in recognition of New Jersey's broadcasters and the New Jersey Broadcasters Association who have worked in partnership to help focus public attention on some of the key concerns for residents in my state. While radio and television stations are required to address important public issues, New Jersey broadcasters have worked hard to exceed their responsibilities.

New Jersey's television and radio stations have raised over $1 million for charitable causes and donated over $3 million in air-time for public service projects. Broadcasters in my state have raised money to build new housing for needy families, provided gifts for children during the Christmas holidays, and helped many individuals who were victimized by natural disasters.

Stations in New Jersey have donated countless hours of public affairs programming and public service announcements aimed at educating residents about alcohol abuse, anti-crime initiatives, and efforts to fight poverty and hunger. Additionally, two-thirds of the radio stations in New Jersey have made it their policy to offer free air-time to political candidates. The median value of the air-time totaled $27,000 per station.

Radio and television stations have done much to provide important information for people throughout New Jersey. Their important charitable fund raising, coordinated through the New Jersey Broadcasters Association, has helped enhance the quality of life for many of our citizens.

Mr. Speaker, I would like to take this opportunity to thank Phil Roberts, the Executive Director of the New Jersey Broadcasters Association and all the people who work at New Jersey's radio and television stations for their commitment and dedication to the people of New Jersey.

DON RUMSFELD'S HISTORIC LEGACY

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. GINGRICH. Mr. Speaker, the attached article from the Washington Times provides the proper perspective on the work of former Secretary of Defense Donald Rumsfeld. Frank Gaffney, Jr., recognizes that the findings of the Rumsfeld Commission are accurate and need to be given serious consideration. I recommend this article to my colleagues, and I submit the article to the CONGRESSIONAL RECORD.

[The Washington Times, Wed., Oct. 7 1998]

DON RUMSFELD'S HEROIC LEGACY

(Frank Gaffney Jr.)

Last Friday, top uniformed and civilian Pentagon officials made something of a spectacle of themselves on Capitol Hill.

It's not just that the officials—Deputy Secretary of Defense John Hamre, Vice Chairman of the Joint Chiefs of Staff Ralston and Lt. Gen. Lester Lyles, the director of the Ballistic Missile Defense Organization—were forced to admit to members of the Senate Armed Services Committee that they could no longer sustain the central tenet of the administration's resistance to the prompt deployment of missile defenses: The ballistic missile threat from a rogue state like North Korea is now recognized as likely to emerge before the United States can deploy effective anti-missile systems to defeat it.

Nor was the spectacle primarily a function of this hearing's juxtaposition with one the committee had held three days before. On the earlier occasion, the chairman of the Joint Chiefs of Staff and each of the four Service Chiefs hewed to the old party line. They parroted the JCS's position laid out in an Aug. 24 letter from their chairman, Gen. Hugh Shelton, to the chairman of the Committee's Readiness Subcommittee, Sen. Jim Inhofe, Oklahoma Republican: "We remain confident that the intelligence community can provide the necessary warning of the indigenous development and deployment by a rogue state of an ICBM threat to the United States."

In particular, the JCS dismissed as "an unlikely development" a key conclusion of the blue-ribbon, congressionally mandated commission led by former Defense Secretary Donald Rumsfeld—namely, the prospect that "through unconventional, high-risk development programs and foreign assistance, rogue nations could acquire an ICBM capability in a short time and that the intelligence community may not detect it."

Yet, Mr. Hamre and the generals accompanying him were obliged to acknowledge that they and the intelligence community had in fact been surprised by North Korea's test on Aug. 30 of a third-stage on its Taepo Dong 1 missile. Indeed, this demonstration of the inherent capability to manufacture intercontinental-range ballistic missiles came along years before it had been expected by the Clinton team. It happened to validate, however, the Rumsfeld Commission's warning that the United States was likely to have "little or no warning" of a ballistic missile threat from the likes of North Korea, Iran and Iraq.

Gen. Shelton and Co. owe Mr. Rumsfeld and his colleagues an apology—just as the nation owes the commission a debt of gratitude for helping to shatter the administration's cognitive dissonance about the escalating missile threat.

The real spectacle, though, came when the Defense Department witnesses [proceeded to assure senators of two propositions that make the systematic underestimation of the threat pale by comparison. First, they asserted that the 1972 Anti-Ballistic Missile Treaty is in no way interfering with the United States' pursuit of effective missile defenses. And second, they claimed their work on such defenses is proceeding as quickly as possible.

The one exception Messrs. Hamre, Ralston and Lyles mentioned in the latter connection was the Navy's "AEGIS Option": an evolution of the fleet air defense system that is operational on the world's oceans thanks to an investment of some $50 billion to date, so as to permit it to shoot down ballistic missiles. They confirmed that this promising program was not receiving the funds it needs to proceed as quickly as technology would permit.

Unfortunately, to correct this shortfall, the Pentagon is actively considering terminating (either formally or de facto) the Army's important Theater High Altitude Area Defense (THAAD) program. Were such an ill-advised step to be taken, it would offer proof positive of the adage that two wrongs do not make a right.

The Defense Department representatives went on to perpetrate another spectacular fraud. None mentioned that the AEGIS Option is a case in point of how the ABM Treaty is, in fact, preventing effective anti-missile systems from being developed and deployed as soon as possible.

If the dead hand of this 26-year-old accord—with a country that no longer exists—were not still governing the Clinton policy toward missile defense, there is little doubt as to what would currently be happening: The nation would be rapidly evolving its AEGIS infrastructure so as to put into place within a few years a competent, worldwide defense against shorter-range missiles (currently threatening our forces and friends overseas). Absent the ABM Treaty, moreover, this program would also afford the beginnings of a missile protection for Americans here at home for a price tag estimated to total (thanks to the sunk costs) just $2 billion to $3 billion, spent out over the next five years.

At this writing, Defense Secretary William Cohen and Gen. Shelton are about to appear before the Armed Services Committee. Given the velocity with which these sessions are producing dramatic changes in administration positions, perhaps these witnesses will reveal that the truth is breaking out not only with respect to the threat, but also with regard to what can be done about it.

Under no circumstances should the witnesses be allowed further to insult senators' intelligence by promoting the absurd argument that a limited national missile defense system that literally has to be built from the ground up can be brought on-line faster and cheaper than one that is largely operational, apart from some relatively minor hardware and software changes. This defies common sense. So does the line that the ABM Treaty—which nominally permits the former and explicitly prohibits the latter, sea-based anti-missile program—is having no impact on the effort to defend America against missile attack.

Whether the truth on these fronts actually emerges from the Cohen-Shelton hearing or at some future event, one thing seems clear: It will become harder and harder to lie to the American people about their vulnerability to ballistic missile attack and about the availability of near-term, affordable options for reducing that vulnerability, provided the ABM Treaty is no longer allowed to be an impediment to bringing defenses on-line. Hats off to Don Rumsfeld and his team for creating conditions under which such momentous changes may yet result in the deployment of missile defense before they are needed.

Frank J. Gaffney Jr. is the director of the Center for Security Policy and columnist for the Washington Times.

H.R. 4569, THE FOREIGN OPERATIONS APPROPRIATIONS, FY 1999

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. BURTON of Indiana. Mr. Speaker, today I want this Congress to focus on a government that has spent years practicing torture on its own people. However, when you go home and turn on the evening news, good luck trying to find any story that reveals this particular human rights issue. And better luck getting this administration to pay any attention to the plight of thousands of innocent civilians.

We speak of tragedies all over the world this time of year. We speak of the struggles in Africa, Cambodia, and Burma. We reprimand China for its draconian abortion policies and illegal human organ sales. We threaten to stop international military and educational training

(IMET) from Indonesia for abuses in East Timor. We even criticize longstanding allies like Turkey for its treatment of its Kurdish citizens without addressing the brutal murders carried out by the PKK, a Kurdish Marxist terrorist organization.

Unfortunately, there is one human rights issue that continues to escape the attention of this administration, some members of this Congress and the media. That issue involves the plight of the Sikhs in Punjab or Khalistan; the plight of the Kashmiris; the plight of christians in Nagaland; and the plight of the "untouchables", the lowest caste in India's system.

Mr. Speaker, the Indian Government is one of the world's worst human rights abusers in the world. You may ask, well if that's true why doesn't the word know?

Since the 1970's, Amnesty International and other human rights groups have been barred from India. Mr. Speaker, even the Government of Cuba allows Amnesty into their country.

In fact, there are half-million Indian soldiers occupying Punjab, and another half-million troops occupying Kashmir. Since 1947, India has killed over 200,000 christians in Nagaland; 250,000 Siks in Punjab from 1984–1995; and 53,000 Muslims in Kashmir since 1988.

For the last sixteen years, I have been coming to this well to call attention to Punjab, where the Indian military receives cash bounties for the slaughter of innocent children. And to justify their actions, they are labeled "terrorists."

According to our own State Department, India paid over 41,000 cash bounties to police for killing innocent people from 1991–1993!

Also in Punjab, Sikhs are picked up in the middle of the night only to be found floating dead in canals with their hands and feet bound together. Some Sikhs are only so fortunate, many are never found after their abduction.

Recently, the India Central Bureau of Investigation (CBI) told the Supreme Court that it had confirmed nearly 1,000 cases of unidentified bodies that were cremated by the military!

And it does not get any better in Kashmir. Women, because of their Muslim beliefs, are taken out of their homes in the middle of the night and are gang-raped while their husbands are forced to watch and wait inside at gunpoint.

It was hoped that the new governments in Delhi and Punjab would stop the repression which the Indian supreme court describes as "worse than a genocide!"

Mr. Speaker, opponents will say the recent election in Punjab of a Sikh dominated coalition and the fact that an "untouchable" is now the President of India is evidence of their democratic progress.

But, I can tell you that this new government in Punjab is closely aligned with the authoritarian BJP Prime Minister Vajpayee of India and India's "untouchable" President is merely a figurehead. Mr. Speaker, would democracies continue the rampant campaign of genocide?

On July 22, 1998, Baljit Singh, A Sikh youth of Burj Dhillwan village, died of complications from torture-style brutality inflicted by the Punjab police.

Also in July of 1998, police picked up Kashmira Singh of the village of Khudiah Kalan on the pretext that they were investigating a theft. They then tortured him for 15 days. They rolled logs over his legs until he couldn't walk; they submerged him in a tub of water; and they slashed his thighs with razor blades and stuffed hot peppers into the wounds.

On April 1, 1998, Brother Luke, a Roman Catholic priest was murdered in the eastern state of Bihar. His body was found with a bullet hole through the head. He was a member of Mother Teresa's world-renowned charity organization. This is the fourth priest in 2 years that has been murdered in India.

On October 30, 1997, Reverend A.T. Thomas was found beheaded also in Bihar, apparently killed for aiding the no-caste "untouchables." Amnesty International has linked the Bihar state government to the murder of Rev. Thomas! The Catholic Bishops Conference of India has criticized the government for doing nothing to protect Catholic priests and for failing to prosecute those responsible.

On July 12, 1997, in Bombay, 33 Dalits (black untouchables) were killed by Indian police during demonstrations.

On July 8, 1997, 36 people were killed in a train bombing in Punjab. Two ministers of the Punjab Government have blamed the Punjab police. The bombing occurred a day after 9 policemen were convicted of murder!

On March 5, 1997, a death squad picked up Kashmir Singh, an opposition party member. He was thrown in a van, tortured, and murdered. Finally, his bullet-ridden body was dumped out on the roadside.

These military forces operate beyond the law with complete impunity!

Mr. Speaker, the United States should not support a government that condones widespread abuses with our hard-earned tax dollars! It is time India is held accountable for its continued violation of basic human rights!

The Sikhs, Muslims, Christians, "untouchables," and women of India are desperately looking to this Congress for help. The time has come for action, it is time for America to take a stand!

Considering all this, the President still requested $56.5 million in development assistance for India in fiscal year 1999. That is an increase in almost $1 million over last year.

As everyone is aware, as a result of India's recent nuclear test, the President has imposed a broad range of sanctions on India for violation of section 102(b) of the Arms Export Control Act. Also known as the Nuclear Proliferation Prevention Act of 1994, or more popularly, the Glenn Amendment—it prohibits a variety of assistance and commercial transactions between the U.S. and any country if the President determines that that country—if it is a non-nuclear-weapon state—has detonated a nuclear explosive device.

India has disregarded regional and international stability by placing missiles and exploding thermonuclear weapons, fission weapons, and hydrogen bombs near the Pakistan border. Indeed, their behavior has been clearly unacceptable, and they are being properly punished. I applaud the President for his fortitude.

And, if the President continues to follow through with the current law, this should send a strong signal to the Indian Government that it is not going to be business as usual with the United States.

Mr. Speaker, the American people are tired of helping bullies who punish their own people and threaten neighbors. India is still the 5th largest recipient of U.S. foreign aid in the world; India is the world's largest borrower from the world bank with more than $44 billion in loans; India votes against the U.S. at the United Nations more often than any other country, except Cuba.

It does not justify sending more hard-earned tax dollars to a country that claims to be the largest democracy in the world, but obviously shares none of our most cherished values.

Democracies don't commit genocide!

Let's put the brakes on the foreign aid gravy train to India!

Ask the President not to waiver on his stance with India!

OUR U.S. CONGRESS—KOREAN NATIONAL ASSEMBLY STUDENT INTERN EXCHANGE PROGRAM

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. GILMAN. Mr. Speaker, I am pleased to rise to call to the attention of our colleagues, Michael L. Fox, a resident of Huguenot, NY, who was my 1998 designee to participate in the U.S. Congress—Foreign National Assembly Student Intern Exchange Program.

As my nominee, Michael was one of eight American interns who were selected by Members of this body, who participated in the exchange program from July 23rd to August 8th, 1998.

This exchange program, which I initiated in 1984 with the cooperation of the Korean National Assembly, our International Relations Committee, and the U.S.I.A., has been an exciting experience for hundreds of eager young adults over the years in Korea and in the United States who have participated. The Korean National Assembly Youth Exchange Program is an attempt to foster increased relations between the United States and Korea. For the 14 years that our program has been conducted, it has been a positive experience for all participants and both governments.

Mr. Speaker, Mr. Fox was kind enough to report in detail his trip to Korea, a copy of which I request to be included at this point in the RECORD:

U.S. CONGRESS—KOREAN NATIONAL ASSEMBLY YOUTH EXCHANGE PROGRAM; JULY 23–AUGUST 8, 1998

I must say that this was one of the most interesting summers of my life! Participating in this exchange program to Korea is an experience which I will cherish and remember for the rest of my life.

We started with group briefings on July 18, and soon after began to have joint meetings with the Korean Delegates so that we could get to know each other. Following three days of activities, which concluded with receptions hosted by His Excellency the Ambassador of the Republic of Korea Lee Hong-Koo at his residence, and the Chairman of the House International Relations Committee, and co-founder of this exchange program, Representative Benjamin Gilman, in an HIRC committee room, the American Delegation embarked for Seoul, South Korea.

During our time in the country, which totaled almost three weeks, we had meetings and briefings with various officials and government officers. Many of our discussions centered on the current Asian Economic Crisis and unification with North Korea, along with China's role and the role of the joint South Korea-Japan-North Korea hosted World Cup 2002 Games in that unification.

The culture of South Korea is very different from that in the United States, but we did find that in-roads of "Americanization" had occurred. The youth of the nation has been turning more to American ideas and culture over the past generation. McDonald's, Baskin Robbins and TGIFridays can be found on the streets of Seoul, Chejudo Island, and elsewhere. While much of the culture still centers on respect for elders (even those one day older than you) and the importance of the group over the individual, these ideals, too, have been changing somewhat among those members of the present generation.

Turning to the Economic Crisis, the situation is growing critical. As Americans, I do not think that we can find it easy to understand the magnitude of these topics, living safely and comfortably within the borders of our great Nation, but over there banks and businesses are failing. Layoffs occur every day. Labor unions and unemployed workers demonstrate on the streets everyday, and buses upon buses of riot police are lined up all over Seoul. Making things worse, many of the officials and experts that we spoke to, including those from the Ministry of Foreign Affairs, Trade and Unification, expect that this crisis will continue for at least 3-5 more years before a complete turn-around can be expected. Newspaper articles discuss the disappearance of the middle-class. The poor are, as always, hurting. We saw people still working in rice paddies in many areas lacking sophisticated equipment or technology. The standard of living and poverty lines are much lower than those in the United States. In addition, as I toured the Hyundai plant in Ulsan, my guide informed me that although the labor unions were not aware of it yet, the Hyundai Motors plant was preparing to layoff up to 40,000 workers! As more and more workers are laid off, the problems will be compounded.

Calls have been made for a restructuring of the government, an abolition of the Korean National Assembly, or a cut in the bureaucracy and size of the government. They are searching for measures that would bring relief and a solution to this great problem.

Americans are not favored or popular amongst some South Koreans. We were advised to be careful and aware of our surroundings at all times. While I did not feel that we were in real danger, I realized that we are being blamed for bringing IMF aid to Korea, which is seen as a weakening force for the Won, and a target of accusation by the demonstrating workers.

Unification will be difficult under these conditions. Some estimates from CSIS and other agencies put production in North Korea at only about 25 percent of capacity. South Korea is afraid that unification would cost too much, and that it simply cannot afford to "prop-up" North Korea's economy, especially since its citizens are not used to, or prepared for, a productive life in a capitalist economy.

In spite of these grave problems, it is interesting to note that the National Assembly was not in session while we were there. It is incredible that as these dilemmas continue to mount, the governmental body of the nation was not convened and working toward solutions! The political, economic and social situation in South Korea is not good at this time.

Traveling to Panmunjom, the DMZ, and North Korea one comes to realize how lucky we are as Americans. As we entered the conference room, and North Korea, we came face-to-face with North Korean Soldiers. We come from a nation with ho hostile borders, whose Capital is not (and has not been since the Civil War) within two hours or less of enemy territory and hostile invaders. We are very lucky indeed, and came to understand why unification is such as important topic on the Korean Peninsula today.

I found this trip to be very informative, exciting and fun. While learning about these crises and problems, we did find time to relax and have some fun. An important part of our experience came from developing friendships and relationships with Korean citizens we came to meet, including past Korean Delegates. We developed relationships through social and cultural activities, such as home visits, traditional Korean meals, hotel stays, and patronage of restaurants and places of entertainment. Cultural bridges were built in side trips to Ancient Palaces in, and around, Seoul, ancient cities and temples throughout the nation—such as those in Kyongju—and the viewing of traditional Korean theater and dances in the resort area of Chejudo Island. The overall experience was quite enjoyable, and we came away returning to the United States with a greater understanding of the culture and way of life on the Korean Peninsula, and the problems that are being dealt with even as this essay is being read.

Despite this situation, the overall program was wonderful. I would venture to say that the program succeeded in its goal of fostering a better understanding of Korean life and culture on the part of Americans, and a better understanding of American life and culture on the part of the Korean Delegates—as became apparent at our joint debriefing held in San Francisco, California on August 8-9, 1998. We hope to maintain the friendships which developed through the program—among the American Delegation, this year's Korean Delegation, and those whom we met, and who were so gracious to us, while in Korea.

I will never forget this experience as long as I live, and I thank Chairman Gilman, my Congressman and sponsor, for giving me the opportunity to participate this year.

I cannot stress enough how important I feel it is to continue this program in years to come. There is no better way to foster understanding among nations with different cultures than through the exchange of people and ideas. In my opinion, this is a most valuable program.

MULTICHANNEL VIDEO COMPETITION AND CONSUMER PROTECTION ACT OF 1998

SPEECH OF

HON. TOM BLILEY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. BLILEY. Mr. Speaker, I rise in support of H.R. 2921. I would like to begin by commending both Mr. TAUZIN, the Chairman of the Subcommittee on Telecommunications, and Mr. COBLE, the Chairman of the House Subcommittee on Courts and Intellectual Property. They have both worked hard to bring this legislation to the floor today, and I thank them for their efforts.

Mr. Speaker, this legislation represents a crucial first step in Congress' efforts to reform the laws governing the provision of direct-to-home satellite television and will bring immediate relief to millions of satellite consumers.

More specifically, this legislation addresses the level of copyright royalty fees paid by consumers of satellite services. Aside from the staggering size of these fee increases, the rate levels do not compare favorably to what the cable industry currently pays for identical signals.

At a time when we are counting on the competition that satellite services can bring to consumers, it seems senseless to create additional differences in the costs of programming between these two industries.

The rates that satellite subscribers pay for certain popular programming will certainly rise unless Congress takes action on this legislation. Although the royalty fee increase is already in effect, many satellite carriers have not passed on the full amount of the increases to consumers in anticipation of congressional intervention.

Further, if this situation is not addressed soon, superstations, which remain popular with many consumers, could well be dropped from satellite-delivered programming packages.

Swift action on H.R. 2921 is particularly necessary for the millions of satellite subscribers who, because they reside in rural areas and can receive the affected programming from no other source, will be captive to the rate hikes resulting from higher royalty fees.

This legislation also clarifies the satellite broadcasters' legal standing to sue those who pirate satellite broadcast signals. Signal theft—be it cable or satellite signals—is a serious problem. This provision will help promote the long-term viability of satellite television service.

Mr. Speaker, the Commerce and Judiciary Committees recently joined our counterparts in the Senate in one last effort to gain adoption of a set of more comprehensive changes in the underlying satellite laws this year. I regret to say that this effort failed for both lack of time remaining in this Congress and lack of consensus among the industry players.

But this exercise did create a large degree of agreement on many significant points on which I believe we can build next year. I just would like to state for the record, my firm commitment to revisiting and resolving these issues in a comprehensive manner early next year with the assistance and participation of my good friends and colleagues on the Judiciary Committee, Mr. TAUZIN and Mr. COBLE in particular.

I have confidence that the two committees can and will work together to enact these important reforms. I can only urge the affected industries to work diligently in the months before the beginning of the next Congress to bury their differences and to lend their cooperation to us.

Mr. Speaker, the reforms contained in H.R. 2921 are a downpayment on the more comprehensive package of changes we hope to bring to the full House early next year. It is a worthy beginning.

I urge the adoption of the bill.

IN SUPPORT OF H. CON. RES. 302, NATIONAL KIDSDAY AND NATIONAL FAMILY MONTH

HON. TIM ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. ROEMER. Mr. Speaker, I rise in strong support of H. Con. Res. 302, recognizing the importance of children and families in the United States and expressing support for the goals of National KidsDay and National Family Month. I want to thank Representatives Paul McHale, Frank Wolf, Harold Ford, Nancy Johnson, and Deborah Pryce, who joined me in introducing this resolution last July, as well as Representative Walter Jones and the many other Members who helped bring it to the floor today.

We live in an increasingly stressful society these days. Perhaps no one feels this stress more acutely than our Nation's children. The pressures of crime, drugs, violence and broken homes are robbing many children of the joys of childhood. There is a growing concern that too many kids are in crisis, and that no one is speaking out for them or trying to help.

That is what this resolution is all about. It is a simple, straightforward, bipartisan appeal on behalf of the children in our Nation to pay more attention to their needs, to provide them with a healthy and safe environment, and to give them hope for a secure and prosperous future. The resolution also expresses support for two particular initiatives which are being undertaken on behalf of kids: National KidsDay and National Family Month. Both of these initiatives have been created by KidsPeace, our Nation's oldest and largest not-for-profit organization dedicated solely to serving the needs of kids in crisis.

National KidsDay, observed on the third Saturday in September, encourages parents, grandparents and caregivers to spend a day with their children just having fun, and giving them a break from the strains of everyday life. National Family Month is celebrated during the five-week period between Mother's Day and Father's Day. Each week focuses on a specific value that families should provide to their children, including: a safe and secure home; people they can trust; love and value; the power and freedom to grow; and hope for the future.

Mr. Speaker, children are our most precious gift. We cannot afford to let even one child slip through the cracks. KidsPeace and other organizations are doing a wonderful job of reaching out to those children who are most at risk in society, and helping them develop the courage and skills necessary to overcome crisis. But no matter how hard they try, these organizations cannot take the place of loving parents, stable homes, and a healthy environment in which kids can feel safe, loved and positive about their lives and their futures.

This resolution is small in scope but it is large in symbolism. It sends a message to children that we care about them, we understand their problems, we share their dreams, and we want them to enjoy life to the fullest. As Robert Kennedy said: "When one of us prospers, all of us prosper. When one of us fails, so do we all." I urge my colleagues to support this resolution and give all our children a chance to prosper.

TRIBUTE TO OOIDA

HON. ROY BLUNT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. BLUNT. Mr. Speaker, the Owner-Operator Independent Driver Association represents over 40,000 small business professional truckers across America. On October 9, OOIDA will celebrate 25 years of service at the grand opening of their new headquarters in Grain Valley, Missouri.

I had planned on being present at these very special ceremonies, but unfortunately the schedule of the House will prevent my participation.

The Association provides many services to its members including access to affordable health and truck insurance, training, updates on regulatory changes, and support for resources for operating a successful small business. OOIDA is also an effective advocate on its members behalf before state and federal regulatory and legislative bodies.

We need to work closely with OOIDA and their members, small business operators, to seek passage of legislation that achieves a reduction in the number of toll roads, that enhances the deductibility of meals, travel and health insurance expenses, and legislation that reduces the tax burden on all small entrepreneurs. We must stand with OOIDA to eliminate onerous regulations and as partners to rebuild our transportation infrastructure.

On this day, we offer our appreciation for the outstanding achievements of Jim Johnston, President of OOIDA, OOIDA's board of directors and the independent truck drivers who deliver every day for us all.

HAPPY 11TH ANNIVERSARY TO THE COUNCIL OF KHALISTAN

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. BURTON. Mr. Speaker, I rise today to observe and pay tribute on the occasion of the eleventh anniversary of the Council of Kahlistan. Wednesday, October 7th, marked eleven years since the Sikh people of Punjab declared their independence from India, naming their new country Khalistan. Immediately after this declaration, they appointed the Council of Khalistan to lead their struggle for independence. Since then, under the leadership of Dr. Gurmit Singh Aulakh, the Council has conducted a peaceful, democratic, nonviolent effort for a free and sovereign Khalistan.

I believe that the breakup of India is inevitable, despite the brutal campaign of state terrorism which is designed to hold it together by force. Even Sharad Pawar, the Leader of the Opposition in the Indian Parliament, recently said that if India does not get its house in order quickly, it could fall apart like the Soviet Union. He joins Nehru biographer Professor Stanley Wolpert, Columbia University Professor Ainslee Embree, and Dr. Jack Wheeler of the Freedom Research Foundation, who have all predicted India's breakup.

India's desperation to keep its multinational state together is showing. Recently the Vishwa Hindu Prashad (VHP), a Hindu fundamentalist organization affiliated with the Fascist RSS, praised the rape of four Catholic nuns in the state of Madhya Pradesh, calling the rapists "patriotic youth" and calling for all foreign missionaries to be expelled from the country. The ruling BJP, which was elected on a Hindu Nationalist platform, is the political wing of the RSS. So much for Indian secularism! Clearly, there is no place for Christians in Indian democracy. There is no place for Sikhs, Muslims, aboriginal Dalits, Tamils, Assamese, Manipuris, or other ethnic and religious minorities either.

Recently, a large group of Sikh and Kashmiri protesters showed up at the United Nations headquarters to protest the visit of Indian Prime Minister Atal Bihari Vajpayee. They chanted slogans of independence for their people, and they attempted to inform the public about India's human-rights violations. The flyer they circulated read, "A religiously intolerant country can never be democratic."

Earlier this year in New Delhi, at the largest internal protest against Indian nuclear weapons tests, demonstrators carried signs that read, "We are Sikhs, not Indians." This is a strong expression of the Sikh Nation's demand for freedom. Still India continues its efforts to keep the country together by force.

India votes against the United States at the United Nations more often than any other country, except Cuba. It even publicly endorsed the Soviet invasion of Afghanistan. According to published reports, India has also provided the raw materials for nuclear development to Iran and other anti-American countries.

The Congress should move immediately to support freedom and real stability in this troubled region. We must maintain the sanctions that have been put in place against India. In addition, we should cut off the aid that helped build India's nuclear weapons. My colleagues should also vote to support the Sikhs and Kashmiris in their struggle for freedom by demanding a free and fair plebiscite in those states, so that they themselves can determine their future in a democratic way. This is the only way to make sure that the breakup of India comes about peacefully like the former Soviet Union, not violently. Taken together, these steps will ensure that all the people and nations of South Asia can live in freedom, peace, prosperity, and dignity.

I am placing the article on Sharad Pawar into the Record for the information of my colleagues.

[From the India-West, August 7, 1998]

INDIA MAY SUFFER SOVIET FATE: PAWAR

PUNE (PTI)—The leader of opposition in the Lok Sabha Sharad Pawar Aug. 2 expressed the fear that the country might go the erstwhile Soviet Union way unless concerted efforts are taken to strengthen its economy in the wake of international reaction to its carrying out nuclear tests.

Pawar was speaking at a function to release a book, "Hiroshima," by noted Marathi writer D.B. Kher on the after effects of bomb explosion in Japan Aug. 6, 1945.

Pawar said through the erstwhile USSR was a nuclear power it collapsed, and added that India should not become over-confident after the Pokhran-II tests.

He said India should also be very vigilant as the economy of Pakistan was in the doldrums. It might take any dangerous step out of frustration. "We should not forget the fact that Pakistan had a history of aggression against India and hence we should be on guard," he said.

CONFERENCE REPORT ON H.R. 4194, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1999

SPEECH OF

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1998

Mr. KENNEDY of Massachusetts. Mr. Speaker, I want to thank Chairman JERRY LEWIS and Ranking Member LOUIS STOKES, of the Appropriations Subcommittee on VA, HUD and Independent Agencies, for their cooperation in awarding federal funds under the Economic Development Initiative for two of the most heavily-used bike paths in the Boston area.

We have received $250,000 for the Arlington-Boston bike path and $150,000 for the Minuteman Commuter Bikeway. Bicycling is very popular in Boston, and throughout the Commonweath of Massachusetts.

There are many tangible benefits to bicycling. It improves heath and fitness while reducing traffic congestion, air pollution and commuting time to work each day.

The funding awarded for the bike paths through the Economic Development Initiative will enhance these benefits. The funds awarded for the Arlington-Boston bike path will allow construction to proceed on completing a 15-mile commuter and recreational bike path from Bedford to Boston.

The Arlington-Boston bike path will provide a direct connection to the Charles River and to the existing Dudley Bike Path to downtown Boston along the Watertown Branch of the Boston and Maine Railroad.

The funds awarded for the Minuteman Commuter Bikeway will provid a rail-trail connecting the existing Minuteman Commuter Bikeway in Cambridge with the Charles River Bikeway in Boston, leading to downtown Boston.

It is estimated that an automobile emits 62 pounds of carbon dioxide a year. It is also estimated that the average trip length to work in Boston's Central Business District is 12 miles. For each person who chooses to ride a bike to work rather than drive a car, the air in Boston is relieved of 12 grams per trip of volatile organic carbon, 14 grams per trip of nitrogen oxides and 120 grams per trip of carbon monoxide.

Mr. Speaker, this clearly demonstrates that bicycling expands the recreational opportunities for Boston area residents, while contributing to a more healthful environment by reducing traffic congestion.

TRIBUTE TO MRS. JESSIE TRICE ON THE CELEBRATION OF HER RETIREMENT ON OCTOBER 17, 1998

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mrs. MEEK of Florida. Mr. Speaker, it is indeed a distinct privilege to rise and pay tribute to one of my community's unsung heroines, Mrs. Jessie Trice, Director of Miami's Family Health Center. Her countless friends and admirers are honoring her on October 17, 1998 in recognition of the longevity of her legacy to the poor and underserved families.

Mrs. Trice truly represents the noblest of my community. Having dedicated a major portion of her life to making the health care system work on behalf of the less fortunate in Miami-Dade, she was relentless in her development of innovative family health services program that responded to the crying needs of our community's poor. Hers was indeed a crusade of love and commitment that maximized understanding and compassion for countless destitute families who severely lack the financial wherewithal to have their health care move up through the labyrinth of the bureaucracy.

Under her leadership many lives have been saved and countless families have been rendered whole because of her dedication to create accessibility to affordable health care services. She was virtually the lone voice in the wilderness in exposing her righteous indignation over the hopelessness of countless individuals who through the various crises of poverty rendered them helpless before obtaining affordable quality health care.

Furthermore, she has been forthright and forceful in advocating the early recognition of the problems of HIV disease which causes AIDS. Under her tutelage the Family Health Center initiated the first screening and testing programs in the community and initiated organized educational programs for its patients long before the crisis was recognized and federal, state and local funding became available. Her sensitivity toward those who came to the Center for counseling knew no bounds, and she was likewise untiring in seeking the appropriate health care guidance for them.

In a September 3, 1998 Miami Times write-up, Mrs. Trice was genuinely lauded as a health care provider par excellence who ". . . has shown courageous leadership, insisting that high quality services must be provided in the community and be developed with constant community input and collaboration."

The consecration of her life serves as an example of how much difference a committed crusader can truly make in behalf of the less fortunate. Almost singlehandedly she has championed a career-long commitment to affordable quality health care services to poor families for nearly two decades.

In her stint as Director of the Family Health Center, Mrs. Trice ensured the provision of high quality, accessible health care to more than 60,000 residents of Liberty City, Hialeah, Brownsville, Little Haiti and other areas northwest of Miami-Dade County. During those harrowing times of cutbacks in health and social services funding at the federal, state and local levels, the Miami Times recalled, ". . . Mrs. Trice's innovative and uncompromising commitment enabled it to maintain its critical services, while leading efforts to ensure effectiveness and a caring approach were not compromised."

Mrs. Trice truly represents an exemplary community servant who abides by the dictum that those who have less in life through no fault of their own should somehow be lifted up by those who have been blessed with life's greater amenities. As a gadfly among Miami-Dade County's health care professionals, she is wont to prod her colleagues toward ensuring that both political and bureaucratic leadership find a way to develop programs in and of the community, despite the risks.

As one of those hardy spirits who chose to reach out to those living in public housing projects, Mrs. Trice thoroughly understood the accouterments of power and leadership. She sagely exercised them, alongside the mandate of her conviction and the wisdom of her knowledge. The crucial role she played all these years in developing affordable quality family health care evokes a genuine humility as she is wont to say that ". . . the accolades are not important. What is important is that my community receive the recognition of its strength, despite the adversity, and help for the disproportionate share of the problems it confronts everyday."

Her word is her bond to those who dealt with her, not only in moments of triumphal exuberance in helping many of the poor turn their lives around, but also in her resilient quest to transform Miami-Dade county into a veritable caring community.

Tonight's tribute is genuinely deserved! I truly salute a very dear friend in behalf of a grateful community and I bid her Godspeed.

HONORING KATHLEEN MARY O'CONNELL

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. RANGEL. Mr. Speaker, as we approach the end of the 105th Congress, I want to recognize Kathleen Mary O'Connell who served on the Committee on Ways and Means staff from May of 1991—until her recent death from cancer on August 29, 1998.

Kathleen's fine reputation and professional skills are well known to all. She was smart, dynamic, charming, quick, a fabulous staffer, an excellent economist, and, most important, a good friend.

Our great sense of loss for Kathleen will continue each day. We always will remember Kathleen fondly.

Kathleen was a graduate of Smith College, and received her master's degree in economics from Duke University. Thereafter, she worked for fifteen years for the Congressional Budget Office, and then for more than seven years for the Committee on Ways and Means.

Kathleen cared about our Federal Government, its programs, and its policies. Most important, Kathleen wanted to make a difference and she did. Kathleen was key staff to all of the tax bills pending before the Committee during her tenure. She provided thorough and critical analyses of the economic, tax, and budgetary implications of legislation under consideration. She argued for fairness and policy decisions that benefitted the average American. Kathleen was a public servant who all of us are proud to have known.

On behalf of the Members and staff of the Committee on Ways and Means, I want to say that we will miss you always, Kathleen.

TRIBUTE TO DANTE FASCELL

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Ms. ROS-LEHTINEN. Mr. Speaker, we wish good health to one of the most distinguished retired members of this body in recent history, former Congressman Dante Fascell.

For 38 years, Congressman Fascell proudly and effectively represented the 19th Congressional District of Florida, rising to become the Chairman of the House Foreign Affairs Committee.

His deliberative, thoughtful manner brought Dante great respect from his colleagues, Democrats and Republicans alike.

He left his stamp not only on domestic policies, but particularly on a wide range of foreign policy initiatives where he promoted the American values of freedom, democracy and justice.

Congressman Fascell was instrumental in the passage of the landmark legislation, The War Powers Act, that assures that Congress has a say before our fighting men and women are sent to harm's way.

His fight for freedom and democracy also extended to the suffering people of Cuba.

For decades, Dante was a leading voice condemning the violation of human rights on the island committed by the Castro dictatorship.

All of us from South Florida who cherish his friendship hope that soon Chairman Fascell will be back on his feet enjoying his beloved grandchildren and all his family.

TREATMENT OF CHILDREN'S DEFORMITIES ACT

HON. SUE W. KELLY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mrs. KELLY. Mr. Speaker, I rise today to introduce the Treatment of Children's Deformities Act, legislation that prohibits insurers from discriminating against children born with deformities by denying coverage of reconstructive surgery. Children should not only be provided reconstructive surgery to improve the function of a part of the body, but also should be given the opportunity to face the world with a normal appearance. Insurers would like for you to think that such surgery is merely cosmetic—parents of children dealing with the physical and psychological effects of such deformities would beg to differ.

Today, approximately seven percent of American children are born with pediatric deformities and congenital defects such as birth marks, cleft lip, cleft palate, absent external ears and other facial deformities. A recent survey of the American Society of Plastic and Reconstructive Surgeons indicated that over half of the plastic surgeons surveyed have had a pediatric patient who in the last two years has been denied, or experienced significant difficulty in obtaining, insurance coverage for their surgical procedures.

Some insurance companies claim that reconstructive procedures that do not improve function are not medically necessary and are, therefore, cosmetic. America's physicians recognize an important difference between reconstructive and cosmetic surgery to which this bill calls attention. The American Medical Association defines cosmetic surgery as being performed to reshape normal structures of the body in order to improve the patient's appearance and self-esteem. They define reconstructive surgery as being performed on abnormal structures of the body caused by congenital defects, developmental abnormalities, trauma, infection, tumors or disease.

The Treatment of Children's Deformities Act acknowledges the importance of the AMA's definitions and requires that managed care and insurance companies do the same. The problems that Americans across the board are experiencing with various managed care companies who place cost over quality care is infuriating enough, but when it affects the physical and emotional well-being of children, Congress must be willing to put our foot down.

Please join me in defending the needs of children with deformities and congenital defects and their families by cosponsoring this important bill.

AMERICAN HERITAGE RIVERS INITIATIVE

HON. HELEN CHENOWETH

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mrs. CHENOWETH. Mr. Speaker, I would like to enter into the CONGRESSIONAL RECORD a speech given by Carol LaGrasse of the Property Rights Foundation of America to the Eagle Forum National Conference on September 12, 1998 in Arlington, Virginia. This speech is one of the most insightful discussions about the dangers of the American Heritage Rivers Initiative which my bill, H.R. 1842, would terminate. I encourage my colleagues to read this outstanding speech and share it with their constituents.

THE AMERICAN HERITAGE RIVERS PROGRAM—A THREAT TO PRIVATE PROPERTY RIGHTS

Thank you for the opportunity to discuss President Clinton's American Heritage Rivers program, a new federal executive program of designating selected major rivers supposedly to preserve their natural, cultural and historic resources.

INTRODUCTION

The American Heritage Rivers program, if successful, promises to diminish local representative government and private property rights. The program is also justifiably opposed because it involves many of the same parties and extreme preservation thinking of international programs such as the un-ratified Convention on Biological Diversity that came out of the 1992 Rio Earth Summit. But I would like to offer an experience that illustrates the need not to concentrate too much on a single focus in opposing designation programs.

About two years ago, a woman telephoned me at home one morning at 6:30 a.m. She was upset because a land conservancy was going to acquire a tract of forest property from her town of Ellenville, N.Y. Because the UNESCO Biosphere Reserve for the Catskill Mountains, which would have included her town, had recently been defeated, she was concerned about the United Nations. She thought that the property could be somehow going into the hands of the United Nations.

I said to her that in the long term it could be that if we don't remain in control of our government and matters like this it could very well be that the United Nations would be involved in owning and governing land in the Catskills, but that it was important to oppose the land trust acquisition of the property for other reasons. Usually when that land trust acquires property it is for a flip to government under a prearranged deal, I said. While the land trust owns it it does not pay real estate taxes. They may block hunters and fishermen from using the land and generally keep it in a way that it doesn't serve the public from the area forced to give the tax exemption. When the State acquires the land, the town will have little say in how the tract is managed, and the town will be endlessly in conflict with the State over the tax revenues that should be due on the tract. She said that a meeting about the matter was to be held that very evening, and I suggested that before she left for work she follow through with a discussion with the town supervisor and persuade him to consider these issues.

She called the Property Rights Foundation back in a day and left the message because no one was in. She said, quoting almost verbatim, "I called the supervisor and spoke to him. He assured me that the United Nations was not going to acquire the land. I just wanted to let you know that there was nothing to worry about."

Please remember this story, because, in one way or another, it illustrates a number of points. The threat from programs which I call land designations, including the UNESCO Biosphere Reserves and the Clinton

American Heritage River pronouncements, is not singular, but multitudinous. We should not focus on the long-term, exotic threat to the neglect of the practical, mundane immediate and short-term.

When you consider that it was I that exposed the UNESCO Biosphere Reserve programs in New York, my husband Peter who with the assistance of my brother at Penn State extract the documents from libraries from New York to Australia to understand the Biosphere Reserve program, and I who was not unjustly blamed for the defeat of the Catskill Mountains Biosphere Reserve, you should not have difficulty accepting my assertion that I have grave concerns about international involvement through such designations. But I consider the sovereignty issue to be one of long-term significance and that at the real and more short-term dangers of such designations, which I will soon be describing, are the essential threat. If we cannot convey these dangers, we do not understand how such designations affect our freedom. We will fail to either monitor them adequately or defeat them. Ultimately, we truly will suffer, in addition, through the loss of national sovereignty. How will this happen? At least in part by more of the same sort of infringements on our rights, imposed by very similar methods. It will be pitiful, indeed, if the day arrives when we lose home-rule and representative government to a form of government which imposes control from beyond our Constitution and borders.

FINE-SOUNDING GOALS

As you know all too well, government programs that can take away your rights are often couched in very desirable terms. A familiar example is that of imposing national education standards for the purpose of solving the problem of school failure. The idea is that we need the federal government because kids aren't reading and doing math at grade level.

The same system is in vogue for environmental issues. Rivers are portrayed, truthfully or falsely, as badly polluted. Local cultures and historic sites are portrayed as threatened. The beauty of the countryside is being lost to bad land management. Lack of vision and financial resources keeps localities from tackling region-wide issues.

The federal government is seen as visionary enough, geographically big enough and having enough expertise and resources to deal effectively with these real or imagined problems. The federal government is seen as being able to solve the deterioration of the historic architecture of the downtown Main Street, even though federal post offices somehow manage to be built in startling modernistic contrast to colonial, Greek or Victorian downtowns. The federal government will save the local culture. But the federal government condemns and tears down towns with houses by the hundreds for National Parks. But what are the biggest changes in local culture in the last couple of centuries? To start—the automobile, the movement of the workplace from the home to the job site elsewhere, now of both husband and wife. The decline of rural churches, rural agriculture, the end of the one-room school house, the decline of river trade in many areas. And so on. What have these to do with federal policies? About all the federal government can do is promote local museums. If it tries to direct the evolution of the culture by central planning, even less rural prosperity will be the result. Remember-the big impact of these preservation programs is on rural, not urban, America.

But let use move aside from the issues of culture and historic preservation, often used as arguments for the American Heritage Rivers program, to the ones which are at the heart of our concern: the need to control pollution, the need to impose regional planning and the need to control the growth of population, which is related to the perceived planning need. These re the three key areas noted in the official pronouncements nebulously describing the American Heritage Rivers program, and I think that these will be the areas where property rights will be threatened.

PRESERVATIONIST LAND DESIGNATION

My field of concern is private property rights. Private property rights are fundamental to the exercise of all our freedoms. One of my special areas of interests is land designations. Land designations may be honorific, as the U.N. Biosphere Reserves purport to be; pre-zoning, as in the Northern Forest Lands program for New York, Vermont, New Hampshire and Maine; or grandiose direct regional zoning as is the federal Columbia River Gorge Commission, Lake Tahoe Commission mention by Mr. Meese last night and New York State's Adirondack Park Agency which includes 3 million acres of private land, or as were the original plans for the Hudson Valley Greenway.

I got into the problem of these designations because of a 1990 New York study, for the future of the Adirondacks where I unfortunately reside. I obtained the back-up, already- written legislation, which, in conjunction with the report, called for 2,000 acre per house zoning, removing houses where they were visible from highways, which were to become mere travel "corridors," and the acquisition of 2/3 million acres of additional government land from private property owners. I discovered two other overlapping designation programs at the same time—the Northern Forest Lands program for federal zoning over 26 million acres of land, and the Champlain-Adirondack Biosphere Reserve. South of us was the Hudson River Greenway.

We did a tremendous amount of research to ferret out the significance of the Biosphere Reserve designation. Basically, we discovered that the land areas were to be preserved, though whatever government programs are available, by dividing them into core, buffer and transition areas. Core areas, which are to have no permanent human habitation, are to be connected by corridors, also known in the international environmental circles as "land bridges."

In the preservationist's literature, much of it making most peculiar reading, the prime land bridges are considered to be the riverine corridors, the riparian strips, or, put simply, the rivers and the land along them.

Environmental thinking today is to preserve ecosystems connected by corridors. The most extreme presentation of the thinking is in the "wild lands" program, where the core areas, sometimes trumpeted as "ecosystems," are connected by corridors and gradually the cores eat up the buffer areas, the corridors become wider and wider and over the years only isolated areas of inhabited space remain within a thick grid of once small core areas and once narrow corridors. In the end, according to the leading thinkers, 90 percent of the area of the contiguous states is to become entirely wild, with cities in these areas to become only hulking ruins as reminders to the ugly days when civilization predominated. These outlandish ideas are funded lucratively by the Pew charitable trust, the Turner Foundation and others, and so have actually gained ground, but although these ideas are repeatedly in print, the environmentalists will lie through their teeth and deny them when convenient.

I oppose the American Heritage Rivers program for what it does on its face and for what it obviously represents to the environmentalists. The American Heritage Rivers program is one of the top two or three most important programs to those who support the protection of the environment through federal controls. All of these organizations, from the National Audubon Society to the National Trust for Historic Preservation to the Wildlands Project oppose private property rights.

PURPORTED PRACTICES

When speaking publicly, advocates of the American Heritage Rivers program present it as having two main purposes, easing the way of localities in their dealings with federal regulatory agencies and helping to make federal grants available to localities.

HISTORY OF PROGRAM

In my estimation, the American Heritage Rivers program is a substitute for the failed generic American, or National, Areas program which was the subject of a three-year pitched battle in Congress. This battle started in the Democratic Congress, was blocked by our friends, and then went into the Republican Congress, where the national property rights movement organized and the program was defeated. The environmentalists wanted it so badly that, behind the scenes, they offered to concede one of their hardest fought action areas, grazing reform, to have the Heritage Areas bill pass, but the property rights movement prevailed—in spite of an iffy Republican Congress. At the end of the 104th Congress, an Omnibus National Parks bill passed with a number of individual American or National Areas included, adding to the former ones, and the total of Congressional designations is now sixteen. This includes the Hudson in New York, where even Congressman Jerry Solomon, who long blocked the program, acquiesced, first under pressure from Gingrich to help a New York Democrat Maurice Hinchey in order to get Dems on board, and then in response to the local Republican machine's desire for porkbarrel. This year there is another omnibus parks bill gestating, and more American Heritage porkbarrel Areas may be designated by Congress under Republican leadership.

The President announced in his 1997 State of the Union that he would designate ten American Heritage Rivers, which surprised all of us—we are not insiders. The President's Council on Environmental Quality presented a first description of the program in the Federal Register in May 1997, and early in September 1997 the President issued his executive order with further description. All of the material is quite nebulous, but certain details and phraseology are most revealing. There were also sworn testimonies by the director of the President's Council on Environmental Quality, Katie McGinty, at a July 1997 Congressional oversight hearing and again at a September 1997 Congressional hearing on a bill to stop funding, when a number of national leaders and grassroots activists of the property rights movement spoke. I have noticed that the sworn promises of compromises by Katie McGinty are often meaningless and that the seeming concessions to home-rule in the official publication are also of no importance to the Council when an important designation like that of the entire length of the Hudson River, submitted by Governor Pataki, is under consideration. In that case the promise of the need for community initiation and support was circumvented and the designation actually kept secret as to the areas to be included so that the touchier regions wouldn't know enough to protest.

I was invited to speak at the September 1997 Congressional hearing. You are welcome to take copies of my presentation, which was available on one of the information tables. The hearing was on Representative Helen Chenoweth's important bill H.R. 1832, to deny the use of any federal funds for the American Heritage Rivers program. There is a national drive to add to the current 52 sponsors in the House for Representative Chenoweth's bill. Copies of the bill are on the table. Please take a copy and do your best to bring your Representative on board as a co-sponsor.

The Mountain States Legal Foundation also has a lawsuit constitutionally challenging the American Heritage Rivers program—on Representative Chenoweth's behalf. By using an executive order to establish the program, Clinton has usurped the legislative power of Congress, which is a violation of separation of powers. The case is before the D.C. Circuit Court of Appeals.

EFFECTIVE MEANS TO DENY PRIVATE PROPERTY RIGHTS

The American Heritage Rivers program brings grants, computer monitoring and a juggernaut of federal agencies together with the potential to effectively increase government control over private property and thereby deny private property rights.

GRANTS AND ZONING

Using grants as the camel's nose under the tent or as the direct incentive, state and federal government agencies will effectuate the enactment of stricter local, regional or state-levels zoning. Keep in mind that the preservationists think that it is just as good if locals carry the gun for state or federal level elite planning. Basically, this type of zoning is directed to the gentrification of the countryside, and trying to preserve a beautiful, largely imagined remembrance of the countryside, with no smells, no independently practiced home industry, such as the blacksmiths of the past—the modern counterparts ranging from machine shops to junk yards and gas stations, and no mines or manufacturers as once flourished. They seek to enact a rural landscape of bucolic agriculture and forest extending beyond strictly bordered hamlets. One could spend the time of an entire conference such as this Eagle Forum and begin to touch on the ways that preservation zoning carried out on either a state or local level has destroyed businesses, ruined families and bankrupted innocent people, even sent them to jail.

Just last month I spent a weekend reviewing the pro se (without a lawyer) petition to the U.S. Supreme Court of a bankrupt Massachusetts dairy farmer. He had lost his $25 million farm and was living with his aged wife in small rented quarters. He was desperately hoping to be heard by a nation's highest court without the help of lawyers, for which he had absolutely no more money, all because of zoning enforced by a local preservationists group. We have many more such heartbreaking examples

A good example of how a voluntary federal land-use program working in conjunction with grants brings in excessive local zoning is the 1972 federal Coastal Zone Management Act. In 1996 the town of Coxsackie, New York, defeated, a so-called Local Waterfront Rehabilitation Plan, or LWRP, which was basically strict preservation-oriented zoning for the entire township, extending several miles from the river. This planning was promoted by the New York State Department of State to implement the Coastal Zone Management Act. Extremely capable, civic-minded people had to work hard to stave off this basically federal program disguised by the trappings of various state and regional agencies. Grants also promote the full complement of greenway as aspects, namely trails and land acquisition. Land regulation will pressure people into selling out.

COMPUTER MONITORING

The program description promulgated by the Council on Environmental Quality heralds the ability to instantaneously update a publicly available, computerized "state of the river" monitoring of individual river pollution, planning and population. In my opinion, this federal computer monitoring will be by geographic information systems, or GIS, or digitalized data converted on a coordinate basis to computer mapping of overlays of data. Four years ago I wrote a report exposing the Adirondack Park Agency's GIS system of about 30 databases from local assessment records to satellite space imagery. The surveillance capacity is quite serious. Just this year, it came out in the Wall Street Journal that building departments in the U.S. are contracting with the Russian space agency to obtain photos for enforcement purposes. I think that this computer monitoring is also geared to so-called citizen enforcement suits, for both pollution and zoning enforcement. People's lives have been destroyed by such suits. Logging in some national forests has come to a near halt. This year, citizen suit activists have begun bringing proceedings to stop all land activity in entire watersheds because the rivers fed by these watersheds are not up to federal standards.

JUGGERNAUT OF AGENCIES

The federal agencies which are part of the American Heritage Rivers program are the Departments of Agriculture (which includes the National Forest Service), Defense (which includes the Army Corps of Engineers), Justice, Interior (which includes the National Park Service and the Fish and Wildlife Service), Energy, Housing and Urban Development, Commerce, Transportation, Environmental Protection Agency, National Endowment for the Humanities, National Endowment for the Arts, the Advisory Committee on Historic Preservation, and the President's Council on Environmental Quality. The Corps of Engineers is evolving into the lead agency, for some reason. I have noticed that the Department of Defense is heading and providing headquarters for a Pennsylvania Heritage area program for logging heritage. These thirteen agencies form the American Heritage Rivers Interagency Committee. I think that these agencies, especially the U.S. Fish and Wildlife Service, the National Park Service, the EPA, and the Corps of Engineers, will become a juggernaut of enforcement of federal regulations and that, with their state contacts, will even enable state environmental enforcement to be more effective and harsh.

THE 1998 DESIGNATIONS

On July 30, following the recommendations of an advisory council of typical participants such as the key environmental groups and political figures from particular heritage areas, President Clinton made the first ten designations at West Jefferson in Ashe County on the New River in Virginia, near the borders of West Virginia and Kentucky. It was widely noted that President Clinton chose that location because he could simultaneously stump in Raleigh for Democrat John Edwards who is running against one of, Clinton's most outspoken opponents, North Carolina Senator Lauch Faircloth.

The first ten rivers are the Hudson, the Mississippi from St. Louis north, the Connecticut, Rio Grande in Texas, Potomac, New River in three States, Detroit River in Michigan, Hanalei in Hawaii, St. John's in Florida, and the Willamette in Oregon. Movement has already started toward adding the rest of the Mississippi, the Susquehanna and Lackawanna watershed and certain rivers in Massachusetts.

The Hudson, Connecticut and northern Mississippi Rivers could potentially make up so much area that it's hard to imagine that selection of grants would be narrowed. It is impossible to know how much area on each side of a river will be included. When I led a contingent of national grassroots property rights leaders to interview Katie McGinty in June 1997, and we asked her this question, she made the odd statement that a watershed varies in its definition. Since a watershed is a scientific term defining geography, this was surprising. But her non-answer did reveal that the designation could be wider than the usual county width for Heritage areas.

I have spent about nine years exposing such designations, including those involving the UN. This one has the noxious characteristics typical of the thinking of the internationalist crowd who not only think of local government as their tool but also think that way of state and the U.S. government.

These are practical matters affecting people today, however. To return to my New York State example, nobody is going back to Congress to ask to repeal the 1972 Coastal Zone Management Act because in 1998 a little town of Coxsackie in New York is worried about the LWRP zoning for the entire town. Five, ten or twenty years from now the layers of bureaucracy implementing facets of the American Heritage Rivers program will become unfathomable. Law enforcement is confusing enough today. Federal, State, and local law overlap to regulate wetlands, for instance.

During the founding period of this nation, the founders did not want amorphous layers of government whose responsibility for particular impacts was disguised or unclear. They decided that the federal government should rule directly where federal powers applied, rather than coerce the states to pass laws. Today, people have trouble knowing the source of rules regulating their lives. I can describe how federal flood insurance law is carried down through the federal government to the state to the local enforcer, but can one of 100 citizens do this?

The courts have not held that federal incentives to pass state or local laws are unconstitutional, but I believe that these incentives result in a wrongful blurring of responsibility. I think that the same lines of reasoning that argue against the federal government compelling states to regulate apply to the federal government offering or withholding financial aid to persuade States to regulate.

In 1992 when New York blocked the United States government from forcing the State to adopt its own nuclear waste, the U.S. Supreme Court said, "* * * where a Federal Government compel states to regulate, the accountability of both state and federal officials is diminished."

People who have the frustration of dealing with this shuffling of responsibility when federal incentive programs are carried out at the local level do indeed currently experience lack of accountability.

SUMMARY

In opposing the American Heritage Rivers program, we have to fight on the basis of an undefined program. We can argue against the American Heritage Rivers program

(1) on the basis that the reasons offered for the program—grants and alleviation of regulatory problems—are not a logical explanation for it;

(2) on the basis of experience with other pre-zoning programs and seeing how pre-zoning designations pan out;

(3) on the basis of who the program's advocates are and what they have been broadly seeking;

(4) on the basis of the involved agencies and how they have already negatively affected private property rights and local representative government and;

(5) and on the basis of the description of the program.

There is no American Heritage Rivers program description which says in the regulatory language normally promulgated that party A writes the grant terms, party B finds the grants for interested entities, and party C sets the terms for modifying local laws and effectuating certain programs in order to get the grants or the regulatory relief.

On another note, there is certainly no party D who holds hearings and lays out the economic implications of the specifics of the program under the requirements of the National Environmental Policy Act, NEPA.

Published descriptions of the program do not spell out how the environmental preservation groups plan to utilize the computerized state of the river information.

There is nothing in writing that spells out how agencies will be more effective. It is supposedly just better internal management. And other agencies say that GIS is supposedly non-threatening.

In opposing the program, as we did in opposing the Congressional program, we argue most simply that the American Heritage Rivers program is a very large scale attempt to impose national zoning. It is a part of a long pattern of unsuccessful and successful steps to impose federal control of land-use. The 1970's Jackson-Udall Congressional effort at national zoning was defeated, but many subsequent programs with great effectiveness at such federal control of land-use are in place—wetlands and endangered species protection being the most far-reaching.

STOP THE VIOLENCE IN KOSOVA

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. BONIOR. Mr. Speaker, for the past two hundred and fifteen days, the people of Kosova have endured unfathomable brutality and suffering at the hands of Serbian-Yugoslavian authorities.

Over four hundred thousand ethnic Albanians were forced to leave their homes, and more than seven thousand were murdered.

Tragically, these atrocities are still happening.

Homes and villages are being burned, and innocent civilians, including women and children, are being slaughtered.

For nine years, Serbia has repressed and harassed the people of Kosova.

Leaders of the Western world were continuously warned about the distressful situation in Kosova.

But the Western world did not heed those warnings.

In fact, we are still sitting on the sidelines, while we debate what to do.

This indecisive behavior is allowing Slobodan Milosevic to carry out his campaign of ethnic cleansing, violating the human rights of the people of Kosova.

The West must act, and if the West does not act, the United States must act. We cannot wait.

We must remember the commitments that have been made to protect ethnic Albanians in Kosova.

We must not stray away from those commitments now, even though it means making difficult decisions.

We brought peace to the people of Bosnia only after we showed Milosevic that his brute force would be countered with swift and decisive military action.

Now is the time to make sure he knows he faces the same consequences if the violence in Kosova is not put to a stop.

The people of Kosova are being brutalized, and we must not allow it to continue.

HONORING MR. LARRY J. CRISMON FOR HIS 13TH PASTORAL ANNIVERSARY OF BRIGHT TEMPLE CHURCH OF GOD IN SHELBYVILLE, TN

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. CLEMENT. Mr. Speaker, I rise today in honor of Mr. Larry J. Crismon and his thirteen years of service as the pastor of Bright Temple Church of God in Shelbyville, Tennessee.

On Sunday, October 11, 1998 the congregation of Bright Temple will come together to honor Pastor Crismon and his wife Audrey for their dedication to the church and their service unto God. I would like to join the congregation in its celebration of the long and distinguished career of Pastor Crismon.

Pastor Crismon's service extends beyond the walls of his church. He has been active in community affairs by serving on the boards of the Red Cross, United Way, Ministerial Alliance, Vocational Advisory Committee, Families First, Child Development Center, Bedford Countains United For a Better Tomorrow, South Tennessee Counseling Association, Tennessee Eastern Second Jurisdiction, and Auxiliaries in Ministry. There is no question that Pastor Crismon's tireless work has made his community a better place for all of its people.

I congratulate Pastor Crismon on his accomplishments and wish him many more years of providing spiritual guidance and community leadership to the people of Shelbyville, Tennessee.

TRIBUTE TO THE HONORABLE HENRY HYDE

HON. SONNY CALLAHAN

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. CALLAHAN. Mr. Speaker, I rise today to share a recent article by syndicated columnist James Pinkerton that pays tribute to the Honorable Chairman of our Judiciary Committee, HENRY HYDE.

The article eloquently points out that Henry is a man of great integrity and unmatched character. Not only has he served us well in the House, but also bravely served our country in combat. I respectfully request that the article be placed in the RECORD so that we can all catch a glimpse into Henry's great contributions and selfless work for this country.

[From the Los Angeles Times]

DON'T ATTACK HYDE FOR INDISCRETIONS OF DECADES AGO, HE'S PAID HIS DUES

(By James Pinkerton)

For two centuries, Henry Hyde said Monday, "Americans have undergone the stress of preserving their freedom." The chairman of the House Judiciary Committee, born in 1924, has been alive for a third of that time, yet most Americans probably didn't know of him until recently.

So who is Henry Hyde? For most of his 23 years as a congressman from Illinois, he has been known for his opposition to abortion. Yet he will also be remembered now as the "family values" conservative who had a four-year affair with a woman other than his wife. Hyde acknowledged the relationship, but the less-than-wisely referred to his 40-something fling as a "youthful indiscretion."

But, if Hyde thinks 40 is young, that might be because he grew up too soon. Because, if what he did three decades ago is of interest, what he did five decades ago, when his country needed him, should be remembered as well.

Hyde joined the Navy at 18, foregoing a basketball scholarship to Georgetown University. For young men such as Hyde, there was no choice after Pearl Harbor. "It was our turn, we did our duty," he said in a recent interview.

Commissioned as an ensign in 1944, he commanded an LCT (landing craft, tank). "A floating bed pan," he called it. His baptism by fire came on Jan. 9, 1945, when Americans went ashore at Lingayen Gulf, in the Philippines.

Hyde remembers that operation more as hard work than as heroism: "Day and night, loading and off-loading." The hardest part of his job, he added, was finding his mother ship out in the bay at night: "We all had to keep our lights off," Why? "Kamikazes," he answered simply. Indeed about 150 Japanese suicide aircraft hurled themselves at U.S. ships during the Lingayen landing, sinking 17 vessels and damaging 50.

One who also remembers the kamikaze attacks at Lingayen is Bob Stump, now a Republican congressman from Arizona. As a teenager, he was a medic abroad the carrier Tulagi, "You'd heard the five (anti-aircraft guns) firing and you'd know they were coming," Stump remembered recently. "Then you'd hear the 40 millimeters firing and you'd know they were close. Then you'd hear the 20 millimeters firing and you'd know they were on top of you." Total U.S. Navy fatalities for the Philippines campaign amounted to 4,336.

Despite spending four years of his young life in the Navy, Hyde graduated from Georgetown University at 23; he was eager, like the rest of the GI generation, to get on with his life. Yet he gets a reminder of the war every time he flies home and lands at O'Hare International Airport, which lies within his suburban Chicago district. It is named for Edward "Butch" O'Hare, a Navy pilot in the Pacific who earned the Medal of Honor in 1942 and was killed the next year. He was 29. "Most people have no idea what he did." Hyde observed, "which is a shame."

A half-century later, some are furious that Hyde is investigating Bill Clinton, who is also a Georgetown alumnus—although one who never let military service interrupt his academic career, *Salon* the online publication, first revealed Hyde's long-ago affair. Mustering up the sort of faux courage appropriate for a faux magazine, the editors declared that they were, in pushing the story, "fighting fire with fire."

Fire? Hyde, Stump and 12 million more were touched by fire during World War II After surviving the Big One. Hyde regards the word-warriors of Washington as unpleasant, perhaps even stressful, but not particularly intimidating.

Hyde's enemies will no doubt continue to attack, while friends such as Stump, who did not meet his fellow Pacific theater vet until the 1970s, will continue to admire. "Henry is probably the most respected and brightest person here," Stump said.

But Hyde's reputation will surely survive because it is rooted in service to the nation that began before the incumbent president was even born. Asked to sum up his current mission, Hyde said, "We have an obligation to make America the kind of country those guys died for." From most politicians, such talk is cheap. But from Hyde, it is precious, because it was paid for in for in the oft-forgotten currencies of duty, honor and sacrifice.

INTRODUCTION OF THE ALL-PAYER GRADUATE MEDICAL EDUCATION ACT

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. CARDIN. Mr. Speaker, I rise today to introduce the All-Payer Graduate Medical Education Act, legislation that I have authored to improve the funding of America's teaching hospitals and to ease the burden on the Medicare Trust Fund. In introducing this legislation, I do not seek to preempt the important work of the National Bipartisan Commission on the Future of Medicare, but rather, to present a concrete proposal for consideration by Congress.

We have recently learned that medical care costs will double in the next 10 years. Health care budgets, including Medicare, will be caught in the vise of increasing costs and limited resources. We must try to restrain the growth of Medicare spending, while protecting our teaching hospitals that rely on Medicare and Medicaid as major sources of funding for graduate medical education.

America's 125 academic medical centers and their affiliated hospitals are vital to the Nation's health. These centers train each new generation of physicians, nurses and allied health professionals, conduct the research and clinical trials that lead to advances in medicine, including new treatments and cures for disease, and care for the most medically complex patients. To place their contributions in perspective, academic medical centers constitute only 2 percent of our Nation's non-Federal hospital beds, yet they conduct 42% of all of the health research and development in the United States, provide 33% of all trauma units and 31% of all AIDS units. Academic medical centers also treat a disproportionate share of the Nation's indigent patients.

To pay for training the Nation's health professionals, our academic medical centers must rely on the Medicare program. But Medicare's contribution does not fully cover the costs of residents' salaries, and more importantly, this funding system fails to recognize that graduate medical education benefits all segments of society, not just Medicare beneficiaries. At a time when Congress is constantly reviewing and revising the Medicare program to ensure that the Trust Fund can remain solvent for future generations, GME costs are threatening to break the bank.

The All-Payer Graduate Medical Education Act will distribute the expense of graduate medical education more fairly by establishing a Trust funded by a 1% fee on the health care premiums. Teaching hospitals will receive approximately two-thirds of the revenue from the Trust, while the remaining third, approximately $1 billion yearly, will be used to reduce Medicare's contribution. The current formula for direct graduate medical education payments is based on cost reports generated more than 15 years ago, and it unfairly rewards some hospitals and penalizes others. This bill replaces the current formula with a fair, national system for direct graduate medical education payments based on actual resident wages.

Critics of indirect graduate medical education payments have complained that hospitals are not required to account for their use of these funds. The All-Payer Graduate Medical Education Act requires hospitals to report annually on their contributions to improve patient care, education, clinical research, and community services. The formula for indirect graduate medical education payments will be changed to more accurately reflect MedPAC's estimates of true indirect costs.

My bill also addresses the supply of physicians in this country. Nearly every commission studying the physician workforce has recommended reducing the number of first-year residencies to 110% of American medical school graduates. This bill directs the Secretary of HHS, working with the medical community, to develop and implement a plan to accomplish this goal within five years. An adequate supply of medical providers is vital to maintaining America's health and containing our health care costs.

Medicare disproportionate share payments are particularly important to our safety-net hospitals. Many of these hospitals, which treat the indigent, are in dire financial straits. This bill reallocates disproportionate share payments, at no cost to the federal budget, to hospitals that carry the greatest burden of poor patients. Hospitals that treat Medicaid-eligible and indigent patients, will be able to count these patients when they apply for disproportionate share payments. In addition, these payments will be distributed uniformly nationwide, without regard to hospital size or location. Rural public hospitals, in particular, will benefit from this provision.

Finally, because graduate medical education encompasses the training of other health professionals, this bill provides for $300 million yearly of the Medicare savings to support graduate training programs for nurses and other allied health professionals. These funds are in addition to the current support Medicare provides for the nation's diploma nursing schools.

The All-Payer Graduate Medical Education Act creates a fair system for the support of graduate medical education—fair in the distribution of costs to all payers of medical care, fair in the allocation of payments to hospitals. Everyone benefits from advances in medical research and well-trained health professionals. Life expectancy at birth has increased from 68 years in 1950 to 76 years today. Medical advances have dramatically improved the quality of life for millions of Americans. Because of our academic medical centers, we are in the midst of new era of biotechnology that will extend the advances of medicine beyond imagination, advances that will prevent disease and disability, extend life, and ultimately lower health care costs.

Although few days remain in the 105th Congress, the valuable services performed by America's academic medical centers are never-ending. I am introducing this bill today for consideration by Congress, the Bipartisan Commission on the Future of Medicare, and the numerous provider and patient communities who will be affected by its provisions. When the 106th Congress convenes early next year, I will reintroduce the bill.

I urge my colleagues to join me in protecting America's academic medical centers and the future of our physician workforce, the wellsprings of these advances, by cosponsoring the All-Payer Graduate Medical Education Act.

HONORING DR. JUAN ANDRADE, JR.

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. VISCLOSKY. Mr. Speaker, it is with great pleasure that I congratulate one of Northwest Indiana's most distinguished citizens. Dr. Juan Andrade, Jr., of Griffith, Indiana, was recently selected to receive the 1998 Hispanic Magazine's Lifetime Achievement Award. The award was presented to Dr. Andrade in San Francisco on August 25, 1998. Presented by Bank One, this award is in recognition of Dr. Andrade's career as a community organizer, national leader, television commentator, motivational speaker, and co-founder of the United States Hispanic Leadership Institute (USHLI).

Born in Brownwood, Texas, Dr. Andrade began his lifelong quest to empower Hispanic

Americans while still a youth. He credits his mother, Julia Andrade, for instilling in him a sense of humor and a strong work ethic. Dr. Andrade utilized both while working through twelve years of public school and five years of college. Since beginning his distinguished career over thirty years ago, Dr. Andrade has made headlines as the first Latino in the nation to be arrested for using his Spanish-language skills to teach high school civics, the first Latino State Director for nonpartisan voter registration in Texas, the youngest Chairperson of a Community Action Agency in Texas, and the only Latino political commentator on an English-language television station (WLS–TV, ABC's Chicago affiliate) in the nation for six years. In addition, Dr. Andrade was an influential organizer of the United States Hispanic Leadership Conference (USHLC), now in its sixteenth year.

Indeed, through his outreach, political expertise, and motivational speaking, Dr. Andrade has influenced a whole generation of young Hispanic American leaders. To further their education and opportunities, the "Juan Andrade Scholarship for Young Hispanic Leaders" was established in recognition of his tireless efforts to motivate and train young Hispanic leaders. Since 1994, this fund has awarded over one hundred thousand dollars in scholarships to young Hispanic leaders. Moreover, Dr. Andrade has not only influenced many of our nation's future leaders, he has influenced and helped mold many of today's business, civic, and national leaders. His exemplary efforts have been acknowledged by many; he has been named the "Chicagoan of the Year" by the Chicago Sun-Times, one of the "100 Most Influential Hispanics in America" three times by the Hispanic Business Magazine, and a "Distinguished Alumni" by Howard Payne University. Though Dr. Andrade has been honored for his lifetime achievement, he intends to continue his endeavors. In addition, he plans to spend time with his wife, Maria Elenia, and their four children and two grandchildren.

As President John F. Kennedy said, "It is time for a new generation of leadership, to cope with new problems and new opportunities. For there is a new world to be won." His words are as poignant now as they were on that Fourth of July in 1960. As our country heads into the twenty-first century, we must address many new problems and issues. Dr. Andrade is preparing tomorrow's leaders to deal with these multi-faceted problems and issues.

Mr. Speaker, I ask that you and my other distinguished colleagues join me in congratulating Dr. Juan Andrade, Jr. for his selection as the 1998 recipient of Hispanic Magazine's Lifetime Achievement Award. Dr. Andrade's efforts to train a new generation of leaders to solve our future problems and create new opportunities for our nation is the work of a true visionary. His vision and self-sacrificing labors to accomplish his goals have positively changed our country for the better. From Indiana's First Congressional District to Washington, D.C., we have seen the Hispanization of America. I am confident that with dedicated, upstanding citizens like Dr. Andrade helping our young people mature into adult leaders, the future of the United States is safe and in good hands as we enter the twenty-first century.

RECOGNIZING THE WORLD WAR II VETERANS OF "IVORY SOAP"

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. HALL of Ohio. Mr. Speaker, I rise today to recognize some 5,000 World War II veterans of "Ivory Soap," a most unusual team of Army Air Forces, Navy Armed Guards, and civilian Merchant Marines who have gone unrecognized for 53 years for their contributions in bringing peace to the Pacific war. During 1944 and 1945, they served aboard 24 specially modified Liberty and auxiliary ships that operated as floating aircraft depot repair and maintenance shops. These supported our bomber and fighter forces on the front line of battle during the pacific island hopping campaigns.

Hundreds of B–29 bombers and P–51 fighters returned to battle to fight again because of these depot and maintenance ships. This is another one of the never-told stories out of the dust vaults of declassified secret records. This story was uncovered by one of the ship's crew seeking his comrades for a reunion. Only in the last few years have these documents been released to the public.

The project's code word was "Ivory Soap," appropriately selected, because "it floats." This effort was so important to our air war in the Pacific that the Joint Chiefs of Staff were directly involved in its development. Because of the secret classification and the dispersal among the islands of these ships, few of the veterans ever knew of the extent and effectiveness of their tasks.

Now that the word is out, a group of veterans from the ships have begun a search to find their shipmates so they may hold combined reunions to share their pride in being part of this special project.

A combined reunion began today in Washington, D.C., and will run until October 11, 1998. The surviving veterans' ages run from their 70s to their 90s. I extend my best wishes and salute our heroes for their contributions and service to this great country. May the reunion brighten their spirits and bring together their comrades to renew old frienships.

A TRIBUTE TO LT. ELPIDIO "PETE" RAMIREZ ON THE OCCASION OF HIS RETIREMENT AFTER 26 YEARS OF SERVICE TO THE LOS ANGELES CITY HOUSING AUTHORITY POLICE DEPARTMENT

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. TORRES. Mr. Speaker, I rise today to recognize Lieutenant Elpidio "Pete" Ramirez on the occasion of his retirement from Los Angeles City Housing Authority Police Department, after 26 years of dedicated service.

In 1957, Pete graduated from Cathedral High School. After graduation, he joined the United States Navy where he served on the USS Fortified, the USS Wabash and the USS Esteem. In the Navy, he reached the rank of Fireman First Class. Pete received an Associate of Arts Degree from Rio Hondo Community College, and in March 1980, he graduated from the Golden West Policy Academy.

Pete began his law enforcement career with the Baldwin Park Police Department as a Reserve Police Officer in 1960. In 1964, he transferred to the Montebello Police Department where he served as a Reserve Police Sergeant. After his five years with the Montebello Police Department, in 1969 Pete transferred to the United States Marshals Service.

In 1971, Pete joined the Los Angeles City Housing Authority Police Department. As a police officer with the Housing Authority, he served in several assignments including patrol and footbeat. On one occasion, while Pete was handling a routine call, he was ambushed and sustained severe gun shot wounds which caused life-long injuries to his back. After recovering from his injuries, Pete continued working for the Housing Authority Police Department. In 1983, Pete was promoted to the rank of Sergeant and in March of 1994 he was promoted to Lieutenant.

Pete's career as a public servant is highlighted by over 20 years of service as an elected official. He served on the El Rancho Unified School District Board of Education from 1976 to 1993. In 1997, he was elected to the Pico Rivera City Council. He is also a member of the American Legion and the Optimist Club.

In his retirement, Pete will spend his time with his wife Socorro, his children and grandchildren, including his 2 year old grand-daughter, Whisper, who currently lives with him in Pico Rivera, California.

Mr. Speaker, on June 17, 1998, Pete retired from the Los Angeles City Housing Authority Police Department. I ask my colleagues to join me in saluting Elpidio "Pete" Ramirez for his loyal and dedicated service to the Los Angeles City Housing Authority and the residents of the City of Los Angeles and for his continued commitment to outstanding public service.

TRIBUTE TO BRUNO NOWICKI

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. LEVIN. Mr. Speaker, I rise to honor an outstanding gentleman, Mr. Bruno Nowicki, ninety years young, on the occasion of his Testimonial Banquet on October 11, 1998 at the Polish Century Club in Detroit.

Bruno Nowicki was born in Poland and came to the United States in 1926 as an exchange student at Carnegie Tech in Pittsburgh. After one semester, he began to work as a reporter for the Polish newspaper, and subsequently moved to Chicago and then to Detroit where he started the Hamtramck Business World in 1931.

He changed course in 1936 and opened a monument business in the metropolitan Detroit area. Bruno sold not just cemetery memorials, his work included designing and building monuments that celebrate Poland. After fifty years in the monument business, Bruno "retired" to return to the Polish newspaper he left 50 years earlier and of which he later became a partial owner. This year, he was honored by the U.S. Conference of Polish Newspapers as "the oldest Polish newspaperman working in the United States."

Actively involved in communities in both Poland and the United States, Bruno served on the Board of Governors of the Detroit Public Library, a founder of the Polish Riverfront Festival whose contributions benefit children's hospitals in Poland, and on the Board of the Polish Daily News. Bruno is a member of the Polish Century Club, the American-Polish Century Club, the Smith Old Timers, and the Monday night Lotto Club.

An avid chess player, Bruno still participates in tournaments around the world where he "wins his age division."

Bruno believes that "no one has created a better way to perpetuate history and deeds than by monuments which endure and remind future generations of the contributions of the past." A designer, not a sculptor, he set out to work with others to design and build monuments that would remind future generations of the American-Polish culture and heritage. His first monument is the Veteran's War Memorial, dedicated in Hamtramck in 1950, listing the names of the servicemen and women who died in World War II and Korea. Additional names of those who fell in the Vietnam War were subsequently added.

Bruno's other monuments depicting the arts, science and religion can be seen in the Polish room of the Ethnic Conference and Study Center at Wayne State University, Detroit Main Library, Hamtramck Public Library, Alliance College in Pennsylvania, Interlochen Music School and Academy, Detroit Science Center, and of course, his statue in Hamtramck of Pope John Paul II commemorating the first Polish Pope.

Mr. Speaker, I ask my colleagues to join me in extending our best wishes to this remarkable man and close friend for good health and happiness as he continues his work to ensure that Poland's's people and its history will live on and the role of Polish-Americans fully understood and acknowledged in the United States of America.

ANKARA'S DECISION TO SENTENCE LEYLA ZANA A BLATANT VIOLATION OF FREEDOM OF EXPRESSION

HON. ELIZABETH FURSE

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Ms. FURSE. Mr. Speaker, I rise today to express my indignation over the decision of the Turkish government to sentence Leyla Zana, the Kurdish parliamentarian who is currently serving a 15-year sentence, to 2 additional years in prison as a blatant violation of the freedom of expression and an insult to her supporters worldwide.

This time, the Turkish authorities charge that Leyla Zana broke the law in a letter she wrote to the People Democracy Party (HADEP) to urge them to be forthcoming, diligent, decisive and to push for individual and collective freedoms. The fact that Leyla Zana has been charged with inciting racial hatred reveals that Turkey is a racist state and continues to deny the Kurds a voice in the state.

As my colleagues know, Leyla Zana is the first Kurdish woman every elected to the Turkish parliament. She won her office with more than 84 percent of the vote in her district and brought the Turkish Grand National Assembly a keen interest for human rights and a conviction that the Turkish war against the Kurds must come to an end. Last year, 153 Members of this body joined together and signed a letter to President Bill Clinton urging him to raise Leyla Zana's case with the Turkish authorities and seek her immediate and unconditional release from prison.

Leyla Zana was kept in custody from March 5, 1994, until December 7, 1994 without a conviction. On December 8, 1994, the Ankara State Security Court sentenced her and five other Kurdish parliamentarians to various years in prison. Leyla Zana was accused of making a treasonous speech in Washington, DC., other speeches elsewhere, and wearing a scarf that bore the Kurdish colors of green, red, and yellow. This year marks her fifth year behind the bars.

Today, in Turkish Kurdistan, 40,000 people have lost their lives. More than 3,000 Kurdish villages have been destroyed. Over 3 million residents have become destitute refugees. Despite several unilateral cease-fires by the Kurdish side, the Turkish army continues to pursue policies of hatred, torture and murder, and genocide of the Kurdish people.

Mr. Speaker, as I finish my sixth year in office as a Member of the United States Congress, I find it outrageous that the government of Turkey, after so much outcry, after so much petitioning and after so much publicity would dare to punish her again incensing her friends and supporters all over the world. There is only one word that comes to my mind and it is, fear, Mr. Speaker. The government of Turkey is afraid of Leyla Zana and it thinks it can lock her away forever. That was the story of those who locked Nelson Mandela. The longest nights, Mr. Speaker, give way to bright dawns. Mr. Mandela is a public servant now. And the world is grateful.

People like Leyla Zana who utter the words of reconciliation and accommodation need to be embraced, validated, and freed. I urge the government of Turkey to set aside its conviction of Leyla Zana and free her immediately, and I urge my colleagues and government to condemn her conviction and make her release a priority.

IN HONOR OF FRANK VELTRI

HON. PETER DEUTSCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. DEUTSCH. Mr. Speaker, I rise today to honor Mayor Frank Veltri of Plantation, FL. He is retiring after 24 years of service in this role, the culmination of a long history of public service to the community of South Florida.

Frank Veltri's private sector career began in 1932 at the age of 20. He was auditor for the Dinkler Hotel System before moving onto a more daring pursuit in 1942. It was in that year that Frank became a flight instructor and flight commander for the RAF British Flight Training School Number 5 at Clewiston, FL. Frank settled into a niche following his stint as a flight instructor and became quite involved at the First Federal Savings and Loan Association of Miami, Beginning work at this association in 1945, his rise in stature is quite astonishing. Starting as a teller, assistant auditor, and chief accountant at the Association in Miami, Frank ultimately rose to the positions of Comptroller, Vice President, and Executive Vice President-Treasurer of the First Federal Savings and Loan Association of Broward County, FL.

Broward County has profited immensely from the dedication and hard work of Frank Veltri. As far back as 1953, when Frank initially joined the Fort Lauderdale Chamber of Commerce, he became involved in all types of civic matters. He has been the Chief of the Plantation Volunteer Fire Department as well as the Director of the Fort Lauderdale Chapter of the American Red Cross. Additionally, he has been a member of the Plantation Chamber of Commerce, serving as both its Director and President. Lastly, Frank was elected to serve on the Plantation Council, a predecessor to his Mayoral election in 1975. Since 1975, he has been reelected for 5 consecutive four-year terms. This is truly a testament to the quality of his work for the people of South Florida.

The list of Committees on which Frank has served is also quite extensive. He has been a Member of the Broward County Metropolitan Planning Organization since 1977. In the early 1980's, Frank was a member of the Plantation Health Facilities Authority and the Solid Waste Advisory Committee. In addition, he has been a Board Member of the National Conference of Christians and Jews. Mr. Speaker, I am simply one person who has chosen to formally recognize Frank's hard work, but by no means am I the first to do so. Governor Graham appointed Frank to be a Member of the Crime 2000 Conference in 1982: this is surely an example of the high level of dedication that Mayor Veltri has shown throughout his years of public service.

Though the civic arena is obviously very important to Frank Veltri, it is safe to say that Frank wears other important hats. He is also a loving husband, father, and grandfather. Simply put, I can't think of anything more important than one's relationship with their family.

In summary, all who know him or know of him will surely agree that Frank Veltri is an extraordinary individual. His tireless devotion to the residents of South Florida will be forever remembered. We all owe him a tremendous debt of gratitude.

THE KYOTO PROTOCOL

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. CALVERT. Mr. Speaker, last December I attended the international global warming summit in Kyoto, Japan. I took with me to the meeting information I had gathered at three hearings I convened in my Science Subcommittee on Energy and the Environment. At those hearings, where the Subcommittee took testimony from experts in climatology, it became obvious that there is no clear scientific consensus on which the Administration can base its claim that human-induced global warming is harming our planet.

Over the next few days I will submit for the RECORD portions of studies that bring to light the weaknesses in the Kyoto Protocol. Today, I am submitting an Executive Summary of an analysis of the agreement conducted by the Business Roundtable. The summary gives an excellent account of the key issues of concern regarding the Protocol, making clear that the agreement has serious flaws in terms of its ability to improve the environment without harming the economy:

EXECUTIVE SUMMARY OF THE KYOTO PROTOCOL: A GAP ANALYSIS

In an in-depth analysis of an international agreement to curb greenhouse-gas emissions, The Business Roundtable finds that the accord, known as the Kyoto Protocol, contains major gaps that must be filled before its impact on the world's environment and economy can be evaluated. The Business Roundtable recognizes that the Protocol is only a first step toward a comprehensive agreement to reduce emissions, but urges the Clinton Administration not to sign the Kyoto Protocol until these gaps have been addressed.

Background: On December 11, 1997, in Kyoto, Japan, the Parties to the UN Framework Convention on Climate Change reached an agreement, known as the Kyoto Protocol, that sets legally binding limits on the man-made emissions of greenhouse gases from 38 industrialized countries. Global carbon emissions would continue to increase under the agreement because it exempts Developing Countries—including China, India, Mexico, Brazil, and 130 others—from any commitments to limit their rapidly growing emissions. Continued growth in energy demand, and thus greenhouse-gas emissions, by Developing Countries will more than offset the reductions made by Developed Countries. President Clinton is expected to sign the Kyoto Protocol later this year, but he does not intend to submit the agreement to the Senate for its constitutional role of advice and consent until "key" Developing Countries agree to "participate meaningfully" in the effort.

KEY ISSUES OF CONCERN

The targets and timetables would require the United States to make significant and immediate cuts in energy use. The Protocol would require the U.S. to reduce emissions 7 percent below 1990 levels by 2008-2012, an unprecedented 41 percent reduction in projected emission levels. The process of Senate ratification and the subsequent lengthy domestic implementation process post-ratification would leave the U.S. very little time to make the painful choices regarding energy use that will be necessary to achieve these reductions. In addition, because the Protocol sets different targets for each industrialized country and the target is based on what is now an eight-year old baseline, the U.S. in effect will shoulder a disproportionate level of reduction and may be placed at a competitive disadvantage.

Unless the Developing Countries also commit to emission reductions, the Protocol is incomplete and will not work. The Byrd-Hagel Resolution unanimously adopted by the U.S. Senate in July 1997 states that the U.S. should not be a signatory to any protocol unless it mandates "new specific scheduled commitments to limit or reduce greenhouse-gas emissions for the Developing Country Parties within the same compliance period." Many Developing Countries are rapidly growing their economies and will become the largest emitters of greenhouse gases in the next 15-20 years. Greenhouse gases know no boundaries, and stabilization of greenhouse-gas concentrations cannot be achieved without global participation in a limitation-reduction effort. Moreover, regulating the emissions of only a handful of countries could lead to the migration of energy-intensive production—such as the chemicals, steel, petroleum refining, aluminum and mining industries—from the industrialized countries to the growing Developing Countries.

Certain carbon "sinks" may be used to offset emission reductions, but the Protocol does not establish how sinks will be calculated. Carbon sinks, a natural system that absorbs carbon dioxide, have tremendous potential as a means of reducing emissions, but too much is currently unknown to make a fair determination. It is unclear how sinks might help the U.S. reach its emission-reduction commitment and, though the Parties to the Convention will work to develop rules and guidelines for sinks in Buenos Aires, the rules cannot be adopted until after the Protocol enters into force.

The Protocol Contains no mechanisms for compliance and enforcement.

Simply put, it would be inappropriate for any country to ratify a legally binding international agreeement which lacks compliance guidelines and enforcement mechanisms. The Protocol outlines a system of domestic monitoring with oversight by international review teams, but what constitutes compliance and who judges it will not be determined until after the Protocol enters into force. The means of enforcement—also unknown—is equallly critical, since a country's noncompliance could give it a competitive advantage over the U.S., and eviscerate the agreement's environmental goals.

The Protocol includes flexible, market-based mechanisms to achieve emission reductions, but it does not establish how these mechanisms would work and to what extent they could be used. The U.S. intends to rely heavily on market-based mechansims to find the most efficient and cost-effective ways to reduce emissions. But until the rules and regulations are established it is uncertain how effective these mechanisms will be and to what extent they can be used by companies. Many countries are resisting these market-based mechanisms and their reluctance may hinder the development of adequate free-market guidelines. The absence of many countries from the marketplace, and the possible limitations and restrictions on the marketplace, could render these mechanisms useless or of little value.

The Protocol leaves the door open for the imposition of mandatory policies and measures to meet commitments. Just as the U.S. favors flexible market mechanisms, the European Union and many Developing Countries favor harmonized, mandatory "command-and-control" policies and measures—such as carbon taxes and CAFE standards—to meet commitments, and they will have numerous opportunities to seek adoption of these policies.

Finally, the procedures for ratification of, and amendment to, the Kyoto Protocol make it difficult to remedy before it enter into force. The Protocol may not be amended, nor can rules and guidelines be adopted, until after the Protocol enters, into force. The Clinton Administration is now considering the negotiation of a separate or supplemental protocol to attain necessary additional commitments, but this approach would open all issues to further negotiation.

The Business Roundtable believes that the Congress and the American people cannot evaluate the Kyoto Protocol until the Administration sets out a plan as to how it intends to meet the targets of the Protocol. To place the magnitude of the U.S. reduction commitments in perspective, it is the equivalent of having to eliminate all current emissions for either the U.S. transportation sector, or the utilities sector (residential and commerical sources), or industry. The Administration needs to detail how targets in the Protocol will be met, and how the burden will be distributed among the various sectors of the economy.

The Business Roundtable feels it is imperative that a public dialogue take place on the major issues highlighted in our Gap Analysis before the Protocol becomes the law of the land and government agencies begin to write regulations.

TRIBUTE TO CARNEY CAMPION

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Ms. PELOSI. Mr. Speaker, I would like to take this opportunity to pay tribute to Carney Campion, General Manager, Golden Gate Bridge, Highway and Transportation District. Mr. Campion will retire from his position on November 30, after 23 years of dedicated work to the Bridge District.

During Mr. Campion's tenure, the Golden Gate Bridge and associated transportation services have undergone numerous service and safety improvements. Achieving these improvements has required a combination of vision and commitment. Through his effective leadership, Mr. Campion has ensured that the Golden Gate Bridge remains one of San Francisco's most lauded landmarks.

Among his many accomplishments, Mr. Campion has worked with the San Francisco Bay Delegation to secure $51.8 million in federal funding for the seismic retrofitting of the Golden Gate Bridge, received approval for a median barrier to eliminate two-way accidents, redecked the Bridge, instituted public safety patrols and placed crises phones in key locations to deter suicides, and developed specifications for an electronic toll system. In addition, under Mr. Campion, the Bridge District became the first public transit system in the Bay Area to comply with the Americans With Disabilities Act.

However, these significant accomplishments are only a part of Mr. Campion's overall commitment to continuing and strengthening the Bridge District's mission of providing safe and efficient transportation. The successful operation of the Golden Gate Bridge and its bus and ferry units are vital to the San Francisco Bay Area economy. By improving overall transportation efficiency and pursuing alternative modes of transportation, such as adding a high-speed catamaran to the ferry fleet, Mr. Campion has played an important role in ensuring that Bay Area residents can conveniently and safely commute between San Francisco and outlying areas.

In addition to these contributions, Mr. Campion has accomplished many personal achievements. He is a member of numerous community organizations and serves as director for a YMCA, a theater company and the Marin Forum. Furthermore, Mr. Campion has served on or chaired Presidential task forces and international associations throughout his career.

Mr. Speaker, San Francisco has been the fortunate beneficiary of Carney Campion's steadfast and thoughtful leadership. His presence will be greatly missed. I know my colleagues will join me in wishing him well in his future endeavors.

THE 100/240 CELEBRATION OF THE FRIENDS MEETING HOUSE AND CEMETERY ASSOCIATION OF THE TOWNSHIP OF RANDOLPH, COUNTY OF MORRIS, NEW JERSEY

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today to commemorate the 100/240 Celebration of the Friends Meeting House and Cemetery Association of the Township of Randolph, County of Morris, New Jersey.

On October 11, 1998, the Friends Meeting House and Cemetery Association of the Township of Randolph will celebrate the 100th Anniversary and the 240th Anniversary of the 1758 Friends Meeting House and Cemetery which it now owns and preserves. The Meeting House is the oldest church in continuous use in Morris County and the oldest Quaker Meeting House in northern New Jersey.

The Quakers who migrated to the Mendham area of Morris County occupied land that belonged to William Penn. They began arriving in the 1740's, establishing farms, mills, and iron forges along many brooks and valleys of the area. They organized as the Mendham Friends Meeting. In 1758, they built their Meeting House and established their cemetery. A national, State, and local treasure, the hand-crafted building of oak and clapboard is little changed from the eighteenth century. In 1805, Randolph set off from Mendham Township, and in 1817 the name was changed to the Randolph Friends Meeting. In 1865, the original meeting came to an end.

From 1865–1898 descendants of the original Quaker families and the last few surviving members of the former meeting cared for the cemetery and grounds and maintained the Meeting House. Memorial services were held annually at the Meeting House for those buried in the cemetery. There was an occasional wedding or funeral.

In 1898, as the last members of the former Meeting became too infirm to oversee the property, a group of descendants in the Morris County area came together and formed the Friends Meeting House and Cemetery Association of Randolph Township. Membership was open to anyone whose ancestors had worshipped in the meeting house or was buried in the cemetery as well as to members of the Friends faith who had an interest in preservation of this important place. The sole goal of the Association was preservation of the site.

Mr. Speaker, for the past 100 years, the Friends Meeting House and Cemeiery Association has faithfully pursued preservation of the Friends Meeting House and Cemetery, a monument in Morris County for 240 years. Mr. Speaker, I ask you and my colleagues to join me in congratulating all past and present members of the Association and Meeting House on these special anniversaries.

THE FASTENER QUALITY ACT: FIX IT OR FORGET IT!

HON. DONALD A. MANZULLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. MANZULLO. Mr. Speaker, any lasting resolution to modify the Fastener Quality Act (FQA) must address the concerns raised by the small manufacturers within the fastener industry. If their concerns are not addressed, I believe most small firms would favor repeal of the Act. I am privileged to represent the "fastener capital of the United States," Rockford, Illinois. There are more fastener manufacturers per capita in Rockford than in any other city in the nation. Implementation of the FQA and any recommended changes to it are of key importance to northern Illinois and the industry overall.

Fasteners are the sinews of a modern manufacturing nation. Disruption in the supply of fasteners would be the equivalent of a nationwide trucking or rail strike. Amidst an increasingly volatile national economy this would have devastating consequences for the country, with reverberations throughout industries dependent on supplies of fasteners.

When the National Institute of Standards and Technology released the latest set of regulations last April, I surveyed the fastener manufacturers in northern Illinois for their input. A third of these answered my survey—a very high response rate. Let me review for my colleagues on the panel the results of the survey: (1) 54 percent of the fastener manufacturers still do not know which fasteners are covered by the FQA; (2) 46 percent of the fastener manufacturers are so small that they cannot afford to adopt the expensive Quality Assurance System (QAS) though they have their own system of testing and insuring quality. Thus, the April regulations permitting larger companies who use QAS to become FQA-certified means nothing to these small fastener firms; and (3) 92 percent—almost every one of the fastener manufacturers in northern Illinois—do not know what they have to do to fully comply with the FQA regulations.

I have met with or been contacted by numerous fastener companies in my district, all of which express concerns reflective of the findings in the survey. For example, there's Pearson Fastener, a 35-employee family enterprise in Rockford. For years Pearson has been manufacturing fasteners. For the last eight years they have been wrestling with the FQA, wondering why existing independent accredited laboratories cannot continue to test their fasteners instead of the company having to switch to as yet unidentified and unaccredited labs. Aside from the added costs involved, newly accredited labs may not offer every testing service needed by the diversity of fastener manufacturers in Rockford. For instance, Pearson could not get one accredited lab to give them a price quote for a salt spraying test on fasteners they make for outboard engines on motor boats.

Camcar, a division of Textron Fastening Systems of Rockford that has manufactured fasteners since 1943, complained that they could not get an approved signatory to sign test reports, as the regulations require. Since no one can observe all the test results, nobody is willing to sign off on the reports.

Elco, also of Textron Fastening Systems and a major fastener manufacturer in Rockford declares the FQA "a showsstopper to our industry . . . [It] penalizes every U.S. fastener company with hundreds of millions of dollars of extra costs in testing and paperwork when the original intent of the Act was to keep out foreign, fraudulent bolts. This particularly affects smaller companies within our industry."

The problems with the FQA from the perspective of small fastener firms are manifold: ambiguity about which fasteners the Act covers; availability and proximity of accredited labs; confusion about the definition of certification, prohibitive compliance costs; over-regulation of the industry; loss of market share to foreign competitors because the FQA exempts fasteners imported as components of larger parts; and lack of information about requried tests of a specialized product are all major concerns of fastener manufacturers in my district. Resolution of these matters needs to be a part of any final modification of the FQA.

It has been eight years since the FQA was enacted. During that time, technological advances within the fastener industry have greatly improved testing techniques so that the failure rate for fasteners has been practically eliminated. Obviously, this necessitates a reexamination of the Act to see that it is applicable to the industry in light of these advances. If some basic, common sense changes are not made to the FQA, I believe most small fastener manufacturers would like to see a total repeal because it is currently unworkable. This is the problem with the FQA as it is currently written. I hope Congress, the National Institute of Standards and Technology, the fastener industry, and others can work together to fix it, or else resolve to abolish it.

We all want to make a genuine effort to work out the problems with the FQA. I submit that the approach we ought to take should address the concerns of all fastener manufacturers. At the same time, we should avoid a course that seeks a solution through exemptions for specific industries. A solution that fails to resolve the issues raised by both large and small fastener firms is no solution at all. Otherwise, down the road we again will find ourselves wrestling with the same problems that threaten the viability of the fastener industry and, consequently, the very health of our economy.

Even at this early juncture, we already know that any future workable regulatory document must include the following: (1) A clear delineation of what fasteners are covered; (2) a settlement on the issue of certifying in-house testing processes, and short of this an agreement on the number, type, and location of accredited laboratories; (3) a clear definition of what constitutes certification; (4) a regime that minimizes compliance and regulatory costs so as not to put small manufacturers of fasteners out of business, nor U.S. fastener manufacturers at a competitive disadvantage with foreign manufacturers; and (5) a thorough dissemination of information that answers the many questions fastener manufacturers will have when any new agreement is reached.

If a revamped FQA can accomplish these things, then I think we have the basis for a document that can work for the fastener industry and ensure safety for the consumer. On the other hand, if the FQA remains difficult to interpret, costly with which to comply, and threatens the existence of small fastener companies, then it must be repealed.

INTRODUCTION OF NON-INTRUSIVE SEISMIC TESTING IN ALASKA

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. YOUNG of Alaska. Mr. Speaker, I have introduced a bill today in order to aid our Administration in taking responsible action regarding the coastal plain of the Arctic National Wildlife Refuge (ANWR).

This last May, the US Geological Survey (USGS) released it's petroleum resource assessment of the "1002 area" within ANWR. The USGS published that in-place resources could be as high as 31.5 billion barrels of oil. This is orders of magnitude higher than other predictions this Administration has released during this decade. Of course, this 31.5 billion barrel figure does not factor in all of the economic and technological variables that are realities for the industry. However, it demonstrates that there clearly is significant energy potential currently being withheld from the American public by this Administration.

To really understand the energy potential for the Nation within ANWR, we must use the most advanced scientific methods available. The Secretary of the Interior, as our Nation's landlord, clearly has a fiduciary responsibility to gather the maximum amount of information to make an informed decision. Regardless of a person's position on development of the coastal plain, we should all support an understanding of the potential beneath the frozen tundra of this area. By using 3-dimensional seismic testing in the 1002 area of ANWR, we will be able to have a much clearer understanding of this potential.

Currently, there are several significant discoveries on state lands adjacent to the 1002 area of ANWR. These fields could potentially drain the federal mineral estate from their surface occupancy on state lands. This potential drainage could withhold millions of dollars to which the US Treasury and American public are entitled. Without the best science available, this possibility continues to be a significant reality. It is incumbent upon this Administration to safeguard the people's trust and mineral estate. To allow this potential diminishment because of political ideology is unwise and irresponsible.

Even if this legislation were to pass with the few legislative days remaining in this 105th Congress, it will not open ANWR. In fact, sadly so. I feel the coastal plain holds our nation's greatest energy potential and should be opened to sensible development. The reality is this Administration will not allow ANWR to be developed under any circumstances. With this fact, we must fulfill our obligation of scientific understanding and use the best science technology available to estimate the coastal plain's potential. If my fellow Alaskans send me back to represent them as their Chairman, I plan to reintroduce this bill and move it through the legislative process.

This legislation will help accomplish the goal of understanding the coastal plain of ANWR's potential in a non-invasive and environmentally benign manner. Seismic testing examines the sub-surface structure with almost insubstantial effects. The fact is, seismic has already been allowed in this area with negligible impacts. This legislation will allow 3–D seismic into this area for a much more accurate assessment of the resource. We need this kind of understanding while devising a sound national energy strategy for the American people. I look forward to working with the Administration in the 106th Congress while we work to fulfill our obligation to the public and gather the best information by using the most advanced technology available.